CONGRESSIONAL RECORD:

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CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FORTY-SIXTH CONGRESS, FIRST SESSION.

VOLUME IX.

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VOLUME IX, PART I.

CONGRESSIONAL RECORD,

FORTY-SIXTH CONGRESS, FIRST SESSION.

CONGRESSIONAL RECORD.

PROCEEDINGS AND DEBATES OF THE FORTY-SIXTH CONGRESS.

FIRST SESSION.

IN SENATE.

TUESDAY, *March* 18, 1879.

The first session of the Forty-sixth Congress commenced this day at the Capitol, in the city of Washington, in pursuance of the proclamation of the President of the United States of the 4th day of March, 1879. The Senators assembled in the Senate Chamber.

The VICE-PRESIDENT of the United States (Hon. WILLIAM A. WHEELER) called the Senate to order at twelve o'clock meridian.

PRAYER.

Rev. BYRON SUNDERLAND, D. D., Chaplain to the Senate, offered the following prayer:

O Thou Builder of the nations, almighty, eternal God, we stand here before Thee to offer up our homage. Thou hast made us a marvel to all people. In all times of peril Thou hast borne us through. In the mystery of our growth and power, in the scope of our change and progress, Thy spirit has brooded over us; Thou hast made our nest in the high places of the earth; and Thou hast caused our course to be like an eagle's flight. With Thee are all the virtues of our welfare; with Thee are the mighty ordinances of our peace, our safety, and our happiness.

Bless the President and Vice-President of the United States. Anoint all our constituted rulers. Constitute the millions of our people more and more in truth and in purity, and consecrate them to Thyself. In the great hours that are telling off our destiny fold Thou this nation in Thine eternal arms of strength. On this new conclave of the people we invoke Thy special blessing. Illumine all these Thy servants in Congress now assembled. Fire them every one with every high inspiration. Breathe all around the amenity of kindness, the magnanimity of justice; and to human judgment add the insight and foresight of Thine own divinity. So shall salvation and honor, glory and blessing, be unto Thee as it was in the days of our fathers; and let all the people ascribe it, through Jesus Christ, our Lord. Amen.

THE PROCLAMATION.

The VICE-PRESIDENT. The Senate convenes under the proclamation of the President of the United States, which will be reported.

The Secretary (Mr. GEORGE C. GORHAM) read the proclamation, as follows:

By the President of the United States of America.

A PROCLAMATION.

Whereas the final adjournment of the Forty-fifth Congress without making the usual and necessary appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and without making the usual and necessary appropriations for the support of the Army for the same fiscal year, presents an extraordinary occasion, requiring the President to exercise the power vested in him by the Constitution to convene the Houses of Congress in anticipation of the day fixed by law for their next meeting:

Now, therefore, I, Rutherford B. Hayes, President of the United States, do, by virtue of the power to this end in me vested by the Constitution, convene both Houses of Congress to assemble at their respective Chambers at twelve o'clock noon on Tuesday, the 18th day of March instant, then and there to consider and determine such measures as, in their wisdom, their duty and the welfare of the people may seem to demand.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 4th day of March, A. D. 1879, and of the Independence of the United States of America the one hundred and third.

[SEAL.] R. B. HAYES.

By the President:

WM. M. EVARTS, *Secretary of State.*

SWEARING IN OF SENATORS-ELECT.

The VICE-PRESIDENT. The Secretary will now call the roll of Senators-elect whose credentials have been hitherto presented, read, and placed on file; and for convenience in taking the oath of office they will please present themselves in groups of four. The Secretary will call first those who will take the oath of July 2, 1862.

The Secretary read the following names:

William B. Allison, of Iowa.
James Donald Cameron, of Pennsylvania.
Matt H. Carpenter, of Wisconsin.
Roscoe Conkling, of New York.
James T. Farley, of California.
James B. Groome, of Maryland.
N. P. Hill, of Colorado.
John J. Ingalls, of Kansas.
John P. Jones, of Nevada.
John A. Logan, of Illinois.
Justin S. Morrill, of Vermont.
George H. Pendleton, of Ohio.
Orville H. Platt, of Connecticut.
James H. Slater, of Oregon.
Daniel W. Voorhees, of Indiana.

As their names were called these respective Senators-elect came forward, and the oath prescribed by the act of July 2, 1862, was administered to them.

The VICE-PRESIDENT. The Secretary will now call the Senators-elect who will take the modified oath.

The Secretary read the following names:

Wilkinson Call, of Florida.
Wade Hampton, of South Carolina.
George S. Houston, of Alabama.
Benjamin F. Jonas, of Louisiana.
Zebulon B. Vance, of North Carolina.
George G. Vest, of Missouri.
James D. Walker, of Arkansas.
John S. Williams, of Kentucky.

As their names were called these respective Senators-elect came forward, and the oath prescribed by the act of July 11, 1868, was administered to them, with the exception of Wade Hampton, of South Carolina, who was not present.

SENATORS PRESENT.

The Senators-elect having been sworn and taken their seats in the Senate, the following Senators were present:

From the State of—
Alabama—George S. Houston and John T. Morgan.
Arkansas—Augustus H. Garland and James D. Walker.
California—Newton Booth and James T. Farley.
Colorado—N. P. Hill and Henry M. Teller.
Connecticut—William W. Eaton and Orville H. Platt.
Delaware—Thomas F. Bayard and Eli Saulsbury.
Florida—Wilkinson Call and Charles W. Jones.
Georgia—Benjamin H. Hill.
Illinois—David Davis and John A. Logan.
Indiana—Joseph E. McDonald and Daniel W. Voorhees.
Iowa—William B. Allison and Samuel J. Kirkwood.
Kansas—John James Ingalls and Preston B. Plumb.
Kentucky—James B. Beck and John S. Williams.
Louisiana—Benjamin F. Jonas and William Pitt Kellogg.
Maine—James G. Blaine.
Maryland—James B. Groome and William Pinkney Whyte.
Massachusetts—Henry L. Dawes and George F. Hoar.
Michigan—Zachariah Chandler and Thomas W. Ferry.
Minnesota—Samuel J. R. McMillan and William Windom.
Mississippi—Blanche K. Bruce and Lucius Q. C. Lamar.
Missouri—Francis M. Cockrell and George G. Vest.
Nebraska—Algernon S. Paddock and Alvin Saunders.

Nevada—John P. Jones.
New Hampshire—Edward H. Rollins.
New Jersey—John R. McPherson and Theodore F. Randolph.
New York—Roscoe Conkling and Francis Kernan.
North Carolina—Matt W. Ransom and Zebulon B. Vance.
Ohio—George H. Pendleton and Allen G. Thurman.
Oregon—La Fayette Grover and James H. Slater.
Pennsylvania—James Donald Cameron and William A. Wallace.
Rhode Island—Henry B. Anthony and Ambrose E. Burnside.
South Carolina—Manning C. Butler.
Tennessee—James E. Bailey and Isham G. Harris.
Texas—Richard Coke.
Vermont—George F. Edmunds and Justin S. Morrill.
Virginia—John W. Johnston and Robert E. Withers.
West Virginia—Henry G. Davis and Frank Hereford.
Wisconsin—Angus Cameron and Matt H. Carpenter.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. The Chair will now present the credentials of Charles H. Bell, of the State of New Hampshire, "to fill the vacancy happening in the Senate of the United States by the expiration of the term of Bainbridge Wadleigh, on the 4th day of March, 1879, during the recess of the Legislature of said State, and by the non-election of said Wadleigh's successor." The credentials will be reported at length by the Secretary.

The Secretary read as follows:

STATE OF NEW HAMPSHIRE,
EXECUTIVE DEPARTMENT.

To all persons to whom these presents shall come greeting:

Know ye that the executive of said State hereby appoints Charles H. Bell, of Exeter, in said State, Senator of, for, and from said State, to fill the vacancy happening in the Senate of the United States by the expiration of the term of Bainbridge Wadleigh, on the 4th day of March, 1879, during the recess of the Legislature of said State, and by the non-election of said Wadleigh's successor, to have and to hold said office of United States Senator until the next meeting of the Legislature of said State, said next meeting being the meeting of the Legislature designated by the laws of the United States for the election of such successor, and being the first meeting of the Legislature at which such successor could be legally elected, and until the expiration of the time for which the executive of said State is authorized to make a temporary appointment for filling the vacancy now existing.

Witness his excellency, Benjamin F. Prescott, governor of New Hampshire, and our seal hereunto affixed, at Concord, this 13th day of March, in the year of our Lord 1879, and of the Independence of the United States of America the one hundred and third.

[SEAL.] B. F. PRESCOTT,
Governor.

By his excellency the governor:

A. B. THOMPSON,
Secretary of State.

Mr. WALLACE. I move that the credentials just read lie upon the table until to-morrow. I make this motion because a grave legal question is presented as to whether there is such a vacancy as can be filled by the appointment of the governor; and it is a matter which should be proceeded in with deliberation by the Senate.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania, that the credentials just reported lie upon the table until to-morrow.

Mr. ROLLINS. Will the Senator from Pennsylvania withdraw the motion until I submit a few precedents? I do not desire to occupy the attention of the Senate more than a few moments.

Mr. WALLACE. My motion is not open to debate.

The VICE-PRESIDENT. It is not a debatable motion.

Mr. WALLACE. And I think the business before the Senate should proceed in order, independent of any debate on the subject.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania.

Mr. CONKLING. I beg to ask a question. Does the Senator from Pennsylvania refuse to withhold for a moment a non-debatable motion that the Senator from New Hampshire may make a statement?

Mr. WALLACE. I do not. I simply said that my motion was one that was not debatable. The Senator asked me to withdraw the motion.

Mr. CONKLING. Certainly; the Senator from New Hampshire did ask the Senator from Pennsylvania to withhold it for a moment that he might make a statement, a brief statement, to the Senate.

Mr. WALLACE. If the Senator so desires I withhold the motion.

Mr. ROLLINS. I will occupy the attention of the Senate but a few moments.

The VICE-PRESIDENT. The Senator from Pennsylvania assents.

Mr. ROLLINS. Mr. President, before a vote is taken upon the pending question I desire to submit for the consideration of the Senate such precedents as I find which in my judgment are entitled to weight in the consideration of this case. After the most careful and diligent scrutiny of the records of the Senate, from the foundation of the Government down to the present time, I have found the following cases only of appointments made to fill a vacancy occasioned by the expiration of a term of office:

William Cocke, a Senator from the State of Tennessee, whose term of service expired March 3, 1797, was, on the 22d of April, 1797, appointed by the governor to fill the vacancy occasioned by the expiration of his term. His credentials were presented May 15, 1797, and he was admitted without objection.

Uriah Tracy, a Senator from the State of Connecticut, whose term expired on March 3, 1801, was admitted as a member of the Senate at the special session called March 4, 1801, under the appointment of the governor. Exceptions being taken to his credentials, he was admitted by a vote of 13 yeas to 10 nays, and held his seat until he was elected by the Legislature in May following.

William Hindman, a Senator from the State of Maryland, whose term of office expired March 3, 1801, was appointed by the governor March 4, 1801, and was admitted as a member of the Senate March 5, 1801, without objection. He served until the election of his successor, Robert Wright, in November following.

John Condit was appointed Senator from the State of New Jersey September 1, 1803, in place of Aaron Ogden, whose term expired March 3, 1803. He was admitted as a member of the Senate October 17, 1803, without objection, and held his seat until his election by the Legislature in November following. In this case the appointment does not seem to have been made until a vacancy actually existed, which is identical with the case under consideration.

Joseph Anderson, a Senator from the State of Tennessee, whose term expired March 3, 1809, was admitted as a member of the Senate at the extra session convened on the 4th of March, 1809, without question, under an appointment from the governor of his State. He served until he was elected by the Legislature.

Samuel Smith, a Senator from the State of Maryland, whose term expired March 3, 1809, was admitted as a member of the Senate at the special session of March 4, 1809, under an appointment by the executive. He was admitted without objection and held his seat until elected by the Legislature in November following.

Charles Cutts, a Senator from the State of New Hampshire, whose term expired March 3, 1813, was admitted as a member of the Senate at the special session on May 24, 1813, without question, under an appointment by the governor of his State, and served until the election of Jeremiah Mason in June following.

John Williams, a Senator from the State of Tennessee, whose term of office expired March 3, 1817, was admitted as a member of the Senate at the extra session called March 4, 1817, without objection, under an appointment by the executive—his credentials having been read and filed during the previous session—and held his seat until re-elected by the Legislature in October following.

James Lanman, a Senator from the State of Connecticut, whose term expired March 3, 1825, was appointed by the governor February 8, 1825, to fill the vacancy which would occur at the expiration of his term. His credentials were presented at the called session, March 4, 1825, and question being raised, the decision of the Senate was adverse to his right.

The Senate, in this case, as is shown by the report of the committee, decided that a vacancy could not be filled by a governor until it actually existed.

The Lanman case also differs from that of Mr. Bell's, in this; that the legislature of Connecticut which had held its annual session the May previous, notwithstanding it had a legal right to elect a Senator, failed to fill the vacancy.

Ambrose H. Sevier, a Senator from the State of Arkansas, whose term expired March 3, 1837, was appointed by the governor January 17, 1837, to fill the vacancy which would occur at the expiration of his term. At the called session, March 4, 1837, objection was made, but he was admitted.

In both these latter cases of Lanman and Sevier the appointments were made in anticipation of a vacancy which would occur at some future time; and such was the fact in the cases of Messrs. Tracy, Anderson, and Williams, and the decision in the Lanman case stands alone against all the others.

The appointments of Messrs. Cocke, Hindman, Condit, Smith, and Cutts appear to have been made after the vacancy had actually occurred, and they were admitted without question.

These are all the cases found in the records where an appointment has been made by the executive of any State to fill a vacancy occurring by the expiration of a term of office.

In three cases—those of Messrs. Tracy, Lanman, and Sevier—where the appointments were made in anticipation of a vacancy about to occur, question was made; and in two of these cases—Tracy and Sevier—the appointees were admitted, and in the other rejected.

In the five cases where the appointment was made after the vacancy actually occurred, the appointees were admitted without question.

In the case under consideration the appointment was made after the vacancy actually occurred, the credentials bearing date of March 13, 1879; the appointment having been made by the executive of New Hampshire after the expiration of the term of Senator Wadleigh, and subsequent to the call of the President of the United States for an extra session of Congress.

The act of Congress of July 25, 1866, requires that Senators shall be elected by the Legislature "chosen next preceding the expiration" of any term.

By reason of a change in the constitution of New Hampshire which took effect October 1, 1878, two Legislatures were chosen in the year 1878; one in March under the old constitution, whose term of office commenced in June, 1878, and will continue to June, 1879, and the other in November, whose term of office will not commence till June, 1879, and will continue to June, 1881.

Upon a bill being introduced into the Senate of the United States in June, 1878, to define which of these two Legislatures had the power

to elect a successor to Mr. Wadleigh, the Committee on Elections and Privileges made a report (No. 485) that only the Legislature chosen in November, 1878, had the power; which report was adopted by the Senate. The Legislature chosen in March thereupon took no steps to elect a successor to Mr. Wadleigh. But the Legislature chosen in November, 1878, cannot be assembled until June, 1879. Therefore in March, 1879, when the vacancy occurred, there was no Legislature in being or capable of being assembled with the power to elect a Senator. On the principle of Sevier's case, therefore, the governor had the right of appointment.

Under these circumstances, Mr. President, with these precedents, I hope the oath of office will be administered to Mr. Bell. Then, if it is desirable to make any inquiry, the credentials may be referred to the Committee on Privileges and Elections and it may be had.

Mr. WALLACE. I must insist on my motion as following the usual precedents in such cases.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania that the credentials lie upon the table.

Mr. BLAINE. Until to-morrow?

Mr. WALLACE. Until to-morrow.

The motion was agreed to.

NOTIFICATION TO THE HOUSE.

Mr. THURMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT.

Mr. BAYARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee, consisting of two members, be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

By unanimous consent, the Vice-President was authorized to appoint the committee; and Messrs. BAYARD and ANTHONY were appointed as the committee on the part of the Senate.

HOUR OF MEETING.

On motion of Mr. WHYTE, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock m. until otherwise ordered.

RECESS.

Mr. WHYTE, (at twelve o'clock and thirty minutes p. m.) I move that the Senate take a recess for half an hour.

The motion was agreed to; and at the expiration of the recess (at one o'clock p. m.) the Senate reassembled.

Mr. WHYTE. From information which I have received from the House of Representatives, I do not think it possible for the House to organize before three or half past three o'clock, and therefore I move that the Senate adjourn until to-morrow.

The motion was agreed to; and (at one o'clock and seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 18, 1879.

The House of Representatives of the Forty-sixth Congress of the United States, in compliance with the President's proclamation of the 4th day of March, 1879, convened this day in extra session; and, at twelve o'clock m., was called to order by Hon. GEORGE M. ADAMS, Clerk of the last House.

The CLERK. On the 4th day of the present month the following proclamation was issued by the President of the United States:

By the President of the United States.

A PROCLAMATION.

Whereas the final adjournment of the Forty-fifth Congress without making the usual and necessary appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and without making the usual and necessary appropriations for the support of the Army for the same fiscal year, presents an extraordinary occasion, requiring the President to exercise the power vested in him by the Constitution to convene the Houses of Congress in anticipation of the day fixed by law for their next meeting:

Now, therefore, I, Rutherford B. Hayes, President of the United States, do, by virtue of the power to this end in me vested by the Constitution, convene both Houses of Congress to assemble at their respective Chambers at twelve o'clock noon on Tuesday the 18th day of March instant, then and there to consider and determine such measures as, in their wisdom, their duty and the welfare of the people may seem to demand.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 4th day of March, A. D. 1879, and of the Independence of the United States of America the one hundred and third.

[SEAL.] R. B. HAYES.

By the President:

WM. M. EVARTS, *Secretary of State.*

The time designated by this proclamation for the meeting of the Forty-sixth Congress having arrived, the Clerk of the preceding House of Representatives will call the roll (which by law he is required to prepare) of the Representatives elected to the Forty-sixth Congress. Pending which, however, persons who are not entitled to the privileges of the floor are requested to retire from the Hall in order that the Representatives-elect may occupy the seats which are prepared for that purpose; and the Doorkeeper and the Sergeant-at-Arms will see to it that the rules of the House in this regard are rigidly enforced. Gentlemen will please respond distinctly to their names when called.

The roll being then called, the following persons answered to their names:

MAINE.

Thomas B. Reed.
William P. Frye.
Stephen D. Lindsey.
George W. Ladd.
Thompson H. Murch.

NEW HAMPSHIRE.

Joshua G. Hall.
James F. Briggs.
Evarts W. Farr.

VERMONT.

Charles H. Joyce.
James M. Tyler.
Bradley Barlow.

MASSACHUSETTS.

William W. Crapo.
Benjamin W. Harris.
Walbridge A. Field.
Leopold Morse.
Selwyn Z. Bowman.
George B. Loring.
William A. Russell.
William Claflin.
William W. Rice.
Amasa Norcross.
George D. Robinson.

RHODE ISLAND.

Nelson W. Aldrich.
Latimer W. Ballou.

CONNECTICUT.

Joseph R. Hawley.
James Phelps.
John T. Wait.
Frederick Miles.

NEW YORK.

James W. Covert.
Simeon B. Chittenden.
Archibald M. Bliss.
Nicholas Muller.
Samuel S. Cox.
Edwin Einstein.
Anson G. McCook.
Fernando Wood.
James O'Brien.
Levi P. Morton.
John H. Ketcham.
John W. Ferdon.
William Lounsbery.
John M. Bailey.
Walter A. Wood.
John Hammond.
John H. Starin.
David Wilber.
Warner Miller.
Cyrus D. Prescott.
Joseph Mason.
Frank Hiscock.
John H. Camp.
Elbridge G. Lapham.
Jeremiah W. Dwight.
David P. Richardson.
John Van Voorhis.
Richard Crowley.
Ray V. Pierce.
Henry Van Aernam.

NEW JERSEY.

George M. Robeson.
Hezekiah B. Smith.
Miles Ross.
Lewis A. Brigham.
Alvah A. Clark.
Charles H. Voorhis.
John L. Blake.

PENNSYLVANIA.

Henry H. Bingham.
Charles O'Neill.
Samuel J. Randall.
William D. Kelley.
Alfred C. Harmer.
William Ward.
William Godshalk.
Hiester Clymer.
A. Herr Smith.
Reuben K. Bachman.
Robert Klotz.
Hendrick B. Wright.
John W. Ryon.
John W. Killinger.
Edward Overton, jr.
John I. Mitchell.
Alexander H. Coffroth.
Horatio G. Fisher.
Frank E. Beltzhoover.
Seth H. Yocum.
Morgan R. Wise.
Russell Errett.
Thomas M. Bayne.
William S. Shallenberger.
Harry White.
Samuel B. Dick.
J. H. Osmer.

DELAWARE.

Edward L. Martin.

MARYLAND.

Daniel M. Henry.
J. Frederick C. Talbott.
William Kimmel.
Robert M. McLane.
Eli J. Henkle.
Milton G. Urner.

VIRGINIA.

R. L. T. Beale.
John Goode, jr.
Joseph E. Johnston.
Joseph Jorgensen.
George C. Cabell.
John Randolph Tucker.
John T. Harris.
Eppa Hunton.
James B. Richmond.

NORTH CAROLINA.

Joseph J. Martin.
W. H. Kitchin.
Daniel L. Russell.
Joseph J. Davis.
Alfred M. Scales.
Walter L. Steele.
Robert F. Armfield.
Robert B. Vance.

SOUTH CAROLINA.

John S. Richardson.
M. P. O'Connor.
D. Wyatt Aiken.
John H. Evins.
George D. Tillman.

GEORGIA.

John C. Nicholls.
William E. Smith.
Philip Cook.
Henry Persons.
N. J. Hammond.
James H. Blount.
William H. Felton.
Alexander H. Stephens.
Emory Speer.

ALABAMA.

Thomas H. Herndon.
Hilary A. Herbert.
William J. Samford.
Charles M. Shelley.

Thomas Williams.
Burwell B. Lewis.
William H. Forney.
William M. Lowe.

MISSISSIPPI.

Henry L. Muldrow.
Van H. Manning.
Hernando D. Money.

Otho R. Singleton.
Charles E. Hooker.
James R. Chalmers.

LOUISIANA.

Randall L. Gibson.
E. John Ellis.
Joseph H. Acklen.

Joseph B. Elam
J. Floyd King.
Edward W. Robertson.

OHIO.

Benjamin Butterworth.
Thomas L. Young.
John A. McMahon.
J. Warren Keifer.
Benjamin Le Fevre.
William D. Hill.
Frank H. Hurd.
Ebenezer R. Finley.
George L. Converse.
Thomas Ewing.

Henry L. Dickey.
Henry S. Neal.
A. J. Warner.
Gibson Atherton.
George W. Geddes.
William McKinley, jr.
James Monroe.
J. T. Updegraff.
James A. Garfield.
Amos Townsend.

KENTUCKY.

Oscar Turner.
James A. McKenzie.
John W. Caldwell.
J. Proctor Knott.
Albert S. Willis.

John G. Carlisle.
Joseph C. S. Blackburn.
Philip B. Thompson, jr.
Thomas Turner.
Elijah C. Phister.

TENNESSEE.

R. L. Taylor.
L. C. Houk.
George G. Dibrell.
Benton McMillin.
John M. Bright.

John F. House.
Washington C. Whitthorne.
John D. C. Atkins.
C. B. Simonton.
Casey Young.

INDIANA.

William Heilman.
Thomas R. Cobb.
George A. Bicknell.
Jeptha D. New.
Thomas M. Browne.
William R. Myers.
Gilbert De La Matyr.

Abraham J. Hostetler.
Godlove S. Orth.
William H. Calkins.
Calvin Cowgill.
Walpole G. Colerick.
John H. Baker.

ILLINOIS.

William Aldrich.
George R. Davis.
Hiram Barber.
John C. Sherwin.
Robert M. A. Hawk.
Thomas J. Henderson.
Philip C. Hayes.
Greenbury L. Fort.
Thomas A. Boyd.
Benjamin F. Marsh.

James W. Singleton.
William M. Springer.
Adlai E. Stevenson.
Joseph G. Cannon.
Albert P. Forsythe.
William A. J. Sparks.
William R. Morrison.
John R. Thomas.
Richard W. Townshend.

MISSOURI.

Martin L. Clardy.
Erastus Wells.
R. Graham Frost.
Lowndes H. Davis.
Richard P. Bland.
James R. Waddill.
Alfred M. Lay.

Samuel L. Sawyer.
Nicholas Ford.
Gideon F. Rothwell.
John B. Clark, jr.
William H. Hatch.
Aylett H. Buckner.

ARKANSAS.

Poindexter Dunn.
William F. Slemons.

Jordan E. Cravens.
Thomas M. Gunter.

MICHIGAN.

John S. Newberry.
Edwin Willits.
Jonas H. McGowan.
Julius C. Burrows.
John W. Stone.

Mark S. Brewer.
Omar D. Conger.
Roswell G. Horr.
Jay A. Hubbell.

FLORIDA.

Robert H. M. Davidson.

Noble A. Hull.

TEXAS.

John H. Reagan.
David B. Culberson.
Olin Wellborn.

Roger Q. Mills.
George W. Jones.

IOWA.

Moses A. McCoid.
Hiram Price.
Thomas Updegraff.
Nathaniel C. Deering.
Rush Clark.

James B. Weaver.
Edward H. Gillette.
William F. Sapp.
Cyrus C. Carpenter.

WISCONSIN.

Charles G. Williams.
Lucien B. Caswell.
George C. Hazelton.
Peter V. Deuster.

Edward S. Bragg.
Gabriel Bouck.
Herman L. Humphrey.
Thaddeus C. Pound.

MINNESOTA.

Mark H. Dunnell.
Henry Poehler.

William D. Washburn.

OREGON.

John Whiteaker.

KANSAS.

John A. Anderson.
Dudley C. Haskell.

Thomas Ryan.

WEST VIRGINIA.

Benjamin Wilson.
Benjamin F. Martin.

John E. Kenna.

NEVADA.

Rollin M. Daggett.

WASHINGTON.

Thomas H. Brents.

NEBRASKA.

Edward K. Valentine.

DAKOTA.

Granville G. Bennett.

COLORADO.

James B. Belford.

ARIZONA.

John G. Campbell.

NEW MEXICO.

(Vacant.)

IDAHO.

George Ainslie.

UTAH.

George Q. Cannon.

MONTANO.

Martin Maginnis.

WYOMING.

Stephen W. Downey.

After calling the names of the Representatives from Florida,

The CLERK said: In reference to the State of Florida, if there be no objection, the Clerk will state the reasons which controlled him in placing the name of Mr. Hull upon the roll as the Representative-elect from the second district. He received a certificate of election signed by the governor and authenticated by the seal of Florida, as prescribed by the following provision in the statutes of that State:

Whenever any person shall be elected to the office of elector of President or Vice-President, or Representative in Congress, the governor shall make out and sign and cause to be sealed with the seal of the State and transmit to such person a certificate of his election:

duly accrediting Mr. Hull as a Representative-elect to the Forty-sixth Congress. He subsequently received a number of papers, among which was a certified copy of a canvass of the votes in the second district of Florida, made by the board of State canvassers in pursuance of an order of the supreme court of that State, from which canvass it appears that Mr. Horatio Bisbee, jr., was elected, but those papers were not accompanied by the certificate of the governor, authenticated by the seal of the State, as required by the statute just cited.

The Clerk did not feel at liberty to regard anything as a credential within the meaning of the law governing him in making up the roll except a certificate made out and signed by the governor and sealed with the seal of the State, as prescribed by this provision of the statutes of Florida; and as Mr. Bisbee, who claims to have been elected, presented no such certificate, the Clerk could not regard him as possessing the *prima facie* evidence of an election which the law of Florida requires that he should have, and consequently omitted his name from the roll. As the credentials presented by Mr. Hull, however, did possess all the requisites prescribed by the law, the Clerk deemed it his duty to place his name upon the roll, and accordingly did so.

When the State of Iowa was reached and the Representatives from that State had been called,

The CLERK said: In reference to the State of Iowa, the Clerk also begs the indulgence of the Representatives-elect while he makes a statement as to the reasons by which he was controlled in placing upon the roll the names of the gentlemen he has just called as Representatives-elect from Iowa. There were presented to the Clerk certificates duly signed by the governor of the State of Iowa, under the seal of the State, accrediting the nine gentlemen whose names have been announced as Representatives duly elected on the 8th day of October, 1878. Sundry papers were also presented to the Clerk in reference to an election claimed to have been held on the Tuesday next after the first Monday in November, 1878. These papers, however, do not conform to the requirements of the laws of Iowa. They are not signed by the governor; they are not under the seal of the State; they are simply papers which came unauthenticated and in no sense constitute credentials within the meaning of the laws of Iowa. Whatever may be the fact, therefore, in reference to the time at which the election should have been held in the State of Iowa, even though it were definitely and clearly settled that the election should have been held in November instead of October, the Clerk could not in any event place on the roll the names of those persons in whose behalf papers have been filed in reference to the November election for the reason that these papers do not comply with the laws of the State of Iowa and do not constitute credentials.

As to whether the election should have been held in October or in November, there are grave doubts in the minds of those learned in the law. It is a question about which he confesses he has not been able to arrive at so clear and satisfactory a conclusion as he could himself have desired. But in the discharge of the duty imposed upon him, unless he could arrive at a clear and satisfactory conclusion that those gentlemen were not elected on the proper day, he did not feel at liberty to withhold their names from the roll of members-elect, but thought it proper to give the benefit of the doubt in favor of representation, and to remand that question for the consideration of the House when it shall have organized.

When the State of Kansas was reached and the names called,

The CLERK said: The Clerk begs also to remark, with the permission and indulgence of the Representatives-elect, that he has received a certificate accrediting an additional Representative from the State of Kansas as elected from the State at large; but as he is not

aware of any law authorizing that State to have more than three Representatives, he has not placed the name of the person who is claimed to have been elected for the State at large upon the roll.

The call of the roll having been completed, it was ascertained that all the members-elect had responded to their names except Mr. Daniel O'Reilly and Mr. Amaziah B. James, both of the State of New York.

The CLERK said: Two hundred and eighty-five Representatives-elect have responded to their names—more than a quorum—and the Clerk is now prepared to receive a motion looking to the organization of the House.

Mr. FERNANDO WOOD. I rise to a privileged question. I move that the House now proceed to the election of a Speaker of the House of Representatives for the Forty-sixth Congress, and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion was agreed to.

The CLERK. Under the order of the House just made the House will now proceed to the election of a Speaker by ballot, and the Clerk will receive nominations for the office of Speaker.

Mr. CLYMER. I place in nomination for the office of Speaker of the House for the Forty-sixth Congress the name of Hon. SAMUEL J. RANDALL, a Representative-elect from the State of Pennsylvania.

Mr. FRYE. I place in nomination for the Speaker of the Forty-sixth Congress Hon. JAMES A. GARFIELD, a member-elect from the State of Ohio.

Mr. DE LA MATYR. I place in nomination Hon. HENDRICK B. WRIGHT, a member-elect from the State of Pennsylvania. [Applause in the galleries.]

The CLERK. If there are no further nominations, the Clerk announces that the nominees are:

Hon. SAMUEL J. RANDALL, a Representative-elect from the State of Pennsylvania;

Hon. JAMES A. GARFIELD, a Representative-elect from the State of Ohio; and

Hon. HENDRICK B. WRIGHT, a Representative-elect from the State of Pennsylvania.

The Clerk will request Mr. CLYMER of Pennsylvania, Mr. ELLIS of Louisiana, Mr. HISCOCK of New York, and Mr. STONE of Michigan to act as tellers.

The tellers took their places at the Clerk's desk.

Mr. CONGER. I will move that the name of each member be called, and that upon the call of his name he announce his vote *viva voce*.

Mr. BLACKBURN. I second that motion.

The CLERK. That is the usual practice.

Mr. CONGER. I ask whether, without a special rule upon the subject, that practice will be pursued?

The CLERK. The Clerk was about to state to the gentleman from Michigan that that is the usual way in which the election of a Speaker is conducted, but that does not dispense with the necessity for tellers.

Mr. CONGER. I move that the vote be taken in that way.

The CLERK. Does the gentleman, in view of the fact that that is the way in which the vote will be taken, insist upon his motion? That is the rule of proceeding.

Mr. CONGER. I made the motion because the Clerk inadvertently stated that the election would be by ballot.

Mr. GARFIELD. The rule of the House is that the vote shall be taken *viva voce*.

The roll was then called, with the following result:

For Mr. Samuel J. Randall—143.

Acklen,	Davis, Lowndes H.	Klotz,	Sawyer,
Aiken,	Deuster,	Knott,	Scales,
Armfield,	Dibrell,	Lay,	Shelley,
Atherton,	Dickey,	Le Fevre,	Slemons,
Atkins,	Dunn,	Lewis,	Simonton,
Bachman,	Elam,	Lounsbery,	Singleton, J. W.
Beale,	Ellis,	Manning,	Singleton, O. R.
Beltzhoover,	Evins,	Martin, Benj. F.	Smith, H. B.
Bicknell,	Ewing,	Martin, Edward L.	Smith, W. E.
Blackburn,	Felton,	McKenzie,	Sparks,
Bland,	Finley,	McLane,	Speer,
Bliss,	Forney,	McMahon,	Springer,
Blount,	Frost,	McMillin,	Steele,
Bouck,	Geddes,	Mills,	Stephens,
Bragg,	Gibson,	Money,	Talbott,
Bright,	Goode,	Morrison,	Taylor,
Buckner,	Gunter,	Morse,	Thompson,
Cabell,	Hammond, N. J.	Muldrow,	Tillman,
Caldwell,	Harris, John T.	Muller,	Townshend, R. W.
Carlisle,	Hatch,	Myers,	Tucker,
Chalmers,	Henkle,	New,	Turner, Oscar
Clardy,	Henry,	Nicholls,	Turner, Thomas
Clark, Alvah A.	Herbert,	O'Brien,	Vance,
Clark, John B.	Herndon,	O'Connor,	Waddill,
Clymer,	Hill,	Persons,	Warner,
Cobb,	Hooker,	Phelps,	Wellborn,
Coffroth,	Hostetler,	Phister,	Wells,
Colerick,	House,	Poehler,	Whiteaker,
Converse,	Hull,	Reagan,	Whitthorne,
Cook,	Hunton,	Richardson, J. S.	Williams, Thomas
Covert,	Hurd,	Richmond,	Willis,
Cox,	Johnston,	Robertson,	Wilson,
Cravens,	Kenna,	Ross,	Wise,
Culberson,	Kimmel,	Rothwell,	Wood, Fernando
Davidson,	King,	Ryon, John W.	Young, Casey.
Davis, Joseph J.	Kitchin,	Samford,	

For Mr. James A. Garfield—125.

Aldrich, Nelson W.	Davis, George R.	Keifer,	Robeson,
Aldrich, William	Deering,	Ketcham,	Robinson,
Anderson,	Dick,	Killinger,	Russell, William A.
Bailey,	Dunnell,	Lapham,	Ryan, Thomas
Baker,	Dwight,	Lindsey,	Sapp,
Ballou,	Einstein,	Loring,	Shallenberger,
Barber,	Errett,	Marsh,	Sherwin,
Bayne,	Farr,	Martin, Joseph J.	Smith, A. Herr
Belford,	Ferdon,	Mason,	Starin,
Bingham,	Field,	McCoid,	Stone,
Blake,	Fisher,	McCook,	Thomas,
Bowman,	Fort,	McGowan,	Townsend, Amos
Boyd,	Frye,	McKinley,	Tyler,
Brewer,	Godshalk,	Miles,	Updegraff, J. T.
Briggs,	Hall,	Miller,	Updegraff, Thos.
Brigham,	Hammond, John	Mitchell,	Urner,
Browne,	Harmer,	Monroe,	Valentine,
Burrows,	Harris, Benj. W.	Morton,	Van Aernam,
Butterworth,	Haskell,	Neal,	Van Voorhis,
Calkins,	Hawk,	Newberry,	Voorhis,
Camp,	Hawley,	Norcross,	Wait,
Cannon,	Hayes,	O'Neill,	Ward,
Carpenter,	Hazelton,	Orth,	Washburn,
Caswell,	Heilman,	Osmer,	White,
Chittenden,	Henderson,	Overton,	Wilber,
Claflin,	Hiscock,	Pierce,	Williams, C. G.
Clark, Rush	Horr,	Pound,	Willits,
Conger,	Houk,	Prescott,	Wood, Walter A.
Cowgill,	Hubbell,	Price,	Young, Thomas L.
Crapo,	Humphrey,	Reed,	
Crowley,	Jorgensen,	Rice,	
Daggett,	Joyce,	Richardson, D. P.	

For Mr. Hendrick B. Wright—13.

De La Matyr,	Jones,	Murch,	Yocum.
Ford,	Kelley,	Russell, Daniel L.	
Forsythe,	Ladd,	Stevenson.	
Gillette,	Lowe,	Weaver,	

For Mr. William D. Kelley—1.

Barlow.

Mr. CLYMER, in behalf of the tellers appointed to conduct the vote, reported that the whole number of votes cast was 282, of which number Mr. SAMUEL J. RANDALL had received 143, Mr. JAMES A. GARFIELD 125, Mr. HENDRICK B. WRIGHT 13, and Mr. KELLEY 1.

The CLERK. The tellers report that the whole number of votes cast is 282, of which number Mr. RANDALL, of Pennsylvania, received 143 votes; Mr. GARFIELD, of Ohio, 125 votes; Mr. WRIGHT, of Pennsylvania, 13 votes; and Mr. KELLEY, of Pennsylvania, 1 vote.

Mr. CONGER. Before the final announcement of the result of the vote I wish to ask the Clerk what the rule is; whether it does not require a majority of all the members elected to this House to elect a Speaker under its rules?

Mr. SPRINGER. The majority of a quorum will elect at any time any officer whom the House might elect, and also transact any other business.

Mr. CONGER. I was addressing my inquiry to the Clerk.

Mr. O'REILLY. I ask that my name be called in order that I may vote for Speaker.

The Clerk called the name of Mr. O'REILLY, and he announced that he voted for Mr. RANDALL.

Mr. CONGER. The point I make is one which is made very frequently. I care nothing about it on the present occasion, except that this may not pass into precedent without being at least mentioned. My point is that unless there is a change of the rule it requires a majority of all the members of the House to elect a Speaker.

The CLERK. To what point does the gentleman from Michigan [Mr. CONGER] rise—merely to make an inquiry, or does he propose some action?

Mr. CONGER. I inquire of the Clerk whether it does not require a majority of all the members elected to this House to elect a Speaker?

The CLERK. The Clerk will state in response to the gentleman from Michigan [Mr. CONGER] that it requires a majority of those voting to elect a Speaker, as it does to pass a bill. The rule requires that a quorum shall vote. That is the opinion of the Clerk.

Mr. CLARK, of Missouri. I call for the regular order.

The CLERK. The regular order is the announcement of the result of the vote for Speaker, which is as follows: The whole number of votes cast was 283, of which SAMUEL J. RANDALL received 144, JAMES A. GARFIELD 125, HENDRICK B. WRIGHT 13, and WILLIAM D. KELLEY 1. Accordingly, SAMUEL J. RANDALL, one of the Representatives from the State of Pennsylvania, having received a majority of all the votes given for Speaker, is duly elected Speaker of the House of Representatives for the Forty-sixth Congress.

ADDRESS OF THE SPEAKER.

Mr. GARFIELD and Mr. BLACKBURN, having been named by the Clerk for that purpose, conducted Mr. RANDALL to the chair, when he addressed the House as follows:

REPRESENTATIVES: By your vote I am elevated for the third time to the exalted office of Speaker of this House. For this evidence of your approval and confidence I offer you my heartfelt thanks.

The responsibilities and duties imposed upon me are heavy and difficult. With the blessing of God I shall discharge them without personal bias or ignoble partisanship. Observing strict impartiality as to men, measures, parties, and sections, it will be to me unspeakable joy if I can help to bring about that substantial, fraternal union which comes alone through "wisdom, moderation, and justice."

This new Congress meets in its first session under the call of the President. Owing to irreconcilable differences upon vital issues, important and necessary appropriation bills failed to pass at the previous session. Then the political sentiment of the two Houses was antagonistic. It is now in complete accord. This House, fresh from the people, brings with it their latest will. We are here for such legislation as their necessities, welfare, and honor demand. That will, as expressed by the majority in calm and decorous form, let us hope will meet with universal acceptance. Moreover, the country expects of this Congress that it will wisely and deliberately legislate to remove the burdens that have too long weighed upon the patriotism and prosperity of the people. With the fervent hope that the spirit as well as the letter of the Constitution shall be the controlling influence in directing such legislation, I am now prepared to take the oath of office.

Mr. KELLEY, having served longest continuously as a member of the House, was designated by the Clerk to administer to the Speaker-elect the oath prescribed; which was accordingly done.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that Mr. BAYARD and Mr. ANTHONY had been appointed a committee on the part of the Senate to join such committee as might be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House had assembled, and that Congress was ready to receive any communication he might be pleased to make.

SWEARING IN OF MEMBERS.

The SPEAKER proceeded to administer to the members in attendance the oath of office. The members presented themselves as their names were called by States, and took respectively the test oath prescribed by the act of July 2, 1862, or the special oath provided in the act of July 11, 1868, for those whose disabilities under the fourteenth article of amendments to the Constitution of the United States have been removed by a vote of two-thirds of each House of Congress.

When the State of Florida was called,

Mr. FRYE said: I object to the administering of the oath to the gentleman from the second congressional district of the State of Florida, Mr. Hull, and ask that in conformity with usage, he stand aside for the present.

The SPEAKER. The gentleman will stand aside for the present.

SWEARING IN OF DELEGATES.

At the close of the swearing in of the members,

The SPEAKER said: The Clerk will now call the roll of Delegates elected to this House, and those who are present will be sworn in.

The roll of Delegates was called; and the following gentlemen came forward and were sworn in, taking the test oath of 1862:

Utah—George Q. Cannon.
Washington—Thomas H. Brents.
Dakota—G. G. Bennett.
Montana—Martin Maginnis.
Wyoming—S. W. Downey.

REPRESENTATIVE FROM FLORIDA.

The SPEAKER. The swearing in of a member is a privileged question, and unless it be waived——

Mr. FRYE. If there be no objection, I would prefer to bring up for consideration to-morrow the matter relating to the gentleman from Florida, Mr. Hull. I understand that that course will be agreeable to several gentlemen on the other side who desire to take part in the discussion.

Mr. FERNANDO WOOD. If that interferes with the right of the gentleman as a sitting member, I think the matter had better be disposed of at once.

Mr. HARRIS, of Virginia. I offer the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That Noble A. Hull be now sworn in as a Representative in this Congress from the second district of the State of Florida.

Mr. FRYE. As a substitute for the resolution of the gentleman from Virginia [Mr. HARRIS] I offer the resolution which I send to the Clerk.

The SPEAKER. Does the gentleman from Virginia yield for this purpose?

Mr. HARRIS, of Virginia. Yes, sir; and as so far as I am concerned I do not desire to debate the subject, I will call the previous question.

Mr. CONGER. Oh, no.

Mr. FRYE. We desire to debate it.

The Clerk read as follows:

Whereas the credentials upon which Noble A. Hull claims a seat in the Forty-sixth Congress from the second congressional district of the State of Florida have been annulled and made void by the judgment of the supreme court of that State; and

Whereas, in pursuance and in compliance with such judgment and with the laws of said State, the State board of canvassers of Florida have determined, declared, and certified that Horatio Bisbee, jr., is duly elected a Representative to the Forty-sixth Congress of the United States of America from the second congressional district of the State of Florida: Therefore,

Resolved, That Horatio Bisbee, jr., is entitled to be sworn in as a member of this House on his *prima facie* case.

Mr. FRYE. I hope the gentleman from Virginia will not demand the previous question. This is a matter which we on this side of the House desire to discuss.

Mr. HARRIS, of Virginia. I insist on the demand for the previous question. There will be one hour for debate after the previous question is seconded.

Mr. GARFIELD. Oh, no. This is not the report of a committee. Mr. Speaker, I take it for granted that this new House just assembled will be willing to hear a statement (if the gentleman from Maine has one to present) to the effect that the credentials of Mr. Hull have been invalidated by the authority of the supreme court of the State. If such a statement were true, this House, I take it, would not be willing that a man should be sworn in on an invalidated credential. I say this without anticipating the ground which the gentleman from Maine may take.

Mr. HARRIS, of Virginia. I have always found that time is economized by assenting somewhat to the views of the minority. As in this case they desire a short time to discuss the question, I think it will economize time and give more satisfaction to allow a limited discussion. Therefore I would like to hear from gentlemen on the other side what time they desire.

Mr. FRYE. I should very much prefer that the matter go over until to-morrow, without prejudice to the right of the sitting member to participate in the drawing of seats. This was the course pursued two years ago, in the case from Colorado and other cases, where objection was made to gentlemen being sworn in. We might allow Mr. Hull the right to participate by proxy in the drawing of seats, so that he could not be subjected to injustice in any possible event. I hope that the gentleman from Virginia will consent to allow this question to go over until to-morrow and then permit at least two hours' discussion, one hour on each side.

Mr. HARRIS, of Virginia. While it may not be agreeable to some of my friends on our side of the House, I think time will be saved and the rights of all parties best observed by agreeing to the suggestion of the gentleman from Maine. So far as I am concerned, I agree to it.

The SPEAKER. If there be no objection the further consideration of the resolution and the substitute will be postponed until to-morrow.

There was no objection, and it was ordered accordingly.

Mr. GARFIELD. I hope the credentials and all the papers that have been presented to the Clerk in this case may be printed in the RECORD, so that members may have them in print to-morrow when the question is voted upon.

Mr. COX. How many of these papers are there? They may make a whole volume.

Mr. GARFIELD. I think they are not voluminous. The Clerk himself mentioned that he had received certain papers.

Mr. COX. There may be a volume of testimony.

Mr. HISCOCK. I ask that the judgment record and the opinions of the court be printed.

Mr. COX. There is no objection to that.

Mr. GARFIELD. I understand that the papers in the hands of the Clerk are not voluminous. It would be convenient to all members of the House to have in print to-morrow everything bearing directly and particularly upon this subject. I ask that all the papers—the certificate of the governor, the judgment of the court, and all the papers, whatever they may be—be printed in the RECORD.

The SPEAKER. The Chair understands that the request is to have printed in the RECORD the certificate of the governor, the subsequent opinion of the attorney-general, and the judgment of the court.

Mr. GARFIELD. Certainly; and the certificate of the board of canvassers.

Mr. HISCOCK. And the opinions of the court.

The SPEAKER. Is there objection?

Mr. MORRISON. I object.

Mr. GARFIELD. Is there objection to having these papers printed?

Mr. CONGER. I ask, then, that the papers may be read.

The SPEAKER. The matter has gone over until to-morrow.

Mr. MORRISON. At the request of members around me I withdraw my objection.

The SPEAKER. The gentleman from Illinois [Mr. MORRISON] withdraws his objection; and the papers indicated by the gentleman from Ohio [Mr. GARFIELD] and the gentleman from New York [Mr. HISCOCK] will be printed in the RECORD.

Mr. COX. The papers on both sides?

Mr. GARFIELD. Certainly.

The SPEAKER. The agreement, as the Chair understands, is that all the papers be printed except such as may be of the character of testimony.

Mr. GARFIELD. I do not ask for the printing of any testimony; merely the official papers proper.

The SPEAKER. If there be no objection the order to print will be made.

There was no objection.

The following are the papers:

EXECUTIVE OFFICE,
Tallahassee, Florida.

I, George F. Drew, governor of the State of Florida, do hereby certify that at an election held on the 5th day of November, A. D. 1878, in the several counties of the State of Florida composing the second congressional district of said State for

Representative in the Forty-sixth Congress of the United States of America, under an act to provide for the registration of electors and the holding of elections, approved August 6, 1868, and acts amendatory thereto, Noble A. Hull, of the county of Orange, in said State, received a majority of all the votes cast for Representative in the Forty-sixth Congress from the second congressional district of the State of Florida, and was duly elected to be such Representative, as fully appears from a certificate of the State board of canvassers, made under the laws of said State and now on file in the office of secretary of state of said State of Florida.

In testimony whereof I hereunto set my hand and caused the great seal of the State of Florida to be affixed, at Tallahassee, the capital, this the 23d day of December, A. D. 1878, and of the Independence of the United States of America the one hundred and third year.

GEORGE F. DREW,
Governor of the State of Florida.

By the Governor.
Attest:

W. D. BLOXHAM,
Secretary of State of the State of Florida.

The State of Florida, to William D. Bloxham, secretary of state, George P. Raney, attorney-general, and Columbus Drew, comptroller, members of the board of canvassers of Florida, and to every of them, greeting:

Whereas it has been suggested to us by the petition of Horatio Bisbee, jr., that a general election was held in the State of Florida on the 5th day of November, A. D. 1878, for the election, among other officers, of Representatives to the Forty-sixth Congress of the United States of America; that the petitioner, Horatio Bisbee, jr., is a citizen and resident of Duval County, in said State, and was one of the candidates for Representative to Congress from the second congressional district of said State to be voted for by the voters of said district, and Noble A. Hull was the only other candidate to be voted for for such Representative from said district; that by the *bona fide* and true returns of votes cast at said election received at the office of secretary of state, as provided by law, the whole number of votes cast at said election for your petitioner for such Representative was 10,779, and the whole number of votes cast at said election for the said Noble A. Hull for such Representative was 10,577; that on the 10th day of December, in the year aforesaid, George P. Raney, the attorney-general of Florida, William D. Bloxham, secretary of state, and Columbus Drew, comptroller of public accounts, constituting the board of State canvassers of returns of elections in said State, convened and organized as such board at the office of the secretary of state to canvass the returns of said election and determine and declare who had been elected Representative to Congress as shown by the *bona fide* and true returns of votes cast at said election on file in the office of the secretary of state; that upon so organizing the said board proceeded to canvass such returns of elections, and in making such canvass the said board did improperly and wrongfully reject a *bona fide* return of votes cast in the county of Madison, in said congressional district, and in the exercise of pretended power not conferred upon said board by law did refuse to include in their declaration of the result of said election for such Representative to said Congress the said return of votes cast in Madison County.

That it clearly appears from said return from Madison County that the petitioner received at said election in said county 1,151 votes for Representative in Congress, and said Noble A. Hull received 938 votes for Representative in said Congress, and by the action of said board rejecting and not canvassing said return petitioner is prevented from receiving a certificate, to which he is entitled, certifying that he has been duly elected to the Forty-sixth Congress from the second congressional district of Florida. Whereas if said board of canvassers had counted and included said return in their declaration of said result it would manifestly appear that petitioner had been elected Representative to said Congress.

That said return of votes cast at the said election in Madison County was duly signed by the county canvassers, and that it truly sets forth and contains the vote actually cast at said election in said county for said candidate, as shown by all the precinct returns from established precincts in said county delivered or filed by the inspectors of election at such precincts to the clerk of the circuit court of said county, and to the county judge of said county, or to either of them, and the said board of State canvassers do not deny that the said county canvassers performed their full duty and made a true return of all the votes cast in said county for Representative to Congress in strict accordance with the law, as shown by all the precinct returns aforesaid delivered or filed by the inspectors of election with the said clerk and county judge at the time said county canvassers met and made their canvass and return pursuant to law.

That said board of canvassers rejected and refused to count said return and include it in their declaration of the said result solely and exclusively upon the ground that it was shown, by papers before said board other than said return, that from one of the voting precincts in said county no return of the votes cast thereat was ever delivered or filed by the inspectors at said precinct, or by any other person, either to the clerk of the circuit court of said county or to the county judge of said county, and that the county canvassers of said county consequently did not have before them when they made their canvass, which was on the last day specified by law for making the same, nor within their power or control, a return or paper purporting to be a return of votes cast at any election at said precinct; which said precinct is known as precinct or district No. 4 in said county.

That no return of an election at said precinct has to this day and time been delivered to the said clerk's office or county judge's office, and that it has not at any time since said election been within the power of said county canvassers to make any other or different return of votes cast in said county at said election than the one so rejected as aforesaid by the said board of State canvassers; and the said board of State canvassers admit that the said county canvassing board performed their duty under the law and made a correct canvass and return of all the votes cast at said election in said county, as shown by all the precinct returns before them as aforesaid, all of which will fully appear by a copy of the certificate of said board of State canvassers, showing their action and the ground of their action in the premises, which is herewith filed and marked "Exhibit A."

That the petitioner is informed, and upon information and belief avers, that at said precinct 186 votes were cast for petitioner and 129 votes were cast for Noble A. Hull for such Representative.

And whereas the said Horatio Bisbee, jr., prays for a peremptory writ of mandamus from this court directed to the members of said State canvassing board, and to each of them, commanding them forthwith to reconvene and assemble as such board of State canvassers, at the office of secretary of state, and to canvass the said return of votes cast at the said election in Madison County for said candidates, and include the said return in their declaration of the result of said election for Representative to the Forty-sixth Congress of the United States, as shown by such *bona fide* and true returns of votes cast at said election; and to make and sign, as required by law, a certificate containing in words written at full length the whole number of votes given at said election, as shown by the said returns for the office of Representative to the said Congress from the second congressional district of Florida, and in said certificate declare the result of said election for such Representative to said Congress, and that such other order may be had in the premises as justice may require.

Now, therefore, we being willing that full and speedy justice should be done in the premises, do command you, William D. Bloxham, secretary of state, and you, George P. Raney, attorney-general, and you, Columbus Drew, comptroller, that you meet forthwith and convene and reassemble as a board of State canvassers in the office of the secretary of state to canvass and count the true and *bona fide* returns of the election on file in the said office of the secretary of state from the second congressional district of Florida of the said election for the office of Representative to the Forty-sixth Congress, held on the 5th day of November, A. D. 1878; and especially that you do canvass and count the return of the said election from Madison County, and include said return in your declaration of the result of said election for Representative to the Forty-sixth Congress of the United States, as shown by such *bona fide* and true returns of votes cast at said election; and to make and sign, as required by law, a certificate containing in words written at full length the whole number of votes given at said election as shown by the said *bona fide* and true returns for the office of Representative to the said Congress from the second congressional district of Florida, and in said certificate declare the result of said election for such Representative to said Congress.

And that you do perfectly execute this writ on this the 8th day of January, A. D. 1879, and how you shall have executed it make return to our supreme court on said day by four o'clock p. m., in writing, to be filed in the clerk's office of said court.

Witness the honorable E. M. Randall, chief-justice of the supreme court of Florida, this 8th day of January, A. D. 1879, at the capital at Tallahassee, Florida, and the seal of said court.

[SEAL.] CHAS. H. FOSTER, *Clerk.*

Supreme court, special term, A. D. 1879.

State *ex rel.* Bisbee
vs.
State Canvassing Board.

We have the honor to certify that we have performed the requirements of the peremptory writ of mandamus issued in this cause.

January 8, 1879.

W. D. BLOXHAM,
Secretary of State.
C. DREW, *Comptroller.*
GEO. P. RANEY,
Attorney-General.

I, Charles H. Foster, clerk of said supreme court, do hereby certify that the foregoing is a correct copy of the original peremptory writ of mandamus issued in the above-entitled cause by this court aforesaid.

In witness whereof I have hereunto set my hand and the seal of said court this 6th day of March, A. D. 1879.

[SEAL.] CHAS. H. FOSTER, *Clerk.*

[Indorsement:] Supreme court, State of Florida. The State of Florida *ex rel.* Horatio Bisbee, jr., *vs.* Wm. D. Bloxham, secretary of state, *et al.* Peremptory writ and answer of respondents. (Copy.) Filed January 8, A. D. 1879. C. H. Foster, Clerk.

Supreme court, special term, January, 1879.

The State of Florida, *ex rel.* Horatio Bisbee, jr.,
vs.
W. D. Bloxham, secretary of state, and others constituting the State canvassing board.
} Mandamus.

The alternative writ sets up the facts that he was a citizen of the State of Florida and one of the candidates for Representative in Congress at an election held in the second congressional district on the 5th day of November, 1878, and received a majority of the votes actually cast and duly returned to the board of State canvassers.

That on the 10th day of December, 1878, the said respondents as a board of State canvassers organized and proceeded to canvass the returns of said election, and that they did improperly reject a *bona fide* return of votes cast in Madison County and refused to include in their said canvass the entire return of votes from said county on the ground that there was no return made from one precinct in said county to the county board of votes cast in such precinct, and such votes were not included in the return made by the county canvassers to the State board, and that by so rejecting the county returns of Madison County the relator was deprived of a certificate of election to which he would have been entitled if such returns had not been so rejected. He therefore demands that the State board be required to convene and canvass and count all the *bona fide* returns of said election, including those from Madison, and declare and certify the result and perform such other duties as are required by law in the premises.

The respondents filed their demurrer to the alternative writ upon the following grounds:

1. It does not show that the relator is twenty-five years of age.
2. There was not nor is there any statute or law of the State of Florida providing for the election of a Representative in Congress from the second congressional district of said State.
3. The said writ shows that the said return from Madison County does not show or represent the true vote cast in said county at said election. (Opinion, Randall, C. J.)

Upon the first ground of demurrer, that the relator is not shown by the alternative writ to be twenty-five years of age, we remark that the title to the office not being by any possibility liable to be controverted in a proceeding of this character, any peculiar qualification prescribed by the Constitution of the United States for members of Congress can be tried only by the Congress. This proceeding seeks only to procure such certificate as the candidate voted for may be entitled to under the laws of this State, which certificate is a property which the person obtaining the most votes is authorized by law to demand. Upon this inquiry the right to take and hold the office is not in question, and a slight examination of the rules laid down in the books does not show that such a question has ever been entertained by the courts. Whether the relator possesses all the qualifications necessary to entitle him to a seat in Congress is a matter that can only be inquired into by the House in which he may present a certificate of election.

The relator shows in the pleadings that he is a citizen of this State and was voted for at the last general election for Representative in Congress from the second district, and that he received a majority of votes actually cast and duly returned, and that such votes have not been counted in full, so that a certificate of election is withheld from him. If all this is true no person other than himself is entitled to the certificate of election, and whether the one or the other is entitled to the seat cannot be tried before a State court. The question raised, therefore, by the first ground of demurrer is not material in this court. Were this a proceeding under a writ of *quo warranto* to test the right to a State office the question of eligibility would be material The first ground of demurrer is not sustained.

The second ground of demurrer was abandoned upon the hearing. We proceed then to consider the third ground of demurrer, involving the only material question before us.

We do not find anywhere in the opinion or judgment of this court in the case of Drew, relator, against the State canvassers, (16 Fla., 17,) or in any other case decided by this court, any expression which will warrant the exclusion by the State board of a return which is regular, genuine, and *bona fide*, merely because the board are informed and satisfied that votes cast at a precinct (of which no return was made to the county board) were not included in the return made by county canvassers to the State board. The power of this board "is limited" (as is expressly stated in the opinion of the court in that case) "by the express words of the stat-

ute which gives them being to the signing of a certificate containing the whole number of votes given for each person for each office, and therein declaring the result as shown by the returns." The judgment of the board may be invoked to lay aside a county return and omit to include it in the statement and determination of the result of the election when it shall appear to them that the return is "so irregular, false, and fraudulent" that it does not show the true vote, but does represent votes not cast according to the precinct returns made to them; or, in other words, that the return in the hands of the State board is not made up in good faith from such precinct returns, but is a thing manufactured, an attempted imposition upon the board, or of such character that it represents falsehood instead of the truth as to the precinct returns of votes actually cast, and is for such reasons not a lawful return of an election.

In the case referred to the court says: "The words 'the true vote' used in the statute indicate the vote actually cast as distinct from the legal vote." The court was considering whether the power of the board to dissect returns and reject such votes as may have been illegally cast was included in the language of the statute, and it was decided that they had no such power under the statute, and that the power given was confined to a determination as to the character of the return—whether it was regular, genuine, *bona fide*, a true or false compilation of precinct returns. This power was deemed incident to the character of the office of the canvassers as created and defined by law for the protection of the board and the people from the effect of unlawful attempts to palm off upon them forged and "doctored" papers or wholesale falsehoods. To maintain under our statute that a county canvass based upon votes not cast is a proper return to be counted is clearly erroneous.

Is this the character of the return from Madison? Does the return made by the county canvassers of that county bear any of the characteristics that place it among returns that the State board may exclude? Does it include any votes but those actually cast according to the precinct returns? Is it false as to those returns?

It is not pretended that the county canvassers of Madison County have violated the letter or the spirit of the law, nor that the return made by them is "irregular or fraudulent" within the meaning of the statute, but that it is false.

The ninth section of chapter 3021, (Laws of 1877,) amending the twenty-fourth section of the act of 1868, provides that "on the sixth day after any election, or sooner if the returns shall have been received, it shall be the duty of the county judge and clerk of the circuit court to meet at the office of the said clerk and to take to their assistance a justice of the peace of the county, * * * and they shall publicly proceed to canvass the votes given for the several officers and persons as shown by the returns on file in the office of said judge and clerk respectively. Such canvass shall be made solely and entirely from the returns of the precinct inspectors in each election district as filed by them with the county judge and clerk of the circuit court respectively; and in no case shall the board of county canvassers change or vary in any manner the number of votes cast for the candidates respectively at any of the polling places or precincts in the county as shown by the returns of the inspectors of such polling places or precincts. They shall compile the result of the election as shown by said inspectors' returns, and shall then make up and sign duplicate certificates, containing in words and figures, written at full length, the whole number of votes given for each office, the names of persons for whom such votes were given for each office, and the number of votes given to each person for such office. Such certificate shall be recorded by the clerk in a book to be kept by him for that purpose, and one of such certificates shall be immediately transmitted by mail to the secretary of state and the other to the governor of the State."

The fourth section of chapter 1868 (Laws of 1872) requires the State board of canvassers to "proceed to canvass the returns of said election, and determine and declare who shall have been elected to any such office or as such member, as shown by such returns," unless the returns are shown to their satisfaction to be vicious, as before stated.

Now, the county canvassers of Madison County have fully and honestly complied with the law. They canvassed and certified all the votes returned to the judge and clerk in due form of law.

The statute required them to perform their duty within a certain time, and they performed it. If precinct inspectors failed to return votes from their precinct, still the county canvassers lawfully proceeded without it. The State canvassers "may be authorized by the Legislature (as is said in the Drew case) to inquire into the truth or falsity of the returns sent to them, and if, upon such inquiry, they be satisfied that the return does not show the vote actually cast at the election, but states a falsehood as to that fact, they may lay it aside and refuse to count the return, as is provided in the act of 1872."

The county canvassers of Madison County made a return that contains only the truth and not falsehood. There is no allegation that they made other than a truthful, legal canvass and return of all the votes cast in the county and duly returned to them, and their returns to the State board are regular and intelligible, according to the pleadings in this case.

It was urged in the argument that if there should be in a given county a large number of precincts, and it should happen that the returns of one poll only should reach the county canvassers, and this return only canvassed and returned to the State board, it would be absurd to treat this single poll as the true vote of the county.

It may be that this state of things being made to appear, the State board might well consider that there had been improper conduct on the part of precinct inspectors or messengers, as they would know that the entire vote of the county had not been given to the county board. We will not here instruct them as to their duty in such an extreme case. We submit, however, that because one or more precincts may be disfranchised temporarily by rascality or accident, it does not follow that the residue of the voters of the county should be legally treated in the same manner.

Whether the returns not made would produce a different result of the election, could scarcely be determined by a canvassing board, and parties interested would doubtless seek a remedy.

Suppose that at the close of the election at any polling place it should be ascertained that there were one or more ballots found in the box more than there were names on the poll-lists, and the inspectors, under the law, draw out and destroy a number of ballots equal to the excess, so that the list and the ballots agree in number, and a return is made of the result, excluding the votes so drawn out and destroyed; yet it may be proved that these ballots were "actually cast." On this showing, would the returns give the vote "actually cast?" I think it would, though it did not show the entire vote cast. The votes returned were votes actually cast, and the return does not state a falsehood, is not irregular nor a fraud, because it is a lawful return. Yet this return is precisely as false as the return from Madison County, and with the same propriety should be rejected.

Neither should be rejected, because they are true and according to law.

Under the law and the rules heretofore announced by this court upon the subject, the State board can investigate the good faith and regularity of the action of the county board and their certificate, when these are challenged, for their own protection and that of the public, and the proper exercise of this power is the only protection against imposition.

The omission of the inspectors of a precinct or polling place to make a return to the county board may occasion inconvenience to parties interested in the vote in a contest before a tribunal competent to hear and decide the right to an office, but it is assuredly not the basis of the imputation of fraud or falsehood against the county returns or the county board.

Under the circumstances, and in view of the decision of this court in the case of Drew, relator, against the State Board, the election return from Madison County does not come "under the condemnation" of that decision.

What the court might say if it was alleged by the respondents that a portion of the returns received by the county board from the precincts had been without cause or arbitrarily suppressed, may not be appropriate to this case, for no such charge is made. But for myself I feel bound to say that, in my judgment, the returns made to the State board in 1876 from the county of Clay should have been counted by the board, and had an application been made at the moment looking to that end, I should have voted in favor of it. The court, in its opinion on that question, said: "The answer states that 35 votes were added (by the State board) upon the ground that said votes had been improperly rejected by the county canvassers of the vote of said county at said election, and that 6 votes were deducted upon the ground that said votes were cast by non-residents of the county. It follows, from the view we have taken of the law applicable to the powers and duties of the State canvassers, that any statement of votes by precinct inspectors, which were not included in the canvass made by the canvassing board, cannot be counted by the State board, the powers of the latter being confined by law to counting only such votes as are duly returned by the county board."

I understood then as now, that this was a sufficient indication to the State board that the returns from Clay, so far as they gave evidence of "actual votes," should be counted, there being no alleged evidence of fraud or falsehood as to the returns so made by the county board; but that the precinct return had been omitted by that board in making the county canvass solely (yet probably honestly) upon insufficient grounds.

The State board had at first included the Clay County returns in their canvass, embracing not only the votes regularly returned, but also the votes mentioned in the precinct return which the county board had omitted to include in their formal return to the State board.

The comments of the court, referring to the Clay County return, condemned the action of the State board in including the 35 votes from the rejected precinct returns, and the court said they could not be counted by the State board, their powers being confined by law to counting only such votes as are duly returned. It strikes me that if the opinion of the court had been that the regular return of votes from Clay County could not be counted by reason of the omission to include the precinct votes mentioned, the court would have so expressed itself, which it did not do, but used the language above quoted. But the returns from Madison County are not in the same condition. The canvassing board of Madison counted and duly certified to the State board all the returns made to them; the law above cited required them to do so without reference to returns they did not have, and the law required the State board to count such unimpeached returns.

The demurrer of the respondent is overruled.

I, Charles H. Foster, clerk of the said supreme court of Florida, do hereby certify that the foregoing seven pages (of which a part of page 5 and page 6 and part of page 7 are in print) contain a true copy of the original opinion of said court, filed in my office on the 7th day of January, A. D. 1879.

In witness whereof I have hereunto set my hand and the seal of the said court, this 7th day of March, A. D. 1879.

[SEAL.]

CHAS. H. FOSTER,
Clerk Supreme Court of Florida.

Certificate of board of State canvassers of the general election held November 5, A. D. 1878.

We, William D. Bloxham, secretary of state of the State of Florida, Columbus Drew, comptroller of said State, and George P. Raney, attorney-general of the State aforesaid, do hereby certify that we met at the office of the secretary of state at the capitol, in the city of Tallahassee, on the 8th day of January, A. D. 1879, and proceeded to canvass the returns of the general election held in said State on the 5th day of November, A. D. 1878, for Representative of the said State of Florida in the Forty-sixth Congress of the United States of America, from the second congressional district of said State of Florida, from which canvass we certify as follows:

In Suwannee County: The whole number of votes cast for Representative in Congress for the second congressional district was 1,094, of which Horatio Bisbee, jr., received 553 votes, Noble A. Hull received 540 votes, and Chandler H. Smith received 1 vote.

In Hamilton County: The whole number of votes cast for Representative in Congress for the second congressional district was 1,027, of which Noble A. Hull received 609 votes and Horatio Bisbee, jr., received 418 votes.

In Columbia County: The whole number of votes cast for Representative in Congress for the second congressional district was 1,711, of which Horatio Bisbee, jr., received 803 votes and Noble A. Hull received 908 votes.

In Bradford County: The whole number of votes cast for Representative in Congress for the second congressional district was 920 votes, of which Noble A. Hull received 697 votes and Horatio Bisbee, jr., received 223 votes.

In Alachua County: The whole number of votes cast for Representative in Congress from the second congressional district was 2,923 votes, of which Noble A. Hull received 1,178 votes, Horatio Bisbee, jr., received 1,745 votes.

In Nassau County: The whole number of votes cast for Representative in Congress from the second congressional district was 1,391, of which Noble A. Hull received 622 votes and Horatio Bisbee, jr., received 769 votes.

In Baker County: The whole number of votes cast for Representative in Congress for the second congressional district was 414 votes, of which Noble A. Hull received 256 votes and Horatio Bisbee, jr., received 158 votes.

In Clay County: The whole number of votes cast for Representative in Congress from the second congressional district was 419 votes, of which Noble A. Hull received 307 votes and Horatio Bisbee, jr., received 112 votes.

In Marion County: The whole number of votes cast for Representative in Congress from the second congressional district was 2,198, of which Noble A. Hull received 1,008 votes and Horatio Bisbee, jr., received 1,190 votes.

In Duval County: The whole number of votes cast for Representative in Congress from the second congressional district was 3,344, of which Horatio Bisbee, jr., received 2,214 votes, Noble A. Hull received 1,130 votes.

In Saint John's County: The whole number of votes cast for Representative in Congress from the second congressional district was 878, of which Noble A. Hull received 532 votes and Horatio Bisbee, jr., received 346 votes.

In Putnam County: The whole number of votes cast for Representative in Congress from the second congressional district was 1,238, of which Noble A. Hull received 616 votes and Horatio Bisbee, jr., received 622 votes.

In Volusia County: The whole number of votes cast for Representative in Congress from the second congressional district was 610, of which Noble A. Hull received 367 votes, Horatio Bisbee, jr., received 243 votes.

In Orange County: The whole number of votes cast for Representative in Congress from the second congressional district was 1,041, of which Noble A. Hull received 823 votes and Horatio Bisbee, jr., received 218 votes.

In Dade County: The whole number of votes cast for Representative in Congress from the second congressional district was 61, of which Noble A. Hull received 47 votes and Horatio Bisbee, jr., received 14 votes.

In Madison County: The whole number of votes cast for Representative in Congress from the second congressional district was 2,089, of which Noble A. Hull received 938 votes and Horatio Bisbee, jr., received 1,151 votes.

From which canvass it appears that the whole number of votes cast for Representative to the Forty-sixth Congress of the United States of America from the

second congressional district of the State of Florida was 21,358, of which Noble A. Hull received 10,578 votes, Horatio Bisbee, jr., received 10,779 votes, and Chandler H. Smith received 1 vote.

Wherefore it is determined and declared that Horatio Bisbee, jr., is duly elected Representative to the Forty-sixth Congress of the United States of America from the second congressional district of the State of Florida, as shown by such returns.

And the said board of State canvassers having canvassed the election returns of Madison County of the general election held on November 5, 1878, certify that the whole number of votes cast for State senator was 2,087, of which Enoch J. Vann received 943 votes and Dennis Eagan received 1,144.

Wherefore it is determined and declared that Dennis Eagan is duly elected State senator from the tenth senatorial district.

The whole number of votes cast for members of the assembly was six thousand two hundred and forty, (6,240,) of which John B. Marshall received nine hundred and forty-two (942) votes, Daniel C. Barker received nine hundred and thirty-two (932) votes, Thomas J. Blalock received nine hundred and twenty-three (923) votes, E. J. Alexander received eleven hundred and fifty-two (1,152) votes, A. B. Osgood received eleven hundred and fifty-four (1,154,) and B. F. Tidwell received eleven hundred and thirty-seven (1,137) votes. Wherefore it is determined and declared that E. J. Alexander, A. B. Osgood, and B. F. Tidwell are duly elected members of the assembly from said county of Madison.

We further certify that the above canvass is made in accordance with the decision of the supreme court of Florida in the case of the State *ex rel.* Horatio Bisbee against Board of State canvassers. We further certify that the return from Brevard County, in so far as it relates to or represents the vote for member of Congress cast in that county, was laid aside and not included in the above canvass and declaration for the reasons stated in a separate certificate filed in the secretary of state's office and signed by us, bearing date December 23, 1878.

W. D. BLOXHAM,
Secretary of State.
C. DREW, *Comptroller.*
GEO. P. RANEY,
Attorney-General.

JANUARY 8, 1879.

STATE OF FLORIDA,
Office Secretary of State, ss:

I, W. D. Bloxham, secretary of state, do hereby certify that the foregoing is a correct transcript of the original now on file in this office.

Given under my hand and the great seal of the State of Florida at Tallahassee, the capital, this 13th day of January, A. D. 1879.

[SEAL.]

W. D. BLOXHAM,
Secretary of State.

ATTORNEY-GENERAL'S OFFICE,
Tallahassee, Florida, January 10, 1879.

DEAR SIR: I have the honor to acknowledge the receipt of your communication of yesterday, asking for my legal opinion as to your official duty in the matter of the application of Hon. H. Bisbee, jr., for a certificate of election as Representative to the Forty-sixth Congress of the United States from the second district of Florida. The facts of the case are, that by the canvass of the returns from this district, concluded by the State board of canvassers on the 21st day of December, A. D. 1878, as shown by the certificate of the board of that date in the office of the secretary of state, Hon. Noble A. Hull was declared elected as such Representative. This certificate of the board shows that, according to that canvass, Mr. Hull received the majority of votes, he receiving 9,640 votes and Mr. Bisbee receiving 9,628 votes; and it also shows that the returns from Madison and Brevard Counties were laid aside by the board and not included in the canvass because the board found that they did not represent the "true vote" cast in such counties. After this canvass and certificate were made you issued a certificate of election to Mr. Hull, under section 30 of chapter 1625 of the laws of Florida. After this a proceeding was commenced by Mr. Bisbee in the supreme court, by writ of mandamus, to test the legality of the board's action in ejecting the return from Madison County; and the court decided that the board erred in rejecting this return, and ordered the board to reassemble and canvass the true and *bona fide* returns on file in the office of secretary of state, and to include and count in such canvass and in the declaration of the result of the election the return from Madison County; and to make and sign a certificate, as required by law, containing in words written at full length the whole number of votes given at such election, as shown by such *bona fide* and true returns, for Representative to such Congress, and to declare the result of such election.

Pursuant to such decision and order the board reassembled on the 8th instant and canvassed the returns, including that of Madison County, but not that of Brevard, this return being rejected by the board, as shown by the certificate, because it did not represent the "true vote" cast in that county. The certificate of this canvass on file in the secretary of state's office shows that Mr. Bisbee received 10,779 votes and Mr. Hull received 10,578 votes; and declares that Mr. Bisbee was elected.

You, therefore, have before you two certificates in so far as the election for Representative to Congress from the second district is concerned. The last has been made under and is in accordance with the decision of the highest court in the State as to the return from Madison County. The action of the board in rejecting the Brevard return and counting the other returns in each canvass by the board has not been questioned by legal proceedings, and should, in my opinion, be held as proper in so far as your duties in the premises are concerned, until it has been reversed by a competent court. The statute contemplates that you should give a certificate to the person, whom the canvass of the board shows entitled to it; and as between the two canvasses made by the board, the one made on the 8th day of January should, in my opinion, be regarded as the legal canvass. Any officer should hesitate to refuse to conform his action to the decision of the supreme court of his State. This decision has settled the right of Mr. Bisbee to the certificate made by the board; and thus, also, directed the formation of the basis to which you are to look for guidance in your action. The fact that you issued a certificate to Mr. Hull on the former canvass, before the court had convened, should not, to my mind, prevent you from issuing one on the second canvass to Mr. Bisbee. A recital in the one you may issue Mr. Bisbee should, in justice to yourself, state the facts of the case set forth above.

The duty devolved upon you is plainly ministerial; there is nothing properly resting in executive discretion. It is true that some supreme courts have decided that the judiciary would have no right to issue a mandamus compelling you to issue the certificate, and others have decided the contrary; but the question of your duty is not settled by the power of the courts to interfere in the matter. The supreme court of Georgia, in a case somewhat similar, except that there had not been a legal ascertainment of the relator's right to the office as there has been of Mr. Bisbee's right in this case to the last canvass and declaration made by the board, adopted the view of non-interference, basing it upon political reasons, but said:

"The framers of the constitution, doubtless, never anticipated that the executive officer of the government, whose sworn duty it is to cause justice to be executed according to law, would ever refuse to comply with the law when authoritatively adjudicated by the proper department of the government. In England, as we have already seen, when a right is claimed by the subject as against the Crown, the King is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court. In the monarchical government of Great Britain, when the subject appeals to the courts of justice for his legal rights as against the Crown and the judgment is in favor of the subject and against the right claimed by the Crown, the King does not feel, it would seem, 'an involuntary shudder, as if, at the near approach of grasping power, the judiciary was about to plant its iron heel upon a prostrate constitution,' but always manifests his respect for the laws of his kingdom by invariably complying with the judgments of his courts. Such being the established course of the executive department of the government in Great Britain, we cannot and we will not presume that the chief magistrate of a republican State would for one moment hesitate to issue a commission to the relator when his right and title to the office shall be established by the judgment of a court of competent jurisdiction. To presume that the executive officer of the government would withhold the commission from one who had been judicially declared by a court of competent jurisdiction legally elected to the office would be to say, in the language of this court in Bonner *vs.* Pitts, that such officer was above the laws of the people; that he had the right to exercise despotic power, regardless of the laws of the people; and, in the language of Chief-Justice Marshall, at his discretion sport away the vested rights of individuals secured and protected by the laws of the land."

Mr. Bisbee's right to the certificate from you is legally consequent upon his right to the certificate and declaration made by the board.

Yours, very respectfully,

GEO. P. RANEY,
Attorney-General.

Hon. GEORGE F. DREW,
Governor of Florida.

I do hereby certify that the foregoing is a true copy from the records of the office of the attorney-general of the State of Florida.

G. P. RANEY,
Attorney-General.

TALLAHASSEE, FLORIDA, *January* 30, 1879.

EXECUTIVE OFFICE,
Tallahassee, Florida, January 14, 1879.

SIR: In reply to your several communications upon the subject, and in accordance with my promise of the 11th instant, I have to say, that under existing circumstances it will be impossible for me to issue to you a certificate of election as member of Congress from the State of Florida to the Forty-sixth Congress of the United States of America. I have some time since issued and signed a certificate for another person to that position, and I have no power to revoke the former certificate.

If you are entitled to a seat in the Forty-sixth Congress, it is for that body to decide.

This conclusion was reached after careful consideration and after consultation with some of the ablest lawyers in the State.

Very respectfully,

GEO. F. DREW.

To Hon. HORATIO BISBEE, JR.

ELECTION OF CLERK, SERGEANT-AT-ARMS, ETC.

Mr. CLYMER submitted the following resolution:

Resolved, That Hon. George M. Adams, a citizen of the State of Kentucky, be, and is hereby, elected Clerk of the House of Representatives of the Forty-sixth Congress; that John G. Thompson, of the State of Ohio, be, and is hereby, elected Sergeant-at-Arms of the House of Representatives of the Forty-sixth Congress; that Charles W. Field, of the State of Georgia, be, and is hereby, elected Doorkeeper of the House of Representatives of the Forty-sixth Congress; that James M. Steuart, of the State of Virginia, be, and is hereby, elected Postmaster of the House of Representatives of the Forty-sixth Congress; and that Rev. W. P. Harrison, of the District of Columbia, be, and is hereby, elected Chaplain of the House of Representatives of the Forty-sixth Congress.

Mr. FRYE. I submit the following amendment:

Amend resolution by striking out that portion naming candidates, with the respective offices to which they are nominated, and inserting in lieu thereof the following:

For Clerk of the House of Representatives of the Forty-sixth Congress, Joseph H. Rainey, of South Carolina.
For Sergeant-at-Arms, Jeremiah M. Rusk, of Wisconsin.
For Doorkeeper, James M. Melton, of Tennessee.
For Postmaster, Henry Sherwood, of Michigan.
For Chaplain, Rev. Henry R. Nailor.

Mr. WEAVER. I move to amend the amendment by striking out that portion naming the candidates, with the respective offices to which they are nominated, and inserting in lieu thereof the following:

For Clerk of the House of Representatives of the Forty-sixth Congress, Lee Crandall, of Alabama.
For Sergeant-at-Arms, Charles Brouse, of Indiana.
For Doorkeeper, Benjamin E. Green, of Georgia.
For Postmaster, D. P. Mitchell, of Kansas.

Mr. CLYMER. I demand the previous question.

Mr. PRICE. I move to amend the original proposition of the gentleman from Pennsylvania by striking out the name of Rev. W. P. Harrison and inserting in lieu thereof the name of Rev. Henry R. Nailor, of the District of Columbia.

Mr. MILLS. That amendment has already been moved.

The SPEAKER. The gentleman from Pennsylvania demands the previous question.

Mr. PRICE. My object, Mr. Speaker, is to amend the original proposition and have the vote first taken on that amendment, because if adopted it may change the vote on the substitute.

The SPEAKER. Does the gentleman from Pennsylvania yield for that purpose?

Mr. CLYMER. I do not.

Mr. FRYE. I think the gentleman from Pennsylvania had better consent, or otherwise it seems to me under the rule we may demand a separate vote on each one of these offices, and in that way the gentleman from Iowa could reach his object.

Mr. CLYMER. For the purpose of saving time I withdraw the objection.

Mr. FRYE. This will save time undoubtedly.

The SPEAKER. The question will be first put upon the amendment of the gentleman from Iowa as an amendment to the original proposition.

The House divided; and there were—ayes 122, noes 144.

So Mr. PRICE's amendment to the amendment was rejected.

Mr. CLYMER. I now demand the previous question.

The previous question was seconded and the main question ordered.

The question recurred on Mr. WEAVER's amendment to the amendment.

The House divided; and there were ayes 7, noes not counted.

So Mr. WEAVER's amendment to the amendment was rejected.

The question next recurred on the amendment of Mr. FRYE.

The House divided; and there were—ayes 119, noes 145.

So the amendment was rejected.

Mr. CLYMER's resolution was then adopted.

Mr. CLYMER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The officers just elected presented themselves at the Speaker's desk and were duly qualified, Mr. ADAMS and Mr. THOMPSON taking the test oath, and Mr. FIELD, Mr. STEUART, and Mr. HARRISON the modified oath.

NOTIFICATION TO SENATE.

Mr. FERNANDO WOOD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a message be sent to the Senate to inform that body that a quorum of the House of Representatives is assembled, and that SAMUEL J. RANDALL, one of the Representatives from the State of Pennsylvania, has been chosen Speaker, and GEORGE M. ADAMS, a citizen of the State of Kentucky, Clerk, and that the House is now ready to proceed to business.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. BLACKBURN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses is assembled and that Congress is ready to receive any communication he may be pleased to make.

The SPEAKER appointed as such committee Mr. BLACKBURN, Mr. GARFIELD, and Mr. BRIGHT.

Mr. BRIGHT. I have a resolution to present and I ask the Speaker to appoint some other person in my place.

The SPEAKER appointed Mr. GOODE, of Virginia, in the place of Mr. BRIGHT.

AMENDMENT OF RULES.

Mr. SPRINGER. I offer the following resolution and ask that it be read and printed in the RECORD. I give notice that I will call it up to-morrow.

The Clerk read as follows:

Resolved, That the rules of the last House of Representatives shall be the rules of this House until otherwise ordered, with the following amendments thereto, namely:

Rule 76 shall be amended so as to read as follows:

76. It shall be the duty of the following committees to take into consideration all executive communications and such other propositions as may be presented and referred to them by the House, namely:

The Committee on Appropriations, matters relating to the legislative, executive, and judicial expenses, and for sundry civil expenses of the Government, except matters relating to the Department of Agriculture, which shall be referred to the Committee on Agriculture.

The Committee on Foreign Affairs, matters relating to consular and diplomatic expenses.

The Committee on Military Affairs, matters relating to the expenses of the Army and of the Military Academy, and for fortifications.

The Committee on Naval Affairs, matters relating to the expenses of the Navy and the Naval Academy.

The Committee on Indian Affairs, matters relating to the expenses of the Indian department.

The Committee on Post-Offices and Post-Roads, matters relating to the expenses of the Post-Office Department and for mail transportation by ocean steamers.

In preparing bills of appropriations for other objects said committees shall not include appropriations for carrying into effect treaties made by the United States; and where appropriation bills shall be referred to any of the foregoing committees for their consideration which contain appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects.

Rule 77 shall be amended so as to read as follows:

77. It shall be the duty of the several committees mentioned in Rule 76, within thirty days after their appointment at every session of Congress commencing on the first Monday of December, to report the general appropriation bills, namely:

The Committee on Appropriations, bills for the legislative, executive, and judicial expenses, for all deficiencies, and for sundry civil expenses.

The Committee on Foreign Affairs, the bill for the consular and diplomatic expenses.

The Committee on Military Affairs, the bills for the expenses of the Army and of the Military Academy and for fortifications.

The Committee on Naval Affairs, the bill for the expenses of the Navy and the Naval Academy.

The Committee on Indian Affairs, the bill for the expenses of the Indian department.

The Committee on Invalid Pensions, the bill for the payment of invalid and other pensions.

The Committee on the Post-Office and Post-Roads, the bills for the expenses of the Post-Office Department and for mail transportation by ocean steamers.

The Committee on Agriculture, the bill for the expenses of the Department of Agriculture.

In case any of said committees shall fail to make such report within said time they shall report the reasons of such failure. And said committees shall have leave to report said bills (for reference only) at any time. In all cases where appropriations cannot be made specific in amount the maximum to be expended shall be stated, and each appropriation bill when reported from the committees shall in the concluding clause state the sum total of all the items contained in said bill.

The following additional rules shall be a part of the rules of this House, namely:

167. All private bills hereafter introduced which have been printed by order of either House of the preceding Congress shall not be again printed at the expense of the Government until after a reference to a committee and report thereon with a favorable recommendation.

168. All private bills granting pensions shall hereafter be presented with an accompanying petition of the claimant, and both petition and bill shall be deposited in the petition-box and referred to the appropriate committee without printing, which committee shall consider all such petitions and bills, and shall report from time to time a general bill which shall include therein the names of all persons whom said committee shall find to be entitled to pensions, and accompany each bill with a report upon each case included therein, briefly stating the facts thereof; which general bill and accompanying report shall, when reported to the House, be printed and referred to the Committee of the Whole House on the Private Calendar.

Mr. BLACKBURN. I offer as a substitute for the resolution offered by the gentleman from Illinois what I now send to the desk.

Mr. FERNANDO WOOD. All those propositions must go to the Committee on Rules.

Mr. MILLS. No, sir; no Committee on Rules has been appointed.

The Clerk read Mr. BLACKBURN's substitute, as follows:

Resolved, That a committee of five members be appointed by the Speaker to revise and simplify the rules of the House; that they have leave to sit in vacation, and shall report on or before the first day of the regular session in December next.

Resolved, That until such report is made and adopted the rules of the Forty-fifth Congress be, and are hereby, adopted for the Forty-sixth Congress.

Mr. GARFIELD. I offer an amendment to the last resolution of the substitute offered by the gentleman from Kentucky.

The Clerk read Mr. GARFIELD's amendment, as follows:

Add to the second resolution of the substitute these words:

Except the last paragraph of Rule 120, which shall be so amended as to read as follows:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order.

Mr. HOOKER. I offer as a substitute for the pending proposition what I send to the desk.

The Clerk read as follows:

Resolved, That the committee to revise and reform the rules of this House be, and they are hereby, instructed to report at an early day an amendment of the rules of the House, so as to provide—

First. That the Committee on Military Affairs shall receive the estimates and report the bills for the annual support of the Army of the United States, and receive the estimates and report the bill for the annual support of the Military Academy at West Point.

Second. That the Committee on Naval Affairs shall receive the estimates and report the appropriation bills for the annual support of the Navy of the United States.

Third. That the Committee on Foreign Affairs shall receive the estimates and report the appropriation bill for the maintenance and support of the diplomatic and consular system of the United States.

Fourth. That the Committee on Indian Affairs shall receive the estimates and report the appropriation bill for carrying out the treaties and obligations of the Government of the United States with the various Indian tribes.

Fifth. That the Committee on the Post-Office and Post-Roads shall receive the estimates and make the appropriation for support of the Post-Office Department of the Government.

Sixth. That the Committee on Commerce shall receive the estimates of the Engineer department and introduce the annual appropriation bill for improvement of rivers and harbors.

Seventh. That the Committee on Invalid Pensions shall report the appropriation bill for the payment of pensions.

Eighth. That the Committee on Appropriations shall receive the estimates and report the appropriations for the legislative, executive, and judicial departments of the Government and the sundry civil service bill and all deficiency bills.

Ninth. That the Committee on Public Buildings and Grounds be authorized to report all appropriation bills for such public buildings as the needs of the Government may require.

The SPEAKER. Does the gentleman from Illinois demand the previous question?

Mr. SPRINGER. No, sir; I yielded to the gentleman from Kentucky, and I also yield to the gentleman from Ohio and the gentleman from Mississippi to have their resolutions printed. I desire that the resolution I have offered and the several amendments may be printed.

Mr. GARFIELD. Let them all be printed and go over till to-morrow.

Mr. CONGER. I ask the gentleman from Mississippi [Mr. HOOKER] to include in the sixth clause of his substitute, relating to estimates for the improvement of rivers and harbors, the estimates also for the construction and repair of light-houses. That belongs properly to the Committee on Commerce.

Mr. SPRINGER. That can be moved as an amendment to-morrow.

Mr. CONGER. I ask the gentleman from Mississippi to accept that so that it may be printed with his resolution.

Mr. HOOKER. I have no objection to that being added to the resolution.

Mr. HUNTON. I desire to suggest to the gentleman from Mississippi that he also make this addition:

That the Committee for the District of Columbia receive the estimates and report the appropriations for the District of Columbia.

Mr. HOOKER. I will accept that.

Mr. AIKEN. I desire to offer as a further amendment the following:

That the Committee on Agriculture shall receive the estimates and make the appropriations for the Agricultural Department.

Mr. COX. Is it understood that the amendment of the gentleman from Ohio [Mr. GARFIELD] is to be voted on to-morrow? Are all these resolutions to be then voted on?

The SPEAKER. The Chair is unable to answer when they will be voted on.

Mr. SPRINGER. I will call up the subject to-morrow.

Mr. COX. Are they all pending?

The SPEAKER. They will all be printed.

Mr. COX. I wish to save all points of order, because the amendment of the gentleman from Ohio [Mr. GARFIELD] strikes at the most vital rule we have in the interest of economy.

Mr. CONGER. I understand the gentleman from Mississippi accepts the amendment I suggested, to include the estimates for the construction and repair of light-houses?

Mr. HOOKER. I do.

DRAWING FOR SEATS.

Mr. BRIGHT. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Clerk of the House shall now proceed to place in a box the name of each Member and Delegate of the House of Representatives, written upon a separate slip of paper; that he proceed in the presence of the House to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of each Member or Delegate, upon which he shall choose his seat for the present Congress: *Provided*, That before such drawing shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order, and that every seat after having been selected shall be deemed forfeited if left unoccupied before the call of the roll of the House: *Provided*, That Hon. ALEXANDER H. STEPHENS, of Georgia; Hon. WILLIAM D. KELLEY, of Pennsylvania, the oldest member in continuous service, and Hon. FERNANDO WOOD, of New York, the oldest member in point of service, in this House, be allowed to select their seats before the drawing of seats begins.

Mr. CLARK, of Missouri. I desire to ask the gentleman from Tennessee to include in his resolution the name of my colleague, Mr. LAY, as one of the gentlemen who shall select his seat. It is well known to the House that during last fall my colleague was very severely stricken with paralysis, and although he is in a manner recovered, is still disabled. He is here, and I ask from the House as a favor to the Missouri delegation that he be allowed to choose his seat before the names of other members are drawn.

Mr. BRIGHT. I will accept that as an amendment to the resolution.

Mr. HENDERSON. I desire to make the same request for Major HAWK, who has but one leg.

Mr. MILLS. I desire to offer an amendment to the resolution.

The SPEAKER. The amendment of the gentleman from Illinois [Mr. TOWNSHEND] will now be read.

The Clerk read the amendment, as follows:

Resolved, That the members of the present Congress to whom seats were assigned by consent of the House in the last Congress be allowed to select their seats before the drawing begins.

Mr. MILLS. I desire to offer an amendment so as to place upon the list of those who will draw their seats in advance the name of my venerable friend from New York, Hon. SAMUEL S. COX. [Laughter.]

Mr. BRIGHT. I will accept that amendment, but I would suggest to the gentleman from Illinois that the original resolution covered the exception which he suggests.

Mr. TOWNSHEND, of Illinois. I desire to say, in answer to the gentleman from Tennessee, that the resolution does not cover all the cases of those to whom this privilege was extended in the last Congress.

The SPEAKER. Will the gentleman state whom he has omitted who was entitled to this privilege in the last Congress?

Mr. TOWNSHEND, of Illinois. I allude to my friend from New York, Mr. COX. [Laughter.]

The SPEAKER. It is now in the resolution as amended.

Mr. MCKENZIE. I move to amend the resolution so as to enable all the members to select their seats. [Laughter.]

Mr. FRYE. I desire to request of the House that the gentleman from New York, Mr. CHITTENDEN, who is deaf, and would be unable to hear anything in the back part of the Hall, be permitted to take the front seat which he occupied during the last Congress. It is not a desirable seat for anybody else. I ask that he be permitted to select his seat before the drawing commences.

Mr. BUCKNER. Is not this proceeding against all the rules of the House?

Mr. MILLS. There are no rules of the House yet.

The SPEAKER. The Chair knows of no rule which would forbid this proceeding.

Mr. BRIGHT. I call for the previous question on my resolution.

Mr. CALKINS. I desire to move to insert the name of JAMES A. GARFIELD as among those who may select their seats.

Mr. BRIGHT. I will accept that amendment; and I now insist on the previous question.

Mr. CONGER. I hope the gentleman will not call the previous question. There are a good many gentlemen on this side of the House who wish to select places for their friends. [Laughter.] I desire to say that we are extending this courtesy much beyond the limit to which it has been extended for years past; and it is very unsatisfactory to the members of the House, especially if they happen to be forced by this change of the rules to take extreme back seats.

Mr. BRIGHT. I insist upon the demand for the previous question.

Mr. CONGER. Then I ask that the resolution, as modified, be read, so that gentlemen may know its exact meaning.

Mr. MCKENZIE. Before the previous question is ordered, I move to insert the name of my colleague, [Mr. OSCAR TURNER.] He is lame, and is as much deserving of this distinction as any gentleman upon this floor.

Mr. ATKINS. I hope my colleague will include all the members of the House who have lost one leg or one arm.

Mr. SPRINGER. I call for the regular order.

Mr. ATKINS. Put in all the one-legged men and one-armed men.

Mr. SPARKS. I move that the name of my colleague [Mr. SINGLETON] be included among those who may select their seats in advance of the drawing.

Mr. BRIGHT. I insist on the previous question, and I hope the resolution will be adopted.

The Clerk read as follows:

Resolved, That the Clerk of the House shall now proceed to place in a box the name of each Member and Delegate of the House of Representatives, written upon a separate slip of paper; that he proceed in the presence of the House to draw from said box, one at a time, the said slips of paper; and as each is drawn he shall announce the name of each Member or Delegate upon it, who shall choose his seat for the present Congress: *Provided*, That before said drawing shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed forfeited if left unoccupied before the call of the roll of the House: *Provided*, That Hon. ALEXANDER H. STEPHENS, of Georgia; Hon. WILLIAM D. KELLEY, of Pennsylvania, the oldest member in continuous service; Hon. FERNANDO WOOD, of New York, the oldest member in point of service in this House; Hon. A. M. LAY of Missouri, Hon. S. S. COX of New York, Hon. S. B. CHITTENDEN of New York, and Hon. JAMES A. GARFIELD of Ohio, be allowed to select seats before the drawing of the seats begins.

Mr. BLACKBURN. I understood the gentleman from Tennessee [Mr. BRIGHT] to accept the proposition of my colleague [Mr. MCKENZIE] to include the name of Hon. OSCAR TURNER, of Kentucky.

Mr. KEIFER. I understood the name of Mr. HAWK, of Illinois, to be inserted.

Mr. BLOUNT. And I ask that the name of my colleague, Mr. SMITH, of Georgia, be inserted.

Mr. BRIGHT. If that will end the matter I will accept the amendments suggested.

Mr. CHALMERS. Is it in order to move to lay this resolution on the table?

The SPEAKER. It is.

Mr. CHALMERS. Then I make that motion.

Mr. SPRINGER. Will not the object of the gentleman be obtained by calling for a division of the question, and having a separate vote on the part of the resolution excepting certain members?

Mr. CHALMERS. I call for the regular order.

The SPEAKER. The regular order is upon the motion to lay on the table the resolution as modified.

The motion was agreed to.

REPRESENTATIVES FROM CINCINNATI, OHIO.

Mr. MCMAHON. I rise to a privileged question, a question that concerns the right of two members of this House to seats here. It concerns the right of two colleagues of mine from the State of Ohio to seats in this House.

I hold in my hand a memorial signed by twenty-three leading prominent citizens of the city of Cincinnati, giving certain reasons why the seats now occupied by those gentlemen should not be occupied by them. I present this as a matter of duty, being the Representative from the State of Ohio whose district immediately adjoins theirs. I now present the memorial to the House, and ask that it be read. After it shall have been read I desire to offer a resolution to refer it to the Committee of Elections, when appointed.

Mr. KEIFER. I rise to a point of order. There is no contest in this case, and the putting in the RECORD the petition of twenty-three citizens of Cincinnati—"prominent citizens," as the gentleman says—out of a population of three hundred thousand, is simply to put in the RECORD something which I think will be neither of benefit to the Congress of the United States nor in order. I suggest also that no one who is interested in this question has ever taken any steps in it. I make the point that this paper ought not to be read and put into the RECORD merely at the instance of twenty-three men out of all the population of that great city.

Mr. MCMAHON. A word upon the point of order. A contest usually is known to the House as a proceeding between two gentlemen who are contending for a seat here. But there is a contest higher than that, and one that is of a higher privilege, if I may draw the distinction in matters of this character. That is when the electors who have no interest in the profits of the office file in the House specifications against the right of certain gentlemen to hold seats here and ask that the matter may be investigated by the proper committee.

Mr. CALKINS. Will the gentleman allow me to ask him a question?

Mr. MCMAHON. Certainly.

Mr. CALKINS. Do these citizens proceed under the statute provided in such cases?

Mr. MCMAHON. No; they proceed under the Constitution.

Mr. CALKINS. Another question.

Mr. MCMAHON. Very well.

Mr. CALKINS. Is not this, then, in the nature of a petition, which must go, as other petitions, into the petition-box at the Clerk's desk?

Mr. MCMAHON. No, sir.

Mr. CALKINS. What is the difference?

Mr. MCMAHON. It is in the nature of a contest by electors.

Mr. CALKINS. There is no such thing under the law.

Mr. McMAHON. There is. Why, my dear sir, the Constitution says——[Laughter]

Mr. CONGER. The gentleman ought to address the Chair.

Mr. McMAHON. The Chair knows it already, but the gentleman does not.

The SPEAKER. The Chair is unable to decide a point of order upon the paper before it has been read.

Mr. KEIFER. I understood the gentleman to state that he was presenting a petition from twenty-three citizens of Cincinnati—"prominent citizens," as he calls them—a petition affecting the seats of two members of this House now sworn in. If I do not state it correctly he will correct me.

Mr. McMAHON. The gentleman has stated it correctly.

Mr. KEIFER. Now, I say that under the statute there could be no contest, and we could not take cognizance in any way of this petition so far as it asks action at our hands. If it is a mere petition, which the Constitution gives to every citizen of the United States the right to present, then it ought to go to the petition-box; or the gentleman presenting it, if he desires it to be read and printed in the RECORD, should ask unanimous consent for that purpose. His object now, I suppose—I may be mistaken—is to have this paper read before the Congress of the United States and published in the RECORD to-morrow morning, and beyond that nothing; for nothing can come of it beyond the mere publication to the country.

Mr. CARLISLE. Will the gentleman from Ohio allow me to ask him a question?

Mr. KEIFER. Certainly.

Mr. CARLISLE. Do I understand the gentleman to say that it is incompetent for this House, under that provision of the Constitution which authorizes it to judge of the elections, returns, and qualifications of its own members, to take cognizance of this matter unless there are regular contests by some other persons claiming the seats?

Mr. KEIFER. I have said nothing of the kind. I am very much pleased to answer the question and to say that under the Constitution of the United States Congress has seen fit to provide by law a method of attacking the right of any person claiming a seat in this House, and under that legislation we have been professing to proceed for a great many years, if not throughout the entire history of the Government. Now it is proposed, I suppose, if the gentleman means anything by his question, to override the law and adopt a new method without first providing a new law.

Mr. CARLISLE. I mean to say just this: that under the Constitution of the United States this House has the absolute and uncontrollable power at any time and under any circumstances to inquire into and to determine the elections, returns, and qualifications of its own members; and that the act of Congress to which the gentleman from Ohio alludes is a mere practice act, if I may use the expression, which prescribes the method of proceeding in certain cases, that is, in cases where there are regular contests in respect to a seat on this floor; but that legislation does not, and in the nature of things could not, affect the constitutional power which belongs to this House, and which belongs inherently to every legislative body, to judge of the elections, returns, and qualifications of its own members.

Mr. McMAHON. Now, Mr. Speaker——

Mr. KEIFER. Will the gentleman permit me a moment?

Mr. McMAHON. No, sir; I have yielded enough.

Mr. KEIFER. I desire to answer the suggestion of the gentleman from Kentucky, [Mr. CARLISLE.]

Mr. McMAHON. I desire to make the point which I rose to make, and which I have not had the opportunity to make.

The Constitution, which we all know is higher than any law of Congress, declares that—

> Each House shall be the judge of the elections, returns, and qualifications of its own members.

As the gentleman from Kentucky [Mr. CARLISLE] has well said, no statute that may be passed can repeal, alter, or modify this constitutional provision; and whatever law on this subject may have been heretofore enacted is a mere "practice act," as the gentleman from Kentucky says, and even as a practice act is not binding upon the House, for the very theory of an act of Congress undertaking to regulate contested elections is wrong, as it implies the participation of the Senate and the President in the regulation of a subject that is by the Constitution committed exclusively to the power of the House alone. That is too plain a proposition to need argument in the mind of any lawyer.

Now let me state the point I was about to make awhile ago. If the gentlemen who failed to receive the certificates of election in this case chose to make a contest, the Committee of Elections and the House of Representatives would require the showing of some reasons why those gentlemen had not pursued the ordinary course, the practice pointed out in the statute, not because the statute is the absolute binding law, but because it represents a sort of agreed practice. But the House of Representatives, if it should discover that a good case existed outside of the statute, might, without asking the concurrence of the Senate or the approval of the President, take just such action as it pleased. There is no question about that matter. It could, for example, upon the convening of the second session of a Congress, allow a contest to be begun. It could on the very last day of the Congress determine that a certain gentleman was not entitled to a seat, although nobody had ever appeared here contesting his election.

In this case we have a petition from twenty-three citizens of Cincinnati; and my colleague [Mr. KEIFER] seems to make much of the fact that there are three hundred thousand citizens there, which I take pride in knowing is true, but I say to him that the statement of one respectable man, when supported by affidavits and charges such as are filed in this case, is enough to put this august body upon inquiry as to whether there was a free and fair election in the city of Cincinnati at the time these two gentlemen who now hold seats claim to have been elected. I bring that petition before the House of Representatives and ask to have it read. When it has been read I shall ask to have it referred to the Committee of Elections for investigation. I shall make this request in the interest of fair elections against repeaters, against corruption. [Cries of "Oh!" "Oh!" on the republican side.] Yes, we have had a more recent repeater than Hon. Eph Holland, of whom we heard so much in the last Congress. We propose to have in this Congress the proof for whatever we may affirm on this question, and not do as my honorable colleague [Mr. GARFIELD] did in the last Congress when he drew upon his imagination for his facts.

Now I ask, Mr. Speaker, that this be read, and after it is read I will say to gentlemen on the other side that before demanding the previous question I will probably give them an opportunity, if they desire to be heard on it.

Mr. KEIFER. Mr. Speaker, I only desire to say a word or two. The gentleman from Kentucky, [Mr. CARLISLE,] and the gentleman from Ohio, [Mr. McMAHON,] my colleague, both seem to understand the Constitution of the United States very well; but they seem to think, for the first time at least expressed upon this floor, that the Constitution executes itself, and that a law which has been passed to carry out that provision of the Constitution is utterly nugatory. I know the Constitution provides that this House shall be the judge of the qualification and election of its members. Suppose, if they carry that out, they should say this House has power to vote out any member sworn in and to vote in any person they find anywhere outside as a mere matter of power. But the law undertakes to direct here what we shall do and how we shall proceed; and it is a matter of procedure or practice, if gentlemen choose to call it so—it is a matter of procedure. We find here a petition offered, for the sole purpose of getting it into the RECORD, so far as we are able to learn from the gentleman presenting it. Do these twenty-three persons intend to prosecute the inquiry? Have they any standing upon which to do it either under the law or Constitution?

Mr. GOODE. Allow me one moment. I wish to remind the gentleman——

Mr. KEIFER. In a moment I will. I wish to state that this attack is the only step which it is professed these men can take, and therefore they have no standing here except as mere petitioners, such as they may have under the Constitution, but not for the purpose of putting into the RECORD a long charge against a member; and I trust the Speaker will make himself quite familiar with this petition before passing upon it. He will find they are attacking members of this House who have already been sworn in, who have rights, and it is proper we should know how they are doing it.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. The point I wish to make is this: the gentleman from Ohio [Mr. McMAHON] has offered this memorial to the House of Representatives accompanied with certain other papers, and I want the paper read before we hear any further discussion.

Mr. McMAHON. And so do I.

Mr. KEIFER. I make the point that it is not proper to present such a paper.

Mr. HOOKER. I understood the gentleman to be discussing the question.

Mr. McMAHON. Let the paper be read.

The SPEAKER. The gentleman from Ohio offers in his place a memorial and states that it embraces a question of privilege. The Chair is unable to decide whether it does or not until it is read.

Mr. KEIFER. You heard the statement of the gentleman from Ohio.

Mr. CONGER. I rise to make this point of order.

Mr. GARFIELD. I desire to be heard before the Speaker decides the question. We had a few moments ago the Florida case before the House, brought up by the gentleman from Maine, [Mr. FRYE,] and the proposition finally was made that the papers in the case should be printed in the RECORD. Objection was made, but it was afterward withdrawn. However, objection was made to anything like testimony being printed; that only the resolution, the credentials, the exact official papers upon which we were to act, should be printed. Now, my colleague from Ohio has offered no resolution for the action of this House.

Mr. McMAHON. I said that when the paper was read I had a resolution to offer.

Mr. GARFIELD. When it is read! That is put in to be voted on, of course; but now the only, the naked proposition is that a petition of some citizens shall now be offered to be read. It is alleged that it contains affidavits relating to an election about which there is no contest. The formal question the Speaker has to decide is, can any man rise up here on this floor now and demand to have read and spread upon our records any petition he pleases? That is the proposition.

A MEMBER. Why not?

Mr. GARFIELD. Is that a privileged question? Here I hold in my hand a printed document of some thirty pages denying the right of a certain gentleman who a few moments ago was sworn in and who has voted—denying his right to be sworn in. I do not know that I have a right now to stand up in my place and offer this and have it printed to defame a man who is a stranger to me, of whom I know nothing. I should hold myself culpable, and violating the ordinary rules of parliamentary bodies, if I now demanded as a right that this paper which I hold in my hand should be spread upon the records.

But now my colleague from Ohio asks that that same thing be done about two of his brethren on this floor, and, as he says, at the behest of twenty-three citizens. Why, sir, does the gentleman from Ohio not know we can get twenty-three citizens from any corner of this country, if we hunt a little while for them, who can defame any man who holds a seat here, and that we can spend all of this summer in rising to questions of privilege and having printed defamations of the individual characters of the gentlemen who are seated here? If the Speaker now decides that it is a question of privilege to have printed out of hand whatever any member offers in the form of a petition because it is supposed to bear upon the elections by which we came here, I say there is no end to it, and we can keep it going the whole summer and make ourselves the dischargers of the contents of a whole squadron of mud-carts, to be thrown at each other from this time to the end of the session.

Mr. HOOKER. I insist on my point of order, that this being a question of privilege raised by the gentleman from Ohio, [Mr. MCMAHON,] it is impossible for the Chair to pass upon the question whether it is a question of privilege or not until he hears the paper read.

Mr. REAGAN. I desire to say a word.

The SPEAKER. To whom does the gentleman from Ohio yield?

Mr. MCMAHON. At present I yield to no one.

Mr. REAGAN. What I wish to say relates to the point of order.

Mr. MCMAHON. I desire first to ask the gentleman from Ohio, who has just taken his seat, what course he would pursue in case a gentleman who had been a candidate for Congress and ought to have contested—that is not this case of course, but it is a supposable case—had been hired by his adversary not to prosecute the contest, and certain of the electors desired to contest the seat and to bring the matter before Congress? and I will go further, what would he do if the facts upon which the contest was based came to the knowledge of the parties after the time fixed for a contest under the statute and when the parties would have to come to the House for authority to enter upon it?

Mr. GARFIELD. I will say this in answer to my colleague: it was found once in Rome that there was no law against parricide because they thought it impossible that any man would kill his father. But when they found that there were men capable of wickedness so great as that, they made a law. Now, if my colleague thinks we have reached the time when such things as he now describes need to be punished or provided for by law, let him bring in a bill and we will pass it and make it lawful to do what he is trying to do without law.

Mr. HARRIS, of Virginia. I ask the gentleman from Ohio to yield to me to say a word on the point of order.

Mr. REAGAN. I desire to be heard on the point of order.

Mr. MCMAHON. At present I yield to no one. I desire to say to the gentleman from Ohio [Mr. GARFIELD] he has got the question in this position: he admits there would be no law for it except the mode I take. Now I want to know whether I violate the privileges of this House, or rather the courtesy due by one colleague to another, when twenty-three citizens and electors in congressional districts sent to me and put in my hands a paper to lay before Congress if I comply with their request. I hold that so important a question as this is higher than all the duties of courtesy to anybody, and when I am requested to present these things to this House I do it and have none of the squeamishness which seems to characterize my colleague from Ohio.

Mr. GARFIELD. The gentleman has the privilege of the petition-box under the Constitution and a reference to any committee he pleases of any and every memorial. That is what I think I ought to do with the paper which I hold, and which my colleague ought to do with his paper.

Mr. REAGAN. The right of petition is guaranteed by the Constitution. A man who was once President of the United States presented a petition to dissolve the Union, and in the presentation of that petition he was sustained by his associates and the judgment of the country. There can be no doubt as to the right of petition. It stands above the rules of the House and all laws and rests upon the Constitution itself.

The statement is made by the gentleman from Ohio [Mr. MCMAHON] who presents the petition that it relates to the privileges of members of this House. If it does so relate to the privileges of members of this House it becomes not only a petition that would go to the box, but a petition to be presented to the House; and on account of the fact that it raises this question, which is the highest of all questions of privilege, the gentleman is entitled to have it not only presented, but read to the House for its consideration. It seems to me we may discard all reference to rules of procedure in cases of petition and look alone to the highest authority under the Constitution to present a petition for any purpose whatever.

We are not to deny an American citizen the right to petition, and when the gentleman from Ohio presenting the petition states that it raises a question of privilege relating to the seat of a member upon this floor, it does not go into the petition-box but on the Speaker's table, to be presented to the House for its consideration. What action shall be taken afterward is a different question.

The gentleman from Ohio has pursued the proper course in presenting it to the House.

Mr. ATKINS. I hope the gentleman will modify his motion so that the petition may be printed in the RECORD.

Mr. HARRIS, of Virginia. In the Forty-second Congress, when the name of Alfred M. Waddell was called and he presented himself to be sworn in, a member of this House, without petition from any citizen, rose, and under his rights, not under the rules of this House, but under the Constitution, rose in his seat, [reading:]

Mr. MAYNARD said: Upon my authority as a member of this House, I charge that Alfred M. Waddell, claiming a seat as Representative from the third district of North Carolina, is personally disqualified under the third section of the fourteenth article of the amendments of the Constitution to hold a seat in this House; and I object to his being sworn in.

The SPEAKER. Following the course adopted in the organization of past Houses, the Chair will first swear in those members against whom no objection whatever is presented.

Mr. KEIFER. I want to know if the Committee of Elections did not report unanimously in a case from Mississippi that the contestant should not prosecute his suit at all because of a mere informality in serving the notice of the contest?

Mr. HARRIS, of Virginia. That is not pertinent to this case.

Mr. MCMAHON. If the gentlemen upon the other side will agree that this memorial will be printed in the RECORD and that the matter shall lie over until to-morrow, I am willing to agree to that.

Mr. KEIFER. I do not understand how my colleague from Ohio can hold the floor upon my point of order.

Mr. HARRIS, of Virginia. I hope the gentleman from Ohio [Mr. MCMAHON] will allow me to answer his colleague's question. What was it?

Mr. KEIFER. I put this question: Whether Mr. Lynch, of Mississippi, did not come here and contest the seat of one of the members from Mississippi, and if his committee were not unanimous in reporting to the House that the contest could not be carried on, because the notice was sent by mail, when it should have been sent in some other way, and whether the petition of that man, a citizen of the United States, was not disregarded?

Mr. HARRIS, of Virginia. I desire to answer that question in justice to the Committee of Elections of the last Congress.

Mr. MCMAHON. I do not want to have the paper read.

The SPEAKER. The gentleman from Ohio states that it is a question of privilege; but the Chair is utterly unable to decide whether it is a question of privilege or not until he knows what is contained in the papers.

Mr. CONGER. Then I submit that, instead of placing that large mass of evidence or affidavits on our record, it is the duty of the Speaker, in such way as he thinks best, himself to examine the papers, and if they involve a question of high privilege to rule upon that. I object to the RECORD being cumbered with the papers.

Mr. MCMAHON. How could the House determine upon the correctness of the decision of the Speaker if it had not heard the papers read?

The SPEAKER. The Chair will himself read the rule:

Whenever the Speaker is of the opinion that a question of privilege is involved in a proposition he must entertain it in preference to any other business.—*Journal*, 1, 29, page 724. [Such opinion, of course, being subject to an appeal.] And when a proposition is submitted which relates to the privileges of the House, it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege.

The Chair, of course, would have to present the question to the House.

Mr. CONGER. That is the very point that I make.

Mr. GARFIELD. I believe the Chair decided two years ago that the former rules of the House were not binding on the then House until adopted by the House.

The SPEAKER. We are certainly proceeding under some rules, and the Chair thinks that is the common parliamentary practice.

Mr. MCMAHON. I will make a proposition to gentlemen on the other side: that this paper be printed and laid over until to-morrow, and then I will call up all the questions in it in connection with a resolution.

The SPEAKER. The Chair would himself like to have an opportunity to examine into the point of order.

Mr. GARFIELD. Let it go over until to-morrow without printing.

Mr. MCMAHON. I do not agree to that.

Mr. KEIFER. The gentleman from Ohio [Mr. MCMAHON] has already stated enough to enable us to determine the character of the paper. He says it contains statements affecting the rights of members upon this floor; the gentleman has already stated that. Now, I do not want to consent that this paper shall be printed in the RECORD.

The SPEAKER. The gentleman from Ohio on the left [Mr. KEI-

FER] will observe that the Constitution contains these words: "Each House shall be the judge of the elections, returns and qualifications of its own members."

Mr. KEIFER. I understand that, and I tried to state it myself once before to-day. I understand the gentleman on the other side to state that his petition contains charges against members upon this floor who have already been sworn in. He stated enough of it to indicate that he merely wants to put the paper into the RECORD for the purpose of having it go to the country. He has not stated that it is proposed to proceed under the law and have a contest. It therefore cannot be a question of privilege affecting the seat of any member.

The SPEAKER. The Chair would be clearly unwilling, as going beyond the range of his duties, to decide that a paper touching the right of a member to a seat on this floor does not contain a question of privilege, without opportunity to examine it.

Mr. KEIFER. The gentleman from Ohio has himself said that it does not contain anything——

The SPEAKER. The Chair would not decide upon an allegation.

Mr. MCMAHON. There is a great deal more to be added to what I have said.

The SPEAKER. The Chair desires to decide a question of this character upon the facts contained in the petition.

Mr. SPRINGER. I desire to call the attention of the Chair and of the gentleman from Ohio [Mr. KEIFER] to section 350 of McCrary on Elections, which it seems to me settles this point. I ask the Clerk to read the section which I have marked.

Mr. KEIFER. This petition affects a member upon this floor, and ought to be regarded as a sacred matter.

The SPEAKER. The rule so regards it, and therefore makes it a matter of high privilege.

Mr. KEIFER. Therefore it should not be put in the RECORD when the gentleman who offers the paper, memorial, or whatever he chooses to call it, does not undertake to state to the Chair or to the House that it is proposed to follow up the petition for any purpose in the world.

The SPEAKER. The Chair understood the gentleman to say that he proposed to offer a resolution.

Mr. KEIFER. He has said that this petition is not a proceeding under the law for contesting the right to a seat in the manner provided by law.

The SPEAKER. The Chair does not decide the effect of laws.

Mr. KEIFER. I suggest that the whole subject, without printing, go over until to-morrow.

Mr. SPRINGER. Let the paragraph from McCrary on Elections, which I have sent to the Clerk's desk, be read.

The Clerk read as follows:

The House of Representatives of the United States may, in its discretion, proceed to inquire into the validity of the election of one of its members, without any formal contest having been instituted. A contestant is not absolutely necessary. (Reeder *vs.* Whitfield, 1 Bart, 189.)

The SPEAKER. The people of a district can always petition upon the subject; that has always been held.

Mr. SPRINGER. That is the point involved here.

Mr. MCMAHON. I call for the reading of the paper.

Mr. CONGER. I move that the paper be referred to the Committee of Elections, when appointed.

Mr. MCMAHON. How can the House refer it without knowing what it is?

Mr. KEIFER. Just as well as any other petition.

Mr. COX. I suggest to gentlemen on both sides that this paper be printed, and that we now adjourn, on the suggestion of the Speaker that a question is pending that he wishes to examine before to-morrow.

Mr. CONGER. I will modify my motion so that it be printed and referred to the Committee of Elections, when appointed.

Mr. MCMAHON. I do not yield for that motion

The SPEAKER. The gentleman has not the floor for that purpose. The gentleman from New York [Mr. COX] makes the suggestion that this paper be printed. Does he mean in the RECORD or in the usual form?

Mr. COX. I ask unanimous consent that it be printed in the RECORD, so that we may know to-morrow what it is.

Mr. KEIFER. That is what we object to. Let it be printed in the usual form, and not in the RECORD.

Mr. COX. Let it be printed in the RECORD, of course.

Mr. KEIFER. It can be printed without being printed in the RECORD.

Mr. COX. Then how would we know what it is?

Mr. KEIFER. It might be printed as we print our bills and reports.

Mr. COX. And you might get it in two weeks from now.

Mr. MCMAHON. If gentlemen will not agree to the proposition made on this side, I must have the paper read.

Mr. KEIFER. I understand that the whole object of the gentleman from Ohio and the gentleman from New York in having the paper printed in the RECORD is to give it publicity.

The SPEAKER. The gentleman from Ohio raises a question of order; and the Chair decides that he is not bound to decide, and cannot intelligently decide, a question of order until he hears read the paper on which it is raised.

Mr. KEIFER. The Chair can read the paper without its being printed.

The SPEAKER. If the Chair should read it without its being read to the House, how could the House intelligently act upon the question if an appeal should be taken?

Mr. WILBER. Let it lie over until to-morrow, and let the Chair in the mean time read it. [Laughter.]

The SPEAKER. The Chair overrules the point of order.

Mr. ALDRICH, of Illinois. I move that the House adjourn.

Mr. CONGER. I move that the memorial be laid on the table.

Mr. MCMAHON. I do not yield for that motion.

Mr. KEIFER. Can the gentleman hold the floor all the time the paper is being read?

Mr. MCMAHON. I have not yielded the floor. Gentlemen have been discussing the question of order.

Mr. SPRINGER. Upon a motion to lay the paper on the table, have we not the right to hear it read before we vote on the question?

The SPEAKER. No member can intelligently vote upon a proposition to lay a paper on the table until the paper has been read. Otherwise members would be proceeding entirely in the dark.

Mr. ALDRICH, of Illinois. Is a motion to adjourn in order?

The SPEAKER. It is.

Mr. ALDRICH, of Illinois. I make that motion.

Mr. MCMAHON. If the House should adjourn, this would be the pending business to-morrow morning I presume. I cannot yield the floor except with that understanding.

The SPEAKER. The Chair is bound to recognize the motion to adjourn. The House if it chooses can vote the motion down.

Mr. MCMAHON. If this question comes up to-morrow morning as the unfinished business I do not object.

DAILY HOUR OF MEETING.

The SPEAKER. The Chair desires to suggest that some gentleman offer a resolution fixing the hour of daily meeting.

Mr. COX. I move that the hour for the daily meetings of the House be twelve o'clock m. until otherwise ordered.

The motion was agreed to.

DRAWING FOR SEATS.

Mr. DUNNELL. I ask that by unanimous consent we now proceed to draw seats. The gentleman who has made the motion to adjourn is willing to withdraw it for this purpose.

The SPEAKER. The Chair understands that the gentleman from Ohio [Mr. MCMAHON] allows his matter to go over.

Mr. MCMAHON. If it does not lose its place.

The SPEAKER. The gentleman states that it is a question of privilege; and, if so, it cannot lose its position.

Mr. ALDRICH, of Illinois. I withdraw the motion to adjourn.

Mr. BRIGHT. I offer the resolution which I send to the Clerk, and upon its adoption I move the previous question.

The Clerk read as follows:

Resolved, That the Clerk of the House shall at once proceed to place in a box the name of each Member and Delegate of the House of Representatives, written or printed upon a separate slip of paper; that he proceed in the presence of the House to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall pronounce the name of each Member or Delegate upon it, who shall choose his seat for the present Congress: *Provided*, That before said drawing shall commence the Speaker shall cause each seat to be vacated, and shall see that every seat continues vacant until it is selected under this order, and that every seat after having been selected under this order shall be deemed forfeited if left unoccupied before the call of the roll of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BRIGHT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLARK, of Missouri. I ask consent that when the name of my colleague, Mr. LAY, shall be called I may be allowed to select his seat for him. He is now absent on account of sickness. [Cries of "All right!"]

The SPEAKER. The Chair hears no objection, and leave is granted.

Mr. DAVIDSON. There is now on the roll no name from the second district of Florida. I ask that a slip with the words "second district of Florida" be put into the box, and that when this slip is drawn the Clerk be authorized to select a seat to be occupied by the Representative from that district.

There being no objection, it was ordered accordingly.

Mr. BAILEY. I ask that when the name of my colleague, Mr. JAMES, who is necessarily absent, is drawn, a seat be selected for him by the Clerk.

Objection was made.

In pursuance of the resolution of the House, the drawing for seats was then proceeded with, beginning at three o'clock and forty-five minutes p. m., the name of Mr. WILLIS being the first drawn and that of Mr. CLARK, of Missouri, the last.

Mr. SPRINGER. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, *March* 19, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

HANNIBAL HAMLIN, a Senator from the State of Maine, and SAMUEL B. MAXEY, a Senator from the State of Texas, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. HILL, of Georgia. I present the credentials of my colleague, [Mr. JOHN B. GORDON,] chosen by the Legislature of Georgia a Senator from that State for the term beginning March 4, 1879. I ask that they be read and filed. I desire also to state that my colleague is detained from the Senate by sickness.

The credentials were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

Mr. GEORGE M. ADAMS, Clerk of the House of Representatives, appeared below the bar of the Senate, and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House has assembled, and that SAMUEL J. RANDALL, one of the Representatives from the State of Pennsylvania, has been chosen Speaker, and GEORGE M. ADAMS, of Kentucky, Clerk; and that the House is now ready to proceed to business.

I am further directed to inform the Senate that the House has appointed JOSEPH C. S. BLACKBURN of Kentucky, JAMES A. GARFIELD of Ohio, and JOHN GOODE of Virginia, a committee on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make.

COMMITTEES OF THE SENATE.

Mr. WALLACE. I move that the Senate proceed to the election of the committees of the body.

The VICE-PRESIDENT. To which the Chair hears no objection.

Mr. WALLACE. I ask that unanimous consent be given to the suspending of the forty-sixth rule so far as it requires the appointment of the standing and other committees of the Senate to be by ballot.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

Mr. WALLACE. I also ask unanimous consent to amend Rule 47 by adding at the end of said rule these words:

A Committee on the Improvement of the Mississippi River and its Tributaries, to consist of seven Senators.

A Committee on Transportation Routes to the Seaboard, to consist of seven Senators.

Also to amend said rule, as follows: by making the Committee on Agriculture to consist of seven members, the Committee on the Judiciary of nine members, the Committee on Indian Affairs of nine members, the Committee on Pensions of nine members, the Committee on the District of Columbia of nine members, and the Committee on Patents of seven members.

The VICE-PRESIDENT. Is there objection to this request? The Chair hears none; and the order will be entered.

Mr. WALLACE. I submit the following list of standing committees of the Senate, and move their election.

The VICE-PRESIDENT. The list will be reported.

The Secretary read as follows:

STANDING COMMITTEES.

On Privileges and Elections—Messrs. Saulsbury, (chairman,) Hill of Georgia, Kernan, Bailey, Houston, Vance, Cameron of Wisconsin, Hoar, and Ingalls.

On Foreign Relations—Messrs. Eaton, (chairman,) Johnston, Morgan, Hill of Georgia, Pendleton, Hamlin, Conkling, Kirkwood, and Carpenter.

On Finance—Messrs. Bayard, (chairman,) Kernan, Wallace, Voorhees, Beck, Morrill, Ferry, Jones of Nevada, and Allison.

On Appropriations—Messrs. Davis of West Virginia, (chairman,) Withers, Beck, Wallace, Eaton, Windom, Allison, Blaine, and Booth.

On Commerce—Messrs. Gordon, (chairman,) Ransom, Randolph, Hereford, Coke, Conkling, McMillan, Jones of Nevada, and Chandler.

On Manufactures—Messrs. Grover, (chairman,) McPherson, Williams, Rollins, and Dawes.

On Agriculture—Messrs. Johnston, (chairman,) Davis of West Virginia, Hampton, Slater, Paddock, Sharon, and Hoar.

On Military Affairs—Messrs. Randolph, (chairman,) Cockrell, Maxey, Grover, Hampton, Burnside, Plumb, Cameron of Pennsylvania, and Logan.

On Naval Affairs—Messrs. McPherson, (chairman,) Whyte, Jones of Florida, Vance, Farley, Anthony, Blaine, Cameron of Pennsylvania, and Chandler.

On the Judiciary—Messrs. Thurman, (chairman,) McDonald, Bayard, Garland, Lamar, Davis of Illinois, Edmunds, Conkling, and Carpenter.

On Post-Offices and Post-Roads—Messrs. Maxey, (chairman,) Saulsbury, Bailey, Houston, Farley, Groome, Ferry, Hamlin, and Kirkwood.

On Public Lands—Messrs. McDonald, (chairman,) Jones of Florida, Grover, McPherson, Walker, Plumb, Paddock, Booth, and Hill of Colorado.

On Private Land Claims—Messrs. Edmunds, (chairman,) Allison, Windom, Davis of Illinois, and Jonas.

On Indian Affairs—Messrs. Coke, (chairman,) Pendleton, Walker, Slater, Williams, Allison, Ingalls, Saunders, and Logan.

On Pensions—Messrs. Withers, (chairman,) McPherson, Groome, Call, Farley, Ingalls, Bruce, Kellogg, and Platt.

On Revolutionary Claims—Messrs. Anthony, (chairman,) Dawes, McMillan, Jones of Florida, and Hill of Georgia.

On Claims—Messrs. Cockrell, (chairman,) Hereford, Harris, Groome, Houston, McMillan, Cameron of Wisconsin, Teller, and Hoar.

On District of Columbia—Messrs. Harris, (chairman,) Whyte, Withers, Butler, Vance, Ingalls, Rollins, Dawes, and McMillan.

On Patents—Messrs. Kernan, (chairman,) Coke, Slater, Call, Booth, Hoar, and Platt.

On Public Buildings and Grounds—Messrs. Jones of Florida, (chairman,) Saulsbury, Vest, Dawes, and Morrill.

On Territories—Messrs. Garland, (chairman,) Butler, Vest, Slater, Saunders, Kellogg, and Logan.

On Railroads—Messrs. Ransom, (chairman,) Lamar, Eaton, Grover, Williams, Pendleton, Jonas, Dawes, Teller, Saunders, and Windom.

On Mines and Mining—Messrs. Hereford, (chairman,) Gordon, McDonald, Farley, Cameron of Pennsylvania, Plumb, and Hill of Colorado.

On the Revision of the Laws—Messrs. Wallace, (chairman,) Kernan, Davis of Illinois, Hoar, and McMillan.

On Education and Labor—Messrs. Bailey, (chairman,) Gordon, Maxey, Randolph, Burnside, Morrill, Bruce, and Sharon.

On Civil Service and Retrenchment—Messrs. Butler, (chairman,) Whyte, Beck, Walker, Teller, Chandler, and Rollins.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Hill of Georgia, (chairman,) Davis of West Virginia, and Jones of Nevada.

On Printing—Messrs. Whyte, (chairman,) Ransom, and Anthony.

On the Library—Messrs. Voorhees, (chairman,) Ransom, and Edmunds.

On Rules—Messrs. Morgan, (chairman,) Cockrell, and Blaine.

On Engrossed Bills—Messrs. Conkling, (chairman,) Jones of Nevada, and Withers.

On Enrolled Bills—Messrs. Vance, (chairman,) Call, and Rollins.

On the Improvement of the Mississippi River and its Tributaries—Messrs. Lamar, (chairman,) Cockrell, Harris, Jonas, Bruce, Blaine, and Kellogg.

On Transportation Routes to the Seaboard—Messrs. Beck, (chairman,) Johnston, Voorhees, Hampton, Cameron of Wisconsin, Cameron of Pennsylvania, and Windom.

Mr. HOAR. I ask to have the list of the Committee on Military Affairs and the list of the Committee on Education and Labor read again.

Mr. WALLACE. My attention is called to the fact that Mr. GORDON is absent sick and has not been sworn. Mr. HAMPTON is also absent and has not been sworn. I ask to withdraw their names from the committees where appointed, and that their places stand vacant for the present.

The VICE-PRESIDENT. That order will be observed.

Mr. HOAR. The suggestion of the Senator from Pennsylvania will obviate the necessity of reading the list of the committees to which I referred.

The VICE-PRESIDENT. The question is, Shall the standing committees of the present session be according to the list presented by the Senator from Pennsylvania and reported by the Secretary?

The motion was agreed to.

Mr. WALLACE. I ask unanimous consent to the creation of the following select committees, and move that each of said committees thus created shall be vested with all the powers and authorities heretofore given to each of the select committees on the respective subjects to which they relate.

The VICE-PRESIDENT. The list of select committees presented by the Senator from Pennsylvania will be reported.

The Secretary read as follows:

SELECT COMMITTEES.

To Examine the Several Branches of the Civil Service—Messrs. Vest, (chairman,) Eaton, Gordon, Logan, and Hamlin.

To take into consideration the state of the law respecting the ascertaining and declaration of the result of the Elections of President and Vice-President of the United States—Messrs. Morgan, (chairman,) Bayard, Thurman, Johnston, Garland, Davis of Illinois, Edmunds, Conkling, and Teller.

To Investigate the Finance Reports, Books, and Accounts of the Treasury Department—Messrs. Davis of West Virginia, (chairman,) Beck, Whyte, Ingalls, and Dawes.

[And that such committee shall have all the rights and powers conferred by the resolution of November 19, 1877, creating the original committee on that subject.]

To make provision for taking the Tenth Census—Messrs. Pendleton, (chairman,) Morgan, Kernan, Harris, Davis of Illinois, Morrill, and Cameron of Wisconsin.

To investigate and report the best means of preventing the introduction and spread of epidemic diseases—Messrs. Harris, (chairman,) Lamar, Garland, Jonas, Paddock, Sharon, and Platt.

To inquire into alleged frauds in the late elections—Messrs. Wallace, (chairman,) Bailey, Garland, McDonald, Kernan, Teller, Cameron of Wisconsin, Kirkwood, and Hoar.

[And that such committee shall have all the rights and powers conferred by the resolutions of December 17 and 19, 1878, creating the original committee, and of February 27, 1879, adding to such powers.]

To examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory—Messrs. Kirkwood, (chairman,) Dawes, Plumb, Coke, and Bailey.

To inquire into claims of citizens of the United States against the government of Nicaragua—Messrs. Hamlin, (chairman,) Conkling, Kirkwood, Eaton, and Morgan.

The VICE-PRESIDENT. The question is, Shall these select committees be created, organized, and authorized as proposed by the Senator from Pennsylvania?

The motion was agreed to.

COMMITTEE SERVICE.

Mr. BRUCE. I ask to be excused from service upon the Committee on Pensions and the Committee on the Improvement of the Mississippi River.

The VICE-PRESIDENT. The Senator from Mississippi asks to be excused from service on these two committees. Is there objection? The Chairs hears none, and the Senator is excused.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of certain members of the Legislature of Kansas, in relation to the election of JOHN J. INGALLS as a Senator from that State; which was referred to the Committee on Privileges and Elections.

Mr. WITHERS presented the petition of E. G. Booth and others,

members of the Bellefonte Grange, No. 15, of Nottoway County, Virginia, praying for the passage of a bill to regulate interstate commerce and to prohibit unjust discrimination by common carriers; which was referred to the Committee on Commerce.

Mr. PADDOCK presented a memorial of the Legislature of Nebraska, in favor of legislation by Congress providing for the payment to that State of 5 per cent. of the proceeds of the sales of public lands therein for the use of common schools, as specified in the twelfth section of the act by which it was admitted into the Union as a State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Nebraska, in favor of an appropriation by Congress for the establishment of a military post east of Fort Robinson, on the Niobrara River; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Legislature of Nebraska, in favor of the passage of a bill to provide for indemnity to the several States under the acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Nebraska, in favor of the passage of a law repealing all that portion of section 640 of the Revised Statutes which has been so construed by the courts as to allow certain railroad corporations in that State to remove all suits between them and citizens of that State from the State courts to the United States courts; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Legislature of Nebraska, in favor of such legislation by Congress as will forever prohibit the payment of southern war claims; which was referred to the Committee on the Judiciary.

Mr. BLAINE presented a memorial of the Legislature of Maine, in favor of an appropriation of $60,000 by Congress to aid in the building of four bridges on the northeastern boundary-line of the State of Maine over the rivers Saint John and Saint Francis, where they are the boundary-line between the United States and the Dominion of Canada; which was referred to the Committee on Foreign Relations, and ordered to be printed.

BILLS INTRODUCED.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1) for the relief of James G. Harrison; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 2) for the relief of Mark Walker; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 3) granting a pension to Elizabeth Wirt Goldsborough; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 4) in relation to the Japanese indemnity fund; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 5) to provide for the payment of claims for horses used in the service of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 6) to establish a land district in Jamestown, in the Territory of Dakota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 7) granting a pension to Sally M. Buchanan; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 8) granting a pension to Elizabeth T. Winder; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 9) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 10) to reimburse the several States for interest paid on war loans, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 11) to authorize the local taxation of the legal-tender Treasury notes of the United States; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 12) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 13) to authorize the assignment of a rear-admiral on the retired list of the Navy to duty as governor of the naval asylum at Philadelphia; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 14) to provide a term of the United States circuit and district courts at the city of Lincoln, in the State of Nebraska, and to divide the State into two divisions; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 15) to provide for the construction of a bridge across the Missouri River at Decatur, Nebraska; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 16) for the relief of Albert Towle, postmaster at Beatrice, Nebraska; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 17) for the relief of Albert Towle, postmaster at Beatrice, Nebraska; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 18) to establish a branch mint of the United States at Omaha, in the State of Nebraska; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 19) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 20) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 21) granting a pension to Louisa Bainbridge Hoff; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 22) for the relief of Theophilus P. Chandler; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 23) for the relief of Thomas Strider; which was read twice by its title, and referred to the Committee on Claims.

Mr. KIRKWOOD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 24) for the relief of John S. Logan; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 25) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 26) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 27) for the relief of Elisha E. Rice; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. BAILEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 28) for the relief of the book agents of the Methodist Episcopal Church South; which was read twice by its title, and referred to the Committee on Claims.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 29) to authorize the President temporarily to transfer the custody, control, and management of certain Indian tribes from the Interior to the War Department, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 30) to aid in the construction of the Omaha and National Park Railway and Telegraph Line; which was read twice by its title, and referred to the Committee on Railroads.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 31) for the removal of all disabilities imposed by the fourteenth amendment to the Constitution of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 32) to repeal the act of July 2, 1862, and such sections of the Revised Statutes of the United States as perpetuate the oath prescribed in said act; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JONAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 33) to ascertain the amount of the claim of

Joseph R. Shannon, of Louisiana; which was read twice by its title, and referred to the Committee on Claims.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 1) to promote the efficiency of the Marine Hospital Service; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 2) to provide for the enforcement of the eight-hour law; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 3) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot Military Reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park; which was read twice by its title, and, with the papers on the files pertaining to the case, referred to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS.

Mr. WINDOM. I offer the following order:

Ordered, That the opponents to the extension of the patent of E. N. Horsford have leave to withdraw their papers from the files of the Senate.

The VICE-PRESIDENT. The order will be made, subject to the condition imposed by the rule.

Mr. WINDOM. I want to say that I think the rule does not apply to anything but claims.

The VICE-PRESIDENT. Then the condition will not apply.

Mr. WINDOM. I was afraid the remark of the President might lead the Clerk to think that he so construed it.

Mr. HOAR. Should not copies be filed?

The VICE-PRESIDENT. The Chair always imposes that condition. The rule so provides.

Mr. WINDOM. Does the Chair hold that the rule requires that copies should be left in any other cases than claims?

The VICE-PRESIDENT. Where there has been an adverse report.

Mr. WINDOM. There is no adverse report in this case.

The VICE-PRESIDENT. If there be none, then of course the rule does not apply.

Mr. HOAR. I made the report in this case. It is a case of application for the extension of a patent in which, after a very earnest controversy and a hearing in the nature of a judicial hearing before the committee, there was a report in favor of the petition by a divided committee. Therefore it is a case where, if the application be renewed hereafter before the Senate, it is important to the interests of both sides that all the evidence should be preserved on the files of the Senate; and I think, therefore, there will be no difficulty in filing copies.

Mr. WINDOM. I ask that the resolution lie on the table until to-morrow for the reason that the evidence is very voluminous. I think it is contained in large books, which, I understand, are not in print, and it will be almost impossible to leave copies.

Mr. HOAR. If the Senator from Minnesota will examine into the character of the matter I will accede to anything he shall deem proper under the circumstances.

Mr. WINDOM. I ask that the resolution lie over until to-morrow that it may examined.

The VICE-PRESIDENT. It will lie over until to-morrow.

On motion of Mr. KIRKWOOD, it was

Ordered, That John S. Logan have leave to withdraw from the files of the Senate the papers filed by him in support of a claim by him heretofore presented, and that the same be referred to the Committee on Claims.

BUSINESS OF THE SESSION.

Mr. EDMUNDS. I offer the following resolution and ask for its present consideration:

Whereas the necessity for the present special session of Congress has been occasioned by the failure of the last Congress to make appropriations for the support of the Army and for the legislative, executive, and judicial expenses of the Government for the next fiscal year; and

Whereas the business and other public interests of the country will be best promoted by confining legislation at this session to making provision for the objects aforesaid, and by an early adjournment: Therefore,

Be it resolved, That all bills and joint resolutions, excepting those for the aforesaid purposes, shall be referred to appropriate committees and not reported until the next December session.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. SAULSBURY. Let it go over.

Mr. DAVIS, of West Virginia. And be printed.

The VICE-PRESIDENT. The resolution will lie over and be printed.

MARSHALS AT ELECTIONS.

Mr. WALLACE submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to furnish to the Senate a detailed statement of the accounts of the marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland rendered to this date, for and in regard to the employment of and payment of wages or fees charged for services performed by them or their special deputies in relation to the conduct of elections in November, 1878, showing the amount claimed by or paid to each of said special deputies and the aggregate paid or claimed from the United States by the said marshals for services connected with the elections.

Mr. CONKLING. That had better lie over. We want to know about some other States.

Mr. EDMUNDS. It will need a little amendment besides, to get a little further information.

The VICE-PRESIDENT. The resolution will lie over.

Mr. EDMUNDS. Let it be printed.

The VICE-PRESIDENT. The order to print will be entered.

TRANSACTIONS OF THE TREASURY DEPARTMENT.

Mr. SAULSBURY. I submit a resolution, which is the same resolution that I offered at the last session, and to which no response was made.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate of the amount of commissions or other compensation paid to bankers, brokers, firms, companies, syndicates, and individuals for services in negotiating the sale of bonds and other obligations of the United States, from the year 1862 until the present time; when and to whom such commissions or compensation was paid; and, when paid to syndicates, firms, corporations, or companies, to state the names of the persons composing the same. And also to inform the Senate whether any, and, if any, what amount, of commissions or other compensation has been paid to bankers, brokers, firms, companies, syndicates, and individuals for services rendered in refunding any of the bonds of the United States; and if any such payments have been made to state when and to whom made; and also whether interest has been paid on called bonds at the same time that interest was accruing on the bonds sold to redeem the same, and whether such double interest has been uniformly paid while the refunding operation has been in progress, or on bonds sold for resumption purposes, specifying whether there has been any exception to such payments of double interest, and who was Secretary of the Treasury at the time of such exception, and how much double interest has been paid on each class of bonds and the total amount thereof; and whether the money received for bonds sold by any bank or syndicate has, in all cases, been allowed to remain on deposit with the national banks acting as Government depositories pending this call of bonds, specifying the names of the banks and the length of time during which the proceeds of the bonds sold have been left on deposit with each bank; and whether at any time any gold coin has been delivered by the Treasury to any parties concerned in the negotiation of United States bonds or otherwise in exchange for or upon the security of United States bonds, or in advance of the payment thereof, pending any call of bonds on which interest was allowed or paid up to the date of the maturity of the call; and also whether any money in the Treasury held for the payment of overdue called bonds has been left on deposit without interest in any Government depository, and what was the largest amount thereof at any one time, stating the names of the banks in which such money was deposited, and what security the Treasury held for the payment thereof when demanded.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. MORRILL. I suggest that it had better go over.

Mr. EDMUNDS. And be printed.

The VICE-PRESIDENT. The resolution will lie over and be printed.

SENATOR FROM NEW HAMPSHIRE.

Mr. WALLACE. I move to take from the table the credentials of Charles H. Bell, claiming to be a Senator from the State of New Hampshire, and that they be referred to the Committee on Privileges and Elections, with instructions to report the same back to the Senate at as early a day as practicable.

The VICE-PRESIDENT. The Senator from Pennsylvania moves that the credentials of Charles H. Bell, a Senator from the State of New Hampshire, be taken from the table and referred to the Committee on Privileges and Elections, with instructions to report at as early a day as practicable.

Mr. HOAR. I desire to suggest to the honorable Senator from Pennsylvania and to that side of the Chamber (of course it will be not a matter of controversy unless they assent) whether it would not be as convenient to set this case down for a hearing at some fixed day in the Senate, say next week, instead of referring it to a committee? The question depends upon the construction of a simple clause in the Constitution and on a few precedents which are familiar to most Senators, and can very easily be made familiar to all in the discussion. It would probably save time and labor to take that course.

Mr. WALLACE. The course suggested by the Senator from Massachusetts would be a departure from the usual procedure of such business in this Chamber. The usual course is to proceed by reference to the appropriate committee. Here is a committee constituted for these specific purposes, and I think the credentials should go there, and we should have a report. When the case comes back Senators can be heard and the question can be fairly met.

Mr. ROLLINS. If we can have an early report from the Committee on Privileges and Elections, and I have no doubt that will be the case from the assurances I have received, perhaps it would be best to allow the reference to be made.

Mr. WALLACE. There is no intention save to have a report at the earliest practicable day, and I so worded my motion.

Mr. ROLLINS. With that understanding, I have no objection.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania.

The motion was agreed to.

RECESS.

Mr. GARLAND, (at twelve o'clock and forty-two minutes p. m.) The committee has just retired to wait upon the President, and I move that we take a recess for an hour.

The motion was agreed to; and at the expiration of the recess (at one o'clock and forty-two minutes p. m.) the Senate reassembled.

PRESIDENT'S MESSAGE.

Mr. BAYARD. Mr. President, the committee appointed by the Senate to wait upon the President of the United States and inform him that a quorum of the body is ready to receive any communication he may have to make, have performed their duty, and have been informed.

by the President that he will communicate with the Senate immediately in writing.

At one o'clock and forty-seven minutes p. m. the President's Secretary, Mr. W. K. RODGERS, appeared below the bar, and said:

Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

The message was handed to the Vice-President.

The VICE-PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which the Secretary will read.

The Secretary of the Senate (Mr. GEORGE C. GORHAM) read the message, as follows:

Fellow-citizens of the Senate and House of Representatives:

The failure of the last Congress to make the requisite appropriations for legislative and judicial purposes, for the expenses of the several Executive Departments of the Government, and for the support of the Army, has made it necessary to call a special session of the Forty-sixth Congress.

The estimates of the appropriations needed, which were sent to Congress by the Secretary of the Treasury at the opening of the last session, are renewed, and are herewith transmitted to both the Senate and the House of Representatives.

Regretting the existence of the emergency which requires a special session of Congress at a time when it is the general judgment of the country that the public welfare will be best promoted by permanency in our legislation and by peace and rest, I commend these few necessary measures to your considerate attention.

RUTHERFORD B. HAYES.

WASHINGTON, *March* 19, 1879.

Mr. WHYTE. I move that the message be printed and lie on the table.

The motion was agreed to.

Mr. WHYTE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 3,000 copies of the President's message be printed for the use of the Senate.

INDEX TO CONGRESSIONAL DEBATES.

Mr. HOAR submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to consider and report as to the expediency of providing for a complete index to the congressional debates from the inauguration of the Government to the present time.

Mr. BAYARD. I move that the Senate do now adjourn.

The motion was agreed to; and (at one o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 19, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MEMBER SWORN IN.

Hon. A. B. JAMES, member-elect from New York, appeared, and was duly qualified by taking the test oath.

DELEGATE FROM NEW MEXICO.

Mr. CHALMERS. Mr. Speaker, I present the credentials of the Delegate from New Mexico and ask that he be sworn in.

The SPEAKER. The reading of the credentials will be waived in the absence of any objection.

There was no objection.

Hon. M. S. OTERO, Delegate from New Mexico, appeared, and was duly qualified by taking the test oath.

ADMISSION TO THE FLOOR.

Mr. CARLISLE. Mr. Speaker, I desire by unanimous consent to offer a resolution which I think is necessary to enable the House to transact the public business in a regular and orderly manner.

The Clerk read as follows:

Resolved, That the order adopted by the Forty-fifth Congress in relation to the admission of persons to the floor of the Hall during the sessions of the House be, and the same is hereby, continued in force, and the officers of the House are hereby directed to see that the same is strictly enforced.

The resolution was adopted unanimously.

STATIONERY FOR MEMBERS.

Mr. CALKINS. I offer the following resolution.

The Clerk read as follows:

Resolved, That the Clerk of the House is hereby authorized to furnish all necessary stationery to members and officers of the House out of any stationery now on hand, keeping an account thereof, and to be charged to an appropriation hereafter to be made for that purpose.

The resolution was adopted.

SECOND DISTRICT OF FLORIDA.

The SPEAKER. The first question in order this morning is the one concerning the Representative from the second district of Florida, and the gentleman from Virginia [Mr. HARRIS] is entitled to the floor.

Mr. HARRIS, of Virginia. Mr. Speaker, by an arrangement between the gentleman from Maine [Mr. FRYE] and myself he is first to take the floor for half an hour, and then this side will be entitled to a half hour. After that the other side will alternate for another half hour, this side to conclude with half an hour, making in all two hours.

The SPEAKER. The understanding is that one hour be allowed to each side on this subject. The gentleman having charge of the subject will be kind enough to indicate to whom he first yields.

Mr. HARRIS, of Virginia. I will yield for half an hour to the gentleman from Maine, and after he has concluded I will further advise the Chair.

Mr. FRYE. Mr. Speaker, this case, which it becomes my duty to present to the House, is somewhat out of the usual order, and I am encouraged from the fact that it is unusual to address myself to the conscience and judgment of members. I do not hold as some republicans do, that the democratic party is all——

Mr. COX. All right. [Laughter.]

Mr. FRYE, (after a pause.) No, all depraved. I do not think as some gentlemen do that you cannot get a verdict just and right from the democratic side of this House. I do believe when they are called upon to act judicially we have a right to expect that they will do so, and therefore I address myself confidently to the democratic side of this House in the case under consideration.

I am aware in the discussion of election cases and in their decision we are very apt to ask a question that an old member of the House once asked: "Which is our scoundrel?" [Laughter.] And the reason of that is this: a mass of testimony is taken, many questions of law are submitted, a thousand pages of testimony go to the Election Committee, is submitted to them, and their investigation occupies weeks of time. Now when that Election Committee divides, the democratic members reporting in favor of their member and the republican members reporting in favor of theirs, there is but one way on earth for the members of this House to do, and that is for the democrats having confidence in their side to vote for their side and the republicans having confidence in theirs to vote for theirs. For, sir, no man has time to examine an election case for himself. So I say it does not indicate want of fairness or want of judgment in supporting the one side or the other side as the Election Committee may report. No other course is left open to us. We must accept the verdict of those who have made the examination and upon whose judgment we rely.

But, sir, here is a case which addresses itself to this House as a committee. It is in a nutshell; no man can fail to understand it if he listen to an hour's discussion; no man can fail to see all its bearings; no man can fail to understand every question of law which is presented; no man can fail to understand all the facts which it becomes necessary to lay before him.

Therefore in this case every member of this House is called upon for himself to pass judgment upon the case as it is presented on the facts and the law. Therefore, sir, I ask this House to consider the facts, consider the law, and then pass their judgment judicially, as they ought.

Now, sir, what is the case? The second district of Florida comprises seventeen counties. In fifteen of these counties no question whatever has ever been raised; no charge of fraud, no accusation of unfairness. All parties agree that in fifteen counties in the second district of Florida the election was fair.

In two counties there is alleged trouble, the counties of Brevard and Madison. I will take Brevard first.

In the county of Brevard, which never polled over 169 votes, in the last election the democratic candidate for Congress received 310 votes. There were cast for him at the polls 116 votes, but the canvassing board of the county deliberately, wickedly, and designedly added 194 votes, giving him altogether 310. Now, sir, there is no dispute about that. Everybody admits it, and the men who committed the fraud have been indicted, tried, convicted, and are to-day in the penitentiary for adding 194 votes to the vote of the democratic candidate for Congress. To-day, I say, they are in the penitentiary, paying the penalty for their crime against the purity of elections in Florida.

Mr. Hull, in his answer, admits that the vote of Brevard County was thrown out properly. In his answer he insists that the action of the State canvassing board in rejecting the returns of Madison and Brevard Counties was right.

So Mr. Hull himself admits that these men are in the penitentiary to-day rightfully, and that Brevard County was rejected by the State canvassing board rightfully, and all he claims is that Madison County should have been rejected also.

Now, sir, coming to Madison County. In precinct 4 the inspectors made no return to the county clerk of the vote in that precinct, and that is the only claim of wrong in Madison County—no return made to the clerk in that precinct. The gentleman from Florida (Mr. Hull) received a certain number of votes and Mr. Bisbee a certain other number—Mr. Bisbee 186, Mr. Hull 129—and the State canvassing board threw out Madison County because there was no return made of precinct 4 to the county clerk. Not because there was a fraudulent return, but because there was no return whatever. Gentlemen will please remember this, for it is an important fact, considered in connection with the law.

Brevard and Madison Counties elected Mr. Hull by 12 majority,

and if Brevard and Madison were properly thrown out then Hull is entitled to his seat in this House. If, on the contrary, Madison was improperly thrown out, then Bisbee is entitled to his seat. The State canvassing-board returns threw out, as I say, both Madison and Brevard and that elected Hull by a majority of 12, and the governor of Florida accordingly issued his certificate of election to Mr. Hull, under which certificate he claims his seat to-day.

Mr. Bisbee protested to the governor that there had been an illegal act done by the State canvassing board, and that Madison County should be counted and not thrown out, and that he ought not to give the certificate to Hull. He proceeded to ask of the supreme court of Florida a writ of mandamus compelling the State canvassing board of Florida to recanvass the vote of the second district of Florida, and he declares that the casting out of the returns of Madison County was illegal.

The supreme court of Florida examined the question with care, and passed judgment that the act of throwing out the vote in Madison County was illegal on the part of the State canvassing board, and ordered them to make a recanvass and canvass the vote of that county.

The State board of canvassers, in compliance with the order of the supreme court of Florida, proceeded to recanvass the returns, counted the vote of Madison County as it ought to have been counted in the first instance, and then made return that Mr. Bisbee was elected a Representative to the Forty-sixth Congress from the second congressional district of Florida. Under that return, ordered by the supreme court of the State of Florida, Mr. Bisbee is entitled to his seat in this House, and Mr. Hull is not entitled to a seat.

Mr. Bisbee, having received this return, and the certificate having been filed by the State board of canvassers, applied to the governor of Florida for his certificate of election. The governor refused to give it to him, and wrote him a letter which I desire to read:

Under existing circumstances it will be impossible for me to issue to you a certificate of election as member of Congress for the State of Florida in the Forty-sixth Congress of the United States. I have some time since issued and signed a certificate to another person to this position, and have no power to revoke that certificate. If you are entitled to a seat in the Forty-sixth Congress it is for that body to decide.

I submit to this House that the governor of Florida had no right, as the chief executive of that State, to make that reply to Mr. Bisbee. The supreme court of the State had notified the governor that his former certificate was illegal and void, that the former canvass was illegal and void. The supreme court had directed a new canvass, and the State board of canvassers had made that new canvass and had certified their return according to law. It was then the duty of the governor to issue his second certificate on that second return which the supreme court of the State held to be valid and legal.

The governor submitted the question to his democratic attorney-general, and he gave a carefully prepared opinion that it was his duty—remember that, that it was his duty—to issue a new certificate of election to Mr. Bisbee. And still the governor refused to comply.

Again, Mr. Bisbee applied to the supreme court for a writ of mandamus to compel the governor of Florida to issue a certificate to him. I have just received the opinion of the court in that case. The court says that the proposition of the petitioner is that the judicial department of the government may control the executive in reference to an executive duty. The two republican judges hold that they have not power to compel the governor of the State to issue a certificate to Mr. Bisbee. The democratic judge dissents, and says that the issuing of the certificate on the part of the governor is nothing but a ministerial act, and that the court has the power to compel the governor and ought to compel him to issue a certificate to Mr. Bisbee in accordance with the law of Florida. That is the opinion of the court which I have just read.

You have first the opinion of the court that the first count was illegal and void. Then you have a second count ordered by the court under a mandamus. You have then the opinion of the court indirectly declaring that it is the duty of the governor to issue a certificate to Mr. Bisbee, two of the judges holding that they had not the power to compel him to do so, and one, the democratic judge, holding that the court had the power to compel him to do so. In addition to that you have the opinion of the democratic attorney-general of Florida that it was the duty of the governor to issue a certificate to Mr. Bisbee. Understand, the court all agree that it is the duty of the governor to give the certificate to Mr. Bisbee; two of the judges holding that they have no power to compel him to do so, and one judge, the democratic judge, holding that the court has the power to compel the governor to issue that certificate.

Now, as a matter of fact, I wish further to show that the democratic sentiment in Florida concurs with that opinion of the court. The good men of Florida, who believe in purity of elections, concur with the court. I read from the leading democratic paper in the State of Florida, The East Florida Banner:

Now, it is clearly established that Mr. Bisbee received a majority of the votes and was legally elected. We think Mr. Hull should gracefully yield the certificate of election and retire from politics. He owes this much to the people of this district and the party of which he is a member, and the party ought to demand it of him.

That is from a leading democratic paper in the State of Florida. I take it I did not assume too much when I said that the democrats of this House, when they knew the facts in this case, would say the same to Mr. Hull, and that where the court of the State and the canvassing board and the people of Florida admit that Mr. Bisbee is duly elected he should receive his seat, although Mr. Hull had the certificate of election.

Now I wish to show that the return from Brevard County was legally rejected and the return from Madison was legally counted by the court. Here is the law of Florida, giving the secretary of state, the comptroller of public accounts, and the attorney-general authority as a State canvassing board:

If any such returns shall be shown as shall appear to be so irregular and false or fraudulent that the board shall be unable to determine the true vote for any such officer or member, they shall so certify, and shall not include such return in their determination.

Now, in Brevard County, the return, as everybody admits, was false, was fraudulent, was wicked, so that the vote could not be determined. But in Madison County there was no false return, no fraudulent return. The only claim made was that in one precinct the return was not made to the county clerk. Thus gentlemen of this House will see that the court was entirely right in rejecting Brevard County and in admitting Madison County. It was a strict compliance with the law.

By the way, I will remark that if Madison County had been counted Mr. Bisbee's majority in precinct No. 4 would have been 57 more than it is now.

Now I call attention to a parallel case which arose at the opening of the last Congress from this very State, between Mr. DAVIDSON and Mr. Purman, where there had been two certificates, one by one governor and one by another; one under the first canvass, and the other under a second canvass ordered by the court. I call attention to the remarks of the Clerk of this House upon the case thus presented.

The Clerk read as follows:

From the State of Florida certificates were received, signed by Marcellus L. Stearns as governor of Florida, with the seal of the State attached, certifying that William J. Purman was elected in the first and that Horatio Bisbee was elected in the second district of said State. These certificates bear date respectively December 9 and December 14, 1876, and seem to be regular in form.

But in reference to the first district two certificates were subsequently received, signed by George F. Drew, governor of Florida, with the seal of the State attached, and bearing date respectively January 12 and February 26, 1877. These certificates recite the fact that the canvass of the vote upon which the certificate in favor of Mr. Purman was based had been declared by the supreme court of Florida to be illegal, and that another canvass had been made in obedience to the order of the supreme court of Florida, which canvass resulted in the election of ROBERT H. M DAVIDSON as Representative from said district.

Under such circumstances the Clerk felt bound to place on the roll from the first district of Florida the name of ROBERT H. M. DAVIDSON, whose credentials show that he was elected in accordance with the laws of the State of Florida as interpreted by the supreme court of that State.

Mr. FRYE. Thus gentlemen will see that at the opening of the Forty-fifth Congress the Clerk of this House, without any dissent to the doctrine on the part of the House, held that he was compelled to recognize the authority of the supreme court of the State of Florida and the second canvass made under that authority, and admitted Mr. DAVIDSON to the seat.

Again, I call the attention of this House, and of the democratic side particularly, to the recent report made by the "Potter committee," so called——

Mr. KNOTT. If my friend will allow me one moment, I wish simply to remark that in the Florida case as it arose in the last Congress a certificate, signed by the governor and authenticated by the seal of his State, was granted to the person whose name was put upon the roll. In this case Mr. Hull holds such a certificate, and Mr. Bisbee does not.

Mr. FRYE. I understand that matter perfectly well. There were in the Florida case as it arose in the last Congress two certificates. Mr. Purman had one and Mr. DAVIDSON another. Now, if gentlemen will look at the law of the State of Florida they will find that the certificate of the governor is nothing but a mere ministerial act certifying to what the State canvassing board are required by law to find. Now the Clerk of this House to-day has before him the return of the State canvassing board with their certificate. The governor stands in the position of refusing to certify to the facts which appear in that certificate.

Mr. KNOTT. Nevertheless, the certificate of the governor is the credential prescribed by law.

Mr. FRYE. I hold otherwise. Here is the law of Florida:

Whenever any person shall be elected to the office of elector of President or Vice-President, or Representative in Congress, the governor shall make out and sign, and cause to be sealed with the seal of the State, and transmit to such person, a certificate of his election.

And the democratic judge of Florida holds that this is a mere ministerial act. Now take the law in relation to the canvassing board and see what they are compelled to do:

On the thirty-fifth day after the holding of any general or special election for any State officers, members of the Legislature, or Representatives in Congress, or sooner, if the returns shall have been received from the several counties wherein elections shall have been held, the secretary of state, attorney-general, and the comptroller of public accounts, or any two of them, together with any other member of the cabinet who may be designated by them, shall meet at the office of the secretary of state, pursuant to notice to be given by the secretary of state, and form a board of State canvassers, and proceed to canvass the returns of said election, and determine and declare who shall have been elected to such office, or as such member, as shown by such returns. If any such returns shall be shown as shall appear to be so irregular, false, or fraudulent that the board shall be unable to determine the true vote for any such officer or member, they shall so certify, and shall

not include such return in their determination and declaration; and the secretary of state shall preserve and file in his office all such returns together with such other documents and papers as may have been received by him or by said board of canvassers.

The said board shall make and sign a certificate containing, in words written at full length, the whole number of votes given for each officer and for members of the Legislature, and therein declare the result, which certificate shall be recorded in the office of the secretary of state in a book to be kept for that purpose; and the secretary of state shall cause a certified copy of such certificate to be published once in one or more newspapers printed at the seat of government.

Now, the laws of Florida make that return and that certificate of the State canvassing board evidence everywhere—not the certificate of the governor of Florida, which is the result of a mere ministerial act.

Mr. HOUSE. Will the gentleman allow me to ask him a question?

Mr. FRYE. Yes, sir.

Mr. HOUSE. Does the gentleman deny that under the laws of Florida the certificate given by the governor constitutes the credential of a member of this House?

Mr. FRYE. My position is this: when the supreme court of the State has determined that the certificate already issued by the governor is illegal, void, and ought to be revoked; when the attorney-general of the State has declared to the governor that it is his duty to issue a new certificate; when the Clerk of this House and this House itself have recognized a recanvass in the State of Florida, and held that we must act under the recanvass, and when the Potter committee has held that the governor of Florida himself was elected by a recanvass ordered by the court—under these circumstances, if the governor refuses to revoke his previous certificate and to give a certificate to the gentleman who is declared legally elected, I deny that the old certificate is legally, properly, justly receivable by this House as a certificate of the election of Mr. Hull.

Mr. HOUSE. If the gentleman will pardon me.

Mr. FRYE. Certainly.

Mr. HOUSE. Will the gentleman answer my question?

Mr. FRYE. Certainly.

Mr. HOUSE. There must be something to constitute under the laws of Florida the credentials of a member-elect to this House. I ask the gentleman whether Mr. Hull has not that certificate in due form?

Mr. FRYE. No, sir.

Mr. HOUSE. Has he not the certificate of the governor under the constitution and laws of Florida?

Mr. FRYE. He has not the credentials of a member-elect. He has a certificate which has been declared by the supreme court of Florida to be null and void.

Mr. HOUSE. Is it not formal on its face, and in conformity to the laws of Florida?

Mr. FRYE. But is it not the duty of this House to recognize the supreme court of a State?

Mr. HOUSE. On a *prima facie* case?

Mr. FRYE. Yes, on a *prima facie* case. The certificate of the canvassing board by the laws of Florida is made evidence in the House of Representatives as well as anywhere else. I desire to put into this case the return of the canvassing board made at the second canvass, as follows:

From which canvass it appears that the whole number of votes cast for Representative of the Forty-sixth Congress of the United States of America from the second congressional district of Florida was 21,358, of which Noble A. Hull received 10,578 votes, Horatio Bisbee, jr., received 10,779 votes, and Charles H. Smith received 1 vote. Whereupon it is determined and declared that Horatio Bisbee, jr., is duly elected Representative to the Forty-sixth Congress of the United States of America from the second congressional district of the State of Florida, as shown by the returns.

Now, Mr. Speaker, there is the case. I have stated it with perfect fairness. I have tried to state it clearly. It is in a nutshell. There was an election in two counties, one county rejected for fraud and the other county improperly rejected. Mr. Hull was elected by 12 majority.

MESSAGE FROM THE PRESIDENT.

The SPEAKER. The committee appointed to wait upon the President have returned, and are now ready to report. The gentleman from Kentucky.

Mr. BLACKBURN. Mr. Speaker, the committee appointed to wait upon the President of the United States and to inform him that Congress is now organized and ready to receive any communication he may have to make have discharged that duty, and the President requested the committee to say that he will communicate forthwith to the House through a message in writing.

SECOND DISTRICT OF FLORIDA.

The SPEAKER. The gentleman from Maine will resume his remarks.

Mr. FRYE. Mr. Speaker, I was stating to correct this wrong there was a recanvass ordered by the court which was made in strict compliance with the order of the court and the law. That recanvass and the certificate of the State canvassing board declared Mr. Bisbee to be elected Representative from the second district of Florida. Gentlemen say because the governor refused to listen to his court, because the governor refused to listen to the attorney-general, because the governor does not recognize the right of the court or the attorney-general or the conscience of parties in Florida, that we as a House are compelled to seat Mr. Hull who received his election by fraud in Brevard County and by failure to return in Madison County. I say, gentlemen, we can afford to do right in this matter and you cannot afford to do wrong.

Mr. KELLEY. I ask the gentleman to submit the opinion of the attorney-general.

Mr. FRYE. I have referred to it as a part of my remarks, but it is already printed in the RECORD of this morning with the papers in the case.

[Here the hammer fell.]

Mr. HARRIS, of Virginia. I now yield, Mr. Speaker, for ten minutes, to the gentleman from Indiana, [Mr. COBB.]

Mr. COBB. Mr. Speaker, this case comes from the second congressional district in the State of Florida. Mr. Hull and Mr. Bisbee were the opposing candidates for Congress in said district at the election held in November, 1878. Mr. Hull received the certificate of his election from the governor of the State, and has presented it to the Clerk of this House, who has placed his name on the roll, as the law directs he shall do in such case. Objection is now made to his being sworn in. And it is insisted by the gentleman from Maine [Mr. FRYE] that Mr. Bisbee shall be sworn in and take the seat. It is not pretended, however, that Bisbee has a legal certificate of his election. Indeed it is not pretended that he has any certificate. He has none. It would therefore be in violation of law and the well-settled precedents of this House to admit him to his seat. Then, as Bisbee does not, under the rule of law and the well-settled practice of this House, present such evidence as will entitle him to be sworn in I will discuss the right of Mr. Hull to be sworn. The law clearly provides how this House shall determine the question of his right. The House is now trying the *prima facie* case only. If Mr. Hull makes a *prima facie* case he must be sworn in. This is all that is required of him until after the House is fully organized. After the House is so organized, then the case may be referred under the practice to the Committee of Elections and the fact ascertained as to who is really elected.

Does Mr. Hull present a *prima facie* case to the House? It will only be necessary to read the law, which is plain in its provisions, to show that he does. The Revised Statutes of the United States, page 6, section 31, reads as follows:

Before the first meeting of each Congress the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of those persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

The statute of the State of Florida reads as follows:

SEC. 30. When any person shall be elected to the office of elector of President and Vice-President or a Representative in Congress, the governor shall make out, sign, and cause to be sealed with the seal of the State, and transmit to such person a certificate of his election.

This is all the statute law upon this subject. If Mr. Hull has presented to the House the evidence of his election required by this law he must be sworn in. The section of the statute of the State of Florida which I have read is the law which must govern the House in the decision of this case. It will be observed that this section requires that the certificate of a member of Congress elected from the State of Florida shall be made out by the governor of said State; that it shall be signed by him; that he shall cause the same to be sealed with the seal of the State, and that he shall then transmit the same to such person with a certificate of his election.

Now, this certificate was so made out by the governor of the State of Florida and delivered to Mr. Hull. It is in strict conformity with the law in every particular. And he now presents it to this House and asks that he be sworn in as a member. This certificate is the evidence, and the only evidence, which can be legally considered by this House at this time. It has been the practice of this House from its earliest history to admit a person to his seat when he has held a certificate which was in conformity with law, as is the case here. I know of no case to the contrary, when there was no question as to the relation of his State with the Union. This certificate shows upon its face that Mr. Hull was elected on the day prescribed by law. It is the credentials contemplated and pointed out so clearly by the section of the Revised Statutes of the United States which I have quoted. By virtue of that section Mr. Hull presented this certificate to the Clerk of this House, and the Clerk placed his name on the roll, as he was compelled to do, and he is now by virtue of the same law entitled to be sworn in as a member of this House. The certificate is *prima facie* evidence of his right to his seat, and that, as I have already said, is all that is required.

Mr. CALKINS. Will the gentleman yield to me a moment?

Mr. COBB. I have but a few moments, and cannot yield to the gentleman long.

Mr. CALKINS. How can this certificate stand, even as establishing a *prima facie* right, when the basis upon which it rests has been swept away by a decision of the supreme court of the State of Florida?

Mr. COBB. You cannot go behind this certificate. It is the only evidence which the law warrants this House in considering at this stage of the case. The decision of the supreme court is not a credential under the law, as I have shown. It cannot be considered for any purpose by the House in deciding the *prima facie* case. To the certificate, and to that alone, we must look for our evidence in deciding this case, because the law is imperative and we must be bound by it. The statute which I have referred to is higher authority than the decision of the supreme court cited by my colleague, for it was enacted for our government in such cases as this, and the decision to

which he refers was not intended to and does not in any way affect the validity of Mr. Hull's certificate. No decision of the supreme court of Florida can affect this certificate. And my colleague is too good a lawyer to insist that it does.

Mr. WHITE. Did we not go behind the certificate of the governor of Colorado last year in the contested-election case from that State?

Mr. COBB. The case from Colorado to which the gentleman from Pennsylvania refers is not a similar one to this. In that case Mr. BELFORD held the certificate of the governor of his State, which showed upon its face that he was elected on the 3d day of October, when the law required that he should have been elected on the 7th day of November. That being the case, his certificate was not *prima facie* evidence of his election. Indeed it was not such evidence as could control the House. It was not in conformity with law. The House will always look at the certificate and see that it conforms with the law. But I have not time to discuss that case further. No such question arises in regard to Mr. Hull's certificate. It shows upon its face that he was elected on the day prescribed by law, and therefore it is *prima facie* evidence which entitles him to his seat. To sustain this position I read from McCrary's work on elections, which is admitted by all to be good authority. Its author served as an honored and distinguished member of this House for years. I read section 221, as follows:

> There can be no doubt but that a certificate of election, regular in form and signed by the proper authority, constitutes *prima facie* evidence of title to the office, which can only be set aside by such proceedings for contesting the election as the law provides. The certificate, whether rightfully or wrongfully given, confers upon the person holding it the *prima facie* right to the office.

In section 222 the author says:

> The regular certificate of election properly signed is, as we have seen, to be taken as sufficient to authorize the person holding it to be sworn in. It is *prima facie* evidence of his election, and the only evidence thereof which can be considered in the first instance and in the course of the organization of a legislative body.

Mr. GARFIELD. What page is the gentleman reading from?

Mr. COBB. Page 160. That is the law which governs this case, and there is no escape from it. It has never been disputed. In the early days of our Government, in the organization of this House, Madison and that class of statesmen laid down the same rule and lived up to it strictly. I know of no departure from it.

After Mr. Hull is admitted to his seat upon this certificate the case may then be referred to the Committee of Elections, when a full and fair investigation into the facts may be had. But we cannot go behind the certificate in the organization of the House and examine into the merits of the case. And we should not now discuss the merits because no member of the House knows what the merits of the case are, and cannot until a more full and careful investigation is given than this House is able to give in the process of its organization as it now is. In the case to which the gentleman from Maine [Mr. FRYE] referred, the question arose as between two certificates, as I remember it. In that case two certificates were presented to the House, one by Hon. ROBERT H. M. DAVIDSON, and the other by William J. Purman. The one was signed by George F. Drew and the other by Marcellus L. Stearns, each claiming to be the governor of the State of Florida at the time he signed the certificate. And the House, after considering the certificates and the circumstances connected with them, decided in favor of the one given by George F. Drew to Hon. ROBERT H. M. DAVIDSON, and he was sworn in as a member. Then the question arose which was the true certificate, and which was entitled to credit by the House. But in this case no such question arises. There is but one certificate presented and it is signed by the governor of the State. No one, not even the gentleman from Maine [Mr. FRYE] himself, will deny that the person who signed Mr. Hull's certificate was at the time he signed it the *de jure* as well as the *de facto* governor of the State of Florida. Here we have the only evidence we can recognize—the certificate of the governor having attached to it the seal of the State. And we are bound by it under the law which I have read and by all the authorities upon the subject.

The gentleman from Maine [Mr. FRYE] seems to rely greatly on the decision of the supreme court of the State of Florida. Does that gentleman insist, in the face of the law which I have read, that a decision of the supreme court of that State can in any way affect or set aside the certificate of the governor, and thereby destroy the *prima facie* case made by it in favor of Mr. Hull? If he does, I imagine he will find but few who will agree with him. The gentleman talks about the returning board in Florida. I have heard of the returning boards in Florida and in other States of the South. I think I know something about them; but the returning board of Florida has made its return to the governor of that State, and he has issued his certificate to Mr. Hull certifying that he was elected to the Forty-sixth Congress from the second district. By that certificate we are controlled. We have nothing to do with the action of the returning board, in deciding the question now before us. If this certificate is false it can be corrected hereafter, when the House goes behind the certificate of the governor, as well as the returning board, and examines the merits of the case. But this cannot be done at this time.

We must pursue the uniform rule heretofore followed by this House or we may do great injustice. If after Mr. Hull has been sworn in and a careful examination is made of the merits of the case, which cannot be made now, as I have already said, it is ascertained that Mr. Bisbee is entitltd to the seat, then he will be sworn in, and Mr. Hull will have to surrender the seat to him. But until the merits are reached the certificate entitles Mr. Hull to the seat. The gentleman says that we have before us the certificate made by the returning board of Florida in regard to this district, and that it shows Bisbee was elected. It does not show that Bisbee was elected. In the very certificate to which the gentleman refers, and which is printed in the RECORD, the board certifies that the returns from Brevard County, one of the counties included in said district, was not included in said certificate. Therefore this certificate shows upon its face that it does not contain the true vote of the district for Congress. And yet we are asked to take it as proof of the true result and act upon it. This certificate is said to be the result of the last canvass made by the State canvassing board. And it is insisted that the supreme court of Florida has decided that this last canvass made by said board was the legal one, and that the governor of Florida ought to issue a certificate to Mr. Bisbee. But the governor, having already issued the certificate to Mr. Hull, refuses to issue one to Mr. Bisbee. He is the judge as to whom he will issue the certificate. His judgment is based upon the returns of the election made to him. If he issues a certificate certifying that a certain person has been elected a member of this House, and said certificate is in conformity with law, that makes a *prima facie* case, and the person must be sworn in

Mr. FRYE. Will the gentleman allow me to ask him a question?

Mr. COBB. Certainly.

Mr. FRYE. The gentleman has asked two or three questions, how we know certain things. He certainly has not read this morning's RECORD. The record of the court is here on file, is on the record of this House. Any man who will read can learn all these facts which I stated.

Mr. COBB. Does not the gentleman know that the facts to which he alludes are not evidence at this time before this House, and that in no legal sense can they now be considered?

Mr. FRYE. If the gentleman will examine the law of Florida he will find that the certificate of the State canvassing board is higher evidence anywhere than the certificate of the governor.

Mr. COBB. I beg the gentleman's pardon. The law of Florida does not make the certificate of the returning board higher evidence before this House in this case than the governor's certificate. But that law and the law of Congress make the governor's certificate the best evidence upon which this House can act.

[Here the hammer fell.]

Mr. HARRIS, of Virginia. I now yield ten minutes to the gentleman from Florida, [Mr. DAVIDSON.]

Mr. DAVIDSON. The facts in this case, Mr. Speaker, are but few, and are, as I understand them, as follows: In November last an election was held for Congressman in the second congressional district of Florida, at which Mr. Hull and Mr. Bisbee were the candidates. The returns from the counties composing the district were duly made, and at the time prescribed by law the board of State canvassers counted or canvassed those returns. The board, owing to certain irregularities and frauds which it was believed had been committed in the counties of Brevard and Madison, laid aside or rejected the returns from those counties and they were not included in the count.

By that count Mr. Hull was elected, and the governor of the State in accordance with law issued to him the usual certificate. Subsequently Mr. Bisbee instituted proceedings in the supreme court of the State, praying that a writ of mandamus might be issued to the board of State canvassers compelling them to make a recount, and particularly to count the returns from the county of Madison. The writ was granted, two of the judges of the court agreeing that it should be done, while one gave a dissenting opinion.

I know not that it is necessary for me to mention here the political faith of the gentlemen composing the supreme court of Florida, but as it has pleased the distinguished gentleman from Maine [Mr. FRYE] to allude to the matter I will likewise do so. Two of the members of that court—the two who decided that the writ of mandamus should be issued—are republicans; the one who gave the dissenting opinion is, I believe, a democrat, or if not a democrat, then he is neutral in politics.

I have said that the writ prayed for was granted, two of the judges concurring and one dissenting, and in my judgment the dissenting judge, in the able opinion which he delivered, sustained the decision of the court which was made in the case of George F. Drew two years ago, while the concurring judges reversed to a great degree that decision.

By the count made in obedience to the writ of mandamus Mr. Bisbee was elected; but he had no certificate from the governor, and that official for good and valid reasons declined to give him one. What then was done? He instituted legal proceedings to compel the governor to issue to him a certificate. What was the result? I answer, the court refused to grant to him the writ prayed for, and he is here to-day asking and demanding a seat in this House without credentials. Now, there is one question which I wish to put or propound to the gentleman from Maine, whose reputation as a lawyer is so well known. If the certificate of the State board of canvassers of Florida is evidence before this body as to the right of a gentleman to take his seat in this House, if such certificate is the only credential which it is necessary for him to have when he comes here to be sworn in, then I ask, why did Mr. Bisbee, who is a lawyer of reputation,

institute proceedings in the supreme court of Florida to obtain a certificate from the governor of that State?

Sir, the institution of that suit is convincing evidence to my mind that Mr. Bisbee knew well the importance and value of such a certificate in this House, and that without it his *prima facie* case here was hopeless. The cases which have been decided by this House for years past have established the principle that a gentleman claiming a seat here, on a *prima facie* case, should at once be sworn in if his name is on the roll and he presents a certificate in due form and properly authenticated. McCrary, in his valuable work on elections, says in section 222:

The regular certificate of election, properly signed, is, as we have seen, to be taken as sufficient to authorize the person holding it to be sworn in. It is *prima facie* evidence of his election, and the only evidence thereof which can be considered in the first instance and in the course of the organization of a legislative body.

He further says, in section 221:

The certificate, whether rightfully or wrongfully given, confers upon the person holding it the *prima facie* right to the office.

Mr. Hull has the required certificate; Mr. Bisbee is altogether without legal credentials; and yet the proposition from the other side of this House is to swear in Mr. Bisbee. It is, in my opinion, a preposterous, unprecedented proposition. I ask gentlemen to reflect what would be the effect should this House seat Mr. Bisbee at this time. The contest is now going on and testimony is being taken in the case. Mr. Bisbee felt that it was necessary to institute and prosecute such a contest. But suppose that he should be seated now, what would be the position of Mr. Hull? Why, the contest would be ended, and he would no longer have any rights in this House, either on a *prima facie* case or otherwise.

We only ask that, in accordance with the law and the well-established rule and practice of this House, Mr. Hull be permitted now to take his seat. The case will then go to the Committee on Privileges and Elections, and when it shall have been reported it can be decided and disposed of on its merits. Equity and justice demand that we should not at this stage of the proceedings in the case seat Mr. Bisbee and thereby deprive Mr. Hull of all his rights.

Let me remind this body that in each Congress for the last three years there has been a contest in this House from the second district of Florida. Both in the Forty-third and Forty-fourth Congresses the contestant was a democrat, and though the democrats had a majority in the House in each Congress, yet the contestees, who were republicans, were permitted to hold their seats until the cases were disposed of after reports had been made thereon by the proper committee. I ask that in this case the same course shall be pursued. It is but right and fair that it should be done.

I am surprised that so distinguished a lawyer as the gentleman from Maine should have argued this case now upon its merits before it has been investigated. His whole argument was to the merits of the question, not to the *prima facie* case. He has introduced here an opinion of a court and the certificate of the State board of canvassers as evidence. I contend that they are not evidence. If we should oust Mr. Hull and seat Mr. Bisbee upon such evidence we will have proceeded on *ex parte* testimony altogether, for Mr. Hull was not a party to the suit in the supreme court of Florida. He has had no opportunity to introduce testimony, but desires an opportunity to do so before a committee of this House.

I would like to say more, but my time has expired.

[Here the hammer fell.]

Mr. HARRIS, of Virginia. I now yield the remaining ten minutes of the half hour to the gentleman from Missouri, [Mr. BUCKNER.]

Mr. BUCKNER. What is the question before this House? It is not whether Mr. Hull or Mr. Bisbee was really elected, but who has the *prima facie* evidence authorized by law to take a seat in this Hall? That is the question to be determined now.

Mr. Hull has the evidence every other member has who sits here, no more and no less. There is no question but Mr. Hull comes here with a certificate in due form of law, such as I have and such as every other member has whose seat is unquestioned.

Now, why should he be disturbed? I say it is not a question whether he is legally elected, whether when this case is sifted to the bottom by a committee properly authorized by this House, whether under all the facts he is entitled to hold it, but whether he has the legal, presumptive, *prima facie* evidence of his right to a seat. Unless that is conceded to him no man, then, has a right to be here, and the House would have no power to complete its organization, which is necessary in order that it may go on with the business of the country.

What was the position of our friends on the other side on a case in the last Congress exactly like this, the case of Rainey *vs.* Richardson, from South Carolina? Rainey came here with the certificate of the governor in due form of law. Facts in the shape of depositions were presented which if they were true proved (and I have them here now before me) that not Mr. Rainey but Mr. Richardson was duly elected and entitled to the seat. But what position did gentlemen on the other side take in reference to that matter? I say that case and this are precisely parallel. There is not a particle of difference between them, and yet the gentlemen on the other side, Mr. Hale of Maine, General Banks of Massachusetts, (who had been for a long time Speaker of this House) General Butler, and other members on the republican side took the view that in accordance with the uniform rule, Mr. Rainey appearing with the certificate of the governor, Mr. Rainey should be seated, although he might be rejected after investigation by the Committee of Elections. He was seated and remained in his seat notwithstanding the Committee of Elections was ready to submit a report against him at the close of the session. Whether that is so, however, I do not know. I have before me, and send to the Clerk's desk to be read, what Mr. Hale and what Mr. Banks said on this very question. Let the Clerk read what Mr. Banks said.

Mr. GARFIELD. From what page of the RECORD is the Clerk reading?

Mr. BUCKNER. It is in the proceedings of the 16th of October, 1878. It is page 63 of the RECORD for that session.

The Clerk read as follows:

Mr. BANKS. I submit that the gentleman from South Carolina [Mr. Rainey] ought to be admitted to take the oath as a member of this House, because he has the certificate of his government that he has been elected according to law. There is no reason why the House should not hereafter inquire into the validity of that election. It may make such inquiry the very moment after Mr. Rainey has been admitted upon the certificate. But the very existence of our Government depends upon our recognition of the certificates of State governments to the election of members of this House. We could never organize this House if any member was permitted upon any opinion of his own to impeach the certificates of the governments under which members of this House are elected. Until the last Congress, the precedents of which have been referred to by the gentleman from Virginia, there has never been a single case where this House has set aside, as to the *prima facie* case, the certificate of a State government to the election of a member of Congress.

Mr. BUCKNER. Now read what Mr. Hale, of Maine, said.

Mr. BELFORD. I understand the gentleman from Missouri to refer to the position taken by republicans in reference to certain gentlemen whose seats were contested.

Mr. BUCKNER. I cannot hear what the gentleman from Colorado is saying.

Mr. BELFORD. I understand the gentleman from Missouri to refer to the position taken by certain republicans in reference to gentlemen who appeared here and whose seats were contested. I desire to ask the gentleman if the position assumed by the democratic side of the House at that time was not this, that while it was the duty of the Clerk in the first instance to enroll a person presenting a credential, yet the House had full, complete, and absolute right to revise the action of the Clerk on that question?

Mr. BUCKNER. I do not understand, Mr. Speaker, that the House took any such position.

Mr. BELFORD. Another question. I desire to call the attention of the gentleman to the speech made by Mr. MILLS, of Texas, when the question of the credentials of the Representative from the first district of South Carolina was before the House. He announced that to be the true doctrine, that while it was the duty of the Clerk——

Mr. BUCKNER. My time is limited, and I cannot yield further.

Mr. BELFORD. I desire to call the gentleman's attention to the position taken by the gentleman from Texas, whose ability as a lawyer is universally recognized. When the case came up from South Carolina the gentleman from Texas [Mr. MILLS] asserted, and it will be found in the twenty-sixth volume of the CONGRESSIONAL RECORD, page 61, that while it was the duty of the Clerk to enroll the party, yet after he had enrolled the party it was within the power of the House to revise the action of the Clerk.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. RODGERS, his private secretary.

The SPEAKER. The Chair lays before the House a message from the President of the United States, which will now be read by the Clerk.

The Clerk read as follows:

Fellow-citizens of the Senate and House of Representatives:

The failure of the last Congress to make the requisite appropriations for legislative and judicial purposes, for the expenses of the several Executive Departments of the Government, and for the support of the Army, has made it necessary to call a special session of the Forty-sixth Congress.

The estimates of the appropriations needed, which were sent to Congress by the Secretary of the Treasury at the opening of the last session, are renewed, and are herewith transmitted to both the Senate and the House of Representatives.

Regretting the existence of the emergency which requires a special session of Congress at a time when it is the general judgment of the country that the public welfare will be best promoted by permanency in our legislation and by peace and rest, I commend these few necessary measures to your considerate attention.

RUTHERFORD B. HAYES.

WASHINGTON, *March* 19, 1879.

Mr. FERNANDO WOOD. I move that the message of the President be referred to the Committee of the Whole on the state of the Union, and printed for the use of the House.

The motion was agreed to.

ELECTION CONTEST—HULL VS. BISBEE.

The House resumed the consideration of the contested-election case from the second district of Florida.

Mr. BUCKNER. I could not distinctly hear what was said by the

gentleman from Colorado, [Mr. BELFORD.] All I could hear was that he seemed to think there was an incongruity in the views I am now attempting to enforce. I remember well my voting with the gentleman from Texas [Mr. MILLS] on this proposition, on this very question, and that I voted with the mass of the republicans upon this question.

I suppose that my friend intended to allude to the case from Colorado, and as that has been referred to by the gentleman from Pennsylvania, [Mr. WHITE,] I desire to say that there is no sort of parallelism between this case and the Colorado case.

In the certificate given by the governor of Colorado to Mr. BELFORD there was an express statement by the governor that the election had been held upon an illegal day. It was not, therefore, such a certificate as could be recognized by the Clerk, but here is a certificate conforming in every respect to the law.

[Here the hammer fell.]

Mr. MILLS. I ask unanimous consent to be allowed four minutes, as I have been referred to.

Mr. HARRIS, of Virginia. The next half hour belongs to the other side upon this question.

Mr. GARFIELD. I ask unanimous consent that the gentleman from Texas be heard now. [Loud cries of "Yes!" "Yes!"]

The SPEAKER. The Chair hears no objection.

Mr. MILLS. I reiterate, Mr. Speaker, the convictions that I had two years ago, and those convictions have been deepened by the lapse of time, that every member who comes to this House bearing credentials accrediting him as a chosen Representative is a part and parcel of this House, and that he has authority to sit here and participate in the organization of the House is unquestioned, and that no legitimate power can deprive him of that right. Any attempt on the part of this House to deprive any member of the right to participate in the organization of this House, when he brings the regular credentials authorized by the laws of his State, is a wanton and flagrant usurpation of power.

I made the same statement in my speech on the contested-election case from Colorado.

I read from the RECORD of October 25, 1877:

> We have a law in the Revised Statutes conferring upon the Clerk of the House the judicial power to determine what certificates are in compliance with the laws of the States, and those who come here so accredited are declared by that law to be the holders of the *prima facie* rights to seats and are entitled to organize this House. The Clerk is forbidden to put the names of any others upon the roll, and when he has arranged that roll and passed upon it the question then becomes a judicial question, to be settled only by appealing to the House of Representatives; not by an appeal to any member of the House of Representatives, but to the House itself. Who is the House? All the members present holding proper certificates after they are sworn in and have organized for business by the election of officers. Then it has the power to judge and to render judgment upon each of its members. But until it is organized no member has any power whatever over another, and any attempt to exercise it is a bold and most dangerous assumption of authority.

Now, when a man comes here with that certificate he is a part and parcel of the House, and why should any number of men exclude a member from participating in the organization of the House when he has the credentials and has the same authority which my friend from Tennessee has, and my friend from Ohio?

When the mass of members-elect have joined together and organized the House, then it becomes invested by the Constitution with the power to judge of the elections, returns, and qualifications of its own members. After it has organized with a Speaker to put questions and take its will, a clerk to keep its journal, it can pass upon the qualifications of its members; but until that time each man bearing a certificate from the governor of his State is entitled to his seat, and no man has the right to deprive any man holding such certificate of his right to a seat upon this floor.

[Here the hammer fell.]

Mr. FRYE. I now yield to the gentleman from Ohio [Mr. GARFIELD] for ten minutes.

Mr. GARFIELD. Mr. Speaker, we ought to keep in our minds clearly and plainly the difference between a *prima facie* right to a seat and the final right to the seat. I understand the claim to be, from the gentleman who has charge of this matter on the other side, that on the *prima facie* case the gentleman in question shall be sworn in, and that for a full examination of the real merits of the case it shall go to the Committee of Elections.

Ordinarily that would be the true course to pursue. I have many a time insisted in this House on that course. I recollect to have insisted about two years ago, with whatever vigor I could, that here stood a man from Colorado with an unquestioned, genuine certificate of the governor of that State that he was elected a member of this House by an unquestioned majority. We on this side of the House said that he had a right to be sworn in on the *prima facie* case.

Mr. COBB. If the gentleman will allow me, did not the certificate of which he speaks state that the person claiming the seat had been elected on a certain day?

Mr. GARFIELD. It stated that he had been elected in accordance with law.

Mr. COBB. And the law of the State provided that the election should take place on the 3d day of October and the law of Congress that it should take place on the Tuesday after the first Monday of November.

Mr. GARFIELD. I cannot yield my time to the gentleman for an argument. I will say this: the certificate was in full legal form, certifying to the legal facts which are ordinarily certified to in certificates that come here. Mr. BELFORD bore those credentials, and I, in common with my associates on this side of the House, said that he must be sworn in under those credentials, and that if there were any ulterior questions about the legality of the day of election that was a fair matter for investigation and consideration by a committee of this House. I was overruled; all my associates were overruled upon that point. With his certificate as a *prima facie* case, the whole *prima facie* case and the case on its final merits were sent to the Committee of Elections, he not being permitted to be sworn in, nor his competitor being permitted to be sworn in, until the committee had acted upon the final merits of the case.

Now, it might be said that in that case the House reversed the rule that a governor's certificate is essential to a *prima facie* case. I do not think it ought to have reversed it. For one I am willing to go back, if we will go back all around in all cases, to the old rule and the old way. But it will hardly do for gentlemen to go back in the face of their late precedent upon this subject.

That is not all. We are bound, and I think the gentlemen on the other side of the House will admit that they are bound, to pay some attention to the laws of the State from which a credential comes. In most of the States the governor is a part of the returning board. In some of the States he is the sole returning board; that is, I believe, true in regard to Oregon.

In the State of Florida under its laws the governor is no part of the returning board. The returning board is a body independent of the governor. By the law of Florida, which has been quoted here for us, that returning board is empowered to canvass the returns and declare who has been elected. When they have so declared, the secretary is ordered to sign, seal, and publish the declaration, and make public in the newspapers who has been elected.

Now, it is true there is a law of Florida that makes it the duty of the governor as a mere ministerial matter to give a certificate to the man who has been elected. According to a fair construction of the law the governor is to do that only after the real certifying and determining authority has made its declaration of who has been elected.

In this case it appears that on the first count, and before the whole performance of certification and publication by the secretary of state had been gone through with, the governor hastened, out of time, before the moment had arrived when the law made it his duty to do so, and gave the certificate to the gentleman who is now claiming the place here. He did it out of time; he did it before the law had been complied with. It was an illegal certificate; at the time he issued the certificate it was in violation of law.

Immediately upon his doing it the board to revise, correct, and utter the declaration of the count, under the order of the supreme court, did make their revision and did make their declaration, which was signed, sealed, and published by the secretary of state of Florida. That declaration is here before us, made subsequent to this undue, hasty, and illegal certificate of the governor. It is in these words:

> From which canvass it appears that the whole number of votes cast for Representative to the Forty-sixth Congress of the United States of America from the second congressional district of the State of Florida was 21,358, of which Noble A. Hull received 10,578 votes, Horatio Bisbee, jr., received 10,779 votes, and Chandler H. Smith received 1 vote.
>
> Wherefore it is determined and declared—

That declaration is by the only authority known to the laws of Florida entitled to make a declaration—

> Wherefore it is determined and declared that Horatio Bisbee, jr., is duly elected Representative to the Forty-sixth Congress of the United States of America from the second congressional district of the State of Florida, as shown by such returns.

Now, that paper bears with it on our record the sign-manual of the secretary of state, with the seal of the State; and that is declared by the law of Florida to be evidence in all courts and places whatever.

Mr. BRAGG. I wish to ask the gentleman a question. Did not the supreme court of the State of Florida revise the count for presidential electors in the election of 1876, and was not the count, after being thus revised, certified as correct under the direction of the supreme court to the electoral commission; and did not the gentleman from Ohio, as one of the members of that commission, hold that it could not interfere with the governor's certificate?

Mr. GARFIELD. The gentleman has stated precisely what was not done and what did not occur; therefore we have no debate on that question.

Now, Mr. Speaker, in continuation of my suggestion on this point, I say that the supreme court of Florida, this case having been carried before it, has invalidated the certificate which Mr. Hull brings here as evidence of his *prima facie* right. If he brought that certificate here unchallenged by any higher paper, he ought to be sworn in. But we affirm, and we bring the lawful evidence to sustain our position, that the paper he brings here has been invalidated, and is to all intents and purposes of no more value than if it were a forgery. Suppose we could show that the so-called governor's certificate brought here is forged; would gentlemen say that it gave a *prima facie* right to the seat? Certainly not. But we do show that this certificate is invalidated by the lawful invalidating power of the State, and is therefore stricken out of legal existence; that in law it does not exist, but the thing that does exist is the certificate of the returning board of Florida, which by the law of that State is made the final and complete muniment of title to a seat in this House. On that ground we plant this case.

Mr. HOOKER. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. HOOKER. Does the gentleman believe that this House, in examining simply the *prima facie* title of a gentleman to a seat in this House, has the right to go into the question of the validity of his certificate?

Mr. GARFIELD. Most certainly. Suppose I had presented here a certificate which the gentleman from Mississippi [Mr. HOOKER] had reason to know was a forgery; suppose he knew that the governor of Ohio never signed that paper, but somebody had forged his name to it; would the gentleman think he had no right to rise and challenge the genuineness and validity of that paper?

Mr. TUCKER. Let me ask this question: suppose you were satisfied that the signature of the governor was authentic and that the seal of the State was authentic; would you go behind the certificate *aliunde?*

Mr. GARFIELD. If the law of the State provided a mode for invalidating that paper and if that mode had been followed as in this case, then I answer yes. Here is a process by which the paper presented before us has been canceled in law; and it therefore is not a credential.

In concluding these remarks, let me say that for one I want to begin in this new Congress with the utmost fairness; for I fear that we shall all too soon lash up the party tiger; all too soon we shall get hot in these debates; and in my mind it is better for us to begin safely for both sides. Now, for my part, I want to vote, and I think we shall have a chance to vote, for a resolution declaring that in view of the situation of this case neither of these claimants to the seat be sworn in, but that both go before the Committee of Elections for a prompt decision of the right as to the whole case, *prima facie* and on the merits; for some of us remember too well (we have done it on our side when we were in power, you have done it on your side when you were in power) that a man seated upon the *prima facie* case, but who had not the ghost of a right to the seat on the merits, has been allowed to occupy the seat for two years lacking one day, and on the last day of the Congress, as a sort of tribute to justice, the right man has been put in.

Now, without going into the merits of this case at all, I suggest to gentlemen on both sides that we let both these gentlemen go before the committee and try their rights; and let us have the earliest possible decision on the whole case. But if anybody is to be sworn in to-day, I desire it shall be the man who does not hold a canceled certificate, but one who holds the highest certificate known to the laws of his State—the certificate of the returning board given under the order of the highest judical tribunal of the State—a certificate that overrides and cancels the certificate of the governor.

Mr. DAVIDSON. How is the certificate of the governor canceled?

Mr. GARFIELD. It is canceled by the decision of the board that had the right under the law to count the votes and was ordered by the supreme court to recanvass them and find the true result.

Mr. DAVIDSON. But when the supreme court was asked to issue a writ commanding the governor to give a certificate to Mr. Bisbee the court refused to grant such a writ.

Mr. GARFIELD. As to that my friend is mistaken. I hold in my hand the opinion of the supreme court. They decided that the governor ought to issue a certificate in accordance with the finding of the board, but they said that under the law they had no power to compel him to do his duty as he ought to do it. One member of the court—a democrat, as I understand—thought that the court had the power to compel him and ought to exercise that power; but the other two judges did not believe that they possessed such power.

Mr. DAVIDSON. Has the gentleman the opinion of that democratic judge here?

Mr. GARFIELD. I have here the opinion of the court.

Mr. DAVIDSON. Ah, the gentleman has the opinion of the court, but not that of the judge who dissented.

Mr. GARFIELD. Why, the dissenting judge not only held that the governor ought to issue a new certificate, but that he ought to be compelled to issue it.

Mr. DAVIDSON. But the gentleman has not here the opinion, which would show the reasoning on which that dissenting judge based his conclusions.

Mr. FRYE. I desire the attention of the gentleman from Virginia, [Mr. HARRIS.]

Mr. HARRIS, of Virginia. Certainly.

Mr. FRYE. Mr. Speaker, Mr. Bisbee has so much confidence in the justice of his cause and at the same time so much confidence that any Committee of Elections hereafter to be appointed will deal fairly, justly, and according to law, that he expresses a willingness to accept a proposition to send both these cases to that committee hereafter to be appointed; and I desire to withdraw the resolution which I offered yesterday and to submit in its place, as a substitute for the resolution offered by the gentleman from Virginia, the following.

The Clerk read as follows:

Resolved, That the question of the *prima facie* as well as the final right of Horatio Bisbee, jr., and Noble A. Hull, contestants, respectively, claiming a seat in this House from the second district of Florida, be referred to the Committee of Elections hereafter to be appointed; and until such committee shall have reported in the premises and the House have decided such question, neither of said contestants shall be admitted to a seat.

Mr. HARRIS, of Virginia. Of course I cannot control, nor do I desire to control, the action of my friend from Maine. He can withdraw his amendment, and if he chooses shift his ground in the middle of the battle, but that is a question for him. I cannot consent to allow him to offer an amendment to the proposition pending.

Mr. FRYE. I do not understand the previous question has been called and seconded, and I do understand that I have the right to offer this as a substitute for the resolution offered by the gentleman from Virginia.

Mr. HOOKER. I rise to a point of order.

The SPEAKER *pro tempore*, (Mr. CLYMER in the chair.) The gentleman will state it.

Mr. HOOKER. The resolution offered by the gentleman from Virginia was to seat Mr. Hull, who has the *prima facie* right, holding the certificate of the governor of the State of Florida. The gentleman from Maine introduced a counter proposition as an amendment to that which was offered by the gentleman from Virginia, and then, as I understand it, the gentleman from Virginia called the previous question.

The proposition of the gentleman from Maine is to withdraw his amendment offered yesterday to the resolution of the gentleman from Virginia and to substitute instead of it another proposition which has just been read from the Clerk's desk, the effect of which will be, if he should be allowed to offer it, that a member here whether coming from one State or another who holds a certificate of election would be in no better condition than the man who did not have it.

Mr. HARRIS, of Virginia. Mr. Speaker, as I understand the facts they are these: yesterday I offered for the adoption of the House a resolution that Mr. Hull be sworn in and called the previous question, whereupon the gentleman from Maine said that he desired to offer an amendment. For that purpose I yielded to the gentleman, and the amendment was offered. I then insisted on the previous question, proposing to allow an hour for debate afterward. The gentleman from Maine insisted there should be longer time allowed for debate. For myself I preferred that no time should be taken up in debate. We agreed, however, to allow two hours for debate, to be equally divided between the two sides of the House, regarding the previous question as ordered, although there was no distinct understanding on that subject.

Mr. GARFIELD. We did not understand at all that the previous question was ordered or that we consented to it.

The SPEAKER. The Chair decides that the gentleman from Maine has the right to modify his proposition.

Mr. FRYE. I withdraw the proposition I offered yesterday, and in place of it submit the proposition which has been read from the Clerk's desk. I offer it as a substitute for the resolution offered by the gentleman from Virginia, and will now yield the floor to any gentleman who desires to discuss the question.

Mr. HOOKER. I move to lay the resolution offered by the gentleman from Maine upon the table.

Mr. FRYE. I do not yield the floor for that purpose. I will yield to the gentleman from New York [Mr. HISCOCK] for the purpose of discussion.

Mr. HOOKER. I withdraw the motion to lay upon the table.

Mr. HISCOCK. I agree with gentlemen upon the other side of the Chamber that the only question here is, which one of these gentlemen has a *prima facie* title to a seat upon this floor; and I desire to call attention to this fact that there is no act of Congress which provides upon what credentials a gentleman shall hold his seat here, there is no enactment of Congress which declares what certificate, what evidence shall be received by the Clerk and what evidence shall be received by the House. The only question for the House to pass upon is, which of the applicants appears to have been legally elected? And the question how that fact is to be established has not been defined by any statute of Congress.

Another point I desire to make is: gentlemen have called attention to the certificate of the governor that is to be given or may be given. I say to gentlemen that upon that question they may search through the statutes of Florida in vain to find any law that declares that the certificate of the governor shall afford any evidence of title to a seat on this floor. The statutes of Florida do not declare what shall be the effect of the certificate, what it shall evidence. The governor gives a certificate based on the action of the returning board, for an elector or a member of Congress, as the case may be; but nowhere in the statutes of Florida is it declared what shall be the effect of the certificate, what evidence it shall carry with it.

I desire to call attention to another fact. We find here in the record which is submitted to us that the canvassing board shall make the certificate required, and they shall spread it upon the record. We find again the statute referred to by the gentleman from Ohio [Mr. GARFIELD] declaring a copy of that certificate shall verify the facts therein contained. You then have two certificates, one from the returning board and one from the governor, each entitled to the same verity as evidence of the facts contained in them, to the same extent, the one as the other.

I again call the attention of the chairman of the Committee of Elections of the last House to the fact that neither of the certificates is declared to be evidence on which the House shall act. The law does not say that the man who shall appear to have been legally elected, or elected according to the laws of Florida by either of these certificates, shall be entitled to the seat; if he appears elected by a judgment

rendered, which is the highest class of evidence, then I say he is entitled to the seat.

We have heard constantly from the other side of the certificate of the governor. I ask if there is any executive's certificate that the judiciary of the State cannot set aside? The gentleman from Indiana [Mr. COBB] and other gentlemen in discussing this question seem to assume that the certificate of the governor imported so much that it verified the fact beyond contradiction and could not be attacked or assailed.

Now let us look at the certificate of the governor. On the face of it he says that he bases it upon the action of the returning board made on the 23d of December, 1878. By virtue of the action of this returning board he gave this certificate. Now, the return of that returning board was attacked in the court. Proceedings were instituted by Mr. Bisbee, and he appealed to the highest court of the State of Florida, and the supreme court of that State reversed the action of the returning board of the State of Florida, said its action was illegal; and that being the case, it and every act predicated upon it must fall to the ground; and then in pursuance of the action of the supreme court, and under its mandate, this same returning board met again and made another certificate, which I say overrides the certificate of the governor. In pursuance of the mandate of the court the board made a new certificate, and that is presented as the evidence of the title of Mr. Bisbee to a seat upon this floor.

[Here the hammer fell.]

Mr. HARRIS, of Virginia, obtained the floor.

Mr. COX. Will the gentleman permit me one word?

Mr. HARRIS, of Virginia. I will, after I have said a few words myself. This is a very simple question for the consideration of the House. It is a question whether the gentleman who is represented as having been elected by the second district of Florida shall be sworn in or not.

Now the uniform rule from the beginning of the Government to the present time has been that the person holding such a certificate shall be sworn in, and if he was not elected according to the laws of the State, why then the contest can be carried on under the rules prescribed by the statute, and if the facts presented to the House show that he is not rightfully elected, then he is turned out and the rightful claimant put in. The only exception I know of which has been sought to be made to this ruling was two years ago in the case of the members from South Carolina. Their case then was a parallel case to this, running on all fours with this.

They had received the certificate of the governor of South Carolina. The government of South Carolina changed hands. A court was organized and a mandamus issued. The board recounted the returns, and the democratic members came here with the certificates of the board that they were duly elected, or that the parties who held the first certificates were not elected. When that question was raised, a large number of the House on our side agreeing with the gentlemen on the other side, voted to admit the members from South Carolina upon the certificates of the governor, they presenting the *prima facie* case entitling them to their seats.

Now, let us square this case with that. I send to the Clerk's desk to be read an extract from the law of Florida which I have marked. The only question before us is, are the papers on which Mr. Hull claims the right to be sworn in, in conformity with the law of Florida and the law of the United States?

The Clerk read as follows:

When any person shall be elected to the office of elector of President and Vice-President, or Representative in Congress, the governor shall make and sign and cause to be sealed with the seal of the State and transmit to such person a certificate of his election.

Mr. HARRIS, of Virginia. Now, Mr. Speaker, there is the law of Florida requiring the governor to issue the certificate of election. I now send to the Clerk's desk to be read the certificate under the great seal of the State, that the House may determine whether it is in conformity or not with the law of Florida.

The Clerk read as follows:

EXECUTIVE OFFICE,
Tallahassee, Florida.

I, George F. Drew, governor of the State of Florida, do hereby certify that at an election held on the 5th day of November, A. D. 1878, in the several counties of the State of Florida composing the second congressional district of said State for Representative in the Forty-sixth Congress of the United States of America, under an act to provide for the registration of electors and the holding of elections, approved August 6, 1868, and acts amendatory thereto, Noble A. Hull, of the county of Orange, in said State, received a majority of all the votes cast for Representative in the Forty-sixth Congress from the second congressional district of the State of Florida, and was duly elected to be such Representative, as fully appears from a certificate of the State board of canvassers, made under the laws of said State and now on file in the office of secretary of state of said State of Florida.

In testimony whereof I hereunto set my hand and caused the great seal of the State of Florida to be affixed, at Tallahassee, the capital, this the 23d day of December, A. D. 1878, and of the Independence of the United States of America the one hundred and third year.

GEORGE F. DREW,
Governor of the State of Florida.

By the Governor:
Attest:

W. D. BLOXHAM,
Secretary of State of the State of Florida.

Mr. REED. This certificate of the governor says, "as fully appears from the certificate of the State board of canvassers, made under the laws of said State, and now on file in the office of the secretary of state of said State of Florida." Now I wish to ask the gentleman from Virginia if we do not have here the original record which was in the office of the secretary of state, and which shows that that statement in the certificate of the governor is incorrect?

Mr. HARRIS, of Virginia. I will answer the gentleman further along. I am now arguing the law of the case. I desire to have read the law of the United States on this question, showing that every link in the chain necessary to entitle Mr. Hull to his seat has been supplied, in strict conformity with the laws both of Florida and of the United States.

The Clerk read as follows:

Before the first meeting of each Congress the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of those persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively or the laws of the United States.

Mr. HARRIS, of Virginia. It appears from the papers in the case, and from the law which I have had read, that the governor of Florida is required to issue his certificate of election. Has that been done? If so, and it has been issued in conformity with law, and that appears in this case, there the matter is ended, so far as the *prima facie* question is involved, and we cannot go beyond it.

It is alleged, on the other hand, however, that the court instituted proceedings by which that certificate is vitiated. The court itself, the majority of the judges, held that they had no power to compel the governor to issue any other certificate. Gentlemen ought to be well familiar with the law and the rule that where an executive or ministerial officer has once discharged his duty, though wrongfully, he cannot recall his act. If he has once issued a certificate he has no right to recall it and issue another.

Now this court, so far as the proceedings before it were concerned, was *ex parte*. It is to be presumed that Mr. Hull knew nothing of it, and he could not be bound in this House by the action of that court. As gentlemen have made some reference to the matter, I will be pardoned for digressing to state the facts as I understand them. We ought never in these days to refer to the political complexion of a court. I am sorry it has been done in this case; but the gentleman from Ohio [Mr. GARFIELD] referred to one member of the court as a democrat. I have not seen the opinion of the court, but the gentleman from Florida [Mr. DAVIDSON] tells me that the court is composed of three judges, two of whom are republicans and one is a democrat. Now, we know that courts, like members of Congress, sometimes differ on political questions. The two republican judges directed a mandamus to issue for a recount, and the democratic member dissented from that order. That is all that is worth. Three members of the court; the two republican judges favored the recount; the democratic member of the court opposed it, and gave a dissenting opinion.

In support of the position that this certificate when once given cannot be recalled, I might refer to many authorities. That doctrine is laid down in 1 Cranch and in McCrary on Elections, where a number of cases too numerous for me to refer to are cited. So also in Pennsylvania it has been held that even where a certificate has been given illegally, the officer giving it, having discharged all his functions, cannot recall that certificate and give another.

But gentlemen say that this case is like the Colorado case, to some extent.

Mr. KEIFER. Will the gentleman allow me a question?

Mr. HARRIS, of Virginia. With great pleasure.

Mr. KEIFER. I wish to know whether the gentleman is not aware that the present governor of the State of Florida holds his office by virtue of a recount ordered by the supreme court of that State?

Mr. HARRIS, of Virginia. I believe that is the fact. But if any man knows the facts in regard to the title of any officer in Florida, or the title of any person growing out of action taken in the State of Florida, it is more than I am able to say, because there has been so much fraud in elections there, so many proceedings like that in "Alachua No. 2," that it is impossible for any one to say whose title is good.

Mr. KEIFER. The title of the present governor is based on the action of the supreme court.

Mr. HARRIS, of Virginia. I do not know anything about that.

Mr. KEIFER. He holds his office by virtue of a recount ordered by that court.

Mr. HARRIS, of Virginia. As I was saying, gentlemen have referred to the Colorado case. Now, in that case the party on this side of the House occupied precisely the position that we now do. We held that the certificate of the governor, when it was a certificate authorized to be given, was evidence of the *prima facie* right to a seat; that the party holding such certificate ought to be sworn in. I do not like to refer to any remarks of my own, but as what I said upon the Colorado case will show the spirit of the debate on that question, I desire the Clerk to read a few extracts. It will be seen that the party on this side of the House acknowledged the authority of a governor's certificate when duly given; but in the case of Colorado they held that the governor had no right to issue the certificate, that there was no law of Colorado authorizing him to do so, and that the certificate which he gave showed on its face that the election was held contrary to law. Hence we held that the certificate was void on its face, for it is a principle of law that when a certificate of election descends into particulars the House may look into those particulars to see whether they are in conformity to law.

The Clerk read as follows:

Now I come to notice briefly some remarks of my friend from Maine [Mr. Hale]

on that subject. The object of that gentleman is to show that Mr. BELFORD has a *prima facie* case, and that having a *prima facie* case he must be sworn in and admitted to a seat on this floor. The law upon that question is so well settled that I scarcely need refer to it; but I shall do so briefly further on. The gentleman says the governor's certificate constitute's a *prima facie* case. Now the governor's certificate makes a *prima facie* case only when that certificate is authorized by law and the party giving it has a right to issue it. It is not every paper that purports to be a certificate of election that gives the party named in it the right to a seat on this floor. It must be a paper issued under due authority of law by an officer having authority to issue it.

* * * * * * *

Therefore there is no authority of law, except by implication for the governor to give his certificate of the election of a member of Congress.

* * * * * * *

I have just said that I admit in regard to the State officers that the schedule of the State constitution provides that the same methods and rules shall be pursued in canvassing and announcing the result as in the Territory. But that does not carry with it by implication of law the right of the governor to issue a certificate of election of members of Congress for the State. He must have special authority to do that. It was a special statute of the Territory of Colorado which gave him the right to issue a certificate to the territorial Delegate. That special statute was neither referred to nor re-enacted by the constitution of the State.

Mr. BELFORD. I desire to call the attention of the gentleman to one point in the Colorado case which he seems to have overlooked. Colorado was admitted into the Union by proclamation of the President on the 1st of August, 1876. In October of the same year that State elected a Representative to the Forty-fourth Congress. He came here with his credentials under the seal of the State. Those credentials, which avouched the fact that he had been duly and legally elected as a Representative, were presented to this House and were referred to the Committee of Elections, and no report was made for two or three months after that time.

Mr. HARRIS, of Virginia. The extract which has been read from my remarks indicates that on this side of the House we occupied the same position then that I occupy now: that a certificate given by the proper officer gave to the party holding it the right to be sworn in. But the point in that case was that there was no such certificate; that the governor of Colorado had no right to give a certificate, and when he did give it it was blank paper.

Mr. REED. Is not that the case here? Has not the certificate held by Mr. Hull become blank paper by the action of the supreme court of the State of Florida?

Mr. HARRIS, of Virginia. No, sir. By the law of Florida the governor had the right to give the certificate which he has given.

Mr. SPRINGER. In the case of Colorado the Clerk decided that the certificate on its face showed that the member holding it had not been elected on the day prescribed by law. For that reason, and for that reason only, the Clerk refused to place the name of the gentleman from Colorado upon the roll of the House.

Mr. BELFORD. I was not speaking of the certificate presented by the party claiming to have been elected to the Forty-fifth Congress. I was speaking of the certificate presented by the gentleman elected to the Forty-fourth Congress, which certificate was regular on its face, the election having been held agreeably to the act of Congress.

Mr. SPRINGER. The decision of this House in the Colorado case is precisely in accord with what this side of the House now insist upon. We hold that we must be governed by the face of the certificate. In the Colorado case the face of the certificate showed that the person claiming the benefit of that certificate had been voted for upon a day unknown to the law, and therefore could not have been properly and legally elected.

Mr. HARRIS, of Virginia. I will detain the House but a moment longer.

Mr. BELFORD. I desire to correct the gentleman from Illinois. I am speaking of the certificate of the Forty-fourth Congress and not of the Forty-fifth Congress. There was no question about the legality of the day when the Representative was elected in the Forty-fourth Congress; that was a question which grew up in reference to the admission of the member in the Forty-fifth Congress.

Mr. SPRINGER. In the Forty-fourth Congress the member was not admitted until the second session. Then the ground of objection was that the State had not been admitted into the Union when the election was held for Representative in Congress.

Mr. BELFORD. Yes, sir.

Mr. HARRIS, of Virginia. I desire to proceed. The question is so well settled that the person holding the proper credentials is entitled to a seat that I will not discuss it any further.

The gentleman from Ohio on my right [Mr. GARFIELD] proposes in amiable mood to let the case lie over to be considered by the Committee of Elections when appointed. This case is now under contest, and the first forty days have not expired and the case will not be matured for the next sixty or eighty days and cannot get before the country or the House until the next session of Congress, the effect of which will be to leave that district unrepresented from now until then. The law says pending the contest that the party having the *prima facie* case shall be seated. I will not detain the House, for my voice is failing from a severe cold, by reading the authorities but will merely cite them:

If the office were to remain vacant pending the contest, it might frequently happen that the greater part of the term would expire before it could be filled, and thus the interests of the people might suffer, &c. (McCrary's American Law of Elections, sec. 204.)

Rule, that the person holding the ordinary credentials shall be qualified and allowed to act pending a contest, and until a decision can be had on the merit. (Ibid, sec. 204.)

It is sufficient if the claimant to an office presents a certificate signed by the officer or officers authorized by law to issue credentials, &c. (Ibid, sec. 205.)

It is enough for a *prima facie* case if the certificate comes from the proper officer of the State, &c. (Ibid, sec. 208. See also sec. 207.)

The issuing of the commission by the governor to Mr. Hull has conferred upon him a vested right which cannot be taken away except after the case has been heard upon its merits. (Sec. 209.)

The person duly commissioned must exercise the functions of the office until upon an investigation upon the merits, &c. (Sec. 210.)

There can be no doubt but that a certificate of election regular in form and signed by the proper authority constitutes *prima facie* evidence of title to the office. (Sec. 221.)

The certificate, whether rightfully or wrongfully given, confers upon the person holding it the *prima facie* right to the office. (Sec. 221. See also sec. 222.)

I will yield now to the gentleman from New York.

Mr. COX. Mr. Speaker, I think the House of Representatives ought not to undertake to try the merits of a case like this. Our Committee of Elections is organized for that purpose. Our business is to judge by the face of the certificate. I had the honor to vote for my friend from Colorado, [Mr. BELFORD,] one of three men on this side of the House, because I knew that he came here with a *prima facie* case in holding the certificate of the governor of Colorado. I gave him that vote in the Forty-fourth Congress.

Mr. HISCOCK. Will my colleague yield to me for a question?

Mr. COX. I have not made a point yet, and cannot yield. [Laughter.]

Mr. HISCOCK rose.

The SPEAKER. Does the gentleman from New York decline to yield?

Mr. COX. I decline. The moment I make a sharp point I will yield to my friend. [Laughter.] I say when I hear my friend from Ohio, [Mr. GARFIELD,] and he is just coming on the floor now, showing some little remorse for bad conduct in the past and asking us to begin anew in a democratic House, I think, perhaps, they ought to have begun earlier to be just to this side of the House in matters of election. [Laughter.] I remember when a gentleman from Massachusetts, now a Senator, in a tract he issued or delivered to a university made the confession that the republican party for years and years had made injudicious and unjudicial decisions as to these election contests. I remember when a certificate was sent into this House from the State of Virginia, indorsed by gentlemen on the other side, with some forty-five voters, only signed by a justice of the peace, at Ball's Cross Roads, electing a man to Congress as to whom I heard said that he was a citizen of Ohio when he was elected to Congress from Virginia. When you voted such men in, all I have to say is your remorse ought to have begun earlier and your penitence ought to have been more sedate. [Laughter.]

What is this case now before the House? The point is in what the Clerk said to us yesterday. Here is a copy of a canvass of the votes of the second district of Florida at an election on the 5th of November. It was made by the board of State canvassers in pursuance of an order of the supreme court; but it was not accompanied by any governor's certificate. The governor's certificate, which is the *prima facie* evidence, is held by Mr. Hull. The point lies in a nutshell, as was said on the other side of the House. We have here the governor's certificate certifying to Mr. Hull's election; and when his election is certified here and his name placed on the roll there can be no opposition made to his taking his seat, except by the Committee of Elections when we send the case there, and there the matter can be tried and there only.

Mr. SPRINGER obtained the floor.

Mr. HISCOCK. I desire to ask my colleague from New York a question.

Mr. SPRINGER. The gentleman from New York has yielded the floor, but I may yield to the gentleman when I have concluded what I have to say. But I prefer to proceed now, as I shall speak very briefly. I desire to say that the question raised by the gentleman from Maine [Mr. FRYE] was fully settled by an authority which I deem good for the other side of the House, however much it may be questioned by this side.

I ask the Clerk to read the extract which I have marked, it being a part of the decisions of the electoral commission in the case of the State of Florida. The honorable gentleman from Ohio [Mr. GARFIELD] was a member of that commission, as was also my friend from Virginia who sits before me, [Mr. HUNTON.]

The Clerk read as follows:

The ground of this decision, stated briefly, as required by said act, is as follows: That it is not competent under the Constitution and the law as it existed at the date of the passage of said act to go into evidence *aliunde* on the papers opened by the President of the Senate in the presence of the two Houses to prove that other persons than those regularly certified to by the governor of the State of Florida, in and according to the determination and declaration of their appointment by the board of State canvassers of said State prior to the time required for the performance of their duties, had been appointed electors, or by counter-proof to show that they had not, and that all proceedings of the courts or acts of the Legislature or of the executive of Florida subsequent to the casting of the votes of the electors on the prescribed day are inadmissible for any such purpose.

Mr. SPRINGER. I have caused this decision to be read, being a part of the decision of the electoral commission, for the purpose of showing that in the case now before the House the certificate is *prima facie* evidence of the right of Mr. Hull to his seat, and that it is not competent to go behind the certificate of the governor of the State of Florida, which is admitted to be regular in every respect. The only difference between this side of the House and the other side in regard

to the decision of the electoral commission was that we contended that in that case the Houses of Congress had the right to go behind the returns and investigate the merits of the case as to whether the Hayes or Tilden electors had been chosen in conformity with law. But we all agreed that in a *prima facie* case such as that now before the House we could not go behind the certificate of the governor. It was held by the electoral commission that it was not competent to go behind the governor's certificate even to consider a decision of the supreme court annulling such certificate, or even to consider a solemn act of the Legislature of the State of Florida which invalidated the governor's certificate and the action of the State canvassing board. The gentlemen upon the other side cannot now consistently hold that they can go behind the face of the certificate in this case, and consider evidence *aliunde*, although that evidence may tend to show that the certificate ought not to have been issued.

In the case before the House the member claiming a seat upon this floor comes here with precisely the same evidence of his right to a seat which every other member has. We can no more question his right to a seat than we can question our right to the seats we occupy. Our duties now are merely ministerial. We are not deciding the merits of the case as to whether Mr. Hull or Mr. Bisbee was rightfully elected, but only the question as to who has the certificate of the governor. It is admitted that there was a controversy in Florida as to who should obtain the certificate. It is not for us now to say whether the governor decided rightly or wrongly. He had a right to decide the matter, and under his responsibility as the chief executive officer of the State he has given the certificate to Mr. Hull. That certificate is binding upon this House in the first instance. It determines Mr. Hull's right to the seat pending the contest before the House upon the merits of the election. The case, it seems to me, is free from all doubt.

I now, Mr. Speaker, move the previous question.

Mr. GARFIELD. If the gentleman will yield to me, I think it will be only justice to allow five or ten minutes each to the parties in interest. I understand they desire it.

Mr. SPRINGER. The gentleman from Virginia [Mr. HARRIS] is entitled to the floor.

Mr. GARFIELD. I only offered it as a suggestion.

Mr. HARRIS, of Virginia. I must ask for the previous question.

Mr. GARFIELD. I suggest to the gentleman that the parties in interest be allowed ten minutes each. I understand they desire it.

Mr. HARRIS, of Virginia. I cannot yield for that purpose. It is unusual to allow the parties to be heard at this stage of the case.

Mr. GARFIELD. I only offered this suggestion as a request coming from the parties themselves.

Mr. HARRIS, of Virginia. I believe it has never been done in a *prima facie* case. I ask the previous question.

The previous question was seconded—ayes 126, noes 115.

The main question was then ordered, being upon the substitute offered by Mr. FRYE.

Mr. SPRINGER moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question was put upon Mr. FRYE's amendment; and on a division there were—ayes 122, noes 125.

Mr. FRYE. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 137, nays 140, not voting 8; as follows:

YEAS—137.

Aldrich, Nelson W.	Dwight,	Kelley,	Russell, Daniel L.
Aldrich, William	Einstein,	Ketcham,	Russell, William A.
Anderson,	Errett,	Killinger,	Ryan, Thomas
Bailey,	Farr,	Lapham,	Sapp,
Baker,	Ferdon,	Lindsey,	Shallenberger,
Ballou,	Field,	Loring,	Sherwin,
Barber,	Fisher,	Lowe,	Smith, A. Herr
Barlow,	Ford,	Marsh,	Starin,
Bayne,	Forsythe,	Martin, Joseph J.	Stevenson,
Belford,	Fort,	Mason,	Stone,
Bingham,	Frye,	McCoid,	Thomas,
Blake,	Garfield,	McCook,	Townsend, Amos
Bowman,	Gillette,	McGowan,	Tyler,
Boyd,	Godshalk,	McKinley,	Updegraff, J. T.
Brewer,	Hall,	Miles,	Updegraff, Thomas
Briggs,	Hammond, John	Miller,	Urner
Brigham,	Harmer,	Mitchell,	Valentine,
Browne,	Harris, Benj. W.	Monroe,	Van Aernam,
Burrows,	Haskell,	Murch,	Van Voorhis,
Butterworth,	Hawk,	Neal,	Voorhis,
Calkins,	Hawley,	Newberry,	Wait,
Cannon,	Hayes,	Norcross,	Ward,
Carpenter,	Hazelton,	O'Neill,	Washburn,
Claflin,	Heilman,	Orth,	Weaver,
Clark, Rush	Henderson,	Osmer,	White,
Conger,	Hiscock,	Overton,	Wilber,
Cowgill,	Horr,	Pierce,	Williams, C. G.
Crapo,	Houk,	Pound,	Willits,
Crowley,	Hubbell,	Prescott,	Wood, Walter A.
Daggett,	Humphrey,	Price,	Wright,
Davis, George R.	James,	Reed,	Yocum,
Deering,	Jones,	Rice,	Young, Thomas L.
De La Matyr,	Jorgensen.	Richardson, D. P.	
Dick,	Joyce,	Robeson,	
Dunnell,	Keifer,	Robinson,	

NAYS—140.

Acklen,	Davis, Lowndes H.	Klotz,	Ryon, John W.
Aiken,	Deuster,	Knott,	Samford,
Armfield,	Dibrell,	Ladd,	Sawyer,
Atherton,	Dickey,	Lay,	Scales,
Atkins,	Dunn,	Le Fevre,	Shelley,
Bachman,	Elam,	Lewis,	Simonton,
Beale,	Ellis,	Lounsbery,	Singleton, J. W.
Beltzhoover,	Evins,	Manning,	Singleton, O. R.
Bicknell,	Ewing,	Martin, Benj. F.	Slemons,
Blackburn,	Felton,	Martin, Edward L.	Smith, Hezekiah B.
Bland,	Finley,	McKenzie,	Smith, William E.
Bliss,	Forney,	McLane,	Sparks,
Blount,	Frost,	McMahon,	Speer,
Bouck,	Geddes,	McMillin,	Springer,
Bragg,	Gibson,	Mills,	Steele,
Bright,	Goode,	Money,	Talbott,
Buckner,	Gunter,	Morrison,	Taylor,
Cabell,	Hammond, N. J.	Muldrow,	Thompson,
Caldwell,	Harris, John T.	Muller,	Tillman,
Carlisle,	Hatch,	Myers,	Townshend, R. W.
Chalmers,	Henkle,	New,	Tucker,
Clardy,	Henry,	Nicholls,	Turner, Oscar
Clark, Alvah A.	Herbert,	O'Brien,	Turner, Thomas
Clark, John B., jr.	Herndon,	O'Connor,	Vance,
Clymer,	Hill,	O'Reilly,	Waddill,
Cobb,	Hooker,	Persons,	Warner,
Coffroth,	Hostetler,	Phelps,	Wellborn,
Colerick,	House,	Phister,	Wells,
Converse,	Hunton,	Poehler,	Whiteaker,
Cook,	Hurd,	Reagan,	Whitthorne,
Covert,	Johnston,	Richardson, John S.	Williams, Thomas
Cravens,	Kenna,	Richmond,	Willis,
Culberson,	Kimmel,	Robertson,	Wise,
Davidson,	King,	Ross,	Wood, Fernando
Davis, Joseph J.	Kitchin,	Rothwell,	Young, Casey.

NOT VOTING—8.

Camp,	Chittenden,	Morse,	Stephens,
Caswell,	Cox,	Morton,	Wilson.

So the amendment was not agreed to.

During the call of the roll the following announcements were made:

Mr. KENNA. My colleague, Mr. WILSON, who is necessarily absent on account of sickness in his family, is paired with Mr. MORTON, of New York. If my colleague were present, he would vote "no."

Mr. COX. I am paired with my colleague, Mr. CAMP. If he were present, I would vote "no" and he would vote "ay."

The SPEAKER. The Chair interrupts the roll-call for the purpose of swearing in a member.

Mr. LORING then appeared and was sworn in.

The result of the vote was then announced as above stated.

Mr. HARRIS, of Virginia, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred upon the following resolution, submitted by Mr. HARRIS, of Virginia:

Resolved, That Noble A. Hull be now sworn in as a Representative in this Congress from the second district of the State of Florida.

Mr. GARFIELD. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 140, nays 136, not voting 9; as follows:

YEAS—140.

Acklen,	Davis, Lowndes H.	Klotz,	Ryon, John W.
Aiken,	Deuster,	Knott,	Samford,
Armfield,	Dibrell,	Ladd,	Sawyer,
Atherton,	Dickey,	Lay,	Scales,
Atkins,	Dunn,	Le Fevre,	Shelley,
Bachman,	Elam,	Lewis,	Simonton,
Beale,	Ellis,	Lounsbery,	Singleton, James W.
Beltzhoover,	Evins,	Manning,	Singleton, O. R.
Bicknell,	Ewing,	Martin, Benj. F.	Slemons,
Blackburn,	Felton,	Martin, Edward L.	Smith, Hezekiah B.
Bland,	Finley,	McKenzie,	Smith, William E.
Bliss,	Forney,	McLane,	Sparks,
Blount,	Frost,	McMahon,	Speer,
Bouck,	Geddes,	McMillin,	Springer,
Bragg,	Gibson,	Mills,	Steele,
Bright,	Goode,	Money,	Talbott,
Buckner,	Gunter,	Morrison,	Taylor,
Cabell,	Hammond, N. J.	Muldrow,	Thompson,
Caldwell,	Harris, John T.	Muller,	Tillman,
Carlisle,	Hatch,	Myers,	Townshend, R. W.
Chalmers,	Henkle,	New,	Tucker,
Clardy,	Henry,	Nicholls,	Turner, Oscar
Clark, Alvah A.	Herbert,	O'Brien,	Turner, Thomas
Clark, John B., jr.	Herndon,	O'Connor,	Vance,
Clymer,	Hill,	O'Reilly,	Waddill,
Cobb,	Hooker,	Persons,	Warner,
Coffroth,	Hostetler,	Phelps,	Wellborn,
Colerick,	House,	Phister,	Wells,
Converse,	Hunton,	Poehler,	Whiteaker,
Cook,	Hurd,	Reagan,	Whitthorne,
Covert,	Johnston,	Richardson, John S.	Williams, Thomas
Cravens,	Kenna,	Richmond,	Willis,
Culberson,	Kimmel,	Robertson,	Wise,
Davidson,	King,	Ross,	Wood, Fernando
Davis, Joseph J.	Kitchin,	Rothwell,	Young, Casey.

NAYS—136.

Aldrich, Nelson W.	Ballou,	Bingham,	Briggs,
Aldrich, William	Barber,	Blake,	Brigham,
Anderson,	Barlow,	Bowman,	Browne,
Bailey,	Bayne,	Boyd,	Burrows,
Baker,	Belford,	Brewer,	Butterworth,

Calkins,	Godshalk,	Marsh,	Russell, William A.
Cannon,	Hall,	Martin, Joseph J.	Ryan, Thomas,
Carpenter,	Hammond, John	Mason,	Sapp,
Chittenden,	Harmer,	McCoid,	Shallenberger,
Claflin,	Harris, Benj. W.	McCook,	Sherwin,
Clark, Rush	Haskell,	McGowan,	Smith, A. Herr
Conger,	Hawk,	McKinley,	Starin,
Cowgill,	Hawley,	Miles,	Stone,
Crapo,	Hayes,	Miller,	Thomas,
Crowley,	Hazelton,	Mitchell,	Townsend, Amos
Daggett,	Heilman,	Monroe,	Tyler,
Davis, George R.	Henderson,	Murch,	Updegraff, J. T.
Deering,	Hiscock,	Neal,	Updegraff, Thomas
De La Matyr,	Horr,	Newberry,	Urner,
Dick,	Houk,	Norcross,	Valentine,
Dunnell,	Hubbell,	O'Neill,	Van Aernam,
Dwight,	Humphrey,	Orth,	Van Voorhis,
Einstein,	James,	Osmer,	Voorhis,
Errett,	Jones,	Overton,	Wait,
Farr,	Jorgensen,	Pierce,	Ward,
Ferdon,	Joyce,	Pound,	Washburn,
Field,	Keifer,	Prescott,	Weaver,
Fisher,	Kelley,	Price,	White,
Ford,	Ketcham,	Reed,	Wilber,
Forsythe,	Killinger,	Rice,	Williams, C. G.
Fort,	Lapham,	Richardson, D. P.	Willits,
Frye,	Lindsey,	Robeson,	Wood, Walter A.
Garfield,	Loring,	Robinson,	Yocum,
Gillette,	Lowe,	Russell, Daniel L.	Young, Thomas L.

NOT VOTING—9.

Camp,	Morse,	Stephens,	Wilson,
Caswell,	Morton,	Stevenson,	Wright.
Cox,			

So the resolution of Mr. HARRIS, of Virginia, was adopted.

During the roll-call the following announcements were made:

Mr. KENNA. My colleague, Mr. WILSON, is necessarily absent on account of sickness in his family. He is paired with the gentleman from New York, Mr. MORTON.

Mr. HISCOCK. My colleagues, Mr. COX and Mr. CAMP, are paired. Mr. COX, if present, would vote "ay" and Mr. CAMP "no."

The result of the vote was announced as above stated.

Mr. HARRIS, of Virginia, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DAVIDSON. I ask that Mr. Hull be now sworn in as Representative from the second district of Florida.

Mr. NOBLE A. HULL presented himself, and was duly qualified by taking the oath prescribed in section 1757 of the Revised Statutes.

COMMITTEE ON RULES.

The SPEAKER announced the following as the Committee on Rules:

The Speaker, ALEXANDER H. STEPHENS of Georgia, JOSEPH C. S. BLACKBURN of Kentucky, JAMES A. GARFIELD of Ohio, and WILLIAM P. FRYE of Maine.

LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. DOWNEY.

DISTRIBUTION OF DOCUMENTS.

Mr. GARFIELD, by unanimous consent, submitted the following resolution:

Resolved, That the House documents of the Forty-fifth Congress not yet distributed be delivered to members of the present House.

Mr. CARLISLE. I inquire of the gentleman whether, under this resolution, the bound reports and documents of the last Congress, which properly belong to members of that Congress, would not be distributed to the new members of the present House?

Mr. GARFIELD. That might possibly be the construction, though it was not so intended.

Mr. CONGER. I think the resolution had better lie over until to-morrow.

The SPEAKER. If there be no objection the resolution will lie over.

There was no objection.

PRINTING OF ESTIMATES.

The SPEAKER. The order made this morning in reference to the printing of the President's message authorized the printing of the usual number of copies of the estimates transmitted by the President to the House. The Chair thinks that the usual number, fifteen hundred, would be largely in excess of any requirement, and he suggests that the execution of this portion of the order be left discretionary with the Chair until upon proper inquiry the number of copies actually needed can be ascertained.

Mr. CLYMER. There is no objection to that.

The SPEAKER. If there be no objection, the order to print will be so modified.

There was no objection.

Mr. CLYMER. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BALLOU: The petition of women of South Smithfield, Rhode Island, that the anti-polygamy law of 1862 may be made effective—to the Committee on the Territories, when appointed.

By Mr. BOUCK: The petition of Anson Dart, for additional pay for services as superintendent of Indian affairs on the Pacific coast—to the Committee of Claims, when appointed.

By Mr. CARLISLE: The petition of General Leslie Coombs, of Kentucky, for an increase of his pension as an officer in the war of 1812 and for other relief—to the Committee on Revolutionary Pensions, when appointed.

By Mr. COX: The petition of Thomas Shiels and others, citizens of New York, for the amendment of the shipping laws—to the Committee on Commerce, when appointed.

Also, the petition of 70,000 citizens of the United States, for the amendment of the postal laws relating to the transmission of obscene literature—to the Committee on the Post-Office and Post-Roads, when appointed.

By Mr. DUNNELL: The petition of William P. Spooner and 30 others, citizens of Freeborn, Minnesota, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of J. Utley and 20 others, citizens of Preston, Minnesota, of similar import—to the same committee, when appointed.

By Mr. HILL: The petition of S. E. Root and others, of Fulton County, Ohio, of similar import—to the same committee, when appointed.

Also, the petition of T. C. Derbin and others, of Williams County, Ohio, of similar import—to the same committee, when appointed.

By Mr. STONE: The petition of the members of Monterey Grange, Michigan, of similar import—to the same committee, when appointed.

By Mr. TOWNSHEND, of Illinois: The petition of citizens of Franklin County, Illinois, that pensions be granted soldiers of the Mexican war—to the Committee on Invalid Pensions, when appointed.

IN SENATE.

THURSDAY, *March* 20, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

CHANGE OF REFERENCE.

Mr. PADDOCK. By mistake yesterday a memorial of the Legislature of the State of Nebraska, in favor of an appropriation by Congress for the establishment of a military post east of Fort Robinson, on the Niobrara River, was referred to the Committee on Indian Affairs. I ask that the reference may be corrected, and that the memorial be referred to the Committee on Appropriations, which has already considered the subject.

The VICE-PRESIDENT. That change of reference will be made.

Mr. WALLACE. Mr. President——

Mr. MORRILL. I desire to say, with the leave of the Senator from Pennsylvania, [Mr. WALLACE,] that the joint resolution (S. R. No. 2) to provide for the enforcement of the eight-hour law, which was introduced by him yesterday, was referred to the Committee on the Judiciary. It should have been referred to the Committee on Education and Labor, as that committee has always had the subject before it. I ask, therefore, to have the reference changed.

Mr. WALLACE. I have no objection.

The VICE-PRESIDENT. To this the Chair hears no objection.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. WALLACE. I move that the Senate now adjourn.

Mr. ANTHONY. Will the Senator from Pennsylvania allow me to interpose a suggestion that we adjourn until Monday?

Mr. WALLACE. Certainly.

Mr. ANTHONY. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was not agreed to.

The VICE-PRESIDENT. The question is, will the Senate now adjourn?

The motion was agreed to; and (at twelve o'clock and twelve minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 20, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read.

Mr. MORRISON. The Journal, as I understood its reading, recites

that the Speaker by unanimous consent appointed a Committee on Rules. I do not think any such thing occurred, though I make no objection.

The SPEAKER. The gentleman is correct. The Chair did not ask unanimous consent, supposing that there would be no objection to the appointment of the Committee on Rules, since there had been introduced into the House propositions in reference to that subject.

Mr. MORRISON. I make no objection; but as a rule I think the Journal ought not to recite what did not occur.

The SPEAKER. The Journal will be corrected. The appointment could only be made by unanimous consent. The Chair, however, did not ask such consent.

CONTAGIOUS DISEASES.

Mr. CHALMERS. I ask unanimous consent to introduce, for reference to a special committee, a bill to prevent the introduction of contagious diseases.

Mr. CONGER. I object to the introduction of bills.

CONGRESSIONAL ELECTIONS IN CINCINNATI.

Mr. McMAHON. I now call up the question which was left pending on Tuesday last in reference to certain congressional elections in the city of Cincinnati. I desire to state that I have no wish to have printed in the RECORD the petition, the reading of which I have asked for. My object in presenting this question to the House is to get it before the appropriate committee and in the usual form. If gentlemen on the other side are willing, I will submit a resolution for that purpose without having the papers read.

The SPEAKER. The resolution will be read.

Mr. CONGER. Let it be read for information only.

The SPEAKER. It will be understood that all rights are reserved.

The Clerk read as follows:

Resolved, That the memorial of John Follett, Alexander Long, John A. Shank, John G. Fratz, and others, electors residing in the first and second congressional districts of the State of Ohio, touching the election of BENJAMIN BUTTERWORTH and THOMAS L. YOUNG as members of the House of Representatives to represent said districts in this House, with the accompanying papers, be printed and referred to the Committee of Elections when the same shall have been appointed.

Mr. GARFIELD. Before the making of any point upon this resolution I desire to suggest to my colleague that the petition in this case is, as I am informed, a petition for the repeal of certain statutes; it does not ask for the unseating of the members named in the resolution—does not raise at all the question of their title to seats. It is an ordinary petition asking for the repeal of certain laws. It seems to me in that case it ought to go to the appropriate committee; for instance, to the Judiciary Committee. If the gentleman chooses to refer the whole subject there certainly will be no objection here.

I have received and will read for the information of my colleague a suggestion which has come to me by telegram, signed by three prominent citizens of the city of Cincinnati. It is addressed to me, and reads in this way:

Would advise reference of Butterworth papers to select committee of five, with instructions to investigate operation of supervisor law in this city last October. Election was absolutely fairest ever held here, and can be so proved.

RICH'D SMITH.
W. M. BATEMAN.
AMOR SMITH, JR.

I read that for the information of my colleague, and in the absence of any of the standing committees of this House I would suggest to my colleague that he raise a select committee and refer these papers to them, and empower them to make whatever investigation in regard to that election and the operation of those laws he sees fit. I will say to him there will be no opposition on this side of the House to such an investigation.

Mr. McMAHON. I desire to read for the information of my colleague from Ohio a dispatch that I have received from Cincinnati, dated March 19. It is as follows:

CINCINNATI, OHIO, *March* 19, 1879.

DEAR SIR: Having read in the morning papers a copy of the memorial presented by you to the House of Representatives on yesterday, we desire to say that had the said memorial been presented to us for our signature we would have signed the same with the gentlemen whose names appear attached thereto, and we hereby authorize you to attach our names to the said memorial.

Respectfully,

Julius Reis, J. Kiersted, J. J. Bumpus, E. B. Ludwick, Geo. Britton, Simon Straus, Henry Bertling, John J. Farrell, Wm. E. Walker, Fred. Benninger, E. M. Bemiss, John Hagerty, John H. Garrison, A. R. Vonniarteles, P. T. Scahill, Frank Rattermann, Jos. Seiter, A. Hoffmann, T. Buckley, Wm. Lemmons, Charles McDevitt, W. B. Hobbie, L. W. Newman, W. A. Seiter.

Hon. JOHN A. MCMAHON,
House of Representatives, Washington, D. C.

Mr. GARFIELD. I hope my colleague will have unanimous consent to add those names to the memorial.

Mr. McMAHON. I think they are already in the RECORD.

Mr. GARFIELD. I ask also——

Mr. CONGER. Does the gentleman from Ohio know the handwriting of these parties. If he does, of course he can ask that their names shall be added. [Laughter.]

Mr. GARFIELD. I also ask to read the following dispatch from Cincinnati:

CINCINNATI, OHIO, *March* 18, 1879.

THOMAS YOUNG,
House of Representatives:

My name was signed to petition to oust you by misrepresentation. Have telegraphed Sayler to erase it. See him.

W. B. CASSILLY.

I think that should be done; that the name should be erased.

Mr. McMAHON. That erasure was made yesterday by myself.

Mr. GARFIELD. I understand ten others of the twenty-two have sent a telegram—not in my possession, but I believe it is in the House—saying their names were procured under misrepresentation and that they should be erased.

Mr. McMAHON. I have had read the names of twenty-four who state they have read the memorial in the newspapers, and also ask that their names shall be signed to the memorial. If any such dispatches have been received, let them be produced and read.

Mr. GARFIELD. But let us have the record corrected so far as it goes.

Mr. KEIFER. I ask my colleague to yield to me to make a suggestion.

Mr. GARFIELD. I will yield to my colleague for that purpose.

Mr. KEIFER. I wish in this connection, in order that we may misrepresent nobody, none of these original twenty-three prominent citizens of Cincinnati, to read a telegram.

Mr. McMAHON. I have no objection.

Mr. KEIFER. I read it because it comes from one of the most distinguished of the twenty-three, a prominent lawyer of Cincinnati, a very elegant gentleman, a distinguished democrat also.

Mr. McMAHON. Yes, sir.

Mr. KEIFER. Let me read the dispatch:

CINCINNATI, OHIO, *March* 19, 1879.

Governor THOMAS L. YOUNG,
Member of Congress:

Did not read memorial. Signed it as a protest and as looking to repeal of supervisors law. I charge no fraud upon the part of yourself or BUTTERWORTH or in your interest, and have no knowledge upon which to base any.

JOHN A. SHANK.

Mr. McMAHON. Now I want to ask my colleague from the State of Ohio whether he is acquainted with Alexander Long, of the city of Cincinnati?

Mr. KEIFER. I remember well his condemnation on the floor of this House during the war.

Mr. McMAHON. I wish to ask the gentleman if he is not the peer in character, in intelligence, and in standing, in the city of Cincinnati, of any member of this House?

Mr. KEIFER. Is the gentleman inquiring about the moral character of Alexander Long? If he is, I say with great pleasure that I believe it to be very high.

Mr. McMAHON. Is the gentleman acquainted with Mr. John F. Follett?

Mr. KEIFER. I know him very well.

Mr. CANNON, of Illinois. Is it in order to move to take a recess, to let the members of the State of Ohio settle the claims to respectability of her citizens? [Laughter.]

Mr. GARFIELD. Not to interfere with the appropriation bills. [Laughter.]

Mr. McMAHON. The question of the gentleman from Illinois [Mr. CANNON] is exceedingly pertinent to the inquiry. I take it that all men who send a petition to the House of Representatives stand upon an equal footing until the contrary is shown, and when one chooses to withdraw his name out of twenty-three others it does not weaken the petition in any particular.

The remark I make is only in answer to the statement of my colleague in regard to the character of one of these petitioners, and I can concur with him in saying that he is a high-minded gentleman.

Mr. GARFIELD. If my colleague will allow me a moment at this point, I desire to say that the memorial is an ordinary memorial asking Congress to repeal certain laws.

My understanding is from the dispatches which have been received from the memorialists, that the memorialists who signed these papers did so without knowledge of the affidavits appended thereto. The affidavits themselves, it is alleged by gentlemen who know, were procured under disreputable circumstances, and the memorial and the affidavits ought to be separated entirely. I trust that my suggestion to my colleague will commend itself to the sense of justice of the House, and that under the circumstances a special committee will be appointed on my colleague's own motion to investigate this particular matter, and we shall certainly agree most heartily.

Mr. McMAHON. The efforts made in advance to prejudice whatever there may be of truth in this memorial are not properly made. I have stated already that I know nothing about these statements; that I only know what the memorialists allege; but I desire to say that my colleague from Ohio [Mr. GARFIELD] has raised a question, I think without authority, as to the character of the witnesses whose affidavits are attached to this memorial.

I hold in my hand a letter from a gentleman who is an ex-judge of the court of Cincinnati, and who is known to be a gentleman of the highest character, who says to me, under his own hand, that he is personally acquainted with most of the persons who make these affidavits. He says that those known to him are credible and worthy men.

Mr. CONGER. Does he certify to the pardon of those who have been convicted?

Mr. McMAHON. I decline to answer the gentleman from Michigan.

Mr. KEIFER. Will the gentleman yield to me for a moment? I

desire to make a statement which I think is quite pertinent to this question. I will be very brief.

Mr. McMAHON. Before the gentleman makes his statement I want to say to my colleague from the nineteenth district [Mr. GARFIELD] that I would have no objection to a special committee, if the memorialists did not specifically charge that these parties are not entitled to their seats.

I have what I suppose to be a correct copy of the memorial in my hand. Almost every one of the specifications is based upon corrupt practices by deputy marshals. But the memorial distinctly raises a question of the validity of the election. I will read:

> And your memorialists further represent that BENJAMIN BUTTERWORTH and THOMAS L. YOUNG, claiming to have been elected to represent the congressional districts above mentioned, were not so elected by a majority of the legal and qualified voters of said congressional districts, but, on the contrary thereof, your petitioners charge that gangs of repeaters were organized in their interest, and that by means of a large number of illegal votes cast by said gangs of repeaters said BUTTERWORTH and YOUNG, including the candidates upon the republican ticket, were returned as having been elected.

In the prayer these memorialists ask Congress to take such other measures, besides the repeal of the supervisors law, as the facts may require. Now, I think it proper and right that this memorial should go to the Committee of Elections. It is really an election case. It is not a mere question of investigation; it is an election case brought by a number of reputable citizens who claim that the purity of elections has been violated. Whether they have reputable witnesses and facts to carry out what they assert I do not know and never have stated. I have simply performed a duty in bringing the papers, as the representative of the next congressional district, to the attention of the House. The memorialists undoubtedly believe they have proof of a convincing character to establish their charges; and they are men of high standing.

Mr. GARFIELD. My colleague will see that my suggestion is precisely in the line of his argument. The Committee of Elections is appointed to act upon cases brought here with testimony before them. We have never known a case yet, I think, where the Committee of Elections have been sent out to make a general investigation on the conduct of the whole election; that is a matter of special investigation, and when a special examination cannot be made as to the facts, then it might be proper to refer the case to a special committee for investigation.

What my colleague now suggests would send the Committee of Elections away from the Capitol for the purpose of making an investigation concerning the general conduct of an election. That certainly is unusual. I think he will see that his object will be best reached by the appointment of a special committee to investigate the subject, the result of such investigation to be laid before whatever committee this House may designate.

Mr. McMAHON. If this subject is referred to the Committee of Elections, as I suggest, that committee may come to the conclusion that it would be proper to have a special committee to investigate the matter, and may come into the House and ask that that be done.

Mr. GARFIELD. The House certainly can judge of that now. The ordinary course in such matters here is this: when any man in his place asks for an investigation of anything germane to the business of this House such investigation usually has been granted.

Here in this case we tender the fullest opportunity for investigation. I will say this, in connection with other matters, that the affidavits submitted by my colleague [Mr. McMAHON] are not affidavits in fact—they are mere *ex parte* statements under the cover of an ordinary *ex parte* oath. They are extrajudicial; not one of them would be of the slightest consequence before any court in the world, not even before a grand jury. Therefore, what we want is, first of all, testimony upon this subject, taken not *ex parte*, but with both sides heard, such testimony to be laid before this House for its action.

Mr. McMAHON. I will state to the gentleman from Ohio [Mr. GARFIELD] this: I will accept his proposition if he will give to that special committee a clerk and clothe it with power to sit during the recess and vacation for the purpose of taking testimony.

Mr. GARFIELD. So far as I am concerned I will consent to that. We court the fullest investigation of that election.

Mr. McMAHON. Then I will modify the resolution.

Mr. KEIFER. I ask my colleague to yield to me for a statement.

Mr. McMAHON. I will yield to the gentleman for five minutes; I do not want to lose my right to the floor.

Mr. KEIFER. I do not desire to prolong this discussion. I am not sure in what form the proposition is to be submitted to the House. I wish to say a few words in reference to this sort of memorial, and more particularly in reference to the affidavits attached, or the papers purporting to be affidavits. My colleague seems to put stress upon the character of the men who signed this memorial. From the short delay we have had in this matter we have learned that many of these persons repudiate utterly having signed any such memorial as the gentleman asked to have read and referred to a committee of this House. I know the gentleman has himself indorsed these supposed memorialists. I know, however, that the man who certifies to all these affidavits save three is a man whom no person living in the city of Cincinnati who knows him would recognize either in public or in private.

And I want to say more; that these are not original affidavits. No person comes here with an affidavit except upon the certificate of one Tom Shay, of Cincinnati. Whether there has ever been an affidavit made, except possibly in three instances, is doubtful; and I think my colleague [Mr. McMAHON] will agree with me that those three are not original documents. They come here certified by Tom Shay, of Cincinnati, without any authority on his part to certify papers that he calls affidavits. We are asked here in the House of Representatives and in the Congress of the United States to act as though we had something that was tangible to act upon. Permit me to say that these affidavits were obtained by sending around through Cincinnati and hunting up men, only three or four of whom are yet known, and getting them to sign something; that is if Tom Shay did not sign them all himself. And the man who went around and prepared these papers was a man recently discharged from the penitentiary of the State of Ohio; Jim White is his name.

Mr. McMAHON. Has not the five minutes expired?

The SPEAKER. It has not.

Mr. KEIFER. One word further. This memorial, taking it for granted that it is a memorial, was signed by gentlemen of Cincinnati; and it now seems that one of the most astute and one of the brightest of those whose names purport to be signed to the memorial repudiates the signing of it, and others have withdrawn in some form.

The memorial is not a memorial on the subject of a contest of anybody's seat in this House. It does not go to the question of the election of anybody to the Congress of the United States; it is a memorial with a prayer asking the Congress of the United States, not the House of Representatives, to repeal the election laws——

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. KEIFER. Was my time limited?

The SPEAKER. To five minutes.

Mr. GARFIELD. I want to say a final word. I vote for this investigation, not because of the memorial, not because of the affidavit, but because a Representative on this floor, rising in his place, and in his own right and on his own responsibility, alleges that there are things that need investigation. It is on the faith of what my colleague [Mr. McMAHON] offers as his opinion in the case that I vote for the investigation.

I do not hold that any citizen of the United States has a right to demand the investigation merely on his individual say so. The time was in Congress when even one man rising in his place and saying on his honor that he believed a certain officer of the Government ought to be investigated, the request was not granted unless some other man said, "I also on my responsibility state that I believe this thing ought to be done." But we have gone further than that now, and I am willing to vote for an investigation when one man in this House asks it.

Mr. KEIFER. My colleague will allow me to say that if he modifies his resolution I shall be very glad to vote for it.

Mr. McMAHON. I desire to state to my colleague [Mr. GARFIELD] that I offer this resolution under parliamentary law, not under any rules of the House, because we have no rules at present. I have risen in my seat to perform one of the most solemn duties that a Representative can perform—to present to this House a petition signed by persons whom I know to be reputable and respectable citizens. I do this in the interest of the purity of elections, in the interest of good government. I perform an unpleasant duty, which I would be glad to avoid; but I am satisfied that in performing my duty as a Representative I cannot violate the courtesy due from one member to another.

I do not care upon what ground my distingnished colleague may vote for the resolution. If he votes for it, well and good; if he does not, that is a matter for him. But I modify the resolution because he has said he is willing to vote for it, so modified, and I have put the resolution in such a shape as to provide for investigation. I think it due to my colleagues from the city of Cincinnati [Mr. BUTTERWORTH and Mr. YOUNG] to say to them that in view of the publication of these matters the fullest and freest investigation ought to be provided for, and I am sure it will be.

As to the assaults which are made upon individuals by my other colleague, [Mr. KEIFER,] I want to know where he finds his authority in parliamentary law to discuss the merits of a matter which has not yet been read, and to attack upon the floor of this House, without testimony, the character of the persons who have signed this memorial. Permit me to say to him in all kindness that the gentlemen who signed the memorial, and who authorized and directed me to prosecute this matter in the House, are in intelligence, in capacity, in honesty and integrity, and in singleness of purpose the peers not only of the gentleman from the Springfield district of Ohio, but of any other member on the floor of this House.

Mr. KEIFER. I have not attacked them.

Mr. McMAHON. And when he undertakes to throw a slur upon this proceeding because of his opinion in regard to one particular person who may have taken these affidavits or certified to the copies, he forgets that these memorialists—Hon. Alexander Long, John Follet, Mr. Fratz, Mr. Bernard, and others, who occupy responsible positions in the city of Cincinnati—say to this House, in the memorial, that they are ready to present to the House the original affidavits upon which it is founded. I hold them now in my hand, ready to be referred to any committee this House may choose to appoint.

Mr. KEIFER. They have never been offered to the House.

Mr. McMAHON. I now offer the resolution as modified.

The Clerk read as follows:

Resolved, That the memorial of John Follet, Alexander Long, John G. Fratz, and others, electors residing in the first and second congressional districts of the State of Ohio, touching the election of BENJAMIN BUTTERWORTH and THOMAS L. YOUNG as members of the House of Representatives to represent said districts in this House, with the accompanying papers, be printed and referred to a select committee of seven members, with power to sit during the recess, send for persons and papers, administer oaths, and to employ a clerk and stenographer.

Mr. GARFIELD. I hope my colleague will omit the clause providing for printing "the accompanying papers." Let the memorial be printed, but the affidavits, which are *ex parte* and extrajudicial, ought not to be printed now. Let them be merely referred. I now ask my colleague to allow the gentleman from Cincinnati [Mr. BUTTERWORTH] to say a word before the resolution is voted on.

Mr. McMAHON. I have no objection to the modification suggested by my colleague, [Mr. GARFIELD.]

The SPEAKER. In what manner does the gentleman desire to have the resolution modified?

Mr. GARFIELD. Let it be modified so that the memorial shall be printed and the accompanying papers merely referred.

Mr. McMAHON. The intent is that the committee shall have power to sit after the adjournment of the present session; perhaps the word "recess" is not sufficient; let the words "or vacation" be inserted after the word "recess."

Mr. GARFIELD. Let the Clerk now read the resolution as modified.

The Clerk read as follows:

Resolved, That the memorial of John Follet, Alexander Long, John G. Fratz, and others, electors residing in the first and second congressional districts of the State of Ohio, touching the election of BENJAMIN BUTTERWORTH and THOMAS L. YOUNG as members of the House of Representatives to represent said districts in this House, be printed and referred to a select committee of seven members, with power to sit during the recess or vacation, send for persons and papers, administer oaths, and to employ a clerk and stenographer.

The SPEAKER. The Chair desires to state that the resolution makes no provision for the payment of the expenses of the inquiry.

Mr. GARFIELD. I suggest to my colleague that he ought to add a clause providing for the payment of the expenses of the investigation out of the contingent fund. In the mean time, while the form of the resolution is being perfected, I ask my colleague to yield to our colleague from Cincinnati, [Mr. BUTTERWORTH.]

Mr. CARLISLE. The resolution ought to be so modified that the memorial shall be printed, and the accompanying papers, as well as the memorial, referred to the committee.

Mr. GARFIELD. That is right.

Mr. KEIFER. I think that we had better refer only original papers—not papers coming from any unauthorized party. If the original affidavits which these persons claim to have are to be put in, I do not object. Certainly the gentleman from Kentucky does not want certified copies from unauthorized parties. Let the original papers come in.

Mr. FRYE. It is nothing but a farce, any way.

Mr. KEIFER. Let us make it as respectable as possible.

Mr. FRYE. It is the unnecessary expenditure of $20,000.

Mr. HUMPHREY. Let us suspend payment until we see the value of the investigation.

Mr. McMAHON. If gentlemen on that side request a special committee they ought not to complain if I have complied. I proposed to refer these matters to the Election Committee. I have no doubt the memorialists will be glad to have the special committee, with the full powers of a committee of the House. But gentlemen must not grumble when I grant their own request. I want to accommodate them as far as I can.

The SPEAKER. The Chair will cause the resolution to be read with the suggested modification for payment out of the contingent fund for the expenses which may be incurred.

The Clerk read as follows:

Resolved, That the memorial of John Follet, Alexander Long, John G. Fratz, and other electors residing in the first and second congressional districts of the State of Ohio, touching the election of BENJAMIN BUTTERWORTH and THOMAS L. YOUNG as members of the House of Representatives to represent said districts in this House, and with the accompanying papers, be printed and referred to a select committee of seven members, with power to sit during the recess or vacation, send for persons and papers, administer oaths, and employ a clerk and stenographer; and the expenses necessarily incurred in the execution of this order shall be paid out of the contingent fund of the House.

Mr. GARFIELD. I should be glad if the gentleman would so modify his resolution as to direct the committee to inquire into the working of the supervisors law.

Mr. KEIFER. In the city of Cincinnati?

Mr. GARFIELD. Yes, in the city of Cincinnati. It seems just to both sides.

Mr. McMAHON. That is one of the chief ends of the resolution already.

Mr. GARFIELD. It is not covered by the language of the resolution.

Mr. McMAHON. I decline to modify the resolution any further.

Mr. KEIFER. The object is to investigate the operation of the supervisors law in the city of Cincinnati.

Mr. GARFIELD. I ask the gentleman to yield to my colleague from Cincinnati.

Mr. McMAHON. I would inquire of the Speaker how much time I have left?

The SPEAKER. The gentleman has twenty-five minutes remaining.

Mr. McMAHON. I will yield, then, to the gentleman for ten minutes, if he so desires.

Mr. BUTTERWORTH. Mr. Speaker, I had not expected to be so soon called upon to address this House in any behalf, and I trust I shall be pardoned for saying a single word touching this resolution, since it so immediately concerns the title by which I claim my seat upon this floor.

I am heartily in favor of the adoption of the resolution, for I submit to the House if I have been engaged in any work in Cincinnati for a number of years it has been to "root out" every conceivable form of corruption in the conduct of elections, State and national. And I shall be very glad to join hands with my colleague from Ohio in pushing forward that very commendable work under this resolution. I ask him, however, in fairness to permit the resolution to be modified as suggested by my colleague on the right, so as to include investigation into the practical workings of the supervisors law touching the election in the two Cincinnati districts, because if it shall appear to this House upon investigation that the machinery which you have constructed, so to speak, for the purpose of preserving the purity of elections has been utilized for the purpose of fraud there, I desire, all our people desire, to know it and to punish the instruments who have perverted that law to base and dishonest uses for which it was not intended. And I trust my colleague from Ohio will consent to that modification of his memorial. Although I heard of it but recently and knew nothing about it before leaving my home in Cincinnati, I have been permitted, through my colleague's kindness, to read it since I came here.

It charges that the election of my colleague from the second district and my own election were brought about in a large degree by the dishonest and corrupt use of governmental machinery, that is, by the dishonest and corrupt use of supervisors and deputy marshals appointed in those two districts. I assert the charge is unfounded—without foundation—and because I believe they were instrumental in securing to the people of those two districts the purest, the fairest, and the freest election they have had in that city for twenty-five years, it is due to the people not only of those two districts but to the people of this Union that the practical working of the supervisors law there should be fully and fairly investigated. I commend that investigation to my friends on the other side of this Chamber.

If they believe this law ought to be repealed, if the men who have signed this memorial are respectable, and I submit I know many of them well, I have practiced at the same bar with them, and I have met them day and night, and I have never heard it suggested that there was anything against them, but exactly the contrary; and I am glad to know that we were not able to get a reputable democrat to bear this memorial from Cincinnati to this Chamber, but a political hybrid who is neither a republican nor a democrat, but like the bat, which is between a bird and a beast, neither the one nor the other.

Now I desire to say a word touching the affidavits and the reasons I desire that they shall not be published. My colleague knows very well that although these affidavits may be fraudulent, full of moral perjury, yet none of the men will be liable to prosecution under indictment for having committed perjury. I submit that my colleague should have called them written statements instead of affidavits, because the word affidavit has a legal significance.

All I ask of this House is a free, full, and fair investigation, not only to purify this House from unworthy members, but as a warning to evil-doers, and if there shall be found a taint of fraud affecting the title of my colleague or myself to our seats, all I ask is that we be unseated as unworthy to sit upon this floor.

I want to say again to the House that it is rather exceptional for a republican candidate to be elected from that district. I had the misfortune—no, the good fortune to be elected in spite of the opposition of the democratic party and every dishonorable republican who has been in the habit of huckstering in politics in that district. Through the instrumentality and workings of the supervisors law we walked to victory. We have borne ourselves as fairly and honorably as other members upon this floor have done, and we only ask that if we are to be ousted from our seats that we be treated with that considerate fairness due to members upon this floor.

One of the objections is that we were guilty of "treating." So far as the charge of "treating" is concerned, a plea of guilty might be entered. Of course there was some drinking, but that would hardly shock the sense of propriety of members upon the other side of the Chamber. That seems to be the ground of one of the charges.

Again I say that I heartily favor the passage of the resolution, and I only ask that it shall be modified, and with that modification I am heartily in favor of the appointment of the committee. [Applause on the republican side.]

Mr. GARFIELD. Will my colleague [Mr. McMAHON] allow me to offer this modification to the resolution?

And that said committee be authorized and directed to investigate and report to the House the mods and effect of the execution of the law relating to the duty of supervisors and deputy marshals in said elections at Cincinnati.

If my colleague will allow that amendment I think the resolution will be broad and fair.

Mr. McMAHON. I will accept the modification; but I am surprised that gentlemen on the other side should ask its adoption, for if anything is already embodied in the memorial it is a complaint of the workings of the law authorizing deputy marshals at the elections. Many of the specifications are aimed at the corrupt uses to which the law has been put. The conclusion of the memorial is a request to Congress to repeal it for that reason.

Now, Mr. Speaker, I do not assume any responsibility for the truth of the statements made in the affidavits. Of the charges here made I know nothing. There are some gentlemen who seem unable to appreciate the situation. I will explain to them that, as a Representative from Ohio, I make no charge, on my own responsibility, of fraud in the election in these districts. I do not know whether there is truth or falsity in these statements. I do not know whether any of these men made these statements or not, but I do know the gentlemen who signed this memorial, and I am glad that my colleague from Cincinnati has put himself on record as admitting that they are gentlemen of standing in that city. The fact that the memorial was brought by what my colleague calls a hybrid has nothing to do with the facts. I think that if the gentlemen who signed the paper in Cincinnati had committed it to a convict to bring here it would not invalidate a single statement in any one of the affidavits. It is an *ad captandum* argument by gentlemen on the other side which is entirely unworthy of this important occasion. It is an important occasion, because, as my colleague admits, intelligent and influential men, known personally to him as such, put themselves on record in this House, charging fraud in the election; and I must say that the gentleman has not properly represented the memorial when he says he is charged with the use of liquor in the election.

I find nothing in this memorial, as it lies before me, about the use of liquors at the election. I am sorry to say that the charge is more grave than that. It charges the more serious offense of purchasing votes and bribing electors. It says nothing about "treating" or the use of liquor. I now call the previous question on the adoption of the resolution.

The SPEAKER. The Chair thinks the resolution had better be again read, as it has been modified.

Mr. GARFIELD. My colleague had better indicate where that clause comes in. It ought to come in just before the clause about the money to pay the expenses.

Mr. McMAHON. I will consent to that, and now ask that the resolution as modified be read.

The Clerk read as follows:

Resolved, That the memorial of John Follet, Alexander Long, John G. Fratz, and others, electors residing in the first and second congressional districts of the State of Ohio, touching the election of BENJAMIN BUTTERWORTH and THOMAS L. YOUNG as members of the House of Representatives to represent said districts in this House, be printed and with the accompanying papers be referred to a select committee of seven members, with power to sit during the recess or vacation, to send for persons and papers, administer oaths, and to employ a clerk and stenographer; and that said committee be authorized and directed to investigate and report to this House the mode and effect of the execution of the law in relation to the duties of supervisors and deputy marshals in said election at Cincinnati; and the expenses necessarily incurred in the execution of this order shall be paid out of the contingent fund of the House.

Mr. KEIFER. I trust the gentleman from Ohio [Mr. McMAHON] will yield one moment to my colleague on my right, [Mr. YOUNG,] not to go into a discussion of the subject, and not over a minute.

Mr. McMAHON. I will yield for one minute. I have called the previous question and do not desire to lose my right to the floor.

The SPEAKER. The hour to which the gentleman is entitled will not be up until five minutes after one o'clock.

Mr. McMAHON. I will yield to the gentleman for five minutes.

Mr. YOUNG, of Ohio. I do not know that I can add anything to the statement made by my colleague [Mr. BUTTERWORTH] in relation to this whole proceeding. I do not think that this is either the time or the place to discuss the resolution offered by the gentleman from Ohio on the right of the Chair, [Mr. McMAHON.]

I rise now only to say that I fully indorse what my colleague [Mr. BUTTERWORTH] has said, and give free consent on my part to an investigation that will take in every point now embraced in the resolution and to say that I do not want to be here unless I have a clear title to the seat.

I desire to say also that before this matter is determined by this House, after this investigation shall have been made, with the permission of the House I shall take occasion to review this proceeding and to give the real animus of this attempt to beslime my colleague and myself for political reasons.

I certainly was more astonished than any other man perhaps could be under the circumstances to hear of this memorial and of the specifications upon which it is said to be based. Frequently since the election I have met my worthy competitor for the office of Representative, Hon. Leonard M. Goss, and he has repeatedly, in the presence of democrats of good standing, acknowledged that he was fairly beaten and that I was entitled to the seat. When urged to contest my election for party purposes he cast the idea aside and said it was simply farcical.

More than that, it will be found when this investigation is over that the whole proceedings, like other investigations of the Forty-fifth Congress, will prove to be entirely farcical.

The SPEAKER. The question is now upon the resolution as modified.

The resolution was adopted.

Mr. McMAHON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ATKINS. I move that the House now adjourn.

Mr. SPRINGER. I hope the gentleman from Tennessee [Mr. ATKINS] will withdraw that motion and let us take some action in regard to the rules of the House.

Many MEMBERS. Regular order!

Mr. ATKINS. I insist upon my motion.

The question was taken; and upon a division there were—ayes 161, noes 39.

So the motion was agreed to; and accordingly (at one o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BARBER: The petition of women of Oak Park, Illinois, for legislation to make effective the anti-polygamy laws—to the Committee on the Judiciary, when appointed.

By Mr. BRAGG: Memorial of the Legislature of Wisconsin, in relation to harbor improvements—to the Committee on Commerce, when appointed.

By Mr. BREWER: The petition of D. R. Holly and 12 others, citizens of Lainsburgh, Michigan, for the passage of the Reagan interstate commerce bill—to the same committee, when appointed.

Also, the petition of citizens of Lainsburgh, Michigan, for the amendment of the patent laws—to the Committee on Patents, when appointed.

By Mr. COX: Papers relating to the claim of J. H. Merrill—to the Committee on War Claims, when appointed.

By Mr. McKENZIE: The petition of John H. Baize, of Ohio County, Kentucky, for the passage of an act of Congress giving him $75, balance of original bounty and pay due him as a soldier—to the Committee on Invalid Pensions, when appointed.

By Mr. MILES: The petition of 230 ladies of Litchfield, Connecticut, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. O'REILLY: Memorial of the common council of the city of Brooklyn, New York, in reference to the channel at Wallabout—to the Committee on Commerce, when appointed.

IN SENATE.

FRIDAY, *March* 21, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, in favor of the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

He also presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement and deepening of Saint Mary's River, in that State; which was referred to the Committee on Commerce.

Mr. LOGAN presented the petition of John Smith and others, members of the executive committee of the Norfolk and Portsmouth Mexican Veteran Association of the State of Virginia, praying that the surviving soldiers of the Mexican war may receive a pension commensurate with their services; which was referred to the Committee on Pensions.

He also presented the petition of Amelia Parson, widow of Nathan Parson, a soldier in the late war, praying for a pension; which was referred to the Committee on Pensions.

Mr. HARRIS presented the petition of W. W. Busby and Eva V. Busby, citizens of Memphis, Shelby County, Tennessee, praying compensation for quartermaster and commissary stores taken for the use of the Army of the United States during the late war; which was referred to the Committee on Claims.

Mr. PLUMB presented a joint resolution of the Legislature of Kansas, in favor of such action being taken by Congress as may be necessary to authorize and instruct the Attorney-General of the United States to institute a suit in the Federal courts for the purpose of quieting the title claimed by the Leavenworth, Lawrence and Galveston, and the Missouri, Kansas and Texas Railroad Companies, to certain lands in Allen County, in that State, known as "indemnity lands;" which was referred to the Committee on Public Lands.

Mr. WITHERS presented the petition of James F. Harrison, M. D., of Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. WILLIAMS. I present the petition of William English, late a cadet at the Military Academy at West Point, praying for the passage of a law enabling the President to nominate him to a second lieutenancy in the Army. At the last session of Congress a bill passed both Houses authorizing the President to make this appointment; but it passed a few moments only before the final adjournment, and it was therefore not in time to be enrolled and receive the signatures of the Vice-President and the Speaker of the House. I move the reference of this petition to the Committee on Military Affairs.

The motion was agreed to.

Mr. JONAS presented the petition of Henry M. Spofford, a citizen of the State of Louisiana, late a contestant for a seat in the Senate of the United States from that State, praying for the reopening of his case; which was referred to the Committee on Privileges and Elections.

Mr. PADDOCK presented the petition of Isaiah Lightner and others, citizens of Nebraska, praying for an appropriation by Congress for the construction of a bridge across the Bazile Creek in the Santee Sioux reservation in that State; which was referred to the Committee on Appropriations.

Mr. COKE presented the petition of Joseph Woodroffe, pastor of the First Methodist Episcopal church, and others, citizens of Clarendon, Donley County, Texas, and the petition of S. Evans and others, citizens of Baylor County, Texas, praying for the establishment of a post-route from Graham, Young County, Texas, to Fort Elliott, in that State; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. CAMERON, of Wisconsin, presented a joint resolution of the Legislature of Wisconsin, in favor of an appropriation by Congress for the improvement of the Saint Clair Flats and Detroit River, and for a further survey of the channels between Lake Superior and Lake Huron; which was referred to the Committee on Commerce.

Mr. McMILLAN presented a joint resolution of the Legislature of Minnesota, in favor of the establishment of a post-route from Herman, Grant County, to Ortonville, Big Stone County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WILLIAMS presented the petition of Frank P. Gross, late first lieutenant United States Army, praying to be reimbursed for losses sustained by him while in the discharge of his official duties at Fort Clark, Texas; which was referred to the Committee on Military Affairs.

Mr. McDONALD presented the petition of William W. Dudley and others, citizens of Indianapolis, Indiana, praying for an appropriation by Congress for the construction of an elevator in the post-office building in that city; which was referred to the Committee on Public Buildings and Grounds.

Mr. BRUCE presented the petition of George W. J. Crawford, of Benton County, Mississippi, praying compensation for property taken by the United States forces during the late war; which was referred to the Committee on Claims.

He also presented the petition of Newton C. Perkins, administrator of the estate of Joseph J. Todd, deceased, of Shelby County, Tennessee, praying compensation for property taken for the use of the United States Army during the late war; which was referred to the Committee on Claims.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a report from the Secretary of State, in compliance with a resolution of the Senate of the 3d instant, in relation to the Samoan Islands; which was referred to the Committee on Foreign Relations, and ordered to be printed.

BILLS INTRODUCED.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 34) for the relief of H. R. Belding; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 35) granting a pension to Herman Netterfield; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 36) for the relief of certain persons locating homesteads upon the public lands known as the Chicago soldiers and citizens' colony; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 37) to equalize the bounties of soldiers, sailors, and marines of the late war for the Union; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 38) for the relief of Robert Gorthy and Calvin Green; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 39) granting an increase of pension to James H. Reeve; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 40) to amend the act entitled "An act amending the charter of the Freedman's Savings and Trust Company, and for other purposes," approved June 20, 1874; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 41) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 42) in relation to the Japanese indemnity fund; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 43) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 44) authorizing and directing the Postmaster-General to readjust the salaries of certain postmasters in accordance with the provision of section 8 of the act of June 12, 1866; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 45) for the relief of John Payne, of Oregon; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 46) for the relief of Frank Rinquet; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 47) for the relief of James Hunt; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 48) for promoting the efficiency of the corps of chaplains of the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 49) for the relief of Greenleaf Cilley; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. THURMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 50) for the relief of James A. Barr; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 51) to aid in the construction of the Corpus Christi, San Diego and Rio Grande Railroad; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 52) for the relief of John N. Reed; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 53) making appropriations for the erection of suitable posts for the protection of the Rio Grande frontier; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 54) to enable the Secretary of War to purchase land to enlarge and protect the San Antonio arsenal; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes; which was read twice by its title and referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 56) for the relief of Edward Braden and J. W. Angus; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 57) for the relief of the Metropolitan police force of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 58) for the relief of Michael Callahan; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 59) for the relief of James Trabue; which was read twice by its title, and referred to the Committee on Claims.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 60) for the relief of B. S. James; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 61) authorizing the President to appoint Benjamin Walker Atkinson to the United States Military Academy; which was

read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 62) for the delivery to Samuel Lord, jr., receiver, of certain bonds now in the Treasury of the United States; which was read twice by its title, and referred to the Committee on Finance.

Mr. LAMAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 63) to provide for the organization of the Mississippi River Improvement Commission and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River, and the protection of its alluvial lands; which was read twice by its title, and referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 64) to provide for the recomputation of the accounts between the United States and the several States, and between the United States and the city of Baltimore, growing out of moneys expended by the several States and the city of Baltimore in the war of 1812 with Great Britain; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 65) for the relief of the trustees of the Protestant Episcopal Theological Seminary and High School in Virginia; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 66) for the relief of Hortensia H. Cook; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 67) authorizing the Secretary of the Treasury to issue bonds to Albert V. Conway, substituted trustee, for certain registered United States bonds redeemed or assigned by the Government upon forged assignments; which was read twice by its title, and referred to the Committee on Finance.

Mr. McPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 68) to authorize and equip an expedition to the Arctic seas; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 69) amendatory of title 48 of the Revised Statutes of the United States, so as to authorize the purchase of foreign-built ships by citizens of the United States; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 70) to provide for retiring the trade-dollar and for its recoinage into the standard silver dollar; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 71) to repeal section 1218 of the Revised Statutes of the United States; which was read the first time by its title.

Mr. CONKLING. What is that section?

Mr. BECK. Let the bill be read at length. It is very short.

The VICE-PRESIDENT. The bill will be read the second time at length.

The bill was read the second time at length, and referred to the Committee on the Judiciary, as follows:

A bill to repeal section 1218 of the Revised Statutes of the United States.

Be it enacted, &c., That section 1218 of the Revised Statutes of the United States, being in chapter 1, title 14, of said Revised Statutes, which provides that "no person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States," be, and the same is hereby, repealed.

Mr. BECK also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 72) for the relief of John B. Davis; which was read twice by its title, and referred to the Committee on Claims.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 73) authorizing the payment of prize-money to officers of the Farragut fleet for the destruction of enemy's vessels in April, 1862; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 74) for the relief of Lieutenant Frank P. Gross; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 75) for the relief of William T. Newcomb; which was read the first time by its title.

Mr. GROVER. The bill is accompanied with certain papers and exhibits which I ask may be referred with the bill to the Committee on Appropriations.

Mr. CONKLING. I ask to have the bill read at length.

The VICE-PRESIDENT. The bill will be read the second time at length.

The bill was read the second time at length and referred to the Committee on Appropriations, as follows:

A bill for the relief of William T. Newcomb.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to William T. Newcomb, or his legal representatives, the sum of $1,862.37, for services rendered at Siletz agency, Oregon, from April 18, 1860, to June 30, 1861, being a deficiency for 1873 and prior years.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 76) for the relief of M. F. Clark; which was read twice by its title, and referred to the Committee on Claims.

Mr. PENDLETON asked. and by unanimous consent obtained, leave to introduce a bill (S. No. 77) for reviving and continuing the court of commissioners of Alabama claims, and authorizing the adjudication and payment of certain claims upon the fund created by section 15 of chapter 459 of the laws of the Forty-third Congress; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 78) for the relief of settlers upon the absentee Shawnee lands in Kansas, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 79) granting a pension to Wiley Britton; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 80) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 81) to provide for the purchase of a suitable site and the erection thereon of a public building in the city of Denver, Colorado; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 82) extending the time for the completion of the Northern Pacific Railroad; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 83) for the relief of Nicholas White; which was read twice by its title, and referred to the Committee on Claims.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 84) for the interchange of subsidiary silver coins and United States notes; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 85) for the relief of settlers on public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 86) to extend the jurisdiction of the Court of Claims to claims growing out of treaties between the United States and Indian tribes and the laws pertaining thereto; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 87) for the relief of John J. Key and W. G. M. Davis; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 88) for the relief of Albert Ordway; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 89) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 90) granting the right of way through the public lands to the Cheyenne, Black Hills and Montana Railroad and Telegraph Company; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 91) for the better protection of life during marine disasters; which was read twice by its title, and referred to the Committee on Commerce.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 92) for the relief of Morgan's Louisiana and Texas Railroad and Steamship Company; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WALLACE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 93) to authorize the restoration of Charles N. Warner to his former relative rank and position in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 94) for the relief of the Methodist Episcopal Church South at Charleston, Kanawha County, West Virginia; which was read twice by its title, and referred to the Committee on Claims.

Mr. JONAS asked, and by unanimous consent obtained, leave to in-

troduce a bill (S. No. 95) for the relief of L. Madison Day; which was read twice by its title, and referred to the Committee on Claims.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 96) to authorize the Secretary of War to deliver to A. B. Rhett, T. Pinckney Lowndes, and others, four Napoleon guns, with caissons and harness, now at Greensborough, North Carolina, for use of the Marion Artillery, Charleston, South Carolina; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 4) proposing an amendment to the Constitution of the United States; which was read the first time by its title.

Mr. McMILLAN. I ask that the joint resolution be read at length.

The joint resolution was read the second time at length, and referred to the Committee on the Judiciary, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein,) That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which when ratified by three-fourths of said Legislatures shall be valid as a part of the said Constitution:

That section 7 of article 1 of the Constitution of the United States be amended by inserting at the end of said section the following words, that is to say:

"If any bill presented to the President of the United States in pursuance of this section contains several items of appropriation of money, the President may object to one or more of such items of appropriation of money and approve the other portions of the bill; and if any such bill contains several items of appropriation of money and contains also a provision or provisions embracing general or special legislation, the President may object to one or more of such items of appropriation of money, or such provision or provisions embracing general or special legislation, or to one or more of both, and approve the other portions of the bill. In all such cases he shall append to the bill at the time of signing it a statement of the items of appropriation of money or the provisions embracing general or special legislation, or both, as the case may be, to which he objects, and the appropriations and provisions embracing general or special legislation objected to shall not take effect. If Congress be in session, the President shall transmit a statement of the items of appropriation of money or the provisions embracing such general or special legislation, or both, as the case may be, in said bill to which he objects, together with his objections thereto, to that House in which the bill originated, who shall enter the same at large on their Journal, and the items and provisions of the bill so objected to shall be separately reconsidered. If after such reconsideration one or more of such items or provisions be approved by two-thirds of each House, the same shall be a part of the law, notwithstanding the objections of the President. All the provisions of this section in relation to bills not approved by the President shall apply in cases in which he shall withhold his approval from any item or items of appropriation of money, or provisions embracing general or special legislation contained in a bill appropriating money."

Mr. THURMAN. On the suggestion of the Secretary of State I ask leave to introduce a joint resolution for reference to the Committee on the Judiciary.

By unanimous consent leave was granted to introduce a joint resolution (S. R. No. 5) in relation to records, papers, and documents of mixed international tribunals on file in the Department of State; which was read the first time by its title.

The joint resolution was read the second time at length, and referred to the Committee on the Judiciary, as follows:

Whereas it is required by law in regard to the late mixed commission between the United States and Mexico, under the convention of July the 4th, 1868, that all records, documents, and other papers which may have been brought before such commission shall at the termination of the commission be deposited in the Department of State; and

Whereas similar provisions of law exist in regard to the records, papers, and documents of other mixed international tribunals, established under treaties between the United States and foreign governments, in which such tribunals have been held in the United States; and

Whereas in some cases original documents and papers are thus deposited, the possession of which by the parties in interest is deemed essential to the asserting and establishing of private rights which have not been determined by the tribunals in question: Now, therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized to deliver to any person justly entitled to the possession thereof any original document, record, or paper so deposited in his Department by the secretary or other officer of such international tribunals, or any of them heretofore held or being now held or that may hereafter be established, and that he shall preserve among the records from which such original documents or papers may be taken a copy of the same, certified under the seal of the Department, and shall make such further regulations on the subject as he shall deem necessary to the proper preservation of the records of the tribunal, the promotion of the ends of justice, and the protection of the interests of the United States.

Mr. THURMAN presented a letter of the Secretary of State addressed to the chairman of the Committee on the Judiciary, inviting attention to the draught of the joint resolution providing for the return of original papers filed in certain cases before the mixed commission between the United States and Mexico under the convention of July 4, 1868; which was referred to the Committee on the Judiciary.

Mr. LAMAR asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 6) accepting from Professor Edward Fontaine, of Louisiana, certain maps, drawings, and explanations of the same; which was read twice by its title, and referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. THURMAN, it was

Ordered, That the papers in relation to the claim of James A. Barr, of Champaign County, Ohio, be taken from the files and referred to the Committee on Military Affairs.

On motion of Mr. BECK, it was

Ordered, That the papers in the case of Thomas M. Redd be taken from the files and referred to the Committee on Claims.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That the papers in relation to the claim of William H. Young and F. L. Young be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That all papers relating to the establishment of a land district at Jamestown, Dakota, be withdrawn from the files of the Senate and referred to the Committee on Public Lands.

On motion of Mr. ALLISON, it was

Ordered, That the petition and papers of M. F. Clark be taken from the files and referred to the Committee on Claims.

On motion of Mr. HEREFORD, it was

Ordered, That the papers in the case of the Methodist Episcopal Church South, Charleston, Kanawha County, West Virginia, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. JONAS, it was

Ordered, That the petition and papers of L. Madison Day, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. SAUNDERS, it was

Ordered, That the petition and papers in the case of John Payne, of Oregon, be taken from the files and referred to the Committee on Indian Affairs.

On motion of Mr. SAUNDERS, it was

Ordered, That the papers relating to the application of Frank Ringnet, for compensation for property destroyed by Indians at Cayuse Station, Oregon, be taken from the files and referred to the Committee on Claims.

On motion of Mr. SAUNDERS, it was

Ordered, That the memorial of citizens of Knox County, Nebraska, remonstrating against the permanent location of the Santee Sioux Indians in that county and praying for their removal to the old Ponca reservation, be taken from the files and referred to the Committee on Indian Affairs.

On motion of Mr. FERRY, it was

Ordered, That the papers relating to the case for the relief of Robert Gorthy and Calvin Green be taken from the files of the Senate and referred to the Committee on the Judiciary.

LEGISLATION ON APPROPRIATION BILLS.

Mr. HOAR submitted the following resolution; which was read:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and if persisted in must lead to the overthrow of constitutional government and the destruction of the national life.

Mr. WALLACE. Let that lie over and be printed.

The VICE-PRESIDENT. The resolution will lie over and be printed.

WITHDRAWAL OF PAPERS.

Mr. WINDOM. I ask that the order presented by myself a few days ago in reference to the withdrawal of the papers of the opponents to the extension of the patent of E. N. Horsford may be taken up. It is on the table.

Mr. EDMUNDS. If that is not to lead to debate, I make no objection; but otherwise, I wish to ask that the eighth rule may be followed, which requires the Chair to lay before the Senate resolutions offered on a previous day; and there is an earlier one, I believe, than that.

The VICE-PRESIDENT. The order will be read.

The Secretary read the following order, submitted by Mr. WINDOM on the 19th instant:

Ordered, That the opponents to the extension of the patent of E. N. Horsford have leave to withdraw their papers from the files of the Senate.

The VICE-PRESIDENT. The Chair hears no objection, and the order will be entered.

COMMITTEE SERVICE.

Mr. DAWES. I ask the Senate to excuse me from service upon the Committee on the District of Columbia. I desire to say in reference to this request, that there is no dissatisfaction on my part at the assignments which have been made of me; but I am assigned to seven committees, and, as there are but six working days in the week, I am compelled to make a request to be excused from some committee service; I therefore ask to be excused from service upon the Committee on the District of Columbia.

The VICE-PRESIDENT. The Senator from Massachusetts asks to be excused from further service upon the Committee on the District of Columbia. Is there objection? The Chair hears none, and the Senator is excused.

ADJOURNMENT TO MONDAY.

On motion of Mr. WALLACE, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

BUSINESS OF THE SESSION.

Mr. WALLACE. I move that the Senate proceed to the consideration of the resolution submitted by me the day before yesterday requesting information from the Treasury Department in regard to the accounts of deputy marshals.

The VICE-PRESIDENT. If there are no further bills or joint resolutions, the Chair announces the order of "concurrent and other resolutions."

Mr. EDMUNDS. I ask that the eighth rule may be followed, which requires the Chair to lay before the Senate in their order the resolutions of a previous day.

The VICE-PRESIDENT. The Secretary will report the resolutions hitherto introduced in their order.

Mr. CONKLING. Meanwhile may I make an inquiry? Why is it that no resolution and no bill which has been offered during this session is to be found on our desks? The Senator from Delaware [Mr. SAULSBURY] the other morning, I believe the first morning, offered a resolution; I see nothing of it; the Senator from Vermont [Mr. EDMUMDS] offered one; I cannot find that; and I observe by inquiry of other Senators, that nobody seems to have the usual printed copies of resolutions——

Mr. EDMUNDS. Or bills either.

Mr. CONKLING. Or bills.

The VICE-PRESIDENT. The Chair is unable to answer the question.

Mr. CONKLING. We are undergoing so many radical changes now, that for one, when I come to be denied the opportunity of reading measures before the Senate, it seems to add new terror to the revolution we are passing through.

Mr. COCKRELL. Will the Senator from New York please state to the Senate who has charge of that business and who is responsible for the failure to have these bills and resolutions on our tables?

Mr. CONKLING. That information, like everything else, ought to proceed from the majority of the Chamber. I do not feel at liberty to state anything. It is with great trepidation that I venture even to ask a question.

Mr. COCKRELL. I sympathize very deeply with the Senator from New York in his terror-stricken feelings, but this side of the House is not responsible for the bills and resolutions not being printed and laid upon the table of every Senator.

Mr. CONKLING. Of which side of the House does the Senator speak?

Mr. COCKRELL. The democratic side of the House. The republican party has entire charge and control of that matter and is alone responsible.

Mr. EDMUNDS. Regular order.

The VICE-PRESIDENT. The Secretary will report the resolutions on the Calendar in their order.

The Secretary read the following resolution, submitted by Mr. EDMUNDS on the 19th instant:

Whereas the necessity for the present special session of Congress has been occasioned by the failure of the last Congress to make appropriations for the support of the Army and for the legislative, executive, and judicial expenses of the Government for the next fiscal year; and

Whereas the business and other public interests of the country will be best promoted by confining legislation at this session to making provision for the objects aforesaid, and by an early adjournment: Therefore,

Be it resolved, That all bills and joint resolutions, excepting those for the aforesaid purposes, shall be referred to appropriate committees and not reported until the next December session.

The VICE-PRESIDENT. The question is, Will the Senate agree to this resolution?

Mr. WALLACE. That subject is already under consideration, and I move to lay the resolution on the table.

Mr. EDMUNDS. That would be a good reason why it should not be laid on the table, if it is under consideration. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. THURMAN. Let the resolution be reported again.

The VICE-PRESIDENT. It will be again reported.

The Secretary again read the resolution.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania that the resolution lie on the table, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when Mr. BURNSIDE's name was called.) My colleague [Mr. BURNSIDE] has been called out of the city until Monday, and has paired with the Senator from Georgia, [Mr. GORDON.]

The roll-call was concluded.

Mr. GARLAND. The Senator from Georgia [Mr. HILL] is not in his seat, being engaged in the Supreme Court.

Mr. GROOME. I desire to announce that the senior Senator from Maryland [Mr. WHYTE] is necessarily detained from the Senate. If here, he would vote "yea."

The result was announced—yeas 35, nays 28; as follows:

YEAS—35.

Bailey,	Farley,	Kernan,	Thurman,
Bayard,	Garland,	Lamar,	Vance,
Beck,	Groome,	McDonald,	Vest,
Butler,	Grover,	McPherson,	Voorhees,
Call,	Harris,	Maxey,	Walker,
Cockrell,	Houston,	Morgan,	Wallace,
Coke	Johnston,	Pendleton,	Williams,
Davis of W. Va.,	Jonas,	Saulsbury,	Withers.
Eaton,	Jones of Florida,	Slater,	

NAYS—28.

Allison,	Chandler,	Hoar,	Paddock,
Anthony,	Conkling,	Ingalls,	Platt,
Blaine,	Dawes,	Kellogg,	Plumb,
Booth,	Edmunds,	Kirkwood,	Rollins,
Bruce,	Ferry,	Logan,	Saunders,
Cameron of Pa.,	Hamlin,	McMillan,	Teller,
Cameron of Wis.,	Hill of Colorado,	Morrill,	Windom.

NOT VOTING—10.

Burnside,	Hereford,	Randolph,	Whyte.
Carpenter,	Hill of Georgia,	Ransom,	
Davis of Illinois,	Jones of Nevada,	Sharon,	

So the resolution was ordered to lie on the table.

MARSHALS AT ELECTIONS.

Mr. WALLACE. I call up the resolution which I introduced a few days ago.

The VICE-PRESIDENT. The Secretary will report the Calendar in its order.

The Secretary read the next resolution on the Calendar, being one submitted by Mr. WALLACE on the 20th instant, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to furnish to the Senate a detailed statement of the accounts of the marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland rendered to this date, for and in regard to the employment of and payment of wages or fees charged for services performed by them or their special deputies in relation to the conduct of elections in November, 1878, showing the amount claimed by or paid to each of said special deputies and the aggregate paid or claimed from the United States by the said marshals for services connected with the elections.

Mr. COCKRELL. I suggest that the word "requested" be changed to the word "directed," which is the usual word in all such cases.

Mr. HOAR. Let the resolution be read again.

The VICE-PRESIDENT. It will be again reported.

The Secretary again read the resolution.

Mr. CONKLING. What is the amendment offered by the Senator from Missouri?

Mr. COCKRELL. I suggested that the word "requested" be changed to the word "directed."

Mr. CONKLING. I agree with the Senator about that.

Mr. COCKRELL. As has been very often suggested by the Senator from New York.

The VICE-PRESIDENT. The resolution will be so modified.

Mr. THURMAN. What is the date mentioned? The accounts of marshals paid from what time?

The SECRETARY. "In relation to the conduct of elections in November, 1878."

Mr. THURMAN. It ought to be "October and November."

Mr. WALLACE. I accept the suggestion, and will modify the resolution by inserting "October and" before "November."

The VICE-PRESIDENT. Is there objection? The Chair hears none, and the resolution is so modified.

Mr. CONKLING. This resolution, I think, is too narrow in another respect. The Senator specifies certain States. I move in lieu of the five States here specified to include all the States; so that it shall read:

Marshals of the United States in the respective States rendered to this date.

In lieu of the words:

Marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland.

There are a number of other States of which I have information, touching which I think we ought to know. The thirst of the Senator from Pennsylvania for information on this subject I know will prevent his objecting. To be sure and include them all, I think we had better say "the respective States."

The VICE-PRESIDENT. Does the Senator move that amendment?

Mr. CONKLING. I do. Does the Senator from Pennsylvania object?

Mr. WALLACE. I do. The Senator from New York can introduce a separate resolution in reference to the other States. The information sought in the original resolution can be obtained in a much shorter time than it can if it is extended over the whole ground he desires to cover. If the Senator "thirsts for information," as he thinks I do, he surely can get it as well as I can, and he certainly can introduce a separate resolution. Therefore I hope the resolution as originally introduced will be adopted.

Mr. CONKLING. Mr. President, unfortunately the mover of this amendment is not able, and is not likely to be in the near future, to obtain the consent of the Senate to such inquiries as he may choose to make. His utmost opportunity is to avail himself of the occasion when the Senator from Pennsylvania, or some other Senator of influence who can carry his measures, offers a resolution to which an amendment may be appropriate. I am amazed at the suggestion made by the Senator from Pennsylvania. I read some time ago in newspapers an account of a proceeding which took place elsewhere; I read of an attempt, in the first place, to direct an inquiry as to frauds to certain localities excluding all others, and of an attempt to enlarge the area of inquiry, and then, according to the account, the objection we now hear was made—made with some show, at least a specious show, of force, because it was said, "This inquiry is to be conducted by a committee, and if you are to send a committee throughout the thirty-eight States you so amplify and prolong the inquiry that it will fail, because it will extend beyond the life-time of the Congress which orders it."

Here is a request, or a direction, as the Senator from Missouri [Mr. COCKRELL] has appropriately made it, to an Executive Department of the Government to send here transcripts of certain accounts or records in the Department. In minutes and in hours the Senator from Pennsylvania is right in saying that if you require it as to "the respective States," a longer time will be necessary, but no appreciable longer time. Therefore, the argument of convenience, the objection which was made on the occasion to which I have referred, as far as under the rules of the Senate I have a right to refer to it, loses all force when made here.

I think the Senate should know, I think the country should know, not in respect of a particular State which the Senator may select, but at large, the amounts which have been paid, and I hope some Senator will later suggest also the reasons for paying those amounts to guard from depredations the casting and the count of votes. If it has been excessive or improper in the States which the Senator does not name, we should know it, and for all the reasons applicable to the States which the Senator has seen fit to specify.

But conscious as I am that the Senator is likely to effect his wishes by directing in this respect the votes of his associates, I want before the vote is recorded to have the simple issue between us understood. The Senator from Pennsylvania has selected for some reason five States, and under guise of an inquiry for the truth, he seeks to know as to them. I want to know as to them, and I want to know also as to all the other States. The Senator from Pennsylvania stops me saying that he will not know, he will refuse to know as to the other States; and that although no additional expense is involved in the inquiry, although not one day will be added to the time necessary to furnish the information, and although, I submit, there can be no objection to it except to stifle and cover up so much of the inquiry as will fall within my amendment and as will fall without the original proposition of the Senator from Pennsylvania.

I say, Mr. President, turn on the lights. Turn on the lights not only as to the States which the Senator has mentioned but as to all the States, and let us know the truth, which is not likely to wrong anybody who ought not to be wronged.

Mr. WALLACE. Mr. President, I repeat what I said when I was on my feet before, that there is no purpose to deprive the Senate of information in regard to any of the States. If the Senator from New York will introduce a resolution covering all the remaining States there will be found no votes, I think, (certainly not mine,) on this side of the Chamber against his resolution.

Mr. CONKLING. I do introduce it now.

Mr. WALLACE. My purpose is simply that the committee in charge of this subject may be enabled to go forward with its inquiry as speedily as it can, having obtained the information that is indispensable to the progress of its work in a few of the States and obtaining that from the remainder of the States as it is needed. If, on the contrary, we cover the whole of the States in a single inquiry the time needed for the preparation of the report in answer to the resolution must necessarily be much longer than if the resolution applied to a few States; and that is the sole reason why I object to the amendment of the Senator from New York.

Mr. EDMUNDS. May I ask the Senator to what committee he alludes?

Mr. WALLACE. The committee constituted by the Senate to inquire into the frauds in the recent elections.

Mr. EDMUNDS. Then may I suggest to my honorable friend that that committee is authorized to send for persons and papers, and it can call upon the Secretary of the Treasury for the information that applies to its special work, without the intervention of the Senate. This is a general resolution. The Senate is to get information by it for any purpose that it thinks fit, for legislative or other proceedings. So far as the object of this resolution is directed to the assistance of that particular committee, I suggest to the Senator from Pennsylvania that it is quite unnecessary altogether. The committee has complete power to send for persons and papers; it can command the attendance of the Secretary of the Treasury and all his papers, and all his information, so far as they are concerned; but this is certainly very important information as applied to all the States which all of us would be very glad to see, and the bottom of it.

Mr. WALLACE. Mr. President, the committee that I have referred to has already sat some three months. Its attention was directed to a single section of the country. It obtained all the information that it sought or needed in regard to that section of the country. It concluded its labors and made its report to the Senate.

A different phase of the case is now presented under the resolution, in regard to which the committee made no inquiry. The committee is about to give its attention to that phase of the inquiry, and it seeks the information asked for in this resolution for their guidance. They may do it, as suggested by the Senator from Vermont, very properly, but they undertake to do it by an application for the information from the Senate itself. There is nothing improper in this course, and certainly the Senate should give to this committee the power to procure that which it seeks to give, light to the country.

It seems to me for these reasons that if the committee, acting through one of its members on the floor of the Senate, asks the Senate to pass a resolution to obtain this information for the Senate the country and the committee, there should be no objection to it only because the committee has the power to do the same. The simple purpose is to obtain this information as rapidly as possible. As to the other States, we are content that that information shall be obtained also as rapidly as possible, and the committee would be very glad to have it. Reason and sense teach us that a short inquiry is easier answered than one which covers a wider field.

Mr. CONKLING. The Senator from Pennsylvania speaks and asks for one committee. I venture to ask for another. The Senator from Pennsylvania speaks for a special committee of the Senate. I speak for the committee of the whole, that committee composed of all the people of the country. The special committee of the Senate needs no such resolution, for it has in its hands now not only the power to obtain this information, but the information itself, if it comes to that. The committee of the whole people, (because I think that committee of the whole is looking on now with some interest and some justifiable curiosity,) has not this information nor does it possess at this moment the power to obtain it except through the Senate. Therefore, discouraging in no way, hindering for not one day the purpose of the honorable Senator, I humbly demand that this information shall be full and specific, to the end that all concerned, and not merely the Senator from Pennsylvania, may know the exact truth, and all of it, touching this very interesting subject.

The VICE-PRESIDENT. Is the Senate ready for the question, which is on the amendment proposed by the Senator from New York?

Mr. CONKLING. I think we had better have the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I have not the least objection in the world to the amendment of the honorable Senator from New York, provided it will not practically interfere with the prompt return of the information required by the committee. After the election of 1876, and the gross abuses, as I conceive, committed by the then Attorney-General of the United States under the guise of enforcing the act of 1871 by the appointment of countless deputy marshals who were to take charge on the day of election of the whole process of election, assuming authority paramount to that of the States, so that freedom of election by the States was practically gone and the power to control elections passed entirely into the hands of the Federal agents, I offered a resolution that should include the accounts of all the marshals in all the States, that is to say, the number of marshals who were employed and the pay given to each. I well remember that the resolution was then extended so that still further information should be called for, and finally it came; but it was delayed so long that if the same time is taken now that was taken then, I apprehend this special session will be very much prolonged,—prolonged at least far beyond my individual wishes.

This committee was raised at the last session of Congress, when the control of this body was in the hands of a different party from that which now controls it. But the committee has been continued; its powers have not been extended; its scope has not been enlarged. It simply proposes to continue the same investigation. The proposition practically is made by a Senator representing the committee, knowing the condition of its business, knowing in some degree the extent of the information required, that the accounts in four or five named States shall be sent in to the Senate. That is intended to throw light. Is there objection to it? I apprehend there can be none. But practically what is the effect of the amendment? When you move to include thirty-three other States and to ask the information in regard to them, what is the result? Will not the Senate see it; will not the country comprehend it? The result would be, as I fear, to delay the modicum of information reasonably asked for by the resolution of the Senator from Pennsylvania.

I can conceive no fairer answer to the Senator from New York, and I would submit it to his own sense of fairness, than the offer upon the part of the honorable Senator from Pennsylvania, which most assuredly would have my aid and my vote, that a similar resolution relating to the other thirty-three States be instantly passed upon the adoption of the pending resolution, only so that this information asked by the committee shall not be delayed.

Remember, Mr. President, to whom and to what official this inquiry is directed. Surely the present Secretary of the Treasury, surely the officers of the present Administration, will not be found wanting in furnishing information which is asked from so well-known and distinguished a source as the honorable Senator from New York. There will be no delay as to this further information. Then what is the reason why we may not have the information as to five States when there is everywhere a unanimity in agreeing that any information as to the remaining thirty-three States shall also be asked? "There is reason in all things;" there is a practical common sense in all things. If any gentleman here, knowing the condition of these accounts, will say that there will be no practical delay as to obtaining the information asked for by the honorable Senator from Pennsylvania because the official information asked for by the honorable Senator from New York is tacked upon the resolution, I have not the least objection to it.

There cannot be for me and for those with whom I act too bright a light shed upon the whole business of conducting elections in the States under the paramount influence of the Federal Government. It is a question that to-day may be affected by the light of the accidental possession of power, but it is a question that in the future every American must feel to be pregnant with the most serious results to the very Constitution of our form of government.

Therefore it is that in preparing the public mind, in preparing that great body of public opinion that sooner or later must have its way and control the affairs of this country, I do desire that the fullest investigation and the clearest light be shed upon the whole of this subject. Now it becomes simply a practical matter. Senators on the other side of this Chamber, would you refuse to shed the light upon the affairs that concern these five States when you can obtain it by a resolution, and when it is openly agreed that the secondary resolution giving you the same light, to the same full degree, shall be

passed at the same time as to thirty-three other States, suggested by the honorable Senator from New York?

I do not mean to say, for I am not fully convinced, that the information in regard to thirty-three States would so postpone the information needed in regard to the five States named that it could not be had at the present session; but as there is some doubt upon that subject, why not take the two resolutions? One preceding the other will give the information asked for by the committee; the other will give the information asked for by the honorable Senator from New York, and equally desired by me, and I believe by all those who sit around me.

As a question of practical effect, therefore, why may we not agree to pass the pending resolution and to pass also a resolution covering the amendment of the honorable Senator from New York? When this matter is to be confided as to its execution to the power of the present Administration, not in accord with the majority of this body, is there any reason why the resolution as to five States should not precede the resolution as to the remaining thirty-three States?

I hope, therefore, the course will be taken by the Senate to pass the two resolutions. They relate to the same subject, but there is no reason why one should not precede the other for all practical purposes. There is no reason why the information should not come as to all, and there is as little reason to doubt that the information will be promptly furnished as to the thirty-three States as that it will be forwarded in regard to the five States specially named in the resolution of the Senator from Pennsylvania.

Mr. BECK. Mr. President, I do not desire to delay the vote one moment; but as I shall vote against the amendment offered by the Senator from New York I propose to state the reason why I shall do so. I agree with him in seeking to obtain all the light possible upon all these subjects; but we have had some experience in regard to this matter. On the 7th day of December, 1876, the Senate of the United States passed a resolution calling upon the Attorney-General for "information in relation to deputy marshals employed at the election of November 7, 1876;" and it was not until the 12th day of February, 1877, over two months after, that the Attorney-General was able or saw fit to send a communication in response to the resolution to the Senate of the United States. There is reason to assume that if the inquiry is made broad now, as is sought by the Senator from New York, sixty days will again intervene, and the Attorney-General will say that he has not had the time nor the opportunity nor the ability to get the information from all the States to make the report called for, and that would effectually destroy the usefulness of the committee referred to by the Senator from Pennsylvania for at least sixty days. When that report did come to the Senate, in February, 1877, which I now hold in my hand, after holding it up for sixty days, the Attorney-General had to assure the Senate that from a number of States he had not obtained full reports, and that he could only send in partial reports then.

Hence, not desiring to delay the committee that is now charged with this matter and is now looking into the conduct of the elections in those five States as to which information can be given within a week, I see no reason why we should attach the amendment of the Senator from New York, which would necessarily delay the information for not less than two months. I desire to say, as other Senators have said, that whenever the resolution of the Senator from New York comes up after this is passed, I shall not only vote for it, but I hope there will not be a Senator on this side of the Chamber who will even ask that it lie over one day under the rule, and that the Senate will pass it for him in five minutes; and if objection comes, I think he will find it will not come from the democratic side of the House.

Mr. BLAINE. Does the Senator from Kentucky or the Senator from Delaware mean to imply that the marshals have been so generally used in all the States that it will take a very long time to give this information—all the States having had marshals in them?

Mr. BECK. They seem to have been very largely used in 1876, judging from the report to which I have referred.

Mr. BLAINE. I venture to say that I can name eight or ten States in which not one single marshal was employed; certainly not in my own State, certainly not in Vermont.

Mr. EATON. Then you do not want to hear from them. [Laughter.]

Mr. BLAINE. Will the Senator from Kentucky say that they have been used in his State to any great extent?

Mr. BECK. No, not to any great extent.

Mr. BLAINE. At all?

Mr. BECK. A little, I think.

Mr. BLAINE. In Rhode Island not at all; in Michigan not at all; in Minnesota not at all; in Wisconsin not at all; in Kansas not at all; in Nebraska not at all. Now, the honorable Senator from Delaware and the honorable Senator from Kentucky rise and say if we ask this information everywhere it is going to make such a ponderous work for the Department of Justice that they will never get through with it, thus creating the impression by such a remark that the marshals have been used just as generally through all the rural and well-behaved portions of this country as in those large, boisterous centers where rowdyism and corruption have rule, and where they need to be kept in check by some strong power.

Mr. BECK. Have I the floor, Mr. President?

The VICE-PRESIDENT. The Senator from Kentucky is entitled to the floor.

Mr. BLAINE. It is fair that not only we should have the information of what the marshals have done, but information from those sections of the country in which there never were found any ten men who would sign a certificate that marshals were needed to insure a fair election. I want to hear from those sections. I represent one of them myself.

The VICE-PRESIDENT. The Senator from Kentucky is entitled to the floor.

Mr. BECK. Mr. President, I do not intend to be provoked into any debate. It is perfectly obvious that we shall receive the information in regard to the five States named in the original resolution in a much shorter time than we can obtain it as to all the other States. The only object I have in view is to obtain a report from the Secretary of the Treasury at the earliest possible moment. Whether the purpose of the amendment is (I do not suppose it is, it is avowed not to be) to delay the information, the effect will be that it will so far delay the report as to the States from which we need to hear that it will practically amount to a denial of information altogether. The two resolutions can be passed one after the other. The Senator from New York can pass his amendment as a separate resolution in five minutes unless some Senator on his own side of the Chamber objects. I therefore think that the amendment ought to be voted down and that the information ought to be had as to those five States at once, and not run the risk of delay; and we know it will be the excuse made for delay if we include all the States in one resolution.

Mr. CONKLING. Mr. President, the Senator from Kentucky has made a very cogent argument, to which but one criticism can be made, and that is that it has no foundation on which to stand. I say this with great respect to the Senator from Kentucky, and I think I can convince him of it. He has reminded us that on the 12th of December, 1876, after a general election, a presidential election, had been held, a resolution was addressed to the Department of Justice requiring a great variety of information, which he says, and says correctly, the Attorney-General answered that even up to that date he had been unable to gather and transmit; and upon that occurrence he founds an argument that delay will occur in the response to this resolution if amended as I propose.

If I can have the attention of the Senator from Kentucky for one moment I will try to show him now why I say, with great respect to him, that his argument applied here has no foundation. For what does this resolution call? The accounts in the Treasury Department rendered to this day. Does the Senator mean now in the presence of those words to liken this to the proceeding of the Senate when we told the Attorney-General to go in quest of all manner of detailed information, and as he gathered it in to send it to the Senate? Here is a proposal to call for a transcript of accounts in the Treasury Department, which I undertake to say will not require two days, either in the form which will be given by my amendment or as the resolution will stand without it. Yet Senators rise, and gravely, and as I am bound to suppose sincerely, profess to oppose this amendment for fear of the delay which is likely to occur. If I might borrow from the honorable Senator from Ohio, the senior Senator, I would venture to say "that won't do." That won't do. All this information can be sent here in eight and forty hours. It is incredible that so much of the accounts audited, perfected, transcribed in the Treasury Department as indicate that so much money has been paid for a specific purpose in one State, and so much in another, cannot be furnished as to as many States as the resolution will embrace.

Some Senators said deputy marshals had not been appointed in various States, upon which my erudite friend from Connecticut [Mr. EATON] remarked "then you do not want to hear from them." No, nor would you under this resolution hear from them. Why? Because that would not be a case in which an account has been rendered up to date; and so the resolution would apply to the States and only to the States in respect of which accounts have been rendered. That is the answer to it.

Now, Mr. President, I think it will hardly do to shuffle off the call for this information, first by saying that a resolution which has no reference on earth to a special committee but an abstract resolution directing the Treasury Department to furnish information to the Senate does appertain to a particular committee and is for its benefit alone, and second, to say that the call being upon an Executive Department for accounts which are there patent to-day it will take such a long time to include the eight or ten additional States to which moneys have been paid that it will not do to hazard this great inquiry for fear of the procrastination which may possibly ensue.

Mr. McDONALD. I should like to ask my friend from New York if he is willing to say that if the amendment he offers is adopted the information will be given in forty-eight hours after the resolution is passed.

Mr. CONKLING. If I had the influence which my honorable friend from Indiana is known to possess, and the whole of which he possesses except so far as it is divided with his associates, I should not hesitate at all to say that the officer to whom this resolution is to be addressed shall comply with it with all manner of diligence. It seems rather a mockery for the honorable Senator to propose that question to me. If he will tell me what he thinks should be done and what advice he will give, then I shall form a tolerably definite opinion as to what is likely to occur.

Mr. McDONALD. As the Senator from New York offered this amendment, I simply desired to know if he felt quite sure it would be an-

swered in forty-eight hours; and when he said it would be, whether that is to be regarded as authority, because if it can be answered in that time, or twice that time, I shall vote for the amendment.

Mr. CONKLING. There is a great distinction, as the Senator will observe, between the statement that such a thing can be done and done conveniently within eight and forty hours and the statement that it will be done or that a person making the statement has any authority in regard to it. I said, and I say again, and I say it without the slightest hesitation or doubt, that these accounts in the Treasury Department can be copied in eight and forty hours. Does the Senator from Indiana doubt that?

Mr. McDONALD. I doubt very much whether it will be done in that time.

Mr. CONKLING. I am not talking about what will be. I ask the Senator from Indiana whether he doubts that these accounts may be conveniently copied in eight and forty hours?

Mr. McDONALD. I am not prepared to say whether they will be copied in that time or not.

Mr. EATON. I doubt it.

Mr. CONKLING. Another Senator has been found who doubts it, and the most convenient adjunct of the Senator from Indiana. His doubting power was not adequate to the occasion, but my honorable friend from Connecticut, coming to the rescue, says he is willing to doubt it. All I can say is that I am not willing to doubt it, because it is inconceivable that a half dozen clerks cannot make in respect of fifteen or twenty States a copy of the accounts of the moneys paid in those States to deputy marshals. I submit that that is a draft upon credulity which no man is bound to honor, even though my honorable friend from Pennsylvania says he has some doubt on the subject.

Mr. EATON. Mr. President, only a word. My friend from New York says that he desires light, the broadest light. He shall have it, and have it by my vote, but not now; and I will give my reasons. The resolution provides—

That the Secretary of the Treasury be, and he is hereby, directed to furnish to the Senate—

What?

a detailed statement of the accounts of the marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland, rendered to this date, for and in regard to the employment of and payment of wages or fees charged for services performed by them, or their special deputies, in relation to the conduct of elections in October and November, 1878, showing the amount claimed by or paid to each of said special deputies, and the aggregate paid or claimed from the United States by the said marshals for services connected with the said elections.

I undertake to say, with all due deference to my friend from New York and to his opinion, that this information with regard to these five States neither can nor will be furnished in forty-eight hours, by any half-dozen clerks in the employment of the Secretary of the Treasury. It will take a longer time to do the work than forty-eight hours. If we get the information in four times forty-eight hours it will be as early as I shall expect to receive it.

Mr. CONKLING. May I ask the Senator a question?

Mr. EATON. Oh, certainly.

Mr. CONKLING. Does the Senator think that it will take a longer time or a shorter time to furnish the information as to these five States than as to all the residue of the States? In other words, if he is right in saying that the clerks set to work on these accounts will require four times forty-eight hours to do their work, does he think that that time will suffice to cover the residue of the States also, or not?

Mr. EATON. That question is very easily answered. If it should take ten, or fifteen, or twenty clerks forty-eight hours, or four times forty-eight hours, to furnish the information necessary under this resolution, to furnish the information necessary under the additional resolution or amendment of my friend from New York would require forty other clerks; and therefore the entire force of the Department not absolutely engaged must be brought to bear upon this one subject.

I agree that if you will take the entire force in the Department from other business and put them upon this work, giving to one man one State or a part of a State and to another man one State or a part of a State, the information with regard to the thirty-eight States in the Union can be furnished just as quickly, just as readily, as it can in regard to one State. I have no doubt about that; but that is not the course, and it will not be done by this or any other Department. If they would take one hundred or two hundred clerks I agree that it could all be done in forty-eight hours, but that will not be done. Here is a committee of the Senate, authorized by the Senate to perform a certain duty. That duty applies to certain States and they ask for information from those States. Therefore, I say let us give that committee the information they desire, and if my friend from New York will draft a resolution requiring information from the other States, I will support it as readily as I support the resolution of the Senator from Pennsylvania.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New York, [Mr. CONKLING,] on which the yeas and nays have been ordered.

Mr. McMILLAN. My colleague [Mr. WINDOM] has been called from the Senate, and is paired on this question with the Senator from West Virginia, [Mr. DAVIS.] If my colleague were here, he would vote "yea." The Senator from West Virginia, I presume, would vote "nay."

Mr. HEREFORD. My colleague [Mr. DAVIS] would vote "nay."

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when the name of Mr. BURNSIDE was called.) My colleague [Mr. BURNSIDE] is paired on this question with the Senator from Georgia, [Mr. GORDON.] If my colleague were here, he would vote "yea."

Mr. GROOME, (when the name of Mr. WHYTE was called.) I beg to announce that if my colleague [Mr. WHYTE] were present, he would vote "nay."

The roll-call having been concluded, the result was announced—yeas 27, nays 37; as follows:

YEAS—27.

Allison,	Chandler,	Hoar,	Morrill,
Anthony,	Conkling,	Ingalls,	Paddock,
Blaine,	Dawes,	Jones of Nevada,	Platt,
Booth,	Edmunds,	Kellogg,	Plumb,
Bruce,	Ferry,	Kirkwood,	Rollins,
Cameron of Pa.,	Hamlin,	Logan,	Teller.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—37.

Bailey,	Groome,	Lamar,	Vance,
Bayard,	Grover,	McDonald,	Vest,
Beck,	Harris,	McPherson,	Voorhees,
Butler,	Hereford,	Maxey,	Walker,
Call,	Hill of Georgia,	Morgan,	Wallace,
Cockrell,	Houston,	Pendleton,	Williams,
Coke,	Johnston,	Ransom,	Withers.
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	
Garland,	Kernan,	Thurman,	

ABSENT—9.

Burnside,	Davis of W. Va.,	Saunders,	Whyte,
Carpenter,	Randolph,	Sharon,	Windom.
Davis of Illinois,			

So the amendment was rejected.

Mr. CONKLING. I offer an amendment now to come in at the end of the present resolution, and to be itself a separate resolution; and as it is in my handwriting, I will read it:

Resolved further, That the same information called for in the preceding resolution be likewise sent to the Senate in respect of each of the States not named in said resolution, as soon as the same can be transmitted without deferring an answer to the preceding resolution.

Mr. WALLACE. I accept that amendment.

The amendment was agreed to.

Mr. EDMUNDS. I venture with great diffidence to offer an additional amendment, which, I trust, will meet the approval of the Senator from Pennsylvania; it is in these words:

And resolved further, That he report fully all information in his possession touching the occasion and necessity of such expenditures and the operation of the laws under which they were made.

Let us see if there is anybody who will object to that.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont.

Mr. WALLACE. The resolution is directed to the Secretary of the Treasury, who has not charge of the marshals. It is not for him under the law to judge of the necessity for appointing them. It seems to me that the amendment is entirely out of place and it ought not to be adopted. The inquiry ought to go to the Attorney-General.

Mr. EDMUNDS. I am afraid my friend from Pennsylvania did not listen to the reading of the amendment. It does not call for any information from the Secretary of the Treasury; it calls merely for whatever information is in his possession. Is it possible, because he is Secretary of the Treasury, that if he has any papers or information, he cannot send them?

Mr. WALLACE. That involves newspaper information or loose rumors that may be in the custody of the Secretary of the Treasury on the subject-matter to which this resolution relates. I imagine the Senate will not ask the opinion of the Secretary of the Treasury or get such information from him on a subject of this character in that form.

Mr. EDMUNDS. I wish to repeat, so that everybody will understand it, that there is not a line or a syllable or an implication in the amendment I have offered calling for anybody's opinion or anybody's outside information; but if these accounts and vouchers in the Treasury are what they ought to be, the papers will show upon whose application and in what exigency the appointments were made for which this money was expended and whether the number of marshals appointed was too great or too small. It does not call for anybody's opinion or anybody's guess; but whatever information in connection with these accounts and vouchers exists there, as the foundation for them, I need; if the Senator does not want it, he can vote against it.

Mr. KERNAN. It seems to me that this committee ought to be allowed to get the facts which they need without this attempt to embarrass them. I am opposed to the idea of calling on Secretaries to send here information in their possession. When the investigation is made let them be called and sworn, and we shall have facts and not what somebody else said.

Mr. SAULSBURY. It seems to me that the other side should not object to giving information on this subject. They have had control of this body until a very recent date; there has been no attempt on the part of Senators on their side of the Chamber to elicit the information which is now sought either by the original resolution or by

the amendments which are proposed, apparently for the purpose of embarrassing the passage of the resolution. I should be very glad to see our brethren on the other side take their present situation a little more cheerfully. I could congratulate them, from the experience of a number of years in the minority, on the fact that it is a much pleasanter position than I apprehend they found as members of the majority. They can aid in giving proper information at the proper time and in a proper way; but on this side of the House when we strike a line on our own action it is a duty to ourselves not to permit the other side of the House to shape our course of policy in reference to any particular measure. It had better be understood at once that the democratic party in possession have responsibilities now upon them, and intend to pursue their own line of policy, uncontrolled and uninfluenced by what may be the wishes of the other side in reference to questions especially of a political character. I hope our friends on the other side will reconcile themselves to their present position, and like Christian statesmen bear it manfully. [Laughter.]

Mr. EDMUNDS. Mr. President, I had always labored under the impression that even where there were two parties in the Senate, members of both parties were still Senators, and until this moment I had supposed—I am informed otherwise now—that Senators in a minority even, had an opportunity and a right to offer amendments to pending measures. I had not supposed before (because such was never the practice to my knowledge) that a minority was to be assailed for proposing to improve legislation at all, unless we correct the yea and nay list and must vote one way or the other. I do not know but that some conclave of the democracy somewhere—because it is said there are frequent conclaves of that kind now—will bring in a resolution to correct the yea and nay list and strike off all the republican names. It would leave the responsibility still with the democratic party where it belongs, they say.

Mr. President, that sort of thing I am sorry to hear in this Chamber. I believe when the Senator from Delaware was in the minority—and I expect to live to see the day when he will again assume that graceful position [laughter]—that he was constant in season and out of season in proposing improvements, as they appeared to him, to measures that were proposed by gentlemen who did not happen to agree with him about the universal state of the Union, and they were frequently adopted, I am glad to say, because it had not occurred to any Senator that I know of of a different political opinion, that it was not equally his right and his duty when measures were proposed in this body to move to amend them. Until the present time I had supposed there was an equal right, if anybody should propose a proposition germane and fit, that even a Senator in the majority might vote for it, and that the propriety of agreeing to it depended upon its merits and not upon the particular Senator that had the honor to offer it.

I cannot say that I am glad to know that the rule has been so recently changed, and that the minority in this body may be dismissed from all responsibility or the right to vote upon or express an opinion upon anything that the responsible majority have determined to do. I am sorry to hear that. I am afraid that the people, if there be any, who are still interested in this Congress will be sorry also; but it will be corrected by and by.

Now, Mr. President, all that I have to say in addition is that if this resolution is proposed in serious earnest to get from the Secretary of the Treasury the information that he is supposed to possess regarding these accounts and the papers upon which they are founded, then the Senate ought to agree to the amendment which I have offered, because that is all that is called for, neither newspaper reports nor outside sayings, but it is the ordinary statement of information in the possession of an official of the Government, which bears upon the question of these accounts. I ask for the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague [Mr. DAVIS] is absent, paired with the Senator from Minnesota, [Mr. WINDOM.] If he were here, my colleague would vote "nay."

Mr. MCMILLAN, (when Mr. WINDOM's name was called.) My colleague [Mr. WINDOM] is paired with the Senator from West Virginia, [Mr. DAVIS.] He would vote "yea," if present.

The roll-call having been concluded, the result was announced—yeas 27, nays 36; as follows:

YEAS—27.

Allison,	Conkling,	Ingalls,	Paddock,
Anthony,	Dawes,	Jones of Nevada,	Platt,
Blaine,	Edmunds,	Kellogg	Plumb,
Bruce,	Ferry,	Kirkwood,	Rollins,
Cameron of Pa.,	Hamlin,	Logan,	Saunders,
Cameron of Wis.,	Hill of Colorado,	McMillan,	Teller.
Chandler,	Hoar,	Morrill,	

NAYS—36.

Bailey,	Garland,	Kernan,	Slater,
Bayard,	Grover,	Lamar,	Thurman,
Beck,	Harris,	McDonald,	Vance,
Butler,	Hereford,	McPherson,	Vest,
Call,	Hill of Georgia,	Maxey,	Voorhees,
Cockrell,	Houston,	Morgan,	Walker,
Coke,	Johnston,	Pendleton,	Wallace.
Eaton,	Jonas,	Ransom,	Williams,
Farley,	Jones of Florida,	Saulsbury,	Withers.

ABSENT—10.

Booth,	Davis of Illinois,	Randolph,	Windom.
Burnside,	Davis of W. Va.,	Sharon,	
Carpenter,	Groome,	Whyte,	

So the amendment was rejected.

Mr. EDMUNDS. In order to guard against any prejudice that may have arisen or fear of delay, I will now offer the following amendment, which is the same I offered before, with this change, so that it now reads in this way:

Resolved, That as soon as may be, after the information required by the foregoing resolution shall be furnished, he report fully all information in his possession, &c.

The VICE-PRESIDENT. The amendment of the Senator from Vermont will be read.

The Secretary read as follows:

And resolved further, That, as soon as may be, after the information required by the foregoing resolution shall be furnished, he report fully all information in his possession touching the occasion and necessity of such expenditures, and the operation of the laws under which they were made.

Mr. BECK. Is it in order to offer an amendment to that amendment?

The VICE-PRESIDENT. It is.

Mr. BECK. I wanted to offer an amendment to give the Secretary of the Treasury authority to go before the Teller committee and tell them all about it.

Mr. CONKLING. What committee?

Mr. BECK. The Wallace committee. I beg pardon. Let him go before that committee and give them any information he may have.

Mr. CONKLING. I ask the Senator from Vermont if the amendment now provides that, without delaying at all a response to the foregoing resolution, but after having answered it, then the Secretary shall furnish this information as far as he possesses it.

Mr. EDMUNDS. That is it exactly.

Mr. EATON. His opinion.

Mr. CONKLING. I hear the Senator say in his seat something on which I hope he will not stand in his vote. There is no opinion about it.

Mr. EATON. It does not mean anything else.

Mr. CONKLING. But simply the information, the official information upon which this money was paid, is to be sent here, and a majority of this Chamber, if the other vote indicates what it will do, is about to vote that he shall cut out the items and the totals and withhold the reasons, the explanations, the exigencies, the necessities on which he acted. Let them vote that way if they want to.

Mr. EATON. My friend from New York will permit us to exercise our own judgment with regard to voting. We shall vote, doubtless, as we think advisable. The word "official" is not there, and I assert again that it is the mere information that comes from one source and another to this Department that is sought to be brought before the Senate, and I shall vote against it.

Mr. CONKLING. The Senator from New York would not only, if he had power, permit the Senators on the other side to vote on their judgment, but he would rejoice to know they were going to vote even on that judgment.

Mr. EATON. We are.

Mr. CONKLING. I hope so.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Vermont.

Mr. EDMUNDS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 37; as follows:

YEAS—26.

Allison,	Conkling,	Ingalls,	Platt,
Anthony,	Dawes,	Jones of Nevada,	Plumb,
Blaine,	Edmunds,	Kirkwood,	Rollins,
Bruce,	Ferry,	Logan,	Saunders,
Cameron of Pa.,	Hamlin,	McMillan,	Teller.
Cameron of Wis.,	Hill of Colorado,	Morrill,	
Chandler,	Hoar,	Paddock,	

NAYS—37.

Bailey,	Groome,	Lamar,	Vance,
Bayard,	Grover,	McDonald,	Vest,
Beck,	Harris,	McPherson,	Voorhees,
Butler,	Hereford,	Maxey,	Walker,
Call,	Hill of Georgia,	Morgan,	Wallace,
Cockrell,	Houston,	Pendleton,	Williams,
Coke,	Johnston,	Ransom,	Withers.
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	
Garland,	Kernan,	Thurman,	

ABSENT—10.

Booth,	Davis of Illinois,	Randolph,	Windom.
Burnside,	Davis of W. Va.,	Sharon,	
Carpenter,	Kellogg,	Whyte,	

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs, will the Senate agree to the resolution of the Senator from Pennsylvania as amended?

The resolution, as amended, was agreed to.

SMITHSONIAN REGENTS.

The VICE-PRESIDENT. The Chair makes the following appointment:

Under the provision of the Revised Statutes of the United States, the Chair appoints NEWTON BOOTH, a Senator of the United States from the State of California, a member of the Board of Regents of the

Smithsonian Institution to fill the vacancy in said board occasioned by the expiration of the term of service of A. A. Sargent, late a Senator of the United States from the State of California.

EXECUTIVE SESSION.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fourteen minutes spent in executive session, the doors were reopened, and (at two o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 21, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADJOURNMENT OVER.

Mr. FERNANDO WOOD. I rise to a privileged motion.

The SPEAKER. The gentleman will state it.

Mr. FERNANDO WOOD. I move that when the House adjourns to-day it be to meet on Tuesday next.

The motion was agreed to.

Mr. FERNANDO WOOD moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE OF ELECTIONS.

Mr. ELLIS. I rise to a question of privilege, one affecting the rules. I send to the Clerk's desk a resolution which I ask may be read.

The Clerk read as follows:

Resolved, That the number of the Committee of Elections be increased from eleven to nineteen members.

Mr. ELLIS. I desire the House to adopt this resolution for reasons which I will state. I have served upon the Committee of Elections for the last two years. With a committee consisting of only eleven members, it is impossible that there can be more than three subcommittees at one time. The consequence is that the determination of cases of contest is delayed, and very frequently such cases are never decided at all, while others are not decided until the closing hours of the Congress. Hence very often constituencies are misrepresented—are represented for the larger part of the whole Congress by persons who were never rightfully elected as members. These persons sometimes draw pay for the whole two years, while the members rightfully elected, when admitted in the closing hours of the Congress, draw their pay of course for the same term.

As a measure, then, in the interest of correct representation and as a measure also of economy, I think the resolution should be adopted. It proposes to increase the number of members on the Committee of Elections from eleven to nineteen. Thus there could be six subcommittees sitting at the same time, so that reports could be made much more speedily than they have been. These cases of contest are constantly growing both in number and importance. The records are very voluminous. There are always long printed as well as long oral arguments in these cases. As the committee has been constituted heretofore, it is a matter of impossibility for a Representative to perform properly the ordinary duties devolving upon him as such and at the same time attend faithfully to his duties as a member of this committee.

I have consulted in reference to this subject with a number of leading gentlemen of the House—among them the honorable gentleman from Virginia [Mr. HARRIS] who for the last four years has been chairman of the Committee of Elections; and these gentlemen concur in the justice and wisdom of this measure. If no gentleman wishes to say anything upon this subject I will ask the previous question.

Mr. MILLS. I desire to suggest the propriety of having two committees upon the subject of elections. If there be one committee of nineteen members it will be too large a body to transact business properly. I am satisfied that there is a necessity for increasing the force that must investigate contested elections in this House. Those who have been members here for a number of years know that repeatedly the decision of contested elections has been kept back until the expiring hours of a Congress. I once saw two members from the State of Louisiana seated here by the very last vote that was cast in the Congress.

It is frequently the case in the State Legislatures (I know it is so in the Legislature of my own State) that two committees are appointed to take charge of the same class of business where there is much business of that character. I know that in the Legislature of Texas we have two judiciary committees—No. 1 and No. 2. I suggest to my friend from Louisiana to modify his resolution so as to require the creation of a second Committee of Elections to be called "Committee of Elections No. 2."

Mr. ELLIS. I fail to see how two committees could more speedily decide these cases than one. In truth, I think that one organized body can transact business much more rapidly than two. I fail to see the force of the suggestion of my friend from Texas, [Mr. MILLS.]

Mr. TUCKER. How would the duties of the two committees be distributed?

Mr. ELLIS. As suggested by my friend from Virginia, I would ask how the duties would be distributed between the two committees?

Mr. MILLS. Let each case be specially referred to its particular committee, either committee No. 1 or committee No. 2, as the House might decide.

Mr. CONGER. Is this debate going on by unanimous consent? I think that the resolution had better lie over.

Mr. FRYE. I did not understand that the request of the gentleman was to have the proposition acted upon now.

Mr. ELLIS. Yes, sir.

Mr. FRYE. Then, Mr. Speaker, I desire to enter a motion that the resolution be referred to the Committee on Rules. There are several propositions now pending in relation to changes and amendments of the rules. In my view the rules should not be changed hastily or without due and careful consideration. It seems to me a great deal safer to refer propositions of this kind to the Committee on Rules.

Mr. ELLIS. I have no desire to press the adoption of the resolution at this time. I think the suggestion of my friend from Maine [Mr. FRYE] is a good one. I only desired to call the attention of the House to this matter. I assent to the motion for a reference of the resolution to the Committee on Rules.

Mr. HARRIS, of Virginia. Before the resolution is referred, I desire to say a word. I indorse all that the gentleman from Louisiana, [Mr. ELLIS,] lately my colleague on the Committee of Elections, has said. I desire the House and the Committee on Rules to know that it is a mental and physical impossibility for any Committee of Elections organized as heretofore to consider and report properly upon all the various contests in time for prompt action by the House. In one case alone during the last Congress there were more than thirteen hundred pages of closely printed matter. In the various cases coming before the committee, there is enough printed matter to occupy the whole time of a member in examining and studying it. In order to expedite the decision of these contested-election cases, and to save money to the country, the committee should be so enlarged that a number of cases can be investigated by subcommittees at the same time. I hope, therefore, that the Committee on Rules will report favorably the resolution offered by the gentleman from Louisiana.

Mr. MILLS. There is this difficulty about the proposition of my friend from Louisiana, that every single, solitary contested election case has to go to that committee, and all the nineteen will have to read all the testimony and hear all the arguments. Now, nineteen persons cannot attend to that business any more rapidly than eleven can, whereas if you have two committees, and the business is sent from that desk either to committee No. 1 or committee No. 2, the two committees could be attending to two different cases at the same time.

My own opinion, Mr. Speaker, is that every contested-election case coming before this House ought to be referred at once to a select committee, and each case to a different one. It is a right the people have to send a Representative here and to have his case brought before the House, and to put him into his seat at the earliest possible moment. We have seen for years, however, one-half of the contested-election cases pushed over to the end of the session or to the very end of the term of the Congress itself, and often cases are not decided until the last expiring moments. Not only is the man deprived of the right belonging to him here as a Representative, but his constituency are deprived of the much greater and more important right of representation upon this floor.

Now, I think these objections could be obviated by having two committees—one No. 1 and another No. 2—and have all election cases referred either to No. 1 or No. 2, as the Speaker might think proper. But, as I have already suggested, in my opinion the better plan would be to have each case coming before this Congress referred to a select committee, to be reported back in a few weeks and acted upon promptly.

Mr. FRYE. I desire to say a word, if the gentleman from Louisiana will yield to me for a moment for that purpose.

Mr. ELLIS. Certainly.

Mr. FRYE. I am not entirely sure that it would not be as well to dispense with the Committee of Elections entirely and to refer every election case to the House itself. I said the other day (and I wish to apologize for it now) that I did not believe there was total depravity on the other side, and on a standing vote I found I was right, as there was one gentleman on that side who voted for my proposition; but when it came to the call of the yeas and nays he backed out, and I now want to take back the statement I made. [Laughter.]

Mr. ELLIS. The gentleman discovered something on this side which I failed to discover on that. [Laughter.]

The resolution was referred to the Committee on Rules.

Mr. BUCKNER. Before the House passes from that question, let me say that during the last Congress there were several instances where democrats had the independence to vote against the report of their committee, while Mr. Cox, of Ohio, was the only instance on the other side of a member voting against the views of his party friends.

Mr. FRYE. That is because we were always right. [Laughter.]

Mr. REAGAN. I ask by unanimous consent to introduce the bills which I send to the Clerk's desk, for reference to the appropriate committees, when appointed.

Mr. CONGER. I object.

SPREAD OF EPIDEMIC DISEASES.

Mr. YOUNG, of Tennessee. I ask to introduce the following resolution for action at the present time.

The Clerk read as follows:

Resolved, That a select committee of nine members be appointed by the Speaker of the House, who shall, in connection with a similar committee already appointed by resolution of the Senate, investigate and report the best method of preventing the introduction and spread of epidemic diseases, especially of yellow fever and cholera, within the limits of the United States; and that said committee be allowed a clerk, and be vested with all the powers which were heretofore possessed by the same committee in the Forty-fifth Congress.

Mr. CONGER. I object.

Mr. YOUNG, of Tennessee. I hope the gentleman from Michigan will allow the resolution to come in for reference to the Committee on Rules.

Mr. CONGER. I object.

Mr. KNOTT. I move the House adjourn.

Mr. SPRINGER. I wish to call up the amendment to the rules of the House.

The House divided; and there were—ayes 130, noes 42.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were not ordered.

So the motion was agreed to; and accordingly (at twelve o'clock and twenty minutes p. m.) the House adjourned till Tuesday next.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BELTZHOOVER: The petition of laborers in the Post-Office Department, for an increase of pay—to the Committee of Ways and Means, when appointed.

By Mr. DEUSTER: The petition of John Black and others, citizens of Milwaukee, Wisconsin, for the repeal of section 7 of the revenue law, relating to wine, distilled and fermented liquors—to the same committee, when appointed.

By Mr. HILL: The petition of James Myers and others, of Putnam County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. STEELE: The petition of Elliott & Remley, of Charlotte, North Carolina, for the repeal of section 7 of the revenue law, relating to wine, distilled and fermented liquors—to the Committee of Ways and Means, when appointed.

By Mr. WHITEAKER: The petition of Samuel Abbott and others, for an increase of the pensions of soldiers of the war of 1812—to the Committee on Revolutionary Pensions, when appointed.

Also, resolutions of the Board of Trade of Portland, Oregon, favoring the erection of a separate United States custom-house building and bonded warehouse at that port—to the Committee on Public Buildings and Grounds, when appointed.

By Mr. WILLITS: Resolution of the Legislature of Michigan, relating to the deepening of Saint Mary's River—to the Committee on Commerce, when appointed.

Also, resolution of the Legislature of Michigan, asking that the abolition of polygamy be made a condition-precedent to the admission of Utah as a State in the Federal Union—to the Committee on the Judiciary, when appointed.

IN SENATE.

MONDAY, *March* 24, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday last were read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, transmitting for the consideration of the Senate an estimate of the cost of carrying into effect the act fixing the pay of letter-carriers; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Education urging that the legislative, executive, and judicial appropriation bill as passed by the House of Representatives at the last session of Congress be so amended as to appropriate $25,640 for the salaries of the clerical force in his office for the next fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 24th instant, a report of the Chief of Engineers as to the effect produced by the dike across the East Harbor inlet at Provincetown, Massachusetts, upon the deposit of sand in Cape Cod Harbor at the mouth of that inlet; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from Lieutenant F. C. Nichols, First Artillery, requesting that section 1 of the act of March 2, 1867, be so amended as to allow officers now in the Army who served as officers of volunteers in the Mexican war credit for the time thus served in computing the length of their service, in order to determine the allowance for longevity rations and fixing relative rank; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a resolution of the Legislative Assembly of the Territory of Arizona, in favor of the passage of a law by Congress authorizing the establishment of a Government assay office in that Territory; which was referred to the Committee on Finance.

He also presented a resolution of the Legislature of New Jersey, in favor of the appointment of agents by the General Government to visit the South American States to collect and arrange in tabular form the statistics of the various commercial articles and native products of that country of an exportable character, &c.; for the purpose of advancing, by treaties, the mutual commercial interests existing between the United States and that country; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Maine, in favor of an appropriation of $60,000 by Congress to aid in the building of bridges on the northeastern boundary line of that State over the rivers Saint John and Saint Francis where they are the line of boundary between the United States and Canada; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of an appropriation by Congress for the enlargement and completion of the penitentiary in that Territory; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of an appropriation by Congress for the construction of a military telegraph from Fort Ellis, in that Territory, to the head of navigation on the Missouri River; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of the establishment of a cavalry post at or near Henry's Lake, in that Territory; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of the establishment of a United States land office at Miles City, in that Territory; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of a modification of the treaty between the United States and the empire of China, so as to prevent the further immigration of Chinese to this country; which was referred to the Committee on Foreign Relations.

He also presented the petition of James R. P. Legg and others, citizens of Lee County, Virginia, and the petition of William M. Newton and others, citizens of Bear Creek, Texas, praying for the passage of a law regulating interstate commerce and prohibiting unjust discriminations by common carriers; which were referred to the Committee on Commerce.

He also presented the petition of Thomas G. Morris and others, citizens of Lee County, Virginia, praying for the reduction of the tax on tobacco from twenty-four cents to sixteen cents per pound; which was referred to the Committee on Finance.

Mr. CHANDLER presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement of the harbor of Saugatuck, in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement and deepening of the Saint Mary's River; which was referred to the Committee on Commerce.

He also presented the petition of Edgar Weeks and others, citizens of Mount Clemens, Michigan, praying for an appropriation of $20,000 for the improvement of the channel of Lake Saint Clair at the mouth of Clinton River, in that State; which was referred to the Committee on Commerce.

Mr. LOGAN presented a joint resolution of the Legislature of Illinois, in favor of the expenditure of part of the money appropriated for the improvement of the Mississippi River to protect the navigation of that river along its shore in Madison County, in that State; which was referred to the Committee on Commerce.

He also presented the petition of W. J. Gardner and others, citizens of Illinois, soldiers of the Mexican war, praying for the passage of a law granting to soldiers of that war a pension of $8 per month, and placing them on an equal footing with the soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, presented the petition of Anson Dart, late superintendent of Indian affairs on the Pacific coast, pray-

ing for the passage of a law compensating him for services rendered as such; which was referred to the Committee on Claims.

He also presented a memorial of the Legislature of Wisconsin, in favor of an appropriation by Congress for the improvement of the bay and harbor of Superior, in that State; which was referred to the Committee on Commerce.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement of the harbor of Saugatuck, in that State; which was referred to the Committee on Commerce.

Mr. WHYTE presented the petition of Cornelia Mayer, widow of Lieutenant-Colonel Brantz Mayer, late of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of John S. Saunders, of Baltimore, Maryland, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. BECK presented the petition of Elizabeth Sutherland, widow of Hosie Sutherland, a soldier of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. WALLACE. I present the memorial of Joseph C. G. Kennedy, of Washington, District of Columbia, in relation to certain laws governing the taking of the national census. I ask that it be read, and referred to the select committee on that subject.

The VICE-PRESIDENT. The memorial will be reported.

The memorial was read, and referred to the Select Committee to make provision for taking the Tenth Census, as follows:

To the Senate and House of Representatives in Congress assembled:

The undersigned, a citizen of the United States, presents his humble prayer to the two Houses of Congress, not asking any personal favor or individual right or benefit, but simply from a sense of duty to the country, to represent in plain words and a frank spirit the extraordinary nature of some recent legislation touching the national census, in entire confidence that inspection will confirm the representations of what, in his opinion, has been the result of hasty legislation, which, if not remedied, will not only establish a pernicious legislative precedent, but involve an extraordinary and useless waste of money and inflict reproach upon American appreciation of statistical science. It will be my aim to state frankly a few of the numerous defects of the law passed in the last hours of the Forty-fifth Congress, and to express my readiness, on being requested thereto, to appear before any committee to which this memorial may be referred and prove from the law itself the truth of my representations. It is perhaps of no material bearing upon the administration of the law just passed that it specifies the omission of certain subjects of inquiry as embraced by the law which were never included, while it enumerates certain objects of inquiry to be legislated into existence which were already in the law and have place in the three last censuses, and the importance of these variations was urged in both Houses as among the most essential demands of advanced statistical sciences.

Your petitioner represents, first, the law specifies two distinct and different days for the enumeration to commence and to which the census shall apply. Should all or any portion of the enumerators adopt the second period specified, one of the greatest objects of a periodical census will be defeated by a variation of the decadal year.

Second. The remuneration for specific services which appears to be carefully guarded by one section is entirely counteracted by subsequent provisions which grant a discretion in the disbursement of millions of treasure such as has never been conceded even in a time of war.

Third. There is one defect in the bill which alone, had its nature been appreciated, would, in my opinion, have justified the President in withholding his approval. I refer to the failure to provide for a single copy of the original returns. Heretofore, and very wisely, there have always been two copies, one of which was filed at each county seat and one with each secretary of state, so that in event of loss of original the deficiency could be easily remedied. As the law now stands, if the originals be destroyed by fire or lost *in transitu* there will be no possibility of effecting State or national apportionments until after a meeting of Congress and the enactment (and execution) of a law to provide for a new census. But this is not the worst, there being but one original list of numbers on tens of thousands of separate sheets nothing will be more easy than the abstraction or destruction of a few sheets here and there to affect the State and national apportionments without the possibility of detection or discovery, and all know there is no greater incentive to such crimes at a time of political excitement than the impunity wherewith they may be perpetrated. In two censuses, under the law of 1850, returns of States were lost. But it is quite proper that each State should possess a copy not only to verify pronounced results but for State uses of what the people pay for, and that views of gain from the control of all the social and economical facts relating to fifty million people should not be encouraged by a yielding to interested representations.

Fourth. While there appears to be a limit of time within which the enumerators shall make return of the interests provided for, the restriction is made applicable only to population, and none to other equally important interests; and while provision is made for terminating the existence of the Census Office "upon the completion of its duties," there is nothing to preclude the protraction of those duties to an indefinite period, and the contention which is sure to ensue as to the compensation, when undetermined by law, may be encouraged to preserve the already appropriated fund for the payment of salaries.

Fifth. According to the terms of the law it will be absolutely impossible for any enumerator to appreciate what will be the nature of his duties or the remuneration he may expect, as the form of his oath obliges him to collect "all the statistical facts within his subdivision," while there are conflicting provisions in the law which may and will deprive him of all but some single service, the remuneration wherefor will not be adequate, and which will lead to dissatisfaction, resulting in negligence of duty or its reckless performance. While the sum of $3,000,000 judiciously expended might prove sufficient for a census taken under the guards of the law of 1850, (although that of 1870 cost about three and a half millions,) the limit of $3,000,000, whereto the coming census with its confessedly vaster scope is restricted, must result in depriving the laborer of his earnings in the service of the Government, or lead to disgraceful failure in the prosecution of the census as provided by law, and the authority of one individual of limited experience for this amount will be but small consideration for the endless and just claims of the army of census-takers which will for years demand the consideration of Congress. Such are some of the inconsistencies and faults of the law to which the attention of Congress is asked, in the hope that their mention by one not inexperienced in the subject will induce a timely consideration of what is essential to a good census, and to what is due to the people of the United States who are to bear the charge. In the opinion of your petitioner the proposition to take a census of the Indians of the United States through a bureau officer armed only with portfolio and paper is most preposterous, implying as of easy practicability which all know to be impossible except as to peaceful and subjected tribes, the numbers whereof are already known; while the provision to pay one-half the expenses of intermediate State censuses would effect at the cost of the whole people that which very properly has ever been done at the charge of the States making such enumerations, and which is no more justly a charge upon other States than the cost of their State elections. The unprecedented grant of patronage to a bureau officer, who may determine the compensation of twenty thousand subordinates "without regard to locality," which, although its improper exercise may not be supposed possible under the present Administration, may nevertheless at some future period be converted into an engine of fearful political import. The grant of authority by the bill to any subsequent administrator of the census at his discretion to omit the enumeration of anything heretofore included, is an unprecedented license of most dangerous tendency, and would prove especially injurious, as I am prepared to show, if executed as to omission of interests which were in contemplation when so deleterious a provision was inserted in the bill.

Your petitioner claims his ability to prove beyond doubt the untruthfulness of the representations which have induced certain changes in the law, as he is to demonstrate that they who recommended their propriety could not have understood the real importance of what was excluded, nor the injurious consequence of the omissions.

JOSEPH C. G. KENNEDY.

WASHINGTON, *March* 20, 1879.

Mr. WITHERS presented the petition of Elizabeth Cassidy, praying for the passage of a law granting her arrears of pension for services rendered by her son George H. Cassidy, late lieutenant Sixteenth West Virginia Volunteers; which was referred to the Committee on Pensions.

Mr. BUTLER presented the petition of Beverly Kennon, inventor of a counterpoise battery for the protection of cannon in coast defense, praying for an appropriation of $15,000, to be expended under the direction of the Secretary of War and the Secretary of the Navy, to test his invention; which was referred to the Committee on Military Affairs.

Mr. GARLAND. I present a memorial of the Choctaw Nation of Indians, in favor of an adjustment of their claims under the treaty of 1855 in the courts; and therefore I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. GARLAND presented the petition of Mrs. Thomas Hendrickson, widow of Major Thomas Hendrickson, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of William Poland and others, liquor dealers in the city of Little Rock, Arkansas, praying for the repeal of section 7 of the act to amend the laws relating to internal revenue approved March 1, 1879; which was referred to the Committee on Finance.

Mr. COCKRELL presented the petition of Harding, Parker & Co. and others, citizens of Saint Louis, Missouri, praying for the repeal of section 7 of the act to amend the laws relating to internal revenue, approved March 1, 1879; which was referred to the Committee on Finance.

He also presented concurrent resolutions of the Legislature of Missouri, in favor of an appropriation by Congress for the improvement of the rivers of the Western States, and especially the Mississippi River; which was referred to the Committee on Commerce.

Mr. JONAS presented the petition of George A. R. Baum, late first lieutenant Company B, Second Louisiana Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. DAWES. I present a resolution of the Legislature of Massachusetts, requesting their Representatives and instructing their Senators to use their best exertions to forward the claims of the soldiers and sailors from that State in the late war, now pending before the Pension department. I move that this resolution be referred to the Committee on Pensions and printed, and that it be also printed in the RECORD.

The motion was agreed to.

The memorial is as follows:

COMMONWEALTH OF MASSACHUSETTS,
In the year 1879.

Resolve relative to the claims of soldiers and sailors of the late war.

Resolved, That the Senators and Representatives in Congress from this Commonwealth be, and they are hereby, requested to use their best exertions for the purpose of forwarding the claims of the soldiers and sailors of this State, now pending at the Pension department at Washington.

Resolved, That a copy of this resolve be transmitted by the secretary of the Commonwealth to each of our Senators and Representatives in Congress.

HOUSE OF REPRESENTATIVES, *March* 5, 1879.

Passed.

LEVI C. WADE,
Speaker.

IN SENATE, *March* 6, 1879.

Passed.

JOHN B. D. COGSWELL,
President.

MARCH 6, 1879.

Approved.

THOMAS TALBOT.

Mr. DAWES presented the petition of Jeannette S. Johnson, of New Haven, Connecticut, praying compensation for property taken and used by the United States military authorities in Oregon in the year 1856; which was referred to the Committee on Claims.

Mr. PADDOCK presented a letter from Edgar Huff, of Lincoln,

Nebraska, in the nature of a petition, in relation to his homestead entry upon certain lands in that State; which was referred to the Committee on Public Lands.

Mr. WITHERS. I present certain papers in connection with the claim of H. H. Cook, and move their reference to the Committee on Claims, to accompany the bill (S. No. 66) for the relief of Hortensia H. Cook, which has been previously introduced.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to which was referred the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes, reported it without amendment.

BILLS INTRODUCED.

Mr. COCKRELL. I desire, without previous notice, to introduce a bill to amend sections 2304 to 2309 of the Revised Statutes of the United States, in regard to homesteads, so as to authorize the State troops of Missouri who served during the war to take benefit under that law.

By unanimous consent, leave was granted to introduce a bill (S. No. 97) to amend sections 2304, 2305, 2306, 2307, 2308 and 2309 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 98) to provide for the settlement of accounts with certain railway companies; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 99) for the relief of Samuel H. Chew; which was read twice by its title, and, together with the papers on the files on this subject, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 100) for the relief of A. S. Bloom, late a major in the Seventh Kentucky Volunteer Cavalry; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 101) for the relief of Elizabeth Carson; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 102) for the relief of Oliver H. Perry, administrator of Mary Scott, deceased; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 103) for the relief of Rosa Vertner Jeffreys; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 104) for the relief of the estate of J. Milton Best, deceased, of Kentucky; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 105) for the relief of John Gault, jr., late a major of the Twenty-eighth Regiment of Kentucky Volunteer Infantry; which was read twice by its title, and, together with the papers on the files in the case, referred to the Committee on Military Affairs.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 106) for the relief of sufferers by loss of the Government steamer J. Don Cameron; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Military Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 107) for the relief of James L. Williams; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States; which was read twice by its title, and referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 109) to incorporate the Mount Pleasant Railroad Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 110) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HILL, of Georgia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 111) for the relief of the city of Macon, Georgia; which was read twice by its title, and referred to the Committee on Finance.

Mr. SAULSBURY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 112) for the promotion of justice in the Army and Navy by permitting appeal from courts-martial to United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 113) to correct an error in section 1588 of the Revised Statutes, in reference to the pay of retired officers of the Navy; which was read twice by its title, and referred to the Committee on the Revision of the Laws.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 114) to prevent officers of the Navy from being kept upon the retired list after the disability for which they were placed there has ceased; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 115) to aid in the construction of a military, commercial, and postal rail highway from the district headquarters of the United States Army at San Antonio, in the State of Texas, to the Rio Grande, at or near the town of Laredo; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 116) to authorize the Secretary of War to contract with the Galveston and Camargo Railway Company for the immediate construction of its line of road to Rio Grande City, opposite Camargo, Mexico, as a coast defense, and for the purpose of establishing a postal and military rail highway to the Rio Grande; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 117) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 118) to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 119) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award; which was read twice by its title.

Mr. VOORHEES. In connection with that bill I desire to present the petition of seamen, officers, and shippers on vessels destroyed by the Alabama, Florida, and Shenandoah in their own behalf and of others, also the petition of the owners of the bark Harvest, and a similar petition of the owners of the Dispatch Line of packet ships between New York and China. I move that these petitions be printed and referred, with the bill, to the Committee on the Judiciary.

The motion was agreed to.

Mr. VOORHEES. I also ask leave to introduce a bill accompanied by a memorial, which I ask may be printed and referred to the Committee on the Judiciary.

By unanimous consent, leave was granted to introduce a bill (S. No. 120) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary, and the memorial was ordered to be printed.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 121) granting the right of way to and making a grant of land in aid of the construction of the New Orleans, Texas and Colorado Railway; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 122) authorizing the Secretary of War to transfer to certain settlers whose lands were included within Fort Hartsuff military reservation such portions as are not needed for military purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 123) providing for filling vacancies in the office of Chief of Engineers, United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 124) for the final settlement of an award in favor of the Choctaw Nation; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 125) to appoint Spruille Braden an ensign in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. DAWES. I have been requested to ask leave to introduce a bill for reference to the Committee on Indian Affairs. With it are several petitions in aid of the bill, and several other documents, which I ask may be referred to that committee.

By unanimous consent, leave was granted to introduce a bill (S. No. 126) to allow certain Indians to enter homesteads from lands oc-

cupied by them; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. DAWES also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 127) for the relief of Henry C. De Ahna, late collector of customs at Sitka, Alaska; which was read twice by its title, and referred to the Committee on Finance.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 128) for the relief of Edward Shields and others; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 129) authorizing the restoration of the name of Thomas H. Carpenter, late captain Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 130) for the relief of Dabny Walker; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 131) for the relief of John W. Chickering; which was read twice by its title, and, together with the papers on file relating to the case, referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 132) granting a pension to Fannie Lull; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 133) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 134) to secure the completion of a line of railway from San Antonio, in the State of Texas, to a point at or near Fort Clark, and thence to a point at or near El Paso upon the Rio Grande, to be known as the Mexican and Pacific extension of the Galveston, Harrisburgh, and San Antonio Railway; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 135) to authorize the Barrataria Ship-Canal Company to construct and operate a ship-canal from New Orleans to the Gulf of Mexico through the lands and over the waters of the United States, and to grant the right of way to said company for said purpose; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 136) authorizing mail steamship service in the Gulf of Mexico between the port of New Orleans, Louisiana, and certain ports of the Republic of Mexico; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 137) to aid the completion of the soldiers and sailors' monument at Chalmette National Cemetery, Louisiana; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 138) appropriating money to open and keep unobstructed the navigation of Red River, and to take care of property of the United States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 139) granting a pension to Henry A. Armstrong; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 140) to provide for paying certain advances made to the United States by the States of Maryland and Virginia; which was read twice by its title, and referred to the Committee on Claims

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 141) for the removal of the political disabilities of John S. Saunders, of Baltimore, Maryland; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 142) for the relief of John M. McClintock; which was read twice by its title, and, with the papers on the files relating to the case, referred to the Committee on Finance.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 143) for the relief of Louisa M. Mansfield; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BAYARD. I ask leave to introduce a bill for the relief of Horace J. Gambrill. I will say that I introduce this bill by request of the party interested. I know nothing about the merits of it.

By unanimous consent, leave was granted to introduce a bill (S. No. 144) for the relief of Horace J. Gambrill; which was read twice by its title, and referred to the Committee on Commerce.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 145) to amend section 3697 of the Revised Statutes with respect to interest on surrendered or called bonds; which was read twice by its title, and referred to the Committee on Finance.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 146) to authorize the Washington, Cincinnati and Saint Louis Railroad Company to construct a narrow-gauge railway from tide-water to the cities of Saint Louis and Chicago; which was read twice by its title, and referred to the Committee on Transportation Routes to the Seaboard.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 147) to authorize the President to restore Bernard Reilly, jr., to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 148) granting an increase of pension to J. Jackson Purman; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 149) for the relief of John Gotshall; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Military Affairs.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 150) to provide for punishing persons who steal horses, mules, and other property from the Indians; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 151) providing for the payment of counsel fees in Osage ceded land suits; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 152) for the relief of Thomas Lucas; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ANTHONY. As every Senator has his bill, I shall not be singular, but will bring to the attention of the Senate a bill which has already been under its consideration, and which I think has peculiar appropriateness for this day.

By unanimous consent, leave was granted to introduce a bill (S. No. 153) for the benefit of the legal representatives of Asbury Dickins; which was read twice by its title, and referred to the Committee on Claims.

Mr. HAMLIN. The Senate at its last session passed a bill granting a pension to John Smith. It was not reached in the House; and I again submit it to the Senate for the purpose of referring it to the Committee on Pensions.

By unanimous consent, leave was granted to introduce a bill (S. No. 154) granting a pension to John Smith; and it was read twice by its title, and referred to the Committee on Pensions.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 155) to authorize the Secretary of the Interior to ascertain the amounts due to citizens of the United States for supplies furnished to the Sioux or Dakota Indians of Minnesota subsequent to August, 1860, and prior to the massacre of August, 1862, and providing for the payment thereof; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 156) to establish an additional land district in the State of Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 157) in relation to certain fees allowed registers and receivers; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 158) for the relief of actual settlers upon the Osage Indian trust and diminished-reserve lands in the State of Kansas, and to provide for the sale of the unoccupied portion of said lands lying east of the sixth principal meridian; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 159) to provide for the sale of certain portions of the Fort Leavenworth military reservation; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 160) for the relief of H. A. Myers; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 161) to provide for the adjustment of the accounts of certain land-grant railroads in accordance with the decision of the Supreme Court, and to obviate the necessity of further litigation; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GROVER asked, and by unanimous consent obtained, leave to

introduce a bill (S. No. 162) to ascertain and report the losses of citizens of the State of Oregon and the Territories of Idaho and Montana on account of the destruction of property by hostile Indians in the year 1878; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BLAINE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 163) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 164) for the relief of Basil Moreland; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 165) to authorize the Worthington and Sioux Falls Railroad Company to extend its road from the village of Sioux Falls, in the Territory of Dakota, in a westerly direction to the east bank of the Missouri River; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 7) authorizing the Secretary of the Treasury to pay over to the State of Texas the balance remaining of the fund appropriated by the acts of September 9, 1850, and February 28, 1855, for the payment of the creditors of the late Republic of Texas; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. VANCE, it was

Ordered, That the papers in the case of Pauline Jones, widow of Alexander Jones, now on the files of the Senate, be withdrawn therefrom and referred to the Committee on Military Affairs.

On motion of Mr. CAMERON, of Pennsylvania, it was

Ordered, That Edward H. Leib have leave to withdraw his petition and papers from the files.

On motion of Mr. McMILLAN, it was

Ordered, That all papers relating to the claim of George M. Brott on the files of the Senate be taken therefrom and referred to the Committee on Claims.

Mr. WITHERS. I offer the following order:

Ordered, That the papers in the following cases be withdrawn from the files of the Senate and referred to the Committee on Claims:
R. A. Young & Brother;
Chieves, surviving partner, &c.;
Pickerell & Brooks; and
W. P. Burwell.

Mr. EDMUNDS. Do I understand that the Chair grants all these orders subject to the rule that no papers can be withdrawn where there is an adverse report?

The VICE-PRESIDENT. The Chair always grants the order on the condition imposed by the rule.

Mr. WITHERS. No report was made in these cases.

Mr. COCKRELL. These are merely orders of reference from the files of the Senate.

Mr. EDMUNDS. I know, but the rules of the Senate provide that papers shall not be withdrawn in claims cases where there is an adverse report.

Mr. WITHERS. There has been no report made at all.

Mr. COCKRELL. These papers are merely withdrawn and referred.

Mr. EDMUNDS. I do not doubt it. I merely inquired to know if the rules of the Senate were being violated, if that is of any consequence nowadays.

The VICE-PRESIDENT. The order will be granted on the condition imposed by the rule.

Mr. WILLIAMS submitted the following order:

Ordered, That the petitions and papers in the following cases be withdrawn from the files of the Senate and referred to appropriate committees, namely:
Milton W. Triplett—to the Committee on Claims.
Isaac F. Moore—to the Committee on Claims.
Henry B. Helm—to the Committee on Claims.
Walbridge, Holland & Brown—to the Committee on Claims.
Samuel Castleman—to the Committee on Claims.
James G. Howard—to the Committee on Military Affairs.
Wickliffe Cooper—to the Committee on Military Affairs.
William English—to the Committee on Military Affairs.

The VICE-PRESIDENT. It will be so ordered on the condition imposed by the rule.

Mr. COCKRELL. I rise to a parliamentary question, as to whether under the rules, when these papers are taken from the files of the Secretary and transferred to the files of a committee of the Senate, copies of the papers are to be left in the Secretary's office? I do not understand that there is any rule requiring copies of papers to be left in such cases.

The VICE-PRESIDENT. The Chair supposes not.

Mr. EDMUNDS. Of course not. The point I was calling attention to was the standing rule of the Senate, that where a claim is reported adversely—there may be some other qualification but that is enough for my point now—the papers shall not be taken from the files and referred to a committee to be tried over again, unless there is new evidence. That is the point I was calling attention to.

Mr. COCKRELL. Unless there is new evidence, and a memorial setting forth the fact, it cannot be done.

On motion of Mr. MAXEY, it was

Ordered, That the papers in the case of William Longnecker, of Texas, be taken from the files and referred to the Committee on Claims.

Ordered, That the papers relating to the sale of Fort Hartsuff reservation be taken from the files and referred to the Committee on Military Affairs.

Ordered, That the papers relating to promotion to the office of the Chief of Engineers be taken from the files and referred to the Committee on Military Affairs.

Ordered, That the papers relating to an appropriation for additional posts on the Rio Grande frontier be taken from the files and referred to the Committee on Military Affairs.

Ordered, That the papers relating to an appropriation for the enlargement and protection of the San Antonio arsenal be taken from the files and referred to the Committee on Military Affairs.

The VICE-PRESIDENT. There was no adverse report in these cases, the Chair understands.

Mr. MAXEY. There were favorable reports in every case except one, where no report at all was made.

On motion of Mr. HARRIS, it was

Ordered, That the petition and accompanying papers in the case of the Catholic church of St. Peter and St. Paul, at Chattanooga, Tennessee, be taken from the files and referred to the Committee on Claims.

On motion of Mr. BUTLER, it was

Ordered, That Prudence Pierce and Vanness Pierce have leave to withdraw their papers from the files of the Senate.

Mr. GARLAND. I ask a similar order in three cases in which there have been no reports made at all, namely:

Ordered, That the petition and papers in the case of Monroe Donoho, of Alabama, be taken from the files and referred to the Committee on Claims.

Ordered, That the petition and papers in the case of Charles P. Redmond, of Kansas, be taken from the files and referred to the Committee on Claims.

Ordered, That the papers in the case of Drury Bynum, of Mississippi, be taken from the files of the Senate and referred to the Committee on Public Lands.

The orders were agreed to.

On motion of Mr. HAMLIN, it was

Ordered, That the petition and papers in the case of John Smith be taken from the files and referred to the Committee on Pensions.

On motion of Mr. JONES, of Florida, it was

Ordered, That the petition and papers in the case of Mrs. Ellen Call Long be taken from the files and referred to the Committee on Claims.

Ordered, That the petition and papers in the case of Walter Tate be taken from the files of the Senate and referred to the Committee on Claims.

REPORT ON TRANSIT OF VENUS.

Mr. ANTHONY submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That the report of the observations of the transit of Venus under the direction of the Navy Department in December, 1874, be printed, and that 3,500 additional copies be printed, of which 1,000 shall be for the use of the Senate, 2,000 shall be for the use of the House of Representatives, and 500 copies for the use of the Navy Department: *Provided*, That all illustrations for the said volume shall be paid for from the appropriation already made for that purpose, so far as the same may be available.

ELECTION SUPERVISORS' EXPENSES.

Mr. McDONALD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be required to furnish to the Senate of the United States a statement of the amounts of moneys that have been drawn from the Treasury of the United States and paid to supervisors of elections, general and special, for the years 1876 and 1878, as compensation in excess of fees allowed by law for the performance of any duty as circuit court commissioners, and to state separately the amount of such compensation paid to supervisors of elections, general and special, in the cities of New York, Philadelphia, and Cincinnati for the years aforesaid.

TRANSACTIONS OF THE TREASURY DEPARTMENT.

Mr. SAULSBURY. I call up the resolution which I offered on the second day of the session.

The VICE-PRESIDENT. The Senator from Delaware calls up a resolution, which will be reported.

The Secretary read the following resolution, submitted by Mr. SAULSBURY on the 19th instant:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate of the amount of commissions or other compensation paid to bankers, brokers, firms, companies, syndicates, and individuals for services in negotiating the sale of bonds and other obligations of the United States from the year 1862 until the present time; when and to whom such commissions or compensation was paid; and when paid to syndicates, firms, corporations, or companies to state the names of the persons composing the same. And also to inform the Senate whether any, and, if any, what amount of commissions or other compensation has been paid to bankers, brokers, firms, companies, syndicates, and individuals for services rendered in refunding any of the bonds of the United States; and if any such payments have been made to state when and to whom made; and also whether interest has been paid on called bonds at the same time that interest was accruing on the bonds sold to redeem the same, and whether such double interest has been uniformly paid while the refunding operation has been in progress, or on bonds sold for resumption purposes, specifying whether there has been any exception to such payments of double interest, and who was Secretary of the Treasury at the time of such exception, and how much double interest has been paid on each class of bonds and the total amount thereof; and whether the money received for bonds sold by any bank or syndicate has in all cases been allowed to remain on deposit with the national banks acting as Government depositories pending this call of bonds, specifying the names of the banks and the length of time during which the proceeds of the bonds sold have been left on deposit with each bank; and whether at any time any gold coin has been delivered by the Treasury to any parties concerned in the negotiation of United States bonds or otherwise in exchange for or upon the security of United States bonds, or in advance of the payment thereof, pending any call of bonds on which interest was allowed or paid up to the date of the maturity of the call; and also whether any money in the Treasury held for the

payment of overdue called bonds has been left on deposit without interest in any Government depository, and what was the largest amount thereof at any one time, stating the names of the banks in which such money was deposited, and what security the Treasury held for the payment thereof when demanded.

The VICE-PRESIDENT. The question is, will the Senate agree to this resolution?

Mr. EATON. I desire to offer an amendment to the resolution, if my friend from Delaware will permit.

Mr. EDMUNDS. Is that the first resolution on the Calendar of resolutions?

The VICE-PRESIDENT. It is. The amendment offered by the Senator from Connecticut [Mr. EATON] will be reported.

The SECRETARY. It is proposed to amend the resolution by adding the following words:

And also whether other moneys of the Government have been, by the direction of the Secretary of the Treasury, at any time or times since March 4, 1877, deposited with any bank or banks, stating what moneys, the name of the bank or banks, the date and duration of such deposits, the amount thereof monthly, and the terms thereof.

The amendment was agreed to.

Mr. MORRILL. Mr. President, there is no possible objection to the passage of this resolution, and to obtaining all the information it seeks. I suppose that most Senators are perfectly familiar with the main facts which are now sought to be obtained from the Treasury Department. The only question there is about it is the vast amount of labor which the inquiry is to impose upon the Department. Here is a resolution going back for seventeen years, and going into very many details, asking for information that has not perhaps been communicated in precisely the form here asked for; and this resolution cannot be answered without the labor of very many clerks for many weeks. I only suggest that to the consideration of the Senator from Delaware.

Mr. SAULSBURY. A similar resolution to this passed this body on the 24th day of January, and there has been no indication whatever on the part of the Secretary of a purpose to comply with it, although I dropped him politely a note asking him to comply with it. I am sure the information which I seek here is not known to the great majority of the members of the Senate. I have introduced no resolution to duplicate information in the possession of the Senate, but the object is simply to inquire about matters upon which the public have a right to be informed. It is a simple resolution of inquiry, and I think there ought to be no objection to it from any quarter.

The VICE-PRESIDENT. The question is on agreeing to the resolution as amended.

The resolution, as amended, was agreed to.

LEGISLATION ON APPROPRIATION BILLS.

Mr. HOAR. I desire to give notice that to-morrow, at the expiration of the other morning business, I propose to call up the resolution which I introduced on Friday relative to legislation on appropriation bills, and to address the Senate on the question.

OFFICERS OF THE SENATE.

Mr. WALLACE. I move that the Senate proceed to the election of Secretary, Sergeant-at-Arms and Doorkeeper, Chief Clerk, principal Executive Clerk, and Chaplain.

Mr. EDMUNDS. I think the Senator had better reduce his resolution to writing. If it covers so many we cannot know how many we are to vote upon.

Mr. WALLACE. It is simply a motion to proceed to the election of these officers.

The VICE-PRESIDENT. To the motion of the Senator from Pennsylvania to proceed to the election of these officers the Chair hears no objection.

Mr. EDMUNDS. I hope the Chair will put the question. I do not know of any reason for proceeding to the election.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania that the Senate proceed to the election of the officers named.

Mr. WALLACE. Let the Secretary read the names of the officers.

The SECRETARY. Secretary, Sergeant-at-Arms and Doorkeeper, Chief Clerk, principal Executive Clerk, and Chaplain.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. ANTHONY. Mr. President, I am too well aware that nothing which I can say, nothing which any one may say, will arrest or modify the foregone determination to make a sweeping change of the officers and servants of the Senate; a change demanded, not by any deficiencies or neglect of duty on their part, but by the inexorable necessities of political partisanship. Yet, as one who has served long in this body, who has paid some attention to its rules, and who has a profound respect, nay a reverence, for its precedents and its traditions, I am unwilling to see the measure initiated without recording my protest and uttering my unavailing warning to the majority, against the personal discomfort and inconvenience to which they are subjecting themselves and their associates, and the danger to which they are exposing the orderly and decorous transaction of the business of the Senate.

The Senate, except the judiciary, is the most conservative part of the Government. Unlike the House of Representatives, which expires every two years and is renewed fresh from the people, the Senate never dies. The same which it was, when it met, in 1789, it is now, and has held continuous and unbroken existence ever since. Its offices have naturally partaken of its permanent character. Its elective officers are chosen, not for a definite period, but during the pleasure of the Senate, and its subordinate officers have not been, habitually, removed without cause, nor, for many years, without the approval of the Vice-President. This policy has secured to us a corps of trained, experienced, respectful, and efficient servants, who knew that their tenure of office was in their good behavior, not in their political opinions. Since its organization, the Senate has had but six secretaries: the first was Samuel Alyne Otis, who was elected in 1789 and served till his death in 1814, a period of twenty-five years; the second was Charles Cutts, who was elected in 1814 and served till 1825, a period of eleven years; Walter Lowrie was elected in 1825 and served till 1836, a like period of eleven years, when he resigned, and Asbury Dickins was elected, who served till 1861, a period of twenty-five years; the infirmities of age had come to interfere with his attendance upon the Senate and to incapacitate him for the performance of his duties. A republican Senate elected the Chief Clerk, William Hickey, a democrat, acting secretary, continuing Mr. Dickins as Secretary. But the arrangement did not work well. The two did not get on together. Mr. Dickins was unwilling to remit to Mr. Hickey the duties which he could not perform himself. At his suggestion the Senate proceeded to the election of his successor, and provided for the salary of Mr. Dickins for a year, in the course of which he died.

The office required vigorous manhood and the full possession of the physical as well as the intellectual powers that pertain to that condition. John W. Forney was elected in 1861 and served till 1868, when he resigned. Mr. Hickey was continued in the office of chief clerk till 1866, when he died. In 1868 the present efficient and accomplished Secretary was elected, and who is about to be displaced for no complaint or allegation of wrong on his part. How important and dignified the office was regarded is attested by the fact that the first Secretary had been a delegate to the Continental Congress, and his two immediate successors had been members of this body. The others rose to the position through a series of important positions, that manifested the public confidence and the respect of their fellow-citizens.

When I first entered this Chamber the door of the main entrance was opened for me by the venerable man who sits at it now; who had then been here for a period as long as I have remained since, covering a time of forty years. I found in charge of the document-room Moses Titcomb, who had come down from the days of Webster and Clay and Calhoun and Benton, and was esteemed by them all, and was frequently consulted by them on matters of his department. He was a most accomplished man for his position; he seemed to have in his head a *catalogue raisonné* of all the documents that had been printed from the beginning of the Government. If you wanted an old bill or a forgotten report, belonging to one of the early Congresses, you had but to write the subject, or a hint of the subject, on a card, send it up to him by a page, and the document came down to you. He remained in office till increasing years caused his resignation, and was succeeded by a man who had been trained under his eye, and who partakes largely of his varied and accurate information upon the subjects under his charge. He is still in office; but the hands of the clock are hurrying to his doom.

At that desk sat William J. McDonald who had been, twenty-three years previously, appointed a clerk, on the resignation of his father, a few days before his death, after twenty-seven years' service. Mr. McDonald had then been in service twenty-three years, and remained nineteen years longer, till his death, having risen to the position of chief clerk that was occupied by his father. His son is now in office here. At his death the Senate honored his memory by taking a recess to attend his funeral; his pall was borne by Senators, and his funeral expenses were paid out of the contingent fund. I found here my friend, (Mr. Bassett,) who sits on your left, whose hairs have whitened in the service of the Senate, and who has sat there so long that he seems almost a part of the Chamber. He entered the Senate, nigh fifty years ago as a page, and has risen step by step through his own merit, to the second place in its executive administration. I trust that I violate no confidence when I say that he has recorded the memoirs of his long connection with this body, and that he proposes to give them to the public. They will not fail to form an interesting chapter of American personal history.

I might adduce other examples, but I forbear. Of the hundred and twenty officers of the Senate, I judge that full thirty are democrats, some of whom we found in office, when we came into possession, in 1861, and others have since been selected, through the liberality of the appointing power. Such has been the practice of the Senate. I regret the new departure. I think that it is regretted, on personal grounds, and by a regard for the traditions of the Senate, by many of those who are about to make it, particularly the older Senators, and who are impelled to it by a force which few men have the strength to resist. We on this side of the Chamber have no power to prevent it. We share in the inconvenience, but we have no part in the responsibility.

Mr. HAMLIN. Mr. President, I think my friend from Rhode Island did not state so distinctly as he might have done, and perhaps ought to have done, one fact in connection with the persons who have held

the various offices in this body to which he has referred. He did in gross refer to the number of political opponents of what had been the majority of this body who were allowed to retain places here; but it will be recollected by all who are cognizant of the facts that Mr. Dickins held the office of Secretary through the varied administrations of three distinct parties. He was elected by the democratic party by a very close vote. Subsequent to that period of time the old whig party had control of this body, and they sought not to disturb him. Following them came the republican party, and we sought not to disturb him. He was not removed in the true sense of the word. An election of Mr. Forney was had at Mr. Dickins's own suggestion, and this body provided for an additional year's salary for him before that election took place, and before that year had expired Mr. Dickins deceased. Mr. Hickey, another pronounced democrat, had served here through, I think, the administration of three distinct parties; and the worthy, the accomplished, and I add the beloved officer who sits at your left (Mr. Bassett) has, I think, held through as many. And Mr. McDonald was found here; he was retained and promoted up to the office of Chief Clerk regularly from the position which he held.

Such has been the administration of this body politically. Individually I care very little about the matter; but as a Senator I do say that I regret to see this sweeping removal of the best officers we have and the putting in their places of men who, if equally qualified, will require a long and varied experience before they can discharge their duties equally well. I had hoped the mad spirit of partisanship would not thus run riot in this body, but that the counsels and the practices and the precedents of this body might in a small degree have been observed. It is not to be so, however, and I can only say again that I regret it exceedingly.

Mr. WALLACE. Mr. President, there is no intention to interfere with the business of the Senate by the changes that are contemplated. There is no intent to break down the life of the Senate; it will continue to live. Changes have been made before—changes because of the necessities of party. Mr. Hickey was not supplanted by a man of the political party to which he belonged, nor was Mr. Forney supplanted by a man of a different political party.

Mr. HAMLIN. The Senator will allow me to say that we waited for him to die before his place was filled, and then we filled it with a democrat.

Mr. WALLACE. The Secretary who preceded Mr. Forney was living, and the gentleman who took his place belonged to the other side in politics. So, in 1869, when the present Secretary of the Senate came to his place, he was well known to be a member of the opposing political party to that which now has a majority in this body. Of his qualifications as an officer, of his ability as a man, of his position as a gentleman, we have naught to say; but that he is a politician every one who hears me knows as well as I do. We simply come to ask that the places which have been in the charge of the other side of the Senate for a period of years may be filled by those who are in accord with the majority. We believe we have gentlemen who are fully competent by character, by position, by acquirements to fill the places that are to be vacated to-day, and that these gentlemen should be in accord with the majority in the body we think is as clear as anything can be.

Mr. CONKLING. Mr. President, I have heard nobody present the proposition which the honorable Senator from Pennsylvania answers. I have heard nobody suggest that, if either or all of these places were vacant, it would be improper for the majority of the Senate to fill that place or those places with a person or with persons of their own political persuasion. The Senator from Pennsylvania rises to vindicate the propriety of such action. If the case were here, it would need no vindication. Nobody I think would urge, if the Secretaryship of the Senate were vacant and a proper man could be found, as doubtless he could, in the democratic party, that the democrats ought not to vote for him rather than for some other man of different political standing.

The suggestion made so forcibly by the Senator from Rhode Island [Mr. ANTHONY] and the Senator from Maine [Mr. HAMLIN,] as I understand it, is wholly different. This is the position: for the first time in the history of the American Senate, for the first time in the history of political parties in this country, a party majority insists upon vacating by removal, without cause, all the chief places of the Senate, to the end that they may put in favorites of their own. The Senator from Pennsylvania [Mr. WALLACE] has said not one word to justify or excuse that. The history of the Senate is against it. The experience of all those who have gone before us disapproves it. The usage and custom of the body has affirmed that these places ought not to be put up in a political raffle and ought not to be made the rewards or the penalties of political service. The unvarying judgment of the past declares that those who hold these places should stand and be allowed to remain on their merits. That all this is to be reversed, is the more noticeable now, because we have heard, the whole country has heard, so much of late about political appointments. Reform in this respect has been thought by organs of democratic sentiment of transcendent urgency. A doctrine of vast wholesomeness and importance has been proclaimed which forbids to-day's doings. Public officers in general, not only these but others, should be allowed to continue, should be encouraged to remain, should be protected in position so long as their personal character remains untarnished and they discharge their duties. This is the substance and nearly the form of the doctrines which the exponents of democratic sentiment have been noisy in adopting and proclaiming. This is the doctrine which has needed only to be preached, whether practiced or not, to earn the applause of all the assailants and traducers of the political party to which I belong.

Now, in the very midst of this awakening, in the very midst of this quickening of the public conscience, here comes for the first time into the Senate a pioneer exaction, one outrunning every exaction of past times and of past party appetite; it is that a besom of destruction shall pass over all the officers of the Senate, or if I may credit the newspaper over all but one—preserved, I suppose, to fulfill the saying that there are exceptions to all rules—that all but one shall be swept away without cause, in the presence of the notorious fact that they are faithful, that they are accomplished, that they are sedulous in the discharge of their duties, and without pretense that their personal character is tarnished. They are all to give way in order that the positions here in this last sanctuary, the positions which, whatever may have been the changes of party control elsewhere, have stood as the Senator from Maine and the Senator from Rhode Island have told us, against the exactions and behest of partisan cupidity, that they too shall at last be subjected to the voracity of those who in political strife have entitled themselves to spoil and booty.

Mr. President, I will content myself with saying in the language of the Senator from Maine that, although a partisan, not shrinking from the logic of partisan action, I too regret that the interest, the business, the convenience of the Senate is to be impaired, as it must be, no matter how meritorious the new-comers, by displacing those trained by long experience and faithfulness in their places, to the end that room may be made for those who, whatever may be their deserts in the arena of politics, are entirely uneducated in the duties which await them.

Mr. BAYARD. Mr. President, I heard and was much impressed by the carefully prepared and elaborate speech of the Senator from Rhode Island, [Mr. ANTHONY.] There was much that he said of historic interest and truth. There was much, however, omitted, which I will in as restrained phrase as possible endeavor to supply.

I know not how, or scarcely when, the rule came into the practical government of this country that party services were to be rewarded by public office; but I do know that such a rule unrestrainedly exercised is unwholesome, dangerous, and degrading. It has injured the civil service of this country, and unless it shall be in some degree and indeed in a great degree modified, I can plainly see that still further injury, not simply to economy, but to good order and good government, is to accrue.

Sir, there is much in the memories of this Senate deeply impressive to me. No man in this country has a right to feel more than I what is due to the dignity of this body and the respect that it should inculcate, the respect that should follow its example in the conduct of public affairs. I cannot believe that a poor, narrow, proscriptive feeling of political partisanship should govern us in providing the *personnel* of the official corps required for the important business which we have in hand. I earnestly trust that now when the control of the Senate has passed into the hands of a party with which I am associated, the first thought, ay, and the second thought in its government shall be the welfare of the Government, its dignity, and the preservation of our institutions.

Sir, I do not apprehend that any such "slaughter of the innocents," that any such sweeping system of removal is intended as is so gloomily apprehended by the honorable Senator from Rhode Island, nor that the individuals in whose presence commendation (and not undeservedly) has been so freely bestowed, are to fall a speedy sacrifice to what the honorable Senator from New York has termed the voracity of party. But, sir, while we may regret the fact that the offices of the country which were instituted for the benefit of the country and not for the benefit of the incumbents, should be filled not solely with reference to public benefit and public usefulness, still let this other fact run along with it, how much of official power, how much of official emolument, bestowed only for the public welfare has steadily been used primarily for the benefit of a single party! I would not designedly say an ungracious word of any officer of this Senate, from whom personally I have nothing to say but that courtesy and kindness have met me at every turn during the ten years of my service, that in many cases had I even been the agent for their appointments no greater kindness or civility could have met me than that which I have received at their hands. And yet, sir, in those days which we term, and justly, the good old days, in the time and in the history so carefully delineated by my honorable friend from Rhode Island, I ask him in all candor were the offices of this body to which he refers, filled by the men he has described, ever made the engines for the continuation of political power in the hands of the men to whom they were intrusted? It is not unjust to the gentleman who fills the office of Secretary of the Senate, toward whom I have nothing in the world but feelings of personal kindness, to say that he has suffered himself, or has been forced, or has voluntarily been part of the machinery of party; that while holding his office of Secretary of the Senate circulars almost mandatory in their terms have been issued signed by him compelling every Federal officeholder in the country to subscribe from the money of the public paid to

them as salaries for the maintenance of the fortunes of one of the political parties.

I say not this merely in a spirit of personal fault-finding but I say it in justice, I say it with regret, because if I had it in my power the Senate indeed should be a continuing body not only as respects its own members but also as to the gentlemen who fill its subordinate offices, so that there should be no possibility of saying that which I do say now with truth and justice in regard to the Secretary of the Senate. If we are to have an end (and pray God that end soon may come) of inquisition as to the personal political opinions of the officers of this body, let us at the same time demand that an end shall also come to their use of official time, power and official emolument for the purpose of continuing themselves in office and their political party in power.

There are men in the employ of the Senate of long service, whose political opinions I apprehend to be different from my own, and whose independence in that respect I would not put forth my little finger to prevent, whose fidelity, whose courtesy, whose integrity and whose special knowledge of their duty is such that I personally will never consent shall be passed by and they shall give place to some unprepared, unfitted, eager political seeker of place of my own way of political thinking. But, Senators, do not, where you have filled an office deliberately with a zealous political partisan, complain and make objection to the action of these against whom and against whose cherished political convictions his office, his emolument, his faculties have all been actively enlisted. Do not affect surprise or complain when he is removed from office by the majority against whom he has strenuously exerted himself. Do not put or attempt to put such a case as that in the same category with the causeless removal of a gentleman content to hold his individual political opinions but not given to use his time, place, and office for the purpose of preventing the political success of those of his political opponents into whose hands the responsibility and control of the business of this body have at length passed.

I should be glad indeed, sir, and I will try to do my part in making the selection of officers for this body, whether by retaining them in position or by replacing them, to make fidelity, capacity, high personal character, and fitness for the position, I will not say the primary, but the controlling reasons for my vote.

I know not who was the Sergeant-at-Arms of the Senate between 1861 and 1869. I may say as a fact that among the many applications made to me for official position under the control of this body, many have been from persons indorsed as men of unexceptionable character, excellent standing in the community, by men of all parties, who were removed and who ask to-day for restoration to places in the Senate; and their removal took place in 1861 up to which time the Senate had been in the control of a majority composed of the political party to which I am attached and which the present majority of the Senate Chamber represents.

But I am not here to put myself or those with whom I act in the Chamber upon the same grade of action with those who preceded them. I am not one of those who believe that two wrongs can make a right. I am not disposed in any way to justify irregular, undignified, or ultra partisan action, because examples to that effect have preceded us from those to whom I am opposed. On the contrary I should prefer, and my counsels should and shall be given, that worth, capacity, integrity, and intelligence, shall be the guides of the majority in this Chamber in supplying the official corps of the Senate; and unless these requirements are met, unless improvement in every respect is to be obtained, for one I do not desire to have mere change that is not also intended to be improvement.

I regret that the truth of history has compelled me to supply the omissions of the honorable Senator from Rhode Island. Of the spirit of gratitude in which he spoke of faithful service wherever or by whomsoever illustrated, I only can say my heart gives a hearty echo and response; but he must consider that within the last eighteen years of rule a different spirit from that to which he has referred with so much just admiration has controlled the administration of public affairs, things have been done which would not have been permitted in the days to which he referred. Never was there a prior instance in the history of this body when the Secretary of the Senate was the chairman of the executive committee of one of the political parties engaged in a heated canvass signing himself as such, making his demands and levying his contributions as such. I am corrected; not as chairman but as secretary; it matters not which, he acted as the executive officer of that committee, signing his name officially as such, under the authority of his party.

I do not care at this time, Mr. President, to carry this course of remark further. I might do so. I might take this occasion most gravely to remind this Senate and to remind the country that the use of official power in elections is absolutely fatal to any government designing to procure and to secure its freedom by a recurrence to free elections. One of the greatest commentators upon the laws of the country from which we chiefly draw our institutions, Sir William Blackstone, has stated that when the offices of a country, the official power of a country are employed to control the elections, what is it, says he, but cutting up government by the very roots? And yet with what force does such a commentary bear upon things so painfully fresh in our recollection. The instances are only too numerous and obvious; they will occur to every one, and I do not care on this occasion to make them more pointed by giving personal illustrations of the great and extended danger to the peace and permanence of the institutions of this Government to which they have given rise.

No, sir. I blame no man for partisanship. It is a question of his conscience, and by his conscience alone it is to be restrained so long as he does not hold official power, meant for the benefit of all, given to him as a sacred trust for the benefit of all, and yet to use it only for his personal continuance in office and the advancement of his party. Sir, such use of political power is the violation of a trust; it cannot be approved, it ought not to be supported; and for my own part I wish sincerely the time to come, and I hope the people of this country in their good sense will soon compel it to arrive, when, while they will not seek to interfere with the individual independence and freedom of each man in office or out of office to vote according to his judgment and his conscience, they will neither permit official power to be used in the interest of a party nor permit the official positions of the country to be viewed in no higher light than the reward for merely partisan service.

The evil is one too plain to be denied; it is one that every thoughtful man has looked upon with grave apprehensions; but it is one that does exist, and in the nature of things the Senators who sit on the other side of the Chamber would not think that they were serving the interest, the business of the country, to select for maintenance in office an official who had steadily and primarily used his capacities, his official position and emoluments, as a mere stepping-stone for the future success of his party and the maintenance of himself in office.

Now, sir, in the selections which are to be made of these principal officers of the Senate I would not wish to say one word of unkindness or of depreciation of any one, but I believe that when the lamented death of Major McDonald, our late Chief Clerk, occurred it was the impression of the entire Senate that there was great difficulty, almost an impossibility, in securing the services of any one equal in peculiar fitness for that place, and that the worthy and excellent gentleman who had assisted him went there but temporarily, and that such was the understanding that his appointment there was but temporary. Many of the services rendered by Major McDonald are not and cannot for physical as well as other reasons be so well rendered by Mr. Spencer. As a reader we all know what constant and continued labors Major McDonald performed efficiently. We have seen that his successor cannot or has not rendered them. I mention these facts in all frankness in order that the idea may not be taken by our friends on the other side of the Chamber or go abroad to the country that this is a sudden, relentless, inconsiderate removal of tried and worthy officers without due cause and reflection.

As I said before, there are many remaining in the service of the Senate who I trust will be retained, and that long service, fidelity, intelligence, and character shall outweigh anything of partisan rapacity that may be supposed to demand their removal.

Mr. CONKLING. Mr. President, I want to hear read the resolution pending.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read as follows:

Resolved, That the Senate do now proceed to the election of its Secretary, Sergeant-at-Arms and Doorkeeper, Chief Clerk, principal Executive Clerk, and Chaplain.

Mr. CONKLING. I asked for the reading of the resolution not that it may appear in front of the few words I shall say, but that it may appear at the conclusion of remarks which have fallen from the honorable Senator from Delaware. He has seen fit to decorate with his censure the Secretary of the Senate; he has also declared that one of the clerks of the Senate does not read well; and logically I suppose we are to infer that all the officers named in the resolution are to be removed, because of what the Senator has said touching the Secretary and one reading clerk.

Mr. President, if I heard the Senator from Delaware aright he implied, if he did not state, that the present Secretary of the Senate had from his office, meaning I take it his office of Secretary of the Senate, sent out duns or applications for political contributions. Will the Senator from Delaware allow me to understand whether I heard him aright?

Mr. BAYARD. Oh, no. I do not know whether this gentleman sat in the room to which the honorable Senator has referred at the time he issued these—I called them either orders or petitions, I forget which, soliciting subscriptions from the office-holders of the country. But I do say this, and I meant to be understood to say this, that while he was holding the office of Secretary of the Senate he was also the executive officer of the national committee of his political party, and that holding that office his official power and time were given to his party ends in the way I have suggested.

Mr. CONKLING. Mr. President, the Senator from Delaware did, I think, observe that the Secretary of the Senate from his office had sent out such requests; and he fortified his allegation by saying, with somewhat more strength of phrase than he has employed just now, that the Secretary of the Senate employed his official place, and at one point of his remarks I think he said his official character, to promote the plans and designs of a political party. As the friend of the Secretary of the Senate, as one glad to be his friend, as one who has noticed his manliness, his faithfulness, the thoroughness and alertness with which he has discharged his duties at all times, I wish to put on

record a denial of every part of that assertion which in my estimation reflects injuriously on him. I deny, on information which I think it safe to rely upon, that he ever in his official character or from his office as Secretary of the Senate or in derogation of his official duties, or attentiveness as Secretary of the Senate, sent out notices, letters, applications, or anything else for the benefit of any political party.

Mr. BAYARD. May I ask the Senator a question? Do I understand him to say that he denies that Mr. George C. Gorham signed and sent out circulars during the political canvass of 1878 as the representative of the republican party asking for pecuniary contributions to aid the cause of that party?

Mr. CONKLING. Supposing it will be equally agreeable to the Senator from Delaware, I will make the statement that I intended to make, which will cover quite fully the question which he now asks. In the same connection I deny emphatically that the Secretary of the Senate has ever employed his subordinates, or the subordinates of the Senate, to do any of the work to which the honorable Senator from Delaware has referred. In short, I deny every part of this accusation, unless some part of it is supported by the statement I will now make.

Not the Secretary of the Senate but the individual who holds the office of Secretary of the Senate, during the vacation and absence of the Senate, when he had no official duties to interfere with his doing so, did act as the secretary of a committee the mission of which was to distribute documents, to carry on correspondence, and to do the various lawful proper things, as well known I suppose to other Senators as to me, ordinarily done by what is termed a campaign committee, a political committee, a partisan committee. It may be designated in any way, so that it be truly designated. Its business was to carry on a political campaign not for the benefit of all parties but for the benefit of the one party for whose interest it stood, and whose tenets and measures it promulgated.

Mr. Gorham was the secretary of such a committee, or of an executive subcommittee of such a committee, and as secretary he did when present the customary labors of a secretary. His action, I repeat, was wholly or almost wholly in the vacation of the Senate, when the Senate was not here and when his so giving attention to the interest of the political party to which he belonged had no more influence in withholding his attention to his duties, than his attendance of church on Sunday.

If the Senator from Delaware thinks that his statement and his implications are justified by the fact as it has now been stated, which I repeat I am instructed is the whole fact in its broadest dimensions, he will adhere to his statement no doubt; and those who have listened to his statement and those who listen now to what is intended to be a fair presentation of the whole truth will judge how far the officer in question justly falls under the reprobation of honorable men. On this point I beg to say a few words further.

When the Senator from Delaware goes to the hustings in his State, or in New Jersey, or in the various other places from which we are permitted to hear by repetition in the newspapers his voice urging the claims of the democratic party upon the confidence of the country, is it true that he neglects his duties as a Senator, that he prostitutes and perverts the instrumentalities and powers of his official place? Is it true that he does that which is blameworthy or dishonorable? If he does not, what is the divine right of members of this body? We are all office-holders. What are the special immunities, not possessed by other officials, possessed by my eloquent friend from Illinois [Mr. LOGAN] which make it proper for him to go out and address the people, to act as chairman of a committee, to wield and carry on the instrumentalities and agencies which make up the sum of action and discussion in a political campaign? Is it dishonorable because he is a Senator? It is improper, I submit, in the case of any Senator, if he abandons his seat, turns his back upon his duties, and neglects his official trust; but in no other case is it dishonorable. On the contrary, the very genius of our Government makes it laudable. Why? Because ours is a Government operating by universal suffrage, and controlled by majorities. Ours is a Government the chief glory of which is that no man is called upon to obey any law which he has not his full share in enacting. It is a free and just Government because there is no select, no privileged, class to which political liberty and power is confided. It is free because every man, the clergyman in the pulpit, the banker in his counting-house, the railway president or director in his office, the employé of a corporation, the poorest, the humblest citizen, although he may discharge daily menial offices for the smallest pay—it is free because everybody, from the richest to the poorest, from the highest to the lowest, and no more the highest than the lowest, has his aliquot share of right, of power, of duty to advance and render potent, if he honestly can, those public principles and measures, and those candidates too, whose success will in his belief conduce to the general welfare and advantage.

In my belief nothing is more fallacious, nothing is more vicious, nothing is more invasive of the rights of citizenship, than the idea that any man, because he holds a public office, is thereby robbed of the right to do as an individual, without neglecting his official duties, those proper, honest, lawful acts which other individuals may do to influence public sentiment, to modify the action of parties, and to promote just results in popular elections.

Mr. President, if the reverse of this is true, who is to vote and to participate in politics in this country? Who in assemblages of the people and in political campaigns is to take part? If it be said that the Secretary of the Senate during the months when the Senate does not sit, when he is comparatively at leisure, can take no part, because he is the employé of the Senate, whose employé is to take part? What class of the American people is not the employé and agent of somebody? The Senator from North Carolina [Mr. RANSOM] is a lawyer; he is a professional man practicing his profession. It may be said that he is not the employé in this sense of his clients; the same may be said of other professional men. Who else, save the rich and the idle, is not in some sense the agent in the employ of another? Is it true that all the men in all the factories and mills and machine-shops and dry-goods stores and other stores, all the men employed in all the industries of the country, violate the duties of their employment if they take part in leisure hours in political affairs? Is that the truth, and the safe evangel of citizenship? Is it true that a man who is president of a bank or president of an insurance company, or secretary of a corporation, and who in the evening or in vacant days or hours acts as a member of a political committee, acts officially, acts in his official character, and prostitutes and uses improperly the instrumentalities of his business employment, or business station?

I will not pursue this at length, but I mean here and everywhere, the occasion being proper, to utter my protest against the idea, if it is a sincere idea with anybody, that any class of American citizens give up their political rights or any portion of them by assuming employment for anybody else. Whoever hires as a public officer or a private employer any citizen buys so much of his time. During that time the employer is entitled to the attention and exertion of the agent or servant. If the person he hires be a devotee of religion, and if on week days and in hours of business, he attends divine service, the employer has a right to say "No, this is a part of the time I buy; you must be here, or you must give place to somebody who will be here." But when the clock has struck the hour, and the service which was bargained for has been rendered, when the time which was engaged has elapsed, be the employer the Senate of the United States or the Government of the United States, or the State of Connecticut, or one of the insurance companies of the State of Connecticut, the employer has no more right than any other man to follow up the agent, the servant, the person employed, in hours which are his own, and dictate what shall be the bestowal of those hours, or in what direction his political or his religious convictions shall run.

That, Mr. President, is as true in my belief of the Secretary of the Senate as it is of anybody else, and he is as free from blame as anybody else.

I venture to say one other thing. If any corporation in the State of New York, where there are some large corporations, should undertake to say that the persons employed should not only attend and work during all the hours of their employment, but that they should be followed into retirement afterward, and attempts should be made to dictate or coerce their political action, there is no corporation so strong that it would not be compelled to desist, or else be swept away and trampled down before just and popular indignation. I find nothing blamable in the fact that the gentleman now in question, without any pretended neglect of his official duties, was true to his political convictions; but the honorable Senator from Delaware does find something sinful in it, and if I may infer anything from his remarks, he means to excuse or to justify this long list of removals, particularly the removal of the Secretary of the Senate, because the Secretary of the Senate belonging to a political party acted as secretary of a committee of that party during a vacation of the Senate.

It has been said that "consistency is a jewel." It may not be amiss to try this proposition for a moment by the test of consistency. I believe, speaking of a House of Representatives which has passed away, I shall violate no rule if I say that the democratic majority of the last House chose Mr. Thompson, of Ohio—naturally if not of course, from Ohio, [laughter]—as the chief executive officer of the House of Representatives. The selection was discreet, for politicians it was a natural choice, because they know how prolific Ohio is of strong and sinewy political men. They wanted a democrat of "grip and gather," so they chose Mr. Thompson, and straightway Mr. Thompson, if I am correctly informed, (if I am not the honorable Senator from Ohio [Mr. PENDLETON] will be good enough to correct me,) was chosen not secretary, not scribe, oh no, no subordinate place for him, but chairman of the democratic executive committee in the great political Commonwealth of Ohio. And we read in the newspapers of the power and dexterity with which he wielded the great instrumentalities of that exalted station, of the all manner of things he did, not as secretary but as the head man who guided the political sword the blade of which was everywhere and the hilt in the hands of the Sergeant-at-Arms of the House of Representatives.

Now we are bound to suppose that every well-conducted democrat must have been dreadfully shocked at such a spectacle. We are bound to suppose so, but we are not allowed to suppose so, because if it were not a violation of the rules of the Senate I should say that the present democratic House has proceeded to re-elect Mr. Thompson. So that now by a new lease of authority Mr. Thompson unites in his august person the solemn prerogatives of the democratic executive committee of the State of Ohio, and also those other prerogatives inhering in the office of Sergeant-at-Arms of the House of Representatives. Who protested against that? Who proposed to remove Mr. Thompson for what he had done?

Mr. EATON. You would if you had the power. [Laughter.]

Mr. CONKLING. My friend from Connecticut is a very rash man. He says that I would if I had the power. [Laughter.] Mr. President, that would depend very much on whether I acted as a democrat or not. [Laughter.]

Mr. EATON. Suppose you were a democrat.

Mr. CONKLING. Ah, my friend need not say that; he knows the impossibility of that supposition. There is no possible room for mistake there [laughter] any more than there was the other day when he seemed to be a little confused as to which party is republican.

No, Mr. President, if Mr. Thompson were a republican and he had discharged his duties as Sergeant-at-Arms and during a vacation of the House of Representatives had gone into his own State and honestly and manfully, as I presume he did, uplifted the banner of the party to which he belonged, and tried by fair means to achieve victory for it, so far from removing him for that, I should say he acted a man's part; the fact that he has strong political convictions commends him to me because men who have much strength to hold convictions with are very likely to have strong convictions, strongly held; and if an officer discharges his duties faithfully so that his employer, be his employer the State or his neighbor, takes no harm, if his stewardship is faithful, then the last thing whereof I should complain would be that by honorable means and efforts he sought to give effect to the ideas he honestly held, whether those ideas pertained to political, civil, or religious rights.

I file no accusation against Mr. Thompson. I only say when the honorable Senator from Delaware fell into the error of supposing that Mr. Gorham was chairman of a committee, of which he was not chairman, he had before him just such a case as I have pointed to, not the only one to which I might point by any means, where the party to which that honorable Senator belongs, almost in our very presence acting upon the reverse of the doctrine he has announced, sanctions, continues, and, with the nation looking on, rewards a man for doing exactly that, in greater measure, which is laid at the door of the gentleman who holds the office of Secretary of the Senate as if the act was discreditable.

Mr. President, one other word, and I have done. The honorable Senator from Delaware said men have come to him who were removed in 1861, and they want to come back. "The eternal fitness of things" receives no shock in this. I was here in 1861. Abraham Lincoln called me here as he did the other members of the two Houses. The call was to come here on the 4th of July in the presence of a dire public emergency. There were a good many vacancies in the Senate then. They were not all in the places of the employés of the Senate. A good many chairs were vacant then which are occupied now. Those who held them did not come to claim them. They were not like the men in the Scriptures, one of whom had bought a farm, and another a yoke of oxen, and another had married a wife, and were thus detained by a variety of engagements; one general public engagement made demand upon a large number not only of the officers but of the members of the Senate, and they were absent on one and the same errand. When the Senate convened, so much of the Senate as remained, after sedition, privy conspiracy, and rebellion had commenced its work, proceeded to fill the vacancies in needed subordinate places, and proceeded, as far as I remember, to make a change in one office—the Sergeant-at-Arms, and there were two good reasons for a change, neither of which it is necessary for me to state except so far as I have already indicated.

Now it appears that the subordinates who in 1861 disappeared from the sphere of their former usefulness are back demanding, in the language of a court of equity, to be put in *statu quo;* the Senator on my right [Mr. HAMLIN] suggests "*ante bellum.*" That is good Latin, and sometimes good law, but it would be pernicious politics and unjustifiable practice now. But here they are—these vanished few, and I am willing to have it disclosed that their being here is a reason why all these places are to be opened to new appointments. They are to be made vacant because a procession of former occupants has returned, arguing probably that the same logic which has brought back into the once vacant seats of the Senate those who have restoring power, a disposition to restore should not be wanting.

The whole inquiry is really suggestive, interesting, and full of reminiscence. A Senator hands me a list of the men, not republicans but democrats, democrats with all the later variations and modern improvements, democrats who have been kept here in place all along, a list I hope as meritorious as it is multitudinous. This is non-partisan emphatically, but now, for such reasons as we have heard, for the first time in American history the places and employments of the Senate are to be subjected to the hungry behests of party. So be it. It will undoubtedly lead to those reprisals which come from that wild Indian justice called retaliation; I am sorry for it. Now, the pendulum has swung to that side of the arc. Presently it will swing back; and then the men who look on to-day and see this proceeding will come with an argument in their mouths which it will be difficult to answer; those who are then here as Senators will be summoned to act upon that argument. The seekers for place will say "If it was good doctrine that men who went out in 1861, who were allowed or compelled to go out then, ought to be in 1879 brought back and restored, it certainly is sound doctrine that we who, without fault, without allegation, without pretense of short-coming, were driven out by main force, driven out in the hot and famished chase for place, shall be put back," and so we shall have inaugurated at last what was avoided at first and ever since, a system under which the places of the Senate are to be made the price and the spoil of partisan activity and personal favoritism.

As I said before, Mr. President, partisan as I am, with no pretensions to special holiness on any subject, I believe this is just matter of regret, unless I greatly mistake, discerning people at large will view it with regret; and unless I still more mistake, its causes, its lessons, its real truth, will not be hidden behind a thin veil of sophistry or casuistry.

Mr. BAYARD. Mr. President, I should not have been surprised upon another occasion to hear the views expressed by the honorable Senator from New York, because I have either heard him express them before or I have seen them attributed to him by public account; but I confess that I cannot understand his reasoning when, rising in his place gravely to deprecate the instability of part of the civil service of the country, the official positions of the Senate, he yet would advocate and advise for an official corps, which in order to be permanent must be non-partisan, that very action which must be fatal to its permanence.

The Senator cannot discern, he says, any difference between the right of one of the officials of the Government to take an active part on the hustings and the right of any Senator or Representative so to do. I do not think that others will have the same difficulty in the discrimination that he seems to find. This is a country governed by popular opinion, and men stand or fall in political office by the way in which that current sets. Its ebb and its flow bears men into and out of this Chamber, and upon the acceptability of the opinions they hold to the public, so does their tenure of power and office depend.

Why, sir, the question is not as to those elective offices which represent, and properly represent, the tide and the change in popular opinion, and it is not stability as to them which we are now considering; it is as to the ministerial offices of the Republic, what may be termed without disrespect to the occupants the inferior machinery of the Republic, those offices for the performance of which individual opinions of the incumbent make but little difference one way or the other, offices which do not affect great questions of public policy but depend entirely upon the accuracy, the fidelity, the integrity with which their functions are performed, offices which should not and were not intended to be swept to and fro as to their occupancy by the changing tide of popular opinion. And so if the Senator cannot comprehend the difference between those leaders of public opinion or those placed in the positions to lead public opinion, to illustrate it, and to guide it, if he will still confound them with the mere ministerial function of the civil service, I think that he will find the public can better discern than he professes himself able to do.

Take the country from which our institutions are in the main derived. Men come into or go out of Parliament, the Cabinet, and the leading offices, according to the wave of popular opinion, and stand or fall by it; but there is no such change as to the merely clerical and subordinate offices. They believe, and I think wisely, that trained men, of approved capacity and character, are essential to be kept there for the sake of permanence in the machinery of the Government, and that public benefit is not derived from a change in the merely ministerial body of the civil service. That is a distinction which is clearly appreciable, whether the honorable Senator from New York would apply it in this case or no. I would have in this country, had I my way, the civil service filled by the men fittest to perform it, and the controlling reason that should place them and keep them there would be the interest and welfare of the Republic. Every man will regret that such offices have been subjected to the changing tide of party success. Yet the honorable Senator, while urging here retention in offices, would affix upon the officers the duties and tasks, and invite them to the occupations, of partisans, and not expect them to share the fate and the lot of partisans.

Why, sir, may I be pardoned for referring to William J. McDonald, that excellent man whose place as Chief Clerk of this body was so well filled for thirty years? Who ever heard in his day and time that he was issuing political circulars and levying contributions upon the office-holders of the country under one pretense or another? The Senator may find warrant satisfactory for him to say that from the office and over his name *ex officio*, Mr. Gorham did not send out his circulars of demand and levy upon the office-holders of the country. But whether it was as the Secretary of the Senate or whether it was as the secretary of the republican executive committee, it was the man, the same hand signed the circular, the same mind directed the demand, the same hand received the subscription from the officers of the country for what? For lubricating the wheels of one of the political parties and continuing the writer and his party still longer in power. Sir, I may say this with perfect confidence in what will be the answer of any gentleman on the other side of the Chamber, that if the late lamented William J. McDonald had exhibited one-tenth of the interest so vigorously, publicly, and persistently taken by the present Secretary of the Senate, that party majority which, with honor to itself, with justice to him and to the country, maintained him where his admirable abilities were made most useful to his country, would have caused his seat quickly to become vacant, and every one of them would have thought himself justified in it because as an official he had stepped far beyond the enjoyment of his

individual opinion and had sought to use his office, and emolument, in the cause of a party whose political doctrines were disapproved by the majority who had the control of his appointment.

It will not do to state before the country that elective offices held by representative men, called upon at intervals to give an account of their stewardship to their constituency, in which members of the Senate and the House and others holding office by election, who stand or fall by the acceptability or the denial of doctrines which they announce—it will not do to class these representatives of public opinion with that great body of ministerial officers who for the sake of public welfare should have stability in office in order to become competent for their duties and be removed beyond the mere casual and temporary ebb and flow of political opinion.

Now, sir, it so happens that in speaking of removals that had taken place in the offices of this body I said that applications had been made to me by persons who were removed by the dominant majority in this Chamber in 1861. I regret that the honorable Senator from New York should not have been able to restrain his political animosity sufficiently to take my statement in the sense in which I intended it. I referred to no man who left this Chamber voluntarily to take sides in the late war against the Government or its laws. The men to whom I referred were those who have remained as faithful, as law-abiding, as attached to the Union of the States and its Government, as the Senator himself. Nay, further so far as the mere neutrality of politics is concerned, two of them I believe were residents of the District and unable to cast any vote at all in favor of either party, and the causes of their removal I cannot imagine; but their characters personally as vouched for by men of both parties in this District were such as made me believe they could not have been removed for cause. I mean by "cause," except to make way for some one who more closely represented the political opinions of the majority. Therefore, sir, it was a very unjust inference on the part of the Senator from New York to suppose that I had reference to any man who had linked his fortunes with "the lost cause," and I am sorry that I even gave him the opportunity to bring into this debate in any way memories so unhappy and which I had hoped were to be buried, or rather which were never again to be made partisan forces in discussions in this Chamber.

Now, sir, no one could be more unwilling than I to state unjustly the position of another, the more especially as he is not upon the floor to reply to me. If there was inaccuracy in my terming the present Secretary the chairman of the republican executive committee, let me correct it and say that he was its secretary. Still what I meant to say was that he was its organ, and I have read in public prints circulars sent by him to postmasters and other officers of the Government of the United States calling upon them for pecuniary subscriptions in aid of the party cause which he represented officially as the representative of the executive committee of a party, he holding at the same time the office of Secretary of the Senate of the United States. That is all that I meant to say, and that I think is borne out by the facts, and from that I do not understand the honorable Senator from New York is instructed to dissent.

I know, Mr. President, that there is something that has been attempted by the present Administration in respect of alleged reformation in the way of procuring a permanent civil service, and I know very well how little approval it has met from the honorable Senator from New York. He daily gives us evidence of that; no, I will not say daily but constantly he has given evidence in his utterances in this Chamber and elsewhere. He evidently does not believe in the doctrine and rules of civil-service reform as set forth in the famous circular of the President of the United States.

I was thinking more of a collision between the supposed authority of party, vested in the present Secretary of the Senate—I mean vested in the individual who holds that office at this time—in making a demand upon a certain postmaster in one of the Western States, whose name fails me at the moment, and who published a reply in which he insisted upon the spirit and meaning of the President's order that he should not respond except voluntarily to a demand upon him for pecuniary subscription to the party fund. It was that correspondence that was in my mind at the time the honorable Senator from Rhode Island here rose and made the very elaborate speech to which I have referred; and it was because there were reasons arising from the partisan action of the present Secretary that never were applicable to his predecessors whose retention in office continued through the various administrations which were referred to by the honorable Senator from Rhode Island that I made the statement I did for the truth of history and for the justice of this case. Not one word of intended depreciation, not one word of lecturing on the subject, was intended by me to these officers; but the fact is pregnant, the fact will be publicly and well understood, the two cases do not stand upon the same foundation, and all I can say is that if the views expressed by the honorable Senator from New York are to prevail, I shall regret it, and I think the country will have great cause to mourn it. When it is understood that officers in our civil service, those whom I have designated as the ministerial officers for the business of the country, that official machinery upon which the Government in order to run smoothly must rest stably, and who can only gain that proficiency required for their places by experience and by being retained as they are found fit and worthy—if that is to be disregarded and they are to be invited and told that it is equally the glory with them as it is of the elective officers of the country to control public opinion, I am afraid that the public business will indeed suffer, that it will go to the winds, and that we shall find ourselves involved in a system so falsely economic and so corrupt, so unstable, that the necessity for change will force itself upon the public mind and permanence will have to be found in some way. I repeat, among my reasons and strong reasons for desiring to retain a worthy official in a ministerial place is the fact that he has not been a zealous and an active partisan. God forbid that he should not be a conscientious and an independent voter—I repeat, in the language of Blackstone, he who uses the offices of a country to control its elections, cuts up its government by the roots.

Mr. BECK. Mr. President, I will take but a very few minutes to state the question as I understand it. The Senator from New York very well said at the close of his remarks that the real truth could not be hidden under any amount of words. I agree with him. We are simply brought face to face with this condition of things. We are required to elect four or five officers of the Senate under existing rules, and the political parties have to vote either for their friends or their enemies. The question is, Shall the democratic party so vote as to place a salary of $6,000 a year into the hands of the very able republican secretary of its national executive committee, in order to enable him when he shall have leisure, to carry out the argument of the Senator from New York—as I hope he will at the end of ten days—to devote his time, his energies, the knowledge he has acquired, with the money we are urged to furnish him, to run the campaign in New York, Ohio, and California, as he will do ably and well if we furnish him the money to do it with?

That is the question stripped of its oratory, and we are told by leading republican Senators that we are demoralizing the country and disgracing the Senate because we see fit to vote for a democrat in place of the very able secretary of the national republican executive committee, and gentlemen stand here apparently shocked and deliver sermons, hold up their hands in holy horror, and tell us we are seeking to deprive the Secretary of his rights as a freeman and to infringe the exercise of the privilege he has as an American citizen by electing another gentleman as our Secretary. A wonderful amount of eloquence has been expended on this subject. I am willing that he shall continue secretary of the national executive committee of the republican party, but I am not willing as a democrat to vote the money of the people into his pocket so as to enable him to carry on his political campaigns. When I am obliged to vote, as I am, for one man rather than another, as the rules of the Senate require me when that election is held to so vote, I shall vote in such a way as to aid and sustain my own party, and in such a way that the republicans shall furnish their own means to pay their own secretary to carry on their campaigns. That is all.

To show how active a partisan he is and was, let me refer to the fact that on May 27, 1878, during the session of the Senate, for we sat until the 20th of June, 1878, he issued the following order:

HEADQUARTERS OF THE REPUBLICAN CONGRESSIONAL COMMITTEE, 1878,
1319 F street northwest, Washington, D. C.,
WASHINGTON, D. C., *May* 27, 1878.

SIR: This committee, charged with laboring for the success of the republican cause in the coming campaign for the election of members of Congress, call with confidence upon you, as a republican, for such a contribution in money as you may feel willing to make, hoping that it may not be less than $16.

"Modest! in that instance."

The committee deem it proper, in thus appealing to republicans generally, to inform those who happen to be in Federal employ that there will be no objection in any official quarter to such voluntary contribution.

The importance of the pending struggle cannot easily be exaggerated. That the Senate is to be democratic after the 4th of March, 1879, is very nearly a certainty. In view of this, the election of a democratic House of Representatives would precipitate upon the country dangerous agitations, which would inevitably add to present distresses. Foremost among their schemes, the opposition already announce their intention to attempt the revolutionary expulsion of the President from his office.

If, by the presentation of three candidates for the Presidency in 1880, the people should fail to choose, the House must elect, each State delegation casting one vote.

From what is now known, and with the growing dissensions in the camp of the enemy, the committee have good reason to enter upon their work with courage.

Please make prompt and favorable response to this letter, and remit at once, by draft or postal money-order, to "Sidney F. Austin, esq., treasurer, &c., German-American National Bank, Washington, D. C."

By order of the committee.

GEO. C. GORHAM,
Secretary.

Mr. CONKLING. The most prophetic paper I ever heard.

Mr. BECK. And the date shows that it was during the session of the Senate. The Senator from New York said it was during his *leisure* hours that he had performed all this service for his party. This was while the Senate was in session.

Mr. CONKLING. No, I was not mistaken about that. The committee, as we all remember on both sides, was organized as a congressional committee before Congress went away, but Mr. Gorham did not enter upon the active duties till the vacation. I observe the date and see that his name was used there, but I take it the Senator from Kentucky need not be told that that does not imply that Mr. Gorham with his own hand wrote that circular or sent it.

Mr. BECK. I did not know that any person on the national ex-

ecutive republican committee was in the habit of forging the name of the secretary. [Laughter.] It was issued May 27, 1878.

Mr. CONKLING. I should be glad to claim that that was the composition of Mr. Gorham because, although it might not show that he was an extraordinarily able Secretary, as a prophet it would certainly show that he is not to be sneezed at.

Mr. BECK. There is no man who disparages his ability; but he is so able that we cannot afford to keep him in the office of Secretary to use it for the purposes for which he will use it and for which he always has used it; if he was not an able man we might care less about it; but when he is known to be as able as he is, as well informed as he is, and known to have the means of coercing money from all the Federal officials as he has done and will do, the democrats of the Senate would be false to themselves if they were to retain him in this high office when we have the power to substitute another man and a good democrat for him. The Senator from New York said, among other things, with great earnestness, look at the House of Representatives; look at the Sergeant-at-Arms of that body; he is from Ohio, chairman of the democratic committee of that great State; and Ohio is a great State and full of great men seeking great offices. Well, sir, the republican party within the last two weeks held a caucus in the House of Representatives and unanimously voted to turn that man out of office, and they were right, just as we are right in turning out Mr. Gorham; and when they had to hunt up a candidate for Speaker of the House to run against the present incumbent, Mr. RANDALL, they had to go to that great State of Ohio themselves to find Mr. GARFIELD to run the race against him.

Mr. CONKLING. Both sides have to go there.

Mr. BECK. It is a great State; that is known to us all. But waiving all outside issues, the country may as well understand that we cannot afford to retain Mr. Gorham, and the republican party would not employ a democratic political partisan who was chairman of the great executive political committee of the country in the office of Secretary of the Senate if they had a man of their own who was qualified to fill it. We avow, at least I do, that we do not intend to keep one of your partisans there, because we have the power to turn him out. The country expects us to do it; you would do it; anybody would do it when we have as good a man to put in as you have there now. When you prate about civil-service reform I would like to commend republican gentlemen, and in this I go further than my friend from Delaware, who thinks some exertions have been made by this administration to reform the civil service, to pages 48 and 49 of the report of the Potter committee, where they will find seventy-five men, among them Mr. Sherman, Secretary of the Treasury, one of the judges of the Supreme Court, Mr. Hale of Maine, offered the position of Postmaster-General; Mr. Stoughton, minister to Russia; Mr. Kasson, minister to Austria; Mr. Hawley, commissioner to Paris; Mr. Coburn, commissioner to Hot Springs; Mr. KELLOGG, now in the Senate—in short, seventy-five men munificently provided for at the public expense, every one of them especially because they were the men who either as visiting statesmen or as manipulators of the elections in Florida and Louisiana aided the present Administration to obtain power. They were thus rewarded, notwithstanding the civil-service reform which has been spoken of so highly; yet when the democratic side seeks to vote for a friend of their cause rather than for an admitted partisan, who by the confession of his friends is a leader, and no doubt when his party comes into power either in California or here will be promoted, and ought to be promoted as an active, efficient man, we are to be called revolutionists. Sir, Mr. Gorham does not expect us, and never did expect us, to retain him, and he would not now write a paper over his signature saying that he expected us to retain him as Secretary. He made his fight to turn us out; he made it ably and well; he was beaten; and he has to go where so many of you went not long ago, into a minority and out of office. [Laughter.] If you win again, his political service has been such, and no doubt will continue to be such, as to entitle him again to your confidence. You may restore him if you ever get back into a majority again. We may as well speak plainly to each other, if we say anything; we cannot afford to throw grass while you throw stones; we intend to stand by our friends and organize the Senate in our interest.

I said I did not rise to make a speech, but desired to state the issue clearly, as I understand it, so that the country may understand it. I admit that we do not intend to keep a leader of the republican party as our Secretary and pay him a salary of $6,000 a year to run the campaigns for his party, either in his leisure moments or any other moments during this summer, either in California, Ohio, New York, or anywhere else; and all this lamentation that is made over him by gentlemen on the other side does not meet any response either from the country or from him, as he neither asks it, desires it, nor expects it. [Laughter in the galleries.]

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) The galleries will keep quiet.

Mr. VOORHEES. I desire in a very few words to place this question before the Senate as it occurs to my mind. I have no assault to make on any outgoing officer, and I have no excuse to make for voting against him. By the will of the American people the Senate has come to have a majority on the democratic side, and in my judgment the officers of this body ought to be in substantial harmony with the majority of it. The majority of this body will be held responsible before the people of this country for its management. We shall be held responsible for what occurs in the office of our Secretary. We shall be held, and justly held, responsible for what takes place in the office of the Sergeant-at-Arms, for the management and secrecy of our executive sessions; and I for one say, without a moment's hesitation, that when I have to choose between my political friends and my political enemies for places of trust, honor, and profit, I stand by my friends, as I have always asked them to stand by me. [Applause in the galleries.]

The PRESIDING OFFICER. Order.

Mr. VOORHEES. And in saying that I mean no reflection upon gentlemen of different political opinions from myself; I mean no reflection upon the outgoing Secretary of this body. A partisan politician of course he is, and he uses one of the keenest blades in the United States. I would not vote to turn him out merely on that account, but because he is not of my political faith and I am not of his.

These cries and lamentations that have been set up here to-day by the Senators on the opposite side will not deceive anybody. No sensible people throughout the United States expected this body to do otherwise than what has now been proposed. The funeral wails that have been heard are mere mockeries and lost time on the mind of the country.

Where in all the history of the world has there been a more proscriptive, hungry, and voracious party than that which is heard from now in these obituary notices of those who are about to die? [Laughter.] With nearly one hundred thousand offices to fill and more created from time to time to appease the hungry, gaping mouths of the crowds that have come around this Capitol, it has been impossible for me to listen to this appeal with entire patience and composure. I did not intend to utter a single word; but this attempt to insnare the public mind into the belief that some injury is being done, some outrage committed which the Senators over there themselves would not do under like circumstances, is a little too much for human endurance. In the last eighteen years what have we seen? Droves, gangs, brigades, and squadrons of office-seekers coming here; and when the limit was exhausted by the number of offices all being filled, we have seen more created from time to time to satisfy the demand for them.

I did not want to say this. I had hoped there would be no debate on this question and that we would proceed to do our duty in order, as we intend to do and as the country expected us to do, and fill these places with men whose political principles are in harmony with the majority on this side, and for whose official conduct we have to be responsible before the country.

I shall part from every outgoing official here with nothing but kindness, good wishes, and a hope for his prosperity during life in the future; but who does not know the diversities, the vicissitudes of political fortune? Who does not know that the heart of my excellent friend, the present Secretary, would have been rejoiced if, through his indefatigable efforts in raising money and in every other way, my term should have been limited to the 4th of last March? Who does not know how gladly he would have hailed my defeat in the hard-fought battle of last year in Indiana? I blame him not at all. I wish him well here and elsewhere. So with our Sergeant-at-Arms. But this is one of the changes of political life that come some time to us all. Some of us are here to-day and may be gone to-morrow. I have seen men go out from this body from the great position of Senator itself within the last few days, with deep regret and sorrow on my part, sorrow to part from them and because they sorrowed over it themselves; but this is the fate of political warfare, and the fewer lamentations now and the fewer unnecessary tears that are shed on the other side of the Chamber on the subject, the better will the American people like the Senate. [Laughter and applause in the galleries.]

Mr. BLAINE. Mr. President——

The PRESIDING OFFICER. Before the Senator from Maine proceeds, the Chair will state to persons occupying the galleries that any manifestation of approval or disapproval of the proceedings of the Senate is contrary to the rules of the Senate, and the doorkeepers are directed to take into custody any persons thus transgressing.

Mr. BLAINE. I think the Senator from Indiana [Mr. VOORHEES] has spoken a good deal of truth, and I only rise to say that my lamentation is not over the outgoing officers of the Senate; my lamentation is over the great defection of the honorable Senator from Delaware, [Mr. BAYARD,] who has for all the years I have known his public service read to us such homilies and such adjurations and such lectures and such exhortations in behalf of a reformed and a refined civil service. I supposed that he would stand firm and that in this department of the service of the United States, which never yet has been overcome by the wave of partisanship, he certainly would be the last to surrender. I ask the honorable Senator what can we tie our confidence to in regard to his future course in any other department of office-giving and office-getting and office-hunting, if here, where partisanship has never ruled before, he makes specious pleas and specious arguments in behalf of removal now. The defection is a great and severe and sore blow to reform.

Mr. EATON. Mr. President, only a word or two. I am in favor of making the changes proposed. I know my friend from New York [Mr. CONKLING] feels badly about it, and I will send for some sooth-

ing sirup for him before I get through. [Laughter.] I am not in favor of turning out, to use a Saxon expression, every republican employé of the Senate. I shall not be found so acting. There are old servants here who ought to be kept here, and who, I hope, will be kept here and die here; but we have certain great offices, Sergeant-at-Arms, Secretary of the Senate, Chief Clerk, principal Executive Clerk. It might be inferred from what was said by the Senator from New York that it was proposed to remove the Doorkeeper. Sergeant-at-Arms and Doorkeeper is but one office, and not two, as I am assured, under our rules, and to be voted for as one office. That is the title of the officer.

I am in favor of making these changes, not because I have not been properly treated in every respect by these gentlemen in the most kindly manner always; and for them I entertain very high respect and regard, and they know it; but this thing is to be done because it is the right thing to be done.

Let me read what my friend from Kentucky [Mr. BECK] did not emphasize. Here is this document which he read, signed by my friend the Secretary. I advise him as soon as possible to commence suit against the man who forged his name to this document and demand as many thousand dollars damages as he pleases, and let him employ my friend, the Senator from New York, as his counsel, and if it is false he will recover. What is it?

Foremost among their schemes—

The Secretary says—

Foremost among their schemes, the opposition already announce their intention to attempt the revolutionary expulsion of the President from his office.

Is that true? I have not any very high regard or respect for the man who occupies the presidential chair; I think that he is there through fraud; that he has no business there; that a majority of three hundred thousand freemen in this country said he had no business there; and when the secretary of this association says that "foremost among their schemes the opposition already announce their intention to attempt the revolutionary expulsion of the President from his office," I denounce it as false. I as a democrat say it is not true. There has been no such intention. No respectable body of men, either in point of intellect or numbers, has ever said such a thing. Therefore I say that if it was not absolutely right and proper, for other reasons, to make the change in the Secretaryship of the Senate, I would make the change because of that circular, unless it was denied and proved to be false.

However, we are told that this is horrible proscription; that this republican party has never undertaken to do a thing of this character. Why, sir, in the great State so honorably represented upon this floor in part by my distinguished friend who sits before me [Mr. CONKLING] the two great political parties have always said that the judiciary should not be spotted by politics. In the little State that I have the honor in part to represent upon this floor—and my colleague, I know, will agree with me in what I state—the two great parties have always kept the judiciary as nearly equal as possible.

Mr. CONKLING. I never heard of it in New York.

Mr. EATON. Then I am mistaken, and can only say that you ought to have heard of it before in New York. [Laughter.]

Mr. CONKLING. My honorable friend will allow me to say that if it were true, I ought to have heard of it. But shall I understand the honorable Senator to say that the democratic party in New York have made non-partisan nominations for judicial offices and kept the elective judiciary out of partisan politics?

Mr. EATON. I have been informed, and having been so informed believe, that not only the democratic party but the republican party of New York have together joined in order to keep the judiciary out of partisan politics.

Mr. CONKLING. If my friend will pardon me one moment——

Mr. EATON. Certainly.

Mr. CONKLING. I say that the republican party would join anybody who ought to be joined in doing anything that is right, I believe; but that the republican party has ever had the opportunity to join the democratic party in electing non-partisan judicial officers, I never heard of before. I know that it has happened in a particular district here or there, which was clearly, undoubtedly one way or the other in politics, that one party or the other has failed to make an adverse nomination, and has sometimes in form nominated perhaps the very person nominated on the other side. But that in any contestable district where the democrats could elect or could hope to elect, or that in the State of New York the democratic party has ever been in favor of a non-partisan judiciary, I ought to know if it be true; but I do not know it, because no such thing is true.

Mr. EATON. Doubtless I am wrong to a certain extent.

Mr. KERNAN. My friend from Connecticut will allow me to suggest that he may have learned this: in establishing our court of appeals of seven judges by a constitutional amendment, there was a provision put in, with a view to start it not all one way, that no elector should vote for more than five. That would make and did make five of one party and two of the other elected for that time; but I will say that there is no provision when one drops out hereafter to prevent those elected from being all of one party, which is a defect. Probably that is what my friend from Connecticut may have had in his mind.

Mr. CONKLING. If my friend from Connecticut will allow me one moment, my colleague is quite right in so far as he confines himself to the record. It was intended that neither party should have the whole of the court of appeals to begin with; but my colleague said, inadvertently I presume, that the intention was that one party should have five and the other party should have two judges.

Mr. KERNAN. I said the intent probably being to start the court with five of one party and two of the other, which was accomplished.

Mr. CONKLING. There my colleague falls into an error, as I submit to him. The intention was to prevent either party from having more than five and either party from having less than two; but it was not the intention to establish in advance that one party should have five and the other should have but two. That is all the criticism to which I meant to call his attention; and now that being the provision, what ensued? My friend from Connecticut will pardon me for one instant for trespassing upon his time. The democratic party proceeded to nominate just as it is going to-day to proceed to nominate, all the officers which it has the power in numbers to obtain, and it did obtain them, the whole five; the republican party obtained but two; and when this preliminary provision had expended itself that was the end of it. It was like an advertisement that you sometimes see of some public amusement, "positively for one time only." This was positively only for that time, and just as soon as the bar was broken down the democratic party said to the judiciary, as of everything else, "Moab is my wash-pot; over Edom will I cast out my shoe." They took everything and reduced it to what my friend from Connecticut would call an absolute *possessio pedis*.

Mr. EATON. It seems that to a certain extent I was mistaken in regard to New York. I regret that I was mistaken.

Mr. CONKLING. So do I.

Mr. EATON. I am glad that the Senator does. I regret that I was mistaken; but that I was entirely right in regard to my own State is absolutely true. Now, then, let us look at what this party have done, represented on this floor by gentlemen who find fault to-day because the Secretary of the Senate is to be changed. How have they voted here in the last twelve years? Who have been confirmed as judges of the Supreme Court of the United States by these very honorable gentlemen, a part of them? What democrat has been nominated to occupy a position upon the bench of the Supreme Court of the United States? With a majority of three hundred thousand of the voters of this country, what democrat has been nominated to take a seat upon the great judicial bench of the United States? Not one.

Mr. BLAINE. Judge Field.

Mr. EATON. Not one. There are two there, Judge Field and Judge Clifford——

Mr. BLAINE. And Judge Field was put there by Mr. Lincoln.

Mr. EATON. I understand that he was put there by Mr. Lincoln, and I understand further enough to say that no democrat, as a democrat, has ever been nominated by the President of the United States for seventeen years and confirmed by the Senate. Why did not my friend from New York lift up his hand in holy horror and speak with his eloquent tongue to the effect that some good democrat ought to be upon the bench of the Supreme Court? Why did not he, all powerful as he was, not with this but with another Administration, recommend the nomination of gentlemen of that character to take seats upon the bench of the Supreme Court of the United States? Was that cry heard when Mr. Hunt and Mr. Harlan were nominated a little while ago. For Mr. Harlan, of Kentucky, from the State of my friend here, [Mr. WILLIAMS,] I had the pleasure of voting myself. I ought not, perhaps, to say that I had.

Mr. CONKLING. What do you find fault about, then?

Mr. EATON. Because other folks ought to have thought at that time with regard to judges of the Supreme Court what they think now when we take a little office from their grasp. If it were anywhere else except here, and perhaps I might just as well say it here as anywhere else, the whole of this business is playing baby. A great party have come into power. We are responsible and able to be responsible for the carrying on of the legislation of forty or fifty million people, and we intend to do it with our own servants. That is the way to tell it and to talk it. We propose to elect our own officers. We do not propose to remove all these people, not everybody here. I can name a dozen men, sound, stalwart republicans, whom I desire to have remain in their offices, but not these gentlemen; and I know none of them will bear me any ill-will for what I say. It is no clean sweep, to use an Anglo-Saxon term, but we propose to take the heads off three or four of these gentlemen and put democratic heads upon their shoulders.

Mr. CONKLING. They might as well have none at all.

Mr. EATON. My friend from New York says they might as well have no heads at all. [Laughter.] That was a witticism by my friend from New York that the galleries did not hear, and therefore I thought I would give him the benefit of it. [Laughter.] Mr. President, within six months from to-day my friend will get up and in sackcloth and ashes he will say, "I was mistaken in the men you have elected; they are the best officers the Senate has seen in half a century."

But, Mr. President, I did not intend to say half so much. I only wanted to say that this great party, who holds in its hands one hundred thousand or one hundred and twenty thousand offices, ought not to complain because of the loss of two or three officers; and it is not worthy of the republican party of the Senate or the country to complain.

Mr. BLAINE. Mr. President, there is one thing the honorable Senator from Connecticut said which I think ought not to go without answer and correction. I will remark here in passing that all the pretext, if the Senator will not take that as an offensive word——

Mr. EATON. Oh, no.

Mr. BLAINE. Of removing the Secretary of the Senate because he issued the circular which has been read, or because he was the secretary of the republican committee that issued it, may go for what it is worth. My honorable friend knows and I know that is not the cause. If he had never issued a circular, if he had never been secretary of the committee, he would have to go all the same.

But the honorable Senator says that the secretary of the republican national committee asserted what was not true when he stated that it was the design of the democratic party to remove the President. As to the last Congress, I may speak freely of what took place in the House; that is historical. I am debarred by the rules from speaking of the present House. I assert here that the struggle which was going on inside the democratic party of both branches of Congress, and which finally culminated by appointing the Potter committee in the interest of the ring, so to speak, who were going for blood, to quote their own phrase, meant at that time to assault the title of the President if they could find evidence on which to ground their charges. I undertake to say that my friend on the 17th of May, in the Senate of the United States, would not have risen here and denied that it was the intention to remove the President if they could prove fraud. They sent out their committee, and as the boys say about the fishermen, they made a water-haul. They made themselves ridiculous. They did not find evidence on which to ground and base an indictment; and now with an immense parade of virtue the Senator from Connecticut comes to the point and declares that it is false that any such design was ever entertained.

Mr. McMILLAN. What is the date of that circular?

Mr. BLAINE. The 27th day of May, 1878.

Mr. EATON. Mr. President——

Mr. BLAINE. I yield to the Senator from Connecticut.

Mr. EATON. I thought the Senator was through.

Mr. BLAINE. The Secretary of the Senate, then acting as secretary of the national republican committee, stated with accuracy and precision what was the impending fear in the public mind at that time. I never saw it contradicted. I never heard it contradicted on this floor, and I never heard of its being contradicted on the floor of the other House of Congress. It is a magnificent parade of virtue to come in at this late day and justify the removal of the Secretary of the Senate because in a circular signed by him the precise truth was told about the revolutionary designs of the democratic party at that time, which designs were not carried out because they made a perfect fiasco and became ridiculous in the eyes of their own party and a stench in the nostrils of a loyal people.

Mr. WALLACE. Does not the Senator from Maine know that within a week preceding the date of that circular the democratic convention of the State of Pennsylvania, second in size in the Union, expressly resolved that it was unwise and impolitic to make any attack whatever upon the title of the President? That was the only democratic convention that was held near the date of that circular.

Mr. BLAINE. If my friend will pardon me, why did the State of Pennsylvania, so skillfully manipulated and so artfully handled by the honorable Senator himself, adopt that resolve if there was not some danger in the air?

Mr. WALLACE. Because the assertion made in that document was false and demanded contradiction.

Mr. BLAINE. But the document had never seen the light of day then. The honorable Senator cannot base it on that document. That document never came out until some sneaking Federal office-holder betrayed its possession, and he is probably waiting around here in the corridors now for some reward for betraying the secrets of his party. The Senator cannot base the action of Pennsylvania on that. The Senator knows that the whole country was agitated with what was considered a revolutionary movement in the House of Representatives, and he went up to Harrisburgh to make it certain that no such rash step should be taken by the democracy of Pennsylvania if he could help it. He did help it; and that is all there is of that.

Mr. WALLACE. That there was such an agitation in the country I concede; but that it was the action of men who declared what was untrue I also assert; and it found public vent in this document first. It was the assertion of men based upon nothing but their own opinion and their own desire to make public that which was not correct and which was not sustained by a single word of any public man who was worthy to be called a leader either in the State of the Senator from Maine, or in my State, or in any other State in the Union, or in the lower House of Congress.

Mr. BLAINE. I think this is an immense exhibition of virtue after the fact. If there was anything current at that time, if there was anything admitted here and there and everywhere, it was that the Potter committee was organized to fish for testimony on which some proceeding might be started and inaugurated and carried through.

Mr. KERNAN. I wish to say to my friend that, probably he will remember the date but my recollection is contemporaneous, or about that, with the organization of the Potter committee there was passed by the House a resolution that there was no intent to question the title of the President. That was done contemporaneously.

Mr. BLAINE. Oh, no; some weeks afterward; very nearly the close of the session.

Mr. KERNAN. No.

Mr. BLAINE. It was done after there had come up an indignant protest from the country. After the business communities everywhere discountenanced and protested against any such thing, then the House of Representatives, with an aroused public opinion influencing them, on a motion of a republican member, did adopt a resolution that it was not the intention to initiate proceedings looking to the displacement of the President.

Mr. KERNAN. I yield to my friend from Connecticut, [Mr. EATON.]

Mr. EATON. Mr. President, I still assert what I said before, that this part of the circular which I read was false, and not true. In the first place, on the floor of the Senate, who ever uttered any language of this character? This circular assails the whole party of the country, not only the Senate, not only the House of Representatives, but the democracy of the entire country everywhere.

Mr. BLAINE. Will the Senator yield a moment?

Mr. EATON. Oh, certainly.

Mr. BLAINE. It is still echoing in my ear that the Senator from Connecticut himself denounced the title of the President here to-day as a fraud.

Mr. EATON. I say so now.

Mr. BLAINE. He maintained that the President holds his title by fraud.

Mr. EATON. I say so now.

Mr. BLAINE. Then is not the Senator denouncing the entire republican party, which is answerable for it?

Mr. EATON. I say so again.

Mr. BLAINE. Very well; then do not let the Senator upbraid the republican party for saying the same in return.

Mr. EATON. No, not the whole republican party, for a great many of them feel just the same as I do about it. The best of them feel just as I do on the subject. I do not undertake to say whether the Senator from Maine does or not; he is able to speak for himself; but the best of them agree with me that the man at the White House has no legal title to his office as President of the United States.

Mr. BLAINE. If the Senator wants an answer I will give him what my view is. My view is that the President of the United States who holds the office to-day was elected by as fair and as honest a vote as George Washington was, but that it took a singular departure from constitutional modes to make that vote good, and that he was not only entitled to the votes of three Southern States that he got but of three more of which he was defrauded by bulldozing democrats who maintained by violence what was not theirs by right. [Applause in the galleries.]

Mr. EATON. The Senator from Maine——

The PRESIDING OFFICER. The Senator from Connecticut will suspend. The Sergeant-at-Arms will see that the doorkeepers take into custody any person violating the rules of the Senate in the galleries. The Sergeant-at-Arms is expected to see this order carried into effect. The Senator from Connecticut will proceed.

Mr. EATON. Mr. President, a word to my friend from Maine. The quality of his belief is equaled only by india-rubber. He believes that the votes of those three States were legitimately for Mr. Hayes; he believes that the votes of three other Southern States should have been counted for Mr. Hayes. Sir, I cannot make any argument against the belief of the gentleman from Maine. My belief is that three hundred thousand majority of the people of the United States were defrauded out of the result of an honest election for President. But to come to the point, my friend says the House of Representatives organized the Potter committee. To do what? If I understand him, it was to find evidence, proper evidence, that this President of the United States was not properly elected.

Mr. BLAINE. And suppose they had found proper evidence that he was not elected, what were they going to do, just sit down and laugh at it?

Mr. EATON. I will not answer that.

Mr. BLAINE. Ah!

Mr. EATON. Not here, not now. I will answer it simply by reading these words:

> Foremost among their schemes the opposition already announce their intention to attempt—

What?

> the revolutionary expulsion of the President from his office.

Mr. President, there the statement of facts existed. If there was proper evidence, legitimate evidence, that the acting President of the United States was not of right the President of the United States, and there was any legal means to test that question, will the Senator from Maine deny here on the floor in his place that it ought to have been tested? If so, let him say so. I do not say there is, I do not say there can be found, but if there could be found legitimate and proper evidence that the President of the United States was not properly elected President of the United States, and there was some constitutional means to remove him from his office, dare the Senator from Maine say that those means ought not to be employed? If so, I will give way to him.

Mr. BLAINE. A few moments since the honorable Senator from Connecticut said that the President held his seat by fraud. Now he says that he does not pretend to say whether that committee found

any evidence or not. Do I understand the honorable Senator to make so grave a charge and not to have any evidence of it?

Mr. EATON. I have evidence sufficient for me.

Mr. BLAINE. Ah, but not sufficient to warrant your action in the Senate.

Mr. EATON. Perhaps not.

Mr. BLAINE. Now, I will give the honorable Senator my answer, and very decidedly, and without the slightest hesitation. My answer is, that the electoral commission, which he did not vote for, and which I did not vote for——

Mr. EATON. We agreed about that.

Mr. BLAINE. I well remember the bright sunrise when the Senator from Connecticut and myself walked out by the east front at seven a. m. when the bill was passed. We were in a very small minority. He remarked to me that at all events it was a record on which he would venture to stand for the future. I stood with him on that. We agree so well on general political questions that it was no wonder we agreed then. [Laughter.]

Mr. EATON. I only wonder that we do not agree now. [Laughter.]

Mr. BLAINE. I say that the judgment of the electoral commission was a final and conclusive rendering of the presidential issue, just as much as the orderly counting of the electoral votes hitherto by the Vice-President in the presence of the two Houses. It was intended to be so; it was so under the law. The American people accepted it as such; and it was an unpatriotic course on the part of the democratic party to seek to disturb that settlement. I do not mean it in any offensive sense, but it was not an honorable course for the democratic party. They had agreed to a tribunal constituted after their own desires, and when that tribunal had decided against them they sought around by every possible means to see if they could not escape from its verdict; and failing to escape from its verdict they come in as the honorable Senator from Connecticut does to-day, and cry that it is a fraud. It is not in my judgment an honorable compliance with the terms of a settlement to which the whole American people were parties. Of course I do not use the phrase in a sense personally offensive to the honorable Senator.

Mr. EATON. The term "honorable" is used rather flippantly by my friend from Maine. When he alludes to me personally——

Mr. BLAINE. I do not.

Mr. EATON. I pursue my own course, I follow my own convictions to their legitimate conclusions always. My friend spoke of the House of Representatives of the United States. What did they say? This circular was written or printed on the 27th day of May, 1878. On the 14th day of June, 1878, a resolution was passed by the House——

Mr. BLAINE. Three weeks afterward, mark.

Mr. EATON. Yes, I do mark.

Mr. KERNAN. It had been under discussion all the same.

Mr. EATON. It had been under discussion a long time in the House, and nobody knows it better than my friend from Maine. The resolution is in these words:

Resolved, That no subsequent Congress and neither House has jurisdiction to reverse the action at such joint meeting; and any attempt by either House to annul or disregard such action, or the title to office arising therefrom, would be revolutionary, and is disapproved by the House.

I would not have voted for that if I had been there.

Mr. ALLISON. What was the vote?

Mr. EATON. The vote was 216 yeas, 21 nays; and 54 not voting, among which doubtless I might have been found. The assertion, not to say the argument, of my friend from Maine that any body of men, that any coterie of democrats in this country anywhere desired the revolutionary expulsion of the President from his office, I assert is false. I assert as a democrat that it is not true. Let it come from where it may come, it is false. If there had been legitimate and legal power to unseat the President of the United States, if a good case had been established, that is one thing; but no man, no Senator, can tell me that that would be revolutionary. It is not true. So much for that. Sir, the democrats of the Senate will go on here and do their duty in this matter. Their duty is, in my judgment, to take three or four of these important offices, because they are necessary for the proper managing of the business of the Senate, but I hope and trust that the majority of my own party will be found not to make an indiscriminate slaughter of faithful old servants.

Mr. BLAINE. A single word, Mr. President. All that I said is entirely vindicated by the record read by the Senator from Connecticut, every word of it. Several weeks after the Potter committee was organized and the movement initiated, and after the Senator from Pennsylvania had got his State convention to denounce it, and after various forms of public opinion had come up from various portions or all portions of the country, then it was that the resolution which the honorable Senator from Connecticut has read was passed by the House. I beg that Senator's attention to this fact, that the Speaker of the House of Representatives, in a carefully prepared opinion—I believe a written opinion, written by a competent gentleman skilled in parliamentary law—decided the Potter resolution to be in order because it involved the title to the Presidency of the United States. The whole scope and purport and aim and object of the resolution contemplated that and contemplated nothing else. And my honorable friend from Connecticut knows it very well, for he is a man of affairs; he is an earnest man. He never contemplated, the House of Representatives never contemplated, nobody ever contemplated that the Potter committee were going to gather a lot of evidence just to have it printed and looked at. They "meant business," as the cant phrase is. They started with that end in view. They had a purpose and an object; and all that happened was that the facts did not justify the conclusion they thought they would reach, and they backed out from it, with what grace it does not become me to say.

I rose only to say that the idea of visiting the Secretary of the Senate, who happened to be secretary of the national republican committee, with special censure because he put in a circular at that time what was the general and universal belief in the republican party is something which the Senator from Connecticut ought to withdraw as an unjust reflection upon that officer.

Mr. HILL, of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Georgia?

Mr. BLAINE. Certainly.

Mr. HILL, of Georgia. I thought the Senator was through.

Mr. BLAINE. I will yield.

Mr. HILL, of Georgia. No, I thought the Senator was through.

Mr. BLAINE. Go on.

Mr. HILL, of Georgia. I thought the Senator was through. I did not intend to interrupt him.

The PRESIDING OFFICER. The Chair understood the Senator from Maine to say he had concluded.

Mr. HILL, of Georgia. Mr. President——

Mr. EATON. Will my friend give way one moment? I want to say one word. I am a little surprised, I confess, at the language which the Senator from Maine sees fit to adopt. He now goes off on this assertion, if I understand him: he says that on the 27th day of May, 1878, the whole republican party—I use his own words—believed the opposition, that is to say the democratic party, "already announce their intention to attempt the revolutionary expulsion of the President."

Mr. BLAINE. And the passage of the resolution for the Potter committee was taken as that announcement by the country.

Mr. EATON. I ask the Senator from Maine if, in his place in the Senate under his obligations which he owes to the people of this country as a Senator, he says that all of the republican party of the United States on the 27th day of May, 1878, believed that the democratic party intended to adopt revolutionary measures to expel the President from his office? I beg to ask him if under his responsibility as a Senator he makes an assertion of that character, that the whole republican party, including all his brethren here, all my friends on the other side, believed that I or that my friend from Indiana, [Mr. MCDONALD,] or my friend from Delaware, [Mr. BAYARD,] or my friend from Tennessee, [Mr. BAILEY,] or my friend from West Virginia, [Mr. DAVIS,] or my friend from Ohio, [Mr. THURMAN,] was engaged in a revolutionary plan to expel the President from his office?

Mr. BLAINE. Does the Senator ask for an answer?

Mr. EATON. I do ask for an answer.

Mr. BLAINE. I have already given it but I can repeat it. My answer is this: when I say the whole republican party, that comprises four or five million voters—and of course I cannot speak for every one of them—I mean the general belief among the republican party at that time was and is to-day, and so far as I know before the honorable Senator from Connecticut had spoken I would have said also among the democratic party was that if the Potter committee could find evidence on which to ground some sort of proceeding to oust the President, they would have done it. And I believe, and have no hesitation on my responsibility as a Senator or any other responsibility I can assume in saying, that in my judgment any proceeding of that kind, I do not care what form you put it in, in view of the settlement that was made by the electoral commission, would be revolutionary. Therefore I repeat that the judgment of the republican party throughout the country and my personal judgment then was, and now is, that it was the intention of the democratic party, if they could find evidence enough to ground it on, to initiate a proceeding which in its very nature was revolutionary and which could not be anything else. That is my answer to the honorable Senator from Connecticut.

Mr. EATON. That is altogether another matter.

Mr. BLAINE. It is exactly the other side of the same matter.

Mr. EATON. It is altogether another matter.

Mr. HILL, of Georgia. I decline to yield further.

The PRESIDING OFFICER. The Senator from Georgia is entitled to the floor.

Mr. MCDONALD. I should like my friend from Georgia to allow me to ask the Senator from Maine——

The PRESIDING OFFICER. Does the Senator from Georgia yield?

Mr. HILL, of Georgia. I do not yield. My friend will excuse me.

The PRESIDING OFFICER. The Senator from Georgia must not be interrupted without his consent.

Mr. HILL of Georgia. I do not know when that colloquy will end, and with all due deference and kindness to my friends on both sides I will not yield further.

Mr. President, there is an issue of fact raised here between the Senators who have addressed the Senate, and a very material issue of fact, one affecting not only the character of the democratic party very materially, but affecting somewhat the character of American institutions, in my judgment, and it is very important that the real truth should be settled upon this question. The Senator from Con-

necticut has read from what purports to be some sort of a circular, I do not know what, issued by the Secretary of this body in May, 1878, in which it is stated that the whole democratic party, or what he is pleased to call the opposition party, "announce their intention to attempt the revolutionary expulsion of the President from his office." The word "revolutionary" is used. The Senator from Connecticut has denounced those words as false and asserted it in no measured terms. The Senator from Maine comes to the vindication of the circular and charges that there was a revolutionary purpose, revolutionary not only on the part of the democratic party or a large portion of them, but to sustain his general charge he is satisfied that the Potter resolution had that purpose in view. Now, sir, I say that the Senator from Maine is as incorrect in his statement as was the circular of the Secretary of this body when it was written, and I say that the Senator cannot produce a single fact from any authorized portion of the democratic party to justify his assertion. What he may quote from individual expressions I do not know; what he may quote from violent newspapers I cannot tell; but I affirm here now in this presence that he is not justified in saying that any portion of the democratic party ever intended under any contingency a revolutionary movement for the expulsion of the President, and he cannot produce the proceedings of a single convention, or the utterance of a single reputable leader of the democratic party in Congress or out of it, to justify his most remarkable and hazardous assertion.

Now, sir, I think I have a right to know something of the small divisions that existed in the democratic party on that subject, and I will state them very briefly. When the electoral commission bill was passed it contained this provision, to which I wish to call the attention of the Senate:

SEC. 6. That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws, to question, by proceeding in the judicial courts of the United States, the right or title of the person who shall be declared elected, or who shall claim to be President or Vice-President of the United States, if any such right exists.

That, I say, is a provision of the act of Congress which established the electoral commission. I need not remind the Senate and the country that the provision was inserted because of the belief of some that if the electoral commission should do what was apprehended they would do, refuse to look into the issue as to who was elected President on the merits, should refuse to investigate the broad charge as to Louisiana and Florida, and the result of that commission should be the declaration of either gentleman as President of the United States without looking into the testimony, without meeting any issue on the real merits because of the jurisdiction of that tribunal, because of the constitutional form in which that issue was raised, the door should not be closed to a proper judicial investigation which would bring out all the facts and a final decision by the judicial tribunals of the country.

That there was ground for this belief that the courts of the country would have jurisdiction to investigate this question is manifest from the fact that learned gentlemen and distinguished statesmen on both sides of the Chamber, and on both sides of the other Chamber, including some of the most distinguished men of both parties, incorporated a provision in the electoral act itself reserving all right to reopen the question and have it investigated before the judicial tribunals of the country.

Now, sir, here is the truth. Some of the ablest lawyers in the United States believed that by proper proceeding the Supreme Court could get jurisdiction fairly, judicially to investigate and determine this question. It was upon that conviction, I remember distinctly, that the Legislature of Maryland passed a memorial to Congress and instructed its attorney-general to bring it here, and it was presented in the House of Representatives, demanding that proceedings of this character should be inaugurated, and there were quite a number of gentlemen, and I will say they were not all democrats, for I happen to know that some of the most distinguished republican lawyers of the United States held that it would be perfectly competent in a proper proceeding for the Supreme Court of the United States to reopen, investigate, and determine the question upon its merits, for mark you, it had not been determined on its merits by the electoral commission.

Every gentleman with whom I am acquainted, every prominent democrat in the United States who desired to investigate this question at all, desired to do so through the courts and under the encouragement and authority given by the electoral commission act itself. Was that revolutionary? Did that show a revolutionary purpose? Whether that proceeding before the courts should be inaugurated or not, would depend upon the evidence, the legitimate evidence that might be ascertained in the case. Therefore it was that all sections of the democratic party were perfectly willing to inaugurate an investigation by the House of Representatives to ascertain the real facts; and there were democrats in this country, and I say there were republicans in this country who, if the facts should develop an illegal title and it should be held that the Supreme Court had jurisdiction to review and investigate that title, were in favor of the movement. Was that revolutionary? Will any gentleman say that a purpose to test the question before the courts, when the right so to test it had been held out to them in the very act organizing the electoral commission—will any gentleman rise in his place and say that was revolutionary?

Not only was that a provision in the act, but the distinguished gentleman who occupies the chair at this moment, [Mr. EDMUNDS,] one of the best lawyers in the republican party, accompanied that bill with a report to Congress, and in that report he said:

Fourth. It is provided that the act shall not affect, either way, the question of right of resort to the judicial courts of the United States by the persons concerned as claimants to the offices in question.

So I say here by the report of the distinguished gentleman, himself one of the leaders of the republican party, made by him—a report agreed to by the leading democrats and leading republicans alike—the right to test the question of the validity of the presidential election before the courts was held out to the country as a reason why the method of settlement provided by the electoral commission act should be adopted.

I confess, so far as I am concerned, that I am one of those gentlemen who believed that the courts had no jurisdiction. I confess I was not deceived by that report nor deceived by that section of the electoral commission bill. My own judgment was that under the Constitution of the country the determination as to who was President of the United States by the election of 1876 was vested in the two Houses of Congress, and that when those two Houses pronounced their judgment, by whatever methods they reached that judgment, that judgment was final and conclusive. That was my own opinion; but abler lawyers than I am, both republicans and democrats, held to a contrary opinion, and this contrary opinion was encouraged, I repeat, both by the report made by the able lawyer appointed to draft the electoral commission bill and by a provision in the electoral commission bill itself. Therefore, from the very time that the two Houses of Congress settled this memorable controversy with the aid of the electoral commission, and declared Mr. Hayes elected President of the United States, a large portion of very estimable gentlemen in this country, North and South, men of high character as lawyers, desired to have the question investigated before the courts of the country. As to what should be the form of proceeding was a difficult question. In my own judgment as a lawyer there was no form of proceeding because I did not think it was a case that could be made.

That was my own judgment, but others differed with me, and that was the only controversy in the democratic party. A large portion of the party were opposed even to taking this proceeding before the courts. A small portion desired to take the course Maryland desired to take. Twenty-one democrats who voted on the Potter resolution or on the resolution following the report on this memorial from Maryland—twenty-one I believe voted against the Maryland report, but perhaps it was fourteen. Some say it was fourteen; I do not remember the precise number; at least fourteen thought the case ought to be opened. A great number thought the courts could not be opened, and the only proper plan was to let the matter die. So far as making an issue was concerned, so far as any attempt to affect the presidential title was concerned, the large majority of the democratic party in Congress and out of it was opposed to making any movement whatever to disturb the presidential title. A strong minority of eloquent gentlemen, able lawyers, aided and abetted by distinguished members of the republican party, did desire to inaugurate a movement before the courts for the purpose of testing the validity of that title. And yet we are told this was revolutionary. Here was a revolutionary purpose, and the Secretary of the Senate of the United States issued this circular denouncing this as revolutionary, and it is one of the most remarkable facts of this most remarkable history touching this whole presidential imbroglio of 1876 that notwithstanding the report made by the electoral commission committee, and notwithstanding section 6 in the electoral commission act, just as soon as the decision was rendered declaring Mr. Hayes President, and the intimation was given out in any way by anybody that there was a purpose by any person to inaugurate a movement before the courts to test the validity of his title, the republicans, with remarkable unanimity, raised the cry, "You are going to revolutionize this country! Another revolution!"

They had refused to look into the facts in the electoral commission; they had pronounced that ever memorable decision which declares that not only individuals but the Congress of the United States were bound to believe as true what everybody knew was a perjury, were bound to accept as genuine what everybody knew was a forgery, were bound to declare and carry out as constitutional and right what everybody knew was an unmitigated fraud; and just as soon as that decision was procured by a refusal to look into the facts, and some gentlemen desired that the facts should be looked into and investigated by a judicial tribunal in a judicial manner and by a judicial proceeding, the gentlemen on the other side raised the cry of "revolution." Is it revolution to go before the courts? Why, sir, suppose these proceedings had been inaugurated either in the name of a defeated candidate or in the name of a disappointed State, a sovereign State, who was a party to that wrong, a party damaged by that wrong—suppose these proceedings had been inaugurated by the State of Maryland or in any other way, if the courts had not jurisdiction to pass upon it the courts would have decided so. And the court that it was desired to go before was not a democratic court; the court proposed to test the question before was the Supreme Court of the United States, a court which has upon it seven republican judges and only two democrats; and because some democrats in this country believed that the courts did have jurisdiction to test this question, and

that the question ought to be brought before them so that it might be tested, and because they were encouraged so to believe by the very section 6 of the electoral commission bill, and by the report of the committee which reported that bill, and notwithstanding the fact that they were willing to select a republican court before which to test the question, yet in the face of all these facts the air has been absolutely full with the miserable partisan cry that the democratic party were going into revolution. And at this late day a distinguished Senator from New England gets up and reiterates before this body that the democratic party, or a large proportion of it, intended a revolutionary purpose. Certainly he can point to no record, he has pointed to none. It would seem that one party had been so accustomed to disregard proper judicial proceedings that they regard any party proposing a judicial investigation as guilty of a revolutionary purpose.

That is the point I make. I say that that circular issued by the Secretary was false, utterly false. I say that the democratic party had not announced, as that circular says, any revolutionary purpose of the expulsion of the President. I say that no man can produce a proceeding of the democratic party in convention, in Legislature, or in the Congress of the United States to justify the charge that they intended revolution. The truth is, to tell the candid fact, I always believed that the gentlemen raised the cry of revolution largely to prevent the investigation, because they feared the consequences if one should be inaugurated.

Now, the Senator says if there is no danger in the air why has the House of Representatives deemed it necessary to pass a resolution disclaiming any revolutionary purpose? Why did the distinguished gentleman from New York, who introduced the resolution of inquiry in order to ascertain what the facts were which had never before been ascertained, announce in his very resolution that there was no revolutionary purpose and that every charge of that sort was false? It was because of the cry raised by gentlemen on the other side; because of the cry raised by the republican party.

The Senator from Maine says the circular issued by the Secretary had not then appeared. Well, I will guarantee now that if you will take the trouble you may look back at those times and you will find scarcely a republican paper in the United States, you will find scarcely a republican politician in the United States, I am sure you will not find a republican office-holder in the United States who was not unblushingly crying "revolution," "revolution," against the democratic party all over the country; and the cry of "revolution" was having its effect; it was deceiving a great many people; and therefore it was that the democratic party in the House felt it necessary, or proper at least, to put on record the solemn official denial of this foul slander upon their purposes.

Mr. President, I did not rise to discuss this question or any other. This is a very elaborate debate to have grown out of the simple proposition to elect a few officers of the Senate. As I am on my feet, I wish to say one word in reply to what the Senator from New York said. That Senator alluded to the fact that when he came here in July, 1861, a large number of these seats were vacant. That is a fact we all know. We had heard of that before. He alluded to the fact that they are filled now. I am gratified to say that we know that to be true. Mr. President, the saddest day in American history, in my judgment, was the one to which the Senator from New York alluded, when the South, actuated by as high and patriotic a purpose as ever actuated any people since the sun has been pursuing his course, left these Halls and attempted to secede from the Union. I grant that. They did not desire war; and I know they did what they believed was their right. They thought to make no war, they thought to engender no strife; they sought to end it; but they were mistaken, and the whole world knows the history that followed. It was a sad day when the Southern States with their gifted representatives left these Halls and left the Government in the undisputed control of the republican party; and every hour and every day from that time to this, as a consequence of that unfortunate act, the country has been rocking in the throes of revolution.

Sir, I am not here to parcel out the blame on this subject upon this section or that section, this party or that party. It was a grand mistake, a great mistake, and honestly made, unquestionably; terrible consequences have followed, consequences which did not disappoint me. But we have passed through that ordeal. We have had a reign of blood. The republican party because of that very act has had eighteen years of domination in this country. What are the fruits of that domination? History will record them; history has recorded them. I wish to say to the gentleman that as the first fact to which he alluded, contrary to the intentions of those who acted in it, inaugurated a war, long and sad, the second fact to which he alluded, the return of the South here with her proper, her fit representatives, ends the revolution which their departure began. If that departure brought war upon the country, this return assures the country of peace and prosperity once more.

The Senator may regret, the gentlemen on the other side may regret, the end of this eighteen years' lease of power. It is a thing to be regretted very much by those gentlemen. Perhaps they would like to see another secession if it would give them eighteen years of undisputed possession of this great Government. But, gentlemen, in all kindness and candor let me tell you your day is ended and your chances will not return. You did not complain of the presence of the South here when that presence was by men who had no interest with us. These, with one lingering exception, have all gone, and the places which knew them but yesterday will know them no more forever. The carpet-bag riot ends with the departure of the republican party from power.

Why are we to be constantly reminded of that act? Why should gentlemen on all occasions, in season and out of season, arraign the South for what they choose to call rebellion? Call it rebellion. History will judge that question and we should prefer the judgment of history to the judgment of the gentlemen on the other side; much prefer it. What is the purpose, unless "out of the fullness of the heart the mouth speaketh?" It is an unpleasant thing to say; I am sure it is not meant in unkindness; it will go like a dart to many gentlemen in this hearing; yet I tell them that what the Senator from New York says is true, these seats are filled, and filled by southern representative men, and these seats will remain filled by representative southern men. That is all. Let the past, then, go. We are opposed to revolutionary purposes; we are opposed to revolutionary proceedings; we have not made anything by revolution. The republican party made eighteen years of power by revolution and they are always talking about revolution.

I hope, Mr. President, that the time has come when these perpetual sectional allusions will be abandoned. They do not tend to harmony. We are acquainted with the past history of this country quite as well as the gentlemen; we have been the chief sufferers in that past history. As for their criticism upon our future conduct, we can bear that criticism, because however unkind and unamiable it may be, it shall be our high pleasure to demonstrate in the future that there is not one word of truth in it. When you prophesy that we intend revolution, that we intend anything but the peace and good and prosperity of this whole country, it may be that you desire to find some evidence of the truth of your charges, but it is our purpose to show to the country that we are not only here, but that we are worthy to be here as were our fathers before us who did so much to make this country so great and glorious.

Mr. BLAINE. I will detain the Senate for a moment to say a word in regard to the original point of difference between myself and the Senator from Connecticut. I hold in my hand the decision of the Speaker of the House when the Potter resolution was introduced. A point of order being made that it was not a question of privilege, the Speaker ruled that it was, giving his views in an elaborate decision from which I will read only a few lines:

> A higher privilege than the one here involved and broadly and directly presented *as to the rightful occupancy of the chief executive chair of the Government*, and the connection of high Government officials with the frauds alleged, the Chair is unable to conceive.

This debate began with the assertion of the Senator from Connecticut that there had been no design whatever on the part of the democratic party of opening that question.

Mr. EATON. Not so; I beg pardon; no revolutionary design.

Mr. BLAINE. Ah, a revolutionary design! It has got down to a question of words.

Mr. EATON. Not so; just take what I say.

Mr. BLAINE. That is the same point taken by the Senator from Georgia, [Mr. HILL.] You were going to do all you could to put one President out and another candidate in, only you object to its being called revolutionary. The Senator from Georgia objects to the late war being called a rebellion though the world looked upon it as a rebellion.

Mr. HILL, of Georgia. I made no such objection. I told the gentleman he could call it what he pleased.

Mr. BLAINE. I think the Senate understood quite well what the honorable Senator meant. I take his words at their meaning, and altogether their more pointed meaning came from the way they were put. If you mean merely to make a verbal criticism that you intended by a new law and a new investigation and an extra mode of getting this question before the courts, not in pursuance of laws which existed at the time the electoral commission acted, and that you intended by that extraordinary course never dreamed of at the time to oust the President of the United States, do not be sensitive at all if I call it revolutionary. It was clearly revolutionary, and nothing else.

Mr. HILL, of Georgia. Does the Senator say that proceedings in the courts to test the question were not dreamed of at the time, when that very provision is in the electoral commission act itself and repeated in the report of the committee?

Mr. BLAINE. I presume they were dreamed of under the laws as they then stood, but otherwise not.

Mr. DAWES. "If any such right exists."

Mr. BLAINE. "If any such right exists" was inserted in the bill for the electoral commission.

Mr. HILL, of Georgia. Did anybody ever propose to test the validity of the election of 1876 or the title of Mr. Hayes under that election by any subsequent law?

Mr. BLAINE. What did the Potter committee mean, then? Why, if you meant to resort only to judicial remedy, did you not go to the courts? You did not do any such thing. You initiated a party proceeding in the political department of the Government, and the whole Potter resolution from its preamble to its concluding word does not mention the court as the means by which a result was to be reached.

Mr. HILL, of Georgia. Simply because everybody who is a lawyer ought to know that the committee proceeded to get the evidence that could be used in the inauguration of proceeding in the courts. That was to determine it, so far as some portion of the democratic party was concerned; but I say the larger portion of the democratic party never had any such purpose even in the Potter resolution. They simply wanted to get the facts.

Mr. BLAINE. Then that is a new start.

Mr. HILL, of Georgia. To put the facts on the record of each House, and all the gentlemen who intended any proceedings to be based upon that committee intended lawful proceedings before the courts under the laws of the land; and that is all we say; that we say was not revolutionary.

Mr. BLAINE. That is a new proceeding, that a judicial remedy was to be sought, and that as the propelling force of the whole movement a partisan committee was to be inaugurated with extraordinary power to send for persons and papers in order to work up a case. That is the judicial remedy that the honorable Senator from Georgia now presents!

Mr. HILL, of Georgia. Does the Senator from Maine say that an investigation ordered by either House of Congress to ascertain facts is itself a revolutionary proceeding?

Mr. BLAINE. I say this, that an investigation ordered by a partisan vote is not the way the law contemplates the initiation of a judicial proceeding. Does the Senator think it is? If a judicial remedy was reserved in the electoral commission bill it was reserved through judicial processes; it was not reserved through scouring investigations of committees ruled over by partisan votes gathering every possible rumor and every possible falsehood without the slightest regard to any law of evidence or any protection of witnesses. Does the Senator say that that was the proceeding the electoral commission act contemplated? Does he say that as a lawyer? He is fond of putting himself forward as a lawyer.

Mr. HILL, of Georgia. The Senator from Georgia says no such thing.

Mr. BLAINE. I should like to know what the Senator does say.

Mr. HILL, of Georgia. The Senator from Georgia is incapable of saying what the language of the Senator from Maine seems to desire him to say; but the Senator from Georgia says this: that by the provisions of the electoral commission act itself the right to proceed in the courts was reserved to either party disappointed by the result of that proceeding. Very well, that was the right. In what method that right should be asserted was another question, but it could not be asserted without evidence.

Mr. BLAINE. Does the honorable Senator mean——

Mr. HILL, of Georgia. Let me get through. Now, then, one method of getting the evidence was that suggested by that portion of the democracy who were in favor of proceeding. I repeat again that was not the purpose of the great majority, but it was designed by some in ordering this investigation, I dare say as the Maryland memorial shows, as the report on that memorial shows, it was designed by those who believed the courts had jurisdiction to seek to get the evidence. Very well. It was designed by the great majority, however, to get the evidence because it was desired to put the facts on record officially. But here is the point I wish to make: the methed of getting the evidence is not settled by the law; any method to ascertain the evidence in a legal way is proper, and there are various ways of ascertaining facts.

Now, then, the Senator having charged that the purpose was revolutionary and now having located the revolutionary purpose on the committee and the manner of getting the evidence by the Potter committee, I put the question again, but the Senator does not answer. Does he say that the appointment of a committee by either House of Congress clothed with legal authority to make legal investigation is a revolutionary proceeding?

Mr. BLAINE. One moment. I now meet the Senator by quoting the decision of the Speaker of the House, a very competent authority who states that the resolution offered by Mr. POTTER "involved the rightful occupancy of the presidential chair." The Senator will pardon me for asking him the same question. Does the Senator hold that evidence obtained by the Potter committee was obtained to be legally used in a judicial proceeding before the Supreme Court of the United States?

Mr. HILL, of Georgia. No, the Senator from Georgia says no such thing.

Mr. BLAINE. Well, then, what was the motive? How could the Senator then connect—I want him here now to tell me how he connects the mission of the Potter committee with any possible proceeding that was reserved in the electoral commission bill to be taken judicially? The movement being entirely outside of anything that was reserved in the electoral commission bill, it was, in my judgment, grossly and absolutely revolutionary from beginning to end.

Mr. HILL, of Georgia. Now, Mr. President, I want to make a bargain with the Senator from Maine, by the permission of that Senator. I have asked him a question twice, which he has not answered.

Mr. BLAINE. I will try to answer——

Mr. HILL, of Georgia. Let me get through. Instead of answering my question, which was a very plain one, the Senator refuses to answer it and asks me a question. Now, as my question is first in order, if the Senator will make a manly, frank answer to my question I will answer his. My question is this: You are charging a revolutionary purpose upon the democratic party here. That is the issue. You say that revolutionary purpose was manifested by the appointment of the Potter committee. Now, I ask the question: Does the Senator hold that the appointment of a committee by either House of Congress to make an investigation under their authority is a revolutionary movement? If he will answer that question squarely, I will answer his.

Mr. BLAINE. I certainly answered it once. I say that the resolution appointing the Potter committee, as construed by the Speaker of the House of Representatives, did aim at a revolutionary process.

Mr. HILL, of Georgia. You do not answer the question. Do you say that an investigation by the authority of either House is a revolutionary movement?

Mr. BLAINE. What does the Senator want me to answer? I certainly say that the investigation as ordered by the House and as construed by the Speaker of the House did aim at a revolutionary process.

Mr. HILL, of Georgia. Is the appointment of a committee by either House to make an investigation a revolutionary movement?

Mr. BLAINE. Oh, well, the Senator must not be childish, if he will pardon the phrase.

Mr. HILL, of Georgia. And if so, did the Senator from Maine mean revolution when he moved the appointment of the Teller committee?

Mr. BLAINE. No, he meant to find out those who were trying revolution in the South against peace and law and order.

Mr. HILL, of Georgia. And we meant to find out the facts in regard to those who stole the Presidency.

Mr. BLAINE. I have the floor. I am very liberal with the floor, and I am willing to answer questions that have the slightest pertinence.

Mr. HILL, of Georgia. I will answer the Senator's question with great pleasure, for I like to answer his questions.

Mr. BLAINE. I wish very briefly to sum up this case. The judicial remedy reserved in the electoral commission was, if any wrong existed there might be a judicial remedy. That contemplated nothing in the world but a judicial remedy before the courts——

Mr. HILL, of Georgia, rose.

Mr. BLAINE. Wait a moment; I have the floor. It contemplated nothing in the world but a judicial remedy before the courts of the United States. Neither the democratic party nor any of its agents, nor any of the counsel of Mr. Tilden, ever ventured to make any use of that remedy, but they initiated one wholly outside of it, that had no lawful or legal connection with it.

Therefore I maintain, to bring back the debate where it began, that the Secretary of this Senate, who was the secretary of the national republican committee, expressed what was the general judgment of the people of the United States outside of the partisan ranks of the democracy when he said that it was a revolutionary design. I say more than that, that on the 13th of May, when this movement was inaugurated, the democracy felt in very high feather in regard to it. They thought great fruits were coming from it; they had some very startling witnesses in reserve. They had been coaching them and herding them, and the country was to be treated to great surprises, to enormous developments of fraud. The thing did not turn out quite as well as they expected; it rather missed fire; the reaction set in; and four weeks after the party which had unanimously set out on this crusade against the occupant of the executive chair, decided by the Speaker of the House to be a resolution which aimed at the occupancy of the chair, the very same party came back, if I may use the phrase, with its tail between its legs, and with an almost unanimous vote in the House of Representatives they resolved that on the whole they did not mean any such thing. That is the history of the proceeding from its mischievous inception to its ridiculous conclusion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania, [Mr. WALLACE.] Is the Senate ready for the question? The motion of the Senator from Pennsylvania is that the Senate now proceed to the election of a Secretary of the Senate, a Sergeant-at-Arms and Doorkeeper of the Senate, a Chief Clerk, a principal Executive Clerk, and a Chaplain. The question is on agreeing to the motion of the Senator from Pennsylvania.

The motion was agreed to.

Mr. WALLACE. I offer the following resolution:

Resolved, That John C. Burch be, and he is hereby, elected Secretary of the Senate.

Mr. CONKLING. Mr. President, I should like to record a vote in favor of the present competent, faithful and accomplished Secretary of the Senate. I think every other republican Senator would like to do so too. I should have hoped a few hours ago that Senators not republicans, some of them at least, would be glad to do so. I was not prepared for all now foreshadowed. I supposed there were Senators not republicans who understood purity, efficiency and honesty in the civil service to mean what I understand it to mean. I suppose the honest rule to be to select not a scoundrel but an honest man, not a fool but a man who is competent, not a pretender or sniveler but a man of sincerity for a subordinate public position, and when you have him there and he does his duty to keep him there—not to turn him out for even another good man.

That, I will say to the honorable Senator from Delaware, who was good enough to refer to me some time ago as a non-believer in his notions of purity in the civil service, is what I understand by effi-

ciency, purity and integrity in the administration of the public service—to find a man who is honest, who is competent, who is attentive, and when you have found him to keep him, and not to drive him out in order to put some favorite or claimant in his place.

Some hours ago I might have hoped that others besides republicans would like to vote for the retention of a faithful and unexceptional officer. I still think republicans would like to do so, and therefore I move to strike out the name which appears in the resolution and to put in its place the name of George C. Gorham; and on that I should like the yeas and nays.

The PRESIDING OFFICER. The Senator from New York moves to amend the resolution proposed by the Senator from Pennsylvania by striking out the words "John C. Burch" and inserting the words "George C. Gorham." The question is on agreeing to this amendment, and on that question the Senator from New York asks for the yeas and nays.

The yeas and nays were ordered.

Mr. EATON. One word. I hardly think that my friend from New York is quite aware of the full scope of his language. He said he desired to vote for a competent, honest gentleman, rather than a scoundrel. I hardly think he meant to convey the idea that there might not be a competent, honest gentleman nominated instead of Mr. Gorham. Mr. Gorham is competent, I agree; that he is a man of character, I agree; but it does not quite do for my friend from New York to characterize any one in the manner in which he does. Perhaps he did not intend it, but it left the impression on my mind that if Mr. Gorham was not selected there was the selection of a scoundrel, a man not competent to perform the duties of the office.

Mr. CONKLING. Mr. President, the fact that the Senator from Connecticut came anywhere near misunderstanding me shows that there must have been some ambiguity or shortcoming in my language; and I thank him for calling my attention to it. I had not in mind at the point of my remarks which he has referred to the Secretaryship of the Senate. I think the RECORD will show this. I made a general remark, not intended to touch any applicant for place in the Senate; perhaps it was an impatient remark, for I do not deny that I sometimes feel impatient at the cant which beclouds professions and practice in appointing and removing public officers. There are people whose idea of purity and reform seems to consist in canting incessantly about purity, in keeping up continuing sensation and proclamation as if they were holier than other people; and then when they find themselves in possession of the power to select or cause the selection of public agents, to divide with considerable impartiality their attention between such knaves and such fools as they feel indebted to for adulation or service. There are people who seem to think that something in the way of the "reform" is effected when a competent honest man is expelled from place and a rascal, a pretender or an incompetent is put in.

I was disclaiming for myself all such belief, without reference to these particular individuals, as I think the RECORD will show; and I said that my idea of civil-service reform was not to put out a faithful man who was competent—perhaps I said also that I did not believe even in cases of a vacancy in putting in either a knave or a fool even if that knave or that fool was able to stand on the corners of the street, make a long face, wring his hands, deplore the shortcomings of other people, and blow a horn, and say to the passers-by, "If you wish to see holiness look at me."

My remark, however, on this head was general, without, I beg to say, the slightest reference to the individual named in the original resolution. Nothing could have been further from my purpose than to put any possible imputation, direct or indirect, near or remote upon him.

I repeat that I am obliged to my friend from Connecticut for calling my attention to the fact that my remark might possibly be open to any such an interpretation. I meant as to the Secretaryship of the Senate, when I came to that, to say that the incumbent is in my belief as faithful and as competent an officer as can be found in all the length and breadth of the land.

Mr. BECK. I desire to say that I have known Mr. Burch for many years; I have known him long and well, and I have known the other nominees of the democratic party, Mr. Bright, of Indiana, and the other gentlemen to be elected; and for honesty, fidelity, and capacity they are the peers of the best men the republican party ever had in the Senate.

The VICE-PRESIDENT. Upon the amendment proposed by the Senator from New York [Mr. CONKLING] the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) On this question I am paired with the Senator from Ohio, [Mr. THURMAN,] who is absent on account of illness. If he were present, I should vote "yea" and he would vote "nay."

The Secretary resumed and concluded the call of the roll.

Mr. RANSOM, (after having voted "nay.") I cast my vote inadvertently. I am paired to-day on all political questions with the Senator from Nevada, [Mr. JONES.] If he were here I am satisfied he would vote "yea," and I should vote "nay;" but I beg leave to withdraw my vote.

The VICE-PRESIDENT. The Senator's vote is withdrawn.

Mr. HILL, of Georgia. I desire to state that my colleague [Mr. GORDON] is detained from the Senate by sickness, and would vote "nay" if present.

The result was announced—yeas 27, nays 38; as follows:

YEAS—27.

Allison,	Chandler,	Ingalls,	Platt,
Anthony,	Conkling,	Kellogg,	Plumb,
Blaine,	Dawes,	Kirkwood,	Rollins,
Bruce,	Ferry,	Logan,	Saunders,
Burnside,	Hamlin,	McMillan,	Teller,
Cameron of Pa.,	Hill of Colorado,	Morrill,	Windom.
Cameron of Wis.,	Hoar,	Paddock,	

NAYS—38.

Bailey,	Garland,	Kernan,	Vance,
Bayard,	Groome,	Lamar,	Vest,
Beck,	Grover,	McDonald,	Voorhees,
Butler,	Harris,	McPherson,	Walker,
Call,	Hereford,	Maxey,	Wallace,
Cockrell,	Hill of Georgia,	Morgan,	Whyte,
Coke,	Houston,	Pendleton,	Williams,
Davis of W. Va.,	Johnston,	Randolph,	Withers.
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—8.

Booth,	Davis of Illinois,	Jones of Nevada,	Sharon,
Carpenter,	Edmunds,	Ransom,	Thurman.

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the original resolution.

The resolution was agreed to.

The VICE-PRESIDENT. The Secretary-elect, if present, will please come forward and take the oath of office.

Mr. JOHN C. BURCH advanced to the Vice-President's desk, and the oath of office having been administered to him he took his seat at the Secretary's desk.

The VICE-PRESIDENT. The Chair will lay before the Senate a communication from the late Secretary of the Senate.

The communication was read, as follows:

OFFICE OF SECRETARY UNITED STATES SENATE,
March 24, 1879.

In obedience to the requirements of sections 60, 61, 63, and 72 of the Revised Statutes of the United States, I have the honor to submit herewith a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under the proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received and paid out from July 1, 1878, to March 24, 1879, and a full and complete account of all property belonging to the United States in my possession on this day.

Very respectfully, your obedient servant,

GEORGE C. GORHAM.

Mr. WHYTE rose.

The VICE-PRESIDENT. This communication, with the accompanying report, will lie on the table and be printed.

Mr. WHYTE. I was going to make that motion.

Mr. WALLACE. I offer the following resolution:

Resolved, That Richard J. Bright be, and he is hereby, elected Sergeant-at-Arms and Doorkeeper of the Senate.

Mr. ANTHONY. I move to amend the resolution by striking out the name of Mr. Bright and substituting "John R. French;" and upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) On all political questions I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 24, nays 39; as follows:

YEAS—24.

Allison,	Cameron of Wis.,	Kellogg,	Platt,
Anthony,	Chandler,	Kirkwood,	Plumb,
Blaine,	Conkling,	Logan,	Rollins,
Bruce,	Ferry,	McMillan,	Saunders,
Burnside,	Hill of Colorado,	Morrill,	Teller,
Cameron of Pa.,	Ingalls,	Paddock,	Windom.

NAYS—39.

Bailey,	Garland,	Jones of Florida,	Slater,
Bayard,	Groome,	Kernan,	Vance,
Beck,	Grover,	Lamar,	Vest,
Butler,	Hamlin,	McDonald,	Voorhees,
Call,	Harris,	McPherson,	Walker,
Cockrell,	Hereford,	Maxey,	Wallace,
Coke,	Hill of Georgia,	Morgan,	Whyte,
Davis of W. Va.,	Houston,	Pendleton,	Williams,
Eaton,	Johnston,	Randolph,	Withers.
Farley,	Jonas,	Saulsbury,	

ABSENT—10.

Booth,	Dawes,	Jones of Nevada,	Thurman.
Carpenter,	Edmunds,	Ransom,	
Davis of Illinois,	Hoar,	Sharon,	

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the original resolution.

The resolution was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms-elect, with the remaining officers to be elected, will take the oath of office in the office of the Secretary of the Senate.

Mr. WALLACE. I offer the following resolution:

Resolved, That Francis E. Shober be, and he is hereby, elected Chief Clerk of the Senate.

Mr. ANTHONY. I move to amend the resolution by striking out the name of Mr. Shober and substituting "William E. Spencer;" and upon that I ask for the yeas and nays.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Rhode Island, on which the yeas and nays have been demanded.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) As I before stated, I am paired to-day on all political questions with the Senator from Nevada, [Mr. JONES.] He would vote "yea" and I should vote "nay" on this proposition.

The Secretary concluded the call of the roll.

Mr. PENDLETON. I desire to say that my colleague [Mr. THURMAN] is detained by sickness from the Senate, and is paired with the Senator from Vermont [Mr. EDMUNDS] on these votes.

The result was announced—yeas 25, nays 38; as follows:

YEAS—25.

Allison,	Chandler,	Kellogg,	Rollins,
Anthony,	Conkling,	Kirkwood,	Saunders,
Blaine,	Ferry,	Logan,	Teller,
Bruce,	Hamlin,	McMillan,	Windom.
Burnside,	Hill of Colorado,	Paddock,	
Cameron of Pa.,	Hoar,	Platt,	
Cameron of Wis.,	Ingalls,	Plumb,	

NAYS—38.

Bailey,	Garland,	Kernan,	Vance,
Bayard,	Groome,	Lamar,	Vest,
Beck,	Grover,	McDonald,	Voorhees,
Butler,	Harris,	McPherson,	Walker,
Call,	Hereford,	Maxey,	Wallace,
Cockrell,	Hill of Georgia,	Morgan,	Whyte,
Coke,	Houston,	Pendleton,	Williams,
Davis of W. Va.,	Johnston,	Randolph,	Withers.
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—10.

Booth,	Dawes,	Morrill,	Thurman.
Carpenter,	Edmunds,	Ransom,	
Davis of Illinois,	Jones of Nevada,	Sharon,	

So the amendment was rejected.

The VICE-PRESIDENT. Will the Senate agree to the original resolution?

The resolution was agreed to.

Mr. WALLACE. I offer the following:

Resolved, That Henry E. Peyton be, and he is hereby, elected principal Executive Clerk of the Senate.

Mr. ANTHONY. I move to amend that resolution by striking out the name in the resolution and substituting that of "James R. Young."

The VICE-PRESIDENT. The question is on the amendment of the Senator from Rhode Island.

Mr. ANTHONY. Upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) On this and all the other of these questions I am paired with the Senator from Ohio, [Mr. THURMAN,] who is absent on account of illness. I should vote "yea."

Mr. RANSOM, (when his name was called.) I am paired on all political questions with the Senator from Nevada, [Mr. JONES.] On this proposition he would vote "yea" and I should vote "nay."

The roll-call was concluded.

Mr. ANTHONY, (after having voted in the affirmative.) I voted inadvertently. I am paired on this question with the Senator from Maryland, [Mr. WHYTE.] I should vote "yea," as I did inadvertently, and he would vote "nay." I desire to withdraw my vote.

Mr. DAWES. I desire to state that I was inadvertently out of the Chamber when the last roll was called. If I had been present, I should have voted "yea" upon the last call.

The result was announced—yeas 25, nays 35; as follows:

YEAS—25.

Allison,	Dawes,	Kirkwood,	Rollins,
Bruce,	Ferry,	Logan,	Saunders,
Burnside,	Hamlin,	McMillan,	Teller,
Cameron of Pa.,	Hill of Colorado,	Morrill,	Windom.
Cameron of Wis.,	Hoar,	Paddock,	
Chandler,	Ingalls,	Platt,	
Conkling,	Kellogg,	Plumb,	

NAYS—35.

Bailey,	Garland,	Kernan,	Slater,
Bayard,	Grover,	Lamar,	Vance,
Beck,	Harris,	McDonald,	Vest,
Butler,	Hereford,	McPherson,	Voorhees,
Call,	Hill of Georgia,	Maxey,	Walker,
Cockrell,	Houston,	Morgan,	Wallace,
Coke,	Johnston,	Pendleton,	Williams,
Eaton,	Jonas,	Randolph,	Withers.
Farley,	Jones of Florida,	Saulsbury,	

ABSENT—13.

Anthony,	Davis of Illinois,	Jones of Nevada,	Whyte.
Blaine,	Davis of W. Va.,	Ransom,	
Booth,	Edmunds,	Sharon,	
Carpenter,	Groome,	Thurman,	

So the amendment was rejected.

The VICE-PRESIDENT. Will the Senate agree to the original resolution?

The resolution was agreed to.

Mr. WALLACE. I offer the following to dispose of the subject:

Resolved, That Rev. J. J. Bullock be, and he is hereby, elected Chaplain of the Senate.

Mr. ANTHONY. I move to amend the resolution by striking out the name of Rev. Mr. Bullock and inserting that of Rev. Dr. Sunderland, and on that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] I should vote "yea," and the Senator from Maryland would vote "nay," if here.

Mr. FERRY, (when the name of Mr. EDMUNDS was called.) The Senator from Vermont, [Mr. EDMUNDS,] on leaving the Chamber, desired me to state that he was paired with the Senator from Ohio, [Mr. THURMAN.] Were he here the Senator from Vermont would vote "yea."

The result was announced—yeas 26, nays 37; as follows:

YEAS—26.

Allison,	Conkling,	Kellogg,	Plumb,
Blaine,	Dawes,	Kirkwood,	Rollins,
Bruce,	Ferry,	Logan,	Saunders,
Burnside,	Hamlin,	McMillan,	Teller,
Cameron of Pa.,	Hill of Colorado,	Morrill,	Windom.
Cameron of Wis.,	Hoar,	Paddock,	
Chandler,	Ingalls,	Platt,	

NAYS—37.

Bailey,	Garland,	Kernan,	Vance,
Bayard,	Groome,	Lamar,	Vest,
Beck,	Grover,	McDonald,	Voorhees,
Butler,	Harris,	McPherson,	Walker,
Call,	Hereford,	Maxey,	Wallace,
Cockrell,	Hill of Georgia,	Morgan,	Williams,
Coke,	Houston,	Pendleton,	Withers.
Davis of W. Va.,	Johnston,	Randolph,	
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—10.

Anthony,	Davis of Illinois,	Ransom,	Whyte.
Booth,	Edmunds,	Sharon,	
Carpenter,	Jones of Nevada,	Thurman,	

So the amendment was rejected.

The VICE-PRESIDENT. Will the Senate agree to the original resolution?

The resolution was agreed to.

Mr. WALLACE. I move that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and twenty-six minutes p. m.) the Senate adjourned.

IN SENATE.

TUESDAY, *March* 25, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. EDMUNDS. My attention is called by my friend from Massachusetts [Mr. HOAR] to the statement in the Journal—though I was not paying attention and did not hear it read—that the Senate proceeded "by unanimous consent" to the election of its officers, which is not according to the truth. I called the attention of the Chair to the fact, and asked him to put the question whether the Senate would proceed to the election.

The VICE-PRESIDENT. The Senator is right in his statement.

Mr. HOAR. That error is repeated as to the resolutions for the election of each of the officers.

Mr. EDMUNDS. I should like the error to be corrected, if it turns out to be one, on looking at it.

The VICE-PRESIDENT. The Journal will be corrected.

Mr. EDMUNDS. It should be done.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of the 21st instant, a detailed statement of the accounts of the marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland, for and in regard to the employment of and payment of wages and fees charged for services rendered by them or their deputies in the conduct of elections in October and November, 1878, &c.

The VICE-PRESIDENT. This information is responsive to a resolution of the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. WALLACE. I move that the communication be printed and laid on the table.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of an appropriation by Congress for additional improvements on the Yellowstone and Upper Missouri Rivers; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in relation to the improvement and repair of the Muller wagon-road, and in favor of an appropriation by Congress for that purpose; which was referred to the Committee on Military Affairs.

Mr. KERNAN. I present a preamble and resolutions of the Oneida Historical Society of Utica, concerning a monument to General Herkimer. As it is short, I beg the indulgence of the Senate to have it read.

The VICE-PRESIDENT. The memorial will be reported.

The memorial was read, and referred to the Committee on Military Affairs, as follows:

ONEIDA HISTORICAL SOCIETY AT UTICA, NEW YORK.

At a regular meeting of the Oneida Historical Society at Utica, held at their rooms in the city of Utica, March 11, 1879, Hon. C. W. Hutchinson offered the following preamble and resolutions; which were unanimously adopted:

Whereas the Continental Congress of the United States of America, on the 4th of October, 1777, unanimously passed the following resolution, to wit:

"*Resolved*, That the governor and council of New York be desired to erect a monument, at Continental expense at the value of $500, to the memory of the late Brigadier Herkimer, who commanded the militia of Tryon County, in the State of New York, and was killed fighting gallantly in defense of the liberties of these States;" and

Whereas the money thus voted by the Continental Congress has never been appropriated by Congress, and the State of New York has never taken any action to carry out the request conveyed in the above resolution, although repeatedly urged to do so by Governor William H. Seward and others: Therefore,

Resolved, That the Senators from the State of New York in the Congress of the United States, and Hon. CYRUS D. PRESCOTT, Hon. WARNER MILLER, and Hon. JOHN H. STARIN, the Representatives in Congress from the section of the State that was formerly Montgomery County, be respectfully requested to use their best endeavors to secure the passage of an act at the approaching extra session of Congress, appropriating the sum of $500, with simple interest from the date of the above resolution, for the purpose of erecting a monument that shall be a memorial of the gratitude of the American people to General Nicholas Herkimer, in order that the Government of the United States may redeem its pledge to do honor to the memory of that gallant defender of "the liberties of these States."

Resolved, That the senators and members of assembly of the Legislature of the State of New York from the same section of the State be respectfully requested to use their best efforts to secure from the Legislature some recognition of the duty imposed upon New York by the above resolution of the Continental Congress, and to urge the assistance of the State of New York, either by money or materials, in the work of erecting this monument.

Resolved, That the corresponding secretary of the Oneida Historical Society be instructed to forward to the Senators, Representatives, and members of the Legislature aforesaid copies of these resolutions.

Mr. HAMLIN. Mr. President, I present a memorial very numerously signed by the mothers, wives, daughters, and sisters of Maine, in which they affirm, what I believe is true, that Congress has exclusive jurisdiction over the District of Columbia, and possessing that jurisdiction they respectfully ask that Congress will prohibit the sale of intoxicating liquors in the District of Columbia except for medicinal, mechanical, and scientific purposes.

This memorial is signed by the best of mothers, wives, daughters, and sisters of my State. They are sincerely devoted to the object which they wish to accomplish; they are inspired by the very best of motives; foremost in every good work, they wish and long to see the day when the traffic in spirituous liquors may be prohibited in this District. That time perhaps has not yet arrived, but I commend this memorial to the careful consideration of the Committee on the District of Columbia, for I believe at least the time now is when much may be done in restricting the sale of intoxicating liquors in this District, and thus prevent much of the want, the misery, and the crime that spring therefrom.

I move that the memorial be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. GROOME. I present the petition of John M. Gordon, of Maryland, who is personally unknown to me, praying the repeal of the acts popularly known as the civil rights bill and the election supervisors law, if these acts be properly construed by certain United States judges. The petition is very brief, and as it sets forth in cogent language some of the reasons why a large majority of the people of my State desire the repeal or modification of the legislation specified, and as its phraseology is perfectly respectful, I ask that it may be read from the Clerk's desk and referred to the Committee on the Judiciary.

The VICE-PRESIDENT. The petition will be reported.

The petition was read, and referred to the Committee on the Judiciary, as follows:

To the Senate and House of Representatives:

The memorial of the undersigned, a citizen of the State of Maryland, and heretofore a native-born citizen of the State of Virginia, respectfully represents that, in common with many citizens of the above-mentioned States, members of the Federal Union, he has been much concerned at the operation of two acts of Congress known as the civil rights and election supervisors bill, especially as interpreted by a Federal judge in Eastern Virginia and by another in Maryland. By the ruling of the former (Judge Rives) juries are not to consist of "*boni et legales homines*," as the common law of every State requires, but are to be summoned without respect to intelligence, and to be composed "*de mediatate coloris*;" that is to say, of white men and negroes. By the decision of the Maryland Federal judge, (Bond,) under the Federal supervisors election law, they may enter the room appropriated to the legal judges of Federal elections and interfere with the execution of their duties. A Virginia Federal judge has decided this point differently: a legal voter may even be arrested at the polls and hurried to jail without previous due process of law; which is in gross violation of the provisions of the Constitution, and a substitution virtually of martial for civil law. Under this ruling, peaceable citizens may be intimidated from voting or serving as judges of election, being liable to arbitrary arrest and fine and imprisonment in the actual discharge of their legal rights and in the proper execution of their public duties by Federal supervisors, marshals, and their numerous deputies, appointed by Federal judges and paid for their services out of the public Treasury; all of which is in derogation of the reserved rights of the States and a great Federal evil. Your memorialist, therefore, prays your honorable body to inquire whether the aforesaid judges (Rives and Bond) have not given unjust and illegal decisions, and if their judgments are not in violation of those two acts of Congress above mentioned, that the said acts be repealed, because they violate the Constitution, subvert the rights of the several States of the Union, and tend to convert a Federal republic into a consolidated central, national despotism. And as in duty bound, your memorialist will ever pray.

JOHN M. GORDON.

PIKESVILLE, MARYLAND, *March* 22, 1879.

Mr. CAMERON, of Wisconsin, presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for the resurvey of the harbor at Kewaunee, in that State; which was referred to the Committee on Commerce.

Mr. PADDOCK presented the petition of A. Riley & Co. and others, citizens of Nebraska, praying for the repeal of section 7 of the act of the last Congress to amend the laws relating to internal revenue, approved March 1, 1879, requiring rectifiers to give bond; which was referred to the Committee on Finance.

Mr. KELLOGG presented the petition of Eugenia Duffey, W. B. Duffey, and John Elzy, of Morehouse Parish, Louisiana, praying compensation for cotton seized and appropriated by United States troops during the late war; which was referred to the Committee on Claims.

Mr. DAVIS, of Illinois, presented the petition of Captain H. A. Denton, Company C, Twelfth Regiment Kentucky Cavalry, United States Volunteers, praying to be allowed full pay and allowances for the time he was mustered into the United States service; which was referred to the Committee on Military Affairs.

Mr. McPHERSON presented the petition of Warren L. Fish, of Newark, New Jersey, praying for the extension of his patent for a kerosene-lamp heater; which was referred to the Committee on Patents.

Mr. JONAS presented resolutions of the board of health of New Orleans, in favor of an appropriation for the construction of wharves and docks at the Mississippi quarantine station and the necessary appliances for the discharge and disinfection of vessels, &c.; which was referred to the Select Committee to inquire into the subject of Epidemic Diseases.

Mr. GARLAND presented the petition of Samuel Evans, of Franklin County, Arkansas, praying compensation for certain cotton alleged to have been taken possession of by United States military authorities during the late war; which was referred to the Committee on Claims.

He also presented the petition of Samuel Evans, of Franklin County, Arkansas, praying compensation for the use and occupancy of his property at Devall's Bluff, Arkansas, by United States troops during the late war; which was referred to the Committee on Claims.

He also presented the petition of Susannah W. Swilling, of Yell County, Arkansas, praying compensation for property taken and appropriated by United States troops during the late war; which was referred to the Committee on Claims.

Mr. KIRKWOOD presented the petition of N. H. Boyd, of Hamilton County, Iowa, praying for an increase of pension; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 166) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, or assigns; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. COCKRELL. I move that the accompanying reports from the Secretary of State relating to this bill be printed for the use of the committee.

The motion was agreed to.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 167) for the relief of certain persons locating homesteads upon the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 168) for the relief of George A. Fairfield; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 169) authorizing the settlement of the accounts of Richard H. Smith, deceased; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 170) for the relief of Tolley & Eaton; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 171) to perfect the title to certain real estate in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 172) fixing the compensation of United States district attorneys, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to

introduce a bill (S. No. 173) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 174) for the relief of J. S. Underhill; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 175) for the relief of Major P. P. G. Hall; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 176) for the relief of Edward H. Leib; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PLATT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 177) for the relief of Austin G. Day; which was read twice by its title, and referred to the Committee on Patents.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 178) for the relief of John Thorns; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 179) to provide for ascertaining and reporting the expenses incurred by the State of Oregon and the Territories of Idaho and Washington, and the people thereof, in defending themselves from attacks and hostilities of Indians in the years 1877 and 1878; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 180) for the relief of George V. Hebb; which was read twice by its title, and referred to the Committee on Claims.

Mr. McPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 181) restoring to the pension-rolls the name of Mary Burr; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 182) granting a pension to Mary A. Shemelia; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 183) granting a pension to Hugh Gallagher; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 184) granting a pension to Robert L. Hancock; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 185) for the relief of Gibbes & Co., of Charleston, South Carolina; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. McDONALD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 186) to incorporate the Mount Pleasant and Potomac Side Railway Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 187) for the relief of Samuel Castleman; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 188) correcting the military muster-in of James G. Howard, late captain of Company E, Forty-ninth Kentucky Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KERNAN. I ask leave to introduce a bill and present with it memorials of the States of Pennsylvania and New York, with accompanying papers, which I send to the desk, for reference to the Committee on Claims.

By unanimous consent, leave was granted to introduce a bill (S. No. 189) to explain the intent and meaning of the act of July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States;" which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 190) to authorize the Secretary of the Interior to declare forfeitures of railroad grants in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 191) to reduce the price of public lands within railroad limits; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 192) to correct the date of commission of certain officers of the Quartermaster's Department; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 193) to provide for the disposition of the Fort Larned military reservation; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 195) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 196) to declare certain lands heretofore granted to railroad companies forfeited to the United States, and to open the same to settlement; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 197) to declare certain lands subject to taxation; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WALLACE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 198) for the relief of Captain Bird L. Fletcher; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 8) correcting the military record of Wickliffe Cooper, deceased, late major Seventh Cavalry, brevet colonel United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. COCKRELL, it was

Ordered, That the petition and papers in relation to the claim of the owners of the United States private armed brig General Armstrong be taken from the files of the Senate and referred to the Committee on Foreign Relations.

On motion of Mr. ALLISON, it was

Ordered, That the petition and papers in the case of Albert V. Conway be taken from the files and referred to the Committee on Finance.

On motion of Mr. DAVIS, of Illinois, it was

Ordered, That the petition and papers of Sarah S. Flagg, executrix of W. C. Flagg, deceased, be taken from the files and referred to the Committee on Claims.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That all papers upon the files of the Senate relating to the claim of Anson Dart be withdrawn therefrom and referred to the Committee on Claims.

On motion of Mr. BURNSIDE, it was

Ordered, That the papers in the cases of Charles B. Smith and Merritt Barber be taken from the files and referred to the Committee on Military Affairs.

Ordered, That the papers in the cases of John Tweedy, E. V. Blackinston, Julia E. Seeley, and Nathaniel G. Smith be taken from the files and referred to the Committee on Post-Offices and Post-Roads.

On motion of Mr. VOORHEES, it was

Ordered, That the petition and papers of Mark Walker be taken from the files and referred to the Committee on Military Affairs.

Mr. HOAR submitted the following order; which was read:

Resolved, That the petition and accompanying papers in the case of Jearum Atkins be taken from the files of the last session and referred to the Committee on Agriculture, notwithstanding the adverse report.

Mr. HOAR. I desire to make a statement in regard to that order. I made the adverse report in this case at the last session. The adverse report was based on the petition itself. Taking the petition to be true, the committee were of opinion that the petitioner had no case. The adverse report consisted merely of that statement in a sentence, and annexing the petition. By an accident at the Printing Office, instead of the petition on which the committee acted there was annexed a petition simply asking for a rehearing of his case, so that the Senate never had before it in accepting the report of the committee the petition on which the committee acted and which made the whole report. Therefore it seems to me to be an exception to the rule. I ask that the case may be recommitted and that the petitioner have another hearing, notwithstanding the adverse report.

The VICE-PRESIDENT. Is there objection?

Mr. COCKRELL. I do not object to the reference of the case, but I see no necessity for it unless there is something which will probably justify favorable action.

Mr. HOAR. The presumption is, although it is not true as a fact, that the Senate understands every report made from a committee on a petition, and acts upon it. It seems to me, therefore, that justice requires that the matter should be again brought before the Senate.

The order was agreed to.

PERSONAL EXPLANATION.

Mr. BLAINE. I am reported in the RECORD as absent, or not voting, upon the resolution yesterday in regard to the Executive Clerk. I am recorded on all the other votes, and I thought certainly that I voted for the retention of Mr. James R. Young. I desired to do so.

I have not had time to consult the Journal, but I make this statement lest I might seem to have been wanting.

The VICE-PRESIDENT. The Senator is not recorded as voting upon the question in the Journal.

Mr. BLAINE. I do not know whether the rules permit me to have the vote corrected after the result has been announced. However, it is not essential, I will not ask that to be done; I merely give the notice.

PORT INSPECTORS.

Mr. JOHNSTON. I present a letter from the Commissioner of Agriculture, addressed to me as chairman of the Committee on Agriculture, in relation to the salaries, traveling expenses, &c., of inspectors at the different shipping ports of the United States. I ask to have it read and referred to the Committee on Agriculture.

The VICE-PRESIDENT. It will be reported.

The letter was read, and referred to the Committee on Agriculture, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., March 21, 1879.

SIR: At the last session of Congress I had the honor to ask for an appropriation of $50,000 (section 309) "to pay salaries and traveling expenses, and other necessary expenses of inspectors at the different shipping ports of the United States, and for controlling or eradicating infectious and contagious diseases among domesticated animals * * * to be immediately available."

The imminent and increasing danger from this cause to our commerce and a further acquaintance with the breadth of country over which the disease has now spread assure me that the amount first asked for will be altogether insufficient. I therefore respectfully request that the amount may be increased in the appropriation bill to $250,000.

I have the honor to be, your obedient servant,

WM. G. LE DUC,
Commissioner of Agriculture.

Hon. J. W. JOHNSTON,
Chairman Committee on Agriculture, United States Senate.

ARMY REORGANIZATION.

Mr. BURNSIDE presented certain papers relating to the reorganization of the Army, to accompany the bill (S. No. 25) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which were ordered to be printed as a supplement to Senate report of committee No. 555, Forty-fifth Congress, third session.

CENTENNIAL MEMORIAL.

Mr. McDONALD (by request) submitted the following resolution; which was referred to the Committee on the Library:

Resolved, That the Secretary of the Senate be authorized and directed to purchase from the author a copy of the centennial memorial of the Government, entitled "The administrators of the United States Government at the beginning of its second century," the same to belong to the files and records of the Senate and to be suitably framed and displayed where it will be accessible to the public; the cost of which shall not exceed $100; the same to be paid out of the contingent fund of the Senate.

ADVANCEMENT OF AGRICULTURAL INTERESTS.

Mr. DAVIS, of West Virginia. Mr. President, during the last session I offered the resolution which I now send to the desk, and it passed the Senate unanimously, but for want of time was lost in the House. It is a concurrent resolution. I ask leave to submit it now.

The VICE-PRESIDENT. The resolution will be reported.

The Secretary read as follows:

Whereas agriculture is the foundation of nearly all our wealth, and it is mainly through the exportation of its products that we are paying off our large indebtedness, foreign and domestic, and have the present large balance of trade in our favor; and

Whereas although about one-half of the people of this country are engaged in agricultural pursuits and all other interests are dependent upon this, our leading and most important interest, commercial and otherwise, yet but little has been done by the General Government to promote agriculture, while other less general and important interests have been largely aided: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That the committees on agriculture of the respective Houses be, and they are hereby, instructed to consider generally the subject of agriculture, and report, by bill or otherwise, what can or ought to be done by the General Government to better advance, encourage, and foster agricultural interests, and that said committees shall have the power to send for persons and papers.

Mr. DAVIS, of West Virginia. I move that the resolution be printed and referred to the Committee on Agriculture.

The motion was agreed to.

LEGISLATION ON APPROPRIATION BILLS.

The VICE-PRESIDENT. The Secretary will call the Calendar of resolutions and concurrent resolutions introduced before this day in their order.

The Secretary read the first resolution on the Calendar, being the one submitted by Mr. HOAR on the 21st instant, as follows:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and if persisted in must lead to the overthrow of constitutional government and the destruction of the national life.

Mr. HOAR. Mr. President——

Mr. MORGAN. I should like to ask the Senator from Massachusetts whether he desires to have this resolution considered to-day or only to speak to it. I make the inquiry because I have an amendment which I desire to offer, which, with the permission of the Senator, I will send to the Secretary's desk and have reported.

Mr. HOAR. I desire to address the Senate upon the resolution, and after that I should like to have it acted upon, if the Senate is ready for it, and that, I suppose, would be the most convenient time for the Senator's amendment.

Mr. MORGAN. I will, therefore, ask that my amendment be reported.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield for that purpose?

Mr. HOAR. The only objection to the request of the Senator from Alabama is that reporting it requires it to be put in print as part of my speech. I should rather have it come at the end, if the Senator pleases. That is all. There is no other objection to the course he suggests.

Mr. MORGAN. I thought the Senator from Massachusetts might desire to know what my views are on the subject, and that he would wish to speak to the amendment I propose to offer, particularly if he desires the resolution to be considered to-day.

Mr. HOAR. I should prefer not to have the amendment come in at this time, because that would require it to be printed as part of my remarks, which I do not desire.

The VICE-PRESIDENT. The Senator from Massachusetts will proceed with his remarks.

Mr. HOAR. Mr. President, Congress has come together under circumstances without a parallel in our history. The last Congress sat for eleven months out of the twenty-four. It applied itself with industry to the duties of legislation. The two Houses agreed with remarkable unanimity on all details of public expenditure. There was no difference in regard to any usual or needful appropriation which a free conference did not or would not easily and harmoniously adjust. The failure to make appropriations for the support of the Government, which the President assigns as his reason for convening Congress, was not caused by a disagreement between the two branches upon any single item needed for the public service, but by the willful and deliberate refusal of one branch to give its constitutional assent to enactments as to which both were agreed.

Nothing in the foreign relations of the country, nothing in its domestic condition demands instant legislation. It is a time of profound peace. There is not a controversy, there is scarcely a diplomatic discussion with any power on earth. The late President of the Republic, as he goes from nation to nation, and from continent to continent, finds rulers and people alike eager to throw open their gates and to salute the flag with whose safety and glory his own name is so inseparably blended.

No petitions from any quarter of the country indicate public grievances which cannot await the accustomed course and time for redress. No department of business asks present relief from legislation. On the contrary every man who has his living to get by honest trade or by honest labor unites in the one eager desire for that security which the vacation of the Legislature alone affords.

The purpose of our assembling is not chiefly a legislative purpose. It is, if I am right in my view of it, an attempt, by a simple but most effective process, to do away with that clause in the Constitution which provides that it shall be amended only by the assent of two-thirds of each House and three-fourths of the States, and that no amendment shall deprive any State of its equality in the Senate without its consent. The power which rightfully can be transferred from the President only by three-fourths of the States and from the Senate by the unanimous consent of all, it is proposed to get into the hands of one House by a very simple and effective process.

That the country may see that I do not overstate this purpose let me state it in the language of one who knows all about it. The honorable Senator from Kentucky was one of the conferees appointed by the Senate at the last session on the executive, legislative, and judicial appropriation bill. He represented the party, then the minority, now the majority in this body. He reported to us the purposes of the House as he had learned them from the majority of the conferees on the part of the House with whom he had conferred. This is what he said:

Mr. BECK. Mr. President, I was one of the conferees on the legislative, executive, and judicial appropriation bill when two earnest efforts were made to agree, but we found it impossible. The Senator from Minnesota has stated correctly that upon all questions pertaining to the appropriations, the great probability is that we could have agreed, though I believe we did not finally agree even as to them. He is also correct in stating that the House conferees insisted upon retaining that portion of the bill to which he has alluded, but it was also equally certain that the majority of the Senate conferees with equal pertinacity insisted upon the Senate amendments and maintained that each and all the provisions inserted by the House should be stricken out. There was no attempt at any division of the subjects. * * * The House insisted that the armed soldiers of the United States should not be allowed to approach the polls for the mere purpose of keeping the peace, that there should be an honest jury obtained in the courts of the United States in all cases where the rights and liberties of citizens were involved, and that the States should be allowed to conduct their own elections in their own way, free from all Federal interference, and the democratic conferees on the part of the House seemed determined that unless those rights were secured to the people in the bills sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government if the dominant majority in the Senate insisted upon the maintenance of these laws *and refused to consent* to their repeal.

They seemed further to agree, and I agreed with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people.

* * * * * * *

We insist that those matters pertain solely to the States and are part of their

absolute right. * * * When these three laws are submitted to the President for his approval, as they will be, and are approved by him * * * the next Congress will in my opinion be ready to pass every appropriation bill. * * * If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own election, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. * * * Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

This statement, Mr. President, was followed by a very remarkable speech from the honorable Senator from Ohio, [Mr. THURMAN.] He declared that he had thought long and deeply upon this question; that it was one of the gravest questions which ever had arisen for consideration or discussion in the American Congress; that it involved not only the merits or demerits of laws, but involved the rights, privileges, powers, and duties of the two branches of Congress. He said:

It is a vast question; it is a question whose importance can scarcely be estimated. * * * It is a question which sooner or later must be decided.

He goes on to say:

We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances. * * * England was saved from despotism and an absolute monarchy by the exercise of the power of the House of Commons to refuse supplies except upon conditions that grievances should be redressed. * * * It is a mistake to suppose that it was a fight simply between the Throne and the Commons; it was equally a fight between the Lords and the Commons; and the result of two centuries of contest in England was the rule that the House of Lords has no right to amend a money bill.

Then the Senator goes on to argue that our Constitution has made no change in this English practice, except in the provision that the Senate may make an amendment to a bill for raising revenue as upon other bills. The Senator then goes on to call attention to the fact that the two Senators from Rhode Island, representing a small State with a population of one hundred thousand, as he supposes, have the same vote upon this floor as the two Senators who represent the great State of New York, with its more than four million tax-payers. The Senator further says that it was intended by the framers of the Constitution to countervail this inequality by the provision that all money bills must originate in the House of Representatives and that that House had the power to say, "we will only grant supplies upon condition that grievances are redressed."

The scheme as thus stated, if not by its authors, by its leading champions, strikes from the Constitution the veto power of the President, and compels the Senate to register the decrees of the House, and vests in the House the executive powers, as they are now vested in the House of Commons in England, as the price of the continuance of the Government.

The National Government may be destroyed by a failure to exercise its powers. The simple refusal by a majority of the States to elect Senators, or the refusal by a majority of the Senators elected to assemble for legislation, would of course operate the destruction of the Government. So the refusal to pass the executive, legislative, and judicial appropriation bill and the Army bill, persisted in for a considerable length of time, must bring the National Government to an end. The bills now in question contain the sole provision for the support and movement of the Army, for the compensation of the President and of Congress, for the necessary expenses of legislation, for the pay of the heads, clerks, and officers of the several Executive Departments, and the expenses of their administration, including especially the Pension Office and the Surgeon-General's Office, the General Post-Office, the Treasury, and the Mint; the sole provision for legislature and judiciary in all the Territories, and the sole provision for the salaries of all the judges of the United States, of all prosecuting officers, for the fees of witnesses and jurors, and defraying the expenses of the administration of justice in all the courts of the United States, and for the custody of all criminals under sentence or awaiting trial. On the 30th of June the support and movement of the Army, legislation and the administration of justice in all the Territories, the receipt and disbursement of all public moneys at the Treasury, including the payment of all pensioners, and of the interest on the national debt, the Post-Office, all the courts of the United States, and the confinement of all criminals are to stop, according to this precious scheme which the honorable Senator from Ohio tells us he has thought of so long and so carefully, if the President of the United States happen to agree in opinion with our predecessors and his, who enacted certain laws now on our statute-books, and, so agreeing, shall refuse to violate his oath of office.

The Constitution provides that the President shall have a compensation payable at stated times, which shall not be increased nor diminished during the period for which he shall have been elected; and that the judges shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office. It further provides that "every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it." It is now proposed to declare that neither he nor the judges shall receive this compensation unless he will flatly violate this clause and sign a bill he does not approve. This is a scheme to coerce the President, not in his executive capacity, but in his function as a part of the legislature, to prevent his performance of a duty expressly prescribed and defined by the Constitution, not merely to affect his executive discretion. The coercion to be applied is the creation of a great public mischief, not the creation of a personal inconvenience to the President.

If the President were to announce to Congress a purpose to exercise his share of legislative power on the principles stated by the Senator from Kentucky, that is, to refuse his signature to all appropriations unless such legislation as he should demand were assented to by Congress, that Senator would hardly, I think, deny that he was liable to impeachment.

The coercion is to be applied with reference to a law which the Senator from Ohio has in substance declared was a subject of fair difference of opinion among Senators, a law passed by all constitutional forms, by a more than two-third vote, which has been on the statute-book fourteen years, there having been abundant opportunity to test its constitutionality before the courts.

There is a loose popular notion, which seems even to have impressed the minds of some Senators, that there is a resemblance between the power anciently exercised by the English House of Commons to refuse supplies until grievances were redressed, and the position now assumed by the Senators from Ohio and Kentucky. I have examined English history with some care with reference to this matter. Senators who make such examinations may possibly be surprised to find how little analogy there is between the action of the House of Commons with relation to granting or withholding supplies, and the wild scheme of the Senators on the other side of the Chamber.

The Parliamentary History affords the material, if there were time, for giving a narrative of every occasion when the Commons have exerted their power of withholding supplies as a means of compelling a redress of grievances from the conquest to the present hour. I shall content myself with two or three brief citations from authorities whose decisive weight will not be questioned. They establish these facts.

First. The Commons never withheld the supplies as a means of coercing the assent of the Crown or the Lords to *legislation*.

Second. The supplies withheld were not supplies needed for the ordinary functions of government, to which the ordinary revenues of the Crown were sufficient, but were for extraordinary occasions, as to pay the king's debts or to conduct foreign wars.

Third. That when the hereditary revenues of the Crown or those settled on the king for life at the beginning of his reign ceased to be sufficient for the maintenance of government and for public defense the practice of withholding supplies ceased.

Fourth. There has been no instance since the revolution of 1688 of attaching general legislation to a bill for raising or appropriating money, and scarcely, if ever, such an instance before that date. When such an attempt has been made it has been resisted, denounced, and abandoned, and the English constitutional authorities, without exception, are agreed that such a proceeding is unwarrantable, revolutionary, and destructive of the English constitution.

From the Norman conquest until a comparatively recent period the king possessed revenues entirely independent of Parliament, ample for all the functions of government and for his personal expenditure. In theory all the property of the realm was his. In 1377 two-tenths were granted to King Richard II as an aid, but upon the condition recited in the statute, "that the king should not for the future burden the people by extorting money of the subject upon such demands, but should live upon his own and maintain his wars, for that his own royal patrimony was sufficient for him, as well to keep his house as to defray the charge of the war." (Stevens's Historical Account of Taxation, page 101.)

The statute, 1 Anne, chapter 185, recites that—

The necessary expenses of supporting the Crown, or the greater part of them, were formerly defrayed by a land revenue, which had, from time to time, been impaired by the grants of former kings and queens, so that Her Majesty's land revenues could then afford very little toward the support of her government.

Sir Thomas Erskine May says:

The entire lands of the realm were originally held of the Crown by various feudal tenures, and the royal revenues were derived from fines, fees, first fruits and tenths, and other profits arising from those lands, and from the rents of the ancient demesnes of the Crown. To support the barbarous magnificence of his household—his numerous retainers and rude hospitality—was nearly the sole expense of the king, for as feudal superior he commanded the services of his tenants in the field, who fought by his side with an army of men and horses equipped and maintained at their own expense.—*Court Hist.*, vol. 1, p. 225.

One great contest between the Crown and the Parliaments related not to the matter of supply, but to the improvident alienation by the sovereign of the crown lands.

May further says:

While this waste of the Crown property had been injurious to the public revenues, it favored the development of the liberties of the people. Kings with vast hereditary revenues—husbanded and improved—would have been comparatively independent of Parliament. But their improvidence gradually constrained them to rely on the liberality of their subjects, until their own necessities and the increasing expenditure of the State at length placed them entirely under the control of Parliament. (Vol. 1, p. 230.)

In the reign of Charles II the principle of appropriating supplies to specific service by statute was formally established as one of the conditions under which Parliament granted money for the service of the State. It had been customary for Parliament to grant to the king, at the commencement of each reign, the ordinary

revenues of the Crown, which were estimated to provide in time of peace for the support of His Majesty's dignity and civil government and for the public defense. To these were added from time to time special grants for extraordinary occasions. The ordinary revenues were derived, first, from the hereditary revenues of the Crown itself, and, secondly, from the produce of taxes voted to the king for life. The hereditary revenues consisted of the rents of Crown lands, of feudal rights, the proceeds of the post-office, and wine licenses, and after the surrender of feudal tenures by Charles II, in 1660, of part of the excise duties. (Ib., p. 231.)

It is true that the luxury or the ambition of kings or their indulgent bounty to their favorites led them to assemble Parliament and to ask additional supplies from their subjects. It is also true that these requests furnished the occasion to the Commons to stipulate for redress of grievances. But the grievances so redressed had no relation to the laws of the realm. These laws were made or altered by the free assent of the three estates in whom the law-making power vested by the constitution. The grievances of which the Commons sought redress, whether from Tudor, Plantagenet, or Stuart, were the improper use of prerogatives, the granting oppressive monopolies, the waging of costly foreign wars, the misconduct of favorites and the like. The improvident expenditure of the royal patrimony, the granting the crown lands or pensions to unworthy persons, is a frequent ground of complaint. (Parl. Hist., vol. 1, p. 46., vol. 5, p. 240, 333, 345–8.)

In the first year of Charles I, Sir John Eliot—

Proposed to consider the state of the country and a relief for grievances. * * * For particulars, first, the consideration of the king's revenue; next, an account how the subsidies and fifteenths granted in the 21st James were expended, and therein to include the examination of the carriage and miscarriage of the last fleet, misgovernment, misemployment of the king's revenues, miscounseling, &c.

The compiler of the Parliamentary History adds:

These orders and resolutions, without one word of a supply, showed but a very unpromising beginning of this Parliament, and seemed to hint to the ministry, that without great attention among them little relief was to be expected from this body.—*Parl. Hist.*, 6, p. 423, an. 1, bar. 1.

The Petition of Right in 1628, after setting forth the illegal exaction of loans, the illegal quartering of soldiers in private houses, the illegal imprisonment of the subject, prays that these things may take place no longer:

All which they most humbly pray of your most excellent majesty, as their rights and liberties according to the laws and statutes of this realm.

The full statement of grievances made by the Commons a few years later, repeated with their demand for specific remedy, abundantly confirms this statement. (10 Parl. Hist., 60–89, 400–410.)

Mr. President, I challenge the production of a single instance in English or American history in which the withholding the supplies has been used as a weapon to coerce legislation. At the accession of William and Mary by the revolution of 1688, the Commons established the practice of granting the taxes for a single year, instead of for the king's life. Since that time there have been many earnest struggles in which Crown, Lords, and Commons have taken different sides. But, however political passions may have raged, from the time when the head of Sir Robert Walpole was not safe on his shoulders down to the fierce conflict of the reform bill, the Commons have never refused for an hour to provide for the support of government.

Sir Thomas Erskine May, in his Constitutional History, vol. 2, p. 102, declares that this power has not been exercised since the revolution:

Nor have the Commons, by postponing grants, or in other words, by "stopping the supplies," endeavored to coerce the other powers in the state. No more formidable instrument could have been placed in the hands of a popular assembly for bending the executive to its will. It had been wielded with effect when the prerogative of kings was high, and the influence of the Commons low; but now the weapon lies rusty in the armory of constitutional warfare.

Not once since the reign of William III have the demands of the Crown for the public service been refused. (P. 100.)

In that memorable parliamentary struggle in which, at the age of twenty-four, Pitt single-handed encountered a hostile majority in the House of Commons led by Burke and Fox and Sheridan, it was proposed to withhold the supplies to coerce the king to remove his ministry. But the opposition did not persist, and the supplies were voted. During the controversy the House undertook by its own authority to forbid the lords of the treasury to exercise the discretion vested in them by law to accept bills from India. The House of Commons retreated rather ignominiously from its position. Mr. Gifford in his Life of Pitt well says:

To admit the existence of a right in any one part of the legislative body to suspend an act for the formation of which the concurrence of the whole is requisite, is to violate one of the most obvious of all constitutional principles and to introduce disorder and misrule into a system justly celebrated for its harmony and its efficacy.

Fox, the champion of popular liberty, earnestly disclaimed any purpose of withholding supplies. (Parl. Hist., vol. 24.) Much less has there been an instance of attempting to compel the upper house or the Crown to consent to changes in existing law by attaching legislative provisions to appropriation bills or tax bills.

In the year 1704 a portion of the tory majority in the House of Commons undertook to tack the bill against occasional conformity (which punished persons who had taken the sacrament for the purpose of entering upon any office of trust and afterward attended a dissenters' meeting) to the land-tax bill. The historian, Oldmixon, gives a graphic account of the debate. Sir Thomas Littleton, late speaker, said:

"Gentlemen, by the tacking of this bill we mean to throw a necessity upon the Lords to pass it; but suppose the Lords think fit to untack what we have tacked, and to acquaint us that they are ready to pass the money bill but will consider of the other. Pray, whose fault will the nation account it to be that the queen's service is retarded?" Little was or could be said to these arguments, and still less to the strong one, that the tacking it was a breach of the constitution, as it took from the Lords their ancient and undoubted right of a negative upon any bills from the Commons, money bills only excepted. If the tacking question had been carried in the affirmative, the Parliament had been dissolved and all the wheels of the great machine, the war, stopped at once, and the liberties of England and all Europe, the Protestant religion, the present age and the future, would have been sacrificed to France for a dream of the church's danger, under a queen who was one of its most zealous members. When it came to a pinch, near one hundred and twenty members fell off from the tories and voted with those who were in the true interest of their country; and upon the question whether the bill should be tacked or not it passed in the negative—yeas 134, nays 251. Those unhappy one hundred and thirty-four became so odious to the nation that near fifty of them were thrown out at the next election.

Burnet, volume 5, page 180, relates the attempt to tack the bill against occasional conformity to a money bill in 1704–'5:

Those who opposed it said this now aimed at was a change in the whole constitution, and was in effect turning it into a commonwealth, for it imported the denying not only to the Lords but to the Crown the free use of their negative in the legislature. If this was once settled, then as often as the public occasions made a money bill necessary everything that the majority in their house had a mind to would be tacked to it.

December 9, 1702, it was ordered and declared by the Lords—

That the annexing any clause or clauses to a bill of aid or supply the matter of which is foreign to and different from the matter of the said bill of aid or supply is unparliamentary, and tends to the destruction of the constitution of this government.

And this is the standing rule in Parliament to-day.

In no instance—

Says Mr. Hamersham Cox, in his treatise entitled The Institutions of the English Government—

since the revolution of 1688 have the Commons by refusing the supplies endeavored to coerce the other powers of the state.

Hatsell observes, volume 3, page 195, *et seq.*:

Whenever this measure of tacking to a bill of supply is attempted by the House of Commons, with an intention of thereby compelling the Crown or the Lords to give their assent to a bill which they would otherwise probably disapprove of and reject, it is highly irregular; and it is a breach of those parliamentary rules and orders that have been established by long and uniform practice between the two houses in the mode of passing bills.

To do this in cases where it is known that one of the component parts of the bill will be disagreeable to the Crown or to the Lords, and that if it was sent up alone it would not be agreed to—from this cause, and with a view to secure the royal assent or the concurrence of the Lords, to tack it to a bill of supply which the exigencies of the state make necessary, is a proceeding highly dangerous and unconstitutional. It tends to provoke the other branches of the legislature in their turn to depart from those rules to which they ought to be restrained by the long and established forms of Parliament, and can have no other effect than finally to introduce disorder and confusion. The Commons are by the practice of Parliament entitled to insist "that the Lords shall make no alteration in a bill of supply." Not to avail themselves of this right, and thereby to refuse to the House of Lords the exercise of that privilege which they have as one of the legislature "to give their dissent to a proposition they disapprove of" without at the same time being obliged to reject the supply which the public necessities demand, and which they are ready and desirous to grant, is to confound those separate rights that belong to each House of Parliament, and thereby to introduce and encourage proceedings which must in their consequences prove dangerous to the constitution. The Lords, therefore, in their answer to the attempt which was made by the Commons in 1699, replied with great weight:

"The joining together in a money bill things so totally foreign to the methods of raising money, and to the quantity or qualification of the sums to be raised, is wholly destructive of the freedom of debates, dangerous to the privileges of the Lords and to the prerogative of the Crown. For, by this means, things of the last ill consequence to the nation may be brought into money bills, and yet neither the Lords nor the Crown be able to give their negative to them without hazarding the public peace and security. * * * In short, however desirable the end may be that is at any time aimed at by this measure, the means are always bad. It is much safer to trust to time and to circumstances, which sooner or later dispose the minds of men to accept and approve of such propositions as are really for the public good, than to obtain even the best of laws by breaking down those bounds and fences which the wisdom of past ages has set up, and to let in disorder and confusion, which may finally prove fatal to the security, perhaps to the existence, of the constitution."

I have been particular in examining the legislative precedents in the country from which so much of our institutions has been derived, because an error that seems to have misled Senators may well be supposed not to be without an effect, in some quarters, upon the people. The doctrine which has caused this Congress to be called together is as new as it is monstrous. It finds no support, countenance, or analogy in the history of constitutional liberty in England. The weapon with which the leaders of the democratic party threaten the constitutional life of our Republic, the English people would have disdained, in their extremest need, in their most deadly contests with despotism. No English patriot ever proposed to refuse to provide for the defense of the realm, the administration of justice, or the faithful execution of the laws until the House of Commons could force the constitutional assent of King or Lords to legislation which they disapproved. Supplies were never withheld to government, but only to royal personal expenditure. They were never withheld to coerce legislation or to coerce the exercise of an admitted royal power, but only to prevent unconstitutional exercises of prerogative. When they were withheld the Crown had full means of supporting government and of defending the country in its hereditary revenues, or those settled on king for life, and in its right to demand military service from its vassals.

But there is a broader and simpler distinction between the two cases. The mistake, the gross, palpable mistake, which these gentlemen fall into in making this comparison, lies at the threshold. The

House of Commons, in its discretion, used to grant, and sometimes now grants, supplies to the king. The American Congress, in its discretion, never grants supplies to the President under any circumstances whatever. The only appropriation of the public money to which that term can properly apply, the provision for the President's compensation, is by design and of purpose placed wholly out of the power of Congress. The provision is peremptory that—

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Alexander Hamilton, in No. 72 of the Federalist, declares that the very purpose of this enactment is to put it beyond the power of Congress to compel the President "to surrender at discretion his judgment to their inclinations."

This is no blow at the President. It is a blow at the Constitution. This is not a threat to withhold supplies. It is a threat to abandon the constitutional functions of government. It is a threat to suspend the operation of the Constitution itself. It is a threat to disobey the explicit mandate of the fundamental law by those servants to whom above all others in the Republic the people have intrusted their dearest interests, relying only on their honor and their sense of duty. It is not supply that is withheld; it is the establishment of justice. It is not supply; it is the provision for the common defense. It is not supply; it is the preservation of domestic tranquillity. It is not supply; it is the promotion of the general welfare.

The obligation to provide for the expenses of government rests upon the Senate and House just as does their obligation to meet; just as the obligation to hear and decide causes rests upon the judges; just as his obligation to nominate and appoint officers and to take care that the laws be faithfully executed rests upon the President; just as the obligation to engage the enemy rests upon the general in the field; just as the obligation rests upon every executive officer to discharge the functions of his office. All these civil officers would be punishable by impeachment, and in many cases by indictment, for wanton or willful disobedience to this obligation of duty. The military or naval officer for like offense may be punished with death. The individual member of Senate or House who should permanently and without excuse absent himself from his duties might doubtless, in the high discretion of the body to which he belonged, be punished by expulsion. In the nature of things, consistently with constitutional liberty, there can be no punishment for a majority of a legislative body which shall wantonly and in disregard of oaths refuse to execute its constitutional trust. Above all persons in the service of the Republic, it is the peculiar dignity and glory of the legislator that the safety of the state is intrusted to his sense of duty alone, without other safeguard or sanction.

What need of discussing English examples in the presence of the clear behests of our own written Constitution? English political history is a steady growth from an almost unchecked despotism to a republic. The American Constitution provides legislative, executive, and judicial processes, and the restraints on those processes for a republic already established. I said just now that there could be no supply in the English sense under our Constitution and laws, except that which is expressly removed from legislative discretion, the compensation of the President. But the framers of our Constitution took care not only that there should be no supplies to withhold from or grant to the king, but they made the still more important arrangement that there should be no king from whom to withhold them. The President of the United States has no more interest or concern with the items of appropriation which the Senators in defiance of the duty imposed by the Constitution threaten to withhold than the humblest citizen. He is one servant; Congress is another. Each has its appropriate and carefully limited sphere of power and of duty. The thing that the framers of the Constitution chiefly feared was the "propensity of the legislative department to intrude upon the rights and to absorb the powers of the other departments." This fear, continually expressed in the Constitution, is reiterated in the pages of the Federalist. To guard against this danger the duty is enjoined upon Congress—a duty which has the express sanction of every Senator's oath of office—to see that his compensation is paid at stated times without diminution during his term, and the constitutional and effectual defense of his negative upon legislation is placed in his hands. The power of impeachment and the power to pass laws by a two-third vote afford abundant protection against grievances from the Executive.

The complicated system of rules in force in the House of Representatives makes it exceedingly difficult for any single measure to gain attention. Every appropriation bill must go to the Committe of the Whole where every member has full opportunity to offer amendments. Other bills in the struggle for the attention of the House have to encounter not only the opposition of those opposed to the bill, but of friends who desire to give preference to measures in which they take greater interest. The same is to a less extent true in the Senate. The practice has thus grown up of placing general legislation upon appropriation bills, not to compel the assent of the other branch or of the President, but merely to compel its consideration. I do not defend this practice. It leads and has led to great abuse. It has been complained of by many men of the highest authority in both parties. But it affords no excuse for the present attempt at usurpation, for which there can be found but one or two parallels in our history. In 1855, the House put upon the civil and diplomatic bill sections reducing the tariff. This was denounced by men of all parties in the Senate.

Mr. CLAYTON. It is a most dangerous precedent; it is an example that has never been set to us before, and I hope will never be attempted again.

Mr. COOPER. It is objectionable because it forces Senators to act upon compulsion.

Mr. Bayard opposed the provision in a weighty argument too long to be extracted. I read two or three sentences:

I do not know that I should have any objection to this tariff bill if it came here as a separate measure and was thoroughly discussed. When it comes to us in this shape, it is coercive legislation on this body and it is coercive legislation in this body on the minority of the body. If legislation is coercive, it matters not what is the source or motive which tempts to be coercion. The principle is equally erroneous in legislation; it equally strikes at the fundamental basis on which deliberative assemblies in a free government must necessarily be constituted.

This is no mere point of order; it is an important and vital question. We have gone on some steps and we come now to an issue which will try the form of this Government to its utmost. It will last in all time. Though I may deem a measure valuable, I would rather see it lost, and rely upon the sense of the country to return representatives afterward who would pass it, than to sacrifice a great principle which I think lies at the bottom of all legislative organization in free countries of not permitting coercive legislation.

Is there not one man left on the democratic side of this Chamber to whom the voice of Bayard still speaks with authority?

Mr. Seward declared the proposition to be of a revolutionary character, and thanked the Senators from Delaware for the fidelity with which they had sustained the independence of the Senate.

The sections were stricken out by the Senate and abandoned by the House. Thus ended the first attempt in our history of the other House of Congress to usurp the functions of Senate and President.

In 1856 a provision was ingrafted upon the Army bill that no part of the Army should be used to enforce the enactments of the Legislative Assembly at Shawnee Mission, in Kansas, until Congress had determined as to their validity, and directing the President to use the military forces of the United States to keep the peace in the Territory and to disarm the existing militia of Kansas. To this the Senate refused its assent. The bill failed, and an extra session was forthwith called. This proceeding, so far as relates to the first proviso, was, in my judgment, entirely proper and constitutional, and has no resemblance to that under consideration. So far there was no attempt to change existing law. The House there exercised its undoubted constitutional right of limiting an appropriation by declaring that no part of it should be used for a purpose which it held unlawful. It was to prevent an unconstitutional use of the Army by the President that the appropriation was limited. The clause in the Constitution that no appropriation for the use of the Army shall be for a longer term than two years was inserted for that very purpose.

The other provisions were justly liable to censure. They sought to force upon the President and Senate new legislation against their will. At the special session held three days after the adjournment the House abandoned this ground and sought only to place upon the bill a proviso limiting the authority of the President to use the troops for whose support appropriation was made. But the Senate remained steadfast, and the whole legislation upon the subject was stricken out of the bill.

On one other occasion only has any similar attempt been made. In 1865 the democrats in the House, uniting with a few republicans led by Winter Davis, placed upon the Army bill a clause providing that no man should be tried by military courts in any State where a court of the United States was held. The Senate struck out the clause. A large majority of the House were for concurring in the amendment. But Mr. Davis was able to command votes enough to filibuster until the session ended, and the bill was lost.

In all these cases the legislation disapproved by the Senate has sooner or later been abandoned, and the appropriation has been made. Frequently has legislation devised by the House been brought to the attention of the Senate or the President upon an appropriation bill. Never has the claim been maintained, never has it been strenuously insisted on, that either or both Houses would bring the Government to a stop if they could not have their way.

Senators would doubtless disavow any purpose to resort to force or to break up the Legislature by withdrawal from the Capitol. But it would be difficult to draw a logical distinction between the withdrawal of Senators and Representatives from the halls of legislation and their remaining only to refuse to carry on the Government.

Mr. President, what are the grievances which seem to Senators on the other side to justify this second attempt at revolution? They are laws—laws passed by constitutional methods—passed, I believe, by a two-third vote; laws which have been on the statute-book many years with the fullest opportunity to test their constitutionality in the courts. Will any Senator claim that Congress has not the right to make regulations concerning the manner of holding elections for Representatives? The grievance is that the American people, acting through their Representatives in the National Legislature, having determined to exercise their clear constitutional power of regulating the manner of national elections, have taken some of the precautions usual in the States in like cases for protecting those elections against violence and fraud.

The three grievances complained of are the power to use troops in case of absolute necessity to keep peace at the polls, the power to appoint officers to see fair play at elections, and the discretion vested in the judges of the United States to administer to jurors an oath that they have not been guilty of what the Constitution of the United States defines as treason. It is true there is in the Revised Statutes a provision of a law long since repealed, re-enacted by mistake, making it a cause of peremptory challenge to have taken part in rebellion. The Senate passed a bill last winter repealing this section, and it only remains on the statute-book to-day because the democratic majority in the House did not agree to the bill.

Section 821 is important only as a law against future treason. It provides:

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

I do not deem it likely that there will be any immediate occasion for its exercise. Nor should I much regret its repeal if it were to be accomplished by the deliberate and unmenaced judgment of Congress and the President. The strongest reason for its continuance is the temper with which its repeal is demanded.

Gentlemen seem to suppose that the statute authorizing the use of troops if needful to keep peace at the polls is of recent origin. There has been no time since the formation of the Government when the President might not lawfully have employed the military power of the United States to protect the peaceable exercise of any public function which was being performed under its constitutional authority against forcible invasion. There has been no time since the formation of the Government when a single person has been restrained or intimidated in casting his vote by any military power whatever. What is new in the statute of 1865 is the stringent legislation now found in sections 5528 to 5532 and sections 2002 and 2003 of the Revised Statutes. These sections affix heavy penalties for every interference by any officer of the Army or Navy with the freedom of elections, the qualification of voters, or the conduct of the election officers. He is held responsible, at the peril of utter ruin, at the peril of imprisonment without discretion, for the existence of the fact of the absolute necessity for keeping the peace. He is punishable by imprisonment and by fine if he interfere with any provision for the regulation of elections, with any citizen's right to cast a free vote, or with the conduct in any mode of the election officers.

Is there a State in the Union where there is not reserved to the executive the power to avail itself of the military forces to preserve the peace in case of extreme necessity? So of the election laws. They contain simple provisions which, without depriving the State officers of the power to make registration, conduct elections, and count the vote, appoint officers of the United States to see fair play, to know what goes on, with power to arrest persons who actually commit crimes against the elective franchise in their presence. There is no jurisdiction on earth where the power to arrest for high crimes or misdemeanors committed in their presence is not vested in the officers of the law. Will Senators on the other side of the Chamber, in the light of our recent history, venture to deny the necessity of legislation for the protection of the purity of the ballot?

If the United States be a government it possesses and must exercise the powers necessary for its own preservation, to which the security and purity of the ballot-box are absolutely essential. What need to guarantee to the States a republican form of government and to pledge them the power of the United States as their protection against domestic violence if the United States cannot against armed ruffians make the polls safe where their own sovereignty is ultimately lodged, or secure the honest expression of their own will through republican forms? What need to set apart a district in their exclusive jurisdiction, a district into which no other power can enter, for the functions of a government which is to represent no people and be the choice of no constitutional majority, but whose selection is at the mercy of ruffians or of knaves?

I am no alarmist. I would rather find ground of hope and confidence than of apprehension in the present position of affairs. I do not think it desirable in a republic that its powers should forever be exercised by one political party where there are two equally devoted to its preservation and to its fundamental principles. But I cannot fail to see, and seeing I cannot fail to declare, that this is no mere difference as to party policies under a constitution which all alike obey. It is a refusal to submit to the constitutional authority to which is intrusted the enactment and repeal of laws. To-day this weapon may be directed against the President. Three weeks ago it was directed against the Senate. Then the Senator from Ohio reminded us of the inequality of population in the States and that the vote of Rhode Island is as powerful in the Senate as the vote of New York. Now we are told that the President is but one man against many men; as if both were not alike complaints of the Constitution itself.

The Senator from Delaware told us, on Friday, that the democratic party is now in possession, and proposed to use its responsibility without any regard to the wishes of this side of the Chamber. We did not need his reminder. It is a most significant fact that the advent of that party to power is accompanied by the most serious attack ever made, through peaceful instrumentalities, on the life of the Republic. The first use of its power is an attempt to set at naught the methods provided by the Constitution for the expression of the will of the people in legislation, in order to make it easier hereafter to set at naught the constitutional expression of the same will at the polls in the election of President and Representatives.

Mr. President, in my judgment this novel and monstrous doctrine must be encountered, resisted, and overthrown on the threshold. To yield anything to it is to yield everything. The men who have set it up must abandon it here, or prepare themselves to defend it before the intelligent judgment of the American people, who know and understand their Constitution. Of the issue of such an appeal I have no fear.

Mr. BECK. Mr. President, the Senator from Massachusetts [Mr. HOAR] has seen fit to deliver us a long, written, and carefully prepared speech upon an abstract proposition, a great portion of which was intended to be an attack upon a speech which I made at the close of the last session and upon one made by the Senator from Ohio [Mr. THURMAN] who is not able to be in his seat. I am inclined to think, however, that the best part of the Senator's speech was the speeches that he read made by myself and the Senator from Ohio. The principal object of his speech now obviously is to endeavor to induce the President of the United States to veto what, if passed, will be clearly constitutional laws, as I can demonstrate when the proper time comes. He has seen fit to draw from English history what he calls parallels as to the conduct of Parliament in the last few years, forgetting all the time or concealing the fact that every English ministry is compelled to resign whenever want of confidence is voted against them by the House of Commons. New ministers have to take their places in the house at once, who will obey the popular will. That is not so here; it might save trouble if it was.

But I do not rise to debate the question. I think, in the absence of the Senator from Ohio, who was known to be sick, when the Senator from Massachusetts rose, since the attack was mainly made on him, that as he ought to be here when this subject is discussed, and as he is chairman of a committee charged with the examination of all these questions, I do not care to anticipate its action.

Mr. HOAR. The Senator from Kentucky will permit me to say that I did not know the Senator from Ohio was sick. I knew he was absent, or I observed he was not in his seat, but I informed him two or three days ago of my purpose to make this speech.

Mr. BECK. As he is chairman of a committee that is considering all these questions, and as we believe the democratic party will act wisely and properly, and present no laws to the President that he can, under any sort of legitimate exercise of his prerogative, veto——

Mr. CONKLING. Will the Senator allow me to understand him? To what committee does he refer as one of which the Senator from Ohio is chairman?

Mr. BECK. A democratic committee now considering how it is best for this side of the House who have the responsibility to act to determine how we can best present the measures fairly and properly.

Mr. CONKLING. Not a committee of the Senate?

Mr. BECK. No, sir; not a committee of the Senate as such.

Mr. CONKLING. I beg the Senator's pardon.

Mr. BECK. But a committee that I believe will present legislation that Congress and the country will approve and indorse; when that committee does act and those bills are up for consideration, then we will discuss all these questions to the satisfaction of gentlemen on the other side, we hope. In the mean time, this resolution has been thrown in by the stalwart republicans simply for the purpose of stiffening the President in his reported threat (and it is an indecent threat if he made it) that he would veto legislation that had not been laid before him. General Grant, in 1874, said no President could intimate that he would do such a thing in advance, and that as a member of Congress he would resent it *because it was indecent to do it.* It will be time enough for him when the bills are sent to him, and for his friends, to threaten us with vetoes. They can withhold their threats for a few days without detriment to the public interest.

As I said, these bills are being carefully prepared. They will be up in a few days, as soon as the committees of the House can be appointed, and then, not for the naked purpose of exciting the President or for the purpose of exciting the country by abstract debate, the questions can come up on the merits of the bills as presented, and whatever is done by the democratic party will be defended, I think to the satisfaction of the country.

Therefore, as this resolution and speech has been, as I think, flung in improperly, in the absence of the gentleman who we recognize as having more to do with the preparation of the bills than anybody

else—I mean the Senator from Ohio, [Mr. THURMAN]—and as his former speech has been attacked behind his back, I move that the resolution of the Senator from Massachusetts be laid on the table.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Kentucky moves to lay the resolution offered by the Senator from Massachusetts on the table.

Mr. WALLACE. Pending that motion, I move that the Senate do now adjourn.

Mr. BLAINE. One moment before either motion is put. I wish it to be distinctly understood that it is the first time, I think, in the history of the Senate——

Mr. WALLACE. I object to any debate.

The PRESIDING OFFICER. The motion is not debatable.

Mr. WALLACE. My motion takes precedence. I insist upon it.

Mr. EDMUNDS. On that I ask the yeas and nays.

Mr. BLAINE. The Senator from Pennsylvania objects to any debate.

Mr. EDMUNDS. If the gag is to be applied in this way for the first time in the Senate, I demand the yeas and nays on the motion to adjourn.

Mr. BLAINE. Do I understand the Senator from Pennsylvania to object to any debate?

Several SENATORS. Order!

Mr. WALLACE. The motion of the Senator from Kentucky is not a debatable one.

Mr. BLAINE. I ask the Senator from Kentucky to withdraw that undebatable motion that we may have debate.

Mr. BECK. I decline to withdraw it. The question has been argued in the absence of the gentleman mainly in charge, and I object.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania that the Senate do now adjourn.

Mr. EDMUNDS. And on that I ask for the yeas and nays.

Mr. DAVIS, of Illinois. Is it in order to move to go into executive session?

Mr. EDMUNDS. It is not.

Mr. BLAINE. If we are to have a previous question in the Senate under the form of a motion to adjourn, then I will not——

Mr. McDONALD. I call for the enforcement of the rules.

Mr. BECK. I object to anything out of order.

The PRESIDING OFFICER. The yeas and nays are called for on the motion to adjourn.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) I was paired yesterday with the Senator from Ohio [Mr. THURMAN] on account of his illness. As he is still ill, because I see he is not here, I shall consider the pair as continuing. So I decline to vote. I should vote against this adjournment.

Mr. DAVIS, of West Virginia. I will say to the Senator from Vermont that I saw the Senator from Ohio last night, and he said he would be obliged to the Senator for continuing the pair until he got out, to-morrow or the next day.

Mr. EDMUNDS. He will never get out at the rate things are going now. [Laughter.]

Mr. INGALLS, (when Mr. PLUMB's name was called.) My colleague [Mr. PLUMB] requested me to state that he was paired with the Senator from South Carolina, [Mr. BUTLER.]

Mr. VANCE, (when Mr. RANSOM's name was called.) I desire to announce that my colleague [Mr. RANSOM] is paired with the Senator from Iowa, [Mr. ALLISON.] My colleague if present would vote "yea."

Mr. ALLISON, (after having voted in the negative.) I voted inadvertently, forgetting for the moment that I was paired for the day with the Senator from North Carolina, [Mr. RANSOM.] I desire to withdraw my vote.

The PRESIDING OFFICER. The vote will be withdrawn.

The roll-call having been concluded, the result was announced—yeas 37, nays 28; as follows:

YEAS—37.

Bailey,	Groome,	Lamar,	Vest,
Bayard,	Grover,	McDonald,	Voorhees.
Beck,	Harris,	McPherson,	Walker,
Call,	Hereford,	Maxey,	Wallace,
Cockrell,	Hill of Georgia,	Morgan,	Whyte,
Coke,	Houston,	Pendleton,	Williams,
Davis of W. Va.,	Johnston,	Randolph,	Withers.
Eaton,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	
Garland,	Kernan,	Vance,	

NAYS—28.

Anthony,	Carpenter,	Hill of Colorado,	Morrill,
Blaine,	Chandler,	Hoar,	Paddock,
Booth,	Conkling,	Ingalls,	Platt,
Bruce,	Davis of Illinois,	Kellogg,	Rollins,
Burnside,	Dawes,	Kirkwood,	Saunders,
Cameron of Pa.,	Ferry,	Logan,	Teller,
Cameron of Wis.,	Hamlin,	McMillan,	Windom.

ABSENT—8.

Allison,	Edmunds,	Plumb,	Sharon,
Butler,	Jones of Nevada,	Ransom,	Thurman.

So the motion was agreed to, and (at two o'clock and seventeen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, March 25, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Friday last was read and approved.

DELEGATES SWORN.

Mr. BLACKBURN. I rise to a question of privilege. I present the credentials of Mr. Stephen W. Downey, Delegate from Wyoming Territory, and ask that he be sworn.

The SPEAKER. The Chair is advised there is another Delegate present who has not yet been sworn. The Delegate from Idaho will be kind enough to come forward.

Mr. STEPHEN W. DOWNEY, Delegate from Wyoming, and Mr. GEORGE AINSLIE, Delegate from Idaho, presented themselves and qualified by taking the oath of office prescribed in section 1756 of the Revised Statutes.

JUDGE ALEXANDER RIVES.

Mr. HARRIS, of Virginia. I ask unanimous consent to offer for reference to the Committee on the Judiciary, when appointed, the preamble and resolution which I send to the desk. I think there will be no objection.

The Clerk read as follows:

Whereas Alexander Rives, judge of the district court of the United States for the western district of Virginia, is instructing the grand juries in said court to indict the several judges of the county courts of the State of Virginia, residing and holding State courts according to and under the laws of Virginia in said district, for the failure of said judges to place upon the jury panel of said State the names of colored persons; and

Whereas many of such judges have been indicted and arrested, so as greatly to interfere with the due administration of justice and the execution of the laws of said State: Therefore,

Resolved, That the Committee on the Judiciary, when appointed, shall inquire into the facts herein referred to, and report what action, if any, this House ought to take to prevent the further interference by said Judge Rives with the due administration of justice in the State of Virginia by the means aforesaid.

Mr. CONGER. I object to the introduction of the resolution.

INTERNAL REVENUE.

Mr. FROST. I ask unanimous consent to introduce a bill to repeal section 7 of an act approved March 1, 1879, relating to internal revenue.

Mr. CONGER. I am compelled to make objection.

AMENDMENT OF CONSTITUTION.

Mr. STEVENSON. I ask unanimous consent, especially of my friend from Michigan, to introduce the joint resolution which I send to the desk and to have it printed in the RECORD, and referred to the Committee on the Judiciary, when appointed.

The Clerk read the title of the joint resolution, as follows:

A joint resolution proposing an amendment to the Constitution of the United States.

Mr. CONGER. I think that had better be postponed awhile. I object.

Mr. STEVENSON. I ask the gentleman to allow the joint resolution to be printed in the RECORD and referred to the Committee on the Judiciary.

Mr. CONGER. I object.

Mr. REAGAN. I do not know that the gentleman from Michigan has the right to stop the introduction of bills and resolutions by an objection. The House has not yet adopted any rules, and as I understand we are now under general parliamentary law.

The SPEAKER. The rules provide when the introduction of bills is in order; and that is on Monday.

Mr. REAGAN. But those rules have not been adopted.

The SPEAKER. The Chair will cause to be read Rule 147.

Mr. ELAM. But the gentleman from Texas makes the point that we have no rules.

The SPEAKER. The Chair will cause it to be read.

The Clerk read Rule 147, as follows:

These rules shall be the rules of the House of Representatives of the present and succeeding Congresses unless otherwise ordered.—March 19, 1860.

DISTRIBUTION OF DOCUMENTS.

Mr. THOMPSON. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the undistributed books and documents remaining in the folding-room of the House of Representatives to the credit of the members and officers of the last House of Representatives be placed to the credit of the corresponding members and officers of the present House.

Mr. SPRINGER. I would like to hear the resolution read again.

The resolution was again read.

The SPEAKER. The Chair desires to state that on the 19th instant the gentleman from Ohio [Mr. GARFIELD] introduced a resolution on this subject. That resolution came in by unanimous consent and is pending, and this proposition would be in the nature of an amendment.

Mr. SPRINGER. I have no objection to the resolution if it be amended so as to provide that where no election has taken place the outgoing member may continue to control the distribution of documents.

The SPEAKER. Is there objection to the consideration of the resolution at this time?

Mr. NEAL, Mr. DUNNELL, and other members objected.

FRANK LOGSDON.

Mr. GEDDES. I desire to introduce a bill granting a pension to Frank Logsdon, late a private in Company K, Forty-third Regiment Ohio Volunteer Infantry.

Mr. CONGER. I object. I must object to the introduction of any bills except those which relate to appropriations.

SPECIAL COMMITTEES.

Mr. COX. I offer the resolution which I send to the desk relating to the organization of the House.

The Clerk read as follows:

Resolved, That special committees be appointed on the following subjects, to wit: one on the census, one on reform in the civil service, one on the state of the law respecting the ascertainment and declaration of result of election of President and Vice-President, and one upon the yellow-fever epidemic; said committees to have the same number of members, duties, scope, privileges, and powers as those on similar subjects of the last Congress.

Mr. COX. I ask that the resolution be referred to the Committee on Rules.

Mr. CONGER. I object to its introduction.

Mr. KNOTT. I move that the House do now adjourn.

The question being put on the motion to adjourn, there were—ayes 102, noes 71.

Mr. BREWER. I call for the yeas and nays.

The yeas and nays were ordered, 46 members voting therefor; more than one-fifth of the last vote.

The question was taken; and there were—yeas 129, nays 111, not voting 46; as follows:

YEAS—129.

Acklen,	Dibrell,	Kimmel,	Samford,
Atherton,	Dickey,	King,	Sawyer,
Atkins,	Dunn,	Kitchin,	Scales,
Bachman,	Elam,	Knott,	Shelley,
Baker,	Ellis,	Ladd,	Simonton,
Ballou,	Errett,	Le Fevre,	Singleton, J. W.
Bayne,	Evins,	Lewis,	Singleton, O. R.
Beale,	Ewing,	Lindsey,	Slemons,
Bicknell,	Felton,	Lounsbery,	Smith, A. Herr
Blackburn,	Ferdon,	Martin, Benj. F.	Smith, Hezekiah B.
Bland,	Finley,	Martin, Edward L.	Smith, William E.
Blount,	Forney,	Martin, Joseph J.	Steele,
Boyd,	Frost,	McKenzie,	Stephens,
Bright,	Frye,	McLane,	Stone,
Buckner,	Gibson,	McMahon,	Taylor,
Caldwell,	Goode,	Money,	Townshend, R. W.
Cannon,	Gunter,	Monroe,	Tucker,
Carlisle,	Hammond, N. J.	Morrison,	Turner, Thomas
Clardy,	Harmer,	Muldrow,	Updegraff, Thomas
Clark, John B., jr.	Harris, John T.	Myers,	Waddill,
Clymer,	Hatch,	New,	Wellborn,
Cobb,	Hawk,	Newbury,	Wells,
Conger,	Hazelton,	O'Neill,	Whiteaker,
Converse,	Henry,	O'Reilly,	Whitthorne,
Cook,	Herbert,	Persons,	Williams, C. G.
Covert,	Herndon,	Poehler,	Williams, Thomas
Cox,	Hill,	Price,	Willits,
Cravens,	Hooker,	Reagan,	Wise,
Culberson,	House,	Reed,	Wood, Fernando
Davidson,	Hull,	Richardson, John S.	Yocum.
Davis, Joseph J.	Hurd,	Richmond,	
Deering,	Johnston,	Robinson,	
Deuster,	Killinger,	Rothwell,	

NAYS—111.

Aiken,	Davis, George R.	Lapham,	Sapp,
Aldrich, William	Davis, Lowndes H.	Loring,	Shallenberger,
Anderson,	De La Matyr,	Lowe,	Sherwin,
Armfield,	Dunnell,	Marsh,	Speer,
Bailey,	Farr,	Mason,	Springer,
Barber,	Field,	McCoid,	Stevenson,
Barlow,	Ford,	McCook,	Talbott,
Belford,	Forsythe,	McKinley,	Thomas,
Beltzhoover,	Fort,	McMillin,	Thompson,
Blake,	Geddes,	Miles,	Tillman,
Bliss,	Gillette,	Mitchell,	Townsend, Amos
Bouck,	Godshalk,	Morse,	Turner, Oscar
Bowman,	Hall,	Murch,	Tyler,
Brewer,	Hammond, John	Neal,	Updegraff, J. T.
Briggs,	Harris, Benj. W.	Nicholls,	Urner,
Brigham,	Haskell,	Norcross,	Valentine,
Browne,	Hawley,	O'Connor,	Van Aernam,
Burrows,	Hayes,	Orth,	Vance,
Butterworth,	Hellman,	Osmer,	Van Voorhis,
Carpenter,	Henderson,	Phelps,	Voorhis,
Chalmers,	Horr,	Phister,	Wait,
Claflin,	Hostetler,	Pierce,	Ward,
Clark, Rush	Houk,	Pound,	Warner,
Coffroth,	Humphrey,	Rice,	Washburne,
Cowgill,	James,	Richardson, D. P.	Weaver,
Crapo,	Jones,	Russell, William A.	Wright,
Crowley,	Kelley,	Ryan, Thomas	Young, Thomas L.
Daggett,	Klotz,	Ryon, John W.	

NOT VOTING—46.

Aldrich, Nelson W.	Colerick,	Hunton,	Miller,
Bingham,	Dick,	Jorgensen,	Mills,
Bragg,	Dwight,	Joyce,	Morton,
Cabell,	Einstein,	Keifer,	Muller,
Calkins,	Fisher,	Kenna,	O'Brien,
Camp,	Garfield,	Ketcham,	Overton,
Caswell,	Henkle,	Lay,	Prescott,
Chittenden,	Hiscock,	Manning,	Robertson,
Clark, Alvah A.	Hubbell,	McGowan,	Robeson,
Ross,	Starin,	Willis,	Young, Casey.
Russell, Daniel L.	White,	Wilson,	
Sparks,	Wilber,	Wood, Walter A.	

So the motion to adjourn was agreed to.

During the roll-call the following announcements were made:

Mr. STEPHENS. Before I vote I desire to make an inquiry of the Chair.

The SPEAKER. The gentleman will state it.

Mr. STEPHENS. Is the Speaker now ready to announce the committees of the House?

The SPEAKER. He is not.

Mr. STEPHENS. Then I vote "ay."

Mr. MARTIN, of West Virginia. My colleague, Mr. WILSON, has been called home on account of sickness in his family. My colleague, Mr. KENNA, is necessarily absent, and is paired with Mr. OVERTON, of Pennsylvania.

Mr. MONEY. I wish to announce that Mr. YOUNG, of Tennessee, is absent on account of sickness.

Mr. SPARKS. I am paired with Mr. WHITE, of Pennsylvania.

Mr. GOODE. My colleague, Mr. HUNTON, is detained at home by illness.

Mr. BLISS. My colleague, Mr. O'BRIEN, is paired with my colleague, Mr. EINSTEIN.

Mr. HISCOCK. On this question I am paired with General BRAGG, of Wisconsin. If he were present, I would vote "no."

Mr. TUCKER. The gentleman from Texas, Mr. MILLS, is detained from the House by sickness.

Mr. STONE. My colleague, Mr. MCGOWAN, is absent on account of illness.

Mr. CALKINS. I am paired with Mr. MANNING, of Mississippi.

Mr. PRESCOTT. I am paired with Mr. WILLIS, of Kentucky, who is at his room sick. If he were present, I would vote "no."

Mr. OVERTON. On this question I am paired with Mr. KENNA, of West Virginia. If he were present, I would vote "no."

Mr. DEERING. I wish to announce that Mr. JOYCE, of Vermont, is detained at his room by serious illness.

Mr. FRYE. The gentleman from New York, Mr. MORTON, is detained at home by reason of sickness in his family, and is paired with Mr. HUNTON, of Virginia.

Mr. WILLIAMS, of Wisconsin. My colleague, Mr. CASWELL, is absent from the House on account of important business.

Mr. CLARK, of Missouri. My colleague, Mr. LAY, is paired with Mr. DICK, of Pennsylvania.

Mr. TOWNSEND, of Ohio. My colleague, Mr. KEIFER, has gone home on account of sickness in his family.

The result of the vote was then announced as above stated.

Accordingly (at twelve o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: Memorial of the board of health of the State of Louisiana, asking appropriations for the further improvement of the Mississippi quarantine station and for the purchase of John Gamgee's refrigerating apparatus—to the Committee on Commerce, when appointed.

By Mr. ALDRICH, of Illinois: The petition of Jane Ebbs and 39 other women, of Naperville, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. BURROWS: The petition of 14 citizens of Van Buren County, Michigan, against the reduction of the tax on tobacco—to the Committee of Ways and Means, when appointed.

Also, the petition of 38 citizens of Kalamazoo County, Michigan, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

Also, the petition of 27 citizens of Van Buren County, Michigan, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. COBB: The petition of citizens of Sandborn, Indiana, of similar import—to the same committee, when appointed.

By Mr. DE LA MATYR: The petition of citizens of Kosciusko, Clinton, Franklin, and Switzerland Counties, Indiana, of similar import—to the same committee, when appointed.

By Mr. DIBRELL: Memorial of rectifiers of whisky at Chattanooga, Tennessee, asking for a repeal of the law requiring rectifiers to give bond—to the Committee of Ways and Means, when appointed.

By Mr. FINLEY: The petition of 13 citizens of Crawford, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. HARRIS, of Virginia: The petition of John Thornley, medical director, United States Navy, for advanced rate of pay on account of disability incurred in the line of duty—to the Committee on Naval Affairs, when appointed.

By Mr. HILL: The petition of John H. Binkley and others, of Allen County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of James McBeth and others, of Allen County, Ohio, of similar import—to the same committee, when appointed.

By Mr. JONES: The petition of citizens of Williamson County, Texas, of similar import—to the same committee, when appointed.

Also, the petition of citizens of Washington County, Texas, of similar import—to the same committee, when appointed.

By Mr. NEWBERRY: Resolution of the Legislature of Michigan, favoring an appropriation to preserve improvements already made and to complete necessary improvements of the harbor of Saugatuck, Michigan—to the same committee, when appointed.

By Mr. REED: The petition of Samuel N. Campbell and others, of Cherryfield, Maine, for a survey of the Narraguagus River, Maine—to the same committee, when appointed.

Also, the petition of James Wallace and others, of Millbridge, Maine, of similar import—to the same committee, when appointed.

Also, the petition of J. H. Hamlin and others, of Harrington, Maine, of similar import—to the same committee, when appointed.

Also, the petition of Ignatius Sargent and others, of Machias, Maine, of similar import—to the same committee, when appointed.

By Mr. SHALLENBERGER: The petition of 104 women, of Lawrence County, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. SINGLETON, of Mississippi: The petition of James H. Owen, of Scott County, Mississippi, for compensation for stores and supplies taken by the United States Army—to the Committee on War Claims, when appointed.

By Mr. UPDEGRAFF, of Iowa: The petition of F. Snedegar, A. E. Winrott, Ed. Rice, and 699 others, citizens of Fayette County, Iowa, for legislation restricting the remedy for the infringement of patents to action against manufacturers and vendors—to the Committee on Patents, when appointed.

By Mr. WARNER: The petition of Robert Parks and others, of Noble County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of William Lowe and others, of Noble County, Ohio, of similar import—to the same committee, when appointed.

By Mr. WASHBURN: The petition of Frances L. Williams, Emily B. Brackett, Salome F. Grimshaw, and others, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

Also, resolution of the Legislature of Minnesota, asking for the establishment of a post-route from Herman, via Toqua, to Ortonville, Minnesota—to the Committee on the Post-Office and Post-Roads, when appointed.

Also, memorial of H. H. Sibley, William R. Marshall, and others, asking that a pension be granted Pierre Bottineau for services rendered the Government as a guide—to the Committee on Military Affairs, when appointed.

By Mr. WILLITS: Resolution of the Legislature of Michigan, favoring an appropriation for the improvement of Saugatuck Harbor, Michigan—to the Committee on Commerce, when appointed.

IN SENATE.

WEDNESDAY, *March* 26, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

COLUMBIA INSTITUTION FOR DEAF AND DUMB.

The VICE-PRESIDENT. The Chair makes the following appointment:

Under the provisions of the Revised Statutes of the United States the Chair appoints Hon. GEORGE F. EDMUNDS, a Senator from the State of Vermont, a director of the Columbia Institution for the Deaf and Dumb, to fill the vacancy occasioned in the board of directors of said institution by the expiration of the term of the former appointment of the said GEORGE F. EDMUNDS.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 24th instant, a statement of the amounts of moneys paid to supervisors of elections for the years 1876 and 1878 as compensation in excess of fees allowed by law for the performance of any duty as circuit court commissioners; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented the petition of Sarah Perkins, of Hancock, Maine, widow of Edward Perkins, a soldier of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. PENDLETON presented the petition of Calvin Bronson, of Toledo, Ohio, praying for the passage of a law authorizing the refunding of a tax illegally collected on a lot of tobacco in 1864; which was referred to the Committee on Claims.

He also presented the petition of Colonel Thomas Worthington, of Ohio, praying for an investigation into his claim for furnishing water to United States troops at Camp Dennison, Ohio, in 1861; which was referred to the Committee on Military Affairs.

Mr. HOAR presented the petition of William D. C. Murdock, of Virginia, praying compensation for property alleged to have been taken and appropriated by United States troops in the District of Columbia during the late war; which was referred to the Committee on Claims.

Mr. LOGAN presented the petition of Mary A. Dunlap and other ladies, of Dwight, Illinois, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

He also presented resolutions of the Legislature of Illinois, in favor of an appropriation by Congress for the permanent improvement of Quincy Bay; which were referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Illinois, in favor of an appropriation by Congress sufficient to finish the custom-house and post-office building at Chicago in that State; which were referred to the Committee on Public Buildings and Grounds.

He also presented the petition of Hugh Wilson, of Freeport, Illinois, and the petition of Joseph F. Thomason, of Wayne County, Illinois, each praying for a pension; which were referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, presented the petition of Mrs. L. E. McCauley, widow of Commodore Charles Stewart McCauley, praying for an increase of pension; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. BUTLER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 199) for the relief of Catharine I. Gillis; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 200) for the relief of Nathaniel P. Harbin; which was read twice by its title, and referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 201) for the relief of Somerville Nicholson; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. SLATER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 202) directing and authorizing the Secretary of the Interior to negotiate with the Umatilla, Warm Spring, and certain other tribes of Indians occupying reservations within the State of Oregon, for the extinguishment of their title to the lands now occupied by them, and for their removal to other lands or reservations without the limits of said State; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 203) to relieve the churches of the District of Columbia and to clear the title of the trustees to such property; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 204) for the relief of Sidney P. Luther; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 205) granting arrears of pension to Abigail S. Tilton; which was read twice by its title, and referred to the Committee on Revolutionary Claims.

Mr. MCPHERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 206) relative to the transportation of animals; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 207) to amend the statutes in relation to patents; which was read twice by its title, and referred to the Committee on Patents.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 208) granting a pension to Archibald Nelson and John Nelson, minor children of John Nelson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 209) for the relief of Lieutenant-Commanders James H. Sands and Charles D. Sigsbee, United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 210) regulating the rank and pay of fleet marine officer in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 211) for the relief of William Bowen; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FARLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 212) for the relief of John M. Dorsey and William F. Shepard; which was read twice by its title, and referred to the Committee on Claims.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 213) to reimburse the State of Oregon for moneys paid by said State in the suppression of Indian hostilities during the Modoc war in the years 1872 and 1873; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to intro-

duce a bill (S. No. 214) for the relief of Robert W. Dunbar; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 215) for the relief of Thomas Poultney; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 216) to extend the jurisdiction of the Supreme Court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 217) to introduce moral and social science into the public schools of the District of Columbia; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio; which was read twice by its title, and referred to the Committee on Finance.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 219) relating to certain brevet appointments; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 220) concerning commerce and navigation and the regulation of steam-vessels and sailing-vessels; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 221) for the relief of Sewell B. Corbett; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 222) for the relief of John L. Williams, sole heir of Eleazer Williams, deceased; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 223) to authorize the restoration of Calvin T. Speer to the rank of second lieutenant, United States Army, and to pay him arrears of pay his due; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LOGAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 224) to legalize a suit now pending in the supreme court of the District of Columbia between the Eastern and Western Cherokee Indians, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 225) to provide for ascertaining and settling private land claims in certain States and Territories; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 226) for the relief of the legal representatives of Alexander Repine; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PENDLETON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 227) to provide that the principal officers of each of the Executive Departments may occupy seats on the floor of the Senate and House of Representatives; which was read twice by its title.

Mr. PENDLETON. I ask that the bill be printed and laid on the table, and I give notice——

The VICE-PRESIDENT. The bill will be printed and lie on the table, subject to the call of the Senator from Ohio.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 9) requesting Drs. Bemiss and Cochran and Engineer Hardie to complete their reports upon the yellow-fever epidemic of 1878, for the use of Congress; which was read twice by its title, and referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 10) for the relief of H. T. Burrows; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 11) authorizing Commodore J. W. A. Nicholson, United States Navy, to accept the grand cross of naval merit from the King of Spain; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Foreign Relations.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HARRIS, it was

Ordered, That the petition and papers of Lizzie Ballaran be withdrawn from the files and referred to the Committee on Claims.

On motion of Mr. BOOTH, it was

Ordered, That the papers in the matter of the bill "to authorize the Secretary of the Interior to declare forfeitures of railroad grants in certain cases," introduced in the Forty-fifth Congress, be withdrawn from the files of the Secretary of the Senate and referred to the Committee on the Judiciary.

On motion of Mr. FARLEY, it was

Ordered, That the papers in relation to the claim of John M. Dorsey and William F. Shepard be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. JONAS, it was

Ordered, That the petition and papers relating to the claim of Mrs. Eliza E. Hebert be taken from the files of the Senate and referred to the Committee on Claims.

SENATE EMPLOYES.

Mr. DAVIS, of West Virginia. I submit a resolution which I ask may be read for information and printed.

The resolution was read, and ordered to lie on the table and be printed, as follows:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be, and the same is hereby, directed to take into consideration, with the view to economy and the equalization of salaries upon the principles of justice, the question of the duties, number, and compensation of the employés of the Senate, and to report thereon by bill or otherwise; said committee to have leave to sit during the recess.

CLERK TO COMMITTEE ON PRESIDENTIAL ELECTIONS.

Mr. MORGAN submitted the following resolution; which was read:

Resolved, That the select committee to take into consideration the state of the laws respecting the ascertaining and declaration of the result of the elections of the President and Vice-President of the United States be authorized to employ a clerk at the per diem salary paid other committee clerks of the Senate; and the necessary expenses of said committee be paid out of "miscellaneous items" of the contingent fund of the Senate.

The VICE-PRESIDENT. Is there objection to the resolution?

Mr. DAVIS, of West Virginia. I have no objection to my friend's resolution; but there is a rule of the Senate which requires that resolutions for expenses coming out of the contingent fund of the Senate in any manner shall be first referred to the Committee to Audit and Control the Contingent Expenses of the Senate. I desire, as far as I can, to have that rule obeyed. In this case it is probably only a form, yet it is very well to have it referred to that committee.

The VICE-PRESIDENT. The resolution goes there under the rule if the Senator makes an objection.

Mr. DAVIS, of West Virginia. I do not make the point in the form of an objection. I do not object to the resolution itself.

Mr. MORGAN. I will remind the Senator that there is no account presented here for reference to that committee. It is a resolution authorizing the select committee to have a clerk as a means of completing its organization. Of course I have no objection to the resolution going to the Committee to Audit and Control the Contingent Expenses, although the reference is not necessary in my opinion.

Mr. DAVIS, of West Virginia. I will state to my friend from Alabama that the rule requires that any item of expense which is to come out of the contingent fund of the Senate, no matter what it is, must come under the review of the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. MORGAN. Then every resolution which has been passed at this session appointing a committee, that committee having a clerk, under the rules of the Senate ought to have had a like reference. I am quite willing the Senator should make an exception in this case if he thinks that the select committee named should exist without a clerk.

Mr. DAVIS, of West Virginia. Allow me to say to my friend that I said I supposed the resolution was right, that I was probably friendly to it, but in order that the rule of the Senate might be carried out I selected this as a case to give notice that such was the rule of the Senate, and that I hoped it would be obeyed.

The VICE-PRESIDENT. The Chair will have the rule reported if the Senator from Alabama desires.

Mr. MORGAN. Very good; let it be reported.

The VICE-PRESIDENT. The rule creating the committees of the Senate has this provision:

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of three Senators, to which shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate, or creating a charge upon the same.

The Chair calls the attention of the Senator from Alabama to the last clause of the rule. The suggestion of the Senator from West Virginia is clearly in order. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. DAVIS, of West Virginia. It must be.

Mr. MORGAN. Very well.

EXECUTIVE SESSION.

The VICE-PRESIDENT. Is there further business for the morning hour? If not, the Secretary will report the calendar of resolutions and concurrent resolutions in their order.

Mr. WHYTE. I move that the Senate do now adjourn.

Mr. EDMUNDS. Oh, no.

Mr. MORRILL. Will not the Senator from Maryland move for an executive session instead?

Mr. WHYTE. I have no objection to moving an executive session.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the con-

sideration of executive business. After twenty minutes spent in executive session the doors were reopened.

Mr. WHYTE. I move that the Senate do now adjourn.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 38, nays 25; as follows:

YEAS—38.

Bailey,	Farley,	Jones of Florida,	Vance,
Bayard,	Garland,	Kernan,	Vest,
Beck,	Groome,	McDonald,	Voorhees,
Butler,	Grover,	McPherson,	Walker,
Call,	Harris,	Maxey,	Wallace,
Cockrell,	Hereford,	Morgan,	Whyte,
Coke,	Hill of Georgia,	Pendleton,	Williams,
Davis of Illinois,	Houston,	Randolph,	Withers.
Davis of W. Va.,	Johnston,	Saulsbury,	
Eaton,	Jonas,	Slater,	

NAYS—25.

Allison,	Chandler,	Kirkwood,	Rollins,
Anthony,	Conkling,	Logan,	Saunders,
Blaine,	Dawes,	McMillan,	Teller,
Booth,	Ferry,	Morrill,	Windom.
Bruce,	Hamlin,	Paddock,	
Burnside,	Hoar,	Platt,	
Cameron of Wis.,	Ingalls,	Plumb,	

ABSENT—10.

Cameron of Pa.,	Hill of Colorado,	Lamar,	Thurman.
Carpenter,	Jones of Nevada,	Ransom,	
Edmunds,	Kellogg,	Sharon,	

So the motion was agreed to; and (at twelve o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 26, 1879.

The House met at twelve o'clock m. Prayer by Rev. J. N. DAVIS, of Maryland.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. DE LA MATYR. I ask unanimous consent to present a bill and have it printed and referred to the Committee on Banking and Currency, when appointed.

Mr. GARFIELD. I object.

Mr. ATKINS. I rise, Mr. Speaker, for the purpose of submitting a motion to the House, but before I do so I desire to state that I think it very probable that on to-morrow morning either one or the other of the appropriation bills, or perhaps both, may be introduced.

Mr. GARFIELD. We cannot hear the gentleman.

Mr. ATKINS. I repeat that I rise for the purpose of submitting a motion to the House, but before submitting that motion I desire to state that I think it probable that on to-morrow morning either the one or the other of the lost appropriation bills—those that failed to pass in the last session—will be introduced, or perhaps both. The motion that I intend to submit is that the House adjourn, and the reason why I make that motion is this: the democratic members and democratic Senators desire to have a conference on these appropriation bills—I state it frankly—and to have an opportunity of holding this conference to-day instead of this evening.

Mr. GARFIELD. If the gentleman will allow me before he makes his motion——

The SPEAKER. Does the gentleman from Tennessee yield?

Mr. ATKINS. I do.

Mr. GARFIELD. We are anxious on this side of the House to get forward with the special business for which we have been called together, but are not disposed to restrict any proper time that may be needed for consultation. It does seem to us that now, in the second week of this session, we ought to be able to get at the appropriation bills, especially as they were in form and printed and were before us only a few weeks ago. Still if the gentleman believes that by to-morrow morning those bills can be introduced——

Mr. ATKINS. I feel very confident of it.

Mr. GARFIELD. I for one do not feel like hindering his motion. I think, however, that some propositions in relation to the amendment of the rules and concerning the business of the House might now be introduced and referred to the Committee on Rules.

Mr. ATKINS. I will state that there has been an informal understanding between a portion of the democratic members of the House and some of the democratic Senators that the conference to-day shall take place at one o'clock. If there should be any discussion which would extend the session of the House to-day beyond that time, it might be a disappointment to some of our democratic friends in the Senate.

Mr. GARFIELD. I only ask that the resolutions which I refer to be introduced for reference.

Mr. ATKINS. While I am on the floor——

Mr. GARFIELD. The gentleman can retain the floor for such time as he desires.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. ATKINS. I ask leave to introduce the joint resolution which I send to the Clerk's desk.

The Clerk read the joint resolution to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879.

The joint resolution provides that the clause in the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880 and for other purposes, approved March 3, 1879, making appropriations to pay B. R. Lewis and J. J. Coffee the balance due them respectively as marshal and clerk of the consulate-general at Shanghai, China, be amended by striking out the words "and said Lewis and Coffee shall receive no allowance for witness fees and traveling expenses:" and that the following clause in said bill in relation to the publication of the geological survey, namely, the words, "under the direction of the Secretary of the Interior, $100,000," be, and the same is hereby, repealed.

Mr. GARFIELD. If that joint resolution is in the line of correcting an appropriation bill, let it be referred to the Committee of the Whole rather than to act on it now.

Mr. ATKINS. Very well.

There being no objection, the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879, was received, read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SPECIAL COMMITTEES.

Mr. COX. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That special committees be appointed on the following subjects, to-wit: one on the census, one on reform in the civil service, one on the state of the law respecting the ascertainment and declaration of result of election of President and Vice-President, and one upon the yellow-fever epidemic; said committees to have the same number of members, duties, scope, privileges, and powers as those on similar subjects of the last Congress.

Mr. COX. I simply move to refer that to the Committee on Rules.

Mr. CONGER. I ask the gentleman to state the object of the committee respecting the ascertainment and declaration of result of election of President and Vice-President.

Mr. COX. The object of the resolution is to enable the Speaker to make up the committees intelligently. He wants all the committees to be authorized by the House that are to be appointed by the Chair.

Mr. CONGER. That is not my point. I speak of the committee to ascertain the result of the election of President and Vice-President. What committee is that?

Mr. COX. It is the committee of which Mr. Southard was chairman.

Mr. CONGER. It is not a renewal of the Potter committee?

Mr. COX. Oh, no; it is the committee of which Mr. Southard was chairman as to the electoral count.

Mr. GARFIELD. In relation to the future?

Mr. COX. That is all.

The SPEAKER. The Chair is informed that a similar committee has been appointed by the Senate.

Mr. CONGER. It is not, then, a revival of the Potter committee?

Mr. COX. Oh, no; we have had enough of that.

Mr. KILLINGER. I would suggest that there is no necessity for a committee on reform in the civil service.

Mr. COX. I will ask my friend from Pennsylvania to consent that the resolution as it is shall go to the Committee on Rules. I want to have it referred there; that is all.

Mr. KILLINGER. Is the gentleman from New York on the Committee on Rules?

Mr. COX. I am not.

There being no objection, the resolution was referred to the Committee on Rules.

BUSINESS OF THE EXTRA SESSION.

Mr. FRYE. I offer for reference to the Committee on Rules the preamble and resolution which I send to the desk.

The Clerk read as follows:

Whereas the necessity of this special session of the Forty-sixth Congress has been occasioned by the failure of the last Congress to make appropriations for the support of the Army and for the legislative, executive, and judicial expenses of the Government for the next fiscal year; and

Whereas the business of this country and the welfare of the people demand "rest and peace" from legislation: Therefore it is

Resolved by the House of Representatives, That the Committee on Rules be instructed to report forthwith a rule providing that no bills or joint resolutions except those for the aforesaid purposes shall be reported at this special session from any committee or considered by this House.

Mr. REAGAN. I object to that.

Mr. EWING. I also object.

Mr. FRYE. I ask to have the resolution referred to the Committee on Rules.

Mr. GARFIELD. The gentleman from Maine, it appears to me, has the right to move the reference of the resolution.

Mr. EWING. I object to its being introduced for reference.

Mr. GARFIELD. I do not think the gentleman has a right to object.

Mr. CONGER. If that is objected to, I must renew my objection to the resolution of the gentleman from New York, [Mr. COX.]

The SPEAKER. The Chair thinks the gentleman from Ohio [Mr. EWING] has the right to object. The Chair thinks the course indicated by the gentleman from Michigan [Mr. CONGER] to object to everything would include the right of the gentleman from Ohio to object for a similar reason.

Mr. CONGER. I objected yesterday upon the general view that I should object on behalf of my friends on this side of the House to everything that did not tend to the passage of the appropriation bills. But on the statement to-day that some matters should be referred to the Committee on Rules relating to the organization of the House, and when the gentleman from Maine [Mr. FRYE] stood with his resolution in his hand and the gentleman from New York [Mr. COX] with another I supposed it was agreed by common consent that those two resolutions should be presented and referred to the Committee on Rules, and therefore I did not renew the objection which I made yesterday to the reference of the resolution of the gentleman from New York.

Mr. FERNANDO WOOD. I ask the gentleman from Michigan [Mr. CONGER] if he objects to the mere reference of a proposition to amend the rules? I desire to offer for reference a resolution to amend a rule.

Mr. CONGER. The objection comes from the gentleman's own side of the House. He should talk on that subject to the gentleman with whom he stands in intimate relations.

Mr. FERNANDO WOOD. I desire to offer for reference to the Committee on Rules a resolution to amend Rule 101.

Mr. CONGER. The gentleman had better wait till the point now pending is settled.

Mr. FERNANDO WOOD. Does the gentleman object?

Mr. CONGER. It is not time yet to object. We want to have the other point decided.

Mr. FERNANDO WOOD. Does the gentleman object?

Mr. CONGER. I ask for a decision upon the objection to the other proposition.

Mr. REAGAN. I objected to the proposition of the gentleman from Maine because it is not an amendment of the permanent rules. It is to prevent action on all matters except appropriations.

The SPEAKER. The Chair has always ruled that on Monday, under the call of States for bills and resolutions, resolutions for the amendment of the rules are in order to be introduced for reference to the Committee on Rules.

Mr. GARFIELD. The proposition of the gentleman from Maine is a proposition to make a special rule of this House for this session, and it is just as much an amendment to the rules as any of the propositions that have been offered on the other side; and it seems to me, as a matter of ordinary fairness, if we allow one of two propositions to be introduced for reference to the Committee on Rules, the other should also be allowed to come in.

The SPEAKER. As the Chair has already stated, the resolution would be in order on Monday; and in addition the Chair would suggest to the gentleman from Ohio [Mr. GARFIELD] that if the rules were under consideration, then the proposition would be in order as an amendment thereto. But these matters to-day come in by unanimous consent, and can only be referred by unanimous consent.

Mr. GARFIELD. I was not addressing myself so much to the Chair as to the sense of fair play of the gentlemen who objected, because on the understanding that the reference of this resolution to the Committee on Rules would be allowed we permitted the other to pass without objection.

The SPEAKER. On the subject of fair play the Chair desires to state he will see complete fairness is had by both sides. He will also state that when these propositions come to be reported from the Committee on Rules amendments will be in order.

Mr. CONGER. As I understand, the objection to the resolution of the gentleman from Maine is insisted on. I therefore renew my objection to the introduction of the resolution of the gentlemen from New York.

The SPEAKER. The gentleman is too late.

Mr. CONGER. I state to the Chair it was only on the condition that two or three gentlemen should be permitted to offer for reference resolutions of which I had cognizance for the amendment of the rules, one of whom, the gentleman from Maine, was already standing in his place to offer such an amendment, and the statement of the Chair that the reference would be made—it was only upon that condition that the reference of the resolution of the gentleman from New York was permitted to pass. And I stated in some way that that was the design of gentlemen on my side and my own. We proceeded on some understanding of that kind—I do not know how it arose—and I call upon the Chair to correct the error into which we fell.

The SPEAKER. The gentleman from Ohio introduced the subject-matters to the House.

Mr. CONGER. The Chair assented to the proposition. Now the Chair is well aware I am not in the habit of yielding a point I have commenced upon, unless by some arrangement satisfactory to me.

The SPEAKER. The Chair does not remember that the gentleman made any condition.

Mr. CONGER. I made objection to this the other day, and on my objection it was ruled out. I stated yesterday in my place that I should object to all propositions which were offered in this House unless under the rules, excepting the appropriation bills.

The SPEAKER. The Chair was of the opinion that from the statement of the gentleman from Ohio there had been a change of judgment on the left side of the House in respect to all these matters.

Mr. CONGER. Only so far that both sets of resolutions should go to the Committee on Rules.

Mr. GARFIELD. If the Chair will allow me a moment. Just before I rose to make the suggestion, the gentleman from New York came to my seat soliciting that he be allowed without objection to introduce his proposition.

Mr. REAGAN. I desire to say concerning the objection that I made——

The SPEAKER. The gentleman from Ohio is addressing the House.

Mr. GARFIELD. I consulted with the gentleman from Maine and other gentlemen on our side of the House, and we were desirous, if anything were introduced, that proposition of his should be also introduced. I said to the gentleman from New York, "The gentleman from Maine has a proposition to refer to the Committee on Rules; you introduce yours and he his, and I think there will be no objection."

Mr. COX. And I made no objection to it.

Mr. REAGAN. Now I desire to say a word.

Mr. GARFIELD. So the understanding on this side was that by unanimous consent both propositions should be allowed to come in for reference to the Committee on Rules.

Mr. COX. I made no condition.

Mr. GARFIELD. I know that you did not.

Mr. REAGAN. I made objection because the object of the resolution might be reached by a simple resolution offered for the adoption of the House, and because under cover of an amendment to the rules of the House it is proposed to abridge the power of the House to act during the present session upon any other than the subjects indicated, or, in other words, to limit the action of this House to two bills. A good deal of the time during the passage of these appropriation bills, when they are in the Senate and before the President for his signature, we would be left here, if such a proposition as that of the gentleman from Maine were adopted, with our arms folded, incapable of doing anything when there are public measures we could take up and consider. There is no reason why we should not proceed with the consideration of important public business when the appropriation bills have passed from the House and gone to the Senate or are before the President for his signature. I do not wish such a resolution as this of the gentleman from Maine adopted, and certainly I do not wish any such action on the part of the House reached by indirection and under the guise of an amendment to the rules of the House.

I do not object to any resolution proposing to amend the permanent rules of the House going to the Committee on Rules. I only object to the present resolution offered by the gentleman from Maine because in my judgment it is an effort by indirection to control the action of this House which could be done as well by a resolution.

Mr. FRYE. I give notice, then, Mr. Speaker, that on Monday next I will submit this resolution for the consideration of the House, and I now ask that my name be entered upon the list to make the motion to suspend the rules and pass it.

Mr. ATKINS. I move the House adjourn.

Mr. CONGER. I rise to a privileged motion. I move to reconsider the vote by which the resolution of the gentleman from New York [Mr. Cox] was referred to the Committee on Rules.

Mr. COX. And I move to lay that motion on the table.

Mr. ATKINS. I insist on my motion to adjourn.

The SPEAKER. The gentleman moves to reconsider the vote by which the House allowed the gentleman from New York to refer to the Committee on Rules certain changes as indicated in his resolution, and the gentleman from New York moves that the motion to reconsider be laid upon the table.

Mr. CONGER. And I demand the yeas and nays on the motion to lay upon the table.

The SPEAKER. Pending which, the gentleman from Tennessee moves the House adjourn.

Mr. CONGER. I desire to have the yeas and nays ordered before the adjournment.

The SPEAKER. The motion to adjourn is always in order.

Mr. CONGER. But this is part of my motion which I am still upon the floor to make.

The SPEAKER. Surely the gentleman will not assert the Chair is bound to recognize the demand for the yeas and nays when another motion of a higher privilege is made.

Mr. CONGER. But I have the floor.

The SPEAKER. The Chair entertains the demand for the yeas and nays, but pending that demand the gentleman from Tennessee moves the House adjourn.

Mr. CONGER. Then on the motion to adjourn I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 134, nays 110, not voting 42; as follows:

YEAS—134.

Aiken,	Blount,	Cobb,	De La Matyr,
Armfield,	Bright,	Colerick,	Deuster,
Atherton,	Buckner,	Converse,	Dibrell,
Atkins,	Cabell,	Cook,	Dickey,
Bachman,	Caldwell,	Covert,	Dunn,
Beale,	Carlisle,	Cox,	Elam,
Bicknell,	Chalmers,	Cravens,	Ellis,
Blackburn,	Clardy,	Culberson,	Evins,
Bland,	Clark, John B., jr.	Davidson,	Ewing,
Bliss,	Clymer,	Davis, Lowndes H.	Felton,

Finley,	Kimmel,	Nicholls,	Steele,
Ford,	King,	O'Connor,	Stephens,
Forney,	Kitchin,	O'Reilly,	Stevenson,
Forsythe,	Klotz,	Persons,	Talbot,
Frost,	Ladd,	Phister,	Taylor,
Geddes,	Le Fevre,	Poehler,	Thompson,
Gibson,	Lewis,	Reagan,	Tillman,
Gillette,	Lounsbery,	Richardson, John S.	Townshend, R. W.
Gunter,	Lowe,	Richmond,	Tucker,
Hammond, N. J.	Martin, Benj. F.	Rothwell,	Turner, Oscar
Harris, John T.	Martin, Edward L.	Ryon, John W.	Turner, Thomas
Hatch,	McKenzie,	Samford,	Waddill,
Henkle,	McLane,	Sawyer,	Warner,
Henry,	McMahon,	Scales,	Weaver,
Herbert,	McMillin,	Shelley,	Wellborn,
Herndon,	Mills,	Simonton,	Wells,
Hill,	Money,	Singleton, James W.	Whiteaker,
Hooker,	Morrison,	Singleton, O. R.	Whitthorne,
Hostetler,	Morse,	Slemons,	Williams, Thomas
House,	Muldrow,	Smith, A. Herr	Willis,
Hull,	Muller,	Smith Hezekiah B.	Wise,
Hurd,	Murch,	Smith, William E.	Wood, Fernando.
Johnston,	Myers,	Speer,	
Kenna,	New,	Springer,	

NAYS—110.

Aldrich, Nelson W.	Daggett,	Kelley,	Richardson, D. P.
Aldrich, William	Davis, George R.	Killinger,	Robeson,
Anderson,	Deering,	Lapham,	Robinson,
Bailey,	Dunnell,	Lindsey,	Russell, William A.
Baker,	Errett,	Marsh,	Sapp,
Ballou,	Farr,	Martin, Joseph J.	Shallenberger,
Barber,	Ferdon,	Mason,	Sherwin,
Barlow,	Field,	McCoid,	Stone,
Belford,	Fort,	McCook,	Thomas,
Bingham,	Garfield,	McKinley,	Townsend, Amos
Blake,	Godshalk,	Miles,	Tyler,
Boyd,	Hall,	Miller,	Updegraff, J. T.
Brewer,	Hammond, John	Mitchell,	Updegraff, Thomas
Briggs,	Harris, Benj. W.	Monroe,	Urner,
Brigham,	Haskell,	Neal,	Valentine,
Browne,	Hawk,	Newberry,	Van Aernam,
Burrows,	Hawley,	Norcross,	Vance,
Butterworth,	Hayes,	O'Neill,	Van Voorhis,
Cannon,	Hazelton,	Orth,	Voorhis,
Carpenter,	Heilman,	Osmer,	Wait,
Caswell,	Henderson,	Overton,	Ward,
Claflin,	Horr,	Phelps,	Washburn,
Clark, Rush	Houk,	Pierce,	Williams, C. G.
Coffroth,	Hubbell,	Pound,	Wright,
Conger,	Humphrey,	Prescott,	Yocum,
Cowgill,	James,	Price,	Young, Thomas L.
Crapo,	Jones,	Reed,	
Crowley,	Jorgensen,	Rice,	

NOT VOTING—42.

Acklen,	Dick,	Ketcham,	Ryan, Thomas
Bayne,	Dwight,	Knott,	Sparks,
Beltzhoover,	Einstein,	Lay,	Starin,
Bouck,	Fisher,	Loring,	White,
Bowman,	Frye,	Manning,	Wilber,
Bragg,	Goode,	McGowan,	Willits,
Calkins,	Harmer,	Morton,	Wilson,
Camp,	Hiscock,	O'Brien,	Wood, Walter A.
Chittenden,	Hunton,	Robertson,	Young, Casey.
Clark, Alvah A.	Joyce,	Ross,	
Davis, Joseph J.	Keifer,	Russell, Daniel L.	

During the roll-call the following announcements were made:

Mr. MARTIN, of West Virginia. My colleague, Mr. WILSON, is paired with Mr. MCGOWAN. If he were here, Mr. WILSON would vote "ay."

Mr. SCALES. My colleague, Mr. DAVIS, is confined to his room by illness.

Mr. ACKLEN. I desire to announce that I am paired with Mr. DWIGHT on all questions. If he were here, I should vote "ay."

Mr. BLISS. I wish to announce that Mr. O'BRIEN is paired with Mr. EINSTEIN, of New York.

Mr. HISCOCK. I am paired with Mr. BRAGG. If he were here, I should vote "no."

Mr. TOWNSEND, of Ohio. My colleague, Mr. KEIFER, is absent on account of sickness in his family.

Mr. WILLITS. I am paired with Mr. GOODE, of Virginia.

Mr. STONE. My colleague, Mr. MCGOWAN, is absent on account of sickness.

Mr. DEERING. I wish to announce that Mr. JOYCE is confined to his room by sickness.

Mr. FRYE. I am paired with the gentleman from Kentucky, Mr. KNOTT.

Mr. MORTON. I am paired with Mr. HUNTON.

Mr. HARMER. I am paired with Mr. ROSS, of New Jersey. If he were here, I should vote "no."

Mr. CLARK, of Missouri. I desire to state that my colleague, Mr. LAY, is paired with Mr. DICK, of Pennsylvania.

The result of the vote was then announced as above recorded.

And accordingly (at twelve o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. HERNDON: The petition of rectifiers of Mobile, Alabama, for the repeal of section 7 of the revenue law relating to wine and distilled and fermented liquor—to the Committee of Ways and Means, when appointed.

By Mr. LINDSEY: The petition of Joshua R. Shorey, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. MCMAHON: The petition of Jacob Brunner, for restoration to the pension-roll—to the same committee, when appointed.

Also, the petition of Charles Postel, for a pension—to the same committee, when appointed.

Also, the petition of Daniel Shanabrook, of similar import—to the same committee, when appointed.

By Mr. MORRISON: Memorial of the General Assembly of the State of Illinois, for the improvement of the Mississippi River near Long Lake, Illinois—to the Committee on Commerce, when appointed.

By Mr. NEWBERRY: Resolution of the Legislature of Michigan, asking that the abolition of polygamy be made a condition-precedent to admission of the Territory of Utah into the Federal Union—to the Committee on the Judiciary, when appointed.

Also, resolution of the Legislature of Michigan, asking for an appropriation for the improvement of Saint Mary's River—to the Committee on Commerce, when appointed.

By Mr. O'CONNOR: The petition of R. S. Thairn, that he be paid an amount equal to the salary received by a member of the Forty-second Congress—to the Committee of Elections, when appointed.

IN SENATE.

THURSDAY, *March* 27, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting special estimates of appropriations which will be necessary for that Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a report of a commission appointed by him under authority conferred by a resolution of the Senate of the 27th of February, 1879, to inspect, with a view to sell and convey the same, certain real estate owned by the United States in the city of Cincinnati, Ohio, and used as a post-office and custom-house; which, on motion of Mr. PENDLETON, was ordered to lie on the table.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 27th of February, 1879, information in relation to commissions or other compensation paid to bankers, brokers, &c., for services in negotiating the sale of bonds and other obligations of the United States from 1862 to the present time.

The VICE-PRESIDENT. The Chair calls the attention of the Senator from Delaware [Mr. SAULSBURY] to this communication. It is responsive to a resolution submitted by him. It is long. Shall it be read at length, or what disposition of it does the Senator desire?

Mr. SAULSBURY. I ask that it be printed.

The VICE-PRESIDENT. The communication will be printed and laid on the table, subject to the call of the Senator from Delaware.

REPORT OF SERGEANT-AT-ARMS.

The VICE-PRESIDENT laid before the Senate a communication from the late Sergeant-at-Arms, submitting, in compliance with section 72 of the Revised Statutes of the United States, a full and complete account of all the property belonging to the United States in his possession up to the 25th instant; which was ordered to lie on the table and be printed.

SENATOR FROM KANSAS.

The VICE-PRESIDENT laid before the Senate the following communication, which was read:

WASHINGTON, *March* 26, 1879.

Hon. W. A. WHEELER, *Vice-President:*

We have the honor to be in receipt of, and herewith transmit to you, an authenticated and complete copy of the report of the special committee of the Kansas house of representatives charged with the investigation of the election of Hon. JOHN J. INGALLS to the United States Senate, together with the testimony, and request that you lay the same before the honorable the Senate of the United States.

Very respectfully, your obedient servants,

F. S. STUMBAREGH.
L. F. EGGERS.

The VICE-PRESIDENT. The communication, with the accompanying report, will be referred to the Committee on Privileges and Elections.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented the petition of Horace Harmon and others, citizens of York County, Maine, praying for the passage of a law regulating interstate commerce and prohibiting unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. RANDOLPH presented the petition of Hunter Dubois and others, citizens of Red Bank, New Jersey, and the petition of Holmes M. Stilwell and others, citizens of Keyport, New Jersey, praying for the enforcement of the statutes requiring owners of vessels to hail

their vessels from the port where registered; which were referred to the Committee on Commerce.

Mr. WITHERS. I present sundry petitions of citizens of Richmond, Virginia, praying for compensation for the use of buildings which have been rented by the Government. I will state that these are not war claims, but claims for rent, the amount of which was fixed by a board of officers duly convened by proper authority. I move that these petitions, with the accompanying papers, be referred to the Committee on Claims.

The motion was agreed to.

Mr. KERNAN presented the petition of L. P. Di Cesnola, late consul to Cyprus, with letters of the Secretary of State and accompanying documents, praying to be reimbursed the amount paid by him for certain expenses of his consulate; which were referred to the Committee on Foreign Relations.

Mr. LAMAR presented the memorial of N. S. Reneau, of Mississippi, in favor of an international railroad and postal and telegraph line to the city of Mexico and San Blas on the Pacific Ocean; which was referred to the Committee on Railroads.

Mr. PENDLETON presented additional papers relating to the claim of Thomas Worthington, late colonel Ohio volunteers, for compensation and expenses of transportation; which were referred to the Committee on Military Affairs.

Mr. McDONALD presented a letter from E. Hebersmith, of the United States Marine Hospital Service, in regard to the evasion of payment of hospital dues, and recommending a system of inspection and penalties for a non-compliance with the law; which was referred to the Committee on Naval Affairs.

Mr. BUTLER presented the petition of Casimiro Ginesi, of Savannah, Georgia, praying for the passage of a law authorizing the refunding to him of the amount of the proceeds of certain liquors alleged to have been illegally sold by the customs officers in that city in 1866; which was referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. PLATT (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 228) to repeal an act for the relief of the heirs of William A. Graham; which was read twice by its title, and referred to the Committee on Patents.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 229) for the relief of Thomas S. Bridges; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 230) for the relief of Captain C. H. Briggs; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 231) for the relief of Ben Holladay; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 232) to provide for the purchase of a suitable site and the erection thereon of a public building in the city of Jacksonville, Florida; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BAILEY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 233) for the relief of the estate of Thomas Jones, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 234) for the relief of Joseph Clymer; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. WITHERS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 235) granting an increase of pension to Egbert Olcott; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 236) to empower the commissioners of the District of Columbia to revise, correct, or annul special assessments upon the written application of any person whose real property in said District has been assessed, providing for an appeal to the supreme court of the District of Columbia from the action of the commissioners in respect to such application by any person feeling aggrieved thereby, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 237) to authorize the commissioners of the District of Columbia to remit certain charges, penalties, commissions, interest, and other expenses, upon payment of the original amounts of the general and special taxes and assessments recited in the act within six months from and after the passage of the act, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 238) to regulate applications for restoration to the active list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 239) for the relief of Alderson T. Keene; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 240) for the relief of Casimiro Ginesi; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 241) for the relief of George W. Wise; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 242) for the relief of Louis P. Di Cesnola, late consul at Cyprus; which was read twice by its title, and referred to the Committee on Foreign Relations.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 243) to authorize the Secretary of War to release certain lands of the United States to the people of the State of New York; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 244) releasing Frank Soulé, late collector of internal revenue for the first district of California, and his sureties, from liability on his official bond; which was read twice by its title, and referred to the Committee on Finance.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 245) for the relief of Watson Stewart; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 246) for the relief of certain postmasters and late postmasters in the State of Kansas; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 247) for the relief of Harry Fones; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GROOME (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 248) to aid in the construction of the Maryland and Delaware Ship-Canal, and to secure to all vessels of the United States service for all time the right of navigation through said canal free of tolls and charges; which was read twice by its title, and referred to the Committee on Transportation Routes to the Seaboard.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 12) to authorize Lieutenant Francis V. Greene, United States Army, to accept certain decorations from the Emperor of Russia; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 13) to provide for the publication of an Army and Navy register, to include the officers and enlisted men employed in the Mexican war and the official reports of the several engagements with the enemy in said war; which was read twice by its title, and referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BOOTH, it was

Ordered, That the papers in relation to Senate bill No. 2 of the Forty-fifth Congress, releasing C. C. Webb, Ira P. Rankin, and the other sureties on the official bond of Frank Soulé, late collector of internal revenue for the first district of California, be taken from the files of the Senate and referred to the Committee on Finance.

On motion of Mr. BAILEY, it was

Ordered, That the petition and papers of L. P. Yandell and others, sureties of H. L. Norvell, be taken from the files of the Senate and referred to the Committee on Finance.

On motion of Mr. BUTLER, it was

Ordered, That the papers in the case of M. P. Harbin be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. JOHNSTON, it was

Ordered, That the petition and papers in the case of Mrs. P. Ward, of Norfolk, Virginia, now on the files of the Senate, be taken therefrom and referred to the Committee on Claims.

On motion of Mr. KIRKWOOD, it was

Ordered, That the petition and accompanying papers in relation to the claim of the Chicago, Rock Island and Pacific Railroad Company for the refunding of an internal-revenue tax be taken from the files and referred to the Committee on Claims.

On motion of Mr. McMILLAN, it was

Ordered, That the petition of C. F. Yeager, late acting assistant engineer on United States steamer Sampson, and the papers accompanying the same, on the files of the Senate, be taken therefrom and referred to the Committee on Naval Affairs.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That the papers in the case of Ann Carroll, claiming damages for injuries done to the Carroll estate by the late board of public works of the District of Columbia, be taken from the files of the Senate and referred to the Committee on Claims.

Ordered, That the memorial of Charles Pratt and the heirs of Daniel K. Dodge, deceased, together with the accompanying papers, maps, &c., upon application of the claimants, be withdrawn from the files of the Senate for the first session of the Forty-fourth Congress, subject to the terms imposed by the rules of the Senate.

On motion of Mr. ALLISON, it was

Ordered, That Isaac Herron have leave to withdraw from the files of the Senate

his petition and certificates presented with Senate bill No. 1086 of the Forty-fourth Congress upon leaving copies of the same on file.

On motion of Mr. GROVER, it was

Ordered, That the papers in the case of Robert W. Dunbar be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. BUTLER, it was

Ordered, That the papers in the case of B. S. James be withdrawn from the files of the Senate and referred to the Committee on Post-Offices and Post-Roads.

ELECTION INVESTIGATION.

Mr. WALLACE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the select committee to inquire into alleged frauds in the recent election be authorized to have printed from time to time for the use of the committee and the Senate all the testimony taken by said committee, together with the papers laid before it.

THE AMERICAN ARCHIVES.

Mr. VOORHEES submitted the following resolution; which was referred to the Committee on the Library:

Resolved, That the Librarian of Congress be instructed to report to the Senate the extent and condition of the collection of manuscripts collected by the late Peter Force for the historical publication known as the American Archives, together with specific information concerning the papers covering the period from 1776 to 1783, inclusive, with an estimate of the probable cost of publishing the same.

ADJOURNMENT TO MONDAY.

Mr. WALLACE. I move that when the Senate adjourns to-day it be to meet on Monday next.

The VICE-PRESIDENT put the question on the motion, and declared that the ayes prevailed and that the motion was agreed to.

Mr. HOAR (in his seat) called for the yeas and nays.

Mr. PADDOCK. Let us have the yeas and nays.

Mr. HOAR. The yeas and nays are demanded on the motion of the Senator from Pennsylvania.

Mr. COCKRELL. Were they demanded before the decision of the Chair?

The VICE-PRESIDENT. The Chair did not hear the call. The Senator says he made the call.

Mr. HOAR. I made the call in season; I made it cotemporaneously.

The VICE-PRESIDENT. The Senator from Massachusetts says he made the call in season. The Chair did not hear him. Is there a second?

The yeas and nays were ordered; and the Secretary called the roll.

Mr. MORRILL. I desire to say that my colleague, [Mr. EDMUNDS] is paired with the Senator from Ohio, [Mr. THURMAN.]

Mr. MCMILLAN, (after having voted "nay.") I observe that the Senator from New Jersey [Mr. MCPHERSON] is not in his seat. I am paired with the Senator until Monday if he should be absent. I voted inadvertently, and ask to withdraw my vote.

The VICE-PRESIDENT. The Senator's vote will be withdrawn.

The result was announced—yeas 36, nays 24; as follows:

YEAS—36.

Bailey,	Farley,	Jones of Florida,	Slater,
Bayard,	Garland,	Kernan,	Vance,
Beck,	Groome,	Lamar,	Vest,
Butler,	Grover,	McDonald,	Voorhees,
Call,	Harris,	Maxey,	Walker,
Cockrell,	Hereford,	Morgan,	Wallace,
Coke,	Houston,	Pendleton,	Whyte,
Davis of W. Va.,	Johnston,	Randolph,	Williams,
Eaton,	Jonas,	Saulsbury,	Withers.

NAYS—24.

Allison,	Carpenter,	Hill of Colorado,	Paddock,
Anthony,	Conkling,	Hoar,	Platt,
Booth,	Davis of Illinois,	Ingalls,	Plumb,
Burnside,	Dawes,	Kellogg,	Rollins,
Cameron of Pa.,	Ferry,	Logan,	Teller,
Cameron of Wis.,	Hamlin,	Morrill,	Windom.

ABSENT—13.

Blaine,	Hill of Georgia,	McPherson,	Thurman.
Bruce,	Jones of Nevada,	Ransom,	
Chandler,	Kirkwood,	Saunders,	
Edmunds,	McMillan,	Sharon,	

So the motion was agreed to.

LEGISLATION ON APPROPRIATION BILLS.

The VICE-PRESIDENT. Is there further business for the morning hour? The Chair hears none; and the Secretary will call the Calendar of resolutions and concurrent resolutions in their order.

The Secretary read the first resolution on the Calendar, being the one submitted by Mr. HOAR on the 20th instant, as follows:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and if persisted in must lead to the overthrow of constitutional government and the destruction of the national life.

The VICE-PRESIDENT. The question is, Will the Senate agree to this resolution?

Mr. BAYARD. I shall ask the honorable Senator from Kentucky [Mr. BECK] to withdraw his motion to lay the resolution on the table.

The VICE-PRESIDENT. The motion was spent with the day.

Mr. BAYARD. I have no right to say anything further, the motion being not debatable.

The VICE-PRESIDENT. There is no need for the Senator from Kentucky to withdraw the motion. The motion fell with the day. A motion to lay on the table ends with the day.

Mr. BECK. I desire only to say that I made the motion agreeing that the Senator from Pennsylvania [Mr. WALLACE] should submit a motion to adjourn, my intention being to withdraw the motion to lay on the table the moment the Senator from Ohio, [Mr. THURMAN,] who was then sick and who was referred to quite frequently in the speech of the Senator from Massachusetts, [Mr. HOAR,] was able to be in his seat. I have no desire to impose any previous question on the Senate. I have no desire to cut off debate. If there be any persons in the Senate who are anxious for full and free debate, I think I am one of those Senators. I desired that we should have no debate at the time, especially as the Senator from Massachusetts said he was not aware that the Senator from Ohio was sick, and I made the motion in order to give the Senator from Ohio time to be heard. That was the only object I had in view, and I will withdraw the motion at any moment, and always intended to do so when the Senator from Ohio could be here.

Mr. BAYARD. I wish to say that under no circumstances and in no shape or form do I ever desire to see such a rule as that of the previous question established or recognized in the Senate of the United States; and for that reason it was with some regret that I heard my honorable friend from Kentucky move to lay the resolution of the honorable Senator from Massachusetts on the table, because that was a non-debatable question, and discussion therefore was stopped. I am glad that the motion has been withdrawn, so that if anything further is to be said upon the resolution, it may be said in the discretion of any Senator.

Mr. ANTHONY. I understood that the motion to lay on the table was made on account of the absence of the Senator who had the matter in charge.

Mr. BAYARD. I never heard that any Senator had the matter in charge except the Senator from Massachusetts.

Mr. ANTHONY. The inquiry was made by the Senator from New York, I think, as to who had the matter in charge, and he was told that the Senator from Ohio had it in charge as the chairman of a subcommittee of the joint committee of the democratic caucus. I would make the parliamentary inquiry, Mr. President, if it would be in order to refer this resolution to the democratic caucus, which seems to have charge of the matter? [Laughter.]

Mr. EATON. That is the right place for it. [Laughter.]

Mr. BECK. I have no hesitation in saying that one reason why I desired to lay the resolution on the table in the absence of the Senator from Ohio was that he was the chairman of a committee appointed by the democratic party to look into the question of how it was best to present all these questions. I hoped he would find some solution of it, and in order to give him time to do so I desired to delay the matter until he came in. It was not a parliamentary committee; but I take it for granted that when either party has a majority in the Senate, and that majority is charged with the responsibility of the legislation of the body, it is well that they should have time to perfect the measures they are to bring in, that they may present them in a way that is best for the country and the Senate. Believing that, and perhaps not having as much care for diplomacy as I ought to have had, I frankly said, and I again say, that that was the object I had in making the motion.

Mr. HOAR. Mr. President, I perhaps ought to state to the Senate that I was not aware when I introduced this resolution or when I addressed the Senate upon it that the Senator from Ohio [Mr. THURMAN] was ill or was absent from the Senate. I observed that he was not in his seat when I rose to speak; but it is frequently the case with the members of that very laborious committee of which he is chairman that they are employed about the Capitol or in their committee-room during the sessions of the Senate and come into the Chamber when matters of interest come up, and that has been very much the habit of that Senator, as is well known.

I was not aware that the Senator from Ohio had any peculiar relation to this subject. The Senator from Kentucky made to the Senate a very important and interesting statement, upon which I commented; and I extracted as a text *verbatim* a great many sentences from a speech of the Senator from Kentucky, who was present and is now present. The Senator from Ohio, it is true, in the course of the debate which ensued upon the statement of the Senator from Kentucky in the closing hours of the last Congress, made a speech to which I called attention; and meeting the Senator from Ohio in the cars the other day I said to him, half in jest, but, the Senator from Kentucky will agree, with great truth, that I was about to make a speech and that I found I did quite as well making extracts from a speech of his as with my original matter. We had some discussion together on the general subject, but I did not intend that as a notice to the Senator from Ohio, but it was a mere accident that I made the communication to him.

I ought to state further that the day before I addressed the Senate I gave notice in full Senate that it was my purpose to address the body at the close of the morning hour the following day on this subject.

Mr. BECK. The reason I supposed at the time the Senator from Massachusetts was advised of the fact of the illness of the Senator from Ohio was that the evening before a very important question, or one supposed to be very important, was taken by yeas and nays, and

the Senator from Vermont, [Mr. EDMUNDS,] as the RECORD shows, announced that he was paired with the Senator from Ohio, [Mr. THURMAN,] who was absent and ill. That escaped the attention of the Senator from Massachusetts no doubt; but having seen that in the RECORD, of course I assumed that it was known to all the Senators.

As to the reference to the speech I made, I only desire to say that when the bills come, as they will come, from the other House, and all these questions are up that were alluded to in the speech of the Senator from Massachusetts, I expect to be heard, and perhaps heard quite fully. I can afford to wait until that time to reply to any references to what I may have said. It will be very hard to make any person believe that I have any revolutionary tendency; I have thought I was perhaps leaning too much the other way; but that will be discussed when the proper time comes, and I do not desire now, in anticipation of the bills we know are coming before us, to enter into that debate. Therefore I am content to wait until the bills come, when, I now say, I expect to be heard in answer quite fully to the speech made by the Senator from Massachusetts.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolution of the Senator from Massachusetts?

Mr. EATON. If any Senator desires to be heard on that resolution I will not make the motion I shall otherwise make, I shall vote against that resolution at some time during this session after giving my reasons for that vote; but unless some Senator desires to be heard, I shall move that the resolution lie upon the table. I will not make the motion if any gentleman desires to be heard.

I am requested to state that I understand the Senator from Ohio [Mr. THURMAN] will be able to be in his seat on Monday, and if he chooses then to address the Senate upon the subject he will have an opportunity. Unless some Senator wishes to make remarks now, I move that the resolution lie on the table.

The VICE-PRESIDENT. The Senator from Connecticut moves that the resolution lie on the table.

Mr. HOAR called for the yeas and nays.

Mr. EATON. I hope the yeas and nays will not be ordered. I wish it to lie on the table for the present, because no Senator desires to discuss it, not to carry it upon the table for any other purpose.

Mr. HOAR. If the Senator from Connecticut moves to postpone until Monday next on the ground of the desire of the Senator from Ohio, who is now ill——

Mr. EATON. No, I do not make that motion; I take my own course, that is, that it lie on the table for the present. I will withdraw the motion now if any gentleman desires to discuss it. Certainly there is no capital to be made out of this matter. I shall meet the question when the time arrives.

Mr. BLAINE. I do not know that anybody desires to discuss it now, but some comment was made the other day upon a statement which the Senator from Kentucky [Mr. BECK] made on the floor. It is worth while merely to signalize the fact that for the first time I think in the history of Congress, so far as I know anything of it, notification was served that debate in the Senate upon a proposition before it must wait until a caucus committee of the dominant party had come to some conclusion. The Senator from Kentucky distinctly advised us that that caucus committee, composed of members of both branches, was preparing legislation to be initiated in the House of Representatives, and that, therefore, the Senate upon a proposition already before it must wait until a caucus composed of members of both branches had prepared legislation to be introduced in the House, and after running the gauntlet of a joint caucus and of the House of Representatives it might please the majority to suspend the motion to lay on the table and give Senators on this side an opportunity to discuss the question.

Mr. BECK. The Senator from Maine was not in his seat when I made my statement a few moments ago, and I am not disposed to go into a wrangle with him this morning. I have said already and admitted already for what it is worth all that the Senator has said.

Mr. BLAINE. I did not know that.

Mr. BECK. He was not in. I have said also that when the bills do come, as they will come, and the questions are up in the form in which they can be considered as legislation, I expect to be quite fully heard upon all these subjects; and I will endeavor to defend the speech which I made so far as it may be defensible when the time comes. Until then, I do not propose to go into the matter.

Mr. BLAINE. The Senator from Kentucky, I understand, then admits that he cannot be heard, and that there is no propriety in his being heard until the caucus committee of the dominant party has shaped the legislation into the exact form that they want it submitted here; that outside and beyond the committees and the organized forms of legislation which have prevailed in this Government so far, there is a sort of committee of safety organized to supervise and overlook the legislative proceedings of both branches. If the Senator from Kentucky admits that, that is enough.

Mr. SAULSBURY. There is full opportunity to be heard this morning. We are perfectly willing to hear the Senator from Maine for an hour and a half or two hours.

Mr. BLAINE. I will inform the Senator from Delaware that certainly after the exhaustive speech of the Senator from Massachusetts nothing need be said on the subject on this side of the Chamber. We were only calling attention to the fact that this was a new departure in legislation; that a sort of committee of safety, for the meeting of which both branches are adjourned at premature hours in an unprecedented manner, is in existence, preparing, devising, and directing the measures of both bodies—a sort of extra-legislative and extra-constitutional proceeding, which it is merely worth while to note for future reference. That is all I want to say.

Mr. BECK. Mr. President——

The VICE-PRESIDENT. This debate proceeds by unanimous consent. The motion is not debatable.

Mr. BECK. I will not occupy over a minute or two of the time of the Senate. The Senator from Maine forgets that this resolution was not legislation, did not look to legislation. It is a mere declaration of opinion. Legislation, we all know, will be presented to this body. We were called together for the purpose of acting upon important questions of legislation; and I repeat that I regard it as the duty of the majority, when they desire to present legislation, to present it cautiously and carefully; and not knowing how it would be presented, and being quite a new member in this body, and not desiring to endeavor to anticipate what might be the action of the majority as to the legislation which might come before the body, I declined, notwithstanding the allusion made to me by the Senator from Massachusetts, to go into discussion on a political—I was about to say conundrum—but I will say upon a sentimental problem when I knew it would amount to nothing when the legislation comes. The Senator from Maine can very readily see that I might as an individual member of the Senate have expressed views that might or might not accord with those of the great majority of the party with whom I act, and I do not desire to assume that I have the right to take a position for them.

Mr. BLAINE. Then I understand the honorable Senator to say that he will not venture on the expression of an individual opinion on any great question until the caucus has determined what the will of the majority party is.

Mr. BECK. I have perhaps as much individual opinion as I ought to have, and perhaps a little more; but I do not choose to go into this wrangle now, but by the time we get to the discussion of the question, when the bills are before us, I think there will be time enough for discussion.

Mr. BLAINE. I thought the discussion came after the bills were before us. The Senator says when we get through with the discussion on the bills before us.

Mr. BECK. Oh, no; I did not.

Mr. BLAINE. Those are the honorable Senator's words, if I heard them aright.

Mr. BECK. No; I said when the bills are before us for discussion.

Mr. BLAINE. Then I misapprehended the honorable Senator, because I had always supposed that committees prepared and the open session of the Senate discussed; but I think the honorable Senator will observe that the thing is about to be reversed now; that we are waiting now for somebody unknown to the Constitution, unknown to the organization of both branches, to prepare legislation which is to be taken, swallowed whole, and which members on that side do not propose even to discuss until the edict of King Caucus has determined what shall be forced through both branches of Congress.

Mr. BECK. I have repeated before, and I now repeat for the last time, that I will not be drawn into any wrangle about this question. I declined so far as I was concerned to enter into any discussion until there was some legitimate subject-matter of legislation before the Senate. I said this morning, and I repeat, that when that legislation is before us I will discuss it as well as I am able, and whether King Caucus or any other king is called, I shall endeavor to do what is best for the American people and to vote what I think is best for their interests. I admit, for what it is worth, that men who think and look at questions wisely and well are considering how the measure may best be brought up, and until that is done I do not intend to anticipate their action.

Mr. BLAINE. If the morning journals are to be credited, the legislation has all been prepared; it has been matured in a joint caucus. The exact form, the precise amendment, the phrases in which it shall be expressed, have all been arranged.

I desire to say again that this is new; hitherto quite unknown in this Capitol. I have been some time in Congress, and the Senator from Kentucky professes a little bit of modesty on the subject for which there is no call. He has been here a long time and is an experienced legislator. I think he will admit that it is a new thing. I have never known in the dominant party to which I have belonged a measure matured, discussed, and prepared to be thrust upon either branch at the dictation of a caucus, and still less have I ever known that a joint caucus of both branches——

Mr. McDONALD. I should like to ask the Senator from Maine if he knows anything about the preparation of the resumption act, where it was prepared?

Mr. BLAINE. I certainly do not. I certainly never was in any caucus that prepared it. I know very well there was no joint caucus to prepare it.

Mr. McDONALD. It was said to have been prepared in the caucus of the republican Senators.

Mr. BLAINE. I have no knowledge of that whatever. At all events I know there was no joint caucus upon it. It came to the House from the Senate.

Mr. ALLISON. It was reported by the Committee on Finance.

Mr. BLAINE. Reported, says the honorable Senator from Iowa, [Mr. ALLISON,] who is still a member of the Committee on Finance, by that committee regularly.

Mr. McDONALD. But reported to that committee from a republican caucus.

Mr. BLAINE. Not at all.

Mr. DAVIS, of West Virginia. The Senator from Iowa would not like to say that.

Mr. BLAINE. I think the opposite side will not be able to find any precedent for this new departure.

Mr. BAYARD. I should like to ask most respectfully how often must a Senator be recognized by the Chair in order to be entitled to address it?

The VICE-PRESIDENT. The Chair has recognized the Senator from Delaware, but supposed he yielded to the Senator from Maine.

Mr. BAYARD. I have been trying to obtain the floor ever since the recognition of the Chair, but have been kept from it by disorderly interruptions.

Mr. President, the matter I desire to ask——

Mr. HOAR. Will the Senator from Delaware permit me to say to him that we do not hear him on this side of the Chamber as we should be glad to do?

Mr. BAYARD. I will endeavor to speak louder. The question now is as to the disposition to be made of the resolution offered by the honorable Senator from Massachusetts and by him debated on the day before yesterday. For some reason, I know not what, he has affixed a peculiar relation of the honorable Senator from Ohio, now absent by reason of sickness, to that resolution. I do not know whether the Senator from Ohio ever read the resolution or not; but I know, however, that he was absent from the Chamber before the debate began, and that the fact of the cause of his absence was made known twice and announced in the Senate, but not it seems to the ear of the honorable Senator from Massachusetts. The debate that followed on that resolution was founded, it seems, on expressions used by the honorable Senator from Ohio in a debate that occurred during the last session of Congress, and the Senator from Massachusetts, in his own way and according to his own ideas, proceeded to reply to certain propositions of law laid down by the honorable Senator from Ohio. He chose extracts from the Senator's debate of the last session, and he proceeded to reply to them with more or less satisfaction to himself and his associates; but that reply, with the fact that his speech was to be made the subject of discussion, it was not within the power of the Senator from Ohio to control. He could have no connection with that which had no existence,—no existence since he was ill and in his bed and unable to attend.

Therefore I suppose that when it was suggested that the debate on the honorable Senator's resolution should go over until the Senator from Ohio should appear, that suggestion was based on the fact that his remarks had been deemed worthy of criticism by the honorable Senator from Massachusetts and that he therefore should have an opportunity, if he desired it, of replying to what had been said. It was just that, and no more. There was no connection in any way between the honorable Senator from Ohio and the resolution offered by the honorable Senator from Massachusetts, except that it was created by the manner of statement and discussion of the honorable Senator from Massachusetts involving opinions heretofore expressed by his colleague from Ohio. That was all.

Something has been said in relation to awaiting the dictation or suggestion of somebody unknown to the rules of the Senate or to the rules of the House. I have been longer a member of the Senate than the honorable Senator from Maine, and, therefore, my experience has shown me, not upon one occasion but upon almost countless occasions, adjournments of this body without regard to the wishes of the minority for the purpose of party consultations of his political associates, and I have seen time and again measures of the gravest importance brought into the body, put upon the table, announced to be put upon their passage, and the minority called upon to debate them and told that when they were tired then the vote would be called, but not an amendment should be allowed, not an *i* should be dotted or a *t* crossed, or a word said in defense or explanation or in reply by any one of the vast majority of the party then dominant, with whom the honorable Senator from Maine is now associated.

So there was nothing unusual in the fact that an adjournment of the Senate should take place for the purpose of conference and consultation among the members of the party to whom was committed the responsibility of controlling the business of the body; what order it should take, in what order measures should or should not be introduced, was a matter of consultation for the orderly and expeditious transaction of business.

But, Mr. President, the honorable Senator has spoken of King Caucus. King Caucus was the king of his party. The king of ours is the Constitution of the United States. No caucus can bind, and no agreement of caucus ever was proposed to bind the consciences of the democratic party acting in their free consultation and conference with each other. We have a king who guides us in this Chamber and out of it, and that is the Constitution of the country, and no power unknown to it.

Mr. BLAINE. There was one point in the honorable Senator's remarks which I cannot understand; that is, how a majority party could bring in a measure here and put it through without permitting the minority to debate it.

Mr. BAYARD. Oh no; I said put it through without debating it themselves, simply throwing it upon the table and saying "this shall become a measure."

Mr. BLAINE. That is an altogether different case.

Mr. BAYARD. It did alter the state of the case amazingly.

Mr. BLAINE. It did not prevent your side debating it. Did you want to force this side to debate it?

Mr. BAYARD. Not at all, and the honorable Senator will never find my vote being given to stop any man from the free expression of his opinion on any measure.

Mr. BLAINE. I think the honorable Senator voted to adjourn the other day to cut off debate summarily.

Mr. BAYARD. Because the non-adjournment of the body was not necessary for the discussion of this resolution. A discussion may take place as well to-day as yesterday. It was the convenience of the majority to adjourn, and it was their right to exercise that convenience.

Mr. BLAINE. The first motion that the majority thought their convenience required was to lay the resolution on the table, and then somebody suggested that a better motion would be to adjourn. The adjournment was an after-thought.

Mr. BAYARD. The honorable Senator was not in the Chamber this morning when I rose and requested my honorable friend from Kentucky to withdraw the motion to lay this resolution on the table, simply because it looked like, or it might have been supposed to be, a desire to check debate; and for fear that such a construction would be given or that such an effect would follow, I desired that the freest opportunity for any gentleman on either side who desired to debate that abstract question should be had; and that motion therefore was withdrawn.

The question is now whether a speech having been made by the honorable Senator from Massachusetts in criticism of a speech made at the last session by the honorable Senator from Ohio, it is well that for the present the resolution go by, that the gentleman whose opinions have been so ably criticised should, if he desires, have an opportunity to reply. That was all. I do not know whether he wants to reply or not; I do not know what his judgment is upon that; but if he desires to reply then the debate may just be as free as air, the honorable Senator from Maine or Massachusetts or any other State can debate the question.

Mr. BLAINE. The honorable Senator from Delaware then took forty-eight hours to make up his mind.

Mr. BAYARD. No, I did not.

Mr. BLAINE. Forty-eight hours to make up his mind that the motion to lay on the table was not a proper thing to be done?

Mr. BAYARD. No, sir.

Mr. BLAINE. Let me recount the circumstances: The hour of one had scarcely been passed, or but little after, when the Senator from Massachusetts concluded. There was no caucus awaiting the attendance of democratic Senators; there was nothing to do; the day was before us; but some manifestation of a desire to debate the question was met by the honorable Senator from Kentucky with a motion to lay on the table; which he refused, upon my request and the request of the Senator from Vermont, [Mr. EDMUNDS,] not now in his seat, to withdraw. Then the Senator from Pennsylvania [Mr. WALLACE] made a motion to adjourn, and the honorable Senator from Delaware voted for that, and now he comes in forty-eight hours afterward and is penetrated with the conviction that a motion to lay on the table was not a proper thing, that the minority side of the Senate wishing to debate at that time should have the opportunity, and having been two days deprived of it, the Senator shows his liberality by coming in now, when the thing is cold and the matter has gone by, to offer us an opportunity to debate.

Mr. BAYARD. Mr. President——

Mr. BLAINE. I have not got through, but I yield to the Senator.

Mr. BAYARD. I had the floor and yielded to the Senator from Maine.

Mr. BLAINE. The Senator sat down when I took the floor. Was not that so, Mr. President?

The VICE-PRESIDENT. The Senator from Maine states the fact.

Mr. BLAINE. I yield to the Senator from Delaware.

Mr. BAYARD. I merely say now that I would not withhold or limit debate; and after I have stated the fact as to my own action here, if there is to be anything like even an insinuation that that which I state is not to be accepted by my associates here as absolutely true——

Mr. BLAINE. What does the Senator refer to?

Mr. BAYARD. I mean this: He said it took me forty-eight hours to make up my mind, and then his suggestion is that I have changed my mind. I say to the Senator that my mind has not changed, that I was just as unwilling that debate should be shortened on the day before yesterday as I am to-day; but the day before yesterday I considered an adjournment proper and needful and voted for it then as I would to-day, but not for the purpose of shortening the debate upon this or any other question, but simply for the purpose of attending to those matters that I thought more proper to be attended to—that was all—just as much as to-day. We have already voted—I do not know whether with or without the vote of the honorable Senator from Maine—that when the Senate adjourns to-day it stand adjourned to meet on Monday. That is in the discretion of the majority.

Mr. BLAINE. I would have voted against it had I been here. I did not happen to be in the Chamber.

Mr. BAYARD. I think the Senator was not, but I merely refer to it by way of illustration. The adjournment the day before yesterday was made in the discretion of the gentlemen who voted for it. We believe to-day public business will be expedited by an adjournment until Monday, or there may be private reasons affecting gentlemen, I do not know what and I do not ask for them; but I do not think the honorable Senator from Maine is just to me or to himself in saying that I slumbered forty-eight hours and then came to a conclusion which I said I had had at the time of the adjournment the day before yesterday. I have not changed my view. My object was at that time, in part, that opportunity should be given to a Senator whose opinions had been assailed and criticised, peculiarly selected for criticism and in his absence, to reply if he desired to do so. That is one thing. I should have voted therefore that the matter lie over. I should so say in regard to the present disposition of the resolution, simply that it lie over. If the motion to lay upon the table for the present is looked upon as fatal to the resolution, I would rather it should not carry, for as long as debate is desired on this subject, let the gates be open. It is the discretion and the responsibility of any Senator to say how he will occupy the public time here. I protest against the imputation of the statement I made. I have made the statement as I thought very clear as to my reasons for voting the day before yesterday for the adjournment, and my regret that the Senator from Kentucky had made the motion at all. As a matter of fact, I did in passing by him at the time signify to him my regret that he made the motion. I think I signified that to him at the time, but that was a purely private remark as I passed by him at the moment. Whether I did or did not, the fact was the same that I approved the adjournment, but I did not desire to see the debate cut off.

Mr. BLAINE. Mr. President——

Mr. BECK. Allow me a word?

Mr. BLAINE. Very well.

Mr. BECK. I suppose the Senator from Maine does not desire to do any injustice to any action I may have taken, and therefore I wish to repeat now to him what I said before he came in, and which I have since heard controverted a few moments ago. Before I made the motion to lay on the table, I consulted with the Senator from Pennsylvania [Mr. WALLACE] and others around me, and agreed that the motion to adjourn should be put before the motion to lay upon the table was pressed, and there was no suggestion from any Senator of a desire to speak until after the motion to adjourn was made, and I only made the motion to lay on the table for the purpose of seeing the speech of the Senator from Massachusetts in the RECORD the next morning in the hope that the Senator from Ohio might then be in his seat and able to reply to it. I was always ready to discuss it, and I went personally to the Senator from Maine yesterday and told him that having heard the Senator from Ohio was still ill I would withdraw the motion this morning. I repeat that before any desire to speak was evinced by any gentleman on the other side, by arrangement before I made the motion, and as a part of the motion in fact, the Senator from Pennsylvania [Mr. WALLACE] agreed to move an adjournment, so that no vote should be taken upon my motion to lay on the table for fear it would cut off debate. That I stated before the Senator from Maine came in.

Mr. BLAINE. The Senator from Delaware shows undue sensibility about a part of my statement, which was that on the day before yesterday he voted for a motion to restrict debate, and forty-eight hours afterward he came in and professed himself ready for the widest possible debate. That is all I stated. I made no imputation whatever of his motives, nor can I now see why the Senator from Kentucky should have made the motion to lay on the table at all if the motion to adjourn was about to be made, for that would have covered all the point necessary in suppressing debate.

One thing further and I am done with this. I have been in Congress some years; this is the fifth session I have served in the Senate, and I desire to say to the honorable Senator from Delaware that I have never known a measure matured or proposed to be matured or any suggestion of its being matured by a republican caucus.

Mr. BAYARD. I never was in one and I cannot tell. [Laughter.]

Mr. BLAINE. Does the Senator mean by that to do what he charged me with doing, insinuating that I am not stating what is exactly so?

Mr. BAYARD. Oh, no; not at all.

Mr. BLAINE. Probably if the Senator had been in a republican caucus he would have been improved in reference to the matter now pending. [Laughter.] I say it never has been proposed in a republican caucus to mature a legislative measure. I never knew it in the fourteen years I was in the House of Representatives; and I repeat again that it is a new departure in the legislative history of this country when a joint caucus of the two Houses composed of the majority party get together and debate and mature and perfect measures, to the support of which every member on that side and every democratic member in the other end of the Capitol is practically pledged, before it is introduced before either branch.

Mr. HEREFORD. Will the Senator from Maine allow me to ask him a question?

Mr. BLAINE. Certainly.

Mr. HEREFORD. I ask him whether or not the resolution offered by the Senator from Vermont [Mr. EDMUNDS] the other day was not discussed in a republican caucus?

Mr. BLAINE. In republican caucuses the order of business and the order of bills and the order in which measures shall come up is perpetually discussed, and that was all the point covered by the resolution of the Senator from Vermont.

Mr. HEREFORD. No, it covered a good deal more than that, Mr. President.

Mr. BLAINE. What did it cover?

Mr. HEREFORD. The resolution can be read.

Mr. BLAINE. The resolution of the Senator from Vermont was that it was the judgment of this side of the Chamber that no legislation should be entered upon except that comprehended in the President's message and in his proclamation calling the extra session. That was all.

Mr. HEREFORD. Will the Senator allow the resolution to be read?

Mr. BLAINE. I do not want to detain the Senate, but I have no objection to its being read.

Mr. HEREFORD. Then I understand the Senator admits that that very resolution was discussed in a republican caucus?

Mr. BLAINE. I will admit a great deal more. I will admit that republican caucuses time out of mind, and whig caucuses time out of mind, and old democratic caucuses time out of mind, did settle in caucus the order of business. That is a matter that is proper to be settled in caucus. But that is very different from settling the details of any particular measure. One is essential to the progress of legislation, the other is binding the views and consciences of men upon particular points of legislation by an outside power.

Mr. HEREFORD. Will the Senator allow me to ask him another question?

Mr. BLAINE. Oh, yes.

Mr. HEREFORD. I ask whether or not the resolution introduced at the last session of Congress for the appointment of what is known as the Teller committee was not discussed before a republican caucus?

Mr. BLAINE. No, sir; there was not a human being that ever knew that was to be introduced except myself when I sent it to the Clerk's desk.

Mr. HEREFORD. Afterward, after it was introduced, was it not considered in a republican caucus?

Mr. CARPENTER. Will the Senator from Maine allow me to ask him a question?

Mr. BLAINE. Certainly.

Mr. CARPENTER. As there is so much difference of opinion about what has taken place in these respective caucuses, would it not be better to send for the record of each? [Laughter.]

Mr. BLAINE. I yield to the Senator from Massachusetts.

Mr. HOAR. Mr. President, I think the point of this matter is not quite fairly stated by the honorable Senator from Delaware, and that in its relation to the authority and privileges and duty of this Senate, as the Senator from Kentucky presented it the other day and presents it now, it is a pretty serious one. The claim of constitutional authority on the part of one branch of this Legislature, which I discussed the other day, was made during the closing hours of the last session by the Senator from Kentucky, stated carefully, fully stated, not in his individual capacity, not in his capacity as an individual Senator, but as the conferee of this body, instructed to learn the purposes of a co-ordinate branch of the Government in regard to legislation and to report them to us; and he made as his report of the purposes of that branch of the Government, then and now controlled by a majority of his political party, a statement, in substance, that that branch proposed that there should be no appropriations for the support of the Government hereafter unless they should be permitted to dictate legislation. That was the matter—it was the closing hours and in the closing moments of the last session—which I took the first opportunity to meet and discuss fully and to any extent. I discussed it to some extent at the last session. The relation of the Senator from Ohio to it, so far as I then knew and believed, was merely that he took part in that debate, not as the author, not as the propounder, not as the interpreter of the scheme stated by the Senator from Kentucky, but simply as one very eminent Senator who took part in a debate.

When I concluded my remarks the Senator from Kentucky rose and claimed a peculiar relation to that subject on the part of the honorable Senator from Ohio, a relation to it which, in his judgment, made it improper to discuss it in his absence, a relation which in his judgment made it the duty of the Senate of the United States to adjourn and stop debate until he could come back to his seat, and what was that relation? The relation was that he was chairman of a subcommittee of a democratic party caucus, and that it was the duty of Senators and the duty of the Senate to refrain from debate and discussion and action until the views of the chairman of a subcommittee of a democratic caucus could be ascertained, and if I have understood the Senator from Kentucky rightly—and I beg him to observe whether I understood him rightly or not—he said fifteen minutes ago, if his words struck my ear correctly, that he did not know whether he, the Senator himself, had the right to express his opinion upon this subject until these measures that he spoke of had been matured by a caucus. That is a pretty interesting declaration in regard to the extent of the privileges of a United States Senator. The Senator from Delaware says that the democratic party is not governed by King Caucus, differing in that respect from any other party, but by King Constitution. Did the Senator from Delaware in his speech mean

simply to commend himself to the favorable consideration of the Senate? Certainly not; he was expressing his views of the opinions of the political party to which he belongs.

Will the Senator from Delaware inform the Senate whether he agrees now with the Senator from Kentucky that a Senator has not a right to express his opinion on a pending measure until a caucus of his party has determined its policy? Will the Senator inform the Senate whether he agrees that the chairman of a subcommittee of a political caucus has any relation whatever to measures pending for legislation in this body which requires us to consult his convenience or to determine whether he is present or absent, whether he is known to the King Constitution and is one of his servants and prime ministers? If the democratic party is not governed by King Caucus but by King Constitution, I am afraid King Constitution is one of those Oriental monarchs never seen outside of his palace, and never permitted to have a voice in the government of the State, and that the prime minister, the Grand Vizier, after all is the authority which the Senator from Kentucky seems chiefly to respect.

I repeat for the information of the Senator from Delaware, that the connection of the Senator from Ohio with this subject, alleged on the other side of the Chamber as the reason for then suppressing debate was, not that he happened to make one of the speeches upon the proposition of the Senator from Kentucky adverted to in my remarks, but it was that he was chairman of a subcommittee of a democratic caucus, and it was that claim which it is endeavored on this side of the Chamber to repel. The Constitution had nothing to do with it.

Mr. BECK. Mr. President, I have learned long ago one rule which I rarely depart from, and that is, when I ascertain what the enemy wants me to do, to be sure not to do it; and as the republicans seem to have put up the Senator from Massachusetts to bring on a debate upon an abstract proposition for some purpose, perhaps to fortify the President by the views of one or two friends, (he is assumed to be one of the very few on that side of the Chamber who can speak in such a way as to strengthen the President up to a veto while the others are using him as the cat's paw to pull the chestnuts out of the fire,) I do not intend to aid him in doing it by any wrangle now. I can afford to wait until the measures come up, and then I assure him again that the speech he made against the positions taken by me will be answered, I think to the satisfaction of the country. But if all this effort is to make me go into a wrangle with him now and to intensify the little there is of real loyalty to the President—for I think there is very little of it and that only outside; you can count with your fingers all on that side of the House who profess to have any—to veto any measure that may be sent to him, I do not propose to do it until I see what the measures are. Gentlemen may just as well save themselves any further effort to endeavor to induce me to go into this debate. I deny what the Senator has said that I do not dare to speak my individual opinions until the caucus has declared its view.

Mr. HOAR. Pardon me. That was not the phrase I used.

Mr. BECK. I am not caring about phrases. That is what the Senator wanted the country to understand that I had said. What I said was that I desired and intended, if I could, to have a measure of legislation before the Senate before I discussed it. The measures to which this discussion applies are being carefully considered.

Mr. DAWES. In this connection will the Senator allow me to make an inquiry?

Mr. BECK. Very well.

Mr. DAWES. I should really like to know, for information, if the Senator can inform the Senate how long it will be before those measures of legislation will be so far matured that deliberation in the two Houses upon those measures can properly commence?

Mr. BECK. I can only answer that the committees will be furnished in good time, I have no doubt, with proper measures, and the Senator from Massachusetts can restrain himself in the mean time.

Mr. DAWES. I did not know but that the Senator from Kentucky might give us a little information so as to relieve the country from anxiety. How long before we shall have the measures alluded to?

Mr. BECK. The country is not half as anxious as the stalwart republicans are to get the two Senators from Massachusetts and other friends of the President to strengthen him up to a veto of the legislation that may come. I am not anxious, the democratic party is not anxious, on the subject. If the two Senators from Massachusetts, the peculiar friends of the gentleman at the other end of the Avenue, will wait a little while we will give them ample opportunity to discuss every proposition fully.

I desire to say this in addition which I forgot to say before: the Senator from Delaware, while he was up, alluded to the fact that he did not approve of the motion that I made the other day. I explained the circumstances under which I made it, that I made it after arrangement with the Senator from Pennsylvania that the motion to adjourn should at once be made, and we believed it ought to be carried, as it was, the object being to give the Senator from Ohio, if he desired it, an opportunity to answer the speech of the Senator from Massachusetts, which was written and carefully prepared. I will not take time to read that part of it charging him as well as myself with all sorts of revolutionary schemes, (I have the RECORD before me;) I will not say that he did it in language somewhat offensive, but in such a tone that it required an answer. I was prepared to answer then, but I did not desire to do it, and do not now. The Senator from Ohio perhaps may not answer at all, but he ought to have an opportunity to do so if he desires it, and it was to give him the opportunity that I made my motion, not to cut off debate, for I never will make a motion to cut off debate in the Senate. I did not do it for any other purpose except (the RECORD shows what was said) that I expected the Senator from Ohio to be in his seat the next morning, when he would have an opportunity to reply.

Mr. HOAR. Before the Senator from Kentucky sits down I desire him to yield to me to say, so that he may not misunderstand this matter, that I did not impute to him or understand him to use the phrase that he did not dare to express his opinion. I said nothing of that kind. What I understood him to say was that he did not know that he had a right to express his opinion until these measures had been matured in caucus.

Mr. BECK. If I said that, I did not intend to say any such thing. I intended to say that I did not wish, before I knew what measures were brought before us for legislation, to anticipate them or to assume what would be the form in which they would be brought up, and that I did not care to discuss them in advance. I may have said I did not have the right as a new man in the Senate to be anticipating matters of such gravity until the measures themselves were presented.

Mr. McDONALD. I rise to make an inquiry, and that is whether any Senator desires further to discuss this resolution at this time, for if there is no desire to discuss the resolution I shall certainly renew the motion that has been suggested by the Senator from Connecticut, that the resolution for the present do lie upon the table.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That motion is now pending, and this debate goes on by unanimous consent.

Mr. McDONALD. If there is any desire to discuss the matter at this time on the part of any Senator on either side——

Mr. EATON. It was with that understanding that I made the motion, and I said I would withdraw it if anybody desired to discuss it.

Mr. BLAINE. There is not much encouragement for discussion, because——

Mr. McDONALD. I have not yielded the floor.

Mr. BLAINE. Oh!

The PRESIDING OFFICER. The Senator from Indiana declines to yield.

Mr. McDONALD. In a few moments I will, however. A good deal has been said about attempting to cut off debate and making motions that had the effect of bringing before this body the previous question in effect. There has been a good deal of liberty of debate this morning. We have a rule that no Senator shall speak more than twice on the same subject until all other Senators who desire to speak shall have spoken. There have been many speeches made on this subject by the same Senator and a debate continuing for nearly one hour under a motion that did not admit of debate. It seems to me that complaints about attempts on the part of the majority to stifle debate and prevent discussion come with an ill grace with those facts before the Senate.

Mr. BLAINE. All I intended to remark was that the gentlemen did not give us much encouragement for debate when the honorable Senator from Kentucky said his object was to lay on the table a resolution which contained a mere abstract proposition. Now if we cannot debate abstract propositions, and practical legislation is all fixed and fashioned before it gets in here, it seems to me the area of discussion is very much narrowed.

Mr. VOORHEES. I think, Mr. President, a word ought to be spoken that has not yet been heard in connection with this peculiar discussion. The purpose of the Senator from Maine is very apparent to everybody. It is to make a point to the country that this side of the Chamber is proceeding in some unusual way to bring measures for legislation before it. Prudence, caution, and circumspection may be an unusual feature on the part of the majority of this Chamber in preparing measures to be submitted to it for its action. I think that quite likely in view of the character of the legislation which has emanated from this body in years gone by. I am very frank to say that the democratic party in the majority, holding itself responsible to the country for the legislation which shall be proposed and matured and perfected, is proceeding with caution, with care, and not with hot and indecent haste. We have reached a point which involves measures of the most vital importance, which involves doctrines as deep down as the foundations of the Constitution, and we have appointed committees supposed to be among our ablest and most experienced men to consider the best mode by which public justice and right can be accomplished. That duty is being performed. We have no apology to make for it at all; we have no explanation other than the fact to make for it; and I think the American people will be well pleased to know that in the change which has taken place in the majority of this body the legislation proposed is undergoing careful consideration. If the opposite side of the Chamber has not resorted to such proceedings in the past, there is one circumstance that explains the shattered and broken condition of that party here to-day on this floor.

The Senator from Maine taunts us with having appointed a committee of safety. If there had been a committee of safety to watch the fortunes of the republican party for the last fifteen years, perhaps that side would not now be stripped of its majority, and its chairs empty and the power transferred to this side. I, sir, avow the

entire responsibility, so far as this side is concerned, for a procedure of prudence and care. I have only to say, in addition, that if any Senator on that side desires to speak we will sit here with the accustomed respect and courtesy that becomes this body and listen to him. We will not vacate our chairs, as I have seen done so often on that side in political debate; we will not go to our committee rooms that have for the first time been provided for us, as the Senators on that side have so often done when political discussion took place; we will stay here in our places and hear discussion. But the Senators on the opposite side will pardon me for saying that we, responsible to the country for the legislation, will bring it forward in our own way and at our own time, and not subject to the dictation or taunts of the opposition.

I thought, Mr. President, it was as well to avow our position broadly and squarly before the country, and let the Senator from Maine and the two Senators from Massachusetts take the benefit of their course on this occasion.

Mr. BLAINE. Then I understand the Senator from Indiana to say that measures which should naturally be matured by the Judiciary Committee, like the electoral law, that measures that should naturally be matured by the Military Committee, like the reduction and reorganization of the Army, are now in the hands of this committee of safety, that when they have matured them and fashioned them and concluded them, they will be brought in here, and the dumb show of referring them to the committees here, which are supposed to have something like original jurisdiction, will be gone through with. I am glad the honorable Senator avows it all. All I desired to point was just the fact which he admits. All I desired the country to understand was that a new order of things had been organized here, and that the heretofore orderly methods of legislation, in pursuance of law and the Constitution of the country, are superseded by an outside, irresponsible committee, which issues and dictates its orders before the responsible representatives of the States and the people are called upon to pass upon them.

Mr. VOORHEES. The Senator from Maine has a prolific way of placing words in an opponent's mouth which he never uttered; but when the Senator from Maine says that I avow that a different state of things exists here from heretofore, and that there has been a new departure, that is true, and the country, I think, will be glad to know that it is true. There has been a new departure, and in that new departure is involved a care and circumspection, I trust, in our legislative proceedings hereafter that has never marked the party that was dominant but yesterday in this Chamber. I trust so at least. When the Senator, however, proceeds to say that an outside and irresponsible committee is shaping the duties of the Judiciary Committee and the other committees, nobody knows better than he himself how unjust such a construction is. We are considering measures to be brought before this body and before the other branch of Congress in view of an extraordinary crisis which has impelled an extra session of Congress, and I desire to say again that we will do that in our own way; and, notwithstanding the keen and earnest desire of the Senator from Maine to lead us by his advice, his irrepressible disposition to impose his views upon everybody, we stand here most politely and respectfully declining his political consultation and his political leadership.

Mr. DAWES. Mr. President, the Senator from Kentucky, [Mr. BECK,] at the close of the remarks of my colleague, [Mr. HOAR,] the other day, expressed great anxiety lest those remarks might have the effect to stiffen up some one elsewhere, and indicated that that was the purpose of the remarks. He renewed that anxiety to-day; and upon a simple inquiry on my part, when we might be expected to be permitted to proceed to the deliberations contemplated by the Constitution in either branch, he repeated that anxiety and coupled me also in the effort at which he manifested so much alarm. I want to say to him, sir, that if he has built up any anticipations of success in these revolutionary measures in the quarter to which he alludes, I bid him to put aside that delusion as early as possible, for he may understand first as well as last that in this assault upon the purity of the ballot-box there will be no division among its defenders, in whatever position under the Constitution they have been put as its defenders.

Mr. MCMILLAN. Mr. President, the Senator from Indiana [Mr. VOORHEES] made his statement with great calmness and deliberation, and it seems to me the position taken by the Senator from Indiana is one of very serious importance and one in direct violation of the Constitution of the United States. The Senator declines to receive any assistance from the Senator from Maine in preparing or perfecting the legislation for this country. The Constitution designed, and its whole object was to receive, the assistance of Senators, whether in the minority or the majority, in preparing legislation for this country; and the Senator from Indiana has stated distinctly here upon the floor of the Senate that the majority, representing but one political party in this country, is preparing and perfecting legislation which shall be enacted upon the floors of both Houses of Congress and to govern this country. The declination of the majority, through the Senator from Indiana, to receive any assistance from the Senator from Maine or from other able Senators upon this side of the Chamber is a position that is in conflict with all the principles which have governed us in legislation heretofore when the party to which the Senator referred was in the majority.

Mr. KERNAN. Mr. President, if no gentleman wishes to make remarks on the subject before us, I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from New York moves that the Senate proceed to the consideration of executive business.

SENATE EMPLOYÉS.

Mr. DAVIS, of West Virginia. Before that is done I should like to have a resolution taken up and referred. I offered a resolution yesterday in regard to the employés of the Senate. I ask now that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDING OFFICER. It will be so ordered if there be no objection. The Chair hears none; the reference is made.

EXECUTIVE SESSION.

Mr. KERNAN. I renew my motion.

The PRESIDING OFFICER. It is moved that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-seven minutes spent in executive session the doors were reopened, and (at two o'clock and twenty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 27, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. PRICE. I ask unanimous consent to offer a resolution, to which I think there will be no objection.

The Clerk read as follows:

Resolved, That there be printed 5,000 copies of public act No. 90, third session, Forty-fifth Congress, entitled "An act making appropriations for the payment of arrears of pensions," granted by act of Congress approved January 25, 1879, and for other purposes.

Mr. CONGER. I have no objection to this particular resolution, but I think it had better lie over. I now call for the regular order.

The SPEAKER. The gentleman from Michigan demands a vote upon the pending motion, which is on a reference to the Committee on Rules of certain matters introduced by the gentleman from New York, [Mr. COX.]

Mr. COX. I stated yesterday that I had no understanding or knowledge in relation to the other side of the House. I was not aware of any opposition to my motion, which the gentleman from Michigan [Mr. CONGER] seems to think I ought to have known. I would not for a moment take advantage of anything that was done yesterday. I therefore ask unanimous consent for the reconsideration, and I will withdraw the resolution. That is more magnanimity than I have had here in sixteen years. [Laughter.]

The SPEAKER. The gentleman from New York asks to have the vote reconsidered for the purpose of enabling him to withdraw the proposition which was yesterday referred to the Committee on Rules.

Mr. DE LA MATYR. I object.

The SPEAKER. The remedy can be reached by refusing to lay upon the table a motion to reconsider.

Mr. COX. I withdraw the motion to lay on the table.

The SPEAKER. The question then is on reconsidering the vote by which the proposition of the gentleman from New York was referred to the Committee on Rules.

The question was put; and it was decided in the affirmative.

The SPEAKER. The Chair now understands that the gentleman from New York withdraws the proposition.

Mr. COX. I now withdraw the motion, but I will offer it on Monday.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I ask unanimous consent to introduce at this time a bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The SPEAKER. The title of the bill will be read.

Mr. GARFIELD. I reserve all points of order on the bill.

The bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, was received and read a first and second time.

Mr. SPARKS. I would say that this is substantially the bill as it passed the House of Representatives of the Forty-fifth Congress at its last session, with the clauses stricken out in relation to the reorganization of the Army. It is also substantially the bill as passed by the Senate with the insertion of the clauses repealing the two provisions of the statute relating to the use of the troops at the polls. It is really the bill which was informally agreed upon in the conference committee of the two Houses of the last Congress, excepting the portion relating to the repeal of the provisions of the statutes allowing soldiers at the polls.

Mr. GARFIELD. I think the gentleman should move that the bill be printed.

Mr. SPARKS. If it be the sense of the House I would prefer that we proceed now to the consideration of the bill. As a matter of course, in the Committee of the Whole the bill will be read by paragraphs for debate and amendment.

The SPEAKER. And the bill is now subject to general debate.

Mr. GARFIELD. Are there enough printed copies of the bill for the use of the House?

Mr. SPARKS. There have been three hundred copies of the bill printed, and they ought to be upon the desks of the members, and I presume will be in a few minutes.

Mr. GARFIELD. If that is so I do not see any objection to going on with the discussion and consideration of the bill now.

Mr. SPARKS. I move that the bill be referred to the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Mr. SPARKS. I now move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the Army appropriation bill.

The motion was agreed to.

The SPEAKER. The House has resolved to go into Committee of the Whole on the Army appropriation bill, and the gentleman from Illinois, Mr. SPRINGER, will take the chair.

Mr. SPARKS. I move that all general debate upon the bill be limited to five minutes.

Mr. CONGER. That motion is too late; I object to it.

The SPEAKER. That would require unanimous consent at this time, and there is objection. The Chair would suggest that the committee can at any time rise and come into the House for the purpose of obtaining an order limiting debate.

Mr. SPARKS. I wanted to have the limit fixed now.

The House accordingly resolved itself into Committee of the Whole, Mr. SPRINGER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill making appropriations for the support of the Army. Under the rules of the House governing the transaction of business in the Committee of the Whole, the Clerk will now report the bill at length.

Mr. SPARKS. I ask consent that the first and formal reading of the bill be dispensed with.

Mr. CONGER. The bill is just being laid upon the desks of members. Let it be read, and members will then have an opportunity of examining it and understanding it.

Mr. SPARKS. Very well; if there is objection to my proposition, let the bill be read.

The Clerk began the reading of the bill, but before concluding,

Mr. COX said: I ask unanimous consent of the committee that the further reading of the bill be dispensed with. It is the old Army appropriation bill of the last session except the sixth section, and the bill will have to be read and considered by paragraphs hereafter. I think there will be no objection to dispensing with the further reading of the bill.

Mr. CONGER. The gentleman speaks as if he were almost the only member of the House to consider this bill. Probably more than half of the members of the House never saw the old Army appropriation bill.

Mr. SPARKS. Allow me a moment. Would not members get a better insight into the bill when it is read by sections?

Mr. COX. And debated.

Mr. SPARKS. Allow me to suggest this to the gentleman from Michigan, [Mr. CONGER:] Would it not save time, as the bill must be read by paragraphs and be open to debate and amendment, to dispense with the formal reading of the bill?

Mr. CONGER. I have no particular desire myself to have the bill read. I supposed that members would have an opportunity, the first which they have had, to examine the bill and ascertain what it is, while it was being read without debate and amendment. So far as I am myself concerned, I do not know but what I would withdraw my objection to dispensing with the further reading of the bill. If there are others who desire to object let them do so.

Several MEMBERS. Do not withdraw the objection.

Mr. CONGER. Very well, then, I will maintain my objection.

The CHAIRMAN. The first reading of the bill in Committee of the Whole cannot be dispensed with except by unanimous consent.

Mr. SPARKS. And objection is made?

The CHAIRMAN. Objection is made.

The Clerk resumed and concluded the reading of the bill.

The CHAIRMAN. The bill, having been read at length, is now subject to general debate.

Mr. SPARKS. Mr. Chairman, this bill, as I stated on introducing it, is substantially the Army appropriation bill as it passed the House at the last session, except that the provisions for the reorganization of the Army are in the main stricken out.

The Senate amended the bill in relation to the subject of mileage and the pay department by the addition altogether of several hundred thousand dollars. They increased appropriations in the bill to the extent perhaps of three or four hundred thousand dollars. In the printed bill, beginning with the last line of page 3, members will find quite a long proviso which has been inserted in the printed bill by mistake; it is not a part of the bill introduced by me this morning. It was never agreed to in the conference committee; and as the House never assented to that amendment of the Senate, we have not thought proper to incorporate it.

The CHAIRMAN. The Clerk will report that portion of the printed bill which has been erroneously included in the print and is not a part of the bill as introduced.

The Clerk read as follows:

Provided, That officers of the Army on the frontier, for travel, on duty, under orders, and not by railroad, may, at their option, receive mileage according to existing law and regulations, or the actual necessary expenses of such travel, according to such regulations as the Secretary of War may prescribe: *Provided*, That so much of the act of July 24, 1876, entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1877," as prohibits payment of mileage for travel over any railroad on which the troops and supplies of the United States are entitled to be transported free of charge be, and is hereby, repealed.

Mr. SPARKS. The next paragraph in regard to cost of telegrams, &c., was an amendment added to the original bill in the House, as will be remembered, on motion of the gentleman from Massachusetts, (Mr. Butler.) The amendment adopted by the House was modified in the Senate, and we have adopted it in precisely that modified form.

There were no other material amendments, except as to amount. The Senate, as I have already stated, increased the appropriations in the bill to the extent perhaps of three or four hundred thousand dollars; but the conferees agreed that the House had appropriated enough. Hence, in respect to the amounts appropriated we have conformed to the bill as passed by the House, with one exception. On page 10 of the printed bill will be found the following provision:

For construction of a military post near the Niobrara River in Northern Nebraska or Dakota, at a point to be selected by the General of the Army, with the approval of the Secretary of War, $50,000, or so much thereof as may be necessary.

This provision was adopted by the Senate as an amendment. The Committee on Appropriations of the House would have inserted such a provision originally, had the subject been brought to their attention. But the information and estimates from the Department came too late to be considered in the House. We regarded this amendment of the Senate as proper, and have inserted the provision in this bill. Hence the aggregate amount of the appropriations contained in the bill is increased to just that extent—$50,000 for the construction of this military post on the Niobrara River in Nebraska, which we regarded as important.

There are no other differences between this bill and the bill as passed by the House, except as to the reorganization of the Army. All the provisions with reference to the reorganization of the Army have been in the main stricken out. There was, however, in the first section of the reorganization amendment, in connection with other matter, this provision:

And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

This provision which was left in the bill by the Senate we have inserted in this bill as section 3.

Two other clauses of the reorganization provisions we have agreed to leave in this bill. One of these constitutes section 4 of this bill, and is as follows:

SEC. 4. That when a vacancy occurs in the office of professor of the French language or in the office of professor of the Spanish language in the Military Academy, both these offices shall cease, and the remaining one of the two professors shall be professor of modern languages; and thereafter there shall be in the Military Academy one, and only one, professor of modern languages; and that section 1336 of the Revised Statutes be, and is hereby, amended by inserting, after the word "service" in the first line, the words "as professor."

This was agreed to by the Senate conferees, and we thought it important to retain it.

Section 5, on page 14, was also a part of the reorganization provisions adopted in the House. This section, which we retain, is as follows:

That each member of the next two graduating classes of the Military Academy, after graduation, may elect to receive the gross sum of $750 and mileage to his place of residence; and the acceptance of this gross sum shall render him ineligible to appointment in the Army until two years after his graduation; and the amount required to defray the expenditure herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.

These provisions are the only portions of the reorganization amendment which are retained.

I now come to the provisions embraced in this bill for a modification of the statute with reference to the use of troops to preserve the peace at the polls. This matter is very familiar to all the members of the Forty-fifth Congress, and I do not propose to discuss it. Upon consultation with gentlemen on both sides of the Chamber, it is thought well that we now close the general debate on all the bill except this provision, upon which general debate might proceed for such time as may be hereafter determined. I move, therefore, that the committee rise with the view of closing general debate on all other portions of the bill in one minute.

Mr. GARFIELD. I suggest to my friend from Illinois [Mr. SPARKS] that very probably unanimous consent will be given in Committee of the Whole, without rising, to the arrangement he suggests. I think it a fair proposition, as all parties are evidently anxious to get through with the formal, ordinary details of the bill. I therefore join the gentleman in asking that general debate be now closed on the whole bill excepting the provisions with reference to the use of

troops at the polls, and that we at once proceed to consider the other portions of the bill under the five-minute rule.

The CHAIRMAN. The gentleman from Ohio [Mr. GARFIELD] asks unanimous consent that all general debate on this bill except as to section 6 be now closed, and that the Committee of the Whole proceed to consider the other portions of the bill under the five-minute rule. Is there objection? [A pause.] The Chair hears none. It is so ordered. The Clerk will now proceed to read the bill by clauses for amendment and debate under the five-minute rule.

The Clerk read as follows:

For expenses of recruiting and transportation of recruits from rendezvous to depot, $75,000. And no money appropriated by this act shall be paid for recruiting the Army beyond the number of twenty-five thousand enlisted men, including Indian scouts and hospital stewards; and thereafter there shall be no more than twenty-five thousand enlisted men in the Army at any one time, unless otherwise authorized by law. Nothing, however, in this act shall be construed to prevent enlistments for the Signal Service, which shall hereafter be maintained, as now organized and as provided by law, with a force of enlisted men not exceeding four hundred and fifty, after present terms of enlistment have expired.

Mr. CONGER. I desire to ask the gentleman from Illinois in charge of this bill whether the number four hundred and fifty for the Signal Service meets the requirements of that service according to the wishes of those at the head of it. I understand there was a request from the Signal Service for increase of force corresponding with the increased stations provided for at the last session in another bill.

Mr. SPARKS. I will state to the gentleman from Michigan that Mr. Hewitt, of New York, who was then chairman of the subcommittee, mainly prepared this bill, and it was my understanding that it did meet with the requirements of the Signal Service department. The design was to do so, and I understand that it did.

Mr. CONGER. The appropriation in the sundry civil bill, or perhaps in another bill, provided for an increased number of stations.

Mr. CLYMER. No increased number beyond what is provided for in this bill was asked in conference.

Mr. SPARKS. No, sir.

Mr. CONGER. As I understand it the sundry civil appropriation bill provided for an increased number of stations which would require of course an increased number of observers. Now, what I wish to know is whether the appropriation provided for in this bill meets the requirement of that increased force in the Signal Service?

Mr. SPARKS. I can only say in answer to the gentleman that this was made with the approval of the Committee on Appropriations, and my recollection is that it met with the approval of the Department fully. It was approved by the conference committee I know and I think the gentleman will find that it is all right.

Mr. CONGER. I ask the gentleman, as I do not propose to make any amendment, to consent before the bill is put upon its final passage, if it should be found necessary, to an amendment being offered to this paragraph.

Mr. WHITE. If the gentleman from Michigan will allow me, I think I can answer the inquiry he has propounded.

The CHAIRMAN. Debate is out of order unless an amendment is made.

Mr. SPARKS. This is an inquiry which perhaps ought to be answered; the spirit which prompts it is a good one.

Mr. WHITE. If my friend from Michigan will allow me, having had something to do with the reorganization features of the Army bill which passed the last House, and which I should be glad to see pass at this time, but we are not talking about that just now, I wish to say in this connection that the Signal-Service provision remained intact and is provided for here as it was left by the Army appropriation bill at the close of the last session of the Forty-fifth Congress. There was some special provision made for increase at the instance and request of the head of the Signal Service, but the clause and appropriation now under consideration, as I understand it, do not in the least impair or change what was then agreed to.

Mr. SPARKS. I so understand it, and I will say to the gentleman from Michigan that I have no objection whatever to consent being granted to going back to this particular point if hereafter it should be found necessary to do so.

Mr. CONGER. I only ask that that may be understood.

Mr. SPARKS. There is no objection.

Mr. CONGER. That is, that before the bill passes we may go back to this paragraph, and, if it be necessary, move to amend so as to make the force sufficient to meet the requirements of the increased number of Signal-Service stations heretofore provided.

The CHAIRMAN. The Chair hears no objection to that understanding.

Mr. THOMAS TURNER. I move, in lines 12 and 14, to strike out "twenty-five" and insert "fifteen," so as to provide that the number of enlisted men in the Army shall not be increased beyond fifteen thousand.

Mr. KEIFER. If I understand the proposition of the gentleman from Kentucky, it changes existing law and is not in order.

The committee divided; and there were—ayes 58, noes 119.

So the amendment was rejected.

Mr. SINGLETON, of Illinois. I move to amend by striking out "twenty-five" and inserting "twenty," so as to provide that the number of enlisted men in the Army shall not be increased beyond twenty thousand enlisted men.

Mr. COX. These various motions were made on this bill at the last session. For one I always voted for them. The bill seems to be reported now as it came from the last Congress, and I do not propose by voting one way or the other to commit myself in favor of an Army of twenty-five thousand men to be used for any purpose. Without opening up any debate on the subject I will refer members to an elaborate and exhaustive discussion on the relation of the Army to free government and especially to elections in the speech of Senator Powell, of Kentucky, made during the war in 1863. It is all in that speech, and if I had the right I would like to have that speech reprinted in the RECORD for the consideration of old members as well as new ones.

I will not, however, make any opposition to the amendment proposed. I know that all these amendments have already been considered, and that it is a foregone conclusion they will be voted down.

Mr. SINGLETON, of Illinois. I proposed the amendment under a misapprehension, and I will withdraw it.

The Clerk resumed the reading of the bill and read the following paragraph:

For cost of telegrams; and telegrams are authorized to be transmitted by railroad companies which may have telegraph lines, and which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government, according to the provisions of title 65 of the Revised Statutes; and also for compensation of citizen witnesses attending upon courts-martial, military commissions, courts of inquiry; traveling expenses of paymasters' clerks, $70,000: *Provided*, That the appropriations under the head of "Pay department" in this act, amounting to $12,299,800, shall be accounted for by disbursing officers under the title of "Pay, &c., of the Army, 1880;" and in case any item of the said appropriation shall prove insufficient for its purposes the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under this head shall not be exceeded.

Mr. SAMFORD. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all of the paragraph after "1880," in line 92, namely, these words: And in case any item of the said appropriations shall prove insufficient for its purposes, the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under this head shall not be exceeded.

Mr. SAMFORD. I understand, Mr. Chairman—of course I have had no information as to the discussion which was had upon this bill in the last Congress—but I understand that these appropriation bills are made up under estimates from the heads of Departments. It is the usual course, as I am further informed, that the estimates are not made less than are necessary; and I am further informed that everything that is appropriated is always expended.

Now, sir, if, after an appropriation has been made upon a liberal estimate, for specified purposes, it shall be found an appropriation has been made for other and different objects, which will appear by the actual expenditure to be too large, it does not seem to me to be proper to allow that appropriation to be diverted into any other channel, at the discretion of officers who spend the money. The amount so required had better come up in a subsequent session under the head of deficiencies, if at all—we can then judge of their propriety—rather than be given now to the discretion of officials in expending public funds. The Department itself, as I understand, has not asked for any larger appropriation for the several items than the estimate. Therefore I move to strike out those lines.

Mr. SPARKS. The explanation of that clause is about this: covering the item from line 75 it simply makes that service, if you please, elastic. There may be some branch in which there may be some deficiency in the amount appropriated. There may be another branch—and it is all confined, mind you, to that section—there may be another branch in which there is a surplus of funds. This gives elasticity by permitting the Department to use the surplus to supply the deficiency.

Some insist that this is an increase of power given to the Executive Departments that is objectionable. I am not sure myself but it is objectionable. I am, however, convinced that the service would be promoted, if wisely managed, by giving this authority. The question is whether or not we can trust the executive officers of the Government. This gives them some power to use a surplus to supply a deficiency and will prevent deficiencies. We are annoyed a good deal by deficiencies, I will state to the gentleman. Hence the last House, taking that view of it, adopted this section as it is; the Senate adopted it as it is; it is the bill, therefore, of both the House and the Senate, already adopted in that particular.

I do not want to make a special argument in favor of any increase of power on the part of the executive officers. In my judgment there are cases where that increase of power may not be wisely extended. If it be not so in this case, it is for the committee to determine.

Mr. BLOUNT. I move to strike out the last word.

Mr. Chairman, this provision, in my judgment, is subject to the point of order that it changes existing law and does not reduce expenditures. I did not see fit to make the objection for reasons which I will state. This clause was originally reported by the Committee on Appropriations. I dissented from it at the time; and for the reason given by the gentleman from Alabama [Mr. SAMFORD] in part.

In the early history of this kind of legislation there was a disposition, to use the expression of my friend from Illinois, [Mr. SPARKS,] to trust the Departments. With further experience there was a distrust begotten, and a disposition to separate the details and provide

what might be expended in every particular service with great speciality, taking away discretion. That is wise legislation and we have been advancing in that direction all the while.

The distinguished gentleman who had charge of this bill in the last Congress, anxious to keep the nominal amount down, inserted this provision. At that time there was a general disposition on both sides of the House to allow it to remain, upon a statement of the gentleman from Ohio, Mr. Foster, that with this provision the amount would be retained as it is, and with that view it was accepted. Unless that provision shall remain there it is manifest there will be a deficiency. And while I agree with my friend from Alabama I hope, under the circumstances under which we have met here, he will withdraw the amendment. I will take pleasure in going with him hereafter the very furthest extent in the line he has indicated.

Mr. ATKINS. I agree with my friend from Georgia entirely in the view he has taken of this subject. I think as a general thing this is not proper legislation. I think that each branch of the service should be confined to the appropriations made specifically for that branch. But, as the gentleman from Georgia has remarked, the reason why this was done was because it was asserted, and because, indeed, it is true, that a less appropriation would be required with this clause inserted in the bill than otherwise. Hence it was inserted; and that is the only apology the Committee on Appropriations had for departing from what I consider the very good rule which has just been explained. It was simply because we desired to cut down the appropriations and make a less sum do. I think in the peculiar circumstances under which we are considering this bill we had better let this clause remain as it is.

Mr. SPARKS. The gentleman from Tennessee [Mr. ATKINS] might have stated also that a similar provision was inserted in the Indian appropriation bill.

Mr. ATKINS. Yes, sir.

Mr. BLOUNT. I hope my friend from Alabama will withdraw the amendment.

Mr. REAGAN. I am not satisfied that a necessity has been shown for departing in this instance from the ordinary rule. I hope, therefore, the gentleman will not withdraw the amendment.

Mr. ATKINS. If it is intended to insist on this amendment, then the estimate ought to be revised and the amount increased. Is the gentleman from Texas [Mr. REAGAN] prepared to say what the amount should be?

Mr. REAGAN. It is always easy to find pretexts for taking away responsibility from officers.

Mr. ATKINS. I hope the gentleman will excuse me.

Mr. REAGAN. The gentleman had better excuse himself for taking me off the floor.

The CHAIRMAN. The Chair understood the gentleman from Texas had resigned the floor.

Mr. BLOUNT. I wish also to state that the point of order was made upon this clause, and it was ruled in order and was discussed in the House and passed.

The CHAIRMAN. The gentleman from Tennessee [Mr. ATKINS] is recognized as having the floor.

Mr. ATKINS. I had to sit down, and I will be obliged by the Chair reminding me what I was then talking about. [Laughter.]

I rose to suggest that we would have to increase this sum if the latter part of the clause is stricken out. It was put in for the purpose of diminishing expenditures. In putting in this provision the amount was cut down. If it is stricken out the amount will have to be increased. And I was asking the gentleman from Texas [Mr. REAGAN] if he was prepared to state what amount would be necessary to increase the appropriation in case this provision should be stricken out.

Mr. REAGAN rose.

Mr. ATKINS. I only asked the gentleman the question by way of argument. I know he cannot answer it, as a matter of course, unless he goes over the estimates and makes the calculation. Perhaps the gentleman has a process of arithmetic of his own.

Mr. REAGAN. I have a process of arithmetic of my own.

Mr. ATKINS. I wish the gentleman would produce it for the information of the House. I trust that the clause will be allowed to remain as it now stands. I care nothing about it personally, but I am perfectly satisfied that under the Secretary of War whom we now have, and the officers under him who are to administer this fund, it will not be abused, and I think that the clause ought to remain in the bill.

Mr. BLOUNT. I withdraw my amendment.

Mr. REAGAN. I move *pro forma* to strike out the last word of the clause. I have a substantial objection to this provision. It is admitted by all gentlemen who have spoken that this is an innovation in our system of legislation. That is certainly true. It allows a public officer to loosely transfer the appropriation of public money from one subject to another. It takes away the individual responsibility of the officer. It is calculated to confuse his accounts. It is wrong in principle and an innovation upon our rule of legislation, and if we incorporate it into a law we shall have the same plausible pretext for taking away responsibility for the proper disbursement of the money and applying it with reference to the items for which it is intended at the next session.

It will afford a plausible pretext for disregarding the rule we have heretofore acted upon. It is only because I would insist upon accountability and responsibility and to prevent the confusion of accounts and teach public officers that they must stand by the appropriations based on their estimates and given by Congress that I insist it shall be done.

I will say in relation to what the gentleman from Tennessee has said, that this legislation has been before Congress and has been acted on by the House and Senate and reported on by a conference committee favorably, and I see no reason for violating it. It is a wholesome usage, which has been adopted heretofore, and I trust the amendment of my friend from Alabama [Mr. SAMFORD] will be adopted.

Mr. CLYMER. As a general proposition I agree with what has been said by the gentleman from Texas, [Mr. REAGAN.] The necessity for this clause in the bill at this time arises from the loose, inaccurate, and incomplete method of making the estimates. The estimates should be particular and specific.

The Appropriations Committee of the last Congress had not such a basis upon which to legislate and upon which to appropriate money. The same difficulty has arisen in other Departments of the Government, in the Navy Department for instance. But by the action of the Committee on Appropriations, approved of by the House, such accurate estimates were made by the Secretary of the Navy as rendered such a clause as this unnecessary on the Navy bill, and I therefore hope and trust that in the long session of this Congress we shall demand that the estimates shall be given so that there may be no necessity for such equalization clauses as this.

But, sir, at this time I do not feel that there is any necessity for a change. I believe that under the present administration of the War Department, and under the different heads of bureaus of that Department, we may trust them to do what is just and right. By this the gross sum stated by the gentleman from Tennessee, [Mr. ATKINS,] who was formerly chairman of the Committee on Appropriations, is not increased. We had better let the matter stand as it is, hoping that at another session of Congress such specific estimates will be made as will make such legislation as this unnecessary. For the present I think it is better to adhere to the provision as it stands in the bill.

Mr. ATKINS. There seems to be an impression that under this head the items were not submitted in detail in the Book of Estimates which I hold in my hand. In the Book of Estimates in which the items appear the whole amount appropriated for in the bill was $12,299,800, whereas $12,500,000 was asked for in the estimates. The bill saves upon the estimates over $200,000. The Paymaster General thought that the service could be carried out by giving it the elasticity of which the gentleman who has charge of the bill speaks.

Mr. CLYMER. Will the gentleman allow me to ask him a question?

Mr. ATKINS. Yes, sir.

Mr. CLYMER. The question is this: is there any particular estimate as to the exact pay required? There is a gross estimate for the pay.

Mr. SPARKS. It is so in all cases.

Mr. ATKINS. Yes; here are all the different items set forth.

Mr. CLYMER. How many officers are to be paid?

Mr. ATKINS. I cannot tell that. There is so much estimated for sergeant-majors, so much for quartermaster-sergeants, so much for chief musician, so much for one hundred and fourteen ordnance-sergeants, so much for one hundred and forty-seven commissary-sergeants, and so on to the end of the chapter. The whole amount of the estimate is $12,500,000; over $200,000 more than the amount here proposed to be appropriated.

Mr. BLOUNT. Are not all the items just as detailed as they have been in preceding years?

Mr. ATKINS. Yes, sir.

Mr. BLOUNT. And this provision of the bill has not been placed here by reason of any lack of details in the estimates?

Mr. ATKINS. Certainly not; the gentleman is entirely correct.

Mr. CLYMER. A further question. Might there not be such specific and detailed estimates as would enable us with almost exactitude to ascertain what the Department requires?

Mr. ATKINS. I will answer the gentleman by saying, as I have before intimated two or three times, that in my judgment if this provision is stricken from the bill it will be necessary to insert an amount equal to the estimates, or thereabouts; more than $200,000 over the amount here named.

Mr. REAGAN. The decrease here is not the average of the decrease in other items of the bill, and no such principle is applied to the other bureaus of the Department.

[Here the hammer fell.]

The CHAIRMAN. Debate upon the pending amendment is exhausted.

Mr. REAGAN. I withdraw the amendment to the amendment.

Mr. WHITTHORNE. I renew it. If I rightly apprehend the object of the gentleman from Alabama [Mr. SAMFORD] in his amendment, it is to prevent this compounding of the business of the Department, this mixing of appropriations, after one appropriation has been exhausted.

Now, in order that the subject may be fully understood by other gentlemen as I apprehend I understand it, and as the gentleman from Alabama presents it, I will take this item of the bill for the Pay department. I find the first object or purpose for which appropriation

is made is for pay of commissioned and non-commissioned officers, privates, &c., $9,880,000; that is for the pay of the officers and men. Under the head of Pay department I find another item, "for travel-pay and commutation of subsistence to discharged soldiers, $370,000."

Now, in the event that it takes only $50,000 to pay the travel pay and commutation of subsistence to these discharged men, then, under the direction of the Secretary of War, $300,000 of this item of appropriation might be used for some other object and purpose. In that way the Secretary of this Department might conceal from the Representatives of the people in what mode and manner he had used this fund.

Coming back now for a moment to the statement made by my friend from Texas, [Mr. REAGAN,] I have alluded to these two items to show that I was correct when I said to my friend that this was a proposition to violate existing law. Section 3678 of the Revised Statutes says:

> All sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others.

Now, this general provision of the bill, at which my friend from Alabama [Mr. SAMFORD] strikes, violates in express terms that section of the Revised Statutes. It allows the Secretary of War to take the amount appropriated for travel pay and commutation of subsistence of discharged soldiers and apply it to the pay of officers of the Army. He is allowed to take the appropriation made for one purpose and apply it to another.

The experience of this country in all of its departments shows the wisdom, the supreme wisdom, of the existing law. It has been because the officers of your Government have violated your law that fraud and corruption have become manifest in not only one but various departments of the Government. It behooves us, the Representatives of the people, now at the threshold to put our foot upon any departure from the wisdom of those who have in their experience made this wholesome and salutary provision of the existing statutes.

Mr. SPARKS. I am somewhat surprised at the wide range which this discussion has taken. Remember that this identical provision passed the House of Representatives of the Forty-fifth Congress, passed the Senate, and passed a tolerably fighting conference committee. It has all that indorsement.

Mr. McCOOK. And passed the caucus, too? [Laughter.]

Mr. SPARKS. I did not know that the gentleman from New York [Mr. McCOOK] knew all the secrets of the democratic caucus. How do you know it passed the caucus?

Mr. McCOOK. I ask you the question. I have read it in the papers.

Mr. SPARKS. You ask me the question. I beg to say that I am not permitted to give the gentleman from New York any democratic secrets.

Mr. McCOOK. I am very glad of it; I would not like to be the recipient of them. [Laughter.]

Mr. SPARKS. Then the gentleman should not ask for them. [Laughter.] I have made the statement as to the indorsement which this provision has received. Now, with all this examination by members of the last Congress, it was not discovered that there was any law specifically prohibiting such a provision as this. What is that law?

Mr. BLOUNT. I desire to ask my friend whether the point of order was not made by myself that this very provision was contrary to existing law, a point of order which was overruled by the Chair?

Mr. SPARKS. I do not remember.

Mr. BLOUNT. Well, the record will show it.

Mr. SPARKS. The law on this subject means, if it means anything, that you shall not take an appropriation, for instance, for transportation, and use that fund for the Pay department; but it does not prohibit, in express terms at least, the use of the pay appropriation for any branch of the Pay department. This appropriation is all pay. The first item is for pay of officers, amounting to something over $9,000,000. Then there are miscellaneous matters of pay running up to $12,000,000. This provision is simply that where the appropriation for one class of pay (it is all confined to pay) is deficient, the appropriation for another item in which there is a surplus may be used to meet that deficiency. Now let me ask gentlemen where harm can come from such a provision?

Mr. BLOUNT. My friend says this is "all pay." Now I would like to ask him whether under the existing law it has not been the construction and practice of the Departments that one branch of the appropriations for pay could not be used for another class of pay, notwithstanding the gentleman says that these items are "all pay."

Mr. SPARKS. Precisely; and the object of this provision is to allow that to be done.

Mr. BLOUNT. I know it is.

Mr. SPARKS. But I say that the law referred to by the gentleman from Tennessee, [Mr. WHITTHORNE,] and upon which he lays so much stress, prohibits an appropriation for transportation, for instance, from being used for the pay of the Army. But these appropriations are all confined to one subject—pay; and the question is simply whether when there is a surplus in one branch of the appropriations for pay, the officers having charge of this matter may be allowed to use that surplus to meet a deficiency in another branch of the pay appropriations—not to meet a deficiency, for instance, in the appropriations for transportation. I think we ought to allow this latitude. Even if the existing law prohibits such a thing, this bill proposes to that extent to repeal the law.

I wish to state that in the last Congress we adopted a precisely similar provision in the Indian appropriation bill; hence if my friend from Tennessee is so punctilious about precedents the precedent was then established. I think that this authority might be granted to the executive officers of the Government and the interests of the service still be protected.

In reply to the objection that this amounts to an increase of the appropriations in particular cases, I will say that while I would not under any circumstances increase the aggregate of these appropriations, yet in maturing this bill it was understood that by allowing this elasticity in the use of appropriations the Department could get along with somewhat less money than if we did not allow it. Can we not then afford to permit a discretion of this kind?

Mr. GARFIELD and Mr. BLOUNT rose.

Mr. BLOUNT. I will yield to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. Oh, no; I will take the floor afterward.

Mr. BLOUNT. I simply want to say, and I have no doubt the gentleman from Ohio will concur with me——

The CHAIRMAN. Debate upon the *pro forma* amendment is exhausted; but if there be no objection, the amendment will be considered as withdrawn by the gentleman from Tennessee [Mr. WHITTHORNE] and renewed by the gentleman from Georgia, [Mr. BLOUNT.]

Mr. BLOUNT. I dislike to take up time in discussing a question of this sort; but I regard it as a matter of importance. On this side of the House there seems to be some difference of opinion as to the propriety of this class of legislation. I propose to sustain this bill as it stands simply because we have met here under peculiar circumstances. We have no committee to consider these estimates; and this bill has come in by unanimous consent. As this matter has little relation to the question that is now interesting us all, I propose to waive all questions of this sort. I rise simply because some gentlemen on this side of the House are defending a rule in legislation which has been long ago abandoned by gentlemen on the other side, and by men of all parties, as to allowing this large discretion to officers of the Departments.

My friend from Illinois refers to the fact that a provision of this kind was inserted in the Indian appropriation bill at the last session. I admit that this provision was inserted in two general appropriation bills; but still it is a departure from wise precedent, and I know of no other instance in several years where such a thing has been done. For myself I am utterly opposed to legislation of this kind. It is now generally regarded as unwise and improper, and I for one do not undertake to defend it or to defend the Committee on Appropriations in the last Congress, of which I had the honor to be a member, for sanctioning legislation of this kind. I thought it unwise at that time; I think so now. I then raised the same objection which is now raised by the gentleman from Tennessee, [Mr. WHITTHORNE.] I consider that in its practical effect this legislation will result in no economy of expenditures. I think the gentleman from Ohio, [Mr. GARFIELD,] who is quite familiar with legislation in reference to appropriations, will bear me out in the statement that any provision of this sort must be unwise in its tendency.

Mr. McLANE. If this provision related to all the appropriations for the Army, the objection stated by honorable gentlemen on this floor might be pertinent; but it applies simply to the appropriations for pay. The argument which has been addressed to the Committee of the Whole is an argument against enlarging the power of the Secretary of War in reference to the transfer of appropriations from one object to another. I do not believe there is any difference of opinion in the House as to that question. Such transfers are not only against the law, but against all sound policy. The provision in this bill, as I understand, does not authorize anything of that kind. I rose not for the purpose of making any extended remarks on this point, but to put an inquiry to the honorable gentleman who introduced this bill, [Mr. SPARKS,] or to the gentleman from Tennessee, [Mr. ATKINS,] lately the chairman of the Committee on Appropriations. I wish to know whether this provision is not confined strictly to the item of pay?

Mr. SPARKS. It so states in the bill.

Mr. McLANE. I so understand it; and if this power of transfer conferred upon the Secretary of War is confined to the "pay" item, I, for one, have no objection to it, because it is not a supposable case that the Secretary of War will transfer the pay from the officer to the soldier or from the soldier to the officer. All he does is, where the particular sum appropriated for the officer is in excess of the amount necessary to pay the officer, then he takes that excess and pays it to the private soldier where the appropriation for the private soldier happens to be deficient.

Mr. REAGAN. This pay includes pay for telegrams as well as pay for officers and soldiers, and a great many other items in the pay account.

Mr. CLYMER. It includes as well pay for clothing, and all sorts of pay.

Mr. SPARKS. If the gentleman from Maryland will look on page 5 he will find it is there provided "that the appropriations under the head of 'Pay department' in this act, amounting to $12,299,800, shall be accounted for by disbursing officers under the title of 'Pay, &c., of the Army, 1880;' and in case any item of the said appropriations shall

prove insufficient for its purposes, the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto; provided, however, that the total amount appropriated under this head shall not be exceeded."

Mr. McLANE. Yes, sir; that is the way I understand it. My inquiry to the Committee on Appropriations was to that point. This power is certainly a power the Secretary would not have without this provision of law, for it is in direct conflict with the standing statute of the country. But it is quite competent in appropriating $12,000,000 to relieve the Secretary from the restraint imposed by that law; and so long as it is confined to the simple appropriation for pay, authorizing the excess provided for one part of the Pay department shall be transferred to another, I do not think we should embarrass our Committee on Appropriations or the Department itself by any objection to it.

Mr. GARFIELD. Mr. Chairman, I do not wish to delay the Committee of the Whole on any matter of detail in this bill, but there can be no better time than now when we are quietly beginning to make our record in this House in regard to appropriations to act carefully on this class of legislation. The gentleman who has just taken his seat says very properly the general law there is right and he approves it, but he does not think this does interfere with its spirit because "pay" is a single thing. If gentlemen will open the bill which lies before us, commencing in line 33 and running down to line 85, they will see sixteen special objects to which "pay" is appropriated. The word "pay" of the Army means sixteen different objects. For example, first, to pay contract surgeons; second, paymasters' clerks; third, hospital stewards; fourth, hospital matrons; fifth, commissary-sergeants; sixth, messengers to paymasters; seventh, extra-duty pay to enlisted men; eighth, travel pay and commutation of subsistence to discharged soldiers; ninth, retained pay to discharged men; tenth, commutation of officers' quarters; eleventh, pay to soldiers for clothing not drawn; twelfth, additional pay to enlisted men; thirteenth, mileage of officers of the Army when traveling under orders; fourteenth, cost of telegrams; fifteenth, compensation of citizen witnesses attending upon courts-martial, &c., and, sixteenth, traveling expenses of paymasters' clerks. There are sixteen separate objects to which "pay of the Army" is devoted, and Congress has undertaken to divide and separate those objects and to appropriate a specific sum to each. Some of those items are $100,000 and some are $40,000, the whole aggregating a large number of millions. The theory of the law is we bind the Secretary of War and all the accounting officers of the Government to keep all those appropriations separate and apart to the special object for which they are designed in the law. Now, if you say the Secretary of War shall transfer from any one of those which happens to be in excess to any other, see what will happen. As to the number of citizen clerks he may have, or paymasters' clerks, as to the amount of traveling that may be done, as to the cost of telegraphing which is not fixed by law, and only by appropriation, and a large number of these items are limited only by the appropriation bill and not by fixed statutes, then if you say the Secretary of War shall transfer from any one of these sixteen items to any other, you will take off the restriction of limitation by law in the direction of economy, and I think that is unwise. I have no more interest in this, because the clause of the law was put there when I was chairman of the Committee on Appropriations as a mode of protecting us from lawless and irregular charges which we could not in any other way correct.

There were unexpended balances at one time since I have been in Congress that have been accumulating from year to year in one of the bureaus of one of the Departments of this Government amounting to some $25,000,000; and the power of transfer that was allowed under the loose forms of the law permitted the heads of Departments to do almost anything they pleased with the money of the Government. The appropriation having been once made it lay in their hands, and the power of transfer gave them full power over it.

Now, I believe this clause of the proviso attached to this paragraph is in the wrong direction. Let us appropriate as much money as we think is necessary, and if a deficiency appropriation turns out to be necessary let us make it in another session. But I hope the gentleman in charge of this bill will let the whole proviso go out from line 86 to line 98.

Mr. SPARKS. Do I understand the gentleman from Ohio to favor the amendment?

Mr. GARFIELD. I do.

Mr. SPARKS. So far as I am concerned, I am willing to accept the amendment; but I wish to state that this provision was put into the bill at the suggestion of the executive officers of the War Department, and that it was inserted by the committee with the understanding that money could be saved thereby. I am willing, however, to accept the amendment, if I am authorized to do so, as it seems that the special friends of the executive department of the Government are in favor of it, the provision having been put in at the request of a branch of said department.

Mr. WHITE and Mr. COX rose.

Mr. WHITE. I hope the amendment will not be accepted.

The CHAIRMAN. The gentleman from New York [Mr. COX] is recognized.

Mr. COX. I understand the relation of this business is this: the gentleman from Ohio [Mr. GARFIELD] makes a motion——

Mr. GARFIELD. I was mistaken in saying that in striking out we should go clear back to line 86. The words to be stricken out are those after "1880" in the ninety-second line.

Mr. SPARKS. I have stated I will accept the amendment.

Mr. WHITE. I object to the amendment being accepted.

Mr. COX. There seems to be an agreement between both sides of the House to pass this amendment; but I think it will be an embarrassment to the gentlemen connected with the Administration to pass it.

A MEMBER. They want it.

Mr. COX. If they want it let them have it. It is a bad practice to transfer these items from one branch to another, and if the Administration want to pursue a good practice we will always be ready to meet them.

But I rose for the purpose of saying to both sides of the House that these matters in this bill are somewhat irrelevant to the issue which brings us here for an extra session. Let us come to the point by reaching the sixth section in regard to the use of troops at elections. This bill was substantially passed at the last session. It is a foregone conclusion. It was well considered and well discussed. Let us hurry on with the bill and come to the point of difference.

Mr. GARFIELD. Very well; let us have a vote.

Mr. BLOUNT. Do I understand the gentleman from Illinois [Mr. SPARKS] to assent to this going out of the bill?

Mr. SPARKS. I do.

Mr. BLOUNT. I wish to know that distinctly, because I desire to be governed in my action in this matter by what the gentleman proposes to do.

Mr. WHITE. I will not detain the committee by entering upon the discussion of this question. I understood the sentiment of this House was to take this portion of the bill as it comes from the gentleman from Illinois, [Mr. SPARKS.] I have the greatest respect for the judgment of the distinguished gentleman from Ohio [Mr. GARFIELD] on this side of the House on this and other questions. But I submit that as a practical question this should remain as it was originally in the bill. I submit if you strike it out for the reasons indicated in the debate thus far it may prove embarrassing to this Department of the Government. There is no gentleman here who has greater confidence than I have in the present Secretary of War, and the effect of this provision may be to relieve us of the necessity hereafter of providing for a deficiency in the War Department of the Government. Having confidence, as I believe this House has, in the Secretary of War, and having confidence in the business character of the provision itself, I must vote against the amendment.

Mr. SAMFORD. I desire to say but one word in reply to what has been said in various parts of the Hall. When I first read these lines a short time ago they struck me as being inappropriate in this place. I therefore offered an amendment to strike them out. I had never seen the bill until the opening of the session this morning, and never heard of this provision until within this hour. As soon as I had offered the amendment various gentlemen in whose judgment I had great confidence asked me to withdraw it. Other gentlemen in whose judgment I have equal confidence asked me not to withdraw it. In view of such contrariety of opinion I have waited patiently for those who desire me to withdraw the amendment to give me some reason why I should do so; but I have not been able as yet to see the force of objection made or any one good reason why the amendment should not be insisted upon. On the contrary I am strengthened in my first impression.

The main reason assigned seems to be that this provision, in the Forty-fifth Congress, passed the appropriation committees, the conference committees, and both Houses of Congress. Now, Mr. Chairman, that is no reason to my mind. I did not have the good fortune to belong to that Congress, and consequently did not hear the discussions at that time, and while the fact that the last Congress approved this legislation has some force it is not sufficient to decide me in the absence of good reason. Therefore all I have to do is to ask myself the question whether this is a proper species of legislation upon this bill or I may add on any other bill.

My mind does not sanction it for various reasons. One is that it violates existing law, as argued by the gentlemen from Tennessee and Georgia and as I read that law. Another is the reason I gave at the opening of this discussion, and which I do not intend to elaborate at this time—that these estimates which are asked for, it is generally understood, are always sufficiently large and there is no reason why you should give to the heads of these Departments any more latitude. The only argument which I understand to be offered against the proposition that this violates existing law is that all these appropriations come in under the head of "pay." Now I ask the honorable gentleman who presents this bill whether this clause commencing on line 75, for the cost of telegrams and authorizing telegrams to be transmitted by railroad companies which may have telegraph lines, and various other items in the same connection—whether all these provisions make one single item altogether with all the appropriations for the various payments and satisfy the law which requires appropriations to be specific?

Therefore I say, Mr. Chairman, that I do not think the reason is good, and, if we have to make a precedent on the subject, it seems to me that the precedent should be against such legislation as this, rather than in its favor. There is no circumscribing expenditures, if we are

to put the power to expend in the discretion of heads of Departments. If it is believed that it is proper legislation, and this House should so decide, I am perfectly content to submit, but when the amendment is once offered and no good reason is given why we should recede from that proposition, for one I am not willing to withdraw it, however regardful I am of the superior abilities of those who think it unwise and impolitic to strike it out.

Mr. SPARKS. As I have already stated, the reason why this provision was originally incorporated as a part of the bill was that the Secretary of War, or the officials of the War Department acting under him, requested it. We also thought that by granting this concession to the War Office we should economize in the service; therefore, prompted by that idea, we have adopted a provision which many of us, as an abstract proposition, would have rejected. Now, if the political friends of the Secretary of War desire that this provision shall go out of the bill, as it seems many of them do, I am willing to vote in that direction; and now call for a vote on the amendment.

The question was taken; and on a division there were—ayes 102, noes 87.

Mr. WHITE called for tellers.

Tellers were ordered; and Mr. WHITE and Mr. SAMFORD were appointed.

The question was upon striking out the following words:

And in case any item of the said appropriations shall prove insufficient for its purposes, the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under this head shall not be exceeded.

The House again divided; and the tellers reported ayes 104, noes 95.

So the amendment was agreed to.

Mr. WHITE. I give notice that I shall call for a vote by yeas and nays upon this question in the House.

The Clerk resumed the reading of the bill and read as follows:

For transportation of the Army, including baggage of the troops, when moving either by land or water; of clothing and camp and garrison equipage from the depots of Philadelphia and Jeffersonville to the several posts and Army depots, and from those depots to the troops in the field; of horse equipments and of subsistence stores from the places of purchase and from the places of delivery, under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies, and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the Pay and other disbursing departments; the expenses of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads and for removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, $4,200,000.

For hire of quarters for troops, of storehouses for the safe-keeping of military stores, of offices, and of grounds for camp and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables, and for repairing public buildings at established posts, $880,000. And in case any item of the said appropriations for "regular supplies," "incidental expenses," "barracks and quarters," and "Army transportation" shall prove insufficient for its purpose, the excess in any other of these items may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under these heads shall not be exceeded.

Mr. REAGAN. In order to conform to the previous action of the committee, I move now to strike out all after the word "dollars" in line 203, page 9, down to and including the word "exceeded" in line 210, as follows:

And in case any item of the said appropriations for "regular supplies," "incidental expenses," "barracks and quarters," and "Army transportation" shall prove insufficient for its purpose, the excess in any other of these items may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under these heads shall not be exceeded.

Mr. WHITE. I have no desire to reopen the discussion upon this question. This is the same amendment that was offered in the ninety-seventh line, striking out a provision which authorizes the transfer or use of funds which have been found more than necessary for one Department to another where the appropriation is insufficient. It merely recognizes the discretion of the Secretary of War. Now, that question was discussed a few moments ago, and since then I have been informed by a gentleman who has investigated the matter that this provision is deemed necessary.

The Committee on Appropriations in revising the estimates of the Secretary of War cut down his estimates for every item. If I am wrong in this I pause for correction.

For the purpose of meeting contingencies that might possibly arise from mistakes made, and to avoid the necessity for deficiency bills, I offer this provision allowing this discretionary power. It passed the last House, and had the approval of the Committee on Appropriations of the Senate and of the committee of conference. I am therefore opposed to the amendment, and hope it will not be adopted.

Mr. REAGAN. This is exactly the same question upon which we have already passed, and I therefore decline to discuss it.

Mr. McCOOK. I desire to ask the gentleman from Texas one question. In case of riot breaking out in a State, and a call being made upon the President by a democratic governor, of course the President must have means to transport the troops; and in the event of an occurrence of that kind I would like to know by what means the Secretary of War is to pay for the transportation of troops unless this appropriation is made?

Mr. REAGAN. If the gentleman is right in his proposition there will be no appropriation for that purpose, for this bill authorizes the transfer of an appropriation for one purpose to another item of expenditure; it does not go so far as to allow the Secretary of War to apply any portion of an appropriation to another item not appropriated for in the bill, objection to that being heretofore made. I have no apprehension that the present Secretary of War is doing so, but if the disbursing officers of the Government should see proper they might deplete one item of appropriation by taking the appropriation from that item and applying it to another, and in that way they would be exercising legislative rather than executive powers.

Mr. WHITE. The money can only be used for the case specified, and for nothing else.

Mr. BLOUNT. There is nothing in the suggestion of the gentleman from Pennsylvania [Mr. WHITE] that the Committee on Appropriations have cut down the estimates of the Department. Why, sir, those estimates are always cut down on all the bills. That was done by the Forty-second and by the Forty-third Congresses.

Mr. WHITE. I was not complaining; I was simply stating the fact.

Mr. BLOUNT. And I have simply made the statement in order to show that there is no reason for the conclusion to which the gentleman arrives.

Mr. GARFIELD. The only possible objection made to the proposed change is this: if this bill does not make enough appropriation to meet the wants of the Army, then there must be a deficiency; that is all. The only practical question for us to consider is this: shall we require the Committee on Appropriations and the House of Representatives and Congress to make its appropriations in open daylight, so that every one can see and understand them? and then, if a deficiency is a disgrace, let every one who helps to make it bear his share, if it is necessary to provide for a deficiency.

What I think is the just thing to do is to make appropriations enough to support the Government fully and fairly. If in any case those appropriations turn out to be not enough, then at the next session make a deficiency appropriation to cover the amount. The means resorted to here in this bill is simply one of the ways of evading the responsibility of appropriating for a deficiency. It is not the fair, open, and public way in which I think the appropriations of the Government should be made. If this bill has not enough appropriations, then we should put a sufficient amount in the bill.

Mr. ATKINS. One word. This is precisely a similar case to the other. As has been said by the gentleman from Georgia [Mr. BLOUNT] and the gentleman from Illinois, [Mr. SPARKS,] and I have myself admitted it, this is not the proper mode of legislation and is contrary to the usual practice adopted by the Committee on Appropriations for the last four years.

Yet in order to save hundreds of thousands of dollars we agreed to put this provision into this bill. The Secretary of War, the Paymaster-General, and the Quartermaster-General all made the request, stating that where there were deficits in some items and a surplus in others that surplus might be taken and applied to other items under the same general head. It was to give to the service such elasticity as that, that these provisions were placed in this bill.

I myself grant that it is not the proper mode of legislation, and I regret to be forced to any such measure as this. But the Secretary of War, Quartermaster-General, and the Paymaster-General all urged that this thing might be done, and provisions were inserted in this bill allowing such transfers to be made on the written consent of the Secretary of War.

The Committee of the Whole have taken action on this subject, and the distinguished gentleman from Ohio on the other side [Mr. GARFIELD] seems to think that this provision ought to be stricken out. I am for sticking to the most rigid rule in regard to this matter, and so far as I am concerned this provision may go out of the bill.

Mr. PRICE. I desire to say——

The CHAIRMAN. Debate upon the pending amendment has been exhausted. If the gentleman desires to speak, he can move to strike out the last word.

Mr. PRICE. Very well, I will move to strike out the last word, although I do not believe in that sort of amendment, and this is about the only time I have ever made it.

My principles compel me to vote in a certain direction upon this amendment, and I desire to state in a very few words what will govern my action in this matter. I find here a bill appropriating for special purposes a certain amount of money, and then the aggregate is stated as another certain amount. Now, the common-sense view of the matter is this: if without specifying these particular amounts we had given us an aggregate for all these various items, then there would be no occasion to offer this amendment. But it is proposed to appropriate certain amounts for these several items.

I will refer to a few of them: "Expenses of the interment of officers killed in action, or who died when on duty in the field." Can any gentleman on this floor or off of it tell me or tell the country how many officers are going to die? If he cannot tell that, then he cannot tell how much money will be required to bury them, and he cannot approximate the amount.

Another item is for telegraphing. Now, can any gentleman on this floor or off of it tell me how much telegraphing will be necessary during the coming year? And if he cannot answer that question

categorically, then he cannot tell how much will be required for that purpose; it may be more or it may be less.

In addition to that, here is a certain amount for spies and guides to the Army. There may be more or there may be less expense necessary for those two items. No man can tell how much and no man can tell how little will be required. If you leave the matter to the discretion of the Secretary of War, so that if there are more spies and guides required and a less number of officers die and are buried, he can transfer the surplus from one account to the other, and that would be the proper way. That is the common-sense view of it, and is, I believe, the view upon which this bill has been framed.

Mr. BLOUNT. For the last six years appropriations have been made in this way, and I would ask the gentleman if the Government has been embarrassed at all?

Mr. PRICE. I am stating a plain proposition. I will say to the gentleman that any difficulty which has arisen heretofore has been met by a deficiency bill. I do not object to deficiency bills when they are legitimate. But I undertake to say that no man by reading this bill can tell now what these different items of expenses will be. For instance, here is an item for the delivery of deserters. Who can tell how many men will desert, or how much it will cost to deliver them? No man can tell. It is the common-sense view to take of this matter that if there is a surplus in one of these items it may be applied to another where there may be a deficiency.

I know it has been claimed that this is an innovation on the existing law. But it is admitted by the gentleman who was lately chairman of the Committee on Appropriations [Mr. ATKINS] that this provision will effect a saving of money, that the estimates have been cut down in every instance, and the matter has been adjusted in this way for the purpose of economizing expenditures. Hence, I cannot see any other common-sense view to take of the question than to leave the provision as it is, and allow a surplus in one case to be applied to meet the deficiency in another, for the simple reason that we cannot ascertain to-day exactly what these expenditures for particular purposes are to be.

[Here the hammer fell.]

Mr. SPARKS. This provision is identical with the one which has already been under discussion. The Committee on Appropriations in the last Congress felt that the better rule was that money should be expended by the Executive Departments according to the particular items appropriated for. The correctness of that proposition as a general rule was recognized by all the members of the committee. In reference to the Army branch of the service—in fact, as to all the branches of the public service—the committee generally found the estimates to be largely in excess of what was really required; and in this branch, as well as all others, we curtailed those estimates—on consultation, of course, with the executive officers. We brought them down to what we felt would be sufficient for the service, and in doing so we acted upon all the information we could obtain on the subject. And although, as the chairman of the Appropriations Committee [Mr. ATKINS] has stated, we felt that as a general rule it was improper to allow this "sliding scale" in the expenditures, yet the Department had estimated for more money than we were willing to grant. I am free to say, however, that in my judgment we had given an abundance. But the Department said, "If you will authorize this 'sliding scale' the money you believe sufficient and propose to appropriate will be satisfactory to us." The gentleman from New York, [Mr. Hewitt,] the chairman of the subcommittee having this bill in charge in the last Congress, and myself disagreed sometimes as to the amounts to be appropriated for many of these items. I certainly thought an abundance of money was appropriated for this service without any conditions, and think so now; but we both consented to the "sliding scale"—or the "elasticity clause," if you please to call it so—as did the general committee, upon the ground that the officers of the Department told us that with such a provision inserted in the bill they could make the amount appropriated serve every purpose. We met that wish of theirs!

I do not think the provision very material; I believe it may be struck out and there will be plenty of money to carry on and make an efficient service. So far as I am concerned, therefore, I am willing to strike it out and end it.

The question being taken on agreeing to the amendment, it was agreed to, there being—ayes 102, noes 85.

The Clerk read as follows:

For conversion of smooth-bore guns, $50,000.

Mr. McCOOK. I move to amend this clause so as to read:

For conversion of smooth-bore and fabrication of heavy rifle-guns, $100,000.

In the last Congress I offered an amendment of similar character but of larger amount, proposing an expenditure of $250,000 for this purpose. On a division that amendment was defeated by but one vote; and Mr. Hewitt, of New York, who had the Army bill in charge at that time, said to me subsequently that if I had made the amount but $100,000 he would have assented to it. Hence, assuming that Mr. Hewitt understood the questions connected with this bill perhaps as well as any gentleman now in this House, I offer this amendment with the hope that it will go through. We have now about one thousand or fifteen hundred ten-inch smooth-bore Rodman guns, which are practically valueless for purposes of defense, but which can be converted, at an expense of about $2,000 or $2,500 to each gun, into effective eight-inch rifle-guns, which, as I understand from the Ordnance Office, will be for all practical purposes (saying nothing about the advantages of a breech-loader over a muzzle-loading gun) effective guns against an ordinary armored vessel.

Any gentleman who takes any interest whatever in the fortifications of the Eastern States has only to look at the armament of the forts of New York Harbor to satisfy himself that, excluding the torpedo system of defense, the armament of the forts in that harbor is absolutely worthless against modern armored vessels.

I do not wish to discuss this matter. I will simply suggest to my friends on the other side that by no possibility can these guns be used for the purpose of "keeping peace at the polls." The distance of the forts, especially the outer forts, from the polling places, even in the lower part of New York City, is so great that it will be impossible for a shell to reach them; and I hope the interest of gentlemen on the other side in the city of New York is great enough to induce them to vote for this appropriation, so that in the event of a foreign war we can defend ourselves against the enemy without calling upon the brawny men of the West and the South to bare their bosoms.

Mr. CLYMER. I move to amend the amendment by striking out "and fabrication of heavy rifle." I trust the gentleman from New York [Mr. McCOOK] will accept this amendment.

Mr. McCOOK. I accept it as a modification.

Mr. CLYMER. I do not say that even with this modification I will vote for the proposition of the gentleman from New York. But we certainly are not now in a condition to enter upon the fabrication of heavy rifle-guns. Any appropriation of this kind should, in my opinion, be confined to the conversion of smooth-bore guns. It is a matter of judgment for the Committee of the Whole whether any larger amount than that named in this bill should be appropriated for this purpose; but I know that Mr. Hewitt, of New York, to whom the gentleman has referred, was of opinion that we should not appropriate anything for heavy rifle-guns at this time.

Mr. SPARKS. Mr. Chairman, the gentleman from New York [Mr. McCOOK] who offers this amendment seems to think the harbor of New York and perhaps some other harbors in the country are in danger. Now, gentlemen should remember that we have a general appropriation bill, passed at the last session of Congress, known as the "fortification bill," in which provision is made for the defense of our harbors.

So far as this item is concerned, the estimates were for a larger sum than $50,000. It is suggested that the terms used in the bill are not sufficiently explicit. It says "smooth-bore guns." Of course it means smooth-bore cannon, and not small-arms. We have, as is well known, a large number of smooth-bore cannon on hand, which our officers desire to convert into rifled guns. This work is somewhat experimental; yet it is proposed to be done with a view to their improvement. To meet that desire the sum of $50,000 is appropriated. They could of course spend a million of dollars in the improvement of that class of guns; but the question is how much do we want now, looking to all the surroundings, to expend upon this particular item of the conversion of smooth-bore guns, &c.? There may be men in the United States having founderies who would like to get into a business of this sort? I do not pretend to charge any gentleman upon this floor, or out of this House, with a desire to encourage any expenditure of money to do this work simply that they may have jobs, but we must look at this question as it stands before us. The Army appropriations this year are in excess of those made for the previous year, and in fact are very high. The Treasury is not in the best condition to meet them. We have had propositions here to issue additional interest-bearing bonds to raise money for a particular appropriation. My people will not sanction the issue of any further interest-bearing indebtedness, and were they to do so I could not be their instrument to carry it out, for I am unalterably opposed to such policy. The Treasury being in this condition, shall we in this item of appropriation for the improvement, or in experimenting for the improvement, of these old smooth-bore cannon by our appropriations largely increase expenditures? I think it eminently unwise and unjust to do so.

I remember the Chief of Ordnance, Captain Benét, (I think I state him correctly,) said, "Whatever you give me in that item I will expend as judiciously as I can. If you give me more money I will spend more, but I will act strictly up to the appropriation." We thought the Treasury would not warrant for this purpose this year more than $50,000, and acted accordingly. In that I think we did wisely and well.

I wish to direct the attention of gentlemen to this further fact. This identical clause has once passed this House in the appropriation bill for the year designated in this bill. It also passed the Senate. It has been approved, therefore, by both branches of Congress, and was not a question upon which there was any conflict of opinion at the last session. I do not think, therefore, that we should now interfere with it.

Mr. McCOOK. I have only a word to say in regard to what has been stated by the gentleman from Illinois. If I understand General Benét the conversion of smooth-bore guns has passed beyond being a mere experiment, and has been decided and pronounced a success in converting them into eight-inch rifle-guns. The only other question to be decided, and it is one I am not competent to determine, is as to the relative merit of breech-loading ordnance——

Mr. SPARKS. Let me interrupt the gentleman a moment. I have had, of course, several interviews with the Chief of Ordnance on this subject, and let me ask the gentleman whether he does not know that we cannot take one of these smooth-bore guns and convert it into that class of guns which will penetrate the armor of vessels of this day? We may improve those old smooth-bore guns very largely, but we cannot make out of them the kind of guns which will go through two feet of solid iron armor.

Mr. McCOOK. I might answer the gentleman in this way, and it is the only way I can, by saying I know from the experience of competent ordnance officers that the present smooth-bore guns are not effective guns; and if the Congress of the United States failed or refused to appropriate sufficient money to go into the manufacture of effective guns, it appears the best thing we could do would be to convert smooth-bore guns into as effective rifles as possible. Because, Mr. Chairman, it is a matter of time and patience and experience to make this conversion, and I think I am clearly within the mark in saying, simply repeating what I have already said, that in the event of war with any first-class maritime power the harbors of this country, other harbors as well as that of New York, will be practically defenseless if we should throw aside our torpedo system, and my idea is that the torpedo system to be effective must be in connection with harbor defense.

Mr. BAKER. I move to strike out the last word.

Mr. Chairman, along our northern frontier and on our seaboard we have upward of ninety forts and batteries. These forts and batteries in order to their proper armament need more than thirty-five hundred rifled guns. There is no one who has given any attention to the subject of the fortification of our frontier and seaboard but is aware of the fact that there is no first-class nation on the face of the earth so ill prepared to resist foreign aggression as the United States. We to-day have about one hundred rifled guns converted from ten-inch Rodmans into eight-inch rifles that have a penetrating power of eight inches in a wrought-iron plate. And we are the fortunate possssors of one single twelve-inch gun with a penetrating power of about twelve inches.

There is not a city on the American seaboard that to-day could not be laid under tribute and would not be practically indefensible against a single one of the great iron-clads of any of the first, second, third, fourth, or fifth class nations of Europe.

Now, then, Mr. Chairman, there is one thing that has been settled as clearly and definitely as not only science but experience can settle it, and that is that the ten-inch smooth-bore Rodman is capable of being converted and has been converted into an eight-inch rifle that for all practical purposes is equal to an eight-inch Armstrong or an eight-inch Krupp gun. We have about three hundred fifteen-inch smooth-bore guns. Already the plant has been prepared for the conversion of these fifteen-inch smooth-bores into eleven-inch rifles. No one can claim that there is not an imperative want on the part of the National Government with a view to its defense to have these guns speedily converted; and no one that has given attention to the subject can claim that it has not been demonstrated by actual experience that the converted fifteen-inch gun affords an eleven-inch rifle with equal power and equal capacity to the eleven-inch Armstrong or Krupp gun.

Mr. HAWLEY. Not quite.

Mr. BAKER. Yes, it has equal power. My friend says "not quite." I say that through the investigation of this subject and the reports of ordnance officers I am satisfied it has equal power.

Now, sir, the condition of our defenses being as it is and the question having been settled, as it has been settled, of the practical importance of the conversion of these guns, what significance is to be attributed to the argument that is made by my late colleague on the Committee on Appropriations that the Treasury is nearly bankrupt and that we cannot, forsooth, appropriate $50,000 additional for the purpose of providing ourselves with a small additional number of these guns?

I want to say, Mr. Chairman, one word further. Armies can be marshaled on an emergency. Fortifications, earth-works, batteries, can be thrown up by the muscle of men on the spur of an emergency. But, sir, if foreign war happens to fall upon us we cannot on the moment either fabricate new guns or convert old ones so as to meet the emergency until we shall have suffered infinitely more damage than the appropriation of a very much larger sum than this for this particular purpose would now amount to.

I wish to say, as I had the fortification bill during the last session of Congress in my especial charge, and having given the subject mature consideration, I promised myself that with the coming of the new Congress I would use whatever influence I could use to see that we set on foot an organization of such means as would result in providing a reasonable supply of these guns, without which the greatest nation in point of wealth and in point of population is absolutely helpless when confronted by the smallest power on the face of the earth.

Mr. GIBSON. Do these smooth-bore guns belong to the Government?

Mr. BAKER. They do. Of the Rodman guns we have more than a thousand that ought to be converted. We have about three hundred fifteen-inch smooth-bores that ought to be converted. The Government has already at two establishments run by private individuals induced them to provide the plant necessary for the purpose of converting the smooth-bores into rifled guns; but the amount of money that has been provided thus far for the conversion of these guns is so small that one of those establishments, I fear before this year is out, will convert its plant, so that there will be only one establishment in the whole country where smooth-bore guns can be converted. I think this small amount should be added to the amount provided for in the clause.

Mr. BLOUNT. It is known to us all that this appropriation bill is one which legitimately belongs to the last Congress. It is not part of the legislation which will properly come before this body for examination. This House through its appropriate committees has had no opportunity of making any examination into this question. We are here, as I and other gentlemen have already said, under peculiar circumstances. There are certain political issues to which the minds of all of us, of all parties, are directed. I trust, sir, that they will be continued in that direction, and that we will not undertake to discuss the question as to what arms we need or what is the condition of our fortifications.

And, sir, even if we were now engaged in the consideration of this subject, I do not think it would be found that there was any emergency calling for this action. If there is any question about which the people of this country are very little troubled, it is the apprehension of danger from abroad, the apprehension of danger of a foreign war.

I trust, sir, that this House will keep in view simply the political issue involved in this bill. When we get away from this bill we shall reach, perhaps to-morrow, a bill of eighty or ninety pages, covering a multiplicity of subjects. I do trust the House will not undertake in any of these items to increase any of the appropriations without having done itself the justice to appoint committees to examine them. I hope this amendment and all other amendments of this character will be voted down.

The question was taken on the amendment of Mr. McCOOK; and on a division there were—ayes 94, noes 108.

Mr. McCOOK. I call for tellers.

Tellers were ordered; and Mr. McCOOK and Mr. SPARKS were appointed.

The committee again divided; and the tellers reported—ayes 92, noes 113.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill and read as follows:

For leveling, clearing, and grading range-ground at Sandy Hook common, building plank roads, targets, cranes, and similar necessaries, and for telegraph poles and wires for ballistic instruments, $5,000.

For quarters for superintendent of the proving-ground at Sandy Hook, $2,500.

Mr. CALKINS. I offer the following amendment, to come in after line 299:

SEC. 2. That all officers of the Army of the United States who have served as officers in the volunteer force during the war of the rebellion, or as enlisted men in the Army, regular or volunteer, or in the Navy, shall be, and are hereby, credited with the full time they may have served as such officers or enlisted men in computing their services for pay; and that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement.

Mr. SPARKS. I make the point of order that that amendment is not germane to the bill.

Mr. CALKINS. Before the Chair decides upon the point of order I desire to be heard for a moment.

The CHAIRMAN. The gentleman has made the point of order at the proper time, but the Chair thinks that the gentleman from Indiana [Mr. CALKINS] ought to be heard.

Mr. CALKINS. I desire only to say that the amendment which I offer is simply to supply an omitted case in the former legislation of Congress. It is the law now that any officer of the volunteer service of the United States who may enlist in the regular Army or in the Navy shall have his services computed for pay for the time that he served in the volunteer forces, but it does not provide that naval officers enlisting in the Army shall have their time of service credited to them in computing their pay, and this amendment is simply to supply an omitted case.

This amendment passed the House as section 48 of the bill of the last session, and I offered it at the request of the gentleman from Virginia [Mr. HARRIS] and several other gentlemen whose attention had been called to the subject. It is simply to do justice to Navy officers who have enlisted in the Army and who are not, under the law as it now stands, entitled to be credited with the time they served in the Navy. I hope under these circumstances that the gentleman will withdraw the point of order.

Mr. SPARKS. Does the gentleman say that this proposed amendment passed the House at the last session? If so, it must have been stricken out in the Senate.

Mr. CALKINS. It was put in by Mr. Hewitt, of New York.

Mr. SPARKS. On what page of the bill is it to be found?

Mr. CALKINS. I have not the bill before me.

Mr. SPARKS. I think the gentleman is mistaken. I do not see it in the bill at all.

Mr. CALKINS. I saw it a moment ago.

Mr. SPARKS. It does not appear to be in the bill as it passed the House at the last session, so far as I have examined it.

Mr. CALKINS. I beg the gentleman's pardon, it is.

Mr. SPARKS. Then it must have been one of the clauses relating to the reorganization of the Army, which is stricken out of the present bill.

Mr. CALKINS. No; it followed that.

Mr. SPARKS. I have the bill of last session before me and cannot find any such provision in that place.

Mr. CALKINS. If the gentleman will look at section 48 he will find it.

Mr. SPARKS. Mr. Chairman, I insist on my point of order.

Mr. BAKER. The gentleman will find it on page 30 of the bill, section 48.

Mr. SPARKS. Yes; I see it. But the gentleman is mistaken. As I have stated, it was a part of the reorganization, all of which was stricken out by the Senate.

Mr. CALKINS. The gentleman is at fault in his recollection.

Mr. SPARKS. I am not. I have the bill before me, and find it as one of the reorganization clauses.

Mr. CALKINS. It was in the original bill, and is as follows:

And that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement.

Mr. SPARKS. The proposition made by the gentleman is known as section 48, and was, as I have stated, one of the reorganization clauses attached to the bill, and was stricken out by the Senate. It passed the House as a part of the bill in what was known as "the reorganization of the Army" part of the bill, all of which was stricken out by the Senate.

Mr. Chairman, this amendment now suggested by the gentleman in my judgment is certainly subject to a point of order, and I make it. My point of order is that the amendment is new legislation and not in the line of retrenchment.

Mr. WHITE. If the gentleman from Illinois [Mr. SPARKS] will allow me, I will say that the gentleman from Indiana who now offers this amendment [Mr. CALKINS] at the last session when this bill was before the House offered the same amendment which he now offers, and it was accepted on all sides. As he has properly stated, it simply corrects a manifest omission in the law now providing for the retirement of officers of the Army.

Mr. CALKINS. In regard to the point of order, I will say that I do not know but what my amendment is as germane to this bill making appropriations for the support of the Army as any of the several provisions which follow such appropriations. As to the other point of order, that it is not in the line of retrenchment, I have had occasion before to remark that that is a relative term; it means very much or very little at different times. At least my amendment does not increase the appropriations or expenditures of the Government, and simply does justice to a class of men to whom we ought to do justice. I am sorry my friend insists upon his point of order, though I do not think it is well taken.

Mr. SPARKS. I insist upon the point of order, and ask the Chair to rule upon it.

The CHAIRMAN. The gentleman from Illinois [Mr. SPARKS] makes the point of order that the proposed amendment changes existing law and does not upon its face retrench expenditures. The Chair is of opinion that the point of order is well taken, and rules the proposed amendment out of order.

The Clerk resumed the reading of the bill and read the following:

SEC. 2. That the Secretary of War is authorized and directed to cause all the regulations of the Army and general orders now in force to be codified and published to the Army, and to defray the expenses thereof out of the contingent fund of the Army.

SEC. 3. And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

SEC. 4. That when a vacancy occurs in the office of professor of the French language or in the office of professor of the Spanish language in the Military Academy, both these offices shall cease, and the remaining one of the two professors shall be professor of modern languages; and thereafter there shall be in the Military Academy one, and only one, professor of modern languages; and that section 1336 of the Revised Statutes be, and is hereby, amended by inserting, after the word "service" in the first line, the words "as professor."

SEC. 5. That each member of the next two graduating classes of the Military Academy, after graduation, may elect to receive the gross sum of $750 and mileage to his place of residence; and the acceptance of this gross sum shall render him ineligible to appointment in the Army until two years after his graduation; and the amount required to defray the expenditure herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.

No amendments were offered.

Mr. SPARKS. In pursuance of an agreement made some time since, I ask that the Clerk omit for the present the reading of section 6.

There was no objection.

The Clerk read the following:

SEC. 7. That the Secretary of War be authorized to issue to any established college or university of the United States having at the same time not less than one hundred and fifty male students, at his discretion and under proper regulations to be prescribed by him, out of any small-arms or pieces of field artillery belonging to the Government, and which can be spared for that purpose, such number of the same as may appear to be required for military instruction and practice by the students of such college or university; and the Secretary shall require a bond in each case in double the value of the property for the care and safe-keeping thereof, and for the return of the same when required.

Mr. DUNNELL. I move to amend line 2 of the section just read by striking out the word "of" and inserting the word "in" before the words "the United States."

The amendment was agreed to.

Mr. DUNNELL. I move to further amend by striking out the word "or," between the words "college" and "university," and inserting after the word "university" the words "or other higher institution of learning."

Mr. SPARKS. I guess we had better look into that a little.

Mr. DUNNELL. When this bill was pending in the last session I moved a like amendment, and the gentleman from New York, Mr. Hewitt, who had charge of the bill at that time, consented to the amendment.

We are all aware of the fact that in most of the States, perhaps in every State of the Union, there are one or more institutions of learning not designated as colleges or universities to which this provision might apply, to which these officers might well be detailed; institutions holding a rank equal to the college or university that may be in the same State. In my own State, for instance, we have a school called the Shattuck Grammar School. It is the institution where the young men of the State are largely fitted for college. It is the Latin school of the State—a private institution. Heretofore that school has had an officer detailed to give instruction in military tactics. It may as properly apply for such an officer as either the college or the university in the State.

In a great many of the States there are normal schools, and no institution designated as university or college, which normal schools might desire to have an officer detailed for instruction in military tactics. I can see no harm growing out of this amendment, and if it is adopted then the order will be preserved, "college, university, or other higher institution of learning." It simply broadens the scope of this section, and I can see no harm that can grow out of it.

Mr. CLYMER. Allow me to say to the gentleman that his amendment would defeat the object he has in view; "college, university, or other higher institution of learning." The word "higher" would seem to mean an institution higher in rank than a university or college. I think he should make it "other institution of learning."

Mr. DUNNELL. In common language, a higher institution of learning is an institution of learning higher than the public schools.

Mr. CLYMER. I grant that; but you say "college, university, or higher institution of learning;" that is, higher than a university or college. I think the amendment of the gentleman in its present shape would defeat his object.

Mr. DUNNELL. Then I will strike out the word "higher."

Mr. SPARKS. The object of this section will be readily perceived by gentlemen. It provides that the United States Government shall, when requested, distribute a certain amount of arms and military appliances to certain institutions of learning; in other words, loan them to those institutions. Now, if these arms are to be loaned to these institutions, the question readily occurs, what character of institutions shall receive them?

We have in the United States a number of highly reputable and largely patronized colleges and universities, and to this class of institutions the section in the bill proposes to loan the arms, &c. The gentleman from Minnesota [Mr. DUNNELL] wants to enlarge the scope of this section so as to include a lesser grade of institutions. This whole thing, sir, is something of an experiment; the whole project is new. The Government proposes to loan its property to certain institutions of learning, not connected with the Government, known as colleges and universities having each an attendance of one hundred and fifty students, to aid them in imparting military education. The gentleman from Minnesota proposes to amend so that it will read "colleges, universities, or other higher institutions of learning," and at the suggestion of the gentleman from Pennsylvania [Mr. CLYMER] be further strikes out the word "higher" and leaves it "other institutions of learning."

Mr. DUNNELL. I would insert the word "incorporated" in the place of "higher."

Mr. SPARKS. That would embrace what? All of the academies of the United States, all of the seminaries, all of the schools above common schools, and you would have thousands of applications for these arms, &c., from thousands of these kinds of institutions.

Now, sir, this section has been proposed in order to accommodate some of the very high and prominent institutions of the country, and I can see where it may be to them an advantage without material prejudice to the Government. It does not specify any one in the country or any part of the country, but is confined to high and prominent institutions that have a large attendance of students that are supposed to teach something whereby this loaned material of the Government would be beneficially used. The gentleman's amendment would enlarge it to embrace all the minor academies and seminaries, and therefore make it endless, boundless in extent, and thereby in my opinion destroy all hope of any substantial or beneficial purpose to be attained by it.

I think the experiment (for it is no more) ought to be confined to the limits proposed by the language used in the section as it now stands. That, certainly, is broad enough. We will then be doing enough on the part of the National Government for private institutions of learning. Under that limitation there will doubtless be a hundred or more applications. To enlarge it might prove to be detrimental to the service of the Government, and would certainly be ruinous to the proposition itself.

Mr. WHITE. I ask that the amendment as modified be read.

The Clerk read as follows:

Strike out the word "or," after "college," in line 2, and after the word "university" insert the following: "or other incorporated institution of learning."

The amendment was not agreed to; there being—ayes 50, noes 86.

Mr. TUCKER. I move to amend by inserting, after the word "artillery" in line 6, the words "and shelter-tents."

Mr. SPARKS. I see no objection to that.

The amendment was agreed to.

Mr. HENDERSON. I move to amend by adding at the end of the section the following:

Provided, Such college shall not be located within two miles of any place of holding elections for presidential electors or members of Congress.

[Laughter.]

The amendment was not agreed to.

Mr. MARTIN, of West Virginia. I move to amend by striking out the words "and fifty;" so as to read "not less than one hundred male students." I will say, as the reason for offering this amendment, that in some of the States there are universities or colleges which are in their incipiency. Such is the fact in my own State, where we have an institution of this class with sometimes over a hundred students, sometimes not quite a hundred; yet it is one of those institutions of learning at which, under the act of Congress, instruction in military tactics is given. I submit that this amendment is a proper one.

The question being taken on agreeing to the amendment, there were—ayes 83, noes 89.

Mr. MARTIN, of West Virginia, called for tellers.

Tellers were ordered; and Mr. MARTIN, of West Virginia, and Mr. SPARKS were appointed.

The committee divided; and the tellers reported—ayes 95, noes 87.

So the amendment was agreed to.

Mr. HAWLEY. I move to strike out the whole section. I do so in the interest of economy.

Mr. WHITE. Before that motion is entertained I wish to submit an amendment to perfect the section.

Mr. HAWLEY. If we strike it all out there is no need of bothering about perfecting it.

Mr. WHITE. The practice has been to entertain a motion to perfect the text of a bill in preference to a motion to strike out. That is the parliamentary rule, I submit.

The CHAIRMAN. Pending the motion to strike out the section, it is in order for the friends of it to perfect it. The Chair will entertain the amendment of the gentleman from Pennsylvania.

Mr. WHITE. I move to amend by striking out the word "or" after the word "college," and inserting, after the word "university," the words "or State normal school." I desire to submit one word in explanation of this amendment. There is a question whether under the language of the statute of 1866 providing for the detail of Army officers to different colleges and universities in the United States the normal schools existing by virtue of acts of incorporation in the different States—State institutions for the education of teachers—could receive the benefits of this provision. Now in my own State of Pennsylvania we have twelve State normal-school districts, all of which have State institutions in them, and I submit that if any institutions in the country are to be entitled to the provisions of this section, these institutions should be. To relieve all doubt upon the question, I submit this amendment.

Mr. CONGER. I have been a little surprised to see my friends on the other side of the House voting so much together and so strongly in favor of "colleges or universities of the United States." It is the first time I have seen these State-rights gentlemen vote to arm anything belonging to the United States.

A MEMBER. The language of the section is "in the United States."

Mr. CONGER. I have the section before me, and it reads, "any established college or university of the United States."

Mr. ELAM. That has been amended by striking out "of" and inserting "in."

Mr. CONGER. Well, I have been wondering very much to see my friends on the other side rushing blindly on to vote for arming anything belonging to the United States.

Mr. SPARKS. The clerk made a mistake in drafting the bill by inserting the word "of" instead of the word "in." That mistake was discovered an hour or two ago, and corrected. The gentleman from Michigan has just discovered it.

Mr. CONGER. I am very glad to know at least that I was right in my opinion of members on the other side, that they would not knowingly vote anything in the shape of arms or power to anything that might belong to the United States. [Laughter.]

The question being taken on the amendment of Mr. WHITE, there were—ayes 67, noes 69; no quorum voting.

Mr. WHITE. I insist upon a further count. I understand that this amendment is accepted by the gentleman who has this bill in charge.

Mr. SPARKS. It was not accepted by me. I voted against it, and will do so again if I have a chance.

Tellers were ordered; and Mr. WHITE and Mr. SPARKS were appointed.

The House divided; and the tellers reported—ayes 80, noes 68.

So the amendment was agreed to.

Mr. HAWLEY. Mr. Chairman, I now renew my motion to strike out the whole section, and I do it upon the grounds of economy. I do so because the present law is abundantly sufficient for any reasonable accommodation to these colleges and universities. Section 1225 of the Revised Statutes provides that the President may, upon the application of any established college or university, detail some military officer to give military instruction, and the Secretary of War is authorized to issue a sufficient number of small-arms or pieces of field artillery as may appear to be required for military instruction and practice by the students of any such college or university, but they are required to give proper bonds in each case for their safe return. As the section is in this bill now you will be liable to be called upon to send a section or a full battery of artillery to every "one-horse" college in the land, and not to be invidious I will say we have them in our section as well as in other sections and you will never see those guns again in the world. They will be of no other use except to fire Fourth of July salutes. They are worth $500 apiece, and you might just as well throw away a million dollars as to pass this proposition. If you wish to do anything for military education in our colleges and universities it ought to be done in a more sensible way. The present law is abundant to answer the purpose of any college which will make good use of these guns.

The motion was agreed to.

Mr. CONGER. I suggest to the gentleman in charge of the bill, unless he wishes to go further to-night, that we agree to a motion the committee rise so the House may adjourn.

Mr. SPARKS. There are only three sections, which we can get through with in a little while.

Mr. ATKINS. I hope the gentleman from Illinois will yield to the motion to rise.

Mr. SPARKS. We can get through with these three remaining sections in a little while.

Mr. CONGER. Perhaps gentlemen on this side of the House would like to get together to converse. [Laughter.]

Mr. SPARKS. If gentlemen desire it on that side of course I will move the committee rise.

Mr. CONGER. The Hall is occupied generally by our brethren on that side in the evening and we thought we would have to take it in the afternoon.

Mr. SPARKS. I move the committe rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. SPARKS. I move the House adjourn.

Mr. TUCKER. I wish to offer a resolution providing for the printing of the census bill.

Mr. KEIFER. I also wish to offer a resolution, to which I think there will be no objection.

Mr. COX. I insist on the regular order.

The motion was agreed to; and the House accordingly (at three o'clock and fifty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: The petition of William Harrington, sr., for a pension—to the Committee on Revolutionary Pensions, when appointed.

By Mr. BELTZHOOVER: The petition of employés in the Post-Office Department, for the restoration of their salaries to the amounts paid in former years—to the Committee on Appropriations, when appointed.

By Mr. BENNETT: The petition of F. F. Gerard, Elijah Boley, and 106 others, citizens of Morton and Burleigh Counties, Dakota Territory, for the repeal of a certain act of the Legislative Assembly of said Territory attaching a certain portion of Morton County to Burleigh County—to the Committee on Territories, when appointed.

By Mr. BRENTS: The petition of E. P. Bayls and 120 others, citizens of Yakima County, Washington Territory, for compensation for expenses incurred in defending themselves against Indian depredations—to the Committee of Claims, when appointed.

By Mr. GARFIELD: The petition of Dr. Orange Pomeroy and 6 others, citizens of Chardon, Ohio, that a pension be granted J. W. McBride—to the Committee on Invalid Pensions, when appointed.

Also, the petition of Rufus Hulbert and 7 others, citizens of Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of C. J. Richardson and 11 others, citizens of Lake County, Ohio, of similar import—to the same committee, when appointed.

By Mr. GEDDES: The petition of citizens of Richland County, Ohio, that a pension be granted to Levi Sipe—to the Committee on Invalid Pensions, when appointed.

Also, the petition of J. Irwin and others, of Coshocton County, Ohio, that pensions be granted soldiers of the Mexican war, commencing July 4, 1876—to the same committee, when appointed.

By Mr. HOSTETLER: The petition of citizens of Lawrence County,

Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. HOUSE: The petition of John S. Cunningham, pay director in the United States Navy, that certain moneys be refunded to him—to the Committee on Naval Affairs, when appointed.

By Mr. KLOTZ: Memorial of the National Association of Mexican Veterans, that pensions be granted to the surviving soldiers of the Mexican war—to the Committee on Invalid Pensions, when appointed.

By Mr. LE FEVRE: The petition of Isaac Mumford and others, of Miami County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. MASON: The petition of Emma E. Stewart and 67 ladies of Eaton, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. McMAHON: The petition of Lewis H. Forbes, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. NEW: The petition of E. V. Ridlen and others, citizens of Decatur County, Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. PRICE: The petition of Women's Christian Temperance Union of Idaho Territory, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary, when appointed.

By Mr. THOMAS: The petition of 22 ladies of Randolph County, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the same committee, when appointed.

Also, the petition of 17 ladies of Cairo, Illinois, of similar import—to the same commitee, when appointed.

Also, the petition of 35 ladies of Randolph County, Illinois, of similar import—to the same committee, when appointed.

By Mr. WARNER: The petition of P. Dunsmore and others, of Washington County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. WHITTHORNE: The petition of Mrs. Ann Barnes, to be refunded money taken from her late husband, during the war, by an unlawful military order—to the Committee on War Claims, when appointed.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 28, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

IOWA CONTESTED ELECTION.

Mr. SPRINGER. I rise to a question of privilege. I present the memorial of J. J. Wilson, claiming to have been elected a Representative to the Forty-sixth Congress from the State of Iowa. I ask the memorial be printed in the RECORD, and then I will offer a resolution in reference thereto.

The Clerk read as follows:

Resolved, That the said petition, with the certificates of said election now in the hands of the Clerk of the House, be referred to the Committee of Elections, when the same shall have been appointed.

Mr. CONGER. I object.

The SPEAKER. This is a question of privilege touching the right of a member to a seat on this floor. Perhaps the gentleman did not hear it.

Mr. CONGER. I did not hear the memorial.

The SPEAKER. The memorial will be read.

The Clerk read as follows:

To the honorable the House of Representatives:

The undersigned, a resident and elector of the ninth congressional district of the State of Iowa, respectfully represents that at an election held in said congressional district of said State of Iowa on the 5th day of November, A. D. 1878, in compliance with the general law of the United States designating the Tuesday succeeding the first Monday of November as the day for such election of Representatives in Congress, your petitioner was duly elected by a majority of the legal votes cast at such election to represent said ninth congressional district of said State of Iowa in the Forty-sixth Congress now assembled.

That your petitioner further represents that certificates of such election, showing the number of votes cast, and for whom voted, duly certified by the judges of such election in the townships and precincts in which such election was held, were forwarded to the Clerk of the House of Representatives prior to the 4th day of March, A. D. 1879. That said Clerk of the House, being governed in his official action by established precedents, at the organization of the present House enrolled the names of those members only as appeared on the certificates of the governor of the State in which such election was held; and as the executive of said State of Iowa saw fit to issue certificates to those persons only who were chosen at an election held in the month of October preceding the general election held in November last, your petitioner was excluded from participation in the organization of the House by the official action of the Clerk of the House aforesaid in consequence of your petitioner's failure to obtain the certificate of the governor of the State aforesaid.

Your petitioner, therefore, respectfully requests your honorable body to take such action as will give to him his legal rights as Representative of the ninth congressional district of said State of Iowa in the Forty-sixth Congress, to which he is entitled by virtue of an election held in conformity to the laws of the United States on the 5th day of November, A. D. 1878.

J. J. WILSON.

ALGONA, KOSSUTH COUNTY, IOWA, *March* 20, 1879.

Mr. CONGER. In reference to the point I made a few moments ago I wish to say that that is a matter that does not come before this House with any of the usual sanctions attaching to a contestant. As I understand, upon a vote at some pretended election of some two hundred and fifty among thirty thousand voters this man sends up this petition and this claim, that it should come before the House as a question of privilege. Sir, such a farce as that, until the case of Belford and Patterson, could never have been claimed as a question of privilege.

The SPEAKER. The Chair has no judgment as to whether it is a farce or not. The Chair recognizes the fact that it is a question of privilege touching the seat of a member upon this floor; and the Chair is advised that accompanying the petition there is a certificate of election.

Mr. SPRINGER. It is in the hands of the Clerk.

Mr. PRICE. There is no certificate of election. It is a perfect farce, the whole thing.

The SPEAKER. The Chair expresses no opinion on that.

Mr. PRICE. There is nothing at all on which to base a claim to the seat.

Mr. SPRINGER. I ask that the resolution be again read.

The resolution was again read.

Mr. CONGER. It will be time enough when the committees are appointed. This does not on its face, to my mind, show any case of privilege any more than any common petition.

Mr. SPRINGER. The gentleman from Iowa [Mr. PRICE] has stated that this election under which the petitioner claims to have been elected a Representative to the Forty-sixth Congress was a farce. But if I have read the accounts in the newspapers aright the gentleman himself thought the November election sufficiently important to be himself a candidate at it for election, and submitted himself to the people at that election as well as at the October election for their approval, the result being that he was elected at both elections, in October and in November.

Now, then, this is a question of law. It is not a farce. It simply turns upon the question whether this Congress may prescribe by law the day upon which the election for Representatives in Congress shall be held, and whether that law when passed by Congress is binding upon all the States or not. That is the question; and there is no ground upon which the gentleman can claim that that election in November was a farce, that it was held on the day prescribed by law. All that is desired by the memorial is that the matter be referred to the Committee of Elections of this House, when appointed, so that the committee may report the law and the facts to the House.

Mr. PRICE. I wish to reply to the gentleman from Illinois in reference to one or two points in this case. In the first place the petition sets forth two things which are not true. It states that there was a general election in the State of Iowa in November. That is not true. There is no foundation of fact upon which to base that statement. The next allegation is that I participated in an election in November. I want to say to the gentleman from Illinois and to all other gentlemen who hold his views and opinions on that subject, that the only thing that was done in my district on the 5th of November was this: a few gentlemen who held the political opinions of the gentleman from Illinois had conspired together in a few democratic precincts in that district to assemble and do just what has been done in this case; that is, to cast a few hundred votes and send up a man here to contest my seat upon this floor, as is now sought to be done in my colleague's case. And my friends, who get up as early and sit up as late as the opposition do, got together on the same day and cast for me a few thousand more votes than the opposition did, and thus prevented any contest from my district. There was no general election and no election except in that way.

Mr. SPRINGER. Was that done by your consent?

Mr. PRICE. I did not object to it. I propose always, when gentlemen come upon the arena, to meet them with their own weapons, and I propose not only to meet them but to beat them.

Mr. TOWNSHEND, of Illinois. Why not let the memorial be referred?

Mr. PRICE. Let me state further that the only election under which I claimed a seat was the October election, and I am on the record in writing in two separate instances to that effect; and these votes cast for me in November were for the purpose of avoiding what the House has before it to-day, a farce, and nothing but a farce, a claim to be elected where no general election was held, where there was no election, but a few men met together and cast 250 or 260 votes for some man who claims under that paper a seat.

Mr. COX. I rise to a question of order. It is that the merits of this election are not to be discussed upon a point which concerns the privilege and the organization of this House. These belong to the committee to which the case should be referred, the Committee of Elections. I do not see why this debate should spring up on the simple question of the reference of a memorial relating to the organization of the House.

Mr. PRICE. Let me say that when a contestant comes here he comes with notice to the sitting member. When he comes in that way he will doubtless have a hearing before the Committee of Elections. But this man does not come here with a certificate. He does not come here under any shadow or form of law. If that can be tolerated in this House, there are a thousand men in the United

States who can come here with as good a right to claim a seat on this floor.

Mr. SPRINGER. Let me say to the gentleman from Iowa that this petition involves a question of State rights, and I am glad to see the gentlemen on the other side such strenuous advocates of the right of a State to fix its own day of election, even against a law of Congress.

Mr. PRICE. The gentleman from Illinois ought to know that he is misstating the facts in the case.

Mr. SPRINGER. I understand the facts in the case.

Mr. PRICE. The act of Congress provided that any State whose constitution fixes the time for holding election for State officers should not be included in that act of Congress fixing November as the time for electing members of Congress. The constitution of the State of Iowa does provide that the second Tuesday in October shall be the day for holding the election for governor, lieutenant-governor, State officers, and members of the Legislature of that State.

The SPEAKER. The Chair desires to state that he has allowed the debate to wander from the point at issue, which is, whether this is or is not a question of privilege.

Mr. CONGER. That is the only point I spoke to, and I have not quite said all I wished to say upon that subject.

The SPEAKER. Does the gentleman from Michigan wish to speak further upon that point?

Mr. CONGER. Yes, sir; and I think that is the only question to be decided here. I made a remark, and I repeat it now, that this petition, or this memorial, coming as it does to this House, is worthy of reception, is worthy of having its proper place of hearing. No member here I think intends to be a more strict advocate of the right of petition and of a respectful hearing of every memorial or petition from any of the people of the United States than I do; but what is this in itself? It is simply the petition or memorial of an individual. I do not care what facts it sets forth so far as the question of privilege is concerned. It simply asks for a hearing, and it should go to the petition-box and be referred in the usual way. It is not even addressed to the Speaker, so that he could be asked to present it to the House.

I said that until the Colorado case of Belford and Patterson every member of this House would have looked upon the subject-matter of this petition as a farce, to be treated lightly enough for its subject, but seriously enough because it is a petition; but in that case there was importance given to such a question as was presented in it as might take it out of the common order of petitions, and it was sustained by the party in power in this House; but, sir, that does not alter the duty of the Chair in regard to his decision as to the character of a paper of this kind. All that can be said is that here is a petition containing certain matters, into which this House may examine, and under our rules its place, its only possible place, its only possible mode of getting before the House, is through the petition-box.

Now it may involve a question; it may involve a subject of law, and when brought up at the proper time, in a proper manner, and referred in the proper way, a question of privilege. I do not deny that, but that it presents a question of privilege in itself I do deny.

Mr. SPRINGER. One word in reference to the question of privilege. The ordinary petitions that come to the House are from citizens praying the enactment of certain laws. These petitions go into the petition-box under the rules; but this petition is based upon a different matter entirely, namely, the right of a member to a seat upon this floor.

The Constitution of the United States gives to each House the right to judge of the election, returns, and qualifications of its own members, and in the rules under the head of "privileged questions" the very second matter stated as a privileged question is the right of a member to be seated, and that has always been regarded as a question of the highest privilege in this House and in the Senate, and to present a memorial or petition from any person claiming to be a member of this House and to have that paper considered by a committee.

The memorialist in this case simply complied with the precedents and sent to a member of the House for presentation to this House this memorial which has been read, and I simply propose that it be referred to the Committee of Elections, when appointed, so that they may examine the case.

Mr. CANNON, of Illinois. I desire to ask my colleague what difference there would be in the power of the Committee of Elections whether this petition went to them through the petition-box or as he proposes to send it to them?

Mr. SPRINGER. I suppose that in either case they can consider it.

Mr. CONGER. I was about to say on that very point that if the petition be referred to the Committee of Elections, when appointed, there is no loss of any right, but here is a resolution accompanying it, this petition, which makes it a question of privilege.

I only object to this now in that it is not material which way it goes, but because by such questions we entangle the House and call for peculiar judgments of the Chair. I esteem it very desirable that the line between questions of privilege coming from individual petitions and the right of members to be safe in their seats here until the proper forms of law are complied with should be protected by the Chair.

The Speaker is bound to protect any member of this House, even from the advance of an assault, with the same pertinacity that he does his own prerogative. And members cannot be endangered in their rights to seats here by the admission of artfully drawn resolutions and by decisions of the Chair.

Mr. PRICE. Will the Chair hear me one moment?

Mr. COX. After the election of Speaker the question of highest privilege in this House is the right of a member to a seat. The right to elect members of this House lies at the basis of representative government. We must build from the foundation.

The Speaker will recognize this memorial, not to be put into the box like an ordinary petition, but to be placed before this Chamber and before the public because it is a part of the foundation of our representative system. It is a question of privilege, of the highest privilege, and it should not be shuffled away into a box like ordinary memorials.

I think, therefore, that the Speaker will be right if he determines that this is a question of privilege to be referred to a committee which shall hereafter be constituted for the purpose of examining into the matter of the election of members of Congress.

Mr. PRICE. Gentlemen seem to confuse two very different propositions in their remarks upon this subject. That the right of a member to a seat on this floor is a question of the highest privilege no one disputes; that is a question well settled. And it is equally well settled that the road to that right has been definitely established. The laws of the United States declare how a person shall contest for the possession of a seat on this floor.

Now, if this be a contest, then let the law be pursued. If it is simply a petition, let it go into the petition-box and be referred as other petitions are referred. I undertake to say that no contest for a seat on this floor can be made in this way under the laws that now govern us and under the practice of the House.

A person to institute a contest must file his notice on the sitting member a certain number of days; evidence must be taken, and the question then goes before the Committee of Elections to be examined and determined by them and reported to this House. That course has not been pursued in this case. The only question here is whether that petition shall go to the petition-box as other petitions go, and whether the person who claims a seat against the sitting member shall pursue the course established by the practice of the House and by the laws.

The SPEAKER. It is not in dispute that at some time this memorialist has a right to be heard touching his claim to a seat on this floor. If he can present that right at one time he can present it at all times.

In this case a member of this House, in his capacity as a Representative, rises in his place and presents a memorial, accompanied by a resolution, which resolution has reference actually to a certificate of the election of a person to a seat on this floor, which certificate is now in the custody of the Clerk.

Mr. PRICE. The Chair will excuse me for interrupting him; but would it make any difference if there was no such certificate? I claim that there is none.

The SPEAKER. The Chair is not acquainted with the fact further than it is alleged. The Chair therefore recognizes that this is a question of privilege, not so much upon the fact of the memorial as upon the fact of the certificate which is in the custody of the Clerk.

Mr. CONGER. Permit me to ask the Chair if there has been any statement here that there has been any such certificate? I understand it was admitted there was none.

The SPEAKER. The resolution distinctly states that there is one, and asks for the reference of the certificate of election now in the hands of the Clerk.

Mr. CONGER. I will ask for the production of that certificate before we have any ruling on this subject.

Mr. PRICE. Because if there is no certificate it will change the phase of the matter entirely.

The SPEAKER. This is on the question of a reference. The decisions of the House and the rules of the House under which those decisions have been given are uniform and without variance, so far as the Chair is advised. It is that the certificate of an election for a seat on this floor is a question of privilege, and has the right to be presented at any time.

Mr. CONGER. I do not wish to interrupt the Chair at all or to be captious, but I have heard nothing in relation to a certificate of this memorialist.

The SPEAKER. Then the Chair suggests to the gentleman that he did not pay attention to the reading of the resolution.

Mr. CONGER. I will ask that the resolution be again read.

The SPEAKER. The resolution will be read again.

The Clerk read as follows:

Resolved, That said petition, with the certificate of said election now in the hands of the Clerk of the House, be referred to the Committee of Elections when the same shall have been appointed.

Mr. CONGER. Ah! that is the certificate of the sitting member.

The SPEAKER. Not at all.

Mr. CONGER. Then I ask that the certificate may be read.

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] certainly made the statement that the certificate was in the hands of the Clerk.

Mr. SPRINGER. I do not know that the certificate or papers on this subject are in the hands of the Clerk. I only know that the petitioner has asked that all the papers relating to this case and to the

election in that district be referred to the Committee of Elections. If there are no papers in the hands of the Clerk, then nothing will be referred. But this reference will take before the committee the papers relating to the right of the sitting member, because that is an adverse right to the one set up by the petitioner. By this reference all the papers relating to the election in the ninth congressional district in Iowa will go to the Committee of Elections for the purpose of consideration and report.

The SPEAKER. The Chair has sent for the RECORD containing the statement of the Clerk at the organization of the House in reference to the papers in this case.

Mr. SPRINGER. I do not know what the papers in the hands of the Clerk are; I have not examined them.

The SPEAKER. The Chair has sent for the Clerk's statement.

Mr. SPRINGER. Nor do I know whether there is a certificate purporting to show that the memorialist is elected. No such certificate was ever issued by the governor of Iowa, I am quite sure. If there are any papers on file with the Clerk they are perhaps the certificates of some of the election officers in the counties where the election was held. But so far as that is concerned, it has been universally held by this House that the certificate of a governor is not necessary to give validity to the election of a Representative in Congress. There are instances where the governor having declined to issue any certificate at all this House has adjudged who was elected.

Mr. CONGER. That is making an entirely new issue.

Mr. SPRINGER. In several cases from the State of Tennessee members were seated on this floor upon the certificates of the sheriffs of one or two counties in the district in the absence of other evidence of the result of the election.

The SPEAKER. And gentlemen have taken their seats on this floor upon the certificate of a military commander.

Mr. CONGER. The gentleman admits that there is no certificate of any kind in favor of this memorialist.

The SPEAKER. The Chair will have read what the Clerk of the House stated at the time of the organization.

The Clerk read as follows:

In reference to the State of Iowa, the Clerk also begs the indulgence of the Representatives-elect while he makes a statement as to the reasons by which he was controlled in placing upon the roll the names of the gentlemen he has just called as Representatives-elect from Iowa. There were presented to the Clerk certificates duly signed by the governor of the State of Iowa, under the seal of the State, accrediting the nine gentlemen whose names have been announced as Representatives duly elected on the 8th day of October, 1878. Sundry papers were also presented to the Clerk in reference to an election claimed to have been held on the Tuesday next after the first Monday in November, 1878. These papers, however, do not conform to the requirements of the laws of Iowa. They are not signed by the governor; they are not under the seal of the State; they are simply papers which came unauthenticated and in no sense constitute credentials within the meaning of the laws of Iowa. Whatever may be the fact, therefore, in reference to the time at which the election should have been held in the State of Iowa, even though it were definitely and clearly settled that the election should have been held in November instead of October, the Clerk could not in any event place on the roll the names of those persons in whose behalf papers have been filed in reference to the November election for the reason that these papers do not comply with the laws of the State of Iowa and do not constitute credentials.

Mr. PRICE. You will see, Mr. Speaker, that this very statement of the Clerk shows that the papers presented are unauthenticated, not in conformity with law—have no force or binding effect.

The Clerk continued the reading, as follows:

As to whether the election should have been held in October or in November, there are grave doubts in the minds of those learned in the law. It is a question about which he confesses he has not been able to arrive at so clear and satisfactory a conclusion as he could himself have desired. But in the discharge of the duty imposed upon him, unless he could arrive at a clear and satisfactory conclusion that those gentlemen were not elected on the proper day, he did not feel at liberty to withhold their names from the roll of members-elect, but thought it proper to give the benefit of the doubt in favor of representation, and to remand that question for the consideration of the House when it shall have organized.

The SPEAKER. The Chair desires to say that he cannot see how the right of a person to be heard on this floor in reference to his right to a seat can be abridged or interfered with by any decision which the Clerk may have made in placing the names on the roll in pursuance of law. The rule which governs the Chair in this case is laid down as follows:

Whenever the Speaker is of opinion that a question of privilege is involved in a proposition, he must entertain it in preference to any other business, such opinion of course being subject to an appeal; and when a proposition is submitted which relates to the privileges of the House, it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege.

The Constitution declares that this House "shall be the judge of the elections, returns and qualifications of its own members." Now, for the Chair to deny a hearing to any person seeking a seat on this floor, claiming that he is entitled to it in preference to one who is already seated, would be an infringement upon the right which is guaranteed to the citizen in the Constitution itself. The Chair therefore considers that under the rules this is a question of privilege and entertains the resolution.

Mr. SPRINGER rose.

Mr. CONGER. Now, Mr. Speaker, I hope the gentleman from Illinois [Mr. SPRINGER] will not be too much in a hurry, because I have learned that he can wait when required to do so.

The SPEAKER. The Chair will protect the gentleman from Michigan in his rights.

Mr. CONGER. I do not rise to renew the discussion on the point of order, or to appeal from the decision of the Chair. But admitting that decision in all its force, I make another point. This resolution attacks the right of a member to his seat on this floor. A member, having come here with a proper certificate of election, acknowledged by this House to be in conformity to law, has been sworn in and is now seated here in the full enjoyment of all his rights as a member. Those rights are attacked by this resolution.

Mr. COX. I rise to a point of order.

The SPEAKER. The Chair would prefer to hear the gentleman from Michigan.

Mr. CONGER. I am speaking to a point of order; and I do not think that one point of order can come on top of another.

Mr. COX. The gentleman has raised no point of order. He is speaking to no question.

Mr. CONGER. I cannot give the gentleman the power of comprehension; that comes from a higher source.

Mr. COX. From which you never came. [Laughter.]

Mr. CONGER. The gentleman must wait, and with his powers of mind must study this out himself.

Mr. COX. If the Chair chooses to tolerate the gentleman from Michigan, very well.

The SPEAKER. The gentleman from Michigan said that he rose to a question of order, and the Chair is trying to find out exactly the point of order which he submits.

Mr. CONGER. The point I make is this, not disputing the decision of the Chair as to the right of a third person to come and contest the right to a seat upon this floor, that this resolution attacks the right of a sitting member sworn in, and demands his certificate of election be sent to a committee and that a contest shall be commenced in an irregular and unlawful way. It is not necessary at all to ascertain the rights of the memorialist; but by this resolution, while raising the question of a third party, it is proposed to send the sitting member to the Committee of Elections.

The SPEAKER. If the gentleman will allow the Chair to ask him a question, it is this: Whether he does not consider it in the interest of the sitting member in such a contingency to have his certificate of election also sent to the Committee of Elections?

Mr. CONGER. Whenever in a proper way the right of a sitting member to a seat upon this floor is attacked, then he should be prepared and he should have the right to meet it in the proper way.

The SPEAKER. The Chair thinks so, and there could be no better way than to meet it with his certificate of election.

Mr. CONGER. But if a member shall by a resolution of this House, by the preconceived views of the majority, if it comes to that, be sent to his contest, it seems to me to be against all the rights of sitting members and adds nothing to the rights of the applicant. Let him, under the decision of the Chair, have his paper sent to the Committee of Elections.

The SPEAKER. The gentleman had better move the amendment that any papers relating to the sitting member's right to the seat be also sent to the Committee of Elections, and the Chair will entertain it either as an amendment or an original proposition.

Mr. CONGER. I made the point that this goes beyond the question of privilege and attacks the right of a member to a seat upon this floor.

The SPEAKER. The Chair would say, in answer to the gentleman from Michigan, that he thinks it would be unfair to send a number of papers to the Committee of Elections containing allegations against the right of a sitting member, and not send the certificate of that sitting member, if possible, to controvert the statements made in the other papers.

Mr. CONGER. But the majority here in the resolution proposed by the gentleman from Illinois compel the sitting member to be the contestant.

The SPEAKER. The gentleman will recognize the right of a member, and it has been frequently done, to compel a member holding a certificate to stand aside before he is sworn in.

Mr. CONGER. But this member has been sworn in.

The SPEAKER. The Chair knows that he has. The right of one Representative to question the right to a seat of another has gone to the extent of a sitting member upon this floor demanding that another member presenting himself to be sworn in should stand aside and not be sworn in although he held the certificate of the governor of his State.

Mr. CONGER. If by this decision there may be new forms of contest of a member's seat unknown to the law, if a member may be called to contest his right to a seat in this House by a resolution offered here and sustained by the majority, what possible limit, what security is there to any member? What security is there to the honorable Speaker in the chair if any man may come in by any representation which will involve his right to a seat here and raise the question of his right and make him, during all the time he is acting as Speaker and deciding points of order in this House, hold his seat by a questioned title? There must be some way of bringing these contests legally before the House. We supposed the laws were now sufficient for that purpose; but if they may be made by resolution, if the whole is to be thrown in the power under a question of privilege of the majority of the House to compel every member to contest his seat, then we have passed into dangerous times as to the rights of members to seats upon this floor.

The SPEAKER. Does not the gentleman recollect the resolution of the gentleman from Maine [Mr. FRYE] touching the right of the

member from Florida, as modified, sent the certificate of that member to the Committee of Elections?

Mr. CONGER. That was at the request of the member himself.

The SPEAKER. But that does not alter the right.

Mr. CONGER. The point I make is, that the resolution shall not call in question the right of a member to his seat except in accordance with the forms of law. This is a new proceeding.

The SPEAKER. It is not for the Chair to determine the effect of laws or to administer law.

Mr. CONGER. It is for the Chair to determine the mode of proceeding of this House.

The SPEAKER. The question is a very simple one for the Chair to decide. It is: Does this contain a question of privilege?

Mr. CONGER. I move to strike out of the resolution all except that which relates to referring this memorial to the Committee of Elections, when appointed.

Mr. SPRINGER. I am entitled to the floor, and move the previous question.

Mr. COX. I desire to ask the Chair what is the question now pending?

The SPEAKER. The pending question is on seconding the demand for the previous question.

Mr. CONGER. I think the previous question was not called when I made my motion.

Mr. SPRINGER. I held the floor to call the previous question. I wish to say if the right of the sitting member was at all jeopardized by this course, or if any right he has under the Constitution was attacked in the slightest way, I would yield for any amendment or any discussion. But the sitting member is entitled to be heard as to his rights before the committee, and he is not placed on the same footing as the contestant, for he has the right to sit, while the contestant has the right only to be heard. I therefore insist on my motion for the previous question.

The SPEAKER. Will the gentleman from Michigan state his amendment? The Chair desires the gentleman from Illinois to hear it.

Mr. CONGER. Let the resolution be again read.

The Clerk read as follows:

Resolved, That the said petition with the certificates of said election now in the hands of the Clerk of the House be referred to the Committee of Elections, when the same shall have been appointed.

Mr. CONGER. I move to amend by striking out the words "with the certificates," &c.

The SPEAKER. Does the gentleman from Illinois yield for that purpose?

Mr. CONGER. Let the memorial simply be referred as a question of privilege under the decision of the Chair.

The SPEAKER. Does the gentleman from Illinois yield for that amendment?

Mr. SPRINGER. No, sir.

The SPEAKER. The Chair, then, will state to the gentleman from Michigan that his remedy is to vote down the demand for the previous question.

Mr. PRICE. Is it not in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. PRICE. If gentlemen refuse to refer only the petition and papers relevant to the case and insist on sending other matters not relevant, then I hope the good sense of the House will lay the question on the table.

The SPEAKER. The Chair, if the gentleman from Iowa has no objection, will first submit the question on seconding the demand for the previous question.

Mr. PRICE. I withdraw for the present the motion to lay on the table.

The question being taken on seconding the demand for the previous question, there were—ayes 108, noes 99.

So the previous question was seconded.

The question recurred on ordering the main question.

The House divided; and there were—ayes 107, noes 100.

Mr. CONGER. I ask for the yeas and nays.

Mr. SPRINGER. Unless gentlemen on the other side desire delay on this subject, I will yield to any reasonable amendment they may offer in order to save the time of the House.

Mr. CONGER. We do not want any delay; but I desire that only the memorial as a question of privilege under the decision of the Chair shall be sent to the committee when appointed.

The SPEAKER. Does the gentleman from Illinois accept the amendment of the gentleman from Michigan?

Mr. SPRINGER. I do.

The SPEAKER. The resolution as modified will be read.

The Clerk read as follows:

Resolved, That said petition be referred to the Committee of Elections, when the same shall have been appointed.

Mr. SPRINGER. And the papers in the hands of the Clerk.

Mr. CONGER. I have no objection to the reference of all the papers relating to the election in November; but I do not wish to include the certificate of the sitting member.

Mr. SPRINGER. If he does not desire to appear before the committee to defend his right to his seat, or to send his certificate there in order to make out his case, I have no objection.

Mr. CONGER. When the committee calls upon any member to defend his right to his seat it will be time enough for him to do so.

The resolution was then adopted, as modified, as follows:

Resolved, That the memorial of John J. Wilson and all papers in the hands of the Clerk relating to the election of Representative in Congress for the ninth congressional district of Iowa on the 5th of November, 1878, be referred to the Committee of Elections, when appointed.

Mr. SPRINGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CENSUS ACT.

Mr. TUCKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed 5,000 copies of the act entitled "An act to provide for the taking of the tenth and subsequent censuses," approved March 3, 1879.

Mr. TUCKER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMENDMENT OF RULES.

Mr. GIBSON. I offer the resolution which I send to the desk for reference to the Committee on Rules.

The Clerk read as follows:

Resolved, That the Committee on Levees and Improvement of the Mississippi River shall be styled the Committee on the Mississippi River and its Tributaries.

Mr. NEAL. I object.

STATIONERY.

Mr. KEIFER. I desire to offer a resolution that interests all the members on the floor, and I think when it is read there will be no objection to it.

The Clerk read as follows:

Resolved, That the Clerk of this House issue to members, officers, and committees of this House such necessary stationery as may be required; and he shall have authority to use any unexpended moneys belonging to the stationery fund to supply necessary articles which are not now on hand; that issued to members to be charged against them and accounted for hereafter.

Mr. FINLEY. That has already been provided for.

Mr. KEIFER. The latter part of the resolution is entirely new. There was a resolution that authorized the issuing of stationery to members, but it did not apply to committees and officers of the House. The resolution was defective in that respect. The other resolution did not authorize the Clerk to purchase any stationery at all, so that there are many things which he has not now and cannot get unless he is permitted to use the money in his hands belonging to the stationery fund.

Mr. FINLEY. I object to the resolution. There is no necessity for it.

PERSONAL EXPLANATION.

Mr. YOUNG, of Ohio. I rise to a question of personal privilege. It will be remembered by the House that on the first day of the meeting of this session a memorial was presented by my colleague from the third district charging my colleague from the first district and myself with crime. Accompanying that memorial was a resolution asking this House to appoint a committee of investigation into the charges made against my colleague and myself.

After some discussion that resolution was amended and passed. The charges made against my colleague and myself, if proved, should send us both to the penitentiary. We felt the sting of this attempt to stain our names, not only here where we are comparatively strangers, but before the community where we reside and are trying to raise our families in a respectable way, our reputations being as dear to us as the apple of our eye.

After the proceedings and action of this body, and smarting under these innuendoes of this attempt on the part of some partisan enemies of ours to besmirch our names, we wrote to our friends and begged them to bring the matter before the grand jury of the county of Hamilton, in which our districts are situated. The prosecuting attorney took the matter in hand. The grand jury was composed of a majority of democrats. The foreman of that grand jury was a distinguished democrat, Hon. Charles Thomas. The day before yesterday they made their final report to the court of common pleas, and I ask that the Clerk read so much of the report of the grand jury as refers to our case.

The Clerk read as follows:

During our session our attention was called to a series of very grave charges made in a memorial to Congress, and published in the daily newspapers in this city, of corrupt practices connected with the conduct of the election in October last. This purported to be signed by many citizens and supported by numerous affidavits. We felt it to be our duty to examine into these alleged practices so dangerous to society, and which ought to be rigorously and promptly punished. We have caused subpœnas to be issued for the appearance before us of all the parties whose names are affixed to the memorial as published and the affiants whose names purported to be signed to the affidavits attached thereto. We have examined over fifty such persons who have appeared in answer to such subpœnas, and from the testimony given by them we have found nothing to warrant our taking any action in the matter.

Mr. YOUNG, of Ohio. Now, Mr. Speaker, my purpose in offering this report is not to prejudice this House or the committee to be appointed by the Speaker to investigate the charges made against us,

but that we shall stand fair with those gentlemen with whom we are about to associate until we are expelled. I wanted that extract read simply to show gentlemen who are comparatively strangers to us that in Hamilton County we are not regarded as bad men. [Laughter.] Let us have some standing here. Give us the respect of our colleagues here until this investigating committee which has been ordered shall have completed its duties and made its report.

I ask the pardon of the House for taking up so much of its time in making this personal explanation.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I rise for the purpose of moving that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the Army appropriation bill. On yesterday in the consideration of the bill we passed over the sixth section with the understanding that perhaps general debate would be required upon that section. My object is to learn what range of debate is desired by gentlemen on the other side of the House. I will state that so far as I am concerned I would prefer that the discussion of the questions involved in that section should be somewhat brief, and that the political discussion likely to be indulged in by the House on these questions may be had mainly on the legislative, executive, and judicial bill when it is introduced. I am quite unwell to-day, and should be unwilling myself to enter on the discussion except for the desire I have to get through with the bill as early as possible. I now desire to learn, if I can, the disposition of the other side of the House upon the subject.

Mr. CALKINS. The time to arrange the limit for debate will be when we reach the sixth section.

Mr. SPARKS. But we shall then be in Committee of the Whole House, and the matter must be determined in the House and not in the Committee of the Whole House.

Mr. CALKINS. We can come back into the House then.

Mr. SPARKS. I think we ought to determine what the limit of debate shall be, if we can, now.

Mr. CONGER. I suggest to the gentleman that some gentlemen upon this side of the House have made preparation to speak upon that section, and some of them desire more time perhaps than a limitation to five or ten minutes; but we do not, so far as I understand, wish to take up more time than shall give our friends here an opportunity for what they wish to say on the subject. I suggest to the gentleman that the limit to debate be not fixed now, but we can go along with the bill, and the committee can then rise and limit debate, if it be deemed proper.

Mr. SPARKS. Very well! That being the understanding, I now move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Army appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole, Mr. SPRINGER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of further considering the Army appropriation bill. The Clerk will read the next section.

The Clerk read the following:

SEC. 8. That the Secretary of War shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education.

SEC. 9. That section 6 of the act approved June 18, 1878, making appropriations for the support of the Army, be, and is hereby, repealed: *Provided*, That when the economy of the service requires, the Secretary of War shall direct the establishment of military headquarters at points where suitable buildings are owned by the Government.

No amendments were offered.

The Clerk read the following:

SEC. 10. That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain except in the Corps of Engineers, and that no officer below the rank of major shall be transferred to the retired list, except upon the report of a duly constituted board of officers, to the effect that such officer is no longer fit for active service: *Provided*, That nothing shall prevent the appointment of a Chief of Engineers, with the rank of brigadier-general, when a vacancy shall occur.

Mr. DIBRELL. I move to add to the section just read by the Clerk the following:

Nor shall it prevent the promotion of any captain who has served twenty years in the United States Army.

Mr. SPARKS. I think that amendment is eminently just and should be adopted.

Mr. DIBRELL. It will not affect more than a half dozen officers in the Army. I hope it will be adopted.

The amendment was agreed to.

Mr. CALKINS. I move to amend section 10, by inserting just before the proviso that which I send to the Clerk to be read.

The Clerk read as follows:

And that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank (exclusive of brevet rank) actually held by such officer in the regular or volunteer service before retirement.

The amendment was agreed to.

Mr. CALKINS. I move to further amend section 10 by inserting after the words "Corps of Engineers" the following:

And the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay.

The question was taken upon the amendment; and upon a division there were—ayes 86, noes 76.

Before the result of this vote was announced,

Mr. SPARKS called for tellers.

Mr. BROWNE. I voted for this amendment because it was offered by my colleague, [Mr. CALKINS,] and not because I fully understood its purport or its object. Speaking for myself only, I am satisfied that my colleague had better explain the scope of his amendment so that the House may understand it.

The CHAIRMAN. The committee is dividing upon the amendment, and no discussion is in order except by unanimous consent.

Mr. REAGAN. I make a point of order against the amendment.

Mr. WHITE. It is too late.

The CHAIRMAN. It is too late to make the point of order now, because the committee is dividing upon the amendment.

Mr. CALKINS. I ask unanimous consent to make a statement.

Mr. REAGAN. If there is permission to reply.

Mr. BROWNE. Certainly.

There was no objection.

Mr. CALKINS. The only purpose of this amendment, as I stated yesterday, is to supply an omission in the law passed some time ago by Congress allowing all the time of service to be computed in favor of any person who had theretofore served in the volunteer forces of the United States. In that law the words "service in the Navy" were omitted, were left out. The result is that the time which a person has actually served in the Army is allowed to such persons, but nothing is allowed for the time of service in the Navy. Under the law as it now stands, if a naval officer had served one or more years in the Navy and then enlisted in the Army, in computing his longevity pay he receives no credit for the time he has served in the Navy.

That is evidently an omission in the law. It has been corrected several times in this House by unanimous consent, but has not yet been enacted into law. Many officers of the Navy have enlisted for service in the Army, and *vice versa*. I will now yield the remainder of my time to my friend from Virginia, [Mr. HARRIS.]

Mr. HARRIS, of Virginia. During the last session of Congress this House passed this proposition in a form that excluded those who participated in the late war. It was passed by the House and by our side of the House, but being connected with objectionable provisions to the Senate it there failed. It is now presented in an unobjectionable form, and is an act of justice to those who served in the Navy. A man who has served in the Army for five years can go into the Navy and get credit for that five years' service. But a man who has served in the Navy for five years and goes into the Army does not get credit for any of the time served in the Navy. This is simply to put naval officers on the same footing with Army officers. I think it is just and ought to pass. We passed it before in an objectionable form. It is now freed from those objections, and I hope it will be adopted.

Mr. SPARKS. I understand that this amendment or one identical to it was offered yesterday.

Mr. CALKINS. The substance of this amendment is the same as the one offered yesterday, but the language is changed.

Mr. SPARKS. This amendment substantially was offered yesterday to some paragraph of this bill, and it was voted down by the committee.

The CHAIRMAN. The gentleman is in order; the Chair ruled it out.

Mr. CALKINS. A point of order was made against it yesterday by the gentleman from Illinois [Mr. SPARKS] himself.

Mr. SPARKS. And that point of order inures against it now.

Mr. BROWNE. Not after the committee have voted on it.

Mr. SPARKS. Well, the point of order having been made on substantially the same thing during a former consideration of this bill, it must attach to and inure to the proposition now.

The CHAIRMAN. The Chair would state that no point of order having been made upon this amendment it was entertained and the committee proceeded to vote upon it, and the vote by division was announced. Tellers were then demanded, and after the demand for tellers was made the gentleman from Indiana [Mr. BROWNE] asked unanimous consent that his colleague [Mr. CALKINS] who offered the amendment might explain it. Thereupon the gentleman from Texas [Mr. REAGAN] raised the point of order against the amendment. The Chair stated that the point of order came too late, as the committee was then dividing upon it.

Mr. TOWNSHEND, of Illinois. The same amendment having been offered yesterday, and the Chair having upon a point of order ruled it out of order, can the point of order be now evaded by subsequently offering the same amendment? Will not the Chair, *ex propria motione*, hold that this amendment having been once ruled out of order it is now out of order?

Mr. HARRIS, of Virginia. The point of order is too late now.

Mr. SPARKS. The point of order was made against what the gentleman says is substantially the same proposition, and the Chair ruled that the point was well taken. When a proposition has been ruled out of order by the Chair can a member go on renewing it upon clause after clause until perhaps attention has been directed to something else and the proposition slips in? When an amendment has been ruled out of order once are we compelled to follow it up and make a point against the same thing a dozen times?

Mr. KEIFER. Certainly.

Mr. SPARKS. This identical proposition in substance has been ruled by the Chair to be out of order; and when it is again offered it is certainly the province of the Chair to rule that it is out of order.

Mr. HAWK. Is this discussion in order?

Mr. HARRIS, of Virginia. It is too late to raise the point of order after the amendment has been debated and the Committee of the Whole has voted upon it.

Mr. SPARKS. The point was raised yesterday.

Mr. CALKINS. I desire to state that the point of order was not made against the amendment in its present form. The point was made yesterday against a whole section which I then proposed to introduce. I have taken from that section these sentences, which I now offer as an amendment to the section now pending. The point of order was not made against this amendment in the form in which it is now.

The CHAIRMAN. The Chair desires to state that it is not the province of the Chair to raise points of order upon amendments which are moved by members of the committee. He can only take jurisdiction of questions of order when raised by some member on the floor. When this proposition was moved yesterday a point of order was made upon it at the right time, and the Chair promptly ruled it out of order. If the House had voted yesterday to reject the amendment, the Chair would now hold that it could not be again entertained; if the point of order had been raised in time that this was the same amendment previously offered, the Chair would have held that it could not be offered again, because to allow propositions thus to be repeated would protract business indefinitely. But when this amendment was offered to-day no point of order was raised, the amendment was submitted to a vote of the committee, and the Chair holds that it is too late, after the question has been taken by a division and after tellers have been demanded, to raise a point of order on the amendment. The Chair therefore entertains it; it is before the committee; and if the committee are ready for the question the Chair will again put it upon agreeing to the amendment.

Mr. CALKINS. Tellers have been ordered.

The CHAIRMAN. They have been demanded, but not ordered.

Mr. REAGAN. I think there is some danger in adopting a proposition like this when it is not sufficiently explained, and no one understands just how much money it will take out of the Treasury or whom it is to affect. It ought to have examination by some committee, it ought to have full discussion in the House before we should venture to adopt it. I think it would be very unsafe for us to agree in this way to the amendment when we cannot tell how much money it is to take out of the Treasury.

Mr. HARRIS, of Virginia. It takes no money out of the Treasury at present.

Mr. REAGAN. The gentleman says it takes no money from the Treasury now. I do not understand this mode of treating the question. The very object of the amendment is to give longevity pay and rank pay. It may take no money out of the Treasury to-day; but of course it will take money out of the Treasury. The gentleman does not know how much; and it seems that he is not anxious the House should know. My objection is that we have had no opportunity to examine the proposition. No committee, no member, is prepared to state from any official authority how much money it will take.

Mr. HARRIS, of Virginia. In justice to myself I will state my reason for saying that this amendment takes no money from the Treasury now. This provision is only to take effect in the future; and the cases of transfer of officers from the Navy to the Army are very rare. Only when such a case occurs can there be any computation as to the amount to be expended. Consequently, as I have said, it takes nothing from the Treasury now. It never may take anything, because there may never be a transfer of an officer from the Navy to the Army. For this reason I insist my remark was correct.

Tellers were ordered on agreeing to the amendment; and Mr. CALKINS and Mr. SPARKS were appointed.

The committee divided; and the tellers reported—ayes 106, noes 61.

So the amendment was agreed to.

Mr. SPARKS. I shall ask a vote on this amendment in the House.

Mr. TUCKER. I move to amend by adding at the end of the pending section the following:

And provided further, That section 1218 of the Revised Statutes of the United States is hereby repealed.

Mr. BLOUNT. I reserve the right to make a point of order until I hear what this section is.

The CHAIRMAN. It will be understood that all points of order are reserved.

Mr. TUCKER. Section 1218 reads thus:

No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

Mr. CONGER. Before there is any discussion, I raise the point of order that this is new legislation.

The CHAIRMAN. The point of order has been reserved by the gentleman from Georgia, [Mr. BLOUNT.]

Mr. TUCKER. In reference to the point of order I wish to say that if members of the committee will look at the tenth section of this bill they will find that it reads thus:

That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain except in the Corps of Engineers, &c.

Now, as germane to the question of promotions and appointments in the Army below the rank of captain, I move an amendment which I trust will meet with universal approbation on both sides of this Chamber, that the stigma which rests upon a very large class of the people of that section of country from which I come, and which I have the honor in part to represent, shall be "wiped out" from the statute-book as a matter of justice now and forever, that in this era of peace and good feeling there shall be no longer a statutory stigma against a large portion of the people of this country; that because they took part in the rebellion they are unworthy to wear a sword in defense of the country; that a man may be in the ranks to carry a musket but that he is unworthy to wear a sword; that I and other gentlemen upon this floor who represent the Southern States are worthy here to make laws, but that there is no man, whether he was under age or over age, who served in any capacity during the civil war, under the Confederate States or under any State in insurrection, who is worthy to be appointed to any position in the Army. I do hope that in this day that provision of the law will be "wiped out" from the statute-book of the United States forever.

The CHAIRMAN. All questions of order were reserved by the gentleman from Georgia.

Mr. BLOUNT. I reserved the point of order, but did not raise it on this amendment.

Mr. CONGER. I understood the gentleman from Georgia did not raise the point of order, and therefore I have made it and insist on it.

The CHAIRMAN. The gentleman from Michigan will state his point of order.

Mr. CONGER. My point is this, that this is new legislation and not germane to the subject-matter of the bill, and is not in the interest of retrenchment by any manner of means. [Laughter.]

I was about to remark that the gentleman from Virginia did not speak in regard to the point of order at all. He made his argument in the interest of that overburdening idea of peace and good-will which overshadows us now like a great cloud just on the eve of a great conflict unlike any other which has been had in this Hall for years.

Mr. TUCKER. The gentleman speaks of peace as a cloud.

Mr. CONGER. Very well; overshadowing us like a cloud of peace. [Laughter.]

Mr. TUCKER. A piece of a cloud.

Mr. CONGER. A peaceful cloud.

Mr. TUCKER. No; a piece of a cloud. [Laughter.]

Mr. CONGER. That kind of a cloud which generally follows a battle and does not precede it, the cloud of smoke and tumult. The gentleman has brought into our peaceful and calm and quiet deliberations to-day, and before we have come to the exciting subject which by common consent was to be postponed until we had allowed ourselves to be harmonized for a few moments [laughter]—the gentleman, I say, has thrown in here the gage of battle; he has had the courage to do what no man has dared to do before in this House and in the presence of the American people; he has had the courage to offer an amendment here which his own brethren on that side have repeatedly said when it was even suggested that it was premature; and when I some time ago charged upon the members of that side that they did look forward to a time when by the reduction of the Army they could make places for the brigadier-generals of the South, I was laughed at scornfully by every democrat on that side.

Mr. TOWNSHEND, of Illinois. I rise to a point of order.

Mr. CONGER. They said that nobody ever intended to offer such an amendment or propose such a thing.

Mr. TOWNSHEND, of Illinois. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. The gentleman is not discussing the point of order.

Mr. CONGER. The gentleman is more sensitive in regard to what I say than he was in regard to what was said by the gentleman with whom and in reference to whose sentiment he is in such sweet accord. [Laughter.]

Mr. TOWNSHEND, of Illinois. No, sir. I will say to the gentleman that no point of order was pending against the amendment when the gentleman from Virginia was upon the floor.

Mr. CONGER. The Chair said there was.

Mr. TOWNSHEND, of Illinois. No, sir; the gentleman from Georgia said he reserved all points of order, but there was no point then pending, and I now insist that the gentleman from Michigan is not discussing the point of order.

Mr. CONGER. I have made the point of order and am stating it.

The CHAIRMAN. The gentleman from Michigan must confine himself to the question of order.

Mr. CONGER. As in the Committee of the Whole the previous question cannot be ordered, if the Chair should think this is a proper and legitimate amendment, I propose to make some few remarks on this subject if it comes before the committee; and I will therefore say nothing further now on the general question, as my friend from Virginia was permitted to do without objection on this side. I ask the ruling of the Chair upon the point of order.

The CHAIRMAN. The Chair asks the gentleman from Virginia to send the Statutes to the Clerk's desk, that the section proposed to be repealed may be read by the Clerk.

The Clerk read as follows:

SEC. 1218. No person who has served in any capacity in the military, naval, or

civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

Mr. SPARKS. The amendment is certainly subject to the point of order.

Mr. McCOOK. I would like to ask the gentleman from Virginia a question in regard to the amendment he has offered.

The CHAIRMAN. Relating to the point of order?

Mr. McCOOK. Yes, sir; in reference to the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. McCOOK. I understood the gentleman from Virginia to say that the amendment which he offered was germane to the section under discussion because that section prohibited promotions in the Army of the United States above the rank of captain, except in the Corps of Engineers. I believe I state correctly what the gentleman said.

Mr. TUCKER. Yes, sir.

Mr. McCOOK. Then I understand the amendment of the gentleman from Virginia, if it means anything, means this: that in the event of this section of the Revised Statutes being repealed, and in the event of the passage of this bill as it is, with that amendment, all the offices in the Army of the United States above the rank of captain, including the ranks of major, lieutenant-colonel, colonel, brigadier-general, and major-general, can be, may be, and should be filled with gentlemen who at one time served in the confederate army.

Mr. TUCKER. This section prohibits promotions above the rank of captain, except in the Corps of Engineers. But there may be promotions or appointments below the rank of captain.

Mr. GIBSON rose.

Mr. CLYMER. I rise to a question of order. This discussion is not on the point of order.

The CHAIRMAN. Discussion must be confined to the question of order.

Mr. TUCKER. The point of order that is raised against my amendment does not seem to me to be good, for the reason that this bill itself proposes to enact a new law in reference to promotions and appointments in the Army; while my amendment provides that in these appointments and promotions this twelve hundred and eighteenth section shall be abrogated, and that a man who is now in the ranks—and I have such a one in my eye—and who was in the service of the confederate government during its existence in a civil capacity or in the army, may be promoted by the President to a rank below that of captain.

Mr. KEIFER. I desire to ask the gentleman from Virginia if the effect of this amendment will not be this——

Mr. ATKINS. That is not in the nature of discussing the point of order. I object to this discussion going on.

Mr. KEIFER. I suppose the Chair could not very well decide a question of order unless he knew what the amendment was and what its effect would be. He could not decide without knowing that.

The CHAIRMAN. It is not the province of the Chair to decide the effect of an amendment. He has merely to decide the point of order.

Mr. SPARKS. It is new legislation and does not retrench expenditures.

Mr. KEIFER. I desire to be heard a moment on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. KEIFER. I understand the effect of the amendment is to change existing law. I understand the effect of it would be to so change existing law as to make ineligible for promotion all of the present officers of the Army of the United States above the rank of captain; and so to amend the law as to make eligible to appointment to those places to which these officers are ineligible persons who were in the confederate army. That is, it operates to exclude officers above the rank of captain from these appointments and to include ex-confederates. It is to that extent a change in the law. That is all I desire to state now. If the amendment should be ruled in order, I desire to be heard further on the question.

Mr. CONGER. At the request of many gentlemen on my side of the House who desire that we should meet this question in a bold and manly way, I withdraw the point of order.

Mr. SPARKS. I renew it. The position taken by the gentleman from Ohio [Mr. KEIFER] is a very peculiar one. The section makes provision that there shall be no promotions or appointments of officers above the rank of captain. That is done for the purpose of curtailing expenditures, with a view simply of running the Army without costing so much money, and still leave an efficient service in the Army. That is the whole of it.

Mr. MITCHELL. I would ask the gentleman whether that provision which he mentioned a moment ago does not apply only and solely to those now in the Army?

Mr. SPARKS. Precisely.

Mr. MITCHELL. If this amendment were adopted it would not apply to those out of the Army, and therefore those who served in the late confederate army would be eligible; whereas those who served in the Union Army would not be eligible.

Mr. SPARKS. The section of the bill means just what it says. It prevents promotions and appointments. The gentleman from Virginia claims that his amendment is germane, and proposes by it that appointments may be also made from another class of men now excluded by law as well as from the class not excluded. In other words, he proposes to enlarge the number of applicants from which appointments may be made by amending the law so that the disqualified class may be recognized and come in. And the gentleman from Ohio insinuates that its object is to make eligible this excluded class for appointments to a rank beyond that to which under the section the non-excluded class could attain. In other words, he insinuates that it would prevent the promotion of Union soldiers and allow ex-confederates to go in. Now, of course, that view of it is simply ridiculous. The amendment of the gentleman from Virginia means no such thing and cannot be tortured into any such construction. But the amendment of the gentleman from Virginia is certainly not germane, and cannot and ought not to be entertained. The gentleman from Michigan [Mr. CONGER] made the point of order against it, and now withdraws it. By that I must infer that he desires it to be incorporated as a part of the section. But I renew the point of order. It clearly is not germane, but simply proposes to repeal a statute that cuts off this excluded class of men, and is allowable under the rules; but were it otherwise, a little common sense and a little coolness in looking at the matter would show gentlemen that it would, if adopted, simply put all upon the same level, without discrimination for or against either class. But it is not germane, and is new legislation, and I ask that the point of order may be sustained against it.

Mr. FINLEY. I desire to inquire whether the entire section 10 is not out of order; whether it is not new legislation?

The CHAIRMAN. In answer to the question raised by the gentleman from Ohio, the Chair will state that no point of order was made upon section 10.

Mr. FINLEY. But points of order were reserved.

Mr. CARLISLE. It is in order, because by prohibiting promotions it reduces the Army to that extent, and is in the line of retrenchment.

The CHAIRMAN. No point of order was made upon section 10, and the Chair will not rule upon that section, whether it be in order or not. The reserving of points of order does not authorize the Chair to decide upon any section, unless some member raises the point of order upon it.

With reference to the point made by the gentleman from Illinois to the amendment of the gentleman from Virginia [Mr. TUCKER] the Chair is of opinion that although the amendment in the opinion of the Chair is germane to this section, in that it relates to appointments in the Army, yet it does not appear that it would retrench expenditures, and it does appear that it changes existing law; for this reason the Chair sustains the point of order and rules the amendment out.

Mr. KING. I offer the following to go in after section 10:

That the Secretary of War is hereby authorized and directed to cause a survey to be made above the cities of Vidalia, Louisiana, and Natchez, Mississippi, whose harbors are now threatened with destruction.

For the expenses of said survey, and for such works as may be proposed under it, $100,000, or so much thereof as may be necessary.

I ask that the memorial accompanying it be read.

The Clerk began the reading of the memorial.

Mr. CONGER. I object to the reading of the memorial. I insist that it is trifling with the House to attach to an amendment a memorial of citizens anywhere.

Mr. SPARKS. I make the point of order on the amendment itself.

Mr. KING. Let the memorial be read, for it explains the amendment.

The CHAIRMAN. The gentleman from Louisiana [Mr. KING] may address the committee for five minutes, and have the memorial read as a part of his remarks.

Mr. CONGER. But the point of order is made, as I understand it, upon the amendment, and if the point of order be sustained the gentleman has no right to address the committee.

Mr. SPARKS. I presume the gentleman could not address the committee unless he addressed it on the point of order.

Mr. KING. I ask that the memorial be read as a part of my remarks.

Mr. KEIFER. I cannot see how a memorial prepared by citizens on the Mississippi River some weeks in advance of the meeting of Congress could enlighten the Chair upon a point of order.

The CHAIRMAN. The Chair cannot anticipate what remarks the gentleman from Louisiana [Mr. KING] will make on the point of order. The gentleman is entitled to the floor for the purpose of speaking to the point of order.

Mr. KING. I ask that the memorial be read as an explanation——

Mr. SPARKS. An explanation of the point of order?

Mr. KING. As a part of my remarks.

Mr. SPARKS. As a part of your remarks on the point of order?

The CHAIRMAN. The Chair thinks that the memorial does not exactly relate to the point of order. The Chair will hear the gentleman on the question of whether his proposed amendment is germane to the bill and whether it retrenches expenditure.

Mr. KING. I cannot explain the nature of the amendment better than by having the memorial read.

Mr. SPARKS. Allow me to suggest that the gentleman does not need at this time to explain his amendment except to show that it is not subject to my point of order. I say that it is new legislation and increases rather than retrenches expenditures, and therefore it is subject to the point of order.

The CHAIRMAN. The Chair states to the gentleman from Louisiana [Mr. KING] that a point of order having been made upon his amendment it is not now in order to discuss the merits of the amendment; only the question as to whether the amendment is in order to the pending bill.

Mr. KING. I do not propose to discuss the merits of the amendment. I simply ask that the memorial be read.

The CHAIRMAN. The reading of the memorial is in the nature of debate, and that is not in order if objected to by any member.

Mr. HUBBELL. As my friend from Louisiana [Mr. KING] seems to want to do nothing but discuss the merits of his amendment, I ask that the Chair rule on the point of order, and then, if he rules that the amendment is germane and in order, the gentleman from Louisiana can have the memorial read as a part of his remarks.

Mr. KING. I will withdraw the amendment and the memorial, and ask that the memorial be printed in the RECORD.

Mr. SPARKS. I do not object to that.

There being no objection, leave was granted accordingly.

The memorial was as follows:

Whereas we, the citizens of Natchez, Mississippi, and Concordia Parish, Louisiana, have met together for the purpose of taking such action as may be necessary to call the immediate attention of the Congress of the United States to the condition of the Mississippi River between the banks of Concordia Parish, Louisiana, and Adams County, Mississippi, to the danger of the river breaking into Lake Concordia and causing damaging changes to the river front of Natchez, and distress and probably ruin to a large number of the property-owners and laborers of Concordia Parish: Therefore, it is

Resolved, That the urgent attention of the Representatives in Congress from the sixth district of Mississippi and the fifth district of Louisiana be called to the subject-matter above alluded to, and that they be requested to urge at once the appointment by Congress of engineers to report immediately such relief as the exigencies of the case may demand, and that the said Representatives are requested and memorialized to promptly urge such legislation as may be necessary to afford full remedy and relief in the premises.

Resolved, That the chairman of this meeting appoint a committee of citizens of Natchez and Concordia Parish, in such number as he may deem necessary, to represent the full facts and history of the matter herein contained to our Representatives in Congress, and urge their immediate action in the premises.

Resolved, That the secretary of this meeting is hereby requested to forward a copy of these resolutions to the members of Congress herein mentioned.

Mr. KLOTZ. I offer as an additional amendment to section 10 that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That the act of Congress approved March 9, 1878, be, and the same is hereby, amended so as to read as follows:

"An act amending the laws granting pensions to the soldiers and sailors of the war of 1812, and their widows, and the soldiers, sailors, and marines employed in the war with Mexico which commenced April 24, 1846, and their widows.

"*Be it enacted*, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted and drafted men, without regard to color, including militia and volunteers, of the military and naval service of the United States who served for fourteen days in the war with Great Britain of 1812 and were honorably discharged, and the surviving widows of such officers and enlisted and drafted men, and the officers, soldiers, sailors, and marines who actually served with the Army and the Navy employed in the war with Mexico for fourteen days between April 24, 1846, and July 4, 1848, and were honorably discharged, and the surviving widows of such officers, soldiers, sailors, and marines.

"SEC. 2. That this act shall not apply to any person who is receiving a pension at the rate of $8 per month or more, nor to any person receiving a pension of less than $8 per month, except for the difference between the pension now received (if less than $8 per month) and $8 per month. Pensions under this act shall be at the rate of $8 per month, except as herein provided, and shall be paid to the persons entitled thereto, from and after the passage of this act, for and during their natural lives: *Provided*, That the pensions to widows provided for in this act shall cease when they shall marry again.

"SEC. 3. That before the name of any person shall be placed upon the pension-rolls under this act, proof shall be made, under such rules and regulations as the Commissioner of Pensions, with the approval of the Secretary of the Interior, shall prescribe, that the applicant is entitled to a pension under this act; and any person who shall falsely take any oath required to be taken under the provisions of this act shall be guilty of perjury; and the Secretary of the Interior shall cause to be stricken from the rolls the name of any person, when it shall appear, by proof satisfactory to him, that such name was put on said rolls by or through false or fraudulent representations, or by mistake as to the right of such person to a pension under this act. The loss or lack of a certificate of discharge shall not deprive the applicant of the benefit of this act, but other proof of the service performed and of an honorable discharge, if satisfactory, shall be deemed sufficient; and when there is no record evidence of such service and such discharge, the applicant may establish the same by other satisfactory testimony: *Provided*, That when any person has been granted a land warrant under any act of Congress for and on account of service in the said wars of 1812, and 1846 with Mexico, such grant shall be *prima facie* evidence of his service and honorable discharge, so as to entitle him, if living, or his widow, if he be dead, to a pension under this act; but such evidence shall not be conclusive, and may be rebutted by evidence that such land warrant was improperly granted.

"SEC. 4. That all applications for pensions of the classes provided for in this act heretofore or which may hereafter be made shall be considered and decided as though made under this act; and all laws now in force in regard to the manner of paying pensions, and in reference to the punishment of frauds, shall be applicable to all claims under the provisions of this act.

"SEC. 5. That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-rolls the names of all persons now surviving heretofore pensioned on account of service in the war of 1812 against Great Britain, or for service in any of the Indian wars, or for service in the aforesaid war with Mexico, and whose names were stricken from the rolls in pursuance of the act entitled 'An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government, or who have in any manner encouraged the rebels,' approved February 4, 1862, whose disabilities have been removed, or who have made application for such removal; and that the joint resolution entitled 'Joint resolution prohibiting payment by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of its suppression,' approved March 2, 1867, and section 4716 of the Revised Statutes at Large of the United States, shall not apply to the persons provided for by this act: *Provided*, That no money shall be paid to any one on account of pensions for the time during which his name remained stricken from the rolls.

"SEC. 6. That the surviving widow of any pensioner of the war of 1812, or the surviving widow of any pensioner of the war of 1846 with Mexico, where the name of said pensioner was stricken from the pension-rolls in pursuance of the act entitled 'An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government, or who have in any manner encouraged the rebels,' approved February 4, 1862, and where, under the existing provisions of law, said pensioner died without his name being restored to the rolls, shall be entitled to make claim for a pension as such widow after the passage of this act: *Provided*, That no such arrearages shall be paid for any period prior to the time of the removal of the disability of the pensioner, or the date at which application was made for removal, as provided in section 5.

"SEC. 7. That the provisions of sections 4745, 4746, 4747, 4748, 4766, 4768, 4769, 4785, and 4786 of the Revised Statutes of the United States are hereby made a part of this act so far as the same are applicable; and no law or laws now in force which in any way conflict with the provisions of this act shall be applicable to the survivors of the wars above mentioned, or be so construed as to deprive them of the benefits of this act: *Provided*, That no agent shall charge a fee greater than $10 to a claimant under this act.

"SEC. 8. That the provisions of this act shall not apply to any person while under the political disabilities imposed by the fourteenth amendment of the Constitution of the United States.

"SEC. 9. That all laws and clauses of laws in conflict with this act be, and they are hereby, repealed."

Mr. BROWNE. I make the point of order on that amendment that it is not germane to the bill; that it is new legislation, and certainly is not in the interest of economy.

Mr. SPARKS. I ask the Chair to rule on the point of order.

The CHAIRMAN. The Chair holds that the point of order is well taken, and that the amendment is not in order.

Mr. MCCOOK. I move to strike out the whole section as amended.

Mr. CLYMER. Do I understand that the amendment of my colleague [Mr. KLOTZ] is ruled out?

The CHAIRMAN. The Chair has ruled out the amendment under Rule 120, which provides that no provision shall be in order as part of a regular appropriation bill except such as, being germane to the subject-matter of the bill, shall retrench expenditures. The Chair is of opinion that the amendment of the gentleman from Pennsylvania [Mr. KLOTZ] does not retrench expenditures.

Mr. MCCOOK. I move to strike out the whole section as amended, because it appears to me that the provisions of the Revised Statutes, with the regulations under them, are amply sufficient to settle this question of promotion in the Army. In addition to that, I desire, so far as I am personally concerned, to put on record my protest against any action or proposed action by this House or this Congress that will in any manner, directly or indirectly, interfere in any way with the Army of the United States. I can see no reason for this provision prohibiting the promotion of officers above the rank of captain. In reference to the officers of our Army it seems to me that their age, their services to the Republic, and the obligations that we assumed when we entered into the contract with them, which was certainly implied, if not express, require that so long as they are able to perform their duties the Government of the United States shall make proper provision for them. That obligation it seems to me is now in as full force as when originally assumed. I therefore hope—almost against hope, however—that this section will be stricken from the bill.

Mr. SPARKS. The gentleman from New York [Mr. MCCOOK] seems to be always arrayed on the side of and to speak in the interest of the Army, and as its advocate he opposes this section. Now, I understand that perhaps a majority, certainly many of the Army officials, have recommended this precise legislation. My colleague on the Committee on Appropriations in the last Congress, Mr. Hewitt, framed this section, having had frequent conferences upon the subject with officers and others connected with the Army. It was thought that some restriction should be put upon promotions and appointments.

Sir, we must remember that this small Army of ours of less than twenty-five thousand men, with perhaps not twenty-two thousand muskets in hand, is now costing this Government this year nearly $27,000,000, an extravagant sum for the force we have in the field; and this expense results quite largely from this matter of promotions and the superabundance of officers and Army officials, and all that sort of thing. It was felt that promotions should be restricted so as to relieve the country as much as we could of this extravagant burden upon it. With this object in view the pending section has been introduced into this bill. It proposes that there shall be no promotions or appointments above the rank of captain, except where captains have served for twenty years, this latter clause having been adopted as an amendment, on motion of the gentleman from Tennessee, [Mr. DIBRELL,] lately a member of the Committee on Military Affairs, and which amendment I heartily favored and proposed originally to put in the bill.

Mr. FINLEY. I would like to ask the gentleman a question. If the object of this provision is to reduce expenditures, why should there be promotions above the rank of captain and not below it?

Mr. SPARKS. The gentleman has got "the cart before the horse." Under this section there can be promotions below the rank of captain, but not above it. This provision, as every gentleman who examines it will see, must necessarily save to the Treasury a very considerable sum of money, and at the same time I am authorized to say that the efficiency of the Army will not be impaired. When, therefore, in legislating for the Army and for the people we can preserve the efficiency of the Army and at the same time save to the people and relieve them of an onerous burden, and that, too, in an

establishment for which the present expenditure is altogether extravagant, I believe it my duty as a member of Congress to pursue that line of policy. That is what we have attempted to do here in this section.

The CHAIRMAN. Discussion on the pending amendment is exhausted.

Mr. BLOUNT. I move to amend the amendment by striking out the last word. It will be remembered, at least by members of the last Congress, that the Army appropriation bill passed by the House at the last session contained provisions for the reorganization of the Army; and those provisions would perhaps have been agreed to by the Senate but for other provisions which were regarded as objectionable. When the gentleman from Illinois [Mr. SPARKS] came to consult with members on this side as to the character of the Army appropriation bill which should be introduced at this session, it was thought proper that we should not prolong the sitting of Congress by thrusting at this time into this bill the question of reorganization. This provision was a part of that scheme of reorganization, and its simple purpose is to stay promotions until this matter can be considered hereafter.

The gentleman from New York, [Mr. McCOOK,] who is an authority upon military matters, does not desire that there should be any change in the organization of the Army. On the other hand, gentlemen of great distinction, the highest officers in the Army, have thought it proper that there should be a reorganization. So far as my opinion is concerned, I think this proposed reorganization of little worth; but there are eminent men of all parties in and out of the Army who think it ought to be adopted. The purpose of this provision is that matters shall stand still, that promotions shall be staid until this question shall be considered.

Mr. CONGER. I adopt the reasoning of the gentleman who has just spoken. I think that until the proposed scheme for the reorganization of the Army shall have received the sanction of Congress it is better not to disturb the present status of the Army. Hence I believe it is not wise to adopt this section. Let the Army stand under the law as it is now. Do not by such an amendment as this provide that, until some new law is enacted, if the colonel of a regiment is killed in battle or otherwise dies there shall be no colonel of that regiment; if the lieutenant-colonel dies, there shall be no lieutenant-colonel; that no vacancies of this kind shall be filled, but inferior officers shall take places not prescribed by law. It is unfair to the officers, unfair to the regiments, unfair to the companies, unfair to the Army, unfair to the people of the country, to enact now a law declaring that there shall be no promotions, no appointments, according to the regular usage and forms of law, but that everything of this kind shall be held in abeyance until at some future time some law on the subject shall be enacted.

Mr. SPARKS. Does not the gentleman know that there are now many supernumerary officers, that there is a large surplus of officers?

Mr. CONGER. I do not know there is one colonel of a regiment in existence who has not a command; I do not know there is one lieutenant-colonel of all our regiments who has not a command, nor does the gentleman. It is not so. Every officer in the line, every officer of a regiment has his command, and this stops promotion. Now, if it be the object, if it be the design of gentlemen on that side of the House who fought these officers with all the bravery and all the desperation of their nature to punish them by refusing them the regular authorized lawful promotion in the Army to which they are entitled under the law, then let them say so boldly.

Mr. SPARKS. Is the gentleman alluding to me?

Mr. CONGER. I say if it is the object of gentlemen on that side of the House. [Laughter.]

Mr. SPARKS. But I ask the gentleman whether he is alluding to me.

Mr. CONGER. The gentleman is on that side of the House and the gentleman claims to be a gentleman undoubtedly. [Laughter.]

Mr. SPARKS. I was in the same category with the gentleman from Michigan, a little too cowardly to go in on either side. [Laughter.]

Mr. CONGER. If the gentleman proposes to exhibit any evidence of his disgrace and shameful conduct to the country, why let him do so. [Laughter.] I served during the war continuously where my State appointed me, as a member of the State military board of Michigan. [Laughter on the democratic side.]

Mr. SPARKS. The gentleman was on the civil list, as I understand it. [Laughter.]

Mr. CONGER. And I am proud to say that I organized, as one of that board, and clothed and armed and sent to the field the most effective enemies the gentleman ever met.

Mr. SPARKS. Will the gentleman allow me?

Mr. CONGER. The gentleman wants my time. The gentleman having this bill in charge wants to take up my time.

Mr. SPARKS. No, sir; I want to ask you a question.

Mr. CONGER. He wants to take up the five minutes which I have to make a speech.

Mr. SPARKS. I wish to ask the gentleman a question.

Mr. CONGER. How great a fire a little "spark" kindleth. [Laughter.]

Mr. SPARKS. Was the gentleman in the Army as a sutler or a chaplain? [Laughter.]

Mr. CONGER. What, sir?

Mr. SPARKS. Were you a chaplain or a sutler? [Laughter.]

Mr. CONGER. My peculiar organization and tendency would have naturally inclined me to be a chaplain, but I belonged to the militant part of the Army, the fighting part. [Laughter.]

I say again that I had the honor as a member of our State military board to organize, clothe, equip, and send down to meet the gentlemen of the South as valiant a set of men as ever went there. Michigan was on guard during the war and gentlemen know it.

Mr. SPARKS. But why did you not go?

Mr. CONGER. The Michigan troops captured even your civil leader, Jeff. Davis himself.

Mr. SPARKS. But was the gentleman one of them? That is the question.

Mr. CONGER. And that is the envy he has toward me, because I come from that State. [Laughter.]

The CHAIRMAN. Discussion is exhausted on the pending amendment.

Mr. BLOUNT. I withdraw the formal amendment.

Mr. McCOOK. I renew it. Now, Mr. Chairman, I am obliged to my friend from Georgia [Mr. BLOUNT] for the undeserved compliment he paid me when he said I was authority on military matters. I disclaim any distinction of that character. I have the same knowledge of this bill gentlemen ordinarily have, and especially those who have been serving on the Committee on Military Affairs as I did in the previous House.

But I have a strong feeling of justice in regard to this matter. When the subject of the reorganization of the Army of the United States is brought into this House, presented in a separate and distinct bill, and urged upon the ground of economy, or any other proper ground, then I am ready to take my stand in regard to it, and possibly I may agree that the Army is, as some of our friends have said, a little top-heavy. I now object, however, in this manner to prohibiting the promotion of a certain class of officers above a specified rank. I assume from what I have seen that this section will interfere with the promotion of captains at the head of the list and field-officers up to the rank of colonel; the oldest officers in our service, many of whom have served in Indian wars, the war with Mexico, and during our "late unpleasantness;" most of them men of family and all of them, or a majority of them, graduates of the Military Academy of the United States. Certainly it appears to me, Mr. Chairman, there should be no distinction between the older officers of the Army and the younger officers, and for that reason, if I had none other, I make the motion to strike out the whole section.

Mr. CLYMER. I trust the motion of the gentleman from New York will not prevail. It is well known, not only to this House, but to the country, that there is an excessive number of officers, considering the number of men in our Army; and whenever we touch the subject of reorganization of the Army the chief difficulty is the disposition of this excessive number of officers.

Now, the intention of this section is to reduce the number of officers above a certain rank. Death, resignation, accident will do it; and if we cannot have a reorganization of the Army this year, if it fails as it failed in the last session, we will be lessening the obstacles to reorganization each year by adopting this section.

When this section was proposed as part of our legislation two years ago, it was done at the instance and with the approbation of nearly all the officers of the Army. Being themselves interested in its reorganization, in its permanency, and in its efficiency, they felt a clause of this kind would subserve those objects and in the end would render very easy that which is now so difficult and troublesome.

I think, after the amount of attention which was given to this subject in the last Congress and in the preceding Congress, it would be unwise for us at this hour, hastily, unadvisedly, without reason, and without mature thought, to alter the conclusions reached heretofore. Therefore I hope the motion of the gentleman from New York [Mr. McCOOK] will not prevail.

Mr. DIBRELL. I renew the amendment.

I desire to state that in the testimony taken by the Committee on Military Affairs of the last Congress it was shown by every officer who testified that a reorganization of the Army was necessary. It was shown that we had a large surplus of officers, three hundred and thirty-five or three hundred and forty according to the bill reported, and that it was necessary in reorganizing the Army to get rid of this large surplus. The promotions have generally been made in the staff. As evidence of that I may say that we have in the line not over sixty majors, while there are about one hundred and fifty or one hundred and sixty in the staff departments. The promotions have been disproportionate and all wrong; and the object of this amendment as originally introduced by Mr. Hewitt into the Army bill is to prevent the promotions till the reorganization is effected. I think, therefore, the motion of the gentleman from New York should not be adopted. Every officer of any prominence who testified was of opinion that this was absolutely necessary in order to the reorganization of the Army.

Mr. MARSH. I hope, Mr. Chairman, the motion of the gentleman from New York will prevail. Ever since the control of this House came into the hands of the democratic party there has been a continuous effort made to reduce or reorganize the Army. The last Congress remained in session for eleven months, and constant efforts were made by gentlemen on the other side to reorganize the Army of

the United States, but they were unable during that whole period of time to bring before the American Congress a measure which would meet its approval.

It may be, Mr. Chairman, that a reorganization of the Army is necessary. I believe myself that a reorganization of the Army is necessary. But I contended during the Forty-fifth Congress, and I shall contend in this Congress, that a reorganization of the Army of the United States shall be made upon its own basis; that it shall be an independent measure; that it shall be discussed by the members of this Congress independently and disconnected from any other measure. And as I did in the Forty-fifth Congress I shall do now. I opposed, and shall oppose, by my vote and by my voice any attempt to cut down or disorganize the Army or to change the present law pertaining to it in the shape of an amendment to an appropriation bill. A matter of such great importance as this should have the attention of the proper committee. And it should have the attention of this House unobstructed and undistracted by other questions surrounding it.

I deny, Mr. Chairman, that it is fair to the Army or that it is fair to the country that there should be no promotions above the rank of captain. I say that it is mean, and contemptible on the part of the American Congress to undertake to cut down the strength of the Army by preventing officers, meritorious officers, from receiving that promotion which the law of the country entitles them to. If the gentlemen on the other side desire to cut down the number of officers above the rank of captain let them do so by a law; let them provide that there shall be no more than so many; let them cut down the number by act of Congress, and not undertake to do it by defrauding these captains and lieutenants from the just recognition of their services which the law of the country gives them.

Mr. Chairman, I hope that this section will be stricken out, not only because of what was embodied in it originally, but because of an amendment which has been adopted to it offered by my distinguished friend, the gentleman from Tennessee, [Mr. DIBRELL,] which provides that no officer shall be promoted except he shall have served for a period of twenty years in the Army.

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. SPARKS. I renew the formal amendment. This section was put in here, as I have before said, for the purpose of preventing promotions and appointments in the Army above a certain rank, with certain limitations, and the point aimed at by it was to economize in the public service and retrench expenditures. My colleague [Mr. MARSH] indicates a fear that we democrats are disposed in this bill to reinaugurate the attempt for a reorganization of the Army. If my colleague had simply read this bill he would have seen that we have rejected and specially kept out what was known as the reorganization feature of the bill of the Forty-fifth Congress; and I might remind my colleague, in passing, that reorganization did not come specially from us. That long-winded concern for reorganization which we had before us in the last Congress was known as the Burnside bill.

Mr. MARSH. The Burnside bill was not adopted; it was emasculated.

Mr. SPARKS. It was subsequently revamped and known as the Burnside-Banning-White bill; and I well remember that my distinguished friend from Pennsylvania [General WHITE] was one of the most strenuous advocates in favor of its passage. Therefore do not charge us or credit us with being the late advocates of reorganization; neither the charge nor credit attaches to us alone.

But in this extra session, discarding that long fight, we concluded that we would let alone the reorganization feature of the bill and, as my colleague has urged, let it come from the Committee on Military Affairs at the regular session, as in fact it did come from that committee at the last session of the Forty-fifth Congress. But in the mean time it was believed that by stopping promotions above a certain rank and by preventing appointments of a certain rank until reorganization could be effected in the manner indicated, we could save to the country a good deal of money, and we wanted to do it, and in that I think we have acted wisely and well; but the gentleman from Illinois seems to think that we will not have anybody to fill the place of these colonels, &c., should any of them happen to die. I find from the Army Register, which I now hold in my hand, that we have sixty-seven colonels.

Mr. WHITE. How many regiments have you?

Mr. SPARKS. I believe twenty-five of infantry.

Mr. WHITE. We have twenty-five infantry, ten cavalry, and five artillery regiments.

Mr. SPARKS. That makes forty, does it not?

Mr. WHITE. Yes, forty.

Mr. SPARKS. And you have sixty-seven colonels on the Army Register here. Now, I apprehend if one of these gentlemen should unfortunately die the country could get along by putting one of these supernumerary gentlemen in his place. The gentleman says that we have not more than we need. Why this register shows that we have nearly twice as many as we have regiments for. Anybody who will take the pains to examine the Army Register will see that this provision will not affect the efficiency of the service, and it certainly is a fact that many thousands of dollars will be saved to the country by it. Is it not the duty of members of Congress to do that?

Mr. MARSH. How many of those colonels are on the retired list?

Mr. SPARKS. None of them.

Mr. MARSH. None of the sixty-seven?

Mr. SPARKS. No, sir; not one of these sixty-seven colonels is on the retired list.

Mr. WHITE. Since the gentleman who has this bill in charge has referred to the action of the last Congress and to some connection I had with the adoption of the reorganization scheme by the commission appointed by Congress, I desire to say just a word upon that subject.

Mr. SPARKS. I simply adverted to the fact that the gentleman was in favor of the reorganization of the Army.

Mr. WHITE. I was certainly in favor of the reorganization feature which the last Congress attached to the Army appropriation bill reported by Mr. Hewitt, of New York. I am in favor of it now. I think it is an act of friendship to the Army and an act of justice to the public interests.

It is very well known that these staff officers create a social sentiment in this city and around this Capitol that makes it almost impossible to effect any reorganization of the Army in the public interest and in the interest of the line of the Army itself. I am not now going to debate that question. It is passed and gone.

If the question of the reorganization of the Army were an original question before this body at this time, I would as earnestly support it now as I did then, if I were the only member on the floor who did so. But the practical question before the House is the motion of the gentleman from New York to strike out section 10.

I did not hear his remarks, but what he designs to accomplish is to strike out that provision which prohibits any further promotions or appointments among the commissioned officers of the Army. Now, if you could reorganize the Army, if there was some practical measure here or in contemplation for that purpose, I would favor the retaining of this section; but in view of the fact that there is no practical measure for the reorganization of the Army pending before Congress, I submit that it is unfair to a large class of meritorious officers in the American Army to place this continued inhibition against promotions here.

I hold in my hand the bill making appropriations for the support of the Army in the Forty-fifth Congress which authorized what is known as the military commission on reorganization. This was the provision in relation to promotion:

> And thereafter no promotion or appointment shall be made to fill any vacancy that may occur or be created therein until after such report shall have been made and acted upon by Congress.

That was the provision inserted in the appropriation bill which passed the second session of the Forty-fifth Congress and that stopped promotions until the last Congress could act upon the report of that commission. The report was made. I had the honor of offering an amendment containing the recommendations of that report and contained in the appropriation bill in the last Congress, but it did not pass and it is a dead letter now, and consequently in view of that fact I am opposed to retaining this provision which stops all promotions in the Army of the United States.

I desire to make one further remark. There is an exception made here in favor of the Engineer department. Now the Engineer department is composed of one hundred and seven officers in all, and that is a very small proportion to the other two thousand and fifty-seven officers of the United States Army. It is unfair to select one department of the Army and prohibit any promotions in the other departments of the Army.

I submit, then, that in view of these considerations it is unfair to the Army to prohibit the meritorious promotions of officers who rendered valuable service in the war against the rebellion and in other wars of this country. I know instances in which this will stop the promotion of officers who commanded corps in the Army of the Potomac, the grandest army that ever trod on this continent.

Mr. ATKINS. In regard to the objection of the gentleman from Pennsylvania [Mr. WHITE] to the last clause of this section, as showing a preference for the Engineer Corps, I will state that the object of it was, as I understood, rather to accommodate the Chief of Engineers, General Humphreys. I think he desires to retire from the service.

Mr. WHITE. It is quite likely that is so, but it is invidious to discuss that question now. There are three officers in the Corps of Engineers who commanded corps in the Army of the Potomac, and one who commanded at one time the Army of the Potomac itself. I do not want to stop his promotion, and therefore I want to strike out the whole of this section.

Mr. ATKINS. I misunderstood the gentleman; I thought he desired to strike out that portion of the section.

Mr. WHITE. Not at all. I want to strike out all of the section for the reasons I have stated.

Mr. SPARKS. Now let us have a vote.

The question was taken upon striking out section 10, as amended; and upon a division there were—ayes 94, noes 102.

Before the result of the vote was announced,

Mr. CONGER said: Let us have tellers on that question.

Tellers were ordered, there being 33 in the affirmative, more than one-fifth of a quorum; and Mr. MCCOOK and Mr. SPARKS were appointed.

The committee again divided; and the tellers reported that there were—ayes 97, noes 109.

So the motion to strike out was not agreed to.

Mr. SPARKS. I ask that the Clerk now read section 6, which was passed over informally yesterday.

The Clerk read section 6, as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000 and suffer imprisonment at hard labor not less than three months nor more than five years."

Mr. CONGER. I raise the point of order against this section that both clauses of it involve new legislation, not germane to the bill and not in the interest of economy, for it does not upon its face or in any manner tend to retrench expenditures.

I will not stop to read now the sections of the Revised Statutes which it is proposed to amend. This section of the pending bill proposes the same amendment to both sections of the Revised Statutes. The only amendment proposed is at the end of section 2002 of the Revised Statutes to strike out the words "or to keep the peace at the polls;" and after the words "to repel armed enemies of the United States" in section 5528 of the Revised Statutes, to strike out the words "or to keep the peace at the polls." The sole amendment to the existing law proposed by both of these paragraphs involves new legislation. It proposes to change existing law by striking out the words in each section of the Revised Statutes referred to, "or to keep the peace at the polls."

Of course, in what I have to say upon the point of order, I do not wish at all to speak upon the merits of this sixth section. The Chair can see at once that it is new legislation; some think very essential new legislation; all think it is very essential new legislation. That it is in the interest of economy, that it is in any way possible to retrench expenditures by this section, no gentleman will affirm, and no gentleman could affirm it unless he had his thumb to his nose and his fingers extended. I do not wish to dwell upon this matter. In ordinary legislation in this House I apprehend there could not be any question upon the first presentation of this case. I apprehend there could not be a question in the mind of the member of the House least informed as to parliamentary law that this is new legislation, that it has no tendency to retrench expenditures, that it cannot come in under the rules of the House, that it is not even germane to any provision of this appropriation bill.

Mr. Chairman, there is no difference of opinion among members of this House that legislation upon an appropriation bill is undesirable. It is not contended by any that legislation should be fastened upon an appropriation bill except for some object outside of the ordinary course of legislation. Our rules permit it if it is germane to the subject of the bill. Our rules permit it only to meet that great serious demand of the country to retrench expenditures by legislation on all bills and on any bill wherever it can be done safely and with propriety. But that reason cannot in any manner apply to this case. It cannot be seriously pretended by any gentleman on this floor that striking out of the two sections of the Revised Statutes the words "to keep the peace at the polls" is in the interest of economy, that it is retrenchment of expenditures.

I do not propose, and, so far as I know, it is not proposed on this side of the House, to do any more than to submit this point of order to the Chair, and to say to the Chair that we confidently expect a ruling that this section is not in order according to the usual rules of the House and the decisions of the Committee of the Whole and of the Chair.

For myself I should have deemed it unnecessary to have said a word on this point of order. To my mind it is so clear and so apparent that I should have left it with the mere statement of the point of order. But the magnitude of it, and fearing that political or other views might be ascribed to us in making the point of order, might be ascribed to those who oppose the point of order, might even be ascribed to the occupant of the chair in his decision, make it perhaps important and proper that the proposition should be stated fairly; that we should present it to the consideration of the Chair as a point which we make seriously and in earnest, and, as I believe, with the full conviction on our part that this section is subject to the point of order. If that point of order shall be overruled, it will establish a precedent which will be exceedingly dangerous hereafter.

Mr. SPARKS. Mr. Chairman, this identical section was in the Army appropriation bill which passed this House at the last session. If any point of order was made upon it then, I am not aware of the fact; and I apprehend that if gentlemen had then, in the inception of the discussion upon the repeal of these provisions, felt that the proposition was subject to a point of order, that point of order would then have been raised.

Of course this provision repeals existing law; that is precisely what is designed by it—to repeal a portion of two sections of the statutes under which soldiers may now be used under military authority "to keep the peace at the polls." So far, then, as concerns the objection that this is new legislation repealing existing law, I frankly admit it.

Then the question arises, does it retrench expenditures? I can see wherein it does so most clearly. This bill in one of its sections appropriates $4,200,000 for the transportation of the Army. If, then, any part of the Army may be taken from the posts where our soldiers are now stationed and removed to and placed at the polls in the various election districts in the various States where elections are being held, to keep the sovereign citizens in order, will not that necessarily and certainly increase expenditures? And if we strike out the provision of law under which that may be done, do we not retrench such expenditures to the extent of the cost of the transportation of so much of the Army as may be thus taken from the posts where now stationed to the various polling places to which they are taken?

It does seem to me (and I do not wish to discuss this question at any length) that anybody must see at a glance that there must be a very large expense incurred in this way for transportation from the posts where stationed to the polling places, and this expense is wiped out by a repeal of the law. The amount of expense which may be thus incurred depends of course upon the extent to which the Army may be so used. I hope for the credit of our free institutions that such an un-American principle as that the sovereign citizen must be watched and guarded at the polls when exercising his highest sovereign prerogative by his own paid servants has not been acted upon largely in this country; and I hope it never will be.

Mr. CONGER. Cannot the gentleman withhold for a little while his remarks on the merits of the proposition?

Mr. SPARKS. I am now discussing the gentleman's point of order, and I repeat again that I hope the time will never come when there will be one dollar of the people's money expended for any such purpose. It has been stated that very little has been expended in that direction heretofore. I hope for the honor of my country that that is true. But, sir, by this provision we propose to say that no money shall ever be expended in that way or for that purpose, and thus settle and finally end it, once and forever!

Mr. FRYE. Mr. Chairman, the first point made by the gentleman in charge of this bill is that a provision similar to this was put upon the Army bill at the last session without objection. I do not understand that a fact of that kind would affect the question of the right to put it on the bill now when the point is raised; but at the same time I desire to say that when this provision came up at the last session the gentlemen who were in charge on this side of the House happened to be absent. As I happen to know, two of them were called out—why, I do not know, but they were called out—and in their absence this provision became a part of the bill, no one entering an objection or making a point of order. But there is no force at all in the conclusion the gentleman would draw from the fact that it was then admitted, because there was then no ruling at all upon the question of order.

I come now to the second point of the gentleman—that this provision upon its face shows retrenchment, because the use of the troops at the polls necessarily involves expense. Why, Mr. Chairman, this does not affect transportation. Under the Constitution of the United States the President of the United States is Commander-in-Chief of the Army, and can transport the troops wherever he pleases. There is no power in Congress to say to him that he shall transport the troops here and shall not transport them there. There is no spot of soil on this continent so sacred that the Commander-in-Chief of the Army cannot transport the Army to that spot.

Hence it seems to me too plain for argument that this amendment does not on its face show or indicate anything that will produce a reduction of expenditures; and I hold it to be the duty of the Chair to recognize that fact. Again and again to-day propositions which by argument, by logic, by proof might have been shown to retrench expenditures have been ruled out of order by the Chair because on their face they did not appear to retrench expenditures. Here is such a case exactly. On its face this provision merely strikes out from the existing law the words "to keep the peace at the polls." Now, where on the face of it does that involve a retrenchment of expenditures? Why, sir, the marshals and the deputy marshals have the right to-day to call for the assistance of the Army in preserving peace at the polls; when they are armed with warrants they have a right to call upon the Army of the United States to assist in enforcing such warrants. Suppose you provide here that these officers shall not have the power to call upon the Army to keep the peace at the polls, then you compel them, at the expense of the United States, to call upon men who are not under the pay of the United States by the score or by the hundreds, if you please, to preserve the peace, to enforce the law, to protect them in the performance of their duties; and thus you increase the expenditures, it may be to the extent of hundreds and thousands of dollars over what would be incurred if they were permitted to have the assistance of the Army of the United States.

I say, then, that by argument, by logic, by proof it can be shown that this provision increases expenditures. But I do not hold that the Chair has the right to entertain such an argument. I simply submit that if on putting the eye upon the proposition it does not on its face appear to reduce expenditures, and does at the same time change existing law, it is clearly not in order.

Mr. REAGAN. Mr. Chairman, this point of order is made under the latter clause of Rule 120, which is in these words:

Nor shall any provision in any such bill—

That is, a general appropriation bill—

or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

The first question that arises is, are the clauses which are proposed to be repealed germane to the subject-matter of the bill? The very title of the bill brings up the question of the Army and its uses. This bill is a measure to enable the Government to avail itself of the use of the Army for the purposes prescribed by law. That being so, it is germane, I take it, to repeal a provision of law having relation to the use of a portion of that Army for which we are now appropriating. So, I take it, there can hardly be a question but these two sections are germane to the bill itself.

Now, as to whether they retrench expenditures. The laws upon the statute-book and the practice under them known to us all by use of the Army for the purpose of controlling elections, thereby incurring the expense of transportation from place to place and distribution to various portions of the country, must of necessity involve increased expenditure on the part of the Government. The reports of the proper Departments as to expenditures in the past show the nature, character, and extent of that expenditure. No one, in view of the existing law and the practice under it during past years, can doubt but that the repeal of the law, placing it beyond the power of those in command of the Army to use it for any such purpose as here indicated, would reduce expenditures. The law now authorizes the use of the Army in this sort of service, and that will continue unless the law is repealed. The practice, according to the reports of the War Department, has demonstrated such use results in increased expenditures. It would seem, therefore, that the repeal of the law allowing such use would retrench expenditures. Of that, I take it, there can be no doubt.

If those two points are covered, then this proposition to repeal the law is germane to the bill, and that repeal is justified by the fact that it is not only germane but will reduce expenditures by abridging the use of the Army, saving the necessity for its transportation from point to point for the purpose of keeping the peace at the polls, as it is called. That is the general name given to it, but it hardly indicates the use which has been made of the Army, or I should say the abuse of the Army. It has been used to dismiss Legislatures, to set up Legislatures, to change State governments, to abolish those in existence and usurp their places by others. It is this abuse of the Army for political purposes. It is this abuse of the Army not only for the purpose of controlling elections, but in determining who was and who was not elected. It is clear to my mind from these references that the point of order is not well taken, and that the sections should remain in the bill, as they are not only germane but do retrench expenditures.

Mr. ROBINSON. Some allusion, Mr. Chairman, has been made by the gentleman from Illinois to the fact that no action in the form of a point of order was taken at the last session to this same amendment when proposed. As I have a very clear recollection of the circumstances at the time the amendment was offered, I propose to state them in this connection.

It will be remembered that the gentleman from New York, Mr. Hewitt, had charge of the Army bill, and on its first consideration made a long speech in the House on the subject. He then cited the statutes we have now under consideration, and said he intended to offer an amendment, just the same in terms as we have here to-day to which the point of order is made. At that time, at the very outset, Mr. Hewitt said that it was subject to the point of order, but he hoped no gentleman on either side would make it and that the House might be allowed to vote on the proposition. I not only have it clearly in my mind as a recollection but I have it before me, and I ask the Clerk to read it in order that there may be no mistake.

I ask that he first read the law which Mr. Hewitt cited, and then that portion of the remarks I have marked.

The Clerk read as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls.

* * * * * * *

Mr. HEWITT, of New York. Now, I count upon the cordial support of both sides of this House in the attempt to amend the statute which I have just read, by striking out the words "or to keep the peace at the polls." At the proper time I shall offer an amendment for that purpose. This provision is not now in the bill as reported to the House, because I think it better that there should be a direct vote of the House taken as to whether it shall come in or not.

Mr. HALE. The gentleman proposes to move that as an amendment to the Army appropriation bill?

Mr. HEWITT, of New York. Yes, of course, subject to a point of order, which I trust no gentleman will make. I count, indeed, upon the unanimous support of both sides of the House of such an amendment. I know that on this side of the House we do not monopolize either the statesmanship or the patriotism of this country. I accord to gentlemen on the other side the fullest credit for a desire to preserve whatever we have gained in the direction of freedom, and to add to it by every possible means.

Mr. ROBINSON. Now, Mr. Chairman, it will be observed plainly that the section which the Clerk read at the request of Mr. Hewitt at that time was the first section alluded to in the proposed amendment, and is not the section referring to the repeal of the penal statute.

I want that made clear because there may be some discussion upon that point. In the next place, it is true that Mr. Hewitt's language is "subject to a point of order," and the argument may be made that he only said the point of order might be raised by some gentleman, but would not be sustained. But I beg gentlemen to go forward and see what Mr. Hewitt said:

Which I trust no gentleman will make.

What does that mean? According to all the rules of language and common sense taught among men, he knew fully the point of order would lie and the Chair would sustain it.

Subject to a point of order, which I trust no gentleman will make.

I cite this because the gentleman from Illinois said that the gentlemen on the republican side made no objection at the last session and did not raise the point of order. Why, sir, it was laid down in the face of the House there was a point of order on which this could be ruled out. I only answer that objection which was made by the gentleman from Illinois because the circumstances were fresh in my mind; and I remember very well that the gentleman from Maine, Mr. Hale, who raised the question at the time the discussion went on, was absent from his seat when the amendment was offered, and so failed to make the point of order.

I sat here very patiently in the last Congress listening to the discussion of points of order under Rule 120, to find out what amendments should go in and what should remain out. If there is any standing and clear rule that guides the Chair, I have yet to find it. "That shall retrench expenditures," says the rule; and the distinguished gentleman who now occupies the chair said, only yesterday, new legislation to be in order shall appear on its face to retrench expenditures. That was the language of the Chair yesterday. I hope we shall not have anything different in the ruling upon this section to-day. I say it is of the utmost importance that we hold to this rule strictly. It is of importance to both sides of this House that it should not be so construed as to let some pet project come in to-day which ought not to come in, because, as gentlemen have said, curses will come home to roost by and by, and our books are filled up with precedents that will be no guide to anybody in the future.

I maintain, Mr. Chairman, upon the second point, that this proposed amendment does not retrench expenditures in terms. The amendment is to strike out from the law the words, "or to keep the peace at the polls." It is not an affirmative amendment directing the Army to be used for a certain purpose which would require expense; not at all. It is simply a negative. It is prohibitory. It does not belong to new legislation which curtails expenditure. It seems to me that distinction should be very clearly kept in mind. It does not appear that a dollar will be saved the Treasury of the United States by striking out these few words from the statute; not at all. The President, under the Constitution, is compelled to send the Army where it shall be called for—even, I maintain, to keep peace at the polls. I am not discussing the merits of the question, but under the Constitution the President is required to send troops on the call of the executive or the legislature, as the case may be. That being the case, he must obey the Constitution, and this change in the statutes cannot, when the President is called upon to send troops, save one dollar to the Treasury; and, therefore, this amendment does not retrench expenditure.

Mr. SPARKS. I desire to ask the gentleman from Massachusetts a question. Is the use of the Army an expense to the Government?

Mr. ROBINSON. The gentleman asks a question which he is quite competent to answer himself. Ask me a harder one.

Mr. SPARKS. The gentleman, of course, admits that the use of the Army is an expense to the Government. If, therefore, you reduce the uses to which it is applied, do you not necessarily retrench expenditure?

Several MEMBERS. No, no!

Mr. HUMPHREY. May I ask the gentleman from Illinois [Mr. SPARKS] a question.

Mr. ROBINSON. I want to answer the question of the gentleman from Illinois.

Mr. SPARKS. The troops can be used now to keep the peace at the polls. If you strike that out, will not the expense be diminished?

Mr. CASWELL. I will ask the gentleman from Illinois, does it not retrench expenditures to keep the peace?

Mr. ROBINSON. The gentleman from Illinois asks me whether this section does not restrict the use of the Army, and whether, therefore, it does not save money? I go deeper than that question goes. You cannot take away the President's power to send the Army to put down domestic violence at the polls; and if you cannot take away that power you cannot save a dollar.

Mr. SPARKS. Can we not repeal this statute and say that the Army shall not be used "to keep the peace at the polls?"

Mr. ROBINSON. What I say is this, if Congress says what the Constitution does not allow it to say it has not curtailed the power of the President or saved a dollar.

Mr. SPARKS. The gentleman does not answer my question, but evades it.

Mr. MCLANE. The gentleman from Maine [Mr. FRYE] on the other side of the House claimed the President of the United States had the power to send the Army where he pleased without the control of

Congress; and, therefore, it is not possible for this House or for this Congress, the law-making power, to economize the public money by controlling the use of the Army. Sir, I do not believe that position has ever been taken before in either House of Congress, that the President of the United States cannot be controlled by the law-making power in the use of the Army. Yet that was the position of the gentleman from Maine. Why, sir, the power to make rules and regulations for the government of the Army and Navy is a fundamental power in this Government. It is one of the express powers granted in the Constitution, and I never heard anywhere in this country a question made that we had a right to control the Executive in the use of the Army.

Mr. HASKELL. Will the gentleman from Maryland allow me to ask him a question?

Mr. McLANE. Yes, sir.

Mr. HASKELL. Have you read section 4, article 4, of the Constitution of the United States, which says that—

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence?

Now, I want to ask the gentleman from Maryland if, in the great State of New York a state of domestic violence existed, in the center of which was located the polls where the officers of the United States were to be elected, on application of the governor of that State, under this Constitution, the President would not be empowered in spite of Congress to send troops to the aid of the executive in that place?

Mr. McLANE. The gentleman's inquiry is not at all pertinent to the point at issue, if he will allow me to tell him so; and if he will think about the matter at all, he would be satisfied of the fact himself.

I am dealing with the general power of the President to send the Army where he pleases. Of course, where the President orders the Army to go under the express provision of the Constitution, as in the case presented by the gentleman, that has no reference to the general power to order the Army from east to west and from north to south.

Mr. HASKELL. Will the gentleman allow me to ask him another question?

Mr. McLANE. I will, if it be pertinent to the subject I am discussing.

Mr. HASKELL. It is. Under the operation of this law do you pretend to say that under no circumstances shall any armed body of troops be sent to the polls? I ask you if, in spite of that law, the governor of the State of New York on election day in that State finds a condition of domestic violence existing, and asks the President of the United States that troops shall be given him right there at the polls, they would not under the Constitution have to go there?

Mr. McLANE. I say to the gentleman from Kansas, that whenever the governor of a State, the Legislature of the State not being in session and he not having it in his power to get them in session, certifies to the President that he cannot suppress the insurrection, the President is bound by the Constitution to send the Army and suppress that insurrection.

Mr. HASKELL. In spite of this law?

Mr. McLANE. No law of Congress can curtail that power.

Mr. HASKELL. That is enough.

Mr. McMAHON. Will the gentleman from Maryland allow me to call the attention of the gentleman from Kansas to the law as we propose to allow it to stand? It reads: "If it be necessary to repel the armed enemies of the United States." [Cries of "Oh!" "Oh!" on the republican side of the House.] I would like to ask the gentleman from Kansas, when do persons become armed enemies of the United States?

Mr. HASKELL. Judging from the remarks which I have heard made on one side or the other in the Forty-fourth, Forty-fifth, and Forty-sixth Congresses, I declare before my Maker that I do not know what the other side of the House would consider to be armed enemies of the Government. [Laughter and applause.]

Mr. McMAHON. I call attention to the fact that armed enemies of the United States may exist within its borders, and we have reserved the right of the President to use the troops whenever that is the case.

Mr. McLANE. Mr. Chairman, I did not mean to depart from the point of order which is being discussed, and I shall not be led by the inquiries of the gentleman from Kansas into any discussion not strictly pertinent to the point of order. The point of order is, that this section is not germane to the bill because it does not retrench expenditures.

The gentleman from Maine [Mr. FRYE] made the point, that it would not retrench expenditures, because it could not control the President in moving troops where he pleased, and thus there would be no economy in the cost of transportation. In reply to that argument I submit to his candor, whether it is not in the power of Congress to make rules and regulations for the government of the Army and Navy, and in those rules and regulations to control the President in his direction of the Army and Navy? I want an answer to that question.

Mr. FRYE. I want the gentleman to understand me perfectly. Here is a proposition that the Army should not be used at the polls to keep the peace. My point is this: that you may enact it into a law, but you will not affect the power of the President to transport the troops from one State to another as he pleases. If he as Commander-in-Chief wishes to supply a fort in the State of Maine with men he can do so in spite of an act of Congress.

Mr. McLANE. That is not an answer; no qualification of the gentleman's remark.

Mr. FRYE. It is precisely the remark I made, that this legislation of Congress would not tend to promote economy in expenditures, because it still leaves in the power of the Commander-in-Chief of the Army the right to transport the Army to such points as he thinks it most needed.

Mr. McLANE. I insist that the gentleman from Maine shall make a distinction between the general power to move the Army from Maine to Texas and the particular power to move it from one point in a State to another point in the same State on the day of election.

He knows very well that the Army cannot be moved without some expenditure of money, and he knows very well that the Army barracks, or a station of the Army, is not the polls at which the election is held.

It is not a question of amount of expenditures. The issue between the gentleman from Maine and this committee is that you cannot retrench expenditures one dollar by this provision. The observation that the President can move the Army where he pleases in this country is not at all pertinent to that issue. Our question is, can he be restrained by law? Can the Congress of the United States, which is authorized by the Constitution to enact rules and regulations for the government of the Army, stipulate in those rules and those regulations that the President shall not order any portion of the Army from their barracks to the polls?

Now, I am very free to admit that I do not suppose that there is any question on either side of the House that this point of order is a very significant point in this discussion. The gentleman on my right who last addressed the committee, [Mr. ROBINSON,] when he referred to the fact that the decisions were not very uniform on this point, might well have stated that they were very elastic. He might well have said that in the history of legislation in this country there is no subject-matter of legislation that has not found its way into appropriation bills.

And it is not worthy of the attention it has received as to whether this particular provision is in order or not. It has been decided by precedents to be in order. It was put into this bill in the last Congress, and we to-day are dealing with it precisely as we found it incorporated into this bill by a previous Congress. There is no more departure from the practice of the House than from the general rules of the House.

The gentleman from Illinois who has charge of this bill [Mr. SPARKS] has stated specifically that this provision will result in a reduction of expenditure. How much or how little is not at all material to the question. In reply to that the gentleman from Maine [Mr. FRYE] entirely evaded the issue when he spoke of the right of the President to control the Army. We are referring to his right to make a particular movement of the Army. We are referring to the right of Congress to make rules and regulations for the Army. That has no reference whatever to some other obligation fixed in the Constitution, such as that to which the gentleman from Kansas [Mr. HASKELL] has referred.

I will not go into the general question, although I might very well do it, and it might be very well for me to try to do it. But we will have an opportunity later, and I am very sure that I will find the main question itself very well treated by other members on the floor.

My object has been to sustain the gentleman in charge of this bill in his position upon the point of order, in his specific allegation that this section will retrench expenditures; how much or how little I care not. That position has been assailed in a manner unworthy really of the gentleman who made the assault, whose intelligence and whose astuteness, although I have not had the honor to sit with him in any former Congress, I know very well by general repute. I know there are none better qualified to deal with this question than he, and I am somewhat surprised to find him evading the issue in his argument sustaining the point of order.

Mr. KEIFER. I understood the gentleman in charge of this bill [Mr. SPARKS] to say in discussing this point of order that we are now engaged simply in an effort to repeal a law, and as that was all the work we were now engaged in, and as it related to the use of the Army, it was therefore germane to this bill to attach to it the class of legislation contained in section 6 of the bill. He also stated that it might be or was in the interest of economy to repeal the sections of our statutes relating to the use of the Army at the polls.

I also understood the distinguished gentleman from Texas [Mr. REAGAN] to state that because the bill under consideration related to the Army we had a particular right to legislate upon it in any way we choose on any matter that appertained to the Army, and that it would be germane to the bill to put on any such legislation. Now, I think both of those gentlemen have spoken inconsiderately and inadvertently, and that neither of them will upon due reflection undertake to stand upon their statements.

In the first place, this is not a work of repeal which we are engaged in. It is a work of making that which was hitherto a duty, made so by law, a crime; a crime entirely new, wholly new, in connection with officers of the Army and officers of the Navy and the civil officers of this Government. Never before, I believe, in the history of this coun-

try has it been attempted to make it a crime for an officer of the Army or an officer of the Navy, or a marshal of the United States, or a deputy marshal of the United States, to keep the peace. This proposed legislation is intended to do that. Then I say to the gentleman from Texas, this is not legislation that pertains to the Army alone. It undertakes to make it a high crime, punishable by fine and imprisonment, for any civil officer of the United States to appear on election day at the polls with an armed body of men, not troops, not United States soldiers, but to go with an armed body of men to the polls to quell a riot. That will be the express effect of this proposed legislation.

It does not change the old section altogether, but it re-enacts the section in such form as to make for the first time a civil officer guilty of a crime if he carries out existing law. Under the present law, by the statutes of the United States and at common law, it is made the imperative duty of marshals, deputy marshals, and all the constabulary force of the United States to put down riots and to suppress all kinds of disorder everywhere in the United States within their respective districts when such riots and disorders come under their observation and personal notice. This legislation undertakes to make it a crime for those officers to do this if they go with armed men to do it—not soldiers but armed men. They may go with feathers in their hands without violating the law; but when armed force is to be resisted, when it becomes necessary to quell rioters with arms in their hands, persons gathered together for the purpose of murder, intimidation, or whatever else it may be, the marshals and their deputies, whose duty it is now by law to quell such disturbances and restore and preserve peace, must go without any armed men with them; otherwise under this proposed legislation they will be guilty of a high crime.

Mr. KNOTT. Will my friend allow me to call his attention to section 5528?

Mr. KEIFER. Yes, sir; that is one of the sections we are now dealing with, in which we propose to strike out the words "to keep the peace at the polls." That is all we propose to do, so as to make the penalties provided by these sections when re-enacted apply first to military officers, second to naval officers, third to civil officers of the United States when they come with troops or armed men to suppress a riot or any other kind of disorderly and illegal organization of men at the polls. Now, when the marshal or deputy marshal comes, as it is his duty to come, to quell a riot, he has the right to summon the law-abiding citizens of the community to obey his orders, to go if you please armed—to become his *posse comitatus* in quelling such disturbances. But this proposed legislation takes away from the marshals and other civil officers of the United States who are charged with similar duties the power of putting down a riot on election day at the polls and makes it a high crime punishable by fine and imprisonment if such an officer undertakes to do it. This does not relate to the Army and Navy alone, but to the civil side of the Government. This is the work we are engaged in.

Hence, I insist that this proposed legislation is not germane to the Army appropriation bill. It is not germane because it affects officers of the Navy; and this is not a naval bill. It is not germane because it affects civil officers of the Government. It is not germane in any sense. If the legislation proposed as a whole includes anything not within the rule it must all fall together.

Mr. CHALMERS. The gentleman speaks of this being a new crime. Will he tell me when it was first allowed by law that the Army should be used at the polls to keep the peace?

Mr. KEIFER. When the Government was organized, when we first had an army of the United States, it became the duty of that army under certain circumstances to quell riots, to put down men engaged in any sort of disorderly conduct, whether at the polls or at church or wherever else in the country; and this has always been the law up to the present hour.

Mr. CHALMERS. The gentleman will permit me to correct him.

Mr. KEIFER. I will not permit the gentleman to make a speech in the middle of mine; I will permit him to put a question.

Mr. CHALMERS. Then I ask the gentleman whether he does not know that this law was enacted in 1865 for the first time?

Mr. KEIFER. Ah, Mr. Chairman, the gentleman entirely misunderstands the legislation on this subject, although he is a very excellent lawyer. For the first time, in 1865, there was enacted a statute making it a crime for any officer of the Army or the Navy or any civil officer of the Government to interfere on election day for any purpose except in repelling the armed enemies of the United States or in keeping the peace.

Mr. CHALMERS. Exactly.

Mr. KEIFER. But from the beginning of the Government to the present hour it has always been the right and the duty of the officers of the Army and the Navy, as well as certain civil officers of the United States, to keep the peace everywhere.

Mr. SPARKS. The gentleman will allow me to ask him whether there is any statute to that effect enacted prior to 1865, and if so, where is it?

Mr. KEIFER. If I understand the gentleman——

Mr. CARLISLE. I rise to a question of order. I desire to know whether this debate is proceeding under the five-minute rule or not?

Mr. KEIFER. We are under no five-minute rule. Now, I desire to answer the very pertinent inquiry——

The CHAIRMAN. The gentleman from Kentucky [Mr. CARLISLE] has stated a question of order which the Chair did not hear. He will please state it again.

Mr. CARLISLE. I simply put the inquiry whether this debate is proceeding under the five-minute rule. If it is, the gentleman from Ohio [Mr. KEIFER] has largely exceeded his time. I am not insisting upon the enforcement of the rule, but merely desire to know what the rule is.

The CHAIRMAN. The Chair will state that all debate on the point of order is under the control of the committee itself, and as no objection has been raised it is proceeding by common consent.

Mr. CARLISLE. Then I do not object.

Mr. KEIFER. I would have been through some time ago but for the pertinent inquiries made on the other side.

The gentleman from Illinois, [Mr. SPARKS,] as I understood him, asked whether prior to the act of February 25, 1865, there was any law on the subject of the use of troops at the polls. That is the way I understood him. Now let me say to him and to other members, that was the first time in the history of the country, so far as I know, that there was any restraining statute upon our statute-books at all in relation to the use of troops at the polls or anywhere else in the United States, and that legislation prohibited the use of troops and armed men at the polls by military, naval, or civil officers in the service of the Government, except for the purpose of repelling armed enemies of the United States or to keep the peace at the polls. Those two cases were excepted in this legislation passed by a republican Congress, and we propose that this legislation shall remain as it now is, so that it shall not be said as a reproach and a stigma upon this country that we have officers, military, naval, and civil, whose duty it is by law, under penalties to keep the peace everywhere, save and except on one day at least in each year these officers shall be required to fold their arms and look on and witness riot, murder, intimidation, or anything else of an unlawful character, going on before their eyes, or be subject to severe penalties.

Now, Mr. Chairman, I understand the distinguished gentleman from Maryland [Mr. MCLANE] to say that he did not agree with my friend on the right [Mr. FRYE] in his statement in regard to the power and duty of the President of the United States in relation to the movement of troops. I understood him to state as a reason why he did not concur in my friend's statement, that we had the power to regulate the President of the United States in his government of the Army. I understood the logic of that to be that it is the duty of Congress, and its right whenever we have a war, or that which is akin to it, insurrection, riots, or domestic violence, or whatever else arises in the country to put down which the Army is required—that it is the right and the duty of Congress, in the first instance, as each impending battle or engagement comes on, to meet in debate and consider just how the President shall order his troops to go into battle. I understood that to be the entire logic of the gentleman's position. He believes that the President must withhold his orders and act as the mere mouth-piece of Congress. In his view the President of the United States must wait until Congress has said "Move your troops to the right or the left; charge upon the right, or the left, or the center, and so on." I do not understand that to be any part of the duty of Congress; and let me say I think perhaps it is the first time it was ever stated upon the floor of Congress that Congress had any such extraordinary right. The Constitution gives to the President as commander-in-chief the absolute right and the power to move the Army or Navy when raised as he pleases, when an emergency has arisen or war has been declared. By the second section of the second article of the Constitution of the United States the President is made the Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; and together with other powers given to him he has the right to move the Army whenever and wherever it is necessary to move it. The President is by the Constitution clothed with all the powers incident to a commander-in-chief, and such power cannot be taken away by law. We may pass laws for the government of the Army, but not to restrict and restrain the President's constitutional power so he cannot use it effectually and efficiently in time of war or any other time when it is necessary to call that strong arm of the Government into requisition.

Mr. CARLISLE. Mr. Chairman, I had not intended to participate in this discussion, but some propositions have been stated here which it seems to me ought not to be permitted to go to the country unchallenged. I think this House and the country will hesitate a long time before accepting the doctrine announced by the gentleman from Maine [Mr. FRYE] that the President of the United States as Commander-in-Chief of the Army can transport troops wherever he pleases and use them for any purpose he sees fit with or without the consent of Congress. It is the first time I have ever heard that doctrine or anything akin to it announced by a gentleman of the respectability, intelligence, and standing of the gentleman from Maine. It is well known, sir, that although the King of Great Britain can raise armies without authority of Parliament, yet for more than two hundred years that body, representing the Lords and Commons of England, have controlled him in the use of those armies. In this country the President cannot enlist, arm, equip, or use a solitary soldier without the consent of Congress, without the consent of the Representatives of the people, and yet it is said that under the Constitution of the United States he

possesses powers far more extensive and far more dangerous to the liberties of the people than a sovereign of Great Britain.

I undertake to affirm, and I do it deliberately, that under the Constitution of the United States the President has no right to use the Army or Navy, or any part of the Army or Navy, to protect the States against domestic violence or to enforce State laws unless he is authorized so to do by act of Congress. I will read to the House that provision of the Constitution which has been already read by my friend from Kansas, [Mr. HASKELL:]

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature or of the executive, (when the Legislature cannot be convened,) against domestic violence.

I appeal to my friends on the other side to tell me and the country whether they mean to say that this provision which it simply makes the duty of the United States to guarantee to each State a republican form of government and to protect it, upon the application of the governor or the Legislature, against domestic violence, confers upon the President, a single officer of the United States, any such power. Are the gentlemen prepared to go before the country on the proposition that the President is the United States?

Several MEMBERS. Oh, no!

Mr. CONGER. To whom does the application come which is referred to?

Mr. CARLISLE. I will show the gentleman how it comes and why it comes.

Mr. CONGER. To whom does it come?

Mr. CARLISLE. It comes to the President. If the gentleman will allow me to proceed with my remarks I will answer his question, I hope, to the gentleman's entire satisfaction. That is the constitutional provision making it the duty, not of the President, but of the United States as a government to protect the States against domestic violence on the application of the governor or the Legislature. And I repeat the proposition that under that provision of the Constitution the President, without legislation on the part of Congress, did not possess one particle of power to use the Army or the Navy for this purpose. And the same authority which conferred the power on him by legislation can take it away from him. [Applause on the democratic side.]

Mr. WHITE rose.

Mr. CARLISLE. I decline to be interrupted.

Mr. WHITE. Will the gentleman not answer me a question which will not occupy more than a moment?

Mr. CARLISLE. I will.

Mr. WHITE. Does my friend remember that in Mr. Pierce's administration, on the 12th of June, 1856, the Secretary of the Navy, under the order of the President of the United States, at the request of the mayor, sent a body of marines to the fourth ward in this city while an election for municipal officers was going on, and they shot down unoffending American citizens? That act was sustained by the gentleman's political friends. Does he know that?

Mr. CARLISLE. The gentleman proposed to ask me a question. I have not yielded to allow him to inject a speech into the body of my remarks. I will answer the gentleman's question. I do remember at that election the soldiers of the United States or the marines were used in this city, a district under the exclusive jurisdiction of the Federal Government, and that my friend's political party complained loudly and long of it.

Mr. WHITE. Did not Henry C. Burnett, a predecessor of the gentleman from Kentucky, defend on this floor the use of the troops to keep peace at the polls?

Mr. CARLISLE. The District of Columbia was not in a State.

Mr. WHITE. Had not the District of Columbia a municipal city government, a mayor and police? [Laughter on the democratic side.]

Mr. CARLISLE. I cannot yield to the gentleman further.

Mr. WHITE. The District of Columbia had a municipal government, a mayor and police.

Mr. CARLISLE. Have I the floor?

The CHAIRMAN. The gentleman from Kentucky has the floor and declines to yield.

Mr. CARLISLE. I have asserted before that the authority of the President of the United States to use the Army or the Navy in protecting the States against domestic violence, or in assisting the States to enforce their laws, is derived not from the provision of the Constitution which I have read, but from an act of Congress passed February 27, 1795; and it is under that act that the President proceeds in every instance to send the Army or the Navy into a State to protect it against domestic violence or to enforce its State laws. The act is here before me, passed by the men who framed this Constitution and who knew what it meant. It was passed in 1795 and amended in 1807, and I will read the section as it now stands with the amendment incorporated into it:

In case of an insurrection in any State against the government thereof, it shall be lawful for the President, on application of the Legislature of such State, or of the executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State or States, which may be applied for, as he deems sufficient to suppress such insurrection; or, on like application, to employ, for the same purposes, such part of the land or naval forces of the United States as he deems necessary.

There is the foundation and the only foundation upon which rests to-day all the authority the President has to use the troops, the Army or the Navy, for these purposes. And I submit to my friends on the other side if it is not entirely competent for the power which conferred this authority to take it away, to modify it, or to alter it. But I deny, sir, that under this authority, if left without any modification, the President can send soldiers into the States of this Union to stand around the polls on election day for the purpose of keeping the peace. I deny what has been asserted by my friend from Maine, [Mr. FRYE,] that the United States deputy marshals can call upon the Army of the United States to assist them in keeping the peace. Up to the passage of the Army appropriation bill in the second session of the Forty-fifth Congress that was true; but in that bill there was inserted a clause which provided that the Army should not be used thereafter as a *posse comitatus*.

Mr. KNOTT. Will my colleague allow me to correct him? I think he is mistaken upon that point.

Mr. CARLISLE. I yield to the gentleman.

Mr. KNOTT. Even prior to the amendment to the last Army appropriation bill there was no such authority as is claimed for marshals or deputy marshals to call upon the Army. Here is the provision of the law:

The marshals and their deputies shall have, in each State, the same powers, in executing the laws of the United States, as the sheriffs and their deputies in such State may have, by law, in executing the laws thereof.

Mr. CARLISLE. But we know that the United States Attorney-General during the administration of President Grant issued a circular of instructions to the marshals throughout the country in which he informed them that under what are known as the enforcement acts they had a right to call not only upon the citizens and the military forces and officers of the States, from the governor down, but on the Army and Navy of the United States, to come to their assistance as a *posse comitatus* to assist them in keeping the peace at the polls.

Mr. FRYE. Will the gentleman yield to me a moment?

Mr. CARLISLE. Certainly.

Mr. FRYE. Does not the gentleman from Kentucky [Mr. CARLISLE] know—and I ask through the gentleman from Kentucky who has the floor the other gentleman from Kentucky [Mr. KNOTT]—that Mr. Cushing as Attorney-General of the United States gave an opinion that the marshals and deputy marshals could call on United States soldiers as a *posse comitatus*?

Mr. CARLISLE. I believe he did.

Mr. FRYE. Now, if you will pardon me a moment longer, I desire to make one correction. The gentleman in commencing his speech stated that it was claimed by me that the President of the United States had the power to transport troops wherever he pleased for any purpose whatever. I did not say so. I never claimed that, but I claimed—and I think the gentleman will admit it—that if the words "to keep the peace at the polls" were stricken out it would not be any restriction whatever upon the power of the Commander-in-Chief of the Army to transport troops from barrack to barrack, and from State to State, as he saw fit. That was all I claimed. Does not the gentleman agree to that?

Mr. CARLISLE. Oh, certainly I do.

Mr. FRYE. I made that argument to show that this amendment did not on its face decrease expenditures.

Mr. CARLISLE. But if the President of the United States desires to transport the troops, not only from post to post within the States or Territories, but desires to distribute them at all the voting places in the States, will not the cost of transportation be largely increased?

Mr. FRYE. Not necessarily, [laughter,] because he might desire to transport the whole Army of the United States to the borders of Texas, or he might wish to put half a dozen soldiers at the polls in another State.

Mr. CARLISLE. Now, if I may be allowed to say a word in continuation and conclusion of my argument on the constitutional question as to the power of the President over the Army, I simply say, that when the Constitution provides that it shall be the duty of the United States to guarantee to each State a republican form of government and protect it against domestic violence, and so forth, it also conferred upon Congress by express provision the power to pass all laws necessary and proper to execute the powers conferred upon Congress itself or upon any department or officer of the Government. In the exercise of that power Congress passed the act of 1795 and the amendatory act of 1807, under which this constitutional provision is to be executed by the President alone. That authority is to be exercised under the conditions and qualifications prescribed in the act, and according to the methods defined by the act itself, and in no other manner.

Mr. ROBESON. Will the gentleman allow me to ask him a question?

Mr. CARLISLE. Certainly.

Mr. ROBESON. I should like to ask the gentleman from Kentucky, for whose legal ability and fairness of judgment I have great respect, whether he thinks that under the Constitution, expressing as it does the power of the United States to aid the States on the call of the executive under certain conditions, to suppress domestic violence, and the Congress of the United States having passed a law to put that part of the Constitution into effect—I would like to ask him whether this proposed amendment would repeal that law and restrict the power of the President?

Mr. CARLISLE. I do not, because I do not think that the law, as

I have already stated, authorizes the President of the United States to use the troops at the polls to keep the peace. I believe the whole effect of that law is to do just what it provides: to authorize the President to send troops into a State to protect it against domestic violence upon the application of the governor or the Legislature of the State and not to send them into the State to stand at the ballot-box.

Mr. ROBESON. Exactly. I merely wished to ask the gentleman a question in order that I and the House might understand him. I am not arguing the question whether it is right or wrong to send troops to the polls to arrest voters, but we are merely discussing a question of order now, and I wish to ask the gentleman whether if the executive of a State, when the Legislature cannot be convened, or the Legislature itself, calls upon the President of the United States under the Constitution as it is written and under the law as it now stands to suppress domestic violence, and that domestic violence be at a place where a general election is taking place, the President of the United States is not bound under his oath of office to comply with the request? And, if so, whether this amendment is not in derogation of his constitutional power and duty?

Mr. CARLISLE. If the application is made in the regular form under the act of Congress I admit that it is the duty of the President to send troops, but I say that when troops have gone into a State and have dispersed the mob or the insurrectionists or whoever else is acting in resistance to the State authorities, they have performed their duty and must stop; they cannot remain at the election precincts to keep the peace, or, in other words, to prevent outbreaks of violence.

Mr. ROBESON. I am not now disputing that point. The gentleman having answered that question so fairly, I now ask him whether or not this section of this bill, this proposed amendment of the law, would take away the power of the President to do that thing, if properly called upon?

Mr. CARLISLE. It certainly will not, as I have stated again and again.

Mr. ROBESON. Now another question, if the gentleman will permit me. I do not desire to make a speech, but simply to ask a question.

Mr. CARLISLE. Certainly.

Mr. ROBESON. If that be so, if this section does not take away his power in that respect, and if that contingency should happen, as it possibly may, then I would ask this question: is an officer of the Army of the United States, who is sworn to obey the lawful orders of the President of the United States, bound to obey should he be ordered by the President to suppress a riot and to quiet domestic violence at a place where a general election is being held? And if he does, what is to happen to him?

Mr. CARLISLE. The gentleman from New Jersey [Mr. ROBESON] is asking me a question upon one subject and I am discussing another. [Laughter.] The gentleman from New Jersey asks me what would be the result in case an officer of the United States failed to perform his duty, where the President in giving him his order was acting in strict conformity to the law. I say that the officer is, of course, bound to obey the order.

We, however, are now discussing the question as to whether or not these soldiers shall be sent to a State for the purpose of keeping the peace at the polls, not for the purpose of suppressing domestic insurrection against the authority of the State or protecting the State against domestic violence. The two propositions are altogether different in their nature; they stand upon altogether different foundations. One is essential to the preservation, not only of the peace and integrity, but of the very existence of the Federal Government itself, because that Government cannot exist for a moment if the States are destroyed.

Mr. ROBESON. The amendment in effect says these troops shall not be there for any purpose. But one further question. Does the gentleman understand that the President of the United States is included in the scope of this section? In the fourth line of this section I find these words: "Other persons engaged in the civil, military, or naval service of the United States." I would like to ask the gentleman whether he considers that that expression—because we want to understand the scope, force, and effect of this provision; that is all—whether he understands that that includes the President of the United States? And if it does, whether the President of the United States when called upon by the executive of a State in a proper manner—I assume all that—whether he would be liable to punishment under the provisions of this section if he acted upon that call of a State executive?

Mr. CARLISLE. My first answer to the gentleman's question is this: that the President cannot be properly called upon to do a thing which he has no power to do. In other words, he cannot be properly called upon to send troops into a State to preserve peace at an election.

Mr. ROBESON. But I understood the gentleman to say that he thought this section did not affect that power of the executive of a State to call upon the President, nor the duty of the President to respond to that call. If that be so, then he would be properly called upon and not improperly; and the troops would be there under his order.

Mr. CARLISLE. In further answer to the questions put by the gentleman from New Jersey, [Mr. ROBESON,] I desire to say that the words of this section to which he has called my attention are taken from the act of February 25, 1865; it is an exact copy of that act so far as those words are concerned. I do not know what construction the Administration then in power put upon it as to its effect upon the President; nor do I know what construction the Administration which succeeded that, and of which my friend from New Jersey was a distinguished member, put upon it.

I am not prepared to say upon the instant exactly what the true construction of that portion of the section is, because my attention has not been previously called to it. But I undertake to say this much, that no provision of this law or of any other law can be so construed or so administered as to punish any officer or any private citizen for doing that which he has a lawful right to do.

I have held the floor a great deal longer than I intended. There are some other things which I would like to say, but I will not trespass longer upon the time of the committee. [Cries of "Go on!" "Go on!"]

Mr. REAGAN. I will not occupy the time of the committee long, but there is one consideration which I desire to present. It seems to me that we are not discussing the true question before the committee, and that is what I desire to call attention to. We are discussing the validity and force of Rule 120 of the rules of the House of Representatives of the last Congress. I desire to say that we overlook the fact that that rule is not now in existence. It was a rule of the last House of Representatives, and the rules of that House have not yet been adopted by this House.

Yesterday, or the day before, when I suggested that we had no rules in force except general parliamentary law, Rule 147 of the last House of Representatives was read by the Speaker. That rule reads as follows:

> These rules shall be the rules of the House of Representatives of the present and succeeding Congresses until otherwise ordered.

That rule was adopted March 19, 1860, and was read doubtless upon the supposition that it was a rule of this House.

It is not a rule of the House, nor is it a joint rule of the two Houses of Congress; it is no more a rule of the House than any other of the rules that were in force during the last Congress. It has been recognized as an established principle that the rules of a previous House are not the rules of the existing House until adopted. I maintain (and I will show some authority on the subject) that no rule adopted by a previous House of Representatives can have any binding force in the government of the present House. If this be true, then we are discussing a question not properly before the House. Mr. Cushing, in his work on the Law and Practice of Legislative Assemblies, lays down, on page 311, this principle:

> In the American Constitutions it is provided, generally, that each House shall have the right to determine the rules of its own proceedings. No legislative assembly, therefore, can make any rules which shall be binding upon its successors, even until abrogated or rescinded by them.

That is the doctrine laid down by Mr. Cushing; and I apprehend it is the established doctrine with all who have attempted to study this question.

> No legislative assembly, therefore, can make any rule which shall be binding upon its successors, even until abrogated or rescinded by them. Hence the system of standing orders is not in use in our legislative bodies; but it is the invariable practice for each of them, soon after its first meeting and organization, to frame and adopt a code of written rules for the government and regulation of its own proceedings.

I read also from page 312 of the same volume:

> The result of the foregoing considerations is, that after a legislative assembly meets, and until it adopts rules and orders, it is governed and its proceedings regulated by the common parliamentary law; and that when it has adopted rules and orders of its own it is governed partly by them in cases to which they apply, and partly in all cases to which the rules and orders are not applicable by rules drawn from the common parliamentary law, as above explained.

If the doctrine here laid down is true, the discussion in which we are now engaged as to whether the pending provision in this bill is admissible cannot arise under Rule 120; for that rule itself has no existence. If I am correct in my view of this question, it is a waste of time for us to discuss the force and effect of a rule which is not in existence. We are driven back to the general parliamentary law for the guidance of our legislation; and that embraces only the general rules regulating the proceedings of legislative bodies; it does not descend to particular provisions such as would exclude the section now pending.

I have thought it best to present this question now. If my position is correct, we may well waive discussion upon the other branch of the question. But in raising this point I do not wish to be understood as waiving or modifying the views which I expressed some time ago as to the true construction of Rule 120. I simply present these views to show that Rule 120 has now no force, and can have no force except by the authority of this House.

Mr. LAPHAM. Mr. Chairman, this discussion has taken a very wide range, and has mainly been devoted to a consideration of the power of the Executive under the Constitution to control the Army and Navy of the United States. I shall not follow in that line of discussion, but will endeavor to confine my remarks entirely to the single point under consideration which is raised by the question of order made by the gentleman from Michigan. That point of order is twofold: first, that this amendment is not germane to the bill under consideration; and, secondly, that it does not on its face retrench expenditures. I desire to say a single word only on the second proposition.

Does this provision upon its face reduce expenditures? The argument on the other side is that it does, because it proposes to prevent the sending of the Army to the polls on election day; and hence it is urged the expense of transporting the Army for the purpose of executing the law will be saved. Now, Mr. Chairman, with all deference to the opinions of those who have advanced this proposition, this is a *non sequitur*. It does not follow because the Army is not used in the morning or at noon on election day to suppress violence at the polls, that there will result a reduction of expenditures. By no means. Gentlemen must be aware that election riots are the bloodiest riots in our history. They are not riots of the morning; they are not riots at noon on election day; but they are the riots which follow the violence perpetrated at the ballot-box upon the right of the elector; they succeed the period when the Army, under the law as it now is, might be used to suppress violence, to quell disturbance or insurrection. They arise at a much later period. To deny the use of the Army for the purpose of preventing violence at the polls on election day is no more nor less than denying the "ounce of prevention" in the morning or at noon on election day, to the end that in the bloody watches of the night which are to follow the Government shall be compelled to furnish the "pound of cure."

That is the question of economy which is wrapped up in this proposed amendment, because the expenditure of a few dollars at the proper time may save a vast expenditure later. Hence the argument may well be made that retaining the law as it is and the power of the Government as it is will result in economy and prevent expenditure rather than cause it, as is claimed on the other side. Therefore I insist, Mr. Chairman, that this provision upon its face is not a proposition which necessarily reduces expenditures, but on the contrary may lead to exactly the opposite result.

Mr. HOOKER. Mr. Chairman, on the point of order which has been raised upon this provision of the bill I desire simply to say a word. Rule 147 of the rules adopted by the House of Representatives in the last Congress makes those the rules of that and subsequent Houses until changed or abrogated. Hence, Mr. Chairman, I do not think that the technical objection of my friend from Texas, [Mr. REAGAN,] that Rule 120 is not now in force, will hold good. In what I have to say on the point of order I shall assume that Rule 120 is now in force until changed or abrogated.

Mr. REAGAN. Does the gentleman wish to be understood as affirming that the House of Representatives of 1860 or any other House of Representatives can make rules to govern the existing House?

Mr. HOOKER. I say that the House of Representatives can at any time adopt rules for the government of the House, and if declared to be continuous they remain in force until changed or abrogated. The present House has the right to make its own rules; but until it does take some action on the subject, it must be governed by the rules heretofore adopted and by the general parliamentary law. But that is aside from the question I wish to discuss.

Mr. REAGAN. I desire to say that Mr. Cushing, who is very high authority on a subject of this kind, affirms in his great work from which I have just read exactly the reverse of the position laid down by the gentleman. He declares that one House cannot make a rule which shall bind another, even until that rule is rescinded.

Mr. HOOKER. I think, Mr. Chairman, that this House in going into Committee of the Whole upon this bill understood that the rules of the former House would continue until the Committee on Rules should make a report upon the propositions which have been referred to them and until the House should act on that report. But this, as I have said, is a side issue; and I am not disposed to rely upon a technical objection of that kind. Presuming Rule 120 to be in existence, I support the provisions of this bill as against the point of order that they do not look to the retrenchment of expenditures.

Why, sir, the bill proposes to take from the officers of the Army and Navy wherever they may be, whoever they may be, and whatever their rank, the power to use the Army of the United States at the polls on election day. If the bill cuts off one of the means of using the Army, (and every one knows that the transportation of troops from point to point is the great burden of expense with armies,) certainly it looks in the direction of retrenchment of expenditures.

Now, it was said by my friend from Maine [Mr. FRYE] and by other gentlemen on that side of the Chamber that this is a proposition to restrict the power of the Executive as Commander-in-Chief of the Army and Navy of the United States. It is urged that this provision proposes to take from the President some of the power with which the Constitution has clothed him. Sir, the gentleman who has referred to the fourth section of the fourth article of the Constitution must have observed that before the President of the United States as Commander-in-Chief of the Army and Navy can send a single soldier to any State for the purpose of repressing domestic violence he must be called upon to do so by the Legislature of the State, if it be in session, or, in its absence, if it is impossible that the governor of the State can convene it in time, then by the governor himself. Hence the argument of my friend from Maine that this provision is an effort to control the Commander-in-Chief of the Army and Navy of the United States in the ordinary functions which belong to him as such must fall to the ground.

But, sir, it is a startling proposition that any man in this land, however high his position, whatever the character of the epaulets that adorn his shoulders or the mark of rank that bedecks his uniform, stands superior to the legislative power of the country, and under the Constitution can do what the legislative power forbids. It was well said on a public occasion in that country from which we borrow our laws, by a distinguished English judge when he had occasion to pass sentence of condemnation upon a man high in rank and social position, that it was the characteristic of English law as proclaimed by English judges and administered by English jurors that no man was so high as to escape its penalties and none so low as to appeal to it in vain. So, sir, in this country no man, whatever his position or rank or commission, is so high that he must not bow his lordly head in obedience to the law of the land as proclaimed by the Commons of this country, the Representatives of the people.

It cannot, then, be said that in endeavoring to pass this provision of law, looking to one means of using the Army which has prevailed to such an extent as to attract the attention of the people and their Representatives, there is any effort to infringe or trench upon the power which legitimately belongs to the President of the United States, the Commander-in-Chief of the Army and Navy.

I might point to another clause in the Constitution the effect of which is to declare that not a soldier of the United States can be armed or equipped or prepared for contest anywhere save by the legislative authority of the Representatives of the people in Congress assembled. And if there is no power to raise an Army except that which exists here, is it not the right and duty of the people's Representatives to say when, where, how, and under what circumstances that Army shall be used? Would you say that because the President of the United States under the Constitution is the Commander-in-Chief of the Army, therefore the power to create the Army must be subordinate to the will of the man who chances to occupy the official position of President? I submit, then, that the argument of gentlemen on the other side falls to the ground. The President of the United States, like every other officer and every other citizen, however exalted in rank, must bow in obedience to the law of the land.

The same provision of the Constitution to which I have just referred goes on to say (so jealous were the people of authority on this question) that the law-making power, the Representatives of the people, shall not appropriate a dollar to sustain an Army for a longer period than two years. I am not sure, Mr. Chairman, but that the wisdom of the men who framed the Constitution and placed in it this safeguard for the rights and interests of the people as against whatever authority might be in power would have been still more forcibly demonstrated had they adopted the rule which prevails in England and denies to the legislative power the right to make appropriations for the Army for more than one year.

Furthermore, Mr. Chairman, following the rule which binds the English Parliament and the English executive that no moneys appropriated for the purpose of supporting the army in India shall be used for any other purpose, we might provide that the money appropriated by Congress for the support of the Army stationed upon the frontier for its defense should in its disbursement be confined specifically to that object, and that the appropriation for the support of the Army engaged in the suppression of Indian hostilities should be confined strictly to that purpose, and so on throughout.

This legislation looks, sir, to the restriction of the use of the Army at the polls, to the further prevention of the use or abuse which we know has taken place since these obnoxious laws were enacted in 1865, changing the old law adopted in 1795 and 1807. We know that the Army has been stationed at the polls during elections in violation of the great right which our fathers undertook to guard and protect when they provided that there should be no stationing of troops anywhere within one mile of the polls in any State. I say, sir, this restriction of the use of the Army does look not only to the preservation of the rights of the people, but it also looks to the retrenchment of expenditures. It looks to denying the power to the commanding officer of the Army, whatever his rank may be, at any barracks, station, or fort, to send troops to the polls in any State. It looks to the protection of a free ballot. It is not proposed to give to the Executive of the United States, be he whom he may, the power to send troops anywhere to the polls at any election held in any State. It is not proposed to give him the power to use for any such improper purpose the Army, raised, equipped, and supported by the people, and which is the Army of the people and not the Army of the officers of this Government, whether high or low in rank; and therefore the Representatives of the people have the right to say when that Army shall be moved, where it shall be moved, and how it shall be used. And, sir, having that right, they surely have the right to say that it shall not be used in any particular way by which not only the public expenditures will be largely increased, but no proper and useful service will be rendered either to the Government or the people.

Mr. STEPHENS. Mr. Chairman, I wish to address the House on this subject for a short time, but I do not feel able to go on this evening. We will hardly be able to get to a vote to-night. It is an important question.

The CHAIRMAN. Does the gentleman wish to be heard upon the point of order?

Mr. STEPHENS. It seems the debate has taken a wide range, going into the merits of the main question, and I might as well make my remarks before the decision of the point of order as afterward. If, however, it is the desire of the House to decide the point of order this evening, as it is quite late I will postpone what I have to say.

Mr. WHITE. Go on.

Mr. STEPHENS. I do not feel able to go on this evening.

Mr. WHITE. Then let us rise, and the gentleman can go on to-morrow.

Mr. STEPHENS. That is what I wish.

Mr. SPARKS. Let me suggest that the point of order be decided, and then the discussion to-morrow can proceed on the merits of the question.

Mr. STEPHENS. It will take a day to decide it.

Mr. GARFIELD. I think the committee might as well rise.

Mr. SPARKS. In accordance with the wish of the gentleman from Georgia, I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

And then, on motion of Mr. SPARKS, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATHERTON: The petition of Baer, Horkheimer & Co. and others, of Zanesville, Ohio, for the repeal of section 7 of the revenue law relating to wine, distilled, and fermented liquors—to the Committee of Ways and Means, when appointed.

By Mr. BOUCK: The petition of ladies of De Pere, Wisconsin, for a more effective law against polygamy—to the Committee on the Judiciary, when appointed.

By Mr. DAVIDSON: The petition of G. W. Wells and others, of Alafia Grange, Hillsborough County, Florida, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of John W. Matchett and others, of Clear Water Grange, Hillsborough County, Florida, of similar import—to the same committee, when appointed.

By Mr. DEUSTER: The petition of Lewis Fuldner and others, of Milwaukee, Wisconsin, for the repeal of section 7 of the revenue law relating to wine and distilled spirits—to the Committee of Ways and Means, when appointed.

By Mr. HENKLE: The petition of Anna Ella Carroll, of Maryland, for compensation for services rendered the United States during the late civil war—to the Committee on Military Affairs, when appointed.

By Mr. KEIFER: The petition of James N. Davis and others, members of Logan Grange, Logan County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. KLOTZ: The petition of Eliza M. Frick, for arrears of pension—to the Committee on Invalid Pensions, when appointed.

Also, the petition of citizens of Mauch Chunk, Pennsylvania, that a pension be granted to Jacob Guider—to the same committee, when appointed.

By Mr. MONROE: The petition of Fitchville Grange, Huron County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. WARNER: The petition of Thomas Williams and others, of Morgan County, Ohio, of similar import—to the same committee, when appointed.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 29, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

RULES OF THE HOUSE.

The SPEAKER. The Chair desires, in view of a discussion which took place yesterday in the Committee of the Whole, (which he had not the opportunity of hearing,) wherein a question was raised as to the existence of the rules of the House, and particularly as to the existence of Rule 120, to give at this time in an intelligent manner the history of the adoption of Rule 147. He does not desire to argue the point, but merely to present the facts for the information of the House.

The Clerk will first read the remarks of the gentleman from Texas, [Mr. REAGAN.]

The Clerk read as follows:

Yesterday, or the day before, when I suggested that we had no rules in force except general parliamentary law, Rule 147 of the last House of Representatives was read by the Speaker. The rule reads as follows:

"These rules shall be the rules of the House of Representatives of the present and succeeding Congresses until otherwise ordered."

Again:

I have thought it best to present this question now. If my position is correct, we may well waive discussion upon the other branch of the question. But in raising this point I do not wish to be understood as waiving or modifying the views which I expressed some time ago as to the true construction of Rule 120. I simply present these views to show that Rule 120 has now no force, and can have no force except by the authority of this House.

The SPEAKER. Rule 147 was adopted on the 16th of March, 1860, and the Clerk will now read the debate which took place at the time.

The Clerk read as follows:

Mr. WASHBURNE, of Maine. I now offer the following amendment:

"All elections of officers of the House, including the Speaker, shall be conducted in accordance with these rules as far as the same are applicable; and pending the election of Speaker, the Clerk shall preserve order and decorum, and he shall decide all questions of order that may arise, subject to appeal to the House.

"These rules shall be the rules of the House of Representatives of the present and succeeding Congresses, unless otherwise ordered."

Mr. REAGAN. I suggest to the gentleman from Maine that we can only bind future Congresses by an act of Congress and not by the rules.

Mr. WASHBURNE, of Maine. The House makes its own rules. It has the right and power under the Constitution to do so.

Mr. NOELL. I desire to know of the gentleman from Maine what he intends to do with that provision of the Constitution which gives to "each House" the right to make its own rules of procedure; not that one House shall have a right to make rules for the next House, but that *each* House shall have a right to make its own rules? I would like to know what he intends to do with that provision of the Constitution?

Mr. GROW. This amendment does not so provide. It does not control the action of any succeeding House in making its rules. They can make them when they please; but until they do make rules, these will stand, just as Jefferson's Manual is now regarded, as the authority until rules are adopted which interfere with them. The amendment only provides that these shall continue in force until the next House chooses to change them.

Mr. NOELL. The gentleman does not answer my question. My question is, what has this House got to do with making rules for the next House?

Mr. GROW. That is just what I am trying to answer.

Mr. NOELL. How can you make rules that will apply to the action of the House not now in existence?

Mr. GROW. We do not make rules for the next House. We only provide that these rules shall continue in force until the next House chooses to change them; and if they choose to sit during the whole session without altering them, then they adopt them as their rules by their own action. The House of Representatives continues under the Constitution without interregnum just as much as the Senate. This idea that there is a period of time when there is no Congress, under our Constitution, goes on the supposition that there is a period of time when there is no government. There is a Congress in existence, under the Constitution, all the time; and when the House meets here the Constitution says they shall select their Speaker. If you have not a House, how are you going to elect a Speaker? They are just as much a House of Representatives, under the Constitution, the day they meet as they are after they have elected a Speaker; they are not organized under the forms they choose to adopt; that is all. Up to the time when they choose to adopt rules, by their acquiescence in these they will make them their own rules, so that they will not be left at any time without rules.

The SPEAKER. In the Thirty-seventh Congress Mr. Grow, then Speaker, made the statement which the Clerk will read.

The Clerk read as follows:

The SPEAKER. The Chair will remark that he would construe the rules of the last House as continuing in force until otherwise ordered, but he sees no objection to the adoption of the resolution of the gentleman from Illinois.

The SPEAKER. Mr. Grow of course, as Speaker, was also a member of the Committee on Rules, and the Chair is unable to find any decision to the contrary.

Mr. MILLS. I ask that there may be also read what I have marked here in the CONGRESSIONAL RECORD.

Mr. CALKINS. I ask that Speaker Kerr's decision in the Forty-fourth Congress be read.

The SPEAKER. The Chair will have everything read that is sent to the desk. The Chair repeats that he does not wish to argue the question. He merely wants to give to the House the history of Rule 147.

Mr. MILLS. Will the Chair please to have read in this connection what I have marked? It is the ruling of Speaker Kerr.

Mr. CALKINS. I suppose that is the same I desire to have read.

The Clerk read as follows:

Mr. RANDALL. I submit the following resolutions:

"*Resolved*, That the rules of the House of Representatives of the Forty-third Congress shall be the rules of the House of Representatives until otherwise ordered, except Rule 166 and Rule 167.

"*Resolved further*, That a committee of five, to consist of the Speaker and four members, to be named by him, be appointed, to whom shall be referred the rules of the House, who shall report all such amendments or revisions of the same as they shall think proper, and such reports shall always be in order to be made."

Mr. GARFIELD. I rise to a point of order.

Mr. RANDALL. I demand the previous question.

Mr. GARFIELD. I rise to a point of order. I object to the resolutions under the existing rules, which are our rules without a declaration of this sort.

Mr. RANDALL. I submit that both these resolutions are strictly in order. I propose that we adopt the rules of the last House with the exceptions stated. As to the second resolution, I will say there is no rule providing for the appointment of a Committee on Rules. The gentleman from Ohio [Mr. GARFIELD] is therefore mistaken on this point.

Mr. GARFIELD. That particular point is not what I object to. I object to the first branch of the gentleman's resolutions, on the ground of immemorial usage.

Mr. RANDALL. The gentleman has a perfect right to object by voting against the resolutions, but in no other manner.

Mr. GARFIELD. I submit that this is not a privileged question.

The SPEAKER. Does the gentleman make that point of order?

Mr. GARFIELD. I do.

The SPEAKER. The Chair overrules it, on the ground that the Constitution clearly gives to each House the right to adopt its own rules. Whatever may have been the rules or orders of a preceding House in reference to this matter, they cannot supersede the constitutional right of this House to adopt its own rules.

Mr. RANDALL. The Speaker is clearly right.

The SPEAKER. The gentleman from Indiana will now send up the passage he desires to have read.

Mr. CALKINS. It is the decision of Speaker Kerr, which has just been read.

The SPEAKER. The then Speaker did not make a decision, but simply stated, as the Chair understands the language, that the constitutional right of the House to make its own rules could not be superseded. The Chair thinks that is correct; it cannot. But, in the absence of action, the concurrent ruling of the Speakers has indicated that there must be some rules, and it is with that view that Rule 147 was adopted and given its scope. The Chair does not wish to be led into a discussion or a decision upon the question until the occasion arises.

Mr. McMAHON. I desire to call attention to one matter. I think it was decided the other day that the introduction of any rules for the government of this House was not a privileged question, and that that could not be introduced except by unanimous consent. I believe that the question of the adoption of rules for the government of this House is as thoroughly a part of the organization of this House, and therefore privileged, as the determination of the question who shall be sworn, because as the Constitution guarantees to each House the right to adopt such rules as it chooses for its guidance, the House cannot proceed properly and in order until it shall have adopted some such rules. I submit, therefore, that the adoption of a set of rules for the government of this House is a privileged question and can come in at any time. I desire the Speaker to make a proper examination of that question.

The SPEAKER. The Chair will do so. The Chair desires to have read in this connection a passage from the Manual which shows the reason why he stated that he would allow resolutions to amend the rules to come in on Monday; but he did not, as is supposed, decide the question whether a proposition to amend the rules was or was not a privileged question.

The Clerk read as follows:

A resolution to amend the rules may be read and referred to the Committee on Rules during the first call of the States and Territories in the morning hour on Monday, and thus constitutes notice, according to the usages of the House.

The SPEAKER. The Chair was desirous there should be no conflict on that point between the two sides of the House.

Mr. McMAHON. That supposes the rules were adopted.

The SPEAKER. That is supposing that Rule 147 would operate. The Chair thinks it should be a subject of privilege.

Mr. REAGAN. Inquiries are arising continually whether we can proceed without rules.

The SPEAKER. That is a natural inquiry.

Mr. REAGAN. Section 793 of Cushing's Manual reads as follows:

The result of the foregoing considerations is that after a legislative assembly meets, and until it adopts rules and orders, it is governed and its proceedings regulated by the common parliamentary law; and that when it has adopted rules and orders of its own it is governed partly by them, in cases to which they apply, and partly, in all cases to which the rules and orders are not applicable, by rules drawn from the common parliamentary law, as above explained.

Further, on reference to paragraph 777, it will be seen what laws govern us before we adopt rules. It says:

The forms and methods of proceeding in the British Parliament, especially those which prevail in the House of Commons which has served as a model for most of the legislative assemblies of the present day, are the fruit of more than two centuries of the wisdom and experience of that celebrated body. They are founded partly in usages which are nowhere recorded in express terms on the journals, but are constantly recognized and practiced upon; as, for example, the rule that a bill before passing is to be read three times on three several days; partly in resolutions and precedents of proceedings which are considered as declaratory of the law and usage of Parliament; partly in orders made from time to time for the purpose of regulating the proceedings; and partly in statutes or acts of Parliament.

That I understand to be an embodiment of the illustration of the sources of parliamentary rule, and the common law which prevails when we have no rules.

The SPEAKER. There is no doubt but that in a body organized without rules the common parliamentary practice suggested in Cushing's Manual and just read would apply. That is not the point or controversy here. The point of controversy is as to Rule 147.

Mr. MILLS. Will my colleague allow me to make a suggestion for a moment?

Mr. REAGAN. I desire to say a few words more, and then I will not trouble the Chair.

The SPEAKER. There is no trouble; the Chair wants to be advised.

Mr. REAGAN. Section 792 of Cushing's Manual says:

In the American constitutions it is provided generally that each house shall have the right to determine the rules of its own proceedings. No legislative assembly, therefore, can make any rules which shall be binding upon its successors even until abrogated or rescinded by them.

The SPEAKER. That brings up the point made by the gentleman from Ohio [Mr. McMAHON] that there is a constitutional right to alter the rules.

The Chair thinks that the position taken by the gentleman from Ohio is probably the correct one, but the distinction is this: that that constitutional right is not superseded in any manner by the adoption of the one hundred and forty-seventh rule, because it does not take from the body the right to change its rules at any time.

Mr. MILLS. I desire to address myself to the point in discussion. We either have the rules of the Forty-fifth and previous Congresses, or we have them not. If the House is not bound by the rules of the Forty-fifth Congress, it is impossible for it to adopt any rules, and it is shorn of its sovereign power to adopt rules. If it adopts the rules of the Forty-fifth Congress, then it adopts Rule 145; and that rule says:

No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor; nor shall any rule be suspended except by a vote of at least two-thirds of the members present.

Now the rules of the House now existing require that any amendment intended to be effected in the body of the rules should be referred to the Committee on Rules, and the House has no power over the subject. The Committee on Rules may put the amendment in its pocket and retain it, and thus deprive the House of the constitutional power to make rules for the government of its own proceedings.

Mr. TOWNSHEND, of Illinois. By the consent of the gentleman from Texas, I will call attention to another section of Cushing's Manual, section 274, in which it is declared that the Clerk has no power to organize the House save by the suffrage of the members present. I wish to read it:

In the mean time the Clerk of the last House is suffered to act as Clerk. The duty of the latter to act as Clerk of the new House and initiate the steps necessary to its organization is founded merely in custom and usage, copied doubtless from the practice which prevails in the House of Commons. But in the latter the clerk is already appointed; whereas in the House of Representatives in Congress, the Clerk derives his appointment only from the last House, the authority of which expires with itself.

The SPEAKER. In answer to the gentleman from Illinois, the Chair desires to state that the law regulates the duties of the Clerk in organizing the House, and not a rule of the House.

Mr. TOWNSHEND, of Illinois. I am aware of that, but I submitted it as an illustration of principle.

The SPEAKER. On that point the Chair desires to say, that Rule 147 evidently meant this: that instead of entering on the broad sea of parliamentary law as constructed by various examples in legislative bodies, the House (until it has exercised its constitutional right to make rules) be governed by the rules of the prior House of Congress instead of entering on the broad sea of parliamentary practice in the history of legislative bodies.

Mr. McMAHON. In that connection I desire to call attention to this fact: the House of Representatives is not a continuing body; it expires every two years. The Senate of the United States is a continuing body; it never expires.

The SPEAKER. That point was touched by Speaker Grow.

Mr. McMAHON. In the last session of this House this question came up before the Committee of Accounts in reference to the employment of certain officers and employés of this House other than those provided for by statute. On that occasion the Committee of Accounts took the ground that an order of one House of Representatives that A B should be employed, outside of the statute, as a messenger "until the further order of the House" did not bind the subsequent House, for the reason that the power of the House to employ these special officers outside of the law expired with that House.

Now, if Rule 147 of the last House was enacted into a law, then it would or might bind this House of Representatives until the House chose to change the rules. We would then have something to stand upon, because it is competent for the Congress of the United States to determine by what law and rules the House of Representatives shall be guided, unless the House of Representatives chooses to assert its constitutional right to alter those rules.

The SPEAKER. Does the gentleman think that a bill passed by the two Houses of Congress and signed by the President and made a law should bind this House in regard to its rules in view of the provision of the Constitution? Would it not be yielding the right to make its own rules?

Mr. McMAHON. No, sir. The language of the Constitution is that the House *may* adopt rules. If the House does not adopt rules then it is under the guidance of parliamentary law. The law of Congress would not be in derogation of the constitutional right of the House to adopt its own rules.

The point I desire to make is this: parliamentary law is as well defined and distinctive a branch of law as is the common law of the country or the civil law of Europe. You do not find it printed anywhere under the authority of statute, but it is a well defined and understood body of law. When a parliamentary body is organized, unless it adopts other rules for its guidance, it is guided by parliamentary law.

So in this case. When the House of Representatives assembles it is guided by parliamentary law, unless it exercises its constitutional privilege to adopt its own rules, which it may do at any time.

The SPEAKER. Does not the gentleman think that if the House should consent to the enactment of a law upon that subject it would be a waiving of the constitutional right given to the House to make its own rules?

Mr. McMAHON. Not at all. For example, the House of Representatives of the Forty-fifth Congress could not under any circumstances by the enactment of a law waive the constitutional privilege that belongs to the House of Representatives of the Forty-sixth Congress.

Whenever the House of Representatives of this Congress came into existence it was invested *eo instanti* with all the vigor and power that is conferred upon it by the constitutional provision which declares that each House may adopt its own rules, and no provision of any

previous House, I do not care by how solemn an act it may be set forth, can prevent the House of Representatives upon assembling from adopting such rules as it pleases.

The SPEAKER. The Chair admitted the petition presented the other day by the gentleman from Ohio [Mr. MCMAHON] himself, under the provisions of the rules of this House.

Mr. MCMAHON. I beg the Speaker's pardon. I claimed and intended to argue the point that I presented the petition under the broad ground of parliamentary law, broader than the rules of this House. Under parliamentary law there is no provision requiring that a petition shall be put into a box and from that box sent to a committee. Under parliamentary law each petition must be presented to the House, considered by the House, and by the House referred to a committee. It was under the broad parliamentary law that I insisted upon my right to present that petition. It was my colleague [Mr. GARFIELD] who made the point that under the rules of the House the petition must go into the petition-box.

The SPEAKER. And the Chair overruled that point.

Mr. MCMAHON. And very properly, too, because I was not only exercising a right under general parliamentary law, but I rose to a question of privilege, the right of a member to a seat upon the floor of this House. I am perfectly willing to act under the rules of the old House and will vote for a resolution adopting them for the time being. But I want this House to start right. I do not want to see any false precedents laid down. I do not want to see the rights of the House of Representatives allowed to fall to the ground. I do not want to see a rule which is a mere creature of the last House of Representatives set up for our guidance against our right to make our own rules. There is no authority for any such assertion; no power for the assertion of such a rule. The House of Representatives of the Forty-sixth Congress can make rules for itself, but it cannot make rules in any form for the House of Representatives of the Forty-seventh Congress.

The SPEAKER. The Chair does not think so. The Chair does not construe that the right of the House to make its own rules is superseded at all by the one hundred and forty-seventh rule. The House might just as well resort to the rules of a former House for its guidance as to resort to the general rules of parliamentary practice. That was evidently the purpose of the adoption of the one hundred and forty-seventh rule of March, 1860.

Mr. ELAM. I desire to offer a resolution.

Mr. SPARKS. I understood that I had the floor when the Speaker proceeded to make this explanation.

The SPEAKER. The gentleman from Illinois [Mr. SPARKS] has the floor; but the Chair would like to hear what the gentleman from Louisiana [Mr. ELAM] desires to submit, and would also like to hear the gentleman from Michigan [Mr. CONGER] and the gentleman from Mississippi, [Mr. HOOKER.]

Mr. ELAM. I desire to submit the following resolution:

Resolved, That the rules of the House of Representatives of the Forty-fifth Congress of the United States be, and the same are hereby, adopted.

The SPEAKER. There is already a resolution of that sort pending.

Mr. CONGER. I would like to add a word to what has been said by the Speaker.

The SPEAKER. The Chair hopes the gentleman from Illinois will waive his motion for a moment.

Mr. SPARKS. Very well.

Mr. CONGER. I simply wish to call the attention of the Chair to a suggestion in the remarks of Mr. Grow in 1860, which to me seems to have considerable force, although it was not enlarged upon by Mr. Grow, and has not been referred to in the present discussion. The constitutional provision is that—

Each House may determine the rules of its proceedings.

Now, I submit that the phrase "each House" does not mean each renewed House of Representatives; but the Constitution, referring alike to the two Houses of Congress, provides that each of them may make its own rules independently of the other. This is the great constitutional point, as I take it; and Mr. Grow, in his remarks, merely alluded to it.

Now, if it be true that all the rules of the House of Representatives are vacated upon the termination of the official life of its members, it could equally be said that all rules adopted in the other branch of Congress expire with the change of its members. It happens, however, that the Senate is a continuing body in this sense, that two-thirds of its old members are always understood to continue in office at the opening of each new Congress.

Now, the power of this House to make its own rules is conferred upon it as one of the two branches of Congress; the power is not by the language of the Constitution intended to apply specifically to each renewed House of Representatives.

I wish to call the attention of the Chair to another point. It is admitted by all that each successive House of Representatives as organized is subject at any rate to the general rules of parliamentary law, if not to any formal rules which may have been previously adopted. Now, I submit that in the case of a long-existing constitutional body like the House of Representatives the natural and proper criterion for determining the rules of the body would be to refer to those rules which by usage, by custom, by prescription, by enactment, or in any other way, may have been established as the rules of that particular body, rather than to refer to the more general principles of parliamentary law which may or may not in their entirety have received the sanction of that particular body. In other words, it would seem proper to look to the last expression of the will of the House in reference to the parliamentary rules which should govern it.

The SPEAKER. The Chair thinks that would be the best example to follow.

Mr. CONGER. The best criterion as to the parliamentary rules applicable to that body.

Mr. HARRIS, of Virginia. I desire to say one word in reply to my friend from Texas, [Mr. REAGAN.]

Mr. SPARKS. I must ask the House to go on with the Army appropriation bill.

Mr. HARRIS, of Virginia. I shall not occupy more than a moment. Some of my friends here contend that to recognize as of binding force any rule adopted by a preceding House is in contravention of the Constitution; that each House must make its own rules. Now, sir, the proposition is perfectly clear that where a deliberative body has prescribed no rules for its government, then the general parliamentary law comes in to control it; and if it never adopts any specific rules, that general parliamentary law continues to govern it. On the other hand, where a preceding House adopts rules for a succeeding House and the latter acquiesces, then by virtue of this acquiescence the general parliamentary law does not apply except so far as the specific rules are silent. When gentlemen concede that the general parliamentary law governs until specific rules are adopted, they concede the whole question and admit that the rules of the last Congress operate until new rules are adopted.

The SPEAKER. The gentleman from Illinois moves that the House resolve itself into Committee of the Whole for the purpose of considing the Army appropriation bill.

Mr. CALKINS. I rise to a question of order. I desire a decision of the Chair upon the point which has now been discussed.

The SPEAKER. The gentleman cannot have any decision from the Chair until some question is raised requiring a decision.

Mr. CALKINS. In order to obtain a decision I raise the point that the motion to go into Committee of the Whole is a motion under the rules of the House of Representatives, and that we have no rules. I raise this question for the simple purpose of having the Chair decide whether the rules adopted by the House in the Forty-fifth Congress are in force and govern this House.

The SPEAKER. Assuming that the rules are in force this is a motion to suspend them.

Mr. CONGER. I hope my friend from Indiana will not press that point. The Chair has intimated his desire to examine the question and will decide upon it when it arises.

Mr. CALKINS. On the suggestion of the gentleman from Michigan, I withdraw my point for the present.

The question being taken on the motion of Mr. SPARKS that the House resolve itself into Committee of the Whole, to resume the consideration of the Army appropriation bill, the motion was agreed to.

ARMY APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole (Mr. SPRINGER in the chair) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. SPARKS. We have been discussing for several hours the point of order I wished to speak on yesterday evening. That discussion has taken a very wide range, involving the merits of the proposition itself. Now, Mr. Chairman, it strikes me that it would be well either now or at a very early period to have a ruling upon the point of order, after which the discussion, as a matter of course, will proceed upon the merits of the pending proposition.

Mr. STEPHENS. It was not my purpose yesterday evening when I got the floor to go into the general discussion of the merits of the proposition; it was mainly my object to discuss the point of order which has been raised, and necessarily in that connection to refer to the merits of the pending proposition.

The CHAIRMAN. Will the gentleman allow the Chair a moment?

Mr. STEPHENS. Certainly.

The CHAIRMAN. Does the gentleman from Georgia propose to proceed with his remarks now? Whatever course he desires to pursue, of course the Chair and the committee will agree to.

Mr. STEPHENS. I was proceeding, and I have but a few remarks to make.

The CHAIRMAN. The Chair requests members to resume their seats and remain seated, in order that all the members in the Hall may be able to hear the remarks of the gentleman from Georgia.

Mr. GARFIELD. I suggest that the gentleman from Georgia come into the middle aisle.

Mr. STEPHENS. If gentlemen will remain seated every member can hear all I have to say.

Mr. TOWNSHEND, of Illinois. I beg to suggest that any remarks made now shall be addressed solely to the point of order.

Mr. SPARKS. I hope not; I hope the remarks made now will be made as yesterday.

Mr. TOWNSHEND, of Illinois. Let the point of order be first disposed of.

The CHAIRMAN. The Chair will not undertake to restrict members in their arguments any more than was done upon yesterday.

Mr. STEPHENS. I have the floor, I believe.

The CHAIRMAN. The gentleman will proceed.

Mr. STEPHENS. It was my purpose, Mr. Chairman, to say but little outside of the point of order. Necessarily some remarks have to be made on the proposition in connection with it, but after what has been said this morning in the discussion of the rules I have but little to say on that subject. What I intended to say was that whether the rules of the last Congress are our rules now or not would not influence my opinion on the admissibility, relevancy, and pertinency of this amendment. I agree with the gentleman from Texas [Mr. REAGAN] that one Congress cannot bind another as to the rules which shall govern it. It is true the other day, when the Speaker held that the rules of the last Congress were binding and the House did not raise the question and appeal from it, I am not prepared to say that we were not then bound by that ruling. That is the strongest argument to my mind on that point.

But apart from that suppose that Rule 120 does govern; suppose we take that view of it, that it is the law of our Government. Then it is to be construed as all other laws are. We must look to the old law, to the mischief and the remedy. I will not detain the House now by going through with a history of this rule. Let us for this argument accept it as the law controlling our action in deciding the question whether this section is such new legislation as is excluded by the rule. It is known that I was opposed to the policy of putting this provision on this appropriation bill. But the policy of doing it and the right to do it are different questions. The question now is, is the section excluded by the rule the accepted law of the House?

All laws penal in their character are to be strictly construed, but laws involving questions of public right, public liberty, public policy, are to be liberally construed. Rule 120 provides that any change in existing laws upon appropriation bills must not only be germane, but must be in the nature of retrenchment of expenditures.

There is no question this amendment is germane, none. Does it retrench expenditures? The gentleman from Maine [Mr. FRYE] says it must appear on its face that it does reduce expenditures. That is strict construction. May it possibly reduce expenditures? Will it probably reduce expenditures? Will it most probably reduce expenditures? These are considerations which we should not neglect or overlook. If it does, if it probably may, if it possibly may, if it does not increase them, but possibly may reduce them and most probably will, then that liberal construction which I insist should be made of this rule would make us conclude the proposition is admissible under the one hundred and twentieth rule.

That is my opinion. I think it will not only possibly and probably but certainly reduce expenditures. Our past history and experience show that enormous expenditures have attended the use of troops at the polls during elections. Our past experience is, as I think all will admit, that there is not only a possibility and a probability but a certainty that it will reduce expenditures. It is by construction, I admit. We have not only the right but it is our duty in construing rules which involve questions of great public policy to construe them liberally.

One word now upon the merits of this question, and that is in regard to the history of the use of the Army in civil administration. I will state it that way.

There seems to be some disagreement and lack of information among members. The calling out of troops to suppress insurrection and violence, referred to by the gentleman from Kentucky [Mr. CARLISLE] yesterday, is a very different provision from the use of the troops in civil administration, totally different. The President, first, by the act of 1795, was authorized, in cases set forth by the Constitution, to call out, not the militia of the State, no; but to put down an insurrection against a State, to preserve the integrity of the State, guaranteeing a republican government under the Constitution, he was authorized to call out the militia of adjoining States. That is the law of 1795. It is not to be presumed that the governor would not call out the militia in his own State, and the militia of adjoining States was to be called out when it was necessary to put down an insurrection in a State. That is the legitimate use of the military power of the country under the act of 1795.

Now, it was not until 1807 that the organized Army, the military force and the naval force was authorized to be called out for a like purpose, to protect the States against domestic violence and insurrection. That law also went further, or some subsequent law—I have not, from indisposition, been able to look up these laws as I expected to do last night, but the provision of the law for the use of the troops in civil cases is entirely a different matter. It is where provision is made for the execution of a mandate or judgment of a court. The generals are not to command the troops in such cases, but the marshals. The civil officers, as the sheriffs in our States, were authorized to call for the use of the troops, and the President was authorized to furnish them to the Legislature or to the governor when the Legislature was not in session or the marshals for the execution of the mandate of a court. That is what I call the execution of process in civil administration of the law. That is a very different thing from the other—the use of troops to suppress insurrection and domestic violence in a State upon the call of a Legislature or the governor as provided by the Constitution.

Wherever the marshal calls for troops, as was decided by Attorney-General Cushing, as was remarked in yesterday's debate, it was as a *posse*, not as the Army. The United States troops were called upon and they were furnished as a *posse comitatus* to execute the law. They were under the command, not of the United States military officers, but under the command of the marshal who asked for them.

Now, Mr. Chairman, upon the subject of the use of the troops to keep the peace at elections I have only to repeat what was so well and so often said yesterday. Such a provision never had existence on the statute-book of the United States until after 1860, after the war. This act of 1865 which it is proposed to modify got into existence rather strangely. The law set out by stating that no officer, &c., should order troops, or have them at any election in any State, except for certain purposes, mainly to keep the peace at the polls. It was a negative affirmative. That is, it thus legalized the use of the Army. That is the way in which it appeared upon the statute-book.

The danger of such a law, I suppose, in this age and in the enlightened condition of public sentiment the world over need not be argued. The whole of this amendment is simply this: all the new legislation it proposes, or change of legislation, is to repeal that clause which negatively affirms that the troops might be called out and ordered by military commanders to attend at elections under pretense of keeping the peace. That is all of it. The whole thing might have been embodied simply in the expression that all laws that authorize the use of troops to preserve peace at elections should be repealed. That would accomplish the whole object. The use of the other words in the act of 1865 amounts to nothing. The whole of that section was to cover that one thing, to preserve the peace at the polls.

Now, Mr. Chairman, if there is a man on this floor who is in favor of peaceable elections and order throughout the length and breadth of this country, I profess to be equally strong with him in that wish and desire. Purity of elections is the greatest safeguard of liberty. I am for law and order. I have witnessed the presence of soldiers at the polls. I have seen no good from their presence. We had gotten along for three-quarters of a century without it. I think the public sentiment is as much against the use of the troops to preserve the peace North as it is South. That the Government of the United States has got a right to control by law, alter, change, and prescribe the rules and manner of holding the election of members of Congress, I am not going to discuss here. It is not pertinent to this question. But we have got along well for many years without this provision; and I think that the future peace and harmony of the whole country, law, order, and prosperity will be greatly promoted by hereafter adhering to the principles and practice and methods of the fathers of the Republic from the beginning down for more than three quarters of a century. Let the relics and vestiges of the war be buried with the things of the past. I do insist that there will be no harm done, no unsettling of our institutions, no revolution in our matchless system of government, by the repeal of this law. It seems to me, therefore, this amendment being germane, regulating the use and the control of the Army, and being also within the purview of a liberal construction of the rule, it is admissible on this bill.

Now, as to the use of the Army, I wish in connection with some remarks which were offered yesterday on both sides upon this subject to state this: Congress has got a right to raise armies. Congress has got a right to designate the use to which the forces, naval or military, may be applied. But the President's right to control and direct the movements of those forces from one part of the country to the other, enlarging the declared function of Congress, is a clear executive right. We have no power to interfere with it, except by impeachment for the abuse of power conferred. But we can say that he shall not use the forces for any particular purposes. We have a right to say this—and I do not think the present Executive would desire it to be otherwise—we have a right to say the forces, land and naval, of the United States shall not be used for the purpose of controlling elections in the States, but that the elections shall be free and fair according to the laws of the land, State and Federal; and if any man violates the law, if there has been any violence at the polls, and a member of Congress has not been duly returned, we are to judge of it here on this floor, and we can set the return aside. Let the land and naval forces of our country be devoted to the objects for which they were raised by Congress. Let the Army protect the frontier. Let the Navy be afloat on the seas protecting our flag and our commerce everywhere. Let each branch of these forces be kept in that sphere they were created for and in which in past years they have won such honor and glory to our common country.

Let them be performing their duties and let the civil administration of the Government go on in its own channel. Let members of Congress be returned as heretofore; and if any man has been deprived of his right to his seat here, then let this high constitutional court, the House of Representatives, decide that question, and not submit it to the decision of bayonets instead of ballots. That is all I desire to say on the point of order, and it is much more than I expected to say.

Mr. REED. I am very well aware of the high estimation in which the gentleman from Georgia [Mr. STEPHENS] is held by this House, and I certainly should hesitate to oppose any views of his unless I felt myself fortified by reasons which are worthy of the attention of the House. I do not purpose to say anything on the merits of the main question. I purpose to confine myself to the question of the point of

order, and I do so because I believe that the point of order is of itself of national as well as parliamentary importance. I believe that it is of importance, not only in this case, but for all coming time.

The tendency of the rules and the practice of the House has been for many years to concentrate an immense power in the hands of the Committee on Appropriations. So great has been that tendency that the gentleman who is now occupying the chair seized the first opportunity to introduce a proposition to deprive them of a certain portion of their power. But an amendment like this in its principle goes further; it goes not only to increase the power of the Committee on Appropriations, but it also aggrandizes the power of the conference committee and leaves the decision of grave questions to six men, three appointed from the House and three from the Senate.

Whenever the House can propose an amendment which is germane to the bill and which repeals existing legislation simply because this amendment reduces expenditures they raise grounds of possible difference between the House and the Senate and those questions must go to a conference committee, and every one who knows anything of the legislation of Congress knows that a large part of the most important legislation is decided by three men from the House and three men from the Senate. And the decision takes place in secret without any of the safeguards which ought to surround legislation.

Now, this thing is wrong. It is undemocratic; it is unrepublican. It is unsuitable for this nation and this people, and consequently any rule which allows an amendment of this sort ought to be construed strictly for the good of the country.

Rule 120 demands two things; first, that the amendment shall be germane to the bill; and, second, that it shall reduce expenditures. On the proposition as to the reduction of expenditures there has already been a decision by the first Speaker under whom this rule was adopted, Speaker Kerr, and his ruling, as I understand it, was that the amendment must upon its face show a reduction of expenditures. It is not a matter of argument or inference, or a question for discussion.

Why, this very case illustrates the necessity for this thing. This amendment contains two propositions: first, that no troops shall be employed at the polls; second, that men shall be punished if they have troops there. Is that last clause going to lessen expenditures in any way, or is it going to increase expenditures to punish men for being there? Your first clause may diminish expenses, but the last will certainly increase them. Who shall strike the balance? The thing is as broad as it is long. I say that the Chair ought to rule in such a fashion that an amendment shall not be admitted unless upon its face it shows affirmatively that it does reduce expenditures.

But I do not rest my objection so much upon the question of the reduction of expenditures as upon the question of whether the amendment is germane to the bill. I ask the attention of the Chair to some propositions I have to make. I trust I shall not have, as my colleague [Mr. FRYE] did the other day, to apologize for what I am going to say, but I think now that this chairman has some regard for his position as a parliamentarian and a desire to do justice.

Mr. FRYE. You will.

Mr. REED. Here is an amendment which embraces three statements and is to a bill to appropriate money for the support of the Army, one which relates solely to the Army appropriation. The largest extent that can be given to matters germane to it will only include matters that relate to the Army, I should say myself to Army expenditures alone, but taking the widest and broadest limit you can put to it, it can only include matters that relate to the Army but not those that relate to naval and civil officers.

Here are three propositions in this amendment. The first is that no military officer shall have under his authority troops at polling places. Now, even if that could be construed as being germane to an appropriation bill, here is also a proposition that no naval officer shall have any armed men at the polls. How is that germane to an army appropriation bill? Here is a further provision that no person engaged in the civil service of the United States shall have armed men there. How is that consistent with a bill which relates solely to the appropriations for the support of the Army?

I say that so far from its being germane to the bill, as stated by the gentleman from Georgia, [Mr. STEPHENS,] it is, to the mind of any disinterested person, clearly not germane. You cannot mix up the naval and civil officers of the Government and drag them into an Army appropriation bill, simply because the proposed section refers as well to the Army officers.

So I put the proposition to the Chair simply and succinctly, first, this section does not upon its face retrench expenditure. It is therefore the duty of the Chair, in the interest of parliamentary law and of this nation, to construe this provision of the rules with the same strictness that the former Speaker, Mr. Kerr, construed the same provision. Second, this amendment is not germane to the bill, because this is an Army expenditure bill. Even if a proposition to restrain Army officers were germane to the bill, a proposition that citizens in civil life and members of the naval force of the country shall be restrained also cannot for a moment be tolerated as germane.

I desire to say one word further. Even if the proposition of the gentleman from Texas [Mr. REAGAN] is correct, that the rules of the last House are not the rules of this House, nevertheless this provision ought to be germane according to modern parliamentary law. To be germane it must get over the objections which I have already presented. But I take it that the Chair purposes to be governed by the rules of the last House, especially after what has transpired in this House this morning.

Therefore I confine myself to that proposition, and I urge upon the Chair the duty that rests upon him under all these circumstances to decide this question for the best interests of the country and of the House of Representatives.

Mr. GARFIELD. Let us have the decision of the Chair now.

Mr. SPARKS. There is a quasi agreement that the Chair shall now rule upon the point of order.

The CHAIRMAN. The Chair is ready to rule upon the point of order.

Mr. SPARKS. And the duty of so ruling now devolves upon the Chair.

The CHAIRMAN. In deciding this point of order the Chair will not take shelter behind the fact that the rules of the last House have not formally been adopted as the rules of this House. Without any expression of opinion upon that point, the Chair will take the responsibility of deciding this question upon its merits. The point of order raised upon the pending section is this: that it changes existing law, that it is not germane to the pending bill, and that it does not retrench expenditures. Rule 120 provides that no proposition in an appropriation bill, or an amendment thereto, which changes existing law, shall be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures. That the pending section changes existing law appears on its face. That it is germane to the pending bill there can scarcely be a doubt. It relates to the duties of the Army, or the uses to which it may be put. The object of the bill is to provide a support for the Army. A kindred subject to that would be the kind of service the Army is expected to perform. The duties to be performed are closely allied to the matter of Army support. "Germane" does not mean synonymous, but something "near akin," "closely allied," or "relevant" to the subject-matter to which it is applied. The Chair is therefore of the opinion that the section is germane to the pending bill.

But the most serious question involved is this: Does the section retrench expenditures? In considering this question the Chair will take into view the Constitution of the United States, the acts of Congress, the provisions of the pending bill, the parliamentary rules and practices of the House, and any official documents of which a court might take judicial cognizance. The Constitution confers upon Congress the power—

> To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
>
> * * * * * * *
>
> To make rules for the government and regulation of the land and naval forces;
>
> And
>
> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Congress therefore creates the Army. It provides its support. It makes the rules for its government. And although the President is, by the Constitution, the Commander-in-Chief of the Army, yet Congress must make all laws necessary and proper for carrying into execution the powers vested in him as such commander. Congress may therefore fix the places where troops may or may not be stationed, and may prohibit the President and all civil and military officers from using the Army for any purpose deemed improper, or from interfering with the freedom of elections, or from doing any act dangerous to the liberties of the people. The sections of the Revised Statutes, namely, 2002 and 5528, which the pending section proposes to amend, as well as sections 2003, 5529, 5530, and 5531, make it unlawful for officers in the military or naval service of the United States to do certain specified things concerning elections, under severe penalties. The Chair takes cognizance of the fact that the proposed amendments, embraced in section 6 of the pending bill, change existing law only to the extent of striking out of sections 2002 and 5528 of the Revised Statutes the words "or to keep the peace at the polls," and that if the words should be stricken out as proposed it would be made unlawful to use the Army for such purpose. By existing law the Army or any part thereof may now be used to keep the peace at the polls at any voting place, at any election, to which the President or any civil or military officer might see fit to order it. The official estimates and appropriations heretofore made show how much money has been expended for transportation and other expenses attending the use of troops at the polls. The pending section proposes to retrench such expenditures for the future.

If it were lawful to use troops as policemen in cities, as sheriffs and constables for serving civil processes, as guards for State prisons, or as messengers for carrying the mails or the transportation of merchandise for private individuals, would not such enlarged duties greatly increase the expense of supporting the Army? As the enlarging of the duties of the Army would necessarily increase the expenses of supporting it, so will the restricting of the uses to which it may be put reduce such expenses. In so far, then, as the services which may be required of the Army, or any part thereof, are restricted by the pending amendment the expense necessarily attending such service is reduced, and to that extent the pending provision does retrench expenditures.

For these reasons, and others which might be assigned, the Chair overrules the point of order.

Mr. CONGER. Lest the decision of the Chair should be supposed to go unquestioned, and as I think many differ from the Chair in reference to it, I appeal from the decision of the Chair, and in order to save time I ask that the vote upon the appeal may be taken by tellers.

The CHAIRMAN. The gentleman from Michigan [Mr. CONGER] appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee? Upon that question the gentleman from Michigan demands tellers, and the Chair will take the responsibility of appointing them without the formal order of the committee. The Chair therefore appoints the gentleman from Michigan, Mr. CONGER, and the gentleman from Illinois, Mr. SPARKS, as tellers.

The committee divided; and the tellers reported that there were—ayes 125, noes 107.

So the decision of the Chair was sustained.

Mr. NEW. I desire to offer the amendment which I send to the Clerk's desk to the first paragraph of the pending section.

The Clerk read as follows:

Provided, That nothing contained in this section as now amended shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or Executive as provided for in said section.

The CHAIRMAN. The Chair desires to state that the amendment proposed by the gentleman from Indiana [Mr. NEW] may be regarded as having been read for information; but the pending section is not now open for amendment and discussion under the five-minute rule. By general consent of the Committee of the Whole all general debate on the bill was reserved for this section, and when that general debate shall have been closed by order of the House the section will then be open for amendment and discussion under the five-minute rule.

Mr. CONGER. I ask the gentleman in charge of this bill, [Mr. SPARKS,] inasmuch as the same ruling will undoubtedly be made upon the next paragraph of the pending section unless there should be a desire to discuss the point of order upon it which will be raised—I ask that the next clause may be read and the point of order raised upon it and formally decided. Then the general debate may run upon both clauses, so that all may speak upon the two clauses of the section at once.

Mr. SPARKS. I understood that the point of order was raised upon the whole section, embracing both clauses.

Mr. CONGER. It was not intended to be so, because the other clause had not been read when the point of order was raised, and has not yet been read.

Mr. SPARKS. It is all one section, involving the same principle, and my understanding was that the ruling of the Chair covered the whole section. If I am mistaken in that, however, I am willing that the decision shall now be made.

Mr. CONGER. The point of order was raised upon the first paragraph, and before the whole section was read.

Mr. KNOTT. The whole section was read.

Mr. SPARKS. The whole section was read and the point of order was then raised.

Mr. CONGER. Very well; I did not so understand it; but if that be so then the point I desire to make has already been disposed of, and the general discussion will embrace both clauses of the section.

The CHAIRMAN. The Chair so understands.

Mr. CONGER. We shall desire separate votes upon the two paragraphs.

The CHAIRMAN. Certainly; that will be the right of any member.

Mr. SPARKS. As stated by the Chair, the amendment of the gentleman from Indiana [Mr. NEW] is not now in order, but will be when we come to consider the section under the five-minute rule. As this discussion on the point of order has taken a wide range, involving really the merits of the proposition itself, I would like to know from gentlemen on the other side whether they can indicate about what time they would like for general discussion on the section. I want it distinctly understood that I do not wish to hurry this matter at all; I wish to give the opposite side, as well as this, full latitude in debating this question.

Mr. CONGER. As I have said to the gentleman in private, I have understood that on this side of the House quite a number of gentlemen wish to take part in this discussion; of course I do not know how many, but I know that there will be a sufficient number, if they engage at length in the discussion, to occupy, with those who may alternate with them on the other side, the entire day. Hence I think it would not be well to attempt at this time to limit the debate. As I have already suggested to the gentleman, let it run until in the opinion of the gentleman in charge of this bill it may be necessary to make some motion for limiting the debate; and then the House can determine that question.

Mr. SPARKS. I would be regulated largely by the feeling of gentlemen on the other side upon this point. But would it not be well (I suggest it for the consideration of gentlemen) to fix now some limit to the length of speeches on this subject? Under the ordinary rules governing general debate every gentleman would be allowed to occupy an hour. But I apprehend that speeches of that length would not be desired on either side. Would it not be well, then, to fix now some limit as to the length of the speeches?

Mr. CONGER. I understand that there are perhaps two or three gentlemen who have prepared remarks on this subject and who perhaps would not wish to be limited by a ten-minute rule; but with the generality of members on this side I think the length of the speeches would not exceed ten minutes. I suggest, however, that the debate be permitted to run in its usual form and let those who may obtain the floor divide their time with other members. Hereafter, when the longer speeches on the question have been made, I have no doubt we can by agreement fix ten minutes or perhaps a shorter time as the limit for each speech.

Mr. SPARKS. One other point. Some gentlemen have inquired of me whether a vote would be taken to-day. I have not been able to answer the question. I want to give gentlemen an opportunity to discuss the subject fully. I would suggest that it be the understanding that no vote shall be taken prior to five o'clock to-day.

Mr. HUMPHREY. It seems to me it would be better to have it understood that no vote shall be taken to-day.

Mr. SPARKS. Very well; let that be the understanding.

Mr. GARFIELD. Mr. Chairman, I have no hope of being able to convey to the members of this House my own conviction of the very great gravity and solemnity of the crisis which this decision of the Chair and of the Committee of the Whole has brought upon this country. I wish I could be proved a false prophet in reference to the result of this action. I wish I could be overwhelmed with the proof that I am utterly mistaken in my views. But no view I have ever taken has entered more deeply and more seriously into my convictions than this: that this House has to-day resolved to enter upon a revolution against the Constitution and Government of the United States. I do not know that that intention exists in the minds of half the Representatives who occupy the other side of this Hall. I hope it does not. I am ready to believe it does not exist to any large extent. But I mean to say the consequence of the programme just adopted, if persisted in, is nothing less than the total subversion of this Government.

THE QUESTION STATED.

Let me in the outset state, as carefully as I may, the precise situation. At the last session, all our ordinary legislative work was done, in accordance with the usages of the House and the Senate, except as to two bills. Two of the twelve great appropriation bills for the support of the Government were agreed to in both Houses as to every matter of detail concerning the appropriations proper. We were assured by the committees of conference in both bodies that there would be no difficulty in adjusting all differences in reference to the amount of money to be appropriated and the objects of its appropriation. But the House of Representatives proposed three measures of distinctly independent legislation; one upon the Army appropriation bill, and two upon the legislative appropriation bill. The three grouped together are briefly these: first, the substantial modification of certain sections of the law relating to the use of the Army; second, the repeal of the jurors' test oath; and third, the repeal of the laws regulating elections of members of Congress.

These three propositions of legislation were insisted upon by the House, but the Senate refused to adopt them. So far it was an ordinary proceeding, one which occurs frequently in all legislative bodies. The Senate said to us through their conferees, "We are ready to pass the appropriation bills, but we are unwilling to pass as riders the three legislative measures you ask us to pass." Thereupon the House said, through its conference committee—and in order that I may do exact justice, I read from the speech of the distinguished Senator from Kentucky [Mr. BECK] on the report of the conference committee:

The democratic conferees on the part of the House seem determined that unless those rights were secured to the people—

Alluding to the three points I have named—

in the bill sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government, if the dominant majority in the Senate insisted upon the maintenance of these laws and *refused to consent* to their repeal.

Then, after stating that if the position they had taken compelled an extra session, and that the new Congress would offer the repealing bills separately, and forecasting what would happen when the new House should be under no necessity of coercing the Senate, he declared that—

If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, * * * then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of Government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. * * * Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

That was the proposition made by the democracy in Congress at the close of the Congress now dead.

Another distinguished Senator, [Mr. THURMAN]—and I may properly refer to Senators of a Congress not now in existence—reviewing the situation, declared, in still more succinct terms:

We claim the right, which the House of Commons in England established after

two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances.

These propositions were repeated with various degrees of vehemence by the majority in the House.

The majority in the Senate and the minority on this floor expressed the deepest anxiety to avoid an extra session and to avert the catastrophe thus threatened—the stoppage of the Government. They pointed out the danger to the country and its business interests of an extra session of Congress, and expressed their willingness to consent to any compromise consistent with their views of duty which should be offered—not in the way of coercion but in the way of fair adjustment—and asked to be met in a spirit of just accommodation on the other side. Unfortunately no spirit of adjustment was manifested in reply to their advances. And now the new Congress is assembled; and after ten days of caucus deliberation, the House of Representatives has resolved, substantially, to reaffirm the positions of its predecessors, except that the suggestion of Senator BECK to offer the independent legislation in a separate bill has been abandoned. By a construction of the rules of the House, far more violent than any heretofore given, a part of this independent legislation is placed on the pending bill for the support of the Army; and this House has determined to begin its career by the extremest form of coercive legislation.

In my remarks to-day I shall confine myself almost exclusively to the one phase of the controversy presented in this bill.

Mr. ATKINS. Will the honorable gentleman allow me to interrupt him a moment?

Mr. GARFIELD. With pleasure.

Mr. ATKINS. Do I understand you to state that in the conference committee no proposition was made other than the one suggested in the legislation proposed to be attached to the bill, by the House conferees?

Mr. GARFIELD. I did not undertake to state what was done in conference except as reported by Senator BECK, for I was not a member of the committee.

Mr. ATKINS. I thought you did.

Mr. GARFIELD. No; I only declared what was proposed on the floor of the House and Senate.

Mr. ATKINS. With the gentleman's permission, I will state that the proposition the House made in conference committee was substantially the proposition now before the House and here offered to be attached to these bills.

Mr. GARFIELD. I take it for granted that what my friend on the other side says is strictly true; but not even that proposition was reported to either House.

The question, Mr. Chairman, may be asked, why make any special resistance to the clauses of legislation in this bill which a good many gentlemen on this side declared at the last session they cared but little about, and regarded as of very little practical importance, because for years there had been no actual use for any part of these laws, and they had no expectation there would be any? It may be asked, why make any controversy on either side? So far as we are concerned, Mr. Chairman, I desire to say this: we recognize the other side as accomplished parliamentarians and strategists, who have adopted with skill and adroitness their plan of assault. You have placed in the front one of the least objectionable of your measures; but your whole programme has been announced, and we reply to your whole order of battle. The logic of your position compels us to meet you as promptly on the skirmish line as afterward when our intrenchments are assailed; and therefore, at the outset, we plant our case upon the general ground upon which we have chosen to defend it.

THE VOLUNTARY POWERS OF THE GOVERNMENT.

And here, sir, I wish to make a brief digression, in which I hope no gentleman will consider my discussion as controversial or personal. I had occasion, at a late hour of the last Congress, to say something on what may be called the voluntary element in our institutions. I spoke of the distribution of the powers of Government. First, to the nation; second, to the States; and third, the reservation of power to the people themselves.

I called attention to the fact that under our form of government the most precious rights that men can possess on this earth are not delegated to the nation nor to the States, but are reserved to the third estate—the people themselves. I called attention to the interesting fact that lately the chancellor of the German Empire made the declaration that it was the chief object of the existence of the German government to defend and maintain the religion of Jesus Christ—an object in reference to which our Congress is absolutely forbidden by the Constitution to legislate at all. Congress can establish no religion; indeed, can make no law respecting it, because in the view of our fathers—the founders of our Government—religion was too precious a right to intrust its interests by delegation to any body. Its maintenance was left to the voluntary action of the people themselves.

In continuation of that thought, I wish now to speak of the voluntary element inside our Government—a topic that I have not often heard discussed, but one which appears to me of vital importance in any comprehensive view of our institutions.

Mr. Chairman, viewed from the stand-point of a foreigner, our Government may be said to be the feeblest on the earth. From our stand-point, and with our experience, it is the mightiest. But why would a foreigner call it the feeblest? He can point out a half dozen ways in which it can be destroyed without violence. Of course, all governments may be overturned by the sword; but there are several ways in which our Government may be annihilated without the firing of a gun.

For example, if the people of the United States should say we will elect no Representatives to the House of Representatives. Of course, this is a violent supposition; but suppose that they do not, is there any remedy? Does our Constitution provide any remedy whatever? In two years there would be no House of Representatives; of course no support of the Government, and no Government. Suppose, again, the States should say, through their Legislatures, we will elect no Senators. Such abstention alone would absolutely destroy this Government; and our system provides no process of compulsion to prevent it.

Again, suppose the two Houses were assembled in their usual order, and a majority of one in this body or in the Senate should firmly band themselves together and say, we will vote to adjourn the moment the hour of meeting arrives, and continue so to vote at every session during our two years of existence; the Government would perish, and there is no provision of the Constitution to prevent it. Or again, if a majority of one of either body should declare that they would vote down, and did vote down, every bill to support the Government by appropriations, can you find in the whole range of our judicial or our executive authority any remedy whatever? A Senator, or a member of this House is free, and may vote "no" on every proposition. Nothing but his oath and his honor restrains him. Not so with executive and judicial officers. They have no power to destroy this Government. Let them travel an inch beyond the line of the law, and they fall within the power of impeachment. But, against the people who create Representatives; against the Legislatures who create Senators; against Senators and Representatives in these Halls, there is no power of impeachment; there is no remedy, if, by abstention or by adverse votes, they refuse to support the Government.

At a first view, it would seem strange that a body of men so wise as our fathers were should have left a whole side of their fabric open to these deadly assaults; but on a closer view of the case their wisdom will appear. What was their reliance? This: the sovereign of this nation, the God-crowned and Heaven-annointed sovereign, in whom resides "the State's collected will," and to whom we all owe allegiance, is the people themselves. Inspired by love of country and by a deep sense of obligation to perform every public duty; being themselves the creators of all the agencies and forces to execute their own will, and choosing from themselves their representatives to express that will in the forms of law, it would have been like a suggestion of suicide to assume that any of these great voluntary powers would be turned against the life of the Government. Public opinion—that great ocean of thought from whose level all heights and all depths are measured—was trusted as a power amply able, and always willing, to guard all the approaches on that side of the Constitution from any assault on the life of the nation.

Up to this hour our sovereign has never failed us. There has never been such a refusal to exercise those primary functions of sovereignty as either to endanger or cripple the Government; nor have the majority of the representatives of that sovereign in either House of Congress ever before announced their purpose to use their voluntary powers for its destruction. And now, for the first time in our history, and I will add for the first time for at least two centuries in the history of any English-speaking nation, it is proposed and insisted upon that these voluntary powers shall be used for the destruction of the Government. I want it distinctly understood that the proposition which I read at the beginning of my remarks, and which is the programme announced to the American people to-day, is this: that if this House cannot have its own way in certain matters, not connected with appropriations, it will so use, or refrain from using, its voluntary powers as to destroy the Government.

Now, Mr. Chairman, it has been said on the other side that when a demand for the redress of grievances is made, the authority that runs the risk of stopping and destroying the Government is the one that resists the redress. Not so. If gentlemen will do me the honor to follow my thought for a moment more I trust I will make this denial good.

FREE CONSENT THE BASIS OF OUR LAWS.

Our theory of law is free consent. That is the granite foundation of our whole superstructure. Nothing in this Republic can be law without consent—the free consent of the House; the free consent of the Senate; the free consent of the Executive, or, if he refuse it, the free consent of two-thirds of these bodies. Will any man deny that? Will any man challenge a line of the statement that free consent is the foundation rock of all our institutions? And yet the programme announced two weeks ago was that if the Senate refused to consent to the demand of the House the Government should stop. And the proposition was then, and the programme is now, that, although there is not a Senate to be coerced, there is still a third independent branch in the legislative power of the Government whose consent is to be coerced at the peril of the destruction of this Government; that is, if the President, in the discharge of his duty, shall exercise his plain constitutional right to refuse his consent to this proposed legislation the Congress will so use its voluntary powers as to destroy the Government. This is the proposition which we confront; and we denounce it as revolution.

It makes no difference, Mr. Chairman, what the issue is. If it were

the simplest and most inoffensive proposition in the world, yet if you demand, as a matter of coercion, that it shall be adopted against the free consent prescribed in the Constitution, every fair-minded man in America is bound to resist you as much as though his own life depended upon his resistance.

Let it be understood that I am not arguing the merits of any one of the three amendments. I am discussing the proposed method of legislation; and I declare that it is against the Constitution of our country. It is revolutionary to the core, and is destructive of the fundamental element of American liberty, the free consent of all the powers that unite to make laws.

In opening this debate I challenge all comers to show a single instance in our history where this consent has been coerced. This is the great, the paramount issue, which dwarfs all others into insignificance.

THE ORIGIN OF THE LAW SOUGHT TO BE MODIFIED.

I now turn aside for a moment from the line of my argument to say that it is not a little surprising that our friends on the other side should have gone into this great contest on so weak a cause as the one embraced in the pending amendment to this bill.

Victor Hugo said in his description of the battle of Waterloo that the struggle of the two armies was like the wrestling of two giants, when a chip under the heel of one might determine the victory. It may be that this amendment is the chip under your heel, or it may be that it is the chip on our shoulder. As a chip, it is of small account to you or to us; but when it represents the integrity of the Constitution and is assailed by revolution, we fight for it as if it were a Kohinoor of purest water. [Applause.]

The distinguished and venerable gentleman from Georgia [Mr. STEPHENS] spoke of this law, which is sought to be repealed, as "odious and dangerous." It has been denounced as a piece of partisan war legislation to enable the Army to control elections.

Do gentlemen know its history? Do they know whereof they affirm? Who made this law which is denounced as so great an offense as to justify the destruction of the Government rather than let it remain on the statute-book? Its first draft was introduced into the Senate by a prominent democrat from the State of Kentucky, Mr. Powell, who made an able speech in its favor. It was reported against by a republican committee of that body, whose printed report I hold in my hand. It encountered weeks of debate, was amended and passed, and then came into the House. Every democrat present in the Senate voted for it on its final passage. Every Senator who voted against it was a republican. No democrat voted against it. Who were the democrats that voted for it? Let me read some of the names: Hendricks of Indiana, Davis of Kentucky, Johnson of Maryland, McDougall of California, Powell of Kentucky, Richardson of Illinois, and Saulsbury of Delaware.

Of republican Senators thirteen voted against it; only ten voted for it.

The bill then came to the House of Representatives and was put upon its passage here. How did the vote stand in this body? Every democrat present at the time in the House of Representatives of the Thirty-eighth Congress voted for it. The total vote in its favor in the House was 113; and of these 58 were democrats. And who were they? The magnates of the party. The distinguished Speaker of this House, Mr. SAMUEL J. RANDALL, voted for it. The distinguished chairman of the Committee of Ways and Means of the last House, Mr. FERNANDO WOOD, voted for it. The distinguished member from my own State who now holds a seat in the other end of the Capitol, Mr. GEORGE H. PENDLETON, voted for it. Messrs. COX and COFFROTH, KERNAN and MORRISON, who are still in Congress, voted for it. Every democrat of conspicuous name and fame in that House voted for the bill, and not one against it. There were but few republicans who voted against it. I was one of the few. Thaddeus Stevens and Judge KELLEY voted against it.

What was the controversy? What was the object of the bill? It was alleged by democrats that in those days of war there were interferences with the proper freedom of elections in the border States. We denied the charge; but lest there might be some infraction of the freedom of elections, many republicans, unwilling that there should be even the semblance of interference with that freedom, voted for it. This law is an expression of their purpose that the Army should not be used at any election except for the purpose of keeping the peace.

Those republicans who voted against it did so on the ground that there was no cause for such legislation; that it was a slander upon the Government and the Army to say that they were interfering with the proper freedom of elections. I was among that number——

Mr. CARLISLE. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. CARLISLE. I ask if the democrats in the Senate and House of Representatives did not vote for that proposition because it came in the form of a substitute for another proposition that was still more objectionable?

Mr. GARFIELD. The gentleman is quite mistaken. The original bill was introduced by a gentleman from Kentucky, Mr. Powell; it was amended in its course through the Senate; but the votes to which I have referred were the final votes on its passage after all the amendments had been made; and, what was more, a republican Senator moved to reconsider it, hoping that they might thereby kill it. And after several days' delay and debate it was again passed, every democrat again voting for it. In the House there was no debate, and therefore no expression of the reasons why anybody voted for it. Each man voted according to his convictions, I suppose.

Mr. STEPHENS. Will the gentleman yield to me?

Mr. GARFIELD. I yield to the venerable gentleman from Georgia for a question.

Mr. STEPHENS. I simply ask if the country is likely to be revolutionized and the Government destroyed by repealing a law that the gentleman himself voted against? [Laughter on the democratic side.]

Mr. GARFIELD. I think not. That is not the element of revolution, as I will show the gentleman. The proposition now is, that after fourteen years have passed, and not one petition from one American citizen has come to us asking that this law be repealed; while not one memorial has found its way to our desks complaining of the law, so far as I have heard, the democratic House of Representatives now holds that if they are not permitted to force upon another House and upon the Executive against their consent the repeal of a law that democrats made, this refusal shall be considered a sufficient ground for starving this Government to death. That is the proposition which we denounce as revolution. [Applause on the republican side.]

Mr. FERNANDO WOOD. I desire to ask the gentleman from Ohio a question.

Mr. GARFIELD. Certainly.

Mr. FERNANDO WOOD. Before he leaves that part of his remarks to which the gentleman from Kentucky [Mr. CARLISLE] has referred, I desire to ask the gentleman whether he wishes to make the impression upon the House that the bill introduced by Senator Powell, of Kentucky, and which resulted finally in the law of 1865, was the bill that passed the Senate, that passed the House, and for which he says the present Speaker of this House and myself voted?

Mr. GARFIELD. I have not intimated that there were no amendments. On the contrary I have said that it was amended in the Senate. One amendment permitted the use of the Army to repel armed enemies of the United States from the polls.

Mr. FERNANDO WOOD. So far as I am personally concerned, I deny that I ever voted for a bill except as a substitute for a more pernicious and objectionable measure. [Much laughter on the republican side.]

Mr. GARFIELD. What I have said is a matter of record. And I say again the gentleman voted for this law, that every democrat in the Senate and in the House who voted at all voted for this law just as it now stands, and without their votes it could not have passed. No amendments whatever were offered in the House, and there was no other bill on the subject before the House.

Mr. FERNANDO WOOD. I desire to submit another question to my friend.

Mr. GARFIELD. Certainly.

Mr. FERNANDO WOOD. It is whether, in 1865, at the time of the passage of this law, when the war had not really subsided, whether there was not in a portion of this country a condition of things rendering it almost impossible to exercise the elective franchise unless there was some degree of military interference. [Great laughter.] And further, whether, after the experience of fourteen years since the war has subsided, that gentleman is yet prepared to continue a war measure in a time of profound peace in this country?

Mr. GARFIELD. No doubt the patriotic gentleman from New York [Mr. FERNANDO WOOD] took all these things into consideration when he voted for this law; and I may have been unpatriotic in voting against it at that time; but he and I must stand by our records, as they were made.

Let it be understood that I am not discussing the merits of this law. I have merely turned aside from the line of my argument to show the inconsistency of the other side in proposing to stop the Government if they cannot force the repeal of a law which they themselves made. I am discussing a method of revolution against the Constitution now proposed by this House, and to that issue I hold gentlemen in this debate, and challenge them to reply.

And now, before I close, I ask the forbearance of gentlemen on the other side while I offer a suggestion which I make with reluctance. They will bear me witness that I have in many ways shown my desire that the wounds of the war should be healed; that the grass which has grown green over the graves of the dead of both armies might symbolize the returning spring of friendship and peace between citizens who were lately in arms against each other.

But I am compelled by the necessities of the case to refer to a chapter of our recent history. The last act of democratic domination in this Capitol, eighteen years ago, was striking and dramatic, perhaps heroic. Then the democratic party said to the republicans, "If you elect the man of your choice as President of the United States we will shoot your Government to death;" and the people of this country, refusing to be coerced by threats or violence, voted as they pleased, and lawfully elected Abraham Lincoln as President of the United States.

Then your leaders, though holding a majority in the other branch of Congress, were heroic enough to withdraw from their seats and fling down the gage of mortal battle. We called it rebellion; but we recognized it as courageous and manly to avow your purpose, take

all the risks, and fight it out in the open field. Notwithstanding your utmost efforts to destroy it, the Government was saved. Year by year since the war ended those who resisted you have come to believe that you have finally renounced your purpose to destroy and are willing to maintain the Government. In that belief you have been permitted to return to power in the two Houses.

To-day, after eighteen years of defeat, the book of your domination is again opened, and your first act awakens every unhappy memory and threatens to destroy the confidence which your professions of patriotism inspired. You turned down a leaf of the history that recorded your last act of power in 1861, and you have now signalized your return to power by beginning a second chapter at the same page; not this time by a heroic act that declares war on the battle-field, but you say if all the legislative powers of the Government do not consent to let you tear certain laws out of the statute-book you will not shoot our Government to death as you tried to do in the first chapter, but you declare that if we do not consent against our will, if you cannot coerce an independent branch of this Government, against its will, to allow you to tear from the statute-books some laws put there by the will of the people, you will starve the Government to death. [Great applause on the republican side.]

Between death on the field and death by starvation, I do not know that the American people will see any great difference. The end, if successfully reached, would be death in either case. Gentlemen, you have it in your power to kill this Government; you have it in your power, by withholding these two bills, to smite the nerve-centers of our Constitution with the paralysis of death; and you have declared your purpose to do this, if you cannot break down that fundamental element of free consent which up to this hour has always ruled in the legislation of this Government.

Mr. DAVIS, of North Carolina. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. DAVIS, of North Carolina. Do I understand the gentleman to say that the refusal to permit the Army at the polls will be the death of this Government? [Derisive cries of "Oh!" "Oh!" on the republican side.] That is the logic of the gentleman's argument, if it means anything. But we say that it will be the preservation of this Government to keep the military power from destroying liberty at the polls.

Mr. GARFIELD. I have too much respect for the intellect of the gentleman from North Carolina to believe that he thinks that is my argument. He does not say he thinks so. On the contrary, I am sure that every clear-minded man on this floor knows that such is not my argument. The position on the other side is simply this: that unless some independent branch of the legislative power of this Government is forced against its will to vote for or to approve of what it does not freely consent to, you will use the voluntary power in your hands to starve the Government to death.

Mr. DAVIS, of North Carolina. Will the gentleman permit me to ask him another question? Do I understand him to assume that we are forcing some branch of the Government to do what it does not wish to do? How do we know that, or how does the gentleman know it? Does the gentleman, when he speaks of "the Government," mean to say that it is not the Government of the majority, or does he assume that the majority is on his side?

Mr. GARFIELD. I am perfectly protected against the suggestion of the gentleman. I read in the outset declarations of leading members of his party in both branches of Congress asserting this programme and declaring the intention of carrying it through to the end, in spite of the Senate and in spite of an executive veto, which they anticipate. The method here proposed invites, possibly compels, a veto.

COERCION OF THE PRESIDENT.

Touching this question of executive action, I remind the gentlemen that in 1856 the national democratic convention, in session at Cincinnati, and still later, the national democratic convention of 1860, affirmed the right of the veto as one of the sacred rights guaranteed by our Government. Here is the resolution:

> That we are decidedly opposed to taking from the President the qualified veto power by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interests, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives until the judgment of the people can be obtained thereon.

The doctrine is that any measure which cannot be passed over a veto by a two-third vote has no right to become a law, and the only mode of redress is an appeal to the people at the next election. That has been the democratic doctrine from the earliest days, notably so from Jackson's time, until now.

In leaving this topic, let me ask what would you have said if, in 1861, the democratic members of the Senate, being then a majority of that body, instead of taking the heroic course and going out to battle, had simply said, "We will put on an appropriation bill an amendment declaring the right of any State to secede from the Union at pleasure, and forbidding the President or any officer of the Army or Navy of the United States from interfering with any State in its work of secession." Suppose they had said to the President, "Unless you consent to the incorporation of this provision in an appropriation bill we will refuse supplies to the Government." Perhaps they could then have killed the Government by starvation; but even in the madness of that hour the leaders of rebellion did not think it worthy their manhood to put their fight on that dishonorable ground. They planted themselves on the higher plane of battle and fought it out to defeat.

Now, by a method which the wildest secessionist scorned to adopt, it is proposed to make this new assault upon the life of the Republic.

Gentlemen, we have calmly surveyed this new field of conflict; we have tried to count the cost of the struggle, as we did that of 1861 before we took up your gage of battle. Though no human foresight could forecast the awful loss of blood and treasure, yet in the name of liberty and union we accepted the issue and fought it out to the end. We made the appeal to our august sovereign, to the omnipotent public opinion of America, to determine whether the Union should perish at your hands. You know the result. And now lawfully, in the exercise of our right as Representatives, we take up the gage you have this day thrown down, and appeal again to our common sovereign to determine whether you shall be permitted to destroy the principle of free consent in legislation under the threat of starving the Government to death.

We are ready to pass these bills for the support of the Government at any hour when you will offer them in the ordinary way, by the methods prescribed by the Constitution. If you offer those other propositions of legislation as separate measures we will meet you in the fraternal spirit of fair debate and will discuss their merits. Some of your measures many of us will vote for in separate bills. But you shall not coerce any independent branch of this Government, even by the threat of starvation, to consent to surrender its voluntary powers until the question has been appealed to the sovereign and decided in your favor. On this ground we plant ourselves, and here we will stand to the end.

PROTECTION OF THE NATIONAL BALLOT-BOX REFUSED.

Let it be remembered that the avowed object of this new revolution is to destroy all the defenses which the nation has placed around its ballot-box to guard the fountain of its own life. You say that the United States shall not employ even its civil power to keep peace at the polls. You say that the marshals shall have no power either to arrest rioters or criminals who seek to destroy the freedom and purity of the ballot-box.

I remind you that you have not always shown this great zeal in keeping the civil officers of the General Government out of the States. Only six years before the war your law authorized marshals of the United States to enter all our hamlets and households to hunt for fugitive slaves. Not only that, it empowered the marshals to summon the *posse comitatus*, to command all bystanders to join in the chase and aid in remanding to eternal bondage the fleeing slave. And your democratic Attorney-General, in his opinion published in 1854, declared that the marshal of the United States might summon to his aid the whole able-bodied force of his precinct, not only including bystanders and other citizens generally, "but any and all organized armed forces, whether militia of the State, or officers, soldiers, sailors, and marines of the United States," to join in the chase and hunt down the fugitive. Now, gentlemen, if, for the purpose of making eternal slavery the lot of an American, you could send your marshals, summon your *posse*, and use the armed force of the United States, with what face or grace can you tell us that this Government cannot lawfully employ the same marshals with their armed *posse*, if need be, to maintain the purity of our own elections and keep the peace at our own polls. You have made the issue and we have accepted it. In the name of the Constitution and on behalf of good government and public justice, we make the appeal to our common sovereign.

For the present I refrain from discussing the merits of the election laws. I have sought only to state the first fundamental ground of our opposition to this revolutionary method of legislation by coercion. [Great applause.]

Mr. SPARKS. Before the gentleman from Ohio takes his seat I hope he will give to the House the name of the Attorney-General of the United States to whom he referred.

Mr. GARFIELD. I refer to Caleb Cushing, the democratic Attorney-General of President Pierce.

Mr. SPARKS. Precisely; we only wanted to know the name which the gentleman did not give before.

Mr. McMAHON. Mr. Chairman, I have heard gentlemen on the other side take every opportunity that offered during the last four years to read a lecture to gentlemen from the South on this side of the House upon their past and present conduct. We find these lectures repeated in the partisan press of the party to which the gentlemen belong. I want to know, sir, where the gentlemen on that side receive their authority to hold over their southern colleagues the threat that the war is not yet over, the North not yet pacified; and that somebody may yet deal with our friends from the South as naughty men whose crimes have not been forgotten or forgiven. If southern men ought not to be admitted to the full, free, and equal interchange and expression of opinion, with the absolute right to vote upon this and all other questions, as their judgment dictates, then, Mr. Chairman, in my judgment, the war for the Union has proved a failure; then all that was predicted of the attempt to restore this Union by force, by those who were opposed to the war in the North, has been, or soon will be, realized to its fullest extent.

What was the purpose of the war? What the meaning of the many proclamations to the people of the North and South that its only object was the restoration of the Union?

And now, after the lapse of fourteen years from the firing of the last gun, when the Union is, or ought to be, fully restored, and peace is supposed to be reigning over the whole land, southern Representatives cannot exercise an intelligent judgment upon a vital and fundamental question of free government without being called to an account. I deny to gentlemen on the other side, in all common decency, the right to hold over these gentlemen the unmanly threat of my colleague from Ohio, that their conduct is revolutionary, and is similar in its purposes and intents to the action of their predecessors in the years 1860 and 1861. In 1861 the intent of the southern men was to break up the Union. In 1879 the democratic party is contending for the corner-stone of free government—the freedom of the polls from the interference of the regular soldier. When southern men range themselves under our banner, how do they violate their duty as Representatives? Why shall they be assaulted as untrue to the Union? Does loyalty consist in an attachment to the decaying body of the republican party?

And when my friend from Ohio says that in 1860 it would have been competent for the southern majority in the Senate to have annexed to an appropriation bill certain propositions favorable to secession, as we propose to annex certain repeals now, he forgets that the very theory upon which those gentlemen retired from the Senate of the United States, followed by their Representatives upon the floor of this House, was that after their States had passed the several acts of secession they had no right upon the floor of the Senate or House, and could give no vote.

But we are now all united. Every State has its Representatives; and I hope they come here to represent their people. I believe that all desire to perform their whole duty to the people and to the country at large. And certainly in my experience in Congress, and I wish the people could have enjoyed the same opportunity to observe, the southern men have shown far more disposition to manifest their thorough reconstruction than northern republicans have shown willingness for harmony between the sections. And the reason is simple. As the republican party gained power through the excitement of war, it dreads dissolution upon the return of permanent peace. In my judgment, the thorough pacification of this country and the retirement of the republican party from power will be, and must be, contemporaneous events. If the people desire to bury sectional animosities they must put down the party which lives upon them. If they hope to turn the attention of law-makers to other subjects than the worn-out issues of the war, the people of the North must send to the rear the politicians who are seeking to tear open the wounds of the late struggle. Under republican rule the war was brought to a successful end; but reconciliation they are unable and unwilling to promote. The speech of my colleague from Ohio is signal proof of this fact. In insinuation and open charge it was only one of the many red flags held out to provoke sectional controversy and stir up animosity.

I would ask my colleague from the State of Ohio, who constituted him the guardian of the southern men on this floor? Who gave him the right to read them lectures, as if they were his subordinates and not his equals upon this floor? Does the gentleman assume to speak for the people of the North? He ought to have remembered the fact that his party is no longer in the majority. He ought to have recollected that between its southern policy and its financial management republicanism has been shorn of many hundred thousands of its followers. And when he insists that southern men shall be guided by republican ideas as the price of the good opinion of republican leaders, I would ask him what are they to follow? Shall they adopt the gentleman's teaching at the present time, or may they not adopt his practices in the past, when so many laws were enacted upon appropriation bills by him and his party?

And I want to say to gentlemen on the other side who talk as if they held this country in a sling and carried the Government around in their breeches pocket—I want them to know and to realize that in the last presidential election they were in a minority of over one million of the white voters of this country, and in a minority of over two hundred and fifty thousand of its whole voting population. If we look at the figures of the last general election, I want them to know and to realize the fact, for the figures show it, that they are in a most overwhelming minority, if I may use the expression, and they no longer represent the people of this country, North or South. They have a President in power, it is true, but we all know how he was put there. We all know he received neither a majority of the votes of the people, nor did he receive a legal majority of the electoral votes. We are here, sir, on this side representing the people, and in the other House we represent the people as well. If there had been fair play we would have had all the departments of the Government. Representing as we do the majority of the people of this country, we propose to exercise all the powers of legislation as men fully sensible of the responsibility resting upon us. The people have trusted us, and we are here to protect their rights, and he is no true Representative who will allow his judgment to be influenced by the line of argument adopted by my colleague from Ohio.

And this brings me, Mr. Chairman, to the discussion of the particular question now before us. Having under consideration the bill for the support of the Army, we propose to amend section 2002 of the Revised Statutes so that it will read as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.

The section, as it now stands, has at the end of it, "or to keep the peace at the polls." So the only change proposed by us is to strike out the words permitting troops or armed men of the United States to "keep the peace at the polls." The presence of regular troops at the polls is so obnoxious to the American citizen that I am surprised that gentlemen upon the other side do not concede our amendment at once. The course of my colleague [Mr. GARFIELD] is certainly extraordinary. He is unwilling to discuss the merits of the proposition. He will not say that our proposed amendment is not right. He admits that he voted against this section when it became a law, but he gives us no light about his present views. Surely, when so distinguished and intelligent a gentleman arraigns a large number of his colleagues as revolutionists because of their support of this measure, he ought to deign to give us an opinion as to whether, in his judgment, it is right or wrong. Does his party seek to evade this discussion and to find refuge under the worn-out "bloody shirt?"

Another remarkable circumstance in my colleague's argument is his statement that when the law, as it now stands, was passed, it received every democratic vote in the House and Senate. He has not given us the true spirit of the record upon this subject. In 1865 the democratic party was in a distressing minority both in the House and Senate. It could enact no laws without republican consent. It voted for this bill because it had no other choice. Great evils existed in all the border and some of the Southern States as to interference in elections by Federal officers and soldiers. To correct these evils Mr. Powell introduced a bill, to which the gentleman has referred. I think my colleague will find, if he will consult the record of proceedings in the Senate, that upon the motion of a republican Senator the words we now propose to strike out were added by republican votes against democratic protests. And in the House, under the previous question, no amendment was possible.

Mr. FERNANDO WOOD rose.

Mr. McMAHON. I prefer not to yield to the gentleman now, but will give him after a while all the time I have left.

Gentlemen upon the other side forget that during the war, when it was popular, not only in their party, but with the people, to augment the executive power of the Government for the purpose of enabling us to put down the rebellion, almost every conceivable outrage was perpetrated upon the liberty of the people at the polls, under the so-called war power, the avowed pretext being to preserve the peace, but the real object being to secure a majority on the floor of this House and otherwise to control the elections in the various border States.

It is an old maxim, full of wisdom, that "a half loaf is better than no bread." This law did not meet the views of the democratic members of either body; but it was better than no law. It was a step in the proper direction, and they trusted to the future, when the Union would be fully restored, to return to its proper channels the overgrown power of the executive branch of our Government.

But gentlemen on the other side plant themselves upon the position that we have no right to attach this measure to an appropriation bill. Why not? We are acting under the rules of the House and in strict accord with general parliamentary law. We have a right to put it there if we have the majority, and I would wish to recall to the gentleman's short memory the fact that he and his party have resorted to this method of enforcing their views upon many important occasions. It came into existence at an early day as one of the means by which the people of England saved themselves from tyrannical kings; and it is a power which we should never abandon under any circumstances, no matter how free our Government may seem to be at the present time. When our fathers conferred upon Congress the right to "raise and support armies," they intended to give Congress the absolute power to determine for what purposes these armies should be used.

If this was the first time this power had been exercised by either party, I would not be so surprised to hear our action denounced as "revolutionary." But it has been freely used in the past by the republican party. And in the last two Houses all the economy, and it was great, which the democratic House was able to accomplish, it achieved by constant legislation upon the various appropriation bills presented to it.

Gentlemen assume that we are coercing somebody, some co-ordinate branch of the Government. By what right do they say so? How can we tell, or what difference ought it to make to us, what view the Senate or the President may take of this question? They may be as eager as we for this reform. As it is correct in principle, we have the right to suppose that it will be welcomed in any shape. Does the gentleman from Ohio speak with any authority when he assumes that our action will not receive the sanction of the President. I will not believe, and do not, that the President has been guilty of so gross a violation of the proprieties of the occasion.

Now I am not in favor of constant general legislation upon appropriation bills. But when we are voting money to support an Army for the next fiscal year, have we not the right, and is it not our duty,

to say emphatically that these soldiers shall not be used for the purpose of intimidating voters or influencing the election? If the President of the United States can convince the country that we have no right to pass such a law, under any circumstances, because it invades his constitutional right as Commander-in-Chief of the Army, the country would sustain him in refusing his assent to the bill. But if his assent is withheld because he does not approve of the measure or of the manner in which it has been passed, the people will not approve of his action. The veto power was not given to the President, in my judgment, to make him a constant actor in legislation, but as a defensive or protective power, to prevent the invasion of the constitutional right of the other departments, or, in extreme cases, the passage of hasty and ill-advised legislation. I do not agree with my colleague in his statement that the President is a part and parcel of the legislative power of this country. He has become so, in practice, to a certain extent, but I believe the practice is wrong.

When I turn to the very first article of the Constitution, which speaks about the legislative power of the Government, I find it says:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

It does not say it shall consist of a House and Senate and President of the United States. On the contrary, it says simply "a Senate and House of Representatives." When I then turn to that article of the Constitution which provides for the executive power I find it says:

The executive power shall be vested in a President of the United States of America.

Therefore I say, Mr. Chairman, that when certain vital measures concerning the purity and the freedom of elections are involved; when the question as to whether the people shall ever have the power, under the Constitution and under the laws, to rid themselves of a party in power which was not properly placed there, or whose policy makes it desirable that it should be turned out; when it comes to the vital question as to whether the people shall be permitted to have a fair opportunity to determine at the ballot-box who shall be their rulers, their representatives have a right to put upon any appropriation bill these measures, and say, "We want the jury-box pure and uncontaminated; we do not want the United States courts used as the machinery of a political party to intimidate whole sections of the country by political prosecutions with partisan juries for alleged *election* offenses, thereby keeping one party in power; we do not want the President of the United States, under his pretended right as Commander-in-Chief, to move the troops to the polls to deter men from coming there to vote the opposite ticket, and we do not intend that it shall lie in the power of the marshals of the United States, the mere creatures of the President, to appoint any number of irresponsible and corrupt men to stand at the polls and to intimidate the honest voter in his exercise of the elective franchise."

These are measures upon which we stand. The gentleman has truly said that we have well weighed and considered them. We regard them all as vital. They concern the very foundation of free government, the right of the people to express an untrammeled will through the ballot-box, free from violence, corruption, and, above all, Federal interference. I believe that we have made up our minds fully to take all the consequences before the people of an adherence to our views. If the President of the United States prefers to "starve the Government," because the stalwarts of his party demand that he shall assist in raising the "bloody flag" once more, with him will rest the responsibility. If the party in power is determined to perpetuate itself in power by the retention, at all hazards, of all the political machinery by which they have hitherto suppressed the will of the people, and corrupted elections, the battle for an honest jury, the proper administration of justice, the purity and freedom of elections cannot begin too soon. The cry of the professional politician will not deceive the people. The appeal to war feelings will be laughed to scorn. A suffering nation wants peace, quiet, harmony, and relief from the burdens of taxation; and it no longer demands or desires the harassing legislation of the party in power.

Now, is the measure we are considering right and constitutional? This is the particular proposition which I propose to discuss at the present time. I could not follow, if I wished, my colleague in his eloquent and rambling discourse. I did not obtain the floor for that purpose. He has refused to discuss the merits of this question. I desire to discuss them. He indulged in a number of high-sounding phrases of a general character of which only the application was wrong. While he, as the leader upon that side, expressed his confidence in the people of the United States, I must be permitted to say that the statute-book is full of villainous laws which his party enacted, based on the idea that the people are without honest intelligence, full of depravity, ignorance, and corruption. A government of the people cannot last long if such be the fact.

Some of these laws we propose to repeal at the present time; others we propose to repeal at a future day, which, thank God! is not far distant. Then a greater "revolution" than the present will take place. Some gentlemen upon the other side seem to think that a "revolution" is always going on when some republican official is about to be put out of office. [Laughter and applause.] The Government is always in danger unless in the hands of republican office-holders, and it is treason and disloyalty to pull down any machinery designed to perpetuate their exclusive reign!

Does the measure proposed infringe upon the constitutional right of the President as Commander-in-Chief of the Army? And what are the respective powers of Congress and the President in regard to the Army and Navy? These are vital questions, and their exceeding importance is my apology for claiming the attention of the House to-day.

The country is under great obligations to the gentleman from Kentucky, [Mr. CARLISLE,] who made so able an exposition yesterday of the extent of the right of the President to interfere, with the Federal troops, in the affairs of a State. It is the duty of every Representative to put himself on record against the wild claims for executive power put forward by gentlemen upon the other side, lest acquiescence in them may be presumed, and be cited as precedent at some distant day. I desire to speak more particularly as to the power of the President over the Army, in connection with the powers of Congress.

I was surprised to hear the able gentleman from Maine [Mr. FRYE] say that, even if we should pass this law, we would not thereby interfere with the President's power; that, as Commander-in-Chief, he would still possess the power to move the troops wherever he pleased; that he could take them from the Indian frontier and place them in New York, or order them from Galveston to a fort in Maine. If by this remark he only meant that, in the absence of any law, the President could exercise these powers, I make no objection. But the gentleman seemed to insist that he could do these things in spite of law; for he argued that if we passed the measure the President could yet transport troops where he pleased, and that our law would not reduce expenditures, because it would not control the President in his movements of the troops. Such a claim has been made in this House within my recollection more than once. Gentlemen who make it do not derive their ideas from the true sources of knowledge, the patriotic sources; they do not find such teachings in the writings of the fathers. They derive their inspiration from the improper action of their own party in the days when it was popular, as I have said, and may have been necessary temporarily to permit the exercise of power by the Executive which it did not possess under the Constitution. Let us examine the constitutional provisions as to the powers of Congress and the executive department.

In the Constitution of the United States we find that Congress has the following powers, (article 1, section 8:)

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States,

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18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

The powers of the President are conferred only in general terms in the following language:

The executive power shall be vested in a President of the United States.—*Article* 2, sec. 1.

He shall take care that the laws be faithfully executed.—*Article* 2, sec. 3.

It will be seen that the whole power of declaring war, raising as well as supporting armies, providing and maintaining navies, organizing, arming, and governing the militia, and, above all, of making rules and regulations for the land and naval forces, and for calling forth the militia to execute the laws of the Union, suppressing insurrection, and repelling invasion, is confided in Congress—the representatives of the people. The President is the Commander-in-Chief of the land and naval forces and the militia when called into service; but, in the language of Alexander Hamilton, he is only the first general and the first admiral in the United States. Does that make him the first general in the land over the law or under the law? Clearly, he is only the first general under the law; and I was glad to hear my distinguished friend from Maryland [Mr. MCLANE] putting in a protest yesterday, in the very opening of this discussion, against the claims of the gentleman from Maine, [Mr. FRYE.]

Congress, having power to raise and support an army, may refuse to raise an army at all; or Congress may say that it will only have such an army as is necessary to maintain the peace on the Indian frontier. It may pass a law that ten regiments of cavalry shall constitute the entire standing Army of the United States, to be stationed and used only upon the Indian frontier. Such a statute might not be a sensible one, but suppose it should be passed: does the gentleman from Maine contend that the President of the United States would have the right to withdraw these troops from the Indian frontier to the coast of Maine, or send them to harry the people of Louisiana or South Carolina on election day to perpetuate his party in power? I believe his party would act upon the theory that such a right exists.

I will put another case: suppose that at the instance of the Representatives from the State of New York we should enact a law ordering the construction of ten monitors or torpedo-boats, and should say by law that they should be used for the defense of New York harbor, and should be used for no other purpose, should be transported to no other point: what would we say if the President of the United States, under some public exigency, as he claimed, should remove those monitors to some southern port? I know the argument would be put

forward, if the gentlemen on the other side of the House were in power, that if a public exigency, or an exigency of their party, which to them are but synonymous terms, should arise, they would say that the "life of the nation" was in danger, and their President would do it; but they would probably come to Congress after a while for a bill of indemnity, as they did for a great many things done in past days by the President, Secretary of War, and other people in power. But this is of itself a concession that the law of Congress was right and had been broken without authority.

I maintain, therefore, that the whole subject of raising, providing, maintaining, and supporting an army and a navy is within the legitimate powers of Congress; that the purposes for which they are raised or provided may be lawfully stated in the statute; that their uses for certain purposes, for example the maintenance of peace at the polls or use as a *posse comitatus*, may be denied. When such troops or naval forces have been constituted, I do not deny that the President is the commander. But he is commander only under the law. Through him orders are conveyed. By him movements, not forbidden by statute, may be made at his pleasure. But if he can violate the statute, he is higher than the Constitution, and becomes at once our king, emperor, dictator, or what you will.

This clause does not interfere, therefore, with the constitutional power of the President as Commander-in-Chief of the Army. Does it interfere with any other clause of the Constitution? The argument is made that it limits the power of the President under article 4, section 4, of the Constitution, which reads as follows:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

My friend from Kentucky [Mr. CARLISLE] made it very clear the other day that under this section the President has no power; that whatever power he possesses to-day is vested in him by virtue of a law of Congress, section 5297; and that what Congress had granted, it could as readily take away, limit, or qualify. The President is not the "United States," to whom is confided the powers and duties mentioned in section 4, article 4, of the Constitution.

Nor is the law, as we propose to pass it, in conflict with the duties we have imposed upon the President in section 5297. The President is not authorized under that section to send troops into a State for the purpose of "preserving the peace at the polls." His powers are limited not only by the law, but by the Constitution. No interference is permitted in the domestic affairs of a State, where Federal laws are not concerned, except upon the application of the Legislature, or the executive when the Legislature cannot be convened. Where Federal laws are concerned and their execution is involved the rule is different; and I shall presently refer to the distinction. If the very improbable case put by the gentleman from New Jersey should arise, in which the President was properly called upon to suppress insurrection against the authority of a State, his officers, if acting under his orders, would not be liable under the law as we propose to pass it. The two laws would be construed together; and if the troops were lawfully there under the Constitution and laws under one section, their officers would not and could not be prosecuted under the other.

My colleague from Ohio, not the gentleman whom I am just now following in the course of debate, but my other colleague from the Springfield district, [Mr. KEIFER,] made the proposition that the officers of the Army and Navy and the marshals of the United States are conservators of the peace upon all occasions in the States. And from that he argued that it was right to have troops at the polls. I scarcely believed such an extraordinary proposition could be seriously made. When I heard the gentleman make it I thought I did not correctly understand him, but when I read the RECORD to see what he did say I find it there substantially in the language I have already given.

The gentleman forgets the distinction between State laws and United States laws. The Constitution gives the President power to execute the laws; but the Constitution speaks only of the laws of the United States, not of the laws of the State governments. The President of the United States and his subordinates have no control whatever over ordinary offenses. Murder, arson, rape, burglary, breach of the peace, &c., are in general crimes only against the State, and not against the General Government. They can be offenses against the General Government only when committed in the District, the Territories, the high seas, or some place under the exclusive jurisdiction of the United States, as a navy-yard, fort, arsenal, &c.

Let me illustrate the distinction by a case. Suppose that a collection of a tax on whisky or tobacco is taking place under the internal-revenue law. That is a Federal law, a law which Congress has the right to make, and which when made the President is bound to execute. He has the right to see that the law is executed, and (if the proper laws have been passed to enable him) he has the right to invoke all the powers of the Government for the purpose of enforcing that law. The State officers have no right in any way to interfere either to resist or assist.

But suppose that it is a State tax that is involved, a tax which the farmer has to pay upon his land for the support of the State government. Suppose he refuses to pay, and there is a distraint or execution against his personal property and he resists. Did my friend from the Springfield district [Mr. KEIFER] ever hear of any warrant being issued to a United States marshal to collect that tax and to seize that individual's property or person in case of resistance? Oh, no! the marshal of the city of Springfield, or the marshal of the city of Dayton, or the constable of the township, or the sheriff of the county, would be the proper authority to which application should be made after an affidavit was filed. They are State officers, and the State laws are to be executed only by the State authority. With these the President has nothing to do, unless resistance becomes so powerful that the Legislature calls upon him for assistance, or the executive, in case the Legislature cannot be convened. Then, and then only, the law of Congress makes it his duty to assist in suppressing domestic insurrection. The President may see the contest rage for a whole year, yet, if the perfect execution of the Federal law is not prevented nor Government property endangered, he must be a silent spectator until his assistance has been invoked in the constitutional way.

Mr. KEIFER. Will the gentleman allow me to interrupt him?

Mr. MCMAHON. Certainly.

Mr. KEIFER. I merely want to inquire whether you understood me to say on yesterday that I thought the marshals or deputy marshals of the United States could collect a State tax? That is the proposition you are arguing.

Mr. MCMAHON. I think that the logical result of the broad statement made by the gentleman. The gentleman did not say so in so many words, but his general proposition would finally cover that ground. But I do not wish to understand the gentleman differently from what he desires now to be understood.

Mr. KEIFER. I want the gentleman to understand that he will find nothing of the kind in the RECORD. I said nothing of the kind. If you will permit me I will state that what I said was that the marshal and deputy marshals of the United States, with all other officers of that character, generally denominated the constabulary force of the country, had imposed upon them the duty, whenever they encountered a riot or disturbance that affected the peace or order or the execution of the laws of the country, to preserve the peace and to enforce the law. They are required so to do by the express statutes of the United States as well as by common law. I ask the gentleman if he denies that proposition?

Mr. MCMAHON. I will read the gentleman's language from the RECORD in order to put myself right. He said yesterday:

> Those two cases were excepted in this legislation passed by a republican Congress, and we propose that this legislation shall remain as it now is, so that it shall not be said as a reproach and a stigma upon this country that we have *officers, military, naval, and civil*, whose duty it is by law, under the penalties to *keep the peace everywhere*, save and except on one day at least in each year these officers shall be required to fold their arms and look on and witness riot, murder, intimidation, or anything else of an unlawful character, going on before their eyes, or be subject to severe penalties.

Mr. KEIFER. There is nothing there about collecting taxes.

Mr. MCMAHON. No. But suppose a riot should grow out of the collection of State taxes; is not that a breach of the peace? That is the case I have put.

Mr. KEIFER. That is a riot.

Mr. MCMAHON. Is not that a breach of the peace, or, if the gentleman prefers, a riot; and is it not the gentleman's proposition as I have read from the RECORD that it is the duty of the military, naval, and civil officers of the United States "to keep the peace everywhere?" Is not this almost his exact language?

I affirm that it is the duty of the military officers of the United States to "keep the peace," so called, nowhere. It is their duty to suppress insurrection and repel invasion only when called into service, under the President, according to law. One of the crying evils in the past has been that the republican party has scarcely been able to turn its steps without a file of soldiers at its back; it is always looking to the Army for that support which it has rarely found at the hands of the people.

Mr. KEIFER. The gentleman will allow me to suggest to him that General Washington was President of the United States at the time of the whisky riots and he took the same view that I take on this subject without any statute.

Mr. MCMAHON. I should be very sorry to have General Washington judged by the gentleman on the other side. [Laughter.] We can settle that question by the record hereafter, it is not worth while to consume time on it just now. I think he will discover that General Washington had a law behind him under the authority of which he acted.

Mr. KEIFER. The record was written a long time ago.

Mr. MCMAHON. There have been riots in more recent times; but no matter how formidable those riots, no matter what proportions they took, no matter though one class of society was arrayed against another in the most gigantic and dangerous proportions, the executive power of the General Government has, as I understand, uniformly disclaimed the right to send troops into any State, upon any occasion, for the enforcement of State laws or the protection of private property, until it had been called for by the Legislature, or by the executive, if the Legislature could not be convened.

Mr. WHITE. The gentleman will allow me to recall to his memory the fact that in 1859, at the time of the John Brown riot, a then distinguished officer of the United States Army was sent to Harper's Ferry with a military force; and hearing of disturbances over in Maryland, he went into that State with troops for the purpose of making arrests and enforcing civil orders. I refer to no less a person than Robert E. Lee.

Mr. MCMAHON. The gentleman forgets, however, that when the

troops were ordered to Harper's Ferry, John Brown had seized and intrenched himself in property which belonged to the Government of the United States.

Mr. WHITE. Why, John Brown was at that time in jail at Charlestown; he was "intrenched" in jail. [Laughter on the republican side.]

Mr. MCMAHON. I must say to the gentleman that I am not quite so familiar with all the details of the John Brown riots as gentlemen on the other side, whose political pabulum it constituted for a great number of years, and I do not remember the particular circumstance to which he alludes; but I think gentlemen will discover, if they look into the matter, that on the occasion referred to there was a call from some official authority for troops under the law as I have explained it.

Mr. WHITE. The gentleman will allow me to say that there was no call whatever, and Robert E. Lee, at the head of his military force, went into Maryland. Harper's Ferry, as the gentleman knows, was in Virginia.

Mr. MCMAHON. Well, so far as Robert E. Lee is concerned, his action is unimportant in discussing a constitutional question. He once marched into the gentleman's State when neither the Legislature nor the executive of that State had invited him. We must not be held responsible for everything that he may have done.

Mr. WHITE. I did not hear the gentleman's remark; I ask him to repeat it.

Mr. MCMAHON. I say that upon one occasion General Lee marched into the State to which the gentleman belongs, and never asked the consent either of the Legislature or the executive of that State.

Mr. WHITE. Yes, sir; and the gentleman's friends who are working with him on this measure did not assist in driving General Lee out.

Mr. WARNER. I beg the gentleman's pardon for saying that he is mistaken. There are gentlemen on this side who were then fighting in defense of the Union and the flag, and who did help to drive General Lee out of Pennsylvania. [Applause on the democratic side.]

Mr. WHITE. They would not make a majority of the gentleman's party in this Chamber.

Mr. WARNER. Do they on that side? We stand to-day by the principles we defended then. We stand by the same flag, in defense of the primary rights of the people to free elections.

Mr. MAGINNIS. I beg to say that there are more such men on this side than on the other.

Mr. WHITE. Will the gentleman from Ohio allow me to call his attention to the fact that at the very time General Lee was invading Pennsylvania the democratic convention then in session at Chicago was declaring that the effort to drive General Lee out of Pennsylvania was a failure?

Mr. MCMAHON. The democratic convention did then declare in substance that the war would not restore the Union. I, for one, will be glad to admit that the convention was wrong; but the gentleman's party is doing all in its power to prevent perfect union and to verify the prediction of that convention.

But, to return to our subject, Mr. Chairman. What Robert E. Lee may have done, what a President of the United States, whether democratic or republican, may have done upon a former occasion, what even this House may have done when it was republican or when it was democratic, are after all only persuasive arguments based upon the assumption that a democratic or a republican President, a democratic or a republican Congress would not do wrong. I wish the argument had more force; but from our knowledge of human nature we are compelled after all to decide all questions of right and wrong by the inflexible rules of logic and a careful inspection of the Constitution. It is time for a return to the better days of the Republic, when we find these questions construed without reference to political issues then pending, and by statesmen who had no personal interest or partisan measure at stake.

Having now discussed the power of the President to interfere in a State to suppress an insurrection or assist in enforcing State laws, when properly called upon, let us look into the power of the President or of his inferior officers in the execution of the Federal laws.

Prior to 1860 a citizen of the United States scarcely knew that the Federal Government was in existence. Except in connection with his local post-office he rarely saw a Federal office-holder. In those days the power of the Federal courts had not been enlarged as they have been since; and the defendant was rarely dragged away in civil or criminal proceedings to a remote court of the United States. He hardly felt the hand of his Government, so soft was its touch. How changed in these days! I will not discuss by whose fault; but when the burdens of the people are so heavy we should take every proper step to relieve them. A man can scarcely turn around in these days without a collector, a deputy collector, a marshal or a deputy marshal, a commissioner of the United States, or in some States a supervisor of elections at his elbow. The country is full of secret-service men from all the departments of Government. The courts and district attorneys are, in many localities, adjuncts to the political machinery of the party in power, and juries are drawn or constituted out of the most bigoted and persistent adherents of the republican party. Absurd and oppressive test oaths have been provided to rid the jury-box of the intelligent portion of the community. The machinery of the customs and internal-revenue law has been used in the most scandalous manner to promote the prosperity of the party in power. And last but not least, Federal supervision has been asserted over congressional elections, with the power of appointment given to the marshal of the United States, the mere creature of the President, of an unlimited number of deputies to serve on or about election day, with the privileges of arrest and the power to summon the whole *posse comitatus* to enforce their partisan schemes. The President being invested with power to enforce all these laws and many others, and, under proper authority, to use the whole power of the Government it becomes pertinent to inquire if his power is unlimited or beyond the control of Congress, and if his claim to use the land and naval forces at his own will is well founded.

I affirm, Mr. Chairman, that while the Constitution confers the "executive power upon the President," and orders him to "take care that the laws be faithfully executed," it does not define executive power, except in a few instances, nor provide how he shall proceed in the execution of the laws. And I affirm that these details are left to the discretion of Congress, who can say how, where, and when the *posse comitatus* may be summoned, or how, when, and where the Army may be used in the enforcement of Federal laws.

For, article 1, section 8, (No. 18) of the Constitution says expressly that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all *other powers vested* by this Constitution in the Government of the United States, *or in any department or officer thereof.*"

Under this clause it cannot deprive the President of his position as Commander-in-Chief, but it may say when and where the Army may be employed; how and when the militia shall be used; and when and how the *posse comitatus* shall be invoked by any subordinate officer. Congress, therefore, has the right to say that the troops shall not be employed to keep the peace at the polls. If the election be for State officers only, what possible pretext can there be for the presence of Federal troops? If it be a Federal election for Congressmen or electors for President and Vice-President, what right has the President to anticipate disturbance and place soldiery at the polling places before a riot has been commenced or a proper call been made upon him? None whatever. The use of troops in this way is destructive of every principle of free government. In time they will serve the purposes to which Napoleon put them, who had a peaceable election and no ballots cast against him! Putting troops at polling places, as has been done so frequently under former administrations, is in violation of every law of a free government, without warrant in the Constitution, and utterly unknown to the American people until they fell into the hands of the republican party.

The theory of our Government is that the civil is superior to the military authority; that we have no need for the military power, except to repel invasion or to assert the superiority of the civil power. The true theory of our Government goes further; and that is that the military power should never be used except as a last resort, and when judicial proceedings have failed. Even amid the excitement of the opening of our great war of the rebellion, this principle found expression in a law now to be found upon the statute-book:

SEC. 5298. Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, it shall be lawful for the President to call forth the militia of any or all of the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

In this section will be found recognized much that I have contended for. Congress says that "when it shall become impracticable to enforce the laws of the United States by the *ordinary course of judicial* proceedings," then it shall be *lawful* for the President to call forth the militia or to use the land or naval forces of the United States.

So in another section (section 5300) the law makes it the duty of the President to issue his proclamation in all cases where it becomes necessary to use the troops, commanding the insurgents to disperse, plainly implying that some actual disturbance has already taken place; that insurgents are in the field, who are to be ordered to disperse. How, under such a statute, would it be competent to move the troops into a State and locate them at the polls in anticipation of a disturbance?

That I am not wrong in saying that Congress has always taken the power of saying when the President has the right to move the land and the naval forces can be made apparent from an inspection of the Revised Statutes. I want to cite gentlemen to the neutrality act, in the execution of which it is important frequently for our Government to act promptly if a certain vessel is to be detained or ordered away for our protection. Under such circumstances he is authorized under certain emergencies to use the land and naval forces to compel the detention or prevent the departure of that vessel. So when in a collection district during the war it was impossible for the collector to collect the customs, he was authorized to open his office upon any ship, and under the section of the Revised Statutes which I have here, he was authorized to detain a vessel and to use the land and naval forces until the customs were paid. And at that time, though the President was Commander-in-Chief of the Army and Navy, the first admiral, and as President charged with the execution of the laws and collection of customs, he had no right, in the opinion of a republican Congress in those

days, to take this action until Congress had invested him with this power. And so it is throughout these statutes everywhere, it will be found Congress regulates when the President may move the land and naval forces of the United States. It is not for the President to harass the people by their use; but the people are to be governed by the laws, and the troops are only to be called in to carry out those laws on the occasions provided for by Congress, and in the manner Congress has provided. As the President, under the Constitution, has supreme command over the Army, the representatives of the people should never surrender one jot or tittle of their right to regulate, control, and govern that Army. The necessity of our right may not be so apparent to-day as it has been in the past or may be in the future, but the provisions of the Constitution are wise and should be carefully construed in the interest of the people.

Mr. Chairman, for the information of gentlemen I will refer more particularly to the various sections of the statute which they may consult at their leisure. I refer to section 1642 of the Revised Statutes, which confers power, by express enactment of the Congress of the United States, upon the President to call the militia into service to suppress insurrection or repel invasion. This section says, in so many words, that when an invasion or insurrection has taken place (was it lawful before?) or is imminent, it shall be "lawful" for the President to call out the militia. Could he do so without some such statute?

I refer to sections 5287 and 5288, which authorize the President to use the land and naval forces of the United States or the militia thereof for the execution of the neutrality laws. Although it is his duty to execute the law, Congress here determines when he may call on the troops for assistance. I refer to section 5316, where the power is given to the President in the collection of the customs to use the Army or Navy or militia of the United States to detain vessels. I refer to section 4298, where Congress conferred the power on the President to instruct naval commanders to seize certain piratical vessels wherever found on the high seas. All these provisions of law indicate that Congress has always held in its own hands the right to determine how, when, and where the Army may be used not as interfering with the President's right of command. We have had now a discussion about the use of the Army of the United States or the militia. This side of the House, I think, would prefer to place themselves upon the broad ground that whenever the people are to be coerced in an ordinary insurrection it should be done by a *posse comitatus* or the militia of the country. There is nothing we have inherited more certainly from our ancestors than the hatred of the use of the regular troops in the ordinary struggles and contests between citizen and citizen.

The history of free government is full of such contests. But they are not so destructive as the constant and steady use of regular soldiers to suppress them. I do not speak, understand me, of a contest such as we had in 1861, which was a contest of sections, and not a riot; because then, as we found, the regular Army was utterly inadequate to the occasion. But I refer to the riots, disturbances, &c., that are naturally incident to all free governments. They are much to be regretted. But for my part I prefer the stormy life of freedom to the quietude of despotism. In a good government the people finally rally to its support. And it has been the democratic boast in the past, and will be in the future, that whenever any portion of the people are so far forgetful of their duty to the nation or to the State as to resist the laws either of the State or the Federal Government, the militia of the country should be used to put down any such disturbance and to restore peace and quiet. The great majority of the people resent, and very naturally, the interference of regular soldiers. The regular Army is the machinery which upholds kings and emperors upon their thrones. They are regarded as unfriendly to free government, and as possible instruments in the overthrow of our free institutions. This may be an exaggeration of vigilance, but it is an error upon the safe side.

Before concluding this discussion I wish to call attention to certain other powers possessed by subordinate officers of the Government in the enforcement of the laws. I refer to the power to summon the *posse comitatus*. The sections of the Revised Statutes conferring it are not numerous.

Under section 1984, a portion of the civil rights law, the commissioners to be appointed under that law have power to appoint, in their respective counties, persons to execute all process issued under that law, and such persons have power to summon the *posse comitatus* and even the militia or the land and naval forces of the United States.

Under section 2024 the marshal of the United States and his general or special deputies have power in making any arrest to summon the *posse comitatus* of their district, whether holding a warrant or not.

And under sections 787 and 788, cited yesterday by the gentleman from Kentucky, the former chairman of the Judiciary Committee, [Mr. KNOTT,] the marshals have power to command all necessary assistance in the execution of their duty, and have in addition all such powers as sheriffs may have in the States in which they are called upon to act.

Whether under these sections, in the absence of any law prohibiting him, the marshal could summon the land and naval forces located in his immediate district as a part of the *posse comitatus*, I need not now discuss. Mr. Cushing may or may not have been right in the opinion which he gave. But we have recently determined by law that he shall not have such power, and the question is no longer open. This is the safer rule.

If gentlemen will examine closely they will observe that, except in the one instance cited—that of arrest at the election—the power to summon the *posse comitatus* is confined to the marshal of the United States, "executing lawful precepts issued to him under the authority of the United States." He is, in general, the agent or officer of the court. And the whole theory of our Government is, or should be, as expressed in section 5298, that judicial proceedings should be in all cases put in motion first, and that in the execution of such precepts the *posse comitatus* should be first called, and then the militia or the land or naval forces under the authority of the President.

But it will be observed that by section 2022 the marshal, his general deputies, and his special election deputies have power to arrest, without process, on election day, any person who is alleged to have committed an offense against the election laws in the presence of a supervisor, or any one of the general or special deputies; and that by section 2024 the whole *posse comitatus* may be called upon by any one of these tools of power to assist him in committing any outrage which his partisan zeal or ignorance or tyranny may stimulate him to perpetrate.

But I do not propose to enter upon a discussion of that statute before the proper time arrives. It is not necessary to leap before we come to the stile. There will be an abundance of time to discuss these questions when they arise and when we know the shape in which they are presented to the House.

The pretext that it is necessary to have troops at the polls to preserve the peace, and that supervisors and deputy marshals are necessary to preserve the purity of elections is only a bald pretense not believed by those who urge it. The great mass of the American people require constant urging to bring them to the polls. We often spend months in an active canvass to convince them of the duty of attending elections. If the people find troops stationed there under the command of the President of the opposite party—often, as we know, one of the most active though quiet workers for the success of his party—they will become indifferent or timorous, and relinquish their right. If the naturalized citizen knows that he is to be subject to the danger of arrest by persons in authority, purposely appointed by leaders of the opposite party to diminish the number of votes against it, he will remain at home rather than take the risk of the trouble or inconvenience to which he may be put. The result will finally be that the adherents of the party in power will be the only ones to approach the polls, and power once gained will be thus perpetuated forever.

Against any authorized interference between the voter and the ballot-box we have raised our protest. The citizen should be as free as air. The penalties against illegal voting are ample. The State laws to preserve the peace are ample. Riots will occur, and illegal voting will take place. Punish the guilty. But let the ballot-box be free, and put no obstacle in the way of the honest voter.

Because these are fundamental propositions, and concern the very existence of the Government, we are making the contest that is now before us. We appeal to the people, and by their judgment are willing to abide.

If it is "revolutionary" to have a free election; to prevent corruption, intimidation, and bribery, at the polls; and to have a jury of impartial citizens to determine all civil and criminal proceedings, then republicanism (which we hope to overturn) has been synonymous with all these crimes against the people.

Mr. Chairman, I now yield the balance of my time to the gentleman from New York [Mr. FERNANDO WOOD] to enable him to set himself right upon this question in answer to some remarks made by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. FERNANDO WOOD. Mr. Chairman, it was not my intention to have taken any part in this discussion, and I should not now rise to trouble the committee with any remarks, except for a personal reference made by the distinguished gentleman from Ohio to a vote given by me in the House on the law of 1865.

I endeavored at the moment, by a question propounded to the honorable gentleman, to convey a correct idea to the House of the circumstances and of the nature of the law for which I had voted.

I now desire very briefly to state the history of this question so far as it now stands before this House.

The origin of the military power of the President to place troops at the polls is founded on the law of July, 1861, which was a general law at the breaking out of the rebellion, authorizing the Executive to substantially hold military power over the whole country, especially in the insurrectionary States, and in the exercise of that authority. I will not stop to argue whether the power was constitutionally given and constitutionally exercised by the Executive, but in pursuance of the act of July, 1861, the President did exercise entire and complete control over the polls through the military power of the Government. Much complaint occurred in consequence, and there was a gross abuse of this authority. Troops were sent into districts entirely quiet, where there was no necessity for the interference of the military authorities to protect any citizen in the right to the elective franchise, but the power was abused so much that a republican Congress,

in 1865, passed this law to which the gentleman has referred and which I desire the Clerk to read, as it is very brief and shows precisely what the democrats did vote for at that time.

The Clerk read as follows:

An act to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Be it enacted, &c., That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. And that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States. Any officer of the Army or Navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offense, be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine not exceeding $5,000, and suffer imprisonment in the penitentiary not less than three months, nor more than five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States: *Provided*, That nothing herein contained shall be so construed as to prevent any officers, soldiers, sailors, or marines from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified, according to the laws of the State in which he shall offer to vote.

SEC. 2. *And be it further enacted*, That any officer or person in the military or naval service of the United States, who shall order or advise, or who shall, directly or indirectly, by force, threat, menace, intimidation or otherwise, prevent or attempt to prevent any qualified voter of any State of the United States of America from freely exercising the right of suffrage at any general or special election in any State of the United States, or who shall in like manner compel, or attempt to compel, any officer of an election in any such State to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of said election in the discharge of his duties, shall for any such offense be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine of not exceeding $5,000, and suffer imprisonment in the penitentiary not exceeding five years, at the discretion of the court trying the same, and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

Approved February 25, 1865.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERNANDO WOOD. I hope the committee will allow me a few minutes more.

The CHAIRMAN. Is there objection to extending the time of the gentleman from New York? The Chair hears none.

Mr. FERNANDO WOOD. Mr. Chairman, it will be perceived that the act of 1865 gives a construction and places a limitation upon the power of the President in the exercise of the right with reference to the use of troops of the United States. It takes from him the power to place troops at the polls, except to keep the peace, and inflicts penalties upon any military officer who exercises any authority, except in that line and in that direction alone.

Now, that law did pass this House, and the gentleman from Ohio, [Mr. GARFIELD,] and the distinguished gentleman from Maryland, Henry Winter Davis, opposed the law. Why? Because it limited the power of the President over the troops. The republicans in this House voted against the bill because it placed a restriction upon the power of the President, and they were averse to taking from him any authority by which he could use the military power to overawe the voters at the polls.

Therefore I say that the law of 1865 for which I voted was a great improvement upon the law as it then stood. It was a limitation upon the power of the President. It was in the same line that we are now pursuing. We are trying now to rid ourselves, under the forms of legislation, as rapidly as possible of all those unconstitutional, despotic, and outrageous laws which were passed for party purposes, to maintain wicked power, for the destruction of the rights, interests, and property of the American people.

Mr. WHITE. Will the gentleman allow me to ask him a question?

Mr. FERNANDO WOOD. Certainly.

Mr. WHITE. The law of 1865, which the gentleman has had read, is the law of to-day. As I understand it, the republican party does not desire to interfere with that law. The only modification now proposed by gentlemen on the other side is to strike out of that law the words "or to keep the peace at the polls." The point we make is that the gentleman from New York, having helped to make that law in 1865 just as it is, is inconsistent in trying to force its repeal upon an appropriation bill, when he made no effort in 1865 to change it by the dotting of an *i* or the crossing of a *t*.

Mr. CHALMERS. Mr. Chairman, perermit me to say——

Mr. WHITE. I asked the question of the gentleman from New York, [Mr. FERNANDO WOOD.]

Mr. CHALMERS. I ask for only a moment.

Mr. FERNANDO WOOD. Very well; I will yield.

Mr. CHALMERS. I desire to call attention to the history of this law, which has been so often misrepresented by gentlemen on the other side.

Mr. WHITE. If the gentleman is going to make a speech——

Mr. CHALMERS. I shall not be two minutes. I desire to say that the democratic party introduced this law just as it will stand when we make this modification of it. After it was introduced in that form, Mr. Pomeroy, a Senator from Kansas, moved to amend by adding the words "or to keep the peace at the polls."

What did Mr. Powell then say? He was a Kentuckian, whose State had been overrun by armed troops at the polls. He said:

I object to that, for it will destroy the effect of the bill. The State authorities can keep the peace at the polls.

Upon that question every democrat voted against putting that amendment upon the bill, and every republican voted in favor of it. [Applause on the democratic side.]

The democratic party then stood as it stands to-day. After that amendment had been voted upon the bill the Senator from Kentucky, having failed to secure the law as he introduced it, knowing that his State was ground down by the bayonet at the polls, agreed to accept the law even with that amendment upon it, for it would restrict the use of the troops even as amended. And the democratic party of the House voted for it for the same reason.

Mr. WHITE. I now submit that in fairness I should have an opportunity to say something in addition to the remarks of the gentleman from Mississippi.

Mr. SPARKS. Who is entitled to the floor?

The CHAIRMAN. The gentleman from New York [Mr. FERNANDO WOOD] is entitled to the floor.

Mr. WHITE. I desire the courtesy of adding to the statement which has just been made by the gentleman from Mississippi, [Mr. CHALMERS.] He did not state all the facts of the case.

The CHAIRMAN. The gentleman from New York [Mr. FERNANDO WOOD] has the floor. Does he yield to the gentleman from Pennsylvania, [Mr. WHITE?]

Mr. WHITE. I simply ask the courtesy of adding to the history of the law given by the gentleman from Mississippi.

Mr. FERNANDO WOOD. The gentleman from Pennsylvania [Mr. WHITE] submitted a question to me which if I have time I desire to answer. I desire to say that the authority given under the law of 1865 to keep the peace at the polls has been shamefully abused. Since the passage of that law the executive authorities have gone far beyond the authority and limitation to keep the peace at the polls. They have used the troops for purposes of intimidation, for the purpose of controlling elections, for the purpose of absolutely compelling the voters at the polls to follow the dictation of the party in power. And no small part of the power of the party now in control of the executive department of the country has been derived from the abuse of that little clause in the act of 1865.

We have now the power in both Houses of Congress. We intend to maintain the civil power of this Government. We believe this is a Government of opinion and of law, not of force or of violence. We mean that the people of this country everywhere shall exercise their rights of suffrage according to the dictates of their own judgment, without executive interference, whether that interference comes in the form of armed soldiers or any other way. In either case it is repugnant to the theory and the institutions of this country.

We intend to maintain that position, and, in answer to the gentleman from Ohio, [Mr. GARFIELD,] I will say that we are willing to go before the people on this great issue: whether this is a military despotism, whether members of Congress are to be elected at the point of the bayonet, or whether the whole people of the United States, North and South, shall stand upon the equal platform of free suffrage, undominated, unmolested, and uninterfered with by any power except the power of their own consciences and their own judgment.

Mr. WHITE. Before the gentleman from New York [Mr. FERNANDO WOOD] resumes his seat I ask his courtesy that I may add something to the statement of the gentleman from Mississippi [Mr. CHALMERS] in regard to the passage of the law referred to. The gentleman from Mississippi has given correctly a part of the history of the passage of the act. It is quite true that Hon. Lazarus Powell introduced the bill originally and made an elaborate speech upon it; and the question was exhaustively discussed in the Senate of the United States. When the question arose upon the passage of the bill, an honorable gentleman, then a Senator from Kansas, moved to amend by adding the words "to keep the peace at the polls." Those are the objectionable words now—the bone of contention in this controversy. That motion was the subject of some colloquial debate. Incidentally the misuse of the *posse comitatus* power of marshals in the border-raid troubles in Kansas was brought into the discussion by Mr. Pomeroy. After he had presented the necessity of keeping peace at the polls in order to secure the right of suffrage, the amendment was incorporated upon the bill of Senator Powell. Let me call the attention of the House and the country to the fact that a most distinguished lawyer, then a Senator, now a private citizen, a man whom the gentleman from Illinois [Mr. SPARKS] will recognize as the Magnus Apollo of the Illinois bar, supported that amendment. I allude to Hon. Lyman Trumbull.

Mr. SPARKS. He was then a republican, was he not?

Mr. WHITE. Certainly he was; but he was a good lawyer, I apprehend, then, as he is now. He sanctioned this amendment. Hon. Mr. McDougall then moved to postpone the bill indefinitely. Mr. Powell said, "No, no;" and upon his request the vote was taken

on the passage of the bill, and it was passed. Hon. Mr. Harlan, then a Senator, entered a motion to reconsider, which was subsequently debated; and Hon. Reverdy Johnson (as gentlemen will find if they will follow the debates) made the point, in recognition of the virtue of this amendment, that it was competent to give the President of the United States this power for the purpose of enforcing peace at the polls. The yeas and nays were again called upon the passage of the bill in the Senate, and every democrat voted for it.

The bill came to this House and was referred to the Committee on the Judiciary. It was reported to the House, and the honorable gentleman, then a conspicuous member of this body as now, voted for it without making any complaint or criticism about this clause. So did my honorable colleague, [Mr. COFFROTH,] who now represents on this floor a republican district, and who, I trust, will be consistent with his record in the final vote on this question. So did every other democrat in this House.

The point we now make is that the democratic party having sanctioned the passage of this bill containing this clause "to keep the peace at the polls," it is little short of revolutionary for them now to come in and undertake to repeal this legislation upon an appropriation bill. This is the point I make, and the point I for one am willing to stand upon before the country.

Mr. BELFORD. Mr. Chairman——

Mr. VANCE. I move that the committee rise.

The CHAIRMAN. The gentleman from Colorado [Mr. BELFORD] has the floor.

Mr. MILLS. As the gentleman will be entitled to the floor when the committee again goes into Committee of the Whole, I ask him if he will not yield for a motion that the committee rise?

Mr. BELFORD. I will yield the floor for that motion.

Mr. SPARKS. Is not the gentleman from Colorado ready to proceed now? It is not yet four o'clock.

A MEMBER. It is time to adjourn. This is Saturday afternoon.

Mr. SPARKS. I do not think it is quite fair when we have given such extended range to this debate that gentlemen should insist upon adjourning at ten minutes before four o'clock.

Mr. FORT. The gentleman from Colorado does not insist. Some gentleman on the other side moved that the committee rise, which the gentleman from Colorado consents to provided he can retain the right to the floor.

Mr. SPARKS. Let us hear the gentleman's speech now. There are a great many gentlemen who want to talk on this subject.

The CHAIRMAN. The committee will be in order; the gentleman from Colorado will proceed.

Mr. CASWELL. With the consent of the gentleman from Colorado, I move that the committee rise.

The CHAIRMAN. The gentleman from Colorado has the floor.

Mr. CASWELL. He yields for this purpose.

The CHAIRMAN. The gentleman from Colorado cannot yield except by unanimous consent, unless he yields the floor absolutely.

Mr. CONGER. Mr. Chairman, I protest against that ruling. It is the universal practice of all legislative bodies that a gentleman holding the floor may yield for a motion to adjourn or a motion that the committee rise, without losing his right to resume the floor when the subject is again taken up.

Mr. FORT. When a gentleman holds the floor for a stated time (which is the case here) that is the rule.

The CHAIRMAN. The gentleman from Colorado now has the floor——

Mr. HAYES. For one hour.

The CHAIRMAN. For one hour; and if he now yields the floor for a motion that the committee rise, he would not be entitled to the floor again except by unanimous consent.

Mr. CONGER. Why, Mr. Chairman, that cannot possibly be a correct ruling, because he has his hour and he may control it; he may compel the House to sit here against its will.

The CHAIRMAN. He has his hour now, and may compel the House to sit now.

Mr. CONGER. I submit that there never was such a proposition made before in any legislative body.

Several MEMBERS. Never.

Mr. BUCKNER. I rise to a parliamentary inquiry. If the gentleman from Colorado now moves that the committee rise and that motion is carried, will he not be entitled to the floor when the House again goes into Committee of the Whole on this bill?

Several MEMBERS. Certainly.

Mr. BUCKNER. It seems to me such is the rule and the practice.

Mr. CARLISLE. The gentleman from Georgia [Mr. STEPHENS] occupied the floor this morning under the operation of the identical rule stated by the gentleman from Missouri, [Mr. BUCKNER.] He obtained the floor yesterday afternoon, and suggested that the committee should rise——

Mr. TOWNSHEND, of Illinois. That was by unanimous consent.

Mr. CARLISLE. The committee rose, and the House adjourned And it was held, and very properly held, that the gentleman from Georgia was entitled to the floor when the Committee of the Whole resumed its session to-day.

The CHAIRMAN. The Chair will state——

Mr. CALKINS. Certainly it has never been disputed that a member occupying the floor may yield for a motion that the committee rise or the House adjourn, and will still retain his right to the floor.

Mr. BELFORD. I desire to make a motion that the committee rise, provided that by so doing I do not give up my right to address the House on this question when we shall again go into Committee of the Whole.

Mr. TOWNSHEND, of Illinois. I object.

The CHAIRMAN. The gentleman from Colorado requests permission to postpone his remarks until this subject is resumed by the House, and that he may yield for a motion that the committee rise.

Mr. TOWNSHEND, of Illinois, and Mr. SPARKS objected.

Mr. FRYE. I would like a ruling on the point of order. It seems to me that there cannot possibly be any question about it, as the Chair must see if he will take into consideration the practice for years past. During the six or eight years that I have served on this floor, in no single instance where a member entitled to the floor for one hour yielded for a motion to adjourn or that the committee rise, has it been ruled that he was not entitled to the floor when the House or Committee of the Whole resumed the consideration of the question.

Mr. SPARKS. I see that gentlemen on the other side are very desirous that the committee shall rise. I have done everything I could to oblige them; and if it will accommodate them now I will move that the committee rise—anything to oblige those gentlemen.

Mr. REED. The suggestion that the committee rise was first made on the other side, by the gentleman from Texas, [Mr. MILLS;] and I apprehend that it is not fair for the gentleman to make unqualifiedly the statement he has just made. I presume he did so under a misapprehension.

Mr. SPARKS. I dislike to be placed in any ungracious position toward gentlemen on the other side. I have certainly manifested every possible disposition to oblige gentlemen on both sides of the House.

Mr. HUMPHREY and others. That is so.

M. SPARKS. It struck me we ought to go on a while longer this afternoon with the consideration of this bill, and that the gentleman from Colorado might proceed with his speech now. As there seems to be, however, a general disposition that the committee rise, I make that motion. It has been suggested by the gentleman from Maine [Mr. REED] that my statement a moment ago was unfair. If anybody on this side made a motion that the committee rise, I did not hear it.

A MEMBER, (to Mr. SPARKS.) It was made on this side.

Mr. SPARKS. Well, I never heard it; the gentleman heard more than I did. I am now willing to make the motion in order to oblige gentlemen on both sides.

Many MEMBERS. That is right.

Mr. HAYES. I want to have read a paragraph from the Manual.

The CHAIRMAN. It is not necessary to refer to the Manual. If the committee should now rise, the Chair will recognize the gentleman from Colorado when the Committee of the Whole resumes the consideration of this bill.

Mr. SPARKS. I have made my motion with that understanding.

The CHAIRMAN. The Chair has no disposition to infringe upon the rights of any member.

B. R. LEWIS AND J. J. COFFEE.

Mr. ATKINS. Before the question is taken on the motion that the committee rise, I ask indulgence for the consideration of the joint resolution which I introduced the other day.

The joint resolution was read, as follows:

Joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the clause in the "Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," approved March 3, 1879, making appropriation to pay B. R. Lewis and J. J. Coffee the balance due them respectively as marshal and clerk at the consulate-general at Shanghai, China, be amended by striking out the words "and said Lewis and Coffee shall receive no allowance for witness fees and traveling expenses."

And that the following clause in said act, in relation to the publications of the Geological Survey, namely, the words "under the direction of the Secretary of the Interior, $100,000," be, and the same are hereby, repealed.

Mr. DUNNELL. I desire to ask the gentleman from Tennessee [Mr. ATKINS] one question. As you are aware, Mr. Chairman, [Mr. SPRINGER in the chair,] these gentlemen, Mr. Lewis and Mr. Coffee, appeared before the Committee on Expenditures in the State Department in connection with the proposed impeachment of Mr. George F. Seward. When the clause referred to in the joint resolution was put into the appropriation bill under your direction as chairman of that committee, I understood that these gentlemen were officers of the Government and that this sum of money was allowed them to cover their expenses, but that they were not to have fees, because they are already compensated for their time as officers of the Government. While appearing as witnesses they were, as they are now, United States officers at the Shanghai consulate. Being officers of the Government, why should we pay them witness fees at the same time we are paying them their regular salaries? I feel very friendly to these gentlemen, and I have no wish to deprive them of a single right; but it occurs to me that if this appropriation be made we shall pay them twice.

Mr. ATKINS. No, sir.

Mr. DUNNELL. Perhaps the gentleman from Tennessee may be able to explain the matter.

Mr. ATKINS. I think I can. The sundry civil appropriation bill contained a clause providing that these men should receive no allowance for witness fees and traveling expenses. I wish to state that witness fees and traveling expenses had already been paid to them; and the Department is under the impression that they should not be allowed the sum provided in the sundry civil appropriation bill, because it was the impression of Congress that witness fees and traveling expenses had already been paid to them.

Mr. DUNNELL. Let me ask the gentleman whether this proposition to amend comes from the State Department?

Mr. ATKINS. No, sir; it comes from the Treasury Department.

Mr. WHITE. Have these men been paid?

Mr. ATKINS. They have not been. The Department declined to pay them on account of the clause which we now propose to repeal.

The CHAIRMAN. The Chair desires to make a statement informally, this matter having come within his knowledge as chairman in the last Congress of the Committee on Expenditures in the State Department. The Comptroller of the Treasury has declined to pay the sum appropriated to these gentlemen by the last Congress, on account of the clause now proposed to be repealed, holding that traveling expenses should be deducted from the amount appropriated. But as the committee had already provided for such expenses, the Department by this ruling simply deprives these men of any benefit whatever from the appropriation made by Congress. This amendatory joint resolution has been introduced in pursuance of the request of the Comptroller of the Treasury.

Mr. DUNNELL. If we pay these men fees as witnesses, are we not at the same time paying them salaries as officers?

The CHAIRMAN. They have already received their traveling expenses.

Mr. WHITE. I would like to have some explanation of this matter of $100,000 mentioned in the joint resolution.

Mr. ATKINS. That is another matter which I will explain. The clause which we propose to strike out in regard to the $100,000 is merely verbiage. There was an appropriation of $100,000 for the geological survey, and in the enrollment of the bill this language was repeated; so that it might seem that there was a double appropriation. To prevent any construction of that kind we propose to repeal this redundant clause.

Mr. CONGER. Will this repeal affect the appropriation of $100,000?

Mr. ATKINS. Not in the least. I move that the resolution be laid aside, to be reported to the House with a recommendation that it pass.

The motion was agreed to.

The question then recurring on the motion of Mr. SPARKS, that the committee rise, it was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, had come to no resolution thereon. He further reported the Committee of the Whole, having had under consideration the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act, approved March 3, 1879, had directed him to report the same to the House with a recommendation that it pass.

The House proceeded to the consideration of the joint resolution (H. R. No. 1) just reported from the Committee of the Whole with a favorable recommendation.

Mr. ATKINS. I move the previous question on ordering the joint resolution to be engrossed for a third reading.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. ATKINS moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT TILL TUESDAY.

Mr. EWING. I move that the House now adjourn.

Mr. SPARKS. I desire to obtain, if I can, unanimous consent that the Army appropriation bill be taken up on Monday as unfinished business, immediately after the reading of the Journal.

Mr. EWING. I object to dispensing with the morning hour.

Mr. SPARKS. Then I move that when the House adjourns to-day it adjourn to meet on Tuesday next.

Mr. EWING. On that motion I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 25, noes 118.

Mr. EWING. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So (one-fifth not voting in favor thereof) the yeas and nays were not ordered.

The motion of Mr. SPARKS was agreed to.

The SPEAKER. The question now recurs on the motion of the gentleman from Ohio [Mr. EWING] that the House adjourn.

Mr. EWING. I withdraw the motion.

Mr. SPARKS. I renew it.

CONGRESSIONAL ELECTIONS IN CINCINNATI.

The SPEAKER. The Chair announces the following as the select committee to investigate certain elections in the city of Cincinnati, Ohio, in accordance with the resolution adopted on motion of the gentleman from Ohio, [Mr. MCMAHON.]

Mr. CARLISLE of Kentucky, Mr. KENNA of West Virginia, Mr. NEW of Indiana, Mr. SAMFORD of Alabama, Mr. CONGER of Michigan, Mr. BROWNE of Indiana, and Mr. ROBINSON of Massachusetts.

The Chair desires to state in this conection that the gentleman from Ohio who introduced the resolution for the appointment of this committee has declined to serve as chairman; and consequently the Chair has appointed another gentleman to act in that capacity.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. ACKLEN, indefinitely, on account of sickness;

To Mr. VAN VORHIS, until Wednesday next; and

To Mr. SMITH, of Pennsylvania, until Wednesday next.

The question being taken on the motion of Mr. SPARKS, that the House adjourn, it was agreed to; and accordingly (at four o'clock and ten minutes p. m.) the House adjourned until Tuesday next.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Dr. Henry W. Birkey, to be reinstated as an assistant surgeon in the United States Navy—to the Committee on Naval Affairs, when appointed.

By Mr. ALDRICH, of Illinois: The petition of Mrs. William Blair and 60 other women, of the Second Presbyterian church of Chicago, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. HOUSE: The petition of Sperry & Co. and others, for the repeal of section 7 of the revenue law relating to wine and distilled and fermented liquors—to the Committee of Ways and Means, when appointed.

By Mr. KEIFER: The petition of S. M. Wellman and others, members of Harrison Grange, Logan County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. LE FEVRE: The petition of William E. Terwilliger and others, of Buckeye Grange, Auglaize County, Ohio, of similar import—to the same committee, when appointed.

By Mr. REAGAN: The petition of Solado Grange, No. 6, Solado, Texas, of similar import—to the same committee, when appointed.

Also, the petition of Solado Grange, Solado, Texas, for the reduction of the tax on tobacco—to the Committee of Ways and Means, when appointed.

By Mr. WASHBURN: Resolution of the Legislature of Minnesota, asking that a pension be granted to D. W. Seeley—to the Committee on Invalid Pensions, when appointed.

Also, memorial of the Legislature of Minnesota, relating to swamp lands granted to that State—to the Committee on Public Lands, when appointed.

By Mr. WILLIAMS, of Wisconsin: The petition of Mrs. F. J. Douglass and 80 other ladies, of Geneva Junction, Wisconsin, for the more thorough enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. WILLIS: The petition of W. L. Weller and others, citizens of Louisville, Kentucky, for the repeal of section 7 of the revenue law—to the Committee of Ways and Means, when appointed.

IN SENATE.

MONDAY, *March* 31, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Thursday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers in relation to an estimate submitted to Congress at its last session for an appropriation of $40,000 to enable officers of the Corps of Engineers at the headquarters of the military divisions and departments of the Mississippi River to perform professional service in making military surveys and reconnaissances, &c.; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the petition of Mary E. Walker, of New York, praying for the passage of a law granting her a pension for services rendered the Government during the late war; which was referred to the Committee on Pensions.

Mr. WALLACE presented the petition of M. F. Wilson and others, citizens of Clarion County, Pennsylvania; the petition of James Smith and others, citizens of Bradford County, Pennsylvania; the petition of G. W. Stevens and others, citizens of Crawford County, Pennsylvania; the petition of John S. Foster and others, citizens of Center County, Pennsylvania; the petition of D. C. Kennedy and others, citizens of Erie County, Pennsylvania; the petition of A. R. Lovelace and others, citizens of Indiana County, Pennsylvania; the petition of Joseph Evans and others, citizens of Greene County, Pennsylvania; the petition of Daniel Fisher and others, citizens of Northumberland County, Pennsylvania; and the petition of R. H. Thomas and others, citizens of Cumberland County, Pennsylvania, praying for the passage of a law regulating interstate commerce and prohibiting unjust discriminations by common carriers; which were referred to the Committee on Commerce.

Mr. CARPENTER presented the petition of William B. Whiting, commodore United States Navy, praying for the passage of a law granting him a pension on account of injuries received while in the discharge of his duties; which was referred to the Committee on Pensions.

Mr. ROLLINS presented the petition of A. H. Cragin and others, of Washington, District of Columbia, praying for the passage of a law providing for proper sewerage on First street east, and for the removal of the high terraces and embankments upon which their property is situated in that city; which was referred to the Committee on the District of Columbia.

Mr. JOHNSTON presented the petition of Nannie Longsdale, Laura Johnson, and others, citizens of Montgomery County, Virginia, praying for the passage of a law permitting them to prosecute a suit before the Court of Claims to recover the proceeds of certain cotton seized in 1863 under the act of Congress known as the act for the seizure of captured and abandoned property; which was referred to the Committee on the Judiciary.

Mr. SAUNDERS. I present a joint memorial of the Legislature of Nebraska, in favor of the removal of the Santee Sioux Indians from the reserve which they now occupy, for the purpose of opening up those lands to settlement. Inasmuch as the memorial affects the title of the land on which these Indians are located, I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SAUNDERS. I present also a memorial of the representatives of the Santee Sioux tribe of Indians protesting against their removal. This memorial is said to be signed by all the leading Indians on that reservation. Therefore I desire that it should have the same reference with the other memorial, and I move that it also go to the Committee on the Judiciary.

The motion was agreed to.

Mr. SAUNDERS. I also present a petition to the same effect from citizens of Knox County, Nebraska, praying that these Indians be permitted to remain on their reservation. I move that it, too, be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SAUNDERS presented a resolution of the Legislature of Nebraska, relative to the 5 per cent. fund due to that State arising from the sale of swamp and overflowed lands, and in favor of legislation by Congress authorizing the settlement of the claim; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of Nebraska, in favor of such legislation as will forever prohibit the payment by the General Government of southern war claims; which was referred to the Committee on Finance.

He also presented a memorial of the Legislature of Nebraska, in relation to Indian depredations on the Niobrara River in that State, and in favor of the establishment of a military post east of Fort Robinson for the better protection of settlers in that portion of the State; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Legislature of Nebraska, in favor of the passage of a bill (S. No. 20) to provide for indemnity due to the several States, under the acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands; which was referred to the Committee on Public Lands.

Mr. VANCE. I present the memorial of certain citizens of North Carolina in favor of an appropriation for the improvement of Beaufort Harbor.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Commerce.

Mr. VANCE. As it is short I ask that it be read.

The VICE-PRESIDENT. The Secretary will report the memorial.

The memorial was read, as follows:

Memorial of the citizens of Beaufort, North Carolina, to Congress.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the undersigned citizens of Beaufort and the county of Carteret, State of North Carolina, respectfully shows: That the bar and harbor of Beaufort have had the attention of the United States Government for nearly a century, during which period they have been seven times surveyed, so that reliable data can be had as to the advantages of this port for commercial and naval purposes; that there is no other port available as a harbor of refuge between Norfolk and Charleston, and no other on the entire Atlantic coast to excel it for accessibility and close proximity to the sea; that the distance from the ocean at the five fathom line, outside of Beaufort bar to the wharves of said town, is but three miles; that a depth of from eighteen to thirty feet of water can be carried from sea to within one mile of Beaufort; that at this point a bulkhead or bank exists which impedes navigation and compels vessels destined for Beaufort to discharge into lighters; that along the old wharf line of said town there is a depth of some fifteen feet; that the eastern approach to Beaufort Harbor from Core Sound, owing to neglect, has so filled in that no vessels can pass through; that during the war of 1812 this port was of great value and service to the country; that during the recent unhappy war with the South the fleets and supply-ships of the United States rendezvoused at this place, deriving great benefit from its accessibility and capacity; that notwithstanding all these advantages Government has never expended any funds upon its improvement.

That the United States Government since the days of Washington has had in contemplation a great inland coast water route from Chesapeake Bay to Georgia, so as to avoid the well-known dangers of Cape Hatteras; that there now exists a channel connecting Beaufort Harbor with the Neuse River arm of Pamlico Sound through an old canal partly constructed by the State of North Carolina, which State proposes to throw it open to the free commerce of the country if Congress will widen and deepen it so that vessels drawing sixteen feet can pass through; that said water route will be of incalculable benefit to the commerce of the country, as well as to the interests of this locality, besides giving access to a fresh-water iron-clad harbor, unequaled by any on this coast for security and proximity to the sea.

That an important Government port is located at the entrance of this harbor, the protection of which from the encroachments of the sea and tides is intimately connected with the work proposed for improving and conserving this harbor, and regarding which there should be concert of action between the Government and local authorities.

Wherefore your memorialists would respectfully pray that Congress would be pleased to grant an appropriation of $100,000 for the improvement of Beaufort Bar and Harbor, and the inland and coast water-approaches to said port, to be expended under the direction of the Engineer department of the United States.

And your memorialists will ever pray.

Mr. INGALLS presented the petition of Samuel M. Thatcher, of Washington, District of Columbia, praying for a pension; which was referred to the Committee on Pensions.

Mr. McDONALD. I notice in the RECORD of March 28 that certain documents introduced by me relating to the United States Marine Hospital Service were referred to the Committee on Naval Affairs. They should have been referred to the Committee on Appropriations, and I desire that reference to be made now.

The VICE-PRESIDENT. The reference will be corrected.

Mr. EDMUNDS. What is the subject?

Mr. McDONALD. Certain documents relating to the United States Marine Hospital Service, showing the necessity of an appropriation of $2,500 to be made in order to comply with the provision of the act of March 3, 1875, to promote economy and efficiency in the Marine Hospital Service, which directs the Secretary of the Treasury to cause to be prepared a schedule of the average number of seamen required in the safe and ordinary navigation of registered, enrolled, and licensed vessels of the United States, in order that certain assessments might be made on each master or owner of a vessel subject to such dues. The resolution to which the documents relate was referred to the Committee on Appropriations.

The VICE-PRESIDENT. The order for the change of reference will be entered.

Mr. McDONALD. I now offer additional papers relating to the same subject; and I move that they be referred to the Committee on Appropriations.

The motion was agreed to.

CLERK TO THE COMMITTEE ON PRESIDENTIAL ELECTIONS.

Mr. HILL, of Georgia. The Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred a resolution submitted by the Senator from Alabama [Mr. MORGAN] on the 26th instant, authorizing the select committee on the elections of President and Vice-President of the United States to employ a clerk, have instructed me to report it with an amendment, and recommend that the resolution as amended be adopted.

The amendment reported by the Committee to Audit and Control the Contingent Expenses of the Senate was, after the words "clerks of the Senate," to insert "during the sessions thereof;" so as to make the resolution read:

Resolved, That the select committee to take into consideration the state of the laws respecting the ascertaining and declaration of the result of the elections of the President and Vice-President of the United States be authorized to employ a clerk at the per diem salary paid other committee clerks of the Senate during the sessions thereof; and the necessary expenses of said committee be paid out of "miscellaneous items" of the contingent fund of the Senate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

BILLS INTRODUCED.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 249) to provide for the erection of a public building in the city of Greenville, South Carolina; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 250) for the relief of John H. Morris; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 251) granting a pension to Margaret Mills; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 252) for the relief of Frank A. Page; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 253) to extend the provisions of an act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan;" which was read twice by its title, and, with the papers on the files relating to the case, referred to the Committee on Claims.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 254) for the relief of Herman Biggs; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 255) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 256) to authorize the laying of a telegraphic cable from the main-land in Rhode Island to Block Island; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) to amend the act incorporating the Capitol, North O Street, and South Washington Railway Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) authorizing the Secretary of War to detail an officer of the Army to take command of the expedition fitted out by Messrs. Morrison and Brown, citizens of New York, to search for the records of Sir John Franklin's expedition, and to issue to such officer Army equipments; which was read twice by its title, and referred to the Committee on Military Affairs.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 259) for the relief of Ruben H. Plass; which was read twice by its title, and referred to the Committee on Claims.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 260) granting a pension to Nathaniel Aiken; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 261) to establish post-routes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 262) authorizing and directing the Postmaster-General to readjust the salaries of certain postmasters in accordance with the provision of section 8 of act of June 12, 1866; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) for the establishment of a land district in the Territory of Montana; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 264) extending the time to construct and complete the Northern Pacific Railroad; which was read twice by its title, and referred to the Committee on Railroads.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 265) for the relief of Laban Heath & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. VOORHEES. I ask leave, without previous notice, to introduce a bill to provide additional accommodations for the Library of Congress, which was reported on the 21st of February last by the Senator from Vermont [Mr. EDMUNDS] and recommitted to the Committee on the Library.

The VICE-PRESIDENT. What is the present status of the bill?

Mr. VOORHEES. It has none, having expired with the last session of Congress. I simply ask leave to introduce the same bill now and have it referred to the Committee on the Library.

By unanimous consent, leave was granted to introduce a bill (S. No. 266) to provide additional accommodations for the Library of Congress; and it was read the first time by its title.

Mr. MORRILL. It was my expectation that my colleague, who is upon the Committee on the Library, [Mr. EDMUNDS,] would have called for action upon the bill at the last session, and then I designed to submit some remarks upon it. Not having had the opportunity then, I desire to-day to make some remarks upon the proposition, and will do so after the morning business is concluded, if it be the pleasure of the Senate.

Mr. VOORHEES. I can only say that I am sure, in the condition of the public business, it will afford us pleasure to listen to the Senator from Vermont on that subject.

The VICE-PRESIDENT. The Chair will recognize the Senator from Vermont after the conclusion of the morning business.

Mr. JOHNSTON. I ask leave, without previous notice, to introduce a bill and to have printed with it a letter addressed to me by Dr. John S. Billings, surgeon United States Army, and a letter of Surgeon-General Barnes.

By unanimous consent, leave was granted to introduce a bill (S. No. 267) authorizing the National Board of Health to investigate and report upon infectious and contagious diseases in food-animals, and making an appropriation for the purpose; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Agriculture, and ordered to be printed.

Mr. PENDLETON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 268) for the relief of Thomas Worthington; which was read twice by its title, and referred to the Committee on Claims.

Mr. TELLER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 269) to encourage the introduction of a supply of fresh water on the desert west of Fort Yuma; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 270) for the relief of Jeremiah C. Conklin; which was read twice by its title, and referred to the Committee on Claims.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 271) to repeal so much of the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," as authorizes the Secretary of War to lease the Moline water-power; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 272) to authorize the Commissioner of the General Land Office to adjust and settle the claim of the State of Illinois for indemnity for swamp lands sold by the United States in accordance with the provisions of section 2482 of the Revised Statutes; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 273) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands, and for other purposes;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 274) to limit removals of causes from State courts to Federal courts; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 275) for the relief of Edward Minter; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 276) for the relief of Joab Spencer and James R. Mead; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 277) granting a pension to A. L. Anderson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 278) for the relief of John Fletcher; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VANCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 279) to provide for the purchase of a building at New Berne, North Carolina, to be used as a post-office and United States court-house, and for the accommodation of the United States internal-revenue officials, and for other purposes; which was read twice by its title, and, with the papers on file relating to the subject, referred to the Committee on Public Buildings and Grounds.

Mr. CARPENTER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 280) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 282) for the relief of Alstorpheus Werninger; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Military Affairs.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 283) for the relief of Willis N. Arnold; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Military Affairs.

Mr. RANSOM (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 284) authorizing William J. Wilson, assistant surgeon United States Army, to receive from the Khedive of Egypt a decoration for gallantry in battle in the action near Gura, Abyssinia, March 7, 1876; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 14) for the relief of John C.

Landreau; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. PENDLETON (by request) asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 15) requiring the assembling of a court of inquiry in the case of Colonel Thomas Worthington; which was read twice by its title, and referred to the Committee on Military Affairs.

REFRIGERATING VESSEL FOR DISINFECTION.

Mr. HARRIS. I wish to give notice that after the morning business, and at the concusion of the remarks of the Senator from Vermont, [Mr. MORRILL,] I shall ask the Senate to proceed to the consideration of the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. LOGAN, it was

Ordered, That the petition of Solomon Morris be taken from the files of the Senate and referred to the Committee on Military Affairs.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That the papers in the case of Enoch Totten, administrator of the estate of William A. Lloyd, be taken from the files of the Senate and referred to the Committee on Claims.

Ordered, That the papers in the case of William H. Davis be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CARPENTER, it was

Ordered, That the petition and papers of Matthew O'Regan, late of Company E, Third United States Artillery, in regard to his application for an increase of pension, be withdrawn from the files and referred to the Committee on Pensions.

On motion of Mr. WALLACE, it was

Ordered, That the petition of William L. Ellsworth and accompanying papers, presented to the Forty-fifth Congress, be taken from the files of the Secretary of the Senate and referred to the Committee on Patents.

On motion of Mr. ANTHONY, it was

Ordered, That the memorial of Abby A. Ham and Elizabeth H. Brown, of Providence, Rhode Island, and accompanying papers, praying for the passage of a law to issue to them duplicates of certain 5.20 bonds stolen from the Traders' Bank of Provid ence, Rhode Island, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. INGALLS, it was

Ordered, That the papers in the claim of Jacob S. Hunt, late a captain in the Fifth Regiment of Iowa Volunteers, Company G, for a pension, be withdrawn from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. EATON, it was

Ordered, That the papers in the case of Mary Leggett, widow of Robert Leggett, late lieutenant-colonel, Tenth Connecticut Volunteers, be taken from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. WILLIAMS, it was

Ordered, That the memorial of the National Association of Veterans of the Mexican War, for a pension to the survivors, the same as allowed to the survivors of the war of 1812, be withdrawn from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. VOORHEES, it was

Ordered, That the papers in the case of John G. Key and W. G. M. Davis be taken from the files and referred to the Committee on the Judiciary.

On motion of Mr. BUTLER, it was

Ordered, That J. W. Stribling and others, sureties for J. R. W. Johnston, late postmaster at Walhalla, South Carolina, have leave to withdraw their papers from the files of the Senate.

On motion of Mr. BURNSIDE, it was

Ordered, That the papers in the case of Herman Biggs be taken from the files and referred to the Committee on Military Affairs.

PURCHASE OF HISTORIC PAINTINGS.

Mr. CAMERON, of Pennsylvania, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of purchasing the picture of the embarkation of Cecelius Calvert, second Lord Baltimore, painted by Anthony Van Dyke, and the full-size portrait of General George Washington, painted from life by Charles Willson Peale, now the property of Titian R. Peale.

PRINTING OF THE CENSUS ACT.

Mr. MORRILL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate 1,000 additional copies of public act No. 98, an act to provide for the tenth and subsequent censuses; said copies to be delivered to the Senate document-room.

PREVENTION OF FRAUD ON THE REVENUE.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate, at as early a day as possible, full information as to the manner in which cars and bonded warehouses containing appraised and unappraised goods are secured to prevent frauds on the revenue.

REPORT ON PRISON DISCIPLINE.

Mr. BLAINE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 2,000 copies of the report of Rev. E. C. Wines, commissioner for the United States to the convention on prison discipline, recently held in Stockholm, be printed; 500 copies for the use of the Senate, 500 for the use of the House, and 1,000 for the Department of State.

LIBRARY OF CONGRESS.

The bill (S. No. 266) to provide additional accommodations for the Library of Congress was read the second time by its title.

Mr. MORRILL. Mr. President, as I have already intimated, if this bill had come up for action at the last session I was prepared to submit some remarks upon it. As it is now proposed to refer the same subject by the Senator from Indiana [Mr. VOORHEES] to the Committee on the Library, I avail myself of the present occasion to make some observations upon the subject, supposing that it has not yet lost all of its interest.

I should not comment upon the proposed reference to a commission of skilled persons were the reference to be made of the questions involved in a less narrow, and, what seems to me, illiberal spirit; and I ask, is it quite fair to fetter the judgment of such a commission by the exclusion of all alternatives in the terms of submission? Either this or nothing?

If I venture to have any opinions as to a new library, or as to the Capitol and its grounds, it is mainly because it has been assigned to me as part of my duty to give the subject some attention for many years past. In consideration of this fact, I neither ask nor expect any one to accept of my conclusions, but merely that I may be permitted to give them utterance and place them on record for whatever they may be worth, and as the best excuse, lame as it may be, I have to offer for presuming to differ with some distinguished Senators to whose opinions I am accustomed to pay the greatest respect.

I know it is regarded by many as evidence of esthetic culture and critical acumen to disparage American art, and especially all works belonging to the Government at Washington. Just now a cold wave of depreciation has visited us, and Senators are being taught to snap their fingers at the Capitol. I do not feel bound to defend everything we have here, certainly not all of our bronze horse millinery memorials, but surely there are some things which an American may praise without blushing; and, before we dismiss the Capitol with a sneer, it might be more prudent to inquire whether or not among all the most advanced nations of the earth even where they are not without schools of fine arts, anything much better is to be found. A truthful answer to this query might tend to reconcile us to "bear those ills we have, rather than fly to others we know not of," and possibly rescue us from the higher accented criticism of those who may twenty-five years hence find greater provocation to "damn" us "with faint praise" than we do those who twenty-five years ago had the responsible duty of giving shape and form to the present Capitol.

It must not be forgotten that seven years ago Congress authorized prizes to the amount of $5,000 to be awarded for plans of a new library, and upwards of twenty were obtained. Nothing else was then contemplated. Since then—two years ago—a commission was appointed to inquire into the best mode of providing accommodations for the Library, either inside or outside of the Capitol. That commission industriously investigated the subject and consulted many architects, including the architect of the new dome and wings, and their conclusions, as reported, were as follows:

It was earnestly desired to find some method for supplying the needed accommodations within the Capitol building; but, after considering several plans suggested for that purpose, the commission unanimously concluded no such plan was practicable.

They also added:

The Capitol is universally conceded to be a very fine structure. It has certainly been a costly one. The whole expenditure upon it has been more than thirteen millions. It would be poor economy to deface the Capitol in order to provide for the Library.

It thus appears that a most respectable commission, formed of members of both Houses of Congress and others, have had all sides of this question under thorough and careful consideration, and then unanimously decided against any defacement of the Capitol in order to provide for a library. But when this question was last before the Senate this decision was overruled and reversed, and the views of the minority were wholly excluded from any representation in the new commission proposed, an amendment having been made which struck out all provisions relating to a library outside of the Capitol, while another amendment that the "practical changes" should be such as could be made "without serious injury to the architectural effect of the building" was curtly rejected. The minority had no rights which the majority felt inclined to respect. I much fear that the very distinguished promoters of this new commission intend to push and agitate the question of a new Capitol and to hang it dangling somewhere to the fringe of the old one. That such a thing is humanly "practicable" cannot be denied, as it is "practicable" to jump out of the frying-pan into the fire. That it would be wise, economical, and in good taste would be seriously disputed, if it had not so many eloquent advocates. It would be a step down as to the site, and a step up as to cost. Architect Walter—and there can be no better authority—estimates the cost of a single two-hundred-and-seventy-five-feet projection, in the style of the Capitol, at $4,000,000, or as more expensive than would be a separate building, constructed in a style better adapted to the uses of a library. The experiment when tried may not prove to be one of the greatest blunders of the age, but there is no other in process of incubation, as it seems to me, of more rotund and portly dimensions.

The absolute necessity of providing greater space for the Library

of Congress needs little argument beyond that for years annually presented by the Librarian. The fact that more than seventy thousand volumes, or more than the entire Library contained in 1860, are now tumbled about on the floor or stacked up in alcoves wholly inaccessible, certainly speaks in volumes for more room. The annual increase of the Library, which prior to 1864 was no more than about four thousand volumes, is now multiplied to eight or ten times that number, and reaches a rate quite equal to that of the British Museum, conducted on an immensely costlier scale and covering eight acres of ground. The report of our present Librarian, in 1872, showed that the Library had doubled twice in twelve years; but it is more than five times greater now than it was nineteen years ago. The ratio of increase for the future will not be diminished, but will continue to grow larger and larger, and should be promptly and decently provided for.

The annual accessions obtained by copyright amount to nearly ten thousand volumes, and, with pamphlets, are equal to about fourteen thousand volumes. These are free of cost, and, being in duplicate, require additional room each year for twenty-eight thousand publications. These works are held, not only for public use, but as a matter of record, for the benefit and protection of the authors. The foreign exchanges received by the Smithsonian Institution became so voluminous that the Regents were unable to furnish room for them—the Smithsonian building was not large enough—and, valuable as these exchanges were and continue to be, a surrender of these large acquisitions had to be made to the Library of Congress. We accepted the trust gladly, and it should be guarded with fidelity. These works annually amount to twenty-five hundred volumes and nearly as many pamphlets. The Library receives, also, by purchase, by exchange, and by donation, nearly ten thousand additional volumes. The new shelf-room to be provided, inclusive of that for maps, charts, musical compositions, engravings, photographs, and chromos, is, therefore, equal to not less annually than forty thousand volumes. Further, in addition to the Library proper, we need many other rooms and offices for the current and multifarious business of the institution. There is no packing-room, no room for cataloguing, no reading-room, and no room for the Librarian. The copyright records, including the custody of the original records of all the States and Territories, also demands a room by itself. It is questionable whether any State or municipal library of the country has ever been suffered by its very riches to be crowded into a more embarrassed and miserable condition.

The present central room of the Library holds forty-five thousand volumes; or, if properly selected, might hold possibly all those mainly sought for reference by Congressmen. The additions to the Library, completed in 1866, greatly enlarged its capacity. Each additional room holds eighty-five thousand volumes; but, in thirteen years, this enlargement of the Library to nearly five times its former capacity is found to be deplorably inadequate. The unyielding truth is that we have got to move Congress out to give room to the Library, or move the Library out to give room for Congress. We must stop all further increase, and either reduce the Library to the stinted and specific wants of Congress alone, or permit it to advance to national importance, and give it room equal to the culture, wants, and resources of a great people. Any mere enlargement will be a temporary expedient, and by the time completed more room would be required. The higher education of our common country demands that this institution shall not be crippled for lack of room. Of course, the bill of the Senate Committee on the Library, as finally presented, did not represent the unanimous conclusion of the committee, if judged by their report made heretofore, but was brought here in obedience to the action of the Senate. No matter what the precise shape of that action may have been, it is fair to interpret it as a proposition for a new Capitol, or, if not that, then as a postponement of the question until a more convenient season. Nothing more can be expected from experts and artists, selected to do a work foreordained, than a presentation of some constrained plans for the extension of the Capitol. They are to be so instructed. They will furnish the pictures. They can do no less than to supply the specific demand insisted upon by those under whose authority they are to act, and especially if there should be an undimmed prospect of finding future employment in the construction of their new plans. The answer to the Hudibrastic question: "What makes all doctrine plain and clear?" was, "A thousand pounds a year," and can be understood by modern draughtsmen, I do not say architects, as well as by ancient theologians. But whenever any cute and fertile genius, feeling himself equal to the great emergency, shall have brought forth a plan for an addition to the Capitol of such dimensions as will be required for a new chamber here, and a new hall in the other end of the Capitol, and be also sufficient for the future requirements of the Library of Congress, conducted in accordance with the provisions of existing laws, I feel sure that it will be nothing else than a huge excrescence upon whatever there is of simplicity and grandeur, or of classic beauty, in the present appearance of the Capitol. Then, fortunately, it may be expected, that all of the critics, especially all whose ideas or suggestions have been ignored or rejected, will unite in such a general hue and cry as will give the quietus to any incongruity, whether projected from the front or rear of the Capitol, destitute as it must be, of dignity, grace, or practical fitness. Unprejudiced public opinion, it is to be hoped, may be safely trusted to combat so large an architectural disfigurement.

The sites of buildings, public or private, is a matter scarcely less important than the buildings themselves. Of all people in the world, Americans should be the last to deny this fact. The ancient Athenians understood this when they placed the Parthenon on the Acropolis and other temples in such places as proves they were alive to all the grand beauties of nature. Notwithstanding that nature has done her part in furnishing rare and beautiful sites, yet the number of rare and beautiful buildings where such sites have been utilized appears deplorably small. A low and sunken location for a lofty and important edifice presents an anti-climax; and a narrow and circumscribed location forces architecture into a strait-jacket. To afford room to the eye of the spectator, for a proper view of any structure worth looking at, requires ample space or a wide margin set apart for and belonging to that structure and to no other. A good neighborhood is almost as essential to architecture as to society. A noble building must have standing room equally noble, or the effect will be discordant and incurably degraded; and such a building, without reposing upon a sufficient landscape, is as pitiable as a ship afloat on too little water. The Interior Department, one of our largest public buildings, and a creditable specimen of classic architecture, was born to "blush unseen" because all of its frontal elevations crowd upon and slop over narrow streets. The General Post-Office was also imprisoned by equally restricted boundaries. If we are forced to admit blunders of this character, we are clear of any so conspicuous as that presented in London by the flat location of the new Houses of Parliament, standing—like the angel in the Apocalypse, one foot on land and one on water—exposed on the Thames to river malaria, and unrelieved elsewhere by any considerable open spaces.

It will hardly be disputed that the present site of the Capitol is one of the finest that has ever been decorated with parliamentary or legislative buildings. No other, so far as I am advised, is comparable to it, save that at Versailles, and that is not better. What nature has lavishly bestowed should not be irreverently squandered in the name of art. It is plain, however, that the grounds here are none too extensive. The vista on the western front is too short and brief. if the mass of the buildings were to be increased, good taste would require a more than proportionate increase of the grounds; but the natural features of the grounds forbid their occupation by buildings of greater bulk. Capitol Hill cannot be expanded and may easily be overloaded.

To abandon the Halls we have for any possible annex, extending the present pile in known or unknown directions, would inevitably cover and hide some of the chief merits of the present site. To project wings from each end of the western front would leave the Dome on that side apparently supported by only the old central portion of the Capitol; or, if such wings started on a base fifty feet below the present foundations, dislocated at the point of junction at the start, they would be buried in the earth at one end and rest on Goose Creek or be propped up by an awkward wall at the other. In this repulsive process and down-hill march of the Capitol much of the hill itself might be expected to vanish. This idea seems to have secured the sudden admiration of those who may be supposed to unduly appreciate Bernini's colonnade, which encircles the piazza of St. Peter's at Rome; but that vast and meaningless coil—two hundred and eighty-four columns supporting nothing—has not received the approval of later ages, and has been, not unfittingly, styled "a scorpion with a double tail." Most certainly it is an architectural atrocity, produced, not by Michael Angelo, but by one whose opportunity sometimes exceeded his knowledge of the severe and simple requirements of true art. An exact reproduction here of Bernini's elliptic extension of St. Peter's, sixty feet high, would be only a little more execrable than the proposed rectangular extension of the wings on the western front of the Capitol, which would borrow no grace from the conspicuous absurdity of the ancient example. Any extension which could possibly furnish one-fourth part of the room needed for a new library of Congress would not only cruelly distort the Capitol itself, utterly destroying its admirable singleness of design, but would be an equally flagrant maltreatment of the Capitol grounds. It would be a capital mistake to do either; and, if I can be pardoned for saying so, it would be shameful to do both.

The grounds on the west front of the Capitol were originally intended to be, and should forever remain, its introductory foreground, with whatever of magnificence it may claim undiminished; but, with the Senate and House wings extended three hundred feet westward, these grounds would be invaded and hopelessly incumbered; the approach and view, which must be mainly by Pennsylvania avenue, would graze one of the new-fangled extensions, and strike the Capitol askew, or apparently much more diagonally. The point of convergence of Pennsylvania and Maryland avenues, according to the plan upon which the city of Washington was built, is the center of the Capitol; and the symmetry and beauty of this plan, which all must concede, would be thwarted and confounded by any large and obtrusive overlapping additions to the western front of the Capitol.

On the eastern front, I regret to say, it has been also proposed to extend the central part, so as to offer room for a new and a larger Library. This would change the congressional character of the Capitol to that of ecclesiastical architecture, or to a Greek cross, of which I venture to say there is no example in any parliamentary building in the world. I am glad to believe that this proposition, persistently pressed as it may be, is not likely to have any considerable number

of adherents among architects. The objections to it are many and formidable:

First. It would be a destructive intrusion upon the grounds so recently expensively enlarged, and greatly improved. These grounds should have some repose. The shade-trees, now satisfied with their homes, ask to be left undisturbed. The very pavements cry out "let us alone!"

Second. It would bar and destroy the main eastern entrance to the Rotunda of the Capitol.

Third. The central entrance to the eastern and the main front should be forever retained for the national purpose of the inauguration of the President of the United States. The two Houses of Congress and the Supreme Court, with the President-elect and the outgoing President, meeting and passing through the Rotunda to the eastern central portico for the purposes of this grand ceremony, as they have done for more than a half of a century, have so consecrated this portion of the Capitol for such services that it should never be sacrificed, and, if sacrificed by one Congress, the next will call for its restoration. The plaza or open court in front is none too large to accommodate the increasing multitude of people who once in four years will make a pilgrimage hither to see how republican institutions, designed for the greatest good of mankind, work and prosper.

Fourth. An extension of the eastern central portico beyond the face of the wings would, when viewed from a northerly or southerly approach, intercept and cut off more than one half of the present apparent extent and grandeur of the eastern façade, leaving, as to length, nothing visible but a wing.

Fifth. A central extension in the same style of the Capitol would, according to the estimate of competent architects, be much more expensive than a separate and independent library building.

Mr. Walter, of Philadelphia, the architect of the extension of the Capitol and the new dome, is a man of undoubted skill and taste in his profession, having few superiors in classic architecture in America; and the general verdict, unless I have greatly misunderstood it, has been that his work, with every allowance for points of minor criticism, must be accepted as a success. Possibly we may have Senators and Members of Congress who might have done better; or, as the lady in Boston who, upon hearing the play of Hamlet for the first time, with which she was delighted, said that "she did not believe there were more than six men in Boston who could write a better play;" so it may be doubted whether among all the members of Congress there are more than six who would do better than Mr. Walter. Congress, it may be remembered, could not agree upon any plan among the many suggestions for the original extension, and at last it was wholly devolved upon the President of the United States.* And even at the last session of the Senate the learned and respected Joint Committee on the Library, after painful labor, brought forth nothing more than a *carte blanche* for each of their chairmen to offer any proposition they might esteem best, and they both decided, after all their enlightened discussion in the committee, to favor a separate library building. They did not agree with the famous maxim of Lord Melbourne, that "the safest thing you can do is to do nothing," but boldly stated they wanted a separate library.

I have not heard the exterior of the Capitol depreciated except, perhaps, as to the size of the Dome; and I think if Senators will examine as to all the buildings in the world with notably large domes, they will not find this too large, unless the others are also too large. The Dome of the Capitol was unquestionably copied, but much improved, from the first design made by Sir Christopher Wren for St. Paul's Cathedral, for which the dome of St. Peter's served, if not as a model, at least as a hint, and as that of the Duomo at Florence possibly served for St. Peter's; and Sir Christopher made a reputation by his numerous works that leaves him easily the foremost architect of England, even to this day, though the dome proposed for St. Paul's was more excessive in its proportions to the building which was to give it support than that of the Capitol, designed by Mr. Walter.

A large dome is necessarily the principal feature of any structure it surmounts. Good taste is exhibited in the Capitol, in the sky line of the entablature. It is not too much broken up. There are no towers, and the minor domes are not in prominent and distractive attendance as satellites.

The Dome of the Capitol is no sham, supported by inside cheap subterfuges, but is wholly of iron; not partly of wood, like St. Paul's, nor partly of brick, like St. Peter's; and the boldness and skill exhibited in its construction was a signal triumph of mechanical engineering. Surely it is far more appropriate in form and graceful outline than the former flat dome which it succeeds, even though that was copied from the Roman Pantheon. But the Dome will doubtless take care of itself. That, at least, is safe from additions. It is the remainder of the building that may need protection.

Some comparisons have been made of our Capitol with the new Parliament houses in London, not complimentary to the position of our legislative halls in the interior or in a so-called iron box from which light and air were said to be excluded; but it seems not to have been understood that both the House of Lords and the House of Commons, with ninety-seven different plans originally to select from, are inclosed in nearly the same manner as are our Houses here, and wholly surrounded by not dissimilar lobbies and corridors.

The sittings of Parliament for the most part take place at night, and therefore they have little occasion to provide for sunlight. They have painted windows aloft, high above the galleries, but these are shielded by exterior glass, and neither are ever opened for the admission of good air or the escape of bad. Their system of ventilation, after some changes, is now, with only slight differences of detail, exactly similar to what we have here, or the air is forced in from below and exhausted at the top, and good, most certainly, when attentively and properly cared for. When the engineers are something more than locomotive engineers, understanding the apparatus and keeping it constantly in order, as the Senate engineer generally does, though more assistants would be useful, there ought to be no just ground for complaint. Of course, it may happen sometimes that the air has not been properly warmed or cooled, or that it has too little or too much moisture, or that the desirable mean temperature cannot be correctly agreed upon by Senators; but I believe it is not extravagant to say that no better ventilated hall of equal dimensions can be found than the Senate Chamber. Different temperaments, different constitutions, and different conditions of health will often demand at the same moment temperatures varying more than twenty degrees. Changes occur before and after speaking, or before or after dinner. The influence of the atmosphere is greatly modified by its velocity as well as temperature, and frequently further modified by its electrical condition and by the amount of moisture present. Mr. Reid, the constructor in charge of the heating and ventilation of the new Houses of Parliament, testified that the only full relief for all complaint would be power to examine and perhaps regulate the atmosphere under each bench where members sit. But this would, I think, make a telephone necessary to communicate the wishes of members to the attendant. Open windows, beyond being an enemy to all executive or secret sessions of the Senate, would often furnish too much of windy currents to those nearest, if just enough to those remote, and would always add to the noise within all the noise without. Moreover, the laws of acoustics forbid open windows. They neither admit of ease in speaking or hearing, as every current of air misleads the voice or the sense of hearing.*

In the Houses of Parliament, when all are present, there is not room—twenty inches being calculated for each member—for more than two-thirds of the members to be seated. On all extraordinary occasions the ordinary members have to flee to the extraordinary seats provided in the galleries; and the place allotted to strangers, I think, accommodates about one hundred, or only "the elect and precious" admitted on tickets, while here we have seats for every Senator and for one thousand spectators in the galleries, who may be here at one hour and gone the next. Ventilation is here a very variable quantity. In the House of Representatives the galleries have seats for about twelve hundred persons. Of course, with so much space open to all comers, to all colors, and to all conditions of life, with no public baths in the city, there will be generated much impure air that should be driven out, but often the prolific cause of impure air, the crowd in the galleries, cannot be driven out without standing much upon the order of going. The trouble is that a fresh supply of foul air is constantly produced, partly compounded with the smoky exhalations of tobacco which find their entrance to the Halls from corridors and ante-rooms through all open passages.

Let me add that the library of the House of Lords and that of the House of Commons are very inferior in comparison with our own, certainly not more accessible, and hardly containing more volumes in either one than were added to our Library during the year just closed. They are, in fact, surpassed in extent by many libraries belonging to private gentlemen, both in this country and in England.

In addition to what I have stated as to the houses of the British Parliament, let me say that the German Parliament House at Berlin and the prize design made for it, but not used, by Sir G. G. Scott, the House of Peers and the House of Deputies in Paris, and the House of Parliament at Vienna, as well as that at Pesth, in Hungary, and that at Sydney, in New South Wales, each of them comparatively modern structures, are all constructed with their legislative halls completely enfolded in the interior; boxed, as some do say, very like our own, lighted from skylights, and surrounded with similar corridors and offices. The House of Deputies at Versailles must also be placed in the same list. The sources of light and air are not greater in any of these than are found here, and the air is all admitted at the bottom and exhausted at the top. They all have just as much of the "exhausted receiver" as we have here, and yet nobody abroad "smells a rat." At five or more different capitals of Europe their accommodations are in no respect superior to our own. Those who may not have seen the Parliament Houses to which I have

* The committee of conference on the part of both Houses reported, September 28, 1850, as follows:

"For the extension of the Capitol according to such plan as may be approved by the President of the United States, $100,000; to be expended under his direction by such architect as he may appoint to execute the same.

"TH. H. BAYLY,
"SAML. F. VINTON,
"G. W. JONES,
"On the part of the House.
"D. S. DICKINSON,
"GEO. E. BADGER,
"PIERRE SOULÉ,
"On the part of the Senate."

* The old Hall of the House of Representatives was described by a speaker there, July 20, 1850, as a "mammoth cave, in which men might speak in all parts and be understood in none. It was constructed with a view to concentrate the voice of the member on the Speaker's ear, leaving every one else deaf. Better that the member should be dumb, too, unless a different hall should be given to them."

referred I hope will find time to examine the ground-plans and elevations of each one of them, when they will see the facts are as I have stated.*

So far as sunlight is concerned here or in the House of Representatives, it can be had at any time whenever required, as the iron shutters on the inside of the glass roof were originally movable, and may be adjusted at any time so as to admit much or little.

I confess that I look with some apprehension upon the idea of further patch-work on the Capitol. The last extension was intended to put a full stop to anything beyond. When the east and west centers shall each be brought out twenty or thirty feet as they will be when the soft sand-stone shall be replaced with marble, and finished in harmony with the wings, it will be all that was originally designed. It will then be the completed work of Mr. Walter, who, if not a great artist, is certainly not a mean one; and better qualified than all other men to give counsel as to any impending changes. No conceited American Bernini should be permitted to botch the Capitol. Decried as that may be, it is likely to be long esteemed as not only the most ambitious but the best work we have.

Some spiritualist, I believe, undertook to add some closing chapters to the last work of Dickens, but they proved to be a ridiculous failure. The attempt of later sculptors to restore the missing parts of some ancient torso has often been made, but rarely satisfactorily. A painting retouched by a different hand is apt to sink to a mere daub. The Capitol should be let alone. Neither swag-bellied centers, nor right-angled tail-ends can be added without destroying the imposing façades of the east and west fronts. Add a pile here, and just such another there, and we should have a block suggestive of diverse uses, commercial or charitable, manufacturing or insane, but no longer stamped as the home of the American Congress.

The idea that one or both of the legislative Halls of Congress can be easily converted into a library or a branch library has been hinted at. It is very plain that the difficulty and cost of such a conversion would be great, and when made would offer only awkward and inferior accommodations. The misfit of a second-hand garment would everywhere crop out. The space surrendered could not be wholly utilized, and so much of it as in some way and in some years might be utilized would still be insufficient for a permanent future library. Moreover, the library, lodged in different rooms, would no longer be a unit or under the charge of a single head. The parts of the library would be so widely separated that the supervision of different librarians, having charge of different divisions of the catalogue, would be indispensable. The administration, vibrating between one room and another, would be both expensive and confused. The time and cost of remodeling the Halls and adapting them to the uses of a library would be as great as to remodel them upon the idea of a better adaptation to the purposes of legislative halls, and the latter would appear to be the more rational proposition if any change must be made. Whatever may be done, it will never reach perfection, "hardly ever." "Man never is, but always to be blest."

Washington is to be no mean city. It is the capital of the people; and its public buildings and grounds belong to the nation, and they will be jealously guarded as the apple of its eye. In the not very distant future, to be waited for no longer than the brief time covered by my own congressional service, there will be a hundred million Americans taking pride in republican institutions, and fully conscious of their growth. Not to comprehend this fact as sure to appear in the annals of our country, is to play the part of children whose works will soon be pushed aside by full-grown men.

When that time arrives it is not wholly impossible that the prediction of an officer, creditably connected with the extension of the Capitol, will not be fulfilled, that is to say, that around the entire grounds of the eastern front of the Capitol, as once were around the bounding-lines of the ancient Roman Forum, there will yet be large public buildings, such as courts, libraries, museums, and departmental offices, that will be hereafter imperatively required by the augmentation of States and the ever-increasing wants of the Government. It must be conceded that the idea is progressive and possibly too magnificent; but, if all of the Executive Departments had originally been constructed around one large square, not only would public convenience have been better consulted, but the general effect would have been more imposing than that produced by the Departments which have strayed away from both the Capitol and the Executive Mansion.

I have advocated the erection of a separate Library building on a part of these grounds east of the Capitol, because it would be most convenient and cost the least money, and because a separate building seems to me to be a pressing necessity.

If I have taken up any time of the Senate it is because I conceive the subject to be one of no ordinary importance. It concerns us, and more concerns those who will come after us. We should be careful in seeking to correct what we call a blunder not to make another which will admit of no correction. I have endeavored to show that the present Capitol deserved less of harsh criticism than has been bestowed upon it, and that its minor defects can be easily remedied. I have attempted also to show that the present site is far too good to be covered by random dreams of flank extensions or swell-head projections, and have also tried to demonstrate that we cannot well get on any longer without a library by itself. My duty, however imperfectly discharged, is ended, and I shall not distrust the ultimate decision of Congress.

Vide "The Builder," "Knight's Gallery of Arts," "Choix d'Édifices Publics," "London Illustrated News," &c.

Mr. VOORHEES. I move the reference of the bill to the Committee on the Library.

The motion was agreed to.

REFRIGERATING VESSEL FOR DISINFECTION.

Mr. HARRIS rose.

The VICE-PRESIDENT. The regular order is the consideration of the Calendar of general orders. The first bill on the Calendar of general orders is that called for by the Senator from Tennessee, [Mr. HARRIS.]

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes. It authorizes the Secretary of the Treasury to contract with Mr. John Gamgee for the construction of a steel refrigerating steam-vessel, to be used at the quarantine of such of the ports of the United States as may be recommended by the National Board of Health, to disinfect vessels and cargoes from ports suspected of infection with yellow fever or other contagious disease; the construction of the vessel to be under the inspection of an officer of the Bureau of Steam Engineering of the Navy, who may, at the request of the Secretary of the Treasury, be detailed by the Secretary of the Navy for that purpose; and $200,000 is appropriated for the construction, to be immediately available.

The bill was reported to the Senate without amendment.

Mr. PLUMB. I should like to make an inquiry of the Senator from Tennessee with regard to this Professor Gamgee, as to the propriety of contracting with him alone. Are there not other persons who might be willing to contract and as competent to contract to the satisfaction of the Government as the person named?

Mr. HARRIS. In answer to the question of the Senator from Kansas I desire to say that Professor John Gamgee, somewhat distinguished for his attainments in sanitary science, has made extensive experiments in the matter of refrigeration. He has a plan by which he asserts that he can produce any given temperature throughout any vessel of fifteen hundred tons burden, or indeed any vessel of any size; but within a very few moments in a vessel of fifteen hundred tons burden he can produce any temperature that may be desired to the point of freezing.

If we had a plan of our own that we proposed to carry out upon distinct specification, I should at once answer the Senator from Kansas that there would be no propriety in authorizing a contract with a single individual; but we have no such plan. Professor Gamgee has a plan that he asserts with positive certainty can produce the results referred to. We know of no other gentleman who has—it is his own—to the extent of the building of this single vessel, the cost of which is to be limited in the bill; and he not only proposes within that limit to construct the vessel, but he proposes at his own expense to maintain it in its experiments and use for six months after its construction.

For that reason the committee have thought it wise to confine the contract proposed to John Gamgee; but hereafter if the experiments shall prove successful, as I doubt not they will, when other vessels for the same purposes shall become necessary, their construction will of course be open to the fullest measure of competition, or may be built by the Government itself upon the plan that has thus been verified by actual experiment under the direction of Professor John Gamgee.

Whether these reasons may prove satisfactory to the honorable Senator from Kansas or to other Senators, I cannot tell. They are the reasons which have controlled my judgment and that of the committee in recommending the passage of a bill confining the contract to a particular individual.

Mr. PLUMB. I do not question at all the accuracy of the Senator's statement. I do not know that any other person than Professor Gamgee has invented a vessel of this particular kind; but I do know of a number of persons who have applied the same principle to the carrying of meat in cars, and the making of ice by artificial means, and things of that kind.

Mr. HARRIS. If the Senator will allow me one moment, I wish to state an additional fact that he may deal with, which was a consideration with the committee. The main facts controlling our judgment are those which were stated a few moments since, but this additional fact is by no means unworthy of important consideration. It is that if you require this vessel to be advertised for and open to competition, as is usual in regard to the building of naval vessels and other Government work, you fail to get the vessel during the present season. It is very desirable, if we make this experiment at all, that it be made at once. Professor Gamgee has, by his own engineer and two engineers of ability detailed for the purpose by the Navy Department, perfected all the plans and specifications by which this particular vessel is to be constructed. I am assured by Professor Gamgee that this vessel can be ready for actual use within a hundred days, and he says he thinks it is safe to say within ninety from the day the contract is entered into. So much time is lost in entering into a contract, and so much will be lost, especially by advertising for bids and

entering into a contract with any other person than with him, who is ready with his plans and specifications to proceed to the work at once, that there is no hope of the construction of this vessel so as to have the benefit of its use during the present season.

It is, in my judgment, a consideration of the highest importance that the vessel be constructed and put in use at once, or at least by the month of July, so that if we find security in it, it gives the results it is believed it will give, we may have its benefits for the coming summer, with the hope that it may avert the dangers with which a large proportion of this country is so seriously threatened. These are the reasons, and I believe the entire reasons, influencing the committee.

Mr. PLUMB. I certainly had no purpose, by the suggestion which I made, of securing such a modification of this bill as would require any delay whatever. I realize as fully as any one can, I think, the necessity for a due degree of haste; but I do think that it is not wise to limit the Secretary of the Treasury to this one person. I do not make a great deal of the fact that that person is not a citizen of the United States; but I do know, and I think there are others on this floor who know, that there are steamers traversing the Atlantic carrying beef in the carcass to foreign ports which is preserved by a system that is regarded as quite as valuable as that of Professor Gamgee; and I do not think that the experience which so far has been applied to this subject has demonstrated that his plan or patent, or whatever it may be, is, to any considerable degree at least, superior to that of a number of others which are in operation. While it may be that he, in anticipation of this legislation, has by some kind of diligence, which possibly may not have been applied by other persons, got himself now in a fair state of readiness to construct a ship, I do not think that consideration alone, or the consideration of the loss of a few days' time, ought to operate to cut out not only other persons, but all other persons, American inventors and others, who may have, as I doubt not many have, plans and patents that are just as valuable as, if not more so than, the person named in this bill.

I do not desire in any way that this matter shall be made the subject of that competitive process or advertisement for bids which the Senator from Tennessee speaks of, and which would undoubtedly occupy valuable time; but I do think that if a few days, or two weeks, or thirty days, or perhaps only ten days, were permitted to intervene, during which time the Secretary of the Treasury might call for plans and specifications and bids—not necessarily public bids, but private bids—it would at least have a certain fairness about it which this bill as it stands does not have. I therefore, without desiring to impede the passage of the bill or seeking in any way to antagonize it, would be glad if the Senator from Tennessee would submit to an amendment which would at least permit the Secretary of the Treasury, in his discretion, to avail himself of the ingenuity, of the judgment, of the investigations of other persons, but especially American citizens, practical ship-builders, as is suggested by the Senator from Maine, [Mr. HAMLIN.] The fact is, that the two things—the building of the ship and the process of refrigerating to be applied therein—do not necessarily go together at all.

While I would not want to express that opinion without due deference to the judgment of the committee which has examined this project and its general purpose, at the same time I do believe that this principle might equally well apply to ships already built in such a way that not only might the time be saved that has been spoken of in reference to this plan of Mr. Gamgee, but that it might be applied a great deal sooner by applying it to a vessel that is now already built. But whether that be true or not, I think that in framing this bill there ought to be a seeming opportunity at any rate for other persons than this gentleman here named to compete, and especially to open it to the citizens of our own country who have applied, as I know many of them have, the best years of their lives to procuring plans of the same kind, plans many of which are now used by the wealthiest cattle-shippers in this country in ships which are carrying carcasses of beef to foreign markets. It is the same principle, no more and no less; and the fact that this person has been a little more diligent in getting his plans, in getting himself probably before the notice of the authorities, should not operate to cut out wholly and entirely, as does this bill, every person from an opportunity of doing this same thing for the same or for a less amount of money.

The VICE-PRESIDENT. Does the Senator from Kansas propose an amendment?

Mr. PLUMB. I will in a moment.

Mr. MCDONALD. I should like to have this bill go over until the Senator from New Jersey [Mr. MCPHERSON] is in. He is chairman of the Committee on Naval Affairs. I do not know what evidence Mr. Gamgee has been able to furnish the special committee of the particular excellence of his invention; but I have been informed of experiments made, of which the Senator from New Jersey to whom I have referred has personal knowledge, and am told that it has thus far failed. I am not able to say, of course, of my own knowledge, nor have I consulted with the Senator from New Jersey on the subject. I shall certainly favor the amendment suggested by the Senator from Kansas—that is, to strike out the name of the contractor in this case and leave it to the Secretary of the Treasury to make this contract under the recommendations of this board of health. I do not see, if it is to be made under their recommendation, why a particular party should be named, thus cutting off all competition. I know there are other persons who claim that they have inventions superior to this, intended to accomplish the same purposes, who desire to compete for it; and I know that some of those persons desire to present their plans to the committees that have this matter in charge.

I hope the bill will stand over until we can learn something more definite in regard to the success of these experiments heretofore made, for I understand that such experiments have been made, and we can learn something of their results. If that is not done, I shall certainly vote for the amendment suggested to leave this to competition under the restrictions then contained in the bill if the name of the party with whom the contract is to be made shall be stricken out and left blank.

Mr. PLUMB. I move to strike out, in line 4, the words "with Mr. John Gamgee" and insert "with a suitable person or persons, upon plans to be submitted, and bids for the construction of the same."

The VICE-PRESIDENT. The question is on the amendment of the Senator from Kansas, which will be reported.

The SECRETARY. The amendment is, in line 4, to strike out "with Mr. John Gamgee" and insert:

With a suitable responsible person or persons, upon plans to be submitted, with bids for the construction of the same.

Mr. HARRIS. Mr. President, seeing it announced in the newspapers a few days since that Dr. Thomas J. Turner, medical inspector of the Navy, and Dr. J. B. Hamilton, Surgeon of the United States Marine Hospital Service, and Dr. J. B. Billings, surgeon of the United States Army, were detailed by the President as members of the National Board of Health, I addressed a note to those gentlemen and Dr. Verdi, who had also been nominated for a position on that board, asking their opinion as to the merits of Professor Gamgee's plan of refrigeration as a disinfecting agent for vessels and cargoes. I beg to send to the Clerk's desk their answer, and I ask that it be read for whatever it may be worth, and I will say that the latter name on that paper, Dr. Billings, enjoys as high rank for attainment in sanitary science perhaps as any man of his age in America, possibly as high as any man irrespective of age in this country.

The VICE-PRESIDENT. The communication will be read.

The Secretary read as follows:

WASHINGTON, D. C., *March* 27, 1879.

SIR: In reply to your letter of the 26th instant, requesting that we should give you our opinions as to the merits of Professor John Gamgee's proposed refrigerating steam-vessel as a means of disinfecting vessels and cargoes, we have the honor to report as follows:

First. We have examined the models and the drawings relating to this apparatus; have listened to the explanations given by Professor Gamgee and the engineers who have been engaged with him upon this subject.

Second. We are of the opinion that the apparatus, if properly constructed and managed, will produce a temperature below the freezing point of water, probably as low as zero Fahrenheit.

Third. In an empty ship it is probable that this low temperature can be produced throughout by the refrigerating vessel if sufficient time be allowed for the working of the apparatus.

Fourth. In a ship with a cargo in it it will be more difficult to produce this uniform low temperature, and it is probable that in almost all cases it will be necessary to discharge the cargo before a ship can be properly disinfected by this or any other process.

Fifth. Whether the production of a temperature even as low as zero in a ship for a comparatively short period of time, *id est*, for a few hours, will destroy or render permanently harmless the yellow-fever poison we do not know, there being no satisfactory evidence in existence upon this point. But from what is known as to the effects of temperature upon this disease we are of opinion that the experiment is worth trying.

Sixth. It will be seen that we consider the project as an experiment; it is in fact impossible to view it otherwise.

But even in the case of failure the results can hardly fail to be of considerable scientific value, while in case of success the cost would be a comparative trifle.

We are, respectfully, &c.,

THOMAS J. TURNER,
Medical Inspector United States Navy, member National Board of Health.
J. B. HAMILTON,
Surgeon United States Marine Hospital Service, Treasury Department.
J. B. BILLINGS,
Surgeon United States Army.

Hon. ISHAM G. HARRIS,
Senator and chairman of the Committee on Epidemic Diseases.

Mr. GARLAND. There is no doubt that the principle of the amendment offered by the Senator from Kansas is right and proper to be adopted in ordinary cases; but the case now presented to the Senate is an exceptional case, and one that in my judgment is very clearly taken out of the general rule which would require all these matters to go to competition before the proper officers of the Government. This committee was appointed early in the last session, and very soon after the beginning of its meetings the gentleman whose name is mentioned in the bill, Dr. Gamgee, presented this matter before the committee for its examination, with the proper cuts of the vessel and a detailed and full statement of all that he hoped and expected to accomplish and the purposes that he had in view. This was not a secret presentation, nor was the examination a secret or covert one, but it was open from day to day before the committee, of which the public prints had much to say from time to time. Not until a very few days since did the committee hear from any quarter that the power of this method to accomplish these ends would be questioned by any person. Dr. Gamgee comes before the committee and before the Senate not only with the high indorsement and recommendation contained in the paper which has just been read, but the committee had other and ample and abundant testimony sustaining him in this attempt. The late lamented Dr. Woodworth, whose loss the whole

country deplores, indorsed this plan most heartily and fully. The people of New Orleans, a city that is generally the first afflicted if not in the most cases the worst afflicted also by this dire calamity, have sent up a memorial to the committee, which was before them, indorsing and recommending this attempt of Dr. Gamgee.

We are fast approaching the period when it may be too late to accomplish anything in this direction; and if we expect to accomplish anything at all by legislation, we must hasten and place this matter now before the Secretary of the Treasury. To ask him to advertise for bids (which under ordinary circumstances I admit most frankly is the proper and right course to be pursued) would delay this beyond the time that anything can be done in this country to prevent the scourge that we all hope and pray may be averted from our shores.

Now, if Dr. Gamgee stands before the Senate and before the country, according to the interpretation of the Senator from Kansas, in the attitude of having a preference in legislation, it is only that preference at last which skill and industry will always secure; and for one I am not ready to deny him that preference. If he has given birth to this idea, and if he has first started this project, and if out of it one-tenth of the good that he has alleged can be accomplished, he is entitled to any preference the legislation of the country can give him. But let us not delay now what is almost a certainty, from the highest and best testimony we can get, of accomplishing this great end, for an uncertainty at some future period. Leave that matter open. If there is any defect in this legislation or in the project for which this legislation is sought, as the Senator from Tennessee has said, that can be remedied in the future.

Ordinarily the request of the Senator from Indiana would not be resisted for a moment, and neither would the amendment offered by the Senator from Kansas; but we are peculiarly situated in this matter and there is no time now to delay, but let us grasp what is within our reach and trust to the future, if there are any defects or difficulties to be remedied in this matter, that they will be remedied by more mature and better legislation afterward.

I have a circular of Dr. John Gamgee, which was before the committee, and which has been published in the public prints, and if it be deemed necessary by any gentleman I shall ask that it be read from the Secretary's desk. I do not wish, however, to consume time with it unless some gentleman asks for it.

Mr. CONKLING. I wish to ask the Senator a question before he resumes his seat. I observe that the bill provides for the construction of a steam steel vessel. Why is that provision made? Haste being important as the Senator has reminded us, why is it proposed that a vessel shall be constructed? Why does not the bill rather provide for a steam-vessel than for the construction of a steam-vessel? Under the bill, I take it the Secretary will be compelled to contract with this or another person for the building, the construction of a vessel. Suppose it turns out that there are numerous vessels adapted to this purpose, on which the apparatus could be put in half the time, half the hundred days alluded to by the Senator from Tennessee, why should we in that respect restrict the proceeding? If it turns out that there is no vessel adapted to this purpose already constructed, then the bill, as I suggest it might be, would still confer the power to contract for the production of a vessel. But it seems to me that if haste be the chief matter here, it would be rather imprudent as provision in that regard to leave the bill as it is now, unless there is some reason which I have not heard mentioned.

Mr. HARRIS. In answer to the question of the Senator from New York, I can only say that Professor Gamgee thinks that by the construction of a steel vessel—and the Senator is quite right in supposing that the bill requires the contract to be for the construction of such a vessel—he will acquire a superior degree of strength and adaptability to the peculiar purpose that no other material will give; and I must say in behalf of Professor Gamgee, having been more or less in contact with him for the last two or three months, that he has impressed me profoundly with the fact that he is vastly more interested in the development of the science, in the accomplishment of the object, than he is in any monetary feature that may be involved in it, vastly more interested in the success of his plan than in the matter of money-getting. In his opinion there is no vessel that can be obtained that is so well adapted for the purpose as the plans that he has matured, with the aid of the engineers of the Navy Department and his own engineer, for the specific purpose intended. It may fail; he may be mistaken; I may be mistaken in supposing that it will be successful; but every scientific man of whom I have heard who has investigated his plans has expressed his faith in them. Dr. Woodworth firmly believed they would be successful. The gentlemen to whom we referred the question a few days ago have had Gamgee and the engineers of the Navy Department before them, and they express faith and say the experiment is well worthy of being tried, even though it may fail.

Mr. McDONALD. I should like to ask the Senator from Tennessee a question, with his permission.

Mr. HARRIS. Certainly.

Mr. McDONALD. I should like to ask if the committee have had any evidence before them that Dr. Gamgee has ever practically yet produced the results, or anything like the results, that are proposed to be secured by this bill? I stated before that I had been informed on high authority that an experiment undertaken by Dr. Gamgee as to a section of a refrigerator intended to be used for the exportation of slaughtered beef had proved a failure, and that that fact was known to the Senator from New Jersey, [Mr. McPHERSON,] who is now absent. I state this on the information furnished me by a gentleman whom I have known for a good while, and whom I believe to be trustworthy.

Now I want to know if the committee had anything except theory? The report of this medical board of health furnishes us no facts. It gives it as their opinion, from the plans and specifications furnished them by Dr. Gamgee, that the apparatus that he proposes to construct will accomplish certain purposes; but that is a mere matter of opinion. I would give a great deal more for one practical illustration than I would for a great many opinions.

Mr. HARRIS. In answer to the Senator from Indiana I can only say that the committee had before it such evidence as satisfied the committee that Professor Gamgee had produced and maintained for weeks, if not for months, a sheet of three thousand square feet of ice during the spring and early summer-time in one of the parks of London that was used day by day for skating purposes. That fact may be asserted as one established beyond controversy. He asserts with perfect confidence, and as I said a while ago every scientific man that I have heard of who has examined his plan, who has investigated his theory or his method, expresses confidence and faith in his ability to throw into any vessel air at any temperature almost that may be desired, and that he can produce the result of freezing within a very few moments' time.

My own opinion on the subject I do not think would be of any value; but I became reasonably satisfied that he could produce the result. The experiment referred to by the Senator from Indiana in Jersey City is one that I never heard of before, and I think it a little strange that I have not heard of it—yet of course I do not question his statement—because this plan of John Gamgee's has been discussed to my certain knowledge throughout a very broad circle for the last two or three months, and would have been called to the attention of the Senate some time before this but for the fact that there was a bill pending which was to decide the question as to whether the Federal Government would take cognizance at all of this matter of public health or of preventing or endeavoring to prevent the importation and spread of contagious diseases in this country. The bill that was passed by the Senate failed in the House, and having failed of course I had no disposition to ask the Senate to consider this or any other plan of disinfecting vessels engaged in commerce. Within the last hours of the last session a bill passed creating the National Board of Health, and clothing it with some very limited powers. Under the authority of that act, with the hope of additional legislation on the subject, I introduced the bill, referred it to the committee, it was considered in committee, approved unanimously by the committee, and reported back to the Senate with a recommendation that it pass, believing as the committee did, and as I do, that the experiment is pre-eminently worthy of being made.

Mr. HAMLIN. Mr. President, in view of the dreadful calamity which overspread so large a portion of our country during the last session, and in the hope that something may be done to mitigate at least if not to suppress it, should it again make its appearance, there is in my opinion an eminent necessity for doing what in our judgment may be right. I think we may afford to do something by way of experiment, because we do not precisely know the best methods of mitigating or preventing it. If we knew them thoroughly, they could be applied without legislation. We are therefore probably called upon to do something by way of experiment; but it seems to me we ought to have a little better information as to what experiments are proposed; and when it is suggested by the Senator from Indiana that a member of this committee, not present in the body to-day, has possession of important information to communicate to us, it would seem strange indeed to me——

Mr. McDONALD. Not of this committee.

Mr. HAMLIN. Well, a member of the Naval Committee. It would seem strange indeed to me if we did not pause and avail ourselves of that information which that Senator is supposed and believed to possess.

Mr. HARRIS. Will the Senator from Maine allow me?

Mr. HAMLIN. Certainly.

Mr. HARRIS. But for the extreme pressure as to the matter of time I should not have hesitated one moment, on the statement of the Senator from Indiana, in consenting that the matter go over; and if the Senator from Indiana can now inform me that the Senator to whom he refers will be in his seat to-morrow, I will now consent that it may go over, for I desire all the light that can be thrown upon this question to be developed. I want the Senate to understand the merits of the question, so far as it has merits, fully and entirely; and if I am in error in my judgment about it, I hope to be corrected at the earliest moment possible.

Mr. HAMLIN. I think if the Senator from New Jersey shall not be in his seat until the day after to-morrow, the Senator from Tennessee makes a mistake in attempting to urge the passage of his bill before that period of time.

I want to invite attention, in addition to what has been said by the Senator from Kansas, [Mr. PLUMB,] to a point of objection in the bill itself; and if the experiments are no better considered than the bill is in relation to the construction of the vessel, I think we may anticipate an entire failure in the beginning. The bill itself is really

objectionable, because it seeks to compel the Secretary of the Treasury to contract with a certain individual to construct a vessel. Does he know the block at the top of the mainmast from the kelson of a vessel? Does he know the stem from the stern of a vessel? Does he know the larboard from the starboard side? What knowledge has that man with whom the Secretary is to contract?

Mr. HARRIS. Will the Senator allow me one moment? The bill does not recite the fact (it has been stated here by myself and others) that the plans for this vessel have been matured by the engineers of the Navy Department of this Government and an engineer of John Gamgee, and those plans will be submitted to the Secretary of the Treasury. Those plans can be submitted to every Senator who desires to scrutinize them. They are specific, and can be submitted at any moment.

Mr. HAMLIN. Yes, Mr. President, but when a full draught is made for the construction of a vessel, and full plans of every stick of timber that shall enter into its construction, and it shall be submitted to the Senator from Tennessee, and he shall be the person authorized and directed to make that construction, he does not know how to put any two pieces together.

Mr. HARRIS. Does the Senator observe that the bill provides that it shall be constructed under the supervision of an engineer of the Navy Department?

Mr. HAMLIN. I do understand it precisely so, but it is to be done by an individual who may have no earthly practical knowledge of its construction. He is therefore, in my judgment, the last person in the world with whom a contract should be made. Is promptness desirable? Then will you not go to the ship-yard where suitable vessels are constructed and where all the machinery and appliances are at hand for rapidly constructing work, rather than to this individual who has no capacity for construction whatever.

Now, sir, I am with the Senator from Tennessee; I want to aid him in the passage of his bill, and I want all the haste there can be; but I do not want that haste which shall lead us wrong, and I certainly would correct such errors as, in my judgment, are plain and palpable in the very text of the bill.

Again, it requires the construction of a steel vessel. Why that? It is to be hardly a sea-going vessel. Its location will be mainly in your harbors or along your coast. I do not know, I doubt if any Senator knows, whether there are or not good reasons why it should be constructed of that material. The Senator from Tennessee surely has not informed us. He says it will require a vessel of very considerable strength. More than that which shall navigate the trackless ocean? More than that which shall buffet the storms and the winds that come from a lee shore? Certainly not; nay, not half that?

Now, I am in favor, first, of the amendment which has been submitted by the Senator from Kansas, because it may give you a better vessel, if one is to be built, and in shorter time; but I would qualify that with giving to the Secretary an authority to purchase, if there be a vessel already constructed suited and adapted to this service, and saving the time which is so necessary to the enforcement of such provisions as may be deemed proper by the board of surgeons or physicians which has been created. And my friend from New York [Mr. CONKLING] suggests that it might be wise even to authorize the Secretary to charter a vessel and try the experiment with that. It is an experiment, and let us do it as prudently and at the same time let us do it as promptly as possible. I submit that the very line of argument which I have suggested is in the line both of economy and promptness. I should, besides, give to somebody, perhaps to naval officers—they would know well—I should give to some competent body the authority to determine that kind of vessel which would be actually required.

The Navy Department through its engineers may have given this committee plans of steel vessels. We have had no information here that steel vessels are necessary. If they are necessary, I am ready to vote for them, and I am willing to clothe the Secretary of the Treasury with authority to look into the whole matter, and if a steel vessel be necessary then let it be constructed, not by one man, not by a man who has no practical knowledge, but by the best man or body of men who can be found, suitable men, and who will construct it in the most limited period of time.

I insist that I am in the very line and interest of a rapid passage of this measure, and that the course I suggest will sooner put in operation the machinery of a law which has been passed for the preservation of the lives of our own people in the South. I propose to accomplish the object, in my judgment, much quicker than if you take this bill precisely as it is.

Mr. HARRIS. Mr. President, I would inquire of the Senator from New Jersey if he can inform me when his colleague will probably be in his seat in the Senate?

Mr. RANDOLPH. I have no knowledge on the subject. I understand indirectly that my colleague will be here to-morrow morning, but I have no positive knowledge on the subject.

Mr. HARRIS. In view of that fact——

Mr. BLAINE. If the Senator from Tennessee will allow me a moment, I quite concur in a great deal that was said by my colleague, [Mr. HAMLIN,] but there is one suggestion on which I think I shall have to differ from him, and that was as to the Government chartering a vessel for the purpose of trying this experiment. The experience in the war I think uniformly was that the Government in chartering vessels more than paid for them before they got through with them, in some cases paid double or treble what they could have bought the vessels for outright; and if you go and charter vessels now that will be the experience in this case, I have no doubt. Whatever is done, I think the Government had better buy the vessel outright.

I am very heartily in sympathy with the movement which the honorable Senator from Tennessee has in charge, and I do not suppose it can suffer at all from a delay to accommodate the convenience of the Senator from New Jersey.

Mr. HARRIS. Mr. President, I desire to have read, partly in answer to the criticism of the senior Senator from Maine, [Mr. HAMLIN,] a brief communication from the Chief Engineer of the Navy; and when it is read I desire to say now that I will consent that this bill may be informally laid aside until to-morrow. If the Senator from New Jersey is then not in his seat, I am inclined to go the other day that my friend from Maine has suggested to await his return, in order that he may be heard in reference to the matter referred to by the Senator from Indiana.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The communication sent to the desk will be read.

Mr. GARLAND. I would suggest to the chairman of the committee that this bill be made the special order after the morning hour on Wednesday for this reason: it is to pass from us to-day anyhow——

Mr. HARRIS. My suggestion was that it go over informally, so that it will remain the regular order. There will be no objection to such an arrangement.

Mr. GARLAND. My purpose was to have it definitely understood that on that day we should dispose of it in some shape, so that the absent Senator from New Jersey and other Senators might take due notice of the fact and be prepared at that time with their suggestions and any amendments they might see proper to offer. I desire to have the amendment of the Senator from Kansas printed, and I feel much rejoiced that the Senator from Maine has given in his adhesion to the general theory of the bill; and I should like to request of him, while he objects to the details of the bill, that he prepare a substitute which will suit his views, and be ready to offer it on that day, so that we may dispose of the subject advisedly and understandingly. The committee have labored from day to day upon this project, and they have given the Senate the best measure they are capable of under the circumstances, with the information they have before them; but as we believe there is a sentiment in the Senate concurring in the general idea that this bill contains, I hope we shall be able, on the day after to-morrow, to mature a plan which will accomplish the purpose that all of us desire.

Mr. CONKLING. The Senator from Arkansas, I thought, intended to answer a question I asked him some time ago. If it is agreeable to him, I should like to hear an answer now.

Mr. GARLAND. The Senator will excuse me, but I deferred before to the Senator from Tennessee, the chairman of the committee, [Mr. HARRIS,] who I thought answered the Senator from New York very fully. The answer is also contained in the different documents before the committee, one of which I sent up to the Secretary's desk to be read in case any gentleman not on the committee or who had not examined the subject desired further information. Different gentlemen who have given in their testimony as to their convictions upon this proposition have stated why this should be a steel vessel, and the circular of Dr. Gamgee also states the reasons. Of course it is not expected by the Senator from New York or any other Senator, I take it, that the bill should embody the whys and wherefores of this particular measure in itself. That information is before the Senate, and I ask the Senator from New York to familiarize himself with it by the day after to-morrow. If on that information the committee are mistaken, as a matter of course that can be remedied by the substitute which I hope the Senator from Maine will be ready to offer to the Senate on that day. Personally I am not an adept in this business; I never built any more ships of steel or any other sort than the Senator from New York.

Mr. CONKLING. I will try to familiarize myself with any matter on which I am called to vote, but I hope the Senator from Arkansas will forgive me for seeking to avail myself of such knowledge as he has obtained, he being a member of the committee having the particular topic in charge; and I submit to the Senate, it is rather unusual when a question is put to a member of a committee which has had a subject under consideration, to answer that members of the Senate could familiarize themselves in their own way with the matter.

Now, I venture to state once again the question which I should like to hear answered at some time; and although I might ascertain the answer by reading all these papers, still I think it would be convenient if we could receive it from the committee supposed to know more about this subject than the rest of us do. Perhaps I had better say, although I think it is hardly necessary for any Senator to say, that I will vote willingly for any plan likely in a reasonable way to try even a rational experiment to antidote the tendency to pestilence in certain quarters and at certain seasons; and now if the Senator from Arkansas will give me his attention for one moment, or the Senator from Tennessee, I will endeavor to state what I should like to know.

As I understand it, it is proposed to send to a given harbor, or the

quarantine ground of a given harbor, a vessel carrying apparatus by which atmosphere can be chilled below the freezing point and injected into an arriving ship. That is the plan, is it not? I should like to understand why it is that any vessel staunch and capacious cannot carry the chemical apparatus—for such I must infer this to be—by which the air is to be chilled and poured into the coming ship. If it is true that great strength of vessel is required so that steel must be employed, and if it is true that such unusual shape or dimensions are required that none of the vessels afloat are adapted to this service, it is very easy for the Senators who have investigated the matter to tell us so. Left to more general intelligence, I should suppose that if it was wished to try such an experiment, and to try it promptly, the business-like way would be to look for a vessel large enough and strong enough to carry the apparatus to be employed, and having found her, either by purchase or charter to get possession of her for the required length of time, and try the experiment. That is the way it would appear to persons only commonly, perhaps not even commonly, informed on such a subject. There may be reasons why we should pass a bill directing the construction of a vessel, laying a new keel, and building a vessel up on purpose in order to try, during a spring which has already begun, this experiment; but it seems to me rather odd, and so I venture once more to ask the honorable Senator from Arkansas not to be so stingy of the information which he possesses, but to let his light so shine that we may all understand why this is.

Mr. GARLAND. "Turn on the lights!"

Mr. CONKLING. Yes, turn on so much of the light, or let out so much of the dark, as the Senator may prefer. [Laughter.]

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Kansas, [Mr. PLUMB.]

Mr. HARRIS. I sent a paper to the Secretary's desk which has not been read. I desire to have it read.

The PRESIDING OFFICER. The communication sent to the desk by the Senator from Tennessee will be reported by the Secretary.

The Chief Clerk read as follows:

CHIEF ENGINEER'S OFFICE, UNITED STATES NAVY-YARD,
Washington, February 26, 1879.

I hereby certify that Mr. John A. Svedberg has been engaged since the 1st of January, and Mr. Augustus A. Bostrom during the current month of February, preparing the plans of Professor John Gamgee's steel refrigerating ship in conjunction with Mr. W. E. Sudlow, who is Mr. Gamgee's engineer.

Every effort has been made to secure perfect working drawings, and to check the data and calculations on which the important work of purifying ships depends. The result has been to inspire me with confidence, as well as those who have had an opportunity of following Mr. Gamgee's work. The designs have been most carefully considered, and whatever may be the effect of purifying by cold and antiseptic solutions, it is certain that the ship and machinery will be of a substantial and excellent type.

JOHN W. MOORE,
Chief Engineer United States Navy.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

Mr. EATON. I hope the matter will go over.

Mr. HARRIS. I suggested that I consented that the further consideration of the bill might go over until to-morrow.

Mr. ALLISON. Why not move it?

Mr. HARRIS. I make that motion.

The PRESIDING OFFICER. The Senator from Tennessee moves that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

PROPOSED EXECUTIVE SESSION.

Mr. ANTHONY. If the chairman of the democratic caucus, and the chairman of the executive committee of the democratic caucus, and the chairman of the subcommittee of the executive committee of the democratic caucus have nothing to propose to us, I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The question is on the motion of the Senator from Rhode Island.

The motion was not agreed to.

Mr. EATON. If my friend would strike out his preamble no doubt we should accept his motion.

Mr. ANTHONY. I accept the amendment.

Mr. BLAINE. We can vote on the preamble in executive session.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879; in which it requested the concurrence of the Senate.

ADJOURNMENT.

Mr. KERNAN. I move that the Senate do now adjourn.

Mr. FERRY. Will not the Senator from New York modify his motion and move that the Senate proceed to the consideration of executive business?

Mr. KERNAN. I think that the motion that was made for that purpose was hardly fair or respectful to a large number of Senators on this floor, and I am not inclined to vote for such a motion now.

Mr. FERRY. Does the Senator from New York allude to my motion? I offered no preamble. I ask the Senator from New York to modify his motion to a motion to proceed to the consideration of executive business.

Mr. KERNAN. I think we can do that to-morrow. If any gentleman shall move it then without a preamble, which seemed to be designedly offensive, I shall vote for it; but not now.

Mr. FERRY. If the Senator will allow——

Mr. KERNAN. I insist on the motion.

Mr. ANTHONY. I withdraw the preamble at the request of my friend from New York.

Mr. COCKRELL. The motion is not debatable. Let us have a vote on it.

The PRESIDING OFFICER. The Chair supposed such a motion was not debatable; but he supposes he must be mistaken, or experienced Senators would not persist in debating it. The question is on the motion of the Senator from New York that the Senate do now adjourn.

The motion was agreed to; and (at two o'clock and forty-three minutes p. m.) the Senate adjourned.

IN SENATE.

TUESDAY, *April* 1, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

SENATOR FROM GEORGIA.

Mr. HILL, of Georgia. I ask that the oath of office be administered to my colleague, [Mr. JOHN B. GORDON,] a Senator-elect from the State of Georgia.

The VICE-PRESIDENT. The Senator-elect will please come forward for that purpose.

Mr. GORDON advanced to the Vice-President's desk, escorted by Mr. HILL, of Georgia, and the oath prescribed by the act of July 11, 1868, having been administered to him he took his seat in the Senate.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879, was read twice by its title, and referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. MCMILLAN presented a memorial of the Legislature of Minnesota, in relation to certain grants, by that Legislature, of swamp lands to aid in the construction of railroads, and in favor of the passage of a law by Congress confirming such grants; which was referred to the Committee on Public Lands.

Mr. WINDOM presented a joint resolution of the Legislature of Minnesota, in favor of the passage of a special act by Congress granting a pension to D. W. Seeley, of Fillmore County, Minnesota, for injuries received in the Indian massacre in that State in 1862; which was referred to the Committee on Pensions.

Mr. MAXEY presented a joint resolution of the Legislature of Texas, in favor of the passage of a law by Congress authorizing the loan of four batteries of artillery to that State; which was referred to the Committee on Military Affairs.

Mr. HARRIS presented the petition of Franklin Rives, of Washington, District of Columbia, praying for the passage of a law authorizing the Committee on Printing to make a contract with him for the publication of the debates of Congress; which was referred to the Committee on Printing.

He also presented the petition of Mary Byrd Dallas, widow of the late Commodore Alexander J. Dallas, of the United States Navy, praying that her pension be restored to the amount originally granted to her; which was referred to the Committee on Pensions.

Mr. COCKRELL presented concurrent resolutions of the Legislature of Missouri, in favor of an appropriation by Congress for the immediate improvement of the Missouri River at Saint Charles, Glasgow, Cedar City, and Kansas City, in that State; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. BAYARD, from the Committee on Finance, reported an amendment to be proposed by that committee to the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BAYARD. I also report back for re-reference the joint resolution of the Legislature of the State of Nebraska, in favor of such legislation as will forever prohibit the payment by the General Government of the southern war claims, and ask that it be referred to the Committee on the Judiciary. It was inadvertently sent to the Committee on Finance.

Mr. PADDOCK. It should properly go to the Committee on the Judiciary.

The VICE-PRESIDENT. The memorial will be referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) for the relief of Charles Collins; which

was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Post-Offices and Post-Roads.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) for the relief of John S. Cunningham; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 288) for the relief of Francis Gilbeau; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 289) granting a pension to Edward Heinzel; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) authorizing the Secretary of War to issue wall-tents to the superintendent of the Virginia Military Institute; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 291) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce bill (S. No. 292) to provide for the erection of a public building in Jefferson City, in the State of Missouri; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 293) granting a pension to Joseph Potts; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 294) for the relief of James A. Price; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 295) for the relief of the Fifteenth and Sixteenth Regiments Missouri Cavalry Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 296) for the relief of Edward P. Vollum; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 297) for the relief of Edward S. Armstrong; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 298) for the relief of Van B. Bowers; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 299) for the relief of Joseph N. Lewis; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 300) for the relief of William Morrison; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 301) for the relief of Frances A. Robinson, administratrix of the estate of John M. Robinson, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 302) for the relief of John Taylor; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 303) for the relief of George Hollingsworth; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 304) for the relief of Richard H. Porter; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 305) for the relief of Thomas B. Wallace; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 306) for the relief of Joseph Kinney, administrator of David Ballentine, of Missouri; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 307) for the relief of L. C. Cantwell; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 308) to confirm the title to certain lands in Platte County, Missouri, and authorize patents to be issued therefor to Kinsey B. Cecil; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 309) for the relief of George Heard; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 310) for the relief of the heirs and legal representatives of Israel Dodge, deceased; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 311) to confirm certain land claims in the State of Missouri in favor of Jaques Clamorgan and Peter Provenchere; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. RANDOLPH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 312) granting a pension to Mrs. Rebecca S. Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 313) for the relief of Major Jacob E. Burbank; which was read twice by its title, and, together with the papers on file relating to the case, referred to the Committee on Military Affairs.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 314) to provide temporary accommodations for the circuit and district courts of the United States for the eastern district of Pennsylvania; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. LOGAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 315) granting a pension to Henry Stanley Wetmore; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 316) for the relief of homestead settlers on the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 317) for the relief of Captain J. B. Campbell; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 318) restoring the name of John L. Taylor to the pension-roll; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GORDON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 319) for the relief of Robert Habersham, George Patten, and John L. Villalonga, or their executors or administrators; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 320) for the relief of William Battersby; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on the Judiciary.

Mr. GROOME (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 321) for the relief of William Talbert; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 322) to limit and better define the jurisdiction of Federal courts in criminal cases; which was read twice by its title, and referred to the Committee on the Judiciary.

CONSIDERATION OF APPROPRIATION BILLS.

Mr. ROLLINS submitted the following resolution; which was read:

Resolved, That the Committee on Rules be, and they hereby are, directed to report an amendment to the rules of the Senate, which shall provide that the several committees shall receive the estimates and report the annual appropriation bills as hereinafter named.

First. The Committee on Appropriations; bills for the legislative, executive, and judicial expenses, for all deficiencies, and for sundry civil expenses.

Second. The Committee on Military Affairs; the bills for the support of the Army, the Military Academy, and for fortifications.

Third. The Committee on Naval Affairs; the bills for the support of the Navy and the Naval Academy.

Fourth. The Committee on Foreign Relations; the bills for diplomatic and consular expenses, and for carrying out the treaties of the United States with foreign countries.

Fifth. The Committee on Indian Affairs; the bills for the expenses of the Indian department.

Sixth. The Committee on Post-Offices and Post-Roads; the bills for the expenses of the Post-Office Department, and mail transportation by land or sea.

Seventh. The Committee on Commerce; the bills for the improvement of harbors and rivers, and construction and repair of light-houses.

Eighth. The Committee on the District of Columbia; the bills for the expenses and support of the District of Columbia.

Ninth. The Committee on Pensions; the bills for the payment of pensions.

Tenth. The Committee on Public Buildings and Grounds; bills for such public buildings and grounds as the needs of the Government may require.

Eleventh. The Committee on Agriculture; the bill for the expenses of the Department of Agriculture.

The VICE-PRESIDENT. Is there objection to this resolution?

Mr. BLAINE. The resolution read I think like an absolute instruction to the Committee on Rules to report a rule of that sort.

The VICE-PRESIDENT. It does so read.

Mr. HOAR. Let the first clause be read again.

Mr. ROLLINS. I have no objection to modifying the resolution.

Mr. BLAINE. If it is a mere direction to inquire into the expediency of reporting such an amendment to the rules, I suppose nobody will object to it.

Mr. ROLLINS. I will modify the resolution to meet the views of the Senator from Maine, so as to direct the committee to inquire into the expediency of reporting such an amendment to the rules of the Senate.

Mr. BLAINE. I have no objection to that.

The VICE-PRESIDENT. The resolution will be modified in that way, and as thus modified it will be printed and referred to the Committee on Rules.

Mr. DAVIS, of West Virginia. Do I understand that the resolution is to be printed and sent to the Committee on Rules? Is that the order?

The VICE-PRESIDENT. That was the order.

Mr. KERNAN. I wish to know whether it directs the Committee on Rules to report a rule of that kind, or whether it requires them to inquire into the expediency of doing so.

The VICE-PRESIDENT. The resolution was modified so as to require them to inquire into the expediency of so amending the rules.

Mr. WITHERS. I think it would be well enough to make an addition to the proposition so as to dispense with the Committee on Appropriations.

JOINT RULES.

Mr. DAVIS, of West Virginia. I propose to offer a resolution looking to the re-establishment of joint rules between the two Houses. Previous to that, however, I should like to have read from the desk something that I find in the Manual of Rules prepared by the late Chief Clerk. I will ask the Secretary to read the introductory matter down to the joint rules as printed in the Manual.

The VICE-PRESIDENT. The Secretary will report the part desired by the Senator from West Virginia.

The Chief Clerk read as follows:

The joint rules which heretofore governed in the transaction of business between the two Houses are, including the twenty-second joint rule, which was abrogated by the act of Congress of January 29, 1877, regulating the manner of counting the electoral votes for President and Vice-President, inserted in this compilation for the purpose of information, with the following explanatory remarks:

A question having been raised in the Senate at the first session of the Forty-fourth Congress, whether the joint rules of the two Houses did not require for their enforcement the concurrence of both Houses in their readoption, the Senate, on the 20th of January, 1876, passed and sent to the House of Representatives the following resolution:

"*Resolved by the Senate, (the House of Representatives concurring,)* That the joint rules of the Senate and House of Representatives in force at the close of the last session of Congress, excepting the twenty-second joint rule, be, and the same are hereby, adopted as the joint rules of the two Houses for the present session."

To this resolution the House made no response, but, on the 14th of August, 1876, as had been usual at the close of a session, sent to the Senate for its concurrence a resolution to suspend the sixteenth and seventeenth joint rules; upon which the Senate passed and sent to the House the following resolution:

"*Resolved*, That the resolution of the House of Representatives presented this day in the following words: '*Resolved by the House of Representatives, (the Senate concurring,)* That the sixteenth and seventeenth joint rules be suspended for the remainder of the session,' be respectfully returned to the House of Representatives, with the statement that as the House of Representatives has not notified the Senate of the adoption of the joint rules for this present session, as proposed by the resolution of the Senate of the 20th day of January last, and transmitted to the House on the 22d day of the same month, there are no joint rules in force."—(*Constitution, Rules, and Manual*, pages 181, 182.)

Mr. DAVIS, of West Virginia. I offer now the following resolution, to be referred to the Committee on Rules, or to be passed at once if there be no objection to it:

Whereas differences of opinion in regard to the effect of a final adjournment of Congress on the joint rules governing the transactions of business between the two Houses of Congress have heretofore existed, and it is desirable that an agreement between the two Houses be had: Therefore,

Resolved, That the Committee on Rules of the Senate be authorized to consider the whole subject-matter; also to take into consideration the expediency of excepting appropriation bills from the operation of the sixteenth and seventeenth of said joint rules; and to confer with the Committee on Rules of the House of Representatives, with a view to joint action thereon.

Resolved, That this resolution be communicated to the House of Representatives.

Mr. EDMUNDS. If the Senator from West Virginia will take off his preamble, I have no objection to the present adoption of the resolution instructing our Committee on Rules to inquire into the subject of joint rules and to confer with the House. But the preamble recites what I do not understand to be the correct state of the fact, so far as the Senate is concerned, and, to the extent that we have any official notice, so far as the House is concerned. Very likely the House of Representatives sent us the last resolution that they did upon the subject of suspension through the inadvertence of some member, attention not having been called to the state of the case, which very often happens in this body even. I dare say but for the fact that attention was called here, by accident almost, to that resolution of the House of Representatives, the Senate would have concurred in the suspension of joint rules that the Senate had almost unanimously, and I do not know but quite unanimously, decided did not exist. Therefore I should be entirely unable to agree to the preamble in the precise form in which it is put. The object of the Senator can be attained by offering the resolution simply without the preamble, changing it so as to direct the Committee on Rules to inquire into the subject of joint rules and to confer with the House. If my honorable friend is willing to do that, I shall not object to the present consideration of the resolution.

Mr. DAVIS, of West Virginia. I think it is a fact that there is a difference between the two Houses as to whether or not the joint rules now exist. Believing that to be so, and understanding that a former House of which I have a right to speak, so construed it, I am hardly prepared to have the preamble stricken out. I believe it states what is substantially correct, and as the resolution only directs an inquiry and the preamble can do no harm as it stands, I should much prefer that the resolution should go to the House of Representatives as it now stands. However, if there are serious objections to the preamble, and if Senators on both sides of the Chamber think the preamble had better not go with the resolution, I shall not specially insist upon it; but I prefer the whole resolution just as it is.

Mr. EDMUNDS. The Senator from West Virginia I think has forgotten that at the very last session of the last Congress, when the day of final adjournment is fixed by law and the Constitution combined, the House of Representatives did not entertain any idea that there were any joint rules in existence, the sixteenth and seventeenth for instance, because the House of Representatives, without proposing to suspend those ancient rules, sent to us down to within ten or fifteen minutes of twelve o'clock—(and I believe the clock had to be moved back even to do that)—continually a stream of bills and joint resolutions. Therefore I do not wish to have this body agree to anything which assumes or implies, recognizes or asserts, that either body understands the ancient joint rules to be in existence. This body certainly did not so understand, and by a vote which as I say was practically unanimous.

Consequently I hope that the honorable Senator, if he desires to have the matter inquired into, to which I have no objection, will withdraw his preamble. As it is drawn it implies that there is a difference of opinion in this body which, after debate, so far as I remember it, did not exist; and inasmuch as the preamble is of no consequence to the effective object the Senator has in view, would it not be better to allow the committee to consider the subject without any committal of any sort?

Mr. DAVIS, of West Virginia. It is plain that joint rules in some form should exist between the two Houses. If the Senator from Vermont is right, then no joint rule has existed since the Forty-fourth Congress, and whatever may have taken place between the two Houses as to conference committees, the exchange of bills, and the other things which make it necessary that the two Houses should understand one another, has gone on by general consent without any joint rule whatever between the two Houses. I am anxious that joint rules between the two Houses should be re-established, or that the question of re-establishing them should at least be taken into consideration. It is important for the business of Congress to have joint rules. That is the primary motive I have in bringing forward the present resolution.

As to the preamble, now that the attention of the Senate and of the House will be called to the matter, I have no special objection, unless some Senator has and can present a view other than the one I have presented, to taking the course which the Senator from Vermont suggests.

The VICE-PRESIDENT. The preamble is withdrawn, and the resolution is agreed to.

Mr. BLAINE. One moment. The trouble about it, of course, is that the other party to joint rules, so to speak, is incapable of contracting for a continuity of rules. The Senate being a continuous body, has its own rules, which are not varied by adjournment; but as it has been ruled in the House of Representatives over and over again that the rules of the House do not hold from one Congress to another, except on the general presumption that they take the rules of the nearest analogous body, of course, still less could it hold as to joint rules. I think it has now become the settled conviction at both ends of the Capitol that no joint rule can be considered as binding upon the two branches, unless it has been agreed upon by both branches for that particular Congress. If the preamble was left off, the Senator from West Virginia will observe that the resolution should read:

Resolved, That the Committee on Rules of the Senate be authorized to consider the whole subject of joint rules between the two Houses.

Mr. DAVIS, of West Virginia. Of course if the preamble is left out, the resolution, to read properly, would have to be so modified.

The VICE-PRESIDENT. As thus modified the resolution is agreed to.

Mr. EDMUNDS. I understand the preamble to be withdrawn.

The VICE-PRESIDENT. It is withdrawn.

Mr. HEREFORD. Mr. President, I cannot let this occasion pass without giving my dissent to what the Senator from Vermont has said. He asserts the fact that it is conceded by both Houses that there are no joint rules. It certainly has escaped his attention that the present Speaker of the House of Representatives some time ago from his place as Speaker ruled upon that very question, and asserted in the most emphatic terms that the joint rules of the two Houses were in existence.

Mr. BLAINE. How, then, if the Senator will permit me a question, does the Speaker (if the Senator is alluding to what took place in the last Congress) reconcile that with the fact that he allowed the House to pass hundreds of bills on the last two days of the session,

utterly regardless of the sixteenth and seventeenth joint rules? The Speaker himself, by his own example, which is worthy to be quoted in parliamentary matters, showed plainly that he did not hold to the construction that there were any joint rules in force, because the House violated that understanding right along for the last three days of the session.

Mr. HEREFORD. There is no trouble about that. That is not an answer to the proposition I stated. The fact still exists, and cannot be successfully denied, that the Speaker of the present House at a former session distinctly ruled that the joint rules of the bodies were in existence. He made that ruling positively. It certainly could not have escaped the attention either of the Senator from Vermont or the Senator from Maine that this very question was one of the questions that entered into the consideration of the creation of the electoral commission. This very question was then discussed. The democratic party on one side asserted that by virtue of the joint rules between the two Houses on the subject of counting the electoral votes there was no necessity for an electoral commission, the other side holding the opposite.

Mr. EDMUNDS. If my friend will allow me, I wish to say that I did not understand such to have been the theory of the electoral bill at all. I do not remember that there was anybody in either House that opposed a provision by law on the ground that the twenty-second joint rule, if that was the old number of it, was in force at that time.

Mr. HEREFORD. I recollect very well, although I have not had occasion to refer directly to the debate, that the late Senator from Indiana, Mr. Morton, discussed that very proposition at some length.

But I did not rise to enter into any discussion on this subject, but to express my dissent from the statement of the Senator from Vermont, that it was a conceded fact in both Houses that there were no joint rules in existence. The present Speaker of the House has taken the position that a joint rule having been formed by the consent of two distinct bodies it could not be abrogated without the concurrence of the two bodies, or at least that there should be some conference between the two bodies on that subject; and that has been the custom heretofore. The precedent has been that when either body desired to change, modify, or abrogate a joint rule, its resolution read something like this: Resolved by the Senate, (the House of Representatives concurring,) that certain joint rules are hereby abrogated or are hereby amended. I happened last night accidentally, in reading on another matter, to see a resolution that was introduced, I believe by Mr. Hunter, of Virginia, and no one was a better parliamentarian than he was, and that was the form of the resolution that he introduced, which was a concurrent resolution asking the consent of the other House that such and such a joint rule should be abrogated, amended, repealed, or modified.

Mr. BLAINE. Mr. President, I desire to call the attention of the Senator from West Virginia to one fact which has some bearing on this matter.

Mr. HEREFORD. Allow me one moment further. I understand the Senator from Maine to say—but I may have misunderstood him—that the rules of the House of Representatives fell when the House adjourned. If I am not very much mistaken, when the Senator from Maine was Speaker of that House and I had the honor of being a member of it, he distinctly ruled, when the question was brought up, that the rules of a prior Congress, so far as the House of Representatives was concerned, did bind the succeeding House unless that House undertook to use its power under the Constitution to change or repeal them. Such a ruling was distinctly made by the Senator from Maine, who then filled the chair of Speaker of the House of Representatives with such distinguished ability. I believe in that I am not mistaken.

Mr. BLAINE. The Senator is correct in his statement with a slight amendment. When the revision of the rules was made by the House of Representatives in 1860, which was quite an epoch in the rules of the House, a provision was inserted that the rules of this House should be the rules of each succeeding House. The point was made that that declaration continued them as the rules, but I have never known a Speaker of the House to rule that that declaration had the least force or that its absence would have made any difference. What has been held by the gentlemen who have occupied the chair has been that in the absence of an existing House adopting rules, instead of falling back on what has been loosely termed general parliamentary law, and I never knew any gentleman yet who was able to determine what that was, the House fell back on the rules of the nearest analogous body pending any discussion on new rules, and the nearest analogous body was the preceding House. That has been uniformly held by persons holding the chair of the House.

But on the question immediately at issue I desire to call the attention of the Senator from West Virginia to the fact that no matter what the occupant of the last chair ruled, this is now his conduct: that at the close of the late session the two branches proceeded without the slightest regard to joint rules, and especially to Rules 16 and 17, which have particular relevancy to closing business. It is not an argument in the House to say that a rule is void because the House may not choose to notice it, for the Speaker is not called upon in the House to notice a violation of a rule unless the point of order is made that the rule is violated. But the honorable Vice-President, who has had experience in the House, will bear me out in saying that it is the uniform custom and duty of the Speaker, without a motion being made or notice being made on the floor, himself to check the violation of a joint rule because he stands as a representative of the courtesy between the two branches. When you come to a joint rule it has been always held differently from the rules of the House as to devolving duties on the Speaker of the House. Many things are done in the House against the letter of the rules of the House because no point of order is made adverse; but if the Chair is watchful and discharging his duty nothing is permitted to be done contrary to a joint rule, because he stands, as I have already said, as the representative of the courtesy and the amenity of the two branches and cannot permit a violation of the rules that are agreed upon jointly. Therefore so careful an occupant as was the Speaker of the last House I am sure never could have regarded the joint rules as in force when he sat in his chair the last few days of the session and saw the sixteenth and seventeenth joint rules perpetually violated. He waived all idea of joint rules; and, as the Senator from Vermont reminds me, after we sent our resolution over, they having sent a counter proposition here proposing the adoption of the joint rules, they waived the idea that they were then in force, because they proceeded to send here new bills as if there was no resolution in the way.

Mr. FERRY. I desire to remind the Senator from West Virginia and also to call the attention of the Senator from Maine to the fact that the question of the existence of the joint rules was raised in the Forty-fourth Congress in December, 1876, by the then Senator from North Carolina, [Mr. MERRIMON,] on which the then occupant of the chair ruled. The decision of the Chair [Mr. FERRY] was that there were no joint rules in force. An appeal was taken by the Senator from North Carolina from that ruling, and the Chair was sustained by the Senate by the very emphatic vote of 50 to 4, the Senate holding that the joint rules were not operative.

The VICE-PRESIDENT. There is no question before the Senate, for the resolution was agreed to long since.

Mr. DAVIS, of West Virginia. I desire to have the resolution read as amended so that we may know how it stands.

The VICE-PRESIDENT. The resolution will be read as modified.

The Chief Clerk read as follows:

Resolved, That the Committee on Rules of the Senate be authorized to take into consideration the whole subject-matter of the joint rules between the two Houses, also to take into consideration the expediency of excepting appropriation bills from the operation of the sixteenth and seventeenth of said joint rules, and to confer with the Committee on Rules of the House of Representatives with a view to joint action thereon.

Resolved, That this resolution be communicated to the House of Representatives.

Mr. EDMUNDS. That resolution is not at all in the shape that it ought to be, and I am very glad the Senator from West Virginia has called attention to it. The resolution has been so now modified by the Secretary as to make it assume in the body of the resolution exactly what and more than the preamble did. The resolution there recognizes the existence of joint rules and proposes to get rid of the effect of two of them. That is not the thing at all.

Mr. DAVIS, of West Virginia. I suppose after going to the desk that the Senator from Vermont would see something in it that he probably thought ought to be changed; and taking the view of it he does, I think myself it would be well to have a change made.

Mr. EDMUNDS. I am much obliged to the Senator from West Virginia for stating that, because the resolution does not express my opinion or that of the Senate the last time we had a vote upon the question.

Now I move to amend the resolution by striking out in the first part the word "the" where it occurs before "joint," and then by striking out "also to take into consideration the expediency of excepting appropriation bills from the operation of rules sixteenth and seventeenth of said joint rules," so that it will read:

Resolved, That the Committee on Rules of the Senate be authorized to take into consideration the whole subject-matter of joint rules between the two Houses and to confer.

That covers the whole matter.

Mr. DAVIS, of West Virginia. I think the Senator and I probably can agree on the latter part of it in regard to appropriation bills. My view was that if we excepted appropriation bills from the operation of joint rules 16 and 17, then perhaps there would be no necessity for suspending those rules at the end of the session, and we should get practical legislation and prevent a great deal that might otherwise occur at the end of the session. The Senator himself, I think, will admit that appropriation bills ought to be excepted from those rules, and my impression has been that that is the cause of the House or Senate asking to have the rules suspended at the end of the session, and there would be no necessity for suspending them if appropriation bills were excepted from those two rules.

Now I hope the Senator will withdraw his amendment as to that part of my resolution.

Mr. EDMUNDS. The purpose of my amendment as to that part was merely to escape the implication of the statement that there were any such rules in existence. Now the attention of the committee being called by this discussion to the point the Senator from West Virginia has in mind, their full powers will cover all that for consideration.

I agree with him that the sixteenth and seventeenth joint rules as they were, were of the greatest possible consequence, and like a great many other things of the greatest possible consequence, like the Ten Commandments, they were always violated. I endeavored at the

beginning of the last session in December to have the Committee on Rules of this body report two rules for the government of the two Houses on that precise subject that was embraced in the old sixteenth and seventeenth, but I did not have the good fortune apparently to get the good opinion of the committee to that proposition, and we never got any report that I know of; and then I had to fall back upon the rules of the Senate, which require three readings on three separate days of bills and joint resolutions, and I accordingly objected to the second reading of every bill in order to stop the infinite mischiefs that we all know occur on the last three days. Now if this amendment is agreed to the committee will have the whole subject in consideration without any limitation, and can make such provision as is necessary.

As I say, my only objection to the clause is that it recognizes the very fact which the Senate almost unanimously by a concurrence of gentlemen of both parties has after discussion decided not to be true.

Mr. DAVIS, of West Virginia. I will say to the Senator that I think that can be avoided, and I have no objection to avoiding it, by saying "the sixteenth and seventeenth joint rules as they formerly existed," or something of that kind. I think it ought to go to the House that the Senate think it unwise, unless it is in the case of appropriation bills, to suspend the sixteenth and seventeenth joint rules at the end of the session. I would much prefer my resolution remaining in substance as I introduced it.

Mr. EDMUNDS. I have modified my amendment so that instead of its saying "said joint rules" it reads "the former joint rules."

Mr. DAVIS, of West Virginia. Now let it be read as modified.

The VICE-PRESIDENT. It will be read as proposed to be amended.

The Secretary read as follows:

Resolved, That the Committee on Rules of the Senate be authorized to take into consideration the whole subject-matter of joint rules between the two Houses, also to take into consideration the expediency of excepting appropriation bills from the operation of the sixteenth and seventeenth of the former joint rules, and to confer with the Committee on Rules of the House of Representatives with a view to joint action thereon.

Resolved, That this resolution be communicated to the House of Representatives.

Mr. DAVIS, of West Virginia. As it stands in that way I have no objection.

Mr. EDMUNDS. Neither have I.

The VICE-PRESIDENT. Is there objection to the resolutions as just reported? The Chair hears none and they are agreed to. The morning hour has expired.

Mr. DAVIS, of West Virginia. I move that the resolutions, as amended and passed, be printed.

The motion was agreed to.

REFRIGERATING VESSEL FOR DISINFECTION.

The VICE-PRESIDENT. The Senate resumes the consideration of the unfinished business, being the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes. The pending question is on the amendment proposed by the Senator from Kansas, [Mr. PLUMB,] which will be reported.

The SECRETARY. The amendment is, in line 4, to strike out "with Mr. John Gamgee," and insert:

With a suitable responsible person or persons, upon plans to be submitted, with bids for the construction of the same.

Mr. HARRIS. I am instructed by the Select Committee on Epidemic Diseases to offer a substitute for the amendment proposed by the Senator from Kansas, and I desire to say before offering the amendment that at the time the committee had this bill under consideration the committee had no knowledge as to when the Board of Health would be nominated and confirmed or as to when it might be in session. Therefore it felt bound to take its action independent of that Board of Health. Hence the bill was reported as it now stands. I am informed this morning that the Board of Health is now in the city of Washington, and will be this evening, or certainly by to-morrow morning, in session. In view of that fact, the committee have instructed me to move to strike out in line 4, after the word "contract," all down to and including the words "United States," in line 6, and to insert in lieu of these words what I send to the Clerk's desk.

The VICE-PRESIDENT. The Senator from Tennessee, on behalf of the Committee on Epidemic Diseases, offers a substitute for the amendment proposed by the Senator from Kansas, which will be reported.

The SECRETARY. In line 4, after the word "contract," strike out the following words:

With Mr. John Gamgee for the construction of a steel refrigerating steam-vessel, to be used at the quarantine of such of the ports of the United States—

And in lieu thereof insert:

For the purchase or construction of such steam-vessel and refrigerating machine or machines, or to arrange with the Navy Department for the use of such vessel as may be recommended by the National Board of Health to disinfect vessels and cargoes from ports suspected of infection with yellow fever or other contagious disease, the construction of the same, if such construction shall be recommended by said Board of Health, to be under the inspection of an officer of the Bureau of Steam Engineering of the Navy, who may, at the request of the Secretary of the Treasury, be detailed by the Secretary of the Navy for that purpose.

The VICE-PRESIDENT. The Chair understands this to be an amendment to the bill as well as to the amendment of the Senator from Kansas.

Mr. HARRIS. The Clerk read the second amendment as well as the first. The first amendment I proposed was in lieu of the amendment of the Senator from Kansas.

The VICE-PRESIDENT. The question will be first on that, and it will be reported separately. In place of the amendment proposed by the Senator from Kansas, the Senator from Tennessee moves what will be read by the Secretary.

The SECRETARY. In line 4, strike out after the word "contract" the words:

With Mr. John Gamgee for the construction of a steel refrigerating steam-vessel, to be used at the quarantine of such of the ports of the United States.

And in lieu thereof, insert:

For the purchase or construction of such steam-vessel and refrigerating machine or machines, or to arrange with the Navy Department for the use of such vessel.

The VICE-PRESIDENT. The question is on this substitute for the amendment of the Senator from Kansas.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The VICE-PRESIDENT. The Senator from Tennessee proposes a further amendment to the bill.

The CHIEF CLERK. It is proposed, in line 10, to strike out "said vessel," and insert—

Of the same if such construction shall be recommended by said Board of Health.

The amendment was agreed to.

Mr. HARRIS. In line 14, I move to insert after the word "such," the words "purchase or."

The amendment was agreed to.

Mr. CONKLING. I ask that this bill be read as amended before we act upon it.

The VICE-PRESIDENT. The bill will be reported as amended.

The Chief Clerk read the bill, as amended, as follows:

That the Secretary of the Treasury be, and hereby is, authorized to contract for the purchase or construction of such steam-vessel and refrigerating machine, or machines, or to arrange with the Navy Department for the use of such vessel, as may be recommended by the National Board of Health, to disinfect vessels and cargoes from ports suspected of infection with yellow fever or other contagious disease; the construction of the same, if such construction shall be recommended by said Board of Health, to be under the inspection of an officer of the Bureau of Steam Engineering of the Navy, who may, at the request of the Secretary of the Treasury, be detailed by the Secretary of the Navy for that purpose; and for the purpose of such purchase or construction, the sum of $200,000, or so much thereof as may be necessary, to be immediately available, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. EATON. If I understand this—I have some doubt whether I do or not—this Board of Health is to determine in regard to the vessel and its construction. I am not ready to admit that the Board of Health is the proper board or that its members are the proper persons to determine with regard to the construction of a vessel. Last night I had a conversation with a man of very high acquirements in all these matters, and he says from his own knowledge—and I have no doubt he has full knowledge of the principles of Mr. Gamgee's system—he has not the slightest doubt that a ship of fifteen hundred or two thousand tons can be fitted at an expense of $5,000 to carry out the ideas of this gentleman and make the experiment either a success or a failure. If this be so, I do not see the necessity in the first place for giving the Board of Health the power to construct or recommend the purchase of a vessel. I have yet to learn that a very distinguished surgeon who may be attached to a board of health is at all the proper man to determine as to a proper vessel on which to place the machinery necessary to carry out this purpose. I do not like the bill in that respect. I have no doubt myself, from what I learned last night, that an expenditure of $50,000 is as well as $200,000 to carry out this experiment, for it is an experiment at the best.

I shall be willing to vote for a proper bill of this character when that bill can be brought before the Senate, but with this understanding, certainly so far as I am concerned, that this is exceptional legislation; for I am not in favor and would not vote for this bill at all if it was to be used hereafter as a precedent for enacting other and general legislation.

Mr. WITHERS. Mr. President, the construction of the vessel which is proposed is admitted to be an experiment, and whether the details of the construction of that vessel are such as to strike favorably a practical ship-builder is not to my mind a question for consideration by the Senate. It is rather to be regarded in the light of a chemical or philosophical instrument for the purpose of generating the agents which are relied upon to produce that degree of cold in infected vessels which it is believed will destroy the germs of contagion. That is all of it; it is nothing more and nothing less.

Now, my own conviction is that this gentleman, Mr. Gamgee, who has devoted more time and attention to the investigation and study of this question than any other man probably living, together with the National Board of Health, who have been selected from their peculiar fitness for the position as sanitarians—that the combined knowledge of these two parties is more to be relied upon as furnishing a means adequate to secure the result desired than the opinion of any other parties that can possibly be secured in this case.

The question for the Senate to consider, it appears to me, is whether sufficient reasons have been or may be adduced before this body to satisfy them that the chances for a successful experiment are sufficient to warrant the expenditure of the money asked. It is of course entirely unknown what the result will be further than this, that we have some ground for judging by the fact that it is admitted by all

scientists, by all who have investigated this matter of epidemic diseases, and especially in reference to yellow fever, that a degree of temperature below the freezing point is fatal to the germs which propagate that disease, whatever the nature of those germs may be, because it is well known everywhere that as soon as we have a freezing temperature in any locality where yellow fever prevails as an epidemic, it disappears instantaneously and is no longer propagated. Therefore it is fair, I think, to assume that this fact alone is sufficient to establish the theory upon which the construction of this vessel is asked, that if it is possible to secure by artificial means such a temperature as will destroy the germs of disease existing in an infected vessel, thereby we shall destroy all chance of contagion from that vessel. It seems to me that this fact is sufficient to justify a much larger expenditure even than that which is now asked, and therefore I cannot conceive what harm can result from an investigation which will prove so much, and which at the last cannot exceed in cost the sum of $200,000; and I would call the attention of my friend from Connecticut to the fact that if a less sum is found to be adequate to secure the purpose desired, that less sum will be expended. They are authorized to expend $200,000 or so much of it as may be necessary, and under the control of these experienced sanitarians, I am very willing and anxious to see the experiment made and the effect tested by actual results.

Mr. EATON. I listen to my friend from Virginia always with a great deal of pleasure; but it is my misfortune to disagree with him entirely in this particular in regard to these distinguished sanitarians. It is the duty of these sanitarians, these distinguished medical men about whom we speak, to determine what? To determine what is necessary in order to disinfect a vessel of fifteen hundred tons or two thousand tons. To determine what pipes may be used? No. To determine how much pressure will be necessary? No; for they cannot determine that. That is to be done by a practical machinist or a practical constructor. It is impossible that the Surgeon-General of the Navy can have any information which would enable him to construct a vessel properly. He could state what he wanted; he could state that which was necessary, that pipes should be carried into this or that part of the vessel; but it would require another class of talent, in my judgment, to determine the necessary pressure that should be brought to bear in order to carry this disinfecting agent all over the vessel; and therefore I object to the power which is given by this bill.

Mr. HARRIS. Will the Senator from Connecticut allow me to ask him a question?

Mr. EATON. Certainly.

Mr. HARRIS. Is not the National Board of Health the proper tribunal to determine what character of agent shall be used for this experiment for disinfecting vessels?

Mr. EATON. I should hope, in answer to my friend's inquiry, that they would so inform themselves, by means of Professor Gamgee or somebody else, that they would determine the matter.

Mr. HARRIS. But is not the Board of Health the proper tribunal to determine the character of the experiments they will make in this direction?

Mr. EATON. If my friend wishes an answer to that, so far as the amount of this disinfecting agent is necessary, very well. What does this Board of Health know with regard to the power necessary to send this disinfecting agent throughout a vessel? Nothing. That must come from somebody else. I understand that a steel vessel was first required. Why a steel vessel unless it must be a vessel of uncommon strength? There is no such thing on the water. There have been steel-clad vessels, but most of them were not seaworthy. Now, I submit that this Board of Health is not the board, they are not the men, to determine the necessity of the strength of the vessel.

Mr. WITHERS. I ask my friend if that is not provided for under the bill through the agency of the engineer officer under whose supervision it is to be built?

Mr. EATON. I did not so hear the bill read. I gave all the attention possible, but perhaps I am mistaken in regard to it.

Mr. WITHERS. The engineer officer attends to that.

Mr. EATON. He is required to have something to do, but he is not to supervise, as I understand.

Mr. HARRIS. The Senator from Connecticut is quite right. The Secretary of the Treasury is to contract for the purchase or the construction, or arrange with the Navy Department for the use, of such vessel as the National Board of Health shall recommend for the experiment. If it is to be constructed, that construction is to be under the inspection of an engineer of the Navy Department. That is the exact provision of the bill.

Mr. EATON. My friends from Tennessee and Virginia will both agree that a mere reading at the desk hardly gives one a thorough understanding of the details. In my judgment, in the first place, there is no necessity for this $200,000.

Mr. HARRIS. Will the Senator allow me to say to him in regard to that, it is to be presumed that the Board of Health and the Secretary of the Treasury will be guided by a proper sense of economy in whatever action they may take in reference to this and all other matters falling within their jurisdiction. Now, the sum of $200,000 is named as the maximum amount, but if the Board of Health shall recommend, and the Secretary of the Treasury shall arrange with the Navy Department for the use of a vessel that will answer the purpose, and $5,000 shall be sufficient to furnish the refrigerating machine and to place it in that vessel and to make the experiment, is it to be presumed that the $200,000 or any other amount beyond the sum absolutely necessary to make the experiment is to be expended? But we do not know what may be necessary. We may have to construct a vessel, and we may have to construct a steel vessel for the purpose of making this experiment, and in that event $200,000, in all human probability, will be necessary, and if it is, for one I desire that the $200,000 shall be allowed.

Mr. EATON. I desire that all shall be done here which is necessary, and nothing more. I have learned heretofore that if you say "not to exceed $200,000" the expenditure will be about $199,900. My friend from Tennessee will agree with me that we had better guard this thing here. This is the time to do it. I have no doubt, I have no sort of question, that the Navy Department can furnish the vessel, and that all the machinery necessary for this purpose can be put into that vessel for $20,000. I am so informed by men in whose judgment I have perfect reliance, and therefore I will not vote for this bill when it gives anybody the power to construct a steel vessel, which is entirely unnecessary, in my judgment. Therefore I will not vote for $200,000 and give power to anybody to construct a steel vessel. I think we had better guard this thing now rather than wait until after the money is taken; for mark you, give them the power to expend $200,000, and they will do it before they get through.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. EATON. I suggest to my friend, if he is going to give anybody the power to construct this vessel, whether it had not better be a naval constructor, rather than an engineer in the Navy?

Mr. HARRIS. I regret that I cannot adopt the suggestion of my friend from Connecticut. I should be glad to do so if I could, but I think we have placed the power exactly where it should be.

The VICE-PRESIDENT. The question is on the passage of the bill.

The bill was passed.

Mr. CONKLING. I hope the title will not stand as it is.

Mr. HARRIS. I was about to suggest an amendment to the title by inserting after the word "construction" the words "or purchase."

Mr. EDMUNDS. That does not cover the case of obtaining the use of a naval vessel.

Mr. HARRIS. Perhaps not. The words "and for other purposes" ought to be added.

The title was so amended as to read: "A bill to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes."

ORDER OF BUSINESS.

The VICE-PRESIDENT. The Secretary will report the next bill on the Calendar of general orders.

The SECRETARY. The bill (S. No. 227) to provide that the principal officers of each of the Executive Departments may occupy seats on the floor of the Senate and House of Representatives.

Mr. EDMUNDS. Has that bill been referred?

The VICE-PRESIDENT. It has not been. The Chair calls the attention of the Senator from Ohio [Mr. PENDLETON] to the bill.

Mr. PENDLETON. I ask that it further lie on the table.

The VICE-PRESIDENT. That course will be pursued.

BUSINESS OF THE SESSION.

Mr. EDMUNDS. The yellow-fever bill having been passed, I move that the Senate proceed to the consideration of the resolution I had the honor to offer on the first or second day of the session regarding the disposition of business.

Mr. HARRIS. I rise simply to ask the Senator from Vermont if it will meet his view as well to allow us to have a brief executive session? There are two members of the Board of Health whose nominations have not yet been acted on that I should like very much to have disposed of.

Mr. EDMUNDS. My honorable friend ought not to have said that, I suggest to him. The Senate will either agree to this resolution I have offered, or it will not. It is not a matter about which there need be any debate. It will not take five minutes to dispose of it in some way. I move to take it up.

The VICE-PRESIDENT. The resolution will be reported.

The Chief Clerk read the resolution, as follows:

Whereas the necessity for the present special session of Congress has been occasioned by the failure of the last Congress to make appropriations for the support of the Army and for the legislative, executive, and judicial expenses of the Government for the next fiscal year; and

Whereas the business and other public interests of the country will be best promoted by confining legislation at this session to making provision for the objects aforesaid, and by an early adjournment: Therefore,

Be it resolved, That all bills and joint resolutions, excepting those for the aforesaid purposes, shall be referred to appropriate committees and not reported until the next December session.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate proceed to the consideration of this resolution.

Mr. HARRIS. I move that the Senate now proceed to the consideration of executive business.

Mr. EDMUNDS. I hope the Senator from Tennessee will allow us to dispose of this resolution.

Mr. HARRIS. I shall be very ready to consider it after the executive session. I insist on my motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Tennessee.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and five minutes spent in executive session the doors were reopened, and (at two o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 1, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS, by unanimous consent, introduced a bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time.

Mr. ATKINS. I move that this bill be referred to the Committee of the Whole on the state of the Union and ordered to be printed.

Mr. CONGER. I reserve all points of order on the bill.

The motion of Mr. ATKINS was agreed to.

PRINTING STATUTES IN REFERENCE TO ELECTIONS, ETC.

Mr. ATKINS. I have prepared a resolution which I will ask to have read. The House can take such action on it as it chooses.

The Clerk read as follows:

Resolved, That the Clerk of the House cause to be printed for the use of the House, in document form, title 26 of the Revised Statutes, embracing the sections in reference to the elective franchise, and also chapter 7 of title 70, embracing the sections in reference to crimes against the elective franchise and the civil rights of citizens; and that the sections and parts of sections thereof which it is proposed to repeal by provisions in the pending Army, and legislative, executive, and judicial appropriation bills be printed in italics.

Mr. ATKINS. It is desirable to have these matters printed for convenient reference by members.

Mr. CONGER. Let the gentleman also include the two sections regarding the test oath of jurors which it is proposed to repeal.

Mr. ATKINS. I have no objection to that, and I modify the resolution accordingly.

Mr. GARFIELD. If the legislative appropriation bill contains any other legislative provisions not named in this resolution and of which we are not apprised, I hope the gentleman from Tennessee will include them in this order.

Mr. ATKINS. I should have no objection; but I think that with the addition suggested by the gentleman from Michigan [Mr. CONGER] the resolution now embraces everything of that kind.

Mr. FERNANDO WOOD. I suggest that if this printing is to be done it should be done forthwith, in order to be of any practicable service.

The SPEAKER. The probability is that this printing will be done by to-morrow morning. The Chair hears no objection to the introduction of the resolution. The question is on its adoption.

The resolution was adopted.

Mr. ATKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADMISSION TO THE FLOOR.

Mr. THOMAS. The Legislature of the State of Illinois having adjourned, the president of the senate and two distinguished members of the house—the chairmen of the committee on appropriations and the committee on the judiciary—are now in this city. I ask unanimous consent that they be admitted to the floor of the House during to-day.

Mr. MARTIN, of Delaware. I desire to make the same request on behalf of members of the General Assembly of the State of Delaware, who, I have just been informed, will visit the Capitol to-day.

The SPEAKER. If there be no objection, these requests will be granted.

There was no objection; and it was ordered accordingly.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BELFORD. Mr. Chairman, we have been informed, and the country has been informed, by the press and by the action of a democratic caucus that the provision now under consideration is one of a series of provisions which it is proposed to incorporate in our laws with a view to destroy the safeguards that hedge the exercise of the elective franchise. Having captured both Houses of Congress it is proposed to complete your conquest and to force Mr. Tilden into the White House in 1880 by tacking him on to an appropriation bill. To accomplish this object the Army, like the Indian, is to be placed on a reservation, and if any officer from the President down shall lead it forth on election day to quell violence, to suppress tumult and disorder, to protect the citizen in the exercise of his sacred right to participate in the administration of the Government by casting a ballot, you propose to send that officer to the penitentiary and burden him with an enormous fine. For years you have dominated one section by force; you now propose to conquer another by chicanery and fraud. Aggrieved at the result of the last presidential election, you propose to carry the next by any and all agencies. Having stricken down the unresisting negro in the South, you propose to cheat and rob the more courageous white man in the North. You have declared that you will vote no supplies until your grievances are redressed.

Is preserving peace at the polls a democratic grievance? Is security to the voter a wrong against the democratic party? Are riot and turbulence and bloodshed democratic allies in electoral contests? When Englishmen declared that Parliament would vote no supplies to the Crown until their grievances were heard and redressed they alluded to the claim of the sovereign to make laws, to levy and collect taxes, to quarter the soldiery on private citizens without the consent of Parliament; they alluded to the pretense of the King that the royal prerogative was something more sublime and holy than the fundamental laws of the realm. Does the Executive of this Republic claim that he can make laws, that he can levy and collect taxes, that he can quarter soldiers in the houses of our citizens, without the consent of Congress? There is nothing in common between the struggle waged by Englishmen in 1640 and in 1688 and the struggle of the democratic party to-day. One was a revolution in the interest of liberty and law; the other is a revolution in the interest of fraud and usurpation. What is the attitude you assume before the country? You solemnly declare that unless the amendment incorporated in this bill becomes a law you will disband the Army by withholding supplies; you will expose our western frontier to the invasion of the Mexican, and to the horrors and brutalities of Indian raids and Indian massacres.

Thus you will strip the President of all power to protect the rights of person and property when assailed by mobs and rioters too strong and too formidable to be dealt with by State authorities; and having divorced him from the Army by starving it into dissolution, you propose to follow up your work by another measure equally revolutionary and equally atrocious in intent and purpose. You propose to declare that unless the President will consent to a repeal of the election laws and to the striking down of all safeguards that protect the voter in the exercise of his elective rights, you will not vote him the salary which the Constitution prescribes he shall have.

You propose to declare to the Federal judges that their courts shall be closed unless the republicans will consent to free frauds at elections. You propose to declare to the pension officers that they shall not settle and adjust the claims of the soldier's widow and orphan unless we on this side of the House shall agree that Tilden shall be at liberty to aid another Tweed in 1880 in perpetrating a series of frauds similar to those practiced in 1868. You propose to declare to the miners and bullion producers of the West that unless the President and the republican party shall agree that repeaters and ballot-box stuffers shall be uninterrupted in plying their infamous arts the mints shall be stopped and coinage shall cease.

You propose to declare to the Land department of this Government that unless all the gateways that lead to the Presidency are not only thrown open, but removed and all restrictions taken away, so that you may have a free course to run in and be glorified, no more titles shall issue, no more conflicting claims shall be adjusted.

These are the resultants of your revolutionary purpose, and we are justified in ascribing them to you, because you are using appropriation bills as the agencies through which your purpose is to be realized. Gentlemen, this scheme will fail as it ought to fail. You cannot reduce the Administration into a surrender by starvation any more than you forced another one into a surrender by war. We stand with Douglas, the great leader of democracy, and declare that the course you are pursuing is revolutionary in its character; that to accomplish your ends you have to override all the rules, all the usages, all the safeguards which time and experience have thrown around your legislative proceedings, in order to insert this provision in this bill. We stand with James A. Bayard and declare that this is coercive legislation, and that it strikes at the fundamental basis on which deliberative assemblies in a free government must necessarily be conducted. We resist it because we believe it to be in the line of the prophecy made by Jefferson, that the danger to our institutions would be found not in the usurpations of the Executive, but in the tyranny of the legislative department of our Government.

Mr. Chairman, whatever disputes have taken place either in the field of political science or in that of practical statesmanship as to the proper limits of the functions and agency of governments, it is now agreed on all hands that the protection of the citizen against force and fraud is one of the necessary functions of all governments, and it is immaterial whether that force and fraud are practiced at the polls or elsewhere.

The sovereignty of this nation is lodged in the people, and that sovereignty can alone be exercised by the ballot. It is the authoritative expression of the will of the voter on all questions of public moment. By it the people decide what laws shall stand and what laws shall fall; what policy shall be inaugurated and maintained, and what policy abandoned; what candidate for popular favor shall wield power and what official shall retire. In short, it embraces within its influence all that is good and all that is bad in the enactment of laws and in their execution; all that is wise and all that is unwise in the policy that fashions the destiny of the nation. In all elections embracing a choice for a representative in Congress; in all elections embracing a choice for an elector in the electoral college, the citizens of every State are interested in the vote cast by the citizens of every other State, because the Representative enacts laws that operate on all the citizens of all the States, just as an elector votes for a President who executes laws that control the nation and govern the fortunes of every citizen within the limits of the Republic.

The law which it is sought to repeal has stood upon the statute-book for fourteen years. Under its provisions not a State has been shorn of any of its rights. Every district in this land has been represented on this floor, and every State has been represented in the other branch of the Legislature. During its existence eighteen confederate generals have marched up to the Capitol and taken their seats in the Senate, the most august legislative body in the world. During its existence the venerable gentleman from Georgia and the distinguished gentleman from Texas, and a host of others who but lately attempted the overthrow of the Constitution, have quietly engaged themselves in this House in enacting laws for the government of the entire country. During its existence the democratic party has acquired control of great States and a majority in both branches of Congress. It was brought into existence by the votes of Hendricks of Indiana, Powell of Kentucky, McDougall of California, Buckalew of Pennsylvania, Saulsbury of Delaware, PENDLETON of Ohio, WOOD of New York, and the distinguished Speaker of this House—and now we are threatened with revolution, with a stoppage of supplies, with a disbandment of the Army if we refuse to repeal it in an appropriation bill. Why not present this question as a distinct and independent measure? Why present it now accompanied with a threat of supplies withheld. You can carry it through both Houses as an independent proposition. You have a majority in both branches of Congress. No man can stay your will. We are powerless here to effectually resist you. No, gentlemen, you mean to coerce the President; you mean to threaten him with the destruction of the Army unless he does your bidding, unless he executes your will, unless he sanctions your revolutionary purposes. This is the sum and substance of it all, and there is no disguise that can cover it against the scrutinizing inquisition of the people.

It has been said, Mr. Chairman, that the Army is under the control of Congress. I concede it. So is every department of this Government so far as the same can be affected by appropriations to carry it on. But because it is under our control are we justified in saying that if the President shall use it to overcome lawlessness, to subdue disorder, to secure to the citizen the free exercise of his elective rights, we will disorganize and overthrow it by withholding supplies? Standing armies have been regarded as standing and continuing menaces to the liberty of the people; but, as Mr. Justice Story has remarked, it is equally true that the want of them may also prove dangerous to the State. The true course is to check the undue exercise of the power, not to withhold it. Your present policy contemplates the destruction of the Army unless this amendment constitutes part of the law. No man asks, no man desires that the Army be used to influence the will of the voter—it is only that it be used to protect him in the exercise and expression of that will. The difference between the use of the Army to direct the citizen how he shall vote and the use of it to protect him in the exercise of his voting privilege is as broad and as well defined as is the distinction between the use of the Army by the first Napoleon when a lieutenant to suppress the violence and tumult and anarchy of the *sans culottes* in Paris and its use by Napoleon the Third when President of the French Republic to make himself Emperor. One was legitimate, the other was revolutionary and despotic.

We affirm that a government that will not protect its citizen in casting his vote, and especially in a country operated by universal suffrage and dominated by majorities, is unworthy of the allegiance of honorable men. We affirm that it is the absolute duty of the nation to protect the citizen, by the use of the Army or otherwise, in all those rights which immediately concern the operations of the Government; and we affirm that the election of a Representative in Congress or the choice of an elector in the electoral college concerns the General Government, for by the election of the one the law-making power is executed, and by the choice of the other the executive office is filled and the laws made effective. It is no answer to say that the use of the Army may be abused; there is no power or agency operated or wielded by man that is not open to the same objection. "The only security," said a great statesman, "against political slavery is the check maintained over governors by the diffusion of intelligence, activity, and public spirit among the governed." To these agencies do we and must we trust all, either in the executive, legislative, or judicial departments of the Government. This House has the power to determine the election and qualification of its members—a power notoriously and shamelessly abused; a power wickedly prostituted to partisan ends, and yet it is a power indispensable to its rightful organization.

The very power of a court to decide carries with it the possibility of deciding wrongly. The Constitution makes the President the Commander-in-Chief of the Army and Navy. He may send our ships to China or anchor them in New York Harbor. He may send our Army to the Texas frontier or quarter it in this city; and in the exercise of his rightful power abuses may come, but the good of society, the stability of our institutions, the security of the citizen require that he shall have the power. From the beginning of the Government down until February 25, 1865, no legal restraint was imposed upon the President as to the places at which he should locate the Army; then for the first time it was declared to be unlawful for any military or naval officer of the United States or other person engaged in the civil, military, or naval service of the United States to order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State unless it shall be necessary to repel the armed enemies of the United States or to keep the peace at the polls.

We are now, sir, to take a new departure. We are now to declare that tumult and disorder, bloodshed and murder, shall run rampant at an election and the Government shall be an indifferent spectator. The will of the voter may be overborne; violence may tamper with his ballot and make it speak a lie; a political faction or a band of ruffians may assemble at the various voting places and declare that no Representative shall be chosen except of their political faith; armed men may assemble and prevent others from voting; the eyes of the helpless may turn to this Capitol and to yonder White House; the cries of the oppressed may ascend to God and thunder in the ears of man, and yet this great Government that put down a million of armed men in revolt cannot through its executive officer send a single soldier to their relief, unless that officer is willing to undergo incarceration in a penitentiary and pay an enormous fine. To this pitiful plight do you intend to bring us. In 1861 you told us that the Government had no power to preserve its own existence. In 1879 you tell us that the Government shall have no power to protect its citizens. A nation thus handicapped and fettered is unfit to be ranked among the family of nations.

But, Mr. Chairman, why force this measure on the country now? It was not an issue in the last campaign. No State convention, so far as I am informed, demanded of either party the repeal of the election laws. No State convention demanded that the General Government should refrain from protecting the citizen in the exercise of his elective franchise. The last contest was one embracing almost exclusively financial questions, of bank and anti-bank, of resumption and anti-resumption, and out of that contest you come with a bare majority in this House. In 1875 your majority here was overwhelming. In the Forty-fifth Congress you secured a working majority in this House, not so much through the votes of the people as through the convenient processes that characterized the action of the Committee of Elections. You turned out every republican whose seat was contested, as you no doubt will do during this Congress. Had the people been called upon during the last campaign to pass on the question of the repeal or non-repeal of the election laws, the seats you now hold would be filled by others who believe that honest elections are the only guarantee for the perpetuity of republican institutions.

For forty years, Mr. Chairman, the democratic party held power in this country by extraordinary means and extraordinary agencies. By controlling the ignorant and depraved in the great cities they controlled the great cities, and by controlling the great cities they controlled the great States, and through the great States they controlled the nation. The methods of the past are to be reinaugurated—the barriers against fraud and violence are to be swept away. The pivotal point of the next presidential election is the city of New York, and the struggle now is to acquire control of it so that through it you may control the great State of New York, and through that great State control the nation. The battle we are fighting to-day is but the preliminary struggle to the great Waterloo that is to come on next year.

Mr. Chairman, the fourteenth amendment to the Constitution provides that no person shall be a Senator or Representative, or elector of President or Vice-President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress or as an officer of the United States to support the Constitution of the United States shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may by a vote of two-thirds of each House remove such disability.

When this amendment was adopted it met the approval of the deliberate judgment of the best people of this country. Those who stood by and sustained the Government in its darkest hour sustained it. The conviction was deep-seated and widespread that the men who had saved the country should govern it. Years went by and the humanity of the North blunted the sharp edge of this provision. You told us that our flag should be your flag and we believed you. You told us that our Constitution should be your Constitution and we accepted your statement. Animated by a Christian spirit we relieved you of your disabilities and permitted you to come into this

House to make laws for this country. Since your advent you have made your demands one by one, and we have yielded until this which is left on the statute-book is almost the last vestige that remains and which grew out of the amendments to the Constitution which were designed to protect the rights of those who could not protect themselves. At the beginning of this administration you demanded that we should withdraw the Army from the South, and we acceded; you demanded that we should abandon Packard in Louisiana, and the President complied; you demanded that Chamberlain in South Carolina should be guillotined, and the President gave the order, "off with his head." From one step you have hastened to another, until you now declare that unless the President and the republican party surrender absolutely to your will, you will disband the Army of the Union. Gentlemen, we have reached a point beyond which we cannot go. I had hoped that the war with its bitterness was over; "that the melancholy memories of a troubled past" would be allowed to be forgotten. I believe, as surely as I believe in the existence of a God above us, that this nation cannot endure if the hostility between the sections is to be perpetuated. We must either be brothers or enemies; there is no middle ground for our occupation. God has blessed the South with innumerable advantages—a genial climate, a fertile soil, large and expansive rivers whose bosoms can embrace the commerce of a continent and whose waters can be harnessed and made to move innumerable spindles. Prosperity to-day sleeps benumbed in the frozen vault of fear; and the great and mighty North, with its generous and forgiving heart, stands at the door, as Jesus stood at the tomb of Lazarus, ready to resurrect and quicken it with the inspiration of a new life. Gentlemen, will you allow us to do it?

God himself cannot open the closed gateway of the past. What is done is forever and irrevocably done. The seals of eternity are upon it, but He can afford us a vision of the future. What that future shall be must depend upon your efforts and upon ours. We are ready to build up your waste places, to quicken your commerce, to multiply the avenues of your trade, to pour with unstinted hand into your empty treasure-boxes the rich ingots of the North, and all we ask in return is that you respect the laws of our common country, that you zealously guard the humblest citizen in the untrammeled exercise of his right to vote for the man of his choice. We ask you nothing that you cannot honorably accord us. If, on the other hand, you spurn our efforts and repel our aid your future will be troubled and perplexed. You will have wrenched the ivy from the stalwart oak that can give it sustenance and life; you will have broken the arms of the helpless while clasping the sturdy shoulders of the republican St. Christopher. Pause, gentlemen, and consider on which road the footsteps of wisdom are to be found.

Since the election, Mr. Chairman, we have been told by wild and impulsive men that the confederates have crossed the Potomac and seized the Capitol; that the time has almost come when the statues of Lincoln and Grant and Sherman are to be thrown from their pedestals, and those of Davis and Lee and Jackson are to take their places; that the time has almost come when the pictures of heroes who won distinction in the battles waged for the salvation of the Union and the Constitution are to be turned, like that of the unfortunate Doge of Venice, with their faces to the wall; when the constitutional amendments, the very granaries in which we have stored the muniments of title that avouch the freedom of the slave and the sanctity of the nation's credit, are to be wrenched from their places; when all the acquisitions of the war are to be surrendered and abandoned. It may be so. History keeps in her store-house strange surprises for all peoples and all nations. We see the conquered of yesterday the victors of to-day; we have seen the statue of Napoleon hurled from the column Vendome; we have read of the bones of Cromwell being uncoffined and gibbeted in the presence of a people; we have read of a Charles II and a Louis XVIII welcomed back to thrones which had been forfeited by the tyranny and oppression of their ancestors; but we have also read that the people ultimately recovered their senses. For months past we have witnessed the pendulum swinging toward the southern arc of the national circle; but we know that by and by it will swing back, and that when 1880 comes round and the millions in the North who took part in the great struggle marshal into line under the leadership of their great captain the republican party will resume its place as the dominating party of the nation.

I now yield what remains of my hour to the gentleman from Wisconsin, [Mr. HUMPHREY.]

Mr. HUMPHREY. Mr. Chairman, at the close of the last session we were told that free elections required the repeal of the law providing for the appointment of supervisors, and we are now told that the law of 1865, which is a negative affirmative, or rather a negative pregnant law, must be repealed, so that not even a civil officer can use any armed force to keep peace at the polls. Let us inquire, What is the true freedom of the citizen in this respect? Is it not that while every legal voter may exercise the right to vote without let or hinderance, every illegal voter shall be utterly restrained from such an invasion of the rights of the citizen? What danger so great to the life of the Republic as the process of repeaters at the polls, representing men who are dead, misrepresenting the living, using every conceivable means to defraud, so as to swell the vote?

The citizen who favors an honest election can well afford to uphold the most stringent laws that may prevent his power in the use of the ballot being overthrown by the illegal vote cast beside it. Every vote thus cast is a stab at free government. Every man who casts one is an open enemy to his country, and is willing to ride into power over its ruins. Every vote thus cast is a blow aimed at the foundation-stone of the Government, "the knocking off one corner of which may overturn the whole fabric." It will not do to remind us of the survival of States in the old world whose governments were the most corrupt recorded in history, for we cannot forget that under absolute monarchism, if the sway of the ruler be mild and gentle, however licentious and corrupt the ruler and the court may be, the freedom and happiness of the people may be nearly complete, and this though there may be no law save the will of the ruler.

Even under a limited monarchy the court may be corrupt to the last degree, yet the people not be seriously affected by it. The reason is obvious: the masses are entirely separated and never come in contact with the court or with the government. There is an almost inseparable barrier between them. Moreover, by the existence of the nobility, whose jealous care of their own interests serves the purpose of so far aiding the masses that, without the exercise even of the right of suffrage under a limited monarchy, the people in many states enjoy a large share of happiness, prosperity, and freedom. Not so in a republic. In it there must dwell much political virtue, and it must exist by infusion from the people upward and the government downward. It must permeate the masses; there must be a faithful and thorough execution of the laws. We, the people of these United States, enact these laws for our security. They are our mainstay and dependence, and they must be written in the hearts and manners of the people who, in such case, will guard with jealous care the least infraction; for while it is the theory of monarchism that all power flows from the sovereign, it is the theory of a republic that all power springs from the people. Under the guise of freedom of elections there is springing up a lawless license not in any degree akin to freedom, under the shadow of whose wing illegal voting threatens the destruction of free government.

Some point us to the Army and Navy as the constant menace, and at a proper time it would be well to show how unfounded is the charge, to show that the history of all standing armies under constitutional government is one of fidelity and loyalty under the most trying circumstances. Some point to the corruption of this or that administration, that can at best exist only four years if the people will otherwise.

Let not our eyes be thus blinded and our fears lulled into security by the "song of this siren," which in the same strain would compel us to yield the strongest bulwark left us to battle against our final destruction by the insidious foe of popular liberty. Let us not forget that our highest and loftiest aspirations, breathed forth in our declaration of rights, take their rise from that religious faith, Christianity, implanted in the hearts of those who left us the noble legacy.

These traditions cannot be eradicated while we remain free, and we cannot be made slaves while religious liberty survives. On the other hand, political freedom cannot survive religious liberty even for a day. Now, if, as we claim, we all belong to a race that cannot be made slaves so long as life dwells within us, let us cast aside everything that does not savor of good to our country and take a firm stand in favor of honest, loyal, legal suffrage as recognized by the Constitution and laws enacted to attain that result. This grand result I believe the republican party aspires to aid in achieving. Those who number its ranks will compare in honesty, intelligence, thrift, and labor for the right with any party which has ever existed. It has labored for the unification of the whole land, that it may ever be one and inseparable. It has favored every just measure looking to the prosperity of all sections. While it feels that in many parts of the South the suffrage of the colored race is a delusion and a humbug, measures of great importance to the South have had its co-operation, and it has denied nothing on any sectional ground and in no sectional spirit, and if no question of revenue had been involved, would gladly have removed the tax on tobacco, for ultimately the North being small producers and great consumers pay a considerable portion of the tax.

It has recently favored a measure of relief against contagious diseases until some were drawn from it by the amendments attached attempted by those who are willing the Stars and Stripes shall furnish the means but not consummate the end; that the General Government may furnish money for the States to disburse—in other words the doctrine of State rights must step in to prevent the General Government providing against the ravages of a plague the recurrence of which might sweep thousands from the face of the earth. Is it to be wondered at that patience is tried to the utmost if this Government cannot disburse its own money to prevent the recurrence of so direful a calamity for fear of interfering with the prerogative of the States; thus men, families, citizens of these United States must die martyrs to this idea. It reminds us of the man who refused to act as pall-bearer at a funeral, for the reason he had never been introduced to the deceased.

Did any objection appear last year when we the people of these United States were furnishing our money through the War Department in providing rations for our sick, starving, and dying fellow-citizens—the Government exerting itself up to the full line perhaps of its constitutional limits in saving thousands under the direst circumstances from premature graves—and this when an Army unprovided for the pay due it had been left to fight our battles upon the frontier; an Army every one of which was subjected to heavy discounts for the credit given them in supplying means for their families.

Not only did a republican Administration heed the appeals and prayers for supplies and relief in rations and medical aid, but as soon as the appeals of the stricken valley of the Mississippi were heard in the land the hearts of republicans as well as democrats went out after the sorrowing thousands and freely gave of their substance to relieve this sad condition.

With all this before us, the opposition press in many parts of the South treat us as their direct foes and speak in terms of obloquy of the party and its present administration, and we are informed in advance that the amendments to the Constitution are to be trampled under foot. Hear what one of the stalwarts says, in reply to an article in the National Republican:

Yes, thank God, we have captured the Capitol, and in 1880 our man will walk up the White House steps and take his seat in the presidential chair. Then will our glorious triumph be complete; then will we proceed to tear your amendments from the Constitution and trample them in the mire; then will we break the shackle you have forged for the free, sovereign, and independent Commonwealths of the Union; then will we recognize the right of secession, a right that is not dead, but sleeping; then will we decorate the Capitol with the pictures of Davis, and Lee, and Stuart, and all the glorious leaders of a cause that is not lost, but living still. Yes, thank God, we have captured the Capitol, and from that coigne of vantage we propose to rule the Republic in a way that will make your radical laws and your radical leaders forever odious in America.—*Okalona (Mississippi) Southern States.*

Mauritz Hartmann, the Austrian poet and journalist, says there are to be found in the houses of the Germans from the shores of the Baltic and the North Sea to the Alps more portraits and busts of Lincoln and Grant than all the German princes taken together. Yes, thank the Lord, if the portraits of Davis and Lee are to displace those of Lincoln and Grant the old spirit of the Teuton will rise up and by its infusion with the Anglo-American aid in defeating the monstrous attempt.

At this time and at the present conjuncture these sentiments are suggestive. The Government has resumed specie payment and putting forth every honest and legitimate effort in maintaining our credit and restoring that confidence necessary to a sure and safe return to prosperity, indications of which are appearing, for we are told by the manufacturers of iron that theirs is the last industry that feels the effects of better times; yet they are to-day at low prices finding a ready demand for their manufactures, the country looking for rest and quiet and asking Congress to give it, to restore freely its depressed energies, and in answer to its appeal what is the response?

It asks for bread and you give it a stone; it asks for a fish and you give it a serpent. Do you think under such circumstances the country will quietly lie still and long submit to a party lash being laid on its languishing industries? No; it will only submit until its voice can be heard. The North is massing and will soon present one solid phalanx, and just so sure as you persist in retaining your present attitude just so sure as the sun rises on this Republic on election day in 1880 will your power be overthrown.

And the sentiments expressed in the article referred to must be met in a temperate yet firm and unyielding spirit, while it recalls to mind the sentiment of the fire-worshipers:

Oh for a tongue to curse the slave,
Whose treason with its deadly blight
Comes o'er the councils of the brave
To blast their power in hour of might,

Rebellion! foul dishonoring word,
Whose wrongful blight so oft has stained
The holiest cause that tongue or sword
Of mortal ever lost or gained.

When the clangor of civil strife had ceased; when the brave general of the confederate forces, by the inevitable decree of war, had yielded to the no less noble and intrepid general of the Union arms, and the parole of honor had been given, fortified and sustained by the illustrious commander of the Army, the people everywhere were bowed in silence, while the spirit of forgiveness hovered over the ark of the Republic, whispering, "Peace, be still"—that spirit of which the dumb person wrote in reply when asked what was his idea of forgiveness: "It is the odor flowers yield when trampled upon."

We had hoped that the causes of former discord and strife were obliterated forever. If, however, we are doomed to disappointment we must remind our friends on the other side of this Chamber that as it has been in the past so will it be in the future; the rights of man, the spirit of progress, cannot be turned back on the dial of time.

But each returning cycle will indicate the grand march of American civilization to be onward and upward No power can impede it—it is "manifest destiny." God grant that its highway may not be, as we are told by an eminent writer, like that of Germany in her grand struggles, "McAdamized with human bones and wet with blood."

Parties are but the embodiment of ideas and principles—the moment they cease to be such that moment they are numbered with the past, and I am willing to leave the record of the republican party, its acts, and its results for the pen of the future historian.

But I will venture the prediction that it will be recorded that its existence formed a great epoch in the life of this nation, and that its achievements will be numbered among the grandest ever recorded. When the work of the commune had done, its march and tread hushed to silence in the streets of Paris, and the blood of its victims had hardly ceased to flow, the spirit of the republic arose upon the ruins of the late monarchy, pointing to America and her institutions as the true anchor to cast for the nation.

A few years since, as the republic of Spain was struggling for existence upon the ruins of an absolute and effete monarchy, her most eminent statesmen and orators with pride pointed to America and the spirit of its laws upon which the new republic must build its hopes for regeneration. And the shelves of our Bureau of Education show why Spain, after lingering upon the confines, fell back into a monarchical relapse, while France, with new strength and vigor, is preparing a solid foundation for her republic.

The unification of the German Empire, and consequent creation of its national parliament, led that great people to look to the legislative institutions of our Government, proud to borrow any regarded improvement.

Alas! it cannot be true that soon all may be changed and the prediction of the aristocracy of England be realized, that monarchy alone is the only stable structure to which poor human nature can cling. No matter how enlightened, no matter if we have the wisdom of the ages before us and the experience of the wisest and the best, to-day I fear we are a spectacle before the world of our obduracy, blindness, and stupidity; afraid of our birthright and freedom gained a century since by the valor of our arms; some of our great cities repeating the weaknesses, folly, and cowardice of the cities of the Old World, ready for commercial advantage and wealth to barter their freedom, to allow the political freedom of the citizen at the ballot-box to be invaded while fraud and violence elect men to office rather than stand for the right and refuse to yield to wrong for temporary gain and success.

The question is not what will redound to the glory of the republican or democratic party, but the question of the hour is what will redound to the glory of our country, its institutions. I care not how much strength any party may gain, or how lasting it may be, if but the result of that rule of action which is sustained by the combined wisdom of those whose genius delineates the future happiness of the land; if based upon the perfect equality of each citizen before the law, of whatever lineage or descent; the suppression of all illegal voting; in short, that shall labor for the establishment of that political virtue which alone becomes a republic as its truest safeguard and the brightest jewel in its coronet.

It seems to me no man who thinks well of his country and desires to bid it God-speed can object to the enactment of laws the most rigid and punitory to provide against illegal and fraudulent voting, for without it there is no purity of Government, no hope for a free people.

But aside from the repeal of these laws a great wrong will be done if such repeal is tacked on to an appropriation bill; the right of free discussion becomes involved; the opportunity to freely examine, discuss, and deliberate upon the measure is practically denied; the rights of the minority are shivered to atoms; the rightful prerogative of the executive department of the Government menaced by the attempted coercive power of the legislative department refusing the executive the rightful prerogative of passing upon the true and real merits of the measure, but by a process of intimidation and coercion compelling that department to not only examine the limit of its own rightful authority, but that of Congress also under the Constitution; and it is well to pause if you wish to take as precedents the democratic administrations of Andrew Jackson and James Buchanan.

Under the English constitution such an act by its Parliament would be deemed an attempt to drive the ministry from power; and I will venture the assertion that since the establishment of a standing Army and the provision for its supply at the close of the seventeenth century no such attempt has ever been carried into act by a British Parliament. Under our forms of government, as there is no such thing as the resignation of the ministry, therefore such an attempt, if persisted in, is revolution; for, practically speaking, in this country the party in power and its administration is by the people made the representative of the Federal head; its act and its policy, although held responsible therefor, is regarded as the act and policy of the Government, and such an attempt is therefore a blow aimed not so much at the administration as the Government itself, for it exists under the forms of law created and provided by the people.

Moreover, by such means, if successful, you concentrate in the hands of the Appropriations Committee the whole legislative power of the country. You make such committee an engine of power so destructive to free government that the power of a standing army is no more to be compared to it than the idle winds to a sweeping tornado, or, to be more pointed, the operations of a snail to a streak of lightning. Your committee not only controls your legislation, but you create a centralization of power the most absolute on earth, the most dangerous to our liberties, and the deadliest foe to our progress in governmental science.

The hope of the world rests upon the perpetuity of American institutions. All over the Old World American ideas "fall like rain upon plaster." Our civilization, in some respects peculiar to this Republic, is grand in that its foothold is that sacred muniment of rights, the Declaration; beautiful in that its philosophy breathes the glad tidings of peace and good-will to men; sublime in that it was born of storms and tempests, stood erect, and moved forward amid the thunderings of absolute power and the concentrated tyranny of the ages. Let us hope its grand march will continue until its gigantic strides shall encircle the continents, and the world be led to acknowledge that our—

Doctrines drop like the rain and distill like the dew.

It is to be hoped that the party now in control of Congress will take warning from the signs of the times and cut loose from the doctrines of the Virginia and Kentucky resolutions, for the time has passed when such doctrines can flourish—

In the land of the free
And the home of the brave.

Onward is the watchword, and under it the Federal Union must move forward to its rightful destiny.

And the party who hinders and hampers, who will not heed the finger upon the wall, will in its wild delirium leave unbarred the brazen two-leaved gates of its citadel, and before the brightness of the stars give place to the rising sun be hurled from power, its broken fragments crushed to atoms by the car of progress.

Mr. MULDROW. Mr. Chairman, the gentleman from Ohio [Mr. GARFIELD] calls attention to the fact that the crisis about to be brought upon the country is grave and serious. The question before the House I admit is one of serious import. There is none, indeed, which more directly and immediately concerns the liberties of the people. The right of the American citizen to cast his vote unawed, unintimidated, freely, according to his own will, without interference by the military department of the Government, is certainly a prerogative as serious to him as that question which was suggested by the gentleman from Ohio, and which he in his argument styled revolution. If by revolution he means a change of bad laws or odious measures to good and wholesome ones, then we should begin at once to enter upon this programme. The object of this side of the House is not revolution in the odious sense which he in his speech attempted to convey. It is not revolution intended to thwart the operations of good government for the benefit of the people. There has been and will be no effort on this side of the Chamber to destroy the life of the Government. There has not been and will not be any effort to prevent the operation of its machinery upon a plan which will be conducive to the interests, the happiness, and the liberties of the American people. According to the idea of the republican party, it seems that everything the democrats have attempted to do of late has been with the object and the intention of revolution.

I have seen a very proper though caustic criticism in one of the city papers during the past few days on that subject. It is from the Capital of Sunday last:

The democracy, arriving at a majority, elects its own officers, and the republicans call it revolution. The democracy, attaining power, proposes as its first act to abolish the *plebiscites* of empire and guarantee the free elections of a republic, and the radicals call it revolution. The democracy, sensible of its responsibility, matures its measures in caucus according to the immemorial custom of parties, and radicalism calls it revolution.

Very well. It is revolution. But it is the sort of revolution that frees peoples and enfranchises states. It is the sort of revolution that, since the dawn of civilization, has bowed the heads of despots and broken the chains of tyranny.

If that is what is meant here by revolution, the revolution which the democratic party proposes now to inaugurate to break the chain of tyranny for the people of this country, then I presume it is a revolution that they will not only sanction but applaud.

The distinguished gentleman from Ohio [Mr. GARFIELD] recognizes the importance of and makes no argument against the impolicy of the proposed legislation, but confines himself to holding up the specter of revolution. How it can be called revolution for the legislature of this country to insist upon the repeal of obnoxious laws before furnishing the means to execute them is past my comprehension. I do not see how it can be called revolution for the lower House of Congress and the Senate to pass a bill repealing certain objectionable features of certain laws now upon the statute-books. They have abundant precedents for doing it in the manner in which they now propose. They have the example of former Congresses, and especially former republican Congresses.

When we advert to the action of that party in the past, beginning in 1867, which is as far as I have traced it back, and perhaps it goes further if I had the time to make the investigation; but beginning there we find that upon an appropriation bill, the Army appropriation bill, passed March, 1867, they appended a provision which struck absolutely at the constitutional prerogative of the Chief Magistrate of the country. We find they there sought to take from the President that high prerogative which he has under the Constitution of being the Commander-in-Chief of the Army and Navy of the United States. We find that they did not stop there, but in that bill they deliberately attempted to overturn the Constitution of this country, and in defiance of that instrument to declare that so far as ten States of this Union are concerned, reaching from the Potomac to the Rio Grande, they should be deprived of the right to maintain a militia for their own defense no matter what the importance of it might be.

Sir, we find that in that Congress in the House of Representatives that bill was passed by an overwhelming republican majority, that every republican, so far as I know, in Congress then, and so far as the record shows, voted for these odious measures, and they were passed by a strictly republican vote on that appropriation bill.

And again, when that bill went to the Senate of the United States, under the leadership of the distinguished Senator who now sits there from Vermont, [Mr. EDMUNDS,] it was rushed through that body. Other republican Senators, among whose names are to be found Morton, Sumner, and others of national character, supported it with zeal, and it was passed by a partisan vote of the then dominant party in the Senate.

Sir, that bill was sent to the President of the United States in that shape, when he in his message declared that it must be signed by him under protest to prevent the failure of appropriations for the Government. I ask the Clerk to read his message as it is very brief.

The Clerk read as follows:

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. Those provisions are contained in the second section which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army, and in the sixth section which denies to ten States of this Union their constitutional right to protect themselves in any emergency by means of their own militia. Those provisions are out of place in an appropriation act. I am compelled to defeat these necessary appropriations if I withhold my signature to the act. Pressed by these considerations I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

ANDREW JOHNSON.

MARCH 2, 1867.

Mr. KEIFER. Will the gentleman allow me to ask him whether he indorsed that protest?

Mr. MULDROW. I indorse it so far as those measures are concerned because they were absolutely unconstitutional, and so far as any question which comes before this Congress which is unconstitutional I shall, so far as it lies in my power, attempt to prevent its passage.

Now, sir, the republicans of that day, the republicans of that time, could not have indorsed that as proper legislation, but it was inaugurated simply for partisan purposes.

There are other precedents. We come down to 1872. We find then upon the sundry civil appropriation bill of that year one of these very odious laws which we now hope to be able to repeal. It was incorporated into that bill and it passed a republican Senate and a republican House. The distinguished gentleman from Ohio [Mr. GARFIELD] himself was on the conference committee and brought back the report from that committee, including that affirmative legislation, and recommended its passage by the House. In the Senate they struggled all night long under the leadership of Senators CONKLING, EDMUNDS, Howe, and Morton; they struggled all night long to force that odious and objectionable feature in that bill upon the democrats of the Senate. Then I say so far as the republican party is concerned it is estopped from asserting that this is an improper method of legislation.

If it was not revolution to authorize the appointment of Federal overseers, spies, and informers upon the people at the ballot-box in 1872, how does it become revolution to put proper, legitimate, and constitutional legislation on an apppropriation bill in 1879?

And the last Army appropriation bill passed by the American Congress, consented to by both Houses, one democratic and the other republican, and approved by a republican President, the self-same man who is now expected by the other side to interpose the veto, contains important legislation, and declares that—

From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress.

Again, we have the example of the Forty-fourth Congress, which refused to grant supplies to the Army except coupled with the provision that that Army was not to be used in maintaining certain fraudulent State governments in the States of Louisiana and South Carolina. The democratic party went to the people upon both of these propositions, and they indorsed the action of Congress. The truth is that Congress has been more timid in reference to questions of legislation than the people. Congress has not shown the determination in righting the wrongs which have been inflicted upon this people since the close of the war by republican laws that has been expected of it. I believe the voters of the country expect this Congress to move prudently but constantly and firmly forward until the last vestige of these obnoxious laws have been stricken from the statute-books. The revolution they expect is one of converting tyranny into freedom, of having it understood that the military arm of the Government shall be held in subordination to that of the civil; that we shall return to that condition of things which recognizes the fact that all republican governments must rest upon the consent of the governed, and this is the revolution to which the democracy of this country is pledged, and this is the revolution that the people of this country will uphold.

The gentleman from Ohio himself voted against this bill when it originally passed, as he stated himself on the floor of the House on Saturday. I presume, then, that he has no objection *per se* to the repeal of the bill.

Mr. GARFIELD. If the gentleman will allow me, I will say that I will vote with pleasure for the repeal of the bill, and in doing so I will act consistently with my former course.

Mr. MULDROW. If the gentleman objects to the method only, he should not complain of that, for he sanctioned it himself in 1872. He says he proposes to meet us on the skirmish line. I have yet to learn that a good general in command of an army is apt to send his biggest gun to the skirmish line. My idea has been that the practice is to reserve the strongest forces for the final charge, and I was astonished, therefore, when the gentleman intimated that he only stood on the skirmish line.

Mr. HASKELL. If the gentleman from Mississippi will permit me, I will say we did send our best gun to the skirmish line, and I have known generals in action to do that when they were certain, as we are, of capturing the enemy at the first onset.

Mr. MULDROW. I am unable to appreciate the gentleman's observation, for the main army of the enemy is not found on the skirmish line.

Not only the gentleman from Ohio but the gentleman from Michigan [Mr. CONGER] and others now on the other side voted to put upon the sundry civil appropriation bill in 1872 that provision to place supervisors of the Federal Government at the elections, therefore they cannot refuse to give this amendment their support, for the reason that it is an obnoxious method of procuring legislation.

Mr. Chairman, the country is expecting relief in this matter.

Mr. CONGER. What part of the country expects it?

Mr. MULDROW. I say the whole country, North and South, expects it. The North is more affected to-day by the supervisors law than the South. The North is more outraged by the operations and practical usage made of the law authorizing supervisors and marshals. You have fifty-five cities where the law operates, while the South has but fourteen. I have no doubt that the law has been more abused in Philadelphia and New York than in any portion of the South. At the recent election in Philadelphia they appointed as marshals, every one of whom was a republican, without a single democrat among them, persons who were notoriously corrupt, who had been accused of and some of them sentenced for the gravest crimes.

Mr. CONGER. I would ask the gentleman if he may not have mistaken a member of the Ohio Legislature for a marshal in Philadelphia in his miscellaneous reading?

Mr. MULDROW. No, sir.

I was surprised to find that by the statement of the facts, or the statement of pretended facts by the gentleman from Ohio, he attempted to throw the shame and the responsibility of that legislation upon the democratic party. He was a party to that legislation. He was present when it was enacted. He knew the facts and the circumstances. He was apprised of the manner in which it was introduced. He knew its history from beginning to end; and I was astounded to find that a gentleman of his high character and standing should have left untold that very important fact in connection with it, that this objectionable feature of which we now complain, and which we seek now to repeal, was the work, not of the democratic, but the republican earty. So important a factor was the gentleman in the making of that legislation, that he could not have been ignorant of the fact that the democratic measure did not contemplate the use of troops at the polls in any event. Why was it that the unfair statement of the gentleman from Ohio was made upon this floor? And why was it that he attempted to induce the country to believe—for I judge from the temper of his speech that it was made more for the country than for members upon the floor—why was it that he attempted to induce the country to believe that this was democratic legislation, and that it was supported by democrats then in Congress? Was it for the purpose of making political capital? Was it for the like purpose of a party advantage when he talks about revolution, and holds up this specter to frighten members upon this side of the Chamber? And was it for a party advantage his effort to make the people of the country believe that those on this side of the House desire, to use his language, to seek to cause the Government to die, not by the bullet, but by starvation? Why did he not have the fairness and the justice to state all the facts in connection with that obnoxious law? And in this connection I would ask, is his object to so shape public opinion by inducing the country to believe that the democrats are now seeking to undo what they themselves did voluntarily with the view of upholding in the estimation of the people of the country the prophesied executive veto?

I imagine that when this act was passed, just after the cessation of actual war, just after the troops upon both sides had left the field, just after the sword had been sheathed, and the veterans of war upon both sides had been converted into citizens of peace; when it was supposed that the country was tired of the display of military power, and that each side, both North and South, were willing and anxious to pursue the paths of peace, that it was little expected that an act of this character would be so perverted by an unscrupulous administration as to become the means in his hands of overawing the people at the polls or deterring them from the exercise freely of the elective franchise. It was little supposed that it would be made the means and the instrument of crushing out the liberties of the people in any part of the country. But the public mind was then accustomed to the use of the Army. Under a different condition of things, under a condition of things when the people were schooled to thoughts of peace and not to those of war, I imagine no such legislation would have been contemplated, certainly no such would have been attempted, and if it had been there would have been universal indignation upon the part of the liberty-loving people from one end of the country to the other. I do not believe that any democrat who at that time participated in the making of that law, giving the power to use the Army to keep the peace at the polls, thought that that power would be resorted to, under that pretext, to destroy the freedom of the ballot-box, of overturning legitimate State governments, and holding in awe of its power all the civil tribunals in the land. They little supposed that those who would be charged with the execution of it would so torture it from its legitimate purpose and its true meaning as to make it the instrument of crushing the liberties of the people which had been vouchsafed to them by the spirit as well as the letter of the Constitution.

But, Mr. Chairman, we are threatened with the exercise of the veto power of the President. We are told that if we insist upon carrying out the democratic idea, that all this vicious legislation in regard to controlling elections in this country in the interest of a party is to be expunged, then the President will stop it by the intervention of his negative. The republican party do great injustice, if not to the man to the high office which he holds, when they threaten this side of the House in advance of the exercise of that prerogative. If their declarations are to be believed, that they know what his action will be, then it is discreditable to an officer of this Government occupying that high place to have foreshadowed even by declaration or intimation what his action will be in reference to bills to be passed by the American Congress.

I must believe, and I must be pardoned for saying, that it is impossible in the decent nature of things that he could have so far forgotten the dignity, the decorum, and the good manners of that high place to have at this early day indicated what his action would be in regard to these measures. No, sir; I cannot believe that the President will exercise the veto power in any such manner. I cannot believe that he will stop the wheels of this Government by the use of the veto power simply for the purpose of preventing legislation that looks to the security of the liberty of the people and their rights to freely and unawed cast their ballots for the officers of their choice. The history of the past shows us that the veto power has always been exercised with great caution. I have seen it stated, and nowhere denied, that from the earliest period of the history of this Government down to the present time the President has never interposed a veto simply for the purpose of preventing the repeal of a law. We have no right and no reason to believe that the President, that the man who now occupies that place, will act in a manner so variant and dissimilar from his predecessors. We have no right to presume that he will not recognize the precedents of the past. We have no right to suppose that he will not profit by the habit of governments less republican in form than ours.

Story, in his Commentaries on the Constitution, says:

> The British king, with all his sovereign attributes, has rarely interposed this high prerogative, and that more than a century has elapsed since its actual application. If, from the offensive nature of the power, a royal hereditary executive thus indulges serious scruples in its actual exercise, surely a republican President, chosen for four years, may be presumed to be still more unwilling to exert it.
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> He will do it only on extraordinary occasions, when a just regard for the public safety or public interests, or a constitutional obligation, or a necessity of maintaining the appropriate rights and prerogatives of his office compel him to the step; and then it will be a solemn appeal to the people themselves from their own representatives.

From English history we learn that this negative power of the king has not been exercised since 1692—

A fact—

Says Justice Story—

> which can only be accounted for upon one of two suppositions: either that the influence of the Crown has prevented the passage of objectionable measures, or that the exercise of the prerogative has become so odious that it has not been deemed safe to exercise it except upon the most pressing emergencies.

The same may be said with reference to the exercise of the same power in France. Everywhere and in every country it is a prerogative which has been given to the chief officer, whether he be King or President, to be exercised with the greatest circumspection and caution.

The gentleman from Ohio is mistaken when he says we seek to coerce the President by declaring that unless he approves the bills as passed by Congress we will destroy the Government. He challenges this side of the House to show where this consent of the President has been coerced as a condition-precedent to the passage of an appropriation bill for the support of the Government. If examples are to be the test, I would ask the gentleman from Ohio where is the precedent that the President has ever vetoed an appropriation bill on which the support of the Government depended? When he shows me the one I will show him the other.

I cannot believe, I repeat, that the President will take the position prophesied or assumed by his republican friends; but if he should, then the responsibility is upon him for attempting to coerce Congress into doing something which we believe the American people demand shall not be done.

Mr. Chairman, the right to maintain at all in time of peace a standing army in this country is one which the people have always looked upon with jealousy and suspicion, and the experience of the past fifteen years has tended to augment the distrust which they have for the exercise of this right. They have seen it invade the sovereign States of the Union; they have seen it arrest and drag from their homes the peaceful and orderly citizen without warrant, without trial, in times of profound peace, and without provocation; they have seen the citizen, by the use of the military force, incarcerated without the benefit of a trial by a jury of his peers, and it is no wonder that they are restive under the exercise of the right to keep a standing army in the country to be used at the ballot-box. It is no disposition to make war upon the Government, nor to render it less effectual and

powerful with reference to its foes either at home or abroad, but it is the fear that the people have that this power will be abused in the hands of ambitious and unscrupulous men and for partisan and unpatriotic purposes.

It is no new jealousy. As far back as 1800 Mr. Randolph, in speaking of this subject, said:

I suppose the establishment of a standing army in the country not only a useless, an enormous expense, but upon the ground of the Constitution, the spirit of that instrument and the genius of a free people are equally hostile to this dangerous institution which ought to be resorted to (if at all) only in extreme cases of difficulty and danger; yet let it be remembered that usage, that immemorial custom, is paramount in every written obligation; and let us beware of ingrafting this abuse upon the Constitution. A people who mean to continue free must be prepared to meet danger in person, not to rely upon the fallacious protection of mercenary armies.

Could he have foreseen the purposes for which the Army has been used in this country of late years his language would have been more emphatic, that the spirit and genius of a free people are equally hostile to this dangerous institution which ought to be resorted to only in extreme cases of difficulty and danger. This legislation is a badge of the autocratic and despotic power of that period in the history of the country just after the close of the war, and while at the time not intended, I presume, for the purposes for which it has since been used, yet the design of those who now seek to prevent its repeal is seen. Under it they may invade the rights of the States and forcibly, if necessary, carry elections in the interests of a political party. It is an immense stride in the direction of military despotism. Before the war no man in this country supposed it was possible that the Government would ever use its military arm for the purpose of carrying an election in the interest of any political party under the pretext of keeping peace at the polls. And the exercise of this unwarrantable power, unwarrantable according to the spirit of our Constitution, shows how important it is for the people to be ever watchful to preserve their liberties by the withholding of the power to use a standing army for such a purpose under the pretext of a preservation of the public peace.

This law has been used for the destruction of free and untrammeled *election* in certain parts of this country. The republican party hate to give it up, for through it and by it they may yet hope to dominate again in the Southern States of this Union, and by its instrumentality enable them to elect their President in 1880, and again usher in the days of autocracy and nepotism.

As a rule it is to be admitted that general legislation on appropriation bills should be avoided. But the precedents in this country as well as the old sanction and approve this mode of legislation when by it great good is to be accomplished in the interest of the people. The birth and growth of British liberty show that it is sometimes not only necessary but sanctioned by every consideration of patriotism for the preservation of constitutional liberty. The British Commons has constantly refused to grant supplies when such refusal has been necessary to prevent the use of the army for purposes of tyranny and oppression.

The supreme question with us is whether we shall now yield to the dictation of the republican party, and whether we will permit the liberties of our people to be trampled out of existence by interference with free elections, and whether we will allow these odious measures to remain upon the statute-book as a menace to the voter at the polls. By the showing made by the gentleman from Ohio the Army is now under the control of a partisan President, and we know that it is commanded by a partisan general. The history of the past few years has demonstrated that a President of that political party and the General now in command have not hesitated to use the military at the polls, not for the preservation of peace but to overawe the voter and conduct the election in the interest of their political party.

I have, under this provision of law now sought to be repealed, seen men arrested at the ballot-box without cause and without warrant. I have seen citizens, who performed all of the other duties of life with strict fidelity to duty, refuse to go to the polls to deposit their ballots because armed men had been stationed there, and who upon various pretexts would arrest voters without provocation and without cause. In my judgment, therefore, this Congress would be recreant to its duty if it failed to insist upon the repeal of this objectionable law.

The democratic party is pledged to uphold the rights of the people; it is pledged to maintain the civil liberty of the citizen, and it should take no step backward with reference to having free and fair elections. On the other hand the republican party is seeking power, military power—and it is believed by the people it is to be used against their liberties. But recently a republican Secretary of War, desiring to have no trammels upon the use of the Army, advocates and advises the repeal of the *posse comitatus* clause of the last Army bill, in order, I suppose, that it may be used to hunt down, arrest, and incarcerate the people of the country. I believe it to be the duty of Congress to regulate and control the Army, and it is the duty of the President to recognize the laws of Congress passed for its control. He is merely the organ to execute the will of the people as expressed by Congress. The Constitution contemplates that Congress shall have the right to check the undue exercise of power by the President. It gives to Congress the right to furnish supplies; and Justice Story in his commentaries upon the Constitution holds that the Army "may be disbanded at the pleasure of the Legislature; and it would be impossible for any President, against the will of the nation, to keep up a standing army, *terrorem populi*."

There is but one question which has excited more interest in the old country, from whom we derive our laws, than that of the maintenance and use of a standing army, and that the right of the trial by jury. For both of these great principles the people of the British kingdom have contended from the time when Magna Charta was extorted from King John by the barons with sword in hand, and when it was admitted that elections of Members of Parliament ought to be free; and this principle finally culminated in the passage of the statute of George II, which declares:

SEC. 2. *And be it enacted*, That on every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election; and that every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered.

SEC. 3. *And be it enacted*, That when and so often as any election of any member or members to serve in the Commons House of Parliament shall be appointed to be made, the clerk of the Crown in chancery or other officer making out any new writ for such elections shall, with all convenient speed, after making out the same writ, give notice thereof to the secretary at war, or, in case there shall be no secretary at war, to the person officiating in his stead, who shall, at some convenient time before the day appointed for such election, give notice thereof in writing to the general officer commanding in each district of Great Britain, who shall thereupon give the necessary orders for enforcing the execution of this act in all places under his command.

In this act of Parliament it is substantially declared that on the day for election of members of Parliament no soldier within two miles of any city, borough, town, or place of voting shall be allowed to go out of his barracks except to mount guard or to give his vote. The ballot-box is to be entirely exempt from the presence of soldiers except where they themselves desire to cast their ballots. One day is given up to the free exercise of the elective franchise, and no matter what occurs the soldier is not permitted to interfere with the conduction or the progress of that election. If that is the rule in the Kingdom of Great Britain, where kingly laws and kingly customs determine the rights of the people, how can it be expected that the exercise of the right to use an army at the polls can be tolerated in republican America?

The gentleman from Ohio anticipates that other action will be had by the democrats in this Congress. He claims that they will insist upon the repeal of other objectionable laws which are intended to infringe upon and interfere with the exercise of the rights of the voters of the country, and that they will insist that that which permits United States marshals to arrest citizens at the voting places without warrant and at their own discretion shall be expunged; that that which clothes supervisors with like authority shall be obliterated; and that there shall be a repeal of what is commonly known as the Federal jurors' test oath. I am not authorized to say to what extent the gentleman's supposition is true, but I do say that in my judgment, and speaking for myself only, every vestige of law which interferes with the free exercise of the right of the voter, which authorizes over his conduct Federal espionage, which creates overseers to watch him as they would a slave and to report upon him in order that he may be punished for some fancied violation of law, which requires of the citizen of one section of this country an oath which not one decent man in a hundred can take, and which authorizes upon suspicion the arrest of good citizens without warrant, and upon the will alone of partisan officials, should be wiped as with a sponge from the statute-books of this country.

I believe it to be the duty of the democratic party to stand as one man and insist that the liberty of the citizen shall be upheld, and that no more effectual means can be devised for the accomplishment of that end than the repeal of these objectionable laws. If the gentleman from Ohio is correct in his assumption that the President will veto these repeals, then, I repeat, let the responsibility be upon him and the republican party. If there is revolution in that, they are the revolutionists; they are the party and he is the officer whose veto will thwart the will of the people as expressed by their representatives in Congress, and he will for partisan purposes exercise a constitutional prerogative in the interest of tyranny and in violation of every principle of liberty and freedom.

In conclusion, permit me to say that I hope there will be no such issue made by the President with Congress as is prophesied by his party friends. Permit me to say that I hope that he will not attempt to coerce Congress into the action which his friends intimate. I hope he will not attempt to exercise the prerogative of the veto in a manner which in kingly countries has never been recognized and never been acted upon. I hope that in republican America the spectacle will not be presented of the highest officer in the land putting himself in that way between the operations of the Government and the interest of the people; that he will hesitate long before he will give his consent, before he will make up his mind to take any such responsibility.

I hope he will endeavor to come up to that standard of a President which is recognized by that great judge, who once sat in the judicial tribunals of this country, Judge Story, who says he ought not to be a narrow partisan, but that he should be "a man of elevated talents, of ripe virtue, of incorruptible integrity, and of tried patriotism—

one who shall remember that he represents not a party, but the whole Republic."

I now yield the remainder of my time to my colleague, [Mr. CHALMERS.]

Mr. CHALMERS. Mr. Chairman, the eloquent gentleman from Ohio [Mr. GARFIELD] commenced his grand campaign oration on last Saturday by giving us a repetition of his reference to the efforts of Bismarck, the high priest of centralism in Europe, to control the subject of religion. And he announced that in his opinion this Government could not control that subject. That was a gratifying announcement to us who believe that both civil and religious liberty were established by the American Revolution. We are thankful for small favors. When we recollect that Catholic and Episcopal ministers were dragged from their altars for refusing to pray for the President of the United States; when we recollect the order of the War Department of November 30, 1863, directing the commanding generals to seize and turn over to Bishop Ames every house of public worship belonging to the Methodist Church in the South unless it was occupied by a loyal minister appointed by a loyal bishop; and when we recollect, too, that at Portsmouth and in Norfolk, Virginia, churches were placed under the orders of provost-marshals, with power to remove ministers, to assess congregations, and with instructions to report to that eminently fit and pious individual, General B. F. Butler, of Massachusetts, our hearts are filled with gratitude that there was one effort of republican despotism which the gentleman from Ohio did not approve.

A good Methodist sister, discussing the rules of the discipline, once said that she did not see any very great harm in a breast-pin or in ear-rings, in jewelry, or in a few fine clothes; but that she thought a stand must be made somewhere; "and for my part, sister Jones, I stands on feathers." [Laughter.]

Now, in the rapid advance of the republican party toward despotism, in its efforts to swallow up everything from the ballot-box to the church, we are glad to see that the distinguished gentleman from Ohio stands on religion. He next entered into a philosophical and able argument (for every argument which that gentleman makes is able, is full of research and thought) upon the constitutional powers of this Government. He said that the foreigner might regard it as the weakest government in the world; but to us, who know it as it is, it is the mightiest government on earth. That Government is founded upon a written constitution adopted by giant intellects after tireless and exhaustive debate. An intelligent foreigner, if he can read that Constitution and study those debates, might come to the conclusion that the Government had been founded on the great fundamental idea of the Declaration of Independence, that all human governments derive their just powers from the consent of the governed. He might, therefore, conclude that a government thus framed might cease to exist when force and coercion were substituted for the free will of the people. He might believe that a government thus constituted would be free, pure, and just; but that it would not be what is technically called a strong government. I agree with the gentleman on that point.

But I agree with him still more fully upon the other, that to us who know it as it is, as it has been consolidated by republican usurpation, as it has been administered by republican despots, it is the strongest and the mightiest government on earth. A British ministry would have been driven from power, a British king might have been decapitated for far less usurpations than have been made by the republican party during the last eighteen years.

I am glad, therefore, that we have the time; I am glad that the momentous interests involved furnish the occasion to enter now fully into a discussion of the constitutional rights of this Government.

It is a fitting celebration of the return of the grand old democratic party into power. It is a fitting time to examine into the first principles laid down by the founders of this Government that we may return to the practice of our democratic ancestors.

This Government for the last eighteen years has been reeling like a drunken man. It has rocked like a ship at sea without chart, compass, or rudder. The unbridled will of a mere despotic majority has bid defiance to law and Constitution. Bribery and corruption have held high carnival in the Halls of Congress, and reckless and criminal extravagance have permeated every branch of the Government. It is time that the old ship was righted up; that the officers and crew, drunk with power, debauched by the continuance of licentious indulgences, should be driven out and replaced by purer and better men.

The gentleman from Ohio regaled us with two references to current history. In the first, his most remarkable omission of the most material fact in the case leaves him subject to the charge of either suppression or ignorance of the truth. I would not for one moment charge that honorable and distinguished gentleman with suppression of the truth. I know how difficult it is, I might say how impossible it is, for us to remember everything that we do or say upon this floor. The remarks made by gentlemen on this side, the remarks made by the distinguished gentleman himself, in the last Congress show that both he and they had forgotten the history of this law. In the last Congress he tacitly admitted that his own party had enacted these laws which we now seek to repeal. He said that it was done under far different circumstances than the present; that these laws had fulfilled their purposes; and he expressed a willingness to see them "mustered out of service as we mustered out the victorious armies when the war was done."

The gentleman never grants to the democracy any of the glory attached to the mustering in or the mustering out of the armies of the war. It is not therefore to be supposed that he intended when he made these remarks to include any other than his own party in the glory that might be attached to the mustering in of these laws to which he has given a place in history alongside of the victorious armies of the war. But when he thought he could make a sensational point by charging that the democratic party was threatening to destroy the Government if they could not repeal the very laws which they themselves had enacted, he paraded the fact before this House that on the final passage of this law every democrat in the House and in the Senate voted for it. I exposed this unfair and, I might almost say, fraudulent presentation of the case in a short speech I made last Saturday. I showed then that the democracy in 1864 was demanding a suppression of military depotism at the polls; that they asked for it in the very same language that we have now placed upon this appropriation bill; that a republican majority in the Senate, against the protest of Mr. Powell, the author of the bill, against the vote of every democratic Senator then upon the floor, forced by way of amendment these very words upon the bill which we now seek to strike out. But even as thus amended it was resisted. It was resisted from beginning to end by the radical republicans of the Senate. Mr. Howard, of Michigan, who led the opposition to the bill, who made the report against it as introduced by Mr. Powell, who made the most able speech against it, placed his opposition every time upon the ground that the presence of the military at elections was a war measure demanded for the time being in the border States, but at the same time he admitted that in times of peace it was utterly unjustifiable. When the proposition was made to reconsider the vote after it had been passed in the Senate that gentleman used this language:

> In a time of peace I agree, there being no necessity for the use of this tutelary authority which I have referred to, it would be incompetent for Congress to pass any laws relating to the qualifications of electors in a State, or in any way regulating their election. We all know that a state of war and a state of peace are two very different things.

The bill passed. It came to this House. The distinguished gentleman from Ohio [Mr. GARFIELD] placed himself in line alongside of Howard, CHANDLER, and that class of republican Senators who voted against the bill because, as they claimed, it interfered with the military right to regulate the elections in the States. Well, therefore, might the gentleman, in speaking of these laws, say that they should be "mustered out of service."

One word now to the gentleman from Pennsylvania, [Mr. WHITE.] He said on last Saturday that I had not given a full history of this law; that Reverdy Johnson, the great lawyer of Maryland, had indorsed it in the very words in which it now stands upon the statute-book, and that Mr. Johnson as Senator opposed the reconsideration when it was asked for in the Senate.

Mr. Chairman, I bow in humble reverence before the name and the memory of Reverdy Johnson. I can never do too much honor to the Spartan firmness, to the more than Roman dignity with which he and Powell and Saulsbury and the little band of democrats that stood around them then, battled for the Constitution, when an arrogant and intolerant majority banished men from the country for freedom of speech, when they were dragging members from the halls of Congress, and when they were converting a constitutional Union into a military despotism. The gentleman from Pennsylvania has made the charge. Let Reverdy Johnson answer for himself, and as his words come back to us from the silent echoes of the tomb, let his memory be forever vindicated. Speaking of these laws he said:

> The amendments made and which now form a part of this bill go further than I think we have a right to go, but in the name of freedom I implore the Senate not to go a step further. * * * Oh save us! save us in the name of freedom; save us in regard to the sacred memory of our ancestors; save us from the rule of military despotism.

Sir, I can now only add to that, may God in his mercy save us from any more political exigencies in which it may seem proper to gentlemen on this floor to misrepresent the dead and blacken the names of such men as Lazarus Powell and Reverdy Johnson by charging that they were ever the advocates of using the United States Army to keep the peace at the polls!

But the gentleman from Ohio [Mr. GARFIELD] indulged in another historical reference to which I propose briefly to reply. After telling us there were two methods of destroying this Government without firing a hostile gun—one by the refusal to elect Representatives and Senators, and the other by the refusal of those Representatives to pass appropriation bills when they were elected—he said that the first method had been honorably attempted by the southern democrats in 1861, and that the other was now being dishonorably attempted by the united democracy in 1879. He said that because the republican party saw fit to elect a President of its own choice the southern democrats threatened to shoot the Union to death. Sir, we made no such threats, and the gentleman is as far from the truth of history when he makes this statement as he was when he charged that the democracy in 1864 advocated the clause in the law which we now seek to repeal. We claimed the right of peaceable secession, and for causes deemed sufficient to us we attempted peaceably to secede. Every son of the South who held a position here or in the

Army or in the Navy gave it up. They turned over their commands to the United States Government. They settled their accounts to the uttermost farthing peaceably and honorably. We not only made no threats "to shoot the Union to death," but we said to you as the patriarch Abram said to Lot, let there be no strife between thee and me, you may go to the North and we will go to the South. But it was you who said to us you shall not go. You sent grand armies after us. You hemmed us in by land and by sea. You not only threatened to shoot but you shot us to death. With the battle-cry upon your lips of the Constitution as it is and the Union as it was, you rallied the whole North without regard to party in defense of the old flag, and when the battle was won——

Mr. PRICE. I wish to ask the gentleman a question.

Mr. CHALMERS. Yes, sir.

Mr. PRICE. The gentleman talks about firing and shooting, where was the first gun fired? [Applause in the galleries.]

Mr. CHALMERS. The first gun was fired near Harper's Ferry, when southern blood was shed on southern soil. [Great applause.]

The CHAIRMAN. If there shall be any further manifestations of approval or dissent in the galleries the Chair will be compelled to order them to be cleared.

Mr. PRICE. The gentleman knows very well that at Harper's Ferry John Brown had only sixteen men, who did not destroy the Union, but that the first gun was fired at Sumter.

Mr. CHALMERS. Mr. Chairman, my time is limited and I hope the gentleman will not interrupt me any further. When the battle was won you tore off the veil that covered your hideous deformity; you dissolved the Union that you had saved; you changed the Constitution of our fathers for which you had pretended to fight; you changed State sovereignties into military provinces; you converted the constitutional Union by usurpation into almost a military despotism presided over by a successful military chieftain; you organized returning boards that stole State governments and ended in stealing the Presidency itself. And when you had riveted the chains as you believed upon Southern States you forged chains for the States of the North. Without any request from Legislatures or governors you sent troops into New York, Philadelphia, and other cities under this newborn power to keep the peace at the polls. In the city of New York alone three thousand armed men, infantry and artillery, were assembled upon election day, equipped with one hundred and fifty rounds of ammunition to the man; but not satisfied with this, two vessels of war were anchored at the wharf with their guns trained upon the city. Governors and people, without regard to party, protested against this violent usurpation of power. The spirit of liberty and the inborn hatred of despotism which exists in every American freeman was aroused, and a tidal wave of popular indignation swept the majority of the republican party in disgrace from the Representatives Hall. The Forty-fourth Congress, fresh from the people, demanded that these military usurpations should cease. They demanded especially that the Army should no longer be used as a *posse comitatus* in civil affairs. A republican Senate, holding over in defiance of the people's will, refused to yield to this just demand for a redress of grievances. They declared they would rather see the Army starve than they should give up one jot or tittle of their ill-gotten power. That forced an extra session of the Forty-fifth Congress, and when the people's representatives met they made the same demand again, and again it was defeated by a republican Senate. Each time an appeal was taken to the people, whom the gentleman from Ohio has described most eloquently as the great sovereign of us all; and each time the democratic House was sustained by that sovereign.

Now the Forty-sixth Congress has met in extra session forced upon the country by the stubborn resistance of the republican Senate to the will of the people so often expressed; and the majority of this House has now presented the same demand for the withdrawal of the troops from the polls that was presented by the democracy in the Forty-fifth Congress. The gentleman from Ohio, and many others on his side of the House, in the last session, admitted that it was repugnant to the every idea of Anglo-Saxon liberty that troops should be used at the polls. He indicated then a willingness that these laws, as he expressed it, might be "mustered out of service." Now he has changed his front. His excuse for this change is twofold. First he says that the democracy of the Forty-fifth Congress showed no disposition to compromise. Upon this point he is flatly met by the gentleman from Tennessee, [Mr. ATKINS,] chairman of the House conference committee, who states that he was not only willing but offered to compromise, but that no compromise could be made unless he yielded everything which the republican Senate seriously contended for.

But the second and the great excuse of the gentleman was that the democratic party is inaugurating a revolutionary method of legislation by attempting to coerce a co-ordinate branch of the Government by placing legislation upon an appropriation bill, and this he denounces as revolutionary. If the mere fact that legislation is found upon an appropriation bill be revolutionary, then the history of republican legislation shows revolution after revolution that has been accomplished by the republicans during its period of power, and one of these bloodless revolutions has been accomplished by the gentleman from Ohio himself, who, when he was chairman of the Committee on Appropriations, tacked on an appropriation bill one of these objectionable election laws. If it be revolutionary to put upon an appropriation bill a measure which perchance the President may not approve, then the freedom of this House might as well be surrendered, we might as well permit the President to dictate to us what kind of legislation is pleasing to his most excellent highness.

If, again, it is revolution to put upon an appropriation bill a measure which we have reason to believe or know will not meet the approval of the President, then a republican Congress has set that example in its most offensive form. If it be coercion to do what we now propose, then a republican House in 1856 undertook to coerce both a democratic Senate and a democratic President; and in 1867 they absolutely did coerce Andrew Johnson into a surrender of a portion of his constitutional prerogatives. And all this was done upon an Army appropriation bill. Yet the gentleman from Ohio, in a style that the elder Booth might have envied, has attempted to startle the country with the declaration that the democratic party is entering upon a new and revolutionary method of legislation. The coercion of Andrew Johnson was one of the most iniquitous acts of usurpation ever perpetrated by the republican party in the long list of its violations of constitutional rights.

Mr. HAWLEY. I wish to ask the gentleman from Mississippi a single question.

Mr. CHALMERS. I have not much time.

Mr. HAWLEY. Is the gentleman not aware that the republicans had more than a two-third majority in that Congress; and if so, how was there any coercion?

Mr. CHALMERS. I am glad the gentleman has called my attention to that fact. There was a two-third majority, but there were in that Congress high-minded republican gentlemen who, upon a separate vote, voted against that clause which took from the President this constitutional power. And I will say here that while they subsequently voted for the bill on its final passage, I will not imitate the gentleman from Ohio by charging those men with sanctioning every clause of the law as it was enacted.

[Here the hammer fell.]

Mr. KENNA. I ask unanimous consent that the time of the gentleman be extended.

The CHAIRMAN. How much time does the gentleman desire?

Mr. CHALMERS. I only desire a few minutes.

There was no objection, and the time was extended.

Mr. CHALMERS. I thank my friend and the House for this courtesy. Andrew Johnson was a President elected by themselves, and yet, because he refused at their dictation to continue the violations of the Constitution which during a state of war were deemed necessary to save the Union, they pursued him with the remorseless fury of hyenas. In the act passed in March, 1867, they not only took from him his constitutional power to command the Army, but, as has been well said by my colleague from Mississippi, [Mr. MULDROW,] they at the same time undertook to deprive ten sovereign States of their constitutional power to protect themselves; they disbanded their militia and forbade its reorganization without the consent of Congress. Every man who voted for that iniquitous measure was a republican. But, as I have just said to gentlemen on the other side, there were some republicans so shocked at this outrageous violation of constitutional right that they refused to vote with the majority. Andrew Johnson on that trying occasion set an example to his republican friends which they would do well to remember now Rather than see the wheels of this Government stopped he signed that bill; but he signed it under protest, and thus made his appeal to the country.

If it is deemed necessary to make another appeal to the people on the question now at issue, the republican President can make his choice. He can either follow the example of Andrew Johnson, or he can, as the gentleman from Ohio said, destroy this Government without firing a single hostile gun. It is for him, not for us, to say which course he will choose.

Now, Mr. Chairman, legislation upon appropriation bills has been denounced by the democratic party in the past, and even now we admit that it should never be resorted to except in the most extreme cases like this where the will of the people has time after time been defeated by factious opposition, and where the resolutions of a republican caucus that no legislation except appropriation bills shall be acted on warn us that our act cannot be passed in any other mode.

Mr. HASKELL. May I ask the gentleman one question?

Mr. CHALMERS. Yes, sir.

Mr. HASKELL. Do you state it here as the attitude of the democratic party in this House that if these bills are vetoed you propose to stop the supplies of the Government?

Mr. CHALMERS. We have no right to speak upon that subject until we know the President has so far violated the rights of American liberty as to veto an appropriation bill. [Applause.] When that is done I will be ready to answer the gentleman's question.

Mr. PRICE. I would like to ask the gentleman a question.

Mr. HASKELL. May I ask the gentleman one question?

Mr. BELFORD. Will the gentleman yield to me?

The CHAIRMAN. Does the gentleman from Mississippi yield?

Mr. CHALMERS. Oh, yes; I will yield.

A VOICE. To whom do you yield?

Mr. CHALMERS. To the whole body of them.

The CHAIRMAN. To whom does the gentleman yield first?

Mr. CHALMERS. I will yield to the gentleman from Colorado.

Mr. BELFORD. I desire to ask the gentleman from Mississippi whether in the last campaign any State convention of any party in

this country denied that the President of the United States might use the Army to protect the citizens at the polls or ask that these election laws should be repealed?

Mr. CHALMERS. I cannot hear the gentleman distinctly, but I answer the gentleman that the Forty-fourth Congress went before the country upon its record, and the result was a verdict in favor of its democratic policy. It was democratic policy which changed Rule 120, by which legislation is kept off from appropriation bills unless it is germane, and unless it provides for a reduction of expenditures. Thus, sir, by a simple statement of fact we strike to the ground the bold declaration of the gentleman from Ohio, that the democratic party is inaugurating new, startling, and revolutionary methods of legislation.

Again, sir, that gentleman excused himself for his change of front upon the ground that we had something back or behind that he could not agree to, and therefore he determined to resist a thing which he himself admitted was harmless if it was not right in itself. Now, sir, he says we are endeavoring to coerce him, and that he like the valiant Falstaff would yield nothing upon compulsion.

And this reminds me that another republican leader, in the committee of conference on the subject, said that he would never consent to the withdrawal of the troops from the polls, however right he might think it was in itself, because the republican party never ate humble pie; and yet in the face of these declarations they undertake to say that it is the democratic party that is endeavoring now to destroy the Government. The gentleman from Ohio, in terse and strong language, such as he always uses, told us that the second chapter of democratic revolution was now being written, and that the democratic party, who a few years ago threatened to shoot the Union to death, were now trying to starve it out of existence. The gentleman is mistaken in both chapters of his history. It was you who threatened to shoot southern men to death when they dared to leave the floor of this House, and now when they have come back by your compulsion, because a majority of the people have discarded you for your reckless violations of the trust placed in your hands, you propose to destroy the Government unless you are permitted to strangle the freedom of elections by the use of troops at the polls. [Applause.]

Mr. BELFORD. Does the gentleman state that the country has repudiated the republican party?

Mr. CHALMERS. I do, sir; and I thank God that it is true. [Applause.]

Mr. BELFORD. I want to call the gentleman's attention to the fact that in the Forty-fourth Congress the democratic party had a majority of about 75 and they now have about 1. [Applause.]

Mr. CHALMERS. The gentleman is not asking a question, and I decline to yield for a speech.

Sir, it is said that the Army shall eat nothing because the republican party in its arrogance refuses to eat humble pie. You threaten to starve the Government to death because you have grown so great that you cannot even do what is right if it happens to be demanded by the majority of an opposite party.

Now, I do not believe that the Government is going to die; but if it should die from the issue now presented, upon whose shoulders will the responsibility rest? The republican party admit that they are standing upon a mere question of pride, a punctilious whim, a mere chip on the shoulder, as the gentleman from Ohio has said. The democratic party is standing upon one of the vital principles of English liberty, a principle older than the Constitution itself, a principle wrung by the English Commons from one of the English kings, a principle which has never been violated in American history except when, during the war, military necessity seemed to require it in the border States, and standing against a law never enacted in American legislation till it was deemed a military necessity in time of war. If a contest comes between the co-ordinate branches of the Government on this question, which principle should yield?

The gentleman said that before an act could become a law it must have the free consent of the House, the free consent of the Senate, and the free consent of the Executive; all these three factors are necessary to establish it. Now, if it be necessary in order to save this Government that somebody shall yield, shall the two branches of the legislative authority yield to the Executive? Shall two yield to one, or shall one yield to two? To ask these questions is to answer them before the American people. The distinguished gentleman from Ohio intimated that he wanted another appeal on this question to our great sovereign, the people. Three times already an appeal has been taken, and three times the verdict has come back in favor of the democratic party. On the first two appeals a democratic House of Representatives was returned, and in the last both a democratic House and a democratic Senate was elected. Nothing now stands in the way of the fulfillment of the popular will except a factious minority and a President who holds his seat not by the votes of the American people but by the action of returning boards and electoral commissioners who violated the will of the majority.

If free government must die, and die at the hands of such a President as this, then the democratic party can look in the face of the expiring goddess of liberty and say:

> Shake not thy gory locks at me,
> Thou canst not say I did it.

While the honorable gentleman was charging revolution upon the democratic party he gave utterance to a sentiment which showed that he and his party are determined to rule or ruin this country. Without attempting a discussion of the merits of the question, without taking back a single word that he or anybody else on his side had said about the rightfulness of this measure, he boldly and defiantly said, "You shall not compel us, you shall not coerce us, even to save this Government," and that sentiment was met with rounds of applause by gentlemen upon the other side.

To this complexion, then, has it come at last, that the majority dare not demand their rights, but we must go like humble suppliants, with hat in hand and upon bended knees, and pray the most worshipful highness of the minority to redress our grievances or this Government must die. What was meant by this threat coming from the gentleman who had just explained to us how easy it was for this Government to be destroyed without a single hostile shot being fired, and who threatened the majority upon this floor with the destruction of this Government unless the minority is permitted to control it?

Sir, that gentleman knows, as we know, that he is powerless in this House. He knows, and we know, that he and his party are powerless in the Senate. What, then, does this despotic threat mean? Before him sat the Secretary of State, and behind him sat the General of the Army, who listened, and doubtless with approbation, to this remarkable language. We know that the President and the Army furnish the only means by which the republican party can hope to carry out its threats. If, then, it was not a mere bravado, a mere galvanic shock of eloquence intended to stimulate the spinal column of the President, it was intended as a threat to this House and to the American people that if we dared to redress the most grievous wrongs by provisions placed upon appropriation bills, it would be denounced as revolutionary, and the President, with the Army and Navy at his back, would treat it as revolution. We heard but the other day the startling doctrine announced upon this floor, hitherto unheard of, that no act this Congress could pass could interfere with the constitutional power of the President to suppress insurrection. What all this means time alone can determine. Desperate men take desperate measures when despair seeks safety in crime, and the tiger when driven to its lair will not fight with more desperation than the republican party will fight to resist expulsion from power and the exposure of their official crimes.

I do not care to enter into the merits of this question any further. I simply say this: that it is absurd to contend that a refusal to permit the troops to be used at the polls to keep the peace can in any way interfere with the constitutional duty of this Government to suppress insurrection when called upon by a State.

These purposes are not only wholly different and distinct, but they cannot absolutely coexist. No election can be held in the midst of insurrection. Whenever domestic violence rises to that magnitude that the State authorities cannot suppress it, all hopes of an election are at an end. The power to suppress insurrection by United States troops when called on by the State authorities arises from and is predicated upon the fact that domestic violence has already arisen to a point where the State cannot suppress it. The power to keep the peace at the polls, on the other hand, implies that peace is existing there, and that possibly it may need to be kept.

A few words more and I have done. The gentleman from Ohio attempted to alarm the country by the despot's cry of "revolution!" Sir, the word revolution has no terrors for us. We learned to love it in our childhood days. It brings back to us that grand struggle for freedom when our revolutionary forefathers left their footprints stained with blood in the snows of Valley Forge so that we their children might take heart again whenever the hour of peril should come upon us. Military despotism now threatens us upon every side. Troops have been assembled at the polls to intimidate free people at elections. Troops have been assembled here in the Federal capital to intimidate the House of Representatives in counting the electoral vote; and the battle-cry of 1880 has already been sounded: "A government of law," not to be administered by the judiciary or by the civil power, but, as the gentleman from Ohio tells us, "a government of law, with an army strong enough to enforce it." Whenever that question arises, whenever it comes to be a question between freedom and despotism, the democratic party will be found standing where their ancestors stood in 1776.

Mr. CONGER. I desire to ask the gentleman if the second revolution of 1861 has any terrors for him? [Laughter.]

Mr. CHALMERS. The distinguished gentleman is extremely amusing. He reminds me——

Mr. CONGER. Will the gentleman answer the question?

Mr. CHALMERS. I will, in my own way, if you please. History tells us that English kings formerly were in the habit of keeping jesters, dressed in a fool's cap and merry bells, to amuse their court. It seems that the republican Congress have supplied themselves in the same manner. [Laughter.] But instead of the fool's cap and the merry bells, which perhaps might fit very well, they have dressed their jester in swallow-tails. [Great laughter on the democratic side.]

Mr. CONGER. Mr. Chairman, I asked the gentleman, the heroic gentleman, from Mississippi a plain, civil, simple question in response to a remark he had made. Instead of answering it, sir, the gentleman jumps upon his music-box and makes grimaces to the country and to the House. [Great laughter.]

Mr. CHALMERS. Mr. Chairman, the gentleman is mistaken in his

assertion. I should certainly not undertake to usurp his occupation. I should certainly not undertake to try a game at which any monkey could beat me. [Laughter.]

Mr. FRYE. Mr. Chairman, if the discussion of this question had been confined to the simple proposition as presented by the gentleman from Ohio [Mr. GARFIELD] and replied to by the other gentleman from Ohio [Mr. MCMAHON] I should have had nothing at all to say. I should have been entirely satisfied with the presentation of the case on our side. Nothing could have been added to it by me or anybody else, and nothing could have been taken from it by any gentleman on the other side. But, sir, the discussion has, just as I expected, wandered away from that point—away from the question of whether or not the democratic House is endeavoring to coerce the executive branch of the Government. Gentlemen on the other side dare not look that issue squarely in the face. They prefer to go back to the merits of the question whether or not soldiers should be allowed to keep the peace at the polls, supposing their proposition in that respect to be a very harmless one, admitted to be harmless by many leading republicans. I do not give my assent even to this.

Two gentlemen from Mississippi have taken the floor, and I am constrained to reply, especially to the one who has just taken his seat, [Mr. CHALMERS.] I do not know how long the republicans are compelled to keep still. I do not know how long the republicans are obliged to submit to such abuse. I do not know how long we are constrained to sit here and listen to the charge that for eighteen years we have made of this Republic "a drunken despotism, reeling and reeking through the land," as the gentleman from Mississippi [Mr. CHALMERS] says. I do not know how long we are to submit to the charge that the republican party has installed in this Government "a military despotism," and that the democratic party is now to restore the millennium of peace. I do not know how long we must submit to the charge that we have "debauched the Government of our country." I do not know how long we should sit quietly by and listen to the charge made by the gentleman from Mississippi that we have "converted a constitutional Union into a despotism." I do not know how long we are to remain silent while gentlemen like the gentleman from Mississippi say in effect, "You followed us and shot at us; you are the men to be forgiven—not we who fought for a constitutional Union."

I do not know whether we are compelled to listen quietly to such charges as these, and hold our voices for fear we may offend some gentleman on the other side, for fear perchance we may raise the ghost of the old "bloody shirt." Perhaps duty requires us to sit here quietly and submit to the charge of the gentleman that we have become "military despots" and "have trodden down the liberties of New York City" because we sent United States troops there to keep the peace. Perhaps we ought not to reply the fact that the gentleman's party in New York City murdered score upon score of black men before United States troops were sent there at all. I do not know but that charity, "which suffers long and is kind," requires us to acquiesce in the declaration that "to-day we are compelling an extra session of Congress." Perhaps we ought to submit in silence to being called "remorseless hyenas," and utter no word in reply. Surely, patience will some time cease to be a virtue.

Two gentlemen from Mississippi have spoken. I desire that the voice of a third gentleman from that State be heard. The language has been quoted in this House once before to-day; but I desire it to be heard by all the gentlemen on this floor.

The Clerk read as follows:

Yes, thank God, we have captured the Capitol, and in 1880 our man will walk up the White House steps and take his seat in the presidential chair. Then will our glorious triumph be complete; then will we proceed to tear your amendments from the Constitution and trample them in the mire; then will we break the shackles you have forged for the free, sovereign, and independent Commonwealths of the Union; then will we recognize the right of secession, a right that is not dead, but sleeping; then we will decorate the Capitol with the pictures of Davis and Lee and Stuart and all the glorious leaders of a cause that is not lost, but living still. Yes, thank God, we have captured the Capitol, and from that coigne of vantage we propose to rule the Republic in a way that will make your radical laws and your radical leaders forever odious in America.

Several MEMBERS. Where is that from?

Mr. FRYE. It is from a Mississippi newspaper.

Mr. SPARKS. Who is the author?

Mr. MULDROW. The gentleman from Maine [Mr. FRYE] will allow me to say that the two gentlemen who edit that paper do not represent in my judgment the sentiment of the democracy of Mississippi; and I would say, moreover, that one of them is a man who has "carpet-bagged" into Mississippi from Ohio within the last four years. [Laughter and applause.]

Mr. SPARKS. It is reported that he was a sutler in a Michigan regiment. [Laughter.]

Mr. FRYE. The extract just read is from the Southern States, a paper published at Okalona, Mississippi. Hon. J. R. Clymer, a leading democrat of the State of Ohio, as everybody will admit, says in a letter addressed to the editors of that paper:

I am greatly pleased with the States, in its peerless ability and conscientious devotion to principle. Brother Harper and you both wield trenchant and powerful blades. The cause of Jeffersonian democracy needs such men who have the brain to plan and the brawn to strike. Even a northern democrat approves the spirit of this southern paper, which marks out the democratic programme after 1880.

Mr. WARNER. Allow me to ask the gentleman who is the writer of the language just read?

Mr. FRYE. Mr. J. R. Clymer, of Ohio.

Mr. WARNER. He may be a distinguished gentleman; but I have never heard of him. [Laughter.]

Mr. FRYE. He is an older democrat than the gentleman is.

Mr. WARNER. That is possible; but that he is a better one I deny.

Mr. FRYE. Now, the gentleman from Mississippi simply takes up the refrain of the Okalona States, and in the spirit of his speech, and in his manner, declares to the country and to the House: We of the democratic party have "captured the Capitol;" we have "captured your Capitol!" Why, gentlemen, we have heard that cry again and again and again, when you have been nearer to it than to-day, and you have never put your hands upon the Capitol, and under God you never will. [Applause.]

In 1832 South Carolina thought she had "captured the Capitol." She issued her proclamation and enacted her laws and then went to raising her army. But General Jackson was occupying the capital of this country, and he stamped his iron heel on nullification and it disappeared. South Carolina's rebellion was over, and she did not "capture the Capitol."

Again, in 1854, I wish to call your attention to a very remarkable scene. It was in the streets of Boston. It was on Brattle street, named for a revolutionary patriot. It was in the sight of old Faneuil Hall. It was in sight of Brattle-street church, with its iron ball in its face in token of its revolutionary history and life. It was in that grand old Commonwealth, in the very bosom of it, which gave birth to liberty. A black man was lured out of a store by a lie and eight white men took him in the street in their arms and carried him to the jail.

Scene second——

Mr. TOWNSHEND, of Illinois. Was that the time that Attorney-General Devens was marshal of Boston and had charge of that prisoner? [Laughter and applause.]

Mr. FRYE. No, sir.

Second scene:

The court-house, an immense pile of stone, resembling, in its massive strength, a donjon keep of the Middle Ages, wore the air of a beleaguered fortress. At the windows in different stories of the building the mingled soldiery of Massachusetts and of the United States presented themselves, with fire-arms, as at the embrasures of a rampart. Below, a vast throng of citizens, which had been constantly increasing from early dawn, surged around the base of the building and through the spacious square in unappeasable excitement. All the outer entrances of the court-house had been securely closed, except one at which was stationed a strong force of police. Even here, none were allowed to enter but the functionaries, the reporters for the press, and a few citizens who, by special favor, had obtained permits from the marshal. Once within the walls, it was not certain that the adventurous citizen would be able to make his way to the tribunal. At the foot of the stairs leading to the court-room files of soldiers barred the passage with their muskets, and raised them only at the nod of a custom-house officer deputed for the service. On the first landing place were stationed more soldiers with fixed bayonets, and others still at the head of the stairs. So strictly was the guard maintained, that those who had passed the first sentries were, in some instances, arrested and detained upon the stairway by the last. And not until the last moment before the opening of the court were any except the officials allowed to pass. Never before, in the history of Massachusetts, had the avenues to a tribunal of justice been so obstructed by serried bayonets borne in the hands of an alien and mercenary soldiery.

Another scene:

Arrayed in this holiday garb, the colored man was conducted for the last time into the United States court-room. Since Wednesday night a double guard had been placed over him, and they now attended him to the dock. Increased precautionary measures besides had been provided by the marshal. Soldiers with fixed bayonets filled all the avenues, and bullies armed with bludgeons and pistols crowded the court-room. One at a time members of the bar, reporters for the press, friends of the prisoner, and favored citizens defiled beneath crossed bayonets and occupied their places.

One more scene:

The people had been swept out of the square and stood crowded together in Court street, presenting to the eye a solid rampart of living beings. At the eastern door of the court-house stood the cannon, loaded, and with its mouth pointed full upon the compact mass. By its side stood the officer commanding the detachment of the United States troops, gazing with steady composure in the same direction. It was the first time that the armed power of the United States had ever been arrayed against the people of Massachusetts. Men who witnessed the sight and reflected upon its cause were made painfully to recognize the fact, before unfelt, that they were the subjects of two governments.

Again:

First came a detachment of United States artillery, followed by a platoon of United States marines. After these followed the armed civil *posse* of the marshal, to which succeeded two platoons of marines. The cannon, guarded by another platoon of marines, brought up the rear. When this arrangement was completed the poor negro, accompanied by an officer on each side, with arms interlocked, was conducted from his prison through a passage lined with soldiers, and placed in the center of the armed *posse*.

One more scene:

Opposite the custom-house the column turned at a right angle into another street. This cross-movement suddenly checked the long line of spectators which had been pressing down State street parallel with the other body; but the rear portion, not understanding the nature of the obstruction, continued to press forward, and forced the front from the sidewalk into the middle of the street. To the chafed and watchful military this movement wore the aspect of an assault on the *cortege*. Instantly some lancers, stationed near, rode their horses furiously at the surging crowd and hacked with their sabers upon the defenseless heads within their reach. Immediately after a detachment of infantry charged upon the dense mass, at a run, with fixed bayonets. Some were pitched headlong down the cellarways, some were forced into the passages and up flights of stairs, and others were overthrown upon the pavement, bruised and wounded.

Final scene: A ship in the bay; United States soldiers and marines, the loaded cannon, the colored man, all on board; the white-winged sails are spread; and Anthony Burns is remanded into slavery!

Mr. HERBERT. Will the gentleman let me ask him a question?

Mr. FRYE. Not now.

Mr. HERBERT. I merely desire to ask the gentleman a question.

Mr. FRYE. Not now.

The CHAIRMAN. The gentleman from Maine declines to yield.

Mr. FRYE. And when this poor fellow, Burns, to take whom eleven hundred Massachusetts soldiers had been mustered into the United States service, to take whom company after company of United States troops and marines had been used, to take whom a cannon loaded to the muzzle had been pointed at the court-house and its approaches, to take whom lies even, added to all this, had been necessary; when, I say, this poor fellow was landed in Virginia, bonfires were kindled, huzzas filled the air all over the South, a glorious triumph had been achieved, the southern heart was full of glory and joy, because the Constitution of their country was supreme and the law of the land had been vindicated. Oh, magnificent sight! Oh, glorious spectacle in free America! Oh, humiliating spectacle! The whole South jubilant at such a triumph, at such supremacy of law, at such vindication of the Constitution, and yet it was accomplished only by the use of United States troops, under the command of United States officers.

Mr. CARLISLE. Will the gentleman from Maine allow me to ask him a question?

Mr. FRYE. Yes, sir.

Mr. CARLISLE. Does not the gentleman know that the troops were used on that occasion to assist the marshal in executing the process issued by a United States commissioner in pursuance of a United States law, and that they were not used for the purpose of enforcing the laws of the State or preserving the peace of the State? And I desire further, while I am on my feet, to ask the gentleman the additional question whether he is opposed to the use of the United States Army when it may become necessary to assist United States marshals in executing a process issued by the United States courts?

Mr. FRYE. I will reply to the questions of the gentleman before I am through and not at the moment he has asked me.

There never was a time perhaps when the South was nearer "capturing the Capitol" of our country than it was then; and hundreds and thousands in this free Republic came to believe that when the old Commonwealth of Massachusetts had been thus humiliated, had thus placed her face in the dust and clothed herself with sackcloth and ashes, thousands of men believed that the Capitol of our country had been captured. Gentlemen from the South believed it; and then they turned upon us and sent upon us demand after demand in quick and rapid succession, and we, in our humiliation, in as rapid a succession, yielded until they, in their pride of power, asked too much. And then the solid North said to them: "Not one single step further. When you demand this thing of us, is thy servant a dog that he shall do it?" "Thy servant" up to that time was thy servant no longer. And then war—four years of it—not brought on by poor old John Brown, at Harper's Ferry, who frightened the whole State of Virginia into hysterics with fifteen men and some old muskets—war, serious war, where hundreds of thousands of men were marshaled on either side; war in which you men of the South were again striving to "capture the Capitol."

And at one time you were right over here on these heights; our troops were coming toward the capital defeated, in disorder, in disarray, and your hands were right on the capital of your country. Why did you not take it? I tell you, my friends, there is a God rules over the affairs of nations as well as over the affairs of individual men. Four years of war, and then down under a little apple-tree at Appomattox General Grant, with a magnanimity such as this world never saw before in man, said to the conquered soldiers of the South, "Go home in peace, be good citizens, and I will take care of you." And you did not capture the capital of your country. [Applause.]

But this war had a logic attached to it, and by that logic Burns became a free man—ay, more, he became an American citizen; ay, more, he was clothed with all the rights that the men were clothed with who with a lying mouth lured him out from the store on Brattle street, where he was in safety; but then you determined he should not have the right to vote or he should not exercise it. You would not submit that the man whom six months before, if there had been no war, you could have compelled me to have hunted down like a dog—you would not submit that that poor hunted fellow should be permitted to stand beside the ballot-box with you and cast his ballot as a freeman and an American citizen. What then? There were ku klux, there were white leagues, there were white-liners, and you slaughtered in cold blood hundreds—ay, thousands, of these same poor black men—men whom, when you were in the war, when you were away from your plantations, you left your families with, and who never betrayed the trust; men who worked in the fields and raised supplies, while you men who could carry the musket and the sword and the bayonet were permitted to fight the battles, as you said, of your country.

I say that the history has been written. No man can contradict it. There is piled up in this Capitol by the ton evidence which is uncontradicted; and history has been written with a pen of iron; and if you men do not know it, your children when they read it will put their faces in their hands and their hands in the dust. You murdered these men by the thousand. What then? A few troops were sent into the South, not numbering over twelve hundred, south of Mason and Dixon's line; a score or so in a great country in a voting precinct, in charge of a lieutenant, not within two miles of a polling-place. I had occasion to investigate this with a great deal of care in Louisiana, and the investigation did not show one single instance where a soldier had been at a polling-place interfering with the voters; on the contrary, their orders were not to move from their quarters without orders from the officer in command, and then only to keep the peace.

They kept the peace; singularly enough a score of "blue coats" and blue pantaloons could take care of the ku klux, and white-leaguers and white-liners. They kept the peace, and colored men were permitted to vote, and the republican party carried State after State in the South. And then, sir, what followed? Those troops were withdrawn from the sacred soil of the South, except where the sacred soil demanded protection from the Mexican raiders. The troops were withdrawn, the South demanded it, and the result of the withdrawal was a "solid" South—a solid South once more. We see it here.

There were a half dozen dusky faces in this House in the last Congress. Where are the dusky faces now? You say that the places that knew them once shall know them no more forever. Why? Because you have "captured the Capitol," and you say that you will keep it. You say that no troops shall be used at the polls to keep the peace, and that the solid South will continue solid.

The gentleman from Mississippi says that he knows that this provision could not be passed unless it was put upon an appropriation bill. You have placed it there, and the Army bill cannot become a law without this being enacted too. What is your position? You say we are a solid South, and we will be a solid South. You cannot have the troops withdrawn and prevent them from keeping the peace at the polls, thus affording protection to the voters, unless you put this provision on an appropriation bill and then compel its enactment by starving the United States Army. There being no other way open to do it we will do it in this way, because the South must be solid. But, my friends, a solid South is not enough. It will not do. You have been solid before and did not capture the Capitol. [Applause.] A solid South will not do it.

What else? New York must come to her rescue. With a solid South and New York, then you will have "captured the Capitol." Now, you know perfectly well that for more than fifteen years before 1870 the State of New York was carried by fraud, by corruption, by ballot-stuffing, by repeating, by the importation of strangers in its chief city, New York. You know that such a thing as a pure election in that city was utterly unknown. You know that in 1868, when it was given out by Samuel J. Tilden, who is to be your next leader in the capture of the Capitol—you know that under his lead more than thirty thousand fraudulent votes were thrown in the city of New York. You know that there was repeating by the thousands and thousands, because one of your own leaders a few years since charged it home to Mr. Tilden, and spread the record of it before you. I refer to Mr. Greeley. Now, knowing all these things, knowing that you have heretofore carried the State by ten thousand majority with the aid of thirty thousand fraudulent votes in the city, knowing that Samuel J. Tilden is the man who managed the machinery of that election, you know that if you can repeal the election laws upon our statute-book and give Tilden free course you can carry the State of New York by ten, fifteen, or twenty thousand majority, and if you have carried New York, with the solid South and one or two other States perhaps, you have no doubt that you have "captured the Capitol" of your country once more. You have not got it yet.

The gentleman from Mississippi [Mr. CHALMERS] should not act so triumphant. You have this House, but you have it by a very small majority indeed. You must keep very well and have very few absentees to hold it. You must be very attentive to business to keep control.

You have the Senate, I am aware of that, but thank God you have not the Executive yet. [Applause.] My judgment is, gentlemen, when you think you will have him by threatening you are making a profound mistake. You may have begged, as the gentleman from Mississippi [Mr. MULDROW] said, on bended knee, of him the withdrawal of the troops from the South, but do not presume too much. Do not presume because you succeeded in that you can go to him, with a pistol in your hand, demanding what you wish, with hope of success. [Loud cries of "Oh!" "Oh!" and laughter on the democratic side of the House.] A beggar may succeed and a highwayman fail.

It is said, gentlemen, that those who win should laugh. Now, do not laugh till you have won. You have not won yet. You are still in a state of glorious uncertainty. You have not repealed the law affording protection to voters at the polls yet. You have not repealed the election laws yet, and you will not repeal them until you have removed the present Executive from his chair. [Applause.]

Gentlemen, you are standing close by the Capitol, I admit, but not so close as you stood over here in Virginia when your troops were following ours after Bull Run. The Captol is not in so much danger as it was then, but you are standing dangerously near, and that hand of yours is outstretched now, thank God, not a bloody one. It will never again be a bloody one. You have a better opinion of Northern men than you had twenty years ago, and you will seek no more blood, but your hand is stretched out now apparently ready to grasp the

crown. Gentlemen, the angel of God will touch that hand and it will wither. [Applause.]

Mr. HOUSE. I would like to ask the gentleman a question before he takes his seat.

Mr. FRYE. Certainly.

Mr. HOUSE. Do I understand the gentleman to be in favor of retaining on the statute-book the law which permits the Army to be used to keep the peace at the polls? Does he advocate that law? Is he in favor of it? Does he believe in its constitutionality?

Mr. FRYE. I have not a shadow of doubt about its constitutionality; and until I become satisfied that in the South negroes will not be murdered when they attempt to vote, I am in favor of keeping this law upon the statute-book and the troops near the polls. [Applause on the republican side.]

Mr. CONGER. Now ask another question. [Laughter.]

Mr. STEELE. Will the gentleman from Maine [Mr. FRYE] say what he means by "murders in the South?" Will he specify any particular section of country in which he alleges those things to have taken place?

Mr. FRYE. Why, does the gentleman desire me to write a book? It would take a book merely to inventory the murders in the South for political purposes.

Mr. STEELE. Tell me whether you charge these things to have taken place in the State of North Carolina? [Laughter.]

Mr. FRYE. Well, I am not so certain about North Carolina. [Renewed laughter.]

Mr. DAVIS, of North Carolina. There have been more murders in Philadelphia than there have occurred in elections in North Carolina since it has been a State.

Mr. FRYE. And the reason why I am not certain about North Carolina is that it is very nearly a republican State. It is dangerous to shoot men for voting where there is a good large party of white men on the other side.

Mr. STEELE. Then I understand you not to allege that these things have occurred in North Carolina, and the reason you give is that they are afraid to do it because there are white republicans there. Is that it?

A MEMBER. That is about it. [Laughter.]

Mr. FRYE. I should not wish to say that, because I do not know that there have ever been any murders for political purposes in North Carolina.

Mr. STEELE. Well, I am done now. [Laughter.]

Mr. HURD. Mr. Chairman——

The CHAIRMAN. The committee will come to order, so that the gentleman from Ohio [Mr. HURD] can be heard.

Mr. FRYE. Have I not some time left?

The CHAIRMAN. The gentleman has twenty minutes of his hour remaining; but as the gentleman did not appear to claim his time, another gentleman has been recognized by the Chair.

Mr. FRYE. I had agreed to yield to the gentleman from Kentucky [Mr. CARLISLE] for some questions.

Mr. HURD. I will not claim the floor now.

Mr. CARLISLE. The question I desired to propound to the gentleman from Maine [Mr. FRYE] was whether he did not know that the United States troops were used in the city of Boston in 1854 to assist the United States marshal in executing a process issued by a United States commissioner under authority of a United States statute?

Mr. FRYE. Yes, sir.

Mr. CARLISLE. And whether or not he is opposed to such use of troops when it becomes necessary?

Mr. FRYE. No, sir. Now your next question.

Mr. CARLISLE. That is all. In putting my question I stated that that was quite a different thing from the use of the United States Army to enforce the laws of a State or to preserve peace in a State.

Mr. FRYE. That is the very point. I do not claim for one moment that the United States should keep armies to enforce the laws of a State, but to enforce the laws of the United States and rights under the Constitution of the United States, which guarantees to citizens, at any rate when voting for United States officers, that they shall be permitted to cast their ballots freely and without coercion.

Mr. CARLISLE. Does the gentleman know of any law of the United States which prohibits or undertakes to punish assaults and batteries committed in a State, or even murders committed in a State?

Mr. FRYE. I know that the Constitution of the United States and the laws of the United States guarantee to every citizen the right to vote.

Mr. CARLISLE. I say that there is no provision of the Constitution of the United States which guarantees the right to vote to any citizen, and the gentleman cannot find it.

Mr. FRYE. And no law which guarantees the right to vote to American citizens for members of Congress?

Mr. CARLISLE. There is no law of the United States which guarantees to any citizen the right to vote.

Mr. FRYE. What of the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States?

Mr. CARLISLE. I will tell the gentleman if he will allow me. It is well settled, and gentlemen who assail the position must overthrow at least three solemn decisions of the Supreme Court of the United States, that the Constitution of the United States does not confer the right of suffrage upon a human being. The only effect of the fifteenth amendment of the Constitution is to protect a certain class of citizens of the United States against discrimination by a State in the right to vote, on account of their race, color, or previous condition of servitude.

Mr. FRYE. I so understand it.

Mr. CARLISLE. Therefore the Supreme Court expressly decides that that amendment does not confer the right of suffrage; but that the States still have the power to deprive the colored citizen of the right of suffrage for any other reason than his race, color, or previous condition of servitude; and in the State of Rhode Island to-day colored citizens are deprived of the right of suffrage if they do not possess a certain property qualification. And in the State of Massachusetts—I speak of these because they are New England States and republican States—many colored citizens are deprived of the right of suffrage because they cannot read the Constitution in the English language and cannot write their names, and because they have not paid all the taxes assessed against them within two years preceding the day of election. And so it may be in any State. Therefore the proposition is perfectly clear that the Constitution of the United States has not conferred the right of suffrage upon any human being or guaranteed that right to any human being, but has left the whole subject to be regulated by the several States, with the limitation, however, under the fifteenth amendment, that they shall not deny or abridge the right on account of race, color, or previous condition of servitude; and the Supreme Court of the United States has decided that the third and fourth sections of the act of May 31, 1870, which undertakes to protect the citizen in his right to vote without regard to the reasons upon which any person might attempt to prevent him from doing so were unconstitutional and void.

Mr. FRYE. I have never made any question about what the constitutional amendments mean and what the construction put upon them by the courts has been; but I presume the gentleman from Kentucky does not pretend that it is within the power of any State to discriminate against a colored man in reference to his right to vote because he is a colored man or because he has been a slave. Does not the gentleman admit that the Congress of the United States in legislating with reference to the election of Representatives to Congress can make laws affecting the manner and method of that election? If there is an attempt on the part of any one to prevent colored men from voting at such elections, cannot the United States constitutionally pass laws to prevent such interference, and cannot the United States provide that troops be used to enforce the laws, if necessary, and to keep the peace at the polls, just as it is provided here?

Mr. CARLISLE. The gentleman has asked me so many questions at once that I am not sure I can remember them all; but I will answer them as well as I can. I admit that under the provision of the Constitution which authorizes Congress to make or alter regulations respecting the time, place, and manner of holding elections for Senators and Representatives, except as to the places of choosing Senators, it is competent for Congress to regulate the manner of holding such elections. But that is a power of the most narrow and restricted character. It does not touch the substance of the election at all; it does not touch the elective franchise at all; it relates to the mere form, method, mode, or manner of conducting the election itself. If there were now upon the statute-book a law authorizing the use of United States soldiers when necessary in order to protect the colored citizen against discrimination by a State in reference to his right to vote, on account of his color or previous condition, the gentleman's question might be pertinent. But the existing law is as broad and comprehensive as the English language can make it. Under that statute the President of the United States or any subordinate military commander may send soldiers into a State to keep the peace at a mere municipal election, having no connection whatever with the selection of a member of Congress or even with the selection of any general State officer.

Mr. SINGLETON, of Mississippi. Will the gentleman from Maine allow me to read a clause of the Constitution?

Mr. FRYE. I call the attention of the gentleman from Kentucky to section 5522 of the Revised Statutes:

> Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, &c.

Now does the gentleman assert that under the Constitution we had not the right to enact that law?

Mr. CARLISLE. "Obstruct and hinder" whom? Read the rest of the section.

Mr. FRYE. Why obstruct or hinder any one in the exercise of the right to vote.

Mr. CARLISLE. I beg the gentleman's pardon. Let him read the section.

Mr. FRYE. The section continues—

> Who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them——

Mr. CARLISLE. Ah! that is it. [Laughter on the democratic side.]

Mr. FRYE. Hold on till I read further:

> Or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them.

It is too long for me to read the whole of it; but does not the gentleman know that there are other sections here for the enforcement

of the law by marshals, deputy marshals, and supervisors, all of which sections go to affect, not the right to vote, but the power of men to vote freely at the polls?

Mr. CARLISLE. Why, does not the gentleman know that when a deputy marshal is sent to the polls with the power to arrest a citizen instantly, with or without process, not because he has voted illegally, but because the marshal thinks he is about to vote illegally, this is practically conferring upon that officer the absolute power of udging finally and conclusively of the man's qualification as a voter, and that if a man is thus seized under that statute and carried away from the polling place and kept until the election is over, he is deprived of his right of suffrage?

Mr. FRYE. That is an entirely different question. That is not done. When men have been arrested at polling places, it has not been for the crime of voting against law, but for the crime of false registration. That was the case in every instance in New York City.

Mr. CARLISLE. Now my friend from Maine says these men have been arrested in the cases put by him, not for attempting to vote illegally, but for false registration, and in all the instances which I have now in my mind, and they are those disclosed by the investigation of the committee of which the gentleman was himself a member, the arrests were not made between the time of registration and the time of voting, but the warrants were issued on the night before the election, placed in the hands of the supervisors, and when the citizen came to the poll to vote the process was placed in the hands of the deputy marshals at the polls and the citizen was then arrested and carried off.

Mr. FRYE. If the gentleman will pardon me a moment, that was done, Mr. Chairman, in almost every instance I can remember, because the men could not be found. These men were "repeaters," and falsely registered their names. The only place they could be found was when they came to the polls to vote, and there the warrants were put by the marshals into the hands of one of the supervisors, and he was instructed to hold them in his hands until the man appeared and offered to vote, and then, when he did so, to give the warrant to the marshal, and the marshal was to arrest him.

Mr. CARLISLE. The gentleman does not mean to say these men were not arrested on account of what was alleged to be a defect in their naturalization papers?

Mr. FRYE. Under which they had no right to register.

Mr. CARLISLE. And every man who did register was required to give the street and number of his residence, and the United States marshal could find him before the day of election as well as on the day of election if he desired it.

Mr. FRYE. Does not the gentleman know that in that election in the city of New York in 1868 one hundred and forty-two men gave their residences and the numbers of their residences in one single block, and the officer going to the place found there was no block there? [Laughter.]

Mr. CARLISLE. I am not talking about the arrest of men for repeating; I am talking about the arrest of men on account of an alleged defect in their naturalization papers, men who, according to the decision of the State courts and according to the decision of the United States circuit court, were as fully qualified to vote as the gentleman from Maine or myself.

Mr. FRYE. Now, Mr. Chairman, I have been doing a wrong to another gentleman, to whom I promised to yield a portion of my time.

Mr. CARLISLE. I am much obliged to the gentleman for his courtesy.

Mr. FRYE. I hope the time which has been occupied by the gentleman from Kentucky will be allowed me to yield to another gentleman, to whom I promised to yield a portion of my time.

Mr. CARLISLE. I hope that will be done.

Mr. SPARKS. How much time has the gentleman left?

The CHAIRMAN. Ten minutes.

Mr. HOOKER. Will the gentleman allow me to make a single inquiry before he takes his seat?

Mr. FRYE. I am afraid it will get me into more difficulty.

Mr. HOOKER. No, it will not.

Mr. FRYE. Well, go on.

Mr. HOOKER. You have expressed your regret that the half dozen colored men who sat on that side of the House last year were not here now. Will you not admit the fact that in your own State of Maine and in the State of Massachusetts you have reared and educated some of the most intelligent colored men who ever lived in this country? Then how does it happen in all your history you never thought enough of them to send one of them here to represent you? [Laughter and applause.]

Mr. FRYE. The gentleman must ask the people that question. The people seemed to prefer to elect somebody else. [Laughter.] I yield now, Mr. Chairman, to the gentleman from Washington Territory the remaining portion of my time.

Mr. SPARKS. How much time has the gentleman left?

The CHAIRMAN. He has fifteen minutes to yield.

Mr. SAMFORD. I ask the gentleman from Maine to yield to me for one moment.

Mr. FRYE. I cannot.

Mr. SAMFORD. I only wish to say that what the gentleman from Maine has said in reference to murders in the South so far as the third district of Alabama is concerned is unfounded in fact. [Laughter and applause.] I trust the gentleman did not profess to speak from his personal knowledge or attempt to state that from his personal knowledge those things were done in that district.

Mr. FRYE. I am glad to learn, Mr. Chairman, there is one State and one district South where they did not murder colored men.

Mr. SAMFORD. If the gentleman withdraws his statement with reference to that State and that district it is all I want.

Mr. FRYE. I now yield the floor to the gentleman from Washington.

Mr. BRENTS. Mr. Chairman, I did not intend, at the outset, to participate in this debate. A new member of this House, and the humble representative of only a Territory, a mere beggar for congressional favors, it would be presumptuous and unbecoming in me to attempt by anything I might say to influence legislation unless it affects the material well-being of my locality or the general welfare of the entire nation. Moved by these considerations, and with no design in this, my maiden effort on this floor and in presence of "the assembled wisdom of the nation," to discuss at any considerable length the great and vital principles involved in the pending measure, I shall only attempt in a few brief and faulty sentences to present but imperfectly some considerations which I think should, and I sincerely hope will, control to some extent the action of this body in the premises.

Whatever may be the merits or demerits of the amendments to sections 2002 and 5528 of the Revised Statutes sought to be incorporated into this bill—whether they are wise, politic, just, and wholesome, or unwise, impolitic, unjust, and unwholesome—it is quite certain those provisions will produce a great, important, and vital change in the settled and established law of this country. The first of those sections, 2002, is proscriptive and restrictive of the pre-existing common right and power as well as duty of military, naval, and civil officers of the nation, to order, take, and have those under their control at all times where, in their opinion and judgment, the public service and weal might most require their presence. The other one, 5528, simply makes the first, 2002, operative by denouncing the penalty for its violation. By these two sections of the Revised Statutes this anterior right, power, and duty is abridged so that it can only be exercised at a place where a general or special election is being held, which, of course, is in every ward and neighborhood in the United States, and of frequent occurrence in only two cases, *videlicit:* first, when "it is necessary to repel the armed enemies of the United States;" and, secondly, when it is necessary "to keep the peace at the polls."

These, then, are the only emergencies, as the law now stands, that justify the presence of any troops, or even a body of armed civilians under a civil officer, for a lawful purpose, such as a marshal and his posse, at a national election. Gentlemen now propose, by the elimination and repeal of the latter of these two saving clauses to this abrogatory statute, to still further narrow, restrict, abridge, and repeal the pre-existing law and to further circumscribe its operation. By this they seek to not only excuse and exonerate every such officer from quelling a riot wherever and whenever it may occur in his jurisdiction, but also to visit him with condign punishment if he shall have any armed men at an election for the purpose of keeping peace at the polls, even though riot, tumult, intimidation, and murder may be rampant, and it be the only means of protecting citizens of the United States in the exercise of their constitutional right to vote their will. All effective protection by the nation to its citizens in the exercise of the elective franchise, the constitutional instrument of self-government, is in hot haste to be swept away, and red-handed bulldozers at each recurring election are to be "loosed for a season" to hold high carnival, with "none to molest or make them afraid." And this all in the interest of free and fair elections! All to prevent those military, naval, and civil officers from intimidating voters in violation of their official duty and oath and under stringent and heavy penalties, when no instance is cited of such an improbable occurrence!

Now, Mr. Chairman, whether this most radical and far-reaching change in the law of the land is desirable or not; whether it is conducive to fair, free, and pure elections and good government; whether it is protective of our republican institutions, or whether it will be promotive of the success and permanency of this political party or that, I need not now discuss. It should be sufficient for Representatives to know that men, statesmen, patriots, political parties, and even the different branches of the Government are, or possibly may be, divided in opinion as to the propriety of the measure. But for this diversity of opinion, and the tenacity with which it was held by members of the respective Houses of the last Congress, the people of this country would have been spared the expense and disquietude occasioned by this extra session. Shall we repeat the experiment, whose failure was the very cause of our now being convened, and keep the country in suspense, agitation, and turmoil? We are told, however, that since that unfortunate experiment was tried the political complexion of the other branch of Congress has changed, and that the sentiment of both Houses is in accord upon this question. Moreover, it is claimed by some gentlemen, I believe, that the President also sanctions the contemplated change; or, at least, it is insisted that no one has a right to presume that his views are adverse to those of the majority of both Houses of Congress. Some gentlemen even go further and contend that the majority of the two Houses of Con-

gress reflect the will of the people, and may pass such laws as they wish so long as they are not in and of themselves repugnant to constitutional inhibitions, regardless of the views entertained by the President.

Now, Mr. Chairman, if gentlemen are warranted in the assumption that this measure meets the approbation of a majority of both Houses of Congress and of the Executive, what excuse can be offered for tacking it to this appropriation bill? Why not pass it as an independent measure by the ordinary, legitimate, and constitutional methods of legislation? Then the people, if such legislation be really according to their will, would respond when the news reaches them, "Well done, good and faithful servants." If it be so worthy and meritorious a measure, if it has sufficient inherent strength to pass the legislative ordeal in the usual way, why adopt this unusual, indirect, and questionable course? By so doing these gentlemen unwittingly confess the insincerity of these pretensions. By so doing they assume that probably it would not receive the concurrent sanction of a majority of the Senate and the approval of the President. They certainly have no right to assume the contrary; the Constitution does not permit them to assume that, and to pursue a course that virtually gives them no opportunity to exercise a free and untrammeled dissent according to their conscientious convictions.

Neither have gentlemen a right, Mr. Chairman, either in the light of the Constitution or of our past political history and experience, to arrogate to the majority of Congress the concentrated embodiment of the popular will. The fathers, in their wisdom, to prevent the popular will from being thwarted and overridden by the impetuosity of a bare majority of Congress, inserted in the Constitution these wholesome provisions:

SECTION VII.

All bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

In the eye of the Constitution, therefore, that can only be received as the expression of the popular will in legislation which has the independent approval of a majority of each House and of the President, or of two-thirds of each House without the President's approval. No distinction is made by these provisions between constitutional and unconstitutional measures. The language is broad and comprehensive, and applies to all laws alike. Indeed, an unconstitutional law would be void without the President's veto, and his approval certainly could not validate it. But, again, the argument of these gentlemen proves too much in another direction. It proves, if sound, that every bill which is neither approved by the President nor passed by a two-third vote of both Houses is, therefore, unconstitutional. Besides, as a matter of fact, of experience, and of history, we cannot confidently affirm that the majority of the two Houses unerringly declare in their legislation the popular will. Many measures that have passed both Houses and have been defeated by the firm exercise of the veto power have received the stinging condemnation of the people. Notable among the numerous instances of this fact may be cited the bank and tariff bills, vetoed by President Jackson, and for which the people re-elected him.

Mr. Chairman, to my mind the attempt here being made to tack to an appropriation bill for the support of an important and essential branch of the public service, to be towed through the legislative channel, a measure so vital in its operation and about the policy of which public opinion is so much divided, if successful, must prove a precedent of most pernicious and troublesome tendency. No apology can be made for the inauguration of such practice in legislative action, except to those who hold the baneful doctrine of false ethics that "the end justifies the means;" who would therefore kill every person as soon as converted lest he backslide and fail of salvation. The ultimate object of those who resort to it must be apparent to every thinking mind. Evidently it must be to disarrange that constitutional distribution and adjustment of governmental powers planned so wisely and so well by the fathers; to break away from all the constitutional checks upon hasty, impulsive, and inconsiderate legislation; to wrest from the President his constitutional prerogative and to subjugate him in the performance of his constitutional functions to the imperious will of the majority of Congress; to destroy the constitutional balances and disturb the equilibrium of our legislative machinery, and eventually to concentrate within the popular branch of our National Legislature all the combined powers of government. It is the "rule-or-ruin" doctrine put into practice. The result of persistence in it is as certain as the laws of cause and effect; as sure as that nightfall treads on the heels of the setting sun. It is utterly subversive of the Constitution and revolutionary in the extreme, whether the President signs or refuses.

Already, Mr. Chairman, the Army has been reduced to twenty-five thousand men. This is a mere handful for the defense and protection of a nation of fifty millions of people, with a domain of nearly four million square miles in area. But even since this bill has been under consideration, an attempt has been made to further reduce it to only fifteen thousand. Gentlemen talk about the Army being too top-heavy. They are mistaken. It is too bottom-light. The rank and file should be increased to at least fifty thousand men, provided with all necessary supplies. The meager force we now have, even when fully equipped and provisioned, is sadly inadequate to protect our frontier settlers from Indian depredations and butcheries.

Mr. Chairman, I feel a deep interest in this matter, and the people whom I have the honor to represent feel a deep interest in it. For two successive years they have suffered most severely from the raids of hostile Indians. Less than two years ago we had the Nez Percé war, wherein Chief Joseph and his warriors defied the Army of the United States, composed of brave officers and well-disciplined men, aided by the noble and gallant volunteers of Idaho and Washington, until scores of good citizens had been murdered and scalped, hundreds of families frightened and driven from their homes to the denser settlements, and the country laid waste for hundreds of miles. Why was it so? Because the troops were too few in number, and were almost totally without supplies. The epidemic of retrenchment, economy, and reform had been raging here, griping and cramping members of this House worse than an attack of Asiatic cholera, from which they have not even convalesced, much less recovered, even yet. Last summer we had a repetition of these heart-sickening scenes, caused by the Bannock war, by Egan and Buffalo Horn and their warriors.

Why was it? Simply because Congress had failed to make suitable and necessary appropriations for the support and transportation of the Army, and because the field of operations was too extensive for the number of which it was composed.

Even while I speak, Mr. Chairman, the people of the eastern part of my Territory are daily and hourly expecting another Indian outbreak; and the Army, under this penny-wise-and-pound-foolish policy—on account of this economy which never buys the "ounce of prevention"—is now too weak and too poorly supplied to render adequate protection. And now, Mr. Chairman, with these facts before their eyes gentlemen on this floor propose to further destroy the effectiveness of the Army by making its pay and all its supplies dependent upon the passage through the Senate and the approval by the President of this measure for the amendment of the two sections of the Revised Statutes already mentioned.

Should the President honestly and conscientiously disapprove of the measure, then he must either violate his oath and duty under the Constitution or the Army must be denied supplies for the ensuing year. No other alternative; and either leads inevitably to the same result. Either must ultimately annihilate the Constitution and revolutionize the Government. Every one of us, at the beginning of this session, solemnly swore to "support the Constitution of the United States." Some of us further swore that we had "never borne arms against the United States." More than half of our friends across the aisle could not take that oath. Before that some of them had sworn to support it, and had afterward taken up arms and tried to destroy it. All of them, however, now claim to be devotedly attached to, and the especial champions of, that sacred instrument. I have often wondered why those gentlemen do not apply for a patent on it, securing them in the sole right to interpret and use it. Only a few days ago a distinguished Senator from Kentucky, and an acknowledged leader of the political party to which these gentlemen belong, declared on the floor of the Senate that the Constitution of the United States, and not King Caucus, is the sovereign of that great party.

As loyal subjects of that great sovereign, may we not hope that all the members of that party, casting off the shackles put upon them by King Caucus and joining those who seek to purge this bill of this unconstitutional and revolutionary feature, will show the sincerity of their professions of loyalty to the Government and Constitution of the United States? And may we not further hope that every member on this floor, of every party, and every citizen of this great nation, will vie with each other in patriotic emulation and loyal reverence of that instrument while life continues; and at last, as he leaves the shore of time, that he may wave back over the dark waters, in the sight of coming generations, a banner of light, bearing the golden inscription: The Constitution—*esto perpetua*.

Mr. HURD. Mr. Chairman, by the seventh section of the first article of the Constitution it is provided that—

All bills for raising revenue shall originate in the House of Representatives.

In the Forty-fifth Congress the House of Representatives, in the exercise of its unquestioned power, passed the Army bill and the legislative bill, appropriating nearly fifty millions of money for the uses of the Government. To those bills they added certain provisions germane to their subject-matter and in the interest of economy, which repealed provisions of the existing statutes, most of which had been incorporated into the law of the land by being in the first instance attached to appropriation bills. These bills, when sent to the Senate,

were amended, as that body had the undoubted power to do, by striking out the provisions to which I have referred. They went to committees of conference. Not having been a member of one of the committees of conference, nor familiar with the necessities of legislation at that time pending, I am unable to say what the propositions for settlement and adjustment of the differences between the two Houses were. I have heard it said upon the floor of this House that certain distinguished representatives of the republican party were willing to concede very much to the wishes of the House, only insisting that one of the provisions should be stricken out. These gentlemen had not power to speak for the body which differed with this House; and I do not know that any proposition was made by the Senate of the United States for a compromise. I do know that as a result of the disagreement of the committees of conference an extra session was called. I will not now discuss the question as to who is to be blamed for the extra session, excepting in the general discussion of the propositions that are involved in this debate. If the House were right in insisting upon these provisions, then the Senate was wrong in compelling an extra session. If the Senate were right in refusing to accept the propositions of the House, then the House was wrong; and I propose, in the few remarks that I shall submit to the consideration of this body to-day, to attempt to show that the House was right in every proposition which it insisted upon in the Forty-fifth Congress and which it is now insisted shall be adopted in the legislation of the Forty-sixth.

Nor shall I discuss the method by which these amendments or provisions have been attempted to be made parts of the appropriation bills. If anything has been settled by the legislation of the last quarter of a century it is that even general legislation may be tacked to appropriation bills; and certainly no man at any time in the history of this Government has disputed the proposition that measures in the interest of economy, propositions relating to the revenue, such as these are, might be incorporated into bills when they were originated by the House under the authority of the section to which I have referred.

Who was right? Who is right now? I say, Mr. Chairman, that the House of Representatives was right in insisting that these bills should be repealed. I shall not speak to-day of the test-oath bill. I shall speak only of the two others which relate to elections, because they both are governed by the same principles and both must be settled by the same constitutional doctrine.

The House of Representatives insisted that the law should be amended so as to strike out that part which authorized the use of troops at the polls; that the law should be amended so that supervisors of elections appointed by Federal authority should no longer possess the power they now have; and that there should be a repeal of all the statutes which conferred upon officers of the United States the power to interfere with or regulate State elections. The House was right and it is right in the demand it makes now, because, first, these provisions are unconstitutional. They interfere with the right of suffrage; they attempt the control of voting in a State in the Union where by the laws of the State the voting power alone is conferred. Have gentlemen who have considered this question read recently section 2, article 1, of the Constitution of the United States, which declares that—

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

It is the constitution of the State that determines the qualifications of electors and not the Constitution of the United States. There is no such thing as the right of suffrage for a citizen of the United States as such. The right of suffrage is possessed and enjoyed by a citizen of a State under the laws created by the State expressly recognized by the fundamental law of the land.

And if any doubt upon this subject had ever been entertained, I ask you to refer to the decision of the Supreme Court of the United States recently made, in which every doubt is taken away:

The power of Congress—

I read from 2 Otto, page 215, the syllabus of the case—

> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

The highest judicial tribunal of the United States has determined that there is no power in the Congress of the United States to interfere with voting at the State elections excepting in the single instance where the power was conferred upon the General Government by the fifteenth amendment to the Constitution.

Now, on what theory, I ask you, does this legislation of which I speak rest? On what theory does the United States Government send troops to the polls at a State election? On what theory do supervisors of elections stand at the polls to supervise and interfere with State elections? Only upon this: that the right of suffrage is a right guaranteed by the Constitution of the United States, in the exercise of which it is the business of Congress to protect the citizen. But, as I have shown you by the express phraseology of the Constitution and by the decision of the Supreme Court of the United States, no such right does exist to be protected by the Constitution of the United States and by the legislation of Congress. And therefore is not the conclusion inevitable and irresistible that any legislation upon the subject is unconstitutional?

I know that gentlemen undertake to sustain the constitutionality of this legislation by referring to a provision of the Constitution, article 1, section 4:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The manifest and true construction of this provision is that in the event of the people of a State failing to make provision on these subjects Congress in the exercise of its discretion may make regulations on the subject, and that when States make regulations Congress may alter them as to "the time, places, and manner of holding elections."

The voters are fixed by section 2, which I have already read. They are the persons who can vote under the law of a State and possess the qualifications requisite as voters of the most numerous branch of the State Legislature. The time of holding the election, the place of holding the election, the manner of holding the election may be provided by Congress in the cases which I have suggested, but when the time and places of holding the elections are fixed, what power remains?

Manifestly only the power of regulating the manner of holding elections is left, which involves merely the manner of voting, whether *viva voce* or by ballot, and in no way authorizes interference with the methods of the assertion, or the protection by the voters, of their rights. This view is abundantly shown by the debates in the constitutional convention and in the various conventions of the States which ratified the Constitution originally. The speech of Mr. Iredell upon this subject, of the State of North Carolina, is unanswerable, who said that it never was intended or designed by this provision to give the power over the elections in the States to Congress, only the regulation of the time, places, and methods of voting. It has been contended in the progress of this argument that the power over this subject may be derived from that provision of the Constitution which authorizes Congress to guarantee to every State a republican form of government and to send troops to suppress domestic violence on the call of the executive in the absence of the Legislature, or of the Legislature of a State.

There may be such domestic violence at the polls that the governor of the State, if the Legislature be not in session, would be bound to call upon the President of the United States for assistance, and in such cases as that the power of the Government can be properly exercised; but the ground on which the power is exercised is, that it is at the request of the authorities of the State. The troops of the United States have no business at the polls except for the suppression of violence or for repelling invasion at the request of the State authorities, the State authorities having first indicated to the General Government the desire of assistance. Is not this very clause to which I have referred an additional argument in favor of the position that this law is unconstitutional? The troops of the United States can only be used in a State to suppress domestic violence or repel foreign invasion, and at the request of the State authorities; and here is a law which proposes to send troops to the polls at any time, at the order of anybody, without any request of the State authorities; and it is certainly the plainest violation of that provision of the Constitution which directs the only way in which the troops of the United States shall be sent to a State.

The Constitution thereby prohibited any other method of sending troops to a State. I say, then, that these provisions should be repealed because they are in direct conflict with the fundamental law of the country and in the plainest violation of an expressed adjudication of the highest judicial tribunal of the land.

In the second place, these laws should be repealed because they introduce a dangerous methods and practices into the conducting of elections and the administration of justice. They authorize men to interfere with the election of the local officers of the State. In the State of Ohio, and I believe in most of the States of the Union, the law is that all officers shall be voted for on a general ticket—State officers, county officers, and members of Congress.

In the State of Ohio every man whose name is on the ballot is voted for as an officer of the State, and yet this provision of this law proposes to put United States supervisors to supervise the counting and casting of the votes for county officers and State officers. I submit that no such power was ever intended by the Constitution of the United States to be conferred upon Congress; and I submit that the State cannot be shorn of her sovereignty in this way without danger to its institutions.

Again consider section 2, article 1, to which I have referred. Who are the voters? They are the persons whose qualifications are fixed by the constitution of the State, and under this law the supervisors are stationed at the polls to superintend elections at which voters created by State constitutions and laws exercise the rights of suffrage. If the law of Congress fixed the qualifications for the electors of a State, then it might be proper that the Federal supervisors should be present to interpret and execute the laws; but under what doctrine of constitutional law, on what principle of government will you say that supervisors appointed by the Federal Government, stran-

gers to the laws of a State, shall stand at the polls and interpret its laws and execute them?

The third objection is that these supervising officers are armed with authority unknown in the history of the common law or State laws. They have authority at the polls on the day of election to arrest, without warrant, any man whom they may suspect of being about to engage in a violation of the laws. There is no principle of common law or State law which can authorize the arrest of citizens without warrant on suspicion of an intention to commit an offense.

Here are men who honestly believe that they have the right to vote, and who on going to the polls to deposit their ballots are confronted with this extraordinary invasion of the rights of civil liberty and arrested, and, as in the city of New York, incarcerated in many instances for days. What an extraordinary scene was presented for a republican government in the city of New York at the last election! Thousands of men who had failed to get out their naturalization papers in a way that suited the judgment of the supervisor of elections were arrested upon sight. At one time over six hundred men were under arrest who had gone to the polls honestly believing that they had the right to vote. They had committed no breach of the peace; they had committed no felony. They had attempted to exercise what they believed to be their right and their duty. Yet they were incarcerated and prevented from voting. Since that time a judicial tribunal to which the case was referred has determined that these men were not guilty; that they were innocent; that they were entitled to vote at the election.

An outrage so monstrous against the right of suffrage and the performance of the duties of a freeman, I venture to say, has not within this century been perpetrated before under any government, monarchical or despotic.

Mr. FRYE. Will the gentleman allow me to interrupt him a moment to correct a misstatement not purposely made?

Mr. HURD. Certainly.

Mr. FRYE. The court has never determined that these men arrested had the right to vote. The court has only determined one single point of law, and that was in the Coleman case; that the record of the court was sufficient. That decision does not apply to all the cases, because against nearly every man arrested there was cause of challenge in fact and not in law.

Mr. HURD. I may have misapprehended the exact point determined by the court. But this much I am sure of: that the persons arrested without warrant by the authority of Mr. Davenport were discharged by the judicial tribunals to which the case was referred.

Mr. McLANE. I want to say to my friend from Ohio [Mr. HURD] that he is not mistaken as to the point decided by the court. The court decided expressly that the naturalization papers were lawful and did entitle the men to vote.

Mr. FRYE. But the court decided expressly that the naturalization papers were not illegal because of no record. But against every naturalization paper there was another cause in fact besides that in law.

Mr. HURD. I have finished what I desired to say upon my second point of objection to these measures, and as a reason for their repeal; that is, that they introduce new and extraordinary methods for the control of elections and for the administration of justice.

Another point which I urge against them as a reason for their repeal, and one which so overshadowingly is greater than the others that I have been loath and hesitated to discuss them. It is that these measures in their very nature and essence are dangerous and destructive to civil liberty.

All history is full of warnings upon this subject. No republic which has ever perished from the face of the earth has gone to its grave save through military influence. The familiarization of the people through the army with the forms of despotism, the gradual abrogation of the forms of the republic, and the ultimate subversion of all civil government have marked the career of every republic from its birth to its grave, and shall we escape the force and application of the universal rule? Is power less sweet, are rights more sacred, are liberties more secure in this country, that we can dare without harm to trifle with a danger that has wrought ruin everywhere before?

From lands where republics have died and where monarchies have been erected on their ruins; from lands where the contest for liberty is now going on; from lands where the shadow of despotism darkens every household and compels the citizen to seek shelter upon some foreign shore, helpless to free himself at home, there come the solemn notes of warning against military interference.

From the presence of troops at the polls to the control of elections by troops is but a single step. In that step free elections are gone; and free elections are the source of free government and the author and originator of its power. Troops at the polls mean intimidation of voters; troops at the polls mean as its result the registration of the will of the commander; troops at the polls mean the substitution of the bayonet for the ballot, the enthronement of the Commander-in-Chief, and the deposition of the President.

I have been astounded, as this debate has continued, to hear from gentlemen upon the other side arguments in favor of the use of troops at the polls, the last place in the world where such arguments should be heard; but my regret is lost in joy when I recollect that the party of the Army is not in power in this Congress. [Applause on the democratic side.]

It is objected to these measures of legislation which we propose that there is a possibility by our passing these laws of restraining the veto power of the President; or, as my distinguished friend from Ohio put it the other day, of "interfering with his participation in the legislation." I deny that the President of the United States has any right to participate in the legislation of this country.

All legislative power is vested in the Senate and the House of Representatives. The President may, if he is satisfied with a measure of legislation, affix his signature to it. If he does not put his name to it it becomes a law at the expiration of ten days under certain circumstances. If he vetoes it, it returns to the House where it originated and is made a law, not by his act, but by the vote of forty-three of the members of the two Houses. He has nothing to do with the legislation of this country. Therefore in the decision of a question relating to legislation we must be governed by our own judgment and not by his opinion.

It has been said by the distinguished gentleman from Ohio [Mr. GARFIELD] that it means "revolution" for us to pass these bills as we propose. From the beginning of the Government has not the House originated revenue bills or appropriation bills? Has not the House been competent to pass a bill repealing a law which remains upon the statute-book? The only question then is whether we have power to pass a provision for repeal as part of a law of appropriation, and that is a question of mere parliamentary practice and order to be determined by the rules of the body itself.

"Revolution" to pass an appropriation bill! "Revolution" to repeal an objectionable statute! "Revolution" to incorporate into an appropriation bill a provision repealing a statute! No, no. In the exercise of inherent constitutional power the House does all this. If there be "revolution" it is in the suggestion which has come from the gentleman from Ohio. If there be "revolution" it is in the suggestions which have come from others of the distinguished leaders of the republican party in this House. It is revolution against every theory of the Constitution, the absolute overthrow of that instrument itself, for a member of this House, be he an intimate friend of the President or not, to threaten the House with a veto by the President if we dare pass such laws as we deem proper. [Applause.]

Mr. Chairman, I do not believe the majority of this House will be intimidated from their duty by the threat of any President, [applause,] much less the threat of a President whose title to office is so doubtful.

Mr. Chairman, the sentence from the Constitution with which I commenced my remarks I regard as so important in this discussion that I shall read it again:

> All bills for raising revenue shall originate in the House of Representatives.

What does that mean? Why was it incorporated into the Constitution of the United States? Was there ever any other government that had a provision like that; and, if so, what was its history and to what uses was it applied? In English history we find that the House of Commons has power alone to originate money bills. Of what value that is let me illustrate by reading from De Lolme on the constitution of England, one of the most brilliant French commentators on that instrument:

> The right to grant subsidies to the Crown, possessed by the people of England, is the safeguard of all their other liberties, religious and civil. It is a regular means, conferred on them by the constitution, of influencing the motion of the executive, and it forms the tie by which the latter is bound to them.

It thus appears that the power of the House of Commons to originate money bills was under the English constitution a regular method of influencing the motion of the executive power. Do you suppose our fathers incorporated a corresponding provision into our Constitution without understanding the uses to which it had been applied? Its purpose in English history was to influence the motion of executive power, and it had been used on many a memorable occasion in behalf of the civil and religious liberties of the English people.

I do not know, Mr. Chairman, even what will be the action of this House upon this bill. I certainly do not know what will be the action of the President of the United States when the bill is submitted to him, if it shall pass; much less can I know what will be the action of the House when the bill may be returned to us with his objections. But this much I do know, that if the power of withholding supplies shall be exercised, then never in all the contests for liberty in English history, never in all the victories which have made that little stormy island the center of civilization of the world, never in all the struggles for the rights of man between the Commons and the Crown, was the power of holding supplies exercised more wisely than it will be when we exercise it to preserve the freedom of elections, to subordinate in times of peace the military power to the civil authority, and to preserve pure and uncontaminated the sources of free government. [Applause.]

Mr. WILLIAMS, of Wisconsin, obtained the floor and said: Mr. Chairman, it being now so near the usual hour of adjournment, I would very much like, if it be the pleasure of the committee, to move that the committee rise, so that I may be allowed to go on in the morning. If there is no objection, I make that motion.

Mr. SPARKS. Mr. Chairman, I hope the gentleman will proceed with his remarks this evening.

Mr. WILLIAMS, of Wisconsin. The gentleman from Illinois [Mr. SPARKS] will bear me witness that I have not very often trespassed upon the time of the House or of the Committee of the Whole; and I very much desire to have the opportunity to go on in the morning if gentlemen will consent.

Mr. SPARKS. I would suggest to the gentleman to let some other member on that side take his place this evening—to change places with some other member.

Mr. WILLIAMS, of Wisconsin. If the gentleman from Kansas [Mr. HASKELL] so desires, I will cheerfully yield twenty minutes to him at this time, with the understanding that the motion be then made that the committee rise, and that I shall have the floor in the morning.

Mr. McMAHON. I would like to know when we expect to have a vote on this bill. I only make the inquiry for information.

The CHAIRMAN. The Chair is not advised upon that point. No order has been made by the House for closing the general debate on the bill.

Mr. SPARKS. I certainly cannot make any arrangement that the committee shall rise after a twenty-minute speech. My idea was that we ought to have a night session for debate only. [Cries of "No!" "No!"] Does not that suggestion meet with favor? Then let the debate progress now.

The CHAIRMAN. The gentleman from Kansas is recognized as entitled to twenty minutes of the hour of the gentleman from Wisconsin.

Mr. SPARKS. Mr. Chairman, I am perfectly satisfied that this debate shall take a very wide range; but we ought to have some general understanding that it is to conclude some time. I had thought that a session to-night would allow a great many gentlemen who want to make remarks on this subject an opportunity to make them, while others should speak to-morrow or if necessary we could have another day's discussion. We have already occupied four days in this debate. Some time ought to be fixed for bringing it to a close. If we go on adjourning at four o'clock day after day, occupying only two or three hours daily, the discussion may be limitless.

Mr. WHITE. It is half past four o'clock now.

Mr. SPARKS. Only twenty minutes after four; and we have been delayed by this proposition that the committee rise.

The CHAIRMAN. The Chair desires to state that all questions in reference to closing general debate must be decided in the House, and cannot be decided in committee.

Mr. SPARKS. Of course; I understand that.

Mr. WILLIAMS, of Wisconsin. I was about to suggest that the twenty minutes occupied by the gentleman from Kansas will bring us near the hour of five o'clock; and I will occupy my forty minutes in the morning.

Mr. HASKELL. I also prefer to say to-morrow what I have to say.

Mr. McMAHON. I want to know whether it is likely we shall have a vote to-morrow or next day.

The CHAIRMAN. The Chair cannot answer that question.

Mr. GARFIELD. That cannot be determined till we get into the House.

Mr. HASKELL. The gentleman from Wisconsin has yielded the floor to me for twenty minutes.

Mr. WILLIAMS, of Wisconsin. Of course I have yielded with the distinct understanding that I shall be entitled to the floor for the remaining forty minutes in the morning.

The CHAIRMAN. The Chair will protect the gentleman's rights.

Mr. HASKELL. With the consent of the gentleman from Wisconsin, I make the motion that the committee now rise, in order that the time of the gentleman from Wisconsin, as well as that which he has kindly conceded to me, may be reserved to be occupied in the morning.

The motion that the committee rise was not agreed to; there being—ayes 93, noes 109.

Mr. HASKELL. Mr. Chairman, I hope I shall not detain the committee longer than the time that has been yielded to me. I have listened with a great deal of interest to the debates on this question upon both sides of the House. I have been carried back by the remarks of the gentleman from Mississippi [Mr. CHALMERS] to the origin of the war, to the legislation of the republican party, and have listened to the harsh and hostile criticisms that have been made upon its course during the eighteen years of its supremacy. I have listened with much interest to the remarks that have been made by my friends upon the republican side, wherein they have defended the record of their party, wherein they have asserted that in their present position upon this question they have no desire save to preserve the peace at the polls and the purity of the ballot-box.

In view of the fact that on both sides of this House reminiscences have been indulged in, and in view also of the fact that these very words sought to be stricken out of a statute of the United States were placed there upon the motion of a Senator from the State of Kansas, I believe that it becomes my duty as a Representative of that State, and also as a republican member upon this floor, to give what may have seemed to that Senator, and what seems to the Representatives of that State now on this floor, some reasons for desiring that a strong Federal power may be exercised in time of need to preserve the purity of the ballot-box. I desire, then, to call the attention of this committee briefly to a record which I hold in my hand concerning one of the elections held in the Territory of Kansas.

Gentlemen here will recollect that the real beginning of the late struggle between the North and the South was not, as it has been stated on the republican side of the House, by the firing of that fateful gun at Sumter; nor was the war begun, as has been stated on the other side, amid the rattle of John Brown's musketry at Harper's Ferry. No, Mr. Chairman, that war began here in Congress and upon this floor when the Kansas and Nebraska bill was introduced and the compromise measures of 1820 were repealed, which forbade the introduction of slavery into the territory purchased from France, known as the Louisiana Territory. When the Territories of Kansas and Nebraska were sought to be opened up to the slave power there arose a struggle between the North and the South, between the pro-slavery forces and the free State forces at the ballot-box, as to who should control the future destiny of the State of Kansas. I hold in my hand an extract from the report of a congressional committee on that subject—a record of the first important election held in the Territory of Kansas, March 30, 1855. I ask that it be read at the Clerk's desk.

The Clerk read as follows:

On the same day that the census was completed the governor issued his proclamation for an election to be held on the 30th of March, A. D. 1855, for members of the Legislative Assembly of the Territory. It prescribed the boundaries of districts, the places for polls, the names of judges, the apportionment of members, and recited the qualification of voters. If it had been observed a just and fair election would have reflected the will of the people of the Territory. Before the election false and inflammatory rumors were busily circulated among the people of Western Missouri. The number and character of the emigration then passing into the Territory were grossly exaggerated and misrepresented. Through the active exertions of many of its leading citizens, aided by the secret society before referred to, the passions and prejudices of the people of that State were greatly excited. Several residents there have testified to the character of the reports circulated among and credited by the people. These efforts were successful. By an organized movement, which extended from Andrew County in the north to Jasper County in the south and as far eastward as Boone and Cole Counties, Missouri, companies of men were arranged in irregular parties and sent into every council district in the Territory, and into every representative district but one. The members were so distributed as to control the election in each district. They went to vote, and with the avowed design to make Kansas a slave State. They were generally armed and equipped, carried with them their own provisions and tents, and so marched into the Territory. The details of this invasion form the mass of the testimony taken by your committee, and is so voluminous that we can here state but the leading facts elicited.

First district—Lawrence.—The company of persons who marched into this district was collected in Ray, Howard, Carroll, Boone, La Fayette, Randolph, Macon, Clay, Jackson, Saline, and Cass Counties, in the State of Missouri. Their expenses were paid; those who could not come, contributing provisions, wagons, &c. Provisions were deposited for those who were expected to come to Lawrence in the house of William Lykins, and were distributed among the Missourians after they arrived there. The evening before and the morning of the day of election about one thousand men from the above counties arrived at Lawrence and camped in a ravine a short distance from town, near the place of voting. They came in wagons (of which there were over one hundred) and on horseback, under the command of Colonel Samuel Young, of Boone County, Missouri, and Claiborne F. Jackson, of Missouri. They were armed with guns, rifles, pistols, and bowie-knives and had tents, music, and flags with them. They brought with them two pieces of artillery loaded with musket-balls. On their way to Lawrence some of them met Mr. N. B. Blanton, who had been appointed one of the judges of election by Governor Reeder, and, after learning from him that he considered it his duty to demand an oath from them as to their place of residence, first attempted to bribe him and then threatened him with hanging in order to induce him to dispense with that oath. In consequence of these threats he did not appear at the polls the next morning to act as judge.

The evening before the election, while in camp, the Missourians were called together at the tent of Captain Claiborne F. Jackson, and speeches were made to them by Colonel Young and others, calling for volunteers to go to other districts where there were not Missourians enough to control the election, as there were more at Lawrence than were needed there. Many volunteered to go, and on the morning of the election several companies, from one hundred and fifty to two hundred each, went off to Tecumseh, Hickory Point, Bloomington, and other places. On the morning of the election the Missourians came over to the place of voting from their camp in bodies of one hundred at a time. Mr. Blanton not appearing, another judge was appointed in his place; Colonel Young claiming that, as the people of the Territory had two judges, it was nothing more than right that the Missourians should have the other one to look after their interests; and Robert A. Cummins was elected in Blanton's stead because he considered that every man had a right to vote if he had been in the Territory but an hour.

The Missourians brought their tickets with them, but not having enough they had three hundred more printed in Lawrence on the evening before and on the day of election. They had white ribbons in their buttonholes to distinguish themselves from the settlers.

Mr. HASKELL. Now, Mr. Chairman, March 28, 1855, was the first day I ever saw within the Territory of Kansas. I came up from Kansas City, Missouri, to the town of Lawrence, in company with these one thousand men whom I saw afterward at the polls in that town casting their ballots for the election of the Legislature of that Territory. I can vouch for the truth of the foregoing statement.

I desire also to send to the Clerk's desk, to show what was the result of that election, two sections of the old statutes of the Territory of Kansas that were afterward enacted by that Legislature, enactments made possible in consequence of elections carried in that way by mobs and armed forces, accompanied by artillery.

Mr. BLOUNT. I wish to ask the gentleman a question. Were there not two reports, and was it not the majority report which the gentleman had read?

Mr. HASKELL. Yes, sir.

Mr. BLOUNT. You are having that read as true history?

Mr. HASKELL. I was there and know myself the accuracy of what I state. I ask the Clerk to read the sections to which I have referred.

The Clerk read as follows:

SEC. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory written, printed, published, or circulated in this Territory any book, paper, magazine, pamphlet, or circular containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years.

SEC. 13. No person who is conscientiously opposed to holding slaves, or who does not admit the right to hold slaves in this Territory, shall sit as a juror on the trial of any prosecution for any violation of any of the sections of this act.

Mr. HASKELL. Those are two enactments of the Legislature elected by such means as have been shown in the report read at the Clerk's desk.

I desire also to have printed with my remarks the charge of the United States judge of that district, Judge Le Compte, wherein he charged the jury that if any person shall resist in any way the enforcement of these laws he shall be indicted for the crime of high treason.

On the 5th of May Judge Le Compte delivered a charge, highly partisan in its character, to the grand jury of Douglas County, of which the following extract is his own words:

This Territory was organized by an act of Congress, and so far its authority is from the United States. It has a Legislature elected in pursuance of that organic act. This Legislature, being an instrument of Congress, by which it governs the Territory, has passed laws; these laws, therefore, are of United States authority and making, and all that resist these laws, resist the power and authority of the United States, and are, therefore, guilty of high treason. Now, gentlemen, if you find that any persons have resisted these laws, then must you, under your oath, find bills against such persons for high treason. If you find that no such resistance has been made, but that combinations have been formed for the purpose of resisting them, and individuals of influence and notoriety have been aiding and abetting in such combinations, then must you still find bills for constructive treason; the blow need not be struck, but only the intention may be evident.

It was because of these laws, thus construed and thus sought to be executed, that the territorial war of 1855-'56 in Kansas was inaugurated and carried on.

I ask now the special attention of my democratic friends on the other side of the House. It was in these acts that you dug or your representatives dug that pit from which you have never been extricated. It was because of the issues that you forced upon the people of the North, and through elections carried in this way, and by laws thus enacted and executed, that you dug the political grave of the democratic party. You sought to extend the area of slave territory and strove for greater power, but in your injustice and frauds you not only failed in that direction, but you prepared the way for the dethronement of the democracy that had held power for so long in this Union, and planted the germs of the great civil war so soon to follow. It was upon the plains of Kansas that the first gun of the rebellion was fired. Had you permitted (what we ask now) free and fair elections, the history of our country, as it is now recorded, would never have been written.

I desire to call the attention of this House to the fact that in nearly all the Southern States it is claimed, upon a perfectly good authority, the report after report of investigating committees, that there is a denial of the right of a free and fair ballot there. It is claimed also that in the city of New York the freedom of election has been interfered with. And as Representatives upon this floor, especially as Representatives of a State where we have seen worked out the iniquity that comes from a ballot-box not duly protected, we of Kansas, at least, stand here boldly and fairly and squarely in the defense of Federal election laws wide enough, strong enough, and far-reaching enough to preserve the rights of every citizen of every State and every Territory in the discharge of his duty at the polls, governed only by his own conscience and his love of country.

You say that you have peaceful elections in the South now; that you have fair elections in New York City, or could have them without these laws. It was also claimed by your representative men that the same was true in my State. Here is a memorandum in the life of one of your representative men, my venerable friend from Georgia, [Mr. STEPHENS,] then as now a member of this House. He claimed then on this floor, in all honesty and candor I believe, what you claim now, that there was no trouble in Kansas. He writes in his private memorandum that which I read, contained in the history of his life, under the date of June 14, 1856:

JUNE 14.—We have some news here. Stringfellow has got to the city direct from Kansas. I have not seen him myself, but Toombs, who left me just now, saw him last night. Stringfellow is our main man in Kansas, you know. According to Toombs's report, all things are now comparatively quiet there. The newspaper reports of burnings and civil war are unfounded, and got up by northern agitators for effect. The hotel at Lawrence was presented by the grand jury as a nuisance, and ordered to be demolished as such. He says the investigations of the committee will work in our favor greatly when published. The committee will be here this week. He says they want no more men in Kansas; they want no fighting; that all is working just as it ought. His account, in a few words, is better than I expected.

It was yet just one month before our venerable friend, honestly and in sincerity, I presume, penned those lines—just one month before—that an armed force of six hundred men destroyed not only a hotel in my town, but a printing-press and private residences, rifled the houses of the inhabitants, and carried away their property. The hotel was sought to be destroyed at first by cannonading, and the gun that was pointed at it was aimed by an ex-Vice-President of the United States, David R. Atchison. The following is from the report of the Committee of Claims of the House of Representatives on "Kansas claims:"

In the mean time the remainder of the force, comprising several hundred men, with United States muskets and fixed bayonets, were taking position in the town. Men endeavored by argument, and women by tears, to alter the determination of Jones, but in vain. At three and a quarter o'clock he announced to Messrs. Eldridge that he would give them till five to remove their families and furniture from the house. The work of pillage had already commenced; the contents of the printing-offices were scattered in the streets, and the red flag planted on the roof, first of the office of the Herald of Freedom and afterward of the Eldridge House. The family of Mr. G. W. Brown were driven from their house, and the immediate pillage of the hotel prevented only by the resolute interference of a few citizens, aided by some individuals of the mob, who kept a strict guard at the doors and insisted the families of the proprietors should have the time promised by Jones in which to collect their most necessary effects and leave. At last the cannon were placed and ready, and it was announced to Colonel S. W. Eldridge that the bombardment would commence in five minutes. His wife and children and such personal effects as they had been enabled to collect were placed in carriages and driven off between files of United States bayonets and amid the yells of the impatient mob. As they left the town the first boom of a cannon told that the work of destruction had begun. Soon (as the impression made by the cannon was not great) the building was fired and with the aid of gunpowder reduced, with its furniture and stores, to a pile of ruins.

The work of pillage spread through the whole town, and continued until after dark. Every house and store which could be entered was ransacked, trunks broken open, and money and property taken at will. Where women had not fled they were in some cases insulted, and even robbed of their clothing. From one house over $2,000 in money were carried away. The house of Charles Robinson was pillaged and burned to the ground. The same evening the forces were drawn off to their camp, and the sack of Lawrence was concluded.

Some incidents of this authorized outrage here demand mention. While Messrs. Topliff and Perry were aiding the marshal in making the arrests both their houses were broken open and pillaged. Some of the flags which floated beside that of the Union had for mottoes, "Superiority of the white race;" "Kansas the outpost;" "South Carolina;" while one had the national stripes, with a tiger in place of the Union; another had alternated stripes of black and white. While the cannon were being placed for the destruction of the Eldridge House, David R. Atchison, late Vice-President of the United States, was conspicuous among the mob. When the final doom of the hotel and the printing offices was pronounced, it was said by the officials to be by order of the Government, as the grand jury of Douglas County had ordered them abated as nuisances. The only charge against the Eldridge House was its ownership by the Emigrant Aid Company.

Mr. SPEER. Will the gentleman from Kansas permit me to ask him a question?

Mr. HASKELL. Yes, sir.

Mr. SPEER. As the gentleman is speaking on the subject of Kansas and its former troubles, let me ask him if he is aware of the fact that the present Secretary of the Treasury, Hon. John Sherman, moved an amendment to the Army appropriation bill in the year 1856 to this effect:

Mr. SHERMAN. I move to amend by inserting the following:

Provided, nevertheless, That no part of the military force of the United States herein provided for shall be employed in aid of the enforcement of the enactments of the alleged Legislative Assembly of the Territory of Kansas, recently assembled at Shawnee Mission, until Congress shall have enacted either that it was or was not a valid Legislative Assembly, chosen in conformity with the organic law by the people of the said Territory: *And provided*, That, until Congress shall have passed on the validity of the said Legislative Assembly of Kansas, it shall be the duty of the President to use the military force in said Territory to preserve the peace, suppress insurrection, repel invasion, and protect persons and property therein and upon the national highways in the State of Missouri from unlawful seizures and searches: *And be it further provided*, That the President is required to disarm the present organized militia of the Territory of Kansas, and recall all the United States arms therein distributed, and to prevent armed men from going into said Territory to disturb the public peace or aid in the enforcement or resistance of real or pretended laws.

Was that revolutionary?

Mr. HASKELL. We thanked John Sherman for that report then, and I thank him for it now.

The men came from Missouri and other States into the Territory who elected the Legislature referred to by Mr. Sherman's proposed amendment.

Mr. SPEER. Is not John Sherman good republican authority?

Mr. HASKELL. Absolutely so, so far as John Sherman goes; but I apprehend that John Sherman simply represents himself in this matter. I am speaking now from the stand-point of a republican Representative from my State, and it makes no more difference to me what John Sherman said than it does that these laws were voted for by democrats.

Mr. SPEER. I desire to ask the gentleman a further question, if he will permit me.

Mr. HASKELL. I cannot yield further at this time.

Gentlemen may say that this was simply a local feud; that it was simply a feud that grew up between Kansas and the bordering State of Missouri. That is not true. Armed bodies of men were sent from Missouri, Alabama, Georgia, South Carolina, and other States of the South. Organized companies of militia were sent into Kansas, not for the purpose of protecting the pro-slavery men in voting, for they were never denied that privilege, but of voting themselves at our elections.

I tell gentlemen on the other side of the House that in view of the history of that State you cannot find a man, woman, or child who recollects the early incidents connected with the government of that Territory but who desires to-day that the strongest possible power may be exerted for the protection of citizens of the United States at the ballot-box, be they white or black, at the North or at the South.

Gentlemen claim here that in the State of New York it would be entirely possible without supervisors to have a fair election, and that the laws of the State are sufficient for the protection of individual citizens in their right to vote. It may be true. The gentleman on this side of the House [Mr. FRYE] called your attention to the fact that, in his opinion, the laws of that State are not sufficient to protect the ballot-box in New York City, and have never been found so as a matter of fact. He also related an incident of the war to show you what their power was at that time for protecting the citizens of that State at the ballot-box. He told you how colored men were hunted through the streets of New York by a mob and hung at the lamp-posts. Let me finish the sketch, and tell you how this mob, fired with rage and excitement, burned an orphan asylum in the city of New York, and scattered the little waifs, houseless and homeless, on the cold charity of the streets of the city; and later still, when

they had collected before one of the great business palaces of that city, a trim and tidy and an aristocratic figure from the portico addressed that seething, boiling mass of brutal humanity as "my friends." Who was it? Horatio Seymour, the democratic governor of the State of New York.

If there was not a sufficient power or willingness on the part of the executive of the State to suppress a draft riot, have we any warrant that he could or would suppress a ballot-box-stuffing riot at the polls, should one occur?

How was it later, when the draft had to be taken for the purpose of supplying the quota of the State. A road had to be cut through this same mob in order that the officers might prosecute their work and the armies of the United States be filled. If these things were true in New York City itself in such cause and under such circumstances, is it not fairly possible that, if all the laws for the protection of the ballot-box were cut from the United States statutes, all the frauds that have disgraced the nation, and that gave thirty, forty, or fifty thousand illegal votes in that city, may be re-enacted any day as they were under the *régime* of Tweed?

You claim further the repeal of the test oath for the grand and petit juries in the Southern States. Let it be repealed if it is wise to do so. It was put there that you of the South should deal fairly with northern men and the negro who was charged with crime. Is it an unheard-of thing? I have just read to you a more monstrous statute.

I have caused to be read a clause from an old statute of Kansas, placed there by a democratic Legislature in the full flush of democratic pride and prosperity, which provides that any man conscientiously opposed to the institution of slavery shall not serve on a jury for the trial of any crime under the statute concerning slavery.

A man was not allowed to vote unless he swore to support the fugitive slave law and kindred enactments.

[Here the hammer fell.]

The CHAIRMAN. The gentleman is speaking in the time of the gentleman from Wisconsin [Mr. WILLIAMS] and the portion allotted to him has expired.

Mr. McCOOK. I hope the gentleman's time will be extended. The time was extended on the other side.

The CHAIRMAN. By unanimous consent the gentleman can speak in his own time.

Mr. SPARKS. How long does the gentleman desire to speak?

Mr. HASKELL. But a very short time; not longer than five or ten minutes.

The CHAIRMAN. Then, if there be no objection, the gentleman will be allowed five minutes.

No objection was made.

Mr. HASKELL. The question before us at this time is, not what was generally talked of in this House during the Forty-fifth Congress, the repeal of the statute leveled against an Army officer who should misuse his power at the polls, but it is far more than the repeal of the statute placed on the statute-book in 1865. I speak for myself only when I say that I would be willing to repeal that law if the question came in a proper way. It would leave the operation of all other laws, it leaves the operation of the Federal election laws entirely free.

But you have not brought before this House the simple repeal of that obnoxious section. You come in here with a provision that the old section shall be re-enacted, save and except the words "or keep the peace at the polls." When you cut those words out of the old section and re-enact it again, you are spreading upon the statute-books what is virtually a new law. You are enacting a law that civil officers of this Government under no circumstances shall appear at the polls armed for the enforcement of the law.

Now, I would care very little for the wiping out of the old statute; but when you come to re-enact, as you propose in this bill before us, that old statute with the words left out to which I have referred, you might as well repeal at once the entire Federal election laws. With that old statute so re-enacted all the other laws are inoperative and void.

You wonder why we make a stand here to-day and in the beginning of this Congress upon this bill. Why, sir, if this bill passes, then the sections which you propose to repeal by provisions in the legislative appropriation bill may remain on your statute-books or be taken off; they will effect nothing. With this law as you present it here, the Federal election laws are a nullity, are void and worthless. That, I presume, is the reason that the republican party of this House has taken the ground at the beginning of this struggle that not one step by their consent shall be taken toward stripping the statute-book of these Federal election laws, which we believe are absolutely essential to the protection and the purity of the ballot-box. Upon that issue, then, we are entirely willing to go to the country. Upon that issue we join forces with you. If, under the Constitution and lawfully, you shall pass that provision here, if lawfully it shall be passed in the Senate of the United States, and if the President of the United States sees fit to approve it, it will become the law of the land against which we shall have uttered only a protest.

But we do insist and we shall insist that that power which has always been allowed to the Executive to approve or disapprove a bill of Congress just as he sees fit, shall continue to be left with him; that he shall have the privilege of approving or disapproving any bill just as it meets his judgment or not.

Gentlemen upon the other side have said that the republican party to-day takes the position wrongfully that the President has the same right to exercise his power of approval or disapproval as this Congress. Sir, it is a right that cannot be taken from him. It is as much his privilege to approve a bill as it is to disapprove it, and as much his privilege to disapprove it as to approve it.

What would be said by our democratic friends if the President should take the position occupied by the democratic side of the House? Suppose you were to send a bill to the White House that the President is entirely willing to approve. Suppose also that there was pending before you another bill which in his judgment ought not to pass; and suppose that he intimated that if you did pass that other bill which met his disapproval he would pocket the bill which he did not object to; you would impeach him or begin the work of impeaching him within twenty-four hours.

Yet, from the declarations of leading men on your side of the House, that is the precise position which you occupy to-day. You say you have not a two-third vote in this House; that you cannot pass this measure unless you force it through on an appropriation bill, and that you will compel the President, whether he likes it or not, to accept it or stop the wheels of the Government.

In the Constitution, as commented upon by all the learned men of the days that are gone, it is as expressly provided that the President shall exercise that power freely without force as that this body may exercise its power; and that when it was exercised according to his judgment, two-thirds of both Houses of Congress must be found to be in accord with the measure which he disapproved, or it must fall to the ground.

You, then, upon that side of the House are taking a position which if taken by the Executive at the other end of the Avenue would lead to his impeachment. Your position which you take upon this bill ought to lead, by all the laws which control justice, truth, and right, to your impeachment before the bar of public opinion of this country. To that tribunal we shall appeal if you succeed here, and await the decision of the whole people of the United States in perfect confidence.

Mr. WILLIAMS, of Wisconsin. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, in relation to the joint rules between the two Houses, was presented by Mr. BURCH, the Secretary of the Senate, who also announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes.

Mr. SPARKS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. AIKEN: The petition of granges of Wisconsin and Vermont, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. HENDERSON: The petition of E. V. Baley and others, citizens of Putnam County, Illinois, for the building of a ship-canal and for the improvement of the Illinois River—to the same committee, when appointed.

By Mr. KEIFER: The petition of Frederick W. Kablentz and others, of Rocky Point Grange, Clarke County, Ohio, for the passage of the Reagan interstate commerce bill—to the same committee, when appointed.

By Mr. McCOID: The petition of Peter Guyot, J. M. Hamson, and Jacob Wasem, for the reduction of the tariff on hatters' silk plush—to the Committee of Ways and Means, when appointed.

By Mr. McGOWAN: Resolution of the Legislature of Michigan, asking for an appropriation to preserve improvements already made and to complete necessary improvements of the harbor of Saugatuck, Michigan—to the Committee on Commerce, when appointed.

By Mr. POEHLER: Memorial of the Legislature of Minnesota, relating to the swamp lands granted to said State—to the Committee on Public Lands, when appointed.

Also, resolution of the Legislature of Minnesota, asking that a pension be granted D. W. Seeley—to the Committee on Invalid Pensions, when appointed.

By Mr. VANCE: The petition of William M. Moore, for additional compensation as an officer in the United States Army—to the Committee on Military Affairs, when appointed.

By Mr. WOOD: The petition of G. W. Ditchett and others, that the public moneys be distributed through the local State banks—to the Committee on Banking and Currency, when appointed.

IN SENATE.

WEDNESDAY, *April 2*, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

COLUMBIA INSTITUTION FOR DEAF AND DUMB.

Mr. EDMUNDS. Mr. President, I have had the honor to receive from the Secretary a notice, under date of the 26th of March, that the Vice-President had "appointed Mr. EDMUNDS a director of the Columbia Institution for the Deaf and Dumb to fill the vacancy in the board of directors of said institution occasioned by the expiration of the term of his former appointment." I beg leave, thanking the Chair for the honor he has done me, to decline accepting the appointment. I have served I think for six years as the director appointed by the President of the Senate in that place, and I think I have had my share of the honor and certainly of the responsibility and labor. Therefore I trust that the Chair will receive my declining the acceptance with thanks, and appoint some other Senator in my place.

The VICE-PRESIDENT. Will the Senate accept the declination of the Senator from Vermont? The Chair hears no objection. The Chair will appoint in place of the Senator from Vermont the Senator from Delaware, [Mr. BAYARD.]

PETITIONS AND MEMORIALS.

Mr. VEST presented concurrent resolutions of the Legislature of Missouri, in favor of an appropriation by Congress for the improvement of the Missouri River at Saint Charles, Glasgow, Cedar City, and Kansas City, in that State; which were referred to the Committee on Commerce.

Mr. FARLEY presented the petition of George C. Loring, of San Francisco, California, praying for the passage of a law authorizing him to present and prove his claim to the court of commissioners of Alabama claims for losses sustained during the late war by the capture of the bark Union Jack by the rebel cruiser Alabama; which was referred to the Committee on the Judiciary.

Mr. LOGAN presented a petition of colored citizens of Chicago, Illinois, members of The Brothers and Sisters and Sons and Daughters of Israel, praying for the passage of a law chartering that society; which was referred to the Committee on the Judiciary.

Mr. DAWES presented the petition of Frank N. Gray, of Boston, Massachusetts, praying for the passage of a law granting him a pension for injuries received in the late war; which was referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, presented the petition of C. N. Warner, late first lieutenant Fourth Artillery, brevet captain United States Army, praying to be restored to his former relative rank and position in the Army; which was referred to the Committee on Military Affairs.

He also presented the petition of Robert P. Wilson, late captain in the Fifth United States Cavalry, praying to be restored to his former rank and position in the Army; which was referred to the Committee on Military Affairs.

BILLS INTRODUCED.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits and to promote their civilization; which was read twice by its title, and ordered to lie on the table.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 324) for the relief of Somerville & Davis; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Finance.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 325) for the relief of Henry Page; which was read twice by its title, and referred to the Committee on Finance.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 326) for the relief of Henry F. Lines; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Claims.

Mr. CAMERON, of Wisconsin, (by request,) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 327) for the improvement of the Harlem River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 328) for the relief of Frances H. Plummer; which was read twice by its title, and referred to the Committee on Claims.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 329) granting a pension to James Forsyth Harrison; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 330) to provide for the publication of the debates in the first Senate of the United States; which was read twice by its title, and referred to the Committee on Printing.

Mr. WALKER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 331) for the relief of L. A. Morris; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 332) authorizing the appointment of William English to a second lieutenancy in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 16) providing for a treaty with the Republic of Mexico; which was read twice by its title, and referred to the Committee on Foreign Relations.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WHYTE, it was

Ordered, That the petition of the messengers of the Supreme Court of the United States and the papers in support of the same be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. SAUNDERS, it was

Ordered, That the papers in the case of the heirs of Charles B. Smith be withdrawn from the files of the Senate and referred to the Committee on Military Affairs.

LEGISLATION ON APPROPRIATION BILLS.

The VICE-PRESIDENT. Is there further business for the morning hour? If not the Secretary will report the Calendar of resolutions and concurrent resolutions in their order.

The Chief Clerk read the following resolution submitted by Mr. HOAR on the 21st of March:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and if persisted in must lead to the overthrow of constitutional government and the destruction of the national life.

The VICE-PRESIDENT. Will the Senate agree to the resolution? Is the Senate ready for the question?

Mr. WHYTE. I move to lay the resolution on the table.

Mr. HOAR. I ask for the yeas and nays on that motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. EATON, (when his name was called.) I shall have to ask my friend from Rhode Island, [Mr. ANTHONY,] for I do not know, if this is a political question?

Mr. ANTHONY. I suppose it is.

Mr. EATON. Then I shall decline to vote, as I am paired with my friend from Rhode Island [Mr. BURNSIDE] on political questions. I should vote "yea" if I had a right to vote.

Mr. SAUNDERS, (when his name was called.) I am paired with the Senator from North Carolina [Mr. VANCE] on this question. If he were here, I should vote "nay."

Mr. RANSOM, (when Mr. VANCE'S name was called.) My colleague [Mr. VANCE] is detained at home by sickness. He is paired with the Senator from Nebraska, [Mr. SAUNDERS.]

The roll-call having been concluded, the result was announced—yeas 35, nays 20; as follows:

YEAS—35.

Bailey,	Gordon,	Lamar,	Thurman,
Bayard,	Groome,	McDonald,	Vest,
Butler,	Harris,	McPherson,	Voorhees,
Call,	Hereford,	Maxey,	Walker,
Cockrell,	Hill of Georgia,	Morgan,	Wallace,
Coke,	Houston,	Pendleton,	Whyte,
Davis of W. Va.,	Johnston,	Ransom,	Williams,
Farley,	Jonas,	Saulsbury,	Withers.
Garland,	Kernan,	Slater,	

NAYS—20.

Anthony,	Dawes,	Hoar,	Paddock,
Blaine,	Edmunds,	Kellogg,	Platt,
Cameron of Pa.,	Ferry,	Logan,	Rollins,
Cameron of Wis.,	Hamlin,	McMillan,	Teller,
Chandler,	Hill of Colorado,	Morrill,	Windom.

ABSENT—19.

Allison,	Carpenter,	Ingalls,	Randolph,
Beck,	Conkling,	Jones of Florida,	Saunders,
Booth,	Davis of Illinois,	Jones of Nevada,	Sharon,
Bruce,	Eaton,	Kirkwood,	Vance.
Burnside,	Grover,	Plumb,	

So the resolution was ordered to lie on the table.

Mr. BLAINE. I suppose that concludes the matter for the day, so far as that resolution is concerned?

The VICE-PRESIDENT. That is the opinion of the Chair.

Mr. BLAINE. This side of the Chamber has desired to have a direct vote on the resolution, and I give notice that I shall to-morrow and as often as may seem expedient thereafter, move to take the resolution from the table, not with any intention of prolonging debate upon it, if that be unpleasant, but with the intention simply of asking that Senators may give a direct yea or nay vote upon the proposition contained in it.

Mr. DAVIS, of West Virginia. I ask the Senator whether the resolution has ever been referred to a committee?

Mr. BLAINE. Has it just occurred to the honorable Senator from West Virginia, ten days after the resolution has been before the Senate, that it should be referred?

Mr. DAVIS, of West Virginia. It occurred to me ten days ago.

Mr. BLAINE. You have never given this side of the Chamber even an opportunity to refer it; but I am quite amazed that the Senator wakes up this morning to the propriety of what if it had been suggested at all should have been suggested ten days ago.

Mr. DAVIS, of West Virginia. The Senator need not be surprised. We do not take suggestions on this side of the Chamber from the other side.

Mr. BLAINE. Well, I need not be; I should not be surprised at anything nowadays.

Mr. DAVIS, of West Virginia. The Senator says he has not had an opportunity to refer the resolution. There is an opportunity now to refer it if he wishes to do so.

Mr. BLAINE. I did not say that I desired the resolution to be referred, for I should expect if it was referred that would be the last we should ever hear of it; it would be sat upon in committee, and I do not propose to assist in strangling it to death in that way.

Mr. KERNAN. Mr. President——

The VICE-PRESIDENT. The resolution is not before the Senate.

Mr. KERNAN. Mr. President——

The VICE-PRESIDENT. The Senator from New York.

Mr. KERNAN. I merely wish to say that I do not believe it would be very profitable to have debate on this resolution before we get legislative measures before us.

Mr. BLAINE. Then we could debate the measure itself. Why should we debate such a resolution after the measure is before us?

Mr. KERNAN. Allow me. I have not thought it proper to debate these theoretical questions until practical measures came before us. I am quite willing the other side should debate if they desired to do so. That is frankly my answer. I think it is better for the country and for us to wait until the measures we propose to act upon come before us. I am not in favor of acting on general legislation at this session, but I am in favor of acting with reference to the particular subject when the questions come before us; and then every one will act upon them according to his judgment. Then the question as to the proposed legislation will be practically before us.

Mr. EDMUNDS. If the Senator from New York was as willing that we should vote on this side as debate, we might have disposed of the resolution one way or the other long ago. But that has gone from the Senate, I believe, Mr. President.

The VICE-PRESIDENT. The resolution is not now before the Senate.

SENATOR FROM NEW HAMPSHIRE.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. SAULSBURY. Will the Senator allow me first to make a report from the Committee on Privileges and Elections?

Mr. THURMAN. Certainly.

Mr. SAULSBURY. The Committee on Privileges and Elections, to whom were referred the credentials of Charles H. Bell, claiming to be appointed a Senator from the State of New Hampshire, have instructed me to make a report, which is signed by all the members of the committee concurring in the conclusions of the report, except the Senator from North Carolina, [Mr. VANCE,] who is not in the Chamber, and I therefore ask that before the report is sent to the Printer he may have the opportunity of appending his name to it.

The VICE-PRESIDENT. The report will be retained for that purpose.

Mr. SAULSBURY. I ask that it be printed, and I desire to give notice that on Monday next I shall call up the resolution accompanying the report for consideration.

The resolution reported is as follows:

Resolved, That Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

Mr. HOAR. I am authorized by a minority of the same committee to present their views in the form of a minority report. The minority report is signed by the Senator from Wisconsin [Mr. CAMERON] and myself, and is to be signed by the Senator from Kansas, [Mr. INGALLS.] I ask leave of the Senate to retain the paper until the signature of the Senator from Kansas is attached when he comes in.

The VICE-PRESIDENT. To which the Chair hears no objection.

Mr. HOAR. I will then hand it to the Secretary.

Mr. RANSOM. When the vote was just taken in the Senate a moment ago I announced that my colleague [Mr. VANCE] was detained at his rooms to-day by sickness.

Mr. ROLLINS. I desire to appeal to the Senator from Delaware in regard to this election case. I understand that he has given notice that he will call this case up on Monday next.

Mr. SAULSBURY. Yes, sir.

Mr. ROLLINS. We are very desirous that the case should be considered at an early day. We were assured, when the credentials were referred to the Committee on Privileges and Elections, that such should be the case. I desire now to ask the Senator if it will not be convenient to him to call up the case to-morrow morning? By that time I have no doubt the reports will be printed; they can be read at the desk; and then, if it is necessary that further time should be allowed, the matter may be postponed. I understand that my friend, the Senator from Massachusetts, [Mr. HOAR,] will not be present on Monday next, and we are certainly very desirous that the case should be taken up when he is here as he has made the minority report upon the question.

Mr. SAULSBURY. I will say to the Senator from New Hampshire that it would be utterly impossible to give an intelligent consideration to this subject to-morrow by Senators who have not personally examined the question. The report of the committee and the views of the minority will not be printed before to-morrow, and perhaps they will not be on our desks before Friday morning. Those reports ought to be examined. Senators will desire to examine those reports and investigate the principles which are involved in the reports before they enter upon the discussion or before they are required to vote upon the question. I think that Monday is the first day that we can with any degree of propriety fix for the consideration of the case.

I should be very glad to accommodate the Senator from New Hampshire or any other Senator on that side of the Chamber, but I am sure they desire that this question, when it shall be settled, shall be settled in accordance with correct principles. Therefore the members of the Senate ought to have time to enable them, if they have not already done so, to examine carefully for themselves the principles involved in this report and the views of the minority.

I desire to add that there has been no unnecessary delay in this case. The committee was called together at the earliest possible moment, and the contestant for the seat was heard in reference to his right; and the committee has from time to time met once or twice to pass upon the question. After the committee had come to a conclusion, it so happened that I was required, or found it convenient, to go to my home in Delaware, and I did not return until Monday last, and the report has been prepared since that time. Certainly there has been no unnecessary delay in this matter. We have desired to accommodate the contestant in this case and the gentlemen on the other side in general, and I do not think they can charge us with having unnecessarily delayed this case.

Mr. ROLLINS. I have no desire to press the matter unreasonably, nor do I wish to press it against the views of the chairman of the committee. I desire that the committee shall have ample time for consideration; but the Senator must bear in mind that this question has been before the Senate from the first day of the session until the present time. I can see no objection to taking the matter up in the morning. Such a course will not prevent Senators from an examination of the case. It will not prevent them having time to examine the questions involved. It perhaps will facilitate the examination to have the attention of Senators called to this matter in the morning with the printed reports on the table, for I think we should be more likely, if we take up the matter to-morrow, to examine it and to act upon it intelligently than if we postpone it until Monday next before any attention is called to it in the Senate. But, still, if the Senator from Delaware insists upon the postponement, I do not desire to press any opposition to it.

Mr. HOAR. I desire to make a suggestion to the Senator from Delaware and his associates of the majority of the committee. I quite agree with that Senator that there has been no improper or unnecessary delay. On the contrary, the Committee on Privileges and Elections have dealt with the question with great promptness; and I am quite sure of the absolute sincerity of the statement of the chairman of his continued desire to deal with it promptly. I suppose if these reports go to the Printer at any time before the adjournment to-day they will be on the tables of Senators in print before we meet to-morrow at twelve o'clock. The first thing when this case comes up will be to read those reports to the Senate, if the usual course is pursued, as I understand it. I would suggest to the Senator from Delaware whether the case might not be taken up to-morrow and the reports read, and if any Senator then is prepared to address the Senate on the subject allow him to do so; and after that let the case go over until Monday.

Mr. SAULSBURY. As I understand the Senator is going to leave the city, I would agree, if he desires to express his views before he goes away, to an understanding that after he makes his speech the case shall go over until Monday.

Mr. HOAR. Let the understanding be that it may go over, unless some Senator desires to speak after the reports are read.

Mr. SAULSBURY. Unless some other Senator desires to speak then.

Mr. HOAR. The Senator will permit me to add that I do not think I shall desire to address the Senate orally to-morrow.

REPORTERS ON THE FLOOR.

Mr. MORGAN submitted the following resolution:

Resolved, That the Committee on Rules is instructed to inquire and report whether it is expedient to enlarge the standing orders of the Senate so as to admit the reporters of the National Associated Press to a seat on the floor of the Senate, and also whether it is expedient to make any alteration in the standing orders adopted in the Forty-third Congress in relation to the allowance of seats on the floor of the Senate to the Associated Press reporters.

Mr. MORGAN. I desire to say before the resolution is referred that complaint has been made here by the National Associated Press that they do not receive equal privileges on this floor with the New York Associated Press. I think the subject ought to go to the Committee on Rules for consideration before the Senate takes action on it, and I therefore ask the adoption of the resolution so that the subject may be before the committee.

The resolution was agreed to.

COMMITTEE SERVICE.

On motion of Mr. WALLACE, it was

Ordered, That Mr. GORDON be appointed to fill the vacancies upon the standing Committees on Commerce, Agriculture, Education, and Labor, and the select committee to examine the several branches of the civil service, in the order in which such vacancies at present exist.

EXECUTIVE SESSION.

Mr. THURMAN. I now renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifty-five minutes spent in executive session the doors were reopened, and (at one o'clock and thirty-five minutes p. m) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 2, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

THREATENED INVASION OF INDIANS.

Mr. KING. I ask unanimous consent to submit a resolution requesting information of the President with regard to the threatened invasion by Indians under Sitting Bull.

The Clerk read as follows:

Resolved, That the President be, and is hereby, requested, if not incompatible with the public interests, to inform this House what military preparations, if any, have been made to meet the threatened invasion by Indians under Sitting Bull, from British America.

Mr. KING. It is notorious that our northern territory is threatened with invasion by Sitting Bull from British America. This Indian and his followers, during the winter of 1876-'77, suffered defeat by the United States forces under General Miles in a winter campaign of extraordinary rigor, in which frequently the troops had to endure extreme cold, the thermometer at times being forty degrees below zero in the wilds through which they marched. The Indians, starved, without forage for their horses or ammunition for their rifles, declined all overtures by this Government to place them on the footing of other Indians in our Territories, and to the number of upwards of seven thousand, we are informed, marched across the line into the dominions of Great Britain. There they have been permitted to settle in the *wood-mountain* immediately on our northern border.

According to international law, a belligerent or hostile party taking protection in foreign territory is compelled to lay down arms and be removed from the border to a sufficient distance to insure the prevention of further hostilities. In this case, however, such precaution has been neglected or avoided, and Sitting Bull, with a following of between two and three thousand warriors, after waging a war during which fell the brave Custer and his soldiers, which cost this Government over two millions of money and took the lives of many citizens as well as brave men and officers, has been permitted by the British authorities to occupy a menacing position on our northern boundary. There, by British authority and at English trade-posts, he has been permitted to supply himself and his followers with all of his requirements, including munitions of war.

This hostile camp now threatens the line of the Northern Pacific Railroad and our citizens and all of their interests in the fertile valley of the Yellowstone. It is a grave question whether Her Majesty's government, having taken these Indians under its protection, is not responsible for their deeds to an extent that will give the citizens on our frontier security from their ravages; else the United States Government will be compelled to keep a standing army at great cost perpetually in front of them to prevent invasion. The latter is the course to which we must urge this Government, and to take full measures in that direction that we have no more Custer massacres.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. CONGER. I think that might wait till to-morrow.

The SPEAKER. Objection is made.

YELLOW FEVER.

Mr. GOODE. I ask unanimous consent to take from the Speaker's table for consideration at this time a Senate bill authorizing the construction or purchase of a refrigerator ship to prevent the introduction of yellow fever. It is the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerator ship for the disinfection of vessels and cargoes, and for other purposes.

Mr. CONGER. I object.

Mr. GOODE. The Senate made a mistake. They ought to have passed a bill to patent the gentleman from Michigan as a refrigerating objector.

Mr. CONGER. If the gentleman comes forward to ask unanimous consent, and is insulting in his remarks because a gentleman thinks it his duty to object, I desire the House to know it.

Mr. GOODE. I had no intention to insult the gentleman.

Mr. CONGER. I care nothing for these vulgar sneers at me as an objector, coming from the source they do. When a gentleman gets the floor to ask unanimous consent, and another member in the discharge of what he conceives to be his duty objects, I think the gentleman who objects should not be sneered at by any man.

Mr. SPARKS. I believe there is nothing before the House.

Mr. GOODE. I deem it due to myself as well as to the gentleman from Michigan to say that I intended no personal offense to him, as I supposed he would have understood.

ORDER OF BUSINESS.

Mr. SPARKS. I rise for the purpose of moving that the House resolve itself into the Committee of the Whole, in order to resume the consideration of the Army appropriation bill. But prior to that I desire to make a suggestion in regard to the limitation of time for debate. Every gentleman who has charge of a bill that runs day after day knows something of the constant requests made to him by other gentlemen, some saying, "Let us close this," and others, "Let the debate continue." Now I would like the House to determine that. This debate has already been running four or five days.

The SPEAKER. The Chair thinks it is competent for the House at any time to close the debate.

Mr. SPARKS. Well, I would like to test the sense of the House now as to the length of time we should continue this debate; and if the time is fixed perhaps it might be well then to determine the length of speeches to be made. The gentleman from Wisconsin [Mr. WILLIAMS] is on the floor, entitled to forty minutes. Of course we could not change that; nobody would propose to do so. But will the House now fix some limit to the length of speeches—say ten minutes?

Mr. HARRIS, of Virginia. I think we had better first fix the time at which the general debate shall close, and then let the House determine as to the length of speeches. I do not think it is well to combine the two propositions together. Let the House say when the debate shall close and regulate the other matter afterward.

Mr. ATKINS. I would suggest that if the House desires to continue this discussion the shortest way is not to obstruct it. But I concur with the gentleman from Illinois in thinking that the House should this morning indicate in some way its sense as to how long the debate should extend. If it is the disposition of the House to continue the debate for some time longer, the best way is to let it run.

Mr. SPARKS. To get at the sense of the House, I move that all debate be closed to-morrow at two o'clock.

Mr. CONGER. Before that motion is put I desire to make a remark. I saw yesterday upon the list in the hands of the chairman of the Committee of the Whole the names of, I think, twenty-three or twenty-four gentlemen, and I do not know but the number may now be greater, who had expressed their desire to speak upon this subject and had not spoken upon it. Many have personally said to me that they wish to speak, and desire not to be limited except by the hour rule. I apprised the gentleman from Illinois in private and in public of that fact.

Now, I do not think we shall gain anything in the way of facilitating the disposition of this bill by limiting debate while there are so many gentlemen who wish to speak and who think they have a right to be heard. So far as I know there is no desire to prolong debate for any dilatory purpose. That has not been the character of the discussion so far. I think the remarks have been made in earnest; gentlemen have meant what they said, and wanted to express their views. I think the discussion had better run on in the same manner.

Mr. SPARKS. How would it suit gentlemen to make a limit of fifteen minutes for each speech?

Mr. CONGER. Some gentlemen have already prepared their remarks with the understanding that they would be entitled to longer time. They wish to deliver their remarks in full—not merely to have them printed as if delivered.

Mr. STEPHENS. How would it do to have a night session?

Mr. SPARKS. As suggested by my friend from Georgia, how would it suit gentlemen if we have a night session for debate only?

Mr. CONGER. On that point I have only this to say, that any man who considers his remarks worthy of being spoken likes to have an audience.

Mr. STEPHENS. There would be a large audience at a night session.

Mr. CONGER. We all know that at night sessions there are not more than ten or fifteen members present, unless business is to be transacted.

Mr. SPARKS. I think that at night we are likely to have a large audience—at least in the galleries—and some of the remarks are directed to them.

Mr. HAYES. And members on the floor seldom listen.

Mr. CONGER. From the demonstrations that there have been in the galleries, I think they have already taken sides.

Mr. SPARKS. They have done so, and will.

Mr. CONGER. I suggest to the gentleman, as I have already done, that if the gentlemen yet to speak be allowed to do so with the same latitude as to time that other members have enjoyed it would be more in accordance with the views of our friends on this side of the House.

Mr. WEAVER. And of the center also.

Mr. CONGER. And as there are a number of gentlemen on the other side who have their names down for speeches, I presume this arrangement would be most agreeable to them.

Mr. McLANE. I want to join my voice to that of the gentleman from Michigan in favor of prolonging the debate. I hope the gentleman who has charge of this bill will not make any effort to limit the time.

Mr. SPARKS. Now, Mr. Speaker, I have brought up this question for the purpose of satisfying gentlemen who have spoken to me on the point. The gentleman from Michigan states very correctly the substance of interviews I have had with him and other gentlemen on his side. But it is also true that several gentlemen on that side have indicated a desire for an early termination of this debate, and several on this side express the same wish. Others, however, insist upon the debate going on.

Mr. CONGER. May it not be that those in favor of limiting the debate are those who have already had their hour?

Mr. SPARKS. Precisely; the gentleman has struck it just right. Those who desire the debate to go on are those who have not yet had their say. I have brought this question up now mainly to ascertain the sense of the House, which I think is that the debate should go on.

Mr. HARRIS, of Virginia. The only way to test the sense of the House is to submit the question to a vote. The gentleman from Illinois cannot get the sense of the House by getting the views of a few gentlemen. Let him make a motion fixing two o'clock to-morrow for terminating the debate; and if the House wants to vote that motion down, it will do so. How can the gentleman get the sense of the House by putting inquiries to one or two gentlemen?

Mr. SPARKS. I have not yielded to the gentleman from Virginia; but he has thrust his speech into my time, and we have heard it.

Mr. HARRIS, of Virginia. All I ask is that the gentleman give the House an opportunity to say by a vote when the debate should terminate.

Mr. SPARKS. I have the floor and do not choose to take the suggestion of the gentleman from Virginia unless I like it. I am not asking any individual of this House when debate should end. I am extremely anxious to close it at the earliest possible period; but other gentlemen on this floor have some rights as well as the gentleman from Virginia or myself. I do not propose to choke off this debate, and do not intend to do it if I can help it.

Many MEMBERS. That is right.

Mr. SPARKS. But I would like (and I think gentlemen ought to join me in this) to close this debate as early as possible. With this view may we not have unanimous consent for a night session? [Cries of "No!" "No!"]

The SPEAKER. It is competent for the House this afternoon by a majority vote to take a recess till the evening.

Mr. HARRIS, of Virginia. I ask my friend from Illinois to give the House a chance to vote on his own proposition to close the debate at two o'clock to-morrow. Let him not assume that the House does not want the debate to end to-morrow, when he does not take the sense of the House by a vote.

Mr. SPARKS. I have never made any motion of that sort, and shall make no such motion. If the gentleman from Virginia wants this debate to close at two o'clock to-morrow let him make a motion to that effect, and let us have a vote on it. I think it would be a little unkind for me to do so.

The SPEAKER. The Chair desires to state that according to his experience a free and unlimited debate is often the shortest mode to reach a practical result.

Mr. HOUSE. I do not think there is any disposition on either side to limit this debate unreasonably, but it seems to me if we would have a session to-night and another session to-morrow night we might then have it understood that we would come to a vote on the question some time during Friday.

The SPEAKER. The majority of the House could have an even ing session on both nights.

Mr. HOUSE. Very well, then; let us have sessions on both nights.

Mr. KELLEY. Mr. Speaker, I do not expect or desire to participate in the debate on this bill, but I should be very sorry to see it restricted. And I wish to remind members, particularly those who were members of the last House, that this session is a self-imposed luxury which they seem, if we may judge by such evidences as give approval of this playing and acting, to be enjoying. It has certainly been provocative of great applause and much laughter so far, and I do not see why, having inflicted the luxury upon ourselves, we should not let it have free run and course. When we strike "emptyings," which we have not done yet, for the last speeches and the latest of all have had a great many good points, the House will be ready to "shut down;" but, meanwhile, I agree with the Speaker, this is one of the things in which "the longest way round is the shortest way home," and the freer course we give to debate the sooner the question will be disposed of.

Mr. DUNNELL. I desire to make one suggestion to the gentleman from Illinois. I think it would be satisfactory to both sides of the House if to-day and this evening should be devoted to debate on this question under the hour rule.

Mr. KELLEY and other members. Oh, no!

Mr. DUNNELL. And that to-morrow the discussion be devoted to ten-minute speeches. I am satisfied a larger number would thus have an opportunity to express their views, and in a ten-minute speech there are a great many members who can do as much justice to themselves as in having a much longer time. I think there could be a fuller debate under the ten-minute rule on the last day than under the hour rule. I am satisfied for one we have already had debate enough on this question.

Mr. STEPHENS. I suggest, Mr. Speaker, that the vote be taken at two o'clock on Saturday, and that in the mean time the debate proceed and that sessions be held in the evening.

The SPEAKER. It is always competent for the majority of the House to have an evening session.

Mr. HAWLEY. Mr. Speaker, we are not approaching the immediate close of any session regulated by law. So far we have had two afternoons, about four hours each, devoted to the discussion of an exceedingly important question. I think it a little ungracious to attempt now to crowd members into an evening session. If gentlemen will wait a day or two and let this matter have full run the House itself will naturally gravitate to the close of the debate. For one I want to say something, and there are others likely who wish at some time during this discussion to be heard, but I do not wish, after a tiresome day, to be crowded into an evening session. There is no choice about it. Gentlemen tell me I can speak in the afternoon, but I do not know whether I may or not.

I see no good reason why we may not let this thing run a day or two longer. We are costing the country nothing, and I am sorry to say we are not costing the country a little something, for it is necessarily some expense to us. I do not think it quite right that the discussion of one of the most important issues we have had before us in many years should be limited to an afternoon or two, and that whatever else is to be said upon the subject is to be crowded in a night session.

Mr. SPARKS. I wish to say one word.

Mr. STEPHENS. I insist on my motion that debate close at two o'clock on Saturday.

Mr. SPARKS. And that in the mean time we shall have night sessions.

The SPEAKER. It is always competent for the House to take a recess.

Mr. SPARKS. We are now, Mr. Speaker, asking for something in the shape of unanimous consent, and this discussion is proceeding on that principle. I suggest to the gentleman from Connecticut that night sessions be for the purpose, if you please, of allowing those who may desire to do so to discuss the question at that time, compelling no member obtaining the floor in his order to speak at the night session unless he should prefer to do so. Some arrangement of that kind could be reached by unanimous consent I have no doubt. I know there are many gentlemen who would be willing to come here and make speeches during the evening session. There is an order of debate upon the chairman's desk, and those who are reached in their order it might be understood should not be compelled to come here and deliver their remarks at the night session unless they chose to do so. That would certainly remove the difficulty in the mind of the gentleman from Connecticut. In that view I wish this debate to progress so as to be satisfactory to all and for the purpose of expediting the public business.

Mr. HARRIS, of Virginia. Now let us have a vote on the question.

The House divided; and there were—ayes 88, noes 80.

Mr. DUNNELL. I ask for tellers.

Tellers were ordered.

Mr. O'NEILL. I wish to ask the gentleman from Minnesota if he desires to have the time made shorter?

Mr. DUNNELL. I do.

Mr. O'NEILL. He desires, then, that the debate shall close before two o'clock on Saturday?

Mr. DUNNELL. That is my desire, to have less time for the debate.

Mr. HARRIS, of Virginia. Then offer an amendment.

Mr. ATKINS. At what time does the gentleman propose that the debate shall close?

Mr. DUNNELL. I would say; let it close on Friday.

The SPEAKER. The House is now dividing.

Mr. BUCKNER. Then those gentlemen who want a shorter time ought to vote "no."

The House divided; and the tellers reported—ayes 78, noes 90.

So the motion of Mr. STEPHENS, that the debate should close at two o'clock on Saturday, was not agreed to.

Mr. DUNNELL. I now move that the debate be closed at four o'clock on Friday.

Mr. CONGER. I would suggest that by fixing a time at which the vote must be taken we will carry the debate to that time. If it is left open we may be able to get through with the debate before the time mentioned by the gentleman from Minnesota.

Mr. DUNNELL. I insist upon my motion.

Mr. DE LA MATYR. I move that that motion be laid on the table.

The SPEAKER. The gentleman will reach his object by voting against the proposition. It is not usual to lay on the table a motion of this character.

Mr. STEPHENS. I suggest to the gentleman from Minnesota to make the hour two o'clock on Friday. Four o'clock is too late. We will be kept here till eight or nine o'clock with the different votes.

Mr. DUNNELL. I will say three o'clock. I modify my motion accordingly.

The SPEAKER. The gentleman from Minnesota moves that at three o'clock on Friday debate, both general and under the five-minute rule, on the pending proposition, be closed.

Mr. DUNNELL. I do not propose now to close the debate under the five-minute rule.

Mr. GARFIELD. I think we should not at this time include the debate under the five-minute rule for amendments.

The SPEAKER. The Chair, then, will state the motion differently. The Chair now understands the motion of the gentleman from Minnesota to be that all general debate on the pending proposition shall be closed on Friday at three o'clock.

The motion was agreed to.

Mr. DUNNELL moved to reconsider the vote by which debate was ordered to be closed at three o'clock on Friday; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. Let us understand the effect of the motion just adopted. As I understand, it applies only to general debate.

The SPEAKER. Yes; general debate in the Committee of the Whole.

Mr. CONGER. That is all right.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I now move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Wisconsin [Mr. WILLIAMS] is entitled to the floor for forty minutes.

Mr. WILLIAMS, of Wisconsin. Mr. Chairman, I am inclined to think that about all I had intended to say on this bill originally has already been said by others, and better said than I could say it. Yet having in my own mind, some time since, staked off the ground, if I may have the attention of the committee for a short time I will, in the plain, home language of the West, claim my pre-emption to so much of the remnants as I may.

It seems to me, Mr. Chairman, that this whole matter resolves itself into a question, first, of jurisdiction; second, of power; and that under whatever jurisdiction elections be held, whether State or national, two things are absolute and indispensable—*purity at the ballot-box; peace at the polls.* It is idle to talk about an election anywhere unless these two things can be secured; and whatever power may be necessary to secure them should be exerted or representative government is a failure. If all the power of the Government is required to secure them, then all the power of the Government should be put forth, whether exerted through the State or national administration. However the power be applied, the order and climax of its application is the same. If it be under the jurisdiction of the State, then, in the first instance, there stand the courts, back of the courts the sheriff, back of the sheriff the *posse comitatus*, and back of all the militia. If it be exerted through Federal jurisdiction, then, in the same order, there first stand the courts, back of the courts the marshal, back of the marshal the *posse*, and beyond all as a final and last resort the Federal troops. Wherever the power be lodged the essence and common sense of the thing is the same. Physical force in some form is necessary to overcome resistance to civil law, and the physical enforcement of civil law ends first at the policeman's club and last at the bayonet. There has been a good deal of talk, even on the part of republicans, about "bayonet rule" in this country, which, if I may be allowed the expression, I think borders on the nonsensical if not the absurd.

Sir, I know and have read of no government in history, or that exists to-day, which does not rely ultimately for its preservation and authority on coercive force as a last resort, and whoever talks about a government without this, in my judgment, talks of Utopia.

The one government on earth which has come nearer to this ideal than all others is this self-same Government of the United States. I know of no bayonet rule here, except, first, to win independence and maintain God-given rights; and, second, to put down one of the most cruel and causeless rebellions that ever cursed the earth; and lastly, to prevent our Southern friends from indulging in the delectable pastime of shooting negroes on sight. [Applause.]

Sir, the expression may be a harsh one, but if the whine and whimper about "bayonet rule" which has come wailing down the wind since the surrender and forgiveness at Appomattox be unworthy of a chivalric people, then what shall be said of it when indulged in by republicans? When in all history was such leniency ever shown a fallen foe before? And when was proffered mercy ever treated with loftier contempt? Gentlemen may say that the enforcement of law rests upon the consent of the governed. Ah, sir, the consent of the governed is that consent where, under a free Constitution and fair elections, not only the consent but the will of the people becomes formulated and crystallized into public law; where not only the power to make laws is exerted, but the duty to enforce them is enjoined; and thus it is that obedience to law, absolute and unquestioned while it is the law, becomes the foundation-stone of free government.

Sir, this House and the country has seldom been more startled or gratified than on Saturday last by the masterly, I may say the gigantic, manner in which the distinguished gentleman from Ohio [Mr. GARFIELD] portrayed the absolute necessity for the free action of Congress and the President in the enactment of laws. If the distinguished gentleman had chosen to go further he could, with a power of language which I can never hope to command, have portrayed with equal force and clearness the necessity for peace, purity, and absolute freedom at the ballot-box, where not only the power to make laws is granted, but where Congresses and Presidents are made and unmade as well.

Sir, I heard with interest and read with attention the remarks on Friday last of the able and accomplished gentleman from Kentucky [Mr. CARLISLE] touching that provision of the Constitution contained in section 4, article 4, which provides that the United States shall guarantee to every State a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence. It requires no argument to establish, because it cannot be successfully contradicted, that when the Constitution confers a power or enjoins a duty upon the United States that such power can only be exerted through the auxiliary agency of law. The gentleman from Kentucky argued clear up to the line, but he did not cross it by so much as the breadth of a hair. If I recollect aright he refrained from citing that other clause of the Constitution, section 3, article 2, which provides that *the President "shall take care that the laws be faithfully executed."*

It needed no argument to convince anybody that when the Constitution vests a power in the Government of the United States a law of Congress is necessary to marshal and set that power in motion, but when by the express and explicit language of the Constitution itself a power is vested in the President and a duty enjoined upon him, I ask gentlemen what act of a governor, what act of a State Legislature, what act even of Congress itself, can take that power away or exempt the President from the performance of the duty? I need not tell lawyers that if Congress legislates in such a case at all it must be in aid and not in contravention of the power. What is the measure and extent of this power? Whatever is reasonable, requisite, and necessary for the enforcement of the law. If it can be done by the civil power, that is the extent; if it requires military power, that must be invoked, because the primal fundamental condition is that the laws be faithfully executed.

Mr. Chairman, if the laws be not enforced, there lies nothing beyond but the dark sea of anarchy, danger, and revolution. Is not this, rather than the sword, the first great cause which leads to the downfall of republics?

Sir, if my good friend from Ohio [Mr. GARFIELD] will grant me the loan of his illustration for a moment, I will say that in my judgment right here lies the chip, under the heel of the republican giant, on which his foot has been slipping since the year 1874, when the republican party first began virtually to acquiesce in the non-enforcement of the laws!

Mr. Chairman, if we have an earnest people and an honest God, I believe that the outrages, the cruelties, the unspeakable atrocities which fill the dark valley between that period and this, never will be condoned, and never ought to be condoned, until the American people, East, West, North, and South, shall rise in the nobility of manhood and the majesty of might and declare as one man that now, henceforth, and forever these hellish deeds shall cease. [Applause.]

Mr. Chairman, I have on another occasion recently argued before this House and attempted to show that under section 4, article 1, of the Constitution, which provides that Congress may make or alter regulations for the times, places, and manner of holding elections for Senators and Representatives, except as to the places of choosing Senators, Congress has full and ample power to enact these election laws now proposed to be repealed. I do not care to go into that question here; but it seems to me that to deny it is to say that this language of the Constitution is surplusage, and that Hamilton, Madison, and Story when they wrote about it did not understand what they were writing.

If, then, these be constitutional laws, and if the President is commanded to take care that they as well as all other laws of the United States be faithfully executed, then his power is complete. And if these laws are not constitutional, there is a very easy method of settling that question in the courts. Certainly it cannot be necessary to settle it by the revolutionary methods here proposed.

Grant, then, that it exists, and where does this power of the President, to see that the laws be faithfully executed, extend? Why, manifestly, wherever the laws of the United States extend. If there be a square rood, a square rod, or a square foot of ground in this country where the laws and jurisdiction of the United States do not go, then there this power does not extend, but if there be not then there is not a square foot, or a square yard of territory where it does not exist, or where within this proper jurisdiction the President, if necessary to execute the laws of the United States, may not station troops, whether, in the language of my friend from Ohio on the right, [Mr. KEIFER,] it be at the polls or in the church of Christ.

Sir, there is no place in this country so sacred but that the laws should be enforced and obeyed. The duty of the United States when called upon to aid in the enforcement of State laws comes under that other provision of the Constitution which in my humble judgment is not at all involved in this discussion. Now if this power be granted, the method of its application and enforcement has already been set-

tled, and, I think, settled right by democratic precedent; settled in that case of Anthony Burns in Boston in 1854, which in the forum of conscience and the enlightenment of the age partook of barbarism, but passing by the constitutionality of the law itself involved the cold abstract propositions of law, proper to be settled though they bound the fetters stronger on the trembling limbs of a fugitive slave. In that case President Franklin Pierce called upon his Attorney-General, Caleb Cushing, both regarded as tolerably sound democrats, for his opinion as to whether the United States troops might be used by the United States marshal as a *posse comitatus* to aid in the arrest of Burns against the resistance of the citizens of Massachusetts.

In this opinion Mr. Cushing, speaking of the *posse comitatus* and the power of the marshal to summon it, says:

This authority comprehends not only bystanders and other citizens generally, but any and all organized armed forces, whether militia of the State or officers, soldiers, sailors, and marines of the United States; and if the object of resistance to the marshal be to obstruct and defeat the execution of the provisions of the Constitution or acts of Congress the expenses of such *posse comitatus* are properly charged to the United States.

Again, in the same opinion, he says:

To guard against violence by wrong-headed, misguided, disloyal citizens, or by foreign force, is an important obligation of every government—the grand purpose and consideration, indeed, for which it is instituted. Hence, when the officer of the law deems it necessary and proper to raise the *posse comitatus* to aid and assist him in executing the process of the law, the extraordinary expense thereby incurred is properly payable by the Government. * * * These conditions apply as well to the military as to the civil force employed, for the *posse comitatus* comprises every person in the district or county above the age of fifteen years, (Watson, sheriff, page 60,) whatever may be their position, whether civilians or not, and including the military of all denominations. * * * The fact that they are organized as military bodies, under the immediate command of their own officers, does not in any way affect their legal character. They are still the *posse comitatus*, (21 Pol. His., pp. 672-678, per Lord Mansfield.)

Here we have the question settled by the highest English and American authorities, and re-enforcing them is the act of Congress of the 29th of July, 1861, which provides:

That the marshals of the several districts of the United States, and their deputies, shall have the *same* powers in executing the laws of the United States as sheriffs and their deputies in the several States have by law in executing the laws of their respective States.

And still re-enforcing this power is the act of the 28th of February, 1871, entitled "An act to amend an act approved May 31, 1870, entitled 'An act to enforce the rights of citizens of the United States to vote in the several States of the Union, and for other purposes;'" which provides that when the marshal or his deputies shall be forcibly resisted in executing their duties or "shall by violence, threats, or menace be prevented from executing such duties, or from arresting any person or persons who shall commit any offense for which said marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is hereby, empowered to summon and call to his or their aid the bystanders or *posse comitatus* of his district."

There, sir, in the Constitution and the laws is the arsenal of power whence the President may draw any weapon, whether civil or military, necessary for the faithful execution of the laws.

And it seems to me that the whole question of using troops to preserve peace at the polls hinges upon this: do we intend to surrender to the States exclusive and absolute control of all elections whether State or national? If we do, then there can be no object in holding on to a power which we could only exert at the request and by the direction of a State, and which is abundantly provided for, as I have said, in another part of the Constitution. But if, on the other hand, we intend to maintain the position that the Constitution confers upon the General Government power, ultimate and absolute, to control Federal elections, and that the present condition of the country imperatively demands the exercise of this power, then with all due deference to the distinguished gentleman from Ohio, [Mr. GARFIELD,] instead of regarding this as a mere question on the skirmish line, I regard it as the very center and citadel of the situation. Upon the power "to keep peace at the polls" depends ultimately the whole question of Federal authority and self-preservation.

I have heard it suggested somewhere that as there was to be no general election this year, perhaps for the sake of peace, in this era of good feeling and good-will, this power might be surrendered by way of compromise; or, in other words, that we might consent to let the tiger into the house and then see if we can pull him out by the ears. Sir, we do not expect to declare war during the next year; we hope not to have to declare it for the next hundred years; yet who would favor the surrender on the part of Congress of the power to declare war? Most men do not expect to kill an assailant in self-defense during their natural lives; yet who would surrender that right for a week, or even for a day?

I think it is the fervent prayer of the people of this country that it may never be necessary to march troops to the polls to keep the peace on election days again; but if it be necessary, who would take that power away?

Mr. Chairman, it is not a pleasant sight, I grant you, to see American citizens march to the polls between lines of bristling steel; but it is just as unpleasant to see honest voters, who have gone there to exercise their rights under the Constitution, met by bludgeons, bowie-knives, shot-guns, and revolvers. [Applause.] Do we propose, in the great cities of this country, to perpetuate the farce of setting up stool-pigeons at the polls, in the persons of United States supervisors, having no power to repel insult or command respect? And is that the thing we are struggling for now?

Go down to Kingstree, in South Carolina, at the election of 1878 and what do you behold there? A United States supervisor ejected from the room where the ballot-boxes were, and where the laws of the United States require him to be? Yet, remembering his duties, and perhaps the penalties which the law imposes for their non-performance, he procures an empty tobacco packing-box, places it on an outside platform, climbs up on it, and there, representing the power, the authority, and the dignity of the United States Government, peeps through the window and performs his duty as well as he can! But is he permitted to remain unmolested? Not at all; just before the sun wheels down in the west, a gang of roughs appear upon the scene; and seizing the tobacco-box, that great palladium of American liberty, hurls it and its occupant down the steps of the building, and rolls the dignity and power of the United States Government in the dust. I tell you, Mr. Chairman, that right then and there the United States was made "to eat the leek," to taste garlic, and from that time to the wee small hours of the morning onion-skin ballots went in unchallenged but not uncounted. [Applause.]

But were there no arrests for a thing like that? Why, of course there were, Mr. Chairman. The supervisor, going before a United States commissioner to swear out a warrant, was himself arrested upon State process for perjury, and both he and the commissioner were incarcerated in the common jail! Yet why should we object to these things "in this era of peace and good-will?" And yet this is the farce which we call an election, where members of Congress are chosen whose single vote may shape legislation and change the whole civil administration of the Government. And to secure this our opponents are willing to resort to revolutionary methods!

Mr. Chairman, I have no desire to revive the sad and bitter memories of the war; neither have I any disposition to shrink from doing so when the cause of justice and right demands their revival. When was the law now proposed to be repealed enacted, and what were the circumstances that led up to its enactment? It was introduced into the Senate by Lazarus W. Powell, of Kentucky, on the 5th day of June, 1864, in the dreadest hour of the nation's struggle, when the earth was iron, the sky was brass, and there was darkness everywhere; in the very year in which the democratic party declared the war for the Union a failure, and the patriotic people walked by faith, hoping under God for victory. It was at such a time that the bill was introduced. Who was its author and what were the evils it was designed to remedy? I send to the Clerk's desk volume 50 of the Globe, and ask to have read the passages marked on pages 102 and 103 of that volume.

The Clerk read as follows:

Mr. SAULSBURY. Well, then, since the Senator has chosen to deny that there has been any impropriety on the part of the military in their interference with the freedom of elections in the States, I cannot sit quietly as a Senator from what was once a State of the American Union, and the first to adopt the Constitution under which we live, without saying to that Senator that I have seen the armed soldiery (acting under the command, I suppose, of "the powers that be") appear at the polls at which I myself had a right, according to the constitution and laws of my State, to vote, and there, by positive interference, drive men from the polls, take some men who had done naught in violation of the law of the land, either Federal or State, and incarcerate them in the county prison; and no longer ago, sir, than last November, in the county in which I live, as soon as the voters arrived on the ground, before they had offered to vote, before they had approached the polls, the soldiery seized them, fastened them up, and kept them confined.

* * * * * * *

I am proud to say, sir, that the majority of the legal voters of my State, not choosing to have any conflict with the national authorities, choosing rather to be disfranchised than to have their soil stained with blood, or to give the pretext to this Administration to say that they were not peaceable, law-abiding citizens, refrained from voting and throughout the whole State there were but twelve or fourteen votes cast for the democratic candidate. But suppose, sir, they could have had a right to vote, suppose they had been allowed to vote by taking the oath prescribed, what right has any military officer in a State not in revolt, in a State where there has been no attempt at revolution, in a State where no political organization has ever avowed any hostility to the Union, to step in and say, "You, you, the proud citizen of a State and of the United States shall hold from me your right of voting for a member to represent you in Congress, or (as at the election before) for members to represent you in your own State Legislature; you shall have a right to vote, if you will do my bidding and swear to what I shall dictate to you!

Mr. WILLIAMS, of Wisconsin. This, Mr. Chairman, is a grave affair, and that we may discover if possible the source of these grievances, I now send up volume 53 of the Globe, and ask the Clerk to read the passage marked on page 3194, being the order of Major-General George B. McClellan, dated October 29, 1861.

The Clerk read as follows:

HEADQUARTERS ARMY OF THE POTOMAC,
Washington, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major-general commanding directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held to protect the Union voters, and to see that no disunionists are allowed to intimidate them or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently, and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election. For the purpose of carrying out these instructions you are authorized to suspend the *habeas corpus*. General Stone has received

similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,

R. B. MARCY,
Chief of Staff.

Major-General N. P. BANKS,
Commanding Division, Muddy Branch, Maryland.

Mr. WILLIAMS, of Wisconsin. Similar orders were issued by other generals in command covering Kentucky, Missouri, and other States.

When the bill was introduced into the Senate a controversy arose as to whether it should be referred to the Committee on the Judiciary or the Committee on Military Affairs, of which latter committee Henry Wilson was chairman. I now ask the Clerk to read from page 105 of the Globe, volume 50.

The Clerk read as follows:

Mr. WILSON. The motion is to refer this bill to the Committee on Military Affairs. I am certainly willing that it should go to my committee if the Senate so order; but I wish distinctly to say before the vote is taken that I am opposed to any action whatever on the subject-matter embraced in it. I am opposed to action for the reason that I am in favor of what the Government has done. I shall stand by this action of the Government here, elsewhere, and at all coming times. It is a fact, and we know it, that in the States of Delaware and Maryland there are traitors as bitter and hostile to the Government of the United States as there are in the States of Virginia and South Carolina.

* * * * * * *

I am in favor of administering the oath of allegiance to members of the Senate and of the Government, and of requiring men to swear loyalty to their country. I am in favor of keeping from the ballot-boxes of the country any man who is not willing to take the oath of allegiance to the country in this hour of its trial. We know that in Delaware, in Maryland, in Kentucky, and in Missouri there are men who, throughout this rebellion, have been for the rebellion, and have been more or less active in the cause of the rebellion.

I justify the action of the Government, and I hope it will continue so to act till the close of the rebellion; for I see plainly that the men who cannot succeed by bloody war will, when baffled and defeated by our brave soldiers in the field, rush to the ballot-box, hoping there to win what they could not conquer in the field. I hope the policy of the nation will be to require these men, when they approach the ballot-box to take part in the government of the country, to swear before Almighty God fidelity to the country. The Government is false and recreant if it allows a traitor who shrinks from taking such an oath to put a vote in the ballot-box.

Mr. WILLIAMS, of Wisconsin. I will now ask the Clerk to read from page 87, volume 53, (appendix,) of the Globe, the remarks of Senator Howard, of Michigan, one of the broadest statesmen, ablest lawyers, truest patriots this conntry has ever produced.

The Clerk read as follows:

In introducing the resolution of expulsion against the author of the bill, Mr. Davis (I am obliged to call his name for distinction's sake) in the preamble of that resolution recites the following facts:

"Whereas Lazarus W. Powell, a Senator from the State of Kentucky, after eleven States had published their ordinances of secession by which to sever themselves from the Government of the United States, had formed a confederacy and provisional government and made war upon the United States, did, on the 20th day of June last, at the city of Henderson, in the State of Kentucky, attend a large southern State-rights convention, over which he was called to and did preside; and on taking his seat as president thereof made a speech in which he stated the object of said convention and then appointed a committee which reported to said convention a long series of resolutions that were unanimously adopted by it. Among those resolutions are the following:

"Second. That the war being now waged by the Federal administration against the Southern States is in violation of the Constitution and laws and has already been attended with such stupendous usurpations as to amaze the world and endanger every safeguard of constitutional liberty.

"That the recall of the invading armies and the recognition of the separate independence of the Confederate States is the true policy to restore peace and preserve the relations of fraternal love and amity between the States.

* * * * * * *

"Sixth. That we heartily approve the refusal of Governor Magoffin to furnish Kentucky troops to subjugate the South; and we cordially indorse his recent proclamation defining the position of Kentucky in accordance with the sentiment of her people, and forbidding the invasion of Kentucky by Federal or confederate troops."

Mr. WILLIAMS, of Wisconsin. The Senator's colleague, in the course of his speech on that resolution, speaking of the principles of the Senator to whom I am alluding, said:

They were as well known to me before I left the State of Kentucky to come to this city to take my seat as a representative in the Senate from that State as they are at this day. With this full knowledge on the part of my constituency and of myself, they have no more united or earnest desire than that my colleague should be removed from his seat.

Again, in the course of the same speech, the same Senator [Mr. Davis] said:

Mr. President, it was a dreadful, and for a long time a doubtful, struggle in that State which party would prevail and control its destiny. The popular mind of the State of Kentucky had to be educated against all their sympathies, all their interests, all their business connections, and against the feelings and sympathies of their brethren in the South before they could be induced to take a position in favor of the Union and of their Government against them.

Again, this is the further testimony of the colleague of the Senator who produced this bill:

Mr. President, what was the duty of my colleague at that time, that eventful and doubtful time? His position, his principles, his moral power as an ex-governor of the State of Kentucky, and as a Senator representing that State in the Senate of the United States were all thrown against the Government of the Union and in favor of the rebellion and of the secessionists. I challenge him to produce a single act of his, public or private, from that time to the present, that ever evinced the least interest in or sympathy for his own Government, or the smallest purpose to support or uphold that Government according to the obligation of his constitutional oath. I challenge him to produce a single act, public or private, of his the tendency of which was not to strengthen the rebellion, to give it complete and final success, to disrupt this Union, and to overthrow the Constitution of the United States.

Such, Mr. Chairman, was the occasion and such the author of the bill for restraining the use of Federal troops at the polls; and it is a noticeable fact that the language contained in this printed bill now before us is the precise language of this same Lazarus W. Powell as he proposed that the bill should finally pass the Senate.

Mr. PHISTER. Will the gentleman yield to me for a moment?

Mr. WILLIAMS, of Wisconsin. It would give me great pleasure to yield to the gentleman, but, as he sees, my time is nearly gone, and I am compelled to curtail my own remarks in consequence.

Mr. Chairman, the question has been asked during this debate what was meant by the "armed enemies of the United States?" The history of that is this: The bill originally provided that troops should not be brought nearer than one mile from the polls. The point was raised by the republicans, what if the confederate forces should on election day intrench themselves within this circuit of one mile, the Union forces would have no power to dislodge them. And to meet this objection the words "armed enemies of the United States" were inserted in the bill. And then, upon motion of the republicans, the words "or to keep peace at the polls" were also inserted; and then enough republicans in both Houses voted for the bill to make it a law.

But it must be remembered that though introduced in the Senate on the 5th of June, 1864, it did not become a law until the 25th of February, 1865. Then the crisis had passed, the elections had been held, patriotism had triumphed, immortal victories had been won in the field. The confederacy had been found to be but a hollow shell. Its soldiers were tattered and starving, and it was but a question of time when the brave boys of the North should come "marching home again;" home to a land, it is true, filled with broken and bleeding hearts, but to a land, thank Heaven, devoted to liberty and dedicated to law. [Applause.]

Just so soon as the emergency had passed, this power, which I grant you was a dangerous one when used in States not in rebellion, and which nothing could justify but the supremest necessities of war, was taken away, curbed, restrained, put under the civil authority, and enacted into statutory law. There, Mr. Chairman, it remains to-day. And there, under God, so far as republicans are concerned, it shall remain forever. [Renewed applause.]

Mr. TOWNSHEND, of Illinois. Mr. Chairman, I shall devote the portion of time allotted to me mainly to two observations which fell from the lips of the gentleman from Ohio [Mr. GARFIELD] who spoke last Saturday. One of the observations of that gentleman was that we have reached a period in this country when there is danger of destruction of the Government, because it may be "starved to death" by a failure of proper appropriations for carrying on the operations of the Government. I shall first call the attention of the House to that assertion, and inquire whether there be any foundation for it or not, and, if so, I shall seek to ascertain who will be responsible for "starving the Government."

Now, Mr. Chairman, what is the situation of the appropriations for the ensuing year? I shall call your attention to what is in the record and known to all. There are twelve appropriation bills providing the necessary supplies for the Government. Of these ten were passed by the democratic House in the last Congress before its adjournment, were approved by the Senate and the President, and have gone into effect. The remaining two appropriation bills were likewise passed by the democratic House of Representatives before its adjournment, and were sent to the Senate. But these two bills were not approved by the Senate, and for that reason failed to go into effect, as I shall more fully explain further on. I call attention to the fact that every appropriation bill providing every necessary dollar for the expenditures of the Government in the ensuing year was passed by the democratic House of Representatives before the adjournment of the Forty-fifth Congress on the 4th of March last. Why, then, have two bills which I shall soon name failed to become law? For the simple reason that the Senate refused to pass them as enacted by the House, basing their refusal on the ground that we had inserted sections of the statutes which authorize the use of Federal soldiers at the polls as a guard against breach of peace, and the employment of supervisors and deputy marshals at the voting places on the day of election, and the requirement of political test oaths by jurors in Federal courts.

Of the two bills which thus failed the democratic majority in this House now comes with one and offers to appropriate over $26,000,000, defraying the entire expenses of the Army for the ensuing year. The democratic House of Representatives will pass that bill as soon as we reach a vote on it, and I feel confident this bill will pass the democratic Senate. I feel further warranted in saying that the democratic House will follow up this bill with the only remaining appropriation bill, which will make sufficient provision for the legislative, executive, and judicial departments of the Government, and that both the House and Senate will in that bill appropriate all the remainder needed to carry on the operations of the Government. There is no dispute between the parties in Congress, and I apprehend there will be none between Congress and the Executive, as to the amounts we propose to appropriate, for a conference committee of both Houses and both parties in the last Congress agreed before its adjournment to the amounts we offer to appropriate as satisfactory. If these bills pass into law, we can adjourn and go home in peace. Now, Mr. Chairman, if the democratic House and Senate pass these two bills, and they fail, who is responsible for the failure? If this Government is starved to death by the failure of these two bills, can the author-

ship of that sad calamity be laid at the door of the democratic party?

I do not know by what authority the gentleman from Ohio spoke when he intimated to this House that these two bills will fail because they will not receive the sanction of the President of the United States; but if he speaks truthfully, if his prophecies are verified, and the republican party in Congress sustains his veto, is there a man in this country so ignorant or so blinded with prejudice who will not see that those bills will fail solely because the President will have interposed his veto, and that he will have been sustained therein by his partisans on this floor? Can any one be found so reckless of truth as to deny in such a contingency that this responsibility will rest with the President and his party in Congress? The gentleman from Ohio says (and perhaps bases his prophecy upon that assumption) that these two bills contain provisions which will not be acceptable to the President—not because the substance of the provisions does not meet with his approval, but, forsooth, because they are sought to be imposed upon this bill through an unusual and "revolutionary method"—and he brings against the democratic party the serious charge of being guilty of "revolution" in this legislation. Why? Simply because the democratic House of Representatives, in passing these appropriation bills, will place provisions upon them which repeal certain sections of the statute which I have indicated. What are these provisions? The two provisions sought to be placed on the Army bill now before us are solely for the purpose of repealing the law authorizing the use of soldiers to keep the peace at the polls on election day. The other provisions with regard to elections, to be placed upon the legislative, &c., bill, repeal those portions of the statutes which authorize the employment of an unlimited number of Federal deputy marshals and chief supervisors or overseers at the voting places, who have heretofore been, and will hereafter be, under republican administration, to a very considerable extent, mere recruiting sergeants for the republican party, while pretending to discharge a public duty. The only other provision is introduced in order that when any man is accused of crime in this land he shall be tried by an impartial jury composed of his peers. In other words, we insist upon these amendments for the purpose of restoring the law as it existed prior to 1865 and 1872, and in order that every citizen in the exercise of his sovereignty at the polls shall be a free man, unawed by power, unintimidated by bayonets, and unmolested by deputy marshals and jailers, and that juries shall be selected without reference to political sentiment or opinion. These are the principles against which the republican party in this House has arrayed itself, and their leader has threatened to starve the Government to death rather than permit their vindication and establishment. The issue is squarely formed, and we are defiantly, arrogantly notified that unless we yield these principles, so dear to our hearts as American freemen, the wheels of Government will be blocked, for, in speaking of the opposition of his party to the repeal of these tyrannical enactments, the gentleman from Ohio tells us, "You shall not compel us, you shall not coerce us, even to save the Government."

It is asserted by the gentleman from Ohio that the method by which we are seeking to repeal these laws is "revolutionary." If this method be revolutionary I want to know that fact; and I wish further to look beyond the present and ascertain who are the authors of this "revolutionary" method. I have before me records showing that this is no new invention originating with the democratic party of the Forty-fifth or Forty-sixth Congress. I have before me records showing that this method of legislation has been practiced in the past; and I say now in passing that if the President vetoes these two bills because of the provisions we propose to tack on to them it cannot be for the reason that he regards the method by which we endeavor to effect this object as "revolutionary." He will not veto them for any such reason if he is guided by his own action of the past and by the precedents and practices of the republican party itself in Congress. What are those precedents and practices? It is not the first time that general legislation has been incorporated into an appropriation bill. Those who examine the record will discover that the precedents for it are numerous.

At the opening of the Mexican war, when there was a factious opposition in Congress to the declaration of war, a provision was inserted into the Army appropriation bill and enacted into law declaring that war existed with Mexico.

Another instance occurred at the end of that war when it was desired to make an appropriation in order to carry out arrangements for peace. It was insisted upon, and a proviso was inserted into the appropriation bill declaring that slavery should be excluded from the territory acquired from Mexico.

But, Mr. Chairman, I will come down to a more recent period. In 1857 or rather 1856 the republican party for the first time in the history of the country obtained ascendency in the House of Representatives. It was the time when Nathaniel P. Banks was elected Speaker. It is a period within the recollection perhaps of every gentleman upon this floor. What was done during that time when the very same kind of bill that is before the House to-day, the Army appropriation bill was under consideration in this Hall? A gentleman, who then represented a district from Ohio, by the name of John Sherman, the same John Sherman who is now Secretary of the Treasury and one of the constitutional advisers of the President of the United States, moved an amendment to that bill prohibiting the use of United States troops for the purpose of aiding in the enforcement of the territorial laws of Kansas. It further declared that the President of the United States should disarm the organized militia of the Territory of Kansas. Still further, that he should prevent armed men from going into the Territory of Kansas either to aid in the enforcement or resistance of real or pretended laws. I submit that was a provision of similar nature to the one now proposed to be added to these bills.

The principal leader of the republican party in the House when that proviso was under consideration was the venerable Joshua R. Giddings, who was known in that day as "Father Giddings," because he was regarded as the father of the republican party. Points of order and objections were raised against that proviso based on some of the grounds now urged, but what did Joshua R. Giddings say then. If I am not mistaken he represented a part of the district that the gentleman from Ohio [Mr. GARFIELD] now represents. What was his answer to the point of order and objections raised? I have the record of it in my hand. It is to be found in the Congressional Globe containing the proceedings of July 29, 1856. He used these words in support of that amendment:

I now come to the point that when we make an appropriation we may limit its expenditures. That principle has been held to be legitimate since the commencement of the Government.

What further did old Joshua R. Giddings say:

I am only quoting precedents, and I call upon the Chair to examine that point that where we make an appropriation of money we, the Representatives of the people, may limit the expenditure in just such terms as we please.

Sir, Giddings may have been fanatical, but no man can justly accuse him of being a demagogue. He was a brave and sincere man. Now, when the gentleman wants to find a revolutionist of the sort he described let him go to the cradle of his party, let him look at the history of the men who gave birth to his party, who breathed into it the breath of life; let him recall the name of one of his most distinguished predecessors upon this floor; let him go to the other end of the Avenue and look into the council chamber of the President of the United States and gaze upon Hon. John Sherman, who was just such a revolutionist in 1857.

Mr. Chairman, if you will look over the list of names registered in favor of imposing general legislation upon the Army appropriation bill of 1857 you will find that every republican in the Congress of that day, with perhaps one exception, was a revolutionist according to the definition of the gentleman from Ohio, [Mr. GARFIELD.]

You will find in that list the name of Schuyler Colfax, a stalwart supporter of such revolutionary methods, he who was afterwards the republican Speaker of this House for years, then Vice-President of the United States, and who was a demi-god of the republican party until he fell because of the exposure of the Credit Mobilier fraud—that black cloud which burst over the household of the republican party and wrecked so many of its idols. These are the men who were revolutionists and by their revolutionary method they occasioned an extra session of Congress in 1856 in the same manner that eventuated this extra session.

But, sir, I must hurry on. I wish to come down to another period in the history of this country when the same sort of revolution was sought as the gentleman charges is being sought here to-day. It was in 1867; Andrew Johnson was President of the United States, and the republican party was in complete control of both branches of Congress. It was antagonistic to President Johnson. What was done in that year? In the Senate of the United States an amendment was offered to the Army appropriation bill stripping the President of his constitutional right to be the Commander-in-Chief of the Army of the United States. I have that amendment before me, and I assert here that if you search the archives of this Government from its foundation to this day, you will fail to find an act more thoroughly unconstitutional than this one which was introduced into Congress in 1867 and passed by both Houses while under the control of the republican party.

Let me call your attention to one or two features of that amendment. It is well known to all that the Constitution in plain and explicit language constitutes the President and none other than the President the Commander-in-Chief of the Army of the United States. I will read the second section of that amendment which was inserted in the Army appropriation bill for the purpose of coercing the consent of the President to the enactment of a vile unconstitutional law intended for his degradation. Mr. Chairman, the democratic party does not seek to insert in these bills any proviso which tends to degrade the Executive or which can in any manner be offensive to him. The democratic party has too much patriotism, honor, and decency to offer such an insult to the Chief Magistrate of the Republic:

That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate, and any orders—

Mark this language—

and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void.

The Constitution declared the President shall be the rightful Com-

mander-in-Chief of the Army of the United States; the republican Congress of the United States declared that if he issued any orders, save and except through General Grant, who at that day was the General of the United States Army, his orders should be null and void. But what further did they do? They further declared:

> Any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

Why, think of it! The Constitution making the President Commander-in-Chief of the Army of the United States, the republican Senate and House, by an amendment to an Army bill, mind you, declare that every man who obeys an order issued from the President of the United States contrary to the provisions of that section is a felon, and that he shall be punished as such by imprisonment from two to twenty years. When the gentleman denounces those who favor this method of legislation as being guilty of treason or revolution his maledictions fall as well upon the heads of Charles Sumner, of Henry Wilson, of EDMUNDS, and the leaders of the republican party in both Houses of the Congress of 1867.

But, Mr. Chairman, I must hurry on. I come now to another period in the history of this country, and I here propose to show how inconsistent the gentleman from Ohio has been on this question. You will see that every bitter epithet he has hurled at the majority in this House, like "chickens that come home to roost" return to plague their inventor.

In 1872 in the Senate, which was then a republican body, one of these very provisions which we now seek to modify was tacked on to the sundry civil appropriation bill and passed the Senate. When that bill came into this House, which was then likewise a republican body, with that provision upon it, every democrat leaped to his feet to denounce the measure, not only as unconstitutional, but as an outrageous violation of the right of suffrage and the liberties of the people. What, sir, occurred? The gentleman from Ohio [Mr. GARFIELD] was then, as now, the leader of the republican party in this House. How did he answer the objections of the vigilant and indignant democrats on this floor? He said to them, perhaps as defiantly and as vehemently as he said to us the other day, that those who sought to defeat the will of the majority of this House were revolutionists; that those who sought to defeat action upon the *appropriation* bill containing that amendment, that general legislation on an appropriation bill, were guilty of an effort to overturn the Government. I remember the reading of the language used by the gentleman on that occasion well enough to substantially quote it. He here, in this House, declared in plain and explicit terms that the resistance of those who sought to defeat the will of the majority in Congress was revolutionary and thereby they sought to overturn parliamentary government. He threatened to keep Congress in session from that time (June) until December in order to crush the opposition. Thus he spoke after leading his party on this floor in a dead-lock for three days on account of that legislation.

But how did the gentleman speak last Saturday in this House? Oh, what a wonderful change has come over the spirit of his dreams! He has completely reversed his position. He was here on Saturday denouncing those who sought to introduce such legislation on appropriation bills as revolutionists and as seeking to overturn this Government. In June, 1872, he denounced the democratic party as revolutionary (it is not a new word with the gentleman) because being in the minority it dared to resist the will of the majority in shaping such legislation as it desired on an appropriation bill. In March, 1879, he denounces the same party as revolutionary because it is resisting the will of the minority in shaping legislation as it desires. He blew hot in 1872; he blows cold in 1879. Was ever such inconsistency seen in Congress? But, Mr. Chairman, let me come down to a still more recent period and see whether this legislation can be regarded as revolutionary or not. In the last Congress—the second session of the last Congress—we passed the Army appropriation bill, containing what is known as the *posse comitatus* clause. It was legislation exactly similar in its nature to this. That bill went to the President of the United States. Did he in holy horror withhold his pen from the indorsement of that bill because it contained revolutionary legislation? Oh, no sir; your President at that day had an opportunity of putting himself on record on this question, and he has by his act told you that this method of legislation is not revolutionary but meets with his approval. Therefore, I say, sir, if the President is guided by his own past action, as well as the precedents and practices of the republican party, he will sign this bill, unless he may disapprove of the merits of the provisions that are offered, but he cannot consistently refuse his sanction on any assumption that the method of this repeal is unusual or revolutionary. If you gentlemen will examine the record already made by your President, you will find a rebuke for your absurd and bombastic anathemas at this course of the democratic party.

One other circumstance, sir, and then I will pass away from this point. Are these two provisions which we have inserted in the Army bill, and which are the only ones now directly under consideration, dangerous in their character?

The gentleman from Ohio had an opportunity on the 4th day of March last to pass his opinion upon them. And what was the position taken by him then? It is the same provision except simply this modification with regard to the appointment of the two supervisors which are retained in this bill, but whose offices were abolished by the bill then under consideration. What was the language of the gentleman from Ohio on the 4th day of March last, when the bill was more objectionable from his stand-point than it is now? I read it from the RECORD:

> I am free to admit for one that these enactments were passed at a period so different from the present that probably we can without serious harm in any direction muster them out, as we mustered out of service the victorious armies when the war was done. For myself, I see no serious practical objection to letting these sections go, &c.

On the 4th day of March last the gentleman from Ohio thought these amendments were harmless and might well be "mustered out," but on last Saturday he pictured in frightful colors the dark and damning treason that was nursed in our effort here to place a clause repealing them in this appropriation bill. How shall we ever know what may please the gentleman from Ohio. On the 4th day of March he is in favor of just such a method of legislation as we are seeking to enact. On last Saturday he seems desirous of sending every man to perdition who is in favor of provisions similar to those which he advocated in March last. If he speaks again to these amendments I hope he will explain to us why it is not revolutionary to coerce the repeal of these sections by inserting them in the Army bill on March 4 last, but that it is revolutionary to do so in less than one month thereafter—on the 29th day of the same month. Has he received a different revelation on the latter date?

In 1872 he said it was revolution to defeat the will of the majority of the people of this country as expressed in Congress. Now the gentleman tells us that it is revolution if we do not yield to the dictation and dominance of the minority in Congress. The trouble with him I apprehend is this: for eighteen years he and his party have had control of the administration of this Government, and the pill is a bitter one for him to swallow now that he is compelled to train with the minority. He regards it revolutionary for the American people to put his party out of power. Doubtless it is from that fact he has drawn his idea of revolution.

Mr. Chairman, the corner-stone on which our political institutions rest is that the minority shall yield to the will of the majority in the government of this country. The gentleman from Ohio has time and again charged that it was the refusal of the South in 1860 to yield to the will of the majority as expressed in the election of the President which constituted treason and rebellion. He now puts himself on the same ground, and defiantly tells us his party will not yield to the will of the majority in the adoption of these amendments, "not even to save the Government from death by starvation." He anathematizes the southern Representatives of 1860 because they "threatened to shoot the Union to death" rather than yield to the will of the majority. Now that gentleman and those who occupy seats on the other side of this Chamber take up the *rôle* played by the South and threaten to starve the Union to death rather than yield to the majority. Well, sir, the South did not shoot the Union to death, and I apprehend the republican party will not succeed in "starving this Union to death," nor defeat again the sovereign will of a majority of the people of this land.

The gentleman I think came much nearer the true position in 1872 than he does now when he said that a factious opposition to the will of the majority in this Government was revolutionary in its nature, would put an end to "parliamentary government in this country, and would inflict a serious if not a fatal wound upon the freedom and efficiency of national legislation."

Mr. Chairman, there never was in my district a Federal supervisor of elections or a deputy United States marshal at the polls on the day of election. We have never had a United States soldier in my district for the purpose of keeping the peace at the polls. Therefore my course to-day is not dictated by any personal grievance of my own or of my constituents. But, sir, when I remember events which have occurred at the polls in many other districts, and find that the laws which we seek to repeal have given the party in power the privilege of surrounding the polls with its recruiting sergeants, who have been paid for their partisan work out of taxes wrung from the whole people; when I remember that party has in Southern States influenced and carried elections by the use of troops at the polls; and when I know that most of this political machinery can be applied to intimidate, overawe, and rob suffragists of their rights at the ballot-box in my own as well as all other districts, as a faithful representative of the people I cannot hesitate to enter my protest against these tyrannical enactments and cast my vote in favor of their repeal.

From the foundation of the Government down to the year 1865 no law had found its way on the statute-book recognizing the use of troops at the polls in their capacity as soldiers; and until 1872 no law in this country authorized the employment of supervisors to oversee the voters, or deputy marshals to manipulate them in the interest of any political party. Until that period elections in this country were free, and the American citizen proceeded to the ballot-box not as a bondman but as a sovereign, uninfluenced by fear and without the restraint of overseers. Then, sir, the voice of the people was heard and ruled the land. Then the ballot "executed the freeman's will, as lightning executes the will of God."

What has resulted from this system of laws enacted to perpetuate the supremacy of the republican party? I have not the time to dis-

cuss the details in regard to districts which have been wrongfully taken from the democracy by these Federal officials at Saint Louis, Chicago, Cincinnati, and elsewhere, but will confine myself to occurrences in the southern district of New York. Most of the facts I gather from the investigations of a committee of this House in the last Congress. The republicans selected as the chief supervisor John I. Davenport, a man as cruel and unscrupulous as he was cunning. In order to accomplish his shameful work at the election in last November he was provided, by virtue of these laws, with nearly two thousand seven hundred deputy marshals and supervisors, at a cost to the people of about $60,000. He was also provided with an iron cage or den to imprison his victims. Now see how he performed his cruel work. On the night before the election, upon the affidavit of his own clerk, he issued warrants on which four thousand freemen, citizens of New York, were arrested on election day while they were on their way to deposit their ballots. Those who refused or could not give bond that they would not vote were held in confinement until after sundown and the polls were closed, when the prison door was thrown open and all set at liberty. All these cases were dismissed in court as being irregular, and only one single case, that of Peter Coleman, ever went to trial. It was heard before Judge Blatchford, an able and upright Federal judge, of republican politics. He decided that the arrest was illegal and unjustifiable, and of course the prisoner was set at liberty, but not until after he had been degraded and vilely outraged for daring to exercise the right of suffrage so dear to every patriotic heart in America; not until he had been robbed of his freedom and his party of his vote.

Facts like these have awakened in my mind the fear that if they can commit such outrages on the ballot-box in other localities the day may not be far off in the future when they may put their unhallowed hands on the ballot-boxes in my own district. What is the issue which we make with these gentlemen? We simply demand that the way to the ballot-box shall be kept open for all entitled to the elective franchise. No man in this land shall be compelled to submit his cause to any but an impartial jury. We stand to-day on the same ground that our fathers have occupied before us. We are not introducing revolutionary ideas and methods in this Government, but we are returning to the fundamental principles of the Republic. Monarchical England more jealously guarded the polls from military interference than the republican party has done during its reign of terror. For over a hundred years a statute has existed in England prohibiting any soldier from going out of his barracks on election day at any point within two miles of any city, town, or borough where an election is held except for the purpose of casting his vote, and then requiring him to return with all convenient speed to his barracks. What a humiliating spectacle is presented to the world. The election of members of Parliament is more securely guarded from the influence of the military power in the monarchy of England than in the Republic of America; and a great political party exists in this country who threaten the destruction of the Government rather than surrender the use of bayonets at the polls. Sir, these laws are not the enactments of freedom, but they are the decrees of despotism. These are not the first tyrannical laws which have been placed on our statute-books. The laws we propose to repeal are of the same nature as the alien and sedition laws enacted under the administration of John Adams. What was the condition of things when the democratic party came into power under the administration of Thomas Jefferson? What did it do with the alien and sedition laws which the old Federal party had placed upon the statute-book? Did the democratic party of that day say "Hush; do not disturb these laws or you may disturb the business interests of the country?" No. Jefferson and Madison and the democratic party affirmed that this is the land of the free; and these enactments being adopted only for a tyrannical form of government, without pausing to inquire whether money lords desired their repeal or not, in the interest of constitutional liberty, in the interest of freedom, they demanded that they should be annulled, and they were wiped from the statute-book. Shall we who profess attachment to Jeffersonian democracy and the principles of the men of '76 be intimidated by the absurd cry of revolution and the fears of an executive veto? If we be true men we shall courageously, unfalteringly discharge the solemn duty imposed upon us, and let our masters in a free election pass judgment upon us for vindicating the right of suffrage.

Mr. Chairman, I say again that I do not believe the President will veto these bills for any such reasons as those mentioned by the gentleman from Ohio. Why, sir, there is no provision of the Constitution more clearly understood than the one that the sole power to legislate in this country for the National Government belongs to Congress and that the President can have no share in framing legislation. If the President may shape our legislation, his title should change to that of dictator. The only power possessed by the President with regard to legislation is negative. He can only veto the bills of Congress, and then the power remains with Congress to coerce, if you please, the will of the President by making them law, his veto to the contrary notwithstanding. The language of the Constitution is plain: "Congress shall have power to make all laws," &c., (section 8, article 1.) The laws must emanate from Congress, and any man who rises in his place here and declares before the country that the majority in Congress in seeking to shape legislation according to its judgment is guilty of revolution audaciously insults the intelligence of the American people.

The gentleman from Wisconsin [Mr. WILLIAMS] claimed, I believe, that he was representing the great West, and that the great West was opposed to this method of legislation. I want to tell the gentleman from Wisconsin that the trembling wires brought in this morning news from Illinois, which forms a very considerable portion of the West, giving an expression of the opinion of the people of a portion of that State as to the character of this legislation. In the municipal election which occurred yesterday in Chicago this very question was an issue at the polls. [Laughter on the republican side of the House.] Do not laugh, gentlemen, until you hear the facts more fully as proven by your own papers. During the canvass just closed there the Tribune, the Inter-Ocean, and other papers, and your principal speakers in that canvass, Leonard Swett, Mr. Storrs, and others, declared that this very issue which we have here to-day was before the people of Chicago and was involved in the election of yesterday, and voters were called upon to express their judgment upon that issue. Well, they did so yesterday at the polls in Chicago.

What has been the result? For the first time in twenty years a democrat was elected on yesterday mayor of the city of Chicago upon this "revolutionary" issue.

Mr. WEAVER. That is a greenback triumph. [Laughter.]

Mr. TOWNSHEND, of Illinois. That tells us what is the voice of the West. In conclusion let me say that the democratic party has perhaps never had and may never have an issue with its opponent of more importance than the one presented to-day. The democratic party is now standing upon the ground occupied by Jefferson, Madison, and Jackson; it is contending for the freedom of the ballot-box and honest and impartial juries. The position they occupy is that when an American citizen proceeds to exercise his right of suffrage he shall be permitted to do so unmolested by Federal officials and uninfluenced by the fear of Federal bayonets. We seek to guard the ballot-box from every form of fear and intimidation. We would draw around it a circle of freedom and warn every tyrannical invader who shall put his unhallowed feet within its sacred precincts that he does so at his peril, be he one who wears the badge of a deputy marshal or one who carries a Federal bayonet.

As I have before expressed myself I believe that the Government can be maintained and perpetuated without the use of Federal bayonets against its own people. I believe that the safety of this Government rests more securely in the intelligence and virtue of the American people than upon bayonets. I believe with Cardinal Richelieu, that you should take away the sword, "States can be saved without it."

I yield the remainder of my time to my friend from New York, [Mr. LOUNSBERY.]

The CHAIRMAN. The gentleman has twenty minutes of his time remaining.

Mr. BARBER. I desire to say a few words in reply to what has been said by my colleague from Illinois [Mr. TOWNSHEND] concerning the election in Chicago.

Mr. TOWNSHEND, of Illinois. I have yielded the remainder of my time to the gentleman from New York, [Mr. LOUNSBERY.]

Mr. LOUNSBERY. Mr. Chairman, the great effort of the opposition has been to avoid the merits of the pending bill. An ingenious criticism of the method of adopting the repeal of the objectionable clause in the present law has been made. A labored research has brought to light facts upon which to indict a section of the country. The bloody shirt and the hate which antedated the war and which is yet so much the pabulum of partisan debate have been, as it seems to me, made too prominent in the discussion. The phantom of a presidential veto has also been held up to alarm the timid. All these considerations are foreign from the issue. They can have no legitimate place in the discussion.

The method is a mere question of practice, which is always subject to conditions, and must yield to principles which are vital and enduring. The question of a veto is a subject which belongs to an independent branch of the Government, and it should not influence our action here. It carries with it grave responsibilities, which are to be managed not in a spirit of partisanship, but with intelligence, patriotism, and moderation. The issues which antedated the war and the spirit of hate and recrimination which were a part of it, should now be relegated to the period to which they belong in history. The present subject should be considered from the stand-point of completed pacification in all the States now constituting our country.

What evils, let me ask my republican friends on the other side of the House, are likely to result from the repeal? Let us have the whole catalogue of ills.

The gentleman from Maine regrets the departure from this House of the colored men that once occupied seats on his side as Representatives of Southern States. The "solid South" is an evil that has come upon you during the operation of the law, and it is not the result of repeal. Speeches in this House of the sectional character of that of the gentleman from Maine are well calculated to confine republican successes to a small part of the country.

Mr. Chairman, it is not unfrequent in my district that the peace is broken at an election poll. Within the present month this happened at a poll next adjoining the city in which I live, and blood was shed. The feeling as to local matters in the town were in that condition of intense excitement that sagacious men for a week beforehand predicted the event. Yet I think I can safely say that none of the parties interested in that election would have deemed it else than a pub-

lic outrage had Federal troops been called in to prevent or suppress the disturbance. It is a fact, I believe, that there has not been present in my district, either before or since the enactment of the law as it now stands, a single armed soldier of the Federal Army to prevent or suppress disturbance, and I think I can say for myself and for each of my colleagues from the State of New York on either side of this House, that if it were now an original question, disconnected from party exigency, we would find no call for the adoption of a law as applicable to our State, providing for the use of the Federal Army to keep the peace at election polls.

In assuming this I lay out of the question all notion of State rights. I will not rest upon any sentiment of State pride that we are able to police and regulate our own sovereign domain. But I put the question upon the menace that by common consent is to be implied from the use of armed troops at the polls—a feeling not common to this country but which we take from our English ancestors as well.

Let me quote on this subject from the first volume of Blackstone's Commentaries, page 178:

> And as it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited. * * * As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove at least one day before the election to the distance of two miles or more; and not to return till one day after the election is ended.

This idea is fully recognized by elementary writers in this country. McCrary, in his American Law of Elections, at section 418, says:

> There can, however, be no doubt but that the law looks with great disfavor upon anything like an interference by the military with the freedom of an election. An armed force in the neighborhood of the polls is almost of necessity a menace to the voters and an interference with their freedom and independence, and if such armed force be in the hands of or under the control of the partisan friends of any particular candidate, the probability of improper influence becomes still stronger.

He then quotes the case of Giddings *vs.* Clark, a contested case in the Forty-second Congress:

> On the day of election the town where the election was held was occupied by an armed force under command of one Captain Richardson. Pickets were stationed on all the roads leading into the town, and persons coming in to vote were obliged to obtain a pass from the military authorities. Although the witnesses say that all voters were permitted to come and go in peace, and that the freedmen were urged to vote, yet it is clear that they abstained from doing so for reasons which most men considered good and sufficient.
>
> The committee of the House reported the opinion that this was not a free and *fair* election, and that it was no answer to say that the military were stationed around the polls to preserve the peace and to secure freedom to all voters.

McCrary cites this English case:

> As early as 1741 an attempt was made to interfere with an election held for the city of Westminster, by stationing a body of armed soldiers near the polls. On this being shown to the House of Commons, it was by that body resolved that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom.

I am aware that there has lately been a political crisis in France. It was demanded of President McMahon that he should remove the commanding general of the army to be replaced by one whose political views conformed to the advanced republicanism of the National Assembly. McMahon was unwilling to yield to such demand and resigned his office. I may be permitted to express a doubt as to the solid hold of the now prevailing party upon the free will of the French people if their power is depending upon the favor of the army; and addressing myself to the other side of this House, I would ask if their anxiety upon this question is not imported from the situation in France? The gentleman from Ohio who opened the debate on that side (and is followed in the same style by others) has uttered the most gloomy predictions of the future to this country from the adoption of the amendment now pending in the committee.

It is styled a revolutionary measure. It will starve out the life of the country, it is said. It is the picture of our ship of state drifting upon breakers and to sure destruction:

> Then shrieked the timid, and stood still the brave.

This unbroken howl of despair which comes up from the other side, is but the utterance of the idea of the French Assembly. They must have the Army at the polls. Party needs are such that they cannot part with coercion. They call upon the executive branch of Government to intervene to save the last remnant of departing power.

The violent opposition on this floor to the repeal of the objectionable words of the law as it now stands, as now exhibited, is a danger and a menace from which it is not too soon to secure the country.

Mr. Chairman, I am indulging for myself no such gloomy expectations as are foreshadowed by the opposition. I am not expecting, as I have no interest in urging, a veto of the pending bill. I may safely advance a compliment to the intelligence of the Executive. There can be made no constitutional objection to the bill. The right of Congress to regulate the use of the Army is clearly expressed in the Constitution. This right was exercised without question upon the passage of the law in 1865, upon which this amendment is to be ingrafted.

He can find no difficulty with the question as a measure of policy. If he be not governed by the precedents to which I have referred, why should he not heed the congressional majority, lately from the people, whose will it was chosen to represent? If he yield to the claims of the situation as presented to him by his party friends and use his power to retain for party use this element of coercion, this menace to free election, the people will assert that will which is the supreme law in a popular government; will assert it not by revolutionary or irregular methods, but by that decisive volume of expression at the polls which will render coercion and fraudulent counting entirely out of the question to change or modify the result.

What the people demand of this Congress and of each branch of this Government is the right to express their wishes in an election freely and without coercion, "unbribed by favor and unawed by power."

Mr. CALKINS. Mr. Chairman, ever since I have been a member of this body, and so long as I shall remain a member of it, whether it be for a longer or a shorter period, I shall continue to point out what I conceive to be a very grave error and a very great danger enacted into the rules of this House by the change of Rule 120. And those who served with me in the last Congress will bear me out in the statement that I never failed on every occasion to point out what I conceived to be the very grave error which this House fell into by allowing that change.

We are to day indebted for this extra session of Congress and for this debate as the consequence of the change of that rule. I know that I speak not only the sentiments of a large portion of this side of the Chamber, but of many of my democratic friends, who have often said that the change of Rule 120 has placed in the hands of one committee of this House practically all the legislation of the country. I hope to see the day, not very far distant, when you on that side of the House as well as we on this shall distribute the powers of this House to the different committees where they belong.

Until this rule was changed there never was any question as to the impropriety of placing legislation of this sort upon an appropriation bill. I premise my remarks with this statement.

In the next place, I desire to say that this side of the Chamber must not be and cannot be driven from the position they occupy by the menace and threat contained in this sort of legislation. That it may be understood and understood properly, and that we may not drift too far from the point under discussion, I desire to call back the attention of the House to the precise point which has given rise to this discussion. What is it? It is a section incorporated in this appropriation bill proposing to amend a certain section of the law as it now stands upon the statute-book by striking out of it the simple words "to keep the peace at the polls," applying to the Army of the United States.

Mr. Chairman, we have been enlightened and entertained by learned constitutional disquisitions as to what power Government possesses as regards this class of legislation. I say, disguise it as you may, cover it as deeply as you choose with these learned dissertations on constitutional power, the great question lying behind it all is the question which has agitated this country ever since it was formed; that is the question of State sovereignty and State rights. Behind all this discussion lies that vexed question. One would almost be ready to say that written constitutions are a failure; for out of the debates upon the true construction of the Constitution came the war that recently shook the country from center to circumference; and I doubt not that many gentlemen on the other side who voluntarily withdrew from the Union did so honestly, believing that they had a right to do so under the Constitution; but while I admit this as a truth, I abhor your conclusion. These constant debates and turmoils as to the powers of the Government under the Constitution almost lead one to believe that all written constitutions for the government of a country are a failure.

Mr. Chairman, in all the debates that have taken place during the last century in the English Parliament there has been scarcely a division of opinion as to the rights, the duties, and the powers of that branch of the government under their constitution. But here in America, where we had supposed the wisdom of the fathers had framed a Constitution containing everything that was necessary for the government of the people, there have been constant wrangles and menaces. Mr. Chairman, after I had followed the flag in a very humble capacity for four years and a half, I had supposed that this old question of State rights or State sovereignty was settled with slavery and with it would forever lie covered in its bloody grave. But here on every occasion we have thrust into the debates the assertion that the republican party or Congress in one way or another has been encroaching on the rights of the States, and we are compelled to listen to the outcry of centralization and the "man on horseback" and such chimerical assertions.

Why, Mr. Chairman, the best way in the world to secure the repeal of an odious law is to enforce it. There never was a truer aphorism than this expression of General Grant. The people are sensitive upon all these questions. Let an odious law be passed, and when you undertake to enforce it, the people will very quickly instruct their Representatives as to their will.

Now, Mr. Chairman, I want to discuss for a moment or two the constitutional power of Congress over this question; and I premise by saying that for one as a republican, but speaking alone for myself, I do not care one farthing whether this proposed amendment as an independent piece of legislation is passed or not. As a mere question of policy it is wholly immaterial to me whether the law be changed in this respect. But I do care as to the manner in which the existing provision is sought to be removed from the statute-book; and if it is to be repealed or amended, I want to guard carefully what I conceive to be the constitutional right of the Government to make and enforce such legislation.

Shakspeare portrays human nature well in the sentence—

What, upon compulsion! No; were I at the strappado, or all the racks in the world, I would not tell you on compulsion.

I must not be told that I shall yield a constitutional right, although the measure sought to be enacted is obsolete.

As to the necessity of legislation of this kind I say to the gentlemen of the South, of all men in the world you ought not to complain of the law on this subject. In every Southern State you have a democratic governor and a democratic Legislature in sympathy with the party represented on your side of the House. It is conceded on all hands that troops cannot be used at the polls in elections except upon the call of the State Legislature, or the governor if the Legislature cannot be convened. Hence it seems to me to be a barren effort for gentlemen of the South to undertake to raise this momentous issue upon such a question.

As to the constitutional power of the Government to pass legislation of this kind, two gentlemen upon the other side have announced themselves clearly. The gentleman from Ohio [Mr. HURD] referred to article 1, section 4, of the Constitution, which is in this language:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Discussing this provision, the gentleman from Ohio declared that its manifest and true construction is that in the event of the people of the State failing to make provision on these subjects, Congress in the exercise of its power may do so. To that position I cannot assent. Under that provision of the Constitution it is just as much the right of Congress to regulate the time, the place, and the manner (which covers all) of electing Representatives, as it is the right of the State Legislature. There is a concurrent jurisdiction or power with a reserved right in Congress to override State laws whenever it chooses to exercise that power. In concluding his argument on this point the gentleman from Ohio says:

Therefore, is not the conclusion inevitable and irresistible that any legislation upon this subject is unconstitutional?

Now, can anybody afford to plant himself upon such a position and maintain the results which must follow in the path of this legislation? If the law is unconstitutional, then it protects nobody. Who attempts to enforce it? When the Legislature of a State passes an unconstitutional law and the courts undertake to execute it, the sheriff, when attempting to enforce that unconstitutional act, becomes a trespasser and cannot justify his action, though he holds in his hand the writ of the court. So, if this legislation is unconstitutional, the President has no right to execute it, and any attempt on his part to do so makes him a trespasser. This is the deduction, the only deduction, which follows the position taken by the learned gentleman from Ohio. But the able gentleman from Kentucky [Mr. CARLISLE] was more careful in his position. His distinction is that of a lawyer, clear and well defined, but I think entirely too technical. I believe his distinction is a distinction without a difference, as I shall soon have occasion to show.

The gentleman from Kentucky, when interrogated upon this question by the honorable gentleman from New Jersey, [Mr. ROBESON,] remarked that if the President was properly called upon to send troops to a voting place to suppress domestic violence or "mob law," as he called it, he had no doubt of the constitutional duty of the President to send troops to such voting place. Here is the language which the gentleman used:

If the application is made in regular form under the act of Congress, I admit that it is the duty of the President to send troops, but I say when troops have gone into a State and have dispersed the mobs or insurrectionists or whoever is acting in resistance to the State authorities, they have performed their duty and must stop. They cannot remain at the election precincts to keep the peace, or, in other words, to prevent outbreaks of violence.

Now, the distinction clearly drawn by the gentleman from Kentucky is this, that domestic violence and the breaking of the peace are not necessarily one and the same thing. But upon that basis I combat his position by saying that any breach of the peace, no matter how small or how great, is domestic violence. It is true that a breach of the peace may not require the intervention of the troops to quell it, but it is nevertheless within the meaning of the constitutional provision denominated "domestic violence."

How would the position assumed by the gentleman from Kentucky leave us? Let me depict by way of illustration the effect. It is not always the best way of arguing a question, for illustrations are regarded by logicians often as illusory and not good logic, but sometimes illustrations present a question fully to the view. Therefore, let me by way of illustration present the position of the honorable gentleman from Kentucky. At a voting precinct domestic violence breaks out, and the President is called upon properly to send troops to suppress it, and he does send troops, and the mob overawed by the presence of the troops cease their violence, but stand revolver in hand, with torch lighted, but in peace, overawed for the time being by the presence of the troops. The gentleman says the moment they become peaceable—that is, quiet and not engaged in rioting—that moment the troops must go away. Such a construction simply defeats the purpose for which the provision was intended. As an incident to the power, the Army cannot only be called out to suppress domestic violence, but it can be kept there, as I interpret the language of the Constitution, so long as it is necessary to preserve the peace.

This leads me now to the next proposition which I desire to discuss. It was ably discussed by my friend from Wisconsin, [Mr. WILLIAMS,] and I do not know but that I would do well to leave it as he put it. The restatement of the proposition, however, can do no harm. In all governments there must be a coercive force somewhere. A government without power to coerce obedience to its laws and mandates is no government at all; it is a mere sham and fraud. As has been well said by my friend, in the courts of the States is lodged primary power to execute the laws by and through ministerial officers; when they fail they call upon the *posse comitatus*, and, if that is not sufficient, then upon the militia. The same theory is true with United States courts; first the marshals, then the *posse comitatus*, and then the Army of the United States. All these are coercive powers placed in the hands of governments for the purpose of protecting themselves and their citizens. Without them, as I have said, governments would be shams and frauds.

Now I go further than that. I take the position—and I take it for myself, and I bind no party but myself—I take the position that in every case where the State refuses or fails or neglects to protect fully the citizen of that State in all of his rights it is the right of that citizen to call upon his Government to be protected, and the bounden duty of the Government to protect him. Why, Mr. Chairman, if one of the aliens from Germany, or England, or Ireland, who comes to this country and swears allegiance to its flag, should return to the country of his birth, and that government should dare molest him, the whole power of our Government would be invoked for his protection, and rightfully. And do gentlemen on the other side say that in that instance against a foreign government there is a constitutional right of the adopted citizen to be protected, while in the case of the native citizen, when his State refuses to protect him, the arm of the Government falls powerless? It is a position with which I am at war, and shall remain so until in this country of ours, wherever an American citizen may be he may call, and not call in vain, for the protection of all of his rights.

I shall now content myself, Mr. Chairman, with a criticism upon the bill and its effects, and then my speech is done. I do not like to enter into criticism until amendments are in order, but as I do not propose to offer any amendments to this bill I will call the attention of the House and the country to its effects if it should pass.

It provides that "every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

Now suppose on election day it is absolutely necessary troops be sent off to some other place and they pass by the polls in the nearest way *en route*. If that law is strictly construed, the officer in command of those troops must go to the penitentiary; there is no help for it, no escape from it; and if he disobeys his commanding officer and refuses to go, he is guilty of disobedience of orders and must be instantly dismissed the service—a fine species of legislation for the American Congress!

But I do not care to enter into a discussion as to the effect particularly upon the officers. I want, however, to call attention to one effect that this stoppage of legislation will have upon the country, which I believe has not yet been adverted to. Now, I do not speak for the President of the United States. I have no power to speak for him, and I do not know what he will do. Nor do I believe any man knows what he will do with reference to approving or vetoing the bill if it should pass; for if there is anything the present President of the United States is celebrated for it is for keeping his own counsel, and no man can find out what he is going to do. But this, Mr. Chairman, I do know: I do know that all legislation is vested in the two Houses of Congress, subject, nevertheless, to the constitutional limitation of a veto by the President. I do know that he will act strictly within the provisions of the Constitution, if his objection to this bill shall be such that he feels compelled to veto it and does so.

In which event all of us and the country will find out in a short time that if contraction has taken place heretofore and injuriously affected the country, as claimed, it will be increased by reason of the stoppage of the wheels of the Government; for if the officers of the Government shall consent to serve without pay, the money will be paid into the United States Treasury at the rate of $150,000,000 every six months, but there will not be any way by which you can pay it out; so that in the course of a year you will have locked up in the Treasury of the United States something like $300,000,000, without any authority to pay it out. And if the country has been suffering by contraction hitherto, what will take place under such a state of affairs?

Now, as to the responsibility, and where it belongs, I think I need argue with no man that if the President shall, acting under the Constitution, and as he believes it his duty, veto this measure, and the democrats on this floor shall say that unless he shall consent against his will to allow a measure to which he cannot assent to become a law they will stop the wheels of Government, there can be no question that the responsibitity will rest with them and not with us. I make the further remark that I know if you could surrender or if we

on this side of the House could surrender pride of opinion long enough to be statesmen and not partisans, in one day the bills under consideration could be passed and we could go home.

Why, Mr. Chairman, it was once remarked by one of the ablest jurists that I have ever had the honor to appear before, to one of the humblest of the profession, "I had occasion yesterday to rule against you, but this morning, after having considered the question again, I believe you were right and I was wrong and I have no pride of opinion." That principle should permeate the breast of every member of Congress; the question should not be, in my humble judgment, how this will advance the interests of the republican party or how that will advance the interests of the democratic party, or of the greenback party, if you please; but what is right? What ought I to do? And whenever that principle takes possession of members of Congress and we advance out from beneath the shadow of partisanship on to the broad plane of statesmanship we shall pass these bills speedily and without delay. The country will then be happy, and the conviction of having done right ought at least to make us happy.

Mr. HERBERT rose.

Mr. CALKINS. How much time have I left?

The CHAIRMAN. The gentleman has twenty-five minutes of his time remaining.

Mr. CALKINS. I will yield the remainder of my time to the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. WHITE. I will yield to the gentleman from Alabama [Mr. HERBERT] now, and will follow him, if that arrangement can be made.

The CHAIRMAN. The gentleman from Pennsylvania can have his time at the expiration of the next hour.

Mr. WHITE. Very well.

Mr. HERBERT. Mr. Chairman, we have passed over every item of appropriation on this bill. Some of these items have been passed after discussion, some without any discussion at all. On these items the minority on this floor is willing to submit to the majority, but when we come to the clause that prohibits troops at the polls they say that clause shall not become the law, at least in this bill. And the distinguished gentleman from Ohio, [Mr. GARFIELD,] who spoke on last Saturday, the leader on his side of the House, enforced this declaration by saying that it should not pass, not even to save this Government.

Sir, who gave the gentleman the power to make that threat, to use that bold language to the majority on this floor? I know very well he got his authority from a republican caucus. But who gave to that caucus the right to authorize him to dictate to the majority on this floor? When the gentleman was himself in the majority, when he was backed by the power to make good his words, he had the right, because he was backed by the power to use such language. He seems to forget that the people of the United States in the last election have left him and his party in both Houses of this Congress in the minority. He takes his stand here, however, not on the substance of this bill, but really on a question of form. He told us in his speech on Saturday that he would not discuss the amendment as it was called, or the special legislation on this bill, because he considered it unimportant. On yesterday he rose in his seat and said that if that measure was proposed as a separate measure he would vote for it.

But, sir, he said we should not combine two measures. Had the gentleman a right to speak those words to this House, representing as he does the minority, or is he the lord chancellor, the keeper of the President's conscience, and has the President authorized him to speak here in his behalf those words of menace to this House? I know President Hayes, and I do not believe that he has ever at any time so far outstepped the limits of official propriety and duty as to lend himself to be used in any such manner. It would not only be against propriety, but against decency as well, and I send to the Clerk's desk to be read an extract which I have marked from a report made by John Quincy Adams in the year 1842 as to the duty of the President and members of this body on occasions of this kind.

The Clerk read as follows:

Until a very recent period of our history, all reference in either House of Congress to the opinions or wishes of the President relating to any subject in deliberation before them was regarded as an outrage upon the rights of the deliberative body, among the first of whose duties it is to spurn the influence of the dispenser of patronage and power. Until very recently, it was sufficient greatly to impair the influence of any member to be suspected of personal subserviency to the Executive; and any allusion to his wishes in debate was deemed a departure not less from decency than from order.

Mr. DUNNELL. From what has the Clerk read?

Mr. HERBERT. From the report made to the House by John Quincy Adams in 1842 in relation to a veto by President Tyler.

The gentleman from Maine, [Mr. FRYE,] the next, I believe, on the republican side who followed in this discussion, saw proper to reiterate the threat of the gentleman from Ohio. We have had it again this morning uttered by the gentleman from Wisconsin, [Mr. WILLIAMS.] Sir, if these gentlemen did have the authority to represent the President, and did represent him in making these threats to influence legislation in this House, in what position would they put him?

The legislative power of the United States is vested by the Constitution in these two Houses, and we must look to that Constitution as the source of power and authority.

The English constitution, which has sometimes been alluded to in this debate, furnishes no analogy whatever, for there, practically, a conflict never can arise between the Crown and Parliament. The Crown has the right, the absolute right, of veto, theoretically; but that right has not been exercised for the past one hundred and fifty years. Practically it is a nullity. Whatever the Parliament passes the Crown approves, so sensitive is the Queen of England to the wishes of her subjects as expressed by the legislative body of the realm. It is also the rule in Great Britain that whenever, on a vote of want of confidence, the administration finds itself unable to carry any measure through Parliament, that very instant a dissolution of the administration occurs, and a new set of officers is put in power more in harmony with the will of the people as expressed by Parliament. But in this representative Government of ours we see the leaders of a party in which the people at the last election voted a want of confidence rising in their places and threatening us, the majority in this Congress, that if we do not put bills in the shape to suit them, if we do not separate and divide as they dictate, then this Government shall stop; that the President by his veto will starve it to death.

Sir, if such a conflict should occur it would indeed present a singular spectacle to an Englishman who has been accustomed to look upon this Government as a government of the people. But looking at the question from our stand-point, looking to the Constitution of the United States, what do we find? In the first place, it is a rule of constitutional construction, applied as well to the Constitution of the United States as to the constitution of the States, that wherever legislative power is granted without restriction there inheres necessarily in the legislative body to which the grant is made the right to make its own rules and legislate in its own manner upon any and every subject over which its power may extend. That is the universal rule of construction.

In some of the States of this Union it has been deemed by the people that that power ought to be inhibited to a certain extent; that new limitations ought to be placed upon the power to legislate. For instance, that a Legislature ought not to combine different measures in the same bill. Therefore we find that in my own State, the State of Alabama, in the new constitution adopted since the close of the war, there is a provision that every bill shall contain only one subject, which shall be expressed in the caption or title of the act.

So it is in the constitution of the State of the gentleman from Ohio. In 1851 that same amendment was put in its constitution, and a new inhibition placed upon the power of the Legislature.

Now, why was this? It was because the people, the source of power, saw proper to put that new provision in that constitution as they have done in Alabama. Before the constitution of 1851 in Ohio the Legislature of that State had, as this Congress has, the right to combine as many measures in one bill as it saw proper. If the people of Ohio took away that power from the Legislature of Ohio it was an indication of their will, and it must be observed.

If in the Constitution of the United States the general power of legislation, according to its own rules, not prescribed by the President, not prescribed by any authority whatever, is still left to the Congress of the United States—to us, the Representatives of the people, to be used for the benefit of the people—does it not follow, as day follows night, that the people approve of our legislating as we please in that respect?

Again, some State constitutions, as the constitution of my own State, contain a provision that the governor may veto, if he sees proper, any one item of an appropriation bill. No such amendment has ever been made to the Constitution of the United States, and therefore it is that no such power exists in the President of the United States. Full power is still left with us, as it has been for nearly a century, to combine as we see proper just as many provisions in a bill as in our opinion the wants of the public demand.

Gentlemen talk about coercing the will of the President. If we look to the Constitution, which in so many words vests all legislative power in the two Houses of Congress, we will find that the President is not made a part of the legislative power of this Government. He does have the power of veto; there is no doubt about that, and we do not deny that he has that power; but in how many cases, when bills go to him, does he sign them and aid in passing them into laws, when they contain provisions which if presented separately he would not approve? Take, for instance, the last river and harbor appropriation bill. That contains appropriations for many different rivers and harbors all over the United States. In that bill there was a provision for the benefit of my friend from Pennsylvania, [Mr. WHITE,] who proposes to answer me; a provision for the Kiskiminetas. Does any man believe that if that Kiskiminetas appropriation had been sent to the President as a separate and independent measure he would have approved it? Yet that gentleman, when he comes to answer me, I suppose will say that if any bill whatever is presented to the President of the United States containing any provision which he does not approve, it will be his duty to refuse his approval of the bill even if the result shall be the starving of the Government to death.

Not only does this power which we are now exercising inhere in us by the Constitution of the United States, but it has been exercised for many years past. I have not undertaken to examine the records of these transactions any farther back than the time when the republican party came into full power in the United States. I have made a search among the appropriation bills passed from 1861 to 1875, while

that party was in full power. I want to show how these lovers of fair legislation, these sticklers for form, these gentlemen so much devoted to the voluntary assent or dissent of the President, managed these matters while they were in control. I have only taken note of a few of the bills, but I have memoranda enough with reference to the volumes and pages to show that no republican Congress ever did adjourn from this Capitol without having done, time and again, precisely the thing they condemn with so much vehemence now. I mean, put new legislation on bills of appropriation. It was all right when they did it, of course, but it is all wrong now. I send the list to the Clerk's desk and ask him to read it.

The Clerk read as follows:

THIRTY-SIXTH CONGRESS.

Volume 12, page 144; act of February 20, 1861.—Appropriation for legislative, judicial, and executive expenses of the Government. Extends provisions of an act in relation to the Mint.

Volume 12, page 151; act of February 21, 1861.—Appropriation for naval service. Authorizing construction of new vessels and appropriations therefor.

THIRTY-SEVENTH CONGRESS.

Volume 12, page 316; act of August 5, 1861.—Appropriations for fortifications. Officer tendering resignation under certain circumstances shall be registered as a deserter and punished as such. Flogging in the Army abolished.

Volume 12, page 565; act of July 14, 1862.—Appropriation for naval service. Chaplains in the Navy must have attained a specified age before appointment, &c. Authorizing the President to appoint ten midshipmen, &c. District of Columbia to be regarded as a congressional district in appointments to the Naval Academy.

Volume 12, page 583; act of July 10, 1862.—Appropriation for sundry civil expenses. Clerkship of unfinished survey in Land Office abolished.

Volume 12, page 753; act of March 3, 1863.—Appropriation for civil expenses. Organizes a signal corps. Officers and men thereof subject to rules of war. Page 754.—Passports, to whom granted. Discontinues a consulate at Trinidad. Empowering the judge advocate to compel attendance of witnesses.

THIRTY-EIGHTH CONGRESS.

Volume 13, page 28; act of March 14, 1864.—Act to supply deficiencies in appropriation bill. Limit of office of assistant register of the Treasury repealed.

Volume 13, page 85; act of May 21, 1864.—Appropriation for naval service. Provides for additional professors at the Naval Academy. Naval Academy to be returned to Annapolis.

Volume 13, page 130; act of June 15, 1864.—Appropriation for the Army. Enlistments into the regular Army may be for three years.

THIRTY-NINTH CONGRESS.

Volume 14, page 23; act of April 7, 1866.—Makes additional appropriations. Confers on the Secretary of the Treasury power to sell Pennsylvania Bank building.

Volume 14, page 457; act of March 2, 1867.—Appropriation for legislative, judicial, and executive expenses. Witnesses shall not be excluded on account of color. Authorizes certain geographical and topographical explorations to be made.

Volume 14, page 486; act of March 2, 1867.—Makes appropriation for the Army. Control of the Army taken away from the President. Whipping or maiming as punishment for crime forbidden. Militia forces organized in rebel service to be disbanded.

FORTIETH CONGRESS.

Volume 15, page 72; act of June 17, 1868.—Appropriation for naval service. Number of enlisted persons in Navy limited to 8,500 men.

Volume 15, page 110; act of July 20, 1868.—Appropriation for legislative, judicial, and executive departments. Statuary, painting, &c., belonging to private individuals not to be exhibited in Rotunda of Capitol.

Volume 15, page 223; act of July 27, 1868.—Appropriation for Indian department, &c. Provides for the restoration of Mendocino Indian reservation, in California to public lands.

FORTY-FIRST CONGRESS.

Volume 16, pages 12 and 13; act of April 10, 1869.—Appropriation to supply deficiencies in the service, &c. Superintendent of Department of Interior established; clerks in office of education to be appointed by Secretary of Interior; authorizes Secretary of War to make transfers of appropriations to carry into effect reconstruction laws; Washington Gas-Light Company to increase rate of discount for prompt payment.

Volume 16, page 494; act of March 3, 1871.—Appropriation for legislative, judicial, and executive departments, &c. Empowers circuit judges to designate district judges to hold court in place and in aid of other district judges.

Volume 16, page 535, &c.; act of March 3, 1871.—Appropriation for naval service. Resignation of certain naval officers may be accepted. Chiefs of bureaus to have a certain rank and title; rank of staff officers; line officer may be detailed as aid to commanding officer, &c.

FORTY-SECOND CONGRESS.

Volume 17, page 154; act of May 23, 1872.—Appropriation for naval service, authorizes Secretary to sell certain vessels and material, &c.

Volume 17, page 202; act of June 1, 1872.—Appropriation for service of Post-Office Department. Persons hereafter appointed as officers in any Executive Department not to act as counsel in certain cases.

FORTY-THIRD CONGRESS.

Volume 18, part 3, page 235, et seq; act of June 21, 1873.—Appropriation for Post-Office Department. Appointment and removal of postmasters; commissions, &c. How amounts of postal receipts of each officer are ascertained; provides for readjustment of salaries; all proposals for carrying mail must be accompanied by bond, &c.

Volume 18, part 3, page 420; act of March 3, 1875.—Appropriation to supply deficiencies; Revised Statutes, 3309, amended; list of taxes in arrears, &c.; rights of redemption; penalty for delinquency. Certain Indians entitled to benefits of homesteads. Certain entries of homesteads by Indians confirmed.

Mr. HERBERT. I will not attempt to comment on that table; it speaks for itself. I asked the question a while ago, In what situation would the President of the United States be if his views were the same as those of the honorable gentleman from Ohio, [Mr. GARFIELD?] In what situation would that gentleman place the President of the United States when he called upon him to veto this bill? In the first place, the honorable gentleman says that he himself does not object to and is willing to vote for this provision in relation to troops at the polls if it is introduced as a separate measure. And, as a matter of course, he is also willing, though he has not said so, but I take it for granted that he does not want to starve the Government to death—he is also willing to vote for the appropriations in this bill. Then he is in this condition, and says to us, If you will separate these two measures I will vote for each of them; but if you put the two in one bill, then I hold that it is the duty of the President to veto them both. According to this gentleman, the President must take his stand upon a parliamentary punctilio and starve the Government to death. He must claim the right to dictate to us how many good measures we must combine in our bills or what we must leave out of our bills or he must let the Government slide and chaos come again. That is the position, that is the situation which the gentleman occupies.

No wonder that the honorable gentleman from Ohio said in his speech on Saturday that he felt constrained by the necessities of the situation to allude to the withdrawal of the southern members from this floor in 1861 and the war that followed. No wonder that the gentleman from Maine [Mr. FRYE] who followed him felt also compelled by the necessities of the situation to dig out of the dead past the memory of Anthony Burns and the riot that occurred in Boston. No wonder that the gentleman from Wisconsin, who spoke this morning, [Mr. WILLIAMS,] also followed in the same footsteps. I tell you, gentlemen, the situation is necessitous when you feel compelled to cover up the issue that we present to the people of the United States by the bloody shirt wielded by your stalwart arms. But you shall not do it. You run away from the point, flaunting the red flag, and expect us to follow you like a set of mad bulls. But we will not do it. We hold you to the issue presented by this bill.

The plain, simple question is: Shall troops of the United States interfere with voters at the polls? That is the question, and that is the issue to which we hold you. We have nothing to do now with the war; that is passed forever. Much as you may regret it, secession is dead, the war is over, and the Union is restored—it is indissoluble. The States are equal, and their Representatives are here in this branch of Congress and in the other branch, coming from all over the Union, each with equal power and authority.

The gentleman from Maine felt further compelled by the necessities of the situation to lug into his argument a foolish editorial, written by some northern man down in the State of Mississippi who represents nobody but himself. Gentlemen, you cannot dodge in that way the issue made in this bill, and you cannot make this a sectional question. The question presented is plain, whether or not the military is subordinate to the civil power; whether the soldier is superior to the voter at the polls. That is the question you must meet before the people, provided you take the responsibility of doing so. It is utterly vain for you to try to make out that the democratic party is a sectional party. I know that you would have it so if you could, but you know it is not so. It is utterly vain for you to undertake to maintain that the issues now presented on these bills and claiming the consideration of Congress are sectional issues. Of the three propositions in question, but one came from a southern man. That was a provision in relation to jurors, and it was so palpably and manifestly fair that several republicans on this floor—four, I believe, from the State of Massachusetts—voted for it. Do you call that a "revolutionary" proposition—a proposition which republicans voted for? Certainly not.

Another proposition, the one in relation to supervisors of election, came from a Representative from the State of Ohio—a State that now has eleven democratic Representatives on this floor—a State that has two hundred and fifty thousand democratic voters. The provision in relation to troops at the polls which we are now discussing was first suggested and urged by Hon. Mr. Hewitt, a Representative from the Empire State of the Union—a State that has three hundred and fifty thousand democratic voters to-day and has eleven democratic members on this floor. The democratic party in the North and West has to-day eight hundred thousand more democratic voters than there are in all the Southern States combined. In the name of the three million democratic voters scattered all over the Union, in the name of fair-minded liberty-loving people everywhere, in the name of the Constitution, in the name of the people we represent, we ask that this bill be passed into a law; and I, for one, do not believe that the President of the United States will deny it his approval.

I yield to the gentleman from Kentucky, [Mr. PHISTER.]

Mr. KEIFER. Before the gentleman takes his seat I wish to ask him one question. He has spoken of the editor of the Okolona States as being an Ohio man. I want to know whether that man was not, on account of his ability and peculiar political views, invited by Colonel Harper, the owner of that paper, to come down there and edit it in the interest of the democratic party?

Mr. HERBERT. I do not know whether he was or not; I do not know anything about that matter; but if he was invited there, the good people of that country ought to invite him to leave.

Mr. KEIFER. I wish to say to the gentleman that the paper is reported to be taken more extensively than any other weekly paper in the State of Mississippi.

Mr. HERBERT. Does the gentleman know that such is the fact?

Mr. KEIFER. I know it is so stated by the paper itself.

Mr. HERBERT. I suppose that it is taken just as you take it; just as the New York Tribune takes it; and I should not be surprised if it should turn out that that paper is supported by republican money. It furnishes food for such papers as the New York Tribune and is no help to democracy.

Mr. KEIFER. Is not that paper owned by Colonel Harper, who

was in the confederate army, and is he not running it and supervising it all the time now?

Mr. HERBERT. I have told the gentleman all that I know about the matter. I yield to the gentleman from Kentucky, [Mr. PHISTER.]

Mr. PHISTER. Mr. Chairman, it was the utterance of a celebrated European politician skilled in statecraft that language is intended to disguise meaning, not to express it. When Poland was overthrown and her people deprived of their independence it was proclaimed that "Order reigned in Warsaw." It was order arising from subjugation; it was the repose of despotism. After the *coup d'état*, when the republic was crushed in France and Louis Napoleon was firmly enthroned in power, with soldiers in the midst of and surrounding his capital and all the great cities, the press deprived of its freedom, the people awed into silent submission, and elections carried triumphantly in his favor by the quieting influence of the sword, he uttered his celebrated expression, "The empire is peace." It was the peace of military domination; a despairing recognition of the loss of liberty.

A distinguished ex-President of the United States closed one of his papers with the well-remembered invocation, "Let us have peace." It was a prelude to the further display of armed power, to the continued use of the soldiery of the country, not only in deciding but controlling elections, in raising up and putting down governors of States, seating and unseating Legislatures, and finally, after having the troops in a number of the States to terrorize the voters at the presidential election, in surrounding the capital while Congress was in session to prevent the real choice of the people for President from being counted in and inaugurated.

The Army of this country has thus been used, and all in the name of "peace."

In the light of these facts what are we to understand if a law is continued in force authorizing the Army under a specious pretense "to keep peace at the polls?"

It is inconsistent with republican institutions. An army means force; it is power. It is for war; it produces awe and terror, and its use ends in domination. *Inter arma leges silent.* When it has been used in the past for these purposes under the name of keeping the peace, we know what we have a right to expect in the future. We are approaching another presidential election and are on the eve of great political battles which may decide that contest. We find one great political party with unanimity here contending for the use of the Army at elections; they say to keep the peace at the polls. But the Lord instructed us to pray not to be led into temptation. And we feel, from our knowledge of the past and from the constitution of human nature, that if the law remains as it now is it will be a powerful temptation in the fierceness of party warfare to use the Army to illegitimately effect results.

The President is the Commander-in-Chief of the Army, and although he is not as "stalwart" as many of those who now, for party purposes of their own, desire to be considered the peculiar champions of his prerogatives, yet it is easy to foresee how, as heretofore, reports may be manufactured, pretexts invented, and actual occasions conveniently started with strife in order to get him to use the Army in the interests of their party at the polls. Good men are led astray by passion; parties are carried to excesses by prejudice; and it needs no power of prophecy to predict that if the use of the Army at the polls is legalized, when the great prize of the Presidency is at stake, with over one hundred thousand offices as its spoils, with hundreds of millions of treasure to handle, with the unabated political hate of our adversaries inspiring the movement, they desperate at the approaching loss entirely of their ill-used power, the Army will be thus used to intimidate and overawe the voters and control elections.

It is time this should cease. This is the afternoon of the nineteenth century. This is boasted of as the freest country on earth; and here and now it should be resolved that elections should be free and fair. The amendments to the Revised Statutes contained in the sixth section of this Army appropriation bill should be passed. But it is objected that they are made part of an appropriation bill. The act is entitled "A bill making appropriations for the support of the Army for the year ending June 30, 1880, and for other purposes." And it is proclaimed as revolutionary that a section is incorporated in that bill that the Army thus to be supported shall not be used at the polls "unless it be necessary to repel the armed enemies of the United States." And, as prohibition without a penalty would amount to nothing, the proper punishment is provided for a violation of this section.

When the cunning politicians of ancient Rome had exhausted all other means to prevent some step or measure inimical to their ambition, they appealed to the weakest and most vulnerable characteristic of the people, their superstition, and had the soothsayers to say the signs were unpropitious, or in the last desperate emergency to exclaim that "it *thundered.*" So our republican friends, overthrown before the people and driven to their last intrenchments, and knowing that the country is tired of strife and desires stability and peace, ring out the cry so alarming to business, "revolution," "revolution," against this legislation, hoping thus to arrest the tide of popular opinion that has been running against them and to repair their shattered fortunes.

But how ridiculous, if I may respectfully speak it, is the cry of revolution. Is it revolution to enact that the citizens shall vote unawed by the terror of bayonets? Is it revolution when the people's Representatives are voting supplies to the Army to provide that it shall not be used to cleave down their liberties; that the people's money thus voted shall not be used to undermine their free institutions? But it is absurdly charged that it is revolution to annex constitutional conditions to a bill supporting the Army. It is proclaimed with unwearied repetition that it is coercion of the President, and that it is revolutionary to coerce him. Who is empowered here to usurp the authority of the President and to speak for him? Who is authorized to say that he is so enamored of military power that he will regard it as an invasion of his prerogative to enact in the supply bill itself that the Army thus to be supported shall not be used in a manner inconsistent with our institutions? It seems to me the President would not be thankful to the indiscreet if not false friend who would put him in the unenviable attitude of regarding this as coercion. Are not such cries really disrespectful to him in being founded on the hope of stimulating a false pride in him, and thus of having him come to their relief in their desperation?

On the contrary, Mr. Chairman, soberly speaking, would it not be an attempt at revolution—revolution, not in the interest of liberty, but in the direction of despotism, for the Executive to veto a supply bill for the Army because it did not authorize him to use it to overawe and terrorize the citizens in the exercise of the elective franchise in the States? There is no constitutional inhibition against such a condition to a supply bill. If so dangerous, why not incorporated by our wise and far-seeing fathers in the Constitution? If this system of legislation had never been indulged in before, if our adversaries had never practiced it, we might now give them more credit for sincerity.

If this section of the bill is constitutional, it certainly cannot be revolutionary. The Constitution says:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

The language is "Congress *may*" do it. It is not mandatory; it is discretionary. If Congress, in the exercise of this discretion, has heretofore unfortunately authorized the Army to be used at the polls in a manner which has improperly influenced elections, and is now satisfied that it has been injurious, and by a deliberately considered bill chooses to repeal such legislation and withdraw such power, how can the executive department of the Government complain, much less veto such repealing legislation?

As to the form of it, I, speaking for myself individually, would have preferred that these repealing measures should have been presented and enacted in separate bills. But as to the mode in which this is presented it is a mere parliamentary form of enactment, certainly within the parliamentary discretion of Congress; and it is the wildest stretch of imagination, prompted it must be by the despair of a dying political dynasty, to present the fair exercise of parliamentary discretion by Congress in the passage of a strictly constitutional and certainly a wholesome law as a ground for the charge of revolution. The great people will understand this, and we are more than willing to meet our opponents before them on this issue. They will overlook technicalities and mere parliamentary forms and consider it as it is, a contest on one side for a free and fair election and on the other for one controlled by the bayonet.

We should as statesmen subdue our party prejudices, allay any remaining passions of the war, and, rising to the level of the occasion, declare for free and fair elections, and not continue a system of legislation at which the historian in the future in recording it will be amazed.

But the excuse or pretext is that it is to preserve order. Recollect that the worst crimes against liberty have been perpetrated in the name of order. The monarchs of the Old World when undertaking any daring usurpation have always done it under the plea of conservatism and order, and we should not follow in their footsteps.

There is peace and quiet over the whole country, and there is now no necessity, if there ever was, for the longer continuance of this doubtful and dangerous system of legislation. We can safely trust to the ordinary instrumentalities of the law to secure fair and free elections.

In concluding these remarks I think it proper to say a word in justice to the memory of two honorable gentlemen who formerly represented the State of Kentucky in the United States Senate, Hon. Lazarus W. Powell and Hon. Garrett Davis. As reference has been made this morning to proceedings in the other branch of Congress for the expulsion of Senator Powell, I wish to say that Senator Davis, on a subsequent occasion, took pride and pleasure in apologizing upon the floor of the Senate, and I think in the presence of Mr. Powell himself, for his action in that matter, admitting that Mr. Powell probably had been right and he had been wrong. It is due to the fame of Senator Powell, and it is due to the magnanimity of Senator Davis, both gentlemen being now dead, that I, a Representative from a Kentucky district, should make this statement.

Mr. HERBERT. I now yield the remainder of my time to the gentleman from Missouri, [Mr. BUCKNER.]

Mr. BUCKNER. Mr. Chairman, when the democratic party obtained the control of this House in the Forty-fourth Congress, its rules were so modified as to make it regular and in order to ingraft new legislation upon any of the general appropriation bills, provided only such legislation should be germane to the pending bill and should

reduce the expenditures of the Government. Prior to that time, and during the supremacy of the republican party, it was the practice to change existing law so that the expenditures were increased and extravagance fostered. Under the operation of the rule as modified at the beginning of the Forty-fourth Congress the appropriation committee of this House has cut down the estimates of the Departments very largely, and decreased the net ordinary expenditures from $171,529,848.27 in 1875 to $134,463,452.15 in 1878. Much of this reduction is due to the adoption of this rule, and but for its existence no one of the repealing measures contained in the two bills which failed at the last Congress could have been added to them.

The primary object of this rule was to enable Congress to curtail the expenditures of the Government, which was often impossible without a repeal or modification of the legislation of former years, and *wiping* from the statute-book laws the enforcement of which not only swelled the annual exactions upon the people, but interfered with the constitutional rights of the States, prevented fair and impartial trials in the courts, trampled upon the rights of the citizen, and corrupted the ballot-box. To this category belong the several amendments involving new legislation which were ingrafted upon the Army and the legislative appropriation bills, which fell between the two Houses at the last session of Congress, and which have been substantially again brought before the House for its action at this special session.

That there are grave objections to this mode of legislation—that of tacking on to bills appropriating money for the support of the various departments of the Government independent and distinct legislation—will not be controverted. It has been condemned by men of all parties in the past, and still it has been resorted to again and again at almost every session of Congress for the last twenty years. In several of the States it is absolutely prohibited by constitutional provisions, but there is not only no constitutional prohibition against it in the Federal Constitution, but it is sanctioned and regulated by the rules of the House. It is a matter exclusively within the discretion and judgment of the House, under its rules, whether it shall pass each bill on its own merits, or combine several measures of a similar character in one bill and thus "log-roll" the whole into law.

The practice of tacking matters of legislation upon appropriation bills has become so common, and has been so generally adopted by the republican party, especially while it had control of Congress, that it is safe to say that some other reason exists for it than is now urged against this mode of parliamentary procedure by the minority of this House. A parliamentary custom, or indeed any other usage which is universally reprobated, on abstract principles, rarely ever obtains such a footing as the tacking of new legislation on ordinary bills appropriating money has secured in the legislation of Congress without good reason or some overruling consideration. While it may have been condemned by the minority at all times, and not always approved by the majority, the fact that it has been repeatedly sanctioned shows conclusively that there was an urgent necessity, or at least a seeming necessity, for its exercise.

Such, I apprehend, will be found, in a large majority of cases, the origin of this practice and the ground of its continued exercise by both parties when in control of both bodies of the Legislature or of the House of Representatives alone. An examination of the innumerable cases of "tacking," as it is called, will show that it has rarely been attempted at the first or long session of Congress, but that they have been reserved for the last or short session. New legislation, or legislation repealing or modifying existing law, has generally been resorted to when it became apparent that under the rules of the House bills embodying the desired new legislation could not be reported by committees having charge of them, or, if reported, could not be acted upon in time to reach the Senate and President. This happens to be true of one of the measures put on the legislative appropriation bill at the last session, and will no doubt be remembered by the members of the last Congress.

The Senate bill to repeal the jurors' test oath was on the Speaker's table, and there being great doubt whether that and other Senate bills in like condition could be acted upon in time under our rules an attempt was made to pass it by a two-thirds vote under a suspension of the rules, which was the only recourse then left to the friends of this bill. It failed to secure the requisite two-thirds, the republicans voting in the negative; and thereupon the friends of this repeal, after modifying the Senate bill so that it would come within the rules of the House, attached it to the legislative appropriation bill of the late session. The importance of repealing this obnoxious provision in the interest of fair and impartial trials in many of the States of the Union before the United States courts exercising criminal jurisdiction, and the impossibility of the repeal in any other mode, affords a complete justification of the action of the majority of the last House.

The same may be said of the repeal of the law giving authority to the President to station troops at the polls to keep the peace. In my judgment, the majority of the last House would have been recreant to their duty to have abstained from using all proper efforts authorized by the rules to repeal this unconstitutional and dangerous attack upon the right of local self-government. By those rules and in the then crowded condition of the business of the House it was an utter impossibility to bring this question before the House for its action as an independent measure and pass it in the Senate during the last session, and the only alternative left to the majority was to put it on one of the appropriation bills and trust to the Senate and President agreeing to it.

I maintain, therefore, Mr. Chairman, that the necessities of the occasion and the importance of the legislation in the given case, according to the judgment of the majority of this House for the time being, justify the practice of tacking new legislation upon bills appropriating money for the support of the Government; and while I should condemn as much as any member of the minority making it our daily legislative food, we ought not to surrender it as a medicine to be used in cases of extreme necessity. It has no doubt been abused in the past as it may be in the future; but it must be exercised under a just sense of the responsibility of each Representative to his constituents, to the Constitution, and to his Maker. It is a mode of procedure in accordance with the Constitution, sanctioned by the usage of all parties, and often absolutely necessary under the complicated and restrictive rules of the House to secure needful legislation demanded by the country.

If my time permitted I could show from the records of Congress, during the many long and dreary years when the republican party had undisputed control of all the departments of the Government, that many of the most important acts of legislation now on the statute-book were passed as parts of the general appropriation bills. Indeed one of the acts which it is proposed now to repeal in part is to be found harnessed to an appropriation bill; and I can say without the fear of successful contradiction that of the general appropriation bills enacted at the close of the short session of Congress a majority of such bills were passed containing general legislation, and most of them augmenting instead of reducing the expenditures of the Government. So common has this practice been that a distinguished gentleman from Ohio, Mr. Foster, not now a member of this House, and one of the House conferees on the Army appropriation bill, in some remarks made on the last day of the Forty-fifth Congress was forced to admit "that the republicans in times past had been in the habit of legislating upon appropriation bills," and further said that "he could not see any great harm in legislating upon appropriation bills when both Houses agree to it."

The same gentleman also said that he was willing to agree to the repeal of the clause authorizing the troops to be placed at the polls to keep the peace, as well as the jurors' test oath, and his then colleague, [Mr. GARFIELD,] who addressed the committee a few days since with so much adroitness, ingenuity, and apparent earnestness, remarked in the same debate that he was "willing to abandon the first two of the differences between the two Houses, to give up the clauses in relation to the use of the Army, and to give up the jurors' test oath, if the other side would abandon the attempt to repeal the election laws."

I might go further and say that if the session of last Congress could have been prolonged for one or two days, in my judgment, the amendment to the election law, as now proposed, would have been accepted and both the appropriation bills passed.

In the face of these acknowledged facts; in the face of the fact that it has been the constant "habit" of the republican party since its advent to power to tack general legislation of all kinds on the appropriation bills; in the face of the fact that the gentleman from Ohio [Mr. GARFIELD] not a month since would have consented to this amendment as to the use of the military at the polls, and would also have been willing to give his sanction to this assumed "coercion" of the Executive, how does it happen that this able leader of the minority then and now can justify himself for his extraordinary speech of last week? How can he who, as chairman of the Appropriations Committee for years, adopted time and again this mode of legislation, and who but yesterday was ready to consent to the passage of the identical bill now before this committee, denounce the action of the majority as "revolutionary?" With what grace can he charge that we are attempting to repeat the history of 1861 by "starving" the Union to death instead of "shooting" it to death? Never before, Mr. Chairman, has this House witnessed such a tempest in a teapot. Never before has the country seen such an exhibition of extreme partisanship and electioneering clap-trap at the expense of consistency and common fairness, and I venture to say it will never again witness an attempt to engage in such a gigantic speculation with so small a capital, or to deduce such unjust and uncharitable conclusions from such false and groundless assumptions. The distinguished gentleman from Ohio will pardon me for reminding him that he has commenced the presidential campaign a year too soon, and that he ought not to attempt the impossible feat of jumping over the stile before he gets to it.

In the great eagerness of my friend from Ohio to serve his party he has, unwittingly I hope, perpetrated a gross injustice upon the many distinguished gentlemen who now represent the so-called Confederate States in this Hall. He would have his section and those who pretend to have fears of the rule of the "confederate brigadiers" believe that they are the special champions of the only amendment to which he made objection in the last Congress; for let it be borne in mind that the gentleman from Ohio made no determined resistance to the Army amendment or to that as to the test oath. The stumbling-block with him was the election and supervisor amendment, and it is to be inferred that it is our persistence in forcing this amendment upon an unwilling Executive that must lead the "confederate brigadiers" to resort to "starving the Union to death" as they attempted

to "shoot it to death." It is due to truth to inform the gentleman from Ohio, if he is not aware of the fact, that not one of these gentlemen from the South originated this amendment or pressed it upon the attention of the House, but that the credit or discredit of it belongs exclusively to his own State. It was championed by one of his then colleagues, and strongly supported by at least three gentlemen in the last Congress from his State who were engaged in shooting at those who attempted to "shoot the Union to death."

It is in the loyal North, not in the disloyal South, that the system of supervisors and deputy marshals has become odious and offensive. It is north of Mason and Dixon's line that the money of the people has been squandered to corrupt the ballot-box and defeat the popular will; and it is a little ungracious in the gentleman from Ohio, in his efforts to make a solid North and to fan the slumbering fires of sectional hate, to attempt to fasten the stigma of revolution upon those who are as guiltless of any thought or desire to starve the Union to death as himself. In spite of the applause which greeted the distinguished gentleman from Ohio the other day from his political associates, he will pardon me for saying in all sincerity that the *role* of the partisan ill becomes him, and that he is never himself when he—

Narrows his mind
And gives up to party what was meant for mankind.

Mr. Chairman, I beg to inquire by what process of reasoning the gentlemen of the minority have come to the conclusion that we are meditating another war upon the Union, less "bold" and less "heroic" than that of 1861, it may be, but no less certain and destructive? In what consists the "revolutionary conduct, or object, or results of our proposed amendments?" There is no pretense that we propose anything unconstitutional, without precedent, or in violation of the rules governing the House. There is in point of fact no real objection, as admitted and confessed, to the repeal of the clause authorizing the use of the Army at the polls or of that provision of law authorizing the test oath to be administered to jurors in the Federal courts. It must, then, of necessity be that provision in the legislative bill which is not now before the committee, which, if adopted, will save to the people of this country two or three hundred thousand dollars every alternate year by amending the law as to the chief supervisors and special and ordinary deputy marshals.

It would be unfair as well as unjust to the gentlemen on the other side to affirm that they believe that the repeal of one or all of these laws would be "revolution" or lead to "revolution;" on the contrary, studiously avoiding the real issues presented by these amendments, as to their expediency, policy, or propriety, they are engaged in getting up a false clamor, and raising a hue and cry of revolution, and "destruction of the Government by 'starvation,' on assumptions which are as baseless as the fabric of a vision." They assume, first, that the President is unalterably opposed to these amendments, and that if presented to him in independent and separate bills he would refuse to approve them; that by putting them on the appropriation bills his free will is coerced and he may sign them rather than lose the appropriations, and that if he should veto them, Congress will adjourn without making the necessary appropriations for the support of the Government. Such are the assumptions on which they erect their raw head and bloody bones of "revolution" and "starvation of the Union."

Is there any gentleman on this floor that has authority to speak for the President? Has he so far forgotten his high position as to advise any member of this House that he will refuse his approval to either or both of these bills, and thus seek to coerce the action of this House and the Senate? I do not believe this of the Executive. It would be highly unbecoming in him, and I would rather believe that all this sheet-iron thunder has been manufactured to order to subserve the partisan purpose of the manufacturers themselves. I take it that if these bills are sent to the President he will canvass their merits and demerits, and either approve or reject them as the Constitution provides. It is not to be presumed that he will look beyond the contents of the bills themselves to determine his course, or that he will undertake to scrutinize the regularity or irregularity of their passage in either House.

If he follows in the footsteps of his illustrious predecessors, he will ask himself the question whether they are constitutional, whether they impinge upon the constitutional prerogatives of the Executive, and whether they are the offspring of passion or of calm and mature deliberation, and not whether he if a member of either House would have voted for or against them. I will not anticipate his action, and I protest against the improper and indecent attempt that is being made to coerce the President into a veto. The other assumption is no less groundless and unauthorized, and that is, if the President should, contrary to all precedent, veto a repeal of an existing law, this Congress will adjourn and refuse to make any appropriations for the Army or the legislative, executive, and judicial officers of the Government.

To justify this assumption, the distinguished gentleman from Ohio refers us to some remarks purporting to have been made by two leading democratic Senators at the other end of the Capitol. No one on this floor respects these gentlemen or their opinions more than I do; but I desire to say that it will be time enough to determine our action in this regard when the bills have been returned to this House, if they ever are, with the President's objections. "Sufficient unto the day is the evil thereof." Our duty is with the present, and I will not anticipate the contingencies of the future.

The bills we propose to send to the President are authorized by the Constitution; they will go to him in a form sanctioned by usage and the rules of this House, and if disapproved by him he will commit the first act of revolution in forbidding the passage of laws for the support of the Government and the repeal of others obnoxious to the people and condemned by those who alone are authorized to speak for them in these Halls. I will utter no menace to coerce the President or frighten him from his propriety, nor will we be deterred from discharging our whole duty by any false clamor of "revolution" by those whose greatest apprehension is that we will do everything legally, decently, and in order. *Fas est ab hoste doceri.*

Mr. WHITE. Mr. Chairman, at this advanced period of the debate I hesitate to take the floor. The discourses have been so varied that it seems to me we have lost sight for the moment of the single and precise issue before us. The discussion about the power of the Executive to veto such legislation as he may disapprove has been to my mind prematurely advanced. While I am not advised as to the intent of the President, should this bill pass with the obnoxious amendment and he return it with his veto, no lawyer or statesman can truly question his constitutional right to do so. The prudent navigator, when from untoward winds loses his latitude and the calm returns, sets his compass, takes his bearings, discovers where he is, and starts on a new departure. Imitating this instructive example, let us halt a moment and see where we are. We are sitting in extraordinary session, with the usual appropriation bill before us giving annual supply to the Army of the United States. This bill, sir, should, it seems to me, have passed the Congress closed March 4 last, thus saving the country the expense of this session and the general public the disturbance of political agitation. The cause of our pending difficulty is found in the tacking to the bill of an amendment changing existing law, which really regulates the right of military, naval, or civil officers of the United States to go, when properly called in obedience to law, and have or keep at the polls of any election in any State any troops or armed men to repel armed enemies of the United States or to keep the peace. The existing law, section 5528 Revised Statutes, is as follows:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

The amendment proposed and to be coerced through on this bill is to strike out the words "or to keep the peace at the polls." It appears the majority of the House intend this amendment shall be passed or the appropriation bill fall.

These, then, are the magic words. United States troops in no event are to be used to suppress any violence "or to keep the peace at the polls." Should this proposition prevail it will hereafter be unlawful for any military, naval, or civil officer or other person in the service of the United States to bring or keep at the polls any troops or armed men to keep the peace, suppress riot, or prevent bloodshed, although called for by the regular authorities of a State. The person violating such law will be fined, if convicted, $5,000 and imprisoned at hard labor not less than three months and possibly five years. Shall this amendment pass, or in case of an executive veto the Army, after the end of the fiscal year, go without supply?

DOES NOT PREVENT RUFFIANS OR KU KLUX.

Now, mark you, sir, this provision, if adopted, will not prevent any armed men being at the polls from partisan associations or under State control. The murderer, the ruffian of the northern city, the ku klux, the rifle club, or the white liner of the South will not be kept from the polls by the provisions of this amendment. The only persons prevented, in any contingency, from having armed men on duty or otherwise at the polls are United States officials, civil or military. There seems to be great terror of the United States having anything to do at an election by some people since certain occurrences in our history of the past eighteen years, and particularly from 1861 to 1865.

WAY THIS ISSUE CAME.

It may be instructive to the country at least, not already familiar with all the facts, to know how this issue came about. In the Forty-fifth Congress, which closed March 4, no Army appropriation bill passed. The history briefly is this: Mr. Hewitt, of New York, then a member of the House and of the Appropriations Committee, having charge of the bill for the support of the Army, some time in February last reported to the House an Army appropriation bill with some features of Army reorganization on it. The pending amendment was not attached, nor had it been considered by the committee, I am informed. When the bill was before the House I had the honor to offer as an amendment the bill substantially as agreed to by what is known as the Burnside-Army-reorganization joint commission. After protracted debate this amendment prevailed in the House. Then Mr. Hewitt, on his own account, as I understand, offered the pending proposition to change section 5528, Revised Statutes, by striking out "or to keep the peace at the polls." This passed with but little discussion after a yea-and-nay vote. Few in the last House, as I recall,

imagined the failure of the Senate, then having a republican majority, to concur in this one amendment would lose an Army appropriation bill and cause this grave and important crisis to the country. The real bone of contention had been the reorganization feature.

What, sir, will be the effect of this obnoxious feature if it passes? It will hereafter be impossible in any contingency of a riot or breach of the peace at an election poll for any civil or military officer of the United States to have or bring any armed men to restore order and secure to the citizen voter the most valuable privilege of the American freeman. This is the issue. We are told if these words "or to keep the peace at the polls" are not stricken out of a statute, passed more than fourteen years ago, all supplies to the Army will be withdrawn.

NO PAY TO SOLDIERS.

The private soldier, away on the frontier fighting Sitting Bull, or in constant contact with the Indians, is to be refused subsistence and support. The Army officials are to be refused supplies. The engineers of the Army, under whose supervision the $7,000,000 the last Congress appropriated for river and harbor improvements are being expended, will have no means of support while this work, which gives so much employment to labor in this country, is going on. Grave results like this await us should this bill fail because of the effort to attach this objectionable amendment.

This bill last session going to the United States Senate, the pending proposition was stricken out. A committee of conference between the two Houses failing to agree, the bill fell, and this extraordinary session has been convened to get the necessary supplies for the Government. It has here been presented with this unnecessary amendment and pressed on the House.

This side of the House is thus to be thumb-screwed into the support of measures they do not approve in their consciences, or one branch of the public service must go without support. The President is to be coerced into the approval of a measure he may disapprove rather than your Army shall starve. This same rule, I understand, is to be applied to the other bill not yet before the House, the legislative, executive, and judicial appropriation bill. The several departments of the Government, the courts of justice in the country, are to go without necessary supplies, unless the repeal of certain bills made necessary by the results of the rebellion are agreed to by the President, or enough of this side of the House will unite with the other side to make the constitutional two-thirds to overcome a veto if one should be given by the President.

HOW THIS LAW CAME.

How, sir, did this little statute about which there is so much contention come into existence? How did it happen to be enacted into law some fourteen years ago? Its history has been given succinctly and carefully from time to time on the floor of the House. This statute was passed February 25, 1865, and approved by Abraham Lincoln as President. Until that time no United States law affecting the use of troops at the polls had been passed or was in existence. I look in vain over ancient enactments to discover a precedent of legislation on the subject. When the rebellion commenced in 1861, by the firing upon Sumter, this country was found singularly deficient in legislation sufficient to authorize the President to execute the laws, and to preserve, protect, and defend the Constitution, as Mr. Lincoln said in his first inaugural he had an oath registered in Heaven to do.

The power to call for troops from different parts of the country under the circumstances, or to use the regular land and naval forces, was somewhat confused. The only statute existing for that purpose was the act of 1795, as modified by the act of 1807, which was sanctioned by Thomas Jefferson. The act of 1795 authorized the President to call upon the militia and the volunteers in the several States to enforce the laws. The act of 1807 modified it and enlarged it by giving him the power to employ for that purpose the land and naval forces of the United States when it was lawful to call the militia to suppress insurrection.

ACT OF 1861.

Congress, as we know, was called into extraordinary session, and upon the 25th of July, 1861, passed the law which is now in force and by virtue of which the President of the United States organized the volunteer force of the country and ultimately suppressed the rebellion. And, sir, in the course of the administration of that law and the conduct of the war through its tedious and sometimes horrid details, angry animosities arose in the country, partisan divisions in this House and in the co-ordinate branch. A bitter party here existed opposed to the administration of Mr. Lincoln in his effort to save the country, and as a consequence of that animosity Mr. Powell, then a Senator from Kentucky, as has been properly said, in 1864 introduced the law which is the cause of the present contention.

And, sir, I might pause for a moment and remark that Mr. Powell was in bitter antagonism to the administration of Mr. Lincoln, and in the course of the discussion of that very bill, referring to President Lincoln, he made some utterances like this:

This vacillating and, I fear, weak and corrupt man in the White House.

And there were kindred utterances which I could repeat, showing the hostility of Mr. Powell to the then Administration of the country. Of the controversy between the honorable Garrett Davis and Mr. Powell I will not pause to speak, more than to say, Mr. Garrett Davis, then a Senator, felt it his duty to introduce a resolution into the United States Senate to expel Mr. Powell therefrom because of his disloyal sentiments. This reference is pertinent to discover that this law was introduced here not at the instance or under the auspices of a republican Administration; it came from a source entirely hostile to the Government. And singular to say, and I wish gentlemen upon the other side who are devoted to the memory of Mr. Powell to mark it, Mr. Powell voted to place this very amendment "or to keep the peace at the polls" upon the existing law. It is quite true that this feature was not on the bill as originally proposed by him, and it is quite true that in the course of the discussion it was amended. But, sir, the point was made, and I press it to the attention of the House, that if the statute as originally introduced had passed and become a law the armed enemies of the United States, the rebels then defying the Federal authority, could not have been excluded from the polls in Maryland, in Kentucky, in Missouri, or in any State they may have invaded. In the discussion this was pressed home so strongly upon Mr. Powell that he consented to an amendment, "except to repel the enemies of the United States," which he offered himself.

Mark you, when these words were placed there they did not refer to foreign enemies but had reference to the rebels, then in arms against the authority of the United States; and while Mr. Powell's amendment "except to repel armed enemies of the United States" was pending, this amendment, the words "or to keep the peace at the polls," was offered to his amendment and carried, and for his amendment thus amended he and all other democratic Senators then voted, as the record shows.

The words, then, before us, "or to keep the peace at the polls," were added to the original by the unanimous vote of the Senate, as I remarked the other day. Hon. Lyman Trumbull, then a Senator, among others voted to add these specific words. On the final vote all the democratic Senators voted "yea" on the bill. It passed, indeed, as a democratic measure, such Senators as Buckalew, Garrett Davis, Hendricks of Indiana, Reverdy Johnson, Powell, and Trumbull voting for it. The final vote was—yeas 19, nays 13. You will thus observe had but a few democrats voted "nay" they could have defeated the measure thus amended.

REVERDY JOHNSON.

In the course of the discussion so high an authority as Hon. Reverdy Johnson—I have got his exact words here before me—made the remark in sanction of these words:

The bill as it has been amended and passed gives to the authorities of the United States the right to use their military power for the purpose of keeping the peace at the polls. It is consequently, if not exerted beyond that limit, a power within the competency of the Government.

Let me press that utterance from that distinguished legal authority and statesman in approval of the policy embodied in the words which you now propose, after the close of the war, to strike from this old statute in this coercive, unusual manner by attaching to an Army appropriation bill.

DEMOCRATIC CONSISTENCY.

Thus passing the Senate by democratic votes, the bill came to the House and was referred to the Judiciary Committee and reported without any change whatever. The history has been properly presented to the House and to the country. Such democrats as FERNANDO WOOD, S. S. COX, SAMUEL J. RANDALL, Speaker of this body, DANIEL W. VOORHEES, FRANCIS KERNAN, now a Senator, and my amiable colleague from the Somerset district, A. H. COFFROTH, voted for the bill. We heard Hon. FERNANDO WOOD make his apology for voting for the bill, and between him and his constituents let the consistency of his present position be settled. The original record shows no effort of his to amend or change in any way the text of the bill just as it is. We have not heard from the honorable gentleman from New York, [Mr. COX,] the versatility of whose genius equals that of his political record. We will doubtless hear before the debate closes an explanation of his course. Nor have I heard from my distinguished colleague, Hon. SAMUEL J. RANDALL, the Speaker of this House, who might possibly change the policy about this bill if he was so inclined. He may yet explain.

Then there is my amiable-countenanced neighbor, who represents upon this floor a district adjoining my own, elected here by republican votes, for his district is republican. He has been in Congress before, and I am gratified to know that he signalized his career at that time by leaving his party and voting for the thirteenth constitutional amendment, which abolished slavery. His was one of the two democratic votes, the other being that of Mr. McAlister, well known to my friend from Iowa, [Mr. PRICE,] who once lived in Pennsylvania, given for the thirteenth amendment. My colleague was a member when this bill passed the House. He was liberal in his politics then, and not tied to party, having been elected by a republican district.

Mr. COFFROTH. Will the gentleman yield to me for a moment?

Mr. WHITE. Certainly.

Mr. COFFROTH. I have nothing to say about voting for the thirteenth amendment. I have nothing to retract.

Mr. WHITE. Of course you have not.

Mr. COFFROTH. I voted for the thirteenth amendment because I viewed it then as a matter of right and justice. But I want to say to my friend that though I was liberal enough to vote with the republican party in passing that amendment, in the late canvass they

used it against me, and published it through all their newspapers to urge democrats to vote against me because I was liberal on this floor and gave them a vote for that amendment.

Mr. WHITE. Well, they were naughty fellows, and they ought not to have done so. [Laughter.] Because of this the republicans possibly voted for him in the faith that he would be liberal on other questions when they came before the House. He can now signalize his election to Congress by voting with republican friends against attaching to the Army appropriation bill an amendment to a statute he voted for when before in Congress.

Mr. COFFROTH. My colleague will allow me to say a word. The large republican vote cast for me was cast because the republicans knew that I had the courage to do what was right, and because they knew that I would vote for all bills that were honest and right.

Mr. WHITE. Why, of course, of course. I congratulate my friend upon being an honest man, and for voting for that which he thinks to be right. From present indications I fancy that he is not going to forget party ties. I fear, in that respect, he will, like Sir Joseph, in Pinafore, tell his republican constituents who may complain, those frosty sons of thunder in Somerset County:

> I always voted at my party's call,
> And I never thought of thinking for myself at all.
> I thought so little they rewarded me
> By making me the ruler of the great navee.

[Laughter.]

I would hope my persuasive power may have some good influence on my colleague.

Mr. COFFROTH. Will the gentleman allow me to ask him another question?

Mr. WHITE. Certainly.

Mr. COFFROTH. He speaks of ruling the "Great Navee." I want to know if his boats are to sail upon the Kiskiminetas. [Laughter.]

Mr. WHITE. I am obliged to my friend for talking about the Kiskiminetas. It is a representative idea. The engineers of the United States recommend its improvement for navigation purposes. This may result in great advantage to our State and give employment ultimately to some of our idle labor. We already have an appropriation for the improvement of the Allegheny. Should this Army appropriation bill fail, it will materially interfere with internal improvements in the country and the employment of many men now idle. Commending this thought to my friend, I trust that I shall have the friendship of my colleague in the Kiskiminetas idea before his term expires.

But, Mr. Chairman, all these democratic gentlemen who are now detaining this Congress for the repeal of this provision, voted for it originally, not like the ancient Pistol ate his leek, with protest and much grumbling, but without a word of criticism.

This, sir, is the history of the enactment which it is now proposed to change. I have given it correctly and appeal to the record. In the fourteen years since its passage no gentleman has offered or suggested a bill to strike out these words, "or to keep the peace at the polls." No popular demand for any modification of the statute as it originally passed came from any quarter that I have learned of.

No issue has ever been raised. Can it be that this issue is raised now because of the presence of gentlemen who were not here at the time of its enactment? Is it because the then vacant chairs from the southern part of the country have been filled? I leave it to the good sense of the House and the country to determine.

NO VIOLENCE AT THE POLLS.

But, Mr. Chairman, let it not be understood that this side of the House is in favor of force at the polls. It is a maxim in our Government, to be accepted by all as fundamental, that there shall be no violence, no intimidation, no riots or breaches of the peace at our elections. All disturbances, actual or threatened, likely to keep the legal voter from the poll or to impair the freedom of his ballot is foreign to the genius of our institutions. But, sir, when the Government gives this precious privilege there is concurrent duty to protect the voter in its peaceful exercise. The rounder and ruffian in the northern city must not invade the sanctity and peace of elections, nor must the white-liner or the rifle club in the South disturb the peace of an election to deter, possibly, the recently enfranchised negro from the freedom of his ballot.

ENGLISH STATUTE.

Reference has been made, sir, to the English statute of George II, 1735, regulating the quartering of soldiers during the time of the election of members to serve in Parliament. I hold it in my hand, but forbear to read its careful provisions. Much declamation has been indulged in about it to affect the pending issue. The circumstances suggesting the English statute were entirely different from those suggesting the statute about troops near the polls in America. The conditions of the English army and the manner of its support are different from ours. The English army is maintained, except in the extraordinary expenditures of a foreign war, from the revenues of the Crown. The American Army exists by law, and appropriations from the ordinary revenues of the Government are annually made for its support. Let us interpret this English statute by the known rules of interpretation, the old law, the mischief and the remedy. It is very well known from contemporaneous history that the statute of George II, 1735, which I hold in my hand, was enacted because of then prominent abuses. There was no law at that time preventing the stationing of troops at the election booths. Pending the election for 1734, the ministry, with the approval of the Crown, made out a list of sixteen scotch peers who were to be elected to Parliament from Scotland. These were the ministers' candidates, and troops, battalions of troops, were drawn up in Edinburgh court in violation of ancient custom, and without justifiable cause, except to overawe the electors.

When Parliament assembled, this statute was introduced and passed so that a recurrence of these evils should be impossible thereafter. A flagrant evil, occurring contemporaneously with the enactment of this statute, suggested its passage by Parliament, just as the injustice of their contested elections there suggested what is known as the Granville statute in 1780 for the creation of committees to try contested seats in Parliament. But, sir, somebody has asked in the course of the debate, when were troops in former days used at the polls? I think the inquiry was made by the gentleman from Mississippi, [Mr. CHALMERS,] who yesterday read us a lecture upon this law. Why, sir, troops were called occasionally to election polls to keep the peace, when necessary, long before the oldest member of this body was born.

BUCKSHOT WAR IN PENNSYLVANIA.

In Pennsylvania, in 1838, though born before this I do not personally remember it, we had what is known as the "buckshot war." My friend before me [Mr. PRICE] remembers the "buckshot war" of 1838 in Pennsylvania. Rival political factions contended for the organization and possession of the State senate. In the selection of officers conflict and violence ensued. To promote the peace and suppress the violence, so the proper legislative organization couldbe. had, the governor sent for United States troops to Carlisle barrac ks General Sumner, then a captain, was stationed at Carlisle in command of United States troops. The governor called for him to go to the scene of political contention, and by the presence of his troops allay the controversy.

WASHINGTON IN 1856.

On the 12th of June, 1856, there was an election held in this city for municipal officers. This election was held under a statute giving the citizens of the District the right of electing their own officers.

I appreciate the point the gentleman from Kentucky [Mr. CARLISLE] made the other day when I referred to this instance, that it was a municipal election held in this District, over which, by the Constitution and the laws, the United States authorities had full jurisdiction and complete control. I grant you that. It is a case in point not as to jurisdiction, but as to policy; an example of occurrences of violence at elections where even democratic administrations found it proper to send United States troops to keep the peace, and this with the sanction of the then President. I hold in my hand the report of the grand jury inquiring into the circumstances of that election. It is signed by George W. Riggs, of this city, as foreman, and I read from it very briefly. After reciting the riot and violence near one of the election precincts, the report continues:

> Information of these disgraceful riotous occurrences was communicated to the mayor of Washington. At that time there was only one policeman and six or seven members of the Auxiliary Guard at the fourth ward. The mayor visited the scene, and having ascertained the true condition, forthwith called upon the President of the United States.

The recital continues that these marines went to the polls and there shot dead fourteen, as it was afterward alleged, innocent men and wounded twenty others. When the question came before this House for discussion, Hon. Mr. Burnett, a democratic Representative from Kentucky, in a speech I have before me, sanctioned it, saying that there was no other way by which the peace could have been secured to the citizen at that election so his freedom to vote could be enjoyed. He said: "How was it possible to protect citizens on a day like that which occurred at that election, when a gang of rowdies from a neighboring city came here, driving resident citizens from the polls, but shooting them down?" This policy was sanctioned by Franklin Pierce as President, and James Dobbin, Secretary of the Navy, and Jefferson Davis, of subsequent fame, as Secretary of War. Had the law to prevent any United States troops under any pretext "to keep the peace at the polls," you now propose to enact, then been in force, the violence at that election could not have been suppressed.

SECESSION ELECTION OF VIRGINIA OF 1861.

But the gentlemen of the opposition talk of troops at the polls. The lately rebellious States have supplied most conspicuous examples. I have before me high Kentucky authority that when the election was held in Virginia in 1861, to determine whether the "Old Dominion" would adhere to the Union, it was a simple mockery. I have here an extract from the Louisville Journal of June 1, 1861, high Kentucky authority, which I will read:

> The vote of Virginia last week on the question of secession was a perfect mockery. The State was full of troops from other States of the confederacy, while all the Virginia secessionists banded in military companies were scattered in various places to overawe the friends of the Union or drive them from the polls. The Richmond convention, in addition to other acts of usurpation, provided that polls should be opened in all the military encampments besides the ordinary voting places. No man voted against secession or resisted it except at the peril of being lynched or arrested as an incendiary, dangerous to the State.

That most gifted artist, John Rodgers, in the manufacture of those war statuettes which have made him famous, has made none more touching than the one representing the old Virginian—who, loving the memory of Washington and the fathers of his country, was attached

to the old Union—going with feeble step to the polls, supported upon the arm of a loved daughter, with a Union vote in his hand; when reaching the poll the cavalier-looking election officer, sitting with Colt's revolver beside the ballot-box, queries the old patriot with perplexing questions, refuses his vote, and intimidates him from the grounds.

Gentlemen from Virginia and North Carolina, both of which States I believe were coerced by military force and violence at the polls to go out of the Union, should be familiar with instances of disturbances at the polls, with instances of their citizens going there and discovering themselves prevented from voting their real sentiments. But I can refer to other instances. My friend from Wisconsin [Mr. WILLIAMS] read to you this morning the order of General George B. McClellan, in reference to elections in Maryland in 1863. I read but an extract. This order is dated October 29, 1863, and says:

The major-general commanding directs that you send detachments of a sufficient number of men to different points in your vicinity where the elections are held to protect Union voters and see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights. He also desires you to arrest and hold in confinement till after election all disunionists who are known to have returned from Virginia and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election.

ABRAHAM LINCOLN.

On this side of the Chamber we recognize Abraham Lincoln as pretty good authority; possibly he is not authority on the other side. I read an extract from his letter of November, 1863, to Governor Bradford, of Maryland, on this subject:

That the provost-marshal and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whatsoever.

There are other instances to which I could refer where the presence of the United States troops or armed men to secure peace at the polls and to secure the right of free elections are set forth in the history of our elections in this country.

OCTAVIUS CATO.

In Philadelphia, in the fourth ward, in the district represented now by the honorable Speaker of this House, at an election held upon the 10th of October, 1871, not a year when we elected members of Congress, Professor Octavius Cato, an educated colored man, going to the polls was set upon by repeaters and ruffians and murdered in cold blood. Other negroes on that occasion were followed by violence; confusion and disorder ran riot. Citizens, republicans and democrats, good citizens who desired peace at the polls, went to the United States marshal, then General Gregory, and asked him to bring there United States troops to keep the peace. It was done; and United States marines, under the command of a Colonel Forney, went to the polls and secured the peace, and a free, peaceful election was had on that day thereafter. Had the words "or to keep the peace at the polls" been stricken from this statute of 1865, as you now propose, in 1871 the call on the United States marshal to restore order and peace on that election day would have been in vain. It would have been a high criminal offense for him to have interfered with armed men to drive the rounder and the ruffian from the polls.

I could multiply instances in the history of the country where peace at an election could not be secured except by the advent of armed men to overawe the ruffian.

CONSTITUTIONALITY.

But, sir, much has been said about the unconstitutionality of this enactment. Why, sir, if it is unconstitutional, it is innocent. The question of its constitutionality can be tested before the Supreme Court of the country, and if it be unconstitutional, the decision of that tribunal will pronounce it void. But, sir, how is it unconstitutional? The gentleman from Kentucky [Mr. CARLISLE] and other lawyers upon the other side have sought to disturb us with the idea that men do not vote in the States by reason of any United States statute or by reason of the Constitution of the United States. I am not vexed upon that point. We understand that there would be no power under the Constitution of the United States to make any citizen of the State a voter when the State has designated the persons entitled to vote for the most numerous branch of the State Legislature. Such persons are also voters for members of Congress and President. We have the right to pass an act declaring that no State shall make any discrimination in respect to the right of suffrage by reason of race, color, or previous condition of servitude. We have the right to provide for the punishment of any such discriminaton in State legislation or in the administration of State election laws. As a loyal citizen of the country and as a lawyer, I yield assent to the utterances of the Supreme Court in the case of Minor *vs.* Happersett, 21 Wallace, 178, that the Constitution of the United States has not conferred the right of suffrage upon any one; that the United States have no voters of their own creation in the States.

So in United States *vs.* Reese, (2 Otto, 214,) the right to vote in the States comes from the States; but the National Constitution says, there shall be no discrimination by any State law among any citizens on account of race, color, or previous condition of servitude. It is by the fifteenth amendment made the duty of Congress to enforce this provision against discrimination by appropriate legislation. The question of who are the voters does not appropriately arise in this debate.

FREE ELECTIONS.

It is a question, however, of preserving elections free and peaceful to some extent. Congress can say when, where, and how members of Congress shall be elected. It can provide they shall all be elected on one day in the different States as it practically has done. It can provide the places and the manner. This latter would involve a provision for the necessary officers. This latter is not done, although it could constitutionally be done. Since, then, these provisions could be made, it is quite proper for Congress to see that the elections for United States officers shall be peaceful as well as free and pure. But, sir, the proposed legislation does not necessarily involve these considerations. This is a penal statute. A statute which makes it a high crime for an officer of the United States to have any armed men at an election whether called there by proper authority or not. The only exemption from the penalties of this statute is in case such armed men are called there "to repel enemies of the United States or to keep the peace at the polls." You will now strike out "or to keep the peace at the polls," thus multiplying the prohibitions of the original statute. Should this pass, a riot, never so severe, may be flagrant in New York, Philadelphia, New Orleans, Charleston, or Mobile; the inoffensive citizen may be shot down; the colored man may be stoned and driven by a yelling mob from the polls in sight of a United States official or garrison; but the officer may not bring his command to the scene of violence to say "peace, be still," without incurring the severe penalties of this law as you propose to make it. On the appropriation bill of June last you provided in what is popularly known as the *posse comitatus* clause:

It shall not be lawful to employ any part of the Army of the United States as a *posse comitatus* or otherwise for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said troops may be expressly authorized by the Constitution and the laws.

In view of this enactment, which has been somewhat complained of, not in a mere partisan spirit, by the Secretary of War in his last report, if you now pass the measure before us it will be impossible, without danger of conflict, for the Federal authority to send any troops to the polls to preserve peace at any election, even if a call should be made by the governor or Legislature of the State. I might pause and refer to possible annoyances, inconveniences, conflicts, and disorders which may result from this. We are familiar with the fact that the governor of West Virginia and the governor of Maryland, by reason of their inability to enforce the law, have within two years called upon the executive arm of the nation for aid. The trouble in that case was a riot incident to the labor confusions of the country; and in view of social conflicts and annoyances which have and may be repeated this enactment is unjust to the peace of the country. If you pass this measure it is a serious question whether the executive arm of the Federal Government could respond by sending troops during an election even to keep the peace, as there would then be no statute directly authorizing the employment of troops for that purpose. The *posse comitatus* clause would positively prohibit it.

But, sir, I will not pause to repeat the many contingencies when the repose of society, the security of the citizen, the peace and purity of elections in the Republic may require, with the assent of all good citizens, the moral presence, at least, of soldiers or some armed men under proper officers, United States officers being possibly the most convenient. Pass your measure. Such relief will be criminal. It is no argument to say such contingencies are not probable. Says Blackstone:

No practical systems of law are so perfect as to point out beforehand those eccentric remedies which national emergency will dictate and justify.

PARTISAN LEGISLATION.

But, Mr. Chairman, a good deal has been said about the partisan character of the legislation which it is here proposed to repeal. We on this side have listened to lectures from the other side of the Chamber *ad nauseam*. Much fault has been found with the republican party for its long exercise of power. The allegation has been made that our party has been running the Government for sixteen years in the interest of plunder, usurpation, and despotism. Sir, once for all we deny such assertions. Some mistakes may have been made by men in power in grappling with new and untried questions. The gentleman from Ohio [Mr. MCMAHON] undertook to rebuke this side of the Chamber for attempting to lecture the South. Sir, how long are we to remain silent under such lashings? I profess to be one of the most liberal men upon this side of the Chamber toward gentlemen from the South; I also am one of the frankest on this side toward those gentlemen.

I can multiply instances of the hauteur of the new power in this Chamber. I have before me some remarks made, near the close of last session, by the gentleman from Mississippi, [Mr. SINGLETON,] who was so frank as to declare a short time ago here in the American Congress that his first allegiance was due to his State, his second to the country. He has been consistent. Being in the old Congress before the war, he left it, went to his State to help take her out of the Union, went into the rebel congress, and has now been here for some six years again. He took occasion to lecture us on this side of the Chamber, and I desire to read something that he then said, so that if he did not mean it he may set himself right. In talking about the sufferings of the South from the war, he said, (CONGRESSIONAL RECORD, third session, Forty-fifth Congress, page 895:)

Its disastrous effects were felt everywhere. As to the losses of men in the respective sections I have but a word to say. While the North by hiring substitutes and giving bounties to enlisted men was incurring a large proportion of the debt we are now endeavoring to pay off, there was scarcely a household in all the South which was not draped in mourning for the loss of father, husband, brother, or son.

The fighting we did was at the cost of the best blood of the South, while you were enabled by reason of having control of the Treasury of the United States to give bounty money to foreigners who fought your battles. I reiterate the statement that I am not complaining; I am uttering no reproach; but only declaring what yourselves know to be true.

BEST BLOOD OF THE NORTH.

Mr. Chairman, with all the courtesy of debate, I deny the utterance. I know it to be untrue that the hired foreign mercenary fought our battles. The soldiers of the Union were gentlemen. They left their happy homes in the North for mortal conflict with defiant treason. A faith second only to faith in the Cross inspired the northern soldier to the duties of the camp and the battle. Youth and age, wealth and poverty, vied with each other for patriotic duty; the loving father, the fond mother, the devoted wife, gave their loved ones with heroic fortitude to the fray. The best blood of the North was shed and to-day enriches southern soil. Many a northern household still grieves because some darling came not back to the home circle but fell by the way in the "on to Richmond" or "from Atlanta to the sea." Sir, it was Americans fighting Americans. You found foemen worthy of your steel. It is but just I should resent any aspersion cast upon the soldiers of the Republic who carried our cause to triumph and made it possible for the members from the insurrectionary States to be here in their seats. I trust the gentleman from Mississippi will correct this utterance if he did not mean it.

Now, sir, yesterday the gentleman from Mississippi, [Mr. CHALMERS,] his colleague, [Mr. MULDROW,] and others directly charged the republican party with usurpation, despotism, plunder, and infidelity to the best interests of good government and kindred offenses for the past sixteen years. Are we to take all this? Must we be reviled and held up to public scandal and criticism, and no reply? In return for this harshness, must we spoon-feed these gentlemen? At the risk of being rash, I now and here rebuke such utterances. *Quousque tandem abutere, Catilina, patientia nostra?*

You speak of our young yet proud republican organization during the past sixteen years. I will not pause to utter mere political boast about its birth and achievements. The policy of this party has been the history of the country for the past eighteen years. Shall I remind you what it has done? It saved the nation. Do you gentlemen of *the South* regret this? It emancipated and enfranchised a race. Do you regret that? It directed your attention to educating your poor and dependent. Do you regret this? It has developed a liberal spirit of internal improvement that has made it possible for gentlemen of the South to be here to glorify "the old flag and go for big appropriations." I favor being reasonably liberal to you and your region in this respect, for that is the way to build up your country.

JEFF DAVIS.

I hold in my hand utterances of Jefferson Davis in a recent interview said to have been had with him. Possibly he is paving the way for a return to power. Be that as it may, he is reported to have expressed himself in this way. I read from the New York Herald of the 30th, purporting to publish an interview:

He conceded expressly that the abolition of slavery would prove an ultimate good to the country; that it was a manifest advantage to the white race, for it would lead to the development of the South and multiply her manufacturing and mechanical industries. From advantages of climate alone the future of the South was more promising than that of any other section of the country; but the condition of the present generation of the blacks, &c.

He acknowledged, however, that he had changed his mind entirely upon one question, namely, that the great staples of the South—cotton and sugar—could be produced with greater economy and in greater abundance by paid labor than by the labor of slaves. He remarked that the only disturbing elements to be discerned now were the efforts of extremists upon both sides to keep alive animosities and hatreds of the past.

This may not have been so intended, but he interprets the English language falsely who must not take this as a tribute to the progressive tendencies and the patriotic accomplishments of the republican party.

The concessions Mr. Davis makes have been the results of republican policy, of republican pluck, of republican enterprise. Gentlemen of the South, your whole social system has been changed, the debauching influences and enervating tendencies of slavery have been taken away from you; you have a new, or in the end, if proper counsels prevail, will have, a better and safer industrial system. I can see and feel this in the air. This has come from the sanitary influences of an enlightened republican policy. In view of these considerations, why should the Representatives from the South launch their thunderbolts of denunciation against the republican party of the country? Sir, I have no disguises here. It is said, let the past be buried. Let it be so. But you will not allow what we call the crimes of the South to be forgotten. You avow your purpose to wipe out all the enactments the war made necessary. The utterance of your threats awakens naturally the bitterest indignation of the northern people. While the northern sentiment upon many questions may be different as the billows, on this one question it is one as the sea. Sir, I am not one of those who believe rebellion was honorable. I consider it was infamously wicked. The Government, in again accepting in high places of authority the conspicuous characters of rebellion, has been generous beyond all precedent in history, ancient or modern. In my denunciations of rebellion I am not so unparliamentary as to speak personally of any individual. I speak of rebellion and treason as crimes still known to the jurisprudence of the country. I speak in a general sense. I find enacted under the administration of George Washington a statute which provides that "every person owing allegiance to the United States who levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason." The men who levied war against the Government were subject to its penalties.

FIRST GUN OF REBELLION.

One of the gentlemen from Mississippi yesterday, in reply to a question from my friend before me, [Mr. PRICE,] who asked where the first gun was fired, to which doubtless the response was expected "at Fort Sumter," answered, "The first gun was fired by John Brown at Harper's Ferry." Now the gentleman from Mississippi did not recall, possibly, the historical fact that if John Brown actually did fire that gun, he was afterward arrested for having levied war against the sovereignty of Virginia, tried, and hung. If that was the first gun of the rebellion punishment to the criminal came swift and according to the law. We recognize, all liberal, judicious men recognize, that by reason of the magnitude of the conflict and the entirety of communities throughort great States involved in it, the technical penalties of the law could not be enforced. For reasons of great public policy, in our peculiar governmental system, constitutional amendments were enacted giving it into the power of the Representatives of the people to pardon men who had levied war against the Government; and in consequence of that we have the gentlemen of the other side, the more numerous branch of the democratic party upon this floor, as our equals, not as our superiors.

Somebody says, Are you afraid of another rebellion? Not a rebellion of arms—an armed effort of the South to destroy the Government. No, sir; our next trouble, and God forbid we should have any, will not come in that way. I have no fear that you gentlemen are again going to launch into the experiment of war. I think it was the Senator, George E. Badger, who, when making a speech before the people of North Carolina on the "fifty-four forty or fight" question, said, in sneering at the evils of war: "What is it? W-a-r—a very small word. It has only three letters." An Irishman in the audience promptly cried out, "Hell has only four."

The men who went into the rebellion, the men who controlled the fortunes of the insurrectionary States, discovered the enormity of war and will not again tread heedlessly the bloody road of armed resistance to law. They tell us their country was laid waste and they have felt the heavy sacrifices they have made. I do not doubt it, and they will not soon again launch into actual war. "What do you contend for, then?" say the other side. Is it a mere question of patronage? I trust not, sir, although there is much human nature about us in this respect. It is no easy matter to satisfactorily surrender all the patronage of this great Government to the representatives of the cause which recently struggled so hard to destroy it. I heard a few weeks ago two members of this House, southern members, too, tell a most illustrative incident in this behalf. They were coming to the Capitol in one of the street cars, in which were two crippled confederate soldiers, who are officers of this House, and two very badly wounded Union soldiers, both having lost legs, and out of employment. The Union soldiers got out where the Congressmen also got out. The Union soldiers immediately discoursed as follows, one saying to the other, "See here, did you see them two Johnnies going up in the car?" The reply was "Yes." "Well," said the first, "them fellows fought four years to destroy the Government; now they have good places under it, while we fought four years to save it, lost our legs, and are here on the street without proper support." There must be something wrong about this, they both agreed, as they shook their heads and walked away.

While such incidents may illustrate the logic of the situation in some respects, yet, sir, there are broader, more important considerations to the public man who would do his duty here, and before the people, in educating public sentiment. The great question is, Is it wise for the political organization whose policy carried and saved the nation through the fiery ordeal of battle to surrender all claim and efforts to administer its affairs? It is claimed by the gentlemen across the way that the Government is their birthright. By what divine right can this claim be sustained? Sir, the entire possession of the Government by those gentlemen would be dangerous to our political system.

I might pause and ask what gentleman of the opposition who was conspicuous in the war of rebellion, and those gentlemen from the South all were, has surrendered his heart's convictions of the right of peaceful secession? Which of them has surrendered his peculiar doctrines of State rights, which was the very foundation-stone of the confederacy? What portion of the southern people feel that the national credit is to them as the apple of their eye? What portion of the southern people do not feel the people of the North oppressed and despoiled them of their valuable estates and some of their most cherished rights? Considerations like these press upon us and suggest to an enlightened public sentiment of the country the wisdom of resisting to the utmost, by every legal and constitutional means, the repeal by the gentlemen across the way of those enactments the logic of events made necessary after the surrender at Appomattox. The effort now pending is the first attempt in this direction since the American Congress has passed entirely into the hands of the opposition, and I feel justified to resist it by every legitimate means.

Mr. SPARKS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed

the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (R. H. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

EVENING SESSION.

Mr. SPARKS. On consultation with a great many members of the House, it was thought best that we should have one night session before the close of the debate. I would therefore ask unanimous consent that a recess be taken to-morrow afternoon from half past four until half past seven.

Mr. BROWNE. I understand that by a resolution of the House it has been determined that the general debate shall close to-morrow.

Mr. SPARKS. No, the day after to-morrow.

Mr. BROWNE. Then I cheerfully assent to the proposition of the gentleman.

There being no further objection, the order was made.

WITHDRAWAL OF PAPERS.

On motion of Mr. HUMPHREY, by unanimous consent, leave was granted to L. L. Lancaster to withdraw from the files of the House his discharge, a bill having been passed for his relief the last session of Congress.

Mr. SPARKS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAKER: Resolution of the Legislature of Indiana, asking that the national-banking law be so amended as to require national banks to sue in the State courts of the States in which they are located—to the Committee on the Judiciary, when appointed.

Also, the petition of John Welch and other members of White Oak Grange, Kosciusko County, Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of Joanna W. Judge, widow of Peter Judge, deceased, that the charge of desertion may be removed from his military record—to the Committee on Military Affairs, when appointed.

By Mr. BARBER: The petition of P. L. Turnley, for restoration to the rank of captain in the United States Army—to the same committee, when appointed.

By Mr. CABELL: The petition of officers and members of Providence Grange, Grayson County, Virginia, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of members of Providence Grange, Grayson County, Virginia, for the reduction of the tobacco tax—to the Committee of Ways and Means, when appointed.

By Mr. COBB: The petition of citizens of Washington Township, Knox County, Indiana, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. DAVIS, of North Carolina: Resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Cape Fear River, the making of Fayetteville, North Carolina, a port of entry, and the making the navigation of Cape Fear River free—to the Committee on Commerce, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Waccamaw River—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation sufficient to clear out and deepen Currituck, Croaton, and Pamlico Sounds, and Neuse and Newport Rivers—to the same committee, when appointed.

Also, resolutions of the Legislature of North Carolina, relative to the improvement of the rivers of said State—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring the establishment by the General Government of two universities in the South, one for the education of white and the other for the education of colored youths, free of charge, and that $1,000,000 be appropriated for the establishment of each university—to the Committee on Education and Labor, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation to make Lumber River navigable—to the Committee on Commerce, when appointed.

Also, the petition of Daniel H. Jordan, C. R. Wilson, jr., and others, members of New Bethel Grange, North Carolina, for the passage of the Reagan interstate commerce bill—to the same committee, when appointed.

By Mr. HILL: The petition of William E. Houghton and others, of Fulton County, Ohio, of similar import—to the same committee, when appointed.

Also, the petition of Susan R. Gassaway, for the removal of the charge of desertion from the military record of William H. Estell, deceased—to the Committee on Military Affairs, when appointed.

By Mr. LINDSEY: The petition of Sarah O. Webber and 39 other women, of Saint Albans, Maine, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. MCKINLEY: The petition of A. Steiner and 45 others, citizens of Canal Fulton, Stark County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of J. H. Miller and 23 others, citizens of Canton, Stark County, Ohio, against the extension of the McKay & Mathies patent—to the Committee on Patents, when appointed.

Also, the petition of Franklin Grange, No. 698, of Wayne County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. URNER: The petition of R. H. Lansdale, Isaac Hartshorne, Marshal Brown, and other members of Brighton Grange, Montgomery County, Maryland, of similar import—to the same committee, when appointed.

Also, the petition of Alice Lynn, Emma A. Martin, Mattie E. Youson, and other women of Mechanicstown, Maryland, for legislation to make effective the anti-polygamy law—to the Committee on the Judiciary, when appointed.

By Mr. VALENTINE: Memorial of the Legislature of Nebraska, urging the repeal by Congress of all laws which allow certain railroad corporations operating in said State to remove all suits between said corporations and citizens of said State from the State to the United States courts—to the Committee on the Judiciary, when appointed.

Also, memorial of the Legislature of Nebraska, relative to swamp and overflowed lands in said State and other States—to the Committee on Public Lands, when appointed.

Also, memorial of the Legislature of Nebraska, urging the settlement of the claim of said State to the 5 per cent. on sales of public lands sold therein—to the same committee, when appointed.

Also, memorial of the Legislature of Nebraska, asking such legislation as will forever prohibit the payment of southern war claims—to the Committee on the Judiciary, when appointed.

Also, memorial of the Legislature of Nebraska, urging the establishment of a camp and military post east of Fort Robinson on the Niobrara River, in said State, for the protection of the settlers of that section from invasions of hostile Indians—to the Committee on Indian Affairs, when appointed.

Also, memorial of the Legislature of Nebraska, urging the removal of the Santee Sioux Indians to the Ponca reservation, and for the restoration to their former condition as public lands of all other lands now occupied by them—to the same committee, when appointed.

By Mr. WELLS: Memorial of the Legislature of Missouri, asking for an appropriation for the immediate improvement of the Missouri River at Saint Charles, Glasgow, Cedar City, and Kansas City, Missouri—to the Committee on Commerce, when appointed.

By Mr. YOUNG, of Tennessee: The petition of William A. Carswell, M. D., of Memphis, Tennessee, for one month and twenty-five days' pay as assistant surgeon in the United States Army prior to the 25th of March, 1861—to the Committee of Claims, when appointed.

IN SENATE.

THURSDAY, *April* 3, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PERSONAL EXPLANATION.

Mr. COKE. Mr. President, I should like to make a statement, so that the RECORD of yesterday may be corrected, if it is in order to have that done. When the vote was taken on the motion to lay the resolution of the Senator from Massachusetts [Mr. HOAR] on the table, it escaped my memory at the time that I was paired on all political questions with the Senator from Kansas, [Mr. INGALLS,] who was then absent; and when my name was called I voted "yea." My vote made no difference any way in the result; but I desire now to retract my vote and to state that if the Senator from Kansas had been here he would have voted "nay" and I should have voted "yea." I make this statement in justice to myself and the Senator from Kansas.

PETITIONS AND MEMORIALS.

Mr. WITHERS presented resolutions of the Legislature of Virginia, in favor of the speedy passage of measures by Congress looking to the prevention of the spread of diseases among cattle; which were referred to the Committee on Agriculture.

Mr. JOHNSTON. I present similar resolutions of the Legislature of Virginia and move that they be referred to the Committee on Agriculture.

The motion was agreed to.

Mr. INGALLS presented the petition of Mrs. John Gillespie and other ladies, of the States of Kansas, Wisconsin, Nebraska, and Indiana, and the Territory of Wyoming, praying for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia, except for medicinal, mechanical, and scientific purposes; which was referred to the Committee on the District of Columbia.

Mr. KIRKWOOD presented the petition of W. H. Curtis and others, citizens of Guthrie County, Iowa, praying for the passage of a law granting a pension to Thomas Johnson, late private Company G, Twenty-seventh Ohio Volunteer Infantry, on account of injuries received during the late war; which was referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of Zenas Herrick, of Kenduskeag, Maine, praying that his pension be extended back to the time when his injuries were received; which was referred to the Committee on Pensions.

Mr. COCKRELL presented a concurrent resolution of the Legislature of Missouri, in favor of the passage of a law by Congress granting pensions to the surviving soldiers of the Mexican war; which was referred to the Committee on Pensions.

He also presented a concurrent resolution of the Legislature of Missouri, instructing their Senators and requesting their Representatives in Congress to procure, if possible, the enactment of a law or the submission of a constitutional amendment preventing the Federal courts from exercising or assuming jurisdiction in causes wherein any county or other subdivision of a State is or shall be a party; which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 333) to grant homesteads to the Santee Indians residing upon their reservation in Knox County, State of Nebraska; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 334) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 335) granting a pension to Simeon Crain; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 336) granting a pension to Philip Braunstetter; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 337) granting a pension to James H. Poland; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 338) granting a pension to Dederick Blanck; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 339) granting a pension to A. W. Richards; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 340) granting a pension to Thomas J. Anthony; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 341) granting a pension to Peter Getert; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 342) granting a pension to Charles Reed; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 343) relating to printing impressions from portraits and vignettes; which was read twice by its title, and referred to the Committee on Printing.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 344) to provide for the disposal of public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 345) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general in the United States Army on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WALKER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 346) to carry into effect the tenth article of the treaty with the Pottawatomie Indians of February 27, 1867; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 347) for the relief of John B. Nix; which was read twice by its title, and referred to the Committee on Claims.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 348) to establish a National Board of Agriculture; which was read twice by its title, and referred to the Committee on Agriculture.

COMMITTEE SERVICE.

Mr. WITHERS. I move that the name of Mr. KIRKWOOD, of Iowa, be placed upon the Committee on Pensions in the place of Mr. BRUCE, of Mississippi, who declines to serve.

The VICE-PRESIDENT. The Chair hears no objection, and the order will be entered.

PAPERS WITHDRAWN AND REFERRED.

Mr. HAMLIN submitted the following orders, which were read:

Ordered, That the papers in the case of the claimants for damages arising from the collision of the United States sloop of war Vandalia with the Norwegian bark Atlantic (S. 1480, third session Forty-fifth Congress) be taken from the files and referred to the Committee on Foreign Relations.

Ordered, That the petition and papers in the case of William Collins be withdrawn from the files of the Senate and referred to the Committee on Commerce.

Mr. HAMLIN. There have been no adverse reports in either case,

The VICE-PRESIDENT. The order will be entered in both cases.

On motion of Mr. JOHNSTON, it was

Ordered, That the papers in the case of Jacob D. Felthousen and the heirs of William H. Atkins be taken from the files and referred to the Committee on Patents.

On motion of Mr. PENDLETON, it was

Ordered, That the petition and papers of W. R. Fee, praying an extension of his patent, be taken from the files and referred to the Committee on Patents.

Mr. HARRIS submitted the following order:

Ordered, That the memorial and papers in the matter of the claim of Callin Adams be taken from the files of the Senate and referred to the Committee on Claims.

Mr. EDMUNDS. Was there a favorable or an adverse report in that case?

Mr. HARRIS. There has been no report in the case.

The VICE-PRESIDENT. The order will be entered.

On motion of Mr. CARPENTER, it was

Ordered, That the papers in the case of the application of Commodore William B. Whiting for a pension be withdrawn from the files and referred to the Committee on Pensions.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. If there be no further business of the morning hour, the Secretary will report the Calendar of resolutions and concurrent resolutions in their order.

Mr. HOAR. I think it was informally arranged yesterday that the Senator from Delaware [Mr. SAULSBURY] would call up the New Hampshire case to receive the attention of the Senate so far as to have the reports read; and I desire after the reading of the reports simply to address the Senate for about two minutes only. I shall be absent on Monday when the case would otherwise come up. If the Senator from Delaware sees fit to call it up for that purpose now, I shall be obliged to him.

Mr. SAULSBURY. I will ask to have the case taken up now, if there is nothing before the Senate.

The VICE-PRESIDENT. It is a privileged question.

Mr. SAULSBURY. I ask first that the report of the committee be read.

The VICE-PRESIDENT. The Senate proceeds to the consideration of the New Hampshire case, and the report of the Committee on Privileges and Elections will be read.

The Chief Clerk read the following report, submitted by Mr. SAULSBURY April 2:

The Committee on Privileges and Elections, to whom were referred the credentials of Hon. Charles H. Bell, claiming a seat in the Senate as a Senator from the State of New Hampshire, have had the same under consideration, and ask leave to make the following report:

The term of Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired by constitutional limitation on the 3d day of March, 1879, in a recess of the Legislature, and on the 13th day of March, 1879, Mr. Bell was appointed in his place by the executive.

By reason of a change in the constitution of that State, which took effect in October, 1878, two Legislatures were chosen in that year, one, under the old constitution, in March, whose term of office commenced in June, 1878, and will terminate in May, 1879; the other, under the new constitution, was chosen in November to serve for two years, the term commencing in June, 1879.

The Committee on Privileges and Elections of the Senate in the Forty-fifth Congress, to whom was referred the question which of these two bodies had the right to choose a successor to Mr. Wadleigh, was of opinion, and so reported to the Senate, that under the act of 1866 (Revised Statutes, section 14) the last-named Legislature was entitled to elect, because it was the Legislature chosen next preceding the expiration of Mr. Wadleigh's term of service. In the opinion of the committee this report and the action of the Senate in adopting it are not important in the settlement of the question now presented.

The Constitution of the United States, article 1, section 3, provided as follows:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

"Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

It has been noticed that this claimant bases his right to a seat in the Senate not upon the fact that a term filled by the Legislature of New Hampshire had become vacant during a recess of the Legislature, but upon the fact that the executive claims the right to make a temporary appointment at the beginning of a term which the Legislature has not undertaken to fill.

The committee cannot find in the Constitution any sufficient warrant for this claim. If we look at the provision authorizing the governor to make temporary appointments independently of its connection with the rest of the section, we think it is manifest that the authority is limited to filling vacancies which happen in a term which had been previously filled by the Legislature. If it was intended to vest in the executive the power to make temporary appointments to terms for

which no person had been chosen by the Legislature, why should the words "happen by resignation or otherwise" have been added to the word "vacancies?" They certainly did not render it more comprehensive, and must have been designed to limit and restrict its meaning to vacancies occurring from accident or some unforeseen event. If any doubt, however, existed as to the meaning of the language referred to, when considered unconnected with the rest of the section, such doubts would be removed by construing the provisions of the section together. Applying to them the rules recognized for the construction of statutes and constitutional provisions, the committee are forced to the conclusion that the Legislature alone is empowered to choose a Senator upon the expiration of a senatorial term, and that the executive can only make temporary appointments to fill vacancies occurring in a term which has been previously filled. It is well known that in the convention which framed the Constitution this subject received careful consideration. After it had been determined that the States should have equal representation in the Senate, the manner of choosing Senators was considered; various propositions were submitted, and, among others, appointments by the executives of the States. Finally it was determined to vest in the Legislature the power of choosing Senators, and in the executive the power to make temporary appointments, if vacancies should happen in the office after it had been filled, until such time as the Legislature could again act. This, it seems to the committee, was the obvious intent of the Constitution, gathered, not only from the language of the entire section under consideration, but also from the debates in the convention in reference to its provisions.

Nothing in the history of the Senate for the last fifty years is at variance with the views here presented.

The records of the Senate show down to the year 1817 a number of appointments were made by State executives of persons to succeed Senators whose terms of service had expired, and that the persons so appointed were admitted to seats in the Senate.

The first case was that of William Cocke, of the State of Tennessee.

This State was admitted into the Union in 1796. In the month of August, of that year, William Cocke and William Blount were chosen Senators in Congress by the Legislature. By lot they were assigned to the first and second classes of the three classes directed to be formed by the article of the Constitution above quoted, and Mr. Cocke, having drawn the term which expired on the 3d day of March, 1797, during a recess of the Legislature, was appointed by the governor to be his own successor on the 22d of April, 1797, and he was admitted to a seat without objection.

The second case was that of Uriah Tracy, a Senator from the State of Connecticut, whose term expired on the 3d of March, 1801. Under an appointment by the governor he was admitted to a seat on the 4th day of March, 1801, after a heated discussion and by a party vote of 13 to 10.

This precedent was followed on the next day by the admission of Mr. Hindman, of Maryland; by the admission of Mr. Condit, of New Jersey, in 1803; Mr. Anderson, of Tennessee, and Mr. Smith, of Maryland, in 1809; Mr. Cutts, of New Hampshire, in 1813; and Mr. Williams, of Tennessee, in 1817; all executive appointments to fill places made vacant by the expiration of full terms of service during recesses of Legislatures, and all were admitted without discussion and without objection.

But in 1825 the term of James Lanman, of Connecticut, expired during a recess of the Legislature. In anticipation of the vacancy, he had been appointed by the governor as his own successor. His credentials were presented on the 4th day of March, 1825, and after a protracted debate the Senate refused to admit him to a seat. No record of this debate has been preserved, and the committee have not the advantage of the reasoning by which the Senate was guided in its action. Enough, however, remains to show that the Senate decided that a vacancy authorizing an appointment by the executive had not "happened" within the meaning of the Constitution. It was held, and, in the opinion of this committee, correctly, that the Constitution conferred upon the Legislature, and upon it alone, the power to appoint a Senator for the beginning of a new term; and it seems to the committee that this decision is clearly in accord with the spirit and meaning of the article of the Constitution already quoted.

This section confers upon the Legislature the right and imposes upon it the duty of choosing Senators who are to serve for six years.

In every one of the States a Legislature must be in session at some time preceding the expiration of a senatorial term. We know as a fact that at the time of the adoption of the Constitution these sessions were mostly annual, and, as now, those not annual were biennial. After the first assignment of Senators to classes the term of office was fixed, and, under the Constitution, would expire at a time certain. When, therefore, the first clause of the third section, first artiele, of the Constitution directed that Senators should be chosen by the Legislatures, it appears most manifestly to have been the purpose of its framers to give exclusive power to the Legislature to make the choice, unless, as provided by the last clause, vacancies should "happen" by resignation or otherwise during a recess of the Legislature, when the executive should make temporary appointments until the next session of the Legislature.

The power to make temporary appointments was conferred upon the executive because the accidents of death, resignation, expulsion, or acceptance of another office could not be foreseen or provided for by the Legislature. In the one class of cases the time when a term would expire was fixed by law and was well known. There could be no doubt or uncertainty in regard to it, and in such a case a vacancy could occur only by the willful disregard by the State in framing its organic law, or by the Legislature of constitutional obligations. In such case a vacancy could not "happen," or occur by chance, casualty, or other event that could not be guarded against.

The decision in Lanman's case has been for more than fifty years regarded as a correct exposition of the Constitution. During this long lapse of years its authority has not been questioned, and it has guided the action of legislatures and of executives of States.

Many cases have occurred when, under like circumstances, for months, and in some instances for one or two years, and even a longer time, States have been represented upon the floor of the Senate by a single Senator, and for the reason that the decision in Lanman's case was regarded as final and conclusive of the question. The following are cases of this character:

Cases of unfilled seats or vacancies at beginning of senatorial terms by reason of non-election.

Maine.—Vacancy from March 4, 1853, till February 23, 1854, when William Pitt Fessenden took the seat under an election.

Connecticut.—Vacancy from March 4, 1851, to May 12, 1852, when Isaac Toucey presented credentials of election by Legislature.

Pennsylvania.—Vacancy from March 4, 1855, to January 18, 1856, when William Bigler was seated on an election by the Legislature.

Maryland.—Vacancy from March 4, 1843, till January 2, 1844, when James Alfred Pearce, elected by the Legislature, took the seat.

North Carolina.—Vacancy from March 4, 1853, to December 6, 1854, when David S. Reid's certificate of election was presented.

Indiana.—Vacancy from March 4, 1855, to February 4, 1857, when Graham N. Fitch was admitted on credentials of legislative election, which was contested, and the contest not decided till late in the spring of 1858.

Missouri.—Vacancy from March 4, 1855, to January 12, 1857, when James S. Green was admitted on a legislative election.

California.—Vacancy from March 4, 1855, to February 15, 1857, when William M. Gwin presented himself under an election by the Legislature.

Oregon.—Vacancy from March 3, 1859, until December 5, 1860, when Edward D. Baker took the seat under a legislative election.

It is said, however, that the Senate departed from the rule in Lanman's case in the case of Mr. Sevier, appointed as his own successor by the governor of Arkansas in the year 1837.

The report in this case, made by a committee of the Senate, shows that the State of Arkansas was admitted into the Union in the year 1836, and in September of that year elected two Senators, Mr. Sevier and Mr. Fulton. Under the constitutional rule Mr. Fulton was allotted to the second class of Senators, and Mr. Sevier to the third, and his term of service expired on the 3d day of March, 1837, during a recess of the Legislature.

A committee of the Senate, to whom the credentials of Mr. Sevier were referred, after quoting the decision in Lanman's case, say:

"The decision seems to have been generally acquiesced in, nor is it intended by the committee to call its correctness in question. The principle asserted in that case is, that the Legislature of a State, by making an election themselves, shall provide for all vacancies that must occur at stated or known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

And the committee concludes by saying:

"The case under consideration is wholly different in principle. The time when Mr. Sevier was to go out of office under his election * * * was decided by lot under the provisions of the Constitution on that subject, * * * and therefore they recommend that Mr. Sevier be admitted."

The case in its facts was identical with that of Mr. Cocke, of Tennessee, settled in 1797, but in all material points differs from the one now under consideration.

The committee, from every view of the case, are forced to the conclusion that the vacancy occasioned by the expiration of the term of Senator Wadleigh cannot be filled by executive appointment, and therefore report the following resolution, and recommend its passage: -

Resolved, That Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

E. SAULSBURY.
BENJ. H. HILL.
J. E. BAILEY.
F. KERNAN.
GEO. S. HOUSTON.
Z. B. VANCE.

Mr. COCKRELL. The minority report had better be read also.

The VICE-PRESIDENT. The minority report will be read.

The Chief Clerk read the views of the minority, submitted by Mr. HOAR, April 2, as follows:

1.

The undersigned members of the Committee on Privileges and Elections, to whom were referred the credentials of Hon. Charles H. Bell, claiming to be admitted as a Senator from the State of New Hampshire, dissent from the conclusions of a majority of the committee.

The Constitution, article 1, section 3, provides as follows:

1 A.

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

"Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

The term of office of Hon. Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired on the 3d day of March, 1879.

By the statute of the United States, approved July 25, 1866, re-enacted Revised Statutes, 814, it is provided:

"The Legislature of each State, which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress."

Under the new constitution of New Hampshire, a Legislature was chosen in November, 1878, for a term to begin in June, 1879. That Legislature cannot elect a Senator until June, 1879, because, by the constitution of the State, its legislative powers will not vest until then. Its predecessor could not elect a Senator at its last session, and cannot now, if called together in special session, because it was not the Legislature last chosen before the expiration of Mr. Wadleigh's term.

The governor of New Hampshire, on the 13th of March, 1879, made temporary appointment of Hon. Charles H. Bell, until the next meeting of the Legislature. Mr. Bell now presents himself to claim the seat. The only question is, has a vacancy happened by "resignation or otherwise," so that the executive was authorized to make this appointment?

We are aided in determining this question by considering the leading purpose of the constitutional provision, the natural meaning of the words, and the uniform construction given to similar language used elsewhere in the Constitution, and the previous judgments of the Senate in like cases.

The purpose of the Constitution is to have the Senate always full. This is the interest not merely of the State whose right to elect is in question, but of the whole country, for whom the Senator is to legislate, whose servant he is, and to whom his service is due. To this end the Constitution provides that "the Senate shall be composed of two Senators from each State," and authorizes Congress to make regulations as to the time and manner of electing them. Congress has exercised this authority in the statutes cited, so that no failure of duty of either branch of the Legislature may interrupt the State's representation in the Senate. To meet the case of a vacancy happening in the recess of the State Legislature, the Constitution clothes the executive with the power of temporary appointment. The purpose to keep the representation of the State always full requires the construction which authorizes such appointment when the vacancy happens at the beginning of the term as much as if it happen at any other time. The authority given to the governor is to appoint "until the next meeting of the Legislature," which, literally construed, would require the Senator so appointed to vacate his seat on the day the Legislature meet. Yet the Senate, in furtherance of the controlling purpose of the Constitution that the place shall be always full, has uniformly held that the Senator so appointed retains his seat until the Legislature choose his successor or adjourn without making a choice.

The authority to appoint is vested in the executive, "if a vacancy happen." There is no distinction indicated between vacancies which happen when the term begins and vacancies which happen later. There can be no reason suggested for such a distinction. It is said that the term "vacancy" is not properly applied to offices whose term has expired by limitation at a fixed time, but only to terms which have once been filled.

But the Constitution expressly declares "the seats of the Senators shall be vacated

at the expiration of the sixth year, &c. Did the Constitution mean to declare that to vacate a seat does not create a vacancy in it?

But it is said a vacancy which occurs at a certain time fixed by law is not a vacancy which "happens;" that the Constitution meant only to vest the appointing power in the executive in case of the vacancy occurring by reason of events which cannot be certainly foreseen; and this is the strong point of those who differ with us. On the contrary, we affirm that nothing is better settled in the construction of the Constitution and of legislation under it than that the words "vacancies happening" include the case of offices which have a fixed term which has expired, and which are vacant because no new appointment has been made. Article 2, section 2, of the Constitution, in its provision for the appointment of officers, declares:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Under this provision the President exercises the undisputed power of filling offices which have a term fixed by law which expires in the recess of Congress. Most important rights of the people and of private citizens depend on the legality of such appointments, which the construction contended for by the majority of the committee must overturn. In Revised Statutes, section 1769, "the President is authorized to fill all vacancies which may happen during the recess of the Senate by reason of death, or resignation, or expiration of term of office."

It is not the ending of the term, but the absence from the office of any person authorized to fill it, to which the word "happen," which expresses contingency, is applied. It is certain that the term will end. It is still uncertain whether the office will be vacant, because that depends on the contingent event of the Legislature having filled it. It is in accordance with the custom of our language to apply the word "happen" to the simultaneous occurrence of two events, both of which are certain to take place. "If the fourth of July happen on Sunday, the next day shall be a legal holiday." "If the last day of grace happen to be a holiday, the note shall be payable on the day preceding." *A fortiori* the word may be appropriately used to express the occurrence at the same time of two events, one of which is contingent. If there happen to be no Senator in the office, the authority of the executive exists.

The question has frequently arisen for judgment in the Senate. By a line of decisions unbroken with one possible exception, it has been held that the governor of a State is authorized to fill a vacancy existing at the beginning of a senatorial term.

April 27, 1797, William Cocke was appointed a Senator from the State of Tennessee by the governor, his term having expired on the 3d of the preceding month. On the 15th of May, 1797, he presented his credentials, and was admitted to take the oath of office without objection or debate.

March 3, 1801, the seat of Uriah Tracy, of Connecticut, became vacant by the expiration of his term of office. On the 20th of February, 1801, the governor of Connecticut reappointed him a Senator. Objection being raised to his credentials, he was admitted to the oath by a vote of yeas 13, nays 10.

William Hindman, of Maryland, was afterward, on the next day, admitted to the oath on like credentials, without objection.

John Condit, of New Jersey, November 14, 1803, appointed a Senator from New Jersey, to fill the vacancy at the beginning of the term, was admitted to take the oath. Mr. Condit's credentials had been presented October 17, previous.

March 4, 1809, Samuel Smith, of Maryland, appointed on that day by the governor of his State to fill the vacancy caused by the expiration of his own term, was admitted to his seat and sworn.

March 4, 1809, Joseph Anderson, of Tennessee, took his seat by virtue of an appointment from the governor of that State.

May 24, 1813, Charles Cutts, of New Hampshire, appointed by the executive to fill the vacancy during the recess of the Legislature, was, without question, admitted to the oath. This vacancy was at the beginning of the term.

March 4, 1817, John Williams, of Tennessee, appointed a Senator by the executive of the State, to hold said appointment until the meeting of the next session of the Legislature, was admitted. His credentials were filed on the 10th of the preceding February.

March 4, 1825, James Lanman, of Connecticut, presented his credentials of his appointment by the governor of that State, "to take effect immediately after the 3d of March, 1825, and to hold the seat until the next meeting of the Legislature." Mr. Lanman was refused the seat by a vote of 23 to 18. The case was referred to a select committee, who report the facts, but state neither reason nor conclusion. The committee say they have looked into the Journals of the Senate, and that the cases of Cocke, Tracy, Anderson, and Williams are the only analogous cases they could find. There is a brief sketch of the debate in Niles's Register, volume 28, page 32, but no statement of the reason on which any Senator proceeded. There is no historical evidence from which we can determine whether the Senate rejected Mr. Lanman on the ground that the governor could not fill a vacancy happening at the beginning of the term, or on the ground that the governor could not lawfully make the appointment in anticipation, before the vacancy occurred, and before he could possibly know whether the Legislature might be called together before that time. All the precedents which the committee cite, except that of Mr. Cocke, were cases where the appointment was made not when the vacancy happened in the recess of the Legislature, but only when the governor thought it might happen. In the case of Cocke, the date of the appointment is not given in the Journals, although in fact it was after the vacancy. The committee do not cite the case of Hindman, Smith, or Condit, nor the then recent case of Cutts, in deciding which some Senators then in office took part, where the appointments were made after the vacancy existed. There is, therefore, nothing to show whether the Senate meant to overrule all the precedents, some of which were not brought to its attention, or only so many of them as recognized the right of the executive to appoint when a vacancy had not happened.

Judge Story, Constitution, section 727, note 2, says:

"In the case of Mr. Lanman, a Senator from Connecticut, a question occurred whether the State executive could make an appointment in the recess of the State Legislature, in anticipation of the expiration of the term of office of an existing Senator. It was decided by the Senate that he could not make such an appointment. The facts were that Mr. Lanman's term of service as Senator expired on the 3d of March, 1825. The President had convoked the Senate to meet on the 4th of March. The governor of Connecticut, in the recess of the Legislature, (whose session would be in May,) on the 9th of the preceding February appointed Mr. Lanman as Senator, to sit in the Senate after the 3d of March. The Senate, by a vote of 23 to 18, decided that the appointment could not be constitutionally made until after the vacancy had actually occurred. (See Gordon's Digest of the Laws of the United States, 1827. Appendix, note 1, B.)"

In regard to the same case, the National Intelligencer of March 8, 1825, says, in an editorial note:

"An important constitutional question was yesterday decided in the Senate, by the refusal to admit Mr. Lanman to a seat in the Senate under a commission from the governor granted before the expiration of Mr. Lanman's late term of service. This is the first time the question has been adjudicated under such circumstances as to form a precedent; and we presume it may now be considered as a settled construction of the constitutional provision that a vacancy must have literally 'happened' or come to pass before an appointment can be made to fill it."

The State of Arkansas was admitted to the Union in 1836. In October, 1836, the Legislature of that State elected Ambrose H. Sevier and William S. Fulton Senators. On the allotment of the Arkansas Senators to their respective classes, as required by the third section of the first article of the Constitution, Mr. Sevier was placed in the class of Senators whose term of service expired on the 3d of March, 1837. The Legislature of Arkansas had no opportunity to fill the vacancy, and were not in session after the result of the allotment was known in that State. January 17, 1837, the governor of Arkansas appointed Mr. Sevier to fill the vacancy which would take place on the 3d of March. When Mr. Sevier's credentials were presented at the winter session, Mr. Webster suggested a doubt of the validity of the appointment, in which Mr. Sevier himself concurred. At the March session the credentials were referred to the Committee on the Judiciary. Mr. Grundy, from that committee, reported in favor of Mr. Sevier's admission, and he was admitted.

Mr. Grundy's report states that it is not intended by the committee to call in question the correctness of the decision in the Lanman case; that that case proceeded on the ground "that the Legislature should provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

The report further says:

"The case now under consideration is wholly different in principle. The time when Mr. Sevier was to go out of office was decided by lot."

From this review of the judgments of the Senate it appears that in every case in which a Senator has been appointed by the executive after the happening of a vacancy by the expiration of the term without an election of a successor by the Legislature, the person so appointed has been admitted to his seat. There is no indication that the Senate ever denied or doubted the correctness of this construction of the Constitution, except the unsupported statement of Mr. Grundy of the ground of a decision made twelve years before, a statement which nothing in the Journal or the debates confirms, and which is opposed to the understanding of Judge Story and the contemporaneous article in the Intelligencer.

The second section of the first article of the Constitution provides, "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." In 1837 the law of Mississippi fixed the time for the election of Representatives in November. The President having called a special session of Congress to meet in September, the governor of Mississippi, on the 13th of June, issued writs for an election in July for two Representatives to Congress to fill said vacancies until superseded by the members to be elected at the next regular election in November.

At this July election Messrs. Gholson and Claiborne were elected and claimed the seats. Their claim was referred to a committee, of which Andrew Buchanan was chairman, who reported in favor of their right to seats for the full term. They say in their report:

"The Constitution authorizes the executive power of the States respectively to order the filling of all vacancies which have actually happened, in the mode therein pointed out, no matter how the vacancy may have happened, whether by death, resignation, or expiration of the term of members previous to the election of their successors."

In the debate John Quincy Adams said he believed, in relation to offices, that every one happens to be vacant which is not full; and that, he believed, was the meaning and sense of the Constitution, whether the vacancy occurred from casualty, the regular course of events, expiration of term, or other cause.

The claimants were admitted to their seats. In November following, Messrs. Prentiss and Wood were elected for the same term. At the next December session the resolution declaring Gholson and Claiborne elected was rescinded, but a resolution was also adopted, by the casting vote of Speaker James K. Polk, that Prentiss and Wood were not members. So that no inference can properly be drawn from that case; and it is of no value, except so far as weight may be attached to the opinions of John Quincy Adams and James K. Polk, both favoring the construction of the Constitution for which we contend.

Appended to the report in the Mississippi case are opinions of two of the most distinguished Attorneys-General of the United States, Roger B. Taney and William Wirt, in which they discuss the meaning of the phrase "vacancies that may happen during the recess" with reference to the power of the President to fill an office which is vacant in the recess, because the Senate adjourned without acting on a nomination, the original vacancy having happened during the session. Both these eminent jurists agree that the term "happen" is equivalent to "happen to exist." "if it come to pass that there be a vacancy." Mr. Taney says:

"The Constitution was formed for practical purposes, and a construction that defeats the very object of the grant of power cannot be a true one. It was the intention of the Constitution that the offices created by law should always be full."

We submit, therefore, that the natural and ordinary meaning of the language employed, the purpose which the framers of the Constitution meant to accomplish, the unbroken current of decisions in like cases, and the uniform construction given to the same language when used elsewhere in the Constitution and in legislation in like cases, concur in supporting the interpretation which establishes Mr. Bell's claim. The office of Senator is a continuous office. When the Senator is duly elected by the Legislature beforehand no vacancy exists within the meaning of the Constitution. His taking the oath of office relates back to the beginning of the term and preserves the continuousness of the succession. He is when on his way to take the oath deemed to be a Senator and privileged from arrest. A vacancy happens, and only happens when the Legislature has failed to make due election, or the person chosen declines the appointment, or when the office once filled is vacated by death, resignation, or otherwise.

But if we adopt the narrowest possible construction imputed by Mr. Grundy in the Sevier report, the decision in the case of Lanman, the doctrine of the Sevier decision itself is enough for the purpose of this case. If the failure of the Arkansas Legislature to be in session after the expiration of Mr. Sevier's term was decided by lot, made the vacancy contingent in the narrowest sense of that term, so that the governor could appoint, certainly the fact that there is no Legislature in the State able to act constitutes such a contingency. Whether it so happens that the person once chosen is unable to remain in office, or it so happens that the Legislature cannot meet and choose, the contingency of a vacancy in the office has occurred. The six months at the end of the term are no more important than six months at its beginning. The Constitution makes equally careful provision for either.

GEO. F. HOAR.
ANGUS CAMERON.
JNO. J. INGALLS.

Mr. HOAR. I move to amend the resolution which is pending by striking out the word "not" before "entitled;" so as to read:

Resolved, That Hon. Charles H. Bell is entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. HOAR. Mr. President, I shall not have the good fortune to be present on Monday when this case is to be considered more fully, and I desire now merely to say a word or two in addition to the arguments which are made in the minority report, or rather to sum up what is there said.

I will state the precise question which this case presents. The Constitution providing that the office of Senator shall be vacated at the

end of six years, goes on further to say that if there happen to be a vacancy by death, resignation, or otherwise during the recess of the Legislature, the governor may appoint. Precisely the same phraseology is used with reference to the filling of vacancies in civil offices during the recess of the Senate by the President. Substantially the same phraseology is used with reference to the right of the governor of a State to issue writs for elections in cases of vacancy in the representation in the House of Representatives.

Now, there is scarcely a question which can arise under our Constitution in regard to which the authorities are so concurrent or of such weight. There are ten precedents of the Senate itself, beginning with a case which occurred in the year 1797, when many of the framers of the Constitution were in the Senate; and they all concur in holding that the governor may appoint if the vacancy happen by reason that the constitutional term of a Senator had ended when the Legislature was not in session and the Legislature has made no provision to fill it. There is one case, the case of Mr. Lanman, where there was a decision which is claimed to be different; but in the case of Mr. Lanman the governor not only made the appointment but he made the appointment before the vacancy arose, when he could not know whether the Legislature would be in session or not. The committee who reported in the case of Lanman express no opinion and state no reason, but simply say they have looked into the precedents and there are the following precedents bearing upon the case; and of the eight or ten precedents which had then been made in the Senate they cite the three where the governor made the appointment before the vacancy happened, and do not cite the others, one of which had occurred within six or eight years and when many men then in the Senate had been present. So the question arises whether the Senate in the Lanman case meant to decide that the governor could not fill a vacancy existing at the beginning of a senatorial term, or only meant to decide that the governor could not fill a vacancy before it existed and when he could not know whether the Legislature would be called together and be able to fill it themselves.

On which of those two grounds did the Lanman case proceed? Judge Story, in his treatise on the Constitution, declares that it proceeded on the former, that is, that the Senate held that the governor could not fill a vacancy before it arose. The National Intelligencer of the next day, as we have said in the views of the minority, in an editorial article, says that the question arose in the Senate the day before whether a vacancy could be filled by the governor before it arose, and it was held that it could not.

I hold in my hand Gordon's Digest of the laws of the United States, published in 1827, two years after the Lanman case was decided in the Senate. I am informed by the very highest judicial authority that Mr. Gordon was one of the most accomplished and able members of the Pennsylvania bar of his day, and that he was regarded in that State then, and is now, as one of the very highest authorities for accuracy and legal learning and ability, and for historical accuracy, which that State affords. I will read what Mr. Gordon says in his Digest:

Mr. CARPENTER. On what page?

Mr. HOAR. Page 735, appendix No. 1, note B. After reciting the facts, Mr. Gordon says:

> Upon these facts the question was raised whether the appointment of Mr. Lanman was constitutional, having been made before a vacancy in the representation of the State of Connecticut in the Senate of the United States had occurred. On the resolution offered to admit Mr. Lanman to be qualified and take his seat in the Senate, it was determined, 23 to 18, that he was not entitled to a seat.

To oppose this declaration of Judge Story, to oppose this contemporaneous newspaper report and this declaration of Mr. Gordon, is merely a statement in Mr. Grundy's report in the Sevier case, which he distinguishes from the Lanman case, made twelve years after, of his opinion that the Senate proceeded on the ground that the governor could not fill a vacancy arising at the beginning of a term. Therefore I think we are warranted in saying that the unbroken current of senatorial precedent from the beginning of the Government until to-day is that the governor is entitled to fill a vacancy whenever it happens, whether at the beginning or the end of the term, so that it happen when the Legislature is not in session, until the next meeting of the Legislature, when the right of the governor in the premises is determined.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. HOAR. Certainly.

Mr. CARPENTER. I do it for information. I want to vote with the Senator if I can on this question. The difficulty in my mind is that I think the emphatic word in the constitutional provision is "happen." Take the case of Wisconsin. Our Legislature assembles on the first Monday of January. It has to elect to fill up the vacancy that is to occur in March. The Legislature generally sits until about the last of April. Suppose they begin on the day fixed by the act of Congress to ballot for Senator; they make no choice; they ballot up to and past the 4th of March without making an election. A vacancy then occurs; by the Constitution the term expires, and the Legislature sits still, with that vacancy running on, balloting for thirty days and unable to make a choice, and finally adjourn without making a choice. Could the governor then appoint a Senator upon the ground that that was a vacancy happening in the recess of the Legislature?

Mr. HOAR. I think not; and for the reason not that it would not be a vacancy, but that the power is qualified by the other words, as uniformly construed, that the governor may appoint "until the next meeting of the Legislature." Therefore, if the Legislature should meet after the vacancy occurred, the governor not having appointed, and fail to elect, the literal answer would be that in the particular case the Senator supposes the vacancy would not have happened in the recess; but I suppose the Senator could easily vary that by supposing the Legislature not to be in session on a particular day, and therefore I make the other answer, which is that the governor's right to appoint until the next meeting of the Legislature is uniformly construed to mean that after the Legislature has met the entire constitutional authority of the governor, so far as relates to that vacancy, is gone.

To return, then, to the meaning of the term "happen," I do not propose to repeat the argument which is made in the printed views of the minority which have been read, which covers the question as far as I can understand it; but I simply call the attention of the Senate to the concurrence of authority upon this question. There is this unbroken, unshaken, unopposed series of senatorial precedents. In the next place, the language of the Constitution in regard to the filling of vacancies in civil offices being exactly the same *verbatim*, not only the uniform construction which is well known but the expression of opinion of some of the greatest legal authorities in favor of this construction is to be found. The question was submitted to Chief-Justice Taney when Attorney-General under Jackson, and Chief-Justice Taney replied:

> The Constitution was formed for practical purposes, and a construction that defeats the very object of the grant of power cannot be a true one. It was the intention of the Constitution that the offices created by law should always be full.
>
> The term "happen" is equivalent to "happen to exist" "if it come to pass that there should be a vacancy."

So that in regard to the meaning of this language in the Constitution we have the great authority of Chief-Justice Taney. William Wirt gave a like opinion, cited in the views of the minority. The question arose in the House of Representatives and John Quincy Adams and James K. Polk, agreeing in opinion in regard to almost nothing else under the sun, concurred in attributing to the Constitution the meaning which we attribute to it.

I do not see the honorable Senator from Indiana [Mr. VOORHEES] in his seat, but I desire to appeal to his colleague. The Senator is now returning to his seat. I was about to state that I had very high authority for the declaration that among the most distinguished jurists of the State of Indiana is the late Judge Stuart. The question came up in regard to the meaning of a clause in the State constitution, and Judge Stuart, who I am informed is one of the very highest legal authorities in that State, discussed the meaning of the similar phrase in the Constitution of the United States, the one we are now discussing. Judge Stuart says:

> There is no technical or peculiar meaning to the word "vacant" as used in the Constitution. It means empty, unoccupied, as applied to an office without an incumbent. There is no basis for the distinction urged that it applies only to offices vacated by death, resignation, or otherwise. An existing office without an incumbent is vacant, whether it be a new or an old one.

That was in the case of Stocking *vs.* The State, 7 Indiana Reports, page 326, followed in the case of Collins *vs.* The State, 8 Indiana Reports, page 344.

I desired, Mr. President, to add these authorities to those cited in the minority report, not to discuss the general question to-day.

Mr. SAULSBURY. The understanding was yesterday, as stated by myself, that the question should come up on Monday next, but the Senator from Massachusetts had to go away and of course we agreed that the matter should come up temporarily to-day. If any other Senator desires to discuss the subject to-day I shall not move to postpone its further consideration until the time agreed upon.

My purpose in rising was simply to say that notwithstanding the agreement was that the matter should come up on Monday for consideration, I shall not now move the postponement of its consideration until that day if any other Senator desires to make a speech on it to-day, the agreement being that we would take the matter up on Monday for consideration. I do not know whether any other Senator desires to speak on the question to-day. So far as I know, on this side of the Chamber there is none.

Mr. EDMUNDS. I only wish to say at this time, in reference to what the Senator from Massachusetts has stated in quoting from the opinions of the Attorneys-General, that while I am at present inclined to agree in the conclusions to which the Senator from Massachusetts has come, very decidedly—I think he is right—I should not wish to have those opinions of Taney and Wirt taken as expressing the opinion that I hold about the power of the President of the United States to fill a vacancy by construing the words "and if vacancies happen" by inserting after the phrase the words "to exist," because that would carry to the President of the United States the power to fill all the offices of the United States by men of his own choice at all times when the Senate was not in session, and even with the very men year after year whom the Senate had declined to advise him to appoint when they had been nominated. Those opinions, the one of Taney in particular,—I do not remember about the other,—were given to sustain the power of the President after a vacancy had occurred during a recess of the Senate by expiration of term, and so far I entirely

agree with him as to the power of the President to fill that until the termination of the next session of the Senate. But after that next session had occurred and somebody had been nominated to fill the place and rejected, and the Senate had then adjourned, I cannot agree that there still existed a power in the President of the United States to fill up the office again, under the original power as to a vacancy happening; and it could only be done in the way that the ingenious mind of Chief-Justice Taney suggested, the only way I think that could possibly have been invented, by importing into the Constitution the words "happen to exist" instead of "occur" or "happen." Therefore it was held that the President might continue to fill up, and by the same person, if you please, constitutionally considered of course by the same person, all the time. I do not believe in that.

I think the Senator from Massachusetts has pretty nearly demonstrated that the actual decisions of the Senate are not adverse to the claim of Mr. Bell from New Hampshire, but I think the error into which the public or the governors of the States have fallen is in talking about terms in senatorial office. Every Senator has a term; that is true; but the office is a continuous office. The office of two Senators from a State never expires, and it has not any periods in it as respects the office. It has periods as it respects the person who is to fill them, who must go again to his State that is to have the person renewed and again inducted; but the office is perpetual and continuous. Therefore, when the Constitution speaks of a vacancy happening in the office of Senator, it is not speaking of any particular period of six years or of three years or of one, if the Legislature has filled up the vacancy before, but it is speaking of a vacancy in the representation of the State, the filling of which is necessary to fulfill the purposes of the Government, and wherever that vacancy occurs or happens, (because in the Constitution I think the two expressions mean exactly the same thing,) from whatever cause, and as the Constitution says, "by resignation, or otherwise," without specification in any way, it is to be filled. The highest mission of constitutional duty is to have that vacancy filled, until, as the Constitution limits it, the governing power of the State, the Legislature next coming after the occurring of this vacancy, may have an opportunity to fill it; and there the Constitution limits the power of the executive, because——

Mr. HILL, of Georgia. Mr. President——

Mr. EDMUNDS. Because it says (if the Senator will pardon me a moment until I finish my sentence) that the governor may fill until the next meeting of the Legislature. That having occurred, his power is of course exhausted, and he cannot fill again. Now I will listen to the Senator from Georgia.

Mr. HILL, of Georgia. I should like to ask the Senator from Vermont, knowing his ability as a lawyer, one or two questions, that for my own information I may learn his opinion. By the law of California the election for members of the House of Representatives for the Forty-sixth Congress does not occur until next September. By the Constitution, when a vacancy happens in the representation in the House, the governor must issue a writ of election and order that vacancy to be filled. Does the Senator from Vermont hold that the governor of California could issue a writ of election for the election of members of the House of Representatives previously to September next? Could he, after the 4th of March, have issued a writ for the election of Representatives to the Forty-sixth Congress, for this extra session?

Mr. EDMUNDS. Yes, Mr. President, I hold that he can.

Mr. HILL, of Georgia. I wish to ask the Senator one more question, and then he can give his reasons for both answers at his leisure. Does the Senator hold that the President, under the power to fill vacancies, could appoint a chief-justice or an associate justice of the Supreme Court, if there should happen to be a vacancy on the bench by death, during the recess of Congress? For instance, suppose Congress has adjourned, and during that recess, before the next session, a justice of the Supreme Court should die. Does the Senator hold that the President of the United States could appoint one to fill that vacancy until the meeting of Congress?

Mr. EDMUNDS. I certainly have that impression, Mr. President.

Mr. HILL, of Georgia. I wish to know the Senator's opinion as a lawyer, knowing that he is able to give a good answer.

Mr. EDMUNDS. I do not remember that there is any distinction in the Constitution as to the powers of the President as to the nature of the office that he is to fill. The Constitution says that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States," &c., and that whenever a vacancy occurs in any office during the recess of the Senate the President of the United States may fill that vacancy by granting a commission that shall expire at the end of the next session. There is no limitation or qualification.

Of course, I am not insensible to the argument implied in the question of my honorable friend as to the office of a judge, be he a judge of the supreme court or of the circuit court or of the district court, or any other of the judicial courts of the United States, which is to be held during good behavior and not on a definite term; but inasmuch as the interests of the administration of justice in my view fall just as clearly within the provisions of having somebody to carry on the administration of justice as the others do, although I never thought of it before, I should have no question, as a first impression, of the power of the President.

Mr. HILL, of Georgia. The question to which I wish to call the attention of the Senator (and he will see where it will lead to) is in the constitutional meaning of the word "vacancy;" is there such a thing as a vacancy on the supreme bench by the death of an incumbent?

Mr. EDMUNDS. I supposed there was, Mr. President. I had the impression that, when the first Congress established a Supreme Court of the United States, which the Constitution required them to establish by law, until the judges were nominated and confirmed and commissioned every one of those offices that had been created by law was vacant. If the offices had not been vacant, I am quite unable to see how the President and the Senate could fill them up.

Mr. HILL, of Georgia. I can see how the President may nominate to the Senate to fill a term. That I can understand; but the point I make is that if a judge of the Supreme Court or a judge of the circuit court or the district court should die during the recess of Congress, is there any instance where the President has appointed a judge to fill that place until the meeting of Congress, and where that judge has taken his seat?

Mr. EDMUNDS. I do not know whether there are or not, but I think there are.

Mr. HILL, of Georgia. I ask for information; I have found no such case.

Mr. EDMUNDS. I am informed by a gentleman whose accuracy about historic knowledge as well as about everything else is well known here, and who sits very near me, that the Senator from Illinois [Mr. DAVIS] was appointed a judge of the Supreme Court by the President during a recess of the Senate. Is that true?

Mr. DAVIS, of Illinois, nodded assent.

Mr. HILL, of Georgia. I understand in point of fact that Senator DAVIS was appointed, but that he did not take his seat until after his confirmation by the Senate.

Mr. EDMUNDS. It may be that he did not take his seat; he need not take his seat; he might never take his seat.

Mr. HILL, of Georgia. The President can designate whom he will nominate. The nomination is not the appointment.

Mr. HOAR. Mr. President——

The VICE-PRESIDENT. Does the Senator from Vermont yield to the Senator from Massachusetts?

Mr. EDMUNDS. Oh yes.

Mr. HOAR. I simply wish to make one suggestion on the precise point of the question put, which also relates to the point about the filling of civil offices when a vacancy exists during a session of the Senate and then continues afterward. The question which arises on the matter suggested by the Senator from Georgia [Mr. HILL] and the matter suggested by the Senator from Vermont [Mr. EDMUNDS] is the same which arises on the question suggested by the Senator from Wisconsin, [Mr. CARPENTER,] and that is, of the controlling effect of other clauses in the Constitution. When the Constitution says that the governor of a State may appoint a Senator until the next meeting of the Legislature, is not that a limit of the entire authority over that vacancy? So when the Constitution says the judge shall hold his office during good behavior, is not that a limit on the power of appointment subject to the future confirmation by the Senate, which would make the judge in that case hold an office only until the Senate should meet? Whether that is a good or a bad argument, that is the clause of the Constitution which presents that point. So answering the Senator from Georgia that the judge would not have the right to take his seat, would not in the least impugn the general proposition. So in regard to the appointment to a vacancy which has occurred before a previous adjournment of the Senate, the President being only to appoint to fill during the recess, does not that imply a limit on the President's power? In all these three cases the ground being that the vacancy did not happen during the time specified, another expression of the Constitution limits the power of the President.

Mr. EDMUNDS. Mr. President, I express my thanks to the Senator from Massachusetts for stating so much better than I could myself, exactly what I was going to say.

Mr. HOAR. I beg your pardon; I thought you had passed from that point.

Mr. EDMUNDS. Oh no. And I need not add anything to what the Senator from Massachusetts has said upon that particular topic.

Now, I wish to call the attention of the Senator from Georgia, although I do not see that it has anything to do with this question at all, to what he has said about judicial offices which are for life when there is good behavior. The Constitution declares that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for." The very next clause says "The President shall have the power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

Now, then, if there is any force in human language, there is a complete grant of power, that is exhausted in respect of the field that it covers, to the President of the United States to fill every vacancy that happens during a recess of the Senate in every office of the United States. If the President of the United States cannot appoint a judicial officer whose general term happens to be during good be-

havior, because that is such, although the vacancy occurs by death during a recess of the Senate, being confessedly a vacancy that does happen in the very narrowest sense of the term, in the sense of my friend from Georgia, then you are obliged to import into the Constitution a limitation upon the power of the President to find somebody to carry on the administration of justice until the constitutional and permanent appointment can be made. As my friend from Wisconsin suggested privately a few moments ago, all these provisions for temporary appointments are exceptive and temporary, in order to provide always, in every branch of the Government, the means of keeping it alive and carrying it on.

Mr. HILL, of Georgia. The Senator will understand that I am not debating the question; but I see that the whole point turns upon the meaning of the word "vacancy." What is a "vacancy" in the meaning of the Constitution? Now, my attention has been called to the historical fact that in one instance the President did appoint a judge of the Supreme Court in vacation, and he did take his seat.

Mr. EDMUNDS. I have no doubt there are many.

Mr. HILL, of Georgia. An instance of that kind occurring without discussion would not amount to anything. The real question is what is the meaning of the word "vacancy." I call the attention of the Senator to the fact that in relation to filling vacancies in the House of Representatives the language is much broader than it is in regard to the filling of vacancies in the Senate. If he will look at the Constitution he will find that the language is that when vacancies happen, not by death or otherwise, but when they happen at all in the representation in the House——

Mr. EDMUNDS. Now, may I ask my friend from Georgia——

Mr. HILL, of Georgia. In a moment. "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." I wish to know of the Senator if he holds that the governor of California could now issue a writ of election and bring on the election of Representatives from California to the Forty-sixth Congress?

Mr. EDMUNDS. I should like to ask my friend from Georgia who says that the language about the House of Representatives is broader because it says "happen" and does not use the words "by resignation or otherwise," how it is possible that any vacancy shall happen unless it be "by resignation or otherwise?"

Mr. HILL, of Georgia. That is precisely my view, that a "vacancy" in the meaning of the Constitution does not "happen" ordinarily, especially in the case of a judge, unless it happens "by death, resignation, or otherwise." Now, the word "otherwise" there, as the Senator well knows, under the legal decisions has a meaning; it has a very definite and well-settled meaning; and that is this: a vacancy that happens otherwise is one that is similar to those which are enumerated. For instance a vacancy may happen by death, resignation, or otherwise. "Otherwise" how? In some similar method upon the incumbent. The vacancy occurs by death upon the incumbent; the vacancy occurs by resignation, the act of the incumbent; and so if it occurs in any other wise; the word means "any vacancy occurring otherwise, *i. e.*, in a similar manner upon the incumbent; that is, if the incumbent shall be expelled; that is, if the incumbent should not take his seat after he has been elected. The word "otherwise" there evidently means a vacancy happening in a similar manner, by casualty, to those specified.

Mr. EDMUNDS. Mr. President, this is the first information I ever had that the word "otherwise" meant "in a similar manner." I thought it meant "in some other manner." That is the impression that I have always had; but I see I am mistaken——

Mr. HILL, of Georgia. The Senator will find that is the definition given to it by the courts in many cases.

Mr. EDMUNDS. I do not think I shall find that in the view we are now speaking of, with great respect to my friend from Georgia.

Mr. HILL, of Georgia. I take great pleasure, then, in informing the Senator of something he had not known in the decisions of the courts. I thought he knew of everything on that subject.

Mr. EDMUNDS. I think I am not altogether ignorant of the decisions to which my friend refers; but we shall differ in respect to their application to this question.

Now, Mr. President, to come back again to the point, we will leave the question of judicial officers which has nothing to do with this that I can see, and we will come to what the Senator says about the House of Representatives, and about the difference in the Constitution not saying "by resignation or otherwise," in regard to vacancies there. Let us suppose that a statute of a State against malicious homicide, which is murder, should say "that if any person shall maliciously and with malice aforethought and by a gun kill another person," or it should say, "by a gun or otherwise kill another person he shall be guilty of murder," and it turned out that the other person in the case supposed was maliciously strangled, as people sometimes are by robbers, by being grasped by the throat in the strong grip of some stalwart thief who gets into your house at night and strangles you to death. The man is indicted for murder. Thereupon the counsel for the defense rises up and says "this statute says that if any person with malice aforethought shall kill anybody with a gun or otherwise he shall be guilty of murder. That is the statute; and that means the 'otherwise' is 'in some similar manner,' that is by the use of gunpowder or a pistol instead of a gun."

Mr. HILL, of Georgia. The word "otherwise" in that connection would mean "otherwise in a malicious manner" to make the offense murder.

Mr. EDMUNDS. Exactly, and that is what it means here, whenever a vacancy occurs by resignation or in any other manner, so that you have the vacancy, just as in the case of a homicide you have the malicious killing.

Mr. HILL, of Georgia. I repeat with all deference, not meaning to interrupt the Senator, that the word "otherwise" there means this: the clause applies where a vacancy shall happen by death, resignation, or otherwise; that is, by the happening of any other event to the incumbent by which the incumbent does not remain in the place to which he was elected.

Mr. EDMUNDS. The Constitution is speaking of the vacant office, and not of the incumbent at all except in the first phrase. There is where the Senator from Georgia and I appear to differ. The Constitution is looking to have each State represented in this body all the time and by some method that the Constitution provides and looks to do it; and therefore when it uses the word "otherwise," it uses a comprehensive term, so that in whatever way a State ceases to have opportunity to express its full voice here in this council of States, it shall be filled up temporarily by the governor until the Legislature, the chief and the sovereign power in the State next meeting, can have an opportunity to fill it. Then if they fail in their constitutional duty, the Constitution as it was made has not thought fit to give the governor any other power. That is the state of the case.

But now to come back to all that I intended to say it was to call to the attention of Senators for their consideration what I think has been the error into which many people have fallen—the talking about terms in connection with this question. I submit to the consideration of Senators that the term of the particular person who fills the office has nothing to do with the continuity of the office itself, and that the Constitution is speaking of the time of the office, and cares nothing about terms; that whenever that office comes to be vacant so that the State is deprived of its voice, then if there be not a State Legislature present and in session to fill it the governor may fill it until the next session of the Legislature has an opportunity to do it, and it does not give the governor power to fill it any longer. It seems to me that if Senators will think of that distinction and thereby disembarrass themselves of the idea of personal terms as having anything to do with this question, it will go a great way to solve it.

The VICE-PRESIDENT. According to the understanding of yesterday the further consideration of this matter goes over.

Mr. SAULSBURY. Yes, sir; until Monday next.

Mr. HOAR. Before the matter goes over, I understand from gentlemen on the floor that in the case of Chief-Justice Rutledge, who was rejected by the Senate in John Adams's administration, he actually took his seat and held court. I mention this in answer to the question of the Senator from Georgia.

Mr. EDMUNDS. I have no doubt that if the precedents were examined it would be found that in the whole history of the Government judicial offices have been frequently, and constantly when a vacancy occurred during the recess of the Senate, filled by the President. Of course it would be very rare in the small body of men composing the Supreme Court; but if you take the whole judicial affairs of the country, I have no doubt that many instances will be found although I do not remember any.

Mr. SAULSBURY. The election question goes over until Monday, I believe.

The VICE-PRESIDENT. Until Monday. The regular order is the call of the Calendar of general orders. The Secretary will report the first bill on the Calendar.

ADJOURNMENT TO MONDAY.

Mr. BAYARD. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. CARPENTER. I move that the Senate do now adjourn.

Mr. FERRY. Will not the Senator move an executive session?

Mr. CARPENTER. I withdraw the motion.

DEPARTMENT OF AGRICULTURE.

Mr. PADDOCK. I submit the following resolution for reference to the Committee on Agriculture:

Resolved by the Senate, (the House of Representatives concurring,) That a commission, to be composed of three Senators and four members of the House of Representatives, is hereby authorized to be appointed to devise a plan for the reorganization of the Department of Agriculture, with the view of extending its jurisdiction and increasing its efficiency. Such commission shall have authority to send for persons and papers, to sit during the recess, and to report by bill or otherwise, at the next regular session of the present Congress.

Mr. ANTHONY. I suggest to my friend before his resolution is referred that he modify it so as to make the number of Senators and Representatives equal. A commission in which a majority is from one House places the other House entirely in the power of the majority.

Mr. PADDOCK. I accept the suggestion of the Senator from Rhode Island, and make the number three Senators and three Representatives.

The VICE-PRESIDENT. The resolution will be so modified and referred to the Committee on Agriculture.

LEGISLATION ON APPROPRIATION BILLS.

Mr. HEREFORD. I desire to state that on Monday after the morning hour I shall move to take from the table the resolution submitted by the Senator from Massachusetts [Mr. HOAR] on the 21st of March, for the purpose of expressing some views on that subject.

EXECUTIVE SESSION.

Mr. DAVIS, of Illinois. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and eighteen minutes spent in executive session the doors were reopened, and (at three o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 3, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I now move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Kentucky [Mr. KNOTT] is entitled to the floor.

Mr. KNOTT. Mr. Chairman, in my judgment the question under discussion involves one of the most important principles that ever challenged the attention of the American Congress; a principle paramount to every conceivable consideration and mere party expedient; a principle in which every freeman of this country, whether republican or democrat, is profoundly and vitally interested; a principle which lies at the foundation of all republican institutions, and upon which their purity as well as their perpetuity depend; a principle recognized by our ancestors in their very earliest experiments in representative governments, and which has been cherished by their descendants with the most jealous vigilance for over six hundred years—in a word, the great fundamental principle of republican liberty that the ballot-box should be protected from the slightest approach of military power, and that the voter should be absolutely free in exercising at the polls the high prerogative of a sovereign citizen.

In order that gentlemen may understand the estimation in which this grand pivotal principle of free government has always been held by the great people from whom we derived our language, our laws, our traditions of liberty, and our ideas of constitutional limitations, I beg leave to call their attention to a statute enacted by the British Parliament over one hundred and fifty years ago, and which has remained in force from that time to the present hour. I allude to the statute passed in the eighth year of the reign of George II, the year 1735. It is an act entitled—

Anno octavo Georgii II, c. 30. [1735.]

CAP. XXX.

An act for regulating the quartering of soldiers during the time of the elections of members to serve in Parliament.

Whereas by the ancient common law of this land all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward the First, of famous memory, it is commanded, upon great forfeiture, that no man by force of arms, nor by malice, or menacing, shall disturb any to make free election; and forasmuch as the freedom of elections of members to serve in Parliament is of the utmost consequence to the preservation of the rights and liberties of this kingdom; and whereas it hath been the usage and practice to cause any regiment, troop, or company, or any number of soldiers which hath been quartered in any city, borough, town, or place where any election of members to serve in Parliament hath been appointed to be made to remove and continue out of the same during the time of such election, except in such particular cases as are hereinafter specified: To the end, therefore, that the said usage and practice may be settled and established for the future, be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in Parliament assembled, and by the authority of the same, that when and as often as any election of any peer or peers to represent the peers of Scotland in Parliament, or of any member or members to serve in Parliament, shall be appointed to be made, the secretary at war for the time being, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders in writing for the removal of every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place where such election shall be appointed to be made, out of every such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, and not to make any nearer approach to such city, borough, town, or place, as aforesaid, until one day at the least after the poll to be taken at such election shall be ended and the poll-books closed.

II. *And be it further enacted by the authority aforesaid*, That in case the secretary at war for the time being, or such person who shall officiate in the place of the secretary at war, shall neglect or omit to issue or send forth such orders as aforesaid, according to the true intent and meaning of this act, and shall be thereof lawfully convicted upon any indictment to be preferred at the next assizes, or sessions of oyer and terminer, to be held for the county where such offense shall be committed, or on an information to be exhibited in the court of King's Bench, within six months after such offense committed, such secretary at war, or person who shall officiate in the place of the secretary at war, shall for such offense be discharged from their said respective offices, and shall from thenceforth be utterly disabled and made incapable to hold any office or employment, civil or military, in his majesty's service.

III. *Provided, nevertheless*, That nothing in this act contained shall extend, or be construed to extend, to the city and liberty of Westminster, or the borough of Southwark, for and in respect of the guards of his majesty, his heirs or successors, nor to any city, borough, town, or place, where his majesty, his heirs or successors, or any of his royal family, shall happen to be or reside at the time of any such election as aforesaid, for or in respect of such number of troops or soldiers only, as shall be attendant as guards to his majesty, his heirs or successors, or to such other person of the royal family as is aforesaid; nor to any castle, fort, or fortified place where any garrison is usually kept, for or in respect of such number of troops or soldiers only whereof such garrison is composed.

IV. *Provided likewise*, That nothing in this act contained shall extend, or be construed to extend, to any officer or soldier who shall have a right to vote at any such election, as aforesaid, but that every such officer and soldier may freely, and without interruption, attend and give his vote at such election; anything hereinbefore contained to the contrary thereof notwithstanding.

V. *Provided always*, That the secretary at war, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall not be liable to any forfeiture or incapacity for not sending such order, as aforesaid, upon any election to be made of a member to serve in Parliament on vacancy of any seat there, unless notice of the making out any new writ for such election shall be given to him by the clerk of the crown in chancery or other officer making out any new writ for such election, which notice he is hereby directed and required to give with all convenient speed after making out the said writ.

Alluding to this statute, Mr. Blackstone, in the first book of his Commentaries, a work doubtless familiar to every gentleman in this House, as it is to every legal tyro throughout the country, says:

And as it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited. Mr. Locke ranks it among those breaches of trust in the executive magistrate which according to his notion amount to a dissolution of the government, if he employs the force, treasure, and offices of society to corrupt the representatives or openly to pre-engage the electors and prescribe what manner of persons shall be chosen.

"For thus to regulate the candidates of electors and new-model the ways of elections, what is it," says he "but to cut up the Government by the roots and poison every fountain of public security."

As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove one day before the election to the distance of two miles or more, and not to return until one day after the poll is ended.

Such, sir, is the principle involved in the proposition under consideration, a principle which no man who is worthy to represent a generous and confiding constituency upon this floor—I care not from what section he may come or what his party affiliations or political predilections may be—can afford to treat with indifference, much less to sacrifice to any purpose of personal aggrandizement or party supremacy; for if gentlemen will reflect for a single moment upon the proneness of all men to abuse the power with which they may be intrusted by their fellow beings, if they will reflect upon the rapid and remarkable fluctuations which have heretofore taken place in the distribution of population in this country, and the frequent and sudden mutations to which representative governments like ours are constantly liable, they must be convinced of the possibility at least that the time may come when they will find themselves under the necessity of appealing to the very doctrine they may now affect to despise.

I had hoped, therefore, that in the discussion of this question neither party passion nor sectional prejudice would be invoked; that it would be discussed on the other side of the Chamber as upon this with a calmness, dignity, and judicial candor commensurate with its gravity and importance. In that, however, I am sorry to say I have been deeply and painfully disappointed, especially in the remarks submitted by my distinguished friend from Maine, [Mr. FRYE.] I do not know, sir, that in the whole course of my life I have ever listened to a speech with feelings of profounder regret, not because it injured either myself or the party to which I belong in the remotest possible degree, but because I considered it decidedly injurious to himself. I regretted it because of my high appreciation of his ability as a lawyer and my extraordinary attachment to him as a friend, a sentiment which I sincerely trust is fully reciprocated by himself, and I hope, therefore, he will pardon me for saying, not in anger but in sorrow, that while it might have been appropriate, or at least pardonable, in some petty politician of his party at the cross-roads, or around the stove of the village bar-room, it was unjust to his own genial and generous nature as a man to indulge in a line of remark which could have no other effect, whatever might have been its purpose, than to wound the feelings of gentlemen who I am certain have hitherto entertained for him nothing but the kindliest feelings of friendship; it was unjust to his reputation as a statesman to assume the idle vaporing of an obscure country editor as a reflex of the principles and motives of a great political party, or a just expression of the sentiments of the intelligent portion of the community in which he may reside; it was unjust to his high standing as a lawyer and a legislator to abandon the discussion of a proposition involving grave questions of constitutional law and important principles of public policy and devote himself entirely to vehement declamation upon matters having no more relation to the question under consideration than the ancient feud between the pigmies and the cranes; and it was

unjust to his character as a patriot to grope among the catacombs of the past for matters which had long since been buried out of sight and which could have no possible relevancy to the issue before us, or serve no other purpose in the present debate than to rekindle the fires of sectional strife which I hoped had, in the good providence of the Divine Being he so solemnly invoked, been allayed, and allayed forever.

It was for these reasons, sir, that I so profoundly regretted the gentleman's speech, to which I shall attempt no further answer. It would be as much to the purpose of this discussion, indeed, to reply to the roar of the surf that breaks upon his own rock-bound coast, or the howling of the storms that eddy around his hospitable home. I do not intend myself, and I trust that my friends on this side of the House do not intend to be diverted from the consideration of the question before us by the discussion of any collateral issue whatever, but mean to press straight forward to the accomplishment of the high purpose upon which we have resolved—

> Like to the Pontic sea,
> Whose icy current and compulsive course
> Ne'er feels retiring ebb, but keeps due on
> To the Propontic, and the Hellespont.

What is that purpose, sir? To strike from two sections of the Revised Statutes a clause comprised in eight simple words, which imply an unlimited authority in the Government of the United States to interfere with the enforcement of the local laws of the several States for the preservation of the peace at the polls whether called upon for that purpose by the proper State authorities as prescribed in the Constitution or not; a power, as we contend, totally unauthorized by the organic law of the Union, except under certain plainly expressed conditions, but which has been repeatedly exercised, and is constantly liable to be employed in corrupting the ballot-box, destroying the freedom of elections, and thereby defeating the popular will. It is simply to strike from sections 2002 and 5528 of the Statutes the words "or to keep the peace at the polls," so that if any officer of the Army or Navy, or other person in the civil, military, or naval service of the United States shall bring, keep, or have under his control any troops or armed men at any place where any general or special election is held in any State of this Union for any purpose whatever except to repel the armed enemies of the United States, he shall be liable to the penalties therein prescribed.

I was astounded, sir, to hear the gentleman from Pennsylvania [Mr. WHITE] repeat on yesterday a statement made in a somewhat different form perhaps, but equally to my amazement, by the distinguished gentleman from Ohio, [Mr. GARFIELD,] on Saturday last, to the effect that the author of this obnoxious clause, in our estimation so pregnant with danger to the liberties of the American people and the integrity of their institutions, was a Senator from Kentucky, now deceased, (Mr. Powell,) and it was supported by the unanimous vote of the democratic members of both Houses of the Thirty-seventh Congress, both statements evidently intended to convey the impression distinctly and emphatically that it was a democratic measure, passed against the will of a majority of the republicans then in the Senate and House of Representatives. I will not say that the gentlemen were disingenuous or uncandid in this. I would not insinuate that either of them could be guilty of a deliberate attempt to make a false impression either upon the House or the country with regard to this matter, I rather choose to suppose that they had overlooked or forgotten the facts, notwithstanding each of them had the record before him when making his statement and could have seen that the impression sought to be made was diametrically opposite to the truth, as I shall presently show to the exclusion of all possible doubt. Before proceeding to do so, however, it may not be impertinent to this discussion for me to call the attention of the House to the facts which led to the enactment of the law in which the clause now proposed to be repealed is found.

In the winter or early spring of 1863 a democratic convention, comprising many of the most distinguished and patriotic citizens of the Commonwealth, assembled at Frankfort, Kentucky, for the purpose of nominating candidates for the various State offices to be filled at the ensuing August election, as had been customary from the time that method of party organization was first resorted to in our country. Before that convention had nominated a single candidate, however; before it had adopted a solitary resolution or promulgated a single principle of its political faith, it was dispersed at the point of the bayonet at the command of a military officer of the United States by the name of Gilbert, I believe, who, having by that single act of brutal outrage upon the constitutional rights and liberties of American freemen achieved for himself an immortality of infamy, has, fortunately for the good of society and the reputation of the human family, sunk into the obscurity for which his Creator designed him, I trust never to be heard of again.

The delegates to that convention, having been thus forcibly deprived by the armed soldiery of the United States of the natural and inalienable right guaranteed to them by the Constitution of their country to peaceably assemble for a lawful purpose, and prevented from presenting a ticket for the free suffrages of the people of their State, thirty-one gentlemen, among them Hon. William F. Bullock, of Louisville; Hon. Joshua F. Bullett, a judge of the court of appeals; Hon. Nat Wolf, but recently before a leading member of the State senate; Hon. John H. Harney, the editor of the leading democratic newspaper in the Commonwealth; Dr. R. C. Palmer, at present an honored citizen of my own town, and others equally distinguished for their abilities and their patriotism, addressed a communication to Hon. Charles A. Wickliffe, on the 13th of June following, requesting him to become a candidate for the office of governor.

Every one of these gentlemen, sir, had been from the very beginning of the unfortunate strife between the two sections of our country among the very ablest and outspoken advocates and defenders of the cause of the Union. But lest there should be a doubt in the mind of any gentleman of their sentiments and opinions in that particular, I will read them as they are truly and pointedly expressed in a single brief paragraph in the communication to which I have referred. They say:

> We hold this rebellion utterly unjustifiable in its inception, and the dissolution of the Union the greatest of calamities. We would see all just and constitutional means adopted for the suppression of the one and the restoration of the other.

Of Governor Wickliffe, sir, it is perhaps unnecessary that I should say a single word in a presence like this. His name is historic. It is inscribed in imperishable characters alike upon the annals of his State and his country. During a long life of singular usefulness and honor, devoted almost entirely to the public service, many years of which he spent as a distinguished member of this House, occupying the seat I now have the honor to fill, he never occupied a position from that of representative in the Legislature of his native Commonwealth to that of Cabinet minister that he did not most signally adorn; and I trust it will not be indelicate in me to add that an abler statesman, a purer patriot, a truer, stancher friend to the Union of these States, or a nobler man, never breathed the vital air of heaven.

Yielding to the call which had thus been made upon him he announced himself as a candidate for governor of Kentucky, with other gentlemen, equally loyal with himself, filling the subordinate positions on the ticket; but it seems to have been predetermined that neither they nor any other candidate claiming to be a democrat, however devoted to the Union he might be, should be permitted to receive the untrammeled suffrages of the people of that State for any office or position of public trust whatever; and as an evidence of that predetermination on the part of the military authorities of the United States I will first read an extract from an order issued by General A. E. BURNSIDE, then in command of the military department embracing the State of Kentucky, dated July 31, 1863. It is as follows:

> As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person will be allowed to vote, and to this end the military power is ordered to give them its utmost support.

Sir, I will not pause here to comment upon this order in the terms it so richly deserves. I will leave it to the intelligent, dispassionate judgment of a liberty-loving people, irrespective of party, to determine the freedom of a "discretion" which was to be held "strictly responsible" to a military commission perhaps, if not exercised according to the arbitrary and licentious will of the "general commanding." I will not even characterize it as the most atrocious outrage ever perpetrated upon the freedom of election since the organization of republican governments among men, for I have before me the orders of other eminent military chieftains, high in command of the Army of our country, which prevented even "the legally appointed judges" from conducting the election and recording the votes of qualified electors according to the laws of my State; nay, more, which went so far as to prevent the proper authorities from appointing such judges of the election as the statutes of the Commonwealth required, and permitted no one to present himself as a candidate for any office whatever unless his political views conformed to those of the dominant party or the officer in command. On the 15th of July, Major-General Hurlbut, in command of the Sixteenth Army Corps, issued special orders, which was enforced throughout the first congressional district of Kentucky, at present represented by my friend [Mr. TURNER,] and enforced, too, in a manner that should thrill the bosom of every reflecting patriot with unutterable horror, as I will presently show:

> HEADQUARTERS SIXTEENTH ARMY CORPS,
> *Memphis, Tennessee, July*, 1863.
>
> In so much of the State of Kentucky as is within the district of Columbus it is ordered:
>
> 1. That no person be permitted to be a candidate for office who is not avowedly and unconditionally for the Union and the suppression of the rebellion.
>
> 2. That no person shall exercise the privilege of an elector and vote at said elections who is not avowedly and unconditionally for the Union and the suppression of the rebellion.
>
> 3. The military authorities in said district of Columbus shall see to it that this order be carried out. Judges of election will be governed by the principles herein set forth, and will demand evidence upon oaths in such cases as may be in doubt, and allow no person to exercise the franchise of voting who does not take the oath required.
>
> By order of Major-General S. A. Hurlbut.
>
> HENRY DINSMORE,
> *Assistant Adjutant-General.*

In order to place the meaning of the foregoing special order beyond all possible doubt, Brigadier-General Asboth, who had taken lessons in free government from the despotisms of Europe, issued an order dated at his headquarters, Columbus, Kentucky, July 29, 1863, which I will read:

> That no further doubt may exist as to the intents and meaning of special order No. 159, dated headquarters Sixteenth Army Corps, July 14, 1863, it is ordered that

no person shall be permitted to be voted for or be a candidate for office who has been or is now under arrest or bonds by proper authority for uttering disloyal language or sentiments.

County judges within this district are hereby ordered to appoint as judges and clerks of the ensuing August elections only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion, and are further ordered to revoke and recall any appointment of judges and clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books to be voted for at said election who is not avowedly and unconditionally for the Union and the suppression of the rebellion, or who may be opposed to furnishing men and money for the suppression of the rebellion.

Let it not be supposed, sir, that this order, atrocious as it is, stands without a parallel in the annals of that melancholy period in our history. I have before me similar orders issued by a certain Lieutenant-Colonel Johnson, whose name became a synonym of infamy in the estimation of respectable people of all parties in Kentucky long before the conclusion of the war; and also one issued by General Shackleford, who was in command of the United States forces at Russellville.

In pursuance of these orders, sir, county judges were required to violate the statutes of Kentucky, which required the officers of elections to be selected equally from the opposing political parties in the State, and troops with fixed bayonets were paraded at nearly every voting place throughout the Commonwealth, in order to see that no one should be voted for as a candidate, or exercise the elective franchise unless his political sentiments should fit the Procrustean bed laid down by the military authorities of the United States.

Mr. TUCKER. When was that?

Mr. KNOTT. In 1863, sir; after Morgan's cavalry had been pursued into Ohio and captured. When Kentucky had over fifty thousand volunteers in the Union Army, and when, I sincerely believe, there were not a hundred armed confederates within the entire limits of the State. I should remark also, sir, that these orders were issued and enforced without any demand by the governor or Legislature of the State upon the Federal authorities for assistance to repel invasion, suppress domestic violence, "keep the peace at the polls," or for any other purpose whatever."

A few instances will suffice to show, sir, how these orders were enforced, and the results of armed interference at the polls. In many places in various portions of the State the names of Governor Wickliffe and other democratic candidates upon the State and local tickets were stricken from the poll-books by order of the military officer in command of the troops present at the polls to keep the peace and give the officers of the election "their utmost support" in stifling the voice of the elector. Thousands were turned away from the ballot-box on the pretext of disloyalty, while thousands of others were kept away from it entirely under the terrors of military arrest and imprisonment, and the election officers compelled, under a like menace, simply to register the edict of a military despotism which they were powerless to resist and dare not disobey.

In the first congressional district, now represented by my friend and colleague, [Mr. TURNER,] Hon. Lawrence S. Trimble was the democratic candidate for a seat on this floor in opposition to one Lucien Anderson, who claimed to be "an unconditional Union man." Mr. Trimble had formerly served with distinction upon the circuit bench of the State. He was among the earliest, ablest, and most consistent advocates of the Union cause in the Commonwealth. He has been thrice elected to represent that district in this branch of the Federal Congress, and in the Fortieth Congress his loyalty was vindicated upon a square issue, fully investigated by a House overwhelmingly republican in politics, although at all times, before and since, a sterling, unflinching, unwavering democrat. Yet, sir, he was arrested by military authority and carried to a prison beyond the limits of his district, where he was kept until after the election, when he was released without trial and without accusation. True, sir, he was offered his liberty on condition that he would decline his candidacy and withdraw from the canvass; but I thank God he spurned the insulting proposal as a genuine Kentuckian will always spurn such indignity and outrage.

Mr. Martin, who had represented the counties of Lyon and Livingston in the State Legislature, who had always been a "Union man" though a democrat of the strictest sect, and who had periled his life for the cause of the Government in piloting the first Federal gunboat that ever ascended the Cumberland River, was also arrested and carried off to a military prison where he was detained until after the election for no other reason than that he was a democratic candidate for re-election to the seat he had already occupied in the lower house of the General Assembly.

Colonel John H. McHenry, who commanded a regiment in the Federal Army, who was among the first, and the bravest who left the endearments of home, and rushed to the red field of war in defense of his country's flag, and who bore himself on many a stricken field as a hero worthy of the blood that coursed through his veins, was a candidate for Congress in the second district now so ably represented by my colleague, [Mr. MCKENZIE.] Yet, as was the case with Governor Wickliffe, Judge Trimble, Mr. Martin, and other democratic candidates in various parts of the State, his name was in many places stricken from the poll-books, in others "Union men" were prohibited at the point of the bayonet from casting their suffrages for him, while hundreds of his democratic friends dared not to attempt the exercise of the constitutional franchise in his behalf, for fear of the menacing discipline of the guard-house or the millitary prison. And all, sir, because he was a democrat, and a defender of the Constitution of his country.

In order to show, sir, from record evidence how the election was conducted in my own district under this *régime*, I beg leave to call attention to the following documents. The first is a certificate signed by Moses D. Leeson, captain of Company B, Fifth Indiana Cavalry, who commanded a company at the polls in a precinct in Nelson County. It reads:

I, Moses D. Leeson, captain commanding Company B, Fifth Indiana Cavalry, hereby certify that under the orders and instructions of Lieutenant-Colonel Thomas H. Butler, commanding Fifth Indiana Cavalry, I ordered the polls to be opened by the regularly appointed judges, sheriff, and clerk, namely, W. R. Livers, T. C. Warren, Thomas Coron, and R. E. Harrele, and permitted no other candidates' names to appear on the poll-books but the following: For governor, Thomas E. Bramlette; for lieutenant-governor, R. T. Jacob; for attorney-general, John M. Harlan; for State treasurer, James Ganard; for auditor, W. T. Samuels; for register of land office, James A. Davidson; for superintendent of public instruction, Stevenson; for Congress, Aaron Harding; for Legislature, Dr. W. Elliott; for county attorney, G. W. Hite; for county clerk, W. T. Spalding and William M. Powell.

MOSES D. LEESON,
Captain commanding Company B, Fifth Indiana Cavalry.

And here, sir, are two others showing what was done in the county of Breckinridge:

We the undersigned do hereby certify, as officers of precinct No. 2 at Cloverport, Kentucky, that, after opening the polls, Captain Hernbrook, by authority from General Shackelford, ordered us to strike off the entire Wickliffe ticket, and also Milton Board's name from the poll-book; which was accordingly done in obedience to said order.

WILLIAM B. JONES,
WILLIAM S. ALLEN,
Judges.

Attest:

J. C. HEST, *Clerk*,
J. R. ALLEN, *Sheriff*.

Again, sir, Sergeant Brown tells the story for the Forks of Rough, in the same county, as follows:

FORKS OF ROUGH, *August* 3, 1863.

I do certify that at Rough Creek Spring precinct, district No. 4, there was a poll open for C. A. Wickliffe and others, forming a democratic ticket, and for State officers; that I suppressed the same by order of General Shackelford between seven and eight o'clock a. m.

WILLIAM BROWN,
Sergeant in Command.

It is needless to add, Mr. Chairman, that under such auspices as these the elections in Kentucky in 1863 amounted to nothing more than the mere registration of the edicts of military authority, nor is it necessary that I should multiply evidences such as I have already adduced in order to show the danger and impropriety of permitting the presence or interference of the armed forces of the United States at the polls under the pretext of keeping the peace, or for any other purpose whatever. If what I have already shown is not sufficient to thrill the bosom of every thinking, patriotic American citizen with indignation and horror, I confess I am at a loss to conceive what possible condition of circumstances could excite their solicitude for the safety of their liberties or the perpetuity of their republican institutions.

But fortunately, sir, for the State, fortunately for the country, fortunately for the cause of human freedom everywhere, Kentucky was represented in the other end of this Capitol during the dark days of which I have been speaking by her honored and illustrious son, the lamented Lazarus W. Powell. When that sterling patriot, that sagacious statesman, that undaunted champion of popular liberty, saw the atrocious outrages against free elections which were perpetrated in his own State under the auspices of the military power of the Federal Government, he determined at once to prevent, if possible, the recurrence of such scenes by congressional enactment under the sanction of appropriate penalties. Accordingly, at the very earliest opportunity that presented itself after the opening of the ensuing session of Congress, he introduced a bill for that purpose. And this brings me back, sir, to the statements of the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Pennsylvania, which I will ask the House to examine side by side with the record, which was open before them when they addressed the House.

If gentlemen will turn to page 101 of volume 50 of the Congressional Globe they will find the bill, No. 37, word for word as it was introduced by Mr. Powell, but so far from finding in that bill the clause which it is now proposed to repeal they will discover that it does not contain one single word or syllable with reference to keeping the peace at the polls; not a syllable, sir. It is true that the bill was, against the earnest protest of Mr. Powell, referred to the Committee on Military Affairs, and it is also true that the Committee on Military Affairs returned it to the Senate with an adverse report which the impartial patriots of coming generations will perhaps regard as one of the darkest stains upon the annals of the American Congress. But, sir, undaunted by a single reverse, Mr. Powell, notwithstanding the adverse report of the committee, continued day after day, and week after week, earnestly and persistently urging the consideration of the bill until finally the Senate, at the request of Senator Trumbull, consented to take it up, whereupon Mr. Powell proposed to amend it by adding the words, "unless it shall be necessary to repel the armed enemies of the United States." Still not a syllable about keeping the peace.

But now, sir, I will read directly from the record, on page 3159, volume 53, Congressional Globe:

The PRESIDENT *pro tempore*. The question is on concurring in the amendment inserting after the word "America," in line 9 of the first section, the words "unless it shall be necessary to repel the armed enemies of the United States."

Mr. POMEROY. I wish to amend that amendment by adding to it "or to keep the peace at the polls."

Mr. POWELL. I object to that. It would destroy the effect of the bill. The State authorities can keep the peace at the polls.

Mr. SAULSBURY. That is the very pretext on which the outrages were committed in my State, and it is the very pretext that will be put forward again.

Does this look like there is any ground for an insinuation that Senator Powell was the author or approved in the slightest degree of the obnoxious clause which we now seek to strike from the statute-books? But again, sir, on the next page we find that on Mr. Pomeroy's amendment proposing to add the words "or to keep the peace at the polls" the yeas and nays were called, and Mr. Powell and every other democratic Senator present voted against it. The record says:

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas [Mr. Pomeroy] to the amendment made as in Committee of the Whole.

Mr. LANE, of Kansas, called for the yeas and nays, which were ordered; and being taken, resulted—yeas 16, nays 15; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Foot, Grimes, Harlan, Harris, Howard, Lane of Kansas, Morgan, Morrill, Pomeroy, Ten Eyck, Trumbull, and Wade—16.

NAYS—Messrs. Buckalew, Carlile, Davis, Foster, Hale, Hendricks, Hicks, Johnson, McDougall, Powell, Richardson, Riddle, Saulsbury, Willey, and Wilson—15.

So the amendment prevailed, every democratic Senator voting against it; and the question recurring upon the passage of the bill as amended, Mr. McDougall, a democratic Senator, moved to postpone the bill indefinitely; whereupon Mr. Powell said:

I hope the Senator will withdraw that motion.

Mr. MCDOUGALL. Very well; if the Senator wishes to press the bill in its present shape, I withdraw the motion.

The ayes and noes were then taken on the passage of the bill as amended, and every democratic Senator voted in the affirmative. They voted for it, as I presume I would have done had I been in their place, as a step at least in the direction of security to human rights and human liberty.

Mr. WHITE. Will the gentleman allow me to remind him? Did not Mr. Powell and every other democratic Senator vote at that time for Mr. Powell's amendment thus amended by the proposition of the Senator from Kansas?

Mr. KNOTT. Whether they did or not I do not know. The yeas and nays were not called upon that question.

Mr. WHITE. Does not the record show it was unanimously supported by all the Senators?

Mr. KNOTT. The record shows no such thing.

Mr. WHITE. Does not the parliamentary presumption arise——

Mr. KNOTT. Oh, the gentleman may presume whatever he pleases.

Mr. WHITE. Does not the parliamentary presumption arise that when the yeas and nays are not called on an amendment which is adopted every Senator votes for it?

Mr. KNOTT. The gentleman can indulge whatever presumption he pleases and I can indulge mine.

Mr. WHITE. I am not indulging any presumptions. I want legislative facts.

Mr. KNOTT. The gentleman asserted in his speech in emphatic terms that Mr. Powell and other democratic Senators voted for this amendment which incorporated these words into the statutes. I have shown by the record that they did nothing of the kind.

Mr. WHITE. Will the gentleman allow me to explain?

Mr. KNOTT. I do not desire to yield further to this interruption.

Mr. WHITE. I do not want to be misrepresented. The gentleman's statement of what I said is not correct. I did not say that. I said that Mr. Powell voted for the amendment as amended.

Mr. KNOTT. How do you know that?

Mr. WHITE. Because the record says that it was unanimously passed by the Senate.

Mr. KNOTT. I say the record does not show how the Senators voted.

Mr. WHITE. It shows that there was not a yea-and-nay vote, and therefore there were no noes against it.

Mr. KNOTT. That is a quibble.

Mr. WHITE. It is not a quibble.

Mr. KNOTT. As I have said, the gentleman may indulge whatever presumption he pleases, and I can indulge mine.

Now, sir, when the bill came over to the House it was referred to the Committee on the Judiciary, from which it was reported back by the chairman, Mr. Wilson, of Iowa, and passed under the operation of the previous question, so that no democratic member had an opportunity to amend it even had he desired to do so. They all voted for it, actuated, I presume, by the same motive I ascribed to the democrats who supported it, the desire to accomplish something at least in favor of free elections and the non-interference of the military at the polls. There, sir, is the whole history of the passage of the law and the manner in which the objectionable words came to be inserted in it, and I leave the House and the country to determine the value of any insinuation or statement that their insertion was ever, under any circumstances, a democratic measure, or favored by any democrat in either branch of the Thirty-seventh Congress.

Sir, Kentucky is justly proud of her Clay and her Crittenden, her Wickliffes, her Hardins, her Breckinridges, her Marshalls, and others of her distinguished sons, whose fame is a part of the history and the heritage of our common country; but in that long line of illustrious names which constitute the brightest jewels in her diadem of glory none sheds more luster upon her maternal brow than that of Lazarus W. Powell, and if every other act of his long and useful career could be erased forever from the memory of his grateful and admiring countrymen, the gallant, persistent, patriotic fight he made in the other end of this Capitol for the protection of the ballot-box from military interference would alone secure for him in the affections of the lovers of human liberty everywhere a memorial as enduring as the everlasting hills. He is dead and gone, sir. "After life's fitful fever he sleeps well."

> But little he'll reck if they let him sleep on
> In the grave where his people have laid him.

But when the gentleman from Pennsylvania [Mr. WHITE] and others of his party "come to dump their little dirt-carts" upon his moldering ashes, I ask them to at least remember that the only accusation his most malignant foe could bring against him, and the one which they would now insinuate, was spurned and repudiated by an overwhelming majority in a republican Senate, and that, too, when the "still small voice" of justice was almost stifled by the partisan passion and prejudice which ruled the hour.

But, sir, to return to the question. It is now proposed to strike this dangerous and objectionable clause from the law upon which it was ingrafted against the vote and the protest of Senator Powell and his democratic associates in the Thirty-seventh Congress. And why, sir? First, because, as I said awhile ago, it is in violation of the Constitution and purports to authorize the use of the United States for purposes and under circumstances not contemplated in that instrument.

It is true, sir, that the argument upon this point has been gone into somewhat elaborately, yet there are, in my judgment, some reasons which seem to be conclusive of the question, but which I have not yet heard suggested, and as they may be embraced in a nutshell I trust I shall be pardoned for stating them. It will not be denied that before the adoption of the present Constitution the power to preserve the peace within their respective limits belonged exclusively to the several States, to be exercised under their own laws and through their own agencies. It is also true that when the Constitution was submitted to the several States for their ratification, it was discovered that a number of amendments were necessary in order more effectually to protect the rights of the individual and to preserve the autonomy of the States themselves. Among the most striking and important of those amendments was the tenth, by which it was provided that the powers not delegated to the United States by the Constitution nor prohibited by it to the people were reserved to the States respectively or to the people. That provision stands to-day the chief bulwark of the several States against Federal aggression or any unwarranted interference with their domestic concerns by the General Government.

Now, the power and the duty to keep the peace within their respective borders is certainly not prohibited to the several States, and the question therefore presents itself, whether that power is anywhere delegated to or that duty is anywhere imposed upon the Federal Government, and, if so, to what extent and under what circumstances. Referring, therefore, to the text of the Constitution, I have been able to find but two clauses which to my mind can be of any service in the solution of the question. The first is the fourth section of the fourth article, which authorizes and in fact makes it the duty of the General Government to protect each State against domestic violence on the application of the Legislature, or of the governor in case the Legislature cannot be convened.

But it will be observed, sir, that the power to intervene even to protect a State against domestic violence is conferred upon and can only be exercised by the General Government under certain conditions, and even when these conditions exist it can only exercise that power in pursuance of the laws which Congress is authorized to enact by the other constitutional provision to which I have alluded, namely, the last clause of the eighth section of article 1. Unless those conditions exist, therefore, that is, unless an application is made by the Legislature, or the governor when the Legislature cannot be convened, it is evident that the Government of the United States has no more authority to assume to keep the peace in any State either at the polls or elsewhere, either through the instrumentality of its Army or its Navy or its marshals or any other agency, than it has to interfere in the administration of the municipal laws of any other country on earth.

It is claimed on the other side, however, that although it may be unconstitutional, yet the clause in question is harmless; but, sir, it cannot be harmless if it is unconstitutional. It may never be enforced, it is true, though in the light of the past we cannot promise ourselves any such immunity from its baneful consequences. On the contrary, we may expect to see it resorted to, as it has been repeatedly, for the very purpose of subverting the will of the people and defrauding them of their free choice. But grant that it will not be enforced, still

> 'Twill be recorded for a precedent;
> And many an error, by the same example,
> Will rush into the state—

until finally our whole fabric of constitutional government will topple into ruin. It may be the first, almost imperceptible leak in the

embankment, which, gradually widening, will ultimately become the crevasse through which will pour a deluge of usurped military authority to destroy the liberties of the people forever.

Sir, the history of our race is full of examples warning us of the danger of permitting the ballot-box to be approached by the military, and our ancestry, from the days of Edward the First, have exhibited a most commendable wisdom in precautions they have taken to guard their elections from the destructive consequences of any such contaminating influences. The statute of George the Second, which I read awhile ago, was enacted not to establish a new rule, but to make prominent a principle of law which had been in force for five hundred years and to give efficacy by prescribing a proper penalty for its violation, and all, sir, because at the election of Scottish peers, in 1784, a battalion of the king's troops was drawn up in the court of Edinburgh contrary to custom, and with no other apparent reason but for the purpose of overawing the electors. But were all other human history silent upon the subject the few facts I have exhibited, drawn from the experience of my own State in 1863, furnish an argument against allowing the presence of troops at the polls for any purpose whatever which no amount of sophistry can countervail, and no mere vociferous declamation can overturn.

But, Mr. Chairman, objection is made to the method which the majority in this House has thought it proper to pursue in order to effect the repeal of this dangerous and unconstitutional provision in our statutes—the more dangerous because it is unconstitutional—and our action in that regard has been repeatedly characterized on the other side as revolutionary and wrong. As to that matter it is sufficient to say that there is nothing in the method we have adopted prohibited either by the Constitution or the rules of the House. It is a method which has not only been repeatedly resorted to in this House, but has always been claimed as the right of the House of Commons in England, after which this House was modeled. Sir, the right to tack bills for the redress of grievances upon money bills, which can originate only in the House of Commons, was not only the means which in the first instance secured to that House the privilege of participating in the general legislation of the kingdom, but the means by which it has achieved its greatest triumphs in favor of the liberty of the subject. I ask leave here to refer the House to a paragraph or two in De Lolme's admirable treatise on the constitution of England, which places this matter in a clearer light than I could possibly hope to do myself. He says:

> And indeed we see that since the establishment of this right of the representatives of the people to grant or refuse subsidies to the Crown, their other privileges have been continually increasing. Though these representatives were not in the beginning admitted into Parliament but upon the most disadvantageous terms, yet they soon found means by joining petitions to their money bills to have a share in framing those laws by which they were in future to be governed; and this method of proceeding, which at first was only tolerated by the king, they afterward converted into an express right by declaring, under Henry the Fourth, that they would not thenceforward come to any resolutions with regard to subsidies before the king had given a precise answer to their petitions.
>
> In subsequent times we see the Commons constantly successful, by their exertions of the same privilege, in their endeavors to lop off the despotic powers which still made a part of the regal prerogative. Whenever abuses of power had taken place, which they were seriously determined to correct, they made grievances and supplies (to use the expression of Sir Thomas Wentworth) go hand in hand together, which always produced the redress of them. And in general, when a bill in consequence of its being judged by the Commons essential to the public welfare has been joined by them to a money bill, it has seldom failed to pass in that agreeable company.

Yet, sir, this proceeding, which all admit is perfectly within the constitutional powers of this House, and in accordance with numerous precedents, not only here but in the popular branch of the British Parliament, is wildly denounced as revolutionary, notwithstanding it does not in the slightest degree alter or affect the constitutional powers or duties of any department of the Government whatever. I will simply add, sir, with all proper deference to gentlemen on the other side who seem to have delighted in indulging it, that this empty iteration of revolution is to my mind too baldly absurd to be ridiculous, and nothing in my judgment could possibly be more contemptible than the coward who could be influenced by it.

But, sir, it is claimed that this provision should be permitted to remain in the statutes in order to secure the purity of our elections; and I will not question the sincerity of those who profess to believe that it is essential to that most desirable end; but I will say to them, here and now, that until they can point to one single expedient, either forcible or fraudulent, to which their party has not repeatedly resorted to destroy the purity of elections and defeat the popular will, the people of this country will be slow to believe that they will not use this for the same nefarious purpose.

Now, Mr. Chairman, I desire to say to my distinguished friend from Maine [Mr. FRYE] that I have the same devout belief in the existence of a divinity which shapes the destinies of nations as well as of individuals that he himself professes, and I have an abiding faith that the same Divine Being who led His chosen people through all the vicissitudes of their forty years of dreary prilgrimage will so order the affairs of this country that the democratic party will indeed "capture the Capitol." But I beg him and his friends to dismiss those dark forebodings which seem to weigh upon their excited imaginations. I can assure him that there will be no general sack and pillage when that consummation so devoutly to be wished shall have been accomplished.

The democracy will "capture the Capitol," but when they plant their banner upon its Dome he will find emblazoned on its ample folds as they float out upon the breeze the golden legend formulated by the hand of the illustrious Jefferson, "Equal and exact justice to all men, exclusive privileges to none." Yes, sir, the democracy will "capture the Capitol," and they intend when they do so to restore this great Government to its original purity, to strip from the limbs of this great people the "shackles of usurped control and hew them link from link." They intend that the ballot-box, the palladium of free government and popular liberty, shall be free from the contaminations of force and fraud, and that the military shall at all times and under all circumstances be subordinate to the civil power. They intend that the ancient trial by jury, the birthright of the American freeman, shall be preserved in all its purity, integrity, and efficacy. They intend that there shall be "the strictest economy in the public expenditures that labor may be lightly burdened." They intend that there shall be "a rigid arraignment of all abuses of power and public trust in the established tribunals of justice as well as before the great bar of public opinion," and that the ringmasters, peculators, and plunderers who infest the Government shall be scourged from their places, as the Saviour of mankind scourged the money-changers from the temple. They intend that the autonomy of the several States shall be preserved, "with all their rights, dignity, and equality unimpaired," as the safest administrators of our domestic concerns and the surest bulwarks against anti-republican tendencies. They intend that the supremacy of the General Government within its legitimate limitations shall be sedulously maintained, and every orb in our splendid constellation of coequal sovereignties move onward in its own appointed path with the harmony and precision that marked the music of the spheres "when the morning stars sang together and all the sons of God shouted for joy."

Mr. HOUK. Mr. Chairman, I do not agree altogether with those gentlemen who have intimated that the provisions of the United States Constitution in relation to the Army and Navy, and to the President of the United States as Commander-in-Chief of the Army and Navy, are self-executing. I believe that when the Constitution of the United States was adopted it created out of the colonies or the original States a nation to be governed by law. It established the Congress of the United States as the legislative body, for the purpose of making laws and carrying into execution all the powers, principles, and purposes of the Constitution as designed by its framers.

And I do not believe that the President of the United States has the right, under that clause of the Constitution which declares that the Government of the United States shall guarantee to each State a republican form of government, to take the authority into his hands for the purpose of making and maintaining peace at the polls. I do not believe that under any provision of the Constitution the President of the United States can use the Army for the purpose of any police power, either at the polls or elsewhere, without the authority of congressional enactment, except perhaps in the one single instance where the executive of a State or the Legislature of a State shall call upon the President for troops with which to suppress insurrection or to repel invasion. And even then, in the view I take of the Constitution and of the powers vested in the President of the United States by its provisions, the Congress of the United States has power and authority, under the express letter of the Constitution, to prescribe the manner and the methods and the means by which such requisitions shall be answered and responded to by the President of the United States.

My reasons for this view of the Constitution grow out of the provisions of the instrument itself. The eighth clause of the first article declares that among other enumerated powers of Congress "it shall have power to make rules for the government and regulation of the land and naval forces." This is one of the enumerated powers of the Congress of the United States. The last clause of the same article declares that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

I therefore maintain that under the Constitution the Army can be used by the President of the United States only as prescribed by law, and under such laws and regulations as Congress may make for that purpose, and I want to call the attention of this House to the fact that it was under this view that Congress, when the law now proposed to be repealed was enacted, in accordance with these provisions of the Constitution of the United States, did enact the identical laws that are now proposed to be repealed by these amendments, attached as they are to appropriation bills.

To my mind the question does not arise in this debate as to the policy or impolicy of the law at the time it was enacted. It is unnecessary for us to stand here debating whether the gentlemen then constituting the Congress of the United States did right or did wrong. The question is, and that which we are to vote upon on our oath and our duty as Representatives on this floor, whether there is any necessity or reason for this law remaining and standing where it is to-day. To that question, whether it shall be retained or whether it shall be wiped out, I propose to devote what time I shall occupy in discussing the question on this occasion.

We all know, every gentleman upon this floor knows, that at the conclusion of that unfortunate war through which we have all passed

disturbing elements appeared in various sections of the country—perhaps confined to no particular section or locality North or South, with the exception that under the processes of reconstruction as they were hurriedly carried on these disturbing elements proved themselves strongest where the democratic party was the strongest, and especially did these disturbing elements prove themselves strongest wherever there was a large number of colored voters adhering to republican principles and where a large proportion of the white population were against them. I will not stop in this connection to say whether democrats or republicans enacted this law. It is immaterial either to a statesman or a patriot who enacted it, but in the processes of reconstruction, when these disturbing elements appeared and interfered with that free ballot which every American citizen under the Constitution of this country is of right entitled to, it was a republican administration that for the first time found it necessary to enforce this law that was then found standing upon the statute-books of the nation.

And, Mr. Chairman, when this law was enforced (as I trust in God the time will come when it will be enforced again) we had fair elections in the South. I undertake to say that the only fair elections that have ever been held in many of the Southern States since reconstruction, were when the President of the United States saw proper to give protection to all classes of people under the provisions of this law that they might go freely to the ballot-box and vote and none dare to molest or make them afraid.

I desire to ask (I appeal to the other side of the House) what harm can these laws do, what harm have they done? When has a Federal soldier in all the South ever interfered with the freedom of the ballot-box or prevented a democrat from voting? Born and raised in the South, having lived in the South all the days of my life, representing a southern constituency as I now do upon this floor, all my sympathies and affinities being tinged with a degree of preference for the people among whom I have thus lived, I have for years, as gentlemen on the other side of the House of different political opinions well know, anxiously awaited the day and the hour when these laws and all other laws making any distinction on account of politics between the people of this great country should be wiped from the statute-books. When the President of the United States inaugurated his policy of conciliation, when he withdrew the troops from the South, when he commenced that policy of civil-service reform in which political distinctions were no longer to be recognized, I fondly trusted, and I believe men all over this country trusted that the era of good feeling was rapidly approaching, when "the lion and the lamb should lie down together," and we should all "shake hands across the bloody chasm" and be friends forever. I expected "peace like a river" to spread over the South. But in this I was mistaken. I desire to say, Mr. Chairman, in this connection, that if the reasonable expectations of the President and his friends had been realized, if his policy of conciliation had been met half way, if his overtures to the South had been responded to by peace instead of riot and bloodshed, I declare here in my place to-day that I would have been found standing here lifting my voice, casting my vote, not only to repeal these laws, but to wipe out and obliterate every conceivable character of political distinction on account of the rebellion. This Government is great enough to be magnanimous to all, and its loyal citizens and their Representatives can afford to forgive all who prove true to the Constitution and laws.

But, sir, how has this effort at conciliation been met? I appeal to this House to say how has it been met? Why, another gentleman in illustrating another point on this floor on a former day enforced his argument by a thought that will enforce the idea I desire to present to the House on this occasion, and I adopt it. I call the attention of the House and the country, and of every element that desired conciliation and peace in this country, to the fact that when the President of the United States was offering peace and reconciliation, offering to meet the democratic party in the South, shake hands with them and have peace—when "he has asked for bread they have given him a stone; when he has asked for a fish they have given him a serpent;" when he has plead for peace, the response has been riot and bloodshed.

Why, Mr. Chairman, unless all human testimony is to be disbelieved, unless the current history of the times written in blood in many parts of the South is to be discarded and go for naught, unless the sworn testimony of the best men of the country is that of perjured wretches and rascals, instead of peace and conciliation, rifle clubs, red shirts, bulldozers, White Leagues and the like have taken possession of the ballot-box and controlled the elections in many localities in the South, instead of giving that protection which was reasonably expected under the policy of the President of the United States.

Why, Mr. Chairman, ten years ago—I want to emphasize this before this House—ten years ago the South was republican. She sent republican Representatives to represent her interests. To-day, under a fair election and an honest count, a majority of the States of the South are republican, as every man of intelligence knows. [Applause.] But what has been the result? Where are these republican Representatives, and how do we account for their absence from this floor to-day? Why, under a false and sickly notion, the democratic party attempted to educate the people of the North to the idea that there were no republicans in the South but the negroes, and carpet-baggers, and scalawags. It was said in this debate yesterday, or the day before, that a certain oath could not be taken by the decent people of the South in one instance, I believe, out of every thousand. Well, the gentleman who made that statement does not live in my part of the country. In the part of the country where I live the people are as loyal and devoted to this Union as in Massachusetts herself.

I should dislike to live in a country or State, or a part of the country, where not one in a thousand could swear they had been loyal to the government under whose protection they had been born and bred. But I say, under this false education, (and the gentlemen on the other side very well understand how they have manufactured it and wrought it up,) as an offshoot of that false theory which was sent forth in regard to the people of the South, we had the Greeley campaign. Under this notion, (I want to call the attention of northern Representatives to this thought,) under this idea that the wealth, intelligence, and respectability of the South were all in opposition to the republican party, even the loyal North almost went back on the republicans of the South; and in 1875, I believe it was, under bad advice the hero of the war made a mistake. General Grant, under the advice of his Attorney-General, refused to protect the republicans of the State of Mississippi, and the result was that the rifle clubs succeeded. Having succeeded in Mississippi, they spread over and subverted the republican party all over the South, and that accounts for the absence of republicans from the South in this Hall to-day.

And to-day, under these influences, under a power more hateful and odious than all the bayonets of the land, the semi-civil and military organizations of the South have overturned the rights of the people, until to-day, as was said the other day, not a single colored man remains a Representative upon this floor. When I look around me I see, Mr. Chairman, but three republicans from the seceded States of the South. That is the logical result of the policy commenced in the State of Mississippi, where it should have been checked under these laws at the time, but where it was allowed to spread over the South and invade the rights of the people.

And I desire to say in my place here, Mr. Chairman, as a Representative, that for one—others may place their opposition to this repeal upon whatever ground they please—but for one, my opposition to the amendments put upon these appropriation bills to repeal the laws referred to I place upon the broad ground of the merits of these laws and the injustice of their repeal. If permitted to stand, and the President of the United States will enforce them, we will have fair elections and republicans will be returned to Congress by the voice of the free people undriven by "bulldozers" and other organizations. [Applause on the republican side.]

I want to say for one that others may do as they please, but never while I have a seat and a vote upon this floor will I vote to repeal these statutes until every man in the South, whether white or black, whether carpet-bagger from the North or so-called scalawag from the South, has a free and untrammeled and a fair, equal chance at the ballot-box. [Applause on the republican side.] I want it distinctly understood, Mr. Chairman, we do not need any of this election machinery in my district. Not a bit of it. The republicans of the second district of Tennessee are capable of taking care of themselves, and I would hold my seat on this floor if every colored man in that district had been polled for my competitor. Further south, however, where I concede the great majority of the white people went into this democratic rebellion because it was only the democratic party on horseback that wielded artillery and small arms during the war——

Mr. McMILLIN. Will my colleague yield to me for a question?

Mr. HOUK. I promised to give a portion of my time to another gentleman, and while I should like to answer my colleague's question, I cannot do it. He will have a full and fair chance, and I had a terrible struggle to get the floor.

Mr. McMILLIN asked a question which Mr. HOUK did not hear and therefore did not answer.

Mr. HOUK. I cannot yield, or I would yield to you cheerfully and cheer you every time you said a good thing. [Laughter.]

Mr. McMILLIN. So I will cheer the gentleman when he says a good thing

Mr. HOUK. I decline to yield, but thank the gentleman for his promised compliment, though I fear it will result like other promises made by democrats—I fear he will "dodge the responsibility" of complimenting a republican.

I repeat, Mr. Chairman, that we do not need this election machinery in my district.

The CHAIRMAN. The gentleman indicated that he would give half of his time to the gentleman from New Jersey, and he has now spoken for thirty minutes.

Mr. ROBESON. I prefer the gentleman from Tennessee should proceed until he has closed.

Mr. HOUK. I will soon close, as I wish to accommodate my friend from New Jersey, but I have two or three things further which I desire to say. [Cries of "Go on!"] I was about saying, and I believe I did say, that we do not need this election machinery in my district, but every intelligent gentleman of the House and the country very well knows there are districts in the South where the republican party is composed, a large majority of it, of that class of persons who were held in democratic bondage for more than two hundred years, and they are timid and easily driven from the polls. For the purpose of restoring freedom at the ballot-box to these people in the Southern

States, and in the Northern States if it be needed, I shall stand here and continue, day by day and time after time, voting against the repeal of these measures which, when "wiped out," will give an opportunity to carry the elections by the favored democratic methods which we all understand.

But these people, not content with the fraud of force, resorted to "tissue ballots" in order to increase democratic majorities in the South. We have one man in the Tennessee penitentiary now for stuffing ballot-boxes, and others ought to be there. [Laughter.] He was a democrat, and he stuffed the ballot-boxes in the interest of a democrat. [Laughter.]

But, sir, they tell us these laws are unconstitutional. Well, perhaps I am too young a man to claim to be a great constitutional lawyer, but I never saw a democrat in my life who did not understand the Constitution, whether he could read it or not. [Laughter and applause on the republican side.] They tell us these laws should be "wiped out" because they are unconstitutional. Go back, sir, in your recollection to 1861. Did they not tell us it was unconstitutional for Abraham Lincoln to put down the rebellion? Did they not tell us it was not constitutional to call out the troops to preserve the flag and the country? The same cry is now raised that these laws are unconstitutional.

I had intended to reply to one gentleman from Ohio, but my time is running out. [Cries of "Go on!"] The gentleman from Ohio, Mr. HURD, I believe it was, said:

> Have gentlemen who have considered this question read recently section 2, article 1, of the Constitution, which declares that the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualification requisite for an elector of the most numerous branch of the State Legislature?

The gentleman, I am told, is a good lawyer. He read this clause from the Constitution, and then, with an air of triumph, added:

> It is the most numerous branch of the State Legislature that determines the qualifications of electors, and not the Constitution of the United States.

Why, my dear sir, if it is not the Constitution of the United States that determines the qualification what did you read the Constitution of the United States for in order to support your proposition? [Laughter and applause on the republican side.] Is it the most numerous branch of the State Legislature that qualifies and determines an elector? Not at all; but the Constitution of the United States, by the voluntary act of its framers, selects the elector for the most numerous branch of the State Legislature as a standard by which to prescribe the qualification of electors for the House of Representatives. The State has nothing to do with it; the State constitutions have nothing to do with it; the Legislatures of the States have nothing to do with it. It all reaches back and centers and grounds itself in the Constitution of the United States, and from that it is impossible for you to get away.

Now, Mr. Chairman, I believe that every lawyer on this floor must come to this conclusion, and I am satisfied that the gentleman himself, after he cooled down and got to thinking about the Constitution and its powers, had come to the conclusion that every legal mind must come to, that his position is illegal, illogical, and absurd. But I have not time to pursue this thought.

Now, again, Mr. Chairman, as in 1861-'5, the democracy must rule or the Government is to be wrecked. When the people voted—and I tell my democratic friends that I do not claim this as original—when the people voted a want of confidence in the democratic party and decided to transfer the administration of the Government to other hands, they went to war for four years for the purpose of destroying the Government in which they could no longer rule. And now when, by the methods and policies to which I have adverted, the republican seats upon this floor from the South are about empty, and when the same men, who started in search of their rights in 1861 and who are in a large measure in search of the same rights to-day by a little different method, have returned to this floor, they do not propose an armed resistance. Not at all. I do not believe there will be another armed rebellion in fifty years. While I will not tell the anecdote, I will suggest—and several gentlemen on the other side will appreciate it—that they have seen enough through the cracks to satisfy them on that subject, and they will not try it again. But the policy is, Mr. Chairman, to come back here at the end of eighteen years, and unless they can rule just precisely in the way and by the methods and through the channels that they desire to rule, they propose now, as was stated by the distinguished gentleman from Ohio, to starve the Government to death.

The intimation, sir, has been thrown out that the President of the United States, unless he adopts the policy that the democratic Congress may adopt, will become a revolutionist and violate the Constitution. It was said by one gentleman the other day that the veto power was vested in the President for the purpose of preventing unconstitutional legislation. Now I do not deny that the President may consider the question of the unconstitutionality of any measure in considering a bill whether he shall approve or disapprove of it. I do not deny but that the President may veto a bill simply because he believes it is unconstitutional. But I have always understood, and I so understand now, that the veto power is vested in the President of the United States for the purpose of clothing him with the right to prevent what he may regard impolitic legislation being ingrafted upon the policy of the country unless the judgment of two-thirds of both Houses of Congress should be recorded against him.

And, Mr. Chairman, it seems to me that the whole argument in this case is boiled down to this: that when a conflict comes between Congress and the President it is not a question of power, it is not a question of unusual methods, it is not a question of coercion, but it is a question of arithmetic as to which shall succeed. When he sees proper to veto a measure, if two-thirds of both Houses of Congress pass it over his veto, under the oath he has taken to support and enforce the Constitution he is bound to execute it, and would stand in the attitude of a revolutionist if he dared refuse. On the other hand, when more than one-third of either branch of Congress believe the President right in the exercise of his veto power, and that the measure ought not to pass over his veto, then it is the duty and the stern obligation of every gentleman who takes an oath as a member of this body to yield and to pass the necessary laws to carry on the Government without tacking on to appropriation bills measures that are known to be unacceptable to the Executive, and which he will be compelled to veto, or approve contrary to his judgment and conscience.

It seems to me, Mr. Chairman, that this is a logical and legal proposition. There is another question to which I desire to address myself for a moment. The apology that is offered for this tacking process is untenable and illogical. The apology offered is that the republican party has been in the habit of attaching legislation of a similar character to appropriation bills. Well, now, if that were true as stated, two wrongs never made a right. But it is untrue in point of fact, if I have not searched in vain. As I understand it, whenever the republican party has attached other legislation than that germane to the appropriation bills, or that were not a part and parcel of the appropriations, it has been at a time when there was either no conflict, no difference of opinion between Congress and the President, or at a time when the republican party had a sufficient majority in both branches of Congress to pass such legislation over the President's veto; and then as a matter of economy, a saving of time, there would be nothing improper in it. But here the question is presented very differently. The two Houses of Congress perhaps differ from the President. I am not authorized to speak for him; I know if he is a good republican, which I believe he is, he will veto this bill if it passes; but I am not authorized to speak for him. Perhaps here the two Houses of Congress and the President disagree, and for the purpose of compelling the President to sanction a measure that his conscience disapproves, that the Constitution tells him he has a right to veto, they tack it on to an appropriation bill and propose to starve or to smoke out the officers of the Government and the Government itself.

Mr. Chairman, I wish to repeat, and I call the attention of gentlemen to the fact, that the right of the President to veto a measure is just as clearly defined in the Constitution as the right of this House or the other to pass a bill; and whether by subterfuge or any other legerdemain to coerce the President, to take from him that free choice which we as Representatives of the people claim for ourselves, is revolution against the Government just as much as an armed rebellion would be revolution.

But it may be our State-rights friends will say that the Government has no power to keep the peace at the polls of a State election. I do not understand that to be the proposition. I do not understand that this law was ever enforced, except in military times, at a State election. A congressional election is not a State election; it is an election under the Constitution and laws of the United States, and I want to call attention to the two provisions of the Constitution upon which I base my opinion. Sections 4 and 5 of Article 1 of the United States Constitution settle this question. I will read:

> The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

If the Constitution had stopped there our democratic friends would be right, but it does not do it. It goes on to say:

> But the Congress may at any time by law make or alter such regulations.

This gives Congress plenary power over the subject of the election of Representatives to this House and of Senators.

Now, sir, I ask every lawyer, every logical-minded man upon this floor, if under this provision of the Constitution and under the next section, which declares that—

> Each House shall be the judge of the election, returns, and qualifications of its own members.

I ask every candid man upon this floor, regardless of party, if under these provisions of the Constitution Congress has not a right, as a part of the "manner" and machinery of holding elections, to elect members of its own body, to prescribe that wherever there is a mob, whether it be through the instrumentalities of a State or a mob composed of the citizens of a State, the troops shall keep the peace at the polls, as a part of the "manner" of holding the election? And may not the President of the United States be authorized by Congress to use the Army to keep the peace at the polls and to put down the mob?

Mr. Chairman, is this a nation or is it a league of States? Our democratic friends are tremendously sensitive in regard to the presence of United States soldiers about election precincts. Is it possible that the democratic party is afraid of nobody but United States soldiers? They want United States soldiers kept from the polls, but they have not a word to say about the ku klux or the "red-shirts," "white-liners," "white-leaguers," "rifle clubs," and their like being kept from the polls. Why not amend the law so as to drive these from the ballot-box and from the polls as well as Union soldiers?

The United States soldiers are under the restraint of the law. The red-shirts are independent in their sphere and can do as they please. Now, we might all vote for the bill, I do not say that I would—if the democratic party would insert a provision that the "red-shirts" and "rifle clubs" and other *attachés* of the democratic party would be sent to the penitentiary if they appeared at the polls. [Laughter and applause on the republican side; and cries of "Go on!" on the democratic side of the House.] I know that the gentlemen on the other side like to hear me talk because they know I tell the truth about these things and about the democratic party. [Applause and laughter on the republican side.]

I now ask the question, is this a nation? If it is, has the one thirty-eighth part of the United States more power than the thirty-eight States combined and cemented together by the bonds of a written constitution, with one federal head; having executive, legislative, and judicial departments of a common government? Is it not a paradox? Is it not a caricature of all our conceptions of nationality for the party in the majority in both branches of the American Congress to seek to enforce a doctrine that would make a little petty State superior to the union of all the States in one grand whole? Sections 4 and 5 of the first article of the Constitution to which I have referred give the power that I claim, but I want to submit this solemn inquiry to this House in conclusion of what I have to say: Is it possible that this great Government of which we boast can protect its citizens upon every foreign soil under the shining sun of heaven, and cannot protect them in South Carolina and other States of the Union?

I want to see this Government made so strong—I maintain that it is already so strong that it has the power under the Constitution and the laws to carry protection to the door of every man's house, whether it is in South Carolina, Tennessee, or elsewhere, the same as it can carry protection to an American citizen even under a foreign flag.

Why, sir, suppose—and I put it to you upon this side of the House and to the gentlemen upon the other side of the House—suppose that a foreign government should treat an American citizen as men are treated in many of the Southern States about election times; suppose a foreign government should treat an American citizen thus, would not a million of men spring to arms and avenge the insult?

Here is a great country, that can make foreign nations tremble in its presence, and when it turns within its own borders has to bow to the tyranny of a petty State and stand powerless in deference to the cry of "State rights." [Applause and cries of "Go on!" by the republicans.]

Mr. THOMAS TURNER. I ask unanimous consent that the gentleman's time be extended.

The CHAIRMAN. The gentleman's time has not expired.

Mr. HOUK. You are getting scared at the wrong place. I am done shaking the "bloody shirt" now. [Laughter.] I will say to the other side of the House that if they had not bloodied the shirt in the beginning we would never have had it to shake at them. If you will never bloody it any more, we will quit shaking it. [Laughter and applause.]

Now, Mr. Chairman, if I had my way—I do not expect to get it until after 1880—I am satisfied that I will have it then, in a very large measure, because I can say to the gentlemen on the other side of the House that after that time the places that know them now will know many of them no more forever in their representative character—I say if I had my way I would have Congress take this subject of national elections in its own hands. I want to see one general law passed, and if such a measure comes before this body while I am a member, providing for the holding of national elections under and by authority of the United States, I shall vote for it to the exclusion of the States entirely.

I now desire to yield the floor, and if the gentleman from New Jersey [Mr. ROBESON] will take the scrap of time I have left I will yield to him; if not I will yield to some other gentleman. [Cries on the democratic side, "Go on!" "Go on!"] Now, gentlemen, behave yourselves [laughter on the republican side] while I yield to the distinguished gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. How much time is left of the gentleman's hour?

The CHAIRMAN. But two minutes.

Mr. ROBESON. Then I will occupy that time.

Mr. BLACKBURN. I ask unanimous consent that a reasonable time be accorded to the gentleman from New Jersey, if he will indicate how much time he wants.

The CHAIRMAN. Is there objection to the gentleman from New Jersey [Mr. ROBESON] occupying a half hour, it having been understood that he would have that much of the time of the gentleman from Tennessee, [Mr. HOUK.]

There was no objection.

Mr. ROBESON. I am very glad, Mr. Chairman, that I have not consumed any of the time which of right belonged to the gentleman from Tennessee who has just taken his seat, [Mr. HOUK.] The remarks which he made come with appropriateness and force from him, but from our stand-point at the North they would be neither so appropriate nor so effective.

I shall myself consume none of the time for which I am indebted to the courtesy of this House in any appeal to feeling or in any suggestion of facts with which I am not myself familiar, but shall confine myself wholly, if possible, to the consideration of the questions of law which seem to be involved in this discussion.

It seems to have been assumed on the other side of this Chamber that this is nothing but the repeal of a section of a law enacted in 1865; that it is a negative and not an affirmative provision. Let us see exactly what it is:

That section 2002 of the Revised Statutes be amended so as to read as follows: "No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

This omits the other exception contained in the original law. "or to keep the peace at the polls." This, then, refers to civil officers and is an affirmative repeal of the right of the civil officers of the Government to keep the peace at the polls. We are not standing here on this side of the House resisting a proposition to take away a real or imaginary power of a standing army to crush the rights of freemen at the polls. We are resisting an affirmative enactment, for the repeal of an exception in a restricting law is itself an affirmative enactment. We are, then, resisting an affirmative enactment which designs to take away the power, not of the officers of the Army alone, not of the officers at all, because they under that law as it now stands only have power as they may be ordered or summoned forth by the civil officer to whom the peace of his bailiwick is intrusted.

What, then, is intended by this provision? To restrain the civil officers of the United States Government from keeping the peace at any election in any State whether it be a United States election or not. By what means? By civil means, not by military means, for the rights of the civil officer, the marshal of the district if you please, to summon the *posse comitatus*, his right to summon any military organizations if they be within the body of his bailiwick, the right to summon armed troops to sustain his civil power, is a civil and not a military right, and is in the interest of the inviolability and the strengthening of the law against, if need be, armed military force. Can that be denied by any lawyer? Can it be controverted by any man?

Mr. KIMMEL. Will the gentleman describe the bailiwick of United States officers?

Mr. ROBESON. The jurisdiction of the United States runs into the States whenever it has a United States duty to perform. That is not only good logic but good law.

Mr. KIMMEL. To preserve the peace of an election at a State election?

Mr. ROBESON. Wherever the United States has guaranteed a right; wherever a right is derived from the Constitution of the United States and is guaranteed or is secured by it, there the United States has the right and must have the power to enforce and carry out that right.

Mr. KIMMEL. What right has it guaranteed in this respect?

Mr. ROBESON. It has guaranteed the right to every man in the State of Maryland, who has the right to vote for the most numerous branch of the Maryland Legislature, to vote at a peaceable election for members of Congress. [Applause on the republican side.]

I know what the decisions of the Supreme Court are upon that subject, and I will meet them fairly. I love the law and its principles, and I shall not shrink from the full effect of the decisions as they are pronounced by the highest tribunals of the country.

I know that the Supreme Court of the United States has declared that the United States has no voter "of its own creation" in the States. I know that it has declared that the right of suffrage is not given in the States by the Constitution of the United States. But that does not cover the case. What does the Constitution say?

The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the Legislature.

The right to vote for that most numerous branch of the Legislature is given by the States. The qualifications are made by the States. The United States does not confer the right of suffrage upon these individuals, but it adopts to its right of suffrage and takes as its voters a class which have already the right of suffrage given it by the States. It makes them its voters for the election of its officers, and if it does its duty it is bound to guarantee to them a free and fair election. [Applause.]

Let me be fully understood. It is technically and verbally true that the Constitution of the United States does not confer the right of suffrage upon the individuals who vote for the most numerous branch of the State Legislature. That right of suffrage and the qualifications necessary to it are prescribed by the State. But the Constitution of the United States does say that every man who does belong to that class, every man who has that qualification shall be an elector for members of this House. That is the right which it guarantees. It does not give to any individual the right to belong to that class; but when he belongs to that class it gives him the right to vote at an election for a member of Congress.

Mr. McLANE. Let me ask the gentleman——

Mr. ROBESON. I have but little time remaining, and perhaps I may in the course of my remarks meet the suggestion which the gentleman desires to put. If not, I hope he will call my attention to the point.

Mr. McLANE. I have no question to make with the gentleman as to his argument upon the proposition that suffrage is given by the

States, and that by the Constitution of the United States the elector made such by the States is made an elector for Representatives in Congress. The question I desire to put to the gentleman is with reference to the part of his discussion preceding that point. Do I understand him to say that the Government of the United States has the right to keep the peace anywhere within a State? Do I understand him to say that there is any "peace of the United States" at all recognized by the Supreme Court of the United States?

Mr. ROBESON. Certainly I do.

Mr. McLANE. Then I would like to ask the gentleman from New Jersey to give this Committee of the Whole any such decision of the Supreme Court. There is none such in existence.

Mr. ROBESON. I read from the opinion of Attorney-General Cushing——

Mr. McLANE. That is not an opinion of the Supreme Court of the United States.

Mr. ROBESON. No, sir; the question has never arisen so as to be decided by the Supreme Court of the United States.

Mr. McLANE. My question is whether the gentleman can refer to a decision of the Supreme Court which recognizes any peace at all as "peace of the United States."

Mr. ROBESON. Why, does the gentleman from Maryland mean to say that where the Constitution of the United States has guaranteed a public right, and where the Congress of the United States has passed a law to enforce that right—when that right is about to be exercised by the proper persons, and it is interfered with by riot and disturbance—does the gentleman mean to say that it is not within the power of the marshal of the bailiwick to use the force of that bailiwick to restrain and repress that riot?

Mr. McLANE. I have too much respect for the character of the gentleman from New Jersey——

Several MEMBERS, (to Mr. ROBESON.) Oh, go on.

Mr. ROBESON. I have been treated very fairly in this debate, and I hope the gentleman from Maryland will proceed.

Mr. McLANE. If the gentleman from New Jersey supposes that I am confounding the right of the Government of the United States to send its Army to support its marshal in the execution of a process, with the right to "keep the peace," the latter being a technical and legal term understood by every lawyer in the country—I say if the gentleman supposes that I am confounding those two questions, I cannot have any respect at all for his intelligence.

Mr. ROBESON. I recognize the distinction between the power of the marshal in the execution of the process of the courts, and the power of the marshal in the execution of other duties; but I say that the power of the marshal to summon his *posse comitatus* to execute process depends upon the power given to the courts by the Constitution of the United States and the act of Congress which authorizes him to do that; and there stands to-day upon our statute-book, not yet repealed, a law which says that the United States marshals, for the purpose of carrying out the election law, shall use the power of their bailiwicks.

Mr. McLANE. I again ask the gentleman whether there has ever been any ruling of the Supreme Court of the United States which recognizes the right of the United States to "keep the peace?"

Mr. ROBESON. I have said, and I say again, I never knew the question to arise in that form; but there have been rulings of the Supreme Court of the United States to the effect that wherever there was a right guaranteed or secured by the Constitution of the United States there rested with the United States the authority and power to enforce and secure it.

Mr. McLANE. A totally different question.

Mr. ROBESON. I am not now saying there is any decision of the Supreme Court upon that subject; once again I say that I know of none which covers that exact point. But I ask gentlemen what is the power of the Government of the United States worth if it is not clothed with authority to carry out and execute it against all interference or resistance?

Now let me read upon this subject from the decision of Mr. Justice Story in the case of Prigg *vs.* The Commonwealth of Pennsylvania—the original fugitive-slave case in this country:

> If the Constitution guarantees the right and requires the delivery on the claim of the owner, as cannot be well doubted, the natural inference necessarily is that the National Government is clothed with the necessary authority and functions to enforce it. The fundamental principle of law applicable to all this class of cases is that where the end is required the means and the power are also given.

Mr. McLANE rose.

Mr. ROBESON. Pardon me, but I cannot yield further unless there is consent that it shall not be taken out of my time. If it is not to come out of my time I will yield to the gentleman as long as he wishes.

Mr. McLANE. I submit, after the gentleman has undertaken to discuss the law of this case, it is not reasonable that he should refuse to answer the direct question I have asked.

Mr. MITCHELL. I insist the gentleman from Maryland shall not interrupt the gentleman from New Jersey, out of order and without his consent.

Mr. ROBESON. I hope that point of order will not be insisted upon. We have had nothing on this side of the House to complain of in the conduct of this bill. The gentleman who has charge of it has conducted it in good temper and courtesy.

Mr. McLANE. I should think it very extraordinary that, as a return for the courtesy extended to the gentleman from New Jersey, any man on either side of the House should attempt to withhold the same courtesy from another.

Mr. MITCHELL. The gentleman from Maryland ought not, after the courtesy has been extended to him of asking a question, proceed to take up the whole time of the gentleman from New Jersey.

Mr. GARFIELD. I have no doubt the House will make up whatever time the gentleman from New Jersey has lost.

The CHAIRMAN. The Chair will see that the gentleman from New Jersey is protected in his right.

Mr. BRIGHT. Mr. Chairman, there are other gentlemen who desire to speak upon this question, and the time under the rule cannot be extended by anybody.

Mr. ROBESON. It is true that by order of this House the time has been fixed for debate upon these measures, and that time has been divided among members who are to follow me, and it would therefore not become me to ask any further courtesy to the injury of those whose rights are involved. That is the only objection I have to yielding further to the gentleman from Maryland. I will go on and answer the gentleman by this suggestion, that if the Constitution gives the power to the United States to summon its armed posse, through its civil officer, to excute its law under the fugitive-slave act, does the gentleman mean to say that if it is at a United States election—and that perhaps is the point in dispute—if it is at a United States election that the right and interference occurs, the officer of the United States might not summon the posse and use the power of the country to insure that it shall be a free election? That is the whole point.

Mr. McLANE. I do not mean anything of the kind, but I do mean to say that the gentleman from New Jersey understands very well that the Supreme Court of the United States has decided that it has no power or jurisdiction.

Mr. ROBESON. The gentleman will have a chance to speak on this subject in his own time.

Mr. WILBER. I insist it is hardly fair that the gentleman from Maryland [Mr. McLANE] shall insist upon taking up the time of the gentleman from New Jersey.

Mr. ROBESON. I try to be fair, and the gentleman sees it. I will now return to the point I first made and repeat it, namely, that what we are resisting here is an attempt to take away the power not of the officers of the Army, not of the commanding general, not of anybody clothed with military authority, but of the civil officers of the Government to keep the peace at the polls if need be by summoning all the power of his bailiwick, including any armed force there may be in it. That is what we are resisting here. We are not here in advocacy of a war measure, but we are here to resist this restraint of civil right.

My friend, the gentleman from Ohio, [Mr. HURD,] the other day said the danger of republics came from military usurpation; that all that had perished had fallen by the sword. Well, sir, and if this be true, how do they fall by the sword? They fall by the sword when the laws are nugatory, when civil rights are denied, when the civil power of the Government cannot be enforced. This right which we are now defending is a civil power given to the officers of the law, which should in time of peace be superior to the military power of a country. It is a power which may be exercised in an extreme case to summon the brave hearts and strong arms of the citizen soldiery of any section to put down any attempt of an armed usurping power to interfere with free elections. This is not a fight we are making in behalf of a standing army; it is a fight in behalf of civil process and the power which must lie behind it, if it is to be effective.

It has also been said, Mr. Chairman, that these laws should be repealed because they are unconstitutional. How are they unconstitutional? I have already stated that the Supreme Court declares that the United States has no voters *of its own, none "of its own creation,"* not that it has no voters, but that it has no "voters of its own creation" in the States; and I suppose it is upon that point that gentlemen stand when they say the United States has and can have no election the peace of which it can guarantee within the States.

It has also been said, Mr. Chairman, and I must be hasty and suggestive only in my remarks, for so much of my time has been necessarily taken up in interruptions and properly consumed that it is almost all gone—it has also been said that this House of Representatives, by the analogy of its nature and power to that of the English House of Commons, has the right and the power to put upon an appropriation bill these clauses. I admit they have the power to put them on; but do they not go one step further? I have no right to speak for any gentleman on the other side of this Chamber. I have no right to speak for the President of the United States, but it has been given out here in debate; it has been given out through channels more or less authorized; it speaks to the common sense of the country when we see these clauses put upon an appropriation bill, that the gentlemen on the other side of the Chamber mean to say to us and to the President, "Take the whole dose or none;" that they mean to say, "Pass this affirmative repealing clause taking away the powers of civil officers to keep the peace at the polls, *or do not take the appropriations of the bill.* We do not want peace at the polls; take away the power of the law to enforce peace there or we shall refuse your supplies."

It was argued by my friend from Ohio the other day that this position was right and proper, and he said that if this should be done, there never was a case where it was more called for. Mr. Chairman, we are here members of a government under a written constitution which defines and limits the powers of all branches of the Government. One branch is hardly more popular than another. We have neither King nor Lords nor Commons. We have elements of popular government co-ordinate under our Constitution; three of them are responsible more or less directly to the people. The President of the United States goes to the people every four years to answer for his conduct and to receive their condemnation or their approval. This House goes every two years. Both are popular, both represent the people within those co-ordinate spheres and those limits which the Constitution has assigned. There is no analogy with the organization of the English government, which has a monarch with kingly and royal prerogatives, who represents himself, his family, his royalty, his prerogative, and his inheritance, and a house of peers which represents their property, their dignity, and their peerage, and the House of Commons, which alone is elected by the people and alone is responsible to them. Here all the branches of our popular Government respond to the bidding and are dependent on the votes of the people. Our Constitution provides that when there is a law on the statute-book it shall not be repealed unless that repeal has the assent of both branches of Congress and the approval of the President; and if it fail to receive the approval of the President, then the law shall not be repealed unless two-thirds of both Houses concur in that repeal.

That is all that the Constitution provides on this subject and it is all the power under the Constitution which gentlemen on the other side of this Chamber and at the other end of this Capitol have. And if they ask more than that they ask what the Constitution does not give them, because the Constitution says that when a law is once on the statute-book it shall not be swept away if the President and more than one-third of either House object. That is the limit and extent of their constitutional right and power of repeal.

And when they come here, not waiting for the time which they think they see, when they shall have all the branches of this Government under their own control, and say, "We will force this repeal, although not constitutionally entitled to it, by withholding supplies," do they not then do an unconstitutional thing? If they say to another branch of this Government, "Give us what we have no constitutional right to ask, and if you do not give it we will refuse to do our constitutional duty, refuse to do what the Constitution requires us to do," is not their action then unconstitutional? If they say to those who deny them, and who have the constitutional right to deny them, "You shall agree or we will refuse to discharge our constitutional duties; we will refuse to pay the salary of the President; we will refuse to pay the salaries and expenses of the courts; we will refuse to supply the money necessary to carry on the machinery of this Government," is not that unconstitutional? And if it be unconstitutional to do that; if their refusal goes to the destruction of the Government itself; if it stops the wheels of Government; if it brings us to a standstill and a destruction, is not that revolutionary?

My friend from Ohio, as I have already said, warned us that it becomes us to look sharply and keenly to the use of military power, for by the military and through their means republics have always died. I beg to take some issue with him there upon his historic accuracy and fairness. The last final blow to the liberties of republics has usually come from the sword, but it has not been until some branch of the government has usurped to itself rights which it did not enjoy under the constitution and laws of the country, and has thus destroyed the unity and power of civil government. It has not been until some branch of the government, usually a branch claiming most especially to represent the popular will, has usurped to itself powers which did not belong to it and absorbing or destroying the other branches, has broken down government and unsettled society. It was only after the Long Parliament of England had disgusted the people of England by their disregard of civil and of personal rights and by their assumption to themselves of everything which belonged to the government that that stern soldier, Oliver Cromwell, dared to invade that house and dissolve it with his military power. It was only after the assemblies and the councils of the French Republic had made France with its fair cornfields and its vine-clad hills run red with the blood of its best and noblest, not until Europe was appalled at the scenes of murder and of wrong which they perpetrated, not until the world stood aghast at the crimes which were committed in the name of liberty, that the young Napoleon with his armed soldiery was able to seize upon the government of the country and erect upon its ruins his military empire.

Now, Mr. Chairman, we belong to a system of Government with co-ordinate and limited powers, all bearing relation to each other, each having its appropriate sphere, each clothed with its actual duty, each having under the Constitution its proper scope, power, and restraint. It is like the solar system in the heavens, each member of it dependent upon the other, each held in its place, each governed in its motions, each restrained in its orbit by the power and the attractions of the other members of that system. Let one of those spheres invade the orbit of the others, let it break loose from the influence of the laws of gravitation which move and direct it and from the centripetal and centrifugal forces which hold and control it, what becomes of it and of the system of which it is a member? It wanders abroad not only to the destruction of its co-ordinate spheres, but an object of terror to the universe and of destruction to itself.

Now, we are here co-ordinate members of this Government, all held in harmonious accord by rights, privileges, powers, and restrictions of the Constitution of the United States; and when one member of that system breaks loose from that attraction which holds and restrains it in its true relations to the other members, its old landmarks all swept away, its old traditions all forgotten, its old and safe attractions all gone, it will riot through the system, an object of terror and dismay, a mighty instrument of evil.

Mr. Chairman, it is on the ruins of disrupted systems of government that military power arises. It is in the confusion, the disorder, arising from the loss of civil rights to be guaranteed and executed by the civil officers of the law, it is with the overthrow of constitutional law and amid the smoke of such a conflict which this occasions, that the "man on horseback" rises and liberty is sacrificed to order. So long as the civil processes of the law may be properly executed by the civil officers in this country, so long there is no danger of military power. The strong arm, the clear head, the brave hearts of our people, North and South, would never yield to a military usurper, though backed by a standing army of a million of men, unless it became absolutely necessary under the pressure of the usurped and arbitrary power of some irresponsible assemblage to sacrifice liberty to order. That time will never come in this country unless we disregard the plain teachings of the Constitution which our fathers gave to us and which we are sworn to preserve.

Mr. Chairman, the gentleman from Ohio took occasion to say, in allusion to the Executive of this country, that his title was in doubt and his tenure of office yet uncertain. I do not claim to speak for the Executive, but I cannot think the gentleman really meant all that. Certainly I hope he did not mean it as a threat, because if he did, if that is the giant of revolution "whose baby fingers to-day we see" in the action of this House, let me say to the gentleman that the excitement which is apparent throughout the country to-day is but the mutterings of a storm which will increase in fury, will grow in strength and in resistless power, until the men and the party who endeavor to unsettle the title of the President of the United States will be swept forever from the political horizon. [Loud applause.]

I am sorry, Mr. Chairman, that I have been led from the line of legal discussion which I intended to pursue, and have been only able to suggest to the House the general topics which I otherwise would have tried more carefully to illustrate.

[Here the hammer fell.]

Mr. COFFROTH. Mr. Chairman, I intended to discuss the sixth section of the bill now under consideration, and also to give a history of the act of February 25, 1865, and the reasons which prompted me to vote for it when a member of the Thirty-eighth Congress, and why I now will vote for the bill before this House, which to a certain extent modifies the act of 1865; but I am induced to yield my time to the gentleman from Kentucky, [Mr. BLACKBURN,] who will be chairman of the committee during the consideration of the legislative and judicial bill and who will not have the privilege of speaking on that bill. I will avail myself of the opportunity during the discussion of that bill to present my views. I now yield to the gentleman from Kentucky, [Mr. BLACKBURN.]

Mr. BLACKBURN. Mr. Chairman, I trust that in what I may have to submit for the consideration of this committee I shall in no wise derogate from or lower the plane of fairness and dignity with which in the main this discussion has been conducted by my colleagues on this side of the Chamber. I trust that no utterance of mine will give color to the charge that in my judgment any sectional question is involved in the consideration of the issue before this committee.

I do not intend, sir, to be personal in anything that I may say. There has come from different members of the other side of the House during this debate that which, in my judgment, requires and merits notice, and I shall go back, before I shall have finished, several days to reply as best I may to the points that have been made by the distinguished gentleman from Ohio, [Mr. GARFIELD.]

I take it, sir, that nobody is surprised at the appearance of the honorable gentleman from New Jersey [Mr. ROBESON] who last occupied the floor. This debate would not have been complete or fairly rounded out unless some member of the privy council of that imperialistic dynasty under whose administration these very vicious practices grew up which it is now sought by this amendment to repeal should have appeared upon this floor to testify in their behalf.

It is charged, sir, not that the amendment under consideration involves of itself an unconstitutional piece of legislation, but it is urged by various distinguished members on this floor that it is revolutionary in its character; that it has no proper place on an appropriation bill; that it is out of line, and deserves the condemnation of the House because it is an exotic in this connection and should have been considered as an independent bill. It is charged further that the tendency and operation of it will be to restrict the power of the President as Commander-in-Chief of the Army of the United States.

Now, Mr. Chairman, he is but a poor student of this country's history who is not able to satisfy himself that from the very formation of the Federal Constitution down to the present time it has ever been held, and that by the highest authorities of the land and never suc-

cessfully denied, that it was a power not only of the American Congress but a power of this House to control the employment of the Army by a withholding of supplies.

The debates upon the formation of the Federal Constitution which lie before me show that the brightest intellects assembled in that convention asserted this doctrine in its broadest term and no man dared gainsay it. It is one of those features of English liberty that have come down to us by adoption.

It was so stated in the debates upon the formation of this instrument, as given to us, that it is ever and always in the power of the House of Representatives, by copying the example of the House of Commons of England in withholding supplies, to control absolutely the employment and conduct of the Army. You may follow that theory down at short intervals, and in 1819, when an Army appropriation bill was considered and passed in this Chamber and it was proposed to restrict the power of the President by specifying the purposes to which the appropriations should be applied, the very same argument was made against it then that our friends upon the other side hurl against us now.

It was upon that occasion that Mr. Mercer, one of the brightest among the law-makers of the Government of his day, asserted upon this floor, without encountering contradiction, that it was in the power of the House of Representatives to withhold supplies altogether for the maintenance of the Army if, indeed, that should become necessary to control its operation. It was then that one whose patriotism has never yet been questioned, though it has survived through the greater portion of a fading century only to grow brighter as the ages go by—it was then that not only Kentucky's, but America's great commoner, Mr. Clay, declared in his burning words of eloquence, uttered where we now sit, that he was ready to make the issue with the Executive and offer him a bill with the objectionable features incorporated in it, and to say to the Executive: "Sign or refuse to sign it; but if you do refuse to sign it, declaring that we have not the power to pass it, then my answer to you shall be, neither has the Executive the power that you arrogate to yourself." And you may come down from then till now, and never in the history of this Government has it been denied that the Constitution itself, which gives to Congress the right to pass these money bills to provide means for the support and maintenance of a military establishment, carries with it the resultant right on the part of Congress to withhold those appropriations when in its judgment it is necessary to prevent abuses in the employment of the military.

In the very nature of things this proposed amendment of the law cannot be revolutionary. It is a repealing statute; its only purpose and object is to repeal an existing law. I will not now pause to tell how or under what circumstances it was passed; I will not now pause to delineate the motives which, in a great measure, because of the prevalence of natural passions, inspired, if they did not excuse, the passage of this law. But in the very nature of things this amendment cannot be revolutionary. Negative legislation is never revolutionary. This is not affirmative legislation, twist the issue as the gentleman from New Jersey [Mr. ROBESON] may seek to do. Buckle, the most philosophic of all historians either ancient or modern, has told us that the statesman and the law-maker seldom, if ever, render a benefit to mankind by the enactment of affirmative laws; that it is rather by the repealing of obnoxious and vicious enactments that they entitle themselves to the gratitude of humanity.

As I have said, this measure is in its very nature anything but revolutionary. Will it be claimed—is there a gentleman upon that side of this Chamber who will undertake to claim—that by reason of any provisions of the Federal Constitution the President now holds the power of which this amendment proposes to deprive him? Is there a man left in this House on either side who, after the clear and logical presentation of the issue made a few days since by my colleague from Kentucky, [Mr. CARLISLE,] will undertake to assert that there was any such power on the part of the Executive prior to the act of Congress of 1795?

Sir, if the utmost be granted, if it be admitted instead of being denied, as we deny it, that this power was originally held by the President, it was held by reason of a congressional statute, and of necessity the authority passing that statute and conferring that power must be clothed with equal authority to repeal it.

The Constitution does not give to the President the right to send the armed forces of this Government into any State even to suppress domestic violence; by no means. It gives the right to the President of his own motion, it goes further and requires him, to protect each State from invasion by the employment of the military power. But it only confers upon him the authority to send the armed soldiers of this Government into a State to suppress domestic violence when the Legislature of that State, or its governor, the Legislature not being convened, shall make a requisition upon him.

He is not to proceed upon apprehension; he is not permitted to anticipate domestic violence. Neither he nor the executive of the State nor its Legislature are permitted to exercise such anticipation. It must be upon a pre-existing state of things. Domestic violence must exist and that fact must be certified by the Legislature of the State whose peace is disturbed, or when that Legislature may not be convened, then by the chief executive of that Commonwealth.

The President of the United States is the recipient of no power of implication. There is not a prerogative that he holds which is not clearly defined and clearly limited by the provisions of our organic law. That Constitution has made this Congress, in express terms by positive provision, the grand reservoir into which all powers of implication flow. No, sir; this amendment cannot in the very nature of things contemplate revolutionary action.

But it is said that it is not in its proper place when ingrafted upon an appropriation bill. Is there a gentleman in this Chamber who will dare deny or take issue with me upon the assertion—and I make it measuring the full import of my words after a careful examination of the statutes—that more than one-third of the permanent legislation affecting or relating to the Army of this Government, as it stands upon the statute-books of your country to-day, has been put there as riders upon Army appropriation bills?

I do not care to trench upon the patience of this committee by any elaborate review of the countless instances which that side of the House have furnished us in the shape of precedents for the action that we take. Sir, if lectures upon revolution are to be read to us, let them come from some quarter and from some member who is not himself convicted on the record.

The gentleman from Ohio [Mr. GARFIELD] told us that this was an effort, an unmanly effort, to starve the Government to death. He contrasted it with what he termed the bolder and braver action of certain members of Congress in 1861, when they left their seats in these two Chambers and carried their issue to the field of carnage. He tells us that this is revolution, and he denounces any effort we make to adopt it.

Mr. Chairman, better would it have been for the people of this land if the well-earned power of the distinguished gentleman from Ohio had been employed at an earlier period of his political history in averting, denouncing, and opposing revolutionary legislation. Does the gentleman remember the record that he made in 1865 upon an amendment offered by Mr. Wilson, of Iowa, proposing to revolutionize the judicial system of his country, proposing to rob a co-ordinate branch of the Government, and that, too, the last barrier behind which the liberty of the citizen finds shelter, proposing to strip the Supreme Court of the United States of the prerogative and power with which the Federal Constitution has clothed it? Does he remember the record he made when Mr. Wilson's amendment, which reads as follows, was offered?

Provided, however, That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any other proceeding shall be had upon it, shall be certified up to the Supreme Court of the United States and shall be considered therein, and if upon the consideration thereof two-thirds of all the members of the Supreme Court shall not affirm said judgment below, the same shall be declared and held reversed.

Upon the call of the yeas and nays the gentleman from Ohio is found voting "ay;" and then that amendment was passed through this House by the aid of that gentleman's vote. That court then consisted of eight judges; and under the bill it required six of the Supreme Court judges, more than a quorum, to affirm the opinion of a district or circuit Federal court declaring unconstitutional one of the gentleman's own ill-advised, hasty, crude, if not partisan measures. Here, sir, I beg the attention of the committee for a minute. A district Federal judge might hold one of these hasty laws unconstitutional; upon appeal the circuit Federal judge might affirm that decision. What then? The United States district attorney might concur in the judgment rendered. No appeal might be asked. But under that act, which received the support of the gentleman from Ohio, it became absolutely imperative to certify the record without appeal (nobody complaining) to the Supreme Court of the United States. And then what? Under the law a majority of that court constituted a quorum. Five is a majority of eight. Five of those Supreme Court judges, clothed in their spotless ermine, might be upon the bench. All five of them might by unanimous concurrent action declare that the two lower judgments were correct, and yet that law was to be held, under the bill which the gentleman supported, constitutional and valid. Revolution! What is there (before I get through I will ask this committee to tell me) that the party the gentleman so ably leads has not done in that direction?

But, sir, this is not all. The gentleman from Ohio in that effective and able speech to which he treated this House a few days ago used the following language, which I read from the RECORD:

In opening this debate, I challenge all comers to show a single instance in our history where this consent has been coerced.

What consent? The consent of the Executive by extraneous matter injected into appropriation bills.

This is the great, the paramount issue, which dwarfs all others into insignificance.

I accept the gage of battle that the gentleman throws down. I read from the records and show him the instance he seeks. I find that on the 2d day of March, 1867, a thing occurred in this House of which the gentleman should have been cognizant, for he was then as now an honored member on this floor. I find the following message was sent by the then President of the United States to the House of Representatives:

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army—

Ah, by singular coincidence that too was an Army bill, just as this is.

The act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. Those provisions are contained in the second section which in certain cases virtually deprives the President of his constitutional functions as Commander-in-Chief of the Army, and in the sixth section which denies to ten States of this Union their constitutional right to protect themselves in any emergency by means of their own militia. These provisions are out of place in an appropriation act.

Did the gentleman from Ohio borrow his recently used protest from this official protest of the Executive of the country?

These provisions are out of place in an appropriation act. I am compelled to defeat these necessary appropriations if I withhold my signature to the act. Pressed by these considerations—

I grant you, he does not say "coerced."

Pressed by these considerations, I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

ANDREW JOHNSON.

MARCH 2, 1867.

Is there no coercion there? Why, sir, the record is full. In an act making appropriations for the sundry civil expenses of this Government for the year ending June 30, 1865, it was provided that in the courts of the United States there should be no exclusion of any witness on account of color, or in any other civil action because he is a party interested in the issue to be tried. Is not that extraneous matter? Yet upon this bill the record shows that the gentleman from Ohio is found voting in the list of ayes.

But, sir, worse than all this, I find that on a memorable occasion in the Thirty-ninth Congress, of which the gentleman from Ohio was likewise a member, that occurred which will never fade from the minds of the American people. I refer to the proceedings looking to the impeachment of the Chief Executive of this Republic, which came so nigh resulting in conviction. On that occasion I find that a colleague of the gentleman from Ohio, Mr. Ashley, moved to suspend the rules to allow him to make a report from the Committee on what? Judiciary? No, sir. From the Committee on Territories, in the nature of a resolution impeaching the President of the American Government for high crimes and misdemeanors. On the yea-and-nay vote I find the gentleman from Ohio voted "ay."

And I find further, sir, the counts upon which those impeachment articles were predicated, and I beg to call the attention of this committee to them. Mr. Ashley said:

I do impeach Andrew Johnson, Vice-President and acting President of the United States, of high crimes and misdemeanors.

I charge him with usurpation of power and violation of law—

And now come the five counts in the indictment, and I beg the careful attention of this committee, for I will bring it home to the very issue that the gentleman from Ohio has courted in this contest—

In that he has corruptly used the appointing power.

I put the gentleman on his candor and submit to him to say whether he ever intended to impeach the President for that? The country knows he did not. That appointing power had not been wielded in such a way as to merit the censure of the gentleman himself.

Secondly, in that he has corruptly used the pardoning power.

Did the gentleman from Ohio mean to impeach him for that? I will answer for him, no. Everybody knows he did not.

Thirdly, in that he has corruptly used the veto power.

And there was where the sting came in. It was the exercise of that constitutional prerogative, it was the employment of the veto power, for which the House and the gentleman from Ohio voted these articles of impeachment, coupled with one other offense only.

Fourthly, in that he has corruptly disposed of the public property of the United States.

That was a mere formal count in the indictment, and I doubt not that the gentleman from Ohio will admit it.

Fifthly, in that he has corruptly interfered—

In what?

in the elections and did acts which in contemplation of the Constitution are high crimes and misdemeanors.

There were but two counts in that indictment upon which it was proposed to impeach the Executive; it was the exercise of the veto power and it was his interference, not in elections, but his interference to prevent the interference of the armed power of this Government in the elections of this country. Was the denunciation still ringing in that gentleman's ears which the then President had employed in his interview with General Emory, denouncing as subversive of all the principles of free government the interference of the military with the right of suffrage at the polls?

But, Mr. Chairman, these counts in this indictment were voted on more than once. The gentleman from Ohio is recorded every time as voting in their favor. And may I be permitted to remind this committee that the record of that Congress shows that he was supported in his action, that he had standing by him, voting side by side with him to impeach the President for the legitimate exercise of the veto power, one who was then comparatively obscure and who but for a combination of accidents would have remained to this day and until his dying day in that obscurity for which nature and his Creator seemed so designedly to have fitted him—that side by side with the gentleman from Ohio stood and voted with him Mr. Rutherford B. Hayes, with whose prospective veto we are threatened. [Applause and laughter.] Now, sir, I beg you to tell me by what rule of consistency does the gentleman from Ohio come upon this floor to flaunt in the face of an American Congress an anticipated exercise by this Executive of his veto when he and that Executive both stand committed upon the record to his impeachment if he dares to employ it?

And while I am at this point I might ask by what sort of authority either that gentleman or any other comes upon this floor to threaten us with the probable or possible action of that Executive at all? What provision of the Federal Constitution, what law enacted by any preceding Congress undertakes to clothe anybody, either that President himself or one of his privy council, even including his premier, his Secretary of State, to sit as he did on the floor of this Chamber on Saturday of last week and by his presence and his indications of approval seek to intimidate, overawe, [cries of "Oh!" on the republican side,] and browbeat an American Congress? Who commissioned the gentleman from Ohio to tell us that we had best be careful because the issue was made and the Executive would not be coerced into a message of approval?

Mr. Chairman, I am advised that thirty minutes of the hour allowed me have expired and the remaining portion of my hour I am compelled by agreement to yield to my friend from Louisiana, [Mr. GIBSON.]

Mr. GARFIELD. I hope the gentleman will not be cut off.

Mr. HUNTON. I move the time of the gentleman be extended.

[Cries of "Go on!" from both sides of the House.]

The CHAIRMAN. There is no objection, and the gentleman will proceed.

Mr. BLACKBURN. Then, Mr. Chairman, I thank the House for its kindness. I would ask, does the gentleman from Ohio, or does any other gentleman, put so low an estimate upon the self-respect, the integrity, the courage, and the manhood of this House, without regard to party, as to believe that such a threat so flaunted is to intimidate the law-making branch of this Government to shape its action on measures of legislation? I cannot think that we are measured by so short a standard.

But, sir, I am not through with the speech which the gentleman has made. He tells us:

The proposition now is, that after fourteen years have passed, and not one petition from one American citizen has come to us asking that this law be repealed; while not one memorial has found its way to our desks complaining of the law, so far as I have heard, the democratic House of Representatives now holds that if they are not permitted to force upon another House and upon the Executive against their consent the repeal of a law that democrats made, this refusal shall be considered a sufficient ground for starving this Government to death. That is the proposition which we denounce as revolution.

And that was received with applause on the republican side.

Does the gentleman from Ohio mean to stand upon that declaration? By that significant nod he says that he does. Does he not know that the Congress just expired bore upon its files petition after petition, memorial after memorial, in contested-election cases, sent by the House to its committee, protesting against the presence of the military at the polls and denouncing the usurpation, demanding its repeal, in order that a free ballot might be had? Does the gentleman fail to remember that the State of Louisiana, a sovereign State of this confederacy once more, thank God, sent her memorial to these Halls, in which in thunder tones she uttered her anathemas against the very practice which this amendment seeks to correct?

But that gentleman did more; he went further and, if possible, he did worse. I mean to deal in exact fairness. I even mean to be liberal in the construction I put upon his utterances.

Mr. Chairman, it is generally true that the grave suffices to silence the tongue of detraction. It is not often that its darkened portals are invaded to pronounce severe criticism, even though richly deserved, if it is to be pronounced upon the dead. But the gentleman from Ohio, forgetting himself in his speech on last Saturday, forgot also to observe this manly and magnanimous rule. By that speech he certainly must have sought, or, if not seeking, he was unfortunate in producing the impression that a distinguished dead Senator from the State of Kentucky had introduced into the Federal Senate Chamber the bill which we by this amendment seek to repeal, and to send his name down to posterity to be blasted by the act, if indeed he had performed it, and that charge to rest upon that gentleman's own high authority. I hold in my hand the very bill, No. 37, which was introduced upon the 5th of January, 1864, by Senator Powell, of Kentucky. There lies before me on my desk the manly, statesmanlike, and patriotic, bold utterances that he delivered in the shape of a speech upon the consideration of that bill. I challenge the gentleman to find within the limits of this measure a single, solitary provision, line, sentence, word, or syllable that this amendment seeks to repeal.

Does not the gentleman know—if he does not, it is his fault—that the amendment incorporated upon this bill which we now seek to repeal was incorporated and ingrafted upon it, not when the Senate was in Committee of the Whole but in open Senate, upon motion of Senator Pomeroy, and when the vote was taken upon that amendment by yeas and nays, every solitary democrat in that Chamber voted against it and put the seal of his condemnation upon it, Mr. Powell among the number? Here stands Senator Powell's utterance, in which he explains how and why it was that the democratic members in that body and this body at last accepted this as the best that could be

had; notwithstanding, against their protest, the ingrafting of the Pomeroy amendment, because it was to be taken in lieu of what they charged was true, of what the President of the United States in an official communication to Congress had declared to be true, that in the absence of even the limitations that amended bill would give, the military authorities and officers of the Government had arrogated to themselves the power in all the lately seceding States of declaring what should be the qualification of voters and what should be the qualification to hold office. It was as the least offensive of two offensive alternatives. It was not candid, it was not fair; the record rebukes the gentleman for seeking to place a dead statesman in such a false position.

But, Mr. Chairman, it is useless to follow these things further. It is not, sir, for me to waste the time and trench upon the patience of this committee by following out the tergiversations through which the republican party has wound itself to this high plane of protest against revolutionary legislation. Why, sir, the gentleman from Ohio, in 1872, made a speech upon this floor which he will not deny. It was, as is always the case with his efforts, an adroit as well as an able speech. In that he declared that the minority to which we then belonged, but in which in God's providence we are no longer found—he declared that the minority were guilty of revolution. For what? Because they insisted that extraneous matter should not be put upon appropriation bills. He said that was revolution. [Laughter and applause.] We took him at his word, and now where does he stand? It was revolution then to resist the injection of extraneous matter over the protest of the majority. It is revolution now for the majority to resist that same protest of that minority; but in the one case it was his side protesting, in the other case it was ours.

Ah, Mr. Chairman, let one take the darkened pages of his country's history for the last seventeen long years and read it carefully, and tell me then whether it lies in the mouth of that worthy leader of a once great but waning party to read lectures to anybody, either upon the score of revolutionary legislation or of extraneous introductions into appropriation bills. Better far in the face of the record that they have made, better to listen patiently to the confirmed inebriate as he dilates upon the virtues of temperance, better let the queen of the demi-monde elaborate the beauties of female virtue, or let the devil prate of the scheme of universal redemption, than for homilies upon good morals and lectures upon revolutionary legislation to be delivered from such a source. [Applause.]

There is but one issue here, and I insist that neither this House nor the people of this country shall be allowed to wander from it. It is but this, and nothing more: whether the military power shall be allowed at your polls; whether the elections shall be guarded by the mailed hand of military power; whether the ballot-box, that last and safest shield of the freeman's liberties, shall be turned over to the tender mercies of the armies of your land. Or to state it yet more tersely and probably more fairly, it is simply whether the spirit and the genius of this Government shall be reversed, and whether the civil shall be made subordinate to the military power.

Why, sir, among the most favored, the most cherished and precious principles ingrafted on our system of government from our old prototype, the English people, is that provision which would not tolerate not only the interference but the presence of the military at the polls. Over one hundred years ago an English statute declared the will of Englishmen upon this vital question. I read the statute:

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons in Parliament assembled, and by the authority of the same, That when and as often as any election of any peer or peers to represent the peers of Scotland in Parliament, or any member or members to serve in Parliament, shall be appointed to be made, the secretary at war for the time being, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders, in writing, for the removal of every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place where such election shall be appointed to be made, out of every such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, as aforesaid, until one day at the least after the poll to be taken at such election shall be ended and the poll-books closed.—*Statute George II.*

From that time till now I do declare that it is not within the power of any man to find a single scion of the Saxon race that has not held in utter abhorrence the efforts of him or them who sought to control the freedom of the ballot by the employment of the military power. [Applause.]

The very Army of this country protests against such a prostitution of its service.

I see before me the justly distinguished General-in-Chief of our Army, and I do not believe that I overstate the fact when I say that from him down to the private in the ranks it is difficult to find one who has not recoiled from this service which they have been called upon to render. [Applause.]

It is this question, and it is none other, that I insist shall be kept before this House. We are declaring that the ballot shall be free. We are denying that it is either constitutional, legal, just, fair, or decent, to subject the sovereign to the surveillance of the soldier.

Now, upon that issue the gentleman from Ohio and his associates tell us that they stand committed. I answer so do we. We are willing to discuss it, and for my part I shall oppose any limitation being put upon this debate. If we cannot stand upon an issue so broad, so constitutional, so catholic, so fair, so free as this, then tell me in Heaven's name where are there battlements strong enough for us to get behind? Let it go to the country that one party asserts that the manacles shall fall from the limbs of the citizen, and that the Army shall not hold its mailed hand at the throat of the sovereign, and that the other party refuses to release the throttling grasp, and declares that it will block the wheels of the government and bring it to starvation.

I am willing, and those with whom I stand are willing, to accept this issue, and we go further, we tender it. We are the ones to make the issue and we are ready for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgement of the liberty of the citizen.

We demand an untrammeled election; no supervising of the ballot by the Army. Free, absolutely free right to the citizen in the deposit of his ballot as a condition-precedent to the passage of your bills.

Now, sir, if the gentleman from Ohio is to be excused, for surely he cannot be justified, if he is to be excused for parading before this House the threat, the *argumentum in terrorem* of a veto that is already cut and dried to be placed upon a bill that is not yet passed; if he is to be pardoned for warning this House that the executive branch of this Government will never yield its assent to this measure in its present form, may I not be warranted and justified in employing equal candor, and may I not assure that gentleman and his associates that the dominant party of this Congress, the ruling element of this body, is also equally determined that until their just demands are satisfied, demands sanctioned by all laws human and divine, protected and hedged around by precedents without number, demanded by the people of this land without regard to section, who are clamoring for a free, untrammeled ballot (not for the South, I beg you to remember, for if there be sectionality in this issue I cannot discover it;) for Philadelphia as well as for New Orleans, for San Fransisco and Boston as well as for Charleston and Savannah—that this side of the Chamber, which has demonstrated its power, never means to yield or surrender until this Congress shall have died by virtue of its limitation. [Applause on the democratic side.] We will not yield. A principle cannot be compromised. It may be surrendered; but that can only be done by its advocates giving proof to the world that they are cravens and cowards, lacking the courage of their own conviction. We cannot yield, and will not surrender.

Let me assure my friend, and it is a picture that I know he does not dwell upon with pleasure, that this is the restoration to power of a party as old as our Government itself, which for almost a hundred years has stood the boldest, fairest, freest exponent and champion and defender of the doctrine of constitutional limitations against the doctrine of the aggrandizement of power. It is this organization that has come back to rule, that means to rule, and means to rule in obedience to law.

Now, sir, the issue is laid down, the gage of battle is delivered. Lift it when you please; we are willing to appeal to that sovereign arbiter that the gentleman so handsomely lauded, the American people, to decide between us.

Standing upon such grounds, we intend to deny to the President of this Republic the right to exercise such unconstitutional power. We do not mean to pitch this contest upon ground of objection to him who happens, if not by the grace of God yet by the run of luck, to be administering that office.

I tell you here that if from yonder canvas [pointing to the picture of Washington] the first President of this Republic should step down and resume those powers that the grateful people of an infant republic conferred upon him as their first Chief Magistrate, if he were here fired by that patriotic ardor that moved him in the earlier and better days of this Republic, to him we would never consent to yield such dangerous and unwarranted powers, to rest the liberties of the citizen upon any one man's discretion, nor would he receive it.

It was not for the earlier but for the later Executives of this Government to grasp and seek to retain such questionable prerogatives. You cannot have it. The issue is made—it is made upon principle, not upon policy. It cannot be abandoned; it will not be surrendered. Standing upon such ground, clothed in such a panoply, resting this case upon the broadest principles of eternal justice, we are content to appeal to the people of this land. There is no tribunal to which we are not willing to carry this case of contest; and we are willing to allow Him who rules the destinies of men to judge between us and give victory to the right.

I do not mean to issue a threat. Unlike the gentleman from Ohio, I disclaim any authority to threaten. But I do mean to say that it is my deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by

parade of power. He must stand upon his conviction and there we will all stand. He who dallies is a dastard, and he who doubts is damned. [Great applause on the democratic side.]

If I have any time left, Mr. Chairman, I will yield it to the gentleman from Louisiana, [Mr. GIBSON.] I would not have used all this time, but I understood I was indebted to the courtesy of my friend across the way, [Mr. GARFIELD,] who asked at the expiration of the thirty minutes that unanimous consent be given for the extension of my time. I understood that was not to affect the half hour which I intended to yield to my friend from Louisiana.

Mr. GARFIELD. That is right.

Mr. BLACKBURN. I yield now to the gentleman from Louisiana.

Mr. GIBSON, (at three o'clock and fifty minutes p. m.) In a few minutes the time will arrive when the House has ordered that a recess shall be taken.

The CHAIRMAN. The time for a recess has been fixed at half past four o'clock.

Mr. SPARKS. And that is nearly an hour from now.

Mr. GIBSON. Mr. Chairman, the gentleman from Ohio [Mr. GARFIELD] brought to the attention of this House the various means by which the framework of our Government might be dissolved on what he called "the voluntary principle," borrowing the phrase from the distinguished writer, Mr. Bagehot, whose work on the English constitution is one of the ablest disquisitions both upon the British and American governments that has recently appeared. We were informed that without striking a blow the States of the Union by refusing to elect Senators could destroy the Senate and thus suspend all constitutional functions; that the people of the country by declining to elect Representatives to this House might remove the very foundation of the structure; and that even a majority of this House, by adjourning from day to day and failing to vote the necessary supplies for the maintenance of the Government, might thus take away the vital principle indispensable to its operations.

The gentleman pictured to us the Government melting away and disappearing from the face of the earth by the voluntary inaction of unwilling and unpatriotic States; of the people lost to all sense of self-interest or patriotism; and of majorities of their Representatives violating their oaths to support the Constitution. But there was one process by which the Government may be destroyed which escaped the ingenuity of the gentleman. He could see very well how it might be starved to death by majorities both of the people and of their Representatives, but he failed to tell us how it might also be starved to death by a partisan minority of the Representatives combining with an unpatriotic, weak, or unwilling Executive to refuse supplies even though voted without conditions by a majority of only less than two-thirds in both branches of Congress. Is it more likely that this Government shall perish at the hands of the people, or of a majority of their Representatives in this and in the other House than by disappointed minorities in league with the Executive?

Have majorities become so dangerous? If the States and the people and their representatives in the Government cannot be trusted, who shall be? *Quis custodiet custodes?* The fact is, Mr. Chairman, our governmental organization, like all others, rests upon the voluntary principle. The Constitution is not self-operative; it merely divides, enumerates, and limits the power confided to the three branches of the Federal Government. It ordains and establishes, not a mere speculative system, but a government, and the representatives of the people in every department of it are expected, not only to govern the people in conformity with the Constitution, but to govern themselves. Members of Congress, the Supreme Court, the Executive, each and all, are sworn to support and defend the Constitution.

No one can deny that the power rests with the President to accept or to reject supplies. Nor can any one deny that the lower House may vote or decline to vote supplies. The real question is whether the President is justifiable in exercising the veto power against the pending bill and thus creating an antagonism between the executive and the legislative departments of the Government. We cannot afford to discuss this question as one of mechanics and attempt to solve it by merely measuring the strength of the opposing forces. Conceding the power to both, it would be like discussing the question as to what would be the result if an irresistible force came in contact with an immovable body. The question is one of duty, of statesmanship, and it should be determined by the Constitution, by the precedents and practice of the Government, by consulting the fathers of the Constitution and the learned commentators upon that instrument. I ask, then, is the President justifiable in refusing the supplies now tendered him by the Congress of the United States?

The gentleman from Ohio and most of his associates admit that they would be in favor of both the bill for the supplies and the amendment prohibiting the use of troops at the polls if they were severed and offered as independent measures. But they suggest and invoke the Executive veto, not that either measure is objectionable, but upon the ground that the methods adopted by this House are unconstitutional, that the amendment striking out the provision for troops to keep peace at the polls is not germane nor in the direction of retrenchment of expenditures. They contend that because we have determined to couple this amendment with the appropriation bill it is an attempt to coerce the minority and the President. The gentleman from Ohio says:

> We are ready to pass these bills for the support of the Government at any hour when you will offer them in the ordinary way by the methods prescribed by the Constitution. If you offer those other propositions of legislation as separate measures we may meet you in the fraternal spirit of fair debate and will discuss their merits. Some of your measures many of us will vote for in separate bills, but you shall not coerce any independent branch of the Government, even by the threat of starvation, to consent to surrender its voluntary powers until the question has been appealed to the sovereign and decided in your favor. On this ground we plant ourselves, and here we will stand to the end.

The distinguished gentleman knows full well that his side of the House, being a minority, can offer no lawful or successful resistance to these measures even in their present form. Upon what ground, then, does he plant himself when he insists that we shall not coerce an independent branch of the Government? He evidently is speaking of the executive department of the Government, for the only barrier behind which the minority in this House may intrench itself against the legitimate will of the majority is the veto power of the President.

The gentleman's speech is an adroit and passionate appeal to the Chief Executive to join the minority in their opposition to this measure, to communicate to him the passions which excite them, and to reject the supplies contained in the bill, and thus to bring about a crisis in the Government. I recur then, sir, to the main question, Would the President be justifiable? In the first place, I lay down the proposition that, while it is perfectly proper for the gentlemen who compose the minority of this House to resist this legislation with all the power that the Constitution and rules of this House give them, that the President of the United States can find no authority or justification for vetoing this bill upon the ground that the proceedings of this or the other House of Congress were unparliamentary; that they had no right to "tack to" an appropriation bill the amendment forbidding the use of troops at the polls. The powers of the Executive are enumerated and defined in the Constitution. He possesses no implied powers. He does possess the veto power, but by the express provisions of section 7 of the Constitution it is conferred upon him over every bill, order, or resolution or vote only to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment. But section 5 of the Constitution provides that "each House may determine the rules of its proceedings."

Hence it is clear that as to every resolution, order, or vote to which the concurrence of the Senate is not necessary the veto of the President may not be exercised.

Now we may well ask why was it that the Constitution limited the power of the veto to such bills, orders, and resolutions as required the concurrence of both Houses of Congress? Why did it not extend to orders and resolutions and votes of the separate bodies? Evidently it was to protect the independence of these bodies as separate branches of the Government, to prevent the Executive from interfering with their proceedings or to have any control over them. Hence we find that the Constitution has not only limited the veto to cases requiring the concurrent votes of the two Houses, but has expressly vested each House with the power of establishing its own rules of proceeding according to its will and pleasure, without limitation or check. The Executive cannot question these proceedings. The gentleman cannot show a single clause of the Constitution which gives him such authority, either directly or by implication.

The framers of the Constitution departed from the model from which our institutions are drawn in that they denied the ministers of the President any participation in the proceedings of this House. And although in common parlance it is said that the veto power itself is legislative in its character, yet that character is limited and qualified by the Constitution. It cannot enter here, it cannot amend, it cannot vote on any proposition pending before this body. But for these guarantees the executive department of the Government would practically override all the safeguards for the free action of this House, and we should indeed cease to be independent legislators or worthy Representatives of a free people. Story on the Constitution says:

> No person can doubt the propriety of the provision authorizing each House to determine the rule of its own proceedings. If the power did not exist it would be utterly impracticable to transact the business of the nation either at all or, at least, with decency, deliberation, and order.

These guarantees for the independence and integrity of this House were not invented by the framers of the Constitution but were drawn from the institutions of that stormy isle which for more than two hundred years has given shelter to the freedom of law, when it was driven from every other land, in the forms and sturdy independence of her Parliament.

In May on Parliamentary Practice, page 61, the learned commentator says:

> At the commencement of every Parliament since the sixth of Henry VIII, it has been the custom for the speaker—
>
> In the name and on behalf of the Commons to lay claim, by humble petition, to their ancient and undoubted rights and privileges; particularly that their persons and servants might be free from arrest and all molestations; that they may enjoy liberty of speech in all their debates; may have access to her majesty's royal person whenever occasion shall require; and that all their proceedings may receive from her majesty the most favorable consideration.
>
> To which the lord chancellor replies:
>
> Her majesty most readily confirms all the rights and privileges which have ever been granted to or conferred upon the Commons by her majesty or any of her royal predecessors.

But the author adds:

> But whatever may have been the origin and cause of this custom, and however

great the concession in the Crown may appear, the privileges of the Commons are nevertheless independent of the Crown and are enjoyed irrespective of their petition.

* * * * * * *

The occasions for this courtesy are also limited; as by law and custom of Parliament the queen cannot take notice of anything said or done in the house, but by the report of the house itself.

Each house as a constituent part of Parliament exercises its own privileges independently of the other.

* * * * * * *

The law of Parliament is thus defined by two eminent authorities. As every court of justice hath laws and customs for its direction, some the civil and canon, some the common law, others their own peculiar laws and customs, so the high court of Parliament hath also its own peculiar law called the *lex et consuetudo parliamenti*. This law of Parliament is admitted to be part of the unwritten law of the land, and as such is only to be collected according to the words of Sir Edward Coke, "out of the rolls of Parliament and other records, and by precedents and continued experience;" to which it is added, that whatever matter arises concerning either house of Parliament ought to be discussed and adjudged in that house to which it relates, and not elsewhere.

No one will deny, therefore, that the rules of procedure of this House are and must be entirely independent of executive interference. It will be admitted that the pending bill has been fully discussed according to the parliamentary methods long since established for our guidance, and that it is being carried through this House in accordance with its ancient forms. True it is that the minority of this House contend that the amendment "tacked on" the bill is violative of the rules; but the majority possess the constitutional right and power to interpret the rules; and on appeal from the decision of the Chair, on a yea-and-nay vote, this amendment has been held to be clearly in accord with Rule 120, allowing amendments to bills which, "being germane to the subject-matter, shall retrench expenditures." This decision by a majority of the House is an end of the question; otherwise we admit that the minority must control.

Now, can it possibly be contended that the minority can appeal to the President of the United States on a question concerning the proceedings of this House, and invoke the exercise of the veto power against a bill of supplies upon the ground that these proceedings are irregular or vicious? If it be so, then, indeed, instead of a majority of this House electing its Speaker and determining the rules of its proceedings, the President might at once designate the Speaker of the House and his Cabinet provide rules and regulations for our government. I am not arguing now, I wish it to be distinctly understood, against the power of the President to veto any measure upon the ground of its unconstitutionality or of its invading the prerogatives of the Executive, or of its being against the well-being of the Republic, or, in other words, upon its merits. But I contend that it would be an unconstitutional exercise of the veto power for him to rest it upon the proposition that the methods of legislation which we have adopted were objectionable to him, or in his judgment in defiance of the parliamentary precedents and rules. While the Senate may not originate revenue or money bills, yet it "may propose or concur with amendments as on other bills." They not only have the constitutional right to adopt their own rules of procedure, but they have the constitutional power to accept, to amend, or to reject revenue bills, in the expressed language of the Constitution itself. They might determine when this amendment comes before them that it was not germane, that it was not appropriate to the supply bill, because they possess these legislative functions; but the President of the United States cannot, without an unwarranted invasion of the rights and privileges of this House, take notice of its proceedings and plant his veto upon any bill emanating from it upon the ground that the proceedings by which it was adopted were irregular or unparliamentary. That is a matter for the legislative department of the Government to determine.

The House of Lords, possessing legislative power, passed an act on December 9, 1702, declaring "that the annexing of any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unparliamentary and tends to the destruction of the constitution of its government." The question then arises, who is to determine when the matter is foreign and different from the matter of the said supply bill? In the lower House it is the majority of its members; in the Senate a majority of the Senate. And so in the English Parliament it is a majority of the lower house, and in the House of Lords a majority of the peers. But has it been contended within the last two centuries that the sovereign of Great Britain might veto a bill which came to him offering supplies by the concurring voices of both houses of Parliament upon the ground that there were certain amendments to the supply bill which in his judgment were "foreign" and therefore unparliamentary? No such instance can be cited from the history of Great Britain or from the history of our own country. The veto power in our own country, whenever exercised, has been independent of the rules of proceedings of the Houses, and upon the ground that it was necessary either to protect the Constitution, the general welfare of the people, or the prerogatives of the Executive itself. Therefore it is, Mr. Chairman, that I go so far as to claim that if the gentleman himself were in the presidential chair, with his speech in his hand, he would be constrained to accept the supplies tendered by this bill; for as the Executive, his eyes would be closed as to the methods which had been adopted by this House, and the only question before him would be whether on the merits the bill was acceptable or not. The honorable gentleman has declared that he was in favor of the bill and will vote cheerfully for it upon its merits.

Let us see how a veto message upon the grounds held by the gentleman from Ohio would read.

Gentlemen of the House of Representatives:

I return to your honorable body with my objections the bill of supplies for the Army.

I would cheerfully approve both the bill and the amendment prohibiting the employment of the Army at the polls if they came before me as separate measures.

I concur with the Congress that the Army should not be stationed at the voting precincts of the people, and that the executive branch of the Government should exercise no power whatever over elections for the lower House of Congress. While I would resist any encroachment upon executive prerogatives by Congress I deem it equally important that the Executive should abstain from all interference with the elections, returns, and qualifications of members of the lower House. But I feel constrained to interpose my veto, because the rule you have adopted allowing such an amendment to be tacked to an Army appropriation bill is, in my judgment, irregular and unparliamentary.

It is better that the Army should remain without supplies, or even that all governmental functions should cease, than that the executive branch of the Government should permit such rules of proceedings to be adopted and enforced by either House of Congress.

I have the honor to suggest that you alter the rules of your proceedings to conform to the views herein expressed. In that event both the bill and the amendment, coming before me as independent measures, will meet my approval.

Respectfully,

R. B. HAYES,
President.

J. A. GARFIELD,
Secretary of State.

I admit that the President would have the right to veto a bill which he regarded as unconstitutional, or as hostile to the interests of the country, or as hasty and injudicious, though it be passed without a call for the ayes and noes in either House of Congress and no question had been raised with regard to their proceedings. But I deny his power under the Constitution to veto any bill solely and exclusively because in his judgment the methods adopted in its passage were objectionable. To do this, is to make him the judge, the deputy marshal, the supervisor of our proceedings. To do this is to sweep away all those barriers erected by the Constitution for the purpose of protecting one branch of the Government from encroachments by another. Mr. Madison, the father of the Constitution, has well said in illustration of the maxims of Montesquieu, laid down with so much force in his observations upon the British constitution, which he regarded as the mirror of liberty itself, that "the accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny."

Not only did the framers of the Federal Constitution take care to provide against this union of all power in single hands, but the constitutions of every State in this Union have, with jealous care, made similar provisions; especially in the constitution of the ancient Commonwealth of Massachusetts it is declared—

In the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and judicial powers, or either of them; *to the end it may be a government of laws, and not of men.*

Declarations of a similar character are to be found in other State constitutions. Once admit, however, that the Executive may determine the methods of proceedings in this House, and it will become rather a chamber to register his edicts than an assembly of the independent representatives of a free people.

In the second place, the President ought not to veto the bill because the legislation sought to be repealed by it violates not only the express provisions of the Constitution but the fundamental rights of freemen.

The distinguished gentleman from Ohio [Mr. HURD] has relieved me from the necessity of making any extended remarks in defense of this position. This legislation authorizing the Executive to keep troops at the polls during all our history found no place in our statutes until the passions of the civil war reached their climax. It has found no place in the laws of Great Britain since it was supplanted by the statute of George II. It is an alien to British and American soil, a stranger in our midst, an exotic that cannot live in the atmosphere of these free institutions; it is the offspring of war, the application of military methods to free institutions, and it attempts to preserve liberty by bayonets upon the theory that the people are incapable of self-government. The Constitution provides, in article 1, section 2:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This leaves it to the States to determine absolutely who shall vote for members of Congress. The States establish the qualifications; the States confer the right of suffrage; for it is not a natural right, but a civil right granted and regulated by law.

In 2 Otto, 555, from which I quote, the Supreme Court hold:

In Minor *vs.* Happersett, 21 Wall., 178, we decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In United States *vs.* Reese *et al.*, *supra*, page 214, we hold that the fifteenth amendment has invested the citizens of the United States with the new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, &c., is. The right to vote in the States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

It is with reference merely, then, to the exemption from discrimi-

nation that the Supreme Court of the United States has determined that the Federal Government has conferred any right.

It has been held by the opponents of this bill that the power to intervene or to control elections is found in section 4 of the Constitution, which reads as follows:

> The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It is pretended that under this provision of the Constitution the legislation may be defended which provides that the Executive of the United States may order troops to the polls, may authorize the appointment by his marshal of countless deputy marshals and supervisors, who shall swarm at the voting places with power to arrest without warrant and to determine the qualifications of the voters and to count the votes. It is indeed a narrow foundation for such an imposing structure; it invades the rights of citizens, because the citizen is under the law exempt from arrest without a warrant, except for felony or breach of the peace; but here he may be arrested upon a suspicion of not being a qualified voter or of an attempt to violate the law. He may after such arrest and incarceration be set free, but he will have lost his vote by the arbitrary act of one man, and of this there can be no redress. This constitutional provision, according to the authors of the Constitution itself, was not intended to invade the States with this more than regal power, but merely in the event if the States themselves made no provision for elections there might be means adopted by which Representatives should be elected to this House. Alexander Hamilton says, in the fifty-ninth number of the Federalist:

> Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself means of its own preservation.

He says, moreover:

> Suppose an article had been introduced into the Constitution empowering the United States to regulate elections for the particular States, would any man have hesitated to condemn it both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments?

And yet, this is what this legislation does in effect. Congress possesses the same power over the times and manner of holding elections for Senators as for Representatives, and if section 4 of the Constitution justifies the keeping of troops and the appointment of deputy marshals and supervisors, with the power of arrest at the voting-places of the people, upon precisely the same grant and the same reasoning the Army may be stationed in the legislative chambers of the States with deputy marshals and supervisors to keep the peace and oversee the election of Senators.

It must be clear, then, that this legislation which interferes in such a flagrant manner with the electors of the States, which, going beyond the manner, or places, or method in which the elections are conducted, clothes Federal officers with the unheard-of power to incarcerate free men at the polling places on suspicion, not only at Federal elections but at elections of State officers, is without warrant in the Constitution. The Constitution provides, section 4:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened,) against domestic violence.

This is the only provision in the Constitution providing a way by which the Federal Army may enter a State for the purpose of enforcing the State laws, and in this case it is to aid in the suppression of domestic violence. But the violence must have occurred; the fact of its existence must be certified to the President, and he can then only proceed in the manner laid down by law. It is not in his capacity as Commander-in-Chief of the Army that such aid is given, for it will be remarked that the provision recites not that the President shall perform this duty, but the United States. The Constitution having pointed out the particular manner in which the Army may be used in State affairs, it results necessarily that its use in any other manner and under any other than the given circumstances is prohibited. I do not mean to deny that the Federal Government may execute its own laws and enforce the decrees of the Federal courts through its marshals and appropriate officers, and that in the event of a resistance so great to its processes that the civil authorities may not be able to overcome it, that then and in such cases the Army itself may be used as is provided by statute.

I would be reluctant to vote for new legislation upon an appropriation bill or for a repeal of existing law, but the whole history of legislation, both in the mother country and in this, shows that the controlling theory is that the standing army actually ceases to exist at the expiration of every appropriation for its support.

By passing the annual mutiny act, says May:

> In this power the House of Commons have reserved to themselves the power of determining not only the number of men and the sums which shall be appropriated in each year to their support, but whether there shall be any standing army at all. Without their sanction, the maintenance of a standing army in time of peace would be illegal.

Our forefathers provided in the Constitution that there should be no appropriation for the standing Army extending over a period greater than two years, and lodged the power to originate all supply bills in this House—the lower House. Why not in the Executive, or in the Senate, or in the Congress? The power to originate implies the power to withhold, or at all events a greater power over the question than the other branches of the Government possess. These free institutions were intended to repose upon the consent and affections of the people and to find their best security in dispensing justice to the governed. Every line in the Constitution, every speech in the convention, every opinion of the fathers shows a jealousy of military power and the unfaltering purpose of subordinating it completely to the civil authority. And until these acts now sought to be repealed were put there, after the civil war, the records of Congress were not marred by statutes providing for the use of the Army and the executive power at the elections for members of this body, which should above all be free from military interference both in its proceedings and in the sources of its power. For the reason, therefore, that this is not new legislation but is a return to the old-fashioned ways, I earnestly support the bill, and when this measure shall have been submitted to the Senate and meets the approval of that body, after full consideration, both Houses concurring, it seems impossible to believe the Executive would interpose his veto.

I have not thought proper in these remarks to discuss the law relating to test oaths, because it has already been repealed and is upon the statute by a mistake of the codifier.

I have heard no one advocate this discriminating and unconstitutional disqualification, so fatal to the administration of justice in the Southern States, since I have been upon this floor.

There is no part of the country which has suffered from the evils of military interference and military violence and outrages so greatly as the people of the State which I in part represent. I should feel that I did not do justice to the innocent men and good citizens who have been dragged from their homes and conveyed hundreds of miles on false charges, by partisan deputy marshals and partisan supervisors, to be tried and acquitted, there being no evidence to sustain the charges on which they were arrested, if I did not utter my protest against such assaults upon liberty. Hundreds of men have had their homes broken up and their business destroyed, and society has been convulsed by the efforts of unscrupulous partisans acting as supervisors and deputy marshals. The effect of such partisan prosecutions, backed by the authorities of the Federal Government, is to destroy the influence of men of law and order, to excite strife, to set neighbor against neighbor and race against race. These are the appropriate instruments of partisan tyranny, and work out their legitimate results in disorder and confusion. When repealed, society will repose more and more upon its natural forces; intelligence, property, and character, always the allies of peace, will secure justice to all. They have given hostages for the enforcement of the laws.

In the third place the President should abstain from vetoing these supply bills for the Government because the legislation sought to be repealed relates to elections for members of the lower House of Congress, a matter peculiarly concerning this House; and, in the language of Sir Edward Coke, "ought to be discussed and adjudged in that House and not elsewhere." If it be an invasion of the rights and privileges of the House for the Executive to question the rules of its proceedings, it would seem to be equally unwarranted for the executive department to interfere in the elections—to control the vital forces that go to make up the House of Representatives. It is a spectacle at variance with our conceptions of a constitutional republic to see the power in the hands of the Executive, which enables him to place a line of deputy marshals, supervisors, and soldiery between the Representatives of the people and the people themselves at their polling places. An unscrupulous executive inspired by partisan passion might poison with his individual will and aspirations the fountains of freedom that under our institutions should flow free and uncontaminated.

There is not a single clause or provision in the Constitution of the United States which confers any power or imposes any duty upon the President in reference to elections. If there was one thing which the framers of the Constitution clearly foresaw and provided against it was the interference of the Executive in the elections of the people. If they had conferred any power upon him over the elections for the members of this House it would at once have destroyed its independence and freedom. So far from that they expressly provided, in order that there might be no question about the matter, (section 5 of the Constitution,) that "each House shall be the judge of the elections, returns, and qualifications of its own members."

The lower House of Congress is the judge—not the Senate, not the President, not the Congress, but the lower House of Congress—not only of the returns and qualifications, but of the elections of its own members. The subject-matter of elections for this House is placed within the keeping of this House, and thereby excluded from the interference or supervision of the Executive or of the Senate. Under the Constitution the States may determine the qualifications for the voters for members of Congress, but the lower House must determine the qualifications of the members-elect. There is an implied, if not expressed, exclusion by these provisions of the executive department of the Government from having anything to do with the qualifications of the electors who shall vote for members of Congress or with the elections or qualifications of the members elected—in fact with the subject-matter of elections. So far from this the contrary is the case.

In a certain contingency the Constitution provides that this House may elect the President, but in no case whatever is there any provision under which he may in any manner concern himself with reference to the elections, returns, or qualifications either of the electors

or of the members of this House. It is true that by section 4 "Congress may at any time by law make or alter the regulations relative to the times, places, and manner of holding elections for Senators and Representatives," but there has been from the foundation of the Government a concurrence of opinion among all enlightened statesmen that this power was to be exercised only in the event that it became necessary to secure the existence of the two Houses when the States failed to act. While the executive department has been made free from undue interference by Congress every precaution has been taken by the absolute grant of all the implied powers to Congress, in addition to special powers, to secure the independence of this House, upon which the whole fabric of our liberties reposes as this noble Capitol upon its granite foundation. They had inherited these principles of liberty, of parliamentary liberty, the liberty to be preserved and maintained not by executive power, not by the representatives of States as independent communities, but by the Representatives of the people themselves giving expression to their free voices in the making of the laws.

It has ever been held by English-speaking people that the presence of troops at the polls annulled an election. The two things are as antagonistic, the bayonet and the ballot, as fire and water; they cannot coexist. These views find the completest expression in chapter 2, page 178, in Blackstone, with regard to the proceedings at elections:

And, as it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited; for Mr. Locke ranks it among those breaches of trust in the executive magistrate which, according to his notions, amount to a dissolution of the government, "if he employs the force, treasure, and offices of the society, to corrupt the representatives, or openly to pre-engage the electors, and prescribe what manner of person shall be chosen. For, thus to regulate candidates and electors, and new-model the ways of election, what is it," says he, "but to cut up the government by the roots and poison the very fountain of public security?" As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended. Riots likewise have been frequently determined to make an election void. By vote also of the House of Commons, to whom alone belongs the power of determining contested elections, no lord of Parliament, or lord-lieutenant of a county, hath any right to interfere in the election of commoners; and by statute, the lord warden of the cinque ports shall not recommend any members there. If any officer of excise, customs, stamps, or certain other branches of the revenue, presume to intermeddle in elections, by persuading any voter or dissuading him, he forfeits £100 and is disabled to hold any office.

Thus are the electors of one branch of the legislature secured from any undue influence from either of the other two, and from all external violence and compulsion.

Dr. Lieber, in his work on civil liberty and self-government, edited by that profound scholar and accomplished gentleman, Theodore D. Woolsey, in speaking of elections, says:

It is especially necessary that the army be in abeyance, as it were, with reference to all subjects and movements appertaining to the question at issue. The English law requires the removal of the garrison from every place where a common election for Parliament is going on. Much more necessary is the total neutrality of the army in an election of the sort of which we now treat.

Armies at the elections! There may be polling places, there may be men voting, but there can be no election, no free choice.

I admit that the President in certain cases possesses the veto power; it is conferred upon him by the Constitution, but it is for him to determine when he may employ it; and surely if there can ever arise a matter with regard to which he should abstain from its exercise, it is in relation to the elections for members of the lower House of Congress. Many of our most sagacious statesmen regarded such a power as inconsistent with the whole theory of our Government. Mr. Clay, on a notable occasion, January 24, 1842, proposed an amendment to the Constitution limiting the veto power of the President. He said, in his great speech on that occasion:

To give to the Executive any agency in the ascertainment and expression of the will of the nation was so far a violation of the great leading principle. But it was said that the framers of our Constitution had nevertheless been induced to place the veto upon the list of the executive powers by two considerations. The first was a desire to protect the executive against the power of the legislative branch, and the other was a prudent wish to guard the country against the injurious effects of crude and hasty legislation. But where was the necessity to protect the executive against the legislative department? Were not both bound by their solemn oaths to support the Constitution? The judiciary had no veto. If the argument was a sound one, why was not the same protection extended to the judiciary also? Was there not ample security against the encroachments of the legislative power in the absence of the veto? First, there was the solemn oath of office; then there was the authority of the judiciary; then there was the responsibility of individual members to the people, and this responsibility continually kept up by a frequent appeal to the people; and lastly, there was the ultimate conflict of the President and the Legislature before the grand tribunal of the nation itself in case of any attempt by the Legislature to deprive him of the rightful exercise of his authority.

* * * * * * *

The officer of the Government in whose hands the Constitution places a power so formidable was supposed in theory to remain profoundly silent as to the passage of great measures of public policy until they were presented to him in a finished form and for his approbation and sanction.

These were the matured opinions of one of the noblest men, the most exalted patriots, that ever consecrated his life to the liberty and honor of the American people.

Not less apprehensive of the executive power was the great expounder of the Constitution, Daniel Webster. He says:

Our security is in our watchfulness of executive power. It was the constitution of this department which was infinitely the most difficult part in the great work of creating our present Government. To give to the executive department such power as should make it useful, and yet not such as should render it dangerous; to make it efficient, independent, and strong, and yet to prevent it from sweeping away everything by its union of military and civil authority by the influence of patronage, and office, and favor—this, indeed, was difficult. They who had the work to do saw the difficulty, and we see it; and if we would maintain our system we shall act wisely to that end by preserving every restraint and every guard which the Constitution has provided, and when we and those who come after us have done all that we can do and all that they can do, it will be well for us and for them if some popular Executive, by the power of patronage and party, and the power, too, of that very popularity, shall not hereafter prove an overmatch for all other branches of the Government.

I do not wish, sir, to impair the power of the President, as it stands written down n the Constitution, and as great and good men have hitherto exercised it. In this as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of Government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to be the guardian of liberty.

Alexander Hamilton, in No. 73 of the Federalist, speaking of the veto power lodged with the Executive, says:

Nor is this all. The superior weight and influence of the legislative body in a free government, and the hazard to the executive in a trial of strength with that body, afford a satisfactory security that the negative would generally be employed with great caution; and that in its exercise there would oftener be room for a charge of timidity than of rashness. A king of Great Britain with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would at this day hesitate to put a negative upon the joint resolutions of the two houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle a measure disagreeable to him, in its progress to the throne, to avoid being reduced to the dilemma of permitting it to take effect, or of resisting the displeasure of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative but in a case of manifest propriety or extreme necessity. All well-informed men in that kingdom will accede to the justness of this remark. A very considerable period has elapsed since the negative of the Crown has been exercised.

If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed, for the short period of four years, with the executive authority of a Government wholly and purely republican!

If, then, it be true that this power was conferred upon the Executive to prevent encroachments upon that branch of the Government or to defend the Constitution, surely if there could ever arise a case in which it should not be employed it would be in the attempt to overthrow the concurrent majorities of both bodies of Congress with regard to a matter concerning in a peculiar manner the popular branch of the Government—the elections by the people for the Lower House. Can the President justify himself before the country in thus setting up his single judgment and attempting to override the lawful majorities of both Houses of Congress with regard to a matter that in no way touches his prerogatives but that is committed by the Constitution to the States and to the Lower House of Congress—a matter about which this House is to be the judge—the elections, returns, and qualifications of its own members.

When we attempt to discover in the records of the past the sources from which our constitutional liberties, our free institutions were derived, we turn instinctively not to kings, nor their cabinets, nor their privy councils, but to those great parliamentary leaders who in every age, with sturdy independence, have resisted the encroachments of executive power and have wrung from monarchs the rights and privileges which we enjoy.

A House of Representatives independent and uncontrolled save by the Constitution which ordained it should be dear to every American heart. It should represent the free choice of the people with no taint of extraneous force upon it. It should be free from fear or favor in its origin at the ballot-box, free in its meeting, free in its speech, free in its demand for the redress of grievances, free in prosecuting offenders, and both fearless and free in its defense of the liberty and property of the citizen and in its resistance to the encroachments of executive power and patronage.

Mr. OSCAR TURNER. Mr. Chairman, this is substantially a bill passed by the House of Representatives a few days before the adjournment of the Forty-fifth Congress, and was defeated by the republicans in the Senate. As to the items of appropriations and the amounts, I presume they are correct, as the bill went through the ordinary scrutiny of the committee and the items have been agreed to not only by the last Congress but by this in Committee of the Whole on the state of the Union. I shall therefore vote for the bill, although I do not approve of the amount appropriated, and only vote for it on account of the peculiar circumstances surrounding the bill, as I am a new member of this body and am compelled to rely upon the judgment of others. I believe the Army ought to be still further reduced in numbers, and consequently the expenditures sustaining it ought to be largely reduced, which I believe will be done at the next regular session, and shall not regard this bill as any precedent hereafter.

Mr. Chairman, I come now to the discussion of the sixth section of this bill, which is as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

The adoption of this sixth section, so eminently proper in any republican government, is resisted by the republican members of this body. It is a matter of surprise to me that any man who loves constitutional liberty should oppose it, no matter what his politics are, whether he is a democrat or a republican; and yet we have been detained here in consideration of this section for four days, and speech after speech has been made against the adoption of this section of the bill by the republican members of this House. We have been informed by them that they as a body intended to resist its adoption by every possible means known to parliamentary law. We have been told it would bring on revolution; that it meant destruction of the Government; that the President would veto it; that it interfered with his power as commander of the Army under the Constitution, and all that. Now, sir, let us pause and look at the question in its true light, laying aside party prejudice. Will any man say that it is not right? Ought it not to be the law of the land? Is it right for any military or naval officer, or any other person in the civil, military, or naval service of the United States, to bring troops to any place where any election is being held unless it be to repel the armed enemies of the United States? There is no man in this republican Government who dares to answer this question in any way except in the negative. No man has yet, in this debate, had the bold effrontery to say it is right for the officers of the Federal Government to have armed soldiers at the voting places in a time of profound peace. Why, sir, as has been repeatedly said, even in monarchical England it would not be tolerated, and is forbidden by law. In England armed soldiers are prohibited from going to the voting places on election day by act of Parliament, and no English officer would dare order it, not even the highest officials.

And are we, sir, to be told that here in free America, boasting of our love of liberty and free institutions, armed soldiers should go to the polls in the absence of armed enemies of the United States? No man on this floor has dared say so, not even the bold member from Ohio, [Mr. GARFIELD,] who informed us on Saturday that he voted against the act of 1863 prohibiting the presence of armed soldiers at the polls. Even he said he would not discuss the merits of this question, but would vote against this section. They dare not "face the music" and say it is right to have armed soldiers at the elections when there is no armed enemy there. Yet, sir, their opposition to this section means that, and nothing else. It is useless for gentlemen to disguise their opposition; the people will look at it in its true light, and they need not try to put their opposition on different ground. Is there a necessity for this law? The past history of the country shows that there is a necessity for it. There is no fact better established than that armed men have been under radical rule ordered to the voting places, not only in the Southern States, but in Kentucky. Numbers of Representatives upon this floor have seen it. They have seen white men driven from the polls and intimidated, while carpet-baggers from other States have marched up the negroes and voted them as they pleased to maintain their party in power. But suppose these facts are denied; what reason have gentlemen on the other side of this House to desire in time of peace the presence of armed men at elections when there are no armed enemies of the United States present? If it is not for intimidation, if it is not to influence the vote in their favor, why have them there? Why should the people be taxed to maintain them and to send them there? Let gentlemen be frank and meet the question here, for they will have to meet it before the people. They cannot disguise it. Sir, this sixth section ought always to have been the law, but our wise and patriotic forefathers never dreamed of its necessity. After having emerged from the revolutionary struggle for liberty and freedom, when they formed our Constitution and attempted to secure the rights of the people, they did not dream of the radical party; they did not dream of the outrages of that party since they have been in power. If they had they doubtless would have guarded strictly the liberty of the ballot-box, the right of suffrage, from Federal interference—the right to choose our rulers without the influence of bayonets at the elections or of deputy marshals and supervisors. They would have guarded it in the organic law of the land, as we are trying to secure it by act of Congress.

Why, sir, who would have thought when our form of government, with its three independent departments, the executive, legislative, and judicial, each independent of the other, framed as checks to give it stability and to insure the protection of the citizen in the enjoyment of liberty—I say, who would have thought that the day would come when the attempt would be made to strike down the judiciary, the Supreme Court; when the bench would be filled by partisan judges for partisan purposes; when even acts of Congress in violation of the Constitution, after being so decided, should remain in full force unless two-thirds of the judges on the Supreme Bench should agree that they were unconstitutional, as was attempted by a bill introduced in this House and voted on January 13, 1868, (see Journal of House of Representatives, page 181, second session Fortieth Congress, 1867 and 1868,) and that it would have received one hundred and eleven votes, all republican? And yet, sir, this was done, as will be seen from Congressional Globe, second session Fortieth Congress, page 489; and, sir, one of the votes was the distinguished gentleman from Ohio, [Mr. GARFIELD,] who said the passage of the sixth section of this bill meant revolution.

Sir, this was revolution indeed. It startled patriots all over this land when they saw the attempt by the republican party in this House to tear down one of the three pillars of our temple of liberty, to strike down the judiciary, the palladium of American freedom; and if it had passed the Senate and become a law, well might we have breathed the requiem sigh for departed liberty and freedom. It shows to what extent men will go when carried along by prejudice and partisan spirit. Here was the attempt to make Congress supreme and give them the power to even override the Constitution of our country. Under this law they could pass any unconstitutional act to oppress the people, and when relief was sought in the judicial department of the Government, and although the inferior courts of the United States should decide the act an outrage and unconstitutional, yet it was to remain in full force unless two-thirds of the supreme judges should decide it unconstitutional when in all other cases a majority of the court was a quorum to decide all questions of law; yet, sir, one of the prominent gentlemen who voted for that proposition now tells us if we pass the sixth section of this bill it means revolution. Why? Because he said it would be resisted by the republican party, and intimated that if passed it would be vetoed; and if we still persisted, it would be an attempt to destroy or "starve the Government to death." Monstrous declaration! Are we to be intimidated in doing what is right? Are we to be prevented from passing a law to secure to every man the right of "free ballot," the right to vote at the elections unintimidated by the presence of armed soldiers in time of peace, by a threat of the veto power, merely because we see proper to put this just and proper law into an appropriation bill, in the exercise of our constitutional rights as representatives of a majority of the people of the United States? Have not the republican party time and again set us the example? Whenever it has suited them they have put such legislation on appropriation bills as they saw proper, many instances of which have been referred to in this debate.

Has it not been done even in England, under a monarchical government, by the House of Commons frequently in the course of two hundred years whenever encroachments have been made upon the liberties of the people by the Crown? And if we do it, if we follow the example of the republican party by putting this section, right and proper in itself, into an appropriation bill, we are told by the gentleman from Ohio [Mr. GARFIELD] that revolution is to be brought upon the country; the Government "starved to death!" How? By the veto of the President. Well, sir, if Mr. Hayes vetoes this bill on account of the sixth section guarding the right of suffrage, then the responsibility will rest on his shoulders, and not on ours, for starving the Army. It is the first time in many years that the country has had a democratic House of Representatives and Senate, and the American people look to us to repeal the unjust laws that were passed in passion and prejudice and to maintain a dominant party in power in violation of the free will of the people. The people expect us to give them free and untrammeled elections, which will prevent scenes that many of them have witnessed in Kentucky and other States of armed men deterring and preventing them from exercising their right to vote. I do not believe Mr. Hayes will veto the bill on account of the sixth section. I know that the people of Kentucky, of both political parties, will indorse the sixth section of this bill, and I believe a large majority of the people of the United States will approve it. But if he does, and persists in that veto, and thereby starves the Army of the United States, then let the responsibility rest where it belongs, on the head of the President, for vetoing a bill right, proper, and constitutional, passed by a majority of the representatives of the people in the exercise of their constitutional rights. As far as I am concerned, I am ready to meet the issue; and I believe every lover of constitutional liberty on the democratic side of this House is determined to give the people free elections and free jury trials by prohibiting the presence of armed soldiers at the elections, by abolishing this swarm of hired partisans, the supervisors of elections and the special election deputy marshals, and repealing the test oath in jury trials. I sincerely hope there are gentlemen on the other side who will rise above party prejudice and vote for these measures.

Mr. Chairman, I will not detain the committee longer, as these measures have been so thoroughly discussed by others on this side of the House. I am anxious that we may get through with these measures and try to give the country some relief upon the financial questions that interest the people at this time.

The CHAIRMAN. The time has arrived at which the House has agreed to take a recess.

Mr. SPARKS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. SPARKS. I move that the House take a recess until half past seven o'clock.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

AFTER THE RECESS.

The recess having expired the House reassembled at half past seven o'clock p. m.

Mr. REAGAN. I move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BARBER. Mr. Chairman, I avail myself very gladly of this opportunity to address this committee, for I have been rather under the impression, in the course of the remarks made here since the beginning of this debate, that this might possibly be the last session of the American Congress, and certainly I would like the opportunity of making at least one speech, after having had all the arduous service of the campaign. There seems to be a good deal of question, Mr. Chairman, about what is the real subject-matter of debate before this committee. The issue is stated in various ways, according to the notions of the different speakers and according to the party predilections of the gentlemen who hold the floor.

It seems to me that there cannot be any very great mistake about the real character of the legislation which is proposed here as a sort of rider to this appropriation bill. No sophistry can obscure the purpose or design of this rider, as I understand it.

Mr. Chairman, it is a distinct proposition submitted to the American Congress to repudiate the highest obligations of the National Government to the individual voter, that of absolute protection at the polls. It has been well said by the distinguished gentleman from Georgia [Mr. STEPHENS] that the protection of the voter at the polls was left to the State governments for many years, for sixty or seventy years, during the earlier and happier days of this Republic, and our venerable friend said that this protection might be still left to the State governments. But, Mr. Chairman, no one better knows than he that times have changed, and men have changed. This country is not what it was. Men are not what they were. In my judgment this proposition comes at a very peculiar time and a very remarkable juncture of our affairs. It has been substantially said here upon this floor by a distinguished gentleman from the Southern States [Mr. HOUK] that several of the State governments at the South are flagrant usurpations of the most aggravated character.

It has been stated here to-day by the same gentleman that at the recent elections large multitudes of men, citizens of the United States, have been disfranchised, deprived of the right to vote by the perpetration of crimes the worst known to the wickedness and the frenzy of factions. It has been charged here to-day, substantially, that the majority which rules this Chamber has been secured through violations of law. Such charges as these made in the Congress of this great country ought not to pass unchallenged and unheeded. And when they are made, men ought to pause a long time before they disregard them and proceed to strip by national legislation the Chief Magistrate of this country of all possible power of future interference to protect the voters at the polls. Not alone has this charge been made by the gentleman from Tennessee, [Mr. HOUK,] but I happened, in common with many others who were here in December last, to hear it from the Chief Magistrate of this country. I send to the Clerk's desk the annual message of the President of the United States, and ask to have read the paragraph I have marked.

The Clerk read as follows:

> The friends of law and order looked forward to the conduct of these elections as offering to the general judgment of the country an important opportunity to measure the degree in which the right of suffrage could be exercised by the colored people, and would be respected by their fellow-citizens; but a more general enjoyment of freedom of suffrage by the colored people, and a more just and generous protection of that freedom by the communities of which they form a part, were generally anticipated than the record of the elections discloses. In some of those States in which the colored people have been unable to make their opinions felt in the elections the result is mainly due to influences not easily measured or remedied by legal protection; but in the States of Louisiana and South Carolina at large, and in some particular congressional districts outside of those States, the records of the elections seem to compel the conclusion that the rights of the colored voters have been overridden, and their participation in the elections not permitted to be either general or free.

Mr. BARBER. Now, I submit that such suggestions, coming from such a source, ought not to have passed unheeded by any body of men not absolutely insensible to the demands of justice. And I recognize in the proposed legislation in this appropriation bill the response of the commons of this country to these suggestions of its Chief Magistrate. The country so understands it, the world so understands it, and there is hardly a chance to cavil about it.

I would like to know with what degree of propriety Representatives on this floor can be asked, in view of these grave and weighty allegations, to abdicate the national sovereignty upon this subject. I want to know what political party can afford to take that responsibility.

It has been suggested in this connection that these laws upon the subject of Federal elections, of which this provision is only a portion, are unconstitutional. In this connection I want to say a word on that point. I have not a doubt in my mind about their constitutionality. It seems to me that the Constitution contains an explicit and unqualified grant of power to the General Government in the broadest terms, authorizing us to maintain this system of election laws by the Federal Government. I refer for the moment to section 4 of article 1 of the Constitution, a portion of which I will read:

> The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Now, by that language I understand that the Congress of the United States is authorized to make the same rules and regulations which a State Legislature may make; authorized in explicit and unqualified terms. And I understand it to be the safe rule of constitutional construction to hold that we may make laws to enforce all acts which we pass in accordance with the Constitution.

I understand it to be within the sphere of a State government to provide, as a portion of the manner of conducting an election, for the maintenance of peace and order at the polls. And I submit that it is a legitimate piece of legislation on the part of the General Government in like manner to provide for the preservation of peace at the polls. And if the Federal Government, in the execution of its constitutional powers, chooses to provide by positive enactment for the maintenance of peace at the polls it can provide for the use of the Army to enforce that enactment.

We have heard a great deal about constitutional law and civil rights from the other side of the House during the past few days. I have had my curiosity excited. It is a matter of surprise to me, somewhat, how gentlemen who but a short time ago were engaged in the effort to destroy these institutions should now know so much better than northern people just how to preserve them. It has been a matter of surprise to me why gentlemen who were born and raised in an atmosphere where the colored man had no rights which a white man was bound to respect should now read us lectures about human rights and civil liberty. I desire to state the proposition as I understand it. I do not understand this to be a proposition as to whether we are to have untrammeled elections. I understand it to be a proposition that this Government, which has so recently enfranchised a race of nearly four millions of people, shall now turn its back upon them and leave them to the tender mercies of a southern oligarchy. That is just what I understand this question to be, and that is just what this nation cannot afford to do. That would be a piece of baseness, an act of treachery upon the part of this people, which would overshadow all the glory of the Anglo-Saxon race.

When I listened to the magnificent declamation this afternoon of the gentleman from Kentucky [Mr. BLACKBURN] when he appealed with pride to the record of our ancestors, I could not help but think that it was not his fault that the flag which now floats over us was not long years ago made the symbol of the departed glory and greatness of this Republic. I could not help but think that it was not his fault that this Union of the States to which Washington devoted the energy and the inspiration of his genius, and to which he left his benediction when he died, was not long since rent asunder and the people of this country committed to everlasting and helpless civil strife.

It is said that the demand for this legislation is made in obedience to public sentiment, that this being a Congress fresh from the people it represents that sentiment. I deny that there is any such sentiment in this country which can properly be characterized as a public sentiment. The only sentiment of that kind in this country is a partisan sentiment, a factious sentiment, not rising in any degree whatever to the rank or dignity of a public sentiment.

Let me tell you, gentlemen, that your campaigns for the last half a dozen years, in which you have lured the independent voters of the North to the support of the democrats under the specious cry of reform, do not warrant you in claiming that there is a public sentiment at the North which demands the repeal of these election laws.

Your whole campaign of 1876 was a grand imposition upon the credulity of the North. And let me say to northern gentlemen here who hold their seats by virtue of the independent vote of the northern States, that those independent voters never dreamed of authorizing you to condone, indorse, or gloss over in any manner these alleged outrages at the South. They never dreamed of authorizing you to surrender here the very vital principle for which the war was fought, either at the dictation of our confederate friends at the South or of a party caucus. Let me tell those gentlemen that when they repeal this law in obedience to a supposed public sentiment at the North, they but add another to the long list of demonstrations that the modern democracy cannot be safely intrusted with the control of national affairs. Let me say to those northern gentlemen who propose to join in the repeal of this law in this mode and manner that when they do it they only commit again upon this floor the same pitiable blunder which northern democrats have committed from time immemorial.

Now, Mr. Chairman, a great deal has been said about a presidential veto in case this bill shall pass this honorable body and the Senate. My acquaintance with the Chief Magistrate of this country is very limited. I am about the last man who would be authorized to speak for him in this behalf, and I certainly should not attempt to do so were I so authorized, after the suggestions so often made on this floor as to the true doctrine on that subject. But this I do know: if the Chief Magistrate of this country, in the event of this bill passing both Houses of Congress, should approve and sign it, so that it should

become a law, he will incur the lasting execration of an overwhelming majority of the people of the North.

Mr. BELTZHOOVER. Mr. Chairman, the contention which now engages the members of this House is on the proposition to amend sections 2002 and 5528 of the Revised Statutes by striking out the words "or to keep the peace at the polls" where they occur in said sections.

The sections as they now stand are as follows:

SEC. 2002. No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States *or to keep the peace at the polls.*

SEC. 5528. Every officer of the Army or Navy or other person in the civil, military, or naval service of the United States who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States *or to keep the peace at the polls*, shall be fined not more than $5,000 and suffer imprisonment at hard labor not less than three months nor more than five years.

The issue raised by the amendments proposed involves the question whether we shall have free elections or whether they shall be dominated and controlled by military power. It involves the question whether this Government shall be based on the free consent of the people as expressed at the ballot-box or whether the commander of the Army shall mock them with a plebiscite through which his supreme will shall be registered by his subservient subjects. This issue comes home with peculiar force to the people of the State which I have the honor in part to represent, and in whose bill of rights is the declaration that, "as standing armies in time of peace are dangerous to liberty, they ought not to be kept up." This provision exists in the fundamental law of only one other State of the original thirteen. The founders of our Government borrowed this important principle from their English ancestors, who, after suffering for centuries under the oppressions of unlicensed military power and tyrannical prerogative, declared in their bill of rights at the close of the revolution of 1688, "that raising or keeping a standing army within the kingdom in time of peace, unless with the consent of Parliament, was against law." At that day and as the result of years of conflict and suffering they wrung from the executive the concession that the source of all military power was in the people; that its existence and extent and duration were wholly in the discretion of the Legislature of the nation.

This concession was one of the first fruits of the great battle for civil liberty and it has been watched and guarded with a jealous care by the people ever since. From this principle were born the provisions in our National Constitution, that in Congress shall reside the sole power to raise armies and make appropriations for their support, and provide laws for their government. In the language of Mr. Hamilton in discussing these very provisions—

Independent of all other reasonings on the subject it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential and after all the only efficacious security for the rights and privileges of the people which is attainable in civil society.—*Federalist*, 28.

And clearly, in accordance with this view, the power of the legislative and executive departments of the Government were arranged and fixed under the Constitution. It is provided that Congress shall have the power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years." This provision is almost an exact transcript of the law fixing the power of the English Parliament on this subject except that there is no limitation of the time for which an army appropriation shall be made by Parliament. This power "to raise and support armies" and the limitation as to supplies therefor, when construed in connection with the history of the events and legislation out of which it arose, clearly give the representatives of the people the right to declare for what purposes and under what restrictions the Army shall be used. It gives Congress the absolute power to determine the size and character of the Army or whether there shall be an army at all. Following Mr. Hamilton's argument and quoting from his language in this connection—

Next to the effectual establishment of the Union the best possible precaution against danger from the Army is a limitation of the term for which revenues may be appropriated to their support.—*Federalist*, 29.

The founders of the Government, in further proof of the aversion of the people to any enlarged use of the Army, provided by the second article of the amendments to the Constitution that "a well regulated militia is necessary to the security of a free state." These powers thus reposed in Congress in reference to the control of the Army are clear and unambiguous. The duty and power of the President are equally clearly and precisely defined by the Constitution. "He shall take care that the laws be faithfully executed." He has no powers over the Army under the Constitution except what are conferred by act of Congress, and all these powers are subject to modification and repeal. What is there, then, in this contention for the right of the Executive to use the Army in controlling elections in the States? The right to vote is not one which is derived from the Constitution of the Federal Government. It is a State right. It depends solely upon the fundamental law and statutes of the several States. The limitations on it are almost as numerous and various as the States themselves. In some States there are property qualifications; in some, qualifications as to the intelligence of the applicant for suffrage. In all the States there are very varied qualifications as to the place of residence, time of such residence, time of assessment of taxes, time of payment of taxes, &c. Numerous differences on the subject of suffrage existed at the time of the formation of the Government and the adoption of the Federal Constitution. These differences were then found to be irreconcilable, and unless the question had been left as it was, solely to the determination of the States themselves, the Union would never have been formed. But, submitting the whole question to the several States, the founders of the Government provided by article 1, section 2, of the Constitution, that in all Federal elections "the qualifications of electors shall be the same as those of the most numerous branch of the State Legislature."

The right thus reserved by and secured to the States is inviolable under article 10 of the amendments to the Constitution, which provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And it was the settled belief and practice that the right of suffrage was solely under State control and beyond the power of Federal interference until 1865. In that year, at the close of a great civil war in which the foundations of free government had been shaken and almost all the limitations on arbitrary power had been swept away—when the passions of the leaders in power knew no bounds and the conservative supporters of the Constitution grasped at anything to stay the tide—the law was passed authorizing the use of the Army "to keep the peace at the polls." O Peace, what crimes are committed under thy name! All the governments of the people in the olden time went down beneath the iron heel of military power. The modern republics of Venice and Florence and the United Provinces and Genoa and France were strangled in the midst of their protection by the army. On the ruins of the French Republic of 1856 its president built a throne and mocked the people by a plebiscite wherein the army kept the peace at the polls and by an almost unanimous vote proclaimed that "the empire is peace." All the lessons and traditions of the past warn the friends of free government against the interference of military power. The free consent of the people expressed by a free and untrammeled ballot is the only basis on which a republic can endure.

Every breach of fundamental law, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers toward the Constitution of a country and forms a precedent for other breaches wherein the same plea of necessity does not exist at all.—*Hamilton.*

Without stopping to inquire, therefore, what led to the act of 1865, or who was responsible for its passage, or whether it was dictated by any necessity, let us, in view of the history of kindred legislation in the past and the certainty of its tendency and results in the present, wipe it from the statute-book of the nation. It is very plain that in connection with the act under consideration, which appropriates millions of the people's money for the support of the Army, we have the right and the power to say how that Army shall be used. If there were no precedents for attaching the repeal of the odious sections to this appropriation bill, the exigencies of this case would justify us in making a precedent for all future time. It is in keeping with the letter and spirit of the Constitution itself and with the great precedents of English parliamentary history on which the Constitution itself was founded. But we are not without precedents for our action in this case. From the inception of the reign of the republican party in this country, during all the years when it had absolute control of all the branches of the Government, it gave us annually numerous instances in which other legislation was attached to appropriation bills. What the President will do with the bill when passed, we do not know, or should not. He is the keeper of his own conscience and responsible in his own person and character to the people and the judgment of the future. It is our solemn and imperative duty to pass the bill. It is our duty as the Representatives of the people to see that none of the great rights which they have achieved after ages of struggle shall be allowed to be wrested from them by an Executive who is their servant. To the unprecedented threat from the gentlemen on the other side that the President will veto the bill, we answer with a great English lawyer, when confronted with the arrogance of prerogative power, "When that case arises, we shall do that which shall be fit for the Congress of a great nation to do."

Mr. REAGAN. Mr. Chairman, the subjects before us are of more than ordinary interest, partly arising from their importance and partly on account of the attempt which is being made to create a factitious alarm in the public mind because they have been brought forward for consideration.

The latitude of debate which is allowed in Committee of the Whole and which has been taken in this discussion extends it beyond the consideration of the two provisions of the pending bill for the repeal of laws authorizing the use of the Army in elections, and embraces the provisions contained in the legislative, executive, and judicial appropriation bill for the repeal of the law prescribing the test oath for jurors in the Federal courts, of the law for the appointment of chief supervisors of elections, and of the law for the appointment of special deputy marshals, and of the laws prescribing their duties and

the duties of marshals and their general deputies in relation to elections, and limiting the duties and powers of local supervisors.

The real questions which arise in the consideration of these are:

First. Are the provisions referred to for the repeal of these laws constitutional?

Second. Are the proposed repeals just, wise, and necessary?

Third. Is the plan proposed of inserting the provisions for their repeal in appropriation bills in accordance with the practice of Congress as it has heretofore prevailed?

These would seem to be the questions which should be considered and determined in this debate.

And first, as a conclusive answer as to whether the proposed legislation is constitutional, it is only necessary to say that it cannot be unconstitutional to repeal a statute. The Constitution may be violated by an act of new and affirmative legislation. But the repeal of a statute is a mere question of policy to be determined by the legislative will. By article 1, section 1, of the Constitution, it is declared that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Under this view it will be seen that the proposed legislation would not be the subject of executive objection on constitutional grounds; and we may dismiss this point in the argument as being free from controversy.

On the second point, as to whether the proposed repeals are just, wise, and necessary, I do not propose to go into the whole of the argument, but only to present a part of it, resting on general principles, and leave to others the more elaborate examination of the provisions of the statutes we propose to repeal, as to do this, in view of other questions I propose to discuss, would occupy more time than I am allowed under the rules of the House.

In the discussion of this point it becomes necessary to consider the character, theory, and objects of our Government; and this may be done best by contrasting them with those of the governments which preceded it and which now antagonize its great fundamental principles. The political theories of the Old World and those of despotic government everywhere are that sovereignty is derived from the power which rules, whether that be king, emperor, or nobles. The right to rule has sometimes been held to be the divine right of kings. That theory demands obedience from the people to their rulers. It rests on the fundamental idea that the people are not capable of self-government; that they must accept such liberty as their rulers may think it safe to give them; that the government or ruling power is the source of authority and fountain of honor. Under this device of kingcraft, this foundation-stone of despotism, mankind has languished and suffered wrongs, cruelty, and oppression through the ages of the past. This theory contemplates a government of force as contradistinguished from a government of consent.

Our constitutional Republic rests upon principles directly the opposite of these, and by the Declaration of Independence certain truths are declared to be self-evident, among them—

That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Our Constitution and form of government rests upon these as among the most important principles of our system. These make ours a Government of consent, as contradistinguished from a government of force. They make it a Government of the people, by the people, for the people. Under this theory the sovereign power resides in the people and not in their officers or government. Our system of government recognizes the capacity of the people for self-government. If they are not capable of self-government, then our system is a failure and should be abandoned, and a strong form of government be adopted, strong in the despotic sense.

The powers of government in our system are divided between the Federal and the State governments. To the Federal Government are confided all such powers as are necessary for the management of its national and international relations, and these powers are specified in the Constitution of the United States. To the States are reserved the powers necessary in local government. These local governments constitute a very important and very interesting feature in our system of government, which must be maintained or our whole system must fall.

Among the powers of these local governments is the determination of the qualifications of voters, the regulation of the elective franchise, and their power over the election of their own officers is absolute and cannot be interfered with by the Federal Government without a surrender to the extent of such interference of the right of local self-government.

The provisions of law which we propose to repeal in these two bills are of an aggressive, repressive character. The very existence of these laws upon the Federal statute-books is of itself a denial of the capacity of the people of the States for self-government; for if they are capable of self-government, then they do not need the agency or interference of the Federal Government for their safety.

The claim has been made, and is still made, that under article 15 of the Constitution the Federal Government has undertaken the duty of protecting the voters of the States. This article only prohibits the States from abridging or denying the right of citizens to vote "on account of race, color, or previous condition of servitude." This has been held by the Supreme Court as only referring to the action of the States, and does not prevent a State from abridging the right to vote on other grounds than those mentioned in the article; nor does it take from the States the power to declare who are voters or to regulate the elective franchise. The Federal Government, as held by the Supreme Court, cannot confer on citizens the elective franchise, and cannot regulate what it cannot give.

Under section 4 of article 1 of the Constitution it is provided that the "times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

It has been claimed that under this provision the enforcement acts we propose to repeal might be adopted. But it is well settled, upon authority, that this power to regulate relates mainly to the time, places, and manner of holding elections, and does not authorize the prescribing of the qualifications of electors or confer the power to declare who shall and who shall not vote. This is settled by the second section of article 1 of the Constitution, which provides "that the House of Representatives shall be composed of members chosen every two years by the people of the several States, and the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature." The qualifications of electors in a State are to be prescribed by the authority of the State, and not by Federal authority.

The true construction of section 4, article 1, of the Constitution, above quoted, manifestly is that in the event of the people of a State failing to make provisions on these subjects Congress may, in the exercise of its discretion, make regulations on the subject, and that when the States make regulations Congress may alter them as to "the time, places, and manner of holding elections." The history of this provision shows that the object of inserting it in the Constitution was to enable the Federal Government to secure representation in Congress in case the States should neglect the performance of their duty in this respect. It would be a gross political solecism to suppose that a system of State and a system of Federal laws, in relation to elections, could be enforced at the same times and places without conflict and danger.

The duty of providing for free fair elections, and of providing for the punishment of those who violate election laws, undoubtedly devolves upon the States. To my mind it is a clear usurpation of power to authorize the marshals of the United States, and their regular and special deputies, and general and local supervisors, such as are provided for in these statutes, to interfere with elections under the authority of Federal laws, by making arrests, and especially by making them without the authority of an affidavit charging a violation of the law, and without a lawful warrant as required by the fourth amendment to the Constitution, which provides that "no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

There can be no doubt that so far as relates to elections for State and municipal officers such interference would amount to a usurpation of power. The usurpation of the power to do these things by the authority of the Federal Government rests upon the idea that the people are incapable of self-government; that they cannot be intrusted with the holding and conducting of elections; that they cannot be intrusted with the administration and enforcement of the laws to secure the purity of elections; and that this must be done by a power superior to them. This involves the idea of a government of force and the authority of the Federal Government to manage the affairs of the States. It is contrary to the theory and genius of our Government; it is contrary to the doctrines of the Constitution; it is subversive of popular liberty; it is destructive of the rights of the States. I claim, therefore, that it is just, wise, and necessary to repeal these laws.

On the third proposition, as to whether the plan proposed of inserting the provisions for the repeal of these laws in the appropriation bills is in accordance with the practice of Congress as it has heretofore prevailed, I submit the following:

In the act of 1872, making appropriations for the civil service, and the act of 1856, making appropriations for the support of the Army, the republicans in Congress voted to pass general legislation upon appropriation bills, that general legislation being of an aggressive and offensive character, while in the bills now before the House it is only proposed to repeal obnoxious laws. But the republicans are estopped from now denying the right of Congress to pass such laws in this form by their current and constant practice during all the years they have had the majority in both Houses of Congress, from 1861 to 1874, of habitually passing general laws in appropriation bills.

To make good this declaration I here present a tabulated statement of such instances of general legislation, extending from July 5, 1862, to March 3, 1875, giving, in the first column, the Department for which the appropriation was made, in the second column the date of the acts referred to, in the third column the volume and page of the laws, in the fourth column the numbers of the sections of the

laws in which they occur, and in the fifth column the number of such acts of general legislation, aggregating in all 387. These were all passed during the twelve years that the republicans held a majority in each House.

New legislation on appropriation bills.

Department.	Date of acts.	Volume and page of laws.	Number of sections.	Number of items of such legislation.
Indian	July 5, 1862	Volume 12, page 529	2 to 6	6
Indian	Mar. 3, 1863	Volume 12, pages 792, 793	2 to 7	7
Post-Office	April 17, 1862	Volume 12, page 382	4 and 5	2
Post-Office	Feb. 9, 1863	Volume 12, page 647	3 to 5	3
Army	July 17, 1861	Volume 12, page 264	2 and 3	2
Army	July 5, 1862	Volume 12, pages 508, 509, 510	2 to 11	10
Army	Feb. 9, 1863	Volume 12, page 646	2	1
Legislative, executive, and judicial	Mar. 14, 1862	Volume 12, pages 368, 369	3 to 6	4
Legislative, executive, and judicial	Feb. 25, 1863	Volume 12, pages 694 to 696	2 and 3	2
Sundry civil	July 24, 1861	Volume 12, page 272	4	1
Sundry civil	Mar. 1, 1862	Volume 12, page 352	4	1
Sundry civil	July 11, 1862	Volume 12, page 534	2	1
Sundry civil	July 16, 1862	Volume 12, pages 582, 583	2 and 3, 5 and 6	4
Sundry civil	Mar. 3, 1863	Volume 12, pages 750 to 754	2 to 25	24
Army	June 15, 1864	Volume 13, pages 127, 129, 130	1, 2, 3, 4, 5	5
Army	Mar. 3, 1865	Volume 13, page 497	3, 4, 5, 6	4
Sundry civil	July 2, 1864	Volume 13, pages 347, 351, 352, 353	2, 3, *a*7, *a*8, *a*9	5
Consular and diplomatic	June 20, 1864	Volume 13, pages 139, 140	2, 3, 4	3
Deficiency	Mar. 14, 1864	Volume 13, pages 2, 5, 6, 7, 8	*b*1, 2, 3, 6, 7	5
Legislative, executive, &c	June 25, 1864	Volume 13, pages 160, 161	6, 7, 8	3
Legislative, executive, &c	Mar. 2, 1865	Volume 13, pages 160, 161	3, 6, 7	3
Indian	Mar. 2, 1865	Volume 13, page 180	2	1
Indian	Mar. 3, 1865	Volume 13, pages 562, 563	4, 5, 6, 7, 8, 9	6
Navy	May 21, 1864	Volume 13, page 85	2, 3, 4	3
Navy	May 2, 1865	Volume 13, page 467	6, 7	2
Military Academy	April 1, 1864	Volume 13, page 39	3, 4, 5	3
Army	July 13, 1866	Volume 14, pages 92, 93	4, *a*5, 6, 7, 8	5
Army	Mar. 2, 1867	Volume 14, pages 486, 487	2, *a*3, 5, 6	4
Sundry civil	July 28, 1866	Volume 14, page 321	*a*3, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18	11
Sundry civil	Mar. 2, 1867	Volume 14, page 466	2, 7, 8, 10, *a*11	5
Indian	July 26, 1866	Volume 14, page 280	4	1
Indian	Mar. 2, 1867	Volume 14, page 515	4	1
Legislative, &c	July 23, 1866	Volume 14, pages 206, 207	2, 3, 4, 5, 6, 7, 8, 11	8
Legislative, &c	Mar. 2, 1867	Volume 14, page 457	1, 2, 3	3
Navy	April 17, 1866	Volume 14, pages 37, 38	2, *a*4, 5, 6, 7	5
Navy	Mar. 2, 1867	Volume 14, page 492	2, 3	2
Post-Office	May 18, 1866	Volume 14, pages 49, 50	3, 4, 5, 6	4
Post-Office	Feb. 18, 1867	Volume 14, page 394	1	1
Deficiency	Mar. 2, 1867	Volume 14, page 470	2, 3, 4, 5, 6, 7, 8, 9	8
Army deficiency	Feb. 12, 1868	Volume 15, page 36	2	1
Army	Mar. 3, 1869	Volume 15, page 318	2, 3, 4, 5, 6, 7	6
Sundry civil	July 20, 1868	Volume 15, page 110	1, 7, 8, 9	4
Consular and diplomatic	Mar. 30, 1868	Volume 15, page 58	2, 3, 4	3
Consular and diplomatic	Mar. 3, 1869	Volume 15, pages 321, 322	2, 3, 4, 5, 6	5
Indian	July 27, 1868	Volume 15, page 223	2, 3, 6	3
Legislative, &c	July 20, 1868	Volume 15, page 110	2, 3, 4, 6	4
Navy	June 17, 1868	Volume 15, page 72	2	1
Navy	Mar. 1, 1869	Volume 15, page 280	2, 3, 4	3
Deficiency	Mar. 29, 1867	Volume 15, page 9	6	1
Deficiency	July 25, 1868	Volume 15, page 177	2, 3	2
Army *c*	July 15, 1870	Volume 16, pages 317, 318	2 to 25	24
Sundry civil	July 15, 1870	Volume 16, page 310	2, 3, 4, 5, 6, 7, 10, 11, *d*12, *d*13, 14	11
Sundry civil	Mar. 3, 1871	Volume 16, page 314	4, 8, *e*9	3
Consular and diplomatic	July 11, 1870	Volume 16, page 221	*f*2	1
Indian	Apr. 18, 1869	Volume 16, pages 39, 40	2, 3	2
Indian	Apr. 18, 1869	Volume 16, page 360	2 to 13	12
Indian	Mar. 3, 1871	Volume 16, pages 570, 571	3	1
Legislative	July 12, 1870	Volume 16, pages 250, 251	2 to 9	8
Legislative	Mar. 3, 1871	Volume 16, pages 494, 495	2, 3, 4	3
Navy	July 15, 1870	Volume 16, pages 330, 335	2, 4 to 19	17
Navy	Mar. 3, 1871	Volume 16, pages 534, 538	2 to 13	12
Post-Office	Mar. 3, 1871	Volume 16, pages 572, 573	3, 4, 5	3
Army	June 6, 1872	Volume 17, page 261	1, 2	2
Army	Mar. 3, 1873	Volume 17, page 545	1	1
Sundry civil	Mar. 3, 1873	Volume 17, page 530	*g*1	1
Consular and diplomatic	May 22, 1872	Volume 17, page 143	1	1
Consular and diplomatic	Feb. 22, 1873	Volume 17, page 474	2, 3	2
Indian	May 29, 1872	Volume 17, pages 189, 190	2, 4, 5, 7, 8	5
Indian	Feb. 14, 1873	Volume 17, page 462	2, 4, 5, 6, 7	5
Legislative, executive, and judicial	May 8, 1872	Volume 17, pages 82, 83, 84, 85	2 to 13	12
Legislative, executive, and judicial	Mar. 3, 1873	Volume 17, pages 508, 509	2, 4	2
Navy	Mar. 23, 1872	Volume 17, page 154	*h*2	1
Navy	Mar. 3, 1873	Volume 17, page 556	1, 2, 3	3
Post-Office	June 1, 1872	Volume 17, page 202	1 to 6	6
Post-Office	Mar. 3, 1873	Volume 17, page 559	1	1
Army	June 16, 1874	Volume 18, page 75	2	1
Army	Mar. 3, 1875	Volume 18, page 455	*i*2, 3	2
Sundry civil	June 23, 1874	Volume 18, page 230	4, 6	2
Sundry civil	Mar. 3, 1875	Volume 18, pages 399, 400, 401	4, 5, 6, 7, 8, 9, *j*11, 12	8
Indian	June 22, 1874	Volume 18, pages 176, 177, 178	3, 4, 6, 7, 9, 10, 12	7
Indian	Mar. 3, 1875	Volume 18, pages 449, 450, 451	3, 4, 5, 6, 7, 8, 9, 10, 12	9
Legislative, executive, and judicial	June 20, 1874	Volume 18, pages 109, 110, 111	2, 3, 4, 5	4
Post-Office	June 23, 1874	Volume 18, pages 232, 233, 234	4, 5, 6, 7, 9, 11, 12, 13	8
Post-Office	Mar. 3, 1875	Volume 18, pages 342, 343	2, 4, 5, 6, 7	5
Items of legislation in eighty-four bills				387

a Repeal of acts.
b Several clauses,
c Reorganizing Army.
d Appropriation for pier and railroad privilege.
e Civil-service reform.
f Parson Newman's mission.
g Giving jurisdiction over Alaska.
h Authorizing Secretary to sell vessels and materials.
i Tariff clause.
j Secretary of the Treasury authorized to buy bonds.

There may be many other such acts of general legislation on appropriation bills not of a general character. These are only such as are inserted in the regular appropriation bills, and they exhibit the hollowness of the pretense of the republicans now that such legislation is revolutionary, or that its tendency is to destroy or starve the Government, as urged by the gentleman from Ohio [Mr. GARFIELD] and others. As an instance of legislation of this kind by the republican party, I call attention to the act of March 2, 1867, second session, (Statutes at Large, volume 14, pages 486, 487,) making appropriations for the support of the Army. It is as follows:

It fixes the headquarters of the General of the Army; and enacts that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void," and provides the penalties of disobedience, &c.

This was one of the acts of a republican Congress, intended to strip the President of his constitutional powers as Commander-in-Chief of the Army and to degrade him before the American people, because of his opposition to what he believed to be the unconstitutional and despotic measures of reconstruction, which he regarded as endangering the liberties and welfare of the whole country. It is the same party which now denounces general legislation in appropriation bills that passed this violent and unconsitutional act in an appropriation bill.

By the deficiency act of March 2, 1867, (section 3, page 470, volume 14 of the laws,) a tax was levied upon gaugeable goods.

By the Army appropriation bill of March 3, 1869, (Statutes at Large, volume 15, page 318,) in the sections from 3 to 7 inclusive, the Army organization is changed or modified.

In the sundry civil appropriation bill of July 15, 1870, section 12 appropriates $225,000 to build a pier in Delaware Bay, and section 13 authorizes the extension of a railroad over it and the free use of it.

In the sundry civil appropriation bill of March 3, 1871, (section 9, volume 16, page 514 of the laws,) provision is made for civil-service reform.

In the consular and diplomatic bill of July 11, 1870, (section 2, volume 16, page 221,) provision was made for Parson Newman's voyage around the globe at public expense, at a salary of $5,000 per year; a pleasure trip to him, but useless to the public.

In the sundry civil appropriation act of March 3, 1873, (volume 17, page 530,) provision is made for extending the laws of the United States to Alaska. In the naval appropriation act of May 23, 1873, (volume 17, page 154,) authority was given to the Secretary of the Navy to sell naval vessels, and in the sundry civil appropriation act of March 3, 1875, (volume 18, page 401,) section 11 authorizes the Secretary of the Treasury to give notice that he will redeem 6 per cent. bonds in coin at par for the sinking fund. These are given as a few instances to illustrate the character of legislation put by the republican party, when they controlled both Houses of Congress, on the appropriation bills, and it will be seen that as to many of these there can be no pretense that they are germane to the bills in which they were passed.

These references to the past course of the republican party on this subject ought to silence all statements by them of the revolutionary character and tendencies of general legislation on appropriation bills. We are solemnly notified by the gentleman from Ohio [Mr. GARFIELD] that the passage of the two bills now pending with the proposed legislation attached to them will be "revolutionary and destructive of the Government; that it will starve the Government to death." Let us look at this statement. Are there any provisions of general legislation proposed in these bills which are unconstitutional? No lawyer familiar with the Constitution will so contend. Can the passage of either of them be regarded as hasty and inconsiderate legislation? They were discussed and passed through the House of Representatives at its last session, discussed in the Senate, then acted upon by the conference committees of the two Houses. They have received very full consideration before the beginning of this Congress, and are now undergoing a thorough examination in this; and there can be no pretense that they have not been and are not now being fully considered. They are therefore not open to either of these objections. They do not abridge the powers or interfere with the duties of any department of the Government. They do not propose to enact new and untried legislation. They simply propose to repeal legislation which is thought to be hurtful to the best interests of the country.

If under these circumstances a majority of the Senators representing the States of the Union and a majority of the Representatives of the people of the United States shall deem it wise and prudent to pass these bills, wherein can exist the act of revolution? How can this bring about the destruction of the Government? Has it come to this, that a political party which finds itself in a minority in both branches of Congress must resort to positions like that taken by the gentleman from Ohio to defeat proper and necessary legislation, under the false pretense that it will be fraught with dangers and evils to the country?

If the Senate and the House of Representatives pass these bills under such circumstances, have they not done so in the plain performance of their constitutional duty?

Are we to understand from the remarks of the gentleman from Ohio and of the gentleman from Maine [Mr. FRYE] that they are instructed or authorized by the President of the United States to notify the Congress that if these bills are passed under these circumstances he will interpose his veto, and thus defeat two of the most important of the general appropriation bills; leave the Army, and the legislative, executive, and judicial departments of the Government without the money necessary to carry them on; and that his act in so vetoing them must be considered an act of revolution by the Congress which passed them?

I do not believe, and I will not believe, that these gentlemen have the authority of the President to make any such statement before this House. I do not believe that they will give themselves as authority for any such statement by the President. Why, then, do they make the statement? Is it because they suppose they can act upon the fears of Representatives and Senators, and so drive them from the exercise of their reason and their constitutional functions as legislators?

No one could deplore more than I would a conflict between the executive and the legislative departments of the Government. I not only do not believe that these gentlemen are authorized by the President to say that he will veto these bills, but I prefer to presume and believe, and I do believe that the President will perform his constitutional duty in the examination of these bills after they shall have been passed, and approve or disapprove them as the Constitution, the laws, and character of the bills may justify. It is fair to presume that if Congress shall pass bills not obnoxious to constitutional objections—bills which cannot be considered as having been hastily or inconsiderately passed, and in which the legislative will is expressed, as it has been expressed in many instances by the republican party through its legislation while it had control of both branches of Congress, and is therefore sanctioned by usage and precedent, that the President will approve such bills, and allow the business of the Government to go regularly on.

It cannot be that the President would be guilty of sending a menace to Congress that they must only legislate in accordance with his will. This would be an act of attempted personal government unconstitutional in spirit, irregular and dangerous in its tendencies. I do not suppose the President has attempted, or will attempt, to invade the rights or interfere with the duties of Congress; and I should as much regret for the Congress to take any course which would interfere with the regular discharge of the duties of the executive office or in any way menace or threaten the President in the discharge of his duties.

Surely upon a mere question of policy, in the interest of a party, the President of the whole people would not throw the Government into confusion and cut off the supply of money for several of the most important Departments of Government as a piece of mere political management for political and partisan effect; and, if he would not do this, what other reason does or can exist for the threat that he will veto these bills if passed? These gentlemen have not used the direct words "that the President will veto these measures," but they have told us that the passage of these bills "would be revolutionary and would starve the Government to death," and have left us no other conclusion than that a veto under these circumstances by the President would be charged as a fault upon Congress, and the responsibility be visited upon Congress for the manner in which the President might discharge the duties of his high office toward the whole people. The foregoing facts, I submit, clearly establish my third proposition. I propose to detain the House a few minutes longer to place these matters in a still clearer light.

On the consideration of an amendment to the sundry civil appropriation bill of 1872 to amend the enforcement act of February 28, 1871, relating to the appointment and duties of supervisors of election and deputy marshals and their powers and duties, the gentleman from Ohio [Mr. GARFIELD] said, as will be seen on page 4440 of the RECORD of that date, in resisting the efforts of the minority to defeat that amendment:

> Now, the committee of conference having brought in a report under the rules, I do now insist and shall continue to demand that the bill before the House shall be acted on; and against all factious and revolutionary resistance I propose to stand, if need be, until December next, until this appropriation bill shall be considered, shall be voted on, voted up or voted down. This must be done, or we abandon and surrender the right of parliamentary government in this country. We inflict a serious if not a fatal wound upon the freedom and efficiency of the National Legislature.

It will thus be seen that he then denounced as factious and revolutionary the efforts of a minority to prevent the adoption of a provision of general legislation on an appropriation bill; and he declared then, what if true is as true to-day as it was then, that for a majority in such a case to yield to the minority would be to abandon and "surrender the right of parliamentary government in this country, and would inflict a serious if not a fatal wound on the freedom and efficiency of the National Legislature."

I ask the question, does he entertain the same opinions now, and if so, will he aid a minority to make a factious opposition to the will

of the majority and endeavor to compel that majority to "surrender the right of parliamentary government," and will he now aid in inflicting "a serious if not a fatal wound upon the freedom and efficiency of the National Legislature" by resisting the efforts of the majority to pass provisions of law free from constitutional objections?

He now says it is revolutionary and destructive of the Government for us to advocate the adoption of provisions on appropriation bills which are intended to secure the freedom and purity of election and to preserve the rights and liberties of citizens and to prevent oppression and fraud under color of law. We might well infer from the conspicuous antagonism of his views and action now with his views and action on the bill of 1872, above referred to, that he regards everything as factious, revolutionary, and even as destructive of the Government which for the time being is not in accord with his peculiar political opinions and with the supposed interests of the political party to which he belongs. I suggest with all deference that he might well consider whether he is not overplaying his high tragedy and converting it into a farce, in thus so conveniently resisting the dangers of revolution in supporting and opposing exactly the opposite sides of the same political question by calling his adversaries revolutionists.

Another distinguished republican, Mr. Bingham, of Ohio, now a foreign minister, in the discussion of the above-named measure of 1872 used the following language:

I have only been protesting against any right on the part of the minority in this House to indefinitely postpone the right of the majority to pass laws as revolutionary.

So it is seen that he, too, agreed with the gentleman from Ohio in holding that it was revolutionary for a minority of this House to oppose the purpose of the majority to put general legislation on an appropriation bill; thus agreeing with this gentleman's former opinion and being against his present opinion, and in so far showing a weight of republican authority against his present opinion, which may allow our alarm to be a little quieted in spite of his startling cries of revolution. It may also allow us to suppose that he much more fears the effect of just laws and fair elections upon the future of his party than the revolution which he so vehemently proclaims as the anticipated result of the repeal of oppressive and un-American and anti-republican and partisan statutes. And it is notable that this very act of 1872 was passed by the republican majority in both Houses in the sundry civil appropriation act.

But the gentleman has still higher support for his former view of this subject, and still stronger condemnation by his own party friends of his present opinions. The republicans of this House, by a strict party vote, put the following proviso on the Army appropriation bill of 1856:

Provided, however, and it is hereby declared, That no part of the military force of the United States, for the support of which appropriations are made by this act, shall be employed in aid of the enforcement of any enactment of the body claiming to be the territorial Legislature of Kansas until such enactment shall have been affirmed and approved by Congress. And this proviso shall not be so construed as to prevent the President from employing an adequate military force; but it shall be his duty to employ such force to prevent invasion of said Territory by armed bands of non-residents, or any other body of non-residents, acting, or claiming to act, as a *posse comitatus* of any officer in said Territory in the enforcement of any such enactment, and to protect the persons and property therein, and upon the national highways leading to said Territory, from all unlawful searches and seizures; and it shall be his further duty to take efficient measures to compel the return of and withhold all arms of the United States distributed in or to said Territory in pursuance of any law of the United States authorizing the distribution of arms to the States and Territories.

This proviso was placed upon the Army appropriation bill of 1856 by the republicans of the House, then in a majority, sent to the Senate, was there stricken out, and upon a conference the two Houses failed to agree, and failing to agree adjourned without an appropriation for the support of the Army for that year because the republicans insisted on putting such independent legislation on the Army appropriation bill. No higher evidence of their belief that their course was right could well have been produced than that they were willing to adjourn without an appropriation rather than surrender the right to put this proviso on the appropriation bill.

Their course upon this bill is in harmony with their habit of putting general legislation on appropriation bills during all the years in which they had majorities in both branches of Congress. An examination of the debates of Congress through many years shows that while the two parties have alternately occupied each side of this question, and enforced with great ability their respective views, still the great fact exists that this plan of putting general legislation in the appropriation bills has steadily gone on from year to year, under all parties and under all administrations.

I think it fair, in conclusion, to assume that the real issue, whatever else may be pretended, is upon the policy and effect of the repeals proposed in these bills. I do not doubt that the republican party relies and intends to rely upon the use of the military at the polls to intimidate and overawe voters; by the use of the test-oath for Federal jurors to enable them to pack juries in certain States and to secure indictments and convictions contrary to law, partly to influence elections in those States, but more particularly to furnish material on which to carry on sectional agitation in the Northern States; and on the action of the marshals and supervisors, under the authority they now have, to intimidate, arrest, and drive voters from the polls and prevent them from voting, as a means of carrying elections.

I do believe that but for the political advantage they expect to derive from the use of this partisan machinery and the public moneys which support them they would not be likely to make serious resistance to the repeal of these partisan laws. I do know that the democrats insist upon the repeal of these laws, because they regard their repeal as necessary to restore the constitutional methods on this subject, because they regard it as necessary to secure fair and free elections and to obtain a just expression and ascertain the true will of the people at the polls, and thus to preserve in its purity our system of government. And I believe their course will be approved and vindicated by the judgment of the American people.

Mr. HAWK. Mr. Chairman, being a new member of this Congress, I had not thought to say one word upon this question; but the discussion having assumed such a general scope, and becoming convinced that the consideration of the questions arising upon the discussion of section 6 of this bill must necessarily involve many of the points at issue in the consideration of the appropriation bill soon to follow, I have concluded to crave your indulgence for a few moments while I shall present some of the suggestions presented to my mind during the progress of this debate.

The chief reason, in my judgment, Mr. Chairman, why the repeal of the sections of the Revised Statutes mentioned should be opposed is that such repeal is plainly against the best interests of the country in the preservation of the purity and sacredness of the ballot. Surely, based as is our system of government upon the free, untrammeled vote and the intelligence of the citizen, it will be impossible to throw too many safeguards around this precious fundamental prerogative.

Why, indeed, should gentlemen oppose the enforcement of peace at the polls? It is answered that the States may and should be the only power to regulate elections and protect the citizen in the discharge of this high function; that municipal law alone should be relied upon for the care, protection, and preservation of the purity of the ballot-box, and not Federal authority. But, Mr. Chairman, has it not been demonstrated to the entire and complete satisfaction of all observing, thinking men that the State authorities are either powerless or unwilling to protect a certain class of citizens in the untrammeled discharge of this fundamental function? For the answer to this we have but to turn over the leaves of the book of history written in the South during the last ten years. As has been said upon this floor, a book of the examples of violence growing out of elections at the South might be written and then fail to present a full statement of horrible crimes and foul murders.

We are told there is still a war of races in certain sections of the country; that notwithstanding the express declaration of the Constitution that the right of citizens of the United States to vote shall not be denied or abridged by any State on account of race, color, or previous condition of servitude, a distinction is still preserved. The letter of the Constitution in this respect is all well enough, but I submit to every gentleman upon this floor whether, in effect, this constitutional provision is not at every election in the South ignored and overridden by a more powerful law than a written constitution; that public sentiment, without the existence of State law, in effect makes this provision null; that there is a distinction preserved, if not expressly on the grounds prohibited by the Constitution, it is incidentally done. Now, Mr. Chairman, in order to the protection of these certain citizens, ostracised, cut off, and neutralized by intimidation and mob rule, it was found in 1865 to be necessary to apply force in order to the free exercise of this first principle of citizenship. Hence that clause of the law now sought to be repealed was placed upon the statute-book. In other words, it became necessary for the strong arm of the Government to be interposed to preserve peace at the polls. There certainly must have been some necessity for the enactment. And what was the necessity? It arose in the emergency then as now existing in certain portions of the country, upon appeals and representations made that the State authorities were utterly powerless or unwilling to protect the citizen at the polls; and this condition of the country being made manifest the power invested in the Executive through this instrument for executing the law, the Army, was invoked and used in laudably and properly protecting the weak against the encroachments of the strong and lawless.

Where, I ask, is the great wrong in this? Why, sir, the Government of the United States can at any moment call upon, nay more, it can drag its citizen from home and family and place him in the front rank of its Army for the protection of the nation against foreign encroachment or domestic disturbance; and it would most certainly be a poor Government indeed that could not, or, having the power, would not, protect the rights of the same citizen in the all-important function of casting a ballot for the person or party of his choice. But it is urged that there have been abuses of this power. This is, however, no argument against the justice of the claims of citizens to full protection. The Ten Commandments are broken every day; but this is no reason why they should be repealed. They are inherently right, and must remain so forever. So with the law protecting the citizen in his right to cast his ballot at the polls without intimidation from any source whatever; and he has a perfect right to demand of his Government that protection. And this being his just and proper claim, it will be a sorry day for American institutions and American liberty when this boon is refused. Who ever knew a soldier of the Republic stationed at the polls anywhere to tamper with the voter in the legitimate discharge of his duty as an elector? I have failed

to learn of one single instance in which any person in the plain, straightforward discharge of his duty at the polls has ever been interfered with in the least.

Riotous conduct should of course be condemned, put down, stamped out; it matters little what the force used, so long as liberty is not tampered with more than it may be crushed out by the vindictive hatred of caste. And no man, just to himself and the best interests of the country, who is attached to the broad ideas and principles of republican government, should oppose for one moment the throwing around this important and high prerogative all the safeguards possible.

I am inclined to the opinion that gentlemen on the other side are not so anxious to be relieved of the presence of troops on account of their encroachments upon their rights as citizens of States as they are anxious to do away with the use of the Army at elections on account of the boldness the presence of the military guardians begets in the actions of our black fellow-citizens on election day.

I am surprised that in tacking these repealing clauses upon appropriation bills gentlemen cannot understand that it is nothing short of a revolutionary measure. It says, in forcible and unmistakable language, that these laws, considered obnoxious, must be repealed to contribute to the political success of a particular party, or the wheels of Government must stop.

You quote English precedent for thus threatening the Government with destruction if your demands be not complied with; but, Mr. Chairman, while such policy was doubted at the time by the best minds and finest statesmen of the period, the demand was truly in the interests of the people and against the encroachments of royalty, while the demand of gentlemen on the other side is opposed to the protection of the dearest interests of the nation and liberty, and in favor of the precipitation of the worst anarchy upon the country.

The States having shown that they are powerless under political pressure to protect the citizen, it is not only just and right but it is the unqualified duty of the Executive to use his power through the Army for the protection which the State fails or has not the ability to exercise. Gentlemen on the other side have made the startling declaration that they being in the majority in both branches of Congress, hence representatives of a majority of the people, therefore the Executive has no right in this case to exercise the veto power vested in him by the Constitution. If this be correct doctrine, when, let me ask gentlemen, is this power to be exercised by the President? The only time it could ever be necessary to use such power is when the majorities in Congress shall be opposed to the policy or preconceived ideas of right, law, and justice of the President. The veto power is guaranteed to the Executive on purpose for use in such an emergency as the present, and should he choose to exercise this power on this particular occasion, I for one must confess that I cannot see why it will not be constitutional and legal for him to so use it. I would not be understood as prejudging the Executive in this particular instance, but merely present that it is his legal, his constitutional right, and urge that the position taken in this regard by gentlemen on the other side is without law or precedent and not warranted.

The gentleman from Mississippi [Mr. CHALMERS] assured the House yesterday that he had faith in the strength of the Government, and it appeared to this side to be a most remarkable statement. A gentleman, a Congressman of the United States, making the bold (?) assertion that he has faith in the Government, thus assuring the country that there is no doubt of the strength, the stability, the perpetuity of the nation under its peculiar organization! The gentleman having no doubt tested thoroughly its adhesive power by the last resort of nations is a most proper person to bear testimony to the strength of the Republic. I commend his faith in the stability of the Government to the general consideration of his colleagues on the other side. It, however, appears in bad taste for gentlemen, after using all the power and machinery of devastating war for the destruction of the Government, to so eulogize its strength while they propose to clutch it by the throat and demand accession to their terms or accept the only other alternative, starvation; that certain laws now on the statute-books must be repealed, or the machinery of government must stop; and these demands, too, by gentlemen who owe their existence, certainly their restoration to full citizenship after a voluntary relinquishment of the same, to the clemency and forbearance of that Government. We search history in vain for a precedent. We forgave you frankly, freely, for your national sin, and you in return repay us in threats, menaces, dictation.

Mr. Chairman, if these repealing clauses have any merits in them, why do not the gentlemen put them upon their passage on their merits? I have no doubt but this side would be at least magnanimous enough to meet the gentlemen in a fair, open discussion of the merits of these laws and their contemplated repeal, and abide the decision; but to accede to their repeal, standing as they do as a threat, a menace to the country and the republican party, we will not, we cannot yield one inch. The responsibility is with the gentlemen on the other side, and they must accept it before the country. An appeal to the voting millions will in 1880 demonstrate that the people will not permit their rights to be tampered with. And why should not the repeal of these so-called "obnoxious laws" be the test in the contest of 1880? Why may we not submit the debates upon these questions in Congress and go to the country in the next presidential contest, appealing to the people to sustain the laws as they now exist or indicate at the ballot-box then that it is their judgment the time has been reached in our history when we do not need these so-called safeguards to liberty?

This is certainly fair and just, and both the great parties can afford to wait the voice and vote of the citizens at the polls in two years for the decision of this all-important question. Gentlemen upon this floor on the other side of this House should not forget that they are enacting or placing upon record precedent that may not be so easily explained and disposed of in the coming history of legislation in this country. Your tenure of power hangs by a fickle thread even now, and two years may find your party in the position of a suppliant minority; then, having shown your aptitude for using power for partisan purposes, it may be that we of this side may be able to profit by your lesson.

Mr. Chairman, I do not intend to detain the committee longer. My desire is that every republican on this floor shall place himself fairly and squarely upon the record, and stand firmly to the principles of truth, right, justice, and free, pure government, relying upon the good sense and sterling patriotism of the country for support in this hour of great emergency.

Mr. ARMFIELD. Mr. Chairman, the Representatives of the people in two Congresses have declared that the freedom of elections from the control of the Federal Government and the unabridged right of every citizen to a trial by his peers in the Federal courts must be restored; that two of the most dangerous wounds inflicted upon our free institutions by an unhappy civil war must now, after a lapse of more than twelve years of peace, be healed by the hand of legislation. Few of those who have opposed these measures in this debate have denied that they are right in themselves, or that if they could be achieved by the concurrent action of Congress and the Executive it would be "a consummation devoutly to be wished;" but they assume, upon what authority I know not, that this cannot be done, and they attempt to frighten us out of registering the will of those who sent us here by asserting that if we proceed the President will place himself before us like a lion in our path; that rather than allow these laws to be repealed, which are daily eating into the vitals of our Constitution, he will by vetoing the appropriation bills to which they are attached stop the wheels of Government and throw the country and its institutions into chaos.

And then they turn these fearful threats of disaster upon us and charge us with being revolutionists and enemies to the country and its Government; not for what we have done or propose to do, but for what they say the President will do unless we surrender our own convictions of duty and the rights and liberties of the people to their clamor. Ought we to anticipate any such line of conduct for the President? Ought we not to assume, until the contrary conclusion is forced upon us, that the President is as patriotic as we are, and that he will join us cordially and zealously in our effort in this era of restored good-will between the good men of all sections of the country to repair the ravages which civil war and the passions engendered by it have made upon the fundamental principles of our Constitution? Or ought we not to assume, for the present at least, that should the President differ from us as to the aptness of the time or appropriateness of the method in which we propose to repeal these laws, yet that he will obey the Constitution which he has sworn to obey both in its letter and its spirit? And that letter and that spirit is, Mr. Chairman, that the President shall veto no law passed by Congress except for one of two reasons: first, that it is unconstitutional; second, that it is hasty or inconsiderate; and no man will, I presume, have the hardihood to assert that it is unconstitutional to repeal a law, be that law in itself good or bad, constitutional or unconstitutional; and it would require almost equal boldness to assert that legislation which has been deliberately enacted by two successive Houses of Representatives of the United States and by one Senate, and after full discussion in the press of the country, is either hasty or inconsiderate.

Mr. Chairman, the things for which we are now contending are neither abstractions nor sentamentalisms; they are the right of trial by impartial, intelligent juries, the rock on which Anglo-Saxon liberty was built, and without which it cannot exist one hour, the last refuge of the citizen from the oppression of the Government and the tyranny of the judge; and the freedom of elections which has given that liberty the power to perpetuate itself in the vigor of perpetual youth.

Take these from our political institutions and you leave nothing worth preserving; you leave them "with a name to live while they are dead." These are rights which, as the gentleman from Ohio [Mr. GARFIELD] said of the Christian religion, "are too precious to be delegated to anybody." The States and their citizens must hold these against the Federal Government, or they surrender their liberties to its discretion. To require of jurors before they shall be permitted to enter the jury-box to take an oath which few honorable white men, born and resident during the late war between the States in any part of one large division of this Union, is to make of the trial by jury "a delusion and a snare," is to convert the most effectual safeguard of the rights of a free people into a wicked engine of oppression. To give to the United States Government the right to "keep the peace at the polls" is to give it the power to make, as it has made, that peace the "peace that reigned at Warsaw," a peace sweet to tyrants, but to the liberties of the people the peace of death.

But, Mr. Chairman, we on this side of the House are charged with attempting a revolution of the Government. Such a charge is unfounded and unjust, and the gentlemen on the other side mistake the credulity of the American people when they make it. We attempt no revolution, unless it be revolution by the peaceful methods of the Constitution, sanctioned by the precedents of past legislation in this country and approved by many examples set by both the existing political parties, to repeal laws that, by the confession of the best and wisest men on both sides of this Chamber, are now useless; laws which we and a majority of the American people believe are a standing menace to the existence of our free institutions.

Mr. KITCHIN. Mr. Chairman, I have listened attentively for several days with considerable interest and some surprise at the elaborate and well digested speeches delivered with so much zeal and earnestness on the other side of the House. If I may be permitted, however, I undertake to say that if you will divest the great number of words spoken of three prominent ideas cropping out through all of the several efforts of distinguished gentlemen to which this House has listened so patiently, you will find an immense number of Anglo-Saxon words gathered together, locked in beautiful grammatical phraseology, splendid diction, and with very little solid reason or merit. Most of what has been said on the other side is upon the hypothesis or prevailing idea that in the President is concentrated all the sovereign powers of the nation, and that this Government was founded and has been perpetuated for the sole benefit and shield of the republican party, and that no one not a member of that august body, and not on the stool of repentance asking admission therein, is entitled to the privileges, protection, and benefits of the constitution, and that the much abused terms "Government and Constitution" are only synonyms for "republican party and President." This is a very great mistake. In their passion and zeal for the success of the creeds and theories to which they are wedded, I fear they have allowed their prejudices to overbear their judgments. We have been charged on this side of the Hall as revolutionists. The charges or insinuations are utterly untrue in every sense of the word, as well as the charge that we have once attempted to shoot the Government out of existence and now we are attempting to starve it to death. I presume no intelligent gentleman on this floor will listen to such nonsense, not even the honorable gentleman who in the heat of debate gave utterance to such inconsiderate language. It is easy to comprehend the whole scope and scheme of the opposition to the measure now under consideration.

It has been recorded in history that the Southern States were reconstructed. If this is true, and I presume it will not be successfully denied, we have some interest and some reconstructed rights in the public administration of this Government. I make no distinction between northern and southern democrats because the honorable gentlemen include us all in the same category. We are a part of this Government, and have endeavored to act within the limits of the Constitution; nor have we claimed any extraordinary construction for that instrument, insisting and demanding that it shall be construed as its framers designed and as the best legal minds and ablest constitutional expounders have heretofore construed it. All this furor and fulmination about starving the Government out of existence and revolution is nothing more nor less than the dying agonies of a party who have already read the inscription upon the wall and who are now realizing that the scepter has departed from Judah and the lawmaker from between his feet. Therefore it is not strange that they mourn and make known their deep grief in lamentations to their afflicted brethren who have been compelled by the uprising of an outraged people to relinquish their hold on the national heart from which they derived their life-blood. Neither to us nor to the country have the honorable gentlemen assigned reasons for their desperate efforts against this measure, save and except they say it is not the usual way of repealing statutes and therefore is "revolutionary" and strikes at the heart of the nation. This same clause proposed to be tacked to an appropriation bill was so tacked in 1865 to an appropriation bill and thus became a law, and nothing was heard of revolution then from our friends. The proposition is to repeal it in the same manner as it became a law.

Nothing was heard then from the other side of the House of its criminality and revolutionary tendency by becoming a rider to an appropriation bill; but now the eye that was blind can see the mote in the eyes of others with such perception and penetration as to magnify it into a mountain of monstrous proportions. Mr. Chairman, it is assumed upon the other side of the Hall that the Executive will exercise the veto power in case this bill should pass both Houses in its present shape, and that the result of such action will be to stop the whole Government machinery and thereby destroy the Government by withholding supplies. Unless the other side are in the secrets of the Executive they have neither a moral, legal, nor constitutional right to make such an assumption; but, upon the contrary, every presumption, legal, moral, and equitable, is against such a violent conclusion. Precedents, custom, right, justice, fair dealing, the Constitution, and his oath of office, are all against such an unreasonable and unjust assumption of power on the part of the President. On the other hand, if the Executive has informed his political friends that he will veto this bill, or has even intimated to them that such would be his policy, he is guilty of a great breach of courtesy to the legislative department and it smacks of dictation to the legislative branch of the Government, and, if I mistake not, is in violation of the spirit of the Constitution and his oath of office. If no such information or intimation has been given a great injustice has been indirectly inflicted upon the President in the course of this discussion. To prevent an infringement of the Constitution and to prevent hasty and injudicious legislation it is his imperative duty to fall back upon this extraordinary power (veto) which was granted to him in the Constitution for these purposes and for no other.

But this grant of power has never been resorted to and exercised by any Executive to prevent the repeal of a law demanded by a majority of both Houses since the foundation of the Government, and I cannot believe any honest, intelligent man, who has been honored by promotion to the highest position in the gift of fifty millions of people, will so far disregard the will of the people and a majority of both Houses as to exercise this power for the purpose of thwarting, defeating, and contravening the will of the majority, for it could not in this case be used, I apprehend, for any other purpose, because from the very foundation to the key-stone, acknowledged and declared by both parties and every section, is the "majority rule." This is no unconstitutional or hasty legislation. It was thoroughly considered and canvassed by the last Congress, by the newspapers both North and South, and has been most earnestly, eloquently, and ably discussed and investigated by this Congress. Therefore I conclude there is no constitutional, legal, moral, or equitable obligation resting on the Executive to use the veto power to prevent the repeal of a law that found its way upon the statute-book in a time of great political excitement and emergency, when the Republic was just emerging from the most gigantic and stupendous civil and military strife recorded upon the pages of history or in the annals of the world; when brother had barely ceased to thirst for brother's blood, when section was arrayed and enraged against section, when wild fury and mad passion had been engendered by four years of fratricidal and internecine conflict, and when the Republic was extending its arms over mountain into valley, from lake to gulf, from ocean to ocean, to protect its citizens. These are the circumstances under which this act became a law, necessary it may have been then, odious and detestable it is now.

Should an Executive attempt to defeat the express will of a majority of the people without cogent and powerful reasons, he would appear more in the attitude of a tyrant dictating terms to a fallen and conquered foe than the chief ruler of a free and independent people. Should one man assume voluntarily, as it would be in this case, such grave responsibility as to stop the wheels of the Republic, and misfortune should follow, remorse would forever cling to his conscience, and a just and righteous verdict of a proud, intelligent, and independent people would consign him and his party to oblivion's retreat, where the hand of resurrection could never reach them. But it is none of our concern what the Executive will or will not do. Congress is the law making and repealing power, and the Executive the power to have them put into execution, with a supervisory power residing in the judiciary to see that they be constitutional. The honorable gentleman need not remind this House of the evil results that might flow from the anticipated act of the President; it will neither drive nor lead from an honest and faithful discharge of duty; we will perform our duty to the country and let them assume the responsibility of defeating the will of the majority and, if you please, as they say, destroying the Government. I plant myself on this rock and say, in the language of the valiant Fitz-James:

> Come one, come all, this rock shall fly
> From its firm base as soon as I.

These threats vanish like empty bubbles upon the air. It may be the eloquent, vehement, and threatening speeches made on the other side of the House are intended more to infuse political and party fire into the national mind, to madden and poison the national heart against democratic predominance, now in its infancy, as to this generation, and to aid in building up a centralized Federal power on this continent, than to convince this body that great wrong and outrage are about to be perpetrated by the predominant party. I will suggest to the honorable gentlemen who oppose this measure that such unfounded and pretended reasoning might not affect the great issues pending before the people, and it may not carry conviction to the intelligent, patriotic mind North, and that the gentlemen themselves are very serious in the wanton and defiant assertions as to the danger to the Union from this side of the Hall. Are there not on this side of the Chamber captains, colonels, and generals who stood in the foremost ranks of the Union Army, who were reared from the cradle to love, honor, and defend the Union? All this talk about revolution is sheer nonsense, thinner than moonshine. All that is asked is to strike out eight words from the statute to prevent the President from using the Army at the polls on the day of the election. We are told this would destroy the Government. Before this could happen national pride, national manhood, and national patriotism would sweep over this land of ours in a tidal wave and drive the President from the White House and this Congress from this Capitol. Some on this side of the Chamber have been courteously and adroitly reminded that in 1861 they attempted to destroy the Union, and that the dominant party compelled them to desist and return to their first love. This is very ungracious and uncharitable.

Gentlemen of the republican party do not deserve all the honor and

glory of a restored Union. Northern democracy, as I can testify, did as noble and gallant fighting as any troops ever did or ever could. As to myself I went with my State, to her I gave my services; for the part I took in the strife I have no apology to offer. But after the conflict ended you of the North restored us to the rights of our fathers, and we shook hands in forbearance and love, and agreed not to resurrect the buried memories of the unfortunate and bloody past, and to forgive and forget. In your efforts to save the Union you were actuated by noble and patriotic impulses; we were as honest and sincere. Time and history have demonstrated that you were right and we were wrong. Here the chapter ought to have ended. You declared the Union restored to its former glory and the war numbered with the things that had been. Now, if this is true, why with a fiendish hand reach forth to disturb the sacred bones of the honored dead? Let them sleep on where misfortune has laid them—

Till it shall be morn in the grave to bid the sleepers rise.

The uplifting in your distempered imaginations the bleeding and mangled forms of your noble and gallant dead will not prolong your lease of power. Providence in His inscrutible wisdom and unlimited mercy has decreed your downfall. You have been extremely disobedient to the commands of justice, and your final destruction has been long delayed to give room for repentance and reformation, but they came not, and you must pay the severe penalty of your many transgressions. The order has been issued by the voices of near fifty millions of people, and it would be more dignified and becoming to step down and out in silent submission and quietly surrender the control of the nation into other and better hands, who will be required upon conviction, after being tried and found wanting, to follow in your footsteps. You have our sympathies in your sorrows and lamentations over your lost fortunes, blasted hopes, and future uncertainties; but a stern sense of honor and duty to the Union of the States and to the verdict of the people and love for the Constitution constrain us to restrain our sympathy for our fallen brethren and dispense with or release you for a period at least from the responsibility of making laws, and bid you God speed in all that is great, noble, and glorious; and I trust, gentlemen, while you are in the minority, you will learn to follow that golden rule, so often departed from in this degenerate age, to do unto others as you would have them do unto you. And let me ask of you in your sober moments to ever remember that the bail you required of the South for her good behavior was excessive in the extreme, the fines you imposed upon us were intolerable, and the punishment you inflicted was both cruel and inhuman.

The honorable gentleman from Maine says Grant sent the southerners home from Appomattox saying, "behave yourselves and I will take care of you." Had we been put into the hands of the noble and gallant Union soldiers who met us upon a hundred hard-fought battlefields and measured strength and courage with us, the wounds and sores of the war would have long since been healed and forgotten. But we were placed in the hands of politicians who never encountered death nor shed any of their precious blood for the life of the Union. And what was the result? Morality, Christianity, intelligence, honesty, wealth, and experience were driven from the legislative halls, from the judiciary, the Executive Departments, and every other place of authority throughout the whole South, and there were substituted in their stead the very dregs and scum of northern and southern society, men without honor, virtue, or one redeeming trait of character, who organized the colored man against his former master and bound him in midnight conclaves under a solemn obligation to support the republican party, resulting in the alienation of the two races who ought to have been friends; and under the leadership of these unprincipled men, blood-suckers, and political buzzards was inaugurated the most gigantic scheme of plunder and despoliation throughout the whole South ever known in this country up to that time, and then General Grant's promise was fulfilled in the same spirit and manner in which the vulture protects the lambs, "covering and devouring them."

And the bad faith with which these carpet-baggers and scalawags acted toward the colored man caused him to spew them out of his mouth, and, thank God, most of them out of the States; and thus the respectable and honest colored men of the South lost confidence in the republican party, as it appears the whole country has; and these are the reasons why you have no party South, and why the South is solid. And another prominent reason why both Houses are democratic today is that the people, the fountain from which all power is derived, have discovered that the republican party, instead of giving them more freedom, was legislating away and usurping what they had, as is made manifest on this floor by every speaker on the other side of the House. If the doctrine be true, as claimed, that the President has power and that it is his duty to superintend the polls on election days with his Army, with his supervisors and sub-supervisors, and marshals and submarshals, in times of profound peace when there is not a hostile foot on the American soil, and that, too, without being called upon by the governors or Legislatures of the States, then, gentlemen, you had as well blot out the States from the maps of your country and have one consolidated government in name as well as in fact, and save the enormous expense of running thirty-eight State governments robbed of their authority and power and stripped of all their reserved rights. Then you will have what the other side of the House demands—a grand, consolidated military government hedged in by the lakes and gulfs and the two oceans, with a platoon of soldiers in every neighborhood. I assert, without fear of successful contradiction, that there is but one constitutional way whereby the President of the United States can use the Army at the polls in any State, and that is at the request of the Legislature, or the governor if the Legislature cannot be convened in times of peace, or by the marshals under judicial process.

Mr. Chairman, the gist or gravamen of this measure hangs on the fourth article and fourth section of the Constitution of the United States, which reads as follows:

The United States shall guarantee to every State in this Union a republican form of Government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

Here is a State admitted in the Union under legal and constitutional forms, with a constitution not in conflict with the Constitution of the United States. She elects all her officers, from a constable to a governor. The machinery is put in motion; the day of the next election arrives; not a hostile foot presses her soil; but a riot takes place at the polls. Will any lawyer contend that the President, before the power of the State is exhausted, or before the governor or the Legislature, as the case may be, demands it, can send the Army to the State to quell it? If the State has at the time a republican form of government, then neither President nor Congress can constitutionally interfere unless the governor or the Legislature should request it, because the State has that which the United States has guaranteed—a republican form of government. As to the execution of the State laws the President has no power unless called on by the governor or Legislature. If such power was vested in the President, all any President would have to do to secure his own re-election or that of a friend would be to send troops to all the precincts or to enough to turn the scales and dictate how each elector should vote, and he need not do this in so many words, for bayonets speak a language, in the hands of soldiers, that cannot be mistaken. I am opposed to the bayonet rule. I want the military subordinate to the civil power, and unless that be so the rights of the people are gone forever.

The President of the United States has no power granted him in the Constitution to aid in the execution of State laws unless requested to do so by State authority, and when he attempts it he is without and above the Constitution and is a law unto himself, and at once becomes a usurper and a master instead of a servant. State laws are exclusively and absolutely under the control of State authority when they do not come in conflict with the Federal Constitution, and then they are void. Federal laws are under the absolute and supreme control of Federal authority and must be enforced by Federal officials just as State laws must be enforced by State officials. Neither can infringe upon the other; both are independent sovereign powers within their constitutional limits. All powers not expressly granted to the General Government are reserved to the people, and no power can be implied; and we find nowhere in the Constitution power given to the President to use the Army in the States, except in the fourth article, to guarantee a republican government and defend it against foreign invasion and, at the request of the State, against domestic violence. If it were otherwise, there would always be conflict between State and Federal authority. If the State law is violated, State courts take jurisdiction and punish; if the Federal law is broken, Federal courts do the same, and each is perfectly independent of the other. If the President has a constitutional right to keep the peace at the polls on election day with the Army, he has the same constitutional right to maintain the peace all over the States, and all the time; thus we would have two independent sets of officers at the same time to perform the same duty.

One more word and I am done. The gentleman from Tennessee asserted that the South was largely republican and if protected would send a republican delegation to this House. This is a mistake, and it is one of those of which Talleyrand says, "they are worse than crimes," a mistake which causes a southern man to call for soldiers to watch his fellow-citizens when they exercise the rights of freemen. And he seems very much outraged because he had no colored men from the South by his side. He lives in a large republican district in East Tennessee. Why did not the gentleman give us a living witness on this floor of the truth of his doctrine by staying home and sending a colored gentleman here to occupy his seat? He had the opportunity and power to do so. The honorable gentleman from Maine, [Mr. FRYE,] too, expressed great feeling for his absent colored friends. I say to the gentleman, set us the example by staying home and sending the colored brethren from your districts North and we will send five from the South for every one you send from the North. The great glory and beauty of our Government consists in its capacity to protect each and all its citizens upon its territory, and under its flag, without infringing the rights of any or encroaching upon the constitution of any State or violating its own. Our form of government stands today the wonder and admiration of the civilized world in consequence of its twofold character. When the relative rights of our duplex system of government are ignored or overborne by either the States or Federal Government, then American liberty will perish and the night of political chaos will come down and settle, it may be forever, upon the noblest and most hopeful fabric of human government ever reared by our race.

Mr. BRIGHT. Mr. Chairman, it is no very pleasant duty to travel over a burnt district of debate; but however unpleasant it may be to my feelings, I am impelled by a sense of duty to trespass further upon the patience of the committee. I do not think that any apology ought to be made for the debate which is now in progress. I feel sure that the people of this country will sympathize deeply in the discussion. I feel that they will be not only interested but instructed, and will be enabled to adopt a policy for the administration of this Government which otherwise they would not adopt.

I agree with the distinguished gentleman from Ohio [Mr. GARFIELD] as to the division of the political powers of the Government. Heretofore, in 1871, I stated the general theory that there are three great estates of power. The people, being the sources of all power, have delegated a portion to the State government, another portion to the Government of the United States, and have reserved to themselves the residuum. Without the expression of this power there is no vitality, no animation in this Government. Without the expression of this power there can be no State government, no Federal Government, no President, no Member of Congress. Power only departs from the people for a short time to return quickly at stated intervals. Within two years every member upon this floor will meet his political death. The power will return to the people. They have adopted a Constitution by which they have not only reserved but intended to retain that power in themselves. The Constitution which they have adopted is intended to act upon the legislative body, and the laws passed in pursuance thereof upon the great body of the people themselves. They are jealous of that power; they have not only put a short limitation upon it, but they have bound the consciences of members of this body with oaths. They have bound their President with an oath. They have clothed him with a veto power. Indeed, every facility has been resorted to in the machinery of the Government for the purpose of securing its fair administration.

With these preliminary remarks permit me to add that I do not propose to go back and discuss the causes of our unfortunate civil war. I believe with the great publicist, Mr. Halleck, with Vattel, and others, that after a treaty of peace and the cessation of hostilities the peace is to be perpetual, because there is no common arbiter who is authorized to decide the moral right or wrong of the cause of the quarrel. As I have studiously avoided heretofore any discussion of the grounds of dispute involved in the late war, I intend still to pursue that policy. I propose that there shall be a perpetual peace. I do not propose to tear the seal from the civil strife which has been healed. Were I to do so and invoke a renewal of our former strife I should feel myself as wicked as the man who would unbar the gates of hell and unchain the devil upon the earth.

But while this is so, it is not only proper, but it is a duty which we owe to ourselves and to the people, to inquire what is the true condition of the country and what should be the policy pursued in the faithful administration of the Constitution and the laws. This, Mr. Chairman, brings us to confront the question which is at this time before the Congress of the United States and the American people. It is simply a proposition to repeal a short clause in section 2008 of the Revised Statutes limiting the use of the military power of this Government at elections held under the authority of the laws of the States. Now, Mr. Chairman, I propose to address myself to the argument of this question. I propose to meet every proposition face to face and grapple with it in a fair and candid spirit.

It is asserted on the other side of the House that the repeal or modification of this law, as now proposed in the bill before us, is "revolutionary" in its character. I submit the proposition that if it be conceded that the law as it stands was a legislative act, that concession remits the right to a subsequent Congress for its repeal. It is not like the laws of the Medes and Persians, unchangeable and inflexible in character. If it be legislative in its enactment it is also legislative in its repeal. Does it require further argument to illustrate the proposition? Is there any revolution in it? I maintain that the charge of revolution is idle and unfounded, not to say puerile in its character.

But you say you object to the form of it. Why, Mr. Chairman, a single consideration will be sufficient to answer that proposition. Under the Constitution of the United States each body has the right to frame the rules for its own Government and for the transaction of its own business. They have exercised that right in the framing of their rules, both the Senate and the House. When the bill was introduced into this body prompt objection was made by the interposition of the rules, but by an able, clear, and unanswerable decision of the chairman of this committee it was ruled to be both germane and in order as tending to the reduction of the expenditures of the Government. From that an appeal was taken, and that appeal was decided against the appellant. If that be so, the form of the thing has been completely vindicated. It is legal in its form, and if there is any revolution in it the revolution rests in the heart of the Constitution. Surely Representatives will not insist that there is anarchy and revolution in the heart of the Constitution of their country.

Then, if it be legal so far as the legislative action is concerned, the will of Congress is a sufficient reason for the repeal of the act in question without further argument on the subject. And, so far as the merit of the question is concerned upon the charge of revolution, we might end the argument right here, but that it shall be fully and perfectly answered we propose to carry the war into Africa, and to answer the distinguished gentleman from Ohio by *argumentum reductio ad absurdum*. In 1872, simply taking a sample of former legislation, while that distinguished gentleman was chairman of the Committee on Appropriations, one of these very laws which we propose to repeal by a "rider" upon an appropriation bill was appended to the sundry civil appropriation bill reported by himself, approved by the republican party, and approved by the republican President. And when the charge of revolution is made upon the one hand, we might, perhaps, echo it back upon the other side. You are answered by your own act, and your mouth must be shut.

But in addition to that, to show the recognition of the legality of the thing in 1876, the democratic party, following suit, introduced a proposition into the sundry civil bill proposing to repeal the whole of article 26 of the Revised Statutes, which embodies every one of these obnoxious measures of which we now complain. The motion was made to strike that out. Every republican voted to strike it out except Mr. Farnsworth, and every democrat voted to keep it in, just as they will vote to keep it in here to be consistent with themselves. They moved to strike it out in the Senate, and it was there stricken out only to come back to annoy the republican party, for there is a democratic majority not only here but in the Senate of the United States.

Without recurring to further details in relation to the history of this legislation, we have vindicated ourselves enough to show that the cry of revolution comes with an ill grace from those who are affected by the same faults which they charge upon this side of the House.

But to charge *reductio ad absurdum* upon the democratic party and to argue our insincerity in this legislation they refer to the act of 1865 and say that it was put there by the democratic party. That statement was left to go unexplained to the country. The distinguished gentleman who made the first charge did himself injustice, he did the country injustice, he did the record injustice, for he ought to have told the whole truth about it, and that the objectionable feature that was put there was the child of the republican party, the bantling they have nurtured into manhood. It was put there under the coercive power of a majority and accepted as a choice of evils. That is the whole of it; and when the explanation is made the wisdom and propriety of voting for that will be easily seen, easily understood. It was intended simply as a modification of the act of July, 1861, which conferred unlimited power over the Army, the Navy, and the militia upon the President of the United States in order to suppress insurrections, rebellions, and all sorts of conspiracies and combinations. In the exercise of that power it was supposed that he had transgressed the civil rights of the individuals. I know of an instance in the State of Tennessee. Under the authority of the President of the United States, Andrew Johnson was appointed military governor of Tennessee, and he issued a proclamation to hold an election changing the qualification of voters under the constitution of that State, prescribing different places from those fixed by law, unusual tests as qualifications of voters. There was a committee of distinguished gentlemen from Tennessee which came to see the President on the subject of modifying the order for the election. They laid before him the change of the whole election policy of the State of Tennessee, showing the election was in violation of its constitution, in violation of the constitutional qualifications of the citizens, putting extraordinary tests and oaths to them, so that many of the Union men of the State could not comply with the terms. The President had that matter under consideration. A friend of mine in this city visited him in the interest of that committee to influence him, if possible, to remedy the grievances of which complaint was made.

When asked in relation to it he replied with an anecdote. This Tennessee case reminded him of an old farmer out in the West who had cleared a piece of land, had cut down a large gum tree, had cut it up and disposed of it all except the butt cut; and that he could not split and could not burn; he could not haul it out of the way; but he knew what he could do; that is he could plow around it. And that is the way the President answered he would do in relation to the Tennessee case. The consequence was, an election was held there, but only one party was voted for; Mr. Lincoln for President, and Andrew Johnson for Vice-President of the United States; and McClellan and Pendleton received no votes at all.

So there were grievances complained of in Kentucky and grievances complained of in Maryland. These grievances were brought by the people, and they laid them before the Congress of the United States as they had a right to do and to say to the law-making power "The powers which you have conferred upon the President to suppress insurrection and rebellion were never intended to be exercised in the infringement of the civil rights of the people."

Mr. WHITE. Will the gentleman allow me to ask him a question? I want to know if there was a McClellan and Pendleton party in Tennessee at that time?

Mr. BRIGHT. Yes, sir. A number of distinguished gentlemen, the first citizens of the State, belonged to it. I have their names here.

Mr. WHITE. All right. Did they vote?

Mr. BRIGHT. They did not; and they told the President they could not vote because his Army was in possession of the ballot-boxes.

Mr. WHITE. Would they have carried the State if they had had the privilege of voting?

Mr. BRIGHT. That is a question the gentleman can answer as well as I can.

Thus, Mr. Chairman, you see that the reason of the act of 1865 is fully vindicated and the discussion so far is entirely cleared up to the satisfaction, we think, of every rational mind.

But, Mr. Chairman, I propose to take another step and come now to the merits of this controversy. Let us inquire into the constitutional relation of the Army to the Government. First, as to the existence of the Army. The Constitution says, in article 1, section 12:

Congress has power to raise and support armies; but no appropriation of money for that use shall be made for a longer term than two years.

There is your power to raise armies; there is the limitation upon the life of the Army. It cannot live longer than two years without the authority of this legislative body. Why was that clause put into the Constitution, and why the limitation? By that enlightened commentator upon the Constitution, Mr. Justice Story, and in an article in the Federalist, which I have before me, it is stated that it was put there expressly for the purpose of keeping the Army under the legislative power in this country. The appropriation may be for a less time than two years, but for not one day beyond it; and the limitation was put there for the purpose, as stated by Justice Story, of starving the Army if Congress saw proper to do it. It was put there as one of the great remedial powers of the Constitution when the Army should become a burden to the revenues of the country or threatened the liberties of the people to put an end to its existence by refusing supplies. I shall take the liberty of publishing the comment of Mr. Story and the remarks of Mr. Hamilton upon the subject which I have before me and which I have not time to read:

Thus, unless the necessary supplies are voted by the representatives of the people every two years the whole establishment must fall. Congress may, indeed, by an act for this purpose, disband a standing army at any time, or vote the supplies for one year or a shorter period. But the Constitution is imperative that no appropriation shall prospectively reach beyond the biennial period. So that there would seem to be every human security against the possible abuse of the power.—*Story on the Constitution*, section 1183.

But here again it was objected that the Executive might keep up a standing army in time of peace, notwithstanding no supplies should be voted. But how can this possibly be done? The Army cannot go without supplies; it may be disbanded at the pleasure of the Legislature, and it would be absolutely impossible for any President, against the will of the nation, to keep up a standing army *in terrorem populi*.—*Story on the Constitution*, section 1184.

The Legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate on the propriety of keeping a military force on foot—to come to a new resolution on the point and to declare their sense of the matter by a formal vote in the face of their constituents.—*Federalist*, No. 26.

But while this power was put there for that purpose we hope the contingency in this country will never occur when that power is to be exercised. We do not propose to starve the American Army; we do not propose to disband our legions; we simply wish to limit the use and the control of the Army to the legitimate objects of the Constitution of the country.

This brings us to the consideration of the proper use of the Army under the Constitution. By article 1, section 8, Congress has power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions."

There is one of the great uses of the Army. By article 4, section 4, it is provided:

The United States * * * shall protect each of them [the States] against invasion; and on application of the Legislature, or the executive, (when the Legislature cannot be convened,) against domestic violence.

Now, this exhausts all the power conferred by the Constitution in relation to the use of the Army. Let us see, Mr. Chairman, what is the sum of this power, the military power of this country. It is, first, to execute the laws of the Union; second, to suppress insurrection or rebellion; third, to repel invasion. There are all the powers, and I do not find included in either one of these powers the power "to keep the peace at the polls." I do not find in the enumerated powers any clause which justifies the use of the Army for merely police purposes. Every State is presumed to have its own police officers. The necessity must be actual and not apprehended, and then by the consent and invitation of the State, for the exercise of a power greater than its own.

But our friends upon the other side of the House say that here is the great power conferred of "executing the laws of the Union." Now, Mr. Chairman, I invite attention to that provision. This confers no power to interfere with the elections of the country. These elections are the exercise and the result of a franchise which has been acquired by the citizen, and it is not the gift of the Federal Government. It is generally fixed in the organic law of the State in which the citizen resides, and its exercise is regulated by laws that are passed in pursuance of the organic law of the State which has conferred the right. Then if that be so, let us inquire whether Congress has any right to interfere with the exercise of this power, to prescribe any rules in relation to it, or to enforce any laws in relation to it which require the use of the Army.

Now let us see what are the powers of Congress in relation to these elections. I would state, however, in its proper connection, that Congress has no power over the qualification of the voter, as Mr. Justice Story has well considered in section 820, and which is as follows:

Nor can it be said, with correctness, that Congress can in any way alter the right or qualifications of voters.

Then, if Congress cannot alter or modify in any way the qualification of the voters, let us see what power Congress has over the elections of the country. What are these powers? By article 1, section 4, of the Constitution, "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law alter such regulations, except as to the places of choosing Senators." Now the times alluded to mean days; the places, the precincts; the manner, whether by ballot or by *viva voce*. There your power is exhausted. Does it require an army to declare the day of the election, the places of the election, or whether it shall be by ballot or *viva voce*?

No, the argument will not bear the touchstone of truth or reason. But, Mr. Chairman, I am coming up to the real debatable ground upon this question. I have stated the proposition as it was under the Constitution before the amendments. I propose to meet the question as it is presented after the amendments of the Constitution were adopted.

Now, Mr. Chairman, both these sections 14 and 15 have undergone judicial investigation; and by repeated decisions and by legislative action, too, here, it has been decided that they confer no new power upon the citizen.

Mr. WHITE. Will the gentleman allow me one question?

Mr. BRIGHT. Not now; I do not wish the line of my argument to be interrupted.

Mr. WHITE. I want to know about tissue-paper ballots.

Mr. BRIGHT. I will speak about that in the proper connection.

Mr. WHITE. Very well; I am glad to hear that.

Mr. BRIGHT. The only effect of this amendment was to enlarge the right or to confer the right simply upon the freedman, and to make him a freeman; to put the free-born and the freedman upon the same platform, and whatever rights the freeman had in relation to elections, the freedman should be entitled to the same.

The fifteenth amendment prohibits the denial of any right to the freedman "on account of race, color, or previous condition of servitude;" but this does not confer on the freedman any greater right than the freeman possessed antecedent to the amendment.

There is no complaint, no law of any State government, that is in violation of this amendment, but, on the contrary, they are in full harmony with it.

As to the power of Congress to legislate on voting at State elections I shall refer only to one decision, which is conclusive of the question. I read from 2 Otto, page 215, the syllabus of the case:

The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

So, Mr. Chairman, when we trim down the election laws of the United States to fit the decision of the court there is but little left. Three acts have been passed in relation to those questions—the act of May 31, 1870, that of February 11, 1871, and that of June 2, 1872. Now I shall argue that these acts find no warrant in the Constitution of the United States.

Now, Mr. Chairman, I invite the attention of gentlemen to a few considerations upon this subject. I say that these acts are unconstitutional because they assume to confer a power on the Federal courts in regard to supervisors, marshals, registers of elections, and the electors themselves, and returning-boards, and even questions of fraud which may be committed in the exercise of the elective franchise.

Now, is there any power in the Constitution that authorizes this? Where is the power in the Constitution that authorizes Congress to interfere in the administration of State laws, laws which it did not enact itself and did not confer the rights of the citizen under them? It is nowhere to be found. I deny that Congress has the right to interfere with the administration of the laws of the State and with the rights of the citizen secured by the constitution of the State. Is it not an alarming stretch of power and jurisdiction to assert that Congress has the power to use the Army of the United States to enforce laws which it did not enact, and to control the exercise of rights which it did not and could not confer on the citizen? Yet, Congress has enacted laws for such purpose and has asserted control over the representative will of the people by its judiciary and Army.

Mr. HORR. Will the gentleman tell us how it is, if this be true, that you have not made a case and taken it before the court that has the power to settle the question of the constitutionality of the law?

Mr. BRIGHT. I have given you a decision that goes to the point, and goes to the point of the power of Congress, and it has been so decided in at least three well-defined cases.

Mr. Chairman, now as to the execution of the law; and I wish to call the attention of the House to it. Here are the United States marshals and supervisors charged with the execution of a part of the law. Under the original act of 1871 they are made the depositaries to a certain extent of the powers of Congress and the judicial power. They have the power of seizing upon the individual, holding him in duress, thus cutting him off from the dearest right known to the freeman. In the working of this terrible engine of oppression the United States marshal or the political partisan applies to the Federal judge and the judge to the President, and the President sends his Army to enforce judgments even on questions of fraud alleged to have been committed under the election laws of the State, not to suppress insurrections or rebellions.

Am I mistaken about it? Just listen to what President Grant said

in a message sent to the Congress of the United States on the 25th of February, 1873, in relation to the disturbances in Louisiana:

Controversy arose as soon as the election occurred over its proceedings and results, but I declined to interfere until suit, involving this controversy to some extent, was brought in the circuit court of the United States, under and by virtue of the act of May 31, 1870, entitled "An act to enforce the right of citizens of the United States to vote in the several States of the Union, and for other purposes." Finding that resistance was made to judicial process in that suit, without any opportunity and, in my judgment, without any right to review the judgment of the court upon the jurisdictional or other questions arising in the case, I directed the United States marshal to enforce such process, and to use if necessary troops for that purpose, in accordance with the thirteenth section of said act, which provides that "it shall be lawful for the President of the United States to employ such part of the land or naval forces of the United States, or of the military, as shall be necessary to aid in the execution of judicial process under this act."

So he put it upon the ground of executing the judicial processes of a Federal court, not of a State court. And, as I will show you from other extracts that I will read, he told you that under this same act his authority extended to frauds that were supposed to be perpetrated under and against the laws of the State governments.

The sum of this whole matter is that the Federal judiciary is resorted to for the purpose of construing and deciding upon the validity of the laws that are passed by a State regulating the elective franchise of its own citizens. In other words, the Federal judiciary is used as the fulcrum for the Army of the United States, as a lever to overturn State governments at the pleasure of the President of the United States as he did in the State of Louisiana.

I submit to the Congress of the United States, I submit to the whole people of the United States, that if the Federal judiciary is to be installed over the laws of the States and the rights of the citizens in the exercise of the elective franchise, and the Army of the United States is to be used to enforce the behests of the courts in every petty suit that may be engendered and got up, even to the overthrow of every State government and every officer under it, then American liberty is gone, ingulfed in the whirlpool of consolidated government. Its vast liberties are in the grasp of one man, who wields your Army as a warrior wields his battle-ax, to cleave down the liberty of the citizen and the government of the State.

It was the exercise of authority under this law which enabled the President to put the heel of his military boot upon the neck of Louisiana. It was that which enabled him to feel for the very heart-strings of freedom in the ballot-box. It was the exercise of that very power which you propose here to confer upon him which enabled him to station soldiers at the doors of the legislative assemblies and to decide who were elected your State legislators, who were your governors, when they had laws for the decision of all these questions before their own tribunals, and when you had no power over the subject-matter.

You begin to see and confront all these questions; you begin to see the antagonism of these powers; you begin to see the mighty circle of the whirlpool into which the liberties of the American people are now being drawn.

I have traveled over something of the history of this legislation. It all has its outgrowth from the misguided policy of the republican party. As this party has been held up as the party of "immaculate record," I propose simply to recur to a few of the acts of legislation. I shall refer to them simply for the purpose of showing the construction which has been put upon the Constitution of the United States by that party.

The force bills were first passed. One of them sectioned off the Southern States into military districts, disfranchised a portion of the people, enfranchised another portion, dismantled the judiciary, expelled the Legislatures, and established military tribunals in the place of civil tribunals. Now do not misunderstand me. I do not complain. I only refer to them to show you the construction that you republicans placed upon your powers under the Constitution of the United States. You thought you had the right to do it.

Again, you passed a bill through both Houses here called the Freedmen's Bureau bill, which continued the military system but transferred the civil power and jurisdiction to some military tribunal in the South, striking at the right of trial by jury, digging it up entirely by the roots. That bill was presented to President Johnson, who took his stand upon the Constitution of the country and stood in the breach. When he understood the proposition he lifted the veto power and it descended like the red lightning of heaven and shattered it like a potter's vessel before the face of the people.

You thought it was all right. But he said afterward there was power enough conferred by that bill to have made him king or dictator of the American people. You were willing to lay all the thunders at his feet. If he had been corrupt and ambitious he might have used them to the destruction of American liberty. You thought it was all right. It was your construction of the Constitution thus to play and temporize with the liberties of the people.

Mr. HORR. I understand the gentleman to say that President Johnson vetoed that bill?

Mr. BRIGHT. I suppose everybody knows that.

Mr. HORR. Very well; did he have the right to veto it?

Mr. BRIGHT. I will say that he did, and I think his veto message will stand as one of the proudest monuments on the plane of human liberty.

Mr. HORR. Then suppose President Hayes thinks that the laws you are about to pass are vicious and unconstitutional——

Mr. BRIGHT. Then let him veto them.

Mr. HORR. He should do that?

Mr. BRIGHT. Yes, if he thinks them unconstitutional.

Mr. HORR. Then do you agree with the declaration made this afternoon on your side of the House that if President Hayes should veto these bill you will stay here for two years——

Mr. BRIGHT. I am not answering for any one else. I do not believe that this legislation is unconstitutional.

Mr. HORR. Wait until I finish my question.

Mr. BRIGHT. I cannot yield any further.

Mr. HORR. But suppose——

Mr. BRIGHT. I will not yield.

You suspended the writ of *habeas corpus* in a time of peace, or rather you conferred the power upon the President to do it, that ancient writ imported into this country, the boast of all Englishmen, the triumph of Runnymede, the result of its victories. You placed it entirely in the hands of one man. You gave him power to suspend the civil functions of every State of this Union, when your governors should sit powerless, when the judges upon the bench should sit powerless, when your marshals and your civil authorities were paralyzed as dead men and under the heel of a single man. This act was described by Mr. Trumbull as a State annihilator. You were willing to intrust all this power to one man.

Then follow the election laws, now under consideration, making Federal judges and supervisors the supreme authority with reference to the conduct of elections—assuming omnipotent powers over State laws and State officers.

These were the laws you thought you had a right to pass under your construction of the Constitution.

Now, Mr. Chairman, permit me to go a step further and show the manner in which these laws have been executed. Just before the presidential election of 1876 an order, which I have before me, was issued by the Secretary of War, notifying the commanding general to have all the troops that could be spared from our bleeding frontier in readiness for calls to be made from other places. In obedience to such call forty-five hundred troops were marched into South Carolina, Florida, and Louisiana. Why were they marched there? Why the roll of the drum, why the piercing notes of the fife, why the tread of armed legions, why the glittering of bayonets? Where is the hostile foe, where the embattled ranks? When that call was made and that order issued where was the pretext that there was any insurrection or rebellion? Look at the date. At that time you could not find a single hand lifted against the authority of the State or of the United States. We all knew the meaning of the movement. Those troops were marched into Louisiana and other States—down-trodden Louisiana whose government was overthrown. Desperate as the symbolic bird on its own escutcheon, which it is said will tear the flesh from its own breast to feed its brood, the people of that State were determined to make the last struggle. Pressing between the glittering bayonets of Federal power sent there to intimidate them, they deposited nearly 7,000 majority for Tilden and Hendricks.

Mr. HORR. Does the gentleman refer to the time——

Mr. BRIGHT. I cannot yield. When it was understood that Tilden was elected and the shouts of our people were making the welkin ring for joy, then upon the wires extending all over this land, the delicate nerves of the lightning, there came the whisper, "Though Tilden is elected Hayes shall be counted in." We find that soon after that time fourteen companies of troops were ordered to Tallahassee, Florida, beside others to Louisiana. Here are the instructions of General Grant to General William T. Sherman:

Instruct General Augur in Louisiana and General Ruger in Florida to be vigilant with force at their command to preserve peace and good order and to see that the proper and legal boards of canvassers are unmolested in the performance of their duty. Should there be any grounds of suspicion of fraudulent count on either side, it should be reported and denounced at once.

There you have it. Here are your sentinels, here are the dragon coils of the American Army thrown around a returning board as it sits in incubation to hatch a President of the United States. Glorious duty for the American Army, watching to see if any fraud is committed! No insurrection, no rebellion, no pretense of anything of that kind! I hardly know how to restrain my sense of indignation when I contemplate this humiliating office imposed upon the Army of the United States. I believe that if I were an officer in command, before I would perform this degrading duty I would tear the epaulets from my shoulders, and I would snap the sword over my knee, and would return it to the Government that imposed such humiliating duty upon the Army of the United States.

What is the result of all this? It shows that the policy, the maxims, the practices of war are incompatible with a state of peace; that force and freedom cannot dwell together; that between them is an "irrepressible conflict;" that one or the other must yield; and it is for the American Congress to say whether they will reinstate the civil authority over the military.

I am sure that the honorable gentlemen who lead our armies desire not the performance of such duty. I know that there was one who refused to perform it unless the law strictly compelled him to do so.

A MEMBER. Name him.

Mr. BRIGHT. I refer to General Hancock, whose name is illustrious, who honors the profession of the soldier.

This interference of the military with elections is a menace to the liberty of the people, extending not to one section merely. When a

blow like this is struck at free elections in Louisiana the rebound is felt in New York and Indiana; it tells upon the destiny of the whole country. The fraudulent or violent change of one State may carry the presidential election and all the patronage and power which belongs to the office. And this claim is not yet abandoned. We were told to-day that if we would give them the Army republicans would come from the South and fill these seats. Great God! Is the admission solemnly made here that you wish the Army of the United States to be used merely as an appendage of a political party, that your tenure of office must be maintained by force, not by the merit of your principles? Has the startling truth leaked out the republicans want the Army at the polls not "to keep the peace," but to keep their place in power? If the Army and supplies are granted to them now, when will we see the end of the exaction?

Have your principles been so much condemned by the American people that they will not stand the test, but that you must hold the fort, *hold* the fort by the military arm of the Government? Ay, gentlemen, you have not given it up. The man it is said is in training abroad now; he has been feasted and ovated in Europe by the bondholders and creditors of the United States who wish a strong Government to chain the people down to their dungeon floor and to flay them with taxation, and in response to their complaints to give them the bayonet. Under the instigation of those men you will find that there is a candidate in training for the presidential race. He will land at the golden gates of the Pacific; he will find a splendid palace car to receive him and will be met by shouting thousands. They will shout hosannas to the returning hero; some perhaps so abandoned they will throw up their hats and render homage to an American Cæsar.

You say, "Is thy servant a dog, that he should do this thing?" Hazael said that to Elisha, the prophet, when Elisha wept and told him the desolations and horrors he should cause when he should be king. He said, "Is thy servant a dog, that he should do this great thing?" Yet he went home, and the first thing he did was to murder the king, to overturn the government, and thrash the nation into dust. Of ambition the poet has said:

> Ambition hath one heel nailed in hell,
> Though she stretch her fingers to touch the heavens.

It lifted itself against even the sovereignty of Heaven. Nothing can ever satisfy its rapacity for power.

Mr. WHITE. I wish to ask the gentleman does he not think that General Grant would make a good candidate for the Presidency?

Mr. BRIGHT. When we say that this country ought to be released from its thralldom we are met with the cry, "Rebellion!" "Rebellion!" like old Hook crying "Beef!" in the Revolution. You raise the bloody flag, and think the whole northern heart will be inflamed. You think it will be like the cocked hat of Napoleon, which when raised upon a pole would cause all Europe to rush to arms. You think you can muster your forces all around the bloody flag with your howl of "Rebellion!" I tell you no; you cannot deceive this people longer by the empty howl. They must have some other pabulum. They are looking forward to the future. They are cutting loose from the dead body of the past. There is a future with its splendid anticipations before them, and they will look to that party, support that party, to carry out the great measures of reform and relief that are to bring prosperity to this country.

Now permit me in my concluding remarks to sum up a few facts. In the first place, if the republican party has had a mission, that mission is at an end. If its mission was to emancipate the slave, to strike the yoke from his neck and the manacles from his hands and to restore the Union, those objects are now accomplished facts, and there is no further need of the party.

Another conclusion is, the maxims and practices of war are inconsistent with a state of peace, and they cannot dwell long together. Peace is the normal condition, war the abnormal; and when the causes of war have passed away, there should pass away also the force and the power which are inimical to peace. Force and freedom cannot exist together.

To sum up the great argument in a few words: The republican party have been in power, and it is now fourteen years since the close of the war; and when we look over this country we see a perfect paralysis of every industry; we see the land filled with tramps, with complaints upon the lips of the people. The fires of your mills have been put out. We find that there are rings and monopolies, a bond-ridden, bank-ridden, tariff-ridden, tax-ridden, poverty-ridden, and monopoly-ridden people, all crying for relief. Here is a prostrate country at your feet, and its condition cannot be laid at the door of the democratic party. Your administration is condemned. "Mene, mene, tekel, upharsin!" is written upon the wall. Your days are numbered; your power will pass; weighed in the balances, you are found wanting. You have your grasp upon the throat of this country, holding on by the military power. But, sir, the representatives of the people, not the democrats alone, are wrenching your fingers loose one by one, one by one, until the agonizing country shall be released from your grasp of power.

But, Mr. Chairman, one word more. We know that the party on the other side of the House dies hard. It is the fate of parties. We have had to die. There is a resurrection day, however, and we have touched our mother earth and arisen like the earth-born giant. You are now the party overthrown.

Mr. FISHER. Will the gentleman allow me to ask him a question? Inasmuch as his time has expired, I think he will yield long enough for me to ask him a question?

Mr. BRIGHT. If it will be any accommodation to you I will do it.

Mr. FISHER. I would suggest to him to state, in connection with other matters that he has stated, that his State is now repudiating and cheating northern men of money due them.

Mr. BRIGHT. The State and the people will take care of that themselves; but then if what the gentleman states is true, does that justify you in destroying the liberties of the people of this country with the Army? Does it? [Applause.] If the State is prostrated and run down, and if a policy has been inaugurated here that is grinding down not only the people, but grinding the State to powder under your oppressive administration, is it any excuse to say that the State of Tennessee is unable to pay its debts?

Mr. FISHER. The gentleman was remarking that the republican party is dishonest.

Mr. BRIGHT. I did not say dishonest. Do not put words into my mouth that I did not use.

I do not care to go into the question of the debt of the State of Tennessee. The people of my State will take care of their own honor. The validity of some of the bonds has been called into question. The State is now negotiating for the purpose of settling that debt, and I suppose the State is quite capable of taking care of that question itself.

Mr. WHITE. At forty cents on the dollar.

Mr. BRIGHT. The democratic party has a destiny before it. It has come up. It is here. It is animated and encouraged by the people and it proposes, sir, to do something for their relief. First of all, to save the Constitution of the country, and then to administer relief, just and equitable, under its provisions. It proposes to strike the shackles of military power from the States and the people. It proposes to give them relief from a policy under which they are ground down. It will endeavor to make the whole land murmer like a vast hive of industry, and the seas blossom with our sails. It will endeavor to break through the tariff blockade, and give free course to our commerce among the nations.

Mr. WHITE. I want to ask the gentleman if he is opposed to the present tariff in which Pennsylvania is interested, on account of the protection it affords to its industries?

Mr. BRIGHT. I would put the pruning-knife into your tariff system. I would reform your internal-revenue system. I would relieve the people of your State.

Mr. WHITE. Does my friend from Tennessee [Mr. BRIGHT] know that under our tariff policy the iron industries of my great State have given employment to much labor, thereby aiding to relieve us from tramps, and that now our industries are looking better and reviving? If he does not know it, I as a Representative from Pennsylvania who have some knowledge of these interests do understand it.

Mr. BRIGHT. Oh, I understand the policy of your State very well. I have not time to go into that.

Mr. WHITE. I beg pardon; but if the gentleman from Tennessee is opposed to the protective system he does not understand the politics of my State nor the interests of its people.

Mr. BRIGHT. The politics of your State have nothing to do with my political convictions.

Mr. WHITE. The gentleman says he is going to relieve the country when the democratic party comes into power by destroying the infamous tariff.

Mr. BRIGHT. I did not use the word "infamous" at all.

Mr. WHITE. You called it "despotic and oppressive and robbing," which are synonymous terms. I want the people of my State to understand that a representative democrat publishes such sentiments to the country, that he would cut up our tariff system. That is the relief he intends to give if the democratic party under his leadership gets into power.

Mr. BRIGHT. I cannot enter into a discussion of that question. The remark I made was only incidental. I have discussed the question before this body. My views have not been concealed, and if the gentleman wishes to know them he will find them on record. So far as that question is concerned, I believe there ought to be a reform in our revenue and financial systems, so as to give relief to the suffering thousands and hundreds of thousands of people in the gentleman's State who have been made tramps.

Mr. WHITE. You will never do it by reducing the protection on our iron.

Mr. BRIGHT. That protection never was given by democratic policy. It lies at your own doors. The democratic party had nothing to do with it.

Mr. WHITE. I tell the gentleman in reply that we as republicans are proud of the existing tariff policy of the country and have no apology to make for it, and we will resist the substitution of a free-trade policy therefor.

Mr. BRIGHT. If it is the pleasure of the committee to indulge me in speaking on the subject of the tariff, I will do so.

Mr. WHITE. How long does the gentleman want?

Mr. BRIGHT. Let me speak upon it.

Mr. WHITE. A couple of hours?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRIGHT. I do not desire to detain this committee. I would

have been through long ago but for the interruptions of these gentlemen.

Mr. WHITE. I beg the gentleman's pardon.

Mr. BRIGHT. I am now proceeding by courtesy of the committee.

Mr. WHITE. We are very glad to give it to the gentleman. I recognize the gentleman as an able lawyer and a representative democrat; therefore I like to emphasize his utterances upon this modification of the tariff. I would like to hear him upon the free-trade doctrines which he thinks will restore prosperity to this country.

Mr. BRIGHT. I will send the gentleman a copy of one of my speeches on that subject, which will fully inform him.

Mr. WHITE. We are too busy now to read old speeches.

Mr. BRIGHT. My time is up. I do not desire to trespass further upon the patience of the committee. I do not often trouble the House. I have this to say, that I am none the less thankful for the indulgence which has been extended to me.

I have only this further remark to make about the democratic party. We will have freedom when that party is restored to power, when it comes back with all its reforms. The country will then be restored to all its constitutional rights. To paraphrase the eloquent passage from Curran—the country will stand forth redeemed, regenerated, and disenthralled by the irresistible genius of American liberty.

Mr. MANNING. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. REAGAN having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. WHITE. I move that the House now take a recess until eleven o'clock to-morrow morning.

The motion was agreed to; and accordingly (at ten o'clock and twenty minutes p. m.) the House took a recess until eleven o'clock a. m. to-morrow.

AFTER THE RECESS.

The recess having expired, the House reassembled at eleven o'clock a. m., (Friday, April 4.)

ARMY APPROPRIATION BILL.

Mr. WHITTHORNE. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the further consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SPRINGER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole, and resumes the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. McCOID. If no other gentleman desires to occupy the floor at this time, or is entitled to it——

The CHAIRMAN. The gentleman from Mississippi [Mr. SINGLETON] is entitled to the floor.

Mr. SINGLETON, of Mississippi. Am I to be forced to make a speech this morning, before my time has arrived?

The CHAIRMAN. The gentleman's time has arrived.

Mr. SINGLETON, of Mississippi. Of course the chairman has a right to insist upon my taking the floor now, and if he does so I will proceed; but I protest against it.

Mr. WHITE. I made the motion last night for a recess until this morning. I did so after consultation with the gentleman from Mississippi, [Mr. SINGLETON,] and my understanding was that some gentleman on this side who desired to speak would be allowed to occupy twenty minutes of the hour.

Mr. SINGLETON, of Mississippi. What hour? My hour?

Mr. WHITE. Yes, sir.

Mr. SINGLETON, of Mississippi. Oh no, sir.

Mr. WHITE. That was my understanding.

Mr. SINGLETON, of Mississippi. The understanding I had from the chairman of the Committee of the Whole himself was that the first hour was to be given to gentlemen on that side of the House, and I was to be recognized for the next hour. I find, however, that this morning the order has been changed.

Mr. WHITE. No, sir; the order is not changed at all.

Mr. SINGLETON, of Mississippi. I did not say that you had changed it.

Mr. WHITE. I know there can be no difference of recollection as to the facts. The gentleman from Mississippi [Mr. SINGLETON] did not want to speak last night, and asked me to move a recess. I was perfectly willing to do so.

The CHAIRMAN. The gentleman from Mississippi has the floor.

Mr. McCOID. I am perfectly willing to take the floor at this time if the gentleman from Mississippi desires it.

The CHAIRMAN. The gentleman from Mississippi is entitled to the floor.

Mr. McCOID. Then I will ask the gentleman to yield twenty minutes of his time to me.

Mr. SINGLETON, of Mississippi. I would be very glad indeed to do so if I could get through with what I have to say in less time than an hour. I must state again to the other side of the House that according to the arrangement which the Chairman announced it was understood that if there was any republican who wished to occupy the hour this morning after the recess, or to occupy it last night, he had the privilege to come in before me. That was the understanding with me. Now I find this morning that the arrangement has been changed. I did not expect to give any portion of my time to any one on the other side of the House, because if any part of it should be left I have promised it to gentlemen on my own side. I would be very glad to accommodate gentlemen on the other side if I could, but it is not in my power to do so. I am perfectly willing, if the Chairman will allow it, that the gentleman from Iowa should go on for twenty minutes or even longer; and I will take my hour when he gets through.

The CHAIRMAN. In less than one hour from now the Committee of the Whole must rise and the House begin the legislative session of Friday.

Mr. WHITE. If the gentleman from Mississippi is disposed to leave the matter to the Chair, the Chair will doubtless protect the gentleman beside me, who desires to submit some remarks.

The CHAIRMAN. The Chair desires to protect the rights of all gentlemen, but the time for general debate is now limited, and it is impossible for every gentleman to occupy the time that he may desire. The gentleman from Mississippi will proceed.

[Mr. SINGLETON, of Mississippi, addressed the committee in remarks which, not having been concluded when the committee rose, will be found complete in the proceedings of Friday, April 4.]

Mr. GARFIELD. I interrupt the gentleman from Mississippi only to suggest that the committee rise in order that we may have an adjournment, and that the session of Friday may begin.

Mr. SINGLETON, of Mississippi. The Chair will please note how much time I have left.

The CHAIRMAN. The gentleman has five minutes of his hour remaining.

Mr. MILLS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CLYMER having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. CARLISLE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at one minute before twelve o'clock a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: Papers relating to the war claims of James N. Hunter, Miles M. Hammond, and Mrs. S. Callaway—to the Committee on War Claims, when appointed.

Also, papers relating to the claim of E. A. Collins, administrator of W. P. Collins, deceased—to the Committee of Claims, when appointed.

By Mr. BEALE: Papers relating to the war claims of Arthur Ashton, Henry C. Browner, and Allen T. Callahan—to the Committee on War Claims, when appointed.

By Mr. BICKNELL: Resolution of the Legislature of Indiana, asking that the national banking law be amended so as to require national banks to sue in the State courts in certain cases—to the Committee on the Judiciary, when appointed.

By Mr. CHALMERS: Papers relating to the war claim of Allen E. Anderson—to the Committee on War Claims, when appointed.

By Mr. CRAVENS: Papers relating to the war claims of Mrs. Anna M. Coggswell, Jeremiah F. Dorris, and Elizabeth J. Hampton—to the same committee, when appointed.

By Mr. DUNN: Papers relating to the war claim of James M. Barker, and Elizabeth B. Higgins, Joel Higgins, and Brand Higgins—to the same committee, when appointed.

By Mr. FORNEY: Papers relating to the war claim of William H. Huff—to the same committee, when appointed.

By Mr. HOOKER: Papers relating to the war claims of Harriet J. Carey and A. H. Gardner—to the same committee, when appointed.

By Mr. HOUK: Papers relating to the war claim of Theodore T. Coffin—to the same committee, when appointed.

By Mr. LEWIS: Papers relating to the war claims of George C. Arrington, John Belcher, and William T. Hamner—to the same committee, when appointed.

By Mr. LORING: The petition of the Baptist church of Peabody, Massachusetts, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary, when appointed.

By Mr. LOWE: Papers relating to the war claim of Hamilton F. Arthur—to the Committee on War Claims, when appointed.

By Mr. MANNING: Papers relating to the war claims of Jordan Broadway, Calvin Cheairs, Hugh Davis, Nancy Garison, John A. Gwin, and the estate of Thomas S. Hardaway, deceased—to the same committee, when appointed.

By Mr. MARTIN, of North Carolina: The petition of citizens of North Carolina, for an appropriation to dredge Ocracoke Swash—to the Committee on Commerce, when appointed.

By Mr. McMILLIN: Papers relating to the war claim of S. E. Belcher—to the Committee on War Claims, when appointed.

By Mr. MULDROW: Papers relating to the war claims of Andrew Cathay and J. W. Cansey—to the same committee, when appointed.

By Mr. O'NEILL: The petition of Frederick Heidelmann, for an increase of pension—to the Committee on Invalid Pensions, when appointed.

By Mr. PERSONS: Papers relating to the claim of the estate of S. H. Hill—to the Committee of Claims, when appointed.

By Mr. SIMONTON: Papers relating to the war claims of Volney S. Alston, James A. Bowling, Needham Branch, and John J. Hill—to the Committee on War Claims, when appointed.

By Mr. SINGLETON, of Mississippi: Papers relating to the war claim of William L. Clearman—to the same committee, when appointed.

By Mr. STEELE: Resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Cape Fear River, the making of Fayetteville, North Carolina, a port of entry, and the making the navigation of Cape Fear River free—to the Committee on Commerce, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Waccamaw River—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation sufficient to clear out and deepen Currituck, Croaton, and Pamlico Sounds, and Neuse and Newport Rivers—to the same committee, when appointed.

Also, resolutions of the Legislature of North Carolina, relative to the improvement of the rivers of said State—to the same committee, when appointed.

Also, resolution of the Legislature of North Carolina, favoring the establishment by the General Government of two universities in the South, one for the education of white and the other for the education of colored youths, free of charge, and that $1,000,000 be appropriated for the establishment of each university—to the Committee on Education and Labor, when appointed.

Also, resolution of the Legislature of North Carolina, favoring an appropriation to make Lumber River navigable—to the Committee on Commerce, when appointed.

By Mr. URNER: The petition of John Dillinger, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. YOUNG, of Tennessee: Papers relating to the war claims of Mrs. Emma G. Abbott, Abbie P. Anderson, Richard L. Andrews, A. G. Bankhead, William E. Barnett, Reuben B. Bass, John Bateman, George W. Beasley, Mary Beasley, John H. Bills, Mrs. Mary P. Bradford, Rosanna H. Black, Clara E. Bryan, Charles C. Burke, (administrator, &c.,) Washington G. Campbell, Juliet Campbell, Emmarilla J. Carr, Paul A. Cicalla, Robert H. Cleere, Mrs. Martha C. Cole, Benjamin Coleman, Ann E. Connell, (executrix, &c.,) Henry C. Dallis, Carson R. Dalton, Alfred H. Darden, Wiley J. Davis, Samuel H. Dunscomb, W. W. R. Elliott, Lucy E. Dowdy, John A. Farley, Rosetta Freel, John O. Graves, William B. Hamlin, Delas A. Harrell, James A. Henry, David H. Hildebrand, Indiana E. Hughes, and Fannie T. Hunt—to the Committee on War Claims, when appointed.

Also, papers relating to the claims of Mathias App, Benjamin Babb and others, and William G. Ford, administrator of John G. Robinson, deceased—to the Committee of Claims, when appointed.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 4, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

INSTITUTION FOR DEAF AND DUMB—SMITHSONIAN INSTITUTION.

The SPEAKER. The Chair desires to state that he has received a communication from the officers of the Columbia Institution for the Deaf and Dumb, and also a letter from the Board of Regents of the Smithsonian Institution, asking that he make immediate appointment of directors for the first named institution and of regents to the latter. In accordance with this request the Chair announces the following appointments:

Directors of the Columbia Institution for the Deaf and Dumb: JOHN T. HARRIS, of Virginia, and WILLIAM CLAFLIN, of Massachusetts.

Regents of the Smithsonian Institution: HIESTER CLYMER, of Pennsylvania; JOSEPH E. JOHNSTON, of Virginia; and JAMES A. GARFIELD, of Ohio.

In this connection the Chair desires to state that the gentleman from Georgia, [Mr. STEPHENS,] who has been a regent of the Smithsonian Institution, absolutely declines to serve further as such, because, owing to the state of his health, he is unable to attend the sessions of the board.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Mississippi [Mr. SINGLETON] has five minutes of his time remaining.

Mr. SINGLETON, of Mississippi, resumed and concluded his remarks. The following is the complete speech:

Mr. Chairman, I am glad we are confronted to-day with the grave question, whether as a legislative body representing the will of the people we have the courage and determination to strike from the statute-book certain iniquitous laws placed there to control elections in the interest of a political party, or whether we will falter and come short of our duty to the country.

But a few weeks ago, when a repealing clause to effect this end was attached to an appropriation bill in this House, the republican Senate denounced our action as monstrous and revolutionary, and called into being the present session of Congress rather than yield to the voice of its popular branch. We are now in the second act of the performance, with a partial change of the *dramatis personæ*, with no side issues to settle, with no controverted points of courtesy between the two Houses, and, better still, with no constitutional inhibitions blocking our way. We are left to inquire whether it is necessary and proper to free and fair popular elections: First, that United States troops be stationed at ballot-boxes while the voting is going on; Secondly, whether supervisors and deputy marshals of the United States shall exercise plenary powers in deciding upon infractions of the election laws and in making arrests for the same; and, thirdly, whether jurors called to try prisoners so arrested shall be required to take what is familiarly known as the "iron-clad oath."

These are the three points upon which the two Houses of the last Congress failed to agree, and which now press for consideration and settlement. I propose to consider them in the order named, if I can have the indulgence of the House, and that they may be properly understood I will give the full text of the acts relating to each.

TROOPS AT THE BALLOT-BOX.

First, then, as to the use of troops at the ballot-box. The act reads as follows:

SECTION 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

The only warrant, power, or authority under which the President, any head of a department, or military commander has assumed to act in stationing troops at any ballot-box during any election, general or special, in any State, is derived from the last eight words of the section quoted, namely: *or to keep the peace at the polls*. And yet during the late administration, where there was no disturbance at the polls, while peace and order reigned supreme, troops were sent, at the caprice of the President or the solicitation of political managers, to any voting precinct in the country, city, or village with intent to intimidate and drive from the polls unoffending citizens whose political opinions did not suit the party in power. The baleful effects of this practice are familiar to every one. I will not stop to enumerate them.

It may be said, and truthfully too, to the honor of the present Administration, that since its inauguration no troops in a military capacity have been permitted at any voting precinct, and that in consequence the law has fallen into disuse and become a dead letter. If this be true, then why not repeal it? The present Chief Magistrate of the United States may regard the law with disfavor, as the mass of private citizens unquestionably do, but who can forecast the views of his successor and give any guarantee that the scenes and incidents of the late Administration will not be repeated? Already the clans are gathering at the bugle-blast of their chieftains to enter again upon the work of misrule and spoliation. The country, in a spasmodic effort to rid itself of the leeches and vampires who were sucking its life-blood, drove into retirement certain individuals, but now again they emerge from their banishment, fasten themselves upon the body-politic, and are ready to satiate their appetites with illicit power and plunder. The return of certain men to political life bodes no good to the Republic. Coming events cast their shadows before them, and it behooves us to remove all obstructions to a full and fair election in 1880. This act with others must be repealed, or it is vain to talk of carrying out the popular will at the ballot-box.

But, Mr. Chairman, there is a side to this question which calls for yet more earnest thought and calmer consideration. I refer to the constitutional power of Congress to enact such a law. I know it is the habit of a certain class of politicians of the present day to indulge a derisive sneer whenever reference is made to the Constitution. But grave questions affecting the construction of that instrument and the rights of the people growing out of it are not to be settled by a mere grimace or toss of the head.

If during the war the plea of *inter arma leges silent* was deemed a sufficient one for the usurpation of powers which struck down the political and personal rights of the citizen, yet now that more than a dozen years have elapsed since peace was declared, it is the solemn duty of those in authority to repeal all laws of admitted or even doubtful constitutionality. It has ever been one of the cardinal principles of the democratic party that doubtful constitutional powers should never be exercised, even to effect the most desirable object. I am not one of those who are ready to admit that the late war, like a mighty maelstrom, swallowed up all the powers and attributes of the States, and left only a grand consolidation whose powers are unlimited and illimitable. We still profess to have a written organic law which we call the Constitution and which, as members of this body, we have just taken an oath to support. Article 10 of amendments to that instrument I find to read as follows:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

To read this clause and then deny that the Federal Government is one of limited powers involves a degree of stupidity rather to be pitied than upbraided. It has no powers unless they are to be found in express grants, or such implied powers as are necessary and proper to carry out express grants. Keeping these facts in view, the question arises, are there any express terms in the Constitution authorizing United States troops to be stationed at polling-places during any general or special election? I have only to cite the several clauses in the Constitution relating to the organization and uses of the Army to establish the negative of the proposition.

The first clause relating to the subject is to be found in article 1, section 8, clause 12, being one of the enumerated powers of Congress, which declares that said body shall have authority "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

It needs no reasoning to show that this clause goes no further than to empower Congress to raise and support armies. Not one word is said as to the uses to which it may be applied. A warrant to use it for any purpose whatever must be found elsewhere.

The next reference to the Army is to be found in clause 15 of the same section, which declares that Congress shall have power "To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

I think it will be admitted that the language quoted by no means covers the case. It is true that it speaks of *executing the laws of the Union, of suppressing insurrections, and repelling invasions.* But it is manifest that one of three contingencies must arise before the militia can be called forth. First, the laws of the Union must be violated or resisted, or an insurrection must actually exist, or an invasion must have been actually made, attempted, or threatened; and any one of these contingencies having happened, and the civil authorities of the States being inadequate to protect or defend, the militia may be called forth, by and under an act of Congress. For if the laws be neither violated nor resisted they will execute themselves through the appropriate civil functionaries, having the privileges of the *posse comitatus.* The term militia is used in contradistinction to the regular Army. Webster defines the term in this wise:

Militia: The body of soldiers in a State enrolled for discipline, but engaged in actual service only in emergencies, as distinguished from regular troops, whose sole occupation is war or military service.

Both the clause of the Constitution quoted and the definition of the term militia forbid the idea that they can be used in any way except in an emergency, to enforce a law of the Union resisted or violated, to suppress an insurrection already begun, or repel an invasion already made, attempted, or threatened, *and then only* when the regular civil authorities of the State government have fruitlessly exhausted their powers. Any other interpretation of the clause would hopelessly subordinate the civil powers of the Government to the will of the President, to be executed through an armed militia.

There is still another clause touching the relations of the Federal and State governments where troops may in a certain contingency be used, to which I now refer. Section 4, article 4, provides that—

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.

It cannot but be noted how careful the framers of the Constitution were to guard against national interference with State matters, and especially how anxious they seemed to be to leave all minor matters of State troubles to State authority. The powers in this clause conferred upon the United States are, first, to guarantee to each State a republican form of government; secondly, to protect each State against invasion; and thirdly, upon application of the Legislature, or of the executive when the Legislature cannot be convened, to protect each State against domestic violence. From the very language of the grant conferred or duty imposed by this clause, taken in connection with the powers reserved to the States or the people, it is manifest that the Federal Government cannot interpose at pleasure in the affairs of a State. It is only when State authority is too weak to secure to the people thereof a republican form of government that the Federal arm may be invoked. It is only when an invasion of a State from an outside foe has been made, attempted, or threatened, and Federal authority is needed to protect that State, that it can be interposed. It is only when domestic violence has overawed the civil authorities of a State that Federal interference can be justified, and then only upon the call of the Legislature, if it can be convened, or if not, upon application of the executive based upon a proper state of facts. It will be observed that the mode of this protection is not pointed out. It may be done, not necessarily by forcing troops of the United States into the territory of a State, not necessarily by force of any kind, but by peaceable means, if practicable, as by issuing a proclamation; which in many cases has proved effective, and notably in the case of South Carolina in the days of nullification; not authoritatively, but persuasively, keeping the troops in the background, the very sight of whom with threatening aspect in times of peace is offensive to our people. To station troops at polling places in times of election, when there is no present insurrection on foot, no domestic violence being done or attempted, even though a corrupt or timid executive may call for their presence, finds no warrant or authority to support it in this clause of the Constitution.

But in the insane desire and wild hunt for authority to employ the Army in controlling elections for party purposes, it may be claimed that such power is derived from article 15 of the amendments, sections 1 and 2, which are in the following language:

SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The language of this clause is that the right to vote shall not be denied or abridged by the *United States or by any State*, and does not refer to or cover the action of any mob or combination of citizens acting outside of the authority of the United States or of a State. Governments, State or Federal, can only act through constituted authorities under the forms of law. When, therefore, it is declared that the right to vote shall not be denied or abridged by the United States or by any State, the whole meaning of the language is that neither the power of the Federal Government *as such government*, nor of a State *as such State*, shall be interposed to deny or abridge the right thus conferred. Any other interpretation of this clause of the Constitution would involve an utter absurdity.

After citing all the sections or clauses of sections in the Constitution in any wise relating to the subject, we fail to find any *express* warrant for stationing troops at any ballot-box during any election in any State.

The only remaining inquiry, Is the exercise of this power necessary and proper to the enforcement of any other expressly granted power? I think may be answered unhesitatingly in the negative. If it be claimed that it is necessary, then I ask which one of the delegated powers depends for its validity upon the exercise of this implied power? I think none can be cited. For nearly one hundred years of the life of the Republic no such power was exercised, or even advocated. The wildest latitudinarian never dreamed of such elasticity in the Constitution. Outbreaks have sometimes occurred at ballot-boxes in the States, but State authorities were with few exceptions deemed sufficient both as to honesty and capacity to suppress these and secure fair and impartial elections. Every State has its penal statutes against infractions of election laws, and its courts to enforce them, which have been esteemed ample safeguards to the ballot-box. It has been reserved for the men of this day, members of the republican party, to inaugurate this with other equally disreputable schemes to keep themselves in power. They have at last been overtaken by public condemnation, and however unpalatable it may be to them to attend the funeral obsequies of their once stalwart friend and benefactor, yet the *fiat*, "let the monster die and the curtain fall upon it forever," has gone forth from the people and must be obeyed.

UNITED STATES SUPERVISORS AND DEPUTY MARSHALS.

I come now to the consideration of the second proposition, namely, shall the supervisors and deputy marshals of the United States exercise plenary powers in deciding upon infractions of the election laws, and make arrests for the same without legal process based upon a charge of guilt?

I will first make a brief synopsis of the several sections of the Revised Statutes relating to the appointment of supervisors of elections. Under sections 2011 and 2012 the judge of any United States circuit court, at the instance of any two citizens of any town or city having upward of twenty thousand inhabitants, or at the instance of any ten citizens of good standing in any county or parish, may appoint two citizens, residents of the city or town or of the voting precinct in the county or parish, being of different political parties and able to read and write the English language, who shall be known and designated as supervisors of election. Section 2016 defines the duties and powers of these supervisors. They are required to attend at all times and places fixed for the registration of voters who are entitled to vote for a Representative or Delegate in Congress, to challenge any person offering to register, to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked, to personally inspect and scrutinize any registry, to make lists of the voters, to affix their names to each page of the roll of registration, and use such means as they may think necessary and proper to detect the improper use of the same. They are further required by sections 2017, 2018, and 2019 to attend all elections held for Representatives and Del-

egates in Congress, to challenge any votes supposed to be improperly offered, to remain with the ballot-box after the voting is over until the votes are entirely counted out, and after counted out and tabulated to certify their correctness or append objections, and do and perform many other acts and things in the premises.

Section 2021 authorizes any United States marshal, when an election is to be held in any city or town having twenty thousand inhabitants or upwards for any Representative or Delegate in Congress, at the instance of two or more citizens residing in said city or town, to appoint special deputy marshals, whose business shall be, when required, to aid the supervisors in the several duties above named.

Section 2022, being the sum of all villanies, I give in its own language:

> The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and IMMEDIATELY, *either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States.* * * * For the purposes of arrest or the preservation of the peace, the *supervisors* of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, *have the same duties and powers as deputy marshals.*

Section 2023 reads as follows:

> Whenever any arrest is made under any provision of this title, the person so arrested shall *forthwith* be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

Mr. Chairman, to comment upon these several sections calmly requires more philosophy and self-control than belongs to my nature: I cannot read them without feelings of indignation and scorn for the head that could conceive and the hand that could trace such atrocities. Talk of American citizenship, of the "land of the free and home of the brave," and then turn to the pages of your statute-book where is to be found recorded the language above quoted and tell me if all our boasted freedom is not a mockery and a lie. Read the indictment contained in our Declaration of Independence against George III, of England, and say if anything therein found smacks more strongly of tyranny and oppression than these sections of our own law? Arrests to be made without charges of guilt, not for overt violations of law, not under legal process emanating from a competent and impartial officer, but at the mere volition of any such supervisor or deputy marshal who does not know but *professes to believe* that a citizen has *committed, or attempted or offered to commit* some violation of the election laws, or who has or is supposed to have committed *some offense against some one of the laws of the United States.* If Congress can and will confer upon irresponsible supervisors and deputy marshals who are selected for their known subserviency to party, plenary powers to arrest at will any citizen who has chanced to fall under their displeasure, and *immediately* force him from his home and friends to a distant point in quest of a commissioner or judge of the United States, among strangers not willing to become his bondsmen, thus leaving no alternative but the prison, then, I ask, what becomes of the boasted muniments of American citizenship and personal liberty?

"The right of the people to be secure in their persons against unreasonable seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the person to be seized," is the language of the Constitution of the United States, to be found in article 4. And in article 5, as if intended to throw further safeguards around the personal liberty of the citizen, it is declared that "no person shall be held to answer for a capital or other infamous crime, * * * nor be deprived of life, liberty, or property without due process of law;" yet under the act now sought to be repealed, he may be *immediately* deprived of his *liberty without process* of any kind upon a mere surmise that he *attempts or offers* to commit a wrong.

Such is the fallibility of human nature, such its passions and prejudices, that our fathers in framing an organic law, the foundation-stone of the grand superstructure which has since risen upon it, were not willing to intrust even to the wisest and best of that patriotic age the power to deprive the weakest or meanest citizen of his liberty at the pleasure of another. But such has been the degeneracy of American statesmen that this disgraceful law has found its way into the statute-book, and to-day upon this floor has its advocates.

I beg leave to call the attention of the House for a moment to the practical effects of this law in the Southern States, but more especially in Louisiana and Mississippi. I premise my remarks upon this point by the statement that a large majority of white men of intelligence and respectability belong to the democratic party in these States. The few that are outside of it and are seeking to stir up race antagonism are under the ban of society. They hate the democratic party, and are not loved in return.

Mr. WHITE. Is it not considered respectable for a man to be a republican there?

Mr. SINGLETON, of Mississippi. In Mississippi a man's respectability does not depend upon his political opinions, unless those opinions are carried into practice to bring about race antagonism and place the lives of our people in danger. It rarely happens that men of intelligence come to Mississippi and affiliate with any other than the democratic party. Only men who had no social status in the community which they left are willing to play the role of disturbers of the peace and order of society.

Mr. WHITE. Was not Judge Chisholm a respectable citizen; and was he not killed on account of his political opinions?

Mr. SINGLETON, of Mississippi. I have never understood that he was killed on account of his political opinions. His death grew out of a family feud existing long anterior to his death.

Mr. WHITE. Would he have been killed except for those opinions?

Mr. SINGLETON, of Mississippi. I do not know. Any opinion upon that subject could amount to nothing more than speculation.

Mr. WHITE. Have the murderers of Judge Chisholm ever been punished or tried?

Mr. SINGLETON, of Mississippi. I think not. They have been indicted, and the trials were postponed at the last term of the court on account of the absence of Mrs. Chisholm, the chief witness for the State; the motion for continuances coming from the prosecution and resisted by the defense. The indictments are still pending, and doubtless trials will be had whenever the prosecutors are ready.

In very many cases they are known to be supple tools in the hands of Federal authorities, and glory in the opportunity to inflict any indignity upon their more respectable neighbors. With rare exceptions these are the men who are selected as special deputy marshals to stand at the polls to challenge votes, to make arrests without legal process, to remove prisoners from their vicinage and beyond the reach of friends and witnesses and to persecute them on account of some real or fancied personal grievance. If colored deputies are appointed they are often chosen on account of their blatant opposition to the white race and their love of oppression. There being no penalty affixed by law for the improper exercise of their powers, and, not being property-holders, they are not amenable in damages for false imprisonment. Thus, being "clothed with a little brief authority," they often use it to gratify feelings of malice and revenge.

But this is not all. Timid men, old men, men of peace, are kept from the polls because of the dangers to which they are exposed from these unlimited powers in the hands of irresponsible persons. Should they attend an election precinct, expecting to return to their homes as soon as their ballots were deposited, they may meet with some enemy, white or colored, who whispers into the ear of a deputy marshal that an *attempt* has been made or an *offer* held out to influence improperly a vote, and at once an arrest would follow. I have drawn no fancy picture to adorn my speech. Cases of this kind frequently occur, as lately demonstrated in the cases of forty-eight prisoners whose acquittal took place at one time in the city of New Orleans.

The question has been significantly asked, and with an air of triumph, have not some of these men pleaded guilty to the charges preferred against them? I answer yes, and for reasons easily explained. These prisoners have not unfrequently been taken from three to five hundred miles from their homes, as in the case of the Louisiana prisoners above named, have been detained for weeks or months from their families at a heavy expense which they could not afford to bear, and knowing that they were to be confronted by negro witnesses who were trained to swear them guilty, to be tried by a jury packed to convict, and in addition being beset by Federal officers who had them in charge to plead guilty, pay a light fine, and return to their homes—under these circumstances a few of them have entered the plea of guilty.

And now it is claimed that the majesty and justice of the law were vindicated by the confessions of these oppressed and over-persuaded prisoners. The rack and thumb-screw, instruments of torture in bygone ages, have extorted confessions of guilt from many an innocent sufferer, and so in the nineteenth century, in the full blaze of intelligence and civilization, more cunningly devised but scarcely less effective means have been used to extort confessions of guilt from suffering humanity, not to vindicate a principle, not to test the justice of a law, not in the interest of good government or to protect society, but simply to afford political capital to a party already bankrupt but seeking to bolster up its ruined fortunes by disreputable agencies.

But the effects of this law upon northern elections are even more appalling than those upon southern. At the bidding of one man, Chief Supervisor Davenport, thousands of voters in the city of New York, on the day of the last congressional election, were arrested, imprisoned, and disfranchised by his arbitrary acts. Men who had voted for years upon naturalization papers, the validity of which had never been questioned, on presenting themselves at the polls were taken into custody and hurried off to jail by this petty tyrant and his subalterns. Thousands of others were deterred from offering to vote, to the great gain of the republican party. The same is alleged to have been the state of things in the city of Cincinnati and at other points.

The question now forces itself upon us, Will this Congress at any and every cost repeal this law, or shall it remain a standing menace to the good citizens of the country? Shall they be taxed annually $250,000 to pay a vast horde of these supernumeraries, who were never known to our fathers but are the progeny of a Congress long since consigned to oblivion?

THE JURY TEST OATH.

I come now to consider briefly what might be termed the last act of a grand farce were it not for the tragic consequences to those who become victims to the malice and ill-will of the petty officials above

described. Let us contemplate its practical workings for a moment. The scene is laid in a court-room of the United States. The judge is upon the bench, reverend, grave, and dignified, having taken the "iron-clad oath," if a Union man in the late struggle, if not, then the modified oath such as he is about to refuse to the jury to be empaneled. The bustling district attorney, who may have been a confederate soldier and could not take the oath about to be administered to the jury, is hobnobbing with the marshal for a sound and *partial* jury which will be sure to convict. The marshal, eager to show his fidelity to his master, the President of the United States, has gone out into the highways and by-ways and gathered up as far as he could do so by any stretch of power, a *venire of the truly loyal*, many of whom as they muster into court present much the appearance of Falstaff's army, which he refused to march through Coventry. The first juror is called, and instead of administering the old-fashioned oath, "a true verdict to give according to law and evidence," he is required if admitted to the jury-box to take the following oath:

You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States.

Any person declining to take said oath is debarred from serving upon any grand or petit jury called to try these cases.

This first juror is perchance a man of unquestioned integrity and the soul of honor, who stood by the flag of his section in the late war until it went down in defeat and darkness, and finding nothing more could be done for the "lost cause," renewed, in good faith, his allegiance to the Federal Government. Since that day no charge of infidelity to the old flag has been made against him, no taint of dishonor attaches to his name, he is the trusted neighbor and faithful friend; and yet he is excluded from the jury-box, lest his honest heart, his unbiased judgment, should respond to the oath he had taken and acquit some unfortunate citizen of a false charge preferred against him. He stands aside and the next man upon the *venire* is called. He is a "chosen vessel," of rare qualities as a juror; a *carpet-bagger*, *a home traitor*, or perhaps some ignorant negro. He can take the oath; hastens to do it, and is ready to say guilty in every case, with or without evidence. His verdict is made up the moment he is ordered to take his seat in the jury-box. And so the case proceeds until the panel is completed. In and around the bar of the court-house appears a motley crew of witnesses, each one of whom has his lesson by rote. They swear to what is *expected* of them. The district attorney asks the court to charge the jury as to the law of the case, which is done in bomb-proof style; and notwithstanding the severe logic, the bitter invective, or eloquent appeals of counsel for the defendant, a verdict of guilty is a foregone conclusion.

Call you this trial by jury, by peers? If so, better it should be by "wager of battle," by walking over hot plow-shares, or any other of the modes known to antiquity, by which a man's innocence was required to be tested. Away with this solemn mockery. Repeal the infamous act, is wafted to the ears of Congress upon every breeze that reaches this Capitol.

And why should it not be repealed? The men of the South who constitute a part of the law-making power of the country, we who sit in this Hall, are exempted from the stringency of this oath. Judges who sit upon the bench to interpret the laws made by us are not required to take it. The ministers of the law, of high or low degree, are allowed to take the modified oath. Even a member of the President's Cabinet can enter upon his responsible duties, as did Postmaster-General Key, by taking the following oath, now administered to all officers and functionaries of the law who took part with the South in her effort for independence:

I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Then why not exempt jurors from the "iron-clad oath?" The answer will suggest itself readily to every mind, because it has a reflex influence upon the ballot-box, and tends to deter voters from approaching it, who would rather be disfranchised than take the hazard of arrest and conviction.

But again the question recurs, why not repeal it? It was enacted in 1862, during one of the fiercest struggles the world has ever witnessed, when the passions of men were aroused to a pitch that dethroned reason; when individual liberty, and even life, were esteemed things of little value in comparison with the grand aims of the contending parties. It cannot be justified even as a war measure, taking into consideration its vindictive character; but the deepest disgrace which attaches to the party giving it existence is, that for so many long and weary years, the same party being in power and able to repeal it at any time, it has been permitted to hang like a dark cloud over the South, giving out its bolts to the discomfiture and ruin of our citizens.

But, Mr. Chairman, I am rejoiced to know that the hour of deliverance has come. Could I express my preference in the provisions of this bill, I would not leave upon the statute-book a single vestige of these laws. Could I wipe the dark spot from the nation's escutcheon which they have placed there, could I blot from the memory of man all recollection of them, I should esteem it one of the proudest moments of my life. But fealty to my party teaches me submission to its superior wisdom, and I acquiesce in the partial repeal of the supervisors law, with notice to all concerned that I accept this as only the first installment of justice due to a long-suffering people, and that I shall hereafter claim full payment of the debt by the abrogation of every line, word, and letter of said act. Repeal these statutes and the people will take heart again, feel a renewed interest in our country's institutions, and cherish hopes of a return to the old methods and practices of administering the Government. Leave them upon the statute-book, and ever after let there be no more eloquent tirades against the Spanish inquisition or the English star chamber.

Mr. Chairman, in conclusion, permit me to declare that I shall follow my own convictions of duty in reference to the provisions of this bill. I neither know nor is it my duty to speculate upon or inquire into the views of the President of the United States. He is responsible to the people for his actions, and must stand or fall by them. I have no threats for him, and heartily contemn any threats made against this House by his friends. For myself, President or no President, veto or no veto, I am prepared to fight upon this line until the work proposed is done, effectually done, whatever of time, labor, or expense it may involve.

Mr. MONEY. I ask unanimous consent of the House to occupy five minutes in answering a question put by the gentleman from Pennsylvania [Mr. WHITE] to my colleague [Mr. SINGLETON] with regard to the Chisholm matter. [Cries of "Regular order!"]

The CHAIRMAN. The time for closing general debate has been fixed and cannot be extended without unanimous consent.

Mr. SPARKS. I do not object; but as the debate is to close at three o'clock——

Mr. HAYES and others objected.

Mr. MONEY. My only reason for asking to occupy the time now—— [Cries of "Regular order!"]

The CHAIRMAN. The call for the regular order is equivalent to an objection. The gentleman from Iowa [Mr. WEAVER] is recognized as entitled to the floor.

Mr. WEAVER. Mr. Chairman, I assure you that the people of this country have witnessed for many years with painful impatience the continuation of this sectional strife. It has become distasteful to them in every part of the Union where they have the control of their right reason. It will be remembered that during the Forty-fourth Congress the sectional difficulties growing out of the war were discussed in a partisan spirit from the beginning of that Congress until its closing hour. The "plumed knight" from Maine [Mr. BLAINE] and the distinguished parliamentary gladiator from Georgia [Mr. HILL] were the central figures in the discussion in that Congress. It ought to be within the memory of all gentlemen on this floor how perfectly flat that controversy fell upon the public mind. And I risk nothing in saying that a similar fate awaits this attempt to revive fratricidal strife. All through the Forty-fifth Congress the same eternal broil was kept up. And now in this the first and extraordinary session of the Forty-sixth Congress, when the people are confidently looking for substantial relief, the same old difficulty is again introduced and weeks of precious time are being wasted in the discussion.

Sir, I have changed my mind entirely as to the remedy necessary to drive away from the politics in this country this disturber of our peace. I, sir, was a republican for twenty-one years. As soon as I obtained my majority almost I joined that party and fought in an humble way both at home and in the field to ingraft upon the laws of the country the measures which I believed were rightfully advanced by that organization. But in my opinion no remedy applied merely to the surface of this wound will give the people permanent peace. We must have constitutional treatment that will remove even the cause of the disease, and this makes it necessary to have a change of physicians. [Laughter.]

I was amazed yesterday at the distinguished gentleman from Kentucky, [Mr. BLACKBURN,] when he alluded to the hereditary right of the democracy to rule this country and compared that party to the children of Israel in their wanderings from Egypt to the promised land; but upon reflection I thought there might be some similarity, but I did not know but he had mistaken the army of Pharoah for that of Israel. [Laughter.] Let us, however, notice the similarity between the children of Israel and the democratic party. The democracy have succeeded in getting their Joshua into the Senate and their Caleb into the House, but thousands of their carcasses have fallen in the wilderness on their way to the Caanan of their hopes. And I say to him and to the gentlemen on that side of the House that their Moses in 1880 will die on Mount Nebo, especially if he should be a hard-money Moses. [Laughter.] That ancient leader in Israel died on that celebrated mountain in sight of the promised land, because he had presumed in his own name to strike the rock that was to give forth the water to refresh the famishing caravans of his people, and the new Moses, if he represent sectional strife and the financial views which are now starving the people of this country, will perish also without realizing his exalted hope; but not because he struck the rock from which the water was to issue, but because he and his friends have joined hands across this aisle with the hard-

money men on the republican side of the House to dry up the fountains of the prosperity of the people.

I have not been unmindful, Mr. Chairman, of the fact that these gentlemen on the right and left can fight over sectional issues like maddened gladiators bent on mortal combat, and then in two minutes on Saturday evening stand up like loving brothers and vote to carry us over Monday, which is bill day, and thus prevent the "greenbackers" from introducing measures of relief for the people. [Laughter and applause on the republican side.] And I say to gentlemen on the democratic side of the House that unless they give the people at this session of Congress relief they will have forfeited their opportunity for victory in 1880 by a great and deliberate parliamentary blunder.

Sir, gentlemen talk about revolution—the eloquent gentleman from Ohio [Mr. GARFIELD] did so on last Saturday in the most adroit and forcible manner. I say to this House that if by the continuation of sectional strife and the withholding of substantial relief you force the people to much longer "eat the bread of idleness," it will not be long before they will thirst for the "wine of violence." There is where the danger of revolution is to be looked for. It does not come from the defeated confederacy, it does not come from the gentleman on my right, primarily; but it comes from the uneasy masses who are out of employment to-day, and out of food and destitute of raiment. It comes from those through whose enforced idleness the country is now losing more per diem than it cost to put down the rebellion at its most expensive period.

Sir, I want it distinctly understood that cotton is no longer king in this country, nor is gold, but that the laboring-man, the industrial classes are sovereign, and their behests must be obeyed, and be obeyed speedily. It is unquestionably the duty of the industrial classes, by means of the ballot, to speedily take the Government into their own hands, but in doing so to do justice to all.

But to return to this unpardonable sectional strife. We used to hear, sir, during the war that it was "all quiet on the Potomac." Now we have the reverse order of things, and it is all quiet except on the Potomac. For the only controversy that I know of on this sectional matter emanates from this Hall and from the Congress of the United States, which to-day I am led to declare is sadly misrepresenting public sentiment. We have had in this controversy everything that was nauseating, everything that was sickening to the public taste, brought in and harrowed up by the discussion; the invasion of bleeding Kansas; John Brown and the capture of Harper's Ferry; the entry of Boston by Federal troops to capture or kidnap Burns; the riots in New York; the destruction of the orphan asylum, and Governor Seymour's speech to his "friends;" and some gentleman spoke, I believe, in a serio-comic way of the invasion of the sacred soil of Pennsylvania by George Washington to suppress the whisky riot. I would suggest to my venerable friend from Pennsylvania [Mr. WRIGHT] that when an appropriation is asked for the Washington Monument, he should not let that pass until he has George Washington's conduct in that matter fully investigated. [Laughter.]

When I heard, Mr. Chairman, the bugle-call of the gentleman from Ohio [Mr. GARFIELD] to his "skirmishers," and when I saw him gracefully bow his shoulder that that "chip" might fall off, if perchance some democratic champion did not knock it off, and when I heard the gentleman from Mississippi [Mr. CHALMERS] in a regretful manner complain that the confederacy had been shot to death, and saw him gallantly fire a parting shot at John Brown, as the soul of that patriot went marching on; and then when I looked to my right and saw the gallant commander of that grand march to the sea sitting on this floor, and on hastily looking around saw sitting in my rear the greatest living commander of the late forces of the confederacy—it was the first time he was ever in my rear, [laughter]—I must confess to you I felt the martial spirit rising again in my breast. I could almost hear the shout of the victor and the roar of the musketry. I "felt that stern joy that warriors feel in foemen worthy of their steel." But I controlled my feelings, Mr. Chairman, and reflected that of late years the distinguished commander who led the Union forces to the sea and the distinguished gentleman from Virginia [Mr. JOHNSTON] have both taken anew the oath of allegiance to the Constitution and are both drawing handsome salaries under the same Government, payable in greenbacks. Then that blessed quotation came into my mind, "how good and how pleasant it is for brethren to dwell together in unity." [Applause.]

But seriously, Mr. Chairman, when I look at the course taken here by the leaders on both sides of the House, I consider it unpardonable as keeping alive in the breasts of the American people sectional animosities. It is greatly to be regretted. It proves to my mind that the old parties are powerless to give relief to this country. It is a fact, sir, that it takes ten or fifteen years to develop the leaders of a great party, and fully as long to shake them loose again; and it is never done, and history will bear me out in that statement, except by movement from without that crushes the organizations over which they dominate. This is the only method through which the people can gather the fruitage of advanced civilization.

There is great force and truth in the remark among the people that the leaders of the old parties feed almost exclusively on sectional strife and hatred. It is apparent also that the leaders are determined to fight and refight the issues of 1876 in the coming campaign of 1880. It is perfectly apparent and beyond dispute that they intend to do this. The gentleman from Tennessee [Mr. HOUK] spoke of the President of the United States and his laudable effort to inaugurate an era of peace and of his having met the opposition of the South in that effort. Now, I want to state the exact history as to this. The indisputable truth of the matter is that the President has been opposed by almost a solid North and solid South in his laudable effort. The partisan press and the partisan leadership of this country have opposed every effort on the part of the Executive to restore peace. There is no mistake about that. History will bear me out in what I say, and it is current history with which we are all familiar.

Sir, I repeat again, the old parties, because of sectional animosities that have been engendered between them, are powerless to give peace to this distracted country. It was said of David, after he had collected the material to build the temple that should be dedicated to peace and typify the Man of Peace, that "David shall not build the temple, for David is a man of blood." And so it has been said from on high, as I doubt not, that these old parties shall not build anew the temple of liberty in our beloved country, for they are parties of blood. A new organization must do it, and the Lord is raising up that party now. The workmen are all at work in the quarries, and every block in the temple shall be peace. As an humble representative of the national greenback party, I feel great solicitude that it shall commence to build on solid foundations; and I say here to the gentlemen on the right and on the left that the national greenback party wants neither soldiers nor bulldozers at the polls. [Applause on both sides.] Nor do we want them near where elections are being held; and I shall offer at the proper time, if recognized for that purpose under the five-minute rule, the following amendment, which I now read as a part of my remarks:

At the close of section 6 of the bill insert the following:

And under like penalties it shall be unlawful for any person, unless he be a police or other civil officer acting in the discharge of his official duties, to have in his possession, either openly or concealed, fire-arms or other deadly weapons, at or near any place where any general or special election is being held in any State, when there is to be voted for at said election either candidates for Representatives in Congress or electors for President and Vice-President of the United States.

I cannot see how this can be objected to by any member upon this floor. I say, further, we want no test oath for juries. We believe there is great force in the remark that if they who served in the confederate army are worthy to come on to this floor and make laws for the people and are worthy to occupy places in the Cabinet of the Executive of this country, they are worthy to sit on juries and try offenders against the law.

Nor does the national greenback party want United States marshals at elections, unless the history of the country, after we have tried the experiment, shall prove that we cannot get along without them. I want to say here, however, that I believe as a lawyer, indeed I have not the least doubt about the constitutional right of the Government to protect its citizens at the polls while voting for United States officers. It is only a question of policy as to whether it is needed at this juncture in our history. As to the supervisors, I think that provision ought to be retained in the law with this modification, that the supervisors shall be chosen not from two parties, as I believe the law now provides, but from the parties having congressional or electoral tickets in the field, and that will give the greenback party a chance. [Laughter.]

Mr. CARLISLE. My friend from Iowa is mistaken when he states that the law now requires that the supervisors shall be selected from the two old parties. All the law requires is that they shall belong to different political parties; and if my friend belongs to a healthy political organization he can have supervisors appointed for his party.

Mr. WEAVER. It is decidedly healthy, and the only one that is growing in the country.

Mr. UPDEGRAFF, of Ohio. Growing small by degrees and beautifully less.

Mr. WEAVER. It is not growing smaller by any means. We will measure strength with your party on any field that you may choose.

But, Mr. Chairman, in the method of the repeal of these laws the national greenback party wishes to respect the constitutional independence of the Executive. We would be glad to see adopted a constitutional amendment that will allow the Executive, if he have not that power now, to approve a part of a bill and veto the rest of it. It is a very nice constitutional question, however, whether he has not that power already.

Again, sir, we oppose the concentration of so much power in the hands of the Committee on Appropriations and favor its distribution to the various committees. And now, Mr. Chairman, I want to say to both the old factions here to-day that the national greenback party will see to it that you do not make this sectional issue, the issue for 1880; neither shall you make it the issue for 1879. There is another Richmond in the field, I would have you understand.

The distinguished gentleman from Illinois [Mr. TOWNSHEND] speaks of the Chicago election. Sir, the issue of that election was decidedly a national-greenback triumph, for Hon. Carter Harrison was nominated by the greenback party first, and then by the democracy. Only one year ago, when the democratic party nominated a candidate for mayor, Mr. Perry H. Smith, a popular but straight democrat, he was buried beneath a majority of 10,000. In this instance, I am informed, Mr. Harrison was nominated on the Toledo platform without the dotting of an *i* or the crossing of a *t*.

Mr. TOWNSHEND, of Illinois. I would ask the gentleman if Mr. Harrison was not a democratic member of the last Congress?

Mr. WEAVER. Yes; and as soon as he went home and learned the temper of the people, he joined the national party. [Laughter.]

Mr. TOWNSHEND, of Illinois. Was not Mr. Harrison the regular nominee of the democratic party in Chicago for mayor?

Mr. WEAVER. Yes, after the national party had told them whom to nominate. [Laughter and applause.]

Mr. TOWNSHEND, of Illinois. I desire to ask the gentleman another question. Mr. Carter Harrison, being a greenback-democrat as you might call him, was the representative of both parties. What lesson does that teach us? It is that whenever the democratic and greenback parties shall unite, then the republican party will be defeated; and when you keep the nationals in a separate organization it always is likely to result in the success of the republican party in Illinois.

Mr. WEAVER. The result proves that and more. It proves that the combination is always successful in Illinois when the democratic party rides behind. [Great laughter and applause.] But this is mere pleasantry.

I say to gentlemen on this floor that it is our recruiting offices that are crowded daily with volunteers ready and eager to be mustered into the new organization that is to liberate this country. We have a mission to fulfill. We know no North, no South, no East, no West, and any gentleman whether he lives in the North or in the South is perfectly eligible in our party for the office of Speaker of the House of Representatives. And this cannot be said of either of the old parties.

We have no desire to raise this sectional strife in our new organization nor will we permit it to be raised. Nor do we go before the people with pledges of financial reform, and then come into this body and unite in a caucus to bind ourselves hand and foot and thus deny relief to the people. We do not do that. Mr. Chairman, we are here to keep our pledges to the people. We are the *avant courier* of the army of progress that cannot be frightened back by waving the bloody shirt in our faces. That cannot be done, I say to you again. This old quarrel growing out of the war has become distasteful and disgusting to the American people. They want and intend to have less of it. I should think the old parties would see that they stand sadly in need of an addition to their wardrobe. Their only garment is that sanguinary article of underwear of which we have heard so much. It reminds me of an Indian I once saw out in the far West, whose entire toilet consisted of a red bandana around his neck and a plug hat; and, like these old parties, he was perfectly unconscious of the ridiculous figure he presented. [Laughter.] It is marvelous to my mind that gentlemen on both sides of the House do not understand the wishes and temper of the people.

In conclusion I will say, that unless you pass at this session, first, a law for the unrestricted coinage of silver; second, a law for the substitution of greenbacks for national-bank notes; third, a law stopping the further increase of the bonded debt and providing for the speedy payment of the debt now outstanding; fourth, a law liberating the five hundred or more millions now lying idle in the Treasury; fifth, give to the people an opportunity to escape from the impending loss of their homes; unless these things be done at this session, very few of the gentlemen who occupy seats upon this floor will ever see them again.

Gentlemen talk about starving the Government to death. The eloquent gentleman from Ohio [Mr. GARFIELD] did so the other day. Who constitute the Government of this country? The people. And I say to the gentleman that the financial policy which he and his followers have foisted upon this country with the aid of the hard-money democrats on my left, is now starving to death the laboring classes of this country, and they will not stand it much longer. [Applause on the democratic side.] If you do not want them to "drink the wine of violence," I say again do not feed them on "the bread of idleness."

Mr. Chairman, I am credibly informed that there are three thousand families in this city alone sustained by soup-houses and by charity. So in every city and manufacturing district in this country the people are absolutely perishing, starving for lack of labor and of bread; and that, too, when, as was said on one occasion by Henry Clay to Martin Van Buren, "this Congress could give relief in twenty-four hours." But members prefer to fight here like mad men over the ashes where the camp-fires of civil war once blazed, and allow their constituents to starve and go naked.

Our people out West do not like the combat to which you summon them, nor the feast that you set before them, nor yet the contrast that exists between the inflation mortgages upon their farms and the resumption hogs they are forced to sell. There is too great a contrast between them. There is a screw loose in Federal legislation, and the people have found where it is. They have learned that these parties are recreant to their trust and are not legislating for their interests.

About nineteen years ago the democratic party at the bidding of the people of this country ceased to control the administration of affairs, and the republican party came into power. Now, by what seems to many a tardy and to others a too rapid revolution of the wheel of fortune, the party displaced in 1860 by the public verdict has again obtained the control of both branches of the National Legislature. It will be recorded as the fatal error of that party that its restoration to power was not signalized by speedy legislation for the relief of the people. Do not allow, I pray you, an unnecessary sectional controversy to take precedence of the real controversy between the people and the money power.

The republican party has passed under popular disfavor, and is retiring rightfully and rapidly from supremacy in this country. The good deeds and the bad deeds of both parties are alike recorded. I am aware that precedents can be found in their history to justify almost anything that is wicked and impolitic. Let us not be controlled by their precedents, but let us act for the living present and do what we know is right and for the interest of the people. Let us act as Representatives of the whole people, and not as politicians, nor for the rings and cliques of the country.

I now yield five minutes of my time to the gentleman from Indiana, [Mr. DE LA MATYR,] and the remainder of my time to the gentleman from Texas, [Governor JONES.]

Mr. DE LA MATYR. Mr. Chairman, I shall detain the committee with but few words. I shall simply condense and emphasize what my friend from Iowa [Mr. WEAVER] has so fully elaborated. I have no aspiration to engage in this inglorious debate. I desire rather to enter my earnest protest against its whole spirit and manner and purpose. Its only redeeming feature is the ability it has exhibited, ability mostly worse than wasted. It has obviously been a desperate effort to revive a dead and buried issue. Its main result has been the uncovering of putrescence. There is no mistaking its ultimate design, which has been to rekindle the fires of sectional hate and thereby turn the attention of a suffering people from a most vicious system of financial legislation, which has paralyzed their industries, loaded them with debts, and brought them to poverty and want. It must have been the inspiration of that motive which, in the exuberant imagination of the most gifted leader of one extreme of this body, transformed a worthless chip into a diamond of purest water and measureless value.

If I know anything of the drift of public sentiment, this wanton display of belligerent rhetoric will utterly fail of its unpatriotic purpose and will be signally rebuked by the people of both the North and the South. The successive appeals to the passions which a sanguinary civil war fanned to utmost fury, made for partisan purposes at every election for fourteen years, have exhausted their potency, and they will no more respond to call. Providence is bringing at least one good out of the distress inflicted by the money power through the republican administrations of the Government. Desire for financial relief has become the absorbing aspirations of the whole people, leaving no room or welcome for the unworthy and wicked sentiments of sectional hate; and the people, as well as every impulse of true patriotism and the whole spirit of our holy religion, command a final truce to this sectional strife.

The best interests of the freedmen pre-eminently demand that this war of sections cease at once and forever. It feeds whatever of animosity is felt toward them in any section of the South, and is and must be utterly impotent to shield them from the effects of this animosity.

It is my clear conviction (and I am egotistical enough to believe that I know something of the present status of popular feeling) that these leaders of parties, now ranging their forces for 1880, would manifest more wisdom in showing some desire to relieve the people than they do in utterly refusing to suffer the friends of the people to even present any measures looking to relief, and giving themselves wholly to a wrangle over the firing upon Sumter, returning to slavery of Burns, the fiasco of John Brown, and general criminations and recriminations. I do not charge them anything for the suggestion.

As to the statutes in dispute, I favor the repeal of all but one and the modification of that, for two reasons. First, in my judgment they are expressions of a dangerous tendency toward undue centralization of power. Our southern fellow-citizens as we thought imperiled our national life by assumptions of ultra "State rights," and we fought and defeated them on that issue, and buried it so deep that but few of them desire and none of them hope for its resurrection.

Now, sir, in perfect accord with the perversity of human nature we are swinging to an opposite extreme, as perilous as the one checked by a sanguinary civil war; and these enactments are the fruits of that tendency and they serve to accelerate it, and I am in favor of setting them aside. In my judgment, our safety lies in keeping the balance of power between the multiplying States and the General Government as adjusted by the framers of the Constitution.

My second reason for desiring the repeal of all but one of these statutes in controversy, and the modification of that one, is, they are serving to fan the fires of sectional strife, which every interest of the nation demands should be extinguished. The section in dispute of the bill now before the committee, with the exception of a single clause, I regard as germane; and that it proposes to lessen Army expenditures is in my judgment too clear for dispute; and taking no stock in the argument that this body is prohibiting action by a mere technicality, I shall vote for the bill with it attached.

While I do this, I am decidedly opposed to connecting any extraneous matter with appropriation bills. That mode of legislation may be justified in a partisan view by the fact that the opposite party

has resorted to it, on the principle suggested in an old saying that a certain distinguished personage must be fought with fire; but I cannot be influenced by such considerations.

I believe that any party in power that will set the example of refusing at any present party sacrifice such questionable modes of procedure will gain favor with the people.

Mr. JONES. Mr. Chairman, the fact that I am the only representative of the national greenback labor party from my State on this floor is my apology for trespassing upon the time and patience of this committee.

The section of the bill now under consideration proposes to amend section 2002 of the Revised Statutes. In my opinion the proposition embraces a distinct, separate subject, and as such should be presented in a separate bill and determined upon its own merits. Were it thus presented I should unhesitatingly support it, not because I attach any importance to the consequences that might follow from its enactment, but in order to eliminate a most mischievous element from political agitation. Why, sir, but for this agitation begun in the last Congress nine-tenths of my constituents, though of average intelligence, would have died without ever knowing anything of the existence of the statutes now so much complained of. The age in which we live is practical. Our people are earnest and progressive. Their genius and their habits require that we should devote our attention to measures of useful, practical legislation rather than waste our time and energies in florid declamation over sentimental abstractions. By the demand now made by the democratic party, so called, we are reminded of the foolish husbandman who locked his stable after the horse had been stolen. Why, sir, if this statute is capable or ever was capable of abuse to the detriment of the ballot, is not the danger past? In spite of its existence, our people after fourteen years have emerged from military rule, and the civil authority is to-day supreme throughout our borders.

The subject of the bill is an appropriation for the support of the Army. The object of the section under consideration is the amendment of an important section in the law regulating elections. The latter proposition embodies a different and distinctive subject, which should be presented in a separate bill and determined upon its own merits. This is the point; this the vice of the amendment which its *friends so* studiously avoid and so ingeniously maneuver to obscure. The object could not be mistaken, even if it were not confessed. Those of its friends who deny or disguise it will find great difficulty in convincing any reasonable creature that they do not intend the probable consequences of the act. The object is to coerce the executive department of the Government. Can it be done? Ought it to be done? Section 7, article 1, of the Constitution provides:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

This section establishes the veto power and provides against its abuse. The duty to approve implies and assures freedom of mind and action. Hence, whatever denies the one or constrains the other infringes upon and disturbs the executive function, and in so much subverts the Constitution. "Every bill" is the language of the Constitution. "A bill consists of one or more propositions in which is declared the will of the law-making power in reference to a particular subject." A proposition which embodies a different, distinctive subject of legislation can properly constitute no part of a bill. The requirement found in nearly all of our State constitutions that every statute shall have one object is but declaratory of common parliamentary law.

I will not pause to consider whether if the President should approve the bill this section would be inoperative or whether he might veto this section and approve the bill proper. Deferring, however, to the democratic school of strict constructionists, I incline to the opinion that either would be consistent with the Constitution; for if Congress may anticipate and circumvent the veto power by so joining an objectionable measure to one indispensible to the performance of executive functions and thus extort the President's approval, then the veto is not a substantive power but a mere shadow. If Congress shall do so, then whatever it may have been intended to be it is reduced to nothingness and the President no longer stands as the tribune of the people to forbid sectional, class, or other mischievous legislation.

But the Constitution prescribes the mode of proceeding in case of veto, and thus precludes the possibility of any other legitimate mode. The rule that the inclusion of the one is the exclusion of all others is so familiar that it need only be stated. Our Government is wisely divided into co-ordinate independent departments. Each has its appropriate sphere of action, circumscribed by fixed and well-defined limits, and so long as kept in due bounds the action of the whole cannot be other than harmonious, co-operative, and promotive of the general welfare. But if any department shall transcend its own authority and invade or disturb the functions of another, organic derangement at once begins, and the pernicious consequences can be measured only by the extent and duration of the violence. If it be continuing, the loss of institutional liberty and the establishment of personal government become inevitable.

It is, then, of the first importance that the Constitution in all its parts be maintained inviolate. This consideration outweighs party ten thousand times. And surely the two old parties, relics of strife and hate, were not as feathers in the balances against it. Upon this topic the recent past bears sad and faithful witness. A little school sprang up and began to teach contempt and hate for the Constitution of our fathers. Pandora's box was opened. All know the evils that rushed out. Boston riots, Kansas wars, John Brown raids, personal-liberty laws; but why recount? Madness fell upon the people, Douglas was mocked and hissed in Chicago, Webster was denied a hearing in Faneuil Hall. The South became alarmed. Distrusting the sufficiency of the Government to protect, and fearing its machinery to oppress, the southern people in the exercise of the Heaven-given inalienable right declared at Philadelphia and consecrated at Bunker Hill and Valley Forge, attempted to secede, and following the example of their revolutionary sires, to form a new government laying its foundations on such principles and organizing its powers in such form as to them seemed best. War ensued. It was the misfortune of all rather than the crime of any. It was the result of an inexorable condition in progressive life and advancing civilization. Why, then, harrow sacred memories or renew strife? Why not address ourselves to the present and the future, and emulate each other in an endeavor to promote the happiness of all? The past is invaluable for the lessons of wisdom which it teaches; and its pre-eminent lesson is the importance of adhering faithfully to the Constitution, beyond whose boundaries there is no safety.

If this section be retained in the bill, it may precipitate a conflict between the Executive and Congress; and for what? The law now sought to be amended was passed by democratic votes. However objectionable it may be, the country has not only endured, but in spite of it, as I have already suggested, emerged from military rule. What is there in the conduct or attitude of the Administration to excite distrust or alarm our fears? Have not the troops been withdrawn from Louisiana and South Carolina and sent to the distant frontier? How has this dangerous tyranny so long escaped the vigilance of the democratic party? This formidable instrument of tyranny, this terrible statute authorizing the use of force to suppress riots at the polls, existed during the Forty-fourth and the Forty-fifth Congresses; and, notwithstanding the democrats had control of the House, not a step was taken, not a demand was made for any modification of this statute until the Forty-fifth Congress was on the eve of its adjournment.

Nor is it less significant that the Rip Van Winkle conscience of the republican party should just now begin to show signs of constitutional scruples. Is it "death-bed repentance, fear inspiring piety?" What assurance has the country that even if the patient survive it will not return to the sin it loves so well? The democrats supported with zeal and eloquence the passage of the law they now seek by tactics of joinder to annul. The republicans inaugurated the strategy now turned against them, and which they so fiercely denounce. Democrats fortify themselves with republican precedents; and the republicans assail them with democratic votes and arguments. How changed, indeed, by being changed! and yet without abatement of zeal and with increased devotion to principle. The mind naturally inquires the cause of this wonderful interchangeable transmigration. Is it the dread of financial and other vital issues now threatening the disintegration of both? Must the Potter and the Teller committees be re-enforced that the public mind may be still distracted and diverted from the great issues of the day, the financial issues that concern the welfare, the prosperity, and happiness of the country? Why does this House adjourn over Mondays in order to avoid the introduction of new bills? Why turn a deaf ear to the prayer of the people coming from city, town, and country, demanding the speedy passage of measures of financial relief? Why not replenish the depleted circulation, the life-blood of the nation? Why not reanimate the industries of the country, revive its trade, stimulate its enterprise? Can partisan success compensate for the injury that will inevitably follow a procrastination of these important measures? Is party paramount to country? Have not the people already sacrificed too much to implacable faction? These are questions that refer themselves to the people. In spite of the cry now raised here on the one side about "starving the Government to death," and on the other about "military despotism," it is to be hoped that the people will so consider and settle these questions as to put an end forever to the animosities of the late unhappy war, bring prosperity to the people, and with it honest, sincere, patriotic devotion to our whole country.

Mr. WRIGHT. Mr. Chairman, I will take my stand at this desk. It has strange memories associated with it. Here I stood seventeen years ago and denounced in the strongest language in my power the conduct of the people of the eleven southern States who were in arms to sever the American Union. The black cloud of internecine war was suspended over the nation. It was an hour of angry strife, and armies were in the field, each fighting to the death for victory. I took the side of the Union. The theater of my action was in this Hall, and I discharged my duty faithfully, if not well. My son was under McClellan, before Richmond, and there lost his life. We did our share of

the work for one family. My argument then was, that the eleven seceding States should be brought back into the Union from which they had separated. That was the issue; and after one of the most sanguinary conflicts recorded upon the pages of history we succeeded. The offense has been condoned. The States are again in solid compact, and the strife ended. The green sward has covered the graves of those who fell on both sides. I am the last man on God's earth who would open these burial-places and expose the remains of the men who lie in rest there as an argument to inflame the passions of men in political strife.

Let there be peace. Peace and amity, good will and fraternal relations now exist; and it is a wicked policy to raise the fire-brand of controversy on the issues of the war. It is an issue of the past, and the national mind cannot be brought to the belief that such an issue should be renewed. The effort is in bad taste. It cannot be sustained by those who would reopen the healed wounds of the conflict. And if that shall be the question—as the debates in this Chamber for the last week indicate, in the presidential contest for 1880—defeat will assuredly await those who make it. A question involving the election of the nation's Chief Executive must be a living question, not a dead one. That party which will inscribe victory upon its banner must appeal to reason and discuss the living issues of the day; must make pledges to a suffering people that if successful they will carry out such measures as will grant relief and promote the general welfare, instead of appealing to men's passions by referring them back to the war. That has been fought out; the difficulty has been compromised, settled, and ended, and it is to be hoped forever.

It is my purpose to speak of some of the questions which will enter into and control the approaching election. But I will say a few words first on the bill under consideration. It is alleged that it is vicious legislation to include in an appropriation bill enacting or repealing clauses of bad laws; that it is without precedent in the legislation of the past.

During the last quarter of a century I have been at times a member of this body; and during the years of my service never, before the debate on this bill, did I hear questioned the right or propriety of ingrafting upon an appropriation bill other necessary and proper measures. I do not speak from the book, but from my own personal knowledge on this subject. It was reserved for the superior wisdom of gentlemen of the Forty-fifth Congress to make the important discovery that class appropriations are too sacred to be associated with the public wants and the public necessities. Strange idea! Better fitted for the stock exchange and money jobbers than the House of Representatives! I maintain that if such necessary measures cannot be passed separately, then they should be coupled with appropriation bills.

This same bill fell in the disagreement of the two Houses at the last session, and which was the means of reassembling Congress at a great cost to the nation, and now the veto is thrown into our teeth if it be passed. This veto power which is now made to play so important a part in modern legislation in the good and prosperous days of the Republic was confined solely to constitutional objections. The path laid out by the fathers has been widely departed from. It is used now when the mind of the Executive is not in accord with his peers of the two Houses. It is very likely that the opinions of two hundred and ninety-three men are entitled to as much respect and consideration as the opinion of one man. We had an exhibition of the veto mania on the silver bill, and when it came back the two Houses had the manhood to pass the bill over the veto by a two-third vote, the constitutional majority.

And then again was thrust in our faces a veto on the Chinese bill, which failed to secure a constitutional majority. And, sir, allow me to say that no project of law more appropriate and just ever passed Congress than this same Chinese bill. It was designed to intercept the immigration of a race of men differing with our people in all those necessary personal traits which give character and fame to the people of Europe from whence our fathers came. It is not congenial to the American traits of character and their social, religious, and intellectual qualifications to be forced into the same society and daily intercourse with a people who do not believe in the existence of a God nor a state of future rewards and punishments, whose habits and customs do not comport with our ideas of an enlightened people. We have a hundred and fifty thousand of them on our Pacific slope and "the cry is, still they come." We do not want their presence. They are not the material to build up our population. So thought a large majority of the two Houses of Congress. His Excellency, however, thought otherwise; and, pray, is the wisdom of the Government concentrated in this one head? It is a grave matter of doubt whether this vast power should be lodged in the Executive at all. Exercised as the early Presidents did, confining a bill to a strict constitutional test, and perhaps it is well enough. It is a power unknown to the English constitution. Sovereign nor the House of Lords have any right to interfere with the acts of the Commons where money appropriations and revenue are the questions. The House of Commons is supreme in such matters. This was settled at Runnymede.

And who are we, the Representatives of the people, assembled in this Hall? Our acts and opinions are not worth the scroll upon which they are transcribed, at least so far as vetoing important bills was concerned in the last Congress. And now the very gentlemen who at the commencement of the Forty-fifth Congress were by no means loud in the praise of their man in the executive chair seem to have lost that feeling of coolness which they manifested; to-day they are loud in their praise and adulation. Why is it? There is a charm attached to power, especially when clothed with patronage.

But I leave the bill, which will be taken care of by its friends in this House—Army clauses, test oaths, and supervisors—and come to speak of some of the grave issues which must determine the approaching presidential election. It is early to begin this fight, but the tocsin has been sounded. I do not believe either that this bill, which will be passed in the same shape it was at the last session, will come back maimed and mutilated by a veto. If the Executive shall be that way inclined, it is to be hoped that his friends who have him in keeping will restrain him from the commission of so wanton and indiscreet an act. Let them see to this. The country will become exceedingly restive under another extra session without cause. And now I shall speak of some of the duties of Congress which if unheeded and passed by will not prolong the tenure of the party in power in the two Houses.

The people have a right to be heard. Their wishes and demands are known. It is not a secret to us, nor a sealed book. Notwithstanding, during the whole session of the Forty-fifth Congress, no one act, save the passage of the silver bill, was passed which gave the masses of the people the least aid or comfort. Capital stood in the road with a drawn sword and the Executive with a veto in his breeches pocket. Class had it in its own way, the millions looked on stupefied and amazed that their promised pledges of relief were unheeded, neglected, and forgotten. Were their demands ungenerous? Were they wrong? A bait was thrown to them in allowing the specie resumption act to take effect on the 1st of January, 1879. This was held out by what is called the hard money party as a sovereign remedy for all the ills which existed, and a relief for all the suffering in the land. It was to revive trade and commerce, give employment to the workingman, and restore business generally. All was to go smoothly when the day of specie resumption dawned. The farmer, the merchant, the mechanic, the day laborer, were all to be made happy with specie resumption. And what has been the result? What quickening influences have been felt in all the industries of the nation produced by specie resumption? The promises of its friends were all fair, but the fruit was the apple of the Dead Sea, full of ashes and bitter to the taste.

By resumption has there been an additional sail set upon the sea? Has there been a languishing manufactory revivified into life? Has any one seen the black smoke ascend from the mill, or seen the bright fire of the furnaces? Has there been a dollar invested in any new enterprise? Have the crops of the farmer increased in price? Have we not the same prostration in business as before? Who, save the bondholder, the stock-gambler, and the money-lender, have been in the least benefited by what is called resumption? And to-day, sir, we are as far off from realizing the absolute fact of resumption as we were during the civil war. The business men of the country in all its various branches—the laborer, the farmer, all were opposed to resumption. They were all overruled. The voice of the multitude was stifled, and all done to satisfy the avarice of the men who hold the purse-strings of the nation. They hold the ear of those who could make or repeal laws, and the great masses of the people were nowhere. The time had not come for resumption, even in name only as it is. The country did not want it, but their protest was too feeble to prevent it. And this is one of those living questions which has to be met, instead of retaliation for the bloody acts committed nearly twenty years ago.

The people demanded an increase of the currency. Many of them had bought on credit and mortgaged when the national dollar, with its Government stamp known as legal tender, was worth two or three times more in value compared with what it is now. The whole policy of the Government has been to contract the volume of currency, and the result is now a national currency, including legal-tenders and bank issues, of some $700,000,000—but about one-third of what it was at the close of the war. In what did the policy of this wild system of contraction of the money circulation of the country consist? Those who pursued the empty phantom and senseless vision of specie basis and specie payment did not stop to notice the ruin and distress which were pervading the land. Real estate encumbered with mortgages; commerce at a point of depression unknown before in the country; all the industries languishing, and the laboring-man almost reduced to starvation. They did not stop to see the sheriffs' proclamations in countless numbers posted over the doors of the dwellings of the people of the country, "this estate will be sold at public auction and outcry." Terrific words! They did not observe that the national debt was daily growing larger and taxation daily increasing. Resumption was the cry, and every interest dear to the people must necessarily yield to the Moloch of money. The banker and the bondholder were happy; and what did it concern them as to the general welfare of the nation outside of their rings and combinations? Money became less and less in volume and interest became higher. The property sacrificed at judicial sales became vested in the men who held the money of the country. It had gone out of the necessary channels of trade to be locked up in the Treasury or invested in interest-bearing bonds.

The press informs us this morning that on yesterday eight and a quarter millions of dollars were deposited in the Treasury, and to-day were deposited fifty-nine millions more. For what? To be in-

vested in interest-bearing bonds? In two days sixty-seven and a quarter millions drained from the channels of trade, commerce, agriculture, mining, manufactures, and labor. It is, sir, in my judgment, a most destructive and ruinous policy. It teaches the lesson of idleness and a false political economy. Our people should be thoroughly imbued with the idea of living by their industry, not to rely upon the interest accruing upon their bonds. How infinitely better that this constant flow of money into the Treasury for the purpose of procuring bonds should remain in active employment. It is an inexcusable blunder that the industrial affairs of the country should be robbed in this way. The people, to carry on their business affairs, must have the necessary currency to do it. They had a currency as good as any nation ever enjoyed till those in power by chance occupied a position which clothed them with authority to enforce the rule of ruin, France, the best financially administered government in the world. has a circulation upon a scale of some $45 *per capita*. This Government, the worst financially managed country in the world, has some $12 *per capita*. France is prosperous. Prussia and England, somewhat approximating to the measure of currency compared with ours, but much better, are in as deep despair as we are. Riots, strikes, political commotions, and threatened outbreaks of the people are of daily occurrence there. In the place of seven hundred millions of circulation we should have a thousand millions, and this in legal-tenders, without interest, would save the nation a round hundred millions a year.

The banks say no, the bondholders say no, John Sherman says no, and Congress, in a submissive, half-suppressed voice says no, while the people, leading off in public opinion and twenty years ahead of the men to whom they have intrusted their power, beg, plead, and petition Congress to save them from total ruin. They demand an increase of the national currency, and sooner or later they will have it. Nor can the representatives in Congress deceive them by making a national political issue as to whom was at fault in a civil war which is ended, with sixteen years of peace succeeding. It is not who was at fault in that war as to future legislation, but it has become a question of life and death, a question of starvation. The money which has been taken from the great industries of the country must be restored to them; and this question of the restoration is one that must become an important and leading question in the campaign of 1880, and let not the hard-money leaders deceive themselves by the side issue of a war fought, ended, and finished almost a quarter of a century ago. There is no way in which the country can be restored to prosperity but by giving them a sound and abundant currency, stamped by the great seal of the nation, and the nation's honor pledged for its redemption. Here is a political issue that has meaning and substance, and if Wall street scowls it is a sure indication that the policy is right.

Another issue which will arise, if not in the mean time met and provided for by the Forty-sixth Congress, is the unlimited coinage of silver. Who, pray, in these modern days of profound wisdom and deep philosophy, was the author of the wonderful idea, that the products of our mines should be made the subject of barter and trade, in the place of being coined into dollars? And yet, strange as it may seem, there is a bitter conflict between the great masses of our people and the bank and bond coalition to suppress the coinage of the silver product of our mines. What, pray, would they do with it? Send it to other countries as an article of commercial exchange? Manufacture it into baubles to please the whims of the men who deal on change? It was the currency of the world ages before gold. The penny paid to the laborer in the vineyard, and the coin with the inscription of the head of Cæsar upon it, which was exhibited to Christ nearly two thousand years ago, were silver coins. Gold as a currency is five hundred years the junior of the silver coin. But in these modern, degenerate days in which we live the silver dollar is decidedly vulgar! It is common, oh, how common! We did manage by hard labor to introduce and pass a bill in the last Congress authorizing the coinage of a limited amount of silver. And why in the name of reason should the sum have been limited? The measure met the approbation of the people; they desired the passage of a law unlimited as to the amount to be coined; but the restriction of limitation must be put upon it. Why? The money power of the country can answer the question. It did not comport with their idea of their own interests. But just so sure as the sun rises in the heavens to-morrow, this popular boon shall and will be conceded. If this Congress shall fail to do it, the succeeding one will not.

For what purpose do we occupy this Chamber? For none other than to obey the power that sent us here; and when we fail to do this it is Punic faith upon our part, and we are unfit and unworthy to be here. It is the constituency that is master of the situation. I trust that this Congress will add the word unlimited as to coinage in the law of the last session; if not, it will be one of those issues which must go over to the campaign of 1880, and as a set-off to the evils produced by a defunct and dead rebellion, of which the bloody shirt is the talisman.

Permit me, Mr. Chairman, to call the attention of the committee to another issue, and one which will put in or keep out of the Treasury some seventy millions a year. I mean a tax upon incomes. That is a wise provision in the laws of the States generally, that taxation shall be equal. Money and other property, real or personal, should be alike subject to the payment of its share of the public burden. The bonded debt of the nation may be some two thousand millions. A great part of these bonds are held at home, the rest in Europe. These bonds are not taxable, but the interest received upon them annually is the subject of taxation. Why should there not be imposed upon this an income tax? And why should not the merchant and the man of wealth, without regard to his occupation, also be taxed on his yearly income? And yet these classes are exempt, while the laborer in most of the States is taxed for his occupation, the farmer for every acre of his land and the live stock which he owns, the mechanic for his trade, and also the small and often half-paid tenement of the poor. These are legitimate subjects for the attention of the assessor; but there is no law by which he can put on his duplicate the name of the man who has an income of a hundred thousand a year. It is said to be inquisitorial to pry into the secrets of the man of wealth as to the income he receives annually. There is no inquisition in the way when the man of moderate means (and in fact the man who generally pays the money to run the Government) is made to render a report of the number of acres of land that he owns—how many cattle and sheep and horses; how many watches in his home; how many dogs; how many dollars on interest, and a hundred and one other items. This is all very well; but to ask the millionaire what interest he receives, what is his income, that is monstrous—that is inquisitorial. That fact disclosed may be detrimental to him; but not, however, unless he is sailing under false colors. Equal taxation of all property and all income is the rule of justice. But as class and privileged persons are the peculiar favorites of high officials and law-makers, there will be a struggle before the country will see this important measure entered upon the statute-book.

And the passage of an income tax will be one of the issues of 1880. A bloody rebellion will not offset this. As there is not much probability that this Congress will pass such a bill, the question again reverts to the people.

I would speak, too, of the condition of the laboring-man and of the necessity of granting him aid and assistance in this hour of his distress, and in many cases destitution. This question, in my view of the whole political phase, is paramount to any other subject. True it is that there were but twenty-three votes cast in the last Congress in favor of the homestead supplement which I introduced. But I do not despair of favorable action on this subject or some other kindred measure of relief when the project shall become more thoroughly understood. Considering the vast number of laboring-men who are out of and cannot procure employment, and the deplorable situation in which thousands of them are placed, it seems to me that a wise and generous government ought to provide for them liberal aid. I have heretofore given my views at length on this subject of affording assistance to this class of people. The terrible condition that many of them are reduced to appeals to our generosity with great force.

If these people could be assisted so far as to enable them to settle upon our great domain, or make them a small loan to sustain life till they could make a beginning in their new homes, it would be an act of great wisdom on the part of Congress, and be a much better course of procedure than the granting of subsidies to railroad corporations and gifts of millions of acres of land. It is not in character with the dignity and humanity of the Government to allow its poor to suffer from want and allow many of them, as is the fact, to die of absolute starvation. National aid in this manner is one of those momentous matters that should claim the careful consideration of Congress. It is one of the issues in the campaign of 1880, and one which will have a much larger number of people to sustain it than many of you are aware. As to myself, though but indifferently sustained here at the last session, it is not my purpose while I have a seat in this Chamber to abandon this idea. If I am in a small minority, I shall still work on undiscouraged and without flagging in what I conceive to be one of the grandest charities that was ever brought to the consideration of Congress; an act of justice, too, on the part of a great Government to a distressed and an impoverished portion of its population.

The disabilities under which our laboring people are placed are caused by no act of theirs. In the general crash of the great industries of the country the employer and employed occupy one common level. It is poverty and destitution, and this is known and fully understood by the people generally and should be by Congress. It will be, and is now, an important question. Let those who do not understand its force and character look to it before it may be too late. I therefore conclude that this labor question will play an important part in the future. It cannot be set off as a side issue and swallowed up in the great rebellion—dead and buried. Labor and the rights of laboring-men are big matters for politicians to deal with. They have too long been "coerced," in the language of a member of this Chamber. The power of "coercion" may be transferred. It is among the events of the future.

Another question, and a living issue too, will be whether it may not be time to retire the bank issues and supply their places with legal-tenders. This in my judgment would afford a better currency and save to the Treasury some twenty millions or more a year. To this measure there can be no reasonable or sound objection; and the day will assuredly come when such a line of policy will be adopted. This Congress will not of course do it, but let us hope for a better state of things. Let us pray for the time to come when money shall not be king, and when the sovereign will of the people may be firmly established—firm as the rock of ages. Then prosperity may again dawn upon us; but not till we rid ourselves of the base shackles that

we wear. So long as we bend the knee to Baal and worship the golden calf, so long discontentment and want and privations will be in the dwelling of the poor man—the wolf at his door. He should have liberal wages and be put in position to rear, support, and give his children the rudiments of a common education.

The withdrawal of the bank issues and the substitution of legal-tenders will not be a side issue in the campaign of 1880, nor will the "bloody rebellion" be an available set-off. It, too, will be a living issue—not a dead one.

And then, too, will come in the great question of making eight hours a legal day's work. Such is the law now, but the Government official refuses to carry it into execution. At the last session this House enacted an enforcing law compelling those who had charge of the men who labor in our navy-yards and all of our public establishments to limit the day's work to eight hours. The Senate refused to pass it, and the bill fell. It was a just bill, and a humane one; but as class was not interested in any way it did not have friends enough to procure its passage. The "wicked rebellion" was a matter of more moment. In this there is supposed to be political capital. The people of this land may not come to the same conclusion in 1880.

Mr. Chairman, I have thus enumerated, in as condensed a manner as I could, these questions and issues which are before the country, and must in some way be disposed of. The right of suffrage is large, and there will be very, very many to record by their votes their opinions on these subjects.

And now, sir, will this Congress adjourn without acting upon these measures, or some of them, which I have alluded to, and which concern the welfare of the whole country? If so, it will be the greatest error ever committed by a legislative body. It should not be the object of a congressional session to look to the privileges of any one class. We are the representatives of the people, and should frame laws for the people as well as privileged persons. Heaven knows we have had enough of class legislation; and, strange to say, the action of the last Congress had class in its view, and that only. We came back this session and the same line of procedure is adopted, and there seems to be a settled determination by a majority of this body to look exclusively to the Army, the Executive, the Legislature, and the judiciary. Is there no other portion of our immense population of nearly fifty millions of souls that have no place here? In this hour of calamity and distress throughout the length and breadth of this land is there no kindly measure of relief to be considered? Three weeks have passed, and what has been done? The "bloody shirt" during that time has engrossed the entire attention of this House—and millions of our people in the straits of starvation! Wise statesmanship that, which makes political and party capital paramount to a nation's welfare!

You cannot escape the public censure if this House shall adjourn without an effort to do something for the relief of the country. Seventeen millions may console the Army, but how as to the remainder of our people? Twenty-five thousand cared for, who wear the uniform of the Army, and more than forty-five millions taxed to raise the amount and whose voice or opinion is of no earthly account. The people clamor for more currency to transact their industrial affairs; the unlimited coinage of silver, taxation upon incomes, substantial aid for the great number of laboring-men out of employment asking for bread, starving; for the withdrawal of bank notes to be supplied by legal-tenders; for an end to special legislation for capital, an end to the issue of interest-bearing bonds, and that eight hours shall be the limit to the man who labors in the Government shops. All these popular demands ring in the Representative ear; but the wrongs of the rebellion perpetrated long, long ago is the reply to the appeals, the prayer, the supplications of a suffering people.

Here, sir, in this Chamber, is where the public opinion of the masses should prevail. But public opinion, in opposition to the money power of Wall street, is a feather only in the balance. There, sir, is the great maelstrom that engulfs presidents and cabinets, legislatures and peacemen. The opinion of the jobbers of Wall street governs the nation; and woe to the man who has the hardihood and effrontry to open his mouth for popular rights or honest government. He is at once denounced as a lunatic or a fool. Wall street takes snuff and the central powers of the Government and large numbers of the two Houses of Congress sneeze. Wall street says let us have the bloody shirt for a flag, and up it goes to the masthead. Wall street would put the hounds on a false scent. Wall street would encourage a fight on a dead issue, that it can reap all the benefits that would result to the millions in sustaining the living issues of the day. The magnates of Wall street are very clever in their way, but their ways are remarkably selfish. It was Wall street that forced specie resumption—and the result is that the finances and trade and commerce of the country are sinking, sinking, and so will continue. Resumption was a sovereign panacea—it was to restore trade, establish public confidence, give bread to the suffering people. Wall street had said so, and that was enough. Resumption was a problem to be decided by the business men of the country. It was not a matter for Congress to interfere with.

Mr. WHITE. We ought, then, not to pass any laws at all.

Mr. WRIGHT. There is no doubt, sir, but that the country would be infinitely better off if there was much less of legislation than there is; especially that part of it which relates to laws for the benefit of privileged classes, and a glance at the statute-book will show that this is at least three-fourths of it; ay, more. A very distinguished statesman of this country—a great, good, and pure man—told me years ago, in talking about the intricate, inexplicable, unintelligent, and arbitrary rules which are supposed to govern and control the action of this Chamber that they "were shaped to retard and prevent legislation, upon the principle that it were better to have no legislation than bad legislation, which was but too often the case."

Mr. WHITE. Who was that?

Mr. WRIGHT. John C. Calhoun. The most distinguished and profound statesman of his time; and, in my judgment, this country has never produced his parallel. Is it possible, sir, that this long debate, upon a question heretofore considered to be not upon disputable ground, is provoked for the purpose of delay in the progress of necessary legislation for the real benefit of the country? It is not for me to make the allegation, but all the just conclusions lead me to think so. I understood the gentleman from Ohio, [Mr. GARFIELD,] in reply to a question from the gentleman from Virginia, [Mr. TUCKER,] to say that he would vote for the amendments to this bill as separate propositions.

Mr. GARFIELD. No, sir; I have never said that at all. I said I was willing to vote for the repeal of this whole law that authorizes or restricts the use of the Army at the polls. I was willing to vote for the repeal of it all, but not for passing the mangled restrictive powers of the law.

Mr. WRIGHT. I beg the gentleman's pardon if I have misstated his reply to the question of the gentleman from Virginia, [Mr. TUCKER.] I fail to see, however, that there is much distinction between what he now says and what I represented him to have said. I cannot for my life discover why good legislation, and especially such as is germane to an appropriation bill, may not as well be made a part of the bill as to be made the subject of distinct and separate action. The bill with its riders I regard just and proper, and it shall have my vote And such I believe to be the opinion of a large majority of this Chamber. Nor do I believe that if this bill shall receive the sanction of both Houses of Congress that it will ever come back with a veto, notwithstanding the threatening remarks made by its enemies. This consigning a bill to the tombs by the veto power before it is known what the bill may be, before it leaves the Senate and House, is, to say the least of it, indiscreet and unwise.

Mr. WHITE. Is my colleague, in what he is now saying, a democrat or a national—which side is he speaking on?

Mr. WRIGHT. I am speaking on the side of the Lord and the people. [Laughter.]

Mr. WHITE. Is that the national party?

Mr. WRIGHT. I have said. If the gentleman is not satisfied with the answer he will refer to the dictionary of common sense, a copy of which the gentleman should have, if he has not.

We have heard much said about "coercion." That is a term that may be applied to any vote upon any question in this Chamber. The majority is always "coercion." I speak of the application of the term especially to the acts and proceedings of this House. I can name a very insignificant number of persons who have for many years back "coerced" the people of this country. I mean that "coercion" upon the part of the National Executive and the National Legislature which has turned a deaf ear to the demands of the people, whose prayers they have disregarded, whose wants they have neglected to provide for, and whose strong voice has not reached effectively the executive chamber and the Halls of the Capitol. The masses have plainly made known their wishes, but the favorable response is yet to come. Suffering humanity is an unpleasant matter in the eyes of those who hold the mace of power and sway the rod of empire. But, sir, in this land of ours the appeal of suffering humanity will yet be heard in these Halls if the people are but true to themselves, and being true to themselves they are true to their country and true to civil liberty. They will not submit to "coercion" at the threat of those to whom they have delegated their power.

This Chamber must be aware, and members cannot close their eyes upon the stubborn fact, that the people are restive; they feel that a great wrong has been done them in making no advance whatever for their relief. Would you by your inaction drive them to despair? Would you wait till anxiety, hope, and despondency drive them to violence? Why not give them some of the measures of relief they have asked for, are praying now for, by night and by day? You cannot afford to trifle with the will of the nation. The Congress of the Union is now in session. What has engaged its attention for the whole time it has been in session? A brawl and dispute on a question which has lain quietly in its grave for fifteen long years. Can it now be exhumed and manufactured into political capital? That is what Congress has devoted three weeks to, and exclusively; and it is now proposed that when this broil is ended the book shall be closed; the speeches printed and circulated as the questions upon which the election of 1880 shall be decided, and that then Congress will adjourn. There is one in your midst who will never cast his vote for an adjournment without a strong effort to do some of those things which the people intrusted to us to do.

What a record it would be, that Congress should have met, made provision for the Army, the Legislature, (ourselves,) the judiciary, and the Executive, and then have gone to their homes without an effort looking to the wants, necessities, and wishes of the people having been done. The idea strikes the mind as absolutely monstrous. Let

this House beware that it close its doors, after providing for yourselves and the privileged classes, without a step in advance toward granting the wants of the people. Do not delude yourselves with the idea that you can make peace at home by running up or hauling down the "bloody shirt." That will not fill an empty stomach, give employment, or make amends for your failure to give the people currency and not having discharged the duties they intrusted to your hands. The "bloody shirt" is not bread; it is not an increase of legal-tenders; it is not an eight-hour law, not a tax on income, not the unlimited coinage of silver, not the substitution of greenbacks for bank-notes, nor small material aid to the unemployed workingmen of the land. The "bloody shirt" is the ensign of a dead issue; and you will be required to face living issues, popular demands that cannot well be resisted—demands based upon solid arguments and fortified by reason and sound common sense.

Mr. COFFROTH. I hope the time of my colleague [Mr. WRIGHT] will be extended.

The CHAIRMAN. The Chair would hope the Committee of the Whole will indulge the gentleman from Pennsylvania with ten minutes more. The Chair had expected to recognize the gentleman for a longer time; but, owing to the prolongation of the debate yesterday by other gentlemen, it was not possible for him to do so. The Chair suggests that if the committee will grant the gentleman from Pennsylvania ten minutes, not to be taken out of the time for general debate, it will be a perfectly fair arrangement.

Mr. HAWLEY. If the debate is not to close at three o'clock, I have no objection.

Mr. CONGER. The Committee of the Whole cannot extend the time.

Mr. HARRIS, of Virginia. General debate must close at three o'clock by order of the House.

The CHAIRMAN. The committee can rise that the House may extend the time. The Chair presumes there will be no objection to that. If such is the understanding the gentleman from Pennsylvania can now continue, and when he has concluded the committee may rise and extend the time.

Several members objected.

Mr. WRIGHT. I appeal for my right.

Mr. HAWLEY. I have the floor.

Mr. WRIGHT. I will state to the Chair a question of order. My colleague [Mr. WHITE] yielded me yesterday ten minutes of his time, and my other colleague [Mr. COFFROTH] yielded me thirty minutes. But I have been overridden, have been deprived of the right to which I was entitled according to the arrangement.

Mr. SPARKS. By the order of the House this debate will close at three o'clock. I insist that the general debate close at that time. [Cries of "That is right."] We have been as indulgent as it was possible to be in extending the debate, and now I insist that the general debate shall terminate at the time fixed with great unanimity by the House. If the gentleman from Pennsylvania can get some time from gentlemen who are to follow him I shall be glad, as I would like him to finish his remarks; but the debate should close at the time already fixed. I shall object to extending it one minute.

Mr. HOOKER. I hope there will be no objection to extending the time of the gentleman from Pennsylvania.

Mr. ROBESON. I move that the committee rise for the purpose of extending the debate. The motion I desire to make when the committee shall rise——

Mr. HAWLEY. I do not know that I yield the floor.

Mr. ROBESON. I desire to move in the House that my friend from Connecticut [Mr. HAWLEY] have an hour, and the gentleman from Virginia [Mr. TUCKER] an hour——

The CHAIRMAN. The gentleman from New Jersey [Mr. ROBESON] moves that the committee rise.

Mr. CONGER. I make the point of order that the gentleman from Connecticut has the floor, and he has refused to yield it. There are many of us desiring to speak whose names are down on that list, far down, but we have no opportunity at all, under the order of the House closing debate at three o'clock, to be heard on this important question, I myself among the number; and yet, with the other gentlemen, I yield to the decision of the House. Now let the gentleman from Connecticut have his time.

Mr. WRIGHT. I do not object to the gentleman from Connecticut having his time, nor to any other gentleman having the time allowed him; but I do insist on having my right.

The CHAIRMAN. The gentleman from Connecticut has the floor and he declines to yield.

Mr. WRIGHT. I raise the point of order on that.

The CHAIRMAN. The gentleman will state it.

Mr. WRIGHT. Yesterday my colleague [Mr. WHITE] yielded to me ten minutes of his time.

Mr. HAWLEY. Why did not you take it at that time?

Mr. CONGER. If the gentleman has put it off until now cannot he put it off until three o'clock, taking his time after that. [Laughter.]

Mr. WRIGHT. If I occupied one hundredth part of the time of the House that the gentleman from Michigan has, then perhaps I might be liable to its censure.

Mr. SPARKS. I insist on the gentleman from Connecticut proceeding.

The CHAIRMAN. The Chair has no discretion in the matter. [Cries of "Go on!"] The gentleman from Connecticut has the floor, and will proceed.

Mr. HAWLEY. Mr. Chairman, you will remember that I opposed limiting this debate, because I said the country did not grudge us time sufficient to consider the most important question that has been before us for some years. So the venerable gentleman from Pennsylvania cannot shake his silver locks at me.

I confess, Mr. Chairman, that I rise with a good deal of hesitation. This question has been debated at very great length, and by able men, but, as John Stuart Mill has said, "on all great questions much remains to be said," and as I set forth my own views the subject may possibly appear in a light a little different from that exhibited by others.

At the cost of much exasperation and anxiety and much injury to the material interests of the country, we have assembled in an extra session to discuss two important appropriation bills giving about $46,000,000 to the Government—the Army and the legislative and executive and judicial appropriation bills. In a moment you will see that without them this nation, theoretically, cannot live. If it live, it lives by the patriotic devotion of men who are willing to work two years for nothing and to trust the future, or by the voluntary subscriptions of the patriots who came forward in 1861 with as many millions as Abraham Lincoln asked for. We are asked to put the country in that condition.

Each of these bills contains provisions not essential to the purposes asserted in its title. Those provisions were so placed at the close of the late session of the Forty-fifth Congress in order to compel the assent thereto of the Senate, and with the alternative of withholding the supplies entirely. One House attempted to do it then. The political character of the Senate having changed, the experiment is to be renewed, with the avowed purpose of compelling the assent of the Executive under the same capital penalty. This introduction of the Executive is none of our doing. We were told at the end of the session, and we have been told repeatedly—indeed, we were told yesterday by a prominent member that he did not wait for us to make the issue, that he tendered it—we have been told, sir, that it is the purpose to compel the assent of the Executive under that same capital penalty. If any man knows the opinions and purposes of the President he may not announce them here. We must vote as we deem best for our country without fear or favor, bearing our full share of the responsibility; but should he feel bound by his conscience and judgment to veto these bills, we are freely told by some, not speaking I hope, I would fain believe, for all of the majority, that the inquisitorial thumb-screw will be applied to us of the minority to the end that a two-thirds vote may be obtained or those bills must fail. We have a right to say we will go no further in this debate, but content ourselves with an inflexible, unvarying nay to the end of the chapter, and then appeal to the country.

Mr. PRICE. That is it.

Mr. HAWLEY. But it is right that we should examine with extreme care the whole ground upon which we stand. There should be no false pride and factious stubbornness in this serious matter; and if the appeal is to be taken to the grand court of the whole people the sooner we take up the argument the better.

THE SUBJECTS OF THE DEBATE.

Our discussions group themselves under three heads:

1. The proper functions of a standing army in our complex Republic.

2. The extent to which the National Government may regulate the election of Representatives in Congress, and what it may do to enforce its regulations and protect the people in voting.

3. Propositions to force the President and the minority of Congress into abandoning their constitutional right of disapproval under penalty of stopping supplies.

These comprehend substantially the whole discussion.

At the risk of repeating what every boy familiar with the textbooks on the science of government knows, I shall devote a few minutes to the functions of an army in this Republic. It is an obvious truism to say that a free government is not a government without force. It is quite popular in cheap places to declaim to the ignorant mind against the power, the cruel power, that is above them. I hold it is the theory of our Government that whatever is to be done by a whole people can be best done by a free people. If force is to be exercised anywhere, let the people say where and how it shall be exercised, and force under no other form of government can equal it.

That this is a Government of all men does not mean that there is to be no force, no compulsion in it. Without the supreme power to absolutely crush, to bring overwhelming force, to take life, to stop argument, to resort to brute force, no government can exist. Now, that is not what they like to talk about at the cross-roads; but it is the truth laid down in every primer upon the science of government. Without the power to absolutely crush, at the proper emergency, a government cannot exist.

Why, sir, on the statute-books of my old conservative State, that has been a thorough-going democracy since 1634 and never had a governor in that time that it did not elect—on the statute-books of my State there are due and careful provisions that the sheriff, if there be resistance or opposition rising to the dignity of a riot, may give

notice in a loud voice warning the evil-disposed to disperse. If they persist he may summon all good citizens. If the violence and disobedience continue he may summon the militia of the county. After that, whoever is wounded or killed, it is his own fault. If he stay a moment longer it is at his own peril from the bludgeon or the pistol or the musket or the cannon. And that is drawn from good old English doctrine. That is law wherever there is a government that is not a farce. The commands against trespasses and assaults and robbery and burglary and murder, if without force, are but the teachings of moral science, the advice of good citizens. The turbulent and the thieving, the burglarious and the murderous, will laugh at the advice. Go to these western Territories where sometimes far in advance of laws the people gather in multitudes. It is just as unlawful and wicked to steal horses and murder men and jump claims there as here; but what care these bad men for that, for there are no statutes and no sheriffs? But by and by the people come together, and some morning there is a vigilance committee, and the trees are adorned by the hanging corpses of the scoundrels. There you come down to your fundamental principles; and that hanging is legalized when the government comes to be formed and the indispensable reserved element of force is duly organized.

We are told that the United States marshal must rely on the militia and has no right to call for the interference of United States troops. Yes, but when these troubles arise, as in the old whisky insurrection or Shay's rebellion, or now with the moonshiners and the ku klux, probably the militia are the very men who are committing the crime, and to say the officers can call only them is simply to say they may sin with impunity.

No, sir; the government that gives the order must have the power to enforce it. Are there no occasions for the use of troops in this country? Is there no occasion for the element of cruel force? It is very pretty to tell the people there is not, but we know it would be telling a falsehood. Are there no prejudices of caste and of race here? Do not narrow and ignorant men sometimes hound the yellow men, the red men, the black men, or the Protestants, or the Catholics, or the Jews? Do our angry passions never rise? Do multitudes never get together here and trample on all law and order to the degree that the sheriff and the constable become a laughing-stock? Something of this has happened in every State, even in the orderly "land of steady habits;" and see the Pittsburgh and accompanying railroad riots for a terrible example.

No, sir, you have no Federal statute that will command the respect of the people unless there be back of it the power to enforce it. Is the trespass on the ballot-box the only crime that will never be committed? All these other things happened. Will it never come to pass, when men come together on the most exciting and excitable day of the whole year, in great multitudes, discussing great questions angrily, that they will trespass on each other's rights and stormily break the public peace? Is that the only day in the year when the strong arm of the Government is not to be ready, the only day in the year when the arm of the sheriff may not be made heavy? Yet that is your theory. It is all very pleasant to talk of the sovereign people, but we do not deceive even them.

We do not deceive the slums of New York when we talk about their right to a free ballot and to roam at will through that city. If you wish to find hostility to organized power, you will find there habitually, and in similar cities all over the world, in the fierce denunciation of the police, the same spirit that in more elevated circles here and elsewhere finds relief in denunciations of military force, and especially of the regular Army.

ENGLISH PRECEDENTS.

Our Army, sir, is a small one; it is relatively insignificant; it has always been an honorable Army; it is wholly under civil authority. The money for its support is voted only for one year, and cannot be voted for more than two in advance. It can be disbanded by us here. Who is afraid of our regular Army? Who fears it will take away the liberties of the people when it is absolutely under our control? You refer us to English precedents. There for centuries the king raised his own troops out of his own revenues, with no vote from any Parliament, with no constitution, but merely some traditions that served in place of a constitution.

And yet you pretend to draw an exact analogy between us and England. Why, we took the benefit of all her thousand years of experience, of her Magna Charta, her bill of rights, and her voluminous interminable legislation, and consolidated it in our Constitution. We have the benefit of her centuries of struggles to reach control of the king in exercising power over the Army. We started where she ended. It is our Army, and not the king's. The very fundamental principle that the money appropriated can be applied for specific objects is now so well understood that nobody thinks of it at all. This principle was well established as long ago as the reign of Charles II; and Hallam, in his standard work on the constitutional history of England, says that as the result of these combats for the rights of the people against the king there remains an excess of jealousy against a standing military force. The Federalist makes a similar observation.

We inherit a natural, wholesome, extraordinary jealousy of this form of the element of force in the Government from our English ancestors. I do not wish to weaken this sentiment. I wish to give it its proper place. The Articles of Confederation, before the Union was established, restricted the authority of the State Legislatures in maintaining troops, but put no restriction upon the Confederation. Only two of the old colonies had any provisions in their constitutions against standing armies, and these two simply said that standing armies ought not to be kept up, but did not forbid them.

The power to support and maintain the Army given in the Constitution to the Federal Government is unrestricted. It may raise an army as large as it pleases, and keep it in the field as long as it pleases.

Mr. KITCHIN. You say this Congress can create an army at its pleasure and abolish it at its pleasure; then on what grounds do you claim that Congress cannot say how it shall be used and for what purpose?

Mr. HAWLEY. That is a question that will be duly answered as I proceed. No army can be raised or put in service without the consent and general direction of Congress. This prejudice arises partly from a just fear of arbitrary government and partly from the natural depravity of many who dread the law and dread the force back of it because they have unlawful purposes. I make no intimation against any portion of the majority here. I speak abstractly of the general distrust of force throughout the lower grades of society.

DIMINUTION OF EXECUTIVE POWER.

Now, sir, the danger is not in the element of force in the Government, so carefully guarded and watched with such jealousy. We are weakening the executive and drawing to the legislative branch all the powers of the Government. This is the most prominent, though gradual change in our system. The Senate has gradually come to claim a heavy share of the appointing power. The House follows the example. A President is thought to be unfair, untrue to his party, and too self-asserting if he insists upon nominating from his own free choice.

AN ANALOGY.

A member of the majority [Mr. CARLISLE, of Kentucky] acknowledged the entire rightfulness of sending a body of Federal troops to quell a riot at the polls in the District of Columbia, because the Government has complete and final jurisdiction over the District. Now, if we have complete and final authority in other matters of Federal direction we alike have the right to use there the necessary force to carry it out. Therefore it is that in certain popular elections where the ultimate control of the Federal Government is absolute we have no right to proclaim in advance that force shall never be used to repress injustice and violence.

FEDERAL REGULATION OF CONGRESSIONAL ELECTIONS.

Now, sir, to my second topic: to what extent may the Federal Government regulate and control the election of Representatives to Congress?

Article 1, section 2, of the Constitution tells us of how many the House of Representatives shall be composed. It says that they shall be chosen every two years by the people of the several States, and it proceeds to define the qualifications of electors. It was a matter of much argument among the founders whether they should lay down one uniform set of qualifications for the whole Union. That would have been embarrassing, because those requisites would certainly have conflicted with the varying State laws prescribing qualifications for purely State elections. By a happy thought it was provided that the electors entitled to vote for the members of the most numerous branch of the State Legislatures should be the electors qualified to vote for members of the national House of Representatives.

The gentleman from Ohio [Mr. HURD] insisted that this leaves the determination of the qualifications of the electors of Representative in Congress wholly to the States. But no State Legislature can add one name to the list entitled to vote for a Representative who may not at the same time vote for members of the most numerous branch in the State Legislature; nor can it take one from the list. It establishes a list for its own purposes, and the Constitution says those on that list, all of them and no others whatever, may elect members of this House.

The fourteenth and fifteenth amendments afford further examples of supreme national control in regulating suffrage.

TIMES, PLACES, AND MANNER.

In the fourth section, article 1, of the Constitution it is said:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Now, we have already prescribed the time, already altered the regulations of the States as it was thought convenient, and we have ordered that the members of the House be elected on the Tuesday after the first Monday in November biennially. The places are of less importance, but Congress may appoint even the places, except for choosing Senators. If the places are not acceptable, if a faction controlling a State should declare that all the electors in a congressional district shall vote in one town at the extreme corner of a district of twenty counties, this Congress certainly has the right to interfere and to say that there shall be a voting place provided for so many inhabitants or for so many square miles.

And "the manner" of holding an election; how much does that embrace? I do not see why that does not embrace the whole. The "manner," the "mode" of choosing. The gentleman from Ohio, [Mr.

HURD]—I will excuse the other gentleman from Ohio [Mr. GARFIELD] once from being referred to in this debate as the "gentleman from Ohio"—said that in the State of Ohio they vote for State officers and Congressmen on one piece of paper. It is so in my State. And he asked what business the Federal Government has to interfere with the election of State officers? Nobody has asked that; nobody has proposed to do it. But it is perfectly competent for this National Legislature to say that congressmen shall be voted for on a separate piece of paper. That may be essential to the very purpose of this control. It may be the purpose of a local faction to so prejudice and involve the election as to make a fair election impossible.

It is therefore quite in our power to say that members of Congress shall be voted for upon a separate ballot, and, if you choose, upon a separate day. I do not see why this Congress may not say that members of Congress may be elected on the Tuesday after the first Monday in November, or if any State shall select that day for the election of its officers, and a distinct consideration be advisable, then the election of Congressmen shall take place on some other day. And then we can prescribe the size and color of the ballot and the manner of counting and making up the returns, and even, if a rebellious and insurrectionary State authority interfere, appoint the men to conduct the election. How can one make an argument to the contrary? Why not? As lawyers say, *quoad hoc*, the Federal Government is entirely absolute and clothed with complete authority.

It may not choose to exercise that authority. It may be that matters will move smoothly and gently for many years, as they did in what have been termed the better days of the Republic. They may go along so quietly as to present no occasion for interference. But the power was put there very thoughtfully and with the intent to do just what I have indicated. It was put there deliberately, and, if you choose to say so, with malice aforethought.

THE OPINION OF MADISON AND HAMILTON.

I hold here in my hand the Federalist. In regard to the two articles from which I propose to read, it is quite interesting to me that they are claimed both by Madison and by Hamilton. Each in his own copy of the Federalist has marked these two articles as his own, showing that the extreme Federalist and the Virginian States-rights man agreed on this matter:

The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent upon the convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reason just mentioned.

The reason is that it is "a fundamental article of republican government."

To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone.

Therefore they defined suffrage.

It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the Federal Constitution. The qualifications of the elected, being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention.

So we see that the National Constitution orders that a Representative must be twenty-five years old, seven years a citizen of the United States, and a resident of the district electing him.

Now, in this matter of regulating the "time, places, and manner"—of ultimately regulating them—this is what both Madison and Hamilton say in their wonderful argument to persuade the people to accept the Constitution:

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

* * * * * * *

It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably modified and disposed; that it must either have been lodged wholly in the National Legislature, or wholly in the State Legislatures, or primarily in the latter, and ultimately in the former. The last mode has, with reason, been preferred by the convention. They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations, which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Now hear this:

Nothing can be more evident than that an exclusive power of regulating elections for the National Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs. It is to little purpose to say that a neglect or omission of this kind would not be likely to take place. The constitutional possibility of the thing, without an equivalent for the risk, is an unanswerable objection. Nor has any satisfactory reason been yet assigned for incurring that risk. The extravagant surmises of a distempered jealousy can never be dignified with that character. If we are in a humor to presume abuses of power, it is as fair to presume them on the part of the State governments as on the part of the General Government. And, as it is more consonant to the rules of a just theory to intrust the Union with the care of its own existence than to transfer that care to any other hands, if abuses of power are to be hazarded on the one side or on the other, it is more rational to hazard them where the power would naturally be placed than where it would unnaturally be placed.

There is more to the same effect, and the whole article might be read or delivered here as a speech before this Congress—this article written in 1789 and adopted both by Hamilton and Madison. It justifies to the full extent everything I have claimed on this subject.

GIVING AWAY THEIR CASE.

I understand that in the next bill which will come before us, (the legislative, executive, and judicial appropriation bill,) which I have not examined carefully, there are to be two supervisors who are to look on at the elections. They may not count the votes. They are to be witnesses merely, with no power to correct an abuse, check an abuse, or prevent a denial. They may make complaints afterward, as of course any witness might do. Their authority is nominal. But how came you to acknowledge their right to be there? If this were a law applying to State elections, I should join you in saying: "Take your supervisors away; what are they doing here? You may not send supervisors to help Connecticut to choose a governor." On a question of that kind I would take as strong ground as anybody. But you propose to continue the supervisors, overlooking an election of Federal Representatives, while you deny them all power of interference or control, and deny them or the marshals, or any Federal appointee, any power, or force to back a power.

Why do you put those men there, bearing the badge of Federal supremacy, pretending to represent the authority of the General Government, when they cannot lay a finger on any one, when they cannot call for a constable or a marshal, or, if the marshal is called for, he cannot read a riot act, arrest a repeater, rebuke a bully, or call for a soldier? In the last emergency, under the legislation you propose, these officers are only a laughing-stock. If that is all the legislation that is to stand upon the statute-book, I pray you take it out of this bill, that our great National Government may not justly be a cheap scarecrow to the men who trample upon its authority. Take away the pitiable effigies of national majesty. Why let them come to the polls? Yet you acknowledge the authority of the General Government under the Constitution to supervise elections, and thus give away your whole case, while you do no good to the fair ballot.

THE PROPOSED REVOLUTION.

But I must pass along and come to my third topic, the proposition to force assent to your demands or kill the Government.

I come to what is called in English parliamentary practice "tacking"—a new issue as presented in this bill. This is not an old practice in this Government. The thing has never been done precisely as you propose to do it to-day. I know that the republicans during the last ten or fifteen years, I know that other political parties as long ago as 1846, have been in the habit of doing something in attaching extraneous matter to supply bills. I know that the republicans, time and again, have put into an appropriation bill something really foreign to its purpose—additional legislation not germane to the subject of appropriations. But that was when they had control of both Houses of Congress and had a President of their own party; so that there was not the same constitutional and conscientious objection to the measure as now. Once they sent a bill containing such legislation to President Andrew Johnson, knowing that he wholly disapproved and bitterly hated the provision "tacked" on. He sent in a protest, but ought to have sent a veto, for the executive power was a trust in his hands, and he was false to that trust in that he did not do more than merely protest when he believed that the constitutional powers of the President were encroached upon. But even that case was not parallel to this. We had a two-thirds majority in each House of Congress. The President knew it; everybody knew it. Bills were passed and sent to him with that understanding. There was no pretense of an attempt to coerce him into approving any measure against his conscience. It was expected that he would veto measures obnoxious to him; and he was welcome to do so, as the bills were passed first and were to be passed over his veto by a two-thirds vote. But if there was any attempt to coerce the Executive at that time, it was as wrong as it is in this instance; and two wrongs do not make a right, as everybody knows. If republicans have sinned in this matter (and they have never sinned as you sin here to-day) the quicker they repent the better.

But barring that single case, I assert that in the majority of instances where extraneous matters were placed upon appropriation bills it was done by the common consent of the Senate, the House, and the President. It was as if there were a special train to take a party to Baltimore, the last train of the week, and some friends wished to crowd in with baggage that ought not to go on passenger trains, but must go then or never. Rather than have them left we consent. That quite differs from an attack of "road agents" who pull up the rails, saying, "The train shall not go unless you take us and all our crew, with our burglarious implements." [Laughter and applause.]

A LOGICAL RESULT—DESPOTISM OF A MAJORITY.

The other gentleman from Ohio [Mr. HURD] asks, "Is it revolution to pass an appropriation bill?" I cheerfully answer, "no." Then he asks, "Is it revolution to repeal the election laws?" Again I answer, "no." Then he asks, "How can it be revolution to put the two bills together?" I never saw such simplicity as that pass for logic. Now I will give you another case. If you have the right to put this odious legislation upon an appropriation bill and say, "Take this or nothing; take this or have no money," then you have an equal right (mark to

what your logic brings you) to come forward any day from your secret caucus with a bill which you say is in your judgment essential to free government, and say, "Gentlemen, we of the majority have made up our minds that this bill must go through; and we give you notice that if you do not accept it and permit it to become law, we will not even report an appropriation bill." You have exactly as good a right to make this demand upon distinct bills as upon consolidated bills. And you say that this is not revolution! Let the people judge between us. I say it is. I say it is a complete overturning of the whole theory of this Government. I do not care whether the clause to be repealed is one word or eight, as in this case; I claim the right to stop at the threshold and say, "I shall vote 'no' to the end of time."

NO CONSTITUTIONAL COMPULSION OF CONSCIENCE.

The Constitution does not provide for this or any other dead-lock. It contemplates no lock without an easy key. The Constitution and laws of the United States never ask a man to vote a lie under penalty of stopping the Government. There is always a loop-hole; there is always some mode of legitimate escape; so that every member of the legislative body as well as the Executive may act and vote as in their or his judgment may seem best for the good of the country. There is a way provided in every case for their being overruled peacefully and constitutionally. If it were not, this Government and this Constitution would be the most infamous despotism. If I may be required to submit contrary to my conscience; if in order to carry what the majority desire I can be compelled to vote for something which I think in my conscience is wrong, is not that the worst of all tyranny? And that, sir, is what you are applying to me to-day.

You tell me if the President vetoes that bill, which he may or may not do, and it comes back here, that if I do not give up my convictions and vote with you to make up the two-thirds vote requisite under the Constitution to carry the bill with the obnoxious measures in it over the objections of the President, then this Government shall not have the money to carry it on. What is the proper and constitutional remedy? It is this: that you shall vote as you please and I shall vote as I please—vote as we consider right, both of us, and that the President shall act as he thinks right, and then if the bill should come back here vetoed by the President, you shall vote as you consider right and I shall vote as I consider right, nobody being compelled to sacrifice his convictions. Then, if the bill fails, it is but a short time before there can be an appeal to the people of the United States; a new Congress elected; all has been done which is required to be done under the theory of our Government. Either may have been overruled, but neither will have been bullied or made to vote a lie. Why cannot you do this, not compelling the conscience of anybody, but submitting to authority duly provided? You may go to the people in the congressional and presidential elections of 1880; submit to the grand tribunal of the people these measures, both of them, and you may come back here (which God forbid) [laughter and applause on the republican side] with a majority here ready to pass them and with a President ready to sign them.

You may do it. All right, gentlemen; if after the appeal to the people the country sustains you, you then may carry these laws. You will then not have compelled me to vote against my conscience and oath. You will not then have made the President sign the bills to avoid running a Government two years without money. There will have been a reasonable, constitutional, democratic remedy, saving every man's sense of right and duty.

WHAT IS THE CONCEALED PURPOSE.

Now, why cannot you take that course? Do you think you have a good issue before the people? Is it not a nice thing to go to the hustings with? Then put the bill through independently; let us vote against it; let the President veto it if he will, if that is to be the course of affairs; try to pass it over his veto; if you fail, take it upon your shoulders as a grievance, blazon your war-cry upon your flag, and go to the people in 1880. Are you afraid to do that? Is there any necessity between this day and 1880 for your pushing this bill through by revolutionary process? There is no election this fall of any consequence. There are three or four members to be elected, and some local elections not touched by our laws. The provisions here discussed cannot come into immediate requisition before that time. Why cannot you wait until next winter? Why did you compel this extra session, making all the business and patriotism of the country anxious? Why did not you wait until next winter as your best men advised you to do?

Who compelled this democratic party in some mysterious way to bring this revolutionary measure here when man after man tells me he regrets it; he regrets it; it was a mistake; it was a mistake? Why is it? In obedience to what mysterious purpose and plan, or shall I say conspiracy, have you called me here and told me I shall vote for what I think is wrong or you will starve my Government; that it shall not have a dollar? [Applause on the republican side.] Who sent you? Did a popular sentiment send you here for any such purpose?

Now, if you had a good issue on those bills, why did you not keep it? You must have known, in making the issue in the form you have now, you have added to our chances in the election immensely. We know it.

Several MEMBERS on the democratic side. We are glad of it.

THE THUMBSCREW.

Mr. HAWLEY. Yes, so am I glad of it in one sense; but I would not take that advantage at the expense of my country, [applause on the republican side,] at the expense of the suffering of my people. [Laughter on democratic side.] Gentlemen smile. Such considerations produce smiles among them, but not so with us who have foregone much more than this for the good of our country. [Cries of "Good!" "Good!" and applause on the republican side.] You think because we love this child we will stand here and at the last moment yield rather than see you strike it, don't you? You know we love the country; you know what we will do for it; you know what we have done for it. [Applause on the republican side.] Yet you have put the thumbscrew on me here and tell me this Army is not to be paid; the President shall not have his salary; the judges shall not have their salaries; the Departments of the Interior, of the Navy, of Justice; that the whole Government shall go penniless for two years unless I shall vote against my conscience. Do you think I would do it? [Cries of "No! no!" on the republican side.] Have you a shadow of an idea that I would do it, or that any man on this side would do it? [Applause on the republican side.] In obedience to what conspiracy do you come here and try to make us do it? [Applause on the republican side.]

ENGLISH PRECEDENTS PRECISELY CONTRARY.

But we are told this is according to English precedent; that Englishmen do such things. No, sir; they have not done them these two hundred years; not since they became civilized, [laughter and applause;] not since they had a constitutional government; not since the splendid declaration of rights in 1688, to be found in some respects word for word in our own Constitution. Before that they did it. Oh, yes, they did everything; they cut off the head of their executive when they did not like him, and their king cut off the heads of his wives when he did not like them. [Laughter.] They not only cut heads off, but they robbed one another. The king often got his money by "benevolences." He would call upon a Vanderbilt or an Astor and say, "I want a million pounds." He had his hereditary rights, and he collected his rents and his imposts and gathered his treasure and enlisted his ten thousand or fifteen thousand men and let the Commons fight for remnants of liberty. And they fought and won. They carried their point that no army should live without the consent of the House of Commons. And once that right was established this bullying of the executive was stopped.

But what a difference there is between the executives! What power has ours? Theirs has an absolute veto, ours a conditional. Our Executive could not raise a soldier; their executive could raise a whole army. Our Executive would be impeached if he should declare war; their executive could declare war, as Her Majesty the Queen can to-day. But why should I go on? The differences are wide—ocean wide. And yet you try to trace analogies.

There are some analogies in their parliamentary government, to be sure, but not of this kind. No, gentlemen. My friend from Ohio [Mr. HURD] quoted an ambiguous selection from De Lolme, a French writer on the English constitution, who published a brief treatise in 1781. He was an enthusiast who saw complete glory in the free institutions of England. It is a clever but imperfect treatise of slight or no authority upon the constitution. But if you wish to reach what is really constitutional law in England I would rather take the views of some old English lawyer. I ask my friend from New York [Mr. MCCOOK] to read a passage from a work of Professor Amos, professor of law in the University of Cambridge,—The Constitutional History of England in the time of Charles II.

Mr. MCCOOK read as follows:

A very objectionable course was sometimes adopted by the Commons in the reign of Charles II which, if it had not been subsequently exploded, would have been a blemish in the constitution, namely, the practice of tacking bills of supply, with an intention of thereby compelling the Crown or the Lords to give their consent to a bill which they might otherwise disapprove of and reject. The practice of tacking indicates that the mode of passing bills between the two Houses was unsettled in the reign of Charles II. Thus, on the 11th of November, 1675, it was resolved in the House of Commons, upon a division, "that the bill for appropriating the customs to the use of the navy should be annexed to the bill for raising a supply for providing, equipping, and furnishing twenty ships." In March, 1676, a similar proposition for a tack was rejected, on which occasion Sir George Downing made a forcible speech against the practice. The practice is reprobated by Lord Chancellor Finch in a speech to both Houses on the 23d of May, 1678. It, however, survived the revolution, but is now deemed unconstitutional. In 1704 the tories attempted to make the famous occasional conformity act a tack. In 1702 the Lords passed a resolution, and ordered it to be added to their roll of standing orders, "that the annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unparliamentary and tends to the destruction of the constitution of this government."

Mr. HAWLEY. Just what I have been saying. Since 1688 it has been deemed unconstitutional and it is unconstitutional to-day in Great Britain to do what you are trying to do here. I can find more than authority enough, if you choose, on that subject. Here is May on the Law, Privileges, Proceedings, and Usage of Parliament, which is a recognized standard authority, the vade-mecum of English legislators, often quoted in this House, as old members well know:

The constitutional power of the Commons to grant supplies, without any interference on the part of the Lords, has occasionally been abused by tacking to bills of supply enactments which, in another bill, would be rejected by the Lords; but which, being contained in a bill that their lordships have no right to amend, must either be suffered to pass unnoticed or cause the rejection of a measure highly necessary for the public service. Such a proceeding is as great an infringement

of the privileges of the Lords as the interference of their lordships in matters of supply is of the privileges of the Commons, and has been resisted by protest, by conference, and by the rejection of the bills.

And then he also quotes the rule of the House of Lords, adopted in 1702, which was invoked again as late as 1807, though it does not appear that in the whole one hundred and five years there had been another attempt to do what you are doing to-day, and when some attempt of that sort was made in 1807 the old rule was invoked and the thing was defeated. Yet you are telling us that you are acting in accordance with English precedents! They have a right to do what we have a right to do, to say "We shall not have this gigantic war, or this or that other unwise project of the Crown carried out, and we will not give any money for it." But that is a very different affair. Suppose the sovereign is about to declare unnecessary war against Russia or Turkey and sends down estimates for £10,000,000. The Commons say, "We will not give you one shilling;" that is a species of coercion, but a legitimate, constitutional, and comparatively *harmless* one. But if they should offensively attach to a bill of supplies for the army or the courts a repeal of any enactment or any new and foreign enactment, the House of Lords would regard it as "destructive of the constitution" and call a dead halt.

I do not perceive, as I have said, any necessity for this extraordinary demand. I see it in no important elections to come off, if I look for the cause of your demands in the political field. I see no occasion for it in the general legislation of the country. If the existing laws on the subject in question be wrong they will do no hurt, for there will have been no case for their application until after you shall have had seven months to consider them next winter.

THE DEMAND FOR ALL OR NOTHING.

But I avow I do not base my objections upon the details of any bills that you propose. I do not profess to defend the details of existing legislation. It is quite likely it ought to be greatly altered. The power to use troops should be very carefully guarded and explained. That simple line of eight words is not enough for the authorization of the use of the troops under all circumstances. It was put there as a general reservation of the constitutional and logical right to use force, in the last resort, to defend law and justice.

You are not proposing a better bill, a better law, a better way of using the force of the Constitution and Federal power. See whether you could not put it on a better ground. I will meet you gladly there, but you come with the sweeping demand that your provision must pass, and say that the Federal troops must under no circumstances be employed. It looks to us, gentlemen—pardon me for being frank—like a determined attempt to take possession of the Government and carry the country at any cost in 1880, to take possession of the whole country as you have taken possession of a large portion of the South.

THE SOLID SOUTH.

I know and you know that you said three or four years ago, all among yourselves, "we are going to have a solid South." You were not going to outrage the black man, to shut him out, to beat him down, oh, no! but you were going to have a "solid South." You disclaim the purpose of wronging any man, white or black, but you vowed to have, somehow, anyhow, in spite of the world, a "solid South," and you have it. In the same spirit you say, as one gentleman said yesterday, you propose "the recovery of your long-lost heritage." Are you speaking for the democratic party or for the heavy end of it, the controlling portion of it? [Laughter.] If you are speaking for your section, and I hope you are not, what are the purposes of that section? You say that you are honorable men, and as I look upon you individually I like you, but as I look upon the mass as a party I detest it. I am troubled about what you intend to do. I know a man who had a promise from every director of a bank that his note would be discounted and they failed to discount it. He said, "Gentlemen, I respect you individually, but collectively you are a set of wicked scoundrels." [Laughter.] Let it serve as an illustration, not a literal application.

You say, "What is the danger? Did you not whip us back into the Union? What, then, is the danger?" I hardly know. I wish you would tell us what your purposes are.

THE COMBINAITON OF HERESIES.

You say that you give freedom of elections. I do not find freedom of elections at the South. It is not there. We learn from the public press and your orators, and even your felicitations upon this floor, that you indulge a purpose to unite with the greenbackers in the hope that you may come into your heritage in 1881, followed by the ragtag and bobtail of financial legislation which is about to empty itself into your party. Every man who has a scheme and a policy that nobody will adopt; every man who has failed to reach office, and failed in anything and everything; every man who hates all existing things and has no hope but in universal destruction; all the inhabitants of the Cave of Adullam, will come to you. How many of them are you to gratify?

There are men in the North who walk around with ponderous brows and oracular utterance, saying, "see me; I am a statesman. The North will stand by you; put me forward and I will take you to victory." They cannot deliver the goods. [Laughter.]

You ought to know those men. You fought four years like brave men, while they—well, they climbed a tree to get out of the draft. They went to Canada—anywhere, anywhere—out of the storm. [Laughter.] You know and have said many times that they cheered you to the gates of secession and the battle-field with the prophecy that the North would never unite to resist you.

Sir, those men do not represent the conservatism, the labor, the capital, the intelligence, virtue, and patriotism of the North; but perhaps some men do not care for that. It may be that they may carry enough votes out of the depths of the great cities to give them and you national control so that the democratic party may win. Is that the peace you invite us to when you shall have come back to your heritage? These are matters that make us anxious. Will you bring to your Government of the nation the financial morals and practice that are leading you in State after State in the South to the default of interest, the scaling down and the repudiation of your debts? You urge the greenback elements to join you. History teaches us that the creeds and speculations of that party are fraught with expansion, inflation, disaster, national bankruptcies, repudiation, and utter national and private ruin. The gulf is fairly before this nation if it starts on that march.

You plainly avow that you will wipe from the statute-book the last vestige of the laws called for in our Constitution by the exigencies of war and the consequent obligations of reconstruction and protection. I know it. I always said you would do that. You would go as far back as you could; but you accept the three amendments of the Constitution. Oh, certainly; thank you! It takes three-fourths of the States to revoke them, and that you cannot get. All that can be reached with the sponge you propose to wipe out.

Your orators throw down the glove and put on the plume to ride in the forefront of the contest, and all that. I do not propose to throw away all my gloves as gages of battle, or cover myself with feathers and dance around to provoke an issue; but I am as much in earnest when I warn you that you are mistaken in your estimate of the North.

CONCLUSION.

I am as warmly an advocate of the true doctrine of State rights as the gentlemen of the majority can be, and my education was obtained early. When you had the power, twenty-nine years ago, you made it our duty at the North to hunt your runaway negro to the very foot of the altar, catch him, and bring him back to you.

You put the troops, the Army of the Stars and Stripes, behind the marshal to run him down. Some of us declined to be made negro-hunters; and my State passed a law for the protection of personal liberty, which forbade you or anybody else to take any human being out of our State without a jury trial. You may call it a defiance of Federal authority if you please. If it defied the Federal authority it obeyed a higher authority. When it comes to a question like that I am with you, whether you call it secession or by the more respectable name of revolution.

Oh, yes, I remember the old days. (I do not reproach you with them. We were so indescribably, unutterably doughfaced that we were as much at fault as you.)

I had at one time the extraordinary satisfaction of going into a Southern State and purchasing for a friend the title to a learned clergyman. I actually carried home in my pocket the title-deed to a doctor of divinity. [Laughter.] A man ran away in his youth, educated himself, became an honorable preacher of the Gospel, and got his diploma as D.D. When your slave law came out he wanted to be free, and I went South to purchase his freedom from the one who claimed to own him. I was willing under the circumstances to purchase him, but as he had made himself a doctor of divinity I did not think the estate had a right to claim pay for the improvements, [laughter,] so I bought him as "Jim," one negro man Jim. He received his title-deed of freedom. It is upon the records in Hartford, Connecticut, that in consideration of $1, and, above all, of the indefeasible right of all men to be free, he was entitled thereafter to own himself.

You reproach us for a violation of State rights. If so, we trespassed in a good cause. You undertook to make us negro catchers. You made it a crime in Kansas for a man to question the claim to own and sell men, and marshals and soldiers hunted those who did it. All this to maintain the abominations of human slavery. But if we have pressed closely upon the lines of the reserved rights of the States, if we have infringed upon State rights at all, we have done it in a zeal (which I hope God will pardon) for the Union, for universal justice, liberty and equal rights, and a free and fair ballot. [Great applause.]

Mr. TUCKER obtained the floor.

Mr. ROBESON. Yesterday half an hour was given to me by the courtesy of this House and the kindness of gentlemen on the other side of this Chamber. To-day the whole burden of that courtesy falls upon the residuary legatee of the time allowed for this debate, the gentleman from Virginia, [Mr. TUCKER.] I wish now to move that the committee rise for the purpose of extending his time to a full hour. I hope that no one will object to that who does not want me to feel under an intolerable burden of obligation.

Mr. KELLEY. In the event of the motion being agreed to that the committee now rise, I desire to include the name of my colleague, [Mr. WRIGHT,] so that he may have the forty minutes which was accorded to him yesterday and withheld from him to-day.

Mr. HOOKER. That is right.

Mr. SPARKS. It is nothing but fair that the time should be ac-

corded to the gentleman from Pennsylvania, [Mr. WRIGHT,] and I hope that will be the understanding.

Mr. ROBESON. I am willing to include both.

The CHAIRMAN. If there be no objection both will be included

Mr. CONGER. The House has limited the time for debate. Many gentlemen wish to speak; I am among the number, and having been myself precluded from the opportunity of speaking, I hold that this committee has no power to extend the time.

Mr. ROBESON. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. ROBESON. I move that the time of the gentleman from Virginia [Mr. TUCKER] and the time of the gentleman from Pennsylvania [Mr. WRIGHT] be extended so that each may have——

Mr. WRIGHT. Let me have thirty minutes.

Mr. ROBESON. I move that when the House again resolves itself into Committee of the Whole the gentleman from Virginia [Mr. TUCKER] be allowed one hour and the gentleman from Pennsylvania [Mr. WRIGHT] be allowed thirty minutes.

The SPEAKER. The effect of that motion, if adopted, will be to extend the time for general debate one hour; the extension to be equally divided between the gentleman from Virginia [Mr. TUCKER] and the gentleman from Pennsylvania [Mr. WRIGHT.]

Mr. CONGER. I make the point of order that the order fixing the time for debate was reconsidered and tabled.

The SPEAKER. The Chair will cause the record to be read.

Mr. CONGER. I desire full debate, and have urged it from the beginning. Gentlemen have put on the thumb-screw; now let them feel its pressure.

Mr. ROBESON. I trust that my friend from Michigan will not object.

Mr. CONGER. I notice that gentlemen who have had the floor are all willing to give up to others.

The SPEAKER. How much time does the gentleman want? The Chair will endeavor to obtain the time for him.

Mr. CONGER. Let the time for general debate be extended, and give it equally to both sides of the Chamber.

The SPEAKER. That is the proposition.

Mr. CONGER. No, sir. The proposition is to give the whole time to the other side. I admit that they need it.

Mr. SPARKS. On motion of a gentleman upon the other side, the gentleman from Minnesota, [Mr. DUNNELL,] the time for closing general debate on this bill was fixed at three o'clock to-day. Now, upon the motion of a gentleman on that side, it is proposed to extend the time just one hour. I insist that gentlemen on that side are precluded from insisting that anybody is putting "thumb-screws" on them.

Mr. ROBESON. I make no such suggestion. I believe that the gentleman who has charge of this bill has behaved in the most considerate and patient manner.

Mr. SPARKS. I thank you, sir.

Mr. ROBESON. If he will permit me, I will make a new motion—that the time be extended to allow the gentleman from Virginia [Mr. TUCKER] one hour, the gentleman from Pennsylvania [Mr. WRIGHT] thirty minutes, and the gentleman from Ohio [Mr. GARFIELD] thirty minutes. [Cries of "All right," on the republican side, and "Oh, no," on the democratic side.]

Mr. SPARKS. That will not do. The rule at any rate would exclude the gentleman last named.

Mr. ROBESON. Very well. If there is objection to that, I renew my original motion.

Mr. CONGER. I ask the decision of the Chair on the point of order.

The SPEAKER. The Clerk will read from the Journal the order made by the House upon this subject.

The Clerk read as follows:

WEDNESDAY, *April* 2, 1879.

Mr. STEPHENS moved that all general debate be closed on the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, pending in said committee, on Saturday, the 5th instant, at two o'clock; which motion was not agreed to.

And then, on motion of Mr. DUNNELL, it was

Ordered, That all general debate on the said bill of the House close in said committee on Friday, the 4th instant, at three o'clock p. m.

Mr. DUNNELL moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion on the table.

The latter motion was agreed to.

The SPEAKER. Does the gentleman from Michigan insist on his point of order?

Mr. CONGER. I do, so far as it concerns the motion now pending.

The SPEAKER. The Chair is desirous that the respective sides of the House should reach some adjustment in regard to this proposed extension of time.

Mr. CONGER. If it be agreed that after three o'clock an equal amount of time shall be given to each side, I will not object.

The SPEAKER. The proposition now is that the gentleman from Virginia [Mr. TUCKER] shall have half an hour in addition to the time to which he is already entitled, the gentleman from Pennsylvania [Mr. WRIGHT] half an hour, and that a full hour in addition thereto shall be given to the side of the House represented by the gentleman from Michigan, [Mr. CONGER.] In other words, the proposition is that one hour be given to each side of the House; which the Chair thinks just.

Mr. FINLEY. I object.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. TUCKER. Mr. Chairman, I shall exclude from my discussion all questions which have entered into this debate that have nothing to do with the point at issue before the committee. The question is, what should cause us to hesitate to pass this bill? Is there anything in the Constitution of the United States prescribing the form of bills, or forbidding such a form of bill as that now before us? Nothing. Does the Constitution contain any provision preventing our passing such a bill? None. Is there anything in our rules to prevent it? We have decided there is nothing in the rules of the last House, even if they are binding on us, which I deny. Our rules are self-imposed. If we violate them, it is a question for our consideration, but for no one else.

What, then, is the pretension advanced against our action? It is that our rule is not a right one. I understand that gentlemen on the other side of this House have obtruded the opinion of a stranger to our deliberations. What right has any member here to say that the President of the United States will object to the method of our proceeding according to our own rule? I have before me a resolution of Parliament in 1783 that such a statement made upon the floor of the House of Commons in reference to the King would be an invasion of the sacred privileges of the Commons and subversive of the British constitution. I read from Hatsell's Precedents:

> On the 17th of December, 1783, the house came to a resolution, "That it is now necessary to declare that to report any opinion or pretended opinion of His Majesty upon any bill or other proceeding depending in either house of Parliament, with a view to influence the votes of the members, is a high crime and misdemeanor, derogatory to the honor of the Crown, a breach of the fundamental privileges of Parliament, and subversive of the constitution of this country."

And yet the President's objection to our method of proceeding is suggested here to prevent our legislation. It is a violation of the privileges of this House by the indiscreet friends of the President, for which I will not hold him responsible.

The question is, what right has the President to object to our method of proceeding? Our rules under the Constitution may be prescribed by this House and by it alone. No other house can call in question our method, nor can the President. The President, therefore, notwithstanding the threat made in his behalf, cannot, without an unjustifiable intrusion upon our privileges, veto this bill upon the ground of the method by which it is passed. He must veto it, if at all, upon the merits of the bill.

And what are those merits? The only ground of objection is that the majority in Congress proposes to deny the right of the President to preside with his troops at the polls over a free election of the people. [Applause.] That is the whole issue.

The gentlemen on the other side say there must be no coercion. Of whom? Of the President? But what right has the President to coerce us? There may be coercion one way or the other. He demands an unconditional supply. We say we will give him no supply but upon conditions. We will give him the Army, but he must keep his Army away from the polls at elections by the people. [Applause on the democratic side.]

Now, Mr. Chairman, upon this issue, the only thing left for me to consider is this: have we the right, are we in the right, in insisting upon this bill? What is "right?" I would formulate it algebraically in this way: right is equal to power plus duty. We have not the right to do an act merely because we have the power. But where power is coupled with a trust, with duty or obligation to exert it, then the power intrusted for the performance of a duty gives us the right to do this thing, obliges us to do it, and we are bound to stand there forever. [Applause on the democratic side.]

Gentlemen say they will never yield. I tell gentlemen that in a conflict between power and liberty, if power will not yield, liberty must be just as firm. [Applause on the democratic side.]

In discussing our right to pass this bill, according to the analysis of right just presented, I ask, first, have we the power to pass it? Can there be any doubt about that? My distinguished friend from Ohio, [Mr. GARFIELD,] to whose courtesy I am very much indebted always, has said the great trouble here is, that we run against "the granite foundation of free consent." His rhetoric is very powerful; I always admire it; but what is this "granite foundation of free consent?"

In the sense of absolutely free consent in legislation, with great respect, I say the doctrine is impracticable and absurd.

Did any bill ever pass this House with the free consent of the minority, or even with the free and full consent of every member composing the majority? And when a bill has passed one House and goes to the other, though that other passes it rather than reject it and prevent all action, there will be the absence of free consent. But if the other House proposes to amend, and we reject the amendment, there is a conference. The other insists upon its amendment and we concur, or we refuse still to concur and the other recedes. Is it not obvious there may be the presence of constraint upon the will of each and the absence of the free consent of both? And so when a bill passes both Houses, which the President signs despite his dissent from many of its provisions, though upon the whole he approves rather than interpose his veto, the "granite foundations of free consent" are shaken, and the principle invoked by the gentleman from Ohio [Mr. GARFIELD] is set at naught.

Was there no danger to that principle when the republican party, the gentleman from Ohio voting with them, in 1867 passed an appropriation bill for the Army on which was ingrafted a provision by which Andrew Johnson, the then President, was required to abdicate his constitutional functions as Commander-in-Chief of the Army or veto the appropriation bill? Did the gentleman perceive no danger to the granite foundations he so much admires of a free consent by the President when he voted for that bill? What makes the difference then and now? It is our ox that is gored now; it was his bull then. [Laughter and applause.]

What, then, is the true constitutional doctrine? In all governments based upon the idea of checks and balances between its departments there will necessarily be some constraint upon consent, though no coercion. The requirement of concurrence of distinct wills in governmental action involves the reconciliation of antagonisms of views and opinions, in order to a harmonious conclusion. Constraint by each upon the other is inevitable, and a compromise of divergent and opposite ideas is the result. Consent in such a system is not free, but constrained; not absolute, but conditioned. This, so far from being an evil, is a good. Neither party has its own way absolutely. The result is not wholly satisfactory to either of them. The contrary forces produce a resultant which is better than either would have produced alone. Edmund Burke, when advocating the government of concurrent wills in preference to a government controlled by one will only, with an eloquence of which he was the supreme master, shows that the antagonism of the departments of such a system produce "all that action and counter action which, in the natural and in the political world, from the reciprocal struggle of discordant forces, draws out the harmony of the universe." From the government of one will springs despotism; from that of concurrent wills has been evolved the free institutions of that great race to which we belong; and I shall show that the use of the very method we now adopt by our ancestors has given us the liberties we have inherited, and must continue to cherish and maintain.

I am willing to concede that in ordinary cases this putting of general legislation upon appropriation bills may be inconvenient and injudicious. To use a homely phrase, it should not be used as our daily bread in legislation, but it is the medicine of the Constitution, and proper to purge away the diseases of the body-politic. When, therefore, vicious laws have fastened themselves upon the statute-book which imperil the liberty of the people, this House is bound to say it will appropriate no money to give effect to such laws until and except upon condition that they are repealed. [Applause on the democratic side.]

You will see, Mr. Chairman, that the propositions of the gentlemen on the other side amount to this, that if by hook or crook vicious legislation has been once put upon the statute-book which requires an annual appropriation of money in order to make it effective, and if we are precluded from repealing it upon an appropriation bill, it follows that every such appropriation becomes mandatory upon this House unless the President will consent to its repeal. Is not that clear? In this case there is a vicious law which we think invades the liberties of the people. Will the President say (as his supporters here say he will) "I will not consent to its repeal; the law is upon the statute-book; go to work, send me supplies; hurry them up and let the law stand?" Will the President of this Republic say this as the Stuarts and the Tudors used to say to the House of Commons—"Hurry up; hurry up my supplies, and then adjourn?" Is that the idea of gentlemen on the other side? Then will it be our function only to come here to vote his majesty's supplies and then go home to our people, declaring we have furnished the sinews to the law which oppresses them and strikes at the vitals of their freedom.

I ask gentlemen, if this Congress is thus bound to appropriate the people's money to their injury and against their liberty, because of an existing law the repeal of which the President refuses to assent to, are not the granite foundations of their free consent to the laws, by which they are governed, undermined and destroyed by their own Representatives? Are not the people coerced to give their money to carry out a law to whose repeal they consent but which their Executive vetoes? To coerce a President to repeal a law passed by Congress is revolutionary, but to coerce the people into obedience to a law retained on the statute-book by the will of the Executive against that of Congress is constitutional and right! Can the President of this country hold such a view and maintain such a position?

In the further discussion of our power to pass this bill let me premise one or two things:

First. This law giving power to use troops to keep peace at the polls was passed in February, 1865, when eleven States were unrepresented in this Congress. Whether they were right or wrong in this matter is not pertinent to the argument. All the States are now represented. It is not unreasonable that they should seek to repeal a law which they regard as vicious and to which in fact they never assented but by which they are bound.

Second. It seems to me that the doctrine, that no bad law can be repealed upon an appropriation bill, is unsound. It turns all appropriations into permanent ones, though in form they are annual. Especially is this unsound, as I shall show hereafter, as to an Army appropriation bill. For if, because an existing law has fixed certain administrative machinery, an appropriation must be made to sustain and continue it, it makes the appropriation as permanent and continuous as the machinery itself. Because the Army organism has been fixed by law at a certain number of men and officers, at certain rates of pay, &c., the appropriations must conform, with no right to condition them upon a consent to a change in the organism. It follows from this, that as all the checks which the Constitution opposes to positive legislation are thrown against its repeal, so appropriations must (here is the coercive principle, contrary to the granite foundations of free consent) continue to be made to support the existing system, if the President opposes repeal, unless two-thirds of both Houses can overrule him. A doctrine which gives such enormous power to the President, against the will and upon the purse of the people, would be abhorrent to every subject of the British monarchy, and cannot be tolerated by the citizens of a free republic.

But I proceed to show that the power over the purse of the people is a part of those inherited privileges vested by the people in this House and in the Senate, by means of which the people's representatives in the legislative department may check executive usurpation and constrain a redress of grievances.

After Magna Charta had been confirmed again and again under the early Plantagenets, and the Commons had succeeded, in the reign of Edward I, in securing the right to sit in a separate body, and the constitutional recognition of the principle that no tax could be imposed but by the power of Parliament, the Commons grew in authority, and were in the habit of attaching to their supply bills petitions for a redress of grievances. This was early in the fourteenth century. (Hall, Const. History of England.) At a later period money grants were conditioned on such redress; and during the reigns of the Tudors and the Stuarts, this was constantly done.

In the early part of the reign of Charles I, in 1628, Rushworth, in his historic collections, gives us the language used in Parliament which furnishes texts for us to-day. Sir Thomas Wentworth said: "Unless we are secure in our liberties we cannot give." The speaker said "that by ancient course of Parliament grievances have been first considered of before supply." And the committee of the whole house resolved "that grievances and supply go hand in hand."

Be it noted, the consideration of grievances was never postponed until after supply was granted. It either preceded or went hand in hand with supply. And I may say this House might have adopted either of the last two methods. We have adopted that taken by the last House; and repeal of grievance and grant of supply go hand in hand.

The gentleman from Connecticut [Mr. HAWLEY] says these were the days of English barbarism, and no such thing has been done since its civilization. I can scarcely think that the Elizabethan period of England was one of barbarism. The age of Spenser, Shakspeare, and Ben Johnson, of Bacon and Raleigh, of Coke and Hampden, was not one of barbarism. That half century which preceded the revolution of 1688 was a splendid period, when the enlightened Commons saved England from the barbaric despotism of the continent of Europe and gave liberty to the people against the tyrannical purposes of the house of Stuart. Yet the gentleman thinks these were the days of barbarism, and the use of the money power against the Crown was a barbaric weapon.

Mr. Chairman, this money power was the lever by which the Saxon people upheaved the solid centralism of the Norman polity and transformed the monarchy of the conquest into the noblest type of constitutional government in the Old World. This power over the purse in the hands of the Commons made the sword impotent in the hands of the king. And shall we discard the use of this power and claim less for the House of Representatives against a President in a Republic, than the House of Commons asserts against monarchy in England?

The power was used there as the medicine of the constitution. The Tudors and the Stuarts demanded supplies for their schemes of ambition in war and peace. The Commons halted on grievances. The Crown sent messages to them to hurry up supply and adjourn without redress of grievances. But the Commons said, "The purse is ours to give or to withhold, to give absolutely or on condition; abandon dangerous power and practices; let go your hold on our liberties, and we will give you money."

Hard, long, and obstinate was the conflict. But liberty won and despotism was vanquished. This weapon for a people's defense, well and wisely wielded, has reformed the British monarchy, purged

away its despotic principles, enlarged popular authority, secured public liberty and the personal rights of man by the splendid muniments of law and an independent judiciary, and brought the whole Government under the influence and control of the will of the people. So far from the remedial methods of the Commons being barbarous, it was the light of civilization which banished the night of barbarism from the kingdom.

The gentleman from Ohio, [Mr. GARFIELD,] the other day, and the gentleman from Connecticut [Mr. HAWLEY] have said that this money power to redress grievances has not been used in England for two centuries, or since 1688. Concede the historic fact. But does it prove the power is gone? Why is it disused? The veto of the Crown, too, has fallen into disuse since 1688. Why?

The philosophy of the history presents an overwhelming answer to the position of the gentlemen. The use of the remedy has ceased, because since 1688 the disease has been extirpated. The right to withhold supplies from a Crown reluctant to redress a grievance has been conceded since the revolution of 1688. If the Commons demand a repeal of an obnoxious law, or the redress of a royal grievance, the monarch yields, because he knows the remedy is in their hands. He raises no contest because he must lose the battle. The truth is, as Mr. Bagehot, the most interesting writer of late years on the British constitution, has said, the executive government of England is a cabinet of ministers, appointed by the Crown but holding office as tenants at the will of the Commons. The will of the Commons commands the assent of the Crown to a repeal of a law, for if the Crown vetoed the repeal, the ministry would have to resign and the government would stop until the popular demand for repeal was responded to with favor by a new ministry. A vote of want of confidence is the signal for the dismissal of a ministry. Let the Commons of England demand the repeal of the law we propose to repeal, and it would die. Let them demand the passage of a law, and it will pass. Let the executive ministry obstruct their will, and it would be dissolved. The reform bill of 1832, the disestablishment of the Irish Church in 1870, were willed by the Commons and became law against the will of the Lords in both cases, but without dissent of the Crown.

But it has been said elsewhere that the grievances of which we speak in English history arose from the use of the prerogative, and not from any law. As far as the precedent goes it is made stronger for the objection. For if the Commons by means of this power curbed the royal prerogative, *a fortiori* it would avail to keep him from obstructing the repeal of an obnoxious law by his veto. But the answer already given is complete. The Commons in repealing a law are never obstructed by the Crown. Such a thing would be at once remedied by a withholding of supplies.

The gentleman from Connecticut [Mr. HAWLEY] cites Mr. Amos for the doctrine that to attach such a provision to an appropriation bill in England would now be unconstitutional. I do not think this is held by any other authority; nor can it be so. It has fallen into disuse as a means of securing new legislation for the reasons already stated. But the resolution of the Lords cited by Mr. Amos does not sustain the gentleman from Connecticut, [Mr. HAWLEY.] It reads thus:

> In 1702 the Lords passed a resolution and ordered it to be added to their roll of standing orders, "that the annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unparliamentary, and tends to the destruction of the constitution of this government."—*Amos's Constitution*, reign Charles II, page 73.

This applies to an amendment not germane. Now, an amendment regulating and controlling the use of an Army is clearly germane to a bill for supporting one, as it prescribes a condition on which the Legislature wills to support it. Besides, this order was an objection from the Lords, and was not the objection of the Crown.

Having thus considered the general use of the money power in British history, I call attention to the power over the army in England. During the reign of the Stuarts the Crown claimed and exercised the power to raise and keep troops without consent of Parliament. The Commons contested it.

By the bill of rights adopted at the revolution of 1688 it was provided "that the raising or keeping a standing army in time of peace, unless it be with the consent of Parliament, is against law." And this is inserted to this day in the preamble to the army bill in England. But the Crown may with the consent of Parliament do so. Besides he is generalissimo of the army and navy, and as such, officers, governs, and regulates both. Such is the constitutional distribution of power over the army of England. But despite this, there are two checks on the royal power as to the army which are of controlling influence. I quote Mr. Hallam, (Constitutional History, chap. 15:)

> This annual session of Parliament was rendered necessary, in the first place, by the strict appropriation of the revenue according to votes of supply. It was secured, next, by passing the mutiny bill, under which the Army is held together and subjected to military discipline for a short term, seldom or never exceeding twelve months. These are the two effectual securities against military power; that no pay can be issued to the troops without the previous authorization by the Commons in a committee of supply, and by both houses in an act of appropriation; and that no officer or soldier can be punished for disobedience nor any court-martial held without the annual re-enactment of the mutiny bill. Thus it is strictly true that if the king were not to summon Parliament every year, his army would cease to have a legal existence, and the refusal of either house to concur in the mutiny bill would at once wrest the sword out of his grasp. By the bill of rights it is declared unlawful to keep any forces in time of peace without consent of Parliament. This consent, by an invariable and wholesome usage, is given only from year to year, and its necessity may be considered perhaps the most powerful of those causes which have transferred so much even of the executive power into the management of the two houses of Parliament.

Thus it is seen that the army of England can exist only one year. No punishment for mutiny can be inflicted at the end of that year. It disbands. Besides, the purse power puts its support completely at the will of the Commons. This mutiny bill has been passed annually since 1693. When the army is raised and a supply voted for one year, the king can command it, regulate, and govern it. But the Commons have conditioned its supply upon a limitation of the use of troops. In many bills, it will be seen, so many troops are raised for use in England, so many in Ireland, so many in Canada, &c., and it cannot be doubted that the monarch would not, without the consent of Parliament, be permitted to concentrate the whole British army in London or at any other point.

But I call attention to a point more germane to this discussion. In 8 George II (1735) an act passed forbidding the use or presence of troops at an election. Hear the preamble to that act, which rings out upon our republican air like a bugle-blast of freedom:

> Whereas by the ancient common law of this land all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward the First, of famous memory, it is commanded upon great forfeiture that no man, by force of arms, nor by malice, or menacing, shall disturb any to make free election; and forasmuch as the freedom of elections of members to serve in Parliament is of the utmost consequence to the preservation of the rights and liberties of this kingdom; and whereas it hath been the usage and practice to cause any regiment, troop, or company, or any number of soldiers which hath been quartered in any city, borough, town, or place where any election of members to serve in Parliament hath been appointed to be made, to remove and continue out of the same during the time of such election, except in such particular cases as are hereinafter specified.—*Pickering's Statutes*, volume 16.

This asserts, as a principle of common law and common right, the right of the people to have an election free from the presence of troops, from the time of Edward I, in the fourteenth century. It limits by act of Parliament the royal power in regulating, governing, and commanding his troops. Such use invaded the liberty of Englishmen, and the sacred privileges of Parliament as an independent branch of government. Parliament curbed the use; no royal veto or protest was interposed.

In 1741 an incident occurred mentioned by Mr. Hallam in a note, page 635:

> The military having been called in to quell an alleged riot at Westminster election in 1741, it was resolved, December 22d, "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom." The persons concerned in this, having been ordered to attend the House, received on their knees a very severe reprimand from the Speaker.—*Parliament History*. IX, 326.

Is it possible that it is revolutionary and unconstitutional for us to present to the President a bill forbidding the use of troops at the polls, when the English offender though an officer of the royal army on bended knee was reprimanded by the British Commons? Then are we less free from despotic power in this Republic than an Englishman under a monarchy.

Let us look at the power over the Army here. The President has no power to raise or keep troops. Congress has power "to raise and support armies." (Constitution of the United States, article 1, section 8, clause 12.) The King of England has this power.

Congress has power "to make rules for the government and regulation of the land and naval forces." (Constitution of the United States, article 1, section 8, clause 14.) The King of England has this power. The President of the United States has not.

The king is generalissimo. The President is Commander-in-Chief of the land and naval forces. (Constitution of the United States, article 2, section 2.)

It thus appears the power of the President is far less than that of the king, and of Congress far greater than that of Parliament as to the army; but Congress and Parliament have the power of the purse alike.

Now, if in England Parliament can limit and has limited the use of troops by the king, and notably in the case of their use and presence at elections, is it revolutionary or against the letter or spirit of the Constitution for us to condemn the supply for support of the Army upon their non-use at elections? If it be, then is the case of American citizens as to liberty and free elections less favorable than that of the subjects of the British monarchy.

But it has been hinted in debate that when Congress raises an army and votes money for its support the President as Commander-in-Chief can do with it as he pleases, and Congress cannot limit its use.

I read from Mr. Hamilton's number of the Federalist, No. 68, page 480:

> Secondly. The President is to be Commander-in-Chief of the Army and Navy of the United States. In this respect his authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces as first general and admiral of the Confederacy, while that of the British King extends to the declaring of war, and to the raising and regulating of fleets and armies; all which by the Constitution under consideration would appertain to the Legislature.

The President is *ex officio* no more as Commander-in-Chief than the General-in-Chief of the Army, who now sets before me on the floor of the House. He is the executive director of the troops in military operations. But how, where, and when he and they are to be used,

is for Congress, which is the raising, supporting, regulating, and governing authority of the Army. The President has no other power as Commander-in-Chief than if he held that position, and was not President. The presidential office, in other words, does not increase the power of the President as Commander-in-Chief.

Now, sir, the power, therefore, which the legislative department has to condition the grant of supplies for the Army upon its use under prescribed limits, is a power which is unquestioned in England, and cannot be questioned here. Let me go a step further. The gentleman from Connecticut [Mr. HAWLEY] admitted this morning the Army was our Army; we can make it, we can unmake it. I tell you, gentlemen of the House of Representatives, the Army dies on the 30th day of June unless we resuscitate it by legislation. And what is the question here on this bill? Will you resuscitate the Army after the 30th of June with the power to use it as keepers of the polls? That is the question. It is not a question of repeal. It is a question of re-enactment. If you do not appropriate this money, there will be no Army after the 30th of June to be used at the polls. The only way to secure an Army at the polls is to appropriate the money. Will you appropriate the money for the Army in order that they may be used at the polls? We say no, a thousand times no. We will not support an Army, whose sword and bayonet the President can turn, if he please, against the liberty of the people. [Applause.] Never with our consent will we give money for the support of the Army to be used as keepers of the polls at so-called free elections. That is the whole question. Will we re-enact the existence of the Army with any such power in the President to use it? Is it revolutionary or unconstitutional for us so to act?

So far from it, I hold it is revolutionary and unconstitutional to oppose us in it, for I proceed to show that this money power over the Army was given to us for the purpose of such a supervision and limit to its use. If we do not so exert the power we are violators of the trust reposed in us by the grant of it to us. You will find in the twenty-sixth number of the Federalist the remarks of Alexander Hamilton, the great leader of the old federal party, on the clause of the Constitution which limits the power to raise and support armies by the words "But no appropriation of money to that use shall be for a longer term than two years." Hamilton says:

The Legislature of the United States will be obliged—

That is we and you, Representatives of the people, will be obliged—

by this provision—

The two-year limit on appropriations—

once at least in every two years, to deliberate upon the propriety of keeping a military force on foot—

That is exactly what we are proposing to do now—

to come to a *new* resolution on the point—

This bill is the new resolution we are coming to on this subject—

and to declare their sense of the matter by a formal vote in the face of their constituents. They are not at liberty to vest in the executive department permanent funds for the support of an army if they were even incautious enough to be willing to repose in it so improper a confidence.

Now you see we are not at liberty to make a permanent appropriation for the Army, in form or effect. If the mere fact of keeping the Army on foot with this legislation on the statute-book enables the President to use it to keep peace at the polls; God save the mark! we come to the new resolution now that we will not raise an army or support it for any such purpose; and we say to the President, "You can have the Army, and command it according to your constitutional power for the defense of the country against the foreign foe, and for the execution of the laws under the provisions of acts of Congress, and on the call of the judicial authority, but you must never use it to secure a so-called free election by keeping peace at the polls."

This view of our Constitution is the clearer, because the provisions in it in respect to the support and control of the Army were taken from the British constitution, with all the meaning attached to them by the historic precedents to which I have referred. If an English Parliament each year re-enacted the mutiny bill by which alone the army was continued, and so restrained its use as that it could not be present at elections; and if with these British precedents in view our Constitution was adopted in the form already commented on, how can it be revolutionary, how can it fail to be right, for us to place the same limit on its use which the English people did?

Now, Mr. Chairman, if the power is so clear, if so far from our proposed action being revolutionary or unconstitutional the power was vested in us for the purpose of doing the very thing we are doing; if, as Mr. Hamilton says, it was intended that every two years we should consider this question in order that we might determine whether it was safe any longer to keep the Army on foot; we propose to say, we have come to the conclusion that there is not only no propriety, but there is a manifest impropriety, there is danger to public liberty, to the rights of the citizen, and to free election by the people, in having an army on foot, to keep the peace at the polls under the command of the President of the United States. So believing we will support the Army, but for no such use.

With so clear a power, intrusted for so definite a purpose, there can be no question as to our duty.

Many considerations may be urged to show this; first, the great danger to liberty from such a use of the Army. The gentleman from Connecticut [Mr. HAWLEY] this morning has spoken lightly of the alarm felt on this subject.

History is of little avail if it does not teach us to dread the influence of a standing army upon the existence of liberty in a country. De Lolme, in his very able work, Hallam, Macaulay, and other English historians have taken pains to show that the difference between the free institutions of England and the despotic governments of continental Europe is to be attributed to the advantage, obtained through the use of the money power, by the Commons as the representatives of liberty over the Crown, in making the existence and support of his army dependent on the will of the people.

In the debates of the Federal and State conventions which led to the adoption of our Constitution, the dread of a standing army and the importance of subordinating the military to the civil power were continually held up to the consideration of the people.

In the English army bills there is an exclusion of all provision for its use except as a defense against a foreign foe. The Englishman does not like to admit the soldier as an element in the force needful to support the civil authority. I quote from Mr. Hallam's Constitutional History of England, (chapter 16:)

This army was always understood to be kept on foot, as it is still expressed in the preamble of every mutiny bill, for better preserving the balance of power in Europe. The Commons would not for an instant admit that it was necessary as a permanent force, in order to maintain the government at home.

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Mr. Pulteney, so late as 1732, a man neither disaffected nor democratical, and whose views extended no further than a change of hands, declared that he "always had been, and always would be, against a standing army of any kind; it was to him a terrible thing, whether under the denomination of parliamentary or any other. A standing army is still a standing army, whatever name it be called by; they are a body of men distinct from the body of the people; they are governed by different laws; blind obedience and entire submission to the orders of their commanding officer is their only principle. The nations around us are already enslaved, and have been enslaved by those very means; by means of their standing armies they have every-one lost their liberties. It is, indeed, impossible that the liberties of the people can be preserved in any country where a numerous standing army is kept up.

But what need have we of any history but our latter-day annals? In the last twenty years what has not been done by the Army in civil affairs, sometimes under act of Congress and sometimes not?

By act of Congress eleven States were put under the absolute control of the President through the Army. Legislatures were dissolved, constitutional conventions were called, suffrage was extended, taxes were collected, and public moneys of the States disbursed by the orders and under the control of the Army.

In my own State all the judges of the court of appeals, elected by its State government, which had been fully recognized as the lawful government by the Federal authorities, were removed and successors appointed by order of the military governor of district No. 1, which was the Old Dominion. Circuit judges were removed at the will of the military power, and replaced by others. Citizens in the South were tried by court-martial, and the privilege of the *habeas corpus* was denied to them. The jurisdiction of the Supreme Court of the United States, stretched out to rescue McCardle from the grasp of the military, was taken away by the passage of the Drake bill over the veto of President Johnson. The execution of Milligan, an Indiana citizen, by sentence of court-martial, was only prevented by the Supreme Court's judgment, in accordance in part with the argument of the gentleman from Ohio, [Mr. GARFIELD.] And who can have forgotten the part played by the military in the legislative halls of Louisiana and South Carolina?

I have myself seen a subaltern of the Army enter a court of justice in Virginia and deliver a military order to the judge upon the bench to enter a judgment in favor of a party to a case on his docket. I had myself, as a commissioner of the court to sell land, been ordered by the military to refrain from doing so, which order I refused to obey, and learned that for a public avowal in court of such refusal I was threatened with court-martial.

Mr. HAZELTON. In what year was that?

Mr. TUCKER. I think my statement is a sufficient guarantee.

Mr. HAZELTON. But we want the facts.

Mr. TUCKER. It was about the year 1868.

Mr. HAZELTON. Who was the judge?

Mr. TUCKER. I am sure the gentleman does not mean to question my statement.

For myself, Mr. Chairman, I am jealous of the military power. The old Anglo-Saxon race to which we belong has always cherished this feeling in the interest of liberty.

I like the Army in its place, defending the country against invasion; but I do not like the Army as the holders of the polls at an election by the people, nor to constitute courts for the trial of citizens for crimes, nor on the judgment-seats in civil courts, nor to organize Legislatures of the States. Against these civil functions for the Army we protest.

But it is said, Why should the Army not keep peace at the polls? Is not peace desirable there? I do not deny this; but who shall do it, is the question. *Quis custodiet custodes?* Who shall keep the keepers? I venture to apply the story of the old Virginian who offered to bet upon the race between Henry and Eclipse. The bet was taken. "Who'll hold the stakes?" he said. "Squire Jones," was the reply. "But who'll hold Squire Jones?" he demanded.

The question is not whether peace shall not be preserved; but is there not danger to liberty, to the freedom of the election, to put this

power in one man, the President, to use the Army as the keepers of the polls and holders of elections?

Mr. Chairman, do you notice that this act which it is proposed to repeal gives to the President the right to keep troops at the polls at any general or special election? It is a power applicable to a State or municipal election, to a congressional or a presidential election. At the very time the President may be appealing to the people to say whether he shall longer remain in the office of President or not he may muster the troops of the United States at the polls to decide an election in which he is himself a candidate.

Louis Napoleon used the French army to keep peace at the polls when he was a candidate for empire; and we all know what was the effect. The empire was peace, but it was the peace of despotism, secured by the armed troops of France. The troops kept the peace no doubt, but in the interests of their master and against the liberties of the people.

The trouble is in all these cases to appoint such a guardian against fraud as will have no interest to perpetuate it—to give the armed force of the country into the hands of a party interested in the elections, is to insure an unfair election by force.

Now, all gentlemen must know that partisan feeling and prejudice do affect everybody in an election. Is it then possible to believe, when the President has appointed his marshals to go to the polls and to make arrests, and sends troops to the polls for the purpose of keeping the peace, that if a question arises in which he is interested he or his agents will exercise that power in a fair and unbiased manner; that they will so exclude or admit voters, so that the result will ever be decided against himself, or in favor of his opponents?

[Here the hammer fell.]

The CHAIRMAN. The time for general debate has closed.

Mr. GARFIELD. The gentleman can move to strike out the last word, and continue his remarks.

Mr. KEIFER. I ask that the time of the gentleman from Virginia be extended. [Loud cries of "Go on!"]

Mr. CONGER. Let the first section be read. I will not object to the gentleman continuing his remarks, because I would very much like to have his speech to send to my constituents.

Mr. TUCKER. I would take great pleasure in furnishing the gentleman with a large number of copies.

Here lies the great difficulty. Where troops are used at the polls it is to be feared that the cartridge-box might be exchanged for the ballot-box, the bullet for the ballot. The bayonet which has pierced the writ of *habeas corpus* issued by the Chief-Justice of the United States might be used to destroy the ballot of the citizen seeking to vote. The sword, professing to guard the voters at the polls, might intimidate the voter and keep him away from the polls. The timid and unarmed and disorganized body of citizens cannot hold their place at the polls against a band of Federal marshals with their batons of governmental authority and the organized troops of the Government with the flag of the country floating over them.

Think of a presidential election in which the Commander-in-Chief of the troops is a candidate, and it is folly to suppose that it is safe to leave the unarmed citizen to stand his ground against the whole civil and military force of the Government.

Now, Mr. Chairman, I will not detain the committee long on the unconstitutionality of this legislation. The gentleman from Connecticut [Mr. HAWLEY] thinks there is no difficulty about the constitutionality of this law.

Mr. HAWLEY. I did not say quite that. I held that it was not unconstitutional to do something in this direction.

Mr. TUCKER. I understood the gentleman to assume the position of my friend from Ohio, [Mr. GARFIELD,] that on the merits of the question, if brought to a vote on the merits, they would vote with us.

Mr. HAWLEY. I stand on the rightfulness of force as an element of government. I am not required to discuss the details; I only stand upon that broad principle.

Mr. TUCKER. The question I make is this: whether this use of troops at the polls is a thing which the gentlemen from Ohio and Connecticut will vote to retain on the statute books if they were presented in separate measures?

Mr. GARFIELD. I have said that I would vote to repeal this clause if it was brought in as a separate measure.

Mr. TUCKER. Then the gentleman from Ohio stands upon very narrow ground. He admits that upon the merits this clause ought to be repealed, and yet he says that because of the method in which it is to be repealed the President ought to veto the bill. In other words, were the gentleman in the President's place he would approve the measure on the merits, but veto it because of the method. How can that be? What right has the President to say anything in reference to our method of legislation if he has no objection to the measure on its merits?

But to return for a moment to the constitutionality of the measures proposed to be repealed. Two of them relate to the elections, and the third to the constitution of juries in the Federal courts. The constitutionality of the laws as to elections is maintained on article 1, section 4, clause 1, of the Constitution:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It is obvious, from the use of the mandatory word "shall" as to State power, and of the permissive word "may" as to congressional power, that the purpose was to give to Congress the authority to save its organic life from destruction by the omission of the State to exert its power to prescribe time, place, and manner of holding elections. Congress is not justified in acting unless necessity calls for it.

Again: Congress cannot do more than make or alter regulations for *holding* elections. The manner of election is not within its power, but only the manner of holding it. It cannot regulate suffrage. That is fixed by State regulations according to the agreement of the parties to the Federal Constitution. (Constitution of the United States, article 1, section 2, clause 1.) It cannot interfere with the voter before he comes to the poll, nor exclude him from it by force or intimidation. His right to vote must be decided according to the State law of suffrage. He must be admitted to assert his right to vote, and even if it be denied, to record his claim with the denial, in order that this House, which is to judge of the elections of its members, may see whether the claim was just or the denial was right. But the right of marshals or supervisors to arrest before and at the elections, and thus detain the voter from the assertion of his claim, is unconstitutional, unjust, and dangerous to liberty. The law which Congress may pass must be "necessary and proper" to carry out its power to regulate the manner of holding elections. (Constitution of the United States, article 1, section 8, clause 18.)

Is it necessary to the "holding of an election" to arrest citizens on the ground of their want of right to vote? Is it necessary to marshal troops at the polls? Is it necessary to give supervisors and marshals authority before and on the day of election, with or without warrant, to hurry thousands of citizens to prison, and thus keep them away from the polls? Is not this a mode of defeating, and not a manner of holding an election?

Again, is it proper or (in the language of Judge Story) is it *bona fide* appropriate to the end in view, or appropriate to the nature of our free institutions, to use troops at the polls at all? The act of 8 George II (1735) was known to the framers of the Constitution. The Declaration of Independence, with its charge against George III, "that he has affected to render the military independent of and superior to the civil power," was ringing in their ears. Could it be proper that in elections of Representatives to this floor or of Senators by State Legislatures the President, with the Army at his back, should hold the election of the former at the polls where the citizen voted, or in the halls of a Legislature of a State?

These views suffice to make the whole of this legislation unconstitutional even as to the election of Representatives on this floor. But the law we propose to repeal in this bill authorizes the use of troops at all elections, State and Federal, congressional or presidential. Congress has no power to touch in any degree an election for State or municipal officers, nor for electors in a presidential election. In this respect the law is a flagrant violation of the Constitution.

On the jury question the constitutional objection is very clear.

By the sixth amendment to the Federal Constitution an accused person is entitled "to a speedy and public trial by an impartial jury," &c. He must be tried by his peers. The test-oath law, once really repealed, but by some mistake still in the Revised Statutes, excludes in some States nearly half of the citizens of the State from juries. Can such juries be impartial? And the exclusion is for participation on the confederate side of the civil war, which does not exclude a man from the bench or these Halls, but would shut him out of the jury-box for the trial of a fellow-citizen.

But I take higher ground. I say that the matters we propose to interfere with in these provisions of these appropriation bills are matters that are peculiarly under the guardianship of the members of this House. I beg the committee to bear with me for a moment while I state my views on this point.

Let us look at the relations of the executive and legislative departments to these grave questions. Take the President. Who is the President, whom does he represent, what function of government does he perform? He is the representative of colleges of electors, who may themselves not be elected by the people, but in such other way as the Legislature of each State shall determine. He has no direct contact through the elective process with any individual citizen in the land. His contact with the individual citizen is cut off by the electoral colleges. Practically he represents the States, each with its solid suffrage proportioned not to numerical strengh, but to its numbers and its equality as a State combined. In fact, he thus represents, because his election depends, on the larger States as such, and not on the citizens of the country as individual men with personal rights of life and liberty.

In him is concentered the patronage of the Government. He is the representative of the great tax-consuming classes, that feed upon the Treasury; that love to have it full, that they may have the pleasure of emptying it by lavish expenditures and fat schemes for plunder. He represents, therefore, the great body of the "ins," eager to give him all power to keep in him and them, and the "outs" out, without much scruple as to the degree or character of the authority given to him. He represents, therefore, the most centralizing tendencies of the system; its centripetal and consolidating principles—the natural result of which must be, unless checked, the perpetuation of power through patronage and force in the hands which hold it. The executive power is vested in him. (Constitution of the United States,

article 2, section 1.) All legislative power is vested in Congress. (Constitution of the United States, article 1, section 1.) The President is not a branch of the legislative department. He may obstruct legislation by a veto, but can take no part in it.

Now look to the Senate. The Senators are the representatives of the States, and are elected by the Legislatures of the States. The Legislatures are interposed between the Senators and the people.

Now whom do we in this House represent? What do we represent? There is not a man of us here that is not in intimate contact and relation with the Johns, Williams, and Josephs all over our districts. The men themselves, the individual citizens, with all their rights and with all their personalities, are in close and intimate contact with every member of this House as constituents of their respective Representatives.

[Here the hammer fell.]

The CHAIRMAN. The five minutes of the gentleman has expired.

Mr. HUNTON. I will take the floor and yield my five minutes to my colleague, [Mr. TUCKER.]

Mr. TUCKER. It therefore becomes necessary that we should see that those citizens whom we represent have a fair trial by an honest court and that there be no packed juries upon them. It is our duty to see that they have freedom to elect their Representatives. It is our duty to see that the organization of this House is made by such a method as will exclude executive interference and any other influence except the free and honest choice of all the people.

You will remark that of the three measures which it is proposed to repeal by this legislation, that relating to the use of troops at the polls invades the freedom of election by giving the control of it to the person who commands the troops that may be at the polls. Do you not, therefore, see that in the election of members of this House the President has the power under this law to control that election, and thus to dictate to the people who shall hold seats in this House? It would make us perhaps the representatives merely of rotten boroughs, holding our seats as before the reform bill members of Parliament in England did, at the pleasure of the Crown! We would hold only at the will of the President. To guard the integrity and independence of this House from executive control and influence we must repeal these laws.

Now look at it in another point of view. It is necessary that we should protect the citizen in his right to elect whom he pleases. This is peculiarly under our guardianship. He is, as a voter, our constituent. He sent us here to guard his personal rights and his constitutional privilege as a voter. It is not under the guardianship of the President. It is not under the peculiar guardianship of the Senate, but is specially under the guardianship of this House.

But again: the Legislatures of the States elect the Senators. Under this law the President may keep troops at the polls for election of the State Legislatures, and thus by the use of the Army influence and control the election of Senators. This law gives him an improper influence in the election of members of both Houses of Congress. Is this right? Can this be defended?

Therefore, we come forward and say to the President that we do not propose to limit any constitutional function of his executive office, (as was done by the act of 1867, and which the gentleman from Ohio [Mr. GARFIELD] and the republican party carried;) but simply that in reference to the use of the Army, which we have the power to put in his hand or to withhold from him, we will give him the Army on the single condition that it shall never be used or be present at the polls when an election is held for members of this House, or in any presidential election, or in any State or municipal election.

We propose to re-enact the Army bill, putting the Army on a new footing with that qualification and condition. Suppose the President should say he will withhold his consent from that bill. To interpret his meaning by other words, if he should veto this bill, he will say in substance that unless we give or leave with him the power to control the election of the members of this House and the members of the Senate of the United States by the use of troops, he will let the Army die and starve for want of support. [Great applause on the democratic side.]

In other words, it would be the language of the highwayman, if the President should say any such thing as his friends say here for him—"your money or your life"—the life of the Government or the money of the people. We simply say, on the other hand, we will not give the money unless upon a condition which will limit his power in the use of the Army, so as to free this House and the Senate from his influence and control through such use of troops.

Now, the question is, which is revolutionary; which is acting according to the Constitution or against it? I hold that we are not acting in a revolutionary manner, because we are doing the things which we were appointed by the Constitution to do, and that Mr. Hamilton, in the Federalist, said we were expected and obliged to do every two years at least. We are not permitted to leave the Army in the hands of the President. The Army is to be governed by Congress, not the President. It exists by our word and dies by our decree. The President has no right to require us to renew its life or to support it. He who gives may give absolutely or on condition. We choose to give conditionally not absolutely. We agree to renew the life of the Army which ends on the 30th of June for the want of supplies, upon the condition that the President shall not use that Army at the polls. How can he say let the country be without defenders unless you let me use them to control elections? Who destroys the Army in such a case? Congress which exercises its legitimate power for a proper purpose, to take away a power it once gave to the President, but which it can take away as it gave it, or the President who would insist on no Army unless he is allowed to use it for his purposes and against the freedom of elections by the people?

How, then, stands the issue? It is well defined.

I have shown that we have the constitutional power to pass this bill in its present form, and that the power to support the Army for a limited period was conferred on us in order that we might so use it as to check the President as the Commander-in-Chief of the Army. That is clearly Hamilton's meaning, contemporaneously expounding that clause of the Constitution.

I have, then, shown that it is our imperative duty to exercise this power, to put an end to the unconstitutional and dangerous control of the President through the military at the elections of the people—because the dread of standing armies in time of peace, inherited from our ancestors, has been increased by our experience of its danger—because the executive influence in elections to both branches of Congress must be curbed or the balances of the Constitution will be overthrown—because the authority claimed for the President is not conferred by the Constitution, but was reposed in him by law and may be recalled by the authority of Congress which gave it—and because in respect to all this legislation, the right of the citizen to a free ballot, uncontrolled by the force of the Army or the influence of the Executive, and his right to life and liberty under the protection of a fair and impartial jury, are placed peculiarly under the guardian care of this House by the Constitution of the country.

Clothed thus with unquestioned power, bound by clear duty, to expunge these vicious laws from the statute-book, following a constitutional method sanctioned by venerable precedents in English history, we feel that we have the undoubted right, and are beyond cavil in the right, in declaring that with our grant of supply there must be a cessation of these grievances, and we make these appropriations conditioned on securing a free ballot and fair juries for our citizens.

What can the President object to this? Not to the method nor the merits of the bill. The method is ours exclusively to regulate. The merits of the question lie in this: shall the President insist on his controlling elections and having packed juries? It is a power derived from us, which he would thus decline to surrender at our demand. In so declining he would declare, "I hold control and influence over the seats in your Houses of Congress by the use of the swords and bayonets of my soldiers and the batons of my marshals. I can prosecute and convict more readily the citizen with packed than with impartial juries. Rather than relax my grasp, military and civil, upon popular elections, rather than give you fair juries, I will reject your appropriation bills and let the Government and the Army starve and die."

I will not attribute such a purpose to the President of this Republic. Such a position he cannot maintain, and I will not believe he will assume it before the American people.

But if his friends should induce him to veto these bills, to refuse the redress of grievances demanded by the people and their Representatives, we are willing to trust the popular verdict on the issue. The people will declare that judicial machinery must not grind out condemnation of free and innocent citizens to the penitentiary through the agency of packed juries. Better no elections than those controlled by the soldier or dictated by the parasites of the Executive, whereby the Representatives of the people on this floor would be exchanged for the favorites of the President, chosen from rotten boroughs against the voice of the people by force or fraud. The people will see that these laws will convert our Federal system into a despotism, and finally into a military imperialism.

It might be said, that as a southern man I am opposed to the Army. Such an idea is unjust and untrue. I have never given a vote against its support, nor to impair its efficiency. I am more interested to secure liberty by limiting its uses, than to lessen its numbers. But the Army must be a servant of the people, not their master. It must be subordinate, not superior to the civil power. It should defend the country, and not assail its freedom. Our purpose is to make the Army the instrument of good in the service of the country, and to take away the authority of the civil government to use it against public liberty and the rights of the people.

I have thus discussed this subject with the frankness and candor which it merits. The committee will pardon me for adding some general remarks in conclusion.

My hopes and aspirations for the future of our country are in accord with those of patriotic men in all parts of the Union. I remember the four years of civil war between the States, now fourteen years past, with sorrow. I have no palinode to sing. My deepest convictions assured me we were right in the course we took then. Claiming nothing which I do not accord to our then opponents, I think we may each respect the conscientious beliefs that impelled us into that unhappy conflict.

That time, that conflict and its causes have passed away. The institution of slavery as a question of property, of caste, and of social polity is gone forever. The once slave is now a citizen, with his rights under the law and Constitution assured equally with our own. The South has come back into the Federal Union, under the Fed-

eral Constitution. The doctrine of secession as a constitutional right has been settled against us. We have returned with an honest and sincere purpose (and no one who knows me will doubt the sincerity of my declaration) to make this a glorious Union among the nations of the earth and this Government a great and noble one for the security of the liberties, the independence, and prosperity of the people of all of these united Commonwealths. As a citizen of Virginia and of the United States and as a member of this House I declare this to be my earnest and hearty purpose.

The past is gone, and though it cannot be forgotten, let it in our deliberations be buried from our sight. Its opinions and convictions should have no longer any motive, power, or influence upon present action or future aims and purposes. My action here is dictated by what I believe my duty now requires, and by what I believe to be the highest interest of every State of the Union, as well as of my mother Commonwealth, there across the Potomac, who sends us here to watch and wait and labor for a good and honest government and for the freedom and happiness of the whole people.

Standing upon this ground I look upon the struggle of the civil war as nothing but the convulsive throes of the infant Hercules in his cradle—marking growth, development, and progress. That time has passed away. The wounds of the war are healing—God knows I wish I could say, "had healed entirely." I believe they would have healed long ago, by the first intention, if gentlemen had not prevented it by keeping the sores open. I think it will be admitted that I have never done anything on this floor to open, and everything in my power to heal the wounds of the civil war. Let us have done with these bickerings and strifes about the past. Let us join hands in one noble resolution to do all that each of us can do for the promotion of the common glory and prosperity of our common country.

Under the inspiration of this common desire why should not the meridian glory of our country be worthy of its morning splendor? When I contemplate this virgin continent, peopled by that great race which has been and is in the van of modern progress; its vast material and moral resources for influencing the destiny of mankind and promoting the happiness and well-being of the human family; when I remember how liberty slept in its colonial cradle only to arise in revolutionary strength to shake off foreign bondage and lay the foundations of our temple of free institutions; when I think of the living and unborn millions whose fate is bound up in the success of our experiment of a federated republic of commonwealths—I feel that to doubt the triumphant destiny of the American people is weakness, to despair is crime.

If the committee will pardon me I will say that no man in this House has loved and admired our constitutional system more than I have done from boyhood to the present time. I believe, if preserved in its purity and integrity, it is the wisest system of government ever devised by the wit of man.

But our faith must connect itself with a wise, broad, and comprehensive policy.

If, Mr. Chairman, I should venture to predict the policy of a triumphant future, I would fix its land-marks thus: Let us cling to the Constitution as the *tabula in naufragio*, as our only hope under God, on the breakers and amid the storms which beset us; that Constitution which is a bundle of the institutional liberties of the Anglo-Saxon race secured by new and republican forms of government:

Let us uphold the Federal authority in all its integrity to the full and legitimate extent of its delegated powers, and preserve to the governments and the people of the several States all their rights and powers for the maintenance of their autonomy and for the promotion of their local, distinct, and peculiar interests; so that, with the common progress of all under the control of our federative system, each State may have its distinct and separate type of civilization; "distinct as the billows, one as the sea:"

Let us strictly and zealously secure to every citizen his individual and personal rights to life, liberty, and self-development by the abolition of special privileges, and opening the gates of enterprise to all, as equal contestants for the prizes of life; by the preservation intact of the sacred writ of *habeas corpus* against military and civil power; by the supremacy of the civil authority over the military; by a non-partisan judiciary; by fair and impartial juries. as the palladium of freedom; and by free elections, free from the *force* of military or civil officers, and from the *fraud* of government or citizens:

Let us grant to governments the minimum of power, and to the citizen the maximum of liberty, consistently with the order and safety of society:

Let Law, with the civic crown upon his brow, and wearing the judicial ermine, treading the pathway of our civilization with no iron heel, and gently and with unmailed hand lead forth Liberty as his wedded wife; and when asked for her most precious jewels let her, like the mother of the Gracchi, point to her happy children looking up with loving hearts to these honored parents of their peace and joy:

Let the Army and Navy be the willing servants of this noble pair, ready at the command of law to execute its decrees and to put down lawlessness, and at the cry of liberty to drive out the usurping intruder upon her sacred precincts or to quell the many-headed despotism of a licentious mob.

Mr. Chairman and gentlemen, feeling as I do that the fire of early ambition is flickering faint and low in the socket; that I have reached that period, when soon I must fall into the "sere and yellow leaf," and the shadows of life's evening will be lengthening to its close—if, when the last hour shall come, my hopes and aspirations, my dreams and visions for free institutions under the genius of American civilization shall have been realized, I shall be content with humble reverence to paraphrase the prayer of the pious patriarch: Lord! now lettest Thou thy servant depart in peace, for my eyes have seen the salvation of the liberties of my people, and the restoration of the beautiful and profound system of government established by the Constitution of our noble forefathers! [Loud applause.]

Mr. WRIGHT resumed and concluded his remarks, as will be found complete on page 228.

Mr. GARFIELD. Mr. Chairman, during the last four days, some fifteen or twenty gentlemen have paid their special attention to the argument I made last Saturday, and have announced its complete demolition. Now that the general debate has closed, I will notice the principal points of attack by which this work of destruction has been accomplished.

In the first place, every man save one who has replied to me has alleged that I held it was revolutionary to place this general legislation upon an appropriation bill. One gentleman went so far as to fill a page of the RECORD with citations from the Congressional Globe and the CONGRESSIONAL RECORD to show that for many years riders had been placed upon appropriation bills. Now, if gentlemen find any pleasure in setting up a man of straw and knocking it down again they have enjoyed themselves.

I never claimed that it was either revolutionary or unconstitutional for this House to put a rider on an appropriation bill. No man on this side of the House has claimed that. The most that has been said is that it is considered a bad parliamentary practice; and all parties in this country have said that repeatedly.

The gentleman from Kentucky [Mr. BLACKBURN] evidently thought he was making a telling point against me, when he cited the fact that in 1872 I insisted upon the adoption of a conference report on an appropriation bill that had a rider on it; and he alleged that I said it was revolutionary for his party to resist it. Let me refresh his memory. I said then and I say now that it was revolutionary for the minority party to refuse to let the appropriation bill be voted on. For four days, they said we should not vote at all on the sundry civil appropriation bill because there was a rider on it, put there not by the House but by the Senate.

I was sorry the rider was put on, and moved to non-concur in the amendments when they came to the House. But when the minority on this floor said that we should not act on the bill at all, because the rider was put upon it, I said and now say it was unjustifiable parliamentary obstruction. We do not filibuster. We do not struggle to prevent a vote on this bill. I will be loyal to the House that I am a member of, and maintain now as I did then the right of the majority to bring an appropriation bill to a vote.

You have a right, however unwise and indecent it may be as a matter of parliamentary practice—you have a perfect right to put this rider on this bill and pass it. When you send it to the Senate, that body has a perfect right to pass it. It is your constitutional right and theirs to pass it; for the free consent of each body is the basis of the law-making power.

When it goes to the President of the United States it is his constitutional right to approve it; and if he does, it will then be a law which you and I must obey. But it is equally his constitutional right to disapprove it; and should he do so, then, gentlemen, unless two-thirds of this body and two-thirds of the Senate pass it, notwithstanding the objections of the President, it is not only not your right to make it a law, but it will be the flattest violation of the Constitution, the sheerest usurpation of power, for you to make it a law in any other way. Without these conditions you cannot make it a law.

What, then, is the proposition you have offered? You say that there are certain odious laws that you want to take off the statute-book. I say, repeal them, if you can do so constitutionally. But you declare that you will compel consent to your will by refusing the necessary support—not to the President, not to any man—but to the Government itself. This proposition I denounce as revolution, and no man has responded to the charge either by argument or denial.

No member on this side brought the question into this Chamber. The issue was not created by us. Who brought it here? The proclamation of your caucus, the declaration of your conference committees. They announced it in the last House as their programme. They said you would combine these measures of legislation together and send them to the President in a separate bill, and if he did not approve them you would never vote the supplies for the Government.

You threatened the President in advance, before you allowed him an opportunity to say yes or no. You entered this Hall, fulminating threats against him in a high-sounding proclamation. You thundered in the index. It remains to be seen whether in the body of your work and in its concluding paragraphs your thunder will be as terrible as it was in the opening chapter. By adopting the programme of the last House you have made it your own; but you have put the measures in their most offensive forms by tacking them all to the two great appropriation bills.

Another equally groundless charge against me and my associates, is that we have threatened your bills with an executive veto. I repel the charge as wholly untrue in fact. I said nothing that can be

tortured into such a threat. It would be indecent on my part; it would be indecent for any of us even to speak of what the Executive intends to do; for none of us have the right to know. But you, in advance, proclaimed to the country and to him that if he dares to exercise his constitutional right of refusing his consent, you will refuse to vote the supplies for the Government; in other words you will starve it to death. That is the proposition we have debated.

My distinguished friend from Virginia, [Mr. TUCKER,] who has come nearer meeting this case with argument than any other man on this floor, has made a point which I respect as an evidence of the gallantry of his intellect. He says that under our Constitution we can vote supplies to the Army but for two years, that we may impose conditions upon our supplies, and if these be refused the Army ceases to exist after the 30th of June next. In short, that the annual Army bill is the act of reconstituting the Army. He is mistaken in one vital point. The Army is an organization created by general laws, and so far as the creation of offices and grades is concerned, it is independent of the appropriation bills. The supply, of course, comes through appropriation bills. I grant that if supplies are refused to the Army it must perish of inanition. It becomes a skeleton; but its *anatomy* was created by general law and it would remain a skeleton, your monument of starvation. The gentleman from Virginia says, "Unless you let us append a condition which we regard a redress of grievances we will let the Army be annihilated on the 30th day of next June by withholding supplies." That is legitimate argument; that is a frank declaration of your policy. Let us examine the proposition. What is the "grievance" of which the gentleman complains? He uses the word "grievance" in the old English sense, as though the king were thrusting himself in the way of the nation by making a war contrary to the nation's wish. But his "grievance" is a law of the land—a law made by the representatives of the people—by all the forms of consent known to the Constitution. It is his "grievance" that he cannot get rid of this law by the ordinary and constitutional methods of repeal. [Applause.] When he can get rid of any law by the union of all consents that are required to make or unmake a law, then he can lawfully get rid of it, whether it is a grievance or a blessing. But his method is first to call a law a "grievance," and then try to get rid of it in defiance of the processes which the Constitution prescribes for the law-making power of the nation. I denounce his method as unconstitutional and revolutionary, and one that will result in far greater evil than that of which he complains.

If he goes to the American people with the proposition to let our Army be annihilated on the 30th day of June next, unless the President, contrary to his conscience, contrary to his sense of duty shall sign whatever Congress may send him——

[Here the hammer fell.]

Mr. KEIFER obtained the floor, and yielded his time to Mr. GARFIELD.

Mr. GARFIELD. I say, if the gentleman from Virginia puts that proposition before the American people, we will debate it in the forum of every patriotic heart and will abide the result. If the party which, after eighteen years' banishment from power, has come back, as the gentleman from Kentucky [Mr. BLACKBURN] said yesterday, to its "birthright of power"—or "heritage," as it is recorded in the RECORD of this morning—is to signalize its return by striking down the gallant and faithful Army of the United States, the people of this country will not be slow to understand that there are reminiscences of that Army which these gentlemen would willingly forget, by burying both the Army and the memories of its great service to the Union, in one grave. [Applause.]

We do not seek to revive the unhappy memories of the war; but we are unwilling to see the Army perish at the hands of Congress, even if its continued existence should occasionally awaken the memory of its former glories.

Now, let it be understood once for all that we do not deny, we have never denied, your right to make rules for this House just as you please. Under those rules, as you make or construe them, you may put all your legislation upon these bills as "riders." But we say that whatever your rules may be, you must make or repeal a law in accordance with the Constitution by the triple consent to which I referred the other day, or you must do it by violence.

Now, as my friend from Connecticut [Mr. HAWLEY] well said, if you can elect a President and a Congress in 1880, you have only to wait two years, and you have the three consents. You can then, without revolution, tear down this statute and all the rest. You can follow out the programme which some of your members have suggested, and tear out one by one the records of the last eighteen years. Some of them are glorious with the unquenchable light of liberty; some of them stand as the noblest trophies of freedom. With full power in your hands you can destroy them. But we ask you to restrain your rage against them until you have the lawful power to smite them down.

My friend from Virginia, whom I know to be a master and lover of mathematics, has formulated his argument into an equation: "Right equals duty plus power." Now, I say to the gentleman that his sense of duty resides in his own breast; but power, the other factor of the second member of his equation, must be found, not in his consciousness, but in the Constitution of the United States. His notions of duty lead him to tear down the laws which the Republic enacted to protect the purity of national elections and to authorize the Army to be used to keep the peace while the national voice is finding expression at the polls. That, I say, is his notion of duty, of which he is sole arbiter; but when he comes to superadd power, in order to complete his "right" as a legislator, I hope he will not evoke that power out of his consciousness, but will seek for it in the great charter, the Constitution of the United States. According to his own algebra, he must have both these elements before he can claim the "right" to overturn these laws which he denounces as grievances.

Now, Mr. Chairman, let me add a word in conclusion, lest I may be misunderstood. I said last session, and I have said since, that if you want this whole statute concerning the use of the Army at the polls torn from your books, I will help you to do it. If you will offer a naked proposition to repeal those two sections of the Revised Statutes named in the sixth section of this bill, I will vote with you. But you do not ask a repeal of those sections. Why? They impose restrictions upon the use of the Army, limiting its functions and punishing its officers for any infraction of these limitations; but you ask to strike out a negative clause, thereby making new and affirmative legislation of the most sweeping and dangerous character.

Your proposed modification of the law affects not the Army alone, but the whole civil power of the United States. "Civil officers" are included in these sections; and if the proposed amendment be adopted, you deny to any civil officer of the United States any power whatever to summon the armed *posse* to help him enforce the processes of the law. If you pass the section in that form, you impose restrictions upon the civil authorities of the United States never before proposed in any Congress by any legislator since this Government began. I say, therefore, in the shape you propose this, it is much the worst of all your "riders." In the beginning of this contest we understood that you desired only to get the Army away from the polls. As that would still leave the civil officers full power to keep the peace at the polls, I thought it was the least important and the least dangerous of your demands; but as you have put it here, it is the most dangerous. If you re-enact it in the shape presented, it becomes a later law than the supervisors and marshals law, and *pro tanto* repeals the latter. As it stands now in the statute-book, it is the earlier statute, and is *pro tanto* itself repealed by the marshals law of 1871, and is therefore harmless so far as it relates to civil officers. But if you put it in here, you deny the power of the marshals of the United States to perform their duties whenever a riot may require the use of an armed *posse*.

The gentleman from Maryland [Mr. MCLANE] said the other day there was nothing in the Constitution which empowered any officer of the United States to keep the peace in the States. A single sentence, Mr. Chairman, before your hammer falls. I ask that gentleman, when he rises to respond, whether the United States has no power to keep the peace in the great post-office in Baltimore City, so that the postmaster may attend to his duties; whether we have not the power to keep the peace along the line of every railroad that carries our mails, or where any post-rider of the "star service" carries the mail on his saddle; whether we have not the right, if need be, to line the post-road with troops and to bring the guns of the Navy to bear to protect any custom-house or light-house of the United States? And yet, if the gentleman's theory be correct, we cannot enforce a single civil process of this Government by the aid of an armed *posse* without making it a penitentiary offense to be visited upon the officer who does it. [Applause on the republican side.]

Mr. WARNER. Mr. Chairman, almost half the life-time of a generation has passed since the last shot in the great American civil war was fired. Almost one-half of the entire population of the country who took part in that sanguinary strife, or witnessed it, have passed from among us. Nearly one-half of the present population of the United States who have come to participate in its affairs and who are concerned in its welfare have not even a remembrance of the days when the two sections of the country stood arrayed in mortal conflict. We pass from border to border, from lakes to Gulf, and hear nowhere the sound of hostile guns, see nowhere the commotions of war, but everywhere abundant evidence of peace. The "blue and the gray" fraternally meet in national reunions and recount the scenes and incidents of their former battles.

The graves of the heroes who fell in the strife were long since united under one cover of green, and, Mr. Chairman, until I came on to the floor of this House I had supposed that the war in truth was ended; I supposed that we had fought it out to the end in the open field fifteen years ago, and that our battle-flags had been furled; that our arms had been grounded to be taken never again except against a common foe, and that, with the Union restored and liberty established throughout all the land, we were here in the bonds of peace. And I have said, and repeat it now, accursed be the hand that would break the silver cord.

But, Mr. Chairman, from what has been heard on this floor since this debate began it would seem that there are gentlemen here who are still in the midst of war, some indeed who seem to have just got their armor on ready to begin the fight. The old familiar strains, "Anthony Burns," "John Brown," and "border ruffians," make one look around for bursting shells, or to see if some comrade has not been stricken down. Do the gentlemen not know that these and all of these were of the elements that went into that terrible crucible, war, that for five long years raged with relentless fury, drinking up the best blood of the land? Do they not know that in that ordeal slavery went out for-

ever, and that in that fire this Union, if ever doubtful, was fast welded and this Government made perpetual? And I can have no sympathy with those, from whatever section they come, whether from the North or the South, who would, by whispers even, invoke again the red demon of war, or lift a finger to weaken the new chains that again bind us together as one people with one common destiny.

Oh, I am sorry that some of the gentlemen who have spoken on this floor were not living eighteen years ago to have shown by deeds then the warlike zeal they manifest by words now, and I am sorry if five years of war was not long enough for all to have satisfied their martial ardor.

But, Mr. Chairman, why are the old issues of the war brought to the front in the discussion of the questions now before the House? Is it claimed by any gentleman on this floor that the war meant that a single constitutional safeguard to free Government by the people should be taken away? Is it claimed by any gentleman that by the war it was decided that henceforth armed men shall, at the will of any executive, be stationed at the polls where a free people are to indicate their will and express their free choice for their own officers; or that marshals might appoint deputy marshals *ad libitum* to intimidate and, without process, arrest the citizen? Was it for that that this continent was made to shake beneath the tread of contending armies? Is that what was meant at Gettysburgh? Is that what was meant at Appomattox? Was that the dream of men who went down in the slaughter of the Wilderness? Was it for that that the red stream of life was made to flow so long? Oh, I deny it; we never meant that.

Mr. Chairman, when after perhaps one of the most bitter as well as sanguinary conflicts that history recounts, lasting through almost two generations, James II had vacated the throne and William had reached the court of the Saint James, it was suggested that he should assume the Crown by right as conqueror; but wiser counsel asked whether, if the Crown might be assumed by right of conquest, the great charter, the petition of right, and the habeas corpus act might not also be questioned.

The old Parliament of Charles II was convened. There the roundhead, the cavalier, and royalist met again, but no hand was raised against one of the established safeguards of British liberty. And I say that it was never meant by those who fought our country's battles that one jot or tittle of the old safeguards of our liberties should be taken away or infringed. And we do not mean that they shall be now.

The questions submitted to the arbitrament of the sword have been by the sword determined, and that should be the end of it. On those issues as settled we can know no differences either in the rights of members on this floor or in the rights of citizens anywhere else in this great Republic. I care not from what State one comes, we are citizens to-day, thank God, of a common country; sharers alike in its common blessings; partakers alike in its afflictions, and let me add, Mr. Chairman, that any attempt to open anew the old dissensions merits the condemnation of all good people, I care not whether it comes from the South, the East, or the North.

These issues of the past, as settled in the past, I, for one, relegate to the tomb of the past, and would like never to see them dragged forth but as warnings to the future. But while on this floor for the first time, that I may not be misapprehended, I will add that should ruthless hands from any part of our reunited country attempt to again open those questions, I stand as to those issues, where I stood eighteen years ago, by the stars of liberty and the guns of the Union.

Mr. Chairman, the questions of constitutional powers and legal rights involved in the matters under consideration have been clearly, fully, and unanswerably stated by the gentleman from Kentucky and the gentleman from Ohio [Mr. McMAHON] in the opening of this debate.

But, stripped of all disguise, this power to use at elections the military, this power to create an army of deputy marshals, paid out of the public Treasury, to stand at the polls, is simply so much party machinery, used always, and always will be, (if allowed to stand,) by the party at the time in power for party ends and party purposes.

This machinery, coupled with the not less threatening danger of the corrupt use of money with which it is sure to be accompanied, constitutes a Gorgon that will turn this Republic to a despotism, if allowed to become familiar by use.

We have, Mr. Chairman, an example of this corrupting influence in my own district. Sir, thousands of dollars practically drawn from the public Treasury through levies upon officers and employés of the Government, under the sanction of the same party and the same authority that holds the control of the rest of this diabolical machinery, was sent into the district I have the honor to represent, to be corruptly used, and was, there is good evidence for believing, so used to influence the election of a candidate for Representative to this House. These are the triple appliances to carry elections—money to corrupt, armed men to overawe, deputy marshals to intimidate—great power in petty hands to vex and annoy the free citizen. These are the means by which the sources, the very fountain-heads of popular government are to be contaminated and turned toward certain despotism. Either these partisan appliances must be put away or civil liberty will go down, as it has before.

Gentlemen tell us that to put this machinery away will be revolution. Oh, the revolution to be feared is that which lurks concealed in the existence and exercise of such powers, and for one I will never vote to extend the dominion of arms. I believe in a civilization of law and not of arms.

But, Mr. Chairman, gentlemen on the other side have been bold to tell us that if the bill under consideration is passed it will meet executive disapproval, and that then the Government will stop. Governments do not stop in that way, nor has one ever been known, I think, to starve, as intimated by the distinguished gentleman from Ohio. A government is about the last thing tax-payers think that is likely to starve.

But whatever may be the judgment or action of others, our duty as legislators is to act wisely, independently, fearlessly. For one, however, I take the liberty to say that I believe this appropriation bill as passed will receive the weighty consideration due to so grave a matter; and I believe moreover that wise counsel and the wiser examples of history will prevail over partisan sentiment. But, if otherwise, and gentlemen, as they say they will, appeal to public judgment, for one I say, so let it be.

This is a northern issue, it is a western issue, a national issue, and we will meet it in the North, we will meet it in the West, we will meet it before the people, ay, we will appeal with you to the men who, when "red battle stamped his foot and nations felt the shock," were first to arms, but first also to extend the hand of peace. I fear not that the men whose arms gave liberty to millions alien in race and blood with themselves will hurry to prepare thralldom for their own children, and that, too, at the bidding of a party which, by a mercilessly devised system of financial legislation imposed on the country since 1869, has made the people little more than hewers of wood and drawers of water to would-be masters, and that has laid upon this country burdens scarcely less oppressive, scarcely more tolerable, than foreign hands have imposed upon Egyptian and Turk, and to the perpetuation of which, as they who move the wheels full well understand, the machinery it is proposed in this bill to take away is necessary.

I have spoken, Mr. Chairman, to but a few points raised in these debates, and have preferred to meet gentlemen on the other side on their own chosen ground.

Mr. NEW. Mr. Chairman, I now offer the amendment of which I gave notice on Saturday last, and which was then read for the information of the House.

The Clerk read as follows:

Add to the first paragraph of the pending section as follows:

Provided, That nothing contained in this section as now amended shall be held or deemed to abridge or affect the duty or power of the President of the United States under section 5297 of the Revised Statutes, enacted under, and to enable the United States to comply with, section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section.

Mr. NEW. I have but one word to say of the amendment which I offer. It is proposed by the bill now before the committee to amend section 2002 of the Revised Statutes, found under the title of "The elective franchise," by striking out the words "or to keep the peace at the polls." If these words shall be stricken out, the section as it would then read would not be at all uncertain or ambiguous, in my opinion. But, sir, after listening to the debates on this bill, and especially the colloquy on Friday last between the gentleman from New Jersey [Mr. ROBESON] and the gentleman from Kentucky, [Mr. CARLISLE,] I am induced to offer this amendment. I do not think it really necessary, for the bill in no wise disturbs section 5297, enacted in 1795 and amended in 1807, which authorizes the President to carry out or make effective the guarantee of the United States as found in section 4 of article 4 of the Constitution of the United States. My amendment is intended to prevent misapprehension as to the motives of this side of the House, and misconstruction, and possibly some misrepresentation, of the meaning and effect of section 2002, if it shall be amended by striking out the words which I have already named.

Mr. ELAM. Mr. Chairman, much has been said of the grave consequences which may result from the passage of the pending bill. Especially has the gentleman from Ohio [Mr. GARFIELD] dwelt upon "the solemnity of the crisis" and filled our ears with his cries of "revolution." I agree with the gentleman, and I imagine with every gentleman upon this floor, that the questions involved are of momentous importance; but, while the other side of the House claim that the passage of this measure portends evil, I assert, and without any hesitation, that its passage can be productive alone of good.

The issues which have been made, though encumbered with details and beclouded by partisan misrepresentations, are nothing more than questions growing out of a desire on the part of the majority of the representatives of the people to return to the principles which actuated our legislators in the days when the interests of the country held the first place and party success the second. Nothing but good can come from the repeal of an unconstitutional law. Nothing but good can come from the repeal of a partisan law. Nothing but good can come from the assertion by this Congress that the States of this Union are able and willing to maintain the only foundation of our republican form of government, the purity of elections. Is it not possible now that, in the opinion of the republican party, a solemn crisis is at hand for the representatives of the people to declare that party must fall before patriotism, and the laws, therefore, that disgrace our statute-books be repealed.

Mr. Chairman, it is as constitutional to pass this law repealing the existing law as it was to pass the law which we propose to repeal. It is as much in accordance with the custom of this House to repeal

the existing law by a section attached to an appropriation bill as it was in accordance with the custom of the House for the republican party, following the precedent set by both parties, to enact the law we propose to repeal by a section of the sundry civil appropriation act of 1872.

Do members of this House imagine that the people do not think? Do members of the republican party on this floor think that the people will believe that it was right to pass a law which provided for Federal interference with elections in the States as part of an appropriation bill, and that it is wrong now to repeal it in the same way?

After attaching to appropriation bills hundreds of measures involving new legislation, and in many cases distinct legislation, how dare so great a party meet so grand an issue as this by such a paltry device? How do the great leaders of a great party dare to eat the words they have spoken, dare to stultify their records, and declare that their action for sixteen years was in violation of the established custom and the precedents of this House? When I refer to the gentleman from Ohio [Mr. GARFIELD] and to Mr. Bingham, now one of our ministers abroad, as exponents of the republican party in 1872, I do not think that the positions I assign them will be denied.

At the time when this very law we now propose to repeal was under consideration in this House, a small minority of democrats, comprehending the iniquities embraced in it, used every effort and employed every means within their reach to prevent its passage. They said then what gentlemen on the other side say now, that it was wrong to put general legislation in an appropriation bill. They exhausted all the resources at hand to prevent its adoption.

What did the gentleman from Ohio say of them? I read from page 4440 of the Congressional Globe for the second session of the Forty-second Congress, volume 91, (1872:)

Mr. GARFIELD, of Ohio. * * * Now, the committee of conference having brought in a report under the rules, I do now insist and shall continue to demand that the bill before the House shall be acted on; and against all factious and revolutionary resistance I propose to stand, if need be, until December next; until this appropriation bill shall be considered, shall be voted on, voted up, or voted down. This must be done, or we abandon and surrender the right of parliamentary government in this country. We inflict a serious if not a fatal wound upon the freedom and efficiency of the National Legislature.

It is unnecessary to repeat, in this connection, what has already been so aptly said upon this floor, that the gentleman from Ohio is now sustaining what he then denounced as "factious and revolutionary." He now proposes to "abandon and surrender the right of parliamentary government in this country." He now proposes to "inflict a serious if not a fatal wound upon the freedom and efficiency of the National Legislature."

When the gentleman had made these assertions he went further and said:

And now, once for all, I say to the gentleman from Wisconsin [Mr. Eldredge] and to the gentleman from Pennsylvania [Mr. KELLEY] that I have said no word to them or to any man inconsistent with the declarations I have made in these remarks. I challenge any man to the proof if he venture to join the issue.

He can plead consistency no more. He stands convicted on his own record of shaping his principles to conform to the needs of his party. He says now, "the consequence of the programme just adopted, if persisted in, is nothing less than the total subversion of this Government." A democratic minority was factious and revolutionary, and a democratic majority proposing to repeal an unconstitutional law is charged with the contemplation of acts subversive of the Government. In other words it depends entirely on the question whose bull it was which gored the ox.

In the same debate Mr. Bingham, of Ohio, said, on page 4442:

The only thing I ask the attention of the House to is this: that it is unconstitutional and revolutionary, and cannot be supported by any precedent, on any pretense of right, to insist that the right of the majority to legislate can be indefinitely postponed by a minority.

I have referred to the positions held by these gentlemen merely to show what was the position of the republican party at the time they passed this law, which we propose to repeal, in an appropriation bill. There remains to be disposed of the real issue involved. The right to repeal this law and the right to repeal it in this way does not admit of question. The true question is, is it necessary that it should be repealed?

I shall leave to others the labor of showing in detail how it destroys the purity of elections and debars the people from the exercise of the elective franchise.

I leave to others the labor of showing that through the interference of the Federal Government with elections in the States fraud has taken the place of purity and the will of the people been supplanted by the mailed hand of power. I do not need to consider these evils, although I know them to exist, but so long as this law remains on our statute-books a greater, a more terrible danger is threatening us, and it is this danger which I wish to avert. Everything which has been done is as nothing to the injury which the retention of this law by the constitutional party of the country will inflict upon the Constitution itself. When gentlemen use the words "subversive of the Government" there appears before me our Constitution, marred and disfigured by the laws spawned by hatred and oppression which have been grafted on the body-politic. They are cancers, and each successive year they eat deeper and deeper into the body of that instrument whence springs our existence as a free people. One of these laws is the one we now propose to repeal. It is not simply unconstitutional, but every act growing out of it, performed by virtue of its authority, strikes directly at the relation between the Federal Government and the States upon which the Federal compact is based. Section 4 of article 1 of the Constitution is as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Here in direct terms is the power conferred upon the States to prescribe the "times, places, and manner of holding elections for Senators and Representatives."

There would be no trouble in interpreting this section were it not for the concluding clause authorizing "the Congress at any time to make or alter such regulations." There is unquestionably here a conflict, to determine which we are compelled to apply to this section the well-known rules of interpretation.

It will be admitted without doubt that the framers of the Constitution never had in contemplation the existence at the same time of two separate and distinct systems of law, each controlling the same subject-matter. Such a proposition is too absurd for consideration; and since the power of controlling these matters was in the first place confided directly to the States, we are forced to inquire into the motive actuating the members of the convention when they added the latter clause. Fortunately the record of the debate upon this section is within our reach, and more fortunately still it makes as clear as noonday the reasons which prompted the members of the convention to add this qualifying clause.

To make this plain I will read from "Elliot's Debates on the Federal Constitution," on pages 366 and 367, upon the fourth section of the Constitution:

Mr. Monroe wished that the honorable gentleman, who had been in the Federal convention, would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators, and also why there was an exception as to the place of electing Senators.

Mr. MADISON. * * * It was necessary to give the General Government a control over the time and manner of choosing the Senators, to prevent its own dissolution. With respect to the other point, it was thought that the regulation of time, place, and manner of electing the Representatives should be uniform throughout the continent. Some States might regulate the elections on the principle of equality, and others might regulate them otherwise. This diversity would be obviously unjust.

* * * * * * *

It was found necessary to leave the regulation of these, (time, place, and manner,) in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And, considering the State governments and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former, and the general regulations to the latter. Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional power will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution.

After an analysis of the explanation given by Mr. Madison, we can arrive at but one conclusion, and that is, that the absolute control of this matter given to the States was limited by this qualifying clause only with the purpose of enabling the Congress, in the event of failure on the part of any of the States to provide for congressional elections, in the manner contemplated by the Constitution, to interpose and, with a view of preventing its own dissolution, provide for the holding of such elections. It was, as Mr. Monroe expressed it, an "ultimate" power. It was a power which could be exercised alone upon the failure of the States to act, and was conferred solely with the view of enabling the General Government to protect itself from dissolution.

But the power thus conferred upon the General Government was not co-extensive with that conferred upon the States. The important element of this power is the right to determine the qualifications of voters; and in its most reckless disregard of the spirit of the Constitution the republican party has never ventured to claim directly the power to interfere with this right of the States. The second section of the fourteenth amendment to the Constitution provides for the reduction of the representation of a State in Congress to the extent to which the State shall deny to any portion of its male citizens of twenty-one years of age the right of suffrage; and the fifteenth amendment to the Constitution provides only that the States shall not abridge the right of their citizens of like qualifications to vote "on account of race, color, or previous condition of servitude." Neither amendment ventures to dispute the right of a State to determine the qualifications of its own voters, and whenever that right is disputed and practically denied the very foundation of our system of government is swept away.

Mr. Chairman, the republican party have never dared directly to trench upon this right, but indirectly they have done so by the adoption of these laws the repeal of which we are now demanding. It is accomplished indirectly by the presence at the polls and the interference of marshals and deputy marshals and supervisors of election. It is accomplished by intimidation and force through the use of the Army of the United States at the polls. It is accomplished by the unjustifiable assumption of jurisdiction by the United States courts over alleged violations of the election laws.

Mr. Chairman, this Congress has no power to pass a law regulating any feature of the election laws of the States until it shall be demonstrated that the State or States have failed to provide for elections

in the form necessary to secure the perpetuity of our Government. But I assert that no such contingency exists now or did exist when these laws were passed. There is not a State in this Union which does not provide for the holding of free and fair elections for Senators and Representatives in Congress in accordance with the spirit of the Constitution; and if Mr. Madison could behold the spectacle of to-day he would regret the short-sightedness which induced him to say, "the congressional control will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."

I defy the gentlemen on the other side of this House to point me to a State whose system of laws does not provide for the "times, places, and manner" of holding elections for Senators and Representatives. If this cannot be done these laws which we are endeavoring to repeal are usurpations of power.

The presence at the polls in the States of these marshals, supervisors, and troops is in violation of the spirit if not of the letter of the Constitution. It is a denial of the ability of the States to maintain the purity and freedom of elections.

The grand jury of a United States court which frames an indictment against an individual for violations of an election law, as well as the district attorney who procures his conviction and the judge who wantonly assumes jurisdiction to which he has no claim, are equally conspirators against the individual and the whole people.

Two separate penal statutes for violation of election laws, two distinct judicial bodies, the one claiming jurisdiction over violations of a Federal statute and the other over violation of the statute of a State, both referring to the same subject-matter, and only the distinction existing that the statute of the State is in harmony with the Constitution, and the Federal statute is a violation of the Constitution, the bastard semblance of a law! This is the picture.

The men who have been arrested without affidavit or warrant for violations of Federal election laws were so arrested and convicted in the face of the very letter of the Constitution; and where they have been convicted and compelled to languish within the walls of a prison, it has been a violation of that liberty of the American citizen which is guaranteed to him under our institutions.

To the States is confided the regulation of elections, and if their laws provide for holding such elections in conformity with the Constitution, Federal statutes could not be passed regulating the same matter. But they have been; and the question is asked, there being a conflict, which must control? Unquestionably that one which is constitutional. Unless the emergency has arisen calling for the exercise of the "ultimate" power of Congress over this matter, laws passed by the latter are mere works of supererogation, and the constitutional statutes of the State must prevail and the jurisdiction of the State courts of offenses against those statutes must be maintained.

I have devoted so much time to the presentation of this question, because, in my opinion, affecting as it does the relations between the States and the General Government with regard to so vital an issue, it demands our careful examination and our firm and decisive action. We must maintain the barriers which are our only protection against centralization of power. That I have given the correct interpretation to this qualifying clause of section 4 I do not think admits of dispute. Mr. Story, in his Commentaries on the Constitution, says, on page 281, volume 2:

> Its propriety (the qualifying clause) rested upon this plain proposition, that every government ought to contain in itself the means of its own preservation.

Again, he says on the same page:

> A discretionary power over elections must be vested somewhere.

And again, on page 282:

> But in extraordinary circumstances the power is reserved to the National Government, so that it may not be abused and thus hazard the safety and permanence of the Union.

And as an illustration of what this distinguished jurist regarded as an "extraordinary circumstance" justifying Federal intervention, I read again from page 282. He says:

> Nor let it be thought that such an occurrence is wholly imaginary. It is a known fact that under the confederation Rhode Island, at a very critical period, withdrew her delegates from Congress and thus prevented some important measures from being carried.

Will gentlemen hesitate to accord to this indorsement of my position the weight which it demands?

I propose, in conclusion, Mr. Chairman, to say that I have no wish to forecast the action of the Executive should Congress repeal these laws. Nor do I desire to believe, nor shall I believe that the insinuations and the half-clothed threats which have reached our ears, that should the bill pass it would be vetoed, have other foundation than the fancy of those who imagine that done which they wish to be done. On the contrary, believing as I do this law which we propose to repeal to be unconstitutional, I am convinced that our virtual declaration to this effect would place it out of the moral power of any Executive to veto the repealing law.

Mr. BAKER. I rise to offer an amendment to the amendment of my colleague from Indiana, in the nature of an addition.

The Clerk read as follows:

> And no person other than a civil officer of the United States or the State, armed with any rifle, shot-gun, revolver, or other fire-arm, or having in his hands or upon his person any dirk, bowie-knife, club, bludgeon, or other deadly weapon, shall on the day of any general or special election held in any State at which Representatives in Congress are to be voted for, or on the days provided for the registration of voters for the election of such Representatives, approach nearer than one-half mile to any such voting place or place of registration in any State, except when lawfully called out as a *posse comitatus* to suppress a riot; and any person who shall violate any of the provisions aforesaid shall on conviction be fined not exceeding $5,000, and be imprisoned at hard labor not less than three months nor more than three years.

Mr. BAKER. Mr. Chairman, that proposition is so eminently wise and just, is so eminently in the interest of economy, not only of money but of blood, that I feel satisfied that there is no gentleman on the floor of the House who will oppose it. I do not desire myself to participate in the discussion which has been carried on for some days past. I simply submit that this proposition on its face is its own best commentary on its necessity and importance.

The CHAIRMAN. The amendment is not in order as an amendment to the amendment, but the Chair will entertain it as a separate proposition.

Mr. BAKER. The amendment is an addition to the amendment offered by the gentleman from Indiana, [Mr. NEW.]

The CHAIRMAN. The amendment is not in order now.

Mr. BAKER. I would like to know why it is not in order as an addition to the amendment offered by my colleague.

The CHAIRMAN. The Chair stated to the gentleman that he would entertain the amendment as a separate proposition when the question had been taken upon the amendment offered by his colleague, [Mr. NEW.] The amendment of the gentleman does not relate to the same subject as the amendment of his colleague, [Mr. NEW.]

Mr. CONGER. It is in order to amend any amendment proposed, and the Chair cannot decide as to its relevancy.

Mr. BAKER. The question cannot arise in that way. I offer it in the nature of an addition to the amendment offered by my colleague.

The CHAIRMAN. The amendment offered must be in the nature of an amendment to the amendment.

Mr. BAKER. I have offered it in that form.

The CHAIRMAN. No advantage will be taken of the gentleman. His amendment will be the next in order.

Mr. CONGER. But the gentleman offers it as an amendment to come in at the end of the pending amendment. Now, that is certainly in order.

Mr. BAKER. There is no rule among the rules of this House that forbids the offering of such an amendment as I have offered, to come in at the end of the pending amendment. Rule 120 does not affect the proposition at all; nor can it be said that it is not germane, for it relates to the matters of election and touches the use of the fire-arms and other deadly weapons on the day of the election.

Mr. NEW. I am not sufficiently acquainted with the rules of the House to know what the effect of this amendment would be, but I call the attention of the Chair to the fact that the amendment which I have offered is an amendment to an amendment.

Mr. BAKER. Oh, no; it is not.

Mr. NEW. The bill before the House proposes to amend a section of the Revised Statutes.

Mr. BAKER. The suggestion made by my colleague is not correct. The amendment that he offers is an amendment to the text of the bill and it cannot be said that any portion of the text of the bill is an amendment. It is the original bill itself. There is an amendment offered and I offer an amendment to that amendment. I have a right to do it, and I desire, with deference, to submit to the Chair that as no point of order has been made the proposition is unquestionably before the committee, and rightfully before it. It is something novel, if the Chair will pardon such a suggestion, that the Chair should raise such a point of order as this.

Mr. SPARKS. Mr. Chairman, there is such confusion that I hardly know what is before the committee. I would like to hear the amendment offered by the gentleman from Indiana read.

Mr. BAKER. I have no objection to that; for it is excellent reading.

The Clerk again read Mr. BAKER'S amendment to the amendment.

Mr. SPARKS. I raise the point of order upon that.

Mr. CONGER. He is too late.

Mr. SPARKS. I beg the gentleman's pardon.

The CHAIRMAN. The Chair has not entertained the amendment.

Mr. SPARKS. I would state to the Chair that this is the first knowledge I have had of the scope and meaning of the amendment, and I now raise the point of order upon it, that it is not germane to the subject-matter before the committee.

Mr. CONGER. The amendment has been read and discussed.

The CHAIRMAN. The Chair has not yet entertained the amendment. He asked the gentleman from Indiana to withdraw it, and the Chair understood the gentleman from Indiana to refuse to take that course.

Mr. BAKER. He did so on the ground that when an amendment was offered to the text of the bill any other member of the committee has the constitutional and parliamentary right to offer any amendment whatever to that amendment, and his doing so is not within the inhibition of any rule of the House. That is the ground upon which I insisted upon my amendment.

The CHAIRMAN. The Chair was not asking the gentleman for any argument upon the subject. The gentleman was discussing the question, and the Chair did make a request of the gentleman, stating to him the fact that he could bring in his amendment after that

of his colleague was disposed of. Does he prefer to have it moved now?

Mr. BAKER. I have said respectfully and insisted upon my right at this time and at this place to offer this amendment.

The CHAIRMAN. The gentleman can renew his amendment after the pending amendment is disposed of, when the Chair will recognize him for that purpose. Is that satisfactory?

Mr. CONGER. I object to this as an attempt on the part of the Chair to dictate when and how an amendment shall be offered.

The CHAIRMAN. The gentleman from Michigan will take his seat; he is not in order.

Mr. CONGER. No; the gentleman from Michigan will not.

The CHAIRMAN. Then the Chair will order the Sergeant-at-Arms to keep order.

Mr. CONGER. Let the Chair do that.

The CHAIRMAN. The committee must be in order. No business will be entertained until the committee is in order.

Mr. CONGER. And I rose to a point of order.

The CHAIRMAN. The gentleman will be in order first.

Mr. CONGER. And the Chair threatens me with the Sergeant-at-Arms.

The CHAIRMAN. The Chair asked the gentleman to be seated, and he refused to do so. The Chair will now enforce order if there is any power in the committee to do it.

Mr. SPARKS. If the gentleman has a point of order to make——

Mr. CONGER. I have already made it, and I demand the floor to speak upon it.

The CHAIRMAN. The Chair understood the gentleman from Illinois [Mr. SPARKS] to make a point of order upon the amendment.

Mr. CONGER. And I made the point of order that the Chair cannot postpone the amendment in order to enable another member to raise a point of order upon it when the amendment has been read and has been discussed, as I stated as a member of this committee. The amendment having been read and having been discussed, it is too late to make the point of order upon it. My point of order is that the Chair cannot, by recognizing it as presented *now* instead of *then*, open the door for a point of order to be made against it.

A MEMBER. The gentleman can appeal.

Mr. CONGER. The gentleman says I can appeal.

The CHAIRMAN. What is the point of order made by the gentleman?

Mr. CONGER. The point is that this amendment was entertained, read, and discussed.

Mr. BAKER. I discussed it myself at some length.

Mr. CONGER It is too late to raise the point of order that the amendment is not germane.

The CHAIRMAN. The gentleman from Michigan makes the point of order——

Mr. SPARKS. I desire to say——

The CHAIRMAN. The gentleman will permit the Chair to proceed. The gentleman from Michigan [Mr. CONGER] makes the point of order that the point of order made by the gentleman from Illinois [Mr. SPARKS] comes too late. The Chair overrules the point of order.

Mr. CONGER. I desire to state distinctly what I said.

The CHAIRMAN. No discussion is in order. Does the gentleman appeal?

Mr. CONGER. I make this point of order——

The CHAIRMAN. The Chair has overruled the point of order made by the gentleman.

Mr CONGER. I make another point of order.

The CHAIRMAN. The gentleman will state it.

Mr. CONGER. It is that the Chairman of this committee has no right, after the gentleman from Indiana [Mr. BAKER] has offered an amendment, after it has been read by the Clerk, after it has been debated, to put the question again as a new one and then admit the point of order. If the Chair may do that, then he may rule here as he will against all rules and against all law.

The CHAIRMAN. The gentleman from Michigan will be in order.

Mr. SPARKS. I understand the gentleman from Michigan [Mr. CONGER] has made a point of order, and I want to address my remarks to it.

The CHAIRMAN. Will the gentleman from Illinois [Mr. SPARKS] pardon the Chair? The gentleman from Michigan made a point of order and he renews it again.

Mr. CONGER. I did not renew the same point of order. The Chair shall not misstate me with my consent.

Mr. SPARKS. Allow me to speak to the point of order one moment.

Mr. CONGER. If the Chair misunderstands my point of order I desire to restate it.

The CHAIRMAN. Will the gentleman again state it?

Mr. CONGER. My point of order is, that the chairman of this committee, after an amendment has been presented, read by the Clerk, and discussed, has no right to put it as a proposition made now, and permit a point of order to be made upon it by the gentleman from Illinois, [Mr. SPARKS;] that it is not germane, and is new legislation. I claim that the Chairman shall take the amendment as it was proposed, when it was proposed, as read by the Clerk and as discussed, as all the committee know it was, and that the Chair shall not say that "the gentleman from Indiana now proposes an amendment."

Mr. SPARKS. Allow me one word——

Mr. CONGER. That is the point of order, and no gentleman in this House misunderstands it.

Mr. SPARKS. On the point of order raised by the gentleman from Michigan——

The CHAIRMAN. No point of order has been raised by the gentleman from Michigan.

Mr. SPARKS. Well, on my own point of order, then. I make the point of order that the amendment offered by the gentleman from Indiana [Mr. BAKER] is not germane. I want to say this: I regret extremely that at this time in the debate there should be any bitterness of feeling at all. The gentleman from Indiana proposed something. The Chair objected to it, stating that it could not be entertained; and during the parley upon that I asked for the reading of the amendment. Is not that the fact?

Mr. CONGER. It had been read before.

Mr. SPARKS. Of course it had.

Mr. BAKER. I had already said——

Mr. SPARKS. I will set it right. The proposition of the gentleman from Indiana [Mr. BAKER] had been made, and the amendment had been read. The Chair insisted that it could not be entertained at that time, but must come in as an independent proposition; and he stated that he would at a certain time recognize the gentleman for that purpose; pending which I asked that the proposition be read for information. I obtained that information and raised the point of order. These are the facts.

Mr. WILBER. The Chair did not insist, but simply made a request.

Mr. SPARKS. The Chair did not entertain the proposition.

Mr. WILBER. I beg to differ with the gentleman. After it had been entertained the Chairman, as a request merely, asked that it be withdrawn.

Mr. SPARKS. The Chair refused to entertain it. I beg gentlemen to remember that.

Mr. WILBER. I appeal to the Chair to state whether I am correct.

Mr. SPARKS. I know that I have stated the matter correctly.

The CHAIRMAN. The Chair desires to make a statement on the point of order.

Mr. BAKER. I desire to say a word upon this point of order. A few moments ago I sent an amendment to the desk, stating that I offered it as an amendment to the amendment of my colleague, [Mr. NEW,] to come in at the end of his proposition. After it had been read to the committee I proceeded to discuss the merits of that proposition; and after I had concluded what I desired to say on the merits the Chair inquired whether or not I wished the proposition to be submitted then or whether I would consent to its withdrawal? I then notified the Chair that I did not propose to withdraw my amendment; and, Mr. Chairman, I would like to know what significance there was in the language of the Chair, on three several occasions inquiring whether or not I would consent to withdraw the proposition, if that proposition was not before the committee so that it could be withdrawn? The very fact that the Chair inquired of me whether I would withdraw it implied that in his judgment it was before the committee. [Cries of "That is so!"] Is there any escape from that proposition? None in the world. I insist, for the reason I have suggested, that the point of order comes too late. I insist that if the Chair can ever be estopped by any solemn and public declaration, the Chair is estopped by the thrice-repeated request to know whether or not I would withdraw the proposition, which request could not have been made unless the Chair understood the proposition as pending.

With reference to the merits of the point of order I say that the same rule which would be applied to an amendment cannot be applied to an amendment to an amendment. Your rules apply to amendments to the text of bills. Rule 120 is the only one that can be invoked in this case, and that inhibits any amendment unless it be germane to the subject-matter of the bill and tends to retrench expenses. But when an amendment has been once offered and entertained there is no rule of this House forbidding an amendment to that amendment and proposing to change, modify, enlarge, extend the operation of the amendment. If this is not so, then in all the years I have served here this House in Committee of the Whole has been guilty not only of the greatest stupidity but of wanton waste of public time, because it has been the constant practice to entertain amendments proposing to strike out the last word, or the last two words, or the last five words, which amendments in ninety-nine cases out of a hundred would, if adopted, render the original amendment entirely non-germane to the subject-matter. If we should apply the test suggested by the gentleman from Illinois, [Mr. SPARKS,] my late colleague on the Committee on Appropriations, such amendments to amendments could not be entertained. I submit that when an amendment has been received it is admissible to move to strike out any part of it or to make any addition to it, and the suggestion whether or not it would be germane if offered as an original amendment to the text of the bill cannot be considered at that stage of the proceedings.

The CHAIRMAN. The Chair desires to state that during this entire discussion he has endeavored to administer impartially the rules of the House so that all parties and all sides might be satisfied that

perfect justice had been done. He still desires to pursue that course, and will do so.

When the gentleman from Indiana [Mr. BAKER] moved this amendment the Chair was of opinion that it was not then in order, and so stated. While the Chair was determining that question by looking at the rules, discussion was going on as to whether the amendment was in order or not; and before the Chair had determined whether the amendment should be entertained at that time, the gentleman from Illinois, [Mr. SPARKS,] in charge of the bill, asked to have the proposition again read, which was done, and thereupon he made the point of order upon it.

The Chair desires to state that when a proposition is moved it is not considered as pending until stated by the Chair. The Chair had not entertained this amendment, had not stated that it was before the committee, so that the point of order could not be made upon it until after it had been read the second time on the request of the gentleman from Illinois. Without intending to do injustice to any gentleman or to take advantage of the failure of any gentleman to be in time, the Chair, desiring simply to administer the rules impartially, is of opinion that the point of order was made in time.

Mr. CONGER. I submit the Chair had not stated the proposition of the gentleman from Indiana, [Mr. NEW,] and the Chair has not yet. Now, if that be the ruling, then the Chair allows a great deal of business to go on without making the statement he makes now.

The CHAIRMAN. The Chair stated that he did not entertain it.

Mr. CONGER. I am speaking of the other gentleman from Indiana. The Chair has not yet stated his proposition was before this committee.

Mr. SPARKS. If the other is subject to the point of order it cannot be attached to the bill.

Mr. McMAHON. Does the gentleman from Michigan make the point of order on the amendment of the gentleman from Indiana?

The CHAIRMAN. Is the Chair to understand that?

Mr. McMAHON. That is the question I wish to have answered.

Mr. CONGER. I have said that the Chair has not stated properly the point of order of the gentleman from Indiana, [Mr. BAKER.] I have stated that the Chair has not stated the proposition of the gentleman from Indiana, [Mr. NEW.]

Mr. SPARKS. Both are subject to the point of order.

Mr. CONGER. I think not, as both have been discussed.

The CHAIRMAN. The Chair has decided that question.

Mr. CONGER. I desire to say here, as this may arise again—I desire to say if on every amendment we offer we are to be held to the strict ruling of the Chairman that, having risen in his place and stated the proposition, it is then to be ruled out, then we are the victims of misplaced confidence in the Chair. [Laughter and applause.]

Mr. BLOUNT. The recollection of the Chair is corroborated by a number of gentlemen around me.

The CHAIRMAN. The Chair regrets the simplicity of gentlemen who allowed themselves to be made victims by the enforcement of the rules.

Mr. CONGER. It has occurred once, but it will not occur again.

Mr. MONEY. I ask the reading of the notes of the reporter to see whether the amendment of the gentleman from Indiana was discussed as to its merits or as to the point of order.

Mr. ATKINS. Has not the question been settled?

The CHAIRMAN. The Chair has decided and is now prepared to rule on the point of order of the gentleman from Illinois.

Mr. SPARKS. Let us have the ruling of the Chair.

Mr. BAKER. As there seems to be a question of fact made as to whether or not I had argued the merits of the proposition, I ask that the notes of the reporter be read.

Mr. ATKINS. Has not the Chair decided the point of order?

The CHAIRMAN. The Chair has, and all further discussion is out of order unless the gentleman takes an appeal.

Mr. ATKINS. No appeal has been taken from the decision of the Chair.

Mr. SPARKS. Let us have the ruling of the Chair.

The CHAIRMAN. The Chair will now rule on the point of order. When the point of order was made on the pending section that it was not germane to the pending bill, the Chair held that it was germane because it related to the duties of the Army. But this proposition relates to citizens, persons who hold no relation to the Army whatever, and is intended to prescribe a criminal code. If the Chair were permitted to express an opinion upon it, he might think it very proper in the regulation of elections in the States by imposing penalties; but that this proposition is germane to the pending bill no gentleman will contend. The Chair therefore sustains the point of order.

Mr. CONGER. Let it be read.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. CONGER. I ask for the reading of the amendment.

The CHAIRMAN. It will be read for information, if there be no objection.

There was no objection.

The amendment was read, as follows:

And no person, other than a civil officer of the United States or the State, armed with any rifle, shot-gun, revolver, or other fire-arm, or having in his hands or upon his person any dirk, bowie-knife, club, bludgeon, or other deadly weapon, shall, on the day of any general or special election held in any State at which Representatives in Congress are to be voted for, or on the days provided for the registration of voters for the election of such Representatives, approach nearer than one-half mile to any such voting place or place of registration in any State except when lawfully called out as a *posse comitatus* to suppress a riot; and any person who shall violate any of the provisions aforesaid shall, on conviction, be fined not exceeding $5,000 and be imprisoned at hard labor not less than three months nor more than three years.

Mr. SPARKS. The Chair has ruled on this last proposition.

The CHAIRMAN. The Chair has, and has ruled it out.

Mr. SPARKS. Then I move the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

CLOSING DEBATE.

Mr. SPARKS. I ask now to propose, Mr. Speaker, that when we go into committee again this debate on amendments under the five-minute rule be limited to a certain time. I therefore move that all debate on amendments be closed to-morrow at two o'clock.

Several MEMBERS. All right.

Mr. SPARKS. And that we then proceed to vote on the pending amendments.

Mr. CONGER. Mr. Speaker, I have this to say to that proposition: There are many who have had no opportunity to speak during the general debate, and who desire at least an opportunity to be heard in a five-minute speech on amendments. I therefore object to fixing the time to-morrow at two o'clock.

Mr. SPARKS. I submit to the gentleman that I cannot control this. I want the House to decide it. I understand a large majority of the House desire just about the proposition I have made. It is not personal, it is not mine; I want to serve the wishes of the whole House.

Mr. CONGER. Make it three o'clock.

Mr. McMAHON. That is too late.

Mr. SPARKS. Let me say to my friend from Michigan that we will get along better by saying two o'clock. Many members have insisted upon one o'clock, and I have tried to split the difference by making it two o'clock.

Mr. WHITE. I submit that we take a recess until to-morrow at eleven o'clock. [Cries of "Oh, no!"]

Mr. SPARKS. I have fixed it at two o'clock to meet the views of gentlemen like the gentleman from Michigan.

Mr. FERNANDO WOOD. I hope the gentleman will insist upon fixing it at two o'clock.

Mr. SPARKS. I am going to.

Mr. WHITE. I move that the House take a recess until eleven o'clock to-morrow.

Mr. SPARKS. I will state that I am satisfied no objection will be made by anybody to allowing members to print whatever remarks in the RECORD on this subject they may desire. That has been suggested to me.

The SPEAKER. The gentleman will please indicate whether he wishes the motion for closing debate to be fixed at two or three o'clock.

Mr. SPARKS. At two o'clock, just as I made it.

The SPEAKER. That is, debate on the pending amendment.

Mr. SPARKS. Or any amendments.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk read as follows:

60. No member shall occupy more than one hour in debate on any question in the House, or in committee; but a member reporting the measure under consideration from a committee may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof, unless by unanimous consent of the committee: *Provided, further*, That the House may, by the vote of a majority of the members present, at any time after the five minutes' debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or at their election upon the pending amendments only.

Mr. SPARKS. I withdraw my motion, and now move that all debate on the pending amendment be closed to-morrow at half past twelve o'clock.

Mr. FRYE. Can we not arrive at an arrangement by unanimous consent? By unanimous consent the debate can be closed on all amendments to the pending section at two o'clock. If the gentleman from Illinois will make a motion that the House take a recess until eleven o'clock to-morrow, and that the vote on this bill be taken at two o'clock to-morrow, I think there will be unanimous consent to that proposition.

Mr. SPARKS. I will agree to that if there be unanimous consent.

Mr. COBB. I object.

The SPEAKER. To what part of the proposition does the gentleman object?

Mr. COBB. To meeting at eleven o'clock.

The SPEAKER. It is not in the power of the gentleman from Indiana, if the Chair understands his object, to prevent by a single objection the House taking a recess. The House has that within its control.

Mr. GARFIELD. I will move that the House take a recess until eleven o'clock to-morrow.

Mr. McMAHON. I submit that the agreement as to closing debate should be entered into before we take a recess.

Mr. SPARKS. If we can have unanimous consent that all debate close to-morrow at two o'clock, I think we can have the recess afterward.

The SPEAKER. The majority of the House can regulate the matter of the recess. The proposition now is that all debate on the pending amendments, and the Chair understands the gentleman from Maine to say, on the bill——

Mr. FRYE. On the bill.

Mr. GARFIELD. On the bill; better so, and you cover it all.

The SPEAKER. That all debate on the bill be closed at two o'clock to-morrow. Is there objection? [After a pause.] The Chair hears none.

Mr. AIKEN. I object.

Several MEMBERS. Too late.

The SPEAKER. The Chair will entertain the gentleman's objection.

Mr. AIKEN. Will the Chair hear me one moment?

The SPEAKER. The Chair will hear the gentleman.

Mr. AIKEN. We have sat here one week—nearly a fortnight—hearing gentlemen hour after hour explain their views on this subject. But, Mr. Speaker, there are some of us here who feel we have not been fairly represented by the arguments that have been used on this floor, and would desire an opportunity to reply to some of the statements which have been made. For myself I do not desire more than five minutes, for my views are known at home, and the wishes of my constituents are known. Still I would like to have the opportunity of replying to one or two of the arguments which have been used. I have gone to the Chair half a dozen times and have been told I cannot get an opportunity. And now, when it is said that we will close this debate to-morrow, I feel that it is putting the gag law on me.

The SPEAKER. The Chair does not doubt for a moment that if the gentleman will apply to the chairman of the Committee of the Whole on the state of the Union for five minutes he will be recognized.

Mr. AIKEN. I do not know that. I have been long enough in this House to have no confidence in any Congressman. [Great laughter.]

Mr. MILLS. I ask unanimous consent that five minutes of the time in the Committee of the Whole to-morrow be given to the gentleman from South Carolina.

Mr. CONGER. I object to singling out any gentleman for such a privilege.

Mr. AIKEN. I do not want exclusive privileges from anybody.

The SPEAKER. The gentleman from Illinois will again state his proposition.

Mr. SPARKS. My proposition is that by unanimous consent all debate on the amendment now pending and on the bill be closed to-morrow at two o'clock. That was the suggestion of the gentleman from Maine; and I understood unanimous consent was given for that. But the gentleman from South Carolina [Mr. AIKEN] came in subsequently and objected. That gentleman had about agreed to withdraw his objection, and the proposition was about to be carried, when the disease broke out very badly on the other side. It is a contagion, sir, and the gentleman from Michigan took it and raised an objection. [Laughter.] But I ask we may now have unanimous consent that all debate shall close to-morrow at two o'clock; and with that understanding, I move that the House now take a recess until to-morrow at eleven o'clock.

Mr. CONGER. I desire to say one word. The gentleman from Illinois, a self-constituted leader in this House, whom no one desired to take that position, but to whom we have yielded on account of his good looks and general courtesy, occupies that position now to make disrespectful remarks about a member on this floor.

Mr. SPARKS. I beg the gentleman's pardon. If I have done anything of the sort I withdraw it. But the gentleman must not charge me with that. I certainly have never made a remark disrespectful to the gentleman from Michigan, and if I have made one that the gentleman has so construed I withdraw it most cheerfully. I now insist on my motion.

The SPEAKER. The gentleman from Illinois asks consent that all debate, when the House shall again resolve itself into Committee of the Whole on the state of the Union, on the bill and amendments shall be closed at two o'clock to-morrow.

Mr. MONEY. Does that require unanimous consent?

The SPEAKER. It does.

Mr. MONEY. I object.

Mr. SPARKS. Then I modify my motion so that debate on the pending amendment be closed at half past twelve o'clock.

The motion was agreed to.

Mr. SPARKS moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPARKS. I move that the House take a recess until eleven o'clock to-morrow.

The motion was agreed to; and accordingly (at five o'clock and ten minutes p. m.) the House took a recess until Saturday, at eleven o'clock a. m.

AFTER THE RECESS.

The recess having expired, the House reassembled at eleven a. m., (Saturday, April 5.)

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The Clerk will report the pending amendment.

The Clerk read as follows:

Add to the first paragraph of the pending section as follows:

Provided, That nothing contained in this section as now amended shall be held or deemed to abridge or affect the duty or power of the President of the United States under section 5297 of the Revised Statutes, enacted under, and to enable the United States to comply with, section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section.

Mr. CASWELL. Mr. Chairman, it is my purpose to discuss the subject under consideration divested so far as is possible of party prejudice. We are in extra session. In a session convened by the Executive because of a failure of the last Congress to provide means for the support of the Army, and the legislative, executive, and judicial branches of the Government.

Why were not the appropriations made at the last session?

Save the failure to provide for the Army in the Forty-fifth Congress for a short period, we have not omitted so important a duty for many years. The Congress did not fail to make these important provisions because there was not sufficient revenues to warrant the appropriation. The means were ample. But by law the use of all money in the Treasury is prohibited except by express enactment.

The real cause for the omission was this: The dominant party in the House of Representatives, where all such bills must originate, desired a change in existing laws of a general nature, while the republican Senate would not agree to such a change. The measure as an independent proposition could not secure the approval of both Houses. If it could, a separate bill would have been put upon its passage and the appropriation bills left untrammeled. To force the Senate to agree to the passage of such laws the House in the last Congress attached them to the usual and necessary appropriation bills, bills which provided for the support of the Government, and insisted that the Senate should agree to the passage of the obnoxious measures or fail to provide the necessary means to carry on the various departments of the Government after June 30. The Senate, while willing to agree to all that was usual in appropriation bills, was opposed to the provisions of a general nature attached thereto, and for that reason would not concur, and the constitutional limit of the Forty-fifth Congress was reached without the passage of the ordinary appropriation bills.

Hence it became the duty of the President to convene the Congress to supply the omission. We were assembled for no other purpose, and the people do not expect us to enter upon any other legislation. Confining our action to that duty, we could without delay accomplish the objects of the session and adjourn. This, however, we are not permitted to do. Only one of the bills has thus far been acted upon. That one is loaded with a section of a general nature, a wide departure from the objects of the session. It is the settled practice of all legislative bodies, whether State or national, to embody in separate bills appropriations of money for the support of the Government. It would be a dangerous policy to attach to such bills legislation of a general character. Appropriation bills should be kept separate from all other legislation. Neither should have the aid of the other in securing passage or approval. Attached to these bills obnoxious measures, which could never secure sufficient support to become law, standing upon their own merit, could find a passage in the momentum of a bill appropriating twenty or thirty millions of dollars.

Hence the rules of the House forbid it. Precedents are against it, except in cases where the public exigency may have required it at a period too late to secure relief in a separate form, and in which both Houses were quite unanimous in their support. No bill, no independent proposition, should ever become a law unless it have by its own merit the concurrence of both Houses and the approval of the Executive in the manner known to the Constitution. It has been usual to enact appropriation bills at every session of Congress, whether legislation of a general nature could secure a passage or not. For that purpose the committee having those bills in charge may at any time take the floor and command the attention of the House. No such power is delegated to committees having in charge bills of a general nature, and that committee should not use its prerogative to hasten

or secure the passage of other matters not pertaining to their duties. Thus it will be seen where the responsibility of this extra session rests.

The Government consists of three distinct but co-ordinate branches—the legislative, executive, and judicial. Great care should be taken that each branch remain independent and in no way encroach upon the other. Our fathers who framed the Constitution deemed it just as important to invest in the President the veto power as to delegate to Congress the legislative. The President is as fairly possessed of his as Congress of its power, and it is just as necessary that it be respected and sustained. Congress alone with the concurrence of two-thirds can override it. The President should be as free to exercise the veto power when in his judgment it is necessary as Congress should be in the passage of bills. Congress should never attempt to coerce the Executive, either by withholding the necessary appropriations for the support of the Government or in any other way, to approve bills which in his judgment are unwarranted by the Constitution or destructive of the peace and good order of the people.

The pending bill is not of itself revolutionary. The mere fact of its pendency in the House, the fact that an objectionable clause is attached to an appropriation bill, is not revolutionary. It is, however, a bad precedent, and one which, if its passage and approval be secured, will be fraught with mischief. The revolutionary act is to follow the defeat of the bill. That is foreshadowed by the edicts of the caucus of the party now in power in this House as well as at the other end of the Capitol.

The country has been informed and, indeed, it is promulgated upon this floor, that the Executive shall have no money to continue the administration of the Government unless these measures meet his approval, however great and well founded may be his objections. Will not such action be revolutionary? If the President in the exercise of his constitutional duty prevents the passage of a bill, and the House thereupon refuse to furnish him with further supplies, is not that revolutionary? Is it not an attempt to coerce the Executive into the approval of legislation which is against his judgment?

We are told that the law sought to be repealed is unconstitutional; that it authorizes an incroachment upon the power reserved to the States and to that extent is a violation of the rights of States. This brings us to an examination of the Federal power over insurrections in the States, and is akin to questions which led us into the late disastrous conflict, from which we shall not recover in the present generation. Domestic violence is often attended with greater evils than the invasion of foreign enemies. No war with a foreign nation could have equaled that of the late civil war. It is, then, quite as important to check and suppress domestic violence or insurrection in the States as to drive back the invader. Domestic wars are more destructive than foreign; strife among our own people and all the consequences resulting are borne by us alone.

To keep the peace, preserve order, and suppress domestic violence, is among the highest duties of government; nothing is more essential to the life and prosperity of any country. It cannot be that there exists any clause in the written or unwritten Constitution of this country, or that there is omitted that authority enabling the Government to preserve its own life and existence. While we concede that all power not vested in Congress is reserved to the States, we must hold that Congress has the authority to interfere and enforce all needful laws and regulations to enable the people to exercise the elective franchise in choosing members of Congress. It is a Federal election required by the Constitution of the United States. We fix the time and the manner of holding that election, and can we not lend to the civil authorities, if necessary to preserve the peace, the strong arm of the Government?

The Congress cannot be dispensed with; and while we require of each State the election of members, we should guarantee the possibility of an election. But how can we, if we have no power to preserve peace at the polls? Section 4 of article 4 of the Constitution provides:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

No one pretends that the statute in question contemplates the presence of United States troops at the polls except upon call of the Legislature or the executive of the States in the manner provided in the Constitution, and then only "unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls." "Unless it be necessary," the law provides, and in that case, not by the dictation of a military commander but by the instrumentality of civil authority invoking the aid of force to keep the peace. In every State in this Union where such force is likely to be needed there now exist democratic governors and Legislatures. Will they, if opposed to the use of the power, be likely to call for its use without occasion? Are democratic voters likely to be intimidated and kept from the polls by the intercession of their own civil authorities? It is but idle to suppose it. The cry of military oppression at the polls is without cause; it is for political effect, and nothing more.

In 1865 when this statute was enacted the country was overrun with the military forces. We had an army of half a million men. Armed forces were arrayed against armed rebellion. They had become aggressive, and in many instances were exercising questionable authority. Congress passed this law to restrain them. Two exceptions only were made. These were deemed essential and most vital. To satisfy an element in the border States we restrained by this statute the use of the military in all cases "unless it be necessary to repel the armed enemies o ithe United States or to keep the peace at the polls." The act was a limitation upon the use of the Army as practiced before then under democratic administrations, and the statute now stands as a restriction of the powers enjoyed by almost every government in the world. The exceptions provided for in the act were so eminently proper that their validity never has been questioned in the courts or elsewhere. It was left for a democratic caucus in Congress to discover that a repeal of the clause "to keep the peace at the polls" is so important as to justify the withholding of supplies from the Executive unless such repeal can be accomplished.

There is no pretense that this power is to be used at elections in which Congress has no interest, either in State or municipal elections. It is to be restricted to elections of members of this House. In such elections we have an interest. Every Congress is filled with contested cases. Fraud, intimidation, and riots are alleged. Committees are appointed, and the manner and method of elections are investigated. Thousands of dollars at every session are appropriated for this purpose. It is of great importance to us that these elections be free and fair, and that no man shall hold a seat upon this floor by fraud or violence. Shall it be said, then, that Congress has no power to aid the civil authorities in the conduct of these elections?

Our Government cannot survive without a Congress, and we should see that members are elected. Those who wish to assemble and cast their votes should be protected in this most sacred right as well as duty. Otherwise, mobs, violence, and insurrections in the several States might prevent the election of a Congress and the functions of the Government cease. A breach of the peace contemplated by this statute is one of such magnitude as would overpower the police; one which could not be put down by local authority. It is then that the civil authorities may call for troops, and under their direction the strong arm of the Government is brought into requisition. But we are told that though troops be within reach, and though their aid be necessary to restore peace and civil authority, yet it must not be done. It is better we perish by violence, better that cities be burned, the ballot-box be overturned, civil authority dethroned, than permit a soldier to command peace.

This was the unwritten law of 1860. Under it rebellion was organized; no power then could be found in the Constitution to coerce a State or send troops into a State to suppress insurrections, and Mr. Buchanan, with his democratic Cabinet, permitted treason to organize. If we have power to create, we have to preserve. If we can determine when and where elections shall be held, we can preserve and guarantee the opportunity.

The question of encroachment upon State authority by the use of troops began as early as 1798. Anticipating war with France, Congress authorized the President to accept the services of volunteer companies in the several States. The authority of Congress to do so was then much criticised. But during the war with Great Britain, which soon followed, laws were freely enacted authorizing the President not only to accept such volunteers, but to commission their officers. And now it is conceded that Congress has the power to exercise control over the armed forces throughout the length and breadth of the country.

In the Constitution we find delegated to Congress:

> To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.

Says Judge Story, in his Commentary on the Constitution, section 1201:

> The power of regulating the militia and of commanding its service to enforce the laws and to suppress insurrection and repel invasion is a natural incident to the duty of superintending the common defense and preserving the internal peace of the nation.

Again, in the same section:

> There is but one of two alternatives which can be resorted to in case of insurrection, invasion, or violent opposition to the laws—either to employ regular troops or to employ the militia to suppress them. In ordinary cases, indeed, the resistance to the laws may be put down by the *posse comitatus* or the assistance of the magistracy. But cases may occur in which such a resort would be utterly vain and even mischievous, since it might encourage the factious to more rash measures and prevent the application of a force which would at once destroy the hopes and crush the efforts of the disaffected.
>
> The general power of the Government to pass all laws necessary and proper to execute its declared power would doubtless authorize laws to call forth the *posse comitatus* and employ the common magistracy in cases where such measures would suit the emergency. But if the militia could not be called in aid, it would be absolutely indispensable to the common safety to keep up a strong regular force in the time of peace.

The Constitution clearly authorizes the use of troops in the protection of citizens "against domestic violence," when properly called for. It is difficult to draw a distinction between domestic violence and a breach of the peace. They in fact are one and the same. Their existence has the same effect upon the body-politic, especially when used at the polls either may prevent the enforcement of the laws or the holding of an election. Peace and good order are essential to governments; whenever State authority is insufficient to secure these, Federal authority may be invoked and applied. State militia are often without efficient organization or discipline; they are too feeble for the suppression of a maddened populace outnumbering them per-

haps ten to one. We are not without recent proof of this. In the riots of 1877 the militia were ineffectual, but wherever United States troops were brought into requisition the effect was most salutary and instantaneous.

If, then, the Army may be used to suppress domestic violence only, may it not be used to keep the peace, especially at the polls, when the Government has a direct interest in the election. Prior to the repeal of the fugitive slave law it was a common occurrence for the marshal to take with him United States troops to preserve the peace in the execution of his writ. The court, too, while returning the slave to bondage was attended by a like force to keep the peace and preserve order. All this could be done to aid the master in securing his slave; but this must not be done, we are told, to preserve peace while an American citizen is casting his vote. It is idle to discuss this subject further. The law up to this time has not been questioned. Precedents are without limit.

It is, however, claimed that the presence of troops at the polls is dangerous to the free exercise of the elective franchise. Both those who seek the repeal of this statute and those who are for its retention are contending for free elections. Free elections are conceded to be necessary if we would obtain a fair expression of the people in the selection of members of Congress. We ask the aid of the military, if necessary, to secure this right, that the elector may be protected from mob violence, armed gangs, and desperadoes. Our opponents claim the presence of soldiers would intimidate and prevent them from voting. A moment's reflection will convince any reasonable mind that no honest man can be or ever was intimidated or restrained from the exercise of a right so apparent as that of voting at an election by the presence of officers or men in the military service of the United States. Such right is too sacred to be disputed by civil or military authority, and no man with an honest purpose could in the least degree be embarrassed by them. Those only who have not, and who visit the polls dreading the law and peace officers, care in the least degree for the military or any other force sufficient only to keep the peace. No instance has ever existed where the soldiery have ever prevented a single voter from the exercise of his right. The complaint is unfounded in fact. It is made to disarm authority and in the interest of those seeking to prevent a free use of the ballot. But certain it is, that although we have upon the statute this law, free elections are not held in all the States of this Union. In the States of Mississippi, Louisiana, Florida, and South Carolina, where complaint of the presence of the troops is most heard, the democratic party have succeeded in carrying the elections and sending men to represent them upon this floor, when there can be no doubt each of those States has a very large republican majority, and had a free and fair election been held in them the present House of Representatives would have been under the control of the republican party.

It is to be regretted that these questions of the rights of States is again to be revived. They have already cost us lives and treasure without limit. The country is again to be agitated from one end to the other. They are to be re-established and enforced at the expense of the National Government, cost what it may. The avenues of the Government are to be blockaded, not by armed forces as before, not by domestic violence, but by revolutionary measures in cutting off the means necessary for the support of the Government.

The people will again rally and deliver their verdict whether this method of securing legislation in violation of the Constitution and the spirit of our Government will be sustained, or whether our Government shall be maintained and preserved as our fathers framed it for us.

If, indeed, we are one nation, under one flag, may we not assert the authority of the nation in every State to so far keep the peace as to permit the election of members to the National Legislature?

Mr. DUNNELL. I ask that the pending amendment be read.

The amendment was again read.

Mr. REAGAN. I desire to say that I shall have to vote against this amendment as being unnecessary, entirely unnecessary. The section of the bill as it stands proposes to repeal the words "or to keep the peace at the polls" as they occur in section 2002 of the Revised Statutes. That is simply in reference to using the military at elections where they are not called for by the Legislature or governor of a State. It is proposed by the pending amendment to add a proviso to this repeal that it shall not be construed to interfere with the right of the President, at the call of the States, to send troops to suppress insurrection or repel invasion. I submit that that is wholly unnecessary and useless because section 5297, which remains in full force and is not affected by the repeal, reads as follows:

SEC. 5297. In case of an insurrection in any State, against the government thereof, it shall be lawful for the President, on application of the Legislature of such State, or of the executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State or States, which may be applied for, as he deems sufficient to suppress such insurrection; or, on like application, to employ, for the same purposes, such part of the land or naval forces of the United States as he deems necessary.

This leaves in full force and effect the act of February 28, 1795, and the act of March 3, 1807. The amendment simply proposes to do that. It is useless because it proposes to repeat what is already in the statutes and is not affected by the repeal. I assume, therefore, that it is unnecessary to add to the section such a proviso, which is but a simple re-enactment of the law as it already is. It would be, in the language of Mr. Justice Blackstone, doing a vain thing.

Mr. WHITE. Will the gentleman yield to me for a moment?

Mr. REAGAN. Yes, sir.

Mr. WHITE. I understand the gentleman says this, that notwithstanding these words may be repealed under the act of 1795 and the act of 1807, the President of the United States would have the power, upon the call of the executive or the Legislature, to bring the troops into the State for the reasons indicated in that section.

Mr. REAGAN. Yes, sir.

Mr. WHITE. The gentleman will allow me one moment more.

Mr. REAGAN. My answer to it is that here is the law as I have read it, and it does precisely that thing.

Mr. WHITE. I understand that; that is the law passed in obedience to the Constitution. Now, here is the *posse comitatus* clause which makes it illegal to take the troops into a State for any purpose except it be expressly authorized by law. Then here is the act of 1865——

Mr. REAGAN. That does not arise under that act.

Mr. WHITE. The gentleman does not apprehend my point. There is the act of 1865 which makes it a criminal offense to take troops to the polls, with certain exceptions. Now, if you take away those exceptions, does not the act of 1865, being a subsequent act, qualify and *pro tanto*, as lawyers say, repeal the power given by the act of 1795 and the act of 1807?

Mr. REAGAN. It does not, for these reasons: the section, as it will be amended, will provide that—

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.

Mr. WHITE. Are not these two statutes to be construed together?

Mr. REAGAN. I understand the policy of the gentleman and his party is to mix up the law authorizing an interference at elections by the troops with the law authorizing the suppression of insurrection or the repelling of invasion by the troops. Now, the two things are totally different. This statute which we propose to amend, authorizing that very thing, would stand unrepealed by our action; and so would section 5528 stand unrepealed, and that portion of it would remain in force.

I object to the proposed amendment, not because it is wrong, but because the object sought to be attained is fully and affirmatively in the statutes now, and it is not necessary to re-enact what is now the law.

Mr. WHITE. The gentleman from Texas, [Mr. REAGAN,] if he will allow me, misunderstands me. There is no desire on this side of the House to make a false issue at all. What I say is that this being a subsequent statute to the statutes of 1795 and 1807, they are all to be considered *pari materia*. I say furthermore as a lawyer, (I only give my opinion,) that if the repeal is made of the clause "to keep the peace at the polls," in the act of 1865, then it will be unlawful for troops to be taken to the polls even if the emergency should arise contemplated by the act of 1795.

Mr. REAGAN. No, sir; for the section also provides "unless it be necessary to repel the armed enemies of the United States."

Mr. WHITE. That is one thing; keeping the peace at the polls is another thing.

Mr. REAGAN. To keep the peace at the polls is interfering with elections, and that is exactly what we want to prevent.

Mr. WHITE. So do we; and by repealing this clause you interfere with the exercise of that power.

Mr. REAGAN. Not at all, for the power is still reserved in section 2002 to do all that Congress contemplated by the laws of 1795 and 1807. Those laws are preserved in full force.

Mr. WHITE. But qualified by this penal statute.

Mr. REAGAN. That is intended only to affect so much of the law as authorizes the improper interference at elections by the Federal authorities.

Mr. WHITE. This says what is improper interference. This says that any person taking armed men to the polls is making an improper use of the troops.

Mr. REAGAN. Do I understand the gentleman to deny that the law, to do all that he says, will remain in full force and unrepealed?

Mr. WHITE. I say that this statute will qualify the law to that extent.

Mr. REAGAN. Qualify what?

Mr. WHITE. Qualify this: an officer who goes there upon the regular call of the governor or of the Legislature may be met by this statute, he will encounter this statute.

Mr. REAGAN. He cannot encounter it, for here are the statutes under which he is to send the troops.

Mr. WHITE. Very well, and this amending section qualifies that statute, and if he goes to the polls under this amending section, he will be subject to prosecution under the act of 1865.

Mr. REAGAN. If he goes there to interfere with the elections, he will be; but if he goes there under the acts of 1795 and 1807 and the subsequent act of 1865, to repel the armed enemies of the United States, he will not be subject to prosecution.

Mr. WHITE. I think with this amendment he could not do so.

Mr. REAGAN. The law says so.

Mr. WHITE. Very well; is not this a subsequent statute, and does not subsequent legislation repeal any former legislation inconsistent with it?

Mr. REAGAN. The gentleman is a lawyer, and he knows the rules of construction. He knows that a new provision of law so manifestly inconsistent with other provisions that they cannot be construed together is treated as a different law.

Mr. WHITE. Not at all.

Mr. REAGAN. They qualify two different objects, the one authorizing the repelling of armed enemies of the United States, and the other the suppression of hostilities against the authority of the State; and the last will remain in full force after the repeal of the provision authorizing interference at elections.

Mr. HARRIS, of Virginia. My friend from Texas will allow me to make one suggestion. I think this colloquy between my friend from Pennsylvania and the gentleman from Texas shows the manifest propriety of the amendment proposed by my friend from Indiana. Here is one side of the House saying that the law as proposed to be changed by our side will interfere with the constitutional power of the President. My friend on the left [Mr. REAGAN] says that it does not so interfere. Both parties are agreed that it ought not to interfere with the President's rights and powers. If this be the agreement and understanding, why not adopt the amendment so as to put the matter beyond all cavil and dispute. It is vain for my friend to say that the law will not admit of that construction, because here are one hundred and twenty-four gentlemen who say that it does. Therefore the proviso is very proper in order to explain the purpose of this legislation.

Mr. REAGAN. The gentleman from Virginia is a lawyer; he was a member of the Judiciary Committee in the last Congress. Now, I ask him as a lawyer whether he is willing to put himself on the record as holding that mere idle talk shall control the spirit and meaning of a statute. I ask him whether he will put himself on the record as saying that with this repeal, made without the proviso, the law will not be left in full force authorizing the President, upon the call of any State, to use troops to repel invasion, to suppress insurrection, or, in the language of section 2002, to repel the armed enemies of the United States. The gentleman, I venture to say, will not risk his reputation as a lawyer by affirming that because for partisan effect a false issue is sought to be forced upon us, and we are asked to do a vain and foolish thing, we should do this vain and foolish thing.

Mr. HARRIS, of Virginia. I agree with my friend from Texas that the amendment proposed by our side of the House does not interfere with the powers of the President as provided in the Constitution; but the other side of the House say that it does.

Mr. REAGAN. Of course they say so.

Mr. HARRIS, of Virginia. And to that extent there is a conflict of opinion. Whatever my opinion as a lawyer may be I know that it is an every-day practice in legislative bodies to exclude certain constructions to which a statute about to be passed might otherwise be considered liable; it is customary to add a concluding clause, saying "this statute shall not be construed to do thus and so." There may be doubt about the construction of our enactment; and, though lawyers on our side may think the construction perfectly clear, there is no impropriety, but on the contrary it is in accordance with the every-day practice of legislative bodies, for us to add a clause declaring that this legislation shall not be construed to mean thus and so, thus putting our intention beyond cavil. I am always willing to say in so many words what I do mean rather than have any doubt about it.

Mr. REAGAN. Do I understand the gentleman from Virginia (and I beg him to answer this question to the House) as saying that the repeal of a law authorizing the interference of the military force of the United States at elections, without any call by a State, is the same subject as authorizing the President to furnish the aid of the military forces of the United States, on the call of the States, to suppress insurrection, repel invasion, or resist the armed enemies of the United States? Are they the same subject?

Mr. HARRIS, of Virginia. They are legislation in the same line. I go further and say that this Congress has no power to pass any law to interfere with the constitutional power of the President—a power which he derives from higher authority than the legislative department of the Government. Even if we were disposed to do so, we cannot pass any law infringing upon the powers with which the President is clothed by the Constitution.

Mr. REAGAN. The gentleman will allow me to express astonishment that a lawyer and a member of the Judiciary Committee of the last Congress should assume that the President has the power to act in this matter under the Constitution without reference to the statutes of 1795 and 1807.

Mr. HARRIS, of Virginia. Those statutes are merely designed to carry out the provisions of the Constitution. They provide the mode and manner of doing so.

Mr. CASWELL. Before the gentleman from Texas takes his seat will he allow me to call his attention to a clause of the repealing act which I think has escaped his notice? It certainly amounts to a prohibition:

> Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Now this provision amounts to a new and positive prohibition to have present at the polls any part of the Army of the United States, and thus conflicts with the statute as it would remain on the statute-book. I conceive that there would be force in the gentleman's point were it not for the penal clause I have just read, which amounts to a clear and positive prohibition.

Mr. REAGAN. I take it that there is no difficulty in the construction of this statute in connection with section 5297. I believe that the one has reference to the introduction of troops at the polls upon the mere discretion of the President or the military authorities and that the other has reference to the use of troops by the President, upon the call of any State, to repel invasion, suppress insurrection, or resist the armed enemies of the United States. Believing this, I cannot but think the proposed amendment unnecessary.

Mr. NEWBERRY. Will the gentleman allow me to ask him a question for information? I represent a State on the northern border. Suppose that, as happened within the last few years, we had a Fenian invasion. What is it the duty of the President of the United States to do with the troops, with that invasion of the Fenians gathered on the American side on an election day, while they are in arms and ready to cross into Canada?

Mr. REAGAN. In that case, under section 2002 the President of the United States has the right to use the armed forces of the United States, under the provisions of the law of 1795 and the law of 1807, to control and suppress such an invasion. That is one thing. But the control of troops, the sending of troops to control an election in a State without the request of the State, is another and totally different thing.

Mr. NEWBERRY. But in that case he would have to march the troops by the polls and through the polls——

Mr. REAGAN. Let him do it.

Mr. NEWBERRY. And violate the law, and every officer in command of those troops would be liable to be fined $5,000 and imprisoned.

Mr. REAGAN. The President would not move the troops there to interfere with the elections, but for the performance of a duty contemplated by the Constitution and authorized by law.

Mr. NEWBERRY. And you say by this provision if you strike out those words that that is a crime.

Mr. REAGAN. I cannot help the gentleman's reasoning. I have stated my position.

Mr. SPARKS. Mr. Chairman, I do not expect to make a satisfactory speech in the limited time that can be afforded me now. I have not sought the floor for that purpose heretofore, and should not do so now except for the desire I have to meet one single point that has been presented on the other side in this discussion. It is admitted by the whole House, certainly by every constitutional lawyer who is a member of it, that this House, in connection with the other branch of Congress, the Senate, have the undoubted constitutional power to pass just the kind of law that we are now proposing to pass; and I understand that the gentlemen of the opposition admit that we have the power to pass it according to the mode and in the manner we are proposing to pass it. But, by way of objection, it is insisted that by appending this sixth section, as what is denominated new legislation, upon an appropriation bill, the executive department of the Government is to be coerced, and that such action is revolutionary.

It has been stated on this floor, I think by the gentleman from Connecticut, [Mr. HAWLEY,] and notably and certainly by the gentleman from Ohio, [Mr. GARFIELD,] that the President of the United States has legislative power. Now, sir, I deny that. Under the Constitution, as I understand it, "all legislative power belongs to and is confided to Congress" while "executive power only is confided to the President of the United States." The one shall make laws, the other executes laws. When Congress, therefore, by its legislative power matures and perfects a law, as to its provisions and so far as everything pertaining to the making of the law is concerned it is ended. But under the Constitution it is required to be transmitted to the President of the United States. And when he receives it he has the power to do one of three things with it: first, he can indorse it with an approval and it immediately becomes effective to be executed according to its terms without conditions, detention, or arrest; but his signature does not make it a law; secondly, he can put it aside, "pigeon-hole" it, do nothing with it, and after a detention of ten days it is a law all the same as if it had a thousand signatures of the President; and, thirdly, he can arrest legislation by objection and veto.

Now, I think I have stated clearly and fairly all the power the President of the United States has in the premises. He can arrest legislation, and in arresting it can present his objection to the Congress in the shape of a veto to the bill or law thus arrested. This power the President unquestionably has; but it is the power to arrest, and not the power to make laws. Now, sir, this done, and its laws thus arrested, Congress has the undoubted power and right to do one of two things. First, it can let the law alone and say to his Excellency, "We have made the law and transmitted it to you; you have chosen not to give it force and effect, either by your positive approval or silence, but on the contrary you have chosen to arrest it; therefore, we will let it alone." Or, secondly, we may take that law, and by a vote as fixed by the Constitution, make it just as effective as if it had received the signature and positive approval of the President.

I deny, therefore, that the President has any legislative power. He

has the power to arrest; only the power to arrest. Now let us take the case before us. It is insisted that the President is attempted to be coerced by the proposed legislation and that this action is revolutionary. Now, sir, we pass a law. All appropriations of money from the Treasury must be made by law. We pass this law appropriating nearly $27,000,000. In that law we make provision that the Army, for which the appropriation is made, shall not be used "to keep the peace at the polls" in the various precincts and polling places throughout the United States. And by the expunging of those seven or eight monosyllabic words this whole question is covered. The President chooses, if you please, to arrest it. He says, "I arrest this law and return it to the Congress with my objection." What do we do? I do not know what gentlemen generally will do; but my idea in this particular case would be to say to the President, "Very well, sir; if you do not need this law, why should we want it? We certainly have the constitutional power to let it alone, and, Mr. President, as you have chosen to arrest it by your positive act of objection or veto, all right; now just let the subject drop." But then he will say, "*But*, gentlemen, that will not do; this law must be passed; I must have this law." "Well, then," we answer, "why did you not take it, sir, and make it effective after we had passed it and presented it to you?" "Because," he says, "it had some provision in it that was objectionable to me." "Well, sir, what do you propose to do?" "Why, I propose that you shall pass a law unobjectionable to me; in other words, you shall pass the kind of law that I want you to pass."

Sir, I state this probable colloquy fairly; and I ask gentlemen to consider it.

Where in this case is the coercion and who is the coerced party? If the President has the power to prescribe the character of legislation that we shall make, I ask if it is not coercion upon us; and if such action on his part with respect to a law (which he says he must have) is not a coercion upon Congress rather than an attempt by Congress to coerce him? If we have to approach His Excellency cap in hand and say, "Mr. President, please write out such a law as you desire, and send it to us, and we will register, record, and make effective your sovereign will," I ask if that is the free act and free consent of the Congress? And yet it is the humiliating as well as logical deduction to be drawn from the premises assumed by our republican friends on the other side. Now, sir, I am done with that subject. These are the views that I entertain in relation to it, and having no further time to elaborate it I pass to the consideration as briefly as I may of another topic.

In this whole matter I have been unable to see wherein the people's Representatives in this House, voicing the thought and the will of the sovereign people of the country, echoed by the voice of the other branch of Congress representing the sovereign States of the Union, have made any attempt or manifested any desire to coerce the President of the United States in the exercise of his constitutional prerogatives. But I do think, and here in my place declare, that in my opinion such attempts have been made to coerce him; but that they have been made by the stalwart members of the party that, having failed at the polls to elect him, by fraud and partisan trickery procured his inauguration. I will now proceed to show wherein and by what means this coercion is attempted, and will now read from the most prominent republican paper in the Northwest, the Chicago Inter-Ocean, to show it.

Mr. DUNNELL. As I understood the order of the House yesterday the debate closes at this time.

Mr. SPARKS. No, sir; it closes at half past twelve. I read from the Chicago Inter-Ocean of March 29, and I commend the article especially to gentlemen on the other side:

[Special telegram to the Inter-Ocean.]

A BRAVE STAND—THE ACTION OF THE REPUBLICAN CAUCUS.

NEW YORK, *March* 27.—Speaking of the republican caucus the Tribune says: "The republican party has thus taken a brave stand. The decision of its representatives in Congress will be approved by honest sentiment throughout the Union. They are inflexibly opposed to breaking down the safeguards of elections. In this patriotic course the republican members of Congress should have the moral support of every member of the republican party, in or out of office, and, above all, of every member of the republican administration. We have good reason to believe that the President is heart and soul with his party in this contest, and that nearly or quite all of his Cabinet stand with him. If any member of the Cabinet, or any person in any way authorized to speak for the Administration, or any republican office-holder arrays himself in hostile attitude, it must be distinctly understood he does so on his own responsibility, and at his own cost. He casts his lot with the democracy and will go down with a democratic defeat. The republican party is united, and there must be no compromise with the enemy."

Then, following that, in the same paper and of the same date, I find this article:

[Special telegram to the Inter-Ocean.]

THE PRESIDENT'S BACKBONE—THE RESOLUTIONS OF THE ELEVENTH WARD REPUBLICAN CLUB OF CHICAGO.

WASHINGTON, *March* 28.—Congressman DAVIS has received a copy of the resolutions passed by the Eleventh Ward Republican Club on the 24th of March, in which the club directs him "to convey to the President in the most emphatic terms that the day of compromise has passed, and if he yields in any degree to the demands of democracy he will be no longer recognized as a republican President." DAVIS called upon the President this morning and presented him with a copy of the resolutions. The President thanked him, but was not very much pleased at the idea that his republicanism was even susceptible of a doubt. He assured Colonel DAVIS that he was not disposed to compromise in any shape and would stand firmly with the republicans.

Now, I ask gentlemen on the other side, is that so? Is he already pledged to do your bidding?

Mr. WHITE. Is not that a good article?

Mr. SPARKS. Splendid!

Mr. DAVIS, of Illinois. Will the gentleman allow me to interrupt him a moment?

Mr. SPARKS. Not now. Let me read on:

Davis, upon returning from the White House, sent the following dispatch to the eleventh ward club:

"Resolutions received. President waited upon as requested. No reason to believe he will disappoint the loyal people of the country. For myself, can but say that I am enlisted for the war."

Mr. WHITE. Good.

Mr. SPARKS. And this follows:

Expressions of this sort are coming to the President from republicans in all parts of the country, and they have been effective in strengthening the President's backbone.

[Laughter.]

So that it seems the President of the United States has had some sort of political spinal disease that it becomes necessary for the stalwart republican doctors of his party to cure. [Laughter.] Now, sir, I ask any fair-minded man to read these articles published in the great metropolitan journal of that party in the Northwest, and tell me if the conclusion is not inevitable that an attempted effort is there publicly and boldly made to whip in and coerce the President into the extreme measures of the extreme members of his party. Talk about coercion! There is your coercion! [Applause.]

It was feared that he did not have backbone enough; that he was a little limber in the back. Ward meetings are called, resolutions adopted, party machinery is invoked, and leading political managers are enlisted to send him communications and tell him that "there must be no compromise with the democracy;" that "he must stand firm." And they further threaten him that "if he does not on this occasion stand firm, he will be subject to the ostracism of his party," &c. There, sir, is where the coercion comes in, and not through the action of Congress attempting to pass constitutional laws in an orderly and ordinary constitutional manner.

Mind you, sir, this does not come from New Orleans; this does not come from New York; this does not come from any city where there is supposed to be any strong democratic sentiment. It comes from the hitherto supposed stronghold of the republican party, from the stalwarts of Chicago. They assert and assure him that they are aroused and united upon this question, and that their party friends in Congress are right in their opposition to the passage of this law. They in effect say to the President, We have three republican members in Congress from our great republican city, and they can indicate to you what the stalwart members of the party at Chicago want.

Now, having made this bold, broad issue, and having made it on the questions involved in the bill now pending before us, they have gone to the sovereign people of that great city upon it, and that sovereign people thus appealed to, at their municipal election on the 1st instant, have given expression to their sovereign will and recorded their verdict. And now what is that verdict?

I will read you what this same paper of the 2d instant (the day after election) says of the result; and I ask gentlemen to mark it closely. This is its whining, humiliating announcement:

Victory for the democrats and howling rebels.

[Laughter.]

They made the issue; they said to the President of the United States, "Ours is the stronghold of the party; we have no democratic Representative in the popular branch of Congress from our city; all our Representatives in that body are stalwart republicans; there are three of them, and their post-office address is Chicago." The election comes off and this bold issue is made, and after election comes the last scene, and the curtain drops with the announcement, "Victory for the democrats and howling rebels." [Laughter.]

Then just below it, in a tabulated statement in the same paper and as a final wind-up, I find these words and figures:

For Mayor—Wright, (republican,) 19,143; Harrison, (democrat,)—

Our Carter, [laughter]—

Harrison, (democrat,) 23,966; democratic majority, 4,823.

That, sir, was in Chicago. [Laughter and applause on the democratic side.]

This, stalwart republicans, I beg to remind you, was in Chicago, on your own issue. This was in your own stronghold, where you felt yourselves strong enough to stiffen the backbone of His Excellency, the President, on this question. [Laughter and applause.] But it seems, sir, from the result thus indicated that these stalwarts, in place of putting any stiffness into the backbone of the President, got all marrow and starch and stiffness taken out of their own. [Great laughter and applause on the democratic side.]

Now, gentlemen, here is our issue, and, Mr. Chairman, we go to the country upon it. The issue, stripped of all useless verbiage and tawdry fustian, is, whether or not in this country, in this free country of ours, in this grand Republic, whose source of political power is the sovereign will of the people, armed soldiers, the paid servants of that sovereign people, are to come between them and the ballot-box to control or drive them from the polls. [Applause.]

This is our issue made to the country. We have had on it the first

popular response from a great republican city and it is startling in its character. Gentlemen, you have insisted upon making this issue; we cordially accept it and go to the country upon it, and we mean to stand upon it. We know that that sovereign people who stand behind us and stand behind you as well, and to whom Presidents and Cabinets and governors and all who exercise official functions must yield obedience, cannot sanction your mad folly and despotic zeal in exalting the military into a supremacy over the civil authority, and knowing that, we confidently appeal to them as sovereign arbiters between us. [Applause.]

Mr. CASWELL. Let me ask the gentleman from Illinois how it was in the State of Wisconsin on the same day which gave a republican majority of twelve thousand, being an increased majority?

Mr. BRAGG. If the gentleman from Illinois [Mr. SPARKS] will allow me, I will reply to the question of my colleague.

Mr. SPARKS. I have been talking of the republican city of Chicago, that grand metropolis of my own beloved State, which of itself contains a population larger than that possessed by many of the States of the Union, and I have not got down to anything so small as the little towns in Wisconsin. I will yield, however, to my friend from Wisconsin, [General BRAGG,] who is perfectly able to tell his colleague [Mr. CASWELL] all about Wisconsin and its elections. [Laughter.]

Mr. BRAGG. I wish to respond, Mr. Chairman, to the question propounded to the gentleman from Illinois by my colleague.

Mr. CASWELL. Does the gentleman from Illinois deny that the "greenbackers" helped to carry the election in the city of Chicago?

Mr. BRAGG. I desire to reply to the inquiry of my colleague from Wisconsin. The judge of the supreme court of Wisconsin, who is announced to have been elected by from ten to twelve thousand majority, was not the nominee of the republican party, and every republican newspaper in the State discarded the idea there should be any politics in the election, and the members of the bar belonging to the democratic party from one end of the State to the other supported him. [Laughter and applause on the democratic side of the House.]

Mr. CASWELL. Will my friend allow me——

Mr. BRAGG. Now, having answered that question, I should like to propound to the gentleman another. Why is it that he and his colleagues upon the other side of the Chamber, from my State, are sustaining the right to maintain troops at the polls, when in republican Wisconsin, where the people are free and uncorrupted by the air of a republican congressional caucus, they have a statute upon the statute-book which prohibts even the militia to be called out, to be organized, or even to be reviewed for two days prior to the holding of any election, under the punishment of a fine of $500. [Great applause and laughter on the democratic side.]

Mr. CASWELL. I trust my colleague, before he resumes his seat, will let me ask him a question.

The CHAIRMAN. The time of the gentleman from Illinois has expired and the Chair has recognized the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CASWELL. I wish to ask my colleague whether it is not true that while the judge who was elected was not nominated by a party caucus, will he deny that his opponent was the choice of the democratic caucus in the Legislature of that State?

Mr. BRAGG. Ah! [Laughter.]

Mr. CASWELL. And that the issue was made squarely between the republicans and democrats. And while I am on the floor let me ask him what was the trouble in the city of Milwaukee?

Mr. CHITTENDEN. I believe I am entitled to the floor, Mr. Chairman, and I insist on my right. [Laughter and applause.]

Mr. BRAGG. I will answer the gentleman. Did not the man whom he claims the republicans elected judge of the supreme court vote for Tilden in 1876, and denounce in unmeasured terms the fraud by which the White House was filled with the present occupant? [Great laughter and applause on the democratic side.]

Mr. CHITTENDEN. Am I not entitled to the floor?

The CHAIRMAN. The gentleman is entitled to the floor and the Chair has recognized him, and he will proceed.

Mr. CHITTENDEN. Mr. Chairman, except only their individual fireside, there is nothing on earth so precious to the American citizen as the sanctity of the ballot-box. Now, I ask in all seriousness, what have we heard in this great debate from the democratic side of the House for the practical security of the ballot-box? We have had lectures from the gentleman from Mississippi [Mr. CHALMERS] on the "licentious," "debauched," "despotic republican party," to which he himself owes his right to live to-day under the American flag. We have had other speeches lashing to fury sectional politics. We have had three speeches salted with excellent sentiments on sectional issues by gentlemen who each and all have predicted as the winning party in 1880 that party which without blushing and upon this floor before the American people and before the world proposes to usher in the great millennium of American industry and uprightness by paying the entire national bonded debt in irredeemable legal-tender greenbacks. [Laughter and applause.] We have had an interesting picture drawn by the artist from Kentucky [Mr. BLACKBURN] of the Secretary of State present here "intimidating" the republican party on this side of the House while the gentleman from Ohio [Mr. GARFIELD] addressed the House last Saturday. I wish to say here in parenthesis to the gentleman from Kentucky that I had the honor to sit by the side of Mr. Evarts while the gentleman from Ohio [Mr. GARFIELD] was delivering his speech. [Laughter.] I will testify that the Secretary of State was in his normal condition. [Laughter and applause.] He was as thin as ever. [Laughter.] His pockets were not stuffed. He had no shot-gun near him. I will tell the gentleman from Kentucky he had no revolver; he had no knife. [Laughter.] He had no stick. [Laughter and applause.] The gentleman from Kentucky may be reassured, he especially need not fear Mr. Evarts. [Laughter and applause.]

We have had from the eloquent gentleman from Virginia [Mr. TUCKER] a maxim uttered to which every one of us subscribes. He believes in "a minimum of power and a maximum of liberty." So does everybody. But what does he mean by "a minimum" of power? How much power? Shall there be enough to govern? That is the question that the American people ask this gentleman, this eloquent and patriotic gentleman from Virginia, to answer. That is the question they put to all of these democratic gentlemen who ignore it persistently to generalize and split hairs about the meaning of the Constitution. How much power does it require, for example, to secure a free and honest ballot-box in the district from which the gentleman from Mississippi [Mr. CHALMERS] comes? How much and what power does it take to secure an honest ballot-box in Virginia? How much power to secure a "free ballot-box" in Kentucky? How much in New York? I leave each of the gentlemen to answer the question in respect to their respective States. I hold in my hand, Mr. Chairman, something that tells the story about New York. It relates to the state of things which existed there before the laws of 1869, 1870, 1871, and 1872 were enacted. You propose to-day to deny Federal authority the power "to keep the peace at the polls," and on Monday or next week you propose to repeal twenty sections of law which were enacted with great painstaking and great study at the time, under circumstances differing from the present, but enacted in good faith. You propose to repeal them *pêle mêle*. You propose no substitute whatever. By your blind partisan action I, as a citizen of New York, and those I have the honor to represent, shall be in future disfranchised to a certain extent; for when you repeal laws necessary "to keep the peace at the polls" you disfranchise not only the weak and ignorant and all who have no helper in every part of this country, but in all large cities at the North. You disfranchise a large class of tax-payers who have not the courage to meet a mob of desperadoes and blacklegs at the polls.

Now, Mr. Chairman, I beg to have read certain parts of this paper which I hold in my hand, which is a letter from the last democratic candidate for the Presidency, now dead, to the present democratic candidate for the Presidency, who still lives. I make the whole letter a part of my speech, asking every member of this House, without regard to party, when they find it in the RECORD, to read it. It is ten years old, but the truth of it is perennial, a living force underlying the safety of our free institutions, which will only endure while honesty is respected and the sanctity of the ballot-box made secure.

The Clerk read as follows:

SIR: You and I are growing old. We came here young men from the country, and have lived and struggled side by side for nearly forty years. We have participated ardently in many political struggles, always on different sides. You were the pupil of Van Buren and Silas Wright; I, a disciple and follower of Henry Clay. But this I will say for you, that I am confident you have never sought to enrich yourself by politics, or at the expense of the public—that whatever of wealth you may have acquired or enjoyed was earned in your profession as a lawyer—and that your instincts and your influences, partisanship apart, have generally been felt on the side of economy in public expenditure and uprightness in the conduct of public affairs. Of my course in these respects you are welcome to say whatever you think true.

On one very important point, however, your bitterness as a partisan has impelled you to ignore and come short of your duty as a citizen and a professed upholder of Government by the people; and for this dereliction I here arraign you. I allude to the preservation of the purity of the ballot-box.

You and I grew up in the country, and are familiar with elections as there conducted. We both know that, except in a few districts where the voters are all on one side, it is morally impossible that any considerable proportion of fraudulent votes should there be polled. For those who attend a poll are nearly all well known to each other, and hardly ever is one entitled to vote who is not known to be so to men of each party. If one should offer a vote who is not so known, he is challenged and questioned of course, and his answers will convict him if a bogus voter. I do not believe that the illegal vote in the rural districts was ever 1 per cent. of the whole number polled, even when there was no registration of legal voters.

How different is the case in cities, and especially in this Babel, you very well know. Long as you have lived on Gramercy Park, and eminent in social position and fortune as are the inhabitants of that favored locality, you could not tell within twenty which of the residents in sight of your front door are and which are not entitled to vote; you could not make a list of the legal voters residing on that square which would even approach accuracy. How it must be, then, with the nomadic denizens of our "back slums" and of our great tenement houses—how utterly impossible it is that any one should know which among them are and which are not legal voters, and whether the man who offers to vote at 11 a. m. at one poll has not already voted several times at different polls, and whether he is or is not on his way to vote still oftener at other polls, you cannot help knowing if you would. I can imagine how a man may shut his eyes to many things which he deems it convenient not to know, but I speak of what you must know, however you may wish or seek to be ignorant of it.

The matter to which I call your attention is vital to the very existence of free popular government. Whenever it shall be generally understood that the results of the elections are not determined by the ballots of legal voters, but by frauds in voting or frauds in counting, then the advent of avowed, unequivocal despotism must be near at hand. Between the rule of an emperor and the rule of a clique of ballot-box stuffers, every intelligent man must prefer the former as less rapacious and more responsible. When honest citizens shall avoid the polls, asking "What is the use of voting? the result is already fixed," the days of the Republic will be numbered. Between a ruler who prohibits voting altogether and the gang who make it a sham by filling the ballot-boxes with illegal votes, or miscounting those actually cast, the sway of the former is every way preferable.

Mr. Tilden, I have been voting here for thirty-seven years, and an active politician for more than thirty of them, and I appeal to God for my sincerity and to

my public record for a witness that in all those years I have earnestly sought and labored to have our elections decided by legal votes and none other. Seeing how great are the temptations and the facilities, under a right of suffrage so general as ours, to poll illegal votes, I have openly and actively favored every effort to shut them out and keep the suffrage pure and legal. That every legal voter should have a full and fair opportunity to vote once at each election; that no one should be enabled to vote more than once, and that none but legal voters should be allowed or empowered to vote at all; such has been my constant aim. I have not confined myself to barren professions, but have shown my faith by my works.

How is it with you? You hold a most responsible and influential position in the councils of a great party. You could make that party content itself with polling legal votes, if you only would. In our late constitutional convention I tried to erect some fresh barrier against election frauds; did you? The very little that I was enabled to effect in this direction, I shall try to have ratified by the people at our ensuing election. Will you?

Mr. Tilden, you cannot escape responsibility by saying, with the guilty Macbeth—

"Thou canst not say I did it; never shake
Those gory locks at me!"

for you were at least a passive accomplice in the giant frauds of last November. Your name was used, without public protest on your part, in circulars sowed broadcast over the State, whereof the manifest intent was to "make assurance doubly sure" that the frauds here perpetrated should not be overborne by the honest vote of the rural district. And you, not merely by silence, but by positive assumption, have covered those frauds with the mantle of your respectability. On the principle that "the receiver is as bad as the thief," you are as deeply implicated in them to-day as though your name were Tweed, O'Brien, or Oakey Hall.

Mr. Tilden, you and I were ardent participants in the struggle of 1840, wherein Martin Van Buren was ousted from the Presidency by General Harrison. You know how thoroughly our city was absorbed in that contest, wherein every man, woman, and child took a deep and lively interest. Our elections were then held throughout three days; there was a registration freshly enacted which blacklegs had not yet learned to circumvent; the right of suffrage was as widely diffused as it now is; no one ever complained that a single legal voter was unable then to poll his vote. And, though our city has since largely increased its population, the lower wards were quite as populous then as they are to-day—several of them more so. They were full of boarding-houses crowded with clerks and mechanics. Many of these covered sites since given up to great warehouses and manufactories; their denizens have moved up-town, over to Brooklyn, or out on some of the railroads that lead out into the open country. Practically, the lower wards are being given up to commerce, and no longer shelter by night the multitudes who throng their streets by day.

Now look at the vote of four of these wards in 1840 and 1868, respectively:

Wards.	President, 1840.		Governor, 1868.	
	Harrison.	Van Buren.	Griswold.	Hoffman.
Fourth ward	1,138	1,177	480	3,820
Sixth ward	806	1,223	369	5,032
Seventh ward	1,707	1,728	1,265	6,895
Fourteenth ward	1,142	1,393	726	4,526
Four wards	4,793	5,521	2,840	20,283

Van Buren's majority, 728; Hoffman's majority, 17,443.

Mr. Tilden, you know what this contrast attests. Right well do you comprehend the means whereby the vote of 1868 was thus swelled out of all proportions. There are not twelve thousand legal voters living in those wards to-day, though they gave Hoffman 17,443 majority. Had the day been of average length, it would doubtless have been swelled to at least twenty thousand. There was nothing but time needed to make it one hundred thousand, if so many had been wanted and paid for.

Now, Mr. Tilden, I call on you to put a stop to this business. You have but to walk into the sheriff's, the mayor's, and the supervisor's offices in the City Hall Park, and say there must be no more of it—say it so there shall be no doubt that you mean it—and we shall have a tolerably fair election once more. Probably a good part of the fifty thousand supplied last fall with bogus naturalization certificates will offer to register and to vote—some of them pretending not to know that they are no more citizens of the United States than the King of Dahomey is—but very few will vote repeatedly unless paid for it; and we shall not be cheated more than ten thousand if you simply tell the boss workmen that there must be no illegal voting instigated and paid for.

Will you do it? Your reputation is at stake. The cowardly craft which

"Would not play false,
And yet would wrongly win,"

will not avail. If we republicans are swindled as we were swindled last fall, you, and such as you, will be responsible to God and man for the outrage. Prosecutors, magistrates, municipal authorities, are all in the pool; we have nothing to hope from the ministers of justice, and the villains have no fear of the terrors of the law. I appeal to you, and anxiously await the result.

Yours,

HORACE GREELEY.

NEW YORK *October* 20, 1869.
To SAMUEL J. TILDEN, *Chairman Democratic State Committee.*

Mr. CLYMER. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. CLYMER. I move that the House now adjourn.

The motion was agreed to; and accordingly (at one minute before twelve o'clock a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: Papers relating to the war claims of W. C. McHaney, James M. McRea, Isaiah Sweat, and John W. Willett—to the Committee on War Claims, when appointed.

By Mr. BEALE: Papers relating to the war claims of Duncan James and James H. Shumate—to the same committee, when appointed.

By Mr. BENNETT: The petition of William Thompson, E. N. Carey, J. H. Marshall, and 135 others, against the abrogation of the act of the territorial Legislature of Dakota attaching a portion of Morton County to Burleigh County—to the Committee on the Territories, when appointed.

By Mr. BLAND: Papers relating to the war claim of Silas Knox—to the Committee on War Claims, when appointed.

By Mr. CHALMERS: Papers relating to the war claims of Emily Leland, Ann M. Meehon, Mrs. Hester F. Neeley, and James M. Swearagin—to the same committee, when appointed.

Also, papers relating to the claim of William D. Wilson and Mrs. Susan Wilson—to the Committee of Claims, when appointed.

By Mr. CRAVENS: Papers relating to the war claims of Mrs. Amanda Daily, W. S. Jennings, David Robbins, and Miles W. Vansickle—to the Committee on War Claims, when appointed.

By Mr. DUNN: Papers relating to the war claims of Philip R. Jones, Thomas A. Moore, John T. Oates, Benjamin F. Wallace, A. C. Wellburn, administrator, &c., and Mary E. Whitehead—to the same committee, when appointed.

By Mr. GARFIELD: The petition of Captain George L. Riker, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. GIBSON: Papers relating to the war claim of Roscoe C. Oglesby—to the Committee on War Claims, when appointed.

By Mr. HILL: The petition of Samuel Myers and others, of Putnam County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. HOOKER: Papers relating to the war claim of John M. Powell, guardian, &c.—to the Committee on War Claims, when appointed.

By Mr. HOUSE: Papers relating to the war claim of James Moffitt—to the same committee, when appointed.

By Mr. KITCHIN: Papers relating to the war claim of Benjamin F. Parrott—to the same committee, when appointed.

By Mr. LEWIS: Papers relating to the war claim of Thomas L. Shamblin—to the same committee, when appointed.

By Mr. LOWE: Papers relating to the war claims of Mrs. C. L. Robinson, Sarah Townsley, and Catharine B. Winston—to the same committee, when appointed.

By Mr. MANNING: Papers relating to the war claims of William P. Joie, James H. Knox, Willis J. Moran, Emmit Y. Parham, heirs of Maria A. Reinhardt, Daniel T. Saunders, Mary C. Shields, W. E. Tomlinson, R. W. Winbourn, and M. W. Young—to the same committee, when appointed.

By Mr. MARTIN, of North Carolina: Papers relating to the war claim of Elvey Russell—to the same committee, when appointed.

By Mr. McMAHON: The petition of Oxford Grange, Butler County, Ohio, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce, when appointed.

By Mr. MULDROW: Papers relating to the war claims of George W. Miffleton and James P. Young—to the Committee on War Claims, when appointed.

By Mr. SIMONTON: Papers relating to the war claims of Mary E. O. McGregor, Z. C. Nolen, John S. Peete, William B. Read, John W. Rosaman, Benjamin F. Rutherford, and Gideon B. Wray—to the same committee, when appointed.

Also, papers relating to the claim of Ferdinand U. Tuck—to the Committee of Claims, when appointed.

By Mr. VANCE: Papers relating to the war claim of William D. Whitted—to the Committee on War Claims, when appointed.

By Mr. YOUNG, of Tennessee: Papers relating to the claim of J. J. Pulliman—to the Committee of Claims, when appointed.

Also, papers relating to the war claims of W. W. Jackson, Mrs. Lucie A. Jameson, William R. Kearney, Ezekiel T. Keel, La Grange Synodical College, Leland Leatherman, Albert D. Lewis, John H. McClelland, Samuel McKenna, Mary E. McKinney, Charles D. McLean, E. P. McNeal, F. M. Mendenhall, Francis Molitor, Ellen P. Molloy, John Morrison, Thomas G. Neal, Sarah E. Norton, Martha M. Parker, George R. Redford, Hennie F. Revell, Lewallen Rhodes, Nancy Seawright, Mary L. Shields, Reeder B. Sheppard, Edward Stack, John T. Stratton, Joseph Tagg, Robert Talley, Mrs. Elizabeth Toof, Mrs. Martha Trigg, Edward J. Tucker, James Tucker, Thomas H. Webb, James G. Williams, William A. Williamson, John W. Wooley, and James R. Wray—to the Committee on War Claims, when appointed.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 5, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

Mr. VALENTINE. I ask unanimous consent that the privileges of

the floor be extended to Hon. C. B. Matthews, speaker of the house of representatives of Nebraska, during his stay in the city for the next three days.

There being no objection, it was ordered accordingly.

ARMY APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole to proceed with the consideration of the Army appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. LOWE. Mr. Chairman, I move to strike out the sixth section of the bill under consideration with instruction to the chairman of the committee to report, on the rising of the committee, that section as a separate bill for the present action of the House.

This motion, Mr. Chairman, needs no explanation. The object to be gained is apparent to the committee and will commend itself, I think, to the good temper and good sense of the country. No member of this body is more opposed than I am in theory and practice to the use of the Army at elections. It cannot be defended in this country upon either policy or principle. We prefer the tumults of a free people to the "order" which results from military domination. But I do not understand that question to be the real issue before the committee. It is not a question whether the objectionable legislation, which permits the political use of the Army shall be repealed, but whether the repeal shall be put as a rider upon an appropriation bill, or be passed as a distinct and independent measure.

In my opinion, it is unnecessary and inexpedient, under the free forms of our Constitution, to attach any foreign or extraneous matter to a measure which is essential to the support of the Government. Such practices have not been attempted in England for more than a hundred years, and have never been resorted to in this country, except for factious and partisan purposes. There is the highest democratic authority for saying that the genius, if not the letter of the Constitution, is against it. The practice of the republican party on this subject cannot commend itself to me or to the majority of the committee. Such practices are warnings, not precedents. How can we imitate what we have always condemned? You may not "wrest the law to your authority." If in order "to do a great right you do a little wrong,"

> 'Twill be recorded for a precedent;
> And many an error, by the same example,
> Will rush into the state.

It is a sign of evil for the country when the partisanship of one side finds its sanction in the partisanship of the other, when the bourbonism of the South seeks excuse in the radicalism of the North. It recalls that period in the history of a dead republic when Cæsar had a party and Pompey a party but Rome had none!

I am well aware, Mr. Chairman, that at this time this motion will probably not prevail. I know the power of the caucus. I appreciate the force of party discipline. But I would invoke, if possible, on our part, a more national and patriotic disposition. In view of the bitter and unnecessary debate which for many days has agitated both sides of this House, I had hoped, Mr. Chairman, even against hope, that crimination and recrimination might end here, and that the country might be spared a further infliction. In the wide range of this discussion every phase of sentimental politics, every subject of past and present party difference, every old grudge of the sections, and every new grievance of the races, have been flung into the muddy currents of this debate. I am sure the better sense of the country is not satisfied with it, with the evidence it affords of the character and capacity of our leadership. The Army is on a distant frontier. Peace prevails throughout the country. The war is over everywhere except in Congress. (Laughter and applause.)

But, Mr. Chairman, if the pending motion shall happily prevail the country will be relieved from an extension of this dispute into the next election, and the public business which called us here, and which presently demands our attention, can be conducted to a speedy and satisfactory conclusion. If a bare majority of this committee shall prefer the business interests of the community to the demands of party, the necessary appropriation bills can no doubt be passed at once, and the political legislation, which assumes such undue magnitude in this debate, can be safely proposed on its own merits in separate and independent bills. I say this much, Mr. Chairman, with great deference to the yet unexpressed judgment of the House. I do not believe, as was intimated by the gentleman from Ohio [Mr. GARFIELD] in opening this debate, that there is any danger to be apprehended from factious or revolutionary proceedings by the majority in this body. I do not believe there is any alternative purpose to "coerce the Executive or to stop the Government." If the President, in the exercise of his constitutional power, shall veto this bill or any section thereof, I believe the majority in this House, in the absence of the constitutional two-thirds, will acquiesce in the result and recognize, as the democratic party has always recognized, the prerogative of an independent and co-ordinate branch of the Government. The lines dividing the departments are as necessary and sacred as the limitations of the Government itself. In fact they amount to the same thing, and I infer there is no disposition to break them down.

But, Mr. Chairman, while there is no danger of starving the Government there is danger of starving the people. In the failure of financial relief at this session, we may reasonably apprehend the greatest distress to the business and labor interests of the country. In my opinion that matter should engage the first attention of this House. The question of finance and currency, debt and taxes, rises in practical importance far above the political issues which have monopolized our time from the beginning of this session. Those who favor financial relief have tried, and tried in vain, to engage for a single moment the attention of the House. If the leaders of the two great parties here shall continue to agitate sentimental politics and persist in ignoring this question, I hope and believe that the people throughout the country, without regard to party, will hold them to a joint accountability for it. The representatives of the syndicate and the stock exchange, and all in either party, who shall act with them, must assume the responsibility for the failure of remedial legislation at this session, and for the consequent distress which now prevails, and which will continue to prevail throughout the country.

Mr. Chairman, before I take my seat, I desire to refer briefly to what the distinguished gentleman from Connecticut [Mr. HAWLEY] said on this subject in his remarks on yesterday. Without provocation and, I beg to say, without pertinence, he turned aside from the question before the committee and decorated the greenback party with the chaplet of his censure. He declared they were the "rag-tag and bobtail" of the country, the "scurf and scum of the great cities," "inflationists," and "repudiators," unworthy of political association with the respectability of the democratic, much less of the republican party. Mr. Chairman, he searched the Scriptures to compare us to the men who followed David to the cave of Adullam. He sneeringly dubbed us Adullamites. The gentleman, Mr. Chairman, was, perhaps, unfortunate in that allusion. The good book tells us, if I remember it correctly, that when David departed to that famous cave his brethren and the faithful members of his household joined him, and every one that was in distress, and every one that was in debt, and every one that was discontented and oppressed, gathered themselves unto David; and he divided them into tens and into hundreds, and he led them to victory, for the Lord was with David. And I tell the gentleman it will be so again. If the ruinous policy of his party is to continue, our modern political Adullam will be crowded with such recruits between now and 1880, and the Lord will raise up another David to lead an oppressed and outraged people to victory. [Applause.]

Mr. Chairman, there never was a great original idea in politics or morals that found its first lodgment among the wealthy and so-called respectable classes of society. Its first friends and its last friends have always been from among the people—the common people. When the despised Nazarene brought a new and higher code of ethics into the world, it was not the chief priests, the scribes, and pharisees that received it; it was not the syndicate and the stock exchange; it was not the money-changers whom He "scourged out of the temple," but it was the "common people that received it gladly." Mr. Chairman, this is peculiarly the country of the common people, and this Government is, and must remain, the Government of the common people. No plutocracy of the privileged classes will ever be permitted to rule or to ruin it. [Applause.]

In conclusion, Mr. Chairman, permit me to say that if the riders on this and the other bills are embodied in separate measures, every greenbacker in the House will vote for them; but if the present motion to strike out, fails in the committee, I shall ask a separate vote on it in the House.

[During the delivery of the foregoing remarks, and when five minutes had expired, Mr. KELLEY obtained the floor and yielded his time to Mr. LOWE, who then concluded his remarks as given above.]

Mr. McLANE. Mr. Chairman, before this discussion closes I feel under some obligation to answer myself an inquiry I put to the honorable gentleman from New Jersey [Mr. ROBESON] when he was addressing this committee the other day. In common, I think with every man on this side of the House who has expressed his opinion, I believe that the provision of law which we are about to repeal is unconstitutional; that is to say, that it is unconstitutional for the United States to "keep the peace" anywhere in the States, either at the polls or elsewhere; and if it were constitutional I believe in common with gentlemen on this side of the House that it would be highly inexpedient to exercise that power. Hence, so far as the pending provision of this bill is concerned, I could with good conscience vote for it either on or off an appropriation bill, knowing right well that whether it be passed as a separate measure or as a part of the pending appropriation bill is a matter entirely within the pleasure and discretion of this House, which, by the Constitution, has the right to make its own rules of procedure. As the minor is included within the major, if we can make rules we certainly can construe them; and through a long line of precedents we have construed the rules precisely as we construe them in this particular case. Upon the form, therefore, as well as upon the substance, this is a most righteous bill which we are about to enact.

The gentleman from New Jersey, [Mr. ROBESON,] in rising to address the committee, announced that he proposed to treat the subject

as a lawyer. He introduced his remarks by saying that he intended to confine himself to the legal view of the case. Hence the inquiry which I put to him was very proper—whether he could refer to any decision of the courts in this country which justified the United States in "keeping the peace." His answer to me was that he knew of no such decision; but, proceeding with his argument, he endeavored to deduce the right of "keeping the peace" from the well-acknowledged right to sustain the marshal in the execution of his process. Yet, Mr. Chairman, from the foundation of the Government to the present day the reports of the Supreme Court of the United States abound in decisions to the effect that the Government of the United States has no criminal jurisdiction within a State; that the United States cannot "keep the peace" within a State. The statutes of the United States may be violated, and the Government of the United States may punish the citizen who violates them; but it is expressly laid down in the decisions of the courts that this Government has no criminal jurisdiction within the States and cannot "keep the peace." The very latest decision on this point, and one which perhaps the gentleman held in his hand when he made his speech—the opinion delivered by Chief-Justice Waite in the case of The United States *vs.* Cruikshank—declares expressly that the life and liberty of the citizen are under the ægis of the State government.

Mr. ROBESON. The gentleman will allow me to ask him whether that decision of the Supreme Court goes further than to affirm that the State government is the protector of those rights which belonged to citizens as men before the Constitution was made—what are called their inalienable rights—life, liberty, and the pursuit of happiness; and does that decision go to the extent of saying that the peace of the United States shall not be protected by the power of the United States?

Mr. McLANE. The opinion of Chief-Justice Waite in the case of Cruikshank, which I hold in my hand, says expressly that there may be two sovereign jurisdictions at the same time; that the citizen may violate the law of the United States and the law of the State, and be punished by both—there being one offense but two punishments; but that under no circumstances can the United States take notice of murder committed in a State or in any way——

Mr. ROBESON. I ask the gentleman whether there ever was an indictment in a United States court that did not conclude with these words: "Against the peace of the United States, the Government and dignity of the same?" This having been the form and substance of every indictment in a United States court in the country during a hundred years, can it be said that the peace of the United States is not violated when its laws are violated and its functions interfered with?

[Here the hammer fell.]

Mr. TALBOT obtained the floor and yielded his time to Mr. McLANE.

Mr. McLANE. The issue is very narrow and very simple. Of course a statute of the United States may be violated, and it may be a criminal offense to violate it; and the indictment found under the statute may conclude, as the gentleman from New Jersey says, with the language "against the peace of the United States." The law expressly requires that an offense under a statute shall be set out in the terms of the statute; if it is not, the indictment will be quashed. But that has nothing to do with the common law sense of the phrase "breaking the peace;" and as I said the other day, the gentleman has too much respect for himself as a lawyer to dissent explicitly from the interpretation which I have placed upon the terms of the law in regard to using the troops "to keep the peace at the polls." The gentleman knows very well that when the statute was passed there was no law of the United States on the statute-book regulating suffrage; he knows very well that there is no power to pass such a law; hence when that law used the phrase "to keep the peace" it could only mean the peace of the States. There was no statute of the United States on the subject to be violated; there never can be such a statute, because this same decision says that the United States can pass no law regulating suffrage. It lays down broader ground, and says that the only power of the United States on this subject is when color is brought in question; that it is only in order to give the colored man the same rights as the white man that the United States may legislate. But until they have legislated, they can do nothing, and they have not yet legislated; the legislation we have put upon the statute-book has been declared unconstitutional and null and void, and there is not now in existence upon the statute-book any such law of the United States, and it is not a possible thing to have a breach of the United States peace at the polls.

Now, I will give the gentleman from New Jersey [Mr. ROBESON] my time, if he can contest that proposition. That is the question. That is the issue. Now I would like to hear the gentleman from New Jersey. [Applause.]

Mr. ROBESON. How much time will you give me?

Mr. McLANE. You will have as much time as I had when I commenced.

Mr. ROBESON. By permission of the gentleman from Maryland I beg to say that he has, unintentionally I doubt not, misrepresented the whole scope and force of that decision. The decision was on what is known as the Grant Parish case—a case in which there was no question of an election, either State or national—on a riot which arose I think at a public meeting in April, 1873. The decision of the court was to the effect that as there was no function of the United States then being performed, no duty nor right for the United States to guarantee, that the legislation which undertook to go so far as to regulate the State peace when the United States was not there with her duties and jurisdiction went too far, and that the indictment was so broad that it could not stand on the fifteenth amendment. That was the only real point in the decision and all that the court decided. And what is said in the syllabus of the case, and what is said in the opinion itself, is simply that an indictment for conspiracy to prevent those persons meeting there and transacting the business which they had before them was an offense against the State laws, because they were not there interfering with any United States function. That is the point.

The Supreme Court has never decided and the Supreme Court will never decide that where the United States has a duty to perform under the Constitution and the laws she has not the power to perform it.

[Here the hammer fell.]

The CHAIRMAN. The time fixed for debate on the pending amendment, that offered by the gentleman from Indiana, [Mr. NEW,] has expired.

Mr. McLANE. I ask the consent of the committee to read ten lines.

Mr. COOK. Let him read it.

The CHAIRMAN. The gentleman from Maryland is not in order unless the time is extended.

Mr. SPARKS. I will state to the gentleman from Maryland that the time fixed to act on this amendment has arrived; but after that is disposed of, the gentleman can again get the floor.

The CHAIRMAN. The time fixed by order of the House for debate on the pending amendment has expired. The Clerk will report the amendment.

The Clerk read as follows:

Add to the first paragraph of the pending section as follows:

Provided, That nothing contained in this section as now amended shall be held or deemed to abridge or affect the duty or power of the President of the United States under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section.

The question being put, there were ayes 95, noes not counted.

So the amendment was agreed to.

Mr. SPARKS. I give notice that I will ask for a vote in the House.

Mr. GILLETTE. I offer what I send to the desk as an additional section.

The Clerk read as follows:

SEC. 11. No appropriations made by this bill or by any other bill, and no deficiency in the Treasury occasioned thereby, shall be deemed by the Secretary of the Treasury ground for an increase of the interest-bearing debt of the United States, and any further increase of the said debt shall be unlawful.

Mr. CLYMER. I make the point of order on that amendment.

The CHAIRMAN. What is the point of order?

Mr. CLYMER. That it is not germane to the subject-matter before the committee.

Mr. GILLETTE. I desire to be heard upon that point.

The CHAIRMAN. The gentleman may address the Chair upon the point of order.

Mr. GILLETTE. I hold in my hand a letter written by the Secretary of the Treasury a few weeks since to the chairman of the Finance Committee of the Senate, which I quote so far as it refers to my subject:

TREASURY DEPARTMENT, *February* 26, 1879.

SIR: Permit me again to call your attention to the importance of some definite provision for the increased expenditure caused by the act approved January 25, 1879, for the payment of arrears of pensions.

It is manifest that the current revenue is totally inadequate to meet the large unexpected demand which, it is believed, will reach within the present and the next fiscal year at least $36,000,000. The estimated surplus revenue for the next fiscal year submitted in my annual report, $28,165,087.32, will be more than exhausted, and with the reduced revenue caused by the passage of the tobacco bill there will, contrary to my expectations at the beginning of the session, be a deficit of $18,000,000, which I trust Congress will not adjourn without making some definite provision for, or authorizing it to be temporarily covered by some form of loan.

* * * * * * *

The other alternative of taking the fund expressly provided for by the resumption act for the execution of its provisions would necessarily compel the exercise of the authority conferred by that act to sell bonds to maintain the resumption fund.

* * * * * * * *

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. JUSTIN S. MORRILL,
Chairman Committee on Finance, United States Senate.

In this letter the Secretary states that in case there is a deficiency caused by the various appropriation bills not specially provided for he will consider himself "compelled to exercise the authority conferred to sell bonds" to meet the deficiency. I am aware he is speaking of only one of the appropriation bills, but that makes no difference. Whatever bills tend to make that deficiency tend to give him the excuse for issuing more bonds to make up that deficit, and this bill, appropriating more money than the one then under consideration, is more responsible for that deficiency than the bill to which

the Secretary called the attention of the Finance Committee of the Senate.

The Secretary of the Treasury has felt himself authorized to increase the bonded debt of this country at his own pleasure. I have the first debt statement that he made, and also one made a month since, and I find that during his administration he has added to the bonded interest-bearing debt $285,000,000. Some of this is no doubt temporary; but it cannot be denied that he has permanently increased it to an alarming extent. It is claimed in the mean time, and has been claimed by his party all over the country and by his statements, that this debt is constantly being reduced, principal and interest. I deny here and now that the interest-bearing debt of the country has been reduced since the war, either principal or interest. I do not mean numerically, but I mean actually; and I challenge contradiction to the statement that it would require to-day more land, more labor, more of the fruits of the farm, of the anvil, and the loom to pay the debt of the United States, either principal or interest, than would have been necessary to pay it at the close of the war.

I further find in a paper just received from the Treasury Department a statement of the assets of the Treasury, and among those assets I find money to the amount of $514,779,501.03. A fraction of this, I am aware, is only held for a short time, but I give the items:

Gold coin and bullion	$133,265,559 43
Standard silver dollars	19,505,767 00
Silver coin and bullion	16,115,893 28
Gold certificates	400,220 00
Silver certificates	1,976,320 00
United States notes	72,650,231 65
United States notes, (special fund for redemption of fractional currency	8,519,741 00
National-bank notes	10,140,409 76
National-bank gold notes	92,815 00
Fractional currency	128,120 58
Deposits held by national-bank depositaries	249,586,805 22
Nickels and minor coins	1,451,618 11
New York and San Francisco exchange	946,000 00
Total	514,779,501 03

This startling amount is now under the control of the Secretary of the Treasury. In the face of this fact, he coolly notifies Congress that unless they make some direct provision to meet the deficiency which this and other appropriation bills will cause, rather than take from that mountain of useless money to meet that deficiency he will issue more interest-bearing bonds to curse this and succeeding generations. I challenge the world for another such picture. With the industries of the country paralyzed; with factories and machine-shops selling at one-sixth their cost; with our streets full of tramps who cannot obtain labor because their old employers are bankrupts; with farms selling for taxes which their owners are unable to pay; with twenty-five thousand miles of railroads placed in receivers' hands in the last three years; with a money famine everywhere, the Secretary of the Treasury, wielding more power than a king, having grasped in his insatiate hands the major part of all the money in the country, coolly notifies Congress that if there is a deficiency, rather than put out a few millions of his hoards for which the people are famishing, he will sell more bonds.

I appeal to all the members of this House to ask you if you are willing that this autocratic Secretary, in a time of profound peace, shall add one dollar to that debt which has already by its unjust manipulations, become a stench in the nostrils of the people, and done more to build up an aristocracy of wealth on the one side, and a nation of paupers on the other than any other cause?

I appeal to the majority of this House and most respectfully remind you that you owe your majority to the fact that in nearly all parts of the country you boldly denounced the present schemes of the Treasury, and advocated not only stopping the further increase of the bonded debt, but paying it off. I now ask you like men to back with deeds your words.

During the remarks of Mr. GILLETTE,

Mr. MITCHELL said: I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. MITCHELL. I understand the question before the committee is a point of order raised by the gentleman from Pennsylvania, [Mr. CLYMER,] yet the gentleman from Iowa [Mr. GILLETTE] is talking about the greenback question. Now I ask the Chair whether that is in order; and, if so, whether there will be an opportunity given to some other member to reply?

The CHAIRMAN. The Chair stated to the gentleman from Iowa [Mr. GILLETTE] that he should confine his remarks to the point of order, and the Chair was waiting until the gentleman had made some remarks upon that point of order.

Mr. MITCHELL. I make the point that he is not addressing himself to the question before the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GILLETTE. I ask permission to print the remainder of my remarks.

There was no objection.

The CHAIRMAN. The point of order made by the gentleman from Pennsylvania [Mr. CLYMER] is that the amendment proposed is not germane to the pending section. Without deciding that point, as it is not necessary for the Chair to do so, the Chair will hold that the amendment is not in order for the reason that it proposes an additional section to the bill. Now all this bill has been passed upon by the committee except section 6; that is the only part of the bill now before the committee for its consideration. Had this amendment been moved at the end of the bill as an additional section, as it purports to be, the Chair would then have entertained it and at the same time would have entertained the point of order upon it.

Mr. GILLETTE. I give notice that I will offer this amendment in the House if I get the opportunity.

Mr. MCLANE. I move to strike out the last word of the section.

Mr. CONGER. Is not debate closed on this section by order of the House?

The CHAIRMAN. The Clerk will read the order passed by the House yesterday.

The Clerk read as follows:

Mr. SPARKS moved that when the House next resolves itself into Committee of the Whole House on the state of the Union and resumes the consideration of the Army appropriation bill, all debate upon the pending amendment should close at twelve o'clock and thirty minutes p. m.; which said motion was agreed to.

Mr. SPARKS moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. ATKINS. Is that order now in force?

The CHAIRMAN. That order has been exhausted by the expiration of the time to which it was limited. The committee will notice that the reading of the order is that "all debate upon the pending amendment should close," &c.; that is the amendment submitted by the gentleman from Indiana, [Mr. NEW.] When the hour of half past twelve o'clock arrived, the Chair stated to the committee that all debate upon that amendment was closed by order of the House, and the committee then proceeded to vote upon the amendment and disposed of it. The Chair entertained other propositions to amend, and the gentleman from Maryland [Mr. MCLANE] now moves to strike out the last word of the section.

Mr. MCLANE. The decision of Chief-Justice Waite, to which I referred, is far more general in its character than was stated. That case presents an indictment containing sixteen counts, divided into two series. It is, therefore, a criminal indictment under an act of Congress, and that part of the decision which I shall read to the committee is not the general observations of the court, but the actual decision upon the counts. So far as the general observations of Chief-Justice Waite are concerned, they give a very full answer.

Mr. PRICE. The gentleman is not speaking to his amendment at all. He moves to strike out the word "years," and I ask that he be required to speak to his amendment.

Mr. MCLANE. You are entirely out of the habit and practice of the House.

Mr. PRICE. There are gentlemen here who desire to speak upon the merits of the section, if they can get the opportunity. We have had about as much of that kind of constitutional discussion as we want to listen to. The gentleman moves to strike out the word "years," and now let him speak to his amendment or quit.

The CHAIRMAN. The Chair is of the opinion that this course has been pursued for many years.

Mr. PRICE. But that does not make it right; the rules of the House do not allow it.

The CHAIRMAN. Then the gentleman must make an additional code of rules.

Mr. MCLANE. The general observations of the court give a very full answer to the inquiry addressed to me on yesterday by the honorable gentleman from Ohio, [Mr. GARFIELD;] the inquiry of what became of an offense committed, say at a post-office. Chief-Justice Waite tells him that there will be two offenses, an offense against the State of a breach of the peace and an offense against the United States of a breach of United States statute, and the man can be tried for both offenses. I will give the answer of Chief-Justice Waite to that question instead of one of my own. I call the attention of the gentleman from New Jersey who thinks this case has been misstated by me to the opinion of the court upon the third and eleventh counts of this indictment. I read the language of Chief-Justice Waite:

It is nothing less than alleging a conspiracy to falsely imprison or murder citizens of the United States being within the territory of the State of Louisiana. Rights of life and personal liberty are natural rights of man. "To secure these rights," says the Declaration of Independence, "governments are instituted among men." The very highest duty of the States when they entered into this Union under the Constitution, was to protect all citizens within their boundaries in the enjoyment of these "inalienable rights with which they were endowed by their Creator." Sovereignty for this purpose rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

Now, the committee will bear me witness that I have never made any question with the gentleman from New Jersey about the right to use the Army in sustaining a marshal when executing a process of a United States court; and I have never made any issue with him as to the right of the Federal Government to give protection to its officers in the performance of their constitutional duties. I told him expressly that I conceded both those points; and I asked him whether, in addition to those two powers, the United States could "keep the peace." He said in reply that he knew of no decision to the contrary.

[Here the hammer fell.]

Mr. MCLANE. I withdraw my *pro forma* amendment.

Mr. CONGER. I move to strike out section 6 of this bill, referring to sections 2002 and 5528 of the Revised Statutes.

The CHAIRMAN. The Chair will entertain amendments to perfect the text of the section; and when they have been voted on it will be in order to vote on the motion of the gentleman from Michigan, which will be considered as pending.

Mr. LOWE. The gentleman from Michigan has been anticipated in part. I have already made a motion which is pending, and I presume will be taken up when the motion previously pending has been passed upon by the committee.

The CHAIRMAN. The Chair did not understand the gentleman from Alabama [Mr. LOWE] to submit an amendment.

Mr. LOWE. I submitted a motion and sent it in writing to the Clerk.

Tho CHAIRMAN. The Chair did not so understand.

Mr. CONGER. I ask that the motion of the gentleman from Alabama be read.

The CHAIRMAN. The Clerk will read the motion of the gentleman from Alabama.

The Clerk read as follows:

Strike out the sixth section of the bill with instructions to the chairman of the committee to report, on the rising of the committee, that section as a separate bill for the present action of the House.

The CHAIRMAN. The Chair cannot entertain this motion.

Mr. CONGER. I recollect that amendment; but I supposed the Chair could not entertain the latter part of it.

Mr. KELLEY. Perhaps the gentleman from Alabama will withdraw the latter part.

The CHAIRMAN. The latter part of the amendment is not in order as an amendment to this bill. The Committee of the Whole cannot report to the House any bill unless it has been referred to the committee.

Mr. LOWE. Will the Chair entertain the first part of the motion?

The CHAIRMAN. The Chair will entertain the motion to strike out the section. The gentleman from Alabama moves to strike out section 6. The Chair has already stated that pending this motion other amendments designed to perfect the text of the section will be in order.

Mr. CONGER. Mr. Chairman, I was not aware that a motion to strike out section 6 was pending; and it was not pending in the shape in which I offered it. I propose now to make this proposition to our friends on the other side of the House: that they adopt this amendment; that we strike out this section of the bill referring to the two sections of the statutes, and that the committee on rising recommend to the House, so far as we may do, the passage of a separate bill repealing entirely these two sections. Without consultation with all gentlemen on this side of the House, yet after conversation with several of them, I feel authorized to say that upon the committee rising and recommending to the House the immediate introduction of a separate bill repealing these two sections of the Revised Statutes, such a bill, so far as our side is concerned, can be passed immediately without debate and without delay, leaving the Army appropriation bill, without this rider, and without anything objectionable upon it. Thus the Army appropriation bill and a bill repealing these two sections of the Revised Statutes may both be passed to-day and sent to the Senate.

Now, Mr. Chairman, if this law be so objectionable that it must be amended at the risk of stopping the supplies for the Army, at the risk as is charged on one side of the House of producing revolution in fact in our Government, it seems to me the better way, if we can agree upon it, would be that the House of Representatives should pass a bill repealing the whole of this so-called objectionable legislation; and it is with that view I have offered here to the House the proposition to strike out section 6 of this bill, accompanied by the proposition we tendered to our friends on the other side of the House that when that is done the committee rise and the bill be reported immediately repealing these two sections, and acted upon in the House, and then that the Army appropriation bill be passed.

I do not propose to discuss at this time at all the merits of any of the propositions before the committee, for I have not the time; but in good faith and in the interest of harmony, in the interest of peace and in the interest of the country, in the interest of a short session of Congress, we make this proposition to strike this section out of the Army bill and thus remove the objection to its passage, and we tender to the other side the assurance we will assist them in repealing these objectionable laws entirely and striking them from the statute-book of the country.

[Here the hammer fell.]

Mr. MCMAHON. Mr. Chairman, I do not know how far the gentleman who has just taken his seat is authorized to speak for his side. I am certainly not authorized to speak for mine. But I wish it distinctly understood that in 1865 and since then the party which he represents claimed the most unlimited power with the troops. The law as it now stands not only denies that unlimited power, but puts the seal of crime upon the officer of the United States who violates it. He now proposes to repeal all the law preventing the improper use of troops. We want to keep the law there and make it more perfect. We found that the law alone and the Constitution are not sufficient to keep the republican party from using the Army on any occasion it saw fit. We want the law to hold them down. I for one repudiate the gentleman's proposition.

But I rose, Mr. Chairman, to have read an extract from the letter and instructions of a prominent Attorney-General of the United States, Hon. William M. Evarts, written on the 20th of August, 1868, to Alexander Magruder, United States marshal northern district of Florida, at Saint Augustine, Florida. I will ask permission to have the whole letter printed as part of my remarks, as there is not time to read it all through now. I request the Clerk to read now what is marked to the end of the letter.

Mr. CONGER. Whatever is read can go into the remarks now, and the other part can be withheld for some other gentleman's speech. I do not want to anticipate a prepared reply next week.

Mr. MCMAHON. It is only fair to his side that I propose the whole letter be printed. If he does not want it, very well.

Mr. CARLISLE. The gentleman from New York [Mr. CHITTENDEN] was allowed this morning to read a part of a letter and to print the whole of it. It is only fair to both sides.

Mr. CONGER. I withdraw my objection. The letter has been already printed.

The Clerk read as follows:

ATTORNEY-GENERAL'S OFFICE,
August 20, 1868.

SIR: Your letter of the 12th instant reached me yesterday, and has received an attentive consideration. Colonel Sprague's information to you must have been based upon his own construction of General Meade's order lately issued, and not upon any special instructions from the President to Colonel Sprague through General Meade or otherwise, as no such special instructions have been issued by the President. You add: "Under some circumstances I should be glad to have the aid of the military, and, if practicable, would be pleased to have instructions given to the military to aid me when necessary. I ask this as Colonel Sprague informs me under his instructions he cannot do so."

This desire and request for the aid of the military under certain circumstances I understand to refer to the occasional necessity which may arise that the marshal should have the means of obtaining the aid and assistance of a more considerable force than his regular deputies supply for execution of legal process in his district.

The twenty-seventh section of the judiciary act of 1789 establishes the office of marshal, and names among his duties and powers the following: "And to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty, and to appoint, as there may be occasion, one or more deputies." (1, par. 87.)

You will observe from this that the only measure of the assistance which you have power to command is its necessity for the execution of your duty, and upon your discreet judgment, under your official responsibility, the law reposes the determination of what force each particular necessity requires. This power of the marshal is equivalent to that of a sheriff, and with either embraces, as a resort in necessity, the whole power of the precinct (country or district) over which the officer's authority extends. In defining this power Attorney-General Cushing—and, as I understand the subject, correctly—says it "comprises every person in the district or country above the age of fifteen years, whether civilians or not, and including the military of all denominations—militia, soldiers, marines—all of whom are alike bound to obey the commands of a sheriff or marshal."

While, however, the law gives you this "power to command all necessary assistance," and the military within your district are not exempt from obligation to obey, in common with all the citizens, your summons, in case of necessity, you will be particular to observe that this high and responsible authority is given to the marshal only in aid of his duty "to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States," and only in case of necessity for this extraordinary aid. The military persons obeying this summons of the marshal will act in subordination and obedience to the civil officer, the marshal, in whose aid in the execution of process they are called, and only to the effect of securing its execution.

The special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which, under our Government, belongs to the civil authorities of the States, and not to the civil authorities of the United States. Nor are this special duty and authority of the marshal in executing process issued to him to be confounded with the authority and duty of the President of the United States in the specific cases of the Constitution and under the statutes to protect the States against domestic violence, or with his authority and duty under special statutes to employ military force in subduing combinations in resistance to the laws of the United States; for neither of these duties or authorities is shared by the subordinate officers of the Government, except when and as the same may be specifically communicated to them by the President.

I have thus called your attention to the general considerations bearing upon the subject to which your letter refers for the purpose of securing a due observance of the limits of your duty and authority in connection therewith. Nothing can be less in accordance with the nature of our Government or the disposition of our people than a frequent or ready resort to military aid in the execution of the duties confided to civil officers. Courage, vigor, and intrepidity are appropriate qualities for the civil service which the marshals of the United States are expected to perform, and a re-enforcement of their power by extraordinary means is permitted by the law only in extraordinary emergencies.

If it shall be thought that any occasion at any time exists for instructions to the military authorities of the United States within any of the States in connection with the execution of process of the courts of the United States, these instructions will be in accordance with the exigency then appearing.

I am, sir, very respectfully, your obedient servant,

WM. M. EVARTS,
Attorney-General.

ALEXANDER MAGRUDER, Esq.,
United States Marshal Northern District of Florida, Saint Augustine, Florida.

Mr. MCMAHON. I am glad to know Mr. Evarts is in the Cabinet of the President, and no doubt will adhere to the propositions laid down in that letter.

[Here the hammer fell.]

Since the inception of this debate, Mr. Chairman, I have sat here and listened attentively to every argument which has been presented, and I trust to my own edification. At the very outset, sir, when I heard the remark coming from the honorable and distinguished gentleman from Ohio [Mr. GARFIELD] denouncing the man who attempted to raise sectional issues as a platform upon which he hoped to win in 1880, I felt possibly that in the Forty-sixth Congress we might have some wholesome legislation for the people. But, sir, when that distinguished gentleman rises as the leader of his party and denounces the majority on this side of the House, coming from

the South, as revolutionary in their designs, I confess that I can see no candor in the man or in his proposition.

Sir, following that leadership, this debate has taken a wide scope, and members on this floor have exhausted their ingenuity in hunting up all the sectional legislation of the past and flinging it at this side of the House with an avowed purpose of arousing sectional strife, and every thrust they have made has been directly at those of us who come from the South and constitute the democratic majority in this Hall. Sir, they have gone back to the days of nullification in my own State, and from there on we have had Anthony Burns with a democratic rope, I suppose, around his neck; we have had the bonfires and torchlight processions of Norfolk commemorating his capture; and we have had a most graphic description of what occurred in Kansas during the squatter-sovereignty difficulties. But the gentleman who gave us that recitation failed to present one bright chapter in the history of Kansas; we heard nothing from him of Beecher's rifle sermons. And, sir, while he was excoriating southern men for their sentiments and their acts when Kansas was on the frontier of our civilization, he forgot to tell us that, after being enlightened by republican rule for twenty years, within the last ten days the citizens of his own State have hung a negro, burned him at the stake, and danced in bacchanalian revelry around the funeral pyre.

Sir, in addition to that we have had the "nigger catcher"——

Mr. HASKELL rose.

Mr. AIKEN. If you please, do not bother me, [laughter,] I have not the time. We have had the "nigger catcher," and the gentleman from Connecticut [Mr. HAWLEY] will excuse me, for it is the title he gave himself, coming here and dictating to us, and abusing us for the past. He has said to us, "You gentlemen are relying on treacherous friends; you gentlemen must know that in the Northern States all the patriotism, all the intelligence, all the capital belongs to the republican party." I say to that gentleman, if he were half as wise as he thinks he is, and knew anything about the Southern States, he would know that all the intelligence, all the property, all the virtue, all the worth belongs to the democratic party there. [Laughter.]

Now, Mr. Chairman, in addition to all this I have sat here and heard from gentlemen of eminent ability and great legal learning, men of national reputation, long constitutional arguments on this question. And yet, sir, I only had to see the locality from which the voice came, whether it was this side or that side of the Hall, and I knew what that speaker's convictions were. Therefore, sir, I have come to the inevitable conclusion that there is not so much constitutional construction required about this question after all. It is a plain practical question, the merits of which I have not yet heard argued upon this floor.

Sir, I hold that the existing statute cannot upon its face, either in letter or spirit, practically be carried into effect. Every possible effort to do so must be partial and partisan. It cannot be otherwise. Why, Mr. Chairman, we have but one day of national elections; and I ask here what State executive, what individual anywhere on this great continent of ours, has a right to prejudge the people of any polling place and say that they intend to have riot on a day of election; and if they do not prejudge them and send the troops there before the day of election, then it will be too late, and they cannot be sent there at all. I say further, the existing statute is a partisan measure, passed by a partisan Congress, enforced by partisan executives, and now supported by partisans for the purpose of upholding partisan power in this Republic, and on that account should be stricken from our statute-book. Is there any man here who has ever seen the principles involved in this law executed?

Bear with me, Mr. Chairman, a few moments longer while I give you my own experience. In 1868 at the presidential election, for the first time after the war, I was permitted to vote. I went to the polls designing to vote. The house in which the polling took place was a private residence in my own village, about fifty feet from the street. The gate, which opened from the street, was thrown wide open early in the morning, and there paced a sentinel with loaded rifle. When I entered the yard I met another sentinel walking backward and forth from the gate to the window, inside of which was the ballot-box, with a loaded rifle on his shoulder. I went to the poll, and the managers from courtesy to me, and friendship, for I knew them well, asked me to come inside the room. I went in; and secreted between the ballot-box and the window sat a United States officer in full uniform. I remained but a moment, and retired. The managers asked me, "Don't you intend to vote?" I said: "No; no freeman will ever cast a ballot under duress; and for that reason I refuse to vote." There was no intimidation about it.

One moment more, if you please; I beg the committee to allow me to make one further illustration. [Cries of "Go on!" from the republican side.] At that polling place there were 600 votes cast, not one of them a democratic vote. Since that time every legitimate voter within the precinct has been registered and counted, and there are not over 650 of them. The difference between the democratic party and the republican party in that voting precinct is not 35 votes. But on that day of election there were 600 republican votes cast, and not a half dozen democratic votes; yet gentlemen tell us that the democratic party stuffs the ballot-boxes. Why, sir, the republican party down South has been wearing the champion belt for that sort of thing ever since the war.

One thing more. In 1872 I went to another polling place in the same county. There I found a squad of soldiers, one lying down smoking his pipe, and three or four others pitching quoits. Their guns were stacked within fifty yards of the ballot-box. There were three hundred and fifty odd votes cast that day, and not one of them was a republican vote. Why? Simply because on that occasion the republicans heard that the soldiers were democrats. [Laughter.] And they on that occasion exercised the privilege of not voting under duress, as I had done four years before. [Great laughter.] I say that this is a partisan measure, and the sooner we wipe it out the better.

[Here the hammer fell.]

Mr. O'CONNOR. Mr. Chairman, I have heard this debate with intense interest and with the profoundest concern for the national weal. The principle involved in the amendment under consideration underlies the whole structure of our Federal system and goes to the root of civil liberty. Upon it the two great opposing parties now confront the nation upon the floor of this Chamber and they are doomed to stand in conflict until the Constitution is permitted to resume its sway. Party license allied with party greed and corruption have wrenched this Government from its appointed orbit, and the democratic party in this the Forty-sixth Congress has entered upon its mission to restore the just equilibrium of the laws and the Constitution in the government of the country. The political history of the last eighteen years is replete with the innovations which have been made upon our fundamental charter. And made by whom? By that party which has dominated over the councils of the nation since 1861.

A party domination which might have held its sway over these States for an indefinite period if the counsels of wisdom and the admonitions of justice had been heeded has by its reckless and stupid obedience to party clamor and the law of Mammon and of power forfeited its right to direct any longer the destinies of the American people. Step by step they have encroached, barrier after barrier they have broken down, until the Constitution remains but a rope of sand in their way. It was the renowned leader of the present opposition, Thaddeus Stevens, who, in the Thirty-ninth Congress, startled the nation with the declaration that his party had encamped itself outside of the Constitution. It was the same party that in 1867 stripped their own chosen Executive by succession of his constitutional prerogative of veto, curtailed him in the exercise of his rightful power, and, urged onward by its intoxicated passion, dragged him before the bar of the high court of impeachment. It was this same party that by a single stroke of legislation reversed the natural order of things in one-third of this continent, and by a fatal blind policy reduced to desolation and degradation and bankruptcy and beggary nine sovereign States of this Union. And after visiting these indescribable calamities upon a people who were forced to look on with impotent anguish and wordless ire while darkness more profound threatened to eclipse their civilization, and while returning justice was about regaining the ascending scale, they quartered their troops wherever they dared, constituted in States that were once free the corporal of the guard chairman of the board of managers of election, and menaced with bayonets the returning boards of certain States that the votes might be registered as the pretor demanded.

The suppression of the free and untrammeled voice of the people in their national elections in certain States for years past has no parallel save when the pretorian guards of Rome dictated the choice of a Roman Emperor. And to cap the climax of absolutisms, after the ascertained will of the American people had been expressed by a popular majority of the whole people of three hundred thousand in response to the edict of the head center of that party, the votes of those States were stolen, and to consummate this dark crime of infamy and robbery and perjury this very Capitol was for a time turned into a camp, and the guns of its commander were ranged upon this House to terrify into submission the Representatives of the people. And in the light of all these events which are but of yesterday we are to be twitted by the renowned champion of the opposition with the charge of organizing revolution. Revolution, indeed! He and his party have dragged this nation to the perilous edge, and from the gulf which yawns the democracy intends and will rescue the fabric of our institutions and our civilization. If the South did try, in the exciting terms of the member from Ohio, to shoot the Union to death for four years, history will record it to the shame of his party that they have for fourteen years been corrupting the Union to death. And the gentleman need not fear; the nation will not be starved to death. In the blind madness of their fury they would coerce the President to this dread alternative; but they should not, they cannot succeed. We have been thus early convoked here by the President to furnish supplies to run the Government, just as we were prepared to do in the last Congress until impeded and opposed by the Senate. The Representatives of the people, who are the sovereigns of this country and hold the purse, do not intend to be coerced. It is our province and our prerogative, it is our duty, to see before we give the taxes of the people that all grievances are redressed.

The spirit of liberty that now moves abroad I believe animates our President. He has been brave enough to challenge the frowns and the denunciation of his party in lesser exigencies, and where he has nothing left now to serve but his God and his country he will be equal to the emergency. He will not allow the gentleman from Ohio to put that Waterloo chip under his heel, nor will he carry it upon

his shoulder. The repose and peace and happiness of the millions who inhabit our great country are of more consequence than the party pride and reluctance to abdicate power which is the distinguishing feature in the gentleman's conduct. He invokes the spirit of revolution and discord from the depths, but the spirit will not answer. There may be a greater revolution portending than that which the other side in the plenitude of its vision conjures up—the revolution of the toiling millions asking for labor and hungering for bread. But the constant wail of the necessities of a depressed and impoverished people, ascending as they are daily to this Capitol, cannot endanger the integrity and permanency of our Republic. The foundations of this Capitol may totter and the edifice crumble into ruins, but the Republic will still advance and still live. The Republic, which has been beautifully and classically apostrophized as the personified child of a proletarian family, born and bathed in the sweat of labor and nursed in the anguishes which misery inflicts upon society; which was revealed in the dreams of Rousseau, which became a marvelous artist of speech; was heard in the majesty of Bossuet, in the howlings of Babel; melting in the tender poesy of Lamartine, awaking with the manly apostrophes of Victor Hugo, and falling in with the tender sensitiveness of Bernardino de St. Pierre. It seemed to possess the notes of all styles that it might repeat better the echo of all griefs. It was the genius of social criticism as Kant was the genius of scientific criticism. It entered into the Pantheon of contemporaneous history, where were gathered up all the old ideas, with the same honor with which the ancient Christians entered the Latin Pantheon, where were collected all the idols, and placing them into his vast crucible and passing them under his mighty examination, he smashes them; and after the storm has passed the only affirmations that furrow his brow are the Federal Republic, one and indivisible, and the capability of man for self-government.

The distinguished gentleman from Maine has been pleased to hurl a shaft at the State of South Carolina, which I have the honor in part to represent, but it has missed its aim and has fallen harmless at the feet of her delegation. South Carolina did not in 1832 aim to capture the Capitol, nor was she stamped out of existence by Andrew Jackson. She took the attitude of vindicating her interpretation of the American Constitution, and by her attitude in that solemn hour Harry Clay struck the union-jack at Washington and brought about a modification and compromise of the tariff. I am admonished that under the rule regulating the debate I must draw to a close. Thank God that from the ashes of despotism we see flashing again the fires of liberty.

During the delivery of the foregoing remarks the hammer fell.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HASKELL obtained the floor.

Mr. FORT. I hope the gentleman from Kansas [Mr. HASKELL] will allow the gentleman from South Carolina [Mr. O'CONNOR] to continue his remarks.

Mr. HASKELL. I will yield if I can have the floor afterward.

Mr. WHITE. It is valuable information for the country.

Mr. HASKELL. If the same courtesy can be extended to me——

Mr. COX. I would give the gentleman my time if I had any.

There being no objection, Mr. O'CONNOR resumed and concluded his remarks as above.

Mr. HASKELL. Mr. Chairman, I move to amend by striking out the last word. The honorable gentleman from South Carolina [Mr. AIKEN] has seen fit to allude to the fact that in the State of Kansas a negro was recently hanged and his body afterward burned—of course without due form of law. I admit the fact. That man was killed by a mob in my district of that State. But why did not the gentleman go on and tell the whole story of the outrage, and tell why that miscreant was thus treated by a mob. It was for that unnamable of crimes, an outrage that shocks all humanity everywhere, perpetrated repeatedly upon the body of a ten-year-old girl, leaving the poor child almost dead in the fields; and the friends of the parents of the girl, many of them hard-working miners, outraged beyond measure and terribly indignant, took the law into their own hands and punished him. I leave that matter for your judgment and that of the country, without one word of defense for any unlawful act.

The gentleman wonders, too, why, in my review of one of the early elections in Kansas, I did not speak of "Beecher's rifles," and did not tell of the organization on our side for the protection of our homes. There never was a "Beecher's rifle" sent to Kansas until you had marched armed men into that Territory and subverted and overrode our election laws, and forced upon us thereby a bogus territorial government; not until you had passed those two infamous statutes, one of them forbidding any man to speak or to write against the institution of slavery upon pain of punishment as for a felony. You marched an armed body of men into my town before ever a "Beecher's bible" was sent to Kansas; and a drunken democratic ex-Vice-President of the United States pointed a cannon leveled against one of the hotels of my town. I stood by the breech of that cannon myself and witnessed the destruction of that building and others in my city, and saw the sack of private residences beside; while I stood there, when the black smoke was curling out of the windows of that hotel, I saw a blood-red flag run up the flag-staff, bearing on its crimson folds a single white star. What was that? It was the colors of a company of South Carolina militia sent to my Territory to destroy the freedom of elections there. Then, thank God, Beecher *did* send his "bibles;" then the North *did* send her truest and bravest men to our relief. You had flung down the gauntlet, as you have flung it down here, as you have flung it down to the negro of the South, daring him to assert his rights. In Kansas you were not dealing with a set of poor, down-trodden plantation hands; you were dealing with the best blood and bone and sinew of the United States. We took up your gauntlet and we won that battle.

You upon the other side charge that the republican party has countenanced all sorts of "rings;" been guilty of all sorts of crimes, and of willful misrule during the eighteen years of its ascendency in this country. You criticise us for lack of statesmanship in every detail of government. You charge us with wrongs in financial management. You accuse us of the disarrangement of capital and labor. You heap upon us all sorts of accusations. You charge us with imperialism, with Cæsarism. Yet almost every speaker on the other side of the House, during this debate, has quoted to us the laws, the precepts, and the institutions of a monarchy as governing us in our deliberations and furnishing us with proper precedents for the enactment of laws. Now let me ask you, without any covert sneer, or partisan feeling or hate, why is it that you quote from the institutions of England to show the wrong of the republican party?

You went out of this Union, a great many of you; you believed that republican rule was outrageous, and you established a government of your own. You had States; you had Legislatures; you had constitutions; you had laws; you had a congress of the Confederate States. Why—and this is a pertinent question—why has no man in criticising the work of the republican party quoted the wiser acts of the confederate congress? Why have you not shown us a "better way?" Why have you not pointed us to the legislation of Southern States as being better than ours? Why have you not referred us to confederate systems of finance? Why have you not referred us to confederate adjustments of labor and capital? Why have you not shown us confederate methods of auditing accounts and administering public affairs better than you say we have done? No such reference has ever been made. I conclude, therefore, that in the four years of your attempt to establish a government you succeeded no better than we. Instead of taking precedents from your own American history; instead of referring to your own enactments as suggesting remedies for the wrongs you charge upon us in legislation, you are forced to fly for your statesmanship, for your methods of administration and practice, not to your confederate government, but to the monarchy of Great Britain. Where is the imperialism? Where is the Cæsarism? We point downward along the eighteen years of republican supremacy, and we defy you to place your hand upon a chapter of legislative proceedings, of statesmanship, of governmental administration in any nation that, taking the eighteen years as they run, will show a wiser, a better, a more loyal and efficient administration of affairs.

[Here the hammer fell.]

Mr. COX. Mr. Chairman, while the gentleman from South Carolina [Mr. AIKEN] and the gentleman from Kansas [Mr. HASKELL] were speaking, memory, exercising its functions in my mind, brought up the remote past. I remember making from this desk in this Hall the first speech on the subject of admitting Kansas, twenty-two years ago. Have we progressed none since that time? "Beecher's bibles," "Sharp's rifles," and "John Brown of Ossawatomie" danced through the debates of that day in all the mazes of political confusion. Have we learned nothing since then? Are the same old sectional questions still to be agitated? We should have made progress both as to ethics and the practices of parliamentary bodies.

First, as to the principle. I believe, and I urged in the democratic council preliminary to the introduction of this bill, that the repealing bills should be introduced here independently of the appropriation bill, pure and simple, as the better practice, more in consonance with the progress of political science, which demands bills should not be multifarious, should not be complicated. I knew both sides had more or less practiced wrongfully, but no two wrongs, no two set of practices, can make a right. Gentlemen will not have the opportunity just now to vote for these bills pure and simple. I wish they could have had that right, but I bowed in the councils of my party to the superior wisdom, if not experience, of others.

We have made no progress in political science, it seems. Why is it we are now debating a question settled in England and in almost all other nations hundreds of years ago—the question between force and freedom, right and wrong? And still gentlemen on the other side insist on having force at the polls. Why, election means choice—free choice—no compulsion. Have we, sir, made no progress in the last two hundred years?

The gentleman from Kansas [Mr. HASKELL] sneers at our going back to monarchies for our instruction. Why, the principal leading case, as I remember—you will find it printed in Smith's Leading Cases; I cannot now recollect the exact name of the case, but my friend from Kentucky [Mr. KNOTT] likely will—in that leading case Judge Holt decided there was a common-law right of action for any man who was debarred wrongfully of his right to vote. That case has never been overruled by any respectable tribunal. It is the common-law right in England and America.

Before this debate opened, Mr. Chairman, I hinted there was a reservoir from which all might draw with satisfaction in this debate. I referred to the speech of Ex-Senator Powell, now deceased, in a very short remark, to wit, that it contained all worth knowing about the

relation of the Army toward free government and free elections. That was the only remark I made. After the adjournment my distinguished friend from Ohio [Mr. GARFIELD] asked me to look up that debate, and to look up the votes on it, or, at least, the record on it. I did so, and I laid it upon his table in the Ways and Means Committee room. I did him that courtesy. But what was my surprise when home the other day, (if I may be allowed to use an almost unparliamentary expression,) what was my surprise to see how he had perverted that record, and perverted the very speech of Governor Powell. Oh, yes! shake not thy gory head at me. [Great laughter and applause.]

Mr. GARFIELD. Thou canst not say I did it.

Mr. COX. The gentleman's remark is not heard here because he is sitting at his desk, and of course it does not go into the RECORD. [Laughter.]

Now, that has been sufficiently debated. Gentlemen know how it has been debated, for I have read the debate in my absence. There is nothing more to be said on that subject. I happen to be familiar with that speech and that subject because Governor Powell did me the honor then to ask me to assist in looking up some of the proceedings and authorities on that subject, and he read his speech to me in his room before he delivered it in the Senate. I have read that speech since, and unless the gentleman from Ohio has perverted it he is willing to vote, I take it, for these repealing clauses relating to elections pure and simple.

I thought I heard the gentleman from Michigan make a proposition to this side of the House. Did I understand him to say if this appropriation bill were passed without these repealing clauses he would vote for the repealing clauses in bills independently, just as we have them now in this bill?

Mr. CONGER. The gentleman understood me to say I would vote for repealing those two sections.

Mr. COX. Ah! [Laughter.] That is not the point at all.

Mr. CONGER. If that be yes I say yes.

Mr. PRICE. That is what we offer.

Mr. COX. That will extend the power of the Army over the elections leaving that law remain.

Mr. GARFIELD. Oh, no.

Mr. COX. I will look after that after the House has adjourned and the vote has been taken. [Laughter and applause.] The gentleman from Ohio shall have his opportunity.

Mr. GARFIELD rose.

Mr. COX. The gentleman from Ohio rises. He shall have his opportunity. If this bill passes this House with this "rider" upon it and it goes to the President and the veto which has been so truculently threatened comes down upon us, then let the Senate send us this repealing bill, pure and simple, and we will test the gentlemen on the other side of the House. [Laughter and applause.]

Mr. CONGER. Bring them on.

Mr. PRICE. We are ready for them.

Mr. COX. I am glad of it, but we will pass this bill first. [Laughter and applause.]

[Here the hammer fell.]

Mr. CANNON, of Illinois. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by striking out the word "civil" in line 4 of section 6, and also in the twelfth line of the same section.

Mr. CANNON, of Illinois. Mr. Chairman, the gentleman from Kentucky, [Mr. BLACKBURN,] when he addressed the House on Thursday last, claimed that but one issue was presented in this legislation, namely, "whether the ballot-box shall be turned over to the tender mercies of the Army," and democratic members generally have made that claim in discussing this bill. Now, sir, I say that there is no such issue presented by this legislation, and gentlemen are not candid when they so claim. It is not the military arm of the Government that you fear in the matter of elections of members of Congress, but, on the contrary, it is the civil arm of the Government that you seek to strike down by the proposed legislation, and I will demonstrate it here and now by the amendment which I have offered and by your vote to be taken upon the same. Section 6 of the bill as you propose to pass it is as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

Now, my amendment is to strike out the word "civil," in line 4 of the section, thereby leaving intact all that you claim to desire touching the military and naval power as to their non-use in connection with elections, and at the same time not interfering with the use of the civil arm of the Government to prevent intimidation and riot at the polls where Federal elections are being held. And I state here that I for one, and I believe republicans generally, will be willing to agree to the passage of a bill such as this would be with the word "civil" stricken out.

Now, sir, the other side claim that we are seeking to stir up sectional feeling and revive the war issues. I deny it. We hoped, the republican party hoped, and the country hoped that the issues settled by the war never would be revived or presented for settlement again, and it is only as the doctrines which led to the war are reasserted and sought to be woven into legislation by the democratic party that they are revived by patriotic resistance from the republican party.

All recollect how the war arose. It was affirmed upon the one hand that the United States had the power to protect and perpetuate itself. On the other hand it was held that it existed only by the voluntary consent of the States, which could be withdrawn at any time by secession. The issue was made up and the trial was by battle. Its trial was protracted and bloody. The Government triumphed, and it was established that it had power to protect itself, thanks to the principles and leadership of the republican party.

The gentleman from Kentucky [Mr. BLACKBURN] boasted the other day "that after eighteen years the democratic party had again come into its heritage," and gave notice that the legislation of the last eighteen years was to be swept from the statute-book. Now, sir, I should be glad to know where the so-called heritage the gentleman speaks of would have been found if it had not been for the republican party and its legislation. But, sir, after all the bitter contest of the last eighteen years, the first thing the democratic party proposes to do is to write upon the statute-book the practical declaration that the United States has not the power to perpetuate itself, by taking from the United States any and all power it has to use its civil arm to prevent fraud and intimidation at elections where its members of Congress are to be chosen.

Section 4, article 1, of the Constitution expressly gives Congress the power to control the time, place, and manner of holding elections for members of Congress. Story, in his comments upon the Constitution, speaking of this section, says that its propriety rests upon this plain proposition, "that every government ought to contain in itself the means of its own preservation."

The crying frauds in Federal elections in New York and elsewhere, as well as the force and intimidation in many parts of the country, made legislation by Congress absolutely necessary, under which a free and fair Federal election could be held. The necessities of the democratic party demand that this legislation shall be repealed, so that in 1880 her bulldozers and ballot-box stuffers and repeaters may override the will of the majority without the fear of being interrupted by the civil arm of the United States when an election is to be held; and forthwith you proceed, under the pretense of restraining the military arm of the Government, which is not and cannot be used under existing law as you claim, to paralyze the civil arm of the United States. You shall not do it by my vote or consent.

[Here the hammer fell.]

Mr. FINLEY. Mr. Chairman, I have not examined the bill with reference to the amendment proposed by the gentleman from Illinois, [Mr. CANNON;] but it occurs to me that to strike out the word "civil" would nevertheless leave the power with the marshals and the supervisors to use the military at the polls. I say I have not examined it with special reference to that point, but it occurs to me that the objection I have named would be against his amendment.

Now, I want to say in the few moments that I have allotted to me that our republican friends make the assertion that they are opposed to this repeal in the interest of an honest ballot; that they are opposed to this repeal in the interest of free, full, and fair elections. That is the way it is being put in the papers and upon the floor of this House. I have, Mr. Chairman, this to say: that the practices of the republican party, the history of the republican party for the last sixteen years shows that pretense a false pretense, a delusion. Over a quarter of a million dollars were spent at the last election out of the public Treasury in employing and paying republican marshals at the polls to work for the republican nominees. In the city of Philadelphia seven hundred republican marshals, as is shown by the testimony which I hold in my hand, were paid $5 a day each for two days; over $7,000 paid them out of the public Treasury; and every one of those marshals worked at the polls from morning to night, distributing republican tickets and securing votes for the republican candidates. In addition to those seven hundred marshals there were twelve hundred republican policemen, every one working in the interest of a free republican election.

Mr. WHITE. Does the gentleman say that there was not a fair election in Philadelphia? If he does, we will meet him upon that point.

Mr. FINLEY. I have before me the sworn testimony of witnesses as to the character of these men who worked in the interest of free elections. Let me read some of the testimony. I read from the testimony taken before a Senate committee. Charles F. Miller swears that he has been nine or ten years a detective, and about four years the murder detective of Philadelphia, employed by the city in the district attorney's office. He was interrogated as to the character of some of these marshals. What does he say in this connection:

Question. Do you know Philip Madden?
Answer. Yes, sir.
Q. Where does he live?
A. On Bainbridge street, I think, above Seventh, in the fourth ward.
Q. In what division?
A. I cannot tell; I think it is the fourth.
Q. What is the character of Philip Madden?
A. I think he is one of the worst men in Philadelphia.
Q. In what respect?
A. He is a dangerous man; he is violent and dangerous.

Q. How long has he been out of prison?
A. I think probably eight months or a year. He was convicted of highway robbery, I think.
Q. Do you know of this man Madden having shot anybody?
A. I did not see him shoot anybody. I heard he shot a boy at one time.
Q. Was he in prison, to your knowledge, more than this one time?
A. He was in prison twice.

That is one of the marshals placed at the polls by our republican friends in the interest of a free ballot.

Q. Do you know Francis McNamee, of the eighth ward?
A. Yes, sir.
Q. What is his character?
A. I arrested him for being concerned in five robberies about seven years ago, and convicted him for having stolen goods in his possession. He was sentenced, I think, to eighteen months. I am not certain about the length of the sentence.
Q. Do you know in what precinct he lives?
A. No, sir; he lives in the eighth ward, somewhere about Locust street.

He was one of the republican marshals at the polls.

Q. Do you know Joseph Hilferty?
A. No, sir.
Q. Do you know Daniel Redding, of the first ward?
A. Yes, sir; very well. I guess everybody here knows him.
Q. What is the general reputation of Daniel Redding?
A. He is considered to be a very bad, dangerous man. He has been tried for murder.
Q. How long since he was tried for murder?
A. In 1869.
Q. Is his reputation still good or bad?
A. Bad.

He was another republican marshal at the polls in the interest of honest elections.

Q. Do you know a Mr. Pitts?
A. Yes, sir.
Q. Of what ward?
A. The seventh ward. He keeps a place on Lombard street, above eighth, on the south side.
Q. What is his business?
A. He keeps a gambling place, and things of that kind.
Q. Is he a colored man?
A. He is a colored man.
Q. He keeps a gambling-house; is it a drinking-house?
A. Yes, sir. He has been arrested once or twice, and was tried before.

He was one of your marshals placed at the polls to preserve the purity of the ballot-box.

Mr. WHITE. I would inquire how the time is running in this debate?

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH, of Georgia. I will yield my time to the gentleman from Ohio.

Mr. WHITE. I raise the point that the gentleman cannot do that.

The CHAIRMAN. The gentleman from Georgia [Mr. SMITH] addresses the Chair. Does he move an amendment?

Mr. SMITH, of Georgia. I move to strike out the last word, and yield my time to the gentleman from Ohio.

Mr. CANNON, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. CANNON, of Illinois. I raise the point whether it is competent under the rules for a gentleman to yield his time to another. I have no objection, if it can be settled that that is so. I should have been very glad to have had five minutes longer myself; but I did not think it competent under the rules.

The CHAIRMAN. The Chair is following the universal custom of debate.

Mr. BROWNE. Is it competent for a gentleman to surrender to another his time who proposes to speak on the same side, and after the first gentleman has spoken his five minutes? Can that be done until after every other gentleman who desires to speak has had an opportunity to address the committee?

The CHAIRMAN. The custom has been in accordance with the course which the Chair proposes now to pursue.

Mr. BROWNE. I am aware of that, and I am aware of another fact, that it has been the custom to allow a few men to do all the talking for the committee. Now there are a few gentlemen—no, not a few, but a great many—who would like to have the rule, if there be one, enforced so as to give us something like a fair show and a free fight in this matter.

The CHAIRMAN. The Chair will give gentlemen all the rights to which they are entitled.

Mr. HENDERSON. I think that has been the practice heretofore by consent, when no objection was made. Certainly once since I have been a member of this House objection was made, and it was held that it was not in order for any member to yield his time to another who had spoken.

The CHAIRMAN. The gentleman from Ohio [Mr. FINLEY] will proceed.

Mr. FINLEY. I wish to say that I have before me the sworn testimony of a large number of witnesses giving the character of these seven hundred marshals who were placed at the polls in Philadelphia on election day. The chief marshal testifies that every one of them was a republican.

Mr. O'NEILL. If the gentleman will permit me to say that these are all democratic witnesses. The committee will go to Philadelphia within a few days, and then witnesses will be brought before it who will swear to the truth.

Mr. FINLEY. I wish to read a little further from this testimony:

Question. Do you know George Cornelius?
Answer. Yes, sir; he is constable of the fifth ward.

Mr. WHITE. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. WHITE. My point of order is that the testimony in this matter has not been heard through, and the gentleman from Ohio [Mr. FINLEY] is presenting but one side of the case; the other side has not been heard.

Mr. FINLEY. I have the right to quote from any testimony that I see fit as part of my remarks, as the gentleman well knows. I hope gentlemen will take it cool.

Mr. O'NEILL. If the gentleman will read all the testimony to the committee, he will find that no democrat was kept from voting at the polls by any one of these men.

Mr. WHITE. I do not want any false idea to go to the country, and I insist upon my point of order.

The CHAIRMAN. The gentleman has made no point of order.

Mr. WHITE. My point of order is that the gentleman from Ohio is reading here only one side of the case; that the testimony is not concluded.

The CHAIRMAN. That is not a point of order.

Mr. FINLEY. I hope that gentlemen will not be so tender upon this subject.

Mr. O'NEILL. I hope the gentleman will be permitted to go on.

The CHAIRMAN. The Chair hopes so, too.

Mr. FINLEY. Now let me read:

Question. Do you know George Cornelius?
Answer. Yes, sir; he is constable of the fifth ward.
Q. Is he upon this list as a deputy marshal?
A. Yes, sir.
Q. The name of Springfield is on this list?
A. Yes, sir.
Q. Do you know Michael Slavin, of the fifth ward?
A. Very well.
Q. What is his reputation?
A. He is a notorious repeater, a thief.
Q. Has that been his reputation for some time?
A. It has, so far as I know him, for eight or nine years. I have seen him lead gangs of repeaters to vote, many a time; that is his profession, "repeater."
Q. Do you know William Glenn, of the nineteenth ward?
A. Yes, sir.
Q. What is his business?
A. He is superintendent of Norris Square.
Q. Under what authority?
A. Under the city.
Q. Does his name appear on this list of marshals?
A. Yes, sir.
Q. Do you know Charles Boeler, [or Brinkler?]
A. He is the constable in the sixteenth ward.

Mr. Chairman, I will cite one more case, that of James Coligan, who was a United States marshal there:

Q. Who was the United States marshal there?
A. James Coligan, an ex-police-officer.
Q. What was his condition during the day?
A. Most of the afternoon he was so drunk that he could hardly walk.
Q. Was there any interference by him during the day with voters, and, if so, what was it?
A. He was challenging everybody that came there, driving them away from the polls.

Mr. O'NEILL. I want to say that a number of these witnesses have been arrested for perjury.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania [Mr. O'NEILL] to express the desire that the gentleman from Ohio [Mr. FINLEY] should be allowed to go on.

Mr. FINLEY. The witness further states.

Question. What did he say and do to them?
Answer. He said that he was United States marshal, and had more authority around there than the judge inside or the police or anybody else. I was calling the policeman's attention to the fact that they had no business within thirty feet of the polls; and I asked him if they could read; that there was a notice signed by the judges, Ludlow and Fell. They said, "Oh, to hell with that," and Coligan came up. I told them that frequently during the day.
When I told this police officer that in the afternoon, Colligan said, "Oh, you have got too damn much to say; I will take you in."

Thereupon this republican deputy marshal arrested this man for calling his attention to a law which required that the police of the city of Philadelphia should not go within thirty feet of the polls. He swears that five or six of the republican police of that city, together with this drunken deputy marshal, were blocking the polls, keeping voters from the polls, and because he called the attention of a police officer to this violation of the law, he was taken by that deputy marshal to prison and kept there for four hours. Yet these are the gentlemen that were appointed by the republican party in Philadelphia in the interest of free ballots and an honest election! When the democrats say you shall no longer use money out of the public Treasury to hire republican marshals to electioneer for and carry elections for the republican party, you tell us we are interfering with a free ballot.

[Here the hammer fell.]

Mr. McCOID. Mr. Chairman, the country is watching the proceedings of the two parties in Congress with great interest for two purposes: First, because, as stated by my friend of the greenback party, it is interested in other matters of legislation; and I have no doubt that for the time wasted upon anything else the parties responsible will be held to account. But this session has been precipitated upon the country for a political purpose. I perfectly agree with the gen-

tleman from South Carolina who stated to-day that this is a political measure. In introducing into this House appropriation bills to carry on the Government, the party in the majority here has foisted into these bills political or partisan measures.

What is the political proposition embraced in this bill? They propose to amend two sections of the Revised Statutes so that the Government of the United States shall have no power "to keep the peace at the polls." Under these sections as amended the only power left to the Government will be to resist the armed enemies of the United States. Now I ask gentlemen upon the other side, Who are armed enemies of the United States? How many men on the other side who were in the confederate service will acknowledge by the uplifted hand that they were armed enemies of the United States in rebellion? How many? [A pause.] Not a hand do I see raised. [Laughter and applause.]

Gentlemen on the other side, do you say that in 1861 when you attempted to go out of the Union by secession and when you were in arms openly against the Government you were armed enemies of the United States in rebellion? Not a man on the other side will admit it. There is not a man who will own that he was a rebel against the Government. Then if we amend this section as proposed and you go out again, you will not then be "armed enemies," will you? Why, sir, men claim on this floor that they went out of this Union through patriotic motives, that they were patriots, not armed enemies, in attempting to secede. What, then, do you mean by leaving this section in the form you propose? This side of the House proposes to repeal the whole section. Gentlemen on the other side say, "Oh no; we want it left as a law that the Government shall not use troops except to resist armed enemies of the United States." But they say they were not armed enemies. Then who ever were armed enemies of this Government?

The country is sensitive as to whether or not the democratic party is a patriotic party, and I confess, Mr. Chairman, that during the few days that I have listened to the debates on the other side my suspicions and fears on that point have been increased. During all this debate I have not heard a single speaker upon the other side deny the proposition too broadly made by a gentleman on this side that this Government can be destroyed. They hasten to agree to the declaration that this Government can be destroyed without the firing of a gun. They have been affirming on this floor their primal allegiance to their States, and one distinguished gentleman from Kentucky, [Mr. BLACKBURN,] in his letter accepting the nomination for the office of Congressman, paraded to the country his primal allegiance to his own State. There has been an avowal made upon this floor of a willingness to rebel again. Gentlemen say boldly, "I thought I was right; and under the same circumstances I would do so again."

Threats are made upon this floor to tear out from the statute-book every war measure passed within eighteen years. In other words, they propose to go back and tear out of the statute-books of the nation every war measure enacted since 1861. A leader of that party [Mr. BLACKBURN] has said they do not intend to stop till they complete that work.

[Here the hammer fell.]

Mr. SPARKS obtained the floor.

Mr. COX. Will the gentleman yield to me a moment?

Mr. WHITE. I desire to offer an amendment.

Mr. COX. I ask the privilege of printing with my speech extracts from Lord Holt's opinion in the case of Ashby *vs.* White, which affirms the common-law right of any man to have his remedy against a judge of elections if he is wrongfully refused the right to vote.

Mr. BAKER. I object.

Mr. COX. I only wish to print the syllabus of the case.

Mr. BAKER. The case can be found in every lawyer's library.

Mr. SPARKS. I now move that the committee rise——

Mr. KEIFER. I make the suggestion that the same courtesy be extended to the gentleman from Iowa [Mr. MCCOID] which has been extended to other gentlemen, that he be allowed an additional five minutes.

Mr. WHITE. I propose to strike out the last word, and yield my time to the gentleman from Iowa, [Mr. MCCOID.]

Mr. MCCOID. Mr. Chairman, have we heard on the other side upon this floor a single denial of the right of secession? I say that upon the other side there has not been during this debate a single sentence contradicting that theory. The country is waiting for evidence of the loyalty of the democratic party to this Union, and the country fears more to-day treason in the form of law and under the specious cry of the "Constitution" than it does treason in arms and upon the tented field. And to-day this measure, introduced as it is, is nothing more than the first step of a revolution. Mark you its similarity to the last one. In 1861 the Government sent a ship laden with supplies to one of its forts for a portion of its army. These gentlemen put a cannon on shore and tacked to that bill of supplies for the Army the secession ordinance and said, "You shall not supply your army unless you take this with it." To-day they do the same thing. They say unless you give to the hundred and forty-four members on the other side, a bare majority of this House, the elective despotism of this Government they will not let you supply your army. I ask the Clerk to read an extract from Jefferson's criticisms upon the colonial government of Virginia, showing what will be the effect of placing in a hundred and forty-four men of this House the despotism of dictating to this whole Government its policy and laws by withholding supplies.

The Clerk read as follows:

All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the power of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time.—*Jefferson's Notes on Virginia.*

Mr. MCCOID. Now, Mr. Chairman, this side of the House has agreed to repeal these sections. These gentlemen insist upon their being a part of the laws of the nation. Therefore the bill is simply this: Be it enacted, that the United States shall not use any force in any State of the Union to keep the peace and enforce her laws. Not having read their title clear enough in 1861, although they claimed the same, they want to make it sure.

I wish to review for one moment a chapter or two of the history which brings us up to these laws. This is a whole picture, one complete and connected scene back to 1861. In the background I see the smoke of the rebellion rolling away. I see upon one side of it Libby Prison and on the other Andersonville, and over it the stars and bars. A little later than that I see the last act of the rebellion. Something of that same spirit comes upon this floor, and flagrantly in violation of parliamentary law insults the President of the United States. I see in the last act of the rebellion the White House draped in mourning. The next picture after that is the picture of ku klux, a picture of murder, of outrages, of men driven from their homes, fugitives flying from the South, dark figures crouching in the shadows, like hunted hares, running away, almost the only hands raised during the war in the South for the Government, while all around there was not an eye to pity this Government nor an arm stretched forth to save it. Black men, then true to their country, were driven from their homes in the years which followed the war, and deprived of their rights.

A gentleman asked the other day a member on this side how about the State of North Carolina? I would ask that gentleman to look into the fourteen volumes in the Library of Congress—on the affairs in the insurrectionary States—fourteen volumes of outrages which are like the history of hell and the proceedings of the damned! Fourteen volumes of political outrages the most fiendish in the records of the country! I will call his attention to North Carolina especially, although I do not wish to inaugurate anything like speaking disparagingly of single States. I refer him to the cases of Henry Carpenter, Anderson Dickens, Francis Gilmore, Essie Harris, W. R. Howell, Mrs. Jinks, J. M. Justice, and a dozen more that I have hastily picked out, and the character of these outrages were whippings, hangings, killing, families abused, and men torn from their beds. The record is that these outrages were only committed upon republicans. These all occurred in North Carolina, and I will agree that was the best State of all.

Now, Mr. Chairman, I wish to state that this is the second picture only, coming immediately after the rebellion. Men were deprived of their rights. The proceedings are recorded in these fourteen volumes. Men were deprived of their liberties in the South. Here I have the report of a committee of Congress showing that it was necessary the power of the National Government should be extended in order to give these men their rights. It was extended under the general power of Government and under these laws upon the statute-book to-day, by democratic votes, that power was restrained, and wrongfully restrained. That is the history of their enactment. Since that time there is another picture. These dark men and loyal republicans of the South have been driven from the polls, intimidated, bulldozed, outraged, threatened at night, armed men in disguise going over the country calling them out and saying, "Do not go to the polls."

Until to-day practically, then, there is no ballot-box, no free and pure elections in the South. In many congressional districts gentlemen on this floor received the unanimous vote of counties, no vote being cast against them. The gentleman from South Carolina thinks they staid away and refused to vote like him, because they could not have the conscience to do it in the presence of a soldier of the country. Not at all; they dare not. Men on this floor represent but three thousand voters at their election. Some gentlemen have five unanimous counties, I believe, in their district. Ah, tell not intelligent America that you have free and fair elections! And now in the forefront of this painting, the fourth scene, we have our characters in full relief. It is a scene in Congress, under the Dome of the Capitol of a Government instituted among men for the preservation of life, liberty, and property, under the flag, and here men who within the ordinary statute of limitations were in arms in the first scene are now demanding as an alternative to a second revolution that the arm of law be shortened, its eye blinded, its ear deafened, its strength palsied, and the citizen, the polls, the election of its own officers, the component parts of its very will—its legislative will—all be abandoned to unrestrained passions, the unbridled prejudices, the frauds, tumults, and menaces

of localities—those prime functions of free government there to be denied, deformed, abridged, and abused, making the whole machinery a farce. It is right to guard the use of these, our armies, and their use to preserve the peace.

But the first civil right we all have in coming into society and surrendering our natural rights is protection and peace. A government that is one has power to preserve interior harmony. Were there ever powers as jealously guarded as these? First, it must be a necessity before any armed men can be taken to the place of election at all, (section 5528,) and if one is taken in any other case it is a crime for which a fine and imprisonment may be imposed. Where there is the least attempt to interfere with the election it is a crime, with a penalty of hard labor in the penitentiary. If but a finger is lifted to obstruct a qualified voter from a free exercise of his rights by such armed men, his punishment is severe and sure, (section 5529,) and the least influence upon the officers of the polls by such armed men is a like offense, (section 5531,) and a conviction works a perpetual disfranchisement and disqualification from holding office. I challenge the opposition to suggest an amendment to sections 5528, 5529, 5530, 5531, and 5532 which will add security against the misuse of any military or legally called body of men to protect a free election. Upon examining these sections any fair mind will be convinced that it is not the misuse or interference of troops at polls that is objected to.

Gentlemen have again and again been defied to show an instance of interference or intimidation by troops, and only reply in general assertions. I defy them again, and wait for an answer. It does not come. There is none. Now turn to the other side. Has there been, is there now, and will there be a necessity for the reserve power of the Union soldiers to sustain the arm of the peace officers, State and national. Are elections free, peaceable, fair? Do the weak, the helpless, the timid, the humble, the poor, and the defenseless vote? Have we that first essential of a republican form of government, a free ballot, where each man, whatever his lot or state or race, votes once and once only, and where his ballot is with others honestly cast and counted? I have heard some very reckless statements, but I believe I have yet to hear a single man say that in all parts of this nation such an election is had. The weakness of the case is well indicated by the method attempted to pass it. Every good measure can afford to stand alone in a free country. At least it would bear a fair trial.

But resort is had to what is universally agreed to be bad practice; even the gentleman from Mississippi [Mr. CHALMERS] says, "only to be resorted to in extreme cases."

Some one has tabulated all the cases where extraneous matter has been introduced into a supply bill, but that was not without consent or not without some other reason better than can be offered in this case. They are not precedents for the deliberate attempt to stop the Government by a bare majority unless an unwilling Executive submits. It is no more a precedent than voluntary payment on the highway is a precedent for highway robbery.

This attempt is more than bad; it is unfriendly to the Government. The tacking political measures upon the supply has always been condemned. I ask to read the following from Hatzel, page 196, second edition, printed in 1796:

> Even where the propositions are separately not liable to objection in either House, the heaping together in one law such a variety of unconnected and discordant subjects is unparliamentary, and tends only to mislead and confound those who have occasion to consult the statute-book upon any particular point. But to do this in cases where it is known that one of the component parts of the bill will be disagreeable to the Crown or to the Lords, and that if it was sent up alone it would not be agreed to—from this cause, and with a view to secure the royal assent or the concurrence of the Lords, to tack it to a bill of supply which the exigencies of the state make necessary, is a proceeding highly dangerous and unconstitutional.

This tacking process has not always been used in the cause of liberty. In 1704 the tories used it to force the passage of the bill "for preventing occasional conformity," on the ground that "schism was a spiritual sin." It was to prevent Protestantism or liberty of conscience. (See Hatsel, 198, volume 3.)

A speech made in 1678 by Lord Chancellor Finch is worthy of this day, though scarcely of that. He says "it takes away the king's negative voice in a manner and forces him to take all or none." I can sympathize with the House of Commons in 1688 in hewing out from the king's despotic throne the constitutional liberty we enjoy; but to use that weapon to destroy powers granted by our Constitution is the way to anarchy. This practice has been condemned by the ablest minds of the democratic party. Thomas H. Benton even condemned the union of two general bills, neither for supply. In the case of the California-Texas compromise bill of 1850 he said:

> I am opposed to mixing subjects which have no affinities. * * * I object to it upon principle—that principle of fair legislation which requires every measure to stand or fall upon its own merits, unaided by stronger measures, unimpeded by weaker ones. I object to it because California herself has objected to it. Her constitution contains this provision:
>
> "Every law enacted by the Legislature shall contain but one object, and that shall be expressed in the title."
>
> This is the opinion of California about mixing different subjects together in the process of legislation, and a wise opinion it is; and a wise provision it is to be put in her constitution, and worthy to be put into all constitutions, and very fit and proper to be acted upon by all legislative bodies, whether written down in their constitutions or not. California has doubtless heard of that legislative operation in the old States called "log-rolling," a term which needs no definition in this assembly, and took care, by a fundamental enactment, by a law of constitutional dignity and permanent obligation, to keep it out of her own borders.
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> * * * * * * *

Threats are not good arguments with me, even when I may be going a little wrong, much less when I am going precisely right. It is right to consider the admission of California as a separate measure. It is right to do so upon parliamentary principles. It is right to do so upon the principle of fair legislation. * * * We have a right under the Constitution, upon parliamentary law, and upon sixty years' practice, to give her a separate consideration; and are we to be deterred from it by a threat—by a threat of creating an opposition which may keep the State out of the Union if we persist in doing what we have a clear right to do? Are we to capitulate to that threat? Sir, let Washington answer that question. This is what he says of it:

> "All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to control, counteract, or awe the regular deliberation and action of the constituted authorities are destructive to the fundamental principle (obedience to the established government) and of fatal tendencies. * * * The threat is indeed a serious one. * * * I cannot surrender. * * * It is among the first of such attempts, and we should resist at the beginning. All history tells us that confederacies are ruined by anarchy among the members rather than by tyranny in the head."

I commend this democratic authority of such high rank to the combination on the other side. Mr. Benton never dreamed of the iniquity of this bill—the threat, not to keep out a State, but to destroy the whole Government, to ruin the whole.

And even the great Kentucky Commoner would not justify it. In reply to Benton, on the same bill, he said:

> The union of these three measures in one bill has been objected to, and has been already very much discussed in the Senate. Out of respect to the Senator from Missouri and to the Senate, I feel myself called upon to give some answer to the argument which he addressed to the Senate some days ago to show that it was improper to connect them together.
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> * * * * * * *
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> Now, sir, either the Senator from Missouri or myself totally misunderstands what is meant by Hatsel in the use of the word "tacking." We have no such thing as tacking in the English sense of the term. Jefferson has no chapter in his Manual on this subject of tacking. * * * The practice of tacking in England is confined to money bills. Knowing that a money bill is obliged to be passed without any alteration or amendment in the Lords, the Commons in England frequently, when they have a public object or measure to carry out, tack that measure to a money bill and send it to the House of Lords. They know that the overruling necessity of the aristocracy and of the Crown is such that they must for the sake of the money granted to them agree to that clause, favorable perhaps to liberty or to something else that is tacked onto it.
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> * * * * * * *
>
> You find in the third volume of Hatsel that he has a chapter on the subject of bills tacked to bills of supply. I repeat, sir, that we have no such thing as that tacking process in this country.

The practice is condemned by the sovereign people in almost every State in this Union in their organic act. In Alabama, California, Florida, Indiana, Iowa, Kansas, Maryland, Minnesota, Nebraska, Nevada, New York, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia it is provided in the constitutions that "no bill shall embrace more than one subject." Missouri's constitution says "no bill except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, or the issuing of bonds therefor, shall contain more than one subject." New Jersey says, "to avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one subject, and that shall be expressed in the title." Delaware says "nor shall any matter or clause whatever not immediately relating to and necessary for raising revenue be in any manner blended with or annexed to a bill for raising revenue." Maine, Kentucky, and Louisiana say, in the language of the United States Constitution, "all bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills," provided that they shall not introduce any new matter which does not relate to raising revenue. So that the American people are arrayed against it both in letter and spirit.

One word as to Rule 120: an amendment must be germane; germane to the Army or germane to appropriations. I say beyond a question it is to be germane to appropriations—germane to raising revenue; the item of accounts, Army, Navy, civil service, or what not, is but an accident, they are not the subject-matter. The blindest would see at once the amendment was not germane to the appropriation bill; therefore the Chair ruled it was germane to the account for which the money was to be paid, the Army.

Next, it must retrench; that is, the change in existing law must reduce salary or other expenditure already fixed. Here again the wayfarer may read the rule, if that construction is correct, plainly enough to see it does not retrench; but the Chair construes differently, and goes out into the shoreless sea of speculation—of how, may be, by some means, this might some time keep troops from moving where the moving would cost more than the expense of riot, tumult, fraud in election, contested seats, investigating committees, &c.; therefore it m-i-g-h-t retrench. Therefore, being within the scope of the accidents of the items of the bill and within the range of imaginary possibilities of retrenchment, it is in order.

I am in favor of that rule being made, if possible, plainer in its denying all amendments except for the subjects of appropriations and to reduce existing amounts.

I am in favor of a constitutional amendment prohibiting any general legislation upon supply bills. And, unlike my greenback friend, I shall vote in accordance with these principles for which I speak, and against every and all bills now and forever which tack such extraneous matter to bills of supply.

One word more. I am acting and I hope others are also acting with the fearful consequences of the logical results of this forced issue full in view. On the one hand it presents the disintegration of national

government: the erection in the House of Representatives of a political partisan despotism, which at will may be used to accomplish any result determined upon in a caucus; the majority in caucus will rule it; the caucus of a party will rule it; to it the men of better judgment, like the gentleman from New York, [Mr. COX,] bow, as he now does, in the House; the majority in the House rules it, and the imperious necessity of supply rules the unwilling Senate or the unwilling President—and this is to be America. On the other hand it presents the deliberate obstruction to the constitutional existence of the Government. This, some have said, is one method of national death in a constitutional republic. Never, sir. This Government is perpetual.

I hope no unfriendly survivor of the rebellion fancies that in so easy a transfer from the field to the forms of law this Republic can be made to fall to ruins without the firing of a gun. The dream is as false as the phantom of a peaceable secession. This nation in its Executive possesses the power to compel the internal harmonious exercise of its functions of life. He must preserve, protect, and defend the Constitution, and see that the laws are faithfully executed. There is no provision made, there is no possibility left unguarded, by which it can be violently or peaceably destroyed. It can never become, in the jealous preservation of the distribution of its constitutional powers, destructive of its ends. Therefore, standing with unshaken truth to these principles, as we will, the right of revolution itself can never exist. The alternative of this most unpatriotic demand upon us logically is a resort to the war power of this nation, as in 1861.

You say, suppose States refuse to elect Representatives or Senators? Suppose the Senate or the House by a determined purpose adjourn at noon each day? Suppose either resolves to proceed no further in support of the Government? What remedy? Why, gentlemen, in the same catalogue of voluntary powers, suppose the States secede from all connection with the Union, as the gentleman from Mississippi says—"peaceably secedes?" What remedy? I will tell you what remedy—WAR!

The gentlemen forget that all well-organized bodies have *involuntary powers*.

Behind the constitutional exercise of voluntary powers there sleeps the war power of this nation, ever ready to preserve its constitutional existence, to enforce its laws, to defend its undying transmittal to the latest generation.

Suppose the House resolves to pass no further bills until its despotic demands are met and the supplies of national life are cut off; then the last hope of a free people is in the Executive. He must enforce the laws, preserve, protect, and defend the Constitution, and sacredly keep his registered oath in heaven. God grant the necessity may not so soon be whelmed upon this people; but if it must come by a call of the Chief Magistrate, money and men will pour forth like water to defeat a second revolution. Dream not, men of the South, that you, in renewing the attack upon another supposed vulnerable point of this nation, are walking in the way of peace. Let no voice from any quarter mislead you. Judge not the people of America so unwisely. I tell you, behind every weak joint in the constitutional armor of the American Union is masked and ambushed the batteries of war and the serried ranks of millions of men, and over it all is the sleepless eye of the jealous affections of the people. There is no party at that point. There, as the great Douglas said, each man must be either a patriot or a traitor. And we are near to that dividing line to-day. God grant that in the lowering future we may not have again to cross it.

I would fain believe you, but try us. I hope the loyal functions once characteristic of the democratic party will assert themselves. I hope that the wise counsels of such able men as the gentleman from New York [Mr. COX] will yet prevail, that reason and judgment will yet be restored, and that the love of country will gain the ascendency over partisan impatience, and all will bow to constitution instead of caucus.

Mr. SPARKS. I rise, sir, for the purpose of moving the committee rise for the purpose of closing debate.

Mr. BAKER. On so important a proposition as this I think debate should not be closed.

Mr. SPARKS. I think it should.

Mr. BAKER. There are questions of law involved here which should be considered for a moment.

Mr. SPARKS. I have made my motion.

The question was taken; and it was decided in the affirmative.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. SPARKS. I now move that the House resolve itself into Committee of the Whole to resume consideration of the Army appropriation bill; and, pending that, I move that all debate on the pending section and the amendments thereto be closed in two minutes.

Mr. CONGER. Let us understand the proposition.

The SPEAKER. The Chair will state it.

Mr. BAKER. Let ten minutes longer be allowed for debate.

The SPEAKER. The Chair will state the question. The gentleman from Illinois moves that the House resolve itself into Committee of the Whole to resume the consideration of the Army appropriation bill; and, pending that, he moves that when the House shall again go into Committee of the Whole on the state of the Union to consider the bill, all debate on the pending section and amendments thereto be closed in two minutes.

Mr. GARFIELD. We had better include the whole bill.

Mr. BAKER. That cannot be done, I understand, except by unanimous consent.

Mr. SPARKS. My motion is that the debate be closed on the section and the amendments thereto.

The SPEAKER. Technically, the gentleman from Indiana has the right to object to closing debate on the bill; but practically, this being the only remaining portion of the bill, the motion reaches the whole purpose which the gentleman from Illinois has in view.

Mr. GARFIELD. That is, if we treat all the other sections as having been read and passed.

The SPEAKER. They have been read and passed.

Mr. CONGER. I understand that the intention now is to close all debate on amendments; but that amendments may still be offered to section 6. The motion is to close all debate?

The SPEAKER. On the section.

Mr. GARFIELD. All debate.

Mr. CONGER. It is understood, however, that it will be in order to offer amendments.

The SPEAKER. The rule does not exclude amendments.

Mr. SPARKS. Amendments may still be offered without debate.

Mr. CONGER. I have no objection to that if amendments are admitted.

The motion of Mr. SPARKS, to close debate, was agreed to.

Mr. SPARKS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The motion that the House resolve itself into Committee of the Whole was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. SPRINGER in the chair, and resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. By order of the House all debate on the pending section and amendments thereto is limited to two minutes.

Mr. SPARKS. I yield those two minutes to the gentleman from Connecticut, [Mr. WAIT.]

Mr. WAIT. I thank the gentleman from Illinois [Mr. SPARKS] for the courtesy which he has extended to me at this time. I know how very impatient the committee must naturally have become under the protracted and wearying debate of the last few days. It is patent, however, to all that in the few minutes given to me I could not indulge, were I even so inclined, in any parade of words or a speech spun out by glittering generalities.

I believe that the minority in the House, as a body, would not be seriously opposed to the amendment now under consideration, had not measures revolutionary in their character been resorted to to accomplish what could be done in a much better way. Had the proposition to change the act of February, 1865, permitting the use of troops at the polls to preserve the peace, been presented as an independent measure, it would most likely have commanded the support of a majority of both branches of Congress; but when such an amendment is appended to an appropriation bill, it is in fact a violation of the rules of the House, for it is legislation not germane to the bill, not in the line of retrenchment, revolutionary in its character, and dangerous in its tendencies. In this opinion I am sustained by some of the ablest statesmen that have ever been honored with seats in either House of Congress.

But this aspect of the question has been so ably presented by many gentlemen who have preceded me that I do not propose to discuss it.

I wish to call attention, in the fewest words possible, to the principal reason given by our friends on the other side of the House why they are so urgent to effect a repeal of the Federal election laws, and by this particular amendment to prevent the use of United States troops to secure peace at the polls and protect electors in the full exercise of their legitimate rights. The ground of complaint to such use of troops, as I understand it, is that in many of the Southern States voters who were members of the democratic party have been by the presence of the troops embarrassed in the enjoyment of their rights as freemen; that if the troops did not directly interfere with this class of voters and prevent their exercising their rights, they indirectly by their presence intimidated many of them in different localities and led them through fear of personal violence to remain away from the polls. I will now call attention to facts that certainly shed light upon, and in my opinion completely refute, this claim.

In the investigation of the facts in the case of Tillman against Smalls, before the Committee on Elections of the last Congress, in which as a member of that committee I took an active part, the evidence adduced before the committee went to establish in the most conclusive manner an entirely opposite array of facts from those assumed to be correct by many of the gentlemen who have addressed the committee in support of the amendment.

On the hearing before the committee to determine which of the

two gentlemen, Mr. Tillman or Mr. Smalls, was entitled to a seat in this House from the fifth congressional district of South Carolina, it was clearly proven by undisputed official returns that in those counties where the greatest number of United States troops, officers, and privates were stationed, the greater vote was given for the democratic nominees and the lesser for the candidates of the republican party. In Edgefield County, where there were two hundred and twenty-one officers and enlisted men, Mr. Smalls, the republican candidate, received 2,092 votes, and Mr. Tillman, his democratic opponent, received 2,972. In Barnwell County, where were stationed near the polls one hundred and seventy-four enlisted men and officers, 2,113 votes were cast for Mr. Smalls and 2,175 for Mr. Tillman. In the county of Colleton, eighty-nine officers and enlisted men only were stationed on the day of election, divided among the several places where votes were received. Yet here Mr. Smalls rolled up 1,531 votes and Mr. Tillman received but 498. In Beaufort town, which is the only place where votes are cast in Beaufort County, but twenty-three men and officers were present, yet Mr. Smalls obtained 561 votes and Mr. Tillman but 114.

The table that I hold in my hand, and which I wish to be incorporated in my remarks, gives in detail the facts to which I have called the attention of the committee, and proves conclusively that the republican candidate for Congress derived no advantage whatever from the presence of the troops:

Counties.	Table of troops at precincts.			Votes returned in 1876.		
	Com'd officers.	Enlisted men.	Total.	Smalls.	Tillman.	Total.
EDGEFIELD COUNTY.						
Edgefield C. H., box 1 and 2	8	105	113	865	917	1,582
Shaw's Mill	3	29	32	363	382	745
Liberty Hill	3	17	20	227	345	572
Richardsonville	2	32	34	286	320	606
Ridge Spring	1	12	13	342	682	1,024
Red Hill	1	8	9	9	326	335
Total	18	203	221	2,092	2,872	5,064
BARNWELL COUNTY.						
Barnwell Court House	2	23	25	209	293	502
Blackwell	8	67	75	691	467	1,158
Midway	1	15	16	435	235	670
Beaufort's Bridge	1	13	14	187	197	384
Allendale	2	31	33	448	675	1,123
Millett	1	10	11	143	308	451
Total	15	159	174	2,113	2,175	4,288
COLLETON COUNTY.						
Summerville	3	68	71	427	199	626
Adam's Run	1	8	9	413	89	502
Blue House	1	8	9	691	210	901
Total	5	84	89	1,531	498	2,029
BEAUFORT COUNTY.						
Beaufort (town)	1	22	23	561	114	675

It must be obvious, then, to every unprejudiced mind, from the facts developed by the investigations of the Committee of Elections, in the case to which I have referred, that the presence of Federal troops in that congressional district of South Carolina did not intimidate, overawe, or repel from the polls any democratic electors, or in any manner embarrass them in the fullest and most independent exercise of all the rights enjoyed by American citizens.

The sole object which the act of 1865 was intended to accomplish was to preserve peace and good order at the polls and protect every man, black or white, rich or poor, in the unembarrassed and the fullest enjoyment of all the privileges that the Constitution of the United States bestows upon him.

So far as I have been able to follow the discussion in the committee on the pending amendment there has not been presented by any gentleman who has mingled in the debate one spark of evidence tending to show that any body of men or any single individual has been in any manner interrupted or annoyed in the exercise of the elective franchise by the presence of troops. Has any man, I ask the committee, possessing the legal right to vote, been robbed of that right by the military power of the General Government?

[Here the hammer fell.]

The CHAIRMAN. By order of the House all debate on the pending section is now closed. The question will first be on the amendment of the gentleman from Illinois, [Mr. CANNON,] which the Clerk will read.

The Clerk read as follows:

Strike out the word "civil" in lines 4 and 12 of section 6.

The question was taken; and there were—ayes 115, noes 135.

Mr. CANNON, of Illinois. I call for tellers.

Tellers were ordered; and Mr. CANNON, of Illinois, and Mr. SPARKS were appointed.

The committee again divided; and the tellers reported—ayes 122, noes 137.

So the amendment was not agreed to.

Mr. BOWMAN. I move to amend by inserting after line 8 that which I send to the Clerk's desk.

The Clerk read as follows:

Or unless they shall be summoned and called to his aid as a *posse comitatus* of his district by the marshal or other officer of the United States empowered to summon a *posse comitatus* as provided in section 2024 of the Revised Statutes.

The amendment was not agreed to.

Mr. BAKER. I move to amend by adding to the section that which I send to the Clerk's desk.

The Clerk read as follows:

Any person or persons who shall, by violence, force, threats, or menaces, disturb any public assemblage of voters convened for the purpose of listening to speeches, or for any other lawful purpose, in any campaign pending for the election of Representatives in Congress, or who shall, by threats or menaces, endeavor to procure a division of time in speaking at any such meeting or assemblage, shall be fined not exceeding $5,000 and imprisoned at hard labor not less than three months nor more than three years.

Mr. CARLISLE. I rise to a point of order on that amendment.

Mr. KEIFER. Do not make a point of order.

Mr. CARLISLE. We have a great body of laws now to protect the citizen.

Mr. BAKER. I would like to hear the point of order.

The CHAIRMAN. The gentleman from Kentucky [Mr. CARLISLE] will state his point of order.

Mr. CARLISLE. My point of order is this: the proposed amendment is not germane to the pending bill. It is a bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880.

Mr. WILBER. And what else?

Mr. CARLISLE. The proposed amendment is a provision to impose penalties upon a citizen of the United States for interfering with what are supposed to be, and what I admit are, the rights of other citizens with reference to elections. I perhaps would not make this point of order were it not for the fact that our statute-books now contain the fullest and most elaborate provisions that could be devised by our friends on the other side, during the time they had control of the Congress of the United States, for the protection of the citizens in their rights guaranteed to or secured to him by the Constitution of the United States.

Mr. CONGER. Can you not improve on it?

Mr. BAKER. Mr. Chairman——

The CHAIRMAN. Debate is not in order.

Mr. BAKER. I desire to be heard upon the point of order.

The CHAIRMAN. The Chair will hear the gentleman, if there be no objection.

Mr. COFFROTH. I object.

Mr. BAKER. I desire to reply to the remarks made by the gentleman from Kentucky [Mr. CARLISLE] upon the point of order. I think I have a right to do so, and that no gentleman can object to my doing so.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BAKER. It is not true, as I will undertake to show, that our statute-books are full of laws for the protection of the rights of voters, in the event that this Army bill shall pass with this section 6 included in it.

It is true, as stated by the gentleman from Kentucky, [Mr. CARLISLE,] that this bill professes to be and is an Army appropriation bill. But it is more than that; it is a bill that proposes, in addition to making appropriations for the support of the Army, to provide that no civil officer of the United States shall call out the good men of his bailiwick for the purpose of protecting the citizen engaged in the exercise of his lawful right to vote on election day.

I desire the especial attention of the Chair a single moment, while I undertake to show that if this section 6 were to pass in its present shape there will not be a single shadow of power left under the law of the land by virtue of which any marshal of the United States armed with any process from any Federal court will be able to call a single able-bodied citizen of his bailiwick to assist him in executing his writ or suppressing any violence, either on the day of election or at any other time. Do I understand that that is what gentleman are aiming at? I think I heard the observation that they propose that the officers of the law with Federal processes in their hands, issued by the Federal court, shall not have the power, when met by armed resistance, to call the *posse comitatus* to aid them in executing them. I thank gentlemen for their candid, their honest admission. I doubt not it comes from the bottom of the heart of the gentleman who made it.

Mr. ELLIS. No such admission was made.

Mr. BAKER. Now to the point of order. I said that this section 6 does not touch the Army at all. It is simply a pretense when it is alleged that it interferes with or influences or changes the power of the President or of the marshal one single jot or tittle from what it is to-day. Section 15 of the act of June 18, 1878, provides:

That from and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus* or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by an act of Congress.

Now, I undertake to say that there is no express authority conferred anywhere to use any portion of the Army for that purpose. Therefore the pretense that it is necessary to pass this section in order to keep the Army either from the polls or from being used as part of the *posse comitatus* is not correct in fact. It cannot now be used for either of those purposes.

But the civil power can now use the good citizens of the bailiwick for the purpose of enforcing the laws. And when you pass this section it will have no force or effect except as to civil officers. It will strip the civil officer of the power he now has to call in the *posse comitatus* of citizens, not of soldiers, to enable him to execute the process placed in his hands.

I insist, therefore, Mr. Chairman, that this section has nothing to do, as the law stands to-day, with the Army being used as a posse or being otherwise used at the polls or anywhere else. It simply affects the right of the body of the people to be called out as a *posse comitatus* by the marshal to execute process and to maintain peace at the polls. That being so, this section being as I have undertaken to show confined in its operation and effect to the duty of the citizen of the United States in obeying the marshal when called upon as a part of the *posse comitatus*, my amendment is germane to the section, because it affects the duties and obligations of the same body of people, to wit, the citizens.

Mr. COX. This matter can be stated in one word. The proposition of the gentleman from Indiana [Mr. BAKER] is to establish a code of penal statutes affecting civilians—citizens; and therefore it has no business upon an Army bill.

Mr. REED. The section affects civilians.

Mr. COX. No, sir; the bill is a restraint upon military officers.

Mr. REED and Mr. BAKER. And civil officers.

Mr. COX. The provision is that civil officers shall not use the Army. [Cries of "No!" "No!"] Everybody can see that the gentlemen are not logical, or there would not be so much clamor. [Laughter.]

Mr. ROBESON. As the gentleman from Indiana has stated, by the statute as it now stands the Army is already excluded from being called to the aid of any civil officer. It is here in this law further provided that he shall not call out troops or "armed men"—any armed men other than the Army; the good people of the bailiwick, with sufficient arms to make a stand in favor of law and order against the bludgeon or the knife. This law in effect declares that the civil processes of the law and the law officer, standing in the interest of peace and good order, shall not have behind him the good citizens of the country to whom by the Constitution is secured the right, which cannot be denied them, of bearing arms in protection of their rights and the peace and good order of the country.

The CHAIRMAN. The Chair will decide the question of order raised by the gentleman from Kentucky, [Mr. CARLISLE.] This proposed amendment relates entirely to citizens or unofficial persons, and if enacted would prescribe certain penalties for disturbing political meetings and interfering with persons in the exercise of the elective franchise. The Chair is of opinion that the amendment is not germane to a bill making provision for the support of the Army.

In reference to the other point raised that no protection is left to the voter in case the military power as proposed in this section is taken away, the Chair requests the Clerk to read sections 5506, 5507, and 5520 of the Revised Statutes, which will still remain in force on that subject.

The Clerk read as follows:

SEC. 5506. Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school-district, municipality, or other territorial subdivision, shall be fined not less than $500, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment.

SEC. 5507. Every person who prevents, hinders, controls, or intimidates another from exercising, or in exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery or threats of depriving such person of employment or occupation, or of ejecting such person from a rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished as provided in the preceding section.

SEC. 5520. If two or more persons in any State or Territory conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy, in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of the Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. FRYE. The Chair having had read these sections defining penalties, I now ask him to inform the committee how the law can be enforced, provided no United States marshal or deputy marshal or other civil officer can call armed men to his assistance at the polls?

The CHAIRMAN. That is not a proper parliamentary question. The Chair would be pleased to answer the argument of the gentleman upon the floor.

Mr. CONGER. I understand that the Chair is willing to answer, if his friends on the other side will permit him.

The CHAIRMAN. The Chair did not ask permission to answer now.

Mr. BENNETT. I offer the following amendment:

Amend section 6 by adding at the end of line 8 the following:

Provided, That it shall be the duty of the officers in command of military posts or detachments within any of the Territories, when called upon by the civil authorities of such Territories, to aid, with a sufficient military force, in the capture of persons charged with the commission of crime, either against the laws of the United States or the Territory.

The amendment was not agreed to.

Mr. BREWER. I move to amend by adding at the end of the section the following:

But this act shall in no way limit the right or power of the civil officers of the Government to keep the peace at the polls at such time as is prescribed by law for the election of Representatives in Congress.

The question being taken on agreeing to the amendment, it was declared not agreed to.

Mr. BREWER. This amendment is of such importance that I ask for a vote by tellers.

Tellers were ordered; and Mr. BREWER and Mr. SPARKS were appointed.

Mr. GARFIELD. I suggest to the gentleman from Michigan to modify his amendment by inserting after "Representatives" the words "and Delegates."

Mr. BREWER. I will do so.

The CHAIRMAN. The gentleman has the right to modify his amendment.

Mr. SPARKS. Then I make a point of order upon it.

Mr. BREWER. I withdraw the modification.

The committee divided; and the tellers reported—ayes 117, noes 136.

So the amendment was not agreed to.

Mr. CONGER. I offer the following amendment:

Strike out of section 6 all after the words "Revised Statutes," in the second line, and insert "and section 5528 of the Revised Statutes be, and the same are hereby, repealed;" so that section 6, when amended, will read as follows:

SEC. 6. That section 2002 of the Revised Statutes and section 5528 of the Revised Statutes be, and the same are hereby, repealed.

Mr. CONGER. I demand tellers.

Tellers were ordered; and Mr. CONGER and Mr. SPARKS were appointed.

The committee divided; and the tellers reported—ayes 109, noes 136.

So the amendment was disagreed to.

Mr. LAPHAM. I move the following amendment.

At the end of line 18, section 6, add the following:

And any such officer or other person who shall appear, armed with a deadly weapon of any description, at any such place where a general or special election for the choice of a Representative or Representatives in Congress shall be held, except for the purposes aforesaid, shall, on conviction, be liable to the punishment hereinbefore provided.

The committee divided; and there were—ayes 81, noes 130.

So the amendment was disagreed to.

Mr. CASWELL. I move an amendment to strike out from line 11 to line 18 inclusive. That will leave the old penalty still in force——

Mr. SPARKS. I object to debate.

The CHAIRMAN. Debate is not in order.

Mr. CARLISLE. Let the words be read which the gentleman proposes to strike out.

Mr. CASWELL. Yes; I ask they be read.

The CHAIRMAN. The Clerk will read the words proposed to be stricken out.

The Clerk read as follows:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

The committee divided; and there were—ayes 84, noes 125.

So the amendment was disagreed to.

Mr. GARFIELD. The section is now perfected, and I move to strike it out.

The CHAIRMAN. That is the pending motion.

Mr. GARFIELD. I demand tellers on that motion.

Tellers were ordered; and Mr. SPARKS and Mr. LOWE were appointed.

The committee divided; and the tellers reported—ayes 122, noes 135.

So the motion to strike out was disagreed to.

Mr. SPARKS. I now move the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. SPARKS. I demand the previous question on the bill and amendments.

Mr. CANNON, of Illinois. I ask the gentleman to allow me to have a vote on my amendment.

Mr. SPARKS. I cannot do so.

The previous question was seconded and the main question ordered.

Mr. SPARKS moved to reconsider the vote by which the main ques-

tion was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The amendments of the committee were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SPARKS moved to reconsider the vote by which the bill was engrossed and read the third time; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPARKS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. FRYE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 148, nays 122, not voting 16; as follows:

YEAS—148.

Aiken,	Elam,	Le Fevre,	Scales,
Armfield,	Ellis,	Lewis,	Shelley,
Atherton,	Evins,	Lounsbery,	Simonton,
Atkins,	Ewing,	Lowe,	Singleton, James W.
Bachman,	Felton,	Manning,	Singleton, O. R.
Beltzhoover,	Finley,	Martin, Benj. F.	Slemons,
Bicknell,	Ford,	Martin, Edward L.	Smith, Hezekiah B.
Blackburn,	Forney,	McKenzie,	Smith, William E.
Bliss,	Frost,	McLane,	Sparks,
Blount,	Geddes,	McMahon,	Speer,
Bouck,	Gibson,	McMillin,	Springer,
Bragg,	Gillette,	Mills,	Steele,
Bright,	Goode,	Money,	Stephens,
Buckner,	Gunter,	Morrison,	Stevenson,
Cabell,	Hammond, N. J.	Morse,	Talbott,
Caldwell,	Harris, John T.	Muldrow,	Taylor,
Carlisle,	Hatch,	Muller,	Thompson,
Chalmers,	Henkle,	Murch,	Tillman,
Clardy,	Henry,	Myers,	Townshend, R. W.
Clark, John B., jr.	Herbert,	New,	Tucker,
Clymer,	Herndon,	Nicholls,	Turner, Oscar
Cobb,	Hill,	O'Brien,	Turner, Thomas
Coffroth,	Hooker,	O'Connor,	Vance,
Colerick,	Hostetler,	O'Reilly,	Waddill,
Converse,	House,	Persons,	Warner,
Cook,	Hull,	Phelps,	Weaver,
Covert,	Hunton,	Phister,	Wellborn,
Cravens,	Hurd,	Poehler,	Whiteaker,
Culberson,	Johnston,	Reagan,	Whitthorne,
Davidson,	Jones,	Richardson, John S.	Williams, Thomas
Davis, Joseph J.	Kenna,	Richmond,	Willis,
Davis, Lowndes H.	Kimmel,	Robertson,	Wilson,
De La Matyr,	King,	Ross,	Wise,
Deuster,	Kitchin,	Rothwell,	Wood, Fernando
Dibrell,	Klotz,	Ryon, John W.	Wright,
Dickey,	Knott,	Samford,	Yocum,
Dunn,	Ladd,	Sawyer,	Young, Casey.

NAYS—122.

Aldrich, Nelson W.	Davis, George R.	Joyce,	Richardson, D. P.
Aldrich, William	Deering,	Keifer,	Robeson,
Anderson,	Dunnell,	Kelley,	Robinson,
Bailey,	Dwight,	Ketcham,	Russell, William A.
Baker,	Einstein,	Killinger,	Ryan, Thomas
Ballou,	Errett,	Lapham,	Sapp,
Barber,	Farr,	Lindsey,	Shallenberger,
Barlow,	Ferdon,	Loring,	Sherwin,
Belford,	Field,	Marsh,	Smith, A. Herr
Bingham,	Fisher,	Mason,	Starin,
Blake,	Forsythe,	McCoid,	Stone,
Bowman,	Fort,	McCook,	Thomas,
Boyd,	Frye,	McGowan,	Townsend, Amos
Brewer,	Garfield,	McKinley,	Tyler,
Briggs,	Godshalk,	Miles,	Updegraff, J. T.
Brigham,	Hall,	Mitchell,	Updegraff, Thomas
Browne,	Hammond, John	Monroe,	Urner,
Burrows,	Harris, Benj. W.	Morton,	Valentine,
Calkins,	Haskell,	Neal,	Van Aernam,
Camp,	Hawk,	Newberry,	Van Voorhis,
Cannon,	Hawley,	Norcross,	Voorhis,
Carpenter,	Hayes.	O'Neill,	Wait,
Caswell,	Hazelton,	Orth,	Ward,
Chittenden,	Heilman,	Osmer,	Washburn,
Claflin,	Henderson,	Overton,	White,
Clark, Rush	Hiscock,	Pierce,	Wilber,
Conger,	Horr,	Pound,	Williams, C. G.
Cowgill,	Houk,	Prescott,	Willits,
Crapo,	Humphrey,	Price,	Wood, Walter A.
Crowley,	James,	Reed,	
Daggett,	Jorgensen,	Rice,	

NOT VOTING—16.

Acklen,	Butterworth,	Harmer,	Miller,
Bayne,	Clark, Alvah A.	Hubbell,	Russell, Daniel L.
Beale,	Cox,	Lay.	Wells,
Bland,	Dick,	Martin, Joseph J.	Young, Thomas L.

So the bill was passed.

During the call of the roll the following announcements were made:

Mr. COX. I am paired with my colleague, Mr. MILLER. If he were here, he would vote "no" and I would vote "ay."

Mr. BUCKNER. My colleague, Mr. WELLS, is paired with Mr. BUTTERWORTH, of Ohio. If present, my colleague would vote "ay" and Mr. BUTTERWORTH "no."

Mr. KING. My colleague, Mr. ACKLEN, is paired with Mr. HUBBELL, of Michigan. If present, Mr. ACKLEN would vote "ay" and I suppose Mr. HUBBELL would vote "no."

Mr. BAYNE. I am paired with Mr. CLARK, of New Jersey. If he were present, he would vote "ay" and I would vote "no."

Mr. BINGHAM. My colleague, Mr. HARMER, is paired with Mr. BEALE, of Virginia. If present, Mr. HARMER would vote "no" and Mr. BEALE would vote "ay."

Mr. FORD. My colleague, Mr. BLAND, is paired with Mr. RUSSELL, of North Carolina.

The result of the vote was then announced as above stated.

Mr. SPARKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT UNTIL TUESDAY.

Mr. CLYMER. I move that when the House adjourns to-day it be to meet on Tuesday next.

Mr. HOOKER. I hope that motion will not prevail.

The question was taken; and upon a division there were—ayes 159, noes 83.

Before the result of the vote was announced,

Mr. EWING and others called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 109, not voting 22; as follows:

YEAS—155.

Aldrich, Nelson W.	Crowley,	Joyce,	Price,
Aldrich, William	Daggett,	Keifer,	Reed,
Anderson,	Davis, George R.	Ketcham,	Rice,
Bailey,	Deering,	Killinger,	Richardson, D. P.
Baker,	Deuster,	Kimmel,	Robertson,
Ballou,	Dickey,	Lindsey,	Robeson,
Barber,	Dunnell,	Loring,	Robinson,
Barlow,	Dwight,	Lounsbery,	Ross,
Bayne,	Einstein,	Marsh,	Rothwell,
Belford,	Errett,	Martin, Benj. F.	Russell, William A.
Bicknell,	Ferdon,	Martin, Edward L.	Ryan, Thomas
Bingham,	Field,	Mason,	Sapp,
Blake,	Fisher,	McCoid,	Shallenberger,
Bliss,	Forney,	McCook,	Sherwin,
Blount,	Frye,	McGowan,	Smith, A. Herr
Bowman,	Garfield,	McKinley,	Smith, William E.
Boyd,	Godshalk,	McLane,	Starin,
Brewer,	Goode,	Miles,	Stone,
Briggs,	Hall,	Mitchell,	Thomas,
Brigham,	Hammond, John	Monroe,	Townsend, Amos
Browne,	Hammond, N. J.	Morrison,	Tyler,
Buckner,	Harris, Benj. W.	Morse,	Updegraff, J. T.
Burrows,	Haskell,	Morton,	Updegraff, Thomas
Calkins,	Hawk,	Muller,	Urner,
Camp,	Hawley,	Neal,	Valentine,
Cannon,	Hayes,	Newberry,	Van Aernam,
Carpenter,	Hazelton,	Nicholls,	Van Voorhis,
Caswell,	Heilman,	Norcross,	Voorhis,
Chittenden,	Henry,	O'Brien,	Wait,
Claflin,	Herbert,	O'Connor,	Ward,
Clardy,	Herndon,	O'Neill,	Washburn,
Clark, Rush	Hiscock,	O'Reilly,	White,
Clymer,	Horr,	Orth,	Wilber,
Conger,	Houk,	Osmer,	Williams, C. G.
Cook,	Hull,	Overton,	Williams, Thomas
Covert,	Humphrey,	Pierce,	Willits,
Cowgill,	Hurd,	Poehler,	Wood, Fernando
Cox,	James,	Pound,	Wood, Walter A.
Crapo,	Jorgensen,	Prescott,	

NAYS—109.

Aiken,	Ellis,	Le Fevre,	Sparks,
Armfield,	Evins,	Lewis,	Speer,
Atherton,	Ewing,	Lowe,	Springer,
Atkins,	Farr,	Manning,	Steele,
Bachman,	Felton,	McKenzie,	Stephens,
Beltzhoover,	Finley,	McMahon,	Stevenson,
Blackburn,	Ford,	McMillin,	Thompson,
Bouck,	Forsythe,	Mills,	Tillman,
Bragg,	Frost,	Money,	Townshend, R. W.
Bright,	Geddes,	Muldrow,	Tucker,
Cabell,	Gibson,	Murch,	Turner, Oscar
Caldwell,	Gillette,	Myers,	Turner, Thomas
Carlisle,	Gunter,	New,	Vance,
Chalmers,	Harris, John T.	Persons,	Waddill,
Clark, John B., jr.	Hatch,	Phelps,	Warner,
Cobb,	Henkle,	Phister,	Weaver,
Coffroth,	Hill,	Reagan,	Wellborn,
Colerick,	Hooker,	Richardson, John S.	Whiteaker,
Converse,	Hostetler,	Richmond,	Whitthorne,
Cravens,	House,	Ryon, John W.	Willis,
Culberson,	Hunton,	Samford,	Wilson,
Davidson,	Jones,	Sawyer,	Wise,
Davis, Joseph J.	Kelley,	Scales,	Wright,
Davis, Lowndes H.	Kenna,	Shelley,	Yocum,
De La Matyr,	King,	Simonton,	Young, Casey.
Dibrell,	Kitchin,	Singleton, James W.	
Dunn,	Klotz,	Singleton, O. R.	
Elam,	Ladd,	Slemons,	

NOT VOTING—22.

Acklen,	Fort,	Lapham,	Talbott,
Beale,	Harmer,	Lay,	Taylor,
Bland,	Henderson,	Martin, Joseph J.	Wells,
Butterworth,	Hubbell,	Miller,	Young, Thomas L.
Clark, Alvah A.	Johnston,	Russell, Daniel L.	
Dick,	Knott,	Smith, Hezekiah B.	

So the motion of Mr. CLYMER was agreed to.

ORDER OF BUSINESS.

Mr. HAYES. I move that the House now adjourn.

Mr. KEIFER. I desire to offer a resolution.

Mr. HAYES. I will hear it.

Mr. KEIFER. I think there will be no objection to it. I send it to the Clerk's desk.

STATIONERY FOR MEMBERS, ETC.

The Clerk read as follows:

Resolved, That the Clerk of this House issue to members and officers of the House such necessary stationery as may be required; and he shall have authority to use any unexpended moneys belonging to the stationery fund to supply necessary articles which are not now on hand; that issued to members to be charged against them and accounted for when appropriation is hereafter made.

Mr. SPARKS. I object.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted, as follows:

To Mr. BUTTERWORTH, until Wednesday next;

To Mr. DICK, indefinitely, on account of sickness;

To Mr. WELLS, for one week;

To Mr. O'CONNOR, until the 14th instant;

To Mr. CANNON, of Utah, for five days; and

To Mr. HUBBELL, for ten days, on account of sickness.

Mr. HAYES. I now renew the motion that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned until Tuesday next.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of citizens of Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. ATKINS: The petition of R. K. Baird, for an increase of pension—to the Committee on Invalid Pensions, when appointed.

By Mr. BRIGHT: Papers relating to the war claims of J. W. Burbridge & Co., and Robert H. Montgomery, W. R. Butler, Ruth A. Fleming, Mrs. Ann P. James, Fanny Priscilla Murfree, Martha A. Stevens, Robertson Topp, and Wm. L Vance—to the Committee on War Claims, when appointed.

By Mr. COX: The petition of A. L. Rawson and others, relating to the amendment of the postal laws regarding the transmission of obscene literature—to the Committee on the Post-Office and Post Roads, when appointed.

By Mr. DIBRELL: Papers relating to the war claims of Joseph Anderson, and St. Peter's and St. Paul's church, Chattanooga, Tennessee—to the Committee on War Claims, when appointed.

Also, papers relating to the claims of William G. Ford, Thomas Cottman, Albert Grant, and Sarah Wilson—to the Committee of Claims, when appointed.

Also, a paper relating to the pension claim of Margaret A. Webb—to the Committee on Invalid Pensions, when appointed.

Also, papers relating to the claim of William West—to the Committee on Military Affairs, when appointed.

By Mr. FORSYTHE. The petition of Elizabeth J. Colbert, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. HASKELL: The petition of Saint Louis hat finishers, relative to the duty on hatters' silk plush—to the Committee of Ways and Means, when appointed.

Also, the petition of the citizens of Kansas, for the passage of a law providing for opening the Indian Territory to settlement—to the Committee on Indian Affairs, when appointed.

By Mr. HENKLE: Papers relating to the war claim of J. H. Maddox—to the Committee on War Claims, when appointed.

By Mr. HOUSE: Papers relating to the war claim of Mount Olivet Cemetery Company, Nashville, Tennessee—to the same committee, when appointed.

By Mr. KLOTZ: Papers relating to the claim of Charles Edwards for additional compensation as an officer in the United States Army—to the Committee on Military Affairs, when appointed.

By Mr. MANNING: The petition of Gray W. Smith, for compensation for property taken by the United States Army—to the Committee on War Claims, when appointed.

By Mr. McGOWAN: The petition of G. A. Cameron and 18 others, of Calhoun County, Michigan, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

Also, the petition of G. A. Cameron and 11 others, of Calhoun County, Michigan, for the reduction of the tax on tobacco—to the Committee on Agriculture, when appointed.

By Mr. MORSE: Papers relating to the petition of Robert P. Wilson for appointment as a captain in the United States Army—to the Committee on Military Affairs, when appointed.

By Mr. STEPHENS: Papers relating to the war claim of Matilda Shields—to the Committee on War Claims, when appointed.

By Mr. WADDILL: Petition of Saint Clair Grange, Saint Clair County, Missouri, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. WHITTHORNE: Papers relating to the war claim of the heirs of Matthew Allison—to the Committee on War Claims, when appointed.

Also, papers relating to the claim of S. C. Moffett—to the Committee of Claims, when appointed.

By Mr. WILSON: The petition of M. Reilly and others, of West Virginia, for the repeal of section 7 of the revenue law relating to wine and distilled and fermented liquors—to the Committee of Ways and Means, when appointed.

By Mr. WRIGHT: The petition of Mary Byrd Dallas, that her pension be increased to its original amount—to the Committee on Invalid Pensions, when appointed.

IN SENATE.

MONDAY, *April* 7, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Thursday last was read and approved.

ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, in which the concurrence of the Senate was asked.

Mr. DAVIS, of West Virginia. I ask that the bill be referred to the Committee on Appropriations.

The VICE-PRESIDENT. The Chair will lay the bill before the Senate.

The bill was read twice by its title, and referred to the Committee on Appropriations.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of the 31st of March, 1879, information in relation to the manner in which cars and bonded warehouses containing appraised and unappraised goods are secured to prevent frauds on the revenue; which was referred to the Committee on Finance, and, on motion of Mr. EDMUNDS, ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting a report of the acting Chief of Engineers upon a provision in the sundry civil bill approved March 3, 1879, discontinuing the geographical surveys west of the one hundredth meridian under the War Department after June 30, 1879, as well as other surveys under the direction of the Interior Department; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. COCKRELL presented concurrent resolutions of the Legislature of Missouri, in reference to the copyright of the decisions of the Supreme Court of the United States, and in favor of such legislation as will vest the same in the Secretary of State; which were referred to the Committee on the Judiciary.

Mr. DAVIS, of West Virginia, presented the petition of David H. Myers, late private Company A, Second Regiment New Jersey Cavalry, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HILL, of Georgia, presented the petition of Robert Erwin, a citizen of Savannah, Georgia, praying compensation for property taken from him by the military authorities of the United States during the late war; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CONKLING. I present a petition accompanied by various papers, one of which is a bill which passed the Senate at the last session, for the relief of Ann M. Paulding, widow of Hiram Paulding, late senior rear-admiral of the United States Navy. I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. CONKLING. I present also the petition of John Beeson, who seems to be a citizen of Oregon, who speaks in his petition of services which he has rendered the Government, and for which he asks compensation. I move the reference of the petition to the Committee on Claims.

The motion was agreed to.

Mr. THURMAN presented a memorial of Miller Brothers and others, manufacturers of cigars in Dayton, Ohio, remonstrating against the passage of any act by Congress making a change in the present method of stamping cigars by attaching a so-called coupon stamp; which was referred to the Committee on Finance.

He also presented the petition of Solomon S. Robinson, late captain and brevet major, Sixteenth United States Infantry, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. INGALLS presented the petition of H. A. McCarthy, of Saint Mary's, Kansas, praying compensation for services rendered the Government as scout during the late war; which was referred to the Committee on Military Affairs.

He also presented the petition of C. C. Phillips, of Iowa, praying

for additional compensation for services rendered the Government during the late war as assistant surgeon of the United States Army; which was referred to the Committee on Military Affairs.

He also presented the petition of W. S. Handley, late a private in Company H, First Iowa Cavalry, praying for a pension; which was referred to the Committee on Pensions.

Mr. MAXEY presented the petition of William N. R. Beale, of Missouri, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. LOGAN. I present the memorial of William B. Walker and upward of 200 others, members of the Board of Trade of Chicago, Illinois, in favor of the passage of a law authorizing all railroad companies to construct and maintain telegraph lines for the use of the public as well as themselves, on the ground, as they allege, that the expense connected with telegraphing under the present system is so great as to be a serious burden to the business and commerce of the country. I understand that the proposition to which this memorial refers is already in an appropriation bill, and I move its reference to the Committee on Appropriations.

The motion was agreed to.

Mr. WHYTE presented the petition of Absalom Kirby, passed assistant engineer United States Navy, praying to be allowed the pay of his present grade in the Navy from the 11th of October, 1866, to the time he was restored to the active list; which was referred to the Committee on Naval Affairs.

He also presented the petition of Mrs. Cora A. Slocomb and others, citizens of Louisiana, praying for a return of moneys alleged to have been illegally taken from them by the United States authorities; which was referred to the Committee on Claims.

BENJAMIN P. RUNKLE.

Mr. McDONALD. On the 10th day of January, 1878, the Senate referred to the Committee on the Judiciary a resolution relating to the restoration of Benjamin P. Runkle to the Army. On the 3d of March, 1879, a majority report was made from the Judiciary Committee by the Senator from Vermont, [Mr. EDMUNDS.] The Senator from Ohio [Mr. THURMAN] and myself desire to submit the views of the minority to the Senate in dissenting from that report, which I now present, and move that the views of the minority be laid on the table and be printed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. INGALLS. By request I ask leave to introduce a bill for the relief of the Central Branch Union Pacific Railroad Company, and I ask that it lie on the table; I shall move its reference hereafter.

By unanimous consent, leave was granted to introduce a bill (S. No. 349) for the relief of the Central Branch Union Pacific Railroad Company; which was read twice by its title, and ordered to lie on the table.

Mr. HILL, of Georgia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 350) to amend the act entitled "An act for the relief of Robert Erwin;" which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 351) to extend the time for filing claims for horses and equipments lost by officers and enlisted men in the service of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 352) for the relief of Frank D. Yates; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 353) to enable the State of Colorado to reclaim certain waste lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 354) for the relief of Jacob and Elizabeth Sener; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

Mr. ALLISON. At the request of a member of the House, Mr. DEERING, of Iowa, I ask leave to introduce a bill for reference to the Committee on Pensions.

By unanimous consent, leave was granted to introduce a bill (S. No. 355) granting a pension to Mrs. Elizabeth Upright; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALLISON. Accompanying the bill I present a letter from the Secretary of War, under date of February 11, 1879, addressed to Mr. DEERING, and I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. SLATER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 356) to transfer the control and management of Indian affairs from the Interior to the War Department; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HILL, of Colorado, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 357) to provide for coinage at the branch mint at Denver, Colorado; which was read twice by its title, and referred to the Committee on Finance.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 358) granting a pension to Nelson Roosevelt; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Pensions.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 359) to repeal the Atlantic and Pacific Railroad grant; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 360) repealing the charter of the National Capitol Insurance Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PENDLETON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 361) to restore W. M. Beede, jr., to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 362) granting a pension to Martha A. Williamson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. COCKRELL. I desire to introduce a bill without previous notice, granting an increase of pension to James C. McCarty, of Jackson County, Missouri, and to accompany the bill with a petition numerously signed by leading, influential citizens of that county, asking for this increase, as Mr. McCarty was a soldier in the war of 1812, is now eighty-four years old, served four distinct terms, and was honorably discharged each time.

By unanimous consent, leave was granted to introduce a bill (S. No. 363) granting an increase of pension to James C. McCarty; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. COCKRELL also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 364) for the relief of Samuel A. Lowe; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 365) for the relief of Hardie Hogan Helper; which was read twice by its title, and, with the papers on the file relating to the case, referred to the Committee on Pensions.

Mr. THURMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 366) for the relief of David W. Stockstill; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry to accompany the memorial volume heretofore ordered; which was read twice by its title, and referred to the Committee on Printing.

AMENDMENT TO A BILL.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

ACCOUNTS OF JOHN I. DAVENPORT.

Mr. BAYARD submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to transmit to the Senate a statement of all sums of money which have, in 1870 and in each year since, been paid out of the Treasury to John I. Davenport, either as chief supervisor of elections, clerk of the United States circuit court, United States court commissioner, or in any other official capacity, or for any service or disbursement whatever; distinguishing between payments as chief supervisor, clerk of the circuit court, or United States commissioner, and for other services or disbursement; and to transmit to the Senate transcripts of any and all bills, accounts, or claims on which such sums were paid to the said Davenport, and all official correspondence respecting such accounts, claims, auditing, and payment.

Mr. CONKLING. That seems to be a good resolution as far as it goes, but I should like it to lie over so that it may be made a little more capacious, perhaps.

Mr. BAYARD. I ask that it be printed.

The VICE-PRESIDENT. The resolution will lie over and be printed.

DISTRICT WATER SUPPLY.

Mr. ROLLINS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the commissioners of the District of Columbia be directed to furnish to the Senate a schedule of the water rents now charged and collected in said District; what changes may be made therein in order that they may bear equitably upon all classes of water takers; and what increase, if any, is required in said rates to provide for the just and proper expenses of the water department; together with the amount now collected, and what amount will be realized from such increased rates. Also, what arrearages are due for water rents or water-mains, and what steps, if any, have been taken for their collection.

UNION PACIFIC RAILROAD FREIGHT DISCRIMINATIONS.

Mr. COCKRELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to furnish to the Senate any and all reports made to him by the Quartermaster-General of the United States Army about the month of October in the year 1878, and prior and subsequent to that date, of any discrimination made by the Union Pacific Railroad Company in favor of private shippers as against the United States, and all correspondence relating thereto.

LEGISLATION ON APPROPRIATION BILLS.

The VICE-PRESIDENT. If there is no further business for the morning hour, the Senate will proceed to the consideration of its unfinished business.

Mr. HEREFORD. At the last sitting of the Senate I gave notice that to-day I should move to take from the table the resolution offered by the Senator from Massachusetts, [Mr. HOAR,] for the purpose of submitting some remarks upon it, but inasmuch as the question involved in the unfinished business is one of high privilege, I do not desire to antagonize that, but shall ask to take up the resolution to which I have referred and be heard upon it as soon as the pending matter is disposed of.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. The Senate will proceed with its unfinished business, being the resolution reported from the Committee on Privileges and Elections, "that Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire;" and the pending question is upon the amendment offered by the Senator from Massachusetts [Mr. HOAR] to strike out from the resolution the word "not" before the word "entitled."

Mr. BAILEY. Mr. President, the failure on the part of the Legislature of New Hampshire to elect a successor to Mr. Wadleigh, whose term of service expired on the 3d of March, 1879, was followed by an executive appointment of Hon. Mr. Bell, who now claims a seat on the floor of the Senate in virtue of that appointment. The question presented is whether, under the third section of the first article of the Constitution of the United States, Mr. Bell is entitled to a seat on this floor. The Constitution declares, in the section to which I refer, that—

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years.

* * * * * * *

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

It seems to have been manifestly the intention and purpose of the framers of the Constitution in adopting this section of the first article not only to confer upon the Legislature of a State the right, but to make it a duty, upon the expiration of a Senator's term, to choose for him a successor, and further to provide that after one shall be thus chosen, if by resignation, by the accident of death or otherwise, there should be a vacancy in the term for which a choice had thus been made, to confer upon the executive, if the vacancy occured during a recess of the Legislature, the right to make a temporary appointment until the next meeting of the Legislature. But we may derive some light, and be instructed somewhat by looking into the history of this clause of the Constitution, and with that view I invite for a moment the attention of Senators to the Madison Papers, to the debates that occurred in the convention, and the motions and resolutions which were adopted, whereby this clause became a part and parcel of the Constitution.

It will be remembered that in the convention propositions were submitted in the form of resolutions by Mr. Randolph, of Virginia, and in the form of a constitution by Mr. Charles Pinckney, of South Carolina. After days had been spent in the discussion of the propositions involved in the two plans which had thus been presented, it will be remembered that certain agreements were made, certain resolutions were adopted, certain conclusions were reached, and a committee of detail, as it was called, was appointed in order to throw into shape the resolutions and conclusions of the convention. That committee made a report to the convention, and I ask leave to read this article of the constitution as it was reported by that committee. The clause as reported by the committee reads as follows:

ARTICLE V.

SECTION 1. The Senate of the United States shall be chosen by the Legislatures of the several States. Each Legislature shall choose two members. Vacancies may be supplied by the executive until the next meeting of the Legislature. Each member shall have one vote.

SEC. 2. The Senators shall be chosen for six years; but immediately after the first election they shall be divided into three classes, as nearly as may be, numbered 1, 2, and 3. The seats of members of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; of the third class, at the expiration of the sixth year; so that a third part of the members may be chosen every second year.

Now, let us go back for one moment and consider what was reported in this article. We find,

First. That the Senate of the United States should consist of two Senators from each State.

Second. That these Senators should be chosen by the Legislatures of the different States.

Third. That immediately after the first election they should be divided into three classes, so that a third part of the members would be chosen every second year.

Fourth. That vacancies should be (or may be) supplied by the executive until the next meeting of the Legislature.

If language is capable of expressing an idea with any sort of precision this means that two Senators should be chosen by the Legislature of each State, to hold office for the term of six years; that one-third part of the whole number of Senators should be chosen every second year, and if vacancies should occur (or happen) in the seats thus filled by the Legislature they should be supplied until the next meeting of the Legislature, which, as the constituent of the senatorial body, should make a choice.

The propositions thus reported were brought before the convention on the 9th of August, 1787, for discussion, when

Mr. WILSON objected to vacancies in the Senate being supplied by the executives of the States. It was unnecessary, as the Legislature will meet so frequently.

* * * * * * *

Mr. RANDOLPH thought it necessary, in order to prevent inconvenient chasms in the Senate.

* * * * * * *

Mr. WILLIAMSON. Senators may resign or not accept.

I ask attention to this expression and to the action of the convention following immediately thereon:

Senators may resign or not accept. This provision is therefore absolutely necessary.

The provision was retained, but immediately after on the page following of the record of the debate—

Mr. MADISON, in order to prevent doubts whether resignation could be made by Senators, or whether they could refuse to accept, moved to strike out the words after "vacancies," and insert the words "happening by refusals to accept, resignations, or otherwise, may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the executive thereof until the next meeting of the Legislature.

So that that clause of the Constitution shall read:

Vacancies happening by refusals to accept, resignations, or otherwise, may be supplied—

How?

by the Legislature of the State in the representation of which such vacancies shall happen, or by the executive thereof until the next meeting of the Legislature.

It is very clear that doubts were entertained whether under the section as repealed by the committee, the exercise of the power to choose a Senator for six years did not exhaust the power of the Legislature if the Senator should live through the term. He might refuse to accept the office; he might wish to resign; he might be promoted to another office; he might be expelled. The doubt was whether in either of these events a successor could be elected by the Legislature or appointed by the executive. Hence the words employed, "vacancies happening by refusals to accept, resignation, or otherwise, may be supplied by the Legislature of the State in which such vacancy shall happen, or by the executive thereof until the next meeting of the Legislature."

I have shown that original vacancies, that is, vacancies caused by the expiration of the term, could not have been filled by the executive, according to the plain and manifest intent of this article, as reported by the committee on detail. We see above that it was not the intention of the mover of this amendment nor of the convention in adopting the amendment to confer this power, but to provide for accidental, unexpected vacancies that could not be foreseen and would or might "happen," as by refusal to accept, by resignation, or otherwise—that is, might occur by other accidental or fortuitous circumstances.

The section as amended meant this and nothing more.

The Legislature was authorized to elect for a term of six years.

But vacancies might happen. How happen? By resignation, by refusal to accept, or otherwise by accidental and unforeseen contingencies or events.

In such case the Legislature, if sitting, should fill the remainder of the term; or, if it was not in session, the executive should appoint until the next meeting of the Legislature.

The language employed by Gouverneur Morris, who seconded the amendment offered by Mr. Madison, strengthens the conclusion I have reached. He said:

This is absolutely necessary; otherwise, as members chosen into the Senate are disqualified from being appointed to any office by section 9 of this article, it will be in the power of the Legislature—

Not by refusing to appoint, for it was assumed that that duty would be discharged—

it will be in the power of a Legislature, by appointing a man against his consent—

One who will not accept, or one who may choose to resign—

to deprive the United States of his services.—

Unless the amendment shall be adopted.

Now, Mr. President, the clause thus amended on the motion of Mr. Madison went to another committee. It was not thereafter discussed or debated. This was regarded as settling the purpose and intent of the framers of the Constitution in regard to vacancies in the office of a Senator. A committee was appointed in September, 1787, to revise the style and arrangement of the articles which had been agreed on by the convention. What articles? The articles agreed upon, and among others the one which we have just now been discussing, and which expressed the sense of the convention and the intent and purpose of the convention in regard to the question of vacancies.

That committee, mark you, was not charged with the duty, nor was

it authorized to change in the slightest respect the sense of the articles which had been referred to it. It was a committee simply upon style, a committee to arrange and to place in proper order the various resolutions which had been debated and adopted by the convention. Therefore, when the committee made its final report to the convention of the form and frame of the Constitution containing section 3, article 1, as it now appears in the Constitution, it is evident that it would have been a gross violation of the trust and confidence which had been reposed in it by the convention to have changed in the slightest degree the sense of the resolution which had been adopted. It was the duty of this committee to arrange the order and method in which the various powers of this Government then proposed should be developed. It was the duty of the committee simply to give expression in proper language and proper words to the ideas which had dominated in that body and to the resolutions which the body had agreed on. Therefore I say, Mr. President, when we read this section 3 of article 1 of the Constitution, we must read it in the sense and give to it identically the same meaning that we would give to the article as shaped by the convention before it was sent to the committee.

So, Mr. President, it seems to me that the reading of the history of this clause of the Constitution settles, and settles definitely and conclusively, the question. But it has a history that is beyond that. In the year 1801, when Mr. Tracy, of Connecticut, under circumstances very similar to those that are presented in this case, was appointed by the governor of the State of Connecticut as his own successor to begin a term which had then just expired, the question was made in the Senate of the United States whether the governor was clothed by the Constitution with the authority to make the appointment. It was very considerably debated, and by a party vote of 13 to 10 he was admitted to a seat. On the very next day another similar case was presented to the Senate and decided in the same way. At a time anterior to that, when Mr. Cocke, of Tennessee, presented his credentials, having been appointed by the governor of Tennessee to begin a term, he was admitted without discussion and without debate. The Senator from Massachusetts [Mr. HOAR] supposes that at that time a construction was placed upon the Constitution by persons many of whom had been instrumental in framing it and who were then sitting as members of the Senate. I have taken the pains to examine, and I find that in 1797 not one of those who participated in the framing of the Constitution was a Senator in the Congress of the United States.

The precedent in Tracy's case was followed in 1803, again in 1809, in 1813, and in 1817. But in 1825 the question was again presented to the Senate. It was probably brought to the attention of Senators by reason of very earnest and heated discussions which had taken place in 1822 in regard to the meaning of the word "happen," occurring in that section of the Constitution that gives to the President the power temporarily to fill all vacancies that may happen in a recess of the Senate.

The constitutional term of Mr. Lanman, a Senator from the State of Connecticut, had expired. He was appointed to be his own successor by the executive of that State, and the power to make the appointment was claimed upon the ground that the term had expired during a recess of the State Legislature.

When Mr. Lanman offered to take a seat in the Senate objection was made, and thus was presented the question whether the executive of a State had under the Constitution the power to appoint a Senator at the beginning of a senatorial term, when the Legislature during its sittings had failed to fill the term.

The Senator from Massachusetts referred the other day to an article that appeared on the 8th of March, 1825, in the National Intelligencer, in which it was stated that the question that had been presented to the Senate in Lanman's case was whether the governor, in anticipation of a vacancy to follow from the expiration of a term of office, had the constitutional right to make an appointment. This article seems to have fallen under the eye of Mr. Gordon, who was compiling a book about that time, and he transferred it into a note, and stated that to have been the question considered and determined by the Senate. Judge Story adopts from Gordon the same statement, but it all rests at last upon the authority of this article in a newspaper of the day, appearing, as my recollection is, for I examined it a few days ago, in the local columns, and probably written by a local editor of that paper. But in Niles's Register of the Debates of Congress it does appear that the question presented was a very different one. I proceed to read now from the Register of March 12, 1825:

> The following members, also, re-elected for six years from this day, took the oath of office, namely: Mr. Lloyd, of Maryland; Mr. Macon, of North Carolina; Mr. Guillard, of South Carolina; Mr. J. S. Johnston, of Louisiana; and Mr. Barton, of Missouri.
>
> Some conversation took place on the case of Mr. Lanman, reappointed by the governor in the recess of the Legislature, the question being—
>
> Not as stated by the article in the Intelligencer, but—
>
> the question being, whether a failure by the Legislature to make a choice of a Senator constitutes the contingency in which a governor may appoint a Senator, the language of the Constitution being, "if vacancies happen, by resignation or otherwise," &c.

That was the precise point that was presented for discussion and consideration at that time; that was the point which, as I understand, the Senate undertook to settle.

> The subject was laid over till to-morrow.

It came up again the next day and it again was the subject of some discussion. It went over, I believe, until a future day, and finally the Senate by a solemn decision reversed its action in Tracy's case made in times of great political and partisan excitement in 1801, and deliberately determined that under such circumstances as are presented here to-day or as were presented then the governor of a State has not a constitutional right to make an appointment.

I say that from that day to this, from the year 1825, a period of more than fifty years, you may look through the Journals of this body, you may look through the records of the debates of this body, you may look to the action of State governors and State Legislatures, and you will find that this decision has never been questioned until this hour. It has been accepted by our public men of all parties, at all times, and under all circumstances as the established law of this body. In 1837 the Committee on the Judiciary of the Senate, of which Mr. Grundy was chairman, making a report on Sevier's case, expressly stated this to have been the question determined in Lanman's case, and the committee then recognizing the correctness of the principle which lay at the foundation of the decision excepted out of it Mr. Sevier, because of the circumstances attending his introduction into the Senate in 1836 and because of the fact that the time when his seat would become vacant could not have been foreseen by the Legislature of Arkansas. Hence it was held that he was entitled to the seat, a decision that in my humble judgment was wrong, and yet it does not reverse the action of the Senate in Lanman's case in 1825, but expressly recognized its binding validity.

I may mention, in passing, that in the Senate in 1837, at the time Sevier's case was determined, and when this report was made by Mr. Grundy, a lawyer of great ability as well as a public man of great character, Mr. Benton was still in the Senate, so was Mr. King, of Alabama, and so was another who had been here in 1825. It is evident from the vote of the Senate at that time, Mr. Benton voting to sustain the report of the committee, that his recollection of the question presented in 1825 was in accordance with that stated by Mr. Grundy.

Mr. CAMERON, of Wisconsin. Will the Senator allow me?

Mr. BAILEY. One moment. Mr. Eaton, who made the report in 1825, was at that time in public life here in the city of Washington. I believe that Andrew Jackson was a member of the Senate in 1825 when this question was presented, and voted upon it in 1825. Andrew Jackson was then about retiring from the Presidency. The city of Washington and the public offices of that day were filled with the men who had been in public life and had been in the Senate in 1825; so that if the statement made by Mr. Grundy had been incorrect in the slightest particular, certainly the attention of some of those distinguished gentlemen would have been called to it, and the statement would have been corrected.

Mr. CAMERON, of Wisconsin. With the permission of the Senator from Tennessee, I desire to call his attention to the head-note to the Lanman case as given in Bartlett's Contested Election Cases, page 871. The head-note is this:

> It is not competent for the executive of a State in the recess of a Legislature to appoint a Senator to fill a vacancy which shall happen but has not happened at the time of the appointment.

Now, the point is that the point decided in the Lanman case was that the executive had no authority to fill a vacancy which had not happened at the time the appointment was made, but in anticipation of a vacancy which might or might not happen thereafter.

Mr. BAILEY. I will ask the Senator whether Mr. Bartlett, the compiler—for he was simply a compiler—states any fact or any circumstance or refers to any debate, to any word that was spoken, to sustain him in the syllabus that he makes of the decision in that case?

Mr. CAMERON, of Wisconsin. I will ask the Senator from Tennessee if Mr. Grundy in the report made by him in the Sevier case refers to any fact, any debate, any authority, which justifies him in making the statement which he did make?

Mr. BAILEY. Mr. President, it seems to me, with all respect to the Senator from Wisconsin, that that is no answer at all. The report made by Mr. Grundy was made in the year 1837. I referred a moment ago to the fact that in the Senate of 1837 were several gentlemen of distinguished reputation who had been Senators in the year 1825. I referred to the fact that Mr. Grundy had been connected with public affairs before the year 1825, and I referred to the further fact that the Register of Debates of Congress shows this to have been the question and the only question that was discussed or determined in Lanman's case in 1825; and the only authority in opposition is the compilation of Mr. Bartlett who professes to know nothing about it and gathers his information alone from the Journals of the Senate, which are open alike to all others and which give no information whatever in regard to this matter.

But I was proceeding to say that in 1854 Mr. Phelps, of Vermont, the predecessor of an honorable Senator who fills a seat in the Senate at this day from that State with so much ability and with such great value to the country, was an applicant for a seat. The facts in his case were not contested, and it is not necessary that I should give the points of distinction; but this whole subject of the power of the executive of a State to fill vacancies that might occur by expiration of a term came before the Senate for discussion. Now, I ask the at-

tention of the Senator from Vermont for a moment to some things that were said on that occasion not only by Mr. Phelps, but also by his colleague, Mr. Foot. The question was debated by Mr. Butler of South Carolina, Mr. Badger of North Carolina, Mr. Geyer of Missouri, Mr. Bayard of Delaware, Mr. Foot and Mr. Phelps of Vermont, by Mr. Toucey of Connecticut, and by one or two other Senators. I have taken the pains to examine the debates of that day, and I say here that every Senator without exception who spoke upon this point at all, or made any allusion or reference to it at all, not only recognized the authority of the Lanman case, but expressed the opinion that the decision in that case was correct. Mr. Phelps himself, the claimant of the seat, made this distinct admission.

Mr. CAMERON, of Wisconsin. If the Senator will allow me, the minority of the committee do not question the correctness of the decision in the Lanman case, but we say that the decision in the Lanman case is not what it was stated to be by Mr. Grundy in his report on the Sevier case.

Mr. BAILEY. I will show you, Mr. President, and I will show the Senate that the gentlemen who discussed this question in 1854, Mr. Phelps the claimant, his colleague Mr. Foot, Mr. Badger, Mr. Butler the chairman of the Judiciary Committee at that date, other Senators known to fame and to the whole country, discussed that question, and without exception they recognized the ruling in Lanman's case to have been a ruling upon the very question that is now presented to the Senate, and not one of them stated, and I make the affirmation that it has never been stated upon the floor of the Senate from the year 1825 down to this day that the ruling in Lanman's case was other than I have stated, and it remained for the minority of the Committee on Privileges and Elections now to undertake to make a distinction between Lanman's case and this and to hold that the decision in Lanman's case was not upon the point that is now presented, I propose, however, to refer for a moment to what was said upon that occasion and I will begin by referring to what Mr. Phelps himself. the claimant, said. Mr. Phelps said:

The question was not how long Mr. Lanman could hold his seat; the question was not what terminated the office; but it was whether the office was—

I ask the attention of the Senator from Wisconsin; here is Mr. Phelp's statement, a claimant of a seat at the time, a predecessor of the Senator from Vermont—

but it was whether the office was originally legally conferred? And the Senate decided in that case that it was not within the constitutional power of the governor to fill the seat by appointment for a full term.

Mr. CAMERON, of Wisconsin. The Senator I think ought to state that a session of the Legislature of Vermont had been held intermediate the occurring of the vacancy and the attempt to fill it, and all the authorities hold that where there is a session of the Legislature intermediate the occurring of the vacancy and the time that the executive attempts to fill it, that prevents the filling of the vacancy by the executive. The reason, of course, is because the Constitution expressly provides that it shall be so. So that the facts in the Phelps case are not at all analagous to the facts of the case now under consideration.

Mr. BAILEY. I have undertaken to show what the Senators and statesmen of that day said about the question in Lanman's case, what was the opinion and judgment of the claimant of the seat then in question. He said:

It is sufficient to say here that the question was not how long Mr. Lanman could hold his seat; the question was not what terminated the office; but it was whether the office was originally legally conferred. And the Senate decided in that case that it was not within the constitutional power of the governor—

To do what? To make an appointment in advance of the expiration of the term? No; but—

to fill the seat by appointment for a full term.

Again, he said on another day:

Now, sir, what is the language of the Constitution?

He is discussing here not what was decided in Lanman's case, but he is discussing the Constitution itself, and the construction to be given to it.

After providing for the election of Senators by the Legislature of a State, and their classification, it goes on to make provision for vacancies which may "happen," in the language of the Constitution. This term "happen" has been understood to mean an accidental vacancy, a vacancy not anticipated, and not to be anticipated. In making provision for such a vacancy the power is conferred upon the executive to make appointments with respect to such vacancies as may happen in the recess of the Legislature of the State.

I read this to show what the opinion of Mr. Phelps was upon this question. I might detain the Senate by reading the opinions of other Senators at that date; but I will content myself with referring to the opinion of another predecessor of the Senator from Vermont, namely, Hon. Mr. Foot, who had a seat upon the floor. At that day Mr. Foot said:

It will be observed, that by the first clause of this section, the sole and exclusive authority to elect Senators, in the first instance, or, in other words, to make an original election, is conferred upon the Legislature. No authority is conferred upon the executive, in any contingency, to make the original appointment of Senator.

And it was stated by Mr. Badger and also by Mr. Bayard that it was conceded at that day, conceded by every Senator who had a seat on the floor of the Senate, that the construction of the Constitution contended for by the majority of the Committee on Privileges and Elections to-day was the proper and correct construction. I say, then, that so far as this question has a history, there can be no doubt upon it.

Before I depart from this point, however, let me refer to the fact that a friend has handed me Mr. Benton's Thirty Years in the United States Senate, in which he thus treats Lanman's case:

Mr. Lanman had served a regular term as Senator from Connecticut. His term of service expired on the 3d of March of this year, and the General Assembly of the State having failed to make an election of Senator in his place, he received a temporary appointment from the governor. On presenting himself to take the oath of office, on the 4th day of March, being the first day of the special senatorial session convoked by the retiring President (Mr. Monroe) according to usage for the inauguration of his successor, his appointment was objected to as not having been made in a case in which a governor of a State could fill a vacancy by making a temporary appointment. Mr. Tazewell was the principal speaker against the validity of the appointment, arguing against it both on the words of the Constitution and the reason for the provision. The words of the Constitution are: "If vacancies happen (in the Senate) by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the Legislature." "Happen" was held by Mr. Tazewell to be the governing word in this provision, and it always implied a contingency, and an unexpected one.

And in this his argument is singularly in accord with the remarks of Mr. Madison when he offered the amendment to the resolution that had been originally adopted in the convention to frame the Constitution:

It could not apply to a foreseen event, bound to occur at a fixed period. Here the vacancy was foreseen; there was no contingency in it. It was regular and certain. It was the right of the Legislature to fill it, and if they failed, no matter from what cause, there was no right in the governor to supply their omission.

A committee was appointed on motion of Mr. Eaton to look for precedents, &c. They reported the cases of William Cooke, of Tennessee, and others, to which reference has been made; and Mr. Benton gives the vote on the Lanman case:

The Senators voting in favor of the motion were: Messrs. Bell, Bouligny, Chase, Clayton, DeWolf, Edwards, Harrison, (General,) Hendricks, Johnston of Louisiana, Kane, Knight, Lloyd of Massachusetts, McIlvaine, Mills, Noble, Rowan, Seymour, Thomas—18. Those voting against it were: Messrs. Barton, Benton, Berrien, Branch, Chandler, Dickerson, Eaton, Findlay, Gaillard, Hayne, Holmes of Maine, Holmes of Mississippi, Jackson, (General,) King of Alabama, Lloyd of Maryland, Marks, Macon, Ruggles, Smith of Maryland, Tazewell, Van Buren, Vandyke, Williams of Mississippi—23.

I have not undertaken to do more than give, as briefly as I could, the history of the clause of the Constitution that must control the action of the Senate, and refer to precedents and the opinions of public men in order to show what has been settled and acknowledged for fifty years to be the true meaning of the Constitution. The language is plain; its meaning is obvious; so obvious that efforts at analysis or criticism only tend to make obscure what to a mind simply seeking for truth seems very plain.

Mr. ROLLINS. Mr. President, it is not my purpose to enter upon the discussion of the constitutional questions that are involved in this case, but to leave that work to the many able constitutional lawyers upon the floor of the Senate, who will undoubtedly say all that is necessary to be said upon that branch of the question. I do desire, however, to state as briefly as possible all the facts in the cases of unfilled seats or vacancies at the beginning of senatorial terms by reason of non-election, in the cases cited by the majority of the committee apparently as precedents which ought to govern the action of the Senate in this case. The circumstances of these cases have been gathered from an examination of the legislative journals of the several States, and from other sources equally reliable, and the facts as so found show that these so-called precedents have no analogy to or bearing upon the case now before the Senate. I will take the cases up in the order in which they are presented by the committee.

Maine: The vacancy occurred March 4, 1853. The Legislature, which met in January previous, after repeated efforts, adjourned without electing a Senator, and the vacancy was not filled until the next regular session of the Legislature of that State.

Connecticut: The vacancy occurred March 4, 1851. At the May session of the Legislature, 1850, after several ballotings, without effecting a choice, the election was indefinitely postponed. At the May session of 1851, after twenty-two ballotings, the subject of the election of United States Senator was again indefinitely postponed, and the vacancy was not filled until the next regular session of the Legislature in 1852.

Pennsylvania: The vacancy occurred March 4, 1855. The Legislature of that State, at its session beginning January, 1855, made repeated attempts to elect a Senator, but failed to do so, and adjourned May 8 without effecting a choice. At the next regular session of the Legislature, January 14, 1856, William Bigler was elected.

Maryland: The vacancy occurred March 4, 1843. The Legislature assembled December 26, 1842, and remained in session until March 10, 1843, when it adjourned without electing a Senator to fill the vacancy. The House of Delegates on several occasions passed a resolution fixing a day for the election of a Senator, but the Senate refused to concur therein, and the vacancy was not filled until the next regular session of the Legislature.

North Carolina: The vacancy occurred March 4, 1853. The Legislature assembled in November, 1852, and having made repeated efforts adjourned without electing a Senator to fill the vacancy. As the sessions of the Legislature of that State were then biennial it did not meet again until November, 1854, when Daniel S. Reid was elected.

Indiana: The vacancy occurred March 4, 1855. The Legislature of

that State met January 4, 1855, and there were repeated attempts made in the lower house for both houses to go into joint convention for the purpose of electing a United States Senator; but the senate refused. The practice having been to elect in joint convention, the Legislature of the State failed to elect a Senator until February, 1857, when Mr. Fitch was elected, and admitted to his seat in 1858.

Missouri: The vacancy occurred March 4, 1855. The Legislature met in January previous; within two or three days commenced balloting for United States Senator, and continued to do so, in convention, forty-one times; and adjourned March 5, 1855, without effecting an election. The Legislature met again December 29, 1856, and on January 13, 1857, elected Mr. Trusten Polk Senator.

California: The vacancy occurred March 4, 1855. The Legislature assembled January 1, 1855, and had numerous ballotings for United States Senator; but adjourned May 7, 1855, without having made any choice. The Legislature assembled again on January 7, 1856, and repeated attempts were made to elect a United States Senator; but it again adjourned April 21, without having done so. The Legislature assembled again January 5, 1857, and on the 13th of the same month elected William M. Gwin.

Oregon: The vacancy occurred March 4, 1859. At the extra session of the Legislature, held May 16, 1859, the question of the election of United States Senator was considered, but the Legislature adjourned June 4, 1859, without filling the vacancy. At the regular session, held September 10, 1860, repeated attempts were made to elect; but on October 18, 1860, a motion was made to indefinitely postpone the bill providing for the election of United States Senator, which motion prevailed.

NOTE.—It was decided in the United States Senate on February 14, 1859, by lot, that the term of Delazon Smith, one of the Senators from Oregon, would expire on the 3d day of March, 1859.

The bill for the admission of Oregon was approved February 14, 1859.

The majority of the committee might have added to the list the case of New Hampshire, which was unrepresented from August 4, 1854, to July 30, 1855. In this case the Legislature which met in June, 1854, attempted to fill the vacancy by an election, but after numerous attempts adjourned without making an election. After the adjournment a democratic governor made an appointment to fill the existing vacancy, but the Senate, standing upon the authority of the decision in the case of Kensey Johns, held that the Legislature, having met and failed to elect, the executive had no power to act.

Now I come to the Lanman case. In Connecticut the vacancy occurred March 4, 1825. This is the Lanman case, which is cited as a precedent. The constitution of the State of Connecticut, adopted in 1818, was in force in 1824 and 1825, and required the General Assembly of that State to meet on the first Wednesday in May in each year. The General Assembly at its regular session in May, 1824, (whose duty it was to elect a Senator,) failed to fill the vacancy which would occur by reason of the expiration of the term of Mr. Lanman in March following, and adjourned without having made such election. This Legislature, having thus deliberately omitted to provide against a vacancy which they knew must occur, practically declared that the State should go unrepresented in the Senate of the United States until the next session of the Legislature.

The rejection of Mr. Lanman is in strict accordance with several decisions of the Senate, which have established the doctrine that where a Legislature, competent to elect, meets and fails to make such election, the executive has thereafter no power of appointment.

The majority say that "the decision in the Lanman case has been for more than fifty years regarded as a correct exposition of the Constitution, and that during this long lapse of years its authority has not been questioned." But what was that decision as understood by the public and cited by the legal profession? It is shown that the National Intelligencer of the next day, Mr. Gordon, two years later, and Judge Story and other legal authorities cite this case as deciding that the appointment could not be constitutionally made until after the vacancy had actually occurred, or that a vacancy must have literally "happened," or come to pass, before an appointment could be made to fill it.

This was the only construction of that decision known to the public; and if that has been regarded as correct, and guided the action of the executives and Legislatures of the States, it could not be supposed to be an authority against the present case, but in its favor, as that decision was followed in this case and the appointment of Mr. Bell was not made until the vacancy had happened or actually come to pass; and no session of the Legislature having been held prior to the occurrence of the vacancy, except that of June, 1878, which the senate had deliberately decided could not elect under the law of 1866.

Whatever nice distinctions may be found between the Lanman and Sevier cases, there can be no doubt of the fact that in the latter case the vacancy occurred by the expiration of the term, and the executive appointment was made in anticipation of such vacancy, and yet he was admitted to his seat. In this view it is directly in conflict with the Lanman case, and the Senate will remember that it followed the Lanman case. It was in 1837. But if that decision was upon the ground that there had been no session of the Legislature which could have elected, then it is a decision in support of Mr. Bell's claim.

The result of an investigation of this whole subject from 1789 down to the present time may be summed up in a very few words. During all this time there can be found no case of an executive appointment to fill a vacancy occurring by reason of the expiration of a term, where a Legislature competent to fill such vacancy had not been in session prior thereto, where such appointee was refused admission. Out of six cases of such appointments made after the vacancy had actually occurred, the present is the first in which an objection has been made to the admission of the appointee. If Mr. Bell is now refused admission, it must be by setting aside all these precedents, overruling the former action of the Senate in similar cases, and taking an entirely new constitutional departure.

Mr. President, as we understand the Lanman case, Mr. Bell's application here does not conflict with it at all. It may be summed up in a very few words. In that case a Legislature competent to elect had met and failed to elect a Senator. In this case no Legislature met prior to this appointment that was competent to elect. The Senate of the United States has so decided. In the case of Mr. Lanman the appointment was made in anticipation of the vacancy; in this case the appointment was not made until after the vacancy happens, so that it makes no difference whatever, for the present purpose, how you construe the Lanman case. If you say that it turned on the question of the appointment of the governor prior to the happening of the vacancy, then it is not a precedent to govern in this case. If you say it turned upon the other point, (and that, I am inclined to think, is the true state of the case,) if it turned on the point made by the Senator from Tennessee that a Legislature competent to fill the vacancy having once been in session, and that Legislature having failed to perform its clear, bounden duty, the power of the governor was exhausted, and the Senate of the United States did right in rejecting Mr. Lanman, still that is not this case. No Legislature of New Hampshire has ever been in session nor could any Legislature have been convened prior to the vacancy that could elect a Senator to fill the vacancy if the decision of the Senate of the United States upon that question last June is the correct decision.

A single suggestion further, Mr. President, as to one other point. There may be some who believe that the Legislature of New Hampshire, which held its session in June, 1878, should have elected a Senator to succeed Senator Wadleigh, whose term was then about to expire. There was some conflict of opinion about this among the lawyers, and the matter was referred to a committee of the senate, and upon their report the senate (the final tribunal for the decision of such questions) denied the right of that Legislature to elect. This construction of the law, made by the only tribunal authorized to act thereon, was accepted as binding. The Legislature could not be expected to elect in the face of that decision; and if that decision was wrong and a vacancy happened thereby, the State ought not to suffer.

Mr. HILL, of Georgia. Mr. President, I entered upon the investigation of the question involved in this case with a sincere desire to vote for the admission of Mr. Bell. There is no party significance whatever in the issue, and nothing which should influence a Senator except a simple desire to arrive at a correct conclusion; and in view of the circumstances surrounding the case I did desire, if I could satisfy my conscience on the constitutional question, to vote for the admission. I entered upon the investigation inclined to believe that way, according to the suggestion made in the report of the minority of the committee that there ought to be a broad and liberal construction given to this clause of the Constitution so as to effectuate the purpose of having a full representation in the Senate. I felt that that was the great consideration which should influence the Senate in determining the question. But after giving the case full and fair consideration, after an investigation of its history and the legal import of the words involved, I have been unable to come to but one conclusion; and that is that we cannot admit Mr. Bell for the simple reason that the appointment madeby the governor is void under the Constitution. If I had a doubt upon the question after this investigation, I would cheerfully give the benefit of the doubt in favor of the admission of the appointee.

The case occurred in several periods of our early history, as the Senate has already been informed, but the question arising in the case was not discussed; it was not made. The first important discussion which we have any record of occurred in 1813 and 1814, and on a very memorable occasion, not in the Senate on the question of the admission of a Senator, but it occurred upon the kindred words in the Constitution conferring upon the Federal Executive power to fill all vacancies in the offices of the United States occurring during the recess of the Senate. The occasion on which it occurred was this: During the war of 1812 the Emperor of Russia offered his kind offices to mediate a peace between the Kingdom of Great Britain and the Republic of the United States. President Madison, in the recess of the Senate, appointed three distinguished gentlemen commissioners for that purpose. When the Senate assembled in 1813 his authority to do that was denied. The language of the clause conferring upon the President the power to fill vacancies is peculiar, and as the first discussion arose on that language I call the attention of the Senate to it. The language is this:

The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

Senator Gore, who seems to have been a distinguished lawyer of that day, introduced a series of resolutions, only the first of which I

will read, though they would all be interesting. He introduced these resolutions on the 29th of July, 1813:

The President of the United States having by the Constitution power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session:

Resolved, That, in the opinion of the Senate, no such vacancy can happen in any office not before full.

And he followed it up with very elaborate resolutions condemning the act of Mr. Madison in appointing three commissioners to negotiate a treaty of peace and commerce with Russia and Great Britain as unauthorized by the Constitution. These resolutions were deemed so important that the Senate in executive session ordered that they should be discussed in open session, and some very elaborate speeches were made, the whole question being the power of the President to fill an original vacancy, and founded upon the meaning of the word "happen" in the clause of the Constitution which gave him power to fill up all vacancies that should happen during the recess of the Senate. That discussion continued for nearly one year, and very elaborate speeches, as I say, were made by various able Senators, in which speeches a good deal of feeling was shown. The discussion is very important and very instructive. Mr. Gore, the author of the resolutions, concluded the discussion of the resolutions himself in open session, making a very elaborate argument, on the 12th day of April, 1814. The resolutions were introduced in July, 1813, were transferred to the open Calendar, and debated continually and frequently until April, 1814, when they were disposed of by making them the special order for the next December, and they were never again taken up. Therefore the resolutions introduced by Mr. Gore were neither adopted nor rejected; but that elaborate discussion had upon the meaning of the word "happen" is the first discussion I have been able to find in the history of this transaction.

The Senator from Tennessee has referred to the next important discussion that occurred, which was in 1822.

Mr. CAMERON, of Wisconsin. Before the Senator from Georgia passes from the consideration of the first discussion which he finds, will he allow me to call his attention to this point? If I understand the reading of the resolutions offered on the occasion to which he has alluded, it was that there was no vacancy because the office had not been filled. Is there not this distinction between that case and this: the office of Senator from the State of New Hampshire was filled prior to the 3d day of March last?

Mr. HILL, of Georgia. I will come to that. I am now giving the history of the question. The Senator from Wisconsin will please excuse me for the present, I will come to that point presently. I am showing how the discussion on this question of the power of the President and the power of the governors of the States to fill a vacancy under the word "happen" occurred.

Mr. BAYARD. I ask the Senator from Georgia whether the commissioners so nominated did not proceed to act and were not in continual service till they negotiated the treaty of Ghent?

Mr. HILL, of Georgia. Two of them did serve; Mr. Gallatin was rejected. It is a historical fact that strong feeling was engendered between the Senate and Mr. Madison by the introduction of the resolutions of Mr. Gore. Mr. Gore stated he had no desire to interrupt the mission or defeat the gentlemen appointed, but he desired to make the point of power with the President, to prevent its exercise as a precedent, that the Senate should contest it as a principle, and the discussion of Mr. Gore's resolution did not take place until after the gentlemen alluded to were confirmed and the mission was completed, because Mr. Madison when the Senate met sent in the names by regular nomination. Two of them were confirmed and Mr. Gallatin was not at that time.

The next discussion of any consequence that arose was in 1822; I believe it was alluded to by the Senator from Tennessee. In that discussion the Senate did come to a conclusion, but that discussion again arose upon the power of the President to fill up a vacancy occurring in the recess of the Senate. Let me state the conclusion at which the Senate then arrived. I am not going into the particulars but only propose to give the points as they arose. The report of the committee was:

In the second section of the second article of the Constitution of the United States it is provided, that "the President shall have power to fill up all vacancies that may *happen* during the recess of the Senate, by granting commissions which shall expire at the end of their next session." If the offices to which Colonels Towson and Gadsden are nominated were original vacancies created by the act of the 2d March, 1821, the committee contend that they were not filled agreeable to the provisions of the Constitution. The words "all vacancies that may *happen* during the *recess* of the Senate," evidently mean vacancies occurring from death, resignation, promotion, or removal; the word *happen* must have reference to some casualty not provided for by law.

There is no controversy about that. That is the report of an able committee. Let me read part of it again:

The words "all vacancies that may *happen* during the *recess* of the Senate" evidently mean vacancies occurring from death, resignation, promotion, or removal; the word *happen* must have reference to some casualty not provided for by law.

And that report was adopted and the nominees of Mr. Monroe were rejected. This discussion, I say, occurred in 1822. The Senate will now see how it was that the issue came to be made in Mr. Lanman's case. These discussions upon the meaning of the word "happen," occurring in 1813 and 1814, and occurring again in 1822, had called the attention of the great minds of that day to the point, for the qualifying words are stronger in the senatorial clause than in the executive clause in relation to vacancies. As my friend from Tennessee suggests, it occurred several times in that way. It occurred on appointments to missions in several cases, and in appropriating money power was given to the President to fill vacancies by express authority of law after the Senate had adjourned, and discussion arose in various cases in that way.

By these two great occasions to which I have alluded, in which the Senate struggled for nearly a year with the question during Mr. Madison's administration without deciding it, and on which was submitted an elaborate report in Mr. Monroe's administration when they did decide it, the attention of Senators was brought to the question, and therefore when Mr. Lanman presented his credentials in 1825 the point was raised that that vacancy, like those alluded to in the presidential clause, was a vacancy which did not happen, and therefore the governor of the State had no authority to fill it, and the Senate, following the precedent of 1822, decided that the governor of a State had no authority under that provision of the Constitution to make an appointment at the beginning of a term; and from that day to this that question has been considered as settled. I reaffirm with emphasis what the Senator from Tennessee said, from that day to this that question has been accepted as settled; governors have acted upon it in various instances; the statesmen of all parties have acted upon it, and it has not been reopened, except by this case, when the governor of New Hampshire has again reopened it by sending Mr. Bell here with a commission to take a seat in the Senate.

Mr. ROLLINS. Will the Senator yield to me for a question? Was not the Sevier case in 1837, following 1825; and is it not the fact that in that case the appointment was made for the beginning of a term? Let me ask further what evidence has the Senator found to show that the decision in the Lanman case turned upon the point he has now suggested?

Mr. HILL, of Georgia. I find this evidence: It has been repeated to the Senate by the Senator from Tennessee; it was the issue made on the case at the time. Nobody ever said otherwise except the National Intelligencer and a gentleman by the name of Gordon, whose digest was adopted by Judge Story. But it was repeated by Mr. Grundy in his report in 1837, and it was repeated in the debate of 1854, in the case of Phelps. Now I wish to say this——

Mr. ROLLINS. Mr. President——

Mr. HILL, of Georgia. Do not interrupt me, for it will be unnecessary if you will listen to me. The Senator asks did not the question recur in 1837, in Mr. Sevier's case? I say it did not. It is true Mr. Sevier was admitted. Why? The committee and the Senate of 1837 recognized the principle of the Lanman case. They did not reopen it; they reaffirmed it distinctly, said it was a correct decision. And what did they say was the correct decision? The correct decision was that the governor had no authority to appoint a Senator to fill a vacancy at the beginning of a term, because that was not one that happened by casualty. I know a contrary impression is made by the quotation from Story, but that is evidently wrong, as the whole record shows; but the Senate admitted Mr. Sevier notwithstanding, I think upon an insufficient reason. But why did they admit Mr. Sevier? Because they said the vacancy to which Mr. Sevier was appointed occurred by lot, and therefore it might be said that it happened; it could not have been foreseen. With all due deference to the great men of that day I do not think it was a forcible distinction; but they admitted the principle of the Lanman case that the word "happen" could not be applied to a vacancy that could be foreseen. They said such a vacancy could not be said to happen; but they said the Sevier case was excepted from that, because his term was decided by lot, and the result of a lottery could not be foreseen by the Legislature of Arkansas, and therefore they admitted him. So far, then, from that case being a repeal or overruling of the decision in Lanman's case, it was a reaffirmance of it.

The gentleman representing the governor of New Hampshire so ably on this floor and the minority of the committee have put this case upon the ground of the decisions made previously to 1825. All lawyers know that the decision in the Lanman case, which was well considered and which was debated, overruled all those previous cases which were not considered, and they became as nothing, and the decision overruling them must stand as the law until it shall be overruled. The case of Lanman has never been overruled. It was reaffirmed in 1837, was recognized and reaffirmed in 1854, and it has been acted on, as the report of the committee shows, in a great number of cases by the governors of various States.

But, Mr. President, I wish to say another thing. This decision that I refer to in 1822 has been adopted by the law writers as settling the meaning of the word "happen." I will read from Mr. Justice Story upon this subject. He has been read from in relation to the Lanman case. I will read from him on this particular point. Section 1559 of Story on the Constitution says:

The language of the clause is, that the President shall have power to fill up vacancies that may happen during the recess of the Senate. In 1813, President Madison appointed and commissioned ministers to negotiate the treaty of peace of Ghent, during the recess of the Senate; and a question was made, whether he had a constitutional authority so to do, there being no vacancy of any existing office, but this being the creation of a new office. The Senate, at their next session, are said to have entered a protest against such an exercise of power by the Executive.

I have shown the resolutions that were introduced and debated but

not adopted. It cannot, therefore, be properly said that a protest was entered by the Senate.

On a subsequent occasion, (April 20, 1822,) the Senate seem distinctly to have held that the President could not create the office of minister, and make appointments to such an office during the recess, without the consent of the Senate.

Now, why?

By "vacancies" they understood to be meant vacancies occurring from death, resignation, promotion, or removal. The word "happen" had relation to some casualty not provided for by law.

That is the point to which I call attention, and Sergeant on constitutional law in his work reaffirms the same thing, and says that that decision has been accepted since as correct, that "the word happen had relation to some casualty not provided for by law," such as death, resignation, &c.

Now, Mr. President, a few words upon the clause in relation to the power of governors to fill vacancies in the Senate. I call the attention of the Senate to the language of the clause again:

And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

The first thing I wish to call the attention of the Senate to is that *this language* is different from that used in any other similar case in the Constitution. There are three cases where vacancies are authorized to be filled *eo nomine*. The first is in the House of Representatives. The language there is:

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

I have read that in relation to the Executive already; it is

The President shall have power to fill up all vacancies that may happen during the recess of the Senate.

The vacancies referred to in each clause are vacancies that may happen. The word "happen" is common to all the clauses. But in the clause in relation to filling vacancies in the Senate there are additional words. The vacancies are not only to "happen," but they must "happen by resignation, or otherwise." Now, to authorize the power to be exercised by the governor three things must occur: First, a vacancy must "happen;" second, it must "happen by resignation, or otherwise;" third, it must happen "during the recess of the Legislature." If this vacancy in the seat from New Hampshire has happened, and happened by resignation or otherwise, and has happened by resignation or otherwise during the recess of the Legislature of New Hampshire, this gentleman ought to be admitted.

Now, what is the meaning of the word "happen?" In addition to the precedents already incidentally given I wish to call the attention of the Senate to some others. Mr. Hamilton, in speaking of this very thing in the sixty-seventh number of the Federalist, uses this language, referring to the clause in relation to filling vacancies in the Senate:

I mean the power of filling casual vacancies in the Senate.

He speaks of it as the power of "filling casual vacancies." So again in the same number he says:

Here is an express power given, in clear and unambiguous terms, to the State executives to fill the casual vacancies in the Senate by temporary appointments.

So Mr. Hamilton himself speaks of it as a casual vacancy which a governor may fill. The Senator from Tennessee alluded somewhat to the history of this matter in the convention. I wish to call the attention of the Senate to it again. The first time that I have been able to discover that this question of filling vacancies in the Senate arose in the convention which framed the Constitution was in the draught of a constitution or system of government proposed by Mr. Pinckney early in the session; which he called a plan of a federal constitution. Mr. Pinckney in his plan provided that the Senators should be elected by the house of delegates; he named his house of representatives the house of delegates, and he provided that the Senators should be elected by the house of delegates. I refer to this to show you the idea that the men of that day had of the meaning of the word "vacancy," and what the idea was of filling a vacancy in the Senate. After providing that the original election shall be by the house of delegates, he goes on to say:

As their times of service expire, the house of delegates shall fill them up by elections for —— years; and they shall fill all vacancies that arise from death or resignation, for the time of service remaining of the members so dying or resigning.

He goes on to define the word "vacancy"—and it is the only time when it was done—in the very clause itself, and he speaks of it as filling a vacancy "for the time of service remaining of the members so dying or resigning." Subsequently, as the Senator from Tennessee has already read, when the committee of detail made a report they adopted new phraseology. The language in that report was that vacancies in the Senate shall be supplied by the executive of the State—"vacancies in the Senate"—a broad term. That is exactly the meaning contended for by the other side.

Mr. ALLISON. May I ask the Senator, if that original language had been used in the Constitution, could such a vacancy as we have now be filled?

Mr. HILL, of Georgia. I incline to think it could, because that language was not "vacancy which happens." I do not think that "vacancy" is the emphatic word here. You try to make it the word. If you say that anything which is empty is vacant that may be true in one sense, but that is not the Constitution. The draught as reported by the committee of detail was "vacancies in the Senate shall be supplied by the executive." It did not qualify, it did not restrain, it said "vacancies," and if that language had been adopted you might apply your broad definition that anything which is empty, not filled, is a vacancy.

Mr. EDMUNDS. Does not the report read by the Senator from Tennessee of the debate in the convention on the subject of the power of a person who had been elected a Senator in the regular way to decline the appointment or to resign it after he had it show that there was a question about that, and as a consequence of that the introduction of these words goes to show that they were put in in order to recognize a right of resignation, and not to limit the power of keeping the representation of a State full all the time by the governor once exerting that power before the Legislature met?

Mr. HILL, of Georgia. That was one reason given by Mr. Madison at the time he made his motion to amend; that is true; but I think you will recollect that was not the only reason given. I have not that debate now before me. It is true it was put upon the idea that a declination to accept the seat was like a resignation; it was one kind of resignation, and it ought to be provided for. Mr. Wilson objected to the whole clause; he moved to strike out the clause authorizing vacancies to be filled by the Executive upon the ground that he was unwilling to intrust the Executive with that power. Mr. Randolph came in and used a very remarkable word in reply to Mr. Wilson. He said that it was very important that that power should exist to enable the Executive to fill chasms in the Senate. Mr. Wilson had objected to conferring the power at all. Mr. Randolph wanted to confer a limited power for a specific purpose which could not be otherwise provided for, which could not be foreseen. He called it a power to supply chasms; he might have called them casualties. Then Mr. Madison made his motion putting the words "vacancies which happen by resignation or failure to accept the office shall be filled by the governor," and these words were adopted *nem. con.* Subsequently, when the Committee on Style came to revise, the words now in the Constitution were finally adopted.

Now, then, here is the point: the only case in which the term "vacancies which happen" was defined by anybody was by Mr. Pinckney in his draught of a Federal plan, and he speaks of appointments to fill that which remains of an unexpired term. Subsequently all qualification was abandoned by the committee of detail, and "vacancies" broadly were authorized to be filled by the governor. Mr. Wilson objected to that. Mr. Randolph insisted upon a qualified power at least. Mr. Madison comes in with his amendment, giving, among other things, the specific reason mentioned by the Senator from Vermont; that is true. In that way they were put in as words of qualification, and they are words of qualification. That is the history of it.

Then why were the words "vacancies which happen" put in? Why were those other words, "vacancies which happen by resignation or otherwise," put in? Were they not put in as words of limitation? Were they not intended to qualify the power, to prevent it from being general and universal? And yet, I submit, the very position taken by the minority of the committee and now advocated by the Senator from New Hampshire would obliterate every qualifying word.

Mr. ALLISON. Mr. Madison gave a specific reason.

Mr. HILL, of Georgia. Yes, he gave one reason. Still these are qualifying words. They are words which were intended to qualify the power, which do qualify the power, and which since have been accepted as qualifying the power. A vacancy which happens means a different thing from a vacancy merely. There may be a vacancy which does not happen. A vacancy may occur which does not happen. Would you say that the sun happened to rise this morning? Would you say that the sun will happen to set this evening? Never. Why? Because we know that by the fixed law of nature the sun did rise and that the sun will set, and that the sun will continue to rise and set. He would use words strangely who should say that the sun happened to rise this morning. You may say that the sun happened to be under a cloud on a given day. You cannot even say that the sun happened to be eclipsed, because astronomers know that an eclipse comes by the fixed law of the heavens, and you cannot say that it happens. The word "happen" applies to what is a casualty, to what cannot be foreseen, and it cannot apply to anything else.

Mr. EDMUNDS. Does the Senator mean to say, Mr. President, that that is the dictionary definition of "happen," the etymological meaning of the word?

Mr. HILL, of Georgia. I am not using the dictionary in this discussion. I really do not know what the dictionary has to say about it.

Mr. EDMUNDS. I suggest to my honorable friend that his definition, according to all the authorities on etymology, is only one of the definitions of the word "happen," and that in the same clause which defines the word, where "happen" is spoken of in the light of chance, as he is now speaking of it, the other meanings of the word, "occurring," "taking place," are put in the same connection as some of its meanings. Why does the Senator take one definition and exclude all the others?

Mr. HILL, of Georgia. But I am using the word "happen" just as the voters on this very question have defined it, just exactly as the law-books have defined it. They say that the word "happen" in this connection has the meaning to which the Senator has alluded. It is an event which happens by casualties that cannot be foreseen, and

therefore cannot be well provided for. Will any Senator say on this floor that the term of Senator Wadleigh happened to expire? Did the term now unfilled happen to begin on the 4th of March? Did we not all know, did not the governor of New Hampshire know, did not the Legislature of New Hampshire know, long ago, years ago, that the term of Senator Wadleigh would certainly expire at a fixed time—a time fixed by law? Did you not know that the new term would then certainly begin, that the law had fixed that it should then begin, and will you say that—that which was fixed inevitably to come, which was certain to come, happened to come? Will anybody say that? Will any lawyer use terms in that way?

Mr. CONKLING. Will the Senator allow me one moment?

Mr. HILL, of Georgia. Yes, sir.

Mr. CONKLING. The Senator says there is a difference between a vacancy and a vacancy which happens. I agree with him about that, and would not trouble him to amplify his remarks; but he says again there is a difference between a vacancy which happens and one which happens from resignation or otherwise. Will the Senator be kind enough to point me to the difference between a vacancy which happens, and a vacancy which happens from resignation or otherwise?

Mr. HILL, of Georgia. The Senator from New York has misunderstood me. I have not said that.

Mr. CONKLING. I so understood the honorable Senator.

Mr. HILL, of Georgia. I said that a vacancy would happen——

Mr. CONKLING. I understood the honorable Senator from Georgia to say, first, that there were qualifying words in the Constitution as to vacancies; that one of those qualifying words was the word "happen;" and that a vacancy which happened need not necessarily be a vacancy which only existed. I understood him to go further and say, that following the word "happen" were still additional qualifying words, to wit, "by resignation or otherwise."

Mr. HILL, of Georgia. That is right.

Mr. CONKLING. The Senator admits that I am right so far, while think I am right in the foundation of my curiosity and of my question, which I shall state again. I want to know what is the distinction between a vacancy which happens only, and a vacancy which happens from resignation or otherwise? There certainly must be a difference, provided the Senator is right in saying that he finds qualifying or restraining words in the language "by resignation or otherwise." If those words qualify, then they do certainly distinguish between a vacancy which only happens and a vacancy which happens by resignation or otherwise.

Mr. HILL, of Georgia. The Senator is wholly mistaken in the inference which he drew from my position, although he states my position correctly in the last remark. In my opinion, the words "by resignation or otherwise" are additional words of qualification. That is all I have said.

Mr. CONKLING. Yes.

Mr. HILL, of Georgia. But they are words of qualification which only make more certain the character of vacancies fixed by the word "happen."

Mr. CONKLING. Then, if my honorable friend will pardon me once more, "they only make more certain." Now I quote him exactly. They only make more certain. If they do, certainly it is by some substantive meaning, by the fact that they import into this clause of the Constitution some visible, tangible, or ascertainable thing which without them would not be there. I ask the honorable Senator what is that thing which they only make more certain? Point out to me the meaning, the substance, the thing which is made more certain.

Mr. HILL, of Georgia. If the Senator will allow me, I am coming to the point as to the meaning of the words "by resignation, or otherwise." That is the very next point in my argument. It is not at all incumbent upon me to show why the words were put in, or rather to show a purpose different from that which actuated the framers in putting in the word "happen." That is not at all necessary for me to do; it is not at all important to my argument; but we are face to face with the fact that the framers of the Constitution had before them three occasions in which to provide for the filling of vacancies, and on all those occasions they spoke of vacancies which should happen. On two occasions they spoke only of vacancies which should happen. On the third occasion they not only spoke of vacancies which should happen, but they defined the manner in which they should happen, that they should happen "by resignation, or otherwise."

The best reason that I can give to the Senator, assuming that the interpretation which our predecessors have placed on the word "happen" in the other two instances is correct, is the assumption that the framers of the Constitution were determined to be more explicit in the third case than in the other two cases. The fact that the meaning of "happen" is defined in the clause relating to the Senate, and is not defined in the other clauses, has been used by some who were trying to give the broad construction to these words as evidence that the limitation we contend for, which lies in the word "happen," does not exist, because their argument was that if there was a limitation in the word "happen," there was no use for the framers in framing this clause in relation to filling vacancies in the Senate to add the words "by resignation or otherwise;" that they ought to have been content with using the words "and if vacancies happen" in this case as they did in the other two cases. All it can prove and all that it is necessary for me to prove, I suggest to the honorable Senator from New York, on the question of construction as to whether the word "happen" was a qualifying word or not, is that while the framers were willing to trust it in the other two cases, (and there might have been reasons why they should trust it in the other two cases,) yet in this particular case, as there was the specific objection in the convention to conferring this power upon the governors at all upon any terms, there was a reason why in conferring it they should be the more particular in fixing the qualification. That is all I can say on that point.

Now, Mr. President, what is the meaning of the words "by resignation or otherwise?" I say to the Senator from New York if the interpretation given to the clause of the Constitution which authorizes the President to fill vacancies that was adopted in 1822, and which Mr. Story and Mr. Sergeant both tell us has been the accepted rule since, was correct, I grant that the same thing would follow in this clause in relation to filling vacancies in the Senate without the words "by resignation or otherwise." But even if it be true that the interpretation given to the word "happen" in the other two clauses be incorrect, still that is no reason for holding that the qualification does not exist in this senatorial clause, because in addition to the word "happen" the kind of happening is specified, that is, it must be "by resignation, or otherwise." So unquestionably, whether the qualification exists in the other two clauses derived from the word "happen" or not, it certainly does exist in this clause. That is the point I make, and that is all. The qualification certainly does exist in this clause, because in addition to the word "happen" it says that the vacancy must happen "by resignation, or otherwise." What do those words mean? They were not inserted idly. The framers of the Constitution were not in the habit of inserting idle words in the Constitution. Gentlemen construe the word "otherwise" strangely. They say that the word "otherwise" means any vacancy, that is, they say that the framers of the Constitution put in a qualification by the word "happen" and by the words "by resignation," and then destroyed those qualifications by putting in the additional words "or otherwise." In other words, you use the word "otherwise" so as to leave the power without any qualification, as though it read, "If vacancies should happen to occur during the recess of the Legislature the governor may fill them by temporary appointment." That is your meaning.

I submit to Senators that the very position itself is absurd, for there are well settled rules of law for the construction of this sentence. You cannot take a sentence that way and use one word to destroy the meaning of other words. You cannot take a general phrase and use it to destroy the meaning of a specific phrase. On the contrary, you must restrain and qualify the general phrase by the meaning of the specific phrase. That is a well settled rule. Why? Because it is your duty in construing to give effect to every word and to give a meaning and a sense to every word. You are not at liberty to say that the framers of the Constitution not only used idle words but used words of significance if standing by themselves, and then destroyed the significance of those words by using a general term afterward. I wish to read some authority on that question. I will read some very strong remarks made on that subject in the speech of Senator Gore in 1814, to which I alluded. Speaking upon that subject he said:

> The first resolution declares the opinion of the Senate, that no such vacancy can happen in any office not before full. One of the gentlemen calls on me for authority to show that the office must have been before full.
>
> The answer is, that the plain sense and meaning of the terms will admit of no other interpretation.
>
> It is a sound principle of construction, that in every instrument you must give sense and meaning to every word if possible.
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> * * * * * * *
>
> If the construction contended for by gentlemen who oppose this resolution be true, the words "that may happen," are useless; and surely if the Constitution intended to convey the power like that exercised by the President, in the present case, it might and would have said, "the President shall have power to fill up all vacancies during the recess of the Senate." This is precisely the construction contended for, and thus it is insisted that the special power contains a general grant, which renders the special nature of the delegation useless, at the same time that it renders null and void the authority contained in the general grant of the President and Senate, and authorizes the President to annihilate all the privileges of the Senate in respect to the power of appointment. I may surely return the question, and ask the honorable gentleman whence he obtained authority for such a construction.

Again he says:

> All general phrases are defined and limited by the particular enumeration of powers which would otherwise have been embraced by the general phrases.

In the twelfth volume of Georgia Reports I find this very strongly stated by Chief-Justice Lumpkin, who was for over twenty-five years the chief-justice of our State, and who has a national reputation as a jurist. On this very point he says:

> I would take occasion to remark that the rule of construction applicable to all writings, constitutions, statutes, contracts, and charters, public or private, and even to ordinary conversation, is this: that general and unlimited terms are restrained and limited by particular recitals when used in connection with them. Not that I would reject the general terms altogether, but I would restrict them to cases of the same kind as those expressly enumerated. (12 Georgia Reports, 530.)

That is the rule. You must restrict the word "otherwise" here. Do not destroy the word "otherwise;" do not let the word "otherwise" destroy the word "resignation;" but you must use the word "otherwise" as applicable to cases like "resignation;" that is, cases of casualty. Therefore, what does the word "otherwise" mean in this connection? It means death, removal, expulsion, failure to

accept, or a vacancy happening by any other casualty. Instead of saying "vacancies which happen by resignation, death, removal, promotion," or anything else, the framers used the words "by resignation or otherwise," intending the one word "resignation" to show you that the word "otherwise" was to be applicable only to cases like that governed by "resignation;" that is, cases of casualty which might happen.

Mr. CONKLING. Will the Senator allow me a moment?

Mr. HILL, of Georgia. Yes, sir.

Mr. CONKLING. I am listening with great pleasure and great satisfaction to what seems to me a very clear and able presentation by the Senator from Georgia; but to enlighten myself I venture to ask him a question. Suppose the design of the framers of this instrument was to deposit with the Legislature, as has been done, the power to fill original terms in the Senate; but in order that there might be no chasm in the Senate, or that the Senate might be kept full, to commit to the governors of the States the power to give temporary commissions in all instances when temporary vacancies occurred, either by death, resignation, expulsion, failure to accept, or, as in the present case, a change in the fundamental law of a State bringing on a hiatus. Suppose now that was the design of those who framed this instrument. My request to the honorable Senator is that he tell me what words they should have employed different from those which we find in order to vest that power and accomplish that object?

Mr. HILL, of Georgia. I will answer the Senator with a great deal of pleasure. They should have employed the very words that are employed in the act of Congress carrying out this power vested in the President in certain cases. The words "occurring by death, resignation, or the expiration of a previous term where the Legislature has failed to elect" should have been used. That would have covered it.

Mr. CONKLING. If my honorable friend will pardon me, that would cover more than I have suggested to him. Why? It would cover every case where for any reason a Legislature decided not to elect, whereas I put to him this case: what language should have been employed to cover, and cover only in that respect, the instance of a vacancy which the Legislature had not been able to fill? If the Senator will pardon me for a single moment, my purpose is not to interrupt or divert him,—far from it.

Mr. HILL, of Georgia. I see; I understand.

Mr. CONKLING. The Senator will see that the distinction I take is not technical or formal; it is substantial; and I will prove that by a single illustration. If it should be the established law that wherever a Legislature decided not to elect the power to fill the vacancy should revert to the executive of the State, the Senate and all of us must see how exposed the whole process of filling seats in the Senate would become; because the governor and his friends by cabal, intrigue, maneuver, might so arrange that the Legislature would decide not to elect or would fail to elect in order that the governor might gather to himself the power to fill the vacancy. The next Legislature might decide not to elect, and so indefinitely within the six years the executive power of a State might usurp that which the Constitution deposits with the legislative power. Therefore, I ask the honorable Senator to give me the words or the alteration of these words by which the framers of the Constitution would have been able to cover the case now before us, without covering other cases which we must all know they could not have intended to cover.

Mr. HILL, of Georgia. I appreciate the Senator's question because it is a very direct and forcible one and well put, and he has ably presented, I trust, to the Senate the very reason why the power contended for was not given. It is difficult to find words by which you could confer the power contended for without opening the case to the fraud and usurpation so well spoken of by the Senator.

On the one hand the object was to keep up as far as possible the State representation in the Senate. On the other hand it was intended to prevent the very combinations and corruptions and cabals and usurpations in behalf of the State executive to which the Senator has alluded; and therefore no attempt was made to get language to accomplish both purposes, and it would be difficult, I confess, even now at this late day, to employ language that would do it. For instance, take the language in the report submitted by the Committee of Detail before these amendments were put in by Mr. Madison; the language was this:

> Vacancies may be supplied by the executive until the next meeting of the Legislature.

That covers all vacancies. Mr. Wilson objected to this phraseology, intimated the very trouble the Senator from New York has, so much more ably than even he did, depicted in a few words, that it opened the opportunity for collusion and corruption and conspiracy between opposition parties in the Legislature and the governor, and gave occasion to usurpation by the governor, and he was opposed to putting the power in the governor's hands at all, and moved to strike out the whole clause.

The object of the framers of the instrument was to close the door to the possibility of the frauds to which the Senator from New York has alluded, and yet provide for the filling of casual vacancies, and therefore they put in the words of limitation which restrain the executive power to fill vacancies to cases of pure casualty that cannot be anticipated, that cannot be foreseen, and therefore where there can be no conspiracies or combinations to usurp power on the part of the executive. That is the very reason of the difficulty the Senator has so ably and so clearly suggested—the difficulty of employing language that would allow a governor to fill a term in the first instance, to appoint at the beginning of an original term, and thus enable him to adopt means by which he could prevent the Legislature from electing, and thereby bring about a vacancy for himself to supply. The very difficulty of providing against these evils was the reason why these limitations were put in the Constitution, and which result in preventing him from filling such a vacancy at all.

I say to the distinguished Senator from New York that he has made the best argument I have heard yet in a few sentences. If you by any interpretation of these words allow the governor to appoint at the beginning of a term simply because the Legislature for any cause has not filled the seat do you not see that all the difficulties to which the Senator has so eloquently alluded will occur at once? Do you not see that schemes may be resorted to to prevent the Legislature from filling the seat? How do you know—I do not say it, I do not believe it, but take it to illustrate—how do you know but that a few adroit persons in New Hampshire, knowing that the act of Congress of 1866 required the Legislature chosen next preceding the expiration of Wadleigh's term to elect the Senator, intended to bring on a vacancy by electing a Legislature in November last and postponing the meeting of the Legislature until June next? Do you not see that if somebody had a purpose to accomplish to force a vacancy, to bring about a vacancy, he had only to contrive any scheme by which the Legislature would not elect? I say again to the Senator from New York that he has struck the very point. Whenever you admit that the governor can fill a vacancy which is brought about by the failure of the Legislature to do its duty for any cause you open the door to conspiracy and fraud to prevent the Legislature from filling that vacancy.

There is but one escape from that result, and that is to say that the language of the Constitution intended to confine the power of the governor to cases of casualty that the governor could not foresee, that schemers in the Legislature could not foresee, that conspirators could not foresee, that nobody could foresee, and therefore nobody could conspire to bring about. That is exactly the reason of the limitation; and the very moment you open the door in this case—that is the chief significance of this question—the very moment you allow a governor to fill the office of Senator at the beginning of a term because the Legislature, for any cause, for any reason, by any means, have failed to fill it, in that event you open the door for the governor to make the appointment whenever the Legislature fails to elect, and the rule may be adopted all over the country and means may be universally resorted to to prevent the Legislature from electing at the proper time. And for that very reason the rule was wisely settled in Lanman's case, and as the report of the majority of the committee shows many cases have occurred since that where States have been allowed to remain for more than a year without one representative in the Senate because the Legislature had failed to elect, sometimes because of the conflict of parties, one party being dominant in one branch of the Legislature and another party being dominant in the other they would not agree to go into the election. We have given a list of such cases. Do you not see that if you once vary the rule in Lanman's case and admit that whenever the Legislature for any cause shall fail to elect a Senator at the beginning of a term the governor may appoint, you offer an inducement to the governor and men in the Legislature, for the reasons so ably depicted by the Senator from New York, to bring about that failure, that very thing which it was intended to prevent, that very thing which Mr. Wilson dreaded when he moved to strike out the power altogether? He did not want to trust that power to the executive; it was not right; he was not willing to risk it there. Doubtless his mind saw dimly what the mind of the Senator from New York now so clearly sees, that it would open the door to immense frauds.

This is not only the rule, but it is wise that it should be the rule. The primary object of the Constitution is to put in the State Legislature the power to fill this office and nobody else; but casualties may occur, death may come, resignation may come, Senators may be expelled; there may be divers casualties by which the term thus filled by the Legislature may become vacant, and vacant during the recess of the Legislature and when Congress may be in session. It is important, therefore, as was said by Mr. Randolph, to allow the governor power to fill these chasms, not power to fill an original term.

I want to read in the hearing of the Senate another authority. I stated the other day that this word "otherwise" had received in the courts a fixed interpretation. The Senator from Vermont was kind enough to say that he had never heard of such a construction put upon the word before. I have no doubt if I had time I could find numerous authorities; but if I have found one, that is sufficient for the purpose. I read from 21 Wisconsin Supreme Court Reports, the case of the State, on complaint of Kennedy *vs.* McGarry, page 503, the opinion being by Dixon, chief-justice:

> The statute defining the powers of the board of supervisors of Milwaukee County for the regulation and management of the house of correction in that county, contains this language: "Said board shall also appoint one inspector for said house of correction, who shall be the principal keeper of said house of correction, and who shall hold his office for the term of two years, commencing on the first Monday of January succeeding his appointment, unless sooner removed by said board for incompetency, improper conduct, or other cause satisfactory to said board."

One of the definitions of the word "otherwise" is "other cause,"

and every Senator will admit that the words are precisely the same. Mark the language:

Unless sooner removed by said board for incompetency, improper conduct, or other cause.

The question before the court was what was the meaning of those words "other cause" in the power of removal. Hear what the court say:

The board may remove for incompetency, improper conduct, or other cause *satisfactory* to the board.

Which you see was a very broad power. The word "satisfactory" is emphasized by the court.

By "other cause" we understand other *kindred* cause, showing that it is improper that the incumbent should be retained in office.

Mark you, unless removed for incompetency, or bad conduct, or other cause. Now the court decide that the words "incompetent" and "improper conduct" limit the meaning of the term "other cause" to causes growing out of the bad conduct or incompetency of the incumbent.

By "other cause" we understand other *kindred* cause, showing that it is improper that the incumbent should be retained in office. If the board should attempt to remove him for some cause not affecting his competency or fitness to discharge the duties of the office, that would be an excess of power, and not a removal within the statute. It would be equivalent to removing him without assigning any cause—a merely arbitrary removal which the statute does not authorize.

I submit that the language in this Wisconsin statute is much broader than the words in this clause of the Constitution, for it said the man should continue in office for two years unless sooner removed for incompetency, improper conduct, or other cause satisfactory to the board. Now come the court and say those words "other cause satisfactory to you" do not give you a roving commission to find any reason, but those words "other cause" are limited by the words "incompetency" and "improper conduct" in the connection in which they are used, and therefore "other cause" means "other like cause."

You can find a great many decisions to this effect. The language here is "if vacancies happen by resignation or otherwise." Gentlemen say the word "otherwise" means any way. But the expiration of a term comes within the rule that says you shall not construe "otherwise" in that particular meaning. Why? Because thereby you destroy the limitation, and the word "resignation," being a word of limitation with specific and defined meaning, limits the meaning of "otherwise;" that is, "otherwise" means "other like cases." Without having seen or examined the authorities for this, I so stated the other day, and the honorable Senator from Vermont questioned it and said he could not understand how it could mean "by similar means." You can find a number of cases of the same kind. It would be unreasonable to put any other meaning on this word. If you say that "otherwise" shall have its broad dictionary meaning, not its legal significance; that it shall derive its meaning from itself standing alone and not in connection with other words used as a legal phrase, you make "otherwise" broaden the broadest meaning of the previous language; and the very purpose of the argument on the other side is to show that when the Constitution says "when vacancies happen by resignation or otherwise" it means that if vacancies happen, or if vacancies occur, the governor may appoint, and you give no meaning to, you destroy the meaning of, "by resignation or otherwise."

So, then, this clause of the Constitution not only requires that vacancies should happen, but, to put the question beyond all doubt, it goes on specifically to declare that they shall happen by resignation or otherwise; that is, by resignation or by other similar cause, to allow the governor to appoint. What is "other similar cause?" Casualty; death is a similar cause because it is a casualty; removal is a similar cause because it is a casualty; refusal to accept is a similar cause because it is a casualty; but the ending of a term at a fixed time by law is not a casualty. That is not like "resignation;" that is not "otherwise." Why should the framers of the Constitution have undertaken to apply the term "otherwise" to the expiration of a term, an end fixed, an end settled not only by law but by the fundamental law? You see the absurdity of it.

Mr. President, I have deemed it necessary to be thus particular. I have not prepared my remarks with the care that I ought perhaps to have done on such a subject. I have simply relied upon these authorities and some others that I have on my brief, but which I will not take up the time of the Senate to present. There is more involved in this question than Senators at first may suppose. You may think that, the very object of the Constitution being to assure to the States representation at all times, we ought not to be narrow in construction. So we ought not; but, mark you, the Constitution as it stands has put it in the power of the States to be represented at all times. If any State has failed to be represented here to-day, it is the fault of nobody but the State; it is not the fault of anybody else; it is not the fault of the Constitution of the country. New Hampshire was notified that the term of her former Senator would expire last March; she was notified that if she wanted to fill that term she must do it by a certain Legislature at a certain time. We could not compel her to do it. She has failed by reason of her own deportment to do it. You say it was an accident. Strange accident, the making of a constitution! She could have avoided it. No one could have avoided it but New Hampshire, and if New Hampshire loses her voice temporarily in the Senate it is because of her own fault; she cannot blame this body. If you relax the rule as settled in the Lanman case and adhered to ever since, for the purpose of admitting this most excellent gentleman from New Hampshire, whom I should be glad to welcome as our associate here, you open the door to all the frauds and corruptions and conspiracies so well put by the Senator from New York in his interruption a short time ago.

I say therefore it is important that you close up this door and leave it where the proper construction of the Constitution puts it, that the New Hampshire Legislature shall fill the original term. She has ample power to do it. Nobody can prevent her from doing it; nobody can compel her to do it, and if she fails to do it it is her own fault and she can complain of nobody else. But if you allow New Hampshire by reason of her own conduct, thoughtless though it may have been or otherwise or accidental, to break down this rule to admit her excellent Senator here for a short space of two or three weeks or months, you establish thereby a precedent which overturns a principle which has lasted half a century, and open a door of fraud that nobody can foresee or calculate against.

One remark which I wished to make I had forgotten. It is out of place in this connection in my argument, but I forgot it in the right place. Gentlemen say that Lanman was rejected because the governor gave him the appointment in anticipation of a vacancy; that is, his commission was dated in February and the vacancy took place on the 4th of March, and that was the reason. We have shown already that that was not the reason. That was a mistaken reason, picked up by a local editor of the National Intelligencer, and it has acquired more importance than squibs in newspapers ought generally to have, because Mr. Gordon took it and Judge Story took it in a note; but when you come to look at the debate it was not so, and do you not see how absurd it would be? Do you not see that if you adopt the rule that the date of the commission is to make a difference and that the commission must date after the vacancy actually occurs, you destroy the whole purpose of it at once? Take the case of Mr. Lanman. One term expired on the 3d of March. The next term began on the 4th of March. The President had called the Senate together in executive session. Now, suppose we take your rule that the governor of Connecticut could not commission Mr. Lanman until the 4th of March, do you not see the result? Mr. Lanman's commission, signed in Connecticut after the 3d of March could not get to Washington and be here on the 4th of March. Before his commission gets here the extra term to which he is appointed may be ended. See the absurdity of that construction. No lawyer ever put such a construction on it. The date of the commission is nothing. Why did the governor of Connecticut issue his commission in February if you look at the date?

Mr. EATON. There were no railroads then.

Mr. HILL, of Georgia. No; there were no railroads then. The President had issued his proclamation calling the Senate together in executive session. The Legislature, the governor knew, would not be in session. There was a recess of the Legislature. Therefore Connecticut could not be represented on the 4th of March unless he appointed somebody. Now, then, what does the governor do? He simply issues a commission to Mr. Lanman to enable him to have it here by the 4th of March. As my friend from Connecticut [Mr. EATON] suggests, there were no railroads then, and he issued the commission, I think, about the 13th or the middle of February.

Mr. ALLISON. Mr. Lanman was here.

Mr. HILL, of Georgia. But the commission was not. He could not take his seat without the commission. It sometimes happens that a commission is of more importance than a Senator, for without a commission there cannot be a Senator.

Mr. BAYARD. Allow me to suggest that there was something in that case, I think quite as important as the railroad, and that is, there was no vacancy. No vacancy occurred for nearly a month after the governor of Connecticut issued that certificate.

Mr. HILL, of Georgia. The certificate is dated in February and the vacancy occurred on the 4th of March, but the certificate was issued to take effect on the 4th of March.

Mr. BAYARD. There was no vacancy at the time of the commission.

Mr. HILL, of Georgia. I am discussing that very question, and I am showing how absurd it is to say the certificate is void because there is no vacancy when it is signed. The question is when it is to take effect. There was no Legislature in session; the extra session of the Senate had been called; the governor of Connecticut knew that, and he knew that if he did not get Mr. Lanman's commission by the 4th of March to him in Washington he could not take his seat.

Mr. EATON. Why might not the governor appoint at a time in advance as well as the Legislature elect at a time in advance?

Mr. HILL, of Georgia. Certainly, if the power exists. What is the power? To fill the vacancy. He did not issue the commission in February to take effect in February; he issued the commission in February to take effect in March; and he issued it in February because it was necessary to issue it then to enable it to get here by the 4th of March. If you take the construction that he cannot date it, cannot issue it, until after the 4th of March, the purpose of signing it might all be gone before the commission got here.

Mr. BAYARD. At this point I desire to draw the attention of the honorable Senator from Connecticut as well as of the honorable Senator from Georgia, to this fact. Both have said that there were no railroads in 1825 by which speedy conveyance could be had with Washington. That is true; but I said there was also the other diffi-

culty apparently in that case, that there was no vacancy; and the answer is that although there was no vacancy at the time the certificate was granted, it was in the power of the governor to make an appointment prospectively, and the suggestion comes from all around the honorable Senator from Georgia that the Legislature itself can elect in view of a prospective vacancy. I wish to draw the Senator's attention to the fact that the power of the Legislature to elect prospectively and the power of the governor to appoint prospectively are not the same. It is only for a vacancy that shall happen during the recess of the Legislature that the governor may appoint. The vacancy had not happened at that time at all; there was none. Therefore the power of the governor to appoint prospectively is not at all equal to the power of the Legislature to elect prospectively. The power of the Legislature is during its session next preceding the time the vacancy shall occur; but the governor shall only appoint when the vacancy has occurred during a recess of the Legislature.

Mr. HILL, of Georgia. The power of the Legislature of which the Senator speaks is conferred by statute. We are talking about constitutional power now.

Mr. BAYARD. I apprehend all power conferred by statute is constitutional.

Mr. HILL, of Georgia. Certainly, but I say to my excellent friend from Delaware I concede outright that if the governor of Connecticut issued a commission to Mr. Lanman to take his seat in February that commission was void if there was no vacancy in February. But if the vacancy was in March and the vacancy did occur in March and the governor, as a precautionary measure, in order to have the commission here by the time the vacancy did occur, so that the man could take the seat on the first day of the vacancy, dated his commission in February to take effect in March, it was good. How does any rule of law prevent that? How does the date render it inoperative? It is the effect that is to be determined by the Constitution, not the date of the instrument. It took effect on the 4th of March. But it is useless to discuss that.

I say, now, Mr. President, that three things I consider necessary: first, the word "happen" in the clause giving the power to the President to fill all vacancies which happen during the recess of the Senate means vacancies that happen by casualty. It was so determined in 1822 distinctly by a vote of the Senate. It is so regarded by Mr. Story, adopted by Sergeant on the Constitution, adopted by all the law writers that I am acquainted with as the settled rule on this subject. That is the rule, says one of the writers, that has ever since been invariably adhered to, and so the courts construe it, so law writers construe it. Then in relation to this case the language is not only that vacancies must happen, but the additional words of limitation and qualification are put in to remove all doubt; they must happen by "resignation or otherwise," defining the word "happen," defining that it means by casualty, it means by resignation or other similar way; and that being the qualification, the third proposition is inevitable, a mere corollary, and that is that the governor of New Hampshire had no power to fill the senatorial term at the beginning, for that is a vacancy created not by casualty, not by death, not by resignation, but by the operation of law at a fixed time, certain and inevitable. It is possible that the Senate is called upon to resettle this question which ought to be considered settled. It was settled over fifty years ago, and that settlement has been acted on ever since. If we shall unsettle it again after fifty years the world can justly say that nothing is ever to be considered settled here except that nothing is settled.

I again repeat that I should be very glad to admit this gentleman on many accounts, but for the reasons I have given I think we have not the constitutional power to do so.

Mr. BAYARD. Mr. President, under the clause of the Constitution which makes the Senate the judge of the qualifications, elections, and returns of its own members, we sit as judges, should consider as judges, and so speak. In this case I have formed an opinion the reasons for which I desire as shortly as I may to lay before the Senate, and I may be pardoned for repeating the basis of law and fact from which my opinion is deduced. The clauses of the Constitution affecting this case are in section 3 of the first article.

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.
>
> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

It then proceeds to state the qualification for a Senator. Another clause of the Constitution provides, article 5, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

It is evident that up to this time there has been an irreconcilable conflict in the decisions of cases of the appointment of Senators by State executives. Senators have been refused admission in some cases, in others have been granted admission upon an apparently similar state of law and facts. The reports both of the majority and of the minority of the Committee on Privileges and Elections of the Senate have detailed to us the many instances in which up to the year 1817 there was a current of authority flowing in one direction in favor of the admission of Senators appointed by State executives as well at the commencement of an original term as at any period during its continuance. Such is the historical fact. Then came the case of Lanman in 1825, again that of Mr. Sevier of Arkansas in 1837. There appears to be between those cases a conflict, because there was a difference of facts; but in the present case let me remind Senators that we are proceeding not only under the Constitution but under a law passed in pursuance of the Constitution, at least I have never heard its constitutionality questioned unless questioned to-day by the honorable Senator from Georgia. I refer to the act of 1866 now compiled in the fourteenth section of the Revised Statutes, which provides:

> The Legislature of each State *which is chosen* next preceding the expiration of the time for which any Senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress.

By that law was indicated *the* Legislature and *the only* Legislature which should fill vacancies in the Senate of the United States, whether occurring by expiration of the term or from any other cause. Now I submit to the Senate that the case of Mr. Bell, the claimant from New Hampshire, has no precedent in its facts; and the conclusion to which this most respectable committee by their majority have come would amount to this, that by act of Congress you had prevented the Legislature "chosen next before the expiration of the term" from acting, and by a construction it is sought to prevent the executive of the State from acting, so that neither by its Legislature, the primary constituency of a Senator, nor by the action of its executive, that is the supplemental power acting contingently under special and restrained circumstances, can the State obtain her equal suffrage in the Senate, nor can the Senate have its subscription of composition from the State. Can any such case be presented as a precedent? Did any case ever arise before in which a construction was given to the Constitution that absolutely excluded the State from her equal suffrage in the Senate whether it was to come from the Legislature or from the governor acting within the restrained and contingent limits of his power?

Perhaps the most authoritative case, that in which at least the arguments are most fully reported and which certainly was argued with as much ability as any in the history of this body, was that of Mr. Phelps of Vermont in 1854. The question in that case was whether he having been appointed (and the validity of his original appointment by the governor was not questioned) could continue to hold his office after an opportunity had been given to the Legislature of his State to elect a successor to fill that vacancy, and the Senate by a decided vote of more than two to one, decided that he could not be appointed to continue in office after the next meeting of the Legislature. The reasoning of that case is to be found on page 618 of volume 1 of Contested Election Cases, being the report of the minority, A. P. Butler and J. A. Bayard, which after an elaborate debate was adopted by the Senate:

> The Senate of the United States is composed of organized constituencies, the State Legislatures; to them belong the power primarily of electing their Senators when they are in session at the happening of the vacancy and at their first meeting when it happens in their recess, and on them devolves the exclusive jurisdiction of filling such vacancies. Their right and authority to fill or supply vacancies which have been temporarily filled by executive appointment are as absolute and exclusive as was their power in an original election. When their power is brought into existence it must supersede all others, with this qualification, and that according to precedent, that they have a session to make the choice.

I beg the attention of the Senate to that reason:

> When their power—

That is, the power of the Legislature to fill the vacancy—

> is brought into existence it must supersede all others, with this qualification, *and that according to precedent, that they have a session to make the choice.* In our view it does not depend on the actual exertion of the power to elect, but on its existence.

Not on the exertion of the power but on the fact of the existence of the power. Can it be said that this reasoning will sustain the report of the majority in the present case where there has never been an opportunity for the exertion of the power by the Legislature to make a choice? What is the power that supersedes the temporary appointing power of the governor? The power of the Legislature, the primary constituency; but until that power has existence it cannot be exerted, and until it has existence it does not supersede the action of the governor.

> A Senator under an executive appointment may, or may not, represent the political views of his State; he may be the mere personal favorite of the governor. The Senate, *as far as practicable*, should be made to represent its constitutional constituency, and in this respect should preserve the republican feature of our Union.

Who will not assent to that? And assenting to that how is the title of the present claimant shaken? In the year 1878, by a change in constitutional arrangements made lawfully, the time of choosing a Legislature in that State was altered, and instead of electing it as theretofore in the spring of the year they elected it in the autumn of the year, choosing in the month of November instead of the month of March. The Legislature chosen in the month of November, according to its own limitation of appointment, could not be convened until the month of May, 1879. A vacancy took place, occurred, or happened, a vacancy came to pass in the office of Senator from that State on the 4th of March. There was then no Legislature in session. On the 18th of March it became necessary for this body to convene. It is a continuing body. I agree that extra sessions are as constitu-

tional, as much within the purview of the Constitution as its regular sessions; and we are here under the Constitution and by law, and a vacancy exists in the representation from New Hampshire which did occur in the recess of the Legislature of that State. If the governor of New Hampshire desired that his State should be represented, he had one of two courses open. If the machinery of the government of that State would permit him to bring the Legislature together, it was more in conformity with republican form that he should convene the Legislature although the Constitution might give him a discretion to make a temporary appointment; but as matter of law if he had convened the Legislature what Legislature would have been convened? The Legislature chosen in November, 1878, or the Legislature that preceded that? Clearly the preceding Legislature, the Legislature that adjourned in June, 1878, was alone the Legislature that under the constitution and laws of the State of New Hampshire could be convened, and yet that Legislature would have been unable to choose a Senator. And why? Because in the language of the act of 1866 it was not the Legislature chosen next before the expiration of the term——

Mr. CARPENTER. May I be pardoned for a suggestion?

Mr. BAYARD. Certainly.

Mr. CARPENTER. I take it for granted that the State of New Hampshire could not have two Legislatures at the same time. The old Legislature, if it could have met in extra session on the 5th of March, would have been the one that should be convened, the Senator says. That was the only Legislature that could or did meet until after the happening of this vacancy, or its occurrence, as you choose. Now, I want to know why that Legislature was not the Legislature elected last before the vacancy took place? There was no other Legislature and could be no other at that time.

Mr. BAYARD. The construction that I give to the act of Congress would not be affected because its language is this:

> The Legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress, shall, &c.

Mr. CARPENTER. That is the Legislature; that is the Legislature in existence before the expiration of the senatorial term. Now, I say that the only Legislature of that State which had been elected, because the only Legislature existing last prior to the expiration of the term, was the old one. The other was not the Legislature at that time, was not when the 4th of March came, is not to-day. If you were to have an extra session to-day in New Hampshire it would be the old Legislature that would be convened, and not the new one. Therefore I say that is the Legislature to-day, a month after that vacancy took place, which was elected last prior to that vacancy.

Mr. BAYARD. I do not agree with the Senator, if I understand him correctly, because it seems to me by the very force of the language that there was a Legislature "chosen" in New Hampshire in the month of November, 1878, and that was the one "chosen next before" the 4th day of March, 1879, and being so chosen it was, if I read the plain meaning or what is to me the obvious meaning of the statute, the Legislature that must fill a vacancy to occur after its being so chosen.

Mr. CAMERON, of Wisconsin. Will the Sentaor from Delaware allow me to ask my colleague a question?

Mr. BAYARD. Certainly.

Mr. CAMERON, of Wisconsin. When was the Legislature which will assemble in New Hampshire in June next chosen?

Mr. CARPENTER. In the first place, what is the Legislature? The members who will be the Legislature when the new constitution comes into force were elected at the time you say; and if that is a Legislature now, then there are two Legislatures in that State to-day, which I maintain cannot be.

Mr. CAMERON, of Wisconsin. When the Legislature assembles in June next, if that question were asked my colleague, when was that Legislature chosen, would he say it was chosen on the day it assembles, or on the 5th day of November, the day upon which the members were voted for?

Mr. CARPENTER. If you came to me with your question I should have to answer that that has not anything to do with this debate, because New Hampshire cannot have two Legislatures at the same time. Are there two Legislatures there to-day?

Mr. CAMERON, of Wisconsin. No; but the act of 1866 speaks of the Legislature chosen next before the vacancy; that I think is the word used, "chosen."

Mr. CARPENTER. The governing word is "Legislature;" it must be a Legislature, and if it does not come to the point of being a Legislature, it cannot be anything.

Mr. BAYARD. I think the argument of my honorable friend from Wisconsin [Mr. CARPENTER] would be stronger if the words of the act of Congress were not what they are. If the words of the act of Congress had been that the election should be by the Legislature which was elected and organized next before the vacancy, he would be right; but it is perfectly clear that the day of election, the day of choice was the date for choosing the Legislature which has not yet assembled and organized. The Senate, however, must weigh the force of the suggestion of the Senator from Wisconsin, which I confess does not strike me.

The language of the act of Congress of 1866, putting in motion the constitutional powers of the Legislature and regulating them, was intended, I presume, to prevent any antecedent Legislature from anticipating vacancies which had not occurred, or from filling vacancies by anticipation; in other words, usurping the power of the nearest Legislature to the event of the vacancy by a long preceding election; and they therefore gave this interpretation to the language of the Constitution that made it obligatory upon the Legislature, after a temporary appointment had been made by the executive, at its "next meeting" then to fill such vacancies. The language is mandatory. An important question was which Legislature shall do this thing, and the law answers that which is chosen at a date nearest to the time when the vacancy occurs. In this case the Legislature so chosen is that which under the laws of New Hampshire cannot be convened until May. The Legislature that preceded it is not, according to my construction of this law, competent to elect to fill this vacancy. In that state of things, has or has not the contingency arisen contemplated by the Constitution; has or has not the vacancy happened which was contemplated by the Constitution, and which the executive of the State is authorized temporarily to fill "until the next meeting of the Legislature?"

Mr. HILL, of Georgia. Will the Senator from Delaware allow me to ask him one question?

Mr. BAYARD. Certainly.

Mr. HILL, of Georgia. It is whether in point of law and fact the Legislature spoken of by the Senator from Wisconsin is the Legislature elected in November, or whether it be the Legislature that was elected in March, 1878, that must choose the Senator? Does not the inability of the Legislature elected whenever it was, arise from the action of New Hampshire and New Hampshire alone, and does she not by that action consent that a Senator shall not be elected, and could not New Hampshire by her own act have avoided this catastrophe? Could she not have made provision that either Legislature might assemble and elect and should be the Legislature for that purpose?

Mr. CARPENTER. Will the Senator from Delaware allow me to put one more question, and I will make a contract with him that I will not interrupt again?

Mr. BAYARD. Very well.

Mr. CARPENTER. Suppose the Legislature should be convened to-day in New Hampshire by a call from the governor to attend to any State business. This vacancy has already existed a month. Could not that Legislature fill it?

Mr. BAYARD. I hold not.

Mr. CARPENTER. You think not?

Mr. BAYARD. I think not.

Mr. CARPENTER. Then suppose, putting a case, the new constitution had said this Legislature elected in November before the term expired should not meet for ten years, then for ten years there could be no Legislature to elect a Senator.

Mr. BAYARD. I do not think the *reductio ad absurdum* is a fair way of arguing. We are dealing with what I consider is an important question, and the question before the Senate now is I think whether we shall give the act of 1866 such a construction as shall deprive a State of her equal suffrage in the Senate and the General Government of a member of one of its essential branches? That is the question. What construction will you give to that act?

Now considering this by the light of the cases which have preceded, there is no case like the present to be found,—none whatever. There is no such case where the attempt of a Legislature to elect would have been directly in the teeth of the letter of the law of Congress proposing to regulate this subject. I am now proceeding upon the hypothesis that the act of 1866 is warranted by the Constitution and being passed in pursuance of it is to be followed and the action of a State in violation thereof is void. Therefore considering the facts, what construction will the Senate give? That which will substantially satisfy the great object for which Senators were to be elected, the constitution of this branch of the legislative power, or that it shall at once defeat the right of a State to its equal suffrage in the Senate and prevent the Government of the Union from having its subscription from a State of its necessary complement? I say no such case has occurred before. It is difficult to imagine the case occurring again. The danger of such a construction therefore cannot be as great as the alarmed imagination of my friend from Georgia depicted it.

Look at the meaning of the decisions which have been referred to in report of the committee and in argument. The case of Lanman in 1825 is fully reported nowhere. The note in Gordon's Digest which forms the syllabus of Mr. Bartlett's compilation, and the very meager outline of a report in Niles's Register, are all before us, and it is not too much to say that they are entirely unsatisfactory and fail to give the reasoning upon which the votes of the majority were cast in that case. Now, one fact does appear in Lanman's case, that that gubernatorial appointment was manifestly not within the letter or the meaning of the Constitution.

In the first place the governor assumed to act at a time when there was no vacancy. On the date of his certificate there was no vacancy. The language of the Constitution had not been satisfied. His power was restrained to an emergency which had not arisen. If vacancies happen, says the Constitution, during the recess of the Legislature, the executive may make temporary appointments until the next meeting, and so on. Had the vacancy happened? Must not the vacancy occur before the governor can act? Plainly; and had it occurred

when he did act in 1825? Certainly not. He acted on the 9th of February and there was no vacancy for nearly one month after that time. How then can it be said that if the constitution gives to the executive of the State only as a matter of secondary resort, not as a primary power, and for a temporary period and only under certain contingencies the right to make the appointment of a Senator to supply a vacancy in the State suffrage and supply membership in this body,—how can it be said that that right exists until all the facts have occurred which alone justify its exercise? If the vacancy had not happened—I am now leaving out of consideration the meaning of the word "happen" and the words associated with it; I shall presently come to that part of the matter, but I am treating it for the present as if a vacancy which he would otherwise have been competent to fill, he was not competent because of a lack of authority under the Constitution; and therefore I say that the construction given to the report of the committee who reported in his favor in 1825, that which is taken by Judge Story of whose authority it will do for no man to speak without respect, is to be regarded, and what is it? That the Senate by a vote of 23 to 18 decided that the appointment could not be constitutionally made *until after the vacancy had actually occurred.* Judge Story gives that as the reason why Mr. Lanman was refused his seat in the Senate.

Mr. JONES, of Florida. Will the Senator from Delaware allow me to ask a question? There is a clause of the Constitution to which he has not referred authorizing the President to fill vacancies in civil offices that happen during the recess of the Senate. Does not the President appoint before the time arrives for the vacancy to take effect?

Mr. BAYARD. I do not speak of custom, but I know a case in which that was proposed to be done at the last session of the Senate, and I remember some private conversation between the honorable Senator from Florida and myself in which I gave him then in private the same opinion that I do now in open Senate, that I doubted whether until the vacancy had occurred the emergency for the executive action had arisen.

I prefer, however, Mr. President, to argue this case solely upon the basis of the language of the Constitution applicable to the office of Senator. There may be analogies between the case of filling vacancies in the office of Senator and the power of the Federal Executive to make temporary appointments to fill general official vacancies which may happen during the recess of Congress. I do not deny that there may be analogies, and the same reasoning may be applicable to many cases; but I feel that in this case it is safer, and better, and it is sufficient for us, to confine our present consideration of the Constitution to the case of Senators elected or appointed under its provisions.

I have said that the case of Mr. Lanman in 1825 is not so reported as to give us a satisfactory understanding why it was that the vote of 23 to 18 was cast. If the statement made by Judge Story and his construction of the meaning of that vote is true, then it puts Lanman's case entirely beside the one which we are now considering, because he was excluded for a totally different reason from that which is sought to be alleged as the ground for refusing Mr. Bell admission. He was excluded, says Judge Story, on the ground that the vacancy had not occurred at the time the governor undertook to fill it, and by the terms of the Constitution he could not fill it by anticipation, but must wait for the actual occurrence of the vacancy.

Mr. SAULSBURY. Will my colleague allow me to call his attention to what was decided in the Lanman case as stated in this body by his father, whose statement I will read, if he will permit?

Mr. BAYARD. I have the case here. I admit the authority with reverence; there can be none higher with me, but I think perhaps I shall meet the opinion of the Senator referred to by my respected colleague by saying that he was not considering and did not consider any such case as that which is now before the Senate, because it was from the language written by him in 1854 that I read to show that only until the opportunity was given to the Legislature to fulfill its functions the power of the governor to appoint came in as secondary and supplemental. I have quoted at length in the course of my remarks from the minority report which I find at page 618 of this compilation of contested elections, signed by Judge Butler of South Carolina, and Mr. Bayard of Delaware.

But I come to speak now of the case of Mr. Sevier that arose in 1837. The decision in that case was in one important respect upon facts similar to the one before us. Mr. Sevier was duly elected for a constitutional term and under the Constitution his term as finally determined was for two years and not four or six. It was upon the admission of Arkansas as a State in the Union. Mr. Sevier was one of the first Senators elected from Arkansas. He was elected in 1836. According to the Constitution he and his colleague had to draw lots to know to which class of Senators they should be assigned. In that lottery Mr. Sevier drew the shortest term, which expired on the 4th of March, 1837, so that having been elected in 1836 he occupied a seat but about one year. After he drew the short term and before the period arrived at which he would have to retire, according to the limitation of his term of office, the governor of the State, in anticipation of the vacancy which must happen after the 3d of March, 1837, appointed Mr. Sevier to fill the vacancy that would necessarily exist after the expiration of his constitutional term—and the Senate decided to admit him under such an appointment.

Now it is said that the fact was that his term was decided by lot, that whether Mr. Fulton his colleague or himself should have a longer or shorter term, was a question that had been decided at once upon their admission by lot, or perhaps before they took their seats; but in any event it was for a constitutional term. The Constitution in dividing Senators into three classes provides as well for terms of two years and four years as it does for terms of six years. It is just as definite in one case as the other, and the fact that it was one seat in the Senate and not another seat did not affect the law or the reasoning applicable to the law or the power of the governor of Arkansas to fill the vacancy. The expiration of a term of two years is just as void of uncertainty as the expiration of a term of six. You no more can say that a thing "happens" at the end of two years than at the end of six years. If you are to apply the definition of uncertainty to the word "happen" then it applies to anything that must occur in the certainty of the world's affairs, whether it is at the end of one, two, or three years. Mr. Sevier was appointed; he was appointed at the end of one original constitutional term and the commencement of another. Nay, more; he was appointed in anticipation of a vacancy that had not happened or did not exist at the time of his appointment; and yet the Senate of the United States admitted him to its membership.

According to the construction adopted by Judge Story in his Commentaries upon the case of Lanman, Mr. Sevier would not have been entitled to his seat, because the contingency had not arisen at the time of his appointment by the governor of Arkansas, the vacancy had not happened, and until it had happened the governor had no power to appoint. That was the reasoning in Lanman's case; but the Senate seemed to disregard it wholly in Sevier's case, and further than that they admitted him despite the fact that he was appointed by the governor to commence a new term upon the expiration of a constitutional term for which he had originally been chosen. The fact that when two Senators first come here from a State one is to have a term of two years and the other a term of four years awarded by lot does not affect the constitutionality of their terms. It does not affect the right of the governor to fill vacancies in such terms or the right of the Legislature to fill vacancies when such terms expire. The same reasons, the same rules apply to fill any constitutional term under the Constitution.

All terms of senatorial service are fixed by the Constitution, all are equally certain to expire by the lapse of time. The power to fill them at their commencement is as strong in one case as in the other, and I do not think a reasonable distinction can be shown why you should not fill the beginning of that term which is marked by the expiration of a preceding term because that preceding term under the Constitution is two years instead of four or six. The question in Sevier's case was whether it was to be Fulton's seat or Sevier's seat which was first to become vacant by the efflux of time. The uncertainty was as to which of those terms was to be fixed by lot at two or four years; but the instant that the lot had been drawn and the term had been fixed its efflux was certain, there was no uncertainty about it, the two years were bound to expire as certainly as the four or six, and the new term commenced upon the expiration of the old.

So then I say the decisions in the cases of Lanman and Sevier are utterly, as far as they are reported to us, inconsistent with each other, and the reasons that rejected Mr. Lanman would have rejected Mr. Sevier, and indeed there were additional reasons for Mr. Sevier's rejection that did not exist in Mr. Lanman's case.

In the history of the Constitution by George Ticknor Curtis, he treats in a short paragraph of the exercise of these powers to fill up vacancies in either branch of Congress and points out the reason why there was a mandatory clause in relation to the House of Representatives that did not exist in respect to the Senate:

> The difference of origin of the two branches of the Legislature made it necessary to provide for different modes of supplying the vacancies that might occur in them. The obvious way of effecting this in the case of a vacancy in the office of a representative was to order a new election by the people, who can readily assemble for such a purpose; and the duty of ordering such elections was imposed on the executives of the States, because those functionaries would be best informed as to the convenience of their meeting.

And I believe that under the act of Congress now existing it is left to the discretion of the executives of the different States when they will call special elections to fill vacancies occurring:

> But the State Legislatures, to whom the choice of Senators was to be confided, would be in session for only a part of the year; and to summon them for the special purpose of filling a vacancy in the Senate might occasion great inconvenience. The committee of detail, therefore, provided that vacancies in the Senate might be supplied by the executive of the State until the next meeting of its Legislature.

Therefore, the reason is intelligently stated by this able and distinguished commentator and historian of the Constitution why it was, from the difference of the constituencies to elect a Senator and a Representative, that the power was given to the executive of the State to make a temporary appointment to the Senate which should end when the next session of the Legislature should occur, upon whom was imposed, by mandatory phrase, the duty to fill the vacancy which had occurred.

Now, sir, as to the meaning of the words "vacancy" and "happen." I admit there is great force in the reasoning and in the authorities of the Senators who have spoken in favor of the report of the committee; and authorities are to be found which would restrain the meaning of the word "happen" so that it is to be only the result of a casualty. "Happen" is used by lexicographers as a synonym to

"occur;" "to happen" is "to occur;" "to occur" is "to happen." The common use of words may perhaps often misapply either of these; but can we divorce this word "happen" from its associates? Is it possible that when the framers of the Constitution, such admitted masters of language as they were, inserted words, they did it for the purpose of restraining the meaning of the words which they had previously employed? I suggest to the honorable Senator from Georgia, whom I do not now see in his seat, that if it had intended that nothing but a vacancy by resignation should become a case for a temporary appointment by the State executive, why not say "a vacancy which shall happen by resignation and *not* otherwise?" Is it possible that "otherwise" means "the same?" Does not "*other*wise" mean "*other* ways?" Does it not mean "*not* in a similar manner?" I despair of appreciating the force of the English language if I am told that "other" means "the same," and that "otherwise" means "likewise or similar." I confess my inability to grasp so surprising and strange a meaning of the word "otherwise" as it occurs to me. You may fill this vacancy if it happen by resignation or otherwise, and it is hereafter that "otherwise" is placed in that connection to restrain the meaning of the word "resignation," and not to enlarge it! I cannot so construe it.

A vacancy has happened; it has occurred; it has come to pass in the represenation of the State of New Hampshire in the Senate of the United States. It did not happen by death, nor by expulsion, nor by resignation; but it did happen "otherwise." Mr. President, it seems to me that in the construction of the frame-work of government substance, and not technicality, should be followed, and that its great objects should be always kept in view. Recurrence to the debates in the convention wherein was framed this Constitution of our Government will show that there was great apprehension, and at that time well founded, among the founders lest the Government of the Union should not be supplied by the voluntary elective action of the States. They knew that it was in the power, as it is in the power of the States, or a majority of them, to refuse to elect Senators, and so the legislative powers of the Union would be suspended. In that most luminous and able opinion which stands almost without its equal in the annals of our jurisprudence, the opinion of Chief-Justice Marshall, in the case of Cohen *vs.* Virginia, he states that proposition nearly in the words I have used.

Knowing such power to exist in the States, what was the action of the convention? They met, not to place difficulties and technicalities in the way of representatives coming into this or the other House of Congress, but to do everything that should encourage their presence and induce them to come here whenever they were the actual representatives of their people. The history of those early days will show that the means of transportation and travel were scanty and poor; the compensation given to members of Congress was in miserable proportion to the loss of time, the trouble and expense to which they were subjected in coming to Congress. It was difficult in those days for State Legislatures to meet; still more so for the Legislature of the Union to be brought together; and when they did so meet at their first session, how many weary weeks that grew into months of anxiety, elapsed before a quorum of this Senate could be secured? Can it be that they designedly employed in the Constitution language that was intended to prevent vacancies in this body from being filled and prevent the States from coming here by their representatives? Can it be that they designedly provided that vacancies should occur without even a possibility of filling them, or is it not in reason, in common sense, in the very spirit of nationality and union so essential for us all—is it not reasonable to say that when they used the word "resignation" as one means by which a vacancy should occur, they did not restrict it by coupling it with the words "or otherwise," but that they meant to enlarge it? Why, sir, this power of gubernatorial appointment ends necessarily when the next Legislature meets. Why? Because the Constitution says that the Legislature must "*then*" fill the vacancy, and the power is theirs exclusively to fill the vacancy. And, therefore, as in Mr. Phelps's case, it was decided that when they once have met, whether they have exercised the power or not, the existence of the power and not its exercise is the test; and the power once brought into existence by their meeting is theirs exclusively, and no executive can subsequently fill that vacancy by his appointee.

Mr. CARPENTER. Will the Senator allow me to make a suggestion?

Mr. BAYARD. Certainly.

Mr. CARPENTER. Under that provision of the Constitution the appointment made by the governor can only last till the next session of the Legislature?

Mr. BAYARD. That is so.

Mr. CARPENTER. If the governor of New Hampshire should call a special session of the Legislature to-day, the old Legislature would meet to-morrow if he were to call it for to-morrow. According to that, if the old Legislature of the State is the only one now in existence, it would meet to-morrow. The Senator admits that this appointment of the governor would fall on the meeting of the old Legislature, and yet he thinks that that Legislature cannot fill the vacancy.

Mr. BAYARD. The Senator has returned, I will not say to his first love, but to one of many in this case in his attack upon the obvious meaning of the act of Congress. I take it for granted that the Legislature to be called together is a Legislature competent to elect; otherwise there is no use to call it, and now how stands the question as between him and me? I understand still he does not consider that the Legislature which is chosen next before the occurrence of the vacancy is the only one to elect, whereas I do, and, therefore, I think that the case he puts or the impossible case which is sought to be created by the majority of the committee in their report, will be this, that you place a State in such a condition that she has no Legislature that can elect a Senator, and you refuse to allow the vacancy to be filled by the governor. Now, that I hold is a state of affairs never contemplated by those who framed this Government. They did intend that there should be the primary power in the constitutional constituency of a Senator, which is the Legislature, to elect either for original terms or to fill vacancies; but in their absence, when a vacancy happened which they, not having been assembled, had no opportunity to fill and therefore had no duty to fill, the governor should appoint until they met, and until the time had come for the exercise of the exclusive power which the mandatory phrase of the Constitution imposed upon the Legislature, which is that they shall proceed to fill that vacancy.

Mr. CARPENTER. If the Senator will allow me a moment, the provision that the appointment made by the governor shall extend only to the meeting of the Legislature is in the Constitution of the United States. It does not acquire support from the act of 1866, and cannot lose any force in consequence of it. Therefore this appointment which has been made, if it is a valid one, by the governor of New Hampshire must expire as soon as the Legislature of that State convenes. The Congress of the United States cannot determine what is the Legislature of New Hampshire, but if the governor of that State should convene the Legislature of the State under its constitution and laws to meet to-morrow morning, the old Legislature would have to meet.

Mr. JONES, of Florida. Does not the Constitution require that Legislature to fill the vacancy?

Mr. BAYARD. I would rather turn the Senator from Wisconsin over to the report made by the Committee on Privileges and Elections on this very case at the last session. The opinion was reported to the Senate, and I believe it was accepted and adopted by the Senate, without any division, that the Legislature competent to elect Mr. Bainbridge Wadleigh's successor was the Legislature that was chosen in the month of November, 1878, and not the prior one.

Mr. McMILLAN. Will the Senator from Delaware allow me to state that that report was made without any dissent by the Committee on Privileges and Elections?

Mr. BAYARD. It was the unanimous report of the committee?

Mr. McMILLAN. Yes, sir.

Mr. BAYARD. And accepted by the Senate without dissent?

Mr. McMILLAN. And adopted by the Senate.

Mr. BAYARD. I had forgotten the exact history of its adoption, but it will do for the present to answer my friend from Wisconsin. The question then was considered and it was decided that the "next Legislature" which was competent to elect a successor to Mr. Wadleigh was that which could not under the laws of New Hampshire assemble until 1879.

However, Mr. President, this is all that I meant to say, perhaps more than I meant to say, for I should have concluded my remarks long ago but for the interruptions to which very naturally and no doubt very properly I was subjected.

I have given this opinion not without great hesitation. I will not say that on every point it is as satisfactory to me as I would wish, because it is not devoid of doubt as to its conflict with certain rules which have been ably sustained in the Senate before now; but I am satisfied of its substantial justice and its safety. Considered by the light of the cases which have been brought here to justify the exclusion of the present claimant I can see that it is a totally different case with a totally different state of facts from any which have hitherto presented themselves to the Senate. And I prefer that the great and substantial objects of the Constitution should be kept in view in making constructions of its provisions to technicalities which, although I will not deride or affect to despise them, still fail to meet the broad, strong idea that was intended, that this Government should be maintained for the sake of the States through the action of the States, and that no State without its consent should be deprived of its equal suffrage in this body. It is for that great principle, it is for the sake of that essential bond of Union, that I would throw no difficulty but every encouragement rather in the power of the State to have its representative here, because as I have said before, and as Chief-Justice Marshal said, this Government depends for its legislative existence upon the voluntary action of the States in sending their Senators here. If of two constructions one will further the great objects of the Constitution, and the other will tend to obstruct them, I shall prefer always to adopt the former.

Mr. GARLAND obtained the floor.

Mr. SAULSBURY. I should like to say a word before the Senator from Arkansas proceeds.

Mr. DAVIS, of Illinois. I was going to move that the Senate adjourn. The Senator from Arkansas gives way for that motion.

Mr. PADDOCK. I suggest to the Senator from Illinois that he

withdraw the motion to adjourn and let us have a brief executive session.

Mr. DAVIS, of Illinois. Very well.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. BRUCE. Before that is done I desire to offer a resolution:

Resolved, That the President of the Senate appoint a select committee of five on the Freedman's Savings and Trust Company, to take into consideration all matters relating to said institution; that said committee be authorized to employ a clerk; and that the necessary expenses be paid out of the "miscellaneous items" of the contingent fund of the Senate.

The resolution was considered by unanimous consent, and agreed to.

EXECUTIVE SESSION.

Mr. DAVIS, of Illinois. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at four o'clock and twenty-five minutes p. m.) the Senate adjourned.

IN SENATE.

TUESDAY, *April* 8, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The VICE-PRESIDENT appointed Mr. BRUCE, Mr. CAMERON of Wisconsin, Mr. GORDON, Mr. WITHERS, and Mr. GARLAND as the select committee to take into consideration all matters relating to the Freedman's Savings and Trust Company under the resolution of the Senate of the 7th instant.

JOINT COMMITTEE ON PRINTING.

The VICE-PRESIDENT appointed, under the provisions of section 3756 of the Revised Statutes of the United States, Mr. WHYTE, Mr. RANSOM, and Mr. ANTHONY as members on the part of the Senate of the Joint Committee on Public Printing.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of the 24th of March, 1879, information concerning the refunding of the public debt and the amount of public moneys held by national-bank depositories; which the Secretary proceeded to read.

The VICE-PRESIDENT. The Chair calls the attention of the Senator from Delaware [Mr. SAULSBURY] to this communication, which is responsive to a resolution submitted by him. What disposition shall be made of it?

Mr. SAULSBURY. Let it lie on the table.

The VICE-PRESIDENT. The communication will be printed and lie on the table, subject to the call of the Senator from Delaware.

ARMY APPROPRIATION BILL.

Mr. WITHERS. I am instructed by the Committee on Appropriations, to whom were referred the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, to report it without amendment. I ask that it be printed and placed on the Calendar, and I give notice that I shall call it up as soon as the present question of privilege before the Senate has been disposed of.

Mr. BLAINE. I offer an amendment to be proposed to the Army appropriation bill just reported.

Mr. DAVIS, of Illinois, and Mr. INGALLS. Let it be read.

The VICE-PRESIDENT. The amendment will be reported, if desired.

The Secretary read the amendment, as follows:

Amend by adding at the end of section 6 the following:

And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall on conviction be punished with a fine not less than $500 nor more than $5,000, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. BLAINE. I ask that the amendment be printed.

The VICE-PRESIDENT. The amendment will be printed and lie on the table, subject to the call of the Senator from Maine.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 367) granting an increase of pension to Isabel L. Evans; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LOGAN asked, and by unanimous conent obtained, leave to introduce a bill (S. No. 368) for the relief of Emanuel Klauser; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BOOTH (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 369) for the relief of Alexander McDonald; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 370) granting a pension to Phœbe C. Doxsie; which was read twice by its title, and, with the papers on the file relating to the case, referred to the Committee on Pensions.

Mr. KIRKWOOD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 371) to organize the National Railway Company of the United States, and for other purposes; which was read twice by its title, and referred to the Committee on Railroads.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) authorizing the construction of a bridge across the Willamette River, at Portland, Oregon; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 373) to aid in the protection of life and of the public buildings and property against loss and damage by fire; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 374) for the relief of James A. Heard; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 375) to repeal sections 820 and 821 of the Revised Statutes; which was read twice by its title.

Mr. BAYARD. Mr. President, I desire to ask the unanimous consent of the Senate to put this bill upon its passage at once and without a reference to any committee. It repeals the two sections of the Revised Statutes passed in 1862 which provide test oaths and disqualifications for jurors in the courts of the United States, the effect of which practically is to exclude the great body of the citizens of intelligence and character from the jury-box in the Southern States. The Senate has already signified its approval to this measure of repeal; and in view of the situation of public affairs which is well known and comprehended in the Senate, I earnestly ask that no objection be made to the present consideration and passage of the bill. I do not desire to debate it, but offering it as I do in a spirit and for the sake of justice and good feeling among our countrymen and between the political parties of the two Houses of Congress, I earnestly hope that the unanimous consent, which I know is necessary for its immediate passage, will be granted by the Senate.

The VICE-PRESIDENT. Is there unanimous consent?

Mr. EDMUNDS. There is not unanimous consent, Mr. President. I am not aware that the Senate has passed any bill to repeal section 821. If the Senate has done so, it has escaped my recollection. I should be glad to have the honorable Senator from Delaware inform us when it was that the Senate passed a bill to repeal section 821, which is a section providing merely for a discretion in the court to excuse a juror from serving who has been engaged or who swears that he has been engaged in an insurrection or rebellion.

There are circumstances under which section 821 as it stands would be too broad theoretically. The time has been so long and people have grown up so much that I do not know that practically it would very often happen that it would work any injustice as it stands; but theoretically it might in certain cases. In certain other cases it would be of great advantage to the interests of justice that substantially that provision should be there. The words of section 821 do not refer exclusively to the rebellion or insurrection that began in the year 1860 or 1861, but they refer to and cover as they stand now any act of violence by an armed concerting body of men that, within the decisions of the courts, made long before the rebellion that we are all so glad is over occurred, amount to an insurrection against the laws of the United States; as if a body of men should combine together to resist the whisky laws, the internal-revenue laws, hundreds of them in some sections of the State of Vermont (I will not name any other State because I do not wish to be invidious) and some one of them at last is arrested. In that small State and in that small district the whole body of the jurors summoned may contain a certain percentage of the very accomplices, associates, and fellows in that very concerted insurrection for a breach of the law. As this law stands, it would authorize the judge in a given case to sift out the juror and to leave off from the panel the accomplices and fellow-criminals of the very man who was to be tried. In such a case I suppose everybody would agree—I suppose so until I hear otherwise—that a law of that kind would be right and that what it requires ought to be done.

Then, Mr. President, inasmuch as the Senate has never to my knowledge voted to repeal section 821 *in toto*, and inasmuch as very likely if this bill goes to the proper committee it is now so organized that undoubtedly it would receive prompt action and due consideration, that committee might substitute for section 821 a provision which would be satisfactory to everybody, would meet the ends of justice, and would escape the occasional evils that my friend from Delaware thinks would arise if the law were to stand, I must ask, with great respect to my friend, that the bill go to a committee.

As to section 820, that, as everybody knows, was repealed by both

Houses of Congress in the year 1870 or 1871, if I am not mistaken, and got back into the Revised Statutes by one of that numerous class of accidents that we know ran through the whole book. The Senate has since passed an act to repeal that section, but the House of Representatives at the last session found it convenient not to take it up, or to speak more respectfully, found it inconvenient to take it up and to do anything with it, so far as we know. Therefore I hope the bill will take the usual course. It can be acted upon undoubtedly very soon.

Mr. BAYARD. I am aware that nothing could pass the bill at this time but its acceptance by the entire body. Of course a motion to carry it to the committee is regular; it is in accordance with the rules of the body; and therefore I have nothing more to say.

The VICE-PRESIDENT. The bill will be referred to the Committee on the Judiciary.

Mr. DAVIS, of Illinois, (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 376) granting a pension to Hiram Johnson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 377) for the relief of Robert Ewing; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 378) for the relief of the heirs and legal representatives of Captain Lambert Wickes; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 379) for the relief of Cora A. Slocumb, Ida A. Richardson, and Caroline A. Urquhart; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

Mr. LAMAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 380) for the relief of Henry E. Sizer; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 381) for the relief of Wetmore & Brother, of Saint Louis, Missouri; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 18) to inquire into and define the acts of July 27, 1866, and June 28, 1870, granting lands to the Southern Pacific Railroad Company of California; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BECK, it was

Ordered, That the petition and accompanying papers in the case of T. T. Garrard and others be taken from the files and referred to the Committee on Claims.

On motion of Mr. WALLACE, it was

Ordered, That J. N. Casanova have leave to withdraw his memorial and papers from the files of the Senate.

On motion of Mr. HARRIS, it was

Ordered, That the testimony taken by the committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases in the United States be withdrawn from the files of the Senate and delivered to the National Board of Health.

APPORTIONMENT OF DEPARTMENT EMPLOYÉS.

Mr. GARLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Civil Service and Retrenchment be instructed to inquire into the expediency of apportioning the clerks and other employés in the various Departments of the Government among the several States according to their ratio of population, and to report by bill or otherwise.

ACCOUNTS OF JOHN I. DAVENPORT.

Mr. BAYARD. I ask the Senate to take up the resolution offered by me yesterday, which I now send to the desk.

The VICE-PRESIDENT. The Senator from Delaware calls for the consideration of the resolution submitted by him yesterday, which will be reported.

The Chief Clerk read the following resolution, submitted by Mr. BAYARD April 7:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to transmit to the Senate a statement of all sums of money which have, in 1870 and in each year since, been paid out of the Treasury to John I. Davenport, either as chief supervisor of elections, clerk of the United States circuit court, United States court commissioner, or in any other official capacity, or for any service or disbursement whatever; distinguishing between payments as chief supervisor, clerk of the circuit court, or United States commissioner, and for other services or disbursement; and to transmit to the Senate transcripts of any and all bills, accounts, or claims on which such sums were paid to the said Davenport, and all official correspondence respecting such accounts, claims, auditing, and payment.

The VICE-PRESIDENT. Will the Senate agree to the resolution?

Mr. CONKLING. I should like to be permitted to read this resolution over for a moment. I did not notice that it was called up and I have not read it, which I will do in a single moment if I am allowed. [A pause.]

I do not understand,—perhaps it is not important that I should or that any other Senator except him who moves the resolution,—the object of several of its clauses. However, without understanding, I do not feel called upon to object. The Senator wants to know what this individual received as clerk of a court and in various other capacities. Not being able to understand the motive of it, I make no objection to it.

The resolution was agreed to.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. If there is no further business for the morning hour the Senate will proceed to the consideration of its unfinished business, being the resolution reported from the Committee on Privileges and Elections declaring "that Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire." The pending question is upon the amendment proposed by the Senator from Massachusetts [Mr. HOAR] to strike out from the resolution the word "not" before the word "entitled."

Mr. GARLAND. Mr. President, the position that I take in reference to this matter, from my reading of the Constitution, is that Legislatures of the States, being the original constituency of the United States Senate, must themselves by election place a Senator in this body at the beginning of a new term; or, to state the proposition somewhat differently, it is not within the meaning of the Constitution that the governor of a State can put upon the floor of the Senate a Senator at the commencement of a new term of six years, or a new term that might be by the meeting of the Legislature afterward for a shorter period. Before the governor of a State can appoint a Senator to fill what he may consider a vacancy in the Senate, there must not only be an unfilled seat but a broken term previously held by some one else. Those three propositions, or rather those three different ways of stating in effect one proposition, I shall attempt to maintain before the Senate in a few brief moments upon a fair construction of the Constitution and upon the precedents which have been set by this body under the Constitution.

There is very little light to be thrown upon this subject, in my judgment, by the statutes of the different States or the statutes of the United States upon any question that has yet been sprung by any Senator here. The analogy is the most remote, if any exists at all. Even the decision, an extract from which was read by the Senator from Massachusetts [Mr. HOAR] the other day from Dillon on Corporations, rendered in a case reported in the seventh Indiana Reports, (and I take it for granted that is as strong an authority as could be produced, because that learned Senator produced no other,) bears very remotely, if at all, upon this question. That decision, as I shall show after awhile, was upon a section of the constitution of Indiana as wholly different from this section of the Constitution of the United States as it is possible for two sections of constitutions to differ which look ultimately to the same purpose, that is, the filling of a vacancy. Neither does the statute of 1866, referred to so frequently yesterday by the Senator from Delaware, [Mr. BAYARD,] help us at all in this investigation, because the language of the Constitution cannot be amplified, nor can it be narrowed by any statute. The Constitution, under which that statute purported to be enacted, cannot be enlarged and it cannot be modified by that statute. It would not take a great deal of time, I think, to show that that statute is not constitutional; but that is not one of the questions involved here. Here we are remitted at last to the Constitution itself to find out just what is our duty in this given case, and to ascertain whether the claimant to this seat has been properly delegated by the proper authority to fill a seat in the Senate.

The first and second clauses of section 3 of article 1 of the Constitution must be taken together and construed together; and, when analyzed, it is almost remarkable what a fitness, what a perfect propriety exists all through in every word which is used in each of these clauses looking to the organization and continuation of the Senate as a legislative body. It reminds one when investigating, as he must be constantly reminded when looking at this instrument, of the great difficulty if not the almost impossibility of ever taking one word from this instrument or adding to it without destroying its harmony and its effect:

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

According to the interpretation of the Senator from Delaware, if the Legislature of any State of the eleven that first ratified the Constitution had failed to send two Senators here to compose the Senate, the governor of the State could have sent two to compose the body. There is no half-way ground, because we have heard it enunciated here by the Senator from Delaware and by the minority report that if the vacancy exists, by a robust and athletic construction of the Constitution somebody must fill it; it must not go unfilled. That is the purport of the Indiana decision, which I shall read after awhile, but upon a section of their constitution totally different from this. Let us imagine the State of Delaware through its governor, after she had ratified the Constitution, sending two Senators here to compose this body. It would be a very wonderful stretch of imagination to picture it, because it would be a sight at which men might weep if angels might not.

Now run this matter through further. The second clause of section 3 of article 1 provides that—

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of

the second class, at the expiration of the fourth year, and the third class, at the expiration of the sixth year.

For what purpose?

So that one-third may be *chosen* every second year.

Not "*appointed*" every second year. If the construction of the opposite side is correct it should have said "so that one-third may be chosen or appointed;" but we find not here the words "or appointed." We have only the word "chosen," the very word which is used in the first clause of this section, when it says "chosen by the Legislature," which means elected by the Legislature. It is hardly worth while for me to remind the Senator from Delaware how dangerous it is in the interpretation of any instrument, from the Constitution down to the lowest and smallest written document, to incorporate words into a statute or into a constitution which do not exist there; yet to make his argument tenable you must read, "so that one-third may be chosen or appointed every second year." However, the framers of the Constitution did not incorporate the word "appointed," but they said "chosen," to tally with the word "chosen" used in the first clause of the third section of this article.

Now, we have the vacation of these seats by law. When that is done, according to the fair interpretation of this instrument, the Legislature alone can step in. Then:

And if vacancies happen by resignation, or otherwise.

That is, "if vacancies happen" after the seats have been filled, after the Legislature has chosen, "by resignation, or otherwise," meaning by expulsion or by death. Those three are the only cases. The word "happen," whether you enlarge it or whether you narrow it in its construction, affects at last the incumbent in the seat by some accident or by some casualty. Hence the word "happen" is used, referring to something which takes him out of the seat, leaves both an unfilled seat and a broken term. The precedents cited by the Senator from Tennessee [Mr. BAILEY] and the Senator from Georgia [Mr. HILL] yesterday sustain this position. The debates in the case of Dixon, which was never referred to a committee but acted upon by the Senate, sustain it, as do the reports in other cases to which I shall refer before I conclude. That is the fair and the proper construction of this instrument; and when you give it that construction you obey the first rule of construing written instruments, which is that every word in the instrument must live and speak; you cannot throttle it and take one word out and put another in.

I say, then, on this point, that the Legislature being the original constituency, that constituency must first act; and if the person thus chosen falls out of his seat by any accident, any happening of an unforeseen event, then the governor steps in and supplies the place temporarily; says the Constitution, by "temporary appointments until the next meeting of the Legislature."

In my humble opinion, the theory that the Senate must be full, and that where the Legislature fails for any cause to fill a seat the governor, therefore, must do it, or somebody must do it, finds no support in the Constitution. It is a well-established principle of jurisprudence that when one tribunal has jurisdiction and fails to exercise it no other tribunal can assume it. The President sends in nominations to the Senate; the Senate advises and consents; but if the President fails to send them in, according to the argument of the Senator from Delaware, the Senate must nominate and then confirm, because the offices must be filled regardless of how! The House of Representatives is to originate money bills and the Senate may amend them; but if from failure to perform its duty, faom caprice, or what not, the House should neglect to originate them, the Senate then must come in and originate revenue bills itself! That is the theory on which the argument on the other side of this question rests.

The fourth section of the fourth article of the Constitution provides for the governor of a State calling upon the President to aid in suppressing domestic violence and insurrection when the Legislature is not in session. Suppose the Legislature is in session and fails to make such a call, and in the opinion of the governor there is occasion for calling for force, can he call while the Legislature is in session? He is bound to do it according to the argument insisted on here. It would be like the wise justice of the peace, having no jurisdiction in divorce cases, who said the man must have a divorce, and he granted it because the chancery court had dismissed the man's bill on demurrer; but he was bound to be divorced. [Laughter.] That argument is answered by the law. When the law has prescribed one form of action and it is not complied with, to allow some other authority to interpose is always the beginning of usurpation in all republican governments from the days the first republic was ever formed to the present day. I say, important as it may be that these seats shall be filled, it is more important that they shall be filled according to the Constitution than filled according to the judgment or caprice of the governor of a State; and I assert further, for the best interests and perpetuity of the Government, important as it is that the Senate should be full, it is better the seats should be vacant than that they should be filled in violation of the Constitution.

So much for that part of the question, Mr. President; and I wish now to call the attention of the Senate to the Indiana decision, the only one that has been alluded to. To state it briefly before I read the opinion of the court; a new circuit was created by the Legislature of Indiana and under the State constitution the governor had the power to appoint a judge where there was a vacancy. A Mr. Stocking was indicted in this new circuit and he was convicted, and he carried the case to the Supreme Court on the ground that there was no proper tribunal before which he was tried. The court in passing upon that say:

It is objected that the judge who presided was not properly the judge of that circuit, because appointed by the governor instead of being elected by the people. The objection is not well taken. The act creating the circuit was declared in force from its passage, as a case of emergency.

The Constitution has created the Senate under clause 1 of section 3 of article 1, and all it needs, according to that very language, is that it should be "composed." So the State of Indiana created this circuit by an act which went into operation at once. The court say:

If there was a vacancy, it existed independent of that declaration. If there was no vacancy, that body could not create one by a declaratory enactment. The vacancy flowed as a natural consequence of their doing what they had a right to do—to create a new circuit. There is no technical nor peculiar meaning to the word "vacant" as used in the Constitution. It means empty, unoccupied; as applied to an office without an incumbent. There is no basis for the distinction urged that it applies only to offices vacated by death, resignation, or otherwise. An existing office without an incumbent is vacant, whether it be a new or an old one. * * * The emergency which created the office would imply that the vacancy in the office of judge in the new circuit should be filled immediately.

Now, how does the governor fill it?

The eighteenth section, article 5, provides that the governor shall, by appointment, fill a vacancy in the office of judge of any court.

That is all the constitution of Indiana says. Now will any one take his microscope and see how much that varies from the provision of our Constitution which we now have in hand. There the governor was empowered under the constitution to fill any and all vacancies in the judicial office. Here the Constitution, after providing what seats shall be vacated by operation of law and when, then says if any of these seats happen to become vacant by resignation or otherwise the governor may appoint temporarily. So it is nothing to the purpose to read this decision. The decision of a court, though it is frequently not the case in point of fact, is always supposed in law to have been made with reference to the particular facts of the case before it; and that decision must be confined to the power granted under section 18 of article 5 of the constitution of Indiana, which has not the remotest similarity to the provision of the Constitution of the United States we are now speaking of.

Both the reports, the majority and the minority, omit in their list of cases a very important case that was decided by the Senate in the very early history of the Government, in fact the very second case of this character, which I will now proceed to refer to, and I will read it the more readily because it answers directly the question that was put the other day by the Senator from Wisconsin [Mr. CARPENTER] to the Senator from Massachusetts [Mr. HOAR] when he had the floor upon this question. It is the case of Kensey Johns, of Delaware:

George Read, esq., having resigned his seat in the Senate on the 18th of September, 1793, the executive, on the 19th of March, 1794, appointed and commissioned the said Kensey Johns to represent the State in the Senate till the next meeting of the State Legislature.

On the 24th of March, 1794, Mr. Johns appeared in the Senate and produced his credentials of appointment.

Whereupon it was moved that they be referred to the consideration of the Committee of Elections, before the said Kensey Johns should be permitted to qualify, who are directed to report thereon.

And it passed in the affirmative—yeas 13, nays 12.

On the 26th of March the committee made the following report:

"The Committee of Elections, to which were referred the credentials of an appointment by the governor of the State of Delaware of Kensey Johns as a Senator of the United States, having had the same under consideration, report:

"That George Read, a Senator for the State of Delaware, resigned his seat on the 18th day of September, 1793, and during the recess of the Legislature of said State."

There was a clear case of vacancy happening, whatever difference of opinion we may have about the full meaning and import of the word "happen."

"That the Legislature of the said State met in January and adjourned in February, 1794.

"That on the 19th day of March, and subsequent to the adjournment of the said Legislature, Kensey Johns was appointed by the governor of said State to fill the vacancy occasioned by the resignation aforesaid.

"Whereupon the committee submit the following resolution:

"*Resolved*, That Kensey Johns, appointed by the governor of the State of Delaware as a Senator of the United States for said State, is not entitled to a seat in the Senate of the United States, a session of the Legislature of the said State having intervened between the resignation of the said George Read and the appointment of the said Kensey Johns."

On the question to agree to this report, it passed in the affirmative—yeas 20, nays 7.

We have here an unquestioned vacancy by resignation. We have in this case also a meeting of the Legislature and their failure to elect. Then the seat was vacant, and under this strong construction given to the Constitution in this debate the governor of Delaware thought he could appoint. The Senate decided that he could not.

Mr. CAMERON, of Wisconsin. Will the Senator allow me to suggest that a session of the Legislature of Delaware was held after the vacancy happened and before the governor assumed to appoint Mr. Johns; and if I understand that case—it was examined by the committee although not referred to in either report—the refusal to admit Mr. Johns was put upon the ground that the Legislature met and had a session after the vacancy happened and did not elect; and consequently, the Legislature having met, and having had an opportunity to elect a Senator, and having not done so, the governor had not authority to appoint.

Mr. GARLAND. That is precisely what I stated.

Mr. CAMERON, of Wisconsin. Allow me further to say that precisely the same question was discussed in the Phelps case. The Kensey Johns case is referred to, I think, in both the majority and minority reports in the Phelps case, and it is agreed to by the minority report, and we find no fault with that case, but we think that it is not a case in point.

Mr. GARLAND. The Senator's statement of the Johns case is precisely what I stated before I read the case. The Senator from Wisconsin states the facts and the theory of the decision as I understand them; but in the name of the Constitution and all law pertaining thereto and made thereunder, if he agrees to that decision, what becomes of this case that he is now advocating? It is a stronger case for admission by all odds than the claimants for this seat. Here, I repeat again, was an unquestioned vacancy and one by resignation, in the very word of the Constitution. It is true a Legislature did intervene and it failed to elect, but the minority report, as well as those who have advocated the same doctrine on the floor, says it does not matter how the vacancy occurs, if it is a vacancy, the governor must fill it the first chance he gets.

Mr. CAMERON, of Wisconsin. If I do not interrupt the Senator——

Mr. GARLAND. No interruption. We are trying to get at the truth.

Mr. CAMERON, of Wisconsin. Then I desire to call the Senator's attention to the language of the Constitution:

> And if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature.

Now, the ground that that decision is put upon is that there was a meeting of the Legislature after the vacancy had occurred or happened, and consequently that the authority of the governor to make the appointment did not then exist. The governor undoubtedly could have made the appointment if he had made it prior to the meeting of the Legislature; but the Constitution expressly provides that he shall make temporary appointments "until the next meeting of the Legislature." That meeting had occurred, and consequently he had no further right to make an appointment.

Mr. GARLAND. That does not affect the question as to what is a vacancy, which lies at the bottom here. I say this is a stronger case calling for an executive appointment than the present case from New Hampshire, if you are to consider that there can be a strong case at all arising. One cannot be strong or weak though, because each one must stand on the Constitution upon its own merits. Here was a vacancy, and after the Legislature failed to elect it was an indefinite vacancy until that Legislature was called together again or met under the law. This State then went, according to that decision, unrepresented. The very result was reached that the Senator from Delaware says cannot be countenanced for a moment, though we know that the State of Missouri was partly unrepresented at one time for nearly two years on this very theory. I happened to find in the Philadelphia Times the other day the following piece of history on this subject:

> The same question—

Speaking of this case from New Hampshire:

> The same question arose in Pennsylvania in 1855. During the winter of that year, the know-nothing Legislature got into a factious wrangle over Cameron and his rivals, and failed to elect a Senator. The State was thus unrepresented from the meeting of Congress in the fall until the middle of January, and Governor Pollock, after an exhaustive examination of the question, decided that the vacancy was not one that he could fill by appointment. In that opinion the leading lawyers of the State concurred, and Pennsylvania was without a Senator until Governor Bigler was chosen in 1856.

That is a piece of history. I sent for and got the message of Governor Pollock, which simply referred to the matter and stated that he considered that he had no power to appoint, and referred the matter to the coming Legislature. The great State of Pennsylvania was here several months without one of her Senators.

Mr. CAMERON, of Wisconsin. I suggest that the reason why he did not have power to appoint was that there had been a session of the Legislature and the Legislature had not elected.

Mr. GARLAND. But the Senator from Wisconsin unwittingly dodges the question that is here presented. We are invited to discuss the question whether or not the country can stand the calamity of a vacancy here for any cause; and the argument is that the governor must fill a vacancy anyhow. Here were vacancies in two cases, vacancies that were undisputed and cannot be disputed.

But now let us look at some other cases. The case of Mr. Dixon, of Kentucky, has been referred to, and I will not take up the time of the Senate in debating that. Then there was the case of Mr. Williams, of New Hampshire, just such a case as that of Kensey Johns, and just such a case as that where Governor Pollock refused to fill a vacancy. The case of Mr. Williams arose in 1854:

> Having been appointed by the governor of New Hampshire to fill a vacancy and the State Legislature having met and finally adjourned without filling it, it was held by the committee that the right of representation under the appointment had expired.

That is a repetition in the same State of New Hampshire of this very question. Now, to meet what the Senator from Wisconsin says, suppose the governor had made this appointment before the Legislature met, how long would it have lasted? It would have continued only until the meeting of the Legislature and the election or failure to elect of the Legislature that intervened, and then what are you to do? According to the theory that is here zealously and emphatically urged, the governor would have a right to appoint, but that is not the theory, and by the decision of the Senate in the cases of Johns and Williams is not the legitimate theory growing out of the language of the Constitution.

Now we come to the case of Phelps, and that case let me call your special attention to. The minority report against his taking his seat was adopted by the Senate, and I wish now to call the attention of the Senate not to the debate, but to the minority report. Two Senators who discussed the question yesterday on the side I am on referred to the debate, but I wish to call attention to a clause of this report signed by Senators Butler and Bayard:

> The Senate of the United States is composed of organized constituencies, the State Legislatures; to them belong the power primarily of electing their Senators when they are in session at the happening of the vacancy and at their first meeting when it happens in their recess, and on them devolves the exclusive jurisdiction of filling such vacancies. Their right and authority to fill or supply vacancies which have been temporarily filled by executive appointment are as absolute and exclusive as was their power in an original election. When their power is brought into existence it must supersede all others, with this qualification, and that according to precedent, that they have a session to make the choice. In our view it does not depend on the actual exertion of the power to elect, but on its existence. A Senator under an executive appointment may, or may not, represent the political views of his State; he may be the mere personal favorite of the governor. The Senate, as far as practicable, should be made to represent its constitutional constituency, and in this respect should preserve the republican feature of our Union.

There, Mr. President, is the great reason which lies at the bottom of the argument I am attempting to make. That is the overwhelming argument why a governor cannot thrust himself in and send a person to represent his State in the Senate of the United States at the beginning of a term, where there is not a concurrence of both an unfilled seat and a broken term. There the power devolves on the original constituency whom the Senators are supposed to represent immediately, that constituency representing the State. We know in the history of this body how often it has been that the governor has sent his mere personal favorite for a few months to go home and be ignored by his constituency, and a man nearer and dearer to them, more intimately connected with them, returned to take his place, and he heard of no more forever in these Halls. That is the theory, that is the idea, that is the great purpose of having Senators elected by the State Legislatures.

Cushing, in his Law and Practice of Legislative Assemblies, section 272, states the matter thus:

> Each State is entitled to be represented at all times by two Senators, and elects them by the Legislature of each for the term of six years, whenever vacancies occur by lapse of time.

Here a vacancy has occurred by lapse of time, but instead of electing one to fill it by the Legislature the governor has appointed one, reversing the rule as given by Cushing. Again, he says:

> Occasional and unforeseen vacancies occurring by reason of death, resignation, acceptance of a disqualifying office or otherwise are filled, for the residue of the unexpired term, either by the Legislature, if then in session, or by appointment of the executive.

Unforeseen vacancies, that is vacancies as distinguished from those occurring by lapse of time, expiration of a term, &c., are to be filled for the unexpired term; but here is a new term, now beginning, which the governor ventures to fill. The plain and unambiguous language used by Cushing sets at naught this effort to fill this new term by the executive.

Mr. President, we have heard of the Sevier case and the Lanman case. The Lanman case stands untouched for all these many years, and supported by the precedents referred to yesterday by the Senator from Georgia [Mr. HILL] and the Senator from Tennessee, [Mr. BAILEY,] and I agree with Paschal in his Digest of the Constitution that the Sevier case cannot be reconciled with that of Lanman, and I believe that Sevier's case was decided wrong, although my State received by his admission a noble, true, and able representative. There is no half-way ground in this matter. You must go from the beginning to the end. Mr. Grundy made the report in the case of Sevier, and Senators who think the Sevier case was right will see that Mr. Grundy in the report draws a distinction between that and the case of Lanman. To my mind it was "a distinction without a difference," but if Senators think otherwise the Senate then adhered to the decision in Lanman's case. In his report Mr. Grundy said, speaking of the decision in Lanman's case:

> The decision seems to have been generally acquiesced in since that time, nor is it intended by the committee to call its correctness in question. The principle asserted in that case is that the Legislature of a State, by making elections themselves, shall provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution.

So, then, if Sevier's and Lanman's cases were the same and Sevier's was decided wrong, surely there can be but one decision in this case. If Sevier's case was decided right and Lanman's case right, that is the end of this question, because Lanman's decision has been followed by the authorities and the precedents for over fifty years. Take it on either horn of the dilemma, and this application must be dismissed from the Senate on principle. We cannot at this day and time subscribe to the doctrine that because the Legislature for any reason fails

to exercise its jurisdiction the governor may come in and make himself the constituency of a Senator and send him here.

Mr. President, I have occupied the attention of the Senate longer than I intended; and to close just exactly where I began, I repeat that there is no authority in law, by my construction of the Constitution, for the admission of this applicant; there is no precedent to be found for it; there is no analogy upon which it can be rested. At the beginning of a new term the governor of a State cannot send a Senator here on any ground. The governor cannot place on this floor a Senator to begin a new term. There must be an unfilled seat and a broken term previously begun and held by some incumbent to allow the governor to appoint. If Mr. Wadleigh had resigned on the 20th of February and the governor of New Hampshire had appointed Mr. Bell to fill out the unexpired term, how long could he have retained it? Till the 4th of March. That is a sufficient answer to this whole case, it seems to me. Can it be said that he could then take him and send him back here from the 4th of March to begin a new term? He could not, because he under the Constitution, if it means anything, can only fill the breach that has occurred in the wall by putting in another brick or filling it up with mortar, as the case may be.

Mr. WALLACE. Mr. President, I should regret but two things in this case, either that the Senate should be divided by party lines or that the State of New Hampshire should be deprived of that which she is entitled to on this floor, her just and equal representation. But, sir, this case must be determined by the Constitution and the law, and to that the State as well as we must submit. What I have to say upon the subject shall be directed to a consideration of the constitutional provisions and the statute upon the subject. I take the Constitution; I find in article 1, section 3, clause 1, thus:

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

"The Senate shall be composed of two Senators from each State," and they shall be "chosen by the Legislature thereof;" they shall hold for a term of six years, and "each Senator shall have one vote." Here are mandatory provisions in regard to all the subjects-matter contained in this clause. The number, two Senators; no State shall have less than two; it is mandatory; the constituency the Legislature, "shall be chosen by the Legislature" of the State; their vote, "each Senator shall have one vote." There is no ambiguity here as to the constituency; it is not the people in their individual capacity at the polls, nor is it in their capacity as a whole; nor is it the State; nor is it the governor; nor is it any organism that may be called into being by the executive or people; it is the law-making power of the State that is vested with this authority under the Constitution of the United States to elect Senators, not the people individually, not the executive, not the people at the polls in their primary or any other capacity save as they are represented by the law-making power, the Legislature of the State. They shall choose the Senators. I turn then to article 1, section 4, clause 1, and find thus:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

"But the Congress may by law at any time make or alter such regulations." Congress has acted, whether constitutionally or not I shall not attempt now to discuss; but upon the statute-book, under date of 25th July, 1866, is found a statute enacted by Congress regulating the times and the manner of electing United States Senators. Why is this? Because the power that exists in the States to fill the seats in this Hall must be exercised by the Legislature, and Congress has thus prescribed the mode and the manner of exercising the power thus given. The Government is not to fail; the responsibility is upon the States—the Constitution and the statute place it upon the States. The words are, the States shall elect; Congress prescribes the manner of the election and the time. Congress may make these regulations, and has done so.

Now, I affirm that the act of 1866 carried into the Revised Statutes is an interpretation of the constitutional provision, and by it we are to be governed. Precedents fade away if this be a constitutional interpretation of the Constitution itself. If it is, we are bound by the statute thus enacted. It is found in the Revised Statutes, beginning at section 14. What are the provisions of this statute? Section 14 is this:

The Legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress.

Here is the obligation placed peremptorily upon a "Legislature." What Legislature? The Legislature elected preceding the expiration of the term of a Senator in Congress, which term is fixed by the other clause of the Constitution at six years, about which no man can err, about which the organism of the State must know, about which, if it intends to keep up its representation in the Senate, it is bound to know. Six years is the term, the full term. This is a mandatory provision of the Constitution; and the other thought which comes by construction, that the Senate is a continuous body, yields and gives place to the mandatory provision that a full term is for six years, of which the State in all its organism, of which the Legislature, the power that elects the Senator, must take notice.

It is thus prescribed by the statute. The Legislature is commanded, it is mandatory upon it; the Legislature is commanded to elect, and the specific Legislature is pointed out—the preceding one. What is its duty? Senators will notice that this is mandatory throughout. "Shall proceed to elect." When? What? Elect "a Senator in Congress;" and the statute as enacted originally, but not now found in the Revised Statutes, contains these words, "in the place of the outgoing Senator," showing clearly what was in the legislative mind at the time of the enactment of the act of 1866. "Shall proceed to elect a Senator in the room of the outgoing Senator" were the original words, and of course it follows that the construction to be placed upon section 14 is that they shall proceed to elect a Senator in Congress in the room of the outgoing Senator. For how long? Can there be any doubt about that? For a full term. The Constitution says so; the statute says so. The duty is cast upon the Legislature and upon the organism of the State to elect a Senator for a full term in the place of the outgoing Senator. It fixes beyond question the duty of the Legislature under this provision of the Constitution to fill a term of six years.

But go further. I turn to section 16. After section 15 has appointed the mode and manner of electing the Senator, in section 16 I find these words:

Whenever, on the meeting of the Legislature of any State, a vacancy exists in the representation of such State in the Senate, the Legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy—

How?—

in the manner prescribed in the preceding section for the election of a Senator for a full term.

Now, is it possible to err in interpreting this statute? Can there be any question about the plain reading of the law? Is it not plain that the fourteenth section and that which follows it, the fifteenth, command the election of a Senator by the Legislature, which Legislature is pointed out, for a full term, and that when a vacancy occurs under other circumstances the sixteenth section comes into play. What other vacancy could there be? The evident answer is one that has occurred under other circumstances than those which arise from the existence of a full term to be filled. It is the only interpretation that seems possible, and in my view it is the reasonable one.

Mr. CARPENTER. When that shall happen.

Mr. WALLACE. When that vacancy happens. Having notice of the time—the Legislature of the State of New Hampshire had full notice of the time when it should act, in view of the expiration of the term—the Constitution placed upon it the responsibility of action; it was bound to take notice. Having full notice of the time to act, it must act. It is bound to act, or it fails to perform its duty as a part of the family of States; it fails to carry out the Constitution.

But it is said the State of New Hampshire would be without a Senator if this be the interpretation. The responsibility for that is not upon this body; it does not come to our door. The States are members of the family which meet in this Chamber, and they have responsibilities and duties, and they must perform them. If there come a vacancy in this Chamber in a full term, by reason of the misfortune or the fault or the laches of the State of New Hampshire to act, it does not lie at our door, it lies at the door of the State of New Hampshire, and to that extent she loses representation. Sir, the State organization must act. It must acquiesce in the constitutional provision and in the statute that interprets and enforces it, or it loses its representation in this body.

We turn next to clause 2 of section 3 of article 1:

And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

The statute of 1866 interprets this provision, and precedents are valueless if it has rightly enforced this clause of the Constitution. It has in emphatic words said that the Legislature, a specific Legislature, a named Legislature, shall elect a Senator for a full term, and no other interpretation can reasonably be given to the two sections that I have read. That the Legislature of the State of New Hampshire, that the organism that exists there to carry on the government of the State, may sit still and not perform a duty placed upon it by constitutional requirement and statutory enactment, seems to me to be an absurd proposition. It must act, and failing to act, the result must follow that it has no representation in that term in this body.

But what of the words "happening during the recess?" The words in this clause of the Constitution are, "happening during the recess of the Legislature," and they apply to a vacancy other than a full term. Assuming that the statute rightly interprets the Constitution, can these words apply to a vacancy to occur at a fixed date, to be filled by a named body at a given date when in session, of which the State and the Legislature have full, clear, and distinct notice, and about which a plain, clear, and distinct duty is placed upon them?

These words cannot apply to this case if this statute be a faithful interpretation of the Constitution, and we for the present assume it is. First, it does not happen within the plain meaning of the word "happen." "Happen," when both the law and Constitution point out the time when the Senator shall be chosen! "Happen," when everything surrounding its duty in regard to filling up its membership in this body points out the hour when it must act! It cannot

be that the words "happen during the recess" can be applied to this case. The term "happen" cannot reasonably be applied to the occurrence of an event for which the hour is fixed. "During the recess." Can these words be applied to the body named and commanded by the statute to act? It is in being; it is organized; the day and the manner of its processes are prescribed; and, as I have already said, the statute makes a distinction between a full term and a vacancy. The fourteenth section relates to the former, and the sixteenth and seventeenth to the latter. The word "vacancy" as used in the sixteenth section can only relate to a seat occupied under gubernatorial appointment, for it distinguishes that vacancy from a full term. The fourteenth section relates to a full term, and the sixteenth and seventeenth sections relate to a vacancy which can be filled by the governor.

Now let us take the debates in the Congress that passed this statute of 1866 and see what was said then. I turn to the Globe, on page 3732, the 11th of July, 1866, this statute having been passed on the 25th, and I find that the late Senator from Wisconsin, Mr. Howe, said, in discussing the subject, this:

> Managing elections which are necessary to the organization of a House is one thing; controlling elections which are only to choose a member of another House is another thing. It seems to me the proper penalty, and the only proper penalty, to impose upon a State for omitting to elect a Senator is to leave it without that much representation in this body.

He had offered an amendment bearing directly upon this subject, which amendment was incorporated in the act of 1866. Next I turn to what Mr. Reverdy Johnson said pending that debate. He said:

> The Government of the United States cannot go on without a representation in the Senate of the United States. The Constitution assumes that every State in the Union will elect Senators, and the Constitution in its spirit is obligatory upon every State to make such an election. The only way, as I think, to compel the States to perform that constitutional obligation is to stop the wheels of the government of the State until that higher duty is performed.

Here, contemporaneous with the passage of the statute, is found a statement by Senators of the result that comes from our refusal to recognize the power of the governor to fill the place, if we interpret the Constitution as the statute has interpreted it.

Mr. President, it seems to me that, taking the statute, the Constitution itself, and the contemporaneous interpretation of the statute, they all bring us to the conclusion that the governor of the State of New Hampshire had no constitutional authority to fill any portion of this full term, but that, on the contrary, a constitutional and statutory obligation was upon the Legislature of the State of New Hampshire to fill this term; and that if by any failure of its organism there was not such a Legislature in existence preceding the expiration of the term as could elect, the fault does not lie with the Senate, but lies at the door of the State of New Hampshire, and she must suffer loss of representation until her own organism fits her to choose a Senator in the mode that the Constitution and the statute point out.

Mr. CARPENTER. Mr. President, I congratulate the Senate and the country upon the fact that this question is to be decided not upon partisan grounds. The debate which has already taken place—the remarks of the Senator from Delaware [Mr. BAYARD] yesterday and of the Senator from Pennsylvania [Mr. WALLACE] to-day show that these Senators are divided upon this question by principle and not with any regard to political consequences. Indeed, in the present situation of things, there are no political consequences to result from a decision either way. The New Hampshire Legislature which will meet next June, is a republican Legislature. They will send a republican here. The relative strength of the two parties in this Chamber is such that it makes no difference whether we adjourn daily by eight majority or nine. There is, therefore, nothing of partisan consequence pending upon the result. It is, however, highly important that at this time, when no partisan temptation allures us, we should settle this question upon principle, and thereby give to our determination the weight which a decision thus made will always have in the future of the Senate.

We are, moreover, acting as judges in this matter. Each House is by the Constitution made the judge of the "elections, returns and qualifications" of its own members. The Senate in this particular is acting judicially. We cannot receive a man here from New Hampshire because we want another republican; we cannot reject a man coming here from New Hampshire because he is a democrat and we think we have too many democrats already. The question is not what will be the partisan effect of seating one man or of rejecting another; but which man, by the Constitution and laws, is entitled to a seat? Even if a settlement of this question might change the political complexion of this Chamber, nevertheless, every Senator is, on his conscience and by his oath, bound to act as a judge would act on the bench. He is bound to ascertain, in the first place, studiously and carefully, what the law is, and he is bound to declare it impartially and honestly.

Now, what are the facts of this case? In March, 1878, a Legislature was elected in New Hampshire to continue in office until the first Wednesday of June next, 1879. That Legislature is still in full existence as the Legislature of the State. In that body, elected in March, 1878, to-day is lodged the legislative power of New Hampshire. If on any sudden emergency the governor of that State was compelled to convene the Legislature to-day, under that call the Legislature elected in March, 1878, would assemble. They are to-day the only body of men in that State possessing legislative power, or who could assemble and act under a proclamation from the governor of that State in any emergency which required legislation. In June, 1878, this Legislature held a session continuing through the month of June, and in July adjourned *sine die*. That was the session of the Legislature which by the constitution and laws of New Hampshire, then in force, was the last Legislature that would convene in ordinary session before the term of Mr. Wadleigh in the Senate would expire.

On the 4th of March, 1879, Mr. Wadleigh's term did expire, the Legislature not being in session; and on the 13th of March, the Legislature not being in session, the governor appointed Mr. Bell to hold a seat in this Chamber until the then next session of the Legislature of New Hampshire, and Mr. Bell makes claim to a seat here. The question is, as I said, not whether we want another republican, nor whether we want to exclude a democrat, but whether, on the facts of the case, by the Constitution and laws of the land, Mr. Bell is entitled to be a Senator. Nothing could be more dangerous, even in a mere party sense, than to settle such a question with any view to temporary party convenience. A bad example, a vicious precedent thus set, will always come back to torment its inventors. The history of this nation within the last five years furnishes some pregnant illustrations of this.

On the 13th of March, 1879, was the governor of New Hampshire authorized to appoint a Senator under the Constitution? Let us see what the Constitution is; and although it has been referred to several times, I will again read the material provisions, because they should be borne in mind in every such discussion and vote in this body.

Mr. CAMERON, of Wisconsin. If it will not interrupt my colleague I should like to ask him a question at this point.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) Does the Senator yield to the interruption?

Mr. CARPENTER. Certainly.

Mr. CAMERON, of Wisconsin. Do I understand my colleague to hold that the Legislature elected in New Hampshire in March, 1878, is the Legislature and the only Legislature—no, I will leave out "the only Legislature"—is the Legislature which could elect a successor to Mr. Wadleigh?

Mr. CARPENTER. My colleague need not leave out "the only Legislature," because if it is the Legislature that can do it, it is the only Legislature that can do so.

Mr. CAMERON, of Wisconsin. Very well, answer that.

Mr. CARPENTER. I do hold that; and that is what I am going to try to prove if my colleague will permit me. I have found it impossible both in this Chamber and in the courts of law, with my limited capacity, to argue thirteen questions at once, and do it well. I shall therefore take up the various questions upon which this case depends one by one, and the question I now wish to consider is whether by the Constitution of the United States, apart from the legislation of 1866, which I will consider in due time, the governor of New Hampshire had the power to make this appointment.

The Constitution contains a provision, in regard to the other House, which is worthy of consideration here. It is as follows:

> When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Manifestly the idea here is to provide for a vacancy happening in a term which has before been filled by election. For instance, Wisconsin has eight members of the House of Representatives. If one should die, there would be a vacancy in her representation, and the governor of our State would have to issue his writ for a new election to fill that vacancy. I have never understood, I do not believe that where the terms of members of the House of Representatives have not been filled, the governor can issue his writ and thus call an original election to fill those terms. That is not contemplated by this provision of the Constitution. It is only where they have been filled by elections in the ordinary way and a vacancy afterward happens in the term, that the governor issues his writ for a new election to fill that vacancy; and that has always been the interpretation of the Constitution and the practice under it.

Come now to the Senate. In the first place:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote.
>
> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be *chosen* every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof *may* make temporary appointments—
>
> *Appointments!*
>
> until the next meeting of the Legislature, *which shall* THEN *fill such vacancies.*

Section 4 of the first article is as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This is to be read in connection with the fifth article, (at page 48 of our Manual,) which provides as follows:

> No State, without its consent, shall be deprived of its equal suffrage in the Senate.

This is clearly a restriction upon the power granted in the fourth section of the first article, that Congress may alter the State regulations except as to the place of choosing Senators. In other words, Congress can make no alterations of the regulations prescribed by a State, which shall have the effect to deprive such State of its equal representation in the Senate for a single day. A single day is as clearly in violation of this provision of the Constitution as five years. There may be an extra session convened here to consider the question of a war with England and with the rest of mankind, and every State is entitled to be represented on that question that day, and an act of Congress which makes it impossible for her to have that representation is an unconstitutional act of Congress, utterly void, of no force or effect, and binding upon the action and conscience of no member of this body.

Now, let us examine a little more critically this provision of the Constitution. In the first place, the regular terms are to be filled by Senators chosen by the Legislature; but when a vacancy happens in the recess of the Legislature, the governor may make a temporary appointment. The governor cannot *choose* a Senator to fill such a vacancy; hence he *appoints*. The choosing relates to the regular term, and is to be by the Legislature; but the temporary vacancy that may happen in the recess of the Legislature may be filled by an *appointment* by the governor to last until the next session of the Legislature of that State.

In order to uphold this appointment and give Mr. Bell a seat, two things must appear: first that a vacancy had happened within the meaning of that clause of the Constitution, and second that it had happened in the recess of the Legislature of New Hampshire.

When the Senator from Georgia [Mr. HILL] announced his construction of that provision which speaks of "vacancies by resignation or otherwise," I was inclined at that time to side entirely with the Senator from Vermont [Mr. EDMUNDS] upon that point. It was to me a totally new idea, and I thought the word "otherwise" there should be construed as "otherwise than by resignation," and that it would cover any vacancy. The Senator from Georgia, however, in support of his view referred to one case in the Wisconsin reports which fully sustained him. By a subsequent examination of this question, I have become perfectly satisfied that he is right and that that clause of the Constitution must be construed in the manner which he pointed out. This reminds me of what Judge Downer of our State once said to me while we were consulting about a case which came up to the supreme court having been mangled by malpractice, as I thought, in the court below. I said to the judge "This man should be sued for malpractice." "Well," he replied, "I do not know about that; I am an older lawyer than you are, and I learn so much law every day which I did not know before, that I should be very, very reluctant to sue any man for malpractice." Turning last evening to the books, (and especially to "Broom's Legal Maxims," which I take to be the horn-book on this subject,) at page 565, under the maxim of *noscitur a sociis*, I found a collection of cases. I will take the time to read but one, and that is a quotation from a decision of Lord Ellenborough in 5 Maule & Selwyn, page 465, in the case of Cullen *vs.* Butler, which is supported by Lozano *vs.* Janson, 2 E. & E., 160; Phillips *vs.* Barber, 5 B. & Ald., 161; Deveux *vs.* J'Anson, 5 B. &. C., 519, and several other cases which are cited, and also several other cases which may be found in the American reports.

Broom says:

> The following instance of the application of the maxim, *noscitur a sociis* to a mercantile instrument may be mentioned on account of its importance, and will suffice to show in what manner the principle which it expresses has been made available for the benefit of commerce. The general words inserted in a maritime policy of insurance, after the enumeration of particular perils, are as follows:
> "And of all perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, &c., or any part thereof."

Broader words cannot be conceived of.

> "These words, it has been observed, must be considered as introduced into the policy in furtherance of the objects of marine insurance, and may have the effect of extending a reasonable indemnity to many cases not distinctly covered by the special words: they are entitled to be considered as material and operative words, and to have the due effect assigned to them in the construction of this instrument; and *this will be done* by allowing them to comprehend and cover other cases of marine damage, *of the like kind*, with those which are specially enumerated, and occasioned by similar causes; that is to say, the meaning of the general words may be ascertained by referring to the preceding special words."

Then he cites a great number of cases which I will not take the time of the Senate to read or refer to, but all sustaining the principle of construction which was expressed so clearly by the Senator from Georgia. This falls exactly into line with the fair construction of the Constitution, it being manifest to every one who consults that instrument that it was the intention of its framers that the regular terms should be filled by the Legislature. It was only occasional, casual vacancies, that might happen, which were to be filled, not by an *election*, but by a temporary *appointment* made by the governor, to have effect until the next meeting of the Legislature of the State.

Again, although I would not decide a question of this kind upon a lexicon, yet a very critical examination of the minutest details of the Constitution always inspires new admiration for the accuracy of the learning, literary and legal, possessed by its framers. If it were not irreverent, we might say that the Constitution was inspired, the choice of its language in all the details of its provisions being so appropriate. Take this word "happen." Of course the expiration of the regular senatorial terms is fixed by the Constitution and laws, and will occur with as much regularity as the sun will rise and set, while the Government lasts. There is, however, a class of vacancies, that may happen, not regulated by law. Those vacancies which are not certain to, but may "*happen*." What does the word "happen" mean? Turning to Webster's Dictionary I find three definitions given of it. The first is, "to come by chance, to come without one's previous expectation, to fall out;" the second is, "to come, to befall;" the third is, "to light, to fall or come unexpectedly." In all the definitions of this word "happen" the elements of chance is embodied, and this shows that the word "happen" was used by the framers of the Constitution with as much felicity as any other phrase found in that instrument.

The same word occurs three times in the Constitution, and always in connection with vacancies occasioned by chance or accident. Article 2, section 2, provides:

> The President shall have power to fill up all vacancies that may *happen* during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Article 1, section 2, provides:

> When vacancies *happen* in the representation from any State, [in the House of Representatives] the executive authority thereof shall issue writs of election to fill such vacancies.

And article 1, section 3, concerning the Senate, provides:

> And if vacancies *happen* by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof *may* make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

The word "happen" appeared in the original draught of the Constitution, and remained through all the changes and revisions of that instrument by the convention; and was manifestly selected as appropriate to the particular vacancies spoken of.

Now, as to the phrase "shall happen by resignation or otherwise." I repeat,—seeing the Senator from Vermont now in his seat,—that when the Senator from Georgia first suggested his construction I concurred with the view taken of it at that time by the Senator from Vermont; but on examination of the authorities last evening I found that the position taken by the Senator from Georgia in that particular was well warranted by decisions both in England and America, and I come now to its application here.

After providing in the Constitution for the regular terms, then it comes to vacancies that shall happen, that shall come unexpectedly, that shall come without having been looked for, and it says all such "vacancies happening by resignation or otherwise"——

Mr. MCMILLAN. Will the Senator from Wisconsin allow me to make a suggestion to him upon the construction of the Constitution as to that word "happen" applicable to this particular case?

Mr. CARPENTER. I cannot refuse any Senator's interruption, as I interrupt so often myself.

Mr. MCMILLAN. When did the vacancy happen in that case? Not solely at the expiration of the full term of Mr. Wadleigh, but when the Legislature of New Hampshire, by reason of a change in the State constitution was disabled from filling the office.

Mr. CARPENTER. Then, I understand the Senator that this vacancy did not happen on any particular day but kept happening every day?

Mr. MCMILLAN. I beg the Senator's pardon. I want him to construe this word "happen" in connection with this case. The term of Mr. Wadleigh ended at a particular time. The governor filled a vacancy which happened. When did it happen? When the seat was not filled by the Legislature that should have filled it if it had the power, so that it took not only the expiration of the term of the Senator, but the accident or the circumstance which transpired to prevent the Legislature of New Hampshire from filling the vacancy. Then the vacancy happened.

Mr. CARPENTER. That is a pretty long question.

Mr. MCMILLAN. If the Senator will answer it, that is all I desire.

Mr. CARPENTER. The office of an interruption as known by lawyers—and I do not pretend to know anything except as a lawyer—is not to reply to each paragraph of an opposing argument, but it is to suggest some point that has been overlooked by an opponent, some piece of testimony that he has forgotten, or some misstatement that he is making. Now, judged by any such standard, the remarks of the Senator from Minnesota are not an interruption. They are a reply interjected into my speech. Although I may be making a very insufficient and weak argument, I desire to take the entire responsibility of it, and make it myself. [Laughter.]

Mr. MCMILLAN. The Senator will permit me to say that I understood from his opening remarks that he was desirous of ascertaining the truth in this case and of satisfying others who were to act upon this matter as to the truth of his position. Now, he construes a word in the Constitution in a particular manner, and says that it applies to the expiration of a full term of a Senator under the Constitution.

Mr. CARPENTER. No, I do not say it applies to any such thing; I say it does not.

Mr. MCMILLAN. The Senator says that the expiration of the term of a Senator is the occasion upon which the exercise of power in the executive of a State conferred by the Constitution intervenes.

Mr. CARPENTER. I say on the contrary, it is not the case.

Mr. MCMILLAN. Then if the Senator——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to further interruption?

Mr. CARPENTER. I submit to my friend from Minnesota that if he will let me give my perhaps *erroneous* view of this subject, when I conclude I will stand on my feet and be cross-examined to his heart's content.

Mr. McMILLAN. I have not said the Senator's views were erroneous.

Mr. CARPENTER. No, I say that.

Mr. McMILLAN. I have only expressed a circumstance to the Senator which I desired him to explain, that I might form as correct a view as himself upon the subject.

Mr. CARPENTER. And in the course of my explanation the Senator breaks in and asks me to explain.

Mr. McMILLAN. I beg the Senator's pardon.

Mr. CARPENTER. I am arguing the precise question as well as I can which he wishes me to argue, and he interferes with me and says "will you not go on with that point" while I am going on with it. [Laughter.]

Mr. McMILLAN. I desired to suggest to the Senator merely a circumstance which would qualify his explanation of the term "happen."

Mr. CARPENTER. That is in the nature of a reply.

Mr. McMILLAN. I made a suggestion to the Senator which I desired him to answer.

Mr. CARPENTER. What is the suggestion?

Mr. McMILLAN. I have already stated it to him; but if he sees proper to avoid any answer, I am of course satisfied.

Mr. CARPENTER. Will the Senator be kind enough to state it once more, as I did not clearly understand him?

Mr. McMILLAN. I thank the gentleman for his remark in that connection. The expiration of the term of the late Senator from New Hampshire occurred upon a certain day during the vacation of the Legislature, and when the Legislature which had been chosen prior to that time could not elect a successor.

Mr. CARPENTER. If the Senator means the Legislature elected in the fall of 1878, it was not a Legislature when Mr. Wadleigh's term expired.

Mr. McMILLAN. Then the fact that no successor was elected to succeed Mr. Wadleigh created a vacancy which occurred during the recess of the Legislature, and the fact that the Legislature of New Hampshire could not elect is the circumstance which occasioned that vacancy. That is the reason why the vacancy happened.

Mr. CARPENTER. The Senator from Minnesota illustrates by his argument—for it is not a question at all, it is an argument—that he takes a different view of this subject from that which I take. I have great respect for his opinion; at the same time I must vote upon mine, and I am trying to state mine now, and right in the midst of explaining what I understand to be the meaning of this word "happen," the Senator interrupts and asks if I will not argue the question of what is the meaning of the word "happen" in the Constitution. I am doing that, as well as I can, and I am very sure that I shall not do it any better for being interrupted. I am also perfectly sure that my argument will be better understood, if it deserve the name of an argument, by being put head first instead of tail first. In the arrangement which I had made for my remarks I had determined to reserve the point which the Senator is now troubled with, for my conclusion.

Mr. McMILLAN. The Senator will excuse me. I knew his ability and supposed that no question would interrupt him.

Mr. CARPENTER. It does not, except that it takes time, and life is short. That is the only objection. [Laughter.] I have lost the trail of my remarks, but I will break in somewhere in the line and probably come back to the point after a while. I think I was upon the meaning of this word "happen" in the Constitution, when the Senator from Minnesota interrupted to say that he desired to hear me upon that very point, and which he certainly would have done in five minutes more. I was trying to show, I believe, that the framers of the Constitution had here used that word "happen" with felicity. They knew the difference between a vacancy happening by casualty in the recess of the Legislature, and a term that had never been filled. This word "happen," in its proper definition, involves the element of chance. It cannot with propriety, that is considering the strictness of the use of language in the Constitution, be applied to a term that has never been filled. To illustrate: suppose that when the Constitution was adopted by the States, and the President of the United States had taken the oath of office, the States had not elected Senators to this body. The office of Senator was created when the Constitution was adopted. Does anybody suppose that before a single Legislature had elected Senators, the governors of the respective States could have filled this Chamber by temporary appointments? I believe no one will assert this. And yet what is the reason? It is because the word "vacancy," as used here in the Constitution, does not mean the expiration of a full term, nor that the full term has never been filled. A vacancy "happens." The language of the Constitution is not "if there shall at any time be a vacancy the governor may appoint, to have effect until the next meeting of the Legislature," but it must be a vacancy happening in the recess of the Legislature, a vacancy happening upon what the Legislature has done, a vacancy occurring in a term which the Legislature has filled. I say that is the plain meaning of the Constitution, comparing its different provisions, and I repeat that this word "happen" here was used felicitously because it embodies the element of chance, and shows that in order to authorize the governor to make an appointment, there must be a vacancy which has happened "by resignation or otherwise," in other words, "by resignation and so forth." That is, by resignation or some other unexpected cause. A very common phrase in statutes is the words "and so forth" which means what? Things of a similar kind. For instance, the statutes of several of the States exempt "to a mechanic, miner or other person" property to the amount of $400, the courts; yes, the courts of Kansas—for I see the Senator from Kansas [Mr. INGALLS] is rejecting this theory—his own courts have held that under that statute exempting to mechanics, miners and others $400, the word "others" does not mean everybody, as the word would naturally mean standing alone; it means others of a like kind, falling within the same class, thus referring to and indorsing the English decisions to which I have already referred. I think I can refer the Senator to one or two cases in Kansas. A case in 9 Kansas, page 30, follows this principle. A case in 2 Minnesota, page 89, also follows the same principle; and indeed this is but adopting the principle well established by the English courts, by Lord Ellenborough and by others, whose authority, without the support of any American courts, would be sufficient to settle this question, because they were adjudications pronounced and well known before the Constitution was adopted. A very strong case on this point is that of Cullen *vs.* Butler, 5 Maule & Selwyn, 465; and I will also refer, in this connection, to the act of 1866 already referred to by the Senator from Pennsylvania [Mr. WALLACE] and which is expressive of the understanding of Congress upon this subject. Section 14 provides that:

> The Legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress.

What is the meaning of this section? What did Congress intend to accomplish by it? The lawyers in this Chamber will tell you that it is the duty of every one called upon officially to construe a statute, to so construe it, if consistent with its language, as to carry out the intention of those who enacted it. Was it not intended by that section to provide that the Legislature which sat next before the expiration of the term should fill it? Was not that the meaning of it?

> The Legislature of each State which is chosen next preceding the expiration of the time, &c.

When that act was passed, I believe there was not a single State in this Union, whose Legislature, elected next prior to the expiration of the term, did not also *meet* and *organize* prior to the expiration of the term. The fact is that this case of New Hampshire has arisen since the act of 1866 was passed, it was not in the mind of the men who passed that act; and to say that that act should be warped and twisted to meet a case which has since happened, out of the ordinary course of proceedings of the States; a case which was not contemplated, not foreseen, not thought of, is to pervert every established principle for construing a statute.

> The Legislature of each State which is *chosen*—

If the act had read: "The Legislature of each State which is in existence next preceding the expiration of the time," there would have been no question about it; and yet the fact is that when this act was passed in every State, I believe, the Legislature chosen next before the expiration of the term also *assembled* next before the expiration of the term, so that at that time and in that statute the words "chosen next preceding the expiration of the time" and so forth, had the same effect as the words "in existence last before the expiration of the time" would have. At that time the two phrases would have meant precisely the same thing. That they mean different things now is because this eccentric proceeding has taken place in New Hampshire, by which a Legislature chosen at one time is to have no official existence for nearly a year afterward; a case which Congress did not at all anticipate when the act of 1866 was passed. But let us proceed with this act.

Section 15 provides:

> Such election—

[That is to fill the term]—

> shall be conducted in the following manner: Each house shall openly, by a *viva voce* vote of each member present, name one person for Senator, &c.

I need not read more of this section, for everybody understands it. Then comes section 16. Section 15 having fully provided for the election to a full term then section 16 provides that:

> Whenever on the meeting of the Legislature of any State a vacancy exists in the representation of such State in the Senate, the Legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy in the manner prescribed in the preceding section for the election of a Senator for a full term.

Following precisely the analogy of the Constitution and providing first for the election to the full term, the act proceeds in a separate section to provide for the case of a vacancy that has happened; and how is that vacancy to be filled? By the Legislature, in the same manner that the law requires for filling a term; by an election by the two houses acting separately, or by joint convention of the two houses.

I am amazed that any man can take the act of 1866 and say that it gives any countenance to the idea that Congress intended to do what it is said has been done. I submit that you cannot give this act such a construction, if you can possibly avoid it, consistent with the language of the act.

There is another piece of evidence on this subject to which I wish to refer, and that is the record of proceedings in the Senate last June, when the bill to enable the Legislature of New Hampshire, then in session, to elect, was before the Senate. I understand (and as my colleague is thoroughly posted in that matter he will be able to set me right if I am wrong) that the bill which was introduced by him was introduced for the express purpose of being defeated, for the express purpose of enabling the Committee on Privileges and Elections to make upon it an adverse report.

Mr. CAMERON, of Wisconsin. I introduced a bill, but I did not introduce it for that purpose.

Mr. CARPENTER. The Senator seems to have got sick of it soon after introducing it.

Mr. CAMERON, of Wisconsin. Not at all.

Mr. CARPENTER. My colleague reported against it, did he not?

Mr. CAMERON, of Wisconsin. I did not report it. I concurred in the report, however.

Mr. CARPENTER. Which was against it?

Mr. CAMERON, of Wisconsin. Which was against it.

Mr. CARPENTER. I have always understood that when a Senator concurs in a report, it is his report; in other words, it is the report of all those who concur in it. The Senator says when he introduced the bill he meant to pass it, but he changed his mind immediately, and reported against it. I understand, in other words, that it was designed to bring this body to vote upon the question of whether that Legislature could elect, and to vote that it could not. I infer as much from the RECORD. I find Senators here saying that that Legislature might elect; a bill was introduced declaring that that was the true meaning of the Revised Statutes; yet I find the very Senators who expressed such opinions voting against the bill. But I particularly refer to the RECORD to show that the opinion I hold is confirmed by able Senators now on this floor. When this bill was before the Senate Mr. Wadleigh claimed that it ought to be passed. I read from page 4357 of the CONGRESSIONAL RECORD:

Mr. WADLEIGH. The Senator from Ohio would have us believe that there is some doubt as to whether this Legislature or the next is entitled to elect. That is a matter which greatly concerns the people of New Hampshire. It is desirable that that question should be settled at once so that they may not put themselves in a position from which they cannot be extricated without great embarrassment. Accordingly a bill was presented to this body by the Senator from Wisconsin, [Mr. CAMERON,] and referred to the Committee on Privileges and Elections, which reported unanimously that this Legislature cannot elect the Senator, that the next Legislature must elect. That shows to us clearly that unless this bill passes *there must be a vacancy in this Senate from the State of New Hampshire for three months in the next Congress.* That is the reason why this proposition should pass.

It was very clearly the opinion of Mr. Wadleigh at that time that the governor could not fill that unfilled term at its commencement. But Mr. THURMAN inquired:

Is there any probability of Congress being in session during those three months?

Mr. WADLEIGH. I do not know about that.

Mr. WHYTE. I ask the Senator from New Hampshire why the governor of New Hampshire cannot appoint for the vacancy until the Legislature meets in June?

Mr. BLAINE. He cannot do that if the previous term has fully expired.

Mr. WHYTE. Suppose this Legislature has power to elect and does not elect, is not that a vacancy?

Mr. BLAINE. Then the power of the governor does not come in.

Mr. WHYTE. It does, apparently.

Mr. BLAINE. *Not at all.*

Mr. DAWES. Every precedent of the Senate is against that.

Mr. BLAINE. The Senator from Maryland is too good a lawyer to make that assertion.

Mr. WADLEIGH. Having examined the precedents, I am inclined to think the governor cannot appoint.

Mr. BLAINE. *Of course the governor cannot appoint.* Nothing is better settled than that. The honorable Senator from Ohio [Mr. THURMAN] will give his assent to that, if the term has fully expired.

I am certain my republican friends will not complain of me when I am sustained by such authority. [Laughter.]

As I have said, to authorize the appointment by the governor, two things must be found to exist. First, a vacancy must have happened; and it must have happened during a recess of the Legislature of the State. It is maintained that on the 13th of March there was a recess of the Legislature of New Hampshire. Let us stop and examine that a little. Was there a recess of the Legislature of that State on the 13th of March, 1879? In the first place, what is a recess of a legislative body? The dictionaries define it as a cessation from the labors of that body. When the body has been organized and doing business it takes a recess either for an hour, or a day, or a month, or six months. A recess is the suspension of legislative labors. It implies an organization of the Legislature and a subsequent adjournment. So in speaking of the whole term of a Legislature, when the session has performed its business and nothing more need be done until the next regular session, they adjourn until that session, or adjourn *sine die.* That is a recess of a Legislature. Let me ask my friends here what Legislature of New Hampshire was in recess on the 13th of March last? What does the term recess of a Legislature, in this provision of the Constitution, mean, except that it is a recess of the Legislature which if in session might make the election? Any other construction makes nonsense of it. Why require a recess to exist in order to let the governor act? Simply because if the Legislature is in session *they* must act, and the governor only acts for them temporarily in their recess. Then it is certain that the recess contemplated by the Constitution is a recess of the Legislature which was in existence on the day when the appointment was made. The only Legislature of New Hampshire on that day, was the old Legislature; yet the learned Senator from Delaware [Mr. BAYARD] says if that Legislature had been convened on the 4th of March in extra session to elect a Senator and had been in actual session on that day for the express purpose of filling that term it could not have done so. To that extent Senators must go to maintain the power of the governor in this case to appoint. Take it upon that ground. Suppose the Senator is right in that? Suppose that that Legislature, the old Legislature, could not elect a Senator if they were sitting to-day—for that is what the Senator from Delaware distinctly answered to my question yesterday—what is the result? A recess of the Legislature which can make the appointment cannot occur until such Legislature is in existence; that is certain. The new Legislature of New Hampshire will have no official existence until the first Wednesday of June next. Then the governor must wait until that Legislature shall assemble and take a recess before he can make an appointment, upon the ground urged here that he is acting in a recess of the Legislature. I do not see any escape from this conclusion. So that, if these Senators are right in the theory upon which they would give Mr. Bell a seat, they must go one step further and deny him a seat because the governor acted prematurely. It will not do to say there was on the 13th March last a recess of the Legislature which was not then in official existence. The Legislature elected in March, 1878, are to hold until next June, when the new constitution goes into operation. Until that hour it is as silent as though it had never been written. It has no effect until that time. It is silent until the first Wednesday of June next, but the old constitution and the old Legislature continue until that time.

But by some provision of law the people, in the fall of 1878, chose the persons who, after the first Wednesday of June next, are to compose the Legislature of that State. Until that time arrives the persons so elected are not members of the Legislature of that State. When the new constitution takes effect they will, in virtue of the action of the people last fall, become members of the Legislature; but at present they have no official existence. When Territories under enabling acts of Congress form constitutions of State government, they elect their Senators; and the practice has been that such embryo Senators come to Washington to procure the admission of the Territory as a State. But they are not Senators until the State is admitted. If Congress should never admit the State they never would be Senators. If the State is admitted then the election of such Senators is cured by relation, and they become members of this body.

Such precisely is the situation of those persons who have already been elected to compose a Legislature under the new constitution of New Hampshire. Until the new constitution takes effect they are not members of the Legislature of that State; nor could they, before that time, assemble and organize as a Legislature. If the governor of that State should to-day find it necessary to convene the Legislature, in extra session, to meet a sudden emergency, the old Legislature would respond to his call; because it is the body which now possesses, and until the first Wednesday of June next will possess, the legislative power of that State. On the 13th of March last, and to-day, there is no Legislature of that State, except the old one elected in March, 1878. From this it follows that if on the 13th of March last there was a recess of the Legislature of New Hampshire within the meaning of the Federal Constitution, it was a recess of the old Legislature. It is absurd to say that there was at that time a recess of a Legislature not then in existence.

But it is clear that to authorize the governor to make an appointment there must have been a recess of the body which at that time possessed the legislative power of that State; because the governor, in making such appointment, acts only for the Legislature which, if in session, could make the election to fill the term.

But the Senator from Delaware [Mr. BAYARD] contends that if the old Legislature were convened to-day, it could not elect Mr. Wadleigh's successor. If this be so, then it is certain that its recess confers no power upon the governor to act.

But upon the theory that the old Legislature could not make such election, then it is certain the governor was not authorized to act on the 13th of March last; because the new Legislature, which is not yet in official existence, cannot be in recess as the Legislature of that State, and the governor has acted prematurely. He must wait until that Legislature has an existence, and after organization, has taken a recess, before he can make an appointment in virtue of the recess of that Legislature.

But it is so clear that the old Legislature, if it had been convened by the governor on the 4th March last for the purpose of electing a Senator to succeed Mr. Wadleigh, would have had the power to make such election, that nothing more need be said about those gentlemen who will, after the first Wednesday of June next, compose the Legislature of the State under the new constitution.

But let us examine the matter further. On the 13th March last the governor, acting in the recess of the old Legislature, for at that time it was the only Legislature of that State, and consequently was the only Legislature that could be in recess, appointed Mr. Bell to be Senator until the then next meeting of the Legislature. Now suppose the governor had died on the 14th March, and his successor had qualified, and called an extra session of the Legislature to meet on the 20th day of March to elect a Senator. Of course the old Legislature would have assembled. When they were assembled would not that have been a session of the Legislature of that State, and

would not the appointment of Mr. Bell thereby have been terminated, even conceding its former validity? This certainly would have been so, apart from the act of 1866; certainly would have been so under the constitution. But the Senator from Delaware [Mr. BAYARD] says Congress has by the act of 1866 forbidden that Legislature to act. I think it a great error so to construe the act of 1866. But if it must be so construed then I have a short reply. The act forbids the State of New Hampshire to exercise her rights as secured to it by the Constitution of the United States. The act is therefore unconstitutional and utterly void.

I submit that the State of New Hampshire has a right to an equal representation on this floor. She had a right to assemble her Legislature in that State according to the forms of law by a proclamation of the governor on the 3d of March to elect a Senator for the term beginning on the 4th of March, and it is not within the province of the Senate or of both Houses of Congress to strip her of that power.

Suppose the governor had so convened the Legislature, and the old Legislature had met on the 3d day of March and on the 4th or 5th had proceeded to elect, what would have been the effect upon Mr. Bell's appointment? The Constitution says that if the vacancy happens, and I pass by the meaning of that word now, the governor may make a temporary appointment until the next meeting of the Legislature, which shall then fill the vacancy. In the case I suppose, I ask any lawyer in the Senate if the old Legislature, elected in March, 1878, convened by a proclamation, would not have been the Legislature which the Federal Constitution declares shall fill that vacancy?

To escape that conclusion Senators must say that New Hampshire on that day had two Legislatures, one to do certain things and the other to do certain other things. But the most important thing that New Hampshire had on hand on the 5th of March last was to elect a Senator, and if the governor had convened a session of the Legislature for that purpose on that day, I want to know upon what authority, I want to know by what clause in the Constitution, both Houses of Congress could pass a law which should deny her the right to do so? But it is said the act of 1866 has done that. Then the act of 1866 is unconstitutional and void, and passes out of this discussion entirely. But I submit that the act of 1866 has not done it. It is an unnatural and an unreasonable construction of that act to say that it means that the persons who would some time in the future become members of the Legislature, it may be one year, it may be two years after the expiration of the term—that they, and they alone, and not the Legislature in life and existence on the 4th of March, shall make that election. Such a construction would make the act unconstitutional, and therefore is not to be adopted unless its language imperatively leads to that conclusion, and then the act must be declared void.

We must distinguish between that which is ordained by the Federal Constitution, and that which is established by State constitutional laws. The Constitution of the Union guarantees to every State the right of perpetual representation in this body. Although a senatorial term may expire on the 4th of March, the President may convene Congress in extra session on the 5th, to consider the most important questions; questions of peace or war; questions deeply affecting every State of the Union; and every State is entitled to be represented in such session. An act of Congress which makes it impossible for a State to enjoy this right, deprives the State of that which the Constitution secures to it, and is therefore null and void. If the act of 1866 must be so construed as to deprive New Hampshire of her constitutional right of representation, then it is void. It should not be so construed if its language will admit of any other construction. The Senator from Delaware [Mr. BAYARD] in the discussion yesterday, attempted to parry the effect of questions I put to him by saying it was wrong to reduce matters to the *reductio ad absurdum*. I suggest to that Senator, not only with deference to his opinion but with affection for him personally, that that depends entirely upon whose argument is reduced to it. It is perfectly legitimate, perfectly consistent with courteous debate, to show that the argument of an opponent leads to such conclusion. I asked that Senator yesterday whether, if the new Legislature of New Hampshire should not be in official existence for ten years, it would be in the power of Congress to declare that such Legislature, and not the one in existence at the expiration of a senatorial term, should elect the successor. He complained that the question involved a *reductio ad absurdum*. Yet I submit to that Senator that if Congress could defer the power of election from a Legislature in existence when the term expired to one which would be in existence three months afterward, it could as well confer it upon a Legislature which would be in existence ten years afterward. Conceding the power of Congress to postpone the power of election beyond the commencement of a new term, it would clearly be within the discretion and power of Congress to determine how long such power should be postponed.

Mr. THURMAN. Will my friend allow me to ask him a question here, in order that I may get the right understanding of his remarks?

Mr. CARPENTER. Certainly.

Mr. THURMAN. Speaking of the Legislature that would have power to elect, if the Legislature were convened, the Senator reads this clause of the Constitution:

> And if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

If I understand the argument of my friend, he holds that a vacancy occurring by the expiration of a term is not a vacancy within the meaning of this clause of the Constitution. Then, if that is the case, this provision that the Legislature "shall then fill such vacancies" has no application, because it is only in cases of vacancies which the governor may fill by a temporary appointment that this clause provides that the Legislature at the expiration of such temporary appointment shall fill the vacancy.

Mr. CARPENTER. That is undoubtedly so; but what is the consequence; what does it prove?

Mr. THURMAN. It proves that the Senator's remarks have no application, as it seems to me, but it may be for want of comprehending his meaning. That is the reason why I ask the question. It proves that if the Legislature should now assemble, if the Senator's interpretation of the Constitution is correct, that clause in the Constitution which provides that the Legislature "shall then fill such vacancies" would have no application.

Mr. CARPENTER. That is giving to my remarks a most remarkable turn. The Constitution here treats of two subjects; first, the election to fill the regular terms. There is no dispute among Senators about that. That is to be done by the Legislature. Of course if the Legislature is not in session on a certain day, whenever it is in session it must then perform the duty. Nobody doubts that; but the appointments to fill vacancies happening in the recess of the Legislature are only to last until another meeting of the Legislature, and therefore the Constitution provides that the appointment which the governor shall make in the recess shall expire on the meeting of the next session of the Legislature. They are different subjects entirely.

Mr. THURMAN. If my friend will permit me, I admit that if there is a Legislature competent to elect and if it were to assemble now, it would be its duty to fill the vacancy whether any appointment had been made by the governor or not, but it would not result from that clause of the Constitution which the Senator read.

Mr. CARPENTER. Not at all; I do not claim that it would.

Mr. THURMAN. It would result from the other clause, which requires the Senator to be chosen by the Legislature.

Mr. CARPENTER. That is precisely what I have for an hour been contending for. We agree entirely in regard to those two provisions of the Constitution. One has relation to the vacancies that may chance or happen in the recess of the Legislature, whereas the other, the general, provision applies to all the cases where the Legislature is required to elect for the term.

Mr. President, I have taken much more time than I intended to occupy when I commenced addressing the Senate. I have no partisanship about this matter. I never saw Mr. Bell until he came here, but he seems to be a gentleman, he is a republican, and I would be very glad to have New Hampshire represented by two Senators. I sympathized deeply with the sentiments of the Senator from Delaware yesterday, who was so anxious to preserve the integrity of the Union and the peace and prosperity of the American people that he wanted to let Mr. Bell in. I am equally anxious to preserve the Union and to preserve the prosperity of the people and the integrity of the Constitution, and for that reason I cannot vote to seat Mr. Bell; believing that to do so would be to violate the Constitution. I maintain and believe that the construction which has been put upon the act of 1866 caused the evil in this case. The old Legislature had the power in my judgment to elect a Senator and ought to have elected one at its session in June last. As it did not, the State must take the consequences and be partially unrepresented until the Legislature shall be in session to elect a Senator. In this matter the Legislature represents the State; and when the Legislature last in session previous to the expiration of a senatorial term, having power to make an election, refuses or neglects to do so, then until an election can be made, in conformity with the Constitution of the Union, the State, by its Legislature, has consented to waive its right of equal representation in this Chamber.

The action of the Senate at its last session, is claimed to have influenced the Legislature of New Hampshire in session in June last, not to make an election; and therefore it is claimed that a strong equity exists for admitting Mr. Bell to a seat under this appointment. If this question were to be determined, not by the constitutional laws of the Union and of that State, but by good nature and official gallantry, Mr. Bell might found some claim upon this ground. But the most ignorant person in the land is presumed to know the law, therefore I think the Legislature of New Hampshire must be subjected to the same presumption. If other Senators can feel justified in absolving themselves from obedience to the constitutional laws, and admit Mr. Bell upon the ground that the action of the Senate last year misled and deceived the Legislature which ought to have filled this term, they will be justified in voting to seat him, and their doing so will cause me no regret. But I cannot yield to such considerations without doing that which in my opinion would violate the Constitution I have, as a Senator, sworn to support. And while I pass no criticisms upon those who differ with me, I must perform my duty as I understand it.

Mr. GROOME. Mr. President, I rise not to argue at length the question now before the Senate, but to explain very briefly the reasons which will influence me in casting my vote upon it. There is no right of more inestimable value secured to the smaller States by the

Constitution than that of equal suffrage in the Senate. It is the only right of which they cannot be deprived even by a constitutional amendment, unless it is assented to by all the States, without the grossest breach of the national faith, because the Constitution declares that "no State, without its consent, shall be deprived of its equal suffrage in the Senate."

The manifest intent of the framers of the Constitution in employing the language they have used was to provide the machinery by which both senatorial terms in each State should be kept filled and the equal suffrage of the State in the Senate maintained, unless the Legislature of the State, representing its sovereignty, should by its own default permit one or both of them to become vacant. We ought not, therefore, to put such a construction upon the Constitution, unless its language imperatively requires it, as in effect to declare that while the intent of its framers, as expressed on its face, was that "no State, without its consent, shall be deprived of its equal suffrage in the Senate," its provisions in regard to choosing Senators by the Legislature and in regard to making temporary appointments by the executive to fill vacancies are so inaptly expressed as to defeat that intent. We ought rather to so construe it as to give full effect to the manifest intent of its framers, that each State shall be enabled at *all* times and under all circumstances to be represented by two Senators on this floor.

The Constitution provides that the Senators to represent a State shall be chosen by its Legislature; and that "if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies;" and it provides that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." Congress in pursuance of the power thus bestowed upon it has provided by law that the Legislature chosen next preceding the expiration of a senatorial term shall elect a Senator to fill such vacancy. The Legislature of New Hampshire chosen next preceding the 3d of March last, when Mr. Wadleigh's term expired, has not met and cannot meet under the provisions of the constitution of that State until June next.

The question we have to decide is whether or not under these provisions of the Constitution and law of the United States and of the constitution of New Hampshire the governor of New Hampshire had the right to fill the vacancy caused by the expiration of Mr. Wadleigh's term until the next meeting of the Legislature?

Construing the provisions of the Constitution relating to this subject and the law providing for the election of Senators together, and with a view to carrying into effect their principal intent, that the equal suffrage of each State in the Senate shall be maintained if it can be done without doing violence to the language of the Constitution, I understand the meaning of that instrument and of the law passed in accordance therewith to be this:

That whenever a Legislature is charged by law with the duty of filling a senatorial term, and refuses or neglects to discharge that duty, that term must remain vacant until the Legislature which represents the sovereignty of the State chooses to discharge the duty which the law devolves upon it. Such a vacancy is not one which the executive of the State can fill by a temporary appointment made either before or after the vacancy actually occurs, because the State through the Legislature has decided to deprive itself for the time being of its equal representation in the Senate, but when a vacancy occurs in the recess of the Legislature—I ask especial attention to this proposition—I repeat when a vacancy occurs in the recess of the Legislature and no Legislature is in default because of not having filled it, then the executive can make a temporary appointment; whether the vacancy is one caused by the expiration of a term or by the resignation, or otherwise, of the person chosen to fill it.

This construction is perfectly consistent with the language of the Constitution, unless a narrow and technical meaning is to be placed on the word "happen" and makes the constitutional provision such that no State can ever be deprived of its equal suffrage in the Senate unless by the default of its Legislature, of its executive, or of the person selected to act as one of its Senators. On the other hand, if the word "happen" is to be construed as necessarily involving the element of casualty, and consequently as forbidding under any circumstances the filling by a temporary executive appointment of a vacancy caused by the expiration of a term, then we are driven to the alternative of depriving a State of its equal representation in the Senate when its Legislature is in no default in not having filled the vacancy, and when its executive has attempted to fill it by a temporary appointment. So harsh a construction of the Constitution—one reflecting so seriously upon its framers by reason of their inapt use of language to render effective their declared intent—ought not to be adopted by the Senate unless the language of that instrument is so unambiguous as to admit of no other interpretation.

Every constitution and code of laws contemplate the filling of every vacancy in an existing office with all convenient speed, and where an instrument or statute without violence to its language is capable of two constructions, that one should never be adopted which requires an existing office to remain vacant; and this is especially so in a case like the present, where to keep the office of Senator vacant is to deprive the State of its equal suffrage in the Senate without its consent.

But it has been contended in substance that the people of New Hampshire must be presumed to have been aware of the provisions of the United States law regulating the election of Senators at the time they adopted their organic law; and that, as by that organic law the Legislature chosen next preceding the termination of a senatorial term cannot meet until after the beginning of the new term, they must be presumed to have intended and consented to the necessary result of their own act in adopting that organic law.

But I answer that there are some presumptions which lead to results so unjust that no tribunal which has full discretion to reject them, and to decide the question at issue upon its merits, will adopt them as a mere matter of law. It will at least exercise its discretion this far: to require some proof that the presumption which the law would draw is true as a matter of fact. Now it is absolutely inconceivable, as a matter of fact, that the people of a small State like New Hampshire have, with full knowledge of its effect, adopted a constitution under which, so long as it remains in force, as often as a senatorial term expires by limitation, the vacancy must continue for three months.

In cases where the executive of a State has the unquestioned right to make temporary appointments the Constitution declares that such appointments shall expire with "the next meeting of the Legislature." Yet from the very foundation of the Government the Senate, in order to prevent a vacancy and to preserve the equal suffrage of the States in this body, has construed that language to mean that the temporary appointment shall remain in force until the next meeting of the Legislature and election by it of a Senator, or until it shall meet and adjourn without making an election. I confess this is a liberality of construction which I would have hesitated to be the first to suggest, but as it is perfectly well established and as it greatly aids in keeping the seats in this body filled, and thus in preserving the equal suffrage of the States therein, I should be extremely reluctant to see it abandoned.

In view, then, of the liberal construction always placed by the Senate on the phrase "until the next meeting of the Legislature," it ought to have no difficulty, in order to effectuate the same important object, in construing the word "happen" as equivalent to "occur;" which, indeed, is the word substituted for it by Congress in the section of the law providing for the election of Senators to fill vacancies. If such a meaning be placed upon the word "happen," there is no difficulty about construing the Constitution and United States laws made in conformity therewith to mean what I have already claimed is their meaning—that whenever a vacancy occurs in the recess of the Legislature, and which no Legislature of the State is in default for not having filled, it can be filled by an executive appointment, whether the vacancy occurred by reason of the expiration of a term or by reason of the resignation, or otherwise, of the person selected to fill it.

Believing this to be the construction which ought to prevail I shall, unless my views in the course of this discussion undergo an entire change, vote to seat Mr. Bell.

Mr. KERNAN. Mr. President, in the discussion of this question it is hardly conceivable that there can be the least party feeling or bias. The seating of the claimant, Mr. Bell, will make no political change in this body; and whether he be seated or not, a successor to Mr. Wadleigh will be chosen by the Legislature of New Hampshire, of the same political party to which he belongs, next June. The importance of the matter, therefore, it seems to me, arises only from the fact that this will be a precedent on the precise question whether the governor of a State, when the regular term of a Senator expires during the recess of the Legislature of that State, can appoint a Senator for that State. It is well that we are called upon to decide this question under circumstances when there can be no partisan or political feeling as to the result; but it is important that we should decide it according to the true intent and meaning of the Constitution, as our decision will have weight as a precedent.

I have given my best attention not to preparing an argument on this question, but with a view of satisfying myself of the correct rule on the subject according to the Constitution. I have come to a conclusion, and with great respect to others I will say as to the conclusion at which I have arrived that I have no doubt in my own mind that the Constitution does not confer power upon the governor to appoint a Senator to commence a new term of six years. I shall content myself with stating very briefly the conclusion to which I have come and the reasons which have led me to that conclusion. I shall not endeavor to make an elaborate argument. I concur in the views so well expressed by the Senator from Tennessee, [Mr. BAILEY,] by the Senator from Georgia, [Mr. HILL,] and the Senator from Wisconsin, [Mr. CARPENTER.]

I wish, however, to ask the attention of the Senate to what has seemed to me to be entitled to weight. I wish to call attention a little more particularly to the language of the Constitution on the question whether the governor can appoint a Senator to commence a new term on the expiration of the prior term of six years. I first ask the attention of the Senate to the language of the Constitution. If the last part of the clause of the provision of the Constitution wherein the word "vacancy" is used had been left out, would there be any doubt that it was the exclusive right and the duty of the Legislature to choose a Senator for the term of six years on the ex-

piration of a prior term? The language of section 3, article 1, is that—

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years.

The section then provides that the Senators first elected shall be divided into three classes, and that—

The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year.

Chosen by whom? By the Legislature unquestionably. Therefore, if you leave out all as to "vacancies," and the word is used twice in this subsequent part of the paragraph, you will have the power conferred and you will have the power conferred coupled with the duty imposed upon the Legislature, to choose Senators on the expiration of terms of six years. The Legislature under this provision has exclusive power to fill all vacancies caused by the expiration of the terms of six years.

But it is said that the word "vacancies" in the subsequent part of this provision covers the vacating of a seat in the Senate caused by the expiration of an incumbent's term. Does it do so? I shall not stop to repeat what has been so ably said by the Senator from Georgia and the Senator from Winconsin as to the significance of the words "happen by resignation or otherwise," but I wish to call attention to the "vacancies" which the Legislature may fill as contradistinguished from choosing a Senator for a full term. The first part of this section provides fully for choosing a successor to a Senator whose term has expired. What, then, are the "vacancies" which the Legislature shall fill and which the governor may temporarily appoint an incumbent to? The provision is:

If vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

The "vacancies" which the governor may temporarily appoint to and the "vacancies" which the Legislature shall fill at its next session are "vacancies" happening or occurring during the running of the six-year term for which the Legislature alone can choose a Senator. Is it not, then, true, in the plain language of the Constitution, that the governor may temporarily appoint in the recess of the Legislature to fill only such "vacancies" as the Legislature by the Constitution shall fill the first time they meet after the "vacancies."

The provisions of section 3, article 1, of the Constitution, prior to this in which "vacancies" are mentioned and provided for, conferred full power on the Legislatures to keep the Senate full by choosing Senators to succeed those whose terms expired by constitutional limitation, by the expiration of the six years.

This last part of the clause to which I have alluded provides that where "vacancies" happen during a recess of the Legislature the governor may appoint and the Legislature shall fill such "vacancies" at their next meeting. I submit that the plain meaning of this, its spirit, its intent, is that they are vacancies occurring during the efflux of the term of six years, and they are not vacancies which exist when the six-year term has expired.

I appreciate the force of the argument (and I mean to give it due weight) that we should give that construction to the Constitution if we fairly can which will tend to keep the representation of the States in the Senate full; but I cannot do that against the language of the Constitution, what I believe to have been the intent of its makers. I think it is manifest they were solicitous that the men sitting here as Senators should not be selected by one man in a State but that they should be selected by the representatives of the people of the State in the Legislature. Hence the "vacancies" which the governor can fill temporarily by appointment must occur during a recess of the Legislature. If the vacancy occurs while the Legislature is in session, although it is the last day of its session, the governor cannot appoint at all. It is conceded that such a vacancy must occur during the recess. If the Legislature is in session when the vacancy occurs and fails to choose a Senator, the governor can never appoint a person to fill the vacancy. If the governor appoints temporarily and the Legislature meets and for any cause or for no cause does not fill the vacancy which had occurred and which the governor had filled by appointment, the Senator so appointed goes out of office at the expiration of the first session of the Legislature, and there can be no one to take his place till the Legislature fills the vacancy.

I allude to this only to show that the framers of the Constitution intended to limit and restrict the power of the governor to put a man upon the floor of the Senate as a representative of the State. I think the meaning of the language of the Constitution is that the vacancy which is made in this body by the expiration of the six-year term of a Senator must be filled by the Legislature, and this is not a vacancy which happens by resignation, or otherwise, within the meaning of the Constitution. The vacancy which the governor may fill is one which occurs during the running of a six-year term, and which the Legislature must fill, not for six years, but for the unexpired portion of the term.

Without arguing further the point, relying upon the arguments made by other gentlemen upon this question, asking each Senator to examine the Constitution and see if the vacancies to which the governor may appoint are not only those which occur during the term of six years, and not those made by the expiration of the prior term to which the Legislature alone is authorized to choose an incumbent, I am content to leave this question.

Now, a few suggestions about the precedents. I conceive there is nothing very significant in the precedents down to the year 1825. In that year the term of Mr. Lanman, from Connecticut, expired on the 3d of March. The governor of that State, by an appointment dated the 9th of February, reciting that he had been notified that there would be an extra session of Congress on the 4th of March, and that the Legislature would not meet for some months after the meeting of the extra session, did appoint Mr. Lanman a Senator until the next meeting of the Legislature. I concede that there is a difference in fact in that case and this in this particular, that the governor of Connecticut did appoint before the vacancy had actually occurred, but I fail to find any evidence which is reliable that the decision of that case was at all influenced by that fact. Had the objection been made that the appointment was made before the vacancy occurred, the governor of Connecticut could have made another appointment on the 4th of March and he would have been admitted to a seat. He did not become an appointee until the 4th of March, for the executive of Connecticut could not appoint till then. No such objection was made, and therefore I believe that it was decided on the broad ground that the governor could not appoint a Senator to commence a new term.

My friend from Delaware says it is not so regarded by Judge Story. I know Judge Story puts it on something else; but I call attention to what was the opinion of men, some of whom were active political men in 1825, some of whom I believe voted for the decision in 1825 excluding Mr. Lanman from a seat. My friend from Connecticut well says that Judge Story gives no reason or authority for his opinion. When the question came up again in 1854, in the Phelps case, this was the interpretation put upon the decision in the Lanman case. I have looked into the debate of 1854. The point under adjudication there was not, I concede, the point here; but it involved the question of the governor's power to appoint. I will not read what has been read already in this debate, but I ask Senators, as better than my own opinion, to permit me to read a few sentences from what was said first by Judge Butler, chairman of the Committee on the Judiciary and an able lawyer. He said in the debate in 1854 on the Phelps case:

It seems to be conceded, that the authority to choose a Senator to commence a new term of six years, after the efflux of a regular term, is exclusively vested in the State Legislature.

He said further:

In 1825 Lanman's case came up for consideration, involving both the questions. In that case, after a very full debate, it was solemnly decided that it was not competent for the governor of a State to put a member on this floor at the commencement of a term. In other words, it was decided that his power of appointment could not be substituted for the election of the State Legislature. Even if such had not been the decision in the case of Lanman, I take it for granted that such would be and must necessarily be the decision now.

He is speaking of the case that had stood unchallenged since 1825, and he speaks of it as settling, not the question whether because Lanman's appointment was dated before the vacancy he was not to be admitted, but it was put by him upon the ground that there was not power in any governor under the Constitution to appoint a man to begin a full term as successor to a Senator whose term has expired.

Mr. Badger, of North Carolina, who has the reputation, and I believe justly, of having being a very able lawyer, and who differed from Judge Butler in politics, said:

Now, my friend from Kentucky has suggested one or two questions, which I think will be sufficiently answered by this statement. The vacancies which the executive of a State is authorized to fill are never vacancies that happen by the efflux of time; they are not foreseen vacancies; they are vacancies that "happen by resignation, or otherwise."

Here is a great lawyer of the party opposed to Judge Butler and others who spoke, saying:

Mr. President, from an exceeding desire to give to this clause of the Constitution such a construction as would keep the Senate always full, I labored hard, a year or two ago, when we had questions of this kind before us, to find out some method of supporting, in my own mind, the construction that a vacancy happening by the efflux of time, and not filled beforehand by the Legislature, might be brought within this limited power conferred upon the executive; but, sir, I have been obliged to abandon it.

He, a good lawyer, having in mind the importance of keeping the Senate full, says he labored hard to come to the conclusion that an executive could fill the vacancy occasioned by the expiration of a six-year term, but he had to abandon it.

"By resignation, or otherwise," is the language. We must expound the word "otherwise" to apply to vacancies happening by similar events; that is, unforeseen events—death, resignation, appointment to an office which disqualifies—and it can never be applied to the expiration of the term of a Senator which leaves a seat vacant on this floor. My opinion, therefore, is, that the governor of a State has no power to fill a vacancy in this body which is brought about by the expiration or efflux of the time for which a Senator was elected—in other words, at the determination of his term in the Senate. It must be a vacancy in the term happening during the recess of the Legislature; it must be a vacancy in the term happening by resignation or other casualty. That I understand to have been the express and solemn decision of the Senate in Mr. Lanman's case, in 1825, overruling one or two earlier decisions, which had passed, perhaps, without full consideration.

I read this because it had and should have great weight. It was said in the presence of able statesmen who were lawyers. This was in the Phelps case, where this point was debated fully. The governor in the case of Phelps appointed temporarily to a vacancy occurring during a term; the Legislature came together, and after sitting

a few days, adjourned without filling the vacancy, and the Senate held that the appointee could not continue to sit beyond the session—a pretty close construction as to a vacancy clearly within the meaning of the last part of the clause of the Constitution in question. I call attention to it to show that Senators desiring to construe the clause so as to keep the Senate full would not construe it to keep that seat full, though there was a clear vacancy during a recess; and yet the governor could not keep the man here if the Legislature met and did not elect.

Now, Mr. President, in regard to the Sevier case I need not add to what the Senator from Georgia so well said. The very men who voted upon it said they did not mean to shake the Lanman case. Although I might not agree with that decision, they decided it saying they held the Lanman case correct.

Then, I ask, is it wise to depart from what these Senators say in 1854 has been the uniform construction of the Constitution, based upon the Lanman case down to that time, which they all approve; and although I have not read all the debate I believe no Senator disputed the propositions put forth by Mr. Bayard, by Judge Butler, and by Mr. Badger. Judge Butler stated that it was a conceded point, and that it must have been decided the same way then if the Lanman case had never been decided, and a leading whig lawyer and jurist said that he had striven to come to the conclusion that some of our friends now come to here, with a view of keeping the Senate full, but that he had to abandon it, and his deliberate conclusion is, first, that the Lanman case solemnly decided it, and second, that he has come to the same conclusion that the expiration of a term, the ending of a term of six years, is not a vacancy to which the governor can appoint.

Mr. EDMUNDS. Will the Senator from New York permit me to ask him a question for information? Suppose there being now a vacancy (which I presume we all agree there is) in the senatorial representation of the State of New Hampshire, the Legislature of the State of New Hampshire were now in session and were to proceed to fill that vacancy, under what clause of the Constitution would they get the authority to fill it?

Mr. KERNAN. Choosing a Senator to a term which had been vacated by the efflux of time, I should say.

Mr. EDMUNDS. Then I understand from my friend that they get it under the first three lines of section 3.

Mr. KERNAN. And what is in the residue, namely: "so that one-third may be chosen every second year." This aids the first clause, I think.

Mr. EDMUNDS. Then my friend perceives that under the first clause, by the express language of the Constitution the Legislature must choose for six years. That is plain because it says so in terms, and there is not any *noscitur a sociis* or anything else that can get it out of that. Now the next clause is that the Senators shall be divided into classes so that one-third of the Senators may be chosen every second year. This third to which the New Hampshire class belongs cannot be chosen every second year, for a part of it has gone by. That power of choosing every second year is lost in its exact continuity. There is a vacancy. That is admitted. Now when that vacancy is filled up, it is filled up as a vacancy; the term does not begin in June when the Legislature begins.

Mr. KERNAN. I do not want to detain the Senate; I will only state my view.

Mr. EDMUNDS. I beg the Senator's pardon. I merely wished to ask him whether he did not come down at last to the power to fill vacancies.

Mr. KERNAN. It is a fair question, and I do not complain of it. I understand if this Legislature chooses a Senator now, it chooses him for the term of six years from the 4th of March, 1879, and no other, and I say further that while I admit that the vacating of a seat in this body by the retirement of Senator Wadleigh, of New Hampshire, leaves in one sense a vacancy in this body, a vacancy in the representation of that State, I have argued and I feel very strongly the conviction that it is not the vacancy which the Constitution meant to allow the governor to fill.

Mr. EDMUNDS. That is another question. I merely wished to know whether there was a vacancy now.

Mr. KERNAN. I do not think there is, within the meaning of vacancies which are to be appointed to temporarily by the governor, and filled not for six years, but filled for a portion of a term under the last clause. But, Mr. President, I will not detain the Senate further. I only wanted to do justice to my colleagues on the committee, with whom I fully concurred, by expressing my strong conviction that the conclusion of the majority of the committee is correct.

One word on another subject. The Senator from Delaware, [Mr. BAYARD,] for whose opinions I always have great respect as I have a very high regard for him, argued as though there was something in this case that Congress was to blame for, and therefore we should give the construction he contended for to the Constitution. He said in substance, alluding to the act of Congress of 1866, when before has Congress by its law prevented a State from having its representation in the Senate? I do not understand that we have prevented it. The law of 1866 was made long before New Hampshire changed its constitution, and it was made when it suited them precisely under their old constitution. If they have changed their constitution and laws by inadvertence so that they have not the right Legislature there to elect, that is not the fault of Congress, but it is their misfortune, and I am frank to say, though I never had my attention called to it till yesterday, that I think they could have called together the Legislature elected in March, 1878, and elected a Senator. I agree with the Senator from Wisconsin in that. What is the language?

The Legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected shall choose a successor.

What is the Legislature of the State of New Hampshire to-day? Is it the one that by the new constitution was elected last November, and is not to come into legal existence until next June, or is it that body in which is vested the law-making power to-day in New Hampshire, and the only body that can make a law to-day, for, as I understand, the old Legislature elected in March, 1878, is continued in being for a year, and the new one, as it is called, is not a Legislature until the constitution makes it such in June next? But I do not attach importance to this. I do not think we can change the construction of the Constitution of the United States on this subject to accommodate it to the action of States. The Constitution I think vests the exclusive power of choosing Senators for six years, of choosing a Senator who is to succeed an incumbent whose term expires, in the Legislature; and that is the case before us. There is no vacancy in the sense of the Constitution to which the governor could appoint. I say such a vacancy is one happening during the running of a six-year term, and not one which occurs when a term expires.

The Legislature elected in March, 1878, as I understand, held their regular session by law last June. Why did they not choose a Senator then to succeed Mr. Wadleigh? They were then the Legislature elected under their constitution and laws last before the vacancy, and if they had elected I have no doubt the election would have been held valid.

I have said, Mr. President, all I desire, and I have submitted my views as those very earnestly entertained by me after examination and believing that we ought to adhere to what has been the understanding ever since 1825 by all that we find in the debates or in action, because where there was a departure from it they affirmed that the correct decision of this question was made in the Lanman case.

Mr. SAULSBURY. Mr. President, perhaps everything that I could say on this subject has already been said and much better said than I could hope to say it; but as the member of the committee who reported the resolution under consideration to the Senate, perhaps it is incumbent upon me to express some views in regard to it.

Mr. DAVIS, of Illinois. Would the Senator prefer to go on to-morrow?

Mr. SAULSBURY. I have no choice on that subject.

Mr. DAVIS, of Illinois. It is late now. I move that the Senate adjourn.

Mr. SAULSBURY. I have only taken the floor now because nobody else claimed it, as I supposed the debate was about closing.

The PRESIDING OFFICER. Does the Senator from Delaware yield for the motion to adjourn.

Mr. SAULSBURY. Yes, sir.

The PRESIDING OFFICER. The Senator from Illinois moves that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 22, noes 18; and (at three o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 8, 1879.

The House met at twelve o'clock m. Prayer by Rev. D. T. PHILLIPS, of Parsons, Pennsylvania.

The Journal of Saturday last was read and approved.

CHANGE OF NAME OF SCHOONER.

Mr. LOUNSBERY. I send to the Clerk's desk a resolution which I ask the courtesy of the House to pass at this time. I present the resolution at the request of the officers of the New York custom-house, for the benefit of the owner of a vessel in my district.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to permit the owners of the schooner Isle of Pines to change the name to George S. Sleight.

Mr. REED. I object.

HENRY VOELTER.

Mr. SPRINGER. I ask unanimous consent to offer for present consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Clerk of the House cause to be printed for the use of the House the reports of the Commissioner of Patents and the examiner upon the application of Henry Voelter for a reissue of his patent for making wood paper-pulp.

Mr. CONGER. I object.

Mr. SPRINGER. Allow me to state to the gentleman from Michigan that last session a resolution calling upon the Commissioner of Patents to send papers in this case to the House of Representatives was passed, and that instead of sending copies he sent the whole of

the original papers in the case, while the House did not desire to have printed any papers except the report of the Commissioner on the subject. And now those original papers are here and the Commissioner desires them to be returned to the Department. The object of this resolution is to authorize the Clerk to copy the paper desired and print that and return the rest to the Department, in order that it may not be deprived of its record.

Mr. CONGER. They will probably be safe here for two or three days more.

Mr. SPRINGER. They have been here for months.

Mr. CONGER. And they have not been destroyed yet. That is a good reason why there is no hurry in this matter.

Mr. SPRINGER. The Commissioner's request is that they be returned.

The SPEAKER. The gentleman from Michigan objects. That is conclusive for the Chair.

Mr. SPRINGER. Objections are sometimes made without reason.

AMENDMENT OF RULES.

Mr. BUCKNER, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Rules:

Resolved, That the rules be amended so that Saturday of each week be set apart for the consideration of bills committed to the Committee of the Whole on the state of the Union other than the regular appropriation bills.

PERSONAL EXPLANATION.

Mr. FRYE. Before the gentleman from Tennessee [Mr. ATKINS] proceeds, I desire to speak a moment on a question of personal privilege.

In the debate a few days since I took occasion to quote from the Okolona States, a paper published in Mississippi, and I stated that it was a paper of respectability and reflected the sentiments of the Mississippi democracy. Thereupon a gentleman, whose name I do not remember, said that its editor was a "carpet-bagger," and the gentleman from Illinois [Mr. SPARKS] said the editor was a sutler in a Michigan regiment. The gentleman from Mississippi [Mr. MULDROW] said that the paper represented no respectable element of the Mississippi democracy.

Now, sir, I do not wish to misrepresent anything in any remark which I made, and in justice to myself, in justice to the gallant soldier on the other side, I desire the Clerk to read the letter which I send up.

The Clerk read as follows:

OKOLONA, MISSISSIPPI, *April* 3, 1879.

DEAR SIR: In the discussion in the House on the 1st instant, Mr. MULDROW, of this State, is reported as saying that our paper (the States) "represented no respectable element of the Mississippi democracy."

I wish that you could then and there have confronted him with the following; (I would send the entire paper but must not break our files:)

"Southern States. Okolona, Mississippi. A. Y. Harper, W. H. Kernan, editors. Wednesday, August 28, 1878. For Congress, first district, HENRY L. MULDROW, of Oktibbeha."

The editor-in-chief of our paper is Colonel A. Y. Harper, a confederate officer in the late war.

Respectfully, yours,

WILL. H. KERNAN.

Hon. Mr. FRYE.

Mr. FRYE. That is all I desire to say.

ORDER OF DEBATE.

Mr. ATKINS. I rise, Mr. Speaker——

Mr. McLANE. Before the gentleman from Tennessee moves to go into Committee of the Whole I desire to call the attention of the House to a practice which prevails in the Committee of the Whole as to the assignment of the floor, and I desire to move that Rule 59 shall be the rule for the government of the Chairman. Of course this does not exclude from him the right to make a list. Rule 59 is ample to govern the Chairman and the Speaker in their practice, a practice giving rise to great dissatisfaction, that of filing a list of from sixty or seventy to eighty names, in advance even of the Chairman taking the chair, and by which he is governed. A more unreasonable and abusive rule of the privilege of the House I cannot conceive; therefore, before we go into Committee of the Whole, I move that Rule 59 be enforced.

Several MEMBERS. Let it be read.

The Clerk read as follows:

RULE 59. When two or more members happen to rise at once, the Speaker shal name the member who is first to speak.

The SPEAKER. Rule 113 will be read by the Clerk.

The Clerk read as follows:

RULE 113. The rules of proceedings in the House shall be observed in Committee of the Whole so far as they may be applicable, except the rule limiting the times of speaking; but no member shall speak twice to any question until every member choosing to speak shall have spoken.

The SPEAKER. The Chair desires to state that there is a list here which he has not seen, but gentlemen entered their names with the Clerk. Of course he has no wish on the subject except what is just to the two sides. The Chair thinks that in these recognitions they ought to be made from side to side.

Mr. McLANE. That is a matter of the discretion of the Chair.

The SPEAKER. The Chair in the House has always recognized this practice.

Mr. McCOOK. I would like to hear, for information, how long this custom has been equivalent to a rule in the House?

The SPEAKER. It is not a rule.

Mr. McCOOK. I know that; but it has been a custom for many Congresses.

Mr. CLYMER. That was the practice of the House during the period of the Speakership of Mr. BLAINE, and it was the practice during the Forty-third Congress.

Mr. COX. This custom grew up during the war; the war made it a military necessity.

Mr. McCOOK. I suggest, Mr. Speaker, without a wish to discuss the question, that the rule has now been in practice for fourteen or fifteen years, and that the matter be referred if necessary to the Committee on Rules.

The SPEAKER. It has been a subject of discussion among the members of the Committee on Rules, but, the Chair thinks, not in committee.

Mr. GARFIELD. I suppose that there is no doubt that it rests in the discretion of the presiding officer to recognize members, and that the presiding officer shall have knowledge of those who desire to speak, and if it is necessary that he shall have a memorandum of those persons who desire to speak; that is only decent and proper. I do not suppose that the presiding officer is bound by a rule that says that he shall not have a list.

The SPEAKER. When the late Speaker Kerr occupied this chair he stated that he only had a list for his own convenience. The Chair presumes that that was the purpose of all Speakers in having a list.

Mr. MITCHELL. I came in since this question was raised; and I do not understand how any custom shall abrogate the rules in the recognition of a member who is entitled to the floor. If that be the rule there ought to be some notice to members of who is to occupy the chair. Now, so far as this measure is concerned, it must have its first consideration in Committee of the Whole, and the House has not yet resolved itself into Committee of the Whole. The Speaker has not yet exercised his power under the rules to designate the person who shall preside. I submit that if there be any such rule there ought to be some prescription of it; and it ought not to lie in the breast of a man not yet designated.

The SPEAKER. The proposition of the gentleman from Maryland does not apply to any particular member, but applies to whoever may be chosen as chairman.

Mr. MITCHELL. I did not understand the remark of the gentleman from Maryland and was not addressing myself particularly to it, but to the remark which dropped from the gentleman from Ohio, which I understood to relate to a practice in this House that may be proper enough in the case of the Speaker, but whether it be proper in the case supposed or stated is, I think, an entirely different question. I understand that some seventy or eighty gentlemen have had their names placed on the list for speeches in Committee of the Whole, and that this list is to control the matter of recognition. For myself I care nothing about the matter.

The SPEAKER. This is a proposition not to have the recognition controlled absolutely by that list.

Mr. WHITTHORNE. Allow me to say just one word before this question is acted on. No person possesses more arbitrary power over men and measures than the Speaker of this House. I have been myself a witness of the enforcement of the rule which the gentleman from Maryland proposes to require to be executed, and I have in times past believed that the Speaker of the House has "run" the legislation of the country so that the personal fortunes of men have been placed in the hands of but a few individuals. For one I have been pleased to see grow into a custom the practice of which the gentleman from Maryland complains. It is the only practice under which justice can be done to every member upon the floor, so that all may have an equal opportunity to be heard. Under the old rule the Speaker may, upon the other side or upon this, commit the control of every measure into the hands of but a few men. I have witnessed that, and against that practice I have been in former times a bitter protestant. I would rather see observed the custom which has grown up than see the rigid enforcement of the old rule. Some of us are humble men, modest men; yet our constituents, who have sent us here to represent their views and sentiments, may desire that we shall take part in the debates. Hence I say the modest men, the young members on this floor, should have the opportunity to be heard, and that this matter should never rest in the arbitrary discretion of the Speaker, so that he may commit the entire control of measures to a few of his favorites. I honor the custom rather than the rule.

Mr. O'NEILL. Mr. Speaker, I do not know that it is ever impossible for a member of this House to get an opportunity to say what he wants to say. I do not know that I have ever experienced any great difficulty in saying something at the proper time. Let me illustrate by what occurred on Saturday last in Committee of the Whole.

There had been an outrageous attack made upon the conduct of elections in the city of Philadelphia, where, as the Speaker himself knows, the right to vote is fully protected; where no man who has the right to exercise the elective franchise is deprived of that right. Now, I know very well that on Saturday last the Chairman of the Committee of the Whole would have been glad to give me the floor for a few minutes to reply to the gentleman from Ohio, [Mr. FINLEY;] but there was the list, which had to be adhered to. I was very anxious to answer the gentleman from Ohio at that time. Yet I preferred that the list which had been made should be adhered to regu-

larly, even though the immediate result was to deprive me of the opportunity of answering that outrageous attack upon the city of Philadelphia in reference to the exercise of the elective franchise—a city where no man is deprived of his right to vote, or ever has been while the republicans have had control. This is all I desire to say. [Laughter.]

Mr. COX. Mr. Speaker, there are difficulties connected with this matter, and I think it would be well if the Committee on Rules should consider them. It is almost imperatively necessary that the Speaker of the House should have ample discretion as to who shall have the floor, or, as they say in the Spanish chamber, who shall have "the word." Members of the House who are chairmen or members of certain committees are reasonably entitled to preference with regard to recognition when the particular subject-matter coming from that committee is before the House. In the same way members who have peculiar interests in certain questions are entitled to preference. Discretion in regard to this matter ought to be left if possible with the Speaker. Yet, sir, we are bound in some way to have a list of this kind. In the French Legislative Assembly no man can take the tribune until he has his name enrolled. That rule in the French chamber grows out of the very necessity of the case. It will be found that the same necessity exists in this House. Let us, then, have this matter referred to the Committee on Rules for consideration; but so long as the rule remains, and gentlemen insist on its observance, it will have to be observed by the Chairman of the Committee of the Whole. My friend from Maryland, I suggest, might make a motion to have this matter referred to the Committee on Rules, with the view of having the rule in this regard amended if necessary, or of making some further provision for its execution.

Mr. McLANE. My motion is altogether misapprehended by the gentleman from New York, [Mr. COX,] and I think also by the gentleman on the other side from the State of New York, [Mr. MCCOOK.] I have made no motion to adopt a new rule. Nor have I made any motion to dispense with the customary list. That list is a mere aid to the Speaker or the Chairman; and as an aid I have no objection to it. It has been the universal practice in this House to have such a list, not only within the last ten years but for the last forty years. I had the honor to sit in this House over thirty years ago; and we had then precisely the same custom as now; but this list was regarded merely as an aid to the Chair, not as imperatively binding upon him; the Chair never regarded it except at his own will and pleasure.

And now the reason why I make this motion is because the Chairman of the Committee of the Whole has communicated the fact that he will regard the rule absolutely, or rather the custom under the rule. I do not mean the chairman of this particular committee which is about to be formed, but the chairman of the past committee; and I have every reason to know that the chairman of the committee about to be formed will administer the duties of the Chair in that way; that he will treat the list as an absolute direction to him, so that no man on this floor can take it unless he takes it in the order in which his name stands upon that list. It thus becomes a rule, and as a rule I think it a bad one.

As a suggestion to the Chair I have no objection to it at all. Therefore my motion was that the Chairman of the Committee of the Whole should be instructed to govern himself by the rules of the House; no more, no less. He will have the same discretion as the Speaker has in the House, and he will be held to his proper responsibility for the manner in which he discharges that duty.

I need not say to this House that any Speaker or any Chairman who sat there and recognized partially one side of the House rather than the other would lose the confidence and the respect of the House. We have no fear of any such thing like that suggested by the gentleman from Tennessee. Any Chairman, any Speaker, is bound by the rules of the House to recognize the member who first rises, subject always to this discretion of recognizing either side of the House or recognizing the chairmen of committees who have the responsibility of particular measures then pending.

Mr. BLOUNT. Let me ask the gentleman from Maryland a question. What is that list worth if you execute rigidly Rule 59?

Mr. McLANE. It is worth much, and for forty or fifty years it has been the practice of this House, so the Speaker or Chairman should know who wished to speak. It is only a suggestion to him I say, and I have no objection to it as a suggestion. Vote as you please on the proposition, but at least understand what it is. My motion is that the Chairman shall be governed by the rules of the House; no more, no less. That is the motion I have made, and on it I want to have a vote of the House. I hope the gentleman from New York will not move to refer it to the Committee on Rules.

Mr. COX. I do not want to refer it. I am perfectly willing to vote.

Mr. FINLEY. Is it in order for the House to restrict the Chairman of the committee to observe any particular rules? Is it not the duty of the Chair to observe the rules?

Mr. McLANE. It is perfectly within the power of this House to instruct the Committee of the Whole.

Mr. CONGER. If this resolution makes any change in a custom of the House, establishes any different order of proceeding, it ought to have consideration by the Committee on Rules. If it does not, if it is no new guide to the Chairman or the committee, then it is unnecessary.

Now, I agree that this is a delicate question. You can hardly change the present arrangement without infringing upon the rights of the Speaker, the necessary rights which he must have and must exercise. I know it has been the custom to put the names down on a list, although following that list sometimes works hardships to members. Preparing a new list beforehand, before the chairman is appointed, and having names entered upon it, sometimes before it is known whether the House will go into Committee of the Whole and who will be its chairman, evidently works sometimes wrong. For instance, in this last session, I among others found fifty to sixty names on the list of speakers in the Committee of the Whole so that I was not reached at all. A good many others were, however, reached and had their opportunity. When I came to look for the list this time I found seventy or eighty names upon it, while my name is not upon it at all. Other gentlemen are upon it who have the same right I have and somewhere some one of them will give me some of his time, I have no doubt, if I should desire to speak upon the question. If this resolution is acted on at all it should go to the Committee on Rules.

Mr. MONEY. It is immaterial to me whether the rule or the custom under the rule shall be observed, but I do insist on one thing, and that is, that if the rule is to prevail it shall be observed, and if the custom is to prevail of having a list that also shall be observed. I say this because in a late discussion gentlemen whose names were upon the list in the hands of the Chairman were not recognized in the order in which they were enrolled there. The Chairman recognized gentlemen at his own pleasure without any regard to the rule and without any regard to the custom. That is what I object to. I have as much right to the attention of this House as any other man on this floor, and I say my name was on that list for five minutes only, (which were denied me by the objection of the gentleman from Michigan,) and I never had the opportunity of getting that five minutes because the gentleman who occupied the chair at that time chose to recognize before me gentlemen who were not down on the list at all. And this has become the custom until gentlemen on this floor are simply at the mercy of the gentleman who happens to occupy that chair. Now, I object to that. He should either follow the rule or he should drop the rule and follow the custom—it is immaterial to me which—but one or the other should be observed in fairness to men who have constituencies to represent here. And I do object, and shall object, and, if necessary, shall go further than I do to-day in objecting to being ruled off the floor by the arbitrary power of the gentleman who occupies the chair. I insist on either the rule or the custom being observed. Having equal rights here, we should have an equal hearing in the House.

Mr. HOOKER. I desire to say a word in reference to this motion. I entered the Hall as the gentleman from Maryland was addressing the House, and I understand that this question comes up as a question of privilege in reference to the construction which should be placed upon the rules of the House, and especially how far Rule 59 shall govern the Speaker when debate is progressing in the House upon any subject-matter before it, and how far the Chairman of the Committee of the Whole, upon any question which the House may be considering in committee, shall be governed by that rule and by general parliamentary law.

I think there can be no question, Mr. Speaker, that Rule 59, which I believe has already been read in the hearing of the House, plainly indicates that when these rules were adopted it was the purpose of the members of the House of Representatives of the Congress of the United States to conform to general parliamentary law with reference to the conduct of the debate upon any question pending before it; and I understand, Mr. Speaker, that the custom of allowing the occupant of the chair to indicate by a list of names upon his table who shall be entitled to the floor has grown up here within the past few years in violation of this rule and in violation of the general parliamentary law which is intended to facilitate rather than to restrict debate. The operation of it, as we who have been here during the last two or three Congresses have witnessed, has been to give to the first twenty, thirty, or forty gentlemen whose names happened to be on the list the right to debate every question which comes before this House, whether the body presided over by the Speaker or the Committee of the Whole presided over by its Chairman. I say this is a custom rather to be honored in the breach than in the observance, and that the time has come when the House ought to direct the occupant of the chair in this matter. I am very well aware, and I say it with all respect to the present occupant of the Speaker's chair, that he found this custom in existence when he was elected to the Speakership, and that he finds it still in existence when he is re-elected to the Speakership, but I say it is a custom which has grown up in violation not only of the specific Rule No. 59, which is to govern the proceedings in this House, but that it is in violation of general parliamentary law with regard to the conduct of debate.

We have all observed the fact, who have been here for the last two or three Congresses, that under the operation of the method of debate in this House, as now conducted, the floor of the House, which should be the common right and privilege of every member speaking for his constituency when he can obtain it under the forms of the conduct of business which have prevailed here for the last few Congresses, has been peddled out, if I may so speak, by the reporter of a bill, whether the chairman or other member of a committee, in accordance

with his own fancy as to who should occupy it. The consequence has been that one or two committees have had—and I may say that one committee of this House, the Appropriations Committee, which has become the absorbing committee, has had—the right to take the floor on the first day of a Congress when its bill is reported, and to indicate by arbitrary action on the part of its chairman who shall have the floor. When I say this I do not refer to any gentleman holding that position during the last two Congresses. But the custom has grown up that either the chairman of the committee which reports the bill or the member of the committee who has the bill in charge indicates in what way the control of the floor shall be farmed out to the particular individuals he may indicate. I say this is a wrong practice under the rule. This is a violation of the rules of the House, and not of the rules only, but it is a violation of the great right of debate under the universal parliamentary law as it is understood in all deliberative bodies which are seeking to investigate questions of great interest for the people. I say it violates those general parliamentary laws in thus attempting to restrict debate.

Mr. ATKINS. I desire to ask the gentleman in what way the chairman of the Committee on Appropriations farms out the floor of the House, except during the hour to which he is himself entitled?

Mr. HOOKER. In this, Mr. Speaker, that when the chairman of a committee makes his report he undertakes to indicate and usually does indicate the time which is to be occupied in the discussion of the matter by an arrangement between this side of the House and the other side of the House.

Mr. ATKINS. There is no farming out the floor of the House in that.

Mr. HOOKER. There is a restriction of debate; and the fact, I take it, is too apparent to be denied.

The SPEAKER. The gentleman from Mississippi will notice that the rules provide that the chairman or the member of a committee reporting a bill has the right to open and close debate, being entitled to one hour for each in a continuing discussion. He has no right to "farm" out anything but that time. But in a protracted debate, under the rule, the member of a committee reporting a bill has one hour to open and another to close.

Mr. HOOKER. But you are well aware, Mr. Speaker, and the distinguished gentleman who was chairman of the Committee on Appropriations in the last Congress is well aware, that under your methods for the conduct of business you absolutely exclude more than two-thirds of the members on this floor from any participation in the debate at all.

That is its practical operation, as has been witnessed by every man who was a member of the Forty-fourth and Forty-fifth Congresses. I say, therefore, that you ought to recur back to the orbit intended by the rules, and that you have no right, by implication or otherwise, to violate them in any form whatever. I say further, that under the operations of the various Chairmen of Committees of the Whole the rules of the House have been violated. We have seen its bad effect at this session during the debate on the Army bill. There were a great many men who wished to express their views on that question, but they found that the debate was in part regulated by those who were fortunate enough to have their names on the list, and they did not see fit to claim any part of the time allotted to others. I say that this is a bad practice. It is not only a violation of the rules of the House, but a violation of parliamentary law governing the subject of debate. I will take occasion here to refer to that author on parliamentary law who has expressed the subject with greater clearness and precision than I can do it. I allude to the following paragraphs in Cushing's Manual:

1532. When a motion is regularly made and seconded and proposed as a question from the Chair, "every member is then at liberty to debate with freedom upon it, and to agree or disagree to it as he may think reasonable" and proper. But, though the latter part of this principle is universally true, as every member may agree or disagree to whatever question is put to the House, the former admits of an exception in regard to those questions which require unanimous consent. Questions of this description, as, for example, on giving leave to withdraw a motion, are not properly debatable, at least on the part of the negative; for, if any one member objects, the question is as effectually negatived as if a majority of the members were opposed to it; so that debate on that side would be a mere waste of time.

1533. The term *debate*, in its strictest sense, is applicable only to what is said on the one side or the other of a question which the House is to decide by a vote. In a broader sense, it embraces everything which is said in the House by members, whether upon a question pending or in reference to any other proceeding, matter, or business whatever. The rules of order by which the speaking of members is regulated, together with the exceptions to those rules, having relation to debate in its broadest signification, the subject of order in debate is now to be considered in the most extended as well as in the narrowest sense.

1534. It is not necessary in order to render words disorderly that they should be uttered in debate, strictly so called; if used in any parliamentary proceeding, as in making a motion, or answering a question, or stating a fact, or even in reading from a book or paper, they are equally subject to the animadversion of the House, as disorderly. All language not addressed to the House, in a parliamentary course, must be considered as mere noise and disturbance.

1535. When a member desires to address the House, either in reference to a pending question, or for any other purpose, he must first obtain possession of the floor, in the manner already adverted to, when considering the subject of motions. If one member only rises to speak, he, of course, is to be heard. If two or more rise at or about the same time, and claim the attention of the House, the general rule as to which of them shall speak assigns the preference to him who was first up, to be determined by the Speaker of the House. In the application of this rule, however, there are certain other excepted cases in which one member has a right to proceed in preference to others and certain other excepted cases in which, by the indulgence of the House, though not as a matter of right, it is customary to assign the preference on other grounds. The excepted cases of the first kind occur, when the subject, to which a member rises to speak, is one of paramount importance, as a matter of privilege, or a question of order; in which cases he is entitled to be heard in preference to other members. These cases must not be confounded with those where a member merely rises to propose a motion which takes precedence of the motion originally made, in which case he is not entitled of course to preference over other members. The excepted cases of the latter kind are those of, first, the original mover of the proposition, on its being first debated; and, second, when the debate was adjourned. These classes of cases, though established with peculiar reference to the practice of the two houses of the British Parliament, embrace substantially the grounds upon which preferences are usually allowed in awarding the floor in our legislative assemblies, and will constitute the matter of the first section of this chapter, which will be concluded with a second section concerning the general deportment of members in speaking. There are also other grounds upon which preferences are allowed, irrespective of the peculiar character of the parties.

It will therefore be observed that Rule 55 is excepted almost *in totidem verbis* in the language of the distinguished parliamentarian from whom I have just read. Another thing. This list furnished to the Speaker or the Chairman of the Committee of the Whole of the persons who are to speak on the subject-matter under consideration has a tendency to depopulate your House. It makes the members who feel an interest in the subject-matter of debate but who failed to secure a place on the list think that they are but performing a silent part, and they therefore either turn their backs upon the Speaker or leave their seats, because by the action of the Speaker or the action of the Chairman of the Committee of the Whole they have been virtually excluded from any participation in the debate.

The SPEAKER. The Chair desires to ask if the list is not open to every member of the House?

Mr. HOOKER. It is, if the names were put on the list, and we would then be recognized, I suppose, in the order in which they are placed. But the Speaker is very well aware of the fact that about twenty members in this House do nearly all the talking, and that over two-thirds of the members of the House are never heard at all.

The SPEAKER. The question generally arises when the committee is tired of debate, and when it is the desire of the committee or of the House to cut off debate it can be done.

Mr. HOOKER. Generally so; but what I desire is that the member who first catches the Speaker's eye shall be recognized. It is often very difficult for gentlemen on the extreme left to always catch the Speaker's eye. During the recent debate I know of my own knowledge that it was very difficult to catch the Speaker's eye.

The SPEAKER. The Chair would be willing to submit the question to the House whether the gentleman from Mississippi [Mr. HOOKER] has not frequently got the Speaker's eye. [Laughter.]

Mr. HOOKER. I have one further observation to make. I say that this rule of proceeding destroys the continuity of debate; it destroys virtually that investigation which debate is intended to effect. It prevents that clash of mind with mind which is necessary to elucidate the truth. Heartily sanctioning the motion of the gentleman from Maryland, [Mr. MCLANE,] I hope the House will enact by positive action that its rules shall be enforced in reference to parliamentary debate on every question.

Mr. HAZELTON. If I understand the custom, if it be a custom, this list has been made up by members going to the Chair or to the Speaker's clerk and registering their names, and having them placed upon the list.

Now I think it is not so much this list as the abuse of the list that has given rise to this debate. I found that when I put my name there my number was 41, and now I am 56 or 57. The names are so put that the first shall be last and the last first. I find that nine names from way down to 50 put to 1, 2, 3, 4, &c.

The SPEAKER. The Chair has no such knowledge. The Chair certainly neither put down nor added nor inserted the name of any member.

Mr. HAZELTON. The list shows it. I do not commend or uphold it. It is of that very abuse I am now speaking, and I insist upon a straightforward and honest construction of the rules.

Now, all we want is fair play; that is a jewel always. And those gentlemen who have had so good an opportunity before to be heard ought to be satisfied, even if they should now come behind some of the new members and the humble individuals my friend from Tennessee [Mr. WHITTHORNE] was talking about a little while ago. All I ask is fair play with the list.

Mr. SCALES. After listening to all this discussion I do not remember to have heard a single practical suggestion made as to a settlement of this matter. And we cannot make any rule with which all the members of the House would be satisfied unless we can make a rule that will give every member an opportunity to be heard who desires to speak. I have arisen simply to move that this whole subject be referred to the Committee on Rules, where it can be considered, matured, and reported to the House, and upon that I call the previous question.

Mr. FORT. I desire to make an inquiry of the Chair.

The SPEAKER. The gentleman will state it.

Mr. FORT. My inquiry is whether the rule or custom of keeping a list of members who wish to move on Monday for a suspension of the rules, if we are ever again to have a Monday, is included in this motion?

The SPEAKER. The Chair desires to state for himself——

Mr. MCLANE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. MCLANE. A motion to adhere to the rules is not a matter which can be referred to the Committee on Rules.

The SPEAKER. The Chair has allowed this motion to be made really by unanimous consent, and it has been discussed. The subject-matter can be referred to the Committee on Rules, and if that is done of course the motion itself would drop.

Mr. SCALES. My motion was that the whole subject-matter be referred to the Committee on Rules.

Mr. FORT. Then I want to move an amendment.

Mr. COX. I did not make the motion to refer; the gentleman from North Carolina [Mr. SCALES] made it; but I think it should be adopted.

Mr. FORT. I desire to move an amendment, to except from the motion to refer the rule or custom of keeping a list for motions to suspend the rules on Mondays. I think that ought to remain as it is now.

The SPEAKER. The Chair desires to state that he himself likes the practice of keeping a list, because it relieves him from a great many personal controversies between members as to who shall be first recognized by the Chair. If the Chair has a list he has then something to go by, and in addition he has also an exact knowledge of who desires to speak. The Chair thinks that no real hardship has ever resulted from the practice of keeping a list.

Mr. REAGAN. I would like to have the Committee on Rules report some regulation by which we can know what to depend upon in regard to these lists.

The SPEAKER. The Chair has already said that he knows nothing about the insertion of names upon the list to which reference has been made. The Chair has given a great deal of reflection to this subject, and has often thought it would perhaps be well to adopt a suggestion which has been made to him. It is that members be recognized by States, and then the delegation from each State, or the Chair, could select the member from the State, so that every State might have an opportunity to be heard in the debate. But the subject is environed with many difficulties. It is one of the unpleasant features of the duties of the Chair to choose who shall be recognized as entitled to speak. This same controversy has continued at periods ever since the adoption of the rule in 1789.

Mr. CONGER. I desire to make a remark more in the nature of a suggestion than anything else to the Committee on Rules, if this matter should be referred to them. It is that they inquire whether it would not better meet the case to provide that all the names which may be placed upon any list be written separately on slips or cards and placed in a box, and when the time comes to speak one of those names be drawn from that box. In that way all would have an equal chance—the chance of the lot—of obtaining the floor.

The SPEAKER. Some member might not be drawn; for instance, the gentleman from Michigan [Mr. CONGER] might not be drawn.

Mr. CONGER. "The gentleman from Michigan" has not his name on that list.

The SPEAKER. The Chair always desires to recognize the gentleman from Michigan when he can.

Mr. CONGER. Voluntarily, I hope?

Mr. NEWBERRY. The suggestion made by the Speaker is perhaps the very ground of the complaint which is made, that the Speaker does always recognize somebody that he perhaps ought not to. I do not refer to the gentleman from Michigan [Mr. CONGER] particularly, [laughter.] But the complaint is that the Speaker selects whom he chooses, and the rest must submit, as of course we all do.

Mr. HUMPHREY. The gentleman from Mississippi [Mr. HOOKER] forgot that Mr. Marshall, of Kentucky, when he was in the House said that when the rule was in force of permitting the Speaker to recognize the one who first caught his eye, the fact was that the very last one who caught the Speaker's eye was the one who thought he ought to be recognized.

Mr. STEELE. If the list on the Speaker's table is to control it will not give an opportunity to modest men like the member from North Carolina who is now addressing the House, and the gentleman from the Kiskiminetas district of Pennsylvania.

A MEMBER. And the Conemaugh district.

Mr. STEELE. Yes, and the Conemaugh district, and other gentlemen who have shown by their conduct that they believe there is a great deal of wisdom in the old saying that it is well to "remain at Jericho until your beard is grown." As is seen by members, I have not much myself. [Laughter.]

The general parliamentary law ought to govern us. Very clearly there is no parliamentary law known anywhere which recognizes the practice prevailing here since I have been a member of this House. It is a miserable practice, one which, as my friend from Mississippi [Mr. HOOKER] says, is much more honored in the breach than in the observance.

The SPEAKER. The gentleman from North Carolina [Mr. SCALES] moves that the whole subject-matter be referred to the Committee on Rules.

Mr. CANNON, of Illinois. I desire to make a single suggestion. I suggest that the Committee on Rules consider also the question how two hundred and ninety-two members of this House can talk for an hour each in twenty-five hours. Perhaps the committee may devise some means by which that can be done.

Mr. HOOKER. Mr. Speaker, I hope the House will decide this question for itself without reference to any committee. The simple question is whether we are to adhere to our rules in one form or another, and I hope that no delay or red-tapism will be applied to this simple proposition to conform to the rules of the House, and that the House will decide the question for itself.

Mr. O'NEILL. I suppose that this discussion or conversation has arisen from the fact that we are about to take up in Committee of the Whole the legislative appropriation bill. Now I do not think there will be at all difficulty for gentlemen who have not already spoken upon the Army bill to get an opportunity to speak upon this bill. The great orators of the House who have spoken on the Army bill will of course give way to those members who have not yet been heard; and the Chairman of the Committee of the Whole will not allow to members who have already spoken a priority over those who have not taken part in the debates. I think this is a solution of the whole difficulty: let those who have not spoken on the Army bill come in first on the legislative bill.

Mr. ATKINS. Mr. Speaker, is not this debate proceeding by unanimous consent?

The SPEAKER. The proposition came in by unanimous consent, and is being discussed in consequence. The Chair will remark that he really thinks the House ought to decide this matter; but of course it can be decided upon a report from the Committee on Rules. The rule now in question was originally adopted in the First Congress, in 1789, and has continued in force from that day to this.

Mr. STEPHENS. I wish to say only a few words. I agree, Mr. Speaker, with a great deal that has been said by the gentleman from Maryland [Mr. MCLANE] and the gentleman from Mississippi [Mr. HOOKER] about the proceedings under the rule. I shall therefore vote to refer this question to the Committee on Rules, that they may consider whether the rule upon this subject should be modified or not, and if modified how. Let the subject be considered by that committee. Whether I should vote for a modification of the rule, I am not prepared to say. Since I first became a member of this House, in 1843, this subject of getting the floor has been a matter of complaint. The Speaker of the House and the Chairman of the Committee of the Whole must exercise a discretion; and it is an arbitrary discretion. Where there are fifteen or twenty members all rising at once, it is impossible for the Speaker to say who first addressed the Chair. Throughout the term of my experience in this House, the discretion of the Speaker or the Chairman of the Committee of the Whole has determined this question.

Mr. MCLANE. That is the way I want it decided—by the discretion of the Chair.

Mr. STEPHENS. Let the whole matter be referred to the Committee on Rules. Let that committee determine whether or not, after these many years of experience, it is better to make a change in the rule upon this subject. It may be that some better plan can be suggested. It may be that some members would prefer the suggestion of the gentleman from Michigan, that the right of the floor should be decided by lottery. I am not in favor of that proposition; but let the committee hear suggestions from all sides and make their report. I hope the question will be taken and the matter referred to that committee, to be reported upon in connection with other matters now before them in relation to the proceedings of the House.

The SPEAKER. The gentleman from North Carolina [Mr. SCALES] moves that the Committee on Rules be instructed to inquire what modification, if any, is necessary to govern recognition in Committee of the Whole on the state of the Union, and also in the House under the fifty-ninth rule.

Mr. HOOKER. Before the question is put on the motion of the gentleman from North Carolina, whom I understand to be in favor of the proposition as it came from the gentleman from Maryland, I desire to say that I have never yet understood the Chairman of the Committee of the Whole was not as much bound to observe the rules of the House as the Speaker is; and this is a motion simply to enforce the existing rule and to add to its force. The Committee on Rules, therefore, if this matter be referred to them will have no function to perform other than to report what the five members constituting that committee think upon the subject of the enforcement of this rule. They would not be able, I respectfully submit, to enlighten the House by any investigation of facts or by any knowledge they might convey by their report as to the modes and methods of procedure which have heretofore been in practice. This is a simple naked proposition to enforce the rules of the House as they now stand; and I think the House is as ready to act upon the question now as it will be when it shall have received protracted and elaborate consideration from the Committee on Rules. I submit that the House ought to take this matter into its own hands.

I have stood here, Mr. Speaker, Congress after Congress, and seen the power of the House virtually centralized in certain great committees, and I for one am tired of it. I want to see each member, as he rises on this floor to utter the voice of the constituency he represents, recognized in his right to be heard under the rules. Whatever may be said about the policy of the existing practice in order to expedite legislation, I sometimes think it would be better if legislation were not so hasty. We should not then have occasion so often to correct mistakes such as have been brought to the attention of the House this morning and such as were noticed in the last session of Congress. Let the powers of the House be divided among the great committees constituting it, giving to the Committee on Appropriations and the Committee of Ways and Means the prominence which

the rules intended they should have, but not the exclusive, absolute control of all matters of legislation. Let those committees have, I say, the position and importance which legitimately and properly belong to them. Upon one of those committees is devolved the duty of looking after the ways and means for carrying on the Government. And that "ways and means," Mr. Speaker, is a significant term; it means the mode and method and manner of taxation by which the money of the people shall be taken from the pockets of the people for the purpose of being used in supporting the Government. The other committee very properly occupies this position in the House having the right to determine in what mode, in what way, and to what extent the money of the people, thus collected together by the devices of the legislation adopted by the Ways and Means Committee, shall be paid out in the support of the Government. But I say for the purpose of practical legislation your Military Committee, and your Naval Committee, and your Indian Committee, and every other committee of the House, ought not only to be intrusted with the duty of considering the questions in reference to the mode and management of the particular subjects referred to them, but they ought to consider as well the requisite appropriations belonging to the particular branch of the governmental service confided to them, leaving, however, the general appropriation bills to be considered by the Committee on Appropriations. I say this proposition is a plain and simple one, and that is the enforcement of the rule as to the method of debate; and the House is as ready to decide it now as when it shall be considered and reported back to the House from the Committee on Rules.

Mr. PRICE rose.

Mr. ATKINS. I desire to inquire whether the House was not in the process of executing the motion of the gentleman from North Carolina [Mr. SCALES] when the debate sprang up, and whether it not now proceeding by unanimous consent?

The SPEAKER. The motion of the gentleman from North Carolina would be debatable, but he demanded the previous question upon it.

Mr. ATKINS. And the House was actually dividing when the gentleman from Illinois [Mr. FORT] interrupted that division.

The SPEAKER. The gentleman from Tennessee is correct. The Chair, however, has been desirous of allowing the widest latitude of debate on this subject because it concerns the personal privileges of members in occupying the floor for debate on pending questions.

Mr. PRICE. I wish to make a suggestion to the House. The great trouble in this matter arises from the fact there are more gentlemen upon the floor than can get time to speak. When the list is made I suppose it is all right and proper, but the trouble is it is made out weeks before the bill comes before the committee and long before most of the members have known anything about it; and as my friend from Tennessee [Mr. WHITTHORNE] has suggested, such young and modest members as himself and myself by such an arrangement are overslaughed and we do not get our appropriate share of the floor. I suggest whether we cannot harmonize the matter in this way: limit the debate on the bill now in Committee of the Whole, because it involves very important questions; say that no speech shall be longer than twenty minutes; and instead of allowing members to speak an hour each, limiting each speech to twenty minutes will give a larger number of members the chance to be heard before the debate closes. If I am in order, Mr. Speaker, I should like to make that motion.

The SPEAKER. The Chair will now submit the question. He has allowed ample debate because the question relates to the privilege of members, and those who wish to speak on it ought to have the opportunity of being heard. Does the gentleman from North Carolina insist on the demand for the previous question?

Mr. SCALES. I do not.

Mr. BLOUNT. The gentleman from Mississippi, [Mr. HOOKER,] in discussing the proposition now before the House, has seen fit to refer to the privileges which the Committee of Ways and Means and the Committee on Appropriations have on the floor. The question before the House is as to the enforcement of the rule in reference to the order of debate. The particular privileges given to those committees have been conferred by the rules of the House, and are not dependent upon custom. Therefore, all reference to those two committees in that regard is entirely outside of the question before the House. It has nothing to do with it.

Again, the gentleman says the only question is whether the rule shall be enforced or not. Now, sir, I submit that there is a good deal more than that naked question involved. For many years the operation of the rule under debate has been found objectionable, so objectionable indeed that this House has adopted a custom which has prevailed against the rule itself. That custom has been running through a period of years. It has been so long sanctioned that the rule itself, as against the custom, has in a measure become obsolete. It does not appear to me under the circumstances, therefore, that the Committee on Rules should consider the matter as to why the rule was abandoned, why this custom has obtained, and all the reasons which led to it, and then we could act on the report of that committee to the House. We should not dispose of this matter in the hasty manner proposed.

Mr. KELLEY. I hope, Mr. Speaker, that no such restriction will be put on debate on the coming bill as has been suggested by my friend from Iowa. When it was proposed to limit debate on the Army bill I concurred in the opinion you then expressed, that time would be ultimately saved by allowing debate to run to its natural termination; and I hope now that the House without a formal vote, or rather that the members, will conclude that such will be the wiser course on the pending bill. The discussion had on the Army bill was pretty animated, and, judging by my correspondence and that portion of the correspondence of other gentlemen which I have seen, the temper on the part of the people of the country and the fears of the more timid of them have been aroused by the temper of the debate; and I believe it will be well to let discussion have free course, so that when all who desire to speak shall have been heard the country will see that members on this floor are not preparing for a coming rebellion or to take part in the suppression of one, and may thus be restored to a sound nervous condition. Can gentlemen speak on the important questions which will arise, such as the abolition of supervisors of elections, &c., with anything like a fair statement of premises and argument, in twenty minutes? No, sir.

And if there are only to be flashes of temper, only brilliant appeals to the passions and the fears of the people, why, sir, they can be as well condensed into ten minutes as into twenty minutes; and I should say if we are going to restrict the time that it be to ten minutes. But if there are to be statements of premises, argument, illustration, and conclusion given, I have no fear that an extended debate will not have great effect in tranquilizing the country.

We have nothing to do but to discuss these two bills and their riders. It is very evident that a majority of the House composed of gentlemen on both sides are determined that there shall be no Monday session in which to initiate legislation; in fact that all legislation is to be confined to these two bills.

Now, let us fight it out and let the country know how thoroughly Pickwickian is the cry of revolution on the one hand and the announcement on the other that bridges have been burned. [Applause.]

Mr. REAGAN. I shall sustain the motion made by the gentleman from Maryland, and trust that in sustaining it the practice of the House may receive in the respect referred to the construction which that gentleman places upon it. If the list which is made out is kept up I would have it only as suggestive to the presiding officer that gentlemen wish to speak upon the question. There are proprieties of debate that are denied by the arbitrary list. I understand now that this practice of having a list is regarded as imperative upon whoever may be presiding at the time the debate is to go on, and it is denied by members of the House and the Speaker or the person presiding in Committee of the Whole that he should depart from that list. But we know that when bills are reported to the House, though there may be two lists of members who are to speak, yet the proprieties of debate require the presiding officer to assign the floor in the first instance to the gentlemen who compose the committee for the discussion of the particular measure, those whose business it has been especially to inform themselves upon the subject-matter before the House or the committee. There may be other reasons to cause the presiding officer to put some member forward in a discussion, for the purpose of eliciting special information or because the particular member might be so situated with reference to the question before the House as to make it proper for him to discuss it.

We will get no rule either by determination of the House or by the action of the Committee on Rules which can give satisfaction to all the members of the House, which shall give to each member the privilege of speaking at any time when he desires to speak. That is an impossibility, and it is useless for us to attempt to overcome that difficulty. If, therefore, we determine to adhere to the rules of the House and allow the list to be made as a suggestion to the presiding officer of who is to speak, but with the distinct understanding that he is not confined in assigning the floor to the list, then we have, it seems to me, accomplished everything we can reasonably expect to accomplish on this subject.

But besides that, Mr. Speaker, I feel there has been ground of complaint in the way in which these lists have been made up. I know, sir, that upon the bill which is now before the House there were two lists made up—one made up by the gentleman who it was understood was to preside in the committee, and another made up as ordinarily by the Clerk at the Speaker's desk. If there is to be a list as a suggestion to the Speaker or the presiding officer in the Committee of the Whole, there should be a distinct and clear practice that that list shall at some particular time be open for members to put their names upon it, and it should never be made up until the time or about the time the discussion is to take place.

The SPEAKER. It is always open. The moment a subject is introduced to the attention of the House or reported from a committee, then gentlemen are in the habit of coming up and inserting their names in the list to speak on that subject. That has been the practice for years and years.

Mr. REAGAN. I have no objection to that practice; but what I urge is that it ought not to be an arbitrary rule to control the discretion of the presiding officer.

Mr. SCALES. I renew the demand for the previous question.

Several members called for the regular order.

The previous question was seconded and the main question ordered.

Mr. HOOKER. I ask the Chair what is the precise question?

The SPEAKER. The question is on agreeing to the proposition that the Committee on Rules be instructed to inquire what alteration, if any, there should be in Rule 59, touching the recognition of mem-

bers to speak by the Speaker of the House and the Chairman of the Committee of the Whole on the state of the Union.

Mr. MITCHELL rose.

The SPEAKER. The main question having been ordered the question is not debatable.

Mr. MITCHELL. I do not rise to debate. I wish to ask the Speaker how we shall stand if this resolution is adopted? Shall we act under the rule laid down in the Manual, or will the custom which has been under discussion to-day still be followed?

The SPEAKER. The Chair supposes that Rule 59 will be observed, the list at the same time being kept in view.

Mr. PHISTER. It is a matter of some importance at what time the committee shall report.

The SPEAKER. They have the right to report at any time.

Mr. HOOKER. That is the rule, but they never report.

The SPEAKER. The Chair thinks they will. They will report if he has any influence with the committee.

The question being taken on agreeing to the resolution, there were—ayes 77, noes 81.

Mr. SCALES. I call for tellers.

Tellers were ordered; and Mr. SCALES and Mr. MCLANE were appointed.

Mr. KELLEY. I ask that the resolution be reported.

The SPEAKER. It has not been reduced to writing. It is, that the Committee on Rules be instructed to inquire what change, if any, is advisable as to Rule 59, which relates to the recognition of members to speak in the House and also in the Committee of the Whole on the state of the Union.

The House again divided; and the tellers reported—ayes 94, noes 80.

So the resolution was adopted.

The question recurred upon the motion of Mr. ATKINS.

PERSONAL EXPLANATION.

Mr. MULDROW. I desire before that motion is put to speak to a personal explanation.

The gentleman from Maine [Mr. FRYE] in the early part of to-day's proceedings referred to a letter which he had received from the editor of the Okolona States, and in that connection he said, as I understood, that his recollection of the statement I made in regard to the editors of that paper on last Tuesday was that they represented no respectable element of the Mississippi democracy. What I did say at that time, Mr. Speaker, as appears from the RECORD, was that that paper did not represent the sentiment of the democracy of Mississippi. It was not my desire to cast a personal reflection on Colonel Harper. I desire to say that he is regarded as an extremist in politics there, and that his paper is no proper exponent of the Mississippi democracy.

ORDER OF BUSINESS.

Mr. ATKINS. Before submitting the motion that the House——

YELLOW FEVER.

Mr. KING. Before the gentleman from Tennessee submits his motion, I desire to ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Navy of the United States be requested to furnish this House with all available information regarding the breaking out of yellow fever on the United States ship Plymouth, and what sanitary measures, if any, had been carried out to prevent the breaking out and spread of said disease on board of said ship.

Mr. CONGER. I hope that there will be no objection to that; that is a matter of necessity.

The resolution was agreed to.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. ATKINS. Before submitting the motion that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative, executive, and judicial bill, I desire to state that a good many gentlemen on both sides of the House have requested me to report this bill upon the basis of the conference reports of the two Houses as nearly as possible. I will state to the House that the entire money part of the bill—the appropriations—were agreed to by the conference committees of the two Houses, or very nearly so; there are several subjects, however, upon which we did not agree; and in respect to those and these parts upon which we do not agree, the bill conforms to the bill as it passed the House; but in regard to all other particulars, where the conference did agree, the bill conforms to the conference report. I deemed it proper to make this statement to the House.

Mr. Speaker, in conducting this bill I shall not attempt to apply the "gag" even if I had the power to do it. I am very conscious of the fact that no one man rules this House, not even the Speaker. We are governed by the rules, which the House prescribes for its own government, but I thought I would suggest that, before going into Committee of the Whole this morning, perhaps it would be proper to dispense with general debate until we reach the amendments, which are generally styled political amendments; go through with the entire bill, the appropriations by paragraphs, under the five-minute rule, and when we get in Committee of the Whole to return to these political amendments if we have completed the balance of the bill.

Mr. COX. I would suggest to the gentleman that he dispense with the formal reading of the bill.

Mr. ATKINS. I shall make that motion when we are in Committee of the Whole; that would be the proper time, but this is the time for the House to fix such limitation to general debate as it sees proper, and until we reach this clause of the bill, so far as I am concerned, I shall make no suggestion to the limitation of debate.

Mr. GARFIELD. I suggest to the gentleman that these objectionable sections might be passed over, for general debate, and that we go on with all the money part of the bill, coming under the five-minute rule. I think that would be agreeable to this side of the House.

Mr. ATKINS. I do not understand the proposition.

Mr. GARFIELD. I agree to the proposition of the gentleman from Tennessee.

Mr. ATKINS. I would suggest that we have a distinct understanding that there shall be no general debate on the bill, except on that part relating to the supervisors, the test oath, and the deputy marshals.

Mr. GARFIELD. We will agree to that.

The SPEAKER. The question, as the Chair understands it, is this, and he desires to be corrected if he be wrong: the bill at first in Committee of the Whole shall be proceeded with under the five-minute rule until the Committee of the Whole shall come to that part of the bill mentioned, upon which general debate is wished, and that then general debate shall be under the hour rule.

There was no objection, and it was so ordered.

Mr. GARFIELD. I ask the gentleman, in behalf of the new members of the House who frequently requested me to do it, to call up a resolution about the distribution of documents, and I ask that the resolution be acted upon now.

Mr. DUNNELL. I object.

Mr. GARFIELD. I do not call up the resolution for my own benefit; it is for new members.

Mr. HOOKER. I desire to make a suggestion before the motion is put, which is that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative, executive, and judicial bill. I hope before the House resolves itself into Committee of the Whole, it will instruct the presiding officer of that committee, whoever he may chance to be, to disregard the list hitherto prepared with reference to a recognition of members on this floor, and that if a list is to be adhered to we shall have a fresh beginning and a fair deal.

Mr. GARFIELD. I hope it is not necessary to make such a suggestion as that. The presiding officer of the Committee of the Whole has not yet been announced, and to assume that anybody who may be announced will come here with an old list, or rather with a list made up beforehand, will be a violent assumption which I presume nobody will find any necessity of making.

Mr. HOOKER. I am credibly informed that there is such a list already made; and I am quite as much astonished at it as the gentleman from Ohio [Mr. GARFIELD] may be.

Mr. GARFIELD. I have never heard of anything of that sort. I want to say just this, and it is the only suggestion I have to make on the subject; to say that no list shall be had would be, I think, oppressive to the presiding officer of the Committee of the Whole, because he ought to have such a thing in order to get at the wishes of the members of the House. Now, to say that a cast-iron order of debate shall be followed without regard to the discretion of the presiding officer is another most manifest absurdity.

The presiding officer in this House, as in all deliberative bodies, is bound to have some regard to the general propriety of affairs. If, for instance, twenty-five men rise at once and claim the floor, the presiding officer is bound to designate the one to be heard according to his discretion. If some one man has been referred to, or the district or State of any man has been referred to, it would manifestly be improper to keep him off the floor for ten hours or more, instead of allowing him at that moment when it is fitting he should reply to have the opportunity to do so.

Mr. HOOKER. And yet the gentleman from Ohio will allow me to say that that is just exactly what was done when we were considering the Army appropriation bill in Committee of the Whole.

Mr. GARFIELD. I cannot believe that any such course will be followed by the person who may be selected to preside in Committee of the Whole.

Mr. ATKINS. I must insist upon my motion that the House now resolve itself into Committee of the Whole for the purpose of considering the legislative appropriation bill.

The SPEAKER. With the understanding that the bill shall be considered under the five-minute rule until that portion of it is reached upon which general debate is desired.

The motion of Mr. ATKINS was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. BLACKBURN in the chair.

The CHAIRMAN. Before the Clerk proceeds to report the bill——

[Several members came up to the Clerk's desk, apparently for the purpose of having their names placed upon the list of persons to speak upon the bill.]

Mr. WHITTHORNE. I rise to a question of order. I desire to know if I am right in the inference which I draw that there is a rush upon the present Chairman of the Committee of the Whole to have some sort of understanding about being recognized by him?

The CHAIRMAN. The Chair desires the committee to be in order.

[After a pause.] The present occupant of the chair is advised by the Speaker's clerk that there is here a list embracing the names of some seventy-odd members of this committee. The Chair also is advised of the action taken recently by the House in referring to the Committee on Rules this matter or practice of recognizing members according as their names appear upon the list.

The present occupant of the chair has had nothing to do with the list which has been made, nor has it ever been seen by him. He desires to deal with exact fairness. Acting in the light of the discussion and the action had by the House but a few moments ago, the Chair deems it but fair and proper to recognize such custom as has been in existence for so many years in this House. At the same time he considers it only fair to state to the members of this committee that no list will be recognized by the present occupant of the chair save that which shall be made after his assuming the duties of Chairman of this Committee of the Whole. The list will be recognized by the Chair, as it may be made up from this time, so far as it may be done without dealing unfairly with any one in the conduct of this debate. The Chair, of course, desires it understood that in the conduct of the debate upon the bill now pending before the Committee of the Whole he will endeavor to recognize and accord equal time and opportunity to each side of the House.

[Many members now came up to the Clerk's desk to have their names placed upon the list.]

Mr. CANNON, of Illinois. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. CANNON, of Illinois. I desire to inquire how this application is to be made for a place upon this list?

The CHAIRMAN. The Chair will recognize no one until members are seated.

Mr. STEELE. I rise to a question of order.

The CHAIRMAN. The Chair will recognize no member for any purpose until members shall have taken their seats. The Sergeant-at-Arms will see that members take their seats; and members in front of the Clerk's desk will retire to their seats.

Mr. BURROWS. Will the Chair recognize the list as it is now being made up?

The CHAIRMAN. The Chair will recognize the list as the Speaker's clerk shall furnish it to him.

Mr. STEELE. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. STEELE. I hope the Chair will maintain order while I propose my point of order, that is, if he can.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. ATKINS] as first entitled to the floor.

Mr. CARLISLE. I understood that the House by its vote this morning referred this whole subject to the Committee on Rules. I suppose what has taken place, and is now taking place, in Committee of the Whole this morning will be subject to change by the action of the Committee on Rules, if that action should be ratified by the House, before we reach the general debate on this bill.

The CHAIRMAN. The present occupant of the chair would not hesitate to be guided by any report to be made by the Committee on Rules on this subject if adopted by the House. The Clerk will now report the title of the bill.

Mr. FRYE. I would like to ask the Chair a question. Did I understand the Chair to hold that it is an iron rule that every man whose name is on that list is to be recognized in the order in which the names appear? Was that the statement of the Chair?

The CHAIRMAN. The Chair did not make any such statement. The Chair stated that under the action taken by the House this morning, and in the absence of any further action, the Chair would not be justified in disregarding a practice which has prevailed for so many years; and that a new list made after this bill was brought into Committee of the Whole for consideration would be accepted by the Chair for his guidance so far as practicable, without working injustice, and while securing the proper alternation between the two sides of the House.

Mr. FRYE. Then the ruling of the Chair was that the practice should be simply as heretofore?

The CHAIRMAN. Yes, sir.

Mr. ATKINS. I ask unanimous consent that the first reading of the bill be dispensed with.

There being no objection, it was ordered accordingly.

The CHAIRMAN. The Clerk will now proceed to read the bill by clauses for amendment.

The Clerk read as follows:

For one chief engineer, $1,700; two assistant engineers, $1,200 each; and one laborer, $820; five firemen, at $900 each. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval.

Mr. ATKINS. I move to amend the clause in regard to two assistant engineers and one laborer, so as to read as follows:

Three assistant engineers, $1,200 each; and two laborers, $820 each.

The object of this amendment is to give us three assistant engineers in the heating and ventilating department of this House, and one additional laborer. The Committee on Heating and Ventilation of the House made a report that this additional force was necessary.

The amendment was adopted.

Mr. ATKINS. In view of the amendment just adopted, I move to amend the paragraph embraced in lines 141 to 144, so as to read as follows:

For compensation of the officers, clerks, messengers, and others receiving an annual salary, in the service of the House of Representatives, $197,015.20, namely.

The amendment was agreed to.

The Clerk read as follows:

For superintendent of the folding-room, $2,000; three clerks in the folding-room, one at $1,800, and two at $1,200 each; superintendent of the document-room, $2,000; chief assistant in the document-room, at $2,000; document file clerk, $1,400.

Mr. FORT. I move to amend by adding to the paragraph just read the following:

For printing or stamping envelopes or wrappers for speeches or other documents, $100.

Allow me to explain why this amendment is necessary. Members of the House frequently subscribe for a great many different speeches by various gentlemen on a variety of subjects. When these speeches are brought to us in wrappers, it is impossible for us to tell the author and subject of any speech without tearing the wrapper. The superintendent of the folding-room tells me that at a small expense every envelope can be stamped with the subject of the speech and the name of the member making it.

Mr. ATKINS. I have no objection to the amendment. I appreciate its propriety, but I suggest to the gentleman that, in view of the extra amount of labor likely to be thrown upon the folding-room, $100 will not be sufficient.

Mr. FORT. I modify the amendment by making the amount $500, or so much thereof as may be necessary.

Mr. ATKINS. I think that in making the amount $500 the gentleman has probably overreached the mark.

Mr. FORT. Then I will say "$300, or so much thereof as may be necessary."

Mr. ATKINS. Very well.

Mr. SPRINGER. I desire to inquire whether this stamp with the member's name is to be in lieu of the written superscription?

Mr. FORT. The object is that each envelope containing a speech shall be stamped with the subject of the speech and the name of the member making it. For instance, "Speech of Mr. SPRINGER, of Illinois, on finance."

Mr. SPRINGER. Is this intended to take the place of the written frank?

Mr. FORT. No, sir; it is simply an addition to the present printed matter.

Mr. DUNNELL. I do not understand that the amendment offered by the gentleman from Illinois [Mr. FORT] covers so much as he alludes to in his remarks. I doubt whether it will secure the action he speaks of.

Mr. FORT. I think it will. The superintendent of the folding-room will have the envelopes printed in this manner if we provide the necessary means.

The amendment was agreed to.

The Clerk read as follows:

For twenty-one clerks to committees, at $6 per day during the session, $26,712.

Mr. ATKINS. I move to amend the paragraph just read so as to read:

For twenty-four clerks to committees, at $6 per day during the session, $30,543.

The amendment was agreed to.

The Clerk read as follows:

For labor in folding books, speeches, and pamphlets, the following employés are hereby authorized to be appointed by the superintendent of the folding-room, namely: One foreman, $1,500; sixteen laborers, $11,520; one messenger, $1,200; one page, $600; one laborer; in all, $15,480.

Mr. CRAVENS. I move to amend by inserting before the words "one page" the words "one folder in the sealing-room, $1,200."

Mr. ATKINS. I rise to a point of order. I submit there is no law authorizing this appropriation.

Mr. CRAVENS. I will state that this amendment is in the exact language of the last annual appropriation act. Moreover, I submit that there is no law obligatory upon this House so as to prevent it from employing whom it pleases.

The CHAIRMAN. Does the gentleman from Arkansas [Mr. CRAVENS] desire to be heard upon the point of order?

Mr. CRAVENS. I have said all I desire to say.

The CHAIRMAN. From the assurance given by the gentleman from Tennessee the Chair sustains the point of order and rules the amendment out.

Mr. CLYMER. I move, in lines 265 and 266, to strike out "sixteen laborers" and to insert "twenty laborers."

Mr. ATKINS. I think it will be necessary to make that increase in the folding-room of the House.

Mr. CLYMER. The superintendent of the folding-room informed me the other day that from the amount of documents coming in upon him and likely to come in during the next month and at the beginning of the next fiscal year the present amount of laborers would be insufficient. Now, if the committee agrees to this amendment, I will

move to include, instead of $11,520, the proper appropriation to cover the increase.

The committee divided; and there were—ayes 25, noes 6.

The CHAIRMAN. If no further count be demanded the amendment will be considered as adopted.

There was no objection, and it was ordered accordingly.

Mr. HUNTON. I now move to insert "$14,440" instead of "$11,520."

Mr. ATKINS. I trust that the House will not make a discrimination in the employés of the folding-room.

Mr. HARRIS, of Virginia. Is not the intention in this bill to harmonize the pay of the new employés with the old, and would the amendment of my colleague accomplish that result?

Mr. HUNTON. It is perfectly right.

Mr. ATKINS. I will say to the gentleman from Virginia that after consideration I agree the amendment is correct.

The amendment was agreed to.

Mr. SAMFORD. Mr. Chairman, there were votes in the negative which were not counted.

The CHAIRMAN. The Chair had decided the amendment agreed to. If there be no objection, the Chair will again put the question to the committee.

Mr. ATKINS. I object.

The CHAIRMAN. The amendment has been agreed to.

The Clerk read as follows:

For hire of horses and mail-wagons for carrying the mails, $5,500.
For furniture, and repairs of the same, $10,000.

Mr. FORT. The Clerk has just read for hire of mail-wagons, $5,500; and for repairs of the same, $10,000. Now, does that mean repairs of mail-wagons?

Mr. CONGER. No; it means for furniture.

Mr. FORT. Furniture of mail-wagons or what? If it is for furniture for mail-wagons it seems to be a most extravagant appropriation.

Mr. ATKINS. It means for furniture for the House, and is the usual form in which the appropriation has been heretofore made.

Mr. FORT. Is it for furniture for the House of Representatives?

Mr. ATKINS. Yes, sir; for furniture for the House of Representatives and for repair of furniture. It is the usual appropriation.

Mr. FORT. Then, to make it clear, I move to include "for repairs of furniture at the Capitol."

Mr. ATKINS. This is not for furniture and repairs of furniture for the Capitol, but for the House of Representatives.

Mr. BAKER. This is for the necessary furniture and repairs of furniture for the House of Representatives; for that portion of the Capitol under the jurisdiction of the House; and there is no necessity for changing the phraseology of the bill. By referring back to page 6 the gentleman from Illinois will see that all these appropriations refer to the House of Representatives, and the words "for furniture and repairs of the same" refer back to the House of Representatives. The appropriation here is for furniture and for repairs of the same for the House of Representatives. It is usual and has been embraced in the bill for a long series of years.

Mr. FORT. I withdraw my amendment.

The Clerk read as follows:

For newspapers and stationery for members of the House of Representatives, officers of the House, and committees of the House, including $6,000 for stationery for the use of the committees and officers of the House, $43,300.

Mr. McMILLIN. I move to strike that out. It includes an item for newspapers and stationery for members. I should like to know what it means.

Mr. ATKINS. The only way in which I can reply to the gentleman is by reading the language of the appropriation. It is for newspapers and stationery for members of the House of Representatives, officers of the House, and committees of the House.

Mr. McMILLIN. I modify my motion, then, and move to strike out "$43,300," leaving "$6,000," which is the amount for stationery for committees.

Mr. ATKINS. This includes $125, Mr. Chairman, usually voted for years and years past under the law to every member of the House and every member of the Senate to furnish them with stationery and to pay for newspapers, and although it does not say so it is intended, since the franking privilege has been taken away, to cover the postage of members. I expect after the gentleman has been in Congress, as I hope he will be, for several years he will find this $125, which is intended to cover these little expenses, will not more than do so. That is my judgment. After careful consideration of the subject it has been found to amount to about $125 to each member and Senator. I will say to the gentleman that some Senators have stated their expenses for these items amount to a much larger sum. It has been agreed, however, that $125 will be a fair average for Senators and members of the House. I care nothing about it so far as I am concerned.

Mr. McMILLIN's amendment was disagreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

For twenty-eight pages, while actually employed, (including one riding-page and one telegraph-page,) at $2.50 per day each, and for hire of horses, ($500,) $15,340.

Mr. STEPHENS. I offer the following amendment:

In line 292 strike out "twenty-eight" and insert "twenty-nine."

Mr. ATKINS. What is the object of the amendment?

Mr. STEPHENS. The number twenty-nine has been agreed to by Congress. One page was added by a special resolution.

Mr. ATKINS. Very well; I will not object.

The amendment was adopted.

Mr. STEPHENS. Now fix the amount.

Mr. ATKINS. The total will be attended to, by consent.

The Clerk resumed the reading of the bill and read the following, under the head "Public Printer:"

For contingent expenses of his office, namely: For stationery, postage, advertising, traveling expenses, horses and wagons, and miscellaneous items, $2,000.

Mr. FINLEY. I offer the amendment which I send to the desk, to come in at the end of the paragraph which has just been read.

The Clerk read as follows:

At the end of line 312 add the following:
The Public Printer shall in his report to Congress include an itemized statement of the expenditure of said sum.

Mr. FINLEY. I hope the gentleman in charge of the bill will agree to that.

Mr. ATKINS. I have no objection.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

Commissioner of Customs:
For Commissioner of Customs, $4,000; deputy commissioner, $2,250; two chiefs of division, at $2,100 each; two clerks of class 4; four clerks of class 3; ten clerks of class 2; nine clerks of class 1; three clerks, at $1,000 each; one assistant messenger; and one laborer; in all, $49,630.

Mr. DIBRELL. I offer the amendment which I send to the desk.

The Clerk read as follows:

At the end of line 510 add the following:
And that hereafter no collector at any port of entry or district shall be allowed a salary greater than the receipts at said port of entry, nor shall the expenses of collecting at any port exceed the gross receipts of the same.

Mr. DIBRELL. The adoption of that amendment will save annually about $200,000. There are various ports of entry in the country that collect four dollars, fifty dollars, or a hundred dollars where the expenses are over a thousand dollars. At the port of Galveston, Texas, there are collected $70,000 of customs at an expense of $130,000. This amendment proposes to bring the expenditures at each port within the receipts.

Mr. ATKINS. I sympathize with my colleague [Mr. DIBRELL] in his desire for economy in this matter, and I have thought of this frequently myself. But, sir, I am not prepared to say that it is a wise amendment, for this reason: there are a great many ports where very little is collected, it is true, and the expenses of collection exceed the amounts collected; but, sir, it is important that those ports should have collectors and persons to watch the smuggling vessels as they come in with goods, otherwise the Government would be cheated out of a great deal of its customs dues.

Mr. BLOUNT. I wish to ask my friend from Tennessee if this amendment has not been offered several times in past years, and whether it has not been uniformly rejected for the reason which has just been stated.

Mr. DIBRELL. The amendment was offered last year and the point of order was made that a bill to the same effect was pending before the House, and it was ruled out on that ground.

Mr. ATKINS. As the gentleman from Georgia states, this matter was more or less considered by the Committee on Appropriations, and a communication was addressed to the Secretary of the Treasury inviting his opinion as to the propriety of the substance of the amendment which the gentleman from Tennessee has offered; and the Secretary gave his opinion that it would be unwise; that while it seemed to be wrong in itself to pay out at a port of entry more money for the collection of revenues than the Government derived, yet at the same time it was necessary that officers be paid in order to watch the smuggling vessels which come from other ports into our ports and bring in goods and pay no duty. That is the whole of it. The House can dispose of the amendment as it thinks proper.

Mr. REAGAN. While I am satisfied that there are custom-houses which ought to be abolished because they are useless, yet the rule that they shall pay their own expenses will not operate well for this reason: the imports of the United States are largely received in a very few cities. The principal portion of our imports comes into New York; and yet the coastwise trade into other ports that pay but little import dues is very large. I do not know, for instance, that the office at Galveston is conducted with economy. I do not know how that is. The amount of receipts at that port from customs was mentioned by the gentleman from Tennessee, but perhaps he did not extend his inquiries so far as to ascertain that the commerce of that city, including its coastwise commerce, is over $30,000,000.

Mr. DIBRELL. I do not think it is necessary to expend a hundred and thirty thousand dollars to pay a lot of office-holders.

Mr. REAGAN. I think the gentleman might have selected a number of other places which might have better illustrated what he had in view.

Mr. DIBRELL. There is one office in Maine which collects four and a half dollars and costs $1,400.

Mr. FORT. I think this amendment is in the right direction but I do not know whether it should pass in its present form or not. It

has always occurred to me where ports of entry are in the interior and not on the frontier that the Government has found it necessary to pay out more money than they collect. I believe there are several ports of entry in Missouri and perhaps some in the State I live in which are a thousand miles from the boundary line and which collect no duties; not even enough to pay their postage. The city of Quincy is a port of entry in my State. There are many ports of entry in the interior that collect nothing. The object of having these ports, I understand, is to prevent smuggling; but how they can do any good in that way I have not been able to see. How the Government should persist in maintaining these ports of entry in the interior and keeping officers there at great expense, I cannot understand. I think the amendment of the gentleman from Tennessee is worthy of consideration, and that, if found to be practicable, it should be adopted.

Mr. DUNNELL. I think the gentleman from Illinois [Mr. FORT] is mistaken when he speaks about ports of entry in the interior of the country. There may be some ports of entry on some of the most important rivers of the country.

Mr. FORT. I presume there is one at Saint Paul.

Mr. DUNNELL. Undoubtedly, for that is the only port of entry in the State.

Mr. DIBRELL. The gentleman from Illinois is right. There are two on the Missouri at which about $400 is paid but where we do not realize a cent of revenue.

Mr. DUNNELL. This whole question has been brought before the Committee on Commerce, and while it was plausible that officers may be abolished where the pay was less than the receipts, yet when the whole question was examined we saw how important it was that a just and correct enforcement of the revenue laws should be made, and I hope the amendment will not be adopted.

Mr. REED. It seems to me, Mr. Chairman, that the amendment which has been offered is founded on a miscalculation of the duties of a collector of customs. If I understand aright the gentleman who introduced it made reference to some customs officers in Maine where larger payments are paid than the gross receipts of the office. I have no doubt that that is true in the instances which the gentleman mentioned, and true in many other instances, but the duties of the customs officers are not confined to receiving duties upon importations alone. The duties of a custom-house officer include the keeping out of goods that do not pay the duty, and on a long sea-coast like that of Maine there will have to be a great many officers stationed along the coast to a very great extent to keep out imports that do not pay the duty.

The Secretary of the Treasury has sent agents there who have repeatedly traversed the coast of Maine seeking an opportunity to reduce the expenses; and there are cases in the State of Maine in which the expenses have been largely reduced, and where, if the custom-houses were abolished, the revenue would be defrauded to an amount beyond the saving now suggested. It is said that there are too many ports of entry and too many collectors. That may be; and if the Secretary of the Treasury were allowed the privilege of consolidating them and preventing this whole evil I would be ready to vote for it, but I doubt very much if it would result in any decrease of expenditures. I hope the House will remember that there is a second part of the duties of a custom-house officer, and I hope the House will not cut off officers who are absolutely necessary to the Government.

The question was taken upon the amendment; and on a division there were—ayes 25, noes 63.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill and read as follows:

Second Auditor:

For Second Auditor, $3,600; deputy auditor, $2,250; five chiefs of division, at $2,000 each; six clerks of class 4; twenty-five clerks of class 3; fifty-five clerks of class 2; thirty-five clerks of class 1; eight clerks, at $1,000 each; two assistant messengers, and eight laborers; in all, $200,370.

Mr. NEAL. I move to amend that clause by striking out the word "eight," in line 525, and inserting in lieu thereof the word "eighteen;" so that it will read "eighteen clerks at $1,000 each."

My object in offering this amendment is this: there are scores of applications from those who served in the Mexican war, and in order to enable the Second Auditor of the Treasury to dispose of these claims promptly and satisfy the claims of those who fought in that war, it is necessary that he should have an increase of clerical force.

I presume that there is not a member of this House on either side of it who has not received some letters from soldiers who fought in that war, and asking how they should receive the compensation voted to them. It is impossible that they should do this unless the force is increased.

Although there might not be a great many of these claims, yet every man who was in the war and has received information that he is entitled to the extra pay writes to the Second Auditor for information. This requires an examination to be made on the subject of whether he is or is not entitled to the money, and also the addressing of a letter to him showing him just what his rights are. This will save him from the claim agents, who are like vultures in this country, using all their endeavors to get a portion of their claims, and in order that they might get a large portion of the money which has been voted by the last Congress.

Mr. ATKINS. I dislike very much to oppose any necessary appropriations or any increase in the clerical force of the Department, but we appropriate in this bill all that was asked for; and if the gentlemen have information in regard to this bureau, it seems to me that it would be proper that they should have laid that information before the Committee on Appropriations when the bill was made up. How is the Committee on Appropriations otherwise to ascertain what is required? We have given the estimates, and I repeat, how is the Committee on Appropriations to ascertain what is the amount that is necessary to discharge the duties of this bureau unless the estimate is laid before the Committee on Appropriations?

Now I have no doubt that the gentlemen who received this information belong to the party that would be glad to have an increase in the clerical force of this bureau. There is this man or the other who would like to get an office; and there is a move along the whole line in favor of an increase in the clerical force of this office.

I hope that this House at this extra session will not now undertake to override the investigation and the critical examination of this subject made at the last session of Congress by the Committee on Appropriations and the Committee of the Whole. If so, then we will have many applications for increase of clerical force. I have had since it has been known that I was in charge of this bill verbal applications in a dozen instances, to which I have in general turned a deaf ear.

There are some amendments which I shall move at the proper time, and for which I will give good and sufficient reasons if demanded by the committee. But I trust this committee will decline to go into this large increase of the clerical force, so large an increase as proposed by the gentleman, especially when we have given all the Departments what they asked for. We have given to this bureau every single clerk of class 1 which was asked for, and the entire amount to a dollar which was asked for. I hope that in the early part of this bill the example will not be set of increasing this force, and that we will not drift away from our moorings. I had hoped the House would confine itself to the bill as agreed upon by the committees of conference of the two Houses at the last session, and that we would not enlarge these appropriations.

The question was taken upon the amendment moved by Mr. NEAL; and it was not agreed to.

The Clerk resumed the reading of the bill and read the following:

For the force employed in redeeming the national currency, namely: For superintendent, $3,500; two principal tellers and one principal bookkeeper, at $2,500 each; one assistant bookkeeper, $2,400; and two assistant tellers, at $2,000 each; two clerks of class 4; four clerks of class 3; four clerks of class 2; thirty-six clerks of class 1; thirteen clerks, at $1,000 each; twenty-six clerks at $900 each; one messenger; four assistant messengers; and two employés, at $432 each; in all, $117,184.

Mr. BAILEY. I move to amend by striking out of line 581 "$2,500" and inserting "$3,000;" so that it will read "two tellers, at $3,000 each." I do this because I believe it is perfectly understood by the members of this committee——

Mr. ATKINS. I object to going back; we have passed that paragraph.

The CHAIRMAN, (Mr. MILLS.) The amendment is not in order.

Mr. BAILEY. I hope the gentleman will not make a point of order.

Mr. ATKINS. I do make it.

Mr. BAILEY. Does the chairman of this committee decide that at the end of a section an amendment cannot be offered by a member of the committee?

The CHAIRMAN. An amendment can be offered to a paragraph when it has been read, but after it has been passed and another paragraph read it is not in order to offer an amendment.

Mr. BAILEY. I ask for information; is not this at the end of the paragraph?

Mr. ATKINS. It is not.

The CHAIRMAN. The reading of the bill has extended to line 605, a paragraph succeeding the one which the gentleman proposes to amend.

Mr. BAILEY. The reading has extended to the end of the paragraph relating to the treasurer. I supposed it would not be proper to interrupt the reading of the Clerk until the end of that paragraph had been reached.

Mr. ATKINS. Does the gentleman appeal from the decision of the Chair?

The CHAIRMAN. As each paragraph is read, if no amendment is offered the paragraph is regarded as adopted. The Chair rules that the proposed amendment is not now in order.

Mr. BAILEY. I desire to ask the Chair one question for information. I desire to know whether a member of this committee on the floor of the House, if he be one not entirely conversant with all the rules of the House, if he be a modest man, as has been said by some gentleman; if he be one who did not get into the rush and whirlpool to put his name down on the list of those who are to be allowed to speak—I desire to inquire if he is to be deprived of his representative privilege in a respectful manner and at a proper time to move an amendment? I desire to know if we are to be governed by the ticks of the clock in offering amendments which we believe to be just and proper? Are we to be prohibited by a technical objection that it is not at the end of one line or of a second line?

The CHAIRMAN. The gentleman is prohibited by the rules of the House. The rules prescribe that whenever a paragraph is read for amendment, the amendment can then be offered.

Mr. BAILEY. I would like to have that rule reported which does

not allow me to offer this amendment when the reading has reached the end of this section or paragraph.

The CHAIRMAN. The Chair has decided the question. Does the gentleman appeal from the decision of the Chair?

Mr. BRIGHT. I would suggest to the gentleman from New York [Mr. BAILEY] that he can obviate the difficulty by asking unanimous consent.

Mr. ATKINS. I have made objection, not through any discourtesy to the gentleman.

Mr. BAILEY. I know that.

Mr. ATKINS. I would make the same point of order on any other member upon this floor, on even the best personal friend I have on the floor.

Mr. BAILEY. I only desire to know what the rule is, that I may be guided by it in the future.

Mr. ATKINS. I hope, unless the gentleman appeals from the decision of the Chair, that we will proceed in order.

Mr. BAILEY. May I not be informed of the rule?

The CHAIRMAN. It has been the universal practice of the House ever since the present occupant of the chair has been a member of the House.

Mr. BAILEY. I understood the Chair to say that I was to be governed by the rules of the House.

The CHAIRMAN. Does the gentleman appeal?

Mr. BAILEY. I ask, for information, what is that rule of the House?

The CHAIRMAN. The Chair is not able to give the gentleman all the information perhaps he wants on that subject. The gentleman can get information from the House if he appeals from the decision of the Chair.

Mr. KEIFER. I think that the rule referred to applies to a section rather than to a paragraph.

The CHAIRMAN. Is there an appeal from the decision of the Chair? [After a pause.] If not, the Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For salaries and expenses of agents and surveyors, for fees and expenses of gaugers, for salaries of storekeepers, and for miscellaneous expenses, $1,500,000; and hereafter the compensation of gaugers shall not exceed $5 per day while actually employed.

Mr. DIBRELL. I move to amend by adding to the paragraph just read the following:

And the salaries of storekeepers shall not exceed $50 per month.

I understand that the present pay of these officers is $100 per month, and they are not engaged one-fourth of the time. Many of the small distilleries do not make revenue enough to pay the storekeepers and gaugers.

Mr. McCOOK. Do the distillers pay the storekeepers?

Mr. DIBRELL. No, sir; the Government pays them.

Mr. McCOOK. Is not an assessment levied upon the distillers to pay these officers?

Mr. DIBRELL. A tax of ninety cents per gallon is levied upon spirits; and the Government pays the salaries of storekeepers, gaugers, &c.

Mr. McCOOK. Is not provision made that distillers shall pay a per diem to the storekeepers?

Mr. DIBRELL. The pending paragraph reads:

For fees and expenses of gaugers, for salaries of storekeepers, &c.

In this bill we appropriate for the payment of the salaries of these storekeepers.

Mr. KELLEY. When the rate of tax was increased from seventy cents to ninety cents the Government assumed the payment of these officers.

The amendment of Mr. DIBRELL was agreed to.

Mr. COFFROTH. I move to amend in the last clause of this paragraph by striking out "five" and inserting "three;" so as to read:

Hereafter the compensation of gaugers shall not exceed $3 per day while actually employed.

From my observation of the duties performed by these gaugers (and I live in a county containing quite a number of distilleries) I think that $3 per day is quite sufficient compensation.

Mr. McCOOK. Is not this amendment subject to a point of order, the same point made a few moments ago upon my colleague, [Mr. BAILEY?]

The CHAIRMAN. Does the gentleman make a point of order?

Mr. McCOOK. No, sir; I will not make any point.

Mr. CANNON, of Illinois. Do I understand the gentleman from New York to make a point of order?

Mr. McCOOK. No, sir.

Mr. CANNON, of Illinois. Then I make a point of order, if the amendment is subject to such a point. I doubt whether it is; but I will take the opinion of the Chair on that point.

The CHAIRMAN. What is the point of order?

Mr. CANNON, of Illinois. I do not think the amendment subject to a point of order, although I make it at the suggestion of a number of gentlemen about me.

The CHAIRMAN. What is the point?

Mr. CANNON, of Illinois. I suppose it is that this paragraph had been passed before the amendment was offered.

Mr. ATKINS. Oh, no; the gentleman is mistaken about that.

The CHAIRMAN. The paragraph has not been passed.

Mr. ATKINS. Mr. Chairman, this subject was gone over with the Commissioner of Internal Revenue by a subcommittee of which Mr. Durham, lately a member from Kentucky, and myself were the majority, and Mr. Foster, of Ohio, the representative of the republicans. Upon inquiry being put the Commissioner as to the propriety of reducing the per diem of gaugers, he expressed the opinion that $5 a day was little enough in order to secure the right sort of men for this duty. The position is one in which a man may shirk his duty to the injury of the Government; and the Commissioner thought that $5 per day was little enough to enable the Government to get the right kind of men. He made a good many arguments to convince the committee that the per diem should remain at $5. I care nothing about the matter so far as I am concerned.

Mr. DIBRELL. Has the gentleman ever seen the head of any Department that was willing to have the salary of any officer reduced?

Mr. ATKINS. My colleague must not put such a question as that to me. I have been putting that question myself.

Mr. DIBRELL. Do not two dollars of the five go to campaign purposes—to help carry the elections?

Mr. ATKINS. I will let republicans answer that question. If the gentleman will convince me that any portion of this money goes to campaign purposes, I shall be in favor of reducing it.

Mr. DIBRELL. If the gentleman has ever seen a gauger who was not active in campaigning, I have not.

Mr. FORT. Perhaps the whisky itself is used for campaign purposes. [Laughter.]

Mr. CANNON, of Illinois. Five dollars a day is little enough for a competent gauger. The amount ought to be increased instead of diminished, if any change is made. The duties of the office are important. By the incompetency or dishonesty of a gauger the Government may lose ten times or one hundred times the amount of the salary.

Mr. DIBRELL. The salary does not make the man honest.

Mr. CANNON, of Illinois. I understand that; but the gentleman must know that, in reference to the employment of individuals in private life or by the Government, it is prudent to pay reasonable ordinary compensation for the discharge of important duties requiring skill and fidelity. You thus remove the temptation to become dishonest. If the gentleman were carrying on for himself a business requiring this kind of service, he would no more think of employing a man at $3 a day for this duty than he would do any other improbable thing; because he would say that it was not wise to subject an employé in such a responsible position to the constant temptation to carelessness or dishonesty. I hope the amendment will not be agreed to.

Mr. BLOUNT. I move to amend the amendment by striking out the last word. I trust the amendment will not be adopted. During the Forty-fourth Congress this whole subject of salaries was gone into and large reductions made. In the Forty-fifth Congress also these questions received careful consideration. This is an important branch of the public service; and it seems to me that before the House undertakes to make a change in a matter of this sort, it should be carefully considered by a committee and reported upon for the information of the House. During the last Congress this subject was considered by a committee whose report was accepted by the House. I trust we are not going to depart from the deliberate action of the House upon a matter of this kind without some good reason. The gentleman from Tennessee [Mr. ATKINS] has already stated that the action already had on this subject was not hastily taken. The Commissioner of Internal Revenue was called and consulted, and after consultation with him the gentleman having charge of this matter under direction of the House reported this amount. I hope we will have no hasty overruling of the action of the Commissioner of Internal Revenue. When the House shall come to be organized, to have its committees, if these salaries are too large, then will be the time for us to undertake to correct them. But I insist, sir, we should not now undertake it. I trust the House will vote down all amendments in antagonism to the action of the last House, unless it is plain and clear there is some imperative necessity for adopting them.

Mr. COFFROTH. I wish to reply to my friend from Georgia by stating that the House has already adopted the amendment fixing the salary of storekeepers at $50 a month. Now, to fix the salaries of gaugers at $3 a day in my judgment is sufficient. I say you can get competent men all over the Union to do the duties now performed by gaugers at $3 a day. You can get the best young men in the country, young men of education, men of integrity, who will gladly accept $3 a day to perform the duties required of these gaugers. Sometimes their duties do not occupy them more than half an hour or an hour a day. Then they go to some other distillery, and so run the month out, getting $150 a month.

Mr. BAILEY. I move *pro forma* to strike out the last word.

Now, Mr. Chairman, the $50 a month paid to storekeepers is their stated fixed salary; they get it every day and every week and every month in the year. But it is not so with gaugers. There are comparatively but few gaugers in any suburban district of the United States who make more than $600 a year from the employment of their office. In fact, I know in my own district there are two gaugers, and by the order of the Commissioner of Internal Revenue they are re-

quired to go on duty alternately. There is really only business for one, but the Department insists on the employment of two gaugers, so that one is employed for one month and the other for another month, each being on duty only half of the time.

Now these men get $5 a day; they have to be skilled men, and I venture to say there are members in this committee, myself for one, who are not competent to do the business of these men without special training. It requires a man of education, it requires a man of some special training in order to be a competent gauger; and while I do not believe it is the true or highest art of government to practice too rigid economy in reference to the pay of its officers, while I believe in reform and retrenchment and all that sort of thing, I do nevertheless believe that this country is able to pay and the Government is able to pay to these men just what they are worth. I believe a merchant pays for his goods what they are worth. I believe a banker when he employs a clerk pays to that man what he is worth. I do not believe, for one, that the people of the country pay to Congressmen what they are worth; and I do not believe we should raise or attempt to raise this cry of reform upon these poor gaugers around the country who do not get enough per day to support themselves and families respectably. As my friend from Illinois has said, you do not pay these men sufficiently. Not to do so is to induce them, nay almost compel them, to become dishonest. We cannot afford to do it, because I believe we will find that in the end we will economize by paying proper and sufficient salaries. I hope the amendment will be rejected.

The formal amendment was withdrawn.

The question recurred on Mr. COFFROTH'S amendment.

The committee divided; and there were—ayes 48, noes 72.

Mr. COFFROTH demanded tellers.

Mr. DIBRELL. No quorum has voted, and the gentleman is entitled to tellers.

Tellers were ordered; and Mr. BAILEY and Mr. COFFROTH were appointed.

The committee again divided; and the tellers reported—ayes 65, noes 87.

So the amendment was disagreed to.

The Clerk read as follows:

That the second and third sections of the act entitled "An act to organize the Life-Saving Service," approved June 18, 1878, be, and the same are hereby, repealed.

Mr. DUNNELL. I should like to ask the gentleman from Tennessee whether that repealing clause was in the bill as acted on by the House at the last session.

Mr. ATKINS. It was.

Mr. DUNNELL. I did not recall it.

The Clerk read as follows:

INDEPENDENT TREASURY.

Office of the assistant treasurer at New York:

For assistant treasurer, $8,000; for deputy assistant treasurer, $3,600; cashier and chief clerk, $4,000; chief of coin division, $3,600; chief of note-paying division, $3,000; chief of note-receiving division, $2,800; chief of check division, $2,800; chief of registered-interest division, $2,600; chief of coupon-interest division, $2,400; chief of bond division, $2,250; chief of canceled-check and record division, $2,000; two clerks, at $2,250 each; six clerks, at $2,100 each; ten clerks, at $2,000 each; nine clerks, at $1,800 each; four clerks, at $1,700 each; five clerks, at $1,600 each; two clerks, at $1,500 each; ten clerks, at $1,400 each; three clerks, at $1,200 each; five messengers, at $1,300 each; one messenger, $1,200; keeper of building, $1,800; chief detective, $1,800; two assistant detectives, at $1,400 each; three hall-men, at $1,000 each; six watchmen, at $720 each; one engineer, $1,000; one porter, $900; in all, $149,070.

Mr. ATKINS. I move on page 33, line 802, after the word "dollars," to insert "minor-coins clerk, $2,400," and in lines 822 and 823, page 34, to strike out "forty-nine thousand," and in lieu thereof to insert "fifty-one thousand four hundred." I will state for the information of the House that this clerk was estimated for in the Book of Estimates, but the Committee on Appropriations did not make an appropriation for it, nor did the House. The assistant treasurer at New York writes that it is utterly impossible to get along with the force he has in counting the minor coins and fractional currency that are daily coming into the assistant treasury, and it is for that purpose that this additional clerk is asked.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

Assay office at Charlotte, North Carolina:

For salary of assayer in charge, who shall also perform the duties of melter, $1,500; and the assayer is hereby authorized in case of necessity to employ a clerk at not exceeding $1,000 per annum; for labor and other expenses, $750; in all, $3,250.

Mr. FORT. I offer as an amendment what I send to the desk, to come in at the close of the portion of the bill making appropriations for the Treasury Department.

The Clerk read as follows:

That hereafter when legal-tender Treasury notes are reissued, they shall be so reissued in the same denominations as originally issued.

Mr. GARFIELD. I make the point of order that the amendment changes the law and is not in the interest of economy.

The CHAIRMAN. Where does the gentleman from Illinois design his amendment to come in?

Mr. FORT. After line 1078; at the close of that part of the bill which refers to the Treasury. I do not know that it applies to any particular part of the Treasury Department and therefore it is in order here.

Mr. ATKINS. I ask that the amendment be again read.

The amendment was again read.

Mr. GARFIELD. I make the point of order that the amendment is not germane to appropriations for an assay office at Charlotte, North Carolina, and furthermore, that it is a change of the law and not in the interest of economy.

Mr. FORT. I do not offer this as an amendment relating to an assay office, but as a separate section. It certainly relates to the Department of the Treasury, and as such would be in order at any part of the bill that relates to the Treasury Department. If the gentleman from Ohio objects to the language of the amendment I can modify it, so that the Secretary of the Treasury shall be required when legal-tender notes are reissued to reissue them in the same denominations in which they were originally issued.

It is well known that a very large part of the legal-tender currency of this country has been put into bills of $5,000 and $10,000. [Laughter.] Yes, sir, such is the fact; and no citizen of the United States, except a very few, like my distinguished friend before me, [Mr. CHITTENDEN,] is able to hold or handle bills of that denomination.

Mr. ATKINS. I concur with the gentleman from Illinois, [Mr. FORT.] I do not think the point of order lies against the amendment. It relates to the duties of the Secretary of the Treasury. All these paragraphs which we have been going over make appropriations for duties which are performed by the Secretary of the Treasury and his officers and employés under him. This particular paragraph relates to the expenses of the mint at Charlotte. It does not require much stretch of the imagination to get from gold to silver, and from silver to greenbacks. Therefore I think we might admit the amendment. I say this in all seriousness.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GARFIELD] desire to be heard on the point of order?

Mr. GARFIELD. It appears to me to be an unheard-of thing to connect an appropriation of money for the support of an assay office with the law as to the kind of public obligation the Government should issue; and furthermore, as I have said, the amendment is a change of the law and certainly is not in the interest of economy. The complaint against which my friend from Illinois directs his amendment is that the Secretary of the Treasury, instead of issuing small bills in place of worn-out bills, issues large ones up to five-thousand-dollar and ten-thousand-dollar notes. It certainly is easier to print $5,000 in one note than in five thousand notes. It is therefore against economy, if that is the point we are to look at, to compel the Secretary to print small notes when he might print much cheaper in one big one; so that if we are really under the rule that the legislation must be in the interest of economy upon its face, I say this is not in the interest of economy.

The CHAIRMAN. The Chair will ask the gentleman from Ohio if there is any existing law that authorizes the Secretary of the Treasury to issue at his discretion notes of a different denomination from those taken up?

Mr. GARFIELD. There is no special law as to that except that the Secretary is by law authorized to issue notes to replace those torn and mutilated. He is prohibited from canceling and utterly destroying these votes when mutilated and can only cancel them on issuing others. The law is silent as to the denominations.

The CHAIRMAN. Then the law allows the Secretary the discretion of determining in what denominations the notes shall be issued.

Mr. GARFIELD. Yes, sir; and this amendment would introduce a law which creates a new limitation that does not now exist.

The CHAIRMAN. The Chair does not desire to hear further argument. He sustains the point of order.

The Clerk resumed the reading of the bill and read the following paragraph:

Territory of Dakota:

For salaries of governor, chief-justice, and two associate judges, at $2,600 each; and secretary, $1,800, $12,200.

Mr. ATKINS. I offer the following amendment:

In line 1092, strike out the word "two," where it first occurs, and insert the word "three;" and in line 1094, strike out $12,200 and insert $14,800. So that it will read:

For salaries of governor, chief-justice, and three associate judges, at $2,600 each, and secretary at $1,800, $14,800.

Last session, it will be remembered, an act was passed creating an additional judge for Dakota Territory. This is simply to supply his salary for the next fiscal year.

The question was taken; and there were—ayes 69, noes 14.

Mr. COFFROTH. I make the point of order that a quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Tennessee, Mr. ATKINS, and the gentleman from Pennsylvania, Mr. COFFROTH.

Mr. MAGINNIS. I do not think the committee understands the question. Let it be again stated.

Mr. COFFROTH. I withdraw the call for tellers. I made it under a misapprehension.

So (further count not being called for) the amendment was adopted.

The Clerk resumed the reading of the bill, and read as follows:

Territory of Wyoming:

For salaries of governor, chief-justice, and two associate judges, at $2,600 each; and secretary, at $1,800, $12,200.

For legislative expenses, namely: For per diem of members, $6,400; for mileage, $2,200; for printing the laws and journals, and other necessary printing of like nature, $2,500: *Provided*, That not more than $500 of said amount shall be expended

for any kind of printing herein authorized until the laws passed by the Legislative Assembly shall have been printed and bound; for incidental expenses of the Legislative Assembly, (including not more than $1,000 for the secretary's office,) $2,000; for per diem of officers and others, $2,200; for extra per diem of the president of the council and the speaker of the house, $160; in all, $15,460.

Mr. DOWNEY. I offer the following amendment:

In line 1177, strike out the word "six" and insert "nine;" strike out the word "four" and insert the word "six."
In line 1180, strike out the word "provided."
Strike out lines 1181, 1182, 1183, and part of line 1184, including the word "bound."
Strike out the words in line 1185 after the word "assembly."
Strike out line 1186.
In line 1187, after the word "thousand" insert the words "five hundred."
In line 1190, strike out the word "fifteen" and insert "eighteen."
In line 1190, strike out the word "four" and insert "seven."

I have understood that this question has been passed on repeatedly by Congress, but our people in the Territory of Wyoming believe that $4 a day for members of the Legislature is not sufficient compensation. In obedience to their wishes, I have the honor to offer this amendment which would raise the per diem from $4 a day to $6 a day.

The other portion of the amendment is in regard to the office of secretary, limiting and placing the restriction in reference to printing. I understand that that restriction was placed in there at the instance of the gentleman who had the honor to represent the Territory of Wyoming until recently. We now have a new secretary of the Territory, and I presume the restriction ought not to be in the bill; and at the solicitation of the present secretary of the Territory I have introduced that portion of the amendment which relates to that part of the bill. I believe myself that the amendment ought to be adopted, and that the members of the Legislature instead of receiving $6 a day, as I propose, should receive $8 a day.

Mr. ATKINS. I trust that the committee will not adopt the amendment offered by the gentleman from Wyoming. There is no more reason why a discrimination should be made in favor of the Territory of Wyoming than in favor of any other Territory. Members of the Legislatures of the Territories formerly got $6 a day, but it will be remembered that we cut them down to $4 a day in all the Territories.

I see no reason why we should now retrace our steps. I think that the amount per diem had better remain at $4 a day.

In regard to the other feature of the amendment offered by the gentleman from Wyoming, I desire to state that it was put in the bill at the instance of the able gentleman who represented that Territory in the last Congress, Mr. Corlett. He wanted the money appropriated for printing to be applied to the publication of the laws before any outside printing should be done, and I hope the amendment offered will not be adopted.

The vote was taken on the amendment, and it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

In the office of the Commissary-General:
One chief clerk, at $2,000; one clerk of class 4; three clerks of class 3; four clerks of class 2; ten clerks of class 1; two clerks, at $1,000 each; one assistant messenger; two laborers; and two watchmen; in all, $31,680. That the Secretary of War is hereby authorized to detail as many supernumerary officers of the Army as may be necessary to investigate claims not heretofore examined by the Commissary-General for allowance.

Mr. HOUK. I offer the following amendment:

In line 1252, page 52, strike out the word "supernumerary," and in line 1253, page 52, after the word "claims," insert the words "now pending, or which may be hereafter presented;" and after the word "allowance," in line 1254, on page 52, insert the words "under act of July 4, 1864, for which purpose there shall be appropriated the sum of $15,000, or so much thereof as may be necessary for said investigation."

I desire to say in explanation of that amendment that the bill which has been approved by the Committee on Appropriations provides that supernumerary officers of the Army shall be detailed to examine claims in the office of the Commissary-General of the Army.

The bill was prepared when it was thought that the Army would be reorganized, and that there would be supernumerary Army officers. That reorganization has not taken place, and is not likely to take place, and therefore I move to strike out the word "supernumerary." In regard to the merits of the amendment, I would suggest that under the act of July 4, 1864, a large number of claims passed before the Commissary department, some of them just no doubt, a good many of them perhaps unjust, but up to the present time no means have been provided by which to employ agents to investigate the justice of the claims, and therefore they are pending unsettled and not unapproved in the office.

Mr. ATKINS. I desire to retain the floor for the purpose of making a point of order upon this amendment.

Mr. HOUK. I have said about all I desire to say. I would only add that it is highly important to the business of the Commissary department that these claims should be disposed of, either allowed or rejected, and that the appropriation is necessary to enable the Commissary-General to investigate the claims pending in his department, as the law which passed the House a few years ago authorized the Quartermaster-General to investigate claims in his department.

Mr. ATKINS. I make the point of order upon that amendment that it increases expenditures and proposes new legislation.

The CHAIRMAN. Does the gentleman state that there is no law covering such an appropriation as that contemplated in this amendment?

Mr. HOUK. It does not change existing law. It provides simply for the absence of any legislation on that subject, and the Committee on Appropriations in perfecting the bill seem to have taken the same view, and they have provided in the bill as reported that these claims shall be investigated, but they have not provided that there shall be any funds to perfect the investigation.

Mr. ATKINS. I submit that the amendment proposes new legislation and increases the expense by $15,000.

The CHAIRMAN, (Mr. BLACKBURN.) In the judgment of the Chair the amendment certainly proposes an appropriation not authorized by law. The Chair therefore sustains the point of order.

Mr. HUNTON. I desire to inquire of the gentleman in charge of this bill [Mr. ATKINS] what he understands to be meant by the word "supernumerary" preceding the words "officers of the Army?"

Mr. DIBRELL. I have an amendment to move which will perfect this paragraph.

Mr. HUNTON. I was going to move to strike out the word "supernumerary."

Mr. ATKINS. I have no objection to that. This provision was offered at the last session by my colleague [Mr. DIBRELL] as an amendment to the legislative appropriation bill.

Mr. DIBRELL. I move to amend the paragraph by inserting after the words "officers of the Army" the words "or officers not on duty with the Army."

Mr. HOUK. If in order I will accept that amendment.

Mr. DIBRELL. When this provision was adopted last session, it was supposed that a reorganization of the Army would take place, and that there would be a large number of supernumerary officers for three years. I propose to amend the paragraph by inserting the words "officers not on duty with the Army."

Mr. HUNTON. It strikes me that the object of this provision would be better reached by merely striking out the word "supernumerary" and leaving to the discretion of the Secretary of War to detail such officers of the Army as he may think proper.

Mr. DIBRELL. Very well; I will accept that and withdraw my amendment.

Mr. HUNTON. Then I move to strike out the word "supernumerary."

The motion was agreed to.

The Clerk read the following:

For contingent expenses, namely, rent of building, repairs, and miscellaneous items, $5,000.

Mr. ATKINS. I move to amend by inserting after the words "rent of building" "$2,500," and after the words "repairs and miscellaneous items" "$2,500; in all." This is to divide the appropriation into two sums of $2,500 each.

The amendment was agreed to.

The Clerk read the following:

In the Office of the Surgeon-General:
For contingent expenses, namely, blank-books, stationery, rent, fuel, gas, furniture, repairs, and incidentals, $6,500.

Mr. WAIT. I would like to ask the chairman of the Committee on Appropriations [Mr. ATKINS] if the force now in the Surgeon-General's Office is ample to supply information which is desired?

Mr. ATKINS. In answer to the gentleman I will say that I have not heard a word of complaint.

Mr. WAIT. At the last session it was said that information could not be obtained in proper time.

Mr. ATKINS. I think the Surgeon-General is perfectly satisfied with the force he has.

Mr. WAIT. I know this, that last session we could not get information in regard to pensioners until the lapse of several months.

Mr. ATKINS. Does the gentleman propose an amendment?

Mr. WAIT. I asked the gentleman a question for information.

The Clerk resumed the reading of the bill and read the following:

Navy Department:
For compensation of the Secretary of the Navy, $8,000; for compensation of the chief clerk of the Navy Department, $2,500; one disbursing clerk, $2,000; four clerks of class 4; three clerks of class 3; one stenographer, $1,600; one clerk of class 2; four clerks of class 1; three clerks, at $1,000 each; two messengers; and for two laborers; in all, $38,300.

Mr. WHITTHORNE. I move to amend the paragraph just read by striking out "one clerk of class two" and inserting in lieu thereof "two clerks of class two."

Mr. ATKINS. I desire to say——

Mr. WHITTHORNE. You do not object to that?

Mr. ATKINS. I do. I will state to the committee that only one clerk of class two was estimated for, and we have given that.

Mr. WHITTHORNE. Just one word, that the committee may understand. The Navy Department is now being transferred from the old building to the new. It is within the knowledge of most members on this floor that not very long since the records of that Department were disturbed by a fire. In removing from the old building to the new, and in arranging the records so that hereafter there shall be proper dispatch in the transaction of public business, this increase of force is deemed absolutely necessary; it is demanded by the Secretary of the Navy in view of the public interest.

Mr. ATKINS. Why is a clerk of class 2 needed more than a clerk of class 1, or of class 4, or a laborer, to remove these papers?

Mr. WHITTHORNE. It is simply to apportion properly the work which is being done.

Mr. ATKINS. It is very strange the Secretary of the Navy did not estimate for this clerk.

Mr. WHITTHORNE. It was not known at the time the estimates were made that the records of the Department would be transferred from one building to the other. I trust the committee will concur in the amendment.

Mr. ATKINS. I trust it will not.

The amendment was not agreed to.

The Clerk resumed the reading of the bill and read the following:

For one superintendent of the building occupied by the Navy Department ($250) and for five watchmen and two laborers; in all, $5,170.

For incidental labor, fuel, lights, and miscellaneous items for said building, $5,000.

Mr. ATKINS. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that, pursuant to the order of the House, the Committee of the Whole had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CHITTENDEN, until Tuesday next;

To Mr. HEILMAN, until the 15th instant;

To Mr. SMITH, of Georgia, for six days; and

To Mr. HARRIS, of Massachusetts, until Monday next.

FOLDING OF DOCUMENTS.

Mr. ATKINS. I move that the House now adjourn.

Mr. CHALMERS. I am informed by the clerk of the folding-room that there is great difficulty in getting rid of the immense mass of speeches now there to be folded. I desire to ask permission that he be authorized to employ an additional number of operatives to be paid by the piece.

The SPEAKER. The gentleman had better present a resolution upon that subject; and that would have to go to the Committee of Accounts under the rules.

Mr. ATKINS. Do that to-morrow morning.

Mr. CHALMERS. Very well.

The motion of Mr. ATKINS was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CULBERSON: The petition of Marcos Radich, for payment of vouchers for rent of property in Texas used by the United States Army—to the Committee of Claims, when appointed.

By Mr. DE LA MATYR: The petition of citizens of Jay County, Indiana, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. ERRETT: The petition of 66 ladies of Allegheny County, Pennsylvania, for the enforcement of the laws against polygamy—to the Committee on the Judiciary, when appointed.

Also, the petition of 131 ladies of the thirty-second ward, Pittsburgh, Pennsylvania, of similar import—to the same committee, when appointed.

By Mr. HASKELL: The petition of citizens of Douglas County, Kansas, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. JAMES: The petition of Lydia E. Buckley, that her name be restored to the pension-roll—to the Committee on Invalid Pensions, when appointed.

Also, the petition of Eliza Berry, for a pension—to the same committee, when appointed.

By Mr. JONES: The petition of Peter Eldridge, for an increase of pension—to the Committee on Revolutionary Pensions, when appointed.

Also, the petition of Andrew Jones, for bounty on account of service in the United States Navy—to the Committee of Claims, when appointed.

By Mr. KEIFER: The petition of members of Rush Creek Grange, Logan County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. McCOOK: The petition of George C. Jenks, of New York City, for compensation for the use by the United States Post-Office Department of a patent letter-box—to the Committee on Patents, when appointed.

By Mr. REAGAN: The petition of Spring Run Grange, Whitley County, Indiana, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce, when appointed.

By Mr. SINGLETON, of Illinois: Resolution of the Legislature of Illinois, favoring appropriations for the protection of the navigation of the Mississippi River in Madison and Saint Clair Counties, Illinois—to the Committee on Commerce, when appointed.

By Mr. TOWNSHEND, of Illinois: The petition of citizens of Illinois, for the improvement of the Ohio River at Hurricane Island—to the Committee on Commerce, when appointed.

Also, the petition of 629 citizens of Illinois, that a pension or other relief be granted John B. Tucker—to the Committee on Military Affairs, when appointed.

By Mr. WARNER: The petition of James McSwords, that bounties be granted those who served less than two years in the Army—to the same committee, when appointed.

By Mr. YOUNG, of Tennessee: The petition of Hayden & Co., of Memphis, Tennessee, to be refunded taxes illegally paid by them on cotton—to the Committee of Claims, when appointed.

IN SENATE.

WEDNESDAY, *April* 9, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, transmitting for the information of the Senate a copy of a letter forwarded by him to the Speaker of the House of Representatives showing the necessity for an increase of the clerical force in the office of the Third Assistant Postmaster-General; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented the petition of Hannah L. Stearns, of Castine, Hancock County, Maine, praying for the passage of a law granting her a pension on account of services rendered by her late husband, Benjamin F. Stearns, as a teamster in the war of 1812; which was referred to the Committee on Pensions.

Mr. MAXEY presented the petition of T. E. Nixon and others, members of Mount Zion Grange, No. 806, of Lamar County, Texas, praying for the passage of a law regulating interstate commerce, and prohibiting unjust discriminations by common carriers; which was referred to the Committee on Commerce.

He also presented the petition of Mrs. Ann Barnes, of Fort Stockton, Texas, praying for the passage of a law authorizing the refunding to her of certain money alleged to have been unlawfully taken from her husband during the late war; which was referred to the Committe on Claims.

PRINTING OF THE CENSUS ACT.

Mr. WHYTE. I am instructed by the Committee on Printing to report with a favorable recommendation the following resolution, asking, however, unanimous consent to make a clerical correction:

Resolved, That there be printed for the use of the Senate 1,000 additional copies of public act No. 98, an act to provide for the tenth and subsequent censuses, said copies to be delivered to the Senate document-room.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. WHYTE. I ask leave to insert after the word "for" the word "taking," so as to read "for taking the tenth and subsequent censuses."

The VICE-PRESIDENT. That clerical correction will be made as suggested.

The resolution was agreed to.

PORTRAIT OF JOSEPH HENRY.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered, to report it without amendment, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It appropriates $500 for the printing of the portrait of Professor Joseph Henry, to accompany the memorial volume already ordered by Congress.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 382) granting a pension to Ellen W. P. Carter; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 383) for the benefit of the public schools in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. GORDON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 384) to aid the Great Southern Railway Company (consolidated) to construct a line of railway in the States of Georgia and Florida; which was read twice by its title, and referred to the Committee on Railroads.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 385) granting a pension to Ivory H. Pike; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 386) to confer upon the commissioners of the District of Columbia the powers, duties, and limitations contained in chapter 8 (water service) of the Revised Statutes of the United States relating to the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MAXEY, it was

Ordered, That the petition and accompanying papers in the case of Marcus Radich, of Texas, be taken from the files of the Senate and referred to the Committee on Claims.

Mr. MORRILL. By request I ask for the following order:

Ordered, That the papers in the claim of Turner Merritt be taken from the files of the Senate and referred to the Committee on Claims.

The order was agreed to.

On motion of Mr. SLATER, it was

Ordered, That the memorial and accompanying papers of the Cherokee delegation, relating to the claim of Lewis Downing and others, be taken from the files of the Secretary of the Senate and referred to the Committee on Military Affairs.

DEPARTMENT OFFICERS ON THE FLOOR OF CONGRESS.

Mr. WHYTE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate 1,000 additional copies of Senate bill No. 227, to provide that the principal officers of each of the Executive Departments may occupy seats on the floor of the Senate and House of Representatives, said copies to be delivered to the Senate document-room.

NEWSPAPER POSTAGE.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster-General is directed to furnish for the information of the Senate his reasons for barring the Citizen Soldier, a newspaper published in Washington, District of Columbia, from transmission through the mails at the same rates of postage accorded to other newspapers. And further to state why he permits to the mails at pound rates of postage one journal and excludes another of the same class from like privilege; furnishing with this statement the names of such newspapers as have heretofore enjoyed these rates of postage but are now denied them through recent rulings of his Department.

ELECTION EXPENSES IN FLORIDA.

Mr. CALL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to furnish to the Senate a detailed statement of the expenses of the district and circuit courts of the United States for the northern district of Florida from the year 1870 to the present time, and including the amounts paid to the district attorneys of the United States and the marshals of the northern district of Florida with a copy of the said accounts as rendered and the amounts paid to the said marshals and district attorneys on account of fees and services rendered by deputy marshals and supervisors for services connected with the elections in the State of Florida.

DEPARTMENT OFFICERS ON THE FLOOR OF CONGRESS.

Mr. WHYTE, from the Committee on Printing, to which was referred the following resolution, reported it without amendment, and it was considered by unanimous consent, and agreed to:

Resolved, That there be printed for the use of the Senate 1,000 additional copies of Senate bill No. 227, to provide that the principal officers of each of the Executive Departments may occupy seats on the floor of the Senate and House of Representatives.

SENATOR FROM NEW HAMPSHIRE.

The VICE-PRESIDENT. Is there further business for the morning hour? If not, the Senate resumes the consideration of its unfinished business, being the resolution reported from the Committee on Privileges and Elections declaring "that Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire." The pending question is upon the amendment proposed by the Senator from Massachusetts [Mr. HOAR] to strike out the word "not" before the word "entitled," on which the Senator from Delaware [Mr. SAULSBURY] is entitled to the floor.

Mr. DAVIS, of Illinois. The Senator from Delaware yields to me. About five minutes of time is all that I wish.

I had intended, Mr. President, to discuss this question at some length, but everything has been said on the merits of the question that it is capable of. The whole question is in a narrow compass; and the view of the Constitution which has been presented by different gentlemen who have discussed the subject, especially by the Senator from Georgia, [Mr. HILL,] and last by the Senator from Wisconsin, [Mr. CARPENTER,] in my judgment presents the proper construction of that instrument. I do not believe that the vacancy mentioned in that clause of the Constitution is anything else than a portion of the six years' term where there is no person qualified to discharge the functions of the office. The principle asserted in the Lanman decision is that the Legislature of a State shall provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the governor's power under the Constitution; that where opportunity is given to the Legislature to choose a Senator the governor cannot appoint. A vacancy within the meaning of the constitutional provision does not arise by the failure of a Legislature to elect; nor can we so construe it because the constitutional convention of New Hampshire has so provided in its constitution that the last Legislature that was elected in November cannot meet until the ensuing summer. I believe in the construction of the law of 1866 which was given here yesterday by the Senator from Wisconsin.

I rose, however, to consider a little the precedents of this body which have not been stated at any length. There is no doubt that prior to 1825 the Senate did admit any person who was appointed where the Legislature had not elected, whether the vacancy occurred at the expiration of a regular term or during the term. The first case was Tracy's case, and that was decided in high party times, thirteen Federalists voting one way and ten national republicans the other. Every other case between that and Lanman's case passed *sub silentio*.

In 1825, upon the presentation of Mr. Lanman's credentials, the Senate of the United States made a halt. They considered that question fully, debating it for three days. It is unfortunate that we have not the debates of that period. It is clear that there were two views of the meaning of this constitutional provision then and there, because we have the vote on that case. I think that Mr. Benton's statement of what was then decided ought to be received with more credit than that of almost any other writer upon the subject because he was a Senator at the time; he voted upon the proposition and he therefore ought to be a good judge of the question involved and settled; and he does state to us what was decided at that time.

As I said before there were two views of the constitutional meaning. The decision in Lanman's case was reached by a vote of twenty-three against his admission to a vote of eighteen for his admission. Two of the gentlemen voting upon that occasion have been since Presidents of the United States. But Mr. Benton states what was decided. He says that Mr. Tazewell was the principal speaker upon the subject:

"Happen" was held by Mr. Tazewell to be the governing word in this provision, and it always implied a contingency, and an unexpected one. It could not apply to a foreseen event bound to occur at a fixed period. Here the vacancy was foreseen; there was no contingency in it. It was regular and certain.

It was decided that way. I do not say that in the opinion of the gentlemen then composing the Senate there were not two interpretations of the meaning of this provision, although to my mind it seems very clear that the conclusion which was reached at that time was the true interpretation. That interpretation has been followed ever since. There has been no debate in the Senate from that time to this in which that interpretation has not been followed.

In 1837 the case of Mr. Sevier arose. The Senate admitted Mr. Sevier upon a ground which I think was not tenable, that the Legislature could not have known that the vacancy would arise by the expiration of Mr. Sevier's term. They were bound to know, I am inclined to think, that there would be a vacancy. Mr. Grundy says in in his report, expressly, that it is not intended to overrule the decision in the case of Lanman, but that the Legislature not being in session and it not being known whether Mr. Sevier would draw the long or short term, it took him without the principle there asserted. But I do not think that was correct reasoning, because if the provision in the Constitution simply referred to vacancies occurring during the running of a regular term, the facts in regard to the Sevier case did not take it out of the operation of the clause.

I think that the decision in Lanman's case, as I understand it, gives the true interpretation of the Constitution, that when the Legislature had the opportunity of providing a Senator but failed, the governor cannot appoint. That is one way of arriving at what the framers of the Constitution meant. The Legislature always has an opportunity of providing for the expiration of a regular term, and if a State chooses by a change of its constitution to put it out of the power of its last Legislature to elect a Senator it is their fault; they could have provided for the election, but they themselves have chosen to act in that manner. But what is the meaning of the Constitution? It does not cover what one State may do by way of estopping itself from the election of a Senator.

In relation to the Sevier case, I desire to read from the report of Mr. Grundy. I do not know whether it has been read in this debate or not. Mr. Grundy, in his report from the Judiciary Committee on that case, said:

At the last session of Congress the State of Arkansas was admitted into the Union, and the Legislature of that State, in the month of October, 1836, elected Ambrose H. Sevier and William S. Fulton Senators to represent the State in the Senate of the United States. It also appears that, upon the allotment of the said Arkansas Senators to their respective classes, as required by the third section of the first article of the Constitution, the said Ambrose H. Sevier was placed in the class of Senators whose term of service expired on the 3d day of March, 1837, and that the Legislature of Arkansas have had no opportunity of filling the vacancy, not having been in session since the fact that the vacancy would occur could have been known in that State. The governor of the State of Arkansas, on the 17th day of January last, commissioned the said Sevier as Senator to fill the vacancy which would take place on the 3d of March. Upon this state of the case the question is presented whether the said Ambrose H. Sevier is entitled to his seat under the appointment made by the executive of the State of Arkansas. In looking into the practice of the Senate upon the subject of executive appointments no case like the present has been found. Several cases have occurred in which the executives of different States, in anticipation of the expiration of the regular term of service, have appointed Senators, (the Legislatures not being in session,) and in all of these cases the Senators thus appointed were admitted to their seats; until the called session of the Senate in March, 1825, when Mr. Lanman, of Connecticut, whose term of service expired on the 3d of March, 1825, produced his credentials from the governor of Connecticut, and the Senate decided he was not entitled to his seat by a vote of 23 to 18.

The decision seems to have been generally acquiesced in since that time; nor is it intended by the committee to call its correctness in question. The principle asserted in that case is that the Legislature of a State, by making elections them-

selves, shall provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution.

Can it be said that the Sevier case overruled the Lanman case upon that report? Clearly not, because the author of the report distinctly states what was decided in the Lanman case and reaffirms it. I may be permitted to remark that Sevier was not admitted without question. As I understand it, Mr. Webster did not take that view of the case at all.

The next time this subject was discussed was in 1852, in the Dixon case from Kentucky. The question there discussed of course was not the same question that is now here. Mr. Clay had resigned in the winter of 1851-'52, his resignation to take effect on the 1st day of September following. The Legislature of Kentucky was in session at the time and elected Mr. Dixon to fill that vacancy; but before the 1st of September came Mr. Clay died, I think in June, 1852, and the vacancy between that time and September was filled by the appointment of Mr. Merriwether, and the commission of the governor of Kentucky distinctly stated that he was to hold until the 1st day of September following. Mr. Dixon presented himself to claim his seat at the opening of the session in the December following. The objection was raised at once that he was not entitled to a seat, the place being filled by the governor's appointment "until the next meeting of the Legislature;" and the whole question in relation to the manner of filling vacancies in the Senate was discussed. There were two opinions as to whether the seat of Mr. Clay could be actually filled by the Legislature of Kentucky until the September following, when his resignation was to take effect. That subject was debated at great length, running through many pages of the Congressional Globe of 1852; but in all that discussion there was no disagreement upon what was decided in Lanman's case. There was no disagreement upon that subject at all. Necessarily the discussion in that case, as in every other, took a pretty wide range before the Senate. It is not confined, as it would be in a court of law, to the particular point. Many of the Senators expressed their views upon the subject at length, and I propose to read from what was said by three or four of them at the time. Mr. Underwood, who was one of the ablest lawyers we ever had west of the Alleghany Mountains, a judge for many years of the supreme court of Kentucky, then a Senator from Kentucky, made one of the most elaborate arguments in favor of his colleague, Mr. Dixon, in which he said:

What is a vacancy? * * * It is leaving a portion of the term of six years, during which portion of time there is no officer, no person elected or appointed by the constitutional authorities to fill or exercise the functions of the office; that is a vacancy.

* * * * * * *

I will not detain the Senate by referring at length to other cases; but here is Anderson's case, and Williams's case, and, I believe, one or two others to which I might refer, to show that the rule formerly was, that the executive might appoint to fill the regular occurrence of vacancies in the regular terms of the Senate. But that rule was set aside in Lanman's case in 1825, and since that time the decision in it has been acquiesced in; but in Sevier's case they did not acquiesce in the rule, because of the fact that the Legislature could not have known what class Mr. Sevier would draw.

Mr. Davis, of Massachusetts, discussed this subject at considerable length:

In the case of Mr. Lanman—

Mr. Davis, of Massachusetts, said—

the Legislature which last met in Connecticut, before a constitutional vacancy was to happen, omitted to appoint a Senator. The governor, supposing he had power to do it, made an appointment. The credentials of his appointee were presented here, and the Senate took the subject into their deliberation, and decided that the executive had no authority to appoint in such a case; and why? Because the Legislature had had an opportunity to exercise the power with which they were clothed and they had omitted to do it; and the contingency which vested the executive with power to supply a vacancy had not occurred. This vacancy was not a contingency which the Legislature could not foresee and provide for.

* * * * * * *

It is a well-established usage, which has been exercised throughout the history of the Government; and I think it is equally clear that it is the duty of the Legislature, in any case where they know a vacancy is to exist, to make the appointment seasonably; and it results from the decision in the case of Lanman, that if they fail to exercise that power when they have had an opportunity to do it the seat then becomes vacant, and the executive has no right to fill it.

* * * * * * *

The Legislature had had the opportunity to fill the vacancy, they knew of the existence of a constitutional expiration of a term and consequently a vacancy, and having had that opportunity, it was their duty to fill it, and therefore the executive could not afterward fill the place.

Mr. Douglas took the same view of it, and General Cass also. The latter said:

The third clause of the first article of the Constitution provides for the composition of the Senate, by fixing the term of service and the mode of selecting the Senators, permanent and temporary. It declares that "if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." The regular terms of the Senators are for six years, and the "vacancies" herein provided for are the unexpired portion of such terms, which are to be "filled" by the Legislature when it can act, and when it cannot act, to be copied by temporary executive appointments. If, therefore, a Senator resign, or his seat is otherwise vacated except by the expiration of his term, the "vacancy" is for his original period of service to be temporarily appointed to by the governor, or "filled" by the Legislature.

Mr. Mason said a few words as to the precedents:

Until Lanman's case, according to my recollection, it was considered by the Senate, or rather it was decided by the Senate, manifestly without consideration, that it was competent for the State executive, when a term expired in the recess of the Legislature, to treat that as a vacancy and to fill it accordingly. Such a practice was common until the decision in Lanman's case. I confess that on looking at the Constitution my first impression was that the practice was correct, but on examining the Constitution and weighing it carefully and deliberately I cannot entertain a doubt that the decision of Lanman's case was correct, and that when a term expires by constitutional limitation it is not a "vacancy" which the executive can fill. Yet the decision in that case set aside all the former precedents and established a new and correct rule.

In the debate of 1854 it was treated in the same way upon Mr. Phelps's case. There a question was again submitted to the Senate as to the extent of the power of appointment confided to the State executives in regard to vacancies in this body. The question was then presented, as it is now, whether it is proper and right to overrule what had been done since 1825, and the views of the great men who have been our predecessors in this body, and resort to the rule which was adopted in Tracy's case and followed until 1825. In a court of law if the latter decision had been a wrong one, overruling the fomer decision, it would have been followed and obeyed no matter what might have been the opinion of the dissenting judges in the case. So here.

This is all that I propose to say.

Mr. CAMERON, of Wisconsin. Mr. President, I did not intend to take any part in this discussion; but the Senator from Massachusetts, [Mr. HOAR,] who is a member of the Committee on Privileges and Elections and who prepared and submitted the views of the minority, is absent. For that reason I have thought perhaps it was incumbent on me to say a word in regard to the reasons which influenced the minority in coming to the conclusion which they did upon this case.

Fortunately, there is no dispute in regard to the facts of this case. Questions which have heretofore arisen in regard to the right of Senators to seats on this floor have frequently presented difficult matters of fact for discussion. I will state the facts in this case, in brief. The term for which Mr. Wadleigh was elected as a Senator from New Hampshire expired by limitation on the 3d day of March last. On the 13th day of March, ten days after the expiration of Mr. Wadleigh's term, the executive of that State appointed the claimant, Mr. Bell, a Senator in Congress to succeed Mr. Wadleigh, and to retain his seat until the next meeting of the Legislature of that State. There was no Legislature in session at the time Mr. Wadleigh's term expired, nor has any Legislature been in session in that State since that time. On the 4th day of March the President issued a proclamation convening Congress in extra session. On the 18th of March, the first day of the extra session, the credentials of Mr. Bell were presented. He was present and ready to take the oath. Objection was made, and his credentials went to the Committee on Privileges and Elections.

In 1877 a constitutional convention was held in New Hampshire. The convention framed and agreed upon a constitution. That constitution was regularly submitted to the people and adopted by them. Under the old constitution, which I think was in force in that State from the year 1792, the Legislature was elected in March of each year, and its term of office commenced in the succeeding June. In March, 1878, according to the provisions of the old constitution, a Legislature was elected in New Hampshire. The term of service of that Legislature commenced in June, 1878, and will continue until June, 1879. Another Legislature was elected in November, 1878, under the provisions of the new constitution. The term of service of this Legislature will commence in June, 1879, and will continue for two years next thereafter. This state of facts existed in 1878 at the time the Legislature elected under the old constitution was about to assemble. The question arose in that State, which of these Legislatures can legally elect a Senator to succeed Mr. Wadleigh. The opinion of lawyers in that State was sought, and as in most other cases the opinions differed. Thereupon the opinions of distinguished counsel in this city were sought, and again the opinions of distinguished legal gentlemen differed. For the purpose of obtaining at least a legislative opinion in regard to the question, in May, 1878, at the request of some citizens of that State, I introduced in this body a bill. The bill is entitled "A bill to declare the true intent and meaning of title 2, chapter 1, section 14, of the Revised Statutes." That section is a portion of the act of 1866, which has so frequently been referred to during the progress of this discussion. The bill reads as follows:

That the true intent and meaning of title 2, chapter 1, section 14, of the Revised Statutes is declared to be such that the present Legislature of the State of New Hampshire may lawfully elect a Senator of the United States for the term commencing on the 4th day of March, A. D. 1878.

This bill was referred to the Committee on Privileges and Elections, was considered by that committee, and on the 2d day of June following the introduction of the bill it was reported back from that committee by the Senator from Minnesota who sits on my left, [Mr. MCMILLAN,] then a member of that committee. The report of the Senator from Minnesota was in writing, and was concurred in by the whole committee. The report discusses elaborately and ably the construction of the act of 1866, and concludes with this opinion:

We think, therefore, that an election in strict pursuance of the act of Congress of 1866 which shall take place in 1879 will be valid, and that there is no provision of law which warrants an election by the present Legislature of the State.

For these reasons your committee report adversely to this bill, and recommend that it be indefinitely postponed.

Thereupon without any discussion the bill was indefinitely postponed; but that was not the last of the attempt to get the State of

New Hampshire out of the unfortunate position in which she found herself at that time in regard to the election of a Senator to succeed Mr. Wadleigh.

A bill passed the House of Representatives which authorized the State of West Virginia to choose members of the lower House of Congress in October, instead of November. That bill in the regular course of business came to the Senate and was referred to the Committee on Privileges and Elections. Two amendments were recommended by that committee. One provided for the election of Representatives to the lower House of Congress in the State of North Carolina, and the other sought to provide for this New Hampshire case. The amendment in reference to the New Hampshire case was section 4 of the bill as reported, and it reads as follows:

SEC. 4. That the present Legislature of the State of New Hampshire may, if it shall so elect, at any time after the passage of this act, and during its session commencing on the first Wednesday of June, A. D. 1878, begin the election of and elect a Senator to represent said State in the Senate of the United States for the term of six years, beginning March 4, 1879; said election of Senator to be conducted according to the laws now in force, except so far as the same relate to the time of making such election.

It was upon the adoption of this amendment that the discussion referred to yesterday by my colleague [Mr. CARPENTER] occurred. This amendment was adopted by the Senate. The amendment in reference to the election of Representatives to the lower House from the State of North Carolina was also adopted. The bill as thus amended by the Senate went back to the House of Representatives for concurrence in those amendments. The House concurred in the amendment in reference to the election of Representatives from the State of North Carolina, but refused to concur in the amendment providing for the election of a Senator by the then Legislature of New Hampshire.

I think now my colleague will admit that the effort made to get the State of New Hampshire out of the position in which she then was in reference to the election of a Senator was not a mere trick. The Senate added to a bill that came from the House an amendment which authorized in express terms the then Legislature to elect a Senator.

Mr. INGALLS. May I interrupt the Senator a moment there to ask him if the Committee on Privileges and Elections did not on the same or a subsequent day report that the Legislature of New Hampshire elected in March, 1878, could not elect a Senator, and if the Senate did not adopt that report?

Mr. CAMERON, of Wisconsin. The Senator was absent when I commenced my remarks. I have already referred to that. The report was made from the committee by the Senator from Minnesota, [Mr. MCMILLAN.]

Mr. INGALLS. I was out of the Chamber and did not hear that.

Mr. CAMERON, of Wisconsin. The report was made upon a bill introduced by myself on the 31st of May.

But, Mr. President, this is not the first time that the construction of the act of 1866 has arisen in this body. It arose in 1871 in the Blodgett and Norwood case from the State of Georgia. The facts of that case were these: Blodgett claimed to have been elected in 1870 by a Legislature chosen in 1868; Norwood claimed to have been elected in 1871 by a Legislature chosen in December, 1871. There was no question made in regard to the legality of either Legislature. There was no question made in regard to the mere regularity of the election of either Mr. Blodgett or Mr. Norwood. The credentials of each were presented to the Senate; they were regular in form, and the only question there was in the case was a question arising from the construction of the act of 1866. The credentials of both these claimants were referred to the Committee on Privileges and Elections, and on the 18th day of December, 1871, "Mr. CARPENTER," then a member of that committee, made a report to the Senate. I will ask the leave of the Senate to read a portion of this report. After stating the case the report proceeds:

The Constitution, article 1, section 3, provides that Senators shall be chosen by the Legislatures of the respective States. Section 4 of the same article provides: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

The first clause of this section commits to the Legislatures of the States primarily, the whole subject of electing Senators and Representatives, and authorizes them to make such regulations upon the subject as they may deem proper. The phrase "the times, places, and manner of holding elections for Senators and Representatives" embraces the whole subject of election of Senators, except that the election must be made by the Legislature of the State, as provided in the third section. The Legislature may therefore provide that a Senator shall be elected by the Legislature to be chosen next before the expiration of a term or next after its commencement. The second clause quoted from the fourth section confers upon Congress the same power and absolute control over the subject, to be exercised in the discretion of Congress, except that Congress cannot fix a place for holding the election different from that fixed by the State Legislature.

In the exercise of this undoubted constitutional power Congress passed an act regulating the election of Senators, approved July 25, 1866, (14 Stat. at Large, page 243,) which provides:

"The Legislature of each State which shall be chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress in place of such Senator so going out of office."

Foster Blodgett claims to have been elected on the 15th day of February, A. D. 1870, by the Legislature then existing and in session. He received the requisite number of votes, and his credentials are in due form. The question therefore is whether it was competent for that Legislature to elect a Senator to serve during the term before mentioned. If this question can be answered in the affirmative, Mr. Blodgett is entitled to the seat; if not his pretended election was an absolute nullity. The answer to this question depends upon the true construction of the act of Congress before quoted. It is claimed by Mr. Blodgett that *chosen* and *elected* mean different things; that legislators are elected by the people, but that legislators are not the Legislature; and that the Legislature is not chosen until the members elected assemble as provided by law and organize as a Legislature by determining what persons elected or claiming to be elected are entitled to seats. That is, the people elect the legislators, and the legislators, after their election, choose the Legislature; and hence the Legislature which was, in fact, organized next preceding the expiration of the term of office is the one authorized to elect a successor, without regard to the time when the members of such Legislature were elected by the people.

The report proceeds:

This refinement of reasoning does not meet the approbation of your committee. The question is, What was the intention of Congress in passing this act? The Legislature designated by the act is the one "which shall be chosen next preceding the expiration of the time," &c. There is no such thing as choosing a Legislature, except by choosing its members. The Constitution declares that Senators shall be elected by the Legislature of each State. Hence the act of Congress employs the same phrase. But your committee cannot doubt that it was the intention of Congress to provide that the Legislature whose members should be elected next preceding the expiration of the senatorial term should elect the successor. The distinction sought to be established between the words *elected* and *chosen* derives no support from popular or legal lexicography. Elected is defined *chosen*, and chosen is defined *elected*; and the words are used as synonymous in the Constitution of the United States, the constitution of every State, in all our statutes, and in all popular literature.

Again, the report proceeds:

Subsequently to Mr. Blodgett's pretended election the Legislature provided by law, as it was authorized to do by the constitution of the State, that the Legislature which was to be elected in November, 1870, and organized in January, 1871, as required by law at the time of Blodgett's pretended election, should not be elected until December, 1870, and should not convene and organize until November, 1871. But, if your committee are right in their construction of the act of Congress, the Legislature which convened in November, 1871, was the Legislature chosen next preceding the expiration of the senatorial term, and, consequently, that Legislature was the one which was authorized to elect the successor; and this Legislature did, in fact, elect Mr. Norwood.

The vacancy happened—I use that word—in the office of the Senator from Georgia, on the 3d day of March, 1871. Subsequent to that time a Legislature was elected or chosen; that Legislature was elected I think in November, 1871. That Legislature, chosen eight months after the vacancy had happened, elected Mr. Norwood. Mr. Blodgett claimed to have been elected by the Legislature which had last organized prior to the occurring of the vacancy. But the committee held that the Legislature which elected Norwood was the only Legislature which could elect for that term. The committee reported a resolution authorizing the administration of the oath to Mr. Norwood, and thereupon the oath was administered to him and he was admitted.

So this law of 1866 received construction from the Senate in 1871; and it again received construction from the Senate in 1878. The construction adopted by the Senate in 1871 was followed by the Senate in 1878. The Legislature which elected Blodgett acted first. Blodgett claimed to have been elected about a year before Norwood claimed to have been elected, and he claimed to have been elected before the Legislature which elected Norwood was chosen.

Mr. HILL, of Georgia. The Senator from Wisconsin will allow me to say that in that case in Georgia to which he refers the Legislature that elected Mr. Norwood was chosen previously to the expiration of the term, and the actual session of that Legislature in regular session was postponed by an act of the previous Legislature itself till the next November after the commencement of the regular term. Yet it was held and understood that the Legislature which had been elected and which chose Mr. Norwood Senator was the Legislature in existence previously to the expiration of the senatorial term; and if there had been a called session of the Legislature, that Legislature would have been called, and not the old one. Therefore the term of legislative service of the Legislature which elected Mr. Blodgett did in fact expire before the expiration of the senatorial term.

Mr. CAMERON, of Wisconsin. The Senator from Georgia, I have no doubt, is more accurately informed in regard to this part of the history of his own State than I am; but it appears, from the report made by Mr. CARPENTER to the Senate in 1871, that the vacancy, if you call it a vacancy—I call it that for convenience—in the office of Senator from that State happened on the 3d day of March, 1871.

Mr. HILL, of Georgia. Yes.

Mr. CAMERON, of Wisconsin. Well, in November, 1871, the Legislature which elected Mr. Norwood was elected by the people of Georgia.

Mr. HILL, of Georgia. No, that Legislature was elected in December, 1870, before the expiration of the old term in March, 1871, but it did not assemble in session until November, 1871. If, however, there had been an extra session of Congress called during the year 1871 so as to have made it important to have the term filled, and the Legislature had been convened in extra session for that purpose, it would have been the Legislature elected in December, 1870.

Mr. CAMERON, of Wisconsin. I see the Senator is right in regard to the time of the election of that Legislature. It was elected in December, 1870, but it did not convene until November, 1871.

Mr. HILL, of Georgia. It did not convene until November, 1871, but nevertheless it was the Legislature in existence.

Mr. CAMERON, of Wisconsin. That is not the point. The point is, which Legislature was chosen next prior to the expiration of the term. That is the point I was making, and that is the point in this case—which was last chosen? The Legislature that elected Mr. Norwood was chosen in December, 1870; the vacancy occurred in March, 1871. That Legislature convened in November, 1871.

Mr. HILL, of Georgia. The Senator will see the difference between

the New Hampshire case and the Georgia case. I am not discussing the question now, and only want to get the facts right. In the New Hampshire case, while the members of the Legislature were elected in November, 1878, by their constitution they have no legislative existence until June, 1879; whereas in Georgia, by our law, the Legislature which was elected in December, 1870, while it did not have a session until November, 1871, did have a legislative existence; and if a Legislature had been called together in extra session it would have been the newly elected Legislature, whereas in New Hampshire, if the governor now were to call an extra session of the Legislature it would be the old Legislature of March, 1878, and not the Legislature of November, 1878. That is the difference between the two cases.

Mr. CAMERON, of Wisconsin. The point is, which was chosen next prior to the occurring of the vacancy? It has been contended here that that Legislature which assembled and was organized next prior to the occurring of the vacancy was the Legislature which could elect. The Senator from Georgia has not maintained that, but it was to that point that I was addressing myself. So, then, so far as this case is concerned, the Georgia case is an authority.

It is true, as the Senator states, that if, after the 3d of March, 1871, the Legislature of Georgia had been convened in extra session, it would have been the new Legislature, the Legislature that elected Mr. Norwood. It was not, however, convened in extra session. But that is not the point. The point I make is that, in the language of the Constitution and in the language of the act of 1866, the Legislature which was chosen next prior to the occurring of the vacancy is the Legislature which must elect. It has been contended, as I have stated, by more than one Senator that the word "chosen" does not apply to the Legislature which was last elected prior to the occurring of the vacancy, but to the Legislature which actually assembles and organizes prior to the vacancy. It was to that point that I was addressing myself.

I was remarking that the act of 1866 has twice received construction from the Senate, and in each case the Senate has held that the Legislature chosen, in other words the Legislature elected, last prior to the occurring of the vacancy is the Legislature and the only Legislature which can elect the Senator. That is what we claim in this case. It has been claimed that the present Legislature could elect. Those who claim that make a distinction between the word "chosen" and the word "elected." Mr. Blodgett made that distinction, it appears from the report of the committee, in the argument which he made or caused to be made before the committee; but the distinction was repudiated by the committee and repudiated by the Senate.

I think, then, Mr. President, in the light of the decisions of the Senate, there can be no question that the Legislature of New Hampshire elected in March, 1878, could not elect a successor to Mr. Wadleigh.

Now passing from that point—and I do not propose to go at all elaborately into the discussion which has been gone over before—it is conceded that section 3 of article 1 of the Constitution is the controlling provision of the Constitution in this case. That being the law, the only question that the Senate really need decide in order to determine whether Mr. Bell is entitled to a seat upon this floor is this: Had a vacancy happened in the office of Senator from New Hampshire at the time of Mr. Bell's appointment which legally could be filled by the executive of that State? This was the question submitted to the Committee on Privileges and Elections. A majority of the committee answered the question in the negative; a minority answered the question in the affirmative. It has been said, and said truly, that this case really has no political significance, and yet I fear the country will regard it as a significant fact that the committee in dividing upon this question divided exactly upon the political line. I was in hopes before the question was finally determined by the committee that some of our democratic brethren on the committee would come over to us. They could have done so and not endanger the chance of a majority report.

Mr. HILL, of Georgia. The Senator will allow me to say that while it was desired very much that we should go over to him there was one trouble in the way, and that was we should have to abandon the Constitution to get over to him.

Mr. CAMERON, of Wisconsin. I am aware that the Senator from Georgia is of that opinion, but I am emboldened to differ from him, for the reason that some very excellent lawyers in this body—I do not claim to be one—differ from the Senator from Georgia. I was in hopes, to state it differently, that some of our democratic brethren would be able to understand the Constitution as we do. I am pleased, however, to discover from the discussion that has taken place in the Senate that when the question is decided by the Senate the Senate will not divide upon the political line.

One rule for the construction of statutes is that words of common use are to be taken in their natural, plain, obvious, and ordinary signification, unless the contrary plainly appear from the context. The three governing words in the provision of the Constitution which has been referred to as being the governing clause in this case are the words "vacancy," "happen," and "otherwise." These three words are words in common use. It does not appear plainly from the context that they are to be understood otherwise than in their ordinary, common, popular signification.

Now, what does the word "vacancy" mean? We go to the dictionary for the meaning of the word, and it is defined as "a place or office not occupied, or destitute of a person to fill it." What is the meaning of the word "happen?" "To come by chance; to come without previous expectation; to fall out;" second, "to come; to befall." To illustrate, "they talked together of all these things which had happened." What is the meaning of the word "otherwise?" I give all the meanings of the word "otherwise" that are contained in Webster's Unabridged Dictionary:

> In a different manner; under different circumstances; in different respects.

Now, bear in mind that the office of Senator is a continuing office. New Hampshire is entitled to two Senators upon this floor. New Hampshire is entitled to fill two of the senatorial seats upon this floor. Prior to the 4th day of March last she did have two Senators upon this floor; she did fill two senatorial seats. Since that time she has had only one Senator upon this floor; she has filled only one senatorial seat. Now, understanding the word "vacancy" in its popular, common sense, I say that a vacancy has happened. In other words, a seat which was occupied prior to the 4th of March is not occupied now.

But it is said by the majority in their report that a vacancy cannot happen at the commencement of a term. Bearing in mind a preceding clause in the same section of the Constitution, which provides that the seats of Senators shall be vacated at the end of six years, can it be said that if the seat is vacated it is still occupied; and if not occupied is it not perfectly apparent that there must be a vacancy?

It has been stated repeatedly that one leading object of the Constitution was to keep the seats of Senators always full. That I believe has not been dissented from. But the framers of the Constitution saw that a vacancy might happen, might come to pass, might befall, during the recess of the Legislature, when it would be, not impossible, but inconvenient and expensive to assemble the Legislature for the purpose of filling that vacancy. To provide against that contingency the Constitution provides that the executive may fill vacancies. The Constitution makes no distinction between vacancies which happen at the commencement of the term, in the middle of the term, or at the end of the term; it speaks of "vacancies."

Now, in regard to the construction to be given to the word "otherwise," I have quoted all the meanings given to that word in Webster's Unabridged Dictionary; and, understanding the word in that sense, "otherwise" means "in any other manner," nothing more nor less; and the clause is "vacancies happening by resignation or in any other manner." As is stated in the report of the minority we are aided in the construction of this clause of the Constitution by referring to other analogous clauses of that instrument. The clause of the Constitution which authorizes vacancies that happen in the House of Representatives to be filled, or, to use the language of the Constitution itself, "in the representation from any State," is not identical with the language of the Constitution which authorizes the filling of vacancies in the Senate by the executive of a State, but I submit that it is identical in signification. That clause has received construction by the House of Representatives. I am not prepared to say that the construction given to it in the case to which I am about to refer has always been followed by the House. I do not know whether it has or has not, and I do not refer to this case as authority, but simply for the purpose of showing what the opinion of distinguished lawyers, then members of that House, was in regard to the construction of the words "vacancy" and "happen."

The question arose in the Twenty-fifth Congress in the case of Gholson and Claiborne. The facts of that case were simply these: the Twenty-fourth Congress expired by limitation on the 3d of March, 1837. President Van Buren issued a proclamation convening Congress in extra session in September, 1837. The State of Mississippi had not at that time held its regular congressional election, and consequently was liable to be without representation in the House of Representatives. The governor of that State, assuming that he had the legal right to do so, issued writs of election directing that an election should be held in July for the election of members of the House to serve during the special session of Congress. That was expressly designated as the time for which they would serve, in the writ of election. Pursuant to the writ of election an election was held in that State in July, 1837, and Messrs. Gholson and Claiborne, having received a majority of all the votes cast, were declared elected. They received their certificates of election, appeared in the House of Representatives on the first day of the extra session, and were sworn in and took their seats. A question arose after they had taken their seats in regard to the legality of their election. Thereupon the whole matter was referred to the Committee of Elections in the House. That committee reported in September, 1837. Two objections were made to the legality of the election of Gholson and Claiborne. One was that, if elected at all, they were elected for the entire Congress, and that the limitation inserted by the governor in the writ of election vitiated the writ, and consequently that no legal election was held. The committee, after disposing of that objection, proceed with the other; and I will read from the report:

> But the second objection, which would seem to be more formidable, involves the question whether, in the purview and meaning of the Constitution, such vacancy in the representation of the State had happened as would justify the governor in authorizing a special election to fill it. On this question the committee were divided. A majority of them were of opinion that a vacancy existed, and such a vacancy as was pregnant with all the evils which could arise from a vacancy happening in any other manner; and as the words of the Constitution are broad enough to em-

brace the existing case there is no good reason why, in giving them a practical construction, they should not be considered applicable as affording a remedy in this case as well as those arising from death or resignation. It is evident that all the evils arising from vacancies by death or resignation would exist in a vacancy produced by the expiration of the term of members prior to the election of their successors; and as the words used by the framers of the Constitution will fairly admit of the construction contended for, we are not at liberty to say the remedy prescribed was not intended for this case. On the contrary, the committee are of opinion the Constitution authorizes the executive power of the States respectively to order the filling of all vacancies which have actually happened, in the mode therein pointed out, no matter how the vacancy may have happened, whether by death, resignation, or expiration of the term of members previous to the election of their successors. The word "happen," made use of in the Constitution, is not necessarily confined to fortuitous or unforeseen events, but is equally applicable to all events which by any means occur or come to pass, whether foreseen or not; and as in this case confessedly the vacancy existed, it may properly be said to have happened.

Mr. Pennybacker, of Virginia, was a member of the committee, and he expressed himself very strongly and pointedly in support of the views contained in the report of the committee. There was no minority report. John Quincy Adams was a member of the House at that time and participated in the debate. He said:

The question was not as to whether or not the vacancy had been filled, but whether *it had* been filled for the whole term of the present Congress.

The question made was whether Gholson and Claiborne were elected for the entire Congress or only for the special session. The committee reported, and the House then so decided that they were elected for the entire Congress and not for the special session merely. But I was quoting from Mr. Adams. He said:

The question was not as to whether or not the vacancy had been filled, but whether it had been filled for the whole term of the present Congress. The law of the State of Mississippi made it clear that, although the governor had a right to issue his writ to fill the vacancy, it was only until superseded by the general election in November. He had no right to issue his writ for an election for the whole term, as was evident from the words "until superseded," &c., which were added to the writ. These words had been inserted in conformity with the laws of that State, and had they been omitted the governor would virtually have repealed the State law. But it might be taken for granted that a large portion of the people at the polls believed they were electing members for the whole term.

Mr. Adams conceded that the governor had a right to issue his writ for the purpose of electing members of the House of Representatives to serve during the extra session, but denied that he had a right to issue his writ to elect members to serve for the whole Congress.

The question as to the right of Gholson and Claiborne to retain their seats came up at the regular session of the same Congress in January, 1838. The House then rescinded the resolution which had been adopted at the extra session seating Gholson and Claiborne, and at the regular election held in November Prentiss and Word received a majority of the votes cast. They presented themselves at the regular session and demanded their seats, and Congress at the regular session first decided that Claiborne and Gholson were not elected for the entire Congress, not that they were not legally elected to serve during the special session of Congress; and they next decided that Prentiss and Word were not elected. That decision, as was stated by the Senator from Massachusetts the other day, was had by the casting vote of James K. Polk, then Speaker of the House of Representatives.

It does not appear to have been questioned at all in that case that the governor of Mississippi had a right to issue his writ calling an election for the purpose of electing members to serve during the special session. The only question was whether he could issue his writ for the election of members to serve during the entire Congress.

As was mentioned by the Senator from Massachusetts the other day, the provision of the Constitution which authorizes the President in the recess of the Senate to fill up all vacancies that occur in civil offices is construed by the executive department and recognized by Congress to mean that he may fill up not only the terms of officers who have regular and stated terms, but also those where the term is not a regular or stated term but made during life or good behavior.

I say then, sir, that applying the rules for the construction of statutes to which I have alluded to this provision of the Constitution, the conclusion which the minority of the Committee on Privileges and Elections arrived at is correct. Applying the construction given to a similar provision authorizing the filling of vacancies in the House of Representatives, the conclusion arrived at by the minority of the committee is correct. Applying the construction which has been given to that provision of the Constitution authorizing the Executive of the United States to fill up vacancies during the recess of the Senate, the conclusion arrived at by the minority of the Committee on Privileges and Elections is correct.

I do not care, Mr. President, to go over again the question of the precedents in the Senate. It is conceded, I believe on all sides, that there is no precedent in the Senate which can be claimed as an authority against the admission of Mr. Bell at this time, until the Lanman case in 1825. A great deal has been said concerning the point which was decided in the Lanman case. I admit that it may have been decided on either one of two points. It may have been decided upon the ground that the executive of a State could not appoint a Senator to a term to begin at the commencement of a senatorial term, or it may have been decided, as the minority of the committee believe it was decided, upon the ground stated in their report. The contemporaneous authorities seem to be in support of the understanding of this decision arrived at by the minority of the committee. It is said that the fugitive article—I believe some Senator called it a fugitive article—in the National Intelligencer did not really amount to anything. We all know that the National Intelligencer was edited not only with great ability but with exceeding care. We know that its editors were among the most accomplished journalists of their day, and it is quite likely that either the one or the other of the editors of the Intelligencer was present during the debate upon the Lanman case, heard that debate, and knew personally precisely what point was decided. At any rate, on the next day after the decision there was an article in the Intelligencer stating the point which had been decided in the Lanman case to be that the executive of a State could not appoint a Senator to fill a vacancy until the vacancy actually happened, actually existed. Judge Story, as has already been stated so many times, understood the decision in the same way. Mr. Gordon, who has been vouched for as an able lawyer and a careful compiler, understood the decision in the same way.

It has been suggested that even the statement made in the National Intelligencer on the day subsequent to the decision would not have been allowed to pass unchallenged had it not been the correct statement of the decision.

I called the attention of one of the Senators the other day to the head-note, the syllabus to the Lanman case as reported in Bartlett's volume of contested-election cases. That compilation was made in 1834, not very long after the decision. I understand that Mr. Bartlett was a very careful and accomplished compiler and editor of these decisions.

Notwithstanding what was said by some Senators in subsequent debates when a different point was under consideration by the Senate, the case referred to this morning by the Senator from Illinois, [Mr. DAVIS,] did not involve the question which is involved in this case. This question was not involved in the Sevier case. In regard to that case it is true that Mr. Grundy states in his report that the committee did not intend to overrule the decision in the Lanman case, and yet after making that statement the committee decide directly opposite to the Lanman case if that decision be what is now contended. Is it not more important to look at what the committee actually did than at what they stated? The Senator from Arkansas [Mr. GARLAND] very frankly admitted yesterday that the Sevier case cannot be reconciled with the Lanman case.

I do not care, Mr. President, to pursue this discussion any further. It has been said by some Senators that they entered upon the investigation of this question with an earnest desire that Mr. Bell should be seated. I cannot say that I entered upon it with such an earnest desire. I entered upon it with the desire of arriving at a correct conclusion in regard to the law; and if in that conclusion under the law as we understood it Mr. Bell could be seated, very well; and if not, just as well.

Mr. MCMILLAN. Mr. President, I have a very few words to add to the discussion which has already taken place, and shall content myself with stating substantially the reasons which lead me to the conclusion to which I have arrived and to the vote which I shall cast.

I have felt, Mr. President, the importance of keeping in mind the exact state of facts upon which the Senate is now called to decide the question submitted to it. The Senator from Wisconsin on my right who has just taken his seat [Mr. CAMERON] has stated the facts accurately and clearly. The point to which I wish to call the attention of the Senate now in regard to that statement of facts is, that under the constitution of New Hampshire the Legislature which was chosen prior to the expiration of the senatorial term of Mr. Wadleigh does not convene until June, and that the Legislature which now exists in that State could not elect a Senator to fill this vacancy, because it is not the Legislature chosen next preceding the expiration of that term.

Mr. President, it has been emphasized during this debate that it was the intention of the framers of the Constitution to secure to the States continued representation in the Senate. That is apparent from all the provisions affecting this question. The first clause of section 3, article 1, provides for the composition of the Senate, the term of the Senators, and the suffrage of each Senator. By that provision the Senators from each State are to be chosen by the Legislature thereof, and by the act of Congress now in existence the Legislature chosen prior to the expiration of the term which is to be filled must elect the Senator. Provision exists in all the States, and as well in New Hampshire, for a Legislature. She is not without a Legislature. Her Legislature continues. There is no interruption in the existence of the Legislature of that State, but circumstances have transpired which have occasioned this want of power to elect a successor to Mr. Wadleigh.

Now, it is urged that a vacancy within the meaning of this Constitution cannot exist at the commencement of a term, but that the term must be filled in part before such a vacancy can in any event transpire; and the ground upon which that position is urged is this: that the expiration of the term of a Senator is a fact which is certain, which must be foreseen, and the Constitution did not intend to provide that the governor should fill a vacancy in that case but only where some unforeseen contingency transpired which made a vacancy. It is not the expiration of the term alone which creates a vacancy. In all cases the term of a Senator expires at a fixed time; but the law provides that the Legislature may elect a person who shall succeed the Senator whose term expires. When that power is exercised, when a Legislature exists which can elect a Senator, the election transpir-

ing before the expiration of a term, the new Senator comes in and takes his seat, and there is no vacancy. It cannot be said that a vacancy occurs in that case because the successor immediately follows upon the term which expires before his term commences.

Then there must have been some other event which occasions this vacancy. There must have been some other contingency upon which this vacancy depends. That was the non-existence of a Legislature which could fill the vacancy. That occurred how? Not intentionally on the part of the State of New Hampshire. New Hampshire has all the provisions of her Legislature, she has a Legislature complete, and has provided for a Legislature which shall meet and succeed the one now in existence, but by an unforeseen circumstance, by a contingency which was not foreseen, by an omission upon the part of the people of that State, the provisions of law do not exist by which a successor can be elected until June.

It is said that the framers of the Constitution saw that these terms must expire. It is true they did; but they intended to provide for every contingency which might reasonably or properly happen; and here is a clear omission, a clear mistake, a pure oversight on the part of the people of New Hampshire, by which this difficulty has occurred. Is it true that the framers of the Constitution under such circumstances have framed an instrument with a *casus omissus* of this kind? The State cannot be said to have consented to this vacancy; it cannot be said that New Hampshire consented that she should not have her representation here from and after the 4th of March and during this extra session of Congress. It was a pure oversight on the part of the people of that State in changing their constitution. The constitution of 1792 of that State provided for annual sessions of her Legislature, which was chosen annually in March, and met by another provision, and a distinct provision of the constitution of that State, in June. The people of the State in 1877 adopted an amendment of that constitution by which the sessions of her Legislature were made biennial and the members were to be elected in November. In making that change the fact was not adverted to that by another provision of the constitution the Legislature was to meet in June, and it was a pure oversight that that also was not changed.

It cannot be said that the people of New Hampshire intended to put themselves in a position where they could not be represented in this body. They have here resorted to every means in their power to correct that mistake; and in view of the fact that the Constitution provides that no State without its consent shall be deprived of its equal suffrage in the Senate, it will not be said that New Hampshire has consented to this state of affairs. That is too important a right.

Then it is not the expiration of the term alone which has created this vacancy. It is the failure of the Legislature to elect a successor to Mr. Wadleigh whose term expired on the 3d of March, and that failure did not take place with the consent of New Hampshire. She cannot be said to have consented when the omission was in the manner I have stated.

Now, Mr. President, it is probable, it is reasonable as long as men are imperfect that these mistakes will occur. Men are not infallible, and States are composed of men; so that these irregularities and others of a similar character might occur; and the intention of the framers of the Constitution was to make a provision which would not leave a State unrepresented under any circumstances which might reasonably occur. It was then, even within the construction of the word "happen" given by Senators on the other side of this question, a contingency. If that be so, the Legislature chosen in November, 1878, not being in session at the expiration of this term, the governor in the exercise of his powers filled this vacancy and his appointee is here with his credentials claiming his seat.

Under these circumstances, in addition to many other reasons which have been stated, I think the claimant should be admitted to his seat.

Mr. McDONALD. Mr. President, I rise at this time more for the purpose of stating very briefly the reasons why I shall vote in favor of the views presented by the minority of the Committee on Privileges and Elections in this case rather than to influence the vote of any other Senator.

The appointment of Mr. Bell in my opinion is within the spirit of the Constitution, and I believe it to be within the letter of the Constitution; and, therefore, in my judgment, he is entitled to the seat that he is asking for in this case.

This, as is admitted by all, is a permanent body, the permanent branch of the National Legislature. The purpose of its creation was that it should be perpetual, and its constituent parts are made up of the representatives of the States. Each State is entitled to two Senators in this body, to two representatives on this floor. They are to be chosen by the Legislatures of the several States. The legislative authority of each State, therefore, has vested in it the power of electing or choosing Senators. But the Constitution has provided that—

> If vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

It is a conceded fact that a vacancy exists in the senatorial representation from the State of New Hampshire. She has but one voice in this Chamber at this time. It is a fact, of which we are bound to take notice, that this vacancy happening on the 3d of March by the expiration of the term of the former incumbent occurred, or "happened," in the language of the Constitution, during a recess of the Legislature of that State, for that is a matter of which we are bound to take judicial notice, so that the two main facts upon which the right of the executive of that State to act and to provide for perpetuity in this body by a temporary appointment exist in this case—a vacancy, and the occurring of this vacancy during a recess of the Legislature of the State of New Hampshire. The State, then, is entitled to this seat here.

It has been admitted on all hands that in construing powers like this, organic powers designed for the organization and perpetuity of government, every intendment should be in favor of the accomplishment of that object, and therefore a liberal construction should be given to the language to secure the purpose intended, the object designed, the perpetuity of the body, the continuance of that representation until the proper power in which is vested the authority to elect for the term shall be in session and may exercise its authority.

The latter part of this clause of the Constitution has been constantly liberally construed by the Senate. Where it is conceded that the governor had the right to make an appointment, the appointment does not terminate, as it might by a very strict construction of the latter clause of this clause, on the meeting of the Legislature of that State in which the vacancy exists and where the appointment is made, but it has been continually held that the appointee continues to hold, not merely until the meeting of the Legislature, but until the Legislature has chosen a successor, and thus terminated the temporary appointment, or until the Legislature has sat out its term and failed to act in the premises.

Mr. EATON. Will my friend allow me to ask him a question?

Mr. McDONALD. Certainly.

Mr. EATON. Suppose there was no election of a Senator by the Legislature, and no effort to elect a Senator, what would become of the governor's appointee then?

Mr. McDONALD. I had already stated that before the question was asked.

Mr. EATON. I did not hear the Senator's statement.

Mr. McDONALD. I stated that this appointment, temporary as the Constitution declares it to be, continues until the end of the next session of the Legislature, unless they sooner fill it; and if they fail, of course then a contingency has arisen for that time at least when the State is without its equal suffrage in the Senate by its own consent, and the governor cannot appoint.

Mr. President, it seems to me that it ought to take a strong, unbroken line of precedent or a clear and well-settled construction of the Constitution to the contrary to authorize us to deny to a State, when she is asking it, her equal suffrage in the Senate. To justify such a denial the Constitution should be so clear upon the subject that there can be no two questions in regard to it. So far as the question of precedent is concerned, if I understand the cases that have been cited, (and I have given some attention to them,) they are as to number largely in favor of the construction that I am insisting upon. Down to 1825 eight Senators had been seated here upon appointments made by the executives of the States, many of them appointed to unfilled terms where the Legislature at the time of the occurring of the vacancy was not in session.

Mr. ROLLINS. All of the eight.

Mr. McDONALD. All of the eight. But in 1825 a vacancy occurred in the representation in the Senate from the State of Connecticut. It was the second time a vacancy had occurred from that State under the same circumstances. The first time the appointee of the governor was received and seated by a vote of 13 to 10. On the next occasion question was made as to his admission, and after some debate, for particular reasons which have not been made very clearly to appear in this discussion, by a vote of 23 to 18 the appointee was excluded. The report of the majority of the Committee on Privileges and Elections in the present case informs us that there is no preservation of that debate so as to know the particular reasons given or the particular conclusions arrived at by the various Senators who discussed the question. This report says:

> No record of this debate has been preserved, and the committee have not the advantage of the reasoning by which the Senate was guided in its action.

But it is now said that the Senate then decided by a vote of 23 to 18 that the governor's power to appoint has a limitation, that it can only be exercised where the vacancy has arisen by mere accident, and that it cannot be exercised where the vacancy has occurred by the expiration of a term. That may have been the ground upon which the Senate at that time by its vote determined that Mr. Lanman was not entitled to his seat; but, if so, in 1837 another case was brought forward here of precisely the same character, it being an appointment to begin a term. In the appointment of Sevier, of Arkansas, as his own successor, precisely the same case in principle was presented that was passed upon in 1825; but it is said that the committee having charge of that case drew a distinction between it and the Lanman case, and the Senate affirmed the action of the committee. If the committee did so they drew a distinction without a difference. Those who advocate the settlement of this question upon the Lanman case have been compelled to admit in this debate that there is no difference in point of fact between the appointment made in the case of Senator Sevier and that of Mr. Lanman, of Connecticut.

Mr. BAILEY. Will the Senator permit me to interrupt him at that point?

Mr. McDONALD. Yes, sir.

Mr. BAILEY. The Senator states that Senators have been compelled to admit that there was no difference in point of fact between Sevier's case and Lanman's case. Certainly the Senator did not measure exactly the force of that expression. The facts as I understand them were different in one respect. Sevier's term was terminated by lot, or, as expressed the other day by a Senator, by a lottery; in other words, he drew under the order of the Senate by lot the class to which he should be assigned. At the time of his election or at any time prior to the determination of that lot, the Legislature of Arkansas could not tell when his term of office would expire. That fact made the point of distinction which was drawn by the committee in the two cases.

Permit me to say another word just here. It seems that the minority of eighteen of that date were of the opinion of the majority in 1825 in the Lanman case, and voted against the admission of Mr. Sevier. I may say that some of the greatest constitutional lawyers this country has produced, among others Mr. Webster, Mr. Clay, and Mr. Crittenden, voted in that case, as I understand, to sustain the decision of the Senate in the Lanman case.

Mr. McDONALD. The explanation of the Senator from Tennessee has not changed this proposition in any respect. Mr. Lanman was appointed his own successor, his term having expired on the 3d of March; Mr. Sevier was appointed his own successor, his term having expired on the 3d of March; but the Senator from Tennessee says—and the report of the committee undertakes to draw the same distinction—that because Mr. Sevier drew the short term and did not sit under his first election for six years as he might have done if he had drawn the full term, therefore there was a difference in the two cases; the Legislature not being able to determine when they elected him what particular term he would draw. But he drew his term in pursuance of the Constitution: his term terminated by the limitation fixed in the Constitution. If the governor of a State has the right under this power in the Constitution to appoint for the beginning of a term in one case, I should like gentlemen to tell me where the limitation is to be put upon him after that? If he may appoint to fill a vacancy that has happened by the expiration of any term, short or long, which is fixed by law and which terminates by law, why may he not equally appoint at the beginning of a term which runs for four years or six years?

Mr. BAILEY. Does the Senator ask me a question?

Mr. McDONALD. Yes, sir.

Mr. BAILEY. I say that in my opinion the decision in Sevier's case was wrong.

Mr. McDONALD. Exactly.

Mr. BAILEY. The facts were not identical with the facts in the Lanman case. The Senate, in 1837, attached to the distinction between the facts in the two cases an importance that I myself do not. I agree with what has been stated by other Senators, that the decision in Sevier's case was a wrong decision, but the report of the committee showed that it intended to recognize a principle which was settled in the Lanman case, a principle which has been recognized from the time Lanman's case was decided to this day, and never before now disputed upon the floor of the Senate.

Mr. McDONALD. That is, the committee intended to recognize the principle that the power of the governor to appoint could only be exercised where a vacancy occurred during a term and during the recess of the Legislature of the State in which it occurred. That I understand to be what is claimed was the decision in the Lanman case, although many Senators may have voted for the rejection of Lanman upon different grounds. There are contemporaneous statements which indicate very clearly that that may have been the case, and probably it was the case. Therefore the committee then recognized in the Sevier case, as the Senator from Tennessee says, the principle of the Lanman case, and then they violated it by reporting that Mr. Sevier, appointed to commence a term as his own successor, was rightfully appointed by the governor of his State, and could hold that temporary appointment until the next meeting of the Legislature.

The Senator from Tennessee and those who stand with him say that the Lanman case was decided right upon the propositions which they state, and they admit that the Sevier case was decided wrong if the Lanman case was decided right; so that they take as their precedent the Lanman case, which, according to the principles necessarily ruled on upon the facts presented in the Sevier case, was overruled twelve years afterward, and they make that the ground of their action in this case.

Mr. HOUSTON. Mr. President——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Does the Senator from Indiana yield to the Senator from Alabama?

Mr. McDONALD. Certainly.

Mr. HOUSTON. The Sevier decision may have been right or it may have been wrong. With that case the committee which made this report have had nothing to do except as a precedent. But in that case the committee which had charge of Sevier's application for admission expressly indorsed the principles established in the Lanman case. While it is true that the committee may have committed an error, and the Senate may have done wrong in the admission of Sevier, it is very clear that that decision does not overrule the Lanman case, because it expressly sustains the Lanman case, and the committee seeks to draw a distinction, certainly a distinction satisfactory to itself, if it may not be satisfactory to the Senator from Indiana and myself.

Mr. McDONALD. I should like to ask my friend from Alabama a question in return. What does he understand to be the principle settled in the Lanman case?

Mr. HOUSTON. I have no doubt about the principle settled in the Lanman case. I did not suppose any question existed upon that point at all. The principle was that the governor of a State has no authority to appoint a Senator where the vacancy, if you call it a vacancy, grows out of the fact of the expiration of a previous regular term of service.

Mr. McDONALD. Then, let me ask my friend what is the principle settled in the Sevier case?

Mr. HOUSTON. That it is wholly unimportant for me to state, because while that decision may be wrong, and I think it was wrong, yet outside of the error of its assimilating cases it establishes and reasserts the principle decided in the Lanman case.

Mr. McDONALD. To the extent that my friend claims for it, which is that the governor cannot appoint to begin a term. Is it contended that that is the decision in the Sevier case, that that is the recognition of the committee which reported that case, when it reported in favor of seating a man whose credentials stand upon precisely the same ground, an appointment to begin a term which had terminated in his own person?

Mr. HOUSTON. Not exactly that. The committee which decided in favor of the admission of Sevier thought there was a distinction between the two cases. In the Lanman case there was a regular expiration of the term of service of six years. In the Sevier case the fact was not precisely in that condition. It is true the term of service of Sevier under the Constitution expired, but the committee thought (and of course I have nothing to say about their judgment, for I have no power to revise it) because Sevier was elected in September previous and drew lots and happened to draw a short term when the Legislature had adjourned and could not have provided for it, that was an excuse to the Legislature for not having provided for the election of Sevier's successor, because they had a right to suppose that probably he would draw a better term than he did. That was their only reason, I presume.

Mr. McDONALD. Then I understand that the committee having charge of the Sevier case agreed that in the Lanman case it had been determined by the Senate that the governor could not appoint to begin a term, and that the case they had under consideration differed from the Lanman case because that term had been shortened by the provisions of the Constitution and was not to run for the six years for which Mr. Sevier might have been elected. I understand that that constituted the distinction, and therefore they admit that there may be contingencies in which the governor can exercise that power and fill a seat at the beginning of a term.

Mr. HOUSTON. That is not the ground upon which the committee put it. If the Senator desires to put it upon that ground, I have nothing to say. I am not here to defend that committee at all. In my judgment they made a wrong decision and a wrong admission of a Senator, but that is past. While that is true in my opinion it does not affect the judgment of the committee outside of that act when they declare that the Lanman decision is the true establishment of the law.

Mr. McDONALD. The difference between the Senator from Alabama and myself is just this: I think the committee in that case made a right decision and gave a wrong reason for it.

Mr. HOUSTON. I do not think so.

Mr. McDONALD. The Senator from Alabama takes the reason, and I insist upon the decision, and as a question of legal authority I think the weight of authority is on my side.

Mr. SAULSBURY. Will the Senator allow me to interrupt him a moment?

Mr. McDONALD. Certainly.

Mr. SAULSBURY. The Senator from Indiana asked the Senator from Alabama a few moments ago what was the principle settled in the Sevier case. I think from the report of that committee, if there was any principle at all settled in that case, it was this: that where a contingency happens which cannot be foreseen, the Legislature not being in session, then it is competent for the governor to appoint. That meets precisely the condition which was taken as necessary to enable the governor to appoint by Mr. Badger in his speech in 1854, for he there said that two things must conspire: first, an unforeseen contingency, and, second, the absence of a Legislature to fill it; and if there is any principle whatever settled in the Sevier case, it is that principle; and the decision in that case rests upon that principle that the happening of the vacancy in that case could not possibly have been foreseen by the Legislature, and therefore the governor might fill it.

Mr. McDONALD. My friend from Delaware and I take a very different view in regard to the Lanman case. He says, if anything was settled by that case it was so and so. Now, Mr. President, I do not think that anything was settled by it. That is precisely the point that I have been trying to press, that that case which is insisted upon as having so conclusively settled the construction which is to be given to these clauses of the Constitution that it is not now proper to question it, settled nothing; it stands alone, the solitary case against all the precedents that went before and against the very first

decision that was made afterward. Who can tell how many of those twenty-three Senators might have thought that the exercise of that power ought to have been within the letter of the Constitution and that the governor of Connecticut should not have made the appointment until the vacancy had actually occurred? Of the twenty-three who voted on that side against the eighteen who voted to seat Mr. Lanman, how many may have been controlled by that consideration?

It seems to me that when it is insisted by Senators here that we are not to look to our own construction of this instrument, but that we are to be governed and guided by these decisions that they refer us to, and particularly by that in the case of Mr. Lanman, it should be considered that at best the case was passed upon by a mere majority and its principle was overruled twelve years afterward; and standing as it does against all the precedents that went before it, I think it is rather too much to insist that we shall give it now this great weight and authority and under its effect and by its rule as an inexorable rule exclude this State from its equal voice in the Senate.

But it has been said that the proceedings of the constitutional convention disclosed the fact that there is this limitation upon the power. I have looked into that with some care, and I draw a very different conclusion. The very able argument submitted by my friend the Senator from Tennessee was based mainly upon that fact, and yet in examining these documents I have come to a different conclusion. We find that in the original draught of the Constitution as presented by the Committee of Detail, as it was termed, these clauses of the Constitution were in article 5, the first and second sections. As they stood then they read:

The Senate of the United States shall be chosen by the Legislatures of the several States. Each Legislature shall choose two members. Vacancies may be supplied by the executive until the next meeting of the Legislature. Each member shall have one vote.

"Vacancies shall be supplied by the executive until the next meeting of the Legislature." My learned friend from Tennessee said that left the question ambiguous as to whether the Legislature could fill the vacancy or not. I do not think there is any ambiguity of that kind. I think there is the strongest implication.

Mr. BAILEY. The Senator will permit me to correct him. I have no recollection of having used any such language as that which he attributes to me.

Mr. McDONALD. It is not exactly that, but it is very nearly so. The Senator said, to quote his very words:

It is very clear that doubts were entertained whether under the section as repealed by the committee, the exercise of the power to choose a Senator for six years did not exhaust the power of the Legislature if the Senator should live through the term. He might refuse to accept the office; he might wish to resign; he might be promoted to another office; he might be expelled. The doubt was whether in either of these events a successor could be elected by the Legislature or appointed by the executive.

Mr. BAILEY. I did not say I had doubts. I spoke there of the doubts of others entertained at the time.

Mr. McDONALD. I am quoting the language of the Senator on this point. But that is not exactly in the line of my argument. I do not think there is any doubt that the original section 2 of article 5 as it stood in the draught of the Constitution presented by the Committee of Detail conferred upon the governor of a State the power to fill any vacancy in the Senate until the next meeting of the Legislature. Was it afterward curtailed or purposely stricken out so as to make a limitation? I think not. I think the proceedings of the convention show that it was not the purpose to do it. Reading the same paragraphs of the debate that were read by my distinguished friend, I desire to call attention to all that was said by Mr. Randolph on that occasion.

Mr. WILSON objected to vacancies in the Senate being supplied by the executives of the States. It was unnecessary, as the Legislatures will meet so frequently.

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Mr. RANDOLPH thought it necessary, in order to prevent inconvenient chasms in the Senate. In some States the Legislatures meet but once a year. As the Senate will have more power, and consist of a smaller number, than the other House, vacancies there will be of more consequence. The executives might be safely trusted, he thought, with the appointment for so short a time.

Mr. ELLSWORTH. It is only said that the executive may supply vacancies. When the Legislature meeting happens to be near, the power will not be exerted. As there will be but two members from a State, vacancies may be of great moment.

Mr. WILLIAMSON. Senators may resign or not accept. This provision is therefore absolutely necessary.

On the question for striking out "vacancies shall be supplied by the executives"—

The votes stood 1 for the motion and 8 against it, and the State of Maryland divided. The amendment was lost by a vote of 1 to 8 and a divided State.

What addition was afterward made, and why? How did it come that there was any change in the phraseology of this part of the Constitution after this section had been thus passed upon? It appears on a motion made by Mr. Madison on the next morning; and here is what he said in regard to that:

Mr. Madison, in order to prevent doubts whether resignations could be made by Senators, or whether they could refuse to accept, moved to strike out the words after "vacancies," and insert the words "happening by refusals to accept, resignations, or otherwise, may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the executive thereof until the next meeting of the Legislature."

And so it was passed and went to the Committee of Style and Revision. Now I ask the Senate to note that Mr. Madison's amendment put the power of the governor to fill vacancies upon precisely the same footing as that of the Legislature to fill vacancies. Where vacancies happened, the Legislature might fill them, or the governor might appoint until the next meeting of the Legislature; and the power of one, so far as this question of vacancy is concerned, was equal to the power of the other.

My learned friend said that the Committee of Style had no power to change the meaning of the terms that had been thus sent to them, nor do I believe they had such power, although I believe and say that if a change made by them was such that it could not be reconciled with the text that had been sent to them, we should be compelled to take that which the convention afterward received from them, for that was the last act of the convention. But, in my judgment, they did not change it, and therefore I hold that where a vacancy occurs, if the Legislature is in session it must fill it, and if it is not in session, if it occur in the recess of the Legislature, the governor has the power to make a temporary appointment vested in him by this clause of the Constitution, intended to be so to secure that perpetuity which is necessary to the preservation of this body.

But, Mr. President, there have been a number of precedents cited where States have acted upon what is understood or claimed here to have been the decision in the Lanman case. My own State has been cited as an illustration; but that will not answer. It gives no support to their argument. The vacancy in my State in 1855 occurred on the 3d of March, when the Legislature of the State was in session, and it continued in session until the 10th of March afterward. Consequently one of the occurrences, one of the contingencies upon which this power was conferred on the governor, did not exist in that case.

So, Mr. President, it seems to me that on principle, taking into view what the framers of the Constitution were providing for when they drew these sections of the instrument, and above all considering the importance of preserving to every State in this Union its equal suffrage in the Senate, unless it is denied to it by its own consent, we ought to accept this appointment by the governor of the State of New Hampshire And in view of what has been said by other Senators in regard to the misapprehension—if you call it by no other name—of the authorities of the State of New Hampshire in regard to their right to fill this place, it is clear to me that she is voiceless here, so far as one of her Senators is concerned, not by her desire. Shall it be our act? It is not her desire. Shall it be our act to say that she shall not be our equal here until her Legislature shall assemble and fill this place?

Something has been said about which one of the legislative assemblies, if there are two in New Hampshire—there are certainly not two that have a legal existence at the same time—can have authority to fill the place. In my judgment any legislative body in any State that has vested in it the legislative power of that State, being in session when there is a vacancy in the representation of that State, has a right to fill it, a right under the Constitution strictly conferred, and that right cannot be impaired or taken away by any act of Congress or any power outside of the State. There requires, so far as this is concerned, but one thing, for this part of the Constitution in my opinion is self-executing, that there should be a Legislature in session clothed with the law-making power of the State, and a vacancy in the representation of that State in the Senate; and upon the occurring of these two events that place can be filled by that Legislature, just as I believe the present vacancy can be filled by the governor of the State until the next meeting of the Legislature.

Mr. JONES, of Florida. Mr. President, were it not for the importance of this question I would not consume one moment of the time of the Senate, but I feel it incumbent on me to assign the reasons for the vote which I intend to give in this case.

I believe in the right of the State of New Hampshire to two representatives on this floor, and I shall vote for the admission of the present applicant. I shall not undertake to go back to the beginning of the Government to find the law to guide me in the judgment and the opinion I have formed. I think that too much has been said on that subject. I think that we are in a body which is not controlled by the same principles which control courts of justice in settling questions of property. Judicial precedents become established law. They affect the rights of individuals; they affect the titles to property, and it is necessary to preserve them in an unbroken chain. But under the Constitution of the United States each House of Congress is made the exclusive judge of the elections and returns of its own members. It matters but little to my mind in point of law, therefore, what the Senate decided in 1825 or in 1837. If its former conclusion is not satisfactory to me, I feel that I am not compelled to follow it, because the Constitution has invested this body with an independent power to judge for itself respecting the right of the present applicant.

Each House—

Says the Constitution—

shall be the judge of the elections, returns, and qualifications of its own members.

Not the Senate that met in 1825. It passed upon its case in its day and in its generation. So with respect to the decision which was made in the Arkansas case, in 1837; the members of the Senate then discharged their duty to their own consciences and to the country, and we are now called upon to discharge ours. This case, therefore, must be decided upon its own merits without regard to what has gone before it.

Senator Wadleigh's term of office expired on the 3d of March, 1879. On the 13th of March, 1879, Mr. Bell was appointed in his place by the governor of New Hampshire. In October, 1878, a change was made in the constitution of that State and two Legislatures were chosen in that year—one under the old constitution, the term of which commenced in June of that year and which will end in May of the present year; the other in November, 1878, and which will convene in June, 1879. These are the essential facts of the case.

During the last session of Congress the question was submitted to the Senate whether or not the Legislature which was elected under the old constitution had power to elect a Senator to succeed Mr. Wadleigh. The Committee on Privileges and Elections of this body made a report, which was adopted by the Senate, denying the power of the Legislature elected under the old constitution to elect Mr. Wadleigh's successor. I adopt the language of the majority report.

Mr. BAILEY. Permit me to ask the Senator a question. Was that report made in 1878 adopted by the Senate?

Mr. JONES, of Florida. It is so stated in the report of the majority of the committee in the present case, and I have relied upon that for the facts. I will read it:

The Committee on Privileges and Elections of the Senate in the Forty-fifth Congress, to whom was referred the question which of these two bodies had the right to choose a successor to Mr. Wadleigh, was of opinion, and so reported to the Senate, that under the act of 1866 (Revised Statutes, section 14) the last-named Legislature was entitled to elect, because it was the Legislature chosen next preceding the expiration of Mr. Wadleigh's term of service. In the opinion of the committee this report and the action of the Senate in adopting it are not important in the settlement of the question now presented.

Mr. BAILEY. I wish to say that it is evident, from an examination of the RECORD, that it was a mistake of the committee in reporting that it had been adopted by the Senate. The RECORD, I think, will show that the report of the committee was made recommending the indefinite postponement of a bill, and, without further action on that report, it went over. That is my impression.

Mr. JONES, of Florida. I suppose that the indefinite postponement of a bill which a report recommends the postponement of is founded upon the adoption of that report, and I did not suppose that the report of the majority of this committee was erroneous in so important a particular. I say, sir, that this is an important fact, and I disagree with the majority of the committee when they say that it has no bearing in the settlement of this case. I say that it has, and I accepted it as an admission on their part that a report had been made to this body and that the Senate had concurred in that report.

Now, sir, whatever may have been the motives which induced the submission of this question to the Senate, we are bound by the decision upon it. We were not bound to take action on the matter, but having acted, I hope for the sake of the character of this body and the good faith which ought always to attend its deliberations no one will say that the decision arrived at can now be questioned after it was accepted by the State and its right to full representation made to depend upon a necessity which that decision had put upon her.

It was argued here the other day by the Senator from Wisconsin [Mr. CARPENTER] that the State had a right to elect a Senator and failed to exercise that right; but, sir, on every principle of honorable estoppel we cannot complain that the Legislature of New Hampshire elected under the old constitution failed to exercise that right if she had it. He who remains silent, says the law, when he ought to have spoken shall not be heard to complain when he ought to be silent; and it is as good a maxim in political ethics as it is in the courts of justice. Having taken jurisdiction of the question and given an opinion upon it we are just as much bound by it as if it had been given in the case which is now before us.

I hold, then, that the old Legislature had no power to elect Mr. Wadleigh's successor; and if this be true it is as clear as anything can be that the Legislature elected under the new constitution, and which will convene in June next, is the only body that can elect a Senator for the full term from that State. From this state of things a vacancy exists to-day in the Senate. While the Constitution declares that the Senate shall be composed of two Senators from each State, it is an undisputed fact that the State of New Hampshire has but one Senator in this body to-day. That this is a vacancy in the ordinary sense of the word no one can deny; that it cannot be filled before June next, except by an appointment by the governor, is equally true. New Hampshire is one of the States which ratified the Constitution, and I think there was no man within her borders who voted for its ratification who did not accept its language in a popular rather than a legal sense. It never was imagined that it would require the legal skill and the known abilities of the Senators from Georgia and Wisconsin to make plain to the people the legal import of the word "vacancy" as used in the Constitution, or to tell them of the weight and consequence which was given to the plainest expression which the framers of that instrument could employ.

We are told by the Constitution that the Senate "shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years," that they shall be divided into three classes, so that one-third of the body may be chosen every two years, "and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature." It is insisted that the word "vacancy" as herein employed does not refer to the Senate as a body, but to the terms of the Senators; and before I go any further on that subject I wish to refer to the proceedings of the convention already alluded to by my friend from Indiana.

Mr. Randolph thought it necessary, in order to prevent inconvenient chasms in the Senate—

Not in the terms of the Senators but in the Senate of the United States, that great body which was about to be created, and to which a large portion of the sovereignty of the American people was to be confided. It is contended that the vacancy must arise from resignation, death, removal, or expulsion during the term of the Senator to authorize the governor to fill, and that his power applies in no case where the term has not been filled and the office is vacant in consequence of a regular election not having been held to fill it. Now, what was the object of the Constitution in giving this power to the executive of the State? Was it that the six-years term of a Senator should always be filled by an individual to draw pay, duty or no duty, or was it that the Senate as a great body, the organ of the States, should at all times when called into service, regular or extraordinary, be composed in the manner and of the number stated in the Constitution? Is it possible that the men who framed this instrument thought it more important for the interests of the Government and of the people that the term of Senators should always be filled than that the Senate should be filled and the States secured in their full constitutional representation?

It is said that no harm can come of a temporary appointment made to fill a vacancy which happens during a senatorial term, but that it would be highly dangerous to permit the executive of a State to make an appointment at the beginning of a term. Let us reason a little and see the consistency of this argument. What makes this difference? Are the first two months of senatorial life of more importance than the two last or the two in the middle? I have listened patiently to hear some valid reason assigned for the distinction taken between an appointment to take effect at the beginning of a term and one made after there had been a regular entry into a regular term of service. No authority but that of the Legislature, it is said, can fill the position in the first instance, and those who employ this argument are forced to admit that the day after it is thus filled, yea the next hour or the next moment, it may be vacated by death, resignation, or otherwise, and then filled by an executive appointment. Suppose that any of the new Senators now around me had been stricken with death as they went to the President's desk to take the oath of office (which I am glad did not happen) and while the Legislatures of their States were not in session, does anybody doubt that a case of that kind would be within the provision of the Constitution authorizing a temporary appointment? The Senator may never have occupied one moment on this floor; he may have just entered here, and on his way to that desk he may be stricken down by death, and still if the Legislature is not in session when that calamity happens, there is not a lawyer in the United States who will deny to the governor of the State from which he came the power to fill the vacancy at once by a temporary appointment, and that appointee comes here and he enters upon the duties of his office as an original Senator, occupies a seat for the first time, and it will not be contended that any very serious danger could result to the Constitution from such an admission. It may be said that this is an extreme case, but it is not beyond the line of probability, and that is a good way to test a principle.

But it is said that the difference is in the election by the Legislature, that there can be no vacancy until there is such an election, for the reason that it was not intended that there should be. The provision of the Constitution relating to vacancies in the other body has been referred to. Well, what does that prove? If it proves anything it is that the idea of keeping full the representation from the State, and not the term of the individual member, was uppermost in the mind of the convention. The language is as cited by the distinguished Senator from Wisconsin the other day:

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

In that case I suppose no objection could be interposed to the filling of a vacancy at the beginning of a term on the ground that it was the act of the governor. In the case of a vacancy filled by an election ordered to the other House, no objection I say could be taken such as is now taken to an appointment by the governor, because in that case the election comes from the people, who are the fountain of all political power and authority. The Constitution requires that vacancies in the House of Representatives shall be filled by election by the people, the same as regular terms are filled; and still, strange to say, the Constitution gives to the executives of the States, in language as broad if not broader, the power to make temporary appointments to fill vacancies in the Senate. I defy anybody to distinguish between the language in the two cases in substance; and still it is argued here that in the one case the governor cannot fill an original vacancy by virtue of the power conferred in almost identical language with that which confers upon the people of the United States the authority to fill a vacancy in a congressional district.

If a vacancy now existed in the House, whether original or not, and the executive of the State in which such district was located should issue his writ of election, who could take the objection that it was an original vacancy but the people? They have the power to fill regular terms; it is from them that the authority emanates in all cases of delegated power, and they are the same power that the Con-

stitution fixed upon to fill vacancies in the House when elections are ordered by the governor of the State; and the very language that was employed to confer that power is used in the Constitution to invest the governors of the States with power to make temporary appointments to this body.

Will it be said that the people, who are the source, I repeat again, of all power, may not fill a vacancy in the beginning of a term in the other House? If they can, and I affirm that the proposition is beyond reach of dispute, then they get the power to do it from language almost identical with that which is employed to confer the power of making temporary appointment on the executives of the States respecting vacancies in the Senate.

Mr. President, we have been referred to the act of 1866, and told that vacancies therein provided for must be filled in the same manner as regular terms. This to my mind proves nothing. One great controlling fact has been overlooked in this debate, and that is that the executive of a State has no power to fill any vacancy in this body in reality. Owing to the slip of language we sometimes speak of the power of the governor to fill a vacancy in the Senate, but he has no such power. The Constitution never intended that he should have such a power. It is only the Legislatures of the States that can fill vacancies, as the people fill vacancies in the other House. And what does this prove? It proves conclusively to my mind that the framers of the Constitution never intended that a State should go one moment without two Senators to represent her on this floor. Vacancies were thought of and expected to arise, but it was known that the Legislatures alone ought to fill them, and these bodies were only in session at stated periods. The governors, it is true, might call them together in special session, but such was the desire to keep the Senate full that the Constitution was unwilling to await the short delay of a special session, and gave the power of a temporary appointment to the governors. This is the only instance in the Constitution where two distinct methods are provided to keep an office full. In the House no provision is made to fill the office while the election is being held, but here it was thought wise, first, to repose the power of temporary appointment in the governor; and, secondly, the power to fill the vacancy in the Legislature.

These two things are as distinct as can be. The temporary power of appointment given by the Constitution to the governor is not the filling of the vacancy. But in order to prevent a moment going by when the State would be without a representative here, such was the importance attached to filling the places in this body by Mr. Hamilton and others that they were not willing to wait until a special session of the Legislature could be called before the power was given to the governor to make, in the language of the Constitution, a temporary appointment, not to fill the vacancy, because the language which follows this grant tells us that when the Legislature meets it shall proceed to fill the vacancy. The appointment made by the governor, therefore, is not the filling of the vacancy, but it was an additional precaution taken by the framers of the Constitution to guard against chasms in this body, in the language of Mr. Randolph, which we find nothing like in the Constitution in any other case. In the case of vacancies in the House of Representatives, all the delays incident to a regular election have to be waited on; the governor has to be notified; his mandate has to go forth; a delay of months may intervene before a Representative of the people can go into the other House of Congress duly empowered to represent his constituency. But such was the tender sensibility with which the framers of the Constitution regarded representation here that they were not willing to wait the ordinary calling of a Legislature to fill a vacancy, and they gave to the governor of each State the power to make temporary appointments until the Legislature could fill the vacancy.

Now I affirm this proposition which I will challenge any one to deny as a point of constitutional law. It is not disputed that a vacancy may arise in the beginning of a senatorial term as well as at the end, but it is claimed that no power can fill such a vacancy except the power of the Legislature. My proposition is that any vacancy in the senatorial office which the Legislature has power to fill under the Constitution it is competent for the executives of the States to fill by temporary appointment. Where do the Legislatures get the authority to fill vacancies, for be it remembered we are now speaking of vacancies, and there is a vacancy here which the Legislature of New Hampshire will be called to fill when it meets in June next, and it will proceed to fill that vacancy in accordance, I suppose, with the act of 1866, which was read to us the other day by the Senator from Pennsylvania, [Mr. WALLACE:]

> And if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

I say that the power of the governor to make temporary appointments in cases of this kind goes hand in hand with the power of the Legislature to fill them in a constitutional way. The one is coextensive with the other. Whenever there arises a case for a temporary appointment under this provision, there will ultimately arise a case for the exercise of the power of the Legislature to fill a vacancy.

Mr. EATON. Not necessarily.

Mr. JONES, of Florida. You and I differ throughout the whole case.

Mr. EATON. My friend will pardon me. Suppose a vacancy had occurred when the Senate was in session on the 21st day of February last, the session to expire on the 3d of March, and the governor proceeded to fill the vacancy, if my friend will allow me to use the expression, made a temporary appointment, would it not have expired on the 3d of March, though there should be no meeting of the Legislature until the May or June following? Therefore the Senator's proposition does not necessarily follow at all.

Mr. JONES, of Florida. In the great majority of cases it will follow. The latter power I claim goes hand in hand with the former and is intended to apply to the same cases. So that when you say there is a vacancy in the office of Senator which the Legislature may fill when it meets, you must say that the executive before that time arrives can fill it by appointment. Can the Legislature of New Hampshire fill this vacancy when it meets?

We have been referred to the peculiar language of the Constitution on this subject by the Senator from Georgia and other Senators who have spoken. Here, sir, we have an example of the precision which the framers of the Constitution thought proper to employ when they intended to confine the vacancy to the term of a particular officer. It is argued here that the words "resignation or otherwise" must mean removal, or expulsion, or inability to act, and a number of other like causes, as the Senator from Georgia tells us. I think a Senator on the other side of the Chamber the other day, in alluding to this subject, made a very proper answer, that it meant the filling of the term in any other manner.

> In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of the removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

Here is language that admits of no doubt as to what the convention meant. Its framers had this subject before them. It is not possible for any overlapping to take place in the presidential office, because these vacancies must arise out of specified and particular instances. There is no "resignation or otherwise" there. It is not stated that if a vacancy takes place in the presidential office by resignation or otherwise the Vice-President shall act as President. The particular grounds are specified with that precision which the importance of the subject demanded. It was equally as easy to say that in case of the resignation, death, expulsion, or inability of a Senator to act, his place might be filled by a temporary appointment by the executive, which should continue until the next meeting of the Legislature. No such language was employed, but it says that if a vacancy occur by resignation or otherwise the governor may designate a temporary successor who shall act until the Legislature shall fill the vacancy at its next meeting.

It has been argued here that the word "resignation," as found in this part of the Constitution, was intended as a limitation. The true history of the manner in which it found its way in here has been stated by my friend from Indiana. It originated with Mr. Madison, as he read to the Senate a while ago. The question was first left open and the word "vacancy" employed, and then it was qualified, for the reason given by Mr. Madison:

> Mr. Madison, in order to prevent doubts whether resignations could be made by Senators, or whether they could refuse to accept, moved to strike out the words after "vacancies" and insert the words "happening by refusals to accept, resignations, or otherwise, may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the executive thereof until the next meeting of the Legislature."

Mr. Williamson was referred to by the Senator from Tennessee. He said:

> Senators may resign or not accept. This provision is therefore absolutely necessary.

In the case of a Senator who refuses to accept, as in the case of a Senator who shall unfortunately be stricken down by the hand of death before he enters upon his office, there is abundant authority in the Constitution for a temporary appointment by the governor. If the Legislature of a State shall designate a Senator and before he comes here to occupy the position he indicates a desire to retire from it, that case is put as one which would justify the exercise of the appointing power by the governor where a vacancy would arise, although it would be clearly an original vacancy in the term.

Now, sir, one word in regard to the Lanman case and I have done. The various cases have been paraded here just as one would parade a lot of decisions in a court of justice settling questions of property. As I said in the opening of my remarks to-day, I am not disposed to regard them with that veneration which some of my brethren of the profession seem to attach to them. I remember to have read somewhere a celebrated saying of one of the distinguished men of Great Britain. "You may shake" said he, "the constitution of the land to its center and the lawyer will sit tranquilly in his cabinet, but just touch a cobweb in the corner of Westminster Hall and the exasperated spider will crawl out in its defense." There is no precedent to guide me in this case but the justice of it and the Constitution which is before me; and from all the lights that I have I am clearly of opinion that the present applicant is entitled to a seat. It is remarkable to my mind, referring to precedents, that the further we get away from the origin of the Constitution the more importance is attached to the men who have delivered opinions respecting it. I was taught in my early professional days that the men who participated in framing this great charter of freedom and who sat in the

first Congresses under it were the best judges as to what its true meaning was. I was taught to believe that the men who sat in the early Congresses of this Union, the great lawyers whose work we have here before us, had sounder views, more correct ideas in regard to the meaning of this great work, than the men of succeeding generations; and still we find the early decisions of the men who framed this charter of liberty trampled under foot and the decisions of a generation that came in behind them taken up and relied on implicitly. Why is the decision of 1789 heeded so little here in this and similar cases? It stands before you in the first case from Tennessee——

Mr. BAILEY. Allow me to say that I have examined the roll of the Senate in the year 1797 when the case of William Cocke, of Tennessee, was decided, and I find that not a single person who participated in the framing of our Constitution and form of government was a member of the Senate at that time.

Mr. JONES, of Florida. Well, Mr. President, that may be——

Mr. WHYTE. Will the Senator from Florida allow me to ask the Senator from Tennessee a question? Did he examine when the debate took place on Uriah Tracy's case to see that it was debated very warmly on both sides, and find that Gouverneur Morris, who was one of the active men in framing the Constitution, was one of those who voted in favor of admitting Mr. Tracy?

Mr. BAILEY. I find that when Mr. Tracy's case was before the Senate Gouverneur Morris, who was, I will state in addition, a member of the Committee on Style and Arrangement, and to whose pen popularly is attributed the instrument as it now appears, was a member of the Senate, representing then the State of New York, but I believe at the time the Federal Constitution was framed he was a delegate from the State of Pennsylvania. Gouverneur Morris, then also a federalist, voted with the majority, and it was a strictly party vote, and was always recognized as a party vote, and that case was determined on party considerations and in strong party times. It was at the period that immediately followed the election of Mr. Jefferson to the Presidency, when partisan spirit dominated in this body to a degree that has never been known from that day to this.

Mr. WHYTE. Then I suppose the Senator from Tennessee means to say that Gouverneur Morris, who inserted or aided in inserting the clause that the members of each House are the judges of the election and qualification of the members of the respective Houses, forgot that great thing that he was a judge, and was governed solely by partisanship when he voted to seat Mr. Tracy!

Mr. BAILEY. No, Mr. President, I said no such thing; I meant no such thing. I was replying to a statement made by the Senator from Florida to the effect that when the case of William Cocke, of Tennessee, was determined, the body was filled with persons who had belonged to the convention that framed the Constitution. I stated what is the fact, that not a single person who participated in the forming of this Constitution was then in the Senate. The Senator from Maryland asked me then the question whether, in 1801, when Mr. Tracy's case was determined, Gouverneur Morris was not a member of the Senate. I stated that he was, but stated what the Senator himself will not dispute is the fact——

Mr. WHYTE. I do dispute the fact that it was decided on partisanship entirely, for I would not do such an injustice to the memory of Gouverneur Morris.

Mr. BAILEY. I know nothing about Gouverneur Morris, except from his public reputation. I stated the fact that that case was determined by a party vote. There were other men there who were the peers of Gouverneur Morris in patriotism, in intelligence, and in ability, but the fact stands forth that that case was decided by a strict party vote and in strong party times and under the heats of partisan influence.

Mr. JONES, of Florida. Well, Mr. President, I did not take the trouble to hunt up the party views which then prevailed, and I had hoped that there was not any party in it, but I suppose there was party feeling then as there always will be; but it only shows after all that this class of precedents is not entitled to the absolute credence that is claimed for them. If it is possible for a party decision to be made in one case, it is possible for it to be made in another, and the whole ought to fall to the ground. If they are that class of judgments that are governed by party, then I do not want to look to them on a question of this kind. I will only look to the particular case that is before me, and not undertake to discriminate between one party and another, but I confess I did not look into the subject to ascertain how the gentlemen who acted on these cases stood in a party point of view. But I was referring to the notorious fact that those men lived in the year in which the Constitution was adopted, and, although they may not have been in the convention which framed the Constitution, they were men of character and prominence who were in a position to ascertain the views of those who sat in the convention. Society then was small, and the public men of this continent at that time kept up an intercourse with each other, as is clearly indicated in the correspondence between Mr. Madison and Mr. Jefferson. I remember on one occasion, when speaking in this body on a great constitutional question, I found light in a letter written by Mr. Jefferson, when he presided over this body as its presiding officer, to his friend, Mr. Madison, in Virginia, who was then in the retiracy of private life. I found a volume of information in that letter upon the great subject which was then before us. While Mr. Madison was not a member of Congress at that time, he was well informed in regard to the current events of the day.

I have said a little more than I intended, Mr. President, and sufficient, I think, to explain my vote upon this question.

Mr. BLAINE. Mr. President, I will occupy only one moment. The honorable Senator from Wisconsin [Mr. CARPENTER] yesterday, when I did not happen to be in the Chamber, did me the honor to quote a remark I made in response to a question from the Senator from Maryland [Mr. WHYTE] last summer, when there was an attempt made in the Senate to give to the Legislature of New Hampshire, then in session, the right to elect a Senator. I was myself strongly of the belief that that Legislature had the right to elect. I am still of that opinion. The proposed legislation, it will be well remembered, as the Senator from Wisconsin referred to it, became somewhat confused. A bill was introduced by the Senator from North Carolina, not now a member of the body, (Mr. Merrimon,) which was intended merely to have the effect in a declaratory way, or as an act additional to the law regulating the election of Senators, to provide that the Legislature might elect. If that measure had been allowed to come before the Senate, of course every gentleman, without expressing an opinion one way or the other in regard to the existing law, could have voted for it. Afterward the honorable Senator from Wisconsin [Mr. CAMERON] introduced a bill explanatory of the true intent and meaning of the existing law; and on that the Senate of the United States affirmed that the Legislature of New Hampshire then existing had no right to elect. There has been no opportunity since to choose a Senator in that State.

In the brief response I made to the Senator from Maryland on a subject to which I had never given special attention, only that general observation which we all have of matters occurring in legislation, and no issue on which has come before the Senate within the last forty years, I answered of course somewhat hastily and I answered in memory of a case in my own State in 1853. The Legislature of Maine, at the expiration of the senatorial term of Hon. James W. Bradbury, failing to elect and the election going over for a year, the question was discussed as to whether the governor of Maine could appoint. There lay in my mind at the time what was then the unanimous conclusion in Maine, that the governor could not appoint, and he made no effort to appoint, and I spoke out of the memory of that fact. But upon coming to a closer examination of the case, for I spoke without special investigation at all, the fact appeared, which is the leading point of difference in the cases, namely, that the Legislature of Maine was in session several weeks after the vacancy occurred and did not really adjourn until some time in April, the vacancy occurring on the 4th day of March.

My judgment now is that the Senate of the United States, having by their action prevented the Legislature of New Hampshire which ought to have elected from exercising that privilege, it would be rather hard for the Senate to turn around and say that the man who comes here now under the appointment of the governor, the only possible way left open by which the State can now have full representation on this floor, should not be received. That is the only way in which the senatorial seat may be filled for that vacancy, and it would be rather hard, I think, looking at it in an equitable point of view, if equity can be pleaded, for the Senate to prevent the appointee of the governor from taking a seat.

I am paired on this question with the honorable Senator from New Jersey, [Mr. MCPHERSON,] who was compelled to leave the Senate on account of illness. I might, therefore, have sat still and said nothing except announce my pair; but, having been quoted in the way I was by the Senator from Wisconsin [Mr. CARPENTER] I was unwilling to seem in any way to conceal my change of view, or rather my deliberate conclusion, upon the question, or to evade by the pair the full responsibility of voting for the admission of Mr. Bell.

Mr. DAWES. Mr. President, a remark fell from me during the session at which the bill referred to was considered similar to that which fell from the Senator from Maine, and I desire now, therefore, to say a single word.

I have no doubt that if any Legislature of New Hampshire could have made an election it must have been the Legislature which met last June; but I am quite as certain that in so doing it would not have followed the letter of the law of Congress; nor would the coming Legislature yet to meet, if it should undertake to make that choice, follow the letter of that law. If any Legislature of New Hampshire has been prevented from undertaking to make a choice of a Senator, it has been prevented by an act of Congress. The Legislature which met last June could not have filled the vacancy according to the law of Congress, because the letter of that law says that the Legislature which shall make this choice shall be the one chosen next preceding the expiration of the term for which any Senator has been elected. That Legislature was not such a Legislature. If the act of Congress had used the words "the Legislature of each State at its last regular session next before the expiration of such term shall proceed to make a choice," it would have left the matter without doubt, and would have intended what I have no doubt Congress intended to enact when they used the words "the Legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected." But Congress used words which happen, in their application to the case of New Hampshire, to deprive the Legislature of the State of New Hampshire of the power of electing a Senator according to the letter of their own law. It is the act of Congress and the words they unfortunately selected in that act which prevented the Legislature of New Hampshire from following its letter and choos-

ing a Senator by that Legislature which otherwise would have done so.

According to the phraseology of this law, as to any other State in the Union it sufficiently describes the Legislature. It only happens because of the constitution of New Hampshire, that while it applies to every other State in the Union it does not apply to the State of New Hampshire, for every time, so long as that constitution remains as it is, that the election of a Senator recurs in New Hampshire, there will always be a Legislature chosen after the last regular session of the Legislature, but which will not meet until the June after the expiration of the term. That arises from the unfortunate phraseology of the law of Congress. That the State of New Hampshire should be deprived of its representation here because of this unfortunate phraseology, does not seem to me to be sound policy.

Therefore I shall vote for the admission of the Senator appointed by the governor of New Hampshire.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to strike out the word "not" before the word "entitled."

Mr. EATON. I desire before the vote is taken, even on striking out the word "not," to ask a question or two of my friend from New Hampshire. When did the new constitution of New Hampshire become operative?

Mr. ROLLINS. On the 1st of October, 1878.

Mr. EATON. And under that constitution what is called the present Legislature has been chosen, the Legislature which will sit hereafter?

Mr. ROLLINS. The Legislature which will sit in June next was chosen in November last. The Legislature which met in session last June was elected in March, 1878, under the old constitution.

Mr. EATON. One other question, which the Senator has partly answered. In 1878 there was an election of the Legislature of New Hampshire?

Mr. ROLLINS. In March, 1878.

Mr. EATON. It held its session when?

Mr. ROLLINS. In June, 1878.

Mr. EATON. How long did it continue in session—until July?

Mr. ROLLINS. Until August.

Mr. EATON. Therefore any time between June, 1878, and August, 1878, it was the duty of the General Assembly of New Hampshire to elect a Senator to succeed Mr. Wadleigh, whose place was to become vacant on the 3d of March, 1879.

Mr. ROLLINS. Will the Senator allow me to say just a word?

Mr. EATON. Certainly; by all means.

Mr. ROLLINS. The Legislature of New Hampshire would have elected a Senator in June, 1878, if the Senate of the United States had not declared that that Legislature had not the power so to do.

Mr. EATON. Mr. President, I might as well say a word or two on this matter now, and I shall be very brief. In starting I beg to say that no Senator on this floor who believes that the governor of New Hampshire had not the power to appoint temporarily a Senator to sit upon this floor, is to be brought to task and schooled as though he was doing aught against the Constitution of our common country, or did not desire to see every State fully represented on the floor of the Senate. I regret, from the bottom of my heart I regret, that I cannot cast a vote to seat Mr. Bell. If I were to do so, I should do violence to my own honor, I should dishonor myself, I should violate every constitutional opinion which I entertain with regard to this matter; and therefore I neither will nor can give such a vote.

Mr. CAMERON, of Wisconsin. Will the Senator from Connecticut allow me to say one word?

Mr. EATON. Certainly; with the greatest pleasure.

Mr. CAMERON, of Wisconsin. I wish to say merely that the new constitution was submitted to the people of New Hampshire at an election held in March, and it was adopted by the people. It was provided by the new constitution that another Legislature should be elected in November. Therefore I am not of the opinion that the old Legislature of New Hampshire would have had any right to elect, whether Congress had expressed an opinion in regard to the matter or not, because it was provided by the State constitution that another Legislature should be elected and that Legislature would be the Legislature chosen next prior to the termination of Mr. Wadleigh's term.

Mr. EATON. That is a matter of history.

Mr. ROLLINS. The Senator will allow me to say that the new constitution was submitted to the people in March, 1877.

Mr. CAMERON, of Wisconsin. And adopted then?

Mr. ROLLINS. It was adopted by the people at that time.

Mr. EATON. There is but one Legislature in New Hampshire. That fact was thoroughly settled, if anything can be settled here, by the argument of my honorable friend from Wisconsin, [Mr. CARPENTER.] There cannot be two Legislatures in New Hampshire; there is but one Legislature; and if I am not utterly misinformed that Legislature has adjourned to meet on the last Wednesday of some month. I am not certain which month.

Mr. ROLLINS. That is a mere matter of form; the Legislature has adjourned until the last Wednesday of May.

Mr. EATON. No matter whether it is a matter of form or not, the Legislature of New Hampshire is still in existence, and it has adjourned to meet on a certain day hereafter.

Mr. ROLLINS. It never has met to do business under those circumstances. It is a mere matter of form.

Mr. EATON. That will do very well to talk about, but I am stating a fact.

Mr. ROLLINS. So am I.

Mr. EATON. The Senator says he is stating a fact when he says it is a matter of form. The Senator knows that if a war should take place between this country and Great Britain, and if his State were invaded, and it became necessary to call together the Legislature of New Hampshire to take steps for the defense of the State, it would be that Legislature which has adjourned to meet on the last Wednesday of a coming month which would be convened. Every man knows that, and yet it is a matter of form!

Mr. President, the Senator from Florida [Mr. JONES] refuses to be bound, he says, by the precedent of 1825. He proposes to govern himself in this case by his own judgment and his own reason. So do I, giving all due deference to the decision of the Senate in 1825 and in 1837 and every previous year. But before the Senator's voice in making that declaration had ceased ringing in my ears, it was yet sounding all over this Hall like a trumpet-call, he said that we must be bound by the action of the Senate last year. When here are twenty-five new members who were not members of the Senate last year, the Senator from Florida says that there was a certain action of the Senate last year which binds this Senate as a mass! In the first place, there was no action in regard to this matter to bind anybody. New Hampshire came here asking our opinion in relation to a certain matter. Somebody says that it was a trick. I do not say so. I gave no advice as a Senator, not the slightest, to New Hampshire.

I desire to say that in my judgment, last July or August the Legislature of New Hampshire had an unquestioned right to fill in advance the vacancy on the floor of the Senate which would be made by the expiration of the term of Mr. Wadleigh. I have no doubt about that. It was their duty to elect. Until recently, on the adoption of the new constitution of my State, the Senators from Connecticut were elected in the month of May, to take their seats the 4th of March next after the month of May. I was so elected. My present associate was elected under the new constitution, and so he was elected in the month of January to take his seat next December, had there been no extra session. It was the duty of the Legislature of New Hampshire last summer to elect a Senator. Before I get through, if I do not find myself talking too long, I shall endeavor to show that there is a duty for the State to perform; and that a State may consent, as New Hampshire has consented, to have but one Senator upon this floor. My friend from Ohio [Mr. PENDLETON] has been elected for more than a year, nearly two years before his term began.

Mr. President, this is the proper time to settle a very important public question in a proper and orderly manner, so that in a Senate that may exist hereafter, to which my honorable friend from Florida may not belong, it may be a precedent of value. Every Senator knows that the seating of the distinguished gentleman from New Hampshire who applies here under the appointment of the executive of that State makes no earthly difference upon this floor politically. As I said before, I would rejoice to vote in favor of his taking a seat if I could constitutionally do so. I would be glad to so vote, but here a precedent is to be established which is to govern in all cases, I trust, of a like character hereafter, one which will have weight hereafter, and certainly the greater weight if the claimant should be seated. I notice that very many of my friends upon this side of the Chamber are disposed to vote to seat Mr. Bell. I find no fault with them for that. They follow their own constitutional convictions. I would have every man do that. I shall do so now and at all times. But I do not want any excessive virtue to be claimed by anybody on this subject. I am very much disposed to do what I think is just and right, as well as my friend from Florida. I am not disposed to violate the Constitution of the United States as I understand it, and I understand it for myself and not through the understanding of my honorable friend from Florida or any other Senator.

Let us look at this question one moment. I have said that the question has not the slightest partisan or political significance in the world. It does not in a substantial manner affect any political result, and therefore it ought to be adjusted without the slightest partisan feeling It may appear when we go a little deeper into the examination of the subject, that the good people of New Hampshire have placed themselves in a position where they must not complain if they are not permitted by the Constitution to have more than one Senator on this floor for the coming three months. I beg leave to say that I do not believe the sun will rise any later or go down any earlier; I do not believe that the principles of good government will be destroyed; I do not believe the liberties of the people will be invaded, if New Hampshire should fail to have any other than the voice of my most excellent friend [Mr. ROLLINS] on this floor for about two weeks; I hope that will be the length of this session. No, sir; the grass will grow, the water will run down hill if not up, even if New Hampshire has but one representative on this floor for the next two weeks. At all events, as I understand the Constitution, I shall not violate it in order that New Hampshire may have two votes here for the coming two weeks.

Let me briefly call the attention of the Senate first to the compo-

sition of this body. In order to be understood it is necessary that I should perhaps say a word or two which has been better said before, but I wish to connect my remarks. Article 1, section 3, of the Constitution describes the composition of this body:

The Senate of the United States shall be composed of two Senators from each State—

How do they come here?—

chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

That is the composition of this body. I cannot now take the time to go back to the debates in the convention which formed the Constitution; but the framers of that instrument thought that there might be temporary vacancies in this body. I desire the Senate to understand precisely the position which I occupy. The Senators were to be appointed for six years, and they could become part and parcel of this great body in no other way except by being "chosen by the Legislatures thereof" from each State in the Union.

My friend [Mr. KERNAN] suggests to me a thought that was in my own mind, and of course it would be in the mind of us all. Suppose the State of New York, so ably represented on this floor by my two distinguished friends now before me, had not chosen two Senators, could the governor of New York have appointed two Senators to take seats on this floor? To use a favorite expression of my distinguished friend from Florida, I defy any man to make an assertion so ridiculous and so absurd as that. No, sir, if originally, at the commencement of the Government, the Legislature of New York had not seen proper to choose Senators there could have been no appointment. Therefore I say that it absolutely amazes me when I hear the declarations of distinguished gentlemen, good lawyers, and certainly honest men; for as somebody said before, a playwright, I believe:

> For Brutus is an honorable man;
> So are they all, all honorable men.

I hear good gentlemen, honest men, able Senators, while admitting the fact that in no other way can Senators be originally chosen except by the Legislatures of the States, yet say that they can be appointed at the beginning of a term, because they say a vacancy has occurred, one of those things which happen, an unforeseen casualty, which happens once in six years as certain as God reigneth. Unforeseen, is it? Then the path of the sun is unknown and unforeseen. Yet men talk about such a thing happening just as we happen to die or as we happen to have been born. Enough on that one point, as I promised to be very brief.

Having spoken of the origin of the Senate, the commencement of the body, I assert again, and I challenge any Senator upon this floor to deny the proposition, that there could have been no Senators originally unless they had been "chosen by the Legislature" of the respective States. Now I come to the next clause in the Constitution in the same section:

And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

I do not propose to go into a discussion at this hour of the meaning of the word "vacancies," or the word "happen," or the words "or otherwise," or any other word. We have had a surfeit of that. The law-books are full of what the meaning of "otherwise" is. There is not a State in the Union which does not furnish, my own State furnishes over and over, cases which determine the legal meaning of the term "otherwise." The phrase is "by resignation, or otherwise." My friend from Georgia [Mr. HILL] and my friend from Wisconsin [Mr. CARPENTER] have discussed and illustrated the meaning of those two terms to my entire satisfaction, and in order to get a better speech than I could possibly make myself I adopt their theory, their reasoning, their facts upon that matter, and their remarks; for I stand in regard to these two gentlemen pretty much in the same position as a member of Parliament with regard to Mr. Burke, who was not in the habit of making long speeches. Mr. Burke had made a very able speech, when this member rose and said, "Mr. Speaker I say ditto to Mr. Burke." [Laughter.] With regard to the discussion upon the meaning of the term "otherwise" and the meaning of the term "vacancies," I say "ditto to my friends from Wisconsin and Georgia." I do not care to take up the time of the Senate by a rehash in a poorer way of their good arguments on that point. I come to another section which has something to do with this subject. I read from section 5 of article 1; my friend from Florida read it:

Each House shall be the judge of the elections, returns, and qualifications of its own members.

I cannot escape that clause and those words in the Constitution any more than my friend from Florida can. In this case I am to be a judge of the qualifications of Mr. Bell and of his right to a seat here. If he is improperly appointed by the executive of New Hampshire, I cannot vote for his admission to this body. If he is not entitled to a seat here, I should be false to myself if through courtesy or kindness or any desire to have a full Senate of seventy-six members I should permit myself to violate my convictions and my belief. That is a part of the Constitution which we are bound to respect. I do respect it as I understand it, and therefore I shall vote against the admission of Mr. Bell under that clause of the Constitution.

The times—

And here is a significant section, section 4 of the same article, which I desire to read:

The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

I do not remember to have heard this section alluded to in the debate and I desire to call the attention of the Senate to it. Under the Constitution the Congress of the United States proceeded in 1866 to do what? To pass a certain law determining the time and the manner of choosing the Senators of the various States in this Union, the Senators of the State of New Hampshire as well as of the State of New York. That Congress had a right to do, and that it did. Did the State of New Hampshire take due notice of that law, or did it not? That is the question which I desire to put to each Senator on this floor.

In the first place, was the law of Congress constitutional? That I will not discuss; it is here; it has been the law; there is not a member on the floor of the Senate who was not placed here by his own Legislature acting under that law. Therefore it is too late today to talk about its unconstitutionality. Did New Hampshire, did that great little State—I use the two adjectives—know or did it not know that there had been a law placed on the statute-book prescribing the mode and manner of electing Senators? It is a law thirteen years old now, and yet it had not entered the brains of my good friends in New Hampshire, it seems. So they went to work and made a new organic law and changed the time of the meeting of their Legislature and of the election of their Senators without any regard to a law of Congress passed under section 4 of article 1 of the Constitution of the United States, and they now come here and say to Congress "We made a mistake; we did not read that law aright; let our friend come here and remain two weeks." Mr. President, to use a classical expression on the floor of the Senate, "That won't do." If the people of New Hampshire, with this law twelve years old staring them in the face all the while, have so undertaken to reform their organic law as to destroy their one chance for a representative on the floor of the Senate for thirty days, I cannot help it. The next time they change the constitution of New Hampshire they will look at the laws of the United States; I have not any doubt about that.

Mr. ROLLINS. Will the Senator allow me to ask him a question?

Mr. EATON. Certainly.

Mr. ROLLINS. I understood the Senator from Connecticut to express the opinion that under the law of 1866 the Legislature which was in session last June had the right to elect?

Mr. EATON. I have not the slightest doubt about it.

Mr. ROLLINS. We have not done so——

Mr. EATON. I do not live in New Hampshire. If I had lived in New Hampshire I would have seen that the Legislature elected a Senator.

Mr. ROLLINS. As I suggested some time since, had it not been for the expression of the opinion of the Senate of the United States upon that question declaring that that Legislature of New Hampshire had not the right to elect a Senator, I have no doubt that Legislature would have elected a Senator.

Mr. EATON. I am very sorry for one thing, and that is that any sovereign State in this Union should come here to the Senate of the United States or go anywhere else to know what its rights are in the election of one of its Senators. It is a matter they ought to determine for themselves.

Mr. ROLLINS. The Senate of the United States undertook to express an opinion on that subject.

Mr. EATON. Who asked the Senate to express an opinion? My friend shrugs his shoulders. My other friend here, my friend from Wisconsin, [Mr. CARPENTER,] said yesterday that it was a trick, as he had heard.

Mr. ROLLINS. The Senate referred a bill to its Committee on Privileges and Elections authorizing that Legislature to elect, and that committee made a report which was printed and the bill was indefinitely postponed on the recommendation of the committee. It was the action of the Senate that prevented the election.

Mr. EATON. There is no argument at all about it.

Mr. ROLLINS. It was the fault of the Senate, not the fault of New Hampshire.

Mr. EATON. And the trick answered its purpose, did it not? [Laughter.]

Mr. ROLLINS. The State of New Hampshire did not elect.

Mr. EATON. In other words, the little game was played out, was it? It is not quite played out yet. [Laughter.]

Mr. ROLLINS. The question of admission would follow the action of the State. The Legislature of New Hampshire would not undertake to elect a Senator to come here and claim admission after the Senate of the United States had declared that that Legislature had no power to elect, the Senate being the judge of the election of its own members. The Senate upon such a question is a tribunal from which there is no appeal.

Mr. EATON. That would be a very good argument if my friend

were seeking admission to last year's bird-nest, but not this. [Laughter.] This is another Senate. It is not last year at all; it is this year.

Mr. CONKLING. Will the Senator hear me one minute?

Mr. EATON. Certainly.

Mr. CONKLING. Lest I may not say anything else in this debate, I wish to put in one disclaimer for myself individually. I have heard it asserted here repeatedly that the Senate declared that the now existing Legislature in New Hampshire had no power to elect a Senator. I deny that the Senate ever so declared, but I wish specifically and individually to deny that I ever so declared or ever consented to such a declaration made anywhere.

Mr. EATON. I am very glad to hear the disclaimer of my friend from New York. I have heard a dozen gentlemen on this side say the same thing.

Mr. CONKLING. I wish my friend would pardon me once more?

Mr. EATON. Certainly.

Mr. CONKLING. A Senator sitting near me says in his seat that I did not indicate at the time he has referred to that the Legislature of New Hampshire, in my poor opinion, had a right to elect a Senator. I beg to set myself right there. If he will take the trouble as I have done to traverse the debate, he will find that I did, although not specially called upon to do it. That is all I have to say about that. Therefore I do not want to be written down, included with other Senators, and as I think unjustly to the whole Senate, time after time as having declared my belief that a Legislature had no power to elect a Senator, when in my judgment it had as much power to elect a Senator as any other Legislature has ever had in any State during any year of this century.

Mr. EATON. I am very glad that my distinguished friend from New York saw fit to state what he has stated. It confirms me in my own opinion; it confirms my friend from Wisconsin [Mr. CARPENTER] and my friend from Georgia [Mr. HILL] in the opinions which they have expressed, that that Legislature had an undoubted right to elect and failed in doing its duty. That is all there is about it. If we are right about it—and I ask the consideration of this assertion or expression by every Senator—if we are right about that we cannot admit this man; it is utterly impossible. If the Legislature of New Hampshire had the right last year to elect a Senator, and failed to do it, legally they consented to be without a Senator on this floor at this time. Therefore that clause in the Constitution which was alluded to by my friend from Delaware and my friend from Maryland (and great emphasis was put upon that clause, more in the argument than in anything else) "that no State, without its consent, shall be deprived of its equal suffrage in the Senate," does not apply. Although that has no reference whatever to a question of the character which is now before the Senate, yet I will use it with some governing power, and I say that the State of New Hampshire legally consented to be without one of its representatives on the floor of the Senate, and, as my friend from Ohio [Mr. PENDLETON] suggests, not only consented but prevented herself from electing a Senator.

I want to say one word in regard to this clause. What is the meaning of it? To read it and apply it to this New Hampshire case is to me, I will not say absurd, because the expression might be considered harsh; but what this means is that thirty-seven States of the thirty-eight States of this Union cannot say that the little State of Connecticut or the little State of Delaware shall not have two representatives on this floor. That is what it means; and it is paltering with a valuable clause of the Constitution to bring it up and read it in connection with this New Hampshire case. It means this, sir: that three-quarters of the States of this Union cannot alter the Constitution of the United States in that respect. That is the original organic law upon which we came into this Union. It means that Delaware, and Rhode Island, and Connecticut, and Vermont, and New Hampshire are to be equal with Indiana, and Illinois, and New York now and forever. That is the meaning of that clause in the Constitution, and do not make it small and bring it in here and apply it to this little case of New Hampshire, where they could have had their Senator elected ten months ago if they had not forgotten their duty. Failing to do their own duty, we are now gravely told that that clause in the Constitution is violated if we do not permit the governor to make an appointment. I confess, Mr. President, I am amazed at the claim made here.

A word or two more and I am done. I regret (and my friend from New Hampshire now in my eye knows that I regret) that I cannot vote for the admission of Mr. Bell, his friend, and undoubtedly a most respectable gentleman. I love New Hampshire as I do Massachusetts and Virginia, as equals in this great confederacy of States. I would have every State in this Union properly represented on the floor of the Senate. I rejoice when I see every chair occupied save one in this Chamber; and I would be rejoiced if that were occupied too; but in order to give an opportunity for a week or two I cannot violate what I regard as the true constitutional principle which should govern us all. Rather than to vote to admit Mr. Bell, I would agree myself to go out of the Senate and never cast a vote until New Hampshire could have its new Senator here. It can make no difference, as I said before, politically no harm can be done, and therefore I should be glad to fill that chair; but, Mr. President, with my view of the Constitution, with my view of the rights of New Hampshire under the Constitution, with my view of my duty, I cannot consent to admit Mr. Bell, and it will not go out to the world, and it cannot go out to the world, as the act of a partisan. I am not fearful that any gentleman will claim that I cast this vote in order to prevent a political opponent from taking a seat in this body. With all my political opponents, I say "all," on this floor—I have a right to say "all"—my relations are kindly and friendly, as they would be with Mr. Bell if he were here.

I ought to say one word in relation to a question which was put yesterday to my friend from New York [Mr. KERNAN] by the honorable Senator from Vermont, [Mr. EDMUNDS,] who is not now in his seat. He put this question, as near as I can remember, without looking at the RECORD: when would the term of the new Senator from New Hampshire commence if he should happen to be elected hereafter—on the 1st of June? I was astonished to hear a question of that sort from the honorable Senator from Vermont, and so astonished was I that I sent to the Secretary of the Senate, and I will read what I hold in my hand:

STATE OF CONNECTICUT,
General Assembly, May session, 1852.

Resolved, That Hon. Isaac Toucey, having been duly elected, is hereby appointed a Senator in the Congress of the United States from the State of Connecticut for the unexpired term of six years, which commenced on the 4th day of March, 1851.

Then I had the curiosity to look and see what the record of the Senate was, and I find it to be this, under date of May 14, 1852:

Mr. Smith presented the credentials of Hon. Isaac Toucey, elected a Senator by the Legislature of Connecticut—

For when?

for the term of six years commencing the 4th day of March, A. D. 1851; which were read; and, the oath prescribed by law having been administered to Mr. Toucey, he took his seat in the Senate.

And that was a year and a quarter after the 4th day of March, 1851. I happened to be a member of the Legislature of Connecticut in 1850. It was our duty to elect in May, 1850, a Senator to take his seat in March, 1851. The democratic party was in power. We had what was called a very large free-soil wing in the democratic party. They did not like Mr. Toucey. I happened to be in the upper branch, in the Senate, of the Legislature, and after balloting until I got tired I moved to carry over the business twelve months. It went over and in 1851 our whig friends were in just the same condition that we were in 1850. They had two or three silver-gray gentlemen whom they could not control, and, therefore, Hon. Mr. Baldwin, of New Haven, lacked two votes of an election in 1851. In 1852, the third year, Isaac Toucey was elected to take his seat for six years from March 4, 1851, as the successor of Mr. Wadleigh when elected by the Legislature of New Hampshire will take his seat for six years from March 4, 1879. Therefore the question of the honorable Senator from Vermont was fully and thoroughly answered by the action of the Senate itself.

Now, Senators, I have but this to say: in deciding this great and important question let each be satisfied that he decides according to his own convictions of constitutional law and not with regard to kindness to Mr. Bell or love for the State of New Hampshire.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, which is to strike out the word "not."

Mr. SAULSBURY. Mr. President, if any other Senator desires to make any remarks on this question, I shall not take the floor for the purpose of addressing the Senate myself. I am waiting until the entire argument is closed before I proceed.

Mr. DAVIS, of Illinois. The Senator as the chairman of the committee wishes to close the debate, I suppose.

Mr. SAULSBURY. If no other gentleman desires to speak on this question, I take the floor for the purpose of closing the debate.

Mr. BAYARD. I ask my colleague if he desires to address the Senate now or whether he will give way, having the floor for the purpose of closing the debate on this case, for a motion for an executive session?

Mr. SAULSBURY, I give way for that purpose.

Mr. BAYARD. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of Illinois. If it is the understanding that the Senator from Delaware closes this debate and nobody else is to speak, I have no objection to the case going over until to-morrow; but I certainly hope the whole day will not be occupied with it to-morrow.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware [Mr. BAYARD] that the Senate do now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at four o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 9, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. Harrison, D. D.

The Journal of yesterday was read and approved.

ROLL-CALLS—PRINTING OF BILLS.

Mr. WILLIAMS, of Wisconsin. I desire to submit a resolution for reference to the Committee on Rules.

The Clerk read as follows:

Resolved, That in calling the roll of the House the Clerk shall call only the surname of members with the prefix of "Mr.," except where there are two or more of the same surname, in which case the full names of such members shall be called.

Resolved further, That the rules of the House be so amended that no bill nor resolution shall hereafter be printed except upon the recommendation of the committee to which the same is referred; and that for the purpose of such recommendations committees have leave to report at any time.

Mr. CONGER. I object to the introduction of this resolution.

FOLDING OF DOCUMENTS.

Mr. CHALMERS. I ask leave to introduce a resolution to meet a very pressing want at this time.

The Clerk read as follows:

Resolved, That the superintendent of the folding-room is hereby authorized to employ such additional force as may be necessary to fold the speeches now largely accumulated and accumulating in said room, to be paid for out of the contingent fund of the House at the rate of $1 per thousand, and subject to the approval of the Committee of Accounts.

Mr. BLOUNT. I object to the consideration of this resolution just now.

AMENDMENT OF RULES.

Mr. STEPHENS. I am directed by the Committee on Rules to make a report. The gentleman from Ohio, [Mr. GARFIELD,] one of my colleagues on that committee, has charge of a report which it was arranged should come in first, but I do not now see him in his place, and I suppose the order in which the reports may be presented is not material. I send the report to the desk to be read.

The Clerk read as follows:

The Committee on Rules submit the following report upon the subjects therein embraced, and ask its adoption by the House:

The committee recommend the raising of the following select committees, to be appointed by the Speaker, and to consist of the same number as in the Forty-fifth Congress, respectively, to wit:

Committee on the Census; Committee on Reform in the Civil Service; Committee on the state of the Law respecting Ascertainment and Declaration of Result of Election of President and Vice-President: Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States; Committee on Vetilation of the Hall; Committee to Inquire into the Causes of the Present Depression of Labor.

The committee also report in favor of increasing the number of the Committee on Enrolled Bills to seven members; the Committee on Coinage, Weights, and Measures, to eleven members; the Committee of Ways and Means, to thirteen members; the Committees on Agriculture, Judiciary, Elections, Commerce, and Appropriations, to fifteen members each.

The committee also recommend the adoption of the following additional rule:

RULE —. On a motion to suspend the rules and pass a general appropriation bill, an affirmative vote of three-fourths of the members present and voting thereon shall be necessary.

Mr. STEPHENS. This is the unanimous report of the Committee on Rules. I do not know that it is necessary to explain each proposition. The report is easily understood from the reading. The increase of the Committee on Enrolled Bills seems to be absolutely necessary in the opinion of the Speaker and all the members who have heretofore served on that committee. As to the proposed increase of the Committee on Coinage, Weights, and Measures, I will merely state that the committee as originally constituted consisted of seven members, and it so remained until some time during the Speakership of the distinguished gentleman who is now a Senator from Maine. When all the committees consisting of nine members were increased to eleven, Speaker BLAINE seems to have acted under the supposition that the Committee on Coinage, Weights, and Measures had consisted of nine members, and therefore he appointed eleven members upon that committee. His successor followed that precedent, and for years the committee has consisted of eleven members, though originally, according to the order of the House, it was to embrace only seven members. As the committee has consisted of eleven members during the last three or four Congresses, the Committee on Rules have thought it best to fix eleven by rule as the number of members constituting the committee.

As to the proposition to increase the membership of the other committees named in this report I shall say nothing at present, unless other gentlemen wish to discuss the matter. I am under a promise to yield to the gentleman from Kentucky, [Mr. BLACKBURN,] one of my colleagues on the committee, that he may offer an amendment to the last proposition.

Mr. KENNA. I hope the gentleman from Georgia will allow me an opportunity to offer an amendment to that part of the report which relates to the passage of appropriation bills under a suspension of the rules.

Mr. STEPHENS. The gentleman from Kentucky [Mr. BLACKBURN] desires to offer an amendment, and also the gentleman from Ohio, [Mr. GARFIELD.] It is my purpose to allow as much debate on this subject as the House may deem proper.

Mr. MILLS. Do I understand that the previous question is moved? I hope not.

The SPEAKER. The gentleman from Georgia only desires to retain his right to the floor, so that whenever the House wishes to close the discussion he may have the right to call the previous question.

Mr. MILLS. I hope the gentleman from Georgia will allow us to offer some amendments before he moves the previous question.

Mr. BLACKBURN. Mr. Speaker, I simply desire to say that the additional rule now reported from the Committee on Rules, to which the gentleman from West Virginia [Mr. KENNA] has indicated a desire to offer an amendment, has my very cordial approval. As a member of the committee it may be due to myself to say that I do not approve of all the recommendations embodied in this report. I do not for myself see that necessity requires this general increase of the membership of committees, or that good is to result from this proposed change. I can see the propriety of equalizing the committees, which it is in a great measure proposed to do in this report. Upon reflection I will not ask to offer the amendment which, with the consent of the Committee on Rules, I reserved the right to submit in the House. That amendment looked to opposing the increase of membership of the Committee on Appropriations, because I did not believe the best way to relieve that committee of the superabundance of labor at present imposed upon it was to be found in an increase of its membership, but rather in lessening its work by referring to other committees of this House some of the general appropriation bills which have heretofore been prepared by the Committee on Appropriations, but which seem to me to belong more properly to other committees.

That matter, however, Mr. Speaker, will come up more naturally and better after the regular standing committees of this House shall have been announced. And for that reason I waive my right to offer the amendment which the Committee on Rules agreed I should have the opportunity of offering here to cover the point I have referred to.

I do not intend to make any factious opposition to the action of the committee as taken, for if there be anything in that report which was not unanimously agreed upon by the Committee on Rules it was simply because of my own single dissent. I am content to let the honorable gentleman from Georgia offer his report as it is with this statement to the House, and I will endeavor hereafter to get the attention of the House on the subject to which I have alluded with reference to the work of the Committee on Appropriations.

Mr. MILLS. I can see no very great good to be obtained by adopting the report of the Committee on Rules. I can see, and think I have seen, in my six years of service in this House that our code of rules do need amendment, do need it in many respects; and yet I must say that the report of the Committee on Rules just made to the House does not meet a single one of the points to which I have reference.

I am not one of those, sir, who believe that a body can be made to move faster by increasing its proportion. I have seen that thing attempted in my own State. It has been long a mooted and difficult question with the people of Texas to know how to dispose of the great mass of business which comes before the supreme court of that State growing out of the varied interests of that immense empire, and we have tried this thing of increasing the bench, but finally had to abandon it. We went from three to five, but had to go back to the old practice. And so it will prove in reference to the committees of this House. The smaller your committees the more rapidly will they be able to dispatch the public business. It is a great mistake, in my judgment, to think you will dispatch the public business more rapidly or more correctly by adding to the number of any committee as the Committee on Rules propose to do by the resolution now pending.

One very material alteration I would make in the rules, Mr. Speaker, is in reference to the Committee of Elections. There the Committee on Rules propose to increase the number from what it is now to a much larger number. I would propose, on the contrary, that there should be no standing Committee of Elections in this House at all. The Committee of Elections in this House is simply a denial of the right of the people to representation upon this floor and a denial of the right of a member to his seat. We have twenty-five or thirty contested-election cases every Congress. They come up here and are referred. They go through the whole length of the term of Congress for two years, a majority of them falling in the last expiring hours of the session, and men are admitted to their seats on this floor just in time to draw an additional salary to that which has already been paid to the former incumbent, when this House has decided that he has been exercising the rights of a Representative on this floor, although he was not the man whom the people sent here to represent them.

That is one wrong: that we deny to the people the right of representation on this floor in the person of the Representative they have chosen; and we do the additional wrong of paying two persons for the whole time of the Congress for one seat, when, if the question had been promptly decided, the district would have had proper representation and only one member would have been paid. Why should not our contested-election cases which come up to this House be referred, every case, to a special committee—referred just so soon as they reach the House, each case to a new committee, with the order under the rules of the House to report within thirty days its conclusions to the House, so the House may determine who was legally elected the Representative from the district—to decide at once who possessed the right of representing the constituency from that district and determine between the contestants as to which party had the right to occupy the seat?

That is one amendment I would make to the rules. Another amendment I would offer is this: that the Committee of Ways and Means, the Committee on Banking and Currency, and the Committee on Coinage, Weights, and Measures should have leave to report at any

time, and, on motion of any member of this House, that any public bill reported by those committees should be set down for a certain day with the privilege of having that bill considered from day to day until disposed of. Under the present rules of this House, as gentlemen must know who have spent any length of time in service upon this floor, it is impossible to get a bill from either one of these committees, or, indeed, any other except the Committee on Appropriations—to get it before the House and have the House consider and dispose of it, and to carry the recommendations of the committee into the form of law. Why? It is because those committees have to make their reports in the "morning hour;" and as the morning hour was very justly characterized at the last session of Congress, it is the "nine hole." The Committee on Banking and Currency or the Committee on Coinage, Weights, and Measures or the Committee of Ways and Means may submit any report they choose upon the coinage of silver or about banking and currency or in reference to taxation, and when the report comes in, in the morning hour, there it remains if any large portion of the House should happen not to be in favor of the change proposed, and there it can be kept to the close of the session by merely making two motions—one to adjourn and another the day to which the House shall adjourn, and so, by calling the yeas and nays on those two motions, consume the morning hour every day. So it may go on from day to day until the session expires, and thus the majority of the House finds itself without the power under the rules to carry into execution its will in reference to the recommendation of every one of these important committees.

I would have that changed, so that when a bill is reported from either one of these most important committees of the House it shall be in the power of a majority of the House to fix a day for the consideration of that measure, and to say that it shall be considered from day to day until the subject shall have been disposed of.

The SPEAKER. The Chair desires to say to the gentleman from Texas that, as he may recollect, he made a decision that the committee had the right in reporting a bill for commitment to introduce a resolution as to how it should be considered when in Committee of the Whole. And that decision was given effect to in several instances, in one notable instance in reference to the tariff, in one from the Judiciary Committee, and in one from the Committee on Railroads and Canals.

Mr. MILLS. Now, the Committee on Rules report one other thing which I want to oppose. There was an effort made in the last Congress to change the rules of this House so as to prevent the passage of the river and harbor bill. I believe in the kind of improvements provided for by that bill. I believe that the country stands in need of them, and that the appropriation of money by Congress in improving the channels of commerce and cheapening the carrying rates of this country is the most important legislation that is enacted by Congress. And yet it was attempted in the last Congress to make a rule of this House which should defeat these bills; and now we have a report from the Committee on Rules, saying it shall take three-fourths of the House to suspend the rules and pass a bill of that kind, instead of a vote of two-thirds. That is increasing the chances for a defeat of those measures, and I oppose it. I see no reason for such a change of the rules, none whatever. Instead of the rules being amended, so that the will of the majority may be made the law of the land, obstacles are constantly thrown in the way of making the will of the majority the law of the land.

Why should one-fourth of this House arrogate to itself the right to stop the legislation that a majority of this House shall will to enact? This threatens us with a veto power, to be lodged with one-fourth of the House, who shall say that less than three-fourths shall not pass a law which under all democratic institutions in the world a majority are competent to pass.

There are many other objections to this report which I might state, but I will not detain the House further at this time.

Mr. WAIT. I certainly trust that that part of the report of the Committee on Rules which recommends an increase of some of these leading committees will be adopted by the House. I can speak from my own experience as a member of the Committee on Contested Elections, as to the necessity of such an increase. I served on that committee during the last Congress. We had a great number of contested-election cases thrown upon the committee in the very early days of the session, and if we had had a numerical force on that committee sufficient to give to a subcommittee of three each case, they could have gone to work, examined the cases, heard the evidence, listened to the arguments of counsel, and been able to report at a very early day their opinion which of the contesting parties was entitled to a seat in this House.

I do not believe that members of this body who have not served on the Committee of Elections, or who have not made an examination with regard to the amount of evidence introduced in those cases, have any idea whatever of the labor that is thrown upon the subcommittees in the mere examination of the testimony that is introduced. I hold in my hand a document embracing the testimony and other papers in the case of Nutting against Reilly, and they cover fifteen hundred and thirty pages. Now, I ask the House what time would be required, in their view, to give the evidence in that case a careful examination, so as to enable the subcommittee to read, mark, and inwardly digest the same and report to the entire committee, and have that committee present a report here to this House which would enable the House to act intelligently with regard to the rights of the contestants in that case? And this is not an isolated case. There was hardly any case presented to the committee in the last Congress in which the testimony and papers did not amount to five hundred or one thousand pages; and we had to devote day and night so far as we had the opportunity to examine the testimony with care, so as to be able to come to a correct decision and to report to the committee of which we constituted a part.

I certainly trust that these leading committees will be increased, if gentlemen familiar with the duties of these other committees, the number of which it is proposed to increase, can speak as definitely with regard to the necessity for an increase as I think I can in regard to the Committee of Elections. I believe other gentlemen who have served on that committee will agree with me in the statement I have made.

Mr. BLACKBURN. I desire to say that I apprehend from the remarks made by the gentleman from Texas and others that the proposition embodied in the new rule which the Committee on Rules asks the House to enact is not clearly understood. I certainly indorse cordially that part of the report made by the Committee on Rules. I do not understand that it looks to the prevention of the passage of any bill; but if it shall be made a rule of this House it will require that the appropriation bills which pass under a suspension of the rules without discussion, without explanation, without giving to any member of this House a right to offer an amendment, under a gag law, which are understood by nobody, except by the members of the committee that report it—that such bills so to be passed shall receive three-fourths of the votes of the members present.

Now, sir, the Committee on Commerce seem to think that it alone is stricken at in this matter, and I need not remind the House that the honorable gentleman from Tennessee [Mr. ATKINS] who sits on my left, or some member of the Committee on Appropriations in the last Congress, introduced and passed through it, less than sixty days ago, what is known as the sundry civil appropriation bill, which generally appropriates about sixteen millions of money. It was introduced here; it was never discussed; it was never read, and it was not even in print.

Mr. ATKINS. It was one of the best bills that ever passed the House.

Mr. BLACKBURN. And had some of the worst features in it that ever passed this House or any other House.

Mr. ATKINS. Point them out.

Mr. BLACKBURN. I did point one out, but the point is that the bill was passed through the House under a suspension of the rules, when it was never in print until the day on which it was passed, and there was no opportunity of members knowing a single, solitary provision in a bill that appropriated nearly twenty millions of money, and no one could even ask a question as to what the provisions of the bill were.

Mr. ATKINS. The gentleman's statement is incorrect.

Mr. BLACKBURN. In what particular?

Mr. ATKINS. The gentleman has alluded to the sinking fund for this District.

Mr. BLACKBURN. Well, if the gentleman wants to go into a discussion on a bill which he passed through the House under a suspension of the rules and which was not in print, and the House is willing to hear it, I am perfectly willing to go into that discussion. This I desire to say, Mr. Speaker, and my friend from Tennessee [Mr. ATKINS] will not take issue about it, that the bill never was in print until the day that it passed the House, and there was not a member on the floor that could know anything of a solitary provision of the bill, unless he was a member of the Committee on Appropriations.

Now, I say that it is dangerous legislation. I had as much confidence in that committee in the Forty-fifth Congress as any other member, and I do not mean to reflect on the committee, but I say it is not safe for this Congress to delegate such power to any one committee. Members should have an opportunity to read a bill; they should have an opportunity of offering amendments to it, and to hear it discussed. If one committee of the House, whether it be the Committee on Appropriations or the Committee on Commerce, is to be intrusted with these vast and dangerous powers, I insist that common prudence would prompt the House that it shall, when so passed, receive the votes of three-fourths of the members present. That is the object of this amendment.

Mr. STEVENSON. I want to ask the gentleman from Kentucky if it is not true that the river and harbor bill has been passed at every session for a number of years without discussion, without having been amended, without any member having the power of offering an amendment to it?

Mr. BLACKBURN. In answer to the gentleman's question I would say that never during my short service in Congress has there to my recollection been passed a single river and harbor bill that was not passed without members having an opportunity to offer any amendment or to ask for any explanation.

Mr. KENNA. I desire to ask the gentleman from Kentucky if he did not vote for the last river and harbor bill in that very way?

Mr. BLACKBURN. I answer, yes; but it is the first river and harbor bill I ever voted for, and unless discussion is allowed upon it, and

amendments can be offered, and the character of the bill can be understood better hereafter, I sincerely trust and believe it will be the last.

Mr. STEVENSON. I ask the gentleman to state to the House what amount of money is appropriated annually under the river and harbor bill.

Mr. BLACKBURN. I was not a member of the Committee on Commerce, but if my memory serves me, about $8,000,000 is the average of the appropriations made in this hasty way.

Mr. KENNA. I desire to offer an amendment.

The SPEAKER. The Chair understands the gentleman from Georgia to be committed by an arrangement in the Committee on Rules to allow the first amendment to be offered by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. KENNA. I desire to offer my amendment at this time if the gentleman will allow me.

Mr. STEPHENS. According to an arrangement the first amendment was to be offered by the gentleman from Kentucky. He declines to offer it, and the second amendment must be offered by the gentleman from Ohio.

Mr. KENNA. I understand that the gentleman from Ohio [Mr. GARFIELD] is willing that I shall offer my amendment.

Mr. GARFIELD. I do not insist upon my right at this time.

Mr. STEPHENS. Then I will yield to the gentleman from West Virginia to offer his amendment.

Mr. KENNA. I desire to offer an amendment which I send to the desk, to be inserted immediately after that clause in the report which relates to the passage of bills under a suspension of the rules; and with the permission of the gentleman from Georgia I desire, after it shall have been read, to say a word in explanation of the amendment.

The Clerk read as follows:

But this rule shall apply only to bills reported by the Committee on Appropriations.

Mr. KENNA. After the signature of the gentleman from Kentucky on my right [Mr. BLACKBURN] to the memorable protest which was presented at the second session of the Forty-fifth Congress against the passage of the river and harbor bill in the manner in which it was passed, and after the vote by that gentleman in favor of the last river and harbor bill reported and passed in the same manner, I had hoped that he had reconsidered his opposition to the passage of such bills, and that we would hear no further from him, either in the nature of an amendment to the rules or otherwise, in opposition to the passage of such measures.

This proposition to kill river and harbor appropriation bills by means of rules of this House does not come here now for the first time. A similar effort was made in the last Congress. It comes now, however, in somewhat more decisive terms. If I can have the attention of gentlemen upon this floor for a few minutes I will endeavor to point out to them the manner in which this proposed amendment of the rules would be equivalent to absolutely prohibiting the passage of any bill for the improvement of rivers and harbors.

As members of this House are probably aware, the Committee on Commerce has not the right, which is enjoyed by the Committee of Ways and Means and the Committee on Appropriations, of reporting at any time. The very nature of the river and harbor bill, the labor necessary to its proper preparation, are such that it is physically impossible for that committee or any other committee of this House to prepare properly such a bill until late in the session. That committee having the right to report only on those days when it is called up on the regular call of committees, and the time having been reached when the accumulation of business on the Calendar prevents the calling of that committee under the rules of the House as they now stand, they could never report a river and harbor bill to go upon the Calendar.

Mr. STEVENSON. Does the gentleman from West Virginia [Mr. KENNA] favor that style of legislation by which from five to eight millions of dollars annually are taken from the Treasury without members of this House having any power to offer an amendment or any opportunity to discuss the bill, and without the bill being even printed until brought up for action?

Mr. KENNA. I am not prepared to say to the gentleman that I would prefer to consult rather the wishes of a minority of one-third of the members upon this floor as to the propriety of a measure which two-thirds of the House in their superior wisdom desire to pass, and no river and harbor bill has ever been offered without being printed in advance and distributed among members for the fullest information. I submit that when two-thirds of the members of this House, after a full opportunity for the investigation of the merits of any measure, determine in the exercise of their own judgment that a bill should pass in a regular and parliamentary manner, it is their right to pass it; and a minority of one-fourth of the members of this House ought not to be allowed to deprive so large a majority of that right.

Mr. WHITE. Will the gentleman allow me to ask him a question?

Mr. KENNA. I prefer to get through first.

Mr. WHITE. I merely want to enlarge on what the gentleman is saying.

Mr. KENNA. If the gentleman will pardon me I will do that myself. [Laughter.] Understanding, then, the condition of the rules of the House to be as I have stated, that the Committee on Commerce is practically excluded under the rules of the House from the right to report a river and harbor appropriation bill for reference to the Committee of the Whole House, to be considered there, it is plain that that committee cannot bring in such a bill at all, unless they do so under a suspension of the rules. The proposition of the Committee on Rules to require a three-fourths vote to pass such a bill is practically a proposition that such a bill shall never be reported and passed.

Mr. BLACKBURN. Will the gentleman let me ask him a question?

Mr. KENNA. Certainly.

Mr. BLACKBURN. I want the gentleman to tell me how the amendment that he has sent to the Clerk's desk would affect the Committee on Commerce. Let me——

Mr. KENNA. I think I understand the gentleman's question.

Mr. BLACKBURN. Let me state the question.

Mr. KENNA. If I understand my amendment, if adopted then the proposed amendment to the rules would not affect the Committee on Commerce at all.

Mr. BLACKBURN. There is where the gentleman shows he does not understand the question he is discussing. I understand that there is no rule which gives the river and harbor bill to the Committee on Commerce. It is there not by rule, simply by courtesy, by sufferance. It belongs to the Committee on Appropriations, and always came from that committee until within the last four or five years.

Mr. KENNA. Allow me to say——

Mr. BLACKBURN. The gentleman will permit me to make one suggestion to him, and I am done. The amendment of the rules which he opposes and which he proposes to amend does not require that a three-fourths vote shall be had in order to pass the river and harbor appropriation bill. It does require that a three-fourths vote shall be had to suspend the rules and pass the bill without its being submitted to the House for consideration. If the Committee on Appropriations or the Committee on Commerce should bring in a river and harbor appropriation bill which they are not ashamed of, and should be willing to let it be considered by this House, then it would not require a three-fourths vote to pass it.

Mr. KENNA. The Committee on Commerce are not ashamed of any measure which commands the support of the gentleman from Kentucky, [Mr. BLACKBURN,] as did the last river and harbor appropriation bill. [Laughter.]

Mr. BLACKBURN. Of the various bills that the Committee on Commerce have thrust through this House under the gag rule there is but one that has that redeeming feature.

Mr. KENNA. If the Committee on Commerce has "gagged" the gentleman from Kentucky, the House will bear me witness that it is the first time that enterprise has been made successful. [Laughter.]

Mr. BLACKBURN. And it shall be the last.

Mr. KENNA. Let me add a few words further, if I can have the attention of the House for a moment. So far as regards the gentleman's reference to the rule, I will say that the rule which gives jurisdiction to the Committee on Commerce was during the last Congress subjected to most thorough investigation and discussion, in the line of opposition to the passage of the river and harbor bills. This House had then under the fullest discussion the propriety of referring to that committee matters relating to the improvement of rivers and harbors; and not by the mere courtesy of this House, but under the providence of God by an overwhelming vote of the majority, upon a question raised, the decision was entered upon the records of the House that the Committee on Commerce is the proper, and the only proper, committee to whom such matters should be referred. I refer to the debate in reference to the contest between the Committee on Railways and Canals and the Committee on Commerce, when the point was raised that the rule defining the duties of the Committee on Commerce did not give it jurisdiction of these questions.

Now, Mr. Speaker, it may be true that this particular amendment is intended to affect all appropriation bills. But every other appropriation bill under the rules may be reported at any time; the river and harbor bill cannot be reported at any time. The effect, therefore, as I have stated, of adopting this amendment will be that the river and harbor bill can only come into this House upon a proposition to suspend the rules which must be sustained by a three-fourths vote. I say to those gentlemen on this floor who believe in internal improvements who do not share in the gentleman's idea that it is iniquitous to pass such a measure with the sanction of two-thirds of the House, that no man who is in favor of this system of improvements and desires to see it carried on can support an amendment which practically and in effect must kill every bill of the kind that may hereafter be presented. I am for the improvement of our rivers, the development of our commerce, and for every other measure which is calculated to afford relief to the people of this great country.

Mr. CONGER. Mr. Speaker, I have no fears that this House will adopt any rule by which the Committee on Commerce shall be required to obtain a vote of three-fourths of the members of the House to suspend the rules and pass a river and harbor appropriation bill. There is not a member here, representing a district in which river and harbor improvements have been commenced or are desired by the people, but would be condemned instantly if his people knew he had favored a proposition calculated to prevent the improvement of the great ways of communication and the consequent cheapening of the cost of transportation. I venture to say that no man could sooner

seal his own decree against the chance of returning to the halls of legislation than by voting for a proposition which would prevent these improvements, so valuable to the great mass of the American people—so valuable in improving harbors and opening rivers and consequently so valuable in cheapening transportation.

I have, I say, no fears on this subject. I do not think one need detain the House long by any argument on it. I cannot conceive it possible that members of this House who at all appreciate what their constituents demand in this direction will put themselves in the power of a minority of one-fourth of this House. If they do, the rule will undoubtedly be changed before the first regular session of this Congress shall close.

But there is another view of this case more serious, more important, and when I heard that this proposition had received the unanimous concurrence of the Committee on Rules, I wondered where the republican members of that committee were when this unanimous consent was given. I wonder still; and at the proper time I shall ask an explanation.

Mr. STEVENSON. Will the gentleman allow me to ask him a question?

Mr. CONGER. Not now. I am talking about my friends on this side of the House now; and I object to the "third party" coming in to interrupt me.

Mr. STEVENSON. I think the gentleman will hereafter object still more earnestly to the "third party." I want to ask the gentleman this question——

The SPEAKER. Does the gentleman from Michigan yield?

Mr. CONGER. Well, I will yield to my friend.

Mr. STEVENSON. I want to know why it is that the river and harbor bill when reported to this House should not take its chances as other bills do and be subject to amendment and discussion.

Mr. CONGER. So it should, if the rules were altered so that this bill could come before the House. But the gentleman's question diverts me from the point I was on in regard to my colleagues on this side of the House. I will, however, pass from that for a moment.

Mr. FRYE. Do not forget it.

Mr. CONGER. No, I will not forget it; if I do I hope the gentleman will remind me of it.

Those who are familiar with the work of the Committee on Commerce upon the river and harbor bills, as I claim to be in some degree from six years' experience on that committee, know that the preparation of a bill of this kind is more laborious than any other bill presented to the House. There is a volume of engineers' reports as large almost as the Revised Statutes, relating to from one hundred and fifty to two hundred and fifty public works; there are minute reports of special engineers upon each work; there are petitions and memoranda; there are statements of citizens and of transportation companies. No man can venture upon the labor of preparing a river and harbor bill unless he has at his finger ends all the information in regard to the particular improvements to be made, their relations to navigation, to the productions of the region and to transportation. It requires days, weeks, months, years of the most earnest and devoted attention to all those great questions of international commerce and navigation and production and the expense of transportation and the monopolies of railroads—more study, indeed, if the Committee on Commerce would fairly and honestly perform its duty to the commerce of the country, than any other bill which can be originated for the consideration of the House.

Now, sir, there is not a member of the House interested in the smallest improvement before that committee who does not go before it. He is heard by that committee. He presents his claim. He calls attention to the report of the engineers. Everything is searched out and considered for or against the improvement. The committee hears all that can be presented on the subject. Every single item is discussed and examined.

The great work of the Committee on Commerce in reference to the river and harbor appropriation bill is to hold back—to prevent large appropriations, to cut down the estimates of the engineer officers, to cut down the requests of the people of every region. When an improvement is deemed worthy and valuable the people of every district want it done, and done at once, and their Representatives go before the committee and urge that it would be the best economy to make an appropriation up to the full estimate or the very largest appropriation. The work of the members of the Committee on Commerce is steadily to resist this pressure.

Mr. FORT. Does the gentleman think the Committee on Commerce considers appropriations for rivers and harbors so much better than the House can? If that be so, then why is it that the committees having charge of other appropriation bills are required not only to consider them carefully, but to report them to the House to be open to debate and amendment, to general debate and to amendment in debate under the five-minute rule? Why is it the river and harbor appropriation bill is allowed neither to be debated nor amended?

Mr. CONGER. I can tell the gentleman I think almost any member of the House is able to answer the question, and therefore I think I may answer it myself. The gentleman from Illinois never votes for any river and harbor bill. He dwells out upon the prairie, where there is nothing but the dew which falls from heaven to make anything like navigation possible. [Laughter.] But I will answer his question. I will treat him as fairly as if he voted for every river and harbor appropriation bill. Other appropriation committees have the law controlling their action in each case before them. That law specifies just what appropriation shall be made. If they follow the law there is no discretion; they have only to look at the law the preceding year, and follow it. Unless the law has been altered in the mean time they merely have to revise the estimates sent here from the Treasury and see that the appropriation conforms to the law. They have to make appropriations according to law, and it is but little work; indeed it is the work of a mere copyist. In making up the river and harbor appropriation bill, however, the members of the Committee on Commerce must exercise their judgment on every measure, and ascertain whether the interests of the country demand any appropriation, and, if so, how much.

Mr. STEVENSON rose.

Mr. CONGER. I am answering the gentleman from Illinois, but if the gentleman starts another interrogatory on me I shall not get through to-day.

Mr. FORT. I thought the gentleman was through.

Mr. CONGER. Oh, no.

Mr. FORT. It is impossible to tell when the gentleman is talking and when he is not, he talks so much. [Laughter.]

Mr. CONGER. If there is any gentleman in the House who is listened to when he does get the floor with that sublime attention which we all desire to receive from the House, it is my friend from Illinois. [Laughter.]

Now, Mr. Speaker, I have tried to answer why the river and harbor bill ought to have the opportunity to be presented as other appropriation bills are; that the Committee on Commerce ought to have the right to make its report at any time, and to have that bill considered from day to day at the time fixed, until disposed of. Such, however, is not the rule. The magnitude of the work prevents its being reported, even in the longest session, at an early day, because the reports of the engineers, ordered by the House itself, are continually coming in even up to the very last moment of its passage. So much for that.

I come now to what I consider a more serious question still, and to which I have invited the attention of those gentlemen on this side of the House who have made unanimous report in favor of the proposition, that an appropriation bill passing under a suspension of the rules shall be required to have a three-fourths vote. Sir, I do not know but it is premature for me to say it, but I venture to say if this House adjourns we shall be called upon to provide appropriations for the next fiscal year or a part of it by the passage of an appropriation bill or by the passage of a joint resolution making appropriations by a majority of this House, or by suspension of the rules. It seems plain to me, however it may be concealed, that this amendment is not aimed at the river and harbor bill. That is a mere pretense. It has alarmed our friends here. This House will on opportunity strike out that part and relieve the Committee on Commerce from the effect of any such rule. But when we come to the time when it requires two-thirds of the House to pass a resolution for appropriations of this year until the 1st of January next there is one-quarter of the members in this House, I venture to say, who can defeat it, but there is not one-third. I venture to say if we can get back beneath the shadow, if we can get back and find what is the moving cause, if we can discover lying far back what is the motive among the strategists of this House we would find that the motive which prompted the offering of this to the House was to prevent two-thirds of the House, of the sober men of the House, of those men who are willing to prevent revolution, of those men who are willing to keep this Government together, to prevent two-thirds from passing an appropriation bill without these political clauses.

Every man here, any man here, may take the roll of the members of this House, may look at the votes which have been given already on some questions, and they may know that they can count upon two-thirds of this House to pass the proper appropriation bills, although we cannot agree upon the political questions, rather than launch out onto the sea of revolution. I know, sir, there are men enough from both sides of the House to make a majority of two-thirds who will provide for the Government, who will prevent revolution, and who will refuse to starve this Government to death. But, sir, I have no such guarantee that three-fourths of this House will do it.

Therefore I ask where were the republican members of the Committee on Rules that assented to a proposition which should prevent two-thirds of the sober-minded, careful, candid, patriotic men of this House from passing a joint resolution to continue the support of the Government when we fail to pass, as undoubtedly we shall fail to pass, the appropriation bills? I would like to have that explanation. And now I think I have said all I desire to say.

Mr. REAGAN. I shall direct my remarks to the last item in the report of the Committee on Rules, as that matter has occupied considerable attention in this discussion. I have always recognized, sir, the difficulties that occur in the passage of any bill appropriating large amounts of money under a suspension of the rules, absolutely cutting off amendment and the privilege of members to debate; and I have never participated in thus passing a river and harbor bill that I did not feel a wish that it were practicable to have the bill open for amendment and debate. It has been, however, generally assumed that if we pass such a bill at all it would be necessary to pass it under a suspension of the rules, in the interest of economy and to secure appropriations to improve the commercial facilities of the country.

Just how much foundation there is for that supposition I am not aware.

This much, however, we know, that in the Senate, where these bills are open to amendment and free debate, there are always large additions made to the bills as reported and restricted by a committee of this House. The apprehension has been that if we attempted to report bills of this kind and open them to amendment and debate, the House would soon increase the amount of appropriations by amendments to such an extent as to make bills that no one would consent to vote for.

I apprehend that there is some foundation for the supposition, and my apprehension rests upon this, that the opposition to the river and harbor bill in the main comes from objections to it on the ground that it does not give money enough to particular localities. There are a few gentlemen who are opposed to all improvements for cheapening transportation, reducing rates of insurance, increasing the value of the products of the country, and increasing the value of manufactured articles, and who, upon the ground of what they call economy, would strike down those improvements which are necessary to accommodate the thirty billions of commerce that float over the waters and pass over the railroads of this country. They do this simply because they do not understand and have never attempted to grasp the subject so as to see to what extent the people are benefited by small appropriations of money to increase commercial facilities, to give larger value to products of the soil and to manufactured articles, and to cheapen the articles of consumption used by the people all over the country. I have no sympathy with that class of gentlemen who oppose improvement as a matter of economy. It is a sort of economy that would stifle trade, cripple production, arrest manufactories, and retard the growth of the country, impede its progress, and injure its prosperity; and I have no sympathy with it.

Mr. STEVENSON. I wish to ask the gentleman from Texas a question. Is it true that, by the river and harbor bill passed under the gag-law, under the spur of the previous question, without even having been printed, money has been appropriated to localities where there was no necessity for it whatever?

Mr. REAGAN. I will answer the gentleman's question, and I will also answer the question which the gentleman propounded to the gentleman from West Virginia, [Mr. KENNA.] I will answer that question first, because I desire to correct him as to a matter of fact. He asked about the passage of these bills without the privilege of debate or amendment, and when they were submitted to the House without being printed; and in each of his questions he has laid stress on the fact that they were not printed. Now, I have never known a river and harbor bill brought before the House for its action that was not printed days and weeks before action was had on it, and laid on the tables of members, so that they had an opportunity of examining it and determining whether it was one that should meet the approbation of the House.

Now, I will answer another question of the gentleman. There has been more demagoguery and want of information displayed on this floor upon this question than upon any other subject that I know of. I refer to the reiterated charge that in these bills money is appropriated for streams for which no money ought to be appropriated. I desire, sir, to say that in the three bills which have passed in the last four years an item has never been inserted that was not inserted upon the examination, survey, and report by the Engineer department and certified to by the Chief of Engineers. I desire to say further, that I know of no item that has ever gone into a river and harbor appropriation bill of the last three years with which I am familiar that was for the improvement of the navigation of a stream that was not navigated by steamboats or other vessels.

Mr. STEVENSON rose.

Mr. FINLEY. I would like to inquire of the gentleman from Texas——

Mr. REAGAN. I wish to answer one gentleman at a time.

Mr. STEVENSON. At the risk of being considered a demagogue, I want to ask the gentleman from Texas why if these bills are proper they should not be subject to amendment and discussion in the Committee of the Whole House?

Mr. REAGAN. I have been trying to state the reasons which have always controlled the House in that respect without reference to party. It was believed that such a bill, if submitted to the House for amendment and debate, would be at once loaded down with amendments so that no member could vote for it; that it would be defeated; and that in that way there would be lost the benefit of appropriations for the improvement of the commercial facilities of the country. As evidence of that I state that every bill that passes this House has been so increased in the Senate.

Mr. STEVENSON. Does the gentleman mean to say that the fact that a bill may be loaded down with amendments is a reason why the House should pass any bill under the gag of the previous question, without the power of amendment or discussion?

Mr. REAGAN. I said, but I think the gentleman from Illinois did not hear me, that this mode of legislation has never commended itself to my entire approval. I would much prefer that bills of this kind should be submitted to the House for amendment and debate. I would rather it were so, because that would close the mouths of gentlemen who make these foolish statements.

Mr. STEVENSON. Is it not a fact in the legislative history of the country that some of the worst laws ever passed in the House have been passed under a suspension of the rules?

Mr. REAGAN. That may be so; but I do not care to go into the subject of general legislation.

Mr. CHALMERS. Will the gentleman allow me to offer an amendment?

Mr. REAGAN. Not now. I will at the close of my remarks.

Mr. CHALMERS. I would like to hear from the gentleman upon this amendment.

Mr. REAGAN. The gentleman from Kentucky [Mr. BLACKBURN] made some statements that it is right I should refer to. The gentleman from Kentucky stated that the Committee on Commerce had not jurisdiction of the river and harbor bill and that it was only by the courtesy of the House that they were permitted to prepare that bill and that they had never been allowed to do it but in four instances. Now, sir, I must express my profound astonishment that the gentleman knows so little upon this subject.

Mr. BLACKBURN. I am sure the gentleman from Texas does not want to misrepresent me.

Mr. REAGAN. Certainly not.

Mr. BLACKBURN. The gentleman from Texas will find that what I said was that the Committee on Commerce had the custody of the bill under no rule of the House. I know as well as the gentleman does that for many years it has been customary for that committee to make up the river and harbor bill at the request of the Committee on Appropriations and to submit it to that committee before reporting it to the House. I know that four years ago for the first time the Committee on Commerce claimed jurisdiction of the bill, not only to prepare it as it had been done before at the request of the Committee on Appropriations but to report it, and they did it from that time but never before.

Mr. REAGAN. I think the gentleman is seriously mistaken. I had the honor to present at the last session of Congress a historical examination of that very question, deduced from the Journal and laws, to show that a river and harbor bill had not been passed through Congress in thirty years that was not reported by the Committee on Commerce. I did it after a careful examination of the records, journals, and laws. If one single bill has been referred from the Committee on Commerce to the Committee on Appropriations for its action it does not so appear from the Journals of the House. That disposes of what the gentleman says about this being a courtesy only which has been in existence for four years.

I have before me the facts. I will not attempt to refer to them now except in a general way. Thirty years ago there was an able and earnest debate in this House between the members of the Committee on Appropriations, the Committee on Railroads and Canals, and the Committee on Commerce, as to which of these committees should be entitled to the jurisdiction of the river and harbor bill.

After full discussion the Committee on Commerce was accorded jurisdiction of this subject, and it retained it until the Forty-fourth Congress. One of the then Representatives from Kentucky made the question that the Committee on Commerce under the rule was not entitled to the preparation of this bill, but that the Committee on Railroads and Canals was. The then Speaker, Mr. Kerr, decided against that proposition, and decided that the Committee on Commerce had jurisdiction of the subject. Again last year, after a careful examination, I laid before this House a full history of the subject, and, after an elaborate debate, the House decided again that the Committee on Commerce had jurisdiction of the subject.

It is true that in the early history of the matter, I speak of forty or fifty years ago, the Committee on Appropriations did report some of these bills, and besides that there were one or two bills reported by some other committees, but there has never been a bill for that purpose reported from the Committee on Railroads and Canals; so that the gentleman will see that I am not mistaken, for I speak from the record, and he had no right to say that this committee exercises jurisdiction over this subject and performs the duty of preparing the bill as a matter of courtesy, but it holds it by the deliberate judgment of the House twice expressed, once more than thirty years ago, once last year, and supplemented by the decision of a Speaker of this House.

He will also see, if he will take the trouble to turn to the CONGRESSIONAL RECORD of the early part of the last Congress, that for thirty years no committee but the Committee on Commerce has ever reported a bill to this House for the improvement of rivers and harbors. That is all I desire to say on that subject, except that it is just about as accurate as the general denunciations upon this floor usually are. I believe the gentleman from Ohio [Mr. FINLEY] wanted to ask me a question.

Mr. FINLEY. One question which I desired to ask the gentleman was substantially the one asked by the gentleman from Illinois, [Mr. STEVENSON,] and which has been answered by the gentleman from Texas, [Mr. REAGAN.] Another question was this, if I understood the gentleman correctly, he stated that there was no appropriation for any rivers which were not navigable or were not being navigated.

Mr. REAGAN. I did make that statement.

Mr. FINLEY. At the second session of the Forty-fifth Congress, when we had an incidental discussion of this question, it was asserted upon the floor of this House by the gentleman from Pennsylvania on my right [Mr. WRIGHT] that the rivers Kiskiminetas and Conemaugh

were small streams of water, one of them, I understood him to say, so small that a man could jump across it. I desire the gentleman to state whether those streams are navigable or not?

Mr. REAGAN. I will state now that the gentleman's statement shows his utter ignorance of the whole subject.

Mr. FINLEY. I am very willing to be informed.

Mr. BLACKBURN. Allow me to ask——

Mr. REAGAN. No, one question at a time. The Kiskiminetas and Conemaugh were inserted in the bill not with appropriations to improve them; that was not asked nor was it granted. But they were inserted for examination.

Mr. FINLEY. And——

Mr. REAGAN. Let me get through; I will answer the question. They were inserted there, at the instance of the Representative through whose district they run, for examination and survey. The practice of the Engineer Bureau is, when a provision is put in a bill for the examination or survey of a stream, to send a person to make a preliminary examination. If that preliminary examination indicates that a survey is desirable, then the survey is made.

Mr. SPARKS. How much was appropriated for that survey?

Mr. REAGAN. Let me answer the question. If the report is in favor of a survey, then a survey is made and an estimate sent in for an appropriation to improve the river. I do not know what the action of the Department in that case was. I know that gentlemen amused themselves very much here by stating to the House and to the country that we appropriated money for the improvement of those streams, when we never appropriated one dollar for that purpose, and when the predicate of an appropriation under the practice of the Government was never laid.

Mr. SPARKS. As the gentleman has spoken of demagogues, will he allow me to ask him how much money was appropriated to make that survey?

Mr. REAGAN. As I understand it, no survey at all was made. A recognizance was made, but no survey was ever made; and the recognizances in such cases are made by salaried officers and cost nothing.

Mr. SPARKS. Well, how much was appropriated for the recognizance?

Mr. KENNA. No specific sum at all.

Mr. SPARKS. How much?

Mr. REAGAN. There was appropriated in the bill $100,000 or $150,000 to make the surveys authorized by the bill, and to be employed in finishing the works for which there was no special appropriation.

Mr. SPARKS. Allow me to ask the gentleman this question: whether or not the river and harbor bill of the last Congress was not made up on the basis of catching more than two-thirds of the votes of this House?

Mr. REAGAN. I am glad the gentleman has asked that question, for it enables me to say what I desire to say.

Mr. SPARKS. Will the gentleman answer the question?

Mr. REAGAN. I will, if the gentleman will not be in too much of a hurry. Just let him keep quiet.

Mr. SPARKS. I am very cool.

Mr. REAGAN. I will answer the question. The gentleman asks me if that bill was not made up on the basis of securing a two-thirds vote in this House. I say in reply that so far as I was concerned I never asked a man how he would vote on it, and I never knew how any member would vote upon it unless the information came to me in some voluntary manner. In regard to the three bills with which I have been connected, I have never inquired how any man would vote on either of them; and I make that statement here in the presence of this whole House. I have always thought that it was an unjust and improper course for any one to put items of appropriation in a bill to secure votes for its passage, and I have utterly repudiated such a course.

Mr. BLACKBURN. Will the gentleman now let me ask him a question?

Mr. REAGAN. Certainly.

Mr. BLACKBURN. The gentleman from Texas has made an issue with me, and it must of necessity be recognized by the House as an issue of fact. I will not take the time of the House to restate what I have said in regard to the Committee on Commerce never having had jurisdiction of the river and harbor bill until four years ago, which then occurred under the administration of the gentleman who is now Speaker of this House and who was at that time the chairman of the Committee on Appropriations. I am sure that he will bear me out in the statement I make that then for the first time the Committee on Commerce undertook to bring into the House and control a river and harbor appropriation bill. Prior to that time for years they had, upon the request of the Committee on Appropriations, examined estimates and prepared the bill as a matter of convenience. But more than that, here is Rule 79 of this House which stands unrepealed to-day:

It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters or things touching the commerce of the United States as shall be presented, or shall or may come in question, and be referred to them by the House; and to report from time to time their opinion thereon.

This rule defines the duties of the Committee on Commerce; and nowhere does it clothe that committee with any power in reference to the preparation of the river and harbor appropriation bill.

But, sir, the gentleman has appealed to the record and has impugned my information. I now desire to refer him to a record far more recent than any he has been using. I ask him whether he does not know—surely a gentleman who has served as the chairman of the Committee on Commerce should know——

Mr. REAGAN. I do not yield for a speech; the gentleman can make his speech after I am done.

Mr. BLACKBURN. Let me ask the gentleman this question: Does he not know that in the Forty-second Congress (this is only the Forty-sixth) the consular and diplomatic bill was sent to the Committee on Foreign Affairs? Does he not know that in the Forty-third Congress, on the 30th of April, 1874—

Mr. SAWYER, from the Committee on Commerce, reported a bill (H. R. No. 3168) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which was read a first and second time, ordered to be printed, and referred to the Committee on Appropriations?

Mr. REAGAN. I was not then a member.

Mr. BLACKBURN. That was in 1874.

Mr. REAGAN. I desire not to be further interrupted. The gentleman, I have no doubt, will find that whatever was done at that time was done by reason of the defect in the rules which denied to the Committee on Commerce the privilege possessed by the Committee on Appropriations of reporting at any time. Therefore I presume the bill after being prepared in the Committee on Commerce was, as a matter of convenience, brought before the House and referred to the Committee on Appropriations. Does the gentleman mean to say that the bill was prepared by the Committee on Appropriations?

Mr. BLACKBURN. On the contrary, at the request of the Committee on Appropriations the Committee on Commerce prepared the bill, brought it into the House, and referred it to the Committee on Appropriations.

Mr. REAGAN. Then, Mr. Speaker, the gentleman has not strengthened his position——

Mr. SPARKS. Is not the river and harbor bill an appropriation bill proper?

Mr. REAGAN. It is.

Mr. SPARKS. Then why should the Committee on Commerce have charge of its preparation?

Mr. REAGAN. The gentleman from Illinois may be much grieved that the Committee on Appropriations, of which he has been a member, has not control of the river and harbor bill in addition to all the other general appropriation bills. I sympathize with him, but I cannot help him. The rules of the House do not give this subject to the Committee on Appropriations.

Mr. SPARKS. The gentleman's reply may be good wit, but it does not answer my question. The gentleman admits that this bill is an appropriation bill. Why, then, I ask him, is it not referred to the Committee on Appropriations?

Mr. REAGAN. I do not know what reasons have influenced this House for thirty years in regard to this matter. Many considerations have doubtless influenced it. The Committee on Commerce is charged primarily—the very definition of the duties of the committee shows it—with the consideration of questions relating to the commerce of the country. The fact which I have stated that for thirty years past no bill of this kind has been prepared and reported by any other committee than the Committee of Cmmerce stands attested by the Journal. More than thirty years ago, as appears by the debates, it was thought right by the House that the Committee on Commerce should take up and report river and harbor bills. This committee has made reports of those bills from that time to this. However, if it is the desire of the House to change the rule and transfer the preparation and report of these bills to the Committee on Appropriations, I think that would be better than to leave this subject in the hands of the Committee on Commerce, tied up by the rules in such a way as to defeat legislation on the subject.

Mr. SPARKS. Is the river and harbor bill rightfully, under the rules, in charge of the Committee on Commerce any more than the Indian appropriation bill should be in charge of the Committee on Indian Affairs, the Army appropriation bill in charge of the Committee on Military Affairs, or the Post-Office appropriation bill in charge of the Committee on the Post-Office and Post-Roads? Is there any greater reason why the Committee on Commerce should have control of this appropriation bill than that these other committees should have control of these bills respectively?

Mr. REAGAN. In principle, I do not see any reason that should take this bill to the Committee on Commerce more than the Army appropriation bill to the Committee on Military Affairs or the naval appropriation bill to the Committee on Naval Affairs. I only take the matter as I find it. If gentlemen are not satisfied with the rules, let them change them; but let the change be fair and just and manly.

Mr. BLOUNT. The gentleman will allow me to suggest a very good reason why the river and harbor bill does not go to the Committee on Appropriations. Because the rules of the House do not specifically refer that subject to the Committee on Appropriations, while these other bills, the Indian appropriation bill, the Post-Office appropriation bill, &c., are by name given in charge of the Committee on Appropriations.

Mr. REAGAN. I suppose the gentleman from Illinois [Mr. SPARKS] was aware of that when he asked his question. The rules of the House, as well as its practice, give the preparation of this bill to the Committee on Commerce.

But I want to say a word directly upon the proposed amendment to the rules. As the rules now stand, the Committee on Commerce has no privilege of reporting appropriation bills at any other time than when the committee is regularly called for reports. The gentleman from West Virginia [Mr. KENNA] and the gentleman from Michigan [Mr. CONGER] have called attention to the difficulty and labor connected with the preparation of the river and harbor bills and the time that such preparation necessarily consumes. This necessarily prevents a report upon the subject till late in the session; and then, the Committee on Commerce being without the privilege accorded to the Committee on Appropriations, it is difficult if not impracticable to have the bill debated and amended in Committee of the Whole before its passage. It is proposed now to add to the difficulty of securing action on the river and harbor appropriation bill; for this proposed amendment can have no reference in general to any other bill. It is true that at the last session the sundry civil appropriation bill was, just at the close of the session, passed under a suspension of the rules in order to get it through, because it was not reported in time to be considered by the House in the ordinary way. Hence, it was passed under a suspension of the rules in order to go that far toward avoiding the necessity for a called session of Congress. If there has been any general appropriation bill passed under a suspension of the rules, it has not been in my experience in the House. That stands as an isolated exception. It was caused by the late day at which the bill was prepared, and it was deemed necessary to pass it in that way in order to avoid a called session of Congress.

I take it for granted, Mr. Speaker, that requiring a three-fourths vote to suspend the rules has for its object the prevention of passing under a suspension of the rules any river and harbor appropriation bill. It may be unwise to pass these bills under a suspension of the rules at all. The principle of legislation in a country like this is that the majority shall control. In exceptional cases and to guard against hasty and inconsiderate legislation for some other purposes, we say that in certain cases two-thirds may suspend the rules and pass a bill. Now it is proposed that we shall go beyond that, trench still further on the majority principle, and assume that three-quarters of the House are inconsiderate, wasteful, extravagant, unpatriotic, and that they must put themselves under the guardianship of one-quarter of its members, who by their virtue, their patriotism, their integrity, their economy, are charged upon their own assumption with taking special care of the country and its interests.

Mr. SPARKS. Would you suspend the rules by a majority vote?

Mr. REAGAN. I have not said any such thing.

Mr. SPARKS. But that is the proposition here. The question is not about the passage of any measure, good or bad; but it is on the suspension of the rules, and I ask the gentleman now whether this thing of suspending the rules, that is to go outside of the rules, shall be done according to his judgment by a mere majority vote?

Mr. REAGAN. I have not stated anything of the sort and I am not called upon to do it.

Mr. SPARKS. You say you would do it by a two-thirds vote; why not by a three-fourths vote?

Mr. REAGAN. That is going far beyond what we ought to do, trenching still further upon the rights of the majority of the House.

Mr. SPARKS. But it seems a majority of the Committee on Rules think otherwise.

Mr. REAGAN. I am sorry for that. I regret that they have done it. What I say is this, that it is for the House to settle the question, and I am no more concerned in that than any other member of the House, and that is, whether it is their purpose, by putting this provision on the bill and not according to the Committee on Commerce the privilege of reporting the bill as the Committee on Appropriations might report it, to defeat any river and harbor bill. I call the attention of members to the fact—they will have to meet their constituents, to confront the country on the fact, if they vote for this—that they will take a step which is to injure the country by defeating that kind of legislation which has been employed for a number of years in promoting the commercial interests of the country.

Now, sir, there have been for several years appropriations made which have done much to improve the harbors, deepening the inlets to them; improving the navigation of rivers by the removal of obstructions, thereby reducing the cost of insurance and transportation; reducing the cost of freights, and in every way facilitating and expediting the commercial interests of the country. In the execution of this policy I desire to call the attention of members to the fact that in 1870 there was appropriated $3,947,000 for this purpose; in 1871, $4,700,000.

Mr. ATKINS. Allow me for one moment.

Mr. REAGAN. Not now; wait until I get through with my statement.

In 1872, $5,588,000 were appropriated for this purpose; in 1873, $6,102,000; 1874, $5,193,000; 1875, $6,643,000; in 1876, $5,015,000; in 1878, over $8,000,000, and in 1879, that is, for the present year, over $6,000,000. All this has been in pursuance of a policy which has met the approval of Congress certainly since 1869–'70 until now.

Mr. ATKINS. The question which I wish to ask the gentleman from Texas is this: whether the issue as to what committees shall have charge of the river and harbor bill is raised in the report of the Committee on Rules now pending?

Mr. KENNA. No, sir.

Mr. ATKINS. Then why this discussion?

Mr. REAGAN. Because your former colleague on the committee and the gentleman from Kentucky drew it out.

Mr. ATKINS. Then the discussion is all out of order.

Mr. REAGAN. I am sorry the gentleman from Tennessee did not discover it to be out of order when the gentlemen from Illinois and Kentucky were upon the floor.

Mr. ATKINS. I have had time since the gentleman from Texas got the floor to make several discoveries so far as that is concerned.

Mr. REAGAN. Now, Mr. Speaker, I have felt it was right to defend the action of the Committee on Commerce against charges made against that committee, and I do not think I have violated the rules of the House.

Mr. KENNA. I desire to modify my amendment.

Mr. REAGAN. I yield now to the gentleman from Kentucky.

Mr. BLACKBURN. I desire, by way of supplement to the proof I have already furnished to the gentleman from Texas and the House as to my being absolutely correct in the statement I have made, to refer the gentleman to the action taken by this House on the 30th of April, 1874, where the Committee on Appropriations reported this very river and harbor bill, and by the action of the House it was sent to the Committee on Appropriations.

Mr. REAGAN. What year?

Mr. BLACKBURN. April 30, 1874.

I desire to supplement that now with just this one statement, that in the Journal of the 16th of February, 1875, I find this:

Mr. SAWYER, by unanimous consent, from the Committee on Commerce, reported a bill (H. R. No. 4740) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which was read a first and second time, and referred to the Committee on Appropriations.

Mr. REAGAN. That was simply because the Committee on Commerce had not the same privilege of reporting as the Committee on Appropriations.

Mr. MILLS. If the gentleman from Kentucky will look further he will find on the 22d of February Mr. SAWYER's motion to suspend the rules and pass the bill, and it was passed on his motion. The Committee on Appropriations reported the bill back, and it was committed to the Committee of the Whole on the state of the Union; and then, on motion of Mr. SAWYER, the rules were suspended, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and it was passed.

Mr. REAGAN. I yield to the gentleman from West Virginia, [Mr. KENNA,] who desires to modify his amendment.

Mr. KENNA. I desire to withdraw the proposition to add to the end of the section as reported the words I sent to the Clerk's desk, and move instead to strike out the whole clause which relates to the suspension of the rules.

Mr. STEPHENS addressed the Chair.

Mr. REAGAN. I desire to offer a substitute.

The SPEAKER. The gentleman from Georgia [Mr. STEPHENS] has control of the floor.

Mr. REAGAN. I had the floor and have not yet yielded it.

Mr. BLOUNT. How much time has the gentleman from Texas?

The SPEAKER. One hour.

Mr. BLOUNT. How much time has he left?

The SPEAKER. The gentleman from Texas has occupied the floor about twenty-three minutes.

Mr. STEPHENS. I only wish to make a suggestion to the House as to the debate. I desire that a reasonable time should be allowed for debate on this subject, and I suggest now to the House that at a certain hour, by common consent, say two o'clock, the vote shall be taken, and that it shall be taken on each proposition separately.

The SPEAKER. It is the right of any member to call for a division.

Mr. STEPHENS. My proposition is that a time shall be fixed for closing the debate, and that when the debate is closed a vote shall be taken on each proposition and upon the pending amendments without debate.

Mr. REAGAN. I have not yielded the floor to have this motion interposed now. I will be through in a moment, and then the gentleman from Georgia can resume charge of the matter. I now desire, with the permission of the gentleman from Georgia, to offer a substitute for the last clause of the report of the Committee on Rules.

The SPEAKER. The gentleman from Texas has not the floor to use in that way. The report of the Committee on Rules is under the charge of the gentleman from Georgia.

Mr. REAGAN. I ask that my amendment may be read.

The Clerk read as follows:

That hereafter the Committee on Commerce shall have the same privilege to report a bill making appropriations for the improvement of rivers and harbors that is accorded to the Committee on Appropriations in reporting general appropriation bills.

Mr. COX. I do not intend to revamp old issues or to discuss irrelevant matters. It is not logical nor pertinent to this report that we should discuss commerce and its needs transportation and its cheapness, or any system of internal improvements. The issue raised by that part of the report of the committee which has been most discussed is this: Shall we make a conspicuous exception with regard to the river and harbor bill? Shall we say that such bills, for some hidden or public or other purpose, shall have some sort of preference

and priority? If so, gentlemen should give reasons for it. What reasons can they give? Why, why should there not be scrutiny into a bill of this nature the same as into other appropriation bills? I say, sir, there is more need of particular scrutiny and general debate on a bill whose very make-up, tendency, and design is "log-rolling."

I charge nothing upon the gentleman from Texas, I impugn no man's motive, when I say that in order to pass such bills by a two-thirds vote it is necessary to keep a weather-eye out to make some a nice local calculus for the two-thirds majority. We all know it to be so; no gentleman can deny it. The gentleman says he asked no man to vote for a bill thus made up. To be sure he did not. Of course he would not. Why should he? When his bill is put together is it not a foregone conclusion? There is no one-third left to defeat it. When the river and harbor bill of 1878 came in with nearly $8,000,000 in it, it followed the precedent set by Judge Holman, of Indiana; but, sir, I know, for he told me, that he regretted it as a bad example. That eight-million bill was crowded through without discussion, without consideration. It passed upon the 23d of April, 1878. But we did provoke some useless discussion after the bill was through. That arose from a protest I hurriedly penned and presented under difficulties. It was signed by some forty members, to this effect:

Several MEMBERS. Let the Clerk read it.

Mr. COX. I will send it to the Clerk's desk so that it may be read.

The Clerk read as follows:

We, the undersigned, members of the Forty-fifth Congress, protest against the passage of the substitute report of Mr. REAGAN, of Texas, to House bill No. 4236, making appropriation for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the following reasons:

1. The bill contains appropriations to the amount of $7,293,700, and is of such large amount that the rules of the House should not be suspended to facilitate its passage without debate and consideration.

2. All our rules, and especially Rule 121, specially applicable to appropriations for works of internal improvement, are intended to guard against a vote in gross on such appropriations, and require, for wise purposes, separate votes on each item, under certain conditions. We protest against the infraction of so salutary a rule on a bill where the tendency is to combine for general spoliation upon the Treasury.

3. The right of the House of Representatives to consider appropriations in Committee of the Whole House, or at least in the House itself, should be sacredly protected. This suspension of the rules deprives this House of our traditional privilege, and thus encourages similar attempts upon the Treasury to gratify local interests.

The eighth section of the first article of the Constitution, to "regulate commerce among the several States," is virtually abrogated, and the very authority under which our legislation is conducted defied by a bill of this nature, which appropriates money for improvements of rivers located wholly within one particular State and of no national importance. In a time of general depression and with the Treasury threatened with a deficit, it is unwise and unjust to the tax-payers to place such a burden, as this bill proposes, upon them.

S. S. COX.	W. A. J. SPARKS.
J. PROCTOR KNOTT.	JACOB TURNEY.
J. A. McKENZIE.	HENRY S. NEAL.
J. C. S. BLACKBURN.	MILLS GARDNER.
WM. M. SPRINGER.	THOMAS M. BROWNE.
J. K. LUTTRELL.	MILTON S. ROBINSON.
HIESTER CLYMER.	MILTON A. CANDLER.
ALBERT S. WILLIS.	WILLIAM S. STENGER.
E. B. FINLEY.	A. V. RICE.
G. M. BEEBE.	HENRY L. DICKEY.
FRANK JONES.	ANDREW H. HAMILTON.
J. G. CARLISLE.	E JOHN ELLIS.
WM. P. CALDWELL.	JOHN H. BAKER.
J. A. McMAHON.	LEVI MAISH.
ABRAM S. HEWITT.	E. G. LAPHAM.
G. L. FORT.	S. A. BRIDGES.

A VOICE. All democrats, are they?

Mr. COX. The signers of that protest are not all democrats. Many respectable gentlemen on the other side signed that paper; and more would have done so but for the haste. In the original copy of the protest the words "spoliation upon the Treasury" were used.

I remember very well a scene that occurred here. I am sorry to say that there was a "solid South" led by my friend from Michigan [Mr. CONGER] on the other side, who insisted that the word "spoliation" was a reflection and an insult to the House. To placate this clamor I withdrew the offending word, much to the disgust of the gentleman from Kentucky, [Mr. BLACKBURN,] whom I do not see in his seat. He thought my courtesy better than my courage. But, sir, that protest was timely and true. It was based upon a principle of honest legislation. That principle prevails in every deliberative body that passes laws to pay out the people's money to aid government. I do not speak of our State Legislatures. Nor do I limit my expression to this hemisphere, nor to republican representative assemblies. No nation which has deliberative assembly, in the form of legislatures, ever consents to pass a bill for paying out money raised by taxes without full consideration and debate as to the objects of such appropriation. We are making ourselves exceptional; and even monarchical countries shame us for our lack of manhood.

I challenge any member to show any one Congress, Reichstag, Chamber, Cortes, or any other legislative body which passes without deliberation and debate, and by suspensions of rules that would cut off inquiry and discussion on a money bill. We are asked here to confirm the bad practice of suspending—what? All rules. What for? To run millions through on a committee report without debate here. Why, sir, when you suspend all the rules you act without any rules—chaos! The committee desires cosmos, order, or some approach to it. There are authorities for my statement. The volume in my hand is Correspondence Relative to the Budgets of Various Countries, edited by J. W. Probyn. It is published in London, Paris, and New York in 1877. The questions as to certain practices in legislative bodies were asked by the Cobden club of all the various statesmen of the various countries and replies are given. Here is question 4:

If such examination of the details of the proposed expenditure takes place by committees appointed for such purpose, are the decisions of such committees in regard to any reductions of expenditures subject to the revision of the government or of the assembly?

Here are some of the answers; which I shall read without comment.

From Austria:

The decisions of the finance committee with regard to a reduction of the expenditure are not at all subject to the revision of the government; but the latter, in order to co-operate in fixing the budget with the legislature, has to explain and defend the government proposals in the committee *as well as in the house;* hence the minister whose department is concerned and is under discussion in a sitting of the committee has to be present. Consequently the committee must, in the absence of a particular minister, postpone the discussion of his department till he can appear.

The same thing is more expressly stated to be the custom in Belgium; where the house, "after debate," decides whether it will reject or accept any given proposal. (Page 12:)

When the discussion of the various budgets by the committees gives rise to proposals for reduction or increase of the estimates, these or any other proposals are examined by the central committee, which submits whatever observations it sees fit to the government. The report mentions the proposals of the committees, and the conclusion come to by the central committee. It makes known also the replies of the ministers, and all *are examined and discussed by the full chamber.*

In Denmark, where the ministers are permitted to make observations on the budget in the Chamber, the answer is:

The conclusions arrived at by the sections or committees are subject to the decision of the whole house.

And are we to retrograde when even kingly realms do so well in considering how the people's money is to be spent?

The ministers of the crown, I have said, are admitted to make observations in the Danish lower house, but the decisions and proposals of the committee are only subject to revision and alteration by the Assembly.

One of the eminent philosophic statesmen of Denmark gives credit for these jealousies of the money appropriation power to the "peasant majority;" and for it he forgives them many political faults.

From France the significant answer was that no decisions come to by the committee or by its subdivisions had any legal force. The Assembly decided everything. M. Leon Say (page 49) sums up the French practice in his reply when he says:

The vote on the budget is taken chapter by chapter. Even if the budget commission has suppressed the request of the government, they will overrule the committee to aid the government.

Another writer (page 56) pithily answers the query thus:

The budget commission, of which the committees or subcommittees are only subdivisions, does not decide anything definitely; it confines itself to proposing to the Chamber a given reduction or increase, as it thinks fit. Generally it calls before it the ministers or heads of departments and discusses modification of the budget with them, but this discussion has no other object than that of enlightening the members of the commission.

In the Chamber, the minister and each deputy may attack or defend the report of the commission or the proposals of the Government, as well as present amendments. New amendments—that is, those which have not been seen by the commission—are sent back to it before any discussion takes place, so that the commission may give its opinion.

In general, the views of the commission are adopted by the Chamber; sometimes the commission remains in a minority on a given question.

Yet the gentlemen who have interests in river and harbor bills would not allow us the privilege even of the French Chamber!

From Holland the answer was:

If the bill passes (amended or not) in the second chamber it is forwarded to the first chamber of the States-General, where it is examined in the same manner, first in the sections, afterward in the full house, with this exception only that no more amendments can be proposed. (Page 71.)

From Germany, the old land of free discussion, where the Witenagemote was the forerunner of discreet and ample debate in the interest of the people, the model of the English Commons and the American Congress—what from her:

The decisions of the budget committee constitute proposals, which are laid before the whole house, which adopts or rejects them after full discussion.

Whether in the Reichstag or Bundesrath, or any other German house or assembly, the authorization of expenditures must come from the wisdom of free debate. Such a proposition as this to suspend all rules and pass supplies, without debate, would be regarded as an unexampled outrage on free representative government.

In Italy the practice is as follows, as given on page 80 of this little red budget volume:

The committee refer and propose matters directly to the Assembly or Chamber, which deliberates upon the proposals.

A reduction voted by the Chamber of Deputies may not be approved by the Senate, and on the other hand the Senate may vote a reduction not voted by the Chamber.

In this case the project of the budget as amended returns from the Senate to the Deputies. The report of the general committee on the amendment passed by the other house is laid before the Chamber of Deputies, which discusses and votes according to the usual forms.

Are we to be less democratic or less republican than the Italian Chamber? Where is our vaunted independence if a committee is to bind us and make a bill to which no minority can except by rational discussion?

Signor Boccardo writes from Genoa, (page 87,) and concisely, of the

Italian custom. He says: "The committees refer their conclusions to Parliament, which discusses the proposals and deliberates upon them."

In Portugal the Assembly revises the expenditures, but the government generally gets what it wants.

In Russia there is no representative assembly, but there is an independent Council of the Empire, and their practice is better than that we have adopted as to river and harbor bills! Discussion is ample.

In Sweden the committee only inquires. It does not decide. It is the Riksdag which discusses and decides. They have exclusive rights; his majesty only may consent.

But what sort of report was that which was made from America. It is curious to read it in the light of these proposals to pass one appropriation bill without consideration.

Senator DAWES answers thus:

In practice almost every item is contested; some one member playing the role of economist and leading the attacks. The Executive must take them as they finally pass.

Mr. David A. Wells advised the querists "that all appropriations were subject to careful examination and debate in open legislative session."

Another writer, J. S. Moore by name, called "the editor of the World," says very truly:

Of course, as I have already explained, any member may move an amendment and give his reason; and very often estimates made by the appropriation committee are stricken out, diminished, or increased. The appropriation committee, no doubt, exercises a great prestige, but it is the majority in the House that sustains their wisdom or rejects it.

What a satirical commentary are these responses as to our congressional practice, in view of the river and harbor bills of the past few years. Congress for the last three years (for this is not the uniform practice) has been in the habit, for some reason or other, of passing these river and harbor appropriation bills without deliberation or scrutiny. Whatever may be said of the bills themselves, the practice is shameful, disgraceful in the light of progressive civilization! It is against all the customs of civilized communities and deliberative bodies, and yet for objecting to such a system the gentleman from Texas undertakes to tell us that we are demagogues.

Mr. REAGAN. Not as to that; it was in relation to the ignorance displayed about the bill.

Mr. COX. The gentleman from Texas said afterward that his object in cutting off debate was to prevent discussion and foolish remarks being made.

Mr. REAGAN. The gentleman quotes me wrong; I said no such thing.

Mr. COX. The gentleman said it was to prevent foolish remarks.

Mr. REAGAN. No, sir; not to prevent foolish remarks on the bill.

Mr. COX. What was your language about foolish remarks?

Mr. REAGAN. The gentleman does not understand me, and I will not allow myself to be put in an attitude of advocating the cutting off of debate. I did no such thing; on the contrary I expressly repeated the wish that the condition of things would allow free discussion and amendments to the bill.

Mr. COX. Did not the gentleman in the first place speak in favor of a proposition to cut off all debate, to suspend all the rules and pass the bills without debate or consideration?

Let me recommend, when he calls others to judgment, a little scripture. If he will take it and read it prayerfully it will do him good:

Therefore thou art inexcusable, O man, whosoever thou art that judgest: for wherein thou judgest another, thou condemnest thyself; for thou that judgest doest the same things.

But we are sure that the judgment of God is according to truth against them which commit such things.

And thinkest thou this, O man, that judgest them which do such things, and doest the same, that thou shalt escape the judgment of God?

And art confident that thou thyself art a guide of the blind, a light of them which are in darkness.

An instructor of the foolish, a teacher of babes, which hast the form of knowledge and of the truth in the law.

Thou therefore which teachest another, teachest thou not thyself? thou that preachest a man should not steal, dost thou steal?—*Rom.*, c. ii, 21.

It would be irregular to say that about stealing; I did not mean to go so far. [Laughter.] And I withdraw that portion of the extract. Still I would throw out in the most dim and nebulous form the idea that the river and harbor appropriation bill is a sort of modern and model larceny. I would not use the word "steal" in reference to all the bills brought into this House.

Mr. REAGAN. If the gentleman will allow me. I have been entertained by his quotation of Scripture, but would like to hear his application of it.

Mr. COX. It is this, that when the gentleman undertakes to teach others he should be very careful in what he says. He says he is in favor of debate, and yet brings in a proposition to cut off all debate. He is a teacher of the blind, and is blind himself. [Laughter.]

Mr. REAGAN. The gentleman confounds necessity with desire. The gentleman should not misrepresent me.

Mr. COX. I know the gentleman may feel under the necessity of crowding through an eight-million bill for rivers and harbors. That is a necessity. He does not desire to do it, but he does it. [Laughter.] Now where does he stand——

Mr. REAGAN. I have no objection to the gentleman indulging his wit by perversion of my remarks if he chooses.

Mr. COX. Well, I will see in the morning, when I look at the RECORD, whether I have perverted the gentleman's remarks, and if I have I will make amends. One thing I have done, certainly; I have made him good-natured.

Now the point I desire to make to this House is above all this little controversy about rivers and harbors. It is that by the common consent and rules of all deliberative bodies, the world over, no money bills are ever passed without fair debate and consideration. Is it not a ground of grave suspicion against a bill if it will not bear the fiercest inquisition and test? A bill has a black eye, it wears an ugly visor before it gets here, if it cannot have all its features displayed and scrutinized.

I stated the other day that I believed it a good principle of parliamentary law that every measure should stand or fall on its own reason, on its own proper basis. In the State of New York our constitution with reference to appropriation bills not only allows full discusion, not only allows a vote on every item of appropriation, but it gives to the governor of the State the right to veto each and any particular item. This, sir, is in the line of true economy and just legislation. Yet it is gravely urged here, after we have passed the noon of the nineteenth century and after there has been great progress made in political science and parliamentary practice, that a particular kind of bill, involving for the last ten years sixty-odd millions of dollars, should be passed through this House by a system which will enable various men of divers localities and similar inclinations to combine for a common raid upon the Treasury. This proposed rule was intended to cut up such a system, if not wholly by the root, to restrain it to some appreciable extent.

I hope the House will, before any special bill comes in and by an excess of present and timely virtue, restrain the House by an amendment of the rule as to suspensions.

Mr. DUNNELL. I would like to ask the gentleman a question before he takes his seat.

Mr. COX. Very well.

Mr. DUNNELL. Does the gentleman favor that portion of the report of the Committee on Rules which is now under discussion?

Mr. COX. I not only favor it, but if I had the power I would go further and introduce a rule that an appropriation bill should never be passed under a suspension of the rules, not even by a three-fourths vote.

Mr. DUNNELL. Then your argument is as much against the proposed rule as against the existing custom.

Mr. COX. That depends upon who heard the argument and how it was heard. [Laughter.]

Mr. STEPHENS. I desire to submit a proposition to the House, to which I hope there will be general consent. It is that the vote shall be taken upon the report of the Committee on Rules at half past two o'clock; in the mean time amendments to be offered to each proposition; and when the debate shall have closed at half past two o'clock, then the propositions to be taken up and voted on separately with the pending amendments without further debate.

Mr. GARFIELD. I have no objection to that at all, except that I have been authorized by the Committee on Rules to offer an amendment.

The SPEAKER. The Chair will recognize the gentleman for that purpose.

Mr. GARFIELD. I desire also to speak a few words upon the report.

Mr. STEPHENS. You can have the floor now.

Mr. FORT. The gentleman from Georgia [Mr. STEPHENS] said that he would yield to me to offer an amendment.

Mr. STEPHENS. Certainly; all amendments to come in between now and the hour I have named. I ask the House now to pass an order that at half past two o'clock all debate shall be closed upon this report.

The order was agreed to.

Mr. ATKINS moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. GARFIELD. I move to amend the report by adding that which I send to the Clerk's desk.

The Clerk read as follows:

The last clause of Rule 120 is hereby so amended as to read as follows:

Nor shall any provision in any such bill or amendments thereto changing existing law be in order.

Mr. GARFIELD. On the subject of the proposed rule that has been discussed so long I have only a word to say. There was certainly no idea on the part of any member of the Committee on Rules, so far as I know, that there was any purpose to use the power suggested in the proposed rule to prevent the passage of any appropriation bill that had been debated, or to provide for any such contingency as that suggested by the gentleman from Michigan [Mr. CONGER.] If there is any danger of that sort it is fair to consider it, and it is fair to reject the proposed rule. I do not care much about it; there is a proposition pending to strike it out altogether, and I do not care very much whether that proposition prevails or not. Possibly in the present temper of the House it ought to prevail.

But this I do want to say: there is a general feeling in the country that there has been an abuse in passing great appropriation bills without debate. Yet I admit that it has been the opinion of some of our best men, and I have shared that opinion to some extent, that

probably we obtained a river and harbor bill with a smaller appropriation in the aggregate by passing it under a suspension of the rules than we would have done if it had been open to general amendment, in which case very likely it would have been loaded down by amendments making the aggregate of appropriation larger. I know the distinguished gentleman from New York, Mr. Potter, not now a member of this House, frequently said that he voted for the passage of the river and harbor bill under a suspension of the rules in order to prevent the amount of appropriations being greatly enlarged beyond what the Committee on Commerce reported.

It is also due to the truth of the history of the case to correct some things said by the gentleman from Texas, [Mr. REAGAN.] In 1872, when I was appointed chairman of the Committee on Appropriations, I found a custom prevailing, not a rule, which was followed during the whole of my four years' service as chairman of that committee, and, as I know, had been followed while my predecessor, Mr. DAWES, was chairman of the committee. That custom was this: When the Committee on Appropriations had gone over the whole ground of appropriations far enough to determine what they ought to recommend as the aggregate amount of appropriations for the year, we said to the Committee on Commerce, "We think the House can afford to appropriate so much money—$4,000,000, $3,000,000, $5,000,000—for rivers and harbors, and we would like you to draft a bill distributing that amount of money, and have it referred to us." That was done in every instance. The Committee on Commerce prepared the bill and reported it to the House for reference to the Committee on Appropriations. If the Committee on Commerce had not exceeded the amount which the Committee on Appropriations thought could be properly spent in the aggregate for that purpose, we always reported the bill back to the House just as it came from the Committee on Commerce. As a matter of fact, it was in every instance within my knowledge reported back without change; and I think that almost always we asked some gentleman representing the Committee on Commerce to take charge of the bill in the House. That was a matter of comity between the two committees, but the Committee on Appropriations kept control of the total amounts of appropriation to be made. Now, shortly after I ceased to be chairman of the Committee on Appropriations, and during the chairmanship of the present Speaker, he and his committee were overruled in a struggle in the House by the Committee on Commerce, who reported a river and harbor bill directly to the House and put it on its passage under a suspension of the rules; and since that time—unfortunately, as I think—the business has been taken wholly out of the hands of the Committee on Appropriations. It was by no fault of the present Speaker, who was then chairman of the Committee on Appropriations, and by no fault of that committee; but they were overborne by numbers. Since that time the Committee on Commerce has had, not as a matter of rule, but as a matter of custom, exclusive control of the river and harbor bill. I think, too, it has been found necessary almost always to put that bill on its passage under a suspension of the rules.

Now, the proposition coming from the Committee on Rules is not to declare that the bill shall never pass except by a three-fourths vote, but that if a compound motion is made to suspend the rules and pass the bill, the adoption of that motion shall require a three-fourths vote. This will not at all stand in the way of a motion to suspend the rules and bring the river and harbor bill up for immediate consideration and action. This can still be done under a two-thirds vote.

Mr. KENNA. If this proposed rule be adopted, may not a minority of the House defeat a suspension of the rules for any purpose that would put the river and harbor bill in the line of progress?

Mr. GARFIELD. Oh, no. As the rule now stands, and as it would stand with this amendment, two-thirds would suspend the rules and bring the bill up for immediate consideration, and then the majority could pass it. That is right. The only purpose of this proposed addition to the rules was, as I understood, to prevent the forcing of the bill through by a two-thirds vote without any consideration.

But if our friends on either side think that this rule in its operation will reach too widely and will include other bills which ought not to be included, I am willing that the proposition should not be adopted.

Mr. KENNA. I am glad to hear the gentleman say so.

Mr. CALKINS. I do not understand that the proposed rule bears any such construction as the gentleman from Ohio now gives it. I would like to have the proposed rule read in this connection.

Mr. GARFIELD. Let the Clerk read it. The gentleman will see that I am right about the matter.

The Clerk read as follows:

Rule —. On a motion to suspend the rules and pass a general appropriation bill an affirmative vote of three-fourths of the members present and voting thereon shall be necessary.

Mr. GARFIELD. My friend from Indiana [Mr. CALKINS] will see that this three-fourths vote is to be necessary only on a motion to suspend the rules and pass the bill by one vote. It would not apply to a motion to suspend the rules and consider a bill.

Mr. CALKINS. Let me ask the gentleman one question, because the remarks which the gentleman now makes will not bind the House or the Speaker in the future in the construction of this rule if it be adopted, as I find such remarks made in connection with former changes of the rules have not had any such binding effect. I ask the gentleman whether this rule, if adopted, will not, by implication under its fair construction, repeal all rules with reference to the suspension of rules and the passage of bills?

Mr. GARFIELD. Oh, no. This refers to appropriation bills only.

Mr. CALKINS. I mean so far as regards appropriation bills.

Mr. GARFIELD. I think not.

Mr. CALKINS. Will not this proposition, if adopted, repeal absolutely, by implication, every provision with reference to these bills?

Mr. GARFIELD. I think not. If there is any danger of that we had better vote down the proposition. I do not think it is of enough consequence to justify spending much time upon it.

Mr. STEPHENS. This proposed rule, as I understand, will not interfere in the slightest degree with the general rule in regard to suspending the rules by a two-thirds vote. On this point I agree entirely with the gentleman from Ohio, [Mr. GARFIELD.] The object is simply to assert that a two-thirds vote shall not be sufficient to pass a bill appropriating money without debate upon a motion to suspend the rules. If this proposition be adopted, every provision of the existing rules which permits a two-thirds vote to suspend the rules and take up any measure for consideration will remain intact.

Mr. GARFIELD. So I think.

Mr. STEPHENS. An appropriation bill, when brought up for consideration from the Committee on Commerce or any other committee, can be passed by a majority vote.

Mr. ATKINS. In other words, this new rule will simply require a three-fourths vote to suspend the rules and pass a bill. That is the whole of it.

Mr. GARFIELD. If adopted, this rule will provide that by a single vote two-thirds shall not be sufficient to do both things—to suspend the rules and to pass. That is a very different motion from one to suspend the rules and bring up a bill for immediate consideration.

Mr. REAGAN. Will the gentleman from Ohio yield to me?

Mr. GARFIELD. For a question only, as I have but little time.

Mr. REAGAN. I do not think the gentleman stated it correctly. The suspension, as I understand him, would simply give the privilege of considering the bill in the Committee of the Whole, subject to debate and amendment.

Mr. GARFIELD. One-fourth of the House could not under this rule defeat the consideration of the bill. It could only defeat its passage at once by one vote.

Mr. STEPHENS. Without debate?

Mr. GARFIELD. Without debate or consideration.

Mr. KENNA. If I understand the gentleman from Ohio, he maintains that one-fourth could not defeat the consideration, yet if two-thirds should decide the bill should be taken up for consideration, as the rules now are and as I understand them, all the other appropriation bills would have precedence over the river and harbor appropriation bill, that not being considered as one of them, and practically it would be excluded from consideration.

Mr. GARFIELD. That may be so.

Now, I wish to say in conclusion, on this part of the subject, that, in my judgment, the true rule for us to adopt—and if I had the making of it I would so frame it—would be that the Committee on Commerce should have the power to take up this bill and report it at any time for reference to the Committee on Appropriations, but for nothing else, and that it should take its place there among the other appropriation bills in the hands of the Committee on Appropriations.

Mr. CALKINS. Let me ask one more question. Do I understand the purpose of this rule is to take from the Committee on Commerce this bill and put it in the already overcrowded Committee on Appropriations?

Mr. GARFIELD. I do not think the gentleman understands it; I am only stating what I would do if I had my way.

Let me state that the proposition to divide the Committee on Appropriations, to scatter its bills as suggested and as was once moved indeed, is in my judgment, although I think it is not pending, an utterly ridiculous proposition. I believe it would cost this Government $20,000,000 a year if the appropriations were scattered to the several committees. But I understand that is not under consideration.

I have only one word to say in conclusion, and that is on the amendment I have just had read. All our trouble of complaints against the Appropriations Committee, that it has been grasping power and getting control of all the business of the Congress, (and it is largely just and the committee is not in fault for it,) is because of the unfortunate extension which has been given to the meaning of the last clause of Rule 120, namely, that all germane propositions which can be construed in any way, even in a remote way, to retrench expenditures may be put upon appropriation bills. The extension which has been lately given to that rule I think has given this Appropriations Committee a mass of business and an amount of power that are unsafe for the fair and reasonable conduct of business. Now, I am aware the distinguished gentleman who offered this modification of the rule, the present Speaker, did it for a very good and laudable purpose, to enlarge the powers of the committee in the direction of economy and for the purpose of economy proper. I know, sir, there was a good reason in his mind; it was this: if it is in order to increase a salary, it should be in order to decrease a salary on an appropriation bill; if it is in order to increase expenditures, it ought to be equally in

order to decrease them. That rule had been so construed that it was not in order to change a law cutting down expenses, when it was really construed that it was in order to change the law to increase them. That I did not concur in, and what I think the gentleman had in his mind was to correct that evil and to allow the rule to work both ways. But the rule has been construed out of its old channels altogether. It has overflowed its banks like a river in flood-tide, and now you can reconstruct the entire judiciary of this country and the Army and the Navy and the foreign service and every element of law as we see proposed in the bill now before the House; and ultimately, gentlemen, it will break down the Appropriations Committee, if this policy of overloading them with all sorts of legislation is not in some way restricted.

I do not believe this House will be likely to concur with me to change this rule back as I have proposed in the amendment, but I do think for its own sake and without regard to partisan consideration the rule might in some way or other be so modified that we shall not pile all the general legislation of the country on one committee, already heavily overworked. And for that reason I have offered it. If any one will make an amendment to it to effect the purpose I have in view, I would go so far as to agree it should not apply to the pending amendment, so no one should think I was doing it for partisan purposes. If you will agree it should not apply to this bill, I will still be willing, in the interests of good legislation and prudent management of public affairs, this rule should be changed as I have suggested.

With the exceptions I have named I am in favor of the report. As to the three-fourths rule, there is so much difference of opinion about it that perhaps we had better let it go not adopted. I see the Speaker desires to take the floor, and I now yield it.

The chair was taken by Mr. COX as Speaker *pro tempore*.

Mr. RANDALL, (the Speaker.) It is well that the House should understand the effect of the amendment proposed by the gentleman from Ohio, if it should be adopted. With him I agree fully that this should not be a partisan question. I had supposed that the operation of that rule had ceased to be viewed in a partisan light. It was originally adopted when the two Houses disagreed politically. It was adopted so that the rule might be changed from the manner in which it had operated prior to the date of the enactment of the new rule from increasing appropriations on an appropriation bill to decreasing them. It was not, as described by the gentleman from Ohio, an extension, but it was a restriction. It is right that there should be a restriction of legislation on appropriation bills so as to confine amendments changing law in the direction of reducing the expenses of administration.

It is not wise, in my judgment, to change that rule now. Whenever we shall want to increase the amounts authorized by existing law to be appropriated through a change of legislation, it should be done by independent legislation. The object of legislating on appropriation bills, in my judgment, should be directed exclusively to the saving of money.

There have been partisan hardships caused by this rule; there has been legislation accomplished under it which some in this House have considered dangerous. But in the general exercise of the rule it has saved millions of dollars to the people of this country. I believe there is not a man upon this floor who has not gone before his constituents with an assurance that he would, as far as his judgment went and as far as lay in his power, reduce the expenditures of this Government. I tell such gentlemen as have made those assurances that if they strike out this feature of the rule they will obstruct in a great degree the power of the committee and of the House to reduce expenditures or to keep them within late limits. And I say, in a spirit of liberality, in a spirit of truth, that I do not believe that either side of this House desires that the expenditures of the Government shall be greater in the future than they are now fixed by existing law. I therefore hope that this question of striking out that feature of the rule will not be voted upon as a party question, but that gentlemen on that side of the House, and there are many of you, perhaps all of you who seek economy, will not now again open the door for extravagance and remit this House and this country back to the condition in which it was placed by its rules prior to the time when this change was made, when according to the interpretation of the Speaker, we could change existing law upon an appropriation bill in the direction of extravagance and not in direction of reductions.

I hope, therefore, that the gentleman from Ohio will withdraw his amendment. In the Committee on Rules I was not in favor of submitting the issue; but after consultation, it was deemed by a majority of the committee wise to submit the question to the House. I hope and believe and beg that the majority of the House will not change the rule so that any gentleman when an appropriation bill is being considered can propose to insert amendments which will increase the expenditures of the Government.

Mr. GARFIELD. I desire only to say a word. I agree with every word the Speaker has said with regard to the necessity of holding ourselves to the strictest line of economy; but there is no need whatever of so adjusting this rule that it shall be against economy. We can protect the economy of the present rule as it now stands perfectly, and at the same time shut out general outside legislation. Certainly it is an abuse so to construe the rule that if you can show a saving of five cents out of a million dollars in any proposed legislation, that shall be construed in order when the main purpose of the legislation is not to save or lose five cents but to change a great political branch of the Government.

Mr. RANDALL, (the Speaker.) But it must be germane to the paragraph under consideration.

Mr. GARFIELD. Certainly; but the germaneness leads out perhaps into the whole judiciary system. Now, for instance, who for a moment believes that on the score of any of our ordinary economies it is germane or fitting, or a matter of economy, to put the whole great question of the election of a Congressman to this Hall upon the pending appropriation bill upon the score that it will save a few dollars of expense; that we shall substantially reorganize a great branch of the laws of this country, not on the ground that it ought to be done but on the ground that it will save a few dollars? I say that is a perversion of the meaning of this rule; and it has become so perverted that that perverted clause ought to be stricken off; and then we could put in any protection that any gentleman on either side might suggest against bad legislation and in the direction of economy.

Now, I agree with the Speaker that I think both sides of the House are against extravagance, and that a majority of this House will protect us against extravagance. But let us not in the name of economy open the door to a very serious danger in another direction.

Mr. RANDALL, (the Speaker.) There is just one word I would like to add, and that is that under the operation of this rule, as amended, the dominant party in this House was enabled to reduce the appropriations $30,000,000. It is conceded, even by gentlemen on the other side of the House, that the expenditures of the Government were reduced $20,000,000. There was some little controversy about the precise amount, into which I do not desire to enter now, but I do say that the reduction even to the amount of $20,000,000 in the expenditures, the amount contended for by the gentleman from Ohio (Mr. Foster) in the last House, could never have been reached at all, except under the operation of the amended rule.

Therefore it is that you should not change the rule at all; but if there is anything in its execution which is a hardship we should seek to modify it in that particular respect.

Mr. GARFIELD. Allow me a single word in conclusion. It is not the rule that gives the reduction. It is a vote of the majority in the House, and that has been done years before. In spite of this rule, the last Congress increased the expenditures fully as much as the next to the last Congress reduced them.

Mr. ATKINS. That was on account of pensions.

Mr. GARFIELD. The question of reduction, therefore, does not come from the rule.

Mr. RANDALL, (the Speaker.) I beg the gentleman's pardon. We could not change the law prior to that except in the direction of increasing salaries. We changed it right about face, and made the rule apply so that you might legislate on an appropriation bill when the amendment was germane to the subject under consideration, if it went in the direction of reduction and economy.

Mr. REED. Nevertheless it remains true that upon the appropriation bills in the last Congress all sorts of legislation were ingrafted by means of this rule.

Mr. RANDALL, (the Speaker.) Not more than under your dispensation.

Mr. REED. That seems to me clearly to be true, because the transfer of the Indian Bureau was ingrafted upon an appropriation bill; the question of the reorganization of the Army was ingrafted upon an appropriation bill; the question of a reorganization of the rules and regulations of elections was ingrafted upon an appropriation bill; the repeal of the test oath, and the law in regard to the use of armed troops and in respect to civil officers to preserve the peace at the polls were put upon appropriation bills, solely on the ground that it would retrench expenditures.

Mr. RANDALL, (the Speaker.) Where they show it on their face.

Mr. REED. It is precisely this thing to which we object. To economy, the object which the Speaker has in his mind, nobody objects on this side. What we do object to is this: that this rule, if it accomplishes what he says it does, and I am not competent to give an opinion on that point, for my experience is so limited, goes further and in a different direction, and accomplishes certain things which, as an accomplished parliamentarian, he himself must see ought not to be accomplished, namely, the adding of all sorts of legislation to appropriation bills, making them a sort of *omnium gatherum*, instead of bills to provide for the payment of the expenses of the Government according to law.

The result of this matter is this: that the country gets a great deal of crude legislation and the Committee on Appropriations gets badly overworked. This House has got impatient at the absorption of the whole business of the House by one committee, so that a large minority of the House are disposed to break the work of that committee and put a portion of it in the hands of the several committees, the effect of which will be to add to the expenses of the Government more than this rule ever saved. I think it would be better to modify the rule so as to accomplish the wise purpose the Speaker has in his mind.

Mr. RANDALL, (the Speaker.) The language of the gentleman from Maine [Mr. REED] would seem to imply that this rule governs the Committee on Appropriations only. This rule governs the House,

and it ought not to be made a means of reflection against any committee more than against any member of the House. Any member of the House can do exactly what the Committee on Appropriations have the power to do, and that is to offer to amend by ingrafting legislation on an appropriation bill if it be in the direction of economy. The Committee on Appropriations has this power to insert new legislation in manner as stated, but the rule is not a privilege given to the Committee on Appropriations only. It is a privilege given to any member of the House as well, if he sees fit to offer an amendment which is germane to the pending paragraph and which reduces the expenditures of the Government.

Mr. REED. The effect of the amendment is what I have stated.

The SPEAKER *pro tempore*, (Mr. COX in the chair.) The hour of half past two has arrived and debate is closed by order of the House.

Mr. FRYE. I would like to ask the gentleman from Pennsylvania [Mr. RANDALL] a question.

Mr. RANDALL, (the Speaker.) I am ready to answer any question.

Mr. STEPHENS. Let the question be asked and answered by unanimous consent.

Mr. FRYE. Will the gentleman from Pennsylvania please explain how the amendment offered by the gentleman from Ohio [Mr. GARFIELD] opens up any opportunity for legislation of an extravagant kind?

Mr. RANDALL, (the Speaker.) Because it takes off the restriction which says that new legislation shall be in the direction of economy.

Mr. FRYE. But does it not say distinctly that no legislation shall be in order on an appropriation bill?

Mr. RANDALL, (the Speaker.) I will meet that issue directly. I am in favor of any amendment to an appropriation bill, germane to the paragraph of the bill to which it is offered, that will reduce public expenditures.

Mr. FRYE. But if I construe the proposed amendment correctly, and I believe I do, there would be no door open under it to introduce legislation which would be extravagant.

Mr. RANDALL, (the Speaker.) The door would certainly be open to prevent economy by legislation in that direction.

Mr. FRYE. But not open for extravagant propositions.

Mr. RANDALL, (the Speaker.) Let the proposition be again read.

Mr. CALKINS. I have not yet understood the position of the Speaker of this House. I would like to ask him a question.

Mr. BRAGG. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BRAGG. I make the point of order that debate upon this subject has been closed by order of the House.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

Mr. SPRINGER. I propose an amendment to come in at the end of the proposition in regard to the Committee of Elections.

The Clerk read as follows:

The Clerk of the House shall cause the records and other papers relating to contested-election cases to be printed prior to the assembling of the first regular session of Congress, under such rules and regulations as the Committee of Elections may prescribe.

Mr. STEPHENS. Allow me one moment. These amendments are now offered and read, to come up and be voted on when the portion of the report to which they are germane shall be reached.

Mr. SPRINGER. So I understand. I have also another amendment to offer, proposing an additional rule.

The Clerk read as follows:

All private bills and joint resolutions hereafter introduced, which have been printed by order of either House of a preceding Congress, shall not be again printed at the expense of the Government until after a reference to a committee and report thereon with a favorable recommendation.

Mr. SPRINGER. I think the propriety of that will be evident to every gentleman. It will save many thousands of dollars annually.

Mr. MILLS. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

There shall be no standing Committee of Elections, but all cases of contested elections shall be referred to select committees, who shall report to the House within thirty days.

That the Committees of Ways and Means, Banking and Currency, Coinage, Weights, and Measures, shall have leave to report at any time; and on motion of any member a majority of the House may fix a day for the consideration of any public bill reported by either of said committees; and the House may continue the consideration of said bill from day to day until disposed of.

Mr. FORT. I wish to submit an amendment, and to have a vote upon it at the proper time.

The Clerk read as follows:

Amend Rule 51 by adding the following:

And the morning hour shall not be dispensed with upon any day for any purpose except by a vote of two-thirds of the members present.

Mr. YOUNG, of Tennessee. I offer an amendment to come in as an addition to the portion of the report in regard to select committees.

The Clerk read as follows:

After the word "respectively" insert the following:

To have the same number of members, duties, scope, privileges, and powers as those on similar subjects of the last Congress.

Mr. TOWNSHEND, of Illinois. I move to amend the rule in relation to the call of States for bills and joint resolutions during the morning hour of Monday, so as to make it read:

That when States are called for the introduction of bills they shall be called in their alphabetical order.

Mr. SINGLETON, of Illinois. I desire to move the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend Rule 101 by striking out all after the figures "1822," and inserting the following:

And the Committees on Printing, Commerce, and Banking and Currency at any time.

Mr. SHELLEY. I move to lay the report of the Committee on Rules, with all pending amendments, on the table.

The motion was not agreed to.

Mr. STEPHENS. I now call the previous question on the report and pending amendments.

The previous question was seconded and the main question ordered.

Mr. SPRINGER moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The first proposition of the report of the Committee on Rules will now be read.

The Clerk read as follows:

The Committee on Rules submit the following report upon the subjects therein embraced, and ask its adoption by the House:

The committee recommend the raising of the following select committees to be appointed by the Speaker, and to consist of the same number as in the Forty-fifth Congress, respectively:

1. Committee on the Census;
2. Committee on Reform in the Civil Service;
3. Committee on the state of the Law respecting Ascertainment and Declaration of Result of Election of President and Vice-President;
4. Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States;
5. Committee on Ventilation of the Hall; and
6. Committee on the present Depression of Labor.

The SPEAKER *pro tempore*. The amendment offered by the gentleman from Tennessee [Mr. YOUNG] will now be read.

The amendment was read, as follows:

After the word "respectively" insert the following:

To have the same number of members, duties, scope, privileges, and powers as those on similar subjects of the last Congress.

Mr. GARFIELD. Does that mean that these select committees shall have stenographers and clerks, and be clothed with power to go out on trips of investigation, at great expense, the same as before? If it means that, it ought not to be adopted.

Mr. YOUNG, of Tennessee. That is not what I mean.

Mr. GARFIELD. That is what the amendment will accomplish.

Mr. YOUNG, of Tennessee. That could not be done without an appropriation.

Mr. CONGER. Before a vote is taken I ask that the powers of each of these committees be either read to the House or stated to the House. We have a right to know that.

Mr. FORT. That will take all day.

Mr. YOUNG, of Tennessee. My object in offering the amendment——

Mr. CONGER. Let us know what the powers of those former committees were.

The SPEAKER *pro tempore*. That is in the nature of debate.

Mr. CONGER. It is not in the nature of debate. There are at least two hundred and fifty members here who do not understand what those powers were.

Mr. YOUNG, of Tennessee. One of those committees referred to had certain powers by the resolution originally creating it——

Mr. FORT. And those powers are very extensive.

Mr. YOUNG, of Tennessee. If there is objection I will withdraw my amendment.

The amendment was withdrawn.

The first proposition of the report of the committee was then agreed to.

Mr. STEPHENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The Clerk will now read the next proposition of the report.

The Clerk read as follows:

The committee also report in favor of increasing the number of the Committee on Enrolled Bills to seven members; the Committee on Coinage, Weights, and Measures, to eleven members; the Committee of Ways and Means, to thirteen members; the Committees on Agriculture, Judiciary, Elections, Commerce, and Appropriations, to fifteen members each.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. SPRINGER] has offered an amendment to come in after the word "elections." The Clerk will read the amendment.

The Clerk read as follows:

The Clerk of the House shall cause the records and other papers relating to contested-election cases to be printed prior to the assembling of the first regular session of Congress, under such rules and regulations as the Committee of Elections may prescribe.

Mr. CONGER. I submit that this is not germane to the proposition of the Committee on Rules.

Mr. SPRINGER. It is germane to that part in reference to increasing the number of the Committee of Elections. The object is to enable the committee to obtain possession of the papers relating to contested elections earlier than they have been able to do heretofore.

Mr. GARFIELD. I think it would be better that the "rules and regulations" should be prescribed by the House, not by the Committee of Elections.

Mr. CONGER. I have raised a point of order on the amendment.

The SPEAKER *pro tempore*. The main question has been ordered. It is too late to raise a question of order.

Mr. SPRINGER. If there is objection to this proposition I withdraw it, with the understanding that it shall go to the Committee on Rules.

The SPEAKER *pro tempore*. If there be no objection the proposed amendment will be withdrawn and will be referred to the Committee on Rules.

There being no objection, it was ordered accordingly.

The pending proposition as reported from the Committee on Rules was then agreed to.

Mr. STEPHENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The Clerk will now read the next proposition reported from the Committee on Rules.

The Clerk read as follows:

The committee also recommend the adoption of the following additional rule:

Rule —. On a motion to suspend the rules and pass a general appropriation bill an affirmative vote of three-fourths of the members present and voting thereon shall be necessary.

The SPEAKER *pro tempore*. The Clerk will read the proposed amendment of the gentleman from Texas, [Mr. REAGAN.]

The Clerk read as follows:

Strike out the following:

"On a motion to suspend the rules and pass a general appropriation bill an affirmative vote of three-fourths of the members present and voting thereon shall be necessary."

And insert the following:

"Hereafter the Committee on Commerce shall have the same privilege to report bills making appropriations for the improvement of rivers and harbors that is accorded to the Committee on Appropriations in reporting general appropriation bills."

The question being taken on agreeing to the amendment, there were—ayes 100, noes 88.

Mr. BROWNE. I call for the yeas and nays.

Mr. SPRINGER. I think we can settle the question by tellers.

Mr. RANDALL, (the Speaker.) The House had better understand what is the right of the Committee on Appropriations in regard to reporting bills at any time. It is only the right to report for commitment.

Mr. BROWNE. The effect of this proposition is simply to add the right to report at any time to the right that the Committee on Commerce already has to have a river and harbor bill passed under a suspension of the rules.

The SPEAKER *pro tempore*. Debate is not in order.

The yeas and nays were ordered.

Mr. ATKINS. Does this amendment provide that the Committee on Commerce shall have the privilege of reporting "a bill" or "bills?"

The amendment was again read.

Mr. RANDALL, (the Speaker.) I submit that this privilege should apply only to the bill known as "the river and harbor appropriation bill."

Mr. ATKINS. I ask unanimous consent that the word "bills" be struck out and the word "bill" inserted.

Mr. REAGAN. Every one must understand that it applies only to the one regular river and harbor bill during each session of Congress.

The question was taken; and there were—yeas 146, nays 97, not voting 43; as follows:

YEAS—146.

Aldrich, Nelson W.	Clardy,	Harmer,	Martin, Benj. F.
Aldrich, William	Clark, John B., jr.,	Haskell,	Martin, Joseph J.
Anderson,	Coffroth,	Hatch,	McCoid,
Armfield,	Conger,	Hawk,	McKinley,
Atherton,	Cook,	Hayes,	McLane,
Atkins,	Covert,	Henderson,	McMillin,
Bachman,	Cowgill,	Henkle,	Mills,
Ballou,	Crowley,	Henry,	Money,
Barber,	Culberson,	Herbert,	Monroe,
Barlow,	Davidson,	Herndon,	Murch,
Beale,	Davis, George R.	Horr,	Newberry,
Belford,	Davis, Lowndes H.	Houk,	Nicholls,
Beltzhoover,	Deering,	House,	Norcross,
Bingham,	De La Matyr,	Hull,	O'Neill,
Bliss,	Deuster,	Humphrey,	Orth,
Bouck,	Dibrell,	Hurd,	Overton,
Boyd,	Dickey,	Johnston,	Phister,
Bragg,	Dunnell,	Jones,	Poehler,
Brigham,	Elam,	Keifer,	Pound,
Bright,	Evins,	Kelley,	Price,
Buckner,	Felton,	Kenna,	Reagan,
Burrows,	Ferdon,	King,	Reed,
Calkins,	Field,	Kitchin,	Richardson, John S.
Carpenter,	Ford,	Lewis,	Richmond,
Caswell,	Forney,	Lowe,	Robertson,
Chalmers,	Frost,	Manning,	Robinson,
Claflin,	Goode,	Marsh,	Russell, Daniel L.
Russell, W. A.	Singleton, James W.	Turner, Thomas	Washburn,
Ryan, Thomas,	Slemons,	Updegraff, J. T.	Weaver,
Ryon, John W.	Smith, Hezekiah B.	Updegraff, Thomas	Wellborn,
Samford,	Speer,	Urner,	White,
Sapp,	Stone,	Valentine,	Williams, C. G.
Sawyer,	Talbott,	Van Aernam,	Williams, Thomas
Shallenberger,	Taylor,	Vance,	Wood, Walter A.
Shelley,	Thomas,	Waddill,	Young, Casey.
Sherwin,	Tillman,	Wait,	
Simonton,	Townsend, Amos	Warner,	

NAYS—97.

Bailey,	Ellis,	Kimmel,	Richardson, D. P.
Baker,	Errett,	Klotz,	Scales,
Bayne,	Ewing,	Knott,	Singleton, O. R.
Bicknell,	Farr,	Ladd,	Smith, A. Herr
Blackburn,	Finley,	Lapham,	Sparks,
Blake,	Fisher,	Le Fevre,	Springer,
Blount,	Forsythe,	Lindsey,	Steele,
Bowman,	Fort,	Loring,	Stephens,
Brewer,	Frye,	Lounsbery,	Stevenson,
Briggs,	Garfield,	McCook,	Thompson,
Browne,	Geddes,	McGowan,	Townshend, R. W.
Cabell,	Gunter,	McKenzie,	Tucker,
Caldwell,	Hall,	McMahon,	Turner, Oscar
Cannon,	Hammond, John	Miles,	Van Voorhis,
Carlisle,	Hammond, N. J.	Mitchell,	Voorhis,
Clark, Rush	Harris, John T.	Morrison,	Whitthorne,
Clymer,	Hawley,	Morse,	Wilber,
Cobb,	Hazelton,	Muldrow,	Willis,
Colerick,	Hill,	Muller,	Wise,
Converse,	Hiscock,	Myers,	Wright,
Cox,	Hooker,	Neal,	Yocum,
Crapo,	Hostetler,	New,	Young, Thomas L.
Cravens,	Hunton,	Osmer,	
Dunn,	James,	Phelps,	
Dwight,	Ketcham,	Prescott,	

NOT VOTING—43.

Acklen,	Gibson,	Mason,	Rothwell,
Aiken,	Gillette,	Miller,	Smith, William E.
Bland,	Godshalk,	Morton,	Starin,
Butterworth,	Harris, Benj. W.	O'Brien,	Tyler,
Camp,	Heilman,	O'Connor,	Ward,
Chittenden,	Hubbell,	O'Reilly,	Wells,
Clark, Alvah A.	Jorgensen,	Persons,	Whiteaker,
Daggett,	Joyce,	Pierce,	Willits,
Davis, Joseph J.	Killinger,	Rice,	Wilson,
Dick,	Lay,	Robeson,	Wood, Fernando.
Einstein,	Martin, Edward L.	Ross,	

So the substitute was adopted.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. I am paired with Mr. CHITTENDEN If he were present, I would vote in the negative.

Mr. BLISS. My colleague, Mr. O'BRIEN, is paired with my other colleague, Mr. EINSTEIN.

Mr. AIKEN. I am paired with Mr. WARD, of Pennsylvania.

Mr. DEERING. Mr. JOYCE is detained at his room by serious illness.

Mr. O'NEILL. My colleague, Mr. WARD, is absent and paired. If he were present, he would vote in the affirmative.

The vote was then announced as above recorded.

The question recurred on the amendment as amended, and it was agreed to.

Mr. REAGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question next recurred on Mr. GARFIELD'S amendment, as follows:

Amend the last clause of Rule 120 to read as follows:

"Nor shall any provision in any such bill, or amendment thereto, changing existing law be in order."

Mr. WHITE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 110, nays 128, not voting 48; as follows:

YEAS—110.

Aldrich, Nelson W.	Crowley,	James,	Robinson,
Aldrich, William	Daggett,	Jones,	Russell, W. A.
Anderson,	Davis, George R.	Keifer,	Ryan, Thomas
Bailey,	Deering,	Kelley,	Sapp,
Baker,	Dunnell,	Lapham,	Shallenberger,
Ballou,	Dwight,	Lindsey,	Sherwin,
Barber,	Errett,	Loring,	Smith, A. Herr
Barlow,	Farr,	Marsh,	Thomas,
Bayne,	Ferdon,	Martin, Joseph J.	Townsend, Amos
Belford,	Field,	McCoid,	Tyler,
Bingham,	Fisher,	McCook,	Updegraff, J. T.
Blake,	Ford,	McKinley,	Updegraff, Thomas
Bowman,	Fort,	Miles,	Urner,
Boyd,	Frye,	Mitchell,	Valentine,
Brewer,	Garfield,	Monroe,	Van Aernam,
Briggs,	Hall,	Neal,	Van Voorhis,
Brigham,	Hammond, John	Newberry,	Voorhis,
Browne,	Harmer,	Norcross,	Wait,
Burrows,	Haskell,	O'Neill,	Washburn,
Calkins,	Hawk,	Orth,	Weaver,
Cannon,	Hawley,	Osmer,	White
Carpenter,	Hayes,	Overton,	Wilber,
Caswell,	Hazelton,	Pound,	Williams, C. G.
Claflin,	Henderson,	Prescott,	Wood, Walter A.
Clark, Rush	Hiscock,	Price,	Yocum,
Conger,	Horr,	Reed,	Young, Thomas L.
Cowgill,	Houk,	Richardson, D. P.	
Crapo,	Humphrey,	Robeson,	

NAYS—128.

Armfield,	Deuster,	King,	Samford,
Atherton,	Dibrell,	Kitchin,	Sawyer,
Atkins,	Dickey,	Klotz,	Scales,
Beale,	Dunn,	Knott,	Simonton,
Beltzhoover,	Elam,	Ladd,	Singleton, Jas. W.
Bicknell,	Ellis,	Le Fevre,	Singleton, O. R.
Blackburn,	Evins,	Lewis,	Slemons,
Bliss,	Ewing,	Lounsbery,	Smith, Hezekiah B.
Blount,	Felton,	Lowe,	Sparks,
Bouck,	Finley,	Manning,	Speer,
Bragg,	Forney,	Martin, Benj. F.	Springer,
Bright,	Forsythe,	McKenzie,	Steele,
Buckner,	Frost,	McLane,	Stephens,
Cabell,	Geddes,	McMahon,	Stevenson,
Caldwell,	Gunter,	McMillan,	Talbott,
Carlisle,	Hammond, N. J.	Mills,	Taylor,
Chalmers,	Harris, John T.	Money,	Thompson,
Clardy,	Hatch,	Morrison,	Tillman,
Clark, John B., jr.	Henkle,	Morse,	Townshend, R. W.
Clymer,	Henry,	Muldrow,	Turner, Oscar
Cobb,	Herbert,	Murch,	Turner, Thomas
Coffroth,	Herndon,	Myers,	Vance,
Colerick,	Hill,	New,	Waddill,
Converse,	Hooker,	Nicholls,	Warner,
Cook,	Hostetler,	Phelps,	Wellborn,
Covert,	House,	Phister,	Whiteaker,
Cox,	Hull,	Poehler,	Whitthorne,
Cravens,	Hunton,	Reagan,	Williams, Thomas
Culberson,	Hurd,	Richardson, J. S.	Willis,
Davidson,	Johnston,	Richmond,	Wise,
Davis, Lowndes H.	Kenna,	Robertson,	Wright,
De La Matyr,	Kimmel,	Ryon, John W.	Young, Casey.

NOT VOTING—48.

Acklen,	Gillette,	Mason,	Rothwell,
Aiken,	Godshalk,	McGowan,	Russell, Daniel L.
Bachman,	Goode,	Miller,	Shelley,
Bland,	Harris, Benj. W.	Morton,	Smith, William E.
Butterworth,	Heilman,	Muller,	Starin,
Camp,	Hubbell,	O'Brien,	Stone,
Chittenden,	Jorgensen,	O'Connor,	Tucker,
Clark, Alvah A.	Joyce,	O'Reilly,	Ward,
Davis, Joseph J.	Ketcham,	Persons,	Wells,
Dick,	Killinger,	Pierce,	Willits,
Einstein,	Lay,	Rice,	Wilson,
Gibson,	Martin, Edward L.	Ross,	Wood, Fernando.

So the amendment was rejected.

During the roll-call the following announcements were made:

Mr. CLARK, of Missouri. My colleague, Mr. LAY, is paired with Mr. DICK.

Mr. DAVIS, of North Carolina. I am paired with Mr. CHITTENDEN. If he were present, I would vote in the negative.

Mr. GOODE. I am paired with Mr. WILLITS, of Michigan. If he were present, I would vote in the negative.

Mr. MULLER. I am paired with my colleague, Mr. CAMP. If he were here, I would vote in the negative.

Mr. BLISS. My colleague, Mr. O'BRIEN, is paired with my other colleague, Mr. EINSTEIN. If present, Mr. O'BRIEN would vote in the negative and Mr. EINSTEIN in the affirmative.

Mr. AIKEN. I am paired with Mr. WARD, of Pennsylvania. My colleague, Mr. O'CONNOR, who is absent by leave of the House, is paired with Mr. KETCHAM.

Mr. CRAPO. My colleague, Mr. RICE, is paired with Mr. GIBSON, of Louisiana. If Mr. RICE were present, he would vote in the affirmative and Mr. GIBSON in the negative.

Mr. STONE. I am paired with Mr. SHELLEY.

Mr. DWIGHT. I desire to say that my colleague, Mr. MASON, is paired with Mr. BACHMAN. If Mr. MASON were here, he would vote in the affirmative.

Mr. BACHMAN. I am paired with Mr. MASON, of New York. If he were present, I would vote in the negative.

Mr. McGOWAN. I am paired with Mr. ROTHWELL.

Mr. CONGER. My colleague, Mr. HUBBELL, who is detained from the House by sickness in his family, is paired with Mr. ACKLEN. If present, he would vote in the affirmative.

Mr. WHITTHORNE. I am requested to announce the pair of Mr. TUCKER with Mr. HARRIS of Massachusetts. If present, Mr. TUCKER would vote "no" and Mr. HARRIS "ay."

Mr. RUSSELL, of Massachusetts. I am paired with Mr. BLAND. If present, he would vote "no" and I would vote "ay."

Mr. UPDEGRAFF, of Ohio. Mr. BUTTERWORTH, who is absent and paired, would, if present, vote "ay."

The vote was then announced as above recorded.

The SPEAKER *pro tempore*. The Clerk will report the next amendment; that offered by the gentleman from Illinois, [Mr. SPRINGER.]

The Clerk read as follows:

All private bills and joint resolutions hereafter introduced which have been printed by order of either House of the preceding Congress, shall not be again printed at the expense of the Government until after a reference to a committee and report thereon with a favorable recommendation.

Mr. GARFIELD. I think that is right; let us vote for it.

Mr. FINLEY. That refers only to private bills, as I understand?

Mr. SPRINGER. It includes all private bills and resolutions hereafter introduced.

The SPEAKER *pro tempore*. Debate is not in order.

The question being put on agreeing to the amendment, there were—ayes 148, noes not counted.

So the amendment was adopted.

The SPEAKER *pro tempore*. The Clerk will report the next amendment; that offered by the gentleman from Texas, [Mr. MILLS.]

The Clerk read as follows:

Resolved, That there shall be no standing Committee of Elections, and all cases of contested elections shall be referred to select committees who shall report to the House within thirty days.

Mr. CHALMERS. I wish to know if a division of the question cannot be had?

The SPEAKER *pro tempore*. In what respect does the gentleman ask for a division?

Mr. CHALMERS. I wish to vote for a standing Committee of Elections, but would at the same time desire that contests might be referred to select committees when necessary.

The SPEAKER *pro tempore*. The Chair does not see how the amendment can be divided so as to meet the gentleman's object.

Mr. CHALMERS. I only wanted to know if it could be divided. I asked the question for information.

The SPEAKER *pro tempore*. A question to be divided must contain two substantive propositions. This is a unit.

Mr. YOUNG, of Tennessee. I think the amendment is capable of division. It provides for sending all cases of contested elections to select committees, and it also provides at what time they shall report. Can the question not be divided? I should be glad to vote for the amendment, but I think the time allowed for reporting is too short.

The SPEAKER *pro tempore*. Debate is out of order.

Mr. YOUNG, of Tennessee. I should like to have my question answered.

The SPEAKER *pro tempore*. If the gentleman calls for a division he must suggest the division himself.

Mr. YOUNG, of Tennessee. I suggest that we vote first upon the proposition to create special committees, and second upon the proposition to require them to report within thirty days.

The SPEAKER *pro tempore*. The Clerk will read the rule on that subject.

The Clerk read as follows:

Any member may call for a division of the question before or after the main question is ordered, which shall be divided if it comprehend propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the House.

Mr. BUCKNER. I submit it is too late to call for a division of the question. The House was dividing.

The SPEAKER *pro tempore*. The Chair does not think the demand for a division is made too late. The matter of reporting within thirty days can be separated from the rest of the proposition.

Mr. SPRINGER. It would be impossible under that rule to print the record in a single case.

The SPEAKER *pro tempore*. Debate is not in order. The Clerk will read the first portion of the proposition.

The Clerk read as follows:

Resolved, That there shall be no standing Committee of Elections, but all cases of contested elections shall be referred to select committees.

Mr. WHITE. I desire to amend the proposition. The committees should consist of seven members. Can we not amend this by unanimous consent?

The SPEAKER *pro tempore*. The gentleman from Georgia [Mr. STEPHENS] is recognized.

Mr. STEPHENS. This proposition is directly inconsistent with the previous action of the House to-day, which has been reconsidered and the motion to reconsider laid on the table; namely, that the standing Committee of Elections shall consist of fifteen members. We have said that there shall be a standing Committee of Elections, and this proposition is inconsistent with that action.

The SPEAKER *pro tempore*. That is a matter for the House to decide. The question is on agreeing to the first branch of the amendment which has just been read.

The question being put, the first branch of the amendment was not agreed to.

The SPEAKER *pro tempore*. The question is next on the last portion of the amendment, which the Clerk will report.

The Clerk read as follows:

Who shall report to the House within thirty days.

Mr. SPRINGER. If we adopt that, what will it relate to? When you have cut the head off you can let the tail go with the hide.

The question being put, the second portion of the amendment was not agreed to.

The SPEAKER *pro tempore*. The next amendment is that also offered by the gentleman from Texas, [Mr. MILLS.] The Clerk will report it.

The Clerk read as follows:

Resolved, That the Committees on Ways and Means, Banking and Currency, and Coinage, Weights, and Measures, shall have leave to report at any time, and on motion of any member a majority of the House may fix a day for the consideration of any public bill reported by either of said committees, and the House may continue the consideration of such bill from day to day until disposed of.

Mr. SINGLETON, of Illinois. Upon that amendment I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 41; not one-fifth of the last vote.

Mr. EWING. I call for tellers on the yeas and nays.

Tellers were ordered; and Mr. WHITE and Mr. EWING were appointed.

Mr. WARNER. I ask that the amendment be again read.

The amendment was again read.

The House divided; and the tellers reported ayes 50—more than one-fifth of the last vote.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 110, not voting 47; as follows:

YEAS—120.

Armfield,	Dickey,	King,	Singleton, James W.
Atherton,	Dunn,	Kitchin,	Singleton, O. R.
Atkins,	Elam,	Klotz,	Slemons,
Bachman,	Ellis,	Knott,	Smith, Hezekiah B.
Barlow,	Evins,	Ladd,	Sparks,
Beale,	Ewing,	Le Fevre,	Speer,
Belford,	Felton,	Lewis,	Springer,
Blackburn,	Finley,	Lowe,	Steele,
Blount,	Ford,	Manning,	Stephens,
Bouck,	Forney,	Martin, Benj. F.	Stevenson,
Bragg,	Forsythe,	McKenzie,	Talbott,
Bright,	Fort,	McLane,	Taylor,
Buckner,	Frost,	McMahon,	Thompson,
Cabell,	Geddes,	McMillan,	Tillman,
Caldwell,	Gunter,	Mills,	Townshend, R. W.
Carlisle,	Hammond, N. J.	Money,	Tucker,
Chalmers,	Harris, John T.	Morrison,	Turner, Oscar
Clardy,	Hatch,	Muldrow,	Turner, Thomas
Clark, John B., jr.	Henkle,	Murch,	Vance,
Cobb,	Henry,	Myers,	Waddill,
Coffroth,	Herbert,	New,	Warner,
Colerick,	Herndon,	Nicholls,	Weaver,
Cook,	Hill,	Phelps,	Wellborn,
Cox,	Hooker,	Phister,	Whiteaker,
Cravens,	Hostetler,	Reagan,	Williams, Thomas
Culberson,	House,	Richardson, John S.	Willis,
Daggett,	Hull,	Richmond,	Wise,
Davidson,	Hunton,	Russell, Daniel L.	Wright,
Davis, Joseph J.	Johnston,	Ryon, John W.	Yocum,
Davis, Lowndes H.	Jones,	Samford,	Young, Casey.
De La Matyr,	Kelley,	Sawyer,	
Deuster,	Kenna,	Scales,	
Dibrell,	Kimmel,	Simonton,	

NAYS—110.

Aldrich, Nelson W.	Covert,	Keifer,	Reed,
Aldrich, William	Cowgill,	Ketcham,	Richardson, D. P.
Anderson,	Crapo,	Lapham,	Robeson,
Bailey,	Crowley,	Lindsey,	Robinson,
Baker,	Davis, George R.	Loring,	Russell, William A.
Ballou,	Deering,	Lounsbery,	Ryan, Thomas
Barber,	Dunnell,	Marsh,	Sapp,
Bayne,	Dwight,	Martin, Joseph J.	Shallenberger,
Beltzhoover,	Errett,	McCoid,	Sherwin,
Bicknell,	Ferdon,	McCook,	Smith, A. Herr
Bingham,	Field,	McGowan,	Thomas,
Bliss,	Fisher,	McKinley,	Tyler,
Bowman,	Frye,	Miles,	Updegraff, J. T.
Boyd,	Garfield,	Mitchell,	Updegraff, Thomas
Brewer,	Hall,	Monroe,	Urner,
Briggs,	Harmer,	Morse,	Valentine,
Brigham,	Haskell,	Muller,	Van Aernam,
Browne,	Hawk,	Neal,	Van Voorhis,
Burrows,	Hawley,	Newberry,	Voorhis,
Calkins,	Hayes,	Norcross,	Wait,
Cannon,	Hazelton,	O'Neill,	Washburn,
Carpenter,	Henderson,	Orth,	White,
Caswell,	Hiscock,	Osmer,	Wilber,
Claflin,	Horr,	Overton,	Williams, C. G.
Clark, Rush	Houk,	Poehler,	Wood, Walter A.
Clymer,	Humphrey,	Pound,	Young, Thomas L.
Conger,	Hurd,	Prescott,	
Converse,	James,	Price,	

NOT VOTING—47.

Acklen,	Gillette,	Mason,	Shelley,
Aiken,	Godshalk,	Miller,	Smith, William E.
Blake,	Goode,	Morton,	Starin,
Bland,	Hammond, John	O'Brien,	Stone,
Butterworth,	Harris, Benj. W.	O'Connor,	Townsend, Amos
Camp,	Heilman,	O'Reilly,	Ward,
Chittenden,	Hubbell,	Persons,	Wells,
Clark, Alvah A.	Jorgensen,	Pierce,	Whitthorne,
Dick,	Joyce,	Rice,	Willits,
Einstein,	Killinger,	Robertson,	Wilson,
Farr,	Lay,	Ross,	Wood, Fernando.
Gibson,	Martin, Edward L.	Rothwell,	

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. I am paired with the gentleman from New York, Mr. CHITTENDEN. If he were here, I should vote "ay."

Mr. HUNTON. My colleague, Mr. GOODE, is paired with Mr. WILLITS. If he were here, he would vote "ay."

Mr. DWIGHT. My colleague, Mr. MASON, is absent on account of illness.

Mr. STONE. I am paired with Mr. SHELLEY.

Mr. WHITTHORNE. I am paired with Mr. HARRIS, of Massachusetts.

Mr. BLISS. My colleagues, Mr. O'BRIEN and Mr. EINSTEIN, are paired.

Mr. AIKEN. I am paired with the gentleman from Pennsylvania, Mr. WARD.

The result of the vote was announced as above recorded.

Mr. MILLS moved to reconsider the vote by which the amendment to the rules was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment was the one offered by Mr. FORT; which was read, as follows:

Amend Rule 51 by inserting after the last word the following:
And the morning hour shall not be dispensed with upon any day for any purpose except by a vote of two-thirds of the members present.

The question was put; and on a division there were—ayes 123, noes 39.

So the amendment was agreed to.

Mr. STEPHENS moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEPHENS. I desire now to submit a resolution.

The SPEAKER *pro tempore*. There are two other amendments pending and undisposed of.

Mr. STEPHENS. I will wait until those amendments have been disposed of.

The SPEAKER *pro tempore*. The next amendment will be reported.

The Clerk read the amendment offered by Mr. TOWNSHEND, of Illinois, which was as follows:

That when States are called for the introduction of bills they shall be called in their alphabetical order.

Mr. GARFIELD. They are now called according to the dates of their admission into the Union.

Mr. TOWNSHEND, of Illinois. No, they are not; Maine is now called first; and it was not admitted into the Union until 1820.

The question was taken upon agreeing to the amendment; and upon a division there were—ayes 82, noes 143.

So the amendment was not agreed to.

The next and last amendment, the one offered by Mr. SINGLETON, of Illinois, was then read, as follows:

Amend Rule 101 by striking out all after the figures "1822," and inserting the following:
And the Committees on Printing, Commerce, and Banking and Currency at any time.

Mr. SINGLETON, of Illinois. The object of my amendment having been accomplished by the adoption of a previous amendment, I ask leave to withdraw it.

There being no objection, the amendment was withdrawn.

Mr. STEPHENS. I now submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Committee on Rules be authorized to incorporate the several propositions agreed to at the proper places in the existing rules.

The resolution was adopted.

Mr. GARFIELD. I am instructed by the Committee on Rules to submit the report which I send to the Clerk's desk. It is the unanimous report of the committee.

The Clerk read as follows:

The Committee on Rules, to whom was referred the resolution of the House in reference to a modification of Rules 59 and 113, or of the practice which has arisen under them, have had the same under consideration and beg leave to present the following report:

The rules under consideration are as follows:

"59. When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.—*April* 7, 1789.

"113. The rules of proceedings in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the times of speaking—*April* 7, 1789; but no member shall speak twice to any question until every member choosing to speak shall have spoken.—*December* 18, 1805."

With the exception of the last clause of Rule 113, which was adopted in 1805, these rules have remained unchanged for ninety years. In the nature of the case discretion must be lodged with the presiding officer, and no fixed and arbitrary order of recognition can be wisely provided for in advance; and the committee are of opinion that these rules should not be changed.

The practice of making a list of those who desire to speak on measures before the House or Committee of the Whole is a proper one to enable the presiding officer to know and remember the wishes of members. As to the order of recognition, he should not be bound to follow the list, but should be free to exercise a wise and just discretion in the interest of full and fair debate.

The committee ask to be discharged from the further consideration of the subject.

Mr. GARFIELD. If there is no discussion desired, I move the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. GARFIELD moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ATKINS. I move that the House now adjourn.

Mr. CHALMERS. I ask the gentleman to withdraw his motion for a moment.

Mr. ATKINS. For what purpose?

Several MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order being called for, the question is upon the motion to adjourn; but pending that motion the Chair will submit some requests to the House.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FERNANDO WOOD, for four days, on account of illness in his family;

To Mr. HORR, for ten days; and

To Mr. DAVIS, of North Carolina, until Tuesday next.

The motion of Mr. ATKINS was then agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BELFORD: Papers relating to the claim of G. F. Jocknick—to the Committee of Claims, when appointed.

By Mr. BLAND: Papers relating to the claims of Adolph Bower and of Coggswell & Co., of Saint Louis, Missouri—to the same committee, when appointed.

By Mr. COLERICK: The petition of 19 ladies, of Zanesville, Indiana, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. CRAPO: The petition of Alexander Sutorius, for reinstatement as captain of cavalry, United States Army—to the Committee on Military Affairs, when appointed.

By Mr. KLOTZ: The petition of Aaron Snyder, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. SHERWIN: The petition of William Edmonds, for a pension—to the same committee, when appointed.

Also, the petition of citizens of DeKalb County, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary, when appointed.

By Mr. YOUNG, of Tennessee: Papers relating to the claims of Meshack Franklin, administrator of John K. Wilburn, deceased, and of Enoch Taylor—to the Committee of Claims, when appointed.

Also, papers relating to the war claim of Martha A. Bonner—to the Committee on War Claims, when appointed.

IN SENATE.

THURSDAY, *April* 10, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. FARLEY presented a resolution of the common council of Crescent City, California, in favor of an appropriation for the construction of a sea-wall in the harbor of said city, extending from the Light-House Island to Steamboat Rock and to Battery Point, being an appropriation for the Crescent City Harbor, California; which was referred to the Committee on Commerce.

BILLS INTRODUCED.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 387) to amend the charter of the Metropolitan Railroad Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 388) for the relief of Jacob B. King; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 389) for the relief of Peter Phillips; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 390) to authorize the President to restore Dunbar R. Ransom to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 391) to regulate the holding of the circuit and district courts of the United States in the State of Kentucky, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GORDON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 393) granting a pension to John G. Eckles; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes; which was read twice by its title, and referred to the Committee on the Revision of the Laws.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WITHERS, it was

Ordered, That the papers in the case of the Albemarle and Chesapeake Canal Company (Senate bill No. 18, first session Forty-fifth Congress) be taken from the files and referred to the Committee on Naval Affairs.

On motion of Mr. WALLACE, it was

Ordered, That Chambers C. Mullin be allowed to withdraw his memorial and papers from the files of the Senate.

On motion of Mr. CAMERON, of Pennsylvania, it was

Ordered, That the papers relating to the claim of Edward Shields and others be taken from the files and referred to the Committee on Military Affairs.

On motion of Mr. WALKER, it was

Ordered, That the papers in the claim of the "Old Settler" or "Western Cherokees" be taken from the files and referred to the Committee on Claims.

Ordered, That the papers in the claim of James Vance and William Vance be taken from the files and referred to the Committee on Claims.

On motion of Mr. SAUNDERS, it was

Ordered, That the petition and papers in the claim of Frank Spevacek, Maria Sochar, and others, be taken from the files and referred to the Committee on Indian Affairs.

SENATOR FROM NEW HAMPSHIRE.

The Senate resumed the consideration of the following resolution, reported by Mr. SAULSBURY from the Committee on Privileges and Elections on the 2d instant:

Resolved, That Hon. Charles H. Bell is not entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

The pending question being on the amendment of Mr. HOAR, to strike out the word "not" before the word "entitled."

Mr. SAULSBURY. Mr. President, when I obtained the floor last evening, after inviting gentlemen who desired to speak to do so before I proceeded, I had a right to infer that there was no one else who desired at that time to speak. I have understood, however, that my remarks on that occasion have been construed into an assumption on my part that I had a right to close the debate on this question. Now, sir, I know of no constitutional provision, no public statute, and no rule of the Senate which confers upon me or upon any other member of the Senate the right to close a debate, but I believe it has been a courtesy that has been conceded to the member of a committee who reports a measure before the Senate that, if he should so desire, he might defer his remarks with a view to close the debate on the question. Personally, I would have preferred to have spoken at an earlier period of the discussion, but in deference to the wishes of gentlemen who concur with me in opinion upon this subject I deferred my remarks until the debate, as I supposed, had about terminated. However, I claim no right, I invoke no courtesy, and I hope that no gentleman who desires to express himself upon this question will hesitate to do so on account of my having at this period chosen to debate the question.

Mr. EDMUNDS. I entirely agree that the ordinary practice is for the chairman of the committee reporting a measure to have the last word, unless he should say something new that would require a reply; but in this present case the pending and the real question is on the proposition asserted by the Senator from Massachusetts, [Mr. HOAR,] that is, to prove to the Senate that the proposition of the committee ought to be turned into an entirely different one; and I should imagine, according to the practice, if the Senator from Massachusetts were here, that he practically would be listened to in answer to all the objections which had been made to his proposition. It is of no practical consequence now because he is not here.

Mr. SAULSBURY. I referred to this matter because I understood that some criticism about the remarks which I made was indulged in by some of my brother Senators, as though it were an assumption of right on my part to close the debate. I certainly did not so intend to be understood, and I hope no gentleman will be embarrassed because I now address the Senate in expressing himself hereafter as he may desire upon this question.

Mr. President, the arguments which have been submitted by gentlemen who concur with the committee render it unnecessary that I should say but very little on the subject. Indeed I do not believe that it is necessary that I should address the Senate at all. Every view that I shall be able to present has already been presented. Nevertheless, as a member of the committee which reported the resolution it may not be improper, in fact it may be proper, that I should make some remarks in support of the resolution which I have had the honor under instructions of the committee to submit to the consideration of the Senate.

I desire at the very outset to say that personally I should have been gratified if I had been enabled to arrive at a conclusion that would justify me to vote for the admission of Mr. Bell as a member of this body. It is always a disagreeable thing to deny to any one who claims a seat in this body the right which he claims; and in this case the high opinion which I have formed of the claimant, his character for intelligence and respectability, and his standing in his own State would have induced me, if I could have done so consistently with my views of what was right under the terms of the Constitution, to have joined in a report for his admission into this body.

I desire to say one other thing, that there is no political importance whatever which can attach to the decision of this question, whether it be favorable to the admission of Mr. Bell or in favor of his rejection. The relative strength of parties in the Senate renders his admission or

rejection a matter of very small consequence politically. In times of high party excitement, and sometimes when parties are nearly evenly balanced in this Chamber, we are liable to be led away by our partisan feelings and to express opinions and give votes colored and shaded, unwittingly doubtless, by our party bias. But no such condition of affairs exists in this particular instance, and I am glad it is so. There is another difficulty, another danger to which perhaps I might allude with some degree of propriety. When there is no political necessity pressing upon us, that kindly feeling of humanity which prompts one to do good to another may lead us from feelings of generosity or a desire to be magnanimous to a political opponent to give a latitude of construction to the constitutional provision bearing upon this subject which is not in harmony with its letter or its spirit. Against that danger it is as necessary to guard as to guard against the influences of party prejudice and party bias.

For the purpose of placing this question fairly and properly before the Senate it may not be amiss to refer to the circumstances which have given rise to the temporary appointment by the governor of New Hampshire of Mr. Bell as a Senator. From the admission of the State of New Hampshire into the Federal Union her constitution provided for annual elections and annual sessions of her Legislature, and such continued to be the case up to 1878. In December, 1877, a constitutional convention of that State proposed an amendment to the constitution changing elections from annual to biennial, and the sessions of the Legislature likewise. That proposed amendment was submitted to the popular vote at the annual election held in March, 1878, and by a majority of votes of the people of that State the amendment was ratified.

Under the provisions of this amended constitution the first election was to take place in November following—that is, November of last year—but by another provision of her constitution, which was not changed, the members elected took their seats in June following their election and held for one year. Therefore the Legislature elected in March, 1878, holds under the terms of the constitution until seven days, which I believe is the language, prior to the first Wednesday in June following, that is June, 1879, and the term of service of the persons elected as members of the Legislature in November, 1878, does not commence until the expiration of the term of service of those who were elected in March. The Legislature elected in March, 1878, met in June and held their regular session, but did not elect a successor to Senator Wadleigh, whose term of service was to expire on the 4th of March of the present year, and the Legislature elected in November does not meet until June. Under this condition of affairs the governor of the State doubtless thought that he was authorized to make an appointment, and he appointed Mr. Bell temporarily as the successor to succeed Senator Wadleigh.

The question, therefore, presented is, has Mr. Bell under this appointment a right to a seat in this body? In other words, was it competent for the governor of New Hampshire, under the circumstances stated, to make a temporary appointment of a Senator? That is the question. In order to arrive at a proper conclusion on this subject we must undertake to determine what is meant by the provision of the Constitution of the United States under which the supposed authority to appoint arises. That provision of the Constitution I shall read. It is found in the third section of the first article. The particular expression under which the authority is supposed to be found is in these words:

> And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

The primary rule of construction of constitutional provisions or of statutory provisions, in fact, of any instrument, is to look first at the particular words to be construed to ascertain their true meaning and import; but it is very obvious if we sever these words from the context that it is utterly impossible to give any construction to the language I have read. We are driven, therefore, in order to ascertain its true meaning, to look beyond the mere expressions themselves, and to consider them in connection with the preceding portion of the section with which they stand connected. When we look at the whole section we find that these terms apply to filling vacancies in the Senate of the United States. We are therefore, I say, compelled to look at the whole section in order to understand what is the true meaning and import of the terms under which this supposed authority is found authorizing the governor of New Hampshire to make this appointment. The first clause of that article provides as follows:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

It may not be amiss, in order to aid us to determine precisely and definitely what is intended by the expression of the Constitution, to refer to the convention which framed the Constitution. A century has not passed away since that convention met. It is admissible to consult the records of that convention in order to ascertain what was definitely intended by these various provisions of the Constitution. We cannot enter into the convention; we cannot listen to their deliberations; but we may put ourselves as near as possible in their place to ascertain, if we can, at what the men who composed the convention were aiming. We know who they were. They were the representatives of independent States met in council for the purpose of forming a government for the benefit of all the States thus assembled. We cannot enter into that convention and listen to their discussions, but we can understand from their debates what they were deliberating about. They were providing for a Senate of the United States. As I before remarked, the States were equally independent, equally sovereign. The convention had conceded, in a previous provision of the Constitution, that there could not be equality in the House of Representatives, for the reason that it would infringe the fundamental principle for which they had long contended, that there should be no taxation without representation. They had provided, in the formation of the House of Representatives, that revenue bills, the money bills, should originate in the House of Representatives, and according to the principle that taxation and representation should be inseparable, they provided that the representation in that body should be according to the population of the respective States. But when they came to consider the Senate they determined to maintain the equality of the States; and the fundamental idea underlying the composition of the Senate of the United States was to maintain the equality of the States by conceding to each State equal representation in the Senate. The idea has been thrown out here that the paramount purpose of the convention was to have a Senate at all times full. That express declaration is made in the report of the views of the minority. They say:

> The purpose of the Constitution is to have the Senate always full.

The idea underlies every argument which I have heard made in support of the views of the minority, that the great controlling purpose of the Constitution is that this body should be always full. Such an idea is most erroneous. The convention which framed the Constitution took ample care to provide that less than a full Senate should be competent to do business. It is provided in the Constitution that a majority of the Senate shall be a quorum and competent to transact business. The idea of having the Senate always full did not enter into the mind of the members of the convention. They knew that it would be utterly impossible to have the Senate always full.

No, sir, there was a higher purpose which controlled the deliberations of that body in the formation of the Senate and that was to secure the equal right of representation on the part of all the States. It would never have been conceded by the feeblest and smallest State in this Union that in the Senate, which represented the States, there should be any inequality whatever between the largest and the smallest States. The great fundamental idea underlying the organism of the Senate was that it should be composed of an equal number of members from each State, so that there might be perfect equality among the States of this Union at least in one body of the National Legislature. That purpose is secured in this first clause of section 3.

Then, after that question had been decided, the question of how the Senators should be chosen came up for consideration. Mr. Pinckney, I believe, proposed that the house of delegates should elect the Senator. Others suggested the executive appointment of Senators; but the convention determined to lodge the power of choosing Senators in the Legislatures of the respective States. Why did they so determine? It was said in the convention that they would be less liable to be governed by improper influences, but I apprehend that there were graver and higher considerations. The Legislature represented more clearly and more nearly the great body of the people of every portion of the State. But that was not all. The legislative department of the State government represents more nearly the sovereignty of the State. I use the word "sovereignty" in connection with State governments. I hold that the States of this Union in everything which they have not conceded to the General Government are sovereign. The legislative department of the State government more nearly represents its sovereignty and therein may be found the reason why the Legislature should be invested with the power of choosing Senators. The Legislature makes the laws of the State, it provides the revenues of the State, it is clothed with the power of impeachment as a check upon other departments of the States, and therefore, I repeat, it more nearly represents the sovereignty of the State government than any other department.

Hence the Constitution provided that the choice of Senators who were to represent the State in their organized capacity should be made by the Legislature. Then the term of service was definitely fixed. Every provision in relation to this subject was carefully considered to even the minutest detail. Having fixed the composition of the Senate the convention next proceeded to the consideration of another subject in the same connection. It was very apparent that under the first clause of the Constitution all the Senate would have to be elected at one time, and hence at the expiration of the regular term of six years all the old members of the Senate would go out and new members come in. In order that there might be always in this body persons who had experience in the service of the Senate it was provided that the Senators should be divided into three classes, that the term of one class should expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years. What was the reason of that? "So that," says the Constitution, "one-third may be chosen every second year."

Mark the word "chosen"—the identical expression which is used in the first paragraph applying to the choice of Senators. Will any one suppose that when the convention in that clause of this section used the word "chosen" they meant that at the expiration of two years, if the Legislature had not acted, the governor should appoint? Why had they carefully used the same word that applied to the Leg-

islature choosing Senators? It never entered into the mind of the men who framed the Constitution, I may venture to assert, and the suggestion never was made, that when a class fell out the governor could appoint successors.

When this provision of the Constitution so far had been agreed upon, another idea was suggested, and that was the idea that a vacancy might happen. So far they had a perfect Senate, they had an equal number of Senators from each State chosen for the same term, and the Senate was perfectly organized, but a contingency might arise whereby there would be a vacancy in the body; and then the discussion took place upon the question of how vacancies should be filled, and from that discussion in the convention it is very apparent what they meant by the word vacancies. It was suggested by one that the governors should fill the vacancies, but Mr. Wilson, I believe it was, objected to that, and after discussion Mr. Madison offered an amendment which was adopted, an amendment which was referred to and read by the Senator from Tennessee [Mr. BAILEY] in opening the discussion in this case. I will read it again:

Mr. Madison, in order to prevent doubts whether resignations could be made by Senators, or whether they could refuse to accept, moved to strike out the words after "vacancies" and insert the words "happening by refusals to accept, resignations, or otherwise, may be supplied by the Legislature of the State in the representation of which such vacancies shall happen, or by the executive thereof until the next meeting of the Legislature."

It is clear that it was in the mind of Mr. Madison at the time and in the contemplation of the convention, first, that there was doubt as to whether a person chosen a Senator could resign. There may be no doubt now on that subject in our minds; but it is very certain from the reason and purpose of that proposed amendment given by Mr. Madison that doubt on that question at least existed in the convention, and also whether a person elected a Senator could refuse to accept. Mark the language, "or whether they could refuse to accept;" and for the purpose of putting this matter at rest and assuring the right to a Senator to resign or not accept this provision of the Constitution was proposed by Mr. Madison. Observe the language in which he proposed the amendment:

Happening by refusals to accept, resignations, or otherwise.

That is the language of the amendment proposed by Mr. Madison. It was adopted by the convention and went to the committee of revision, or to the committee of style as it was termed, when the language was changed into the form in which it appears now in the third section of article 1 of the Constitution.

Now, Mr. President, a critical examination of the language I have read, conferring the power to make temporary appointments on the governor, will show what they meant, apart from the history of the provision. I maintain that the history of the provision itself instructs us as to the purpose and intendment of the convention which framed the Constitution; but if it was without a history, if the annals of that convention were completely blotted out, if all memory and tradition were gone in reference to the convention itself save the instrument they have left us as a heritage, I maintain that a critical examination of the words in which they have embodied their ideas in the third section of the first article excludes and precludes the idea that a governor could fill a term at its commencement. What is the language?

If vacancies happen by resignation or otherwise.

What is meant by "happen?" Does it not signify in this connection an unforeseen event, a casualty, an accident, that may take some one out of his seat after he has been placed there by the choice of the Legislature of his State? Can any one doubt that that is the true meaning, the true interpretation of that provision? I think not. To state what has been so often expressed, the word "happen" implies contingency, uncertainty, accident. The whole structure of the sentence shows conclusively that such was the understanding and meaning intended by this clause. Those who differ with me will please answer the question if that is not true. If under this provision an appointment may be made by an executive to fill a term at its commencement; if the words "happen by resignation or otherwise" include every emptiness of a seat either by constitutional limitation or otherwise, then pray tell me the office of the words "by resignation or otherwise" in this sentence? Would it not convey that idea better without the words "by resignation or otherwise" in the clause? Read it as it is:

And if vacancies happen by resignation, or otherwise, during the recess of the Legislature, &c.

I repeat, if that provision gives to the governor the power to make a temporary appointment to the office upon the expiration of the term of an incumbent, would not the same power be given if the words "by resignation or otherwise" were stricken from the Constitution, so that it would read, "and if vacancies happen during the recess of the Legislature of any State," &c.?

Then tell me the office of the words "by resignation or otherwise" if the construction now attempted to be given is true. Sir, it is merely tautology of ideas, it is surplusage of language, it is unmeaning and frivolous to interpolate those words unless they were intended to import something into the Constitution not there before; and the men of that day were as careful and guarded in the expression of their language as the men of the present day. If any Senator on this floor was going to frame a provision giving to the governor the power to appoint temporarily to fill all vacancies, would he incorporate into it the words "by resignation or otherwise?" No, sir. The authority given to the Legislature to fill vacancies after a temporary appointment by the executive must apply to vacancies in a term previously filled by the Legislature. There could have been no necessity for the insertion of such a provision in the second paragraph of the section if it did not relate to filling vacancies happening in a term previously filled.

If that was intended to apply to full terms, and not to vacancies happening in a term exclusively, why was that language used? Did not the power to fill a full term reside in the Legislature by the provision of the first clause, and why should it be repeated in this second paragraph if it was intended to apply to the identical vacancy that the appointment by the Legislature applied to in the first clause?

I hold, then, Mr. President, in common with those who have preceded me in favor of the report of the committee, that there is no power in the governor to make an appointment of a Senator at the commencement of a term, or until the term has been filled by the choice of the Legislature, and I maintain that from the history of the provision itself, from its clear import and intendment, no other construction can be properly given to this clause under consideration.

Having thus expressed briefly my own views in reference to the proper construction of these clauses, I shall proceed to show that the construction for which I contend has been sustained by the action of this body for a long time, as well as by the opinions of many distinguished and able men who preceded us in this Senate.

My attention has been called to a definition of the word "happen." I have here, handed me by the Senator from Kentucky, an acknowledged authority, Webster. I have not before looked into the dictionary for the definition of terms; but the definition of this word is so appropriate, so in harmony with the views which I have expressed, that I beg leave to call attention to it:

Happen: to come by chance; to come without previous expectation; to fall out.

So that that great authority in reference to the definition and meaning of the word "happen," is in consonance with the views which have been expressed not only by myself but by gentlemen who have preceded me in this debate in support of the resolution reported by the committee.

Before I proceed to examine the precedents, I also wish to direct attention to another word upon which there has been some stress laid in this debate, and that is the word "otherwise." It is admitted that if the words "or otherwise" were stricken from this clause then the provision would be confined to vacancies occasioned by resignation; but it is contended that the words "or otherwise" are unlimited in their meaning and therefore cover every possible vacancy that may occur in the Senate including those which occur by the expiration of a constitutional term.

The meaning of the word "otherwise" in this connection has been fully explained by the lucid arguments of the Senator from Georgia [Mr. HILL] and the Senator from Wisconsin, [Mr. CARPENTER.] I need not supplement their views upon that point at all, and yet I wish to call attention to the construction that has been given to that word in connection with the word "vacancies" by the supreme court of Arkansas, a State that furnishes some of the ablest lawyers in this country, among whom I am glad to say is the Senator from Arkansas [Mr. GARLAND] who sustains the views of the committee in this case. That court had before it a case in which the very expression occurs. In December, 1848, that State passed a law to distribute the proceeds of the five hundred thousand acres of land donated to the State by act of Congress for internal improvement, and by the third and fourth sections of the act it was provided:

That on the first Monday of May, 1849, and every two years thereafter, the qualified voters of each county shall elect five commissioners, who shall constitute a board of internal improvement of the county; said election shall be held at the places, in the manner, and on the notice now prescribed by law for general elections; * * * that when any vacancy shall occur in the office of commissioner by death, resignation, or otherwise, it shall be the duty of the presiding judge of the county court to order an election to fill such vacancy, giving at least twenty days' notice, &c.

That provided for an election in May, and authorized the judge of the county court in case of a vacancy to call an election, and the judge of one of the counties, no election having taken place at the time mentioned in the statute, proceeded, under the power given to him in that clause, to call an election which elected commissioners and who appointed a treasurer. The auditor of the State refused to turn over the funds to the treasurer thus appointed, on the ground that the commissioners who appointed him treasurer had not been legally elected, and he brought his mandamus. The court in that case had the whole subject before them; and I read the decision now for the purpose of showing the construction which they gave to the phrase "by death, resignation, or otherwise."

We consider it perfectly clear that the vacancies contemplated necessarily presupposed that the offices had been once filled, and that the provision for filling those vacancies was solely designed to embrace the unexpired portion of the term that might remain after the happening of such vacancy.

I concur with the views of the Senator from Arkansas that it is very difficult to interpret a provision of the Constitution by the interpretations that have been given to the same words in statutes, but here is the identical language occurring in a statute, with the addition of the word "death," that is in the clause of the Constitution; and the supreme court of Arkansas say that it only applies to

that portion of the time remaining unexpired after the office has been filled.

I now proceed to notice very briefly the authorities and decisions in this body that sustain the views which I have presented. The cases that have been cited prior to 1825, with the exception of the case of Mr. Tracy, were uncontested cases, unobjected to; the question was never raised. The fact is, that at that period of time the difficulty of getting to the capital of the country was so great that there was some anxiety about having a quorum here to do business. I understand that gentlemen declined the honor of a seat in this body on account of such difficulty, at least I have heard of one gentleman who did so, and hence the Senate was more liberal; and no objection being made such appointees came in and were seated. There was some contention about the right of Mr. Tracy, but, as has been said, it occurred in times of high party excitement, and it was decided by a strictly party vote, and that precedent was followed without question up to 1825, when the case of Mr. Lanman came up for consideration. The attention of the Senate had been called to this question by previous discussion in the body as to the power of the President under that clause of the Constitution which gives to the President the right to fill vacancies in civil offices occurring in the recess of the Senate. As was stated by the Senator from Georgia, the discussions in 1813 and 1814 on that subject, and especially the discussion in 1822, had directed the attention of the Senate to this provision of the Constitution applying to Senators. When the case of Mr. Lanman came up in 1825, it was thoroughly discussed, and in that case a decision was reached in harmony, as I believe, with the purpose of the Constitution, and from that day to this that conclusion and that decision has remained unimpeached and unquestioned.

But it was said by the Senator from Wisconsin, [Mr. CAMERON,] it was said by the Senator from New Hampshire, [Mr. ROLLINS,] and I believe that idea was concurred in by my worthy colleague on this floor, [Mr. BAYARD,] that that decision was not upon the question whether a governor had the right to fill a vacancy at its commencement; but the question decided was whether he had a right to make an appointment in advance of the happening of the vacancy to take effect when the vacancy occurred.

Mr. BAYARD. It is not perhaps very important, but I was unable from the various reports, or rather from the imperfection of the various reports of the Lanman case, to know precisely upon what ground that decision did rest. I supposed the meagerness of the debate as reported prevented me from knowing what was the exact ground. I said that Judge Story had accepted the report that Mr. Bartlett had made, but where Mr. Bartlett got it I do not know. It is said he got it from the National Intelligencer; but Judge Story, in his Commentaries on the Constitution, places the decision of the Senate in the Lanman case on the ground that a governor had no power to fill a vacancy which did not exist at the date of his appointment. I did not say that was the ground on which the case was decided; I only said that Judge Story had accepted that as the ground; and that from other statements it was doubtful what the Senate did proceed upon. My colleague will note the fact that in Lanman's case the governor did proceed to fill a vacancy caused by the expiration of a term one month before any vacancy existed, and that shows how void his act was. The fact existed that the governor of Connecticut, on the 9th of February, 1825, had time to fill a vacancy that did not occur until the 4th of March subsequent.

I beg my colleague's pardon for the interruption. I will say further that he must not suppose I undertake at this day to supply the grounds upon which the Senate proceeded to reject Mr. Lanman when I say those grounds are not sufficiently stated for me to know what they were. I merely say that Judge Story adopted the ground that it was because there was no vacancy at the time the governor assumed to act.

Mr. SAULSBURY. I am very glad my colleague has made that statement. My understanding of his former position, doubtless incorrect, was that the true question decided there was whether the governor in advance of the expiration of the term had the right to make an appointment. I am glad now that my colleague does not rest upon that point; but that was distinctly stated to have been the point decided in the Lanman case by the Senator from New Hampshire [Mr. ROLLINS] and the Senator from Wisconsin, [Mr. CAMERON.] I propose to meet that declaration and to show that that was not the point in controversy in that case, and that the decision did not turn upon any such question, but that the broad question was presented in that case whether the governor could fill a vacancy which had occurred by the expiration of a constitutional term of an incumbent. That was the broad question presented, and it is a total misconception of what the point in issue was to suppose that the decision turned upon the question of the date of the appointment by the governor. No such question was raised at the time, and no misapprehension of the true question at issue in the minds of the Senators who passed upon the question, because it was distinctly stated at the time by Mr. Tazewell, as will be found in Benton's Thirty Years' View. It has already been read, but I shall be pardoned for a reference to it again. Mr. Benton says, after stating the case:

> Mr. Tazewell was the principal speaker against the validity of the appointment, arguing against it both on the words of the Constitution and the reason for the provision. The words of the Constitution are: "If vacancies happen (in the Senate) by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the Legislature." "Happen" was held by Mr. Tazewell to be the governing word in this provision, and it always implied a contingency, and an unexpected one.

So that the question was distinctly presented and passed upon which is presented in this case.

Mr. Benton, commenting on this decision, says:

> And with this decision the subsequent practice of the Senate has conformed, leaving States in part or in whole unrepresented when the Legislature failed to fill a regular vacancy.

Mr. ALLISON. Mr. Benton says that thirty years after from memory.

Mr. SAULSBURY. The Senator from Iowa says that Mr. Benton wrote from memory. He is too familiar with the character of Mr. Benton to suppose or to believe that he risked his reputation for accuracy upon mere memory after the lapse of thirty years. He knows too well the care and painstaking of that eminent Senator to believe that he ever expressed an opinion upon any matter of this kind for which he was not able to show a good reason if his opinion was called in question.

Then in the Lanman case the judgment of the Senate after argument overruled every other precedent that had taken place in the Senate, and laid down the broad doctrine that the governor of a State could make no temporary appointment to commence a term, nor could he make any temporary appointment until the Legislature had acted upon the term and placed an incumbent in the seat. They had, at the time they decided the Lanman case, full knowledge of all the cases that had been in the Senate preceding that time; for Mr. Eaton, in making the report in that case, called the attention of the Senate to the case of Tracy, to the case of Cocke, to all the cases that had preceded. So that the Senate at the time it passed upon and made its decision in the Lanman case had before it all the precedents that had occurred before that time.

But my honored friend from Indiana [Mr. MCDONALD] yesterday in his argument substantially stated that a contrary decision was made in the Sevier case, and attempted to parry the force and weight of the Lanman authority by citing the Sevier case, which he contended was in contradiction to the principle established in the Lanman case. I speak from memory about the Sevier case, and Senators will correct my memory if I am at fault. The case of Sevier was this: Arkansas had just been admitted into the Union. She elected two Senators, Mr. Sevier and Mr. Fulton. Under the provisions of the Constitution they had to draw for the classes in which they would be placed, and Mr. Sevier taking his seat in January, 1837, drew by lot a term which ended on the 4th of March following. The Legislature in September had elected and adjourned without knowing or being able to foresee to what class either Mr. Sevier or Mr. Fulton would be assigned. Therefore they were unable to make provision, according to the idea of Mr. Grundy in that case, for the term of Mr. Sevier, which expired in March; and it was upon that ground, *that it was an unforeseen contingency*, that the Senate acted in that case, governed to some extent by the consideration of the very recent admission of Arkansas into the Union. But the committee in that case expressly declared in the report made by Mr. Grundy that it did not intend to impeach or to dispute the correctness of the decision in the Lanman case, and therefore the authority of that report sustains and affirms the decision that was made in Lanman's case. And while I do not believe that Mr. Sevier should have been seated, I can understand very well the reasons which governed Mr. Grundy and the Senate in that case. It was that here was an unforeseen contingency which could not be provided for. But Senators do not contend that the expiration of the term of Senator Wadleigh was an unforeseen contingency by the State of New Hampshire. Certainly none of the reasoning which could possibly have governed the action in the Sevier case can be applied to the case of Mr. Bell.

There was no unforeseen event here; there was no vacancy which the Legislature of New Hampshire could not have provided against, no element of uncertainty, as my friend from New York [Mr. KERNAN] says, in connection with the whole case. The Legislature knew the time that Mr. Wadleigh was elected for; it was known by every intelligent inhabitant of the State of New Hampshire on the day Mr. Wadleigh was elected to the Senate six years ago that at the expiration of six years his term of service in the Senate would expire. Ample opportunity, therefore, was afforded. They had full knowledge that there would be such a vacancy, and yet they failed to provide for it.

But now I wish to call the attention of the Senate for a few moments to the opinions of Senators who have preceded us on this floor upon this very question. The opinion of Mr. Butler has been cited at large by the Senator from New York, [Mr. KERNAN.] I need not repeat it in this connection. The opinion of Mr. Badger, one of the ablest lawyers this country ever produced, who had a national reputation not only as a statesman, but as a jurist, made a clear, unequivocal expression of opinion upon the proper interpretation of this clause of the Constitution. I may be pardoned, because these were gentlemen who, in their day, were known to the whole country, if I read again their views. I do so because it is proper in a question of this kind, touching the meaning of a constitutional provision, that every man in the country, as well as every member of the Senate, should have every assistance in arriving at a knowledge of what its true meaning is, so that every one may be able to pass his judgment upon the decision which may be made in this case by the Senate. I therefore beg leave to incorporate into my remarks the opinions

that were expressed by Mr. Butler and Mr. Badger, already referred to by the Senator from New York. Mr. Butler, in discussing the Phelps case in 1854, not only gave his opinion on the question then before the Senate, but expressed himself very clearly upon the power of the executive of a State to appoint a Senator upon the expiration of the constitutional term—denying emphatically the existence of any such power in the governor. Hear what he says:

It seems to be conceded, that the authority to choose a Senator to commence a new term of six years, after the efflux of a regular term, is exclusively vested in the State Legislature.

Again:

In 1825 Lanman's case came up for consideration involving both the questions. In that case, after a very full debate, it was solemnly decided that it was not competent for the governor of a State to put a member on this floor at the commencement of a term. In other words, it was decided that his power of appointment could not be substituted for the election of the State Legislature. Even if such had not been the decision in the case of Lanman, I take it for granted that such would be and must necessarily be the decision now.

On the same day Mr. Badger, of North Carolina, acknowledged to be one of the most profound lawyers this country has ever produced, not hastily, but after mature deliberation, with a strong desire to arrive at a different conclusion, expressed his opinion in language even stronger than that employed by Mr. Butler. I read the following extracts from different parts of his speech made at that time, and will hereafter quote what he said in a subsequent speech on the same question:

Now, my friend from Kentucky has suggested one or two questions which I think will be sufficiently answered by this statement. The vacancies which the executive of a State is authorized to fill are never vacancies that happen by the efflux of time; they are not foreseen vacancies; they are vacancies that "happen by resignation or otherwise."

Mr. President, from an exceeding desire to give to this clause of the Constitution such a construction as would keep the Senate always full, I labored hard, a year or two ago, when we had questions of this kind before us, to find out some method of supporting, in my own mind, the construction that a vacancy happening by the efflux of time, and not filled beforehand by the Legislature, might be brought within this limited power conferred upon the executive; but, sir, I have been obliged to abandon it.

"By resignation or otherwise" is the language. We must expound the word "otherwise" to apply to vacancies happening by similar events; that is, unforeseen events—death, resignation, appointment to an office which disqualifies—and it can never be applied to the expiration of the term of a Senator which leaves a seat vacant on this floor. My opinion, therefore, is, that the governor of a State has no power to fill a vacancy in this body which is brought about by the expiration or efflux of the time for which a Senator was elected—in other words, at the determination of his term in the Senate. It must be a vacancy in the term happening during the recess of the Legislature; it must be a vacancy in the term happening by resignation or other casualty. That I understand to have been the express and solemn decision of the Senate in Mr. Lanman's case, in 1825, overruling one or two earlier decisions, which had passed, perhaps without full consideration.

So, too, Mr. Phelps, whose case was at that time under consideration, expressed similar views. So did Mr. Foot, of Vermont; and the Senator from Illinois, [Mr. DAVIS,] who concurs with the committee and who is himself a great authority, yesterday read to us the views of Mr. Cass and Mr. Douglas and Mr. Underwood and others of the great men of that day when the case of Mr. Dickson, of Kentucky, was under consideration in 1852, all sustaining the view which is taken by the committee in this case.

I wish more particularly to call attention to another speech of Mr. Badger, in which he expressed the same opinions if possible even more strongly on this question. I do so because it is proper that the committee should strengthen their own conclusions by the opinions of the eminent men of this country who have expressed opinions on this question. Mr. Badger, in addition to what was read to the Senate by the Senator from New York, said in a subsequent speech in the Phelps case what I will now read:

Under the Constitution the power of appointing Senators is vested in the Legislature, and nowhere else; but if a vacancy happen in this body, by resignation, death, disqualification, or other unforeseen event, the Legislature not being in session, if the vacancy is to be filled, the power must, of necessity, be put somewhere else. That is the necessity. It is the necessity of devolving the power upon the executive, which necessity arises out of two facts: first, that the vacancy could not have been foreseen; and, secondly, that the Legislature is not in a constitutional condition to act; and, therefore, those two things concurring, the Constitution gives to the executive the power of making a temporary appointment.

He there lays down the broad doctrine that it is only where there is a concurrence of two conditions—first, an unforeseen contingency, and, second, that the Legislature is not in a constitutional condition to act—that the governor of a State has the power to make a temporary appointment. In this connection, too, I beg leave to refer to another very eminent and able constitutional lawyer, a gentleman in his day of no small reputation, the equal of the ablest Senators that have sat in this body, and one in whose fame his own State has always felt a just pride. I refer to Hon. James A. Bayard, of Delaware, whose opinions have not yet been cited. He discussed most fully the Phelps case in 1854, and he expressed his opinion on two questions which came up in that debate. He expressed an opinion as to what was decided in the Lanman case, and then he gave his own view and his own construction of the constitutional provision which we are now considering. Says Mr. Bayard:

You find that, in reference to the full term of a Senator, the provision is that he shall hold his office for six years and be chosen by the Legislature. The executive has no authority there. And you find, further, that if the Legislature is in session at the time a vacancy occurs by resignation or otherwise, though it may not even be known to them, yet no authority in such case is confided to the executive to appoint. You find, in other words, that within the intent of the Constitution no authority over the subject is meant to be intrusted to the executive whenever the primary power (the Legislature) is in existence as an organized body.

I am aware that at one time it was decided that even in reference to the full term the executive of a State might make an appointment until the Legislature met; but that construction was subsequently overruled by the Senate in the case of Mr. Lanman in the year 1825; and ever since the practice has been uniformly in accordance with the decision in that case.

There is the opinion of Mr. Bayard upon what was decided in the Lanman case. He said further in a subsequent part of this same speech:

In reference to the full term, it cannot be doubted that no authority whatever is confided to the executive. The negative of power in any other event than when the vacancy occurs in recess shows that it was the intent of the Constitution that the executive was merely to provide for *casualties* happening when the legislative power, which is the primary power, was not in existence, and, of course, could not act.

Then again, in another part of this very elaborate speech, which reviews this constitutional provision very thoroughly, Mr. Bayard remarked:

Where the seat alone is vacant, but the term has not been once filled by the Legislature, no authority is confided to the executive. The authority conferred upon the executive is to make *temporary* appointments in case of casualties.

Then, referring to the Sevier case, he said:

From that time the Senate have adhered to the decision in Mr. Lanman's case, which is in accordance with the manifest intent of the Constitution, with one exception. When Mr. Sevier, of Arkansas, was elected a Senator in October, 1836, for six years, he drew lots with his colleague, and the short term fell to him, making his term expire on the 3d of March following. The Legislature of the State of Arkansas, which had just been admitted into the Union, not anticipating such a result, had adjourned. The executive of the State, under those circumstances, appointed Mr. Sevier for the new term.

Then he goes on to state that Mr. Sevier appeared and was admitted to his seat; but Mr. Bayard said:

Having a clear opinion that the decision is not in accordance with the Constitution, and that the distinction upon which it proceeds is groundless, I should certainly not accede to it if a similar case should by any accident arise. But the case recognizes the principle, that where the Legislature have once had the power to appoint, and made no election, a deficiency in legislative action cannot be supplied by an executive appointment. From 1801 to 1825 the practice of the Senate under the decision in Tracy's case was adhered to, of suffering the executive of a State to appoint to a full term, unless the Legislature preceding the commencement of the term had made an appointment. That was overruled by the Senate in Lanman's case, notwithstanding a practice of twenty-four years under it, and, in my judgment, rightfully overruled.

Now, Mr. President, I have detained the Senate longer than I intended; but this is a case of perhaps more importance than may appear to some persons in the Senate. It is a question as to the true and proper construction of the Constitution. We are not to be governed by any sympathy for the applicant, by any consideration of the condition of New Hampshire, but our decision ought to rest upon and be sustained by the constitutional provisions bearing on the subject. I have deemed it my duty to submit my views of this case not because anything I have or could say would be new to the Senate but because of the importance of the subject and because I supposed it was expected of me as the member of the committee making the report that I should submit some remarks in vindication of the conclusions of this committee.

And now I desire to say for myself personally that I have no such pride of opinion as would desire the conclusion of the committee to be sustained by any violation of the Constitution. If I were a judge rendering a decision involving the smallest right, I would rather be overruled on appeal than that my judgment should stand if it was not justified by a fair interpretation of the law. So I say here, if the views which this committee have advanced in their report are not correct, as a member of that committee I do not desire its conclusions sustained, and I think I express the wish of every member of the committee in expressing my own. But if the views of the committee are in harmony with the Constitution touching this question, then I say the reversal of their decision will not do injustice to the members of that committee, because their record will live and be judged of hereafter by those who succeed us in these Halls; but it would be unjust to the Constitution of the country and become a precedent for evil in the future; a precedent which the enlightened judgment of the country will hereafter disapprove, and the action of the Senate at no distant day disavow.

Mr. BAYARD. Mr. President, I only rise to make a short reference to one supposed authority cited by my respected colleague. I need not say with what respect I have listened to this debate throughout. It is evident that the subject is approached and is discussed in a spirit and tone eminently worthy of its importance; and that the Senate, not in name but in fact, is sitting as a court of justice deciding upon important constitutional rights. Therefore, sir, it is from the collision of honest minds that the spark of truth is struck. It is only from such collision and such honest hearts that truth can be elicited; and I hail with great satisfaction the differences between minds which occur and are expressed with such positiveness and yet mutual respect.

But, sir, my respected colleague read from the Thirty-Years' View of Mr. Benton to show what was, according to Mr. Benton's high authority, the true meaning of the decision in the Lanman case. I have said before, and it is not necessary to repeat, that the reasons for the decision in the Lanman case were too imperfectly reported for us to know precisely the weight of that as an authority upon the case before us. That I say again, because when I find as eminent a man as Judge Story reporting that the case was decided upon one ground and

see an equally eminent authority reporting that the case was decided on another ground, and they both so much nearer the event than I who succeed them at the lapse of fully half a century from the time of the decision of the Lanman case, I may be pardoned if I am placed in doubt as to which of two such authorities to take.

But, sir, let me call the attention of my colleague and the Senate to all that has been said by Mr. Benton. After reciting what he believed to be the direct point in controversy which controlled the decision in the Lanman case, he goes further:

> The term "appoint" is the word applied to a gubernatorial appointment. The election was the regular mode of the Constitution, and was not to be superseded by an appointment in any case in which the Legislature could act, whether they acted or not.

If there be a rule of construction universally accepted, it is that the expression of one thing shall be held to be the exclusion of another; and where this authority, relied upon by the majority, is speaking of a case where a governor could not act, he says it must be a case where the Legislature could act; and such is the reasoning of that authority, so weighty with me, that of one whom it is my honor to call my father, who preceded me in this body. He placed that decision in the case of Lanman, in his discussion of the Phelps case, on the precise ground, and to use his language, together with that of the venerable and distinguished jurist from South Carolina who joined him in the minority report, Judge Butler, on that occasion—the report of the minority that received the approval of the Senate, the question was whether there had been an existence of power in a Legislature to fill the vacancy; not whether that power had been exerted, but whether it existed, because *ex necessitate* if power in the Legislature did not exist or as Mr. Benton says, if the Legislature had not a case in which it could act, then the power of appointment was admitted.

Now, try that principle by the facts of the present case. Take the authority of Messrs. Bayard and Butler in 1854, of Mr. Benton at the time he wrote this book, of the Senate's decision in 1825 if it is to be interpreted according to Mr. Benton's own rule, and apply it to the present case, and where do we stand? On the 7th of June last the Committee on Privileges and Elections containing in its then minority nearly all the gentlemen of the present majority and in its present minority several of its then majority, for that committee has been only slightly changed since the 4th day of March ultimo, when the question was put to them which Legislature (for there can be but one) had under the act of Congress, 1866, power to fill the vacancy occasioned by the expiration of the term of Mr. Wadleigh, gave their unanimous reply in which they said that the only Legislature that could fill that place was the one to be elected in November, 1878, and which cannot under its constitutional term be convened until June, 1879. If that was the only Legislature to elect, how can it be said that the power has not existed in a Legislature to elect which it has failed to avail itself of? There is, Senators, just the point in this case. You argue that the word "casualty" shall be imported as an explanation of "vacancy." You seem to consider that uncertainty can attach itself to nothing but the occurrence of a vacancy. May there not be such uncertainties in regard to the changes of a State's form of government, lawful in themselves but uncertain as to their dates, as may deprive that State under the letter of the Constitution of her proper representation in the body?

Mr. CARPENTER. Will the Senator allow me?

Mr. BAYARD. If my friend will wait a moment I will answer him with the greatest pleasure. But I wish now to state simply that which has controlled my vote in this case. I have read the debate in the case of Phelps; I accept to its letter the doctrine laid down by the minority report in that case which has been so personally and forcibly addressed to me; and reading that as touching this question, my mind answers it under the instructions of the Committee on Privileges and Elections of the last Congress and under the facts as known to the public. The question in my view is, did a legislative power exist in New Hampshire which could under the Constitution and laws fill that vacancy from the 4th of March to the 4th of May or June? I answer, it did not exist. I am backed by the authority of a committee of this body and by the silent vote of this body accepting that issue of fact and deciding that there was no Legislature in existence which could fill that vacancy. If such a legislative power did not exist, then by the reasoning of all these cases and by the language of Mr. Benton the Legislature could not act, and therefore the power of appointment was called in to supplement and prevent that vacancy which the Constitution did not design to occur.

Now, I beg pardon of my friend from Wisconsin; I will yield to him.

Mr. CARPENTER. I wish to ask the Senator whether in his opinion the Legislature of New Hampshire which was in session in June last had or had not the power to elect a Senator to succeed Mr. Wadleigh?

Mr. BAYARD. My friend from Wisconsin asked me that question the other day, and I said that I would refer it to the unanimous opinion of the Committee on Privileges and Elections of this body which seemed to be supported by the united Senate.

Mr. CARPENTER. Will the Senator permit me one remark?

Mr. BAYARD. Let me say further to my friend that I have not been able to get over the evident force and meaning of those simple words of the act of 1866 which provide that it is the Legislature chosen next before the occurrence of the vacancy which is the Legislature to elect. I know that the honorable Senator from Wisconsin says that a Legislature means an organized body; it does not mean a number of men who may become organized into a Legislature, but he speaks of it as an organized body, and therefore to sustain his construction the act of 1866 would, it seems to me, had it meant to justify such a construction, have directed that the Legislature which met and organized next before the occurrence of the vacancy, in other words which was in existence as a Legislature next before the occurrence of the vacancy and therefore nearest to the event, was the body which alone could fill the vacancy. But Congress has not said that. The act under which we all have taken our seats since 1866 has fixed the time to qualify the body as a Legislature to elect the date of its election, the date of its being chosen, and not the date of its meeting and organization. We have, for instance, the election of Senators in advance, the election of Representatives in advance. From the nature of things a man must be chosen before he can take his seat, and there must be an interim in which, although he is a Senator-elect or a Representative-elect, he is not really a Senator or a Representative, because he is not qualified. He is not competent to act until he has been duly admitted by the body which alone is the judge of his qualification, election, and return. Therefore I think it would be as unjust and as unwarranted to say that a man elected to this body was not a Senator until a subsequent admission had made him one, as to say that a Legislature chosen was not a Legislature because it had not met and organized. That is what I mean.

Mr. CARPENTER. Now, my friend will allow me one remark; I do not propose to enter into any discussion. He has slightly misapprehended my view. I do not say that it is necessary that the Legislature should have assembled in order to be a Legislature; at least I do not think I said that. If I did, I perhaps expressed myself too strongly. But what I meant to say, and what I say now, is that there must be a body of men in existence in whom the legislative power resides, so that if the governor of a States hould call the Legislature he need not mention names but by law it is ascertained who are to answer that call.

But the trouble in my mind, and which I wanted the opinion of the Senator upon, was this, whether persons chosen, but whose term of office does not begin, can be called the Legislature of that State while there is another Legislature in actual session possessing and exercising the legislative power of that State, he agreeing as I do that there can be but one Legislature. My only purpose was to get the opinion of the Senator as to whether or not that Legislature in June last, being an unquestionable Legislature at the time, and the last Legislature that could be in session before the expiration of the term, had or had not the power to fill that term which was to be filled in consequence of an event certain to occur in the life of that Legislature.

Mr. BAYARD. I suppose that the object of Congress in passing the act of 1866 was to fix which Legislature and which Legislature alone was competent to elect a Senator. I suppose it was intended to prevent the attempt to fill vacancies in advance; that is to say a Legislature undertaking to fill two vacancies, one occurring at the lapse of one year and one of three years subsequent and so on; and therefore in order to confine legislative action to filling a vacancy, it required that only one should pretend to do it, and that only one should be intrusted with the power to do it, and that one should be the one nearest in its choice to the event contemplated, because the nearer the event the more strong is the presumption that it represents the popular sentiment at that time. And therefore Congress chose to give the power to the Legislature nearest to the necessary period so as to represent, as was supposed, the popular wish at that time. Therefore they selected that one Legislature, and it was done to prevent, as I suppose, other Legislatures from anticipating vacancies and producing a confusion by having men present credentials here or contest seats on elections by different Legislatures of the same States. That I suppose was the argument.

Mr. BECK. If the Senator will allow me, I desire to ask him this question: If any public exigency had required the governor of New Hampshire to call the Legislature of that State together at any time before the 4th of March last, which Legislature would have assembled in response to the call?

Mr. BAYARD. I understand he only was able to call the Legislature elected in March, 1878. That, I suppose, is the fact; but notwithstanding that fact you have, by your act of Congress, excluded that Legislature from the power of electing to this place, if words have any meaning. You have said that one Legislature can act and that shall be the one chosen next before the event. Now I will ask the question of my friend from Kentucky, when was the Legislature that is to meet in June chosen?

Mr. BECK. It was chosen, as I understand, last November.

Mr. BAYARD. Then, I ask, whether the month of November, 1878, is not nearer to the month of March, 1879, than the month of March, 1878?

Mr. KERNAN. I want to ask my friend——

Mr. BAYARD. I want an answer to my question.

Mr. KERNAN. The legal Legislature elected and sitting next before the occurrence of the vacancy is that which met last June.

Mr. BAYARD. That is not the question. It is which is the Legislature that can choose the Senator? The act of Congress declares that but one Legislature is to be entitled to make the choice; and

which is that? The one whose election is nearest in date to the occurrence of the vacancy.

Mr. CARPENTER. I wish to make this suggestion to the Senator from Delaware: undoubtedly that act of Congress intended that the Legislature last preceding the end of the term should elect. That is plain, I think. Now, the people of New Hampshire have elected members; they have not elected a Legislature, because by the constitution of that State to-day under which they are to be a Legislature has not taken effect. Now, then, there was but one Legislature in June last. That Legislature was to continue in session until after the expiration of Mr. Wadleigh's term. I interrupted the Senator only to ascertain, and although it is probably my fault, yet I have not ascertained, whether the Senator from Delaware believes that that Legislature in session in June, before the expiration of the term, with full knowledge that no other Legislature could have official life until after the expiration of the term, had or had not power to act, though I infer from his remarks that he thinks they had not. Now, I wish to suggest to him that if they had not it must be because the act of 1866 stripped them of that power. If they would have had under the Constitution the power to make that election, can an act of Congress strip them of it?

Mr. BAYARD. With due respect to my friend, that is begging the question. That is putting in a question that has not yet been presented,—the constitutionality of the act of 1866. In discussing this case I assume that act to have been accepted as a constitutional act. This very Committee on Privileges and Elections, not with all its present members, but with all the members of the former minority now in the majority of that committee, and *vice versa*, I believe (there has been very little change at least) decided the fact that the act of 1866 was a constitutional act, and that the Legislature chosen next before the occurrence of the vacancy was the only one that could elect, and therefore the Legislature chosen in March, 1878, was not the Legislature of the State to elect. That was their report. My friend from Maryland [Mr. WHYTE] has it in his hand.

If that is clear, then we come back to the basis upon which I found my opinion, that owing to what you may call a casualty, for it was a casualty, in the framing of their legislative arrangements in New Hampshire, not contemplated at all at the time of Mr. Wadleigh's original election,—owing to a casualty then existing, it so happened that there was no Legislature in existence to fill this vacancy, and, therefcre, if they were not in existence they had not the power, and if the State had not the power to elect by a Legislature, the supplementary power of temporary gubernatorial appointment is expressly recognized by Mr. Benton and I think by every other authority on the subject.

Mr. CARPENTER. I should like to ask one question further, if the Senator will permit me. About the only compensation that a lawyer gets for serving in this body is what law he can learn. The Senator from Delaware is an able lawyer. I wish to know his opinion upon the precise point, whether he now believes that the act of 1866 with the construction he puts upon it, assuming that to be the proper and necessary construction of that act, be or be not constitutional.

Mr. BAYARD. I have treated that act as being constitutional; and unless aided by the greater experience and ability of my friend from Wisconsin my opinion would not be as valuable as I should like it to be, if I gave it without the gravest and closest consideration, weighing that act against the Constitution; but I have always held it to be constitutional. Let me read from the report of the Committee on Privileges and Elections in the case of Blodgett made in 1871 by Mr. CARPENTER, of Wisconsin:

> This refinement of reasoning does not meet the approbation of your committee. The question is, What was the intention of Congress in passing this act? The Legislature designated by the act is the one "which shall be chosen next preceding the expiration of the time," &c. There is no such thing as choosing a Legislature except by choosing its members. The Constitution declares that Senators shall be elected by the Legislature of each State. Hence the act of Congress employs the same phrase. But your committee cannot doubt that it was the intention of Congress to provide that the Legislature whose members should be elected next preceding the expiration of the senatorial term should elect the successor. The distinction sought to be established between the words *elected* and *chosen* derives no support from popular or legal lexicography. Elected is defined *chosen*, and chosen is defined *elected*; and the words are used as synonymous in the Constitution of the United States, the constitution of every State, in all our statutes, and in all popular literature.

There is the authority of my honorable friend himself to the fact whether the Legislature which is to elect is nearer to the expiration of the term or not. That is the simple question; and examining the two dates, and discovering that the day of election in this case took place in November, 1878, I am clearly of the opinion that it was nearer to June of the year following than was the month of March previous.

Mr. CARPENTER. Lest it may be inferred that there is anything in that report inconsistent with what I am claiming to-day, I ask to explain the circumstances of that case. I adhere to the conclusion there arrived at, I adhere to its general language, read in connection with the case before the committee. In the trial of Aaron Burr, when there was passed up to the great Chief-Justice Marshall the decision of the Supreme Court of the United States, delivered by himself, in the Swartout-Bollman case, which was thought to be inconsistent with the opinion which the Chief-Justice was then delivering, he said that every opinion must be read in the light of the case which was being decided; that an opinion is not a treatise upon the subject; it is the decision of a particular case. I quote from memory only; but that is the substance of what he said.

The Committee on Privileges and Elections in 1871 were deciding a particular case, and what was that case? It was a case of a pretended election made by a Legislature at a time when by the then existing constitution and laws of the State there was to be elected another Legislature, which by the laws of the State on that day were compelled to assemble before the expiration of the term. Therefore the election by that Legislature of Mr. Blodgett was a clean jumping of a Legislature provided for and compelled to sit before the expiration of the term. His election of course was good, or good for nothing, when it was made. For the purpose of bracing it up the Legislature afterward postponed the session of the second Legislature so as to bring it after the expiration of the term; but the whole proceeding was a mere fraud upon the act of Congress, and they knew it when they took the course they did, because by the law in force when they elected Blodgett there must be elected and there must assemble that newly elected Legislature before the expiration of the term.

In deciding that case there may be some words in the report of the committee which are not accurate enough to be applied to the new facts of this case. They were perfectly correct with reference to that case, and they are correct in that for the purpose of being applied to this case. I indorse fully what was said in that report; there is not a word in it that I do not agree to to-day, except that perhaps in the phraseology of the report the expression in regard to choosing a Legislature that it means choosing its members may give in the application which is now made of it some color of discrepancy between that and the argument which I attempted to make here the other day. That discrepancy, however, grows entirely out of the fact that that case did not call for the distinction which this case does call for, because the same facts were not presented. That was not the case of a Legislature making an election when by law there would be a subsequent election of a Legislature but not a meeting of the Legislature before the term expired. In this case those are the facts. There, when they elected Mr. Blodgett, that very day, by the constitution and laws of that State, there must be elected and there must assemble another Legislature prior to the expiration of the term for succeeding which Blodgett was elected.

Mr. DAWES. I should like to ask the Senator from Wisconsin a single question. A Legislature has been chosen in New Hampshire before the expiration of the term of an existing Legislature. That happens, I suppose, in most of the States; it certainly occurs in my own State that a Legislature is chosen before the expiration of the term of an existing Legislature. That has been the case in New Hampshire; and the question I ask of the Senator from Wisconsin is, Which of those two Legislatures was chosen next preceding the expiration of the term for which Senator Wadleigh was chosen to this body.

Mr. CARPENTER. That is a very easy thing to answer, I think, and I have no objection to undertaking it. When you speak of electing a Legislature prior to the term, what is intended by this act, as I tried to establish the other day, is not that you have elected members who will never possess the legislative power until after the expiration of the senatorial term——

Mr. DAWES. I was trying to get what the Senator assumes to be the meaning by another process, and I asked his answer to my question in order that that might aid me in coming to a conclusion, which he assumes in order to answer my question.

Mr. CARPENTER. Mr. President——

Mr. DAWES. The question I asked is simply a question of fact when two Legislatures are, and to that extent——

Mr. CARPENTER. Mr. President——

The PRESIDING OFFICER, (Mr. MCMILLAN in the chair.) The Senator from Wisconsin is entitled to the floor.

Mr. DAWES. I am restating my question so that I may be understood exactly. I know the Senator is entirely willing to answer if he understands my question, and if he does not it is because I do not state it distinctly.

Mr. CARPENTER. The Senator stated his question distinctly and I wish to answer it.

Mr. DAWES. Then I am more surprised than ever. Mr. President, I will restate my question. A Legislature has been chosen in New Hampshire before the expiration of the term of an existing Legislature.

Mr. CARPENTER. That I deny. I mean by the remark that that is where we differ in opinion.

Mr. DAWES. A Legislature will never exist without being chosen at some time. If the Legislature which assembles next June has not been chosen already, I do not know when it will be chosen. It is never to be chosen any more than it is now chosen. It may be organized; it may be qualified; it may be authorized to act as a Legislature under the constitution of the State; but if it was not chosen last November it never will be chosen.

Mr. CAMERON, of Wisconsin. Allow me to state——

Mr. CARPENTER. Who is entitled to the floor on this point?

Mr. DAWES. I have the floor.

Mr. CARPENTER. I do not understand that to be the case. That is another point where we disagree.

Mr. DAWES. The Senator from Wisconsin took his seat; I rose

and was recognized by the Chair, and stated that I should like to put an interrogatory to the Senator from Wisconsin.

Mr. CARPENTER. And I rose to answer it, and in my answer I was interrupted. I maintain as a point of order that I am entitled to the floor.

Mr. DAWES. Oh, we shall not differ about that. The Senator shall have the floor; I did not intend to take it from him, and I beg his pardon if I have interrupted him. I wanted to restate my interrogatory so that there could be no mistake between the Senator and myself; and if he will allow me to go through the restatement without its interrupting him, I shall do so.

Mr. CARPENTER. It being understood that I have the floor, I have no objection to the Senator's stating his question at any length.

Mr. DAWES. Acknowledging that the Senator has the floor and that by his courtesy I am permitted to state my question, I having been interrupted in the middle of the restatement, will try and restate it; and I restate it by premising that I do not suppose a Legislature can be chosen more than once. If there is any defect in its election at that time, it is fatal. If it is not called into being so far as choice is concerned at one moment, it never is; it is not a lingering birth; it is an instantaneous one. The constitution of New Hampshire prescribed that during the existence of the present organized Legislature the people of New Hampshire should proceed in November to the choice of another Legislature that should meet after this Legislature had expired. The question I asked of the Senator was, which of those two Legislatures, both of them chosen at some time, was chosen next preceding the expiration of the senatorial term?

Mr. CARPENTER. That question I shall answer. It calls for my opinion, and I will give it; but I will do it in my own way. The Senator puts to me a question which I will state as I understand it. During the official life of the Legislature of New Hampshire which is in existence to-day, and which will remain the only Legislature of that State until June next, persons have been elected by the people who will meet next June if the new constitution goes into force; that is, if the people of the State do not interfere in the mean time and alter it, which they may do. If the new constitution is left to itself and goes into effect next June, then the persons who were elected before that constitution had any effect will be the members of that Legislature. Now, the Senator put to me the question, which is supposed to be a tangler, which of the two Legislatures was elected last prior to the end of Mr. Wadleigh's term? That is a question which, if the Senator put to me in a town meeting on the Rocky Mountains, I should be afraid would overcome me. It is so cunning in mere phraseology, it is so seeming and plausible to a man who knows nothing about law and legal proceedings, that I should be afraid he would get two votes to my one on that question; but I am not at all afraid that he can do so in the Senate. Let us take a perfectly analogous case. It has been the practice from the first for Territories under enabling acts of Congress to draft and submit to the people for their approval a constitution of the State. It has been their practice to elect Senators also and send them on here with that draught of a constitution as agents to get the State admitted into the Union; and then when the State is admitted into the Union they take their seats as Senators. Why? Because the admission of the State cures that election by relation. If the State be admitted, then the Senators are received because the admission of the State cures and gives legal effect by relation to an act which had no legal effect whatever when it was performed. The men who were elected Senators from Colorado came on here before the admission of the State. If that State had not been admitted they never would have been Senators, and yet they were elected before the State was admitted.

The Senator's point is that they are the Legislature when they are elected or never. I say no; they are the Legislature when the new constitution comes in and makes them so, and then that constitution by relation in legal effect will cure the election of those men and they will then be an elected Legislature. Previous to that time they are simply elected persons, to become a Legislature by the happening of a subsequent event. If the new constitution of New Hampshire should not go into force, if the people of that State should change it in the mean time, they may not take their seats at all. They have no constitutional existence as a Legislature to-day; and that is shown by the fact, which every lawyer must concede, that if the governor of the State were to-day to call an extra session of the Legislature without specifying names or mentioning senators and representatives the old Legislature would have to assemble. A State can have but one Legislature.

Mr. EDMUNDS. Except in the South.

Mr. CARPENTER. We are speaking of the Northern States under the Constitution. Therefore if the old Legislature is to-day the body in which the legislative power of the State of New Hampshire resides, and which must assemble if the governor should call an extra session to-day, then I say there is not another elected Legislature at this same time. I understand how cunning, I do not mean it in any offensive sense, but how plausible, to the average mind is the question put. Is it not the Legislature elected last before the expiration of the term? I say no. I say, if nothing happens, after the 1st of June it will be. But when this Legislature were in session in June last and the question was whether they then had power to elect a Senator, that question ought to have been settled by that Legislature upon the state of things then existing. That was certainly the last-elected Legislature. In other words, to change the phraseology, it was the last Legislature before the expiration of the term. It was, therefore, the last Legislature before the expiration of the term which had been elected. By merely transposing the words here, will the Senator from Massachusetts maintain that an act of Congress in that way should be so construed as absolutely to deprive a State of representation in this body for three months? That cannot be maintained; and yet that is the inference from the argument which the Senator now submits. So I say, in my opinion, the Legislature which was in session in June last was the Legislature which at that time had been last elected prior to the expiration of the term, and it remains so to-day. Nobody questions that it is the Legislature at this very moment and might be called together and fill this term. Nobody denies that. Then I say that there was not at that time, in my opinion, nor is there at this time, another elected Legislature of that State.

Mr. DAWES. Mr. President, I was convinced that the Senator misunderstood me. He supposed that I was rash enough to invite him to an encounter of wit. I shall never be rash enough to do that. He supposed further that I was asking of him which of these two Legislatures could qualify to-day and perform the functions of a Legislature. I did not ask any such question as that. Nobody doubts that a Legislature elected, organized, and by the constitution allowed to hold until a future period, is the only Legislature now authorized to perform the functions of a Legislature. No such question as that have I had the honor to present to the Senator from Wisconsin. But it being admitted that there can be under the constitution of New Hampshire a Legislature chosen during the existence of another Legislature, there would then be two processes which had taken place that go by precisely the same name and are in all respects identically the same act, namely, the act that chose the one Legislature and the act that chose the other. The statute of the United States in undertaking to describe which of two Legislatures shall do a certain act has said that it shall be that of two Legislatures which is chosen next preceding the vacancy.

Mr. HILL, of Georgia. Will the Senator from Massachusetts allow me to put him a question right there?

Mr. DAWES. Let me get through with my friend from Wisconsin, and then if I survive I shall try to answer my friend from Georgia. I do not promise to do it; it is only on that condition.

Mr. CARPENTER. I trust the Senator will never depart from me.

Mr. DAWES. I shall always be in good company, then. I am not inquiring, it is not an inquiry worthy to be made, which of these Legislatures can perform the functions of a Legislature to-day, because the constitution has settled that beyond any doubt. It is provided that there may be two short elections. The people of New Hampshire were called upon to make a choice during the existence of an organized Legislature. After having done that there are two choices, and the law of Congress comes in and says that it will determine which of two Legislatures, when they are Legislatures, shall do this other thing.

Mr. CARPENTER. Now, will the Senator allow me five words? I make this request of the Senator.

Mr. DAWES. I asked a simple question of my friend and he answered it by telling me that I ought to know that if the Legislature was summoned together to-day it would be another Legislature from the one to meet in June. I did not doubt that; but what I was troubled with was whether when it got together to-day it would be the Legislature defined in the law of Congress. I go to the records and I find that there is another choice since that Legislature was chosen. Then I look into the statute and I see that that choice determines which of the Legislatures shall do this act and when they shall do it. Of course they cannot do it until the constitution permits them to organize. The only trouble in my mind is whether it is in the power of Congress to define a particular Legislature as the one to choose a Senator, which Legislature does not meet until after the vacancy occurs. If it was in the power of Congress to do that thing, they have done it. I have my doubts whether it is in the power of Congress to do it; but I am not answered by any unanswerable argument, which always comes from the Senator from Wisconsin, upon a point I did not ask him, as to which of the Legislatures, if the proclamation of the governor should issue to-day, would come together.

Mr. CARPENTER. Will the Senator allow me to put him one question? I did not say he asked me that question; I did not understand that he did; he misunderstood me. I put it as a point we both agreed about, that there could be but one Legislature at a time, and that the Legislature elected in March, 1878, was the Legislature which would have to convene to-day and exercise legislative functions until next June. I put that as a premise conceded by each of us on which we were to argue. My question was this: I want to know of the Senator whether in his opinion, if the act of Congress of 1866 had never been passed, the Legislature of New Hampshire last in regular session prior to the expiration of Wadleigh's term could not fill it, and, if so, whether Congress can take away that power by any act?

Mr. DAWES. I have no doubt that the Legislature could have done so. It would have been in conflict with no law of Congress; it would have been the usage of all Legislatures, except that there was

a time when, in certain States, it was attempted unsuccessfully for a Legislature of one political party to elect, anticipating the power which really belonged to a subsequent Legislature; but it never succeeded. The universal usage, in the absence of all law, has been for the Legislature which meets last before the expiration of the term to elect a Senator.

Mr. EDMUNDS. There was one instance.

Mr. DAWES. The Senator from Vermont corrects me in saying that it never succeeded by suggesting that there was one instance. He is always right, and I am most generally wrong. But Congress undertook, under the power given them by the Constitution, to prescribe what Legislature should elect and how it should elect. If it is in their power to authorize, to select a Legislature that does not come together until three months after the expiration of the term, they have, unwittingly I think, but they nevertheless have, described that Legislature. My argument yesterday was that they having undertaken to do that, and it having worked in New Hampshire the result of depriving New Hampshire of representation upon this floor without the governor's appointment, it was not sound policy to do it. I owe the Senator from Georgia an answer to some question, and I will make it, if I can.

Mr. CARPENTER. I want to put a question in this connection.

Mr. HILL, of Georgia. I will say that I do not desire to ask the question now. It has been covered really by the question of the Senator from Wisconsin.

Mr. CARPENTER. I wish to put to the Senator from Massachusetts a question. We are feeling here measurably in the dark for some construction of the Constitution. We all want to settle this thing, if we can, upon principle. I concede that if there is a fair doubt in the mind of any man about whether Mr. Bell is entitled to the seat, he ought to have it; but we want to ascertain what the law is. Let me put the Senator a question which seems to me to be a test of the whole matter about which we have been differing in opinion. Concede for the purpose of the case that the appointment of Mr. Bell by the governor on the 13th of March was a legal appointment because there was then a vacancy (leaving out now the word "happen") in the recess of the Legislature. Concede that Mr. Bell came here and when his case was presented yesterday morning we had admitted him. Suppose the governor of that State should call an extra session of the Legislature to meet day after to-morrow, there being in this Chamber a Senator sitting from that State under an appointment from the governor, I wish to ask the Senator from Massachusetts if the old Legislature assembled in extra session day after to-morrow could not fill the vacancy? The Constitution says that a vacancy happening in the recess of the Legislature shall be filled by the governor by appointment temporarily "until the next meeting of the Legislature, which shall then fill such vacancy." That is the Constitution. As applied to this case, is it possible for Congress to say that if the governor makes an appointment in the recess of a Legislature and the appointee is admitted to a seat and afterward the Legislature is convened by the governor, that Legislature cannot fill the vacancy, when the Constitution says it "shall?" The Senator can only claim this in virtue of the act of 1866. If that be true, if he be sound in the construction which he gives to that act, is it not perfectly plain that the act is unconstitutional?

Mr. DAWES. I will try to show the Senator that he begs his own question.

Mr. CARPENTER. That is not an answer.

Mr. DAWES. Whether the Legislature called together to-morrow by the proclamation of the governor could proceed to elect a Senator, would depend upon the effect you give to the law of 1866, because the law of 1866 describes the Legislature which must fill the vacancy. If that law controls, the Legislature chosen next preceding the occurrence of the vacancy would not be that Legislature which would assemble to-morrow, and therefore the Senator, in putting his question in another form, comes right back to the question which I put to him as to which of the two Legislatures has been described in the statute. The answer which I gave to the question pending here was, has Congress the power to designate the Legislature with regard to the time when the vacancy shall occur? If they have that power, then they have described another Legislature from that; if they have not the power, then the Legislature which meets to-morrow would be the Legislature which ought to fill the vacancy. It depends upon that power assuming to control both the mode and manner and the Legislature; but the act of Congress describing one of two Legislatures, which, to that extent could exist at the same time, must be followed if that is controlling. Whether it be controlling or not, New Hampshire followed it. The result of her following it is the condition of things that we find to-day.

Mr. CARPENTER. If, under this provision of the Constitution referred to, Congress can determine which Legislature of a State shall make an election, then it may provide that the Legislature elected three years after the term expires shall choose a Senator. It may be said that would be an abuse of power; but the framers of the Constitution did not leave this subject open to such an abuse. The Constitution does not leave it open to such an abuse. Really, as I understand the last position taken by the Senator, it comes right down to the question whether the Constitution shall control or whether the act of 1866 shall control. I differ with him in that dilemma, because I think the act of 1866 properly construed does not conflict with the Constitution; but if it does, then the question is, as I understand, whether the Constitution shall be obeyed or the act of 1866. With all deference to Congress and with all deference to the act of 1866, if it must be construed so as to conflict with the Constitution, it must go down in my opinion, and the subject stands where it would stand if the act of 1866 had never been passed at all.

The Legislature in June last clearly could have made the election if the act of 1866 never had been passed. It was a constitutional right of the legislative power of the State of New Hampshire to fill that vacancy which would occur by the expiration of Mr. Wadleigh's term, and if Congress had not interfered the Legislature in session in June last would have chosen a Senator for the succeeding term, as all the States, since the Government began, have filled the terms in this Chamber expiring in that way. They know that the Legislature need not wait until the term expires. They elect in anticipation of the expiration; they elect because it is known that under the Constitution the term must expire. Without any legislation of Congress it is perfectly plain that the legislative power of New Hampshire could have filled at the regular session in June of last year that term, which was to begin next after that session and before any other Legislature could either be elected or convene.

Mr. EDMUNDS. Suppose they had not had a quorum?

Mr. CARPENTER. The Senator from Vermont says, "Suppose they had not had a quorum?" I suppose, of course, they had a quorum or they could not act. We are not talking about whether the minority of that Legislature could make an election; we are speaking of the Legislature, and of course I mean a quorum of the Legislature.

Mr. EDMUNDS. I understood the Senator about that; but I was asking a question with a view to this point: Suppose the Legislature of last June without this change in the New Hampshire constitution, there being a normal condition of things there, had been unable to obtain a quorum down to the 4th of March and had adjourned without it, would not that have been a casualty within my friend's meaning of the Constitution as he interprets it, an unforeseen event, that deprived the State of a Senator and therefore left a vacancy for the governor to fill?

Mr. CARPENTER. I do not think so; I think that the phrase "by resignation, or otherwise," upon which a vacancy is to be filled by the governor, means a vacancy caused by something that applies to the Senate. It may be a Senator's resignation, it may be his death, it may be his expulsion from this Chamber; it is not an accident occurring to the State. The State may never have a quorum in its Legislature and of course then could never elect Senators; but that is not at all material as applied to this case, because here I understand they had a quorum of the Legislature and were in session.

Mr. EDMUNDS. It is only a matter of illustrating the question, and my friend will pardon me when I ask it with a view to the illustration of another question, because as the Senator says we all want to get at the merit of this case.

Mr. CARPENTER. Certainly.

Mr. EDMUNDS. Suppose the Legislature of New Hampshire at the last June meeting, having the lawful right to do so, I take it for this purpose, had elected a Senator? Suppose before the 3d of March that Senator elected, whose office had not begun of course, should resign or die. Now, then, the Legislature having adjourned and the 4th of March coming, what could the governor of New Hampshire do then—anything?

Mr. CARPENTER. Of course in giving an answer to a point that a man had not thought of for a moment and which never has occurred in the world, I would not consider myself bound by the opinion I expressed, but at the first blush my impression is that the governor would not have the right to appoint in the case supposed.

Mr. EDMUNDS. That is what the Senator's argument comes to.

Mr. CARPENTER. My impression is that it would have simply taken the Legislature to fill the term. Suppose further that they had elected John Smith in June last to fill that term and it turned out that John Smith died the night before the election. There would have been an honest attempt on the part of the Legislature to fill the vacancy; and then there was another honest attempt on the part of the Legislature to elect a man who was alive that day but who died the next. They could proceed the day after and fill that term, could they not? Then if they had done so, that man would be entitled to a seat. If they had not done so, then the Legislature having the power to fill the term, having been in session and having had the opportunity, the governor could not appoint, as I believe we all agree.

Mr. EDMUNDS. I think my friend from Wisconsin is perfectly correct in the result to which he comes from his starting-point. If he is right on this question he is right as to the fact that supposing Mr. Wadleigh had been re-elected and had died on the 2d day of March the governor could not have filled the place. If my friend is right that the governor could not fill in this case, I think that position follows.

Mr. CARPENTER. Of course I must answer the Senator's question from my stand-point and not from his.

Mr. EDMUNDS. Certainly; I say I think the Senator sticks to his opinion.

Mr. CARPENTER. I stick to the text.

Mr. EDMUNDS. The Senator goes the full figure.

Mr. CARPENTER. I have endeavored to ascertain what the true rule was here, and I shall endeavor to follow it throughout.

Mr. EDMUNDS. Mr. President, I do not know, seeing that this debate is going on, but that I should like to say a single word. First, I want to say—because I shall be very brief indeed—that what the Senator from Wisconsin has stated as to the value of judicial opinions and what they mean, as tested by being applied to the case they have in hand, referring to his report in the Blodgett case, is of course an axiom in the law. Applying that axiom to the cases which have been cited on the *nosciur a sociis* notion of "resignation or otherwise," then I think my friend from Wisconsin will see if he looks at it, and the Senator from Georgia will see, that the decision of the supreme court of the State of Wisconsin which is supposed to be a conclusive authority on the meaning and effect of the words "resignation or otherwise," is not an authority which supports the position that they assume it to have supported here. There the statute of Wisconsin said that the power of the aldermen or some body in a city might remove an inspector of streets, or whatever he was, for incompetency or any other cause satisfactory to the board. I have not covered all the words, but the "any other cause" I am pretty sure *was to* be satisfactory to the board. Then they removed him for a cause that they stated to be satisfactory to themselves, and he resisted. The supreme court of Wisconsin said that there must be the cause; if they removed him without any cause at all they would have no right to do it; and the cause must have some relation to the public interest that they were called upon to defend, and that was in respect of his conduct in the office. That was sound law beyond all question. There it was "cause" which was the governing word. Applying it to this case, what is the governing word here? What is the thing we are trying to dispose of? It is a vacancy in an office that everybody agrees ought to be filled in some constitutional way. There is the subject upon which the Constitution speaks, just as this removal from office for cause was the subject upon which the law of Wisconsin spoke.

Mr. HILL, of Georgia. If the Senator will look at the decision in Wisconsin he will see that in the decision in that case the word "cause" *was not the* main word; it was the kind of cause. The court said that it must not only be a cause, but there must be a cause like that enumerated, that is, a cause affecting the competency of the incumbent.

Mr. EDMUNDS. Exactly, Mr. President.

Mr. HILL, of Georgia. It must be some other like cause.

Mr. EDMUNDS. I had stated before that it was a cause in reference to the public interest, the administration of the office. I had endeavored to state that, and now I think I have stated it so that my friend will understand me.

Mr. HILL, of Georgia. That is exactly what the supreme court of Wisconsin do not say. They do not say it is a cause affecting the public interest, but it is a cause affecting the public interest for a certain reason, and that is the competency of the party. There might be a great many other reasons why he should be removed.

Mr. EDMUNDS. Now if my friend from Georgia will yield me the floor a little while, by his grace I will go on. I repeat that what the supreme court of Wisconsin said, as I understand it, (I do not doubt the Senator from Georgia understands it the other way,) was that here must be a cause, and that that cause in the relation in which the word stood must be a cause that affected the public interest in the administration of the office. Those are the very words I used before. I do not know that the supreme court of Wisconsin used a single one of these words, but if I am capable of understanding the English language they expressed that idea, and I understand the Senator from Georgia to express that idea. He says competency to fulfill its duties; I say a correct administration of the office. It is a mere verbal difference, then, at which we arrive.

Now what have you got in this case? What is it here that is required to be administered? It is the office of a Senator of the United States, which never expires but which is to be filled from time to time by the choice of successive persons or the same person over and over again. The Constitution says that when there is a vacancy in that office for one reason, by one event, "by resignation, or otherwise," that vacancy shall be filled up temporarily, and then completely by another power, does it not? I take it that it does. What then becomes of all this authority that is pressed upon us to defeat the object of the Constitution, as we all agree that the object is that these places shall be filled if they can be in some regular way? What becomes of this sort of talk? Instead of being authorities against the exertion of this power, you have got by the express language of the Constitution an event wherein the Constitution says the governor of the State shall act provided you make out that this event has happened "by resignation, or otherwise,"—I am coming back to the meaning of the word "happen" presently—taken place, I will say now "by resignation, or otherwise." My honorable friend from Georgia says (and my honorable friend from Wisconsin seems to fall in with him, though he would not state it that way, I suppose) that "otherwise" means "likewise," and that we ought to read it, "and if vacancies happen during the recess of the Legislature by resignation, or likewise, (by other events like a resignation,) then the governor may fill them up." The men who made the Constitution chose the word "otherwise" instead of "likewise," and I suppose, therefore, that they meant "otherwise" instead of "likewise," and that they intended to have a vacancy, which was what they were talking about, filled up when it should occur, (I am not now on the word "happen,") when it should take place, when it should be within the limitations that they prescribed as to the duration of the power of the governor's appointment, from a cause other or in a manner other than by a resignation.

That there is a vacancy here everybody agrees, I believe,—a vacancy in the constitutional sense and in fact which must be filled, and when the Legislature come to fill it they will fill a vacancy, because to say that they elect for the full term is a mere contradiction in terms, a mere absurdity in respect of that part of the term which has gone by. You cannot appoint a person to an office that has ceased to exist; you cannot appoint a person for a period of time that has gone by; it is a mere nullity. I suppose there will be no objection on the part of the republicans of the United States to elect Mr. Tilden President from the 4th of March, 1789, four years; it would not hurt their views at all; and I presume the democratic party would be very glad to elect Mr. Hayes for the same term if he would give up the present one. Of course I only speak of those great illustrations to show how absolutely absurd it is to talk about electing or appointing any person to perform the duties of an office for a period that has gone by. Therefore, by whatever name you call it, when you come to the substance of the thing, the man whom the next Legislature of New Hampshire chooses as a Senator from that State, whose term will expire on the 4th of March, 1885, will be a man who was appointed, or chosen, or elected, by whatever name you call it, to fill up a vacancy that now exists.

The only power that the Legislature of the State has to choose a Senator in the first instance, in the exertion of its original appointing power, is in the first clause of the third section of article 1, which says they shall choose him "for six years." That is the language, and there cannot be any mistake about the meaning of it. Failing to choose him for six years they must choose him for the unexpired period of some term of the class to which he belongs to fill a vacancy that then exists. It is impossible for me to look at it in any other way.

Then, Mr. President, we come to the question whether a vacancy does exist by having happened in the recess of the Legislature. The word "happen," it has been said by Senators who argue on the other side, means a casualty, a contingency. So it does. It also means anything that takes place, or occurs, that comes to pass. By what authority do constitutional lawyers, when a word of several meanings is used, which includes several particulars within those meanings, say that it only means half of what it means by the dictionary and by the common understanding of mankind now as it was then? By what species of logic or of law is it that we are to be told that a word is to be shorn of half its meaning, being a general one that includes several particulars, instead of giving to it all? The Constitution does cover the case of a death undoubtedly. That happens. It happens much more than a resignation does. A resignation in the sense of chance does not happen at all, in that sense of the word "happen," because a resignation does not come by chance; it comes by the free will of the person who is competent to make it. Therefore, in order to give "resignation" any force in that sense as having happened, you must take some other meaning of the word than chance or casualty, because it is neither chance nor casualty. It is just as much the definite and public act of the person who has the right to make it as the passage of an act of Congress is by this Congress; precisely. It is an act of deliberate free will, and if it were not it would be void; it would be no resignation at all.

To what point do we come then, Mr. President? We come down to the proposition that here is a vacancy in this office, as everybody agrees, and a vacancy which the Legislature of New Hampshire will have a right to fill when it meets, and which it must fill if it does anything, because it cannot choose a person for six years; it can only choose for that part of the six years which is allotted to the particular man whom it may now choose, precisely as it would have to do if somebody had been elected and had now resigned or died. They can only choose him for the time that is left; they cannot choose him "for six years." They can only choose him, therefore, to fill up the vacancy that exists when they come to act. Where does the Legislature of New Hampshire get the power to fill a vacancy at all? The first grant of power, as I have said, is only a power to choose for six years and nothing else, neither more nor less. Where is the next grant of power? It is that a vacancy having happened in the office of Senator, not in the person as has been suggested by one of my friends here, as a personal thing, but a vacancy in the office—persons are not named—the governor of the State, if it be in a recess of the Legislature, is to make a temporary appointment until the next meeting of the Legislature, when the Legislature "shall then fill such vacancy," that is to say, precisely the vacancy, and no other than the one, that the constitution authorizes the governor of the State to fill temporarily. There is not any rule of interpretation which would allow gentlemen of the other view of this case to say that the word "such" in empowering the Legislature to fill a vacancy, does not refer to the vacancy that the governor either had or might have filled under the power that is conferred upon him. The consequence is, therefore, that if

the governor of the State of New Hampshire has no power to fill this vacancy, if it is a vacancy, the Legislature has not any power, for its power expressly granted by the Constitution follows the exertion or the right to exert his power, and is confined to such vacancies as he for the time being has a right to grant a temporary commission for. That is the way it looks to me.

Now let us see where is the harm, what is the danger to the Constitution, to the public interests, to the general welfare, to hold that view? It is said that the Legislatures are the constituency. Suppose they are—I do not think they are in a correct sense, but I shall not waste time by going into that—where is the harm, the danger of the misrepresentation of a State if when a Legislature on the first occasion when it ought to have elected in advance of the time when the term begins, in order to provide that its representation may be always full, the governor of the State elected by the people, and as we all know is the practice for very short terms, the representative of the people just as much as the body of the Legislature is, shall do it, and allow the people of that State to have their representation in this Hall for the time that the Constitution has limited, until the Legislature can meet again and try it. I agree that the letter of the Constitution is such that after he has once appointed and the Legislature has again met, his power is exhausted, because the same vacancy cannot happen twice. Whether that is wise or not, I cannot help it; there it is. But here on this doubtful question as it is claimed to be by some of the gentlemen on the other side—I think it is clear,—here on this point, within the limit that the Constitution makes to his power, is there any motive for such strained constructions cutting off one-half of the meaning of the word "happen" if you please, applying a strict and limited rule that is usually applied in penal statutes and for the protection of private rights, to construe away this power of a governor representing the people of his State to place their representative on this floor when either by accident or design the Legislature that ought to have chosen in advance did not do it?

It might indeed be said, Mr. President, that even this conduct of the Legislature under the circumstances, this omitting to try to elect was a very great chance; it has so happened by a casualty, by misinformation, by misunderstanding what the decision of this body was supposed to be, as some say they did, or understanding it correctly, so that it would fall within the strictest meaning of the most extraordinary chance in the world that they should have been so misled as it is now said they were. But that I admit is not a sound argument, for they were bound to know the law, and if the law gave them the power to elect they might have elected. But my point is that failing to do their duty within the Constitution as it stands, the governor of that State had a right to fill up the vacancy until the Legislature should meet again. Then they are to fill it as it is a vacancy.

Now look at the word "happen" in two other parts of the Constitution. As to the House of Representatives, the Constitution says if vacancies happen in the representation of any State the governor shall issue writs of election to fill up the vacancies. Suppose the people (as it used to be in many of the States where a majority was required for the election of a member of the House of Representatives) fail to elect because no one of several good men can get a majority, and the 4th of March comes, can anybody seriously doubt that the governor of a State in such a case would have a right to issue a writ and that that people would have a right to find a majority for somebody for the Congress that was then occurring? I am sure that very few men would doubt it, and indeed in one instance the House of Representatives many years ago had that case and, so far as that point was concerned, it appears, as well as I can understand the report of it that there was no difference of opinion about the governor's right. He, under the statute of Mississippi, it is true, which limited this filling of vacancies until the next general election, applied such a limitation, and therefore, instead of those members having been elected for two years or for the residue of that term from the date of their election, they were elected only until the end of the next session. That seemed to be in the face and eyes of the Constitution, which said they should be elected for two years or else to fill up the vacancy, and the vacancy would be for the residue of the two years; and consequently at the next session those gentlemen were held to have no longer a right to hold, and the men who had been elected in their place were held for some reason or other not to have a right to hold. But upon the point of the right of the governor in such a case, there being no State statute to embarrass him, to issue a writ of election to fill up for the residue of the full period of two years a vacancy, so far as I know or can learn, there was not any doubt and there ought not to be.

Then take the word "happen" where it occurs in the Constitution in another place. The President of the United States, the Constitution says, shall fill up all vacancies that happen in civil offices of the United States during a recess of the Senate by granting commissions which shall expire at the end of their next session. The office of marshal, the office of postmaster, the office of judge in a Territory, scores of offices necessary to carry on the operations of the Government fall by the expiration of the period for which those persons by law are appointed during recesses of the Senate, and they have ever since the Government began. The President of the United States from the beginning until now has exerted the power of filling up those vacancies by granting commissions of the character described in the Constitution, because the word "happen" was construed to mean just what the dictionary says it does, to be an inclusive term that means not only casualty but occurrence; and, for once, one of the powers of the Executive has never been disputed or criticised by anybody, that one of filling a vacancy which occurred by the expiration of a term of office during the recess of the Senate.

When the fathers who built up this Government used the word "happen" in these three connections, and when the fathers and all their descendants in the executive branch, and with the concurrence of both Houses of Congress without criticism, have always understood the word and acted upon it with that meaning, why should not we? I think everybody will agree that if you read the word "happen" in the senatorial clause as "occur" so that it would read "if a vacancy occurs, or takes place in the office of Senator during a recess of the Legislature, by resignation or otherwise, the governor of the State may grant a temporary commission until the Legislature meets," there would not be any great doubt as to the power of the governor to appoint. I doubt if anybody would maintain that there was any question in regard to it.

So, then, Mr. President, I have no difficulty with this case myself, after hearing all that has been said on this subject, and thinking about it; and I believe if we decide it in favor of this candidate—a matter of very little practical consequence of course because the Legislature is to meet so soon—we shall have established a just and wise decision in favor of giving the people of every State, who are the persons who are really represented, the fullest opportunity in one way or another to have their seats here kept full.

Mr. HILL, of Georgia. Mr. President, I shall detain the Senate but a little while and only on one point. The Senator from Delaware, [Mr. BAYARD,] in his speech the other day, used this language:

> I suggest to the honorable Senator from Georgia, whom I do not now see in his seat—

And I do not see the Senator from Delaware in his seat now—

> that if it had intended that nothing but a vacancy by resignation should become a case for a temporary appointment by the State executive, why not say "a vacancy which shall happen by resignation and *not* otherwise."

It is very strange that such a remark should have been directed to me. I never said the Constitution meant that a vacancy could only be created by resignation. But the Senator goes on:

> Is it possible that "otherwise" means "the same?"

Nobody ever said it meant "the same." I never said that "otherwise" meant "the same." I do not use language so bunglingly as that, although I may not use it as well as it ought to be used. He continues:

> Does not "*other*wise" mean "*other* ways?" Does it not mean "*not* in a similar manner?" I despair of appreciating the force of the English language if I am told that "other" means "the same," and that "otherwise" means "likewise or similar." I confess my inability to grasp so surprising and strange a meaning of the word "otherwise" as it occurs to me.

The Senator from Delaware is a very considerable man, and I think very highly of him. There is no man I think more of. I am only sorry that his great mind is so surprised at the use of the word "otherwise" to which I called attention; but to satisfy my friend on that subject I have been looking since into the record, and I have found that I have authority upon the point which I had not before known, and I will call my friend's attention to it.

Mr. Badger, of North Carolina, is conceded by those who knew him to have been one of the greatest lawyers this country ever produced. That is his character and reputation to this day. There are some who believe a greater lawyer never lived on this continent than Senator Badger, of North Carolina. He certainly stood high among all the great lights of his day. Now, upon this direct question hear what the Senator from North Carolina, Mr. Badger, said on the 20th of February, 1854:

> "By resignation, or otherwise," is the language. We must expound the word "otherwise" to apply to vacancies happening by similar events; that is, unforeseen events—death, resignation, appointment to an office which disqualifies—and it can never be applied to the expiration of the term of a Senator which leaves a seat vacant on this floor. My opinion, therefore, is that the governor of a State has no power to fill a vacancy in this body which is brought about by the expiration or efflux of the time for which a Senator was elected—in other words, at the determination of his term in the Senate. It must be a vacancy in the term happening during the recess of the Legislature; it must be a vacancy in the term happening by resignation or other casualty.

If the gentleman will turn to the speech I had the honor to make the other day, he will find that that is the very language I used, and then I had not seen this commentary of Mr. Badger. I never said that "otherwise" meant "the same." It means "similar cause." The corroboration which I have received in the opinion of the Senator from Wisconsin and the Senator from Illinois [Mr. DAVIS] ought to be satisfactory. What does the word "otherwise" mean? It means in this clause "vacancies which occur in a similar manner," that is, by casualty; that is, by unforeseen events; that is, as the Senator from Wisconsin very correctly said this morning, by a circumstance or event happening to the incumbent of the office, and which therefore cannot be foreseen by any other authority.

But I have looked into this question a little more, and I wish to call the attention of my friend from Delaware to what seems to him so surprising, that the rule to which I alluded is one of the best established rules and maxims of the law, and founded in the best reason. In fact, in the common law, it is as old as Sir Matthew Hale, and in the civil law as old as Justinian, and in all law is contemporaneous with sound sense. Let me refer to the decisions. I have

here some American authorities. I now read from Bishop on Statutory Crimes, page 246:

Lord Bacon observed that, "as exception strengthens the force of a law in cases not excepted, so enumeration weakens it in cases enumerated." This doctrine is in part the foundation of the "celebrated rule" that where particular words are followed by general ones, as if, after the enumeration of several classes of persons or things, the words are added "and all others," these general words are restricted in meaning to objects of the like kind with those specified. Therefore under Stat. 29, Car. 2, c. 7, sec. 1, providing "that no tradesman, artificer, workman, laborer, or other person whatsoever"—

I call my friend's special attention to that—

"or other person whatsoever" should exercise his ordinary calling on the Lord's day, the words "other person" were held not to include a farmer, who is not a person of the like denomination with those persons specifically mentioned; for, as Bayley, J., said, "if all persons were meant there was no need of the specific enumeration."

And so here I apply that reasoning to this case. If all vacancies were meant, as you claim, there was no need for the specific enumeration of the vacancies which "happen by resignation or otherwise." Why should the framers of the instrument have said that the governor should have power to fill vacancies that "happen by resignation or otherwise" if they meant to include all vacancies? The very fact of specifying vacancies that "happen by resignation or otherwise" shows that they intended a limitation and did not intend to apply the power to all vacancies.

Another very strong case is this:

And where a statute employed the words "wherry, lighter, or *other craft*," the word "craft" was held not to include a steam-tug; because, although a steam-tug is a craft, yet it is not one of the same character as a wherry or a lighter.

I want to read a case from Texas, cited by the same author:

A statute of Texas made it an offense to "willfully and maliciously kill, maim, beat, or wound any horse, cattle, goat, sheep, or swine, or willfully injure or destroy any other property of another"—

That is a very strong case—

and the court held, that the killing of a dog does not come within the act. Wheeler, J., said: "Dogs are not mentioned in the statute; nor do they come within either class, or description of the animals which are mentioned."

And though the general term is "all others" after mentioning "horse, cattle, goat, sheep, and swine or any other property," the court held that that did not include dogs. Why? Because dogs did not belong to either one of the classes specifically enumerated, and you could not by a general phrase enlarge the classification.

I find that this rule grew into a maxim in the days of Lord Hale and took as all legal maxims did in those days the Latin form and was expressed in Latin thus: *noscitur a sociis;* which means "it is known from its associates." The meaning of the words is "it may be known from the accompanying words."

This maxim appears to have been first applied to the language of the law by Lord Hale, and, it is observed, was no pedantic or inconsiderate expression when falling from him, but was intended to convey, in short terms, the grounds upon which he formed his judgment.

That is, words like men are often to be judged by the company they keep. A man who undertakes to define the word standing alone without its connection, as the dictionary defines it, will never get the correct meaning in which it is used. You must go to the law for that. I have read from Mr. Burrill's Law Dictionary, a very excellent work. Mr. Wharton in his Law Dictionary defines the same legal maxim "*noscitur a sociis.*" He goes further, he quotes the language thus "*noscitur ex socio, cognoscitur ex se.*" It means this: He who cannot be known from himself, may be known from his associates; that is, you are not to get the meaning of the word "otherwise" from itself in this case, you must get its meaning from its association, from its connection.

Mr. Tayler in his work defines the same legal maxim "*noscitur a sociis,*" "he is known by his companions: it is discoverable by what precedes and follows." The meaning is derived from the association, is discoverable from what precedes and follows. The same rule is laid down in a great number of cases. I find such cases reported in East's Reports, in Term Reports, and in very many of the old English authorities since Lord Hale's day, and in numerous American authorities.

That is not all. It applies to criminal jurisprudence, to penal statutes, and to civil statutes alike. It is a universal maxim. Therefore Mr. Badger was right when in 1854 he defined "otherwise" as I have read from his speech.

Mr. President, it is settled; it is settled as well as language can settle it, just as well as decisions in America and England for one hundred years and more can settle it; it is settled by the maxims of the civil law, by the maxims of the common law, by the maxims of common sense, that when you use the phraseology "by death, resignation, or otherwise" the word "otherwise" must be construed by its connection with "death" and "resignation," and to refer to other events similar in their character. The courts have made life and property and liberty all to hang upon the correctness of that maxim, and I could now bring in one hundred authorities and more upon this subject.

This at first seemed surprising to the learned Senator from Delaware, and surprising to the erudite Senator from Vermont; they had never heard of it before; but, sir, I find that there is no maxim more common in the law than this, nor one perhaps more frequently decided. I find that, though the point has not been formally made the same maxim has been quoted with approval by the Supreme Court of the United States, once by Chief-Justice Chase himself. Therefore it is not a surprising maxim.

If this maxim be true, what is the result? That these words are words of limitation, and that they mean specifically that the governor shall have power to fill vacancies which happen by resignation or otherwise during the recess of the Legislature; and it is just as specific, just as definite, as if the Constitution had read "by resignation, death, or expulsion, or such like casualty." When you say it can happen otherwise than in the manner indicated, you annul the Constitution; you make that unlimited which is by the language of the Constitution made limited. I say here, with all deference to distinguished gentlemen, it is the most palpable instance of misconstruction to be found in the history of this country.

There is another clause in the Constitution which I had reason on a very interesting occasion to investigate, to study at least. It is curious that while the framers of the Constitution in providing for the filling of vacancies in the office of Senator said "by resignation or otherwise," they were more particular when it came to the filling of vacancies in the Executive. There they left nothing to intendment; there they left nothing to construction; there they expressed all they intended to be implied or understood. Therefore they give every case:

In case of the removal of the President from office, or of his death, resignation, or inability—

They do not say "in the event of his resignation or otherwise"—

or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, &c.

It would have been the same as if they had said, "in case of vacancy in the office both of President and Vice-President by resignation or otherwise, Congress shall provide by law," &c. The phrase in the senatorial clause, "by resignation or otherwise," is in legal meaning, is under the determination of the courts in England and America, I affirm, just as specific, just as definite, just as explicit as if it had said, "by resignation, death, or expulsion from office." And yet I am amazed to find as able a statesman as the Senator from Delaware, as able a lawyer as the Senator from Vermont, and the Senator from Massachusetts, and divers other gentlemen get up here and say that the power of a State executive to fill a vacancy under that language of the Constitution absolutely extends to a case where a vacancy has occurred by the expiration of a term.

My friend from Delaware announced to the Senate that he put his vote upon the ground that the Senate at its session last summer gave it as its opinion that the Legislature elected in March, 1878, could not elect a Senator, and as a result of that opinion New Hampshire has got into this trouble. Is it possible that the construction of the constitutional power of an executive to fill a vacancy is to be dependent upon the opinion of either branch of Congress upon any question? That would make it more uncertain than to put it upon casualty, for I think if there is anything more uncertain than a casualty, it is the opinion of Congress. Clearly "resignation or otherwise" means a casualty to the incumbent; it does not mean a casualty to the Legislature; it does not mean a casual opinion by Congress, it means a casualty to the incumbent or by the incumbent.

Gravely again the able Senator from Vermont says that "resignation" here does not mean casualty because it implies volition. You cannot hold that an office becoming vacant by resignation becomes vacant by casualty, because he says it is by the will of the occupant; but death he says is a casualty. Well, suppose a man takes a pistol and blows out his brains; that is a case of volition. I suppose he would hold that was not a casualty. Casualty to whom? What does it mean when it says "by events that cannot be foreseen?" What did Mr. Badger mean when he said it must be an event happening by resignation, death, or removal, an event which could not be foreseen? He does not mean that it is an event that would have no will, no volition about it, but it is an event which cannot be foreseen by the electing power. The Legislature is the electing power in this case; that is the constituency. They are to keep the Senate full; that is their primary duty. There may be various events that the Legislature cannot foresee which may produce vacancies. One is death; one is resignation. The Legislature cannot foresee that a gentleman they elect will resign; they cannot foresee that he will be expelled from office; they cannot see that he will die during his term; and they cannot foresee his resignation any more than they can foresee his death. Very clearly, therefore, the use of the word "resignation" by the Senator from Vermont is a most marvelous one.

Now I affirm here to-day that, taking the rule of law defining the word "otherwise" and defining the word "happen," the power of the governor applies and applies only and specifically and intentionally and by plain language to vacancies which happen by death, resignation, expulsion, or other casualty to the incumbent whom the Legislature has placed here; and a construction to extend it to any other vacancy is a construction which obliterates the Constitution.

But the Senator from Vermont asks *cui bono;* what harm is there in admitting this gentleman? Perhaps none. I do not know that there is any in the mere fact of admission; but are we to be told that when the Constitution is plain and explicit you are at liberty to violate it because in the instance of the violation you cannot see that any particular harm will be done? Is that to be the rule that the

expounders of the fundamental law are to adopt for the guidance of the country and their own guidance? There may be a great many cases where immediate harm would not result from the violation of the Constitution or the disregard of its provisions; but is that the rule? Did we take an oath to support the Constitution except in cases where its violation would not hurt anybody particularly in our judgment? Is that the meaning?

Oh, but, gentlemen say—it has been said I believe by nobody here—that this is a good case to be magnanimous in, and I received a paper the other day with marks directing my attention particularly to an editorial or a paragraph or something in the paper saying what a happy opportunity the democrats of this body, and especially the southern democrats, had of being magnanimous. That was very kind and clever. Magnanimity is a good thing; I like it; it is an excellent thing; it rises above party. Why is it a good thing to do in this case? We could do it without any cost to anybody; it would not hurt the democrats any to let Mr. Bell in, was the idea, and it could not do the republicans any particular good to let him in, and as we could do a magnanimous thing without any cost we ought to do it.

That is the idea with some people; that is the idea of the newspaper to which I have referred. I am afraid my friend from New York [Mr. CONKLING] would not appreciate that magnanimity because I expect he will agree with me that magnanimity to be valuable must be destitute of at least two infirmities. In the first place magnanimity to be appreciated must not be too cheap; and in the second place magnanimity to be respected must not be too costly. In this case, if I am to be magnanimous because of the fact that we admit a republican into the Senate and the magnanimity can be exercised safely because it cannot do the republicans any particular good or the democrats any particular harm, that magnanimity is too cheap, and the distinguished Senator from New York would laugh at it—I know he would—and so, I think, would all the republican party. But if I am to exercise this magnanimity not by simply rising above party but by rising above the Constitution, then it becomes too costly. I cannot afford that.

So it all comes back to this: What is the Constitution, what is my duty? It is a question of power; it is a question of power in the executive of the State, and I will not omit to express my astonishment that my distinguished friend from Delaware, a man whom I esteem so highly, should have quoted from that clause of the Constitution in regard to amendments, as if it related to this case, the words that no State shall be deprived without its consent of its equal suffrage in the Senate. Who is proposing to amend the Constitution here? Who is proposing to change the right of each State to equal suffrage in the Senate? With all due deference to my friend, it has no more to do with the question than with the King of the Feejee Islands. My friend from Connecticut, [Mr. EATON,] in his intimating way of saying good things, expressed himself shocked that this clause of the Constitution should have been invoked, the implication being, I suppose, that the majority of the Committee on Privileges and Elections, and those of us who cannot see the power here in the governor to make this appointment, are in favor of adopting a rule of construction or policy in this body that would deprive some State of its equal suffrage in the Senate.

I protest that has nothing to do with this case, and my friend could not have been more surprised at my use of the word "otherwise" than I was at his use of that clause of that article in the Constitution in relation to amendments, which simply provides that in amending the Constitution three-fourths of the States, upon a proposition by two-thirds of Congress, may amend this Constitution, but in no event by such amendment shall any State without its consent be deprived of its equal suffrage in the Senate.

Mr. BAYARD. Does the Senator understand that the language of the Constitution securing to each State an equal suffrage in the Senate has only reference to a vote upon amendments to the Constitution?

Mr. HILL, of Georgia. I say that clause means nothing except that no State shall, by any amendment to the Constitution, be deprived, without its consent, of its equal suffrage in the Senate.

Mr. BAYARD. My impression was that that was meant to secure equal suffrage in the Senate to each State on every subject, not on the subject of amendments to the Constitution alone.

Mr. HILL, of Georgia. I mean this: that that clause in the Constitution had reference only to this, that in making amendments to the Constitution you should not by amendment deprive any State of its equal suffrage in the Senate. That is what it meant; that is what it says. I do not mean that amendments should not deprive a State of its equal suffrage in the Senate on the subject of amendments; but I say this equal suffrage in the Senate is positively secured by the Constitution. It says each State shall have two Senators. It is fixed. Congress cannot change it. No power could change that except the power that made the Constitution, and they could only do it by amendment; and as it is provided that while the Constitution may be amended in every other respect, it shall not be amended in that, therefore it is that this right of equal suffrage in the Senate cannot be taken away at all without the consent of the State. Here is the section; take the plain reading of it:

> The Congress, whenever two-thirds of both Houses shall deem it necessary shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

That clause is in the article providing for amendments; and are we proposing to deprive the State of New Hampshire of its equal suffrage in the Senate? Does anybody here propose to deprive New Hampshire of her equal suffrage in the Senate? That is a constitutional right that nobody can take from her; and yet, according to my friend's argument, he admits that if a session of the Legislature intervenes after the vacancy, and the Legislature thus intervening does not fill the vacancy, the governor after that Legislature adjourns cannot fill it. Where then is the equal suffrage of the State in the Senate? The Legislature of the State of New Hampshire has simply failed to elect a Senator as provided by the Constitution for an original term. The question is, whether the governor can appoint to fill that vacancy? I have profound respect for all these gentlemen; I have the greatest respect for their opinions; but when the Constitution, in plain, unmistakable phraseology, says that if vacancies happen in the Senate by resignation or otherwise, and every authority of the law—civil, ecclesiastical, and criminal—in England and America says that "otherwise" there means "by other like casualties," therefore the Constitution is precisely as if it read "the governor may make temporary appointments to fill vacancies which happen by resignation, death, or expulsion." When I hear gentlemen, on either side of this Chamber, in either party of this country, take that plain language of the Constitution and construe it to apply to any vacancy that may occur by any means, by the failure of the Legislature, wilfully or otherwise, to elect a Senator, that the governor can come in and supply the vacancy, I must say it excites my profound astonishment; more than that, my sorrow. It absolutely shocks my confidence in the efficacy of written constitutions.

This is a question with which party has nothing to do. If Senators can vote to admit this appointee, very well. It will only add another illustration to me of what I believe already, that there is no validity in a political precedent. The fact of the business is, if you go by precedent you can prove anything you want in this body or any other. The House and the Senate, as parties have varied, as whims have varied according to caprice, have decided every question in every conceivable way. There is no doubt about that. We are thrown back then upon the Constitution, upon those well-known canons of construction which hold that a governor cannot fill a vacancy which occurs; that a governor cannot fill any vacancy which occurs; nay, more, that a governor cannot fill a vacancy which even happens; but he can only fill a vacancy which happens "by resignation or otherwise;" that is by resignation or by any similar method. What is a similar method, except that which relates to the incumbent, which acts upon the Senator, and which therefore was necessarily unforeseen by the electing power and could not have been provided against? That is the whole of it, and I shall not disturb the Senate any more upon the subject.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to strike out the word "not."

Mr. BECK. Mr. President, in order to avoid interrupting the roll-call when I am called upon to vote, I desire to say now that when I had occasion to go to Kentucky last week I requested the Senator from Nevada [Mr. JONES] to pair with me upon certain party questions, which he very kindly agreed to do. This matter was spoken of at the time. I think then neither of us knew definitely how we ought to vote, and it was excepted from the general arrangement. The Senator from Nevada is now absent; being advised, however, by the Senator from New Hampshire [Mr. ROLLINS] and the Senator from Michigan [Mr. CHANDLER] that the Senator from Nevada expressed a desire to continue his pair with me, as he wished to vote in a particular way on this case, I have agreed not to cast my vote, although it was not embraced in the pair between us.

If I may be pardoned for taking a moment as I am on the floor, I will say that when I first thought of this question I was inclined to the opinion that I ought to vote for the admission of Mr. Bell and I desired to do so; but the more I have thought of it, the more I have heard of the arguments, the conclusion has forced itself on me that I cannot properly do so. I have come to the conclusion that the Legislature of the State is the primary constituent of the United States Senator, and it is only when the State Legislature has no opportunity to act that the governor is permitted to fill the place temporarily until the Legislature *can* act. Believing that there has been no contingency of that sort and that the Legislature of New Hampshire has had the fullest opportunity to act if it desired, and that none of those contingencies which would authorize the governor temporarily to fill the place have intervened, I believe that the appointment by the governor at this time is not a proper one, his power being limited to an unforeseen exigency that could not be anticipated or provided against by the Legislature. Nothing of that sort occurred here.

Everybody in New Hampshire knew, all the country knew that Mr. Wadleigh's term expired by its own limitation on the 4th day of March, 1879; every intelligent man knew that the Forty-sixth Congress was liable to be called in extra session as it has been; everybody knew that for the last quarter of a century the Senate had been convened in executive session on or about the 4th of March each alternate

year. Nothing extraordinary had happened in the State of New Hampshire to prevent the Legislature from exercising its proper power; neither war, pestilence, nor famine had prevented the meeting or free action of the Legislature; the ordinary time had run, and the New Hampshire Legislature knew that an election to supply the place was needed or if an extra session was called or if the Senate was called in executive session she would have no representative here in one of her senatorial seats. In short nothing *happened*, nothing "*came* by *chance*," which is the primary meaning of *happen*.

Neither the United States nor any other State had intervened or done anything to deprive that State of her equal representation in the Senate of the United States. It never entered my mind, although a respectable committee of this body, as I understand, reported in the last Congress that the then sitting Legislature could not act, that there could be any possible difficulty in the way of that Legislature acting; and therefore I asked the question of my friend from Delaware [Mr. BAYARD,] which was this: Suppose the governor of New Hampshire at any time before the 4th of March had been required to call the Legislature together, what Legislature would he have called? He very properly answered that he would have called the Legislature that was in session in June, 1878. What Legislature would assemble if the governor of New Hampshire to-day was to say that an exigency had arisen in that State whereby it was necessary now to call the Legislature together to elect a United States Senator or to do anything else? All agree that it would be the Legislature that was in session in June, 1878. The members of the Legislature that meets in June, 1879, were, it is true, elected in November, 1878; but they have no more power over a question that had to be determined prior to the 4th of March, 1879, than they would have if they had been elected in April, 1879. Their term of office does not begin until June, 1879, and the date of their election gives them no additional authority. They are not in any sense a Legislature. Suppose they had been elected in April, 1879, will any gentleman pretend that they were a Legislature elected to act upon any fact that had to take effect on the 4th of March, 1879?

Mr. JONES, of Florida. You have deprived them of the opportunity.

Mr. BECK. No, sir, because the Constitution requires that the State shall have a man here on the 4th day of March, 1879, and their term of office does not begin until June, 1879; and whether they were elected in November, 1878, or in April, 1879, the newly elected men were in no sense the Legislature of the State of New Hampshire; and the Legislature that was previously elected, and whose term does not expire until June, 1879, was beyond all peradventure the Legislature last elected prior to the beginning of the term now sought to be filled by the governor. Even if a respectable committee of this body unanimously delivered a different opinion, it only proves what we all know: that there is no value in legislative precedents. I can turn to the books of contested elections in the House of Representatives and prove anything upon any subject. Personal feeling for the man, a desire to befriend him, want of time to investigate, often enters into the decision; men are led off by a thousand things and make erroneous reports; that we all know is not uncommon in either House of Congress. I suppose nobody will pretend that this body could dictate to the Legislature of New Hampshire what its rights or duties were. I may have thought differently at that time and may have sustained the committee. I know Mr. Wadleigh was a gentleman very acceptable to everybody in this Senate, and it is very likely he may have said to me or to others that in his opinion, being familiar with the constitution and laws of New Hampshire, that the report made was a proper thing to do. I believe he was one of the committee; he was chairman of the committee himself, and it is very likely his views in regard to affairs in his own State may have had a good deal to do with the report. Of all that, I of course know nothing; but I do know this, that the Constitution of the United States intended that the Legislature, whenever it had an opportunity to elect a Senator, should exercise that power, and that the governor should only intervene when that opportunity for any cause was denied to the Legislature. It never was intended that the governor should exercise his patronage except when the Legislative Assembly had no power to exercise its authority. It was thought that men who sought to come to the Senate should not appeal to the governor, before whom perhaps they were stronger than they were before the Legislature, and use their influence or his to cause the Legislature to fail to elect so that the governor might exercise his patronage and they obtain the place by reason of it.

It was intended to give each State equal representation in the Senate; and whenever there was no opportunity for the Legislature to act, and in no other state of the case, was authority given to the executive. Whether the Legislature of New Hampshire was misled by our action or for any other cause failed to elect, it is not the fault of the United States; it is not the fault of any other State; it is their misfortune that they placed a wrong construction on their power. As to the new Legislature, the men elected in November may never meet. Vermont and New Hampshire may get together and ask, if they have the power, to unite into one State to save the expense of two not very large States running two different State governments, and we might so amend the Constitution as to accommodate them. These men for some reason may never come into power; they may never hold a meeting of the Legislature. The fact that they were elected to a Legislature to meet in the future only entitled them when the future day comes, if no change is made, to be members of that Legislature; it surely cannot enable them to say "we were the Legislature last chosen before the 4th of March" to do any act prior to that date, when up to this day if an extra session were to be called they could not meet; but the old Legislature chosen before that time and still an organized body would have to meet and would to-day have to elect a Senator if the governor saw fit to call them together for that or any other purpose.

I beg pardon for having spoken so long as I have.

The VICE-PRESIDENT. Is the Senate ready for the question, which is the amendment proposed by the Senator from Massachusetts [Mr. HOAR] to strike from the resolution reported from the Committee on Privileges and Elections the word "not?"

Mr. SAULSBURY. On that I call for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) I am paired as I have stated.

Mr. BLAINE, (when his name was called.) I am paired on this question with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "yea" on this motion.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) I desire to say that my colleague [Mr. DAVIS] has been called away, and is paired with the Senator from Minnesota, [Mr. WINDOM.] My colleague, if here, would vote "nay."

Mr. DAWES, (when the name of Mr. HOAR was called.) My colleague [Mr. HOAR] being necessarily absent is paired on this question with the Senator from Delaware, [Mr. SAULSBURY.] Both Senators have sufficiently indicated how they would vote upon this question.

Mr. PLUMB, (when his name was called.) I am paired with the Senator from South Carolina [Mr. BUTLER] on political questions. This by common account and by the determination of the Senator on this floor to whom that matter seems to have been referred appears not to be a political question. I therefore shall vote; I vote "yea."

Mr. GARLAND. The Senator from South Carolina [Mr. BUTLER] and the Senator from Kansas [Mr. PLUMB] are paired on political questions. The Senator from South Carolina on going away left his pair with me to decide. He stated at the time this case was suggested that he did not know how he would vote upon it. I am not at liberty to state how he would vote if he were here. I cannot consent to have the question regarded as a political question. Therefore, I shall not ask that the pair be applied to this case.

Mr. SAULSBURY, (when his name was called.) On this question I am paired with the Senator from Massachusetts, [Mr. HOAR.] If he were here, I should vote "nay" on this amendment.

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were here, I would vote "yea."

The result was announced—yeas 35, nays 28; as follows:

YEAS—35.

Allison,	Dawes,	Kellogg,	Randolph,
Anthony,	Edmunds,	Kirkwood,	Rollins,
Bayard,	Ferry,	Logan,	Saunders,
Booth,	Gordon,	McDonald,	Teller,
Bruce,	Groome,	McMillan,	Voorhees,
Burnside,	Hamlin,	Morrill,	Walker,
Cameron of Pa.,	Hill of Colorado,	Paddock,	Whyte,
Cameron of Wis.,	Ingalls,	Platt,	Williams.
Chandler,	Jones of Florida,	Plumb,	

NAYS—28.

Bailey,	Eaton,	Houston,	Pendleton,
Call,	Farley,	Johnston,	Ransom,
Carpenter,	Garland,	Jonas,	Slater,
Cockrell,	Grover,	Kernan,	Vance,
Coke,	Harris,	Lamar,	Vest,
Conkling,	Hereford,	Maxey,	Wallace,
Davis of Illinois,	Hill of Georgia,	Morgan,	Withers.

ABSENT—11.

Beck,	Davis of W. Va.,	McPherson,	Thurman,
Blaine,	Hoar,	Saulsbury,	Windom.
Butler,	Jones of Nevada,	Sharon,	

So the amendment was agreed to.

The VICE-PRESIDENT. The question is, Will the Senate agree to the resolution as amended? The resolution, as amended, is:

Resolved, That Hon. Charles H. Bell is entitled to a seat as a Senator by virtue of the appointment by the executive of New Hampshire.

Mr. SAULSBURY. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "nay."

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague, [Mr. DAVIS,] as I stated before, is paired on this question with the Senator from Minnesota, [Mr. WINDOM.] If here, my colleague would vote "nay."

Mr. DAWES, (when the name of Mr. HOAR was called.) I make the same announcement of the pair on this vote that I made before. My colleague [Mr. HOAR] is paired with the Senator from Delaware,

[Mr. SAULSBURY.] My colleague would vote in the affirmative if he were present.

Mr. SAULSBURY, (when his name was called.) On this question I am paired with the Senator from Massachusetts, [Mr. HOAR.] If he were here, I should vote "nay."

Mr. WINDOM, (when his name was called.) On this question I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. BLAINE. Merely to keep the record right, I repeat that I am paired with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "yea" on the pending question.

The result was announced—yeas 35, nays 28; as follows:

YEAS—35.

Allison,	Dawes,	Kellogg,	Randolph,
Anthony,	Edmunds,	Kirkwood,	Rollins,
Bayard,	Ferry,	Logan,	Saunders,
Booth,	Gordon,	McDonald,	Teller,
Bruce,	Groome,	McMillan,	Voorhees,
Burnside,	Hamlin,	Morrill,	Walker,
Cameron of Pa.,	Hill of Colorado,	Paddock,	Whyte,
Cameron of Wis.,	Ingalls,	Platt,	Williams.
Chandler,	Jones of Florida,	Plumb,	

NAYS—28.

Bailey,	Eaton,	Houston,	Pendleton,
Call,	Farley,	Johnston,	Ransom,
Carpenter,	Garland,	Jonas,	Slater,
Cockrell,	Grover,	Kernan,	Vance,
Coke,	Harris,	Lamar,	Vest,
Conkling,	Hereford,	Maxey,	Wallace,
Davis of Illinois,	Hill of Georgia,	Morgan,	Withers.

ABSENT—11.

Beck,	Davis of W. Va.,	McPherson,	Thurman,
Blaine,	Hoar,	Saulsbury,	Windom.
Butler,	Jones of Nevada,	Sharon,	

So the resolution, as amended, was agreed to.

The VICE-PRESIDENT. If the Senator appointed by the executive of New Hampshire is present, he will please come forward and take the oath of office.

Mr. BELL advanced to the Vice-President's desk escorted by Mr. ROLLINS, and the oath prescribed by the act of July 2, 1862, having been administered to him, he took his seat in the Senate.

ORDER OF BUSINESS.

Mr. WITHERS. I move that the Senate now proceed to the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. HEREFORD. Before that bill is taken up I desire to say that prior to the time the Army bill came to this body I gave notice of a motion to take up what is known as the Hoar resolution. I gave notice one day last week that I would make that motion on Thursday. On Thursday we adjourned to Monday, and I then gave notice that I would call it up on Monday of this week. The subject that has just been disposed of being a question of high privilege, I gave way on Monday to that. I desire to be heard upon that resolution; and as I gave the notice I had not expected to be antagonized. I have no objection to taking up the Army bill if it can be laid aside informally so that I can be heard on that resolution. I do not desire to antagonize the Army bill; I am in favor of the passage of it as it came from the committee, and desire to do nothing to antagonize it. I have no objection to taking up the Army bill if it can be laid aside informally so that I can be heard upon the resolution as indicated by me.

Mr. WITHERS. I can only say that on the part of the Committee on Appropriations, the bill having been assigned to me to present to the Senate, I have felt it my duty to bring it before the Senate at the earliest practicable moment, without any desire to interfere with my friend from West Virginia, who, it seems to me, can make any remarks he may desire to make on the resolution presented by the Senator from Massachusetts upon the bill in the general debate which will probably spring up during its consideration. I ask that the vote be now taken on my motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Virginia that the Senate proceed to the consideration of the Army appropriation bill.

Mr. MCDONALD. Is there any objection to the suggestion made by the Senator from West Virginia that the Army bill be taken up, with the understanding that it be laid aside informally so that he may deliver the remarks he has, several days ago, notified the Senate he was prepared to deliver upon the resolution of the Senator from Massachusetts?

The VICE-PRESIDENT. The Senator from Virginia moves that the Senate now proceed to the consideration of the Army appropriation bill. The Chair construes that into an objection.

Mr. VOORHEES. I have not been as long a member of this body as some others; but I have received the impression that when a Senator gave notice of his desire to speak, unless some very extraordinary occasion arose, his wishes were deferred to. A week ago to-day, I believe, the Senator from West Virginia gave notice that on the Monday following he would move to take up the resolution offered by the Senator from Massachusetts, not for the purpose of its passage, but for the purpose of submitting remarks upon it. When Monday came round, the question which has just been disposed of by the admission of the Senator from New Hampshire was called, and he conceded that it had privilege over his desire to speak, and consequently this discussion has gone on.

Now, I fully concur with the purpose of the Appropriations Committee to bring forward this measure; but I do not intend to be a party to what I conceive to be a discourtesy to a Senator, to displace him from making the remarks that he desires to make, and which he gave notice of his purpose to make. Therefore, I shall vote against the motion to take up the report of the Committee on Appropriations for the purpose of allowing the Senator from West Virginia simply to have that privilege which has always been accorded to Senators since I have been a member of this body, and, as I understand, accorded to them long before I was a member of the Senate. This ought not to be a subject of controversy; this ought not to be the subject of debate. The Senator from West Virginia is entitled, as I understand, by all the rules that obtain in this body to make the remarks he desires to make, and then nobody will be readier than I to vote to take up the bill proposed.

Mr. EDMUNDS. I have never known an instance in my recollection where an appropriation bill was laid aside in order to allow a Senator who had or had not given notice of a desire to speak on some topic not then before the Senate to make his remarks, because it always happens in such cases that there is one hour of every morning, when an appropriation bill is under consideration, that is open and in which remarks that are only made for the time being and not with a view to action upon the subject about which the remarks are made, are usually and almost always made. Of course we shall all be very glad to hear the Senator from West Virginia during the morning hour; but I have never known it thought a discourtesy to go on with an appropriation bill, although some gentleman desired to speak upon some resolution that was on the table of the Senate. If that resolution should be taken up, of course there are other Senators who would be glad to speak upon it and a great many who would be glad to have a vote upon it; but the Senator from West Virginia can speak in the morning hour to-morrow if we sit to-morrow, or the first day we do sit, and not disturb the Army appropriation bill.

Mr. VOORHEES. I think the Senator from Vermont must know that that is a practical denial to him of the privilege of the floor.

Mr. EDMUNDS. I think not.

Mr. VOORHEES. The morning hour is always taken up by morning business.

Mr. EDMUNDS. Less than fifteen minutes were taken of it this morning with morning business.

Mr. VOORHEES. That might give him a few moments more. As I said before, this is not a matter proper for debate or discussion; but I do think most sincerely that a gentleman on this floor who gave notice three or four days in advance of his desire to address the Senate on a particular question ought not to be ruled off. There are other Senators here older and better versed in the rules than I am, but I do not know that anybody can appreciate a point of this kind more than myself, and I trust the Senator from West Virginia may not be treated in this way.

Mr. DAWES. I think if the Senator from West Virginia had insisted on Monday, in conformity to the unbroken usage of the Senate, the Senate without saying a word would have postponed the consideration of the election case that the Senator might address the Senate; but the Senator did what every Senator in his place would be likely to do when such a question was up, postpone the calling up of the resolution and the making of his speech until this question was disposed of. And now it seems to me that by unanimous consent the Senate should accord to the Senator the place that he gave away at the beginning of that discussion. It seems to me that by common consent the Senator is entitled to have the resolution called up and time accorded to him to speak upon it.

Mr. HEREFORD. I desire to say that I gave way at the earnest solicitation of the senior Senator from the State of New Hampshire, so that a vote could be reached upon that matter at as early a time as possible.

Mr. DAWES. I came here on Monday supposing that according to universal usage the Senator from West Virginia would occupy the floor, and when the Senator gave way for the consideration of the election case I had no idea but what the Senate by common consent would give him the floor at any time he asked it. I think the Senator should choose his own time. He has the right according to custom to say whether he desires to go on now or not.

Mr. WITHERS. I simply desire to state that during my limited term of service in this body I do not now recollect that an appropriation has been laid aside for the purpose of permitting any Senator to deliver a speech upon another subject not then pending before the body. But deeming it my duty to bring this bill to the attention of the Senate at the earliest practicable moment, inasmuch as the failure of a similar bill was one of the causes which has required the presence of Congress here now, I must insist on my motion to take it up, disclaiming, however, being put in the category my friend from Indiana desires to place me in, of extending any discourtesy to my friend from West Virginia. He has indicated that he is not unwilling that the bill shall be taken up and does not desire to oppose it. I am only doing what I consider my duty.

Mr. CARPENTER. Why not have the understanding that the ap-

propriation bill is to be taken up, and after that, by unanimous consent, the Senator from West Virginia can make his remarks?

Mr. EATON. To-morrow in the morning hour, and continue till he gets through.

Mr. HEREFORD. That is the proposition I made originally. I said that I had no objection to the Army bill being taken up and then laid aside informally until I could submit my remarks upon the resolution of the Senator from Massachusetts, although I do not desire to speak this evening.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Wisconsin, [Mr. CARPENTER?] The Chair hears none.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. CARPENTER. I move that when the Senate adjourns to-day it be to meet on Monday next, to-morrow being Good Friday.

The VICE-PRESIDENT. The question is on the motion of the Senator from Wisconsin.

Mr. WITHERS and others addressed the Chair.

The VICE-PRESIDENT. The motion is not a debatable motion.

The motion was not agreed to.

Mr. WITHERS. Has the vote been taken on the proposition to take up the Army bill?

The VICE-PRESIDENT. The Chair regards it as taken up.

REPORTS OF COMMITTEES.

Mr. EATON. The Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879, have instructed me to report it with certain amendments thereto, which I ask be printed.

The VICE-PRESIDENT. The joint resolution will be placed on the Calendar. It will be printed with the amendments reported, as a matter of course.

Mr. WHYTE. I am instructed by the Select Committee on the Finance Reports and Accounts of the Treasury Department to ask for the adoption of the following order:

Ordered, That the select committee appointed to examine the finance reports, accounts, and books of the Treasury Department be authorized to have the testimony taken by it from time to time printed for the use of the committee, and also to have printed such statements as it may desire, and its report when ready.

Mr. DAWES. "Such statements as it may desire?"

Mr. EDMUNDS. Does that mean statements of the committee, or statements of accounts?

Mr. WHYTE. Mere tabular statements which are prepared to explain testimony.

Mr. EDMUNDS. Statements of accounts?

Mr. WHYTE. Statements of accounts.

Mr. DAWES. Has the Senator any objection to putting in the words "of accounts" after "statements."

Mr. WHYTE. None in the world. It is intended for that.

Mr. DAWES. I have no doubt of that.

Mr. WHYTE. Say "statements of accounts."

The VICE-PRESIDENT. The order will be so amended.

The order was agreed to.

PROPOSED ADJOURNMENT OVER GOOD FRIDAY.

Mr. RANDOLPH. Mr. President, I desire to renew the motion that was made a few moments ago regarding an adjournment over; and before I make the motion I wish to bring to the minds of Senators the fact that to-morrow is Good Friday, and that to very many members of the Senate and the community at large it is a day that has been specially set aside for religious services. In deference to the religious sentiment, and the public sentiment, and to what I believe to have been the practice in this body, I renew the motion that when the Senate adjourns to-day it adjourn till Monday next.

The VICE-PRESIDENT. The Senator from New Jersey moves that when the Senate adjourns to-day it be to meet on Monday next.

The question being put, there were on a division—ayes 23, noes 32.

Mr. RANDOLPH called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 34; as follows:

YEAS—27.

Allison,	Conkling,	Jones of Florida,	Saulsbury,
Bayard,	Edmunds,	Kernan,	Saunders,
Booth,	Gordon,	Lamar,	Vest,
Bruce,	Grover,	Morrill,	Walker,
Call,	Hamlin,	Plumb,	Whyte,
Cameron of Wis.,	Hill of Georgia,	Randolph,	Williams.
Cockrell,	Ingalls,	Ransom,	

NAYS—34.

Anthony,	Eaton,	Jonas,	Platt,
Bailey,	Farley,	Kellogg,	Rollins,
Beck,	Ferry,	Kirkwood,	Slater,
Bell,	Garland,	Logan,	Teller,
Blaine,	Harris,	McMillan,	Wallace,
Cameron of Pa.,	Hereford,	Maxey,	Windom,
Chandler,	Hill of Colorado,	Morgan,	Withers.
Coke,	Houston,	Paddock,	
Dawes,	Johnston,	Pendleton,	

ABSENT—14.

Burnside,	Davis of W. Va.,	McDonald,	Vance,
Butler,	Groome,	McPherson,	Voorhees.
Carpenter,	Hoar,	Sharon,	
Davis of Illinois,	Jones of Nevada,	Thurman,	

So the motion was rejected.

EXECUTIVE SESSION.

Mr. WHYTE. I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty minutes spent in executive session the doors were reopened, and (at five o'clock and five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 10, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

Mr. CONGER. I wish to ask whether according to the Journal, the motion to lay on the table the motion to reconsider applies to all the propositions relating to the amendment of the rules?

The SPEAKER. It does.

AMENDMENT OF THE RULES.

Mr. MILLS. I ask unanimous consent to offer for reference to the Committee on Rules the following proposed amendment to the rules:

It shall be in order immediately after reading the Journal every morning to introduce resolutions calling for information from the Executive or heads of Departments, and such resolutions shall be acted on by the House at once without debate.

The SPEAKER. If there be no objection, this proposition will be referred to the Committee on Rules.

Mr. CONGER. I object, because I find that when any matter is referred to the Committee on Rules they report anything they choose without having had it sent to them by the House.

The SPEAKER. The Committee on Rules has jurisdiction over the entire body of rules, and has the privilege of reporting amendments to any part of them.

Mr. CONGER. I know they do so. But when the House sends one matter to them, they assume from that to force a vote upon an entirely different proposition which the House has never referred to them.

The SPEAKER. The committee has jurisdiction to report amendments to any rule of the House.

Mr. CONGER. Well, I object to this resolution.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. DIBRELL. I ask unanimous consent to go back to page 10 of the bill in order that I may offer an amendment which I could not offer at the proper time because I had not at hand the papers upon which it is based. It relates to the compensation of messengers in the House post-office.

Mr. ATKINS. I cannot consent to that.

The Clerk read as follows:

For rent of buildings for the use of the Pension Office and office of the United States pension agent, and for the Bureau of Education, $23,200.

Mr. ATKINS. I move to amend by inserting after the word "education" the words "and for the geological survey," and by changing the amount of the appropriation so as to read "$24,700."

The amendment was agreed to.

The Clerk read as follows:

General Land Office:

For the Commissioner of the General Land Office, $4,000; chief clerk, $2,250; law clerk, $2,000; recorder, $2,000; five principal clerks, at $1,800 each; six clerks of class 4; twenty-two clerks of class 3; forty clerks of class 2; eighty clerks of class 1; thirty clerks, at $1,000 each; nine copyists; one draughtsman, at $1,600; one assistant draughtsman, at $1,400; nine assistant messengers; six packers, and twelve laborers; in all, $277,070: *Provided*, That the Secretary of the Interior, in his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of $900 per annum.

Mr. DUNNELL. I wish to ask the gentleman from Tennessee who has this bill in charge whether the amount of clerical force provided in this bill is the amount which was fixed in the bill agreed upon by the committees of conference at the last session?

Mr. ATKINS. Yes, sir.

Mr. DUNNELL. Let me ask the gentleman one further question. In the bill which failed at the last session, was there not a provision that a certain portion of this money should be immediately available?

Mr. ATKINS. I think not. My recollection is that such was not the case.

Mr. DUNNELL. I hope the gentleman will admit an amendment to that effect. In the debate in this House at the last session it was

stated, as the gentleman will remember, that the business of the Land Office is very much behind. Those of us who represent on this floor the States of the West are fully aware of that fact. Parties who for twelve or eighteen months have been entitled to their patents under the homestead or pre-emption law are unable to obtain them because there is not clerical force enough to write them out. I wish the gentleman would consent to an amendment providing that a certain amount of this appropriation shall be immediately available.

Mr. ATKINS. I cannot see the practicability of the gentleman's suggestion. Here is an appropriation for clerical force for the fiscal year ending June 30, 1880. If any part of this appropriation were made immediately available, the appropriation would have to be increased as a matter of course; because we are in this bill appropriating simply sufficient to run the clerical force for the next fiscal year. If you make it available from now to the end of the fiscal year, as a matter of course it will increase the appropriation. I have not heard there was an application of that kind at all. The gentleman's suggestion might come in well as a deficiency, but certainly is not in order to the regu lar appropriation bill for the next year.

Mr. DUNNELL. One single remark further, Mr. Chairman.

Mr. ATKINS. I trust the gentleman from Minnesota will allow us to go on with the bill, so we may get through with it as soon as possible. If, however, he is determined to move the amendment, then I shall have to make the point of order on it that it is matter which belongs to a deficiency bill and not to this legislative bill for the next fiscal year. Here is the salary for the assistant justice of Dakota. Six hundred and forty dollars was asked for him. That belongs to a deficiency bill and does not belong to this bill, and ought not to be put here. We ought not to put deficiencies into this bill. I made the point of order on my colleague from Tennessee a moment ago when he desired to put a deficiency on this bill.

Mr. DUNNELL. This is not in the nature of a deficiency. It is quite customary to provide a certain proportion of the amount appropriated shall be made available at once. I am told by the gentleman from Kansas there are nine thousand cases now pending in the Land Office where patents ought to be issued and would have been issued if there had been sufficient clerical force.

I can tell the gentleman from Tennessee that I know the Land Office did expect some of this money to be available at once. I know the year draws to a close, but to allow a portion of this appropriation to be made available will be of great benefit in the cases I have mentioned.

Mr. SPARKS. The fiscal year begins on the 1st of July next, and how could it help the gentleman to make any portion of this appropriation available before then?

Mr. DUNNELL. If we pass this bill to-day there will be ten or eleven weeks before the present fiscal year expires.

Mr. SPARKS. The appropriations here only begin on the 1st of July next.

Mr. DUNNELL. I propose, in line 1532, to add the proviso that $25,000 of this amount shall be immediately available. Of course if this work, as has been suggested by the gentleman during the present fiscal year—if this $25,000 is made available before the next fiscal year the work for which it has been expended will not have to be done next year. I hope the gentleman from Tennessee will not object to the amendment. There is no increase of amount. It merely makes $25,000 of the amount available at once.

Mr. ATKINS. I am compelled to raise the point of order on the amendment. In the first place it is in the nature of a deficiency and therefore is not germane to this bill.

The CHAIRMAN. The Chair is unable to see the force of the point of order of the gentleman from Tennessee.

Mr. ATKINS. If the Chair does not see it, of course I cannot help it. The gentleman's amendment proposes an appropriation of money for the present fiscal year while the pending bill makes appropriations for the expenses of the Government for the fiscal year commencing on the 1st of July next. The amendment is in the nature of a deficiency for the present fiscal year.

The CHAIRMAN. The Chair does not know of any rule adopted for the government of this House taking it out of the power of the Committee of the Whole on the state of the Union, where there is no proposition to increase an appropriation, to make that appropriation or any portion of it immediately available.

Mr. ATKINS. Is it intended by the amendment that the clerical force provided for in this paragraph shall stop during the next fiscal year at some time to the extent at least of the amount of the appropriation which the gentleman now proposes to make available? As a matter of course the appropriation in the bill is for the next fiscal year, and is intended to run through the whole of that fiscal year; and, therefore, if a portion of it is to be diverted to the payment of a clerical force during the present fiscal year, there will be a deficit to the extent of the amount made available in this year for the service of the next fiscal year. With due deference to the Chair, it seems to me to be a clear proposition that the amendment is not in order, as it has nothing to do with the next fiscal year, but on the contrary is a deficiency for the present year.

The CHAIRMAN. The Chair does not wish to enter into any argument with the gentleman from Tennessee. Will he point to any rule adopted by the House taking it out of the power of the Committee of the Whole to make immediately available any portion of the appropriation here indicated?

Mr. LOWE. Mr. Chairman, the amendment of the gentleman from Minnesota, if I understand it, will be of great benefit to a large number of people in my district. I ask the amendment be again reported so the members may see exactly what it is.

The amendment was again read.

Mr. LOWE. Now, it is a simple act of justice to a great many of the poorer classes of our population that every facility should be afforded to them in procuring their patents, and, accordingly, that the Government of the United States should comply with its contract under the law without delay. It is not only a matter of justice, but of the greatest convenience to the parties interested, and I hope that the amendment will be adopted.

Mr. POEHLER. I trust that the amendment will be adopted. It affects a great many citizens in the Northwest, and is of the greatest advantage in enabling them promptly to have their patents attended to in the Land Office. I hope there will be no objection on this side to the adoption of the amendment.

The committee divided; and there were—ayes 67, noes 74.

Mr. DUNNELL. I call for tellers.

Tellers were ordered; and Mr. DUNNELL and Mr. ATKINS were appointed.

The committee again divided; and the tellers reported—ayes 86, noes 71.

So the amendment was agreed to.

Mr. ATKINS. I give notice that I will demand a vote on this amendment in the House.

The Clerk resumed the reading of the bill and read the following paragraph:

For diagrams, furniture, and repairs of the same, miscellaneous items, including two of the city newspapers, to be filed and bound, and preserved for the use of the office; for the actual expenses of clerks detailed to investigate fraudulent land entries, trespasses on the public lands, and cases of official misconduct; and for advertising and telegraphing, $25,000.

Mr. DEERING. I offer the following amendment:

After the word "for" and before the word "advertising" insert "publishing maps of the United States;" and in line 1544 strike out "$25,000" and insert "$30,000."

This amendment simply proposes to appropriate $5,000 for the publication of the Land Office maps. The General Land Office has the stones for lithographing and other facilities for printing these maps.

Mr. ATKINS. I make the point of order upon the amendment. There is no law that I know of authorizing the printing of maps by the Government. I suppose the object is to have these maps for distribution among members of Congress. Is that the object? If not, I do not know what it is for.

Mr. CONGER. The plates for these maps have all been made and they are published continually. This is for an additional publication. I myself, and I presume other members, have applications for those land maps very frequently from the people, who desire them even if they should have to pay for them; and I found upon inquiry that the maps have all been used and there is no further supply for those who need them for any purpose. They cannot even be got for public libraries or for our friends who have gone to the western Territories. I think the Government can republish these maps at a very slight expense, and I believe the people desire to have them. No point of order certainly can hold good against the amendment because this is part of a publication authorized by law.

Mr. ATKINS. I do not understand that the maps referred to by the gentleman from Michigan [Mr. CONGER] are the same as are provided for in the amendment of the gentleman from Iowa.

Mr. CONGER. I am advocating the additional sum to publish additional land maps for the use of the people of the country, and the amendment covers precisely that object.

Mr. ATKINS. I have made the point of order and ask the decision of the Chair.

Mr. BROWNE. Did we not on yesterday adopt a rule that documents should not be republished unless the matter was referred to a committee and reported favorably to the House?

Mr. NEAL. That referred only to bills and joint resolutions.

The CHAIRMAN. The gentleman from Indiana will restate his question.

Mr. BROWNE. I am informed I am in error. I thought we had adopted a rule yesterday which provided that no document should be republished unless the question was referred to the proper committee and a favorable report made to the House. I am informed that that referred simply to bills.

Mr. ATKINS. Will the gentleman from Iowa [Mr. DEERING] tell us how these maps are published?

Mr. DEERING. These are what are called the Land Office maps, and as I understand they are published under the direction and control of the Commissioner of the General Land Office. The map has been published for a number of years. What my amendment proposes is simply a republication of these maps. I appeal to gentlemen on the other side and on this side of the House whether these maps are not sought after by the public libraries and the clerks of the county courts in every part of the country, and the supply is entirely exhausted.

Mr. ATKINS. Has the Department estimated for it and asked for this publication?

Mr. DEERING. I so understand it. I was told by the Commissioner of the General Land Office that this republication should be made.

Mr. ATKINS. Has the gentleman any letter from the Interior Department favoring this appropriation?

Mr. DEERING. I have been in communication and consultation on the subject with the Commissioner of the General Land Office.

Mr. ATKINS. Is there any letter addressed to the Speaker?

Mr. DEERING. Not that I am aware of.

Mr. ATKINS. Then it is merely a private letter.

Mr. DEERING. It was simply an interview with the Commissioner of the General Land Office in which I received this information. He states they have the lithograph stones and other facilities for publishing the maps as heretofore.

The CHAIRMAN. The Chair will ask the gentleman from Iowa whether his amendment looks simply to the enlargement of a publication already authorized by existing law?

Mr. DEERING. It is authorized by existing law.

Mr. ATKINS. Is it not a new publication? Is it authorized by law? The point I make is that it is not authorized by law.

The CHAIRMAN. The Chair asked the gentleman from Iowa on that very point, and he replied that this is a publication already authorized by law.

Mr. ATKINS. Will the gentleman point out the law?

Mr. NEAL. If the gentleman from Tennessee will permit me I will read the statute.

Mr. ATKINS. I understand this is an entirely new publication.

Mr. DEERING. I wish to restate that the General Land Office already has the stone for lithographing, and all the facilities used heretofore in the publication of this identical map which has been sent into every part of our country.

Mr. NEAL. I will read section 3781 of the Revised Statutes:

SEC. 3781. The Congressional Printer may contract for the lithographing of the maps of the several States and Territories accompanying the annual report of the Commissioner of the General Land Office, except the connected map of the public lands east and west of the Mississippi River, accompanying the annual report of the Commissioner for the year 1862, with the additions thereto which may be made from time to time.

It is under this section of the Revised Statutes that it is proposed to authorize an additional issue of these maps or the publication of additional copies. I do not suppose there is a member of Congress who has been here during one session who has not had applications for these maps for public libraries, schools, and other institutions of public interest.

Mr. DEERING. I hope the amendment will be agreed to.

Mr. ATKINS. There has been no continuous appropriation at all for this map. If I understand it, it is a map which has been published by order of Congress, but there has been no continuous appropriation for it for the last two years.

The CHAIRMAN. Does the Chair understand the gentleman from Tennessee to say that no appropriation was made last year for this purpose?

Mr. ATKINS. None at all.

Mr. NEWBERRY. I would say to the gentleman from Tennessee that I would be very much in favor of this extra printing, but I find in the Revised Statutes that section 3795 absolutely prohibits it. I think these cannot be printed except by joint resolution. I ask that the section be read.

The Clerk read section 3795 of the Revised Statutes, as follows:

All propositions in either House of Congress for printing extra copies of documents, the cost of which exceeds $100, shall be by concurrent resolution, which shall, upon its transmission from either House, be immediately referred to the Committee on Printing of the House to which it is sent.

Mr. DEERING. I would say that I do not understand that that applies to this kind of printing, but simply to the printing of public documents.

Mr. ATKINS. The last appropriation made for this purpose was for the year ending June 30, 1875.

The CHAIRMAN. The Chair understands that this amendment looks to a publication that rests upon appropriations made from year to year, and that there is no dispute of the statement made by the gentleman from Tennessee, and that there has been no such appropriations made since 1875; for that reason the Chair sustains the point of order.

Mr. CONGER. I would ask the Chair to read himself the section from the Revised Statutes which was read by the gentleman from Michigan in a low voice.

The CHAIRMAN. The Chair has no objection to hearing it again, but the Chair assures the gentleman from Michigan that he has already heard it.

Mr. CONGER. Then I desire to say that the statute says that these maps shall be published from time to time, but it does not say that they shall be published yearly.

The CHAIRMAN. The Chair would have no objection to a discussion on the point of order, but the point of order has been ruled on; the Chair sustained the point of order.

The Clerk resumed the reading of the bill, and read as follows:

Indian Office:

For the Commissioner of Indian Affairs, $4,000; chief clerk, $2,000; five clerks of class 4; seven clerks of class 3; one stenographer, at $1,600; eleven clerks of class 2; ten clerks of class 1; ten clerks, at $1,000 each; eight copyists, at $900 each; two assistant messengers; and two laborers; in all, $75,160.

Mr. SCALES. I move in lines 1594 and 1595 to strike out "$2,000" and insert "$2,500;" so as to make the pay of the chief clerk of the Indian Office $2,500.

Mr. ATKINS. I make the point of order that there is no law authorizing the increase of the salary of this officer; it is an increase of the expenditures of the Government.

Mr. SCALES. Here is an appropriation for the payment of the salary of this officer, and I propose to make the appropriation larger.

Mr. ATKINS. There is no law authorizing the payment to this officer of a higher salary than $2,000; that is the point of order I make.

Mr. BLOUNT. The appropriation bills are the law in regard to these salaries until they are changed.

Mr. ATKINS. There is no law fixing the salary of the chief clerk of this bureau.

Mr. BLOUNT. But, as I understand it, the law fixes it at $2,000, and it must stand there until it is changed.

Mr. SCALES. I think the amendment is in order. I put it upon this ground: there is no existing law providing that the pay of the chief clerk of the Indian Bureau shall be $2,000. I do not change the law as to paying him; I simply change the amount. The law authorizes now a salary of $2,000. I offer an amendment to make it $2,500. I think a similar thing has been done here numbers of times; I think it has been done during the progress of this very bill; I am certain that it has been done heretofore on other bills.

Mr. ATKINS. The admissions of the gentleman from North Carolina are sufficient; it needs no further argument on the subject to show that this amendment is not in order.

Mr. BAKER. On the point of order I desire to have read section 169 of the Revised Statutes, to show this fact: that in respect to the compensation of the chief clerks in the various departments there is no law fixing their compensation, but the Revised Statutes provide expressly that they shall be paid from year to year by Congress, plainly showing that this does not change existing law, but is carrying out existing law in order to offer such amendments as are proposed here. In reference to the merits of the case, of course I have nothing to say.

Mr. ATKINS. The appropriations are fixed by law and are made from year to year.

Mr. BAKER. Let the Clerk read section 169 of the Revised Statutes.

The Clerk read as follows:

SEC. 169. Each head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employés, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

Mr. BAKER. The point I make is this: the law as I find it in the Revised Statutes expressly requires that the compensation shall be fixed by each Congress from year to year. The amendment offered by the gentleman from North Carolina is not out of order.

Mr. BLOUNT. The section of the Revised Statutes to which the gentleman refers is the act of 1856. That is the law; and in addition to that, there is a law fixing the pay of all the employés of the Government, of these clerks as well as others. There are many things in the statutes which are incongruous. The law in reference to these officers has been incorporated in the Revised Statutes, and has been subsequently changed by the appropriation bills themselves. The law of 1856, which the gentleman cites, has been departed from in the very Revised Statutes themselves.

Mr. ATKINS. Following the very enacting clause of this bill is this:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in full compensation for the service of the fiscal year ending June 30, 1880, for the objects hereinafter expressed.

That was in the appropriation bill of last year, of two years ago, and of three years ago, which bills fixed $2,000 as the full compensation of this officer.

Mr. SCALES. Will the gentleman allow me to ask him a question?

Mr. ATKINS. Certainly.

Mr. SCALES. Does the gentleman take the position that there is no such thing as increasing the salary of this officer at any time and under any circumstances?

Mr. ATKINS. Why, sir, of course it can be changed by an act of Congress.

Mr. SCALES. Can it be done on an appropriation bill, I mean? Can the Committee on Appropriations report an increase of his salary?

Mr. ATKINS. My judgment is that it would be liable to a point of order, if any member choose to make it.

Mr. SCALES. If the gentleman from Tennessee [Mr. ATKINS] had reported it from the committee of which he was chairman, would it then be liable to a point of order?

Mr. ATKINS. I think it would?

Mr. SCALES, I have not heretofore had that idea in regard to this matter. I stated when I was first up that I thought all that was necessary was for the officer to be authorized by law. Is this officer a legal officer? Is he authorized by the law as it now exists? He is, that is not denied. That being so, then I thought that the object of the appropriation bill was to pay him a suitable salary. I did not know that we were confined in our action by the fact of what he had heretofore received.

Mr. ATKINS. His salary was fixed, according to my recollection, in the Kellogg bill.

Mr. BLOUNT. Coming from the Committee on Civil Service Reform.

Mr. ATKINS. Certainly.

Mr. BLOUNT. In the Forty-third Congress.

The CHAIRMAN. Whatever may be the criticism to which the practice of this House under this rule may properly be subjected, the present occupant of the chair has no desire to infringe upon that practice. The salary of this officer is certainly fixed by law in the appropriation bill passed last year, which is still the existing law. Under the practice which, so far as the Chair is informed, has always prevailed here, the Chair feels compelled to sustain the point of order as good against this amendment.

The Clerk resumed the reading of the bill, and read the following:

Pension Office:

For compensation of the Commissioner of Pensions, $4,000; chief clerk, $2,250; medical referee, $2,250; twenty-six clerks of class 4, (five of whom may act as chiefs of division, and shall each receive $300 additional;) fifty-two clerks of class 3; eighty-four clerks of class 2; one hundred and thirty-two clerks of class 1; ten clerks, at $1,000 each; one skilled mechanic, at $1,200; thirty copyists, at $900 each; one engineer, at $1,200; one assistant engineer, at $1,000; one messenger and twelve assistant messengers; and for eight laborers and two watchmen; in all, $472,600.

Mr. NEAL. I move to amend the paragraph just read by striking out "one hundred and thirty-two" and inserting "one hundred and fifty" as the number of clerks of class 1.

It is known to every member of the Forty-fifth Congress that prior to the passage of what is known as the arrears of pensions act the Pension Office was overcrowded with business; claims pended there for months before they could be disposed of, by reason of the insufficient clerical force.

Since the passage of that act there has been a very avalanche of pension claims thrown into that department, so that it is substantially smothered by them. Claims which are now on file in that office cannot be disposed of for a year to come, unless the clerical force be increased. Now if these claimants are entitled to pensions, then they ought to have them at the earliest possible moment. If they are not entitled to pensions, they ought to know it.

In the second place, there is no economy in not providing a sufficient clerical force for all these offices; none whatever. If the increase is now made, and next year it should be found that the number of clerks was too great, then it can be reduced. But until this pressure of business is removed there ought to be enough clerical force in that department to enable it promptly to pass upon every claim that is filed. I appeal to every friend of the soldier to support this amendment.

Mr. ATKINS. I am very much astonished indeed at the introduction of this amendment; I cannot understand it. Has the gentleman any official communication from the Commissioner of Pensions on this subject?

Mr. NEAL. I have no other information than the fact that the claims of pensioners in my district, which have been filed there for a long period, cannot be taken up and passed upon, because there is not a sufficient clerical force to enable the Commissioner to do so. I am not the mouth-piece of the Commissioner; I am not speaking for him. I am speaking for those persons who have claims there and who are entitled to the bounties of this Government.

Mr. ATKINS. It is to be presumed, with all due deference to the distinguished gentleman from Ohio, [Mr. NEAL,] that the Commissioner of Pensions knows the needs of his office fully as well as does the gentleman from Ohio. I will state to this House that the Committee on Appropriations are acting in accordance with the views and wishes of the Commissioner of Pensions upon this identical provision which the gentleman proposes to amend. The Commissioner of Pensions himself told me not more than six weeks ago, when we were maturing this bill, that he was perfectly satisfied with the force provided in this bill. He himself came before the Committee on Appropriations and revised the estimates which had been originally submitted in the Book of Estimates. He was perfectly content with the number of clerks proposed in this bill.

But, Mr. Chairman, in addition to this it will be remembered that in the bill providing for the arrearages of pensions fifty additional clerks were provided for the Commissioner of Pensions. Now, I say there is no necessity for any such increase of force as is now proposed; and if there were such necessity it seems to me the Commissioner of Pensions ought to have made it known officially to the House or to the Committee on Appropriations, which he has not done. I will state further that the Commissioner informed me he believed he would be able in a short time to dispense with some of the force he already has.

Mr. NEAL. Are not the fifty clerks already provided temporary clerks merely, and intended only to bring up the work on these arrears of pensions?

Mr. ATKINS. Very well.

Mr. NEAL. What I ask in my amendment is such an increase of force as will enable the Commissioner to dispose of original claims.

Mr. ATKINS. The gentleman asks an increase of force which the Commissioner himself does not ask. That is the point I make.

Mr. NEAL. The pensioners of the country ask for it.

The question being taken on Mr. NEAL'S amendment, it was not agreed to; there being—ayes 48, noes 68.

Mr. ATKINS. I move to amend by inserting before the words "chief clerk," in line 1608, the words "deputy commissioner, $2,400," and by changing the amount of appropriation in the paragraph to $475,000.

Mr. Chairman, I must be perfectly frank with the House. In offering this amendment I do not expect any one to conclude that it is not liable to a point of order. It is liable to such a point; and if any gentleman desires to make the point he can rise in his place and do so.

I offer the amendment because I believe that this additional officer is absolutely necessary. The Commissioner of Pensions says that he cannot possibly get along unless this additional office is provided. He states that he and the chief clerk are engaged almost the entire time; that they are at the office the entire day and frequently during much of the night; and he tells me that he is obliged to be there on Sundays in order to keep the business up. As I understand that this additional officer is absolutely essential to the running of this bureau, I trust the House will adopt it, though I frankly admit that it is liable to the point of order.

Mr. BLOUNT. I ask the gentleman from Tennessee whether the pressure of business requiring this additional officer is not temporary in its character; and if so, would it not be well to provide that this office shall continue but one year?

Mr. ATKINS. In response to the gentleman from Georgia, I will say it is possibly true that this officer may not be necessary for more than one year; and if he should be the office can be continued in the next appropriation bill. I have no objection to the limitation which the gentleman suggests.

Mr. BLOUNT. I suggest the addition of the words "to continue for one year."

Mr. ATKINS. I accept the modification.

The amendment, as modified, was adopted.

The Clerk read as follows, under the heading "Pension Office:"

For actual and necessary expenses of clerks detailed to investigate suspected frauds and attempts at fraud, as provided by law, $40,000.

Mr. MCMAHON. I move to amend by adding after the paragraph just read what I send to the desk.

The Clerk read as follows:

Sections 4771, 4772, and 4773 of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever in his judgment the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony except as to the certificate of the examining surgeon. In order to provide for the speedy payment of arrearages of pensions the Secretary of the Treasury is hereby authorized and directed to issue immediately in payment thereof, as they may be adjusted, the $10,000,000 in legal-tender currency, now in the United States Treasury, kept as a special fund for the redemption of fractional currency under section 1 of joint resolution 17 of the Congress of the United States, approved July 22, 1876.

Mr. GARFIELD. I make a point of order on this amendment.

The CHAIRMAN. The gentleman will state his point.

Mr. GARFIELD. My point is that this is new legislation. It proposes a mode of raising revenue and the issue of obligations of the United States not germane to anything in the bill, and in this respect changes the existing law, which limits the issue of the legal-tender notes of the United States.

Mr. MCMAHON. I beg the gentleman's pardon. Before I discuss the point of order I think he will discover the $10,000,000 I propose to issue is considered as a part of the $346,000,000 outstanding. It is not a new issue. It is simply untying money tied up in the United States Treasury.

Mr. GARFIELD. I ask to have the clause again read.

Mr. MCMAHON. Very well; but I desire at the proper time to be heard on the point of order.

The amendment was again read.

Mr. GARFIELD. Now, Mr. Chairman, my point of order is equally strong against that. Here is a disposition of all the legal-tender notes now in existence. A portion of them is held by the law to provide for the redemption of mutilated notes as they are brought in; another portion is held by the law for the redemption and cancellation of the scrip or fractional currency as it is brought in; and the general law beside regulates the volume. Now, an infraction of either of these laws in relation to the management of the United States notes is such a change of the general statute as though it were a new issue altogether. Of course it is clearly understood by everybody that our present laws relating to that subject are, first, the resumption law and the reserves provided under it, and the limitations placed upon greenbacks; and, second, the two laws I have named; and these laws are all a part of the same general legislation which limits and restricts the active circulating volume of legal-tender notes.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. EWING having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, announced the passage of a joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry to accompany the memorial volume heretofore ordered; in which concurrence was requested.

LEGISLATIVE APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The gentleman from Ohio has the floor on his point of order.

Mr. GARFIELD. I say in conclusion, Mr. Chairman, what I have to say on the point of order, that this amendment, as now offered, compels a new provision to meet the necessities of redeeming the fractional currency. It therefore breaks in upon the established order of the law which regulates the resumption of specie payments, which regulates the redemption of these canceled or ordered-to-be-canceled notes, and which regulates the whole matter of our circulating medium. If this can go on we can break through the whole resumption business and it will be in order. On every account this is out of order according to the rendition of the rule we have had hitherto. It is not germane.

Mr. MILLS. I desire to ask the gentleman from Ohio a question, and it is this: whether at the last session of Congress we did not pass a law authorizing the reissue of these Treasury notes to prevent their destruction and to authorize their reissue?

Mr. GARFIELD. Not relating to this at all. The last Congress did provide, to make more clear what was believed generally to be the meaning of the resumption law, that the volume prescribed below which the reduction should go might be reissued was to be redeemed, but that was understood to be a clearer declaration of what was declared to be the meaning of the law. This is breaking over the point of order, and it is clearly a change of all the laws relating to the volume of the United States notes.

Mr. McMAHON. Mr. Chairman, the amendment which I have offered contains several distinct provisions. I admit that it will change existing law in several ways, but it is germane to the bill, and, as I can show, will retrench expenditures, and therefore comes within the rule of the House.

The biennial examination of all pensioners of the United States is a peremptory provision of law. By law they are compelled to submit to it in September in every odd-numbered year. The coming September will be the month in which these biennial examinations must take place. They take place as to every pensioner whose disability is not of such a permanent character as to render an examination useless.

I propose to repeal the law making those examinations peremptory, and the proposition is germane for this reason: the clause that we have under consideration is a clause appropriating $40,000 for the detection of frauds on the Government of the United States by persons upon the pension-roll who are supposed not to be entitled to be there. Now, how does the Government of the United States protect itself? By two kinds of examinations: first, by biennial examinations which, as a matter of course, occur every two years; and, secondly, by special examinations, for which we are now about to appropriate $40,000. The biennial examinations, the Commissioner of Pensions himself says, are of little or no value to the Government of the United States. I need not now do more than refer to the report which he made last December to the Forty-fifth Congress, and which I had read in that body when this question was up, in which he recommends the repeal of these three sections because they are an expense to the Government of the United States without any corresponding benefit. Besides the useless expense to the Government they are a great inconvenience to the needy pensioner, who undergoes some expense to submit to the farce of a mere formal examination by a surgeon who is his neighbor and friend, and generally reports him still unsound. As a matter of fact, most pensioners whose disabilities have existed to this date are probably permanently disabled, and their pensions are more likely to be increased than diminished.

It is an expense, Mr. Chairman, which must necessarily take place, and therefore this amendment necessarily retrenches in cutting them off; and the Government of the United States, so long as this statute stands as it does, must pay one dollar under the recent law (it was two formerly) for each examination. Now, I have a letter from the Commissioner of Pensions which shows how much this has cost in times past, which the Clerk will please read.

The Clerk read as follows:

APRIL 3, 1878.

DEAR SIR: I did not get your note of the 1st, requesting the information which I had before promised and forgotten to send, as to the expense of biennial examinations. Cost in 1875 and 1876, $161,359.04; 1877 and 1878, $153,898.80. If the biennial examinations are continued they will gradually decrease in number and, of course, in cost

I am, very truly, yours,

J. W. BENTLY.

Hon. J A. McMAHON,
House of Representatives.

Mr. McMAHON. As the law has been recently changed so as to allow only $1 for examination, the expense of course will not hereafter be more than one-half of the above sum, and will gradually diminish.

I am sorry to see my friend from Ohio [Mr. GARFIELD]—in view of the speech he made the other day—interposing any point of order on a matter for the benefit of the soldiers. And I desire to say that the amendment, so far as it concerns examinations and investigations, has been submitted to the Commissioner of Pensions, and it is almost in the identical language in which he requests the repeal to be made, in his report sent to Congress in December, 1878. I have put in a provision for the benefit of the pensioner which I think every gentleman on that side, when the time comes, will vote for along with gentlemen on this side; and that is, that when you make these special investigations of claims of pensioners you shall not drop a pensioner without notice to him; that he shall not, under the former practice of the Pension Office, be deprived of his little pittance simply on a letter of some irresponsible or unknown enemy of his who lies concealed at home, and whose name is withheld at the Pension Office; that when he has once obtained a pension on sworn testimony, that pension shall not be taken away on unsworn testimony and without a hearing. I want the pensioner to stand upon the same ground as every other man who has a right or a claim; that when his claim is submitted to adjudication he shall have notice and the chance to have the testimony, whatever it may be, taken on oath. I have excepted, however, that part of the testimony consisting of the certificate of the examining surgeon, and have done so at the request of the Commissioner of Pensions himself. I do not wish to interfere with special examinations. By my amendment the Government is fully protected. But the honest pensioner is protected as well. He should not be overlooked.

Mr. GARFIELD. If the gentleman will allow me, I wish to say that I made no objection to that clause. That is not the clause there is any doubt about; and we have a right to demand a division.

Mr. McMAHON. Not on the question of order.

Mr. GARFIELD. I only make the point of order on the other part.

Mr. McMAHON. You cannot make the point of order on one part merely of my amendment. It is offered as one proposition.

Mr. GARFIELD. Certainly I can. I demand a division and make a point of order on one portion of the amendment.

Mr. McMAHON. I say it is not competent to demand a division in order to make the point of order. The gentleman is entitled to a division so as to have a separate vote.

The CHAIRMAN. The Chair does not understand that the point which the gentlemen are discussing is now pending. The point of order, as the Chair understands, is made against the amendment, and that point of order is now being discussed.

Mr. McMAHON. The point of order must be made against the entire amendment and not against so much of the amendment as the gentleman chooses to pick out. I admit the gentleman has the right, when the amendment comes to be voted on, to demand a separate vote on every separate proposition, if the amendment can be divided under the rules.

Now let me come to the other point, the particular point to which the gentleman makes his exception. I confess to some surprise at hearing my friend make a point of order on this question, so peculiarly interesting to the disabled soldiers. If I was overturning any of the financial schemes of the Secretary of the United States Treasury at this particular time, or cutting into the policy of the republican party on this question and endangering resumption, I might understand his objection. But I do not propose to alter or change the existing volume of currency one particle. I have been appealed to by gentlemen holding peculiar, extreme views on this question to add more to this proposition than I have embraced in it; but I only wanted to put in it that which I thought was entirely unobjectionable to gentlemen on either side of the House so as to insure its passage. And I think that with the ten millions involved in this portion of the amendment the Secretary will find enough in his capacious treasury to pay all the arrearages.

When we have ten millions of idle money in the United States Treasury which ought to be issued and paid out, money which is doing the Government no good and the people no good—I say when the soldiers of this country have been notified there is, or will be, a deficiency in the United States Treasury, so that they cannot get their arrearages of pension unless there be additional taxation or an additional issue of bonds, I am surprised to see the gentleman from Ohio get up and make the point of order against the soldiers of the country to prevent them from speedily receiving these $10,000,000, which is only a part of what is due to them. I supposed the gentleman owed an allegiance to them far superior to the allegiance he might owe to Wall street or the capitalists of the country. I supposed they were a class whose claims he would recognize prior to those of the Wall street interest. I make use of this language advisedly, for there is no portion of the people of this country interested in keeping this money locked up in the Treasury except those who are interested in mercilessly contracting the currency of the United States so as to make money dear and harder to get, and enhance thereby the extent of their wealth.

Let me give a little history how these $10,000,000 came into the United States Treasury. Under the resumption law of January, 1875, the Secretary of the Treasury was authorized to redeem, as quickly as possible, in silver coin the outstanding fractional currency. Nothing was done under that law for some time.

In April, 1876, we passed a law which ordered the Secretary of the Treasury to proceed with the coinage of subsidiary silver coin and to issue it in redemption of the fractional currency as rapidly as practicable. He began to coin, and partial redemption took place. Then they came to us who were then in Congress and said that between the operation of putting out the silver coin and calling in the currency there was a famine among the people and a scarcity of small change, and something must be done to put out the silver change more speedily than it could be done under the slow process of redemption under the first section of the resumption law.

By a joint resolution, approved on the 22d of July, 1876, the Secretary of the Treasury was authorized to do what? To exchange

$10,000,000 of subsidiary silver coin for $10,000,000 of legal-tender money. The first section of that resolution said that these $10,000.000 of legal-tender notes, when so exchanged and put into the Treasury, should be kept in the Treasury of the United States, separate and apart from all the other moneys of the United States, and should not be reissued except for the redemption of the fractional currency. Now what was done by Mr. Sherman and his predecessor? After the fractional currency came in for redemption, as much of it did after these ten millions of legal-tender money came into the Treasury, did he redeem in legal-tender money? That he did not is plain from the figures, for the report of the Treasury shows that only twenty-five millions of fractional currency have been presented and redeemed. Yet the same report shows that there is now outstanding thirty-nine millions of subsidary silver coin. Thus every dollar of fractional currency has been redeemed, as the Secretary may have had a right to do under the resumption law, in silver coin, and not one dollar of it in these legal-tenders.

How did this happen? By a violation of the spirit of the law, or joint resolution No. 17, which was never intended to lock up permanently these ten millions of legal-tender dollars; by the institution of a little private contraction scheme of the then Secretary of the Treasury, outside of law and against the interests of the people. And the result is now that as fractional currency is presented for redemption in very small sums, there is no possible chance to reissue this ten millions except in some way similar to that indicated by my amendment. And to what better use could we put this idle money than the payment, immediately, of the long-delayed debt to the disabled soldier? The objection of the gentleman from Ohio [Mr. GARFIELD] that fractional currency may be presented if this is paid out, with nothing in the Treasury in which to redeem it, is not sound. The amount of fractional currency outstanding—lost or in existence—is only fifteen millions. Of this it is estimated that not less than eight millions have been lost or destroyed. These figures will be found in the Treasurer's report. Thus under all circumstances we will have presented hereafter not more than eight or ten millions for redemption. The first section of the resumption law authorizes the redemption in silver coin. The third section of joint resolution No. 17, heretofore referred to, fixes the limit of subsidiary silver coin at $50,000,000. As we have issued only thirty-nine millions so far, it will be seen that, under the law as it now stands, we have eleven millions of silver coin with which to redeem this eight or ten millions of fractional currency yet in existence, if any considerable portion of it will ever be presented.

So far from my proposition being one to overturn the resumption legislation of the party on the other side of the House and alter the resumption policy of the Administration, it is in strict accord with law and in no way conflicts with the proper interpretation of the resumption scheme.

Now I hold in my hand the Treasurer's last report, and on page 4 of that report I find that on the 30th day of September, 1878, there was stated among the "currency assets of the United States" a special fund of $10,000,000 set apart for the redemption of fractional currency. This ten millions of legal-tender notes constitute, Mr. Chairman, a part and parcel of the $346,000,000 which are now reported to be outstanding. This is really below any limit fixed by law. We are under no obligation of faith to the bondholder or any one else to keep any portion of this three hundred and forty-six millions locked up.

I want to impress upon the Chair and the House that I am not seeking to inflate the currency beyond the amount fixed by law, but I am doing one thing, I am proposing to alter a law which was construed, if not enacted, in the interest of capitalists. Ought we not to do what I propose? This amendment is in the interest of economy; and it is in the interest of the Government and the people. I hold in my hand the letter of the Secretary of the Treasury sent to the Committee of Ways and Means, of which my honored and distinguished colleague was a member in the last Congress, upon the probable condition of the Treasury in the incoming fiscal year in view of the passage of the bill for the payment of the arrearages of pensions. We all know that the Secretary of the Treasury did not like that law; and if rumor is to be credited he did all in his power to induce the President to veto the bill. It is well known that he and his financial clique failed in their efforts in that direction. Failing, this letter was then sent to the Committee of Ways and Means. If he could not veto the bill he hoped to make it unpopular. He says in the concluding portion of it, after complaining that there would be a deficiency of $27,000,000:

> It would thus appear that the sinking fund must be entirely ignored and twenty-seven millions be provided for by additional legislation.
>
> This may be accomplished by the imposition of some new tax adequate for the purpose, or by authorizing the money to be borrowed upon 4 per cent. bonds, which, in the present state of the market, can be sold at par.
>
> As new taxes cannot be immediately productive, it is recommended that authority be given to raise the amount necessary by the sale of 4 per cent. bonds described in the acts of July 14, 1870, and January 20, 1871.

"The money may be borrowed upon bonds," says Mr. Sherman. Nothing seems to delight this financier like the issuing of Government bonds. I think that the dying words of Mr. John Sherman, if his ruling passion asserts itself in death, will be "Borrow money upon Government bonds for the tombstone above my remains." Borrow money upon more bonds! Impose new taxes, Mr. Chairman! We have three hundred and odd million dollars of available assets in gold, silver, and currency in the Treasury, and yet the gentleman wants to have new taxes imposed or new bonds issued.

I say that there is in the Treasury $10,000,000 which is a part of what is authorized by law to be put in circulation. It should be put out. The purpose for which it was to be kept in the United States Treasury has long since passed away. Let us impose no new taxes until necessary; let us put out no more bonds. Let us issue this amount of money which at 4 per cent. would result in a saving of $400,000 annually, which would be the interest on $10,000,000 of new bonds.

Mr. HASKELL. May I ask the gentleman a question?

Mr. MCMAHON. Certainly.

Mr. HASKELL. If the amendment of the gentleman from Ohio [Mr. MCMAHON] prevails, will it still be in the power of the Secretary of the Treasury under the law to redeem these pieces of fractional currency that may come in?

Mr. MCMAHON. Unquestionably, and for this reason, as I said a while ago, if the gentleman had attended to my argument a little more closely——

Mr. HASKELL. I attended to your argument, but I failed to catch the entire language of the amendment.

Mr. MCMAHON. Section 3 of the joint resolution No. 17, under which this $10,000,000 is to be kept in the Treasury, says that the limit of subsidiary coin shall be $50,000,000. We have issued only $39,000,000; that leaves a margin of $11,000,000, which under the resumption is specifically to be applied to the redemption of fractional currency.

Mr. HASKELL. I understand that. I simply wanted to know whether the amendment would repeal that provision of the law which allows the Secretary of the Treasury to exchange subsidiary silver coin for whatever there might be of fractional currency coming in.

Mr. MCMAHON. It does not repeal that law, for the reason that the authority to exchange subsidiary silver coin for fractional currency is a part of the specie-resumption bill, section 1. My friend has been here long enough to know that we have never been able to repeal that law. The first clause of that bill authorizes the Secretary of the Treasury to redeem the fractional currency in subsidiary silver coin. It is a subsequent law (joint resolution No. 17) which fixes the limit of subsidiary silver coin at $50,000,000.

I will beg permission to state to my friend from Ohio, [Mr. GARFIELD,] who is a well-read man in financial lore, that I never knew that in the financial policy of a government subsidiary silver coin entered into the question of specie resumption. The question of subsidiary coin is an entirely independent question. It is rather token money. And the reserves of gold and silver that are proper to justify resumption are always calculated with a view to the other currency that is outstanding. His objection, therefore, is not well founded when he fears that the proposed amendment will interfere with the resumption scheme.

We have outstanding $346,000,000 of legal-tender money, (counting these ten millions in,) money which, as I said awhile ago, is authorized by law, and this amount is the basis upon which all the calculations for the specie reserve have been made. I hold in my hand the last report of the Treasurer of the United States, in which he states the coin assets of the Government. Those assets in September, 1878, amounted to $238,000,000. They are greater now, and are growing. Mr. Sherman has ample coin for his outstanding currency. He said last year, if I remember correctly, that all he needed to maintain resumption was 40 per cent. of the amount of legal-tenders outstanding, and we have more than 60 per cent. He has never taken into consideration, and does not now, and in his testimony before the Committee on Banking and Currency he expressly left out of consideration, the question of the redemption of national-bank notes; the national banks were to take care of that themselves, said he.

Why, then, should this money continue to lie idle in the Treasury? Why shall the poor soldier be compelled to wait for new bonds or new taxes? The Secretary of the Treasury tells us in this letter to the chairman of Ways and Means that for the coming fiscal year there will probably be a deficiency of $27,000,000. To meet that deficiency he says that new taxes must be imposed or more bonds be put out. Now at the present time we do not propose to impose any new taxes unless necessary. As Mr. Sherman says in this letter, no new taxes can be immediately productive. He therefore recommends that authority be given to him to raise the amount necessary by the sale of 4 per cent. bonds. Now I say instead of putting out these 4 per cent. bonds, which would be a crime while we have this money, we should put into circulation this money which is kept idle in the Treasury, the purpose for which it was to be held in reserve having passed away. It should now be put into circulation as a part of the $346,000,000 which is authorized by law. I repeat that it is a crime against the people to keep it hoarded.

Mr. BRIGHT. I understand, from the course of the gentleman's argument, that it would require no additional expense to put into circulation this amount of legal-tender currency.

Mr. MCMAHON. None at all. The money is there, only waiting to be paid out to somebody.

Mr. BRIGHT. But it would require an additional expense to put out more bonds.

Mr. MCMAHON. It would require additional clerks and officers to raise new taxes, and some additional expense to put out new bonds.

Mr. BRIGHT. And did it not require an expenditure of 1½ per cent. to put out the bonds which have been put out? Would not the additional expense of putting out bonds for this purpose amount to one hundred and fifty or two hundred thousand dollars?

Mr. McMAHON. Certainly it would. Let me illustrate the economy of putting out this money in lieu of bonds. Suppose I was a merchant and wanted to borrow $100,000. Suppose there is one man who will let me have it on my notes without interest; another man who will charge me 4 per cent. interest. Would not any business man fit to run at large say that it was in the interest of economy for me to give my note to the man who would let me have the money without interest, rather than to him who would require interest? I represent that party on the floor of the House, which is anxious, when we can put out our paper without interest, within the limit of the redemption of that paper in specie, to do so rather than to put out bonds which will require the payment of interest. That is the difference between gentlemen on this side of the House and a large majority of gentlemen on the other side. I see a gentleman on the other side holding up his hand and shaking his head, [Mr. FORT.] I will not change my expression; I only said a majority of gentlemen on that side. I know he has not generally been with his party on this question.

This amendment, Mr. Chairman, is therefore clearly in order. have shown that the saving under the first branch of my amendment will be $75,000 to $100,000 biennially for a number of years to come. I am prepared to back up the proposition that it will be a large saving to the Government by the Commissioner's report and by other communications. some of which I have read. The amendment is in the interest of economy, both in the first proposition and in the last. The first proposition will save from $75,000 to $100,000 every alternate year, as we have seen, and the second proposition will save $400,000 a year which would have to be paid out annually on $10,000,000 of 4 per cent. bonds.

Now, I want this question of order argued upon the theory that there is to be a deficiency and that more money is necessary to be raised, for I have here and have read the letter of the Secretary of the Treasury stating that $27,000,000 will be the deficiency for the next fiscal year. I admit that in arriving at these figures he has estimated the expense of pensions at $10,000,000 more, probably, than we have provided for or than the law authorizes. But at any rate there will be a deficiency, according to his estimate, of ten to twenty millions of dollars. If this be so, my amendment cannot but be largely in the interest of economy.

But whether there is a deficiency or not, whether the arrearages of pensions require this money to be paid or not, here is money lying idle—a part of the $346,000,000 authorized to be issued by law—a part of the money against which these enormous gold and silver reserves are held in the Treasury of the United States; here is money which was placed in the Treasury for a temporary purpose which is now passed. Why should we not pay it out in payment of the obligations of the people and the Government?

No good reason can be given, Mr. Chairman. There is no inflation in the proposition. It is a proposition to use all the money which properly belongs to the Government and the people. It is a proposition in the interest of the Government and the people. And I cannot but again express my surprise that my colleague from Ohio [Mr. GARFIELD] should have come to the front in opposition to it, especially as it proposes to use this money in the payment of a long-delayed debt to the disabled soldiers of the country, many of whom are in great want and distress, and who are told by a hostile Secretary of the Treasury that he has no money to pay them without new bonds or new taxes, when the Treasury is groaning under the weight of $400,000,000. The bondholder was never treated in this way.

Mr. GARFIELD. My colleague [Mr. McMAHON] has gone into the whole merits of this question on the point of order. I shall only follow his example to a very small extent. The attempt of my colleague in the speech he has just made to set himself, in comparison with me and many others on this side, as the special champion and friend of the soldier, is quite too thin a disguise to deceive anybody. He will remember, as will the House, that this side tried again and again to pass a measure authorizing the Secretary of the Treasury to extend the sales of 4 per cent. bonds sufficiently to cover this whole case. We brought the House to a vote on that proposition at least twice at the last session, and but for the resistance on the other side it would have prevailed, and the soldiers would have been paid. The responsibility for not paying them rests with those who resisted that measure, not with those who proposed it. We have been selling these 4 per cent. bonds to assure resumption; and that is the law. I think it might fairly be the law that they should be issued to provide for payment of soldiers' pensions.

There is another thing which perhaps my colleague did not remember. Under a bill of last session we issued bonds to the extent of a quarter of a million of dollars to endow a private institution for the blind in one of the States of this Union, the endowment being $10,000 a year; and to keep it out of the power of Congress to repeal the act, the bonds thus issued were made a part of the bonded debt of the United States, in order to endow an institution in a State—an institution not national in its character. But gentlemen are unwilling to increase the 4 per cent. bonded debt of the United States to pay pensions already provided by law for our soldiers.

Now, I have simply made the point of order, that is all; and no man can torture anything I have said on this point of order into an unwillingness that the soldiers shall have their pensions, or that all necessary legislation shall be had to make the payment prompt and easy, and to secure all their rights. It is altogether too late in the day to tell the soldiers that gentlemen on this side who have remembered them in a thousand ways (my colleague to say the least has not remembered them in more) are not their friends.

I made this point (and I have no concealments about it) simply because I look upon this amendment as the entering wedge to a general purpose to break down the system of reserves on which the maintenance of resumption depends.

Mr. McMAHON. My colleague will permit me to ask him how the issue of $10,000,000 of the $346,000,000 authorized by law is going to break down the specie reserve which amounts to $236,000,000?

Mr. GARFIELD. That is what I am about to tell the gentleman. I say at the outset that our whole body of legislation relating to resumption makes together a connected chain; and

> Whichever link you strike,
> Tenth or ten thousandth, breaks the chain alike.

Such legislation as this tends at least to weaken that chain. Now my colleague, whose distinguished knowledge as a financier no one will question, amazed me very much by saying that the subsidiary coinage and the subsidiary currency are no part of the general problem of resumption. Why, does not my colleague know perfectly well that the subsidiary currency in the form of these scrip notes or in coin goes to make up the volume of our circulating medium just as much as greenbacks, just as much as gold? The great currency question embraces everything that circulates as money; and it will not do to say that the subsidiary coinage has nothing to do with the general proposition. It has very much to do with it. Subsidiary currency in any form circulates far more rapidly than dollar bills, and dollar bills more rapidly than five-dollar bills, and these more rapidly than tens. Just in proportion to the smallness of the denomination of the circulating money is its circulation rapid. Here was a proposition to hasten the issue of subsidiary coin. As the law first stood, the silver could only be issued on the presentation of the scrip, the silver being paid in exchange therefor. In order to facilitate the process, Congress very properly said that as there was a rush to make the exchange people might deposit greenbacks and receive silver coin in place of it, but that the greenbacks thus deposited should be held to redeem according to law the scrip as it might come in. This reserve, therefore, of which my colleague speaks, is a reserve laid away as a provision against the demand for the scrip, in place of which the silver coin has already been issued.

Mr. WARNER. Will my friend permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. WARNER. Is it not perfectly well understood that the fractional currency, against which I understand it is claimed this $10,000,000 is held, is not out of existence, or at least that only a small part of it remains for redemption?

Mr. GARFIELD. I will answer my colleague on that subject. Estimates have been made on that subject. All agree that a certain portion of that scrip is probably destroyed and will never be presented for redemption. What that proportion is nobody knows. The amount, however, of any circulating medium which is actually destroyed is very much smaller than people suppose. I will give a single instance. There is a bank in my district which has been a bank for nearly fifty years under the old State laws, and when the new banking system was adopted this bank undertook to wind up its old concern; that is, being solvent, to redeem all of its old bills. They have gone on redeeming and redeeming, and the last time I talked with the cashier of that bank he told me that less than 2 per cent. of the whole issue, covering a period of forty years of state banking, was still out, and even then almost every week fifteen, twenty, or thirty dollars of old bills came back; showing that the destruction of outstanding circulating paper money is far less than the people suppose.

Now, the highest estimate which has been made is that perhaps $10,000,000 of the fractional scrip is destroyed and will never come in. And here is outstanding at least $15,000,000 not yet brought in. I saw the papers yesterday of a single party who took $6,000 of this scrip to the Treasury. We have sometimes six, eight, or ten thousand dollars a day brought in. The time will doubtless come when we will be satisfied we can reduce this reserve sufficient to leave enough to cover what is left outstanding and will not come in, and let the rest go into circulation. But to say now the whole of this $10,000,000 shall go into circulation, leaving none to protect this reserve, is to break down one of the stated reserves of the Government to meet its obligations.

Mr. McMAHON. Will the gentleman from Ohio allow me to put a question to him?

Mr. GARFIELD. Certainly.

Mr. McMAHON. Under the specie-resumption law—and I do not wish to argue, I only want to state it—under the specie-resumption law the Secretary of the Treasury was ordered to redeem fractional currency in silver coin.

Mr. GARFIELD. Certainly.

Mr. McMAHON. Now, in July, 1876, we authorized him to pay out $10,000,000 of silver coin and to take in $10,000,000 of greenbacks.

We authorized him to redeem this fractional currency outstanding in greenbacks, and he has never done it.

Mr. GARFIELD. How does my colleague know that?

Mr. McMAHON. I say it because the debt statement shows it; I have it here, and I read on page 4 of the Treasury report, currency assets, "United States notes, special fund for redemption of fractional currency, $10,000,000."

Mr. GARFIELD. Well.

Mr. McMAHON. Now it never was in contemplation of the gentlemen who passed that law in 1876 that when that $10,000,000 was taken in it should be kept. That was a little private scheme of contraction of Mr. Sherman himself. Our order to him was to pay out in redemption of fractional currency. Instead of that he is redeeming constantly in silver coin and keeping the $10,000,000 in.

Mr. GARFIELD. I will answer my colleague. I am not responsible for the Secretary's execution of his duty under that law. But I should say if I were the Secretary I was bound by the law and by the reason of the case to hold a sufficient amount of that fund to be an ample protection for all the outstanding scrip which would be likely to come in. Perhaps the Secretary has kept more than he needed to; and if he has, it is perfectly competent for this Congress to ascertain, after a fair examination, how much of that he can spare, and then let it out. I will agree to that at any time. But my colleague took no such method as that; he says simply let it all go, and he proposes to make this sweeping change of law and give up the whole reserve for that purpose, and therefore to that extent, or at least to some extent, breaks over the line of our reserve.

Now I have said all I desire to say on that subject except a single word in conclusion. My colleague pained me by a single expression in his speech. There has never anything occurred between him and me which entitled either of us to say discourteous and indecent things about the other; and when my colleague said that I owed more allegiance to the soldier than perhaps to any other class, and when he said further that I appeared to act as though I owed my chief allegiance to Wall street, he said what he had no more right to say on this floor, either as a matter of fact or a matter of fair inference, than I would have a right to say he owes his chief allegiance to the groggeries and whisky-shops of Dayton; and as I would not say that I do not think he was entitled to say the other.

Mr. McMAHON. In answer to the gentleman I say this: I have followed with interest the public career of the gentleman, and if in all the discussions which have ever taken place in this House or this country on financial questions he can show one vote or one speech that was not based upon the idea of speedy resumption, no matter at what cost to the great mass of the people, even when his own party separated from him upon that question in the Forty-third Congress, when he was in a minority in his own party upon this question—if he can show one vote which he ever cast in favor of what was regarded then by the majority of his own party in the West as the interest of the people on this question, I will take my statement back. That is all that it covered.

Mr. GARFIELD. I will relieve my colleague upon that point. He could not certainly praise me any more according to my notions of legislative praise than to say what he has said. If I ever did cast a vote that was not in favor of the resumption of specie payments, that was not against all schemes to delay it unreasonably and prevent it, then I cast a vote that my conscience and my judgment disapproved of. [Applause.] And I do not know but I have cast as many votes as any man on this floor against Wall street and the business of gold-gambling there which has been destroyed by resumption; that gold-gambling in Wall street which locked up one hundred millions of the business capital of this country for fifteen years, away from all profitable investment, and converted Wall street into a faro hell gambling with the business of this country up and down. And if every vote of mine in favor of honest money has not been a blow at gambling in Wall street, then it has not had the effect I intended.

Mr. BRIGHT. I desire to ask the gentleman from Ohio a question. Have not the operations of Wall street been simply transferred to the Treasury of the United States?

Mr. GARFIELD. In answer to the gentleman from Tennessee, I will say that I hope there has been enough of the gold and silver in this country that have hitherto been lodged in Wall street for gold-gambling purposes transferred to the Treasury of the United States to break down the bulls and bears of Wall street permanently and to maintain the supremacy of honest money. [Applause.]

Mr. McMAHON. Before the gentleman takes his seat I wish to ask him what wrong there can be in our ordering this amount of $10,000,000 to be reissued when the law under which it was taken into the Treasury ordered it to be paid out in redemption of fractional currency, which has not been done?

Mr. GARFIELD. If my colleague will have an inquiry made at the Treasury and find out how much of these ten millions can fairly be spared and a sufficient reserve still kept to meet all obligations of that reserve, I will join him in voting to apply the balance, the surplus, of it to those purposes, but not the whole.

Mr. McMAHON. I think we can come to an agreement under the gentleman's modification of his position. The last public debt statement shows fifteen millions of fractional currency outstanding. I hold in my hand the report of the Treasurer of the United States, in which he says:

Estimating the loss of fractional currency at $8,083,513.50, the figures reported by the commission appointed by you, there may still be issued, before the limit of $50,000,000 is reached, $8,127,684.69 in exchange for fractional currency and $2,144,149.31 for currency obligations.

Now we have got only thirty-nine millions of subsidiary silver coin, and according to this estimate of the Treasurer of the United States there was but eight millions of fractional currency that will come in for redemption. Why not put this out?

Mr. GARFIELD. Putting it all out is a breaking of the public faith. It ought to be out if it can be honestly paid out, but if the public faith requires it to be in, it ought to be in while the world stands.

Mr. McMAHON. Where did we ever give the creditor of the United States any hold on that? I ask for the law or contract.

Mr. GARFIELD. We have given him the pledge of the law.

Mr. McMAHON. I beg the gentleman's pardon. The amount issued does not exceed the amount which we have pledged our faith to the public creditor shall not be exceeded.

Mr. GARFIELD. No committee of this House has taken up this question and reported upon it and said that this which is proposed is honest to the public creditor. It is the opinion of my colleague. It may be the opinion of a caucus. But before we carry this out I think it ought to be based on the opinion of a committee of this House.

Mr. McMAHON. Gentlemen will find by reference to the Treasurer's report that this is part of the $346,000,000. It is idle capital, which nobody has any interest in tying up except people who want to have the currency contracted. It is true the amendment is my individual opinion. It has not been submitted to any caucus or any committee. But it is so clearly right that the House cannot fail to see its propriety without the assistance of any committee's report. And the gentleman has failed to show where the public faith will be violated.

Mr. WEAVER. I hope the amendment will prevail. I can see no good reason for keeping locked up in the Treasury in the present condition of the country this amount of $10,000,000.

Mr. GARFIELD. I would suggest to the gentleman that he should allow the Chair to decide the point of order and then he can discuss the merits.

The CHAIRMAN. Does the gentleman from Iowa want to speak to the point of order?

Mr. WEAVER. Yes, sir.

The CHAIRMAN. Then the gentleman will proceed.

Mr. WEAVER. Mr. Chairman, I think it unquestioned that the $346,000,000 of legal-tender notes outstanding include the $10,000,000 held in the Treasury for the redemption of the fractional currency, and it is a part of the current history of the finances of the country, and well understood by everybody, that the Secretary of the Treasury is abundantly able to redeem all the fractional currency as it comes in with fractional silver. There have been issued of the $50,000,000 fractional silver authorized but $39,000,000. This leaves a margin sufficient to cover all the outstanding fractional currency.

Now, I want to know why the greenbacks should be kept in the Treasury; and why this amendment is not in order? It certainly is a step in the direction of economy and of relief for the people.

I understood the gentleman from Ohio, [Mr. GARFIELD,] in answer to the gentleman from Texas, [Mr. MILLS,] to say that the law passed during the Forty-fifth Congress requiring the Secretary of the Treasury to pay out greenbacks as they came in under the resumption law, was simply a law to make that certain which was before uncertain. Not at all, Mr. Chairman. The resumption law was a bold attempt to convert every greenback into interest-bearing debt and then to destroy them.

Let me read the law passed May 31, 1878, to stop this destruction:

That from and after the passage of this act it shall not be lawful for the Secretary of the Treasury or other officer under him, to cancel or retire any more of the United States legal-tender notes. And when any of said notes may be redeemed or be received into the Treasury under any law from any source whatever, and shall belong to the United States, they shall not be retired, canceled, or destroyed, but they shall be reissued and paid out again and kept in circulation.

That is the law. Under the resumption act the Secretary of the Treasury was destroying the greenbacks, every one that came into his hands. This law was passed by the Forty-fifth Congress to prevent the further destruction of greenbacks; and it further provides that he should pay them out and keep them in circulation. This amendment does not change existing law. Why keep on hoarding them? Why keep them there to redeem fractional currency when there is no necessity, when you have plenty of fractional silver currency to redeem them with? It is a mere trick of the Secretary to avoid the plain object of the law and to circumvent public sentiment.

Now, the policy of the gentleman from Ohio [Mr. GARFIELD] is this: to issue bonds to get money to pay the arrearages of pensions, while ours is to issue the idle greenbacks now in the Treasury and save to the people this enormous and unnecessary increase of the public debt. Let the proposition be well understood by the House.

Mr. REED. I for one have been willing to listen a reasonable time to a discussion that has seemed to me entirely outside of the question before the House. As I understand it, that question is whether the amendment is admissible on the point of order. I do not think the merits of the amendment should be discussed until that question is decided. It does not seem to me that we can now go into the question on the merits.

The CHAIRMAN. The Chair desires to say that after the gentleman from Ohio [Mr. MCMAHON] who introduced the amendment had been allowed to proceed to discuss it at length on the merits, as well as on the point of order, the Chair felt that it was nothing but fair that his colleague [Mr. GARFIELD] should have the same opportunity; that, however, was by unanimous consent. The committee is acting under the five-minute rule.

Mr. ATKINS. I am not willing to object to the gentleman from Iowa, but after he is done I shall object.

Mr. REED. I desire to raise a point of order.

The CHAIRMAN. The gentleman has the right to raise a point of order.

Mr. CARLISLE. I think the gentleman from Iowa is strictly in order.

The CHAIRMAN. The gentleman from Iowa is discussing the point of order; but the Chair desires to say that we are under the five-minute rule, and he is therefore liable to a point of order.

Mr. WEAVER. I wish to make a parliamentary inquiry. In the discussion of a point of order, are we under the five-minute rule?

The CHAIRMAN. The present occupant of the chair has ruled on that point, and knows of no rule that will allow the point of order to be discussed otherwise than under the five-minute rule.

Mr. WEAVER. But my time has not expired.

The CHAIRMAN. It has not.

Mr. WEAVER. I was about to say, when interrupted, that this amendment does not change existing law, and that it is in the line of a retrenchment of expenses; there cannot be any doubt about that, and hence it is strictly germane.

Now, there never was an accepted interpretation of the resumption law, that the greenbacks should be reissued again; but the plain intention of that act was that they should be destroyed as fast as they were received and bonds issued in their place; that is to say, they were to be funded and disappear altogether from circulation. The gentleman from Ohio is wide of the mark as to that, as I will show to the House from the most authentic and authoritative sources. That the original design of the resumption act was not intended to destroy the greenbacks is a mere afterthought and they were driven to it by an uprising of the people which they had not the courage to face.

I hold in my hand a report of the Secretary of the Treasury, of 1875, in which he says:

The faith of the Government stands pledged to resumption, and on and after January 1, 1879, to the final redemption and removal from the currency of the country of the legal-tender notes as fast as they shall be presented for redemption, according to the provisions of the act of January 14, 1875.

That was the report of Secretary Bristow, the very Secretary under whose auspices the resumption act was prepared and passed through Congress.

The next Secretary, Mr. Morrill, says:

That the policy was tolerated in continuance of these notes as money after the close of the war, must be regarded as a public misfortune. At that time they were, according to original design, by the logic of their existence, to be funded as a pledge of their indebtedness and to be embodied in the public debt, and not to be treated or tolerated as an element of the national currency.

Now, what becomes of the statement made by the gentleman from Ohio, [Mr. GARFIELD?]

Here are two Secretaries of the Treasury, one under whose advice the resumption law was passed, and the succeeding Secretary, both of whom say that the policy of the law was to remove all the greenbacks from circulation. But the act of May 31, 1878, came in and provided that no more of them should be destroyed, and that they should be reissued by the Secretary of the Treasury. Instead of doing that, under a technical construction of the law, he now hoards in the Treasury, and will continue to do so, $10,000,000 of legal-tender notes, and proposes to saddle upon the people of this country $10,000,000 more of bonded debt and to tax the labor of the country for thirty years to come to pay the interest on that amount.

Now let the issue be sharply and strongly drawn here. We oppose such legislation and appeal to the country to sustain us. Let the gentleman, if he chooses, take the position of increasing the bonded debt of the country. He is welcome to his choice. We will abide the result of that issue both in this House and before the country.

Mr. REED. I desire to make a suggestion to the Chair in regard to the point of order which has been raised. I do not desire to discuss the question which has been mooted by the gentleman who last had the floor, [Mr. WEAVER.] If this amendment is not admissible under the rules of this House, then it seems to me entirely unnecessary to discuss it.

One thing is essential to the admission of the amendment; that is, that it shall be germane to the subject-matter being considered and to which it is moved. What is the subject-matter of this portion of the bill? It is to provide for the officials who are running the Pension Bureau. That is the full scope, the whole meaning, the entire purpose of this portion of the bill.

This bill is not a pension appropriation bill but an executive appropriation bill. And to endeavor to foist upon this bill a change of the law, or, whether it be a change of the law or not, a provision as to the fund out of which pensions shall be paid, is a degradation of the rules of the House.

Now I desire especially to call the attention of the Chair to this matter. It has become one of vital importance to the House and to the country as well. We are tacking on, under the plea of germaneness, everything that has in it the same adjective that may be in the bill before us. Here is a bill containing an appropriation for the Pension Office. Under the guise of germaneness to that appropriation we are asked to put on financial legislation which concerns the whole country, and least of all the pensioners. We have voted to pay the pensioners, and will do so somehow or other.

Now I submit to the Chair that this thing should be taken in hand and the rule established by decisions, so that the action of the House under the rule may be confined within some sort of reasonable and decent limits.

Mr. FORT. If this amendment is germane and tends to retrench expenditures, then under Rule 120 it is in order. I will not discuss the question as to whether it is germane or not; I will leave that for other gentlemen to do. But it appears to me clear that the adoption of this amendment will decrease expenditures, and therefore must be in order if it is germane.

While I do not indorse all that my friend from Ohio [Mr. MCMAHON] has said about party politics or about the action of the republican party—and I certainly do not indorse what he said about the present Secretary of the Treasury—yet he has truthfully stated that the Government has now in the Treasury $10,000,000 of legal-tender notes; also that the amount of the fractional currency outstanding, for which this ten millions was provided as a resumption fund, has now fallen to and perhaps below $15,000,000.

Now, can it possibly be necessary that we should continue to hold in the Treasury ten millions of legal-tender notes in order to redeem fifteen millions of fractional currency which may never be presented for redemption? Moreover, we have, as has been shown, a sufficient quantity of silver in the Treasury to redeem every single cent of the fractional currency that possibly can be presented, even if none at all of it had been destroyed. And it is estimated that at least ten millions of the fractional currency has been lost, and that there is not five millions of it now in existence, and yet we hold ten millions of legal-tenders to redeem this five millions. This $10,000,000 is now lying idle in the Treasury. The United States is in debt; it is paying interest on borrowed money. If we pay out this $10,000,000 it will be paid out either upon a debt upon which we are paying interest or upon another indebtedness. We are in debt many millions to the soldiers, and if we do not pay out this ten millions to them on pensions due them we must borrow ten millions more and pay interest on it. Hence if this amendment is adopted we will borrow ten millions less, and we will save certainly the interest on that $10,000,000, which, at 4 per cent., will be $400,000 annually, or more than $1,000 for every day of the year, Sundays, Mondays, and all.

Gentlemen say that this amount must be kept for a redemption fund of the fractional currency. This ten millions now hoarded in the Treasury is a part of the three hundred and forty-six millions of legal-tender notes; and the Secretary of the Treasury keeps also locked up in the Treasury about 50 per cent. of that amount in gold, and so under the policy of the Secretary we keep locked up this ten millions in legal tender and five millions more in gold to redeem it with. And thus we lock up fifteen millions of the people's money, which they need, and at the same time we are in debt and paying interest on this fifteen millions, which ought to be saved. It seems to me clear that the adoption of this amendment will reduce expenditures at least to the amount of more than $1,000 every day by saving interest on this $10,000,000.

There can be no question but what a sufficient quantity of silver is now in the Treasury—or, if not there, can soon be put there by our mints—to redeem every dollar of fractional currency that can be presented. But it is not coming in. My old friend from Pennsylvania now before me [Mr. WRIGHT] would not walk across the street to have ten cents or $10,000 of it redeemed. The people are not anxious to have it redeemed. It suits them very well, and they will make no run on the Treasury.

Mr. Chairman, if I may be allowed a moment more I would say that I would do nothing in the world to interfere with resumption. Resumption has come, and I am glad of it. I was not in favor of hastening to it by the way of contraction. I wanted to keep all our money in circulation; and I believe we could have reached resumption easier and as soon by keeping all our legal-tenders in circulation as to do the way we have done. I rejoice, however, that it has come; and having come, I am in favor of doing every reasonable thing to maintain it. I never want to travel this rugged road to resumption over again. But I do not believe that it is necessary to lock up $10,000,000 of legal-tenders in order to maintain resumption. Resumption is an assured thing, and he is a mischievous man who would disturb it. Now, sir, as this amendment is clearly in the interest of economy, I think it is in order under Rule 120, and hope the gentleman's point of order will be overruled by the Chair and the amendment adopted by the House.

[Here the hammer fell.]

Mr. WARNER. Mr. Chairman, this expenditure for pensions must be met by paying out money now in the Treasury, or by the sale of additional bonds, or by increased taxation. It is conceded that the $10,000,000 now held in the Treasury for the redemption of fractional currency is a part of the $346,000,000 existing when the act of May 31, 1878, was passed prohibiting the cancellation of any part of the legal-tender currency then in existence. Now, if this $10,000,000 is a legitimate part of the present volume of currency, and is not actually required for other purposes, why should we either increase taxation, or increase the interest-bearing debt, or resort to other

means to provide for the payment of pensions due to disabled soldiers? If this money is not a part of the volume of our currency, then other questions arise. But I think no one will dispute the fact that it is. No question of inflation, then, or increase in the volume of the currency is involved. It is a question simply of liberating and utilizing ten millions of money now uselessly locked up, and thereby avoiding the necessity of raising that amount by taxation or an increase of the bonded debt. It certainly is in the line of retrenchment to avoid interest or the necessity of increasing the revenue.

But my friend from Ohio [Mr. GARFIELD] says that this $10,000,000 is held in the Treasury for the redemption of fractional currency, and that the public faith is pledged that it shall remain there. Now, it is perfectly well understood that a large part of the fractional currency which has not been presented for redemption is not in existence. It is well known that small pieces of paper money, such as five and ten cent notes, rapidly go to destruction, and it is not probable that one-half of the amount still unredeemed will ever be presented for redemption. To meet any demand of this kind, however, we have subsidiary silver coinage in ample supply. The resumption act itself provides for the use of this subsidiary coinage for the redemption of the fractional notes.

But it is said that the faith of the Government is pledged that this $10,000,000 shall be kept in the Treasury. Where, by what act is it pledged that this money shall remain permanently locked up in the Treasury. It is not required for the redemption of fractional currency; and, what is more to the point, it is not used for that purpose, and has not been. I find that in the report of the Secretary of the Treasury for last month, this $10,000,000 is counted as part of the $346,000,000 of the active currency of the country. Nor was the locking up of these $10,000,000 part of the provisions for resumption. I submit to gentlemen on the other side whether it was not understood whether the Secretary of the Treasury did not consent that resumption should proceed upon the basis of $346,000,000 of legal-tender paper.

The act of May 31, 1878, plainly contemplates this and prohibits any reduction in the volume. By this amendment, then, no alteration whatever in the volume of the currency is proposed, and there is no infraction of the public faith. If permitted to do so, I would moreover assure gentlemen who are so very solicitous about "honest" money that this $10,000,000 is just as "honest" as any of the rest of the $346,000,000 and quite as "honest" as national-bank notes, and soldiers entitled to pensions will be but too glad to get it.

[Here the hammer fell.]

Mr. KELLEY. Mr. Chairman, I desire to say a few words on the point of order. I disapprove of any legislation on appropriation bills otherwise than express provisions for appropriations. But under the rules of the House, very bad rules I think, this proposition is pertinent; and I desire to illustrate its pertinency by referring to a recent case of bankruptcy which has evoked the sympathy of every good man throughout the country, without reference to his religious opinions.

This proposition to pay out $10,000,000 now in the Treasury instead of incurring an indebtedness for this amount at 4 per cent. per annum is not only a measure of economy for this particular year, but for long years to come—perhaps forever. The interest which we are paying, though it be but 4 per cent., pays when compounded the principal of the bonds in less than twenty years; yet at the end of that time we still owe the amount of the bonds. Thus we tax the people to pay in the form of interest what is equivalent to the face of the bond, while still posterity owes the indebtedness. I am averse to any increase of the bonded debt, and I stand upon the pledged faith of the Government, reiterated in act after act, that no such increase shall take place. If there be one act providing for resumption, every act that has provided for the refunding or for the increase of the bonded loan, down to the resumption act, pledged the faith of the country that there should be no further increase of the bonded indebtedness.

Sir, the case to which I have referred was the bankruptcy of the venerable archbishop of Ohio, than whom, so far as I know, no purer man lives. But he was not a wise financier. According to the latest statements I have seen, which appear to be authoritative, he borrowed for his church from $400,000 to $500,000; and his bankruptcy is said to be for over $4,000,000. Why? He had not provided for compound interest. He had built churches and colleges, which were pecuniarily unproductive, forgetting that interest was compounding; and his $400,000 of indebtedness became $4,000,000. Such is what is going on under our system of borrowing money to substitute base silver tokens, which cannot be sent through the mails, for a convenient fractional currency which was promoting a minor commerce throughout all parts of the country. And now for current uses we are to add $10,000,000 to the bonded debt to pay pensioners moneys which we have withheld from them for years. We are to increase our bonded debt and increase the volume of compounding interest. Inasmuch as this amendment prevents that, it is in the line of present and perpetual economy, and is therefore in order.

Mr. ATKINS. I trust we shall now have a ruling on the point of order.

The CHAIRMAN. As the Chair understands, the word "germane," as employed in the rule to which it is held this amendment is obnoxious, does not, when properly construed, require more than that the proposed amendment shall be akin to the subject-matter of the bill. This bill certainly makes an appropriation for defraying the expenses of the machinery of the Government. As to this being in the direction of retrenchment of expenditures, the Chair does not understand that is in controversy. He therefore holds the point of order is not well taken and that the amendment is in order.

Mr. CANNON, of Illinois. I desire to offer an amendment to the amendment, adding to it the following:

And fractional currency presented for redemption shall be redeemed in any moneys in the Treasury at the time it is presented.

I understand, Mr. Chairman, that this $10,000,000——

Mr. MCMAHON. I do not object to that amendment; I will accept it.

Mr. CANNON, of Illinois. I wish to say a word about the amendment. I understand this $10,000,000 is in the Treasury for the redemption of the fractional currency, as has been already explained. It is a part, as I understand the statement of both gentlemen from Ohio, of the $346,000,000 of legal-tender notes for circulation. Unquestionably a part of this fractional currency is outstanding. I have no doubt a part of it is lost or destroyed, and never will be presented. For one, I can see no objection to paying out these Treasury notes, held for the redemption of this fractional currency, being as it is a part of the $346,000,000, provided you give means for the redemption of fractional currency as it is presented.

Now, under the original law, Revised Statutes, section 3574, fractional currency, in series of not less than $3, was exchangeable for United States notes. Now, with the adoption of this amendment, I can see no objection to the adoption of the amendment of the gentleman from Ohio, [Mr. MCMAHON,] and I shall vote for it, and I submit to the gentleman from Ohio [Mr. GARFIELD] that it will release the $10,000,000 for the purpose indicated, while my amendment provides for the redemption of the outstanding fractional currency as it may be presented, which, I presume, will be in small quantities and not rapidly.

Mr. EWING. Mr. Chairman, I hope the amendment to the amendment will not be adopted. The resumption scheme (including the joint resolution of July 22, 1876) contemplates as part of the permanent circulation the sum of $50,000,000 of fractional currency, whether paper or coin. Thirty-nine million dollars of fractional coin have been issued. There are from fourteen to fifteen millions of fractional paper not yet presented for redemption. Of that the best estimates indicate that about $10,000,000 have been lost or destroyed. Now, the $10,000,000 of greenbacks held temporarily for the redemption of fractional currency may be reissued, and yet all the fractional paper which may hereafter be presented can be redeemed in a further issue of fractional coin without transgressing the limit of $50,000,000 as the permanent aggregate volume of fractional paper and coin.

Mr. CANNON, of Illinois. Will the gentleman allow me to ask him a question right there?

Mr. EWING. Certainly.

Mr. CANNON, of Illinois. I hold in my hand the original act under which the fractional currency was issued, and it expressly declares that fractional currency shall be interchangeable for legal-tender notes for sums of $3 and upward and receivable in payment for revenue and postage stamps and all dues to the Government in sums of $5 and under. Would the gentleman go back on the contract as to fractional currency, it now being held in small quantities?

Mr. EWING. I desire fractional currency now outstanding shall be redeemed in fractional silver as contemplated in the resumption law. If there was any going back on the original contract as to redemption of fractional currency, it was in the passage of that law.

Mr. CANNON, of Illinois. The resumption law does not say a word about it. That is in reference to legal-tender notes; it does not touch fractional notes.

Mr. EWING. I beg the gentleman's pardon; it does, and provides for the redemption of fractional paper currency solely in an equal issue of fractional silver coin.

Mr. CANNON, of Illinois. I have examined the resumption act with some care and I do not find it.

Mr. EWING. The gentleman will find it in the first section of the resumption law of January 14, 1875. My objection is that if this amendment be adopted requiring the Secrerary of the Treasury to redeem the fractional paper now outstanding with "any moneys in the Treasury not otherwise appropriated," it will be held to be a repeal by implication of the provision of the resumption law which requires the fractional paper to be redeemed with an equal issue of new fractional coin. It will thus operate a contraction of the currency to the extent of the fractional paper redeemed. I think it bad policy to do that. I think it important not only to issue the ten millions of greenbacks now lying idle in the Treasury, but also to put or keep in circulation the whole of the fifty millions of fractional currency limited by existing law. I therefore hope that the House will not sanction a contraction of the currency by authorizing the redemption and cancellation of fractional paper with money already in circulation, but will hold the Secretary to the first section of the resumption law which requires him to coin and issue new fractional silver as fast as he redeems and cancels old fractional paper. Even then the volume of fractional currency cannot much exceed $40,000,000, because so much of the paper is lost; and I am sure no one will

say that that sum of fractional currency is too large for its infinitely numerous uses in the small transactions of the people.

[Here the hammer fell.]

The question recurred on the amendment of Mr. CANNON, of Illinois, to the amendment.

The committee divided; and there were—ayes 73, noes 79.

Mr. CANNON, of Illinois, demanded tellers.

Tellers were ordered; and Mr. CANNON, of Illinois, and Mr. EWING were appointed.

The committee again divided; and the tellers reported—ayes 91, noes 86.

So the amendment to the amendment was agreed to.

Mr. EWING. I should like to reserve the right to have a vote on this in the House.

Mr. MCMAHON'S amendment, as amended, was agreed to.

The Clerk read as follows:

United States Patent Office:

For compensation of the Commissioner of the Patent Office, $4,500; for Assistant Commissioner, (who shall act as Commissioner in case of the death, resignation, absence, or sickness of the Commissioner, and shall perform such other duties as may be assigned to him by the Commissioner,) $3,000; for chief clerk, $2,250; three examiners-in-chief, at $3,000 each; examiner in charge of interferences, trade-mark examiner, and twenty-two principal examiners, at $2,250 each; twenty-two first assistant examiners, at $1,800 each; twenty-two second assistant examiners, at $1,600 each; twenty-two third assistant examiners, at $1,400 each; one financial clerk, $2,000, who shall give bond in such amount as the Secretary of the Interior may determine; one librarian, $2,000; one machinist, $1,600; four clerks of class 4; five clerks of class 3, (one of whom shall be translator of languages;) nineteen clerks of class 2; and thirty clerks of class 1; thirty-two clerks, at $1,000 each; for sixty copyist clerks, at $900 each; for three skilled draughtsmen, at $1,200 each; for one messenger and purchasing clerk, $1,000; for one skilled laborer, $1,200; for ten attendants in model-room, at $800 each; ten assistant messengers; thirty laborers; six laborers, at $600 each; five folders and pasters, at $480 each; in all, $394,550.

Mr. ATKINS. I move, in line 1661, to strike out "eight" and insert "nine;" so it will read: "for ten attendants in model-room, at $900 each;" and in line 1664 to strike out "four" and insert "five;" so it will read: "$395,550." This only increases the pay $100.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

For photolithographing or otherwise producing copies of the weekly issues of drawings to be attached to patents and copies, $35,000; the work of said photolithographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can there be done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

Mr. MORSE. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 1703 to 1705 strike out the following words: "and in the city of Washington if it can there be done at reasonable rates," and insert the following words: "wherever it can be done at reasonable rates to the satisfaction of the Commissioner.

Mr. ATKINS. I confess, Mr. Chairman, that the amendment of the gentleman from Massachusetts seems fair. And I so insisted myself in the Committee on Appropriations in the discussion of this subject. But after very mature consideration of the matter, and after it had been discussed at length and we had got the opinion of the Commissioner upon it, the committee came to the conclusion to leave the language as it is. There is certain lithographing to be done, current-lithographing, as it is called, which it is difficult to have performed anywhere else except in Washington. I admit that it does not look well to confine any kind of work that is to be paid for by the Government to any particular man or class of men or to any particular city. I admit all that; yet under all the circumstances the committee felt it was best to leave the lauguage as it is in the bill in compliance with the very earnest request of the Commissioner of Patents on this subject. It is in the form in which the clause has been inserted for several years. And now, after having made that statement, I will say that it is perfectly immaterial to me whether that language goes in or goes out.

Mr. MORSE. It is not immaterial to me whether it goes out. The gentleman from Tennessee himself admits that my amendment seems fair; and I say it is unfair to leave the matter as it is. And as my amendment leaves it entirely in the hands of the Commissioner to do as he pleases there can be, as it seems to me, no good objection to it.

Mr. FIELD. I hope the amendment of my colleague will prevail. The city of Washington is not large enough to have work of this kind done by contract, and it must fall into the hands of one man. The amendment provides that the work must be done to the satisfaction of the Commissioner; and if any part must be done here that part *will* be done here; the rest is left to be contracted for wherever it can be done cheapest and best.

Mr. CONGER. It is possible that the language as it is in the law and as it has been for some years makes a job somewhere. But as a bee-hunter when he lines a bee from this angle and a bee from that angle finds where they meet, it has occurred to me as possible that these recommendations coming from two gentlemen on opposite sides of the House whose lines of vision must be directed toward Boston look like a job in Boston. [Laughter.]

Mr. MORSE. They do. [Continued laughter.]

Mr. CONGER. I looked at these little indications in that way and I found them center on the Hub as the place where the job was intended to go. We have tried Boston, and the best firm in Boston had this contract some years ago and it failed to perform the work to the satisfaction of the Government or of anybody that understood it, either at the Patent Office or anywhere else, and the contract was taken away from Boston and was given to one who could perform it under the immediate supervision of the Commissioner of Patents.

Now I think the remarks of the gentleman who has charge of this bill explain the whole subject. This is a kind of work requiring such special accuracy of detail and finish that it must be done under the eye of the Commissioner or the examiner from day to day, and it must be done at the expense of the Government by such examination from day to day whether it pays the expenses of officers of the department to Boston, or to New York, or to New Orleans, or wherever the job may be laid. I had occasion to inquire into this matter and I agree with the gentleman from Tennessee, [Mr. ATKINS,] that in the opinion of the Commissioner and all others interested in this work it is almost an essential thing that it should be done where it can be done under the constant supervision of the office.

I would be very glad that this work might be done in Boston. I should be sorry that it should be taken away from Philadelphia. I wish we had in the little city where I live somebody competent to take this job and do it. We all like to get things for our own cities; and here are my friends differing as widely as heaven and earth on almost every question that comes before this House, one on this side and one on that, and they lock hands on giving this little job of lithographing to the hub of the universe. I do not hear the cities of Philadelphia, of New York, Baltimore, New Orleans, all the other cities where there are lithographers—I do not hear them claiming that we shall vote so that this contract, or this job, as it is called, may go to them. I think, Mr. Chairman, if the present occupant of the chair [Mr. CLYMER] were in his place on the floor we might hear something in favor of Philadelphia, for this job, or some other city in the Keystone State. The gentleman who represents Philadelphia interests continually is here in his seat near me, [Mr. O'NEILL,] but I have not yet heard from him on this subject.

Mr. O'NEILL. I was listening to what the gentleman was saying about Philadelphia.

Mr. CONGER. I have thought that somebody interested in Philadelphia would have rushed forward to the defense of Philadelphia interests, as my friend here [Mr. O'NEILL] is in the habit of doing with an energy hardly ever equalled. Yet nobody seems to oppose this amendment in favor of Boston except the Representative of a city in the West which has as yet got no lithographers. But seriously, the Committee on Appropriations of this House from year to year for the last five years have thought it best to put this matter under the control and supervision of the Patent Office.

Mr. MORSE. Nobody proposes to take it from under the supervision of the Commissioner of Patents. No one wants the work to go to Boston or anywhere else or to any other city.

Mr. CONGER. Unless it is intended to give this work some particular direction, why offer the amendment? I take it that my friend never offers an amendment here unless he has some design in it. If he authorizes me to say to his constituents in Boston that he did not intend to give this work a direction toward Boston, I will do it.

Mr. MORSE. That is exactly what I have said.

Mr. CONGER. The gentleman will not permit me to say that, I know. He will not allow me to say that he did not intend to send this work to Boston.

Mr. MORSE. I want every city in the Union to have an equal chance.

Mr. CONGER. I simply call upon the representatives of other cities to put in their claims.

Mr. FIELD. The gentleman from Michigan is anxious for the city of Boston. I am not anxious at all. I do not care whether Boston gets this work or not. It is not of the least consequence to Boston or to me, but there is nothing in the amendment to take the work to Boston. The objection to the existing law is that it compels the Commissioner to have the work done in the city of Washington. Washington is too small a city to afford competition. The object of the amendment is to have such part of the work as can be done elsewhere contracted for anywhere, and if the city of Port Huron can do it the cheapest and best for the whole country, I hope it shall be allowed to do it. I have no jealousy against Port Huron, but the city of Boston does not get its living out of the Government of the United States.

Mr. WHITTHORNE. I think the amendment offered by my friend from Massachusetts [Mr. MORSE] is correct. When you come to look at the words in this bill its purpose and intention is to confine the work to the city of Washington, and in doing so exclude competition by the genius and talent of every other city or place. It is special and class legislation, and it looks to me very much as if it had a job in it. The proposition of the gentleman from Massachusetts is to leave it to the capital and energy of the entire Union. It is right in spirit and I trust it will be adopted.

The question was taken on Mr. MORSE'S amendment, and it was agreed to.

The Clerk resumed the reading of the bill and read as follows:

Office of Auditor of Railroad Accounts:

For Auditor, $3,600; book-keeper, $2,400; assistant book-keeper, $2,000; one clerk, $1,400; one copyist, $900; traveling and other expenses, $1,000; incidental expenses, $250; in all $11,550.

Mr. ATKINS. In line 1735, after the word "dollars," I move to insert "for railroad engineer, $2,000," and in line 1737, after the word "thousand," to insert "$400," and in lines 1738 and 1739 strike out "$11,550" and insert "$14,050."

It is proper I should state that there is no law authorizing an appropriation for an engineer, but, sir, I am informed by the Commissioner that it is absolutely necessary for him to have an engineer in order to make out his accounts and in order to report the condition of the different railroads with the supervision of which he is charged. Therefore I have concluded that I would submit the amendment and let the House vote upon it and decide the question for itself. I think it is right to allow an engineer to this Railroad Auditor.

The question was taken, and the amendment was agreed to.

The Clerk resumed the reading of the bill and read as follows:

For First Assistant Postmaster-General, $3,500; chief clerk, $2,000; two clerks of class 4; twelve clerks of class 3; six clerks of class 2; twelve clerks of class 1; two clerks, at $1,000 each; three assistant messengers; superintendent of blank agency, $1,800; assistant superintendent of blank agency, $1,600; four assistants to superintendent of blank agency, at $1,200 each; two assistants to superintendent of blank agency, at $900 each; one assistant messenger; one laborer, (for blank agency;) superintendent of free delivery, $2,100; one clerk of class 2, office of superintendent of free delivery;) in all, $70,140.

Mr. THOMAS. I offer the following amendment:

In line 1762, on page 72, after the words "Postmaster-General," strike out the words "three thousand five hundred" and insert in lieu thereof the words "four thousand."

Mr. ATKINS. I raise the point of order on that amendment that there is no law authorizing an increase of this salary.

Mr. THOMAS. I call the attention of the House to the fact that the law as it now exists fixes the salary of the three Assistant Postmasters-General at $4,000. Section 389, chapter 65, of the Revised Statutes, says:

There shall be in the Post-Office Department three Assistant Postmasters-General, who shall be appointed by the President, by and with the advice and consent of the Senate, and who may be removed in the same manner, and who shall be entitled to a salary of $4,000 a year each.

I submit that since the salaries of the Assistant Postmasters-General are fixed by law at $4,000, a proper appropriation should be made to pay that salary.

If the law is wrong, if the salary is too high, then the law should be repealed or amended. But why complicate matters by leaving an unsatisfied claim on the part of these officers against the Government, to be disposed of hereafter before the Court of Claims?

Mr. ATKINS. Is the gentleman discussing the point of order?

Mr. THOMAS. I submit that I am discussing the point of order; I am speaking directly to the point of order. This amendment is not in violation of existing law.

Mr. ATKINS. If the gentleman will allow me, I desire to state that the act passed January 20, 1874, repealed the act to which he has referred.

Mr. THOMAS. Will the gentleman have read the act which he says repealed the section of the Revised Statutes to which I have called attention?

Mr. ATKINS. I ask the Clerk to read it.

The Clerk read as follows:

Be it enacted, &c., That so much of the act of March 3, 1873, entitled "An act making appropriations for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1874," as provides for the increase of the compensation of public officers and employés, whether members of Congress, Delegates, or others, except the President of the United States and the Justices of the Supreme Court, be, and the same is hereby, repealed, and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act: *Provided*, That mileage shall not be allowed for the first session of the Forty-third Congress; that all moneys appropriated as compensation to the members of the Forty-second Congress, in excess of the mileage and allowances fixed by law at the commencement of said Congress, and which shall not have been drawn by the members of said Congress respectively, or which, having been drawn, have been returned in any form to the United States, are hereby covered into the Treasury of the United States and are declared to be the moneys of the United States absolutely, the same as if they had never been appropriated as aforesaid.

Mr. BAKER. That law has no reference whatever to the section of the Revised Statutes which has been referred to. The provision found in the Revised Statutes, and which was passed in the year 1872, fixes the compensation of Assistant Postmasters-General at $4,000 a year. Upon the revision of the statutes it is in that shape in the Revised Statutes. The law referred to by the gentleman from Tennessee [Mr. ATKINS] neither increased nor diminished the salaries of these officers as they had been fixed by previous law. Consequently the repeal that is referred to there has no effect whatever on the question as to what legal compensation these officers are entitled to receive. The law stands in the Revised Statutes unrepealed and unaffected by any law which has been since passed. I have taken some trouble to look this matter up, feeling that injustice has been done the First Assistant Postmaster-General by placing his compensation in the annual appropriation bill at a sum considerably less than that received by many officers of a like grade in the various departments of the Government.

For instance, the Commissioner of Patents, the Commissioner of Pensions, the Auditor of Railroad Accounts, many of the Auditors in the Treasury Department, without having as onerous service to perform, service as laborious as this officer, receive a much higher compensation. I submit that there is no law changing the law as it was enacted more than seven years ago, fixing the compensation of this officer.

Mr. ATKINS. Section 3 of the act generally known as the "salary-grab law" was passed March 3, 1873, and provided for an increase of the salary of these Assistant Postmasters-General to $4,000 a year. The act of June 20, 1874, which was the repealing act, uses this language:

That so much of the act of March 3, 1873, entitled "An act making appropriations for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1874," as provides for the increase of the compensation of public officers and employés, whether members of Congress, Delegates, or others, except the President of the United States and the Justices of the Supreme Court, be, and the same is hereby, repealed, and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act.

The words "or others" embraces these and all other officers. It was distinctly understood that, with the exception made in that repealing law, all the salaries were put back which had been advanced by the salary-grab law.

Mr. BAKER. Will the gentleman allow me to ask him a question?

Mr. ATKINS. Certainly.

Mr. BAKER. Then I would ask, if the repeal of the "salary-grab" act resulted in the repeal of the law fixing the salary of the Assistant Postmasters-General at $4,000 a year, how does it happen that in the second revision of the statutes, which was made under the authority of Congress since the repeal of that so-called "salary-grab" act, we find this same provision of law remaining, fixing the salary of the Assistant Postmasters-General at $4,000 a year?

Mr. ATKINS. My friend on my left [Mr. BRAGG] will answer that question.

Mr. BRAGG. On page 1093 of the Revised Statutes of 1878 the gentleman will find, under the head of "Salaries," the act repealing salaries of members of Congress and others, passed in 1874. There is this note:

The following schedules have been furnished by the First Comptroller of the Treasury, and are introduced here to show the reduction of salaries made by the above act.

In that schedule I find the following:

Postmaster-General, $8,000; Assistant Secretaries of State, $3,500; Assistant Secretaries of the Treasury, $4,500; Assistant Secretaries of the Interior, $3,500.

Mr. BLOUNT. Have not the law officers of the several Departments held that these salaries were reduced by the appropriation act of 1876?

Mr. ATKINS. That is true. But at any rate this repealing act of January 20, 1874, includes this class of officers beyond all question; and since that time there has never been an estimate beyond $3,500 for the salary of the First Assistant Postmaster-General or either of these other officers.

Mr. BAKER. In running through the schedule in the second revision of the statutes of the United States, as found on page 1093, I do not find anything which shows that the Assistant Postmasters-General are affected by the act repealing the increase of salaries of members of Congress and other officers.

Mr. ATKINS. I do not rest my argument upon that schedule at all.

Mr. BAKER. There is here a list of officers who are understood to be affected by the repeal; and in that list the gentleman will fail to find the Assistant Postmasters-General. Consequently I take it that the act of 1874 was not intended to change the law in reference to the amount of compensation that these officers should receive.

Mr. ATKINS. Allow me to ask the gentleman a question. Why has not the First Assistant Postmaster-General or his best friend on this floor (whom I take to be the gentleman from Indiana) insisted on an appropriation of $4,000 salary every year until now? I never heard of any such demand until last session.

Mr. BAKER. In answer to the accusation of being a friend of the First Assistant Postmaster-General—whatever that accusation may be worth—I have this to say——

Mr. ATKINS. I did not mean anything by that.

Mr. BAKER. I understood that. I was about to say that I suppose the First Assistant Postmaster-General has failed to make complaint in respect to this discrimination against him for the same reason that the ten attendants in the model-room who have received under the previous law the munificent sum of $900 a year, and who were reported at that rate in the bill prepared by the Committee on Appropriations and brought in at the last session, do not complain in regard to being now cut down to $800 a year. I suppose that these officers have not complained because they supposed they would be complaining to deaf ears.

All I desired was to bring to the attention of the House this gross injustice to an officer who is charged with high, responsible, onerous duties, much more laborious and responsible than are imposed on other officers who receive from $500 to $1,500 more per annum, and are subordinate to him in rank. I have brought this matter to the attention of the House not because I expected it would be acted upon favorably, but because I desire the country to take notice of the fact that this method of retrenchment which has been introduced here is "without rhyme or reason;" that it has no foundation unless it may be upon the principle of shutting your eyes and running a muck on some sort of arbitrary dead level; and if it proceeds on that theory I submit that there is no reason why the Auditor of Railroad Accounts, the Commissioner of Patents, and the Commissioner of Pensions should receive more than the First Assistant Postmaster-General, who has imposed upon him the great and responsible duty of supervising under the Postmaster-General the whole postal service of the Union.

Coming back, however, to the point of order, I submit that it will hardly do to say that those who were charged by act of Congress with the revision of our laws did not understand as well as my learned friend the scope and effect of this repealing law. It may be that the reviser was not a very wise man; that is possible; but I submit that having been charged with the duty of making this revision, of determining among other things what officers were affected by this repealing act, having had time allowed him to study the question more thoroughly than we can do here in this five-minute debate, it is quite prudent to assume that in this schedule and classification he has given the correct interpretation of the law.

Mr. ATKINS. Mr. Chairman, this matter is perfectly plain. The act of March 3, 1873, increased the salaries of various officers of the Government, beginning with the President, and including members of Congress, heads of Departments, and various other officers. The act of January 20, 1874, repealed that law in respect to all officers except the President of the United States and the justices of the Supreme Court, and the reason why the repeal did not apply to them was because under the Constitution their salaries cannot be reduced during their term of office.

Mr. BAKER. Is not the Comptroller of the Treasury charged under the law with the duty of determining the officers whose salaries are affected by this law, and has he not determined in a decision reported in the volume I hold in my hand that the act does not affect this officer?

Mr. ATKINS. Well, Mr. Chairman, I regret to know the fact that the Comptroller of the Treasury has left these officers out of that schedule. He left them out either by design or by accident. If he left them out by accident, then we should pay no attention to his action. If he left them out by design, he did so in the very teeth of the law itself. Here it is. It says that no officer shall be excepted from this repealing law except the President of the United States and the judges of the Supreme Court. It is for the gentleman to answer why the Comptroller of the Treasury did so. It certainly has no binding force on my conscience.

Mr. BLOUNT. In addition to the reason given by the gentleman from Tennessee who has just taken his seat, let me state that since that time the salaries of all the officers in the bill have been changed and a rule adopted by the law officers of the Government as to what was the law in reference to these salaries. That ruling applies to the officer in question and to all the other officers. I have heard no complaint that it was not the law, and we have gone on for years legislating on that theory. It has been so accepted by the country, and the question has been raised nowhere else except in this off-hand way on a point of order.

The CHAIRMAN, (Mr. CLYMER in the chair.) It is not the province of the Chair to decide the merits of the question. The point of order has been raised that this salary is fixed at $3,500, and that the amendment of the gentleman from Illinois is not in order because it does not tend to reduce expenditures. The Chair is of the opinion that the act of 1874, repealing the act of March 3, 1873, swept away this increase of salary of the Assistant Postmaster-General, and therefore he holds the point of order is well taken, and rules the amendment out.

The Clerk read as follows:

For Second Assistant Postmaster-General, $3,500; chief clerk, $2,000; chief of division of inspection and equipment, $2,000; seven clerks of class 4, one of whom shall have $200 additional as superintendent of railway adjustment; twenty-seven clerks of class 3; thirteen clerks of class 2; twelve clerks of class 1; four clerks, at $1,000 each; two assistant messengers; in all, $101,540.

Mr. SLEMONS. In line 1781 I move to insert "and $250;" so it will read, "Chief of division of inspection and equipment, $2,250."

This is for the chief of division of inspection and equipment, and I hope the chairman of the committee will accept it.

Mr. ATKINS. I should like to accommodate the gentleman, but I cannot do so. I will, however, at his request reserve the point of order.

Mr. SLEMONS. This officer, Mr. Chairman, has eighteen subordinates. He now only gets $2,000 a year, while the chief of division of the Third Assistant Postmaster-General, for the same service, gets $2,250. My amendment is to put this chief of division of the Second Assistant Postmaster-General upon the same footing with the chief of division in the office of the Third Assistant Postmaster-General, and therefore I have moved to add $250 to his salary.

Mr. ATKINS. I dislike to object to anything the gentleman seems to be in earnest about. Here the chief clerk only gets $2,000.

Mr. SLEMONS. That is the man I am speaking of. That is the man I am trying to put upon the same footing with the chief of division in the next paragraph.

Mr. ATKINS. As I understand it, the gentleman is not speaking of the chief clerk, but the chief of division.

Mr. SLEMONS. Yes; the chief of division of inspection and equipment.

Mr. CANNON, of Illinois. If the gentleman from Arkansas will yield, I should like to make a statement on this subject.

Mr. SLEMONS. I will yield to the gentleman from Illinois.

Mr. CANNON, of Illinois. I know, Mr. Chairman, the duties of this chief of division of inspection and equipment under the Second Assistant Postmaster-General. The other chiefs of division get $2,250. This chief of division of inspection and equipment has important duties to perform. The payments for star service and railway service are made upon his certificates. All fines, forfeitures, and remissions are made on his certificates. Eighteen of the clerks in this bureau are under his supervision—three-fourths of the whole number; and I have no hesitation in saying the duties of his office are more important than any other.

Mr. ATKINS. More important than the chief clerk of that bureau?

Mr. CANNON, of Illinois. Yes, sir, decidedly more important, requiring legal ability, honesty, and constant work. I have had occasion from time to time to examine with reference to this subject, and I therefore speak advisedly about it. It is true that the amendment is subject to the point of order, but the object of the remarks I am making is if possible to have the gentleman from Tennessee refrain from insisting on that point of order.

Mr. SLEMONS. I hope the gentleman will not insist upon it.

Mr. ATKINS. I regret my attention was not called to the subject sooner, so I might have investigated the particular duties of this officer more than I have. After having said what I deemed necessary I will not make the point of order, but leave the question to the House to vote upon it.

Mr. SLEMONS. Here is a full statement of this officer's duties and he is certainly entitled to the increase I propose.

Mr. SLEMONS's amendment was agreed to.

The Clerk read as follows:

For Third Assistant Postmaster-General, $3,500; chief clerk, $2,000; chief of division of dead letters, $2,250; chief of division of postage-stamps, $2,250; five clerks of class 4; fourteen clerks of class 3; twenty-two clerks of class 2; thirty-three clerks of class 1; six clerks, at $1,000 each; fifty-six female clerks, at $900 each; three assistant messengers; for seven laborers; four female laborers, at $480 each; in all, $176,900.

Mr. MONEY. I move, on page 73, line 1793, to strike out the word "five" and insert "six;" in the same line strike out "fourteen" and insert "sixteen;" in line 1794, after the word "twenty," strike out "two" and insert "five;" and in same line strike out, after the word "thirty," the word "three," and insert "four;" and in line 1796 strike out the word "six," after the word "fifty," and insert "seven;" on page 74, line 1799, strike out the word "seventy-six" and insert "eighty-nine;" after the word "thousand," in the same line, strike out the word "nine" and insert "five;" and at the end of the paragraph add "$2,000 of which shall be immediately available for temporary clerks;" so it will read:

For Third Assistant Postmaster-General, $3,500; chief clerk, $2,000; chief of division of dead letters, $2,250; chief of division of postage-stamps, $2,250; six clerks of class 4; sixteen clerks of class 3; twenty-five clerks of class 2; thirty-four clerks of class 1; six clerks, at $1,000 each; fifty-seven female clerks, at $900 each; three assistant messengers; for seven laborers; four female laborers, at $480 each; in all, $189,500; $2,000 of which shall be immediately available for temporary clerks.

Mr. MONEY. I ask the gentleman in charge of the bill to accept the amendment. I think I can show very clearly to the House the necessity for this increase of force.

Mr. ATKINS. I am aware that during the last session of Congress there were several laws passed which probably will require an increase of force in the Post-Office Department. I have looked into the subject somewhat and I am satisfied that an increase of force is needed for three or four reasons. They need an increase of force with reference to the registration of mail matter; and since we passed a law requiring subcontractors to draw their pay immediately from the Government, not allowing them to collect it from postmasters, an increase of force is needed on that account. There are two or three other laws which were passed, I am aware, which I feel satisfied will require an additional force. But, sir, this proposition has not been submitted to any committee and I for one do not feel willing to take the responsibility of accepting it; nor do I feel willing to make any serious opposition to it until I hear it discussed upon the floor. If there is really a great necessity for this increase of force it will be for the House to determine accordingly. The amendment is not liable to a point of order.

Mr. MONEY. I think I can show to the House in a very few minutes the necessity for this increase of force. It is the result of new legislation subsequent to the estimate of the Third Assistant Postmaster-General laid before the Committee on Appropriations. One portion of this new legislation is the act requiring the international postal cards in fulfillment of the agreement at the Paris convention, last year, of the several powers represented in the postal union. An increase of force is rendered necessary in consequence of these international postal cards, which must be distributed over the country as they are demanded, just as other postal cards are. Another part of this new legislation is the law passed last year to protect the rights of subcontractors, who are frequently swindled by contractors out of their pay. This makes a number of new deposit offices, the accounts of which are kept in the office of the Third Assistant Postmaster-General. Up to the time of the passage of that law there were in the United States thirty-two hundred of these deposit offices. In consequence of that law that number has been increased to ten thousand, the number being more than trebled. I will explain the reason of this increase. Every contractor is the agent of the Post-Office Department to collect quarterly the sums due from the different postmasters on the routes he supplies; but the subcontractor is not the agent. The contractor is a bonded officer of the Department, and the subcontractor is not. This law protects the rights of the subcontractor but does not in any degree constitute him an agent of the Post-Office Department.

Now, for instance, one contractor may have contracts on a thousand

routes and may subcontract every one of them. One firm in this city has six hundred and twenty-seven and has subcontracted six hundred and ten of them. Under the old law there was only one account kept with a contractor and one warrant issued at each quarterly payment. Under the new law accounts must be kept with each one of these subcontractors and a warrant issued to each one of them quarterly. As soon as the subcontractor files his contract, as the law permits him to do, the office of the Third Assistant Postmaster-General is compelled to open an account with every one of these subcontractors. You will see how this largely increases the work of the office. The collection of these sums is part of the business of the Sixth Auditor of the Treasury, but the accounts of the deposit offices are kept by the Third Assistant Postmaster-General.

Then, again, in the Post-Office bill passed at the close of the last session it was provided there should be a special stamp for letters that had not been fully paid. Heretofore the postmasters simply collected the overdue postage; now he is by law obliged to use a special stamp which cannot be used for any other purpose. He is charged with this, and must account for the money; and that increases the work in this office.

Mr. ATKINS. I ask the gentleman to explain as to the registration of third-class mail matter.

Mr. MONEY. I was coming to that. By regulation of the Post-Office Department the Postmaster-General has extended the system of registration to third-class mail matter, which includes all kinds of merchandise, with some exceptions, such as glass, liquids, and other articles which would destroy or injure the contents of the mail-bags. That has gone into extended operation, to the great enhancement of the revenues of the Department, and of course additional clerical force is demanded for that service.

Then there is another thing. One out of every two hundred and eighty-four letters in the mail goes to the Dead-Letter Office, being about the smallest average of any country in the world except Germany. These letters have to be handled and special stamps have to be affixed, and this entails more work on the Department of the Third Assistant Postmaster-General, who must not only handle the stamps, but return proper credits for them.

Then, again, an additional clerical force is rendered necessary by the increase of postal business, which is immense. It increases not only with the increased number of offices but with the increased miles of mail-routes. Last year we added between six hundred and seven hundred new mail-routes, which involved at least an equal number of new offices. And the business of the old offices increases as more people take newspapers and as there is more social and business correspondence.

[Here the hammer fell.]

Mr. CANNON, of Illinois, obtained the floor, and said: I yield to the gentleman from Mississippi that he may complete his statement.

Mr. MONEY. I thank the gentleman for his courtesy. I have very little more to say to the House.

Mr. ATKINS. If the gentleman is through upon that point, I would like him to explain as to the stub-books of the Department.

Mr. MONEY. In the law of 1874 the postage on periodicals sent by the mails is changed. Instead of its being paid by each subscriber the law provided that periodical literature of a certain class, coming within certain conditions, should be admitted at a postage rate of two cents a pound.

It is provided by law that the mails shall be weighed, and publishers pay the amount of postage each day or each week to the postmaster and take his receipt therefor, and then the postmaster is required to affix a stamp of the value of the postage paid to a stub-book made for the purpose and to cancel the stamp affixed as stamps on letters are canceled. Now, it has been discovered by the special agents of the Department that this law has been disregarded in a great degree. There are in the United States four thousand post-offices where newspapers are mailed, and in a great many cases the postmasters have received money for postage, but they have failed to affix the stamps, and very frequently when they have affixed the stamps they have failed to cancel them, and the consequence is that the Government has been defrauded of this revenue. This is especially onerous, because this class of mail matter amounts to nine-tenths of the mail matter carried annually, and it yields us only about one-thirtieth of the postal revenue.

Now the Postmaster-General has called in the stub-books from which these receipts are issued to be examined. There are four thousand of them which it will be necessary to examine; and immediately upon the beginning of the examination of these books it was discovered that very few had been kept correctly. Not only was it discovered that in many cases the stamps were not canceled, but also that none were sometimes affixed, although the Postmaster had received the money for them. The work of examination has shown in some cases that not only was the postmaster behind in his account but also in his General Post-Office account and in his money-order account.

In consequence of this examination there has been a great saving to the Government. Why, one book shows a loss to the Government of over $400. Immediately upon the call for these stub-books the postmasters began to write most urgently for these special stamps.

This new legislation requires additional force, but it also brings a large revenue to the Government; and although this amendment will involve an additional expense for nine clerks, yet the truth is there will be a saving of hundreds of thousands of dollars annually. In the matter of the pay of the fourth class of postmasters the saving was over $600,000, and it certainly will be a million in the next year.

Mr. ATKINS. Will the gentleman state to the committee whether he has any official communication from the Department on this subject?

Mr. MONEY. I have here a letter from the Postmaster-General to Hon. SAMUEL J. RANDALL, transmitting a letter from the Third Assistant Postmaster-General. I have changed in the amendment the estimate submitted in one particular, naming the grade of one of the nine clerks asked for in the amendment, and I did that because it was suggested in a note from the Postmaster-General.

Mr. CANNON, of Illinois. I desire, with the gentleman's permission, to make a single statement. I have looked into this matter of an increase of clerks and indorse what the gentleman from Mississippi [Mr. MONEY] says. I have no doubt on an examination that an increase of clerks is required for the good of the service in the office of the Third Assistant Postmaster-General.

Mr. ATKINS. Does the gentleman think an increase of nine clerks is required?

Mr. CANNON, of Illinois. I think so for two reasons. The gentleman from Mississippi [Mr. MONEY] has already spoken of the purpose for which they are required, and they are required for the especial reason that in this bureau, if you will go back and examine the reports, you will find that it has been conducted in a most economical and business-like manner.

It is not for me to say that it requires just eight, nine, or ten clerks; but taking the facts together, the change of the law, the work to be done, and the previous history of the transactions of this bureau, especially since the present chief has been at its head, I am satisfied that the increase should be granted.

Mr. MANNING. In regard to the increase of the clerical force, a statement is made in reference to an increase of work on account of the act passed in 1878—the law in reference to the subletting and transfer of mail contracts.

Mr. MONEY. I said that in consequence of this law that was passed it required an increase of deposit offices, and the number was increased to ten thousand.

Mr. MANNING. More than three times as many.

Mr. MONEY. I did not say that.

Mr. MANNING. Can you tell me now if that is so?

Mr. MONEY. No, sir.

Mr. MANNING. Then you do not know what increase of force should be made in that division?

For the information of the House I will read what the Third Assistant Postmaster-General said in his report made last year to the Forty-fifth Congress:

> The action of the last Congress relative to subletting or transfer of mail contracts, (act approved May 17, 1878,) whereby payments for mail service are made to the subcontractors, has more than quadrupled the work of the division of finance, and renders it absolutely necessary that the number of clerks of this division be increased. It is estimated that an increase of four will be sufficient to properly perform the additional labor imposed by said act.

Now, you will see upon the face of this report of the Assistant Postmaster-General—and I will be glad if the gentleman from Illinois will explain it if he can, for I perceive he is conversant with these matters—that four clerks only are asked for. It is said that the work of the finance division has been quadrupled. Now, we know the number of clerks in that division, and multiplying it by four we shall then find out what increase should be made.

Mr. CANNON, of Illinois. That is not the only increase he asks for.

Mr. MANNING. I have read all that he said on that subject.

Mr. CANNON, of Illinois. But since that report was made there has been legislation for special stamps for unpaid letter postage.

Mr. MANNING. The gentleman is not so familiar with this matter as I apprehended he was. For the benefit of the gentleman I will read what the Third Assistant Postmaster-General said only a few days ago. I suppose that will come within the scope of the recent law to which the gentleman refers.

It is due to myself to say that not until within the past few moments did I see this letter. I suggested to the chairman of the Committee on Appropriations [Mr. ATKINS] that he should call for some specific information touching this matter. I have inquired of my friend from Mississippi [Mr. MONEY] in vain for that information. I now go to the Third Assistant Postmaster-General to see if I can obtain any light from him. If the House will give attention while I read from his letter, members will see that he recedes from the position taken in the report submitted by him to the Postmaster-General and by the Postmaster-General transmitted to the Speaker of this House. He does not say now that the duties of that branch of the service have been quadrupled. This last law has been passed since he made the report in which he would have the House infer that the labors of this division have been increased. The man who now makes the report says that it is only trebled instead of quadrupled.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ATKINS. I will yield to the gentleman my time.

Mr. MANNING. I thank the gentleman. I understand that there are from eight to ten clerks in that division. Now, if the duties of the division have been quadrupled, then it would require four times that number of clerks, or from thirty-two to forty clerks.

Mr. MONEY. What is the date of the letter to which the gentleman refers?

Mr. MANNING. April 8.

Mr. MONEY. What is the date of the estimate?

Mr. MANNING. I do not know; I am reading from the letter of April 8, 1879.

Mr. ATKINS. The estimates were sent in on the 1st of December last, in connection with the printed report of the Postmaster-General of the Forty-fifth Congress.

Mr. MONEY. The report says that it quadrupled the work.

Mr. MANNING. No sir. If the gentleman from Illinois [Mr. CANNON] is right, then I would be glad to be set right myself. I want to know the facts before I vote for an increase of the clerical force in this division or in any other division. I go to your witness, and the presumption is that he knows the wants of his Department better than you or any other man on this floor. I have inquired of him through his letter, and I ask gentlemen to listen to what he says on that subject:

The act of May 17, 1878—

That is the act which is referred to here in the printed report:

The act of May 17, 1878, for the protection of subcontractors for mail service authorizes the payment of them directly upon their filing with the Department a copy of the subcontract with the original contractor.

Frequently many routes are held by a single contractor, and under the old system he was compensated for them all by a single draft or warrant.

He then goes on to talk about the increased work of this division, and says:

The depositing offices have more than trebled in number by the change.

The inference is that the work has been increased to that extent. Now I have this suggestion to make, and it is the only one I propose to present to the House, it is that when the Third Assistant Postmaster-General makes a report to this House he should know just what he wants and should be able to state intelligibly and advisedly what is needed. It does not appear that he has done so. If gentlemen can make it so appear, I would be glad to have them do it.

Mr. MONEY. I can make the House understand it; whether it will satisfy my colleague [Mr. MANNING] or not I cannot tell.

Mr. ATKINS. I wish simply to make a suggestion. I am pretty certain that this additional legislation will require some additional force. If the force that is now in the Post-Office Department should be confined in the future to only those labors that they have been confined to in the past, and if the Post-Office Department as well as all the other Departments of this Government should continue from day to day, and week to week, and month to month, and year to year, and from four years to four years, to disregard section 162 of the Revised Statutes, which requires the clerks in the Departments to be employed for ten hours a day from April to October and for eight hours a day from October until April—if they shall continue to disregard that section, then I am satisfied that this additional legislation will require some additional force.

The gentleman from Mississippi [Mr. MANNING] very pertinently remarked that this matter has not been subject to the examination of any committee; it has undergone no investigation. It comes to us simply by a letter from the Third Assistant Postmaster-General, communicated, it is true, through a letter from the Postmaster-General. But no investigation has been had of this matter. While I am willing and anxious that the good of the service shall be promoted not only in this Department but in every other Department of the Government, I am not willing for so large an increase of force to be provided for until some further and better investigation of this matter has been had either by this House or by Congress.

The suggestion I rose to make is simply this: while I do not approve of the practice, have been opposed to it all the time, of the Senate offering amendments to appropriation bills, yet they constantly do so, whether I am opposed to it or whether this House opposes it; they have a way of their own. I suggest to the gentleman from Mississippi who offered this amendment [Mr. MONEY] to let the matter go over. And if in the judgment of the Committee on Appropriations of the Senate or of the Post-Office Committee of the Senate, after they have looked into this matter and investigated it, it is deemed proper to provide for this additional force to perform the additional duties imposed by the recent act of Congress, then it can be done. But I would say that I think it likely that some additional force will be required.

Mr. CANNON, of Illinois. Mr. Chairman, before I get through I desire to have read, for the information of the Committee of the Whole, the letter which has been talked about by the gentleman from Mississippi, [Mr. MANNING,] and only garbled.

Mr. MANNING. The remark of the gentleman from Illinois, when he speaks of my having "garbled" that letter, is entirely gratuitous. I have "garbled" nothing. I have read every sentence of the letter of the Assistant Postmaster-General bearing on this subject.

Mr. CANNON, of Illinois. I do not yield to the gentleman; he declined to yield to me. If the word "garbled" is offensive to him I withdraw it, and I will say that he only read extracts from the letter when we ought to have read the whole of it.

The gentleman said he perceived I had no knowledge about this matter, though I professed to have knowledge.

Mr. MANNING. I did not say that.

Mr. CANNON, of Illinois. Did you not?

Mr. MANNING. No, sir. I said I observed that the gentleman was not so familiar with the matter as I had hoped he was.

Mr. CANNON, of Illinois. And then the gentleman "sat down" on me before I could answer his question. [Laughter.]

I wish to say there has been additional legislation requiring this additional force; and I believe it ought to be granted. Personally I do not care any more than any other member of this House whether it be granted or not. I believe, however, that it will save money to the Government—ten, twenty, fifty times the amount it will cost. I ask unanimous consent that my time be extended until the letter of the Third Assistant Postmaster-General touching this subject can be read. It treats these points more concisely than I or my friend from Mississippi can do.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. MCKENZIE. Let it be printed in the RECORD.

Mr. CANNON, of Illinois. The House ought to hear it.

Mr. MCKENZIE. I object.

Mr. CANNON, of Illinois. Then let the Clerk proceed with the reading, and I will see whether I cannot get the time necessary to read the whole of it.

The Clerk proceeded to read the letter, but before he had concluded——

The CHAIRMAN said: The time of the gentleman from Illinois has expired.

Mr. TOWNSHEND, of Illinois, obtained the floor, and yielded his time to Mr. CANNON, of Illinois, at whose request the reading was continued until the hammer again fell.

Mr. TOWNSEND, of Ohio, obtained the floor and said: I yield my time to the gentleman from Illinois, [Mr. CANNON.]

The CHAIRMAN. The Chair will state there is no rule that allows yielding in this way.

Mr. CANNON, of Illinois. Then I ask the gentleman from Ohio to have the remainder of the letter read in his own time.

Mr. MILLS. Let it be printed in the RECORD.

The CHAIRMAN. The rule regulating debate on amendments in Committee of the Whole allows five minutes on one side to a gentleman supporting an amendment and five minutes to some gentleman opposing it.

Mr. MILLS. I suggest that the letter be printed in the RECORD, so that we may see it to-morrow morning.

There being no objection, it was ordered accordingly.

The letter is as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., April 8, 1879.

SIR: I have the honor to transmit herewith a communication from the Third Assistant Postmaster-General, requesting an increase of the clerical force of his office, and, for the reasons he has shown, to urgently recommend that his request be favorably considered by the House of Representatives in connection with the pending bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

I have the honor to be, very respectfully, your obedient servant,

D. M. KEY,
Postmaster-General.

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives.

POST-OFFICE DEPARTMENT,
OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., April 8, 1879.

SIR: On the 6th day of January last I had the honor to invite your attention to the inadequacy of the clerical force of this office to properly conduct the work devolving upon it. My communication was referred, with your favorable indorsement, to the Committee on Appropriations of the House of Representatives; but no provision was made for an increase of force in the legislative, executive, and judicial appropriation bill of the late session of Congress, and which failed to become a law. As the bill (H. R. No. 2) is again about to be considered in the House of Representatives I beg to renew my recommendation of the date mentioned and to call attention, not only to the necessities existing at that time, but to those growing out of the subsequent legislation of Congress, as follows:

First. The act of May 17, 1878, for the protection of subcontractors for mail service authorizes payment to them directly upon their filing with the Department a copy of the subcontract with the original contractor. Frequently many routes are held by a single contractor; and under the old system he was compensated for them all by a single draft or warrant, while under the new law for each route there must be a draft in favor of the subcontractor and another for the original contractor for the balance remaining due of the contract price. The drafts and warrants which are issued by this office were thus multiplied in accordance with the number of routes held by single contractors and by the number of subcontractors employed under them. Again, collection orders are not issued on subcontractors for balances due by post-offices on their routes as is the case with original contractors performing service, and such offices are accordingly required to deposit their surplus funds with designated depository post-offices. The depositing offices have been more than trebled in number by the change. The deposit accounts are kept by this office while the collection orders are issued by the Auditor's; and hence any diminution that may occur in the latter does not offset the increase in the former so far as the labors of this office are concerned. The law is, however, an excellent one and goes far to protect a worthy class of servitors.

Second. On the 1st of October last, the registry system, previously confined to matter chargeable with letter rates of postage, was extended to third-class matter, a measure that has met with great popular favor and yielded no small revenue. It has, of course, increased the labors of the registry division; but, as it has been demonstrated that the registry system is a profitable one, there can be no economy in withholding the means required to conduct it efficiently.

Third. The act of June 23, 1874, for the collection of postage on second-class matter, provided that such matter should be weighed in bulk at the office of mailing, and the postage prepaid with a special adhesive stamp to be disposed of in the discretion of the Postmaster-General. Under the plan adopted the publisher or news agent is given a receipt for the amount of postage due on each consignment of matter, and the stamps are affixed to the stub of the receipt and canceled by the postmaster, who also enters on the stub a memorandum of the transaction, showing

the weight and character of the matter and the amount of postage collected. The stubs, in book form, remain in the post-office, subject to production when called for. If the postmaster affixes and cancels the proper amount of stamps, the Department gets the proceeds, the stamps being charged to his account; but if he fails to do this, he is guilty, whether intentionally or not, of misappropriating the public money. There being reason to believe that many postmasters were thus guilty, some perhaps with criminal intent, but more from negligence, it was determined, early in the past winter, to require the return to the Department, as fast as they could be handled, of all stub-books in use since the law went into effect. The task promised to be no small one. There are about thirty-nine hundred cities and towns at which publications are issued, and the work involved an examination of every transaction with publishers and news agents for a period of four years. Thus far comparatively slight progress has been made, owing to the limited clerical force at command; but present results show the work to be a very profitable one. Many stub-books returned contain no stamps, although showing entries of collections in others, the stamps though affixed had not been canceled and might have been used again; and from not a few postmasters came urgent requisitions for stamps to remedy past delinquencies before answering the call for their books. In one case the books of an office, procured through a special agent, showed collections to the amount of $558.31 and stamps (but few of which were canceled) only to the amount of $246.87, a deficiency of $311.44, which the postmaster has been required to make up. In another instance, the failure of a postmaster to respond to repeated demands for his books led to a visit from a special agent and to the discovery not only of a delinquency in this particular matter but that he was a defaulter in both his postal and money-order accounts. The return of the stub-books, besides resulting in the collection of a large amount of revenue that would otherwise have been lost, will in the future have a most beneficial effect in insuring more prompt and faithful attention in a matter so largely dependent upon the discretion of postmasters and in which the Government has large interests at stake. It is to be hoped that the necessary help will be granted to secure an early completion of the work.

Fourth. Section 26 of the "act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," provides for a special stamp for the collection of partially prepaid postages at the office of delivery. At present this postage is collected in money, if at all, and its return to the Government depends upon whether the postmaster sees fit to charge himself with the amount in his account current. By affixing the special stamp before the delivery of the letter, under the new law, he must necessarily account for the proceeds, these stamps, like all others, being charged to him when issued. In addition to the labor imposed by the issuance of these stamps will be that of reporting credits to the Auditor for such of them as may be sent to the Dead-Letter Office on undelivered matter. The new law is sure to result advantageously to the postal revenues, and due means should be provided for carrying it into effect.

Fifth. By section 1 of the act referred to the Department is required to provide postal cards especially for international correspondence under the Paris treaty, and steps have already been taken toward their early introduction. Their issue will furnish a new element to the labors of this office.

Sixth. Under section 32 of the same act the Department is authorized, in the discretion of the Postmaster-General, to issue stamped letter sheets, return postal cards, and return letter envelopes. Should it be decided to adopt these articles, or any of them, I beg that it be done in full view of the fact that their issue, liable as they are to be called for by every postmaster in the country, will be attended by a very large addition of clerical labor. If it was meant by Congress that the Department should avail itself of the authority conferred by the section there should be no hesitation in providing the means for carrying it into effect.

Seventh. In addition to the special causes already enumerated there is to be considered, also, the general increase of the business of the Department, as set forth in the annual reports. The registry business for the fiscal year ending June 30, 1878, shows an increase of 13 per cent. over the preceding year. The number of requisitions for postage-stamps, &c., filled during the year mentioned was 418,302, an increase of 28,064, or more than 7 per cent. The increase of business is general throughout the whole postal service, which must necessarily keep pace with the growth and development of the country.

In view of the foregoing, I would respectfully request that authority be granted for the employment of the following additional clerks in this office, namely: one of class 4, two of class 3, three of class 2, and three of class 1.

The modification in numbers from my recommendation of the 6th of January last is occasioned by legislation not then anticipated. In the present estimate I have taken account only of the labor that cannot be avoided, and have made no allowance for that which is left discretionary. The increase solicited is not in proportion to the increase of labor lately imposed, and is only about 6 per cent. of the number now employed. Except for the relief that is to be anticipated from the discontinuance of official postage-stamps a much larger increase would have been needed.

Regarding salaries, it will be observed in the appropriation bill that the office now has an undue proportion of clerks of the lower grades. This application is made with the single desire of best subserving the public interests; and as an evidence that the office is administered economically, I desire to quote the following paragraph in my last annual report:

"The appropriations for the service of this office during the fiscal year ending June 30, 1878, amounted to $1,151,150, and the expenditures to $752,232.01, leaving an unexpended balance of $398,917.99, or 34.6 per cent. of the appropriations. This large saving was principally due to the fact that shortly subsequent to the time the appropriations were made new contracts were entered into for adhesive postage-stamps, postal cards, and other supplies, at a large reduction from the old contract rates on which the appropriations were based."

I may also be permitted to state that at the last session of Congress every dollar of the estimates for this office was allowed by the Committee on Appropriations in reporting the Post-Office appropriation bill to the House of Representatives.

I have the honor to be, very respectfully, your obedient servant,

A. D. HAZEN,
Third Assistant Postmaster-General.

Hon. D. M. KEY,
Postmaster-General.

Mr. ATKINS. If it is the wish of the committee to have a vote on this proposition now, I am willing. [Cries of "Oh, no!"] I move, then, that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the State of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FISHER, for two days;

To Mr. BALLOU, indefinitely, on account of sickness in his family; and

To Mr. LOUNSBERY, for six days, on account of important business.

Mr. ATKINS. I move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: The petition of James P. Wolverton, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. BAYNE: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, for the passage of such measures as aim to correct the evils of the present carrying system and to protect the people against illegal discrimination and oppressive monopolies—to the Committee on Commerce, when appointed.

By Mr. COBB: The petition of citizens of Sullivan County, Indiana, for the passage of the Reagan interstate-commerce bill—to the same committee, when appointed.

Also, the petition of Pleasantville Grange, Sullivan County, Indiana, of similar import—to the same committee, when appointed.

By Mr. DE LA MATYR: The petition of Calvin Monroe, for a pension—to the Committee on Invalid Pensions, when appointed.

By Mr. ELLIS: Papers relating to the claim of L. Madison Day—to the Committee of Claims, when appointed.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, for the passage of such measures as aim to correct the evils of the present carrying system, and to protect the people against illegal discrimination and oppressive monopolies—to the Committee on Commerce, when appointed.

By Mr. FINLEY: The petition of 25 members of Pleasant Hill Grange, Hardin County, Ohio, for the passage of the Reagan interstate-commerce bill—to the same committee, when appointed.

By Mr. FISHER: The petition of John B. Welch, postmaster at Burnt Cabins, Pennsylvania, to be relieved from accounting for $65 in postage-stamps, stolen from that office by robbers on the night of March 15, 1879—to the Committee on the Post-Office and Post-Roads, when appointed.

By Mr. REAGAN: The petition of A. D. Holmes, George W. Roberts, J. R. B. Barbee, and 79 others, citizens of Houston County, Texas, for the relief of the three first-named persons from liability on a bond for carrying United States mails—to the same committee, when appointed.

Also, the petition of A. D. Holmes, George W. Roberts, R. B. Barbee, and 68 others, citizens of Houston County, Texas, of similar import—to the same committee, when appointed.

IN SENATE.

FRIDAY, *April* 11, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Postmaster-General, transmitting, in compliance with a resolution of the Senate of the 9th instant, information in regard to the ruling of his Department relative to the transmission of the Citizen Soldier, a newspaper published in the city of Washington, through the mails at the same rates of postage accorded to other newspapers, &c.

Mr. FERRY. The chairman of the Committee on Post-Offices and Post-Roads is not in his seat. I hope the communication will be printed.

The VICE-PRESIDENT. The communication will be printed and laid on the table.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of Thomas N. McCaffrey, of Knox County, Tennessee, a lieutenant in Company D, Fourth Tennessee Infantry in the war of 1846, praying to be restored to the pension-roll; which was referred to the Committee on Pensions.

Mr. WALLACE presented the petition of John T. McDaniel and others, citizens of Carbon County, Pennsylvania, praying for the passage of a law granting a pension to Aaron Snyder, late a private in Company A, Second Regiment Pennsylvania Volunteers; which was referred to the Committee on Pensions.

Mr. HAMLIN. I present certain resolutions adopted by the Legislature of Maine, relating to the termination of articles 18 and 21 of the treaty of 1871 with Great Britain, known as the treaty of Washington.

The VICE-PRESIDENT. The resolutions will be referred to the Committee on Foreign Relations.

Mr. HAMLIN. I was about to remark, if the Chair will pardon me a single moment, that the resolutions favor the termination of those two articles in the treaty, and they instruct myself and colleague and request the members of the House from Maine to favor any legislation tending to that end. As I believe both my colleague and myself are in favor of the proposition we shall have no trouble in obeying the instructions in this case.

REPORTS OF COMMITTEES.

Mr. HARRIS. The select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to which was referred the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, instructed me to refer the same to the National Board of Health for its investigation. It is reported back by the National Board of Health to the committee, and the committee instruct me to report the bill to the Senate. I move that it be reprinted and recommitted to the Select Commitee on Epidemic Diseases.

The motion was agreed to.

NATIONAL BOARD OF HEALTH.

Mr. GARLAND. I am instructed by the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases to report a joint resolution, and I ask its present consideration.

The joint resolution (S. R. No. 20) relating to the organization of the National Board of Health was read three times and passed, as follows:

Whereas the National Board of Health met in Washington on Tuesday, the 1st of April, 1879, and proceeded immediately to organize and act under the law establishing such board, and so continued from day to day until Saturday, the 5th of said month; and

Whereas the members in attendance who have been appointed on such board by the President, through inadvertance failed to take the oath of office prescribed by law, whereby the validity of the previous action of such board has been brought in question: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That such organization and action be, and the same is hereby, ratified, and that the members of such board shall be entitled to compensation just as if they had been duly qualified previously to entering upon their duties.

BILLS INTRODUCED.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 394) for the relief of John Friery; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 395) for the relief of W. W. Mills; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 396) for the relief of Ethan A. Sawyer; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 397) for the relief of certain naval officers; which was read twice by its title, and, with the accompanying memorial, referred to the Committee on Naval Affairs.

Mr. SLATER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 398) to restore to William G. Langford the possession of a tract of land in Idaho Territory; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 399) for the relief of Alexander McNary and John H. Taylor; which was read twice by its title, and referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PADDOCK, it was

Ordered, That the memorials and petitions of citizens of Omaha, and other papers relating to the establishment of a branch mint at Omaha, Nebraska, be taken from the files of the Secretary and referred to the Committee on Finance.

Ordered, That the memorials, petitions, and other papers relating to the removal of the Santee Indians from their present location, be taken from the files and referred to the Committee on Indian Affairs.

Ordered, That the petitions of citizens of Nebraska, relating to a change of the rule of examination of applicants for pensions, be taken from the files of the Secretary and referred to the Committee on Pensions.

On motion of Mr. DAWES, it was

Ordered, That the papers relating to the application for relief of Laban Heath & Co. be taken from the files of the Senate and referred to the Committtee on Claims.

On motion of Mr. INGALLS, it was

Ordered, That Dr. James Rose, late of the Ninth Wisconsin Volunteers, have leave to withdraw his petition for a pension from the files of the Secretary of the Senate, and that the same be referred to the Committee on Pensions.

PENSIONS TO MEMBERS OF SIGNAL CORPS.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases be instructed to inquire into the expediency of granting a pension to the heirs of William McElroy, who died in Memphis, September 1, 1878, and of Joseph F. Tenney, who died at Vicksburgh, September 4, 1878, and of Joseph Cashel, who died in New Orleans, October 2, 1878, members of the Signal Corps, who lost their lives by yellow fever while courageously discharging their duties during the prevalence of that epidemic under such circumstances as seem to call for public recognition, and especially as some of the relatives, fathers and mothers, of the deceased are understood to be left in destitute conditions of life.

LEGISLATION ON APPROPRIATION BILLS.

The VICE-PRESIDENT. Is there further business for the morning hour? If not the Senate will proceed to the consideration of its unfinished business, being the Army appropriation bill, which under the understanding of yesterday will be informally laid aside, and the Senator from West Virginia [Mr. HEREFORD] will be recognized.

Mr. HEREFORD. Mr. President, I ask the Secretary to read the resolution on which I propose to address the Senate.

The VICE-PRESIDENT. The resolution will be reported.

The Chief Clerk read the following resolution, submitted by Mr. HOAR on the 21st of March:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and if persisted in must lead to the overthrow of constitutional government and the destruction of the national life.

The VICE-PRESIDENT. The Senator from West Virginia calls up for consideration the resolution just reported. The question is, Will the Senate agree to the same?

Mr. HEREFORD. Mr. President, on the 21st of March the Senator from Massachusetts [Mr. HOAR] introduced into this body the resolution which has just been read. On the 25th of the same month he delivered in this presence an elaborate and carefully prepared speech, in which we find among other statements the following:

The purpose of our assembling is not chiefly a legislative purpose. It is, if I am right in my view of it, an attempt, by a simple but most effective process, to do away with that clause in the Constitution which provides that it shall be amended only by the assent of two-thirds of each House and three-fourths of the States, and that no amendment shall deprive any State of its equality in the Senate without its consent. The power which rightfully can be transferred from the President only by three-fourths of the States and from the Senate by the unanimous consent of all, it is proposed to get into the hands of one House by a very simple and effective process.

Further on he says:

It is now proposed to declare that neither he nor the judges shall receive this compensation—

Referring to their salaries—

unless he will flatly violate this clause and sign a bill he does not approve. This is a scheme to coerce the President, not in his executive capacity, but in his function as a part of the Legislature.

This, Mr. President, is a remarkable resolution, and it was followed by a remarkable speech; a speech especially remarkable coming from the source it does. What is the question presented to us? What is it that is unconstitutional and revolutionary? The last House of Representatives had before it two bills; one for the support of the Army upon which after making all the necessary appropriations it ingrafted a provision providing in substance that no part of the Army should on the day of election be at a place where any general or special election is being held in a State "unless it be necessary to repel the armed enemies of the United States," and which further imposes a penalty for a violation of the provision.

The House of Representatives also had before it another bill, making appropriations for the legislative, executive, and judicial expenses of the Government. All the money for the support of the Government was appropriated that was asked for—the last dollar. To that bill was attached the repeal of the iron-clad oath which jurors in the United States courts may be required to take at the will of the judge presiding, by which nine-tenths of all the white men in the States lately composing the southern confederacy are excluded from the jury-box; and, also, another provision repealing certain provisions authorizing the appointment and pay of supervisors of elections and deputy marshals for the same purpose. This attempt to keep the Army away from the polls and to give a free and a fair jury, a free and a fair election, is what is called unconstitutional and revolutionary, in the language of the Senator's resolution.

The *gravamen* of his charge is not that it is wrong, revolutionary, or unconstitutional to repeal these obnoxious laws, but that it is unconstitutional and revolutionary to add such provisions to an appropriation bill, and "if persisted in," he says, "must lead to the overthrow of constitutional government and the destruction of the national life."

Mr. President, this, as I said before, is a remarkable speech coming from the Senator from Massachusetts, [Mr. HOAR,] who in 1872, with his colleague, [Mr. DAWES,] whom I see sitting before me to-day, were members of the House of Representatives. What is the history of this subject of tacking general legislation on appropriation bills? I shall not take the time of the Senate to run over them and cite any considerable number of cases. I shall only cite a few prominent ones here and there, commencing first with the bill that was originated in the House of Representatives in 1872, making appropriations for the sundry civil service of the Government to which a provision was added by the Senate which extended the law appointing these supervisors all over the country. Prior to that date these supervisors, as the law then stood, could only be appointed in cities containing over twenty thousand inhabitants, but that did not answer the purpose. They sought to extend this as I believe unconstitutional legislation, and if I had the time I could show it to be so, all over this country and to supervise all elections at which a member of Congress or a President was to be elected.

Let us see the history of that legislation. Bear in mind that this was in 1872. The bill passed the House in 1872 without any such provision upon it. It came to this body, and what was done? The Senator from Louisiana [Mr. KELLOGG] offered what was known as the Kellogg amendment, by which the law concerning these supervisors, instead of being confined to cities of twenty thousand inhab-

itants, as I said before, was extended all over the country. After a long discussion upon that, and during a good portion of the time even the five-minute rule was enforced, a vote was had, and who voted to attach that legislation, thus declaring the provision to be right? Every member of the republican party who had a seat upon the floor of the Senate, without one single exception, voted in favor of keeping that provision in the bill.

Then it went to the House. There a long discussion took place upon it, and I am sorry to say that in the passage of that appropriation bill with that amendment upon it a proceeding took place which I think is disgraceful to the American Congress. What was it? When the minority in that House, as I shall show in a moment, had it in their power by legitimate parliamentary law to defeat the passage of the bill rather than have such an obnoxious measure as that tacked on to it, they were induced to give over what is generally known as filibustering and to let the bill go to a committee of conference with an assurance that the obnoxious legislation should be stricken out. The democratic members of the House of Representatives were told to stop their filibustering and let the bill go to a committee of conference, and there the amendment would be stricken out and no such law as that should be fastened upon the country. This is not simply my assertion. I will now read, Mr. President, if the Senate will give me their attention, the language of one who has long belonged to the republican party, who has been a prominent and respected member of it longer, perhaps, than any Senator on this floor. What does he say? After the bill went to a conference committee and the committee reported to both bodies contrary to the pledge, contrary to the understanding, retaining this obnoxious measure, by both conference committees, the one of the Senate and the other of the House, when it went to the House WILLIAM D. KELLEY, of Pennsylvania, rose in his seat and said what I shall read. I call the attention of Senators to this to show not only how this legislation has been put upon an appropriation bill, but that it was put upon it, to say the least of it, in a very improper manner. I shall not use as strong language in my place to-day as the gentleman from Pennsylvania, Mr. KELLEY, does:

Mr. Speaker, I now move that the report of the committee of conference be recommitted to that committee. I make this motion under a deep sense of responsibility, and I ask gentlemen to hear me for my cause and to be silent that they may hear. I make it and propose to briefly sustain it in behalf of a cause that is as dear to me as my life, to which I have devoted my best years, and in which I have more than once periled my life; that is, the integrity and supremacy of the republican party, which I believe to be endangered by the position of this bill. I am also constrained to make this motion by a proper sense of self-respect. Nothing will reward a man for the loss of self-respect. I feel this morning that if by the force of a mere majority we drive this bill, embodying as it does the enforcement amendment, through Congress, we will commit an act—

That is the way he denounced it—

which, so far as I and a number of gentlemen around me are concerned—

Alluding to his republican associates—

will be regarded as in the category of acts for which I have more than a score of times sentenced men, theretofore respected in the community in which they lived, to solitary confinement and penal labor.

That is the manner in which this widespread amendment upon an appropriation bill was gotten through the House of Representatives. That is the language used by a republican member of the body.

Mr. BLAINE. Will the honorable Senator permit me to interrupt him with a question?

Mr. HEREFORD. Certainly.

Mr. BLAINE. I understand the Senator from West Virginia to say that upon some sort of representation the democrats were induced to give up filibustering to prevent the enactment of the law. Why did they not filibuster against the conference report? They lost no rights in the way of filibustering. The right to filibuster was just as open when the conference report came back as before it was made. What particular motive was it that induced the democrats to give up filibustering at one stage of the legislation and not resort to it at the other?

Mr. HEREFORD. It seems to me that the Senator from Maine ought to know better than I can tell him. The Senator from Maine at that time was Speaker of the House; I was a member of that body; and the Senator from Maine recollects the ruling that he made upon that occasion when the bill came from the conference committee. That is the reason.

Mr. BLAINE. What ruling?

Mr. HEREFORD. That they could not filibuster to the extent that they could prior to that time.

Mr. BLAINE. Oh, no——

Mr. HEREFORD. I have the whole matter right here before me.

Mr. BLAINE. The Senator is mistaken. The only ruling that was made was that it was not in order to lay a conference report on the table, but the ordinary filibustering motions to adjourn and to fix the day to which the House should adjourn were then just as open as before.

Mr. HEREFORD. The Senator from Maine must recollect that when Mr. Eldredge had the floor and had made a motion to take a recess, he as Speaker ruled that he could be taken from the floor, and Mr. GARFIELD who then had the report in his charge brought it up before the House. He even took Mr. Eldredge from the floor when he had made a motion to take a recess so that Mr. GARFIELD, the chairman of the committee of conference on the part of the House, could take up for action the report of the conference committee, thus expediting the passage of the bill.

Mr. BLAINE. If the Senator will allow me, that is the express rule of the House; but when the conference report is made then all motions are in order just as much as before. That privilege only goes to making the conference report. I repeat, the honorable Senator must have forgotten that the power to filibuster against a conference report was just as open as against any other proposition before the House.

Mr. HEREFORD. It seemed not, Mr. President. I do not desire to be drawn from the line of my argument to enter into a discussion of the rules of the House, or the enforcement of them, and I am not complaining of that at present. Let us go on a little further.

I desire in this humble way of mine to call the attention of the whole country to the manner in which this legislation has been forced upon us not only upon an appropriation bill, the repeal of which is now denounced as revolutionary, but in another way which I shall now attempt to bring before the Senate.

This bill—

Mr. KELLEY goes on to say—

This bill reached its present stage by what, in the light of information in my possession, appears to be false pretenses—

And we will find directly what these false pretenses were; consequently this law became one by false pretenses, in the language of the gentleman from Pennsylvania—

false pretenses, which are characterized by all the features necessary to sustain a conviction under the law of Pennsylvania. On Saturday last the minority of this House, by virtue of parliamentary law and of the usages of this House; not by the weakness of the republican party, not by the weakness or lack of fidelity on the part of members of the republican party, but, as I have said, by virtue of parliamentary law and usages long and well known to the House and the people of the country, the minority party of this House held this bill in its power. Leading members of that body—

That is, of the democratic party—

said to us—

That is, the republican party—

"Take from the bill one amendment and you may have all the other provisions without question; take from it one provision, and you may complete your appropriations and adjourn." This being the condition of the bill, there came upon this floor—

Now listen, Senators—

there came upon this floor—

That is, upon the floor of the House—

a Senator who was then a member of the committee of conference to consider and adjust the disagreeing votes thereon, and I vouch gentlemen around me for the fact that from him went forth the assurance that if the opposition would permit this bill to go to a committee of conference the Senate would recede from the objectionable amendment. It was also known that he who must be chairman of the committee of conference on the part of the House—

Meaning Mr. GARFIELD, who was then a member of the House—

disapproved of that amendment, and had given open and public assurance that he disapproved it as heartily as gentlemen on the other side could do.

Mr. GARFIELD, of Ohio. If the gentleman refers to me I beg him to withhold his statement of my position and allow me to make it for myself.

Mr. RANDALL—

Who is now the Speaker of the House—

Mr. RANDALL. You did state that privately.

Mr. KELLEY. I am assured by many gentlemen that the gentleman from Ohio did make such statements.

Then Mr. Eldredge, a member from Wisconsin, also rose in his seat and said that the pledge was made to him and to Mr. RANDALL and other gentlemen, who were leaders on the part of the democrats of that body. Now, then, what did Mr. KELLEY further say?

According to parliamentary usage there must be two democrats on a committee of conference, one from the House and one from the Senate. There was, therefore, it seemed to me as it did to others, no possibility that the objectionable amendment would be adhered to. And I and others who are as loyal to republicanism, loyal to radical republicanism as I am or ever have been, (and it is among the proudest recollections of my life that Abraham Lincoln, Thaddeus Stevens, and Henry Winter Davis have all at times chidden me for my excessive radicalism, my undue zeal, and what they were pleased to regard as my reckless course in support of the cause of the oppressed and enslaved,) I say, Mr. Speaker, that gentlemen who are as radical as I am went with or in advance of me to gentlemen on the other side of the House and said—

This was the assurance that we had—

"The circumstances are such as guarantee the withdrawal of this amendment to which you object; you cannot be deceived should you let the bill go to a conference."

It was by those assurances by Mr. KELLEY, and the fact that Mr. GARFIELD was also one of the leaders of his party there and was to be the chairman of the committee of conference and was also opposed to it, that they knew that if these facts were true, and that if they were not deceived by the Senator who went from this Chamber over there and who was on the committee of conference that the measure must necessarily fail in conference, and therefore if the pledge had been carried out it would not have been on the statute-book to-day. Mr. KELLEY goes on further to say:

I pledged my influence, following gentlemen whom I saw on the other side promising theirs. And I reiterate that I was impelled thereto by assurances given, as I had been informed by many gentlemen about me—

Of course referring to his republican associates—

by a member of the Senate conference committee that if we could get the bill to the conference committee the Senate would recede.

Under that pledge and under that promise this measure became a

law. It never could have become a law if we had not had this assurance; and yet, notwithstanding that was announced there on the floor of the House that that was the pledge and promise, that general legislation was tacked upon an appropriation bill, and yet every republican with one exception voted for it, and said that it was right. It was not revolutionary then. But to-day we are told, when we seek to repeal that identical law and some others equally or perhaps more obnoxious than it, that it is revolutionary and unconstitutional to attempt such a course as this.

Mr. President, I have read to you and the Senate, from the speech of the Senator from Massachusetts, a very elaborately prepared and very excellent speech, showing great research, great familiarity with the constitutional law and history of England. We heard from him, as I said, that this was an unusual thing. He said in that speech:

In 1856 a provision was ingrafted upon the Army bill that no part of the Army should be used to enforce the enactments of the Legislative Assembly at Shawnee Mission, in Kansas, until Congress had determined as to their validity, &c.

Again, lower down, he says:

On one other occasion only has any similar attempt been made.

Why, Mr. President, he says, speaking from the record, that there have been but two attempts to pass general legislation on appropriation bills. Let us see what the Senator from Rhode Island [Mr. ANTHONY] said when this very provision was up in the Senate in 1872. Senator ANTHONY rose in his seat and said:

We all know that a large part of the legislation since I have been in Congress for twelve or thirteen years, has been put on appropriation bills.

A large part of the legislation of Congress during the twelve or thirteen years he had then been here had been put on appropriation bills, and yet we are told by the Senator from Massachusetts that he knows of but two instances, and he there refers to them.

Mr. DAWES. My colleague is not present or I would not venture to suggest to the Senator from West Virginia that he does not quite fairly state my colleague's argument. If I understood the argument it was, not that there had been but two instances of the putting of general legislation upon appropriation bills, but that there had only been since 1856 two occasions when there was an attempt to force the Executive to approve an appropriation bill containing legislation which he would not otherwise approve of. If the Senator will refer to my colleague's resolution on which he is commenting, he will see that the operative words are making it a condition upon which the approval of the Executive can be obtained to an appropriation to carry on the business of the Government. That is the argument of my colleague. It is not the argument of my colleague, either, that it is unconstitutional to put legislation upon an appropriation bill or that it never had been done since 1856 except in those two instances. My colleague alluded to the fact that it had been quite often done; he alluded to the fact which every Senator must take notice of, that while it has been done and indulged in by different parties, it has always been deprecated because it led directly to the condition of things now existing, namely, an attempt to put that upon an appropriation bill without which those putting it there say that the appropriations for carrying on the Government shall not be made.

I hope my friend from West Virginia, in the absence of my colleague, will keep in view his exact argument.

Mr. HEREFORD. I have read the speech of the Senator's colleague very carefully and very frequently, and I also heard it delivered. I do not think, if any one will take that speech and read the whole of it, take the animus, the main idea running through all of it, he will say that I in the least have colored or misrepresented the thought running all the way through it.

Now, Mr. President, to pass from that, I said I should not cite anything like all the precedents in regard to tacking general legislation on appropriation bills, because if I did to-day's sun would set before I should take my seat. I shall cite only a few notable instances. I will now go back to 1855 and show how men of all parties have voted. In other words, all there is in this question is simply this: when any political party believes that certain legislation is right and that it is necessary in order to get it enacted into a law to tack it on to an appropriation bill, they do so. The only question with them is, Is the proposed legislation right? In 1855, when there were giants in this Senate—not to say that there are not now, for I believe this Senate is as able as perhaps any that has preceded it, but there were here then men who were recognized as intellectual giants both in the great whig party and in the great democratic party.

In 1855 there was tacked on to what was known as the civil and diplomatic appropriation bill in the House of Representatives an entire revision of the tariff, not a particular part or a particular item, but an entire revision of the whole tariff. It passed the House with comparative unanimity, and it came to the Senate; and after a long discussion, many speeches being made on the propriety of such legislation, a motion was made to strike out the tariff provision. All this argument was gone over whether it was revolutionary or right or wrong to put such general legislation on appropriation bills; and then there was a motion made after the bill had been reported by the Committee on Finance, of which Mr. R. M. T. Hunter, of Virginia, was chairman, to strike out the part relating to the tariff. The motion was made by Mr. Clayton, of Delaware, to strike the tariff provisions from the bill. Mr. Toombs, of Georgia, who then occupied a seat on this floor, called for the yeas and nays, and what was the vote? The vote stood twenty-four in favor of the motion to strike out and twenty-one against it, only three votes difference. Who were the twenty-one? We find there voting in favor of this character of legislation against striking the provision off the bill—

Messrs. Adams, Butler, Chase—

Salmon P. Chase, afterwards Chief-Justice of the United States—

Clay, Dawson, Evans, Fitzpatrick, Gillette, Hunter, Jones of Iowa, Mallory, Mason, Morton, Sebastian, Slidell, Sumner, Toombs, Toucey, Walker, Wells, and Wilson—21.

Both the Senators from Massachusetts then upon this floor, Sumner and Wilson, voted against striking out the provision which revised the whole tariff laws of the United States on an appropriation bill, thereby saying that it was proper legislation on such a bill.

But passing on to the second session of the Forty-third Congress, we find on the sundry civil bill, in March, 1875, similar legislation was had.

Again I hold in my hand a law of the United States, public act No. 152 of the Forty-fourth Congress, first session, "an act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes," and I find upon that bill this general legislation which I will read, because it is specially appropriate just now, particularly when we take into view the testimony that has been taken by what is known as the Wallace-Teller committee:

SEC. 6. That all executive officers or employés of the United States not appointed by the President, with the advice and consent of the Senate, are prohibited from requesting, giving to, or receiving from, any other officer or employé of the Government, any money or property or other thing of value for political purposes; and any such officer or employé, who shall offend against the provisions of this section shall be at once discharged from the service of the United States; and he shall also be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding $500.

That was general legislation tacked upon an appropriation bill; and what is the testimony taken before this committee? That the late Secretary of the Senate—and personally I have nothing to say against him, for I have known him for a quarter of a century, and as a man I esteem him highly—a United States officer within the purview of that statute, called upon all the employés in all the Departments of this Government in Washington City and elsewhere for contributions for political purposes in the last congressional election, and those parties paid the contributions asked for to the amount of about $93,000.

Mr. CAMERON, of Wisconsin. Will the Senator from West Virginia allow me a moment? I desire to suggest that the Secretary of the Senate is not an officer of the United States within the meaning of that statute.

Mr. HEREFORD. There is where the Senator from Wisconsin and myself differ. I think he is a United States officer——

Mr. CAMERON, of Wisconsin. By no means. He is an officer of the Senate, not an officer of the United States at all.

Mr. HEREFORD. He certainly is not an officer of a State; he certainly is not an officer of the District of Columbia; he certainly is not an officer of a Territory.

Mr. CAMERON, of Wisconsin. He was Secretary of the Senate; that, and nothing else.

Mr. HEREFORD. Yet all the employés in these Departments here come within the provision of the law, and it is made a penal offense for them to give a dollar for such purposes when thus called upon. The law says they shall be discharged for doing it, and yet they are all in these Departments to-day. The law further says that they are guilty of a misdemeanor, and on conviction thereof shall be fined a sum not exceeding $500; and yet they are here in your various Departments by thousands, the last one of them who gave money for this purpose under this call from the secretary of the congressional republican committee, every one of them liable to be discharged, liable to be tried in the courts of the country; and it is made the duty of the President of the United States, especially under his civil-service reform, to throw every one of them out of office, to discharge them instantly from office. Yet in violation of this law thus tacked upon an appropriation bill every one of them still retains his office and his position. They are retained there for the purpose when another campaign shall come to call upon them for other assessments for like purposes. They were to be removed under the law of the land if they complied with the request; they would have been removed if they had not complied with it under political dictation.

Mr. Gorham swears before this committee that he collected altogether $106,000, $13,000 from some wealthy gentlemen in the State of New York, and $93,000 from these parties, these employés; and he goes on in that testimony of his to show to what purposes he appropriated the money, where he sent it. In that testimony it is shown that he sent $500 of it to the third congressional district of West Virginia, where the republicans did not even have a candidate, but for the purpose of indirectly electing a person who was a candidate on the greenback ticket. Three hundred and fifty dollars was also sent to the second congressional district of our State.

I was showing a moment ago what were the sentiments of gentlemen distinguished for their ability, distinguished for their knowledge of parliamentary law, what their votes were, what they thought of this character of legislation. Let us come one year nearer to us; and I desire to commend what I have to say on this subject especially to my friends of the republican side of the Senate. If we are engaged

in improper legislation, we have learned the lesson at their feet. We have been told that if the wheels of Government are stopped by this character of legislation, if we should pass this bill and it should go to the President and he should veto it and the wheels of Government should be stopped, we are the revolutionists, we are the obstructionists, that the responsibility is with us. We were told by the Senator from Massachusetts, not now in his seat, [Mr. HOAR,] at the last session, that because the other House had put such a provision as this upon an appropriation bill and insisted upon it remaining there, if the bill failed the responsibility would be with the House of Representatives, not with the Senate. That is what we were told then. That is what we were told here day after day, night after night, that the responsibility was with us. But now let me commend to my friends a little of the history of 1856.

A bill was up before the House of Representatives for the support of the Army, just such a bill as we have before us and did have last session. The republicans had a majority in that House, and they placed upon that Army bill a provision that the Army should not be used for certain purposes, directing in the appropriation bill how the Army should be used, how its officers and men should be used. That is all we seek to do by this pending bill or by any of this legislation on either of the bills. We are only seeking to direct the manner in which the moneys appropriated shall be expended and controlled. Congress has the power. That provision was passed in 1856 by the House of Representatives and came to the Senate. The House of Representatives was republican; the Senate was democratic. The two Houses divided, and the question came up as to the right of the members of the House of Representatives to legislate thus. The question arose also, if the appropriation bill should fail, who would be responsible. You will find in the Appendix to the Congressional Globe of the first session of the Thirty-fourth Congress, on page 1089, this. I shall quote from Mr. Wade, a Senator from Ohio, who often occupied your chair, sir. What did he say on this subject as to the right of the House of Representatives to originate such legislation? What did he say as to where the responsibility rested? We are to go before the people if these bills shall fail, and there we shall answer as to who is responsible for the failure of the appropriations. I will read first from Mr. Wilson, afterward Vice-President:

Mr. President, I cannot permit this vote to be taken without uttering my protest in opposition to raising an issue with the House of Representatives upon this bill. The Senator from Virginia tells us that when one House undertakes to force its opinion upon the other, and that policy is adhered to, revolution follows:

That is what we are told now. But what did Mr. Wilson say to it?

Now, sir, it appears to me that the Senate is raising this question with the House of Representatives; and that if, in the result, this bill shall fail, the responsibility of that failure will rest upon the Senate, and not upon the House of Representatives.

And so, if this bill shall fail after having been passed by the two Houses, both concurring, and it shall fail by a veto, the responsibility will rest with the Executive. We appropriate all the money that is asked, but we only seek to direct the manner in which it shall be used. What more did Mr. Wilson say?

It seems to me that the provision now proposed to be stricken out by the Committee on Finance is a legitimate proposition—

It was one seeking to control the Army—

and one which the House of Representatives had an undoubted right to incorporate into the bill.

And furthermore he said:

Sir, the country will condemn it—

The action of the Senate in striking out the restriction—

the country will condemn—it must condemn—this action of the Senate, this arrogant attempt to force its opinions upon the House of Representatives.

That was the manner in which Mr. Wilson denounced the attempt on the part of the Senate to dictate to the House of Representatives. Let us go on a little further to what Mr. Wade said in the same debate:

Must the people's House of Representatives sit with their arms folded, and, although the Constitution of the United States confers emphatically upon them the power to originate all revenue bills, (which comprises the power to place these grants of money on such condition as they see fit,) must they refrain from exercising their authority in an emergency like this? Is this the liberty of the American citizen that the people's House—where there really is a representation of the people, where the wisdom of the fathers placed the taxing power—are leading to revolution by annexing a condition to the appropriation of the people's money.

Annexing a condition to the appropriation of the people's money—appropriate language for the present occasion! But he goes on further to say more emphatically:

I say the House of Representatives have done right. They have inserted no provision in this bill but what may be defended now and hereafter, before any just earthly tribunal, and before the Almighty God. There is not a single article in the proviso proposed to be stricken out which does not meet the approbation of every just and unprejudiced man. The House of Representatives, representing a vast majority of the people, in view of these enormities, endeavoring to put some slight, though I admit inadequate, check on them, have offered you this mild and equitable restraint on the Executive.

And yet we are told that we are putting a restraint upon the Executive, and if we attempt it, it is revolution! Mr. Wade continues:

Here we are told it is revolutionary, and therefore we must not breathe the breath of life into their action, but must permit it to go back to the House with an appeal to the House to recede. Sir, I do not know but that you may succeed under the idea that this is revolution; but, so help me God! I hope that the man who proposes to recede a hair's breadth from the action of the House will never find his way back again; and I do not believe he will.

Let us go a little further and see what the lights, the fathers of the republican party said, on this subject of the power of the House of Representatives and where the responsibility rested. If we are engaged in revolution, we have been taught it from the lips of these gentlemen from whom I have just read and from their action in this country. I will now read still more from Mr. Wade:

Has it come to this, that if the House of Representatives do not think proper to frame a bill for the support of the Army of the country, appropriating $12,000,000, in a way to satisfy the majority in this body, revolution shall follow, and the responsibility be upon the House? Pray, sir, how? Because they will not agree to do as the Senate tells them they shall do. That is the naked proposition before the Senate, with the explanation which has been made in reference to it, that the Senate of the United States is prepared to say to the House of Representatives "unless you will appropriate money to aid the President of the United States in the enforcement of disputed laws in the Territory of Kansas, no appropriation for the support of the Army shall be made." This is a fair proposition that is sent here by the House of Representatives, and it is sought to be encumbered by an amendment offered in this body, which is to defeat the bill unless the House of Representatives will recede from a portion of the bill which they passed. You cannot change the issue. The responsibility is here.

Consequently, if this legislation which we are seeking at this session to make, these laws we are seeking to enact, shall fail, the responsibility is not here but elsewhere.

The House of Representatives have shown their willingness by the passage of this bill—

See how it applies to the present case—

by the passage of this bill to provide for the support of the Army. The country see that the House of Representatives are prepared to vote millions of money to sustain the Army of the United States. But because they are not willing to frame that bill so as to satisfy particular views in this body the whole bill is to be defeated, if I understand the views of the Senator from Virginia, who has proposed the amendment.

But let us pass on further; and now I read the remarks of one whom although I did not know him personally but from what I have read of his speeches and of his discussions I have regarded as one of the first men that ever enjoyed the honor of a seat in this Chamber; I mean Mr. Fessenden. What did he say upon this very subject? This was his language in reply to an argument somewhat similar to the one that the Senator from Massachusetts has made here referring to the parliamentary law of England and the constitutional history of England. Mr. Fessenden was one of the best parliamentarians, one of the soundest men, one of the most conservative men of the republican party that ever occupied a seat here. Replying to Mr. Hunter, Mr. Fessenden said:

Does he not know well that in the English Parliament from the earliest times not only have appropriation and revenue bills gone together, but in cases without number it has been the habit of that Parliament to check the power of the Crown by annexing conditions to their appropriations of money? It is not only not a new thing, but a very common thing, in the history of all parliaments. Does he not know that the only mode in which our ancestors—

And I commend this to the Senator from Massachusetts—

Does he not know that the only mode in which our ancestors of Massachusetts checked the powers of their royal governors was by granting money only on conditions? The power of supply and the power of annexing conditions to supply have always gone together in parliamentary history; and their joint exercise has never been denounced as a case of revolution, or calling for revolution, or tending to produce revolution in any shape or form whatever.

Sir, it is a power essential to the preservation of our liberties.

And so say we to-day, that it is a power essential to the preservation of the liberties of this country that Congress in appropriating money shall say how it shall be used; that we shall place limitations upon it. So said Mr. Fessenden in 1856. He further said:

We do not wish to dissolve this Government; but unless we would destroy it we must point out the mode in which the money we grant is to be used, or else submit to any use of it that the Commander-in-Chief may choose to select. It is the peculiar prerogative and right of Congress to control the Commander-in-Chief of the Army and to control the Army which they raise. Do gentlemen argue here that our only business is to make the appropriations for the support of the Army and not question the use that is to be made of them? that we cannot annex any conditions to our grants of money—a power that has always been claimed as essential to freedom from the beginning of English liberty, which we inherit, and from the beginning of legislation in this country? Sir, the idea that we cannot annex conditions of that kind restraining the power of our military officers is a notion that if admitted would reduce us to worse than colonial bondage.

And yet we are told to-day that this is revolutionary!

It is the only protection we have, unless we choose to do in fact what the gentleman from Virginia says we must necessarily be considered as doing when we affix any condition of this kind to a grant of money—initiate a revolution.

He goes on further to say:

Mr. President, I have been surprised at the positions taken by honorable Senators on the other side. I know that no man is more learned in the history of parliaments, especially with regard to money grants and money powers, than the honorable Senator from Virginia, [Mr. Hunter,] and yet he gravely argues that the House of Representatives—the power exclusively invested by the Constitution with the prerogative of raising money—not exclusively of expending it, I grant, but still from the very nature of its existence, as deriving its powers more immediately from the people, and from the short term of office which it holds, and its frequent return to the people, necessarily more trusted by the people, with reference to the expenditure of money, than we are—and a House elected with reference to this particular measure has not the power, without committing a revolutionary act, to say that the funds which it grants, and is willing to grant, must be restrained to effect what it believes to be constitutional and legal and proper objects in their application. When I hear him say this I am astonished, because he goes counter to all the history of money grants by free parliaments from the creation of the world down to the present time.

That was the language of one of the most accomplished men who ever occupied a seat on this floor. It is a better answer to the argument of the Senator from Massachusetts in regard to the parliamentary law of England than I could make.

But, Mr. President, I shall not stop there. If any one man was

more than another the creator and founder of the republican party it was the man from whom I shall now read, a distinguished predecessor of the distinguished Senator from New York [Mr. CONKLING] who sits before me. I mean Mr. William H. Seward. What did he say of the right and power of the House of Representatives to tack general legislation upon appropriation bills? What did he assert as to the power of the House of Representatives to say how the money shall be used that they are appropriating? This is the language of Mr. Seward in the same debate:

Since the House of Representatives has power to pass such a bill distinctly, it has power, also, to place an equivalent prohibition in any bill which it has constitutional power to pass. And so it has a constitutional right to place the prohibition in the annual Army appropriation bill.

I grant that this mode of reaching the object proposed is in some respects an unusual one, and in some respects an inconvenient one. It is not, therefore, however, an unconstitutional one, or even necessarily a wrong one.

It is a right one—

As I said in the opening of my speech, that is all there is in this question.

It is a right one if it is necessary to effect the object desired, and if that object is one that is in itself just and eminently important to the peace and happiness of the country or to the security of the liberties of the people.

* * * * * *

The House of Representatives, moreover, is entitled to judge and determine for itself whether the proceeding is thus necessary, or whether the object of it is thus important.

The members of the House of Representatives come directly from the people; it is entitled to judge of the propriety or the necessity of such legislation, and of how the money of the people which they are voting away shall be used; and yet we have been told on the floor of the Senate that this is revolution; and the Senator from Massachusetts says we are seeking to bring about another revolution. Mr. President, this legislation may be revolution, but it is a counter-revolution; it is to bring us back to where we were. That is all there is of it. The only point is, is it right? Is it right to give to the people of this country a free and fair jury? Take the practical effect of the bill; go down into the Southern States, all over them, and see how it is under the law as it stands to-day, and which is sought to be repealed by one of the bills which was thus denounced by the Senator from Massachusetts. Under the law as it stands to-day it is in the power of the judge, in the power of one man, to offer to any gentleman who may be summoned as a juror what is known as the iron-clad oath, and if he cannot take that he must stand aside, thus driving from the jury-box nine-tenths of all the white men in the Southern States.

I ask the Senators who hear me is that right, or is it right to repeal it and let there be the same law all over this country that shall exclude no man who is competent to sit on a jury by reason of his intellect, his intelligence, or the non-commission of crime? Why seek to keep this law upon the statute-book to drive from the jury-box nine-tenths of all the white men in the South, and thus keep up a continual and a growing agitation in the South? Why seek to heap upon the southern people this badge of degradation? What is the practical effect of the working of this law? There are United States judges down South who were confederate officers. Go to Virginia. There is Judge Hughes, an excellent gentleman, making a good judge. He was a confederate officer. He cannot take the iron-clad oath himself. He has been appointed by the President. But when a man comes up before him to be sworn as a juror to try a case involving $500 or $1,000, it is in his power to stick at him the iron-clad oath which he cannot take himself, and say, "By reason of that you shall not sit on a jury to try this case although I am a judge here and cannot take the same oath myself."

But what is the practical operation of the law further? Even district attorneys who have been appointed by the President of the United States, some of them I know, many of them perhaps, were officers in the confederate service, and they are now United States district attorneys, and cannot take the iron-clad oath; but some of them suggest—they have the power to suggest—to the presiding judge, who was also a confederate officer and cannot take the oath, that this man who now comes up to be sworn as a juror shall have that oath administered to him. The oath is read. He cannot take it; the man must stand aside, because he cannot take an oath which neither the judge nor the district attorney can take. I ask Senators if that is a right law, and if it is not proper to repeal it? That is what we are seeking to do by the legislation which we have before us, and which we have had before us for weeks.

But I must hurry on, Mr. President. I asked a moment ago what are the practical operations of these laws in a financial point of view? What was the amount of money that was paid to United States marshals and supervisors of election for services at the election held in the city of New York, November 5, 1872, in one city? Who are these United States marshals and deputy marshals? Who are these chief supervisors, headed by Johnny Davenport, and the deputy supervisors, all of them belonging to one political party, carrying on the day of election on their left breast the badge of a United States officer, and holding in their right hand the tickets of the republican party? And that is free government; that is free election! We seek to repeal it. Are we not right? Should the President veto such a bill?

Not only were all these deputy United States marshals and United States supervisors appointed, but there was spent in the city of New York alone in 1876, there was paid to these supervisors, there was paid to these deputy marshals, at one election in one city the enormous sum of $85,555. Those were the usual expenses, the salaries paid them for their services in distributing tickets; and for extraordinary expenses in the same city at the same time $15,132.20; or in round numbers at one election in the city of New York the General Government paid to republican supervisors of election and republican deputy marshals the round sum of $100,000. We seek to repeal that. We seek to give both the great political parties an even chance before the people. Has it come to this, that the power of the Government and the money of the people shall be used for the purpose of controlling the votes of the people? We say no, and therefore we seek to repeal this law, and for that we are charged with being revolutionists.

So much for the year 1876 as far as the money was concerned. Now how many deputy marshals were there? I have before me Attorney-General Taft's report and he said that for that same election the number of deputy marshals for the State of New York was thirty-five hundred and five for one election in that State and for the city of New York alone there were twenty-five hundred United States deputy marshals paid $5 a day on the day of election; but as I said a moment ago, with this money in their pockets and the badge "U. S. marshal" on their left breast, showing that they had the power of the Government behind them, in their right hand they were carrying the republican ticket, I ask if that is a fair and free election. No, Mr. President. There were appointed for the whole United States for the same year 11,615 deputy marshals clothed with all these powers, the power of arrest. We sometimes hear the subject discussed in this Hall and in the other Hall as to the reduction of the standing Army. Why here is improvised for one election throughout the United States a great army of United States deputy marshals paid $5 a day for their services for the party, not to preserve the peace!

The whole expense for deputy marshals and supervisors that year was pretty well on to $300,000, paid out by the General Government in 1876 for United States deputy marshals and supervisors of election, and all of them republicans. That is one of the laws we seek to repeal. We believe the country will sustain us in the attempt. There was paid that year the total sum of nearly $300,000 for United States deputy marshals and supervisors of election. Think of it!

Now let us come to the year 1878, the year of the last congressional election, and see a little further the operations of this iniquitous law. I hold in my hand the report of the present Secretary of the Treasury in answer to a Senate resolution of March 21, 1879, in relation to the accounts of the marshals of the United States in the States of New York, Pennsylvania, Ohio, Massachusetts, and Maryland, and in that he shows that there were appointed in the year 1878 for the State of New York twenty-one hundred and seventy-nine United States deputy marshals, for the city of New York alone twelve hundred and seventy-six deputy marshals, and there was paid for the same year to United States supervisors $51,000, to United States deputy marshals $38,647, making all told that year $89,647 in this State according to this report.

To sum the whole matter up we have, for the city of New York alone, deputy marshals twelve hundred and seventy-nine; amount of money expended in that city alone, as shown by this same report, the enormous sum of $55,680.

But now I come to another branch of the subject. Worse than all, these deputy marshals and these United States supervisors, the two operating and acting together, had the power to arrest. What occurred in the election in 1878 in the city of New York, as shown by the report which I hold before me, a report made by Mr. Lynde, and in which is the testimony of John I. Davenport, and from that it appears that on election day in 1878 under this law which we are seeking to repeal, there were complaints made under the direction of this man Davenport, who was United States circuit court clerk, United States commissioner, and by being United States commissioner he has been appointed the chief supervisor in the city of New York under this law, holding these three offices. He directed, as is shown by this report and his own testimony, on the day of that election in the city of New York, complaints to be sworn out against ninety-three hundred persons of foreign birth. On those complaints there were five thousand and four warrants issued for the arrest of men who were entitled to vote, and there were three hundred arrests actually made. What was the character of those arrests? I call the attention of Senators to the remarkable state of affairs that existed there on the day of that election. I read from the testimony of no ordinary man, I read the testimony of the chief superintendent of the store of A. T. Stewart & Co. He is no ordinary man. He is a man of mark, a man of large ability, a man of integrity, a man of great purity of character, or he would not have occupied the position that he did. On the day of the election that man, Mr. Denning, went to vote. Now, I ask Senators to listen and hear what took place:

Question. What is your business?
Answer. Dry goods.
Q. Where do you do business?
A. With A. T. Stewart & Co.
Q. You are superintendent of the uptown store of A. T. Stewart & Co.?
A. Yes, sir; superintendent of the retail store.
Q. How long have you been the superintendent of the store?
A. About ten years.
Q. How many men have you under your charge as superintendent of that store?
A. It ranges from five hundred to one thousand people.

Q. When did you come to America?
A. In 1860.
Q. How old were you at that time?
A. In the neighborhood of twenty or twenty-one years.
Q. When were you naturalized?
A. In November, 1868.
Q. Who was your witness?
A. Alfred M. Weeks.
Q. Where is he employed?
A. In our store.
Q. And he had been in the uptown store with you?
A. Yes, sir; all the time I was there.
Q. Before what judge were you naturalized in 1868?
A. I declared it my intention some three years previously.
Q. Were you naturalized in the regular way?
A. Yes, sir.
Q. Were you naturalized in 1868?
A. Yes, sir.
Q. After you were naturalized, did you vote?
A. Yes, sir; right straight along.
Q. Until 1878?
A. Yes, sir; until that time.

Ten years this man had been a voter.

Q. Tell the committee what happened when you went to register.

Such occurrences as the following took place there at the last election in 1878, and this is only one specimen of them; and I read this because it is the testimony of a man of mark—such a reign of terror scarcely ever prevailed over any city, certainly not upon this continent. He details what took place with him, and when it could take place with such a man what would be done with a poor day laborer?

Question. Tell the committee what happened when you went to register.
Answer. I registered in the same house that I always did, in Fourth avenue near Tenth; I had been registered there all along. I have lived at No. 84 East Ninth street between six and seven years. The last week of October, I think about the 25th, I went to this same place that I had always been registered and offered my name and address, &c., which was taken. As I was on the point of leaving the gentleman there said he would like to see my papers—

That was one of these supervisors, or some striker under him—

and I gave them to him and waited for him to return them. He said he would not give them back. I told him at once, says I, "That is a little bit singular; won't you give me some receipt for it?" "No," says he, "I do not want to do anything whatever."
Q. On that occasion were you informed that your papers were illegal in any way?
A. No. I tried to find out as to that, but I did not get any positive information.
Q. What steps did you take after that to find out if there was anything the matter with the papers?
A. I referred the matter to the lawyer of the house of A. T. Stewart & Co., Mr. H. H. Rice. I requested him to get me a duplicate, telling him that if there was anything wrong about it I would like to know it; and I believe he wrote to Mr. O'Brien, the chief clerk of elections in the city of New York, in regard to it. Mr. Rice received an answer from him, stating that he had no doubt it would be all right, and at the same time I received the duplicate of my papers.
Q. On election day you went to vote?
A. I went to vote. I walked out of the store without any overcoat on, the polling-place being right next door. I went in and offered my vote. The gentleman there called to another person, who came up and told me that I was arrested.
Q. Did you have an opportunity to vote?
A. Oh, no. They would not let me vote. I had my ballot all ready, and presented it, but they would not allow it.
Q. Were you taken away?
A. Yes, sir; right off.
Q. Where?
A. First of all down to Clinton Place.
Q. From there where were you taken?
A. Down to the city hall.
Q. You mean the post-office building, do you not?
A. Yes, sir; the United States court-house and post-office building.
Q. Please state what took place when you came down here.
A. The place was all in confusion. There was an immense number of men around. There was no getting at anything or anybody. I was running around from one room to another, first one way and then another; upstairs to the third floor, down to the second floor, up to the fourth floor, and in three or four places.
Q. Mr. Rice was present?
A. Yes, sir; he was present, and offered to bail me.
Q. You were taken before Commissioner Davenport?
A. Yes. Finally I was taken to one of the gentlemen.
Q. Which of the commissioners?
A. I think it was Commissioner Deuel.
Q. What took place before him?
A. He wanted me to give bond for my appearance, which I rather demurred to.
Q. Did Commissioner Deuel say anything to you as to whether you had voted or not?
A. He asked me whether I had voted.
Q. Was there anything said as to whether you would or would not vote?
A. That was afterward. Commissioner Davenport allowed me to go—that I would not vote-

This is Commissioner Davenport—

allowed me to go, with the understanding that I would not vote.

Mr. Davenport is the man who had the warrant sworn out. He is the man before whom Mr. Denning was taken and who let him go if he would promise not to vote. Here was a man arrested who had a thousand men under him.

Question. Then you went before Commissioner Davenport?
Answer. Yes, sir.
Q. State what took place before him.
A. Commissioner Davenport was very courteous in his manner. I told him that I would like to be allowed to go to vote, and he said that I could not vote; that I would not be allowed to go if I did not promise not to vote, and sooner than stay there all day I said that I would not vote.
Q. Were you here in the back part of the court-room?
A. Yes, sir; I was hustled all around everywhere.
Q. By this time there was quite a little bit of a crowd in the court-room, wasn't there?
A. Yes, sir; I almost had my coat dragged off of me getting through the doors.
Q. You remarked that you had no overcoat on when you came out; was it a cold day?
A. Yes, sir; I expected to be gone from the store but a few moments, and therefore I did not take my overcoat.
Q. Of course you suffered?
A. Of course I did. The whole thing was the greatest outrage I ever saw perpetrated—

And so I believe the American people will say that it is the greatest outrage that ever was perpetrated, and they will demand in tones of thunder that a law which allows such a scene shall be repealed, and it is not revolutionary on our part to seek to repeal it—

I positively would not have believed it unless I had experienced it myself.
Q. Was it suggested to Commissioner Davenport that the business of your house was suffering from your absence?
A. I believe Mr. Rice remarked something in that way to him.
Q. You have stated that from 1868 to 1878 you have voted; did you perform jury duty?
A. I do not know that I did.
Q. What time was it that you were finally released?
A. It must have been on toward two o'clock.

By the CHAIRMAN:

Q. Did you promise Mr. Davenport that you would not vote?
A. Yes, sir; that was the only way in which I was allowed to go.

Then Mr. Davenport cross-examined him.

By Mr. DAVENPORT:

Question. I understood you to say that you declared your intentions?
Answer. Yes, sir.
Q. Three or four years before?
A. Several years before.
Q. Do you remember how long before?
A. I would not be positive about it; but I know it was within the prescribed time.
Q. Within two years?
A. Yes, sir; it was after two years; there is no question about that.
Q. Was it on the 7th of September, 1866?
A. I won't be sure about the time. I know I was very careful about the time, because I had the thing fully understood. I was in no hurry about the time.
Q. You say that you were not allowed to go unless you promised not to vote. Did the question of bail arise at all?
A. Yes, sir.
Q. Did I refuse to take any bail?
A. The bail matter I believe was an after consideration.
Q. I ask you did I refuse to take any bail?
A. Yes, sir.
Q. If you had given bail you could have gone and voted, could you not?
A. No.
Q. Why not?
A. Because you said not; you further said that if I went and voted I would be liable to be rearrested.

There is a man having a thousand men under him, and he was afraid to vote; he was thus intimidated. And as the testimony in the case shows, there were nine thousand complaints sworn to under the order of this man Davenport, five thousand and four warrants were issued, three hundred arrests made, and twelve hundred and seventy-nine United States deputy marshals were appointed for that day to enforce the law, and $55,680 paid to them. This is the proceeding of one day under this law; and yet we are told that we are revolutionists for attempting to repeal it and give these men the right to vote, give these men the right to sit on juries. To repeal the law which causes these infamous attacks upon the liberties of the American people is denounced as revolution. The American people want no paid spies, they want no paid informers. They want no spies to watch them when they are voting. This is a free country, or it ought to be free. They are not free if that law remains in force. Mr. Davenport says in his testimony—I give his own language—as to the operations of the Federal law:

Under the provisions of that act (section 2025, Revised Statutes) I was appointed chief supervisor of elections for the southern district of New York, and for seven years last past have been specially charged with the duty of enforcing these laws. At each congressional election I have warned persons holding the certificates of 1868 against registering or voting thereon—

Who gave him the power to warn men against voting? Who made him the dictator to the freemen of this country?—

and at each election have caused the arrest of those who registered, so far as I could obtain specific evidence of the fraudulent character of their certificates. By the most persistent and continued attacks upon such papers, the arrest of hundreds of those who held them, the seizure of their papers—

Their naturalization papers, their title deeds to American citizenship were seized by this dictator, because the foreigner on the certified copy of his naturalization papers is entitled to American citizenship, and here this man says he arrested them for having copies and using them. It is under this law that he has the power to do it, a law that we are seeking to repeal. He furthermore says:

By the most persistent and continued attacks upon such papers, the arrest of hundreds of those who held them, the seizure of their papers, and other means, I have succeeded in reducing the number in circulation in this county from about forty thousand to ten thousand.

He has seized and taken from foreigners, Irishmen, Germans, Swiss, Danes, Englishmen, wherever they come from, their naturalization papers. He says in his testimony that there were forty thousand of these naturalization papers, these title deeds in the possession of these men to their American citizenship, and he has seized thirty thousand of them. There are but ten thousand left. He furthermore goes on and says that of that ten thousand only twelve hundred men voted at the last election because they were afraid they would be arrested as Mr. Denning was. He says further:

The United States has expended from sixty to one hundred thousand dollars at each congressional election in this city since 1870 in the effort to have fair and honest elections.

Yes, the General Government has spent from sixty to one hundred thousand dollars a year in the city of New York for the purpose of seizing from foreign-born citizens of the United States their title deeds to their American citizenship.

He further says:

At the presidential election in 1876 I made a special and persistent attack upon those who had registered thereon, and seized a large number of those certificates where I had evidence upon which I could successfully defend my action. In addition to this, I caused every person who held such a paper to be challenged, upon the express ground that he was possessed of a paper believed to have been fraudulently obtained.

How did he further intimidate them? He tells you that he put this kind of a notice up all over the city of New York. Here it is:

UNITED STATES COURT-HOUSE—

The court-house of the United States which we are asked to support and keep up—

UNITED STATES COURT-HOUSE, ROOM 1, FOURTH FLOOR,
New York, August 20, 1878.

SIR: As complaint has been filed with me charging you—

And he had the complaint filed—

charging you with being possessed of a false, fraudulent, and void certificate of naturalization, issued in 1868, your attention is called to the following notice from the United States district attorney.

Respectfully yours,

JOHN I. DAVENPORT.

warning all such men to give up their papers and not to vote, or they would be arrested. At the last election in the city of New York he says he had brought the number down to ten thousand, and he was asked how many of that ten thousand voted, and he answered twelve hundred and forty, and "they would not have voted if I could have prevented." There were only twelve hundred and forty out of the ten thousand that were naturalized in 1868 who had the temerity to vote in the face of all these threats, in the face of all these arrests.

The significance of all this lies here: it was supposed when the law creating these United States supervisors and deputy marshals was passed that they were for the purpose of bringing on fair elections down South. It was not desired for that; it has not been used there and will not be used there to as great and alarming extent as in New York City. Why? If a presidential election in the State of New York can be carried by one vote it gives thirty-five electoral votes to the candidate for President who receives them. The State I represent has only five electoral votes and is of no very great importance; but if they can carry the great State of New York by a popular majority of one it gives the thirty-five electoral votes of that State for one candidate for President. That is the reason for this great effort in the city and State of New York.

But, Mr. President, something may be asked in regard to the certificates of naturalization issued in 1868. What inducement was there for Mr. Davenport to make an attack upon the foreign-born citizens who were naturalized in 1868. He says they were fraudulent certificates. This very question as to these naturalization papers has been decided by nineteen judges in the State of New York, and Davenport knew it. I hold in my hand the opinion rendered in the test case.

This very point had been decided. Davenport said there was not sufficient record of the admission of these parties to the rights of citizenship, not that the men were not entitled to naturalization, not that they had not the right to vote, but that the clerk of the court had not made a proper record; it was too meager; it was too concise; and that question came up in the case of Peter Coleman *vs.* John I. Davenport and was decided by Judge Blatchford of the United States district court. I have his opinion in my hand. It is as follows:

The statute, in requiring the proceedings to which it refers to be "recorded by the clerk of the court," required no other record in respect of Coleman than that which was made, either as respects the order of admission or any of the oaths or affidavits. In *in re* Christian, before Judge Freedman, of the superior court of New York, October 15, 1878, persons in the exact position of Coleman applied to that court to have the record of the proceedings in that court admitting them to citizenship perfected by an entry *nunc pro tunc* of the fact of such admission in the minute-book of that court. The sole ground of such application was that the validity of the admission of the party to citizenship was disputed, on the allegation that there was no legal record of the judgment admitting him to citizenship, for the reason that the clerk of the court did not write out an entry in the minute-book of the court reciting the proceedings and showing the adjudication made. This is the same point now urged here. Judge Freedman, in his decision in that case, details the practice of the superior court from the close of 1858 to the close of 1873 in naturalization proceedings, and shows it to have been the same in all cases as in the case of Coleman. He held that what was so done constituted a sufficient record, and that the want of any further or different record, and the absence of an entry in the general minute-book of the court, did not render the admission to citizenship invalid. He therefore denied the application on the ground that no necessity existed for granting it, because there was no defect in the record which required perfection by amendment.

In another place the judge says:

That court for a period of fifteen years observed the same form of procedure, and kept the same records, and made the same orders of admission in all cases of naturalization as in the case of Coleman, and none other. During that period nineteen judges occupied seats on the bench of that court. They were Joseph S. Bosworth, Murray Hoffman, John Slosson, Lewis H. Woodruff, Edwards Pierrepont, James Monerief, Anthony L. Robertson, James W. White, John M. Barbour, Claudius L. Monell, Samuel B. Garvin, John H. McCunn, Samuel Jones, Freeman J. Fithian, John J. Freedman, James C. Spencer, William E. Curtis, John Sedgwick, and Hooper C. Van Vorst. It is to be presumed that, in each case of naturalization during that time, a certificate was given like in form to that received by Coleman, and averring that the court had ordered the admission of the party. That series of judges must have regarded what was found on the files or in the records or books of the court in each case as an order of admission or as a record showing that such an order had been made by the court.

The nineteen judges here named had agreed; all had passed on this very question; all said the issue of the papers was right and regular; that these men had a right to vote; and yet Davenport makes that the excuse for issuing the orders for the arrest of these men.

In the city of Philadelphia at the last election they had seven hundred and eighty-three deputy marshals appointed, all republicans, and they had twelve hundred republican police officers. Here were nearly two thousand men, all republicans, all officers either of the National or local Government and all paid either by the National Government or the city or the State government, all of them carrying the authority of the National Government on the left breast and in the right hand carrying republican tickets. It is such a law as this that we are seeking to repeal.

Again, the democratic party and all lovers of liberty say they do not want the Army at the polls except for the purpose of repelling an invasion of the enemies of the Government. What does Mr. Seward say upon the subject of the right and the power of keeping a standing army for the purpose of civil police? You will find on August 7, 1856, Mr. Seward in the Senate used this language; and I commend it to all lovers of liberty:

Civil liberty and a standing army for the purposes of civil police have never yet stood together, and never can stand together. If I am to choose, sir, between upholding laws in any part of this Republic, which cannot be maintained without a standing army, or relinquishing the laws themselves, I give up the laws at once, by whomsoever they are made, and by whatever authority; for, either our system of government is radically wrong or such laws are unjust, unequal, and pernicious.

I commend the language of that great statesman to my friends on the other side of the House. He goes on further to say:

If the founders of the Constitution had been told that within seventy years from the day on which they laid its solid foundations and raised its majestic columns a standing army would have been found necessary and indispensable merely to execute municipal laws, they would have turned shuddering away from the massive despotism which they had erected.

A standing army for the purpose of civil police and civil liberty, Mr. Seward says, can never stand together, and if the Army was to be used to enforce such laws and he was compelled to give up either the laws or the Army, he would give up the laws. That is what we ask you to do to-day, to give up the law, for there is no necessity for it, there is no necessity for eleven thousand deputy marshals at one election to carry out any law of this country that ought to exist. All we ask is that the people shall have the right to govern themselves.

Furthermore, what does your present Secretary of State say on this very subject? He was Attorney-General under President Johnson, and in a letter written August 20, 1868, to a marshal of the United States, he says:

The special duty and authority in the execution of process—

That is, not in making arrests without process, such arrests as Davenport ordered, such arrests as these deputy marshals made—

The special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which, under our Government, belongs to the civil authorities of the States, and not to the civil authorities of the United States.

This power belongs to the civil authorities of the States, your Secretary of State says, and not to the civil authorities of the United States. Ah, but we are told that the President will veto this bill, that we are seeking to tie up the hands of the President. Who has the right to say upon this floor or in the other Hall what the President will do? I believe that the President will sign both these bills, that we are not running counter to the wishes of the President; but whether we are or not makes no difference with me, and it ought to make no difference with any free American citizen. I take it that the President will sign these bills, that we are not running counter to his wish, and no party has a right to stand on this floor and say that the present incumbent of the White House will veto this or that or the other bill. I suppose the way my friend from Massachusetts fell into this error might have been this: that in his reading English history, with which he has shown very great familiarity, he thought, perhaps, in reading some of the forms of their laws that when we drew up a statute it must be something in the language of an English statute. When they come to present a bill to enact a law it is like this—I read from one statute of Great Britain and Ireland—I take one as a sample, they are all alike; this is one that was introduced for the naturalization of His Serene Highness Prince Albert of Saxe-Coburg and Gotha just before he was married to Queen Victoria, on the 7th of February, 1840. This, I suppose, hereafter, if the theory of the Senator is to be carried out, and we are to consult the President, is the way our laws must read:

Whereas it hath pleased Her Majesty most graciously to declare her intention to ally herself by marriage with the Prince Albert of Saxe-Coburg and Gotha; and whereas a more grateful proof of the esteem and affection of the kingdom cannot be given to his Serene Highness than by an act of naturalization to make him capable of enjoying the rights and liberties which are enjoyed in this realm: We, your Majesty's most dutiful and loyal subjects, do most humbly beseech your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled.

I suppose that we are to consult the views of the President, and we must ask his permission to pass a law in advance. In the language of this law we must say, "we do most humbly beseech your majesty that it may be enacted by the queen's most excellent majesty." I do not believe that the day will ever come when such a spirit as

that will pervade this country, but that is the spirit running through the elaborate speech of my honorable friend from Massachusetts. I do not desire to treat him with unkindness; I could not do it. We have been for many years either in one branch or the other of the American Congress. We have sat on committees together, and as far as we are personally concerned, my relations with him are of the very kindest; but I could not let this remarkable speech of his, preceded by his remarkable resolution, pass without drawing attention to it.

Mr. President, must not the voice of the people be heard, have they not a right to be heard? To-day one great prominent party has control of both branches of this Government. To-day twenty-three out of thirty-eight governors of the several States represent the same great political party. The people have spoken in every way that they can speak to place that party in power which has fought against the enactment of such laws as this, and they are in favor of the repeal of them. Twenty-three of the thirty-eight States have democratic governors to-day. The same sentiment pervades both Halls of the American Congress. Shall not that voice of the great American people be heard? What right has any man, then, to say that the President will by his veto check and stifle the voice of the people thus spoken in every manner? Who ever heard of the President vetoing a bill for the repeal of a law? Many of these laws were placed upon our statute-book by being tacked upon appropriation bills, and we seek to get rid of them in the same manner. No English sovereign has dared since 1692 to veto a bill of the British Parliament.

Mr. President, I have nearly done. I have thus feebly tried to raise my voice in favor of free elections, uncontrolled by a standing army, the terror through all ages of free government; uncontrolled by your supervisors of elections, those paid informers and spies upon a free people; uninfluenced by your thousands of unscrupulous, irresponsible deputy marshals, wearing on their left breast the badge of a United States officer and holding in their right hands the ticket—the ballot of a political party—a political engine of power a thousand times more to be dreaded than the Army; in favor of a free and fair jury all over the land, the "favorite child of the English law," the "origin of which is lost in the night of time," of which it has been said that "it is of a tradition so high that nothing is known of its origin, and of a perfection so absolute that it has remained in unabated vigor from its commencement to the present time." By one of the ancient kings of Wales it was called the "apostolic law." By the elder Pitt it was called the "buttress of liberty." The great Erskine, the especial champion of personal liberty, had engraved on the scroll of his coat of arms, "Trial by jury."

But what is trial by jury? The law-books tell us, and the language is familiar and the thought cherished by every lawyer, that it is a trial "by the country." But all this "trial by the country" would be no trial at all by the country, but only a trial by the Government, if the Government could declare who may or who may not be jurors.

A certain law-writer says:

> If the Government can say who may or who may not be jurors, it will, of course, select only its partisans and those friendly to its measures. It may not only prescribe who may and who may not be eligible to be drawn as jurors, but it may also question each person drawn as a juror as to his sentiments.

And that is just what is permitted by the law as it now stands and which is by us sought to be repealed. And yet we are told we are engaged in a revolution; and under this law this enormous, far-reaching power is placed in the hands of one man.

Mr. President, it was for this "right of trial by jury" that our revolutionary fathers fought and died; it was for this inestimable right that Washington drew his sword; it was to maintain and preserve this, among other rights, that those noble men crimsoned the snow at Valley Forge with their life's blood. Shall we without a struggle surrender it? Never! No, never!

The struggle for the independence of the jury trial was gloriously illustrated in England in the trial and acquittal of the seven bishops in 1688. It was in that memorable struggle that it was shown that the popular voice (as I believe is the case now and in this country) was not yet so completely awed or silenced as to be insensible to attacks on liberty and right. Our English brethren resisted the assumption of the Crown and triumphed; shall we, the citizens of a free republic, do less? If we did we would be unworthy descendants of noble sires. Mr. President, under this law authorizing the appointment of deputy marshals there is no limit. If you can appoint eleven thousand, as I have shown was done in one instance, you can appoint one hundred thousand or a million—where is the limit? In the hands of irresponsible parties, who dare say it will not be exercised at the next presidential election? Then farewell to free elections; it will be a farce, more completely so than when Napoleon III in 1851, at the dead hour of the night, in an hour by previous arrangement when all Paris was wrapped in the arms of sleep, had every prominent place in the gay capital plastered over with three proclamations: first, a decree announcing the dissolution of their National Assembly; secondly, that the council of state was dismissed; and third, that universal suffrage was established.

By another proclamation the people of France were invited to vote upon the question of electing "a responsible chief for ten years," the voting to take place between the 14th and 21st of December; the day of election came, and the voters marched to the polls between double rows of fixed bayonets and cast their votes. Napoleon was successful—he was elected for ten years. The *coup d'état* was complete. He who had failed at Strasbourg and Boulogne had triumphed at Paris. All this was done in the name of liberty and universal suffrage, and not as many arrests made as were made in New York City by Johnny Davenport. But the people were intimidated and overawed by the exhibition of the power of the State.

We seek, Mr. President, by the repeal of these laws, the jury law, the supervisors and marshals laws, and by prohibiting bayonets at the polls, to avert such a terrible calamity as I have thus depicted; and for this attempt in a quiet, legal, and constitutional manner we are charged on this floor with attempting a revolution. It may be a revolution, but it is a counter revolution. We seek to get back to the ancient landmarks of our fathers and there to remain forever.

Mr. President, I believe these sentiments and this attempt will find a response and an echo in every part of this land—from the snow-clad mountains of Alaska to the oppressed land where the air is perfumed by the magnolia; from the pine-clad forests of Maine to the workshops of Massachusetts; in the great metropolitan city of New York, the mines of Pennsylvania, the valleys of the giant West, and upon mountain heights; from all sorts of people, the native American, the sons of Erin, the admirers of Emmet, the Germans, the Swiss, the Dane, and the Mennonite driven from his home by the edicts of the Czar of Russia. I know it will find a universal response in my own mountain home, where, in the language of one of her most gifted sons, her citizens are lulled to sleep at night by the roar of the cataracts and awakened in the morning by the scream of the eagle as he takes his flight sunward.

Repeal these obnoxious laws, Mr. President, and all will be well; all will be peace and harmony. Allow the people a free and fair election, a fair jury, and self-government, and peace and prosperity will reign throughout our borders; retain them, and I fear the worst. Repeal them and again reassert the doctrine of our fathers, that man, proud man, with brow erect and lofty intellect, is capable of self-government without the interference of the Army and paid spies and informers, and this Government of ours, the best upon which the sun ever rose or set, will remain in its pristine beauty, glory, and power until "the latest syllable of recorded time."

ARMY APPROPRIATION BILL.

Mr. WITHERS. I call for the regular order.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The regular order is called for, which is the Army appropriation bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. WITHERS. I shall preface the consideration of this bill by some general statements with regard to it. The bill is almost identical in its provisions with the bill which passed the Senate at the last session. It is suggested that before proceeding further the bill had best be reported *in extenso* from the Secretary's table. I accept the suggestion and ask that it may be reported.

The PRESIDING OFFICER. The bill will be reported at length. The Chair omitted to direct the reading of it.

Mr. WITHERS. If it meets with the general concurrence of the Senate, I ask that the first reading of the bill be dispensed with and that it may be read and considered by sections, and acted upon at least until we get to the sixth section of the bill, which will probably be the section upon which general debate will be had. By that means we can dispose of all the antecedent portion of the bill and save time, I think, in disposing of the measure, if there be no objection to that course on the part of any Senator.

Mr. CONKLING. Down to what line or point is the bill as it was at the last session?

Mr. WITHERS. The differences are very slight. The bill may be read down to the sixth section if the proposition I make meets with the assent of the Senate. I can, as each section is reached, point out any difference which exists between the section as read and the previous bill.

Mr. CONKLING. I suggest to the Senator he probably means paragraphs and not sections. Section 1 goes to midway of page 12.

Mr. WITHERS. I refer to the paragraphs of the bill, of course.

Mr. CONKLING. Are the bills the same down to section 2?

Mr. WITHERS. Almost; the differences are very slight. In some cases there has been a slight increase in the appropriation.

Mr. CONKLING. Why does not the Senator, having the bill in his hand, begin at the beginning and point out to us, as probably he can in a moment, the alterations?

Mr. WITHERS. Very good; that was my first view of the matter.

Mr. EDMUNDS. The bill is quite short; I should rather prefer to have it read so that we can all read it over once as the Clerk reads it, and then the Senator can explain. It is very short, and it will only take a very little time to read it.

Mr. WITHERS. Certainly, if the Senator so desires.

The PRESIDING OFFICER. The bill will be read at length.

The Chief Clerk read the bill.

Mr. WITHERS. Now, I ask that we proceed to consider the bill by paragraphs, premising, however, by the statement that the Committee on Appropriations have no amendments to offer. Of course, as the bill is in Committee of the Whole, it is open to amendment, and any Senator who desires has the privilege of offering an amendment.

I will state in general terms that this bill resembles in all its principal features the bill which was reported to and passed by the Senate last session, with the exceptions which I shall notice. The amount of the bill as passed by the House was $26,797,300. The amount of the bill as reported to the Senate is $26,797,300. The total of the estimates from the Department for 1880 was $28,384,500. The bill as reported is less than the estimates by the sum of $1,587,200. As compared with the appropriations of last year, the appropriations for 1879 being $26,593,486.01, the bill as reported exceeds the appropriations for 1879 by the sum of $203,813.99.

The items of increase and reduction in this bill as compared with the appropriation bill for 1879 are as follows:

For the pay of the Army there is an increase of $699,112.82;

For subsistence there is a reduction of $15,000;

For quartermaster supplies there is an increase of $250,000;

For ordnance supplies there is an increase of $10,000;

For repairing ordnance, dismounting guns, &c., there is an increase of $5,000;

For military post near the Niobrara River there is an appropriation of $50,000;

For military post in Montana there is a decrease of $100,000;

For military post in Dakota there is a decrease of $100,000;

For completing the Medical and Surgical History of the War there is a reduction of $12,883.85;

For illustrations for the same there is a reduction of $17,414.98;

For improving ground at Sandy Hook there is a reduction of $5,000;

For the site of a powder depot there is an increase of $50,000;

For the manufacture of arms at the national armories there is an increase of $100,000;

For the Army and Indian transfer commission there is a decrease of $10,000;

Making a total of increase in this bill as compared with the bill of 1879 of $1,164,112.82, with a reduction of $260,298.83 as compared with the same bill, being an increase of $903,813.99. There was, however, a deficiency bill passed last year (rendered necessary by the deficiency of appropriations) of $700,000, which, deducted from the increase under this bill, leaves a net increase of $203,813.99 as compared with the appropriations for 1879.

Mr. CONKLING. If the Senator pleases, will he not repeat what he stated about the manufacture of arms?

Mr. WITHERS. For the manufacture of arms at the national armories there is an increase by this bill of $100,000 over the bill of last year.

Mr. CONKLING. Will the Senator give me the page and line of the bill?

Mr. WITHERS. Page 12, lines 266 and 267:

For manufacture of arms at national armories, $250,000.

For this item the bill of last year appropriated $150,000. The estimates were $800,000. This bill appropriates $250,000.

There are of course several subjects of legislation in this bill, all of which were agreed to, however, in the bill which passed at the last session with the exception of the sixth section, which is now incorporated in the bill, and which was not then agreed to. There are only two or three provisions of any importance which were contained in the bill of last session which are not included in the present bill. The first omitted provision will be found on page 5 of the bill of last session, under the title of "Pay, and so forth, of the Army, 1880." The former bill has this provision:

And in case any item of the said appropriations shall prove insufficient for its purposes, the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under this head shall not be exceeded.

That is omitted from the present bill. It was stricken out by the House. A similar item is to be found in the appropriations made for the Quartermaster's Department, where a similar provision was incorporated in the bill of last session, as follows:

And in case any item of the said appropriations for "regular supplies," "incidental expenses," "barracks and quarters," and "Army transportation," shall prove insufficient for its purpose, the excess in any other of these items may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under these heads shall not be exceeded.

This provision involved the same principle of permitting the Secretary of War to use an excess of appropriation for one object where there is a deficiency in another branch of the same service. Another provision left out of the present bill is to be found on page 3 of the bill of last session, as follows:

That officers of the Army on the frontier for travel, on duty, under orders, and not by railroad, may, at their option, receive mileage according to existing law and regulations, or the actual necessary expenses of such travel, according to such regulations as the Secretary of War may prescribe: *Provided*, That so much of the act of July 24, 1876, entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1877," as prohibits payment of mileage for travel over any railroad on which the troops and supplies of the United States are entitled to be transported free of charge be, and is hereby, repealed.

That provision is not in the bill as at present reported.

I believe I have now called attention to all the material differences between the bill which is now before the Senate and the bill of last session. There are several changes in amounts appropriated which are none of them of much moment, and which I can explain at any time to the satisfaction of any Senator who may desire to know the why and wherefore. Having mentioned these I have mentioned all that occur to me as being worthy of consideration before we proceed with the bill to act upon it by paragraphs; but if any other member of the committee recalls any feature of the bill which has not been alluded to that differs from the bill of last session, I will be very glad if he will mention it.

With this statement, therefore, I ask that the bill be considered by paragraphs.

The PRESIDING OFFICER. Is there any objection to the course suggested by the Senator from Virginia? The Chair hears no objection. The Secretary will read the first paragraph of the bill.

The Secretary read as follows:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1880, as follows:

For expenses of the Commanding General's office, $2,500.

Mr. WITHERS. I suggest that if objection be not made, each paragraph shall be considered as adopted in Committee of the Whole after being read, unless objection is made, without any necessity of a formal vote in every case.

The PRESIDING OFFICER. If there be no objection, the Chair will consider that each paragraph is adopted as read, unless some Senator rises.

The Chief Clerk continued the reading of the bill to lines 266 and 267 of section 1; which were read, as follows:

For manufacture of arms at national armories, $250,000.

Mr. BURNSIDE. I move to amend that paragraph by striking out "$250,000" and inserting "$150,000," which was the amount agreed upon in the bill of last session, and I see no reason for increasing it.

Mr. BLAINE. I think the Senator is mistaken.

Mr. BURNSIDE. No, I think not. I think the committee have increased the amount $100,000, and I see no reason for increasing it. In fact, as an abstract question I am opposed to the appropriation of any sum for the manufacture of arms at present. In the bill agreed upon at the last session the amount of this item was $150,000, unless I am very much mistaken.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. WITHERS. With regard to the proposition to amend by reducing the sum to the extent of $100,000, I will state the reasons which influenced the committee in proposing the increase, which were briefly these: a very strong appeal was made to us by the War Department on the subject of an increase of this appropriation. The Department, indeed, estimated for an appropriation of $800,000. You will find the estimate on the one hundred and third page of the estimates sent in by the War Department March 19:

Manufacture of arms at the national armories; and should a board of ordnance officers recommend a suitable magazine-gun for the military service, the Secretary of War is authorized to expend not more than $25,000 of this amount in its manufacture	$900,000
Reduction by the Secretary of War	100,000
	800,000

By the bill of last year, for 1879, the actual appropriation made for this same service was $150,000, and the amount of $250,000 in the present bill was reported in the bill which was passed by the Senate at the last session for the ensuing fiscal year; but it failed to pass by the general failure of the bill. The following note is added to the estimate:

NOTE.—During the ten years preceding the war of the rebellion, from 1852 to 1861, there was appropriated annually, on an average, $251,000 for the manufacture of arms at the national armories, and with this sum the wants of a smaller army and of a smaller population permitted the gradual increase of them in store. The increased cost of the present breech-loading rifle, the greater demand for its use, and the paucity of the appropriations of late years, have left the country in a dangerous condition; there being on hand July 31, 1878, subject to issue but nineteen thousand rifles and carbines. It is of the most vital importance to the nation that the manufacture of arms by this Department be steadily continued in quantities sufficient to render a gradual accumulation of them in store a certainty. The number of small-arms on hand should never be less than five hundred thousand.

In the same connection I will remark that I presume Senators representing almost every State on this floor have personal knowledge of the fact that demands have come up from their constituents for an increase of arms, which cannot be granted because there is no accumulation of arms in the armories sufficient to supply such demands. The reason of the increased appropriation was to enable the Government to manufacture arms a little in addition to the surplus necessary to meet the wear and tear of arms in use, so that a gradual accumulation of arms in the armories might be maintained, which would enable us to supply the demand for such arms from the States as their necessities may require.

These are, in brief, the reasons which influenced the committee in making the increased appropriation.

Mr. BURNSIDE. My motive in moving to amend was to adhere to what was agreed upon at the last session of Congress.

Mr. WITHERS. This is the amount agreed upon at the last session.

Mr. BURNSIDE. In the bill passed by the Senate at the last session?

Mr. DAWES. This is the same sum that was appropriated in the bill last session.

Mr. BURNSIDE. I beg pardon; I withdraw my motion to amend if that is the case.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BURNSIDE. I beg to state, in justification of what I said, that I am upon principle opposed to the appropriation of any amount for the manufacture of arms at present until an arm is settled upon which will be understood to be the best military arm in existence. I am opposed to the manufacture of any more arms of any pattern, for the present at any rate. We have now enough arms lying in the armories, and there is no wisdom in my opinion in continuing the manufacture of arms of this pattern at this time. I do not say this with a view to create any result now, because if this amount was agreed upon in the last bill I make no objection to it here.

Mr. WITHERS. It is the amount appropriated by the bill of last session.

Mr. LOGAN. I desire to ask a question. I have no opposition to present to this item; but I did not understand the Senator from Virginia. I desire to ask him what is the number of arms now on hand commonly denominated small-arms—rifles and muskets?

Mr. WITHERS. Nineteen thousand rifles and carbines comprise the whole number of small-arms now on hand.

Mr. LOGAN. Do I understand that the Secretary of War reports that there are but nineteen thousand rifles and carbines on hand?

Mr. WITHERS. That is the report of the Secretary of War.

Mr. LOGAN. That cannot possibly be correct.

Mr. WITHERS. Of course the committee are not prepared to challenge the correctness of the statement, but accept it on the authority of the Secretary of War.

Mr. LOGAN. When I say it cannot possibly be correct, I mean that there must be some error in the print, or something of that kind, because the statement cannot be correct that there are only nineteen thousand of these arms on hand. I wish also to ask if the arms now manufactured are of the Allyn pattern. Of what pattern are the recent arms that are being manufactured?

Mr. WITHERS. I am not prepared to inform the Senator what special pattern or patterns are being manufactured. The committee have acted simply upon the estimates submitted to them by the Secretary of War and the reasons adduced therefor. They did not think it incumbent upon them to enter into an investigation and decide what was the best possible pattern of rifle or musket or carbine which might be manufactured, but simply to provide for the manufacture of such as were at present made by the Government, assuming that the War Department had, in their opinion, selected that arm which was most serviceable.

Mr. LOGAN. I asked the question only for information. I have not been informed myself and I have no mode of ascertaining whether the arm has been changed recently or not. That which is used by the Army I know is a very fine arm. I suppose the statement must mean that these are the surplus arms on hand, the arms ready to be distributed.

Mr. WITHERS. Certainly; that is precisely what it does mean.

Mr. LOGAN. That is what I wanted to understand, if it meant that or meant all the arms at the command of the Government.

Mr. WITHERS. It does not include those in the hands of the Army. It is not designed to apply to those in use by the troops in the field, but to the surplus for distribution.

Mr. LOGAN. I thought it very strange if they had only nineteen thousand on hand. I knew that could not be the entire number.

Mr. WITHERS. Oh, no; it is the surplus of arms.

The PRESIDING OFFICER. There is no question before the Senate.

Mr. WITHERS. There is no question before the Senate. Let the reading of the bill proceed.

The PRESIDING OFFICER. The amendment is withdrawn, and the Secretary will resume the reading of the bill.

The Chief Clerk resumed the reading of the bill to section 2, which was read, as follows:

SEC. 2. That the Secretary of War is authorized and directed to cause all the regulations of the Army and general orders now in force to be codified and published to the Army, and to defray the expenses thereof out of the contingent fund of the Army.

Mr. LOGAN. I wish to know what the committee intend by this section for publishing the Army regulations and general orders? Is it intended that this section shall make them the law for the Army?

Mr. WITHERS. It is designed to give authority to the Secretary to cause all the regulations of the Army and the general orders in force, which constitute the law of the Army, to be published for the information of the officers and soldiers of the Army.

Mr. LOGAN. It is not intended that the regulations which have been before Congress shall be published as the law for the Army?

Mr. WITHERS. It proposes no legislation in that direction whatever, but is simply an authority to publish for the use of the Army the Army regulations and the general orders now recognized as in force.

Mr. LOGAN. They have the authority anyhow. Of course they can publish those.

Mr. WITHERS. The action of the committee was simply to make provision for the payment of the expense necessary for that publication.

The Chief Clerk proceeded with the reading of the bill and read section 3, as follows:

SEC. 3. And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

Mr. ALLISON. I think the word "and" should be stricken out, and the word "that" inserted. I make that motion. There is nothing preceding the word "and," and I move to strike it out and insert "that," so that the section will appear to be what it is—an independent section.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Iowa; to strike out the word "and," and insert "that" as the first word of the section.

Mr. WITHERS. The euphony of the bill would certainly be promoted by the adoption of the suggestion of the Senator from Iowa; and I will also state in general terms that there are several provisions in the bill which did not exactly meet the views of many members of the committee; but inasmuch as time was deemed an element of great importance in the passage of the appropriation bills, a majority of the committee consented to waive their objections to the phraseology of certain portions of the bill in order to avoid the necessity of returning the bill to the other House for their concurrence in amendments, so that when it passed the Senate, if we shall be able to pass it without amendment, it may be submitted to the President at once without further loss of time. For that reason several suggested amendments were resisted in the committee, and will be resisted here so far as we are able to do it. This proposed change of the word "and" to "that" is one of those.

Mr. ALLISON. This particular provision was in the last Army bill, and it was probably taken out of the center of a section, and it seems in redrafting this bill it has been printed just as before. There is nothing preceding, and the word "that" should be employed. Of course if it has been decreed by the majority that there shall be no amendment here, we must submit; but it seems to me that in the orderly course of proceeding we should insert the word "that" instead of the word "and."

Mr. WITHERS. I can only say that it was decreed by the majority of the Committee on Appropriations, or by the Committee on Appropriations, I should rather say, because the action of the majority constitutes the action of the committee, that the word "that" should not be substituted for the word "and."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. ALLISON.]

The amendment was rejected, there being on a division—ayes 20, noes 24.

Mr. EDMUNDS. I move to strike out the whole section. I think it has no place in an appropriation bill at all.

The PRESIDING OFFICER. The Senator from Vermont moves to strike out the third section of the bill.

Mr. WITHERS. I will simply state that it is identical with a section to which the Senate gave its assent at the last session.

Mr. EDMUNDS. And probably that is the reason the House of Representatives would not agree to it.

Mr. WITHERS. They did agree to it.

Mr. LOGAN. I should like to ask the Senator from Virginia what the object of this section is? I read:

And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

Mr. WITHERS. I should suppose that a Senator with the enlarged experience of the Senator from Illinois would know exactly what it means, inasmuch as it seems to me to be stated with great precision. There is in the office of the Secretary of War an officer whose duty it is to examine State claims, and this is a provision to give him while engaged in such work the pay, emoluments, and allowances of a mounted officer one grade higher than that held by him in his regiment or corps.

Mr. LOGAN. What grade does he hold?

Mr. WITHERS. It makes no difference what grade he holds. Whatever his grade may be, this provision is to allow him the pay of a grade higher.

Mr. LOGAN. Of course I do not desire to throw any obstacle in the way of the passage of the appropriation bill, but I do object to this section. It advances the pay of an officer of the Army while he temporarily holds a certain position. He is not nominated to any higher position than he holds. There is a law on the statute-book which prevents an officer of the Army from receiving pay for any duty which he performs higher than that of the rank which he holds in the Army. A captain, for instance, is detailed at the War Department. If he is a captain the next rank is that of major, and under this section he is not only to receive the rank of a major in the Army, but he is to receive the pay of a major of cavalry. If an infantry captain is detailed to this duty he then at once receives the pay of a cavalry major—not that of a cavalry captain, but of a cavalry major. I should like to hear some member of this committee explain to me why his rank and pay should be increased.

Mr. WITHERS. The reasons in brief are embodied in a communication from the Secretary of War and the Second Comptroller of the Treasury, which I hold in my hand, and which I will read if the Senator desires.

Mr. LOGAN. I only ask for the reason operating on the mind of the committee. I am not asking the reasons which have been written by that officer perhaps who asked the Secretary or somebody to sign his paper and send it to the committee. I ask for the reason the committee had for increasing in an appropriation bill the rank of

any officer of the Army to that of major of cavalry if he is a captain, with the rank and pay of a major of cavalry when he may only hold the office of captain of infantry?

Mr. WITHERS. The Senator is perfectly aware that if this section should pass it would not increase the rank of the officer one particle.

Mr. LOGAN. I insist that it would.

Mr. WITHERS. There is a difference of opinion between us.

Mr. LOGAN. I insist that it would for the reason that under the law no officer of the Army can receive pay for a rank other than that which he holds and which the law allows for that rank. You propose by virtue of this section of the bill to provide that this one officer shall receive the pay of the rank one grade higher than that which he holds and that the pay shall correspond with the rank one grade higher of cavalry. Hence by virtue of this act, although you do not give him the commission, you temporarily give him the rank by virtue of which he draws pay from the Government.

Mr. WITHERS. The Senator seems to confound money and rank, which are two distinct things.

Mr. LOGAN. I do not at all.

Mr. WITHERS. The Senator will admit that if Congress thinks proper to pass the section which is now under consideration it will be the law, and any pay or emolument received by the officer under the provisions of this section will be under the provisions of law.

Mr. LOGAN. I disagree with the Senator in respect——

Mr. WITHERS. I am unfortunate.

Mr. LOGAN. I will try to make myself understood. By the laws regulating the Army, if an officer is detailed to the staff of the General or of the Lieutenant-General, by virtue of that detail he receives a higher rank, although not a commission for it. He is assigned to duty with the rank of colonel, we will say, when his rank is probably that of captain; and by the law he receives the pay and emoluments of the rank of colonel. Hence it is understood in the Army that while he is on the staff of the General he has that rank and he is recognized by that rank. This is precisely a similar case. You detail an officer of the Army at the War Department not on the staff of the General, and by virtue of that detail you assign him to duty with a rank one grade higher than that which he has in the Army and he receives his pay therefor. That is exactly the position. It stands in the light of a person detailed on the staff of an officer where he has an assimilated rank of a higher grade.

Mr. WITHERS. Assimilated rank, I admit, but not actual rank.

Mr. LOGAN. I do not say that it gives him actual rank; I said it did not give him a commission; but by virtue of this provision it is the same thing; he has the assimilated rank. Why do you give it? You give it to an officer who is detailed to a nice, soft, easy place in Washington City, much less arduous than on "the tented field" or on the frontier; much less arduous than in the camp or at the post or wherever military duty may be performed by an officer of the Army. It has been sometimes, and too often, the case in the Congress of the United States that soft places have been given to particular persons by special act, and their rank, their assimilated rank, raised, so that they might receive more money and have a more pleasant time. I am utterly opposed to any such thing. We find many instances in the Army where by special legislation Congress has taken a man from the side of those occupying the same rank which he does, and placed him higher in the scale than his associates, higher in rank, in assimilated rank, if you use that term, higher by the pay he gets, and a much softer and easier place too is afforded to him, for the purpose of satisfying some particular friend or some particular relative or some select person belonging to some particular family.

That is all that this provision means in this bill. I for one am utterly opposed to any such thing. If a gentleman has the rank of a captain in the Army, let him get his promotion as others are promoted. Let him get it under the law as others get theirs, by virtue of resignation, death, or otherwise, as the term is used in relation to this Chamber, lawfully, not by special legislation for his especial benefit.

Mr. WITHERS. Mr. President, it may be possible that the Secretary of War was influenced by considerations such as have been alluded to by the Senator from Illinois, but such was not the opinion of the Committee on Appropriations. They presumed that the reasons which are embodied in his letter, which I will have read to the Senate, were sufficient in his opinion to justify the increase of pay and emolument which was asked. I send the communication of the Secretary of War to the Clerk's desk and I ask that it be reported to the Senate as furnishing the reasons which influenced the Committee on Appropriations in reporting this section.

The PRESIDING OFFICER. The communication will be read.

The Chief Clerk read as follows:

WAR DEPARTMENT,
Washington City, January 27, 1879.

SIR: I have the honor to recommend that the bill to supply deficiencies in appropriations may be made to enact a clause as follows:

That out of any money appropriated for the support of the Army there shall be allowed and paid to the examiner of State claims in the office of the Secretary of War the pay and allowances of a major of cavalry for the time the Secretary may certify the officer has been on duty in the office as examiner for the War Department of accounts and claims against the United States, deducting whatever pay and allowances said officer has received during that time.

The measure recommended is *in the interest of economy*, is based on principles of justice, and is deemed to be for the good of the public service at this time.

The inclosed copy of a letter from the late Second Comptroller of the Treasury (Hon. C. C. Carpenter) states that it is "in the interest of economy to pay," &c., the said examiner, and a letter from the former Second Comptroller, (Hon. J. M. Brodhead,) copy of letter herewith, shows the high character of the services rendered by the aforesaid officer, a fact of which I have personal knowledge myself.

The Supreme Court laid down a rule which I think is applicable to such a case, (where a jury must decide the question of compensation,) the rule being:

"That an equitable allowance shall be made in the same manner for extra services performed by an officer which did not come within the line of his official duty and which had been performed under the sanction of the Government or under circumstances of peculiar emergency. In such a case the compensation should be graduated by the amount paid for like services under similar circumstances. Usage may safely be relied on in such cases as fixing a just compensation."—*The United States vs. E. W. Ripley*, 7 *Peters*, 26.

I do not know of any military officer below the grade of major who has performed and continues to perform more arduous, trustful, and efficient administrative services than those rendered and being rendered by this officer, whose reports are made directly to me; nor do I know of one who can satisfactorily and fully discharge all the official duties now necessarily intrusted to this officer. These duties are of a varied and technical kind, and are only to be satisfactorily performed by an officer of experience in a given line, possessing a knowledge of precedents in matters of law and fact, as well as a knowledge of military affairs.

It is deemed necessary for the good of the public service at this time to retain on the side of the Government, with a life tenure of office, the best counsel that can be found to justly deal with the claims and claimants on account of the late war. I do not think such counsel can readily be obtained for the compensation paid to this officer, and I observe that the pay of the examiner of claims for the Department of State is fixed by statute at $4,000 per year, (section 349 Revised Statutes,) which is equal to about twice the pay and allowances of the examiner of State war claims in this office.

If the tenor of legislation was not opposed to any increase of the number of staff officers already allowed by law, I would recommend further the enactment of a clause to say: That any commissioned military officer once a major and assistant adjutant-general of volunteers, who has been or shall be for fifteen years on duty in the office of the Secretary of War, without change of station during that time, shall be entitled to the rank, pay, and allowances of major and assistant adjutant-general in the Army.

And in this connection I find a case where provision was made for an officer according to his increased services in 17 Statutes, 535, which states:

"And the officer in charge of the public buildings and grounds shall have the rank, pay, and emoluments of a colonel."

I may add for your information that the examiner to whom this measure refers receives the pay and allowances of a lieutenant of infantry.

Among his various duties, including the supervision of estimates, requisitions, and the like, during the last two months he has made the original reports for my information and decision as between this Department and the Treasury on three claims, amounting to $359,843.72, the reports covering one hundred and seven pages of manuscript and showing an approval for allowance of $116,695.92; for suspension, $171,660.83; for disallowance, $71,486.97. And these reports are so well prepared that they are duly regarded by Treasury officials.

Respectfully, &c.,

GEO. W. McCRARY,
Secretary of War.

Hon. WILLIAM WINDOM,
Chairman Committee on Appropriations, United States Senate.

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE, *January* 29, 1877.

DEAR SIR: My attention has been called to a bill (Senate file 1160) the design of which is to make the compensation of Major Bradley, since his succession to the duties formerly performed by the late General Ketchum, more nearly proportional to the exacting and responsible services of his position in the War Office.

From the nature of my official duties the work performed by Major Bradley is brought daily to my observation, and I can therefore certify from personal knowledge, to the industry, the accuracy, and the familiarity with legal principles which are indispensable to the proper performance of his duties. I understand the duties which he now performs were formerly in charge of General Ketchum, who ranked and was paid as a colonel. In view of these facts, and the further fact that I believe it to be in the interest of economy, as it is unquestionably in the interest of justice, to pay an earnest, conscientious, and diligent official a salary bearing some proportion to his ability and his services, this measure seems to me entirely meritorious and well deserved. I shall be personally gratified if Congress give this bill consideration, as I am sure a knowledge of the facts will commend to just men the propriety of the proposed relief.

With great respect, very truly, yours,

C. C. CARPENTER.

Hon. J. D. CAMERON,
Secretary of War.

WASHINGTON, D. C., *February* 1, 1877.

DEAR SIR: While I was Second Comptroller of the Treasury, your work as successor of General Ketchum in the investigation of State claims, &c., came frequently before me. Your assiduity and thoroughness in the discharge of this duty was the subject of comment, and the only censure I heard expressed was that your scrutiny was too severe.

The intelligence and care with which your reports were prepared rendered them of great assistance in the adjustment of those claims, and the pay indicated in the bills for your relief, now before Congress, has been fairly earned, and would certainly be no more than an adequate compensation for the service you rendered to the public interest.

Very respectfully and truly, yours,

J. M. BRODHEAD.

Major THOMAS H. BRADLEY,
War Department.

Mr. LOGAN. I desire merely to call the attention of the Senator who has charge of this bill to the language of that document. I have nothing to say about how that paper was prepared, but it certainly was prepared with a great deal of care and pains. I do not doubt that the officer who prepared it is well qualified to decide on claims. If you notice the language used there, it is that he shall be entitled to "the rank, pay, and emoluments," I think. Read it over again and let us see.

Mr. WITHERS. There is no "rank" about it, but "pay, emoluments, and allowances."

Mr. LOGAN. I am talking about the paper just read.

Mr. WITHERS. I beg pardon; I thought the Senator spoke of the section as it is in the bill.

Mr. LOGAN. Let the line speaking of rank be read.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The portion of the communication referred to by the Senator from Illinois will be read again.

The Chief Clerk read as follows:

If the tenor of legislation was not opposed to any increase of the number of staff officers already allowed by law, I would recommend further the enactment of a clause to say: That any commissioned military officer once a major and assistant adjutant-general of volunteers, who has been or shall be for fifteen years on duty in the office of the Secretary of War, without change of station during that time, shall be entitled to the rank, pay, and allowances of major and assistant adjutant-general in the Army.

Mr. LOGAN. I have no criticism whatever to make on that paper; I merely call attention to that paragraph of it, so that Senators can readily understand by whom it was prepared and why it was prepared, for the purpose of obtaining the character of legislation that I mentioned, which attempt is made at nearly every session of Congress to promote some particular person in the Army to a higher grade than he is entitled to. By such means many persons in Washington City to-day hold a grade much higher than that which they would have received under the law in the Army if they had been left to regular promotions in the Army. It is that character of legislation that I object to, and especially in a bill of this kind. Surely we ought not in an appropriation bill for the support of the Army to discriminate between officers of the Army of the same rank.

If this gentleman is not willing under the rank of captain to remain in Washington City and perform this duty, it is very easy for the Secretary of War to detail some man who is a major in the Army, for he evidently means to say that no man of less rank than major ought to perform this duty. If so, let him detail one of that rank; there are plenty of them, and there is no reason why this special action should be had. If there are no majors in the Army, then he can detail a lieutenant or a captain. There are lieutenants to-day in the Army under your law who are receiving the pay and emoluments of colonels in the Army, which is all wrong, and ought not to be recognized as consistent with promotion and regular rank in the Army.

Mr. WITHERS. The Senator from Illinois doubtless knew when that paragraph was read from the communication of the Secretary of War that it had no reference to the section of the bill under consideration, and the word "rank" being used in that does not constitute an objection, for the fact is that the word "rank" is not used in the section under consideration.

Mr. LOGAN. I know it is not used in the bill; the language there is only "pay, emoluments, and allowances."

Mr. WITHERS. The section of the bill under consideration has no connection with that part of the communication from the Secretary of War which the Senator has had reported. That related to a different matter.

Mr. LOGAN. Then why did you have it read?

Mr. WITHERS. I had the communication read because it pertained to this section. There are portions of it which are not applicable to this section and which contain other suggestions that the Committee on Appropriations paid no attention to and have reported nothing in connection with. I presume the objection of the Senator was regarded by the House as a valid objection, inasmuch as they made no provision for the increase of rank which he objects to as pernicious legislation.

Mr. LOGAN. But what is the difference, so far as the Treasury is concerned, whether you give the man the rank or give him the pay of that rank? You do not give him the rank, because that is merely for the purpose of showing that you do not wish to make distinctions by special legislation to legislate a man into a rank he is not entitled to, but by the same legislation you give him the pay just as if he had the rank, and thereby give him assimilated rank; so that there is no difference, so far as the effect is concerned, on the pay and emoluments of the office.

Mr. WITHERS. There is no difference as to the pay and emoluments, but there is certainly a great difference as to rank. This officer, being detailed, may be changed from time to time. The section only provides that while he is discharging these onerous and important duties, which all the testimony goes to show he has discharged with extraordinary fidelity and efficiency, he shall receive an increase of pay equal to the difference between his actual rank and the rank next above him, only to continue, however, for the time he is thus serving. As soon as another detail shall be made, the recipient of it at present would fail to receive it, and the person who is subsequently detailed would receive it. That is all.

Mr. LOGAN. I do not wish to detain the Senate, but I desire to call the Senator's attention to this point: do you not by your legislation put it out almost I will not say of the power, but does not your legislation so enact it that no major or lieutenant-colonel ever will be detailed to perform this duty? Is it not a fact that by this provision naturally some person with the rank of captain will always be selected so that he may get the pay of a major? If you detailed a major, he would then get the rank of lieutenant-colonel. There would be complaint of that, and hence the Secretary would be likely always to detail a lieutenant so that he may get a captain's pay, or a captain so he may get a major's pay; but he will not go above that. Is not that the effect of it? Is not the effect of this section to put it in the hands of a person of a certain rank to be detailed for this duty, because the Secretary of War says the rank of major ought to be the rank to perform this duty? Hence he details one rank less that the officer may be promoted by raising his pay and emoluments to those of the assimilated rank of major. That is the effect of your section.

Mr. WITHERS. I will say that there is no restriction whatever in the section as to the rank of the officer who shall be detailed for this service. It only provides that the officer who may be detailed shall receive the pay and emoluments of the next highest rank.

Mr. LOGAN. Of course there is no restriction, but the Secretary of War in his letter states to the committee that the duty ought to be performed by an officer with the rank of major. If it ought to be the rank of major he will not detail an officer of higher rank; but under this section he will always detail an officer of lower rank than major that he may be promoted to major, and that is the object of it. It has no other object in view. It is strange if there is but one man in the United States Army qualified to perform this duty; very strange, indeed.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. This discussion satisfies me that this section ought to go out without reference to the question whether the proposition is intrinsically right or not. The Committee on Military Affairs, that is supposed to be more familiar with the operations of the Army and its bureaus than the Committee on Appropriations and the rest of us, has had no opportunity, as these bills are framed, to examine this at all, and I think it is one of those eminent instances (and they run all through the appropriation bills and the sooner we can stop it the better) where there is no great political or other crisis that affects liberty or anything else pending, to make it necessary to hitch it on to an appropriation bill in order to coerce somebody; but it is just a simple proposition to make a change of the law upon a topic that the appropriation bill has no earthly connection with. This appropriation bill is a bill to provide pay for the Army. Now, then, you propose on this bill to pay the Army, to regulate the fees and allowances of one particular person out of the hundreds of persons or the scores of persons analogously situated in the War Department by an independent act of fresh legislation. I submit to the Committee on Appropriations whether that is right—I do not mean right in respect of whether the proposition in and of itself is good or bad; we have not the means of examining that critically now by an inquiry of a committee that devotes itself to that class of subjects specially and exclusively; but whether it is right, in providing appropriations of money to pay the statute allowances that are made to officers and soldiers, to introduce into such a bill a special, new law of this kind.

As I say, there is no pressing public exigency that calls upon Congress to jump to its feet and as the Senator from New York [Mr. CONKLING] sometimes says "turn on the lights" in order to have this done in quick haste. There is time enough to introduce a bill, if this is a good thing, and have it sent to the Military Committees of the two Houses of Congress for them to look over the whole field and see how it bears upon other officers who are similarly situated, see whether it promotes discontent and inequalities, and then to do what appears to be right.

But another suggestion occurs to me. On the clause itself it might be suggested, as the Senator from Virginia says that this proposed statute does not limit the selection of an examiner of State claims to a lieutenant or a captain, that the officer detailed may be a brigadier-general and the detail may be changed from time to time. If a brigadier-general should be selected—and we have more officers of that rank than are necessary for field purposes just now as everybody says, I do not know how it is myself,—if the Secretary of War should call upon a brigadier-general to do this duty, the brigadier-general would at once have the pay and allowances of a major-general. That would not be right. It would not be right on the merits of it because the pay of a brigadier-general is sufficient for him to leave the field or his post and come to Washington and live here and do this duty. That ought to be considered. It runs clear up as well as clear down; and therefore I submit in all sincerity on a bill of this kind that this is not the place to go into an inquiry as to the fitness of this thing and that there is no imminent public exigency which calls upon us to do it.

Mr. WITHERS. The objection of the Senator from Vermont applies principally, then, to the vexed subject of legislation upon appropriation bills, and if he desires to prune this bill from all legislative provisions he will have to strike out a good many of its antecedent provisions as well as subsequent ones. But inasmuch as this bill substantially received the assent of that Senator at the last session of Congress, I could scarcely suppose that it was so pernicious and vicious to do in the month of April what it was perfectly proper to do in the month of February.

I have nothing further to say in regard to that matter. Every general appropriation bill that has been passed since I have been a member of this body has contained legislative provisions, and this, of course, ought to contain certain legislative provisions.

The second objection urged by the Senator is well taken, if it constitutes an objection, that there is no restriction upon the selection of the officer who shall be detailed for this particular service, and it is entirely within the discretion of the Secretary of War, if he see proper to do so, to detail any officer of the Army for this service; but I should be willing myself to trust to the discretion and knowledge of the Secretary of War of the special talents and aptitude required

for the position, which they, I think, would suffice him to select the officer who is most adapted and best calculated to discharge these duties most efficiently and properly.

Mr. EDMUNDS. Mr. President——

Mr. HILL, of Georgia. One word. Perhaps the reason has been given before, but I have not heard it, having been engaged. So I venture to ask what reason is there for giving a man more pay for staying in Washington than being in actual service?

Mr. EDMUNDS. Mr. President——

Mr. WITHERS. If the Senator from Georgia had been present when the communication of the Secretary of War was read to the Senate, he would have understood the reasons, which are briefly these: that in view of the very extensive labors which devolve on this officer, and the necessity of peculiar talent for the character of service which he is required to perform, it demands rather an extraordinary combination of qualities which should, in the Secretary's opinion, entitle him to greater emolument than is allowed to his actual rank.

Mr. LOGAN. Allow me to ask the Senator a question right there.

The PRESIDING OFFICER. The Chair recognized the Senator from Vermont some time ago.

Mr. LOGAN. I beg pardon.

Mr. EDMUNDS. If Senators would address the Chair when they rise, then I should have made my speech a good while ago and should have finished. I wanted to reply to what the Senator from Virginia [Mr. WITHERS] had said, and addressed the Chair for that purpose, so that what I should say in respect of my agreement to the last Army bill that did not become a law might go in connection with his remarks because he does me great injustice and has fallen into an error on that subject.

I tried to the extent of my humble capacity on one or two clauses of the old Army bill to have them stricken out on the very ground that I state now, that they were legislative provisions changing the general law, that had no relation to the expenditure of the money that was appropriated. I failed, ignominiously failed I may say, in those one or two instances, and, therefore, I thought it would be merely flying in the face of fate to try it any more; but I did not therefore acquiesce in or assent to the passage of the last Army bill, which failed to become a law, with any legislation on it at all. It was against my judgment as I expressed it, against what I believed to be sound principles of legislation, and I try this motion now rather as an experiment to see, on a point where there is not any great question involved as it is supposed there is in some other sections, whether there is left any disposition in the Senate to keep appropriation bills clear of independent legislation and to relieve the Committee on Appropriations in the haste that they are obliged to act in from being obliged to try every question and dispose of it in the Senate and those that may be thrust in, in the way of amendment either coming from the House or here, because the Committee on Appropriations is just as much bound, and of course it would be glad to consider every proposition that is sent to it from this body as well as from the House of Representatives. They ought to stand on an equal footing, we all agree. That being the case, I most emphatically deny that I assented to the last Army bill in any of the respects to which my honorable friend from Virginia alludes. He is in error about that although as I say when I found the effort was entirely useless I did not think it was courteous to the Senate to be trying the question over and over again after the majority of the Senate had decided against me.

That is all I wish to say. I apologize to my friend from Illinois.

Mr. WITHERS. I wish to say that the statement of the Senator from Vermont is of course conclusive on the subject, but my recollection differs somewhat from his. My recollection is, that while it is true he raised the point to which he alludes with regard to other sections of the bill, this particular section which was embodied in the bill escaped his criticism upon that occasion; but I say I do not assert so now; in view of his disclaimer I withdraw that suggestion. I only say one thing is certain, that the Army bill which passed this body at the last session contained sundry legislative provisions, and that it received the assent, according to my recollection, upon a yea-and-nay-vote, of the republican members of this body. I presume the Senator voted with his party. If it was a violent presumption or an erroneous assumption, of course I withdraw the statement so far as he is concerned.

Mr. LOGAN. I desire to ask the Senator from Virginia a question. Why is it that the necessity has arisen now for giving the pay and emoluments of a major of cavalry to this officer when nearly all the claims of the States have been settled? This examination has been going on for years; and why was this discovery not made until recently?

Mr. WITHERS. Does the Senator desire an answer?

Mr. LOGAN. I ask why the committee have not provided heretofore, why they waited until these claims are nearly all settled, and then propose to increase the pay of this officer?

Mr. WITHERS. Is the Senator prepared to state that such is the fact?

Mr. LOGAN. I am not upon the Committee on Appropriations. If I were I would be prepared to state the exact facts, for I would examine into them.

Mr. WITHERS. I merely wish, in connection with the question of the Senator from Illinois, to call attention to the facts embodied in the letter of the Secretary of War, in which he states the aggregate amount of claims which have been adjusted and settled by this officer within the last fiscal year. Those figures would indicate certainly that a very large number required still to be examined and adjusted.

Mr. LOGAN. These claims of various States have been in process of adjustment for a number of years; and it would seem to me, although I have no definite idea in reference to it, that there must be a very small proportion of them now left in the War Department for settlement. I will call the attention of the Senator to this section, which reads:

> And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

Under this section will he be entitled to receive the pay and emoluments from now on, or will he be entitled to receive the pay and emoluments for all the time he has been in this service?

Mr. WITHERS. I presume the operation of the law would not be retroactive, and he would only receive the pay and emoluments here provided for from the time of the passage of the act.

Mr. LOGAN. I remember several cases passing through the Senate where the officers drew pay back as far as five years under very similar provisions.

Mr. WITHERS. That was by special act.

Mr. LOGAN. No; I beg the Senator's pardon.

Mr. WITHERS. All the cases I remember were by special act.

Mr. LOGAN. No; it was by an act just like this, which had no special reference to pay before its passage, but fixed the pay of the officer while engaged in certain duties. This has the same provision precisely, that he shall have certain pay for performing certain duties. Under that language, will he not receive pay back for several years? Will it not be so construed?

Mr. WITHERS. I cannot say what may have been done in the past; but certainly the construction I should place on this law, and which I am very sure is placed by the Committee on Appropriations and by the House which passed it, is that it should not be retroactive, but should apply only from and after the passage of the act.

Mr. LOGAN. I only ask is it not susceptible of such a construction, and would it not be, likely, the construction given to it in the War Department, for I know how liberal they are in reference to construction when pay comes in?

Mr. BLAINE. I have no doubt that the provision is a just one so far as it relates to the existing officer. I have no doubt that he is entitled to and earns all the pay this provision will give him. But I agree with the Senator from Illinois and the Senator from Vermont that, as the section stands, it is not a good provision to be inserted, although I agreed to it at the last session, and for this reason: it leaves without limit the rank of the officer detailed, and, as the Senator from Vermont suggested, a brigadier-general may be called in and receive the pay of a major-general. And then it ought not, I think, to be made unlimited as to time, because long after the usefulness of this, long after the application of it has gone by, this little indulgence will be nursed, and nursed very tenderly and carefully in Army circles, if I may say so, and therefore I should like to put in at the end of the section a limitation of this kind:

> *Provided*, That the pay and emoluments shall not be increased if the officer detailed holds a rank higher than major: *And provided further*, That this increase of pay shall not be allowed after four years from the date of the passage of this act.

I think that time ought to wind up the work, and I think such a limitation would prevent favoritism in the way of detailing an officer of already high rank in order to give him a thousand or two thousand dollars extra for the mere nominal duty he performs.

Mr. BECK. I am not entirely satisfied with the section as it stands; but believing that no matter so small as this ought to make any change in the bill and send it back to the House where perhaps a wrangle will be had again, I hope the amendment will not be adopted, giving the Senator from Maine full assurance that I will unite with him, and I believe we all will, if there is any abuse of this section and a brigadier-general is appointed, or any officer high in rank, or anything done that ought not to be done, when we meet in December, to repeal it promptly.

Mr. EDMUNDS. Mr. President——

Mr. BLAINE. Never put off until to-morrow that which we can do so well to-day.

Mr. EDMUNDS. I had the floor and addressed the Chair first, let me tell my friend from Maine.

The Senator from Virginia, Mr. President, says that I did not perform as well as I ought to have done on this section at the last session.

Mr. WITHERS. No; I withdrew all I said in regard to it on account of the Senator's disclaimer being perfectly conclusive.

Mr. EDMUNDS. I will clinch the conclusion then by reading the Journal. It proceeds to report that on the 24th of February this matter being under consideration, "on the question to concur in the following amendment made as in Committee of the Whole on page 14 strike out the words" "it was determined in the negative" by a certain vote. There I appear to have voted in the negative on that just as the Senator says he thinks I did not object to the legislation. Then the Journal proceeds to say:

> So the amendment was not concurred in.

On motion by Mr. EDMUNDS that the Senate reconsider its vote non-concurring in the amendment last named it was determined in the negative—yeas 26, nays 38.

And "Mr. EDMUNDS" appears to have voted in the affirmative. This recalls to my recollection that I think I myself made the objection to begin with that this was putting into this bill a thing that ought not to be in it, but I am not sure about that.

Mr. ALLISON. Will the Senator allow me to interrupt him a moment?

Mr. EDMUNDS. Certainly.

Mr. ALLISON. This part of the bill was struck out by the Committee on Appropriations. It was found in that portion of the bill which reorganized the Army, which was wholly struck out by the Committee on Appropriations, and so it was put in the reported bill. Then my honorable friend from Missouri [Mr. COCKRELL] asked to except from the Army reorganization sections this provision relating to this particular officer, and after some discussion and consideration, in which the Senator from Missouri took a prominent part, this exception was made, and it was reported to the Senate from the Committee of the Whole.

Mr. EDMUNDS. I am quite sure that I opposed the adoption of this clause and that I voted with the majority on concurring in order to move to reconsider the vote as the Senate was thin, and I did make the motion instantly, and that motion was lost. Of course it is of very little importance to the Senate whether I am consistent or not. We have got a better Senate, it is supposed by some people, than we had on the former occasion, a reform, a body of men who are going to have the Constitution and the laws completely observed and things are to proceed in a regular way. Now, Mr. President, let us begin this good work on this auspicious and first occasion by having an appropriation bill really an appropriation bill, where the provision in question does not affect the liberties of mankind or anything of that sort.

Mr. WITHERS. The Senator's statement is to me perfectly conclusive in regard to his position on this question. I concede it. His last declaration is equally true that we propose to enter upon an era of reform in the administration of the Government under the auspices of the democratic majority. We propose to do that very thing.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont to amend the bill by striking out section 3.

Mr. BLAINE. I think my amendment takes precedence of that.

Mr. EDMUNDS. It is to perfect the paragraph. Undoubtedly the amendment of the Senator is in order.

The PRESIDING OFFICER. The amendment of the Senator from Maine will be read.

The SECRETARY. It is proposed to add to section 3:

Provided, That the pay and emoluments shall not be increased if the officer detailed holds a rank higher than major: *And provided further*, That this increase of pay shall not be allowed after four years from the date of the passage of this act.

Mr. WITHERS. With reference to the amendment just reported, offered by the Senator from Maine, I can only say that the view which influenced the committee in reporting the bill without amendment to this body will control me in voting against that proposed amendment, however unobjectionable it may be in itself. But I will call the attention of the Senator from Maine to the fact that no very great abuse is likely to arise under the operation of this section before Congress will meet again in December next, and if any should arise, with the presence of the Senator from Maine as a member of the Committee on Appropriations, we may with great confidence look forward to its speedy rectification.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine, [Mr. BLAINE.]

Mr. EDMUNDS. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. EDMUNDS, (when his name was called.) I am paired with the Senator from Tennessee [Mr. HARRIS] upon all political questions, and his colleague was to determine what they were; but I infer from what has been said by the Senator from Virginia that certain views whatever they may be lead our friends on the other side not to allow any amendments to this bill, and therefore I suppose that Governor HARRIS if he were here would vote against this amendment. Therefore I shall not vote.

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Wisconsin [Mr. CARPENTER] to-day upon all political questions. If he were here, I should vote "nay."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Massachusetts [Mr. HOAR] upon political questions. I shall not vote on this question.

The roll-call was concluded.

Mr. BURNSIDE, (after having voted in the affirmative.) I desire to withdraw my vote. I am paired with the Senator from New York [Mr. KERNAN] on all political questions, and as this has assumed the phase of a political question, I desire to withdraw my vote.

Mr. ANTHONY, (after having voted in the affirmative.) I voted inadvertently. I am paired with the Senator from Georgia [Mr. GORDON] on all political questions. If he were here, I should vote "yea."

The PRESIDING OFFICER. The votes will be withdrawn.

Mr. BECK, (after having voted in the negative.) Not supposing this was a political question, when my name was called I voted "nay." I am paired on political questions with the Senator from Nevada, [Mr. JONES.] As this has seemed to assume that shape, I ask leave to withdraw my vote.

The PRESIDING OFFICER. The vote will be withdrawn.

Mr. WINDOM, (after having voted in the affirmative.) I am paired with the Senator from West Virginia, [Mr. DAVIS,] and therefore I withdraw my vote.

The PRESIDING OFFICER. The vote will be withdrawn.

Mr. PLUMB. The Senator from Louisiana [Mr. KELLOGG] is paired with the Senator from South Carolina [Mr. BUTLER] on political questions, and requested me to announce that fact.

The result was announced—yeas 22, nays 27; as follows:

YEAS—22.

Allison,	Chandler,	Kirkwood,	Plumb,
Bell,	Conkling,	Logan,	Rollins,
Blaine,	Dawes,	McMillan,	Saunders,
Booth,	Ferry,	Morrill,	Teller.
Cameron of Wis.,	Hill of Colorado,	Paddock,	
Cameron of Pa.,	Ingalls,	Platt,	

NAYS—27.

Bailey,	Garland,	Lamar,	Vest,
Bayard,	Groome,	Maxey,	Voorhees,
Call,	Hereford,	Morgan,	Walker,
Cockrell,	Hill of Georgia,	Pendleton,	Wallace,
Coke,	Houston,	Randolph,	Williams,
Eaton,	Jonas,	Slater,	Withers.
Farley,	Jones of Florida,	Vance,	

ABSENT—26.

Anthony,	Davis of W. Va.,	Johnston,	Saulsbury,
Beck,	Edmunds,	Jones of Nevada,	Sharon,
Bruce,	Gordon,	Kellogg,	Thurman,
Burnside,	Grover,	Kernan,	Whyte,
Butler,	Hamlin,	McDonald,	Windom.
Carpenter,	Harris,	McPherson,	
Davis of Illinois,	Hoar,	Ransom,	

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Vermont to strike out the third section.

Mr. ALLISON. I think the criticism made by the Senator from Illinois is a correct one as to the language with reference to the time when this officer's increased pay shall begin. My attention was not called to it until the citicism was made by the Senator. It seems to me that this meritorious officer, and I believe he is meritorious, if this section shall pass as it stands will be entitled to receive the pay and emoluments of a major of cavalry, not only from the time of the passage of this act, but during all the time he has been in the discharge of this service. Therefore I move to insert the word "hereafter," so that the pay provided for here shall begin from the passage of the law. In line 2, after the words "shall have," I propose to insert the word "hereafter," so as to read:

And the examiner of State claims in the office of the Secretary of War shall have hereafter, while on such duty, &c.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa.

Mr. WITHERS. I will simply state that that is precisely what the section provides for as it stands at present. It is an axiom, I think, accepted generally by all persons who construe laws, that laws are always prospective in their operation unless it shall be specifically stated to the contrary.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa, [Mr. ALLISON.]

A division was called for.

Mr. WITHERS. I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) Believing this to be an issue whether the bill shall be amended or no, and therefore political, and being paired with the Senator from Nevada [Mr. JONES] on political questions, I do not vote. I should vote "nay" if I felt at liberty to do so.

Mr. BURNSIDE, (when his name was called.) I am paired with the Senator from New York [Mr. KERNAN] on all political questions, and as this has assumed that shape, I decline to vote.

Mr. EDMUNDS, (when his name was called.) I am paired, I believe, on this question with the Senator from Tennessee, [Mr. HARRIS.] I should vote in favor of this amendment if I were at liberty to vote.

Mr. ANTHONY, (when Mr. GORDON'S name was called.) I am paired with the Senator from Georgia [Mr. GORDON] on political questions, and therefore I declined to vote when my name was called.

The roll-call was concluded.

Mr. BLAINE. I ought to have stated earlier that my colleague, [Mr. HAMLIN,] who is absent from the Chamber, is paired on all political questions with the Senator from New Jersey, [Mr. MCPHERSON.] I did not suppose at the outset that these were political questions, or I should have made the announcement earlier.

The result was announced—yeas 22, nays 26; as follows:

YEAS—22.

Allison,	Chandler,	Kirkwood,	Plumb,
Bell,	Conkling,	Logan,	Rollins,
Blaine,	Dawes,	McMillan,	Saunders,
Booth,	Ferry,	Morrill,	Teller.
Cameron of Pa.,	Hill of Colorado,	Paddock,	
Cameron of Wis.,	Ingalls,	Platt,	

NAYS—26.

Bailey,	Garland,	Lamar,	Voorhees,
Bayard,	Groome,	Maxey,	Walker,
Call,	Hereford,	Morgan,	Wallace,
Cockrell,	Hill of Georgia,	Pendleton,	Williams,
Coke,	Houston,	Slater,	Withers.
Eaton,	Jonas,	Vance,	
Farley,	Jones of Florida,	Vest,	

ABSENT—27.

Anthony,	Davis of W. Va.,	Johnston,	Ransom,
Beck,	Edmunds,	Jones of Nevada,	Saulsbury,
Bruce,	Gordon,	Kellogg,	Sharon,
Burnside,	Grover,	Kernan,	Thurman,
Butler,	Hamlin,	McDonald,	Whyte,
Carpenter,	Harris,	McPherson,	Windom.
Davis of Illinois,	Hoar,	Randolph,	

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Vermont [Mr. EDMUNDS] to strike out section 3.

The amendment was rejected.

The PRESIDING OFFICER. The Secretary will proceed with the reading of the bill.

The Chief Clerk continued the reading of the bill, as follows:

SEC. 4. That when a vacancy occurs in the office of professor of the French language or in the office of professor of the Spanish language in the Military Academy, both these offices shall cease, and the remaining one of the two professors shall be professor of modern languages; and thereafter there shall be in the Military Academy one, and only one, professor of modern languages; and that section 1336 of the Revised Statutes be, and is hereby, amended by inserting, after the word "service," in the first line, the words "as professor."

SEC. 5. That each member of the next two graduating classes of the Military Academy, after graduation, may elect to receive the gross sum of $750 and mileage to his place of residence; and the acceptance of this gross sum shall render him ineligible to appointment in the Army until two years after his graduation; and the amount required to defray the expenditure herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. EDMUNDS. I should like to ask the Senator from Virginia what the meaning of the word "mileage" is in that connection? I am not able to see in the Revised Statutes any provision for mileage to cadets. There is a provision for officers of the Army traveling on duty where transportation is not furnished, that they shall have a certain mileage; but I am not able to see that that statute would refer to this case.

Mr. WITHERS. I was under the impression that there was a general provision of the statutes fixing eight cents as the rate for officers of the Army.

Mr. EDMUNDS. But a cadet is not an officer in the Army, and the bill itself recognizes the fact but he may be appointed after that in the Army.

Mr. WITHERS. I must confess the attention of the committee was not directed to that question in investigating this matter, the section being identical with a section of the bill of last session. I presumed the rate of mileage was fixed by law.

Mr. EDMUNDS. It is not, and I move to insert after the word "mileage" the words "allowed to officers of the Army," so as to cover the point.

Mr. WITHERS. That would be a very sufficient provision; but inasmuch as it is entirely unnecessary, as no mileage can be allowed unless it is provided for by law now, it is not necessary to amend the section.

Mr. EDMUNDS. I never knew a bill so confessedly imperfect as this which was yet so good that it should not be amended; but I will ask a vote on the motion. My amendment is after the word "mileage" to insert:

Allowed by law to officers of the Army traveling on duty.

Mr. WITHERS. I would ask the Senator if it would be possible for any other mileage to be allowed provided his amendment were not adopted?

Mr. EDMUNDS. I think the section would allow any mileage that the cadet and either the Secretary of War or the Secretary of the Treasury might agree upon. I am sure the Senator does not wish to have this bill in a loose condition of that sort, unless there is some purpose that is not disclosed in the Senate that has occurred in some other place somewhere to take it with all its imperfections, whatever they may be, hit or miss. If that be the purpose let it only be announced, and of course that will save us a great deal of trouble in trying to make suggestions, which it is supposed to be the right of Senators to do to perfect a bill.

Mr. WITHERS. The Committee on Appropriations are of opinion that the authorities at West Point are gentlemen of sufficient integrity not to make an allowance which is not authorized by law, and the Senator himself has stated that there is no provision of law fixing the rate of mileage except at the same fixed by his amendment.

Mr. BLAINE. Would it not be fair, I may ask my friend from Virginia, to assume that this referred to the mileage with which Senators and Representatives are most familiar, twenty cents a mile, the mileage that we know something about? What other way can you construe the word "mileage?"

Mr. LOGAN. The mileage of marshals.

Mr. BLAINE. Yes; it might be supposed to mean the mileage allowed United States marshals.

Mr. WITHERS. All this is amusing by-play undoubtedly; but the construction I would place on it is that if there is a provision of law fixing the rate of mileage that provision will be observed in paying mileage in this instance. If there be no provision of law authorizing the payment of mileage, then no mileage will be paid, and the word will be mere surplusage.

Mr. BLAINE. As my friend says, this may be amusing by-play; but I ask him whether if this question now comes to the yeas and nays it will be regarded by our friends across the way as a political question? I noticed awhile ago that when it was proposed to strike out the word "and" and insert "that" in place of it, it was regarded as a political question, and the Senate divided on the political line as between those two conjunctions, one being plainly ungrammatical and the other grammatical. Now, I am allowed to infer, of course, that anything short of that or beyond it is also a political question.

Mr. WITHERS. It is not the province of the Senator from Virginia to decide what is or is not political; but the Senator from Virginia will venture to suggest that while it is possible that a doubt might exist in the minds of some as to whether the substitution proposed would or would not involve a political principle, the Senator from Virginia is clearly of opinion that an amendment to this bill is political.

Mr. BLAINE. Even if it be a mere conjunction or pronoun! I only wanted information.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the fifth section.

The amendment was rejected.

Mr. ANTHONY. I notice on lines 9 and 10 of section 4 an amendment of the Revised Statutes by referring to them and inserting a certain word in the first line of a certain section. Now if it would not be regarded as political, I would move to add "so that the section will read," repeating the section as it is amended.

Mr. EDMUNDS. Before that is done I should like to ask the Senator from Rhode Island which Revised Statutes he refers to. In legal contemplation the Revised Statutes are the rolls on file in the Department of State. Whether this appears in the first line there or not, I do not know. Then we have got two printed editions of the Revised Statutes, a first and second edition. Now which of these three is it that my friend wishes to have read so and so?

Mr. ANTHONY. I refer to the second edition.

Mr. EDMUNDS. The bill does not refer to the second edition.

Mr. WITHERS. Inasmuch as the Senators over the way do not seem able to agree on the character of the amendment they propose, I hope it will not be adopted.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Rhode Island [Mr. ANTHONY] to section 4.

The amendment was rejected.

The Chief Clerk read the sixth section, as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

ADJOURNMENT TO MONDAY.

Mr. EATON. I move that the Senate do now adjourn.

Mr. EDMUNDS. I hope the Senator will move to strike out the clause first.

Mr. EATON. Oh, no; I move that the Senate do now adjourn.

Mr. ANTHONY. Will the Senator from Connecticut allow me to interpose a motion that when the Senate adjourns it adjourn to meet on Monday next?

Mr. EATON. I withdraw my motion to allow the Senator from Delaware to move an amendment.

Mr. BAYARD. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. WITHERS. I hope that will not be done.

Mr. EATON. I did not withdraw my motion for an amendment of that sort.

Mr. BAYARD. I asked my friend from Connecticut to withdraw his motion for the purpose of my substituting for it a motion that we should not sit to-morrow.

Mr. CONKLING. Will the Senator from Delaware allow me to make a suggestion to him? Under the rules it is competent to move that the Senate do now adjourn, to meet on Monday next. I wish to suggest to him that if he make that motion he will get more votes for it than he will for the other.

Mr. BAYARD. I had the impression that if I made the motion in that form, a motion to adjourn would take precedence; but the Senator from Connecticut will allow my motion to be substituted for his, as I understand?

Mr. EATON. No, I will not.

Mr. BAYARD. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. EATON. I move that the Senate do now adjourn.

Mr. PADDOCK. I ask the Senator to yield to me that I may offer an amendment to the pending bill with a view to having it printed.

Mr. EATON. I will allow that to be done.

The PRESIDING OFFICER. The amendment will be received and ordered to be printed.

Mr. WINDOM. I ask the Senator to yield to me for the same purpose.

The PRESIDING OFFICER. The Chair hears no objection, and the amendment of the Senator from Minnesota will be received, and ordered to be printed. The Senator from Connecticut moves that the Senate do now adjourn.

The motion was not agreed to.

Mr. BAYARD. Now, I insist on my motion.

The PRESIDING OFFICER. The Senator from Delaware moves that when the Senate adjourns to-day it be to meet on Monday next.

Mr. EATON. I think we had better sit here longer if we are going to do that.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. WITHERS. I call for the yeas and nays on that motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired on political questions with the Senator from Georgia who is absent, [Mr. GORDON.] I hardly know whether this is a political question or not. I believe the Senator who made the motion is a democrat in good standing; but I will ask the other Senator from Georgia [Mr. HILL] if this is regarded as a political question. I do not see him present, and I will not vote.

The roll-call was concluded.

Mr. ANTHONY. I have consulted my political doctor of divinity, the Senator from Georgia who is present, [Mr. HILL,] who informs me this is not a political question, that he voted yea, and that his colleague would vote so himself if he were here. I vote "yea."

Mr. EATON, (after having voted in the negative.) On this question I am paired with my friend from Maine, [Mr. HAMLIN.] If he were here, I should vote "nay."

The result was announced—yeas 29, nays 22; as follows:

YEAS—29.

Allison,	Cameron of Wis.,	Jones of Florida,	Teller,
Anthony,	Chandler,	Kirkwood,	Vance,
Bayard,	Cockrell,	Lamar,	Voorhees
Beck,	Conkling,	Logan,	Wallace,
Bell,	Dawes,	Morrill,	Williams.
Blaine,	Groome,	Plumb,	
Booth,	Hill of Georgia,	Ransom,	
Call,	Ingalls,	Saulsbury,	

NAYS—22.

Bailey,	Hereford,	Paddock,	Slater,
Burnside,	Hill of Colorado,	Pendleton,	Vest,
Cameron of Pa.,	Houston,	Platt,	Walker,
Coke,	McMillan,	Randolph,	Withers.
Ferry,	Maxey,	Rollins,	
Garland,	Morgan,	Saunders,	

ABSENT—24.

Bruce,	Edmunds,	Hoar,	McDonald,
Butler,	Farley,	Johnston,	McPherson,
Carpenter,	Gordon,	Jonas,	Sharon,
Davis of Illinois,	Grover,	Jones of Nevada,	Thurman.
Davis of W. Va.,	Hamlin,	Kellogg,	Whyte,
Eaton,	Harris,	Kernan,	Windom.

So the motion was agreed to.

Mr. LOGAN. I move that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 11, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

PORTRAIT OF THE LATE JOSEPH HENRY.

Mr. CLYMER. Mr. Speaker, I move by unanimous consent to take from the table joint resolution S. R. No. 17, authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered, for action at this time.

There was no objection, and the joint resolution was taken up, read a first and second time, and ordered to a third reading. It was accordingly read the third time, and passed.

Mr. CLYMER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADMISSION TO THE FLOOR.

Mr. WILLITS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That John Strong, jr., a member of the Michigan Legislature, be admitted to the privilege of the floor to-day.

FOLDING OF SPEECHES.

Mr. GARFIELD. I desire, Mr. Speaker, to call the attention of the Chair and the House to a matter of pressing necessity. I do not know whether we have the power to correct what is complained of before the Committee of Accounts has been appointed. A good deal of complaint has been made that it is now impossible for members to get their speeches folded. Some have been a week at the folding-room. I ask the Chair whether he has any authority in any temporary way to remedy the difficulty?

The SPEAKER. The gentleman from Mississippi has made two efforts to introduce a resolution to provide a temporary remedy, but there has been objection each time.

Mr. GARFIELD. I hope he may have unanimous consent.

The SPEAKER. He has given the Chair notice that he wishes to be recognized at this time to make another effort.

Mr. GARFIELD. I hope there will be no objection to the resolution.

Mr. CHALMERS. I offer the following resolution:

Resolved, That the superintendent of the folding-room is hereby authorized to employ such additional force as may be necessary to fold the speeches now largely accumulated and accumulating in said room, to be paid for out of the contingent fund of the House at the rate of $1 per thousand, and subject to the approval of the Committee of Accounts.

The SPEAKER. Under the rule this resolution would have to go first to the Committee of Accounts, and hence it is that it requires unanimous consent.

Mr. GARFIELD. That does not render it inoperative until the Committee of Accounts has been appointed?

The SPEAKER. By unanimous consent the rule has been waived which compels the reference of this resolution to the Committee of Accounts. There is no money in the contingent fund from which this money is to be paid and the persons who are employed to do this work will of course have to trust to the future.

The resolution was adopted.

Mr. CHALMERS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The Clerk will read the pending amendment, moved by the gentleman from Mississippi, [Mr. MONEY.]

The Clerk read as follows:

On page 73, line 1793, strike out the word "five" and insert "six;" in the same line strike out "fourteen" and insert "sixteen;" in line 1794, after the word "twenty," strike out "two" and insert "five;" and in same line strike out, after the word "thirty," the word "three," and insert "four;" and in line 1796 strike out the word "six," after the word "fifty," and insert "seven;" on page 74, line 1799, strike out the word "seventy-six" and insert "eighty-nine;" after the word "thousand," in the same line, strike out the word "nine" and insert "five;" and at the end of the paragraph add "$2,000 of which shall be immediately available for temporary clerks;" so it will read:

For Third Assistant Postmaster-General, $3,500; chief clerk, $2,000; chief of division of dead letters, $2,250; chief of division of postage-stamps, $2,250; six clerks of class 4; sixteen clerks of class 3; twenty-five clerks of class 2; thirty-four clerks of class 1; six clerks, at $1,000 each; fifty-seven female clerks, at $900 each; three assistant messengers; for seven laborers; four female laborers, at $480 each; in all, $189,500; $2,000 of which shall be immediately available for temporary clerks.

Mr. MONEY demanded a division.

The committee divided; and there were—ayes 58, noes 57; no quorum voting.

The Chairman appointed as tellers Mr. ATKINS and Mr. MONEY.

The committee again divided; and the tellers reported—ayes 105, noes 60.

So the amendment was agreed to.

The Clerk read as follows:

Department of Agriculture:

For compensation of the Commissioner of Agriculture, $3,600; chief clerk, $1,900; entomologist, $1,900; chemist, $1,900; assistant chemist, $1,400; two assistant chemists, at $1,200 each; superintendent of experimental gardens and grounds, $1,900; statistician, $1,900; disbursing clerk, $1,600; superintendent of seed-room, $1,600; librarian, $1,400; botanist, $1,800; microscopist, $1,800; engineer, $1,200; three clerks of class 4; four clerks of class 3; five clerks of class 2; six clerks of class 1; five clerks, at $1,000 each; superintendent of flower-seed room, $900; superintendent of folding-room, $1,200; assistant curator in museum, $1,000; and for copyists, laborers, watchmen, carpenters, and other necessary force, $9,500; in all, $69,900; and in addition to the proper vouchers and accounts therefor to the accounting officers of the Treasury, the Commissioner of Agriculture shall present a detailed statement of the manner of the expenditure of this sum, to accompany his estimates to be presented at the next regular session of Congress: *Provided*, That no part of this sum shall be paid to any person receiving at the same time other compensation as an officer or employé of the Government.

Mr. AIKEN. I move, in line 1871, to strike out "thirty-six hundred" and insert "four thousand," so it will read: "For compensation of the Commissioner of Agriculture, $4,000;" and, in line 1892, to strike out "sixty-nine thousand nine hundred" and insert "seventy thousand three hundred."

Mr. ATKINS. Now, Mr. Chairman, since the gentleman from South Carolina offers to increase the salary of this officer, I make the point of order not only on his amendment but on the provision of the bill providing for the increase of that officer's salary as being contrary to law.

Mr. AIKEN. I hope the gentleman will withdraw his point of order.

Mr. ATKINS. I shall not withdraw it.

Mr. COX. Were points of order reserved on this bill?

The CHAIRMAN. All points of order were reserved upon the bill.

Mr. AIKEN. In the bill the gentleman from Tennessee proposes to increase the salary of the Commissioner of Agriculture. And now, as I understand him, because I propose to increase it beyond the point fixed in the bill, he not only makes the point of order on my proposition, but he makes it on his own proposition.

Mr. ATKINS. I do, and I am perfectly consistent in doing so. I am not responsible for this increase in the bill of this gentleman's salary. I stated when I introduced the bill that I did it at the request of gentlemen on this side and on the other side of the House, on the basis of the conference report. It was the conference report which raised the salary of the Commissioner of Agriculture from $3,000 to $3,600, and I was content to leave it there if it was the sense of the House to pass the bill on the basis of the conference report. But if the gentleman from South Carolina intends to go beyond that conference report and still further increase the salary of the Commissioner, I feel bound to make the point of order not only on his amendment but on the proposition of the bill providing for an increase of salary. There is no law to authorize such a thing, and it is contrary to law. This salary was put at $4,000 under the salary-grab act. The act repealing that law put it back to $3,000, where it has been since; and there is no doubt about the point of order lying both against the amendment and the proposition of the bill.

Mr. HARRIS, of Virginia. As a question of law I desire to correct my friend from Tennessee. If he refers to the Revised Statutes he will find that so much of the salary bill as referred to members and officers of Congress was repealed, but the portion referring to other officers of the Government was not repealed; and you will find in the general law now in the Revised Statutes the salary of the Commissioner of Agriculture fixed at $4,000.

The CHAIRMAN. Will the gentleman from Virginia send up the statute to which he refers?

Mr. AIKEN. Pending the investigation as to what is the present law, I call the attention of the House to one peculiar fact. In the bill now under consideration there are six or eight officers of this Government each styled Commissioner, and if there is any significance in the title it must have some relevancy to the duties of the office and the responsibility of the party filling it. And it is to me passing strange that the Commissioner of Agriculture, one of the great functionaries of this country, a man who has the entire control of the agricultural department of the country so far as the Government is concerned, has a salary $1,000 less than any other officer of the Government who bears the same title.

Mr. ATKINS. I ask the Chair to confine the gentleman from South Carolina to a discussion of the point of order. He is now entering upon the merits of the question.

Mr. AIKEN. Will the gentleman from Tennessee answer me one question?

Mr. ATKINS. I will if I can.

Mr. HARRIS, of Virginia. If the gentleman will allow me to interrupt him for a moment, I will now read the statute to which I referred. Section 521 of the Revised Statutes reads thus:

> The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,000 a year.

Mr. ATKINS. When was that passed?

Mr. HARRIS, of Virginia. This statute was originally passed in 1862, and it is recopied into the revision of 1878 because it was not repealed by the act known as the repeal of the salary grab.

Mr. ATKINS. Was this salary not increased from $3,000 to $4,000 by the salary-grab act?

Mr. FORT. I think it was fixed at $4,000 in that act and the repeal did not affect this salary.

Mr. HARRIS, of Virginia. The repealing act did not repeal this. I referred to the section last year for my own information and found the fact to be as I have stated it. The point of order was made on this proposition last year and it was overruled; and I think the same chairman presided then as now. I remember Mr. Cutler, of New Jersey, proposed to increase the compensation of the Commissioner of Agriculture, and if the Clerk will refer to the Journal of the last session of Congress he will find that the point of order was made and overruled on the ground that the general law fixed the salary at $4,000.

Mr. ATKINS. In reply to the gentleman from Virginia I will say that the last appropriation act, and the one before that, and the one before that, fixed this salary at $3,000. These acts repeal any existing law on the subject. I take it that an appropriation act repeals any act to the contrary.

Mr. HARRIS, of Virginia. All that was discussed in the last Congress, and it was then held that that did not repeal the general statutes of the United States and that an amendment to increase the salary was in order.

Mr. AIKEN. I desire to ask the gentleman from Tennessee [Mr. ATKINS] a question. If I withdraw my amendment will he withdraw his point of order?

Mr. ATKINS. Yes; I will.

Mr. AIKEN. I do not choose to withdraw my amendment if no higher motive actuates the gentleman than that.

Mr. ATKINS. I do not understand the gentleman. I said I would withdraw the point of order.

Mr. AIKEN. The gentleman is willing to violate the law by increasing a salary from three thousand to three thousand six hundred dollars; but his conscience will not allow him to go further and to add $400 more.

Mr. ATKINS. I wish to say to the gentleman from South Carolina that I can take care of my conscience myself. I wish moreover to say to the gentleman that I will not submit to any censorious remarks on his part with regard to my conscience or my motives on this floor.

Now, sir, I stated very frankly to this House the reasons why I had not made the point of order upon the proposition in this bill. I am not responsible, although it seems the gentleman cannot understand it, for the $3,600 in the bill for this officer. The House is responsible for it. The Congress of the United States is responsible for it. So far as that is concerned, the act was not passed into a law, but the conference committee had agreed to $3,600, and by common consent it was understood that we were to stand by the report of the committee of conference. All that was done by the consent of the gentleman from South Carolina, [Mr. AIKEN,] because when I made the statement I never heard one solitary word of complaint or objection to it.

Now, it seems the gentleman thought he had set a trap in order to put me before the House as doing a thing that was not so conscientious, in his judgment, as it ought to be. I beg the gentleman's pardon, and I repeat that I am not responsible for the act, and the reason why I withdrew the point of order was that I wanted to let the bill go through the House on the basis of the conference report entirely; and it was for that reason, to some extent, that I objected to the amendment offered by the gentleman from Mississippi, [Mr. MONEY,] although I felt that there was some justice in it. I simply desired the conference report to be the basis upon which this bill should pass through the House.

Mr. AIKEN. The gentleman says I do not understand his position. I confess I do not. He says he is willing that the salary shall be $3,600, and for which he is not responsible. I simply ask that it shall be $4,000. Why does not the gentleman from Tennessee make a point of order upon the bill itself? He does not object to that; he assents to it.

Mr. ATKINS. I do not; I was opposed to it on the floor and in the committee; I was opposed to it in the conference committee, but they finally agreed to it in adjusting the different features of the bill and put it at $3,600.

Mr. AIKEN. The bill was read and the gentleman made no objection to that feature of it. If I have any appreciation of what is going on in this House he gave his assent to the $3,600.

Mr. ATKINS. If the gentleman cannot understand the motives with which I presented it, I have nothing more to say.

Mr. AIKEN. Now, the law establishes the salary of the Commissioner of Agriculture at $4,000, and I believe that the Commissioner should have that amount.

Mr. CHALMERS. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CHALMERS. Is not the gentleman from Tennessee estopped from making a point of order after his own proposition has been read?

The CHAIRMAN. He is not; for the Journal shows that all points of order upon the bill were reserved by the gentleman from Michigan, [Mr. CONGER.] If the point of order is good against the amendment it must be equally good against the original provision.

Mr. COX. I hope the gentleman will withdraw the point of order.

Mr. ATKINS. No; I cannot do it.

Mr. COX. I make that request.

Mr. ATKINS. I cannot do it after the remarks of the gentleman from South Carolina, [Mr. AIKEN.]

Mr. HARRIS, of Virginia. I desire to say a word before the Chair decides the point of order.

The CHAIRMAN. The Chair is prepared to rule upon the point, but the Chair is perfectly willing to hear the gentleman from Virginia if he desires to be heard further.

Mr. HARRIS, of Virginia. I simply wanted to reiterate the fact that the general law fixes this salary at $4,000, and I do not think that an appropriation bill which simply provides an appropriation of $3,600 for the salary of the Commissioner of Agriculture repeals the general statute. It only appropriates so much money toward carrying out the law.

The CHAIRMAN. If the salary of the officer rested alone upon

the appropriation bills passed from year to year, the Chair would have no hesitation in ruling that the amount contained in the last appropriation bill, which is the existing law at the present time, was the amount provided for by existing law. The Chair has so decided; but where a statute unrepealed fixes the salary, as in this case, the Chair does not feel warranted in ruling that a salary fixed at a less sum by an appropriation bill repeals a statute. If there be any doubt about it, the Chair prefers to err on the safe side and submit the question to the committee. The Chair therefore entertains the amendment of the gentleman from South Carolina.

Mr. BLOUNT. I trust that the House will not adopt this amendment. It is well known to the older members of the House that in 1876 the Committee on Appropriations examined into the officers of all the Departments as to their number and their salaries, and they made a report to this House which was adopted by it and became a law, resulting in a large reduction in the number of officers in these several Departments and a reduction in their salaries. A reduction of the cost of all the necessaries of life justified it, and I see no reason why we should change it at this time. There is just as much propriety in undoing every other act in regard to the Departments as there is in this particular instance. The reduction then made was commended by the whole country, and I do trust that this House, at the beginning, will show a determination to continue following the precedent set by the House for the last four years.

This is the beginning of the Congress, and if this change here is made there is no reason why similar changes should not be made in other instances. The rate of salary proposed here is higher than the salary paid to this officer for many years. Instead of increasing salaries the natural disposition would be to reduce them. There is no reason presented to this committee why the salary of this officer should be singled out and raised to the extent proposed. I do trust we will at the outset of this Congress take a proper position in reference to this question, because the precedent that we set now will probably obtain through the Congress.

Mr. SAMFORD. What was the salary of the Commissioner before?

Mr. BLOUNT. Three thousand dollars, and it is proposed to raise it 25 per cent. The gentleman from Ohio [Mr. GARFIELD] the other day charged, I think incorrectly, that the expenditures of the last Congress had been run up until they equaled those of the Forty-third Congress.

Mr. ELAM. Will the gentleman yield to me for a question?

Mr. BLOUNT. I would like to finish my sentence first, and then if I have time I will yield. The gentleman from Ohio, as I said, charged, I think incorrectly, that the appropriations had been increased by the last Congress. The reduction of salaries was one of the means by which the reduction of expenditures was obtained. Now, if we are prepared to abandon the policy for which we have been commended by the people for the past four years this is the place and now is the time to commence that work. That is the whole of this question. I trust this House now and here will reassure the country that it does not intend to undo what it has been doing and boasting of for the last four years. I will now yield to the genleman from Louisiana [Mr. ELAM] for his question.

Mr. ELAM. The question I want to ask of the gentleman from Georgia, [Mr. BLOUNT,] is this: this is an appropriation bill, not a bill to fix the salaries of the officers named therein, for their salaries have already been fixed in the general statutes of the United States. Congress may refuse to appropriate as much as an officer is entitled to by law. But because it chooses at one session to do that, in my judgment as a lawyer it does not affect the rate of salary.

Mr. BLOUNT. I did not yield to the gentleman for a speech in my time. I will say this to him: there is in the Revised Statutes a provision fixing the salary at a certain sum. But since that time and for years the salaries in all these Departments have been reduced, and the law officers of the Department have recognized the appropriation bills as the law of the case.

Mr. ELAM. Because they could not help themselves.

Mr. BLOUNT. And the Departments have sent in their estimates accordingly. I trust this House will see to it that there is no departure in this respect from its past course.

Mr. COVERT. The gentleman from Georgia [Mr. BLOUNT] has asked the question why it is and how it is that the demand should be made at this time to increase the salary of the Commissioner of Agriculture. I desire to answer that question very briefly if I can.

The gentleman knows, every member of this House knows, that within the last few months consternation has prevailed among farmers and agriculturists throughout the length and breadth of this land by reason of the rise and increase of cattle disease. This House has adopted a resolution directing a thorough official inquiry to be made as to how this disease arose and how it may be checked. The Commissioner of Agriculture is charged under the law with the investigation of this matter.

Mr. SAMFORD. Has not an appropriation been made for that specific purpose?

Mr. COVERT. Undoubtedly an appropriation was made for it, but the duties of the Commissioner of Agriculture are increased by reason of the fact that he is specially designated to oversee these inquiries and see that they shall be directed in the proper manner. I do not know how it is, but my experience in the last Congress demonstrated, at all events to my satisfaction, that this Agricultural Bureau is the one bureau of the Government that receives a kick upon every occasion when Congress is asked to make an appropriation for it. I cannot understand why it is that the Commissioner of Agriculture and his Department should be singled out to receive these kicks, these cuffs, these adverse criticisms on every occasion when an appropriation is to be made for the Department.

The attention of the House has been called to the fact that every other commissioner, the Commissioner of Patents, the Commissioner of Indian Affairs, every other commissioner, receives a salary very much larger than the salary given to the Commissioner of Agriculture. I can see no reason why the amendment of the gentleman from South Carolina [Mr. AIKEN] should not prevail, and the salary of this Commissioner be restored to the rate fixed in the original law governing the Department.

Mr. MCMILLAN. Do you know of any disposition on the part of the present Commissioner of Agriculture to resign his office if the salary is not increased? And if he should resign will the office remain vacant?

Mr. COVERT. I do not; but that is not a reason to govern us in our action here.

Mr. FINLEY. All I desire to say is this: I understood the Chair to rule upon the point of order made by the gentleman from Tennessee, [Mr. ATKINS,] upon the statement of the gentleman from Virginia, [Mr. HARRIS,] that the statute repealing what was known as the salary-grab law did not repeal the increased salary of the Commissioner of Agriculture.

The CHAIRMAN. The gentleman misunderstood the Chair. The Chair did not rule upon any such point at all.

Mr. FINLEY. Very well. What I want to inquire of the gentleman from Virginia [Mr. HARRIS] is this: the Forty-third Congress, I think it was, repealed what was known as the salary-grab law, the law changing the salaries of the officers named.

Now, is it not a fact that the present salary named in the compilation of the statutes was placed there by Ex-Secretary Boutwell? Did it not get into the Revised Statutes in that way? And does its being there re-enact the old law?

Mr. HARRIS, of Virginia. If my friend will look to what is known as the salary-grab law—the act increasing the compensation of officers of the Government—he will find that it did not embrace the Commissioner of Agriculture; and therefore when that act was repealed the repeal did not affect the salary of this officer, who had not been included in the previous law. The salary of the Commissioner of Agriculture was fixed at $4,000 independently of the bill increasing salaries. If the gentleman will refer to the law he will find my statement correct.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. HARRIS, of Virginia. Yes, sir, of course. I am only interested in the law of the question.

Mr. ATKINS. I understand the gentleman to say that the act approved March 3, 1873, did not increase the salary of the Commissioner of Agriculture to $4,000?

Mr. HARRIS, of Virginia. That is my recollection.

Mr. ATKINS. Now, I have the book before me; and I state that it did increase that salary to $4,000.

Mr. FINLEY. And that has never been re-enacted by Congress, but was put in the Revised Statutes by Mr. Boutwell.

Mr. ATKINS. The act of January 20, 1874, repealed all increases of salary made by the act of March 3, 1873, except as to the President of the United States and the judges of the Supreme Court. The Chair, as I understood, ruled precisely upon this point yesterday. Here is the law. Here is the act of March 3, 1873, which fixed the salary of this officer at $4,000; here is the act of January 20, 1874, repealing the whole act of March 3, 1873, except that portion relating to the President of the United States and the judges of the Supreme Court. The case is as plain as anything on earth can be.

The CHAIRMAN. The Chair desires the gentleman from Tennessee to understand that the only ruling which the present occupant of the chair has made, and the one under which the amendment was admitted, was that the salary of this officer was not dependent on the amount named in the annual appropriation bills, but was found fixed by the statute as it stands to-day. This is the only ground on which the Chair has ruled the amendment admissible.

Mr. ATKINS. My understanding is, that at the conclusion of all the appropriation bills which have been passed within the last three or four years there is a clause fixing the salaries of the various officers named in the bill at the sums therein appropriated.

Mr. YOUNG, of Tennessee. Mr. Chairman, it seems to me that an important legal question is suggested in this discussion between the Chair and gentlemen on the floor, that question being whether any provision in an appropriation bill is to be construed as repealing an existing statute. It seems to me that it is proper to have a decision upon that question; and, as the Chair very properly suggested awhile ago, the question ought to be determined by the Committee of the Whole. It is one which may often arise hereafter; and we ought now to decide whether a provision incorporated in an appropriation bill repeals an existing law embraced in the statutes. I should like to have this question determined, because I deem it very important as a legal question. It is a well-known rule of legal construction that the later law repeals all the former ones in conflict with it. I have not examined this question, and am not prepared to say whether a

provision in an appropriation bill should have the effect of repealing a law upon the statute-book; but I think it very important that the Committee of the Whole should now determine that point.

Mr. BLOUNT. As I understand, this question now comes to the Committee of the Whole on the amendment. The Chair allowed that amendment to come in to be voted on, declining to rule it out of order. Therefore, the question as to what is the law of this case cannot come distinctly before the committee. I have not, however, risen for the purpose of discussing that question.

Mr. ATKINS. Will the gentleman allow me to interrupt him a moment on this point?

Mr. BLOUNT. I will ask the Chair to recognize me hereafter.

Mr. ATKINS. Section 35, chapter 4, of the Revised Statutes reads:

Each Senator, Representative, and Delegate is entitled to a salary (except as to the Speaker) of $7,500 a year.

Now will the gentleman from Virginia [Mr. HARRIS] undertake to say that the members of this House are entitled to a salary of $7,500 a year? Yet such a claim would stand upon the very same basis as the claim that the Commissioner of Agriculture is entitled to $4,000 a year because that salary is named in the Revised Statutes.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that no appeal was taken from the decision of the Chair admitting the amendment of the gentleman from South Carolina, and that amendment has been discussed upon its merits. Had the gentleman from Tennessee, before the ruling was made, submitted to the Chair the information of which he now seems to be possessed, the ruling of the Chair might have been different. The Chair, through abundant caution, was disposed to give the Committee of the Whole the opportunity to vote on any proposition that was not clearly out of order.

Mr. BLOUNT. The question before the committee, therefore, is simply whether or not we shall increase the salary of the Commissioner of Agriculture 25 per cent. at such a time as this when there has been a general decline in the value of the services of all persons not in the employ of the Government. The gentleman from New York [Mr. COVERT] says that whenever the Department of Agriculture is mentioned in this House it is simply the recipient of "kicks and blows." Now there is nothing in the history of this House for the last four years that justifies such an intimation. During the Forty-fourth Congress the Committee on Agriculture were consulted in reference to the appropriations for this Department, and the recommendations of that committee were agreed to on this floor. During the Forty-fifth Congress the same thing occurred. There has been no special effort here to resist proper appropriations for the Department of Agriculture; not at all. If this Department has received any "kick," it has been first when an effort was made to make the head of this little establishment a Cabinet officer. Then he comes here and proposes to this House to decrease the expenses of that Department by allowing the Commissioner of Agriculture to employ persons when he shall see fit and to discharge them when he shall see fit, a proposition to reduce the expenses of the Department of Agriculture, accompanied, however, with a proposition to increase his own salary to $4,000; a proposition, sir, to strike at everybody else, to economize on every other salary in that Department except his own and that of the chief clerk, and on those salaries to make an increase to the extent of 25 per cent. And because we have opposed that proposition the gentleman from New York calls it "kicking" that Department! Now, sir, that is all there is in it.

But the gentleman says the cattle disease is abroad in the land, and that will require extra exertion on the part of the Commissioner of Agriculture. Now, sir, I do not know what he proposes to do in regard to it. The Commissioner will correspond, I presume, with certain parties through his clerks, and next winter, after the cattle disease is all over, this House will be informed of what he has learned through his correspondence. That will be all of it. I hope we will not increase this salary upon any such flimsy reasoning as that which we have heard to-day.

Mr. STEELE. I desire to know of the gentleman from Georgia whether the office of Commissioner of Agriculture is not quite as important to the interests of this country as the office of Commissioner of Pensions. Does he not consider one as important as the other?

Mr. BLOUNT. I do not.

Mr. STEELE. Is not the office of Commissioner of Agriculture of quite as much importance to the great agricultural people of this country as the Patent Office?

Mr. BLOUNT. The agricultural people of this country, thank God, are not dependent upon this little retail seed-store for its poor flower and other seeds. They go to first-class seed growers and to the great merchants of the country rather than to this bureau, and experience has demonstrated they are wise in so doing.

[Here the hammer fell.]

Mr. AIKEN. Mr. Chairman, in reply to something that has fallen from the gentleman from Georgia, I desire to say a word. I tell that gentleman, and I call the attention of the House to the fact, that this increase of salary is necessary because of the increase of work in that Department. The importance of the office is increasing every year, and therefore, in my judgment, and I trust it will be the judgment of this House, it is nothing but just and right to increase this salary—that it will be put at the same amount of the other Commissioners under the Government; for, sir, the Commissioner of the Land Office, the Commissioner of Customs, the Commissioner of Pensions, and the Commissioner of Indian Affairs all draw $4,000 a year. The Commissioner of Patents gets $4,500, and the Commissioner of Internal Revenue $6,000. Now I cannot for my life understand why the Commissioner of Agriculture should not get as much as any of these other Commissioners.

I call the attention of the House to another fact. When the Department of Agriculture was established as it is to-day, the Commissioner was entitled, by usage if not by law, to the use of a house, and he lived with his family entirely in the Agricultural Bureau. He paid no house rent, and therefore saved at least a thousand dollars a year. Now the Commissioner is not allowed to do that; he has to hire his house. I say no man of the efficiency and ability required to make that Department grow to what it should be, and not the little retail seed store the gentleman from Georgia says it is—I say the man with the ability and the efficiency to make that Department what it should be cannot live here for the small salary now allowed him.

Now, sir, if after this discussion the chairman of this Committee of the Whole be of the opinion, from the information he has received from the gentleman from Tennessee, that my amendment is against existing law, and that he would have so ruled if he had received the information in time—if that be the decision of the Chair, as I understand it is, then I will submit and by unanimous consent withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. ATKINS. Very well, and now let the Clerk read on.

The Clerk read as follows:

For purchase and propagation and distribution, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, and expense of putting up the same, $65,000: *And provided further*, That the Commissioner shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Commissioner of Agriculture from sending flower, garden, and other seeds to those who apply for the same.

Mr. WHITE. I move in line 1910 after the word "dollars" to insert the following:

A reasonable proportion of which seeds, trees, shrubs, vines, cuttings, and plants shall be supplied for distribution among the agricultural constituency of Members of Congress and Delegates when requested.

Mr. REAGAN. I hope that amendment will not be adopted. It has been the experience no doubt of every member acquainted with the former practice of the distribution of these seeds that it is accompanied with a great deal of trouble, with little profit, and more dissatisfaction on the part of those who do not get the seeds. One of the reasons assigned by the Commissioner for the present practice of sending to those who apply for seeds is the desire on the part of the members of Congress to get rid of the trouble of this distribution.

Mr. WHITE. I ask an opportunity to explain my amendment.

Mr. VANCE. We cannot hear what is going on.

Mr. WHITE. I ask that the amendment be again read.

The amendment was again read.

Mr. REAGAN. I think that amendment is subject to the point of order, and, if so, I make it.

The CHAIRMAN. The gentleman from Texas having discussed the merits of the measure cannot raise the question of order.

Mr. REAGAN. The members of this House, when they desire to get these seeds for their constituents, find it a trouble and vexation to distribute them. They get a list of names and send them out to agriculturists, horticulturists, mechanics, artisans, doctors, lawyers; and one-half the persons who get them make no valuable use of them. The Commissioner of Agriculture, under the present plan for the distribution of seeds, has his correspondents in the different counties and communities all over the country, and he furnishes to those correspondents the seeds for distribution to those who will make profitable use of them and report the results of their experiments in relation to them.

Besides that, the constituents of members who think enough of these seeds to ask for them through their members can get them from the Department by the members referring the letters and requests they receive to the Department as they get them. In this way the seeds which go out go to persons who actually request them, or to lists of names furnished by correspondents of the Agricultural Bureau of those who will use the seeds practically and usefully. This is a better and more intelligent use of the seeds, and better calculated to promote improvement in the qualities of the various products raised from these seeds than the plan of distributing them through members of Congress. And while it is better for the interests of the country, it saves members of Congress from being a sort of seed-brokers and occupying the time in franking little packages of seeds to numbers of people over the country that ought to be devoted to the consideration of the great questions which come before Congress.

Mr. VANCE. I ask the gentleman if he proposes that the Commissioner of Agriculture shall furnish seeds to all who want them?

Mr. REAGAN. I propose to require that the Commissioner shall distribute the seeds to those who want them, according to his best discretion, so far as the supply will go; and when members get requests from their constituents they can send those to the Department. Thus the people who want seeds will get them.

Mr. O'NEILL. But they do not get them. Their requests are constantly refused. I have had a number of applications which have been referred to the Department where the seeds have not been sent.

Mr. REAGAN. The Commissioner may refuse the seeds to the gentleman from Philadelphia because they do not plant seeds in the cities.

Mr. WHITE. Is there a point of order pending, or are we discussing the merits of the amendment?

The CHAIRMAN. No point of order is made against the amendment.

Mr. WHITE. The House will observe that this amendment makes a specific rule upon the subject of the distribution of seeds. As the law now stands we are at sea. We do not know where we are. I hold in my hand, but cannot read in the limited time which I have to address the committee, the law on this subject. It is found in section 527 of the Revised Statutes, to be read in connection with section 526.

Now, a certain policy has obtained in the Government in respect to the distribution of these seeds, and the people of the country understand it. They have been indulged for a few years in having all their reasonable requests for rare seeds, if you please, gratified through their Representatives on this floor. It was so last session without stint; and I think there was reasonable satisfaction given to the country by the way in which the system operated.

Now, however, we encounter when a request is made for a peculiar kind of seed—and in saying this I am not reflecting on anybody—the response that they cannot supply members of Congress; that the law will not allow it, and that there is no seed there for distribution. As the matter stands now I will say, without reflecting at all on the integrity of the administration of that office, we do not know where these seeds go. The intention of the framers of the law creating this Department was to distribute rare and useful seeds among the agricultural population of the United States. We do not know that this distribution is made. I represent a large agricultural population. I receive continual requests for a share of this distribution. I do not know whether I get it or not. Some of my requests are filled; some are not filled. This system subjects the member to criticism, as having neglected his constituency. And the law as it stands now gives us no means of ascertaining whether the distribution is fair or is not fair. This amendment changes the law in that respect, and if there is not a fair distribution the constituency of every Representative can hold the Representative responsible for a neglect in that respect.

The gentleman from Texas [Mr. REAGAN] talked about turning members of Congress into seed-brokers. Now, I submit with all fairness to that gentleman, who is broad and liberal in his views generally, that that is an unfair and improper criticism. I hold it to be the duty of members of Congress to observe and respect the reasonable requests of their constituents. I submit that it is nothing but fair that a member of Congress should give some of his time to supply his constituents with such vines, such seeds, and such shrubs as they may request. If you adopt this amendment you will have some rule to go by on this subject; if not, you have no rule whatever.

Mr. MARTIN, of West Virginia. I do not like this amendment, Mr. Chairman, for the simple reason that, in my judgment, members will find that their constituents, if it should be adopted, will be more poorly supplied than they are now. My experience has been, during the last Congress, that I was able to supply a much larger number of constituents under the ruling and practice of the Commissioner than I could do if he gave me the seeds. I send him a list or forward letters I receive, and in every case, so far as I have ever heard, he writes a letter accompanying the seeds ordered, saying I have directed them to be sent. Now, sir, the Commissioner can distribute them better than I can. He has the employés there, and gives to a greater number than I can, unless I could divide and subdivide the packages furnished, which would require a great deal of labor which I could not do as well as it is done in the Department. And in no case has the Commissioner refused, to my knowledge, to send seeds except where the supply was exhausted.

Mr. WHITE. Allow me a moment. This amendment of mine does not interfere with that. It requires the Commissioner, on the request of Members, to supply seeds. It does not alter the rule in that respect.

Mr. MARTIN, of West Virginia. If the gentleman will excuse me I will say that this same clause provides for the sending out of seeds which he will do as he has been doing if he be let alone.

Mr. SIMONTON. I wish to offer the following amendment:

Insert in line 1912, after the word "purchase," the following:
And shall also report the quantity of seeds, trees, shrubs, cuttings, and plants distributed, and when and where distributed, giving by counties and States the quantity therein, respectively.

Mr. NEAL. That amendment is not in order at this time.

The CHAIRMAN. It is not in order as an amendment to the amendment.

Mr. SIMONTON. It is an amendment to the paragraph.

The CHAIRMAN. But there is one amendment pending.

Mr. REAGAN. And when it comes up I shall make the point of order on it.

The CHAIRMAN. The Chair will recognize the gentleman from Tennessee [Mr. SIMONTON] to offer the amendment hereafter.

Mr. SPEER. I do not think that the amendment of the gentleman from Pennsylvania [Mr. WHITE] will at all deprive the Commissioner of his right and power to send out seeds, cuttings, and so forth, as he is now sending them out. As I understand the amendment, it simply authorizes him to send out a reasonable amount of these seeds for distribution. Gentlemen can still apply to the Commissioner, if they desire to do so, in the manner pointed out by the gentleman from West Virginia, [Mr. MARTIN.] If a member prefers to send all of his seeds in that way, the last clause of this section will enable him to do so; but some of us especially desire to send seeds, cuttings, and shrubs to our constituents.

I submit that I know the people of my district better than the Commissioner of Agriculture does, who the people are who will take care of these seeds. I know the people, or some of them, who would take especial pride in receiving seeds of the character sent out by the Commissioner, and I can see no objection whatever to the amendment of the gentleman from Pennsylvania. It will not repeal this clause of the section:

But nothing in this paragraph shall be construed to prevent the Commissioner of Agriculture from sending flower, garden, and other seeds to those who apply for the same.

It will give us a right to send out a portion of the seeds ourselves, and the Commissioner can also send them to persons who apply for them.

Mr. NEAL. Permit me to say to the gentleman who has just taken his seat that he will find no trouble whatever in having seeds sent by the Commissioner to any person in his district. All he has to do is to make a request in writing of the Commissioner saying: Be kind enough to send seeds to A, B, or C.

Mr. SPEER. I have already made that application to the Commissioner and it has been declined.

Mr. KELLEY. I too have requested that seeds shall be sent to people and it has been declined.

Mr. NEAL. That may be true.

Mr. KELLEY. It is true.

Mr. NEAL. It may be true so far as the gentleman from Pennsylvania is concerned.

Mr. HOUK. It is true in regard to Tennessee also.

Mr. BAILEY. The Commissioner of Agriculture may think that gentlemen representing city districts are not entitled to seeds and that the law does not provide for their being supplied with them.

Mr. HOUK. But I represent an agricultural district.

Mr. NEAL. I must decline to yield further. The Commissioner of Agriculture had a certain sum of money provided for in the last appropriation bill for the distribution of seeds. Those seeds were distributed before the assembling of the present Congress under orders sent by members of the Forty-fifth Congress. I know whereof I affirm. Time and again I have sent to him lists of persons whom I thought would take an interest in the cultivation of these seeds and the propagation of plants and report to him the result thereof, and in every single instance he has filled the order.

Mr. BLOUNT. I desire to state in justice to the Commissioner of Agriculture that his declination to furnish seeds arose from the fact that he did not have them.

Mr. NEAL. In every single instance until within the last few days my orders have been filled. Since that time he has sent me word when I asked for special seeds and cuttings that the supply was exhausted and that he had no money with which to purchase more.

Another thing I wish to say in this connection is, that it seems to me there is a great misapprehension in regard to the duties of this officer in this respect. He is not required to furnish garden-seeds to every person throughout the whole country who wants to plant gardens and raise vegetables and flowers. The Department of Agriculture is an experimental institution to provide cuttings and new seeds and plants and send them to different localities, and ascertain what will be useful in one locality and what in another. If the gentleman from Philadelphia has not received seeds and plants it is because he does not deserve them, not having any agriculturists in his district.

Mr. MILLS. I know there has been a great deal of complaint about the manner in which seeds have been distributed from the Agricultural Department, not only recently, but in each one of the Congresses in which I have served; at least, during the last few years this same sort of discussion has come up. I know that I have myself ordered or requested seeds to be sent from the Agricultural Department, and I think that in every instance I have received a letter from the Commissioner stating that the seeds had been sent. But in a great number of instances I have received letters from the parties to whom I requested seeds to be sent stating that they had never received them.

Mr. CLYMER. That may be the fault of the Post-Office.

Mr. MILLS. Yes, I have heard it said that the Post-Office officials steal the seeds. I do not say that is the case.

Since the democratic party has come into power in Congress nearly every Department of the Government has had an overhauling. I think before we adopt any particular rule in regard to the sending of seeds we should have an investigation of this Department. I should dislike very much to have the seeds supplied to members of Congress and to have them required in addition to their other duties to distribute them. But I think the Agricultural Department should be examined into, and if abuses have grown up there they should be made known. In all Departments and bureaus abuses arise. I do not charge them against the party in power more than against any other party. But every Department when it is controlled for a long time by one party is apt to develop corruptions and abuses. I think this Department of Agriculture should be thoroughly investigated and report made to the House as to the manner in which it distributes

seeds and cuttings, where it purchases them, what it expends for them; in fact, that a general exhibit should be made of the operations of the Department.

Mr. FORT. I think the trouble about this matter, Mr. Chairman, is with the people. Many people seem to think that it is the business of the Agricultural Department to furnish them not only with garden-seeds but with field-seeds and cuttings and many other things. Instead of going to the seed store in their town or village and purchasing their own garden-seeds, they will write to their Representative to send them an assortment of garden-seeds. They seem to think that it is one of the duties of the Agricultural Department to supply them with what with care and attention they might supply for themselves.

It has been well said here that no seeds should be purchased and distributed by the Agricultural Department except for experimental purposes. In my judgment the Commissioner of Agriculture ought to exercise his discretion as to where and to whom he will send seeds. I have no doubt that some improvement could be made in this matter.

Mr. WILBER. I would like to ask the gentleman a question.

Mr. FORT. Very well.

Mr. WILBER. Does the Commissioner of Agriculture understand who, in the gentleman's own district for instance, should be supplied with seeds as well as the gentleman himself understands?

Mr. FORT. Probably not, I will say to the gentleman. I will say further that the Commissioner of Agriculture informed me that he was furnished with a list of names for counties in my district by the sheriffs of the counties. I find that the sheriff of one county furnished him with the names of gentlemen all residing in one little town, not one of whom is an agriculturist.

Mr. WILBER. That is just what I thought.

Mr. FORT. One of them is a fast-horse man. Very few of the leading farmers, especially experimental farmers, are on that list. I will admit that. But the point is that we ought not to furnish these seeds to every one who may ask for them.

Mr. WILBER. I agree with you there.

Mr. FORT. Such seeds should be furnished as in the opinion of the Commissioner of Agriculture may develop some new and valuable variety in some particular soil or climate. I think the whole thing ought to be overhauled and restricted.

Mr. LE FEVRE. I am in favor of the amendment of the gentleman from Pennsylvania, [Mr. WHITE,] and upon that point I desire to have read by the Clerk a circular which I send up to the Clerk's desk. I think it will explain to a very great extent the replies that have been sent to gentlemen who have requested the Department to send out the seeds. I ask special attention to this circular.

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., 187–.

M —— ——: Your request for seeds, made through Hon. —— ——, is necessarily declined, your section of the country having already been supplied as largely as the resources of the Department would permit. It is to be regretted that the appropriation last year for the purchase and distribution of seeds was wholly inadequate to the constantly increasing demand from every part of the country; and that Congress, in making appropriations for this Department, should fail to recognize the fact that the introduction of new and valuable seeds into the country is of greater importance to the interests and prosperity of the community than are many of the objects upon which the public money is lavishly expended.

Respectfully,

WM. G. LE DUC,
Commissioner.

Mr. LE FEVRE. This circular letter is exceedingly discourteous to members of this House, to characterize it in no severer terms. When we apply for seeds for our constituents, instead of forwarding them as requested, they are informed that the supply is exhausted because we did not appropriate more money for the purchase of the same; that while we have failed to recognize the importance of this great interest we have not failed to recognize interests of much less importance by "lavish" appropriations. That, and that only, is the strong inference.

I further desire to say that I am not willing, so far as I am concerned, when I make an application to the Department of Agriculture for seeds to be sent to a constituent, that that constituent should receive such a circular as this. I would ask whether it is the proper thing for the Commissioner of Agriculture, or any other officer of this Government, to pass criticisms and reflections of this kind upon Congress. It is not for the Commissioner of Agriculture to say whether this Congress makes lavish expenditures and appropriations in other directions or not. Further than that, I think I know the agricultural interests of my district much better than does the Commissioner of Agriculture, and that I am better qualified to furnish them with such seeds as they may require. The Commissioner of Agriculture says the law will not permit him to furnish seeds to members of Congress to be distributed through them to their constituents. Clearly, then, from the tenor of this circular, he does not distribute them himself. What, then, has become of the seeds for the purchase of which the liberal appropriation was made last year—an appropriation as liberal as the average preceding years? The gentleman from Texas [Mr. MILLS] struck the key-note when he suggested an investigation of this Department—an investigation that shall show its internal workings, its expenditures, whether extravagant or economical, and whether in a direction to develop and advance the great interests of agriculture. And this investigation should go still further, and determine whether its present chief officer has the confidence of the agriculturists of the country; for if he does not have, all the appropriations this Congress can heap upon him will not tend to advance the great interests he is supposed to represent.

Mr. COX. Mr. Chairman, I do not represent an agricultural community. I have been requested, however, to say something in behalf of this bureau. I know that there are complaints made against the bureau by gentlemen like my friend from Georgia; and I have heard of other complaints. A great many of these seeds, it is urged, never reach their destination; and a great many when they reach their destination never produce. I think it very likely that the parable of the sower——

Mr. BAILEY. There is so much confusion in the Hall that we on this side cannot hear our agricultural friend. [Laughter.]

Mr. COX. I was about to make an exegetical discourse upon the Bible for the benefit of some of our pious friends on this side of the Chamber, though I do not mean to intimate that piety is limited to either side. I was about to read from the parable of the sower to illustrate my remarks about the Agricultural Bureau:

Behold, a sower went forth to sow;
And when he sowed, some seeds fell by the way-side, and the fowls came and devoured them up:
Some fell upon stony places, where they had not much earth.

As perhaps in South Carolina or other places. [Laughter.]

And forthwith they sprung up, because they had no deepness of earth:
And when the sun was up, they were scorched; and because they had no root, they withered away.

But there is something further to be said:

And some fell among thorns; and the thorns sprung up, and choked them.

New England is suggested to me. I do not see the application myself.

But others fell into good ground, and brought forth fruit, some a hundred-fold, some sixty-fold, some thirty-fold.

A MEMBER. That is Iowa.

Another MEMBER. That is Ohio.

Mr. COX. This refers, I presume, to the rich and fruitful West. But we ought not to complain of the Agricultural Bureau because all the seeds distributed by it do not produce. Let us be just to the laborers of the Agricultural Department; and if we do anything to cripple it, let us uproot it altogether as a fungous growth upon our democratic-republican government.

Mr. VANCE. Mr. Chairman, a great deal has been said about members of Congress being "seed peddlers." Now the present arrangement does not relieve members from the trouble of distributing seeds, because they still receive applications from all parts of their districts. I represent nineteen large counties, and I am continually receiving letters from my constituents requesting seeds. I think I can do better in sending out these seeds to my people than the Commissioner of Agriculture can, because I know the farmers; I know who are likely to take pains in planting and cultivating the seeds and reporting the results. I think it best that members should be allowed to send these seeds to those who are to use them.

I know there are complaints that the seeds do not reach those who apply for them; though I do not know where the blame lies. In several instances some of my friends have sent to me for seeds, and the Commissioner of Agriculture has reported that he has sent them; but according to the letters of those who had applied, the seeds were never received. Where those seeds have gone I do not know. I have informed the Commissioner of the matter, and requested him to have it looked into. But I say that those of us who desire to send seeds directly to our constituents ought to have the opportunity. I call upon this House to adopt the pending amendment. I only wish the proposition were a little stronger.

Mr. ATKINS. I call for a vote upon this amendment. If it were allowable for me to do so, I would be willing, so far as I am concerned, to accept it.

The amendment of Mr. WHITE was agreed to.

Mr. SIMONTON. I move to amend by adding after the word "purchase," in line 1912, these words:

And shall also report the quantity of seeds, trees, shrubs, cuttings, and plants distributed; and when and where distributed, giving by counties and States the quantity distributed therein respectively.

Mr. BLOUNT. I reserve a point of order on this amendment, though I have no objection to withholding it till the gentleman has been heard. [A pause.] The gentleman says to me that he desires the point of order stated. The point I make is that this amendment embraces new legislation and does not retrench expenditures as required by the rule.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. SIMONTON] desire to be heard on the point of order?

Mr. SIMONTON. Yes, sir.

Mr. BLOUNT. The suggestion is made to me that the amendment if adopted would require a large increase of clerical force; but independently of that the proposition does not disclose on its face any reduction of expenditures. Hence it is unnecessary for me to enforce the point of order further.

Mr. SIMONTON. Mr. Chairman, I submit that the point of order is not well taken. I cannot see that the amendment proposes to change existing law in any respect whatever. The statutes now require that the Commissioner of Agriculture shall make a detailed report; and

this bill also requires that he shall make a report showing the number of seeds, trees, shrubs, vines, cuttings, plants, &c., purchased by him, from whom purchased, and at what price. This amendment seeks only to define further this duty.

Now, I submit as a sound principle which ought to be recognized everywhere that a public servant charged with a trust ought to make a report showing how he has discharged that trust. I think this is the duty of this officer under the law. The requirement of the statute now is that he shall make a detailed report, and the bill defines what that report shall show—the moneys expended by him, and also how and where he has made his purchases. My amendment proposes simply to make more specific a duty already devolved upon the Commissioner.

Is it not the duty of a person charged with a public trust to show how he has administered that trust? The sum of $65,000 or $75,000 is now placed in the hands of the Commissioner of Agriculture to be expended for the benefit of the people. He makes the purchases and the distribution; but gentlemen in this Hall do not know how he discharges the trust. They do not know where these things go. Now, I say it is the duty of the Commissioner under the law to make a report of this kind. We ought to know how he discharges this trust. My amendment simply defines in words that which is certainly his duty under the existing law.

Mr. Chairman, I do not wish to lodge any complaint against the Commissioner of Agriculture, for I have no data upon which to found it; but I do know that when you place seventy-five or one hundred thousand dollars in the hands of any public servant, and allow him to distribute these things as he pleases without making any report of his action in the premises, it furnishes a splendid opportunity for favoritism. I say I do not wish to lodge any complaint against the Commissioner of Agriculture; but I know this, that he is only a human being, and that whenever you invest a man with such power, compelling him to submit no report of his doings or to undergo any examination, it requires more than Spartan virtue to resist the opportunity of practicing favoritism. He ought, in my judgment, to be required to make this report, and we ought to know what he does with this amount of money. It is to be expended for the benefit of the people and not for the favorites of any public officer. I think the point of order is not well taken and that the amendment itself is a meritorious one, and I hope it will receive the favorable consideration of the committee.

Mr. BLOUNT. The speech of the gentleman from Tennessee makes it proper, perhaps, that I should say a few words in addition to what I have already stated concerning this Agricultural Bureau.

The gentleman says the Commissioner of Agriculture ought to make this report in order that the country may understand how this money has been expended, to whom this seed has been sent, and what proportion of distribution there has been among the several States. I submit to that gentleman and to the House that we now have a Committee on Agriculture, whose duty it is to look into that very question, whose habit has been to look into that very question. But the gentleman asked me how could they do that without report. As they have done heretofore, by calling for the books of the Commissioner of Agriculture, which will show in detail the expenditure of the appropriation and to whom seed has been distributed. There is no trouble about finding out these facts. This House can always ascertain, whenever it desires, to whom seeds have been sent. The Commissioner of Agriculture will be, as he always has been, prepared to make to the Committee on Agriculture a complete report of what has been done with the funds voted to him. I know that in the Forty-fourth Congress the Committee on Agriculture did do this identical thing—examined into the distribution of seed and learned all the facts in reference to that distribution.

Mr. SIMONTON. May I ask the gentleman a question?

Mr. BLOUNT. Yes, sir.

Mr. SIMONTON. On the same principle might not the Finance Committee of the House inquire into the management of any other Department of the Government? Why, then, should not the Secretary of State make a report?

Mr. BLOUNT. The Finance Committee has altogether different duties to perform. There is a committee which has charge of the expenditures in other Departments, but none here. It is the duty of the Committee on Agriculture to look into the expenditures under the Commissioner of Agriculture. Beside doing this they have little else to do. There is no law requiring such a report from this Commissioner. The gentleman's amendment would create a law compelling the Commissioner to do that which the law does not now require at his hands. And so far as a report with reference to these expenditures is concerned the chairman will see readily that the additional duties required on the part of the Commissioner of Agriculture will necessarily require an addition to his clerical force. That of course would increase the expense and render the amendment liable to the point of order.

But, sir, in addition to the point of order, I do object to dignifying this little bureau into the position of one of the departments of this Government by having an annual report to Congress the same as from the Treasury Department and other great Departments of the Government. I do object to the design of building it up into a separate department of the Government.

Mr. SIMONTON. May I interrupt the gentleman?

Mr. BLOUNT. Certainly.

Mr. SIMONTON. The gentleman insists that this is new legislation and therefore not in order. Now, has he referred to section 528 of the Revised Statutes, which says that the Commissioner of Agriculture shall annually make a general report in writing of his acts to the President and to Congress; and if so, does not this amendment simply further define what those duties shall be?

Mr. WHITTHORNE. On turning to Rule 120, on which this point of order is made, it will be seen that the word "retrench" is the word used, and not "reduce." I submit with all deference to the Chair and to my friend from Georgia that the tendency of the amendment of my colleague is to retrench expenditures. And how? Because it throws guards and restrictions upon the disbursement of this fund. It requires an account of the mode and manner in which that is done. If the Commissioner of Agriculture shall be required to show to the House in his annual report each year the exact amount of seed which each county and State within the limits of the Union obtains, that at once arrests attention and at once stops, although not the practice under the present Commissioner, a practice which prevailed under former Commissioners, of distributing seed very largely to the residents of the District of Columbia.

Mr. BLOUNT. I wish to call the attention of the gentleman to the fact that the language of the rule is not "to restrict expenditures," but "shall retrench expenditures."

Mr. WHITTHORNE. I have called the attention of the Chair to the word "retrench" instead of "reduce" expenditures, as I have learned by my experience here that the members of the Committee on Appropriations in raising points of order uniformly confound the word "retrench" with the word "reduce." The rule is to retrench expenditures.

Mr. HARRIS, of Virginia. I wish to ask the gentleman from Tennessee, if additional labor is required on the part of the Agricultural Department, as it will be by the pending amendment, does not that *prima facie* compel an increase of clerical force, and therefore an increase of expenditure?

Mr. WHITTHORNE. Mr. Chairman, that is a begging of the question. This does not require, does not necessarily require, any increase of force, because, as my colleague from Tennessee [Mr. SIMONTON] has already said, if the Commissioner notes the day, notes the time, notes the place and the party from whom purchased, the price, and all that, it is an easy matter, on the corresponding side of the ledger and by the same clerk, to note where it is disbursed and distributed.

One word more. I have to say with regard to the present Commissioner of Agriculture I have no complaint to make against him. I do not believe there is legitimate ground for any complaint to be made against him. I know, and every man on this floor who was a member of the Forty-fifth Congress knows, the demand upon us from our constituents for seeds has increased within the past few years not only twice, but three, four, and five fold. Our country is increasing. Its population, its agricultural, its producing interests generally are increasing; and I, for one, know that this Agricultural Department, ridiculed by my friend from Georgia, [Mr. BLOUNT,] has been of immense benefit to the people of this country, even in this matter of the distribution of seeds, thereby adding to the wealth and prosperity of the country.

Mr. ATKINS. I understand that this is a discussion on the point of order. I ask the Chair to confine gentlemen in their remarks to the point of order.

The CHAIRMAN. The Chair is sufficiently advised, and is prepared to rule on the point of order, and is only listening to a further discussion at the request of gentlemen occupying the floor.

Mr. WHITE. Before the Chair makes his decision I wish to make a remark to the gentleman from Tennessee, [Mr. WHITTHORNE.] I wish to assure that gentleman that in offering the amendment I did I had no intention to make any reflection whatever on the present Commissioner of Agriculture.

Mr. WHITTHORNE. I did not so understand.

Mr. WHITE. My idea was to get a rule which would be an aid to the Commissioner in the discharge of his duties.

The CHAIRMAN. The Chair does not think it is at all necessary it should be shown that the amendment offered by the gentleman from Tennessee [Mr. SIMONTON] retrenches expenditures, because the Chair does not believe or hold that it changes existing law. It simply undertakes to define and make specific a duty imposed by law. The Chair therefore has no hesitation in ruling the amendment in order.

The question being taken on Mr. SIMONTON's amendment, there were—ayes 35, noes 37.

Mr. BLOUNT. I call for tellers.

The CHAIRMAN. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Georgia, Mr. BLOUNT, and the gentleman from Tennessee, Mr. SIMONTON.

The committee again divided; and the tellers reported—ayes 62, noes 52.

So (further count not being called for) the amendment was agreed to.

Mr. FORT. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 1915 insert the following:

The Commissioner of Agriculture shall, by printed circulars to be sent out with or attached to packages, inform the people that seeds are to be distributed only to persons who will experiment therewith and report the results.

Mr. FORT. I do not think it necessary to discuss the amendment.

The amendment was not agreed to.

Mr. SAMFORD. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 1912 insert the following:

With a further statement showing from whom the same are purchased, how much purchased, and the value in each case.

Mr. ATKINS. I would suggest to the gentleman that he should allow that to come in at the conclusion of the amendment which has just been adopted on the motion of my colleague, [Mr. SIMONTON.]

Mr. SAMFORD. Very well. I suppose there will be no objection to this amendment.

Mr. ATKINS. I ask if the amendment of my colleague does not come in after the word "purchased," in line 1912?

The CHAIRMAN. It does.

Mr. ATKINS. Then the amendment of the gentleman from Alabama [Mr. SAMFORD] ought to come in after that.

The question being taken on Mr. SAMFORD'S amendment, it was agreed to.

Mr. AIKEN. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out from line 1907 to line 1915, inclusive, these words:

For purchase and propagation and distribution, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, and expense of putting up the same, $65,000: *And provided further*, That the Commissioner shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Commissioner of Agriculture from sending flower, garden, and other seeds to those who apply for the same.

And insert in lieu thereof the following:

For the purchase and propagation, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, $70,000. For parceling, packing, and distributing the same, $30,000: *Provided further*, That the Commissioner shall be required, and he is hereby instructed, to accompany his next annual estimate of the expenses of the Department of Agriculture with an itemized report of the quantity of seeds and plants purchased during the fiscal year for which this appropriation is made, the date of such purchases, the prices paid, and from whom said seeds and plants were purchased.

Mr. DUNNELL. I would ask the gentleman from South Carolina if that is not the existing law now; if this does not provide for the Commissioner making precisely the same report as he would be compelled to make under existing law?

Mr. AIKEN. The wording is a little different and this amendment is somewhat more exacting upon the Commissioner than the existing law is.

As a member of the Committee on Agriculture of the Forty-fifth Congress I desire to make a statement, and ask the attention of the House to it. When this portion of the bill was under discussion in the third session of the Forty-fifth Congress no amendments were offered to it because the chairman of the Committee on Agriculture stated there had been a request for a meeting of the two Committees on Agriculture of the House and the Senate to consider what amendments should be offered, and requested that the bill should be allowed to go to the Senate, and that amendments should be made there. At his request, therefore, this portion of the bill was informally passed over.

I protested against that action privately, and I never learned that the Committee on Agriculture of the House was invited to meet the Committee on Agriculture of the Senate. We never did have our meeting. I went to the members of the Committee on Agriculture of the Senate and urged them to make an amendment similar to this. They declined to do so, I suppose, because it did not come from the Committee on Agriculture of the House. I stated that the Committee on Agriculture of the House had never been invited to meet them, and therefore there had been no meeting of the two committees. I presented a paragraph similar to this at a subsequent meeting of the Committee on Agriculture of the House, and it met with a unanimous approval. There was not a single member who opposed it. The bill came back from the Senate, however, with $65,000 appropriated; $10,000 less than in any previous Congress for the last eight years.

Now, Mr. Chairman, I discovered that one objection that had been urged by the Committee on Appropriations in the Forty-fifth Congress to the appropriations annually made for the Agricultural Department was that it required too much money to make the distribution, and the original bill (which we are now considering) had a provision in it that only $7,000 should be appropriated for the distribution of seeds, and that was to be taken out of the $65,000 appropriated for both purchase and distribution. That surprised me, because it was evident that the Committee on Appropriations had never investigated the process of distributing these seeds from the Department. I could take the seventy-five thousand dollars' worth of seeds and distribute them for $1,000, but just in proportion to the expense of distribution are we to infer that they have been minutely distributed among the people of the whole country.

For instance, if the Commissioner were to distribute ten thousand bushels of one kind of seed in four-pound packages, they might go to ten thousand people at a certain expense; but if he were to send the ten thousand bushels to fifty thousand people in less than pound packages, of course it would take five times the labor and cost the Government considerably more money.

Now, a personal examination of the books of the Agricultural Department, which, I dare say, not a single member of the Committee on Appropriations has ever made, informed me that during the past year the Commissioner of Agriculture distributed one million five hundred thousand packages from that Department; and when he reported to the Committee on Appropriations that it required $28,000 to do it, they simply held up their hands in holy horror. But, as I said before, it was evident to my mind that he had distributed them minutely, and that they had gone into every portion of this great country.

Mr. ATKINS. If they have gone into every portion of this great country, what is the use of increasing this appropriation? The gentleman, it seems to me, defeats his own amendment by his last remark. If they have gone into every portion of the country minutely what is the use of having any more?

Now, I do not profess to be as familiar with the Agricultural Department as the gentleman from South Carolina, but the gentleman says that he dares to say that no member of the Committee on Appropriations in the Forty-fifth Congress ever looked into the books of that Department. I beg the gentleman's pardon; there was one member that did look into them, and I happen to be that member. Whether any other member of the Committee on Appropriations did I am not prepared to say, but it is a little singular that the gentleman from South Carolina should come forward now and propose an appropriation of $30,000, which is $25,000 over and above the estimate made by the Commissioner himself.

Here is the estimate; I hold it in my hands; it is $75,000 for the purchase, propagation, and distribution of seeds. The gentleman's amendment, as I understand it, proposes to make an appropriation of the round sum of $100,000.

Now, has the gentleman a letter from the Commissioner of Agriculture asking for this appropriation? Has the Speaker of the House laid before this House any letter of that kind? Is there a letter of that kind in existence? Yet the gentleman comes forward and offers this amendment. Perhaps the Commissioner has told him that he would like to have that amount. That may be so. I have no doubt that the Commissioner would like to have a million dollars, so far as that is concerned. I have no idea that he would at all object if we were to appropriate a million dollars. He seems to think that we had better appropriate larger sums for the distribution of seeds, than to make other lavish expenditures which he charges the Congress of the United States with having made. He sets himself up as a censor upon the action of Congress, and charges Congress with making lavish expenditures and that they ought to have made greater appropriations for the distribution of seeds, and cut off those lavish expenditures. Now, I trust, sir, that, as the Commissioner himself only asks for $75,000, this House at this extra session, when we have no committees to investigate this subject, will decline to take the action which the gentleman from South Carolina requests the House to take.

Mr. RICHARDSON, of South Carolina, obtained the floor and yielded his time to Mr. AIKEN.

Mr. AIKEN. It is evident to the House and to those who have listened to the debate since we have taken up this portion of the bill, that every objection urged against the Department is urged against the man who fills the place of Commissioner. Now, I do not regard the Commissioner in this discussion. If he does not do his duty let him be impeached. But I look above him and beyond him to the great agricultural wants of the country, and I say that $75,000 for the distribution of seeds is a mere pittance, and I here predict that in less than four years it will be multiplied five times by the demands of the agriculturists all over this land.

The agriculturists never had a hearing on this floor; they never have had due consideration here. We sit here day after day splitting hairs upon questions of law, and discussing the question whether this or that measure will revolutionize or shoot the Government to death, and we have lavished money, as the Commissioner says, upon a great many questions that are theoretical, and which are of no use—a great disadvantage to the country. We appropriate money for destruction, and not a cent for production.

Mr. BLOUNT. Will the gentleman allow me to ask him a question?

Mr. AIKEN. Yes, sir.

Mr. BLOUNT. Did the gentleman ever call the attention of the Forty-fifth Congress to the lavish expenditures which he charges were made, and ask to have them corrected?

Mr. AIKEN. I never dared to because if I attempted it some such gentleman as the gentleman from Georgia would eternally jump up in front of me before I could get a chance. [Great laughter.] Everybody knows that the business of this House is run by a coterie who sit down in front there on three or four rows of the seats. [Renewed laughter.] But I have a pretty good voice and am generally heard when I attempt to speak, and I intend to be heard in the interest of the agriculturists. I represent an agricultural community; it is a productive community, and we want to enrich this country.

I must confess that I am disgusted to hear men get up here, eminent lawyers and statesmen, and talk about revolution and all that sort of stuff, when we should devote our time to legislating for the benefit of the people and do something to enable them to keep want from their doors. Let us do something to show them that the Government is willing to lend a helping hand to the agricultural interests of the land.

It has never been the purpose of the Agricultural Department, from its establishment until the present time, to send seeds to any and everybody through their congressional representatives. Why, sir, it is the most pitiful specimen of electioneering that I ever heard of. Gentlemen advocate a measure directing the Commissioner to send seeds to Representatives on this floor—for what? To buy votes? I cannot see what else.

The purpose of the present Commissioner of Agriculture is to elevate the Agricultural Department, to increase the productive capacity of our land, to purchase seeds and plants that he knows are prolific and useful, and distribute them to men who will make them more prolific, and in that way to aid that great interest in this country. And $100,000 is a contemptible amount for a purpose so valuable.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LOWE. I will yield my time to the gentleman from South Carolina, [Mr. AIKEN.]

Mr. ATKINS. I object to that, and call for a vote.

Mr. AIKEN. I am willing that there shall be a vote.

Mr. WHITE. I do not think the committee understand that if this proposition prevails it will strike out entirely that which the committee has just inserted.

Mr. ATKINS. Debate is not in order.

Mr. WHITE. Very well; I merely wanted to call the attention of the House to what will be the effect of this amendment.

The question was taken upon the amendment of Mr. AIKEN; and upon a division there were—ayes 90, noes 33.

Mr. ATKINS. No quorum has voted.

Tellers were ordered; and Mr. AIKEN and Mr. ATKINS were appointed.

The committee again divided; and the tellers reported that there were ayes 100.

Mr. ATKINS, (one of the tellers.) I do not call for a further count, but will give notice that I shall call for a separate vote in the House.

So the amendment of Mr. AIKEN was agreed to.

Mr. WHITE. I move to amend by inserting after the amendment just adopted that which I send to the Clerk's desk.

The Clerk read as follows:

A reasonable proportion of which seeds shall be supplied, for distribution among their agricultural constituencies, to members of Congress, when requested.

Mr. DUNNELL. I would suggest to the gentleman to modify his amendment by inserting the words "and equal" before "proportion."

Mr. WHITE. I accept that amendment.

Mr. BENNETT. I would suggest that the word "Delegates" should be inserted.

Mr. WHITE. I trust the Delegate from Dakota [Mr. BENNETT] will not ask for that. I understand that the words "members of Congress" will include Delegates.

Mr. BENNETT. I understand there is a doubt about that.

Mr. WHITE. Very well, I will modify the amendment by inserting the word "Delegates."

Mr. ATKINS. Let the amendment be amended so as to require the Commissioner to make report as to the quantity of seeds purchased, from whom purchased, the kinds of seeds, and the value.

Mr. WHITE. That is embraced in the amendment just adopted on motion of the gentleman from South Carolina, [Mr. AIKEN.]

Mr. ATKINS. I do not think so. I would like to have that read again.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from South Carolina [Mr. AIKEN] which has been adopted, and the amendment now moved by the gentleman from Pennsylvania, [Mr. WHITE.]

The Clerk read the amendment of Mr. AIKEN, as follows:

For the purchase and propagation, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, $70,000; for parceling, packing, and distributing the same, $30,000: *Provided, further*, That the Commissioner shall be required and he is hereby instructed to accompany his next annual estimate of the expenses of the Department of Agriculture with an itemized report of the quantity of seeds and plants purchased during the fiscal year for which this appropriation is made, the dates of said purchases, the prices paid, and from whom the said seeds and plants were purchased.

Mr. WHITE. That covers what the gentleman from Tennessee [Mr. ATKINS] desires. Now let my amendment be read as it has been modified.

The Clerk read as follows:

A reasonable and equal proportion of which seeds shall be supplied for distribution among their agricultural constituencies to Members and Delegates of Congress, when requested.

Mr. McCOOK. I ask the gentleman to strike out the word "agricultural." There is no reason why we in the city should not have the same amount furnished us. The gentleman should make no distinction between the several constituencies in the country.

Mr. WHITE. This is intended for persons engaged in agricultural pursuits.

Mr. O'NEILL. Any one who owns a farm or cultivates a garden is an agriculturist. This amendment will cover those who live in cities and do that.

Mr. ATKINS. I move to amend the amendment by substituting the following:

Provided, That the trees, shrubs, cuttings, vines, &c., shall be equally distributed to each congressional district.

Mr. FORT. That amendment might cut out Senators. I suppose the gentleman does not want to do that.

Mr. ATKINS. I do not.

Mr. FORT. Then I would suggest that the gentleman insert the word "Senators."

Mr. WHITE. I hope the gentleman from Tennessee will not offer that amendment till mine is disposed of.

Mr. ATKINS. I withdraw the amendment for the present.

The question being taken on the amendment of Mr. WHITE, it was agreed to; there being—ayes 103, noes 15.

Mr. ATKINS. I now move to amend by adding after the amendment just adopted the words "and to whom distributed and in what quantities." Unless some report of this kind be required there will be no check upon the Commissioner of Agriculture as to the distribution of these seeds.

Mr. AIKEN. I think this amendment is entirely right.

Mr. REAGAN. I wish to call attention to the fact that by requiring a report of this kind we are providing for an amount of labor which the bureau has no adequate force to perform. The language of this amendment would require a report of every package of seeds sent out, to whom sent, and where. Such a report would fill many volumes.

Mr. ATKINS. This information is already on the books of the Commissioner; no additional force will be required.

Mr. REAGAN. I think it will be found that to comply with the requirements in these amendments large additions to the clerical force of the bureau will be necessary; and a very largely increased expense will be incurred for printing which is utterly useless. I regret very much to see the disposition of the House to create a necessity for a useless and expensive increase of clerical force in this bureau.

The amendment was agreed to; there being—ayes 82, noes 19.

Mr. SAMFORD. I move to amend by adding at the end of the pending paragraph the following:

Provided, That no part of said sum shall be paid to salaried employés in said Department.

The amendment was agreed to.

The Clerk read as follows:

For continuing and completing the investigation into the history and habits of insects injurious to the cotton-plant, and other insects injurious to agriculture, and for necessary salary, contingent and traveling expenses of investigators employed in such duty, $5,000.

Mr. HASKELL. I move to strike out this paragraph for the purpose of moving hereafter that it be inserted under the head of the United States entomological commission. My object is that the money appropriated in the paragraph may be expended under the direction of that commission—a body already in existence, having at its head Professor Riley. This commission has already made a report upon grasshoppers and other insects of the West. We are all desirous to have that work concluded, as also an investigation into the ravages of the cotton-plant worm. It is deemed best that the Department of Agriculture, which has a division of entomology, should be left to continue its ordinary work, and that this special work of investigating the cotton-plant worm and completing the investigation of the Rocky Mountain locust should be made by the entomological commission, presided over by Professor Riley—a commission well known all over the United States as a wise body, whose members have been selected with special reference to their qualifications for this class of work.

Mr. ATKINS. Do I understand that the gentleman proposes merely a transposition of this paragraph?

Mr. HASKELL. That is all. My amendment adds not a dollar to the appropriation and make no changes in the law. It simply proposes to put this money into the hands of a commission, already in existence, that has done good work. I believe the proposition will commend itself to the House.

Mr. ATKINS. I have no objection to the amendment.

The amendment was agreed to.

Mr. GODSHALK. I move to amend by striking out "5" in line 1931, and inserting "6," so as to make the appropriation $6,000 instead of $5,000, for investigating the history and habits of insects injurious to agriculture, &c.

The amendment was not agreed to.

The Clerk read as follows:

To pay salaries and traveling and other necessary expenses of inspectors at the different shipping ports of the United States and elsewhere, and for controlling or eradicating infectious and contagious diseases among domesticated animals, $25,000; to be immediately available.

Mr. HUNTON. I move to amend by striking out "$25,000" and inserting "$250,000, or so much thereof as may be necessary."

Mr. BLOUNT. I reserve a question of order on this amendment.

Mr. HUNTON. Mr. Chairman, I trust that the Committee of the Whole will not be alarmed at the amount named in my amendment. If I can get the attention of the committee I think I can demonstrate that the making of this appropriation will be in the line of economy. This increased appropriation is aimed at the eradication and stamping out of the disease among cattle known as "pleuro-pneumonia," a disease which has proved most disastrous in every country in which it has appeared. I wish to give to this committee some information that I have on this subject, and I will state in advance that this amendment is offered at the request of the Legislature of my own State, as will appear by the following:

Joint resolutions instructing Senators and requesting Representatives in Congress from Virginia to stamp out and prevent the spread of cattle diseases in the United States.

1. *Resolved by the General Assembly*, That the Senators in Congress from Virginia

be, and they are hereby, instructed, and the Representatives are requested, to use their best endeavors to procure the prompt passage, by Congress, of such laws as will effectually stamp out or prevent the spread of the disease now existing to a limited extent in certain sections of the United States, and known as "pleuro-pneumonia," or any disease which prevents the importation of cattle into the United Kingdom of Great Britain, or any part thereof; and in view of the importance of the matter, our Senators and Representatives are hereby urged to move at once.

2. That the governor be, and he is hereby, requested to forward a copy of these resolutions to each Senator and Representative from Virginia in Congress.

This disease is unknown in the United States except where it has been imported from abroad. It comes mainly from Germany. It has appeared in six States and in the District of Columbia. It made its appearance some years ago in Great Britain; and I have before me a report made by Professor James Law, of Cornell University, New York, stating that the first twenty-five years of the existence of the disease in the Kingdom of Great Britain cost that country in the death of cattle alone $450,000,000—an annual cost to the people of nearly $20,000,000.

The disease first appeared on this continent in the State of Massachusetts, in 1859, and it originated there by the introduction of imported breeds of cattle from Germany. The Legislature of Massachusetts in that year passed a law directing the governor to stamp out the disease in that State without regard to cost. By vigorous action that State was cleared of the disease at that time, and according to my information it has not since appeared there. It exists to-day in New York, Pennsylvania, New Jersey, Maryland, Virginia, and the District of Columbia; and when this disease shall have spread from the eastern side of the Alleghanies to the great cattle plains of the West, the amount of damage done to the people of the United States annually can only be estimated by millions upon millions of dollars, because we know if the cattle which come from the West to the East are infected with this disease the loss to the owners and the grazers of these cattle will be incalculable. At present the disease exists in very few and very small localities. It exists in two counties of Pennsylvania, a small portion of the State of New York, a small portion of the State of Maryland, in the District of Columbia, and in two spots in the State of Virginia. Around the city of Alexandria, extending a mile or two into the country, this disease exists, carried from the District of Columbia, and carried to the District of Columbia from Maryland, and to Maryland from farther north.

The CHAIRMAN. The gentleman's time has expired.

Mr. HUNTON. I trust I may be allowed to proceed.

Mr. BRIGHT. I take the floor and yield my time to the gentleman from Virginia.

Mr. HUNTON. I thank the gentleman. Now, Mr. Chairman, this disease is at present confined to milch-cows, and while the drain of cattle is from the West to the East there are occasional instances in which cattle are carried from the East to the West, because we know that improved breeds of cattle are bought in the East and carried to the West to improve the breeds of cattle now there. When it shall occur that diseased cattle of this character are carried to the West and this disease breaks out upon the plains of the West, from which we draw our supplies of cattle, the cattle business will be broken up and destroyed in this country. If any gentleman upon this floor can estimate or begin to estimate the damage which will be done to this country arising from the general prevalence of pleuro-pneumonia among the cattle of the country he is a better arithmetician than I am.

Another great trouble in this matter is that the very moment it got abroad that this disease existed in the United States, England prohibited the importation of live cattle from the United States into that kingdom. That destroyed at one blow one of the best and most improving trades in the United States, because the exportation of the cattle from the United States to Great Britain in the last twelve months amounted to nearly $30,000,000, and was increasing weekly until it was stopped by the prevalence of this report that we had pleuro-pneumonia in our midst. This is a matter of so much importance that it has engaged the attention of this Government. Cabinet meetings have been held to consider what steps should be taken to induce the Kingdom of Great Britain to reopen this cattle trade with the United States.

Mr. BLOUNT. Will the gentleman yield to me?

Mr. HUNTON. With great pleasure.

Mr. BLOUNT. I wish to ask the gentleman to state specifically, if he can well do so, how he proposes to use this fund.

Mr. HUNTON. Certainly, it is a very legitimate question. The only way known to eradicate this disease, the only practicable and efficient mode that has ever been tried, is by stamping it out by buying and killing the cattle having the disease. That is a question most scientifically treated by Professor Law in a report which I should like to lay before this committee if time allowed. That was the mode adopted by the State of Massachusetts when it got rid of this disease in 1859. It is the course pursued in Pennsylvania and New York to get rid of the disease in those States. A few years ago, I have forgotten the date, a sum of $10,000 was appropriated by the State of New York to eradicate this disease. It was found insufficient, and the commissioners without regard to the amount appropriated spent double that amount and patriotic citizens of the State contributed $20,000 more.

I mention these facts, Mr. Chairman, to show the alarm of great danger to the whole country from the spread of this disease. I desire to have read for the information of the committee a report made to the governor of Virginia by one of the most intelligent farmers in that State on this subject.

The Clerk read as follows:

THE PLAINS, VIRGINIA, *April* 1, 1879.

DEAR SIR: Your letter covering a communication from the Commissioner of Agriculture of the United States, on the subject of pleuro-pneumonia in the cattle in Virginia, was duly received, and I at once went to Alexandria and Fairfax County and spent three days making examination into the condition of the cattle in that section, and find that there is a good deal of the disease known as pleuro-pneumonia among the dairy cows in and around Alexandria, and for four miles out from the town, in Fairfax County, and extending about ten miles up and down the river south of Washington and Alexandria. That the disease is contagious or infectious and that it is spreading slowly South and West, there is no doubt, and should by all means be stopped at once. I do not see that it is in the power of the State authorities to stop it, because though it might be stamped out in its now small proportions in Virginia by killing and paying for all infected animals, or those that have come within the reach of the contagion, yet, as the disease is prevailing to a greater extent in Washington City and Maryland, from whence we got it, it would be brought over to us again in a few weeks, and as we cannot interfere with commerce (the trade in cattle) between the States, we would have it all to go over again and again, *ad infinitum*, and thus further impoverish our State. Therefore I recommend that every proper means be used to get the National Government through their Congress, now in extra session, to make an appropriation of not less than $500,000, to be placed at the disposal of the Commissioner of Agriculture, for this especial purpose; and thus by the most vigorous and prompt means stamp out this most dreadful disease while it is now in comparatively small proportions. This disease is now confined to the New England and Middle States, east of the Alleghany Mountains; if not at once stopped, in less than three years it will get out on the Western plains and $50,000,000 per annum will be a small estimate of the loss to the United States. I cannot too earnestly recommend that every means be used to get the National Government to take hold of this important subject. It is not possibly in the power of the States to stop this disease entirely.

Very respectfully,

ROBT. BEVERLEY.

To his Excellency, F. M. HOLLIDAY,
Governor of Virginia.

Mr. SPARKS. The letter which the gentleman from Virginia [Mr. HUNTON] has just had read at the Clerk's desk expresses the fear that is being felt throughout the country on this subject. The people in the West engaged in the business of cattle-raising have already become cognizant of the prevalence in certain localities of this terrible disease, and are greatly excited over it.

I rose, however, mainly to state my hearty concurrence in the views expressed by the gentleman from Virginia on this subject. I have had some letters on the subject from my constituents, giving expression to much feeling and anxiety in relation to it. The ruinous effects of the ravages of that disease should it spread West into the great cattle-raising regions of this country can be counted only by scores of millions of dollars annually.

There is no doubt about its being a matter of vast importance. Hence an appropriation of $25,000, as proposed in the bill, to get rid of the disease is but tantalizing, and would amount to nothing. To do anything effective toward its eradication means must be provided to permanently stamp it out of existence, as suggested by the gentleman from Virginia; and to stamp it out you must get hold of these diseased cattle and destroy them. There is no other remedy. What is wanted is not experimenting with remedies to cure this disease. To cure it by any medical remedies that can be resorted to will, in my judgment, be found to be impossible. You can only cure it by killing the animals which have it, and thus stamp it out. It is now, as stated by the gentleman from Virginia, [Mr. HUNTON,] confined to a limited extent of country, and by taking hold of the matter now vigorously we can eradicate it. But it requires prompt and vigorous action, and will necessarily, as it strikes me, demand the expenditure of a sum of money fully as large as that mentioned in the proposed amendment.

Why, sir, the simple statement of fact that Great Britain is now moving in the direction of preventing the importation into that country of our cattle shows to the country and to every man who has reflected a moment about it the vast importance of the subject. The trade of that kingdom in this item of food supply is to our country of incalculable benefit. And if they become frightened there and on the continent that our dressed beef or cattle on the hoof, as shipped to them, is infected or suspected of disease, of course that will stop the trade, and of necessity close that excellent market to this important article of our export commerce. I do not know that the Commissioner of Agriculture (as is contemplated by the amendment) is the proper person to regulate this matter. Perhaps it would have been better, and may now be better, to amend so that a specially selected commission be organized to superintend it, or that it be placed under the charge of one of the regular Departments of the Government. Be that, however, as it may, my present purpose is to join my friend from Virginia [Mr. HUNTON] in giving expression to my cordial and hearty approval of the movement and urge immediate and effective action in the premises.

[Here the hammer fell.]

Mr. ATKINS. In view of the importance of this proposition as explained by the gentleman from Virginia who offered it, and further illustrated by the gentleman from Illinois, and in view of the fact that action is being taken in the other wing of the Capitol on this question; in view of the fact also that there is other business the House desires to transact this evening, I move that the committee do now rise.

Mr. REAGAN. I ask the gentleman from Tennessee to allow me to offer an amendment to the amendment.

Mr. HARRIS, of Virginia. You can offer it to-morrow.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

ANNOUNCEMENT OF COMMITTEES

The SPEAKER. The Chair asks consent at this time to submit the appointments made for the standing, special, and joint committees of this House.

The Clerk read as follows:

STANDING COMMITTEES.

Committee of Elections—Messrs. Springer, Manning, Slemons, Speer, Colerick, Armfield, Beltzhoover, Sawyer, Phister, Keifer, Camp, Calkins, Field, Overton, and Weaver.

Committee of Ways and Means—Messrs. Fernando Wood, Tucker, Gibson, Phelps, Morrison, Mills, Carlisle, Felton, Garfield, Kelley, Conger, Frye, and Dunnell.

Committee on Appropriations—Messrs. Atkins, Blount, Singleton of Mississippi, Clymer, Blackburn, Wells, Cobb, Forney, McMahon, Baker, Monroe, Hawley, Hubbell, Cannon of Illinois, and Hiscock.

Committee on Banking and Currency—Messrs. Buckner, Ewing, Davis of North Carolina, Young of Tennessee, Lewis, Lounsbery, Ladd, Chittenden, Fort, Price, and Crapo.

Committee on the Pacific Railroad—Messrs. McLane, Chalmers, Bliss, Clark of Missouri, Dickey, Ellis, Martin of West Virginia, Wellborn, Harmer, Belford, Newberry, Bailey, and Butterworth.

Committee of Claims—Messrs. Bright, Dickey, Davidson, Covert, O'Connor, Davis of Missouri, Samford, Lindsey, Barber, Bowman, and Crowley.

Committee on Commerce—Messrs. Reagan, Bliss, Ross, Kenna, McLane, Thomas Turner, Acklen, Beale, Deuster, Clardy, O'Neill, Wait, Henderson, Townsend of Ohio, and Russell of Massachusetts.

[A vacancy will be created on this committee to be filled after the California election by a Pacific coast member.]

Committee on Public Lands—Messrs. Converse, Wright, Steele, McKenzie, Williams of Alabama, Hull, Ketcham, Ryan of Kansas, Sapp, Washburn, [vacancy for California, New York, or Texas,] and Bennett.

Committee on the Post-Office and Post-Roads—Messrs. Money, Clark of New Jersey, Cook, Evins, Singleton of Illinois, Shelley, Jones, Ketcham, Joyce, Stone, and Bingham.

Committee for the District of Columbia—Messrs. Hunton, Henkle, Bouck, Clark of New Jersey, Martin of Delaware, Samford, Klotz, Neal, James, Heilman, and Aldrich of Rhode Island.

Committee on the Judiciary—Messrs. Knott, Harris of Virginia, Culberson, Hurd, House, Ryon of Pennsylvania, Herbert, New, Hammond of Georgia, Lapham, Robinson, Reed, McKinley, Williams of Wisconsin, and Willits.

Committee on War Claims—Messrs. Bragg, Robertson, Warner, Rothwell, Thompson, Simonton, Carpenter, Ferdon, Tyler, Bayne, and Russell of North Carolina.

Committee on Public Expenditures—Messrs. Finley, Manning, Davis of North Carolina, Tillman, Simonton, Beltzhoover, Joyce, Mason, Cowgill, and Brigham. [Vacancy for California, Texas, or New York.]

Committee on Private Land Claims—Messrs. Gunter, Martin of West Virginia, Caldwell, Muldrow, Stevenson, Myers, Lay, Mitchell, Norcross, Burrows, and Voorhis.

Committee on Manufactures—Messrs. Wise, Beale, Nicholls, Smith of New Jersey, Richardson, Taylor, Lowe, Hall, Horr, Hammond of New York, and McCoid.

Committee on Agriculture—Messrs. Covert, Aiken, Steele, Dibrell, Henry, Le Fevre, Richmond, Persons, Hatch, McGowan, Wilber, Valentine, Godshalk, Anderson, and Forsythe.

Committee on Indian Affairs—Messrs. Scales, Hooker, Gunter, Waddill, Poehler, Whiteaker, Wellborn, Errett, Deering, Pound, Haskell, and Ainslee.

Committee on Military Affairs—Messrs. Sparks, Dibrell, Bragg, Johnston, Smith of Georgia, Le Fevre, White, McCook, Marsh, and Browne. [Vacancy for Texas, California, or New York.]

Committee on the Militia—Messrs. Ross, Scales, Henkle, Thomas Turner, Speer, O'Brien, Dick, Farr, Daggett, Hawk, and Miller.

Committee on Naval Affairs—Messrs. Whitthorne, Goode, Morse, Elam, Davidson, Talbott, O'Brien, Harris of Massachusetts, Harmer, Briggs, and Brewer.

Committee on Foreign Affairs—Messrs. Cox, Wilson, Bicknell, King, Nicholls, Herndon, Hill, Killinger, Rice, Morton, and Robeson.

Committee on the Territories—Messrs. Muldrow, Cravens, Bouck, Muller, Martin of West Virginia, Frost, Bachman, Humphrey, Aldrich of Illinois, Young of Ohio, Dick, and Maginnis.

Committee on Revolutionary Pensions—Messrs. Whiteaker, Bland, Cabell, Dibrell, Singleton of Illinois, Ryon of Pennsylvania, Converse, Farr, Miles, Pierce, and Gillette.

Committee on Invalid Pensions—Messrs. Coffroth, Lewis, Caldwell, Hostetler, Persons, Hatch, Taylor, Smith of Pennsylvania, Hazelton, Davis of Illinois, and Updegraff of Ohio.

Committee on Railways and Canals—Messrs. Cabell, Shelley, Kimmel, Slemons, Wise, Oscar Turner, O'Reilly, Fisher, Blake, Houk, and Ford.

Committee on Mines and Mining—Messrs. Stevenson, Acklen, Armfield, Atherton, Waddill, Klotz, Loring, Mitchell, Urner, Einstein, [vacancy for California, New York, or Texas,] and Campbell.

Committee on Education and Labor—Messrs. Goode, Willis, Lay, Tillman, McMillan, Ballou, Barlow, Osmer, Van Aernam. [Two vacancies for New York, California, or Texas.]

Committee on the Revision of the Laws—Messrs. Harris of Virginia, Clark of Missouri, Townshend of Illinois, Geddes, Richardson of South Carolina, McMillin, Lowe, Orth, Thomas, Urner, and Gillette.

Committee on Coinage, Weights, and Measures—Messrs. Stephens, Vance, Ellis, Bland, Willis, Warner, De La Matyr, Claflin, Walter A. Wood, and Fisher. [Vacancy for California, Texas, or New York.]

Committee on Patents—Messrs. Vance, Smith of Georgia, Aiken, Townshend of Illinois, Bachman, Talbott, Smith of New Jersey, Ward, Caswell, Ballou, and Dwight.

Committee on Public Buildings and Grounds—Messrs. Cook, Young of Tennessee, McKenzie, Kimmel, Atherton, Kitchin, Murch, Clark of Iowa, Jorgensen, Starin, and Shallenberger.

Committee of Accounts—Messrs. Henry, Morse, Martin of Delaware, Boyd, and Smith of Pennsylvania.

Committee on Mileage—Messrs. Cobb, Knott, Mills, Chittenden, and Overton.

Committee on Expenditures in the Department of State—Messrs. Clymer, Herndon, King, Frost, Newberry, Barlow, and Crowley.

Committee on Expenditures in the Treasury Department—Messrs. Morrison, Forney, Tucker, Buckner, Reagan, Hill, O'Neill, Weaver, and Starin.

Committee on Expenditures in the War Department—Messrs. Blackburn, Felton, Wells, Jones, White, Norcross, and Hawk.

Committee on Expenditures in the Navy Department—Messrs. Townshend of Illinois, Phelps, Kitchin, Hull, Walter A. Wood, Lindsey, and Neal.

Committee on Expenditures in the Post-Office Department—Messrs. Ladd, Money, Sparks, Poehler, Blake, Valentine, and Bingham.

Committee on Expenditures in the Interior Department—Messrs. Muller, Whitthorne, Clardy, Williams of Alabama, De La Matyr, Jorgensen, and Burrows.

Committee on Expenditures on Public Buildings—Messrs. Deuster, Bright, Herbert, O'Reilly, Ford, Forsythe, and Yocum.

Committee on Expenditures in the Department of Justice—Messrs. Blount, Culberson, Springer, Hurd, New, Phister, Davis of Missouri, Clark of Iowa, Thomas, Einstein, and Shallenberger.

Committee on Levees and Improvements of the Mississippi River—Messrs. Robertson, Chalmers, Johnston, Oscar Turner, Myers, Evins, Dunn, Bayne, Boyd, Caswell, and Prescott.

Committee on the state of the law respecting ascertainment and declaration of result of election of President and Vice-President—Messrs. Bicknell, Hunton, Carlisle, Stephens, Ewing, Lounsbery, Dunn, Orth, Updegraff of Iowa, Van Voorhis, and Yocum.

SELECT COMMITTEES.

Committee on Rules—The Speaker, Messrs. Stephens, Blackburn, Garfield, and Frye.

Committee on Reform in the Civil Service—Messrs. Hostetler, Cravens, House, Kenna, O'Connor, Sawyer, Hammond of Georgia, Hayes, Hazelton, Butterworth, and Richardson of New York.

Committee on the Ventilation of the Hall—Messrs. Kimmel, Covert, Carlisle, McMahon, Stone, Kelley, and Robeson.

Committee to inquire into the causes of the present depression of labor—Messrs. Wright, Dickey, O'Connor, Murch, Sherwin, Cowgill, and Martin of North Carolina.

Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States—Messrs. Young of Tennessee, Gibson, Hooker, Goode, Morse, Smith of Pennsylvania, Updegraff of Ohio, Van Aernam, and McGowan.

JOINT COMMITTEES.

Committee on Printing—Messrs. Singleton of Mississippi, Wilson, and Hayes.

Committee on Enrolled Bills—Messrs. Kenna, Coffroth, Ward, Aldrich of Illinois, and Wilbur. [Two vacancies, California or Texas.]

Committee on the Library—Messrs. Geddes, Richmond, and Claflin.

Committee on the Census—Messrs. Cox, Hooker, Elam, Finley, Colerick, Thompson, Rothwell, Loring, Pierce, Daggett, and Sherwin.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed a joint resolution (S. R. No. 20) relating to the organization of the National Board of Health; in which the concurrence of the House was requested.

Mr. ATKINS. I move that the House do now adjourn.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. YOCUM, until the 16th instant, on account of important business;

To Mr. KENNA, for the remainder of the week, on account of important business; and

To Mr. KITCHIN, until Thursday next.

Mr. ATKINS's motion was agreed to; and accordingly (at three o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: Papers relating to the war claims of Greenberry Adamson, Lytle Newton, and A. T. Terrill—to the Committee on War Claims.

Also, papers relating to the pension claim of Isaac N. Johnson—to the Committee on Invalid Pensions.

By Mr. DE LA MATYR: The petition of members of Saunders Grange, Shelby County, Indiana, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. GIBSON: Papers relating to the war claim of John Mahoney—to the Committee on War Claims.

By Mr. GOODE: Papers relating to the claim of the heirs of William Ward—to the Committee of Claims.

By Mr. HOUK: Papers relating to the pension claim of Horace A. Chambers—to the Committee on Invalid Pensions.

By Mr. LEWIS: Papers relating to the claim of Mrs. R. B. McCaa—to the Committee of Claims.

By Mr. LOWE: Papers relating to the war claim of Samuel C. Pointer—to the Committee on War Claims.

By Mr. MANNING: Papers relating to the war claim of Allen J. Holliday—to the same committee.

By Mr. RUSSELL, of Massachusetts: Papers relating to the pension claim of Oliver L. Wheeler—to the Committee on Revolutionary Pensions.

By Mr. SIMONTON: Papers relating to the war claim of William G. Harwood—to the Committee on War Claims.

By Mr. VANCE: Papers relating to the claims of James and Noah Roberts and Mrs. V. S. M. Chapman—to the Committee of Claims.

Also, papers relating to the petition for relief of Anson B. Sams—to the Committee on Military Affairs.

By Mr. YOUNG, of Tennessee: Papers relating to the war claims of the city of Memphis, Tennessee, and of James J. Amonett, executor of J. M. Provine, deceased—to the Committee on War Claims.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 12, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

Mr. SIMONTON. I ask unanimous consent that the privileges of the floor be extended to Hon. Benjamin J. Lee, attorney-general of the State of Tennessee, during his stay in this city, which will be a week.

There being no objection, it was ordered accordingly.

WACO RIVER, NORTH CAROLINA.

Mr. VANCE. I ask unanimous consent to present a joint resolution of the General Assembly of North Carolina, in favor of opening the Waco River in North Carolina.

Mr. CONGER. I object.

Mr. VANCE. Then I hope that Monday will not be passed over, so that we may get an opportunity of presenting these matters.

Mr. CONGER. I have heard it said that Monday will still have its place on the Calendar.

AMERICAN PHILOLOGICAL ASSOCIATION.

Mr. STEPHENS. I ask unanimous consent to present and have referred a memorial of the American Philological Association of the United States, signed by its officers and one hundred and thirty members of the association, praying that a commission be appointed by Congress to examine and report how far changes and amendments in the orthography of the English language may be wisely introduced into the public documents and accepted in the examinations for civil service. The signatures attached are those of some of the ablest scholars in the country, and represent Harvard University and fifty other institutions of education.

Mr. CONGER. I object.

ELIZA M. FRICK.

Mr. COFFROTH. I ask unanimous consent to introduce and have referred a bill granting a pension to Eliza M. Frick, widow of Clarence M. Frick, a soldier of the Mexican war.

Mr. CONGER. I object.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The Clerk will read the pending amendment.

The Clerk read as follows:

In line 1951, strike out "twenty-five" and insert in lieu thereof "two hundred and fifty," and after the word "dollars" insert "as much thereof as may be necessary."

Mr. REAGAN. I desire to offer an amendment to the amendment.

Mr. ATKINS. Before any further proceeding is taken, I desire to call the attention of the Chair to the fact that the gentleman from Georgia [Mr. BLOUNT] reserved all points of order upon the amendment, which has not yet been decided.

The CHAIRMAN. The Chair will state that no point of order is pending, but the gentleman from Georgia [Mr. BLOUNT] gave notice that he reserved the right to make the point of order, and the Chair understands that he withdrew his right to make the point of order.

Mr. ATKINS. I do not know how that may be; if the Chair so understands it, of course I have no objection.

The CHAIRMAN. The gentleman from Georgia has not made the point of order.

The Clerk read Mr. REAGAN'S amendment, as follows:

Provided, That the said sum, or any part thereof, may be expended by the Secretary of the Interior, under such rules as he may prescribe, and proper vouchers shall be preserved of all such expenditures, and he shall report his action under this law to each regular session of Congress, showing the sum of money expended and for what purpose.

Mr. REAGAN. As the amendment now stands there is no provision inserted for executing it. It is simply an amendment to appropriate this amount of money. We ought to put it under the control of one of the Departments, and that I think should be the one to which the Agricultural Bureau belongs, if it belongs to any Department, so as to make provision for securing proper vouchers and the execution of the law on some fixed plan. This will at least surround the expenditures made with all the safeguards that are necessary for the proper expenditure of the funds.

Mr. CANNON, of Illinois. I desire to offer an amendment to the amendment of the gentleman from Texas, and I ask him to accept it as a part of his amendment.

The CHAIRMAN. That is not in order; an amendment in the second degree is already pending, and the gentleman cannot offer a further amendment, unless he offers it as a substitute.

Mr. ATKINS. If I properly understand the amendment, which I think I do, for I have had some conversation with the gentleman from Illinois, I would like to have it read so that the House can understand it, and then the gentleman from Texas may incorporate it in his amendment.

The Clerk read as follows:

And authority is hereby given to the Secretary of the Interior to prescribe regulations under which cattle afflicted with the disease of pluero-pneumonia may be seized, appraised, and slaughtered, and payment therefor made out of moneys hereby appropriated.

Mr. REAGAN. If I can do so I will accept that as part of my amendment.

Mr. CANNON, of Illinois. I would like to make one single remark upon the general subject.

Mr. YOUNG, of Tennessee. I do not believe I apprehend very fully the amendment of the gentleman from Texas. I would like to have it again reported.

The CHAIRMAN. It will be reported as modified by the acceptance of the amendment suggested by the gentleman from Illinois, [Mr. CANNON.]

The Clerk read as follows:

Provided, That said sum or any portion thereof may be expended by the Secretary of the Interior, under such rules as he may prescribe, and proper vouchers shall be preserved of all such expenditures, and he shall report his action under this law to each regular session of Congress, showing the sum of money expended and for what purpose; and authority is hereby given to the Secretary of the Interior to prescribe regulations under which cattle afflicted with the disease of pleuro-pneumonia may be seized, appraised, and slaughtered, and payment therefor made out of moneys hereby appropriated.

Mr. CANNON, of Illinois. I have no doubt that now and then a State, perhaps many of the States, would take care of this question for themselves. But when I reflect upon the number of States, the danger of this disease, and that however well most of the States might act yet if one failed to act all that had been done by the others would go for nothing, it is very important, it seems to me from that stand-point, that we should have this legislation empowering the Secretary of the Interior not only to investigate but to sieze, appraise, and slaughter, wherever found, cattle having this disease.

So far as I am concerned I have no doubt about the authority to enact this legislation and to give this power to the Secretary of the Interior. Perhaps I would not be able to mature rules and regulations myself, hence I have offered the amendment which has just been read as a part of the amendment of the gentleman from Texas [Mr. REAGAN] giving this power to the Secretary of the Interior to make all proper regulations as experience may dictate.

I agree with the gentleman from Virginia [Mr. HARRIS] that no more important matter has come before this House for its consideration; a matter important not only because of the commerce in live cattle which we are now carrying on by shipping them abroad, but important as affecting by hundreds and thousands and millions of dollars the wealth of the people. The probability is that this appropriation of $250,000 would be sufficient to rid the country of this disease.

Mr. YOUNG, of Tennessee. Ordinarily I do not know that I would have any objection to this amendment. I think this is a very important subject, and the object had in view is a very proper one. It should be remembered, however, that at the recent session of Congress a National Board of Health was created. That board to-day is engaged in the investigation of the very subject embraced in this amendment, and before anything is done in the matter I think we should hear the report of that body.

It seems to me it would be better to allow the Board of Health especially charged with that duty by law to continue their investigation and to suggest such modes and methods of preventing the cattle disease as their investigations may indicate as advisable. It seems to me it would be better to confine that power to the National Board of Health than to give it to the Secretary of the Interior. I have but recently heard distinguished members of this body make labored arguments against the power of the Federal Government to legislate upon the subject of public health in an emergency when thousands of human lives may be at stake, and yet I find some of these same gentlemen to-day sitting in silence and urging no protest against this extraordinary proposition, while others of them are its active advocates. Do these gentlemen value the health of cattle higher than the lives of human beings? and do they understand that this proposed amendment confers greater powers upon one single individual than was proposed to be given to the whole National Board of Public Health under the bill which they succeeded in defeating at the last session of Congress?

Mr. AIKEN. I desire to ask the gentleman who offered this amendment to explain to this House why it is that he desires to have this appropriation go to the Internal Revenue Department, or something of that kind; back here we cannot understand very distinctly where it is to go. I only understand that it is intended to take it out of the hands of the Commissioner of Agriculture. I would inquire why that is done?

Mr. REAGAN. The reason for suggesting the Secretary of the Interior was that he now has the machinery for preserving the vouchers and keeping the accounts of the expenditure of this money. In addition to that, being a Cabinet officer, he can, if need be, have consultation with and the advice of the Cabinet as to the action he

should take. In that respect he is in a better condition to prepare the instructions contemplated for the execution of the law than probably a bureau officer would be who would not have equal facilities for the purpose. That was the object I had in view. It was not from any distrust of the capacity or disposition of the Commissioner of Agriculture to discharge this duty. The Secretary of the Interior was named because of the facts to which I have referred. He has the means of keeping the accounts and preserving the vouchers, and can have the advice of all the Cabinet in the preparation of instructions for the execution of the law.

It is suggested by the gentleman from Tennessee, [Mr. YOUNG,] and has been privately suggested by other gentlemen, that this expenditure should be placed under the direction of the National Board of Health. No doubt the National Board of Health can perform a very valuable service in the position to which they have been assigned; but one of the objections urged to the creation of that board was that it would be directly worked up into a large and expensive bureau of the Government. The first step toward that would be the addition of this duty to their other duties, this duty not having any relation to the others which they are called upon to perform, but would simply give them new and additional powers. And while it would do so they would not have the machinery for keeping the accounts and preserving the vouchers that is already in possession of the Secretary of the Interior; nor would they have the same facilities of information for the preparation of the rules and regulations under which this expenditure should be made. It seems to me, without intending distrust of any other Department or officer that may be suggested to perform this service, that there are manifest reasons why the necessary regulations should be prescribed by the head of a Department and expended under this responsible kind of authority and direction.

Mr. ROBINSON. Mr. Chairman, concurring in the remarks of the gentleman from Virginia [Mr. HUNTON] and some others who have spoken, I think this is a subject of very great importance. It seems to me, however, that this Committee of the Whole will not realize its whole importance if they adopt this measure thus hastily in an appropriation bill.

It was stated yesterday by the gentleman from Virginia [Mr. HUNTON] that as far back as fifteen or eighteen years ago the State of Massachusetts stamped out the cattle disease which then prevailed within its borders. So it did. It took hold of the matter through its Legislature, and by efficient laws eradicated the disease utterly, so that in a few years from the time that action was commenced no case of the disease existed within the borders of that Commonwealth. The disease having been transmitted to the State of New Hampshire, that State also, by similar vigorous legislation, arrested and eradicated it within its borders.

Now the fact is stated here that within a circuit of four or five miles around Alexandria, Virginia, there are a few cases of pleuro-pneumonia; and the Legislature of that State has passed a solemn resolution asking Congress to do something to drive the disease from the State. I submit, sir, that while the Legislature of that State was in session it could have found and applied a remedy long ago without asking the interposition of Congress, a matter necessarily involving considerable delay.

Besides, it becomes a very important question—although my friend from Illinois [Mr. CANNON] says that he has no doubts about it—whether this Congress will or can arm the Secretary of the Interior with the power to go into the various States of this Union, take up the cattle of private owners, and, under certain rules which he may adopt and promulgate, slaughter and bury those cattle. That is what is proposed here. But I would suggest that this whole question should be carefully considered by some suitable committee of the House, (probably the Committee on Agriculture would be the most appropriate committee to take the subject in charge;) that a report should be made as speedily as possible; and, if deemed advisable and within the power of Congress, that we should enact legislation on the subject. Let a committee of this House prepare a bill which will be properly guarded. If gentlemen will examine the legislation of the State of Massachusetts on this subject it will be found that act after act was passed in order to cover all the cases that might arise. Why? Because at that time there were, as there are now, a great many owners of cattle who said, "this disease is not contagious; the outcry about its being contagious is all humbug." Hence, they resisted the action of the commissioners, as well as of the municipal authorities, until the Legislature, by amendatory acts, established a permanent board of commissioners with absolute authority and control.

Now, as I understand, the Secretary of the Interior under the legislation here proposed, authorizing him to prescribe rules, could only go out and buy the cattle at such price as the owners might fix. He would have no power to isolate cattle, to separate those having the disease from those free from it. He would have no right to take land for the purpose of establishing hospital grounds for diseased cattle; yet this always becomes necessary in the treatment of the disease. Measures of this kind, I maintain, lie within the special province of the States; and it is a very grave question whether the Congress of the United States has full power to deal with this subject efficiently. At all events I submit that we ought not to attempt to deal with it upon an appropriation bill on such hurried debate and consideration as we can give it here.

In these remarks I do not underestimate at all the importance of this subject. Nobody can overrate the influence of the disease upon the trade, the commerce, and the industrial interests of our whole people.

Mr. COVERT. Mr. Chairman, is it in order to offer a substitute for the amendment of the gentleman from Texas, [Mr. REAGAN,] as amended on motion of the gentleman from Illinois, [Mr. CANNON?] If so, I desire to offer a substitute providing that in lieu of the words "Secretary of Interior" in the amendment of the gentleman from Illinois the words "Commissioner of Agriculture" be inserted. While supporting this amendment I desire to say one word, and one word only, in reply to the gentleman from Massachusetts [Mr. ROBINSON] who has just taken his seat.

I quite agree with him, and with other gentlemen who have spoken, with reference to the great importance of this question. I quite agree with the gentleman from Massachusetts that this is a matter proper to be referred in the first instance to the Committee on Agriculture, to be thoroughly digested by them in a bill to be presented for the subsequent action of the House. But the misfortune is that this is an exigency which is suddenly presented to the country and which requires immediate action. The occasion will not brook the delay to which it will necessarily be subjected if we resort to the ordinary machinery of reporting a bill regularly for the action of the House. Immediate action is required; and it seems to me such action ought to be taken.

Mr. ATKINS. The gentleman will allow me to suggest that the appropriation here proposed will not take effect until the 1st of July next; so that there is ample time.

Mr. COVERT. If the chairman of the Committee on Appropriations [Mr. ATKINS] will look at the language of the provision he will find that it is to take effect immediately. The occasion calling for this appropriation demands immediate action.

The CHAIRMAN. The Chair will state to the gentleman from New York [Mr. COVERT] that there are two amendments already pending, and a further amendment would not at present be in order.

Mr. COVERT. Would it not be in order to offer a substitute?

The CHAIRMAN. A substitute would be in order.

Mr. YOUNG, of Tennessee. I wish to ask the Chair a parliamentary inquiry. Is not the amendment as well as the substitute proposed by the gentleman from New York subject to the point of order as new legislation?

The CHAIRMAN. The Chair cannot pass upon the point of order unless the gentleman presents his amendment to the Chair.

Mr. COVERT. I have called the attention of the Chair to the amendment.

The CHAIRMAN. The Chair will not undertake to rule on the point of order when he has not the amendment in his possession.

Mr. COVERT. I send my amendment to the Clerk's desk. It is, as I have repeated two or three times, to substitute "Commissioner of Agriculture" for "Secretary of the Interior."

The CHAIRMAN. That is not in order as a substitute to the pending amendment, but is in the nature of an amendment to the amendment.

Mr. COVERT. I wish to state a word in opposition to the amendment, then, Mr. Chairman. Now, the Secretary of the Interior is already, it seems to me, a hard-worked officer. He has under his control and supervision the Land Office, Pension Office, Patent Office, Census Office, Bureau of Education, and the Bureau of Surveys. In the name of ordinary common sense, then, the effort being made to increase the duties of this already overworked official in reference to a matter entirely foreign to his Department is one of those things at this present juncture which I have not been able to determine. This is a matter which belongs exclusively and peculiarly to the Department of Agriculture, and it seems to me, Mr. Chairman, that the attempt to wrest from that officer jurisdiction over the matter by an amendment to the appropriation bill is an attempt to strike at the Department of Agriculture and take from that Department what should be regarded as its legitimate duties.

Mr. LORING. I desire to say to the committee, Mr. Chairman, that the question involved in the amendment, as I understand it, is an important one so far as the State and national industries of this country are concerned. I had myself the honor of serving on the commission in the State of Massachusetts to which my colleague has alluded, and the history of the disease known as pleuro-pneumonia there will show this House, if the Federal Government had been empowered in the beginning to move, that instead of costing the Commonwealth of Massachusetts $125,000 to remove this disease it would not have cost that Commonwealth one dollar.

The pleuro-pneumonia in 1861–'62 was brought by imported cattle from the herds of Holland and landed in Boston. The cattle when they landed there were in such a condition that they were transported to the farm of the person who bought them on drays. The disease was carried into the State of Massachusetts and planted by that transportation into some of the most valuable dairy districts of that State. The Commonwealth was obliged to move in the business or find one of its most important industries utterly destroyed.

Now, had the Federal Government been in funds and its officers clothed with authority to check that when it landed on the wharves in Boston, the State of Massachusetts would have been saved $125,000, and the farmers of Massachusetts would have been saved incalculable

damage. No words can tell the distress that fell upon the agricultural section of that State. For more than two years the whole business was suspended; prosperous farmers were compelled to change their business, and every man who has experience in any way in the agricultural industries of this country knows it is much more difficult for a small farmer to change the line of his traffic than it is for a great manufacturer or merchant to change his.

I am entirely in favor, therefore, of clothing some Federal officers with the right to seize this thing on the threshold and put an end to it whether it is coming through the ports on the seaboard or being transported from the Territories on the other side of this continent. I trust that no consideration either of State authority or of economy, so called, will in any way prevent the officers of this Government from being clothed with authority and supplied with funds to protect the agricultural industries of this Government against the recurrence of a calamity like that which I witnessed myself and which I am happy to say I was instrumental in removing from the Commonwealth which I in part represent here. I trust, therefore, sir, the amendment will be adopted.

Mr. HAWLEY. Now, Mr. Chairman, everybody agrees with our friend from Massachusetts in the general purpose of his remarks, but it strikes me that he has confounded a little the functions of the State with the functions of the Federal Government. Not to lug in unnecessarily our doctrine of State rights, I concur with the other gentleman from Massachusetts; there are some powers, perhaps, here which could with great difficulty be exercised by Federal officers. When the other gentleman from Massachusetts who has just spoken suggests the stopping of this cattle disease at the threshold, at the port of Boston, he suggests a thing very properly within the duties of a Federal officer. I think, therefore, there is some embarrassment in acting upon this matter in this hasty manner upon an amendment suddenly brought in and offered to an appropriation bill, and, if possible, I suggest the whole question be referred to some capable committee, either to a select committee or to the Committee on Agriculture, to prepare a bill.

Mr. YOUNG, of Tennessee. Will the gentleman from Connecticut allow me to state that the National Board of Health has had this very subject under advisement for the last ten days and have prepared a bill covering this whole subject? That bill is now in my desk, and I propose to offer it at the very first opportunity.

Mr. HAWLEY. I am glad to be so informed. I understand the gentleman to say the Board of Health has prepared a bill on this subject. If that bill answers the purpose, very good; if not, let a committee of the House prepare a bill which will place in Federal officers all the powers they require to exercise in stopping the importation of diseased cattle, controlling the exportation of diseased cattle, and regulating interstate commerce.

It would be a very serious calamity if any number of diseased cattle should be taken into the West and convey the disease into the great western country. It would be a calamity beyond our power to measure. The Federal Government can do much at the ports in stopping importation and regulating interstate commerce, but effective work can only be done by State boards as that of Massachusetts or as that in my own State of Connecticut, which has been in the last few months acting on this matter and seizing and condemning cattle. Much of the work has to be left to the States. There is much of the work which they can do. Proceeding in this hasty way I fear we shall fail. We cannot go into the States and seize and condemn and kill cattle. That must be done by State authority. Let us know exactly what we can do as a Federal Government and I believe Congress will be ready to do it.

Mr. WRIGHT obtained the floor.

Mr. SPARKS. Will the gentleman from Pennsylvania allow me one moment? I simply wish to ask the gentleman from Connecticut if he does not know the Committee on Appropriations did consider this matter, and have already provided an appropriation for this purpose? The gentleman from Virginia simply increased that appropriation. The matter has already been considered by the Committee on Appropriations and reported as a part of the bill. The amount is simply increased by the amendment of the gentleman from Virginia.

Mr. HAWLEY. But what powers are given?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WRIGHT] is entitled to the floor.

Mr. WRIGHT. If this were a question which it was necessary to refer to a committee for examination, why then it would be proper enough to send it to a committee; but this system of red tape in disposing of an important question like this when fairly before the House, and which leads to postponement and probably to defeat, is not the way to treat the question.

There is not a gentleman upon this floor but will admit, without argument and without further examination, that this question of protecting the cattle of this country against this disease is one of the most important questions that can come before Congress for its consideration. Now, it is not enough to make an appropriation of $25,000 for the purpose of appointing agents to visit the depots of transportation and inquire into the causes of the disease. You require a remedy to be applied; you require measures to be applied that will answer the purpose they are designed for. I agree perfectly with my friend from Massachusetts [Mr. LORING] that this is a question that is not to be tampered with. It is one that should be met and disposed of; and it makes no odds what amount it may cost the National Treasury if by a proper expenditure of money this disease can be prevented from extending throughout the country.

I admit when the gentleman from Virginia [Mr. HUNTON] made this proposition yesterday to change the amount of this item from $25,000 to $250,000, it appeared to me an extravagant proposition, a measure that could not meet the approbation of the House. But before the gentleman took his seat he convinced me that if an appropriation of $500,000 was necessary to accomplish the object and to accomplish it effectually, I should have sustained it and voted for it. It will not do where a matter of this magnitude is presented for consideration to refer it to a committee for examination. That means defeat. Suppose it is referred to a committee; that committee cannot report at this special session of Congress, and it goes over to December. This, then, would only be the first step toward the defeat of this great measure which in my judgment is of more importance than any one presented here since we met in this called session.

I am prepared to vote for this amendment in the bill as it is, and if $250,000 is not enough I am willing to vote for $500,000. We cannot afford to sacrifice the great cattle-raising interest of the western country. We cannot afford to stop to consider about it. If the disease shall extend there and become general, it will affect the trade to an immense amount and destroy the prosperity of not merely a single State, but of half a dozen States which rely upon the cattle-trade as one of the chief branches of their industry and commerce.

Now, I hope there will be no effort made to send this matter to a special committee, because you bury it the moment you do that. Take up the matter at once, for it is the interest of all, and dispose of it. It is a matter that needs our consideration, and that consideration must be prompt.

Mr. HUNTON. I thank the gentleman from Massachusetts, [Mr. LORING,] who last addressed the House, for his contribution to the debate on this subject. It is conceded all over the House that something must be done, and that speedily, in order to stamp out this disease, which, if not arrested, according to the opinion of many intelligent men, will in a few years cost this country more than the late war cost the country in dollars and cents.

I mention this to show the great importance of the question before this committee. I do not care how the work is done, so that it is done effectually and promptly, and it is for the reason that some gentlemen are opposed to putting this appropriation under the control of the Commissioner of Agriculture that I am willing to take the amendment of the gentleman from Texas [Mr. REAGAN] or any other that looks to prompt action on this great subject which is now engaging the attention of the committee. The gentleman from Massachusetts [Mr. ROBINSON] and the gentleman from Connecticut [Mr. HAWLEY] say that this is a State matter, and that it ought to be attended to by the States and not by the Federal Government. If it were to be undertaken by the States the whole thing would amount to nothing.

Mr. ROBINSON. I confined my remarks on that subject simply to the taking and killing of cattle, and not to the prohibition of the transportation of them.

Mr. HUNTON. I should have come to that in a moment. I will take my own State, where the disease prevails to a very limited extent, and if my State, impoverished as every gentleman knows she is, scarcely able to meet her debts already contracted, if she were able to make an appropriation to stamp this disease, the moment we stopped it, it would come back again from the District of Columbia, where it originated, and therefore it is not in the power of any one State to extirpate the disease from the State, because the moment it is extirpated in Virginia it comes back from the District of Columbia.

Now, there is no State that can act for the District of Columbia, and if there were authority outside of the House to act for the District of Columbia there must be uniform action, harmonious action throughout all the States, or the effort to check this disease would be unavailing.

Mr. WHITE. Will the gentleman allow me to ask him a question?

Mr. HUNTON. Certainly; although I am very much pressed for time.

Mr. WHITE. In the discussion yesterday the gentleman asserted that this disease existed in Pennsylvania. Now, it is a disputed question whether it exists in two of the eastern counties of Pennsylvania or not. That question is before the Legislature of the State.

Mr. HUNTON. I cannot give up my time to the gentleman from Pennsylvania to make a speech.

Mr. WHITE. I merely wish to remark that our State has taken steps in regard to the disease themselves.

Mr. HUNTON. I stated yesterday that Pennsylvania, New York, and New Jersey had taken action in this matter.

Mr. WHITE. Would it be wise to do anything to conflict with their action?

Mr. HUNTON. As to whether the disease exists there I have half a dozen communications from the gentleman's State in which it is declared that it does exist there.

Mr. WHITE. Would it be wise in this crude manner to interfere with what the States are doing?

Mr. HUNTON. It will do no harm to the gentleman's State to pass

this bill appropriating $250,000, or so much thereof as may be necessary, and if it is not necessary in Pennsylvania, in the name of God, let us spend nothing there.

Mr. WHITE. All I want to do is to be practical about it.

Mr. HUNTON. So do I. If I supposed that nothing practical could be done I would not occupy the time of the committee in discussing this question, and that is the reason why I am willing to concur in the amendment of the gentleman from Texas [Mr. REAGAN] and in the amendment of the gentleman from Illinois, [Mr. CANNON.] I want something done promptly. The gentleman from Tennessee [Mr. YOUNG] talks about the Board of Health investigating the subject. Why, Mr. Chairman, while the Board of Health is investigating this pleuro-pneumonia in cattle the disease will spread immensely, and while $250,000 may be sufficient now, if you leave it to the board of health it will take $500,000 or $1,000,000 to suppress it.

Mr. REAGAN. I desire to modify my amendment by inserting after the word "slaughtered" the words "under the provisions of the laws of the respective States for the condemnation of private property to public use."

Mr. CANNON, of Illinois. I object to that amendment.

Mr. HILL. I am willing to go as far as any member on this floor to protect the people of the United States against the evil complained of; but I am opposed to establishing the dangerous precedent of requiring the Government of the United States to pay out a quarter of a million of dollars for diseased cattle. It is conceded by the gentleman from Virginia that this class of cattle are infected with a certain disease—or, in other words, that it is a contagious and not an infectious disease; and it is proposed here, without consideration, to establish a precedent by appropriating $250,000 to enable the Government to buy up a lot of diseased cows which it is conceded are going to die anyhow. Why, sir, it would increase the importation of that very class of cattle we desire to get rid of. Who would not go abroad and buy diseased cattle and bring them to this country when there is a pledge from the Government of the United States to take them off his hands as soon as they are sick? Any man can buy cattle on those terms and become rich by it.

Besides that, one-half of the diseases of which these cattle die are just such diseases as cattle have died of in this country ever since it was discovered, the hollow-horn, the murrain, and other diseases of that character. And just as sure as the Government of the United States goes into the business of buying up sick cows then every cow that gets sick with the hollow-horn or anything else would be sure to have the pleuro-pneumonia, something that our farmers know nothing about and care very little about.

It is conceded that at present this disease is confined to three States and the District of Columbia; that this District is the seat of this rottenness, as during the last twenty years it has been the seat of a great deal of other kind of rottenness. [Laughter.]

Mr. HUNTON. Who concedes that?

Mr. HILL. The discussion here concedes it.

Mr. HUNTON. No, sir; my State and the District of Columbia and one or two other States have this disease.

Mr. HILL. The gentleman from Pennsylvania [Mr. WHITE] denies that it is in his State, and the gentleman from Massachusetts [Mr. ROBINSON] says it has been wiped out in that State. Where is it, then, except in Maryland, Virginia, and the District of Columbia?

Now, if this appropriation is put upon the ground that the State of Virginia is not able to meet this thing herself, I am willing to help that glorious old State, for it is my native State. But if Virginia is not able to take care of a few sick cattle within her own borders, it is the first time in the history of that great Commonwealth when she could not take care of her own local troubles, when she had any, without calling on the Government of the United States for assistance.

I am opposed to referring this subject to the Secretary of the Interior. He has no time to take charge of it; and besides, he knows nothing about it, and he has something else to do. If it must be attended to by anybody, let it be done by the Commissioner of Agriculture, whose duty it is made by law to look to these very subjects of interest to the farmers of this country.

Mr. BLOUNT. This matter is presented to us, Mr. Chairman, as something which has suddenly come upon the country; a fearful calamity threatening to produce material loss in amount equal to all the losses of the late war. The attempt is made to alarm us, to convince us that we must act now, that there is no time for delay.

The gentleman who moves this amendment tells you that in 1859 this disease was in Massachusetts, and that State suppressed it. It has been in other States, and it has been suppressed by them.

The proposition now is to appropriate $250,000 for the benefit of several States of this Union where it is alleged this disease now exists. The gentleman from Massachusetts [Mr. ROBINSON] asked very properly why it was that the Legislature of Virginia, when recently in session, did not appropriate a small sum of money for the purpose of destroying the diseased cattle in the small territory just across the river from here. The gentleman from Virginia [Mr. HUNTON] tells us that they did not do that for the reason that it would not protect them; that if they had destroyed the disease where it existed in that State, in the little portion of her territory just across the river from here, it would be immediately reintroduced from this District.

Now, so far as this District is concerned, we can attend to that matter here. All of the States have heretofore taken this matter in charge. It does seem to me that it is wrong for this Congress to undertake in this hasty way to act upon this subject; to take this whole subject into their hands and go into the States armed with powers equal to any ever exercised by Congress in the reconstruction measures, armed with powers as unconstitutional as any which have been exercised in connection with elections, or in any other illegal manner.

I trust that we shall not thus hastily act upon this question and commit ourselves to this course. For one, I cannot see that there is a necessity for haste, and even if there is that we should act in this way. None of us expect that this bill, if it becomes a law at all, will be enacted into a law for weeks to come. Therefore, on that score, there is no reason why we should not have this subject referred to a separate committee, one charged with the examination and preparation of a law within the powers of this Congress, directed wisely for the purpose contemplated by the mover of this amendment.

Mr. BARBER. It is hardly possible to overestimate the importance of this subject. It was recently reported in the city of Chicago that one single case of this disease had been discovered at the stockyards. It is not too much to say that it produced the profoundest interest in that branch of the trade, that city being perhaps the greatest center of the cattle trade in the world. I agree entirely with the gentleman from Georgia [Mr. BLOUNT] that this matter should not be treated hastily; it ought, however, to be treated promptly. The nature of the cattle trade is such that it requires the intervention of the General Government. You cannot secure the harmony necessary for proper action on the part of the States. It will be utterly impossible in the West to control this disease without the intervention of the General Government. I agree with the gentleman from Georgia [Mr. BLOUNT] that we should have a bill prepared with the greatest deliberation and with the utmost promptness.

Mr. CARLISLE. I am in favor of the exercise of the whole power of the General Government for the purpose of excluding from the country not only this disease, but all other infectious and contagious diseases. I represent a people who have a large interest in the subject now under consideration, and therefore I desire to see everything done that can be constitutionally done to protect their property against this destructive disease. But, sir, in order to do anything effectual in that direction we must be careful to do that only which we have the power to do; we must be careful that we pass no laws which cannot be executed by the officers selected to carry them out.

The only power which the Congress of the United States possesses over this subject, or any kindred subject, is that power which is necessarily involved in the exercise of the authority to regulate commerce between this country and foreign nations and between the several States and with the Indian tribes. I admit that in the exercise of that power to regulate commerce it is competent for Congress to pass such laws as will prevent the introduction of diseased cattle into this country as articles of commerce. I admit that it is competent for Congress to pass such laws as will prevent the railroads and the steamboats engaged in interstate commerce from carrying diseased cattle from one State to another. I admit that it is competent for Congress to pass such laws as may be necessary to provide inspection officers to ascertain whether the cattle being carried on any of these vehicles of commerce are diseased or not, and, if they are diseased, to prevent them from being carried. But, sir, the power of Congress over this subject ceases as soon as the article has left the vessels or the railroads and becomes the property of the local community. I admit that Congress possesses plenary police power over articles of commerce while *in transitu*. But my position is, that as soon as an article comes permanently within the jurisdiction of the State; as soon as it ceases to be carried as an article of commerce, the power of Congress ceases, and there is no authority over it except the local municipal authority of the State. It is then subject alone to the police power of the State; and any attempt by Congress or any department or officer of the General Government to seize that property for the purpose of eradicating disease or preventing its spread in the State would be nugatory and void.

Why, sir, if the Federal Government has power to seize cattle and destroy them in the State for the purpose of preventing the spread of disease, it certainly has the power to cure the cattle of the disease if it can. The same principle which authorizes the seizure and slaughter of diseased animals would authorize Congress to employ veterinary surgeons to cure them. The same principle which would authorize Congress to provide for local boards of health in the cities and States of this Union to look after the yellow fever and other infectious diseases would also authorize it to provide for the purchase of medicines and the employment of physicians to cure those diseases. Now, I think every gentleman who hears me will admit that these powers belong exclusively to the State governments; they are a part and parcel of that general police power in the exercise of which every State protects the lives, the property, the health, and the morals of all those residing within its territory and subject to its jurisdiction. The power of the Federal Government over these subjects is to a certain extent an external power: in the first place to prevent vessels engaged in commerce from bringing diseased cattle or diseased people into the country; in the next place to prevent them from being transported from one State to another in the course of commerce between the States.

[Here the hammer fell.]

Mr. COBB obtained the floor and yielded his time to Mr. CARLISLE.

Mr. CARLISLE. Mr. Chairman, I have said about all I desire to say on this subject. I venture to add that if the amendment proposed by my friend from Texas [Mr. REAGAN] shall be incorporated into this bill and shall go upon the statute-book as a part of the law of the land, every effort which the people choose to make to resist the authority of these officers in seizing and slaughtering their cattle will be successful. I undertake to say that no officer of the Federal Government can rightfully go into a State to seize the property of the citizen and destroy it for any purpose; and whenever he attempts to exercise such a power the citizen may resist it successfully in the courts. If the Federal Government can do this for the purpose of preventing the spread of disease, so it can do it for the purpose of preventing the spread of immorality. If it can do this for the purpose of preserving the health of the people, so it can do it for the purpose of protecting the lives and property of the people. In other words, if this police power can be exercised by the General Government for one purpose, it can be exercised by it for all purposes over which the police power of a government ordinarily extends.

No principle is better settled in the jurisprudence of this country than that these police powers belong exclusively to the States. They constitute a part of that great mass of powers which the States of this Union have never granted or surrendered to the General Government. No decision can be found anywhere, not even the celebrated rinderpest decision, which goes beyond the rule I have laid down in these remarks, which is, that the whole power of the General Government is exhausted when it has regulated the commerce in the article.

I submit these remarks in no spirit of opposition to the purpose of this amendment, because, as I have already stated, the people of Kentucky, whom I in part represent, are largely interested in this subject. The most valuable herds of cattle to be found anywhere in this country perhaps are to be found in the "blue-grass" pastures of that State. Their value is almost incalculable; and the preservation of the health of these animals is a subject of vital importance not only to their owners but to those who consume them. Hence I desire that any law which may be passed here shall be so carefully drafted, so maturely considered, that it shall be clearly within the limits of the constitutional power of this Government, and can be effectually enforced after it has been enacted.

Mr. WRIGHT. My friend from Kentucky will allow me to ask whether it is not a constant practice when large fires are raging in our cities or elsewhere, to tear down and remove buildings which are the private property of citizens in order to stop the ravages of the flames?

Mr. CARLISLE. Why, sir, is it possible that my old democratic friend has forgotten the distinction between the powers of the State government and the powers of the General Government over such subjects as those? Will he undertake to say there has ever been an instance in the history of this country where the Federal authority, except in time of war by the military actually in the field, has undertaken to destroy the houses or other property of one citizen for the purpose of protecting the property of others or even the lives of others? I imagine he will not.

Mr. WRIGHT. There comes in the "general-welfare" clause.

Mr. HARRIS, of Virginia. Does he believe that Congress has the power to make this appropriation?

Mr. CARLISLE. I do.

Mr. HARRIS, of Virginia. Then if he believes that Congress has the power to make the appropriation——

The CHAIRMAN. The time of the gentleman from Kentucky has expired, and the Chair recognizes the gentleman from Wisconsin.

Mr. CARLISLE. I should like to answer the question put to me by my friend from Virginia. It will not take a minute.

Mr. BRAGG. I yield for that purpose.

Mr. HARRIS, of Virginia. If the gentleman from Kentucky believes Congress has the right to make the appropriation, has it not also the right to appoint the officers to disburse this fund? Or does he hold that one government shall vote the money and another government shall assume the control of its expenditure and appoint the officers to disburse it?

Mr. CARLISLE. I admit, as I have already said, that the Congress of the United States has power to appropriate this money to be used in preventing the introduction of this disease into this country, and in preventing it from being carried from one State to another in the vehicles engaged in commerce, such as steamboats, ships, railroads, &c.; but I deny that Congress has any power to pass a law appropriating money for the purpose of seizing property of the citizen in the State when it has ceased to be an article employed in the commerce of the country.

Mr. BRAGG. Mr. Chairman, the legal points stated by the gentleman from Kentucky have been so clearly and succinctly stated that I think there is not a lawyer in this House but will concede the correctness of his position, that the power of the General Government to regulate commerce refers to foreign and interstate commerce. Beyond that it has no extent whatever. It seems to me that is an answer to this whole proposition.

But, Mr. Chairman, I can scarcely allow this opportunity to pass without saying to this committee that I think I see signs of an epidemic breaking out here more dangerous than pleuro-pneumonia. [Laughter.] I see the Representatives of a State, who but a few days ago were declaring against a national quarantine, become affected by a sick cow in that State in such a manner as to call upon the Federal doctors to help them out. [Laughter.]

I cannot exactly see where the State-rights gentlemen plant themselves when they take ground against the exercise of a power which is clearly given in the Constitution of the United States and insist upon its exercise where at best the right to do so is doubtful, and I think clearly untenable.

If Congress is going to interfere in this matter, why not direct all our little towns and cities how they shall construct their sewers so as to preserve the public health? Why not control the filling up of sink-holes and places which breed pestilence? Why not make prescriptions as to how the fever and ague shall be treated, and how the swamps from which that disease is engendered shall be drained, filled up, and otherwise regulated?

It seems to me we are inclined to run a little mad on this subject, to mount the hobby, fling out our flag, and go right on for the purpose of some great progressive step on the part of the National Government on the pretense of doing some national act. What does it all amount to but that the grand panacea, the grand balm that heals everything, is an immense appropriation out of the Federal Treasury, to be distributed among men who know nothing about the subject in reference to which they are appointed to inquire?

It seems to me that if this matter is worthy of our attention, as it certainly is, it is a matter which should be gravely considered, which should go to a proper committee, that a proper method of exercising the powers vested in the General Government should be carefully devised, that such statistics should be offered as we may gather and publish for the interest of the States; and that we leave it to the States to take care of their cattle in their own borders, but prevent the spread of this disease from any foreign importation.

[Here the hammer fell.]

Mr. YOUNG, of Tennessee. Mr. Chairman, I have not time now, if I had the disposition, to discuss the various constitutional questions suggested by the gentlemen who have already spoken. If I had the time, however, I apprehend I should find but little difficulty in satisfying a majority of the members of this House that the Federal Government has the power within limits properly defined to protect the health of the people as well as of animals. I should like to inquire of the gentlemen who adhere so strictly to the doctrine of State rights, my friend from Kentucky and the gentleman from Wisconsin, how by village regulation, as the latter gentleman has stated, or by State or municipal laws, as referred to by the latter, pleuro-pneumonia could have been kept out of Massachusetts in view of what the gentleman from that State has stated in reference to its introduction there?

Mr. BRAGG. Which gentleman from Massachusetts?

Mr. YOUNG, of Tennessee. Dr. LORING.

Mr. BRAGG. I did not hear the remarks of that gentleman.

Mr. YOUNG, of Tennessee. He stated that the disease came from the cattle imported into Massachusetts from some foreign country, I believe Holland. I would like to know what power is vested in the State of Massachusetts or in the municipal government of Boston to prevent a ship from landing its cargo at that port.

I will not undertake now, however, to discuss these questions. But there is one proposition that I desire to submit to the House; one reason above all others that have actuated me in my opposition to this amendment this morning. This is a question, gentlemen, of far more importance than the one to which you have given three weeks of angry and excited discussion. It is of far more importance than the one which is now being presented to you that in all probability will give rise to two months more of angry, heated, partisan discussion. Now, if you want any measure adopted to stamp out this fearful plague which threatens to destroy so much of the material interests in the Western States, then I say keep it off this appropriation bill, which, unless my judgment is greatly at fault, will not leave this House under two months from to-day. Meanwhile it is my purpose at the very first opportunity to use this as a leverage as it were to force through the House at an early day a bill already carefully considered and prepared that covers this whole subject.

I appeal to the common sense of this House for once to let a regard for the public welfare rise above partisan passion, and to lay aside the bill we are now considering, and consider this one for the protection of the lives of our people as well as for the suppression of the fearful cattle plague which is becoming so destructive in the Western States.

I say to gentlemen who are specially interested in this subject that the pending bill, in my judgment, will remain where it is and not become a law under two months, if at all. But if the course I have suggested be pursued with reference to this subject, there is little doubt we can enact into a law within one week from to-day the bill to which I have referred.

Mr. CANNON, of Illinois. My interest in this question, which is the interest of my constituents and of the West generally, and in fact of the whole country, must be my excuse for again talking about it. There can no proposition be made on this floor, however practical in its nature, but gentlemen with constitutional scruples will be able to raise what are apparently very grave objections to it. Much that has been said by the gentleman from Kentucky [Mr. CARLISLE]

has been well said, but I do not think it applies to this amendment. Why, sir, the very object of the formation of a federal government is to promote the general welfare. And the gentleman admits that we have complete power to make this appropriation; that we have complete power to prevent the bringing of this plague to the ports of the United States; that we have complete power to reach out the hand of the Federal Government there and lay it upon that disease so as to prevent its spread. Yet the gentleman says that if in the State of Maryland, one rod from the Pennsylvania line if you please, or one rod from the Virginia line, this disease exists, dangerous and destructive in its nature, and the State of Maryland refuses, through carelessness or otherwise, to lay its hand upon it, every other State of the Union must be at the mercy of the people of the State of Maryland or of West Virginia. I think that is too narrow a construction of the Constitution.

Now, sir, the amendment which the gentleman from Texas [Mr. REAGAN] has offered does not necessarily mean that the Secretary of the Interior must in any or in all instances make regulations providing the machinery by which this disease is to be stamped out by a Federal officer. Under the grant of power given by the proposed amendment the Secretary of the Interior has the right to co-operate by regulation with the State authority. I have no doubt in my own mind, but he has the right to go further and seize the animal in a given case and slaughter it and make compensation out of the appropriation. The gentleman says he has no such authority. Very well; if he attempts to exercise any authority which does not belong to him, the courts are open. But I think we can make at least as good an argument on the one side as you can on the other. But that he would have the right to co-operate by regulation with the State authority cannot be questioned.

Yet the gentleman says, send it to a committee. It has been to a committee for two years past; it has been called to the attention of the House time after time; it has received investigation after investigation, and will continue to receive investigation until the end of this Congress without action, in my opinion, unless we have some such legislation as this at this time. It will not do when the whole commerce of the country in live stock not only between the States but with foreign nations is affected to sit back and spilt hairs and delay, forsooth, because somebody has a constitutional scruple. In this country with its thirty-eight States bound together by eighty thousand miles of railroad, with our manifold, intertwined interests, with our vast foreign and interstate commerce, I cannot admit that the Constitution has not elasticity sufficient to cover the amendment we are now considering, especially as it directly affects not only our foreign but our interstate commerce also.

[Here the hammer fell.]

Mr. BRIGHT. I take the floor for the purpose of yielding it to my friend on my right, [Mr. HAWLEY.]

Mr. HAWLEY. The gentleman from Tennessee has already uttered partly what I was about to say. I am as anxious as the gentleman from Illinois [Mr. CANNON] to have prompt action, but we are putting this matter in an appropriation bill which will not be disposed of for weeks, and I think it will be more practicable if we instruct a committee or the Committee on Appropriations or the National Board of Health to report a bill. It would be impossible for the Commissioner of Agriculture or the Secretary of the Interior to lay down in a set of directions the legislation necessary; and I would suggest as a substitute for all these matters the following: unanimous consent, we are told, can do anything except hang a man, and if the House will agree that this amendment which I propose shall be substituted for all that is proposed and will be adopted by the House, the question can come up on Monday. I desire to offer at the proper time the following amendment:

The National Board of Health is hereby instructed to consider the propriety and necessity of legislating to prevent the introduction and spread of contagious diseases among cattle and to report promptly with a draught of a bill for the purpose if it shall be deemed best.

Mr. CANNON, of Illinois. If that legislation can be passed before this appropriation bill passes, well and good; but let the provision stay in the bill, as it will probably be two months before the bill passes.

Mr. REAGAN. I move to strike out the last word in the amendment.

Mr. HAWLEY. If I may do so, I offer what I have read as a substitute for the pending amendment and for the paragraph in the bill.

Mr. ATKINS. I desire to ask the gentleman from Connecticut if he offers this as a substitute for the amendment originally offered by the gentleman from Virginia [Mr. HUNTON] and the gentleman from Texas, [Mr. REAGAN,] including the paragraph in the bill?

The CHAIRMAN. The Chair would state that such an amendment would not be in order. There are two amendments pending now.

Mr. REAGAN. I agree very fully with the gentleman from Kentucky [Mr. CARLISLE] in his general statement of constitutional doctrines. I am not prepared to say that I agree with him as to the application of those doctrines to the question now before the committee. I dislike to attempt at all to discuss a question involving constitutional principles that are sprung upon us without any opportunity for consideration or examination. It was conceded by him that under the power to regulate commerce among the States and the Indian tribes we might prescribe regulations to prevent the introduction of diseased cattle, and that we might prescribe regulations as to their transportation from State to State as a matter of commerce.

It may be, sir, that he is correct in saying that we can go no further, but without any opportunity of examining the subject it occurred to me that the interests involved are of an interstate character. It cannot be regulated effectively without the interposition of the authority of the Federal Government. The rearing of cattle and putting them in the market constitutes one of the largest industries of this country. The disease which it is proposed to contract the spread of and to eradicate is one that does not affect a State only. No State can arrest its progress beyond its own borders for want of extra-territorial jurisdiction.

Will it be assumed, then, that the States having no extra-territorial jurisdiction the Federal Government cannot take any steps under the power to regulate commerce to arrest the progress of the disease among the cattle of the country—a disease which may involve the loss of a great many millions of dollars of property to the people of this country? I want time to look into the constitutional question, and I do not desire to be understood as being conclusively committed to what I shall say upon the subject.

We find that the Government has habitually legislated for the promotion of the interests of agriculture. Where does the authority come from? We find that we are printing hundreds of thousands of dollars' worth of agricultural reports annually; that we are appropriating money to keep up a separate department for the purpose of collecting and diffusing information for the promotion of the agricultural interests of the country. We appropriate large sums of money to collect and distribute choice seeds of various kinds to the different portions of the country so as to increase the value of the productions of the country.

[Here the hammer fell.]

The CHAIRMAN. The Chair would state that this debate has been proceeding irregularly. Two amendments are before the committee, and a third is not in order. The committee must dispose of the pending amendments or they must be withdrawn before the debate can proceed.

Mr. HUNTON. I have no objection to the gentleman from Texas finishing his remarks.

The CHAIRMAN. The debate is proceeding out of order. There are three amendments pending.

Mr. ATKINS. The debate has been proceeding out of order for the last hour and a half, so far as that is concerned. But this is an important question, and I desire, as I suppose other members of the House do, that it shall be discussed.

The CHAIRMAN, (Mr. MILLS.) It would be better for the committee to proceed in regular order. One of the pending amendments can be withdrawn and then renewed, as is often done in the case of formal amendments, and then the debate could continue without a violation of the rules.

Mr. REAGAN. Then I will withdraw my amendment and renew it.

I was proceeding to inquire where we got the authority for promoting agricultural interests and prosperity of this country. There is no express provision of the Constitution conferring that power upon Congress. I have not time now to go into that subject, but without having had time to examine the constitutional question I will say that it has occurred to me that this interest was one of such vast importance that some means should be devised to control a disease which is likely to inflict such calamities upon the property of the country. And the subject not being within the power of the States, except so far as their own territory is concerned, we in Congress might, under the power to regulate commerce, do what it is not competent for the States to do.

Gentlemen tell me that the States have the right to make police regulations; that many of them have local regulations concerning the preservation of the public health. When they tell me that, they tell me of what is within the peculiar and exclusive jurisdiction of the State governments, in regard to that which is not likely to inflict any injury upon the contiguous States. But when we come to consider this subject, the subject of a disease which passes by contagion or infection from State to State, a disease which no State has the power to arrest, then I must be very clear that there was no power in the Federal Government to provide the remedy suggested by this provision before I come to the conclusion that we are powerless to protect such vast amounts of property in this country.

I do not propose, however, in a five-minute debate and without previous examination of the authorities, to discuss the constitutional question in connection with this matter.

Mr. ATKINS. I trust now that the Committee of the Whole will vote upon this proposition.

Mr. HOOKER. I desire to say——

The CHAIRMAN, (Mr. BLACKBURN.) The gentleman from Tennessee [Mr. ATKINS] will see that it is not within the power of the Chairman to stop debate.

Mr. ATKINS. I was in hopes that we could now take a vote upon this proposition; but I see that the gentleman from Mississippi [Mr. HOOKER] desires to be heard.

Mr. HOOKER. I have listened to the observations made in the progress of this debate in reference to the power of the Federal Gov-

ernment over this question, and also in reference to its power to establish a national quarantine. It has been said that this is quite as important a question as that. I regard them as both important.

I do not think that under the Constitution any possible objection can be raised to the exercise of this power by the Federal Government. During the discussion of the proposition to create a national board of health, the purpose and object of which was to establish a national quarantine, I had occasion to say to the gentleman from Ohio [Mr. GARFIELD] who at the time was discussing the question, that I did not see how the doctrine of the rights of the States, in contradistinction to the powers of the General Government, could possibly be involved. Nor can I see how it can be involved in this question.

This is a question of the utmost importance to that industry which has been referred to by my friend from Texas [Mr. REAGAN] as having oftentimes been legislated for by the Government of the United States; that great agricultural interest which is the foundation of all others. Since I have had the honor of occupying a seat in this House, in this Congress and in former Congresses, I have seen the attention of members absorbed from day to day, and week to week, and month to month, upon almost every other subject than that which involves the fostering care and attention of the Federal Government of this great agricultural interest.

And when we come to consider a cognate proposition, one involving the protection of that great interest, I cannot see how it can be said that there rises up in opposition to the exercise of this power some of the rights inherent in the States. I have always believed in preserving the powers of the States everywhere. I have always believed, and I hesitate not to say here and elsewhere, in the language of that great expounder of the Constitution when he sat in the Senate of the United States, that the States are the very nostrils of the Federal Government, and without their aid and consent it could not exist for a single moment.

While, however, that is true, still, to the extent to which the States have conceded the power to the Federal Government, I cannot think there can be any doubt that this is within the exercise of that power. I say, therefore, that I hope the proposition of my friend from Virginia [Mr. HARRIS] as amended by the proposition of my friend from Texas [Mr. REAGAN] will meet the approbation of the House. I hope we shall for once at least show that the House of Representatives is willing to wield the power with which it is clothed for the protection of that great agricultural interest upon which everything else depends.

Mr. HAYES. Mr. Chairman, I have but one suggestion to make. I am about as much interested in this question as any gentleman on this floor. The people of my district, as well as throughout my State, are largely engaged in cattle-raising and cattle-shipping. Besides, as has been stated, Chicago is the great cattle-shipping point of this country. The people of my district and of my State have suffered exceedingly within the last few years from the diseases among foreign cattle; and because of this fact I am anxious that some measure to counteract the spread of such diseases should be enacted into a law. Because of the losses which have been suffered by the people of my district, of my State, and of the western country generally, I want prompt action. Now it strikes me that we cannot get as prompt action by attaching this measure to an appropriation bill as we can by some other means. If we attach the measure to this bill it may not become a law for six months, if gentlemen on the other side and gentlemen on this side persist in the stand they have respectively taken. Now what is the remedy? I concur in the suggestion that has been made as to the propriety of turning this matter over to the Committee on Agriculture, with instructions to examine the subject thoroughly and report a bill to the House at the earliest opportunity. This question being of such great importance, it ought to be most thoroughly considered; and any measure that we may adopt on the subject ought to be carefully guarded. Let the Committee on Agriculture be instructed to take hold of the matter and after careful consideration present a bill embracing proper safeguards. Let us enact such a bill into a law; and then we shall have something sound to depend upon; we shall have something effective, something that will accomplish the end we desire. I hope that the suggestion made in this direction will be adopted.

Mr. REAGAN. I desire to renew the amendment which I withdrew a short time ago.

Mr. HAWLEY. I offer the following as a substitute for the pending paragraph and all pending amendments thereto:

The Committee on Agriculture is hereby instructed to consider the propriety and necessity of legislation to check the introduction and spread of contagious diseases among domestic animals, with leave to report at any time by bill or otherwise.

Mr. HUNTON. I rise to a parliamentary inquiry. I ask whether, in the opinion of the Chair, this amendment of the gentleman from Connecticut [Mr. HAWLEY] is in order?

The CHAIRMAN. What objection does the gentleman raise to it?

Mr. HUNTON. I was about to state the objection. There is already pending an amendment offered by myself, and to that an amendment has been offered by the gentleman from Texas, [Mr. REAGAN.] It seems to me that this amendment of the gentleman from Connecticut is in the third degree, and therefore is not in order.

The CHAIRMAN. The point of the gentleman from Virginia is not well taken. There may be pending at the same time, under the rules, an amendment, an amendment to that amendment, a substitute for those two amendments, and an amendment to that substitute.

Mr. STEPHENS. I call for the reading of the amendment of the gentleman from Virginia [Mr. HUNTON] in connection with the amendment offered by the gentleman from Texas, [Mr. REAGAN.]

The Clerk read as follows:

In line 1951 strike out "twenty-five" and insert "two hundred and fifty."

In the same line, after the word "dollars," insert "or so much thereof as may be necessary."

Add to the paragraph the following:

Provided, That said sum, or any part thereof, may be expended by the Secretary of the Interior under such rules as he may prescribe; and proper vouchers shall be preserved of all such expenditures; and he shall report the action under this law to each regular session of Congress, showing the sum of money expended and for what purposes. And authority is hereby given to the Secretary of the Interior to prescribe regulations under which cattle afflicted with the disease of pleuro-pneumonia may be seized, appraised, and slaughtered, and payment therefor made out of money hereby appropriated.

Mr. HUNTON. I ask that the substitute offered by the gentleman from Connecticut be again read.

The Clerk again read the substitute.

Mr. HUNTON. Mr. Chairman——

The CHAIRMAN. The Chair will call the attention of the gentleman from Connecticut to the fact that it is not competent for a Committee of the Whole House to grant to a committee of the House the leave which his substitute proposes.

Mr. HUNTON. I rose to make that point of order.

The CHAIRMAN. The gentleman need not make it; the Committee of the Whole cannot adopt instructions in the form submitted by the gentleman from Connecticut.

Mr. HAWLEY. If I strike out the concluding clause, "with leave to report at any time by bill or otherwise," will that obviate the objection? Let the proposition read that "the Committee on Agriculture be instructed to consider," &c. Will that be admissible?

The CHAIRMAN. The Committee of the Whole cannot instruct a committee of the House.

Mr. HAWLEY. If I substitute "requested" for "instructed," will that obviate the objection?

Mr. MILLS. Is not any resolution of the Committee of the Whole a simple recommendation to the House?

The CHAIRMAN. The Chair understands that any action of this kind will have no effect except as a recommendation to the House.

Mr. MILLS. Then is not the amendment of the gentleman from Connecticut a simple recommendation that the House instruct the Committee on Agriculture?

The CHAIRMAN. Then, in the judgment of the Chair, it should be so worded.

Mr. HAWLEY. Let my amendment be so modified as to read "that the House be requested to instruct," &c.

Mr. CANNON, of Illinois. Is not the proposition subject to another point of order? Can we in a bill which is to pass both Houses and go to the President for approval refer a subject to a committee of this House?

The CHAIRMAN. The Chair does not understand that the Committee of the Whole House has a right to instruct one of the standing committees of the House to do anything. The Chair is disposed to hold the substitute in order provided it be framed so as simply to recommend to the House the reference of the question to a committee.

Mr. HAWLEY. Is that in order by way of a substitute?

The CHAIRMAN. The Chair so holds.

Mr. HAWLEY. Then the gentleman from Connecticut makes that motion.

Mr. CANNON, of Illinois. I rise to a parliamentary inquiry. If the amendment is adopted and concurred in by the House does it not carry the whole bill to the Committee on Agriculture by becoming a part and parcel of the general appropriation bill?

The CHAIRMAN. The gentleman from Illinois will restate his inquiry.

Mr. CANNON, of Illinois. If it be incorporated into the legislative appropriation bill does it not carry the whole bill to the Committee on Agriculture?

The CHAIRMAN. The Chair does not so hold.

Mr. CANNON, of Illinois. If the substitute be adopted does it not become a part of the bill?

Mr. ATKINS. It only refers this branch to the committee.

The CHAIRMAN. The Chair sees no difficulty as suggested by the inquiry of the gentleman from Illinois. The gentleman from Connecticut moves by way of substitute that the amendment offered by the gentleman from Virginia shall be reported to the House with the recommendation that it be referred to the Committee on Agriculture.

Mr. HAWLEY. If that be in order then I make that motion.

The CHAIRMAN. The gentleman will proceed.

Mr. HAWLEY. I wish to say a word. I have already indicated sufficiently the reasons why, in my judgment, this matter should not be entangled with this great appropriation bill. My primary object is that the House may reach speedy action, and I hope if my substitute be adopted that when the committee rises this afternoon the House will unanimously send this subject to the Committee on Agriculture with instruction to make speedy report by bill or otherwise.

Mr. CHALMERS. I desire to amend that by suggesting it go to the committee appointed to look into the prevention of contagious diseases in the country. That is the proper committee I think for its reference, and I make that amendment.

Mr. DIBRELL. I hope that amendment will not be adopted. I think the Committee on Agriculture is the proper committee to have this subject under consideration. Half a dozen good farmers will know ten times more about this disease of pleuro-pneumonia and know better how to stop it than any of these health physicians can know about it. [Laughter.] I venture to say that the Committee on Epidemic Diseases or the National Board of Health know nothing at all about the diseases of sick cattle; how many upper teeth a cow has or the difference between a muley cow and a short-horn Durham. [Laughter.] The Committee on Agriculture is the proper committee to which this subject should be referred for investigation, and I hope that amendment will be agreed to.

Mr. HUNTON. I desire to say if either of the propositions offered as a substitute for my amendment be adopted it will be the end of all relief on this subject during this session of Congress. I have no doubt, sir, in my mind, that if the committee adopt the substitute of the gentleman from Kentucky or the proposition of the gentleman from Mississippi it will be an end of this question for this session of Congress. If the appropriation is not placed in this bill no relief will be obtained.

Mr. STEPHENS. Mr. Chairman, I do not concur at all in the views expressed by the gentleman who has just taken his seat. Why should he say or why should we believe if this is not incorporated in this appropriation bill nothing will be done at this session? Congress certainly is competent to act and it has plenty of time in which to do so. It may take any action on this or any other subject it may deem proper. I concur entirely in the views expressed by the gentleman from Connecticut, [Mr. HAWLEY.] This is a large question. It involves a vast amount of property. Great public interests are concerned. I do not approve at all of the amendment offered by the gentleman from Texas. It gives entirely too much power, in my judgment, to the Secretary of the Interior. I do not speak now of the conflict of power between the States and the Federal Government, but it puts too much power into the hands of any one man to make rules and regulations to govern the condemnation and confiscation of property. I think we ought to have time to digest whatever is proper to be done on this great subject.

Many of the views expressed by the gentleman from Massachusetts I concur in. This Government has the power so far as police regulations are concerned to prevent the importation of diseased cattle. It has the power and it is its duty to interfere to prevent the spread of that disease. It has the power to regulate interstate commerce. I think the action of this House in the execution of those powers should be more considerate than the amendment of my friend from Texas. I therefore concur in the amendment of the gentleman from Connecticut, or which is equivalent to the same thing, in voting down these amendments and letting the whole matter go to the committee in the proper form. If we adopt his amendment we will all understand the Committee on Agriculture is the proper committee which should take charge of this subject and report upon it.

Mr. ATKINS. The pending question, as I understand, is on the amendment of the gentleman from Mississippi, [Mr. CHALMERS,] is it not?

The CHAIRMAN. It is.

Mr. ATKINS. Does the gentleman insist on his amendment?

Mr. CHALMERS. I do.

Mr. ATKINS. Then I ask the committee to vote on it.

Mr. CHALMERS. I desire to say a word or two. I do not think this is a matter which depends on how many upper teeth a cow has got or on the difference between a muley and a short-horn Durham. I do not think it is a matter involving anything as to the structure of cattle or questions of agriculture. It is a question depending on the very same principle as that of the yellow fever; the very same principle that has been discussed in this House as to the power of the Government to keep contagious diseases not only from the Government itself but from passing from one State into another. It involves scientific questions, legal questions—questions which agricultural gentlemen are not supposed to understand. Therefore I think the proper committee is the one which has been organized by the Speaker to take into consideration the best mode of preventing infectious diseases from being introduced into the country.

Mr. HAWLEY. Did not that refer to mankind?

Mr. CHALMERS. Yes, sir; that was intended to refer to mankind. But I call the gentleman's attention to the fact that a bill passed some years ago in reference to cattle was placed on the same principle, and debated on the same principle by Congress, as the bill for the prevention of contagious diseases affecting man. They are infectious in both instances. They are brought from foreign countries into our country; and the right to make the one law gives the right to make the other. Many of us here are deeply interested in having a law passed to prevent the introduction of diseases infectious to man; all of us are interested more or less in preventing the introduction of diseases infectious to animals. The two should be put together; and I submit that the amendment I have offered ought to be adopted.

Mr. DOWNEY. This is a matter of peculiar interest to the Territory of Wyoming, which I have the honor to represent. Not only are the people of the Territories interested. I know that sums of money amounting to more than $1,000,000 from the city of Providence, Rhode Island, and the city of Boston, Massachusetts, are now on the way to Washington Territory and Oregon for the purpose of buying herds of cattle and bringing them back East.

This is a question pertinent to this bill and very much so, for this reason, that if this disease once gets into the herds of cattle in the great West your Army will cost millions of dollars to feed where it now costs thousands. Our stockmen all over the country are moving in this matter and endeavoring to the utmost of their power to create an interest in it. The stock-raisers in my Territory and the other Territories have passed resolutions ordering diseased cattle to be taken from the cars in transit and killed, and no high-minded stockman in the country would object for a moment to that being done.

I was talking about this matter to a gentleman from New Jersey, and he told me some of his cattle were supposed to have pleuro-pneumonia. As soon as the matter came to his attention he directed surgeons to be sent for to make an investigation, and said he would rather give up all his cattle than be the means of spreading the disease.

This is a serious matter to the Territories, and I ask you, gentlemen, in your wisdom to take such action as the exigencies of the case may require. I have said that if this disease spreads, where it costs you now thousands to feed your Army it will cost millions. And furthermore, there are the large supplies for the Indians, the cost of which will be greatly increased. With all earnestness I ask you to consider well what should be done. It appears to me something should be done now.

Another view has occurred to me in connection with this matter. This bill perhaps may not become law. If it should be vetoed it may hang for a considerable time; whereas if a separate measure should be introduced dealing with this subject it might get through both Houses and be signed by the President before many days elapse. It is a matter of great interest to the people generally; but, as I have said, it possesses a very special interest for the people of the Territories whom I have the honor in part to represent, and I desire to impress on the minds of gentlemen that view of the subject in reaching a conclusion with regard to it.

Mr. ATKINS. Let us now have a vote.

The CHAIRMAN. The proposition offered by the gentleman from Connecticut [Mr. HAWLEY] was entertained by the Chair as a motion in the nature of a substitute for the pending paragraph and the amendments thereto. If agreed to it will amount to a recommendation to the House to strike out the clause of the bill to which the amendments have been offered and to send the subject to the Committee on Agriculture. To that substitute the gentleman from Mississippi [Mr. CHALMERS] offers an amendment proposing to refer the subject to the Committee on Contagious Diseases.

The question being taken on the amendment offered by Mr. CHALMERS, there were—ayes 49, noes 66.

So (further count not being called for) the amendment was not agreed to.

The question recurred on Mr. HAWLEY's substitute; and being put, there were—ayes 129, noes not counted.

So the substitute was agreed to.

The Clerk resumed the reading of the bill and read as follows:

For postage on return letters, circulars, and miscellaneous articles, for correspondents and foreign letters, $4,000.

Mr. HASKELL. For the purpose of perfecting the amendment I offered yesterday, I offer the following amendment to come in at the close of that clause:

United States entomological commission:

To provide for investigation into the habits of the cotton-worm and other insects injurious to the cotton-plant and to agriculture, with a view of preventing their injuries, $5,000.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read as follows:

Southern claims commission:

For pay of three commissioners to the 10th day of March, 1880, at the rate of $5,000 per annum each; one clerk, at the rate of $2,500; one stenographer, at the rate of $2,500; one messenger, at the rate of $1,200; three additional clerks, at the rate of $1,200 each; in all, $17,222.21.

For compensation of three investigating agents, at $6 per day when actually employed; also traveling expenses of agents, fees and mileage to Government witnesses, cost of summoning witnesses, fees to commissioners for taking testimony, fees for abstracts and exemplifications of public records relating to claims and claimants, $6,000.

Mr. BRAGG. I ask that the paragraphs in relation to the southern claims commission be read, and I shall then offer an amendment.

The CHAIRMAN. The gentleman is in order to offer an amendment now.

Mr. BRAGG. My amendment will come in more appropriately after all the paragraphs in relation to the southern claims commission have been read.

Mr. ATKINS. Allow me to suggest that by unanimous consent the Clerk read the other paragraphs relating to this subject, because upon the amendment of the gentleman from Wisconsin the whole question will be determined.

The CHAIRMAN. The Chair, then, understands that by unanimous consent the gentleman is entitled to offer his amendment after the next two paragraphs are read. The Chair hears no objection to that.

Mr. YOUNG, of Tennessee. I desire to offer the following amendment: to strike out all after line 2075 down to line 2081, inclusive, and to insert in lieu thereof the following:

For compensation of six investigating agents at $5 per day, when actually employed; also traveling expenses of agents, fees and mileage to Government witnesses, cost of summoning Government witnesses, fees to commissioners for taking testimony, fees for abstracts and exemplifications of public records relating to claims and claimants, $12,000: *Provided*, That said agents shall give notice to claimants whose claims it is proposed to investigate of the time and places of taking testimony, who shall have the right to cross-examine every witness who may testify in behalf of the Government, and said agents shall also take the testimony of any and all witnesses who may be presented by the claimant, and all such testimony, both in behalf of the claimant and the Government, shall be taken under the laws and rules which usually govern the taking of testimony.

I will reserve what I have to say until after the amendment of the gentleman from Wisconsin [Mr. BRAGG] is disposed of, as it is possible that the adoption of that amendment will preclude the necessity of mine.

The CHAIRMAN. The question is upon the adoption or rejection of the amendment of the gentleman from Tennessee.

Mr. YOUNG, of Tennessee. Very well; I have but a few words to say. It has been the custom to send agents to investigate all claims pending against the Government. The course pursued by these agents has had a tendency to embarrass both the Government and the claimant. The testimony they have taken has always been *ex parte*, the claimants having no opportunity of cross-examination, and in many instances they have been denied the privilege of even seeing what the witnesses had sworn to. There are now pending before Congress and the different Departments of the Government probably fifty thousand of these claims, though I am not prepared now to state the exact number; but it certainly approximates the figures I have given, and in all probability exceeds them.

It is utterly impossible in the nature of things that three investigating agents can make any satisfactory investigation of these claims and report to Congress in the next twenty years. I do not propose now to discuss the question of claims in general, or whether they ought to be paid or rejected, but I hold that every citizen of this Government has a right to be heard before this body; and to limit the number of investigating agents to three is practically to close the door against any man who has a claim pending before any department of the Government or before Congress, thus virtually denying to every man who has a demand against the Government an opportunity to ever have his claim fairly considered. Better abolish the commission on claims altogether and create some other tribunal in its place.

I know how anxious the chairman of the Committee on War Claims, the gentleman from Wisconsin, [Mr. BRAGG,] is to have these claims paid, and I therefore want to smooth the way for him all I can. But it is for this body to determine what action should be taken in reference to these claims. Now, it must be apparent that if the investigation goes on as heretofore there will never be an end of it. I wish they could be taken from the consideration of Congress altogether; but while this body is called upon to investigate them all the means for doing the work practically and effectively should be furnished for that purpose, and therefore I offer this amendment.

Mr. ATKINS. I trust the gentleman will modify his amendment by striking out $12,000 and inserting $6,000.

Mr. YOUNG, of Tennessee. Very well; I have no objection to that.

Mr. KEIFER. I would like to have the attention of the gentleman from Tennessee [Mr. YOUNG] to an inquiry I desire to make of him. I desire to know who is to pay the expense of taking the testimony offered on behalf of the claimants?

Mr. YOUNG, of Tennessee. I provide in my amendment that the Government witnesses alone shall be paid.

Mr. KEIFER. Do you provide in your amendment that the Government shall pay the expenses on behalf of the claimants?

Mr. YOUNG, of Tennessee. I do not.

Mr. KEIFER. Who does pay the expenses?

Mr. YOUNG, of Tennessee. The claimants pay them if paid at all.

Mr. KEIFER. No provision is made here for their payment?

Mr. YOUNG, of Tennessee. None at all. I am willing that the Government shall have that much advantage.

Mr. KEIFER. No provision at all is made for their payment?

Mr. YOUNG, of Tennessee. None at all; that is, no provision for the Government to pay them. The claimants can arrange that themselves.

Mr. KEIFER. Is there any provision made to pay the officers who take the testimony?

Mr. YOUNG, of Tennessee. The agents will be paid, and also the officers taking the testimony.

Mr. HOOKER. I ask the gentleman from Ohio [Mr. KEIFER] to yield to me to offer an amendment which I think the gentleman from Tennessee [Mr. YOUNG] will perhaps accept.

Mr. KEIFER. I will yield for that purpose.

Mr. HOOKER. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

And no testimony shall be taken in regard to any claim against the Government, either by the Government or the claimant, without due notice to the Government and the claimant, according to the laws of the State where the testimony is taken which prevail in the chancery courts of said State.

Mr. KEIFER. I hope that amendment will not be accepted.

Mr. YOUNG, of Tennessee. I would have no objection to it, only I am afraid it might imperil the amendment I have offered. I think my amendment already covers substantially the ground sought to be covered by the amendment proposed by the gentleman from Mississippi, [Mr. HOOKER.] The addition of his amendment might possibly endanger my amendment, and this I desire to avoid, for it is a matter of too much importance to a great number of people to take any chances in losing it.

Mr. KEIFER. I simply desire to have the amendment of the gentleman from Tennessee [Mr. YOUNG] perfected. While I am utterly opposed to the amendment suggested by the gentleman from Mississippi, [Mr. HOOKER,] I wish to suggest to the gentleman from Tennessee that he should provide in his amendment that the testimony of witnesses offered on behalf of the claimants shall be taken, when the expense of taking it is first paid by the claimant.

Mr. YOUNG, of Tennessee. I have no objection to that.

Mr. HOUK. I desire to suggest that if it is the purpose of the gentleman from Mississippi [Mr. HOOKER] to aid and facilitate the early examination of these claims, his amendment will defeat the purpose of the amendment of my colleague, [Mr. YOUNG.] To encumber this process of investigation with all the machinery of the States in regard to taking testimony will so hamper and clog the agent in his investigation as to defeat the purpose of the amendment of my colleague.

Mr. HOOKER. I was induced to offer the amendment which the Clerk has read in consequence of information which has come to me in the progress of the investigation of these claims under the claims commission. I have been informed that it is the custom of the southern claims commission to send out agents, after the evidence *pro* and *con* has been closed, for the purpose of taking *ex parte* testimony. I am aware of the fact that this course has been pursued by the commission probably with a view to guard against fraudulent claims against the Government. I would be very glad to give my aid here by my voice and vote to any measure which shall guard the Government against fraudulent claims.

But this practice of taking *ex parte* testimony ought never to be allowed. It is utterly unknown to any other court. The Government should be clothed with no power or authority or should have no more favoritism than the claimant himself. They should both stand fairly on their rights to take evidence after due notice, according to the rules of the courts in the States where the evidence is to be taken. That is to say, both the Government and the claimant should be required to give ten, twenty, or thirty days' notice to the opposite party before any testimony is allowed to be taken.

Then the testimony should be taken before a commission or a sworn officer authorized to take testimony, and either party after due notification should be allowed to be present and cross-examine the witnesses. I think, therefore, that my amendment makes plain what is left ambiguous in the amendment of the gentleman from Tennessee, [Mr. YOUNG,] and I must ask for a vote on my amendment.

Mr. ELAM. I suggest that should the amendment of the gentleman from Mississippi [Mr. HOOKER] be adopted there will be a class of claimants in my own State which it would not reach. We have there no chancery court. I suggest to him to change his amendment so as to provide for the taking of the testimony according to the rules of the court having common law or chancery jurisdiction.

Mr. HOOKER. I am willing to accept that amendment.

Mr. YOUNG, of Tennessee. I think I can meet the purpose desired. I provide in my amendment that notice shall be given to the claimant. As a matter of course it follows that the notice must be a legal one, and I presume that would mean in accordance with the law of the State, whatever that may be, in regard to the giving of notice. It seems to me that the amendment offered by the gentleman from Mississippi [Mr. HOOKER] is not necessary to accomplish the purpose I have in view, while the amendment I have offered will meet the object sought by the gentleman from Louisiana, [Mr. ELAM.]

Mr. PRICE. I want to ask the gentleman from Tennessee [Mr. YOUNG] a question. The object of his amendment in part is to facilitate the investigation of these claims?

Mr. YOUNG, of Tennessee. Yes, sir.

Mr. PRICE. You increase the number of agents?

Mr. YOUNG, of Tennessee. Yes, sir.

Mr. PRICE. But you do not increase the pay; you leave the appropriation at $6,000, as I understand?

Mr. YOUNG, of Tennessee. Yes, sir.

Mr. PRICE. And you do not get any more work done with six agents than you would with three?

Mr. YOUNG, of Tennessee. I think it very probable we can. I made this reduction at the suggestion of the chairman of the Committee on Appropriations——

Mr. PRICE. So I understand.

Mr. YOUNG, of Tennessee. Because I feared that otherwise the amendment would be subject to a point of order. I think that $6,000 would probably pay the expenses of six agents for four, five, or six months. At all events, it is provided that they shall receive only $5 a day while actually engaged.

Now, many localities where claims are pending against the Government cannot be safely visited by agents except during a few months of the year. Last year a number of agents were sent to my own district at my request. They arrived there about July, and very soon afterward the fever broke out, when they left without examin-

ing a single witness. The months of the winter or the early spring are about the only time when agents can prosecute this work. I think in order to avoid the point of order we might let the amendment pass in this form, providing that $6,000 shall cover all expenses actually incurred.

Mr. PRICE. I only wanted to call the attention of the gentleman to the fact that six men cannot do any more work with $6,000 than three could.

Mr. YOUNG, of Tennessee. I think differently, particularly when it is considered that the work must be done within a few months.

Mr. BAKER. I would like to inquire of the gentleman from Tennessee what particular service is now rendered by these three investigating agents under the southern claims commission?

Mr. YOUNG, of Tennessee. They are sent to localities where claimants reside. Claims come here in the form of petitions to Congress or applications to different departments of the Government; and in order to protect the Government against the perpetration of frauds there was adopted some years ago the system of sending agents to the localities where the claimants reside to investigate the facts. These agents heretofore have gone to different localities and made investigations which have been wholly *ex parte*, without notice to the claimants, who in many instances have not been able to ascertain what the witness testified to until somebody here in Washington had examined the records. Such a practice imposes great hardship on claimants and embarrasses the Government very much in the proper determination of claims.

Mr. BAKER. If these investigating agents take testimony secretly and that testimony is used in the ultimate determination of cases by the southern claims commission, it is a reprehensible practice. But I have information from one of the judges of the commission that the sole purpose of employing these agents is this: when testimony has been taken on the part of a claimant and the judges of the commission have reason to believe from the character of the evidence that it is untruthful, they send these agents to the neighborhood from which the witnesses come to inquire into their character and to ascertain whether or not rebutting evidence can be found. The facts are reported to the judges of the commission; and if upon such report they believe that the case made by the claimant can be rebutted, then evidence is taken in the ordinary way.

Mr. YOUNG, of Tennessee. No; the gentleman is laboring under a misapprehension. If he will give me his attention for a moment I will explain. These agents are not sent out by the claims commission; they are sent out by the Quartermaster and Commissary-General; and the character of the evidence which they collect is such, I apprehend, as could scarcely be used in any court of justice. Certainly no testimony taken purely *ex parte* would be regarded by the judges of the claims commission, if they are qualified for their positions. My information is that no testimony of that sort goes before those commissioners at all.

Mr. BAKER. Let me inquire of the gentleman whether these three investigating agents are not confined exclusively to service under the southern claims commission?

Mr. YOUNG, of Tennessee. No, sir; they act under the direction of the Quartermaster-General.

Mr. BAKER. I apprehend that it is utterly impossible that they should be employed under the Quartermaster-General. We have now under consideration a clause providing for the southern claims commission. Line 2075 provides for "three investigating agents." These agents are employed by the commissioners, not in the method suggested by the gentleman. They are employed exclusively by the southern claims commissioners, and by nobody else. The purpose of the gentleman will not be accomplished by increasing the number of these agents for the southern claims commission, for the commissioners do not desire any more than three. Investigating agents for the Quartermaster-General's Department or any other Department of the Government ought to be provided for under the proper head. While these claims commissioners are not asking any more than three investigating agents, why is it necessary to provide for more?

Mr. YOUNG, of Tennessee. I know as a matter of personal knowledge (because I have it from the Quartermaster-General himself) that these agents are sent out under his direction. I had a conversation with him before I left here last summer, and induced him to send two of these agents to my district, who, as I said a few minutes ago, were obliged to leave in consequence of the appearance of the fever. I do not know whether the southern claims commissioners ever send out agents of this kind or not; but I do know, as a lawyer, that if they send out such agents and then act on *ex parte* testimony of this kind, their court is one of the strangest tribunals I ever heard of and is a disgrace to the judiciary of the country. If the members of that commission are guilty of such conduct they should be stripped of the ermine and driven in disgrace from the positions which they occupy.

Mr. BAKER. Let me suggest that I know from personal information, derived from one of the judges, that they do send them out for the purpose I have indicated, but for no other purpose. The gentleman is talking of one class of agents, to wit, those employed in the Quartermaster-General's Department, and I am talking about those referred to in the class which he asks us to strike out.

Mr. YOUNG, of Tennessee. This, of course, does not come out of my time. Accepting the theory of the gentleman as the true one, and still my amendment shall prevail. Now, it is a vicious practice——

Mr. BAKER. They do not need but three.

Mr. YOUNG, of Tennessee. I am willing to reduce the number to three, but the other provision should remain. It is unjust to the claimants to send out these agents of the southern claims commission to examine witnesses affecting the validity of their claims without giving them notice or advising them of the facts testified to. It is in violation of every rule of testimony with which I am acquainted. I am willing to strike out "six" and insert "three investigating agents."

Mr. ATKINS. I trust the gentleman will do so.

Mr. YOUNG, of Tennessee. I will so modify my amendment, allowing the remaining portion to stand.

The amendment to the amendment was disagreed to.

Mr. HERBERT. I offer the following amendment to the amendment:

Add to the amendment the following:
And the judges of the southern claims commission shall prescribe and publish rules for the taking of testimony, and shall provide in all cases for full and fair notice to be given of the time and place of taking thereof.

Mr. YOUNG, of Tennessee. I have no objection to that.

The amendment to the amendment was adopted.

The question recurred on the amendment of Mr. YOUNG, of Tennessee, as amended.

Mr. BAKER. I offer an amendment to the original text, as follows:

In line 2075, after the word "agents," insert "whose report shall not be used as evidence by said commissioners."

Mr. BRAGG. Let me ask the gentleman from Indiana a question. What do you want investigating agents to make reports for if you cannot use them after you get them?

Mr. BAKER. I will explain to the gentleman from Wisconsin. Investigating agents, as I understand now from the information of one of the judges of that commission, are simply for this purpose: whenever evidence is produced before that commission by a claimant and the commission suspect the character of that evidence they have these agents who are sent into the locality for the purpose of investigating into it and reporting the facts they ascertain to the commissioners. Then if the commissioners believe the interests of the Government demand evidence should be taken in the ordinary method for the purpose of meeting the case made by the claimant, they take that evidence on the information obtained by these investigating agents. That, I understand, is the present method. I have it, at any rate, from one of the judges of that court. In order to make it entirely certain, I have offered this amendment. It simply empowers this commission to protect the interests of the General Government by sending these agents to investigate the facts and report them to the commission. If the commission should then judge it to be necessary in order to meet the claim made by the claimant, they will take the testimony in the ordinary method now provided by law. It seems to me that is right.

Mr. KEIFER. I think the gentleman from Indiana is in error as to the present state of the law relating to the use of these investigating agents. I understand, after having examined a great many of the records which have passed through the hands of the southern claims commission, that after all the testimony has been taken and submitted (and, unfortunately for the Government, sometimes submitted on the testimony on the part of the claimant alone) they send out one of their investigating agents, who goes into the region of country where the claimant lives or the claim arose and there secretly, privately, and otherwise gathers such information as he can, taking *ex parte* affidavits for his own benefit or not, as he chooses, and finally makes a report upon which the court very often decides the claim. I know they decide the claims, and when the claimant could not have the opportunity even of seeing that report before the decision was made. I cannot be mistaken about this. I have near me a gentleman who served as one of these investigating agents, and he made many of these reports, and he has made them, I venture to say, as I have stated, on such testimony as he chose to take himself, without notice to the claimant.

I say, sir, that in many cases these agents have made grave mistakes in reference to these claims. I know the commissioners have said they have afterward found there were mistakes, honestly made I have no doubt, but mistakes upon which they acted in making their decision.

Now, the proposition of the gentleman from Indiana I cannot well understand. He proposes to allow these agents to make report, not to be treated as testimony, but to leave their report possibly to stand as before, not as testimony, but some sort of secret information which the commissioners should take into their private rooms to influence their minds possibly in rejecting the claim.

I do not care whether you call it testimony; it never was testimony; it never rose to the dignity of testimony; yet it disposed of very many important claims. It is not testimony as it is now taken, in the strict sense of the word. But the proposition of the gentleman from Tennessee [Mr. YOUNG] is to require testimony on behalf of the Government to be taken, according to the ordinary rules of taking depositions, the claimant having the right of cross-examination, and that the testimony of witnesses on behalf of the claimant shall also be taken; so that if there be anything in the testimony of a witness which should be searched out, it may be done by cross-

examination. The Government has the right to appear and cross-examine the witnesses of the claimant and the claimant should have the right to appear and cross-examine the witnesses on behalf of the United States. And when that is done in the usual and ordinary manner, it is then submitted to the commissioners; and they themselves would be glad to have it in that form.

[Here the hammer fell.]

Mr. WARNER. I desire to offer an amendment in the nature of a substitute for the amendment of the gentleman from Tennessee.

The CHAIRMAN. The first question is on the amendment of the gentleman from Indiana, [Mr. BAKER,] which looks to perfecting the text of the bill.

Mr. YOUNG, of Tennessee. I would like to say a word in reply to the gentleman from Indiana. I wish to call for a statement from one of my colleagues on this point.

The question propounded by the gentleman from Wisconsin [Mr. BRAGG] to the gentleman from Indiana [Mr. BAKER] was a very proper and pertinent one. I am unable to discover what purpose would be accomplished by these investigating agents taking testimony if it is not to be used as evidence in some court having the power to determine these claims. If it is not to be so used, or if there is any court in this country that will determine a case and decide a claim on *ex parte* testimony, I submit that it is quite time that such court should be abolished. I cannot believe that the southern claims commission has ever been guilty of so gross a judicial outrage, though it would seem from what the gentleman from Indiana [Mr. BAKER] says that they have been doing this very thing; but surely he must be mistaken. It seems to me incredible that any American judge could have been either so ignorant or corrupt. I sincerely hope that the gentleman has misstated the case.

I presume there never has been an instance in this country where any honest, competent judge has ever determined any question of fact on testimony taken solely *ex parte*. It might have been done under Jeffries in England, or under the *régime* of Fouche in France, but in this country, where every man is entitled to a fair and honest disposition of his case before the courts, I pronounce it an outrage upon the administration of justice. It is true, as was stated a little while ago by the gentleman from Ohio, that there are hundreds of instances probably, (many have come within my own knowledge,) where cases have been determined by the southern claims commission solely on testimony of the character indicated by the gentleman from Indiana. There sits on this floor now a member of this House who was once one of these agents. I allude to my colleague, the gentleman from Tennessee, [Mr. HOUK;] and I would like him to state how that system operated. For that purpose I yield him the remainder of my time.

Mr. HOUK. I desire simply to make this statement: I know that the southern claims commission does act upon these *ex parte* reports. I have in my mind's eye one case, a case that originated in the district of my colleague who has just taken his seat, where I, as the special agent under the claims commission, investigated the case and acted upon *ex parte* testimony. This claim for about $8,000 that was otherwise established was lost, and I am to-day satisfied if the matter was before me requiring a vote I would vote to pay the claimant that sum of money, because I believe he lost it by the testimony being taken in this *ex parte* way, men giving testimony that was not exactly true. And therefore I join with my colleague in desiring to see some provision made by which both sides may have a hearing, the claimant as well as the Government.

[Here the hammer fell.]

The question being taken on Mr. BAKER'S amendment, it was not agreed to.

The question recurred on the amendment offered by Mr. YOUNG, of Tennessee, and it was agreed to.

The Clerk resumed the reading of the bill and read the following paragraph under the head "southern claims commission:"

For contingent expenses, namely: office rent, furniture, fuel, stationery, printing and binding, postage and expressage, labor, and assistance to short-hand reporter when needed, $4,000.

Mr. BRAGG. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "repealed," at the end of line 2064, to and including the word "dollars," at the end of line 2085, and insert as follows:

Sections 2, 3, 4, 5, and 6, of chapter 116 of the law of 1871, approved March —, 1871, are hereby repealed.

Mr. BRAGG. I understand when this bill was placed in its present condition, without an opportunity being allowed for general debate, it was suggested by the gentleman from Ohio that in case amendments were proposed to the bill in addition to the political amendments, or the political legislation rather already reported in the bill, such amendments might properly, with the consent of the House, be laid aside to be disposed of in the discussion which should take place upon the sections providing for political legislation rather than under the rule limiting the debate to five minutes. The amendment which I have proposed to the bill strikes directly at the root of the whole southern claims commission. It proposes to repeal all the machinery by which we authorize gentlemen, at an expense of $40,000, to start a manufactory for the purpose of keeping up this vexed question of southern claims. The propriety of such a repeal is a very grave question, and I presume gentlemen would like to discuss it, and will discuss it with care and consideration. If that should be the disposition of the House I should much prefer that this amendment should go over, to be considered in the discussion which is to follow, rather than it should be disposed of now under the five-minute rule. I ask that consent be given for that purpose.

Mr. ATKINS. As far as I am concerned I see no objection whatever to that suggestion. I think it is likely the amendment offered by the gentleman from Wisconsin, if discussed now, will probably consume the rest of the day. I, for one, am perfectly willing the subject should be passed over to be taken up hereafter as the gentleman from Wisconsin has suggested.

Mr. KEIFER. We cannot hear what is going on.

Mr. ATKINS. The gentleman from Wisconsin [Mr. BRAGG] proposes to amend the bill by striking out substantially and in fact the appropriations for the southern claims commission and to repeal the law creating the commission. He proposes that we pass over informally this part of the bill, so that it may be discussed when we take up what is called the political legislation, and that when we consider that, we shall also consider this proposition, as he thinks we probably could not consider the subject this afternoon.

Mr. KEIFER. I do not object to that.

Mr. HOOKER. Do I understand the gentleman from Tennessee to say that the proposition is, that we shall not now discuss the amendment offered by the gentleman from Wisconsin?

Mr. ATKINS. The gentleman from Wisconsin [Mr. BRAGG] wants the matter postponed if it be agreeable to the committee. I would simply say that it would be agreeable to myself.

Mr. HOOKER. I have no objection to any arrangement by which the discussion upon this subject shall be postponed to a future time, but upon the amendment of the gentleman from Wisconsin I desire to be heard.

Mr. ATKINS. I suggest to the gentleman that it would be better to pass over this portion of the bill informally and take it up hereafter. I would suggest that we get through with the bill and meet on Tuesday for the purpose of considering those portions of it which have been passed over, and that the question of the southern claims commission shall be the first question in order.

The CHAIRMAN, (Mr. CLYMER in the chair.) The gentleman asks unanimous consent that when the committee meets on Tuesday next, that part of the bill which relates to the southern claims commission shall be first in order.

Mr. BAKER. I must object to that.

Mr. ATKINS. I believe that a large majority of the committee desire that that course shall be taken, and if it be in order I shall make a motion to postpone the consideration of the amendment offered by the gentleman from Wisconsin, [Mr. BRAGG,] a proposition to repeal the law creating the southern claims commission, until we come to consider the bill next week.

The CHAIRMAN. The order of the House is, that all the subjects in the bill save what are known as political subjects shall be considered.

Mr. ATKINS. I see at once that my motion cannot be entertained except by unanimous consent.

Mr. DUNNELL. What stands in the way of our going on with it now?

Mr. ATKINS. Nothing, so far as I am concerned. The gentleman from Wisconsin made the request. He does not want to go on this evening. I suppose he desires to make a speech on his amendment.

Mr. BRAGG. I will state for the benefit of the gentleman from Minnesota that the reason of my application of this favor from the House is that my amendment proposes to repeal the law creating an organization which has existed since 1871. The question is one of gravity and importance, and I desire to discuss it at greater length than it can be discussed under the five-minute rule.

I have no doubt that there are other gentlemen on the floor who desire to discuss that proposition longer than they could be permitted to do under the five-minute rule. My purpose is to show to the committee that contrary to the laws of nations and the laws of war we have been paying a class of claims that we ought not to have paid, which have no legal title for payment, and our payment has been a mere gratuity. I shall then desire to consider whether we are in a condition to be bestowing gratuities and whether, if we do bestow gratuities, it would not be better to bestow what belongs to us rather than as legislators to give away money that belongs to somebody else, and I cannot do it under the five-minute rule.

Mr. WHITE. I call the attention of the gentleman from Wisconsin [Mr. BRAGG] to the fact that when we first took up this bill the gentleman from Ohio [Mr. GARFIELD] proposed that when we struck a feature of the bill that would excite protracted discussion it should be passed over.

Mr. DUNNELL. That was in regard to political questions.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WHITE] is mistaken.

Mr. WHITE. This is a quasi-political question. If you will refer to the RECORD you will find that the agreement was as I state it.

Mr. DUNNELL. I object to any departure from the arrangement made.

Mr. BRAGG. Unanimous consent was given to my proposition. The objection came to another proposition offered by the gentleman

from Tennessee, that this question should be first discussed on Tuesday morning.

Mr. WHITE. I think the gentleman is right.

The CHAIRMAN. The Chair, then, will state the proposition of the gentleman from Wisconsin, which is that the further consideration of this subject shall be postponed until the other portions of the bill have been disposed of.

Mr. BAKER. I object to any possible method or suggestion for delaying the consideration of this bill beyond what is required by the rules of the committee.

Mr. ATKINS. Then, to accommodate the views of gentlemen, I move that the committee do now rise.

Mr. HAWLEY. I hope the gentleman will ask unanimous consent for the purpose which I suggested to him.

Mr. ATKINS. I had forgotten that. I desire to ask unanimous consent that the Chairman of the Committee of the Whole will state to the House when we get into the House the action of the committee on the paragraph proposing to make an appropriation of $25,000 for the purpose of investigating diseased cattle. I now ask unanimous consent that the Chairman may make that statement to the House.

Mr. CARLISLE. I suggest to the gentleman from Tennessee [Mr. ATKINS] to put his motion in the form of an instruction to the Chairman of the Committee of the Whole to make a partial report from this committee to the House upon that subject.

Mr. ATKINS. Very well; I will put my motion in that form. I move that the Chairman of this Committee of the Whole be instructed to report to the House the action of this committee in reference to cattle diseases.

The motion was agreed to.

Mr. ATKINS. I now move that the committee rise.

The motion was agreed to, upon a division—ayes 102, noes 16.

The committee accordingly rose; and Mr. CARLISLE having taken the chair as Speaker *pro tempore*, Mr. CLYMER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880, and for other purposes, and had come to no resolution thereon; further, that the committee had instructed him to report to the House that the committee had struck out of the bill the paragraph included in lines 1947 to 1952, and recommended that said paragraph, with sundry amendments submitted thereto, be referred to the Committee on Agriculture, with instructions to report thereon forthwith by bill or otherwise.

The paragraph struck out was as follows:

To pay salaries and traveling and other necessary expenses of inspectors at the different shipping ports of the United States and elsewhere, and for controlling or eradicating infectious and contagious diseases among domesticated animals, $25,000; to be immediately available.

Mr. CANNON, of Illinois. Does that give the Committee on Agriculture the privilege of reporting at any time?

The SPEAKER *pro tempore*. It does.

Mr. VANCE. I move that the House now adjourn.

Mr. HURD. I move that when the House adjourns to-day it be to meet on Tuesday next.

The SPEAKER *pro tempore*. Does the gentleman from North Carolina [Mr. VANCE] desire to have the question put upon his motion before the report of the Committee of the Whole has been disposed of?

Mr. VANCE. That is not my purpose. I will withdraw my motion to adjourn.

Mr. ATKINS. I ask the gentleman from Ohio [Mr. HURD] to withdraw his motion.

Mr. HURD. I will do so.

The recommendation of the Committee of the Whole was then adopted.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE CLERKS.

Mr. HARRIS, of Virginia. Before the gentleman from North Carolina [Mr. VANCE] renews his motion to adjourn, I ask consent to submit the ordinary resolution in regard to the employment of clerks by committees, so that the committees may proceed to organize.

The Clerk read as follows:

Resolved, That the Committee of Accounts be, and they are hereby, authorized and directed to designate the committees of this House which are entitled to clerks under the legislative, executive, and judicial appropriation bill making appropriations for the year ending June 30, 1880, and such other committees as in the judgment of said Committee of Accounts should be allowed clerks for the present Congress, to be paid out of the contingent fund of the House, and to report in part or in full without delay.

Mr. WARNER. That resolution can come in on Monday.

Mr. HARRIS, of Virginia. I hope the gentleman will not object to it.

Mr. WARNER. I will make no objection.

The resolution was adopted.

Mr. HARRIS, of Virginia, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT.

Mr. VANCE. I now renew the motion that the House adjourn.

Mr. HURD. I move that when the House adjourns to-day it be to meet on Tuesday next.

Mr. SPRINGER. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 105, nays 109, not voting 72; as follows:

YEAS—105.

Aldrich, William	Crapo,	Keifer,	Sapp,
Anderson,	Daggett,	Ketcham,	Shallenberger,
Bailey,	Davis, George R.	Lapham,	Sherwin,
Baker,	Deering,	Lindsey,	Smith, A. Herr
Barber,	Deuster,	Loring,	Stone,
Bayne,	Dunnell,	Marsh,	Talbott,
Belford,	Dwight,	McCoid,	Townsend, Amos
Bicknell,	Farr,	McCook,	Tyler,
Blake,	Ferdon,	McGowan,	Updegraff, J. T.
Blount,	Field,	Monroe,	Updegraff, Thomas
Bowman,	Frye,	Morse,	Urner,
Boyd,	Godshalk,	Neal,	Valentine,
Brewer,	Hall,	Newberry,	Van Aernam,
Briggs,	Hammond, John	Norcross,	Van Voorhis,
Brigham,	Hammond, N. J.	O'Neill,	Voorhis,
Browne,	Haskell,	Orth,	Wait,
Burrows,	Hawk,	Osmer,	Ward,
Cannon,	Hawley,	Pierce,	Washburn,
Carpenter,	Hayes,	Pound,	White,
Caswell,	Hazelton,	Prescott,	Wilber,
Claflin,	Henderson,	Price,	Williams, C. G.
Clark, Rush	Houk,	Reed,	Willits,
Clymer,	Humphrey,	Richardson, D. P.	Wood, Walter A.
Conger,	Hurd,	Robeson,	Young, Thomas L.
Cook,	James,	Robinson,	
Covert,	Johnston,	Russell, William A.	
Cowgill,	Jorgensen,	Ryan, Thomas	

NAYS—109.

Aiken,	Ellis,	Ladd,	Smith, Hezekiah B.
Armfield,	Evins,	Lewis,	Sparks,
Atherton,	Ewing,	Lowe,	Speer,
Atkins,	Felton,	Manning,	Springer,
Beale,	Finley,	Martin, Benj. F.	Steele,
Blackburn,	Ford,	McKenzie,	Stephens,
Bright,	Forney,	McMillin,	Stevenson,
Buckner,	Forsythe,	Money,	Taylor,
Cabell,	Frost,	Muldrow,	Thompson,
Caldwell,	Geddes,	Murch,	Tillman,
Carlisle,	Goode,	Myers,	Townshend, R. W.
Chalmers,	Gunter,	New,	Tucker,
Clardy,	Harris, John T.	Nicholls,	Turner, Oscar
Clark, John B., jr.	Hatch,	Persons,	Turner, Thomas
Cobb,	Henkle,	Phelps,	Vance,
Coffroth,	Henry,	Phister,	Waddill,
Colerick,	Herbert,	Reagan,	Warner,
Converse,	Herndon,	Richardson, John S.	Weaver,
Cox,	Hill,	Richmond,	Wellborn,
Cravens,	Hooker,	Russell, Daniel L.	Williams, Thomas
Culberson,	Hostetler,	Samford,	Willis,
Davidson,	House,	Sawyer,	Wilson,
Davis, Lowndes H.	Hull,	Scales,	Wise,
De La Matyr,	Hunton,	Shelley,	Wright,
Dibrell,	Jones,	Simonton,	Young, Casey.
Dickey,	Kelley,	Singleton, James W.	
Dunn,	Kimmel,	Singleton, O. R.	
Elam,	King,	Slemons,	

NOT VOTING—72.

Acklen,	Dick,	Klotz,	O'Brien,
Aldrich, Nelson W.	Einstein,	Knott,	O'Connor,
Bachman,	Errett,	Lay,	O'Reilly,
Ballou,	Fisher,	Le Fevre,	Overton,
Barlow,	Fort,	Lounsbery,	Poehler,
Beltzhoover,	Garfield,	Martin, Edward L.	Rice,
Bingham,	Gibson,	Martin, Joseph J.	Robertson,
Bland,	Gillette,	Mason,	Ross,
Bliss,	Harmer,	McKinley,	Rothwell,
Bouck,	Harris, Benj. W.	McLane,	Ryon, John W.
Bragg,	Heilman,	McMahon,	Smith, William E.
Butterworth,	Hiscock,	Miles,	Starin,
Calkins,	Horr,	Miller,	Thomas,
Camp,	Hubbell,	Mills,	Wells,
Chittenden,	Joyce,	Mitchell,	Whiteaker,
Clark, Alvah A.	Kenna,	Morrison,	Whitthorne,
Crowley,	Killinger,	Morton,	Wood, Fernando
Davis, Joseph J.	Kitchin,	Muller,	Yocum.

So the motion was not agreed to.

During the roll-call the following announcements were made:

Mr. WEAVER. My colleague, Mr. GILLETTE, is absent on account of sickness.

Mr. SCALES. My colleague from North Carolina, Mr. DAVIS, is absent by leave. He is paired with the gentleman from New York, Mr. CHITTENDEN.

Mr. MARTIN, of West Virginia. My colleague, Mr. KENNA, is paired with the gentleman from Pennsylvania, Mr. OVERTON. Mr. KENNA, if present, would vote "no."

Mr. STEELE. My colleague, Mr. KITCHIN, who is paired with my colleague, Mr. MARTIN, would, if present, vote "no."

Mr. BRAGG. I am paired with the gentleman from New York, Mr. HISCOCK. If he were present, he would vote "ay," and I should vote "no." My colleague, Mr. BOUCK, is paired with the gentleman from Michigan, Mr. HORR. Mr. BOUCK, if present, would vote "no."

Mr. CLARK, of Missouri. My colleague, Mr. LAY, is paired with the gentleman from Pennsylvania, Mr. DICK. The gentleman from Ohio, Mr. MCMAHON, is paired with the gentleman from Rhode Island, Mr. BALLOU.

Mr. COX. My colleagues, Mr. MULLER and Mr. CAMP, are paired.

Mr. COFFROTH. My colleague, Mr. BACHMAN, is paired with the gentleman from New York, Mr. MASON. My colleague, Mr. RYON, is paired with my colleague, Mr. MITCHELL. Mr. RYON and Mr. BACHMAN would vote "no."

Mr. MILLS. I am paired with the gentleman from Massachusetts, Mr. RICE. If present, he would vote "ay," while I should vote "no."

Mr. KNOTT. I am paired with the gentleman from Pennsylvania, Mr. BINGHAM, who, if present, would vote "ay," while I should vote "no."

Mr. AIKEN. My colleague, Mr. O'CONNOR, is absent by leave of the House.

Mr. CLYMER. My colleagues, Mr. KLOTZ and Mr. HARMER, are paired. Mr. KLOTZ would vote "no."

Mr. COOK. My colleague from Georgia, Mr. SMITH, is absent by leave of the House.

Mr. ORTH. My colleague, Mr. CALKINS, is absent on account of sickness.

Mr. MCKINLEY. I am paired with the gentleman from Pennsylvania, Mr. RANDALL. If he were present, I should vote in the affirmative.

Mr. PRICE. The gentleman from North Carolina, Mr. DAVIS, is paired with the gentleman from New York, Mr. CHITTENDEN.

Mr. HENDERSON. The gentleman from New York, Mr. MASON, is paired with the gentleman from Pennsylvania, Mr. BACHMAN.

Mr. WHITTHORNE. I am paired with the gentleman from Massachusetts, Mr. HARRIS.

Mr. DEERING. The gentleman from Vermont, Mr. JOYCE, is detained at his home by sickness.

The result of the vote was announced as above stated.

Mr. HOOKER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. LAY, indefinitely, on account of sickness;

To Mr. MARTIN, of West Virginia, for three days, on account of important business;

To Mr. WILBER, for one week, on account of important business; and

To Mr. KLOTZ, for one week, on account of important business.

YELLOW FEVER ON THE UNITED STATES STEAMER PLYMOUTH.

The SPEAKER *pro tempore* laid before the House a communication from the Secretary of the Navy in reply to a resolution of the House of Representatives in relation to the breaking out of yellow fever on the United States steamer Plymouth; which was referred to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, and ordered to be printed.

ADJOURNMENT.

The SPEAKER *pro tempore*. The question now recurs on the motion of the gentleman from North Carolina [Mr. VANCE] that the House adjourn.

Mr. WHITE. I move that when the House adjourns it be to meet at half past eleven o'clock a. m. on Tuesday next.

The SPEAKER *pro tempore*. The motion of the gentleman from Pennsylvania [Mr. WHITE] is in the nature of a proposition to take a recess, and is not in order pending a motion to adjourn.

Mr. MORSE. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 91, not voting 82; as follows:

YEAS—113.

Aiken,	Dickey,	Kelley,	Smith, Hezekiah B.
Armfield,	Dunn,	Kimmel,	Sparks,
Atherton,	Elam,	Ladd,	Speer,
Atkins,	Ellis,	Lowe,	Springer,
Beale,	Evins,	Manning,	Steele,
Bicknell,	Ewing,	Martin, Benj. F.	Stephens,
Blackburn,	Felton,	McCoid,	Stevenson,
Bright,	Finley,	McKenzie,	Talbott,
Buckner,	Ford,	McLane,	Taylor,
Cabell,	Forney,	McMillin,	Thompson,
Caldwell,	Forsythe,	Money,	Tillman,
Carlisle,	Frost,	Morrison,	Townshend, R. W.
Chalmers,	Geddes,	Muldrow,	Tucker,
Clardy,	Goode,	Murch,	Turner, Oscar
Clark, John B., jr.	Gunter,	Myers,	Turner, Thomas
Clymer,	Hammond, N. J.	New,	Vance,
Cobb,	Harris, John T.	Phelps,	Waddill,
Coffroth,	Hatch,	Phister,	Warner,
Colerick,	Henkle,	Reagan,	Weaver,
Converse,	Henry,	Richardson, John S.	Wellborn,
Cook,	Herbert,	Richmond,	Williams, Thomas
Cox,	Herndon,	Russell, Daniel L.	Willis,
Cravens,	Hill,	Samford,	Wilson,
Culberson,	Hooker,	Sawyer,	Wise,
Davidson,	Hostetler,	Scales,	Wright,
Davis, Lowndes H.	House,	Shelley,	Young, Casey.
De La Matyr,	Hull,	Simonton,	
Deuster,	Hunton,	Singleton, James W.	
Dibrell,	Jones,	Singleton, O. R.	

NAYS—91.

Aldrich, William	Dunnell,	Lapham,	Sapp,
Anderson,	Dwight,	Lindsey,	Shallenberger,
Bailey,	Farr,	Loring,	Sherwin,
Baker,	Ferdon,	Marsh,	Smith, A. Herr
Barber,	Field,	McCook,	Stone,
Barlow,	Fort,	McGowan,	Townsend, Amos
Bayne,	Frye,	Monroe,	Tyler,
Blake,	Godshalk,	Morse,	Updegraff, J. T.
Bowman,	Hall,	Newberry,	Updegraff, Thomas
Boyd,	Hammond, John	Norcross,	Urner,
Brewer,	Haskell,	O'Neill,	Valentine,
Briggs,	Hawk,	Osmer,	Van Aernam,
Brigham,	Hawley,	Pierce,	Van Voorhis,
Cannon,	Hayes,	Poehler,	Voorhis,
Carpenter,	Hazelton,	Pound,	Wait,
Caswell,	Henderson,	Prescott,	Ward,
Claflin,	Houk,	Price,	Washburn,
Clark, Rush	Humphrey,	Reed,	White,
Conger,	Hurd,	Richardson, D. P.	Wilber,
Covert,	James,	Robeson,	Williams, C. G.
Crapo,	Jorgensen,	Robinson,	Willits,
Daggett,	Keifer,	Russell, William A.	Young, Thomas L.
Davis, George R.	Ketcham,	Ryan, Thomas	

NOT VOTING—82.

Acklen,	Davis, Joseph J.	Klotz,	O'Reilly,
Aldrich, Nelson W.	Deering,	Knott,	Orth,
Bachman,	Dick,	Lay,	Overton,
Ballou,	Einstein,	Le Fevre,	Persons,
Belford,	Errett,	Lewis,	Rice,
Beltzhoover,	Fisher,	Lounsbery,	Robertson,
Bingham,	Garfield,	Martin, Edward L.	Ross,
Bland,	Gibson,	Martin, Joseph J.	Rothwell,
Bliss,	Gillette,	Mason,	Ryon, John W.
Blount,	Harmer,	McKinley,	Slemons,
Bouck,	Harris, Benj. W.	McMahon,	Smith, William E.
Bragg,	Heilman,	Miles,	Starin,
Browne,	Hiscock,	Miller,	Thomas,
Burrows,	Horr,	Mills,	Wells,
Butterworth,	Hubbell,	Mitchell,	Whiteaker,
Calkins,	Johnston,	Morton,	Whitthorne,
Camp,	Joyce,	Muller,	Wood, Fernando
Chittenden,	Kenna,	Neal,	Wood, Walter A.
Clark, Alvah A.	Killinger,	Nicholls,	Yocum.
Cowgill,	King,	O'Brien,	
Crowley,	Kitchin,	O'Connor,	

So the motion to adjourn was agreed to.

During the call of the roll the following announcements were made

Mr. BRAGG. I am paired with the gentleman from New York, Mr HISCOCK. If he were present, he would vote "no" and I should vote "ay." My colleague, Mr. BOUCK, is paired with Mr. HORR, of Michigan. Mr. BOUCK would vote "ay."

Mr. MILLS. I am paired with Mr. RICE, of Massachusetts. If he were present, I should vote "ay."

Mr. MARTIN. My colleague from West Virginia, Mr. KENNA, is paired with Mr. OVERTON, of Pennsylvania. If present, Mr. KENNA would vote "ay."

Mr. CLARK, of Missouri. The gentleman from Ohio, Mr. MCMAHON, is paired with the gentleman from Rhode Island, Mr. BALLOU. Mr. MCMAHON, if present, would vote "ay."

Mr. COFFROTH. My colleague from Pennsylvania, Mr. BACHMAN, is paired with the gentleman from New York, Mr. MASON. My colleague, Mr. RYON, is paired with my other colleague, Mr. MITCHELL.

Mr. CLYMER. My colleagues from Pennsylvania, Mr. KLOTZ and Mr. HARMER, are paired. Mr. KLOTZ would vote "ay" and Mr. HARMER "no."

Mr. WHITTHORNE. I am paired with Mr. HARRIS, of Massachusetts.

Mr. WEAVER. My colleague from Iowa, Mr. GILLETTE, is absent on account of sickness.

Mr. BAYNE. My colleagues from Pennsylvania, Mr. RYON and Mr MITCHELL, are paired. If present, Mr. MITCHELL would vote "no."

Mr. MCKINLEY. I am paired with Mr. RANDALL, of Pennsylvania.

Mr. O'NEILL. My colleague from Pennsylvania, Mr. BINGHAM, is paired with Mr. KNOTT, of Kentucky. Mr. BINGHAM, if present, would vote "no."

Mr. WHITE. My colleague from Pennsylvania, Mr. DICK, is paired with the gentleman from Missouri, Mr. LAY.

The result of the vote was then announced as above recorded.

And accordingly (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BICKNELL: Papers relating to the claim of James G. Harrison—to the Committtee of Claims.

By Mr. BLOUNT: Papers relating to the claim of the city of Macon, Georgia—to the same committee.

By Mr. COBB: The petition of C. R. Faulkner, for compensation for services rendered in the Doorkeeper's department, House of Representatives, Forty-fifth Congress—to the Committee of Accounts.

By Mr. DUNNELL: The petition of Equity Grange, Winona County, Minnesota, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. FINLEY: The petition of John Parker, for a pension—to the Committee on Invalid Pensions.

By Mr. GEDDES: The petition of C. F. Voorhes and others, that a pension be granted Mary Lindsey—to the same committee.

By Mr. GOODE: The petition of Absalom Kerby, passed assistant engineer, United States Navy, for the pay of his present grade from the 11th of October, 1866, the date from which he takes rank—to the Committee on Naval Affairs.

By Mr. HULL: The petition of members of Grange 123, of Orange County, Florida, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of citizens of Orange County, Florida, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McGOWAN: Resolutions of the Legislature of Michigan, asking for an appropriation for the establishment of a light-house at the mouth of the Manistee River, on the north shore of Lake Michigan—to the Committee on Commerce.

By Mr. PIERCE: The petition of sailors and soldiers of the Mexican war, for relief—to the Committee on Invalid Pensions.

By Mr. REAGAN: The petition of members of Social Point Grange, Panola County, Texas, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. RUSSELL, of North Carolina: Papers relating to the claim of G. W. Norwood—to the Committee of Claims.

Also, papers relating to the war claim of F. P. Haywood—to the Committee on War Claims.

By Mr. STEPHENS: Memorial of the American Philological Association of the United States, signed by the officers and 130 other members of the association, representatives of Harvard and fifty-one other leading universities and colleges of the United States, that a commission be appointed by Congress to examine and report how far changes and amendments in the orthography of the English language, if any, may be wisely introduced into the public documents and accepted in the examinations for the civil service—to the Committee on Education and Labor.

By Mr. VANCE: Papers relating to the claim of J. C. Camp—to the Committee of Ways and Means.

By Mr. WILLITS: Resolutions of the Legislature of Michigan, asking Congress to establish a light-house at the mouth of Manistee River—to the Committee on Commerce.

IN SENATE.

MONDAY, *April* 14, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered.

PETITIONS AND MEMORIALS.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the establishment of a light-house at the mouth of the Manistee River, in that State; which was referred to the Committee on Commerce.

Mr. CAMERON, of Pennsylvania, presented a resolution of the Dauphin County Historical Society, of Pennsylvania, in favor of an appropriation by Congress for the purpose of purchasing from G. W. Harris, esq., the original Maclay Journal and its publication by the Government; which was referred to the Committee on the Library.

He also presented resolutions of the Chamber of Commerce of Pittsburgh, in favor of legislation by Congress looking to the establishment of just and equal rates of transportation by railroad companies and the prevention of illegal discrimination and oppressive monopolies in the present railway system; which were referred to the Committee on Commerce.

Mr. BECK presented the petition of Crafts J. Wright, late colonel Thirteenth Regiment Missouri Volunteers, praying to be allowed a pension; which, with the papers on the files of the Senate relating to the case, was referred to the Committee on Pensions.

Mr. CARPENTER presented the petition of Olympia Brown and others, citizens of Racine, Wisconsin, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

REPORT ON THE TRANSIT OF VENUS.

Mr. ANTHONY. The Committee on Printing, to which was referred a resolution to print the report of the observations of the transit of Venus, have instructed me to report it back without amendment, and recommend its passage. I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

Resolved, That the report on the observations of the transit of Venus made under the direction of the Navy Department in December, 1874, be printed for the use of the Senate.

The resolution was agreed to.

Mr. ANTHONY, from the Committee on Printing, reported the following concurrent resolution, which was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 3,500 additional copies of the report on the observations of the transit of Venus made under the direction of the Navy Department in December, 1874; of which 1,000 copies shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 500 copies for the use of the Navy Department: *Provided*, That all illustrations for the said volume shall be paid for from the appropriation already made for that purpose, so far as the same may be available.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 400) to confirm certain land claims in the State of Missouri, and for other purposes; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. COCKRELL. I also ask leave to introduce a bill for the relief of Peter Meagher, a soldier in the Soldiers' Home here.

By unanimous consent, leave was granted to introduce a bill (S. No. 401) for the relief of Peter Meagher; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 402) to authorize the President to restore Edwin R. Parks to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 403) to provide for the sale of certain public lands in the county of Knox, and State of Nebraska, and for other purposes; which was read twice by its title.

Mr. PADDOCK. As the bill relates to lands which are at present occupied by the Santee tribe of Indians, I move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. CARPENTER. In view of the question that arose in regard to the election of a Senator in New Hampshire, I ask unanimous consent to introduce a bill for reference to the Committee on Privileges and Elections.

By unanimous consent, leave was granted to introduce a bill (S. No. 404) to amend section 14, chapter 1, of title 2, of the Revised Statutes; which was read twice by its title, and referred to the Committee on Privileges and Elections.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 405) to incorporate the Suburban Railway Company of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 406) for the relief of Mrs. Mary T. Duncan; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Claims.

Mr. HILL, of Georgia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) to refund to the State of Georgia certain money expended by said State for the common defense in 1777; which was read twice by its title, and referred to the Committee on Revolutionary Claims.

Mr. VANCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 408) to amend so much of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes," approved March 3, 1877, as provides for paying mail contractors in the Southern States before the rebellion; which was read twice by its title, and referred to the Committee on Appropriations.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 409) for the relief of James O. Robertson and Garland S. Ferguson; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 410) for the relief of the Mobile Marine Dock Company; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 411) for the relief of Charles W. Rogers; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 412) granting a pension to John H. Ferrell; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 413) for the relief of L. S. Ensel; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 414) for the relief of the heirs of Philip Francis Renault; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 415) for the payment of certain Indian war bonds of the State of California; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also (by request) asked, and by unanimous consent obtained,

leave to introduce a bill (S. No. 416) to establish the judicial district of the Indian Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. DAVIS, of Illinois. A bill to establish a judicial district whether in a Territory or in a State ought to go to the Committee on the Judiciary.

The VICE-PRESIDENT. Does the Senator make that motion?

Mr. DAVIS, of Illinois. Yes, sir, I think it ought to go to that committee.

Mr. INGALLS. It would be more agreeable to me and to the people of my State and to those who are particularly interested in the matter in the Indian Teritory if the bill should take the reference that I suggested.

Mr. DAVIS, of Illinois. It provides for the creation of a United States court in a Territory. It strikes me that it should be referred to the Committee on the Judiciary.

The VICE-PRESIDENT. Shall the order by which this bill was referred to the Committee on Indian Affairs be reconsidered?

The motion to reconsider was not agreed to.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 417) for the relief of John C. Comfort; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 418) to relieve certain ships and vessels from compulsory pilot fees; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 419) for the relief of the legal representatives of Daniel Bedinger, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 420) for the relief of George H. Plant; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 421) granting pensions to the widow and minor children of Michael Meenan, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 21) proposing an amendment to the Constitution in relation to appropriations; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORGAN, it was

Ordered, That the papers in the case of Claude H. Mastin, of Mobile, Alabama, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. PADDOCK, it was

Ordered, That William Grosch have leave to withdraw his petition and papers from the files of the Senate.

On motion of Mr. ROLLINS, it was

Ordered, That Frank Jones be allowed to withdraw his memorial, relating to taxes erroneously paid, with accompanying papers, from the files of the Senate.

Ordered, That the papers in the case of Sidney P. Luther be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. GROOME, it was

Ordered, That the papers accompanying a House bill for the relief of B. S. James be taken from the files of the Senate and referred to the Committee on Post-Offices and Post-Roads.

On motion of Mr. HEREFORD, it was

Ordered, That the papers of Henry Williams, praying for a pension, be taken from the files and referred to the Committee on Pensions.

Ordered, That the papers in the case of Henry Williams for a military land warrant be taken from the files and referred to the Committee on Private Land Claims.

Ordered, That the papers in the case of Henry Williams for back pay and bounty be taken from the files and referred to the Committee on Military Affairs.

On motion of Mr. CONKLING, it was

Ordered, That the papers in the claim of Francis Passeger be taken from the files of the Senate and referred to the Committee on Claims.

Ordered, That the petition of Thomas W. Phelps be taken from the files of the Senate and referred to the Committee on Pensions.

CLAIMS AGAINST FOREIGN GOVERNMENTS.

Mr. DAVIS, of Illinois, submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending sections 5438 and 5440 of the Revised Statutes as to provide for the punishment of persons presenting or prosecuting under the sanction of the United States false or fraudulent claims against a foreign government.

WINNEBAGO INDIANS OF WISCONSIN.

The VICE-PRESIDENT. Is there further business for the morning hour? If not the Senate proceeds to the consideration of its unfinished business, being the bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. CAMERON, of Wisconsin. I understand the Senators who expect to address the Senate to-day on that bill prefer not to go on before one o'clock. That being so I ask that No. 3 in the Calendar of general orders be taken up.

The VICE-PRESIDENT. It will be reported.

The Chief Clerk read the bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits, and to promote their civilization.

Mr. WITHERS. I did not hear the proposition made by the Senator from Wisconsin.

The VICE-PRESIDENT. The Chair will state the proposition. It is that the Senate now proceed to the consideration of the bill just reported, without prejudice to the consideration of the unfinished business at one o'clock.

Mr. WITHERS. I wish to state that under the instruction of the Committee on Appropriations I feel it my duty to resist any effort to displace the Army bill, even temporarily, by any other bill. It has been time and again asserted that it was a matter of the most vital moment that the appropriation bills should be passed as promptly as possible; and in order to facilitate their passage I must insist on their retaining their position and that they shall be considered without any further delay.

Mr. THURMAN. I wish to know if the bill which the Senator from Wisconsin wishes to take up is a bill reported by a committee?

Mr. CAMERON, of Wisconsin. The bill was introduced during the last session of Congress and was reported by the Committee on Indian Affairs favorably at that time. It was not acted upon by the Senate. I introduced the bill again during this session. The bill was laid on the table at my request, with the understanding that it might be taken up at some time when it was convenient for the Senate in order that I might submit some remarks upon it. I am not anxious to go on this morning. I understand that a Senator who expects to address the Senate to-day on the Army bill does not wish to go on until one o'clock. If any Senator desires to address the Senate at this time on the Army bill, I certainly shall give way at once.

Mr. THURMAN. I have no objection to the bill being taken up for the purpose of the Senate being addressed by the Senator from Wisconsin, but I must insist that the bill shall go to a committee.

Mr. CAMERON, of Wisconsin. I intend to move its reference to the Committee on Indian Affairs.

Mr. THURMAN. I am not entirely unfamiliar with that subject. The bill presents some very grave questions indeed, questions as to the proper interpretation of our treaty with the Winnebagoes, and also some questions in regard to the expenditure of the money we voted some time since to take away about a thousand citizens of the State of Wisconsin and transport them west of the Mississippi against their consent. I shall insist that the bill go to the Committee on Indian Affairs whenever it is taken up.

Mr. CAMERON, of Wisconsin. I shall agree to that, certainly.

The VICE-PRESIDENT. Does the Senator from Wisconsin withdraw his motion?

Mr. CAMERON, of Wisconsin. If there is no objection, I will proceed.

The VICE-PRESIDENT. The Chair hears no objection that the Senator from Wisconsin may proceed until one o'clock.

Mr. CAMERON, of Wisconsin. Mr. President, this bill was introduced by me in the last Congress after consultation with the Commissioner of Indian Affairs, and it meets with his approval. Late in the last session it was favorably reported from the Committee on Indian Affairs, but for want of time no action was had upon it in the Senate.

The bill is drawn with a preamble for the purpose in part of setting forth the facts out of which the necessity for the legislation proposed arises. Section 15 of the act entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1875, and prior years, and for other purposes," approved March 3, 1875, reads as follows:

SEC. 15. That any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and the acts amendatory thereof, except that the provisions of the eighth section of the said act shall not be held to apply to entries made under this act: *Provided, however*, That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: *Provided*, That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

Two hundred and thirty-six heads of families of the Wisconsin Winnebagoes have abandoned their tribal relations and have already taken homesteads in that State under this act. Many more have signified their desire and purpose to abandon their tribal relations, and adopt the habits and customs of civilized people and avail themselves of the benefits of this act, but are unable to do so on account of their extreme poverty. These Indians who have thus abandoned their ancient tribal relations, broken away from the customs and traditions of their ancestors, taken homesteads and become cultivators of the soil, now desire among other things to secure the payment to them of certain funds in the Treasury of the United States to their credit. They also desire that an account be stated, adjusted, and settled by the Interior Department between themselves and that portion of the tribe now residing on the reservation in the State of Nebraska. They desire also that hereafter in the distribution of the annuities of the

tribe a *pro rata* division shall be made to that portion of the tribe in Wisconsin and that portion in Nebraska.

In order to arrive at a correct understanding of the matter, and with a view of securing what I deem necessary legislation in regard to these Indians, I desire to lay before the Senate that portion of their tribal history connected with the funds of the Wisconsin band and of the tribe in general.

The Winnebagoes were formerly a very powerful people. By a treaty concluded between the United States and the Winnebagoes and other tribes at Prairie du Chien, on the 19th day of August, 1825, the boundaries of the Winnebago country were defined and agreed upon. The boundaries fixed by this treaty embraced one-half of the present State of Wisconsin and nearly one-third of Illinois. A large portion of the Winnebago lands in Wisconsin were ceded to the United States by a treaty made September 15, 1832. The United States in part payment for the lands thus acquired ceded to the Indians an extensive tract of country west of the Mississippi River, then known as the "neutral land," and situate between the country of the Sioux on the north and the Sac and Fox tribes of Indians on the south.

By various other treaties on and prior to June 15, 1838, the Winnebagoes conveyed to the United States all of their lands east of the Mississippi River. By the treaty of June 15, 1838, the United States reassured to the Winnebagoes that tract of country west of the Mississippi known as the "neutral land," and to which a claim in their behalf attached under the treaty of September 15, 1832.

By a subsequent treaty contracted October 13, 1846, the title of the Winnebagoes to the "neutral lands" was extinguished, and in part consideration thereof they were given a tract of land on the Saint Peter's River in Minnesota, estimated to contain 897,900 acres. Their title to this magnificent tract was extinguished by the treaty of February 27, 1855, and in full payment for the same the United States agreed to give them $70,000, and to grant them as a permanent home a tract of land equal to eighteen miles square on the Blue Earth River, in one of the most beautiful and fertile regions in Minnesota. When the Winnebagoes agreed to the treaty of 1855 they were assured by the representatives of the Government—and they in their simplicity believed—that their wanderings were over and that they had finally reached the promised land, which was henceforth to be to them a haven of rest. They moved on to the Blue Earth reservation, erected dwellings, and opened farms; but in this their new home they were soon pressed upon all sides by the whites, who eagerly clamored for these rich Indian lands. So urgent was the desire of the white settlers to possess these lands that the Indians were actually coerced into making the treaty of April 15, 1859. By this treaty it was provided that, in order to aid in the civilization of the Indians, townships 106 and 107, in ranges 24 and 25, and the two strips of land immediately adjoining on the east and north, within their reservation, should be allotted in severalty to the members of the tribe, and that the remainder of their lands should be sold and the proceeds applied to their benefit. Under these provisions allotments in severalty were made in 1861 and certificates therefor issued to the Indians entitled to the same. At the outbreak of the late civil war a large number of Winnebagoes enlisted in the Army and served faithfully and efficiently until honorably discharged or killed.

During the Sioux outbreak of 1862 the Winnebagoes maintained the most friendly relations with the whites. The lands occupied by these Indians were very rich and valuable and very desirably located for settlement. The Sioux outrages had the effect of strongly exasperating the whites in Minnesota, not only against the Sioux but against Indians in general, and they did not stop to inquire very closely whether they were hostile or friendly. Urged on by these motives and feelings, the white settlers commenced a series of encroachments, wrongs, and outrages against the Winnebagoes, which finally rendered their condition so unsafe that the Government thought it necessary to remove the tribe from the State. An act was accordingly passed by Congress on the 21st of February, 1863, (12 Statutes at Large, page 658,) providing for their removal to a reservation beyond the limits of any State. A reservation was selected at Usher's Landing, on the Missouri River, in Dakota, to which the Indians were removed in the summer of 1863. The consent of the Indians to this legislation was not obtained, nor was it asked. The new reservation in Dakota was not selected by the Indians, but by the United States. On account of the proximity of this new reservation to the Sioux, who were hostile to the Winnebagoes, and for other causes, the Winnebagoes became greatly dissatisfied, and large numbers of them returned to the States, about one thousand of whom settled in Wisconsin. The remainder of the tribe were gathered together and settled upon a reservation in Nebraska, where they now are.

Arising from these various treaties the Winnebagoes as a tribe have a fund of $883,249.58 in the Treasury of the United States, the income from which, at 5 per cent. interest per annum, is by treaty provision to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864, (13 Stats., page 172,) it was provided, and I think very justly, "that the proportion of annuities to which the stray bands of Winnebago Indians would be entitled if on their reservation should be retained in the Treasury to their credit from year to year, to be paid to them when they shall reunite with their tribe, or to be used by the Secretary of the Interior * * * in settling and subsisting them on any other reservation which might thereafter be provided for them."

This statute is mandatory. It directs that the proportion of annuities to which these stray bands would be entitled if they were on their reservation should be retained in the Treasury to the credit of these stray bands; but for some reason, not known to the present Commissioner of Indian Affairs, no steps were taken under this act to create a reserve fund for these stray bands, all of whom are in Wisconsin, until 1876, when by order of the then Secretary of the Interior, the present Senator from Michigan, [Mr. CHANDLER,] their estimated proportion of $\frac{1000}{2531}$ of the tribal annuities was, and has since been, retained in the Treasury for them. This reserve fund at the present time amounts to $48,249.17, and it is now in the Treasury awaiting directory action by Congress. The total annuities of the tribe from 1864, when the Wisconsin bands separated themselves from the remainder of the tribe, then on the reservation in Dakota, to 1875, both years inclusive, amount to $641,312.78, all of which, with the exception I will mention hereafter, has been paid to the Winnebagoes of Nebraska.

On the basis adopted by Secretary CHANDLER of $\frac{1000}{2531}$, the share of the Wisconsin band would have been $253,383.12.

In the years 1873 and 1874 about nine hundred of the Wisconsin Winnebagoes were removed by the United States from their homes in Wisconsin to the tribal reservation in Nebraska. They were very much opposed to being removed, but the Government sent a detachment of soldiers to Wisconsin to aid in effecting the removal. The Indians were gathered together by force and compelled to go to Nebraska. The Wisconsin Winnebagoes were very much dissatisfied with their new home in Nebraska, and within a few months all of them except two hundred and four, together with a considerable number of the Nebraska Indians, returned to Wisconsin, where they now are. The number of Winnebagoes now in Wisconsin is about one thousand.

There was expended in the removal of the Wisconsin band to Nebraska, for their subsistence, and in the purchase of lands for them and making improvements thereon, the sum of $154,624.49, and there was retained to be expended in settling them on their lands in Nebraska the sum of $26,131.13; this latter sum, together with the sum of $30,868.87 paid out in the purchase of lands and $16,718.75 expended in the erection of houses, making a total of $73,718.75, has inured to the benefit of the Nebraska Winnebagoes.

Out of the sum of $253,385.12 to which the Wisconsin Winnebagoes are entitled under the act of 1864, they have had $107,036.87 which is properly chargeable against them, leaving a balance of $146,346.25 actually due to the Wisconsin band under the act of 1864, all of which, as I have already remarked, has been paid to the Winnebagoes in Nebraska.

The Wisconsin band ought not in equity and good conscience to be charged with the expense of their forced removal to Nebraska in 1873 and 1874; but the Interior Department insists upon it and I assent to it by the bill now under consideration. The Indians will assent to it also.

During the year 1872 $100,000 of the principal fund of the tribe was withdrawn from the Treasury and paid to the Winnebagoes in Nebraska. There is now in the Treasury to the credit of the tribe, accruing under treaty stipulations for the fiscal year 1873 and prior years, the sum of $40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the above payment of $100,000 made to the Nebraska portion of the tribe.

The apportionment of annuity moneys between the Nebraska and Wisconsin bands last year was as follows:

To the Nebraska Winnebagoes	$29,260 68
To the Wisconsin Winnebagoes	14,901 79

I think this proportion is unjust to the Wisconsin band, but it can only be corrected when an accurate census of the tribe has been taken, which I provide for in this bill.

It is only just toward the Wisconsin band that measures should be taken for the payment to them of the $48,249.17 now in the Treasury belonging to them, together with the sums heretofore mentioned by me in equalization of the payments to the two bands. This bill does not propose any reduction of the principal fund of the tribe; that is to remain intact.

It will be observed that the bill authorizes the Interior Department to withhold from the Nebraska Winnebagoes a certain proportion of their annuity moneys each year and pay the same to the Wisconsin band until the latter shall have been refunded the amount due them under the act of 1864. The justice of this provision must be apparent to every one who gives the subject any thought whatever.

The Nebraska band have had nearly a million dollars expended for their benefit in the last fourteen years; now justice ought to be done to their brothers of the Wisconsin band, and it can be done without serious detriment to the Nebraska band.

Under the provisions of this bill substantial justice will be done to both bands, and, as already remarked, the principal of the tribal fund will not be decreased.

From the best information I am able to obtain, I am of the opinion that two-thirds of the heads of families of the Wisconsin band have taken homesteads under the act of March 3, 1875, and believe that

nearly all of the remainder will soon avail themselves of the benefit of the homestead laws in the event that this bill becomes a law and they are thus provided with the necessary pecuniary means. The settlement of the Wisconsin band upon homesteads under the provisions of the act of 1875 is, in legal effect, a division of the tribe, necessitating a census of the same for the purpose of effecting a proper and equitable division in the future of the annuities between the two bands.

In conclusion, I will say a word in regard to the present condition of the Wisconsin Winnebagoes who have taken homesteads. Some time ago I received a memorial addressed to Congress and signed by about seventy-five of these Indians. They state in this memorial that they have abandoned their tribal relations and complied with the provisions of the act authorizing them to take and settle upon homesteads; and they ask Congress to assure to them their *pro rata* share of the income arising from the tribal fund. The homesteads taken by these memorialists are situate in Jackson County, Wisconsin, near the village of Black River Falls, and about sixty miles from my place of residence.

I have received numerous letters from leading citizens of Northwestern Wisconsin touching the condition and conduct of these Indians since they abandoned their tribal relations. Under date of November 13, 1877, Mr. Dudley J. Spaulding, of Black River Falls, who is a leading business man in that locality and a gentleman of the highest character, wrote me as follows:

> The settlement of Winnebago Indians near here is orderly and sober—more so than any equal number of white men that can be found. I have not heard of such a thing as stealing among them. Their principal men do not touch liquor at all, and do all they can to dissuade others from using it. I do not know exactly the number that have made improvements on their homesteads, but quite a good many have. They have also built themselves quite a good school-house, and have had three months of school this year. The number of persons in families taking homesteads is about four hundred. About one hundred homesteads have been taken by them in this county. I am informed that quite a number of homesteads have also been taken by them near Grand Rapids and Portage. These Indians are self-supporting—not beggars nor paupers.

Mr. John Parsons, of Black River Falls, who is now, and for many years past has been, postmaster at that village, and who is a man of the highest respectability, wrote me under date of December 6, 1877:

> Ninety-six Winnebagoes have taken homesteads in this county and about one hundred in adjoining counties. Of the ninety-six homesteads taken in this county fifty-one have log houses built on them. They have also built a school-house. These Indians are sober and industrious.

Hon. C. R. Johnson, also of Black River Falls, a prominent lawyer and a highly respectable and influential citizen, wrote to me on the 29th of November last:

> At the personal request of Winneshiek, an old-time chief of the Winnebagoes, I send you the following statement relative to the condition and prospects of that branch of the tribe settled in this county, and would state, to start with, that their tribal relations are done away with entirely; each family is a community by itself, and as a general thing they have assumed the style of dress used by the whites. Last summer a school was kept up among them from funds raised among themselves; another term of school is to commence in a few days.

It will be seen from these communications that these Indians are making an earnest effort to take care of themselves. They have made considerable progress, and have made it without any aid from the Government. They are equitably entitled to their *pro rata* share of the tribal fund. The object of this bill is to secure such equitable share to them.

Mr. PADDOCK. I should like to inquire of the Senator if this bill has been submitted to the chiefs and head men of the Nebraska tribes, and if he knows whether these provisions are satisfactory to them?

Mr. CAMERON, of Wisconsin. I am not aware that the bill has been submitted to them.

The VICE-PRESIDENT. The bill will be referred to the Committee on Indian Affairs.

ARMY APPROPRIATION BILL.

Mr. WITHERS. Regular order.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The VICE-PRESIDENT. The Secretary will proceed with the reading of the bill.

The Chief Clerk proceeded to read section 7 of the bill.

Mr. WITHERS. I will state that the sixth section was the section under consideration at the time of adjournment.

The VICE-PRESIDENT. The Chair understands there are no amendments pending to that section.

Mr. WITHERS. The Senator from Maine [Mr. BLAINE] offered an amendment, I thought, to the sixth section. I may be mistaken in that, however.

Mr. BLAINE. The amendment I submitted is to the sixth section. The arrangement understood in the committee, and somewhat I believe announced in the Senate, was that the Senator from Virginia [Mr. WITHERS] who has charge of the bill, after addressing the Senate would be followed by the Senator from Pennsylvania [Mr. WALLACE] and I was to follow him. That was the arrangement made I believe and handed to the Vice-President.

Mr. WITHERS. Of course it is not for me to say what the understanding of the Senator was or of the committee. The bill having been placed in my charge I have deemed it proper in the exercise of the discretion which is usually vested in the Senator occupying the position I do, to take such action as in my opinion would most facilitate the passage of the bill. Therefore I did not propose to inaugurate an extended and general political discussion upon the provisions of the Army bill, and I propose to do now with regard to the sixth section as I have done in regard to the preceding sections, that is, make any explanation which may be required or desired by Senators who wish and seek an explanation, and consider the bill purely in its business aspect.

Mr. BLAINE. Do I understand from the honorable Senator, then, that he is not going to debate the measure?

Mr. WITHERS. I am ready to go on with the bill and vote upon it without any further discussion, if it be desirable.

Mr. BLAINE. It is the intention, then, Mr. President, of the side of the Chamber represented by the Senator not to debate the bill?

Mr. WITHERS. The design is precisely as I have expressed it. The bill suits the Committee on Appropriations. They have reported it to the Senate and recommend its passage. They feel no desire to do more than to vote on the objections as they are presented, provided that course shall meet with the general wish of the Senate. At the same time I will say that we do not propose, so far as I am advised, to throw any obstruction or impediment in the way of a discussion if Senators desire to debate the bill.

Mr. BLAINE. The honorable Senator will do me the justice, however, to say that the arrangement was otherwise as between the members of the Committee on Appropriations, and that on Friday, when the Senate adjourned over, the Senator from Pennsylvania [Mr. WALLACE] was waiting impatiently to take the floor.

Mr. WITHERS. I cannot assent to the proposition that the Committee on Appropriations made any arrangement as to how this bill was to be considered. Individual members of that committee may have expressed a desire to address the Senate upon the subject, and possibly in a particular order, but the Committee on Appropriations certainly took no action in the premises.

Mr. BLAINE. Of course they took no action, but the understanding was spoken of and laid before the Vice-President, that the honorable Senator who has charge of the bill should first address the Senate if he chose, to be followed by the Senator from Pennsylvania on that side of the Chamber, and he in turn to be followed by myself. I had no information whatever until coming here this morning that the arrangement was changed.

I ask that the sixth section of the printed bill as it stands be reported.

The Chief Clerk read as follows:

> SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:
>
> "No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."
>
> And that section 5528 of the Revised Statutes be amended so as to read as follows:
>
> "Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

The VICE-PRESIDENT. Does the Senator from Maine regard his amendment as pending to the sixth section?

Mr. BLAINE. I will now offer it, to come in at the close of section 6. My remarks will not be especially directed to that amendment, but I will formally offer it now, to be added at the close of the section.

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. It is proposed to add at the end of section 6 the following:

> And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. BLAINE. Mr. President, the existing section of the Revised Statutes numbered 2002 reads thus:

> No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, *or to keep the peace at the polls.*

The object of the proposed section which has just been read at the Clerk's desk is to get rid of the eight closing words, namely, "or to keep the peace at the polls," and therefore the mode of legislation proposed in the Army bill now before the Senate is an unusual mode; it is an extraordinary mode. If you want to take off a single sentence at the end of a section in the Revised Statutes the ordinary way is to

strike out those words, but the mode chosen in this bill is to repeat and re-enact the whole section leaving those few words out. While I do not wish to be needlessly suspicious on a small point I am quite persuaded that this did not happen by accident but that it came by design. If I may so speak it came of cunning, the intent being to create the impression that whereas the republicans in the administration of the General Government had been using troops right and left, hither and thither, in every direction, as soon as the democrats got power they enacted this section. I can imagine democratic candidates for Congress all over the country reading this section to gaping and listening audiences as one of the first offsprings of democratic reform, whereas every word of it, every syllable of it, from its first to its last, is the enactment of a republican Congress.

I repeat that this unusual form presents a dishonest issue, whether so intended or not. It presents the issue that as soon as the democrats get possession of the Federal Government they intended to enact the clause which is thus embraced. The law was passed by a republican Congress in 1865. There were forty-six Senators sitting in this Chamber at the time, of whom only ten or at most eleven were democrats. The House of Representatives was overwhelmingly republican. We were in the midst of a war. The republican administration had a million or possibly twelve hundred thousand bayonets at its command. Thus circumstanced and thus surrounded, with the amplest possible power to interfere with elections had they so designed, with soldiers in every hamlet and county of the United States, the republican party themselves placed that provision on the statute-book, and Abraham Lincoln, their President, signed it.

I beg you to observe, Mr. President, that this is the first instance in the legislation of the United States in which any restrictive clause whatever was put upon the statute-book in regard to the use of troops at the polls. The republican party did it with the Senate and the House in their control. Abraham Lincoln signed it when he was Commander-in-Chief of an army larger than ever Napoleon Bonaparte had at his command. So much by way of correcting an ingenious and studied attempt at misrepresentation.

The alleged object is to strike out the few words that authorize the use of troops to keep peace at the polls. This country has been alarmed, I rather think indeed amused, at the great effort made to create a widespread impression that the republican party relies for its popular strength upon the use of the bayonet. This democratic Congress has attempted to give a bad name to this country throughout the civilized world and to give it on a false issue. They have raised an issue that has no foundation in fact, that is false in whole and detail, false in the charge, false in all the specifications. That impression sought to be created, as I say, not only throughout the North American continent but in Europe to-day, is that elections are attempted in this country to be controlled by the bayonet.

I denounce it here as a false issue. I am not at liberty to say that any gentleman making the issue knows it to be false; I hope he does not; but I am going to prove to him that it is false, and that there is not a solitary inch of solid earth on which to rest the foot of any man that makes that issue. I have in my hand an official transcript of the location and the number of all the troops of the United States east of Omaha. By "east of Omaha," I mean all the United States east of the Mississippi River and that belt of States that border the Mississippi River on the west, including forty-one million at least out of the forty-five million people that this country is supposed to contain to-day. In that magnificent area, I will not pretend to state its extent, but with forty-one million people, how many troops of the United States are there to-day? Would any Senator on the opposite side like to guess, or would he like to state how many men with muskets in their hands there are in the vast area I have named? There are two thousand seven hundred and ninety-seven! And not one more.

From the headwaters of the Mississippi River to the lakes, and down the great chain of lakes, and down the Saint Lawrence and down the valley of the Saint John and down the Saint Croix striking the Atlantic Ocean and following it down to Key West, around the Gulf, up to the mouth of the Mississippi again, a frontier of eight thousand miles either bordering on the ocean or upon foreign territory is guarded by these troops. Within this domain forty-five fortifications are manned and eleven arsenals protected. There are sixty troops to every million of people. In the South I have the entire number in each State. I believe the Senator from Delaware is alarmed, greatly alarmed about the overriding of the popular ballot by troops of the United States! In Delaware there is not a single armed man, not one. The United States has not even one soldier in the State.

The honorable Senator from West Virginia [Mr. HEREFORD] on Friday last lashed himself into a passion, or at least into a perspiration, over the wrongs of his State, trodden down by the iron heel of military despotism. There is not a solitary man of the United States uniformed on the soil of West Virginia, and there has not been for years.

In Maryland. I do not know whether my esteemed friend from Maryland [Mr. WHYTE] has been greatly alarmed or not; but at Fort McHenry, guarding the entrance to the beautiful harbor of his beautiful city, there are one hundred and ninety-two artillery-men located.

In Virginia there is a school of practice at Fortress Monroe. My honorable friend who has charge of this bill [Mr. WITHERS] knows very well, if he does not I will tell him, that outside of that school of practice at Fortress Monroe, which has two hundred and eighty-two men in it, there is not a Federal soldier on the soil of Virginia—not one.

North Carolina. Are the Senators from that State alarmed at the immediate and terrible prospect of being overrun by the Army of the United States? On the whole soil of North Carolina there are but thirty soldiers guarding a fort at the mouth of Cape Fear River—just thirty.

South Carolina. I do not see a Senator on the floor from that State. There are one hundred and twenty artillerymen guarding the approaches to Charleston Harbor and not another soldier on her soil.

Georgia. Does my gallant friend from Georgia [Mr. GORDON] who knows better than I the force and strength of military organization, the senior Senator, and the junior also—are both or either of those Senators alarmed at the presence of twenty-nine soldiers in Georgia? [Laughter.] There are just twenty-nine there.

Florida has one hundred and eighty-two at three separate posts, principally guarding the navy-yard near which my friend on the opposite side [Mr. JONES] lives.

Tennessee. Is the honorable Senator from Tennessee [Mr. BAILEY] alarmed at the progress of military despotism in his State. There is not a single Federal soldier on the soil of Tennessee—not one.

Kentucky. I see both the honorable Senators from Kentucky here. They have equal cause with Tennessee to be alarmed for there is not a Federal soldier in Kentucky,—not one!

Missouri. Not one.

Arkansas. Fifty-seven in Arkansas.

Alabama. I think my friend from Alabama [Mr. MORGAN] is greatly excited over this question, and in his State there are thirty-two Federal soldiers located at an arsenal of the United States.

Mississippi. The great State of Mississippi, that is in danger of being trodden under the iron hoof of military power, has not a Federal soldier on its soil.

Louisiana has two hundred and thirty-nine.

Texas, apart from the regiments that guard the frontier on the Rio Grande and the Indian frontier, has not one.

And the entire South has eleven hundred and fifty-five soldiers to intimidate, overrun, oppress, and destroy the liberties of fifteen million people! In the Southern States there are twelve hundred and three counties. If you distribute the soldiers there is not quite one for each county; and when I give the counties I give them from the census of 1870. If you distribute them territorially there is one for every seven hundred square miles of territory, so that if you make a territorial distribution, I would remind the honorable Senator from Delaware, if I saw him in his seat, that the quota for his State would be three, "one ragged sergeant and two abreast," as the old song has it. [Laughter.] That is the force ready to destroy the liberties of Delaware!

Mr. President, it was said, as the old maxim has it, that the soothsayers of Rome could not look each other in the face without smiling. There are not two democratic Senators on that side who can go into the cloak-room and look each other in the face without smiling at this talk, or more appropriately I should say without blushing, the whole thing is such a prodigious and absolute farce, such a miserably manufactured false issue, such a pretense without the slightest foundation in the world, and talked about most and denounced the loudest in States that have not and have not had a single Federal soldier. In New England we have three hundred and eighty soldiers. Throughout the South it does not run quite seventy to the million people. In New England we have absolutely one hundred and twenty soldiers to the million. New England is far more overrun to-day by the Federal soldier, immensely more than the whole South is. I never heard anybody complain about it in New England or express any very great fear of their liberties being endangered by the presence of a handful of troops.

As I have said, the tendency of this talk is to give us a bad name in Europe. Republican institutions are looked upon there with jealousy. Every misrepresentation, every slander is taken up and exaggerated and talked about to our discredit, and the democratic party of the country to-day stand indicted, and I here indict them, for public slander of their country, creating the impression in the civilized world that we are governed by a ruthless military despotism. I wonder how amazing it would be to any man in Europe, familiar as Europeans are with great armies, if he were told that over a territory larger than France and Spain and Portugal and Great Britain and Holland and Belgium and the German Empire all combined, there were but eleven hundred and fifty-five soldiers! That is all this democratic howl, this mad cry, this false issue, this absurd talk is based on—the presence of eleven hundred and fifty-five soldiers on eight hundred and fifty thousand square miles of territory, not double the number of the democratic police in the city of Baltimore, not a third of the police in the city of New York, not double the democratic police in the city of New Orleans. I repeat, the number indicts them, it stamps the whole cry as without any foundation, it derides the issue as a false and scandalous and partisan makeshift.

What, then, is the real motive underlying this movement? Senators on that side, democratic orators on the stump cannot make any sensible set of men at the cross-roads believe that they are afraid of

eleven hundred and fifty-five soldiers distributed one to each county in the South. The minute you state that everybody sees the utter, palpable and laughable absurdity of it, and therefore we must go further and find a motive for all this cry. We want to find out, to use a familiar and vulgar phrase, what is "the cat under the meal." It is not the troops. That is evident. There are more troops by 50 per cent. scattered through the Northern States east of the Mississippi to-day than through the Southern States east of the Mississippi, and yet nobody there speaks of it; everybody would be laughed at for speaking of it; and therefore the issue, I take no risk in stating, I make bold to declare, that this issue on the troops, being a false one, being one without foundation, conceals the true issue, which is simply to get rid of the Federal presence at Federal elections, to get rid of the civil power of the United States in the election of Representatives to the Congress of the United States. That is the whole of it; and disguise it as you may there is nothing else in it or of it.

You simply want to get rid of the supervision by the Federal Government of the election of Representatives to Congress through civil means; and therefore this bill connects itself directly with another bill, and you cannot discuss this military bill without discussing a bill which we had before us last winter, known as the legislative, executive, and judicial appropriation bill. I am quite well aware, I profess to be as well aware as any one, that it is not permissible for me to discuss a bill that is pending before the other House. I am quite well aware that propriety and parliamentary rule forbid that I should speak of what is done in the House of Representatives; but I know very well that I am not forbidden to speak of that which is not done in the House of Representatives. I am quite free to speak of the things that are not done there, and therefore I am free to declare that neither this military bill nor the legislative, executive, and judicial appropriation bill ever emanated from any committee of the House of Representatives at all; they are not the work of any committee of the House of Representatives, and, although the present House of Representatives is almost evenly balanced in party division, there has been allowed no solitary suggestion to come from the minority of that House in regard to the shaping of these bills. Where do they come from? We are not left to infer; we are not even left to the Yankee privilege of guessing, because we know. The Senator from Kentucky [Mr. BECK] obligingly told us—I have his exact words here—"that the honorable Senator from Ohio [Mr. THURMAN] was the chairman of a committee appointed by the democratic party to see how it was best to present all these questions before us." Therefore when I discuss these two bills together I am violating no parliamentary law, I am discussing the offspring and the creation of the democratic caucus of which the Senator from Ohio whom I do not see in his seat is the chairman.

Mr. WITHERS. I would ask the Senator if this bill was presented to the Senate by the democratic caucus?

Mr. BLAINE. No, sir.

Mr. WITHERS. I would also ask if it was not reported by the grand Committee of the Whole, the highest committee of all committees, to the House of Representatives by a majority?

Mr. BLAINE. Now you are asking me to tell what the House did. I would not do that, because that is against parliamentary law. [Laughter.]

Mr. WITHERS. It is probably against policy.

Mr. BLAINE. No, against parliamentary law. I will not discuss what the House is doing at all. The Senator cannot lead me into that. When he speaks about its being before a committee here, that is true.

Mr. WITHERS. I wanted merely to say that I do not regard it as an improper suggestion and in view of the broad declaration made by the Senator from Maine both as to this bill and the other bill, of which the Senate has no knowledge but which I see he proposes to debate—I cannot blame him for it; I cannot find any objection particularly that he should drag in another bill in order to hang a speech upon it; I have no objection to that. But in view of the declaration that it was not reported by any committee, I simply wished to call attention to the fact that it was reported by the Committee on Appropriations.

Mr. BLAINE. The Senator asked me if it was not referred to a committee in this branch. Does the Senator wish me to answer that question whether this bill I am discussing before the Senate now was before the Committee on Appropriations?

Mr. WITHERS. The Senator can consult his own pleasure in regard to the matter.

Mr. BLAINE. I suppose the Senator asked me what was done. I will not speak of what took place in the Committee on Appropriations, but I think the Senate can infer what took place there from what took place in the Senate Chamber last Friday, when in solid phalanx the other side would not allow even a grammatical mistake to be corrected; and I repeat that up to this time no committee of either branch of Congress has exercised the slightest discretion whatever upon this bill or been permitted to do so in either branch of Congress.

Mr. WITHERS. I entirely dissent from the statement. Of course it is not proper for either the Senator or I to disclose what passed in the committee-room, but I deny utterly the accuracy of the statement.

Mr. BLAINE. This bill came from the democratic caucus committee. It went to the House of Representatives. What took place there I will not speak of. It came here; it went into the Committee on Appropriations of this body. What took place there I will not speak of; but I know it came back here without dotting an *i* or crossing a *t*. If there is any inference to be made——

Mr. DAVIS, of West Virginia. I ask the Senator whether he was not on a subcommittee to consider the Army bill, the very bill which he has now in his hand.

Mr. BLAINE. I was a member of that subcommittee. The honorable Senator did me the honor to appoint me upon it; that is true; and I believe there is no impropriety in my speaking of what a subcommittee did. We sat on that bill, and we were never permitted to make any change in it whatever, not the slightest in the world.

Mr. DAVIS, of West Virginia. Will the Senator tell me why he was not permitted?

Mr. BLAINE. You ask me the secrets of the democratic prison-house, why I was not permitted? I do not know. That is for you to tell. I want you to tell me why I was not permitted.

Mr. WITHERS. Because you did not have enough support.

Mr. BLAINE. Because I was outvoted.

Mr. WITHERS. That is the whole thing.

Mr. BLAINE. Two to one.

Mr. WITHERS. The Senator said no opportunity was offered for any modification or amendment. It was from that statement I dissented; and I wish to call his attention to the fact that the broad way in which he has stated it cannot be sustained by the facts within his own knowledge.

Mr. BLAINE. Now I really get at the point made by the Senator.

Mr. WITHERS. The majority only exercised that control over the bill which they have always the right to do.

Mr. BLAINE. The Senator has told so much now that he really forces me to tell more, and that more is that when I offered several amendments in the subcommittee they said "we really agree to these, and if we permit the bill to be altered at all we will let these in, but we do not intend to let this bill be touched." That was what was said in our committee. They did not object to several suggestions I made in regard to amendments to the bill, but they simply sat and voted me down. That is the reason why I could not amend it.

Now, Mr. President, I say you cannot possibly debate one of these bills without debating the other, because when you come to read this new section 2002 in the military bill it is to prevent any civil officer of the United States being present on election day. I am not now talking about military officers; there is not a Senator on that side of the Chamber who ever saw a military force at the polls, in my judgment.

Mr. WITHERS. The Senator is mistaken.

Mr. HEREFORD. I desire to say in that connection——

The VICE-PRESIDENT. Does the Senator from Maine yield?

Mr. BLAINE. I will yield for testimony on that point.

Mr. HEREFORD. The Senator in making the assertion that he has made is not only assuming to himself the power of omniscience, but ubiquity, that he at all times has been at all the polls——

Mr. BLAINE. Do not delay on that. Tell me if you ever saw any body there?

Mr. HEREFORD. Yes, sir.

Mr. BLAINE. That is what I want to know.

Mr. HEREFORD. Prior to the time that the State of West Virginia passed from under the control of the republican party we always had the military there, and I have seen them at the polls making arrests on the day of voting in my own town.

Mr. BLAINE. When?

Mr. HEREFORD. When?

Mr. BLAINE. Yes, when did you ever see a military man in the uniform of the United States making arrests at the polls?

Mr. HEREFORD. I have known of them making arrests in Mercer County.

Mr. BLAINE. When?

Mr. HEREFORD. If you stop a moment, I can look back and think.

Mr. BLAINE. I want to know when?

Mr. HEREFORD. In 1870, sir.

Mr. BLAINE. Ten years ago?

Mr. HEREFORD. About that.

Mr. BLAINE. Or before that?

Mr. HEREFORD. It was after the war. I saw this: we had a company of soldiers stationed in the town where I lived within one hundred steps of the voting place, and that company on the day of election were divided up, a part of them sent to an adjoining county, the county of Mercer, where they expected to control the voters.

Mr. BLAINE. One company!

Mr. HEREFORD. And were placed there within seventy yards of the place of voting.

Mr. BLAINE. What did they arrest anybody for?

Mr. HEREFORD. For the purpose of intimidation.

Mr. BLAINE. Oh, yes!

Mr. HEREFORD. For the purpose of intimidation.

Mr. BLAINE. I should be glad to hear any other testimony on that side.

Mr. WILLIAMS. I can tell the honorable Senator that I saw soldiers marched into the public square and stack their arms, since the war.

Mr. BLAINE. What time since the war?

Mr. WILLIAMS. Eighteen hundred and sixty-five.

Mr. BLAINE. That is a good while ago, and Kentucky was in a condition of upheaval about that time, 1865.

Mr. WILLIAMS. And I know from information that they were stationed at a number of polls in other portions of the State.

Mr. BLAINE. Has the Senator seen any since that time?

Mr. WILLIAMS. This I saw with my own eyes. I saw men go up in the presence of soldiers to vote.

Mr. BLAINE. Has the Senator seen any since 1865.

Mr. WILLIAMS. No, sir.

Mr. BLAINE. The Senator then has had fourteen years to brood over that, and he cannot stand it a minute longer.

Mr. WILLIAMS. The power to put them there is still in the law; and it is to deprive the President of the authority to take them to the polls for which we now contend.

Mr. BLAINE. The Senator tells us that he is particularly sensitive about what he saw when the country was still in a disturbed condition fourteen years ago, while to-day there is not and has not been for years a solitary Federal soldier in Kentucky, not one. That is his testimony. Has any other Senator a statement to make?

Mr. WITHERS. The Senator will recollect that he denied that any Senator on this side of the Chamber had ever seen a soldier at the polls.

Mr. BLAINE. No; I queried it; I did not deny it.

Mr. WITHERS. I understood the Senator to make the statement broadly.

Mr. BLAINE. I was not so broadly ubiquitous as the honorable Senator from West Virginia supposed. I wanted to know whether any Senator there would rise up and say he had seen it.

Mr. WITHERS. I am willing to abide by the reporter's record of the remarks of the Senator.

Mr. BLAINE. If I made a slip of the tongue I will gladly correct it. I could not be at every polling place in the South. There are thirteen thousand polling places in the South, and there are eleven hundred and fifty-five soldiers down there, and this great intimidation is to be carried on by one soldier distributing himself around to twelve polling places. That is the intimidation that threatens the South just now; and I am just reminded by the honorable Senator from Wisconsin [Mr. CARPENTER] that the Supreme Court decided—a fact I did not recall at the moment—that the war did not close till April, 1866; a state of peace had not come, and therefore the honorable Senator from Kentucky does not bring himself within the line of evidence. He only saw troops there in 1865, during the war. Has he seen them since April, 1866, in time of peace?

Mr. WILLIAMS. No.

Mr. BLAINE. He has not. [Laughter.] Then I should like some other Senator, if there is any one that has any testimony to give; I should like some other Senator that has seen troops around the polls bulldozing and browbeating and intimidating and controlling the popular wish, to rise if he has any testimony to give on the subject.

Mr. LOGAN. If the Senator will allow me, perhaps I can make a statement about soldiers in Kentucky in 1865 myself. I happened to be in Louisville in 1865 at the time of an election for Congress when General Rousseau was a candidate for Representative in Congress. I was stationed at Louisville and had sixty-five thousand soldiers under my command. I was there on the day of the election and I made a speech there the night before the election. Those sixty-five thousand soldiers were stationed all around Louisville, and I never saw a more quiet, peaceable election in my life, and under orders the soldiers were kept from the polls and out of the city during the day of the election, under my own orders.

Mr. BLAINE. All we get then in the testimony is that the Senator from Kentucky says he saw troops in his State during the war, and the Senator from West Virginia says he saw them in his State once since the war—ten years ago. That is the amount of actual testimony we get on the subject. Now, Mr. President, I say this bill connects itself directly with the provisions which are inserted by the democratic caucus in the legislative, executive, and judicial bill. The two stand together; they cannot be separated; because if to-day we enact that no civil officer whatever shall appear under any circumstances with armed men at the polls—I am not speaking of Federal troops or military or naval officers; I should like to know how, if you strike that out to-day in the military bill that is pending, you are going to enforce any provisions of the election laws even if we leave them standing. Take this section of the election law, section 2024 of the Revised Statutes:

> The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

I should like any one to tell me whether a marshal can call together armed men under that if you repeal this section in the military bill. Under heavy penalties you say that no civil officer whatever, no matter what the disturbances, at an election of Representatives to Congress—no civil officer of the United States shall keep order. You do not say that in that same election the State officer may not be there with all the force he chooses, legal or illegal. You say that the United States in an election which specially concerns the Federal Government shall not have anything whatever to do with it. That is what you say, although the Constitution, as broadly as language can express it, gives the Government of the United States, if it chooses to exercise it, the absolute control of the whole subject,—familiar to school-boys who have even once read the Constitution in the clause: "the times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." And every one knows that the contemporaneous exposition of that part of the Constitution, familiar also to every one in the country, the exposition by Madison and Hamilton was to the effect that "every government ought to contain in itself the means of its own preservation," and according to Mr. Madison, quoting a Southern authority, it was "more consonant to just theories to intrust the Union with the care of its own existence than to transfer that care to any other hands."

There is not the slightest possible denial here that this is a constitutional exercise of power. If there is such a denial it is a mere individual opinion. There has been no adjudication in the least degree looking to the unconstitutionality of these laws. Your individual opinion is no better than mine; mine is no better than that of any other man who can hear a horn blown from the front steps of the Capitol. No individual opinion is worth anything. We have a department of the Government to pass upon the question. The legislative department has enacted these laws under what it believed to be a clear and explicit grant of power, and you have never had it judicially determined otherwise. But now you propose to assault the election laws, the supervisors, and the marshals in this military bill; and under the pretense of getting rid of troops at the polls you propose that no Federal officer—no civil officer of the Federal Government—shall be there. That is the design; that is the plain, palpable object. An amendment that will be offered here will test your sincerity on that subject; whether you will allow the Federal Government to be present at all. I believe you do propose to allow two men of straw to stand up without any power; to be present as witnesses; to be counted themselves but not to count, as my friend from Massachusetts [Mr. HOAR] well suggests; with no power whatever; mere spectators on sufferance, not to be hustled out nor kicked nor clubbed if they behave themselves, but entirely at the mercy of the mob; guests standing there by the courtesy of the State, not standing there armed with the panoply of the Federal Government and commanding in its great name an observance of law and of justice. You propose simply to permit, and permit is the word, two officers to be designated by Federal authority to be present, that is all; not to have one particle of power, not to be clothed with a solitary attribute of authority, not to have any force, not to have any legal status beyond that of casual spectators; and, therefore, I say that you cannot debate this question without associating these two bills together. The one runs right into the other; and I go so far as to say that if the military bill should go through in its present form and become the law of the land, the remainder of this law on election day is not worth anything at all. The whole law of marshals and supervisors is worth nothing unless the civil authority of the United States has the power there to enforce its edicts.

We are told, too, rather a novel thing, that if we do not take these laws we are not to have the appropriations. I believe it has been announced in both branches of Congress, I suppose on the authority of the democratic caucus, that if we do not take these bills as they are planned we shall not have any of the appropriations that go with them. The honorable Senator from West Virginia [Mr. HEREFORD] told it to us on Friday; the honorable Senator from Ohio [Mr. THURMAN] told it to us last session; the honorable Senator from Kentucky [Mr. BECK] told it to us at the same time; and I am not permitted to speak of the legions who told us so in the other House. They say all these appropriations are to be refused; not merely the Army appropriation, for they do not stop at that. Look for a moment at the legislative bill that came from the democratic caucus. Here is an appropriation in it for defraying the expenses of the Supreme Court and the circuit and district courts of the United States, including the District of Columbia, &c., "$2,800,000:" "Provided"—provided what?

"That the following sections of the Revised Statutes relating to elections," going on to recite them, "be repealed." That is, you will pass an appropriation for the support of the judiciary of the United States only on condition of this repeal. We often speak of this Government being divided between three co-ordinate departments, the executive, the legislative, and the judicial—co-ordinate, independent, equal. The legislative under the control of a democratic caucus now steps forward and says "we offer to the Executive this bill and if he does not sign it we are going to starve the judiciary." That is carrying the thing a little farther than I have ever known. We do not merely propose to starve the Executive if he will not sign the bill, but we propose to starve the judiciary that has had nothing whatever to do with the question. That has been boldly avowed on this floor; that has been boldly avowed in the other House; that has been boldly avowed in democratic papers throughout the country.

And you propose not merely to starve the judiciary but you propose that you will not appropriate a solitary dollar to take care of this

Capitol. The men who take care of this great amount of public property are provided for in that bill. You say they shall not have any pay if the President will not agree to change the election laws. There is the public printing that goes on for the enlightenment of the whole country and for printing the public documents of every one of the Departments. You say they shall not have a dollar for public printing unless the President agrees to repeal these laws.

There is the Congressional Library that has become the pride of the whole American people for its magnificent growth and extent. You say it shall not have one dollar to take care of it, much less add a new book, unless the President signs these bills. There is the Department of State that we think throughout the history of the Government has been a great pride to this country for the ability with which it has conducted our foreign affairs; it is also to be starved. You say we shall not have any intercourse with foreign nations, not a dollar shall be appropriated therefor unless the President signs these bills. There is the Light-House Board that provides for the beacons and the warnings on seventeen thousand miles of sea and gulf and lake coast. You say those lights shall all go out and not a dollar shall be appropriated for the board if the President does not sign these bills. There are the mints of the United States at Philadelphia, New Orleans, Denver, San Francisco, coining silver and coining gold—not a dollar shall be appropriated for them if the President does not sign these bills. There is the Patent Office, the patents issued which embody the invention of the country—not a dollar for them. The Pension Bureau shall cease its operations unless these bills are signed and patriotic soldiers may starve. The Agricultural Bureau, the Post-Office Department, every one of the great executive functions of the Government is threatened, taken by the throat, highwayman-style, collared on the highway, commanded to stand and deliver in the name of the democratic congressional caucus. That is what it is; simply that. No committee of this Congress in either branch has ever recommended that legislation—not one. Simply a democratic caucus has done it.

Of course this is new. We are learning something every day. I think you may search the records of the Federal Government in vain; it will take some one much more industrious in that search than I *have ever been*, and much more observant than I have ever been to find any possible parallel or any possible suggestion in our past history of any such thing. Most of the Senators who sit in this Chamber can remember some vetoes by Presidents that shook this country to its center with excitement. The veto of the national-bank bill by Jackson in 1832, remembered by the oldest in this Chamber; the veto of the national-bank bill in 1841 by Tyler, remembered by those not the oldest, shook this country with a political excitement which up to that time had scarcely a parallel; and it was believed, whether rightfully or wrongfully is no matter, it was believed by those who advocated those financial measures at the time that they were of the very last importance to the well-being and prosperity of the people of the Union. That was believed by the great and shining lights of that day. It was believed by that man of imperial character and imperious will, the great Senator from Kentucky. It was believed by Mr. Webster, the greatest of New England Senators. When Jackson vetoed the one or Tyler vetoed the other, did you ever hear a suggestion that those bank charters should be put on appropriation bills or that there should not be a dollar to run the Government until they were signed? So far from that, in 1841, when temper was at its height; when the whig party, in addition to losing their great measure, lost it under the sting and the irritation of what they believed was a desertion by the President whom they had chosen; and when Mr. Clay, goaded by all these considerations, rose to debate the question in the Senate, he repelled the suggestion of William C. Rives, of Virginia, who attempted to make upon him the point that he had indulged in some threat involving the independence of the Executive. Mr. Clay rose to his full height and thus responded:

> I said nothing whatever of any obligation on the part of the President to conform his judgment to the opinions of the Senate and the House of Representatives, although the Senator argued as if I had, and persevered in so arguing after repeated correction. I said no such thing. I know and I respect the perfect independence of each department, acting within its proper sphere, of the other departments.

A leading democrat, an eloquent man, a man who has courage and frankness and many good qualities, has boasted publicly that the democracy are in power for the first time in eighteen years, and they do not intend to stop until they have wiped out every vestige of every war measure. Well, "forewarned is forearmed," and you begin appropriately on a measure that has the signature of Abraham Lincoln. I think the picture is a striking one when you hear these words from a man who was then in arms against the Government of the United States, doing his best to destroy it, exerting every power given him in a bloody and terrible rebellion against the authority of the United States and when Abraham Lincoln was marching at the same time to his martyrdom in its defense! Strange times have fallen upon us that those of us who had the great honor to be associated in higher or lower degree with Mr. Lincoln in the administration of the Government should live to hear men in public life and on the floors of Congress, fresh from the battle-fields of the rebellion, threatening the people of the United States that the democratic party, in power for the first time in eighteen years, proposes not to stay its hand until every vestige of the war measures has been wiped out! The late vice-president of the confederacy boasted—perhaps I had better say stated—that for sixty out of the seventy-two years preceding the outbreak of the rebellion, from the foundation of the Government, the South, though in a minority, had by combining with what he termed the anti-centralists in the North ruled the country; and in 1866 the same gentleman indicated in a speech, I think before the Legislature of Georgia, that by a return to Congress the South might repeat the experiment with the same successful result. I read that speech at the time; but I little thought I should live to see so near a fulfillment of its prediction. I see here to-day two great measures emanating, as I have said, not from a committee of either House, but from a democratic caucus in which the South has an overwhelming majority, two-thirds in the House, and out of forty-two Senators on the other side of this Chamber professing the democratic faith thirty are from the South—twenty-three, a positive and pronounced majority, having themselves been participants in the war against the Union either in military or civil station. So that as a matter of fact, plainly deducible from counting your fingers, the legislation of this country to-day, shaped and fashioned in a democratic caucus where the confederates of the South hold the majority, is the realization of Mr. STEPHENS's prophecy. And very appropriately the House under that control and the Senate under that control, embodying thus the entire legislative powers of the Government, deriving its political strength from the South, elected from the South, say to the President of the United States, at the head of the Executive Department of the Government, elected as he was from the North—elected by the whole people, but elected as a northern man; elected on republican principles, elected in opposition to the party that controls both branches of Congress to-day—they naturally say, "You shall not exercise your constitutional power to veto a bill."

Some gentlemen may rise and say, "Do you call it revolution to put an amendment on an appropriation bill?" Of course not. There have been a great many amendments put on appropriation bills, some mischievous and some harmless; but I call it the audacity of revolution for any Senator or Representative or any caucus of Senators or Representatives to get together and say, "We will have this legislation or we will stop the great Departments of the Government." That is revolutionary. I do not think it will amount to revolution; my opinion is it will not. I think that is a revolution that will not go around; I think that is a revolution which will not revolve; I think that is a revolution whose wheel will not turn; but it is a revolution if persisted in, and if not persisted in it must be backed out from with ignominy. The democratic party in Congress have put themselves exactly in this position to-day, that if they go forward in the announced programme, they march to revolution. I think they will in the end go back in an ignominious retreat. That is my judgment.

The extent to which they control the legislation of the country is worth pointing out. In round numbers the southern people are about one-third of the population of the Union. I am not permitted to speak of the organization of the House of Representatives, but I can refer to that of the last House. In the last House of Representatives, of the forty-two standing committees the South had twenty-five. I am not blaming the honorable Speaker for it. He was hedged in by partisan forces and could not avoid it. In this very Senate, out of thirty-four standing committees the South has twenty-two. I am not calling these things up just now in reproach; I am only showing what an admirable prophet the late vice-president of the southern confederacy was, and how entirely true all his words have been and how he has lived to see them realized.

I do not profess to know, Mr. President, least of all Senators on this floor, certainly as little as any Senator on this floor, do I profess to know, what the President of the United States will do when these bills are presented to him, as I suppose in due course of time they will be. I certainly should never speak a solitary word of disrespect of the gentleman holding that exalted position, and I hope I should not speak a word unbefitting the dignity of the office of a Senator of the United States. But as there has been speculation here and there on both sides as to what he would do, it seems to me that the dead heroes of the Union would rise from their graves if he should consent to be intimidated and outraged in his proper constitutional power by threats like these.

All the war measures of Abraham Lincoln are to be wiped out say leading democrats! The Bourbons of France busied themselves, I believe, after the restoration in removing every trace of Napoleon's power and grandeur, even chiseling the "N" from public monuments raised to perpetuate his glory; but the dead man's hand from Saint Helena reached out and destroyed them in their pride and in their folly. And I tell the Senators on the other side of this Chamber,—I tell the democratic party North and South,—South in the lead and North following,—that the slow, unmoving finger of scorn from the tomb of the martyred President on the prairies of Illinois will wither and destroy them. "Though dead he speaketh." [Great applause in the galleries.]

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Sergeant-at-Arms will preserve order in the galleries and arrest persons manifesting approbation or disapprobation.

Mr. BLAINE. When you present these bills with these threats to the living President, who bore the commission of Abraham Lincoln and served with honor in the Army of the Union which Lincoln restored and preserved, I can think only of one appropriate response

from his lips or his pen. He should say to you with all the scorn befitting his station:

> Is thy servant a dog that he should do this thing?

Mr. WITHERS. Mr. President, as the Senator to whom the charge of this bill has been intrusted by the committee, I propose to make one or two brief statements in response to the rhetorical and highly imaginative utterance to which we have just listened.

The object of the Committee on Appropriations, or a majority of that committee, in reporting this bill was simply to provide for the repeal of a law under the operation of which it is possible that the freedom of elections may be utterly destroyed. The fact which has been alluded to by the Senator from Maine so frequently and forcibly that few soldiers were to be found now in any of the States east of the Mississippi, and his futile attempt to divert public attention from the principle which lies at the bottom of this great question to a consideration of that immaterial issue, will not, I am sure, produce much effect upon this Senate or upon the country. It is not a question before this body to decide whether a sufficient number of soldiers are to be found distributed among the States of this Union to dominate and control elections; but the question is, whether under the conditions of the existing law it may not be possible for an Executive who shall so desire to so distribute and so use the soldiery as to destroy the freedom of elections. It is not to confront a present danger which threatens imminently to interfere with elections, but it is to remove from the present or any future Executive the temptation which the possession of this power would offer, should he desire so to do, to destroy the liberties of this people and erect upon the ruins of the Republic a despotism supported by the arms of a soldiery.

Is this a vain and chimerical fear? The Senator from Maine seems so to regard it; and yet if we look back at the history of every free people who have ever lost their liberties we shall find that without one solitary exception their liberties have been destroyed through the operation of the military, through the agency of its commander or under the direction of an ambitious prince or ruler. I do not choose now to discuss this question in the light of the various statements which have been made by republicans recognized as high authority in their party in other days when the use of the Army was the subject for debate, because the very liberal quotations made by the Senator from West Virginia the other day show that leading Senators of the republican side have committed themselves over and over against all possible use of military at the elections, and it does not lie in the mouth of the Senator from Maine or any of his colleagues to find fault with us for continuing the same line of argument.

Mr. President, I will state frankly and fully that it is not in the utterances of Senators and Representatives discussing the policy of a party that we are to find those opinions upon which we can most rely in the settlement of so vital a principle as this. I do not profess myself to be above that silent influence which is exerted by political policy in forming opinions upon questions which press upon us for immediate solution; and whether it be with regard to the use of troops to enforce the fugitive slave law or the various acts which were passed about the time Kansas was erected into a separate State, I am free to state that the parties held positions on those questions which are now precisely reversed.

But, sir, I wish to go back to a period antecedent to this; I wish to view the question in the light of the declarations of those Senators who were part and parcel of this Constitution, of those who were contemporaneous with its formation, and I aver on this floor without the fear of successful contradiction that in the debates, both in the convention which framed the Constitution and in the State conventions which approved and ratified it, this question of a standing army and its possible use in controlling and dominating elections was, without distinction of party, the point which elicited most interest and most debate, and whether in federal Massachusetts or in republican Virginia, those who stood highest in the councils of each of those States bore united testimony to the dangers to liberty which were involved in the presence of a standing army. It is not, therefore, out of place that I should solicit the attention of the Senate to the discussions which accompanied the adoption of the Constitution as furnishing opinions on which we can best rely as to the dangers that lurk in this feature of the question which we are now discussing.

I have before me authorities from the debates which were held on this subject in various States, New York, Massachusetts, and Virginia, notably the latter, where the contemporaneous opinion of those men who took an active part in the formation of this instrument, with one consent, declared that the liberties of no people could be regarded as safe in the presence of a military force wielded by the ruler of that country. I will not detain the Senate by reciting them *in extenso*. I simply remark that Hamilton himself, who was the head and front of the federalists of that day and who was accused of a strong leaning to monarchical government, admitted the dangers which lurked in the weakness of our Constitution in that regard. But it was George Mason, of Virginia, who more than any one else was instrumental in framing and shaping this instrument, who gave utterance to that sentiment which has lived from that time to the present and is now accepted as an axiom among all lovers of civil liberty, that "the liberty of the people has been destroyed only by those who are military commanders."

It is but a puerile effort (if Senators will pardon me for using the term) when a Senator on this floor rises in his place and, instead of attacking the principles which underlie this great question, devotes himself for half an hour to the attempt to ridicule the arguments of those who oppose him by stating the fact that only one soldier to a county is to be found throughout the States east of the Mississippi. It is an admission on the part of that Senator of the poverty of his case when he can find no stronger argument to use in opposition to the bill which is now before this body. It is not that Senators here fear the presence of one or two or fifty men who may be in their respective States, but it is that a provision of law now exists which renders it possible that not only those who are there, but others, may be brought there if the exigency requires it and the condition of the public mind or the exigencies of party necessity demand that they should be so used to dominate and control elections. In other words, the presence of the military at the polls is absolutely incompatible with free government; and I announce that as the principle upon which this bill, with this clause of which we hear so much, has been based.

And, sir, before proceeding further with the subject, I will read an expression of another Virginian who in discussing this very feature of the Constitution used language much more forcible than any I can command, and whose words will be a meet reply to the wild declamation of the Senator from Maine:

> It is on a supposition that your American governors shall be honest that all the good qualities of this government are founded; but its defective and imperfect construction puts it in their power to perpetrate the worst of mischiefs, should they be bad men; and, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt—3 *Elliot's Debates*, page 59.

If the existence of this clause on the statute-book does not place our liberties at the mercy of our governors in this respect, it is impossible for me to understand what other construction can be put upon it. Give the liberty of using the soldiery at the polls under the pretext of preserving the peace, and I assert that there is not a single election which can be held throughout the length and breadth of the United States that may not be dominated and controlled by the President with the bayonet, and I challenge a denial of the position. The privilege is to use troops to preserve peace at the polls! Why, sir, our recent experience has demonstrated how small may be the loop upon which this provision can be made to hang. The mere threat, or rumor of a threat, that the peace may not be preserved at the polls suffices to precipitate upon any community, where party necessity may demand it, the military in such numbers as to exercise terrorism over the people and prevent that freedom of election which is alone compatible with the existence of civil liberty.

I am not oblivious to the fact that at the time this legislation was first enacted the disturbed condition of the country, just then emerging from a civil war the magnitude of which the world has never seen equaled, might excuse, if indeed it did not justify, a stretch of authority not warranted under the general provisions of the Constitution; but however necessary it may have been at that time, the necessity manifestly no longer exists, and now is the time for the repeal of those measures under the practical operation of which it is possible that such woeful evils may result.

Mr. President, I had taken notes of some of the positions assumed by the Senator from Maine, but I do not propose to be led off by him in his discursive consideration of this question from the material facts which have controlled the committee in their recommendations to this body. They are briefly such as I have enumerated, and upon these reasons we are willing to go before the country.

I do not propose to lug into this discussion the provisions of a bill which is not pending before this body, nor to drag from the table newspaper correspondence, statements, or assertions made at random and wildly, on which to hang an argument. The proposition before this body is simply and plainly to strike out those provisions of law which authorize the presence of the military at the polls for the purpose of preserving the peace. We will confine ourselves to the discussion of this question. We put it upon the ground that it is not necessary for the preservation of the peace under any circumstance likely to occur or possible to occur, that it is not a duty which it was designed by the Constitution should be fulfilled by the Army, that it is the true province of the States to exercise police jurisdiction and to preserve the peace within their borders, and that a departure from this principle which would place the Government of the United States in supreme control over these matters would be absolutely destructive of the liberties of the States and of the liberties of the people as well.

But the Senator asserts that the issues which we have made before the people by the presentation of these bills are false, slanderous, and scandalous. Without pausing to criticise the peculiar expression which the Senator has thought proper to use in this connection, I simply join issue with him and assert that it is no false issue when we propose to repeal a law which permits the soldiery to be used in elections, guarded only by the discretion of the commanding officer or the President of the United States; that it is no false issue to say that our elections shall be held without the presence of bayonets, that our ballots shall be cast without the danger of bullets, and that neither the General Government nor any other power shall step in

between the suffragan and the ballot-box and decide how or when he shall vote. These things are by the Constitution left to the control of the States, and there we propose to leave them by repealing this new legislation which had its origin after the war and which is no longer necessary upon any pretext whatsoever.

The points made by the Senator from Maine, which were mainly his references to a bill that is not yet before this body, not yet having passed the other House of Congress, I shall leave to be considered when the bill comes before us, if indeed it shall come, satisfied that there will be found sufficient argument and sufficient reason to meet and confute every proposition so vauntingly put forth by the Senator from Maine.

No person, so far as I am aware, upon this floor, certainly none within my hearing, has ever laid down a proposition that the President of the United States shall not be permitted to exercise his constitutional power to veto a bill. The Senator from Maine asserts that this declaration is the very audacity of revolution; but, sir, I have yet to hear such a declaration made. We propose simply to pass an appropriation bill; we propose to vote the money which has been voted by the other House for the support of the Army. There are conditions connected with it which we think are clearly within the province of the House to pass and of the Senate to approve; and there our agency in the matter ends. We do not venture to predict, nor is it our purpose to shape our course in any degree by what may or may not be the views of the President upon this subject. I shall not attempt to take away one particle of that spinal marrow which was attempted to be given to the President in the vicarious action of the Senator from Maine. I shall not attempt to influence him by pointing out how ridiculous are the agencies which are relied upon to get that spinal cord into the backbone which may need some stiffening; but if nothing but "the gorgons and chimeras dire" which the heated fancy of the Senator from Maine has called up from the tomb, if no better reasons than these can be found to exist, I submit that they will scarcely prove effective in so material an issue as giving or withholding signature to the Army appropriation bill.

Mr. WALLACE. Mr. President, this bill comes from the Committee on Appropriations of this body. It does not come, as has been asserted in this Chamber, from a secret conclave or caucus. It comes from the authorized organization of this Chamber, the Senate Committee on Appropriations; and I rise now to speak simply because I am one of its members charged with that duty. As one of that committee, I rise to speak to the purposes, the causes, the reasons that prompted that committee to agree to the insertion of the clause which is contested by the Senator from Maine. This bill came through the Senate door by the usual channel of communication with the House of Representatives, in the hands of its Clerk, to this body. It went to the President's desk, and thence to the Committee on Appropriations, and it came back to this Chamber from that committee in the usual manner. Nay, more, sir, it is the bill almost in word and letter that was adopted by the committees of conference at the last session of Congress, agreed upon by the committees of conference of the two Houses, and which but for the disagreement between those committees upon this single section would have been passed by that Congress. This bill, so far from having been treated as measures that come from a committee of conference usually are, has been debated and contested again and again in committee, in the House, and in the Senate Chamber. The declaration that it is the edict of caucus is mere idle wind; such a statement has nothing whatever to base it. This is the bill upon which the two Houses disagreed in the last Congress; it is the bill that came from the House, that went to the committee, that came back to this Chamber through the regular committees of this body, and it is now put upon its passage with the forms and in the customary mode adopted in such cases.

This bill contains but a single disputed section. To that the Senator from Maine addressed himself; to that we address ourselves. There is but a single issue presented by this bill, to that I shall try to confine myself. All that hear me and the country know that the convulsive throes of a great people in a tremendous civil war have caused many departures from those vital principles that lie at the base of all civil liberty. The history of our race and the precedents of the past point them out as essential elements in the preservation of our own freedom, and its most earnest struggles ever have been and ever will be made for their safety. The necessities of the hour may cause a free people to bear for a time the subjection of the civil to the military power, the suspension of the writ of *habeas corpus* or the presence of armed troops at election polls, but these must pass away with the necessity that gave them birth. They can never be crystallized upon the necks of Anglo-Saxons.

The single issue involved in this bill is, shall the executive arm of the Government longer possess the power to place troops at the election polls? Their presence there or the power to place them there is equally a menace to the people and a departure from the right of free elections. That is the issue, the sole, the only issue that is in this bill. We make no other; we will be diverted not from this.

The mere presence of armed troops at the polls is a menace to individual liberty. The shadow of the power of armed men is in itself a threat, and no free people will bear it. It was one of the struggles between Charles I and his first three Parliaments that he should yield to them the right he claimed to quarter troops upon the people. Parliament refused to give him money and he was accustomed to send troops into the country districts and compel them to be quartered and supported by the people without authority of law. The Commons placed it in their bills; they formulated and crystallized it in the petition of right, and they made the king yield to their just demands in behalf of the people. This right and privilege is registered in the bill of rights of nearly every constitution in all this land. The power to quarter troops upon the people was wrung from the kingly power of Great Britain by placing it upon bills under which he was voted supplies to carry on a war for the Palatinate with Spain. Before they would yield him those supplies they compelled him to agree to a concession of this great right, and the right to be free from such intrusion became fixed and certain. The correlative right in regard to free election and the absence of troops from the polls is found still farther back in English history. The menace of armed troops at the polls was prohibited by a statute in the reign of George II, and it recites the existence of the right to be free from this menace as old as the time of Edward I. In the thirteenth century, nearly six hundred years ago, the race from whom we obtain our liberty and law, from whose loins we mainly sprang, asserted the doctrine that this right of free election belonged to the people and ought not to be jeopardized. It was a right wrung, absolutely wrung, from the hand of power in the time of Edward I. It was resurrected in the time of George II, and then enacted into law in 1735. Let us see what was done. I shall not read the statute. A law was passed in 1735 which forbade the presence of armed troops within two miles of the election polls. Subsequently, in 1741, the executive power (forgetting the existence of this statute)—

> During the corrupt administration of Sir Robert Walpole, at an election held for the city of Westminster, under an order signed by three magistrates of the county, a body of armed soldiers was marched up and stationed in the church-yard of Saint Paul, Covent Garden, in the vicinity of the poll; and on this being shown to the House of Commons, they passed a resolution affirming "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom." The high bailiff was taken into custody by order of the House, and the three magistrates who signed the order were brought to the bar and reprimanded by the Speaker, upon their knees, as the House had directed; and after this the House passed a vote of thanks to the Speaker for his reprimand of the delinquents, and directed the same to be printed.—*Brightly's Leading Cases on Elections*, 603, 604.

Sir, this right, thus vindicated, is a part of our system. These privileges are a part of our own free liberties. They come to us with the system of laws under which we live. They belong to us as an integral part of our system of free elections, and we would be false to our highest duty if we should fail to protect them and assert their existence. I now quote from McCrary on Elections, section 418. He says:

> There can, however, be no doubt but that the law looks with great disfavor upon anything like an interference by the military with the freedom of an election. An armed force in the neighborhood of the polls is almost of necessity a menace to the voters, and an interference with their freedom and independence, and if such armed force be in the hands of or under the control of the partisan friends of any particular candidate or set of candidates, the probability of improper influence becomes still stronger.

This proposition does not stand alone on the thought of taking out of this section the authority for the presence of armed troops at the polls under Federal law, but it goes beyond this and finds its reason and its root in the right of the States to control this subject entirely. The control of free elections, the guarantee for their existence, does not belong to the Federal Government; it belongs to the States themselves and always has belonged there. The constitution of almost every State in this country contains in its bill of rights a guarantee of free elections. The States controlled the franchise. With them, both before and since the formation of the Constitution, was vested the power and the right to guard the purity and the freedom of elections.

Let the Senators from New England, and the Senators from the great West, and the Senators from the Middle States and the South take up the bills of rights of their respective States and see what is guaranteed. In nearly all of them the guarantee is that all elections shall be free. Here is the crystallization of the doctrine that comes to us from the time of Edward I, which found voice in the time of Charles I and George II, and is now one of the privileges and rights of this people. In Pennsylvania, as long since as 1803, its rulers enacted this statute:

> No body of troops, being regularly employed in the Army of the United States or of this State, shall appear and be present, either armed or unarmed, at any place of election within this State, during the time of said election.

This wholesome provision was re-enacted in 1839, and it is now a part of the law of that Commonwealth. The enactment of this law followed the time of the alien and sedition law. The necessity had come for the people to enact it. Jefferson was in power here, his party was in control in that great State, and public sentiment found vent in the statute that protected at the polls the citizen from armed interference or control in any way by Federal or other troops. New York crystallized this right in her statutes as early as 1818, and prohibited the military from appearing or exercising on election day, or during ten days preceding it; and the same is the law in Wisconsin. Massachusetts, Maine, New Jersey, and Rhode Island forbid their militia from parading on election day, and imposed penalties for its violation. Virginia, by her constitution, exempted the voter from military service on election day, and denied the franchise to every non-commissioned officer and private in the United States Army or sea-

man or marine in the United States Navy, while Maryland prescribed that no officer should muster or march any troops within view of the polls on election day.

I take the constitution of Pennsylvania of 1873 and I read from the bill of rights:

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the rights of suffrage.

This is embodied, too, in the constitutions of Colorado and Missouri, enacted since, almost in word and letter.

But, sir, the Federal Constitution has not a syllable on this subject. Neither in its main provisions nor in the original amendments which secured the liberties of the people is there one word upon the subject of free elections. The Federal Government had no control over the subject; and they did not attempt to assert any right in reference to it. The control of elections and the guarantee for them belonged to the States; there it was vested and there it is to remain. Prior to 1864 the only attempt at its control here was when John Marshall, in the House of Representatives, in the year 1800, under the elder Adams, reported a statute giving to the Federal Government control of elections so far as to prevent armed interference at the polls; but when the measure came to the Senate it was defeated. It failed because the Federal Government had no control over it. There was no dream, no thought, of exercising this right by the Federal Government until it was done under the war power in the border States in 1862-'63-'64. Troops were then placed at the polls for the alleged protection of what was claimed to be the rights of so-called loyal men there. The first exercise of this right by the Federal Government was under the war power. It did not come from any grant from the people or the States, but solely and exclusively from what was claimed as a war power, and like many others of the same character, force was its essential element. To escape from this and to restore to the people that which they had never parted from with their own consent, the act of 1865 was introduced at the close of the war by Senator Powell, of Kentucky. In its original form it gave security from intrusion and re-enacted what was the undoubted law of every State. It was not permitted to pass until it was amended by republican Senators by the insertion of the words that are now proposed to be taken out and the guarantee of free elections claimed from the Federal Government thus became a means for intruding its mailed hand at the polls. Nothing but the abnormal condition of the country in 1865 and since could have produced the excrescence that we now propose to remove.

The bill as originally introduced (I have it before me) had no words authorizing troops to be present either to repel the armed enemies of the United States or to keep the peace at the polls. As introduced the bill was a guarantee of the right that existed in the States, and a restriction upon the power of the Federal Government, which was then being used wrongfully and oppressively upon the people of the border States. The bill was sent to the Committee on the Judiciary of this body, a republican committee. It slumbered there for a number of months, and then came back with a report by Mr. Howard with a negative recommendation. He holds that the right to exercise the war power in 1864 to prevent men who were not loyal from voting was a just and proper exercise of power. Senator Powell, desiring to relieve his people from wrongful oppression, pressed the bill again and again, until in June, 1864, it was put upon its passage, and then he agreed to the amendment that troops might be used to repel the armed enemies of the United States. This was adopted without dissent.

Then Mr. Pomeroy, of Kansas, a republican Senator moved to add the words "or to keep the peace at the polls." Upon that amendment the yeas and nays were called. Every "yea" vote was given by a republican and every democrat voted "nay." Reverdy Johnson, John P. Hale, and Senator Hicks, of Maryland, voted with the democrats. This provision which is now proposed to be eliminated, "or to keep the peace at the polls," was adopted by a vote of 16 republicans against 15 democrats and others. Then the question came upon the passage of the bill as thus amended, and the Senator from Kentucky, desiring to protect his people, was willing to take anything to save them from the pressure that was upon them, and accepted the bill in that form; but even then they were scarcely willing to pass it. Nowhere else in all the history of this Government had this claim of power appeared. Here, and here alone, is the only instance of the iron-clad arm of the Federal power appearing at the ballot-box.

Mr. BLAINE. Will the Senator permit me to interrupt him just at that point?

Mr. WALLACE. Yes, sir.

Mr. BLAINE. Does the Senator present the idea that the amendment put on that bill by the republican Senators was to control voting at the elections in Kentucky by democrats who had a right to vote; or will the Senator accept the suggestion that it was to keep the rebel army that had gone from Kentucky to fight in the confederate ranks from coming back and controlling the elections? In other words, they were confederate soldiers when the fighting was going on, and they voted in a Union State when elections were held. That was the whole of the provision.

Mr. HOAR. They were democratic voters.

Mr. BLAINE. They were democratic voters who were fighting against the Union under Jeff. Davis and who came back to control the elections of the State of Kentucky.

Mr. WALLACE. The Senator from Maine has interjected a speech into the body of what I was saying. He has not asked a question, but in his usual manner he has injected his thought into the midst of my argument. He may have that opinion or not, just as he pleases. My assertion was, and it is, that the use of this power by the Federal Government was simply the exercise of the war power, and that Senators, including himself, who undertake to sustain it follow legitimately to its conclusion the argument that the war power fifteen years after the end of the war ought still to control the rights and liberties of this people. That is my answer to the Senator's injected speech. [Manifestations of applause in the galleries.]

The PRESIDING OFFICER, (Mr. MCMILLAN in the chair.) Will the Senator from Pennsylvania suspend a moment? The galleries must not applaud under any circumstances. The Sergeant-at-Arms will see that the rules of the Senate are enforced.

Mr. WALLACE. We are done with the abnormal condition that came from the war. This people ask to be restored to their normal rights, whether it be in the South or in the North. Just here I will tell the Senator from Maine that at the election in 1869 for governor of Pennsylvania, in the third precinct of the fifth ward of the city of Philadelphia, an armed body of marines were brought to the polls; that they took possession thereof and closed and kept them closed for an hour until they saw fit to open them and permit those to vote whom they thought ought to vote. Sir, the mail-clad arm of the Federal Government has shown itself in Broad street, Philadelphia, within three years. The people of our State want no more of this. I speak for my own people. They want free elections, without either the shadow or the substance of military power, either State or Federal. They want the very essence of the provisions of our own Constitution recognized in practice as it is in truth as the law of the land. I am here representing so far as I can that people in asking at the hands of the Senate of the United States that this menace, this threat, this assumption of right that does not belong to the Federal Government may be eliminated from her statutes and that the States and the people of the States may control this question as they ought and of right are entitled to do. In Mexico, even in poor down-trodden Mexico, when our troops were at the city of Mexico in the war of 1846-'47, because there was a provision in their laws that troops should not be present at the election polls the Federal Army was withdrawn therefrom in order that there might seem to be no menace or control, and Peña y Peña was elected in the room of Santa Anna. The Federal troops obeyed the law of Mexico because it was a part of the Mexican guarantee of civil liberty, and because our Army, its officers and soldiers, in those days recognized the doctrine which we contend for now, that the menace of armed men at the polls is utterly incompatible with free elections.

We propose to take out the words "or to keep the peace at the polls," and the statute will then stand as is the law of Pennsylvania to-day. Of the necessity for this action, arising from practical experience, I shall not now speak. I content myself with the assertion of the broad principle that free elections with troops at the polls are impossible. The right and the power in the executive arm of either State or Federal government to place troops at the polls on election day is an utter denial of what is vital to the free exercise of the elective franchise. I care not whether there be but one soldier to ten thousand square miles or one soldier to every acre in this broad country. Behind the power of one soldier acting under the authority of the executive command of military power at the polls stand forty million people. It is the obedience of this people to law, it is the recognition that law is mighty and that the man with his blue coat and his bayonet is a representative of forty million people that gives potency and majesty to his presence. When you place him there as that representative the effect is as it was in the precinct I have named in our own State in 1869. Then all men bowed their heads in forced obedience, for the Federal power was there to intimidate and control them; they dare not attack it; they must acquiesce; the law unlawfully asserted coerced obedience.

This sentiment of obedience to law actuates all of our people, and it is because law and the power of law brings troops to the polls without necessity and in derogation of one of our great rights that we seek to repeal this statute. In my own experience I have had to send an unarmed sheriff to arrest a crowd of men acting in violation of law. When it was suggested that we should have troops to aid the officer, I said no, a true and brave man acting in the performance of his duty under the command of law is worth a thousand troops; and it so proved. The feeble assertion that there is no danger of intimidation because there is only one soldier to the thousand square miles is simply begging the question. Behind that one soldier stands the power of a great people. At the polls he is under the control of his officer and he may be directed to do what partisan aims or malignity may find for him to do. Such a possible use of power is the deprivation of that great right that finds its existence in every bill of rights in this country, that belongs to the people, is a part of their ancient liberties, and to be protected and preserved even at the sacrifice of the blood of Anglo-Saxons.

There has been in the past nothing of the kind, and its enforcement now takes away one of the greatest and dearest rights that belongs to this people.

We propose to take away this power. We propose to stand by the American system of free elections. That is our doctrine in this bill. We propose to stand by the American system as it exists in the bills

of rights of the States and as it was found all over this country until this exercise of war power in 1862, 1863, and 1864. We propose to separate the ballot from the bayonet. We propose to restore to the civil power its absolute control over all the machinery of government. A free system of laws cannot tolerate even the possible use of force at the fountain-head of power. It is a standing menace, a perpetual threat. In the interest of the people, in the light of the plainest principles of civil liberty, in the performance of a plain duty, in the exercise of the legislative power of this people, we propose to restore to the American people their own system of free elections.

The Congress of the United States makes appropriations for but two years. The President of the United States cannot enlist a man or pay a dollar without an appropriation by Congress. Congress makes rules for the government of the land and naval forces, and these short appropriations and this limited authority of the Executive over them are the very basis of our system. We propose, as I have said, in the execution of a plain purpose, following precedents and practice and law and organic law to their legitimate results, to restore by this bill to the American people their own system of free elections. Why should we not do this? Who denies the right to free elections? Has the Senator from Maine denied this right? Will any Senator deny this right? Will any gentleman attempt to argue that the right to free elections does not belong to this people as one of their great cardinal rights? If so, why not restore it? The answer is much narrower than the concealed but real argument. Are the people not entitled to free elections? Why is it that Senators do not rise in their places and assert that the people have not a right to be free from Executive interference? The argument of the Senator from Maine is that you will not be interfered with, no troops will interfere with you; there are only so many troops here and so many there; you are not being interfered with. But the Senator forgets that upon the statute-books of this country there stands a law which gives to the Executive the power, the right to do this thing, and that in partisan bitterness, in the control of elections by one party or the other, a standing menace may become an actual, a terrible fact in the future as it has been in the past.

Are we met with a frank denial of the value of this right or of the right of this people to be freed at the polls from the menace of armed force? I venture to say that no Senator will put his argument upon that ground. None so bold as to assert that in the heated partisan contests that occur in the elections of this country the presence of armed troops, controlled by the one or the other political party, conduces to free elections. Either the substance or the shadow of military power at the polls is destructive of the essential element contemplated by almost every State constitution in this country in its express guarantee of free elections.

Another argument is used. Let us see what it is. First, we are denied the power to mold legislation. That is the first argument. The two Houses of Congress, the legislative power, is denied the right to mold legislation in its own way. Second, it is said to be a revolutionary practice and coercive of the Executive; and third, that our intent is (that is the drift of the argument made by the Senator from Maine) to break down the Government. My colleague in the House, the oldest in service there, who trains with the other side, who does not belong to the democratic party, treated this talk about revolution and coercion very well when he said it was "revolutionary in a Pickwickian sense." There is no revolution nor coercion here. This is an attempt to play upon words and upon passion in order to get a response from the people in antagonism to the assertion of the people's plain right.

The form of this legislation is sustained by precedents without number. The processes that we pursue are the modes of the Constitution. We neither seek to coerce the Executive nor submit to be coerced by him. We follow the line of precedent and the modes pointed out by the Constitution in every particular; there is no departure. The labored argument of the Senator from Maine that this is the dictate of a democratic caucus is an entire error. No democratic caucus ever saw this bill, no agency but that of the Senate and the House and the committees of the Senate and the House ever saw this bill and passed upon it. It is here as a result of the right of the representatives of this people to mold legislation through the recognized constitutional bodies.

Mr. BLAINE. I said, if the Senator will permit me, that the Senator from Kentucky [Mr. BECK] stated on the floor that a committee of the democratic caucus was preparing these measures. That is what I said. If there is an issue of fact it is between the Senator from Pennsylvania and the Senator from Kentucky, not between the Senator from Pennsylvania and myself. I have it here:

Mr. BECK. As he is chairman of a committee—

That is, the Senator from Ohio, [Mr. THURMAN,]—

that is considering all these questions, and as we believe the democratic party will act wisely, &c.

Then follows:

Mr. CONKLING. Will the Senator allow me to understand him? To what committee does he refer as one of which the Senator from Ohio is chairman?

Mr. BECK. A democratic committee now considering how it is best for this side of the House, who have the responsibility, to act to determine how we can best present the measures fairly and properly.

And then, before any House committee was appointed, before there was any instrumentality of a parliamentary character through which they could be launched, these measures came out full fledged from a democratic caucus.

Mr. WALLACE. Mr. President, I repeat my statement. The Senator from Maine and the Senator from Kentucky will settle that issue between themselves. I repeat that these bills came through constitutional processes in the mode and through the channels that the Constitution and the precedents point out, and that no democratic caucus or committee of a democratic caucus ever considered this bill or ever agreed that it should be reported.

It is said that we are trying to coerce the Executive. There is no attempt here at coercion. Where do you find it in this bill? It exists only in the lively imagination of the gentlemen who assert it. Sir, we will not coerce, nor will we submit to coercion, notwithstanding the finely-rounded periods with which the Senator from Maine concluded his remarks a few minutes ago in the effort to produce coercion.

We have our rights under the Constitution, and we propose to follow them to their legitimate conclusions. The Executive has his rights, and our performance of our duty will not be by one jot or tittle in the way of his performance of his duty as he thinks right to perform it under his oath and the Constitution. In the exercise of a plain duty imposed upon the legislative power, which is vested with the power to raise armies, to make rules for their government, and to enact all laws necessary to carry into execution the powers granted to it, these bodies are about to pass this bill in accordance with law and precedent. There is no provision of the bill violating the Constitution, and no pretense will be made that any does. Its disputed clause relates to the employment of the troops whose pay we vote. We have no issue with any other branch of the Government. We seek to make none. In the exercise of the rule of the majority we follow practice, precedent, law, and organic law to their legitimate result, as we judge our duty calls us. We will not be driven into any issue with any other power. Each of these bodies must perform for itself, under the oath that it has taken to support the Constitution, its clear and plain duty. When the Senator taunts us with the exercise of the negative of the Executive he undertakes to coerce the representatives of the people and of the States, the bodies vested by the Constitution with the legislative power.

The right to place legislation upon money bills belongs to the legislative power. It is nowhere denied in the Constitution. The propriety of the exercise of this right is to be judged of by the two Houses, and by them alone. No other branch of the Government can object to the bill for this reason. We are the sole and exclusive judges of this question, and when we act our judgment cannot be impugned by either the executive or the judiciary. The subject-matter of the legislation may be criticised, but the form of its enactment is solely within our own discretion.

The bill of last year conceded all that is asked by this bill. In conceding the *posse comitatus* clause everything that is in this bill was conceded, and yet we have this "tempest in a teapot" about nothing, so far as the power goes, at least. It is the removal of a menace, a threat upon the people, and the objection to its form was utterly and absolutely conceded away in the legislation of last year.

I affirm then, *first*, that the right to place legislation on money bills for the protection of the civil liberties of the people belongs to the legislative power and cannot be denied to it by any other branch of the Government; *second*, that the exercise of this right is sanctioned by practice; *third*, that it is sustained by precedents as old as the time of Charles I; and, *fourth*, that this legislation is constitutional and necessary and violates no provision of the Federal Constitution. Let us see. This power has been very frequently exercised by Congress, and the precedents are numerous and well known.

In order to ascertain what proportion of legislation concerning the Army of a general and permanent nature had been enacted previous to 1874 upon appropriation bills I made an examination of the Revised Statutes of the United States, passed at the first session of the Forty-third Congress—1873-'74—which "embrace the Statutes of the United States, general and permanent in their nature, in force on the 1st day of December, 1873, as revised and consolidated by commissioners appointed under an act of Congress." These laws are found under title 14, "The Army," and include sections 1094 to 1361, both inclusive, of the Revised Statutes. The number of sections under the title of "Army" is two hundred and sixty-eight. Of these ninety-two were derived directly from appropriation acts, including acts appropriating for the support of the Army, sundry civil, consular and diplomatic, Military Academy, and fortifications. Thus it appears that more than one-third of the general and permanent provisions of law regarding the Army were enacted upon appropriation bills prior to 1874. But, in fact, the proportion was much more than one-half, because many other sections were derived from acts consolidating the statutes in relation to the Army, passed from time to time, beginning at an early day in our legislation, which statutes were derived in great part from provisions attached to previous appropriation bills. These permanent and general provisions of law derived from appropriation bills were passed upon such in the years 1832, 1840, 1843, 1846, 1851, 1852, 1853, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1865, 1866, 1867, 1868, 1869, 1870, 1872, and 1873, and the greater part of such legislation on appropriation bills concerning the Army was enacted during the rule of the republican party.

Second. I assert that this doctrine is sustained by precedents as old

as the time of Charles I. The difficulties, as I have already said, between the first three Parliaments of his reign and the King grew out of efforts on his part to obtain supplies for the war for recovering the palatinate from Spain without concessions of any part of what he regarded as his prerogatives, and on the part of the Commons to make the supplies the conditions of concessions in favor of civil liberty. Now I take from English history the following:

The Commons House of Parliament in the year 1511 (third year of Henry VIII of sanguinary memory) tacked several acts of attainder as "amendments" to simple bills. These, of course, were leveled at certain Lords. The Commons never knew any limitation in that regard except such as they deliberately passed upon in their own right, and these assertions of the petition of right were a mere enforcement of their ancient privileges.

Charles I levied ship-money because Parliament included in "money bills" the guarantee of political rights. Everybody knows that the resistance of the King was not against the association of the items. The puerility of a separation of the items was not thought of—even by a Stuart! It was great cardinal principles upon which the Commons stood, and it was these the King resisted. He was compelled to yield, and his subsequent fatuity lost him his head.

William III, soon after his accession, made large grants to his favorites. These were under the law, and made with the consent of the council. In Parliament they were deemed exorbitant and prejudicial to the public good. Hence the House of Lords made the matter a subject of mild official rebuke by resolution in the year 1700, but the Commons went further and tacked to a "money bill" (for the support of the army and navy) an amendment called the "resumption act," which annulled all the grants, knowing at the time that some of them had been sold by the grantees. The Lords resisted long; the King at first resolved to stand by them, but he finally yielded, and the "money bill" passed with the unpalatable amendment. Yet the Commons of that day were particularly scrupulous in regard to "amendments" and precedents. In the year 1702 the Commons passed an act of attainder against the Pretender (just then recognized by Louis XIV) when war was imminent, arising out of the Spanish succession. The Lords put on an "amendment" including the name of the Pretender's mother, (Mary of Este, widow of James II, who had recently died after declaring Mary as regent,) but the Commons would not allow it, declaring that any amendment was improper on a bill of such importance. They were reminded of precedents in the time of Henry VIII, but the Commons would not yield.

As the right of the Commons to put amendments on "money bills" was unquestionable, the Lords would also exercise their right: so a short time before the death of the King the Lords—

Resolved, Never to pass a money bill with a clause tacked that was foreign to the body of the bill.

This is the case to which the Senator from Massachusetts [Mr. HOAR] referred in his argument of the 20th of March, in reference to legislation on appropriation bills. But see the result. Only a few months earlier foreigners had been disqualified by act of Parliament from holding high office. William III died; Anne succeeded, and in the same year, 1702, the Tory Commons voted her an annual allowance of £100,000, that is, tacking to the bill an "amendment" providing for the retention of Prince George of Denmark, (the Queen's husband,) in his office of lord admiral and generalissmo of the forces, the actual commander being Marlborough. The Lords—they were Tories too—made a stand, but in the end gave way, notwithstanding their solemn "resolve" which was hardly six months old, and that seems to have been the last attempt to limit the Commons in shaping bills.

Mr. HOAR. Will the Senator from Pennsylvania state what he means by the Commons of England making an amendment to a money bill?

Mr. WALLACE. They placed upon that bill a provision that was foreign to the body of the bill and which had nothing whatever to do with it. It was an amendment relating to succession on a money bill for the support of the Army and the Navy. The Lords resisted it for a time, but finally gave way. This is in fact the law of the realm to-day. The Commons are absolutely masters of every subject of this kind. In their character as the representatives of the people they have enforced this and other great rights at the expense even of the blood of kings and the forfeiture of their thrones. The safety of the civil liberties of the people is above all price. No lesser motive should cause or ever has caused them to use this great power, nor should nor does any lesser one prompt us to use it now.

But it is asserted that this is revolutionary and coercive. The first answer to this argument upon this subject is that we have no right to assume in regard to this bill that any feature of this bill will meet disapproval anywhere. Why should such an assertion be made? Coercion is not asserted in the bill itself; it is not asserted by the committee; and why should the legislative branch of the Government, the immediate representatives of the people and of the States, be charged with coercion and told that their measures are revolutionary?

The practice of twenty years upon appropriation bills and the precedents that I have cited demonstrate that this is not a revolutionary measure, but that the processes are constitutional methods and in accordance with precedent. It is said we deny supplies to coerce agreement with us. There is no such threat in this bill. We grant supplies, but we connect the grant with a provision that the troops who are to be supplied shall obey the law that we enact. According to this argument our sole power is to vote supplies and to tax the people for those supplies, but we are denied the power to say how the Army shall be used. We are denied any control as to what shall be done with the money we vote, or if we seek to do so we are accused of being coercive and revolutionary. The argument is that we deny supplies and threaten coercion.

Sir, let us look at this subject. Congress has three branches. Each one is independent in its sphere. Each branch of Congress has a negative on the other, and that fact is a vital fact in the preservation of the liberties of this people. The English system of separate branches is our system, and it is vital in it that the Senate shall have an absolute negative upon the proceedings of the House, and the House shall have an absolute negative upon the proceedings of the Senate. But because the Senate refuses to pass a bill that has matter in it that the Senate will not agree to when it comes from the House, and refuses to pass a bill because of that matter, is the Senate revolutionary? Does that follow? It is the plainest proposition in the world that this is a constitutional right and invaluable as a check. It cannot be dispensed with as a part of the governmental theory of this country that each House is to have an absolute negative upon the other. And the negative of the Executive is a check upon the legislative branch, limited by the two-thirds provision.

The exercise by either House of its right to refuse to pass a bill because of denied matter in the bill is the exercise of a plain, clear, constitutional right. The exercise of this right by the Senate is by no means revolution. A President has the right to veto a bill. It is by no means revolutionary that he should veto a bill; yet he undertakes by the exercise of his qualified negative to require us to do what he wishes. That is a part of his clear right; it belongs to him under constitutional authority, and I would be the last to attempt to take it away from him. It is vital here as it is in the legislative branch. But when the Executive vetoes a bill and we pass the bill by two-thirds, we are practically coercing the Executive. That is the inevitable conclusion, but this is constitutional coercion. The Executive, in pursuance of his qualified negative given to him by the Constitution, returns us the bill with his objections, and two-thirds of the legislative branches pass the bill over his veto. We are coercing the executive power, but are we revolutionary? We are exercising the legislative power of this Republic, and it is neither revolutionary nor coercive.

But suppose the bill comes here and we have not the necessary two-thirds to pass it over his veto, what follows? We undertake to pass the bill, we put it upon reconsideration in accordance with the Constitution and it fails for want of two-thirds, what then? Are we to be coerced in regard to our legislative right? Are we to say that we must pass the bill in the form he wishes because the Executive has vetoed it? The right of non-action, the right to decline to act under such circumstances, is as much the right of this House and of the other House and of the two Houses acting in their legislative capacity as is the right of the President to veto a bill. We may decline to act and go no further; we need not initiate the legislation anew. If we could be compelled to do this, then the independence of each branch and the independence of the legislative power is absolutely gone, and you have no longer a majority rule for the President, and the minority can coerce legislation and thus the minority become the majority, and with an unscrupulous Executive cohering the power of the minority with patronage and place you have your Government revolutionized by the minority usurping and controlling the power of the majority, in which, under our system, it is vested by the Constitution and the laws. This is the inevitable result. There is no such power anywhere. It belongs to the legislative branch to act or to decline to act. When it does decline to act, it is exercising a plain, clear, constitutional right, and it must act, as must the Executive act, in full view of its responsibilities to the people. That is where the responsibility comes at last. The power to do this is with us, but we must act in the view that it is ultimately to be judged of by the last tribunal in this country, the tribunal of the people, and if we are not standing by doctrines and measures which the people will approve, if we are not maintaining the rights and the liberties and the ancient freedom of this people, they will not sustain us, and they ought not; but if, on the contrary, we decline to act, in obedience to our clear constitutional right, in defense of the rights and liberties and privileges of a free people, they will sustain us, and this Congress will write upon the history of this people an ineffaceable record that their representatives in the Forty-sixth Congress were true to the liberties of the American people.

Sir, each must be responsible for its conclusions and its actions to the people themselves, and each must act in full view of that ultimate tribunal. The power of the legislative branch to raise armies and vote supplies is to be exercised as that legislative branch judges wise. There is no power to control, to direct, or to coerce it. If the Executive differs, his negative controls unless two-thirds overrule it. If not, the bill falls, but his negative does not compel us to act.

Sir, this mode of coercion never was intended to be used upon the legislative branch. There is nothing in the Constitution or in the history of this people that can be construed to mean that the legislative branch shall act at the dictation of the Executive; it is not found in nor system anywhere, and it cannot be cited to deter us from that which is a plain, clear duty.

The independence of the legislative branch and the rights of the people are often to be preserved best by this defensive power of non-action. The Senator from Maine read from Mr. Clay. Let me read what he said in 1819, upon a question of constitutional interpretation upon an Army-bill, an issue between the President and him as to what should be put upon that bill in regard to internal improvements. Mr. Trimble had moved an amendment allowing troops to be used to make a road and appropriating money for that purpose. This involved the question of internal improvements. Mr. Clay, who was then Speaker, when the House was in Committee of the Whole, said this:

Mr. Clay hoped that this motion would not be insisted on, and, if insisted on, would not prevail. The object in view was to present the simple, unmixed proposition whether the Executive has the power to employ the money of the country in constructing roads; if associated with the company proposed, (the amendment,) it would make the sense of the committee equivocal on the important question presented by the motion of Mr. Trimble. For that motion, Mr. Clay said, he meant to vote. It would declare by a formal act that it was competent, by the grants of power, for Congress to authorize such works. Mr. Clay said he thought Congress had been wanting in its duty in delaying so long to legislate on this subject. It was proper to pass a bill and present it to the President, and if he refused to sanction it, then, Mr. Clay declared, he had no hesitation in avowing he should be ready to proceed to hostilities with the President on this point, and withhold every appropriation until he conceded the point.

That was in January, 1819. Another argument has been made use of in regard to the exercise of the negative of the President, which it seems to me is without foundation: that is, that he has the right to judge at all times and under all circumstances of the character of the legislation that he shall veto. Where this power is used upon a bill that he judges to be unconstitutional, or is hasty, unwise, or improper legislation, then it is very clear that he has this right, and he ought to have it. But when in the history of this Government was he ever called upon to or did any President ever veto a repealing statute? When, where, under what circumstances, in what condition of affairs, did the President of the United States ever veto a bill that repealed a law which clothed him with power and took it from the people? When and where did any President of the United States ever veto a bill to repeal a law that gave to him control to send troops to the places of election with the power to coerce the people and take from them their rights? When and where has the President ever vetoed a bill giving the people of this country any of their liberties, or repealing a statute which took from them their rights? There are none such, and the people will never sustain such action.

The Executive negative practically refers the question to the people, and to them we and he must appeal. This power never was intended to be used to keep a yoke on the people or to destroy a repealing statute. Ordinarily the people sustain vetoes. Why? Because of the refusal by the Executive to accept power wrung from the people; but suppose you reverse this and by your repealing statute give to the Executive more power, which power is wrung from the States and the people, then there comes an entirely different question; and I tell Senators that we can face the ultimate tribunal of the people in denying supplies to the Executive power on a bill which gives back to them a great cardinal right. In such a case we will have the old question of kingly prerogative against popular right; and upon that issue we can go to the people with perfect confidence and safety.

But is it not a strange argument that the legislative power which controls the purse, and through that the sword, has no right to say how troops are to be used; that the legislative power is not to have any control over this subject? It seems to me this is a very singular argument. The purse was given to the legislative power to control the sword, and they go together, and the rights and the liberties of this people are to be taken care of by their immediate representatives and the representatives of the States in this Chamber as the legislative power of the country, and when an attempt is made to coerce them from an effort to restore to the people their plain, clear rights, a new issue is made up, and one that we can very well place ourselves upon.

Sir, the veto power never was intended and never has been used to deprive the people of free elections or to strike down any other of the cardinal rights of a free people. When it is used for such a purpose we may with implicit trust await the verdict of a betrayed and outraged people. If it be to such a result in such a cause the American people are invited, the legislative majority in Congress will aid in writing upon the pages of our history a new and startling proof of the proud determination of American freeman to defend and maintain their own system of free elections.

Sir, we were never called to a plainer or more imperative duty, and we should be faithless if we faltered in its performance. The restoration of the liberties of the people, of the landmarks of civil liberty; the removal of the burdens that have come to this people from the changed condition which four years of civil war brought upon them; a restoration to them of the rights that that changed condition deprived them of, is our sole purpose in this bill. We have no other. We should not be true to the people if we had any other. No department of this Government has the right to resist our constitutional demand for the repeal of this menace to free government, which it is, as it stands upon the statute-book to-day. Sir, some writer has said our liberties are traceable through one thousand years' of English and American history. They are the possessions of those who ever advance, not by senseless clinging to the present, but by holding, repairing, improving, grasping the good of the present, remodeling the political fabric when decay is present, and improving at every step of essential progress.

Many of the best changes of later times have been made in casting aside innovations, removing the *débris* that time and tyranny have fastened upon the sturdy base, and in advancing by falling back upon original principles. The great charter, the petition of right, the bill of rights, and the Declaration of Independence contained nothing new in either. They were but the reassertion of the old, the resuscitation of the rights of the people. In all great political struggles it is not new laws or new principles that prevail and give form, force, and coherence to the victorious party, but better redress of grievances, more faithful observance of laws, and a restoration of the rights and privileges of the masses which by neglect or from oppression or misrule have become lost, obscured, or denied. This great right of free elections has been menaced, obscured, and denied.

The disputed section of this bill is an effort by the legislative power of this Congress to return to original principles.

This great right menaced by these statutes, the control of which never belonged to the Federal Government but always has belonged to the people and the States, has been menaced, obscured, and denied, and the disputed section in this bill is simply an effort by the legislative power of this Congress to return to original principles; its purpose is to restore the military to strict subordination to the civil power, to permit a free system of laws to be based again upon a free ballot everywhere, and to expunge from the statute-book a menace to free institutions.

Mr. LOGAN obtained the floor.

Mr. FERRY. If the Senator from Illinois will give way, I shall move that the Senate proceed to the consideration of executive business.

Mr. LOGAN. I yield for that motion.

Mr. FERRY. I make that motion.

Mr. DAVIS, of West Virginia. I hope not. Let us go on with the pending bill.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The motion is not debatable.

Mr. FERRY. I hope the Senator from West Virginia will not object. I make the motion.

Mr. DAVIS, of West Virginia. Mr. President, we have now consumed several days adjourning over repeatedly, and I see no reason why we cannot go on with the bill an hour or two yet; at least an hour, and then go into executive session if Senators wish. If there is any gentleman ready to speak, let him go on; if not, let us take a vote. I think this delay is unnecessary.

Mr. FERRY. I insist on my motion.

The PRESIDING OFFICER. It is moved that the Senate proceed to the consideration of executive business.

The question being put, it was declared that the affirmative prevailed.

Mr. DAVIS, of West Virginia. I have no wish——

The PRESIDING OFFICER. Does the Senator dispute the vote?

Mr. DAVIS, of West Virginia. Yes, sir. I ask for the yeas and nays, and then I have a right to speak.

The PRESIDING OFFICER. The question is not debatable.

Mr. DAVIS, of West Virginia. I beg pardon.

The PRESIDING OFFICER. On the motion to proceed to the consideration of executive business the yeas and nays are requested.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. CONKLING, (when his name was called.) The Senator from Connecticut [Mr. EATON] is detained by illness to-day, and I am paired with him on all political questions. Whether this be a political question or not, I do not know. I think I had better not vote.

Mr. EDMUNDS, (when his name was called.) I am paired with the Senator from Tennessee [Mr. HARRIS] on political questions. If he were present, I suppose he would vote "nay" and I should vote "yea."

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] Not knowing how he would vote on this motion, I decline to vote.

The Secretary concluded the roll-call.

Mr. EDMUNDS. I understand from the colleague of Senator HARRIS [Mr. BAILEY] that he does not regard this as one of the subjects within our pair, and I therefore vote "yea."

Mr. PLUMB, (after having voted in the negative.) I desire to withdraw my vote. I am paired with the Senator from Arkansas, [Mr. WALKER.]

Mr. BURNSIDE, (who had voted in the affirmative.) I desire to withdraw my vote. I am paired, and I do not know whether I ought to vote or not.

The result of the vote was announced—yeas 36, nays 18; as follows:

YEAS—36.

Allison,	Chandler,	Hill of Colorado,	Morrill,
Anthony,	Coke,	Hill of Georgia,	Paddock,
Bayard,	Davis of Illinois,	Hoar,	Platt,
Beck,	Dawes,	Kirkwood,	Rollins,
Bell,	Edmunds,	Lamar,	Teller,
Blaine,	Ferry,	Logan,	Vance,
Booth,	Gordon,	McDonald,	Voorhees,
Cameron of Pa.,	Grover,	McMillan,	Williams,
Cameron of Wis.,	Hamlin,	Morgan,	Windom

NAYS—18.

Bailey,	Hereford,	Maxey,	Thurman,
Call,	Houston,	Pendleton,	Wallace,
Cockrell,	Johnston,	Randolph,	Withers.
Davis of W. Va.,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—21.

Bruce,	Garland,	Kernan,	Vest,
Burnside,	Groome,	McPherson,	Walker,
Butler,	Harris,	Plumb,	Whyte.
Carpenter,	Ingalls,	Ransom,	
Conkling,	Jones of Nevada,	Saunders,	
Eaton,	Kellogg,	Sharon,	

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at four o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 14, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at five minutes past twelve o'clock. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials of State and territorial Legislatures are in order.

Mr. WHITTHORNE. I ask unanimous consent that the call of States and Territories be continued until the list is gone through.

Mr. BROWNE. I object.

Mr. CASWELL. Before the call of States proceeds I ask unanimous consent that Mr. Gunther, treasurer of the State of Wisconsin, be admitted to the floor during the present week.

The SPEAKER. The Chair will recognize the gentleman later to make that request. The Chair has never allowed any request for unanimous consent to interfere with the call of States in the morning hour of Monday.

STANDARD SILVER DOLLARS.

Mr. LADD. I desire to introduce the bill which I send to the desk.

The Clerk read the title of the bill, as follows:

A bill to authorize the owner of silver bullion to have it coined into standard silver dollars, and for other purposes.

Mr. CONGER. I desire to raise at this time a question of order. I wish to know whether the rule requiring one day's notice of the introduction of bills will be held by the Chair to apply to the introduction of bills on Monday?

The SPEAKER. The Chair will cause Rule 52 to be read.

Mr. VANCE. Owing to the confusion in the Hall we do not hear what is going on.

The SPEAKER. The House will come to order.

The Clerk read as follows:

52. Reports from committees having been presented and disposed of, the Speaker shall call for resolutions from the Members of each State and Delegate from each Territory, beginning with Maine and the Territory last organized, alternately; and they shall not be debated on the very day of their being presented, nor on any day assigned by the House for the receipt of resolutions, unless where the House shall direct otherwise, but shall lie on the table, to be taken up in the order in which they were presented; and if on any day the whole of the States and Territories shall not be called, the Speaker shall begin on the next day where he left off the previous day: *Provided*, That no member shall offer more than one resolution, or one series of resolutions, all relating to the same subject, until all the States and Territories shall have been called.—*January* 14, 1829.

The SPEAKER. The Chair will also cause to be read Rule 115.

The Clerk read as follows:

115. Every bill shall be introduced on the report of a committee or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made and the bill introduced, if leave is given, when resolutions are called for; such motion, or the bill when introduced, may be committed.—*April* 7, 1789; *September* 15, 1837; and *March* 2, 1838. But the Speaker shall not entertain a motion for leave to introduce a bill or joint resolution for the establishment or change of post-routes, and all propositions relating thereto shall be referred, under the rule, like petitions and other papers, to the appropriate committee.—*May* 5, 1870.

The SPEAKER. The gentleman from Michigan will be kind enough to state again the point of order which he raises.

Mr. CONGER. I understand that the rule assigns the morning hour after the reading of the Journal on Monday for the introduction of bills and joint resolutions——

The SPEAKER. That is under Rule 130.

Mr. CONGER. On leave. The inquiry I make is whether this rule saying "on leave" requires the one day's notice as in the case of other bills?

The SPEAKER. The Chair does not think that the point comes up at all in this connection of the morning hour of Monday, because the morning hour of Monday is distinctly provided for in Rule 130.

Mr. CONGER. The question has never been raised so far as I am aware, and I thought it well to bring it now to the attention of the Chair.

The SPEAKER. The same language is used in Rule 130, "bills on leave." The Clerk will read it.

The Clerk read as follows:

130. All the States and Territories shall be called for bills on leave and resolutions every Monday during each session of Congress; and, if necessary to secure the object on said days, all resolutions which shall give rise to debate shall lie over for discussion, under the rules of the House already established; and the whole of said days shall be appropriated to bills on leave and resolutions, until all the States and Territories are called through.—*February* 6, 1838. And the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided, however*, That a bill so introduced and referred, and all bills at any time introduced by unanimous consent and referred, shall not be brought back into the House upon a motion to reconsider.—*March* 16, 1860, and *January* 11, 1872. And on said call joint resolutions of State and territoral Legislatures for printing and reference may be introduced.—*January* 11, 1867.

The SPEAKER. The Chair will also cause to be read Rule 145.

The Clerk read as follows:

145. No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor—*November* 13, 1794; nor shall any rule be suspended, except by a vote of at least two-thirds of the members present—*March* 13, 1822; nor shall the order of business, as established by the rules, be postponed or changed, except by a vote of at least two-thirds of the members present; nor shall the Speaker entertain a motion to suspend the rules except during the last six days of the session, and on Monday of every week at the expiration of one hour after the Journal is read—*April* 26, 1828, and *June* 22, 1874—unless the call of States and Territories for bills on leave and resolutions has been earlier concluded, when the Speaker may entertain a motion to suspend the rules.—*June* 8, 1864.

The SPEAKER. The very words the gentleman mentions are used in Rule 130, "bills on leave." Rule 145 provides that after one hour shall have been consumed on a Monday by the introduction of bills on leave and joint resolutions for reference, it is then competent for any member to move for a suspension of the rules.

Mr. CONGER. I think it important to have the point settled. I do not know that it has been raised at any time during the ten years I have been in Congress. The point I make is, that even to introduce a bill on leave during the morning hour of Monday one day's notice must have been given, because the morning hour of Monday is assigned especially to the introduction of "bills on leave." Another rule directs how bills on leave may be introduced, and says that there must be one day's notice given. And in order that there may be a decision of that question I make a point of order on this bill that there has not been one day's notice given of the intention of the member to introduce it.

The SPEAKER. Will the gentleman be kind enough to refer the Chair to the rule upon that subject?

Mr. WHITTHORNE. Pending this point of order I desire to make a parliamentary inquiry of the Chair.

The SPEAKER. The gentleman will state it.

Mr. WHITTHORNE. Under the existing rules of the House the representative of any idea can, upon petition going through the petition-box, have every matter that may be embraced in a bill referred to a committee, so that it may be acted upon by that committee.

The SPEAKER. That is under another rule.

Mr. WHITTHORNE. Therefore the objection made on the other side is simply as to the mode or manner in which, for instance, the greenback men or the tariff men may bring their ideas before the House.

The SPEAKER. Any citizen of the United States has the right to petition Congress, and the rule provides how that right shall be exercised.

Mr. CONGER. I am speaking of the rules.

The SPEAKER. The Chair so understands.

Mr. CONGER. And, therefore, there is no need of any criticism upon my method of doing it.

The SPEAKER. The Chair does not criticise the gentleman.

Mr. CONGER. I refer to remarks made by a gentleman on the other side. I now call the attention of the Chair to Rule 115.

The SPEAKER. That rule has already been read.

Mr. CONGER. I know that; but the Chair asked me to refer to the rule on which I based my point of order. Rule 115 says:

Every bill shall be introduced on the report of a committee or by motion for leave.

I call the attention of the Chair especially now to these words:

In the latter case [by motion on leave] at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk and having it entered on the Journal.

That is where bills are introduced on leave. There are only two ways that I know of under the rules to bring bills before this House: one is by the report of a committee, and the other is "by motion on leave." When they are introduced by "motion on leave," then Rule 115 provides that there shall be at least one day's notice in the House, or a memorandum entered upon the Journal to that effect.

As to this bill I raise the question, because it is very important that we should know what our rules are. I make the point against the introduction of this bill that there has been no notice given of its

introduction so far as I know, either by the member himself in his place in this House or by the filing of a memorandum with the Clerk. If there has been no such notice I make the objection to the introduction of the bill that it is not entitled under the rule to be now received.

Mr. REED. The point as I understand, and which attracted my attention some time ago, is this: all the rules of the House are to be construed together and in unison. One rule of the House says that the morning hour of Monday shall be devoted to the introduction and reference of "bills on leave." Rule 115 says that there are two ways of introducing a bill: first by report from committee, and second "by motion on leave." And then it provides that in order to introduce a bill "on leave" one day's notice should be given. Rule 130 does not seem to change or repeal Rule 115 at all. Therefore whatever bills are introduced during the morning hour of Monday on leave under Rule 130 must be bills which have complied with the formalities required by Rule 115.

The SPEAKER. The Chair desires to say that the gentleman from Michigan [Mr. CONGER] himself who raises the point has stated that during his ten years' service here he has never known this point to be raised.

Mr. COX. It never has been.

The SPEAKER. Neither does the Chair recollect at present of any instance where the point has been raised during his sixteen years' service here. In this connection the Chair desires to have read some paragraphs from the Manual.

Mr. CONGER. On what page?

The SPEAKER. On page 165.

The Clerk read as follows:

Bills on leave, when and how introduced; what bills not to be brought back on a motion to reconsider.—*Rule* 130, page 132.

The notice referred to in Rule 115 is rarely given in the House, (it being in order to give it then only when resolutions are in order,) but is usually given to the Clerk, by sending to him a written memorandum in this form: "Mr. —— gives notice that to-morrow, or on some subsequent day, he will ask leave to introduce a bill, [here insert its title."] If the member desires his notice to appear in the newspaper report of the proceedings of the House, he should furnish the reporter of such paper with a copy of the memorandum furnished the Clerk. Having given this notice, it is then in order, on any subsequent day, when bills on leave and resolutions are being called for, and when his particular State is called, to move for leave to introduce his bill.

The SPEAKER. Rule 130 was enacted many years after Rule 115, and the uniform practice of this House has been to allow on Monday the introduction of bills in the manner proposed by the gentleman from Maine whom the Chair has recognized. The very words "bills on leave" are used in the rule, so that this recognition would seem by the rule to include the very words "bills on leave." The House met to-day by direct vote for the purpose of introducing bills for reference. The Chair overrules the point of order.

Mr. CONGER. In order that this decision, which may become a precedent, may have the sanction of the House, I appeal from the decision of the Chair; and——

Mr. COX. I move to lay the appeal on the table.

Mr. CONGER. The gentleman is more in a hurry than usual this morning. I am on the floor at present. If my friend will wait——

Mr. COX. I am in order.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] will be kind enough to reduce his appeal to writing, so that there may be no mistake about it.

Mr. COX. After I have moved to lay the appeal on the table the gentleman from Michigan goes on to discuss the question and calls me to account.

Mr. CONGER. If the Chair will furnish me with a copy of his decision I will write out my appeal.

The SPEAKER. The Chair has stated his decision; and the rule requires that an appeal shall be in writing. The Chair, however, will not insist upon his suggestion.

Mr. CONGER. I wished to be perfectly accurate in stating my appeal, and therefore I made my request of the Chair.

The SPEAKER. The Chair knew the wish of the gentleman, and that is the reason he suggested that the appeal should be in writing.

Mr. COX. Does this come out of the morning hour?

The SPEAKER. It does.

Mr. COX. Then it may consume the whole hour.

Mr. CONGER. The point I made was, that there should be notice of a bill which it is proposed to introduce.

The SPEAKER. The Chair understood the point to be this: that under Rule 115 one day's notice must be given of a bill sought to be introduced in the manner proposed by the gentleman from Maine, and which the Chair has recognized as his right.

Mr. CONGER. My point referred to bills introduced in the morning hour.

The SPEAKER. The Chair so understood. The Chair has overruled the point of order.

Mr. CONGER. Now, from that decision of the Chair I appeal.

The SPEAKER. The Chair so understands.

Mr. COX. I move to lay the appeal on the table.

The SPEAKER. The gentleman from Michigan appeals from the decision of the Chair, and the gentleman from New York moves to lay the appeal on the table.

Mr. STEPHENS. I hope the gentleman from New York will allow me one moment. I think that the decision of the Chair is clearly right upon principle under the language of the rule, and also clearly right according to the uniform practice of this House for the last six years—I will not undertake to say how much longer. As the Chair has stated, Rule 115 was adopted long before Rule 130; therefore Rule 130 must supersede and override Rule 115 if there is any conflict between the two rules.

One word more, Mr. Speaker. It is wholly immaterial in my view how the Speaker or the House may decide this question. The gentleman from Maine or any other gentleman can without introducing any bill formally introduce whatever legislation he wishes by the mere presentation of a petition and the reference of it to any designated committee. I have myself offered to-day in the form of a petition which has gone into the box all the legislation that I desire at the present time to introduce. Every other member may do the same. If the gentleman from Michigan should be sustained by this House in his appeal, the gentleman from Maine can introduce this same proposition or any other legislation in the form of a petition. The great right of petition has been established in this House in years gone by. Any citizen of the United States has the right to ask legislation upon any subject he may deem proper and to have it referred to an appropriate committee.

Mr. COX. I now insist on my motion.

Mr. CONGER. I do not yield to the gentleman from New York.

Mr. COX. The gentleman wishes to consume the hour. The motion to lay on the table is not debatable.

Mr. CONGER. The gentleman from New York, I suppose, cannot take away my time by injecting a motion of that kind while I have the floor.

Mr. ELAM. An appeal from the decision of the Chair is not debatable.

The SPEAKER. It is debatable. Rule 2 will be read.

Mr. CONGER. I was speaking upon my motion when the gentleman from New York without my consent undertook to take me from the floor.

Mr. COX. I do not wish to be discourteous to the gentleman.

The SPEAKER. The Chair will cause Rule 2 to be read, with the note to be found in connection with it in the Manual.

The Clerk read as follows:

2. He shall preserve order and decorum; may speak to points of order in preference to other members, rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the House by any two members.—*April* 7, 1789; on which appeal no member shall speak more than once, unless by leave of the House.—*December* 23, 1811.

NOTE—[Difficulties have often arisen as to a supposed discrepancy between the appeal contemplated in this rule and that referred to in Rule 61. There is no discrepancy. The question of order mentioned in the second rule relates to motions or propositions, their applicability or relevancy, or their admissibility on the score of time, or in the order of business, &c. The "call to order," mentioned in Rule 61, on which, in case of an appeal, there can be no debate, has reference only to "transgressions of the rules in speaking," or to indecorum of any kind. See also Rule 133, in which debate on an appeal, pending a call for the previous question, is prohibited.]

Mr. CONGER. Now, after the interruptions which have been made I should like to go on with my remarks. The gentleman from New York of course ought not to interpose his proposition while I am on the floor, and he is too old a member to take a young member like myself by surprise. [Laughter.]

Mr. COX. I have never been surprised at the gentleman and he has never been surprised at me. If the gentleman has not yielded the floor I cannot make my motion and he can go on.

Mr. CONGER. I told the gentleman that I did not wish to yield to him now. But if the gentleman wishes to speak to the question I will yield to him for five minutes.

Mr. COX. I do not want to take up this hour. I think that is the gentleman's object.

Mr. CONGER. No; I wish the gentleman to take up five minutes if he wishes.

Mr. COX. If the gentleman yields me the floor I will move to lay the appeal upon the table.

Mr. CONGER. I will allow that motion to be made when I take my seat.

Now, I was saying, Mr. Speaker, that for many years while I have been in this House the question has never been raised which has been raised now so far as I know and which the Chair has decided. I think, however, I am mistaken in that supposition. I am informed by gentlemen that the question was raised, Mr. Speaker, when your predecessor [Mr. BLAINE] was in the chair, and that he ruled—and it will be found among the rulings; perhaps the Clerk may have the ruling of Speaker BLAINE, as he has the record of all these decisions—by which the precedent was established that notice must be given of the introduction of bills even in the morning hour on Monday. I have been so informed, at least since I made the remark that the question was at least a new one to me. I cannot see any difference about bills introduced in the morning hour or at any other time.

Instead of any implication arising in the rule in regard to the morning hour that they may be introduced without notice I think that the rule says introduced "by leave;" and where Rule 115 says there are only two ways of introducing these bills—from a committee and by leave—followed by the rule that there must be notice given, I

should rather infer that when the rule for the morning hour was established and the words "by leave" put in it was meant to confine the introduction of bills to the rule requiring notice. I now yield for five minutes to the gentleman from Maine.

Mr. REED. Mr. Speaker——

Mr. COX. Has the gentleman an hour to yield? Does he take up all this hour on an appeal from the decision of the Chair?

Mr. REED. I address the Speaker in my own right.

The SPEAKER. Then the Chair recognizes the gentleman from New York.

Mr. CONGER. I yield five minutes to the gentleman from Maine if he wishes it.

The SPEAKER. The gentleman from Maine claims the floor in his own right and the Chair claims the right to recognize the gentleman from New York.

Mr. CONGER. Then I do not yield to the gentleman.

The SPEAKER. It is too late.

Mr. CONGER. Oh, no!

Mr. REED. I addressed the Speaker on the leave granted to me by the gentleman from New York twice and the Speaker paid no attention to me.

The SPEAKER. On the contrary the Chair recognized the gentleman and he said that he spoke in his own right and the Chair then recognized the gentleman from New York.

Mr. REED. I addressed the Chair, and there can be no question between the Chair and myself about the fact. I have no doubt the Chair will recognize it as I do. I addressed the Chair twice under the permission given me by the gentleman from Michigan, but the Chair instead of calling my name and recognizing me turned to the gentleman from New York, and as objection was made as to my right I claimed it under the permission of the gentleman from Michigan.

The SPEAKER. The gentleman does not tell the whole story.

Mr. REED. If the Chair will permit me——

The SPEAKER. The gentleman from Maine [Mr. REED] said in that connection that he claimed the floor in his own right.

Mr. REED. If the Chair will permit me I did it under the supposition that the gentleman from Michigan had no right to yield the floor to me, and it was only on that supposition that I made the suggestion.

Now, I do not think the Chair ought to be sharp with me, if I can use that phrase; I do not think the Chair ought to be sharp with me on that ground. I ask the privilege of addressing the House on the point of order for not more than five minutes.

The SPEAKER. The gentleman knows, and the House knows, that the practice of the Chair has been to go from side to side, and the gentleman from Michigan having been heard, he was entitled to recognize a gentleman on the other side.

Mr. REED. But the gentleman from Michigan yielded to me.

The SPEAKER. The gentleman from Maine stated—and perhaps, to use the gentleman's own phrase, he may have been too sharp for his own purpose—that he claimed the floor in his own right.

Mr. REED. I had addressed the Chair twice under the permission extended to me by the gentleman from Michigan.

The SPEAKER. And the Chair has the right under the rule, and the recent action of the House confirms such right, to exercise his discretion as to recognition.

Mr. COX. For the last twenty years I have been trying to get the floor, [laughter,] and every time gentlemen on the other side attempt to prevent me from doing so.

Mr. CONGER. I desire to know who has the floor?

The SPEAKER. The gentleman from New York, [Mr. COX.]

Mr. CONGER. I have not yielded the floor.

The SPEAKER. If the gentleman says he has not yielded the floor——

Mr. CONGER. I yielded five minutes to the gentleman from Maine. I offered to yield five minutes to the gentleman from New York. But, as I understand, I have given the Chair no indication that I yielded the floor.

The SPEAKER. The gentleman gave no indication that he yielded the floor absolutely, except in so far as he handed the floor over to the gentleman from Maine, who then declared that he claimed recognition in his own right. It was for that reason that the Chair went to the other side.

Mr. CONGER. Then I yield five minutes to the gentleman from New York.

Mr. COX. I do not take five minutes from the gentleman from Michigan. I take the floor in the right which the Speaker has to give it to me. I say to the House these motions, these speeches, this appeal from the decision of the Chair on a matter which has been thoroughly settled for more than twenty years is simply a matter of dilatory movement, nothing more, nothing less, to absorb the hour.

Mr. CONGER. Suppose it is, what then?

The SPEAKER. The Chair desires to interrupt the gentleman from New York. The gentleman from Michigan claims the floor, stating that he had not yielded it.

Mr. CONGER. I stated that I yielded five minutes to the gentleman from Maine.

The SPEAKER. The Chair will, in the fullest spirit of harmony, recognize the gentleman from Maine for five minutes.

Mr. REED. I am much obliged to the Chair.

Mr. COX. I yield to the gentleman from Maine.

Mr. REED. I do not ask the gentleman to yield to me.

The SPEAKER. The Chair does not think the gentleman from Maine has a clear right; but that there may be no complaint whatever, he recognizes that gentleman for five minutes.

Mr. REED. I address the House on the question of order simply because I think the point which has been made is a legitimate and correct one.

The SPEAKER. The Chair has not said it is illegitimate. On the contrary——

Mr. REED. I mean no reflection on the Chair or anybody else. I mean to say I confine myself to the point of order which has been raised.

Now, by Rule 115 of the rules of the House it is provided that bills shall be introduced in but two ways; one on the report of a committee and the other on leave. The rules provide that on Monday the States shall be called for the introduction of bills of one class, and that one class is specified in Rule 130 to be bills on leave. Consequently nothing can be introduced on Monday except bills on leave. Bills on leave are bills that are introduced by leave of the House; and by Rule 115 bills that are introduced by leave of the House must have one day's notice. And instead of the practice having been settled to the contrary for the last twenty years, as the gentleman from New York says, the Journal Clerk, who has the making up of the digest, has inserted in Rule 130 a reference to Rule 115, declaring that it is required that at least one day's notice shall be given of the motion to introduce a bill on leave. This is under Rule 130, which provides for the Monday introduction of bills. And on page 165, with the same reference to Rule 130, page 134, is a full note taken from Barclay's Digest, which corresponds exactly with the proposition that has been sustained by the gentleman from Michigan. And although it has not been customary to object, and it has been very seldom done, nevertheless it is in the power of a member to make the objection. And I am very glad that it has been brought out here that it is in the power of every citizen of the United States by means of petition to introduce any subject for reference to the appropriate committee, so that there is no blocking of anything. It is a pure question of parliamentary law, and a decision on the part of this House as to what the rules of the House mean; and I hope this may be disposed of without any reference to either political or financial opinions, because it involves neither of them.

Mr. COX. The uniform custom, as the Chair has stated, has been on Monday morning, in the morning hour, to have bills introduced without formal notice having been given thereof. Everybody knows that to be the rule.

The gentleman from Michigan [Mr. CONGER] appeals from the decision of the Chair, and I move to lay the appeal on the table. As I want a morning hour, I will not debate the question further.

The question was taken on Mr. COX's motion; and on a division there were—ayes 107, noes 77.

Mr. CONGER. I call for tellers.

Tellers were ordered.

Mr. SPRINGER. I desire to facilitate business, and therefore I call for the yeas and nays. It is only a question of time when we are to have them.

The yeas and nays were ordered.

The question was taken; and there were—yeas 139, nays 75, not voting 72; as follows:

YEAS—139.

Acklen,	Dickey,	Hurd,	Samford,
Armfield,	Dunn,	Johnston,	Sawyer,
Atherton,	Dunnell,	Jones,	Scales,
Atkins,	Elam,	Kelley,	Shelley,
Baker,	Ellis,	Kimmel,	Simonton,
Barlow,	Evins,	King,	Singleton, James W.
Bayne,	Ewing,	Ladd,	Singleton, O. R.
Bicknell,	Felton,	Le Fevre,	Slemons,
Blackburn,	Finley,	Lewis,	Smith, Hezekiah B.
Bliss,	Ford,	Lowe,	Sparks,
Blount,	Forney,	Manning,	Speer,
Boyd,	Forsythe,	Marsh,	Springer,
Bright,	Frost,	Martin, Joseph J.	Steele,
Browne,	Frye,	McKenzie,	Stephens,
Buckner,	Geddes,	McLane,	Stevenson,
Cabell,	Gibson,	McMillin,	Talbott,
Caldwell,	Gillette,	Mills,	Taylor,
Cannon,	Goode,	Money,	Thompson,
Carlisle,	Gunter,	Morrison,	Tillman,
Chalmers,	Hall,	Muldrow,	Townshend, R. W.
Clardy,	Hammond, N. J.	Murch,	Tucker,
Clark, John B., jr.,	Harris, John T.	Myers,	Turner, Oscar
Cobb,	Haskell,	New,	Turner, Thomas
Coffroth,	Hatch,	Nicholls,	Urner,
Colerick,	Hayes,	Persons,	Vance,
Converse,	Henkle,	Phelps,	Waddill,
Cook,	Henry,	Phister,	Warner,
Covert,	Herbert,	Poehler,	Weaver,
Cox,	Herndon,	Reagan,	Wellborn,
Cravens,	Hill,	Richmond,	Whiteaker,
Culberson,	Hooker,	Robertson,	Willis,
Davidson,	Hostetler,	Ross,	Wise,
Davis, Lowndes H.	House,	Rothwell,	Wright,
De La Matyr,	Hull,	Russell, Daniel L.	Young, Casey.
Deuster,	Hunton,	Ryan, Thomas	

NAYS—75.

Aldrich, Nelson W.	Davis, George R.	Lindsey,	Sherwin,
Aldrich, William	Deering,	McCoid,	Stone,
Anderson,	Dwight,	McGowan.	Thomas,
Barber,	Errett,	McKinley,	Townsend, Amos
Blake,	Farr,	Newberry,	Tyler,
Bowman,	Ferdon,	Norcross,	Updegraff, J. T.
Brewer,	Field,	O'Neill,	Updegraff, Thomas
Briggs,	Garfield,	Orth,	Valentine,
Brigham,	Godshalk,	Osmer,	Van Aernam,
Burrows,	Hammond, John	Pierce,	Van Voorhis,
Carpenter,	Hawk,	Prescott,	Voorhis,
Caswell,	Hawley,	Price,	Wait,
Chittenden,	Hazelton,	Reed,	Washburn,
Claflin,	Henderson,	Rice,	Wilber,
Clark, Rush	Houk,	Richardson, D. P.	Williams, C. G.
Conger,	Humphrey,	Robinson,	Willits,
Cowgill,	James,	Russell, William A.	Wood, Walter A.
Crapo,	Joyce,	Sapp,	Young, Thomas L.
Daggett,	Lapham,	Shallenberger,	

NOT VOTING—72.

Aiken,	Dibrell,	Knott,	O'Connor,
Bachman,	Dick,	Lay,	O'Reilly,
Bailey,	Einstein,	Loring,	Overton,
Ballou,	Fisher,	Lounsbery,	Pound,
Beale,	Fort,	Martin, Benj. F.	Richardson, John S.
Belford,	Harmer,	Martin, Edward L.	Robeson,
Beltzhoover,	Harris, Benj. W.	Mason,	Ryon, John W.
Bingham,	Heilman,	McCook,	Smith, A. Herr
Bland,	Hiscock,	McMahon,	Smith, William E.
Bouck,	Horr,	Miles,	Starin,
Bragg,	Hubbell,	Miller,	Ward,
Butterworth,	Jorgensen,	Mitchell,	Wells,
Calkins,	Keifer,	Monroe,	White,
Camp,	Kenna,	Morse,	Whitthorne,
Clark, Alvah A.	Ketcham,	Morton,	Williams, Thomas
Clymer,	Killinger,	Muller,	Wilson,
Crowley,	Kitchin,	Neal,	Wood, Fernando
Davis, Joseph J.	Klotz,	O'Brien,	Yocum.

So the appeal was laid on the table.

During the roll-call the following announcements were made:

Mr. SCALES. My colleague, Mr. DAVIS, is absent by leave of the House and is paired with Mr. CHITTENDEN.

Mr. HENRY. I am desired to announce that Mr. KLOTZ is paired with Mr. HARMER.

Mr. KENNA. I am paired with Mr. OVERTON.

Mr. STEELE. Mr. KITCHIN is paired with Mr. MARTIN, of North Carolina.

Mr. BRAGG. On this question I am paired with Mr. HISCOCK. If he were here, he would vote "ay" and I should vote "no." My colleague, Mr. BOUCK, is paired with the gentleman from Michigan, Mr. HORR. If Mr. BOUCK were here, he would vote "no."

Mr. COFFROTH. My colleague, Mr. BACHMAN, is paired with the gentleman from New York, Mr. MASON. Mr. RYON, of Pennsylvania, is paired with Mr. MITCHELL.

Mr. BEALE. I am paired with my colleague, Mr. JORGENSEN, and I therefore decline to vote upon this question.

Mr. DIBRELL. Upon this question I am paired with the gentleman from New York, Mr. MCCOOK.

Mr. KNOTT. I am paired with the gentleman from Pennsylvania, Mr. BINGHAM. If he were present, I should vote "ay."

Mr. WHITTHORNE. I am paired with the gentleman from Massachusetts, Mr. HARRIS.

Mr. WAIT. My colleague, Mr. MILES, is absent and is paired with Mr. MORSE.

Mr. WARD. I am paired with Mr. AIKEN, of South Carolina. If present, he would vote "ay," and I should vote "no."

Mr. WHITE. My colleague, Mr. DICK, has been ill for some time. He is, however, paired with the gentleman from Missouri, Mr. LAY.

Mr. SMITH, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. If he were here, he would vote "ay," and I should vote "no."

Mr. DWIGHT. My colleague, Mr. MASON, is paired with the gentleman from Pennsylvania, Mr. BACHMAN.

Mr. DIBRELL. I move to dispense with the reading of the names.

Mr. CONGER. Has the morning hour expired?

The SPEAKER. Not quite.

Mr. CONGER. Then I think we had better read a while.

The Clerk proceeded to read the roll and was interrupted by

The SPEAKER. The Chair supposes the object which the gentleman from Michigan [Mr. CONGER] has in view has been accomplished and the Chair would like to announce the result of the vote.

The result of the vote was then announced as above recorded.

Mr. CONGER. The morning hour has now expired?

The SPEAKER. It has.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] reminds the Chair that the morning hour has expired, and the Chair recognizes the fact.

Mr. MONROE. Mr. Speaker——

Mr. SPRINGER. I desire to inquire of the Speaker in regard to Rule 115, and also the ruling in Smith's Manual, page 163, in the following words:

If, instead of waiting for an opportunity to introduce his bill on leave, the member would file his petition, or whatever other matter he may have in favor of the proposed legislation, and have it referred to the appropriate committee, as he may do on any day under Rule 131, (see Petitions,) he will thus have the subject before them, and will get a bill reported as speedily as if it had been originally referred. Besides, the bill thus reported comes before the House unincumbered with amendments, as is not likely to be the case with a bill previously referred. These suggestions of course do not apply to cases where the immediate passage of a bill without the intervention of a committee is sought for, or where it is desirable to refer it to a select committee.

The point I desire to inquire is, whether a member may not now put in a petition-box a memorial requesting the passage of the bill thereunto attached and let that petition be referred to an appropriate committee under the rules as a petition, and whether that committee may not report whenever they are called or, as in case of the Committees on Coinage, Weights, and Measures, on Banking and Currency, or on Ways and Means, at any time such bill?

The SPEAKER. The Chair understands the gentleman to make the inquiry whether a petition presented and put into the box under the rule leaves the subject-matter of that petition within the authority of the committee of the House to which it may be referred, to report by bill or otherwise in relation to the subject, or whether a petition presented is required under the rules to be referred to a committee in open House.

Mr. SPRINGER. Especially where the petition is accompanied by the bill, and the prayer of the memorialist is that the bill attached to the petition which is put into the box shall be passed.

The SPEAKER. The Chair as a rule never decides a point of order until it arises. The case indicated by the gentleman is not now presented. The question might come up when a report is proposed to be made from a committee, based upon a reference of subject as stated and when the right to make such report is questioned.

Mr. CONGER. That case not arising now, I call for the regular order.

Mr. SPRINGER. I would ask the Speaker to rule upon a memorial which I now send to the Clerk's desk, for the purpose of having this question settled.

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] asks unanimous consent to have read a memorial which he proposes to refer to a committee.

Mr. CONGER. I object.

Mr. SPRINGER. I do not ask unanimous consent for the reading of the memorial. I ask the Chair to rule upon the question of order so that the practice may now be settled by the House.

The SPEAKER. But a motion is now pending, provided for by the rules, to suspend the rules, including the rule under which the gentleman claims his right to present his memorial.

Mr. SPRINGER. Has a motion to suspend the rules been made?

The SPEAKER. The regular order is demanded, and the Chair is notified that the gentleman from Ohio [Mr. MONROE] desires to move a suspension of the rules.

Mr. WARNER. I would call the attention of the Chair to Rule 130, which provides that all the States and Territories shall be called for bills on leave and resolutions every Monday during each session of Congress, and if necessary to secure the object on said days.

The SPEAKER. That is a right under the rule to which the gentleman refers. There is a proposition pending to supersede that right by a suspension of all the rules, including Rule 130.

Mr. WARNER. That requires a two-thirds vote.

The SPEAKER. It does. The Chair will direct the Clerk to read a part of Rule 145.

The Clerk read as follows:

Except during the last six days of the session the Speaker shall not entertain a motion to suspend the rules at any time, except on Monday of every week at the expiration of one hour after the Journal is read, unless the call of States and Territories for bills on leave and resolutions has been earlier concluded, when the Speaker may entertain a motion to suspend the rules.

The SPEAKER. The Chair thinks that in every case where there is a legitimate doubt as to the construction of a rule, that doubt should be decided so as to make the construction in accord with the uniform practice governing the House in the past.

Mr. REAGAN. What is that practice?

The SPEAKER. The practice has been to recognize motions to suspend the rules at the expiration of one hour after the reading of the Journal on Monday.

Mr. TOWNSHEND, of Illinois. Before the States are called? The States have not been called yet for bills on leave.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] demands the regular order, which is the operation of Rule 145. It has been the uniform practice, at the expiration of one hour after the reading of the Journal, to recognize as in order motions to suspend the rules.

Mr. REAGAN. If the Chair recognizes a member for that purpose he may move a suspension of the rules. But if the Chair recognizes a member for the introduction of a bill——

The SPEAKER. The Chair is governed in his recognitions by the terms of the rules of course. A member who rises to move a suspension of the rules—which motion requires a two-thirds vote—is clearly to be preferred to one who claims the right—and in this instance a disputed and doubtful right—under a rule which it is proposed to suspend. The Chair has considered and construed this rule heretofore, and refers to his rulings thereon. The Clerk will read.

The Clerk read as follows from the Journal:

Mr. SPRINGER made the point of order that unless a motion be made to proceed

to the regular order the question before the House was the bill of the House (H. R. No. 805) reported from the Committee on Banking and Currency by Mr. EWING.

The SPEAKER overruled the point of order on the ground that the morning hour was limited to sixty minutes, and that the bill named had taken its place in the morning hour, and could not be taken out except by unanimous consent. [November 1, 1877.]

The SPEAKER. The Clerk will also read another paragraph from the Journal.

The Clerk read as follows:

The SPEAKER held that the resolution was before the House under Rule 130, which prescribed the mode of procedure during the morning hour of Monday, and that Rule 41 referred to related only to the mode and time of considering the subject already before the House and in effect related only to the order of business, and being long anterior in date to Rule 130 could not by inference nor by implication change the specific provisions of the latter rule adopted at a later date. [April 15, 1878.]

Mr. MONROE. I move to suspend the rules and pass the resolution which I send to the Clerk's desk.

Mr. ATKINS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. Would it not be in order for me to move to suspend the rules so that the House shall now resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill?

The SPEAKER. The Chair has always decided that a motion to suspend the rules on Monday to proceed with public business would be recognized in preference to a motion to suspend the rules by any individual member.

Mr. ATKINS. Then I make that motion.

The SPEAKER. And the Chair also decides that on a Monday such a motion requires a two-thirds vote to carry it.

Mr. EWING. Has not the Chair held that a person who moves to suspend the rules to proceed to the consideration of public business must have the instructions of his committee to make the motion?

Mr. ATKINS. That is rather a novel point.

The SPEAKER. The Chair does not recollect having given such decision. Will the gentleman direct the attention of the Chair to any such ruling?

Mr. EWING. That is my recollection, that the Chair has ruled that a motion to suspend the rules to proceed to the consideration of public business must be made by instructions of the committee to the gentleman who makes the motion.

The SPEAKER. That is during the last six days of the session.

Mr. ATKINS. I call the attention of the Chair to Rule 119.

The SPEAKER. The equity of the theory of the Chair, as well as the practice under that theory, is that public business should always have preference.

Mr. EWING. Is it not all public business? When a motion is made by any Representative to suspend the rules it is to proceed with some public business.

The SPEAKER. Not necessarily.

Mr. EWING. It is all public business; and why should a gentleman who happens to be chairman of a committee and who acts upon his own motion without instructions from his committee—a gentleman who is not on the list for motions to suspend—why should such a gentleman have preference over those who are upon the list and who move to proceed with some public business?

The SPEAKER. The Chair under the action of the Committee on Rules, which was confirmed by the House, claims the right to recognize within his discretion.

Mr. GARFIELD. So far as I know, preference has always been given in recognitions by the Speaker to regular appropriation bills over all other business except privileged questions, such as election cases. I think that this is a wise exercise of the Speaker's discretion in regard to recognition of members desiring to move to suspend the rules. But I want to suggest that my colleague's proposition ought to be read, so that it shall be considered pending, even though the House may agree to the motion of the gentleman from Tennessee, [Mr. ATKINS.]

Mr. MONROE. I was about to ask that the resolution which I desire to have adopted under a suspension of the rules may be read.

The Clerk read as follows:

Resolved, That in the judgment of this House, the business interests of the country require that no legislation changing the law in regard to currency or tariff should be passed at the present session of Congress.

Mr. WARNER. I object to that resolution.

Mr. ATKINS. I insist on my motion.

Mr. MONROE. I ask whether my resolution is not public business or in the nature of public business?

The SPEAKER. It is a mere expression of opinion on the part of the House—not legislation within the technical meaning of the term.

Mr. CONGER. But, Mr. Speaker, when the Chair has recognized a gentleman, as he has the gentleman from Ohio, [Mr. MONROE,] for a motion to suspend the rules, I submit that such motion must have its preference; and when it is disposed of the Chair will recognize some other member. Certainly the Chair would not take off the floor a gentleman already recognized upon a motion to suspend the rules, although another member might desire to submit a motion of equal or higher privilege. When under the rules the Speaker has recognized a member whose name is on the list, to make a motion on which there can be no debate and which can be soon settled, I think it would be dangerous for the Chair to hold that he could withdraw his recognition and give the floor to another gentleman.

Mr. McLANE. Mr. Speaker, I have several times addressed the Chair. It was my wish to anticipate the call for the regular order. I want to direct the attention of the Chair to Rule 130. I understand the Chair to have ruled indirectly that under the wording of that rule one hour of sixty minutes is the whole time open to the House for the introduction of bills on leave and joint resolutions. Now, it is perfectly clear to me—and I submit the point to the Chair that he may, if he sees the force of my point, review his ruling—it is perfectly clear to me that under Rule 130 the entire day of Monday is to be given to the introduction of bills on leave and joint resolutions; that during the first hour there is to be no debate, bills going to their appropriate committees without discussion; but there remains the whole day for the consideration of resolutions and of bills on leave. Although I am as much determined as any other man on this floor to oppose in reference to the currency or any other questions any measure which I may think injudicious, I am altogether opposed to any construction of the rules of this House which shall prevent the fullest possible expression of opinion. If, as I contend, the day of Monday is by the rules given for the introduction of bills on leave and joint resolutions, I think it the duty of this House to give the fullest possible development to that class of business. How else can a fair opportunity be given for the introduction of bills and resolutions?

The SPEAKER. The Chair desires, in answer to the gentleman from Maryland, [Mr. McLANE,] to say that his ruling upon this subject is in accordance with the uniform practice of the House; and he repeats that where any doubt arises as to the construction of a rule, that doubt should be decided in the direction of accord with uniform practice and precedent. The gentleman from Maryland claims his right under the rules. Another rule of the House says that one hour after the reading of the Journal on Monday and during the last six days of the session motions may be made to suspend the rules; and such a motion, if carried, would suspend the rule under which the gentleman claims that the whole day shall be given to the introduction of bills, a construction not yet assented to by the Chair.

Mr. McLANE. The Chair will pardon me a moment. Rule 145—the rule to which the Chair refers and which regulates these motions to suspend the rules—says expressly that a standing rule of the House shall not be suspended without one day's notice.

The SPEAKER. Except by a two-thirds vote on Monday and during the last six days of the session. That is a part of the rule which the gentleman cites.

Mr. REAGAN. I rise to another point of order on the resolution introduced by the gentleman from Ohio; and it is this: that it has for its object to suspend the rules for the purpose of changing and controlling the order of business of the House.

The SPEAKER. The object in view to suspend is not a question to be reviewed by the Chair.

Mr. REAGAN. Allow me a moment. We are here, as assumed by the Chair, although in my judgment it is not true, acting under the rules of the House, for they prescribe the order of business in the House, and we must therefore proceed while we hold those rules do govern us in reference to the disposition of business coming before the House in accordance with them, and this proceeding is not in accordance with those rules. We are a House of Representatives and not a town meeting, and a resolution that we shall not legislate is a resolution to abrogate the rules of this House as they relate to the introduction of bills, their reference, report upon them, and general action in that regard. If a rule of that kind can be adopted as stated, it would be in fact the subversion and overthrow of the rules of the House. It must under the rules be referred to the Committee on Rules and have at least one day's consideration.

The point of order I make, Mr. Speaker, is that the effect of this resolution is to subvert, overthrow, and "revolutionize"—to use the favorite language of the other side of the House—the mode of legislative procedure in this House; and it has no more force, no more effect under the rules of the House than such a declaration made by the town council of the city of Washington or the city of Richmond. Not a bit; it controls nobody.

Suppose we adopt such an abstract resolution, what will be its effect? It is a vain declaration, in the language of a great law writer, which can have no effect. It can control nobody else hereafter. It is a mere expression on an abstract proposition, not an expression upon any rule of the House or anything which this House has the right to act on. I therefore make the point of order that it cannot be received by the House.

Mr. BUCKNER. Mr. Speaker, what is the question before the House?

Mr. ATKINS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union to proceed with the consideration of the legislative, etc., appropriation bill.

The SPEAKER. The manner of proceeding with the business of the House is provided for in the rules themselves, but this is a proposition to suspend that rule and all other rules which stand in the way.

Mr. REAGAN. But for a purpose, I submit, Mr. Speaker, illegal and contrary to the rules. It has no place here.

The SPEAKER. It is a motion by two-thirds to suspend the rules and pass the resolution to which the gentleman has alluded.

Mr. REAGAN. For what purpose?

The SPEAKER. The object the Chair is not to inquire.

Mr. REAGAN. The Chair has caused the resolution to be read for information of the House and it has been read, and now why should we go through the vain and useless work of suspending the rules of the House for the purpose of passing a resolution repealing the rules of the House and subverting the regular procedure under the rules?

The SPEAKER. It has been the practice under the motion to suspend the rules (provided for in the rules themselves) to do just what is here proposed by the gentleman from Ohio. The Chair recollects a very noticeable example when the gentleman from Indiana [Mr. BAKER] moved to suspend the rules and adopt a resolution in opposition to subsidies. The rules were then suspended and the resolution was adopted. The House has a right to express its opinion on any subject. It is not for the Chair to say whether the opinion is wise or unwise, right or wrong.

Mr. KELLEY. I rise to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. KELLEY. The question is, whether the resolution when it comes to be voted on will be divisible?

The SPEAKER. It will not be divisible, as it is a motion to suspend the rules and pass the resolution, which includes the rule allowing a division where two substantive propositions are made in a single motion.

Mr. MORRISON. If the resolution is before the House on a motion to suspend the rules and pass it, I then ask the gentleman from Ohio to so modify it as to substitute for the word "passed" the word "undertaken." And I make that suggestion for the reason that while I believe the law in relation to the tariff ought to be changed, yet I believe it cannot and will not be changed during the present extra session of Congress.

Mr. REAGAN. Nor during this Congress.

Mr. MORRISON. Nor perhaps during this Congress. Therefore I do not think the business interests of the country should be unnecessarily disturbed——

Mr. MONROE. I am willing to accept the gentleman's modification of my resolution, and will substitute for the word "passed" the word "undertaken."

Mr. MORRISON. I do not think the business interests of this country ought to be disturbed by any idle, unsuccessful, and futile attempt to change the tariff at this time. I think we must all admit that any offer to change the tariff now will be unsuccessful, for reasons not necessary to be stated, the fact being so apparent to all.

The SPEAKER. The question before the House to decide is as to the recognition of the gentleman from Ohio who has been recognized by the Chair to offer a resolution which has been read for information. At the same time the gentleman from Tennessee states that he rises to make a motion to suspend the rules and to proceed to the consideration of the general appropriation bill. The Chair, as he has already stated, always gives precedence to a motion to proceed to the consideration of the public business.

Mr. GARFIELD. But in this instance the motion has been made to suspend the rules, and the Chair cannot entertain two motions to suspend the rules at the same time.

The SPEAKER. The Chair has not done so. The resolution was read for information.

Mr. CONGER. But the gentleman from Ohio has been recognized to make his motion.

Mr. GARFIELD. After disposing of the resolution of the gentleman from Ohio, the Chair can then recognize the resolution of the gentleman from Tennessee.

Mr. TOWNSHEND, of Illinois. I think, Mr. Speaker, that Rule 119 settles this question. That rule provides that general appropriation bills shall be in order in preference to any other bills of a public nature, unless otherwise ordered by a majority of the House. I insist, therefore, that the gentleman from Tennessee has a motion which has priority over the motion of the gentleman from Ohio.

Mr. GARFIELD. I suggest to the gentleman from Tennessee that he withdraw his motion till this vote is taken, and we will then go on with the legislative bill.

The SPEAKER. Does the gentleman from Tennessee withdraw his motion.

Mr. ATKINS. Yes, sir; I do.

The SPEAKER. The Chair recognizes the gentleman from Ohio.

Mr. MONROE. I ask the yeas and nays on the passage of the resolution which has been read at the desk.

Mr. COX. I ask that the resolution may be again read.

Mr. MONROE. If I am at liberty to do so, I accept the modification proposed by the gentleman from Illinois, [Mr. MORRISON;] that is, to substitute the word "undertaken" for the word "passed."

Mr. FORT. Will the gentleman also consent to strike out the words about tariff and currency, so that the resolution shall say that no legislation shall be undertaken?

Mr. MONROE. No, sir.

The SPEAKER. The resolution will be again read as modified.

The resolution, as modified by substituting the word "undertaken" for the word "passed," was read.

Mr. MONROE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 118, not voting 60; as follows:

YEAS—108.

Aldrich, Nelson W.	Cowgill,	James,	Robinson,
Aldrich, William	Crapo,	Johnston,	Ross,
Anderson,	Daggett,	Joyce,	Russell, William A.
Baker,	Davis, George R.	Keifer,	Ryan, Thomas,
Barber,	Deering,	Ketcham,	Sapp,
Barlow,	Deuster,	Lapham,	Shallenberger,
Bayne,	Dunnell,	Lindsey,	Sherwin,
Belford,	Dwight,	Loring,	Stone,
Bicknell,	Errett,	Marsh,	Talbott,
Blake,	Farr,	McGowan,	Thomas,
Bliss,	Ferdon,	McKinley,	Townsend, Amos
Bowman,	Field,	McLane,	Tyler,
Boyd,	Frye,	Monroe,	Updegraff, J. T.
Brewer,	Garfield,	Morrison,	Updegraff, Thomas
Briggs,	Godshalk,	Neal,	Urner,
Brigham,	Hall,	Newberry,	Valentine,
Browne,	Hammond, John	Norcross,	Van Aernam,
Burrows,	Harris, Benj. W.	O'Neill,	Van Voorhis,
Butterworth,	Haskell,	Orth,	Voorhis,
Cannon,	Hawk,	Osmer,	Wait,
Carpenter,	Hawley,	Pound,	Ward,
Caswell,	Hayes,	Prescott,	Washburn,
Chittenden,	Hazelton,	Price,	Wilber,
Claflin,	Henderson,	Reed,	Williams, C. G.
Clark, Rush	Houk,	Rice,	Willits,
Conger,	Humphrey,	Richardson, D. P.	Wood, Walter A.
Covert,	Hurd,	Robeson,	Young, Thomas L.

NAYS—118.

Acklen,	Ewing,	Le Fevre,	Singleton, O. R.
Armfield,	Felton,	Lewis,	Slemons,
Atherton,	Finley,	Lowe,	Smith, Hezekiah B.
Atkins,	Ford,	Manning,	Sparks,
Blackburn,	Forney,	McCoid,	Speer,
Blount,	Forsythe,	McKenzie,	Springer,
Bright,	Fort,	McMillin,	Steele,
Buckner,	Frost,	Mills,	Stephens,
Cabell,	Geddes,	Money,	Stevenson,
Caldwell,	Gibson,	Muldrow,	Taylor,
Carlisle,	Gillette,	Murch,	Thompson,
Chalmers,	Goode,	Myers,	Tillman,
Clardy,	Gunter,	New,	Townshend, R. W.
Clark, John B., jr.	Hammond, N. J.	Nicholls,	Tucker,
Cobb,	Harris, John T.	Persons,	Turner, Oscar
Coffroth,	Hatch,	Phelps,	Turner, Thomas
Colerick,	Henkle,	Phister,	Vance,
Converse,	Henry,	Poehler,	Waddill,
Cook,	Herbert,	Reagan,	Warner,
Cox,	Herndon,	Richardson, John S.	Weaver,
Cravens,	Hill,	Richmond,	Wellborn,
Culberson,	Hooker,	Robertson,	Whiteaker,
Davidson,	Hostetler,	Rothwell,	Whitthorne,
Davis, Lowndes H.	House,	Russell, Daniel L.	Williams, Thomas
De La Matyr,	Hull,	Samford,	Willis,
Dickey,	Hunton,	Sawyer,	Wise,
Dunn,	Jones,	Scales,	Wright,
Elam,	Kenna,	Shelley,	Young, Casey.
Ellis,	King,	Simonton,	
Evins,	Ladd,	Singleton, James W.	

NOT VOTING—60.

Aiken,	Davis, Joseph J.	Klotz,	Muller,
Bachman,	Dibrell,	Knott,	O'Brien,
Bailey,	Dick,	Lay,	O'Connor,
Ballou,	Einstein,	Lounsbery,	O'Reilly,
Beale,	Fisher,	Martin, Benj. F.	Overton,
Beltzhoover,	Harmer,	Martin, Edward L.	Pierce,
Bingham,	Heilman,	Martin, Joseph J.	Ryon, John W.
Bland,	Hiscock,	Mason,	Smith, A. Herr
Bouck,	Horr,	McCook,	Smith, William E.
Bragg,	Hubbell,	McMahon,	Starin,
Calkins,	Jorgensen,	Miles,	Wells,
Camp,	Kelley,	Miller,	White,
Clark, Alvah A.	Killinger,	Mitchell,	Wilson,
Clymer,	Kimmel,	Morse,	Wood, Fernando
Crowley,	Kitchin,	Morton,	Yocum.

So (two-thirds not having voted in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. KELLEY, (when his name was called.) Finding a divided duty, I decline to vote.

The SPEAKER. Debate is not in order.

Mr. KENNA. The gentleman from Pennsylvania, Mr. OVERTON, is paired with the gentleman from North Carolina, Mr. DAVIS. My colleagues, Mr. WILSON and Mr. MARTIN, are paired; I do not know with whom.

Mr. HENRY. Mr. KLOTZ, of Pennsylvania, is paired with Mr. HARMER, of the same State.

Mr. BEALE. I am paired with my colleague from Virginia, Mr. JORGENSEN.

Mr. BRAGG. I am paired with Mr. HISCOCK, of New York. If he were present, I should vote "no." My colleague from Wisconsin, Mr. BOUCK, is paired with Mr. MORSE, of Massachusetts. Mr. BOUCK, if present, would vote "no" and Mr. MORSE would vote "ay."

Mr. KNOTT. I am paired with Mr. BINGHAM. If he were here, he would vote "ay" and I should vote "no."

Mr. DIBRELL. On all political questions I am paired with Mr. MCCOOK. If he were present, he would vote "ay" and I should vote "no."

Mr. WAIT. My colleague, Mr. MILES, is paired with Mr. MORSE, of Massachusetts. Both of the gentlemen are absent on account of business.

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is absent and is paired with Mr. MCMAHON. Mr. BALLOU, if here, would vote "ay" and Mr. MCMAHON, I presume, would vote "no."

Mr. STONE. My colleague, Mr. HORR, is paired with Mr. BOUCK. If Mr. HORR were here, he would vote "ay."

Mr. DWIGHT. My colleague, Mr. MASON, is paired with Mr. BACHMAN.

Mr. MARTIN, of North Carolina. I am paired with my colleague, Mr. KITCHIN.

Mr. BREWER. My colleague, Mr. HUBBELL, is absent from the House by reason of sickness in his family. If here, he would vote "ay."

Mr. SMITH, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. My colleague, Mr. HARMER, is paired with my other colleague, Mr. KLOTZ, on all political questions. On the adjournment until Tuesday and over Monday Mr. HARMER would vote "ay" and Mr. KLOTZ "no." On going into legislation other than the two appropriation bills now pending Mr. HARMER "no" and Mr. KLOTZ "ay." My colleague, Mr. RYON, is paired with Mr. MITCHELL on the adjournment to Tuesday and all political questions.

Mr. BLISS. My colleague, Mr. O'BRIEN, is paired with Mr. EINSTEIN. I do not know how they would vote.

Mr. BARLOW. My colleague, Mr. JOYCE, is absent on account of sickness.

Mr. CLARK, of Missouri. Mr. WELLS is paired with Mr. KILLINGER.

The result of the vote was then announced as above recorded.

ADMISSION TO THE FLOOR.

The SPEAKER. The Chair desires to ask consent, at the request of the gentleman from New York, [Mr. PIERCE,] that Hon. H. J. Hurd, Hon. J. A. Roberts, Hon. A. B. Hepburn, Hon. W. A. Johnson, and Hon. R. S. Palmer, members of the New York Legislature, may be allowed during their brief stay in the city to come upon the floor.

Mr. CASWELL. I ask the same privilege for Mr. Gunther, treasurer of the State of Wisconsin.

Mr. WHITE. I object.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

Mr. KNOTT. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. REAGAN. I desire to make a point of order upon the motion of the gentleman from Tennessee.

ISAAC R. HILL.

Mr. CARLISLE. Allow me to make a request of the gentleman from Tennessee [Mr. ATKINS] to yield to me for a moment to present a resolution which I think will take but a moment to dispose of. It relates to the organization of the House.

The Clerk read the resolution, as follows:

Resolved, That Isaac R. Hill be employed as a messenger on the floor of the House of Representatives for the present Congress and until further ordered, under the direction of the Sergeant-at-Arms, at a salary of $1,800 a year, to be paid monthly by the Clerk of the House out of the contingent fund.

Mr. REAGAN. Why should that be done?

The SPEAKER. Under the rules any resolution making an appropriation from the contingent fund must of necessity go to the Committee of Accounts.

Mr. BREWER. I object to the resolution.

Mr. CARLISLE. My purpose was, and I thought the gentleman from Tennessee [Mr. ATKINS] would yield for that purpose, to move to suspend the rules and pass the resolution.

The SPEAKER. The Chair thinks that, this being a question relating to the organization of the House, he should recognize the gentleman from Kentucky to offer the resolution.

Mr. FORT. I hope the gentleman from Kentucky will state why the resolution ought not to go to the Committee of Accounts, and what is the special reason for passing it.

The SPEAKER. Debate is not in order on a motion to suspend the rules. The Chair would allow debate by unanimous consent for a brief period.

Mr. CARLISLE. I have no disposition to debate the resolution. I merely want to respond to the question put by the gentleman from Illinois, [Mr. FORT.] I introduced the resolution with the understanding that it was agreeable to gentlemen on both sides of the House. Many gentlemen who are informed of the services of Mr. Hill, whom they knew as an employé of the Forty-fifth Congress, deemed those services necessary for the transaction of business. I have no personal interest in the matter.

Mr. REAGAN. I would be very glad that the resolution should be referred to the Committee of Accounts. I do not like to increase the number of employés of the House without understanding the reason and necessity of so doing.

Mr. CARLISLE. I will ask, then, that the resolution be referred to the Committee of Accounts.

There was no objection, and the resolution was received and referred to the Committee of Accounts.

ORDER OF BUSINESS.

The question recurred upon the motion of Mr. ATKINS, that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the legislative, &c., appropriation bill.

Mr. EWING. On that question I call for the yeas and nays.

Mr. ATKINS. Very well. I move that the House adjourn. The gentleman from Texas [Mr. REAGAN] cannot make a point of order on that.

The SPEAKER. The Chair desires to hear the point of order of the gentleman from Texas.

Mr. ATKINS. I have the right, I believe, to make the motion to adjourn.

The SPEAKER. The effect of the motion of the gentleman from Tennessee [Mr. ATKINS] to adjourn is the withdrawal of his motion to suspend the rules, and there having been intervening business since the House voted upon a motion to adjourn the Chair will again submit that motion to the House.

WITHDRAWAL OF PAPERS.

The SPEAKER. Pending the motion to adjourn, the Chair will submit to the House sundry requests for the withdrawal of papers in cases where there have been no adverse reports:

Mr. JOHNSTON, in the cases of David Tenant, Watson and McGill, the Miller heirs, William V. Taylor, executor, and Donnan, administrator of —— Dunlap;

Mr. OVERTON, in the case of Charles H. Warner;

Mr. BEALE, in the case of Thomas W. Tansitt;

Mr. THOMPSON, in the cases of J. A. Briggs, (administrator of C. M. Briggs,) W. R. Boice, and A. S. Shotwell;

Mr. EVINS, in the case of Lacon R. Tillman;

Mr. HARRIS, of Massachusetts, in the case of Reuben H. Plass;

Mr. MCKENZIE, in the cases of Eliza K. Ashley and sureties of John P. Hall;

Mr. BRIGHAM, in the case of Frederick W. Posthoff;

Mr. ALDRICH, of Illinois, in the case of Leonora W. Marshall;

Mr. JONES, in the case of Rosanna Dischenger; and

Mr. CASWELL, in the case of the Fifth Baptist church, (colored,) Washington, District of Columbia.

Mr. CONGER. Let those requests go into the RECORD, and if tomorrow there be no objection to them they can be granted.

The SPEAKER. They will lie over and be considered as pending.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. MORSE, for ten days.

NATIONAL BOARD OF HEALTH.

Mr. YOUNG, of Tennessee. I ask unanimous consent to introduce a bill for reference and printing at this time upon the subject of epidemic diseases. It is one of great importance to the whole country, and does not involve any political questions.

Mr. CONGER. I think it very proper that the bill should be printed and referred.

There being no objection, the bill (H. R. No. 3) to increase the efficiency of the National Board of Health and to prevent the introduction into or spread within the United States of contagious and infectious diseases was introduced, read a first and second time, referred to the Committee on Epidemic Diseases, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, and requested the concurrence of the House in, a resolution to provide for the printing of additional copies of the report on the observations of the transit of Venus, made under the direction of the Navy Department, in December, 1874.

ADJOURNMENT.

The question recurred upon the motion of Mr. ATKINS, that the House now adjourn.

The question was taken; and upon a division there were—ayes 96, noes 61.

Before the result of the vote was announced,

Mr. EWING called for the yeas and nays.

The question was taken upon ordering the yeas and nays, and upon a division there were—ayes 37, noes 88.

So (the affirmative being more than one-fifth) the yeas and nays were ordered.

The question was taken; and there were—yeas 123, nays 92, not voting 71; as follows:

YEAS—123.

Acklen,	Barber,	Boyd,	Cannon,
Aldrich, William	Bayne,	Bragg,	Carpenter,
Anderson,	Bicknell,	Briggs,	Chittenden,
Armfield,	Blackburn,	Brigham,	Claflin,
Atherton,	Blake,	Browne,	Clark, John B., jr.
Atkins,	Bliss,	Buckner,	Clark, Rush
Bailey,	Blount,	Burrows,	Cook,
Baker,	Bowman	Caldwell	Covert

Cowgill,	Harris, John T.	McGowan,	Ryan, Thomas
Cox,	Haskell,	McKinley,	Scales,
Cravens,	Hawk,	McLane,	Shallenberger,
Daggett,	Hawley,	Mills,	Sherwin,
Davidson,	Hayes,	Money,	Simonton,
Davis, George R.	Hazelton,	Monroe,	Singleton, O. R.
Deering,	Henderson,	Morrison,	Stone,
Deuster,	Henry,	Newberry,	Talbott,
Dibrell,	Hooker,	Norcross,	Townsend, Amos
Dickey,	Houk,	O'Neill,	Tyler,
Dunn,	House,	Orth,	Updegraff, J. T.
Dunnell,	Humphrey,	Osmer,	Updegraff, Thomas
Dwight,	Hunton,	Pierce,	Urner,
Errett,	Hurd,	Poehler,	Van Voorhis,
Farr,	James,	Pound,	Voorhis,
Felton,	Johnston,	Reed,	Wait,
Field,	Keifer,	Rice,	Ward,
Fort,	Knott,	Richardson, D. P.	Washburn,
Garfield,	Lapham,	Richmond,	Whiteaker,
Goode,	Loring,	Robertson,	Willits,
Hammond, John	Marsh,	Robeson,	Wood, Walter A.
Hammond, N. J.	Martin, Joseph J.	Robinson,	Young, Thomas L.
Harris, Benj. W.	McCoid,	Russell, William A.	

NAYS—92.

Barlow,	Frost,	Manning,	Smith, H. B.
Brewer,	Frye,	McKenzie,	Sparks,
Bright,	Geddes,	McMillin,	Speer,
Cabell,	Gibson,	Muldrow,	Steele,
Caswell,	Gillette,	Myers,	Stephens,
Chalmers,	Godshalk,	Neal,	Stevenson,
Clardy,	Hall,	New,	Taylor,
Cobb,	Hatch,	Nicholls,	Thomas,
Coffroth,	Herbert,	Persons,	Thompson,
Colerick,	Herndon,	Phelps,	Tillman,
Conger,	Hill,	Phister,	Townshend, R. W.
Converse,	Hostetler,	Prescott,	Turner, Oscar
Culberson,	Hull,	Price,	Turner, Thomas
Davis, Lowndes H.	Jones,	Reagan,	Van Aernam,
De La Matyr,	Kelley,	Richardson, J. S.	Waddill,
Elam,	Kenna,	Ross,	Warner,
Ellis,	Ketcham,	Rothwell,	Weaver,
Evins,	King,	Russell, Daniel L.	Whitthorne,
Ewing,	Ladd,	Samford,	Wilber,
Finley,	Le Fevre,	Sawyer,	Williams, Thomas
Ford,	Lewis,	Shelley,	Willis,
Forney,	Lindsey,	Singleton, J. W.	Wise,
Forsythe,	Lowe,	Slemons,	Wright.

NOT VOTING—71.

Aiken,	Davis, Joseph J.	Lay,	Ryon, John W.
Aldrich, Nelson W.	Dick,	Lounsbery,	Sapp,
Bachman,	Einstein,	Martin, Benj. F.	Smith, A. Herr
Ballou,	Ferdon,	Martin, Edward L.	Smith, W. E.
Beale,	Fisher,	Mason,	Springer,
Belford,	Gunter,	McCook,	Starin,
Beltzhoover,	Harmer,	McMahon,	Tucker,
Bingham,	Heilman,	Miles,	Valentine,
Bland,	Henkle,	Miller,	Vance,
Bouck,	Hiscock,	Mitchell,	Wellborn,
Butterworth,	Horr,	Morse,	Wells,
Calkins,	Hubbell,	Morton,	White,
Camp,	Jorgensen,	Muller,	Williams, C. G.
Carlisle,	Joyce,	Murch,	Wilson,
Clark, Alvah A.	Killinger,	O'Brien,	Wood, Fernando
Clymer,	Kimmel,	O'Connor,	Yocum.
Crapo,	Kitchin,	O'Reilly,	Young, Casey.
Crowley,	Klotz,	Overton,	

So the motion to adjourn was agreed to.

During the roll-call the following announcements were made:

Mr. SCALES. My colleague, Mr. VANCE, has left the House on account of sickness in his family. He is, I understand, paired. My colleague from North Carolina, Mr. DAVIS, is absent by leave of the House, and is paired with the gentleman from Pennsylvania, Mr. OVERTON.

Mr. BRAGG. My colleague, Mr. BOUCK, is paired with the gentleman from Michigan, Mr. HORR. I am paired with the gentleman from New York, Mr. HISCOCK; but agreeing with him on this vote, I have voted "ay."

Mr. WILLIAMS, of Wisconsin. On this question I am paired with the gentleman from Virginia, Mr. TUCKER.

Mr. SMITH, of Pennsylvania. I am paired with the gentleman from Pennsylvania, [Mr. CLYMER.] If he were present, I should vote in the affirmative, and I suppose he would vote in the negative.

Mr. HAZELTON. I would like to submit a motion which I think would be in order.

The SPEAKER. The Chair cannot entertain it pending a motion to adjourn.

Mr. HAZELTON. If the House will allow me a moment I wish to state—[Cries of "Regular order!"] I merely desire to make a request.

The SPEAKER. The Chair will recognize the gentleman in the morning.

The result of the vote was announced as above stated; and accordingly (at two o'clock and thirty minutes p. m.) the House adjourned

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PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ANDERSON: The petition of Josiah C. Elkins, to be reimbursed his expenses incurred, and for compensation for injuries received, while aiding in the arrest of a smuggler upon the requisition of the deputy collector of customs at the port of North Troy, Vermont—to the Committee of Claims.

Also, resolutions of the Legislature of Kansas, requesting certain action with reference to the institution of a suit for the purpose of settling the title to certain indemnity lands—to the Committee on the Judiciary.

By Mr. ATKINS: Papers relating to the claim of Mary Ann Hare—to the Committee of Claims.

Also, papers relating to the claim of Franklin Travis—to the Committee of Ways and Means.

Also, papers relating to the war claim of Hiram Johnson and others—to the Committee on War Claims.

By Mr. BEALE: The petition of P. A. Leatherburry, to be refunded the amount paid on a check issued by the Government, the payment of which has been stopped—to the Committee of Claims.

By Mr. BENNETT: The petition of A. W. Movins, W. J. Townsend, and 44 others, citizens of Grant County, that the time for payment of their claims on old Sioux reservation be extended from October 1, 1879, to October 1, 1884—to the Committee on Public Lands.

By Mr. BOYD: The petition of Andrew Hosmer, for compensation for cotton seized by United States officials—to the Committee on the Judiciary.

By Mr. CHALMERS: The petition of James R. Chalmers, for himself and others, (accompanied by draught of bill,) for legislation on the subject of the completion of the Pacific railway system—to the Committee on the Pacific Railroad.

Also, memorial of the Mississippi State Medical Association, on the subject of a national quarantine—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. COOK: The petition of citizens of Georgia, for a post-route from Mount Vernon to Seward, Montgomery County, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. COX: The petition of L. P. Di Cesnola, late consul at Cyprus, to be reimbursed the amount paid by him for the official expenses of his consulate—to the Committee on Foreign Affairs.

By Mr. EVINS: The petition of Julia M. Colburn, administratrix, and Sophia E. Stimpson, for the extension of a patent for an ice-pitcher—to the Committee on Patents.

By Mr. FARR: The petition of James M. Learned and 16 others, members of Union Grange, Orford, New Hampshire, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. GOODE: The petition of William H. C. Ellis, for compensation for services rendered as an attorney in defending two watchmen at the navy-yard at Norfolk, Virginia, at the request of the commandant of said navy-yard, charged with the crime of manslaughter—to the Committee of Claims.

Also, the petition of Francis Richardson, commissioner of the estate of John Tremper, for the extension of a patent for variable cut-off gear for steam engines—to the Committee on Patents.

By Mr. GUNTER: The petition of Charles P. Redmond, to be refunded certain moneys paid by him for lands bought at a United States tax sale—to the Committee of Claims.

Also, the petition of Albert Grant, that a certain claim of his against the Government be referred to the Court of Claims—to the same committee.

By Mr. HALL: Papers relating to the pension claim of Harriet Flagg—to the Committee on Invalid Pensions.

By Mr. HENKLE: The petition of Ann E. Carroll, for compensation for services rendered the United States during the late civil war—to the Committee on Military Affairs.

By Mr. HOOKER: Memorial of the Choctaw Nation of Indians, for the adjustment of their claims under the treaty of 1855—to the Committee on Indian Affairs.

By Mr. HOUK: Papers relating to the war claim of Charles Wagnon—to the Committee on War Claims.

By Mr. HOUSE: Papers relating to the claims of Henry Erne, of William A. and Adelicin Cheatham, and of C. B. Cluskey—to the Committee of Claims.

By Mr. HUNTON: Papers relating to the claim of Richard Windsor—to the Committee on the Judiciary.

Also, the petition of citizens of Virginia, for a recomputation of the accounts between the United States and the several States growing out of moneys expended by said States in the war of 1812—to the same committee.

By Mr. JOYCE: The petition of women of Clarendon, Vermont, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. LADD: Memorial of the State of Maine, in relation to the navigation and bridging certain rivers which constitute the boundary-line between the United States and the Dominion of Canada—to the Committee on Foreign Affairs.

Also, resolutions of the Legislature of Maine, relating to the termination of articles 18 and 20 of the treaty of 1871 with Great Britain—to the same committee.

Also, papers relating to the pension claim of Zenas Herrick—to the Committee on Revolutionary Pensions.

Also, papers relating to the pension claim of Henry H. Haskell—to the Committee on Invalid Pensions.

Also, papers relating to the claim of George A. Fairfield—to the Committee of Claims.

By Mr. LEWIS: The petition of Toussaint Mesplie, for compensation for services rendered as a chaplain in the United States Army—to the same committee.

By Mr. LINDSEY: Papers relating to the claim of J. H. Merrell—to the same committee.

By Mr. MANNING: The petition of Eliza J. Yarnell, for a pension—to the Committee on Invalid Pensions.

By Mr. MYERS: Papers relating to the pension claim of Samuel W. Overman—to the same committee.

By Mr. NEWBERRY: Resolutions of the Legislature of Michigan, asking for an appropriation for the establishment of a light-house at the mouth of Manistee River—to the Committee on Commerce.

By Mr. REAGAN: The petition of John H. Reagan, (accompanied by draught of joint resolution,) for the passage of a joint resolution proposing amendments to the Constitution—to the Committee on the Judiciary.

Also, the petition of John H. Reagan, (accompanied by draught of joint resolution,) for the passage of a joint resolution authorizing and directing the Secretary of the Treasury to pay to the State of Texas $1,629,615.69 on account of moneys paid out by said State for frontier defense—to the same committee.

Also, the petition of John H. Reagan, (accompanied by draught of joint resolution,) for the passage of a joint resolution authorizing the Secretary of the Treasury to pay over to the State of Texas the balance remaining of the fund appropriated by the acts of September 9, 1850, and February 28, 1855, for the payment of the creditors of the late Republic of Texas—to the same committee.

Also, the petition of John H. Reagan, (accompanied by draught of bill,) for the passage of a bill to pension certain soldiers of the Mexican, Black Hawk, and Florida wars, and widows of such soldiers—to the Committee on Invalid Pensions.

Also, the petition of John H. Reagan, (accompanied by draught of bill,) for the passage of a bill to regulate interstate commerce and to prevent unjust discriminations by common carriers—to the Committee on Commerce.

Also, the petition of John H. Reagan, (accompanied by draught of bill,) for the passage of a bill to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels—to the same committee.

Also, papers relating to the claim of Marcus Radich—to the Committee on Foreign Affairs.

Also, the petition of John H. Reagan, (accompanied by draught of bill,) for the passage of a bill to reduce and fix the customs dues on quinine and on the salts of quinine—to the Committee of Ways and Means.

Also, the petition of John H. Reagan, (accompanied by draught of joint resolution,) for the passage of a joint resolution to apply the amount appropriated by act of March 3, 1877, to pay certain southern mail contractors—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHMOND: The petition of Charles B. Sprales and others, for the establishment of a post-route from Bristol, Tennessee, via Benham's Mills, to Mendota, Virginia—to the same committee.

By Mr. SCALES: The petition of citizens of North Carolina, in relation to certain irregularities in the fifth collection district of North Carolina—to the Committee of Ways and Means.

By Mr. SPRINGER: The petition of William M. Springer, (accompanied by draught of bill,) for the passage of a bill to authorize the purchasing of silver bullion and the issue of silver certificates—to the Committee on Coinage, Weights, and Measures.

By Mr. STEPHENS: The petition of W. W. Hubbell and others, (accompanied by draught of bill,) for Congress to authorize the mintage of ingots of metric gold alloy and metric goloid alloy, its deposit in the Treasury, and issue of certificates therefor—to the same committee.

Also, the petition of W. W. Hubbell and others, that Congress authorize a a new metric gold coin for international use, to be known as the "stella," and to pass a bill in name and form as therein set forth—to the same committee.

Also, the petition of W. W. Hubbell and others, for Congress to authorize metric goloid and gold coinage, and to pass a bill in manner and form as therein set forth—to the same committee.

Also, the petition of the New York Gas-Light Company, Samuel Carter, and other citizens, for the passage of a bill by Congress for the interchange of subsidiary silver coins and United States notes—to the same committee.

Also, the petition of Thomas H. Dunham, that Congress authorize the Secretary of the Navy to introduce tarred cotton cordage in the naval service—to the Committee on Naval Affairs.

Also, the petition of Alexander H. Stephens, in behalf of the State of Georgia and the citizens thereof, that Congress refund to said State certain moneys expended in the common defense in the year 1777—to the Committee of Claims.

Also, the petition of Alexander H. Stephens and others, citizens of Augusta, Georgia, for the appropriation of $100,000 for the erection of a public Federal building in said city, suitable for a post-office, United States custom-house, court-house, and offices for United States revenue service—to the Committee on Public Buildings and Grounds.

Also, the petition of Alexander H. Stephens and others, citizens of Richmond, Columbia, Hart, and Elbert Counties, Georgia, for an appropriation of $50,000 for the improvement of Savannah River, above Augusta, according to Government surveys and estimates—to the Committee on Commerce.

Also, the petition of F. H. Gordon and others, to provide for the settlement of accounts with the Georgia and certain other railway companies—to the Committee on the Judiciary.

By Mr. TAYLOR: Papers relating to the pension claims of Nancy Tipton and of Elizabeth Bray—to the Committee on Invalid Pensions.

Also, papers relating to the claim of Mrs. Nancy Johnson—to the Committee of Claims.

Also, papers relating to the claim of the heirs of R. H. Murrell—to the Committee on Military Affairs.

By Mr. TUCKER: The petition of John C. McCall and others, for the amendment of section 7 of the laws relating to internal revenue, approved March 1, 1879—to the Committee of Ways and Means.

Also, the petition of citizens of Alleghany County, Virginia, for the establishment of a post-route from Blue Spring Run to Sweet Chalybeate Springs, Virginia—to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Alleghany County, Virginia, for the establishment of a post-route between Covington and Potts Creek post-office, Virginia—to the same committee.

By Mr. VANCE: The petition of Robert B. Vance, of North Carolina, (accompanied by draught of bill,) for the passage of an act to authorize the free coinage of the standard silver dollar—to the Committee on Coinage, Weights, and Measures.

Also, the petition of Loyd R. Welch and others, for the passage of a bill to authorize and enable the eastern band of the Cherokee Indians to institute and prosecute a suit in the Court of Claims against the Cherokee Nation—to the Committee on Indian Affairs.

Also, papers relating to the war claim of John B. Sugg—to the Committee on War Claims.

By Mr. WARNER: The petition of A. J. Warner and others, (accompanied by draught of bill,) asking for the unlimited coinage of silver, with coin and bullion certificates of silver on the same conditions as gold—to the Committee on Coinage, Weights, and Measures.

Also, the petition of A. J. Warner and others, (accompanied by draught of bill,) that certain sections of the Revised Statutes relating to coinage be amended so as to admit silver to coinage on the same conditions with gold—to the same committee.

By Mr. WHITTHORNE: The petition of Henry S. Wetmore, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *April* 15, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

ELECTION OF PRESIDENT PRO TEMPORE.

The SECRETARY (JOHN C. BURCH) called the Senate to order and said: I have just received the following communication from the Vice-President:

WASHINGTON, *April* 15, 1879.

SIR: A telegram received this morning advises me of the dangerous illness of a sister, and summons me home. It will therefore be necessary for the Senate, on its meeting to-day, to elect a President *pro tempore*.

Respectfully,

W. A. WHEELER, *President, &c.*

The SECRETARY OF THE SENATE.

What is the pleasure of the Senate?

Mr. DAVIS, of West Virginia. Mr. Secretary, as the Senate is very thin, I hope that we shall postpone the election of a President *pro tempore* for a few moments by common consent, and that the Journal may be read, so that the Senate may fill up before we proceed.

Mr. HAMLIN. We need not have the Journal read, but can wait as we are.

Mr. DAVIS, of West Virginia. Very well; as the Senator from Maine suggests, let us remain in our seats for a few minutes.

Mr. WALLACE. I suggest an informal recess for ten minutes, until the Senate shall fill up.

The SECRETARY. By unanimous consent, a recess will be taken for ten minutes.

At the expiration of the recess (at twelve o'clock and twenty minutes p. m.) the Senate was called to order by the Secretary.

Mr. BAYARD. Mr. Secretary, I submit the following resolution and ask for its present consideration:

Resolved, That in the absence of the Vice-President, Hon. ALLEN G. THURMAN be, and he is hereby, chosen President of the Senate *pro tempore*.

Mr. ANTHONY. Mr. Secretary, I move to amend the resolution by striking out the name "ALLEN G. THURMAN" and substituting "THOMAS W. FERRY."

The SECRETARY. The question is on the amendment of the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. WALLACE. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. EATON, (when his name was called.) On this question I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] Were he here, I should vote "nay."

Mr. INGALLS, (when his name was called.) I am paired on this question with the Senator from Missouri, [Mr. VEST,] who is detained by illness. If he were present, I should vote "yea."

Mr. KELLOGG, (when his name was called.) I am paired with the Senator from South Carolina [Mr. BUTLER] on this question. If he were present, I should vote "yea."

The roll-call was concluded.

Mr. BURNSIDE, (after having voted "yea.") On all such questions I am paired with the Senator from New York, [Mr. KERNAN.] I voted in the affirmative and desire to withdraw my vote.

Mr. BECK, (after having voted "nay.") On all political questions I am paired with the Senator from Nevada, [Mr. JONES.] I forgot that for the moment when I voted, and I withdraw my vote.

Mr. COCKRELL. I desire to announce, as has already been announced by the Senator from Kansas, that my colleague [Mr. VEST] is paired with the Senator from Kansas, [Mr. INGALLS.] My colleague is detained from the Senate by severe indisposition. Were he here, he would vote "nay."

Mr. BAILEY. My colleague [Mr. HARRIS] is paired on all political questions with the Senator from Vermont, [Mr. EDMUNDS.]

The result was announced—yeas 18, nays 28; as follows:

YEAS—18.

Allison,	Cameron of Wis.,	Hoar,	Rollins,
Anthony,	Chandler,	Kirkwood,	Saunders,
Bell,	Conkling,	Logan,	Teller.
Booth,	Dawes,	Morrill,	
Cameron of Pa.,	Hamlin,	Plumb,	

NAYS—28.

Bailey,	Gordon,	McDonald,	Vance,
Bayard,	Groome,	Maxey,	Voorhees,
Call,	Grover,	Pendleton,	Walker,
Cockrell,	Hereford,	Randolph,	Wallace,
Davis of W. Va.,	Hill of Georgia,	Ransom,	Whyte,
Farley,	Houston,	Saulsbury,	Williams,
Garland,	Jonas,	Slater,	Withers.

ABSENT—29.

Beck,	Eaton,	Jones of Nevada,	Platt,
Blaine,	Edmunds,	Kellogg,	Sharon,
Bruce,	Ferry,	Kernan,	Thurman,
Burnside,	Harris,	Lamar,	Vest,
Butler,	Hill of Colorado,	McMillan,	Windom.
Carpenter,	Ingalls,	McPherson,	
Coke,	Johnston,	Morgan,	
Davis of Illinois,	Jones of Florida,	Paddock,	

So the amendment was rejected.

The SECRETARY. The question recurs upon the original resolution of the Senator from Delaware, [Mr. BAYARD.]

The resolution was agreed to.

Mr. THURMAN was escorted by Mr. FERRY to the chair, on taking which as President *pro tempore* he said:

Senators, it is only necessary for me to say, in the fewest possible words, that I sincerely thank you for this mark of your confidence and esteem. The Journal of yesterday's proceedings will now be read.

THE JOURNAL.

Mr. WALLACE. Mr. President, I offer the customary resolution to notify the President of the United States and the House of Representatives of the election by the Senate of a President *pro tempore*.

The resolution was read.

Mr. HOAR. I submit that no business is to be transacted until after reading the Journal.

The PRESIDENT *pro tempore*. The reading of the Journal is the first business in order.

The Journal of yesterday's proceedings was read and approved.

NOTIFICATION TO THE PRESIDENT, ETC.

Mr. WALLACE. I now call for action on the resolution submitted by me a moment ago.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate wait upon the President of the United States and inform him that, in the absence of the Vice-President, the Senate has chosen Hon. ALLEN G. THURMAN, a Senator from the State of Ohio, President of the Senate *pro tempore*; and that he make a similar communication to the House of Representatives.

MOLINE WATER-POWER.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the War Department, which will be reported.

The Secretary read as follows:

WAR DEPARTMENT,
Washington City, April 10, 1879.

The Secretary of War has the honor to submit to the United States Senate, with accompanying papers, a letter from the Chief of Ordnance upon the subject of leasing the water-power at Moline, Illinois, to the Moline Water-Power Company, as authorized in the sundry civil appropriation act approved March 3, 1879.

That officer is of the opinion that in view of the magnitude of the public interests involved, no such lease should be entered into, but that an appropriation should be made to enable the War Department to maintain the water-power. I concur in his views and recommend that an adequate appropriation be made for its maintenance by the United States.

GEORGE W. McCRARY,
Secretary of War.

The PRESIDENT *of the United States Senate.*

The PRESIDENT *pro tempore*. To which committee shall the communication be referred?

Mr. EATON. I move that it lie upon the table.

Mr. ALLISON. I think that it had better go to the Committee on Appropriations.

Mr. EATON. The bill is on the Calendar now.

Mr. ALLISON. Very well, then, that is the right course to be pursued.

The PRESIDENT *pro tempore*. The communication will lie on the table with the accompanying documents.

Mr. ALLISON. I move that the communication with the accompanying papers be printed.

The motion was agreed to.

DISTRICT WATER SUPPLY.

The PRESIDENT *pro tempore* laid before the Senate a communication from the commissioners of the District of Columbia, transmitting, in compliance with a resolution of the 7th instant, a schedule of water rents charged and collected in the District; which, on motion of Mr. ANTHONY, was referred to the Committee on the District of Columbia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. CHANDLER presented a resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the establishment of a light-house at the mouth of the Manistee River on the shore of Lake Michigan; which was referred to the Committee on Commerce.

Mr. ANTHONY. I present a memorial from John Beeson, familiarly known as Father Beeson, whose labors among the Indians are so well known, representing that war is imminent with the Indians and the settlers in Oregon, Colorado, and Alaska, and their surrounding territory. He further represents that "the forced removal of the Nez Percés and Sioux, and the difficulties with the Bannocks and the Cheyennes, consequent upon the violation of their treaties, has destroyed their confidence in the justice of the Government." Therefore the memorialist prays that "a peace commission, composed of such persons as can command the confidence alike of both races, may be appointed by the President of the United States to confer with the different tribes on the terms for the adjustment of existing difficulties, and to arrange for the consolidation upon fewer reserves of such as desire to move from their present location, as proposed by the Indian Bureau." I move the reference of the memorial to the Committee on Indian Affairs.

The motion was agreed to.

Mr. ROLLINS presented the memorial of Rufus Ingalls and others, officers of the Quartermaster's Department, United States Army, remonstrating against the passage of the bill (S. No. 192) to correct the date of commission of certain officers of the Quartermaster's Department; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. INGALLS presented the petition of John Davison, late private in Company C, Forty-seventh Regiment Illinois Volunteers, praying for a pension; which was referred to the Committee on Pensions.

Mr. COCKRELL presented a concurrent resolution of the Legislature of Missouri; which was read, and referred to the Committee on Indian Affairs, as follows:

Joint and concurrent resolution requesting Senators and Representatives in Congress to vote for and use all means in their representative capacity to establish an efficient and stable government in the Indian Territory.

Resolved, First. That we demand that the Government of the United States shall no longer nurture and sustain barbarism on the border of our State; that the long and persistent refusal of Congress to establish within the Indian Territory any civilized government or courts or appliance or requisites of civilization, is alike unjust to the people of Missouri, of the city of Saint Louis, and to the Indians residing within that Territory; that thereby all citizens are deprived of the trade and benefit which a country of unequaled fertility, larger in its area than the State of New York or Pennsylvania, is susceptible of producing, while the steady maintenance of its present condition operates as a barrier to the progress of our people, in opening up avenues to reach the trade of the vast and rich regions West and Southwest, and by the exclusion of the Indians from contact with civilization, and in failing to provide them with a stable government calculated to promote self-civilization, they are held in continued barbarism, and their country made the refuge of the lawless and the theater of lawlessness.

Second. That our Senators and Representatives in Congress are requested to use their best efforts to procure such legislation as will tend to establish an efficient and stable government in the Indian Territory, and render it more than a desert waste to our railroads, and a stumbling-block to the enterprise of our people.

Approved April 11, 1879.

MICHAEL K. McGRATH,
Secretary of State.

BILLS INTRODUCED.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 422) to provide for a building for United States custom-house and internal-revenue offices at Galveston, Texas; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 423) to authorize the Secretary of the Interior to allot land in severalty to the Indians residing upon the various reservations within the United States, and to issue patents therefor; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 424) authorizing the Chicago, Milwaukee and Saint Paul Railway Company to extend its road

through the Territory of Dakota; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 425) for the relief of Richard Johnson; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 426) for the relief of Patrick Sullivan; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 427) granting a pension to Frank Donohue; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 428) to provide for the temporary increase of the Army in an emergency; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 429) to provide for the survey and sale of certain public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. JONAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 430) to provide for the speedy completion of a line of railroad and telegraph between the ports on the Lower Mississippi River, the Gulf of Mexico, and the Pacific Ocean, along or near the southwestern portion of the United States, and to aid in the construction of the same, and for other purposes; which was read twice by its title, and referred to the Committee on Railroads.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 431) for the relief of William M. Pleas and F. S. Jones; which was read twice by its title, and referred to the Committee on Claims.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 432) authorizing the President of the United States to designate a railroad company to construct the north branch of the Union Pacific Railroad and telegraph line under the act of Congress approved July 2, 1864, and for other purposes; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 433) setting aside and appropriating certain proceeds of internal revenue for the erection of a penitentiary in the Territory of Dakota; which was read twice by its title, and referred to the Committee on Territories.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 434) granting an increase of pension to Eugene O'Sullivan; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WHYTE, it was

Ordered, That the petition and papers of Alexandria Tinsley, M. D., be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. CHANDLER, it was

Ordered, That Samuel Day have leave to withdraw his papers from the files of the Senate.

On motion of Mr. CAMERON, of Wisconsin, it was

Ordered, That the papers on the files of the Senate relating to the claim of Calvin T. Speer be taken therefrom and referred to the Committee on Military Affairs.

INTEROCEANIC CANAL SURVEYS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish, if not in his judgment incompatible with the public interests, a copy of the report of the commission appointed by the President on the 13th of March, 1872, which report was made February 7, 1876, relating to the different interoceanic canal surveys and the practicability of the construction of a ship-canal across this continent.

COMMITTEE SERVICE.

Mr. HOAR. I ask consent of the Senate to excuse me from further service upon the Committee on Agriculture.

Mr. CAMERON, of Wisconsin. I ask to be excused from further service upon the Committee on Transportation Routes to the Seaboard.

The PRESIDENT *pro tempore*. If there be no objection, the requests of the Senators will be considered as granted.

Mr. MORRILL. I move that the Chair be authorized to fill the vacancies thus made by the resignation of the Senators from Massachusetts and Wisconsin.

The motion was agreed to by unanimous consent.

The PRESIDENT *pro tempore*. The Chair appoints the Senator from New Hampshire [Mr. BELL] to fill the vacancies on both committees.

Mr. HAMLIN. I ask the Senate to excuse me from further service upon the Select Committee of the Senate to consider claims against the Nicaraguan government.

Mr. MORRILL. I hope not.

Mr. CONKLING. I hope the Senator from Maine will at least let his request lie over until some of his friends can confer with him. He is chairman of that committee, and if it does not incommode him, I should be glad that the request might stand for a day.

Mr. HAMLIN. I have no objection to its standing for a day, but I assure my friend from New York that it will not produce any change.

Mr. CONKLING. The Senator shows his ignorance of what we are going to say to him when he makes that remark.

Mr. WALLACE. There is a vacancy upon the Committee on Education and Labor and I hope it may be filled by the Chair. With that view I offer the following resolution:

Resolved, That the vacancy on the Committee on Education and Labor be filled by the Chair.

The resolution was, by unanimous consent, considered and agreed to.

The PRESIDENT *pro tempore*. The Chair appoints the Senator from Mississippi, [Mr. LAMAR,] to fill the vacancy.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes, with an amendment; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered; and it was thereupon signed by the President *pro tempore*.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question being on the amendment of Mr. BLAINE to add to the sixth section the following words:

And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

The PRESIDENT *pro tempore*. On the question before the Senate the Senator from Illinois [Mr. LOGAN] is entitled to the floor.

Mr. LOGAN. Mr. President, it is not my present purpose to discuss the questions presented in this bill to the extent and with the exhaustiveness I might desire, even were the principles involved less momentous or fraught with consequences less grave and far-reaching than they are.

I cannot but regard the question which has arisen from this first move of the democratic party upon their re-establishment in power looking to the grasping of the Government as absolutely the most important as well as the most vital question which has presented itself as a menace to our Government since the year 1861, when the same sentiment, as well as many of the same men, aimed a blow at the integrity of our country. Entertaining this view of the importance of the question, I believe it to be not alone the privilege but the bounden duty of every representative of the people to give it his serious attention and to lend his best efforts toward its wisest and most fortunate solution.

In acting upon this view of the case, it is my purpose to contribute the mite of whatever thought I may have given the question to the discussion; but at the same time, to present my views as succinctly as possible, that I may not deprive the country and myself of the statement of the opinions of others which may have a greater value to the general interest than the expressions of my own.

The question before this Congress has been most ably discussed by both parties in many of its aspects, and the eloquence and erudition of the leaders have thrown much light upon principles, as to which there has been great obscurity in the popular mind. The arguments have, however, chiefly run upon the propriety, the expediency, and the constitutionality of attaching legislative enactments to appropriation bills, and while having no disposition to recapitulate or resay what perhaps has been already better said upon this particular branch of the subject, I may be indulged in a few remarks upon it, rather as a preliminary to the line of argument upon which I propose its treatment.

The first thing, Mr. President, which would seem to strike an impartial observer is the determined purpose to accomplish by indirection an end which it is out of the power of its friends to accomplish fairly and according to the usual methods of legislation.

This is a bad introduction of any measure under a form of government like our own. If we lived under a monarch from whom we were compelled to wring by stratagem and force every concession to right and justice, we should seek some such way as that by which it has been attempted to compel legislation in a manner not contemplated by the letter and spirit of our Constitution.

But the people are the sovereigns of our country, and that measure which cannot go before them on its merits and abide the time and manner of their decision is weak, probably bad; and almost certainly in the interest of the few as against the interest of the many. Look

for a moment, sir, at the history of this measure which proposes legislation of the most radical character. At no period of its history has the measure appeared in the form of independent legislation. Originally introduced into the last House when the Senate was republican in its majority, the evident purpose was to compel the Senate's acquiescence in a proposition which, as a measure appealing to their judgment and sense of right, they could not indorse. Now that the majority of the Senate has become democratic it is again before Congress with the expectation that the Senate in passing it will assist in influencing the last obstacle to its success, the presidential scrutiny. Plainly enough this course implies compulsion; unusual and unrecognized methods of accomplishment, as well as a fear to abide by the test of inherent merit, note the violent circumstances, so to speak, under which it was forced upon the last Congress—parliamentary rules providing that no legislation should be affixed to appropriation bills unless not only germane to the subject but likewise retrenching in character must be overridden, rendered useless and nugatory, in order to force this character of legislation upon the country. I have no desire to criticise the purposes of any legislator in the discharge of his functions, but I draw attention to this point as tending to show the determination to consummate this piece of proposed legislation against time, against argument, against the co-operative branches of the Government, and against the people, who it must be presumed are not to be trusted with the decision of this question.

Now, sir, I say the methods by which this legislation is attempted are bad upon their face, and argue in convincing terms against its propriety. The attempt has been made to show republican precedent, and to establish the justification of usage thereby. Recognized usage is the natural offspring of equity, and when it is violated usage must cease or bear the aspects of wrong. If the republicans as a party have perpetrated acts manifestly wrong, the precedent they establish does not justify a repetition of wrong by others, charged with duties of the most responsible character; and weighted with perplexities and embarrassments by those who were putting forth every effort to drag down the Government, it would be strange, indeed, if they could draw the country through the terrible ordeal which confronted it, preserve its integrity, and re-establish it upon its original basis of equality and justice without the commission of many mistakes. To do so would argue a perfection in human judgment scarcely to be hoped for, much less to be realized. But as a matter of fact, sir, there is no precedent for this manner of legislation in anything which the republican party has ever done.

Its import does not consist simply in tacking words which consummate or establish legislation upon a bill which of itself is not legislation in character. In one sense this may have been done, and while it is an objectionable method and should not be tolerated in the future, it does not compass the pernicious effect of the measure before us. What is that? What is that effect, sir? It lies wholly in the spirit of the method, and not so much in the method itself; when it has been done heretofore by the republicans, it was done not to force others to an act which in the ordinary mode they could prevent, but as conservative of time alone. If there be an instance on record by which it appears a President signed an appropriation bill containing items of extraneous legislation under protest, it was when the dominant party had a majority sufficiently great to pass it over his veto. Hence it cannot be said that the bill was duly enacted only through compulsion of one of the prescribed parties to it.

But, sir, there is no such state of case with this bill. Our Government is one of co-ordinate powers which have mutual duties, independent responsibilities, and separate checks one upon the other. If one branch of the Government takes away the freedom of action of the others, it usurps the powers, privileges, and functions of the whole. Now, sir, this constitutes coercion of the boldest, rankest kind. The measure being coercive is certainly against the spirit of the Constitution and, being so, is revolutionary to the last degree. The logic of this conclusion is so inevitable as to permit no outlet for escape. In the debate which has taken place on this bill, instances were adduced in sufficient number to show most convincingly how either House of Congress, by a refusal to perform its constitutionally prescribed duties, or by performing them in a manner not contemplated by the framers of the Constitution, might disrupt the Government as effectually as though accomplished by sword and gun, and the illustration might have been carried much further, which I will not take the time of the Senate in doing. The example, sir, of other governments, even if they corresponded in essential points of resemblance to our own, and those examples which have been heretofore cited by the supporters of this measure do not so correspond, would afford no salutary precedent for our own procedure. Why? Because the Constitution and genius of our governmental fabric are so entirely different as to furnish no precise points of correspondence from which to draw parallel illustrations. Being purely a Government of consentaneous powers in its legislative and executive features, the moment the free agency of one of the elements is interfered with that moment is violence done to the genius of the structure, and that moment is the ideal of republican government dissolved and hidden in the dark shadows of a government by force. The principle may live, sir, but the tangible essence will vanish. Now, sir, if legitimacy of principle of compelling one or two branches of the Government to yield to the other that free agency which constitutes one of the beauties and safeguards of the Republic be firmly established, then is it but a simple question of time and incident as to the precise period when the Government will go to pieces like a ship upon the rocks, and the American may exclaim with the Roman general, "*Actum est de republica*," "It is all over with the Republic."

This destruction will not come of necessity from the action contemplated in this bill; it will not this year, nor probably the next; but year by year encroachments will be made in this direction and in that direction; first one safeguard will be overturned and then another; to-day we shall have a statute repealed by indirect methods, and next year we may have the provisions of the Constitution itself subverted by the simple action of one branch of the National Government.

Let no gentlemen say this is an overdrawn picture or that it forms the wild vision of an alarmist. There is no safety, Mr. President, in the course which our democratic friends are pursuing in reference to this measure; no safety for the South, no safety for the North in their individual aspects, and no safety for them under the now proud ægis of their National Union. But, sir, our opponents say the President must approve this bill or the Government must go to pieces for want of supplies. With the knife at the throat of the executive department of the Government, the demand is, "Yield your constitutional prerogative or starve." Representatives, too, who prate from morning until night about the infraction of the Constitution, tyranny and force by the republican party! Sir, is it a new doctrine to these gentlemen that the Executive under the Constitution has the same right to a free exercise of judgment on the merits of a bill presented for his signature in signing or withholding his signature that they have in voting for or voting against a bill?

Let me here call attention on this point to the doctrine of the democracy in days gone by. I will read from the message of President Pierce of February 17, 1855. This message was sent to the Senate and House of Representatives vetoing the French spoliation bill, and in it the President used the following language speaking of the power vested in the Executive:

> He is not invested with power to defeat legislation by an absolute veto, but only to restrain it, and is charged with the duty, in case he disapproves a measure, of invoking a second, and a more deliberate and solemn consideration of it on the part of Congress. It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment, or be faithless to the trust reposed in him.
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> While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation; for, while it requires him to sign if he approve, it, in my judgment, imposes upon him the duty of withholding his signature if he do not approve.
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> The President's responsibility is to the whole people of the United States; as that of a Senator is to the people of a particular State, that of a Representative to the people of a State or district; and it may be safely assumed that he will not resort to the clearly defined and limited power of arresting legislation, and calling for reconsideration of any measure, except in obedience to requirements of duty. When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality, but of the impropriety, or injustice in other respects of any measure, if he declares that he approves it he is false to his oath, and he deliberately disregards his constitutional obligations.

That, sir, was democratic doctrine in 1855. There the Executive claimed the right under the Constitution to exercise his judgment in signing or withholding his signature from a bill, the same as the legislative department of the Government exercise their right to vote for or against a bill. There was no thought then in the democracy, or at least no such idea was suggested by the democracy, that if the President vetoed a bill he thereby, as was said here yesterday, attempted to coerce the legislative department of the Government, so that they would have a right to withhold action afterward on the bill, even to the point of failing to appropriate money to carry on the Government. Substantially this language was uttered yesterday by the Senator from Pennsylvania, [Mr. WALLACE.]

So, then, I say, taking the theory that has been held by the democratic party and the theory of all parties in reference to an act of coercion of one branch of the Government on another, this claim is entirely unprecedented. Hence I say, sir, in the most emphatic terms, that the form and manner of this proposed legislation is utterly repugnant to the pure and severely clean-cut requirements of a legal proposition; that in construction its design is suspicious and its meaning prevaricative; and in actual effect it is coercive, spoliative of the rights, functions, and duties of co-ordinate branches of the Government; it is against the spirit of our Constitution, deceptive, and revolutionary.

I sincerely regret, sir, as it seems to me every fair-minded man intent upon promoting justice and holding himself subject to conviction upon the great questions involving the welfare of his country must, that this attempted legislation was not put before us in a shape to challenge our sense of right and rest its fate entirely upon its own inherent merits. I should not give it my support, even in a separate bill; but it would then be without its coercive feature. Let me ask, Mr. President, in all candor and seriousness, why the legislation attempted in this appropriation bill was not put in that separate and well-defined shape?

From a partisan stand-point, sir, the answer will come quickly. As a partisan measure its friends have not the strength to enact it into a law duly and unexceptionably made. But, sir, such an answer prompts a further inquiry, which demands to know why, if it be a

measure just in its purposes and conducive to the best interests of the greatest number, resort is had to a method which subjects its projectors to the charge of a fear of scrutiny and an indecent haste in its accomplishment? If it be a party measure, then are its friends justly open to all of the abuse they have charged upon republicans for subordinating the public interests to the behests of party. If it be a measure appealing to the sense of right and manifestly in the interest of the people, then why not make the appeal directly "unto Cæsar," a tribunal in our free country which soon or late rights all wrongs and condemns all evil? Why do not our democratic friends go directly to the people of this country in the election which is so near at hand, state their case fairly, and expect a certain verdict in their favor?

The logic of their present situation may be stated in these terms, sir: either they fear to submit their case to the tribunal of the people, and are thus grossly partisan in this measure, or they lack the moral courage of their convictions, which convictions should insure honesty, frankness, and equity instead of duplicity, double-dealing, and injustice.

For my own part, Mr. President, I do not propose to be deceived by the hidden designs of others, or to be misled by an error of judgment of my own. I know, sir, as every unbiased, unpartisan, and reflecting mind must know, the true signification and inevitable result of the measure now pushed upon the attention of this Chamber, plausible to the ear, not unpleasing to the eye; but with the curtain drawn, like a skeleton garnished with the sweet-smelling flowers of May, it is presented. It is my purpose to state my convictions upon this subject during the course of my remarks in a manner which I desire to be respectful but which I am determined shall not be misunderstood. With this in view I ignore every aspect of the question not directly connected with the inherent merits of the proposition. I shall hold my friends of the other side of this Chamber strictly to this treatment of the case. So far as my feeble power lies I will not permit them to evade or escape the issue in which the people I represent and the people of the country at large have the most vital interest.

Now, sir, let us get a clear idea of the ground upon which we stand, and with this purpose in view I ask the Secretary to read the section of the statute as it stands and the words that are to be taken away from it by the proposed amendment.

The Chief Clerk read as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, *or to keep the peace at the polls.*

Mr. LOGAN. Now, sir, what is the obvious purport and intention of the section of the statute? Why, sir, to restrict, to prohibit and prevent every species of improper interference in elections by the civil, military, or naval powers of the General Government. In this respect the language of the section is as sweeping as the most exacting requirements could well demand. As a general mandate it is wholly conclusive. It is both declaratory and executive of the principle of absolute non-interference in elections. The most radical demand could ask for nothing more; and let me here remark, by way of parenthesis, that this section was prepared by a democratic Senator and fully concurred in and passed by a republican administration which had the power to reject it at once had they been at all opposed to the principle it represents.

Then, sir, in general terms it confessedly comports with every just idea of republican usage and safety. It declares a principle as to the correctness of which we are all in harmony. But the positive prohibition of the section is modified by the clear statement of two exceptions to its otherwise universal application. The first of these exceptions clearly implies the right of any military, naval, or civil officer, acting under proper authority of the United States, to order, bring, keep, or have under his authority armed men at the place where any general or special election is held in any State where it may be necessary to repel the armed enemies of the United States. There has been a time when there were armed enemies of the United States. That time has passed, thank God. But at this time, sir, when there are no "armed enemies" of the United States to be repelled, we are all in accord upon the propriety of this exception. What time may develop in the great march of human events, through which it may be deemed necessary by the opponents of the republican party to apply a gag by which the repeal of this exception may be forced, like a dose of bad medicine, down the throats of loyal men, I cannot say. We are dealing with the present, and, to a certain extent, we must let the future take care of itself. The second of these exceptions, sir, just as clearly implies the right of any military or naval officer, or other person engaged in the civil, military, or naval service of the United States, under authority of the United States, to order, bring, keep, or have under his authority or control troops or armed men at the place where any general or special election is held in any State, when it may be necessary to keep the peace at the polls. The time was, sir, when this exception received the votes of many of the party who are now clamoring for its repeal; the time may come when the other exception will be equally obnoxious to the party whose interests are so seriously hampered by the exception we are now considering.

The proposition now is, however, to strike from the section the last eight words covering the last of the two exceptions, so that it shall be shorn of the permission for any person in the civil, military, or naval service of the United States, either officer of the Army or Navy, United States marshal or his deputies, or any other person in the employ of the Government, to use troops, armed or unarmed, or citizens armed, at any election place for the purpose of keeping the peace at the polls.

Now, sir, let us analyze these words a little. What is the permission herein given? It is not even constructively to permit these persons named in the service of the United States to do anything but one at the polls where a general or special election is being held? Certainly not. What, then, is that one thing permitted them to do? Why simply to keep the peace. Have they a constructive or implied right to scrutinize ballots; to decide the question of who shall vote and who shall not; to coerce this voter and encourage that; to intimidate one class and assist another; manifestly not, sir; their simple prerogative is to keep the peace, by which is meant to prevent disorder, violence, and intimidation upon the part of others. Should they exceed this plain duty, they are amenable to all the penalties which such officers incur in the infraction of any rule or law for their government or guidance; their permission to act in exception of the general spirit and letter of the enactment is as rigid in construction as the law which awarded the greedy Shylock his pound of flesh, but terrified him by the injunction against taking one single drop of human blood. No other construction can be given to this law.

Now, sir, who objects to the maintenance of the peace at the polls? Is it the honest voter? Certainly not. Who then? Is it the dishonest man who would falsely vote? Can it be the ballot-box stuffer, the repeater, the white-leaguer, the rifle-clubs, the men who go gunning for negroes to prevent their voting? If not, who then?

Why, Mr. President, is it possible that in a country like this the power exists to suppress violence, mobs, and outrages at any place, at any time, except on the day of a national election at the polls where citizens are wont to exercise one of their most sacred constitutional rights?

These democrats say that they are in favor of peace and order, that they are opposed to violence, opposed to mobs, opposed to murder. When? On every day in the year except on the day of an election! That is the meaning of this amendment: keep the peace at all times, in all places, except on the day of election; and then no officer, civil, military, or naval, has a right to suppress a mob or protect the citizen in the exercise of his constitutional rights. That is what you mean, and that is what you propose.

Is it possible that the Representatives here who are clamoring for the repeal of this most wholesome provision are the persons having an interest for their constituents against keeping the peace at the polls? This must be so; their constituents must be the men who desire to break the peace, and further to break it in their own interest, as they would not be likely to break it in the interest of any one else. But the claim is made, sir, that the mere presence of civil or military power at a voting place is in itself intimidating to voters, and therefore destructive of the liberties of freemen.

This cannot be the case. Who was ever intimidated and prevented from doing an honest and proper act by an officer or other person merely standing by to protect him in doing that honest and proper act? No one, sir. Who is it, sir, on being abroad in our large cities in the night, that considers the policeman who stands on the street corners to keep the peace of the citizens to be a menace, a terror, an intimidation to the free citizen? Is it the honest man who wishes the law obeyed and enforced, or is it the murderer, the thief, the outlaw, who seeks to prey upon the lives and property of the peaceful, the innocent, and law-abiding part of the community? Sir, I say let the murderers and outlaws answer this question.

But, sir, to show how shallow is this pretext that this repeal is to prevent intimidation by the military, let me read a law now on the statute-books, passed June 18, 1878, only by the last Congress, prohibiting the use of the military even as a *posse comitatus*. You will find, approved June 18, 1878, the following section of a statute:

SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section; and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000, or imprisonment not exceeding two years, or by both such fine and imprisonment.

We find that law standing upon the statute-book, and the Senator from Pennsylvania said yesterday that as far as the effect of this provision which they are now attempting to repeal is concerned, the law already enacted was sufficient to protect against any attempt on the part of any one to use the military as a *posse* at the polls. Therefore he argued that it was a mere pretext on our part that we were opposed to the repeal of the law now in question. This was the argument. Now, let me see what his argument proves. There is already a law protecting the people against the military being used as a *posse comitatus*. They have a law already passed last June protecting them against the military, and severe penalties imposed for the violation of the law. Why, then, if that be the case, do you attempt to repeal these eight words of this statute? What is the object? It only un-

covers the design of this movement, and that is to strike at the civil authority, to prevent the United States Government being present at all in any capacity, either civil, military, or naval, at the polls on election day. That is all. It is to take away from the Government the right to be present, to show itself (whether its power be exercised or not) at the time you are electing a national officer who is to provide for the life and safety of the nation. That is the object of these gentlemen.

But, sir, their pretense is not real. To a man bent upon doing right, it does seem to me that the presence of persons armed in authority, either civil or military, would not be very dangerous; but it is not the military, it is the civil that these gentlemen desire to deprive of the right of being at the polls to preserve the peace and protect the rights of American citizens. The power of being present when I attempt to exercise a constitutional right, which is there for the purpose of protecting me in my right, to preserve the peace, to keep a murderer from shooting me down, to prevent the mob from capturing and carrying me off, depriving me of the right to vote—the idea that that course is intimidating to me who honestly desire to exercise my right, is absolutely farcical. Why, sir, honest men have no fear of the law which punishes dishonesty. Criminal laws have no terror for those avoiding criminal things, and never were truer words set to the jingle of poetry than those which declare—

> No rogue e'er felt the halter draw,
> With good opinion of the law.

Hence I affirm without fear of successful contradiction that the authority given by the section to the Government through its own officials to keep the peace at the polls is in the interest of order, fairness, and good government. But, sir, our democratic friends make violent objection to this provision upon another score, involving a principle upon which they believe theirs to be built. From that standpoint, they view with a horror bordering closely on insanity the attempt of the General Government to interfere even to keep the peace, within the bounds of a State. Well now, Mr. President, just within the narrow confines of this small claim lies the whole structure, with its animating principle of the democratic party. It is a thing designated in the infancy of that fossiliferous party as "State sovereignty" and through varying periods of its active life by varying names adopted to its varying claims, during the period of struggle between the slave-owners and the free State men for the control of the Territories, it was "squatter sovereignty," and in their later days the sovereign has disappeared and "home rule" usurps his place.

I shall have something more to say on this point before I finally conclude, and I pass on now to remark the utter perniciousness of this State-rights assumption as applicable to the point under discussion. I assume, sir, that this Government is either a nation *per se*, or it is a simple voluntary aggregation of States with a sovereign autonomy, each entirely competent to exercise its sovereignty by a withdrawal from the federation whenever its desires. It cannot have the aspect of both a sovereign nation and a collection of sovereign States. A paradox of insurmountable character is involved in the very idea of such a thing. But, however we may argue upon this matter, the strong arm of the American people, with gun and sword in hand, have settled the principle that the American Union is a nation sovereign and supreme. Then, sir, being a nation, I need scarcely remind the learned Senators upon this floor of the universally accepted maxim that a nation is justly entitled to every prerogative and function, not trenching upon the rights of other nations, which may be necessary to the preservation of its national character and its national integrity. To so large an extent is this an admitted principle, that the nations of Europe constantly go beyond their own limits and into the affairs and boundaries of other nations in order to preserve what they have called "the balance of power." In other words, so mindful are they of their own interests and the dangers besetting their national integrity that they wait for no "overt act" when a speck of threatening appears upon the horizon, but proceed at once to form such counter movements as shall render the rise of a power dangerous to the integrity of others as nearly out of the question as possible.

But descending from a nation to that of individuals, let me call to the minds of Senators a well-established and familiar principle of law; that is, that the conveyance of any right carries with it the reasonable means of enjoying that right. So the lease or purchase of premises carries with it the right to enjoy their occupancy. This is merely adduced to illustrate the principle that when a right is given or granted it carries with it the right of enjoyment of the same. Sir, wherever a right is granted or guaranteed by the Constitution the Government must have the power to enforce it and protect the citizen in the exercise of it.

So the fugitive-slave law was enforced by the use of both military and civil authority in States where slavery did not exist, upon the democratic doctrine then that it was a right recognized by the Constitution and therefore must be enforced by the power of the Government.

But to return, sir; if a nation possesses these indisputable rights to preserve its own integrity just touched upon, including the right to go outside of its own limits and interfere with the affairs of neighboring and even remote nations, will it be claimed that a Government like our own, whose life is vested in representation from its many constituent parts, is powerless to protect itself from the irruption of enemies perhaps, or at the least from persons who may have done violence to a fair election for a national Legislature, and in representing a minority of the people destroy the essential idea of our institutions, the idea which declares that a majority shall rule? So plain and unavoidable is this principle, sir, that refuge is taken behind the clause of the Constitution which makes each House the judge of the qualifications of its own members. In the face of partisan majorities and the latter-day methods of conducting elections in the South we know the scope of this provision too well to regard it in any serious light as a protection against fraud or a guarantee of a fair representation of a majority of the people. But let us carry the principle further than the elections for members of the National House of Representatives. Let us consider for a moment what may be termed the local officers of a State and their relations to the General Government, without any wish on my part for the Government to interfere in purely local matters.

From the governor to the most unimportant officer bearings are had in some channel upon the interests of the nation at large and upon the interests of sister States. It is not necessary that I should trace them here, Mr. President, but I may be permitted to call attention to the important interests the country has in a fair election of members of a State legislative body which possesses the function of choosing a person to represent the State in this body. I need only to suggest the idea of its importance to the gentlemen whom I am addressing; the principle has no need of elaboration. Is it not plain, then, that the Government as a government possesses the power whenever the necessity arises to suppress violence within the limits of any State when it is manifestly necessary to insure its own preservation; or shall it be concluded that a great nation is entirely at the mercy of the caprice or wickedness of a mere handful of its own citizens and that it must sit passively down and witness the efforts which must topple it over to the ground? Now, sir, we have all learned to regard consistency as a jewel, for it implies conviction in certain ideas and honesty in seeking to disseminate them. Have our democratic friends been consistent in their extreme demands concerning the rights of States? I wish, sir, I could say they had been. But the fugitive-slave act before alluded to, with the revolting proceedings under it, stands as a living testimonial against their justice and against the consistency of their professions. Ah, sir, for the poor hound-hunted fugitive seeking escape from his bondage our hearts must ever bleed; but we may, in view of the happy issue of his sufferings, whereby he has been brought from slavery to the full estate of man, forget those sufferings or remember them only as a sad means to a happy end. But in the party who have so tenaciously held to a principle which they persistently violate whenever their own party designs are involved, we can have no abiding confidence as to its safety or its justice. It is not so many years ago, sir, but that we can all remember now the circumstances of the proclamation of President Fillmore for the capture of a poor fugitive slave. I ask the Secretary to read that proclamation of February 18, 1851, from the book which I send to the desk.

The Chief Clerk read as follows:

A proclamation by the President of the United States.

Whereas information has been received that sundry lawless persons, principally persons of color, combined and confederated together for the purpose of opposing by force the execution of the laws of the United States, did, at Boston, in Massachusetts, on the 15th of this month, make a violent assault on the marshal or deputy marshals of the United States for the district of Massachusetts, in the courthouse, and did overcome the said officers, and did, by force, rescue from their custody a person arrested as a fugitive slave, and then and there a prisoner lawfully holden by the said marshal or deputy marshals of the United States, and other scandalous outrages did commit, in violation of law:

Now, therefore, to the end that the authority of the laws may be maintained, and those concerned in violating them brought to immediate and condign punishment, I have issued this my proclamation, calling on all well-disposed citizens to rally to the support of the laws of their country, and requiring and commanding all officers, civil and military, and all other persons, civil or military, who shall be found within the vicinity of this outrage, to be aiding and assisting, by all means in their power, in quelling this and other such combinations, and assisting the marshal and his deputies in recapturing the above-mentioned prisoner; and I do especially direct that prosecutions be commenced against all persons who shall have made themselves aiders or abettors in or to this flagitious offense; and I do further command that the district attorney of the United States, and all other persons concerned in the administration or execution of the laws of the United States, cause the foregoing offenders, and all such as aided, abetted, or assisted them, or shall be found to have harbored or concealed such fugitive contrary to law, to be immediately arrested and proceeded with according to law.

Given under my hand and the seal of the United States this 18th day of February, 1851.

[L. S.]

MILLARD FILLMORE.
DANIEL WEBSTER,
Secretary of State.

Mr. LOGAN. Mr. President, I have had that read for the purpose of showing that during the administration of Mr. Fillmore the authority was exercised by the President of the United States, without being called on by governor or State Legislature, of using the military, the civil, and the naval power of the Government for the purpose of pursuing and capturing a fugitive slave in a State where slavery did not exist. So we all remember, too, the arrest of a poor fugitive slave from Virginia named Burns, who also escaped to Boston, and the event was regarded of such importance that President Pierce ordered the use of the Army, the Navy, and the civil authorities to secure his return to Virginia. President Pierce, in May, 1854, did not only deem that he had the authority to use the military and naval power of the Government in protecting the peace of the citizens,

as it was called, but in arresting, capturing, and returning a fugitive slave. He issued an order which was sent to the military officer commanding in New York; he issued his orders to those in command of the marines in Boston; he issued his orders to the marshal and all civil authorities, and instructed and called upon them to arrest, capture, and return a fugitive slave from his protectors.

Why, sir, when we go back and reflect on this, I only beg my fellow-Senators to contemplate this act for a moment: a tired, bleeding human being, escaped from bondage, hunted with the keen-fanged bloodhound until he found his way to a community of fellow-creatures who had all the heart and all the humanity to give him comfort and protection, is violently seized within the limits of another State, and by the naval forces of the United States, through order of the President, is torn from his protectors and returned to his bondage in the State of Virginia. At that moment what became of the much-vaunted sacredness of State lines and authority by this use of the military and naval power in the execution of civil process, not in putting down mobs or protecting persons against violence? What became of the principle of the nation having no right to interfere with State affairs? How was it that troops could enter a State without a call by the governor or Legislature being made on the President under the fourth article of the Constitution? Upon what theory? Upon the theory that that right was recognized in the Constitution, and hence the right should be enforced and protected by all the power of the General Government. This was your theory and doctrine when you wished to enslave a human being.

So, too, with the rights guaranteed to a man as a citizen of the United States. The right to vote being recognized, he has the right to the free exercise of all the privileges guaranteed in the Constitution of the United States, and shall we not say that in national elections the citizen shall be protected against mobs, against murder, against violence, and shall be permitted to cast his ballot peaceably and quietly for representatives in the National Government. It rests on the same principle and it has more authority under the Constitution than the recognition of slavery had.

But, sir, is it not strange that dogs must be called, navies must unfurl their sheets to the breeze, the deep thunder tones of artillery must be heard on the flank of a poor bleeding wretch in order to capture him and put him in bondage; but when the poor wretch stands up before his brothers as a man with rights under the Constitution given to him, and the right to vote at an election, and he says to that same Government, "You once pursued me and returned me to a master, and now you have given me rights as a citizen; now I am made free as you are; you promised me protection; I now appeal to you for it;" I ask in the name of conscience, in the name of justice, in the presence of humanity, what there is in that principle that will follow and starve and persecute a man in slavery that will not protect him when he is a freeman? I ask some one to tell me where the principle is of justice, of right, of humanity that will permit us, when this man asks us now to protect him in casting his ballot, to say to him, "No; we hunted you when you were a slave; we will stand by and see you murdered now and shot down in cold blood; we have clothed you with the rights of an American citizen, and we feel that we have no power to protect you." My God, what a government that is!

But, sir, let us glance for a moment at the effects of amending the section by striking out the words as proposed. To take away the second exception authorizing the civil, military, and other officers of the Government to keep the peace at the polls would result in depriving the Government of those self-protecting means which I think I have fairly shown every nation is fully justified in using. But under the sweeping terms of the amended law, no mob violence at the polls, no outrageous intimidation of law-abiding citizens by armed ruffians could be interfered with by an officer under commission of the Government, whose life perhaps was tremblingly awaiting the issue. No United States marshal and no other civil officer could lawfully interpose his official authority against the wildest violence and fraud which might sway an unscrupulous mob. "Oh," say our democratic friends, "leave that all to the State authorities, they will provide against all that." But, sir, have they done it? If they have, do they enforce the law? But, sir, I hold that the matter affecting the national interest should be provided for by the national authorities, and that trusts so important should not be permitted for a moment to rest solely with the States. But in addition to this consideration there is the already demonstrated fact that the State authorities, sometimes being in the same interest as the men who commit the violence, will interpose no means to prevent it or to bring the culprits afterward to justice. Where, then, is protection to come from if not from the Government? If that be true, then I ask you to tell me where is the protection? Where will it come from? If the States fail to do it, if the State Legislatures fail to provide, if the State courts fail to decide in his favor, where then must the protection come from and where must the citizen turn his eyes to seek it if not to the General Government?

Now, Mr. President, if this statement were denied by our democratic friends, in order to prove the truthfulness we should be compelled to recite all the terrible crimes which have been perpetrated against the elective franchise in the Southern States of our country. I do not propose doing that, sir, at this time. But I have some very significant figures to adduce, and some questions to ask which may trouble our democratic friends to answer satisfactorily.

I wish to premise the showing of figures which I propose making by the open statement that the southern white people, as a mass, have never to this moment accepted the decisions of the war. They have never accepted the principles of a fair and tolerant election, even among the whites themselves, while as to the colored man the amendments to the Constitution securing him citizenship, with equal rights before the law, are silently regarded as things to be necessarily tolerated, but only to the time when the southern democracy shall "capture the Capitol" and laugh the "nigger amendments," as they call them, to scorn. I say, sir, with all the earnestness of a man speaking in sorrow and not in anger, that, practically, freedom of elections in many of the Southern States of America is a dead letter this very day, and, so far as the amendment now under consideration may have application to those, it is a matter of no concern whatever with the democracy whether it be passed or not. This statement may surprise some of my friends, sir, but I propose showing ere long what the real purpose of this amendment is.

But I reiterate the assertion that there is not such a thing as fair elections in the majority of the Southern States; that if there were any such elections a number of those States would be largely republican in majority, and that in consequence both branches of the present Congress would have a large republican majority. These facts are indisputable. The colored man has been cheated of his citizenship, robbed of his franchise, and the republican party, through its magnanimity to a people who have shown by their acts how little they deserve it, have been shorn of the power to continue peacefully their work of reconstruction upon the ideal hope of the Republic. I speak strongly, sir, but my words are susceptible of "confirmation strong as proof of Holy Writ."

Startling as the information may be to the northern people, it is nevertheless true, sir, that this country is to-day governed by the South. Let us realize the full force of the fact. According to a volume recently published by Mr. A. R. Spofford, the Librarian of Congress, sixteen Southern States had a total white and colored population in 1870 of 13,628,205 souls, while the then twenty-one Northern States had a population of 24,487,436 souls, being almost double that of the Southern States. According to the same authority, sixteen Southern States showed an aggregate of internal-revenue receipts for the year last past of $26,338,413, while twenty-one Northern States for the same year showed an aggregate of receipts from the same sources of $78,378,907, or more than three times the amount from the Southern States. The footings of these amounts have been hastily made by myself, and while they may not be accurate to a unit, they do not vary far from exactness, the one State admitted since not included.

But let us look a little further, sir. I find that the present Congress contains one hundred and ninety-two democratic members, and of this number one hundred and twenty-nine are from the South and only sixty-three from the North, being more than double the number of members from the South than from the North. Very well, sir. Now, I need not call to the minds of the Senators present the fact which I desire the people of the North to be fully acquainted with, which is that the democratic members of the Forty-sixth Congress, are governed in all items of essential legislation by a majority vote of the democratic caucus.

Now, the Southern States having one hundred and twenty-nine members in that caucus and the Northern States having sixty-three members in the caucus, is it not easy to see that all democratic legislation is made in the interests of the Southern States, and that a section of country which in 1870 had a population of less than fourteen millions, whose revenue receipts were less than $27,000,000, or about $2 *per capita* on the basis of the census of 1870, rules completely, absolutely rules, sir, a section of country with a population of nearly twenty-five millions and whose revenue receipts were nearly $79,000,000, or over $3 *per capita*.

Now, Mr. President, this unvarnished statement appears sufficiently alarming, but it is my stern duty to carry the conclusion to its utmost limit. I ask my friends to go down the list of these one hundred and twenty-nine southern democratic members of the Forty-sixth Congress and note the number who only fifteen years ago were arrayed with the hosts of rebellion and endeavoring to destroy by every means in their power a Government which has done the most unparalleled act on record in the history of nations, that of subduing the men who attempted its destruction, wresting their swords from their hands, and then almost with tears in their eyes inviting them back to make laws for their conquerors. With these facts before our eyes, sir, am I not justified in the declaration that the men who in the sight of God had their hands at the throat of their country have their feet at this moment upon the necks of those who gave up their relatives, spent their own blood, and poured out their own treasure in its defense. I stand here, sir, as the representative of a State and of a section of our country which stood gallantly among the foremost in the great work of preserving our imperiled country, and I will speak the truth fearlessly though the very heavens fall.

But, Mr. President, I have made the statement that there is absolutely no such thing in the majority of the Southern States proper as a fair and impartial election. As a proof of this it is not my purpose, as I said before, to go into those details of individual outrages which are unfortunately too well attested; but I wish to present some facts and figures which to the thoughtful mind will speak far more elo-

quently than words, and which will serve to show the military terrorism by the United States authorities of which our southern democratic friends complain. Not only shall we learn this from a review of the figures but we shall also behold how certainly those people have nullified the citizenship of the colored man and rendered the fourteenth and fifteenth amendments to the Constitution the merest farces which have ever been enacted.

In the year 1868 General Grant received a total of 214 electoral votes for President of the United States. Of these 214 votes 9 were from North Carolina, 10 from Tennessee, 8 from Alabama, 5 from Arkansas, and 3 from Florida, making a total of 40 electoral votes from the seceding States. At the election of 1872 General Grant received 286 votes for President, 11 of which were from Virginia, 10 from North Carolina, 9 from South Carolina, 8 from Mississippi, 10 from Alabama, and 4 from Florida, being a total of 50 electoral votes from the seceding States. Now mark the contrast, sir. In 1876 the republican candidate for President, General Hayes, only received from the States just enumerated 4 votes from Florida and 7 votes from South Carolina. What became of the majorities which cast the votes of those States for General Grant, when there was no claim made of illegal voting and intimidation at that time? What became of the votes of the colored men in Mississippi and South Carolina who largely outnumbered the whites, according to the census of 1870, and who were almost to a man republican in politics? I ask any candid man to weigh these incontrovertible facts and then decide as to whether they have fair elections in the South.

But still further, sir, it is a matter of statistics, accessible to any inquirer, that whole districts of the Southern States are preponderatingly composed of colored men. Nay, in many districts the colored people outnumber the white as two or three to one. These colored people understand full well that it was the republican party that brought them out of slavery, and unrestrained and untrammeled in their right of suffrage they are solidly republican. Now, sir, where are the representatives in Congress of these immense republican majorities? Mr. BRUCE, the respected Senator from Mississippi, stands alone upon this floor as the last representative of four million people who through trials and bloodshed were brought to a view of the promised land only to be sunk into the depths of renewed despair. I ask these southern gentlemen to whom has been committed a sacred trust a question which has been asked with fearful import once before in the history of the human race, "Cain, what hast thou done with thy brother?" But three republican districts of the South and but four republicans sit in both branches of Congress beside one hundred and twenty-nine democrats to light up the tableau representing a "solid South." Now, Mr. President, I know very well the answer which will be made to these inquiries so plainly put. When I ask these democratic gentlemen where the representatives of colored constituencies are they immediately retort by asking why the republicans of the North send no colored representatives to the Halls of Congress? Such a reply is not worthy of serious men and ignores the fact, explain it as we will, that the human race follows the promptings of consanguinity; and all experience shows that classes are formed in all communities, and thus the Irish community is pretty certain to be represented by one of their own blood, the German community by a German, an American community almost as certain by an American, and the colored community would be just as certain to be represented by a colored man; but it is characteristic of the great republican party that they give all classes of their constituency a fair representation in the administration of the public affairs of our country.

Now, sir, when they ask me why we do not send colored men to Congress from the North, or when they say the colored men as a class vote the democratic ticket and that is the reason why their majorities are so large, it seems very amusing. I will ask the question of my democratic friends, did any person ever see a colored democrat holding office? He would be a *rara avis* indeed.

Upon a basis of numbers, sir, and of well-known facts concerning the political sentiments of the colored people, we should see here today in the Forty-sixth Congress unbroken republican delegations from the States of South Carolina and Mississippi, and a preponderating republican vote from the States of Alabama, Louisiana, and Florida. Reasoning from all established laws pertaining to political majorities, coupled with well-ascertained data which speak more eloquently than even statistics and figures, the political complexion of the congressional representatives from the seceding States should be changed so as to show twenty more republican members than now appears, and a corresponding less number of democratic members. The details of these changes might be enumerated almost to a certainty. This would give the republicans 148 votes in the House, omitting any calculation as to California, which is yet to vote, and therefore that party would have a majority in the House, which there can be no earthly doubt it is fairly and legitimately entitled to.

By a process of reasoning as nearly approaching certainty as anything can well be not absolutely demonstrated, the States of South Carolina, Florida, Mississippi, and Louisiana are entitled to six additional republicans on the floor of the Senate. These would be constituted of two Senators from each of those States, with the exception of Louisiana and Mississippi, which already have one republican each. This change in the political *personnel* of the Senate would give the republicans a majority in this body. Now, Mr. President, there can be no man who having knowledge of the true situation of affairs in the South but will say that upon a free election throughout the South, an election conducted without the democratic adjuncts of "rifle clubs," "red shirts," "white-leaguers," kuklux, *et id genus omne*, the results in favor of the republicans would be in excess of what I have just stated them.

But let us look a little further, sir, in order that we may be enabled to form a better idea of what is meant by a "free ballot" in the Southern States. In the year 1876 Governor Chamberlain, of South Carolina, received as the republican candidate for governor of that State a fair and honest majority over General Hampton, democratic candidate, of 3,433 votes. Fairly elected, as we all know, he nevertheless did not receive the office. But now mark, sir, at the last election in that State Governor Hampton, the democratic candidate for governor, is represented as having received a total of 119,550 votes. At this election there were recorded how many republican votes? Not one. How many in opposition? Two hundred and thirteen are marked on the list as "scattering" in opposition to Governor Hampton. Two hundred and thirteen votes, Mr. President, to represent the total strength of the republicans in a State where, if they have a single solitary vote at all, they have a fair majority over all voters. But now, sir, consider still another fact. This result occurred at the State election, where the United States laws were not enforced in 1878. Sir, at the presidential election in 1876, which was conducted under the provisions of this section and others relating to elections our democratic friends are so anxious to repeal because of the oppressiveness and terrorism, General Hayes, the republican candidate for President, received a total of 91,786 votes, and Governor Tilden, the democratic candidate, received 90,896. These figures show conclusively that, at the gubernatorial election since, the republicans under the free ballot system of the South were cheated out of over 90,000 votes. The Legislature of that State is composed of one hundred and fifty democrats and only eight republicans. This was done by the same sort of fraud which elected the democratic governor and which has cheated the republicans of their just representation upon this floor. From the State of Georgia, which at the last presidential election gave General Hayes 50,446 votes, not a single member of Congress is returned, and there are but four republicans in the State Legislature. In Arkansas, where General Hayes received 38,699 votes out of a total vote of 83,730, the republicans have but seven members in the Legislature and not a single representation on the floor of Congress.

In Alabama General Hayes received for President, in the year 1876, 66,230 votes, but at the gubernatorial election of two years later not a single republican vote was cast. In two short years 66,230 republican voters had their voices stifled or had been removed, let us hope, to a better land through the courteous assistance of the rifle-clubs. In 1868 this State gave General Grant 5,000 and in 1872 15,000 majority.

In Mississippi General Grant received 82,175 votes; Greeley, 47,288—a majority of 35,000 votes in 1872 in favor of the republicans. Four years later this immense vote had shrunk to 52,605, which was given for General Hayes. But now let us note a curious circumstance in this connection. The State also gave for Tilden, the democratic candidate, 112,173 votes, returning his majority as 49,568 votes. The total vote of the State in 1876 was 164,778, being a total increase in four years of 35,315. This, upon the basis of five persons to each voter, would represent an increase of the population of Mississippi in the short period named of 176,575 souls, and this, too, in a State which is known to have decreased in population. At the gubernatorial election of 1877 Governor Stone received a total of 96,382 votes, while the republican vote, under the head of "scattering," was recorded as 1,168, a shrinkage, in one year from the presidential election, of over 50,000 votes. This result may be claimed by our democratic friends, however, as a testimonial of recognition of the eminent services rendered by Governor Stone in the arrangement of the Kemper County unpleasantness, as well as an expression of the indignation of our democratic friends over the Chisholm massacre.

In the State of Louisiana the census of 1870 shows a preponderance of colored people over the whites of more than 2,000. The registration of voters in this State under the reconstruction acts showed 83,065 colored voters and 44,670 white voters. The "fusion" registration of 1872 showed the colored vote to be 90,047 and the white vote 88,179. The registration of 1876 gave the colored vote as 115,268 and the white vote as 88,179. Now, sir, under this plain preponderance of the colored vote over the white in Louisiana, not one colored man represents that State upon the floors of Congress, and but one white republican to represent a republican constituency, and, sir, by the democratic count General Hayes received for President in 1876 77,154, which was reduced by the electoral commission to 75,135.

I will not multiply these citations, Mr. President, though I could do so to a much greater extent. What is the plain lesson to be drawn from them? Why, manifestly this: upon every occasion where the republican voters of the South received protection from the national authorities, under this and other sections of law which it is now sought to repeal, the republican vote in all instances was large, and in the case of several of the Southern States it is sufficiently large to give the elections to the republican party; but when the United States authority, the marshals and deputies, disappear from the scene and the private military of the negro-hating democracy of the South appear upon it, then the republican vote vanishes into thin air.

This is the plain moral of the case, Mr. President, which cannot be gainsaid or controverted; and in the face of this sad state of a country boasting a freedom and a civilization in advance of any other nation on the face of the earth, it is deliberately sought to pull down the last prop under the toppling temple of our free elections, and to try to prove to the world, what has so often been asserted, that a government of the people is a snare and an impossibility. Can we permit this to be done? I do not know, sir, that any words of mine will prevent the passage of this iniquitous measure; but I am determined, sir, that the country shall know that they are surrendering this Government into the hands of men whom, many of them, have met upon the battle-field in the first effort of the southern democracy to rend in twain the American Republic and build upon its ruins a southern empire.

Now, sir, the bold and arrant pretext for this repealing legislation is the professed desire for fair elections, especially in the South—the necessity for removing the intimidation and terrorism of United States officials at election places! Why, sir, the facts I have cited prove the most perfectly organized system of espionage, compulsion, and terrorism which has ever been known exists in many parts of the South to-day. In those States the fourteenth and fifteenth amendments to the Constitution are practically abrogated now. We all know our democratic friends claim that the colored man is now voting the democratic ticket in the South without compulsion. Is any man so weak as to believe a story like this? Can we believe the negro to have so little intelligence as not to know, or knowing, to have forgotten the authors of his freedom? No, sir; these poor oppressed people have sighed for their deliverers to complete the work of redemption by the only means which can secure it to them—the strong arm of power. But we have listened to the misrepresentations of men who have deceived us once, have shown their readiness to do it again, and in our magnanimous desire for peace and to raise up a vanquished foe, we have quietly permitted the greatest of wrongs to be inflicted upon the colored people as well as the people of the whole country.

I honor the motive that prompted the conciliatory course which has been pursued toward the South; but I must be permitted, sir, to express the fear that we have taken a serpent to our bosoms which, as it becomes warmed by the generous fires of sympathy, will sting us to death. But, sir, a revelation is now forcing itself upon our minds. The manumitted slave of the South, who after having tasted the free estate of man and hoping for its full fruition at the hands of northern republicans, has now taken his destiny into his own keeping and has inaugurated a movement in his own behalf the full consequence of which no man can foretell. Failing in the hope of justice from those who hunt him down with shot-gun and rifle, he has packed his little bundle of earthly possessions, bidden adieu to the sunny climes of the South, and started for a home among those who will recognize and protect his manhood.

Let me tell my democratic friends that they have overreached themselves, and the time will certainly come when they will sigh to make the "rejected stone the head of the corner." No people know better than they the absolute necessity of the negro labor in the fields of the South. Let them not hope that the movement is to be local or temporary; that the negro, cold and hungry, will be left to die in a climate unnatural to him. No, sir; Providence seems to have taken up the cause where the republican party dropped it. A new solution of the question has presented itself, and henceforth the sympathizing people of the North will raise funds for colonization purposes as freely as they subscribed to send Sharp's rifles, and men to use them, into imperiled Kansas, or to help the South during the yellow-fever scourge. The exodus of colored people from the South will continue until the authors of all their wrong and crime will sadly moralize over deserted cities and uncultivated fields, and mourn the stupidity and selfishness of those who projected their ruin upon them.

But, sir, I have said that, so far as the South is concerned, the democracy do not care a rush whether we pass this amendment or not. The South is solid, and "peace reigns in Warsaw." The object of the repeal lies in another direction, for the democratic leaders, North and South, have made up their minds that unless these wholesome laws can be repealed they can never hope for a President. That is the object of this move, sir. Repeal this law and the others that will follow, and then the disgraceful frauds perpetrated by the roughs of all our large cities in the olden time, when they but had to know the majority to be overcome in order to furnish the necessary vote, will be repeated. The city of New York will poll enough votes to drown any majority the State at large may give. So of Philadelphia as regards Pennsylvania, of Cincinnati as regards Ohio, of Chicago as regards Illinois, and so of all the rest. Can our people not see the insidious but certain steps by which this Government is being handed over to democratic rule, and thereby southern domination?

Now, sir, there are those who assume a belief that the democratic party will never demand payment of the southern claims; that they do not oppress and kill the colored man who votes the republican ticket, and that a change of party would be a salutary thing. Let us waive objection to all these for the argument, and still I say that the salvation of this Government, the hope of the poor man and the security of the rich one, all are bound up in the defeat of the democracy. Stripping the whole subject of all the details we have just been considering, I say there is one radical issue between the parties which involves the perpetuation or discontinuance of our present form of government, as the one or the other party may succeed. This issue extends beyond the confines of a voting poll, and loses sight of rifle clubs and white-leaguers. It is the distinctive difference in the theory and philosophy of government entertained by two peoples who by education are almost as distinct as their principles. The democracy represent the narrow and antiquated idea of State sovereignty, a theory which once admitted would carry certain disintegration to this Union of States whenever caprice might desire or accident precipitate it. The human race may have begun existent upon this theory—small bands following their chief sovereign in themselves—but the progress of the world has called for the building of nations, and unquestionably the most advanced and exalted ideas of human government yet achieved by man are represented by the principles of the republican party, a party, sir, which rescued this nation from the destructive results of democratic theory and practice, and which has placed it in all that challenges the admiration of men high above any other government yet contrived by human wisdom.

The passage of this amendment, sir, would be an act of inexpediency for the democratic party. It would carry the conviction to the minds of those who still may doubt it that the party as a party is not a party of law, of order, of right or of justice. It would confirm the charges of disloyalty which are made against the party, as the intent of the amendment to cheat the honest and law-abiding voter out of his franchise is too apparent to be hidden from any but the most obtuse. The amendment, sir, is wrong; and just as surely as the democratic party perpetrate the folly of forcing its passage just so surely must the tide of popular sentiment rise against and overwhelm them in its flood of indignation.

I solemnly warn my democratic friends against the violent policy they are pursuing. They are sowing to the wind; let them beware of the harvest! Let them not again mistake the temper of the loyal people of this country. Open, generous, magnanimous they have proven themselves, as the southern democracy have good cause to know and feel. But I stand here to-day to warn the men who having once attempted the destruction of the government and are tampering with it again, that they must not go too far. Loyal men have not forgotten their brothers who found untimely graves at the hands of treason. They have not forgotten their own wounds, privations, and sufferings. They have not forgotten the price paid for the blessings of freedom they enjoy. They are slow to move, slow to believe that which they do not wish to believe. But if this democratic party of oppression and aggrandizement again forces the issue on this country and compels the people once more to rise in their might and rescue their free institutions from the torch which threatens their destruction, there will be no half-way work about it. The spirit of kindness heretofore actuating our people toward men who insist upon showing they do not deserve it, is fast changing into another feeling. Sir, I tell these men, in the plainest language, that they are going too far. They are tampering with the patience and forbearance of a people who are beginning to feel that patience and forbearance are fast ceasing to be virtues. Let democrats of the South and their northern allies beware the storm they are raising. The spirit of retaliation once raised, sir, will only be appeased by the most radical assurances of future quiet. If the disease upon our body-politic again requires the knife, they may rest assured the surgeon will "cut beyond the wound to make the cure complete."

Sir, in common with thousands of others, I had sincerely hoped and expected that the democracy of both South and North would have rightly interpreted the general desire of the country for peace and good-fellowship between all sections. I have been mistaken, sir. The spirit of extreme conciliation manifested toward the South has not been met with a similar spirit, but has developed an aggressiveness which is filling the people with alarm and apprehension. Duty demands that we should speak plainly as to the crisis before us.

I make the open charge that the democratic party is tampering with the gravest interests of a people who are vigilantly awake to designs against the well-being of the Government.

I charge the democratic party with professing a desire for peace and harmony while making bold innovations upon all the principles established at the cost of the nation's blood and treasure.

I charge that party with an insincere prating about the duty of protecting and preserving our Constitution, while they, having been the only ones to attempt its destruction, now furnish no substantial guarantee against a similar and perhaps more successful attempt, as opportunity offers, though in a different manner.

I make the charge that they eulogize the arch-traitor Davis as a patriot in the presence of the representatives of that Government which he did his utmost to destroy.

I charge an unjust vilification of the republican party because of the entailment of a debt upon the country created because of the treasonable acts of the democratic party. I charge them with selfishly arrogating the Government, as having been left to them as a heritage by their fathers, and ignoring the men who saved it from their assaults.

Now, Mr. President, I arraign the democratic party as the party responsible to-day for whatever discord there may exist. The republican party want peace; they have shown it by every concession

which honor and dignity would permit; they will still sacrifice much to obtain a permanent peace; but the democracy may as well learn now as later that there are some things the republicans will not do to reach a peace which can but be dishonorable to them and to the country. They will not abjectly beg upon their knees for peace. They will not relinquish any of those advanced principles which have inured to the Government and the people through the sufferings of the war. They will never abandon the principles enunciated in the thirteenth, fourteenth, and fifteenth amendments to the Constitution. They will never permit a modification of the rights of the four million blacks of the South. They, after having been liberated from slavery and elevated to the full rights of citizenship, shall not be remanded to a condition as bad or worse than serfdom or peonage. They will never, never quietly permit, sir, the elective franchise, upon the purity of which rests our whole political structure, to be dispensed at the hands of hired ruffians and paid assassins.

Now, sir, let me invite the democracy to a peace which shall be co-extensive with the whole limits of our country; which shall be honorable to them and honorable to us; which shall be lasting as the American name; which shall elevate us in the estimation of all the nations, and stamp our Government as a model for all other peoples for a thousand centuries—a peace which must be built upon genuine ties of respect between citizens of a common country; which must rest upon the concession of equal rights to all citizens of the Republic, be they white or black, foreign or native born—a peace which must know no State lines for abrogating the rights of citizens, but shall cluster around the American flag as the emblem of a patriotic and virtuous people united under a government strong enough to defy the monarchs of the world and also protect its citizens in all their constitutional rights, on land and on sea, at home and abroad, leaving the great future of our glorious country clean, clear, and full in the blazing sunlight of our hope.

Mr. BECK. Mr. President, the last few sentences of the speech of the Senator from Illinois [Mr. LOGAN,] so variant, from all the balance of his speech, are simply a synopsis of the policy of the democratic party, if I heard them correctly. We propose to have free elections; we propose to secure equal rights to all men, and local self-government for States and people, free from any interference by the United States military authorities or any other extraneous source. All the indictments that we have heard threatened by the Senator, and all the arraignments that have been hurled against us in the last two days by the Senator from Maine [Mr. BLAINE] and the Senator from Illinois [Mr. LOGAN] seem to me to be very unnecessary and ill-timed when we are discussing only a plain, simple proposition, which is: Have the representatives of the people of the United States in Congress assembled the right peaceably and in an orderly way to pass a law saying that the State authorities shall have the right to conduct their own elections uncontrolled by United States military interference? Shall they have the right to have honest juries in their jury-boxes untrammeled by test oaths? Is there enough virtue in the State governments to manage their own affairs and conduct their own State, local, and congressional elections without the intervention of Federal bayonets controlled by so-called United States marshals, supervisors, or any other outside power of that sort?

When that proposition is submitted by the democratic party we are met with threats, charges, indictments, arraignments, and denunciations such as are rarely heard even on the hustings, far less in the Senate of the United States. I can readily understand, however, why the Senator from Maine and the Senator from Illinois are hurling their anathemas against the men of the South and against the democratic party. It is because the scepter is departing from Judah. They have no longer a united South as they had ten years ago. When all the banks, the bondholders, the protected monopolists, and the other robbers of the Treasury had full sway, when subsidies were being squandered far and wide, a united South, a united radical South, was at their back indorsing all they did. There was not a word uttered against a united South then. I hold in my hand the record showing that from all the South, when they had no intelligent constituency, none but negro voters outside of the carpet-baggers and Freedman's Bureau agents, every Senator from the eleven States who was here was an emissary of their own sent there by Congress and elected by Congress to Congress to come here and sit and vote subject to the order of their masters. Yet with none but a negro constituency they never had but one solitary colored man, Mr. Revels, of Mississippi, in the Senate Chamber. All the others were northern emissaries sent to the South to obey and enforce radical congressional dictation. The Senator from Illinois rises now and complains because there is but one representative of that race in the Senate, and says that we are trampling on the rights of the colored men and disregarding every claim which they have upon the people. We are as liberal as you were, and treat the colored race better than you ever did, without making any pretense of being their special champions. I repel all accusations so freely hurled against southern Senators and Representatives, as they are too manly to speak of themselves. I put it to the American people whether the representatives who are here now from the South ought to be spoken of or referred to on the same day with the miscreants whom the republican party kept in power from there while they had control of those States. No decent man, white or black, North or South, would think of so comparing them. When the Senator from Maine and the Senator from Illinois point their finger at the men on this side of the Chamber who represent the South, I say to them that the gentlemen who now sit here representing the South are their peers, morally, intellectually, and in every other respect. It was not so when the control of that section was in the hands of gentlemen on the other side.

But I am not going to be led away from the question legitimately before the Senate. I know where the cry comes from; I know the motives that prompt it.

> No rogue e'er felt the halter draw
> With good opinion of the law,

was quoted with emphasis by the Senator from Illinois. That is the trouble with the other side. The halter is drawing, and drawing very closely, around them; and they have to cry out "revolution" and appropriate every other catch-word that may alarm the ignorant or ill-informed in order to save themselves.

They ask us why we do not appeal to Cæsar. We do not intend to wait for Cæsar. We are making our appeal to the people before Cæsar comes. When the Rubicon is passed and the cry is "*Alea jacta est*" it is too late to appeal. It is to prevent Cæsar from coming and crushing out liberty with his legions that we desire the soldiers to be kept from the polls.

A word personal to myself. I have been called in the press and on the floor of the Senate a revolutionist. I have heard resolutions read by the distinguished Senator from Massachusetts [Mr. HOAR] inviting me to a discussion, and I have been taunted because I would not accept his proposition. His charge was based upon the ground that I was seeking to coerce the President of the United States, and that I was endeavoring to do something outrageous to force him to sign bills or starve the Government. I deny it. I have never done anything or said anything here or elsewhere that indicated a desire to do more than my whole duty to this people as I understood their best interests to require me to act. The speech made by me which I hold in my hand and which was read in part by the Senator from Massachusetts has been so much commented upon that I will refer to it again, because I expect to defend it—at least as to the intent with which I made it.

I desire to say one word before I read my remarks on that occasion. It has been said elsewhere by distinguished gentlemen of my own party, that I had asked for more than the House conferees asked; but the Senator from Minnesota, [Mr. WINDOM,] who was chairman of the Committee on Appropriations, before I spoke said on this floor:

> The point of disagreement was the legislative provisions, those (to state them very briefly) relating to the test oath of jurors and the election laws or the appointment of deputy marshals and supervisors. With reference to these legislative propositions contained in the bill the conference was unable to agree, the conferees on the part of the House taking the position that the only condition upon which an agreement could be had was that the conferees on the part of the Senate should recede from all of its disagreeing votes on those points. The conferees on the part of the Senate could not accept those conditions.

He could not be mistaken as to the points of difference as all propositions had to be made to him, even if I was not fully informed. I assumed that he was well-advised as I had heard nothing to the contrary.

I followed him, and in a plain way I insisted that we should agree. I earnestly desired the Senate to agree with the House. I made the short speech or statement late at night without conference with any one; I asked if the Senate would not then, instead of forcing an extra session, agree with the House and allow those, to my mind, very proper things to be made part of our laws, rather than meet in extra session. This was my language:

> Mr. President, I was one of the conferees on the legislative, executive and judicial appropriation bill when two earnest efforts were made to agree, but we found it impossible. The Senator from Minnesota has stated correctly that upon all questions pertaining to the appropriations the great probability is that we could have agreed, though I believe we did not finally agree even as to them. He is also correct in stating that the House conferees insisted upon retaining that portion of the bill to which he has alluded, but it was also equally certain that the majority of the Senate conferees with equal pertinacity insisted upon the Senate amendments, and maintained that each and all the provisions inserted by the House should be stricken out. There was no attempt at any division of the subjects and no proposition looking to any modification was considered. Not desiring to revive any political animosities or any discussion at this late hour, I will only state very briefly what seemed to be the condition of things: the House insisted that the armed soldiers of the United States should not be allowed to approach the polls for the mere purpose of keeping the peace, that there should be an honest jury obtained in the courts of the United States in all cases where the rights and liberties of citizens were involved, and that the States should be allowed to conduct their own elections in their own way, free from all Federal interference, and the democratic conferees on the part of the House seemed determined that unless those rights were secured to the people in the bills sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government if the dominant majority in the Senate insisted upon the maintenance of these laws and refused to consent to their repeal.
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> They seemed further to agree, and I agreed with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people in repealing all laws that authorize the soldiers of the Republic to be sent by any authority whatever to the polls at State elections under the pretense of keeping the peace, and in repealing all laws that prevent men who are by intelligence and interest in the public welfare fit and competent to do justice between citizens and between the United States and citizens in the jury-box from exercising that right, thus depriving the courts the benefit of fair jurors, and they will promptly pass another bill declaring that the United States shall not, either through supervisors, marshals, or deputy marshals, interfere with the States in conducting the elections held within the States. We insist that those matters pertain solely to the States and are part of their absolute right and that they are perfectly competent to attend to them fairly and honestly. When these three laws are submitted to the President for his approval, as they will be, and are approved by him, as they ought to be, the next Congress will

in my opinion be ready to pass every appropriation bill, just as it is now, adjourn, and go home without attempting before next December to perfect any further legislation. If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be, to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own elections, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. We have the undoubted right to repeal them in any form and on any bills we choose. Most of them were imposed upon the country as parts of appropriation bills. Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

After a very able speech from the Senator from New York, [Mr. CONKLING,] in which the jury laws were discussed between him and myself at some length, I repeated my former statement, in substance as follows:

Mr. President, this Congress expires at twelve o'clock to-day, and it is now nearly three. Many votes have yet to be taken on important bills. I have nothing more to add to what I have already stated except this: reference having been made to the bill that passed here on the 20th of December, the day before the recess, repealing section 820, I am advised by a very well-informed member of the House that it went at once to the Committee on the Judiciary of the House; that committee has never been called from that day to this, and, therefore, has been unable under the rules of the House to report it back. Twice on Mondays, when alone motions can be made to suspend the rules, the republicans have had enough members in that body to prevent the democrats from obtaining the necessary two-thirds to suspend the rules. Therefore that bill has not been acted on.

I desire to say that my information is equally reliable that while section 821 could not properly be applied to any citizen if section 820 was repealed, yet the practice, at least in Louisiana, is, and it is being done every day, to exclude jurors who cannot take that oath. I am told that Mr. Leonard, district attorney in the city of New Orleans, a few days ago in a case where forty-five persons were charged with an offense, applied it, and the jurors were driven from the box because they could not take this test oath, although section 821 had been repealed as early as 1873 and was illegally inserted in the Revised Statutes as every judge and district attorney in the United States well knows, and every Senator and Representative in Congress knows it equally well. Yet it is maintained and enforced contrary to law and justice.

As to the revolutionary measures that it is said may be attempted if an extra session is had, I have said what I believe will be done. I only speak for myself. I know nothing positively as to what the democratic Congress will do. But after they have fairly tendered to the President, as they have the undoubted right to do, acts repealing the sections that authorize soldiers to go to the polls to keep the peace and that authorize deputy marshals to order them to go there under any pretense, and acts repealing all the test oaths in reference to jurors, so that men can have honest juries before whom to try their cases, and acts repealing the authority given to the marshals and supervisors at the polls to control the elections, if the President, in the exercise of his constitutional authority, shall see fit to veto measures so just and so fair, so necessary to free government as those laws are, then I for one would again make them part of the appropriation bills and let him exercise his veto power if he determines to perpetuate these wrongs on the bills that appropriate the money necessary to maintain the Government, and let him be responsible by his veto for stopping the wheels of the Government, as he would be if he determines that such measures as these are sufficiently important to keep on the statute-book for partisan purposes to block the wheels of Government. Then the Executive and his aiders and abettors would be responsible to the country, and not the Congress that gave him the opportunity to attach his signature to necessary appropriation bills. I will not occupy the time of the Senate any longer.

It seemed to me best that the Senate should agree to propositions so fair and just, though I had very little hope that it would; temper controlled its judgment, and our opponents hoped to induce the President to sustain them.

We had passed a bill last summer which the President had signed, saying that soldiers should not be used as a *posse comitatus*, and all we desired now in this bill was to say that they should not under the pretense of keeping the peace be taken as a military organization to the polls. That was all of the provision in the Army bill. It was conceded, it could not be denied, that Congress had repealed the law prohibiting men from sitting in the jury-boxes who could not take the iron-clad oath on the 18th of July, 1871, and by mistake or fraud, I care not which, it was incorporated into the Revised Statutes, and is there wrongfully to-day, a part apparently of the law of the land, and is held by radical judges to be in force as such. Surely the repeal of a fraud was proper on any bill, and all fair-minded men might be assumed to be in favor of correcting an admitted wrong, especially when it worked such palpable injustice. Many of the judges who enforce it could not serve as jurors in their own courts. The other provision sought to be repealed was of an equally flagrant character.

After the exhibits that had been made as to the conduct of marshals and their deputies in Saint Louis, New York, Philadelphia, and elsewhere as to the amount of money spent and as to the corruption and fraud practiced alike by supervisors and by the marshals and deputy marshals, we thought that honorable men of all parties would agree that the time had at last come when they should be wiped out and the people be allowed to hold their own elections in their own way under the laws of the several States. I said so in the short speech which I made, and I said that I believed the democratic party would maintain it. They have not attempted to present separate bills to the President, as I then thought they would, but they have a right to present them in this form, because it is a form usual and sustained by many precedents. Having done so, no other body can question the propriety of the form in which the proposed law is presented. If, as I said, the President sees fit to veto those bills, which I have never believed and do not now believe he will do, then I have never said more than if he does I will consult with the democratic Representatives in Congress as to what is the duty of the democratic party to the country when that calamity happens; but I will never assume that the President will veto a bill which we have a clear, undoubted right to pass, one that neither infringes his constitutional prerogative, nor the constitutional prerogative of the judiciary, nor on any provision of the Constitution of the United States, and that is not hasty or ill-considered legislation. It is beyond the ordinary sphere of the veto power and outside of its legitimate purpose for him to say we shall not repeal what a majority of both Houses of Congress think, after full deliberation, ought to be repealed. Who has authority to say that the President of the United States will veto this bill? Will any Senator on the other side rise and say that he has such authority? Has any gentleman told us why and for what reasons he ought to veto it? Can any one give a reason? Has not the Congress of the United States the right to repeal a law it put upon the statute-book? No man has dared to say it has not. If I or any other gentleman had used expressions that we ought not to have used, and that others think are disagreeable to the President, is that the act of the Congress of the United States? The best thing the Senator from Maine said yesterday, according to my judgment, was this:

There is not the slightest possible denial here that this is a constitutional exercise of power. If there is such a denial it is a mere individual opinion. There has been no adjudication in the least degree looking to the unconstitutionality of these laws. Your individual opinion is no better than mine; mine is no better than that of any other man who can hear a horn blown from the front steps of the Capitol. No individual opinion is worth anything. We have a department of the Government to pass upon the question. The legislative department has enacted these laws under what it believed to be a clear and explicit grant of power, and you have never had it judicially determined otherwise.

That is true; and by the like authority the legislative department of this Government is about to repeal these laws. One House has repealed this provision in the Army bill; this House we believe will do it under exactly the same power that the two Houses acted when they enacted it; and what I may say, or what the Senator from Maine may say, is no more than the individual opinion of any man who can hear a horn blown from the steps of the Capitol, and all attempts to excite the President, or induce him to believe that he is threatened, is the baldest nonsense, no matter who talks.

Is there anything in the bill itself reflecting upon the Executive or infringing on his rights? No; no man will say so.

The Senator from Maine was even kind enough to go so far in his address as to ask, although he was giving us all sorts of good advice:

Will any Senator claim that Congress has not the right to make regulations concerning the manner of holding elections for Representatives?

And the Senator from Massachusetts [Mr. HOAR] said:

The grievance is that the American people, acting through their Representatives in the National Legislature, having determined to exercise their clear constitutional power of regulating the manner of national elections, have taken some of the precautions usual in the States in like cases for protecting those elections against violence and fraud.

Certainly; and we propose to change them.

That he said they did in 1865. We propose now, acting in the same legitimate way, to take the precautions which are exercised in nearly all the States against violence and fraud by keeping the Army of the United States from the polls and preventing either John Davenport or any other minion of the Federal Government from interfering with the rights of American citizens when exercising their highest constitutional prerogative. And we are told by these same gentlemen that it is revolutionary to do that! Are we doing more than both the Senator from Maine and the Senator from Massachusetts say was the clear right of Congress to do? The power that passes can repeal. And when the House attached it to the Army bill—for I will speak to the provision now under consideration as closely as I can—I insist that it is beyond the power either of the Senate or the President to make any objection or to raise any point of order as to the propriety of the rules of the House because it was found there when the bill reached the Senate. The decisions of both Houses are uniform on that subject. One will suffice to illustrate all.

Mr. HOAR. Will it be convenient for the Senator from Kentucky to allow me to interrupt him for a question?

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield?

Mr. BECK. Unless it is something bearing on this point I would rather proceed further with my statement.

Mr. HOAR. It was precisely on the point the Senator was about leaving.

Mr. BECK. Allow me to go on, if you please. I hardly ever interrupt any one myself, and I have not yet got fairly into my argument.

Mr. HOAR. It was in reference to the Senator's statement of what I said that I desired to put a question.

Mr. BECK. I read every word the Senator said on that point, and made no comment on it except that we were doing precisely what had been done in the case referred to by the Senator. I decline to be interrupted.

When affirmative legislation was embodied into the Army bill in 1867, depriving President Johnson of his rights as Commander-in-Chief of the Army and eleven States of the right to organize the militia, a question was made in the House on these provisions, which were amendments added by the Senate. Mr. Colfax was in the chair. Mr. Finck raised the point of order that the amendment was not germane. The Speaker covered the whole ground:

The SPEAKER. The Chair cannot entertain a point of order upon an amendment which has been adopted by the Senate and is sent to this House for concurrence. No such thing is recognized in the whole history of the Government. The Sen-

ate has the right to adopt such amendments as it may deem proper, and the House may concur with amendments as it chooses. A point of order cannot be made in this House upon a Senate amendment coming before this House for its concurrence or non-concurrence.

So that when a provision is once incorporated by the House, and especially when it is agreed to by the Senate and when the bill goes to the President, it goes to him in such a form that he must consider each question involved in it upon the merits of the question itself, and give it as full, free, and fair consideration as if each of the items had been sent to him separately, because the House in the exercise of its undoubted power, which he and the Senate cannot control, has sent it there; and I suppose hardly any gentleman will rise in his place, none has yet, to show that this is an improper or an unusual exercise of the authority of the House. Congress has the right "to raise and support armies;" the House originates the bill. Congress has the right to say how the Army shall be used, whether it shall be kept upon the frontier or anywhere else; and when it says that it shall not go to the polls merely to keep the peace, it exercises an undoubted constitutional prerogative.

What, then, is the President to do? I do not assume that he will do what we have been threatened with. I have believed, and I believe now from all he has ever said or done, that he will sign this bill. I have never doubted it, because I think it is his clear duty to do so, and all his past conduct indicates that he will not disregard his duty. I have heretofore said that I believed much of the struggle now going on, much of the cry that is raised about revolution, is raised and maintained in order to see if the stalwart republicans cannot make him act as a party President, and thus through him prevent the repeal of laws they placed on the statute-book when they were in power and which now, having passed into a minority, they clutch at as the only means they have of overawing the people at the polls hereafter and of using the Treasury of the tax-payers to furnish them campaign funds in order to enable them to try again to win. I repeat that I believe the President will sign the bill because he will not consider and he cannot consider anything except the merits of the propositions presented; and the merits are all on our side. I have heard it rumored on apparently high authority that he has said he would veto this bill. An effort has been made all through this debate to induce us to believe that he has said so and that he is outraged at what the democratic party have been doing. If he is outraged at all, he is outraged by and ought to be outraged at the men on the other side who are constantly repeating that he has threatened to veto laws before they were submitted to him. General Grant was President of the United States some time ago, and when it was said that he had threatened to veto a bill in advance of the action of Congress he made this denial to the reporter of the Associated Press:

A "special" having been published in the New York Times of March 21, 1874, purporting to indicate the President's purpose to veto a pending bill, if passed, the President authorized the following denial to be telegraphed by the reporter of the Associated Press, and it was published March 23:

President Grant, in conversation with a leading western republican Senator, said the statement in a Washington dispatch to a New York paper published Saturday morning, that any legislation tending to inflation must run the gauntlet of his veto, was wholly without foundation; that he had conversed with no one on the subject, and if he were a member of Congress he should regard an intimation of a veto in advance of legislation as an unbecoming threat by the Executive, and should resent it.

I assume that the present Executive has as high regard for the proprieties of his exalted position as his predecessor had, and that he has never said or intimated anything as to what he would do, and "hence these tears." It is I think because they fear the President will sign it, as he ought to do, that they are so nervous and excited. Why, sir, can any gentleman contend or has any Senator contended that the Army of the United States ought to be sent to the voting places in the several States, in anticipation of trouble, to keep the peace there without the demand of the Legislature or of the executive of the State when the Legislature cannot be convened?

The United States shall guarantee to every State in this Union a republican form of government.

That is true. Each State has to-day a republican form of government; each State in this Union has its regularly organized Legislature, its regularly elected governor; all its State machinery. Its courts are open; justice can be administered without sale, denial, or delay. Its judges, its marshals, its sheriffs, its constabulary force are all in full operation. Its militia can be called out to maintain peace within its borders. No complaint is made from any quarter and, none being made, it is beyond the power of the President and beyond the power of Congress constitutionally to invade a State with the Federal Army and place men at the polls who are wearing the uniform and receiving the pay of the United States to watch and guard the people in the exercise of their constitutional rights and privileges. And when we find a clause authorizing that to be done on the statute-book and propose to repeal it, we are told that the President will veto our repealing law and say that the representatives of the people have not the constitutional right to do it either as part of an appropriation bill or otherwise. He cannot find a member of his Cabinet who could write him an opinion giving reasons and he is required to give reasons why he should veto this bill, in my judgment. He cannot do it himself, because all his action and every thing he has said and done has been against any such position, as I think I can show and as I believe even the Senators who are most clamorous about revolution well know.

Yesterday the Senator from Maine, with an air of triumph like a schoolmaster chastising this side of the House, asked what Senator ever saw a soldier at the polls; and when the Senator from West Virginia [Mr. HEREFORD] told him he had seen them in 1870, and my worthy colleague [General WILLIAMS] said he had seen them in 1865, after the war was over, he hooted down the statements and said one had seen a few soldiers seven or eight years ago, and one twelve or fifteen years ago, and asked "Who next?" There were dozens of Senators who could have told him who did not care to be questioned in that arrogant manner or submit to be catechised in that form. I could have told him then of numerous instances since the war where soldiers had been at the polls, placed there for the foulest of purposes, and where soldiers had driven out the Legislatures of States, and could have shown him that their action had been denounced even by republican statesmen high in authority, in the Senate and elsewhere. I propose to tell him of some such cases now. I am speaking in my own time now, and therefore will be able to state facts without interruption, which I could not have done yesterday. Governor Geary, of Pennsylvania, I believe was a loyal man, was he not?

Mr. WALLACE. A general in the Union Army.

Mr. BECK. A major-general in the Army of the United States; he did not send a substitute to the war; he was a loyal governor of Pennsylvania, and this is what he said to his Legislature in a solemn message on the 4th of January, 1871, after the first supervisor-marshal law was passed:

The employment of United States troops at elections, without the consent of the local and State governments, has recently received considerable attention and reprehension. It is regarded as an interference with the sovereign rights of the States which was not contemplated by the founders of the General Government, and if persisted in must lead to results disastrous to peace and harmony. The practice is one so serious in its character and so injurious in its tendencies as to merit prompt consideration and decisive action, not only by the General Assembly but by Congress. One of the complaints of the colonists against the British King was the oppression growing out of the assumption of this power. They said, "He has kept among us in times of peace standing armies without the consent of our legislature;" and what is especially pertinent to the case in point, "He has affected to render the military independent of and superior to the civil power." The alleged authority for the use of troops at our State elections is derived from the tenth section of an act of Congress, approved May 31, 1870, entitled "An act to enforce the right of citizens of the United States to vote in the several States of the Union, and for other purposes," which authorizes United States marshals to call to their assistance "such portion of the land and naval forces of the United States or of the militia as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the fifteenth amendment to the Constitution of the United States." But it must be a forced construction of this law that will justify the presence of armed national forces at our places of election when no necessity exists therefor, and where their presence is calculated to provoke collision. With a good President the exercise of the power referred to might have no injurious results, but in the hands of a bad man governed by personal ambition it might prove exceedingly calamitous. Unconsciously a good President might be induced to employ it wrongfully; a bad would be almost certain to use it for his own advancement. Under any circumstances, in my opinion, it is unsafe and antagonistic to the principles that should govern our republican institutions. At the last October election United States troops were stationed in Philadelphia for the avowed purpose of enforcing the election laws. This was done without the consent or even the knowledge of the civil authorities of either the city or the State, and without any expressed desire on the part of the citizens and as far as can be ascertained without existing necessity. From a conscientious conviction of its importance I have called your attention to this subject. A neglect to have done so might have been construed as an indorsement of a measure that meets my unqualified disapproval. The civil authorities of Pennsylvania have always been and are still competent to protect its citizens in the exercise of their elective franchise, and the proper and only time for the United States military forces to intervene would be when the power of the Commonwealth is exhausted and their aid is lawfully required.

There is one case proven abundantly. The governor of New York, Governor Hoffman, at the same time addressed his Legislature. He said:

Since the adjournment of the Legislature the Federal Government has assumed to interfere directly, by its officers and armed forces, with elections in this State. The pretext was fear that the right of suffrage would, in some way, be denied to the class of persons upon whom it had been conferred by the fifteenth amendment to the Constitution of the United States. It was a mere pretext; for our State Legislature at its last session promptly altered our election laws to conform with that amendment so soon as it was declared adopted. Moreover, this class of voters had exercised their new right freely and without the least molestation at our State election, which took place in May last.

Congress, nevertheless, enacted a law for the ostensible purpose of supervising the election of Congressmen only; and the President was authorized to employ the Army and Navy to enforce certain of its provisions. Under color of this act, the President and other United States officials claimed the right to supervise the entire election, not only for Representatives in Congress, but for State and local officers. In the city of New York special preparations were made to enforce this claim. A large number of United States deputy marshals—

These are the gentlemen who are now preserving the purity of the election, and about whose dismissal so much lamentation is had—

A large number of United States deputy marshals and supervisors were appointed, many of whom were men of well-known disreputable character, and some of whom had been convicted criminals; a class of dangerous men never before chosen by any ruling authority, in any community, as conservators of the peace. They were instructed, under advice of the Attorney-General of the United States, to submit to no interference from any quarter under State or municipal authority. Orders were issued which authorized them, in the discretion of each one of them, to arrest at the polls citizens claiming the right to vote, as well as the inspectors who were charged by law with the custody of the ballot-boxes. These arrests were to be effected without process of law issued upon formal complaints.

Then going on and telling what steps he had taken with the best militia in the United States and the best organized regiments of New York to guard all the rights of every citizen, he said:

Notwithstanding all this, by the President's orders, United States troops were brought from distant posts and quartered in the city of New York, and ships of war were anchored in its harbor. It was certainly not unreasonable to expect that the first drop of citizen's blood shed in the city of New York by Federal troops, in

time of peace, might lead to terrible results, involving great loss of life and incalculable destruction of property.

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At the last moment, that is to say, the afternoon immediately before the election, the officers of the United States, fortunately and wisely, abandoned the extreme ground they had taken, and entered into a stipulation with the local authorities of New York City in my presence, which resulted in preventing any armed interference by troops, either of the United States or of the State.

Governor Hoffman closes his message thus; I fully indorse his statement:

To depend for the peace and order of localities on the Federal Army is not self-government; to substitute the regular soldier with his musket as a peace officer in place of the constable with his writ is not to preserve the peace but to establish the condition of war; to surrender elections to the control of the President supported by armed forces is to surrender liberty and to abandon a republic.

That is another well authenticated case of interference by United States soldiers under Federal authority.

The governor of Illinois, Governor Palmer, himself a gallant soldier, in a message to his Legislature repeated substantially the same state of case and denounced the presence of armed troops at the polls in language perhaps more emphatic than either of the others. I had his message in my hand this morning but somehow or other in the confusion I have mislaid it, and therefore I can only state the substance of what he said. But, sir, Geary and Hoffman, the governors of Pennsylvania and New York, were backed in all their assertions by the governor of the great State of Illinois in denunciation of the conduct of the Federal Government; so that, leaving out the South, the two greatest States in the Union and the fourth State through their governors in solemn messages to their Legislatures have announced the fact which the Senator from Maine ridiculed yesterday, that troops were at the polls in violation of the law and of the Constitution without their consent, and against their will to the overthrow of the State constitution and laws, and they were not there for the purpose of maintaining peace but for the purpose of overthrowing and destroying liberty at the polls.

Yesterday the Senator from Maine said that I was afraid of an extremely small number of troops; that there were none in Kentucky; that there were twenty-one in Georgia, and my friend General GORDON was appealed to to know if he was alarmed on that account; that there were none in Tennessee and none in West Virginia—a few scattered in some localities—not enough to do any harm anywhere. That was laid before the American Senate and people as an argument why we should not seek to remove them and keep them from the polls. I hold in my hand the order of "J. D. CAMERON, Secretary of War, by command of General Sherman," when it was determined that Louisiana should be carried by force or fraud or in any other way in 1876. This order was issued, taking advantage of a House resolution which had been passed saying that the courts and the authorities of the various States should punish crimes wherever they found them. Acting upon what he called the spirit of that resolution, and without a call from the Legislatures or governors of any of the States, in plain, palpable violation of the Constitution of the United States, the order proceeds:

The President directs that, in accordance with the spirit of the above, you are to hold all the available force under your command (not now engaged in subduing the savages of the western frontier) in readiness to be used, upon the call or requisition of the proper legal authorities, for protecting all citizens, without distinction of race, color, or political opinion, in the exercise of the right to vote as guaranteed by the fifteenth amendment; and to assist in the enforcement of "certain, condign, and effectual punishment" upon all persons who shall "attempt, by force, fraud, terror, intimidation, or otherwise, to prevent the free exercise of the right of suffrage," as provided by the laws of the United States, and have such force so distributed and stationed as to be able to render prompt assistance in the enforcement of the law.

Such additional orders as may be necessary to carry out the purpose of these instructions will be given to you from time to time, after consultation with the law officers of the Government.

Under that order forty-five hundred soldiers were at once started from the West to those States to take possession of them, and an order was issued to them to obey whatever the marshals or any of the other (so called) authorities placed there for partisan purposes should put upon them. The result is known. Although there may be only a few troops scattered about now, when an important election comes then they can be concentrated, and concentrated rapidly where they will do the most good, and where they will deprive the people of the largest number of votes who desire to vote against the party which they are ordered to uphold, for the soldier blindly obeys the orders of his superior in nine cases out of ten. He forgets that he is a citizen, or that any citizen has rights that he is bound to respect, if his superior officer orders him to disregard them.

Recollect, and this must never be forgotten, that when the law we seek to modify was passed there were no marshals nor deputy-marshals nor supervisors of elections. There were no John Davenports, and there were no thieves, robbers, or other convicts, appointed because they were such, who were authorized to take command of the Federal Army. The Federal Army was commanded by its officers, gentlemen, many of them democrats, all of them law-abiding citizens. But after a while supervisors were appointed and deputy-marshals paid at the rate of $5 a day, and the secret-service fund was put into their hands in violation of law to swell it out. They were empowered and commissioned to take charge of the Army of the United States, under a pretense of guarding the purity of congressional elections. What followed? Congress, a radical Congress, passed a law fixing a uniform day for holding the elections for members of Congress on the Tuesday after the first Monday in November. That was the day fixed by the Constitution and the laws for the election of President of the United States all over the United States. That was the day to which nine-tenths of the States had conformed in the election of their governors, auditors, attorneys-general, and their State Legislatures, indeed, of all their local authorities. The United States, under the pretense of guarding the election of a member of Congress, sent its marshals and its deputy-marshals into all those States when a President was to be elected, and when governors were to be elected, when all the authorities, legislative and judicial, of the State were to be elected, and they exercised precisely the same authority over the whole election as though they had been absolute masters for every purpose, instead of being there only to see that members of Congress were properly voted for. It was a fraud under a hypocritical pretense, a wearing of the livery of the court of Heaven to serve the devil in.

The proof is abundant in two reports before the State Legislatures and before the Congress of the United States. I may as well mention the fact here that a man by the name of Davenport arrested over three thousand citizens in the city of New York without knowing whether they were going to vote for members of Congress or not, without inquiring whether they were going to vote for members of Congress or not, on the assumption that their naturalization papers were not valid, though issued ten years before, because the clerk in 1868, ten years before, as I said, had failed to note them on the record. The judge (Blatchford) in Coleman's case decided, and the district attorney agreed beforehand, that he had no right to make those arrests; yet it was done, and he was maintained and sustained; and we are told the President of the United States is going to veto a bill which seeks to get clear of a man like that and of a system like that; and we are charged, arraigned, indicted, and denounced because we seek to repeal the law that infamous man boasted as having been drawn by him, and that he had passed through Congress by his influence over conference committees, in order that he might rob the people's Treasury and annul the laws of New York.

Will any man pretend that the Federal Government has a right to invade the States of New York or Pennsylvania and interfere with the election of a President, or interfere with the election of a governor or any of the State officials? I answer no; and yet under the baldest pretense, taking advantage of the fact that by the constitution and laws of these States the Tuesday after the first Monday in November is the day fixed for the general elections, Congress forced them to elect members of Congress on that day for no other purpose than to take control by United States marshals and deputy marshals of all the machinery of the States and to exercise absolute control in regard to the presidential and State as well as the congressional elections; and then Senators tell us we must submit to all these flagrant wrongs forever and we are revolutionary if we attempt to repeal a law which confers such power and which has that broad, sweeping consequence for evil, and evil only.

I should like to see any President give a reason to a Congress for vetoing a measure which had been deliberately passed with such messages by the governors of New York and Pennsylvania as these I have read, with such facts as we have before us in our official reports, when we say to him respectfully, "We will give you all the money your Army wants; we will protect the frontier; we will enable you to guard against insurrection and invasion; we have inserted into the bill that we do not desire in any manner to limit your power to aid the people of all the States whenever they are in danger from insurrection or from foreign war, or when you are called upon by any State for any purpose to send forces to assist them; we are willing to go to the utmost extent and to authorize you to spend all the money you require to do it." There is not a democrat here, I assert before the American people, who will not go as far as any republican on the other side of this Chamber to maintain the peace and order of every State in this Union and protect the rights of every citizen thereof. But we say that "you shall not when not called upon and when there is no necessity interfere and send your soldiers to the polls when elections are pending to be used as the governors of these great States complain that troops have been used, and as the reports to Congress show has been the case, to overthrow liberty and destroy the ballot they pretend to protect."

Mr. President, there never was an army sent into a State to guard apy of its rights under the constitutional provisions on the call of the Legislature, or the call of the governor when the Legislature could not be convened, without the President issuing a proclamation commanding the insurgents to disperse. I should like to know when he sends his soldiers to the polls in the various States what proclamation he is going to issue in time of profound peace, when citizens have assembled to exercise the highest rights of freemen, the only attribute of sovereignty they possess; what proclamation he is going to issue then before he surrounds them with the Federal soldiery. Is he going to proclaim that they are insurgents if there is a democratic majority at the voting place? Is he going to order citizens assembled to vote to disperse and leave the polls to his soldiers so that they may be closed? No, Mr. President, it is an insult to suggest such action. It is an unconstitutional, illegal interference whenever it is attempted. On the bare statement of the proposition it must be so conceded by everybody who is not the victim of passion or prejudice. States alone can keep the peace at the polls. It is the peace

of the States that must be preserved. If murder is committed State laws alone can punish for murder. The United States courts have no jurisdiction over such cases, and their officials cannot interfere in such breaches of the peace.

I said that I relied upon the President of the United States, and I have a right to do so. He reversed the policy of his predecessor when he came into power. He said the peaceful modes of the Constitution should be adopted. Up to this time I know of no act of his which has not shown that he was in good faith in making those declarations. I have his inaugural address before me, a word or two from which will perhaps attract the attention of Senators. He said among other things:

The permanent pacification of the country upon such principles and by such measures as will secure the complete protection of all its citizens in the free enjoyment of all their constitutional rights is now the one subject in our public affairs which all thoughtful and patriotic citizens regard as of supreme importance.

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But it must not be forgotten that only a local government which recognizes and maintains inviolate the rights of all is a true self-government.

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Resting upon this sure and substantial foundation, the superstructure of beneficent *local* governments can be built up, and not otherwise. In furtherance of such obedience to the letter and the spirit of the Constitution, and in behalf of all that its attainment implies, all so-called party interests lose their apparent importance, and party lines may well be permitted to fade into insignificance. The question we have to consider for the immediate welfare of those States of the Union is the question of government or no government, of social order and all the peaceful industries and the happiness that belong to it, or a return to barbarism. It is a question in which every citizen of the nation is deeply interested, and with respect to which we ought not to be, in a partisan sense, either republicans or democrats, but fellow-citizens and fellow-men, to whom the interests of a common country and a common humanity are dear.

Such were the views of the President as embodied in his inaugural address. Such, I say, has been up to this time so far as I know his practice, and such I believe it will continue to be; and in furtherance of that I believe he will indorse and approve all the legislation that we propose to tender to him for his approval, and that no amount of clamor, no amount of denunciation, or threat by indictment, arraignment or abuse of southern men, of talk outside of our capturing the Capitol, is going to deter him from doing his duty. When he is so deterred, then, and not till then, will I change my opinion about him and his views. Southern men capture the Capitol! I appeal to the country with as much emphasis as the gentlemen on the other side, and ask what have we done since genuine southern men have taken position here that has not been for the good of the whole country? Have we robbed and plundered the Treasury? Have we been in favor of the pet banks and bondholders and monopolies and susidies and all the corrupting influences and machinery that were the rule and not the exception years ago? Have we not maintained local self-government and the equal rights of all men everywhere? Have we not sought to make the civil superior to the military power? Have we not favored fair trials by jury, honest elections conducted by the States themselves, and the just maintenance of all the powers of the Federal Government in all those great national affairs that reach beyond the boundary of the States? What southern man has deviated from that course? None, and if the contrast were to be drawn between the Southern States themselves now in their local governments and as they were when it was my fortune as one of a joint committee known as the Ku Klux Committee to go over a good part of them and sit in this Capitol for months and hear of their condition, the contrast would be sharper still. With these facts understood by the people, the speech of the Senator from Illinois, with all its declamation, with all the rant and bitterness there was in it, would fall to the ground crushed by the honest truth of the case.

I see before me my friend from Arkansas, [Mr. GARLAND.] His State was alluded to as a specimen of democratic misrule. Under radical rule it was a pandemonium; there was no peace and no order; colored men called militia were roaming about with guns and bayonets, uncontrolled by law. The President of the United States sent a military order to the Senate, ignoring the House, in which he said that unless something was done with the State so as to take care of it, he would have to see to it with the military arm of the Government. Judge Poland, however, went there with a committee of the House; made a report which showed that misgovernment was at the bottom of the condition of affairs there; the report was sustained; we obtained a breathing spell; GARLAND was elected governor, and what happened? Order came out of chaos, peace was restored, taxes were reduced more than one-half, white and black fraternized and lived harmoniously together; to-day the State of Arkansas is as peaceable as the State of Massachusetts. GARLAND was a revolutionist! He was exactly the kind of a revolutionist that every good democrat in America is. He put the bayonet down and he exalted the civil power; he removed the plunderer and the robber, and he restored peace and harmony to white and black, with equal rights to all and exclusive privileges to none.

So I could point to State after State of the South where similar results followed democratic ascendency, but I will not take the time of the Senate to do it. These facts are a sufficient answer to all that was said by the Senator from Illinois on the subject. That Senator asked why did not the negroes vote as they used to vote; why do they now sustain Hampton and others? You may lie to a negro and fool him for a while; it is not hard to deceive him; but as soon as he finds that you have deceived him you will not easily deceive him a second time; it is your fault the first time, it is his next. He believed in the forty acres of land and the mule for a while. He bought the little painted stakes that were said to come from the Treasury Department and staked off forty acres which were said to be his, and paid from $3 to $5 apiece for the stakes, as was proved time and again. He saw that all those things were false, and he fell back upon the only true friends he ever had, his old master and the democratic party, who have stood by him and are standing by him now, and if left alone they will bring him up to the highest point of civilization of which he is capable at the earliest possible moment.

I will now refer to something the Senator from Maine said yesterday. I beg pardon for making such a disconnected, rambling speech. I have thought a good deal in regard to these subjects. I had occasion to go to Kentucky ten days ago, and while I was gone there was such an able and exhaustive debate, on our side at least, in the other House that when I read speech after speech made by the democrats there I felt as though the subject was exhausted, and but for the fact that I have been attacked and called a revolutionist, and such mean things have been said about me in the newspapers and elsewhere, I would not have opened my mouth now. But as I am up, first one thing and then another occurs to me; I have a good many references to authorities and precedents; it may take me a good while yet to conclude. What the Senator from Maine said occurs to me first: that we were disgracing the American people in the eyes of all Europe by our folly; that we were making the people there believe that our Government is a military despotism; that confidence is being shaken in us; he not only implored us to desist, but he denounced us because we were saying things about the republican party and about military rule in this country that was bringing disgrace upon us. It is not the democratic party that is responsible for that. The democratic party want to remove the cause that makes all good men everywhere denounce the bayonet policy, for I have never yet seen a man, I do not care whether he is a republican or a democrat, who does not denounce the use of military at the polls. There never was a man, whig, democrat, republican, or federalist, who has not said that nothing but the direst necessity would ever warrant military interference anywhere in time of peace. Senators on both sides remember, the people of Europe heard, everybody heard the Secretary of State, after Sheridan had invaded the Legislature of Louisiana and De Trobriand had his troops at her breast, after a bogus government was established at the point of the bayonet and after the military orders were carried out there that disgraced the civilization of the age—a great meeting was called at Cooper Institute. The present Secretary of State was one of the orators. I turned to one of the leading papers of New York of that date in the Library this morning. Not being able to carry it over, I copied what Mr. Evarts said on that occasion—that speech went to the people of Europe—in bitter denunciation of the conduct of the republican party and of the use of the military at the polls. Nothing that I have said and nothing that any democrat can say is more vigorous than that speech.

Our fellow-citizens of New York—

Said Mr. Evarts, at Cooper Institute, on the 11th day of January, 1875. I commend the whole speech to Senators. It can be found in any one of the New York papers of January 12, in the Library, by calling on Mr. Spofford:

Our fellow-citizens of New York have the understanding that patriotism and love of liberty and obedience to the Constitution are not in the possession of any political organization—

I wish the Senator from Illinois could only understand that great truth as the citizens of New York were presumed to do—

that there are limits to their political competition and their antagonisms which no political party can safely pass. That when men vote and when their chosen officers meet and when without violence and without demonstration of insurrection they undertake to conduct the affairs of their political governments no soldiers can interfere. [Cheers.]

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There are two very distinct firm lines of limitation, which, observed, will protect the machinery of the Government for the people, forty millions of people to-day, one hundred millions hereafter, that is, that the sole intervention of the Federal power within State authority shall be to suppress violence, and that their office after that shall not assume to go further unless when invited by the supreme authority of the State. [Cheers.] And that supreme authority of the State is named in the Federal Constitution, and is the Legislatures of the several States, and only in the casual condition when the Legislature is not in session can the governor represent the State, so as to demand Federal intervention in the political affairs of the State but only on the condition that the Legislature cannot be convened.

Again he said:

Now, the laws of Congress require whenever a state of violence exists in a State to which Federal suppression should be applied that the exercise of that authority must be combined by a proclamation requiring the insurgents to disperse.

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What use is it to give the purse and the sword to the House of Commons if the King or the President by military power can determine what shall be the constitution of the House of Commons or the House of Congress? And that is what they fought for in England—

The Senator from Massachusetts thought they fought over the King or Queen's pin-money—some little trifle of that sort—

And that is what they fought for in England—the indubitable and ancient rights of Parliament to hold the purse when in danger, from the claims of royal power. For a while the House of Lords assumed the power and right to determine the qualification and membership of the House of Commons, but in 1624, the House of Commons determined that the qualifications of its members was at its own disposal, that the ancient liberties of the House of Commons required it, and no King and no House of Lords has questioned this power of the House of Commons from that day to this. [Applause.] And for this reason the people of the United States

are justified in assuming that the supreme civil power shall dominate over the military, and that no merging of them, or interference with them shall be permitted; to see that there shall be an independent Legislature with an absolute absence of Federal power except on the invocation of the Legislature for the suppression of actual violence and its immediate withdrawal when the violence is suppressed.

When Mr. Evarts discussed that great question in the bold, manly way he did, and as many other able men did, there was no man who dared to deny that it was the interference by the Federal soldiery at the polls when elections were held or Legislatures sought to organize that was at the bottom of all our troubles. My friend from West Virginia [Mr. HEREFORD] read a few words the other day from Mr. Seward. I propose to read more extensively from Mr. Seward's speech. I said there was no difference of opinion among men, whig, democrat, federalist, radical, no matter what you call them, on this subject. I select Mr. Seward as being more in accord with the politics of gentlemen on the other side than others who were equally pronounced against military interference with civil rights or personal liberty. Mr. Seward said in the great speech made by him in the Senate of the United States in 1856:

The time was, and that not long ago, when a proposition to employ the standing Army of the United States as a domestic police would have been universally denounced as a premature revelation of a plot, darkly contrived in the chambers of conspiracy, to subvert the liberties of the people and to overthrow the Republic itself.

I have sometimes thought that the movements that have been made lately were of the character Mr. Seward apprehended at that time:

The Republic stands upon a fundamental principle, that the people in the exercise of equal rights will establish only just and equal laws, and that their own free and enlightened public opinion is the only legitimate reliance for the maintenance and execution of such laws. This principle is not even peculiar to ourselves; it lies at the foundation of the government of every free people on earth. It is public opinion, not the imperial army, that executes the laws of the realm in England, Scotland, and Ireland. Whenever France is free, it is public opinion that executes the laws of her republican legislature. It is public opinion that executes the laws in all the cantons of Switzerland. The British constitution is quite as jealous of standing armies as a police as our own. Government there, indeed, maintains standing armies, as it does a great naval force, but it employs the one, as it does the other, exclusively for defense or for conquest against foreign states. Fearful lest the armed power of the state might be turned against the people to enforce obnoxious edicts or statutes, the British constitution forbids that any regular army whatever shall be tolerated on any pretense. The considerable military force which is maintained in different and distant parts of the empire only exists by a suspension of that part of the constitution, which suspension is renewed by Parliament from year to year, and never for more than one year at a time.

Civil liberty and a standing army for the purposes of civil police have never yet stood together, and never can stand together. If I am to choose, sir, between upholding laws in any part of this Republic which cannot be maintained without a standing army, or relinquishing the laws themselves, I give up the laws at once, by whomsoever they are made and by whatever authority; for either our system of government is radically wrong, or such laws are unjust, unequal, and pernicious.

I might read through that great speech for the edification of gentlemen on the other side, but I believe I will content myself with only reading again what was read the other day by my friend from West Virginia, [Mr. HEREFORD:]

If the founders of the Constitution had been told that within seventy years from the day on which they laid its solid foundations and raised its majestic columns a standing army would have been found necessary and indispensable merely to execute municipal laws, they would have turned shuddering away from the massive depotism which they had erected.

So I say, and so say the democratic party, that whenever there is no longer virtue enough, intelligence enough, love of liberty enough, and integrity enough in the States of this Union to maintain their own police authority and to see justice done to all their people, and see to the just and honest execution of their own laws, then liberty is gone, there is an end of popular government, there is an end of republican liberty regulated by law. There must be trust somewhere. That trust was established by the Constitution in the governments of the States. Why, sir, if a State has not intelligence or integrity enough to see that its citizens have an equal right to a fair and honest vote, that their votes are fairly counted, and that the count when made is fairly declared, which is one of the simplest of operations, then it has no right to be a State; and the same relation that a gentleman from Illinois wanted it to bear—that is, the same relation to the Federal Government that the counties do to the States—ought to be established, and there will be at once a great central despotism at Washington, the source and the center from which all power must radiate. Then your "man on horseback" will come, and come speedily, and rule from Maine to California through marshals and deputy marshals and Treasury agents and spies and informers, with Whitely and Davenport and all the thieves at their head; then you will have a Government such as will suit the gentlemen who desire protection against the people, for liberty regulated by law will be a farce and a mockery. That is the republican theory of government as maintained now by opposition to the repeal of the laws we propose to annul.

We take exactly the opposite side. We believe that wherever the family can manage its own affairs nobody should interfere with the affairs of that family; beyond that when you come to the school district or to the public highways in your respective parishes, we believe they should be attended to by those people who are interested; and when you get beyond that to your townships, to your municipalities, to your counties, to your hundreds, as they were called in the old days in England, let the people in those divisions manage their affairs to suit themselves in their respective localities free from outside interference. Passing beyond that and reaching up to the States, let their elections be by their own people, under their own regulations, without the interposition of the laws of Congress or the interference of the Federal Government, or the Army either, as constables or anything else. Let the people alone; let them manage their own affairs and punish by State laws all wrong-doers. When you come to the aggregation of States, to the power to regulate commerce among the States, to carry on foreign diplomacy, to see that all men in each State regardless of race or color are protected in all their rights, that no one shall interfere with or interrupt them, I agree that the Federal Government is supreme; and every democrat here stands by the right and power and maintains its supremacy as emphatically as any republican on the other side. There is where the great distinction in our political creed and practice lies, and there is the difference between the parties on this question. We believe in individual liberty. We believe in the power and right of local self-government and the equal rights of men. We believe that the great mass of mankind were not born saddled and bridled, and a favored few born booted and spurred, ready to ride them by the grace of God. We believe all citizens are equal, that States are equal, and that the people of the States are honest and can attend to their own affairs quite as well as Federal officials.

A good deal has been said about the bill we propose to modify being a law signed by Abraham Lincoln—"the martyred President"—and we are told that he would rise from his grave and enter these Halls; and I do not know what he would not do, run us out, I presume, if we dared to repeal or amend a bill he had signed. There has been a good deal of threatening, a good deal of indicting, and a good deal of talk about terrible things that were going to happen portrayed by the Senator from Maine, and it was all told again to-day by the Senator from Illinois, if we dared to repeal this law. That sort of talk does not frighten grown men, and need not be answered; the people understand it. But I was astonished at the Senator from Illinois repeating a statement that was made the other day elsewhere. I am not at liberty to say where, but in a very distinguished place in this city—I believe the Senator from New York [Mr. CONKLING] generally speaks of it in that way, to keep within the rules—by a very distinguished gentleman, that the provision of law we propose to repeal was drawn, prepared, maintained, and sustained by a democratic Senator, and would not be the law to-day but for the fact that a Senator from Kentucky (Mr. Powell) brought it up before Congress, maintained it, and advocated it. The names of distinguished men—my friend [Mr. PENDLETON] among others—were read the other day elsewhere as its advocates by a gentleman speaking of it, and there were enough men in a large assembly in this city, who ought to be intelligent enough to know better, that applauded the statement to the echo, either because they were so ignorant that they did not know any better, or because they hoped to deceive somebody by applauding it as though they thought it was true, when, if they had any intelligence at all, or enough to entitle them to represent anybody anywhere, they knew that there was not a word of truth in it. Whether the applause came from their desire to deceive somebody else or their ignorance—perhaps it was like this talk about coercion now—I do not know, and I do not care; but the fact is known to every decently intelligent man—and any man who states otherwise is either too ignorant to be here or he is seeking to fool somebody—that Governor Powell when he introduced that bill introduced it substantially as it will stand if we succeed in repealing the clause we are seeking to repeal now; and in one of the very ablest speeches ever made on the floor of the Senate he showed the necessity for the passage of the law he proposed. The title is "An act to prevent officers of the Army and Navy and other persons engaged in the military and naval service of the United States from interfering in elections in the States." It is without any limitation—no exception such as to keep the peace at the polls—nor for any other illegal or fraudulent purpose. The object was to keep them, on any pretext whatever, from interfering with the States or people in the conduct of their elections. That bill, as presented by Governor Powell and advocated by him, resulted from the condition of things produced by or growing out of the war; and there were many things perhaps allowable then that would not be at all permissible now. It resulted from troubles growing out of the war in all the border States—in Kentucky, Missouri, Maryland, Delaware, to say nothing of Tennessee, because she was at one time a member of the confederacy; but in Mayland, Missouri, Kentucky, Delaware, and along the border, extending into Southern Ohio, Indiana, and Illinois, the military were in the habit not only of interfering in the elections but of conducting the elections of State, county, and municipal officers, closing the polls against all candidates and votes they did not like, and opening them to their pets and favorites.

General Gilbert invaded a democratic convention in 1863 in Kentucky and dispersed it at the point of the bayonet, only followed by three or four soldiers. We should have been no more afraid of those three or four soldiers than we would be of the one, two, three, or four the Senator from Maine yesterday insisted were scattered about the border States now; but that Federal general with three or four soldiers arbitrarily dispersed a convention of five hundred or six hundred democrats, without opposition or show of resistance, because he represented the whole power of the United States. During that summer martial law was declared in Kentucky, and officers were sent to the polls to say who should vote and who should not, who should be allowed to stand as candidates and who should not. I have their

reports lying before me, showing that they closed voting place after voting place and poll after poll in Kentucky to all the opponents of their friends, and refused to allow ballots to be cast for men as loyal and true in every proper sense of the word as the commanding general himself or as any man in this Hall. Hon. Charles A. Wickliffe, a former Postmaster-General of the United States, was the democratic candidate for governor. He had sat in the Congress of the United States in the early part of the war, and had voted for men and money to carry it on; but he called himself a democrat—he was a true, honest, earnest, able democrat—and he was opposed to many of the ultra measures which were then being urged; consequently the polls were closed at various points in the State against him, and Federal officers, captains, majors, and others whose reports I have in my hand, would not allow loyal citizens to go to the polls, or even allow a poll to be opened for Mr. Wickliffe as candidate for governor of Kentucky, and so it was in many other States. Yet the Senator from Massachusetts [Mr. HOAR] and a distinguished gentleman in the other House assert—I could not make anybody believe it in the face of these facts if I did not read it—the Senator from Massachusetts said:

> There has been no time since the formation of the Government when a single person has been restrained or intimidated in casting his vote by any military power whatever.

And as that is assumed to be the case, we are charged with being revolutionists when we are asking to remove the military power from keeping the peace at the polls.

Mr. HOAR. This was during the war, was it not? Was not this instance that the Senator from Kentucky speaks of during the war?

Mr. BECK. It was.

Mr. HOAR. And in the district which had been overrun by the troops of both armies?

Mr. BECK. No, sir; it was all over the State in districts that never were overrun.

Mr. HOAR. I thought the State of Kentucky was the theater of war.

Mr. BECK. Let me read again. Perhaps the gentleman did not understand what he was talking about himself. He said:

> There has been no time since the formation of the Government when a single person has been restrained or intimidated in casting his vote by any military power whatever.

Eighteen hundred and sixty-three was long after the formation of the Government.

Mr. HOAR. I did not allude to the conventions which were held down South to aid what was called the rebellion. They were intimidated by military force, undoubtedly.

Mr. BECK. Let me say that the State of Kentucky during all that time was paying her taxes to the Federal Government; she was furnishing men and money; she had from sixty to eighty thousand men in the Federal armies; and she was furnishing soldiers to Massachusetts as substitutes for your now ardent patriots.

Mr. BLAINE. One moment just here, if the Senator will permit an interruption. The Senator from Kentucky speaks of the then Senator, Lazarus W. Powell, I believe, having been interfered with in his right to vote when the colleague of that Senator in this very Chamber moved his expulsion from this body because of disloyalty.

Mr. BECK. I said no such thing about Senator Powell——

Mr. BLAINE. Then I misunderstood the Senator.

Mr. BECK. Yes; you are apt to misunderstand. The Senator from Maine ought to know that the colleague of that Senator, Mr. Garrett Davis, afterward rose on the floor of the Senate and made an apology more handsome than the Senator from Maine is apt to make when he does a colleague an injustice. He said that he had been mistaken from beginning to end, and in the face of the Senate he walked up and shook hands with Mr. Powell and asked his forgiveness publicly because he had done him injustice. I made no allusion to personal matters.

Mr. BLAINE rose.

Mr. BECK. I am not going to be interrupted now. I did not seek to bring in personal matters and I had made no allusion to anything except great public facts. I have the speech of Mr. Powell in which he showed, taking State after State, that there would be injustice done unless there was some bill of the kind proposed by him passed; and he referred to and successfully overthrew report No. 14, made by Mr. Howard, of Michigan, against the bill, in which report those gentlemen who agreed with Mr. Howard claimed the right of the military to interfere, and admitted that they had interfered, although it is now said no man was ever interfered with by the military. Military interference went so far that Mr. Lincoln himself, in the State of Maryland, had to rescind orders of General Schenck, on the ground that it was improper for the military to interfere to the extent that General Schenck was interfering. He rescinded three of his orders, allowing only one of them to stand, and that was simply to aid the civil authorities. Proof was made that in Maryland as well as in Kentucky the polls were closed in many places against democratic candidates and voters. Mr. Lincoln interfered at the request of the governor, who sent an indignant message to his Legislature, and at the request of Hon. Reverdy Johnson, then one of the Senators from Maryland, saying that there could be no free election in Maryland at that time because of military interference. Was not that the fact? The Senators from Maryland know it. What was the truth about that, I should like to ask him? [Turning to Mr. GROOME.] What does he remember about the elections in 1863, 1864, and 1865? The elections now referred to were held then. They are mentioned in this report.

Mr. WHYTE. I can furnish the Senator the message of the loyal governor of Maryland on the subject.

Mr. BECK. The Senators from Maryland in their own time, when they have the opportunity, will state the facts. The fact is plain that the elections were interfered with there as in Kentucky by the soldiers.

Mr. LOGAN. Will the Senator allow me to make a suggestion to him?

Mr. BECK. Yes, sir.

Mr. LOGAN. About the only arrest history has given us a record of in Maryland that amounted to anything was the arrest of the Maryland Legislature by McClellan, who is now the democratic governor of New Jersey, and was a democratic candidate for President of the United States against Abraham Lincoln. That is about the only history we have of arrests in Maryland, when the Legislature was arrested by him.

Mr. BECK. That only proves what I have said and believe, that no matter how good a man may be, when he once becomes a military officer and subject to obey the orders of the authorities over him, he becomes a tool in their hands; he is obliged to do whatever he is told or ordered to do, and he is an unsafe depository of power over a free people, especially at the polls when they are depositing their ballots to say who shall be their rulers, and if he is a democrat so much the worse.

Mr. LOGAN. The Senator will remember, however——

The PRESIDENT *pro tempore*. The Senator must address the Chair if he wishes to interrupt.

Mr. LOGAN. I will, Mr. President. The Senator will remember, however, that General McClellan made that arrest on his own authority, without being ordered by the President of the United States.

Mr. BECK. I do not know how that is. That was not at the polls.

Mr. LOGAN. That is the fact as I have stated it.

Mr. BECK. No doubt; and when Governor Powell brought up this bill and the adverse report was read he persisted in passing it, the adverse report to the contrary notwithstanding, and endeavored to have it passed just as presented by him. Mr. Pomeroy, of Kansas, introduced the amendment to allow soldiers "to keep the peace at the polls," because he said that in troublous times in Kansas he had seen occasions when it was necessary that soldiers should be there in order to guard and protect the right of citizens to vote; and when the vote was taken in the Senate by yeas and nays on that amendment every democrat voted against it; and yet the Senator from Illinois to-day said a democratic Senator had placed this amendment upon the statute-book, as I understood him. I understood the Senator from Illinois to-day to say that this very law authorizing the troops to go to the polls was placed there at the instance of a democratic Senator. Am I correct?

Mr. LOGAN. I said this law was introduced by a democratic Senator.

Mr. BECK. The law as it will stand after we strike out this clause was.

Mr. LOGAN. I understand that; but the law as amended was voted for by democrats and the original bill was introduced by Senator Powell, of Kentucky. The amendment was put to it, I agree, in the Senate on the motion of a Senator from Kansas; but the law as it stands, other than that, was introduced by Senator Powell, of Kentucky.

Mr. BECK. The amendment is the only thing now under discussion. The amendment was the only question then. The Senator from Illinois sought to make the impression on the country as a distinguished gentleman from Ohio did elsewhere two weeks ago that this bill, this amendment, the placing soldiers at the polls, was done at the instance of the democracy and was voted for by the democracy; and they sought to impress on the country that we are revolutionary now in going back upon our own work and seeking to set aside our own measure when we were proposing to strike this clause out. I repeat that it is known to every intelligent man that the amendment, the only one we are now seeking to strike out, that which authorizes soldiers to be brought to the polls to keep the peace there, was inserted by Mr. Pomeroy, of Kansas, voted against by every democrat in the Senate, Governor Powell himself declaring that it would destroy the main object he had in view in the passage of the bill, and Mr. Willard Saulsbury, of Delaware, rising and indorsing his statement, saying that it was under that pretense all the mischief had been done in Delaware. Still, when they were voted down they accepted the bill as amended rather than allow elections to be held absolutely under military domination as they had been before that time. Now, after fourteen years of peace, with each State fully restored to all her proper relations to the Federal Government and her sister States, when we propose to repeal what was only inserted as a precautionary measure in time of war we are told that we are seeking to revolutionize the Government and deprive the President of his constitutional rights.

Mr. LOGAN. The Senator, I hope, will at least do me the justice to say that I did not intimate it was revolutionary merely because of the fact that that bill was introduced either by a democrat or by a

republican. That was not my ground at all. I merely alluded to that.

Mr. BECK. But what is revolutionary in the repeal of the clause we seek to repeal?

Mr. LOGAN. I did not use the remark that it was revolutionary because it was introduced by a democrat or by a republican.

Mr. BECK. Waive that. I now ask the question where is the revolution in our seeking to repeal it in a peaceable manner as a part of the Army bill when we are providing supplies for the Army under our authority?

Mr. LOGAN. Does the Senator ask me why it is?

Mr. BECK. Yes, sir; what is there in the act of repeal that is revolutionary?

Mr. LOGAN. If the Senator will give me permission, I will state what there is that is revolutionary. It is because of the fact that you have acknowledged that you cannot pass the bill in any other way than by coercing a co-ordinate branch of this Government to the signing of the bill by putting it upon an appropriation that gives sustenance to the Government. Therefore it is in itself coercive, it is in itself force, it is in itself violative of the spirit of the Constitution, and hence it is revolutionary in itself. That is the reason for it.

Mr. BECK. Mr. President, I repeat that we have no information and no possibility of having any information that the President will refuse to sign this bill.

The PRESIDENT *pro tempore*. The Chair wishes to interrupt the Senator for a moment. There have been several allusions made in this debate to what the President of the United States will do or what he will not do. It is perfectly competent for Senators to argue what the President ought to do or what he ought not to do; but it is not in order to say that the President will do or will not do a particular thing in regard to a measure pending in Congress.

Mr. BECK. I beg pardon. I do not know that I have said what he will do, but I will say what he ought to do.

Mr. LOGAN. I wish to say that I have made no reference whatever to what the President will do in any case. I have used no such language in any remarks I have made.

Mr. BECK. The Senator's language was that we could not pass the bill in any other way, and therefore we were seeking to coerce the President. Now, sir, we are doing what has been done a great many times, and before I am done I will prove it; and it was not considered revolutionary by the republican party then.

Mr. HOAR. Will the Senator from Kentucky, Mr. President, allow me to call his attention to his own language in the statement of what is revolutionary?

Mr. BECK. I would rather go on now. You have read that twice, I believe, [laughter,] and I have said that I thought that was the best part of your speech, at one time. [Laughter.]

I am a little out of the order in which I intended to go; but the Senator from Illinois will perhaps recollect the Army bill of March 2, 1867, where President Johnson was by the second section of it deprived of his constitutional powers as Commander-in-Chief of the Army of the United States, and all the forces of the Government were required to report to General Ulysses S. Grant, whose headquarters were established in Washington, to interfere with whom was made an offense; and by the sixth section of that bill eleven States were ordered to disband their militia, and were not allowed to organize it except by the consent of Congress. Andrew Johnson sent in a message approving that bill, although it had in it all these things; and a great many of the gentlemen who are now here, the Senator from Maine conspicuously among them, voted for all these amendments to that Army bill; that looked a good deal more like coercion than anything I can see in this bill, and a good deal more like revolution; and I remember many of these gentlemen who are now speaking so flippantly about revolution are found recorded on the yeas and nays voting for that bill with those amendments putting all that pressure upon the President, and they succeeded in getting him to sign the bill.

Are we to learn nothing from experience? Are we to be throwing grass while you are throwing stones? Are we to strip off everything from the bill we propose that the republicans do not like merely because they do not like them, and let them raise the cry of revolution against us when we are only following their example, and that, too, in the very mildest possible way? And are we told that the people of Europe are looking in holy horror at the slanders we are circulating against that august party, and that we are degrading the country and disgracing American institutions by speaking in the way we are about the Government? Why, sir——

Mr LOGAN. The Senator will allow me right there.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky submit to interruption?

Mr. LOGAN. I will try to state the distinction between this proposition and that which the Senator refers to.

Mr. BECK. I think ours is a much milder imitation of it.

Mr. LOGAN. I do not wish to take the Senator's time, but if he will allow me——

Mr. BECK. I do not believe the Senator from Illinois could convince me. I have hardly begun what I had intended to say; I have been kept on the skirmish line so long by the able speech he made. I really did not intend to pay him any attention; I intended to answer, as best I could, the Senator from Maine who spoke yesterday, but the Senator from Illinois piled in so much to-day of all sorts that I am not progressing as rapidly as I should like to do.

Mr. LOGAN. I see your trouble.

Mr. BECK. Now I should be glad to be allowed to go on. There is one matter, not very important, that I should like the Senator from Maine to listen to; it occurs to me while waiting. Yesterday he was speaking about how southern men were taking possession of the Senate, and how the confederate gentlemen were here in such alarming force; he thought there was such danger to the Republic growing out of their presence here. I want to call his attention—though it is a little out of the line of my argument—to the time when he was a candidate for Speaker of the Forty-first Congress, on the 10th day of December, 1868, he made a very good speech in which he used this language:

> The election of 1868 is the last in which the lately rebellious section, even if it could be wholly controlled by rebels, will have sufficient power in the electoral vote of the country to make it the object either of hope or of fear on the part of political organizations striving for the government of the nation.

I think a change has come over the spirit of his dreams since he uttered that sentiment; he has more apprehension about what these gentlemen from the South are doing now than all the rest of his political troubles put together; and just here I may say that while he was complaining yesterday of the number of chairmanships and the recognition that was now given in the lower House to the men of the South, I sent for the record of some Congresses when he presided. I had the honor to serve under him when he was Speaker, and being a little amazed at his remarks in regard to what had been done by the present Speaker for the South, I turned to the Congressional Directory of the Forty-first Congress, when he was Speaker of the House, and I found that he distributed most of his patronage in one corner of the country, seemingly to carry out and sustain the great combinations that were then being sustained and perfected, such as banks, bonds, tariffs, &c. At the head of the Committee of Ways and Means in the Forty-first Congress was Mr. Hooper, of Massachusetts; of Appropriations, Mr. DAWES, of Massachusetts; of Claims, Mr. Washburn, of Massachusstts; of Foreign Affairs, Mr. Banks of Massachusetts; of Reconstruction, General Butler, of Massachusetts; Ways and Means, Appropriations, Claims, Foreign Affairs, all in one State, in one corner, and the reconstruction of the whole country put into the hands of that warm friend of the southern people, so that they could have fair play and justice done them, General Butler, of Massachusetts. [Laughter.] And from New England, the whole of it a little corner as compared with the whole, that has more than a million less people than the State of New York alone. Independent of these five great chairmanships, Commerce was given to Mr. Dixon, of Rhode Island; Revolutionary Pensions to Mr. Willard of Vermont; the Revision of the Laws to Mr. Poland, of Vermont; Patents to Mr. Jenckes, of Rhode Island; Expenditures of the Navy Department to Mr. Lynch, of Maine; Expenditures of the Interior Department to Mr. Ela, of New Hampshire; Rules to Mr. BLAINE, of Maine; Civil Service to Mr. Jenckes, of Rhode Island; American Shipping to Mr. Lynch, of Maine; the Library to Mr. Peters, of Maine—four Maine men I think out of five—and the Committee on Ventilation to Mr. Jenckes, of Rhode Island. I merely mention that to show that there is no particular cause of complaint on the score of comparison as to the action of the present Speaker of the House; at least the Senator from Maine ought not to complain of it.

Mr. BLAINE. Will the Senator pardon me for one question? Will he be good enough to tell me, when those committees were announced, how many States of the southern confederacy had been restored to representation in Congress?

Mr. BECK. This was in 1871.

Mr. BLAINE. Eighteen hundred and sixty-nine, was it not? The Forty-first Congress met in 1869.

Mr. BECK. I think all but Texas, Virginia, and Mississippi were then represented.

Mr. BLAINE. When the Forty-first Congress was organized—of course, I can only put my memory against that of the honorable Senator—Tennessee was the only State represented; so that if I did injustice to the South it was because certain circumstances had kept them from being represented at that time.

Mr. BECK. I do not recollect distinctly. They were all in the Forty-second Congress, and we will come to that. In the Forty-second Congress, when all the States were in, Mr. DAWES, of Massachusetts, was chairman of the Committee on Ways and Means; Mr. Hooper, of Massachusetts, chairman of the Committee on Banking and Currency; Mr. Banks, of Massachusetts, chairman of the Committee on Foreign Affairs; Mr. Butler, of Massachusetts, chairman of the Committee on the Revision of the Laws, and Mr. Buffinton, of Massachusetts, chairman of the Committee of Accounts—five chairmanships to the State of Massachusetts alone two years after all the States were in. That, however, is, by the way, merely to show the Senator that he ought not to throw stones.

I was going on to say when I turned from this law of Mr. Powell, that so far from the democratic party having made the charges that are disgracing the republicans if they are disgraced, they have had these charges made against them by their own people in ways, and proof brought against them in forms, that I never attempted. I read what Mr. Evarts said after the invasion of Louisiana. I desire now to read what the late Senator, Hon. Stanley Matthews, of Ohio, said

on the 1st day of May, 1872, when he was elected president of a convention then being held composed of the men who had been the republican leaders, of whom the distinguished gentleman from Illinois [Mr. DAVIS] was one, and which convention was participated in by such men as Mr. Trumbull, Mr. Sumner, Mr. Schurz, now Secretary of the Interior, and hundreds of others of the same distinguished character who could have held and who up to that time had held, many of them, the highest offices of honor, profit, and trust in the gift of the republican party. When we democrats are charged with making false accusations against republicans, perhaps it is well to read what their own leaders said. Mr. Stanley Matthews, president of that convention, among other things said:

And now, gentlemen, one of the deep and earnest convictions, which has spread universally almost through the hearts of the American people and out of which this movement originates, is this, that the war of the rebellion is ended—

That was seven years ago. You would think it was raging now, to hear the speeches of the Senator from Maine and the Senator from Illinois, and that there was danger of collision between the North and the South at any moment and it could hardly be averted but for their eloquence and their protests—

that the war of the rebellion is ended and that peace has come, [applause,] and that, as the war has ended so ought military rule and military principles; [cries of "Good!" "Good!" and loud cheers;] so ought everything that is arbitrary; so ought everything that degrades race or individuals; so ought everything that oppresses, everything that corrupts, everything that keeps alive and fans the embers of the dying and ought to be dead past. The cry came up four years ago, and it was thought to be an auspicious omen, the coming of that time which we had looked for in vain, when it was said, "Let us have peace." Look at the South to-day. What a spectacle! We have the example of so-called civil governments bankrupting the communities they affect to represent; power usurped by strangers and not conferred by the voice of the people, and not for the purpose of restoring the prosperity of those battle-grazed fields, but for corruptly enriching the men who think that power and office belong to them as property and not as a trust. And so, gentlemen, in every department of the Government the slow poison of corruption, only not sufficiently slow, seems to have pervaded the whole civil and political administration of the country from the head to the foot. [Applause.]

Observe, that is the language of the late Senator from Ohio, then president of a convention of men who up to that time had been republicans, and who claimed that they were obliged to leave the republican party because of its military rule, because of its despotism, because of its disregard of the rights of States and people, because of its seeking to overthrow civil liberty, because of its consolidation, its centralization, and its despotic tendencies. They went further than that. They issued an address to the American people that no doubt was read all over Europe, if that is what Senators are afraid of, all over the world, and they said things in that address against the party which is now seeking to maintain military power, to keep the peace at the polls, in a manner more bitter than anything that any democrat ever said. That address I hold in my hand. It reads thus:

The administration now in power has rendered itself guilty of wanton disregard of the laws of the land, and of usurping powers not granted by the Constitution; it has acted as if the laws had binding force only for those who are governed, and not for those who govern. It has thus struck a blow at the fundamental principles of constitutional government and the liberties of the citizen.

Has any democrat ever said anything more than that? Have any of us said anything as bad? They proceed:

The President of the United States has openly used the powers and opportunities of his high office for the promotion of personal ends.

He has kept notoriously corrupt and unworthy men in places of power and responsibility, to the detriment of the public interest.

He has used the public service of the Government as a machinery of corruption and personal influence, and has interfered, with tyrannical arrogance, in the political affairs of States and municipalities.

Leaving out some matters merely personal to the President, the address proceeds:

The partisans of the Administration, assuming to be the republican party and controlling its organization, have attempted to justify such wrongs and palliate such abuses to the end of maintaining partisan ascendency.

They have stood in the way of necessary investigations and indispensable reforms, pretending that no serious fault could be found with the present administration of public affairs, thus seeking to blind the eyes of the people.

They have kept alive the passions and resentments of the late civil war to use them for their own advantage; they have resorted to arbitrary measures in direct conflict with the organic law, instead of appealing to the better instincts and latent patriotism of the southern people by restoring to them these rights, the enjoyment of which is indispensable to a successful administration of their local affairs and would tend to revive a patriotic and hopeful national feeling.

They have degraded themselves and the name of their party, once justly entitled to the confidence of the nation, by a base sycophancy to the dispenser of executive power and patronage unworthy of republican freemen; they have sought to silence the voice of just criticism and stifle the moral sense of the people, and to subjugate public opinion by tyrannical party discipline.

They are striving to maintain themselves in authority for selfish ends by an unscrupulous use of the power which rightfully belongs to the people, and should be employed only in the service of the country.

Believing that an organization thus led and controlled can no longer be of service to the best interests of the Republic, we have resolved to make an independent appeal to the sober judgment, conscience, and patriotism of the American people.

I repeat, therefore, Mr. President, that in view of what was said by that liberal republican convention in their address to the people of the country, in view of what was said by Mr. Evarts, in view of what was said by Mr. Matthews, in view of what has been said by their leading men, it does not lie in the mouth of any republican Senator here to say that the democratic party is seeking to disgrace the republican party before the country or the world when they are seeking simply to withdraw soldiers from the polls.

I desire now to take up another branch of the subject in reply to the argument of the Senator from Massachusetts, [Mr. HOAR.]

Mr. VOORHEES. If the Senator from Kentucky will yield, I will make a motion to adjourn.

Mr. BECK. I have got so far away from what I expected to say and there are so many things I desire to say that I will take less time of the Senate if I can get an adjournment to the morning and have time to arrange my thoughts than if I struggle along now.

Mr. VOORHEES. Will not the Senator yield to a motion to adjourn?

Mr. BECK. Certainly I will.

REFRIGERATING VESSEL FOR DISINFECTION.

Mr. GARLAND. Before the motion is put, I ask that the message from the House be laid before the Senate.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a Senate bill which has been returned from the House of Representatives with an amendment.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes, which was, in line 3, to strike out the words "machine or machines," and insert the word "machinery."

Mr. GARLAND. I move that the Senate concur in the amendment of the House, and I will state that the amendment is merely a verbal one and really makes the bill better than it was when it went from the Senate, and in this the committee that reported the bill to the Senate concur. I ask the attention of the Senate for a moment to it.

The PRESIDENT *pro tempore*. It is moved that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. VOORHEES. I renew my motion.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and forty-three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 15, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at seven minutes past twelve o'clock. Reports from committees are in order, beginning with the Committee of Elections.

COMMITTEE CLERKS.

Mr. HENRY. The Committee of Accounts have directed me to submit a report, for which I ask immediate consideration.

The Clerk read as follows:

The Committee of Accounts, in obedience to the resolution of the House of the 12th of April instant, directing "that the Committee of Accounts be, and they are hereby, authorized and directed to designate the committees of this House which are entitled to clerks under the legislative, executive, and judicial appropriation bill, making appropriations for the year ending June 30, 1880, and such other committees as in the judgment of said Committee of Accounts should be allowed clerks for the present Congress, to be paid out of the contingent fund of the House, and to report in part or in full without delay," respectfully submit the following report, and ask its adoption by the House:

The twenty-four clerks provided for in the bill referred to in the above resolution are distributed according to the appended schedule, to wit:

1. To the Committee of Elections, a clerk.
2. To the Committee on Banking and Currency, a clerk.
3. To the Committee on the Pacific Railroad, a clerk who shall also act as a clerk to the Committee on Reform in the Civil Service.
4. To the Committee on Commerce, a clerk.
5. To the Committee on the Post-Office and Post-Roads, a clerk.
6. To the Committee for the District of Columbia, a clerk.
7. To the Committee on the Judiciary, a clerk.
8. To the Committee on Private Land Claims, a clerk.
9. To the Committee on Agriculture, a clerk who shall also serve as clerk to the Committee on Manufactures and the Committee on the Militia.
10. To the Committee on Indian Affairs, a clerk.
11. To the Committee on Military Affairs, a clerk.
12. To the Committee on Naval Affairs, a clerk.
13. To the Committee on Foreign Affairs and the Committee on the Census, jointly, a clerk.
14. To the Committee on the Territories, a clerk.
15. To the Committee on Education and Labor, a clerk.
16. To the Committee on Patents, a clerk.
17. To the Committee on the Revision of the Laws, a clerk who shall also act as clerk to the Committee on Mines and Mining.
18. To the Committee of Accounts, a clerk who shall also act as clerk to the Committee on Mileage.
19. To the Committee on Expenditures in the War Department, a clerk who shall also act as clerk to the Committee on Revolutionary Pensions.
20. To the Committee on Public Buildings and Grounds, a clerk who shall also act as clerk to the Committee on Expenditures on Public Buildings.
21. To the Committee on Printing, a clerk who shall also act as clerk to the Committee on the state of the Law respecting Ascertainment and Declaration of the Result of Election of President and Vice-President.
22. To the Committee on Levees and Improvements of the Mississippi River, a clerk

23. To the Committee on Railways and Canals, a clerk.
24. To the Committee on Coinage, Weights, and Measures, a clerk.

The committee further report, under the authority of that portion of the resolution instructing them to designate "such other committees as in their judgment should be allowed clerks for the present Congress, to be paid out of the contingent fund of the House," the following assignment of clerks to be paid out of the contingent fund of the House, during the sessions of Congress only, at the same rate of compensation as the other per diem clerks receive:

1. To the Committee on Expenditures in the State Department, a clerk.
2. To the Committee on Expenditures in the Treasury Department, a clerk.
3. To the Committee on Expenditures in the Navy Department, a clerk.
4. To the Committee on Expenditures in the Interior Department, a clerk.
5. To the Committee on Expenditures in the Post-Office Department, a clerk.
6. To the Committee on Expenditures in the Department of Justice, a clerk.
7. To the Committee on Public Expenditures, a clerk who shall also act as clerk to the Committee on the Library.
8. To the Committee on Ventilation of the Hall, a clerk.
9. To the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, a clerk.
10. To the Committee to Inquire into the Causes of the Present Depression of Labor, a clerk.
11. To the Committee on Enrolled Bills, a clerk.

Mr. HENRY. Mr. Speaker, if there is no desire to discuss this matter (and I see no indication of it) I will call the previous question.

Mr. GARFIELD. The gentleman will allow me to ask whether the number of clerks authorized by this report exceeds the number employed in the last Congress?

Mr. HENRY. Including those who were appointed under the regular appropriation bill and those who were provided for by resolutions, the aggregate embraced in our report is one less than the whole number employed in the last Congress.

Mr. GARFIELD. How about the rates of pay? Are they the same as in the last Congress?

Mr. HENRY. The rates of pay are fixed in the law——

The SPEAKER. The pay is established by statute.

Mr. HENRY. It is established by statute in regard to twenty-four of these clerks; and as to the others by resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. HENRY moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REFRIGERATING SHIP FOR DISINFECTING PURPOSES.

Mr. YOUNG, of Tennessee. By direction of the Select Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, I ask unanimous consent to have taken from the Speaker's table for immediate consideration the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes.

There being no objection, the bill was taken from the Speaker's table and read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, authorized to contract for the purchase or construction of such steam-vessel and refrigerating machine or machines, or to arrange with the Navy Department for the use of such vessel, as may be recommended by the National Board of Health, to disinfect vessels and cargoes from ports suspected of infection with yellow fever or other contagious diseases, the construction of the same, if such construction shall be recommended by said board of health, to be under the inspection of an officer of the Bureau of Steam Engineering of the Navy, who may, at the request of the Secretary of the Treasury, be detailed by the Secretary of the Navy for that purpose; and for the purpose of such purchase or construction the sum of $200,000, or so much thereof as may be necessary, to be immediately available, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. CONGER. I think that this bill should be considered in Committee of the Whole under the five-minute rule. Without wishing to hinder the passage of the bill, but desirous to have some explanations with regard to it, I make the point of order that the bill should have its first consideration in Committee of the Whole.

Mr. YOUNG, of Tennessee. If the gentleman from Michigan will hear me a moment, I think he will withdraw the point of order.

Mr. CONGER. I am willing to reserve the point.

Mr. GARFIELD. I suggest that we might by common consent have the bill discussed in the House as in the Committee of the Whole under the five-minute rule.

Mr. CONGER. I have no objection to that.

The SPEAKER. If there be no objection, this bill will be considered in the House as in Committee of the Whole under the five-minute rule.

There was no objection.

Mr. YOUNG, of Tennessee. Mr. Speaker, the whole subject of yellow fever is comparatively a mystery, and has baffled the scrutiny of the scientific world. When the proposition embodied in this bill was first brought to my attention I had very grave doubts whether the project warranted the expenditure; but upon more thorough investigation of the subject I have become satisfied that while this may be regarded in some sense as an experiment, it is one that at least ought to be made, in order that nothing may be left undone that will tend in any way to solve the mystery that surrounds this most terrible of all diseases that afflict the human family.

The proposition has been submitted to the National Board of Health, composed of gentlemen who stand very high as scientists and sanitarians, and after careful examination and consideration on their part, we are advised by them that if there is any certain specific for yellow fever, any means that can be absolutely relied upon for the destruction of the poisonous germ, that agency is cold. The gentleman who submitted the proposition originally is one of the foremost scientists of England, and who was recently engaged by this Government some years ago to investigate the cattle disease, a malady akin to yellow fever, and I believe his report on that subject has met the approval of every scientist in this country.

I am unable to explain scientifically, not being mechanic enough, the details and methods by which it is proposed to operate this freezing-vessel. It is proposed, however, to construct a vessel which will have the power within one hour to reduce the temperature of any sea-going vessel below the point at which mercury freezes, the whole rigging and every article about the vessel undergoing the same process. It is proposed to station it at the quarantine grounds off New Orleans, and when vessels approach that port from infected regions to apply this freezing process, and in that way to destroy the germ of yellow fever.

The necessity of enacting this bill into law at once consists in the fact that the time is rapidly approaching when we may expect another invasion of that plague in the Mississippi Valley coming from southern seaboard cities. It will take ninety days perhaps to build the vessel, and if the work is commenced at once it will hardly be done in time to meet the purpose for which it is designed.

I have heard it stated upon the floor and in conversation upon the street recently, that on a vessel sailing from Boston a short time since, which had been subjected to the natural freezing process, and which had been disinfected as far as they were able to disinfect it with all the agencies at their command, yellow fever developed in a short time after sailing from that port, but I have since learned from a letter which I have in my possession from an officer on board of that ship that the breaking out of the fever on that vessel was attributable perhaps to the fact that fire was kept burning in it nearly all the winter and that all its timbers were in a decaying condition. So I do not think this was a fair test of the freezing theory. I yield to the gentleman from Louisiana [Mr. KING] to read the letter I have referred to.

[Here the hammer fell.]

Mr. ROBINSON. Mr. Speaker, I desire, in order that there may be full information on this question, as the gentleman has referred to the case of the United States steamer Plymouth, to send up the official report of the Surgeon-General of the United States Marine Hospital Service, and to ask that it be read.

The Clerk read as follows:

The Surgeon-General of the United States Navy has furnished the following facts in regard to the recent outbreak of yellow fever on the United States steamer Plymouth: On November 7, last, four cases of yellow fever occurred on board the vessel while lying in the harbor of Santa Cruz; these were removed to hospital on shore and the ship sailed for Norfolk. Three mild cases occurred during the voyage, and the Plymouth was ordered to Portsmouth, New Hampshire, thence to Boston. At the latter port everything was removed from the ship and all parts of the interior freely exposed to a temperature which frequently fell below zero, the exposure continuing for more than a month. During this time the water in the tanks, bilges, and in vessels placed in the store-rooms was frozen. One hundred pounds of sulphur was burned below decks, this fumigation continuing for two days; and the berth-decks, holds, and store-rooms were thoroughly whitewashed. On March 15 the ship sailed from Boston southward; on the 19th, during a severe gale, the hatches had to be battened down and the berth-deck became very close and damp. On the 23d two men showed decided symptoms of yellow fever, and on the recommendation of the surgeon the vessel was headed northward. The sick men were isolated and measures adopted for improving the hygienic condition of the vessel and crew. The surgeon reported that he believed the infection to be confined to the hull of the ship, especially to the unsound wood about the berth-deck, all the cases but one having occurred within a limited area; and that while the Plymouth is in good sanitary condition for service in temperate climes, should she be sent to a tropical station probably no precautionary measures whatever would avail to prevent an outbreak of yellow fever.

J. B. HAMILTON,
Surgeon-General U. S. Marine Hospital Service.

Mr. ROBINSON. I do not present that, Mr. Speaker, in opposition to the bill, but simply in order that the whole information may be before the House. I understand the gentleman from Louisiana has a letter which will qualify some of the statements just read.

Mr. KING. I have a private letter from an officer on board the United States steamship Plymouth, an extract of which I will read for the information of the House:

This ship was thoroughly frozen out while lying at the navy-yard at Boston and fumigated by burning large quantities of sulphur; but because this was done I do not think those remedies are proved valueless. The whole gist of the matter, to my view, lies in the fact of the presence of a large quantity of rotten wood inside of the ship, which, being porous, absorbed in a most effectual manner the infectious element.

Now, Mr. Speaker, the writer of that letter is an officer on board the United States steamship Plymouth. It is, of course, a private letter. I have received in addition, a few days ago, a letter from the president of the board of health of the city of New Orleans urging that something be done if possible to keep off the introduction of yellow fever into that city during the coming season. He suggests this House of Representatives take into consideration the appropriation of a sufficient sum of money to allow this freezing apparatus to be placed at the quarantine station at the mouth of the Mississippi. Gentlemen who have witnessed the ravages of yellow fever can only appreciate the necessity which is felt in that portion of the country of keeping out an enemy so subtle and so destructive. We know that during the hot weather that disease spreads and carries devasta-

tion with it on all hands. We know that on the first day of frost a shout of relief goes up, quarantine is broken, and commerce once more begins to flow in its usual channel; and we know also that with the announcement in spring-time of the approach of the yellow fever terror is at once depicted in the countenances of the inhabitants of that part of the country. On the application of the board of health of the city of New Orleans I therefore urge this House to take into earnest consideration measures to prevent the introduction of this enemy into our midst again. They approve of this freezing process.

It may be suggested that this is experimental; but it is in the right direction. The question is, how far will this Government exert its power for the protection of its citizens against this terrible disease? Millions are spent in the destruction of men. Is it not time that by the authority of a civilized people, thus represented, thousands at least should be spent for the protection and preservation of human life and happiness? As I have stated, this proposition, involving an expenditure of money insignificant when compared with the magnitude of the interests at stake, is urged by the board of health at the city of New Orleans. It also has the indorsement of the National Board of Health appointed by this Government. On this high authority I hope this House will decide.

Mr. GARFIELD. I offer an amendment as a matter of detail, which I think the gentleman will accept, and that is to strike out the words "machine" or "machines" wherever they occur, and to insert in lieu thereof the word "machinery." And I do that for the reason that we ought not to allow too large a range of experiment, for whatever is done on this subject ought to be done with the utmost dispatch. If the Board of Health is permitted to invite all sorts of proposals for all sorts of machines, as the plural word seems to give them an opportunity to make such invitation, it may delay any effective action in this matter. I think we ought, therefore, to strike out those words and just put in "machinery;" so that they will have to prepare a ship with what they consider the requisite machinery. We thus put the responsibility upon them and shut them up to the one thing of having the one ship, with its outfit, for one purpose.

I certainly concur in the amendment that the Senate made to the original bill striking out the name of any person. We ought not to legislate for contracts made with any one man by name. We ought to put the responsibility properly on the Board of Health and the Secretary of the Treasury, as this bill does.

While I am up I will say that I do not know enough about the power or the efficacy of this proposed mode of refrigeration to be sure that it will be effective; but I resolve all doubts upon that subject in favor of the utmost we can do to try it, and if we can even be effective half-way in the disinfection of the merchant marine of the United States we ought to do it at any reasonable cost. I believe we shall have the great satisfaction of seeing a unanimous vote in this House; and it is all the more gratifying to me that in a time of a great deal of party feeling we can strike a truce and join together as one man on a great measure like this that has no section, no party in it; but wherever human hearts are and human lives are, within the borders of our whole country or in vessels on the sea which are under our control, the American Congress is as one, I believe, on that subject. And I make the suggestion of this amendment in the interests of rapid action and unity of action. I would not offer even this if I did not suppose and believe that the gentleman in charge of the bill would accept it.

Mr. YOUNG, of Tennessee. I accept the gentleman's amendment.

Mr. GIBSON. I rise, Mr. Speaker, merely to express my gratification at the remarks of the gentleman from Ohio [Mr. GARFIELD] and to say one word in favor of the pending bill. I confess we know as yet little or nothing of the causes, *causa causans* of yellow fever. We have hypotheses, but no well-sustained theory. But we know something of this disease historically. We know it to be a specific disease, different from any other. We know that it never appears in an epidemic form, never has appeared in any part of our country during the winter season. We know that it is a child of the tropics and becomes a monster of destruction only when our own climate in the summer season is tropical.

I am quite sure I am justified in saying that the weight of testimony taken by the committees of the last Congress was altogether in favor of the foreign origin of this disease, and of its importation by vehicles of commerce into our country. I admit, sir, that the pending bill, applying a refrigerating process to all ships coming from countries afflicted with yellow fever, is an experiment, but it is an experiment commended to us by the highest authorities. The method is recommended by the board of health of Louisiana—a board of scientific and able men, at the head of which stands Dr. Samuel Choppin, who for learning, energy, and devotion to duty has no superior in this country. It is commended to us by the National Board of Health, the members of which were selected by the President of the United States for their professional attainments. It is commended to us by our own knowledge of the disease itself; for whether we can establish the relation of cause and effect between intense heat and yellow fever or not, we know positively that intense cold will suppress, will destroy it.

Why should we not make this experiment? Should it fail, the sum lost is small; but should it succeed, countless millions will be saved and the sum of human happiness vastly increased.

Sir, I never think of the recent epidemic without recalling the splendid generosity of our countrymen of the North. I hope this bill will pass by a unanimous vote, notwithstanding the opposition of the gentleman from New York, [Mr. COX.] The people of the section I in part represent will not forget the generous bearing and broad patriotism of the gentleman from Ohio, [Mr. GARFIELD.]

Mr. COX. The gentleman who has charge of this bill had some doubt about it. The gentleman from Ohio had some doubt about it. It is only an experiment with $200,000. I do not think it is a speculation, but I think this matter ought to be referred back to the committee with a view to making something else than a mere tentative movement. Dr. Vanderpool, our board of health officer in New York, does not approve of it. The very letter read by my friend from Massachusetts shows, with all the fumigation with sulphur and what not, the yellow fever was still left in one of our own vessels in midwinter.

Mr. YOUNG, of Tennessee. Let me say to the gentleman that Dr. Vanderpool was at the meeting of the board of health when they considered that bill.

Mr. COX. He has published a pamphlet—I do not think it is a public pamphlet—of which I have a copy, and I am sorry I do not have it here. He does not approve of these experiments. He has preserved New York beyond what has been done by any surgeon, or physician, or health officer we ever had.

Mr. ATKINS. Does he refer to this particular experiment?

Mr. COX. Yes; he refers to the experiment of freezing out yellow fever by means of a refrigerating ship.

Now, it is very unpleasant to oppose a bill of this nature, and perhaps I had better sit down, [laughter;] but I shall vote against it.

Mr. GOODE. I am glad my friend from New York has taken a sober second thought and concluded to sit down. I am sure, Mr. Speaker, this bill will meet with no other opposition; I hope so, at least. What is it, sir? The bill authorizes the Secretary of the Treasury to contract for the purchase or construction of a steam-vessel with refrigerating apparatus attached, or it authorizes the Secretary of the Treasury to arrange with the Secretary of the Navy for a suitable vessel to be used for disinfecting purposes. The construction of the vessel, if the construction is authorized, is to be under the supervision and inspection of an officer in the steam-engineering bureau of the Department. My friend from New York says it is an experiment. It is true it is an experiment. But if we fail, the scientific knowledge obtained on this subject would be valuable to everybody, and if it should prove a success it would be impossible to calculate the beneficial results that would accrue.

Now it has been said here that this proposition is indorsed by the National Board of Health, a board selected by the President; a board composed of the most eminent sanitarians in this country; and not only indorsed by the Board of Health, but it has the approval of the most eminent scientific men in the land. The whole bill proceeds upon the basis that the yellow fever is an exotic brought to this country from tropical climates in the holds of vessels, and the germs from which it is propagated may be effectually frozen out and destroyed by the refrigerating process; in other words, it is now a generally conceded fact that the yellow fever cannot live in a freezing temperature, and as my friend from Louisiana [Mr. KING] has just remarked, so well is this fact known in the South that the good people in the churches always pray for frost, and when frost appears there is a shout of joy throughout the fever-stricken localities.

I trust that the bill will be passed unanimously. I believe that there is nothing in the experience on board the Plymouth that militates against it. You have heard the letter read against the theory, and more than that you have here the report of the Secretary of the Navy. The Secretary of the Navy does not report against it. We are told that the yellow fever broke out on board the Plymouth in the same place where it occurred before; but in the opinion of the medical officers that was due to the rotten timbers forming a part of the deck.

Now it seems to me that we ought to try this experiment. It is nothing more than an experiment. I have no opinion on the subject, and like my friend from Tennessee I have no opinion as to the practicability of it. If I had an opinion it would be worth nothing. Most of the eminent sanitarians of the land approve of it and the Board of Health ask for it. Everybody seems desirous that the experiment shall be made, and I hope the bill will be passed unanimously.

Mr. HOOKER. I hope that this bill will meet the approval of the House, and I think one matter of fact should be stated to the House for its consideration. This is a bill which comes from the Senate, where the matter has undergone investigation both in the committee and in the body of the Senate. While this discussion has been going on I took occasion to write a brief note to my friend, Senator GARLAND, who belongs to the Senate committee, to ascertain what were the circumstances under which this bill passed in the Senate, and he says in reply that after the bill had been amended in the manner suggested it passed without a single dissenting vote. It has been said by my gentle friend from New York [Mr. COX] that this is but an experiment. It is true that it is an experiment, but it is an experiment in the line of that only preventive which nature seems to have suggested for this disease prevailing in tropical countries, namely, the recurrence of cold weather.

Experience has demonstrated that whenever we have a degree of

cold reaching freezing point the disease disappears. It is true that in the case of the steamer Plymouth, which underwent fumigation and the freezing process, and finally had the disease appear again, it failed. That is just what was said by one of the most distinguished physicians that we examined before the committee in New Orleans, and he electrified the subcommittee with his thorough and perfect knowledge of this disease. I refer to Dr. J. Dickson Bruns, of New Orleans, who spoke on this subject before the committee on the very day when the singular spectacle was presented of icicles as long as my arm pendent from the portico of the St. Charles Hotel and other buildings in the city of New Orleans. The question was propounded to him: "Are you of opinion that a degree of cold like that now prevailing in New Orleans would kill the disease and prevent it?" His reply was: "Yes; except you must make allowance for the fact that in cold weather our houses are heated, and we cannot allow the cold to penetrate into the interior of our buildings."

This process I understand proposes to imitate the example of the health board of New York and the distinguished physicians who have had charge of its conduct for so many years.

Mr. GIBSON. Has the gentleman any information as to the fact whether the sailors of the Plymouth remained upon that ship while she was in the port of Boston with their fires and their blankets?

Mr. HOOKER. I understand that that was the case.

I do not believe that from the reappearance of the disease there the experiment was a fair test of the refrigerating process which this bill proposes to apply to vessels coming from infected ports. Then we propose to try this experiment with nature's great teachings as our example. We are, in other words, endeavoring to do for every vessel that comes into our ports from an infected region that which nature does where her laws do not interfere with any of the comforts, conveniences, and necessities of man, and I say that experience has demonstrated that wherever a certain amount of cold is reached, there we believe the disease, though decimating by thousands, will be disposed of, and general health prevail in the cities.

It is said that this is an experiment. I say it is an experiment in the right direction. I know nothing of the particular individual who may be engaged to carry out this experiment, but the sum of money proposed to be expended for that purpose is a mere bagatelle in comparison to the benefit to the human race in that region of country, with which all the rest of our common country is so intimately connected. By such a process as this, if successful, you not only save human life, but you protect that commerce which flows into our southern ports from South America, and enable them there to have an effectual system of quarantine by means of this process of refrigeration.

When my friend from Louisiana [Mr. GIBSON] propounded a question to me, I was alluding to the fact that in the port of New York they have had a system of quarantine with reference to the fumigation and cleansing of vessels more thorough than has been established in any other port of the United States. Hence they have been for more than a century protected from the ravages of this fell disease. I hope this bill will pass without opposition.

[Here the hammer fell.]

Mr. UPDEGRAFF, of Ohio. As a member of the committee which has examined with some care the measure provided by the bill under consideration I wish to say but a word. The gentleman from New York [Mr. COX] urges that this proposition is merely an experiment. In some sense any plan of quarantine, and especially any plan to keep out of the country a terrible epidemic, is an experiment. But these basis-facts are established: first, that yellow fever is not a native of this country, but is an exotic brought to us from tropic climates under certain conditions, one of which is heat; second, it is well established that cold is the destroyer, the antidote, of yellow fever. This has been well settled since this disease prevailed first in America. Nearly one hundred years ago Dr. Rush connected its prevalence with hot weather and its disappearance with cold.

This proposition is to use a refrigerating ship to freeze out and purify vessels coming into our ports, as recommended by the National Board of Health.

So far as the case of the United States steamer Plymouth furnishes any evidence against this plan, the facts are quite indefinite as a full and fair test. I have what I deem reliable informatiom that the "freezing out" of that vessel in the port of Boston was not thorough. It is stated too, upon the authority of some of the officers of that vessel, that the disease broke out in that part of the vessel which was formed of partly decayed wood, in which doubtless the germs of the disease were preserved.

Now, this measure is in the direction of all the known facts as to the nature, prevalence, and prevention of this fearful disease. The amount asked for by this bill is small indeed compared with the great good it may do. During the prevalence of yellow fever in the United States last summer, it is variously estimated that from $150,000,000 to $200,000,000 was lost in trade and property by the people of this country, and that more than $15,000,000 loss was sustained by the city of New Orleans alone. But no arithmetic can measure the suffering, the sorrow, the loss of life, the desolated homes in the path of this destroyer. We all remember how millions of money were freely sent to the suffering regions from the awakened sympathies of the whole land. And now I trust there will be a unanimous vote of this House to do what we may to check the prevalence and ravages of this terrible epidemic in this country.

Mr. Speaker, millions and millions of dollars are spent every year for war and for war vessels and for the varied appliances for destroying human life. I trust that this Congress, in the spirit of a higher patriotism, will be willing to set apart a small sum for the preservation of the lives of the people of this country.

[Here the hammer fell.]

Mr. FORT. I desire but a moment or two. I am not a scientist; I know nothing about yellow fever or other epidemics. I have become acquainted with the distinguished gentleman, Professor Gamgee, who has recommended this process of refrigeration for the prevention and destruction of yellow fever. To some extent he has explained the process to me, and I have a great deal of faith in his judgment. I hope this bill will pass, and pass by the unanimous vote of this House.

It has been said that the ship Plymouth, of the United States Navy, was frozen up in Boston Harbor during the last winter, and that since then the yellow fever has broken out on that ship. Now, even though the poisonous and subtle germs of this disease may not have been kept alive on board that ship, or in the rotten wood of the ship, is it not quite probable that the sailors who, we are told, were removed from the ship with their effects, took their chests, blankets, and clothing to some house where they were kept warm and not frozen all winter, and when they returned to the ship carried back the dormant germs of the disease, which, when warmed into life, broke out again into the yellow fever? May it not be the fact that the ship itself was thoroughly frozen, but the clothing of these sailors may not have been frozen? It may be that this was the reason why the yellow fever broke out again on that ship. I think this experiment is worth the money it is to cost, and I hope every member of this House will vote for this bill.

Mr. CONGER. But a few words——

Mr. YOUNG, of Tennessee. I desire to interrupt the gentleman from Michigan [Mr. CONGER] to say that, as the morning hour will soon expire, I propose to call the previous question when he has concluded his remarks.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] is recognized as entitled to the floor for five minutes. At the conclusion of that time there will remain three minutes of the morning hour.

Mr. CONGER. The almost universal feeling in every State in the Union, North and South, during the last year, prompting our citizens everywhere to do all they could, to contribute all they could, for the relief of those who were suffering from yellow fever in the South, would be a sufficient guarantee, I think, to every member of this House that he was expressing the sentiments of his own constituents by voting any reasonable appropriation for the purpose of making almost any reasonable experiment that might tend to check the ravages in our land of so fearful a pestilence.

For this reason I do not oppose this proposition, although I have no great faith in it. For this reason I am willing and desirous that this bill may be passed and this experiment tried. Although it may be effectual to some extent in temporarily checking the spread of yellow fever on vessels, although it may somewhat counteract the spread of the pestilence, I think the experience in the case of the steamer Plymouth, as detailed in this report from the Secretary of the Navy, should call for a more minute and critical investigation on this subject by the committee of this House, and especially by those engaged in inquiries in regard to this subject throughout the country.

I have been forcibly struck with the thoroughness and completeness of the measures reported by the captain of the Plymouth as having been taken to freeze that vessel, a war vessel on which the yellow fever had broken out, and whose captain on that account assumed the responsibility of disregarding the commands of the Government, changing his course and returning to the North. The captain of that vessel, Captain Harmony, leaves no doubt in his report about the absolute thoroughness of the freezing and fumigation of this vessel. Whether this new method can go beyond the natural force of freezing I am unable to say. The captain says:

> While in Boston every means known to sanitary science had been used to disinfect the ship of the germs of yellow fever. She was entirely broken out, all stores of any kind landed and placed in rooms exposed to a freezing temperature—

Can it be that the clothing of the sailors was not thus exposed?—

> the ship thoroughly fumigated several times by burning large quantities of sulphur at different times on berth-deck, store-rooms, and in officers' apartments.

[Here the hammer fell.]

Mr. CONGER. Of course I surrender the floor; but it seems to me scarcely possible that I can have occupied five minutes.

The SPEAKER. The Chair feels confident that he has made no mistake in measuring the gentleman's time. The reason the Chair must be prompt is because the gentleman from Tennessee [Mr. YOUNG] has intimated his desire to call the previous question before the expiration of the morning hour.

Mr. CONGER. I had hoped to have an opportunity to express my views on this subject. At the request of gentlemen interested in this measure, I withdrew my point of order; and this is the happy result to myself.

The SPEAKER. The Chair had no power to extend the gentleman's time beyond five minutes.

Mr. CONGER. I make no complaint of the Chair. I only say that this is one of those unfortunate things that happen when I am inclined to be indulgent to my friends on the other side of the House who complain of me so much.

Mr. YOUNG, of Tennessee. The gentleman is one of the cleverest men in the House.

The SPEAKER. Does the gentleman from Tennessee [Mr. YOUNG] yield?

Mr. YOUNG, of Tennessee. Not unless there can be unanimous consent for the extension of the time, in which case I shall have no objection.

Mr. LORING. Mr. Speaker——

The SPEAKER. The gentleman from Massachusetts [Mr. LORING] will be recognized for one minute.

Mr. FORT. I ask that the gentleman may have five minutes by unanimous consent.

Mr. COX. I hope there will be full debate on this matter.

Mr. YOUNG, of Tennessee. If the extension of time does not interfere with my right to call the previous question, I have no objection; otherwise I must insist on the call.

Mr. GARFIELD. I suggest to the gentleman from Tennessee that he might call the previous question and after the call is seconded he might then yield.

The SPEAKER. The gentleman will then have no time to yield.

Mr. GARFIELD. Is not this the report of a committee, and would not the gentleman be entitled to a closing hour?

The SPEAKER. The Chair has heretofore decided that where a report is made from a committee and the gentleman making the report occupies his hour, he has no right to claim another hour immediately afterward; that is, he cannot claim two consecutive hours.

Mr. WHITE. I ask that the time for discussion be extended ten minutes by unanimous consent.

Mr. GARFIELD. At the end of which time the previous question shall be considered as operating.

The SPEAKER. The effect of that arrangement will be to extend the morning hour for ten minutes, because the bill is in the morning hour. Is there objection? The Chair hears none. Of these additional ten minutes the Chair will award five minutes to the gentleman from Michigan [Mr. CONGER] and five to the gentleman from Massachusetts, [Mr. LORING.]

Mr. CONGER. It has been publicly stated that the fires were kept up on board this vessel and that the sailors remained upon her. I think it important, therefore, that I should call attention to the facts as stated in the official report of Captain Harmony:

All fires were extinguished and the vessel exposed to the severe temperature of the past winter for over six weeks. Part of the time the ship was in dry-dock, where large quantities of ice remained, and the temperature frequently reached a point below zero. The water in the tanks and in buckets placed in the store-rooms was constantly frozen during that time, and even after the ship was taken out of dock and fires had been lighted under one of the boilers to heat the ship she was so thoroughly chilled for several days that water froze in the bilges. All the men in the crew who showed any signs of weak constitutions or of being susceptible to climatic influences were sent to the hospital, and we had every reason to believe the ship was in a condition to resist anything like a renewal of the disease (yellow fever) which brought her home last November.

This officer says further:

This breaking out of the fever in the open ocean with a temperature of very little above seventy degrees I regard as a most remarkable circumstance, especially after the thorough freezing the ship went through while in Boston Harbor. The health officer at Bermuda, an English surgeon, told me of two cases of their own men-of-war which had similar experience. Both of them were affected with fever, were sent to Halifax, spent the whole winter there, and in the spring went south. On their arrival in the latitude but a few degrees below Bermuda, the fever broke out on board of them and they were taken north again, and eventually went to England without serving out their commission.

Now we may as well know the facts. If freezing will destroy the germs of yellow fever, it seems to me that the case of the Plymouth should have demonstrated that fact. If the seeds of the disease may linger in rotten wood, may they not do so during the process of freezing by injecting cold air from one vessel into the ship infected?

I have said that I am willing to vote for this bill, although I do believe that it is more a job than anything else that has been presented to this House for a year past. But in the interest of humanity, in seconding the endeavor to check the spread of a horrible pestilence, I agree with my friends here that we should not be sparing of means, but should try any and every experiment which may promise to stay the pestilence that walketh at noonday in our land.

Mr. LORING. Mr. Speaker, I desire to say a word on this question, not because I think it necessary to convince the House of the importance of the bill, but because I wish to bear my testimony to the value of all such endeavors and experiments to suppress contagious and infectious disease in this land. There are certain facts, Mr. Speaker, known with regard to the control of yellow fever about which there can be no doubt, and one is that frost and cold will kill it. The experiment tried on board the Plymouth furnishes no exception to the rule, and the accidents which befell it then cast no reflections upon it. I consider it, therefore, fixed and established that diseases of this sort can be controlled by proper application of cold. So much for acknowledged facts.

Now, sir, in this age of experiment, moreover, is it not the duty of the Government to institute all proper experiments for the control and suppression of ravages of this description? Why, it is manifestly so. The whole history of science shows us that it is the duty of the Government to encourage scientific investigations for the suppression of destructive contagious and infectious diseases. In all its operations science has gone on, in our day, proving that man has in his hand the power to control those diseases in the animal and vegetable kingdom which are injurious to the community and destructive to life.

Why, sir, one of the most important questions submitted to the scientific investigation of our day is whether the "pestilence which walketh in darkness" can not be so controlled by confining it to the limits where it appears as to destroy it there and prevent its spreading to other localities. There have been certain curious investigations in the scientific world to prove that this can be done.

Every scientific investigator in matters pertaining to agriculture knows that in that widespread and important industry it has been found that man can contend against the insect tribes that are injurious to vegetation by antagonistic and parasitic insects, so that the ravage of our fields may be stayed as readily and as surely as the flood can be stayed by a sufficient obstacle placed in its way. In 1876 the silk industry of France was threatened with entire destruction. Millions of dollars in value were destroyed and thousands and thousands of persons were thrown out of employment by the destruction of the silk-worm in that country. It was found that a disease had attacked the silk-worm there which threatened to destroy that great silk industry entirely. In this emergency not mere empirical trials but scientific experiments were called into operation, and M. Pasteur, whose name has become immortal in the world of science, discovered that this disease could be eradicated by assailing it with an antagonistic one, which destroyed the disease itself. The disease was known by the euphonious name of panhistophyton, (who can doubt that a disease with such a name would be fatal to silk-worm or any other form of animal life?) [laughter,] and Pasteur discovered that it was a parasite within the body of the silk-worm, found in the digestive organs, found also in the eggs—an independent form of life, thoroughly organized, and destructive to the last degree. Devoting himself to the investigation until he wore himself out in the great scientific experiment, he discovered that the panhistophyton had an enemy in the world, and he let that enemy loose upon him. The silk industry of France was saved, and the law of nature was discovered that disease has its fatal antagonisms, and the law of man that those antagonisms can be controlled and applied to a useful purpose. This experiment has not been forgotten, and we are encouraged to believe that ere long a remedy for the most dangerous and destructive diseases will be found in the destruction of its germs. The government of France employed M. Pasteur in his important service, and made large and liberal appropriations of money to carry it on, feeling that it was an imperative duty to relieve the people from the great calamity which had fallen upon them, and that money should not be spared in saving a vast industry from destruction.

Shall the Congress of the United States, then, with this example before it, hesitate for one moment over an appropriation of $200,000 to put the scientific men of this land in funds to control that disease which destroyed so many lives last season, and which, sir, brought the hearts of Americans together in that hour of trial as nothing else has done during this century?

[Here the hammer fell.]

Mr. YOUNG, of Tennessee. I demand the previous question.

Mr. COX. I have moved to lay the bill upon the table, but I will not insist upon that, only asking my friend from Tennessee to let me move to send this back to the committee to report a better bill. All, I have no doubt, will regret this action.

The previous question was seconded and the main question ordered.

Mr. YOUNG, of Tennessee, moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred on Mr. GARFIELD'S amendment; which was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. YOUNG, of Tennessee, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. BURCH, its Secretary, announced that in the absence of the Vice-President the Senate had chosen Hon. ALLEN G. THURMAN, a Senator from the State of Ohio, President of the Senate *pro tempore*.

ENROLLED JOINT RESOLUTION.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered; when the Speaker signed the same.

WITHDRAWAL OF PAPERS.

The SPEAKER. Yesterday leave was asked for the withdrawal of

certain papers and at the instance of the gentleman from Michigan those requests were to be inserted in the RECORD this morning to see whether there should be any objection to any of them. The Chair has not heard so far any objection.

Mr. CONGER. I have examined what I wished in regard to those requests and have no further objection.

The SPEAKER. The Chair therefore announces that the requests made yesterday are granted, no objection being made.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] rises to move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the legislative appropriation bill.

Mr. BRIGHT. I ask unanimous consent to offer a resolution relating to the organization of the House.

Mr. ATKINS. I yield to my colleague for that purpose.

STATIONERY.

Mr. BRIGHT. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to use any unexpended money belonging to the stationery fund, or so much thereof as may be necessary, for the purchase of needed articles of stationery, and to supply the committees in this House, under the direction of the Committee of Accounts, such stationery as they may need.

There being no objection, the resolution was considered and agreed to.

Mr. BRIGHT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRIBUTION OF DOCUMENTS.

Mr. GARFIELD. I desire to call up again, at the request of many members, the resolution in relation to the distribution of documents. I ask the Clerk to read it.

The Clerk read as follows:

Resolved, That the undistributed books and documents now remaining in the folding-room of the House of Representatives to the credit of members and officers of the last House of Representatives be placed to the credit of the corresponding members and officers of the present House, except one book or document of each kind, which shall be subject to the order of members of the last House.

Mr. DUNNELL. I object.

Mr. GARFIELD. I have got through with this, and shall not present the resolution again.

PERSONAL EXPLANATION.

Mr. CHALMERS. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. CHALMERS. I send to the desk a paper, which I ask the Clerk to read, accompanied by a resolution which I desire to offer.

The Clerk read as follows:

[Cincinnati Gazette, April 10, 1879.]

THE HERO OF FORT PILLOW—A CHAPTER FROM THE HISTORY OF A DEMOCRATIC LEADER IN CONGRESS.

General CHALMERS, of Mississippi, in the House, on Tuesday last, made an insolent speech.

Who is this General CHALMERS? He is one of the notorious and bloody-handed butchers of the forever infamous Fort Pillow massacre. The facts as to this massacre were investigated by a joint committee of Congress, and the following is an extract from the report of Senator Ben Wade and Representative Gooch. After describing the attack on the fort, and its capture by treachery under a flag of truce, the report says:

"Then followed a scene of cruelty and murder without a parallel in civilized warfare, which wanted but the tomahawk and scalping-knife to exceed the worst atrocities ever committed by savages. The rebels committed an indiscriminate slaughter, sparing neither age nor sex, white or black, soldier or civilian. The officers and men seemed to vie with each other in the devilish work; men, women, and even children, wherever found, were deliberately shot down, beaten, and hacked with sabers; some of the children not more than ten years old were forced to stand up and face their murderers while being shot; the sick and wounded were butchered without mercy; and the rebels even entering the hospital building and dragging them out to be shot, or killing them as they lay there, unable to oppose the least resistance. * * * No cruelty which the most fiendish malignity could devise was omitted by these murderers. One white soldier, who was wounded in one leg so as to be unable to walk, was made to stand up while his tormentors shot him. One negro, who had been ordered by a rebel officer to hold his horse, was killed by him when he remonstrated; another, a mere child, whom an officer had taken up behind him on his horse, was seen by CHALMERS, who at once ordered the officer to put him down and shoot him, which was done. * * * One man was deliberately fastened down to the floor of a tent, face upward, by nails driven through his clothing and into the boards under him, so that he could not possibly escape, and then the tent was set on fire. Another was nailed to the side of a building outside the fort, and then the building set on fire and burned."

The report is sustained by many pages of testimony of officers and soldiers, who were eye-witnesses to the terrible atrocities. In the testimony of Major-General Stephen A. Hurlbut, (page 67, report of the Committee on the Conduct of the War, Fort Pillow Massacre, Thirty-eighth Congress, first session,) we find this allusion to General CHALMERS:

"Forrest was there personally. I understand, however, that the main body of the command was CHALMERS'S command, who was also there."

Page 51, John T. Ray, Thirteenth Tennessee Cavalry, testifies:

"I saw a rebel lieutenant take a little negro boy upon the horse behind him, and then I heard General CHALMERS—I think it must have been—tell him to 'take that 'negro down and shoot him,' or 'take him and shoot him,' and he passed him down and shot him.

"Question. How large was the boy?

"Answer. He was not more than eight years old. I heard the lieutenant tell the other that the negro was not in the service; that he was nothing but a child; that he was pressed and brought in there. The other said, 'Damn the difference, take him down and shoot him, or he would shoot him.' I think it must have been General CHALMERS. He was a smallish man; he had on a long gray coat, with a star on the coat."

[Cincinnati Enquirer, April 6, 1879.]

MAJOR BEN. BUTTERWORTH.

When Governor YOUNG concluded and withdrew to the rear of the stage, the band struck up "marching through Georgia." Then Major BEN. BUTTERWORTH came forward, and was greeted with a round of deafening applause. He said:

* * * * * * *

"I heard the hero of Fort Pillow, General CHALMERS, stand up in the Halls of the National Capitol and denounce you, fellow-citizens of the North, as traitors and enemies of the country."

The Clerk read the resolution, as follows:

Resolved, That a committee of seven shall be selected by the Speaker, all of whom shall be members who were officers of the Union Army during the civil war, and a majority of whom shall not belong to the democratic party.

That said committee shall examine into all charges made in House Report No. 65 of the first session of the Thirty-eighth Congress touching the conduct of J. R. CHALMERS, of Mississippi, then a brigadier-general of the confederate army, and now a member of this House, and report whether the same be true or not; and if the specific charges made are not true, whether said CHALMERS was guilty of any other conduct at or during the battle of Fort Pillow unbecoming an officer and a gentleman and which would render him unworthy to be a member of this House.

That said committee have power to send for persons and papers and employ necessary clerks and stenographers, and have leave to sit during the recess of Congress.

Mr. GARFIELD. Before the gentleman from Mississippi proceeds I desire to reserve the point of order on the resolution. Of course I make no point of order on the personal explanation.

Mr. CHALMERS. This House has the right to judge not only of the election but of the qualification of its members. And, sir, if one-half the charges made against me are true, I am a murderer and am unfit to be an associate of the gentlemen who are members of this House. My election under such circumstances is a disgrace to the State of Mississippi, my presence here a stain upon the American Congress. This report was made during the midst of the war. It was founded upon *ex parte* statements of witnesses, most of whom were ignorant, and not one of whom professed to know me personally; the only witness who undertakes to identify me describes me as wearing a star upon my coat. Sir, that was the witness who described the pretended shooting of the child. No such transaction occurred. But if it were true that any confederate officer had been guilty of so foul a deed the testimony of this witness would exonerate me; for the star upon the coat was the mark of a major and not of a general in the confederate army.

Sir, all these charges were fully answered in the history of Forrest and his cavalry; and when they were renewed against me in 1876 they were again refuted by the testimony of living witnesses. The charges were renewed when I took my seat in this House by the partisan press of this country. I did not then notice them because the charges were so shocking to humanity, so incredible in my judgment, and had been so fully denied, that I did not believe there was a respectable gentleman in the country who could give any further credence to them. And I am happy to say, sir, after two years' service as a member of the Forty-fifth Congress, not one member of that body has ever, by word, action, or insinuation, in public or private, intimated that he believed me to be the monster of cruelty who was described in that report.

The charges have recently been renewed in the press, and a member of this House from the State of Ohio, [Mr. BUTTERWORTH,] in a speech recently made in Cincinnati, has connected my name with the battle of Fort Pillow in a manner to indicate that he believed I was guilty of these charges.

Mr. Speaker, I have no words of bitterness for any gentleman who has thus unjustly accused me. While these charges stand upon the records of the country, reported by a congressional committee, I can only say that they are perhaps excusable. But that, sir, is a greater reason why the investigation I ask for should be granted and the truth of history should be vindicated. It is due to me as a Representative; it is due to my State; it is due to the people of my district; it is due to the party with whom I am associated; and, above all, it is due to the honor of American soldiers, and due to the fame of this House of Representatives. I ask, therefore, that the resolution may be adopted.

The SPEAKER. Is there objection to the present consideration of the resolution submitted by the gentleman from Mississippi? [After a pause.] The Chair hears none, and the resolution is before the House.

Mr. BUCKNER. I rise to a point of order. I suggest that this is a question that does not come within the rule adopted by the Chair in the case of the gentleman from Louisiana, [Mr. ACKLEN.] That was a question, as the Chair supposed, affecting his character as an individual, and the Chair held then that it was not a question of privilege.

Now, this is a question as to the history of this country, and I submit whether it is a question of privilege and ought to be acted upon in the form in which it now stands.

The SPEAKER. The Chair thinks that the matter should affect a gentleman in his representative capacity; but the Chair, in this instance, so far as he is able to gather, is of opinion that there is a connection with the representative character of the gentleman from Mississippi. This is a comment upon a speech made upon this floor by the gentleman. The Chair, however, is not willing to make any decision on that subject, and hence he asked unanimous consent, which the House has given, and the resolution is before the House.

Mr. GARFIELD. I reserved for a moment a point of order upon the resolution.

The SPEAKER. And the Chair looked to the gentleman to see whether he insisted upon the point of order, but he did not.

Mr. GARFIELD. No, sir; I waived it. I did not raise the objection a second time, but I want to ask the attention of the House for a moment, not at all to the merits of the controversy raised by the gentleman from Mississippi, [Mr. CHALMERS,] but to the principle upon which the House ought to go in regard to requests for investigations as to personal character.

Of course everybody admits that where a man's representative and official character is assailed, it becomes the business of the body to which he belongs. Where an assault, whether justifiable or unjustifiable, is made upon his personal character, independent of his official character, unconnected with the performance of his official duties, and particularly as to matters outside of his official duties both in time and place, it is a very important question for us to inquire how far we ought to go in recognizing in the form of an investigation that class of charges.

The Chair and the House will remember that last session the gentleman from Louisiana [Mr. ACKLEN] appealed to the House to grant him an investigation into matters touching his personal character, an assault upon his personal reputation, and the point was made by the gentleman from Texas [Mr. REAGAN] and some others upon both sides of the House that it did not come properly within the purview of the House of Representatives to enter on a discussion and examination of that class of charges.

The SPEAKER. The gentleman will recollect that the Chair submitted that question to the House.

Mr. GARFIELD. That is true, and I refer to it as a decision of the House upon the subject. I think the House decided rightly in that case. Now, there is a slight difference in the actual relation of this case to the House from the one of the last session, but that difference is very slight, so slight that I doubt whether we ought as a precedent to go into the investigation suggested by the gentleman. I make this suggestion for the benefit of all who may care to think of it, that the *subject be allowed* to lie over for another day at least, so that gentlemen may look at it, and that they may have the proposition in print and determine in their own minds whether it is a subject we ought to take official cognizance of in the House of Representatives.

I would prefer greatly to have a little time myself, and I think every member here who wants to set a wise precedent would be glad to have a little time for reflection before the House is called on to act in this matter. For myself, and I believe I can say for almost everybody, we would prefer to have time to make up our minds just how far we can go in a matter of this sort.

I will throw out the suggestion while I am on my feet. If we really go to work of vindicating ourselves against assaults made against us, it would probably take more committees than the House could spare from their seats to go around and make the investigations. In one sense we are compelled in this great roaring public life, with the Drummond light of the press blazing on us every day, to take our vindication of ourselves into our own hands. We are largely compelled to live down rather than talk down the things that may be said against us.

But, Mr. Speaker, I admit the force of what the gentleman has said in this regard, that the gravamen of the charge against him is in an official report of one of the late Congresses of the United States. Still, it is a matter relating to him when he was not a member of this House and had no relation to this House; and it remains for us to determine how far back we will go. I hope, therefore, that by unanimous consent this subject may lie over to come up to-morrow or any other day when the gentleman chooses to call it up.

The SPEAKER. The Chair desires to say that the point just stated by the gentleman from Ohio, [Mr. GARFIELD,] that this is a matter which was brought out by congressional investigation, while the Chair did not wish to bring up that point himself, would have had great weight with him if he had been compelled to decide upon the admission of this resolution.

Mr. BUTTERWORTH. Inasmuch as my name has been mentioned in connection with this resolution, I deem it not improper, with the permission of the House, to say a word. Touching the article from the Cincinnati Gazette which has been read, I know nothing either of its origin or its history. Why it should be coupled with what I am alleged to have said in a speech at Music Hall I do not know.

I am not familiar with the charges that have been made against the gentleman from Mississippi [Mr. CHALMERS] in connection with Fort Pillow. I did not know at that time that such grave charges had ever been made against him. Still I must say that which is known to all our people, that his name has been identified with what was regarded at the time as the "Fort Pillow outrage." Beyond that I have not been familiar with the details of the charges made nor of the evidence presented in support of them.

I referred to the gentleman as connected with Fort Pillow, simply because in our section of the country he was better known in that connection than in any other way. I did not reiterate the charges, but called attention to him as one of the gentlemen who had been conspicuous in the "late unpleasantness."

I did not say that that gentleman had accused us of having been traitors; I did not use that language. But I did say that the plain intimation was, that the logic of what he said was, that in 1861 we were faithless to the Constitution and they were not; that they had stood by the Constitution and we did not; that in seceding from the Union they had simply exercised a constitutional right, and that we, in insisting that they should not secede, were violating and trespassing upon their constitutional right. This was the force and effect of the argument which I at least attempted to make. I said further, that I did not give the language used by General CHALMERS, but the ideas he expressed. Possibly I was not happy in my choice of language. The report which has been read here, and which I apprehend was taken from the Cincinnati Enquirer, is very imperfect and did me injustice. It is not a correct report. I did not say what that report alleges I did say.

I did argue and tried to maintain, and shall endeavor to maintain hereafter, that the logic of what the gentleman said upon this floor last week or week before last was to the effect that in 1861 we were not supporters and maintainers of the Constitution and that they were. That I understood to be the logic of the remarks of the gentleman from Mississippi, [Mr. CHALMERS,] and I so said at Music Hall. Unless I am greatly disappointed I shall say so again, for I understand that to be the force of what he said.

Mr. CHALMERS. I am not complaining of that; I can take care of myself on that question when the time comes.

Mr. BUTTERWORTH. I only say this: that my argument was that the same ideas were advanced now as were advanced in 1861; that we at that time had different views from gentlemen on the other side, and that now we entertain the same views we did then, as they do. That is what I tried to say; nothing more and nothing less.

The SPEAKER. It is competent for the House to postpone this subject to a day certain. Does the gentleman from Ohio [Mr. GARFIELD] make that motion?

Mr. GARFIELD. I move that it be postponed for the present, to be called up by the gentleman from Mississippi [Mr. CHALMERS] at his pleasure.

Mr. CLYMER. It is a privileged matter.

Mr. GARFIELD. It can be called up as a privileged matter.

Mr. SPRINGER. I think we may as well dispose of it now.

The SPEAKER. The question is upon the motion to postpone this subject for the present, to be called up when the gentleman from Mississippi [Mr. CHALMERS] may choose to do so.

The motion to postpone was agreed to, upon a division—ayes 85, noes 69.

ADMISSION TO THE FLOOR.

The SPEAKER. The Chair is requested by the gentleman from Tennessee [Mr. TAYLOR] to ask permission that William C. Shelley, a member of the Tennessee Legislature, be admitted to the floor of the House for the brief period that he may remain in Washington. Is there objection? [After a pause.] The Chair will state that on yesterday a request of this character was made as to members of the New York Legislature and also as to a State officer of the State of Wisconsin.

Mr. WHITE. I objected to it yesterday, and in order to maintain my consistency I object to the present request.

The SPEAKER. The Chair will then consider the objection as conclusive upon his submitting these requests, and hereafter members will be kind enough from their seats to submit the requests to the House.

Mr. FRYE. I hope that both requests will be again submitted to the House. I do not think the gentleman from Pennsylvania [Mr. WHITE] will maintain his objection.

Mr. KELLEY. I would like to suggest to my colleague [Mr. WHITE] that he can vindicate his consistency by withdrawing his objection of yesterday.

Mr. WHITE. I am not alarmed about my consistency; but we passed a resolution at the commencement of the session to enforce one of the rules, that forbids the admission upon the floor of the House of any persons except those designated in the rule. We set that precedent last year and everybody here rejoiced at the result. Now we must stop somewhere. I do not care about this matter. It is very hard to resist the appeals of gentlemen about me.

Mr. TAYLOR. I withdraw my request.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I rise to a parliamentary inquiry. What is the question before the House?

The SPEAKER. There is no question before the House.

Mr. ATKINS. I move, then, that the House resolve itself into the Committee of the Whole to resume the consideration of the legislative appropriation bill.

Mr. BRAGG. Pending that motion I move that when the House shall have resolved itself into Committee of the Whole we proceed to the end of the bill without disposing of the pending amendment, and then return to that amendment, which shall be considered under the rules regulating general debate, and that all debate thereon be closed in three hours.

Mr. ATKINS. I dislike to antagonize the motion just made by the gentleman from Wisconsin, [Mr. BRAGG;] but its adoption would re-

sult in the consumption of the entire day upon the subject of the particular amendment now pending, offered by the gentleman from Wisconsin. We have now been in session four weeks; and what have we accomplished? What are we accomplishing? For one I am anxious that we proceed to the passage of this appropriation bill, that it may be laid before the President of the United States for his signature or his disapproval, so that we may know how to shape our action. I for one am anxious to bring this session to a close as early as possible. I do not propose, so far as I am concerned, to refuse to co-operate with those who desire to pass certain legislation which may be necessary upon any subject. But, sir, we are here wasting time. We have now been longer upon this legislative bill than we were upon the same bill at the last session. We then went through sixty-one pages of the bill in a single day; we have now been about a week upon twenty pages of this bill.

I trust, Mr. Speaker, that the amendment of the gentleman from Wisconsin will be considered as other amendments to the bill are being considered, under the five-minute rule. I think this will allow to be said all that ought to be said.

The SPEAKER. The House has heretofore made an order upon the subject of debate in Committee of the Whole. The gentleman from Wisconsin [Mr. BRAGG] now asks that the House give further instructions to the Committee of the Whole touching that subject.

Mr. CLYMER. I desire to submit a question to the Chair. Before we entered upon the discussion of this bill, the House made a general order directing that all the bill save the purely political part should be considered under the five-minute rule. A motion to reconsider the vote by which this order was made was laid on the table. I therefore submit that it is now impossible for us to reverse or modify that order.

The SPEAKER. The Chair has caused the order of the House on this subject to be sent for, and when found it will be read.

Mr. BRAGG. I believe the language of the gentleman from Ohio in stating his propositions was that all amendments which would involve general discussion should be reserved.

Mr. CLYMER. I have stated in general terms my recollection of the action of the House. Possibly it may not be accurate.

Mr. GARFIELD. I do not know in what terms the order may be recorded, but I remember very distinctly what I undertook to say. I referred to the political discussion likely to arise, having relation, as was well understood, to the election laws and the jury clause; and I asked the making of an order that all the rest of the bill should be discussed under the five-minute rule, those sections to which I particularly referred being reserved for general debate.

Mr. CLYMER. That is the way I understood it.

Mr. BAKER. So did everybody.

The SPEAKER. The order made by the House will now be read.

The Clerk read as follows:

The SPEAKER. The question, as the Chair understands it, is this, and he desires to be corrected if he be wrong: the bill at first in Committee of the Whole shall be proceeded with under the five-minute rule until the Committee of the Whole shall come to that part of the bill mentioned upon which general debate is wished, and that then general debate shall be under the hour rule.

There was no objection, and it was so ordered.

The SPEAKER. At that time, according to the recollection of the Chair, it was understood that the political questions, as stated by the gentleman from Ohio, [Mr. GARFIELD,] were those to be included in the general debate, and that all other parts of the bill were to be discussed under the five-minute rule.

Mr. GARFIELD. I alluded, of course, to those political matters embraced in the bill as then printed. This proposition of the gentleman from Wisconsin, not being then a part of the bill, could not, of course, have been in my mind.

The SPEAKER. The Chair will cause to be read a part of the statement made by the gentleman from Tennessee, [Mr. ATKINS.]

Mr. CLYMER. And also, I suggest, the remarks made by the gentleman from Ohio [Mr. GARFIELD] in response to those of the gentleman from Tennessee.

The Clerk read as follows:

Mr. ATKINS. Mr. Speaker, in conducting this bill I shall not attempt to apply the "gag" even if I had the power to do it. I am very conscious of the fact that no one man rules this House, not even the Speaker. We are governed by the rules which the House prescribes for its own government, but I thought I would suggest that, before going into Committee of the Whole this morning, perhaps it would be proper to dispense with general debate until we reach the amendments, which are generally styled political amendments; go through with the entire bill, the appropriations by paragraphs, under the five-minute rule, and when we get in Committee of the Whole to return to these political amendments if we have completed the balance of the bill.

Mr. COX. I would suggest to the gentleman that he dispense with the formal reading of the bill.

Mr. ATKINS. I shall make that motion when we are in Committee of the Whole; that would be the proper time, but this is the time for the House to fix such limitation to general debate as it sees proper, and until we reach this clause of the bill, so far as I am concerned, I shall make no suggestion to the limitation of debate.

Mr. GARFIELD. I suggest to the gentleman that these objectionable sections might be passed over for general debate, and that we go on with all the money part of the bill, coming under the five-minute rule. I think that would be agreeable to this side of the House.

Mr. ATKINS. I do not understand the proposition.

Mr. GARFIELD. I agree to the proposition of the gentleman from Tennessee.

Mr. ATKINS. I would suggest that we have a distinct understanding that there shall be no general debate on the bill, except on that part relating to the supervisors, the test oath, and the deputy marshals.

Mr. GARFIELD. We will agree to that.

The SPEAKER. The question, as the Chair understands it, is this, and he desires to be corrected if he be wrong: the bill at first in Committee of the Whole shall be proceeded with under the five-minute rule until the Committee of the Whole shall come to that part of the bill mentioned, upon which general debate is wished, and that then general debate shall be under the hour rule.

There was no objection, and it was so ordered.

Mr. CONGER. And in that connection, Mr. Speaker, the sections considered as embracing the political matters were ordered to be printed for the use of members.

Mr. CLYMER. It is manifest that the provisions in reference to the test oath, supervisors of elections, and deputy marshals were the subjects referred to as left open for general debate.

The SPEAKER. This order of the House has been partly executed.

Mr. GARFIELD. As the gentleman from Michigan [Mr. CONGER] has suggested, it was agreed at that time by unanimous consent that the political sections on which general debate was to be had should be printed in a separate paper as we now have them before us, being the provisions in reference to jurors, supervisors, and marshals—nothing else.

The SPEAKER. The subjects reserved for general debate were enumerated with distinctness in the debate which has been read.

Mr. GARFIELD. There can be no doubt, I think, about the meaning of the order.

The SPEAKER. The question is on the motion of the gentleman from Tennessee [Mr. ATKINS] that the House resolve itself into Committee of the Whole to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The Clerk will read the pending amendment.

The Clerk read as follows:

Strike out all after the word "repealed," at the end of line 2064, to and including the word "dollars," at the end of line 2085, and insert as follows:

Sections 2, 3, 4, 5, and 6 of chapter 116 of the law of 1871, approved March —, 1871, are hereby repealed.

Mr. BRAGG rose.

Mr. YOUNG, of Tennessee. Before the gentleman from Wisconsin proceeds to discuss his amendment, I desire to offer a substitute so it may be before the committee at this time.

The Clerk read as follows:

That the causes now pending before the southern claims commission be, and the same are hereby, transferred to the Court of Claims, there to be determined by the principles of law and equity governing the decision of causes now before it; and that the southern claims commission be, and the same is hereby, abolished.

Mr. BRAGG. Mr. Chairman, when I offered my proposition to repeal the law under which the southern claims commission was organized I had supposed it involved a question perhaps of sufficient gravity to have it entitled to the respectful consideration of this House. I did not think there were any members in this House who were unwilling to have that question discussed so that a vote might be taken after full discussion thereon. I expected to have heard from gentlemen on the other side of the Chamber a response almost unanimous in favor of the repeal of the law authorizing that court. I had every right to expect it. This law was passed by an unconstitutional and revolutionary method, passed in such way that the free choice and will of the Executive were coerced into the signing of the bill. And when I proposed to give to gentlemen on the other side an opportunity to use their votes to show they disapproved all such revolutionary legislation, I expected every one of them almost to rise in his place and thank God for the chance he had to carry into effect the talk which has been coming from that side for the last ten days; but I find, Mr. Chairman, to use a homely expression with regard to them, "it is all talk and no cider." [Laughter.]

Now, to understand what this law is, requires reference to the Army appropriation bill of 1871, where the law will be found in volume 16 of the statutes, upon page 524, organizing this court. By the very terms of the act itself the court was not expected to have had a longer existence than two years. It has been kept in existence by appropriation bills. Appropriation bills year after year have been extending the life of that court by furnishing the pabulum upon which it feeds, the salaries which keep the judges and the employés in their places. But I submit, sir, that is no way to create a judicial tribunal or a tribunal that is quasi-judicial.

The first objection which I have to this court is to the court itself, not to the members of it, not to the men composing it, not to the employés who execute its orders, but to the organization as a court. I may as well say here that it seemed as if, anticipating something that might be done, the persons who drew this bill and who incorporated it into the appropriation bill of 1871 and organized this body shrank from calling it a court, as well they might as its subsequent history has shown. But they saw fit to call it a commission. They clothed it with the powers of a court, and they authorized it to decide cases on testimony under oath, and such other evidence as anybody about that court might pick up and use. So that we have a commission organized who are not confined to evidence as it is known and fixed by rules of law, but the language of the law authorizing this institution provides it may act. I will read the language:

And the said commissioners in considering such claims shall be satisfied from

the testimony of witnesses under oath, or from other sufficient evidence which may accompany each claim, &c., whether the facts are presented to the court in such way as to authorize the allowance of the claim.

Is not this an anomaly in this last half of the nineteenth century that we are organizing a court and that court shall have the right to proceed under the rules and regulations of their own, independent of what is known as evidence as it is termed and fixed and understood in the courts of law? Have we not another anomaly in this, that this court is authorized to employ, and this bill authorizes them to employ, detectives, and the practices of this court, as proved from the debate on Saturday, was that other evidence which they used besides the legal evidence known to the law is the unsworn, unofficial reports of detectives. So that we have a judicial tribunal organized and being run by a body of detectives.

[Here the hammer fell.]

Mr. SPARKS obtained the floor and yielded his time to Mr. BRAGG.

Mr. BRAGG. Whoever before heard of a detective agency as being used to the aiding of a judicial tribunal? Who are these detectives? I speak of them as a class. All over this broad country they have shown themselves to belong to so disreputable a class that it is almost impossible to get a jury in any State, North or South, to convict on any testimony they can offer unsupported. Now, that class of men are authorized to make official reports, which are unsworn and which no man shall have a right to examine, so that no man knows until after the blow has been struck what hit him, and then it is too late.

Is that such a tribunal as this country seeks to carry along in existence and pay at the rate of some $36,000 to $50,000 a year to keep it up? I say, Mr. Chairman, that this, instead of being intended to be a judicial tribunal, to be governed by the laws which govern courts, was devised as a political make-shift, and its judges were placed upon the bench as political partisans; and the machinery which was to manufacture and present to that court, unknown to claimants, the evidence or statements upon which they were to act was political partisan detectives, and the source through which they were to derive their evidence, if the man who made the claim was found to be hostile to the republican party, was the carpet-baggers of the South, who were to furnish to these detectives the reports that were necessary to blacken and defeat any claim unless that claim showed itself to be worthy of merit by the claimant proclaiming his allegiance to the republican party. It is a species of machinery that is a disgrace to the American statute-book.

I might perhaps have been contradicted on this floor, and it might have been alleged that such was not the way in which these cases were decided, but on Saturday last the gentleman from Ohio [Mr. KEIFER] announced that hundreds of cases were decided upon the unsworn testimony of these detectives; and we had the testimony of a gentleman, [Mr. HOUK,] who was himself the agent of that court, that he made reports, and that the court acted upon his reports, which were unknown to the parties in the case.

I see my friend from Ohio taking notes. I suppose he will say that the gentleman did not say "detectives." He did not say "detectives," Mr. Chairman; he spoke of the investigating agents. That is a very pleasant term. On the prairies and west of the Rocky Mountains the highwaymen and the robbers are called road agents; that is a higher grade of robbers. The partisan detectives of this court are called investigating agents, who are sent to snook around among the carpet-baggers and the servile race of the South, to see whether they can accept or allow a claim in their discretion, as these officers who have no limit on their power have a right to act as they see proper in the allowance or rejection of a claim.

I say it is a disgrace to the American statute-book. And I say the men who belong to the detective force, the men who are classed as detectives in the United States, are worthy of the language which was applied to such people by the great Irish barrister, Curran, at the Irish trials, when he said of them:

> They are a class of men who like dead bodies lie upon the bottom of the stream out of sight until after they have become buoyant with putrefaction, and then they rot as they rise to the surface and spread terror and contagion wherever they go.

That is the class of men who are authorized to be employed. I do not say that the men who are now employed are such men, but the power is in the court to authorize such men. And a court which is bound by no rule, which has a right to select its own tools, which sits there acting as this court has done, showing that it will determine rights not upon sworn evidence, but upon such reports as I have referred to, has proved that the terms which I have quoted with reference to the informer may properly be applied to the court itself.

[Here the hammer fell.]

Mr. COOK. If I am recognized, I yield my time to the gentleman from Wisconsin, [Mr. BRAGG.]

The CHAIRMAN. The Chair has recognized the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I had expected to hear some argument offered by the gentleman who submits this amendment for the repeal of the law creating the southern claims commission that went to the merits of the case. For a great many years this House has been entirely silent on the subject of laying down rules of practice for this court. To-day, after this committee has carefully prepared a rule to govern the court in future that takes away all the objections that are now urged by the gentleman from Wisconsin, we hear a ten-minute speech against the court because it has had in the past some agents who are said to have acted under rules that some of us thought were unwise.

Let us go to the merits of this question. The legislation which was postponed by action of the committee a few days ago will correct all of the evils that are now spoken of by the gentleman from Wisconsin; and when we were attempting to amend this bill so as to correct those evils the gentleman himself was silent, reserving his speech until after we had made the amendment. Now, Mr. Chairman, in the future there will be very little of importance in this matter of the rules for the conduct of cases before the commissioners of southern claims. On the 10th day of March last, under the present law, the time for taking testimony by the claimants in all cases expired. The term of the commissioners will expire on the 10th day of March, 1880, about eleven months hence.

The whole number of claims originally before the commissioners was 22,298. Of these claims over fourteen thousand have been reported upon and finally disposed of, leaving about eight thousand unreported and now in the hands of the commissioners, and of these eight thousand unreported claims about three thousand of the claimants have taken their testimony under the rules of the law and submitted their cases for decision to the commissioners, and the expenses of these claimants of taking their testimony under this law of Congress has averaged in each case about $30, making an outlay of $90,000 at least for all these claimants, expended in getting their cases ready for decision by the commissioners, who are now examining the claims and will be ready, as I am informed by one of the members of the commission, to finally report the claims on the 10th day of March, 1880.

Now, let me say that there are five thousand of these claims as to which not one particle of testimony has been taken at all. These claims now, under the statute passed by the last Congress, are absolutely barred unless we repeal these sections that the gentleman from Wisconsin [Mr. BRAGG] proposes to repeal, and the effect of that repeal would be to revive five thousand claims now barred by the statute. They ought to be barred. Under an amendment which was put on a bill of this House in the Senate in the last Congress, and adopted in this House, the commission was required to report to the next regular session of this Congress the names of all of these claimants with their claims, so that we will have a record here of five thousand of these barred claims.

Mr. BRAGG. I desire to ask the gentleman if he thinks that this court should always live, because if we revive the act authorizing their appointment we shall revive barred claims, barred by lapse of time.

Mr. KEIFER. We do not propose to let the court live a single hour beyond the 10th day of March, 1880.

Mr. BRAGG. Will not these claims revive then?

Mr. KEIFER. These five thousand claims are absolutely barred unless we by legislation revive them and dump them into this Congress. If we do that, no less than five thousand claimants would come with claims, and with some equity, telling us, "You passed a law authorizing us to prepare and present our claims, and we have spent thousands and thousands of dollars in preparing our claims, and we have done it upon the faith of a law of the United States; we were ready to submit them when the court was wiped out."

[Here the hammer fell.]

Mr. HAWK obtained the floor and yielded his time to Mr. KEIFER.

Mr. KEIFER. I am much obliged to the gentleman.

So much for that part of the case.

Mr. BRAGG. Will the gentleman allow me to ask him another question?

Mr. KEIFER. Certainly; I shall be very glad to hear it.

Mr. BRAGG. The repeal of the provisions of the act which I propose to repeal would not repeal any statute of limitation at all.

Mr. KEIFER. It would repeal all this legislation and the legislation which would affect these claims. All I desire to say here upon that branch is, that we are ready to have a final adjudication, favorable or unfavorable, of three thousand claims with the testimony taken. Is it wise for Congress now to repeal these sections of the statute and wipe out this commission? It is no argument against this commission to say that they have had at some time or other in the past, what the gentleman chooses to denominate "detectives." Whatever I may have said the other day—and the gentleman admitted that he did not quote me correctly, and I will not stop to correct him—I wish to add that these detectives, or more properly speaking agents, have uniformly acted in the interest of the Government. If they have erred, it was against the claimant and not against the Government.

Now, upon the question as to whether these claims should be paid, I have heard nothing on the other side, and from the large number of claimants who have had their claims allowed, small and great, there are less than seven thousand out of twenty thousand odd presented to the commissioners, and the record shows that about 10 per cent. of the number of claims allowed were the claims of Union soldiers. The court records will show that not one of them—unless the commissioners were cheated, or some fraud was perpetrated upon it—was disloyal in any way during the entire war.

The law is not now and never has been so that these commissioners could allow and pay for damages caused by the war to loyal or disloyal claimants, but to pay for supplies furnished and which the Government had the benefit of, quartermaster and commissary stores,

those things that the Government received when the war was going on and used for the purpose of carrying on the war.

We have thought it wise in the past to provide a law to pay them all, and for my part I have always believed that it was honest in the Government to do it; honest to pay Union men and loyal men for that which they furnished to carry on the war to a successful issue. Farther than that I have never been willing to go. Even though the law may have been originally an unwise one, still it would be exceedingly unjust, it would be an outrage, if I may use the term, to now say to these claimants, after they have prepared their cases under a law that has been on the statute-book for eight years, and by which they have been invited to prepare their cases and bring them to the court—it would be unjust to say to them that the court is to be wiped out, and the law that gave them the right to go before that tribunal and have their claims adjudicated there was also to be wiped out. That would be unjust; it would be inviting them to a feast and then not giving it to them.

In regard to the three thousand claimants whose claims are now ready to be adjudicated, in which cases by an absolute statute the testimony on behalf of the claimants has been closed, if you wipe out this law those claimants will come here to Congress, for it would be the only place where they could come, and they will come here with an equity and say to us that we passed a law which authorized them to prepare their cases and present their claims, and then we took away the law before they could obtain a final adjudication of their claims.

I am in favor of a good statute of limitation to put an end to all this matter of southern claims; but I do not believe in the Government being unjust and entrapping any claimant.

[Here the hammer fell.]

Mr. ATKINS. I would not say a word on this subject if it were not that I feel that the Committee on Appropriations should give some reason for the legislation which they have here proposed.

I will say to the Committee of the Whole that the suggestion and the advice of the gentleman who served during the Forty-fifth Congress as chairman of the Committee on War Claims furnished perhaps the strongest argument to the Committee on Appropriations why it should make this appropriation and extend the time for the adjudication of these claims. Mr. Eden, of Illinois, stated to the committee, or at least to some of the members of the committee, that he thought it very proper that the time of the services of this commission should be extended for another year, so that the commission could wind up the business before it; otherwise the three thousand cases before that commission at this time would have to be turned over to some other tribunal.

Mr. BRAGG. Will the gentleman allow me to ask him a question?

Mr. ATKINS. I will.

Mr. BRAGG. I will ask the gentleman whether the year previous the time was not extended under the same promise?

Mr. ATKINS. Yes, sir; it was; that is true. But the commissioners stated that they found it utterly impossible to get through with all the cases before them in the time allowed.

There have been over twenty thousand cases brought before that commission. About fourteen thousand cases have been reported upon. There are unreported about eight thousand cases. Of that eight thousand cases there are five thousand actually barred, because the statute provided that the testimony in these cases should be taken on or before the 10th day of March last. The testimony not having been taken in these five thousand cases, they are actually barred.

There are, then, to-day about three thousand cases in which the testimony has been taken in part; indeed in most of the cases all the testimony has been taken. There are about three hundred cases now in the hands of the agents. Testimony has been concluded in about twenty-seven hundred cases; and in regard to the other three hundred cases now in the hands of the agents, it is said that the testimony will soon be concluded.

The members of this commission inform me that they can get through this business by the 10th of March next, and submit their report to Congress. My judgment was, and still is, that we had better make that disposition of these cases.

Mr. HOOKER. Will the gentleman permit me to ask him a question?

Mr. ATKINS. I will.

Mr. HOOKER. What is the amount which this bill proposes to appropriate to keep this commission alive another year?

Mr. ATKINS. I think it is about $27,000.

Mr. HOOKER. If the amendment offered by your colleague [Mr. YOUNG] is adopted, as well as the amendment offered by the gentleman from Wisconsin, [Mr. BRAGG,] breaking up this court and transferring these cases to a tribunal already established and paid for, would not that save this $27,000?

Mr. ATKINS. By no means. It would only defer the settlement of these claims indefinitely so far as that is concerned.

Mr. HOOKER. But it would save this appropriation.

Mr. ATKINS. I am an economist, but I do not propose to be an economist at the expense of the rights of the claimants. These claimants have now expended $100,000 in taking testimony and preparing their cases to be adjudicated by this commission. To take those cases now and hand them over to a court, perhaps already overburdened with business, would be an indefinite postponement of the rights of these parties.

Mr. HOOKER. Would it be an increase of a single dollar of expenditure to the Government?

Mr. ATKINS. It would be a denial of their rights. Why should the gentleman sit here and vote $3,000,000 in this bill for the purpose of maintaining the Federal courts if it is not for the protection of the rights of parties? It is absolutely necessary that Congress should appropriate money in order to have courts maintained where the rights of parties may be determined.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BAKER obtained the floor.

Mr. ATKINS. This way of farming out the floor for five minutes to a gentleman is not exactly the thing. I have not got through one-half of what I have to say. But I will take my seat, and will now serve notice that I shall object to any gentleman going on beyond the time allowed by the rule.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from Tennessee to the fact——

Mr. ATKINS. I am not blaming the Chair.

The CHAIRMAN. That when it was proposed by the gentleman from Illinois [Mr. SPARKS] to yield his time to the gentleman from Wisconsin [Mr. BRAGG] the Chair said it could be done only by unanimous consent

A MEMBER. And that unanimous consent was given.

The CHAIRMAN. Yes; there was no objection.

Mr. BAKER. There are only two questions that can be involved in the proposition presented by the gentleman from Wisconsin. The first is, whether it is right that parties who have their claims pending before the southern claims commission should be allowed to have those cases disposed of. That question involves the consideration whether it is right that the class of supplies which these men furnished to the Union Army should be paid for or not. The allowances that are made are simply for stores and supplies, such as horses, mules, cattle, sheep, and other articles of personal property that were taken possession of and used for the support of the national armies during the war of the rebellion; and before any one of these claimants is entitled to compensation he must among other things establish the fact that he was loyal to the National Government during the war of the rebellion. Now I know that the distinguished gentleman who introduced this amendment has undertaken—I do not know with what motive—by raising a hue and cry to lead the country to believe that there was no merit at all in any of these claims which have been presented and paid in years gone by.

Mr. BRAGG rose.

Mr. BAKER. I cannot yield to the gentleman; I have only five minutes. I know there is a disposition (I do not attribute it to the gallant gentleman from Wisconsin) to have it believed over the country that there is no difference in the South in reference to any class of claims presented either here or before the courts. I have heard it stated by the distinguished gentleman from Wisconsin that he did not believe there were any loyal men in the South. Mr. Chairman, of the men whose claims have been allowed by the southern claims commission seven hundred out of sixty-five hundred served in the Union Army. The State of Tennessee sent thirty-three Union regiments into the war, the State of Arkansas sent ten, and there were thirty or forty other regiments from the Southern States in the Union Army. I believe that the men who "wore the blue" in defense of the country's integrity in the war of the rebellion are, although they happened to live south of the Potomac River, as much entitled to compensation as those who lived north of it, and who have been or will be paid every dollar for every article they furnished of the character provided for in this law.

I submit, Mr. Chairman, that it will be an unhappy day for this country when the principle is established by the American Congress that when a citizen who has been loyal in the hour of the country's danger asks payment for supplies that were used by the military forces of the nation he is to be answered that his claim stands on the same footing as the claims of men who used every power with which God and nature had endowed them to destroy the nation.

I submit, then, that the first proposition to which I referred in opening must be decided in the affirmative. As to the results which would follow from the abolition of this southern claims commission, they have been indicated in the remarks of the gentleman from Kentucky and the gentleman from Tennessee, showing that this House would be deluged by a mass of three thousand claims in which evidence has already been taken on the part of the claimants, although there are about three hundred in which the Government is taking rebutting evidence; or if those claims are not brought here they will, as is suggested, be sent either to some new court to be created or to the Court of Claims sitting in this city, which is already overburdened with business; so that to send these claims either to that tribunal or before a committee of Congress would amount to a denial of justice to the three thousand men who have expended from $90,000 to $100,000 in reliance upon the public faith, plighted by an act of Congress, that they should have a hearing before this commission.

Mr. YOUNG, of Tennessee. Mr. Chairman, I agree with very much that has been said by the gentleman from Wisconsin in reference to the necessity for the abolition of the southern claims commission; and I concur in very much that has been said by the gentleman from

Ohio and the gentleman from Indiana in reference to the necessity for some tribunal to determine these claims. I take it that there are very few gentlemen upon this floor—especially those who have had a legal training—who read or heard the argument of the gentleman from Indiana on Friday last, who will not concur in the opinion that this commission should be abolished without the delay of a single hour. I can present no stronger argument in support of the amendment of the gentleman from Wisconsin than was embodied in the remarks of the gentleman from Indiana, and if I had it at hand I would read his speech as a part of the remarks I shall make myself, for as he appears to be the friend of the commission his opinions and utterances in respect to its incompetency will possibly carry more weight than my own. According to his testimony such a court cannot be abolished too soon. I say nothing of the *personnel* of the court, for I know nothing; but I do condemn the mode and manner in which they discharge their judicial functions.

I do not know, however, that I should vote for this amendment without providing for some tribunal to take the place of the one we now have, for I hold that it is the duty of this Government to the citizen to provide some tribunal before which his demand against it can be fairly, honestly, and legally tried. The only question in my mind is whether this can be more effectually done by the southern claims commission or by the Court of Claims. I grant that neither of these tribunals commends itself to my judgment. I would be glad if a better one could be provided as a substitute for both.

A great deal has been said here about the payment of southern claims, and I wish I had time to discuss that question more fully than I can do in the limited time now allowed me by the rules governing this discussion. I have heard it said by gentlemen here that there were no loyal men in the South. That is a mistake. There were some loyal men in the South; men as true in their fealty to the Federal Union, to the integrity and the preservation of the Federal Government, as any man who resided in any Northern State; and I tell you, sir, that it required something of courage, something of heroism, something of iron nerve for a man to be a Union man in the South in the hot blaze of popular passion just preceding and during the war. I tried it a little while myself, and I know the difficulties of the undertaking. I tell you that there are men in the South to-day whose courage and heroism in all that fearful ordeal entitles them to the most favorable consideration of this Government; and, indeed, to a preference, if any is to be shown. In every particular the number was small, but still there were those there whose fidelity to the Union never faltered, and many of them suffered the most serious losses.

For the class of claimants who cast their fortunes with the South in its struggle for political independence, who staked their all upon the success of the confederate cause, and who now come asking the Government to pay them for their losses, I have but little sympathy. So far as I am concerned, for the humble part I took in that unfortunate strife I have no favor to ask at the hands of the Government other than has already been accorded me, nor does any other man like me in the South.

Mr. BRAGG. Allow me to ask the gentleman how many men in the South rejoiced in the defeat of the confederate arms?

Mr. YOUNG, of Tennessee. I do not know that there were a great many in that part of the South where I lived, I must confess; but still there were some. I must say, too, that some of them were as reputable men as any on this floor, as good citizens as any in my State. The number was small to be sure, but that has nothing to do with the question. If any citizen has a claim against the Government he is entitled to a fair and impartial hearing, and I submit to this House that it will not do to say this Government will repudiate those claims. There are to-day but two civilized governments in the world, if I am correctly informed, and they are semi-civilized, which deny to their citizens the right to bring suit against them for any demand they may have. The governments of the Old World, except Russia and Turkey, all give this right to the citizen, and it is nowhere denied in any government in the world claiming to be civilized. What is given the subject under despotic governments surely ought not to be withheld from the citizen in a free republic.

[Here the hammer fell.]

Mr. WHITE. Mr. Chairman, I generally sympathize with my friend from Wisconsin [Mr. BRAGG] in his opposition to war claims. When I find a bill presented to this House fourteen years after the close of the war I always suspect there is something wrong or dishonest in it. And that gentleman and myself have usually on such questions voted together. I am glad to follow in that respect such a distinguished leadership.

But that is not the distinct proposition before this body. The distinct proposition now is the amendment offered by the gentleman from Tennessee [Mr. YOUNG] to the proposition offered by the gentleman from Wisconsin. The amendment of the gentleman from Tennessee is to abolish the southern claims commission and to transfer all pending cases to the Court of Claims, a court which has existed for years in this country and which, as properly has been said, is now overburdened with business.

I am opposed to that proposition because it may do injustice to the claimants themselves, and may by changing the tribunal do injustice to the Government. I am opposed also to the sweeping proposition of the gentleman from Wisconsin to "wipe out" by one motion in this House the existence of this court. I have not time to pause to discuss the policy of the original constitution of this commission. But suffice it to say that it was not done for mere political purposes. It was done as a matter of justice, and there was abundant precedent for the Government to follow in enacting such legislation.

In answer to the criticisms of my friend from Wisconsin, who has talked about the political policy of creating this commission, I will point to the history of the legislation following the war of 1812. In the enactments of that day I discover provision was made by the Government for indemnity to its citizens for some of the losses which they sustained during that war with Great Britain. There is no legal liability against the Government for the casualties of war, but every well-regulated government has recognized the duty or the charity which it is occasionally called upon to extend to its own citizens.

The condition of things we found following the war of the rebellion was *sui generis*. We had been fighting with our own people. We had been fighting against organized States in which were large elements devoted to the flag of the country and which had remained true to it under very trying circumstances. It must be admitted that it was only fair to them to create some tribunal which would give their claims a judicial investigation. Now, that judicial investigation has been conducted according to principles of law well recognized everywhere, and no well-grounded complaint has been made against it. I say now, in view of the fact that we have a statute of limitations, for the prohibition of the presentation of any claim after the 1st of March, 1873, is practically a statute of limitations, that we should maintain the existence of this tribunal until it has concluded its present business. Believing that the proposition after it is "boiled down" means just this, I therefore shall vote against the amendment of the gentleman from Tennessee and the proposition of the gentleman from Wisconsin.

[Here the hammer fell.]

Mr. MANNING. Mr. Chairman, I shall support the substitute submitted by the gentleman from Tennessee [Mr. YOUNG] for the amendment offered by the gentleman from Wisconsin, [Mr. BRAGG.] It seems that we but poorly understand some facts of importance touching this matter. The gentleman from Pennsylvania [Mr. WHITE] and the gentleman from Tennessee, chairman of the Committee on Appropriations, have stated that the Court of Claims is already too much occupied, that it is now burdened with cases. If that be true it is certainly an important fact in connection with the pending matter, but I do not understand these gentlemen to be correct in making that statement to this House. My information is obtained from the reports for the last three years from the Court of Claims. Gentlemen will bear in mind that their opposition to this substitute is largely based on the idea that the Court of Claims cannot undertake the work that it is now proposed to transfer to it. If it turns out they are mistaken in that, much of their opposition of course is thereby disposed of.

If I tell gentlemen that the court only sits in the aggregate about two months in the year in the determination of cases depending in that tribunal, then they will inquire why it is they do not work more. I made the same inquiry myself when I ascertained this fact. I found that in the time stated that court disposed of only fifty-five cases in the year 1876, and seventy-six cases in the following year, and one hundred in the year 1878. This needs explanation before we can acquit these gentlemen of great tardiness or of negligence in the discharge of the duties that devolve upon them as members of that court, provided their docket is crowded with cases.

Now, I do not pretend to intimate that a great many cases in addition to those I have spoken of have not been disposed of in some way or other during the period to which I have referred. But I am speaking of cases which have involved the consideration of records and proofs. I am not speaking of those which have been disposed of on motions of counsel to dismiss. The presumption must be indulged that this court is not overworked, otherwise their sessions would be longer, and a great many more would be disposed of per annum.

I believe, Mr. Chairman, that the southern claims commission ought to be abolished. I do not believe that a case can be correctly determined on *ex parte* proof. I can understand how a fraud can be easily committed, if that shall be the standard in reaching the justice of a cause. In some of the cases which have gone into the southern claims commission we cannot be left in doubt of the fact that the Treasury has been robbed under the forms of law. I would transfer these causes to the Court of Claims, where testimony must be taken, and where the same rules of evidence obtain as in other courts of justice known to the laws of this country. I would transfer them to a court that is not overworked. I would do away with the commission, because it cannot properly and safely determine causes, and because it exists at an annual cost of perhaps $40,000, which sum would be saved by the proposed transfer.

It is proposed by the Committee on Appropriations to continue the southern claims commission only until the 10th of next March. Since the creation of this commission in 1871 not more seventeen hundred and fifty cases have been disposed of in any single year, and from this it will be seen that but little more than half of the three thousand cases yet undisposed of, and in which proof has been taken, can be decided before this commission is dissolved by limitation of law.

Mr. ATKINS. Will the gentleman yield to me for a question?

Mr. MANNING. Yes, sir.

Mr. ATKINS. If the Court of Claims can only get through fifty or sixty cases in a year, how long will it take them to get through three thousand cases?

Mr. MANNING. The transfer of these causes will require the court to have longer sessions.

Mr. HARRIS, of Virginia. I will say to my friend from Mississippi that at the rate of seventy cases a year it would take the Court of Claims forty years or more to get through those three thousand cases.

Mr. MANNING. But is that an objection to the argument I have been submitting?

Mr. HARRIS, of Virginia. I think it is an answer to it.

Mr. MANNING. The southern claims commission say they cannot get through with the cases in the time allowed.

Mr. ATKINS. They say they can.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. FINLEY. If the Chair will recognize me I will yield him my time.

Mr. ATKINS. I object.

The CHAIRMAN. The gentleman from North Carolina [Mr. RUSSELL] is recognized.

Mr. RUSSELL, of North Carolina. Whatever may be the purpose of the gentleman from Wisconsin, and it is immaterial what his purpose is, the effect of the amendment he has proposed is to fling not only an injury but an insult upon the men of the South. And, sir, I undertake to say that if there is any class of men under this Government who deserve the consideration of this Government, to whom the people of these United States owe a debt of gratitude which they have never paid, it is the Union men of the Southern States. You may search history in vain among the instances where men have suffered and endured for opinion's sake—the Huguenots of France; the Dissenters of Scotland; the Puritans of England—you will search history in vain to find an instance more illustrious than that of the Union men of North Carolina and Eastern Tennessee. They suffered for a principle. It cost nothing to be a Union man upon the shores of Lake Michigan; it cost nothing to be a Union man under the protection of the Union Army; but the men who stood by the flag upon southern soil displayed the patriotism and the valor worthy of heroes and of martyrs.

Not only that, sir, but injustice is done to the men of the South in this attempt which is made by the gentleman from Wisconsin and others who think as he does to make it appear that there were no Union men in the South. I am gratified to hear gentlemen upon that side admit that there were Union men in the South of respectability. It has become, Mr. Chairman, respectable in this country and on this floor to slur the Union men of the South. It has got to be the high-toned thing, the highly respectable thing, to make it appear that there were no decent men true to the Union on southern soil. Sir, the assertion or the insinuation is a slander upon men who were the equals of the gentlemen who have made that statement or of any other gentlemen upon this floor. [Applause.]

What, sir, is this proposition? It is to take the property of the loyal men of the South, and after having taken it for the support of your armies, while they perhaps were themselves fighting and giving their blood for the defense of your flag, to take that property and then refuse to pay them for it. The gentleman may say this does not exclude a decision of their claims; but what tribunal does he propose to establish?

Mr. WARNER. Will the gentleman yield to me for a question?

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. RUSSELL] has expired.

Mr. RUSSELL, of North Carolina. I am willing to hear the gentleman's question.

Mr. WARNER. Does the gentleman propose to ask this House to appropriate money to pay for property of Union men which he as an officer in the confederate service, as I understand he was, helped to destroy?

Mr. RUSSELL, of North Carolina. No, sir; and the gentleman knows I do not.

Mr. HAYES. If I am recognized I yield my time to the gentleman from North Carolina.

Objection was made.

Mr. HOOKER. I had hoped that this matter would have been passed upon without any reference to political considerations. It was simply a proposition of the gentleman from Wisconsin to amend this appropriation bill in this respect and to abolish the southern claims commission. I do not think it would have been proper for the committee or the House to have accepted the proposition of the gentleman from Wisconsin unless accompanied by the amendment which has been offered by my friend from Tennessee, but with that amendment ingrafted upon the proposition it commends itself to my judgment and is, I think, the course which the House should pursue.

It will be remembered, Mr. Chairman, that when this bill was passed it was discussed in the Senate. It came originally from the Committee of Claims in this House in 1871, and was reported by Mr. Washburn, of Massachusetts, and he then stated that it had received the deliberate consideration of the Court of Claims and that they believed such a commission ought to exist.

It did not pass as it was reported from the Committee of Claims; but afterward it was elaborately discussed in the Senate, and it was said by the late Senator from Indiana, (Mr. Morton,) in the discussion of the question, that it was a strange proposition to create one tribunal in which you were to have an adjudication on claims of loyal men of the South and another tribunal to adjudicate on the claims of loyal men from the North. Hence he and several other Senators who acted with him were opposed to the bill as it passed; but it passed the Senate by a large vote, and afterward passed the House. It did, however, create a tribunal utterly unknown to the law of any civilized country.

It created a nondescript tribunal clothed with powers and authority to do that which no court of justice had ever done in any country before, to take *ex parte* testimony by its own private agents, call them what you will, but sent out by the authority of the commission, and, according to the statement made by the gentleman from Ohio, [Mr. KEIFER,] generally sent out in the interest of the Government as against the claims of the claimants. It was on such reports to a large extent that the adjudications of this tribunal have been predicated. I agree, therefore, to the proposition that this tribunal ought to be wiped out of existence, and I had hoped that it would have commended itself to my distinguished friend from Tennessee, the chairman of the Committee on Appropriations, and that he, always so careful to protect the revenues of the country, when there is a tribunal already established to attend to such claims, would have been willing to save the $27,220 necessary to keep in existence this tribunal and leave it to the Court of Claims to discharge these duties.

If the present incumbents of the Court of Claims are not capable of deciding these cases, then let men capable of deciding them be put in their places. But sweep from the law the anomaly of a court which can take evidence upon one side of a case without notice to the other side. I think, however, it would be an act of great injustice to abolish this tribunal and not provide that suits already pending with the evidence taken shall be transferred to the Court of Claims.

Mr. HARRIS, of Virginia. Let me suggest to the gentleman from Mississippi [Mr. HOOKER] that this commission has arbitrary rules of evidence, and if the evidence were transferred to the Court of Claims it would not be received there. The evidence would have to be taken *de novo*.

Mr. HOOKER. Well, I think that would be justice.

[Here the hammer fell.]

Mr. HENDERSON. I do not desire to discuss this question at all, but I have for three or four years, and during my service in this House, heard the declaration made upon this floor that there were no loyal men in the South during the late war.

I wish to say here, Mr. Chairman, now, that it was my fortune during a portion of the war to serve in the South, and especially in my own native State, and I know, sir, that there were no more loyal people in the United States of America than were the great body of the people of East Tennessee during the late war. I myself, sir, served for more than a year during the late war with several Tennessee regiments, as loyal regiments, as brave and gallant regiments as ever followed our flag, and I know that there were no men ever more devoted to the American flag and the American Union than those soldiers of my native State with whom I served.

I have sat here and heard these remarks from time to time that there was no loyalty in the South during the late war, no devotion to the Union, until I feel that it would be an act of injustice for me longer to remain silent when I hear these remarks made. Sir, I have always believed and shall believe it to my dying day that the State of Tennessee was absolutely forced out of the Union against the sentiments of a great majority of its people at the time it went out.

Mr. BRAGG. Will the gentleman allow me to ask him a question?

Mr. HENDERSON. I have but a moment and cannot yield. I am opposed and have been opposed and will go as far as any gentleman upon this floor in opposing the allowance of claims to those who were disloyal to the Government of their country; but I say that until we put a stop to the allowance of all claims of whatever description I am opposed to any discrimination between the loyal people of the South and the loyal people of the North; and, if anything, I would give the preference to the soldier or the claimant of the South who, as the gentleman from North Carolina says, maintained his Unionism when it was almost at the peril of life that he did it.

Now, sir, I believe this, that perhaps there ought to be some limitation and some restriction made in regard to this subject of claims, but surely there should be no distinction between the men of the South who were loyal to the Union and the men of the North who were loyal to the Union in the presentation and allowance of their claims by Congress.

[Here the hammer fell.]

Mr. ATKINS. I now call for a vote.

The CHAIRMAN. The question is upon the substitute offered by the gentleman from Tennessee, [Mr. YOUNG,] which will be read.

The Clerk read as follows:

That the causes now pending before the southern claims commission be, and the same are hereby, transferred to the Court of Claims, there to be determined by the principles of law and equity governing the decision of cases now before it; and that the southern claims commission be, and the same is hereby, abolished.

Mr. WHITE. I make the point of order against that amendment.

The CHAIRMAN. The gentleman cannot raise a point of order against an amendment after it has been discussed for an hour.

Mr. WHITE. Very well; it changes existing law in regard to rules of evidence.

Mr. GARFIELD. The substitute offered by the gentleman from Tennessee [Mr. YOUNG] is objectionable for one reason which I have not heard referred to in this debate, and which gentlemen should consider before they vote upon it.

The southern claims commission, strictly speaking, is not a court at all; it is a commission appointed to aid Congress in determining what claims of a certain class it will pay. It has no judicial functions except to administer oaths, take testimony, examine claims, and report to Congress the facts found. It acts under a special statute which prescribes the class of cases to be examined, and it rejects all claims unless satisfactory proof of the loyalty of the claimant is offered.

Not so with the Court of Claims. That is a regular court of the United States. Its causes may be appealed to the Supreme Court of the United States. It has been again and again decided by the Supreme Court that a pardon annihilates the distinction in law between loyalty and disloyalty. Therefore, as nearly all persons have been pardoned, either by general proclamation or by special acts of Congress, ninety-nine one-hundredths of all the claims which have been before the southern claims commission, if sent to the Court of Claims under this amendment, will go there needing no proof whatever of loyalty.

Therefore the proposed amendment substantially abolishes all distinction hitherto made in our laws, that claims arising out of the war shall not be paid except to persons loyal to the Government during the war. This fact should be fatal to the amendment offered by the gentleman from Tennessee, [Mr. YOUNG.] If we pass it, let us do so with our eyes open to the fact it sends all these claims, eight thousand in number, still pending before the southern claims commission, to a court where, under its rules, which according to this amendment are to prevail, the distinction of loyalty and disloyalty cannot be maintained, and we shall be called upon to pay a new class of claims for large amounts hitherto entirely unknown to our law.

Mr. BRAGG. Will the gentleman let me ask him a question?

Mr. GARFIELD. Certainly.

Mr. BRAGG. Do not the laws of war, as well as the law of nations, hold that every man who lives in an insurrectionary district is an enemy, and that no liability exists for any of the property taken from him, used, destroyed or anything of that kind, by the conquering power?

Mr. GARFIELD. But that will not avail my friend from Wisconsin [Mr. BRAGG] in this matter. It is proposed in the pending amendment to confer upon the Court of Claims jurisdiction over these claims, according to their rules for treating claims in accordance with the laws governing the class of claims which now go to that court. This amendment abolishes, by statute, the rule of law of which the gentleman speaks.

Mr. BRAGG. Another question.

Mr. GARFIELD. Very well.

Mr. BRAGG. When these claims come before the Court of Claims they are to be determined according to law. And is not the law such that no disloyal claimant can recover in that court or any other? And is not that the reason which led the republican party to establish this commission?

Mr. GARFIELD. I answer the gentleman that by repeated decisions of the Court of Claims and of the Supreme Court of the United States they have affirmed that the pardon of a claimant removes not only his political but his legal disabilities, and thus for the purpose of presenting a claim there is no distinction in that court between loyalty and disloyalty.

[Here the hammer fell.]

Mr. GARFIELD. Will some gentleman allow me a few minutes of his time?

Mr. HAWLEY. If I may be allowed to do so I will yield the gentleman my time.

Mr. ATKINS. I cannot consent to that; it has been denied to so many others that I must insist upon a strict enforcement of the rule.

Mr. GARFIELD. I do not ask anything that has been denied to others.

Mr. ATKINS. Has not debate closed upon the pending amendment?

The CHAIRMAN. It has.

Mr. BRAGG. I move to strike out the last word of the amendment of the gentleman from Tennessee, [Mr. YOUNG.] It has been said here that the "gentleman from Wisconsin" had a purpose, and the gentleman from Indiana [Mr. BAKER] did not know what that purpose was. I can tell him. My purpose is to prevent this Government from paying any debts that it is not legally liable to pay. That is my first purpose. My second purpose is to prevent gentlemen on the other side, who advocate loyalty upon the floor of this House, from issuing campaign documents and calling us confederates who are attempting to rob the Government, and denouncing me as the coadjutor of the South distributing "taffy" to the South. I want these gentlemen to face the music. They have hidden themselves long enough behind the shadow of "loyalty." Loyalty! Were a large majority of the people of Tennessee loyal? Then why, in God's name, did that State go out of the Union, costing us more blood and treasure to restore it to its place than any other State except Virginia? If the loyalty of the people of Tennessee allowed that State to give us so much resistance and trouble it is a proper punishment to them that we make the laws of nations applicable to them. The people with whom you live are the people by whom you are to be judged. Was North Carolina loyal? When did the gentleman from that State [Mr. RUSSELL] learn about those gallant, "loyal" people of North Carolina. Serving himself in the confederate army, I am not surprised that, coming from a State where, under carpet-bag rule, a confederate captain could leave the army to go to the Legislature and from thence graduate a republican judge without ever having been an inmate of a law office, to him the rules of law and evidence adopted by the court of commissioners of claims seem wise and fitting and meet with favor. [Laughter and applause.]

Now, Mr. Chairman, that there may be no mistake about the law, I desire to read in answer to the shift that is given to this matter by the gentleman from Ohio [Mr. GARFIELD] what the Supreme Court has said upon this identical question; and while I agree with him that the substitute ought not to be adopted, I maintain that the abolition of this court disposes of these cases. The Supreme Court of the United States has applied the rule that whether a man is an enemy or not is determined by the community in which he lives. They say:

> But this court cannot inquire into the personal character and disposition of individual inhabitants of enemy territory. We must be governed by the principles of public law so often announced from the bench as applicable alike to civil and international law; that all people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and the executive, or otherwise, that relation is thoroughly and permanently changed.

Now, I say that for the purposes of the application of the principle of international law every one of these men that you are talking about was an enemy. No one of them has any legal claim against the Government, and when we commence opening the doors of the Treasury to them we do it as a matter of gratuity, and we ask these men who lost their all in that cause to vote to tax themselves to pay men who were disloyal to them as well as disloyal to us—men with whom it was "good Lord and good devil," depending upon the flag that floated in front of the place where they were living during the war. [Laughter and applause.] You ask that the burdens of people already overburdened with taxation, people groaning under the payment of taxes raised for the purpose of meeting the honest and legitimate demands of the Government, shall be increased in violation of international law.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, the general doctrine of belligerency in a territorial war is of course understood by everybody as including technically as enemies all of the inhabitants of the hostile territory. That general doctrine is recognized by lawyers everywhere. But nobody, so far as I know, unless it be the gentleman from Wisconsin, has ever denied that, during our late war and since, the Supreme Court has repeatedly determined that the question of loyalty could not be raised against a claimant if a pardon had been granted him by the President or Congress; that by a pardon disloyalty is wiped out, so far as his legal rights before the court are concerned. This is an answer to all that has been said on that point.

The gentleman from Wisconsin [Mr. BRAGG] agrees with me that the amendment of the gentleman from Tennessee [Mr. YOUNG] ought not to be adopted. He thinks, however, that the southern claims commission ought to be abolished, because he thinks it was a mistake from the first to pay any loyal claims from the South. On that point I take issue with him; and I wish to refer to some official statistics which I prepared at the last session, in view of a statement then made and now repeated in this debate. It was said by the gentleman from Louisiana [Mr. ELLIS] that 99 per cent. of all the people of the seceded States were disloyal, in our sense of that word; that almost every Southern man who amounted to anything belonged to that category. I desire to traverse that proposition by some facts. Leaving out of view all the border States, do gentlemen know that there were from the States that went into seeession and rebellion military organizations amounting to fifty regiments and seven companies of white men who were regularly mustered into our Army and who fought bravely under our flag? I have the official record in my hand. Passing to the border Southern States, which did not secede, but whose people were divided, do gentlemen know that in the State of Kentucky alone more white soldiers fought under our flag than Napoleon took into the battle of Waterloo, more than all the allied armies which Wellington commanded at that battle? Do they not know that Missouri furnished one hundred and eighteen regiments of white soldiers to the Union Army; that the Southern States furnished one hundred and eighty-six thousand colored troops to the Union Army, and that of these ninety thousand were from the States which seceded, twenty thousand coming from the State of Kentucky?

Mr. BRAGG. Did Kentucky go into the rebellion?

Mr. GARFIELD. No, I excluded Kentucky. I say that from the States that seceded and went into the rebellion 50,700 white soldiers fought in our ranks and under our flag. And this statement does not include the thousands of individual men who came into our lines, and joined northern regiments. To say that these men were enemies and had no legal rights, and that the Government should not pay them or their families all proper claims for supplies and other property taken from them by the Government they were defending is a proposition I had hoped no man on either side of this House

would make; and I am glad to know that the gentlemen who fought against us in the field do not make it. Not one of them has yet indorsed it. It remains for one of our own soldiers, the gentleman from Wisconsin, [Mr. BRAGG,] to say that there ought to be nothing paid to any man, however loyal, if he came from the South. I am sure that even this House, consisting so largely of confederate soldiers, will denounce this proposition as in the highest degree inequitable and unjust. Let the southern claims commission continue until it has acted on the cases now before it, and then let us muster it out, for the cases not already presented are barred by the statute of limitation. Let us not enlarge the claim business, but let us complete it; and most of all, let us not so change the law as to abolish the distinction between loyal and disloyal claims, making the latter payable, which the law has never done.

[Here the hammer fell.]

Mr. TAYLOR. I move to strike out the last word. I feel it to be my duty, Mr. Chairman, to the constituency which I represent in this House to rise in their defense. I represent a constituency which were as true to the Union and as true to the flag as the constituency of the gentleman from Wisconsin; and if he means to intimate that the people of East Tennessee were not loyal to the flag, but were enemies to the Government, then in the name of the thirty thousand soldiers who fought under the Union flag from East Tennessee, in the good name of the people I represent, I hurl it back in his teeth. [Applause on the republican side of the House.]

Mr. WARNER. Mr. Chairman, the remarkable statement has been made that fifty thousand men from States other than border States of the South joined the Union Army during the late war. Upon what data such an extraordinary statement is based I am at a loss to know. Permit me to say, for one I do not believe it. I know something about some enlistments toward the close of the war of deserters from the rebel army and stragglers from the Morgan raid who came into our lines and some of whom joined our camp and received support in that way, but that they ever fired a shot or helped to fight a battle I do not believe. The idea that fifty thousand white Union men from the South beyond the border States joined Union regiments to fight in the Union cause is preposterous. It is something not heard of during the war. It is very singular that, after having tried to make political capital for four years out of these southern claims, that side of the House should now appear solid in support of continuing this commission and paying claims which they have declared to be raids upon the Treasury. If this commission is kept up a hundred years, at the end of that time we would be no nearer an equitable adjustment of the wrongs of the war than now. We might as well attempt to restore old Lisbon to its place beside the sea, as it was before the earthquake shook it down, as to restore things in this country as they were before the war. We cannot call back the dead and we cannot restore lost property, and we cannot prevent the suffering that has already taken place, and there is no use in attempting it. The sooner it is all forgotten the better, and the sooner the southern claims commission is ended and it is understood this Government is to pay no more of such claims the better it will be for the whole country.

Mr. SPRINGER. I move to amend the substitute by adding the following:

Provided, That the cases thus transferred to the Court of Claims shall be subject to the same defense by the Government which could have been made if pending in said commission.

Mr. YOUNG, of Tennessee. If that does not carry with it this *ex parte* testimony taken before the Court of Claims I will not object to it.

Mr. SPRINGER. Not at all. My object is to meet the objection raised by the gentleman from Ohio, [Mr. GARFIELD,] who stated that in the Court of Claims it would not be competent for the Government to object to any claim on the ground of disloyalty of the claimant, while in the southern claims commission it would. For the purpose of meeting this objection I have offered this amendment which provides that the same defense may be made in all these cases transferred to the Court of Claims which could have been made in the southern claims commission. If this amendment is adopted that objection will be removed.

Mr. ATKINS. Mr. Chairman, I feel it is my duty to state to this House that I think it would be a very great wrong to these three thousand claimants who have now prepared their cases and have paid $100,000 to be ready for a hearing—I think it would be unjust to them to take all of these cases and dump them into another court, and one, too, which the gentleman from Mississippi himself says does not decide more than fifty or sixty cases a year. I am not here to speak for loyal claimants specially. I have no constituents that I know of who are presenting claims before this commission; at least I do not know of any. I am not aware of any instance of a constituent of mine who is making an application for relief before the southern claims commission. It is not for constituents; it is not for that I am speaking; I am speaking as a matter of justice for men who have spent their money, I care not where they reside, under a law of Congress to get their cases prepared, who have already got them prepared for decision by this commission, and now to strike them down through political or sectional or any other kind of prejudice, it seems to me is going beyond the duty of the House.

I trust, Mr. Chairman, that this commission may be allowed to go on and close up this business. Here are three thousand cases that ought to be decided. Something ought to be done with them. What are you going to do with them? If you put them before the Court of Claims it is altogether probable they will not be decided by that court for five years to come.

Gentlemen say, "Let them go; do nothing with them." Is that fair? Is it just? If these men had never begun their cases, then it might perhaps have done to make that argument; but since they have spent their money to prepare their cases, it seems to me an act of injustice to prevent the decision of them. These cases have been prepared under a law of Congress, to be tried before a commission created by Congress, and it seems to be only just to allow the commission to finish its work.

Mr. MANNING. Will the gentleman yield to me for a moment?

Mr. ATKINS. Yes, sir.

Mr. MANNING. The gentleman said that I had remarked that the Court of Claims do not decide more than fifty or sixty cases in a year. I did say that the Court of Claims do not decide more than fifty or sixty cases; but the gentleman forgot that the court was only about two months out of the twelve engaged in that work. I do not mean to say the court could not do a great deal more work than that; therefore the statement of the gentleman that the cases could not be disposed of by that court if, to use his language, they were dumped into it, goes for naught, for it can do six times more work than it does.

Mr. ATKINS. According to the gentleman's own argument it is an inefficient court. I have made no charge against the Court of Claims, but the gentleman from Mississippi does make a charge of inefficiency against that court; and, granting the gentleman's charge is correct, I say these three thousand claimants never would have any chance to get their cases decided in a court that only decided fifty or sixty cases in a year.

Many MEMBERS. Vote! Vote!

The CHAIRMAN. The question is first on the amendment of the gentleman from Illinois [Mr. SPRINGER] to the substitute of the gentleman from Tennessee [Mr. YOUNG] for the amendment of the gentleman from Wisconsin, [Mr. BRAGG.] The Clerk will report the amendment of the gentleman from Illinois.

The Clerk read as follows:

Amend the substitute by adding thereto the following:

Provided, That the cases thus transferred to the Court of Claims shall be subject to the same defense by the Government that could have been made if pending in said commission.

The question being put, there were—ayes 45, noes 82.

So (further count not being called for) the amendment was not agreed to.

The CHAIRMAN. The question recurs on the substitute offered by the gentleman from Tennessee, [Mr. YOUNG,] which the Clerk will report.

The Clerk read as follows:

That the causes now pending before the southern claims commission be, and the same are hereby, transferred to the Court of Claims, there to be determined by the principles of law and equity governing the decision of causes now before it; and that the southern claims commission be, and the same is hereby, abolished.

The question being put, there were—ayes 53, noes 107.

So the substitute was not agreed to.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Wisconsin.

Mr. YOUNG, of Tennessee. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend the amendment as follows:

That claimants who have claims pending before the southern claims commission which have not been finally disposed of shall be authorized to bring suit therefor in the Court of Claims, under the rules and according to the course of proceedings in said court, at any time within one year from the passage of this act.

Mr. HARRIS, of Virginia. I make the point of order that this amendment changes existing law and is not in the interest of economy.

Mr. YOUNG, of Tennessee. If the gentleman will hear me, I think I can convince him that it is.

The CHAIRMAN. The Chair will hear the gentlemen on the point of order.

Mr. YOUNG, of Tennessee. Mr. Chairman, I desire to make some remarks about the amendment and let the Chair decide the point of order after I have done so.

It seems to me that if all or half that has been stated by the gentleman from Wisconsin, the gentleman from Ohio, and the gentleman from Indiana, is true, the amendment of the gentleman from Wisconsin is eminently proper. It has been stated by these gentlemen, and it is the fact, that this southern claims commission have been constantly in the habit of determining the validity of claims on testimony taken *ex parte*. It is charged by the gentleman from Wisconsin, I do not know with what truth, that this machinery has been used for political purposes; that the commission have decided in favor of this man or that man according to the party he belongs to, violating every rule of evidence and subverting every principle of law. That portion of the statement I subscribe to. There is no question but that in a great many cases these gentlemen have utterly ignored every consideration of law and every rule of evidence known to any court of justice in the civilized world.

Now, if it be true—and it cannot be questioned, for it has been ad-

mitted time and again by gentlemen on the floor—that the commission have decided cases pending before them upon testimony taken without notice to the plaintiff at all. Such a custom is a reproach to the administration of justice, and any court which has been guilty of such a subversion of law ought at once to be abolished. But I hold, sir, that there should be some remedy and some tribunal provided for men who have been unjustly dealt with by that commission, so that where cases have been determined improperly, in violation of law, they can have an opportunity of appearing before some other tribunal where justice can be done. I have heard in the course of this debate some singular legal propositions stated.

Mr. ATKINS. I rise to a question of order.

Mr. YOUNG, of Tennessee. I do not yield to my colleague.

Mr. ATKINS. I rise to the point of order that my colleague must confine himself to the point of order.

Mr. YOUNG, of Tennessee. It is for the Chair to determine the point of order, and not for my colleague.

Mr. ATKINS. I have the right to rise and make the point of order on my colleague.

Mr. YOUNG, of Tennessee. But you have no right to decide it, though I know that the Committee on Appropriations, and especially its chairman, can do almost anything in this House.

Mr. ATKINS. And so can the committee of my colleague.

The CHAIRMAN. The point of order is well taken; the gentleman from Tennessee will confine himself to the point of order.

Mr. YOUNG, of Tennessee. Then I will not argue the case any further, if it is already decided against me.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Virginia, [Mr. HARRIS.] The question recurs on the amendment of the gentleman from Wisconsin, [Mr. BRAGG.]

Mr. HOOKER. I offer the amendment to the amendment of the gentleman from Wisconsin which I send to the desk.

The Clerk read as follows:

Amend by adding the following:

Provided, That all causes now pending in said commission be, and are hereby, transferred to the district courts of the United States in the respective districts where the plaintiffs or claimants in said pending causes reside, which court shall proceed to try and adjudicate said causes.

Mr. HARRIS, of Virginia. I make the point of order upon that amendment.

Mr. HOOKER. What is the point of order?

Mr. HARRIS, of Virginia. The amendment changes existing law, and is not in the line of retrenchment.

Mr. HOOKER. I would remark that the amendment of the gentleman from Wisconsin [Mr. BRAGG] proposes to strike out the sections of the law, and it has not been objected to that it changes existing law. Now, the amendment which I offer to the amendment of the gentleman from Wisconsin [Mr. BRAGG] does not change existing law any more than the amendment itself does. It simply proposes to have a tribunal clothed with authority to pass upon these claims, and I think it should not be the Court of Claims, but that the authority should be vested in the district and circuit courts of the United States and that the suit should be instituted there rather than in a court which is remote from the residences of the parties and witnesses.

The CHAIRMAN. The Chair does not undertake to answer the question as to whether the amendment of the gentleman from Wisconsin [Mr. BRAGG] is obnoxious to the point of order. No such point of order was made, but the Chair is compelled to sustain the point of order made by the gentleman from Virginia [Mr. HARRIS] on the amendment of the gentleman from Mississippi.

The question was taken on Mr. BRAGG's amendment; and on a division there were—ayes 55, noes 98.

Mr. STEVENSON, Mr. SPRINGER, and others called for tellers.

Tellers were ordered, (thirty-one members voting therefor, being more than one-fifth of a quorum;) and Mr. BRAGG and Mr. ATKINS were appointed.

The committee again divided; and the tellers reported—ayes 65, noes 112.

So the amendment was not agreed to.

Mr. HOOKER. I offer the following amendment:

Strike out the following:

For compensation of three investigating agents, at $6 per day when actually employed; also traveling expenses of agents.

Mr. WARNER. Is it in order for me to give notice that I shall call for the yeas and nays on the amendment of the gentleman from Wisconsin [Mr. BRAGG] in the House?

The CHAIRMAN. The Chair would state that the gentleman has not that right.

Mr. TOWNSHEND, of Illinois. He has that right unless objection be made.

The CHAIRMAN. There can be no such right, as the amendment never goes to the House.

Mr. TOWNSHEND, of Illinois. It can by unanimous consent.

The CHAIRMAN. It is not in the power of the committee to report an amendment to the House after it has been defeated in the committee.

Mr. SPRINGER. But it may be moved in the House.

The CHAIRMAN. Of course any member in the House will have a right to move an amendment provided he is not cut off by the previous question.

Mr. KEIFER. I make a point of order upon that amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. KEIFER. My point of order is that the amendment changes existing law.

Mr. CLYMER. It reduces expenditures.

Mr. KEIFER. It may reduce expenditures.

The CHAIRMAN. The Chair does not hesitate to overrule the point of order made by the gentleman from Ohio, [Mr. KEIFER,] for even if the amendment were obnoxious to that charge it certainly is germane.

Mr. HOOKER. I offer this amendment for the purpose of striking out that appropriating provision which proposes compensation for the secret agents of this commission who are sent out to take *ex parte* testimony in cases pending before it. They ought never to have been vested with the power to take evidence, except that power which pertains to all legal tribunals. They ought to have been required to conform to all the rules of law, and in answer to what has been said by the gentleman from Ohio [Mr. GARFIELD] with reference to the adjudication by the Supreme Court of the United States and the Court of Claims, who have decided in conformity with law that where a pardon has once been given, whether general in its character or special in its nature, it restores the party to the attitude in which he stood. These commissioners acted specially under the law of 1871, which required primarily that before the party could have his standing in court he should establish his loyalty in order to be able to make his claim against the Government.

The CHAIRMAN. The Chair wishes to call the attention of the gentleman from Mississippi to the fact that that portion of the text of the bill to which the gentleman offers his amendment has already been stricken out by the adoption of the amendment offered by the gentleman from Tennessee [Mr. YOUNG] on the day before yesterday.

Mr. HOOKER. If that is so I withdraw the amendment.

Mr. SPRINGER. How many lines of the bill were stricken out?

The CHAIRMAN. The Clerk will report the amendment hitherto adopted as offered by the gentleman from Tennessee, [Mr. YOUNG.]

The Clerk read as follows:

For compensation of six investigating agents at $5 per day, when actually employed; also traveling expenses of agents, fees and mileage to Government witnesses, cost of summoning Government witnesses, fees to commissioners for taking testimony, fees for abstracts and exemplifications of public records relating to claims and claimants, $6,000: *Provided*, That said agents shall give notice to claimants whose claims it is proposed to investigate of the time and place of taking testimony, who shall have the right to cross-examine every witness who may testify in behalf of the Government, and said agents shall also take, at the same time, the testimony of any and all witnesses who may be presented by the claimant, on his paying the expenses thereof; and all such testimony, both in behalf of the claimant and the Government, shall be taken under the laws and rules which usually govern the taking of testimony; and the judges of the southern claims commission shall prescribe and publish rules for the taking of the testimony, and shall provide in all cases for full and fair notice to be given of the time and place thereof.

Mr. HOOKER. That amendment accomplishes most that I desire to attain, though I would go further and wipe out all these agents entirely. I withdraw my amendment.

Mr. SPRINGER. I offer the amendment which I send to the Clerk's desk.

The Clerk read the amendment, as follows:

Strike out from line 2065 to line 2085, both inclusive, (the three paragraphs relating to the southern claims commission,) and insert in lieu thereof the following:

That any person who may have a claim against the United States of which the Court of Claims would not now have jurisdiction, but founded upon equity and justice, and not barred by any statute of limitations provided by any law of the United States, may file his bill in the Court of Claims of the United States, setting out the grounds of his claim and the relief desired by him; and the Attorney-General of the United States shall appear and plead thereto as provided for in other cases.

Any issue of fact joined upon such bill may be tried by the court as now provided for cases of which it has jurisdiction.

The court shall find the facts appearing from the testimony before them in each case, and shall report their findings to Congress, with their opinion as to the determination that should be made of such claim.

Congress shall not consider nor allow nor authorize the payment of any private claim not payable under existing laws until the same has been heard and reported to Congress by said Court of Claims, as herein provided.

All claims against the United States provided for by this act not prosecuted within six years from the passage of this section, or of the time when the same severally accrued, shall be barred, except that when the claimants are under legal disability to sue, the action must be brought within said six years, or within three years after such disability shall cease.

All acts and parts of acts establishing the southern claims commission, and all acts amendatory thereof, are hereby repealed. And all records, books, and papers of said commission, and cases pending therein, shall be transferred to the Court of Claims, to be disposed of by that court as other cases.

Mr. KEIFER. I raise the point of order on that amendment, that it changes existing law and does not retrench expenditures.

Mr. SPRINGER. I desire to be heard upon that point of order.

Mr. PRICE. And I wish to reserve the right to make another point of order after that one has been disposed of.

Mr. SPRINGER. This proposition abolishes entirely the southern claims commission. To that extent it does retrench expenditures, as the appropriation in the pending bill for that commission amounts to some $27,000. It therefore retrenches expenditures to the extent of $27,000 in the pending bill. It also retrenches expenditures in that it abolishes the court absolutely, so that it cannot hereafter be a charge upon the Government.

It also provides that the claims referred to shall be heard in the Court of Claims, and that that court shall consider the facts and report their findings to Congress. Congress then may or may not make an appropriation to pay them.

I desire to state further that the proposition which I have moved, except the repealing clause, is exactly in the words of the bill known as the "Potter bill," which in the last Congress passed this House under a suspension of the rules by a very large majority. That bill was for the purpose of removing from this House all private claims against the Government until they had been first passed upon by the Court of Claims.

Mr. ATKINS. Does the amendment of the gentleman let in these cases already barred by this act?

Mr. KEIFER. Undoubtedly it does, every one of them.

Mr. SPRINGER. The gentleman is mistaken. It does not. I ask the Clerk to read the first clause of the amendment.

The Clerk read as follows:

That any person who may have a claim against the United States of which the Court of Claims would not now have jurisdiction, but founded upon equity and justice, and not barred by any statute of limitations provided by any law of the United States, &c.

Mr. KEIFER. The latter part of the amendment transfers all the cases to the Court of Claims, every one of them, whether barred or not.

Mr. SPRINGER. The cases pending in the southern claims commission would go there and be determined under the law that exists at the time. It is to be presumed that the cases now pending in the claims commission are such as that commission has jurisdiction to hear and determine. And only such as are now pending therein can be transferred to the Court of Claims under the amendment which I have proposed. I do not propose to repeal the statute of limitations as to any claim which is now barred.

Mr. KEIFER. I simply wish to press the point suggested by the gentleman from Tennessee, [Mr. ATKINS.] Another portion of this bill transfers to the Court of Claims for adjudication all the cases now pending before the southern claims commission.

As I have already stated to-day, if the southern claims commission is continued about five thousand of those cases will be barred; that is, if it is continued until they can make their report at the next session of Congress. So far no testimony has been taken in those five thousand cases; and the testimony not having been taken within the time allowed by law they are to be reported to the next Congress and thereafter barred. In about three thousand cases testimony has been taken and adjudication will be had.

Under this proposed amendment these five thousand cases which are now barred would be transferred to the Court of Claims without any limitation at all. That certainly changes existing law, and there is nothing in it to indicate that there would be any retrenchment, but upon the contrary it would revive a large number of claims which otherwise would be barred.

Mr. SPRINGER. What part of the amendment is it that gives jurisdiction over claims that the law does not now confer jurisdiction over and authorize the Court of Claims to try?

Mr. KEIFER. Under this amendment all claims would be referred to the Court of Claims.

The CHAIRMAN. The Chair is ready to rule upon the point of order. That the amendment would change existing law there is no doubt. The Chair does not think that anybody can tell what will be the effect of the amendment if agreed to in the way of retrenching expenditures. It certainly looks to the retrenchment of appropriations proposed by this bill to the extent of $27,000. The Chair prefers to submit the question to the judgment of the committee, deferring to its wisdom, and will not sustain the point of order. The Chair will now hear the point of order raised by the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. My point of order is that the amendment proposes to strike out what has already been inserted by the committee, and that under the rule that is not in order.

The CHAIRMAN. The Chair does not understand that the amendment proposes to strike out only that which has been inserted by the committee.

Mr. PRICE. The paragraph extending from lines 2075 to 2081 inclusive was struck out and a new paragraph substituted. This amendment of the gentleman from Illinois proposes to strike out what the Committee of the Whole has inserted, and is clearly not in order. I think the Chair will not hesitate in deciding that it is not in order to strike out what has been inserted by the Committee of the Whole.

The CHAIRMAN. The Chair recognizes the point made by the gentleman from Iowa, [Mr. PRICE.] But the amendment offered by the gentleman from Illinois proposes to strike out not only that which has been inserted by a vote of the committee, but two additional paragraphs, and this is in order. The question is on the amendment of the gentleman from Illinois.

Mr. SPRINGER. Mr. Chairman, as I have already said, this amendment, except the repealing clause at the end, is in precisely the same words as the bill known as the "Potter bill," which at the last session of Congress was passed by this House under a suspension of the rules by a very large majority. In addition to the provisions of that bill, I have inserted at the close a clause repealing the existing law authorizing the southern claims commission, and transferring all the records, books, and papers of that commission to the Court of Claims, together with the cases now pending before the commission, to be disposed of by the Court of Claims in the same manner as other cases. Under this amendment those cases will be disposed of under the law as it exists when the court gets possession of them. The amendment does not confer jurisdiction as to any case which is now barred by any statutes of limitations. Hence the amendment will not revive the right to prosecute any claim which is now barred; but every such claim will still be barred. It is simply provided that all claims, not only southern claims, but every kind of claim against the United States, shall not hereafter be brought to this House, shall not hereafter be brought to the southern claims commission, but shall in the first instance go to the Court of Claims, which shall consider all such cases and report its findings to Congress with its opinion as to the determination that should be made of such claims. The amendment will, therefore, transfer all private cases from this tribunal (for it is a tribunal when it considers claims against the Government of the United States)—it will transfer all private cases from Congress to the Court of Claims, a tribunal created for the purpose of investigating such cases, a tribunal where both sides can be heard according to the rules of evidence and of law.

Mr. Chairman, I am opposed to the determination of private claims in Congress. Of all tribunals under the sun for the adjudication of private claims, the Congress of the United States is the worst. It is unjust to the claimants, unjust to the Government, unjust to all the interests involved. I am opposed to allowing this body, which should be here for the purpose of considering general laws, to be engaged in considering little claims against the Government of the United States for losses sustained in the war or otherwise—claims which are considered and passed upon here upon *ex parte* testimony entirely. I prefer that claims of this kind should be barred entirely rather than that they should be longer considered by Congress. There were nearly ten thousand bills introduced in this House and the Senate during the last Congress. Nine-tenths of them were private bills, and not one bill in a hundred was ever reported upon by the committees. Will you longer trifle with claimants by offering them the Congress of the United States as the only tribunal where they may prosecute claims against the Government? To send an honest claim to Congress is practically a denial of justice to the claimant. Let us discontinue the unjust and demoralizing practice and send all claimants in the first instance to a court of competent jurisdiction. As for war claims, I am opposed to paying any more of them. But my amendment covers all claims against the Government, of whatever kind, nature, or description, except such as are now barred by law.

[Here the hammer fell.]

Mr. HUMPHREY. Mr. Chairman, it seems to me that the proposed amendment, by referring this class of cases to the Court of Claims or some other tribunal that is to report to Congress its findings upon the facts with its conclusions of law, would be one of the worst measures that could be placed upon our statute-books. Why, Mr. Chairman, if that court is simply to draw its conclusions of law and its conclusions of fact and then leave every question undecided, with a mere expression of opinion, throwing the whole determination of these cases upon Congress, what kind of a tribunal would such a court be? It would be perfectly idle to refer these cases to a court with no power to do anything beyond expressing an opinion. A court must act judicially upon the questions of law and of fact coming before it; and I ask whether it would be fair to any claimant to have his claim frittered away by any such process. The tribunal that analyzes the testimony, that deliberates upon the law, is the one that should decide the question, subject, if you please, to revision by any court that may be designated as a court of review. If I am wrong in my understanding of the amendment I ask the gentleman from Illinois to correct me. Am I wrong as to the provisions of this amendment?

Mr. SPRINGER. The gentleman is entirely wrong in regard to it.

Mr. HUMPHREY. Then, Mr. Chairman, I am glad I have mistaken the purport of the amendment. Does the gentleman mean to say that I am wrong in my statement as to the effect of the amendment?

Mr. SPRINGER. I understand the gentleman to be entirely wrong as to the merits of this question, and I understood him to be discussing the merits.

Mr. HUMPHREY. As I understand, the amendment provides that these cases shall go to the Court of Claims, who are to report their finding upon the facts and the law to Congress for final disposition. Am I correct?

Mr. SPRINGER. Let the amendment be read again, and then the gentleman may understand it better.

The amendment was again read.

[Here the hammer fell.]

Mr. HUMPHREY. I move to amend the amendment by striking out the last word. I find I am not mistaken as to the scope of this amendment. It is nearly the same, I believe, as the proposition called the "Potter bill," which I voted against at the last session. I have not misconstrued the amendment. It does empower the court to hear evidence and, if it is a question of damages, to take testimony and pass upon the amount of damages, find the facts and conclusions, and report those conclusions to Congress. I say it would be an anomaly to have a court perform that act of bringing its mind to bear upon legal questions of that character, and then send the judgment here to be finally disposed of.

Mr. BLOUNT. To make appropriations?

Mr. HUMPHREY. No, sir, not at all; but it simply provides that

it shall report its findings to Congress. I say there is no provision in that act which allows the Court of Claims to pronounce judgment in any case, but it simply allows it to find the facts and draw its conclusions and report those conclusions to Congress. That is the whole scope of it.

Mr. BRAGG. Will the gentleman allow me to ask him a question?

Mr. HUMPHREY. Certainly.

Mr. BRAGG. Is not the same provision authorizing the commission to report to Congress in the very law which the gentleman has voted to keep in existence?

Mr. HUMPHREY. No; that was a commission. The court passes upon the cases under the law as it now is, and the result is simply reported to Congress for appropriation.

Mr. BRAGG. No, sir; it has to be reported and acted upon in Congress. They have to approve of it.

Mr. HUMPHREY. Do they not pronounce their judgment subject to the action of Congress to make appropriations?

Mr. BRAGG. It is referred to Congress, and by Congress referred to the appropriate committee, and Congress may alter the finding. They may change it in any particular. They may report adversely to the entire finding.

Mr. HUMPHREY. The very fault I have found is, that while it allows this Congress to review their action and modify or reverse the judgment of the Court of Claims under the law as it is now this does not allow that court to make any judgment, but simply to give an opinion and bring it to Congress.

Mr. SPRINGER. What is the difference between reporting findings as their judgment or giving their opinion to Congress—reporting to Congress the opinion they have formed, for example, that the Government owes A B a specific sum of money?

Mr. HUMPHREY. Why, the difference is this: when you have a court to render final judgment to be referred to this House for an appropriation, that is well enough; but when you have a commission or a court created to examine evidence, to compel that court, instead of passing judgment to refer it here to undergo review by Congress—I say if you do not allow that court to pronounce the conclusion to which it has come upon the facts and evidence before it, if you do not allow that judgment to be entered up, why then I would just as lief, if I had a claim, have it referred for judgment to the Fejee Islanders as to submit it in any such way. I say such a law and such a proceeding would be a disgrace to this Republic. This amendment should not be allowed to pass as it has been offered, and I will move as an amendment at the close of my remarks, if this is likely to pass into a law, that the Court of Claims shall pass judgment giving their conclusion on the law and facts——

Mr. BRAGG. Will my colleague allow me to read the law as it now is?

Mr. HUMPHREY. Certainly.

Mr. BRAGG. I will read, then, the law as it now is:

> And on satisfactory evidence of the justice and validity of any claim the commission shall report their opinion in writing in each case, and shall certify the entire amount and value of property taken or used as aforesaid.

That is all the claims commission has a right to do; they render no judgment at all. But yet my colleague, with all his objection to that form of proceeding, has just voted to retain it in the law.

Mr. HUMPHREY. I say that it is subject to the review of Congress to the extent of the appropriation to be made by Congress to carry it out, but the amendment does not allow them to give judgment as to the facts.

[Here the hammer fell.]

Mr. SPRINGER. I rise, Mr. Chairman, to oppose the amendment. The amendment I have offered so far as it relates to the findings of the court is nearly in the same words of the present law governing the claims commission.

Mr. HUMPHREY. Not quite.

Mr. SPRINGER. It is nearly in the same terms with the law which has been read by the gentleman from Wisconsin. He will please read that section of the statutes again, and we will see how nearly these two provisions are in the same words. I think it will appear that my friend from Wisconsin on the other side has been trying to draw a distinction without a difference.

Mr. BRAGG. I read the language of the statute:

> And upon satisfactory evidence of the justice and validity of any claim, the commissioners shall report their opinion in writing in each case, and shall certify the nature, amount, and value of the property taken, furnished, or used as aforesaid.

Mr. SPRINGER. And in the proposition I have offered, the words are these:

> The court shall find the facts appearing from the testimony before them in each case, and shall report their findings to Congress with their opinion as to the determination that should be made of such claim.

Now, Mr. Chairman, if there is any difference under the sun between these two provisions, then I confess I cannot see it. The gentleman from Wisconsin [Mr. HUMPHREY] may see it; but I am sure the practice will be hereafter precisely the same in both cases.

Mr. YOUNG, of Tennessee, and Mr. REED rose.

Mr. ATKINS. I demand a vote.

Mr. YOUNG, of Tennessee. I desire to offer an amendment.

The CHAIRMAN. It is not in order. An amendment to the amendment is already pending.

Mr. CONGER. Is there more than one amendment pending?

The CHAIRMAN. The question is on the amendment of the gentleman from Wisconsin [Mr. HUMPHREY] to strike out the last word.

Mr. HUMPHREY. I withdraw it.

Mr. YOUNG, of Tennessee. I desire to offer an amendment.

Mr. CONGER. I understand that the practice with the Chair is to recognize the two sides alternately. Somebody should be recognized on this side, at least to-morrow or next day.

Mr. YOUNG, of Tennessee. The gentleman from Michigan never has an opportunity to talk, and therefore I yield to him.

Mr. REED. It is not the gentleman from Michigan who claims the floor.

Mr. YOUNG, of Tennessee. I do not yield to the gentleman from Maine. If the gentleman from Michigan does not avail himself of the privilege of the floor, I shall occupy it myself.

Mr. REED. The gentleman from Michigan has not asked the floor for himself, but for me.

Mr. YOUNG, of Tennessee. Then I yield to the good-natured gentleman from Maine.

Mr. REED. Now, I suggest to the gentleman from Illinois [Mr. SPRINGER] that his amendment does not get rid of the immense difficulty he found himself struggling with when he offered it, that this thing must come finally for adjudication before a tremendously wicked tribunal, that does not do anybody justice. I do not know if Congress be open to that objection, but probably the gentleman's experience on election committees has given him that idea.

I would suggest to the gentleman from Illinois that his amendment does not meet the objection so ably urged by the chairman of the Committee on Appropriations, to wit, that there is an immense mass of testimony that has been collected under the advice and by invitation of a law of Congress. I do not understand that the gentleman's amendment provides that that testimony can be used in the Court of Claims. In my judgment, the whole wording of the bill, taken together, will prevent that testimony being used, and hence gross injustice is to be done to a class of claimants.

Then, again, another objection, which seems to me to be very serious, is that this whole matter is to be taken from a commission which has had a great deal of experience in these matters and is amply qualified to give advice to Congress; for that, after all, is all that the commission or the Court of Claims under this amendment can do. I sincerely hope the matter will stand as it does now. Let this batch of business be cleared off and let the whole thing end. There is nothing binding on gentlemen who voted for this as an original bill. When it now comes in as an amendment it is an entirely different proposition, and one which, in my judgment, trifles with the subject instead of fairly and squarely meeting it. The sole object is to get some partisan advantage by pretending that one side or the other is in favor of southern claims. By southern claims are meant, in popular estimation, southern disloyal claims, which are barred not only by statute but by the practice of this House and the practice of civilized nations all over the world.

But this is an act of the American Congress in favor of its loyal citizens, and it should be maintained, inasmuch as we have entered upon it, no matter what anybody might think *a priori*, and it should be maintained and carried out in its integrity. The gentlemen forming the majority of the Committee on Appropriations might probably have been against it originally, but they now support it on account of its fairness as it stands under all the circumstances; and I think the chairman of the Committee on Appropriations has presented as strong reasons why this amendment should be rejected as he has why the other amendment which was rejected should be.

Mr. YOUNG, of Tennessee. I move to amend the amendment of the gentleman from Illinois [Mr. SPRINGER] by striking out these words:

> And not barred by any statute of limitations provided by any law of the United States.

I desire to be heard on the amendment I have offered. When that bill was before Congress formerly I took occasion to examine it, and I found it was a very cunningly-worded instrument indeed. Upon its face it is exceedingly fair. Its practical application, however, would be to exclude every claim now pending before the Court of Claims, before the Quartermaster-General's Department, and before Congress.

Mr. SPRINGER. That is not the purpose of it.

Mr. YOUNG, of Tennessee. That is the effect of it. I have not the statute before me, but I warn gentlemen who have any interest in maintaining the faith of the Government to claimants against voting for that bill, because it will exclude by its legal effect almost every claim against the Government.

Now, to another branch of the subject. I beg to disabuse the minds of the House, and especially of my friend from Maine, [Mr. REED,] of the misapprehension under which they are laboring. There are no disloyal people in the country now. There are no disloyal people in the South. We are all loyal. It has been so pronounced by our action upon this floor, the conduct of the southern people since the war, and by the decisions of the highest judicial tribunal of the country.

Whatever gentlemen may say to the contrary, it is a solemnly adjudicated fact that there is no disloyalty now in all this country, either North or South.

The Supreme Court of the United States has repeatedly declared

that persons who had borne arms against the Government, and who had afterward taken the oath of allegiance under the proclamation of President Lincoln of 2d July, 1863, were thereby restored to all their rights of citizenship in person and property. Subsequently, under the proclamations of President Johnson, the Supreme Court has declared that every citizen of the Government was relieved of every penalty incurred by the war and restored to all the rights enjoyed before, except as to property in slaves.

Mr. WARNER. Does the gentleman mean to say that it is the decision of the court that a man who fought on the confederate side may, under the proclamations referred to, bring in a claim against the Government for property lost or destroyed in the war?

Mr. YOUNG, of Tennessee. That is exactly the decision. That is the very identical question which the Supreme Court has decided in more than one noted case, that the operation and the legal effect of President Johnson's proclamations of amnesty and pardon were to restore to every man, whatever his standing may have been during the civil war, all the rights of an American citizen, both in person and property. That is the fixed, established law of the land to-day so far as it can be made so by the adjudication of the highest tribunal in the country.

Mr. WARNER. That is abhorrent to every principle of right, as well as opposed to all settled principles of the laws of war or international law.

Mr. YOUNG, of Tennessee. Now let me go a little further. I am utterly opposed to the further continuance of the southern claims commission. It is a farce. I have nothing unkind to say about the judges of that court, but I say that the court as constituted, from the way in which business is conducted there according to the testimony of gentlemen who are its friends, ought to be abolished and some better court substituted in its stead.

[Here the hammer fell.]

Mr. BRAGG. Mr. Chairman, in justice to myself I desire to say a few words. It was said upon the floor of this House a few moments since that it was left to these days of civilization for a Union soldier to oppose the just claims of Union soldiers during the war.

If that remark was intended to apply to me I say to this committee as a Union soldier that while I have no objection to the claims of Union soldiers, the objection which I was urging was to the machinery established by the party that *par excellence* claims to be the friends of the Union soldiers, that refused to allow the Quartermaster's Department, from its own muster-rolls in the War Department, to determine who were Union soldiers and settle with Union soldiers for supplies furnished to the Government to aid in carrying on the war. These pretended friends of the Union soldier saw fit to establish this machinery, instead of settling with the Union soldiers as they ought, and have placed him on the same footing with those who were not Union soldiers and compelled him to resort to the same machinery resorted to by others, when by their own records the Department could have settled and adjusted their accounts with him promptly and speedily.

Let me say a word upon another question. It is said that the views I hold are extreme. I desire to call attention to the report of the committee of this House made in 1866, and it was the report of the committee of which I now have the honor to be chairman—the Committee on War Claims. It would seem that this report was drawn by a man of prophetic vision, who saw coming upon the country what has since happened. The Committee of Claims of this House in 1866 declared:

> In view of the magnitude of these losses, as well as the magnitude of the public debt and the thousand abuses necessarily resulting from an attempt to satisfy these claims, in the words of Vattel, "the thing is utterly impracticable and ought not to be encouraged."
>
> It may be suggested that a distinction should be made between losses arising out of the destruction of property incident to the ravages of war and damages growing out of the appropriation of property for the uses of the Army.
>
> Without controverting the propriety of this distinction, so far as citizens of the loyal States are concerned, it is suggested that it will be dangerous and inexpedient to apply it to claims coming from States lately in rebellion. It will be difficult to determine with any sufficient degree of certainty the question of individual loyalty; and if it be established as a rule that property taken from loyal citizens in rebellious States for military supplies shall be paid for, it may be conceded that every claimant will find some proof to present of his devotion and suffering in the cause of the Government.
>
> * * * * * * *
>
> Appeals to our sympathy, humanity, and benevolence are not easily resisted, and it is a credit to human nature that we are so constituted as to be accessible to such appeals.
>
> It is to be remembered, however, that such appeals ought not to induce and cannot authorize us to levy extraordinary taxation upon our constituents in order to gratify our charitable impulses. We are not almoners merely for the nation, and have no just right to impose increased taxation in order to gratify our feelings of benevolence, nor to establish principles of abstract justice and equity, when there is no rule or law requiring it, and particularly when the attempt is to be attended with great uncertainty and be subjected to innumerable impositions and frauds.—*House Report*, 10, first session Thirty-ninth Congress.

That was embraced in a report of the committee unanimously sent to the House, signed by members of both political parties and representing the House and this committee. Had that report been adopted and acted on instead of these political make-shifts being adopted we should have been relieved from these continued vexatious claims by people who pretend to have been loyal, and we should have saved I cannot say how much; but when Secretary Sherman said that he had paid over one hundred millions for claims of this description, I believe he failed to give half the amount paid from the Treasury for the gratification of these sympathetic impulses.

Mr. ATKINS. I move that the committee rise for the purpose of closing debate on this proposition.

Mr. SPRINGER. Will the gentleman allow me before the committee rises to make one statement?

Mr. ATKINS. Certainly I will.

Mr. SPRINGER. The gentleman from Maine [Mr. REED] referred to my course in contested-election cases in this House. I do not know what the gentleman means by that remark.

Mr. REED. I will tell you if you want me to do it.

Mr. SPRINGER. My work on that committee has been a labor of love and I am gratified to state that every case I have reported has been adopted by the House and the finding of the committee has become the act of the House itself, so that if there is anything wrong about it the gentleman should hold the House responsible and not me.

Mr. REED. That is precisely what I spoke against, the injustice of the House in agreeing with the gentleman.

Mr. SPRINGER. Then the gentleman's remarks should be directed to the House and not to me individually.

Mr. REED. They were directed to both.

Mr. SPRINGER. Then I will take my share of the responsibility. Now, one word in reply to the gentleman from Wisconsin, [Mr. HUMPHREY.] He declaimed very eloquently against the amendment I have offered. I have before me the RECORD of the last Congress; and on page 4823, when the "Potter bill" was put upon its passage, in precisely the same words in which I moved this amendment except the repealing clause, the gentleman is found recorded as voting in the affirmative. I also find, among others, the name of my aimiable friend from Maine, [Mr. REED.]

Mr. HUMPHREY. When was the bill passed?

Mr. SPRINGER. On the 18th day of June, 1878, in the last Congress; and the gentleman will find his name recorded in the affirmative on page 4823 of the RECORD.

Mr. HUMPHREY. I voted against it.

Mr. SPRINGER. The gentleman's name is recorded in the affirmative, and I am not responsible for any error in the RECORD. He may amend the RECORD, but until he does that he must be judged by the record.

Mr. FRYE. What bill is it to which the gentleman refers? The Potter bill?

Mr. SPRINGER. Yes, sir.

Mr. FRYE. Was there not a provision contained in that bill in relation to loyalty which is not contained in the gentleman's amendment?

Mr. SPRINGER. My amendment is, *in hæc verba*, the Potter bill, except the repealing clause at the end.

Mr. CONGER. Does not the gentleman remember that an amendment was put in the bill confining the provisions of the bill to those who remained loyal during the war, and the gentleman has either intentionally or accidentally omitted from his amendment that which made us willing to adopt the bill to which he refers.

If he has forgotten it, and it is to be charged upon his ignorance, then I will excuse him. If he has done it intentionally, then he does a great wrong to himself and to us.

Mr. SPRINGER. I have a copy of the Potter bill here in my hand and it is the same text of my amendment, and at the bottom of it I find the following:

> Passed the House of Representatives June 17, 1878.
> Attest: GEO. M. ADAMS, *Clerk.*

Mr. CONGER. The RECORD will show what the amendment was.

Mr. SPRINGER. If the gentleman will take the RECORD I hold in my hand, and also the amendment I have offered, and after the adjournment of the House have the Clerk compare them, he will find that my amendment is in precisely the same words of the Potter bill passed in June last.

Mr. REED. Was there any reference to the southern claims commission in that bill?

Mr. SPRINGER. I have stated that that was not in it. But the part of it referred to by the gentleman from Michigan [Mr. CONGER] and objected to by the gentleman from Wisconsin [Mr. HUMPHREY] is exactly as it is in my amendment.

Mr. HUMPHREY. I desire to state that at the time this bill passed, my colleague [Governor POUND] and myself discussed the matter. I voted against the bill and he voted for it. He said to me, "You have voted right, and I think I ought to have voted the same way"—or some such expression as that. I desire to make this statement because my colleague will bear me out in my assertion that I voted against the bill.

Mr. POUND. The statement of my colleague [Mr. HUMPHREY] is correct.

Mr. SPRINGER. Then I am glad I gave the gentleman an opportunity to correct the RECORD.

[Here the hammer fell.]

Mr. REED. I desire to state that I voted for the bill last year, which had in it no reference to the southern claims commission. I anticipated this line of argument on the part of the gentleman from Illinois [Mr. SPRINGER] in the remark I made which was that this is an entirely different proposition; that the proposition presented as

an amendment by the gentleman from Illinois [Mr. SPRINGER] is not what was presented to the House last year by the gentleman from New York, Mr. Potter. I think it was a pretty heavy strain upon us to vote for the proposition as originally presented, and a great deal heavier for us to vote for the one presented now.

Mr. ATKINS. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that when the House shall again resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the legislative, executive, and judicial appropriation bill, all debate upon the pending paragraphs and amendments thereto shall be closed in ten minutes, five minutes on each side.

Mr. SPRINGER. Pending that motion, I move that the House now adjourn.

The SPEAKER. And, pending the two motions, the Chair desires to lay before the House a communication from the Clerk.

Mr. SPRINGER. I have been accused of having palmed off on this House as a bill which passed it last year something which is entirely different from that bill, and I have moved to adjourn in order that members may examine the facts in the mean time.

Mr. CONGER. That is not the proposition; it is that this is not the Potter bill.

Mr. SPRINGER. It is precisely the Potter bill except the repealing clause. The gentleman from Pennsylvania, [Mr. CLYMER,] who now sits by me, has just this moment compared the bill with the amendment, and they are precisely the same, except the repealing clause of the amendment.

CONTESTED-ELECTION CASES.

The SPEAKER, by unanimous consent, laid before the House the following:

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D. C., April 15, 1879.

SIR: I have the honor to transmit herewith papers received by me relative to the following contested-election cases:

E. M. Boynton *vs.* George B. Loring, sixth congressional district of Massachusetts.

A. G. Curtin *vs.* Seth H. Yocum, twentieth congressional district of Pennsylvania.

Jesse J. Yeates *vs.* Joseph J. Martin, first congressional district of North Carolina.

James E. O'Hara *vs.* Willam H. Kitchin, second congressional district of North Carolina.

E. W. M. Mackey *vs.* M. P. O'Connor, second congressional district of South Carolina.

Jere Haralson *vs.* Charles M. Shelley, fourth congressional district of Alabama.

Robert O. Hebert *vs.* J. H. Acklen, third congressional district of Louisiana.

W. B. Merchant *vs.* J. H. Acklen, third congressional district of Louisiana.

James M. Bradley *vs.* William F. Slemons, second congressional district of Arkansas.

Horatio Bisbee, jr., *vs.* Noble A. Hull, second congressional district of Florida.

Ignatius Donnelly *vs.* W. D. Washburn, third congressional district of Minnesota.

S. W. McDowell *vs.* John Whiteaker, State of Oregon.

I have the honor to transmit also the following, which have been received by me:

Report of James Gillette, chief supervisor of election in the State of Alabama, with addenda.

Papers relative to congressional election held in the State of Iowa on the 8th day of October, 1878.

Papers relative to congressional election held in the State of Iowa on the 5th day of November, 1878.

Very respectfully,

GEO. M. ADAMS, *Clerk.*

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives.

Mr. SPRINGER. I move that these papers transmitted to the House by the Clerk be referred to the Committee of Elections.

The motion was agreed to.

PRINTING TESTIMONY IN ELECTION CONTESTS.

Mr. SPRINGER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Elections be authorized to have printed for its use any testimony it may deem necessary relative to contested-election cases before said committee.

Mr. SPRINGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILLS. I suggest as a query whether it would not be well to authorize the Committee of Elections to sit during the recess of Congress, and get business ready, so that these election contests may be decided at the earliest possible day.

The SPEAKER. That suggestion is a matter for the consideration of the committee.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. TALBOTT for the withdrawal from the files of the House of papers in the case of B. S. James, no adverse report having been made.

ADJOURNMENT.

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] moves that the House now adjourn. That motion has priority over the motion of the gentleman from Tennessee [Mr. ATKINS] to limit debate in the Committee of the Whole.

Mr. ATKINS. My motion, I presume, will come up in the morning.

The motion of Mr. SPRINGER was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Theodore Streek, for a pension—to the Committee on Invalid Pensions.

By Mr. BICKNELL: Papers relating to the pension claim of John G. Coney, (accompanied by draught of bill,)—to the same committee.

By Mr. BUTTERWORTH: The petition of Mohr, Mohr & Co., and 30 other rectifiers of Cincinnati, Ohio, for the repeal of section 7 of the revenue laws relating to wine, distilled and fermented liquors—to the Committee of Ways and Means.

By Mr. DE LA MATYR: The petition of Gilbert De La Maytr, a citizen of Indiana, (accompanied by draught of bill,) for the passage of an act to substitute United States legal-tender paper money for national-bank notes—to the Committee on Banking and Currency.

By Mr. DIBRELL: Papers relating to the claim of William S. Burgess—to the Committee of Claims.

Also, papers relating to the war claims of Hugh L. and John M. Carrick; of the heirs of James W. Eastwood; of Asa Faulkner; of Sidney Henderson, executor, &c.; of J. Bragg and others, and of B. F. Martin—to the Committee on War Claims.

Also, papers relating to the pension claim of James M. Allison—to the Committee on Invalid Pensions.

Also, papers relating to the claims of A. B. Rowden, of W. C. Shalton, and of James M. Thomas—to the Committee on Military Affairs.

By Mr. FROST: The petition of John M. Glover, of Missouri, that the report and evidence of the Committee on Expenditures in the Treasury Department of the Forty-fifth Congress be printed for the use of the House—to the Committee on Printing.

By Mr. HARRIS, of Massachusetts: The petition of C. J. Stolbrand, for an appropriation to test a subaqueous vessel and mine for use in naval warfare—to the Committee on Naval Affairs.

Also, the petition of Mrs. L. E. McCauley, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. HERBERT: The petition of Joseph Baumer and George V. Hebb, that laws be passed giving the right of appeal in certain cases—to the Committee on the Judiciary.

By Mr. HUNTON: Papers relating to the claim of the heirs of G. B. Horner—to the Committee on War Claims.

Also, papers relating to the claim of J. V. Davis—to the Committee on Military Affairs.

By Mr. KIMMEL: Papers relating to the claim of Leef & McKee—to the Committee on Commerce.

By Mr. MARTIN, of North Carolina: Papers relating to the claim of William E. Bond—to the Committee of Claims.

By Mr. NEW: The petition of members of Mayflower Grange, Jennings County, Indiana, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. O'NEILL: The petition of rectifiers of distilled spirits, of Philadelphia, Pennsylvania, for the repeal of section 7 of the revenue law of March 1, 1879, relating to the bonds of rectifiers and compounders—to the Committee of Ways and Means.

By Mr. ORTH: The petition of Thomas H. Boswell, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. RUSSELL, of Massachusetts: The petition of E. E. Stimpson, that the Secretary of the Treasury be authorized to grant a certificate of registry to the steamer City of Frederickton—to the Committee on Commerce.

By Mr. SCALES: Papers relating to the claim of William H. Thompson—to the Committee of Ways and Means.

By Mr. SPEER: The petition of Emory Speer, W. H. Felton, and Alexander H. Stephens, for the repeal or modification of the revenue laws—to the same committee.

By Mr. THOMPSON: Petitions relating to the war claims of James P. Carroll, of Anderson T. Keene, of Andrew C. Meadows, of Archibald B. Rue, and of Phil B. Thompson, in behalf of the Baptist church of Crab Orchard, Kentucky—to the Committee on War Claims.

Also, papers relating to the claim of D. M. Yocum—to the Committee of Claims.

Also, papers relating to the pension claim of George W. Waddle—to the Committee on Invalid Pensions.

By Mr. VANCE: The petition of James O. Robertson and Garland S. Ferguson, that the Secretary of the Interior be directed to pay them, from the moneys in his possession or under his control belonging to the eastern band of Cherokee Indians, $80 for services rendered said Indians in certain suits and proceedings in the courts of North Carolina—to the Committee on Indian Affairs.

By Mr. WISE: The petition of John Ryan, for a pension—to the same committee.

IN SENATE.

WEDNESDAY, *April* 16, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. VANCE presented the petition of Thomas H. Dunham, of Boston, Massachusetts, praying that cotton-tarred cordage may be used by the Secretary of the Navy in the naval service; which was referred to the Committee on Naval Affairs.

BILLS INTRODUCED.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 435) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes, relating to the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 436) for the relief of Charles Clinton; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 437) to provide for the establishment of steamship mail service between the United States and Brazil; which was read twice by its title, and referred to the Committee on Commerce.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 438) to provide for the disposition of a portion of the Fort Hays military reservation, in the State of Kansas; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 439) for the relief of John S. Friend; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 440) granting a pension to David L. Payne; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 441) to prevent frauds in the entry of lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 442) for the relief of Henry Waterman; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Patents.

EMPLOYMENT OF STENOGRAPHER.

Mr. SAULSBURY, from the Committee on Privileges and Elections, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Privileges and Elections be authorized to employ a stenographer whenever they shall deem it necessary in any hearing before them.

SENATOR FROM LOUISIANA.

Mr. HILL, of Georgia. I report from the Committee on Privileges and Elections the following resolution, and ask for its present consideration:

Resolved, That the Committee on Privileges and Elections be authorized to have printed for its use the arguments before it in the case of Spofford against Kellogg relative to a seat in the Senate from the State of Louisiana, with such evidence, papers, and documents relative to the case as it may deem proper.

Mr. EDMUNDS. To what does the word "evidence" refer?

Mr. HILL, of Georgia. Only evidence that shall be taken by the committee under the authority of the Senate, hereafter to be asked.

Mr. EDMUNDS. Let the resolution go over, if that is what is meant by "evidence." Before the case that the Senate has once decided is to be reopened for evidence, I should be glad to hear the Committee on Privileges and Elections upon the subject.

Mr. HILL, of Georgia. The resolution does not propose to reopen the case for evidence. That question is not now before us.

Mr. EDMUNDS. Then I misunderstood the Senator.

Mr. HILL, of Georgia. I say it is only to print such evidence as may be taken by the authority of the Senate hereafter to be given. The question as to the taking of testimony, as to whether any and what evidence shall be taken, is not now before us.

Mr. EDMUNDS. Let the resolution lie over for the present. I should like to look at it a little.

Mr. HILL, of Georgia. I will say to the Senator that the resolution does not include that question at all, as he will see if he will look at it.

Mr. HOAR. I suggest to my honorable friend from Georgia to let the resolution read, "to print the arguments and other proceedings." That will cover everything.

Mr. HILL, of Georgia. I have no objection to that.

Mr. EDMUNDS. I have no objection to that form.

Mr. HILL, of Georgia. Let it read, "such other proceedings as it may deem proper."

The PRESIDENT *pro tempore*. Striking out the word "evidence."

Mr. HILL, of Georgia. Striking out the words "evidence, papers, and documents," and inserting "with such proceedings as it may deem proper."

Mr. EDMUNDS. "Their other proceedings."

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. SAULSBURY. I desire to say in reference to the suggestion made by the Senator from Vermont, that the case referred to in the resolution has been submitted to the consideration of the Committee on Privileges and Elections, and I suppose that it is competent for the committee to proceed with the consideration of that question according to its own judgment of what is right and proper. Therefore I do not see why there should be any objection to the resolution as first offered by the Senator from Georgia. I cannot understand that the committe is under the guidance of the Senate as to the manner in which it shall proceed to investigate any matter which is committed to it. I do not think, therefore, the objection of the Senator from Vermont is a pertinent objection at all, because it is competent for that committee, having had the question referred to them, to proceed with it, in my judgment, according to their own determination of what is right and proper in the matter.

Mr. EDMUNDS. Mr. President, far be it from me to doubt that the Committee on Privileges and Elections will do anything else than what they think will be right and proper. It would be shocking to my sense of propriety to even allow myself to suspect for a moment that that would occur. But I must beg leave of the Committee on Privileges and Elections, while we are in this Chamber, to do what I think is right and proper as far as my vote and objection go. I believe that subject has not been committed to the Committee on Privileges and Elections, and so I find it right and proper when my opinion and judgment as one member of this body is asked, and my consent and agreement to a particular resolution, to say something about it. If I have got over the line about that, I shall get back when I am satisfied that I am over.

The Senator from Georgia has explained that the object is not to foreclose or to open any question, but simply, as he now explains, to have whatever proceedings the committee take printed. To that I have not the slightest objection, of course.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of this resolution as modified? Is there objection? It requires unanimous consent.

The resolution was considered by unanimous consent, and agreed to, as modified, as follows:

Resolved, That the Committee on Privileges and Elections be authorized to have printed for its use the arguments before it in the case of Spofford against Kellogg relative to a seat in the Senate from the State of Louisiana, with such other proceedings in relation to the case as it may deem proper.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the joint resolution (S. R. No. 20) relating to the organization of the National Board of Health.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. This closes the business of the morning hour, and the Chair understands that there are no resolutions on the Calendar except two that were laid on the table to be specially called up. The unfinished business is the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and the pending question is on the amendment of the Senator from Maine, [Mr. BLAINE,] which will now be read.

The CHIEF CLERK. It is proposed to insert at the end of section 6 the following:

And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

The PRESIDENT *pro tempore*. Upon this question the Senator from Kentucky on the right of the Chair [Mr. BECK] has the floor.

Mr. BECK. Mr. President, I had in a somewhat disconnected way yesterday answered as best I could some of the arguments presented by the Senator from Maine [Mr. BLAINE] and the Senator from Illinois [Mr. LOGAN] and had endeavored to present in part my own views on the pending question. When I closed I had tried to show that the democratic party were not responsible altogether, nor even in great part, for many of the charges which are made, and justly made all over the world, against the republican party for its military usurpations, its usurpations, and its general want of fitness to rule a free people. I showed that those charges had been made and repeated in the most emphatic manner by men who had been trusted as the recognized leaders of that party organization. I had read what was said at Cincinnati by the president of the convention, and in a solemn address to the people, and was about to proceed to read, as I will do now before I take up the line of my general argument, from a very distinguished source, a Senator in this Chamber who did me the honor some weeks ago to read a portion of a speech that I had made, and as to which I happened to say, perhaps improperly, that that was about the best part of the speech he had made. I shall read a portion of his now, which I know will be the best part of what I shall say to-day. Mr. HOAR, the Senator from Massachusetts, in

the celebrated Belknap case, said, addressing the Senate as a manager on the part of the House:

My own public life has been a very brief and insignificant one, extending little beyond the duration of a single term of senatorial office; but in that brief period I have seen five judges of a high court of the United States driven from office by threats of impeachment for corruption or maladministration. I have heard the taunt, from friendliest lips, that when the United States presented herself in the East to take part with the civilized world in generous competition in the arts of life, the only product of her institutions in which she surpassed all others beyond question was her corruption. I have seen in the State in the Union foremost in power and wealth four judges of her courts impeached for corruption, and the political administration of her chief city become a disgrace and a by-word throughout the world. I have seen the chairman of the Committee on Military Affairs in the House, now a distinguished member of this court, rise in his place and demand the expulsion of four of his associates for making sale of their official privilege of selecting the youths to be educated at our great military school. When the greatest railroad of the world, binding together the continent and uniting the two great seas which wash our shores, was finished, I have seen our national triumph and exaltation turned to bitterness and shame by the unanimous reports of three committees of Congress—two of the House and one here—that every step of that mighty enterprise had been taken in fraud. I have heard in highest places the shameless doctrine avowed by men grown old in public office that the true way by which power should be gained in the Republic is to bribe the people with the offices created for their service, and the true end for which it should be used when gained is the promotion of selfish ambition and the gratification of personal revenge. I have heard that suspicion haunts the footsteps of the trusted companions of the President.

These things have passed into history. The Hallam or the Tacitus or the Sismondi or the Macaulay who writes the annals of our time will record them with his inexorable pen. And now, when a high Cabinet officer, the constitutional adviser of the Executive, flees from office before charges of corruption, shall the historian add that the Senate treated the demand of the people for its judgment of condemnation as a farce and laid down its high functions before the sophistries and jeers of the criminal lawyer? Shall he speculate about the petty political calculations as to the effect on one party or the other which induced his judges to connive at the escape of the great public criminal? Or, on the other hand, shall he close the chapter by narrating how these things were detected, reformed, and punished by constitutional processes which the wisdom of our fathers devised for us, and the virtue and purity of the people found their vindication in the justice of the Senate?

These references and extracts I think remove any foundation for the intimation that the democratic party in passing this bill, saying that soldiers shall not be kept at the polls, or seeking the repeal of the clause we are now asking Congress to repeal and the President to approve the repeal of, is done in any spirit at all comparable in bitterness to the spirit that called forth the denunciations manifested by the leading men of the republican party. I believe all that is or has been said against that party. I prefer, however, to prove their guilt by their own loyal witnesses, and I have done so sufficiently for the purposes of this debate. I propose to pay a little more attention than I was able to do yesterday, if I am allowed to go on connectedly, to what was said by the distinguished Senator from Massachusetts by whom I was arraigned a week or two ago with some severity. He introduced the following resolution at the beginning of this session:

Resolved, That the refusal by one House of Congress to make necessary provision for the support of the executive, legislative, and judicial departments, and for the defense of the country, except upon condition that the other House and the President shall give their assent to legislation which they disapprove, and the refusal by Congress to make such provision, except upon condition that the President shall give such assent, are unconstitutional, revolutionary, and, if persisted in, must lead to the overthrow of constitutional government and the destruction of the national life.

And he seemed to think that my statement made in the closing hours of the last session required or at least justified its introduction.

Mr. President, he might as well have written his resolution thus:

Resolved, That the refusal by the President to approve necessary provisions for the support of the executive, legislative, and judicial departments, and for the defense of the country, which had been agreed to by both Houses of Congress, except upon condition that they should frame their bills to suit his views and abandon their right to repeal obnoxious laws, and the refusal by the President to approve such provisions except upon condition that Congress shall surrender its right to determine in what form bills shall pass to the President for signature, is unconstitutional, revolutionary, and, if persisted in, must lead to the overthrow of constitutional government and the destruction of the national life.

The one conundrum would be just as good as the other. We have presented no such proposition in either aspect and have not sought to arraign anybody. We have presented this proposition in the bill now before the Senate, and that is all we have done up to this time:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

That is all the democratic party propose in the bill before the Senate. They are not proposing either to coerce the President or to assume that he is seeking to coerce them, nor are they taking up or seeking to impose upon him any revolutionary measures, nor are they depriving him of any power to use the Army for any constitutional purpose; but on the contrary, to exclude any such conclusion, they have again, in the very face of the bill, reiterated that they intend to give him the power that the Constitution gives him and that the laws passed in accordance with it give him when he is asked to intervene by the Legislature of any State, or by its governor when the Legislature cannot be convened, to use the troops of the United States wherever they are needed. All that we propose to do is to say, you shall not, as was done in 1876 by the military orders I read yesterday, call troops that the Congress of the United States have said shall be stationed on the frontier to guard against Indian hostilities, or at points where invasion from abroad or domestic insurrection may threaten, merely for political purposes, to place them around the polls in States that are fully organized with all their rights guaranteed, their courts open, and their machinery working in harmony, without application from the Legislature or the governor and against their will. We insist that no authority shall send troops there, and that we will not take the money collected from the tax-payers of the country and appropriate it for any such purpose, nor will we authorize the President nor permit any deputy marshals under him so to use the Army of the United States. If there is revolution in that, gentlemen may make the most of it.

But, sir, bad as the action in the past has been, it is not so much because of that action that I am desirous to see this bill passed and this limitation upon the use of the Army placed upon the statute-book. I know that while it was inserted in the statutes for the first time in the history of this country, or of any other civilized country in the last two hundred years that I know of, certainly in England or America, that troops should be sent in time of peace to the polls, it was inserted in time of war on the motion of Mr. Pomery, of Kansas, and was acquiesced in because it removed a still greater evil than even that could be; it was acquiesced in because at that time war was flagrant, because at that time there were serious disturbances in several States, and because Mr. Pomeroy called attention to the fact that in Kansas years before it had been needed, and Federal protection might again become necessary somewhere in the then anomalous condition of affairs. Republican Senators now, after fourteen years of peace, are not only anxious to keep the provision that was accepted in 1865 to meet an anomalous condition of affairs, to meet a condition in time of actual war which was liable to change every day, and not intended for a time of peace, but they are more anxious to maintain it now than they were to enact it then, although they are forced to admit that there is not a State anywhere in the Union where a single hostile arm is raised against the authority of the United States, nor has there been since the confederates laid down their arms at Appomattox.

Hallam, the great historian of the Middle Ages, said briefly but clearly:

We find in the history of all usurping governments, time changes anomaly into system and injury into right. Examples beget custom, and custom ripens into law, and the doubtful precedents of one generation become the fundamental maxims of another.

Because the democratic party do not intend to allow a vicious and anomalous precedent which was fastened upon the country in time of trouble to become one of the fundamental maxims of the Government; because we now, at the very earliest moment when we have the power in both Houses, backed by our constituency and backed as we will be by the whole American people when they understand the question, seek to relieve the statute-book of that infamous provision which exists now, we are accused of revolutionary designs.

I know that it is not the actual grievance always that determines the necessity for the repeal of laws. Bad practices and precedents are brought up before the eyes of the country, and they are told, "You did this and you submitted to that, and this is only a step in the same direction; and this is justified and warranted by what you did then," just as we are told now and taunted with the fact, and abused here and elsewhere, because gentlemen say that in 1865 we consented that this provision should become law and that democrats voted for the bill with it so inserted, and therefore we are now false to ourselves, revolutionists against the Government, if we dare, fourteen years afterward, in a changed condition of things, to do away with a bad provision of law that necessity forced upon us at the time it was submitted to.

It was not the pressure of the taxation on America that caused the Revolution. The British government time and again offered to repeal, and did repeal, some of the laws of which the colonists complained, but it was the bad principle they attempted to establish over them that made the men of America rise and assert their ancient rights and privileges under the British constitution. In a great speech made in Parliament by Mr. Burke, in March, 1773, he illustrated this state of things well:

In other countries—

Said Mr. Burke—

the people, more simple and of a less mercurial cast, judge of an ill principle in government only by an actual grievance; here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance, and snuff the approach of tyranny in every tainted breeze.

What was so well said by Mr. Burke of the men of the Revolution I hope can be said as truly of their descendants now, and that they will see to it that principles which are bad and which are used for bad purposes and may be used for still worse purposes in the future shall not be held over the heads of their children or their children's children, but shall be wiped out of the statute-books at the earliest possible moment and all the ancient rights and liberties of the people maintained.

Much was said about precedents by the distinguished Senator from Massachusetts [Mr. HOAR] in a speech delivered some time ago, very well said, but it seemed to me that he had looked carelessly into English history if he was prepared to assert before the American Congress that the Commons of England had never withheld supplies in order to obtain a redress of grievances, that they had only quarreled with the King about the money necessary to carry out and sustain his prerogative and sometimes found fault because of his extravagance in the disposition of the money they gave him. I turned to one of England's great historians, Macaulay, and looked at some of his statements in regard to it. They are not long, and I shall be obliged to trouble the Senate with reading some of them in order to illustrate what I mean to say.

When Charles I came to the throne Macaulay says he began his reign by endeavoring to establish a standing army. He was in this making attacks on the ancient rights and privileges of the House of Commons. He called them together. Let me read the words of the historian:

And now began that hazardous game on which were staked the destinies of the English people. It was played on the side of the House of Commons with keenness, but with admirable dexterity, coolness, and perseverance. Great statesmen, who looked far behind them and far before them, were at the head of that assembly. They were resolved to place the King in such a situation that he must either conduct the administration in conformity with the wishes of his Parliament or make outrageous attacks on the most sacred principles of the constitution. They accordingly doled out supplies to him very sparingly. He found that he must govern either in harmony with the House of Commons or in defiance of all law. His choice was soon made. He dissolved his first Parliament and levied taxes by his own authority. He convoked a second Parliament, and found it more intractable than the first. He again resorted to the expedient of dissolution, raised fresh taxes without any show of legal right, and threw the chiefs of the opposition into prison. At the same time a new grievance, which the peculiar feelings and habits of the English nation made insupportably painful, and which seemed to all discerning men to be of fearful augury, excited general discontent and alarm. Companies of soldiers were billeted on the people, and martial law was in some places substituted for the ancient jurisprudence of the realm.

The king called a third Parliament, and soon perceived that the opposition was stronger and fiercer than ever. He now determined on a change of tactics. Instead of opposing an inflexible resistance to the demands of the Commons, he, after much altercation and many evasions, agreed to a compromise which, if he had faithfully adhered to it, would have averted a long series of calamities. The Parliament granted an ample supply. The king ratified, in the most solemn manner, that celebrated law which is known by the name of the Petition of Right, and which is the second great charter of the liberties of England. By ratifying that law he bound himself never again to raise money without the consent of the houses, never again to imprison any person except in due course of law, and never again to subject his people to the jurisdiction of courts-martial.—*Macaulay's History of England*, volume 1, pages 78, 79.

He broke all those promises. Thomas Wentworth, his prime minister, was a man of ability. He created him Earl of Strafford. He was the king's chief adviser. He observed what was doing in continental nations. Looking at what Louis XIV and the monarchs of continental Europe were doing he determined to have a standing army at all hazards. There being an ancient custom whereby certain portions of the people were required to provide ships to guard against invasion, he converted that privilege into demanding ship-money, and he endeavored in every form to coerce the people into furnishing supplies. They would not consent. The king established courts to coerce them.

The historian continues:

Foremost among these courts in power and in infamy were the star chamber and the high commission, the former a political, the latter a religious inquisition. Neither was a part of the old constitution of England.

In short, history shows that it was the struggle between kingly prerogatives and the rights of the Commons of England that brought Charles to the block and Strafford to the block and that re-established the old *Magna Charta* in the form of the Petition of Right, which set forth all the rights Englishmen insisted that they ought to have, before the Commons would grant the King any supplies; they held that power over him. He was beheaded because he would not honestly carry out what he had promised to maintain and protect in that regard. Tell me that the Commons of England never withheld supplies because grievances were not redressed, in the face of such facts as these! Was Charles I beheaded, was Strafford beheaded, were the ministry driven into exile, was the Commonwealth established, was Cromwell brought into power, was John Hampden's determined resistance to tyranny all because of some disagreement as to some personal claim for money for private use asserted by the king, and was there no such effort made for redress of grievances as is claimed by us? No! James succeeded Charles II, and he, too, endeavored to establish a regular army.

Macaulay says in regard to that effort, speaking of the action of the Commons:

They harangued, however, with some force on the great superiority of a regular army to a militia. One of them tauntingly asked whether the defense of the kingdom was to be intrusted to the beef-eaters. Another said that he should be glad to know how the Devonshire train-bands, who had fled in confusion before Monmouth's scythemen, would have faced the household of Louis. But these arguments had little effect on cavaliers who still remembered with bitterness the stern rule of the Protector. The general feeling was forcibly expressed by the first of the tory country gentlemen of England, Edward Seymour. He admitted that the militia was not in a satisfactory state, but maintained that it might be remodeled. The remodeling might require money, but, for his own part, he would rather give a million to keep up a force from which he had nothing to fear than half a million to keep up a force of which he must ever be afraid. Let the train-bands be disciplined, let the navy be strengthened, and the country would be secure. A standing army was at best a mere drain on the public resources. The soldier was withdrawn from all useful labor. He produced nothing, he consumed the fruits of the industry of other men, and he domineered over those by whom he was supported. But the nation was now threatened not only with a standing army, but with a popish standing army; with a standing army officered by men who might be very amiable and honorable, but who were on principle enemies to the constitution of the realm.

Thus, first one commoner and then another denied that the king had any right to demand money to maintain an army.

They contended—

Says Macaulay—

that the reasonable and constitutional practice was to grant no money till grievances had been redressed, and that there would be an end of this practice if the house thought itself bound servilely to follow the order in which matters were mentioned by the king from the throne.

A long discussion followed. Tellers were had in the house. The king was defeated. The Commons were called to Whitehall and lectured. Again they met, and again they defeated him by a larger majority than before; they withheld his supplies until he yielded to their demands. That is Macaulay's statement of it. And again, speaking of the power of the Commons over the Lords, he says before they would place any supplies into the hands of William after James had been driven from the kingdom, they framed what was known as the Declaration of Right, which Macaulay thus describes:

The declaration began by recapitulating the crimes and errors which had made a revolution necessary. James had invaded the province of the legislature; had treated modest petitioning as a crime; had oppressed the church by means of an illegal tribunal; had, without the consent of Parliament, levied taxes and maintained a standing army in time of peace; had violated the freedom of election, and perverted the course of justice.

That is precisely what is being done under our laws now—violating the freedom of State elections, maintaining armies to act as a constabulary force, and perverting and degrading the courts of justice by incorporating surreptitiously into the Revised Statutes, or by accident, if you please, a repealed law that deprives men in eleven States of the right of an honest trial by jury.

The historian continues:

Proceedings which could lawfully be questioned only in Parliament had been made subjects of prosecution in the King's Bench. Partial and corrupt juries had been returned. Excessive bail had been required from prisoners; excessive fines had been imposed; barbarous and unusual punishments had been inflicted.

All the demands contained in that great Declaration of Right William had to pledge himself to maintain as the ancient rights and liberties of the people, and to agree that he would secure them against any interruptions of them, or any further exactions in violation of them, before they would allow him any supplies or even recognize him as their ruler. From his time to this there never has been a veto by an English sovereign of any act of Parliament. Since 1693, now nearly two hundred years ago, no English sovereign has ever dared to veto an act of Parliament, much less as my friend from West Virginia [Mr. DAVIS] suggests, has he attempted to veto the repeal of an obnoxious law. William was required to establish a ministry; but before I allude to that, speaking of the coercion of the House of Commons over the Lords, which the Senator from Massachusetts said had never been exerted as he claims the lower House of Congress at the last session tried to coerce this body, the historian says that when the land tax was sought to be imposed in the time of William for the purpose of raising money, the House of Commons appointed commissioners to value all the land belonging to the nobility. The nobility insisted that they should have a right to have men of their own class as appraisers. All they asked was that they should have a hearing as to the valuation to be put upon their property. The Commons said, "No; you have nothing to do with the imposition of taxes and nothing to do with the manner in which they shall be imposed." Macaulay says that an exciting debate took place. I quote:

A strong party among the Lords was obstinate. Mulgrove spoke at great length against the pretensions of the plebeians. He told his brethren that if they gave way they would abdicate that authority which had belonged to the baronage of England ever since the foundation of the monarchy, and that they would have nothing left of their old greatness except their coronets and ermines. Burnet says that this speech was the finest that he ever heard in Parliament, and Burnet was undoubtedly a good judge of speaking, and was neither partial to Mulgrove nor zealous for the privileges of the aristocracy. The orator, however, though he charmed his hearers, did not succeed in convincing them. Most of them shrank from a conflict in which they would have had against them the Commons united as one man, and the King, who in case of necessity would undoubtedly have created fifty peers rather than have suffered the land-tax bill to be lost.—*Macaulay's History of England*, volume 4, pages 286 and 287.

Was not that coercion upon the Lords? They yielded, and from that day to this the Lords have never ventured even to amend a tax bill or a bill imposing penalties, nor have they been allowed to intervene in any way, nor has the King ever dared to tell the Commons how or in what way or in what form they shall lay their bills before him or how they shall impose taxes or grant supplies. Not only in William's time, but on the passage of the reform bill and the Catholic emancipation bill, the prime ministers of England have gone to the House of Lords and have given them to understand that their ancient privileges were in danger, that His Majesty or Her Majesty,

as the case might be, stood prepared to appoint as many new lords as would overrule them if they dared to resist the action of the House of Commons in passing the bills the Commons demanded. That looks to me like coercion; worse than anything the lower House of Congress has ever thought of. When William established his ministry, Macaulay says that the House found out a happy way of controlling the country:

The ministry is, in fact, a committee of leading members of the two houses. It is nominated by the Crown; but it consists exclusively of statesmen whose opinions on the pressing questions of the time agree, in the main, with the opinions of the majority of the House of Commons. Among the members of this committee are distributed the great departments of the administration. Each minister conducts the ordinary business of his own office without reference to his colleagues. But the most important business of every office, and especially such business as is likely to be the subject of discussion in Parliament, is brought under the consideration of the whole ministry. In Parliament the ministers are bound to act as one man on all questions relating to the executive government. If one of them dissents from the rest on a question too important to admit of compromise, it is his duty to retire. While the ministers retain the confidence of the parliamentary majority—

Not the confidence of the King—

that majority supports them against opposition, and rejects every motion which reflects on them or is likely to embarrass them. If they forfeit that confidence, if the parliamentary majority is dissatisfied with the way in which patronage is distributed, with the way in which the prerogative of mercy is used, with the conduct of foreign affairs, with the conduct of a war, the remedy is simple. It is not necessary that the Commons should take on themselves the business of administration, that they should request the Crown to make this man a bishop and that man a judge, to pardon one criminal and to execute another, to negotiate a treaty on a particular basis, or to send an expedition to a particular place. They have merely to declare that they have ceased to trust the ministry, and to ask for a ministry which they can trust.

And that ministry has to retire, and the ministry they demand has to be formed, and no English king has ever refused it, though he has often complied with tears in his eyes.

What was the struggle. The English people meant to retain their rights and liberties. Macaulay says, in his review of Hallam's Constitutional History, that it was a standing army and the power of the Crown over the army and the right of the King to order them where he pleased, just as the late President of the United States ordered his Army from the frontier into Louisiana, South Carolina, and elsewhere in 1876; just as they may be ordered again, no matter where scattered, whenever his imperial majesty wishes, calling himself President, or calling himself king, or calling himself what you please, for when any President has the power of the Army in his hands he is imperial over the people. It was, Macaulay says, and we all know that it was, the power of the continental monarchs over a standing army that destroyed the liberties of the nations on the continent of Europe. It was because the people of England resisted the establishment of a standing army that their liberties were preserved. He says, in his review of Hallam's Constitutional History:

We will leave out of the question the whole history of his third Parliament, the price which he exacted for assenting to the Petition of Right, the perfidy with which he violated his engagements, the death of Eliot, the barbarous punishments inflicted by the star chamber, the ship-money, and all the measures, now universally condemned which disgraced his administration from 1630 to 1640.

Then he proceeds:

The constitution of England was only one of a large family. In all the monarchies of Western Europe, during the Middle Ages, there existed restraints on the royal authority, fundamental laws and representative assemblies. In the fifteenth century the government of Castile seems to have been as free as that of our own country. That of Arragon was beyond all question far more so. In France the sovereign was more absolute. Yet, even in France the states-general alone could constitutionally impose taxes; and at the very time when the authority of those assemblies was beginning to languish, the Parliament of Paris received such an accession of strength as enabled it, in some measure, to perform the functions of a legislative assembly. Sweden and Denmark had constitutions of a similar description.

Let us overleap two or three hundred years, and contemplate Europe at the commencement of the eighteenth century. Every free constitution, save one, had gone down. That of England had weathered the danger, and was riding in full security. In Denmark and Sweden the kings had availed themselves of the disputes which raged between the nobles and the commons to unite all the powers of government in their own hands. In France the institution of the states was only maintained by lawyers as a part of the ancient theory of their government. It slept a deep sleep—destined to be broken by a tremendous waking. No person remembered the sittings of the three orders, or expected ever to see them renewed. Louis the Fourteenth had imposed on his Parliament a patient silence of sixty years. His grandson, after the war of the Spanish succession, assimilated the constitution of Arragon to that of Castile, and extinguished the last feeble remains of liberty in the Peninsula. In England, on the other hand, the Parliament was infinitely more powerful than it had ever been. Not only was its legislative authority fully established, but its right to interfere, by advice almost equivalent to command, in every department of the executive government was recognized. The appointment of ministers, the relations with foreign powers, the conduct of a war, or a negotiation, depended less on the pleasure of the prince than on that of the two houses.

What, then, made us to differ? Why was it that in that epidemic malady of constitutions ours escaped the destroying influence; or rather that, at the very crisis of the disease, a favorable turn took place in England, and in England alone? It was not surely without a cause that so many kindred systems of government, having flourished together so long, languished and expired at almost the same time.

Macaulay tells why it was:

The progress of civilization introduced a great change. War became a science, and as a necessary consequence a separate trade. The great body of the people grew every day more reluctant to undergo the inconveniences of military service, and better able to pay others for undergoing them. A new class of men, therefore—dependent on the Crown alone; natural enemies of those popular rights which are to them as the dew to the fleece of Gideon; slaves among freemen; freemen among slaves—grew into importance. That physical force, which in the dark ages had belonged to the nobles and the commons, and had, far more than any charter or any assembly, been the safeguards of their privileges, was transferred entire to the king. Monarchy gained in two ways. The sovereign was strengthened, the subjects weakened. The great mass of the population, destitute of all military discipline and organism, ceased to exercise any influence by force on political transactions. There have, indeed, during the last hundred and fifty years been many popular insurrections in Europe, but all have failed except those in which the regular army has been induced to join the disaffected.

Again, in his review of Mackintosh's History, after telling that the Commons had become omnipotent and that the veto had never been exercised since 1693, and never would be again, he tells how it was that they managed to keep their power:

The authors of the revolution applied a remedy to this great abuse. They settled on the king not the fluctuating produce of certain fixed taxes, but a fixed sum sufficient for the support of his own royal state. They established it as a rule that all the expenses of the army, the navy, and the ordnance should be brought annually under the review of the House of Commons, and that every sum voted should be applied to the service specified in the vote. The direct effect of this change was important. The indirect effect has been more important still. From that time the House of Commons has been really the paramount power in the state. It has, in truth, appointed and removed ministers, declared war, and concluded peace. No combination of the King and the Lords has ever been able to effect anything against the Lower House backed by its constituents. Three or four times, indeed, the sovereign has been able to break the force of an opposition by dissolving the Parliament. But if that experiment should fail, if the people should be of the same mind with their representatives, he would clearly have no course left but to yield, to abdicate, or to fight.

It is always tiresome and uninteresting to read. I think I have read enough to show that the English House of Commons has uniformly demanded the redress of grievances before it felt called upon to grant supplies. Whether it bears upon this question or not as now presented to Congress it is not necessary to decide; but that the Commons often demanded the redress of grievances before granting supplies; that one king of England was beheaded, another dethroned, and the whole system of government revolutionized before they would give up one jot or tittle of that great power, is certain. In a very able article prepared at the request of the Legislature of Massachusetts, by the judges of their supreme court, of which Judge Gray, I believe, was the chief-justice, at least his name is signed first, they trace the history of many bills from beginning to end, and show that from the year 1678 whenever the House of Lords attempted to amend a tax bill the Commons indignantly denied their right to do so. Although the Lords had occasionally asserted their right to have something to say about it, they never had exercised it, and they close by a sentence, which I will read:

In that year, on a bill for an imposition on foreign commodities, the House of Commons unanimously resolved "That in all aids given to the King by the Commons the rate of tax ought not to be altered by the Lords," and asserted "that there is a fundamental right in that House alone, in bills of rates and impositions on merchandise, as to the matter, the measure, and the time." The Lords, on the other hand, resolved with equal unanimity that the power exercised by them in making amendments and abatements, "as to the matter, measure, and time, concerning the rates and impositions on merchandise, is the fundamental, inherent, and undoubted right of the House of Peers, from which they cannot depart." In 1678, on a supply bill being amended by the Lords, the House of Commons carried their doctrine still farther, and passed a resolution "That all aids and supplies, and aids to His Majesty in Parliament, are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords." On both those occasions the controversy between the two Houses was terminated by a prorogation of Parliament. But the resolution of 1678 has been often reaffirmed by the Commons, and made the foundation of their claim of privilege in matters of supply; and the Lords, though they have never expressly disclaimed the right to amend bills of supply, have never since practically asserted it when controverted by the Commons.

Mr. HOAR. Will not the Senator from Kentucky state to the Senate that that is the opinion of the judges of Massachusetts, that an appropriation bill is not a money bill? And is not that whole argument from beginning to end an historical argument to show that a money bill is merely a bill laying a tax, not a bill appropriating money, both in England and in this country, and that such bills as this can never be used for any such purpose?

Mr. BECK. Such bills as what?

Mr. HOAR. Such bills as the one now before the Senate must never be used in any such way. I ask the Senator if that argument is not that exactly?

Mr. BECK. Mr. President, this report was made at the request of the Legislature of Massachusetts, it is true under their constitutional authority to call upon the judges, to know what had been the practice in England and what ought to be the rule in Massachusetts with regard to originating appropriation bills in the house and senate, and whether an appropriation bill was in fact a money bill; and in the discussion of that question the judges looked into English history and what I read was a statement of a fact in English history—, not having anything to do with the immediate question as to whether it was an appropriation bill or a revenue bill, or as to the meaning of a money bill—the judges stated the historical fact that there had been no interference at any time by the Lords with the Commons on all questions relating to taxation, since 1678. And as the Senator from Massachusetts the other day undertook to show that nobody had ever withheld supplies, and no House of Commons had ever done it, I read from Macaulay's history and other authorities to prove that they had done it time and again. About the particular point that the Massachusetts judges were looking into I care nothing for the purpose of my argument, but what I am trying to show is this: that the men who framed the Federal Constitution were men well advised of what was going on in Europe, both in England and on the continent; they were men well read in history and law. Mr. Burke, in

the great speech from which I read a few moments ago, said about them:

Permit me, sir, to add another circumstance in our colonies, which contributes no mean part towards the growth and effect of this intractable spirit—

As Lord North and others had called it.

I mean their education. In no country perhaps in the world is the law so general a study.

This was in 1773.

The profession itself is numerous and powerful, and in most provinces it takes the lead. The greater number of the deputies sent to the Congress were lawyers. But all who read, and most do read, endeavor to obtain some smattering in that science. I have been told by an eminent bookseller that in no branch of his business, after tracts of popular devotion, were so many books as those on the law exported to the plantations. The colonists have now fallen into the way of printing them for their own use. I hear that they have sold nearly as many of Blackstone's Commentaries in America as in England. General Gage marks out this disposition very particularly in a letter on your table. He states that all the people in his government are lawyers or smatterers in law, and that in Boston they have been enabled, by successful chicane, wholly to evade many parts of one of your capital penal constitutions.

The men of America were confessedly men read not only in the history of England, but in the laws as laid down by Blackstone, and one of the first things they saw when they looked over Blackstone was this. On page 170 of the edition by Tucker, Blackstone says:

For in a democracy there can be no exercise of sovereignty but by suffrage, which is the declaration of the people's will. In all democracies, therefore, it is of the utmost importance to regulate by whom and in what manner the suffrages are to be given. And the Athenians were so justly jealous of this prerogative that a stranger who interfered in the assemblies of the people was punished by their laws with death, because such a man was esteemed guilty of high treason by usurping those rights of sovereignty to which he had no title. In England, where the people do not debate in a collective body, but by representation, the exercise of this sovereignty consists in the choice of representatives. The laws have therefore very strictly guarded against usurpation and abuse of this power by many salutary provisions, which may be reduced to these three points: 1. The qualifications of the electors. 2. The qualifications of the elected. 3. The proceedings at elections.

And on page 179, after showing that by the laws of Great Britain persons convicted of bribery at elections are punished severely, he says:

As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended. Riots, likewise, have been frequently determined to make an election void.

So careful were the people of England, as the men of America well knew, that even in Blackstone's time there were heavy penalties against soldiers approaching the polls; in the early reign of George II a statute was enacted, which was re-enacted in the eleventh year of Victoria, with a shorter preamble it is true, but still quite full, from which I prefer to read to reading the old statute of George II:

SEC. 2. *And be it enacted*, That on every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election; and that every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered.

SEC. 3. *And be it enacted*, That when and so often as any election of any member or members to serve in the Commons House of Parliament shall be appointed to be made, the clerk of the Crown in chancery or other officer making out any new writ for such elections shall, with all convenient speed, after making out the same writ, give notice thereof to the secretary at war, or, in case there shall be no secretary at war, to the person officiating in his stead, who shall, at some convenient time before the day appointed for such election, give notice thereof in writing to the general officer commanding in each district of Great Britain, who shall thereupon give the necessary orders for enforcing the execution of this act in all places under his command.

Many of the States of the American Union re-enacted substantially the same provision.

Section 33 of an act to regulate elections, passed in 1846 by the State of New Jersey, provided that—

No such election shall be appointed to be held on any day on which the militia of this State shall be required to do military duty, nor shall the militia of this State be required to do military duty on any day on which any such election shall be appointed to be held.—*Nixon's Digest, Laws of New Jersey*, 1709-1855, page 220.

OF THE MANNER OF CONDUCTING ELECTIONS AND RETURNING VOTES.

SEC. 1. No meeting for the election of national, State, district, county, city, or town officers shall be held on a day upon which the militia of the Commonwealth are by law required to do military duty.—*General Statutes of Massachusetts*, 1860, chapter 7, page 58.

PENAL PROVISIONS AND REGULATIONS AFFECTING PURITY OF ELECTIONS.

SEC. 62. If any officer of the militia parades his men, or exercises any military command on a day of election of a public officer, as described in section 63 of chapter 10, and not thereby excepted, or except in time of war or public danger, he shall for each offense forfeit not less than ten nor more than three hundred dollars.—*Revised Statutes of Maine*, 1857, chapter 4, page 84.

PENALTIES FOR THE VIOLATION OF ELECTION LAWS.

SEC. 5. If any officer or other person shall call out or order any of the militia of this State to appear and exercise on any day during any election to be held by virtue of this chapter, or within five days previous thereto, except in cases of invasion or insurrection, he shall forfeit the sum of $500 for every such offense.—*Revised Statutes of New York, Banks & Brothers*, fifth edition, volume 1, title 7, chapter 6, page 448.

I.—OF ELECTIONS BY THE CITIZENS.

110. No body of troops in the Army of the United States or of this Commonwealth shall be present, either armed or unarmed, at any place of election within this Commonwealth, during the time of such election: *Provided*, That nothing herein contained shall be so construed as to prevent any officer or soldier from exercising the right of suffrage in the election district to which he may belong if otherwise qualified according to law.—*Purdon's Digest; Brightly*, 1700-1861, *Laws of Pennsylvania*, page 383.

So that the practice of allowing soldiers to be stationed at the polls is not only condemned in England, condemned by the several States of America, condemned by the practice of the Federal Government, but condemned by the constitutional limitations that are imposed upon the Federal Government, because unless the governor or the Legislature ask for troops the President of the United States has no power to send them either to keep the peace at the polls or for any other purpose.

I said the men of America were fully advised of all these things when they framed the Constitution. The statement of Mr. Burke proves it. We know it from what they did, even if it had not been so stated by Mr. Burke or anybody else. They knew the history of Europe; they knew that liberty had been overthrown by standing armies all over the continent. They were so jealous of them that after the Constitution was framed, notwithstanding that great covenant seemed to give every guarantee that the citizen could demand, they required the first Congress which met to adopt ten amendments all of them bearing upon the personal liberty of the citizen and several of them emphatically declaring against the use of the military power in any form to interfere with their personal rights and liberties; they insisted on maintaining their own militia and their personal right to bear arms, and that no soldier should be quartered on them in time of peace, nor in war, except upon terms previously prescribed by law, and they reserved all power not expressly granted.

The men who framed the American Constitution had studied Magna Charta, the Petition of Rights, the Bill of Rights, the *habeas corpus* act, and all the great acts of English liberty. They knew them well; they were household words to them. They went into revolution and maintained their rights and privileges against England when she saw fit to invade them, and they maintained against fearful odds a war waged for seven years to assert them. They crystallized these great principles in the Constitution; they enforced them by every form of expression that could strengthen or add to their vigor, force, and efficiency. Yet gentlemen stand here now at this period of the world's history, with all these facts before them, with the knowledge that their forefathers were struggling to guard the liberties of this people even more strictly than the English people had guarded their liberties, with the knowledge of what England had done, with the fate of the nations on the continent growing out of the use of standing armies, and they tell the people of America and the democratic party of this country that when we insist, in the exercise of our undoubted right, that soldiers shall not in time of peace be stationed at the polls under Federal military orders, we are revolutionists; that we are seeking to overthrow the Government; that we are seeking to starve every branch of it because they for some bad purpose desire that soldiers shall be kept at the polls to coerce the votes of citizens.

Gentlemen on the other side tell us they are going to the country upon that issue; that they are going to appeal to the northern people, and insist that the southern generals and their allies are seeking to keep the soldiers away from the polls to prevent the peace from being kept. We will appeal to the country too, and we will tell the people of the whole country, North and South, as all will know who read the history of the world and the history of their own times, that their own State governments can keep the peace, their own militia, their own marshals, their own sheriffs, their own *posse comitatus*, without Federal intervention and without marshals, deputy marshals, supervisors, or anybody else, no matter how immaculate they may be, from John Davenport up or down, selected, paid, and ordered from Washington. The story of radical corruption in the administration at Washington has been too often told and too well proved by republicans themselves to give the people anywhere much faith in the superior purity and virtue of Washington agents over their own.

The amazing thing to me is that gentlemen on the other side should venture to taunt anybody with being revolutionary or with attempting to do anything by coercion after all that they have done, after all the laws that they have passed, and all the coercion that they have imposed upon States, Presidents, and courts. But before speaking as to that I desire to say that even the committee of which Mr. Howard was chairman in 1863, when it made a report against the bill introduced by Governor Powell, of Kentucky, although they were opposing any restriction being put upon the military, when their attention was called to the English bills and the bills of the several States, notwithstanding their opposition, they had to admit that the use of soldiers at the polls was not in accordance with the ancient rules, usages, or liberties of the people, either of England or America. They said:

It is said, by way of furnishing a precedent for the bill—

That is, the Powell bill—

that by the laws of England in force for more than a century, no body of the King's troops is allowed to be near the place of an election while it is progressing. Reference is doubtless had to the act of 8 George II, 1735, a copy of which we append to this report, marked A. It cannot escape notice that the leading object of this ancient statute, as sufficiently evidenced by the preamble, was "the preservation of the rights and liberties of the kingdom," not their destruction. And the history of the time shows that the prohibition to keep military forces near places where there was an election of members of Parliament, arose from outrages practiced upon the electors by the ministers in posting troops so as to overawe them and coerce them into the returning of candidates friendly to the ministerial party,

and the supporters of prerogative against popular rights. And we are told that, so far did this party push their schemes, that in 1734, the year before the act was passed, the ministers, before the election took place, made out a list of the sixteen Scottish peers who were to be elected, which was approved by the Crown; and that, among other foul means resorted to for securing their election, a battalion of the King's troops were drawn up in the court of Edinburgh, contrary to custom, and without any apparent cause but that of overawing the electors. This outrage appears to have been the immediate occasion of the passage of the act. It was passed in the interest of liberty, and in resistance of the tyrannical schemes of the Crown and its flatterers to check its growth by stifling the voice of free election.

That is precisely what we are proposing to provide, that no President shall send his troops into any State of this Union and parade them at the polls to aid anybody. At the very time when the Powell bill was under consideration it was inquired of me yesterday whether Kentucky was not in a state of war and trouble. No, sir; on the contrary the very thing was being done there which these gentlemen in this report denounce as having been done in England. Governor Bramlette was sustained as the Administration candidate. Polls were opened for him, and everybody who was willing to vote for him was allowed to vote. Polls were opened in each of the congressional districts of the State, and men who were partisans of the Administration and were supposed to be willing to carry out their views were voted for at the very places where the polls were closed against Governor Wickliffe. Mr. Trimble, who afterward held a seat in Congress and who had been an undoubted Union man and was severely punished by some of his own people because he was a Union man, was lodged in jail because he dared to run against the pet of the Administration for Congress at that election.

These things induced Senator Powell to endeavor to have a law passed preventing soldiers from driving men away from the polls at the voting precincts all over Kentucky, all over Missouri, all over Maryland. When the provision which we are now seeking to repeal was inserted by Mr. Pomeroy, it was simply moved by him, as he said, because war was still flagrant, and because for a time, while war was flagrant, something might happen that might make it well for military men to be at the polls to keep the peace, as he called it. That being so much better than the previous condition of things, it was assented to in order to obtain some relief. Now it is called revolutionary to ask to strike it out. The people of this country are all revolutionists if this is revolutionary.

I propose to make a suggestion or two about what might well be called revolutionary acts perpetrated by gentlemen on the other side, as they are hurling their anathemas against us. In 1868 an act was passed by the republican House and voted for by some of the distinguished Senators who are now crying "revolution!" which I propose to read, and which I think exceeds anything in the way of revolutionary proceedings that I have ever known. The Supreme Court of the United States in 1868 consisted of eight members; five was a quorum by law; and this provision was passed by the House by a party vote:

That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any further proceedings shall be had upon it, shall be certified up to the Supreme Court of the United States and shall be considered therein; and if, upon the consideration thereof, two-thirds of all the members of the Supreme Court shall not affirm said judgment below, the same shall be declared and held reversed.

That is, that although the circuit court of the United States might declare an act of Congress unconstitutional, null, and void, and although the five judges of the Supreme Court, who constitute a quorum by law, might all sit upon the case and each *seriatim* write out an opinion that it was unconstitutional, null, and void, still unless six judges, more than the quorum necessary, two-thirds of all, should agree that that act was unconstitutional the judgment of the court below should be reversed and the act of Congress should stand. What is the meaning of that? That the Supreme Court should not revise, should not look into nor act upon any of the legislation which that Congress saw fit to impose upon the country. The distinguished Senator from Maine was there voting for it, the distinguished Senator from Illinois was there voting for it, and many others voted to overthrow and ignore the Supreme Court by annulling its decisions who are now crying us down as revolutionists. Although, as I said, the circuit judge might declare it unconstitutional and every judge of the Supreme Court who sat upon the case, and by law constituted a court, might declare it unconstitutional, still unless six of the eight agreed that it was unconstitutional, it had to stand and remain in full force and effect. If we had been attempting legislation like that they might have told us with propriety that we meant revolution and were destroying and subverting the rights of the people and setting at naught their Constitution, and they could doubtless have argued it well, judging from their ability to argue a bad cause. But when we are simply seeking to keep soldiers away from the polls, suggestions of revolution seem to me to come with bad grace from men who voted for the proposition I have read.

On the question of good faith, I am speaking of it only as a question of good faith, as it is an accomplished fact. In 1865, when the thirteenth amendment to the Constitution was submitted to the States by Congress, proposing to abolish slavery all over the country, it was adopted, among other State Legislatures, by the Legislatures of the States of Tennessee, Arkansas, South Carolina, Alabama, North Carolina, and Georgia, in all twenty-seven, and proclaimed by Mr. Seward, then Secretary of State, as an amendment duly adopted, because it had been voted for by the Legislatures of all those States. On the 5th of December, 1865, Mr. Seward wrote to the acting governor of Alabama the following note:

The President congratulates you and the country upon the acceptance of the congressional amendment of the Constitution of the United States by the State of Alabama, which vote, being the twenth-seventh, fills up the complement of two-thirds, and gives the amendment finishing effect as a part of the organic law of the land.

WILLIAM H. SEWARD.

WASHINGTON, *December* 5, 1865.

All the twenty-seven States named had organized State Legislatures sufficient for the purpose of declaring the thirteenth amendment adopted, taking away and liberating all the slaves of Kentucky, Maryland, and Missouri against their will and against their vote. Were these Southern States then States or not? If they were not States and had no State Legislatures, could they vote to ratify an amendment to the Constitution which deprived other States of their rights against the votes of the protesting States, such as Kentucky, Missouri, and Maryland? I suppose not, and yet in less than two years after that time those very States that thus had so voted, had so ratified the thirteenth constitutional amendment by their Legislatures, although they had committed no act of war, treason, or rebellion after that, although the war was over and peace had been proclaimed, were told by the votes of gentlemen now charging revolution on us that they were not States, and had not been since the war. All the machinery of their State governments was destroyed; they were put under the ban of military authority and deprived of representation, though heavily taxed; their citizens were disfranchised, by order of Congress, by the thousand, many of them the men who had voted to adopt the thirteenth amendment. Although the Senator from Maine said only fourteen thousand in all were disfranchised, when he comes to look at the section of the law of July, 1867, in its wide, sweeping operation as construed, he will find that one hundred thousand will not cover the disfranchisement of the most intelligent and wealthy of that people; yet these gentlemen talk to us about revolution after such acts as these.

I might cite instance after instance of acts of that kind by the republican party, wrongs perpetrated in a thousand ways, but I will not take the time; it would consume too much time. I have spoken too long already. I will barely allude to one other question and close. Have we any precedents for the course we are pursuing? Gentlemen on the other side say no. I assert we have abundant precedents, and some very remarkable ones. I do not care to go over them all, and do not propose to do so. I will call attention to a few of them, however.

In 1849 an effort was made to admit California as a State. In February of that year, not being able to pass that proposition as an independent measure, when a bill was up making appropriations for the civil and diplomatic service of the Government, Mr. Walker, of Wisconsin, offered an amendment to that bill providing that all the territory acquired from Mexico should be organized into revenue collection districts, with officers to take care of the revenue and protect the property of the Government and do many other things. In other words, he sought to establish substantially a territorial government. Mr. John Bell, of Tennessee, moved to amend that amendment by admitting California into the Union as a State as an amendment to the civil and diplomatic appropriation bill. The amendment is now lying before me, providing for all the machinery of courts and government and Legislatures and elections. When he moved that amendment Mr. Hale, of New Hampshire, rose and inquired whether that was germane. The Vice-President, Mr. Dallas, said:

In the opinion of the Chair, the amendment is in order. If there is any doubt upon the point, the Chair would very much prefer that there should be an appeal.

Mr. Webster was then in this body, and he said:

I have no doubt that the Chair is right in his decision.

An appeal was taken and the appeal was laid upon the table by a vote of 22 to 14, thereby declaring that it was in order to admit the State of California by an amendment to an appropriation bill, Mr. Webster advocating it, the Vice-President deciding it, and the Senate by a vote of 22 to 14 sustaining it. It was not admitted on final hearing before the Senate. The territorial form in substance of Mr. Walker was agreed to; but it was regarded as a legitimate amendment.

In the debate upon that amendment these remarkable facts were developed: one was, that two years before, when the Army appropriation bill was before Congress during the Mexican war and President Polk required $3,000,000 to carry on the war, the Congress of the United States attached a proviso to the Army bill applying the Wilmot proviso, as it was called, to all the territories that were acquired from Mexico, and that proviso became a law in the Army appropriation bill; the $3,000,000 necessary to carry on existing war was withheld until the President was coerced into the signing of the bill with that provision in it, if you see fit to use that expression. That certainly looked like coercion, when the battles of the country could not be fought nor its armies in a foreign country fed, when the money could not be obtained even to carry on the Mexican war, unless these gentlemen, most of whom I suppose are now upon the other side, could have the somewhat notorious Wilmot proviso, excluding slavery from all territory acquired, applied to and made a part of the bill.

In 1856 a provision which the Senator from Massachusetts [Mr. HOAR] said in part he objected to, but the first provision of which he thought was all right, was added to the Army appropriation bill

and voted in by a republican House of Representatives by a vote of 91 to 86, which I will read:

Provided, nevertheless, That no part of the military force of the United States herein provided for shall be employed in aid of the enforcement of the enactments of the alleged Legislative Assembly of the Territory of Kansas, recently assembled at Shawnee Mission, until Congress shall have enacted either that it was or was not a valid Legislative Assembly, chosen in conformity with the organic law by the people of the said Territory: *And provided*, That until Congress shall have passed on the validity of the said Legislative Assembly of Kansas it shall be the duty of the President to use the military force in said Territory to preserve the peace, suppress insurrection, repel invasion, and protect persons and property therein and upon the national highways in the State of Missouri or elsewhere from unlawful seizures and searches: *And be it further provided*, That the President is required to disarm the present organized militia of the Territory of Kansas, and recall all the United States arms therein distributed, and to prevent armed men from going into said Territory to disturb the public peace or aid in the enforcement or resistance of real or pretended laws.

The first clause of that amendment meets the approbation of the Senator from Massachusetts, which means that Congress shall have power to declare territorial laws null and void, not by repealing them, as Congress had the right to do in the Territories or in the District of Columbia, but by declaring that they are of no force and effect although they are laws on the statute-book passed under authority of Congress and with all the forms and binding effect of existing law; in other words, he claims, and the House claimed, that the law-making power could annul the laws, could deprive men of rights under laws it has passed—a proposition which is denied by all commentators on constitutional law. Judge Story, Chancellor Kent, and indeed all agree that there is no power in the Congress of the United States to declare or decide upon the meaning of laws or to do anything else except repeal them when it has the power so to do; so long as they remain unrepealed, it is the duty of the President to see that the laws as passed are faithfully executed; and they can only be annulled by the action of the courts; the judiciary was established for the very purpose of declaring whether they were valid or invalid, and it was never the province of Congress to do so. Yet that portion of the amendment I have read meets the approval of the Senator from Massachusetts, while the repeal of an unconstitutional proviso, as proposed by us in the bill now before the Senate, is denounced by him as revolutionary.

Added to all that, by the amendment then adopted by the republican majority the arms of private citizens were to be taken away from them, arms that had been given to the militia, arms that belonged to them, arms that the United States had no more right to take away than it has to come to my house and take away the arms that belong to me; the Constitution says citizens shall not be forbidden to carry arms, because a well-organized militia is necessary to free government; the Federal troops were to invade the State of Missouri and guard the public highways; all these things were maintained by the republican party in an amendment to an Army appropriation bill and carried through the House successfully. That was revolutionary, perhaps. Certainly if that amendment or any provision in it could meet the sanction of the Senator from Massachusetts, there is nothing in the provision we now offer that ought not to receive his cordial and hearty support, which I neither hope for nor desire.

The list of similar cases might be multiplied, but I believe I will not attempt to read any more. I have a memorandum of some of the most important of them in my hand. There is one which perhaps might as well be referred to now. It is a short and plain one. The State of Iowa has nine Representatives sitting in the lower House to-day. What title have they? The Congress of the United States, by the twenty-fifth section of the Revised Statutes, passed a general law providing that elections of members of Congress should be uniform throughout the United States, and should be held on the Tuesday after the first Monday in November in each alternate year. The State of Iowa held her election in October, 1878, in violation of that law, because on the sundry civil appropriation bill, approved March 3, 1875, a provision was inserted:

SEC. 6. That section 25 of the Revised Statutes, prescribing the time for holding elections for Representatives to Congress, is hereby modified so as not to apply to any State that has not yet changed its day of election, and whose constitution must be amended in order to effect a change in the day of the election of State officers in said State.

It is by virtue of that clause appended to the sundry civil appropriation bill that the State of Iowa is entitled to representation and is represented in the lower House of Congress to-day, and only by reason of that proviso so added to that appropriation bill.

I made a minute of some other cases which the republican party have passed upon. I will cite only a few of them.

By section 3 of the sundry civil bill approved in 1864, (thirteenth volume Statutes at Large, page 351,) in a provision in no way connected with the subject, all the laws relating to testimony in the Federal courts were overthrown and negroes and parties in interest were allowed to testify by a proviso attached to an appropriation bill. In 1868 (15 Statutes at Large, page 119) the whole machinery and organization of the Patent Office was overthrown and remodeled in an appropriation bill. A year or two afterward all the machinery of the Treasury Department was remodeled in an appropriation bill. By looking at 16 Statutes at Large, page 40, it will be found that by a proviso in an appropriation bill all the Indian treaties that had been entered into since 1867 were suspended and two millions of dollars were placed in the hands of the President of the United States in bulk to keep the peace among the Indians; and by the same bill the peace commission, so called, was organized.

It has been stated so often that it need hardly be repeated, (it will be found in the seventeenth volume, page 348,) that the supervisors and marshals law was amended, modified, and extended—one of the provisions now sought to be repealed by a bill pending in the other House—on the 10th day of June, 1872, by a republican Congress in an appropriation bill. The celebrated Drake amendment, which annulled the decisions of the Supreme Court and set aside the pardons that had been granted by the President, including those granted by Mr. Lincoln, was also attached to and made part of an appropriation bill. So that there can be no possible propriety in gentlemen on the other side questioning us as to our action on this bill, or doubting that the President will approve the legislation now proposed, because it is attached to an appropriation bill, especially a bill to which it is certainly germane under the most rigid rules as Congress has the power, "to raise and support armies," and "to make rules for the government and regulation of the land and naval forces." We are by this bill regulating the use of the money appropriated from the Treasury for the support of the Army.

That is all I care to say upon the subject of congressional precedents, because the precedents are so numerous, they are so well established and so thoroughly understood that no gentleman on the other side will venture to assert that there is anything unusual or uncommon in the provision now proposed to the pending bill. The other provisions are not before us. I do not propose to discuss them at this time. There are provisions as to which I have spoken casually which I have no doubt will be laid before the Senate, looking to giving litigants in courts honest juries, looking to the freeing of the polls at elections from the presence of such men as we know are now paid out of the public Treasury to remain there for the worst of purposes. I may endeavor to discuss these propositions when the time comes, if discussion upon them is to be had. In the mean time I will only repeat that the history of the republican party shows that it is the duty of democrats, whenever they have the power, it is a duty the people demand the performance of, and the representatives of the people everywhere owe it to them, that wherever they can curtail the military power of this Government and hold it so that it shall not be a standing menace to liberty, right, or law, either at the polls or in the organization of their Legislatures, they ought to do it.

Sir, I have seen, we all have seen in the last ten years the State of Georgia, after she had representatives on the floor of Congress, her representative men sitting in these Halls voting for or against laws to bind the people of the United States, invaded by a Federal Army by orders from Washington, and nineteen duly elected democrats turned out of her legislative halls and others put in their place. We have seen a railway employé set up by Federal bayonets as speaker of her house of representatives, and the great State of Georgia crushed to the earth by military authority of the United States. We have seen the State of Louisiana seized, her Legislature dispersed, her State-house held by Federal soldiers under pretended judgments of United States courts, and United States marshals ordered by the President, or their action at least indorsed by all of the authorities at Washington over and over again in taking control of the Army of the United States and using it for the basest of purposes until a committee of this House, four of them uniting in the report and the others only refusing to unite because the views of the four constituting the majority were not strong enough, denouncing the military interference in the strongest and boldest terms; they were, the Senator from Wisconsin, [Mr. CARPENTER,] the Senator from Illinois, [Mr. LOGAN,] the then Senator from Mississippi, (Mr. Alcorn,) and the Senator from Rhode Island, [Mr. ANTHONY,] all declaring that there was no pretense of authority for Judge Durell or those acting under him, or for Marshal Packard or the authority that he called in to intervene, which was the United States Army that was brought from Florida and elsewhere to take possession of the State-house of Louisiana. Judge Trumbull, of Illinois, Mr. Morton, of Indiana, the other two members, laid before the Senate their own views in which they were equally emphatic and perhaps more so. Judge Trumbull used this language—Attorney-General George H. Williams had telegraphed Marshal Packard, under whom the military were placed on the same level as the common spies, informers, and detectives:

DEPARTMENT OF JUSTICE, *December* 3, 1872.

S. B. PACKARD, Esq.,
United States Marshal, New Orleans, Louisiana:

You are to enforce the decrees and mandates of the United States courts, no matter by whom resisted, and General Emory will furnish you with all necessary troops for that purpose.

GEO. H. WILLIAMS,
Attorney-General.

Mr. Trumbull, of Illinois, in his report states how this was done:

This dispatch, so far as the evidence shows, was not responsive to any call for troops; there had been no resistance to any process of the United States courts, nor does it appear that any was threatened. R. H. Jackson, a captain in the First Artillery, United States Army, testified that he went to New Orleans on the night of December 5 with two batteries of his regiment and eighty-six men.

The same night, December 5, between nine and eleven o'clock, Judge Durell, at his private lodgings, issued his order, which, for want of jurisdiction, was void, and entitled to no respect from anybody, directing the United States marshal forthwith to take possession of the State-house, to hold the same until the further order of the court, and prevent all unlawful assemblage of persons therein, having reference to the persons returned as elected to the Legislature according to the official

returns. Captain Jackson testifies that he took possession of the State-house at about two o'clock on the morning of the 6th, with instructions to take and hold it under the direction of the United States marshal and to act in obedience to his orders. He further testified that he was not stationed in the State-house to prevent riots, but to hold the building, and that if a riot had occurred in front of the building he would not have interfered. He posted two soldiers at the entrance door, who guarded it with crossed bayonets, and suffered no one to enter the building except by permission of the United States marshal, one of whose deputies was at all times present. These troops continued to occupy the State-house for more than six weeks, until January 21, and it is manifest, from the whole testimony, that they were not there to preserve the peace, but to carry out the illegal orders of Judge Durell, and prevent the legally elected members of the Legislature from assembling and organizing.

It is because we are seeking now to render such occurrences impossible under pretenses of that sort, or other equally frivolous excuses or unconstitutional or illegal claims of having the Army of the United States used for any such purpose, that we are called revolutionists. Sir, I have as high respect for the Army of the United States and the men who compose it as any gentleman on this floor; but rather than see them take possession of the polls, rather than see them interfere with the rights of citizens or invade Legislatures or carry out military orders such as have been given and will be given again if the power is continued and the present law is allowed to stand, I would disband the Army; I would arm the frontiersmen, no matter what it cost, to protect themselves and their families against the hostile Indians; I would organize the militia of each of the States, which Mr. Jefferson in his inaugural said was the best safeguard in time of peace and for the first moments of war, so as to protect all men in their rights at the polls and elsewhere within all the States. By the way, I made a note from Mr. Jefferson's inaugural address that perhaps it might be well for the Senate to hear once more. He said:

A well-regulated militia is our best reliance in time of peace and for the first moments of war till regulars can relieve them.

And among the fundamental principles which he laid down as indispensable to the existence of free government were—

The support of the State governments in all their rights as the most competent administratives of our domestic concerns and the surest bulwarks against antirepublican tendencies, * * * a jealous care of the right of election by the people, * * * and trial by juries impartially selected. * * * The wisdom of our sages and the blood of our heroes have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction; the touchstone by which to try the services of those we trust, and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I can add nothing to that except to say, these are my sentiments.

Mr. President, as I understand it, we are only seeking to regain the road which in moments of error and alarm we have so strangely departed from. If there is any other purpose on the part of any democrat, I am not aware of it. I will go as far as he who goes farthest to protect the liberty of this people and the rights of the Federal Government in every form, but I will also maintain the rights of the States and the rights of the citizens of the States to cast their ballots free from Federal interference, without the bayonet interposing, in the exercise of their highest constitutional privilege. I will leave nothing undone that will help contribute to that end.

I thank Senators for their attention.

Mr. DAWES. Mr. President——

Mr. HOAR. Before my colleague proceeds will he yield to me for a moment to make a correction?

Mr. DAWES. Certainly.

Mr. HOAR. Mr. President, I desire my colleague to yield to me for a moment to make a correction and to put a question.

The Senator from Kentucky yesterday stated as his reason for addressing the Senate that he desired to reply to a charge which had been made against him, as he termed it, by myself. He has touched upon many topics; he has avoided with great care touching upon the charge, if he chooses to give it that appellation, the criticism which I made upon his previous utterances in the Senate. I desired to correct his understanding and to call his attention to the true point during his speech, but he was unwilling to be interrupted for that purpose.

The Senator from Kentucky has said that he was charged with being revolutionary because of a purpose to repeal or revise an existing section of the Revised Statutes in regard to the use of the Army. No man has characterized that purpose as revolutionary. He has said that he has been charged, and some persons who think with him have been charged, with being revolutionary because of a purpose to put general legislation upon an appropriation bill. No person has charged him or anybody else with being revolutionary for that reason, or has condemned that practice. It has been done a thousand times. The thing which the Senator from Kentucky has not discussed is this: suppose the President of the United States differs with him in thinking that heavy penalties ought to be extended to persons who take troops to the polls to keep the peace, and in enacting legislation on that subject, and conceiving himself bound by the Constitution of the United States, if he does not approve a bill for that purpose, to return it with his objections, the purpose which I characterized as revolutionary is a purpose to bring this Government to an end unless the President yields that constitutional opinion. The Senator from Kentucky said in the passage which was quoted by me, and from which I will read a single sentence again: "Unless those rights were secured to the people"—that is, the rights, as he calls them, provided for in this legislation—"they would refuse under their constitutional right to make appropriations to carry on the Government," and the Senator from Ohio, [Mr. THURMAN,] who immediately followed him, said:

We claim the right to say that we will not grant the money of the people unless there is a redress of grievances.

Nobody has declared, so far as I know, whether the President will or will not agree with the House or agree with the Senate in regard to this proposed legislation. The Senator from Kentucky declared that if the President did not agree with the House, and, not agreeing with the House, did not sign a bill which he disapproved, the House, with his approbation, would refuse to make the appropriations necessary to carry on the Government. Now, the question I wish to put to him is: does he stand by that purpose, or does he abandon it? Do you stand by that declaration, or do you back out? That question in his four-hour speech he has most carefully and skillfully and advisedly refused to touch upon or refused to permit any person to call his attention to.

Now, one other thing before I sit down. The Senator from Kentucky represented me as saying that the English House of Commons never withheld supplies from the Crown. I said no such thing. I said the contrary. I adverted to repeated instances of the contrary. What I said was that they never withheld supplies from the Crown which were necessary for carrying on the government, that they never shut up a court, that they never refused to provide for the troops necessary for the defense of the realm. I do not speak of foreign wars, but for the defense of the realm; that in the first year of every king's reign down to William III, the taxes were granted to the king for life, and that the hereditary revenues of the Crown supported every necessary function of sovereignty, of government, of civil order, and of the protection of the realm. Now does the Senator from Kentucky deny that proposition, or does he agree to it?

Mr. BECK. Has the Senator from Massachusetts the speech I made before him? I have not.

Mr. HOAR. I have the extract which I read from.

Mr. BECK. I should like to hear it. I have sent for it.

Mr. HOAR. What I want to know while the Senator is finding his speech, I will repeat. Does the Senator from Kentucky now say for himself and the political friends with whom he has been in conference, that if the President of the United States differs with him about the effect and necessity of this clause, he will refuse to grant the supplies necessary to carry on this Government?

Mr. BECK. I have sent for the speech I made; I hope it will be here in a moment, so that I may read the exact words I used. I have no more right to assume that the President will refuse to sign this bill than the Senator from Massachusetts has. I have no knowledge or information upon the subject. I have said in every speech I have made that I believed the President would sign it, as he ought to do. I did say in the speech referred to, during the last Congress, that if the bills were sent to him, as I then believed they would be, separately, and he signed them as he ought to do, we would then pass all the appropriation bills, as he asked us to do, and be ready to go home; that if he refused to sign those bills separately they would be attached to the appropriation bills, and if he saw fit to veto them the consequence would be upon him. But I will read exactly what I said:

As to the revolutionary measures that it is said may be attempted if an extra session is had, I have said what I believe will be done. I only speak for myself. I know nothing positively as to what the democratic Congress will do. But after they have fairly tendered to the President, as they have the undoubted right to do, acts repealing the sections that authorize soldiers to go to the polls to keep the peace and that authorize deputy marshals to order them to go there under any pretense, and acts repealing all the test oaths in reference to jurors, so that men can have honest juries before whom to try their cases, and acts repealing the authority given to the marshals and supervisors at the polls to control the elections, if the President, in the exercise of his constitutional authority, shall see fit to veto measures so just and so fair, so necessary to free government as those laws are, then I for one would again make them part of the appropriation bills and let him exercise his veto power if he determines to perpetuate these wrongs on the bills that appropriate the money necessary to maintain the Government, and let him be responsible by his veto for stopping the wheels of the Government, as he would be if he determines that such measures as these are sufficiently important to keep on the statute-book for partisan purposes to block the wheels of Government. Then the Executive and his aiders and abettors would be responsible to the country, and not the Congress that gave him the opportunity to attach his signature to necessary appropriation bills. I will not occupy the time of the Senate any longer.

That is what I said.

Mr. HOAR. Mr. President——

Mr. BECK. The gentleman will allow me to proceed.

Mr. HOAR. I thought the Senator said he would not occupy the time of the Senate any longer.

Mr. BECK. The Senator's question to me a little while ago was almost impertinent, and I came very near telling the Senator so; and now he will sit down until I am through. I never threatened the President. I said what I have read. I believed I spoke the sentiments of the people of this country when I said that we would tender him bills just, fair, and honest. I assumed that he would sign them, and I assume so now. If he refuse to sign them, then the responsibility, in my judgment, looking at the bills as I do, will be upon his head and upon the partisans who seek to make him take that course. I will state what I will do then. If the President refuses to sign them—and that is the question put to me—I will consult with the

wisest and best men of my party and with good men everywhere to see, when that lamentable condition of things comes, what is my duty as an American Senator under all the circumstances, and I will do it in the best interests of the American people. [Applause in the galleries.] I will not stop the wheels of Government——

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The Senator from Kentucky will suspend a moment. There must be no disorder in the galleries. The Chair will order the galleries to be cleared at once if the applause is repeated.

Mr. BECK. I hope that the contingency suggested will never arise. It never ought to arise, in my judgment, but if it does I hope there is patriotism enough, intelligence enough, integrity enough in the dominant party in the two Houses of Congress to devise the ways and means to get out of the trouble with honor to us all. That is the only statement I have made. I have never made a threat. I never looked beyond to that contingency. I have said that the responsibility would be upon the President and upon the partisans who, in defiance of all their past conduct, in defiance of the precedents of this body, are seeking to urge upon the President to step out of his way when there is no effort made to infringe his constitutional prerogatives, or the prerogatives of the judiciary or of any other department of this Government, or to interfere with any constitutional right of any citizen, or to press upon him hasty or ill-considered legislation, or to do anything which comes within the legitimate scope of his veto power according to the construction put upon it by the men who framed the Constitution or by anybody since, try to induce him to do what no President ever has done before, to veto the repeal of laws. And why? Simply because there are partisans in this body and in the other House who, having lost power and being now in the minority and unable to carry out their own will and to keep dead laws on the statute-books themselves, hope, though still in the minority and not representing the majority of this people, to call in the President to their aid, because they say he is their party friend, to save them and their laws against the will of the people as represented by the majority.

I am not going to submit to be asked questions in any such style on this floor. I have stated my views. I have read what I consider the true history of England in regard to those things. I have stated my opinion about them. I do not profess to speak for the democratic party. The President has had no threat from this great party. The first thing he will receive will be this bill, if we pass it, with this simple provision in it. That is all he will know as President. He will see that as the first thing when it is laid before him, for all the talk of myself and the Senator from Massachusetts and of gentlemen of either House as to their individual opinions amounts only to idle wind so far as he is concerned. His constitutional duty is to consider this bill presented to him fairly, each clause of it, and if there is nothing in it that runs counter to the ancient precedents of the country, nothing that is dangerous to the liberties of the people, nothing that overthrows the Constitution of the United States, nothing that infringes upon his high prerogative as the Chief Executive of this country, or upon the prerogative of the judiciary as a co-ordinate branch of it, then, believing it to be his duty to sign it, and believing that he cannot be driven away from his duty, I have always said that I believed he would sign it. If unfortunately he shall do otherwise, then, as I said, I will when that calamity arises and that contingency comes consult carefully what it is best to do, and I will do it, I hope, wisely and well.

Mr. HOAR. Mr. President, when I rose just now the Senator from Kentucky had said that he should detain the Senate no longer.

Mr. EATON. That was what he read.

Mr. HOAR. I thought it was his own remark; and that was what induced me to rise before he had yielded the floor. I thought he had got through. The Senator from Kentucky avoids—I will not say evades—reading the substantial and important sentence of the speech which has been commented upon. Now he says that if the President vetoes a bill he will consult with the wise men, not from the east but from the South, or from wherever they come.

Mr. BECK. I will not consult the Senator from Massachusetts.

Mr. HOAR. What he said before was: "Unless those rights were secured * * * they would refuse, under their constitutional right, to make appropriations to carry on the Government." The Senator from Kentucky was by no means uttering an individual opinion. He had been appointed by this body to confer (as the representative, with his two associates, of the entire Senate) with the House of Representatives, the co-ordinate legislative department of this Government, and he was reporting to us the purpose of the House as learned by him from the conferees on the part of that body, and he so declared, and he said that these men further agreed, and he agreed with them, and so on.

Now, what was the question which I rose to put to the Senator from Kentucky? I do not, of course, claim the right to catechise him or catechise any man as to his individual opinions here or anywhere else; but when a Senator rises and announces to the Senate the purpose of a co-ordinate legislative body, when he adds to that purpose a declaration of his own opinion and purpose, having announced at another time also his opinion of his obligation to act with his political associates, and when that having been commented upon he spends four hours in what he announces at the beginning is the reply to a charge made in the course of that comment, and refuses to be set right when he is going on, I think it proper to call precisely and exactly to his attention what he himself has uttered in debate here, what he has addressed to this body here, and see whether it be revolutionary or not.

Now, I say that in his first speech and in his impassioned reply just now he has declined to tell us whether he sticks to the purpose announced by him in the speech from which I have read, to refuse to make appropriations to carry on this Government. It is not I, it is not any man on this side of the Chamber, who has introduced here the question of the President's veto or the President's signature to legislation; it is he, the Senator from Kentucky, the conferee on the part of the Senate, the reporter of the purpose of the House, who supposed the case first of the Senate refusing to assent to this legislation and declared the purpose of the other body that Congress should adjourn without making appropriations, and then the purpose of the majority in both branches to do the same thing if the President should not agree with them in the legislation. It is that I denounce as usurpation; that I denounce as revolution, not the putting legislation on appropriation bills, not the repeal of any old statute or the enactment of any new statute in the regular and constitutional way; but it is that—the saying to the President, "You shall have no pay, the judges shall have no pay, there shall be no post-office, there shall be no pensions, there shall be no courts, unless, when the Constitution which you have sworn to support says that if you do not approve a bill you shall return it with your objections, you, in obedience to us, not approving it, and in defiance of your own oath, return it with your assent."

Sir, it is a pretty interesting question to the American people to know the purpose of that great party and of the Senator from Kentucky, who is one of its leaders. It is to that point that I address myself.

Mr. BECK. Mr. President, one word more. The difficulty about the speech of the Senator from Massachusetts, which I did not care about saying before, but he presses it, and presses it with so much earnestness that I will now simply state it, is that it is not the truth. I never said what he asserted that I said, and he cannot find it in the speech that I made, although he professed to read from it. I never said that we would block the wheels of the Government if the President saw fit to veto this bill in the exercise of his constitutional authority. That is the first trouble.

What was it that I said? I read the speech word for word, and there was not a scintilla in it of such a purpose. Now, I will read it again. I said to the Senate in the last Congress that I was very sure that if the Senate refused to accede to these amendments of the House the House would refuse to pass the bill, and an extra session would follow, and I was right. The Senate did refuse, and an extra session did follow. Now I will read again what I said to show that the Senator from Massachusetts designed to put a false question to me and to make me answer a conundrum of his own, which I told him I would not answer because there was nothing in it, and I was not dealing in refining disquisitions about probabilities and possibilities that he seems to be so fond of. His effort reminds me of a remark I once heard cited as having been made by old John Randolph, of Virginia, about two young men who were highly educated in some of the colleges, and who came back and gave him a heap of trouble in the house of burgesses in Virginia. His remark was, that he regretted to say that his young friends were like the lands at the headwaters of the Alleghany—poor by nature and exhausted by cultivation. [Laughter.] That is not my condition, and I do not propose to be refining away anything in that sort of manner.

Now, sir, I say that the words the Senator from Massachusetts put in my mouth I never uttered except in the connection of a failure of the two Houses to agree. In that event, I said that the House of Representatives in my judgment would not recede, and the result would be to force an extra session, because the House would refuse to pass the bill unless the Senate consented to allow the amendments they had placed there to be incorporated in the bill; and it was to induce the Senate, if I could, to recede from their objection to the House amendments and not to force an extra session, and in that connection only, that I used the language which the Senator from Massachusetts has read, and by reading which he professed and sought to make the impression on the Senate and the country that I had said I would refuse to pass necessary appropriation bills even after the President had vetoed these bills. I never said it, and he was seeking to make a false impression, I am afraid; he did make it at least.

Now I will read what I did say. I told the Senate, as a conferee on the part of the Senate, that the House in my judgment would never recede, that the conferees on the part of the Senate had also refused to recede, that we had come to a dead-lock, that the House insisted, and I thought they were right in insisting:

> That the armed soldiers of the United States should not be allowed to approach the polls for the mere purpose of keeping the peace, that there should be an honest jury obtained in the courts of the United States in all cases where the rights and liberties of citizens were involved, and that the States should be allowed to conduct their own elections in their own way, free from all Federal interference, and the democratic conferees on the part of the House seemed determined that unless those rights were secured to the people in the bills sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government if the dominant majority in the Senate insisted upon the maintenance of these laws *and refused to consent* to their repeal.

That is what I said, and that is all I said on that subject. Then

what did I say about an extra session? I will read word for word, so that the RECORD will show whether I have been making the statements that I am now required to answer categorically, and whether there is any basis for an imaginary revolution gotten up upon an imaginary state of the case attempted to be fastened upon a single person who is only one of seventy-six Senators and two hundred and ninety odd Representatives; and it would take a majority of both to make a revolution, I should think, in legislation. I added, after saying what I have already read:

They seemed further to agree, and I agreed with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people in repealing all laws that authorize the soldiers of the Republic to be sent by any authority whatever to the polls at State elections under the pretense of keeping the peace, and in repealing all laws that prevent men who are by intelligence and interest in the public welfare fit and competent to do justice between citizens and between the United States and citizens in the jury-box from exercising that right, thus depriving the courts the benefit of fair jurors, and they will promptly pass another bill declaring that the United States shall not, either through supervisors, marshals, or deputy marshals, interfere with the States in conducting the elections held within the States. We insist that those matters pertain solely to the States and are part of their absolute right, and that they are perfectly competent to attend to them fairly and honestly. When these three laws are submitted to the President for his approval, as they will be, and are approved by him, as they ought to be, the next Congress will in my opinion be ready to pass every appropriation bill, just as it is now, adjourn, and go home without attempting before next December to perfect any further legislation. If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own elections, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. We have the undoubted right to repeal them in any form and on any bills we choose. Most of them were imposed upon the country as parts of appropriation bills. Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

That is the whole speech that I made, word for word, and there is no threat in it. There was only a statement made to the Senate that if the Senate refused to agree to the provisions inserted in the House bills and insisted on striking them out, the House would probably refuse to pass the bills with those provisions stricken out, and an extra session of Congress must follow. Now, by what authority does the Senator from Massachusetts insist on reading as though I had said that if the President vetoed these bills I had threatened to block the wheels of government? He has put that to me three different times in the last fifteen minutes. Sir, I never said it. He had my speech in his hands and could hardly fail to know that I had never said it. I have read what I said; the country can read it. It was simply urging the Senate to give way, to withdraw their objections to the legislation proposed by the House which I thought was just and fair and honest and right, and agree to it so as to avoid an extra session, for the information I had from the House conferees was that they would not give way; and it turned out that I told the truth; they did not give way, and the extra session has come. As to any threat made by me, there was none further than to state what I had ascertained in the conference of the temper of the House, which turned out to be fully verified.

Mr. HOAR. Mr. President, I do not propose to be deterred from making my point by any exercise of plantation manners here or elsewhere.

Mr. BECK. That is so original that it ought to be carefully noted!

Mr. HOAR. I read the Senator's language from his speech before. When the Senator undertook to read his speech before, he omitted the part of it which I have read.

Mr. BECK. I beg the Senator's pardon. When I undertook a little while ago to read, I read my final reply.

Mr. HOAR. I understand it. The Senator did not read the language which I read from his speech. He has read it now.

Mr. BECK. Yes; every word of it.

Mr. HOAR. He read it in such a tone of voice and with a hurried flow of words, so that few people could follow him.

Mr. BECK. Read it again. It is a very good speech.

Mr. HOAR. "It is a very good speech," and let us see whether the Senator adheres to it or whether there has been another caucus and he abandons it. The Senator was speaking of the purpose of the House in case a majority of the Senate refused to assent——

Mr. BECK. And the Senator said awhile ago that I was speaking of the purpose in case the President refused to sign! That is what you said.

Mr. HOAR. Mr. President, nothing would induce me to allow so ungentlemanlike an utterance to pass my lips as to tell a gentleman who was interrupting me to sit down, and I will not say so to the Senator from Kentucky, but I shall be obliged to him for not interrupting.

The PRESIDING OFFICER. The Chair reminds Senators that in order to address the Senate they must address the Chair before speaking to the Senate.

Mr. HOAR. The proposition which the Senator undertook to report from the House and to give his own opinion on was twofold: First, what will the House of Representatives do if the Senate disagree with them about a matter of general legislation? The Constitution requires the assent of three—House, Senate, and President. Now, the first proposition which the Senator from Kentucky undertook to state was, What will the House of Representatives do if the Senate refuse to concur with them in regard to legislation? and he replied:

The democratic conferees on the part of the House seemed determined that unless those rights were secured to the people in the bills sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government if the dominant majority in the Senate insisted upon the maintenance of these laws and refused to consent to their repeal.

Is that language ambiguous? Did I do injustice to the Senator from Kentucky when I read it from his own speech?

The democratic conferees on the part of the House seemed determined that unless those rights were secured to the people in the bills sent to the Senate they would refuse, under their constitutional right, to make appropriations to carry on the Government if the dominant majority in the Senate insisted upon the maintenance of these laws and refused to consent to their repeal.

That is proposition No. 1. Then, what is to happen if the Senate and House are agreed and the President vetoes the bills?

They seemed further to agree, and I agree with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people in repealing all laws.

Then the Senator states his opinion upon the laws which I will not read, and he proceeds:

When these three laws are submitted to the President for his approval, as they will be, and are approved by him, as they ought to be, the next Congress will in my opinion be ready to pass every appropriation bill, just as it is now, adjourn, and go home without attempting before next December to perfect any further legislation. If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own elections, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. We have the undoubted right to repeal them in any form and on any bills we choose.

The Senator is speaking of the President's veto in the last sentence, and he adds:

Most of them were imposed upon the country as parts of appropriation bills. Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

Now, if the Senator from Kentucky says he did not mean to say that they would not pass appropriation bills unless the President assented to this legislation, of course we must accept his assertion; but nobody else so understood him, nobody else could so understand him, and I do not believe it is possible to frame human language which shall express more clearly to the mind of the country, or of the Senate or of my own, the purpose I imputed to the Senator from Kentucky, than the language which he uttered. Then he was followed by the honorable Senator from Ohio, [Mr. THURMAN,] who manifestly took that view of it, and who uttered the language which I also quoted from his speech:

We claim the right which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances.

And the Senator from Kentucky to-day has spent a large part of his speech in showing the peaceful revolution by which, under the unwritten constitution of England, the House of Commons wrested the executive power from the monarch and took it to themselves. Does the Senator from Kentucky mean (and if not, why cite and quote this history?) that we have a right under our written Constitution to wrest the executive power or the veto power from the President of the United States?

I have nothing to say to what is offensive in the language of the Senator from Kentucky. I dealt with his speech; I dealt with its clear, plain, palpable meaning; I dealt with a meaning which I do not believe now he will disavow, and I read the language which, when it was convenient for him to refer to his speech again, he omitted.

If this position as it has been understood, if this position of which this extra session is but the reaffirmance is to be abandoned, the country will be relieved by the prompt, explicit, and intelligible statement of the purpose to abandon it on the part of the Senator from Kentucky and his associates.

Mr. DAWES. Mr. President, in the House of Representatives, provided by its rules, there is a Committee of the Whole on the state of the Union, in which all matters affecting the Union are discussed and deliberated upon. There is no such committee in this body, but nevertheless, in a larger and a broader sense, the debate of the last two or three weeks in these Halls has been carried on in a committee of the whole upon the state of the Union. The firm conviction has taken hold of the public mind that more than appears upon the surface and is indicated by the particular subject-matter under discussion is the cause of this debate, and that its presence here affects the Union. The Army bill and its provisions, important as they are, are not the cause but the incident of this debate. The excitement which it has produced here and elsewhere is but the blush upon the surface of a fever, the cause of which lies deep and is of long continuance. This bill and its associate are hardly more than floats upon the current, indicating its force and its strength. There has taken hold upon the public mind the conviction that something more and something be-

hind the provisions of these bills impels the current of political affairs here in the Capitol.

This excitement comes upon a country ill-prepared to receive it. Gladly would it avoid it. There is no interest of the country that does not long for peace and quiet. There is no aspiration of the patriot that does not long for the assurance that no danger lies underneath what is going on here at the Capitol. All business interests of the country ask for repose; all earnest men in the country are tired of agitation and of conflict; all men have looked forward to and hoped for peace, reconciliation, pacification.

I have not sought the floor, nor do I intend, if I am able to possess myself, to add to this excitement. No more unpatriotic effort could be indulged in than sounding notes of alarm where there is no occasion for them, except it be that silence of the public servant that fails to give warning of apparent danger.

That problem inherited from the war called reconstruction, lately rechristened pacification, has had many phases in its progress through difficulties and obstacles toward a peaceful and healthy solution. Two or three years ago it was proposed in a fresh effort toward its attainment to turn it over into the hands and control of those who had been instrumental in creating the problem itself. Reconstruction, it was thought, could best be brought about by those most engaged in destruction; pacification could be secured most easily at the hands of those who had disturbed the peace; and the gaping wounds of the war could be stanched and healed only by hands reddest in that blood. The good offices of these men were tendered to this work upon the sole condition that power should be surrendered into their hands to work out this problem. They would themselves assure peace; they would themselves secure to the helpless, unarmed, unprotected freedman every right of the American citizen, but only upon the condition that absolute control should be placed in their hands. A new administration coming into power, trusting to these professions and believing it to be its duty to try each method that presented itself to work out this difficult proposition, accepted these assurances, took these men at their word, not only trusted them, but went into active co-operation with them, clearing the way for their free, unobstructed, and unhindered working out the problem they proposed to undertake. Into their hands and into the hands of men of their own selection was placed power. Every marshal in the districts which composed the disturbed region of country, every district attorney, every executive officer, every postmaster even was selected or rejected according as he was satisfactory to the advocates of this new method of reconstruction and of pacification.

They commenced their work under auspices the most favorable for its accomplishment. The country, if not trusting quite so implicitly the assertions of these men as did the Administration, nevertheless stood by and protected it and them in carrying out faithfully the task. From that day to this no obstacle has been put in their way. They have had no offensive officer thrust upon them; they have had no obstacle of legislation in their path. The country accepted their assurance that if the control of public affairs in those States should be intrusted to them they would work out that peace, that pacification which can come alone from the security and protection of every citizen of the United States in the enjoyment and the exercise of every right guaranteed to him under the Constitution.

No advocate of this plan, no participator in this movement from any quarter, can point to one single obstacle thrown by power or by influence or by adverse criticism or unfriendly legislation of any kind toward the complete fruition of this last method of pacification. It has had its opportunity; it has had its free course and it has run it—and what has been the result? That class of people who constitute the majority in three or four of those States, and a large proportion of the voting population in all the other States composing that number, has been absolutely stripped of every political right, struck dumb, as voiceless as the grave that has closed over many of them in the vain attempt to exercise their rights. Represented in the other branch by more than twenty-five members they have not had a single voice in their selection. They have disappeared from the polls, from political organization, and from the exercise of political rights. They might as well be blotted out of existence, so far as political rights are concerned, except that their numbers form the basis upon which men whom they have had no voice in selecting shall determine in the other House of Congress the policy of this nation.

Not in political rights alone, but in all those other rights which a man in this country holds at the mercy of another when he is without political rights are they as helpless and as defenseless. Deprived of redress in the courts of the United States, baffled and buffeted and kicked out of the courts of the States, trifled with and cheated and starved in contracts they have no power to enforce, hunted to their cabins at night and laid low in death before morning if they resist, the children of Israel in Egypt were in a better condition than they. Despair has taken possession of them and hope has fled, and an exodus like unto that of the children of Israel is being presented to the American people at this moment as the commentary upon this work intrusted to these new reconstructors, upon the solemn assurance that every right, political and personal, should be secured to the humblest and the weakest of all the citizens within their borders.

These are the facts, Mr. President. This thus far is the result. This is what disappoints the patriotic public putting its trust in such promises. This is all the pacification they have given us. But, sir, they did not undertake the experiment for this result alone. It was not merely to prostrate at the feet of men who declare they are the natural rulers of those States this humble, this weak and defenseless people, but for deeper reasons. It was to obtain in the House of Representatives and here, for another purpose, a power not otherwise attainable. Of the twenty-five representatives of the colored race in these States now holding the balance of power in the House of Representatives, as I have said, not a colored man has had a voice in the selection. Not one of these men would hold that place had the pledges of those who were intrusted with power been carried out. For what it was sought, what was the purpose beyond and deeper than the surface, is the inquiry about which the American people are at this moment so anxious and toward which I desire to ask your attention for a few moments. What is this purpose? Three distinct propositions have been announced upon this floor which taken together are the key to this whole plan. The Senator from Delaware [Mr. SAULSBURY] announced, first, that the republican side of this House might understand first as well as last that they were to have no more voice in the legislation in this Hall. That is the first proposition. The next is, that when the democratic majority in Congress have determined upon a line of policy it is to be taken as a whole, without alteration or modification at any other hand. The third is, that the democratic party will take its measures from a caucus. It follows then as the logic of these three statements that a caucus is hereafter to determine the policy of this Government, that in the secret conclave of a caucus is to be discovered this purpose, and the future of the legislation and administration of public affairs.

What caucus, Mr. President? A caucus in which these men of whom I have been speaking have the absolute control. A caucus in which a large majority were unable to take the oath at the Vice-President's desk that they had not themselves personally been engaged in an attempt to overthrow the Government itself, has come by surrender of the democratic party into the control of all power and of all legislation in these two branches. So it follows that the men who were able by their failure to carry out their pledges to protect in the exercise of their rights the colored race of the South, to plant their majority in the House of Representatives, have had surrendered to them, according to the public announcement of the democratic party here, the shaping, the determining, and the fixing the policy and purpose of the Government. They have not left us to doubt, to conjecture, what their purpose is. Too plainly is it indicated upon the records of the two Houses of Congress and the official utterances of members of this and the other body. We were told the other day, exultingly, and with good reason was it said exultingly, that those men who could not at your desk take the oath that they had not undertaken themselves to overthrow this Government were not only in the majority here but they had come to stay. We were told in the same breath that when in 1861 they left these seats it was a mistake, a blunder. A mistake of what, a blunder in what? A mistake not of principle but in strategy; that in going out from these seats into a war upon the life of this nation they were actuated by as high and patriotic and noble purposes as ever actuated man under the sun; but that their mistake of strategy was that they sought by going out and by war to accomplish what failing to do they might just as well and more safely have accomplished here. We were told by the same gentlemen when speaking in another place, and using substantially the same language, that when they went out they carried the Constitution with them and went out in its defense against those who remained here, who were its enemies; that they had come back to teach those who had remained their duty to the Constitution.

Now, sir, that leaves nothing for conjecture. That is clear and explicit. That means, if it means anything, that they have come back to assert and maintain in these Halls that interpretation of the Constitution for which they made the strategic blunder of leaving these seats. Avoiding in the future the mistake they made in the past, they are here to work out in these Halls that kind of government under the forms of this Constitution they went to Montgomery to establish and to maintain by force of arms.

We were told not long ago that they had come back to accomplish by the ballot what they had failed to accomplish by the bullet, and that is, to establish under this Dome and under the form and words in this Constitution that interpretation of it which in 1832 South Carolina declared authorized her to nullify any act of Congress which in her judgment she disapproved, that interpretation of it which Jefferson Davis and his followers taking their departure from these seats and those in the other Hall went forth to establish upon the field of battle. We were told at the same time that "You may call this rebellion if you please; we will appeal to the future for the interpretation of our acts to determine whether it be rebellion or not."

Sir, here underlies the moving power which controls this debate. No sooner had these men come into power in the other branch, not waiting for control here, than they filled the files of Congress with schemes and plans in the form of legislation and of amendments to the Constitution as clearly indicating this line of purpose as is the course of the sun marked out in its orbit. Bill after bill was introduced. I have one here before me stripping the courts of the United States of all power to protect its officers in the collection of its customs duties, surrendering to the State at its pleasure the question whether the revenues of the United States shall be collected at all or not; another, taking from the courts of the United States the

power to enforce any contract made by any county or municipal organization in all these States, the Constitution relieving the States from being sued in the United States court. Here in my hand is another, which, if it becomes a law, relieves all the political organizations from the enforcement of a single one of their obligations of whatever kind in the courts of the United States and turning them over to the State courts alone for enforcement; another, still, claiming compensation for some losses sustained by some individual resident of one of these States, incurred, as the bill says, "in the late unhappy war between the States;" another, providing that when the time shall come that they shall have in their power the last of the three co-ordinate branches of this Government they can fill every office in the Army of the United States with the men who led the forces upon the field of battle in the war for their destruction. In the very bill under consideration is the provision that till then there shall be no more promotions in the Army as it is, so that for these two years there shall be made, as fast as casualties and other means may bring it about, vacancies to be filled by men who carried the flag of the enemy in the war upon the country. They had not been in power in the House of Representatives a month before they struck at the Army itself and undertook to reduce it to ten thousand men; and nothing but the necessities of the border of Texas bringing to the rescue of this Army the Representatives of that State in the last Congress saved it, so far as the men who dominate and give purpose and character to legislation in that Hall then and in this now was concerned, from the beggarly measure of ten thousand men. That, along with this bill which I have before me, which repeals that section of the Revised Statutes which keeps from the command of the armies of the United States those men who led and commanded the forces of the rebellion against it, tell the story so far as the Army is concerned.

But, sir, this is not all. The Senator from Maine [Mr. BLAINE] has already called your attention to the open and avowed purpose of the men who by dictation of the caucus commend the measures which command the majority in these bodies. They have openly avowed that they have come back to stay for the purpose of wiping out every vestige of the legislation for the last eighteen years growing out of the war. The Senator from Kentucky not now in his seat [Mr. BECK] avowed it here. I remember to have heard at an earlier day a distinguished member of the democratic party in the other House, when the inquiry was put to him, "What will you do when you come back into power?" make the significant answer, "Do! we will undo all that you republicans have done since 1861."

Sir, the present condition of things, the purpose underlying all this measure, takes strength, is formidable, only as it stands upon the down-trodden and destroyed franchise of those people who were delivered over to the assurances and covenants of the very men who brought this evil upon the country. It dates directly back to the day when power over them was delivered into the hands of their original oppressors.

Mr. President, in the light of all that has taken place since flagrant war ceased at Appomattox Court House, in the light of the avowed purpose of those who shape the course of legislation and of political events here, it becomes significant to call attention to the fact that without the three constitutional amendments, which were a part of the work of the republican party since 1861, the condition of things to-day would differ only in name from the condition of things before the war. Clearer than ever to-day stand out the necessity and the wisdom of those amendments; and the regret in the mind of every patriot looking earnestly and anxiously upon the drift of public events is not in their enactment but in the fact that they fell so far short of accomplishing the true and legitimate results of that war. Just so far as subsequent events have enabled those now in power to trample under foot the political rights of four millions of people unable to assert and defend their exercise, just so far those constitutional amendments have fallen short of the accomplishment of the true result. Were it not for them the true interpretation of the present drift and current of political power leads to the restoration of matters to the condition before the war.

Look on that spectacle in this body, the struggle all night long, successful in the gray of the morning only by a single vote, in preventing the passage of a law for the pensioning of Jefferson Davis, the head and the front and the leader of the rebellion itself, in the face of the declaration from those now dominating in this Hall that the very effort itself was a wanton insult to those who control legislation here.

It was, Mr. President, a fitting counterpart to this proceeding that that caucus, controlled, as I have said, by an overwhelming majority of those who cannot take an oath that they have not made war upon the Government itself, should place in the hands of the vice-president of the confederacy the duty of formulating into words the purposes and policy of the future of that party. Pension the chief of the confederacy at this end of the Capitol upon pain of inflicting a wanton insult upon those who are to shape the course of legislation hereafter, and at the other end of the Capitol give to the vice-president of that confederacy the high duty of expressing in words the future policy and purposes of the same party, and very little else is left to complete the picture and the work.

Little further is wanting to show what the purpose of this party is. I do not care to call attention to the fact that this Government is called, as the Senator from Connecticut [Mr. EATON] called it the other day, a confederacy of States. Nor do I care to allude to what slipped from the tongue of the Senator from Georgia [Mr. HILL] when he spoke of this "confederate Senate."

Mr. EATON. Will my friend pardon me one moment? Is not this a confederacy of States; and did not Daniel Webster of Massachusetts pronounce it to be a confederacy of States?

Mr. DAWES. I do not know. I know that the Constitution makes it a nation and not a mere confederacy of States.

Mr. EATON. It would be well to learn before the Senator charges me with something monstrous.

Mr. DAWES. I do not know whether Daniel Webster called it a confederacy of States; I know the Senator from Connecticut did.

Mr. EATON. I did; and I shall do so a great many times more if I live.

Mr. DAWES. Very likely. I know that that is the language used by those who say they have come back here to accomplish under the forms of legislation what they tried but failed to accomplish on the battle-field, namely, to establish their right to leave this Government peaceably whenever they choose—the right to make the States sovereign over the United States Government. If anything was settled by the war, so settled that it will never be unsettled even by the temporary ascendency in these two Houses of those who sought to make another government of it, it was settled that a State could not peaceably secede from this Union, and that this is a nation, a union of States, not an association of them. It is still true that this is the Congress of the United States, not of the Confederate States, of America.

Sir, I was about to say that the bill before the Senate is defended upon the open and avowed ground that there is no such thing as the peace of the United States; that there is no authority of the United States in any State in this Union over and above the authority of the State, the infraction of which is a disturbance of the peace of the United States. I think that that embraces the entire doctrine of State sovereignty. I do not see that anything is left that could be desired by John C. Calhoun himself. If there be no enactment of the Congress of the United States under the Constitution to be executed within the limits of a State that this Government has any power to enforce, so that the violation of it is a disturbance of the peace of the United States, then I do not know wherein the United States in any matter is sovereign over the authority of the State; and yet, without qualification and without limitation, it is declared to be the basis upon which this bill rests that there can be under this Government no such thing as the peace of the United States to violate, to disturb, to overthrow, or to keep, as my colleague suggests.

Now, sir, take the single provision around which all this legislation hinges. The office of Representative in Congress is the creation of the United States Constitution. It does not exist if the Constitution of the United States has not created it. Its existence does not depend upon the slightest authority from the State. The Constitution of the United States has prescribed the qualification of the voter for a Representative in Congress as clearly, as explicitly, and as definitely as if it had written it out in so many words. The qualification for a voter to this national office, the Constitution says, shall be in each State precisely the same, and not otherwise, as the qualifications of a voter for the most numerous branch of the Legislature of that State. Those qualifications, therefore, are defined in words. The State without the consent of Congress can neither appoint the time for the election of a member of Congress, nor the manner of casting the ballot prescribed by the Constitution, nor the place at which it shall be deposited. The fixing of the time for depositing it the Constitution has reposed in Congress; the prescription of the manner of depositing it is reposed in Congress; the naming of the place at which it is deposited is reposed in Congress if Congress chooses to exert the power. They can make the time for the election of a member of Congress coincide with that of the State election, or they can prohibit its being done at the time of the State election. It is in their power to establish in the State of New York, or Ohio, or Maryland the election of a member of Congress on the 4th day of July, if they choose. They can prescribe every duty to be performed, and the manner of doing it at a time when there shall be no State election or State officer with authority to appear at that point. And yet in the name of that State-rights doctrine that has come back here to dominate and to shape the future policy of this Government, we are told that it is not in the power of the United States to enforce its own laws in the election of its own officer according to the qualifications it has itself prescribed, but that that belongs to the State!

Why, sir, nothing is clearer than that the Supreme Court of the United States in Prigg *vs.* Pennsylvania have decided that it is not in the power of the United States to require of a State officer the exercise of any such authority. If the United States had declared in a statute that it should be the duty of any designated State officer to keep the peace at the polls, it would be absolutely voluntary on the part of that officer to do or to omit to do what Congress should attempt to require of him to do. So that the doctrine promulgated as the basis of the disputed provisions of this bill is that the United States has created an office, an elective office, has prescribed the qualifications of the voter for it, has determined the time, the place, and

the manner of depositing that vote, and is utterly powerless not only to enforce its provisions but to require any State officer to do the same.

I have but to repeat the inquiry I have just made, what further is necessary to complete the domination of State sovereignty over the power of the United States, striking it in this its most vital and essential organ, but thus to strip it of the power to select and to secure the election according to constitutional qualifications and rights of the members of the most numerous branch of its Legislature, without which of itself the Government falls to the ground?

Sir, there is something about these measures which have in them features peculiar. There is a bitter irony in what we hear said, from the quarter whence it comes, of the freedom and the purity of the ballot. There is something malapropos, something incongruous, in a majority of a legislative body that, had it not been for the rifle-club and the tissue ballot, would have been in a helpless and hopeless and powerless minority, standing upon the outraged franchise of three million people and crying out for the freedom and the purity of the ballot. Sir, in this debate I bow to that parliamentary requirement which commands silence in respect to what is being transacted or said in the House of Representatives, and therefore I can only say that if I were indebted for a seat in either House of Congress to the silencing of a majority of more than five thousand weak, helpless, unprotected citizens, silenced by the rifle-club and the tissue ballot, it would be a good while before I would whine because I had been deprived of the right to buy and sell that majority as in olden times or prate about the purity of the ballot-box; it would be a good while before I should use any such language as this:

> It was this same party that by a single stroke of legislation reversed the natural order of things in one-third of this continent, and by a fatal blind policy reduced to desolation and degradation and bankruptcy and beggary nine sovereign States of this Union. And after visiting these indescribable calamities upon a people who were forced to look on with impotent anguish and wordless ire while darkness more profound threatened to eclipse their civilization, and while returning justice was about regaining the ascending scale, they quartered their troops wherever they dared, constituted in States that were once free the corporal of the guard chairman of the board of managers of election, and menaced with bayonets the returning boards of certain States that the votes might be registered as the pretor demanded. The suppression of the free and untrammeled voice of the people in their national elections in certain States for years past has no parallel save when the pretorian guards of Rome dictated the choice of a Roman emperor.

I say, sir, that if I assumed to represent in the Halls of Congress the city of Charleston and was indebted for that place to my ability to stand upon the back of five thousand majority of poor, helpless citizens of the United States, silenced as with the stillness of death by the rifle-club and the tissue-ballot, I would wait awhile or let somebody else use that language.

If my friends on the other side will take a little advice from me, I will suggest to them that they had better wait before talking any more about the freedom and the purity of the ballot-box, until it shall have been forgotten how in 1868 they snowed under sixteen thousand republican majority in the State of New York in accordance with the circular sent out beforehand in the name of their great chief, Samuel J. Tilden, so secretly that he did not know anything about it any more than he knows about every other political iniquity which has been transacted since in his name and in his house!

Sir, there is nothing like it, no assurance equal to it, except that of their other great leader famous for quoting scripture who when he was sick was so anxious to take holy orders, and forgot it as soon as he was well!

Let me further call attention to some of the provisions of the very bill around which this whole debate hinges. I have already called attention to the fact that it is supported on the ground that the United States has no peace to keep, that there can be no such thing as a breach of the peace of the United States. Without that these provisions cannot stand one moment. If the United States has a peace to keep, everything else provided in this bill stands to-day in the existing law. The United States soldier can appear at the polls now for no other purpose under heaven but to keep the peace. For every other purpose, if this bill passes, the penalty will be precisely the same that it is to-day. The pretense of this bill is that it is to prevent United States soldiers from intimidating voters. The penalty for that is precisely the same upon the statute-book now that it will be when this bill becomes a law. If any United States soldier ever has or under existing law ever does approach the polls within two miles for the purpose of intimidation, he incurs now exactly the same penalty that he will do when this bill passes. So it is not for that that this bill is to be enacted; it is not to prevent intimidation at the polls because it throws no single additional safeguard around a voter to protect him from intimidation at the polls. He is just as much exposed to intimidation by the soldier when this bill passes as he is to-day. So tell us no more that this bill is designed to prevent intimidation at the polls. Why do you not put an additional penalty? Why do you not describe the intimidation in some other way? Why do you not define the offense in some broader words? No; you take precisely the same words and you affix precisely the same penalty for intimidation that stands to-day and has stood for fourteen years in the statute-books of the United States.

And when my friend from West Virginia [Mr. HEREFORD] answered the Senator from Maine [Mr. BLAINE] that he saw in 1870 soldiers about the polls for the purpose of intimidation, he saw them doing that which was a penitentiary offense then, and if repeated after this bill passes will be no more so.

It is idle folly, false pretense, for what you do attests more clearly your purpose than what you profess. The only new thing, the only act to which a new penalty is to be attached when this bill becomes a law is the attempt to keep the peace at the polls, not any other act.

So, Mr. President, it is the logic of the announcement elsewhere that this bill really rests for its essential provision upon that startling announcement that there is no peace of the United States to be kept, and therefore that he who attempts to keep the peace of the United States may well be sent to the penitentiary for it.

Mr. President, if I may allude to what has passed in debate cursorily here, I do it only in further elucidation of the one single point to which I have desired to draw the attention of the Senate that this whole movement seeks but to establish in power the sovereignty of the States. What has fallen from the Senator from Kentucky in his long argument, when condensed and set to the music of these times, is simply the one tune—the United States is to be stripped by degrees, slowly but effectually, of all its power in the States. He tells you that when a United States officer is to be elected to a United States office, to discharge the functions of a legislator of the United States, this election must be taken out from under the control of the United States and placed under the control of the State itself. Well, sir, ten of these States were once in a position to illustrate that proposition, and I commend to the Senator, who to his honor be it said took no part in that grand but fatal experiment, the application of it; I commend to him the interrogatory I put in all good faith and earnestness: if that be true does the life of the nation depend upon itself or upon the will of the State? Is he able from his fresh study of the philosophy of State sovereignty to formulate in words more effective, more certain or inevitable, the consequence that the Government of the United States depends upon the will of the States for consent to live?

I do not desire to follow him in all that he has said, much less do I desire to criticise that impassioned effort to contrast southern Senators on that side, in their personal character and worth, with some of those who have held their seats before them. There had been nothing in the debate hitherto that justified that course of argument. No man on this side of the Chamber had alluded disparagingly to any Senator on that side. The man who, following his sincere convictions, takes his life in his hands and goes forth to maintain those convictions upon the field of battle, although I may consider what he has done as a terrible crime against his Government, nevertheless commands and has received my respect far more than the paltry coward who, sympathizing with him in his heart, has not the courage to follow him, but aids and abets him at home to the limit of personal safety.

My friend knows that I make no personal application of this. He and I have served together in both branches of Congress with both these classes, and I believe our sentiments in respect to them both are in no wise different. But if the Senator means by these frequent, these repeated assurances of a matter denied nowhere, that we are peers, I submit to him that silent recognition of the fact that we are peers here on this floor is more becoming than the ostentatious assertion of it continually upon parade. When the old order of things, now so near restored, prevailed here, we were wont to hear, not occasionally as we have lately as if to get us used to the new order of things, but continually of the superiority of the men who owned their fellowmen and represented them in the two Halls of Congress. I hope the Senator from Kentucky will stop short of that. But I find in these frequent allusions indications all the same way. If the old order of things is to be restored as far as the constitutional amendments will permit it to be, then of course this line of talk on the other side is most natural.

The Senator wanted to know, in language borrowed from that same period, why republicans did not have colored men as their representatives. I heard it stated more pointedly in another place not a week ago. The inquiry was made of a New England Representative whether it were not true that in Massachusetts and Maine there were cultivated and educated and able negro men, followed by the inquiry, why do you not send them to Congress before you allude to the fact that there are no colored Representatives upon this floor? Sir, when New England cheats a colored candidate for office, be it Representative to Congress or any other, out of his fair and honest election, it will be time enough for those to reproach us who have driven from the Halls of Congress the natural representatives of four million people. The complaint against you is not that you do not choose to send black men as your Representatives. If any constituency in the Southern States, be it overwhelmingly black or overwhelmingly white, chooses to send a white Representative instead of a black one, no man has a right to complain; but when they stamp out the black Representative chosen by thousands of majority and install, by violence and bloodshed and tissue ballots, in his place a white Representative, the significance of the act is its condemnation.

Mr. President, I will detain the Senate no longer. I do not know that anything I have said here to-day will be read by any portion of the people of Massachusetts. They will regret as much as I regret any occasion for these utterances. They have long hoped that that pacification which can come alone from security in the enjoyment of

every political and personal right was about to be realized. When this experiment of trusting this work to the very men who came so near working the overthrow of the Government was about to be tried, they gave it their support. They hoped, if they did not absolutely believe, that it would be realized. As one of her representatives here I took some part in assuring her that this confidence was not about to be misplaced; but whether it was or not it was our duty to see to it that it was fairly tried, and that its failure should in no part be ascribed to any withholding of support on our part. But in common with my colleagues, I assured the people of Massachusetts that this was solely upon the pledge that every human right guaranteed by the Constitution and its amendments to the humblest and to all the people of those States was to be observed and its exercise protected, and that the first indication that these rights were to fail of protection would be the signal for the denunciation of this plan and the withdrawal of our support. I pledged myself that at the first indication of it I would sound the alarm. I am here this day to redeem that pledge. They have trusted me here as a sentinel these many years. I have watched in their interest all the phases of this wonderful revolution. Before the war, when those who have now come back to accomplish through the forms of law in these seats that which they made the mistake of going out to accomplish took their leave of this body and the other, I listened to their exultant and defiant farewells. Watching in the interest of that State the progress of events from that day to this, I am conscious that I have no other claim upon its confidence except that I tell it the truth. And here and now I tell the people of Massachusetts that the men into whose hands was intrusted this great work of pacification have prostituted it, and upon the back of the crushed and destroyed citizenship of three or four million people they have strode into power in these Halls and openly and defiantly proclaimed that they have begun anew here the work they made the mistake of attempting to accomplish outside of these seats. The people of Massachusetts when forewarned are forearmed; and their position here and now, like that which they took first and foremost in 1861, will be in the van and in the lead of that determined, irresistible opposition here, and under the forms of law, to that work which they contributed their full share in defeating on the field of battle. I have for one no apprehension of the result. He who brought us over will sustain us. He who planted upon the bleak shores of North America the principles that triumphed at Appomattox Court House will sustain the people of this Union in this coming struggle for their maintenance.

Mr. MORGAN obtained the floor.

Mr. BLAINE. Will the honorable Senator yield to me a moment, and only for a moment? I do not know that it is a matter of any importance whatever, but the honorable Senator from Connecticut [Mr. EATON,] in a little interruption of the honorable Senator from Massachusetts, [Mr. DAWES,] said that Mr. Webster had defined this Government as a "confederacy," if I understood him aright.

Mr. EATON. I did not use any language of that sort.

Mr. BLAINE. What did the honorable Senator say?

Mr. EATON. The Senator from Massachusetts said that I called this a confederacy of States. I asked him if he knew that Daniel Webster, of Massachusetts, had used the same language.

Mr. BLAINE. Not that we have heard.

Mr. EATON. Of which I had heard. He probably had not heard of Mr. Webster's use of that language.

Mr. BLAINE. Does the Senator say that Mr. Webster called this Government "a confederacy of States?"

Mr. EATON. I said that Mr. Webster called this "a confederacy of States." I say he called it not only a confederacy of States, but a confederation of States. He used those two terms again and again.

Mr. BLAINE. It is very probable that he did——

Mr. EATON. I know he did.

Mr. BLAINE. But I will proceed to read what Mr. Webster did say on a very momentous occasion, and then I will ask the honorable Senator from Connecticut to tell me when and where Mr. Webster ever said anything in contradiction of it. In the third speech that Mr. Webster made, his last and closing remarks on Foot's famous resolution, he said, alluding to the distinguished Senator from South Carolina, Mr. Hayne:

> When the gentleman says the Constitution is a compact between the States, he uses language exactly applicable to the old confederation. He speaks as if he were in Congress before 1789. He describes fully that old state of things then existing. The confederation was, in strictness, a compact; the States, as States, were parties to it. We had no other General Government. But that was found insufficient and inadequate to the public exigencies. The people were not satisfied with it, and undertook to establish a better. They undertook to form a general government which should stand on a new basis; not a confederacy, not a league, not a compact between States, but a constitution; a popular government, founded in popular election, directly responsible to the people themselves, and divided into branches with prescribed limits of power and prescribed duties.

That is what Mr. Webster said.

Mr. EATON. One moment.

Mr. BLAINE. "Not a confederacy."

Mr. EATON. When he reads a few words from a certain speech of Mr. Webster does the honorable Senator from Maine undertake to deny on this floor that Mr. Webster did not again and again call this Government not only a confederation of States but a compact between States? I say he did.

Mr. BLAINE. Mr. Webster says distinctly here that it is not that.

Mr. EATON. My dear sir, as my friend from Illinois sometimes says——

Mr. BLAINE. Address the President.

Mr. EATON. Has it come to this that the honorable Senator from Maine brings in here one speech and undertakes to say to me that that is all Daniel Webster ever said with regard to this Government, the Constitution, the confederacy, and the compact? When the proper time arrives—I have not the library of Mr. Webster in my pocket, I do not carry it around with me [laughter]—when the proper time arrives I will show that Mr. Webster called this a confederacy and the Constitution a compact.

Mr. BLAINE. Let me read further. Evidently the honorable Senator from Connecticut does not carry the library of Daniel Webster in his pocket; it is still more evident that he does not carry it in his memory. Now, I will read from another speech in reply to the other and still more distinguished Senator from South Carolina, Mr. Calhoun. Mr. Webster said:

> And now, sir, against all these theories and opinions—

Theories and opinions that are receiving fresh and new light on this floor, and I am sorry that a Senator from New England joins with them——

Mr. EATON. You should be glad.

Mr. BLAINE.

> And now, sir—

Says Mr. Webster—

> against all these theories and opinions, I maintain—
>
> 1. That the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities, but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

Mr. Webster was not a gentleman that talked very loosely, and if the Senator will find in all the six volumes of his speeches and in the speeches made by him not included in these six volumes any place where he ever intimated that this was a "confederacy" or a "compact" between the States, I will be glad to hear him read it on the floor of the Senate. Why, sir, the question of a "confederacy" was the very pith and gravamen of that great controversy in 1830-'32; it was the very foundation of the different theories that wage war on this floor to-day; it was the dividing line between those who thought there was a war between States and those who thought there was a war between rebellious citizens and the Union of the States. Does the Senator know that? Bills are introduced in Congress now talking about "the late unhappy war between the States." There was no such war. There was a war between the rebellious citizens of this Union against the Government of this Union; and Mr. Webster never said one word, in my judgment, that will sustain for a single moment any other theory of the Government than that.

Mr. EATON. Do not go into an argument about the war. Do not raise the bloody shirt a moment. Does the Senator from Maine deny that Mr. Webster at any time called this Constitution a compact? Do not read one speech alone.

Mr. BLAINE. I have read two.

Mr. EATON. Does the Senator from Maine deny that Mr. Webster used that language? The honorable Senator from Maine does not carry around in his pocket the speeches of Daniel Webster any more than I do. He is not prepared to deny it.

Mr. BLAINE. I have read that Mr. Webster distinctly, on two great and solemn occasions, denied that this Union was a confederacy, denied that it was a compact. Whether the Senator may find some other speech where Mr. Webster some time or other, by a *lapsus linguæ* or in some incidental way, may have used the word "confederacy" I do not know. I have not all Mr. Webster's speeches before me; but when Mr. Webster was laying down the principles on which this Government rested he took as the very corner-stone the declaration that this was not "a confederacy." When the Senator asks me the question which he now repeats it seems to me to be "paltering in a double sense" and trifling with the dignity of the subject. When the Senator brings in Mr. Webster's declaration it will be time enough for him to assume a little air of confidence in the mode in which he puts the interrogatory. I have brought him the declaration of Mr. Webster twice made that this Union is not a "confederacy." Let the honorable Senator bring forward the other declaration of Mr. Webster.

Mr. EATON. I will.

Mr. MORGAN. Mr. President——

Mr. GARLAND. With the understanding that the Senator from Alabama [Mr. MORGAN] has the floor, if he gives way now, I move that we go into executive session.

Mr. WITHERS. I hope the Senator from Arkansas will withdraw the motion for a moment.

Mr. GARLAND. Certainly.

Mr. WITHERS. I merely wish to make a statement. I had hoped that we should have been able to arrive at a vote upon the pending bill during the present week; but the very wide range which the debate has taken has satisfied me that it is impracticable to do so. I wish, however, to give notice now that I shall ask the Senate to insist that the days hereafter shall be consumed in the discussion of this question, and that we shall not adjourn until a later hour than

we have heretofore observed for our adjournment. I also hope that by the middle of the ensuing week at least we shall be enabled to have a vote upon the subject, unless one shall sooner be reached.

SENATOR FROM SOUTH CAROLINA.

Mr. DAWES during his speech yielded to Mr. BUTLER.

Mr. BUTLER. My colleague [Mr. WADE HAMPTON] is in the Chamber and prepared to take the oath of office.

The PRESIDENT *pro tempore*. The Senator-elect from the State of South Carolina will please come forward for that purpose.

Mr. HAMPTON advanced to the Vice-President's desk, escorted by Mr. BUTLER, and the oath prescribed by the act of July 11, 1868, having been administered to him, he took his seat in the Senate.

PAPERS WITHDRAWN.

Mr. TELLER submitted the following order:

Ordered, That J. S. Brown & Brother have leave to withdraw their papers on the files of the Secretary of the Senate by leaving copies thereof.

The PRESIDENT *pro tempore*. Is there an adverse report?

Mr. TELLER. No, sir; a favorable report.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the order will be made.

EXECUTIVE SESSION.

Mr. GARLAND. Now I move that we proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at four o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 16, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ELECTION CONTEST—HARALSON VS. SHELLEY.

Mr. SPRINGER. I desire to present to the House some papers in the contested-election case of Haralson *vs.* Shelley. These papers were directed to the chairman of the Committee of Elections, instead of being directed to the Clerk of the House of Representatives; and as they have come to me, I can only get them before the committee by presenting them in this way that the House may refer them to the committee.

The SPEAKER. If there be no objection the papers presented by the gentleman will be referred to the Committee of Elections.

There was no objection.

ADMISSION TO THE FLOOR.

Mr. HULL. I ask consent of the House that Judge Jared Patchen, a member of the Legislature of the State of Florida, be allowed the privileges of the floor of the House for ten days from this date.

Mr. KELLEY. I enlarge the gentleman's request by asking that those members of State Legislatures for whom such leave has heretofore been asked be also admitted.

Mr. DUNNELL. I object.

ORDER OF BUSINESS.

Mr. JAMES. I ask unanimous consent to introduce a bill for reference. It proposes to authorize the conveyance of certain lands of the United States to the State of New York. That State is building a railroad to connect one of its prisons with Lake Champlain, and the United States own a strip of land along the shore which it is proposed to convey for this purpose. The bill was favorably acted on by committees of both Houses in the last Congress.

Mr. THOMAS TURNER and others objected.

Mr. SINGLETON, of Illinois. I ask unanimous consent to present a joint resolution of the senate and house of representatives of the State of Illinois for reference to the Committee on Commerce.

Several members objected.

The SPEAKER. The morning hour begins at ten minutes past twelve o'clock. The call rests with the Select Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

Mr. ATKINS. Is the rule mandatory that we shall have a morning hour?

The SPEAKER. The rules provide the manner in which the morning hour may be dispensed with.

Mr. ATKINS. I move that the rules be suspended and the House resolve itself into Committee of the Whole on the legislative appropriation bill.

Mr. STEPHENS. I trust we shall have a morning hour, so that the call of committees may proceed. The Committee on Coinage, Weights, and Measures has in readiness a unanimous report which I wish to present.

Mr. ATKINS. I withdraw my motion.

NATIONAL BOARD OF HEALTH.

Mr. YOUNG, of Tennessee. The Select Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States have directed me to report a joint resolution relating to the organization of the National Board of Health; but as there is on the Speaker's table a joint resolution of the same purport, I ask unanimous consent that the latter be substituted for the House resolution.

Mr. CONGER. Does the gentleman ask the present consideration of this resolution?

The SPEAKER. He does.

Mr. YOUNG, of Tennessee. The object of the resolution is to correct an oversight on the part of members of the National Board of Health, who omitted to be sworn in until five days after their appointment, so that there is doubt whether their action previous to that time will be valid.

The SPEAKER. The resolution of the Senate will be read.

The Clerk read as follows:

Joint resolution (S. R. No. 20) relating to the organization of the National Board of Health.

Whereas the National Board of Health met in Washington on Tuesday, the 1st of April, 1879, and proceeded immediately to organize and act under the law establishing such board, and so continued from day to day until Saturday, the 5th of said month; and

Whereas the members in attendance who have been appointed on such board by the President, through inadvertence failed to take the oath of office prescribed by law, whereby the validity of the previous action of such board has been brought in question: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That such organization and action be, and the same is hereby, ratified, and that the members of such board shall be entitled to compensation just as if they had been duly qualified previously to entering upon their duties.

Mr. CONGER. That provides they shall, before compensation is made, take the oath.

Mr. YOUNG, of Tennessee. Yes; the law required they should take the oath before they could receive compensation, but they omitted to do it for five days.

The SPEAKER. The Chair hears no objection to the substitution, and the Senate joint resolution will be taken up.

The Senate joint resolution was taken up, read a first and second time, ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. YOUNG, of Tennessee, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERCHANGE OF SUBSIDIARY COINS.

Mr. STEPHENS. Mr. Speaker, I am directed by the Committee on Coinage, Weights, and Measures to report a bill (H. R. No. 4) to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20. I ask the Clerk to read the accompanying report.

The Clerk read as follows:

The Committee on Coinage, Weights, and Measures, to whom was referred the petition of the New York Gas-Light Company——

Mr. CONGER. Mr. Speaker, if the reading of the report is to be considered as discussion, then I reserve all points of order.

The SPEAKER. The gentleman from Michigan reserves all points of order. The Clerk will proceed with the reading of the report.

The Clerk read as follows:

The Committee on Coinage, Weights, and Measures, to whom was referred the petition of the New York Gas-Light Company, Samuel Carter, and divers other citizens of New York, asking their Senators and Representatives in Congress to pass a bill at the earliest possible day for the interchange of subsidiary coins and United States notes, have had the subjects embraced in said petition under consideration and report a bill, herewith submitted, which they think will remedy the evils complained of and accomplish the objects of the petitioners.

Mr. STEPHENS. Now read the bill.

The Clerk read as follows:

A bill to provide for the exchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20.

SECTION 1. *Be it enacted, &c.*, That the holder of any of the silver coins of the United States of smaller denominations than $1 may, on presentation of the same in sums of $10 or any multiple thereof at the office of the Treasurer or any assistant treasurer of the United States, receive therefor United States legal-tender money.

SEC. 2. That the Treasurer or any assistant treasurer of the United States who may receive any coins under the provisions of this act, shall exchange the same in sums of $10 or any multiple thereof for United States legal-tender money on demand of any holder thereof.

SEC. 3. That the present fractional or subsidiary silver coins shall hereafter be a legal tender in all sums not exceeding $10 in full payment, and shall be taken up and legal-tender money given in exchange for them when presented to the Treasurer or any assistant treasurer of the United States in sums of $10 or any multiple thereof.

SEC. 4. That all laws or parts of laws in conflict with this act be, and the same are hereby, repealed.

Mr. CONGER. I rise to a question of order, and the point I make is, the House has not referred that subject to the Committee on Coinage, Weights, and Measures, and they have no right to report until such reference has been made.

The SPEAKER. The Chair will cause Rule 131 to be read and afterward Rule 148.

The Clerk read as follows:

OF PETITIONS AND MEMORIALS.

131. Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker, and if any petition or memorial be so handed in which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received.

148. An additional standing committee shall be appointed at the commencement of each Congress, whose duties shall continue until the first session of the ensuing Congress, to consist of seven members, to be entitled a "Committee on Coinage, Weights, and Measures;" and to this committee shall be referred all bills, resolutions, and communications to the House upon that subject.

The SPEAKER. Does the gentleman from Michigan desire to speak on the point of order?

Mr. CONGER. I do not; I only want a decision.

The SPEAKER. Does the gentleman from Georgia?

Mr. STEPHENS. I do not except to have the petition read in order to show the subject-matter went properly to that committee.

The SPEAKER. The petition had better be read.

Mr. STEPHENS. The petition sets forth a copy of the bill of Senator BOOTH, and the petitioners ask that it be passed. The petition is signed by seventy or eighty of the leading citizens of the city of New York.

Mr. CONGER. I perhaps ought to say, although I presume the Chair sees the importance of it, that if a petition accompanied by a bill put in in the ordinary way of sending petitions can be made the foundation by decision of this question for the introduction of all and any measures, giving jurisdiction to the committee to which they are referred without any action on the part of the House, then I submit to the Chair, the entire course of legislative proceedings, the entire object of the rules of the House in regard to the introduction of bills, and the control of subject-matters by the House will be changed. I speak of it not because I care personally what the decision may be, but I am satisfied if the decision sustains this mode of action the House will be compelled soon to alter the rule. If we conform, however, to the old practice under the rules this House then will have control of its own business. This House sends to the committee bills. This House *has something* to say about the manner of its business; and the business does not creep in in some other way.

Now, as I remarked, I have nothing to say upon this point, because it seems to me the Chair must understand what the result of a decision that any bill and all bills accompanying a petition, and referred by an individual to a committee—what the effect of it must be upon the business of the House. I make these remarks that the Chair, and the House too, may see that a rule had better not be made or altered or a decision made in the interest of some particular, local, or temporary subject and to the entire change and discomfiture of the practice of the House hitherto under the rules.

The SPEAKER. The Chair would like to ask the gentleman from Georgia a question: whether this petition was regularly referred through the box?

Mr. STEPHENS. It was.

The SPEAKER. It seems not to have any other indorsement than "S. B. Chittenden, February 7, 1879."

Mr. STEPHENS. The indorsement slipped off in the committee this morning.

The SPEAKER. The Chair would be glad to have that indorsement, so as to have the record accurate; and in fact it may be a material point in the question of order.

Mr. REED. I do not feel any special interest in the matter to be decided, but perhaps it may be proper in me to call the attention of the Chair to the fact that in Rule 148 it is declared that "all bills, resolutions, and communications to the House," shall be referred to the Committee on Coinage, Weights, and Measures. The rules in regard to the other committees name "petitions," while this does not. I do not know whether the Speaker will construe the term "communication" as covering petitions or not, but I think it proper as this is a matter of some importance to call the attention of the Chair to that fact.

Mr. HOOKER. Mr. Speaker——

The SPEAKER. One moment. The indorsement is in usual form.

Mr. HOOKER. I desire to call the attention of the Chair to Rule 131. It seems to me that the objection made by the gentleman from Michigan cannot prevail. According to the practice which has obtained in the House as to petitions and the mode and manner of their presentation, it has been customary ever since I have been in Congress for petitions to be placed in the box and presented in that way. The rule to which I refer reads as follows:

131. Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker; and if any petition or memorial be so handed in, which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received.

That rule was adopted in 1842; and in the Manual there is a note appended to it as follows:

So much of the rules as authorized the presentation of petitions in the House was stricken out December 12, 1853. According to the practice under this rule a member may now take from the files petitions and memorials presented at a former Congress and re-refer them.

And of course he may present the petition in the ordinary form. Now the right of the citizen to petition is unquestioned, and his petition must be referred to the appropriate committee. I cannot conceive what would more properly constitute an occasion for the action of a committee by the presentation of a report and bill than a petition from those of whom we are the representatives and whose sentiments we should always attempt to carry out.

Mr. STEPHENS. I wish to say a few words upon the point of order. I know this bill has been introduced in an unusual way; but it is a right way. If I was compelled to take this devious method of introducing it no person perhaps in the House is more responsible than the gentleman from Michigan himself; because he, I think, last Monday, the day when bills are ordinarily introduced according to the custom and allowed to be printed—he I think chiefly obstructed——

Mr. CONGER. I ask the gentleman does he mean to charge me with any obstruction to business that is not within the legitimate province of any member of this House?

Mr. STEPHENS. I do not.

Mr. CONGER. Then I would advise the gentleman to use his terms more carefully.

Mr. STEPHENS. In what way?

Mr. CONGER. I venerate the gentleman from Georgia, but he must remember he must not speak of my obstructing as if I violated some rule of this House.

Mr. STEPHENS. I did not mean to say the gentleman violated any rule.

Mr. CONGER. Even the great respect I have for the gentleman from Georgia will not permit me to sit quiet when he charges me in that way.

Mr. STEPHENS. I did not mean to say the gentleman violated any rule. He did, however, obstruct the offering of bills last Monday. He acted under and according to the rules; but by his action he did obstruct. And while he was obstructing one door——

Mr. CONGER. I ask the Chair if that is a proper expression to use about the action of a member of this House who acts strictly within the rules of the House, or whether it is not objectionable and, if I may be allowed the expression, unparliamentary?

The SPEAKER. The Chair must take the word of the gentleman from Georgia that he meant no reflection whatever.

Mr. STEPHENS. None at all.

The SPEAKER. Of course anything that is not meant to reflect is not unparliamentary.

Mr. STEPHENS. I do not mean to reflect upon any gentleman here even by saying they filibuster. That has got to be a parliamentary word here.

The SPEAKER. And it is very expressive.

Mr. STEPHENS. Very. Therefore, Mr. Speaker, I say that while the gentleman from Michigan was obstructing, and did obstruct, (I mean no reflection whatever upon him,) the introduction of bills in the ordinary way, I sought under another rule a way of getting them in otherwise legitimately and properly. Now, sir, I should greatly have preferred to introduce this bill last Monday, and all the members of this House, with perhaps five hundred bills to introduce, would greatly have preferred to offer them in the regular way and have them printed and referred that the people of the country everywhere might see them. But we could not do it. And why not? The gentleman from Michigan [Mr. CONGER] knows perhaps as well as any other member of this House.

Now, sir, I do not wish to take up the time of the House in discussing the point of order. I call the previous question upon it. I hold that the bill comes in here legitimately and properly, and I want the action of the House upon it. I therefore now ask the previous question.

Mr. CONGER. I think the gentleman cannot call the previous question on a point of order.

The SPEAKER. Why?

Mr. CONGER. The Chair must decide it; not the House.

The SPEAKER. The gentleman is right, but the Chair prefers the House to exercise the power to control the debate in this instance.

Mr. CONGER. The Chair can stop remarks upon the point of order at any time.

The SPEAKER. The Chair does not wish to stop debate; the Chair is willing to listen, but the gentleman from Georgia the Chair thought for the moment had the right to demand the previous question.

Mr. CONGER. On the point of order? There is no vote on the point of order.

The SPEAKER. That is true, unless there is an appeal *from the* decision of the Chair.

Mr. CONGER. I submit to the Chair that if the Chair needs any protection he had better be under the protection of this side of the House from the gentleman of Georgia, who leads him into mistakes.

I am informed by the gentleman whose name is attached to the petition, that he introduced the petition in the last Congress and, so far as he recollects, not in this Congress. I have thought that perhaps it was bad enough to have these things come in by a back window in this Congress, but if it has come in not only in an irregular way, but has not got into this Congress at all, why the gentleman from Georgia is driven to greater straits than I had possibly intended by the objection I had made or by my "obstruction."

The SPEAKER. Before the gentleman proceeds upon the statement he has just made, the Chair desires to inquire whether this petition was withdrawn from the files of the last House and re-referred?

Mr. STEPHENS. It was re-referred to the Committee on Coinage, Weights, and Measures, and presented by me legitimately under Rule 131.

The SPEAKER. The Clerk will read the indorsement upon the back of the petition.

The Clerk read as follows:

The petition of the New York Gas-Light Company, Samuel Carter, and a great many other citizens, asking the passage of a bill by Congress for the interchange of subsidiary silver coins and United States notes.

Referred to the Committee on Coinage, Weights, and Measures, April 14, 1879, by Mr. STEPHENS.

Mr. CONGER. I was told, and I find that the fact is confirmed by the gentleman from New York, [Mr. CHITTENDEN,] who presented the petition, that it has not been presented to this Congress.

Mr. BUCKNER. I desire to know whether it is competent now for the House to act on the question whether the committee has proper jurisdiction, under the rules, of this bill.

The SPEAKER. That is the second point which the Chair thinks the gentleman from Michigan makes.

Mr. BUCKNER. I did not so understand it.

Mr. CONGER. In my opinion, if this petition has been withdrawn from the files of the House by a member it could not come again before the House through the petition-box. It must be withdrawn from the files of the House by a vote of the House and committed to a committee in this Congress. I need not dwell on that point. Every member here knows that is the only way in which it could be done. There seems to be irregularity all through, in the eagerness to get this bill before the committee.

Now, I admit that it is necessary, if you will violate the rules of the House and the spirit of those rules there is necessity for considerable amount of irregularity; therefore I do not find so much fault with it on account of the necessity.

But to the main point: the decision of the Chair upon this question, whichever way it may be determined, may establish a new method of proceeding which may dispense entirely with the morning hour on Monday, may dispense entirely with the ordinary mode of introducing bills, and may dispense entirely with that supervision and oversight which has from the beginning of the Government until this time always been exercised over the business of the House and the direction in which it shall be sent. It may give, by the will of any one member, the control of the subject-matter to any committee within his choice, and avoid all questions of reference and all the right to amend the question of reference.

I allude to this matter not because I care what is the result in this case; I allude to it seriously because in my opinion the decision of the Chair upon this question, if in favor of this mode of introducing bills, will be a very serious and alarming innovation upon all the past customs and rules of proceedings in Congress.

Now, one word in regard to the obstruction of which the gentleman from Georgia [Mr. STEPHENS] speaks. If a member of this House raises a point of order and the Chair sustains him in it or the House sustains him in it, the Chair is then an "obstructionist," in the language of the gentleman from Georgia, or the House is an obstructionist. I have never heard it claimed before that any member might not raise a point of order; I have never heard before that any member might not move to amend a question of reference. If the result of that produce dilatoriness it is simply a consequence.

I call obstruction such motions as are ordinarily resorted to in cases of filibustering, motions made purely for delay, like the motion to adjourn when nobody desires to adjourn, or the refusing to vote when the roll is called, in order to leave the House without a quorum; any one of the ten, fifteen, or twenty ways which your honor, Mr. Speaker, instructed us in so thoroughly when we were in the majority in this House and the other side were in the minority.

But what one member does or another member does is of very slight consequence compared with such a decision by the Chair as shall keep the control of the business of this House within the reach of the Speaker or within the reach of the House, so that the House may determine to what committee a particular subject-matter may be referred.

The Chair will see that if any petition accompanied by a bill may be sent to any committee, and they in that way shall obtain jurisdiction of the subject-matter of that bill, then the rules of this House are of no avail whatever, for a member through the petition-box will have given jurisdiction to any one committee of any subject whatever.

I have said enough to call the attention of the Chair to the importance and seriousness of this question. Having no personal interest in the result any more than the Speaker or any other member of the House has, I leave it for the Chair to decide.

Mr. STEPHENS. One word, Mr. Speaker. The gentleman from Michigan [Mr. CONGER] has referred to this petition as having been presented at the last Congress. It was so presented, as the indorsement upon it shows, by the gentleman from New York, [Mr. CHITTENDEN.] I took it from the file, under the note to Rule 131, and represented it, as has been shown. I ask the Clerk to read the note to that rule.

The Clerk read as follows:

So much of the rules as authorized the presentation of petitions in the House was stricken out December 12, 1853. According to the practice under this rule it is competent for a member to withdraw from the files petitions and memorials presented at a former Congress and re-refer them.

Mr. STEPHENS. I now call for the decision of the Chair.

Mr. SPRINGER. I ask the Clerk to read in connection with this point of order the ruling of Mr. Barclay, as quoted on page 165 of the Digest, beginning with the paragraph on top of the page.

The Clerk read as follows:

Bills on leave, when and how introduced; what bills not to be brought back on a motion to reconsider. The notice above referred to is rarely given in the House, (it being in order to give it there only when resolutions are in order,) but is usually given to the Clerk, by sending to him a written memorandum in this form: "Mr.—— gives notice that to-morrow, or on some subsequent day, he will ask leave to introduce a bill, (here insert its title.)" If the member desires his notice to appear in the newspaper report of the proceedings of the House, he should furnish the reporter of such paper with a copy of the memorandum furnished the Clerk. Having given his notice, it is then in order, on any subsequent day, when bills on leave and resolutions are being called for, and when his particular State is called, to move for leave to introduce his bill. The practice of introducing bills on leave, it may be remarked, however, does not facilitate business. If, instead of waiting for an opportunity to introduce his bill on leave, the member would file his petition, or whatever other matter he may have in favor of the proposed legislation, and have it referred to the appropriate committee, as he may do on any day, under Rule 131, (see Petitions,) he will thus have the subject before them, and will get a bill reported as speedily as if it had been originally referred. Besides, the bill thus reported comes before the House unencumbered with amendments, as is not likely to be the case with a bill previously referred. These suggestions, of course, do not apply to cases where the immediate passage of a bill, without the intervention of a committee, is sought for, or where it is desirable to refer it to a select committee.

Mr. SPRINGER. This is the ruling by Mr. Barclay, the former Journal Clerk of the House. It seems to me it meets in every respect the point of order raised by the gentleman from Michigan, [Mr. CONGER.]

The SPEAKER. The point of order presented by the gentleman from Michigan, [Mr. CONGER,] as the Chair understands it, is as to the right of a committee to report a bill based on a petition placed in the petition-box of the House, in the manner as was done on Monday last. Whether or not the petition in this case went rightfully to the Committee on Coinage, Weights, and Measures the Chair is not at this time sufficiently advised to determine. But on the question whether a committee has the right to report legislation based upon petitions presented and referred to them the Chair is willing to make decision.

Rule 131 makes provision as to the manner in which petitions shall be presented by a member. Rule 148 speaks of "communications." Now communications are oftentimes transmitted to the House by heads of Departments; but the Chair is of opinion that the word "communications," as used in Rule 148, includes and covers petitions from citizens. Petitions constitute the mode by which the citizen may communicate with the House.

The next question involved is, whether upon such a petition, rightfully presented and appropriately referred, a committee has the right to base legislation? The Chair is of opinion that any committee of the House has that right under those circumstances, for reasons which will be evident by reference to the past history of this House. The subject of the tariff has been considered in the Committee of Ways and Means, not always by the reference of a bill to the committee, but as in the last Congress, when more than six thousand petitions were presented by citizens of the United States on the subject of a revision of the tariff. The Committee of Ways and Means in that Congress, without question, submitted a report based upon the petitions of citizens in the manner stated.

Much of the legislation of this House upon private bills has been based upon communications of citizens, the petitions of claimants, upon which the committees have reported bills to this House. In addition to that, communications are constantly presented to this House from heads of Departments and bureaus, oftentimes accompanied by bills, as in this instance. And the committees to which those communications have been referred have always been considered as having the right to report such accompanying bills back to the House, although those bills had not been presented by a member in his place on the floor, but through the medium of communications from the heads of Departments.

The Chair therefore is of opinion that a committee has the right to report a bill when the petition of a citizen has been referred to that committee, whether the petition is accompanied by a bill or not. If a bill accompanies the petition the committee can report that bill back to the House, and if the petition alone is referred to the committee, then the committee can bring in a bill based upon the subject-matter of the petition.

Mr. STEPHENS. I am entitled to the floor, I believe, on the report of the committee.

Mr. CONGER. Has the bill been read?

The SPEAKER. It has been.

Mr. CONGER. I object to the second reading of the bill.

The SPEAKER. The Chair understands that the gentleman from Missouri [Mr. BUCKNER] desires to make a further point of order, not embraced, as the Chair supposed some time ago, in the questions raised by the gentleman from Michigan, [Mr. CONGER.]

Mr. BUCKNER. The point to which I desire to call the attention

of the Chair is whether any member of the House can, without the action of the House or the assent of the Chair, send to any committee he may designate any subject-matter that may be embraced in a petition.

The SPEAKER. Rule 131 provides in the first place the manner in which members shall present petitions; and it then instructs the Speaker, as it were, to review the reference of those petitions, and directs him, if in his opinion any petition has not been properly referred, to review the same. Now, on the afternoon of Monday last the Chair caused a careful examination to be made by the petition clerk, and subsequently he made an examination himself, to ascertain whether the petitions presented by being deposited in the box at the Clerk's desk were properly referred; and he found that those that had gone into the petition-box were properly referred. The petition in this case the Chair had not the opportunity to examine, because it seems to have been re-referred, thus escaping the attention of the Chair.

As to the question whether this petition should have been properly referred to the Committee on Coinage, Weights, and Measures or to the Committee on Banking and Currency, the Chair thinks that is a matter of which the House should have taken control if the opportunity had been permitted.

Mr. BUCKNER. The question I desire to put to the Chair is whether this bill is in such a form that the House can now act on that question by a proper motion; in other words, the gentleman from Georgia having introduced this bill, whether it is now proper to make a motion that it be referred to the Committee on Banking and Currency, to which committee in my opinion it properly belongs.

The SPEAKER. That motion will be in order if the gentleman from Georgia yields for the purpose at proper time.

Mr. STEPHENS. I have the floor.

The SPEAKER. The Chair thinks on examination of the bill, that a part of it clearly belongs to the Committee on Coinage, Weights, and Measures—that part relating to subsidiary coins. There may be a question, however, whether that part of the bill which relates to the substitution of legal-tenders should not properly go to the Committee on Banking and Currency.

Mr. BUCKNER. I draw this distinction, which it seems to me is very apparent under the rule defining the powers of these two committees: that the Committee on Coinage, Weights, and Measures has unquestionably exclusive control over all matters of coinage in the proper sense of that term; where, for instance, the mere device, or form, or weight of the coin is concerned; but when you come to the question of currency, when the question is as to the extent to which coin shall be current, what shall be the laws regulating its exchangeability, or what shall be its functions, then to my mind it is perfectly clear that such questions belong to the Committee on Banking and Currency; for when anything becomes currency in the general acceptation of the term, whether it be made of paper, gold, or silver, or other metal, the question then does not relate to the matter of coinage at all, but is one of currency purely. When the function of mere coinage is ended, when the money coined becomes curreney, when the question is as to its functions, as to what shall be done with it, as to what laws shall govern it, it is clear under the rules defining the duties of these two committees that all such questions belong to the Committee on Banking and Currency. The language of the rule is:

It shall be the duty of the Committee on Banking and Currency to take into consideration all propositions relative to banking and the currency.

Not what is, in the ordinary acceptation of the term, currency—bank-notes and legal-tenders—but whatever is in fact currency, including subsidiary coin, the standard silver dollar, the gold dollar, or the eagle. In other words, this committee has jurisdiction, not only of the subject of banking, but of the entire question of the currency.

The SPEAKER. The Chair will take occasion to remark in connection with his statement of a few moments ago that State Legislatures have a constant habit of asking by joint resolution (which is the ordinary mode of communication between State Legislatures and Congress) for the construction of public buildings, light-houses, improvements of rivers and harbors, &c.; and the committees of this House having charge, respectively, of those subjects have uniformly introduced legislation based upon such communications from State Legislatures.

Mr. CONGER. In that connection let me say that almost all those subjects are at an ordinary session embraced in the President's message; and by the distribution of the subjects of that message among the various committees of the House, the erection of light-houses, the improvements of rivers and harbors, &c., are appropriately referred.

The SPEAKER. But if they receive the proper reference it does not matter whether they reach the committee under one rule of the House or another.

Mr. PRICE. I want to say a word in this connection in addition to what the chairman of the Committee on Banking and Currency [Mr. BUCKNER] has said. The Chair and the House will see the difficulty we are running into here. I understand that in the shape in which this matter now is we cannot even raise the question of reference. Here is a bill reported from the Committee on Coinage, Weights, and Measures, though it has neither coinage nor weights nor measures in it. [Laughter.] It is a bill relating entirely to the question of currency. Subsidiary coin is one form of currency, and that is by this bill made interchangeable with paper currency. But although this bill is entirely connected with the question of the currency and should properly have been considered by the Committee on Banking and Currency, we cannot now raise the question of reference at all. This difficulty will stare us in the face until our rules upon this point are changed.

The SPEAKER. The Chair agrees with the gentleman, that the matter of which he complains is an evil. The House ought to have control of the reference of any matter in the first instance; but the rule under which this petition has been presented does not make such provision nor give such opportunity, which it ought to do, in the opinion of the Chair.

Mr. PRICE. The fact that they do not is a great evil to which I am trying to direct the attention of the Chair and the House, so that it may be corrected. The House ought certainly to have control of the reference of its business. If this matter had been presented in the usual way as a bill, according to the custom of the House for the last fifteen years within my certain knowledge, then the House would have had an opportunity to say to what committee the bill should be referred. If there is any business belonging properly to the Committee on Banking and Currency, this is such business. But now we cannot raise that question.

The SPEAKER. The gentleman from Iowa will observe that the Chair distinctly ruled only on the abstract right of the committees of this House to originate legislation based on the reference of petitions. In this instance the Chair thinks it right, with a view to a full and fair understanding of the whole case, to state in addition that opportunity was not given to the House as to the reference of the petition upon which this bill is introduced, and therefore, to avoid controversy, he would suggest to the gentleman from Georgia that instead of taking advantage of the demand for the previous question, he allow the question to be submitted to the House for the House itself to determine whether this petition has been rightfully referred to the Committee on Coinage, Weights, and Measures or not. That really will not obstruct any report from one or the other committee.

Mr. STEPHENS. I have not the slightest objection to the gentleman making that motion at the proper time. I am to be heard, however, first on the bill after the point of order has been settled.

The SPEAKER. This question the House can determine in its own clear judgment.

Mr. STEPHENS. At the right time.

The SPEAKER. By the gentleman from Georgia permitting the gentleman from Missouri to make the motion for reference to the Committee on Banking and Currency, and then those who believe this petition has been rightfully referred to the Committee on Coinage, Weights, and Measures will of course vote against any such commitment of the bill to the Committee on Banking and Currency.

Mr. STEPHENS. But I have the floor.

The SPEAKER. Those who think the bill should go to the Committee on Banking and Currency, and that it properly belongs there, will of course vote in the affirmative. In either event the bill is likely to have a hearing in the House. It avoids at the same time the charge which might be made as to the manner of the reference of the petition upon which this legislation is based.

Mr. STEPHENS. I have the floor, and it was only taken from me on the point of order.

Mr. KELLEY. I ask the gentleman from Georgia to yield to me for a moment.

Mr. STEPHENS. I wish first to speak on the point of order myself.

Mr. KELLEY. But I wish to make a suggestion which may be of importance to the gentleman.

Mr. STEPHENS. Very well, I will hear it.

Mr. KELLEY. Mr. Speaker, I desire to say, first, that if events have put us back under the old rules of the House, and thus prevented the House from controlling the committee to which bills should go, it is due to those gentlemen who, availing themselves of their knowledge of the rules of the House, defeated the presentation of bills on Monday morning last by parliamentary tactics. Prior to the adoption of the rule, which was practically set aside by those tactics on Monday, all bills arose on petition or on bills presented by a member after notice that he would present the bill on a certain day and ask for its reference to a committee. Then the House decided to which committee it should go for consideration.

But the bill on which we proposed to act last Monday came in under a rule adopted after standing committees were first organized. Under that rule the member introducing a bill could move its reference, and any other member could propose any other destination. From the day of the adoption of that rule, and I think it was about forty years ago, the point made by the gentleman from Michigan [Mr. CONGER] on last Monday never seems to have occurred to any member of this House, and when on Monday he defeated the action of that rule he forced gentlemen to resort to the ancient usage and deprived the House and the people of all knowledge of the purport of bills, even of their titles, and the House of control of the committees to which they are to be committed.

The SPEAKER. The gentleman will observe this petition was

presented at the last Congress by the gentleman from New York, [Mr. CHITTENDEN,] and he seems to have thought at that time that the bill which was embraced and recommended to be passed by the petitioners was properly referred to the Committee on Coinage, Weights, and Measures. Naturally, the gentleman from Georgia made the same reference in this Congress. But the Chair nevertheless did not have an opportunity, as provided for in Rule 131, to see whether this was rightfully referred or not.

Mr. SPRINGER. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I make this point: that this bill has not been read a second time, and must be read now a second time before a motion to commit can be made in reference to it.

The SPEAKER. The Chair only suggested in proper time that as a mode to test the sense of the House as to its reference.

Mr. SPRINGER. The House can settle the question of reference when the time for commitment arises. This bill has been referred already to a committee. That committee has reported to the House, and the question first is, after the bill is read, shall it be read a second time? It cannot be read a second time on the day of presentation, under Rule 115, unless there is a special order to that effect. But the House may do that immediately.

But under Rule 117—

The first reading of a bill shall be for information, and, if opposition be made to it, the question will be, "Shall this bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.

Rule 118 says:

Upon the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment.

And the motion to commit cannot be entertained till the bill be read a second time.

The SPEAKER. The Chair will cause one of his own rulings to be read on that point.

The Clerk read as follows:

Mr. Field, from the select committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States, reported a bill (H. R. No. 4693) to amend the Revised Statutes of the United States in respect to vacancies in the office of President and Vice-President, and demanded the previous question thereon.

Mr. Horatio C. Burchard made the point of order that the committee had no authority to report the said bill.

The SPEAKER overruled the point of order on the ground that the resolution creating the said committee authorized it "to ascertain and report what are the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States," and also gave the committee the right to report at any time.

The SPEAKER further stated that he could not conceive of a question of higher constitutional and parliamentary privilege than was involved in the bill under consideration, and he therefore held the bill to be in order at this time.

Mr. James Wilson made the point of order that a bill cannot be read twice on the same day without special order of the House, and the bill in question had not been made a special order by the House.

Mr. Horatio C. Burchard made the point of order that the bill had only been read for information, and he now objected to the reception of the bill.

The SPEAKER held that the bill had received its first reading, and that the question now, under Rule 117, was, Shall the bill be rejected?

Mr. CHITTENDEN. I desire to say that in presenting that petition on the 17th of February, I asked its reference to the Committee on Banking and Currency. It was at that time referred, as I supposed, to a committee that had no more to do with it than the Committee on Invalid Pensions. It was so referred by the vote of the House. I wish simply that this may be fully understood. The petition carries the names of a very large number of business men of New York asking a simple act of justice that they may be saved from untold inconvenience and anxiety. There is no member of this House who would oppose it.

Mr. HOOKER. I wish to say a single word in reference to the decision the Speaker has made on the point of order. In reference to the power of the standing committees of this House to report bills, I think that Rule 115 settles the question emphatically. It provides as follows:

Every bill shall be introduced on the report of a committee or by motion on leave.

The Speaker will observe the disjunctive conjunction is used here, and the rule states two methods of presenting bills. Originally, before standing committees were adopted in this House all bills were introduced on leave on notice given, and they were referred to committees. But after the creation of the standing committees, they were no longer thus introduced; and it is stated by the commentator on this subject that thirty years elapsed during which no bill was introduced by leave, and all bills came from committees.

Every bill shall be introduced on the report of a committee or by motion for leave.

In the note to this rule is the following:

In the early stages of the Government, before the institution of standing committees, it was the common practice to introduce bills, on motion for leave, by individual members; the bills were then referred to a select committee, to examine and report upon. The practice, however, of introducing bills by members on leave, gradually grew into disuse as standing committees were created, and for nearly thirty years no case occurs on the Journals. Within a few years past the practice has been revived, and has now become very common, but it is, nevertheless, a very inconvenient one, and does not facilitate business. Previous to the 13th March, 1822, so strict was the House upon the introduction of bills that standing committees had to obtain leave in every case to report by bill. On that day the seventy-first rule was adopted.

The seventy-first rule is in these words:

The several standing committees of the House shall have leave to report by bill or otherwise.

The SPEAKER. The point is settled that the committees have the right upon petitions referred to them to frame bills. And then by Rule 71, as stated by the gentleman from Mississippi, the right is given to report.

Mr. KELLEY. I would like to ask the gentleman from Mississippi a question; whether those rules do not sustain every point I made in my brief speech?

Mr. HOOKER. I think they do.

ORDER OF BUSINESS.

Mr. ATKINS. Has the morning hour expired?

The SPEAKER. It has.

Mr. STEPHENS. Before the gentleman from Tennessee makes his motion I wish to ask will this question come up to-morrow morning as we leave it now?

The SPEAKER. It will.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the legislative appropriation bill; and pending that I move that the debate on the pending paragraph and all amendments thereto——

The SPEAKER. The Chair thinks that motion comes over from last evening. The Chair will cause the entry in the Journal to be read.

The Clerk read as follows:

Mr. ATKINS moved that when the House next resumes the consideration of the said bill in the said committee all debate shall cease on the pending paragraph and amendments thereto in ten minutes.

Mr. ATKINS. I wish the motion to include all amendments that may be offered hereafter to the pending paragraph.

The SPEAKER. The House can cut off all debate but not amendments.

Mr. ATKINS. I do not propose to cut off amendments but to cut off debate upon them.

The motion to close debate was agreed to.

Mr. ATKINS moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DUNNELL. I ask the gentleman from Tennessee to yield that I may introduce a resolution in relation to documents and books. I have objected hitherto to the introduction of a resolution on that subject. I think this will not occupy a minute.

Mr. ATKINS. I object. The gentleman had better take that up in the morning hour.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The motion that the House resolve itself into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The pending question is upon the amendment offered by the gentleman from Illinois, [Mr. SPRINGER,] which the Clerk will now read.

The Clerk read the amendment, as follows:

Strike out from line 2065 to line 2085, both inclusive, (the three paragraphs relating to the southern claims commission,) and insert in lieu thereof the following:

That any person who may have a claim against the United States of which the Court of Claims would not now have jurisdiction, but founded upon equity and justice, and not barred by any statute of limitations provided by any law of the United States, may file his bill in the Court of Claims of the United States, setting out the grounds of his claims and the relief desired by him; and the Attorney-General of the United States shall appear and plead thereto as provided for in other cases.

Any issue of fact joined upon such bill may be tried by the court as now provided for cases of which it has jurisdiction.

The court shall find the facts appearing from the testimony before them in each case, and shall report their findings to Congress, with their opinion as to the determination that should be made of such claim.

Congress shall not consider nor allow nor authorize the payment of any private claim not payable under existing laws until the same has been heard and reported to Congress by said Court of Claims, as herein provided.

All claims against the United States provided for by this act not prosecuted within six years from the passage of this section, or of the time when the same severally accrued, shall be barred, except that when the claimants are under legal disability to sue, the action must be brought within said six years, or within three years after such disability shall cease.

All acts and parts of acts establishing the southern claims commission, and all acts amendatory thereof, are hereby repealed. And all records, books, and papers of said commission, and cases pending therein, shall be transferred to the Court of Claims, to be disposed of by that court as other cases.

The CHAIRMAN. The gentleman from Tennessee [Mr. YOUNG] moves to strike out in the first paragraph the words "and not barred by any statute of limitations provided by any law of the United States."

Mr. ATKINS. I move a substitute for the amendment of the gentleman from Illinois, [Mr. SPRINGER,] so as to amend the paragraphs proposed to be stricken out by adding thereto what I send to the Clerk's desk to be read.

The Clerk read as follows:

Add at the end of line 2085 the following:

And all acts and parts of acts establishing the southern claims commission, and all acts amendatory thereof, are hereby repealed, to take effect on the 10th day of March, in the year 1880; and all records, books, and papers of said commission, and cases then pending therein, shall be transferred to the Court of Claims, which cases so transferred may there be determined in the same manner and under the same provisions of law as if pending in the southern claims commission, but no cases now barred by any statute of limitations shall be revived or transferred to the Court of Claims.

That any person who may have a claim against the United States of which the Court of Claims would not now have jurisdiction, but founded upon equity and justice, and not barred by any statute of limitations provided by any law of the United States, may file his bill in the Court of Claims of the United States, setting out the grounds of his claim and the relief desired by him; and the Attorney-General of the United States shall appear and plead thereto as provided for in other cases.

Any issue of fact joined upon such bill may be tried by the court as now provided for cases of which it has jurisdiction.

The court shall find the facts appearing from the testimony before them in each case, and shall report their findings to Congress, with their opinion as to the determination that should be made of such claim.

Congress shall not consider nor allow nor authorize the payment of any private claim not payable under existing laws until the same has been heard and reported to Congress by said Court of Claims, as herein provided.

All claims against the United States provided for herein not prosecuted within six years from the passage of this act, or of the time when the same severally accrued, shall be barred, except that when the claimants are under legal disability to sue, the action must be brought within said six years, or within three years after such disability shall cease.

Mr. ATKINS. I will explain in a moment the nature of that substitute.

Mr. KEIFER. I reserve the point of order on the amendment.

Mr. ATKINS. My amendment provides that the southern claims commission shall continue until the 10th day of March, 1880, the time to which the appropriation is made for in this bill. It then proposes to transfer to the Court of Claims all the records and papers in cases not decided upon and not reported to Congress and which are not barred by any existing statute over to the Court of Claims. It then goes further, sufficiently to embrace what is usually denominated the Potter amendment. That is the substance of the substitute I have offered.

Now, Mr. Chairman, it is due that I should state that if the amendment offered by the gentleman from Illinois is to pass at all, I prefer *that it should* pass in the form of the substitute I have offered. I did not think this was the time or the place to put such an amendment upon an appropriation bill, but I offer my substitute because if anything is to be done in this direction I prefer that it should be done in this shape.

Mr. WHITE. I make the point of order that the amendment of the gentleman from Tennessee changes existing law and is not in the interest of retrenchment and reform. While I am upon the floor I desire to say one word of explanation. Yesterday the gentleman from Illinois [Mr. SPRINGER] offered an amendment, which is pending, and stated that certain gentlemen on this side of the House had voted for that proposition when it was submitted by a former member from New York, Mr. Potter. I have not looked at the record.

I voted for that proposition, and under similar circumstances I would vote for it again; so that there can be no misunderstanding about it. That proposition did not comprehend this class of claims at all. My recollection is that some gentleman upon the floor arose and interrogated the gentleman from New York upon that subject, but it was not necessary to have any interpretation put upon it, because it will be observed that the claims that are to be considered under the provisions of that law are limited to six years, and all those claims arising out of the war have existed longer than six years. Furthermore, the only claims to be considered were those that were valid under existing laws.

Now, it is very well known that under the act of 1864 and under the act of 1867 no claim in any of the States that were in insurrection for subsistence or other supplies would be valid claims. They were positively prohibited; so that the purpose of the legislation of last year which we voted for was to relieve this Congress from the insufferable nuisance of being called upon from time to time to pass these claims.

The object was to provide additional legislation and give Congress concurrent action with the Court of Claims. I do not think that this amendment is obnoxious and liable to the criticism that it would allow what are known as war claims to be presented.

Mr. SPRINGER. As but ten minutes is allowed by the House for debate upon the pending paragraph and amendments, I suggest that the point of order which has been made should be decided.

Mr. WHITE. A word further. I am opposed to this proposition because it is against the policy which this House established yesterday.

Mr. KEIFER. One moment on the point of order. I understand the effect of this amendment to be to revive a large number of claims now barred by statute,

Mr. ATKINS. If the gentleman will allow me, I will say that I do not think my substitute as read will justify such a declaration.

Mr. KEIFER. I admit that there is some difficulty in understanding the whole of the amendment from the reading. The first part of the substitute refers to the Court of Claims the cases which may be pending and undetermined before the southern claims commission on the 10th of March, 1880. Then in the latter part of the substitute there is a provision authorizing for the first time a certain class of claims to be presented to the Court of Claims which now are not authorized to go either before the southern claims commission or before any court. It creates a large number of claims for the first time.

The CHAIRMAN. The gentleman made a point of order and should address himself to that.

Mr. KEIFER. My point of order is that the proposed substitute changes existing law and will not retrench expenditures. If I can show that a large number of claims are created by the substitute, certainly it will not retrench expenditures. As to whether it changes existing law or not, I suppose there can be no doubt. There is now no law authorizing this class of claims, after the southern claims commission is through under the existing law, to be presented to the Court of Claims. The claims not disposed of by the southern claims commission are not now provided for being considered in any other court. Five thousand of them or thereabout will be barred, and the remainder of them we expect will be disposed of.

I will say now what I did not say yesterday, that I understand from a prominent member of the southern claims commission that they now are so far along with their work that they will be able to dispose of all the claims submitted to them on their merits. I think the substitute as offered changes existing law, and certainly cannot retrench expenditures.

Mr. SPRINGER. The amendment offered by the gentleman from Tennessee [Mr. ATKINS] abolishes the southern claims commission after March 10, 1880; after which time that commission can be no further charge upon the Government.

It also includes the greater part of my amendment in the very words. The only new matter in it is that to which I have referred. Therefore the point of order must go to the extent that this new matter goes; for the proposition now pending and which I offered has already been decided to be in order.

The CHAIRMAN. The Chair has no difficulty in ruling upon the point of order. The amendment offered by the gentleman from Tennessee [Mr. ATKINS] certainly does change existing law. But it is equally apparent that it looks to the retrenchment of expenditures by the amount of twenty-odd thousand dollars required annually for the support of this commission. What additional expenditures may be imposed upon the Treasury does not appear upon the face of the amendment. The Chair holds that the point of order is not well taken.

Mr. SPRINGER. I accept the substitute of the gentleman from Tennessee. [Mr. ATKINS.]

Mr. WHITE. I make the point of order that the gentleman cannot accept the substitute.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SPRINGER. Until the House has acted upon my amendment I have the right to modify it.

The CHAIRMAN. The first question is upon the amendment of the gentleman from Tennessee, [Mr. YOUNG.]

The question was taken upon the amendment of Mr. YOUNG; and it was not agreed to.

The question recurred upon the amendment of Mr. ATKINS to the amendment offered by Mr. SPRINGER.

Mr. SPRINGER. I accept that amendment.

The CHAIRMAN. If there is no objection the gentleman from Illinois [Mr. SPRINGER] will be permitted to accept the amendment offered by the gentleman from Tennessee, [Mr. ATKINS.]

There was no objection.

The question was upon the amendment as modified.

The CHAIRMAN. By order of the House debate upon the pending paragraphs and amendments thereto is limited to ten minutes.

Mr. DUNNELL. Has not ten minutes been already occupied in debate?

The CHAIRMAN. That was upon the point of order.

Mr. SPRINGER. When the House adjourned last evening the question had been raised by the gentleman from Michigan [Mr. CONGER] as to whether the text of the amendment which I offered, with the exception of the repealing clause, was the text of what is known as the Potter bill, which was passed by the House at the last session of Congress. In order to satisfy my mind upon that point I have obtained a copy of the RECORD and have caused a careful examination and comparison to be made of the text of the two propositions. I find that I am sustained entirely in the statement which I made that the Potter bill and my amendment are the same in words and even in punctuation.

Mr. HUMPHREY. There is one change. The Potter bill did not repeal the laws establishing the southern claims commission.

Mr. SPRINGER. I have stated that it differs in that respect. Now one word in regard to the vote given by the gentleman from Wisconsin, [Mr. HUMPHREY.] I find upon an examination of the Journal of the proceedings upon the passage of the Potter bill, that the gentleman from Wisconsin [Mr. HUMPHREY] is recorded as having voted in the affirmative.

Mr. HUMPHREY. The gentleman will allow me a single word. I understand that according to the Journal I voted against the Potter bill, as it is called, and afterward changed my vote. I want to say right here that I voted against the bill and did not change my vote. There is a mistake somewhere. My colleague [Mr. POUND] stood beside me when I voted against the bill.

Mr. SPRINGER. I desire to state further that I have inquired of the tally-clerk of the House as to what was the record made at that

time. The roll-call shows that the gentleman from Wisconsin first voted in the negative and afterward changed his vote to the affirmative.

Mr. HUMPHREY. That is a mistake.

Mr. SPRINGER. The gentleman is recorded in the affirmative in the Journal and in the RECORD.

Now, a word as to the merits of this proposition. I hope the House will adopt it. We hear much, and have heard much, on the other side of the House with regard to the payment of war claims. Just previous to the last presidential election the whole country was flooded with speeches, and every school-house rang with the harangues on the subject of southern war claims; and, as my friend from Pennsylvania [Mr. CLYMER] suggests, hand-bills were issued with the view of exciting the people on this subject. The effort was made to alarm the public mind of this country and to make the people of the North believe that if a democratic majority should be returned to this House and a democratic President elected, we would bankrupt the country by the payment of rebel claims.

Now, Mr. Chairman, I believe it is the desire of some persons in this country, perhaps of some gentlemen on the other side of the House, to keep this question still before the country as a live issue upon which they can go before the people at the next presidential election and endeavor to excite them on the subject of war claims. Now, the fact is that this House has voted but little money in that direction since the democratic party has been in the majority. I do not remember that a single bill for the payment of a war claim passed this House during the Forty-fifth Congress. There is no member upon this side of the House who has ever favored the payment of one dollar of money to a claimant who was not loyal during the late war; no proposition is now or has been made to pay any such claims. I hope the committee will adopt this provision as a part of the pending bill, so that hereafter no claim of any kind or character whatever can be paid by Congress until it has first had the scrutiny of a court, every member of which belongs to the republican party. The public mind can then rest in the belief that these claims are barred unless supported by judicial action.

[Here the hammer fell.]

Mr. KEIFER. Mr. Chairman, we have presented here under a restriction as to debate one of the most remarkable and startling propositions which has come before Congress since I have had any knowledge of its proceedings. The proposition is to repeal all the provisions of law relating to the southern claims commission and to substitute for those provisions a law allowing any person, loyal or disloyal, who may have a claim against the United States founded upon equity and justice, and not barred by any statutes of limitations, to go into the Court of Claims with his claim and have it adjudicated.

It is proposed to say to all persons, whether they were loyal or disloyal during the war, that if they have any claims that they think are founded on "equity and justice," they may go into the Court of Claims and prove them and have them adjudicated and paid out of the United States Treasury. To do this may cost this Government over $100,000,000, perhaps $500,000,000. The law that it is sought to have repealed merely allows the commissioners of claims to consider claims for supplies, quartermaster and commissary stores furnished for the use of the Army, and presented by persons who are shown to have been loyal throughout the war. The proposition of the gentleman from Tennessee [Mr. ATKINS] and the gentleman from Illinois [Mr. SPRINGER] is to allow all sorts of claimants, disloyal parties as well as loyal ones, to come into court with claims of all kinds, including damages caused by the war, not hitherto paid for to loyal or disloyal persons. If we do this, let us do it with our eyes wide open.

The gentleman from Illinois [Mr. SPRINGER] stands up and delivers a lecture to this side of the House about war claims, while he is accepting from the hands of the gentleman from Tennessee [Mr. ATKINS] a proposition to open the Court of Claims for the first time in the history of the country to all disloyal claimants, so that they may have their claims examined and paid. I warn this House and the country of this covert attempt to provide for paying rebel claims.

Mr. SPRINGER. Does the gentleman distrust the Court of Claims on this subject?

Mr. KEIFER. I cannot yield to the gentleman. I would not give any court the right to adjudicate claims of persons who were disloyal. I want no lecture from him on this subject. We on this side of the House propose to stand by the loyal claimants of this country; I mean those who were loyal throughout the entire war, whether they lived in the North or in the South. But the gentleman's proposition is to strike down the provision of law relating to the southern claims commission, and substitute a provision that lets in all persons, whether they were loyal or disloyal throughout the war.

Mr. SPRINGER. I submit, Mr. Chairman, that that is not the fact, and the record does not show it.

Mr. KEIFER. I do not yield to the gentleman. The proposition shows clearly that what I state is true. A new class of claimants, as to whom there is no legislation putting a bar on their right to go into court, are to be recognized by law for the first time if we adopt the substitute offered by the chairman of the Committee on Appropriations and accepted by the gentleman from Illinois, [Mr. SPRINGER.]

I yield the remainder of my time to the gentleman from Wisconsin, [Mr. HUMPHREY.]

The CHAIRMAN. The gentleman from Wisconsin has one minute.

Mr. HUMPHREY. Mr. Chairman, I desire merely to state that my attention was drawn to this class of claims on account of my being in the last Congress a member of the Committee on Public Buildings and Grounds, before which there were brought claims of a different character, but which directed my attention to cases of this kind. I am satisfied that the record of my vote as cited by the gentleman from Illinois [Mr. SPRINGER] is an error, because I remember that my attention was drawn particularly to the bill introduced by Mr. Potter, and I recollect distinctly that I voted against it. There is an error somewhere. My attention had been drawn to this class of claims, and I remember having my mind directed to the fact that a bill of that kind was objectionable because it let in a large class of claims that had been barred by statute. I opposed that bill. In closing, I desire to say to the gentleman from Illinois, [Mr. SPRINGER,] who has brought this matter to my attention, (and I am glad he has done so,) that his amendments, if adopted, will open the floodgates and there will be no end to a class of claims that are now dead.

[Here the hammer fell.]

The question recurred on Mr. ATKINS's amendment.

The committee divided; and there were—ayes 54, noes 76.

So the amendment was disagreed to.

The Clerk read as follows:

Office of the Attorney-General:

For compensation of the Attorney-General, $8,000; solicitor-general, $7,000; three Assistant Attorneys-General, at $5,000 each; one Assistant Attorney-General for the Post-Office Department, $4,000; Solicitor of the Internal Revenue, $4,500; examiner of claims, $3,500; law clerk and examiner of titles, $2,700; chief clerk, $2,200; stenographic clerk, $1,800; one law clerk, $2,000; five clerks of class 4; additional for disbursing clerk, and clerk in charge of pardons, each $200; one clerk of class 2; two clerks of class 1; five copyists, at $900 each; one telegraph operator, $1,000; two assistant messengers; two laborers; and two watchmen; in all, $73,600.

Mr. SINGLETON, of Mississippi. I move to amend in lines 2095 and 2096 by striking out all after the word "dollars" in line 2095 down to and including the word "dollars" in line 2096, and inserting "two stenographic clerks, one at $1,800 and one at $1,200."

Mr. BLOUNT and Mr. WHITE rose to a point of order.

Mr. SINGLETON, of Mississippi. Allow me for one moment to explain this amendment before gentlemen insist on their point of order.

Mr. WHITE. I will reserve the point of order.

Mr. SINGLETON, of Mississippi. Mr. Chairman, it will be observed from the reading of the bill that there is but one stenographic clerk provided for in the office of the Attorney-General. In a conversation I had with the head of that Department I was informed that the present stenographic clerk, whose salary has been cut down, had frequently to work through the hours of the night and oftentimes on the Sabbath day. Questions are referred from all the Departments to the Attorney-General for his legal opinion, and he dictates his opinions, and they are taken down in short-hand and then written out in long-hand by the stenographic clerk. It is impossible for anybody else to do it. This involves an amount of labor upon the stenographic clerk almost intolerable, compelling him, as I have already stated, to work during the hours which ought to be given to sleep, and frequently requiring him, in order to keep his work up, to violate the Sabbath. My amendment provides for two stenographic clerks, one at $1,800 and another at $1,200. At present there is but one stenographic clerk in the whole Department.

These facts, as I have stated them, I have gathered from the Attorney-General himself. At the last session this question was referred to Mr. Durham, of Kentucky, who was known to be more economical even than myself, and he then offered this same amendment; but it was ruled out on the point of order. It is for this House to determine whether the present stenographic clerk shall be taxed with the whole work of this Department of the character I have referred to or we shall allow another stenographic clerk to be appointed at a salary of $1,200.

Mr. WHITE. I insist on my point of order. I do not find this in the estimates, and I submit it changes existing law and is not in the interest of retrenchment.

Mr. SINGLETON, of Mississippi. I do not think, Mr. Chairman, that it is subject to the point of order.

The CHAIRMAN. The Chair will inquire whether there is any existing law authorizing the creation of this office?

Mr. WHITE. The existing law is the appropriation bill of last year, and that law only authorized the appointment of one stenographic clerk. This amendment changes that law.

Mr. SINGLETON, of Mississippi. I submit that it is not the law.

The CHAIRMAN. The Chair has no difficulty in sustaining the point of order on the statement made.

Mr. HOUK. I move after the word "Department" in line 2090, page 85, to strike out "four" and insert "five," so it will read, "one Assistant Attorney-General for the Post-Office Department, $5,000."

Mr. ATKINS. I make the point of order on that amendment that it increases the appropriation and is not authorized by law.

The CHAIRMAN. Does the gentleman from Tennessee desire to be heard on the point of order?

Mr. HOUK. I do not, except to appeal to the gentleman from Tennessee not to press his point of order.

Mr. ATKINS. No, I cannot be appealed to on that point.

Mr. HOUK. I ask, then, that the letter of the Attorney-General be read.

Mr. ATKINS. That does not affect the point of order.

Mr. HOUK. I agree that the point of order is well taken if the gentleman insists on it.

The CHAIRMAN. Is there objection to the reading of the letter?

Mr. BRAGG. Yes, I object to it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CALDWELL. I move to strike out "three Assistant Attorneys-General, at $5,000 each; one Assistant Attorney-General for the Post-Office Department, $4,000;" and in lieu thereof to insert "four Assistant Attorneys-General, one of whom shall be for the Post-Office Department, at a salary of $4,500 each."

Mr. ATKINS. That amendment is not liable to the point of order in my judgment. It was offered at the last session of Congress to this bill, and Judge Durham, in his watchfulness, made the point of order on it, but the Chair overruled it.

Mr. CALDWELL. I do not care to discuss this amendment further than to say that it is proper, in my judgment, the salaries of these four Assistant Attorneys-General should be equalized. While the amendment I have offered reduces the expenditures of the Government $1,000, and therefore is not liable to the point of order, yet the real object and purpose I had in making it was to do justice to the Assistant Attorney-General who is assigned to duty in the Post-Office Department. I think the duties devolved on that gentleman are fully as great as those discharged by any Assistant Attorney-General of the Government, and that it is exceedingly unjust to him to pay him a salary of $4,000 while the other three receive a salary of $5,000 each. For that reason I have offered this amendment. I will state very frankly that I would have supported the amendment of the gentleman from Tennessee increasing the salary of this officer to $5,000, but as it was ruled out on a point of order there was no chance to remedy the injustice done to this gentleman except by equalizing in the manner proposed by my amendment.

Mr. REED. What does the amendment propose?

The CHAIRMAN. The Clerk will again report it.

The amendment was again read.

Mr. REED. I desire to make a point of order on that amendment.

The CHAIRMAN. The Chair would state the point of order comes too late after the amendment has been discussed.

Mr. WHITE. I rose to make the point of order, but the gentleman from Kentucky was on the floor and I could not get the eye of the Chair.

The CHAIRMAN. The Chair heard no point of order made or reserved.

Mr. WHITE. I meant to make the point of order.

The CHAIRMAN. The Chair cannot be advised as to what the gentleman meant.

Mr. REED. I desire to discuss the amendment on the merits. As I understand the proposition which has been made it practically reduces the Assistant Attorneys-General to the same grade as to salary. Am I correct in that?

Mr. CALDWELL. Quite correct.

Mr. REED. And what is to be the salary for each, if the gentleman will kindly inform me?

Mr. CALDWELL. My amendment puts the salary at $4,500 to each; reducing the salary of three from $5,000 to $4,500, and increasing the salary of the Assistant Attorney-General assigned to duty in the Post-Office Department from $4,000 to $4,500.

Mr. REED. Now, I submit to the House the proposition is unjust. It is a proposition which has been attempted to be put through this House on several occasions, upon one occasion at least before this. The object is simply to increase the salary of the Assistant Attorney-General in the Post-Office Department, and under the rules of the House it can only be done by reducing the salary of the other assistants.

Now, the First Assistant Attorney-General does all the duties which the Attorney-General of the United States used to do before a Department of Justice was created. He argues all the cases, or nearly all of them, in the Supreme Court of the United States; and I venture to say the attorneys who argue the cases on the other side before the Supreme Court receive at least five times the income which the present First Assistant Attorney-General receives. Now, everybody who knows anything of the labors appertaining to that office knows that the present salary is not too much. But the Assistant Atttorney-General attached to the Post-Office Department does office work simply and does not argue matters before the Supreme Court.

I submit, therefore, to the House whether it is worth while in order to raise the salary of one man $500 to reduce the salary of another who certainly earns twice the sum he receives from the Government? I hope the House will not permit this to be done.

Mr. BLOUNT. I move to strike out the last word.

I trust that this amendment will not be adopted in this way. The object of the gentleman from Kentucky, as he says, is to equalize as to salary the three other Assistant Attorneys-General with the Assistant Attorney-General for the Post-Office Department. That is the purpose of it. The amendment has been made in this way, in order to get it in under the rules, to increase the salary of the Assistant Attorney-General for the Post-Office Department. The plea for the amendment is that these salaries ought to be equalized. Now, sir, I undertake to say that there is no evidence before this House to show that the duties are equal in their character and in their importance. It is a very common argument here that because the Commissioner of Pensions gets such a salary the Commissioner of Agriculture gets a different one, and so on, running through the various heads of bureaus; it is all wrong, that there ought to be equalization, without the argument being based on any careful examination of the duties of these officers. The gentleman from Kentucky during the last Congress was on the Committee on Expenditures in the Post-Office Department, and was brought in contact with this officer and was favorably impressed with him, and, perhaps, rightly so.

Mr. CALDWELL. Will the gentleman permit me to ask him a question?

Mr. BLOUNT. I would if I had time, but I want to finish what I have to say.

Now, I say the questions which the law officer in the Post-Office Department has to do with are of a less intricate character and require a less degree of learning and ability than the questions which these other officers have to deal with. Furthermore, these salaries have been fixed; they are the growth of experience. The estimate put upon the value of the services of these officers does not spring from the extemporaneous statement that their duties are equivalent, but it is the growth of experience from year to year. It will be remembered by the chairman of the committee and by other gentlemen who have been for some time members of the House that this whole subject of examining into the relative importance of the services of the officers in all these Departments was considered for some months by the distinguished gentleman now the Speaker of the House of Representatives and by the Committee on Appropriations of that time. And the matter was discussed upon this identical bill before the committee for three months. The whole subject was carefully considered and these salaries were arranged in this way, and I do trust the House will not at this time attempt to derange it. If during the next session of Congress there is any complaint about the order of these salaries and the arrangements with these officers as to their salaries, then there will be time to take up the subject and there will be an opportunity for the gentleman to have a hearing before the Committee on Appropriations and to present his views, or perhaps from some committee with which he is connected to make suggestions. But I do not believe it is wise for us to disturb at this time the salaries of these officers in the way proposed.

Mr. CALDWELL. I am somewhat surprised at my friend from Georgia taking the position he does in reference to this matter, for in the Forty-fifth Congress he voted for the very amendment which is now before the House and which was adopted by the House on this bill.

Now, I have to say in reference to the Assistant Attorney-General assigned to duty in the Post-Office Department, that in my judgment, from an investigation I have made, there is more responsibility attaching to him and there are required as high a degree of ability and as much industry to discharge the duties of that office as are required by any Assistant Attorney-General assigned to duty in any Department of this Government. The present arrangement, in my judgment, is but a species of favoritism and discrimination against a deserving officer of this Government, and there is no reason and can be none for it. That gentleman is the legal adviser of a Department of this Government that has contracts between this Government and forty thousand people. He is the legal adviser of that Department in arranging all prosecutions for violations of the postal laws of the country, and I see no reason on the face of the earth why discrimination should be made against this gentleman in favor of others.

I have offered the amendment purely from a sense of justice and not because the gentleman is to be benefited by it.

When I was on the Committee on Expenditures in the Post-Office Department I had no earthly connection with this gentleman, but I have seen a letter which he addressed to the Committee on the Post-Office and Post-Roads, which letter defines his duties, and I was willing to vote him a salary of $5,000; but as that cannot be done I want to see equal and exact justice prevail between these gentlemen; therefore I offered the amendment in the present shape.

Mr. BRAGG. I hope the amendment will not prevail. During the Forty-fifth Congress I served as chairman of the committee having charge of the expenditures in the Department of Justice, and I then became convinced that I was right in an idea that I had become possessed of previously, that this whole system of having so-called Assistant Attorneys-General scattered through all the Departments was wrong; that the Attorney-General's office is the responsible law office of the Government; that the Attorney-General was the head of that Department, and that every opinion which emanated from that Department should emanate from him and should pass to the people of this country with the indorsement of the Attorney-General of the United States; that the practice of allowing the heads of the Departments to appoint their friends to some office that ought to be held by nobody else except a competent law clerk representing the Attorney-General was all wrong; that the so-called Assistant Attorneys-General distributed through the Departments were no more than ordinary clerks of the Attorney-General, and that he was the head from which all the law opinion should issue; that the men assigned to that duty should look through the formalities of the contracts and report them to the Attorney-General for his judgment; that any question that might arise should be referred to the Attorney-General, by whom law cases are considered, proper briefs prepared, and who

makes the arguments and tries the cases, who brings a vast amount of professional skill and experience to bear for the benefit of the Government, in insisting upon the enforcement of the law as it should be; that no distinction should be made in favor of this man or that man; that the salaries that are given to these men are not too large, but the salaries given to the men who occupy these positions, who simply formulate opinions, is altogether too much.

I trust if any change is made it will be made by increasing the pay of the real Attorney-General and decreasing the pay of those men who are simply clerks in that Department.

Mr. CANNON, of Illinois. I only desire to say a word in reply to the gentleman from Wisconsin, [Mr. BRAGG.] The fact is that the Assistant Attorney-General assigned for duty in the Post-Office Department as the Assistant Attorney-General is a good lawyer, and if he is not he ought to be, because the questions he is called to pass upon require the best order of legal ability. It is necessary that there should be some officer to explain the law, the same in this Deparment as in other Departments. This is a Department that spends absolutely $35,000,000 a year, nearly $20,000,000 for contracts for carrying the mails, touching also the railway service, and it is necessary that constructions of laws should be made, and those constructions require a large order of legal ability. No gentleman will controvert this who is familiar with the matter.

I am not here to speak of the proposed amendment. I only wanted to call the attention of the House, by way of reply to the gentleman from Wisconsin, [Mr. BRAGG,] to the fact that this office is more than that of a mere clerk.

Mr. HUMPHREY. I have here a letter which gives the duties which this Assistant Attorney-General is required to perform:

First. In the examination of all contracts made by the Department.
Second. The examination of all recommendations made by the Sixth Auditor for the remission of fines and penalties under section 409 of the Revised Statutes.
Third. The instructions of special agents in all matters of prosecutions for violation of postal laws.
Fourth. The examination and passing upon of all claims against the Department, including claims growing out of leases, contracts for carrying the mails, and for the manufacture of stamps, envelopes, &c., and for furnishing the Department with stationery, &c.
Fifth. In advising and assisting the Department of Justice in the defense of all suits against the Government growing out of transactions with the Post-Office Department.
Sixth. In furnishing such information and imparting such instructions as will enable the several marshals and district attorneys to properly execute the postal laws.
Seventh. In passing upon all questions of mail classifications herein, of determining what is and what is not mailable, and the amount of postage chargeable for mailable matter of the several classes.
Eighth. In advising the Postmaster-General and each of the Assistant Postmasters-General on all matters touching which his advice is asked.
Something of the extent of the duties devolved upon this officer can be inferred when it is stated that over one thousand questions are annually submitted for his consideration.

Now it seems to me that no discrimination should be made against the gentleman who has these duties to perform. Give him the same salary as the other Assistant Attorneys-General. The process of striking down the salaries of all for the benefit of one is not correct. Let us raise the salary of this officer so that it shall be equal with the others, or let it be as it is. The process by which you give an increase to one and take from another is wrong in principle. Either abide by the salary as it now is or give this Assistant Attorney-General the same salary as the others now receive.

Let it stand one way or the other. It seems to me he should receive the same compensation that the others receive, and that their compensation should not be reduced for the purpose of making it the same as his.

Mr. REED. I desire that the House may understand the situation of this matter. This is not a proposition to give to the Assistant Attorney-General for the Post-Office Department an increase of $500 of salary; it is a proposition to diminish by $500 the pay of each of three other deserving officers. Now, I submit there is not the slightest necessity for that. While the rules of this House render it impossible for us to raise the salary of the Assistant Attorney-General attached to the Post-Office Department, the rules of the Senate present no such difficulty. If justice requires that the salary of this officer should be raised, it can be raised elsewhere. There is no need of diminishing the deserved salary of three other officers in order to equalize the salary of this one.

Nobody has said, no one will undertake to say for an instant, that the three officers who receive an annual salary of $5,000 each are receiving a single dollar too much for the labors they perform. I hope the House will meet this question as they have always met it whenever it has been fairly discussed.

Mr. BLOUNT. The gentleman from Kentucky [Mr. CALDWELL] expresses surprise that I should oppose his amendment. He says that in the last House I voted for this identical proposition. I do not remember what I did in the last House. It does not matter what I did or what I did not; that does not affect the position I have taken here.

There has been nothing presented to this committee to show that the duties of these officers are identical as to the amount of labor or as to the dignity of the labor which they perform. The gentleman from Wisconsin [Mr. HUMPHREY] has read from the Revised Statutes the duties prescribed to this official, and as he read them they sounded very important. We know, however, that practically these officers are not graded with each other in their actual work.

The Assistant Attorney-General for the Post-Office Department does not give all the advice the head of that Department requires. Most of the information desired by the Department is to be found in the regulations of the Post-Office Department by the officers who may need it. It is said that sometimes this officer is called upon to give advice in regard to contracts. Now, as a matter of fact, the opinion of the Attorney-General of the United States has been called for by the Post-Office Department whenever any very important question has been raised. A number of such instances has been brought to my attention. Gentlemen will find that wherever any very intricate legal questions are involved the opinion of the Attorney-General of the United States is always sought by the Department.

Mr. HUMPHREY. I have drawn my inference from the statutes. I know as a matter of fact that when I go to the Interior Department, for instance, for the decision of a question, I am referred to the Assistant Attorney-General of that Department, who is the solicitor for that Department.

Mr. BLOUNT. The gentleman from Wisconsin has stated very properly that the Assistant Attorneys-General are the real officers relied upon, and these others are merely in places which are made for particular persons. They are just a fungus growth upon the Department, and are not necessary. When any real question of importance is raised the Attorney-General is applied to for the information.

Mr. HUMPHREY. I did not say that I was sent to the Attorney-General, but to the Assistant Attorney-General for the Department, who is the solicitor.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had agreed to the amendments of the House to the bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes.

LEGISLATIVE APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Kentucky, [Mr. CALDWELL.]

The question was taken; and upon a division there were—ayes 59, noes 65.

Mr. CALDWELL. No quorum has voted.

Tellers were ordered; and Mr. CALDWELL and Mr. REED were appointed.

The committee again divided; and the tellers reported that there were—ayes 64, noes 79.

So the amendment was not agreed to.

The Clerk read the following:

For stationery, books, fuel, labor, postage, and other contingent and miscellaneous expenses, $2,000; for reporting the decisions of the court, clerical hire, labor in preparing and superintending the printing of the fourteenth volume of the reports of the Court of Claims, to be paid on the order of the court, $1,000; in all, $3,000.

Mr. ATKINS. I move to amend the paragraph just read by striking out "$2,000" and inserting "$2,500;" also by striking out at the end of the paragraph "$3,000" and inserting "$3,500." That is to increase the contingent fund of the Court of Claims $500. They need it.

The amendment was agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. ATKINS. There are two or three amendments which I think ought to be offered to this bill, but in order to offer them it will be necessary to go back to the body of the bill. If there is no objection to doing so, I would like to offer two or three amendments.

Mr. WHITE. What are they?

Mr. ATKINS. The first is to make immediately available the amount appropriated for the folding-room of the House. Another is, on page 25 of the bill, to reduce the force in the office of the Treasurer. That is at his own suggestion. The object is to reduce the force in one place by fifteen clerks and to increase it in another by eight clerks; making a total reduction of seven clerks. Those are the two principal amendments. There is another amendment which I think should be offered, to increase the force in the Interior Department by two clerks, and also to give it a messenger. But I do not care particularly whether that amendment is offered or not.

Mr. KELLEY. I desire to call the attention of the gentleman to the omission of a clerk in one of the Auditors' offices. That subject has been brought to the attention of the Committee on Appropriations.

Mr. ATKINS. I shall make no objection to that amendment of the gentleman from Pennsylvania. I wish the Chair to understand that I am asking to go back for these precise amendments; I am not willing to go back for any others.

Mr. KELLEY. The gentleman includes my amendment to change five to six in line 515?

Mr. ATKINS. Yes, sir.

Mr. MILLS. In an amendment adopted on motion of the gentleman from Pennsylvania, [Mr. WHITE,] in reference to the distribution of seeds, there was a phrase which should be corrected. It spoke of "a

reasonable and equal proportion." There may be some difficulty about the construction; and the words "reasonable and" should be struck out.

Mr. ATKINS. I have no objection to that.

Mr. SPARKS. Will the chairman of the Committee on Appropriations designate the amendments that he wants to adopt by going back?

Mr. ATKINS. I have done so.

Mr. SPARKS. I have no objection to any amendment which the gentleman from Tennessee may desire to submit; but I shall object to going back generally; and I shall reserve the right to oppose, when we do go back, any amendment which seems to me improper.

Mr. WHITE. I have another amendment to suggest. Upon very insufficient consideration, as I think, an amendment was adopted changing the pay of gaugers and storekeepers in the internal-revenue department.

Mr. ATKINS. That can be corrected when we get into the House. I agree with the gentleman (and so said at the time) that we did wrong in reducing the salaries of these storekeepers; but that amendment will necessarily come up in the House.

Mr. WHITE. Very well. I presume we can have the yeas and nays upon it.

Mr. DIBRELL. I think I must object to any going back. There was objection made the other day when I proposed to do so.

Mr. ATKINS. Very well; then my colleague [Mr. DIBRELL] objects to a saving of $9,000 in the matter of clerks.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to go back for the purpose of offering the amendments that he has indicated.

Mr. HAYES. Will these amendments give rise to any discussion? If not, I do not object.

The CHAIRMAN. It is not in the power of the Chair to limit the discussion. Is there objection to the request of the gentleman from Tennessee on behalf of the Committee on Appropriations? The Chair hears none.

Mr. McMILLAN. There was objection made by the gentleman from Tennessee, [Mr. DIBRELL.]

Mr. DIBRELL. I did object; but if the chairman of the Committee on Appropriations wants to correct anything, I have no objection to going back for that purpose.

Mr. ATKINS. I wish to be perfectly fair. The purpose is not to correct anything, but to offer some amendments which I think ought to be offered for the good of the service. One amendment which I propose to offer will reduce expenditures $9,000.

Mr. DIBRELL. I am willing to go back for amendments reducing expenses, but not for amendments increasing them.

Mr. ATKINS. Will my colleague object to making immediately available the appropriation for the folding-room?

Mr. DIBRELL. I will not.

The CHAIRMAN. The gentleman from Tennessee, the chairman of the Committee on Appropriations, has asked unanimous consent to go back in the consideration of this bill that he may offer certain amendments which he has indicated, and none others. The Chair hears no objection to that request; and the gentleman from Tennessee will now indicate his amendments.

Mr. ATKINS. I move to amend by inserting, after the word "dollars" in line 269, the words "provided that the amount appropriated for the pay of four of said laborers shall be immediately available." The laborers here referred to are employés in the folding-room.

The amendment was agreed to.

Mr. ATKINS. I desire to offer an amendment to the second paragraph of the appropriations for the Treasurer's office. I move to amend by striking out "thirty-six," in line 599, and inserting "twenty-nine," so as to read, "twenty-nine clerks of class 1;" by striking out "twenty-six," in line 601, and inserting "eighteen," so as to read, "eighteen clerks at $900 each;" by striking out, in lines 604 and 605, the words "17,184" and inserting "1,584;" and by striking out, in line 591, the words "74,200" and inserting "83,800."

Mr. McMILLAN. I understood that the amendment was to reduce expenditures.

Mr. ATKINS. It does make a reduction of about $9,000 in the aggregate. There is a reduction of seven in the number of clerks.

The amendment was agreed to.

Mr. KELLEY. I now move, with the consent of the chairman of the Committee on Appropriations, to strike out, in line 515, (being the paragraph containing appropriations for the office of the First Auditor,) the words "five clerks of class 4" and inserting "six clerks of class 4," and making a corresponding change in the total of the paragraph. This amendment is to correct what appears to have been a mistake in preparing or copying the bill.

Mr. ATKINS. Does my colleague [Mr. DIBRELL] object to that?

Mr. DIBRELL. Is it to correct an error?

Mr. ATKINS. I do not know that there is any error. I do not think there is. But the Department wants this clerk.

Mr. KELLEY. I understood it was an error.

The amendment was agreed to.

Mr. ATKINS. I have one further amendment which does not increase the apppropriation at all. I move to amend by adding after the word "dollars" in line 1502 these words:

And the Secretary of the Interior is hereby authorized to rent such buildings as may be necessary from time to time for the purpose of the census, to be paid for from the amount authorized to be expended by section 20 of the act approved March 3, 1879, in reference to the Federal census.

The amendment was agreed to.

Mr. VAN AERNAM. I ask unanimous consent to go back to offer an amendment to line 1260. Before offering the amendment I will ask the Clerk to read a communication on this subject.

Mr. SPARKS. Is this a proposition to go back?

Mr. VAN AERNAM. I desire to go back to make an amendment in line 1260.

Mr. SPARKS. I object.

The CHAIRMAN. The Clerk will now read the parts of the bill which have been passed over.

The Clerk read as follows:

For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, and expenses of suits in which the United States are concerned, of prosecutions for offenses committed in violation of the laws of the United States, and for the safe-keeping of prisoners, $2,800,000: *Provided*, That the per diem pay of each juror, grand or petit, in any court of the United States, shall be $2, and that the last clause of section 800 of the Revised Statutes of the United States, which refers to the State of Pennsylvania, and sections 801, 820, and 821 of the Revised Statutes of the United States, are hereby repealed; and that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing the names of not less than three hundred persons, possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen residing in the district in which such court is held of good standing and a well-known member of the principal political party opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge in a district in which such is now the practice from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State; and no person shall serve as a petit juror more than one term in any one year, and all juries to serve in courts after the passage of this act shall be drawn in conformity herewith. All general and special laws in conflict herewith are hereby repealed: *And provided further*, That the following sections of the Revised Statutes of the United States, namely, sections 2016, 2018, and 2020, and all of the succeeding sections of said statutes down to and including section 2027, and also section 5522, be, and the same are hereby, repealed; and that section 2017 be amended by striking out of the first line thereof as printed in the Revised Statutes the words "and required;" and that section 2019 be amended by striking out of said section in lines 11 and 12 as printed in the Revised Statutes the words "for the purpose of engaging in the work of canvassing the ballots," and by striking out from line 13 of said section as printed in said statutes the words "in respect to such canvass."

Mr. WHITE. I raise the question of order as to that portion of the clause after the word "dollars" in line 2008 to the word "repealed" in line 2035. The words referred to are as follows:

And that the last clause of section 800 of the Revised Statutes of the United States, which refers to the State of Pennsylvania, and sections 801, 820, and 821 of the Revised Statutes of the United States, are hereby repealed; and that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing the names of not less than three hundred persons, possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen residing in the district in which such court is held, of good standing and a well-known member of the principal political party opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge in a district in which such is now the practice from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State; and no person shall serve as a petit juror more than one term in any one year, and all juries to serve in courts after the passage of this act shall be drawn in conformity herewith. All general and special laws in conflict herewith are hereby repealed.

My point of order is that that changes existing law and does not retrench expenditures.

The CHAIRMAN. The Chair knows no rule which allows the gentleman from Pennsylvania to make the point of order on a part of a paragraph.

Mr. WHITE. I do it for the reason that it is an independent proposition. If there was a motion made to strike out the entire clause or the entire portion of the section I have stated, it would be perfectly proper to do so, or to call for a division of the question on that paragraph.

The CHAIRMAN. The Chair recognizes the right of the gentleman to call for a division of the question on every substantive proposition.

Mr. WHITE. I submit, with all deference to the Chair, that if I can call for a division of the question I can also divide the proposition for the purpose of raising the point of order. I will remark, then, that the portion of the bill included within the lines I have just indicated makes a separate and distinct proposition, which does change existing law. That portion provides for the repeal of certain statutes, and I submit it is entirely proper for me to raise the point of order upon it separate from the balance of this portion of the bill. The proposition is so plain that a statement of the proposition itself carries with it sufficient argument.

The CHAIRMAN. The Chair may save the gentleman from Pennsylvania time by stating that he recognizes the right of any member to demand a division of the question on every substantive proposition in a paragraph, but he does not know of any rule or any practice which allows any member to subject any portion of a paragraph to a point of order. The Chair will entertain any point of order the gen-

tleman from Pennsylvania desires to make on the paragraph, but not on portions of the paragraph.

Mr. WHITE. By the permission of the Chair I will succinctly state my point again, with a brief argument. I certainly think the Chair misapprehends the point I raise. It is so clear to my mind that I cannot see how the Chair can incline to overrule it. The point is, that that portion of the bill after the word "dollars," in the two thousand and eighth line, to and including the word "repealed" in the two thousand and thirty-fifth line, is improperly in the bill, because it changes existing law and does not retrench expenditures. Under Rule 120 these words are clearly irregularly and improperly in this bill. Now, sir, let us examine the matter a moment. I am not arguing the merits of the proposition; but if it can be ruled out as improperly placed in the bill, we will save much discussion and valuable time. Rule 120, then, which is often referred to, provides, "nor shall any provision in any such bill" (appropriation bill, which this is) "or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures." With all the tortuous construction this rule has received, these words carry a meaning too obvious for discussion. No provision shall be in order which changes existing law, unless it is germane to the subject-matter and shall retrench expenditures. What, then, is this provision? From "dollars" in line 2008 to "repealed" in 2035 there is a complete subject, and is a complete paragraph in itself, ending with a full period. It provides the last clause of section 800 of Revised Statutes shall be repealed. This clause is, "This section shall not apply to juries to serve in the courts of the United States in Pennsylvania." This is a change of existing law, but where are expenditures retrenched by it? Next, sections 801, 820, and 821 Revised Statutes shall be repealed. What are they? Let me read:

SEC. 801. Jurors to serve in the courts of the United States in Pennsylvania shall be designated by lot or otherwise, in each district respectively, according to the mode of forming juries, to serve in the highest courts of law therein, which was practiced before the passage of the act of July 29, 1840, chapter 47, so far as the same shall render such designation practicable by the courts and marshals of the United States. But this provision is subject to the provisions relating to the qualifications and oaths of jurors hereinafter contained.

SEC. 820. The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: Without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

These sections are existing law. This clause repeals, wipes them from existence, thus changing existing law. Wherein does this repeal retrench expenditures? I pause for reply. The clause supplies the law thus repealed by providing for filling the box with the names of not less than three hundred persons having qualifications prescribed by section 800, and further providing for the appointment of a commissioner residing in the district by the judge of United States court, of opposite politics to the clerk, but to act with him in selecting jurors, thus creating a new officer to be paid and in this way increasing instead of retrenching expenses. This, then, sir, is substantially the whole of the clause that I maintain is out of order here, because it clearly changes existing law and does not in any way retrench expenditures. I am not speaking of the merits or policy of this change, but of its regularity in this way. If it is wise and proper legislation let it be made the subject of an independent bill and come deliberately and in order before the House.

But, sir, a word more as to this being part of a paragraph. Will this position be seriously relied on to overrule me? Why, look at this clause. It is a separate and distinctive subject-matter which can stand or fall by itself. The part indicated as not in order and read above, the Chair rather intimates, I trust has not yet decided, is not an entire paragraph. Certainly it is. What is a paragraph? If you recall the etymology of the word it is synonymous with "sentence," "proposition," "period." Look at what is objected to and tell me if it is not a complete proposition, complete period; nay more, an entire, complete subject-matter? What follows this clause? Propositions to repeal sections 2016, 2018, 2020, and other following sections of the Revised Statutes of the United States relating to the appointment of supervisors and marshals for elections. A different, an entirely different subject-matter from the selection of jurors. Why, sir, if this whole matter was now before the House I could call for a division of the question, and the request would be parliamentary, because each proposition—the juror proposition and the election feature—could stand by itself; one could be voted down and yet the other remain without affecting the sense of the whole section.

Not regular to make a point of order on a part of a paragraph, if this is a part of one! Why, sir, a few moments ago the gentleman from Mississippi [Mr. SINGLETON] offered on page 86 to increase the stenographic force in the Attorney-General's Office from one to two. I raised the point that it changed existing law. The present occupant of the chair sustained me. Suppose, instead of the amendment offered on the floor, it had been in a bill as reported from the committee and in the text, would not the point have been sustained that it changed existing law and did not retrench expenditures? Yet, sir, that is but part of a paragraph. The whole paragraph, beginning on page 85 of your bill, relates to salaries of Attorney-General, assistants, and clerks. Yet I raised a point to a part of that paragraph a few moments ago, and was sustained. I repeat again, that if the part of the bill indicated above as out of order here is but a portion of a paragraph, our courts in passing on the constitutionality of statutes have time and again sustained part of the statute and decided another part as invalid. On this ground it is competent to rule out part of a paragraph. But, sir, the proposition to my mind is so clear that further argument is useless. Were the chairman sitting as a judge in a court of justice, passing upon a question of private right regulated by our rules as law, and I standing as an advocate to raise the point I do here against the pending proposition as affecting my client, I cannot doubt the decision would be in my favor. Should not the same rule obtain in the decisions of a quasi-judicial body such as the American Congress?

Mr. ATKINS. The uniform practice of the House confirms the decision of the Chair on that subject, that there has never been a division of a paragraph for such a purpose.

Mr. WHITE. There is nothing in Rule 120 in conflict with the position I take.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard?

Mr. ROBINSON. I do.

Mr. WHITE. Does the Chair make that decision?

The CHAIRMAN. The Chair does not wish to cut off the gentleman from Massachusetts if he wishes to be heard.

Mr. WHITE. I have made the point of order; does the Chair overrule it?

The CHAIRMAN. The Chair does not wish to be impolite to the gentleman from Massachusetts.

Mr. WHITE. I beg pardon; I did not hear the Chair nor know the gentleman from Massachusetts was on the floor now.

Mr. ROBINSON. Mr. Chairman, I appreciate the courtesy which allows me to say what I desire on this point of order. It was my purpose, Mr. Chairman, to make the same point now made by the gentleman from Pennsylvania. Therefore I trust I will not be regarded as an intruder in this discussion.

Mr. WHITE. Not at all.

Mr. ROBINSON. I intended to make the same point, and I desire to submit some reasons why the chairman should sustain it. I ask first that Rule 120 be read.

The Clerk read as follows:

No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. ROBINSON. Now, Mr. Chairman, the portion of the bill upon which I wish to make the point of order is nearly the same as that designated by the gentleman from Pennsylvania, but not quite the same; and I now state it so there may be no misapprehension. I should not include the last line he has included: "all general and special laws in conflict herewith are hereby repealed." If the Chair desires I should make my point of order excluding those words, I would prefer to do it rather than lose any right I may have.

Mr. WHITE. If the gentleman from Massachusetts will permit me, I will say that I accept his suggestion and exclude from the point of order those words, as they will affect the pay.

Mr. ROBINSON. I desire to ask the Chair if I am limited to five minutes?

The CHAIRMAN. The Chair appreciates the discretion which usage has given to the Chair in permitting latitude in discussions on points of order. The Chair is willing to be further advised on the point of order, but he does not wish gentlemen to go beyond the five-minute rule on any point of order that is discussed.

Mr. ROBINSON. I should not be able to state in five minutes what I desire to say on this question.

The CHAIRMAN. The Chair does not propose to cut the gentleman off in his statement.

Mr. ROBINSON. I deem it very important that this point should be settled at the present time. As I understand, the integrity and permanence of Rule 120 depend largely on the view that the Chair

shall take upon the point now raised. If this point of order is not sustained, I foretell that this House will very soon lose all confidence in Rule 120, and will not suffer it long to remain upon its book.

The precise point is this. The rule says:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

The Chair will notice at the outset the rule does not say "paragraph," it does not say "section," it does not say "bill," but it says:

Nor shall any *provision* in any such bill or amendment.

That is, a particular portion of a bill or amendment.

Now, this is a provision in a bill, or these are provisions in this bill to which the point of order lies. What is a "provision?" Why, it decidedly is a measure, as it is commonly defined; something separate and distinct in itself; something that will stand alone; a proposition, in other words; not the same as a proviso, because that is a provision upon a condition, a conditional measure; and we have numerous instances of those in this very bill. So that the line is to be very carefully observed. Now, I say that here, in this very section under discussion, we have, in the first place, the general provisions for appropriations down to and including the two thousand and fifth line. Then we have a provision that the per diem pay of each juror shall be reduced to $2. That is one provision distinct by itself. It might stop there and the sense be complete.

Now, what next? We have between the lines I have indicated, from line 2008 down to 2034, three separate provisions more for the repeal of certain statutes: in reference to the drawing of jurors; in reference to the oath and qualifications of jurors; in reference to the term that they shall serve in any one year. Now, will any one say these are not separate provisions? Will any one say that they depend upon the question of the fees of jurors? Not at all.

Why, Mr. Chairman, the provision of the statutes that relates to the fees of jurors is included in section 852, in quite another chapter, which does not include the sections 800 and 801, and also 820 and 821, cited below. If the Chairman is to rule that "paragraph" is the same as "provision" and "provision" the same as "paragraph," then I submit to the Chair that this committee might entertain a bill that should repeal the entire judiciary act, a whole title of the statutes, including some twenty-odd sections of them, and I do not know how many pages, I think over a hundred, of the Revised Statutes.

I do not make the point that there is any objection to that portion of the paragraph which reduces the pay of jurors. Clearly that is germane; and though it changes existing law, it retrenches, and is therefore admissible; but the other provisions, though germane, change existing law and do not retrench. I presume no one would claim that there is any saving in the provisions within those lines I have cited in that portion of the paragraph to which the point of order is made.

This question, as I understand, is a new one, as presented to the House. On such examination of the record as I have been able to make, and on inquiry of gentlemen who have been members of the House for many years, I do not find that this precise question has been raised. It has not been passed upon so far as I have been able to ascertain.

But we must look at the condition of things when this rule was changed. Mr. Chairman, you know very well that in the interpretation of a statute it is always of the utmost materiality that we go back to see the condition of things at the time of the enactment. In the construction of a statute we find what was the mischief then see what remedy has been provided and examine the scope of that remedy. The rule prior to the amendment of Rule 120 I would like to have read in order that we may understand exactly the change that was made. I ask the Clerk to read what I have marked.

The Clerk read as follows:

No appropriation shall be reported in such general appropriation bill nor be in order as an amendment thereto for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for contingencies for carrying on the several Departments of the Government.

Mr. ROBINSON. That was the rule prior to 1876. In the Forty-fourth Congress it was found that the rule was open to this objection: that by the interpretation given to it the Speaker could entertain an amendment that would increase salaries, and therefore expenditures; but it would not be in order to move an amendment to reduce expenditures. And the distinguished gentleman from Pennsylvania who is now the Speaker of the House—I do not at present see him on the floor, but if he were here, with his recollection of what transpired, he would remember without difficulty that what the House then sought to meet was its inability to entertain an amendment that reduced expenditures, while it could entertain one that increased salaries.

The rule was referred to the Committee on Rules, consisting of the gentleman from Pennsylvania, [Mr. RANDALL,] the gentleman from New York, [Mr. COX,] and others; and Mr. COX, of New York, reported a change in the rules, and the precise change that was made is now contained in Rule 120, and that language was adopted advisedly.

What was the mischief, Mr. Chairman, at that time? Did the House of Representatives propose to change its rules so that it might change existing laws? That was not the desire of the House. It was to change the rules so that expenditures might be reduced. It was so stated in that debate several times.

The gentleman from Pennsylvania [Mr. RANDALL] took part in that debate and he explained the purpose of the committee to that effect very plainly. I ask the Clerk to read from the debate that followed in order to indicate what was the evil complained of and what was the view of the House in the adoption of that amendment to the rules.

The Clerk read as follows:

Mr. COX. I yield to my colleague on the committee, the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL. I can state to the House in a very few words the object of this amendment as I understand it. We propose to modify this rule because, as the Committee on Rules believe, or at least as I think, a forced construction was put upon a portion of the rule, under which any salary was allowed to be increased, though the opportunity was never given to decrease a salary. Now the committee propose to go "right about face" and adopt a rule that will make it in order at any time to reduce salaries or to retrench the expenditures of money by Congress if the object of reduction or retrenchment is germane to the bill itself.

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Mr. BANKS. Will the gentleman from Pennsylvania [Mr. RANDALL] allow me to say a word?

Mr. RANDALL. Certainly.

Mr. BANKS. Mr. Speaker, the object of the proposition now before the House, as it has been stated, seems to me to be right. The purpose is that, as the rule, or the construction of the rule, now gives the House the privilege of amending an appropriation bill by increasing salaries, it shall likewise give to the House the privilege of decreasing salaries. That is stated to be the object, and so far it is a good one. Am I right in stating that to be the object?

Mr. RANDALL. It is.

Mr. ROBINSON. That is the history of the adoption of this change in the rules, and it will be seen that the gentleman from Pennsylvania [Mr. RANDALL] distinctly declared the purpose of this amendment, and no language could be plainer than his was on that action. His purpose was to economize, not to empower the House in an appropriation bill to change existing laws except for the purpose of economy. He was fighting the condition of things in which an amendment to increase an appropriation was allowed, but not one to decrease it. Does it say there in what has been read that he proposes to empower the Committee on Appropriations to change existing laws without regard to retrenchment? No; he says directly the opposite. He says that the anticipations of gentlemen who oppose this amendment are purely imaginary and not founded on the provisions of the amendment proposed. I say, therefore, that he saw the word "provision" meant something very different from "bill, paragraph, section, or amendment."

Now it says, "provision in such bill or amendment." Suppose, Mr. Chairman, that this did not come from a committee as a part of a bill, but that some gentleman on the floor offered it as an amendment, as was done by the gentleman from Alabama [Mr. HERBERT] at the last session, it would be a provision and not an amendment. Here it is a provision in the bill, and there are several provisions in the bill of this character. The word provision has a distinct meaning in law that these gentlemen will recognize.

Now, it is very singular, on this very question, that we have here before us section 800, of which I will read the first two lines in order that the Chairman may understand it. They are that—

Jurors to serve in the courts of the United States, in each State respectively, shall have the same qualifications, subject to the provisions hereinafter contained.

"Provisions hereinafter contained." Now we go on to the next section, the last clause of section 801 which this amendment seeks to repeal; what does it say? "But this provision is subject to the provisions relating to the qualification and oaths of jurors hereinafter contained." This provision is subject to the provisions hereinafter contained. What is this provision thus alluded to? Why, the first part of section 801. The very provision that this amendment seeks to repeal says that this portion which it is proposed to strike out of the law is subject to the provisions "hereinafter contained." What more? It says those "provisions relating to the qualifications and oaths of jurors." These provisions are sections 820 and 821, and the words are used all through the statutes.

Turn over to the title of "repeal." It is headed "repeal provisions." One section states that the enactments of this revision shall not be held to affect provisions, whether local or otherwise, in general appropriation bills. The language is retained, and it is very clearly stated all through the statutes.

Now, is it to be supposed for a moment that when these gentlemen framed the rule and brought it into the House they did not understand what it meant to say, and that the House did not comprehend that they used the word "provision" and used it advisedly? And that covers the whole case. It is specific and well understood.

I know very well that the argument of inconvenience is not very strong, but if it is in the power of any member of this House or of a committee, either by an amendment or a bill, to say that the pay of jurors shall be reduced twenty-five cents a day, for instance, and to go on then and change all the chapters referring to the judiciary, for instance providing for new proceedings under the writ of *habeas corpus*, would not that be a "provision?"

In your own State, Mr. Chairman, there is one judicial district. Now, I submit would it not be a provision if an amendment should be offered here that two judicial districts should be constituted in the State of Kentucky? The State of Pennsylvania has two judicial districts. Could that number be changed and would not that change constitute a provision in the eye of this rule? So in regard to rules of evidence, the duties of marshals and district attorneys, and I might

go on through the whole of this chapter, one hundred and eleven pages, of the statutes. It might as well be said that any one of them is not a provision as to say that these which are instanced here are not provisions.

Now, where shall we stand if we go on in this way? I do not include that portion of the bill in regard to the election laws, because I say at once that that portion stands upon an altogether different basis. The claim may be there made that that provision does retrench expenditure.

But no man, as I understand it, can claim that this change in the method of drawing jurors will save a single dollar to the Government. I do not say that the Committee on Appropriations, or the gentleman who introduced this bill, designedly included a reduction of the pay of jurors in order that he might lug in something else; I have no knowledge of that fact. But I do say that if the Chair does not sustain this point of order, if the Chair does not say that these are provisions by themselves, then the door is flung wide open, and it will be in the power of any member of this House to move something germane to the section, and then go on to repeal the entire body of the statutes, so far as it can be done and keep the amendment germane. The language of the rule is "germane to the subject-matter of the bill," not germane throughout itself. It is not necessary that these provisions should be germane the one to the other, but that each shall be germane to the bill. I make no question that these are germane; they are clearly so. So would be a change of judicial districts; so would be a change in regard to the writ of *habeas corpus;* so would be a change of the rules of evidence and the matter of witnesses before the courts.

Shortly after this rule was adopted, within about three months, it came up for construction and was submitted to the then Speaker of the House for his ruling. That was on the question of the transfer of the Indian Bureau from the Interior Department to the War Department. It turned upon the question whether upon its face the proposed amendment retrenched expenditures or not.

In the debate at that time I find that the gentleman from New York [Mr. COX] saw the dangers to which this rule might lead unless it was upheld strictly. I will say in that case it was held strictly by the Speaker of the House at that time.

I ask that the remarks of Mr. COX at that time may be read by the Clerk; they are very brief. I ask it because he reported this amended rule from the Committee on Rules; he understood its scope; he saw the danger into which the House might be led if the rule was not strictly maintained.

The Clerk read as follows:

Mr. RANDALL. I ask for the ruling of the Chair.
Mr. COX. I desire to say a word on this question.
Mr. RANDALL. I yield to the gentleman.
Mr. COX. I had the honor to report this rule to the House. I believe it was unanimously adopted, or nearly so, by the Committee on Rules. I never dreamed that this rule would have so loose an interpretation as has been given to it. I never dreamed that it would be carried so far as that you might tack on legislation that would extend to every department of the Government, as would be the case if this point of order be not well taken.

Mr. ROBINSON. I really wish that the distinguished gentleman from New York [Mr. COX] were now on the floor, able to interest us as he always can in his statement of his fears. He says there that he is alarmed at the views that some gentlemen take of the scope of this rule; he who reported the rule from his own committee only three months before.

I am aware that discussions upon points of order are almost always uninteresting. I do not care to gain distinction in this House by raising points of order. But I believe that this is the time and this is the place when it is in the power of the Chairman of this committee to make such a ruling as shall define the word "provision" and retain the force of the rule. The effort to change the pay of jurors may still be successful.

I do not desire to anticipate the point of order that may be made upon the provisions in relation to supervisors and marshals. As I intimated a moment ago, they seem to retrench expenditures. But in this case the repealing of the oath of the jurors, the repealing of the measures for the qualifications of jurors, and the adoption of a new method for drawing jurors cannot be of so much consequence that a rule of this House must be set aside in order to permit those amendments to be introduced at this time.

The rule should be conservatively administered, not loosely construed. I submit that the Chair must rule, I say it respectfully, that the true construction of this rule is that each one of these separate provisions in the bill and forming a part of the bill is open to a point of order. I call the attention of the Chair to the wording of the rule, because in reply to the gentleman from Pennsylvania the Chair intimated that he must make a point of order on the paragraph. The Chair must rule on Rule 120, and the language of the rule is not "a paragraph" but "a provision in the bill or amendment."

I have said all that is necessary to make my point clear.

Mr. ATKINS. I will say only one or two words in answer to the gentleman from Massachusetts, [Mr. ROBINSON.] The proposition embraced in this bill, as I understand, is to abolish that provision of the statutes which requires jurors to take the test oath. Under the practice now existing a great many persons are summoned for the purpose of being impaneled upon juries, but not being able to take the test oath required under the statute they return to their homes, and it is necessary to summon additional jurors, creating double or perhaps treble expense. Now the proposition is to abolish the test oath, thus obviating the expense incurred by the Government in the manner I have indicated. It simplifies the proceedings in obtaining juries, and as a matter of course, in simplifying those proceedings and saving marshal's fees, &c., there is a retrenchment of expenditures. In other words, Mr. Chairman, this provision ought to be taken as a whole. It is designed as a whole. It has no practical bearing unless taken as a whole. It is not practicable to divide it up and carry out the object for which it was framed. Taken as a whole, the amendment retrenches expenditures. One provision is closely connected with another. The provisions are based one upon another; and the proposition is not harmonious unless the parts are all taken together.

Mr. ROBINSON rose.

Mr. ATKINS. I did not interrupt the gentleman; and I hope he will not interrupt me.

It seems to me the gentleman from Massachusetts has been more technical and metaphysical than practical in his objection. I am aware that the gentleman is a very cool and dispassionate speaker; he thinks closely; but it seems to me he has been rather hair-splitting than otherwise in his enforcement of his views upon this point of order. Ever since Rule 120 has been in operation the uniform ruling has been not to divide a paragraph. Among all the hundreds of rulings that have been given by different gentlemen (most of them distinguished parliamentarians) who have filled the chair in Committee of the Whole, as well as the different Speakers of the House since this rule was adopted, I challenge the gentleman to point to a single instance in which a paragraph has been divided. I do not remember one.

I repeat, Mr. Chairman, these provisions stand one upon another; they do not make sense except as taken together, and I submit that in amending the law which now requires a test oath to be submitted to citizens summoned as jurors there will be great economy. Hence the point of order which the gentleman from Massachusetts urges does not lie against any of the provisions embraced in this section.

I admit that there is other subject-matter in this paragraph. The second proviso alludes to supervisors and deputy marshals. I maintain so far as that is concerned that the paragraph cannot be divided. But still supposing it to be in a different paragraph, it stands upon its own merits; and it can be shown plainly and distinctly that it as well as the former provision will, when carried into effect, work a reduction of expenditures.

Mr. ROBINSON. The gentleman challenges me to cite an instance in which any chairman of the Committee of the Whole or any Speaker of the House has ever ruled any other way than according to the gentleman's construction. Why, it would be equally fair for me to challenge him to cite one ruling sustaining the ground that he takes.

Mr. ATKINS. If the gentleman will allow me, I will allude to one. When we had under consideration at the last session the legislative appropriation bill, it contained a proposition abolishing the different geological surveys and establishing one geological survey, and providing also for the abolition of the different surveyors-general. It will be remembered that an effort was then made to divide the paragraph, and the Chair ruled that it could not be done; that the paragraph must be regarded as one harmonious whole.

Mr. ROBINSON. I remember that instance, and I remember one or two others in which such a suggestion has been made; but I believe no such case has ever come up for discussion and consideration in Committee of the Whole or in the House. I do not understand that when any view upon a point of order is presented here it is a sound answer that no one has made the point in a former Congress. Are we never to suggest anything new? Are questions of this kind to be considered as forever settled by the usages of the past?

The gentleman from Tennessee says that by this proposition expenditures are retrenched. I ask him to show the House how any retrenchment is effected by providing a new method of drawing jurors.

Mr. ATKINS. I have already explained that under the operation of the existing law a great many persons whom the gentleman styles "disloyal" are summoned as jurors and are unable to comply with the requirement as to taking the test-oath. We propose to abolish that requirement, and hence so many men will not be summoned unnecessarily to be impaneled as jurors.

Mr. ROBINSON. The gentleman from Tennessee is certainly mistaken when he says that I have called anybody "disloyal."

Mr. ATKINS. I did not say that the gentleman did so himself; I had reference to the gentleman's party. If these men are not considered "disloyal," why is the test-oath applied to them?

Mr. WHITE. They were disloyal.

Mr. ATKINS. Exactly; "they were."

Mr. ROBINSON. I do not want this discussion to be diverted from the point of order. I am not talking about loyalty or disloyalty.

Mr. ATKINS. Nor am I.

Mr. ROBINSON. I have not attempted in this House to stir up any feeling.

Mr. ATKINS. And I am the very last man on this floor to make any political or partisan allusion. I only referred to this class of persons who under existing law cannot sit as jurors, in order to show that, if the law should be repealed, deputy marshals would be relieved of a great deal of labor, and the Government would be saved

much expense in the summoning of individuals who cannot take the test oath, and consequently cannot serve as jurors. In this way, as I have shown, there would be a retrenchment of expenditures.

Mr. ROBINSON. Now on the point of order he argues there may be a saving, but on this construction of the rule made by Speaker Kerr, the decision which is the precedent in this House, the Speaker said he could not go into the question of the discussion whether it might save or not. As the gentleman said, some men may be summoned as jurors who cannot serve and may have to go home again. The Speaker said he could not go into circumstances outside, but must rule on the question of the amendment itself.

And it is sufficient answer to what the gentleman from Tennessee has said when I only suggest that to meet all points of order and to override this rule completely all the committee need do, or any gentleman, is to bring a bill in one paragraph. That is all. Make your bill into one paragraph, and if your whole bill saves one dollar no man can make a point of order against it.

Does he occupy that position? Does he stand there? Punctuation has but little to do in controlling the interpretation of a law; and does the chairman of the Committee on Appropriations say that he can in his committee-room draw a bill and have it printed in such a form in one paragraph and because the whole bill saves $500 no point of order can be made on it? That is his position to-day. That position it seems to me is so utterly untenable, would so shock the common sense of this House, that it must be abandoned. And I make this point of order because I tell gentlemen that in the near future, as the gentleman from New York said in 1876, we shall go on until we have an appropriation bill in one paragraph and then where will Rule 120 be? I ask the Chair, then, to sustain the rule and to stand upon its language, that it is upon separate, distinct provisions the Chair must rule.

The CHAIRMAN. The Chair recognizes the right of any member to call for a separate vote or division of a question upon every substantive proposition involved in the measure or the amendment. But if it be concluded that for like reason a member would have the right to make a point of order on every substantive proposition in a measure or paragraph of a bill, the Chair has simply to say that he knows of no rule or practice which has ever warranted such a conclusion. The Chair is not advised of any case where a member has been permitted to subdivide a paragraph in order to subject a part of it to a point of order when the whole of it was not liable to that point of order.

The Chair does not see the danger that the gentleman from Massachusetts apprehends in the event of overruling this point of order, as it will simply result in remitting the question to the decision of the members of the House by their votes.

For reasons given at length on substantially the same point raised in the last Congress as that which the gentleman from Pennnsylvania has now raised, and which the gentleman from Massachusetts has so elaborately argued, the Chair does not hesitate in the exercise of its judgment, observing the rule as construed by all the occupants of the chair since its adoption, to overrule the point of order made by the gentleman from Pennsylvania.

Mr. WHITE. If nobody else moves to strike out the words I have indicated I will move it myself.

Mr. ATKINS. I do not rise, Mr. Chairman, for the purpose of addressing the House at this time, and may not at all, on this subject. I refrain from doing so for the reason that I did not desire to avail myself of the privilege of addressing the House, having reported this bill, because I did not feel if I did so that I could make any suggestion hereafter with regard to limiting this debate. There are seventy-odd names I understand on the chairman's list booked to address the House on this subject, and I have risen simply for the purpose of bringing before the committee the subject of the limitation of this debate. I do not know that I have any suggestion to make at all on this subject, but I feel it to be my duty from the simple fact that so many gentlemen have suggested to me the propriety of bringing the subject before the committee at the incipiency of this discussion—I felt that I ought to do so and therefore throw out this suggestion.

Mr. KEIFER. Let me suggest that we want it understood before we go into general debate that after the general debate is closed we shall have the right to offer amendments; otherwise we must move our amendments now.

Mr. ATKINS. Of course gentlemen will have that privilege.

Mr. CARLISLE. As in the Army bill.

Mr. SPARKS. It is the rule now, and the right cannot be taken away from gentlemen.

Mr. KEIFER. Would it not be better to let the debate run for a while before attempting to limit it? You do not propose to limit it now?

Mr. ATKINS. I am only throwing out suggestions.

The CHAIRMAN. The Chair would suggest to the gentleman from Tennessee and to the committee that before this general debate shall be gone into it would probably be best to allow the Clerk to read the only remaining paragraph of the bill, which may probably be subject to discussion. It is the paragraph from line 2052 to line 2064, inclusive.

The Clerk read as follows:

That section 2028 be amended by striking out in lines 1 and 2 of said section as printed in the Revised Statutes the words "or a deputy marshal," and by striking out in line 3 of said section as printed in said statutes the words "city, town, county, parish." That all of section 2031 of said statutes, except so much thereof as relates to the pay of supervisors of elections, and that all other sections of the Revised Statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special or general deputy marshals of elections, and prescribing their duties and powers and allowing them compensation, be, and the same are hereby, repealed.

Mr. HOOKER. I would like to suggest to the gentleman from Tennessee, as to fixing the time of the debate, that each member upon the very voluminous list which I discover upon the chairman's table shall be confined to thirty minutes. I do not believe there ought to be any such list at all. I think the Committee of the Whole in this respect, like the House itself, ought to follow the rule, and that the Chair should recognize the first gentleman who rises. But inasmuch as the Speaker has followed a different rule, and the gentleman who now occupies the chair as chairman of the Committee of the Whole will probably feel constrained to adopt the same rule, I think each member who speaks on this question should be limited to twenty or thirty minutes.

Mr. REAGAN. As it is not my intention to speak on this bill, I can the better say that I do not think the gentlemen who have undertaken to discuss the questions involved here should be limited to a shorter time than an hour. If they desire to discuss the questions at all fully they cannot do it in less time; and I doubt very much the propriety of abridging their time if they think it necessary to occupy an hour.

Mr. KELLEY. I think, Mr. Chairman, by allowing freedom of speech we will come to better results. The tendency of any gentleman will be to say the strongest, I might say the most inflammatory thing he has pondered if he is confined to a limited time. These are grave questions, and, if anything can be done with deliberation in this House, I think they should be considered deliberately. We have not a pressure of business upon us, and I think, for a time at any rate, the debate had better be permitted to run freely. It is always in the control of the committee and the House, and can be as well regulated hereafter as now.

Mr. ATKINS. It is very evident that there is such a contrariety of opinions on this subject that it would be difficult to arrive at any conclusion just now. I will make one other suggestion. Possibly we may as well let the debate run for a day or two, and the House may then get the notion of fixing a time for closing it up. The Senate is waiting for us to send them this bill, and we are waiting for the Senate to dispose of the Army bill; between the two, if we continue in this position, one body waiting for the other, we may be still sitting here in the dog-days.

Mr. HOOKER. I will say to the gentleman from Tennessee that the Senate is now in the middle of the discussion on the Army bill, and probably will continue it for two weeks; and I do not think that meanwhile our time can be more profitably occupied than in the discussion of the questions involved in this bill.

Mr. ATKINS. The gentleman from Mississippi is only guessing at the time likely to be occupied by the Senate. I suggest that we meet at eleven o'clock, as we did when we were discussing the Army bill. If we occupy five days of the week for four hours a day with the discussion of this bill, it will take two or three weeks to get through with the Chairman's list.

The CHAIRMAN. The Chair will state for the information of the committee that the Speaker's clerk informs the present occupant of the chair that the list to which reference has been made embraces the names of ninety-six gentlemen.

Mr. ATKINS. Very well; if four speakers occupy four hours a day for five days in the week, perhaps some mathematician will inform me how long it will take to get through the list.

Mr. O'NEILL. I will suggest to the gentleman from Tennessee that perhaps some gentlemen on the list who are entitled to an hour will be satisfied with making speeches half an hour in length. For myself, I do not want to occupy more than one-half of my hour. I can in that time tell all about the fairness of Philadelphia elections——

Mr. CLYMER. Because there is nothing to tell.

Mr. O'NEILL. When republican officials conducted them and how no man was ever deprived of a legitimate vote either by marshals, by supervisors, or by policemen who were republicans. And I can also relate in that time, if not interrupted, the history of political murders at the polls and show that the democrats were responsible for them for years past and down to the present time.

Mr. CLYMER. How long will it take my colleague to tell about the unfairness of Philadelphia elections?

Mr. O'NEILL. Why, sir, I can tell all about them in half an hour, and I can even tell how fair the election in Philadelphia was when my colleague [Mr. CLYMER] was honored with the nomination of the democratic party for governor.

Mr. CARLISLE. I desire to ask what is before the Chair?

The CHAIRMAN. The two paragraphs of the bill which are now open for general debate.

Mr. ATKINS. I yield to the gentleman from Alabama, [Mr. LEWIS.]

Mr. BRAGG. I rise to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRAGG. Where the House has fixed the list of those persons who are to speak, and the order in which they are to speak, has any gentleman upon that list a right to occupy five or ten minutes himself and then farm out the balance of his time, thereby interfering with the list which the House has ordered?

The CHAIRMAN. The Chair will state to the gentleman from

Wisconsin that his question cannot, perhaps, be properly described as a parliamentary inquiry. But the Chair will state that he certainly does not understand that the House has fixed any list of members who are to be recognized in any particular order. Upon the contrary, the Chair understands that a report was made upon that subject from the Committee on Rules and adopted by the House, which directed the occupant of the chair to accept the list as simply advising him of the wish of members thereon to be heard, but the Chair was not required to observe the order in which their names stood upon the list.

Mr. BRAGG. I have attained all I desire by my inquiry.

Mr. LEWIS. Mr. Chairman, the discussion in this House since the introduction of the appropriation bills has assumed a wide range; and while I have been deeply pained by the current it has taken on the other side, I also regret that some things have been said in the heat of debate on this side which have unintentionally given aid and comfort to our opponents. It is not practicable on this stormy arena of passion and prejudice to vindicate the true history of the late war; this must be left to the impartial verdict of coming ages; and no wise purpose can be subserved here by reviving the dead issues of the past. I claim to be here for present practicable purposes. My firm resolution has been to do nothing that would assist the republican leaders to again array parties in this country on sectional lines. The consummation of this design on their part would not only result in the further discomfiture of my own section, but would end in the destruction of the happiness and liberties of the whole American people.

The amendments embraced in the bill now under discussion for appropriations to the civil service are classed under two heads; the change of existing laws in reference to the organization of juries in the Federal courts; and the repeal of certain United States statutes in reference to elections of Representatives. As to the first it is not necessary for me to do more than to give them a passing notice. No intelligent honest man in America acquainted with the subject can take issue with us on the existence of an imperative demand for an amendment of these jury laws. The right of a fair trial by a competent and impartial jury is the first, highest, most essential right of a freeman. A system now prevailing in the South which poisons the fountains of justice and places the lives, liberty, and property of the people at the mercy of ignorant and packed juries, deserves and will receive the execrations of all good and just men. I cannot believe that there will be any serious opposition to the amendments under this head.

As to the second class of amendments, the repeal of certain sections of the Revised Statutes pertaining to elections, I purpose to devote my time to only one phase of the question, the constitutionality of these sections, which depends for its solution upon the true construction of section 4, article 1, of the Federal Constitution, in these words:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Before entering upon the discussion of this subject, I deem it proper to say that there is no man on this floor who more zealously favors free and fair elections than myself. There is no man in my district, white or black, democrat or republican, who has ever charged or would charge that I have ever given countenance to any illegal or unfair act in the conduct of elections, or that I would for the sake of office or other consideration intrench upon the right of any citizen to cast unawed the ballot of his election.

As I propose to discuss a constitutional question I hope the committee will bear with me. I know it is fashionable in these latter days to deride constitutional arguments. Yet in all our history a clear understanding of the Constitution was never so important as in this generation. The great need of the country is a great constitutional party of the people to save it from the blight of despotic tendencies to centralized power on the one hand and the chaos and confusion of repudiation and communism on the other. The South concedes all the legitimate results of the war—the impossibility of secession, the freedom and political equality of the negro, and a free and full acceptance of the fourteenth and fifteenth amendments. But if the democratic party goes further and listens to the voice of the consol*idationist*, which everywhere boasts that the structure and principles of the Government have been radically changed by the events of the war, then all will be lost.

Mr. Chairman, in our fundamental law there is no more vital and important part than this fourth section of the first article. It involves the whole theory of our Government. If rightly interpreted it will shed a genial light over this land; otherwise, "shadows, clouds, and darkness rest upon it." As it is both a grant of power to the States and to the General Government its correct meaning can only be reached through a full comprehension of our Federal system. This system is familiar to us all, but it possesses a few prominent features which we must not lose sight of in this argument. The real sovereignty of this country is in the people of the United States; but this sovereignty is partially represented in the State governments and partially represented in the Federal Government; and wherever it has an abiding-place it loses none of its majesty or its sanctity and its claims to the obedience of the citizen. It is as much our duty to uphold the States in their reserved rights as it is to uphold the General Government in its delegated powers; with this distinction, settled by the late war, that in case of hostile conflict the supremacy of the Federal authority must be maintained; for in such a conflict the Federal authority while struggling for its own life must necessarily preserve the existence of the States; or, as Chief-Justice Chase said, "the States can exist without the Federal Government, but the latter could not survive a moment upon the destruction of the former."

Hence we see, in construing the Constitution, the necessity of constant reference to the theory of our complex system of government, and of yielding to that exposition which would best preserve both the State and General Government, and best harmonize with the spirit and genius of free and popular institutions, for the security of which all our constitutions are established. If a section of the Constitution is reasonably susceptible of two constructions, the one being consistent with these great objects, the other dangerous thereto, the first must be received. The section now under consideration was fully discussed in all the State conventions called to ratify the Federal Constitution, and in all there was a difference of opinion as to the true construction of this section, while in the first convention of North Carolina, which refused to ratify the Constitution, it was specially classed with a few others as the "most ambiguous and exceptionable parts" of the proposed instrument.

From that day till now those who have contended for a latitudinous construction of the Constitution have held that the power given to the General Government over the management of elections for Representatives is absolute and supreme, and can be exercised by it whenever and however it pleases, without reference to the action or wishes of the States; while those who have claimed in the interest of liberty a strict construction of doubtful grants have contended that the power given to the General Government by this section was a life-preserving power to be exercised for that object only; that is to say, if the States should fail, refuse, or neglect to prescribe regulations as to time, place, and manner of holding elections for Congressmen, or by invasion or rebellion were temporarily disabled from performing these functions, then the General Government, to prevent its own dissolution, should "make such regulations;" or, if the States should exercise the grant in a manner inconsistent with its intention or destructive of free institutions, that is, if they should prescribe "impracticable times, unreasonable places, and odious methods," then the General Government could put forth its ultimate power to "alter such regulations." This latter construction is the one for which I contend. And this I do, not only because it is in the interest of liberty and in accord with the true theory of our complex system of government, but because it will stand the test of the great canons of constitutional construction.

Chief-Justice Marshall, in the celebrated case of Gibbons *vs.* Ogden, lays down the rule that in determining the extent of any grant of power to Congress we must look not only to the words themselves and their subject-matter but to the purpose to be subserved in making the grant.

In the first place the words of this section are peculiar and deserve special attention. In reference to the States it says "they shall" by their Legislatures prescribe the times, places, and manner of elections for Senators and Representatives in Congress. This, taken in connection with article 6, which imposes upon the members of the several State Legislatures the oath to support the Constitution, makes it imperative for the State assemblies to prescribe these regulations. The word "shall" as here used conveys the idea of duty—original, unavoidable, continuous duty. Whereas in the clause delegating the power to the General Government it says Congress "may" at any time make or alter such regulations. The word "may" in this connection implies license, discretion—not duty. But in governments founded upon law discretion cannot be exercised arbitrarily when it comes in conflict with duties imposed even upon inferior jurisdictions, and can only be exerted when there is a necessity for purposes higher and beyond those embraced within such duties.

In this case, therefore, such discretion can only be exercised for the higher and ultimate intention of preserving life. In other words the reasonable import of the terms of this section is that the right to prescribe these regulations is primary with the States and ultimate with the General Government. Mr. Hamilton, himself, in the very letters of the Federalist read in the debate on the Army appropriation bill by the gentleman from Connecticut, [Mr. HAWLEY,] draws this distinction and speaks of this section as giving this right "to the States primarily and to Congress ultimately." The word "ultimate" in connection with a right has a signification as well accepted in governmental science as the word "appeal" has in legal jurisprudence. An ultimate right in a government is not an original or concurrent right, but is one to be used as a last resort, in extreme cases, and for purposes lying beyond those immediately implied in the primary right. So much for the language of the grant.

If we look to its subject-matter we find that it affects not only the time, place, and manner of holding elections for Senators and Representatives in Congress, but through these the right of representation of the States and people by men of their own free choice, the sole protection left to them when they delegated so much of their sovereign powers to the General Government. This choice, so essential to their liberties, is never safe except when they are allowed to prescribe the time, place, and manner of elections. If this right is not primary, fundamental, and exclusive so long as properly exer-

cised, then the right to a full and free representation in Congress is a delusion and a snare. If the power of the General Government in this behalf is original, supreme, and arbitrary, then there are innumerable ways by which it could legally and practically destroy the free representation of the people. Suppose a State is moving appropriately in its orbit, and has in a proper manner prescribed the regulations affecting the time, place, and manner of holding these elections of Representatives, and at the same time and place and in the same manner all of its State officers are to be chosen, as is now the custom in most of the States; suppose further that the party in control of the General Government was adverse to the politics of this State, and should prescribe a different place and a different manner of holding the election for Representatives; in other words, that the State law should say each elector must vote in his own township, and the Federal law should say he must vote at the court-house of his county. Here the elector could have no free choice; for wherever he voted he would be liable to the penal statute of one or the other jurisdiction. In addition it would be impracticable for those living in remote townships to vote at both places on the same day. But this would necessarily go further, the State authorities could only appoint officers to hold elections at the places designated by the State law; and thus would arise the necessity for Congress to provide for the appointment and compensation of their own judges, inspectors, returning officers, returning boards, and marshals, who, clothed with the superior power and backed with the armed forces of the General Government, would override the State officers, and could and would arrest them in case of conflict. Such a conflict would destroy liberty in this country and increase the power and patronage of the President beyond the wildest dreams of the most determined consolidationists in America.

Let us next examine the purpose for which this grant of power was made to Congress, in order to ascertain its true meaning and extent. It has never been denied, in fact since the Constitution was first submitted to the people of the States for ratification it has been admitted, that the purpose was to enable the General Government to preserve its own life. It was in this connection that Mr. Hamilton said that "every government ought to contain in itself the means of its own preservation." This being the object of the grant of power to Congress, then, according to the cardinal rule laid down by Chief-Justice Marshall, the true construction must conform to its purpose and hold it within the bounds and scope thereof. This is reasonable, convenient, and incontrovertible, and brings us again to the true meaning, that the power conferred on Congress is ultimate and can only be put in force when necessary to preserve national life. This construction may be contrary to the first apprehensions of members even on this side of the House, but to this complexion true democracy must come at last. It was so held by the greatest founders of this Government and all the disciples of liberty that came after them.

When Mr. Jay was called upon in the New York convention to explain this section he acknowledged that he had doubts upon the subject, and said that he feared the General Government might misconstrue and abuse it. He asserted that every government was defective unless it had the power of preserving itself. He said the obvious meaning of the paragraph was that if by design or accident the States should neglect or fail to appoint Representatives, Congress should have the power to prevent a dissolution of the Government. He was satisfied this was the design of the Federal Constitution. In the Massachusetts convention Samuel Adams took the same position. In the convention of Virginia, Mr. Monroe asked Mr. Madison "for information respecting the clause concerning elections." He wished to know why Congress had been given an ultimate control of the time, place, and manner of elections for Representatives. You perceive from the language of this question that Mr. Monroe understood the power given to Congress to be ultimate and not original or concurrent. Mr. Madison answered that "it was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of these in the first place to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to produce uniformity and prevent its own dissolution."

It may be asked, if this construction was generally conceded in the formation of the Government, why did seven of the States in their conventions of ratification propose amendments to this clause? The answer is obvious. Because the section was ambiguous and might afford in the hands of a reckless dominant party a pretext for the assumption of extraordinary and doubtful powers; and our forefathers, ever jealous of the encroachments of power, desired to leave no room for doubt. In the same way the tenth amendment was proposed. Without this tenth amendment no true democrat could have denied that the true construction of the Constitution would be that all powers not delegated to the General Government, nor prohibited to the States, were reserved to the States or the people. So the States who proposed amendments to this fourth section were only desirous to put a vital matter beyond all doubt and cavil. Listen to the ever-memorable words of the preamble of the resolution of the New York convention proposing an amendment to the clause under consideration:

> Whereas it is essential to the preservation of the rights of the several States and the freedom of the people, under the operation of the Federal Government, that the right of prescribing the manner, time and places of holding the elections to the Federal Legislature should be forever inseparably annexed to the sovereignty of the several States, this convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local exclusive of the interference of the General Government, except in cases where the Legislatures of the States shall refuse or neglect to perform or fulfill the same according to the tenor of the Constitution.

And in their ordinance of ratification they expressly declare such to be their understanding of the Constitution as it is, and they only proposed the amendment to remove all doubt on the subject.

For these reasons, and others that I might assign if time would permit, I confidently announce in the language of Justice Clifford when he was a member of this House, and who was as great a statesman as he is now exalted as a judge—

> 1. That the power in the States to prescribe the time, place, and manner of holding elections is exclusive so long as they continue to perform the duty imposed upon them by the Constitution.
> 2. That if the States neglect or refuse to make regulations Congress has full power over the subject, as a self-preserving principle in the Government.
> 3. That any attempt at jurisdiction over the subject till the States shall have omitted or become unable to act for themselves is a positive violation of the true intent and meaning of the Federal compact, and cannot have any binding effect upon the people of the States.

Since the veto power of the President has been dragged into this debate I was desirous of discussing it with some fullness, but I am admonished that my time will not admit of it. Upon this question I hold the true doctrine to be that the President has under the Constitution as much right to veto a bill as we have to pass it. With Mr. Calhoun, I believe this to be one of the wisest provisions of that great instrument, being not only essential to the protection of the executive department from legislative encroachment, but as securing in the law-making power the concurrent voice of one who is elected by and represents the whole people of the United States. Like the power of the Roman tribunes, it performs one of the most wholesome functions known to popular government. Each of us is elected by the people of one district and is immediately responsible to them; but the President is elected by the whole people and owes his accountability to all. No man who has proper respect for his own character and the opinions of just and good men or looks to posterity for the vindication of his motives could be controlled in the exercise of this high prerogative by partisan considerations. Invoking the guidance of a higher power he must look to his oath, to the Constitution, and to the welfare of the whole country.

It is true, Mr. Chairman, that grave apprehensions are felt on account of the growing power of the Chief Executive in this land; but this power has never been acquired by the exercise or possession of the veto. No, sir; the danger lies in the immense and growing patronage of the President. And who is responsible for this? Why, the legislative department, by the exercise of unconstitutional and doubtful powers, has built up the patronage of the President to its present alarming proportions; and in no other way could his powers have become dangerous to liberty and the existence of popular institutions.

These reflections induce me to believe that the President will not veto the appropriation bills of this extra session. I am of the opinion that he intends doing what he thinks to be right; and I cannot see how he could justify such a veto under the Constitution or by any sense of duty to the whole country. I know his own party mostly desire it, and the leaders of that party on this floor are endeavoring, by the pressure of party consideration and the appeal to sectional feelings, to unfit him for that calm consideration necessary for the high discharge of his duty in this hour of excitement.

My people are in trouble, and it is within the power of the President to relieve them or to continue their unhappy condition. Every citizen of Alabama is in his limb, liberty, and property at the mercy of partisan officers and ignorant and packed juries. The fountains of national justice are broken up, and uncertainty and apprehension are not only sapping the energies of the people, but making many hearts bitter and desperate. In the Forty-fourth Congress the then leader of the other side of the House, now a member of the Senate, charged that the South was solid and in alliance with western democrats for the purpose of ruling the country. Now their present leader charges in the same place that we are solid in the treasonable design of destroying the Government by starvation. All the while, however, he insists that he is devoted to the South and desires above all things peace and reconciliation. His actions and his policy are not in accord with these protestations; and when I think of them I am reminded of Kemble's man in the Panel, when he exclaimed:

> Perhaps it is right to dissemble your love;
> But why do you wish to kick us down stairs?

Mr. Chairman, if the South is united it is not against the people of the North, nor against any class or race of men. We need help and sympathy too much for this. When the war closed there was never a people more divided in sentiment than those of my section. We have been brought together by necessity and united for the preservation of our property, our liberties, and our civilization; this union has been cemented by the miseries of an impoverished, long-suffering, a misrepresented, but a proud and liberty-loving people. We desire above all things to unite with the people of every section who love justice, liberty, and constitutional government in order to promote the peace, the happiness, and glory of our common country. If you want a strong government of the people it must come up vol-

untarily from them and rest evenly upon the shoulders of every section of this Union.

But if you mean to have a strong Government independent of and against one great section of this country, its strength must lie in the immensity of its revenues, the extent of its patronage, the use of corruption, the special protection of privileged classes, the overshadowing growth of monopolies, the gloss and glitter of a money aristocracy, the debasement of the masses, backed by standing armies and floating navies.

[Here the hammer fell.]

Mr. ATKINS. I yield the remainder of my hour to the gentleman from Alabama, [Mr. SAMFORD.]

Mr. SAMFORD. Mr. Chairman, I was not one of the fortunate few who succeeded the other day in getting their names sufficiently high on the Speaker's list for any practicable purpose, in the undignified scramble rendered necessary by the rules of this House. Hence I am indebted, for the few minutes I shall occupy, to my distinguished friend from Tennessee, [Mr. ATKINS,] who has charge of this bill.

I am aware that the debate on the sections before the House is but a continuation of the debate on the Army bill. Indeed, when that bill was before the House these sections were discussed as largely as the measures which were then under consideration. I will be pardoned, then, for anticipating the line of argument which will be pursued now. It is a matter of regret that for party purposes it has been deemed wise by republican leaders to restir the fires of sectional strife which the good of the whole country require to be utterly extinguished. And when, a few weeks ago, on my entrance into this Hall, I heard on every side mutual expression of good-will and personal regard freely uttered toward political opponents, in the innocency of my nature I rejoiced that the era of peace and brotherly love had dawned in this House and that its rays would be shed over the whole country.

But soon the roseate reverie was dispelled, when the distinguished gentleman from Ohio [Mr. GARFIELD] deliberately charged on this floor that the South was now signalizing her return to the Halls of Congress by an attempt to disrupt the Government by starving it to death. Following the same line, the gentleman from Maine [Mr. FRYE] pretended to announce the real sentiment of the South by reading the wild utterances of a little paper in Mississippi, and with that as his text proceeded to fire the northern heart by unjust and cruel denunciation of a large section of the Union. If he had been willing to treat the southern democracy with candor, or even with harsh justice, he could have found in any southern journal of influence such expressions as I now read from a leading daily in Mobile, speaking of the extract he read:

> The democratic press of Mississippi, in common with that of the entire South, condemn the utterances of the Okolona States. The ultraism of that journal is generally attributed to the junior editor, Mr. Kernan, recently from Ohio; but the Brandon (Mississippi) Republican lays the responsibility on the chief editor. The Republican says it does not believe there are half a dozen sensible democrats in the State who approve his course during the past two months.

Such utterances from these prominent leaders of their party not only frosted the buds of fraternal feelings, but laid bare, "with a flash of light," that the key-note of republican warfare in 1880 would be a "crusade of vengeance" against the South. Now, Mr. Chairman, against the vengeful hate of such a policy I do not intend to-day to defend the South. "She needs no defense at my hands." While I love my section—while her hills and valleys, her glens and dales, her sons and daughters, her honor and renown, the name and fame of her heroes and statesmen are as dear to me as light and life—and while, as the waves of revolution beat upon that sunny shore, floating out the wrecks of many a homestead, my heart bled for every woe and tears fell on the graves since grown green, yet I am willing to send the South and her partisan accusers to that impartial history where all causes are weighed "in the exactest lines and balances of truth," and verdicts written with the iron pen of justice.

The persistent effort of republican leaders to drag southern members on this floor into crimination and recrimination as to the dead past, and thereby away from the real issues involved in the question, is a splendid piece of political strategy, in the execution of which, so far as I am concerned, they shall utterly fail. No, gentlemen, you may fire away your blank cartridges in your side-skirmishing, I shall stand on the line of battle encircling the great rights involved in this controversy, and from it you shall neither drive us by threats nor lure us by artifice.

What is the issue? It is simply this: we propose to pass a bill appropriating many millions of dollars for the support of the executive, legislative, and judicial departments of the Government for one year, with amendments thereto providing for the repeal of the statute requiring a test oath of jurors in the Federal courts, and also of that Federal statute providing for innumerable Federal supervisors, marshals, and deputy marshals at the polls during an election for Federal officers.

The gentleman from Ohio [Mr. GARFIELD] admits that this House and the Senate may constitutionally and legally pass these repealing amendments attached to this bill, and no one denies this right. But he says the attempt to have the President approve the bill or by vetoing it stop the supplies of the Government is an attempt to coerce the Executive, thereby destroying his "free consent" to the repeal of those laws, and therefore the attempt is "revolution." Coming in this method, says he, while their repeal as independent propositions may be simply a "chip" on the shoulder of the minority, yet the republican minority will fight for that "chip" as if it were a "kohinoor of the first water;" or, in other words, that the minority will not surrender that worthless chip even to save the Government from starving.

Whether the President will yield to the demand of the "stalwarts" of his party and veto this bill, or what will be the duty of the majority in that event, I shall not now discuss. But if he should, and the majority of this House should be of opinion that the great rights of freemen demand that this bill should never pass without those amendments and the Government should be left without supplies for lack of two-thirds to pass it over the veto, at whose door would the fault lie? At the door of the majority conscientiously contending for principle, or at the door of a minority, consenting to the starvation of the Government rather than yield a "chip?"

I refrain, for lack of time, from discussing the reason why the purse was placed in our system in the hands of the people's Representatives. That has already been elaborated in the progress of this debate.

Even if the charge be true that this method was adopted to obtain the consent of an unfriendly President, it does not lie in the mouth of the republican party to bring the charge. Time and again during the dark reign of that party in these Halls such legislation has been enacted by attachment to money bills. The very law we are now attempting to repeal was attached to an appropriation bill, and we have to dig it up from its hiding place in the depths of such a measure to put it on trial again.

Ah, but gentlemen say, that violated no "free consent" of the Executive, because if he had vetoed it there were more than two-thirds of each House republicans. That may be so as to this occasion; but you passed just such an amendment in 1867 to the Army bill, and by that amendment you struck down the President, Mr. Johnson, from his position as Commander-in-Chief of the Army, where the Constitution had placed him, and substituted General Grant in his stead. At that time President Johnson refused to be a supple tool in the hands of a lawless Congress, and for that reason by that amendment he was coerced into approving the Army appropriation bill containing his own degradation, or let the Army starve, and he so stated in effect in his message, and entered his protest against it; and though you then had two-thirds in Congress, yet upon a motion to strike out that obnoxious amendment there were 62 yeas and 69 nays. There were conservative republicans who would not have sustained you in passing the bill over his veto, and you knew it, and so you coerced the President, and now you presume to shriek "revolution" in our ears for passing a measure which you do not even know that the President will not approve. The gentleman from Ohio [Mr. GARFIELD] was a member of Congress then, and instead of thundering "revolution" in the ears of his own party then he was as soft as a cooing dove. When that partisan outrage was being perpetrated he did not even vote on the motion to strike out the section. Then as now he evaded the great question at issue.

But I do not ask for precedent for this legislation. The real question is, Is it constitutional and legal to thus legislate by this House? That is conceded by all. Then, is it right to repeal these laws? To attempt to elaborate or even to discuss all the points involved in these amendments, covering as they do many sections of the Revised Statutes, would require far more time than I have at my command. The jurors' test-oath clause has heretofore been repealed by a republican Congress, and by President Grant allowed to become a law, and is now in the statutes by mistake; and I apprehend no one will object to its repeal, and for that reason I shall confine myself to what is known as the "supervisor and marshal" feature.

I am not vain enough to believe that what I shall say will have any consideration from, much less effect upon, any partisan within sound of my voice. It is to be lamented that within these Halls party ascendency is more esteemed, as a rule, than the welfare of country. The din of party warfare drowns all other sounds in this Chamber.

Notwithstanding these things, as long as I have a seat in this body I shall embrace every occasion to reassert for the people and the States the right which they have never surrendered to the Federal Government—the right of local government as essential to guard intact individual freedom and to protect the citizen from the heavy hand of Federal oppression.

DELEGATED POWERS.

Now, sir, suppose this law is contrary to the Constitution; contrary to the clear spirit, if not the letter, of that instrument we have sworn to support. What then? Will any man dare to say that it is "revolution" to repeal such a law in any lawful manner? I imagine not.

Well, let us see. It is admitted by all parties that the Federal Government has only delegated powers, and all others are retained by the people. Indeed this principle is expressly announced in the Constitution itself. But the people have in all their State constitutions intrusted State Legislatures with the regulation of elections. Therefore we may say all powers over elections not delegated to Congress in the Constitution are reserved to State Legislatures. These powers are not only delegated, but, in the expressive language of Mr. Hamilton, they are "few and defined," who, in another place concedes that the Federal Government is an "agent or trustee" to exercise grants for the benefit of the people. It was never intended that this governmental agent should argue unto itself an enlargement of the original powers, but should be confined to the purposes specifically named

in its commission. Neither does the appointment or creation of this agent for certain purposes authorize its assumption to act in any other manner for the fulfillment of such objects than in that mode specifically prescribed.

It is true the power to act is implied and the means to be employed necessarily within the discretion of the Government when a duty is prescribed and no particular mode designated. But in other cases, where not only the power but the manner of its execution are both defined, then to depart from either is equally usurpation and unwarranted assumption of power. And even when implication must be indulged, such only should be as is absolutely essential to the accomplishment of a pronounced duty.

It would be monstrous to say that the Federal Government may move in a different sphere, or in a different orbit in that sphere, than that ordained by the people when they, at the hands of the States, fashioned its form and prescribed its course. To do either would equally violate the end of its creation and be a dangerous infraction of the great rights of civil liberty.

LITERAL CONSTRUCTION.

Again, in construing Federal powers a liberal construction should obtain in favor of the power granting authority, and a literal construction in favor of the reception of power. For the unanimous verdict of history is, that power unrestrained sooner or later develops into arbitrary despotism.

BY THESE RULES CONGRESSIONAL POWER CONSIDERED.

If, then, the only power of Congress over Federal elections in the States must be found in the Constitution, and if the means of its exercise is also therein prescribed, and if both should receive that construction which is restrictive of congressional action, by which I mean a fair, honest, and reasonable construction, then I ask what is the extent of congressional power to interfere in elections?

The section reads:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to places of *choosing Senators*.

The language is, the Legislatures "shall" prescribe the "times, places and manners" of holding elections.

Is this duty imposed on State Legislatures, with the power in Congress to capriciously alter or annul their action? If so, then it is simply to relieve Congress of the burden of this legislation, and is to be exercised by permission of Congress. But instead of its being a permissive grant to the States, it is a mandate of the Constitution that this power "shall be" exercised by them.

If it is permissive to the States, then their Legislatures may or may not prescribe "the times, places, and manner of holding elections." If that is so, State legislators do not violate the Constitution of the United States if they exercise their option and fail to make such provision. The mere statement of this proposition carries its own refutation.

THE CONSTRUCTION OF CENTRALIZATION.

If the construction contended for be true that the Legislatures may act in this matter by permission of Congress, or only when Congress fails or prefers not to exercise the power, then why were these words, "the times, places, and manner of holding elections shall be prescribed by the Legislatures of States," inserted in the section at all? If it is true they have jurisdiction only in the absence of congressional action these words are absolutely nugatory and meaningless, because if the space they occupy were a perfect blank the State Legislatures would still have that right. The Constitution gives the power to Congress to regulate commerce, and nowhere says State Legislatures may take cognizance of that subject. And yet the Supreme Court has held that in the absence of congressional regulation of commerce the States may do so. Hence, if the States would have the power to regulate these elections without special permission, what is the force of the mandatory words in the section if it is not that such elections shall be regulated by the State Legislatures, and if they fail to act then the Congress "may make" them?

FOR SELF-PRESERVATION THE POWER GRANTED.

That the Legislatures must first make the regulations; if they fail or refuse, then the Congress for the preservation of the Government may make such regulations, and having made may alter, (or if we concede to alter means to "alter" State regulations, then it is only when such regulations are inimical to a republican form of government, when Congress alters by virtue of another constitutional grant,) is a construction which gives effect to every word in the clause. Therefore I contend this power was vested in Congress to be used in the last resort for the preservation of the Union.

THE POWERS NOT CONCURRENT.

I am aware, in assuming this advanced position, I deny concessions which have been made by friends on this side of the Chamber, in whose legal ability I have great confidence, and hence I have sought impregnable authority before yielding consent to this conclusion.

This power of Congress over such elections is not *in esse* but *in posse;* a dormant power which awakes only upon the condition the States fail, and the permission is to Congress—"the Congress may"—when the States shall by their own conduct invoke the necessity.

It is not concurrent with the powers of the States. This power cannot possibly *in natura rerum* be exercised by both the State and Congress at the same time. If one acts the whole ground is covered. If both must act, which shall do so first—if obligatory on both there must be conflict—the one which shall prescribe, or that one which "may make or alter?" Mr. Hamilton answers: "The power is primarily in the States." If so, may the Congress capriciously, or in its own judgment, make other provisions or alter those already made by State Legislatures? If so, why was not the whole matter intrusted to Congress at once?

RULES OF CONSTRUCTION.

To intelligently construe an ambiguous constitutional or statutory law it is not only permissible, but sometimes necessary, to "turn on the lights" of both contemporaneous history and contemporaneous expression of the law-maker. What was the evil which contemporaneous history teaches was sought to be guarded against? The States were all-powerful and aggressive toward and jealous of the Federal Government and disposed to jeopardize the stability of the Union. And subsequent history has demonstrated the wisdom of that jealousy in the almost imperial consolidation of all power in the hands of Federal authority.

Expressions of Mr. Hamilton and Mr. Madison, stanch advocates of the Constitution, when urging its ratification sustain the conclusion that the evil apprehended was the disintegration of the Government.

Mr. Hamilton's language is:

It will always be far more easy for the State governments to encroach upon the national authority than for the National Government to encroach upon the State authority.

Again, Mr. Madison says:

Each of the principal branches of the Federal Government will * * * feel a dependence on the State governments, which is much more likely to beget a disposition too obsequious than too overbearing toward them.

Thus we see the apprehension of the Constitution framers was that the principle of preservation was essential to a desirable government, and hence for that purpose alone it was given to the Congress to "make or alter such regulations" ultimately. It was not necessary for this purpose that it should be primarily lodged in Congress, and hence it was determined to place this important power, as I have said before, in the language of Hamilton—

Primarily in the State Legislatures and ultimately in the National Legislature.

It is a noticeable and pregnant fact, Mr. Chairman, that nearly every State convention, while considering the Constitution when it was on trial for ratification, not only hesitated but absolutely staggered in the presence of this section, and hesitated to grant this power even ultimately to the Congress, as if by intuition if not inspiration our fathers foresaw the danger therein contained to the gem of civil liberty which they were seeking to transmit undimmed to their children forever. In Virginia and North Carolina and various other State conventions the debates were exhaustive, and all in line with my assertion.

In the Massachusetts convention Mr. Strong, who was strenuously insisting on the ratification of the Constitution, used the following convincing language, which I read:

If the legislative bodies of the States, who must be supposed to know at what time and in what place and in what manner the elections can best be held, should so appoint them, it cannot be supposed that Congress by the power granted by this section will alter them; but if a Legislature of a State should refuse to make such regulations, the consequence will be that the General Government will be dissolved.

And from this last fact and under such circumstances he argues the necessity of placing this power in Congress in the last resort.

In the same convention, after exhaustive discussion participated in by John Hancock, Samuel Adams, John Winthrop, Rufus King, Christopher Gore, and such men, this section was sustained alone on the grounds—I read from the debates:

1. As it may be used to correct a negligence in elections.
2. As it will prevent the dissolution of the Government by designing and refractory States.
3. As it will operate as a check in favor of the people against designs of the Federal Senate and their constituents, the State Legislatures, to deprive the people of their right of election.
4. As it provides a remedy for the evils, should any State, by invasion or other cause, not have it in its power to appoint a place to elect Federal Representatives.

That the Congress might act regardless of State action was no where contended for, or that the State Legislatures should act by congressional permission.

But to quiet apprehensions of those who feared a contrary construction, it was decided in the several conventions to ratify the Constitution, accompanied with a resolution asking for an amendment making plain the construction its friends admitted to be the true one.

The resolution of the Massachusetts convention was:

That Congress do not exercise the powers vested in it by the fourth section of the first article but in cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.

To quiet the same apprehensions, New York went further in its idea of the proper restraints to be offered as an amendment. In answer to which resolution Mr. Jay (without objecting to the resolution) said of the section as it stood—

That every government was imperfect unless it had a power of preserving itself. Suppose that by design or accident the States should neglect to appoint repre-

sentatives, certainly there should be some constitutional remedy for this evil. The obvious meaning—

Now mark his words—

The obvious meaning of the paragraph is that if this neglect should take place Congress should have the power by law to support the Government and prevent the dissolution of the Union. I believe this was the design of the Federal convention.

These are convincing words from Mr. Jay. And by this light flamed by Mr. Jay's own hand, streaming down the corridors of the century, I ask the centralizers of power to read this section.

And yet in the face of all these apprehensions and assurances from the wise men of the past who framed the Constitution; in view of the recent alarming strides of Federal centralization toward absolute power; in full view of Federal judges dragging the ermine through political mire to partisan support; in the light of citizens shackled and dragged away from the polls—States dismantled, and the stamp of soldiery still ringing along the halls of State capitols, attuning legislation to martial airs, the astounding utterence startled us in this Hall two days ago, from a southern republican member, that he hoped Congress would take entire control and charge of these elections.

Ah! that is it. That is the objective point of all this legislation and the consummation at which the republican party aims; and there is just the difference between the two great parties in this land.

But to return from this digression. If these historical facts and expressions, contemporaneous with the enactment of a law, furnish any light by which to read its meaning, we are bound to conclude that if the Legislatures of the States have already prescribed the times, places, and manner of holding these elections, and such regulations are consistent with a republican form of government, (and no one gainsays this,) then the Congress has no right or power to act at all.

If this is true, and Congress has nevertheless usurped the functions of State Legislatures by intermeddling, then instead of its being "revolution" to repeal such laws, it is the highest duty of statesmanship to utterly refuse to grant one dollar to execute them.

IN ANY EVENT THE POWER ABUSED.

Again, even if I am in error, and Congress has the power I have denied, still the utmost of its jurisdiction is to "make or alter such regulations." But the appointment of supervisors, marshals, and their deputies, is in no sense, making or altering "the times, places, or manner." They cannot be said to be necessary to the "manner," because the whole manner is complete, and has been for years, without their interposition.

As illustrated forcibly by the gentleman from Louisiana, [Mr. GIBSON,] Congress has the same power over the "manner" of selecting Senators that it has over the election of Representatives. May Congress order supervisors and marshals to place their unhallowed foot in State legislative halls and scrutinize the election of Senators, and arrest "without warrant" any legislator whom they may imagine to be violating the law? And yet this is their power at the polls. And if they may be at one place, they may plant themselves at the other.

STATE LAWS ENFORCED.

But, Mr. Chairman, Federal courts have no common-law jurisdiction of crimes. The penal code of which they have jurisdiction is purely artificial, created by acts of Congress. And yet these supervisors and marshals are Federal officers charged with the punishment of offenders against State law. It is an attempt by Congress to enforce State laws and to compel managers of elections, appointees of the State, to execute State laws under heavy and harsh penalties, and make these "Federal kuklux" the absolute judges of their violation, with the power to arrest "with or without warrant" and drag an unoffending citizen, may be, to a distant court to be tried by a partisan judge and a jury organized to convict.

Now, Mr. Chairman, with barely time to state, less to argue, and still less to illustrate, the constitutional view against these statutes, I conclude that this fabric of constitutional government, reared by the wisdom of men who were devotees at the shrine of liberty, will be shaken from its granite foundation if we fail to resist the insidious approaches of its implacable enemy, the demon of national centralization.

ARE THESE PROVISIONS EXPEDIENT?

Suppose I grant all that the most pronounced federalist may claim, still these laws are not only inexpedient and unnecessary, but they are wicked, cruel, subversive of free elections, and destructive of civil liberty. Their practical workings have been to vex, harass, overawe, and intimidate the citizen; and by the profligate use of money drawn from the Public Treasury hundreds of these Federal minions have swarmed through the land as special advocates of the party in power. Together with Federal postmasters and officials they constitute a well-disciplined, compact organization, paid by the Government and backed by the Army and Navy, championing the cause of the republican party. Clothed with all the paraphernalia of absolute power, they laugh to scorn the rights of unarmed citizens. Cæsar with his legions never threatened Gaul with surer devastation than these legions of a corrupt party the liberties of this land. And wherever the margin of majorities is small the will of the people has been and will be again silenced in death by the machinery of this vicious law.

NEW YORK AND PHILADELPHIA.

Recent exposures of its practical results in New York and Philadelphia, at which the country stands aghast, demonstrate the perfidious practices which are its legitimate progeny.

If the time has arrived in this country that the citizen cannot be depended on to protect the purity of the ballot unaided by Federal "overseers," then no law can maintain his liberty. If it is necessary to protect by Federal interference the citizen against his own fraud, then the book had as well be closed, the last chapter of individual liberty has been written, the experiment of self-government has lamentably failed, and freedom's sun barely hangs above the western horizon ere it sinks forever and leaves the world to darkness and despotism.

CONCLUSION.

I have not the time to read, much less analyze, the wickedness embraced in these highly penal laws. My time is exhausted, and the half has not been told.

By just such means as these the republican party has been enabled to keep its unholy grip on power. Its terrible struggle to retain these laws is a dying clutch for power still, slipping away, I trust forever, from a party that has used it to grind the many for the benefit of the few; that has used it to create moneyed lords in this land, lacking only the title, but with all the grinding power of eastern aristocrats; that has used it to unsettle the foundation principles of civil liberty, and to override, trample down, and stamp out law and order whenever they opposed barriers to its own aggrandizement.

As to the veto which has been so flippantly threatened, as I said before, I shall not discuss that; because we have no right to presume the President will do what we believe to be wrong. If he does, then will be the time, and not now, to take such action as is becoming to the Representatives of a people determined to remain free. To them in the last resort we go and submit this great question, and when they fully comprehend the fact that the republican party strained every effort to perpetuate a law aimed at the destruction of the corner-stone of civil liberty, they will speak, not in "the still small voice" of plaintive appeal but in the torrent's thunders when the "gates are uplifted" and "fine grinding" has commenced.

[Here the hammer fell.]

Mr. KELLEY obtained the floor.

Mr. ATKINS. If the gentleman will give way and does not prefer to proceed with his speech this evening I will move that the committee rise.

Mr. KELLEY. I would be very grateful to the gentleman if he would make that motion.

Mr. ATKINS. Then I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair desires to state that there are a number of executive communications on the Speaker's table, and that tomorrow after the morning hour he will ask to have them referred to the appropriate committees. He prefers to give this notice so that gentlemen may be apprised of his purpose.

DISTRIBUTION OF DOCUMENTS.

Mr. DUNNELL. I ask unanimous consent to offer the resolution which I send to the Clerk's desk for action at this time.

The Clerk read as follows:

Resolved, That the books and documents hereafter received in the folding-room of the House of Representatives be placed to the credit of the present members of the House with the following exceptions: one book or document of each kind shall be subject to the order of members of the last House; and all bound volumes of the CONGRESSIONAL RECORD of the Forty-fifth Congress and all memorial addresses on the life of any member of the late Congress, and also those of the life and character of Professor Henry, shall be subject to the order of the members of the last House of Representatives.

Mr. DUNNELL. I trust there will be no objection to that.

Mr. REAGAN. I must object.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BLOUNT, for ten days; and

To Mr. SMITH, of Georgia, for a few days, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. RUSSELL, of Massachusetts, leave was granted to withdraw from the files of the House the papers in the case of Elinor N. Finon; no adverse report.

On motion of Mr. ACKLEN, leave was granted to withdraw from the files of the House papers in the case of Alphonse Desmere; no adverse report.

COMMITTEE ON LEVEES AND IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. GIBSON. I offer the resolution which I send to the Clerk's desk for reference to the Committee on Rules.

The Clerk read as follows:

Resolved, That the Committee on Levees and Improvement of the Mississippi River shall be increased from eleven members to thirteen members.

Mr. GIBSON. I hope there will be no objection to the reference of this resolution to the Committee on Rules.

There was no objection, and the resolution was received and referred to the Committee on Rules.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes; and a

Joint resolution (S. R. No. 20) relating to the organization of the National Board of Health.

Mr. ATKINS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: The petition of Joseph H. Acklen, (accompanied by draught of bill,) for the establishment of a port of entry at Lake Charles, Louisiana—to the Committee on Commerce.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill,) for the incorporation of the United States Board of Trade, Manufactures, and Agriculture—to the same committee.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill,) for an appropriation for the construction of a marine hospital at Morgan City, Louisiana—to the same committee.

Also, the petition of Joseph H. Acklen, (accompanied by draught of joint resolution,) for the passage of a joint resolution providing for a treaty with Mexico—to the Committee on Foreign Affairs.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill,) for the amendment of section 7, chapter 103, of the act of March 3, 1877, relating to the franking privilege—to the Committee on the Judiciary.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill,) for the amendment of section 17 of the act of July 28, 1866, and for prohibiting constructive mileage—to the same committee.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill,) for the amendment of section 45 of the Revised Statutes—to the Committee on the Revision of the Laws.

Also, the petition of Joseph H. Acklen, (accompanied by draught of bill and papers,) for the confirmation of Charles Oliver Duclozel to certain lands in Louisiana—to the Committee on Private Land Claims.

By Mr. ATHERTON: The petition of John Frey and others, of Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. BAKER: Papers relating to the claims of Charles C. Reynolds and of Charles O. Myers—to the Committee of Claims.

By Mr. BEALE: The petition of John R. Waddy, for the removal of his political disabilities—to the Committee on the Judiciary.

By Mr. COFFROTH: Papers relating to the claim of George Chorpenning—to the same committee.

By Mr. COLERICK: The petition of Walpole G. Colerick (accompanied by draught of bill) for the passage of a bill amendatory of and supplementary to "An act to provide for the holding of terms of the district and circuit courts of the United States," approved June 18, 1878—to the same committee.

By Mr. COVERT: The petition of John Graham, to confer on the Court of Claims jurisdiction to award compensation for loss and damages sustained by him by reason of the detention of certain vessels by the Government—to the same committee.

Also, the petition of Ann M. Paulding, for a pension—to the Committee on Invalid Pensions.

By Mr. DIBRELL: The petition of citizens of Tennessee, that the tax on tobacco in the hands of producers be removed—to the Committee on Agriculture.

By Mr. ELAM: The petition of J. B. Elam, (accompanied by draughts of bills,) for the relief of Ellen White; of Oliver Whitsell; of Thomas Jefferson Wells, curator of Martha L. Wells; and of Thomas L. Terry—to the Committee on War Claims.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the removal of obstructions to the navigation of Red River—to the Committee on Commerce.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for an appropriation to improve the navigation of Red River at the falls at the town of Alexandria, Louisiana—to the same committee.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the conveyance of any title the United States may have to the unsurveyed islands and beds of meandered lakes, sloughs, and ponds not navigable to the respective States in which they are situated—to the Committee on Public Lands.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the granting of additional lands to the State of Louisiana for the use of schools—to the same committee.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the erection of a public building at the city of Shreveport, Louisiana, for the accommodation of United States courts, post-office, and internal-revenue and other offices of the Government—to the Committee on Public Buildings and Grounds.

Also, the petition of J. B. Elam, (accompanied by draught of joint resolution,) to apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain southern mail contractors—to the Committee on the Post-Office and Post-Roads.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the relief of B. H. and B. C. Peterson, mail contractors—to the same committee.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the right of way to and the grant of land in aid of the construction of the New Orleans, Texas and Colorado Railway—to the Committee on the Pacific Railroad.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the repeal of the twenty-second section of the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and to declare the rights and privileges and lands granted in said twenty-second section to the New Orleans, Baton Rouge and Vicksburgh Railroad Company forfeited; and that said twenty-second section be re-enacted in favor of the New Orleans Pacific Railway Company—to the same committee.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the better organization of the district court of the United States within the State of Louisiana—to the Committee on the Judiciary.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the amending and re-enacting of section 2023 of the Revised Statutes—to the same committee.

Also, the petition of J. B. Elam, (accompanied by draughts of bills,) for the relief of Peter Targarona and of Edward C. Davidson—to the Committee of Claims.

Also, the petition of J. B. Elam, (accompanied by draughts of bills,) that pensions be granted to Mary Meighan, to Robert Vincent, and to John H. Gray—to the Committee on Invalid Pensions.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for the confirmation of certain Rio Hondo claims unto Pedro Flores and others—to the Committee on Private Land Claims.

Also, the petition of J. B. Elam, (accompanied by draught of bill,) for authority to construct a railroad bridge at or near Shreveport, Louisiana, and also another across the Ouachita River at or near Monroe, Louisiana—to the Committee on Railways and Canals.

Also, a paper relating to a bill granting the right of way to and making a grant of land in aid of the construction of the New Orleans, Texas, and Colorado Railway—to the Committee on the Pacific Railroad.

By Mr. HILL: The petition of A. Poucher, A. T. Smith, and others, of Fulton County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. HUNTON: The petition of R. S. Lacey and others, for a free bridge across the Potomac River, at Washington, District of Columbia—to the Committee for the District of Columbia.

By Mr. JAMES: The petition of John P. Hammond (accompanied by draught of bill) that the Secretary of War be authorized to release to the State of New York certain lands—to the Committee on Military Affairs.

By Mr. JONES: Papers relating to the Indian depredation claim of William Redus—to the Committee on Indian Affairs.

Also, papers relating to the war claim of Mrs. R. Deschenger—to the Committee on War Claims.

By Mr. KENNA: The petition of Cecil Clay, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. KIMMEL: The petition of John B. Braun, for the reference of his claim for compensation for property seized by United States revenue officers to the Court of Claims—to the Committee of Claims.

By Mr. LE FEVRE: Papers relating to the claim of John C. Landreau—to the Committee on Foreign Affairs.

Also, papers relating to the claim of Jackson Riley, for compensation for property used by the United States Army—to the Committee on Military Affairs.

Also, papers relating to the claim of Henry Birch—to the Committee for the District of Columbia.

Also, memorial of Robert Christy, relative to erroneous assessments in the District of Columbia—to the same committee.

By Mr. MARTIN, of Delaware: Papers relating to the pension claim of Cynthia V. Oliver—to the Committee on Revolutionary Pensions.

By Mr. McMAHON: The petition of John O'Hea, for a pension—to the Committee on Invalid Pensions.

By Mr. MULDROW: Papers relating to the war claims of the heirs of Mrs. Mary Anderson, and of William D. C. Murdock—to the Committee on War Claims.

Also, papers relating to the claim of Captain J. H. Estes—to the Committee on the Post-Office and Post-Roads.

Also, papers relating to the claim of Mary E. Holtzman—to the Committee on Military Affairs.

By Mr. NEAL: Papers relating to the claim of Mrs. Peter A. Cassidy—to the Committee of Claims.

By Mr. NEW: The petition of Albert V. Conway, that the Secretary of the Treasury be authorized to issue to him bonds in lieu of certain United States bonds redeemed by the Government on forged assignments—to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of Francis Eherenborg, for a pension—to the Committee on Invalid Pensions.

By Mr. ROBERTSON: The petition of Elizabeth Gurnett, for relief—to the Committee on Private Land Claims.

By Mr. STEPHENS: The petition of William Wheeler Hubbell, that Congress pass a bill for his relief, in manner and form as therein set forth, relating to military armament and payment therefor—to the Committee on Military Affairs.

Also, the petition of William Wheeler Hubbell, that Congress pass a bill for his relief, in manner and form as therein set forth, relating to naval armament and payment therefor—to the Committee on Naval Affairs.

By Mr. TAYLOR: Papers relating to the claim of R. F. Bernard—to the Committee on Military Affairs.

By Mr. THOMAS: Resolutions of the Legislature of Illinois, urging appropriations for the improvement of Quincy Bay for a safe harbor for boats and vessels from floating ice in the Mississippi River—to the Committee on Commerce.

Also, resolutions of the Legislature of Illinois, urging appropriations to complete the custom-house and post-office building in the city of Chicago, Illinois—to the Committee on Public Buildings and Grounds.

Also, resolutions of the Legislature of Illinois, asking that a part of the public money expended for the improvement of the Mississippi River be expended so as to prevent the cutting away of the Illinois shore at the mouth of the Missouri River—to the Committee on Commerce.

By Mr. URNER: The petition of the administrator of Robertson Topp, and William L. Vance in his own right, for compensation for one hundred and seventy bales of cotton taken by United States authorities—to the Committee on War Claims.

By Mr. VANCE: Resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Cape Fear River, the making of Fayetteville, North Carolina, a port of entry, and the making the navigation of Cape Fear River free—to the Committee on Commerce.

Also, resolution of the Legislature of North Carolina, favoring an appropriation for the improvement of Waccamaw River—to the same committee.

Also, resolution of the Legislature of North Carolina, favoring an appropriation sufficient to clear out and deepen Currituck, Croaton, and Pamlico Sounds, and Neuse and Newport Rivers—to the same committee.

Also, resolutions of the Legislature of North Carolina, relative to the improvement of the rivers of said State—to the same committee.

Also, resolution of the Legislature of North Carolina, favoring the establishment by the General Government of two universities in the South, one for the education of white and the other for the education of colored youths, free of charge, and that $1,000,000 be appropriated for the establishment of each university—to the Committee on Education and Labor.

Also, resolution of the Legislature of North Carolina, favoring an appropriation to make Lumber River navigable—to the Committee on Commerce.

Also, the petition of S. D. Plemmons, (accompanied by draught of bill,) for relief—to the Committee of Ways and Means.

Also, the petitions of Anson B. Sams and of William M. Moore, (accompanied by draughts of bills,) for relief—to the Committee on Military Affairs.

Also, the petitions of J. H. Greene and of Samuel H. Flemming, (accompanied by draughts of bills,) for relief—to the Committee of Claims.

Also, the petitions of M. S. Brittain and others and of Bushyhead, an Indian, (accompanied by draughts of bills,) for relief—to the Committee on Indian Affairs.

By Mr. WHITTHORNE: The petition of Asa Weeks, for compensation for services and inventions in perfecting a system of submarine warfare—to the Committee on Naval Affairs.

IN SENATE.

THURSDAY, *April* 17, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes; and

A joint resolution (S. R. No. 20) relating to the organization of the National Board of Health.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 7th instant, a report of the Quartermaster-General and accompanying papers in relation to discriminations made by the Union Pacific Railroad Company in favor of private shippers as against the United States; which, on motion of Mr. FERRY, were ordered to lie on the table and be printed.

Mr. COCKRELL subsequently said: The communication from the Secretary of War in answer to a resolution submitted by me, with the report of the Quartermaster-General, and the papers connected therewith, should be printed and for the present laid on the table.

The PRESIDENT *pro tempore.* That order has been made.

REPORTS OF COMMITTEES.

Mr. WALLACE, from the Committee on the Revision of the Laws, to which was referred the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

REPORT ON TRANSIT OF VENUS.

Mr. ANTHONY. The Committee on Printing, to which was referred a concurrent resolution to print additional copies of the report of the observation of the transit of Venus, has instructed me to report it without amendment, and I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That 250 additional copies of the observations of the transit of Venus made under the direction of the Navy Department, in December, 1874, be printed for the use of the Naval Observatory.

SALARIES OF SENATE EMPLOYÉS.

Mr. HILL, of Georgia. I report back the following resolution referred by the Senate to the Committee on Contingent Expenses, with the recommendation that it pass. I ask that it be acted on now.

The PRESIDENT *pro tempore.* The resolution will be read.

The Secretary read the following resolution submitted by Mr. DAVIS, of West Virginia, March 26:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be, and the same is hereby, directed to take into consideration, with the view to economy and the equalization of salaries upon the principles of justice, the question of the duties, number, and compensation of the employés of the Senate, and to report thereon by bill or otherwise; said committee to have leave to sit during the recess.

The PRESIDENT *pro tempore.* Is there unanimous consent to the consideration of this resolution?

Mr HOAR. I should like to have it lie over until to-morrow. I presume there will be no sort of objection to it, but there may be a subject that I should like to move to add to it.

Mr. DAVIS, of West Virginia. Of course the Senator has a right to have the resolution lie over; but circumstances will prevent me from being present to-morrow. The resolution was offered by myself and sent to the committee and considered by them. It simply gives the committee the power to revise the salaries of the Senate employés with a view to economy, and submit any report they may make to the Senate.

Mr. HOAR. My suggestion was that it might be desirable to extend a little the inquiry; but if the Senator is not to be present to-morrow, I shall not insist upon the delay.

Mr. DAVIS, of West Virginia. If the Senator wishes it to lie over that he may see the wording of the resolution, I have no objection.

Mr. HOAR. Let it pass.

The PRESIDENT *pro tempore.* There being objection, the resolution goes over.

Mr. HOAR. I will waive the objection. The Senator from West Virginia says he will not be present to-morrow, and I shall not, therefore, insist upon the postponement of the resolution. As it is convenient to him I will waive the objection.

The PRESIDENT *pro tempore.* There being no objection, the resolution is before the Senate.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 443) regulating the appointment of United States marshals; which was read twice by its title, and ordered to lie on the table.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 444) for the construction of a custom-house and bonded warehouse at Portland, Oregon; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 22) *in re* claim of William B. Isaacs & Co.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

ATLAS SHEETS OF GEOGRAPHICAL SURVEYS.

Mr. GROOME submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House concurring therein,) That there shall be printed as issued 5,000 copies of each of the quarto reports and accompanying topographical and geological atlas sheets of the United States Geographical Surveys West of the One Hundredth Meridian, under the Engineer Bureau of the War Department, and in charge of First Lieutenant George M. Wheeler, Corps of Engineers; 3,000 copies for the House of Representatives, 1,000 copies for the Senate, and 1,000 copies for the use of the War Department; the printing from the stereotype plates and binding to be done by the Government Printer, and the style of the text, together with the accompanying plates, maps, and atlas sheets, to correspond with those now printed, the latter from proof corrected and approved at the office of the United States topographical surveys.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

Mr. WALLACE. I offer the following resolution, and ask for its present consideration:

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively" in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

Mr. ANTHONY. Let that lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over until to-morrow.

COMMITTEE SERVICE.

Mr. HAMLIN. I renew the request which I made a day or two since that the Senate will excuse me from serving upon the select committee to consider claims against the government of Nicaragua.

Mr. MORRILL. I hope that that request will not be granted this morning. I desire to confer with the Senator myself before his request is acted upon. I desire it to go over for the present at any rate.

Mr. HAMLIN. I made the request once before. Let it be granted now.

The PRESIDENT *pro tempore*. The motion can only be considered now, by unanimous consent, during the morning hour.

Mr. HAMLIN. It is hardly in the nature of a motion; it is a request made to the Senate. I made it the other day. I said I should renew the request, and I hope the Senator from Vermont will not interpose any objection.

Mr. MORRILL. I desire to see the Senator myself before it is acted upon. It can come up again in the course of the day.

The PRESIDENT *pro tempore*. Is there objection to the motion of the Senator from Maine that he be excused from further service on the committee he has named?

Mr. MORRILL. I hope it will not be acted upon this morning.

The PRESIDENT *pro tempore*. The Chair considers that an objection, and the motion will go over until to-morrow.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. If there be no concurrent or other resolutions, the morning hour has expired. There being no resolutions on the Calendar except the two that have been laid on the table by order of the Senate, the Chair calls up the regular order, which is the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question upon which is the amendment offered by the Senator from Maine, [Mr. BLAINE.] On that question the Senator from Alabama [Mr. MORGAN] has the floor.

Mr. MORGAN. Mr. President, when I took the floor yesterday I did not observe that my friend from Indiana [Mr. VOORHEES] had risen at the same time for the purpose of entering upon the discussion of this bill. If I had been advised of his desire to speak this morning, I certainly should at that moment have deferred to him. I think it is my duty, or rather, I feel that it is my privilege, to so defer to him this morning. It is particularly appropriate that I should do so for the reason that the debate on this measure up to this point of time, in all of its political phases, has been by gentlemen who live either in the border or in the Northern States. No one from any of the lately rebellious States has participated to any extent in the debate upon its political aspect.

The South has been frequently referred to, oftentimes with great severity and almost always in a spirit of complaining, during the debate. While I have felt wounded that the debate should unnecessarily have taken such a direction, I intended when I took the floor, and I intend when I shall hereafter take the floor, to enter upon some vindication of the South in reference to its course upon all legislation since the termination of the war. This would be entirely unnecessary and entirely incompatible with our tastes if it were not that every question which comes before the Senate of the United States that seems to have any political bearing in it is tried, illustrated, and determined by the supposed interest that the Southern States may feel in it.

The particular measure which is under discussion now, or rather the particular feature of the sixth section of this bill which is under discussion, the repeal of so much of the existing law as authorizes the keeping of the military at the election polls, is not a measure which was suggested or brought forward in this body or the other House by a southern man. During the last session of Congress Mr. Southard, of Ohio, of the House of Representatives, brought this measure forward. Mr. Southard is recognized throughout the United States as being a distinguished democrat, as being also, I think, an able constitutional lawyer. The presentation by a democrat from Ohio of this question has not so far at least in the Senate excited any debate on the part of southern men, and it might even have passed to a final vote without having required from us any vindication of the South or any expression of our views upon the question if it had not been that all the sins which we are supposed to have committed in the past are brought to the attention of the country, and whether we have had any connection with the bringing of this measure forward or not these imputed sins are laid to the charge of this measure and are made to add their weight to obstruct its progress.

I desire, therefore, that this argument shall proceed as far as it possibly can without this incumbrance, for this I recognize as a great question of constitutional law and also a great question concerning the liberties of the people of the United States; not those now living merely, but those to exist hereafter. I look upon the struggle that is now entered upon in the Senate and House of Representatives as one the final determination of which will solve the question whether a standing army is to become one of the permanent constitutional departments of this Government, beyond the power of Congress to control its use or to direct the extent of its being supplied whenever in the judgment of the people that standing army ought not to be used for certain purposes or ought not to be kept to a certain standard of strength, and when in the judgment of the country its military defense, the regulation of its social order, the preservation of its peace, if need be, ought to be confided to its militia.

I desire that this question shall as far as possible be argued without reference to the history of the Southern States from 1861 up to the present time. It has not been our fault that this embarrassment has been thrown upon this debate, and it shall not be my fault as a representative of a Southern State if, by appearing in the debate at this moment of time, there shall be any occasion for the other side of the Senate to charge upon us that this legislation has a more distinct and direct reference to our present and future than to any other section of the United States. We believe that we stand in the United States entitled to all the constitutional rights and privileges of any other class of people; that our States are entitled to as much respect as any of the States; that their voice in the counsels of the country ought to be heard with as much good-will and ought to receive as much frank and honest and sincere attention as the voice of any other States in any other part of the American Union. We would like to go further, and would be glad to feel that notwithstanding all the distrust that Senators on the other side of the Chamber seem disposed to exhibit toward us, they will at last be willing to meet us in a better spirit of frank cordiality in the discussion of all great questions concerning the Constitution and the welfare of the people of the United States.

Therefore, Mr. President, I will do myself and the Senate also the pleasure of withdrawing from this debate at the present moment and yield to my friend from Indiana. I will, however, at some future occasion during the debate undertake to express my views upon this question. In doing so it will be my pleasure to follow any gentleman on the other side who may desire to participate in the debate, if there are any who do so desire.

Mr. VOORHEES. Mr. President, I desire first to tender to the Senator from Alabama [Mr. MORGAN] my very sincere thanks and my profound sense of gratitude for the courtesy that he has extended to me on this occasion.

Mr. President, it is due to the American people that a clear and ample statement should be made of the causes which have led to the present extra session of Congress. I propose, therefore, to examine in detail the laws of the United States as they now exist on the two great questions of popular elections and impartial courts, and to show that if these laws are permitted to remain in force it will only be necessary for some bold man, clothed with executive authority, to put them in active operation in order, at his own pleasure, to overthrow this Republic in spirit, form, and name from its turrets to its foundation-stones. I propose to demonstrate that all the parts of a complete and systematic machinery for a successful revolution against every principle of free government, against every reserved right of the States, and against the most hallowed safeguards of individual liberty are to be found in the malign legislation of the last fourteen years. Let the laws themselves speak, and when their ominous and threatening voices are fully heard throughout the land I am willing to stand or fall by the candid judgment of the people.

Sir, I cite, to begin with, section 5506 of the Revised Statutes, chapter 7 of the title "crimes," as the keystone to the whole arch of Federal usurpation over the freedom of the ballot-box. I do not believe it is generally known that the Federal Government has asserted to itself the right by law to interfere with and control all the elections of every description throughout the Union. On the contrary, the prevalent opinion, I think, has been that this tremendous power was only claimed and exercised at times and places when and where Federal officials such as Members and Delegates in Congress were chosen by the people. The section, however, cited reads as follows:

Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from

voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be fined not less than $500, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment.

Can the human mind conceive an election of any kind in all this broad land which is not reached and embraced in these sweeping provisions? All the States and Territories are here invaded and their right to regulate their own elections and to punish those who offend against their freedom and purity is broken down. Wherever also a county or a parish is engaged in choosing their clerks, auditors, treasurers, and sheriffs, wherever a city proceeds to elect her mayor and other municipal officers, or a township or a school district is voting for their constables and trustees, there the presence of United States authority to arrest, fine, and imprison is asserted and secured by this law. If in the excitement of election day two citizens quarrel, and one hinders, delays, or obstructs the other from reaching the polls as soon as he otherwise might, a fine of not less than $500 is here denounced against the offender, to which may be added an imprisonment of one year. This is the plain reading of this enactment, and I challenge contradiction. But it may be said that this section does not provide for its own execution, and therefore it can never become destructive to the liberties and local rights of the people. No such oversight, however, occurred on the part of those who devised this legislation. The most ample provisions have been made for its rigid enforcement in every nook and corner of the Union. Section 1982 contains the following peremptory command to Federal officials everywhere:

The district attorneys, marshals, and deputy marshals, the commissioners appointed by the circuit and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of chapter 7 of the title "crimes," and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

Here it will be seen that the entire executive force of all the United States courts, backed by the money of the United States Treasury, is dedicated to the enforcement of all the provisions of chapter 7 of the title "crimes," including, of course, section 5506, heretofore quoted. Section 5506, however, simply stands at the head of a chapter of crimes such as were never before known to American law; a chapter of twenty-seven elaborate sections, in twenty-three of which the fiery and unscrupulous zeal of party hate and the refined ingenuity of trained lawyers have exhausted themselves in creating new offenses against the elective franchise, in digging pitfalls and weaving snares for the unwary feet of plain and honest citizens, in prescribing the ready instrumentalities by which they may be overtaken in seeming violations of law, in dragging them suddenly away from among their neighbors to distant hostile Federal courts for trial, and in denouncing against them such penalties, after conviction by packed juries, as would warm the dust of Scroggs and Jeffries with joy could they hear them, though they have lain two centuries dead.

Sir, this chapter has no parallel among the penal codes of civilized nations. If two persons conspire to threaten any citizen in the enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having exercised such right or privilege, they are liable, under section 5508, to a fine of $5,000, and to imprisonment for a term of ten years, although the threat may not have been carried out or its execution even attempted. If some timid or malicious partisan can satisfy a jury of his own politics, and a biased court, that two or more persons have agreed among themselves to intimidate him in the free exercise and enjoyment of his rights, he will secure their conviction and their punishment by enormous fines and long imprisonment, although in fact he may not have been intimidated or scared at all or injured in any respect whatever. And to this penalty shall be added ineligibility to any office or place of honor, profit, or trust created by the Constitution or laws of the United States. This is the very barbarism of party warfare and has its origin in the most vindictive passions of the human heart.

Penal codes for the purpose of securing and maintaining party ascendency are familiar to the historian of every age, but none have been more malignant than this. Bearing this fact in mind I ask the attention of the Senate next to another branch of this general system for the suppression of free elections. It bears to the other parts of the system a close and vital connection. The Federal Government having usurped full and complete authority over every species of elections, State, county, township, and city, and having given this usurpation in charge to the Federal courts and their officials, to execute, an omnipresent detective corps, clothed with unlimited powers over the ballot-box and over the liberties of the voter, was next generated and called into existence by evil and rancorous legislation. It is held by some that noxious vermin and poisonous reptiles have their origin in the corruptions of nature.

Be that as it may, I come now to deal with a class of Federal officials who have been spawned upon the country through the degenerating processes of party animosity, and who are more offensive to American freemen than anything, however loathsome or dangerous, to which they may be likened in the animal kingdom. Supervisors of elections! The dictionaries call them overseers. Overseers of elections! A most apt and truthful definition when their duties are considered! The American people going to the polls and voting under overseers would indeed be a nation of slaves, and if they submit to do so they will deserve their fate. Let us examine the sources whence these overseers come, and let us inspect the long and cruel lash of their unbridled powers. By virtue of section 2011 of the Revised Statutes any two citizens of any city or town having upward of twenty thousand inhabitants, or any ten citizens of any county or parish of any congressional district in the United States who may, from any motives however sinister, desire to have a registration of voters or an election "guarded and scrutinized," are empowered to open and to keep open the circuit court of the United States wherein such city or town, county or parish is situated, and there begin their work. The next five sections point out the methods by which the hand of the judge and the seal of the court are used in manufacturing supervisors of elections. A chief of this band of intruders upon the rights of freemen is also provided for in section 2025, as follows:

The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

The supervising force, being organized and stationed at every precinct where the people vote for a member or delegate in Congress, and its chiefs, its generals of departments being appointed and placed in command, we are next to examine and ascertain how completely the ballot-box is torn from the hands of the local authorities and given over to the clutches of Federal officials. In States which have registration laws the supervisors of elections, or overseers as Webster defines them, by virtue of section 2016, take absolute control of the whole subject, making the lists to suit themselves, putting on or striking off names or marking them for challenge, as they please. The American citizen must find favor in the sight of his overseer, or his name will not appear on the list of voters on election day. While such an enactment as this is in existence the State which adopts a registration law makes a practical surrender of the control of its elections to the officers of the Federal Government. It is the election itself, however, that calls forth all the powers of the overseers in their most repulsive and dangerous light. In being authorized to control elections for Representatives and Delegates in Congress they have the entire control of the ballot for all other officers, State, county, and municipal, who are candidates at the same time and place and on the same ticket. Let us analyze section 2017. It reads as follows:

The supervisors of elections are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry-lists, and tallies, or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

The duties here prescribed are mainly those of a spy, a spy upon the people as they come together at every voting precinct in the United States. The spirit which dictated this law was one of total distrust of the American people; a distrust of their virtue and their intelligence, of their capacity for self-government through the instrumentality of free elections. What a spectacle is here presented! The Federal Government furnishing officers to stand at all the polls "to challenge any vote offered by any person whose legal qualifications" may be doubted by them, as if the people of the different localities could not be trusted to choose their own challengers! These officials are also charged to keep watch and guard, with unceasing vigilance, over all the ballot-boxes, to be and remain with them all the time, "and to personally inspect and scrutinize from time to time and at all times the manner in which" the American citizen exercises his dearest right and most sacred privilege. This whole enactment proceeds upon the assumption that the officers of elections under State authority are predetermined felons, ballot-box thieves, forgers, and the like, and that the local communities which select them are accessory to their villainies. On this false and scandalous pretext the Federal authority has been made to overthrow the most vital and cherished principles of local self-government. The entire theory of the Constitution has been subverted. A centralization of power in the hands of the Federal Government over the local rights of the people and the States has been consummated which would have startled Alexander Hamilton in his day, although he believed in a monarchy. The judges and inspectors of elections acting under State laws are not permitted even to count out the ballots that have been cast by their neighbors. Section 2018 provides that:

The supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found.

I call upon the thoughtful and just men of all parties everywhere to take note of this provision, and to make answer whether in their judgment the election boards of the States, holding State, county,

township, and city elections, are unfit to count and canvass the votes they have received. Have the people consented to such an unspeakable degradation as this? Have they in fact become slaves in spirit, and willing to receive the yoke of their overseers? Sir, I do not believe it. On the contrary, I believe that the minds and hearts of a brave people, in love with liberty, will kindle in fierce indignation against such insulting tyranny when the whole subject is fairly placed before them.

The ingredients in this cup of humiliation and shame grow worse, however, if possible, as we proceed. Who can read the next section, section 2019, without a righteous sense of resistance springing up in his breast? Hear it:

The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

Here at last we behold the citadel of free government stormed and taken. The enemy is placed by these provisions inside of that sacred bulwark of freedom for whose erection and defense the best blood of the world has streamed in torrents on the battle-field and under the dripping ax of the executioner. With the supervisors, as they take possession of the polls and of the ballot-boxes, come also the United States marshals, their general deputies, and their special deputies, without limit as to number, in order, in the language of section 2022, to—

Keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or *voting, to arrest* and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States.

Thus supported, and by still greater forces when called for as I shall show hereafter, the supervisors are absolute masters of the entire situation. Am I to be told that it lessens the outrage on local self-government because they are to be of different political parties? Does it mitigate the crime against the freedom of the ballot because the corrupt men of both or of all the parties in the country may be appointed by the administration in power to commit it? Sir, the man who is willing to accept the position of spy and informer on the honest voters of this country, who is willing to invade the rooms where their votes are received, and there seize their ballot-boxes, and arrest their judges of elections without process of law, can claim no political kindred with me. I repudiate all such as consent to become the instruments of Federal power for the overthrow of the doctrines and practices of the fathers, regardless of the party name they bear. Suppose we witness the operations of a pair of these supervisors on election day under the laws as they now stand. A Representative in Congress is to be chosen and so also is the governor of the State, and all the State and county officers on the same day and on the same ticket. The people of the precinct have assembled to vote for those who make their laws, and for others to execute them. A few old men are there whose fathers fought in the Revolution; here and there one who himself fought in the war of 1812, and was with Jackson at New Orleans; the middle-aged in the prime of manhood and the youth with his first ballot in his hand all mingle together with the proud sense that they are sovereign, especially on that day and at that place.

A room has been secured, and the judges and clerks of the election, selected by the people under the laws of their State, have taken their seats inside, near the accustomed window, for the convenient reception of votes. The judges are among the oldest and most respected citizens of the community, while the clerks are young men of integrity, and ready writers. All is ready for the great day's work to begin, and for the ballot to execute the will of freemen, when two Federal officials, strangers to the laws of the State, push forward and demand admittance. If the door or the window is not at once opened for their entrance they break them in without hesitation or delay, and proceed to take, occupy, and remain in such position, whether before or behind the ballot-box, as they please. They are directed by the law to so fix themselves in place and attitude as to best enable them, in their judgment, to watch the voters and to see their faces as they come up to deposit their ballots, and also to scrutinize the manner in which the officers of the election are conducting it. More unwelcome than Banquo's ghost, and with far greater powers, they force themselves into the seats of other men; but, unlike the spirit of that murdered chieftain, they do not appear to strike terror into a guilty conscience, but rather themselves to stab the cause of liberty to the heart. They are unlike that uneasy ghost in another particular: they never leave. From solid, odious substances they never vanish into thin air. They remain to the close of the banquet, masters of ceremony from the beginning to the end. But this is not all. If at these polls, where we are witnessing an election, a single spark of impatience or indignation should be manifested at the presence of these supervisors, and if any person by a word, a look, a gesture, or in any other conceivable way is thought by the supervisors themselves—for they are the sole judges on that subject—to obstruct or hinder them, or either of them, in their approach, their assault, or their occupancy, such person is "liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the cost of the prosecution." If one of the old, gray-haired judges on the board of election inspired by the memory of other days, when such intruders would have been exterminated like marauding wolves in a sheep-fold, should protest by virtue of his authority as an officer of the State against being superseded and thrust aside, neither his age, his official character, nor the love and veneration of his neighbors will shelter him from instant arrest and the horrible punishment which I have just described. In proof of this statement I submit section 5522 of the Revised Statutes, with the earnest hope that every word of it will be read and carefully considered by the American people until the very name of supervisors of election becomes an abhorrence in the public mind. The section is as follows:

Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the cost of the prosecution.

Sir, I assert, in the hearing of the Senate and the country, that there is not one American voter, from the Atlantic to the Pacific Ocean and from the chain of lakes on the north to the Gulf of Mexico, who is not liable to arrest any moment on election day at the polls, without any other accusation than exists in the mind of a supervisor or a deputy marshal, and with no other process or warrant than a club or a pair of handcuffs. I assert, and challenge denial, as long as this law stands, that every citizen of the United States holds his personal liberty while attending the polls and casting his ballot, solely and absolutely at the mere whim, caprice, impulse, party malice, or private hate of a supervisor, or of his coadjutor, the deputy marshal. If it is pretended that by section 2029 the supervisors of election for a county or a parish cannot make arrests, my answer is that the section which I have just read, section 5522, overrides all other provisions on this subject, and in express words authorizes the instant arrest, without process, of every person who may in any conceivable manner interfere with a supervisor or a deputy marshal at any place of registration or election in the United States where by law such officers are entitled to be present. No cause need be assigned for the arrest, either verbally or in writing. No oath or affirmation is required before the citizen is dragged away and locked up. It is only necessary for the mind of the overseer or the deputy marshal to fix an offense upon a voter, however innocent he may be, and his arrest follows as instantaneously as the explosion of powder follows the touch of fire. The silent, unspoken conclusions of irresponsible, ignorant, and brutal partisan ruffians are permitted, and indeed required, by existing laws to determine every man's right to personal liberty as he passes under their inspection at the polls. The language of the Constitution is:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

What becomes of these sacred provisions? Who will pretend that the laws under discussion are in harmony with them? Who will pretend that laws, by virtue of which the people may be seized for purely imaginary offenses, or, what is even worse, for offenses created in the minds of malicious hireling spies and informers, and imprisoned without any accusation under oath, are sustained by the Constitution? If such was the fact, if indeed the Constitution did sanction such atrocious enactments, it would be conclusive proof that the heroes of the Revolution had died in vain, and that their blood was not shed in the cause of free government. Sir, these laws are not the offspring of that great instrument which has descended to us with ever-increasing strength and glory from the days of our revolutionary ancestors. They emanate rather from that malignant spirit of political oppression and tyranny which preceded the French revolution, and caused its fires at last to break forth; which filled the prisons of France with victims arrested on secret orders, and made every citizen tremble as one who fears a blow in the dark. They emanate from that spirit which ruled over Venice, when a whis-

per or a look of suspicion was more to be dreaded than the blow of a dagger, and when the silent and voiceless accusation doomed its object to walk the Bridge of Sighs into the caverns of a ruthless and lingering death. In English history there never was a period in which they could have been executed. Charles I lost his head, James II his throne, and George III his American colonies in attempting far less encroachments on the liberties of Englishmen than these laws perpetrate on the liberties of Americans. Dionysius, the tyrant of Syracuse, suspended a sword by a single hair over the heads of his guests at a banquet, and enjoyed their terror. The party but yesterday in power in this Chamber has suspended over the heads of the American people and put into operation in their midst enactments far deadlier than the sword; for without the unassailable safeguards of personal liberty life itself is of no value. The Senator from Maine [Mr. BLAINE] has urged that opposition to these enactments is a false issue on the part of those who have not felt their cruel enforcement. He asserts that because the Federal election laws have not been called into active execution in some portions of the country, and troops have not been placed at all the polls, therefore the people have no reason for resentment. The tories of the Revolution argued the same way a hundred years ago on the stamp act and the tax on tea. They insisted that the claim of right to bind the colonies in all things put forth by the British Parliament could do no harm, and ought to be submitted to as long as no attempt was made to enforce it. But it was that very claim of right which made the Revolution. It was not the amount of the tax collected, or even demanded, that caused the sword of Bunker Hill to be drawn. It was the naked assertion of a principle subversive of local self-government which drove the colonists to armed resistance and kept the army of the Revolution in the field under Washington until American independence was secured. Our fathers were unwilling for a claim of despotic power to hang over them as a threat liable at any time to be put in execution. They revolted against the idea that they were to hold their rights subject only to the forbearance of their rulers. They resented the menace of the British government contained in its declaration of power as they would a personal indignity. Burke, in his speech of March, 1775, on conciliation with America, thus describes the colonists:

> In other countries the people, more simple and of a less mercurial cast, judge of an ill principle in government only by an actual grievance; here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance and snuff the approach of tyranny in every tainted breeze.

This was the sublime sentiment of liberty which inspired Jefferson and John Adams, Patrick Henry and John Hancock; which welded together the toil-worn and destitute veterans of Virginia and Massachusetts in many a bitter and bloody charge. The sound of the clanking chains of political bondage was heard in the distance, and it was enough. They did not sit supinely and heedlessy until the manacles were fastened on their limbs. Are their descendants of this day so degenerate that they will wait until the hand of power clutches them by the throat and hurls them into prison before they will turn and destroy the laws which provide for such debasement? Shall we salute with reverence the tokens of tyranny, the emblems of our enslavement? The Swiss peasant refused to bow his uncovered head to the cap of the Austrian tyrant elevated as a sign of subjugation; and the hearts of brave men and fair women in all the four quarters of the globe have poured incense to the name of William Tell. John Hampden thought twenty shillings of ship-money too dear a price to pay for security, ease, peace, and life itself, as long as the prerogative to levy such a tax was claimed by the king; and he yielded up his peerless spirit on the plains of Chalgrave in defying an unjust principle of government. Notwithstanding the derision of the Senator from Maine, all history attests the danger of leaving instruments of usurpation and oppression ready for the use of those intrusted with executive authority. The usurper will come at last. The hour of his advent is inevitable. The temptations of supreme and arbitrary power have never yet failed to develop a Cæsar, a Cromwell, or a Napoleon, whenever the people have relaxed their vigilance and suffered their laws to pave the way toward despotism.

But in the present instance we have vastly more than the mere menace or threat of future subjugation by virtue of the laws under discussion. We are not left to conjecture what will be done hereafter. Already these laws have been executed over the prostrate forms and liberties of American citizens in a manner and to an extent which would arouse any people in Europe to revolt, except, perhaps, the serfs of Russia. I speak not now of the South, which has so long been considered a legitimate prey to the spoiler, but of the great, dominant, and stalwart North. Look to New York, that mighty emporium of the wealth and commerce of the western hemisphere. Scenes have been enacted there within the last few years which bring shame and disgrace to the Republic wherever they are known. John I. Davenport is chief supervisor of elections in the city of New York, appointed by the circuit court of the United States. He is also the clerk of the United States circuit court, and a United States commissioner. With all the powers of these manifold official positions combined in his own person he has indeed been the autocrat of the ballot-box. In the elections of 1876 he had under him one thousand and seventy supervisors, twenty-five hundred deputy marshals, and an indefinite number of commissioners, at an expense for them and for himself of $94,587.

In 1878 he employed twelve hundred and twenty-five supervisors, thirteen hundred and fifty deputy marshals, and commissioners in proportion, for all whose pay and expenses he drew upon the money of the people in the Treasury. In June, 1876, as clerk of the United States circuit court, he issued warrants for the arrest of twenty-six hundred naturalized voters to be brought before him as United States commissioner and chief supervisor for the purpose of making them surrender their naturalization papers. The Federal courts themselves afterward held that the naturalization papers in question were all legal and valid, but the desired result had been accomplished. The terror inspired by these arrests intimidated thousands from going to the polls. It became well known that there was no personal security in New York in connection with the elections, and the poor, the timid, and the humble staid away. The same course was pursued in 1878. During the summer of that year nine thousand four hundred citizens were notified that they would be arrested unless they surrendered their naturalization papers to the head-overseer, John I. Davenport. In the month of October, 1878, thirty-one hundred persons were actually arrested and a reign of terror inaugurated just in advance of the election. The pretense that these persons held fraudulent naturalization papers had already been shown to be false, but it was necessary to party success that an alarm should be raised and a panic created in the minds of foreign-born citizens and of the poor laboring classes generally.

The movement was successful, and it has been estimated that ten thousand legal voters remained away from the polls rather than risk the jails and the prison-pens of the chief supervisor and his subordinates. But it was reserved for the day of election itself to give free scope to the frightful powers with which this band of Federal ku-klux is invested. Those who braved the dangers which environed the ballot-box, and approached it as if they were still freemen, soon found their mistake. They quickly ascertained that the previous threats and warnings which they had heard were neither idle nor unmeaning. As a specimen of thousands of similar occurrences on election day, I quote a statement recently made by a member of the other branch of Congress from New York. Speaking from his place on the floor, he said:

> A neighbor of mine, who had resided in the same district for seventeen years and a soldier of the Union Army at that, was arrested. I was asked to go to the republican headquarters in an adjoining district, whither he had been taken. The street for an entire block was lined with carriages, in which the unfortunate citizens who had fallen into the hands of the Philistines had been or were to be conveyed. When I entered the building I found the front room decorated with the paraphernalia of a political headquarters, and filled with republican politicians. In the back room a United States commissioner was holding court. The door was closed, watched by a Cerberus. No one was allowed inside but the prisoners and the republican managers. After about half an hour's waiting I was informed by the doorkeeper that the man I was looking for was no longer there. I asked whither he had been taken. "Suppose to Fort Davenport," was the laconic reply.

Sir, most likely this soldier of the Union Army was with Grant in the Wilderness, at Cold Harbor, and at Petersburgh. Or perhaps he was with Sherman in his march to the sea, and as a soldier of the Army of the Tennessee took part in the bloody battle of Atlanta. Wherever he was, however, and on whatever field he was baptized with fire, he was assured that he was offering his life for the preservation of the Union under the safeguards of constitutional liberty. He was also assured that human slavery should not survive the triumph of the Union cause, and he rejoiced to believe that his country would in fact soon be the land only of the free. What must have been his reflections, therefore, in November last to find, in attempting to cast his ballot, that he was as very a slave in the hands of a brutal overseer as any negro ever driven in a cotton-field, and that he had no more power under existing laws to protect his personal freedom than an African bondsman on the auction-block before the war. Did he not, most probably, conclude that one of the fruits of the war, under the nurture and cultivation of the republican party, was the extension of slavery, rather than its overthrow and destruction? Was he not impressed with the fact that the liberation of one race had been followed by the enslavement of another? What were his thoughts, and the thoughts of his fellow victims, who had also been his fellow-soldiers, as they lay like felons in prison, in "Fort Davenport," for offering to vote? How did their bitter thoughts in that hour of degradation compare with their glorious dreams as they often lay together on the tented field; when their—

> —— Bugles sang truce; for the night-cloud had lowered,
> And the sentinel stars set their watch in the sky;
> And thousands had sunk on the ground overpowered—
> The weary to sleep, and the wounded to die.

In such an hour as this they dreamed not only of returning to the dear ones at home, of their rapturous, clinging embrace, and burning kiss, but they likewise dreamed of returning to a land of liberty, to homes made free from the invasive steps of the spy and informer, and to a state of personal security under laws of their own making. These bright dreams have all vanished, and in their place the returned soldier, and all others, have embraced a reality as horrible and as unbearable to the soul of a man fit to be free as Dante's conceptions of Inferno are to the Christian mind. The following description of election day in Davenport's court in New York is said to be but a tame and

imperfect presentment of the facts as they there transpire from year to year as the elections occur:

Such a scene as the rooms of this court presented on that election day has never before been witnessed in this city or in this country, and it is to be hoped never will again. From early morning until after the polls were closed these rooms were packed and jammed with a mass of prisoners and marshals. Not only were they crowded beyond their capacity, but the halls and corridors were thronged with those who were unable to obtain admission, so that the counsel representing the prisoners and the bondsmen who were offered to secure their release had the greatest difficulty, and were frequently unsuccessful in obtaining entrance. In addition to all this was that delectable iron "pen" on the upper floor, in which men were crowded until it resembled the black hole of Calcutta, and where they were kept for hours hungry, thirsty, suffering in every way, until their cases could be reached. With scarcely an exception these men had gone to the polls expecting to be absent but a short time. Many of them were thinly clad; numbers had sick wives or relatives; some were sick themselves. There were carmen who had left their horses standing in the public streets; men whose situations depended on their speedy return; men who wished to leave the city on certain trains. Every imaginable vexation, inconvenience, injury, and wrong which the mind can conceive existed in their cases, so that it was painful for the counsel who were endeavoring to secure their release to approach sufficiently near the railing to hear their piteous appeals and witness the distress which they had no power to alleviate. And over all this pushing, struggling, complaining crowd Mr. Commissioner John I. Davenport sat supreme, with a sort of oriental magnificence, calmly indifferent to everything but the single fact that no man who was arrested was allowed to vote.

May I not, in view of this dark and shameful picture, appeal to Senators without impropriety to know whither we are drifting? Are we still hugging the miserable delusion that there is no danger, while scenes are being enacted in strict accordance with the laws on our statute-books which would be a disgrace to Turkish civilization if enacted by the arbitrary authority of the Sultan? Has a fatal lethargy seized the American people, and are we indeed to follow the downward pathway of all the republics that have risen and fallen in the past? The sailor in northern seas veers off into safer waters the moment he feels the current of the great Maelstrom under his keel. We are in the very vortex of the whirlpool wherein every local privilege, every right of citizenship, all the sanctuaries of home, and the ship of state itself are being drawn down and dashed to pieces, and yet the cry that all is well, uttered by false pilots, lulls us into a sense of security and repose. I call upon my countrymen to awaken, for the hour of mortal peril to their institutions is here. What has happened in New York has happened elsewhere, and may happen everywhere. Shall the laws which make such scenes possible remain in force? I invoke against them the memories of the mighty dead who fell for independence; who enriched the soil of Massachusetts with their blood at Lexington, Concord, and Bunker Hill; who struggled with Washington at Brandywine, and charged under his eye at Princeton, Trenton, and Monmouth; who tasted death at Camden, the Cowpens, and Eutaw Springs, in order that we might be free; who yielded up their brave spirits on the plains of Yorktown in the precious hour of final victory. By these great souls, by their privations, sorrows, anguish, and pain, I implore the American people not to forget the value of those liberties which are now trampled under foot with every circumstance of scorn and contempt.

At this point, however, and in this connection, another branch of legislation on the subject of popular elections calls for our consideration. In presenting the elaborate and carefully constructed system of laws for the suppression of self-government, we are next confronted by those provisions which place the land and naval forces of the United States at the polls. Those who conceived and enacted these laws were not content until the sword as well as the purse of the nation was prostituted to the suppression of free elections. I have only to appeal to the laws themselves to make good this statement, strong as it may appear. The section most familiar to the public mind is 5528 of the Revised Statutes, and is often cited in proof of the harmless purposes of the Army. It has in fact, at a hasty glance, a somewhat innocent aspect, but a moment's inspection will show that like the Trojan horse its real object is to carry armed men into a citadel—in this instance the citadel of liberty—without exciting suspicion or resistance. It was enacted in February, 1865, and its language is as follows:

Every officer of the Army or Navy or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Here is simply a cheap display of pretended severity against military interference with elections, while the sole purpose of the section was to authorize the presence of armed troops at the polls under the vague pretext of keeping the peace. Sir, who is to determine the necessity of the presence of the Army or the Navy at the place of voting on election day to keep the peace? Who is to pass upon this plea of military necessity and give the command to close in on the ballot-box with the bayonet? Under this section it is evident that the President of the United States as Commander-in-Chief would have that duty to perform. What a dazzling field here opens for the operations of a usurper! It is matter of history that Cæsar while in Gaul sent his emissaries to Rome to incite riots and disturbances at the elections in order to give him the pretext he craved, to keep the peace at the polls with his trained legions at his back. Napoleon the Great crushed the liberties of France under the tyrant's usual guise of preserving public order by force of arms; and Napoleon the Lesser in our own day followed his example. What a temptation is presented, by the section I have read, to some American Executive to practice the same usurpations! He has only to stir up troubles through his partisan emissaries in the South, as has often been done heretofore, and the occasion is made for the use of the Army to any extent he may choose. He is the judge of the number of troops and the time they are to move and the places they are to invest. He may order any number of ships of war into the harbor of New York or in front of New Orleans on election day or at any time before that day to overawe the people, simply avowing that he does so under this law to keep the peace at the polls. It is difficult to conceive that such an enactment could be found among the statutes of a republic, but it is my painful duty to show two others on the same subject far more dangerous, if possible, than this. Section 1989, found in the Revised Statutes under the title "civil rights," confers on the President in express terms the powers which are implied in section 5528. There is no attempt here to deceive. The Army and Navy are boldly placed at the disposal of the President to use at his discretion over a range of subjects and in the control of their details as extensive as the rights of man under a free constitution. The words of the section are as follows:

It shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as may be necessary to aid in the execution of judicial process issued under any of the preceding provisions, or as shall be necessary to prevent the violation and enforce the due execution of the provisions of this title.

There are fifteen sections in this title, and they embrace the assertion and enforcement of every right and privilege known to American citizenship. They were prepared and enacted for the purpose of placing the negro on an exact equality in every particular with the white man before the law, and they consequently cover as much ground as the Constitution itself. For instance, the first section of this title provides for the right to make and enforce contracts, to sue, be parties, and give evidence; and the second section provides for the right to inherit, purchase, lease, sell, hold, and convey real and personal property. It is made lawful for the President, at his own will and pleasure, and without reference to State laws on these subjects, to launch the Army into any State he may choose to crush, under the pretense of enforcing these provisions or preventing their violation. The third section of this title relates to actions at law and suits in equity for damages by such as deem themselves deprived of any rights, privileges, or immunities secured by the Constitution and laws. The fourth section treats of conspiracies—first, to intimidate persons from accepting and holding office; second, to deter witnesses from testifying in any United States court to influence grand or petit jurors, or in any manner to impede or defeat the due course of justice; and, third, to deprive any class of persons of the equal protection of the laws, or to prevent any one from voting for the candidate of his choice. The section concludes by giving a right of civil suit for damages to any one conceiving himself aggrieved under its provisions. Other sections follow of intricate and diversified character, but I have cited enough to show the vast and sweeping scope of the duties devolved on the Army and Navy by virtue of section 1989 and the absolute supremacy of one-man power there created. Under the wide and universal provisions of the civil-rights title, which we are now considering, there is not a phase in human affairs wherein the Army and Navy of the United States cannot be called by the Executive to prevent or to enforce the execution of some act by individuals, States, and Territories. Section 1989 contemplates the military control of elections not only, but of everything else that belongs to the States, Territories, counties, cities, and every other species of municipality. It utterly abrogates the Constitution of the United States. By that instrument, section 4, article 4, the extent of the power of the Federal Government to send troops to a State is defined:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

This short and pregnant sentence marks the boundaries, as understood by the fathers, between the Federal Government and the States in regard to the character and enforcement of State constitutions and laws. There has been much confusion of ideas and the wildest vagaries of construction growing out of this clause of the Federal Constitution, and especially in relation to that part of it which guarantees to every State a republican form of government. I have heard it contended in debate in Congress that by virtue of this power of guarantee the Federal Government could unseat members of a State Legislature, annul laws of their enactment, direct other members to be sworn in and other laws to be enacted, and in a general and in an especial manner take charge of all local interests. All this, too, was to be upheld and enforced by United States military authority if necessary. Sir, may it not be well to understand exactly what it is that the Federal Government is called on to guarantee to the States? A republican form of government is something easily defined. The term "republic," as applied to a political organization, is derived from the two Latin words, *res*, a thing, an affair, and *publica*, public, meaning a public affair in which all have a common interest, in which there

is neither royalty nor rank fixed by law. Webster defines a republican form of government to be:

A state in which the sovereign power is exercised by representatives elected by the people; a commonwealth.

Taking this as the true meaning of the expression used in the Federal Constitution, and we have no difficulty in understanding that when a State has framed and adopted a constitution in harmony therewith, and maintains it, the Federal Government has no more power to interfere with or send armed forces into the State, except upon its own application to resist invasion or to suppress domestic violence, than the State has to assume the functions of the Federal Government. If the Legislature of a State should pass laws repugnant to the Constitution or the laws of the United States, which together with treaties are the supreme law, the courts are charged with the duty of arresting them. If riots break out at elections, or on any other occasion, begetting domestic violence which the State cannot put down; or if invasion occurs, and the State calls for assistance in the manner prescribed by the Constitution, then and only then can the Government of the United States come to its relief in martial array. A contrary doctrine to this, the doctrine contained in the section under discussion, changes this Government in the twinkling of an eye from a republic to a consolidated military despotism, governed in all its parts and details by the Army and Navy, at the sole behest of the Commander-in-Chief, the President of the United States. There is no more escape from this conclusion than there is from the evidence of our senses that light follows the morning and darkness the night. By this section the President is left to determine everything, and to execute without restraint from any quarter his arbitrary conclusions. He may declare it necessary to aid in the execution of judicial process with the Army in any portion of the country, whether it is so or not. He may declare any city of over twenty thousand inhabitants, or any county or parish in the United States, in a state of insurrection, station troops in them, proclaim martial law, and cut them off from all communication with other parts of the world.

But there remains one more section authorizing the use of the Army and Navy to subvert free elections which demands our attention. I turn to it, I confess, with feelings of repugnance. It completes the degradation of that Army and Navy whose fame and glory fill the whole earth. It shows to what base uses the heroes of a hundred battles may be put by the vaulting ambition of radical partisans. It is section 1984, and reads as follows:

The commissioners authorized to be appointed by the preceding section are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the commissioners may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or *posse comitatus* of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

The warrants or other process mentioned in this section, and which the commissioners may issue, are such as are provided for the arrest and intimidation of voters before elections on election day, and afterward. They are such as are contemplated in chapter 7 of the title "Crimes," on which I have already commented. We behold, therefore, by virtue of this most amazing section, the Army and Navy of the United States, not placed under the command of the President or such person as he may empower, presumably an officer of high rank and character, to regulate and control elections, but ordered to obey the "summon and call" of the lowest agents, and, naturally, the vilest instruments of this whole pernicious business. Let us pause and look for a moment at the scene which is here provided for. The circuit courts of the United States and the district courts of the Territories are authorized by section 1983 to increase the number of commissioners from time to time, so as to afford a speedy and convenient means for the arrest and examination of persons charged with crimes against the election laws, until the whole land shall swarm with commissioners bent on the success of their party. Then these commissioners, appointed for a political purpose, are empowered in every county in the United States to appoint one or more persons whom they may deem suitable to execute their process and carry out their edicts. And how astounding and incredible it seems, in this age of advanced civilization, that these innumerable deputy commissioners, these irresponsible sublessees of unconstitutional power, should have, by the express words of American law, the authority to summon and call to their aid not merely the bystanders and the *posse comitatus* of the county, but such portion of the land or naval forces of the United States or of the militia as they may consider necessary to the performance of their duties!

Here are the plain words of the law, and there is not a Senator on this floor who will gainsay my statement. Sir, who are these people on whom the most tremendous powers known to human governments have been so lavishly bestowed? I have no word of disparagement for United States commissioners, appointed to perform the legitimate duties of that useful office, but for political instruments, thrust by partisan hate and ambition into that position, and for those still below them, I have neither respect nor forbearance. The experience of the last few years in the different States, and notably in New York, shows that political commissioners, their deputies and subordinates, foisted into the control of elections, belong essentially to that class of human pests so powerfully described by Curran in his defense of Rowan, who, in the language of the great Irishman, "overwhelmed in the torrent of corruption at an early period, lay at the bottom like drowned bodies while soundness or sanity remained in them; but at length becoming buoyant by putrefaction, they rose as they rotted and floated to the surface of the polluted stream, where they were drifted along, the objects of terror and contagion and abomination."

Yet of such as these are made the commanders of the military and naval forces of this Government; to these miserable, cringing camp-followers of any party in power, occupying, as they do, the lowest and most disreputable places in the rear rank of political warfare, the proudest plumed chieftains, the most peerless warriors on land and sea, must bow their tall heads and obey their mandates. Will some Senator tell me how the brave and brilliant Sherman, bearing a higher rank than even Washington ever bore, is to escape obedience to a deputy United States commissioner? Will some one point out to me how, under the law as it now stands, Sheridan, Hancock, or the Secretary of War himself, is to refuse military subjection and co-operation to any offspring of the political sewer appointed by a United States commissioner and bearing a warrant or other process for the arrest of a citizen charged with an offense against the election laws? I assert, fearless of contradiction, that under the section I have read the veriest reptile of ward politics, the most abandoned scavenger of party warfare, armed with a commissioner's appointment and any sort of process against the liberty of an American citizen, can call the whole Army and Navy to his support, and the tallest heads must bow to his command. The scarred and veteran legions who bore the eagles of the Republic in triumph in Mexico and who are yet in the Army; the dauntless, chivalric, and generous hearts who closed with their own equal kindred in the mortal grasp of civil war; all these, and others besides, are placed at the beck and nod of a commander selected by a United States commissioner.

I will not stop to say that this is monstrous. That will be the universal verdict. I will not pause to denounce such laws as wholly infamous, for that will be the judgment not only of the American people but of all the civilized nations of the world. Simply to call up and exhibit such a horrible death's head as this in the laws of a Commonwealth pretending to be free is enough to excite the jeers, the hisses, and the execrations of every lover of liberty on the habitable globe. The Army and the Navy of the United States! How often the banquet hall and the festive board have rung with eloquence in their praise! How often their achievements have been the theme of poetry and of song! Whose heart has not swelled with emotion at the mention of revolutionary fields of fame? Whose eye has not kindled at the story of Lundy's Lane, the Thames, Tippecanoe, and New Orleans? Whose spirit does not feel exalted when Buena Vista, Monterey, Cerro Gordo, Cherubusco, and Chapultepec pass in stately review? And whose eyes have not grown moist and dim with enthusiasm in reading the battles of the ocean, those deadly conflicts of the sea which have made American genius and courage as imperishable in history as the fixed stars are in the heavens over our heads?

Sir, these sentiments are universal in the American heart, but who now will speak the eulogy or sing in heroic verse the deeds of the Army and the Navy of the United States used to overthrow free elections under the command of deputy United States commissioners? Others may answer the question; I cannot. History, however, gives no uncertain answer as to the final result of such legislation. All the free governments of the past have withered away and perished by the introduction of military force into the management of their civil affairs. We will prove no exception to this invariable rule. Even in England, the home of monarchy, governed by kings and queens and a hereditary nobility, the people, nearly a hundred and fifty years ago, demanded and enforced the entire absence of troops from the polls on election day, in order that they might preserve their rights, whatever they were, under the British constitution. A committee of this body on a former occasion described the objects of the well-known statute of George II in the following terms:

It cannot escape notice that the leading object of this ancient statute, as sufficiently evidenced by the preamble, was the preservation of the rights and liberties of the kingdom, not their destruction. And the history of the times shows that the prohibition to keep military forces near places where there was an election of members of Parliament, arose from outrages practiced upon the electors by the ministers in posting troops so as to overawe them, and coerce them into the returning of candidates friendly to the ministerial party, and the supporters of prerogative against popular rights.

This description of the use of the military on election day sounds painfully familiar at this time to American ears. Our ancestors, even in the dark reign of the second George, a century and a half ago, would not brook such outrages upon the electors. Are we, with all the increase of light and liberty now in the world, to be denounced for demanding just what they did? The Senator from Massachusetts [Mr. HOAR] in his recent speech found nothing to censure or disapprove in the use of the Army or the Navy to control elections. Another Senator from the same State held different views. Daniel Webster declared:

If men would enjoy the blessings of republican government they must govern themselves by reason, by mutual counsel, and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority properly expressed; and above all the military must be kept, according to the language of our bill of rights, in strict subordination to the civil authority.

Wherever this lesson is not learned and practiced there can be no political freedom. Absurd, preposterous is it, a scoff, and a satire on free forms of constitutional liberty, for forms of government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword.

Passing, however, in the order of discussion to another part of this general system for the suppression of free elections, I approach next the improper use of the Federal judiciary. A greater calamity than political courts hardly ever befell any people. There is no form of oppression so dangerous as judicial unfairness. An armed invasion of constitutional rights can be speedily met by armed resistance. Force provokes force in return, and the humblest intellect can comprehend such an issue as quickly as the greatest. The proceedings of courts, on the other hand, are not always plain to the common mind. Little by little they can, by false constructions, destroy the principles of free government unobserved except by the few who are learned in the law. Judges, therefore, of a partisan bias, carrying with them on the bench party convictions and party zeal, are of all the officers of the Government the most formidable instruments of political warfare. It was of such as these that Jefferson spoke in 1820 when he said:

The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone.

It was in view also of partisan judges that he said:

Our judges are as honest as other men and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. Their maxim is "*boni judicis est ampliare jurisdictionem*," and their power the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control.

It is indeed a most obvious fact, verified by the experience of all ages, as well as by the wisdom of the foremost minds in history, that courts of justice cannot be invested with political purposes without demoralizing the whole judicial system, and inflicting danger on every right belonging to the citizen. Yet the judiciary of the United States has been boldly seized upon, and nearly all its parts applied to the support and permanence of a political party. The authors of the laws for that purpose made the circuit and the district courts of the United States the fountain and the beginning of the entire plot against the freedom of the ballot-box. Any two persons filled with party zeal in a city or town of over twenty thousand inhabitants, or any ten persons under the same inspiration in a county or parish without respect to population can command the Federal courts at their pleasure. At their orders the circuit judge shall open court, and in his absence the district judge shall obey the call. This shall occur in vacation as well as term time, and the court shall remain open, or in the language of the law, "be always open for the transaction of business under this title," that is to say, the business of the elections, until the elections are over. Not only is the court to be always open, but the judge is to be pursued to his chambers by eager local party leaders where he has the same powers on this subject as when sitting in court. The absolute subserviency of the Federal judges, wherever found, whether in court or in chambers, being thus secured, their duties are necessarily of an injurious and odious character. Every squad of supervisors of elections, equipped as spies, informers, bailiffs, and burglars at the ballot-box, emanate directly from the hands and seals of the Federal judiciary.

The chief supervisor, the commander in chief in certain respects of this invading force, is likewise an offspring of judicial prostitution. So also the innumerable hordes of political United States commissioners contemplated and authorized by section 1983, and all their deputies under them, with power as I have shown, to command the Army and the Navy; all these strange and illegitimate election officials spring from the Federal courts, embraced as they have been by an arrogant and lawless political party. The deputy United States marshals, unlimited in number and viciously partisan in purpose, have in fact a similar origin, for they are appointed by the marshal, always in political accord with the Administration in power and always subject to the influence and control of the court. Can it be necessary to show that the framers of the Constitution never designed the Federal judiciary for such base ends as these? Can it be necessary to show that the appointment and control of election officers constitute no part of the judicial power of this Government? The Constitution declares:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

It also further declares:

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

This list of carefully enumerated powers comprises all that the Constitution devolves on the Federal judiciary. Will some Senator point out to me the clause which authorizes United States judges to appoint officers to manage popular elections? The judicial power of the United States has been given to the Federal courts, and the subjects to which that power can be applied have been specifically designated. Is there anything in this specific designation which relates to the control of Federal, State, county, parish, city, or town elections? Is it a judicial function to appoint a supervisor or a chief supervisor of elections? Is it a judicial duty imposed by the Constitution to open court, keep open court, and sit in chambers at the command of excited and prejudiced politicians? It is a burlesque on the memory of our fathers to pretend that laws imposing such services and duties on the judges of the United States courts are constitutional. I am aware that by virtue of the latter clause of section 2, article 2, of the Constitution it is claimed that Congress has the power to confer upon the United States courts the appointment of certain inferior officers, and among them the election officers to whom I object. That clause is in these words:

But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

But a construction has been placed on this provision which shows that Congress cannot authorize the courts or the heads of Departments to make appointments outside of their respective spheres of duty. In the case *Ex parte* Duncan N. Herman, 13 Peters, 257, the Supreme Court of the United States pass upon this question as follows:

By the Constitution of the United States, article 2, section 2, it is provided that the President shall nominate, and by and with the advice and consent of the Senate shall appoint, certain officers therein designated, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they shall think proper in the President alone, in the courts of law, or in the heads of Departments. The appointing power here designated in the latter part of the section was no doubt intended to be exercised by the Department of the Government to which the officer to be appointed most appropriately belonged. The appointment of clerks of courts properly belongs to the courts of law, and that a clerk is one of the inferior officers contemplated by this provision in the Constitution cannot be questioned.

Will any one contend, however, in view of this decision, that because the courts have been authorized to appoint their own clerks and other inferior officers appropriately belonging to the courts, they can also be authorized by Congress to appoint all the clerks in the various Departments? Will any one insist that Congress has the power to vest the appointment of postmasters, revenue collectors, and custom-house officials in the courts of law? It was the plain purpose of the Constitution, as decided by the Supreme Court, that Congress might simply devolve upon the courts of law the appointment of such officers as were necessary and appropriate to the exercise of judicial duties, and upon the heads of Departments a similar appointing power over persons appropriately connected with Department duties. Sir, where does a supervisor of elections appropriately belong? Is he a part of our judicial system? Do the duties of the courts of law extend to a seizure of the polls on election day, to the removal of the ballot-box from the proper custody of State officers, to the counting and canvassing of the votes, and to the instant arrest of voters without process? Are these some of the duties of the Federal judiciary under the Constitution? Were the United States courts originally organized for the purpose, among other things, of inspecting American citizens while depositing their ballots, of having spies placed in favorable positions to watch the countenances and gestures, and to overhear the talk of the voters on election day, of engendering a foul and loathsome brood of informers to pollute with their perjuries the sanctuaries of justice? Did the authors of the Constitution invest the courts with power to appoint a class of election commissioners, who in turn can appoint their own underlings to the command of the land and naval forces of the United States?

If these questions can be answered in the affirmative, and if such duties were actually imposed on the courts, then, and only then, can Congress make use of the courts for the appointment of supervisors, commissioners, and other officers for the invasion of local self-government. On the contrary, it is clear to my mind that Congress has no such power, and that the Federal courts have been debauched for political ends and party success, in open and flagrant violation of the Constitution. The founders of this Government aimed to create an impartial and independent judiciary, with no other than judicial duties to contemplate or to perform. Such a judiciary can only be maintained by its entire separation from all party issues, considerations, or management. The minister of the gospel, standing in holy places, must not be more free from the taint of the world than the judge from political feeling or bias.

And not only the evil itself, but the very appearance of the evil must be avoided. I once witnessed a signal illustration of this idea. A distinguished judge of one of the State courts of Indiana was holding court at a time of high political excitement in a strongly democratic county. It was brought to his attention that the grand jury was made up entirely from the democratic party, of which he was himself a prominent member. He at once discharged the panel, remarking that it was as necessary to satisfy the people that the administration of justice in their courts was free from political influences as that in fact it should be so. He held, most justly and wisely, that no greater evil could befall the cause of good government than a loss of confidence on the part of the people in the purity and impartiality of their courts. And yet at this moment the Revised Statutes of the United States are crowded with laws inspired and enacted in the very rage of party bitterness and ambition, which pour the whole business of party contests and party elections into the once sacred precincts of the Federal courts! The mere contact even of such sub-

jects with the judicial mind is unwholesome to the cause of justice; but when judges are required and are willing to become active instruments in their control the fountains of our jurisprudence have received a deadly poison.

It is in this connection, too, that the perversion of the jury system to political purposes by test oaths assumes its most important and most alarming aspect. Sections 820 and 821, excluding from the jury-box all such as in any way participated in the late rebellion, are simply parts of a general system of legislation placing the entire machinery of the Federal courts, including the grand and petit juries, in strict alliance with the fortunes of a political party. In at least eleven States these sections surrender the finding of indictments and trials by jury in the United States courts to negroes, controlled by party leaders, and to a still more unworthy class of white men. The intelligence, the cultivation, the public virtue, all such as are responsible for the peace, order, and welfare of society, are disqualified as jurors if they joined in the rebellion or if they gave it aid or comfort in money, arms, horses, clothes, or anything whatever for the use or benefit of any person who had joined or was about to join. If the son was in the confederate army and his father gave him shelter over night, his breakfast next morning, and a change of clothing, neither father nor son can now serve on a jury in a Federal court anywhere in the United States. Such legislation as this has had its parallel only in enslaved countries like Poland, Hungary, and Ireland, where courts were organized by the governing party, as they have been now for the first time in this country, to convict, oppress, and keep in subjugation entire States and communities on account of their political principles. Laws of this kind were never before found on the statute-books of any government claiming to establish equality, fraternity, and liberty among its citizens. It is difficult to understand how any further political use could be made of the Federal judiciary, or how any additional indignity could be inflicted on its character. But the patient ingenuity of those who designed the perpetual ascendency of their party by overawing the people sounded one more depth into which they compelled the courts to descend. By section 1988 of the Revised Statutes it is made lawful for the President to order the judges, marshals, and district attorneys from place to place at his own will and pleasure, whether in term time or in vacation, for the purpose of the more speedy arrest and trial of persons charged with offenses against the election laws. This extraordinary section reads in the following words:

> Whenever the President has reason to believe that offenses have been, or are likely to be, committed against the provisions of chapter 7 of the Title Crimes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him, to attend at the place and for the time therein designated.

In the old and darker days of English jurisprudence we read of juries in a state of disagreement being carted through the circuit from one point to another until coerced into finding a verdict, but I think this is the first instance in civilized history where the court itself, with all its officers, was compelled to travel, to stop, and to open for business at the discretion and the command of executive authority. The President, perhaps a candidate for re-election, has only to pretend to believe that offenses are likely to be committed and he can at once send the courts where he pleases, to remain as long as he orders, intimidating and overawing the inhabitants of any county, parish, or town that is politically opposed to him. The judges of the circuit and district courts of the United States are reduced to a state of itinerancy for political purposes whenever any Administration from motives of party success shall order them to move on. If some distant seaboard town or some point on a navigable stream should become obnoxious to the President or stand in the way of his ambition, the laws of the United States as they now exist authorize him, at his own discretion, to invest it on the land side with the Army, on the water side with the Navy, and at the same time locate a Federal court in its midst to dispose of the prisoners at a special assize. This conjunction of all the great powers of this Government in the hands of the Executive is not accidental nor the result of thoughtless action. It is the climax of a premeditated system for the complete withdrawal of all powers from the people and the States and for their centralization in the executive department. It is the logical conclusion of a well-wrought plan, perfect in all its details, for a revolution toward consolidation and ultimate monarchy. There was a party when our Constitution was formed in favor of what they styled a higher-toned government; that is to say, a government further removed from the sovereign will of the common people. The idea of such a government was embraced in the draught of a constitution presented to the convention of 1787 by the great leader of the federalists providing for a hereditary monarchy and corresponding departments of government. There is a far larger party to-day in this country in favor of the principles then enunciated than there was at that time, and the laws are now in force to put them at once into active operation.

And what cause is to be assigned for all these violent departures from the original principles and purposes of this Government? Who will stand forth and justify them, and say why the very elements of civil liberty must now be destroyed in our midst? Is this massive structure of despotism, created by the laws I have pointed out, made necessary by the results of the war which ended fourteen years ago; and must it be upheld for the government of the Southern States? If so, then indeed has the North paid a dearer price than has ever yet been estimated for the preservation of the Union. Time repairs the loss of treasure and assuages a nation's grief for her gallant dead, but for the loss of liberty there is no compensation, and after it there comes no resurrection. The conquest of the South at the expense of free elections and upright courts would be a most dismal and barren victory, recoiling with curses on this and all succeeding generations. What shall it profit the American people if they gain the whole earth and lose their own liberties?

But I utterly deny that anything in the conduct or condition of the southern people requires such laws as now blacken the pages of our statutes. They have borne the results of the war with patient submission to every form of force or of law that has been imposed upon them. Their States were torn down and reconstructed from their foundations up for the purpose of establishing the supremacy of the republican party throughout the South. Aliens, strangers, and enemies went into their midst, seized upon their places of honor, trust, and profit, and grew fat on the remains of their broken fortunes. Political emissaries from the North have, at the approach of every important election, penetrated all portions of the South in order to incite strife between the two races for its effect on the northern mind. The leaders of the republican party have falsely proclaimed the existence of insurrections in the Southern States a thousand times since the war closed, and have sorely regretted from year to year that the people of those States could not be goaded into even a show of armed resistance. And the southern people are now reaping the reward of their brave forbearance. They have regained the rights of local self-government to the same extent as their fellow-citizens of the North; they control their own States; they have re-established domestic peace and social order, and are rapidly repairing the widespread devastations of war. They have done more. They have vindicated themselves, under the most trying circumstances, as a law-abiding people, and have fastened upon their enemies the odious crime of calumny and slander. Others may if they choose conjure up with evil magic the fierce sectional spirits that led to rivers of blood in the past; I will not. Nor do I envy the heart of the man who engages in such a work. His efforts are at war with the peace and glory of his country, and his name will be preserved by the future historian to illustrate the obstacles which progress and Christian civilization had to overcome.

Sir, my task on this occasion draws to a close. I have confined myself to the discussion of a series of laws which are, in my judgment, wholly fatal to free government. Among others, I have pointed out those for the repeal or modification of which the party to which I belong stands pledged. The issue thus joined is not sectional. It now concerns the personal liberty of the northern as much as it does the southern voter. The destruction originally aimed at free elections, and an independent judiciary in the South extends now to every section of the Union alike. I ask the American tax-payer, regardless of his locality, whether he approves that system of destruction? When we vote away his hard-earned money on this floor, I ask him whether we ought not first to guarantee to him his liberties and give him the protection of a freeman at the ballot-box and in the courts?

That is the sole question here this hour. Shall the tax-payer receive as compensation for his toil the blessings of self-government; or shall he like Issachar of old crouch down between two burdens, the burden of debt, and the burden of enslavement both? Shall he bow his shoulder to bear, and become a servant unto tribute, with no more rights in the control of his own government than election overseers, deputy marshals, commissioners, and political courts may see fit to grant him? That is the naked question for the people to decide. Others have discussed with great ability the manner in which the repeal of these laws is proposed. I have no concern on that point. If they are obnoxious to freedom and justice they ought to fall, and no better time or place for their repeal could occur than in connection with measures appropriating the people's money for the support of their Government. The cheap and shallow cry of revolution will deceive nobody, not even those who want to be deceived. The people will principally care to know the true character of the laws under consideration, and they will judge our work here accordingly. If the laws we propose to repeal are right we will stand condemned in the public mind; but if on the other hand they are odious in the sight of the American people we will be justified.

Mr. TELLER. Mr. President, in the question presented by the bill making appropriations for the Army there are two features that I desire to discuss: first, and very briefly, the method of legislation with reference to this bill, and after that, as briefly as possible, the constitutional right of the Government of the United States to control and supervise the election of Representatives in Congress. There has been so much said with reference to the method pursued to accomplish the purpose of the majority of this body and the majority of the House that I shall not detain the Senate at any great length upon that question, and I may say here not at any very great length upon the other.

It has been said here that it is a usual and customary way of repealing obnoxious laws or enacting laws supposed to be desirable by attaching them to an appropriation bill. Precedents have been ap-

pealed to, both in Great Britain and in this country, in order to justify that course. English history has been ransacked for a precedent to support such a case as this. How utterly and entirely the friends of the bill who have made this assertion have failed has been shown by the honorable Senator from Massachusetts, [Mr. HOAR,] and I need not repeat what he said, or any part of it, upon that subject. Our own precedents have been examined, and it was attempted to be shown by the honorable Senator from Pennsylvania [Mr. WALLACE] the other day that a large number of general statutes had been attached to appropriation bills.

Mr. President, that is not the question presented to the Senate today. The question is whether the Senate and House will present to the President a bill which the majority of the House and the Senate as now constituted have every reason to suppose the Executive of the nation would veto, untrammeled by this appropriation bill, undismayed by threats made on that side of the Chamber that if he did not sign the bill the Government should be left without the means of carrying on the ordinary duties of government. That is the question presented. At the last session the House sent this proposition to the Senate, then differently constituted politically from what it is now, and a majority of the Senate were disposed not to assent to this proposed change of the law. I will not quote the language of Senators, I will not go down to the very letter, but no man will deny on the other side of the Chamber, as everybody understood on this side at the time, that proclamation was made, first, that the Senate, holding differently from the House, must yield its judgment to the House or the appropriation bills should not pass at all; and then it was foreshadowed that when in the course of time the Senate should change politically, if the President, entertaining the views that a majority of the party who elected him entertained, entertaining the views that I have no doubt the Senator who made the remarks had some reasons to think he did entertain, refused to assent to the bill, they would then withhold appropriations for carrying on the Government.

I say that is the question presented to the Senate and to the Executive and to the American people, and it is not a question whether there have been at some time in the history of this country appropriation bills passed with general legislation in them. I challenge the *gentlemen on* the other side to show a single parallel in the history of this country with the case now before the Senate. By an examination of some of the debates it has been shown that some men have heretofore made threats of this kind of legislation, but it has been condemned by the wisest and best men in the country and was denounced, long before any of the present members of the Senate save one was in the body, as revolutionary and calculated to destroy the Government if persisted in.

It is said that the King of Great Britain was called upon to redress grievances in this way. Not for nearly two hundred years, not since the people of Great Britain have had an established and fixed constitution, not since the prerogative of the king has been thoroughly settled and understood by the House of Commons, has this course been attempted. But suppose it had been, suppose it was done yesterday in Great Britain, we have a Constitution which provides exactly what are the powers of this body, what are the powers of the other House, and what are the powers of the Executive, and each branch is independent of the other. The Senate may withhold its assent from a bill passed by the House, the House may withhold its assent from a bill passed by the Senate, and the President has the constitutional right to withhold his assent from any bill passed by the Senate and the House; in which case the Constitution has provided how if the people desire that it should become a law it shall be enacted into a law by the action of both Houses, two-thirds of the bodies acting contrary to the will of the Executive.

I do not know, I do not suppose anybody on the other side pretends to know, what the Executive proposes to do with this bill. I do not believe that there would be any propriety in treating it in the way it has been treated but for the distinct declaration made on the other side that this measure should be attached to an appropriation bill because it could not have been passed in any other way. That at least is the practical effect of what was said; and thus the veto power of the President is to be overcome.

As I recollect, the party that has control of the House and control of the Senate has ever been the advocate of the wisdom of that provision of the Constitution which gives to the President of the United States the power to pass upon every law and to assent or dissent as he saw fit. If I recollect, it has ever been the fundamental principle in the creed of that party that the President of the United States had this power fully and freely, and that it had been given to him as wisely as the power had been given to the House or Senate to assent or dissent from a bill proposed by one body to the other. In 1844 the national convention of the democratic party proclaimed that they disapproved of any efforts to modify the Constitution in that particular. They declared that the veto power was a wise power, and that it had saved the people of the United States from the domination and tyranny of a national bank. They repeated that declaration in 1848, in 1852, and in 1856. I believe it may be said now that within the last thirty days, or sixty days at most, for the first time has been heard from democratic Senators and democratic Members a denunciation of the power of the President in that particular.

A great majority of the presidential vetoes in this country have come from democratic Presidents. Although I am not sufficiently advised to speak accurately, I have no recollection and in my reading I have been unable to find a single veto by a democratic President that did not meet with the approval of the democratic party. I recollect one of the latest vetoes of the last democratic President when he sent a veto to the Senate, in which he said that it was not in the power of this Government under the Constitution to grant to the settlers on the public lands one hundred and sixty acres of land as a homestead; and the democratic Senate, without exception, if I recollect, sustained the veto. They always have done so.

The veto power is a wise provision in the Constitution. It was put there for the purpose of preventing hasty, unwise, and unconstitutional action. The President has the same right and is under the same obligation to express his dissent that any member of this body or of the other has if he should in truth dissent from the bill. Therefore, the question is not presented simply as a question of legislation upon an appropriation bill, but it is accompanied with a threat that the President of the United States must sign this bill, and if he does not sign it, then there shall be no appropriations at all.

The statute sought to be repealed has been upon the statute-book for many years. There has been in the other branch of Congress for a number of years a democratic majority. There was a considerable democratic minority in this body up to the time when it became a majority. Yet no effort has ever been made to repeal the law. Nobody has sought its repeal. Nobody suggested the great danger that was coming to the country from its remaining on the statute-book until very recently. I was astonished when I listened to the honorable Senator from Indiana, [Mr. VOORHEES,] who concluded a few moments since, that he should have been in public life so long, and that his fellow Senators around him of the same political faith should have been in public service so long, and should have never introduced either here or elsewhere a bill to repeal statutes so odious, so contrary to all the true principles of government, as he declares these statutes to be.

If the legislation were presented in the usual way it would leave it untrammeled. It would be a simple question, then, whether the legislation was wise and whether it was properly passed at the time, or whether it was constitutional at all.

I understand the opposition to this legislation, to the use of the Army at the polls to keep the peace, to the use of supervisors, to the use of deputy marshals, is put upon the ground of the lack of power in the Government of the United States to control the election of members of Congress. That is the point to which we are brought. The honorable Senator from Pennsylvania [Mr. WALLACE] declared that this was a question left to the States. The honorable Senator from Indiana [Mr. VOORHEES] declared that these statutes were unconstitutional. The important question presented to the Senate now is, whether this system of supervision is justified at all by the Constitution, or whether it is not; whether there is any power in the General Government to supervise in any manner the election of Representatives to Congress. If there is none, then of course we are all ready to admit that the statutes should be wiped out, not because they are unnecessary, but because if they lack constitutional authority then of course they are void.

Ordinarily, when a question of this kind is doubted, it has been the custom in this country to go to the courts. We have fixed a tribunal to determine these questions; but I judge from the remarks of the honorable Senator from Indiana that they on the other side are fearful that the court may not take the same view of this subject that they do; and I was quite prepared, after the attack made recently on the power of the Executive, to hear an attack made upon that other department of the Government, the judiciary. I was not at all astonished. If, then, these laws are unconstitutional, it would be very easy to test them in the courts, and if the courts should hold that they were constitutional, then, I suppose, we should all bow to that decision; if the courts should hold, on the contrary, that they were unconstitutional, I suppose, as good citizens, we should bow to that decision.

Now, Mr. President, what is the power of Congress over this question? I know it will be said—and I want to put myself upon the record—it will be said, of course, that we have not conferred the right of suffrage on anybody by the Constitution, neither by the original Constitution nor by the amendments. I bow to the decision of the Supreme Court, and I acknowledge that that is the interpretation to be put upon the Constitution. Therefore I say that the Constitution, neither as originally made nor by its amendments, has conferred the right of suffrage on anybody in this country. I take no issue with the court. Whatever might have been my opinion if the court had left it undecided, I agree that that is the law and I take it and argue it from that basis.

In the first place the General Government assumed in the Constitution to fix the qualifications of voters for Representatives in Congress. If we did not say that they might vote directly, we said that the men who voted for members of Congress should have certain qualifications, and that the States should fix those qualifications; that is, they should have the qualification of electors for the most numerous branch of the State Legislature.

In another place, section 4 of article 1, the Constitution says:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The authority in the State to provide for holding elections of this kind is found in the fourth section.

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed." It is the imperative duty, in the first place, of each State to pass laws on this subject. In the early history of the country they did in every State, and Congress passed no laws on the subject for many years, except in the way of apportionment, not as to the manner of holding elections. But Congress reserved to itself the right to alter the State regulations, to annul those regulations, to make other and different regulations whenever in the judgment of Congress it should be necessary to do so.

The authority of Congress, then, over that subject by that reservation is at least as ample as that of the States in the first instance; and if the States could provide for supervising an election for members of Congress, if they could say who should be the judge and who should be the clerk, and what should be the authority of the constable who stood at the ballot-box, or the sheriff of the county, or any other public officer, then Congress must have the same power, for the grant is as broad to Congress as it is to the States, and it is not a State officer that is being elected but a national officer.

I was very much astonished to hear from the other side of the Chamber, on every occasion by every Senator who has addressed us, I believe without exception, the statement that this was a question left by the Constitution to the States, that the General Government had no power or control over it at all. I find that this question was presented not directly but incidentally in a case to the Supreme Court of the United States in 1816. The question was upon the constitutional power of the Government over courts in States, and Judge Story in illustrating the power of the Government over that subject and over other subjects alluded to this; and he was certainly a very safe expounder of constitutional law, and in all my early reading I had supposed it was safe upon all these questions to follow Mr. Justice Story. That case arose in the State of Virginia when the State of Virginia denied the power of the courts of the United States to supervise the findings and judgments of the courts of that State, and when a mandate was issued by the United States Supreme Court refused to obey it. In speaking then upon this subject Judge Story said:

It is imperative upon the State Legislatures to make laws prescribing the time, places, and manner of holding elections for Senators and Representatives and for electors of President and Vice-President. And in these, as well as some other cases, Congress have a right to revise, amend, or supersede the laws which may be passed by State Legislatures. When, therefore, the States are stripped of some of the highest attributes of sovereignty, and the same are given to the United States, &c.

This appears to have been the opinion of statesmen of both political parties until recently. The idea that the General Government has no control of the question at all is a new departure. I find that in 1856 when there was a republican House and a democratic Senate the democratic Senate believed that the doctrine laid down by Story in 1816 in the case of Martin *vs.* Hunter (from which I have just read in the first volume of Wheaton's Reports) was the law of the land, for they proceeded to enact a statute entitled "An act to fix the time of holding in the State of Delaware the election of a Representative in the Congress of the United States." It was approved on the 30th of August, 1856; it received the sanction of a democratic President; it received the approval of a democratic Senate. The time was fixed, but not simply the time. It provided that—

The said election shall be conducted in such manner and held at such places as are or may be prescribed by the laws of the said State of Delaware.

Now, I submit that if Delaware had the absolute control of that matter, if the House and the Senate to whom that law was presented and the Executive who signed it had supposed this present theory to be correct, that the State of Delaware had the absolute control, they never would have enacted that the time and the place and the manner should be in accordance with the law of Delaware. Unless Congress might have fixed a different time, a different place from what Delaware had fixed before, this was nonsense. Congress might have fixed a different method and manner of conducting the election if it had seen fit so to do. Otherwise it was folly to add that provision.

Mr. President, I believe that these statutes have received judicial construction in various sections of the country. I believe there is no case adjudicated yet that has denied the right of the General Government to supervise the elections for members of Congress. The case of The United States *vs.* Rees, decided in ninety-second United States Reports, went off upon the question whether the Government of the United States had a right to supervise a State election, and it was held there by the Supreme Court that no such power existed under the statutes. In the case of Cruikshank, which has been cited repeatedly on this floor heretofore, not much perhaps in this present debate, the question presented was simply whether the indictments were good under the law, and there was nowhere a denial of the right of the General Government to legislate upon the question, and the court expressly declared that upon that subject they did not pass. But in passing upon the matter presented the court did pass broadly upon this very principle. The court declared that where any right was given to a citizen of the United States by the Constitution, or where any right was guaranteed to him by the Constitution, or where any privilege was placed under its protection, that brought him within the purview of the laws that had been enacted, and they declared that while it was not an offense against the United States to disturb a meeting assembled for a lawful purpose, yet if the party who drew the indictment had alleged, in addition to what he did allege, that they had assembled for the purpose of petitioning Congress with respect to a redress of grievances, in that case the Government of the United States would have ample power to protect its citizens and indictments charging that would have been within the law, and if the defendants had disturbed a meeting assembled for that purpose the courts of the United States could have punished such offenders. The court further said that if they assembled for any purpose to exercise any national attribute of citizenship and were disturbed in the exercise of that attribute of citizenship, then the Government of the United States could throw around those people its protection through its courts in the ordinary and legal method.

Unless, then, we are prepared to abandon all control and supervision of the National Government over these matters, it ceases to be a question of constitutional law and becomes a question simply of policy whether we ought to enact laws of this kind. The honorable Senator from Pennsylvania [Mr. WALLACE] said, the other day, that the sixth section of the pending bill was a simple proposition to prevent the President of the United States from interfering with elections over which the United States had no control by the use of the Army; and the honorable Senator from Kentucky, [Mr. BECK,] when opening his remarks the day before yesterday, said:

We are discussing only a plain, simple proposition, which is: Have the representatives of the people of the United States in Congress assembled the right peaceably and in an orderly way to pass a law saying that the State authorities shall have the right to conduct their own elections uncontrolled by United States military interference? Shall they have the right to have honest juries in their jury-boxes untrammeled by test oaths?

That is not the question presented at all. It is the simple question whether the Government of the United States has any control at all over elections for members of Congress, whether the General Government can in any manner supervise those elections, and it is no answer to say that the troops may be used to abuse the people at the polls. The use of the troops at the polls is expressly prohibited and denied except for the purpose of keeping the peace, and the honorable Senator from Indiana [Mr. VOORHEES] said that the only way they could be called to keep the peace was, in his judgment, under that statute by an order from the Executive. If that is so the Executive can only call them, according to the Constitution, on the request of the governor of the State. Then that part of the law at least is harmless, if nothing more. There is more in this than a provision to keep armed soldiers from the polls. It provides that:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men—

That is a declaration that if the Government has a right, as I claim it has, to supervise Federal elections by the appointment of marshals at the polls, by the appointment of supervisors at the polls, these men shall be armed with this authority, shall go to the polls without arms, and if there is a riot at the polls they shall not be allowed to call either armed men who are soldiers or armed men who are not soldiers in defense of the peace of the United States, which may be then being broken at the polls.

Mr. President, the object of this repeal, then, is to deprive the United States Government of any supervision or the exercise of any control over elections at all. The honorable Senator from Pennsylvania [Mr. WALLACE] said the other day that this had already been done by what is known as the *posse comitatus* clause attached to the Army appropriation bill of last year. If that is true, if he is correct in that, then what is the necessity of this legislation; why this heat; why all this excitement? Why now put it upon an appropriation bill and threaten to stop the wheels of Government and to suspend all the operations of the various Departments of the Government, unless the President signs a bill repealing a law which the Senator says has in effect been repealed by a statute enacted about a year ago?

The *posse comitatus* clause attached to the last Army appropriation bill provided, and provided only, that the President of the United States should use the Army only when authorized so to do either by the Constitution or by the express law of the land. I am one of the few men on our side of the Chamber who gave assent to that doctrine. I believed then, as I believe now, that the use of the Army at the polls is a dangerous use. I believed then, as I believe now, that the use of the Army for the purpose of enforcing civil mandates is a dangerous use; and I believe it is as dangerous to arm a United States marshal who has an execution which he attempts to levy with the power to call the troops as it is to arm a peace officer at the polls with that power. Nobody denies on the other side of the Chamber that when the United States marshal goes out to make a levy in the State of Maryland or Virginia, if he is resisted, he may call the assistance of the people of the county, the posse, and I believe it has been a practice at all times in this country to include in that *posse*, it certainly was the practice under democratic administrations, as I propose to show, to call into that *posse*, as part and parcel of it, the Army of the United States. I said a year ago on this floor that it was not in my judgment authorized by the Constitution in its spirit or in its letter; yet until very recently no democratic Senator, no democratic statesman has ever been heard to denounce that as dangerous to the liberties of the people. This sudden fear of the Army has grown out of the fear of protection to a people who are entitled to vote, which right, if not given by the very words of the

late amendments, yet was forced out of some States by those amendments. It is now feared they will be allowed to exercise that privilege as they desire. All at once the use of the Army as a *posse comitatus* has got to be a frightful bugbear. It was not so in 1856.

The honorable Senator from Kentucky who addressed the Senate the other day [Mr. BECK] called attention to the language of Mr. Seward, and he read from a speech made in the Senate in August, 1856, by the great Senator from the State of New York upon this question, and I was struck with the spectacle that the very men who were then contending for this power to use the Army in support of civil writs and to keep the peace without writs in Kansas, are now citing the language of Mr. Seward and claiming that that is an authority and that the cases are analogous. Why, Mr. President, there is no more resemblance between the case presented to the Senate in 1856 upon the question then at issue and the one now before us than there is between the brightest day and the darkest night. What was presented to the Senate then? In Kansas there was a controversy as to the legality of the enactments of the so-called territorial Legislature. It was contended by the House of Representatives by a large majority that the provisions of those laws were contrary to the Constitution of the United States, and in addition to that that they had not been enacted by a legally constituted Legislature of the Territory. It is a well-known and a well-settled principle, contended for always by that side of the Chamber when they have been in power, that the Government of the United States had the right to supervise, to supersede, and to annul every territorial statute that was passed, and it has been claimed further (and the Supreme Court of the United States has laid that down in a recent case as the proper doctrine) that the assent of Congress must be given to territorial statutes to make them legal.

They passed in Kansas before 1856 some most odious statutes. I propose before I get through to call the attention of the Senate to those statutes. It was proposed by the House of Representatives at that time, which was a republican House, that the Army should not be used to enforce those statutes until—what? Until Congress had declared either that they were or were not valid statutes, and that is as far as the House went. There was no attempt to interfere in any other manner with the use of the Army. It was upon that question that Mr. Seward presented the case and made the speech to which the honorable Senator from Kentucky referred. He said these were invalid statutes; he said they were statutes that had never received the assent of the House and Senate; he said they had never been legally passed by the Legislature of Kansas, and that that being so the House had the right to say that the Army should not be used to enforce statutes of doubtful validity and that were outrageous in character. How did the democratic party, at that time the dominant party in the Senate, stand on that question? Not a single democrat voted as Mr. Seward spoke—not one. Now the honorable Senator from Kentucky says that that is good democratic doctrine, and he says the honorable Senator from New York must have foreseen the present attitude. All the democrats then in the Senate voted to sustain those statutes. As the Senator read a portion of the remarks of Mr. Seward, I will read some of them. Mr. Seward said:

> Pretended but invalid laws are enacted by usurpation and enforced by the President of the United States in the Territory of Kansas, with the terror if not with an actual application of the military arm of the Government. At least this is the case assumed by the House of Representatives. The case is altogether a new one. It has not occurred before. It has never even been supposed possible that such a case could happen in a Territory of the United States. The idea has never before entered into the mind of an American statesman that citizens of one State could with armed force enter any other State or Territory and by fraud or force usurp its government and establish a tyranny over its people, much less that a President of the United States would be found to sanction such a subversion of State authority or of Federal authority, and still less that a President thus sanctioning it would employ the standing Army to maintain the odious usurpation and tyranny.

We are very apt to forget the circumstances under which a speech of that kind was made. Let me read a section of a law that was sought to be enforced and that the democratic party in the Senate declared ought to be enforced with the Army. Congress had remitted to the people of Kansas the right to enact their own laws; they had given them an executive and given them courts and given them authority in every particular except as Congress reserved the right to assent or dissent to their laws, and they had enacted these laws as it was claimed. Congress had failed to assent to them. When the test was made in this body, they failed. The test was made in the House, and it was decided in the other House that they were not valid laws. One of the statutes provided:

> No person who is conscientiously opposed to the holding of slaves, or who does not admit the right to hold slaves in this Territory, shall be juror in any cause in which the right to hold any person in slavery is involved, nor in any cause in which any injury done to, or committed by, any slave, is in issue, nor in any criminal proceeding for the violation of any law enacted for the protection of slave property, and for the punishment of crime committed against the right to such property.

When that statute was read by Mr. Seward in his speech there was not found any democratic Senator in this Chamber to rise and denounce it in eloquent language like that we have heard to-day from the Senator from Indiana. That is one of the laws that they intended to enforce with the Army in 1856, and here is another:

> All officers elected or appointed under any existing or subsequently enacted laws of this Territory shall take and subscribe the following oath of office: "I, ——, do solemnly swear, upon the holy Evangelists of Almighty God, that I will support the Constitution of the United States, and that I will support and sustain the provisions of an act entitled 'An act to organize the Territories of Nebraska and Kansas,' and the provisions of the law of the United States commonly known as the 'fugitive-slave law,' and faithfully and impartially, and to the best of my ability, demean myself in the discharge of my duties in the office of —— ——; so help me God."

Now, I desire to read another section of the statutes sought then to be enforced:

> If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated, in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years.
>
> If any person print, write, introduce into, publish, or circulate, or cause to be brought into, printed, written, published, or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating, within this Territory, any book, paper, pamphlet, magazine, handbill, or circular, containing any statements, arguments, opinion, sentiment, doctrine, advice, or innuendo calculated to produce a disorderly, dangerous, or rebellious disaffection among the slaves in this Territory, or to induce such slaves to escape from the service of their masters, or to resist their authority, he shall be guilty of felony, and be punished by imprisonment and hard labor for a term not less than five years.

Mr. Seward proceeded to say with reference to that:

> This statute, sir, if so you insist on calling it, subverts the liberty of the press and the liberty of speech. Where on earth is there a free government where the press is shackled and speech is strangled?

In addition to all this, there was another provision which is too long to read, but it provided that every person who might be convicted of any of the offenses not punishable with death (which of course included these offenses which I have read) should be put into a chain-gang and fastened with a chain of not less than six feet and a ball of certain dimensions, and he should there be compelled to work. Other provisions were equally objectionable in these statutes. Here is one provision, which I will read:

> If any person shall aid or assist in enticing, decoying, or persuading, or carrying away, or sending out of this Territory, any slave belonging to another, with intent to procure or effect the freedom of such slave, or with intent to deprive the owner thereof of the services of such slave, he shall be adjudged guilty of grand larceny, and on conviction thereof shall suffer death, or be imprisoned at hard labor for not less than ten years.

Here is another:

> If any slave shall commit petit larceny, or shall steal any neat cattle, sheep or hog, or be guilty of any misdemeanor, or other offense punishable under the provisions of this act only by fine or imprisonment in a county jail, or by both such fine and imprisonment, he shall, instead of such punishment, be punished, if a male, by stripes on his bare back not exceeding thirty-nine; or, if a female, by imprisonment in a county jail not exceeding twenty-one days, or by stripes not exceeding twenty-one, at the discretion of the justice.

I said that the Army was used in Kansas without protest from the democratic executive or the democratic officials, without protest from the democratic Senators and the democratic Members then in public life. I said they were used with warrant when the officials had warrants, and they were used without warrants. That was the statement made on the floor of the Senate by the Senator from New York and uncontradicted; that is the recollection of every man whose attention was called to the condition of affairs in Kansas in 1855 and 1856. At that time the democratic executive appointed the judges for the new Territories, as the executive does now. He had sent out into that Territory a judge who was rendered most notorious by his cruelties and by his wickedness. And here is one of the charges that he made to a grand jury; and notwithstanding these facts were brought before the Senate, and brought before the President, and brought before the country, no such indignation at the outrages that were being perpetrated on the people filled the minds of Senators as now fills their minds with fear that the troops may be used at the polls, or some supervisor may spy out the iniquities which their political friends desire to practice. Here is the charge:

> This Territory was organized by an act of Congress, and, so far, its authority is from the United States. It has a Legislature elected in pursuance of that organic act. This Legislature, being an instrument of Congress by which it governs the Territory, has passed laws. These laws, therefore, are of United States authority and making; and all that resist these laws, resist the power and authority of the United States, and are therefore guilty of high treason.
>
> Now, gentlemen, if you find that any persons have resisted these laws, then you must, under your oaths, find bills against such persons for high treason. If you find that no such resistance has been made, but that combinations have been formed for the purpose of resisting them, and individuals of influence and notoriety have been aiding and abetting in such combinations, then must you still find bills for constructive treason, &c.

The Constitution of the United States had declared in explicit terms what treason should be, and yet that is the charge to a jury by a United States judge appointed by the very same party that now works itself into a fury over the supposed dangers from these statutes to which our attention is called. They kept him there and they were in favor of enforcing his edicts and his judgments with the Army of the United States, and it was against that kind of laws and the enforcement of that kind of laws that Mr. Seward was speaking. Mr. Seward said:

> And now what does the provision propose? Simply this: that while it leaves the discretion of the President free exercise to employ the Army where he shall think fit in maintaining Federal laws and, consistently with existing statutes, the laws of every State in the Union, and of every Territory in the Union, he shall not do this one thing: employ that Army in executing the pretended and obnoxious statutes of the usurpation in Kansas.

That is the provision of the appropriation bill of 1856; and if the honorable Senator from Kentucky who read it can make anything

out of it—if he can find any comfort in that effort to sustain his friends in their course now, he must have read it with less care, I think, than he usually does.

Now, Mr. President, what is the proposition? I said before it is simply to strip the General Government of all power over its elections, to remit to the States the privilege of having a free election or a fraudulent election, declare to every State in the Union that it is a matter of entire unconcern to the General Government whether the ballot is free and fair or whether it is not free and fair. In all this discussion I have noticed that those who claim to speak for the democratic party on this floor—and I believe it is so elsewhere—have assumed to be the champions of a free ballot. They have assumed here that it was a constitutional right to have a free ballot, and that we on this side of the Chamber denied it. Have we ever denied it, Mr. President? We are in favor of a free ballot and a fair ballot. We believe that it is the duty of the Government to supervise and control these elections if it is necessary to have a free and a fair ballot. And I say this does not come with a very good grace from a political party that has been connected with all the prominent and striking frauds of the age. All the great frauds upon the ballot that have startled the public mind for the last thirty years have emanated in that party and have been for its benefit and its advantage, and it never has repudiated these frauds that I am aware of or the benefits that they have derived from these fraudulent elections. There are some people who can remember, perhaps, the fraudulent voting in Kansas between 1854 and 1856. They can remember whole regiments of men from neighboring States who were violating the rights of the people, upheld and supported by the party then in power. There are a great many people who have not forgotten the election in 1844 in the State of Louisiana, which caused great scandal at that time and subsequently in this country. It was laid at the door of the democratic party that profited by it and had the advantage of it; and none of us have forgotten the frauds in New York City in 1868. We have not forgotten the frauds of a later period in some of the Southern States.

The honorable Senator from Alabama who spoke briefly this morning [Mr. MORGAN] said that he regretted that it was necessary to bring the South so prominently forward, or that it had been thought so. I disclaim any desire to prominently or unfairly present the South in this case, but in looking over this question to determine whether it is necessary for the Government to exercise this just supervision we must see whether there is a condition of affairs in any part of the country that prevents a free and a fair ballot, and if it is on the election of a United States officer and the State denies to the people who are entitled to vote a free and a fair ballot, then it is the duty of the United States, if the Government has the power, to see that they have a free and a fair ballot.

Mr. President, it was my duty, by order of this body, to go into some of the Southern States and take testimony. We have embodied that in two volumes which have been presented to the Senate. I am not going over in detail what we found in those States, but I can simply say that in the State of Louisiana it was demonstrated in every parish that we examined with reference to that there had been neither a free nor a fair ballot.

Mr. MORGAN. Did I understand the Senator to say that that report had been made to the Senate?

Mr. TELLER. Certainly it has been.

Mr. MORGAN. I have not seen it.

Mr. TELLER. It was made at the last session.

Mr. MORGAN. The Senator speaks of a report made at the last session?

Mr. TELLER. Yes, sir. The proof presented to this committee did not rest upon the evidence of unlearned and illiterate men; it was not confined to the men who had formerly been slaves; but the most respectable people of the State of Louisiana, men who were in full sympathy with the efforts of the southern confederacy, men who had held high positions in the confederate army, were before the committee and testified freely and frankly that in their section of country there had been neither a free nor a fair ballot, that intimidation and fraud had been practiced on the voters, intimidation before the election and fraud after the ballots were cast, and in every parish that we examined into we found this to be the condition of affairs. On some occasion when I have more time I may present this more in detail. I desire now simply to allude to it in a general way. I am justified in doing so because there can be no question about the proof that we produce. It is not one of those doubtful questions that are sometimes presented.

The evidence of the governor of the State of Louisiana through his annual message is on file here showing that at least in one parish murders and crimes of a heinous character were committed in the interest of the political party now in control of this Senate, and I have not yet heard anybody talking about protection of the ballot in Louisiana; I have not heard anybody talking about protection of the ballot against the rifle clubs that paraded through the parish of Tensas headed by a democratic candidate for Congress, headed part of the time by a democratic candidate for the Legislature, spreading terror through the country; and it is in proof in this report that a democratic candidate for the Legislature declared that with the common run of negroes you could frighten them by slinging a musket over your shoulder so that they would not vote, but that with a certain other class you had to kill them in order to deter them from exercising the privilege of voting!

This report has been before the Senate now for some considerable time, and I have yet to hear the first man on that side of the Chamber either dispute what has been there reported or condemn the conduct of those men. A free and a fair ballot! There can be no free ballot and no fair ballot when the people are not allowed to assemble and nominate candidates for public office, when they are not permitted to put a candidate for member of Congress of their political faith in the field, and that is the case in Louisiana when the member of Congress that was nominated secretly was hunted from his home and driven out of the State by men in the interest of this same party, as it is admitted by the governor in his annual message; and yet they tell us that they want a free and a fair ballot!

The proof is not by colored men now, not by republicans, but by white democrats, that the parish of Tensas, a parish largely republican, with seventeen thousand colored people and fourteen hundred white, for ten days before the election was raided, and that part of the time, as I before said, the raiding parties were headed by the democratic candidate for Congress, and part of the time by the democratic candidate for member of the Legislature, and the crimes that were committed by these armed bands were testified to by these white men and by these democrats before this committee. One man who had been a colonel in the confederate army, who swore that he was a democrat and had always been a democrat, a man of character, said they came with these raiding parties into his neighborhood; and he said, "I knew that they came for political purposes, and I assembled my neighbors, my friends, and we served a written notice on them that if they did not go back we would fight." When I asked him afterward, "Would you have fought?" He said, "Most assuredly."

The voice of the people of that parish was so stifled that the republican candidate for Congress never received a single vote. Yet he was a man of character and a man of the same color with the great majority of voters in that parish. The history of that parish is the history of other parishes of that State. None of these men who are now so excited over the dangers to the ballot-box have been heard either in Louisiana or here or elsewhere to denounce these outrages against the people and against their right to assemble and to vote. There are other rights probably equally sacred with the ballot, but that right lies at the foundation of all. If you deprive the citizen of his opportunity to freely and fairly vote, then I admit that all the evils predicted from bad legislation and from standing armies may follow. But to-day in the State of Louisiana more than one-half of its voting population are denied the free ballot.

Mr. JONAS. Will the honorable Senator permit me to ask him where he gets his information?

Mr. TELLER. I will tell the honorable Senator where I get the information.

Mr. JONAS. I should like to ask the honorable Senator, with his permission, whether he bases his statement upon the report made by the Teller committee?

Mr. TELLER. I will reply to the gentleman on that subject. I am not basing my statement upon that report; I am basing it upon the evidence that was taken before that committee, and I am basing it upon the observation that I made in the State. I am basing it upon evidence that was produced which cannot be controverted or denied. I do not say that is the case in every parish, but I do say that in every parish from which we swore witnesses we found substantially the same condition of affairs.

Mr. JONAS. Is the Senator aware that indictments were found in the United States court based upon the evidence obtained before his committee, and that those indictments have been tried before a packed jury in the United States court upon the evidence of some witness who appeared before his committee, and that even that jury have acquitted the parties charged upon the evidence procured by his committee? Such is the fact.

Mr. TELLER. I must insist that the gentleman shall allow me to go on, as it is late, and when I get through I will answer any question that the gentleman desires to ask me. I am aware that certain persons were arrested in certain parts of the State, up in the Red River country or near there. I am aware that they were tried, not by a packed jury, although it is possible the jury might have been packed in their interest, but I will take the testimony of the democratic member of the Legislature from that country, and with any impartial jury, with any jury not surrounded by the influences that surround a jury in that country, with any fair-minded jury, I believe I can convict the party and his associates of the crime with which they were charged. I will take the testimony that they offered and not the testimony that we obtained. It only shows, then, a greater necessity for governmental supervision over these elections in the South, or in that immediate section of the South at least. We examined one other State, and there is not any question, there is not any dispute as to the condition of affairs there. I do not suppose that anybody will dispute the facts that I will state. We went to the city of Charleston, in the State of South Carolina, charged with an investigation into the affairs there with reference to this very question of the freedom and the fairness of the ballot, and I do not know but we found quite as much freedom of the ballot as will be desired from any source and by anybody, but not much fairness. The county of Charleston had

in 1876 a majority of something over six thousand republicans. There is no reason to suppose that that majority had materially decreased, and yet at the last election held in that county the democratic majority was seven hundred and some odd, which would, of course, show a change in the public sentiment, if it represented the public sentiment, of something like seven thousand votes. There were in the county of Charleston originally fifty-five voting places. The Legislature of the State of South Carolina, in keeping, as I think, with the policy of the white people, reduced these fifty-five precincts to thirty-two. It was claimed that this was done to prevent repeating at the polls; nevertheless the proof shows that before this reduction a majority of the men who went to the polls traveled from eight to twelve miles. Since that time, under the present law, every man who goes to vote in certain sections must necessarily travel, going and coming, from twenty-five to forty miles.

The testimony of a democrat before the committee shows that the bill was introduced into the Legislature of South Carolina; that it met some opposition in the senate; that it went back to the house and came again to the senate, and that it was supported by the principal democratic officer of the democratic committee of the State. It was in proof that the chairman of the democratic county committee of Charleston said, when the bill was before the Legislature, (and it is in proof by a white man and by a democrat, mind you, a responsible and a respectable man,) "If you will give me this law, and if the governor will give me the commissioners, I will overcome the majority of six thousand in the county of Charleston." He got the law, and the result I think will justify us in the conclusion that he got the commissioners. This consolidation of polls was not for the purpose of preventing repeating at the polls, but for the purpose, I say, of preventing the colored people from voting, to render it impossible for them to get to the polls. They are poor and many of them without the means of locomotion except as they would walk.

A free and fair ballot when the voter gets to the polls is desirable, but it is equally as desirable that he should have an opportunity to get to the polls, and it is as equally destructive of good government to deny him the privilege of visiting the polls as it is to deny him the privilege of voting when he gets to the polls. This consolidation, as I understand from the testimony, took place all over the State. It was more noticeable in Charleston perhaps than in any other county. These people lately enfranchised, jealous of their right to vote, anxious to vote as no other class of men are anxious to vote, prizing their privilege as no other people prize their privilege to vote, and enduring sacrifices for the privilege of voting that no men under the sun have ever undergone, both in Louisiana, as shown by the testimony, and in South Carolina, came up to vote, traveling twenty and thirty miles to vote, and in many instances they were not allowed to vote. Their names could not be found on the register's lists, or there was not time, and in many places it was a physical impossibility to allow the number of voters who were at the polls to vote. The testimony, uncontradicted and undisputed, shows that they went from poll to poll and, in the language of a witness, they begged to vote. The party of the advocates of free ballot on this floor sitting on the other side, for that was the party in control of the ballot-boxes, denied to them the privilege of voting, for which they were begging. They assembled at the United States court-house. They have a lingering notion that the Government of the United States is their friend. They have yet a notion that citizenship means something more than a bare name. They went where the Government officers were and laid their case before them. The United States marshal went out. He said he traveled around from poll to poll to see what was the trouble, and that they told these people that they must go before a trial justice and make an affidavit, and he said, "I found the office of every trial justice in the city of Charleston closed," so that there was no opportunity for these men to comply with such a requirement, which was not authorized by the law. They had no right to send them away from the polls, and the marshal said the yard of the United States court-house held at least five hundred of these men who were denied the privilege of a free ballot.

That might be taken as the history of other counties in that State. It might be taken as the history of the county in which the capitol of the State stands. Notwithstanding all the pledges that have been made by high officials of that State, that the people high and low should be treated with fairness and that all the rights of citizenship should be guaranteed to them, these frauds upon the people and upon the ballot-box were perpetrated in the city, the capital of the State. Not only were they prevented from voting, but in some places these democratic officials declined to open the ballot-boxes at all. Eight or nine hundred men assembled at one voting place, too far away to go to another poll on election day. It had been arranged that they should not have an opportunity to vote, and at this place the democratic officials declined to open the ballot-box, and they did not have the opportunity to vote at all.

In another county out from Charleston this same system of depriving these people of an opportunity to have their votes counted was carried on. The democratic officials called the voters together, and they took a buscuit-box instead of a ballot-box. The voters, ignorant colored men, voted all day, to the extent of eight or nine hundred, and deposited their votes for the republican candidates, and when these advocates of free ballot had concluded the count they sat down and entered a protest to the democratic officials of the county against the counting of that vote because these votes had been deposited in a buscuit-box, and the democratic officials of that county threw out the vote because it had not been cast in a ballot-box.

Not only were the people in that State prevented from voting, but when through obstacles they had got to the boxes and voted, when they had traveled long distances and had braved all sorts of ill-treatment and deposited their ballots, then these officials nullified their votes. How was it done? By means of tissue ballots, a little ballot about two inches long and about an inch and three-quarters wide, and in Charleston County containing the names of seventeen members of the Legislature, of the State officers, and the candidate for Congress printed on the finest possible paper, so that in bulk it would take a dozen of them, perhaps, to make the ordinary ballot. When the ballot-boxes were opened in various sections of the city of Charleston and in other counties as well, notwithstanding the provision of the supervisors and the supervision of the marshals, of which so much complaint is made, the boxes were found to contain in many instances more tissue ballots in addition to the regular ballots than there were voters at the polls. In the city of Charleston there were at least five thousand of these tissue ballots, as sworn to by the chairman of the democratic committee before our committee. He said that probably there were fully five thousand of them used. They were used at every poll in the county of Charleston but two or three, and they were used in other counties, as I said before.

Now, Mr. President, I want to explain exactly how this thing was done. I do not know how these tissue ballots got in those boxes except in one or two cases; we could not prove it. They were rarely seen at the polls. We proved that there were, say, five hundred names of voters at the ballot-box, and there would be twelve hundred tickets in the box, of which half of them, or generally the excess, were these tissue ballots; but when they were drawn out under the statute, these tissue ballots were not drawn, but the republican tickets being stiff and heavy and readily felt by the touch were almost invariably drawn out. A subcommittee appointed by the committee of which I was then the chairman examined the ballot-boxes. We examined every box except two, and we found in those boxes thirty-eight hundred tissue democratic tickets. We found two boxes where large votes had been cast in which there were no ballots of any kind. At the Palmetto engine-house, where it was claimed that 3,569 votes had been cast, there were no ballots in the box at all. The testimony shows that up to half past three o'clock 915 votes had been cast at this poll. The deputy marshals and supervisor were driven from the poll. At this time the ballot-boxes were closed at six o'clock, and the ballots were counted and the tissue ballots and the other ballots enumerated 3,569 votes. Thus there must have been 2,654 votes cast in two hours and a half. If that was an honest vote, they had cast 2,654 votes, or more than 17 votes in a minute; and as by law they are compelled in South Carolina to swear every man who votes, it was a physical impossibility to cast that number; and yet those votes were all counted for the democratic candidate, except 416 for the republican candidate.

In another precinct in that county six hundred and twenty names were on the poll-list, and something like eleven or twelve hundred tickets were in the box. There were five hundred and nineteen republican tickets in the box and one hundred and one democratic tickets, making six hundred and twenty. By this process of purifying the ballot-box, by drawing out, when they got through they drew out of these tickets until one hundred and forty-seven republican tickets only were left, and there was a large democratic majority declared in that precinct. The fact of these ballots being there was not disputed by anybody. It is a notable fact that that fraud was charged in the city of Charleston upon all the managers of election with one exception, and not a single manager appeared before the committee to exonerate himself or his party from the charge. It was in proof that a democratic officer, not of the county but of the political organization, sat delibrately down at one place and put these democratic tissue tickets in the box, and yet he never came before the committee to deny the charge, and it remains undenied to this day.

It is a good thing to talk about a free ballot; and I am not certain but that when some people outside of this Chamber talk of a free ballot they mean just that kind of a ballot. I am greatly impressed by my observation of the method of conducting elections in some sections of the country with the belief that the howl for a free ballot, the howl that has gone up from certain sources against the exercise of the power of supervision by the National Government, means simply that they want an opportunity to commit these frauds without danger of the strong hand of the Federal law. It ill befits and it ill becomes gentlemen who have no condemnation for this system of fraud, for this system of electioneering and of carrying elections, to stand up on the other side of the Chamber and charge on us a desire to override the people and to deprive them of the free exercise of their rights at the ballot-box.

Mr. President, these laws were put on the statute-book for the express purpose of protecting the voter in his right at the polls, and there never will be a free and a fair ballot in a large proportion of this country if these laws are repealed. I do not say that simply with reference to the South, for it is equally true with reference to Northern States that I could name. In the great city of New York there will be no freedom of election and no fair ballot-box without some

provision of Federal authority. It is said that there have been great and grave outrages perpetrated in the city of New York. There is a statute in New York which authorizes any man who has suffered at the hands of John Davenport to go into the courts and obtain redress. If Mr. Davenport has violated the rights of any citizen of that State there is a State law which provides that he shall be punished, and the courts are in sympathy with the dominant party here in the city of New York. The officials are in political sympathy with the people in that city who complain that they have been outraged by the conduct of Government officials. That is not the case in the South, Mr. President. All the offices there are filled by men who have no sympathy with the class of men who are appealing to the General Government for protection at the ballot-box. They have no sympathy with the men who traveled up and down the city of Charleston begging the privilege of exercising the right of American citizenship freely and fairly. With all the offices in the hands of the dominant party in the Senate, with all the courts at their command, and with the State government, these men are without any remedy unless they get it through this body and the other with the help of the Executive. They must have national protection or they will have no protection at all.

Mr. President, we never can redress the wrongs and the injuries heaped upon this people in the South. It will be utterly impossible to do it. We cannot expect it; we cannot hope for it; but the General Government has some rights which I am opposed to surrendering. I am opposed to surrendering the right to supervise the ballot and providing that the men who come here to sit in the Halls of Congress shall come by the votes of the people fairly and honestly cast. I do not believe that in certain sections of the South there ever will be a free and fair ballot if we surrender this right, and I am determined with my vote that it shall not be surrendered. I do not know what the Executive may do. He may think it is worth while, in order to procure the money to pay the Army and to pay the judges and to pay the officers, to surrender a principle so important, so useful, and so necessary; but no threat of starvation of the Government, no intimidation of that kind will, in my judgment, affect either the Executive or the members of the Senate who sit on this side of the Chamber. If it is right that the Government should have this power the necessity cannot be denied; if it is not right, the courts are open for the men who think they have been wronged to go there and have that question determined.

If you repeal these laws, then these poor men of the South, these voters, will have no protection. It is not always the case that the negro alone is threatened and driven from the polls; in many sections it is the white man as well as the black man. We have the right, and the people who live in every section of the country have the right, to insist that the men who come here to make laws which we are compelled to obey shall come in a constitutional and a legal manner. That never will be done if we surrender now the Federal control of the ballot-box in the election of members of the National Legislature. That is all we claim. We claim no right to supervise the State election under these laws; we are not asking that. The fight is not made here to get rid of supervision in a State election, but to get rid of the supervision of the national election for the national officers who legislate at the other end of the Capitol.

Mr. CONKLING. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER, (Mr. COKE in the chair.) The question is on the amendment offered by the Senator from Maine [Mr. BLAINE] to the sixth section of the bill.

Mr. CONKLING. Cannot we vote on that?

The PRESIDENT *pro tempore*. Does the Senator from New York wish the amendment reported?

Mr. CONKLING. No, sir; I remember it very well. I am ready to vote on it for one.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. BUTLER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at four o'clock and five minutes p. m.,) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 17, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SUBSIDIARY SILVER COIN.

The SPEAKER. The morning hour will now commence at ten minutes past twelve o'clock, and the House will resume the consideration of the bill pending at the close of the morning hour yesterday, being the bill (H. R. No. 4) to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal-tender in all sums not exceeding $10.

Mr. BUCKNER. I ask that that bill be again read for information.

The bill was read.

Mr. STEPHENS. I do not know, Mr. Speaker——

Mr. PRICE. I desire to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. PRICE. I desire to inquire when the proper time will be to make a motion to refer this bill?

The SPEAKER. When the bill has been read a second time. The Chair understands that the gentleman from Georgia [Mr. STEPHENS] will allow the motion to refer to be made.

Mr. STEPHENS. I said yesterday that at the proper time I should not object to a motion to refer this bill. But upon the question of reference I have something to say and will say it now.

The SPEAKER. The bill had better be read a second time, when the motion to refer will be in order.

Mr. STEPHENS. Let the bill be read, then.

The bill was then read the second time.

Mr. STEPHENS. What is the object of the gentleman from Missouri [Mr. BUCKNER] in desiring to have this bill referred to another committee I do not well understand. This bill is a short one; it is before the House; it is immaterial how it got here, so far as its merits are concerned. It is now before the House. What is the object of a reference? Does the gentleman wish to perfect the bill? He can do it now, when the bill is before the House, as well as if the bill was before his committee.

As remarked yesterday by the gentleman from New York, [Mr. CHITTENDEN,] this is a bill which a large number of his own constituents and of business men all over the country are anxious should be passed. The bill has passed the Committee on Coinage, Weights, and Measures unanimously. Why, then, should it be referred to another committee? If I understand the object of the gentleman, it is because this bill embraces subject-matter with which the Committee on Coinage, Weights, and Measures are not properly charged, and which belongs legitimately to the Committee on Banking and Currency.

Upon that question I have this to say: that point was decided between the gentleman from Missouri [Mr. BUCKNER] and myself at the last Congress; the precedent was then set. The gentleman then raised the question that a bill kindred to this did not belong to the Coinage Committee, and he moved that it be referred to his committee—the Committee on Banking and Currency. The question was submitted to this House, and by a large vote the subject-matter was referred to the Committee on Coinage, Weights, and Measures.

I maintained then and I maintain now that the Coinage Committee is the only committee that can rightfully, under the rules, be charged with this subject.

The Constitution of the United States declares that Congress shall have power to coin money and regulate the value thereof. The Committee on Coinage was appointed to execute that power of Congress, or rather to take charge of all matters in execution of that power. This bill proposes to regulate the relative value of subsidiary silver coin and paper currency. No other committee of this House has rightful jurisdiction over bills regulating the value of money. It is appointed to take charge of all matters pertaining to the execution of that power of Congress. This subject therefore rightfully belongs to that committee, and I am willing for the House to decide that question.

Some gentleman said yesterday that this measure had nothing in it about coinage, weights, and measures. Sir, the whole subject of the bill relates to coinage, subsidiary coinage, and its relative value with other kinds of money; its interchangeability with United States notes and other kinds of legal-tender money.

In regard to the Committee on Banking and Currency, (I mean no reflection upon that committee at all; its duties are high, are important,) I will say only a few words. Currency and banking have a significant and specific meaning. In this country currency means paper money, United States notes, bank-notes, and fractional currency. The coinage department of this Government and the currency department are two distinct departments in the Treasury. You have a Comptroller of Currency, who has charge of that subject, while coinage and the value of coins belong to the department of the Mint.

So with the Committee on Banking and Currency of this House; its duty is to take charge of all matters relating to banking and currency. But all matters relating to coinage, the coining of money and the regulation of the value of the money so coined, belongs to the Committee on Coinage, Weights, and Measures, where, by a large vote of the House last year, it was decided such matters should go.

The gentleman from New York [Mr. CHITTENDEN] said that when he presented this petition at the last Congress it was sent to the Committee on Coinage, Weights, and Measures by a large vote. I do not remember the fact myself; but the gentleman stated yesterday, and he doubtless recollects it very well, that by a vote of this House in the last Congress the identical petition on which this bill is reported was sent to the Committee on Coinage, Weights, and Measures. I know it was sent there; he says it was sent there by a vote of this House. Will this House recede from the position it then took? Is there any reason why it should? I have no objection, as I stated yesterday, to having the gentleman's motion decided by a vote of the House; but I repeat, why should the bill be referred to his committee? I do not care how the bill came here. It is now before the House for consideration; and what object can there be in referring it except

to postpone action? Does the bill need amendment? Then let the gentleman move his amendments. Why delay action? Because, as the gentleman says, the bill did not come here rightfully? Upon that point I rely upon the decision of the Speaker, that it did come here rightfully; that it was introduced properly. But suppose I had risen in my place, representing no committee, and had asked to introduce this identical bill; suppose no objection had been offered, and the bill was before the House, would the gentleman move to refer the bill to a committee unless he wanted to amend it? And if he wants to amend this bill let him make his motion. Now is the time to consider the measure. All the business men of this country from the far West and the North and the South and the East are petitioning for the passage of a bill similar to this. Let us go on and act upon the bill, amending it if necessary; but let us not delay action by referring it to any committee.

I now yield to the gentleman from Missouri [Mr. BUCKNER] if he wishes to say anything.

Mr. BUCKNER. I desire to make a motion to have this bill printed and referred to the Committee on Banking and Currency. I am frank to say, in answer to the inquiry of the gentleman from Georgia, [Mr. STEPHENS,] that so far as I understand this bill (and I believe I understand it) I think there will be no difficulty with myself or anybody else in voting for it. I think it is a bill that is needed by the country, and one that ought to become a law.

I will state that one object I have in meeting at the threshold, in the very opening of this Congress, the question which arises here is to make a test question. So far as this case is concerned it probably is an unfortunate case for that purpose, for the reason that, so far as I know, there is no objection to the bill; and the Committee on Banking and Currency in all likelihood would be as willing as the committee of which the gentleman from Georgia is chairman to report it and have it passed at an early day. The subject was considered by the committee of which I had the honor to be chairman in the last Congress, and we were anxious for an opportunity to present some such bill to the House for consideration.

The gentleman says with truth that upon this very question perhaps, or some cognate question, the House determined to refer this and other questions connected with the currency to the Committee on Coinage, Weights, and Measures. It is to that point I desire to direct the minds of members, because if that committee can take jurisdiction of the questions embraced in this bill there is no subject connected with the currency where currency is also concerned of which it cannot as well take jurisdiction—none of which I can conceive.

My friend from Georgia speaks of the power of Congress "to coin money, regulate the value thereof, and of foreign coin." He ought to have gone further and quoted the entire provision, which ends with the words "and to fix the standard of weights and measures." The name of that committee—"Coinage, Weights, and Measures"—indicates the jurisdiction that the rules intended it should have, not embracing any question of the currency or the functions of any coinage for the purposes of currency.

I do not know that other gentlemen are as familiar with this question as I am, but it is important that even a bill of this sort should be printed, that members may see what they are doing when they vote for or against it.

The question now presented is important not only with reference to this bill, but in regard to other measures that have been sent to this committee. There is the whole question of the silver dollar. That, as I understand, has been referred in a similar way to this committee, bringing up the question to what extent the silver dollar shall be currency, what are its functions. There, sir, is the dividing line between these two committees. As the Speaker said yesterday, there is nothing in the provisions of this bill with reference to the circulation of subsidiary coinage as currency that could give jurisdiction to the Committee on Coinage, Weights, and Measures. I am free to admit, by way of illustration, that if a bill were introduced providing for a new subsidiary coin—a ten-cent piece, a twenty-five-cent piece, or a seventy-five-cent piece, whether of silver, of nickel, or of gold—that committee, having once obtained jurisdiction of the subject for the purpose of fixing the forms, device, and value of the coin, might decide what should be its functions, what should be its currency quality. But when the question is as to the circulation of coinage already fixed—the nickel, the twenty-five-cent piece, or the half-dollar subsidiary coinage, which are already regulated by law—has that committee jurisdiction to report any bill fixing the functions of such coinage, saying for how much it shall be legal tender and under what circumstances it shall be exchanged at the Treasury Department for paper currency? I say that such a question is beyond the jurisdiction of the Committee on Coinage, Weights, and Measures, and belongs properly to the Committee on Banking and Currency, for when a particular species of coinage is once established, then the question as to its capacities and functions belongs to the Currency Committee; and the whole of our coinage is included in the term "currency" in the ordinary acceptation of the word.

Mr. STEPHENS. I yield to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. Mr. Speaker, I sympathize with the chairman of the Committee on Banking and Currency [Mr. BUCKNER] in his argument for the jurisdiction of that committee in respect to this bill. When I presented the petition on this subject, as I said yesterday, I asked, according to my recollection, that it be referred to the Committee on Banking and Currency. A proposition was made to refer it to the Committee on Coinage, Weights, and Measures, and, being very desirous that in some way the measure should be presented to the House and passed, I made no objection. But I have never been able to see what the Committee on Coinage, Weights, and Measures can possibly have to do with a bill which proposes to redeem the subsidiary coin in legal-tender paper money. The truth is, in regard to this measure and my relations to it, that in the name and on behalf of my constituents, which in this respect include two millions of population, I ask this House of Representatives will at the earliest moment do this simple act of justice. This subsidiary coin is daily sold in Wall street at a discount of 2 or 3 per cent. by people who cannot afford it; and it is a disgrace—I say it, measuring my words—it is a disgrace to the Congress of the United States that year after year this state of things should be permitted to exist.

Now, sir, I think it important that the amendment of the chairman of the Committee on Banking and Currency should prevail as settling the jurisdiction at the beginning of this Forty-sixth Congress. I believe the bill might just as well have been referred to the Judiciary Committee as to the Committee on Coinage, Weights, and Measures. But the bill is before the House, and if the proposition amended by the gentleman who has the honor of presiding over the Committee of Banking and Currency shall not prevail, then, in the name of justice and right, I ask it may be passed by a unanimous vote. And I undertake to say, upon my honor, there is not one member in this House who, understanding the case as I understand it, would vote against it.

Mr. CLAFLIN. The gentleman from New York as well as the gentleman from Missouri makes complaint that this bill has been referred improperly to the Committee on Coinage, Weights, and Measures. To my mind there is nothing more appropriate to the duties of that committee. What has the Committee on Banking and Currency to do with the coinage or with weights and measures? It is simply a committee for banks and for currency relating to banks, and not for the currency of the United States or United States notes. The Committee on Coinage, Weights, and Measures has charge of the coinage of the country in all its branches.

However that may be, Mr. Speaker, let me come to the next point. Is there any objection to the bill itself? It is admitted that it will certainly cure a great evil now existing. It places subsidiary coins of the United States upon the principle of redemption. Our notes are placed on the principle of redemption, and there is no reason why the subsidiary coins of the United States should occupy any different position. This bill provides for the redemption of the subsidiary coins of the United States. It puts them on a par with paper money.

We have two currencies, paper money and subsidiary coins, and as the law is at present subsidiary coins, not being redeemable in paper money, suffer a depreciation of value, making them less convenient for the business of to-day. The great evil is that subsidiary coins are not redeemable, and people fear when they take them that they will suffer loss, and whenever a man gets $5 of those coins in his pocket he runs at once to some bank or some merchant and gets rid of them. When you make subsidiary coins interchangeable with legal-tender paper money, you at once relieve the people of that fear and then subsidiary coins will circulate naturally, and what the country wants the country will have. I see, therefore, no objection in any point of view to the pending bill. It places these subsidiary coins on a par with every other portion of the currency of the country, making them redeemable in legal-tender paper money.

Mr. PRICE. Mr. Speaker, admitting all that the gentleman from Massachusetts has just stated in reference to the interchangeability of subsidiary coins and legal-tender paper money and the necessity and advisability of it, it has nothing whatever to do with the question of reference. If any gentleman will take the bill now pending and look at it he will see it has two cardinal and material defects. In the first place, it makes provision for this redemption of all subsidiary coins, and I presume it is a fair inference from that to say that it includes copper coins as subsidiary coins, and the framers of the bill and the indorsers of the bill, it must be taken for granted, meant that copper coins also should be included.

Mr. STEPHENS. Copper coins are only token-money.

Mr. PRICE. It is, Mr. Speaker, in the first place liable to that objection. Another objection is that in the last section of the last paragraph of the bill, whichever it may be——

Mr. STEPHENS. The last section.

Mr. PRICE. I have not looked particularly at that part of the bill, but in the last part of it the bill is fairly open to the construction that when these subsidiary coins are redeemed they are never again to be reissued. I do not know that that is the intention of the framers of the bill. I do not know that a legal tribunal would so decide, but I do know that it is susceptible of that interpretation. Would it not be better, therefore, to frame the bill so as to avoid all these misconstructions, if they be misconstructions?

Now in reference to the proper committee to which this should go I do not propose to place myself in the category of gentlemen who are fighting for business for their committees; but if this does not belong to the Committee on Banking and Currency, then I suggest the propriety of abolishing that committee altogether.

As the gentleman from Georgia very properly and truly said, it is

all currency—subsidiary coins are currency and paper promises to pay are currency. All there is in the bill is the interchangeability of the coin for currency and currency for coin. There is no coinage in it, by implication or otherwise. The gentleman from Georgia quotes the Constitution of the United States, and I have been amused to see the Constitution of the United States lugged in here upon every possible case. The Constitution of the United States provides that Congress shall have the power to coin money and regulate the value thereof, the gentleman from Georgia says. That is admitted; nobody calls in question that statement, but this bill does not propose to coin any money, and if it did, the Constitution of the United States in no place that I know of says anything about referring that to the Coinage, Weights, and Measures Committee. So that looking at it from any point of view, I think it will be agreed on all hands there is no constitutional objection to referring this to the Committee on Banking and Currency. If subsidiary coin are currency and paper promises to pay—for there is no such thing as paper money—are currency, then it is all currency, and the Committee on Banking and Currency is the proper committee to have the bill go to to be perfected. And for the information of members the bill ought to be printed that gentlemen may know what they are voting on.

Mr. CLAFLIN. I desire to ask the gentleman from Iowa a question. Is there anything in the Constitution of the United States providing for the Committee on Banking and Currency?

Mr. PRICE. I am sorry my friend did not understand me. I only referred to the Constitution of the United States for the purpose of showing the lack of necessity—to put it in my way—of lugging the Constitution into this question at all.

Mr. STEPHENS. I have here the authorities to which I alluded. Last year this identical question was raised upon a kindred bill and after a discussion, which will be found in the CONGRESSIONAL RECORD of last session, November 3, there were one hundred and twenty-six members who voted to refer the measure to the Committee on Coinage, Weights, and Measures, and thirty-four who voted against that reference. Now, sir, I want this bill acted on, and I move the previous question on the motion of the gentleman from Missouri.

The SPEAKER. The Chair desires to say that on yesterday he inadvertently misstated the position of the gentleman from New York [Mr. CHITTENDEN] who originally presented this petition, in saying that he appeared to have thought at the time the reference was properly made. Subsequent information shows that this petition went to the Committee on Coinage, Weights, and Measures of last Congress by a vote of the House, and the weight of the reference is strengthened, relatively as the wish of a single member bears to the judgment of a majority of the House.

Mr. HASKELL and Mr. GARFIELD rose.

Mr. GARFIELD. I ask the gentleman from Georgia to allow me to offer a suggestion.

The SPEAKER. The gentleman from Kansas [Mr. HASKELL] has been recognized. For what purpose does the gentleman rise?

Mr. HASKELL. I rise for a parliamentary question. I desire to ask if the gentleman from Georgia has moved the previous question on the motion to commit, or on the passage of the bill?

The SPEAKER. The previous question is moved on the motion to commit, not on the bill.

Mr. GARFIELD. I thought it was on the bill. I have now no suggestion to offer.

Mr. SPRINGER. Has this bill been read a second time?

The SPEAKER. It has.

The previous question was seconded and the main question ordered on the motion to refer the bill to the Committee on Banking and Currency.

Mr. STEPHENS moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question is on the motion of the gentleman from Missouri, that this bill be referred to the Committee on Banking and Currency and that it be printed.

The question being put, there were—ayes 88, noes 97.

So the motion was not agreed to.

Mr. STEPHENS. Now I ask the House to consider the bill by sections, and let each gentleman vote for whatever part he chooses.

The SPEAKER. Does the gentleman desire the bill to be open to amendment by sections?

Mr. STEPHENS. I prefer myself the bill just as it is.

Mr. GARFIELD. Let it be considered under the five-minute rule.

Mr. STEPHENS. I want a vote to-day.

The SPEAKER. The morning hour expires in twenty-five minutes. This bill, however, will go over from day to day in the morning hour.

Mr. STEPHENS. I do not wish to cut off debate at all. On the merits of the bill I have this to say: the committee made two alterations in the bill introduced by Senator BOOTH to which the petition referred. That bill provided that the subsidiary coins should be exchanged for legal-tender notes. The committee made it legal-tender money.

One section, the third, provides for the redemption of the subsidiary coins in legal-tender money when presented in sums of $10 or any multiple thereof. I know there are some gentlemen in this House who are opposed to increasing the amount at which the subsidiary coins shall be a legal tender. By law it is now $5. My own opinion is that it ought to be $20, for the reason that many persons are unable to pay their internal taxes with it. They have to pay sums of $7, $10, or $15, and they cannot pay this tax with coin bearing the stamp of the Government upon it. My opinion is that it is a cheat and a fraud upon the labor of the country. The Government ought not to put forth money by which the poor men—the laborers—of the country are liable to be so imposed upon.

Now, sir, I wish to state to the House that in the last Congress on this identical proposition we had the Secretary of the Treasury, Mr. Sherman, before our committee. He was examined before the committee. He saw the evils of the existing law. You will find his answers to the questions put to him in the report of the committee, I think Miscellaneous Document No. 26 or 27, the exact number I do not recollect. He agreed that it would be wise to put the amount at $20 or any multiple thereof. The committee so reported that bill. It passed this House by a two-thirds vote. It went to the Senate and it remains there to this day unacted upon. It was not reached.

This bill makes the amount $10. That does not at all violate the principle sanctioned by the Secretary himself last year. Therefore I am in favor of the bill remaining as the committee have reported it, but when I move the previous question I am willing that each section shall be voted on separately.

The SPEAKER. The Chair understands the proposition of the gentleman from Georgia to be: that this bill shall be considered by sections and open to amendment; that it shall be by unanimous consent agreed that debate shall be under the five-minute rule, as in Committee of the Whole. If there be no objection to that understanding the Chair will be governed by it.

No objection was made.

Mr. STEPHENS. An amendment should be made to the title.

The SPEAKER. That will come up when the bill is disposed of.

Mr. HASKELL. Is the bill now properly before the House for discussion?

The SPEAKER. It is upon its merits.

Mr. HASKELL. I desire to say a few words. I am entirely in favor of making the subsidiary silver coins of the United States a legal tender for a larger sum than is now provided for by law. I am not in favor of providing for the redemption of these subsidiary silver coins into the greenback currency of the United States in the sums specified in this bill.

On these two propositions I desire simply to say this: that it is a great economic principle well understood by all writers upon political economy that the poor people of a country are better off in proportion as they have a larger amount of the subsidiary or small coins of the nation in circulation. I desire to see the largest possible circulation of the subsidiary coins of the United States.

I understand that to-day there is a plethora of the subsidiary coins of the United States only in the banks and among the brokers and shop-keepers in the larger towns of the United States, and as it stands, then, to-day and under the present law every banker, every broker, every shop-keeper is an active distributor of the subsidiary coins. The banker cannot be annoyed with the great bulk of their accumulation, and he consequently pushes them out among the people. Whenever they are received in large quantities he instructs his clerks, his cashier, or his teller to dispose of them in current payments just as fast as they can, in order to prevent the cumbersome accumulation of coin in the vaults of his bank. The result of this work on the part of the bankers and brokers is to keep out among the bulk of the people, acting as the distributors of these subsidiary coins, the largest possible volume of them.

Now, this bill, instead of being one for the relief of the poor people of the United States, ought properly to have its title amended so as to make it read "A bill for the relief of the bankers and brokers of the United States, who fear that their vaults may be overloaded with subsidiary coins." It is in direct line with the action of the banks in New York last fall when they refused to receive silver coin across their counters, and I find every Representative who has within his district a large banking interest voting in support of this measure. It is what the bankers and brokers want.

When this bill passes they will have no further need of working off and keeping out among the people the supply of subsidiary coins that find their way to their counters. Pass this bill, and it is perfectly safe for them to keep the coins in any quantity and then to pay them into the Treasury of the United States and take greenbacks in exchange. The result will be that instead of having hundreds of distributing agents in the United States for the diffusion and circulation of coin, you facilitate the rapid aggregation and flow of them toward the bankers, brokers, and shopkeepers in the United States, who by this law are relieved from the care of a lot of cumbersome coin.

Now, I want to see the largest possible volume of these coins kept out among the people. I believe that it is a measure of relief and benefit to the poor people. It has been stated here that the poor people are being swindled in the issue of this money. Now, if you want to prevent them from being robbed, provide that they shall be legal tender in larger amounts. I will agree to that.

You cannot name a place anywhere in the United States where a grocery-man or a dealer in small wares charges the poor man, who has nothing but silver in his pocket, more than he charges the rich man.

[Here the hammer fell.]

Mr. KELLEY. I generally agree with the gentleman from Kansas, but in this instance I think he is wholly wrong.

My mail comes burdened each day with appeals to me to relieve the working classes and the small traders of my city from a tax amounting annually, as some of the best business men in the city, whose letters I now hold in my hand, tell me, to hundreds of dollars—not for the benefit of the Government, but for the benefit of those whose trade is to buy and sell subsidiary silver coin and trade-dollars.

One highly respectable Quaker firm in Pennsylvania made this sort of an appeal to me, after stating that the channels of retail trade were glutted with trade-dollars and fractional silver and describing how the small traders to whom they sold and who keep no bank accounts paid them in this inferior coin. They, on the other hand, who do business and keep bank accounts had consequently to carry this money to Third street and sell it, with the certainty that it would be sold again by the brokers at a profit and come back, and thus tax them and the small dealers who traded with them.

Another firm asked me if we could not so change the law as to enable them to deal honestly with the working people who were its customers. They said, as others have said, "These coins are bought by the large employers of labor from the brokers, and are paid out by them to workingmen who must take any form of money offered; because if they refuse there are other men as skilled as they waiting to step into their places. They bring the money they get to us, and if we do not wish to lose all our profits and ruin ourselves we must defraud them in one of three ways; we must either charge an extra price or defraud them in quality or quantity."

The plain story is this: the channels of circulation for retail trade in the city are gorged with dollars, issued by the Government, cast probably from the same crucible with standard dollars, which contain 7½ grains more than the standard dollars, and which, not being legal tender, are meat on which the silver brokers feed, or rather they take the place, as it were, of the blood of the laboring classes in order to fatten the dealers in these base coins.

Now, this is a proposition to relieve these channels of trade by requiring the Government, if it has issued an excess of fractional currency containing, not as the trade-dollar does, 420 grains, but containing 385 grains only to the dollar; if it has in its greed to make *good* Treasury reports issued a surplus of these low-priced fractional coins on the issue of which it is making from 25 to 33 per cent., it shall redeem them in lawful money, so that the laborer and the man who keeps no bank account shall not be defrauded, and those who deal with these classes shall not be compelled either to defraud them or to forego their profits.

Here are letters from firms whose names are known wherever they are known, as among the leading business men of Philadelphia and New York. A leading house of grain dealers says to me: "Our commission is 2½ per cent.; many of those who purchase from us keep no bank account; we have to take what they receive, as they retail what they purchase from us, and we often have to pay 2 per cent. discount to the brokers in Third street out of our 2½ per cent. commission." I say it is against the dignity and the honor of the nation to maintain such a coinage, and I hope this bill will pass.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. WEAVER. I desire to offer an amendment.

The SPEAKER. The amendment will be read.

Mr. WEAVER. I desire to move an amendment to the third section of the bill.

The SPEAKER. The gentleman had better retain his amendment until the third section is reached. The House is now considering the first section of the bill.

Mr. WEAVER. I beg pardon; I thought this bill was open to amendment in any part.

Mr. FORT. This bill has not yet been printed, and it is almost impossible to understand fully its full scope. When the proper time comes I desire to move to strike out the entire third section of the bill. There may be no very great objection to the first section nor to the second section of the bill. The first section provides that any person having $10 of small silver coins may exchange them at the Treasury for the legal-tender money of the United States. It may be that there are no objections to that. The second section provides that the Treasurer of the United States shall exchange these same small coins for the legal-tender notes of the United States when anybody desires to have it done. And there may be nothing wrong in that. This seems to be the entire scope of the first and second sections of the bill. They simply authorize the holder of small coins to receive Treasury notes or other legal-tender money for them; and also authorize any person holding Treasury notes or other legal-tender money to receive small coins in exchange. They simply make small silver coins interchangeable for the larger legal-tender money of the United States.

While I am upon the floor, if permitted to do so, I will say that the third section of the bill is wrong, in my judgment. There is no great necessity for making these small coins legal tender for $10 instead of $5 as is now the law. Under this third section of the bill five-cent pieces would be a legal tender for $10. I can see no great necessity for this. They are now legal tender for $5, and when a tender of $10 is desired then legal tender silver dollars or Treasury notes can be used. But the more serious objection to this third section is that it provides that these small silver coins shall be taken up. Just what this means I may not know, but I presume it means that they shall be put out of circulation. At least the bill provides for taking them up, but makes no mention of putting them out again.

Mr. KELLEY. I think the bill merely makes them interchangeable; that if parties give them, they can get them again.

Mr. FORT. I will say to the gentleman that the bill does not so provide. The first and second sections do make them interchangeable unquestionably; the third section provides for raising the legal-tender quality from $5 to $10, and also provides that the small coins shall be taken up, and there leaves them. They will then be in the Treasury, and will likely remain or be hoarded. At least, we are not informed what is to be done with them. The bill seems to be wanting, at least in this respect.

Mr. WEAVER. The chairman of the committee [Mr. STEPHENS] agrees that that shall be stricken out, and such is the purport of the amendment I wish to offer.

Mr. FORT. That is a question for the House to settle. The gentleman from Georgia has nothing more to do with it than the gentleman from Iowa. In my judgment, we had better strike out the entire third section. I can certainly see no reason why it should not be done. If the bill embraced only the first two sections with the fourth section, which is merely a repealing provision, I do not know what objection there could be to it. It is, however, doubtful whether we ought to be tinkering with the currency quality of these coins. The hard-money man and the soft-money man could equally support it or oppose it; for it is not in the interest of one particular view more than another. I only hope we may be careful not to drive any good money out of circulation.

These small silver coins are very good, and it may be that they ought to be redeemable in larger legal money, but we ought not to suppress them. I am not certain but for the convenience of the people we ought to have retained in use the half dollar and quarter dollar of fractional currency. It was very convenient and good.

Mr. STEPHENS. As this bill will not go through to-day, I ask unanimous consent that it be printed, so as to be laid on the desks of members to-morrow morning.

The SPEAKER. The Chair hears no objection to that order, and it will be made.

Mr. SPRINGER. Is it in order now to submit amendments, that they may be printed with the bill?

The SPEAKER. Amendments may be indicated for that purpose.

Mr. SPRINGER. I desire to strike out in the third section the word "ten" and insert "twenty;" so as to make silver a legal tender in sums of $20.

Mr. WEAVER. I would like to have my amendment considered as pending, to be voted on hereafter.

Mr. WARNER obtained the floor.

Mr. ATKINS. Mr. Speaker, has not the morning hour expired?

The SPEAKER. It has. The Chair will recognize the gentleman from Ohio [Mr. WARNER] as entitled to the floor in the next morning hour.

PRINTING SPEECHES ON LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I ask unanimous consent that every member may be allowed to print in the RECORD any remarks he may wish to submit upon the legislative appropriation bill now pending.

The SPEAKER. The Chair hears no objection to the request of the gentleman from Tennessee, that any member who may desire to print in the RECORD remarks upon the legislative appropriation bill, now under consideration in Committee of the Whole, may have permission to do so.

Mr. GARFIELD. I do not object to this request; but I want to suggest that whenever general permission is given to print remarks it ought to be understood that this does not include permission to make personal criticisms on other members. I recollect at the last session, when a general permission of this kind was given, a man who is not now a member printed a most severe and I think wickedly unjust criticism on a gentleman who was dead. Without supposing that anybody who is now here would violate this rule, it ought to be understood that a permission of this sort does not carry with it the right to indulge in what may be called personal discussion.

Mr. ATKINS. A just public sentiment will hold any gentleman responsible for such improprieties.

The SPEAKER. The Chair desires to state that this matter is left to the honor of members. Of course no member should undertake to publish personalities in which he would not be permitted to indulge upon the floor.

Mr. ATKINS. No brave or honorable man would do it.

Mr. GARFIELD. I only make the suggestion in order that there may be no misunderstanding.

The SPEAKER. It is always understood—and the Chair may as well announce the fact—that where a gentleman is permitted to print remarks which he has not the opportunity to deliver on the floor he does so under an obligation resting upon him in honor not to print anything of a personal character.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair stated last evening that he would at the close of the morning hour to-day ask to have referred executive communications now on the Speaker's table. This is a time when a motion to go to the Speaker's table would be in order. The Chair

therefore asks consent to present these executive communications. [A pause.] He hears no objection.

LAND-GRANT RAILROAD ACCOUNTS.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a letter of the Quartermaster-General in regard to the influx of land-grant railroad accounts in his office; which was referred to the Committee on Appropriations.

MACHINE FOR TESTING IRON, STEEL, ETC.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from the Chief of Ordnance relative to machine for testing iron, steel, &c.; which was referred to the Committee on Appropriations.

SURVEYS WEST OF ONE HUNDREDTH MERIDIAN.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to surveys west of the one hundredth meridian; which was referred to the Committee on Appropriations.

APPROPRIATIONS FOR SURVEYS AND MAPS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a recommendation for an appropriation of $40,000 for making surveys and the construction of maps; which was referred to the Committee on Appropriations.

APPROPRIATION FOR WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to an appropriation for the service of the Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations.

SEA-WALL AT FORT SCHUYLER, NEW YORK.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the necessity for extending the sea-wall at Fort Schuyler, New York; which was referred to the Committee on Appropriations.

PAY OF LETTER-CARRIERS.

The SPEAKER also laid before the House a letter from the Postmaster-General, asking an appropriation to make effective the act fixing the pay of letter-carriers; which was referred to the Committee on Appropriations.

COTTON-WORM.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the appropriation for the commission to inquire into the ravages of the cotton-worm; which was referred to the Committee on Appropriations.

MOLINE WATER-POWER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting letter of Chief of Ordnance in relation to the Moline water-power; which was referred to the Committee on Appropriations.

THIRD ASSISTANT POSTMASTER-GENERAL.

The SPEAKER also laid before the House a letter from the Postmaster-General, relative to the clerical force in the office of the Third Assistant Postmaster-General; which was referred to the Committee on Appropriations.

CLAIM OF CHARLES LATIMER.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, relative to the appropriation for the payment of the claim of Charles Latimer for value of steamer B. P. Cheney; which was referred to the Committes on Appropriations.

CLERICAL FORCE OF TREASURER OF THE UNITED STATES.

The SPEAKER also laid before the House a letter from the Treasurer of the United States, relative to the clerical force in his office; which was referred to the Committee on Appropriations.

SURVEY OF MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Chief of Engineers, requesting an appropriation of $158,660 for continuation of the survey of the Mississippi River; which was referred to the Committee on Appropriations.

MILES CITY LAND DISTRICT.

The SPEAKER also laid before the House a memorial of the Legislature of Montana Territory, praying for the establishment at Miles City in said Territory of an additional land district; which was referred to the Committee on Appropriations.

NINTH CENSUS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to a deficiency in the appropriations for the ninth census; which was referred to the Committee on Appropriations.

MOGOLLON MOUNTAINS.

The SPEAKER also laid before the House a memorial of the Legislature of the Territory of Arizona, in favor of completing a roadway across the Mogollon Mountains; which was referred to the Committee on Military Affairs.

RELIEF OF SOLDIERS ON THE FRONTIER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a petition for the passage of acts to establish certain measures for the benefit of soldiers at frontier posts; which was referred to the Committee on Military Affairs.

MILITARY POSTS, MONTANA TERRITORY.

The SPEAKER also laid before the House a memorial of the Legislative Assembly of Montana, praying for the establishment of a military post in the southeastern portion of that Territory; which was referred to the Committee on Military Affairs.

ROADWAY FROM VICKSBURGH TO NATIONAL CEMETERY.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the construction of a roadway from Vicksburgh to the National Cemetery; which was referred to the Committee on Military Affairs.

SEA-WALL AROUND GOVERNOR'S ISLAND.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting an estimate for completing the sea-wall around Governor's Island; which was referred to the Committee on Commerce.

BRIDGING OF SAINT JOHN AND SAINT FRANCIS RIVERS.

The SPEAKER also laid before the House a resolution of the Legislature of Maine, in relation to the navigation and bridging of the rivers Saint John and Saint Francis where said rivers form the boundary line between the United States and Canada; which was referred to the Committee on Commerce.

DRAWBACK ON TOBACCO.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, relative to drawback on manufactured tobacco; which was referred to the Committee of Ways and Means.

PRINTING OF WHEELER'S REPORTS.

Mr. TALBOTT, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the House, (the Senate concurring therein,) That there shall be printed as issued 5,000 copies of each of the quarto reports and accompanying topographical and geological atlas sheets of the United States geographical surveys west of the one hundredth meridian, under the Engineer Bureau of the War Department, and in charge of First Lieutenant George M. Wheeler, Corps of Engineers; 3,000 copies for the House of Representatives, 1,000 copies for the Senate, and 1,000 copies for the use of the War Department, the printing from the stereotype plates and binding to be done by the Government Printer, and the style of the text, together with the accompanying plates, maps, and atlas-sheets, to correspond with those now printed, the latter from proofs corrected and approved at the office of the United States Topographical Surveys.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. THOMPSON. I ask unanimous consent to offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the subject of the distribution of public documents not yet distributed be referred to the Committee on Rules, with a request to report at an early day.

Mr. GARFIELD. I desire, as a privileged question, to call up the resolution introduced by me on this subject a few mornings ago, and now on the Calendar.

Mr. CONGER. I call for the regular order.

The SPEAKER. The resolution of the gentleman from Ohio [Mr. GARFIELD] is now in the morning hour.

Mr. ATKINS. I suggest that the gentleman occupy the morning hour with his resolution.

Mr. GARFIELD. Very well.

Mr. DUNNELL. I introduced a resolution yesterday on this subject which I believe will be acceptable to the House, and I ask unanimous consent that it be again presented to the House.

Mr. THOMPSON. I object. [Laughter.]

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole to resume the consideration of the legislative appropriation bill. And pending that motion, I move that all general debate on the bill be closed on Saturday at five o'clock.

Mr. KELLEY. This does not affect me personally, as I am at this time entitled to the floor. But let me say that I can see no advantage likely to result from limiting the debate until we know something of how long the senatorial discussion upon the Army bill is to be continued.

Mr. CARLISLE. I suppose it is not improper for me to state that I have been informed by the chairman of the Committee on Appropriations of the Senate, who has charge of the Army bill in that body, that the debate upon it will not be concluded before next Wednesday or Thursday.

Mr. ATKINS. Well, let us fix the time for closing debate upon this bill for Tuesday at two o'clock.

Mr. GARFIELD. I suggest to the gentleman that he wait till he sees what progress is made in the Senate with the Army bill.

Mr. ATKINS. As long as one body waits for the other there will be no progress made. Let us pass this bill if we want an early adjournment. I will modify my motion so that all general debate shall close at two o'clock on Tuesday.

Mr. CONGER. I regret that the gentleman from Tennessee, hav-

ing occupied the first and only hour that has been given to general debate on this bill——

Mr. ATKINS. It is true I had the first hour, but I yielded it all.

The SPEAKER. The gentleman from Michigan is on the floor.

Mr. CONGER. The very moment he has occupied that hour which he has under the rules, and which he filled so much to the satisfaction of all the members present, should now attempt to limit the debate and cut off others from the same privilege which he has enjoyed.

Mr. ATKINS. That is of a piece with the characteristic insincerity and unfairness of the gentleman from Michigan. There is just as much truth in that as in a great many other things which he says.

Mr. CONGER. I understood the gentleman had his hour yesterday. Am I mistaken in that?

Mr. ATKINS. I yielded that hour to two gentlemen from Alabama, and if the gentleman from Michigan was not in his seat then it was not my fault.

Mr. CONGER. The gentleman used his hour as he chose, as every other member will use his hour. I have no reason to suppose it was used in a way unsatisfactory to the House.

Mr. ATKINS. Very well, it is very uninteresting to the House for gentlemen to bandy words. I decline to do so with the gentleman.

Mr. CONGER. I have nothing to do with the bandying of words. I was speaking to the House and the gentleman bandied. I am glad he apologizes for it.

Mr. ATKINS. I do not apologize to the gentleman. I am incapable of apologizing to that gentleman—that man.

Mr. CONGER. I am equally glad that the gentleman withdraws his apology.

Mr. ATKINS. I do not withdraw it. I made none.

Mr. CONGER. And I am equally pleased that the gentleman shows some little feeling.

Mr. ATKINS. It is a pity the gentleman from Michigan could not show some, but he has none.

Mr. CONGER. I am pleased with the exhibition of sensibility and feeling wherever it comes from.

Now, Mr. Speaker, to the question. In my opinion an attempt to gag this House in the discussion of these political propositions is an unfair one. I do not say it is intended so. But I think the effect of it would be to prolong debate and occupy the time in discussions about the limitation of debate. If the bill is left open for debate, so that every gentleman on that side and on this side shall have a reasonable opportunity to say what he desires, I think we shall reach the conclusion of the debate sooner and more satisfactorily than if we attempt to restrict it now at the very commencement of it. I hope, therefore, the resolution fixing the time for closing debate will not be adopted now. As we progress with the debate, if it becomes necessary to shorten it, if more time is likely to be occupied than the interest of the country or the wishes of the members require, we can at any time shorten the debate. The gentleman from Tennessee has the floor for that purpose at any moment.

Mr. ATKINS. Mr. Speaker, I have made the motion in deference to the request of a great many gentlemen on both sides of this House, and I have nothing to add in behalf of it. Every member knows his own mind upon the subject without any suggestion from me. I submit the motion, and I trust the House will take a vote upon it.

Mr. GARFIELD. I move to amend by striking out Tuesday and inserting Friday week; that is one week from to-morrow.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] moves that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the legislative, executive, and judicial appropriation bill, and pending that motion he moves that all general debate on the bill in Committee of the Whole shall be closed on Tuesday next at two o'clock. The gentleman from Ohio [Mr. GARFIELD] moves to amend that motion by striking out Tuesday and inserting Friday week at the same hour, and the question is first on the amendment.

The question was taken on Mr. GARFIELD's motion; and on a division there were—ayes 103, noes 58.

Mr. WRIGHT and others called for the yeas and nays.

The yeas and nays were ordered, forty-five members voting therefor.

Mr. GARFIELD. At the suggestion of several gentlemen I will modify my amendment so as to make it Thursday week instead of Friday.

Mr. SPARKS. If the gentleman will make it "Wednesday" we will agree to it.

Mr. GARFIELD. I prefer to change it to "Thursday," as has been suggested to me by many gentlemen.

Mr. CLARK, of Missouri. I object to the change.

Mr. ATKINS. I move to reconsider the vote by which the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative.

So the vote by which the yeas and nays were ordered was reconsidered.

The question recurred upon ordering the yeas and nays.

Mr. ATKINS. Before that motion is put I desire to ask a question. I desire to ask the gentleman from Ohio [Mr. GARFIELD] what day he suggested?

Mr. GARFIELD. Thursday week.

The SPEAKER. The Chair cannot entertain discussion upon that point. The Chair is bound, the affirmative having prevailed upon the motion to reconsider the vote by which the yeas and nays were ordered, to put the question again upon ordering the yeas and nays, and if one-fifth of the members present vote to have the yeas and nays, then it is their constitutional right to have them. Objection being made to the change of day, the motion is for debate to close at two o'clock on Friday, to-morrow one week.

The question was again put upon ordering the yeas and nays; and, forty-nine members voting therefor, the yeas and nays were ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed a concurrent resolution to print 250 additional copies of the observations on the transit of Venus for the use of the Naval Observatory, in which he was directed to ask the concurrence of the House.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The question was taken upon Mr. GARFIELD's amendment to the motion to close debate; and there were—yeas 132, nays 91, not voting 63; as follows:

YEAS—132.

Aldrich, William	Elam,	Keifer,	Robeson,
Andersen,	Ellis,	Kelley,	Russell, Daniel L.
Atherton,	Errett,	King,	Russell, William A.
Barber,	Evins,	Ladd,	Ryan, Thomas
Bayne,	Farr,	Le Fevre,	Ryon, John W.
Beale,	Ferdon,	Lewis,	Samford,
Bingham,	Field,	Loring,	Sapp,
Blake,	Finley,	Manning,	Shallenberger,
Bliss,	Fisher,	Marsh,	Shelley,
Briggs,	Ford,	Martin, Joseph J.	Sherwin,
Brigham,	Fort,	McCoid,	Simonton,
Bright,	Frost,	McGowan.	Smith, A. Herr
Browne,	Garfield,	McKinley,	Springer,
Butterworth,	Geddes,	Miles,	Stephens,
Calkins,	Gibson,	Monroe,	Thomas,
Cannon,	Goode,	Muldrow,	Townsend, Amos
Carlisle,	Hail,	Myers,	Tucker,
Carpenter,	Hammond, N. J.	Neal	Tyler,
Caswell,	Haskell,	O'Connor,	Updegraff, J. T.
Claflin,	Hawk,	O'Neill,	Updegraff, Thomas
Clark, Rush	Hawley,	O'Reilly,	Valentine,
Clymer,	Hayes,	Orth,	Van Aernam,
Conger,	Heilman,	Osmer,	Voorhis,
Covert,	Henderson,	Overton,	Ward,
Cowgill,	Henkle,	Poehler,	Warner,
Daggett,	Hill,	Pound,	Weaver,
Davidson,	Hiscock,	Price,	White,
Davis, George R.	Hostetler,	Reagan,	Whitthorne,
Davis, Lowndes H.	Houk,	Reed,	Williams, C. G.
Deering,	Humphrey,	Richardson, D. P.	Willits,
Deuster,	Hunton,	Richardson, J. S.	Wood, Walter A.
Dickey,	Jones,	Richmond,	Yocum,
Dunnell,	Jorgensen,	Robertson,	Young, Casey.

NAYS—91.

Acklen,	Culberson,	Lindsey,	Slemons,
Aiken,	Davis, Joseph J.	Lowe,	Sparks,
Aldrich, Nelson W.	De La Matyr,	Martin, Benj. F.	Speer,
Armfield,	Dibrell,	Martin, E. L.	Starin,
Atkins,	Dunn,	McKenzie,	Stevenson,
Barlow,	Felton,	McMillin,	Stone,
Beltzhoover,	Forney,	Mitchell,	Talbott
Bicknell,	Forsythe,	Morrison,	Taylor,
Blackburn,	Frye,	Morton,	Thompson,
Bowman,	Gillette,	New,	Tillman,
Boyd,	Godshalk,	Newberry,	Townshend, R W.
Bragg,	Gunter,	Nicholls,	Turner, Oscar
Buckner,	Hatch,	Persons,	Turner, Thomas
Caldwell,	Henry,	Phelps,	Vance,
Chittenden,	Herbert,	Phister,	Waddill,
Clardy,	Herndon,	Pierce,	Washburn,
Clark, John B., jr.	Hull,	Prescott,	Wellborn,
Cobb,	James,	Rice,	Whiteaker,
Coffroth,	Johnston,	Robinson,	Williams, Thomas
Colerick,	Kenna,	Rothwell,	Willis,
Converse,	Ketcham,	Sawyer,	Wise.
Cook,	Kitchin,	Scales,	Wright.
Cravens,	Knott,	Singleton, James W.	

NOT VOTING—63.

Bachman,	Crowley,	Killinger,	Norcross,
Bailey,	Dick,	Kimmel,	O'Brien,
Baker,	Dwight,	Klotz,	Ross,
Ballou,	Einstein,	Lapham,	Singleton, O. R.
Belford,	Ewing,	Lay,	Smith, Hezekiah B.
Bland,	Hammond, John	Lounsbery,	Smith, William E.
Blount,	Harmer,	Mason,	Steele,
Bouck,	Harris, Benj. W.	McCook,	Urner,
Brewer,	Harris, John T.	McLane,	Van Voorhis,
Burrows,	Hazelton,	McMahon,	Wait,
Cabell,	Hooker,	Miller,	Wells,
Camp,	Horr,	Mills,	Wilber,
Chalmers,	House,	Money,	Wilson,
Clark, Alvah A.	Hubbell,	Morse,	Wood, Fernando
Cox,	Hurd,	Muller,	Young, Thomas L.
Crapo,	Joyce,	Murch,	

So the amendment of Mr. GARFIELD was agreed to.

During the call of the roll the following announcements were made:

Mr. STEELE. I am paired with Mr. NORCROSS, of Massachusetts. I do not know how he would vote if here.

Mr. KENNA. My colleague, Mr. WILSON, is absent on account of serious illness in his family, and is paired on all questions.

Mr. COVERT. My colleague, Mr. FERNANDO WOOD, is confined to his house by illness. My colleagues, Mr. MULLER and Mr. CAMP, are paired.

Mr. RICHMOND. My colleague, Mr. HARRIS, of Virginia, is paired with Mr. WAIT, of Connecticut.

Mr. HARRIS, of Massachusetts. I am paired with my colleague, Mr. MORSE. I also desire to announce that my colleague, Mr. CRAPO, is paired with Mr. ROSS, of New Jersey.

Mr. BAILEY. I am paired with my colleague, Mr. LOUNSBERY. If he were present, I should vote "no."

Mr. FARR. I desire to announce that Mr. MASON, of New York, is paired with Mr. BACHMAN, of Pennsylvania.

Mr. HARMER. I am paired with my colleague, Mr. KLOTZ. If he were present, I should vote "no."

The result of the vote was then announced as above stated.

The motion of Mr. ATKINS, as amended, was then agreed to.

Mr. PRICE. I move to reconsider the vote by which the motion was agreed to; and also move to lay the motion to reconsider on the table.

Mr. CLYMER. I hope the gentleman will not make that motion.

Mr. PRICE. I think we had better end this matter right here.

Mr. CLYMER. We may get through sooner than that.

Mr. PRICE. Well, I withdraw the motion.

The question recurred on the motion of Mr. ATKINS, that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill.

Mr. BUCKNER. I ask unanimous consent that from this time until the time fixed by the motion of the gentleman from Ohio [Mr. GARFIELD] for closing the debate the entire sessions of the House may be devoted to debate.

The SPEAKER. That would cut off the morning hour.

Mr. STEPHENS. I object.

The question was taken on Mr. ATKINS's motion; and it was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. KELLEY. Mr. Chairman, in disregard of the rules of rhetoric and in view of the uncertainties of congressional debate, I propose to begin my remarks with a statement of my conclusions.

I will vote for the repeal of the test oath for jurors, should that proposition come before the House as a separate measure. During the last Congress I advocated the repeal of the provisions requiring that oath, and I say now, as I said then, that they are exasperating incongruities in our law and should therefore be repealed.

I will vote for the repeal of the section under which soldiers are sent to the polls, as proposed by the gentleman from Ohio, [Mr. GARFIELD.] To vote for the provision as it stands in the bill before the House, which is as a novel provision in restraint of the use of the Army, would be an injustice to the republicans who passed it when war was flagrant and they had two-thirds in each House, and to the memory of Abraham Lincoln, the illustrious man who gave it his presidential sanction.

And I will vote as a separate proposition for the repeal of the provisions of law under which deputy marshals are sent to the polling places of the country. I believe that those provisions of law have been abused; I think I have seen them abused. The sections referred to were enacted when we were in war or during the process of reconstruction and when a majority of the former voters of some of the border States, at least of one of them, Missouri, were disfranchised by the constitution of the State. We are now at peace, the work of reconstruction has been completed, and they should in my judgment be repealed.

But, sir, I will not vote for the repeal or essential modification of the law authorizing the appointment and fixing the duties and powers of supervisors of elections. As I understand the original Constitution it vested the ultimate control of all elections relating to national offices in Congress, and I believe that a body which may control should supervise. The application of this law is not sectional, and is more needed in the great cities of the North where repeaters and personators can practice frauds with greater facility than elsewhere. It has so far as my observation has extended been fairly administered, and has in Philadelphia promoted purity of elections. It should remain upon the statute-book.

I listened yesterday with interest to the gentlemen from Alabama, Messrs. LEWIS and SAMFORD, and was reminded by their suggestions that on the 27th of February, 1866, I had made an elaborate argument in favor of the position I have just announced, in which I considered every phrase uttered in the convention for framing the Constitution of the United States, or in any of the State conventions for considering it, which were brought to the notice of the House by those gentlemen.

I will not detain the committee by reciting the mass of authorities I then adduced; but will say to gentlemen that if they feel disposed to examine it they will find it in volume 57 of the Congressional Globe, beginning with page 1057. I will, however, bring to the attention of the committee the reply of Mr. Madison in the convention of Virginia to the question propounded by Mr. Monroe, and the fiery declamation of Patrick Henry against the authority the Constitution, if adopted, would give Congress over elections. The calm, evidently well-considered, and deliberate statement of Mr. Madison in defense of the power, and the eloquent, though some may think it demagogical, denunciation of it by Patrick Henry, are alike arguments in support of my proposition. The following colloquy is found in the proceedings of the Virginia convention of the 13th of June, 1788:

Mr. Monroe wished that the honorable gentlemen who had been in the Federal convention would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators; and also why there was an exception as to the place of electing Senator.

In reply Mr. Madison said:

Mr. Chairman, the reason of the exception was, that if Congress should fix the place of choosing the Senators, it might compel the State Legislature to elect them in a different place from that of their usual sessions, which would produce some inconvenience and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution.

With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution.

And the proceedings for the 17th of the same month present this passage from Patrick Henry's speech:

Congress is to have a discretionary control over the time, place, and manner of elections. The Representatives are to be elected, consequently, when and where they please. As to the time and place, gentlemen have attempted to obviate the objection by saying that the time is to happen once in two years, and that the place is to be within a particular district or in the respective counties. But how will they obviate the danger of referring the manner of election to Congress? Those illumined genii may see that this may not endanger the rights of the people; but in my unenlightened understanding it appears plain and clear that it will impair the popular weight in the Government. Look at the Roman history. They had two ways of voting—the one by tribes and the other by centuries. By the former, numbers prevailed; in the latter, riches preponderated. According to the mode prescribed, Congress may tell you that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property without involving any repugnancy to the Constitution.

Fiery as was this declamation, it did not prevent the convention from ratifying the Constitution and vesting in Congress the power which Mr. Henry thought so dangerous.

But, Mr. Chairman, I will not vote for any of these provisions as riders on an appropriation bill; and, disclaiming all knowledge as to the purpose of the President, I say here and now that if the Army appropriation bill and the bill now before the House shall be sent to him in their present form and he, believing it to be his duty, shall veto them, I will sustain the veto.

If the President shall conscientiously disapprove of either of these bills it will be his duty to veto it. Turning to the Constitution of the United States I find the provision that where a bill having passed both Houses shall "be presented to the President of the United States, if he approve he shall sign it; but if not he shall return it with his objection to that House in which it shall have originated."

One of the gentlemen from Alabama yesterday made a distinction between the words "may" and "shall." The supreme court of my State has decided that in cases like this "may" means "shall." But if there is any difference in the mind of any gentleman as to the degree of force attaching to these words, here is the command of the Constitution expressed with the stronger term to the President to veto a bill which his judgment cannot approve.

But the provision of the Constitution touching the veto power does not stop here. It limits that power and shows when and how the Legislature may override the veto. Thus, after directing how a vetoed bill shall be reconsidered, it says:

If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

In view of these provisions of the Constitution I warn gentlemen that the party which attempts to override a veto by any other means than those thus provided will be trampled out of existence. The American people love the Constitution, and neither in the South nor in the North will they sustain action outside of the Constitution for subverting the powers of any of the departments of the Government. Ours is a government of constitutional checks and balances. Its framers wisely provided against rash, hasty, inconsiderate, or improvident legislation, and they made the veto subject to reversal by a vote of two-thirds of both Houses, one of the most important checks, and also made it the sworn duty of the President to exercise the power.

The action of Congress and the Executive under that Constitution can speedily, in the life of a nation at least speedily, be reviewed. Always within two years the people can review the action of Congress, and in less than that period from this date the executive department of the Government and Congress will both be in the hands of the people, who will, if a conflict of opinion between the two branches be disclosed, determine whether the veto was right or wrong. If right, they will give it the sanction of the sovereignty of the nation, and if wrong will send a Congress here who in conformity with the provisions of the Constitution will reverse the executive action.

On this question of riders on appropriation bills I wish to be explicit. I do not charge that putting extraneous and irrelevant provisions on appropriation bills is revolutionary. It is not; and such an assertion is preposterous. It is not unconstitutional, nor does it contravene any rule of either House of Congress. And if that which is vicious can be justified by precedent, this practice has been abundantly justified by the action of all parties from soon after the foundation of the Government. Especially have all parties found it convenient to resort to it when partisan leaders believed, as the leaders of *both* parties now seem to believe, that it was necessary to inflame the popular passions, and whenever private greed has demanded the enactment into law of provisions which could not be advocated upon their own merits as separate acts or provisions of law.

I have applauded the resort to this method of inflaming the passions of my countrymen, and I have had the advantage of the practice when it was resorted to for possibly baser purposes. I remember well when in 1847 that gallant young democrat from Northern Pennsylvania sought to stay the spread of slavery into the free Territories by appending to an appropriation bill the proviso which has made the name of David Wilmot immortal. The hot blood of young and vigorous manhood then coursed my veins, and my enthusiasm was aroused to the utmost degree. I had then had no legislative experience. I abhorred slavery. I worshiped freedom. While yet a youth I had dreamed of better social conditions than existed, and had engaged in movements for the improvement of the laboring classes, and would have defended the freedom of the Territories and made them sacred to free labor at the cost of my life. The Wilmot proviso became my shibboleth. But now, when less than five rapidly flowing years lie between me and the allotted three score years and ten; when I have had eighteen years of legislative experience in this Hall, I see that it is never wise to appeal to the passions of a great, free, intelligent, and widespread people such as make up the constituency of this House. The story of our late terrible war is a protest against such appeals, of which it was the outcome.

Again I lauded the practice when, on the 18th of August, 1856, the republicans of this House, (for by that time the men who as free-soilers had sustained David Wilmot had organized the republican party,) by insisting upon a rider on the Army appropriation bill, compelled an adjournment without day. Congress was reconvened upon the call of the President, and met on the 21st. But the country rang, and the people were influenced by their passions more largely than by their reason. Again, sir, gentlemen will remember that it was upon the legislative, executive, and judicial appropriation bill, in 1872 I think, or thereabout, perhaps 1871.

Mr. CARLISLE. On the sundry civil bill.

Mr. KELLEY. No; I am going to speak of the other bill and what happened in 1871. Some unseen power in the Senate forced upon the bill I have named a provision which had been defeated over and over and over again in this House. It got upon the bill without anybody being responsible for it. It came back to us in the last hours of the session in the report of a conference committee, and all the gentlemen who were then members of the House know with what profound regret each one of us voted himself nearly $5,000, which previous law had not given us, and which with extreme reluctance we made it possible to take. But the report was from a conference committee, the session would soon close, and we adopted the report, salary-grab and all, rather than that the next $4 or $8 or $12 should not be paid the pensioners on regular quarter day.

The whole system of putting such riders on bills is, as I have said, vicious and ought to be abandoned. But it is not revolutionary. And the gentleman from Ohio, [Mr. GARFIELD,] whose speech lies before me, under the title of "Revolution in Congress," has experienced a thorough revolution in opinion since the 8th of June, 1872, if he now believes the practice to be revolutionary.

Mr. GARFIELD. Will the gentleman allow me to correct him? I had supposed that there was nobody in this House who at this late day would say that I had ever asserted that it was revolutionary to put a rider on an appropriation bill. I never said so in my life. It is not in any printed, written, or spoken remarks that I ever made; and I suppose the gentleman from Pennsylvania in his mere iteration of such a charge, which is entirely foundationless, is obliged to take it up second-hand. I disclaimed absolutely such a view over and over again in the speech to which the gentleman refers.

Mr. TOWNSHEND, of Illinois. The gentleman had better take back the speech that he made on the Army bill.

Mr. GARFIELD. I never said it in any speech.

Mr. KELLEY. I do not take up my statement at second-hand, and I repeat that if the gentleman does so believe he has reversed his opinion on the question. The gentleman shall speak for himself in language which he used in my time; there shall be no misapprehension between us on this point. I say that on the 8th of June, 1872, the gentleman asserted that for a minority in the House to resist such legislation by parliamentary tactics was to work congressional revolution; and I say further that he found so many of the members of his own party unite with the minority in the House that he learned that it was not solid republican doctrine, at that day, to call such legislative methods "revolutionary."

On page 4439 of volume 91 of the Globe will be found what the gentleman then said in time which I had yielded to him. Anticipating a portion of his recent speech, he said:

> Mr. Speaker, a question has therefore arisen in its importance far above any item in this bill, and even above the whole bill, and it is simply this: shall the majority of the members of this House have the right to consider and act upon a great appropriation bill in the mode provided in the rules? The moment a minority, however large, deny that proposition, that moment we are in the midst of a parliamentary revolution, and legislation of any sort is impossible forevermore until that position be utterly abandoned. In 1861 a large body of men in eleven States of this Union said that a majority of the American people might elect a President provided they did not elect Abraham Lincoln, but if a majority of the voters at the polls chose to elect Abraham Lincoln, then they, the minority, would break this Government in pieces, and Lincoln should never be President of this Republic. There was a revolution against the right of the majority to elect a President; four years of bloody war followed to vindicate the right of the majority to govern.

Again:

> But when the proposition is to proceed according to parliamentary law to consider and to debate, then when the minority undertakes to say that that thing shall not be done, it is simply an end of parliamentary government; it is a plain denial of the right to the majority of the American people to make laws, speaking through the majority of their Representatives.

I find the following brief colloquy on page 4422:

> Mr. KELLEY. The gentleman from Ohio appealed to the House to sustain the bill in order to avert a parliamentary revolution. Why, sir, I have but stated the proximate reason for my action, but the underlying and supreme reason was the desire on my part to avert a parliamentary revolution.
>
> Mr. GARFIELD, of Ohio. I did not say it was necessary to sustain this bill, but I said to act on this bill.

There was then no exception to the phrase "parliamentary revolution." We either had to act on the bill or there would be parliamentary revolution, although the minority could defeat, and were proceeding, when I interposed my peace proposition, to prevent action on the bill by methods within the rules of the House and which have frequently been resorted to by both parties. We did, however, on my motion act on the bill, and recommitted the report to the committee of conference that it might be brought more nearly into harmony with the general opinion of the House. And the session was, on my motion, prolonged from twelve to six o'clock, that that committee might have time to confer and report.

Responding to the remark from the gentleman that to prevent parliamentary revolution it was necessary to act on the bill, I proceeded to say:

> Very well, to act on the bill. I accept the gentleman's phraseology and thank him for the correction. Sir, parliamentary or other revolution is not likely to spring from imperfections in the rules of the House, nor am I of the belief that the rule of which he complains, that which secures the right of a numerous minority to defend its opinions, is an objectionable or dangerous one. During the eleven years I have had the honor of a seat in this House I have often felt that this reserved right of the minority was exercised in an improper manner; but I have always felt that, being here in a minority, I would also do what I have always honored the distinguished gentleman from Ohio [Mr. Bingham] who has just addressed the House for having done in the Thirty-fifth Congress. When, sir, it was attempted to control appropriations by refusing to put a proper restraining clause in an appropriation bill there was just such action by the republican minority, of which he was then an honored member. Whether it was right or not, for thirty-six hours the republican minority held the democratic majority in check and went to the country on the issue. That action did much to secure to the republican party the magnificent results of the following October and November elections. The country approved the action of the heroic republican filibusters who had held in check and defeated the powerful democratic majority.
>
> Sir, an inconsiderable minority have no power to control legislation. A vote of two-thirds will pass a bill on any Monday, or at any time within ten days of a final adjournment. Moreover, if the rule be an unwise one, it is within the control of the House, and we can alter it. The danger of parliamentary revolution comes not from this cause, but from quite another quarter, and that is from the absorption of all the powers of the Government by the Senate. That is the weak point in our Constitution and our Government, and never was it more glaringly demonstrated than during the present Congress. I pause not to allude to its ceaseless encroachments on the functions of the executive department of the Government, and will refer but briefly to facts within the knowledge of every member. The originating of revenue measures was confided to the House of Representatives by the Constitution; yet when we assembled here we were met by a revenue measure which had been prepared during the recess by a special committee of the Senate. It was soon sent to us for our acceptance. The House, which is charged with raising revenue and making appropriations for carrying on the Government, has always enjoyed the privilege of being the first to name the day for an adjournment. The Senate, however, long before our business was well shaped and before it was known what exigencies might arise, assumed the conceded functions of this House, and sent us a formal intimation as to the time at which it would, in its judgment, be convenient and agreeable for us to adjourn.
>
> And now, sir, when we come to act upon an important appropriation bill for the support of the Government, what do we find? The Senate meets us with the intimation that we may designate necessary appropriations, but we must yield our convictions on other points not germane to such a bill or they will prevent our bill from becoming a law. There is where the danger of revolution lies. And, sir, I may say that while my opposition to this measure is manifested as it is at this time by reason of my commitments of an honorable character to gentlemen on the other side, there is lying behind it the conviction that this method of passing any law, whatever the merits of the measure may be, is dangerous, and one for which the republican party ought not to make itself responsible. Therefore, I hope that this report will be recommitted; and on my motion to recommit I call the previous question.

Mr. Chairman, let me say again that such legislation is vicious and that the increasing frequency with which it has been resorted to dur-

ing the last four years has deprived this House of all claim to the title of "a deliberative body." We may amuse ourselves with deliberating about a refrigerating ship or about the transit of Venus or the prevention of the spread of the cattle plague, but when it comes to passing great appropriation bills we must discuss their original provisions and proposed amendments thereto in five-minute debate, and ultimately in the last day or the last hours, or last minutes it may be, of a session we must pass them without knowing what is in them unless we have been able to do what no human being can do—note and remember all amendments made in either House and know them by the numbers given them in the conference report which we are then to hear for the first time.

I affirm, Mr. Chairman, without the fear of successful contradiction, that in the important legislation of the country the great body of the members of this House and the Senate do little else than register the decrees of four or six gentlemen, chosen in equal numbers from the two Houses, who constitute a committee of conference or a majority of such a committee; and no member leaves a session of the American Congress knowing, even in a general way, what he has voted for or against in the reports of the committees of conference to which all appropriations and many other important bills now go.

In view of these circumstances and of the recent absorption to itself under modified rules of all subjects of legislation by the Committee on Appropriations, let me ask what is the real condition of the country? Who makes its laws, and are they put on final passage after free and general discussion?

The House in Committee of the Whole is considering an appropriation bill under the five-minute rule and suddenly there is moved an amendment proposing to transfer the care of the Indians from the Interior to the War Department, or to provide for the reorganization of the Army, or to make any other fundamental change in the bureaus and departments of the Government. The amendment is not printed. The only chance for members to learn what it proposes is to listen while the Clerk reads and the five minutes allowed him who may get the floor for discussion are probably consumed in an effort to ascertain from its author an idea of what some clause or section means.

It is idle to criticise these unwholesome methods of legislating unless a remedy be proposed, and in this connection I promise that at the opening of what should have been the first session of this Congress, to suggest remedies for some of these evils by submitting two propositions for consideration as amendments to the Constitution. One will provide that laws on no two subjects shall be embraced in the same act. The other will propose to give the Executive the right to veto particular provisions in an appropriation bill, and yet to approve the other provisions of the bill and let so much of it become a law. With these two provisions in the Constitution I believe Congress would become a deliberative body, whose members would be, as they now are not, each in his degree responsible for the action of the House. And I further believe that the people would then come to understand what their representatives were doing and would be allowed to pursue the ordinary avocations of life without such appeals to their fears and passions as are now being made by partisan leaders here and elsewhere.

I have no fear of another attempt at revolution or of a failure of our institutions. I am by nature an optimist. My faith in the capacity for self-government of a people as enlightened and energetic as are the American people is absolute, and I believe such agitations as that now being attempted will awaken them to the importance of such constitutional remedies as I have suggested. This done, their early adoption would be assured.

We are improving our institutions. They are not perfect, but they are better than they were eighteen years ago. No slave can now breathe our air. And, sir, permit me to remark, and I use the language of the day, meaning no offense to any gentleman to whom the term applies, that there is not a "confederate brigadier" on this floor who does not firmly believe that slavery was a curse equally to master and to man and that the South is well rid of it even at the terrible cost at which its riddance was accomplished. It has, however, left rankling memories behind it on both sides of the old dividing line that are food for the agitator. Constitutional amendments nor statutory provisions can remove them. It is not wonderful that he who was a petty baron upon his plantation, owning his retainers, should be unwilling to recognize them at once as social or political equals, and I need but recall my own struggles and those of my colaborers in the free-soil and republican parties to learn that with them and me there are surviving prejudices and passions which often control us unconsciously to ourselves.

As I have said, sir, legislation or constitutional provisions cannot eradicate these memories, prejudices, and passions. But, in the name of society we may devoutly thank God that there are agents that will efface them. Time ripens generations, and death gathers them into his silent fold, and in a little while there will be gentlemen on this floor who will have known neither the social influence of slavery nor the passions engendered by the struggle for its overthrow. Then the country may hope for wiser and more temperate counsels; but until then we must expect to encounter distrust and suspicion, and to be involved at times in impassioned controversy. Meanwhile such amendments as I have suggested will conserve the peace of the country; and, more than that, they will purify this Capitol of the swarms of tempters of both sexes that throng the corridors when appropriation bills upon which jobs are proposed to be put are under consideration.

Mr. Chairman, as I listened to the brilliant oratorical display elicited by the Army bill, I could not join in the applause so boisterously bestowed on either side. I did not laugh as so many others did, because I could not. It was the most impassioned and brilliant display of the kind I had ever witnessed, and yet as I recall it now there comes to my mind but one gentleman on each side of the House, Mr. ROBESON, of New Jersey, and Mr. CARLISLE, of Kentucky, who seemed to desire to discuss only the legal aspects of the case and to rest his reputation on such discussion. As I heard the inflammatory appeals of gentlemen, and the responses they elicited from the floor and galleries, I felicitated myself that I was not responsible for this extra session, nor by word or act had promoted the intemperate tone in which response had been made to those who had precipitated the session upon the country.

So far as I might, from my party position, argue with and persuade gentlemen in the majority during the last Congress, I put forth my best efforts to avert this session. And my plan of meeting the announcement that the majority had burned their bridges, and the utterance of other martial phrases, indicating that a declaration of war was to be made, would have been to quietly present the legal and constitutional propositions involved as coldly as they could be stated. No other response would considerate patriotism have offered to these inflammatory declarations. Had this course been pursued, it would have checked rather than inflamed the passions on the other side. To have quietly said through our leader, "There is the law and there the constitutional provisions applicable to the case, gentlemen, and we have no wordy war to make. You can pass the bill, and the President may approve it. For that we will not be responsible. But he may veto it. And if then, upon a reconsideration of the bill, you go beyond the limits prescribed by the Constitution, the consequences, North and South, will be upon you and your party."

But the debate has taken its course, and I say to gentlemen on the other side of the House that they have but to adjourn upon a veto, leaving the light-houses on our coasts, and the courts, and all the machinery of the Government dependent upon these bills unused, and incapable of use, to make the North as solid as it was from 1861 to 1865. It will, irrespective of party, stand by the Constitution as it stood by it when it was being administered for the preservation and maintenance of the life of the nation and the unity of the country.

Nor are you, permit me to remind you, sure of a solid South in support of an unconstitutional measure. Your South is not solid to-day. There are three southern republicans here. Of what you deride as the center, one comes from Texas, one from Missouri, and one from Alabama, representing democratic districts. You have three independent democrats who beat the regular nominees of your party, and there are among you more than a score of gentlemen who, though enjoying the right to go into the democratic caucus, know that had they not successfully courted the greenback vote of their districts other men would have occupied the seats they now fill. No, sir, the South is not solid, and you have but to threaten to invoke war by invading the Constitution to find your party crumbling in the South as it would do in every Northern State of the Union.

I have no fear of war or threat of war. Behind us all lie the people, the depositary of all power, and they will see to it that if they have mistaken their man for this Congress they have mistaken him for the last time. Nay, they will see to it that their voice in this Hall shall be uttered in favor of reilluming the lights along the coast, of setting the courts and mints in motion, of opening the national Library, and setting the Government in all its branches in vital motion again.

Sir, our country is filled with discontent and murmuring. Capital finds no profit and seeks shelter in the vaults of the Treasury at 4 per cent. per annum; while labor, ill-requited when employed, wanders over the country seeking work at any wages. The country needs repose. Nothing could be more baneful to it at this time than agitation. Yet such has been the course of debate in this session that wounds that had cicatrized are bleeding afresh, and passions that slumbered and seemed to have died are blazing with the brilliancy of mid war. It is not a healthful condition for Congress to have brought a suffering people to, and gentlemen, come from what section they may, who fan these flames may find an indignant constituency ready to call them to account and denounce them as unfaithful servants.

In a recent article on Canadian affairs Goldwin Smith said, "Party without great questions is faction, and faction if it is not checked will before long bring calamity upon the country." What are the questions which this Congress proposes to propound as the issue for the presidential contest which it proposes to precipitate upon the people a whole year before the usual time? I mean no disrespect to gentlemen upon either side when I tell them that a nation cannot grow and fatten on hate. A nation cannot prosper in the midst of impassioned agitation. Nor in a great country like this can you prevent party degenerating into faction when you propose to entertain the people for two years on the bootless question as to which is the blacker, the democratic pot or the republican kettle. No, the minds of the people will not be interested in such questions. They believe that the eyes of party leaders should not be in the back of the head. Hope points them to the future. They are feeling the pressure of unusual want. They are asking for relief. In the presence of abundant harvests

they find themselves passing year by year, month by month, day by day, from comfort and decent homes to want and vagrancy; and you can feed them into contentment on no such breathings of the east wind as have been indulged in these Halls during this session. The period is one full of instruction and one which will mark an epoch in the history of mankind.

Not alone do our people suffer. No, sir; the suffering is world-wide and under diverse conditions, which if properly studied would be marvelously instructive to legislators. Look at the condition of our country, of Germany, and of England, and contrast it with that of France and Italy. Free trade, gold-using England, the workshop of the world, the mistress of the sea, the nation whose ships do the general carrying trade of the world, and by the folly of many nations also enter into their local coastwise trade as there are gentlemen who would have them do in our country—where is she in the race for future supremacy?

Ernst Seyd, the ablest statistician in that country, tells us that from the demonetization of silver by Germany she has lost one thousand millions of dollars of her accumulated capital in three years, and is losing in a larger ratio this year than ever before. Her factories and mines are closed. Such is her immense wealth that her land is in parks and game preserves for the sport of the aristocracy and the gentry. She looks to us and other nations for most of her food.

Turn from her to Germany. In 1872 she seized the most valuable provinces of France and assessed upon her a war fine and costs that the world believed would bankrupt France. Yet where is she? Why, she adopted the British fetish and fell down and worshiped it; she banished her silver money and established a gold coinage; she opened her ports to free trade, and her condition is now, if possible, worse than that of England.

What are the causes of these conditions? But look at France, though she was stripped of her most valuable provinces and doomed to pay the fine and war charges to which I have alluded, she is proceeding to build up and cement a republic; is keeping her people employed and has engaged in the largest extension of public improvements she has ever undertaken at one time, and is, in her exceptionally prosperous condition, an example to the world.

Go from France to Italy, a nation that does not talk of gold money; that is struggling to substitute for a depreciated paper currency silver coin. How do you find her? England's commerce is prostrated, the commerce of Germany is prostrated, our own vessels are carrying cargoes but one way when they cross the Atlantic. Yet we find the foreign trade of Italy growing more rapidly than that of any other nation in the world.

Here are grand and instructive examples lying before us. Here are questions for the discussion of which the people hunger, and yet by the resort to parliamentary movements the leaders of both parties refuse to discuss these questions or to permit others to discuss them. These leaders have engaged in what the French call the "conspiracy of silence," and hope to suppress the aspirations of the people by refusing to notice them.

Gentlemen, that cannot be done. Ours is an earnest people. The "center" of this body, as you sneeringly call it, consisting of fifteen members, may be all wrong in every proposition they entertain, why not then let them state those propositions and show the people how foolish they are? Why not in the field of open and fair debate demonstrate the ignorance, the folly of those who say that industrial relief can be given by wiser and more conservative financial measures? No, gentlemen, the question as to the vessel of which party has been the blacker in the past will not satisfy the American people now and in the immediate future.

The eloquent gentleman from Kentucky [Mr. BLACKBURN] who now occupies the chair, and who always speaks with emphasis, said in the course of his speech:

> We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which, like these, were born of the passions incident to civil strife, and looked alone to the abridgment of the liberties of the citizen.

The gentleman from Ohio, [Mr. GARFIELD,] in a speech he made preceding that of the gentleman from Kentucky, said:

> You turn down one leaf in 1861 and you propose to open a second chapter at the same place.

I couple these two sayings to mark their absurdity—if they mean anything or were intended to mean anything except plausible appeals to popular passion.

Suppose that all the laws passed by Congress during the last eighteen years except those to provide specially for the maintenance in the simplest manner of the Government, the collection of the revenue and the maintenance of the national credit, were stricken from the statute-books; how far back would that act turn the hands on the dial of time? Suppose the work accomplished, will it restore the past? Will it become dangerous, as it was in 1856, for me to make a republican speech in the old fourth congressional district which I have so long represented? Will the people in one section of that district, in their mad devotion to slavery in the South, stone me and my auditors as they then did? Will fires be kindled under the platform from which I would speak and drugs be thrown upon them which in burning emitted odors of such deadly pungency as to cause the meeting to disperse as a whirlwind would dispel a floating line of smoke? Will they welcome me with eggs again in the ward in which my home stands? No! No! Nor would the repeal deprive the colored citizens of Pennsylvania, as did the democratic party in 1838, of their right of suffrage enjoyed from the foundation of the Government till then, or exclude them from the means of public personal transportation. Do you believe it would restore the past in the South and require each fleeing negro to get a pass before he leaves the plantation, and make it a penalty for any conductor or other transporter of persons to give him passage upon the through lines of railroad North and South which are sustained by the fraternal and commercial intercourse that has grown up between the two sections since the war?

Gentlemen may not remember that when the confederacy was established it had not railroads that would connect its States with its capitol at Richmond, and that to supply the broken space of seventy miles from a point in North Carolina to Danville, Virginia, the confederate government had to tear up lateral roads to get the iron with which to make a continuous line. You now have such lines in the East and West, and the commerce of social intercourse and the commerce of trade traverse them and make them profitable to their owners.

No; strike out these statutes, and the gentleman from Kentucky need not hope nor the gentleman from Ohio fear that 1861 will return. God's providence moves not backward; this world moves onward; the spirit of man advances.

Though the republican party, legislating as it often did under the excitement of war and under the doctrine that the public welfare is the supreme law of the land, may have done unwise things, may have made great mistakes—it doubtless did. According to my judgment, as you will find it expressed in the Globe of the day, its work of reconstruction began a few years too soon; it was, as I judge from its results, not wisely done, as well as done prematurely—yet that party has made a record which will live in honor as long as man marks great eras in history.

"Better fifty years of Europe than a cycle of Cathay," said a poet. Better for humanity twenty years such as the republican party has guided us through than even the best hundred years of European history. It has done more for the advancement of man; it has opened more acres to culture; it has opened more mines, more water-ways; it has obliterated more of prejudice; and while doing this and more in the same direction it has educated and trained the freed slave in schools and colleges and workshops till he walks a man in the presence of his offspring, and the rising generation springing from the loins of ex-slaves will in the long future know only the traditions and the impulses of American freemen.

If there are gentlemen on this floor on either side of the House looking to reactionary movements, and if they believe that such reaction as I have been alluding to can come, they had better abandon their faith. I have stood on the banks of the Mississippi and the Niagara; and as their great floods passed by have seen back eddies produced by the shape of the shores in which the water continues to flow back and back; but the great tide swept onward and carried commerce and man with it to the ocean and the lake.

So is it with the new-born political sentiments and intelligence of the day. The poor white and the freed black of the South, the people of the world have caught the impulse given by the results of the republican rule during and since our great war, and permanent reaction is impossible. Political motives will not control the people when personal necessities are pressing upon them. They feel the latter; the others are but things of luxury for seasons of repose. Sentimental politics are less potent than economic consideration with a free people.

If we will, instead of striving on both sides to promote political agitation, turn our thoughts to the condition of our country, study the great lessons that France, Italy, Germany, and England expose to our view, strive to reanimate the industries of the country, to enable capital invested in productive pursuits to earn more than 4 per cent.; if we will give labor to the people so that with their wages they may consume the products and pay the wages of each other, we may be able to reduce that debt the existence of which by offering better terms than private enterprise can earn is absorbing and locking in the vaults of the Treasury what should be the life-blood of trade and production. We can thus give content to the people and enable them to reduce that debt out of their surplus profits as rapidly as they were doing when Hugh McCulloch began the infernal work of retiring legal-tender money and driving the enterprise of the country to banks for accommodation at unholy rates of interest. To this end let us arrest political agitation.

[During the remarks of Mr. KELLEY the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLISLE. I ask that the time of the gentleman from Pennsylvania [Mr. KELLEY] be extended.

Mr. KELLEY. I think I am nearly through. I would be very grateful to the committee for a short extension of the time.

Mr. PRICE. How long a time does the gentleman desire? I know it is a thankless office for any gentleman to object to time being extended; but to-day we have had a fight for half an hour upon this floor as to when this debate shall close. There are fifty members upon this floor desiring to speak who have not yet said a word upon this bill, and who will be cut off from all opportunity to be heard at all events.

Mr. KELLEY. Very well, then; I will acquiesce in the gentleman's decision.

Mr. PRICE. We are presumed all to be upon an equality here. If five or ten minutes will be sufficient for the gentleman, I will not object.

Mr. KELLEY. I have said that I am nearly through. A man speaking from skeleton notes cannot speak to the minute.

Mr. SPEER. I hope the gentleman from Iowa [Mr. PRICE] will withdraw his objection, as we are all anxious to hear the conclusion of the remarks of the gentleman from Pennsylvania, [Mr. KELLEY.]

The CHAIRMAN. Will the gentleman from Kentucky [Mr. CARLISLE] indicate what additional time shall be given?

Mr. CARLISLE. Any reasonable time.

The CHAIRMAN. If no limit is fixed, the extension will be for an hour.

Mr. CARLISLE. I will say fifteen minutes.

Mr. PRICE. Will ten minutes be sufficient? I mean no disrespect to the gentleman.

Mr. KELLEY. I know that.

Mr. TUCKER. Make it fifteen minutes.

Mr. PRICE. I have no objection.

There being no objection, the time of Mr. KELLEY was extended for fifteen minutes.

Mr. KELLEY. I thank the committee for their courtesy.

[The remarks were concluded as above.]

Mr. KELLEY. In deference to the gentleman from Iowa, I thus cut short my remarks.

Mr. PRICE. I do not think that remark is called for. I merely suggested what every gentleman on this floor knows to be the fact, that we are presumed to be equals on this floor, and if we interfere with the rights and privileges of any others we ought to have unanimous consent. It is very well known to this House that I am not a chronic objector—am very seldom on my feet here.

Mr. CARLISLE. Mr. Chairman, I shall discuss the questions now under consideration in the committee, so far as I shall discuss them at all, in no mere partisan spirit, and yet it may be necessary for me to state some facts and submit some conclusions not strictly of a non-partisan character.

The first question which presents itself relates to the form of the proposed legislation and the method by which it is sought to be accomplished. So much has already been said on this subject that I shall treat it very briefly. Whatever the gentleman from Pennsylvania who has just spoken [Mr. KELLEY] and others may think as to the propriety of incorporating substantive legislation into appropriation bills, no one of them can deny that it has been so frequently done during the last quarter of a century as to have become the rule rather than the exception. Twenty-four years ago this House incorporated into the consular and diplomatic appropriation bill—the most inappropriate place that could be imagined—a complete revision of all the tariff laws of this country, and sent it to the Senate. That provision was struck out in that body after a long debate, not because of the form in which it came, but because of objections to the substance of the legislation itself. And it is entirely safe to say that, at least since 1861, almost every general appropriation bill passed by Congress has contained provisions—and in many instances most important provisions—repealing old laws or enacting new ones; and this has been sanctioned by both political parties. Occasionally protests have been made, as they are made on this occasion; but in no instance, so far as I am aware, has such a protest been effectual.

During the long domination of the republican party in this House political legislation of the most important character was constantly enacted in these bills, and a part of the very laws which we now seek to repeal were passed in the sundry civil appropriation bill approved June 10, 1872. The very last legislative, executive, and judicial appropriation bill passed in Congress during the time it was under the control of that party contained a provision under which every gentleman from the State of Iowa to-day claims and holds his seat upon this floor. It is a very brief provision, and I will read it:

> That section 25 of the Revised Statutes, prescribing the time for holding elections for Representatives in Congress, is hereby modified so as not to apply to any State that has not yet changed its day of election and whose constitution must be amended in order to effect a change in the day of the election of State officers in said State.

And the very next section in the bill is one providing for the removal of suits from the State courts to United States courts in certain cases. But, Mr. Chairman, I need not stop to cite precedents or make an argument to show the existence of the right to resort to such methods of legislation. That the practice has been established, and that the right exists, is admitted by gentlemen on the other side; but they charge that it is revolutionary to exercise the right in this particular instance, because it is known or assumed that the proposed legislation does not meet the approval of the Executive. It seems to me that this places the gentlemen in a far worse position before this House and before the country than if they had taken the bold and manly ground that all the precedents established by themselves were wrong, and that the right to legislate in this form does not exist. To say that the practice has been established during a long series of years by both political parties, and that the right does in fact exist, but that it is revolutionary to exercise the right in any instance where it does not happen to meet the approval of the President, is to say that he is the master of the people's representatives, and that we ought to abandon an admitted practice and to surrender an acknowledged right at his dictation. It is admitted that it is neither unconstitutional nor revolutionary simply to repeal these laws; but it is charged that it is both unconstitutional and revolutionary to attempt to repeal them in a manner the Executive does not like. One gentleman, at least—the gentleman from Maine, [Mr. FRYE]—has been candid enough to declare on this floor, amid the applause of his political friends, that we shall not repeal these election laws until, in some manner, the present Executive has been removed from office. Here is the exact language of the gentleman, as reported in the official debates:

> You have not repealed the law affording protection to the voter at the polls yet. You have not repealed the election laws yet; and you will not repeal them until you have removed the present Executive from his chair. [Applause.]

Sir, this presents a square issue from which we, as the representatives of a majority of the people, cannot shrink without dishonoring ourselves and degrading our constituencies.

If there had previously been a doubt as to the propriety of the course we have adopted, that declaration and its indorsement by the party of the Executive on this floor, ought to have dissipated it. It has dissipated it; and I believe that to-day we stand as thoroughly united in our determination to assert the supremacy of the popular will, under the constitution, and to redress popular grievances by lawful means, as any body of men have ever stood since our race first began its struggle for free government and individual liberty. First we are told by one gentleman, standing high in the councils of his party, that we will not be permitted to repeal these objectionable laws in the form now proposed; and then another, with equal authority to speak, emphatically announces that we shall not repeal them at all in any form. Under such circumstances as these what difference does it make to us, or to the people whom we represent, whether the British House of Commons has attached legislation to supply bills during the last two centuries? We represent American citizens, not British subjects. We are dealing with an American President, not a British King. The Executive in this country has no prerogative in the monarchical sense of the term; he has only certain powers conferred upon him by a written constitution and by statute; but when he threatens to abuse those powers, if he should ever make such a threat, for the purpose of defeating legislation admitted to be deliberate, constitutional, and not impairing his rightful authority, all the means which the House of Commons in England was justifiable in using to prevent an abuse of the King's prerogative, we are equally justifiable in employing here.

It is true, Mr. Chairman, that for nearly two hundred years the practice of "tacking" on supply bills, or accompanying such bills with petitions for the redress of grievances, has not been resorted to in England, but the House of Commons, to which alone that right belongs, has never by any act or declaration abandoned or surrendered it. And I beg to remind gentlemen of another historical fact, equally pertinent to this discussion, which is, that for nearly the same length of time the veto power has not been exercised in England. Since 1707, when the Queen vetoed the Scotch militia bill, no British sovereign has vetoed an act of the British Parliament. It is in fact the veto power that has died in that country. It could not live in the presence of that great principle of the British constitution which dissolves the ministry in every conflict between the Crown and the Commons. The executive power there is directed by a cabinet of ministers and not by the King, and in the whole world there is not to be found a body of men in authority more sensitive to the popular will than they are. In the face of a vote of want of confidence, or an adverse vote on an important government measure, they disappear as if they had been smitten by the arm of Omnipotence itself.

Any soveriegn who should now attempt to retain a ministry in opposition to the will of the Commons, or to persist in any important measure of government which did not meet their approval, would certainly imperil the peace of the kingdom, if he did not lose his crown. But my eloquent and learned friend from Virginia [Mr. TUCKER] has so fully and clearly stated the character of the British government in this respect that nothing can be usefully added to what he has said.

We are told, however, that the grievance of which we complain is a law upon the statute-book; from which I suppose the inference is to be drawn that it is not a grievance for which the Executive is responsible, and therefore we have no right to make its redress a condition upon which we grant supplies of money to be expended by that department of the government. This statement omits the important and controlling fact, that the statute of which we complain is one which authorizes the Executive to send thousands of his subordinate officers to the polls to interfere with our elections as members of this House; and it is a just cause of complaint against him that he insists upon maintaining and exercising such a dangerous and unconstitutional power. The exclusive power to originate money bills—which include appropriation bills—belongs under the constitution to this body. This gives us the right, and makes it our duty, to determine when, under what circumstances, for what purposes, and to what amount we will propose the appropriation of the people's money. If we have not this right, if this is not our duty, if Congress is a mere machine to be set in motion by the hand of the Executive to grind out such appropriations as may be recommended, then we are

clearly wrong in this controversy and the gentlemen on the other side are right. But if the constitution has conferred this power upon us, we are not wrong unless we abuse it, and for that we are responsible, not to the Executive, not to the minority here on this floor, but to the people who sent us here. Upon all questions of this character they are the exclusive and final judges. A great writer upon institutional law has said:

Whenever a question arises between the society at large and any magistrate vested with powers originally delegated by that society it must be decided by that society itself. There is not upon earth any other tribunal to resort to.

If unfortunately this proposed legislation shall fail by reason of an irreconcilable difference of opinion between the executive and legislative departments of the government, both must appeal to the original source of their power and abide the result. If it is revolutionary to join in this appeal rather than surrender our conscientious convictions upon a subject vitally affecting our own privileges and the liberties of our constituents, the country will rebuke us and we will be compelled to bow in submission to its judgment.

Now, sir, let us see whether these laws are of such a character as to justify us in taking the position we have in demanding their repeal. I will endeavor to show, Mr. Chairman, as briefly as the nature of the subject will permit, that they are so opposed to the spirit of our institutions, so repugnant to the constitution itself, and so oppressive upon the people that we are justifiable in declaring that we will not make this appropriation except upon the condition that they are removed from the statute-book.

It is my purpose to discuss to-day only that part of the pending bill which relates to the repeal of what are known as the election laws. As to those provisions of the existing law which exclude from the jury-boxes in the courts of the United States all those who are unable to take a certain test oath, they are so manifestly inconsistent with the English and American systems of jurisprudence and so fatal to the due administration of justice between man and man and between the government and its people, that I cannot persuade myself that any considerable number of gentlemen here or elsewhere will undertake to defend them. The gentleman from Pennsylvania [Mr. KELLEY] characterizes these provisions very mildly indeed when he says they constitute "an exasperating incongruity in our law."

As to those laws which relate to the elections, they are based upon the assumption that in the present condition of the country it is constitutional, wise, and necessary to clothe the Executive with authority to interfere with and control the election of members to this House, and I shall deal with them as laws enacted and maintained for that purpose.

This is no sectional question; and it ought not to be even a party question. It is a question of vital interest to every friend of constitutional liberty and to every lover of free parliamentary government throughout the whole country. It is a question which affects the people of the North more than the people of the South. According to the census of 1870 there were sixty-nine cities in the Union to which the most offensive and objectionable parts of these laws are applicable, fifty-five of them in the North and fourteen of them in the South. The fifty-five in the North contained a population of nearly five millions of souls, while the fourteen in the South contained only a little over one million and two hundred thousand. If we look at the expenditures we will find that more than five times as much money was disbursed in the years 1876 and 1878 to pay for the services of supervisors and special deputy marshals of elections in the Northern States as in the Southern States. The whole expenditure in 1876 was $275,296.60, of which the sum of $230,522 was paid for services in six Northern States, and only $44,774.60 for services in the South. In 1878 the whole sum expended was $202,291.09—so far as reported—and of this the sum of $177,652 was on account of services rendered by these officers at elections in the same six Northern States, and $24,639 in the whole South.

But, sir, I shall not go at length into that matter. I long to see the time come when the patriotism of our public men and the fraternal feelings of our people shall be broad enough to acknowledge but one boundary—the limits of this whole Union. [Applause.] If that time has not yet arrived, it is a consolation to me to know that I have never purposely said or done anything to postpone it.

Mr. Chairman, greater than all other questions affecting the constitution and organization of this House is the question whether this power of the Executive to interfere in the elections of its members shall be continued. If there be one principle in our federal system more valuable to the people than another it is that which was intended to secure the perfect independence of their representatives. This is the people's House; this is the only place in the councils of the Union where they speak and vote through representatives chosen directly by themselves. The right to choose their own representatives belongs, and ought to belong, to them exclusively. The power of the Executive, so far as it can legitimately affect the action of those representatives, must be exercised for the first time not only after the election but after the will of the people has been recorded here in the passage of bills. Under the constitution he may withhold his assent from our measures when they are sent to him in the regular way; but he cannot elect our members, or interfere with their elections, without a violation of every fundamental principle of free republican government and a subversion of our most cherished institutions.

He may not come into this hall and dictate the measures we shall pass or shall not pass; he may not, without the grossest indecency, even send his emissaries here to influence our deliberations either by threats of disapproval or by expressions of approbation; and yet it is contended that he ought to have the power to dictate our policy in advance by choosing the men who are to constitute our membership. Let the country understand distinctly what it is the gentlemen on the other side are contending for. They are not contending for free and fair elections; they are not contending for a pure ballot and a fair count, because these results can be better secured without executive interference than with it. They are contending for the power of the Executive to lay his hand upon the voter when he approaches the ballot-box to choose his representative, to bribe him with office, to intimidate him by threats of prosecution in distant and expensive tribunals, to seize the muniments of his title to suffrage, to arrest his person, and to confiscate his estate by the imposition of ruinous fines and forfeitures for technical offenses.

I am not one of those who would willingly obstruct the Executive in the exercise of any of his constitutional functions, or deprive him of any of his constitutional powers; but I am one of those who believe that every attempt to extend his authority beyond the limits prescribed in the constitution ought to be resisted by every lawful means at our command.

Sir, without these odious laws the influence of the executive department upon the politics of the country is almost irresistible. It commands the army and navy; it directs in a great measure the financial policy of the country; it disburses more than a hundred and fifty millions of dollars of the people's money every year in defraying the ordinary expenses of the government; it appoints all the judges of all the courts; it directs the execution of all the laws, and therefore controls all criminal and penal prosecutions; and it distributes among its adherents more than one hundred thousand offices and employments with emoluments amounting annually to many millions of dollars. These are vast powers; and when you add to them the authority given by these statutes to send thousands of subordinate executive officers to the polling places throughout the country, at every election for representatives, to judge of the qualifications of voters, to arrest them without warrant, and to deprive them of the right of suffrage for whatever the officer may choose to consider an offense, you have completed the full measure of executive power to control the organization and action of this House.

If any gentleman will reflect for a moment upon the peculiar and important functions performed by this body in the operations of the government, he cannot fail to realize the vast importance of preserving its perfect freedom and independence. Under the constitution we possess the sole power to originate bills to raise revenue by taxation upon the people, and to appropriate the public moneys. That money, when raised and appropriated, is to be disbursed by the executive department, which adds very largely to its power and influence over the people. Incidental to this, and necessarily involved in it, is the power of the House to determine whether there shall or shall not be an army and navy maintained at the public expense and commanded by the Executive. Under the constitution this House possesses the sole power to originate impeachments against the President himself and other officers of the United States; and in case of a failure to elect by the electoral colleges, this House, voting by States, has the sole power to choose the President. Here then are four great powers belonging exclusively to the House of Representatives, in the exercise of which the Executive may be directly affected either in his person or in his office.

If he can control the organization of this body by dictating the choice of its members generally, or by influencing the election of a sufficient number to hold the balance of power, he thereby controls its action on all these vital matters. He may determine, to a very large extent, the amount and form of taxation upon the people, and the amount and the objects for which appropriations shall be made; he may determine the size and organization of the army and navy, and the purposes for which they shall be used; he may prevent his own impeachment for the very corruptions which give him immunity, or secure the impeachment of a rival; and he may, in the contingency I have mentioned, provide for his own re-election to the executive office. It is not my purpose to elaborate these propositions. Their truth is too obvious to admit of argument, and the dangerous character of the power which the Executive would exercise in these instances is too apparent to require illustration. Do gentlemen on the other side seriously contemplate the permanent maintenance of a system of laws calculated to produce such results? Can it be possible that they place so low an estimate upon the intelligence of the people and so little reliance upon their virtue and love of liberty, as to suppose that they will ever rest satisfied until the stain of these odious enactments shall be effaced from the pages of the statute-book?

I submit to every gentleman whether this is or ought to be a mere party question; whether all the representatives of the people ought not to unite as one man and declare that laws which confer this extraordinary and dangerous power upon the Executive ought to be no longer continued upon the statute-book. If time would permit, Mr. Chairman, I would like to expose at length some of the methods by which this power has been executed; but the warning already given upon the floor this afternoon admonishes me that it will be necessary

to confine my remarks, if possible, within the limits prescribed by the rule.

Why, sir, one of the most serious complaints made against Charles the Second was that he exercised an undue influence over elections by means of sheriffs appointed by himself; but what are a few sheriffs in England compared with the myriads of supervisors and deputy marshals who may be appointed under this law by the executive department? In 1876 eleven thousand six hundred and fifteen special deputy marshals were appointed to attend the elections of the people, and in one instance at least as many as one hundred and fifty-five were stationed at a single polling place. Nearly six thousand supervisors were appointed to officiate at the same election. At a similar election in 1878 nearly five thousand special deputy marshals were appointed and over four thousand supervisors. Almost in every instance, at least so far as the deputy marshals were concerned, these officers were the partisans of the administration, and although they were paid for their services out of the common treasury of the people, it is a well-known fact that they contributed all in their power—and in some instances at least even to the extent of abusing their powers—to assist their party friends in choosing members of this House in political accord with the Executive. Nine of the cities to which these executive officers were sent elect twenty-seven representatives to this House every two years, a sufficient number under ordinary circumstances to control our action here upon all political matters; and yet these extraordinary laws apply to all the cities in the Union containing over twenty thousand inhabitants. It matters little to the people whether the interference in their elections is effected through the agency of the soldier with his musket or the marshal with his club. It is the interference itself, and not its mere form, of which they complain.

I cannot go into anything like a satisfactory discussion of the particular provisions contained in these statutes. It is sufficient to say generally that they authorize the appointment of special deputy marshals without limit as to number; that it is made their duty to attend the places of registration and the places of voting; to challenge any citizen whose qualifications they "may doubt," for that is the language of the statutes; and that they are authorized to arrest any citizen or any officer of a State government, with or without process, whenever they may think that the citizen or the officer has violated, or is about to violate, any law of the United States or any law of the State in relation to elections. They are sent there for the ostensible purpose of preserving what is called by the late Attorney-General "the peace of the United States;" to protect the voter before the election in his personal freedom, and to see that he is not molested before the election on account of any vote that he may be about to give, or after the election on account of any vote that he may have already given. The supervisors are authorized and empowered, by one of the sections which we now seek to repeal, to "personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot or in whatever box it may have been placed or be found;" so that if the ballots for the local State officers are deposited in separate boxes from those containing the ballots for representatives in Congress, it is made the duty of these officers to seize and open those boxes and to count the ballots contained in them. The extraordinary instructions given by the late Attorney-General Taft to the United States marshals in 1876, and which were, by a strange mingling of the civil and military authorities, promulgated through the War Department in the form of a general order, are worthy of especial notice in this connection. In those instructions among other things he said:

> In elections at which members of the House of Representatives are chosen, which by law include also elections at which the electors for President and Vice-President are appointed, the United States secure voters against whatever in general hinders or prevents them from a free exercise of the elective franchise, extending that care alike to the registration lists, the act of voting, and the personal freedom and security of the voter at all times, as well against violence on account of any vote that he may intend to give, as against conspiracy because of any that he may already have given. The peace of the United States, therefore, which you are to preserve, and whose violation you are to suppress, precedes as well as follows such elections, and protects, among others, the rights specified in the last paragraph, so that any person who by force violates those rights, breaks that peace and renders it your duty to arrest him and to suppress any riots incident or that threaten the integrity of the registration or election, to the end that the will of the people in such election may be ascertained and take effect, and that offenders may be brought before the courts for punishment.
>
> In this connection I advise that you, and each of your deputies, general and special, have a right to summon to your assistance, in preventing and quelling disorder, "every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*." I prefer to quote the above statement of the law upon this point from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years. (6 Opinions, 466, May 27, 1854.)
>
> I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the laws of the United States. If such interference shall take place, (a thing not anticipated,) you are to disregard it entirely. The laws of the United States are supreme, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not, by summons, embody into your own *posse*; and any State *posse* already embodied by a sheriff will, with such sheriff, be obliged, upon your summons, to become part of a United States *posse*, and obey you or your deputy acting *virtute officii*.

Without stopping now to comment at length upon this extraordinary construction of these statutes, I desire to call the attention of the committee to the fact that they contain a clear misapplication of the opinion of Attorney-General Cushing in relation to the right of the marshals to summon a *posse comitatus*. It is not true that Mr. Cushing ever gave any opinion to the effect that the marshals had the right to summon either the citizen or the soldier to assist him as a *posse comitatus* in the performance of any duty except the execution of a process issued from the courts of the United States. No Attorney-General, so far as I know, except the one who issued these instructions, has ever decided that a marshal had power to summon a *posse* to assist in "preventing disorder," that is, in keeping the peace. It will be seen also that Mr. Taft claimed that it was the duty of these officers to preserve "the peace of the United States," a thing which I venture to say was never heard of until this document was promulgated. I had occasion the other day, in the discussion of another matter, to say something in relation to the respective powers of the State governments and the United States government in matters of mere police regulation, and I desire now simply to call attention to what has been said by others upon the same subject in order that their opinions may be presented to the committee in a compendious and intelligible form. A distinguished judge in Vermont, Judge Redfield, says:

> This power of the State extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the State.

Judge Cooley says:

> In the American constitutional system the power to establish the ordinary regulations of police has been left with the individual States, and cannot be assumed by the national government.

It is a power to preserve domestic order at all times and at all places within the limits of the State, and consequently it can be exercised by the State, and by the State alone, for the prevention of violence or crime, or, in other words, to keep the peace. Many years ago Mr. Justice Story, in delivering an opinion in the Supreme Court of the United States in a great leading case, said:

> To guard, however, against any possible misconstruction of our views it is proper to state that we are by no means to be understood in any manner whatsoever to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty. That police power extends over all subjects within the territorial limits of the States, and has never been conceded to the United States.

Certainly if there can ever be a time when the authority of the United States surrounds and protects one of its officers to the exclusion of all other jurisdictions it must be when he is engaged in the very act of executing a process issued from its courts. And yet the present Chief-Justice of the Supreme Court, in delivering an opinion in 1875, uses the following language:

> True it may sometimes happen that a person is amenable to both jurisdictions for one and the same act—

Meaning the jurisdiction of the State and the United States.

> Thus if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance and that of the State by the breach of the peace in the assault.

And again, in the course of the same opinion, the Chief-Justice said:

> It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

Showing clearly that in the opinion of the court a breach of the peace as such cannot constitute an offense against the government of the United States, and that it has no jurisdiction over crimes against the person committed within the limits of a State. Very different from the opinion of Mr. Taft was that of the present Secretary of State while Attorney-General under the administration of Andrew Johnson. In the letter of instructions sent by him to the United States marshal for the northern district of Florida on the 20th of August, 1868, he stated the law upon this subject as follows:

> While, however, the law gives you this "power to command all necessary assistance," and the military within your district are not exempt from obligation to obey, in common with all the citizens, your summons, in case of necessity, you will be particular to observe that this high and responsible authority is given to the marshal only in aid of his duty "to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States," and only in case of necessity for this extraordinary aid. The military persons obeying this summons of the marshal will act in subordination and obedience to the civil officer, the marshal, in whose aid in the execution of process they are called, and only to the effect of securing its execution.
>
> The special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which, *under our Government, belongs to the civil authorities of the States, and not to the civil authorities of the United States.* Nor are this special duty and authority of the marshal in executing process issued to him to be confounded with the authority and duty of the President of the United States in the specific cases of the Constitution and under the statutes to protect the States against domestic violence, or with his authority and duty under special statutes to employ military force in subduing combinations in resistance to the laws of the United States: for neither of these duties or authorities is shared by the subordinate officers of the Government, except when and as the same may be specifically communicated to them by the President.

This is the language of a great lawyer and a practical statesman, who understands and appreciates the character of the institutions under which he lives, and I submit it without further comment to the consideration of gentlemen who are contending here and elsewhere for the power of special deputy marshals "to keep the peace

and preserve order" in a State on the day of election or any other day. They can have no such power, and any attempt to confer it upon them is simply an attempt to usurp the rightful authority of the States.

It is not possible for me to devote any considerable time to a recital of the many abuses that have been committed under this law, but I desire to say, what is known to the whole country, that at the congressional election in 1878 in the city of New York those who controlled and directed this ingenious and oppressive political machinery brought its whole force to bear with crushing effect against a single class of citizens, American citizens of foreign birth. In May, 1878, the chief supervisor of elections in that city caused one of his clerks or assistants to swear to a single complaint against ninety-three hundred persons of foreign birth, who held certificates of naturalization issued from the supreme and superior courts in 1868, and on which they had regularly registered and voted at every election since that time. On this complaint the same supervisor of elections, as clerk of the United States court, issued five thousand and four warrants, returnable before himself as commissioner of the United States court! Afterward it seems to have been discovered by this officer that these warrants were illegal by reason of the fact that the complaint contained more than one name, and thereupon they were withdrawn; but immediately afterward he caused twenty-eight hundred more complaints to be made and issued warrants upon them in the same way. Many persons were arrested under this process, and about thirty-four hundred naturalized citizens, in order to escape from this partisan persecution, actually surrendered their papers. Just a few days before the election in November he caused the same clerk or assistant to swear to thirty-two hundred more complaints. They were sworn to in packages, many of them on the Sunday preceding the election, and during the night preceding the election warrants were made out against the persons named in the complaints and placed in the hands of the supervisors of election at the various voting places, to be delivered to the deputy marshals the next morning, in order that they might be executed when the persons named in them should appear for the purpose of voting. Among the instructions given by the chief supervisor to his subordinates was the following:

> In the case of persons who present themselves to vote, where a warrant has been previously issued, you will see that such persons are arrested upon the warrant upon so presenting themselves and before voting.

This instruction was faithfully obeyed, and on the day of election hundreds of naturalized citizens who possessed all the qualifications required by the constitution and laws of the State of New York, were arrested at the polls, dragged away by these deputy marshals, and deprived of the right of suffrage. The pretense upon which these outrages were committed was that the records of naturalization kept by the superior court of New York in the year 1868 were defective and that therefore the certificates were void. The truth was that precisely the same kind of record, and no other, had been kept in that court for a period of fifteen years, under the administrations of nineteen different judges of both political parties, the Hon. Edwards Pierrepont, late minister to the court of St. James, being one of them; that between fifty and sixty thousand persons had during that time been naturalized in precisely the same manner as these persecuted men, and many of them had been voting and exercising all the other rights of citizenship without question for twenty years; and that before these arrests were made a State judge, in an able and elaborate opinion, had expressly decided that the record was sufficient and the naturalizations valid. Notwithstanding these facts, about which there can be no dispute, these nine or ten thousand persons who had in good faith procured their papers in 1868, were selected to be the victims of as vile a political conspiracy and persecution as was ever set on foot in the history of any country. Certainly no such crusade against the political rights of any class of citizens was ever before inaugurated in this country, and none ever had less excuse or justification. In some instances the papers of the citizen were seized by these federal officers when he came to register and were retained until the election was over.

The total absence of sufficient legal cause for these extraordinary proceedings is demonstrated by the admitted fact that although thousands of warrants were issued and hundreds of arrests were made, not a single conviction was ever obtained; and indeed not a single case was ever prosecuted to a final hearing. I have said that these were legally qualified voters, and a brief reference to the judgment of the United States circuit court in one of the cases will establish the truth of the statement. One of the men arrested, Peter Coleman by name, appears to have been so poor and friendless as to be unable either to procure bail or otherwise secure his release, and consequently he was thrown into jail, and in the excitement and confusion of the occasion was overlooked until some time after the election. A writ of *habeas corpus* was sued out and he was brought before Judge Blatchford, who after an elaborate investigation of the whole question discharged him from imprisonment. To show that his case was the same as the cases of the others, and that they were also legal voters, I read some brief extracts from the opinion. In the course of his opinion the judge says:

> It is not claimed that between the end of 1858 and the beginning of 1874 any other form of order admitting to citizenship was made by the superior court in any case, *different from what now appears to have been made in the case of Coleman*, while it does appear that during all the time from 1858 to 1874 the form of the order of admission was the same as in the case of Coleman, (except that nothing appears as to any initials of a judge,) and that such form covers the cases of between fifty thousand and sixty thousand persons, who appear by the books of that court before mentioned to have been admitted by that court during that period to be citizens, if Coleman was so admitted.

And then further on he says:

> That court, for a period of fifteen years, observed the same form of procedure, and kept the same records, and made the same orders of admission in all cases of naturalization as in the case of Coleman, and none other. During that period nineteen judges occupied seats on the bench of that court. They were Joseph S. Bosworth, Murray Hoffman, John Slosson, Lewis B. Woodruff, Edwards Pierrepont, James Moncrief, Anthony L. Robertson, James W. White, John M. Barbour, Claudius L. Monell, Samuel B. Garvin, John H. McCunn, Samuel Jones, Freeman J. Fithian, John J. Freedman, James C. Spencer, William E. Curtis, John Sedgwick, and Hooper C. Van Vorst. It is to be presumed that, in each case of naturalization during that time, a certificate was given like in form to that received by Coleman, and averring that the court had ordered the admission of the party. That series of judges must have regarded what was found on the files or in the records or books of the court in each case as an order of admission or as a record showing that such an order had been made by the court. The stipulation of facts states that in the case of each person whose name is entered in the book as naturalized, there are on file papers resembling in all respects those in the case of Coleman.

And finally, after an able discussion of the law and the facts involved in the case, he says:

> It therefore appears that Coleman was duly and legally admitted to citizenship; and that the legality of his admission was not invalidated by any act or omission which occurred either prior or subsequently to his admission. As he was legally admitted, it was proper for the court to give him the certificate of citizenship, which was given to him; and that certificate was not unlawfully issued or made. On this ground he is entitled to his discharge from arrest.

Now, sir, if Coleman was a qualified voter so were all the others, unless it can be shown that in some material respect their cases were different from his. That there was no such difference I think may be fairly assumed from the facts that the complaints and warrants were all alike, all being printed forms, alleging the same offense in the same language, and that there was not a solitary conviction secured on any of them.

The evidence taken by a committee of this House during the last Congress and reported in Miscellaneous Document No. 23, shows that about ninety-five hundred persons who were naturalized in the superior court in 1868, registered and votedin the city of New York at the election in 1876, but the result of the system of intimidation inaugurated and carried on by the chief supervisor of elections and his subordinates was that only twelve hundred and forty such persons voted at the congressional election in 1878. It is therefore almost self-evident that about eight thousand voters, nearly all of whom were democrats, were illegally deprived of the right of suffrage in a single city at that election. When these eight thousand men voted the party of the Executive had but one representative on this floor from that city; but after they have been driven or dragged away from the ballot-box, it has three—I make no further comment.

But, Mr. Chairman, when a law itself is vicious or unconstitutional, as I believe these laws are, the mere manner of their administration is a matter of secondary importance. No method of administration can sanctify a bad law, or reconcile its victims to its continued enforcement. There is no remedy but repeal.

Mr. FRYE. Will the gentleman yield to me for a moment?

Mr. CARLISLE. Certainly, if the gentlemen desires to ask a question.

Mr. FRYE. I simply wish to say to the gentleman from Kentucky [Mr. CARLISLE] that I do not agree to the correctness of all the statements which he has just been making relative to naturalization and the conduct of elections in New York. I will not interrupt him now to make the correction, as his time is limited, but I hope to have an opportunity to explain the matter at some future time. I simply desire that his statements shall not go unchallenged to a certain extent.

Mr. CARLISLE. I hope the gentleman will have that opportunity, and I am very sorry that I have not now the opportunity to go more fully into that matter. I have made but a hasty and imperfect statement of it.

Mr. FRYE. I will not interrupt the gentleman now, because his time is so limited.

Mr. CARLISLE. Mr. Chairman, passing from the consideration of the particular provisions of these laws, and from the methods which have been adopted in their execution, I propose to examine the constitutional authority of Congress to enact them.

The gentleman from New Jersey, [Mr. ROBESON,] in the discussion of the army bill a week or so ago, appears to have discovered a new source of congressional power over the subject of elections; and, in order that his position may be stated in his own language, I will read it. After quoting a clause from the constitution, which I shall presently read, the gentleman said:

> The right to vote for the most numerous branch of the legislature is given by the States. The qualifications are made by the States. The United States does not confer the right of suffrage upon those individuals, but it adopts to its right of suffrage, and takes as its voters a class which have already the right of suffrage given to it by the States; it makes them its voters for the election of its officers.

I suppose the gentleman means that the members of this House are officers of the United States, a proposition which I deny, and which could be easily refuted if it were material to this discussion to go into that question. He proceeds to say—

> And if it does its duty it is bound to guarantee to them a free and fair election.

The provision of the constitution which the gentleman from New Jersey thus construes is the first clause of the second section of the first article, and reads as follows:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

There is certainly, to say the least of it, great plausibility and much apparent force in the position taken by the gentleman; and the fact that it is a new discovery is by no means conclusive that he is not correct. I call the attention of the gentleman, in order that we may consider the question in all of its aspects, to some other provisions in the constitution immediately following, and bearing upon the same general subject.

The first clause of the third section of the same article provides as follows:

The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.

In the next clause is found the following provision:

If vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

These are all the provisions of the constitution relating to the elections or appointments of representatives and senators in Congress, except one which will be noticed hereafter in another connection if my time will permit.

The right and duty to guarantee and protect a citizen or an officer in the exercise of a right, necessarily involves the power to determine at the time the guarantee is made effectual, whether he actually possesses the right in question or not, because it is impossible legally to secure a man in the exercise of a right without first ascertaining in some way that it belongs to him. It is admitted by the gentleman that the several States prescribe the qualifications of voters; but if the federal authority shall undertake to enforce the right to vote and preserve the purity of the ballot-box, it must, of course, by some officer or agent, either before or at the time of the election, decide who possesses those qualifications; that is, it must by some means of its own separate the spurious from the genuine voters, and admit the one while it excludes the other. It must inquire into the voter's age, his residence, his citizenship, and his qualifications as to education and property, if such tests are prescribed by the constitution or laws of the State. But if the United States must exercise all these powers in the discharge of the supposed duty to enforce and protect the right of the citizen to vote for representatives, so it must exercise the same or similar powers in the discharge of a like duty to enforce and protect the right of members of a State legislature to vote for senators, and to protect the governor of a State in the exercise of his constitutional right to fill vacancies by appointment; for I submit to the gentleman that if, under the first clause of the second section, the United States has adopted as its voters those persons in the State who possess the qualifications requisite for electors of the most numerous branch of the State legislature, and is therefore bound to protect them in the exercise of the right of suffrage, the first clause of the third section also adopts the members of the legislature as electors of senators, and there is the same obligation precisely to protect them against bribery, intimidation, and other improper influences in casting their votes. I submit also whether, in the same sense, the next clause read has not adopted the governors of the various States as the agents or electors of the United States to temporarily fill vacancies in the Senate, and whether exactly the same federal duties do not result in that case as in the others.

Mr. ROBESON. I hope to have an opportunity hereafter to answer the gentleman.

Mr. CARLISLE. Certainly; I hope the gentleman will have such an opportunity afforded to him. It follows, Mr. Chairman, from what I have said that if the gentleman's position is correct the United States, in the discharge of this supposed duty, must not only place its officers at the polls to decide upon the qualifications of the citizen when he offers to vote for a representative, but it must, if necessary, place them in the halls of the State legislatures to examine the credentials and determine the qualifications of members who offer to vote for senators and to exclude those who are adjudged not to possess the right. This is the point to which the gentleman's argument logically leads him. Is he prepared to maintain it? Is he prepared to assert that Congress has authority, under these provisions of the constitution, to provide for the supervision and control of every election at which the people choose representatives and the legislature chooses senators? It seems to me that the simple statement of the gentleman's proposition and its logical consequences constitutes its best refutation.

Briefly stated, this is my first objection to the position of the gentleman. I do not choose, however, to rest my opposition to it solely upon this *reductio ad absurdum*. I choose rather to place it upon the broad ground that there is not in any of the provisions to which attention has been called any delegation of power to Congress or to any department or officer of the government over the voter, or over the elective franchise, or over the subject of elections.

We will not disagree upon the proposition that this is a government of delegated powers exclusively. We will not d sagree upon the resulting proposition that it is a government which possesses no inherent powers; but that whenever it attempts to exercise an authority over any subject it must find a warrant for it either in some express grant or in some reasonable implication from an express grant in the constitution itself. Before any gentleman is authorized to assert that it is the duty of the government to protect any right of the citizen he must show that it has been clothed with the power to do so. There can be no duty imposed where there is no power delegated. Congress may, by the terms of the constitution, make all laws that may be necessary and proper to carry into execution the powers vested in it by that instrument, or in any department or officer of the government; but the power must be vested, delegated, conferred, before the law can be made. There is no pretense of a grant or delegation of power in the clauses under consideration. The most that can be properly said of them is that they recognize or describe a certain class of citizens who are entitled to vote for representatives and a certain body of men in the State entitled to choose senators.

Will any gentleman contend that a power to enforce and protect the right of suffrage arises or results from a mere recognition of the right in the constitution? The doctrine upon which such a claim rests has been refuted so often that it has long since passed beyond the field of controversy. In the great body of fundamental law resulting from judicial construction of the constitution no rule is more firmly established than that those rights, privileges, and immunities of the citizen, which are simply recognized in that instrument, must depend for their protection upon the several States. For instance, liberty of conscience, the right to maintain a free press, the freedom of speech, the right of the people to peaceably assemble for a lawful purpose, the right to bear arms, and many other important and valuable rights of the citizen, are expressly recognized in the constitution; but Congress has no power whatever to legislate for their protection. The State governments protect them, and so they must protect the right of suffrage. They confer that right upon the citizen; they alone prescribe the qualifications necessary for its exercise, and they alone must decide for themselves whether these qualifications do or do not exist in each particular case, subject, of course, to the right of this House to determine who is or who is not a lawful voter when it exercises the power to judge of the elections, returns, and qualifications of its own members. This right of the States to interpret and apply their own constitutions and their own laws in respect to suffrage as well as other matters, in the first instance, is one which they cannot surrender without an abandonment of the whole ground upon which they stand as component and essential parts of the federal Union.

The right of the citizen of one State to all the privileges and immunities of citizens of the several States, is a right not only recognized but created by the constitution. If there had been no such compact of government entered into by the States and people, this right of the citizen of the State of Ohio, for instance, to enjoy all the privileges and immunities of citizenship in the State of Illinois would not have existed; but will any gentleman contend that it is within the constitutional power of Congress to enact laws to protect that right? Clearly not, for the obvious reason that there is no grant of legislative power coupled with the constitutional recognition of the right, and it is left solely under the protection of the several States and the federal judiciary. If a State should enact any law or adopt any regulation impairing or abridging the right, by means of discriminations against citizens of other States in matters embraced within the scope of the constitutional provision, the courts would hold such laws and regulations to be null and void. No law of Congress has been or can be passed upon the subject, nor is any necessary.

Again, the constitution gives to each State, as against the other States, the right to reclaim a fugitive from its justice. This, like the right just mentioned, is one which would not have existed at all except for the express provision in the fundamental law of the Union. In the absence of such a provision no State would have been bound by any legal obligation to surrender the person of a fugitive criminal upon the demand of another State, although it might have done so if it chose as a mere matter of comity. The Second Congress which assembled under the Constitution had occasion to act upon and to construe that clause. No member of that distinguished body of lawyers and statesmen supposed that it conferred upon Congress the power to pass laws for the purpose of enforcing the right conferred by that provision of the constitution. They simply prescribed the manner in which the requisition should be made in such cases by the executive of one State upon the executive of another, and then left it to the several States themselves to provide the necessary means, by legislation or otherwise, for the enforcement of the right. In a somewhat celebrated case, where the governor of the State of Ohio had refused to comply with a requisition made upon him in due form of law by the governor of Kentucky, the Supreme Court of the United States was called upon to consider this clause and the legislation of Congress under it, and it said, speaking of the act of February 12, 1793:

The act does not provide any means to compel the execution of this duty, nor inflict any punishment for neglect or refusal on the part of the executive of the State; nor is there any clause or provision in the Constitution which arms the Government of the United States with this power. Indeed, such a power would place every State under the control and dominion of the General Government, even in the administration of its internal concerns and reserved rights. And we think it clear that the Federal Government under the Constitution has no power to impose on a State officer, as such, any duty whatever and compel him to perform it;

for if it possessed this power, it might overload the officer with duties, which would fill up all his time and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State.

It is not necessary to consume time in commenting upon this decision, except to say that it disposes of two important questions involved in this discussion: first, that Congress cannot legislate without an express or implied grant of power, even when the constitution has expressly created or distinctly recognized a right; and, secondly, that the general government cannot impose duties upon a State officer, as such, and compel him to discharge them, as the laws now under consideration plainly undertake to do.

Mr. Chairman, I might go further into this branch of the subject and show many other instances in which the rights of citizens have been clearly and distinctly recognized, and yet, for the want of a delegation of power to enforce and protect them, Congress cannot constitutionally legislate for that purpose.

Here is a recognition of the right of a certain class of people, to be fixed by the State constitution and the State laws, to vote for representatives in Congress, but there is no delegation of power to enforce that right, and consequently it cannot be done except by the States. If any man who belongs to that class is denied the right of suffrage at an election for representatives, he has his individual remedy in the courts of justice, and this House, in the exercise of its exclusive power to judge of the elections, returns, and qualifications of its own members, will redress the public wrong. No permanent injury can be done either to the individual citizen or to the public at large, because, without congressional legislation, there is ample power to right every wrong. There is power in the State legislatures, in the State and federal courts, and in this House to secure to every citizen the free and unobstructed enjoyment of the elective franchise, and this is the true character and full measure of the protection which the framers of the constitution designed he should have.

Passing from this, the next clause under which the authority to enact these election laws is claimed is the fourth section of the first article of the constitution, which reads as follows:

> The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing senators.

Before proceeding to discuss the character and extent of the power conferred by this clause, I call the attention of the committee to the fact that the election laws now under consideration do not purport to have been passed under the authority conferred by this provision of the constitution. They do not purport, either in their titles or in their general scope and design, to be laws regulating the times, places, or manner of holding elections for representatives. They were passed as laws "to enforce and protect the rights of the citizens of the several States of this Union to vote." It seems to have been supposed by their authors that the authority was derived from some of the late amendments to the constitution.

Mr. REED. Will the gentleman from Kentucky [Mr. CARLISLE] permit me to make a remark?

Mr. CARLISLE. If the gentleman does not consume too much of my time.

Mr. REED. Does not the gentleman from Kentucky know that in the debate when the main portions of these provisions were passed this authority was expressly claimed for the constitutionality of the proposed measures?

Mr. CARLISLE. It was so claimed by some of the gentlemen who participated in the discussion.

Mr. REED. By Mr. Lawrence, of Ohio.

Mr. CARLISLE. But my recollection is very distinct that Mr. Bingham, of Ohio, who reported the measure in February, 1871, claimed that these laws could be passed by virtue of some inherent power in the general government to protect its own existence. I may be mistaken about that; but if the gentleman will refer to the debate, I think he will find my statement substantially correct.

Mr. REED. The gentleman is mistaken simply in this: what he states was the reason which Mr. Bingham, of Ohio, gave for the provision in the constitution; that is, the right to self-preservation on the part of the government.

Mr. CARLISLE. My memory may be at fault on this particular point. Now, Mr. Chairman, it must be admitted that the language of this provision of the constitution is very broad when it declares that—

> Congress may at any time by law make or alter such regulations, except as to the place of choosing senators.

I differ from one of the gentlemen from Alabama, [Mr. LEWIS,] who addressed the committee yesterday afternoon, and who stated that this clause, taken altogether, was a delegation of power both to the general government and to the States. It is not in my opinion a delegation of power to the States. If the fourth section, which I have just read, had been omitted entirely from the constitution, it would have followed that after a House of Representatives had been established, and after it had been provided that its members should be elected by the people, the States would have controlled the whole subject of elections for two very obvious reasons: first, because in the absence of that section there would have been no delegation of power whatever to Congress over the subject; and secondly—which is more conclusive if possible than the first reason—there could not possibly have been a Congress in existence to make any regulation upon the subject until the States had first acted and sent their representatives. So that this provision is not a delegation of authority to the States, but is a delegation of authority to the government of the United States, or rather to the Congress of the United States, to do certain things in regard to these elections.

The first part of the clause, instead of being a delegation of power, is a mandatory provision, making it the imperative duty of the State legislatures to enact laws regulating the times, places, and manner of holding elections for senators and representatives. The second is a delegation of authority to the Congress of the United States at any time to make or alter those regulations, except as to the place of choosing senators. I shall not enter at large into the argument which has already been made by more than one gentleman on the floor, as to what was the real meaning of the framers of the constitution as to the circumstances under which this power might be exercised. If the language of the instrument were really ambiguous, we would be authorized, and it would be necessary, to go back and examine the debates and proceedings in the federal convention and in the State conventions for the purpose of determining its actual meaning. But the language appears to be free from all ambiguity. The words "at any time" would seem necessarily to confer upon Congress the right to decide for itself when and under what circumstances it should interpose by legislation to make regulations or alter the regulations previously made by the States. But in my opinion a proper regard for the spirit in which that provision was proposed by the convention and adopted by the States, and the well-known purpose for which it was inserted, should prevent the exercise of the power, whatever its extent may be, except under extraordinary circumstances endangering the very existence of the legislative department; and I think that the writings and speeches of Madison, Hamilton, and other advocates of the constitution, show very clearly that this was their view of the subject.

I know that Mr. Douglas and many other gentlemen of distinction have held that this power of Congress is a dependent or contingent one, that it can be exercised only in those cases where the States have wholly failed or refused to make these regulations, or have made such unreasonable regulations as to defeat the election of members of Congress. In 1842, when Congress enacted for the first time a law requiring the members of the House to be elected from districts composed of contiguous territory, the question as to the real nature and extent of this power came directly before this body in a form which compelled a decision. The legislatures of a large majority of the States of the Union, New York, Ohio, and Illinois among them, passed resolutions declaring that the law of Congress was unconstitutional and void; but all the States except four, New Hampshire, Mississippi, Georgia, and Missouri, enacted statutes creating congressional districts. These four States refused to do so, and sent their representatives here chosen upon a general ticket in accordance with their own laws. The question was thus directly presented to the House whether that act of Congress was constitutional, because if so the persons chosen had not been elected in accordance with law and were not entitled to their seats. After a long and able debate the House by a vote of 128 to 68 declared that the law was unconstitutional and void and that the four States were entitled to their representation upon this floor. Among those who voted in the affirmative to admit the representatives were Stephen A. Douglas, Hannibal Hamlin, John P. Hale, Andrew Johnson, Thomas H. Seymour, and many other gentlemen of distinction in that day, some of whom are still living. The view which the House then took of this subject can be best expressed perhaps in the language of the report made by Mr. Douglas from the committee on elections. After an examination of the proceedings in the federal convention and in the several State conventions called to ratify the constitution, the report says:

> From this brief review of the history and contemporaneous exposition of this portion of the constitution, it is evident that the convention which formed and the people who ratified that great charter of our liberties, intended that the regulation of the times, places, and manner of holding the elections should be left exclusively to the legislatures of the several States, subject to the condition only that Congress might alter the State regulations or make new ones in the event that the States should refuse to act in the premises or should legislate in such a manner as would subvert the rights of the people to a free and fair representation.

I am not prepared, in view of the broad and explicit language of the constitution, to go quite that far upon the naked question of power, although, as already stated, I think it was never contemplated that the power should be exercised except under the circumstances and necessities stated in this report. I am willing to assume, for the purposes of this argument at least, that Congress has the power at any time and under all circumstances—whether the States have legislated or not, and although they may have adopted reasonable, wise, and just regulations upon this subject—to make or alter regulations as to the "times, places, and manner of holding elections." That is the language of the constitution, and whether it suits our individual and party purposes or not, we must adhere to it and construe it as it stands.

It is essential, Mr. Chairman, to all intelligent discussion, and especially to an intelligent discussion of grave constitutional questions affecting the sovereign power of legislation over a subject of such vital importance as the elective franchise, to have correct definitions of terms, and to use the proper terms. We must adhere to the very words of the instrument itself and not substitute our own in their places. The gentleman from Connecticut [Mr. HAWLEY] departed

somewhat from this rule when he stated in his remarks the other day that this was a power to regulate the manner of "choosing representatives" and made that supposed power the basis of his argument in support of these election laws——

The CHAIRMAN. The hour of the gentleman from Kentucky has expired.

Mr. McKINLEY and Mr. WARNER moved that by unanimous consent the gentleman be allowed to proceed beyond his time; and there being no objection, it was ordered accordingly.

Mr. CARLISLE. I thank the gentlemen, and will endeavor to repay the courtesy of the committee by condensing my remarks as much as possible.

What, then, is the extent of the power conferred upon Congress? What does it enable Congress to do with reference to elections for representatives and senators, for it applies to both alike, except as to the place of choosing senators? The power is limited and defined by the very terms of the grant, and cannot, without a violation of the well-established rules of construction in such cases, be extended beyond the ordinary import of the words employed; and this rule is especially applicable in such a case as this, where the primary power over the subject is lodged in another jurisdiction. It is not a power to regulate the whole manner or mode of electing representatives, or of choosing representatives, as the gentleman from Connecticut stated it the other day. That might imply some measure of authority or control over the persons who are to make the election—some right or duty to designate who shall and who shall not participate in the election. Nor is it a power to provide generally for holding such elections. That might possibly also carry with it, if not inconsistent with some other constitutional provision, the right to do whatever might be necessary to ascertain, by a system of registration or otherwise, who are qualified voters, to secure the elective franchise to all who are entitled to it, and to inflict punishment upon all who wrongfully exercise it. But no such incidental powers can result from this narrow and restricted grant, as I shall endeavor to show before concluding.

The framers of our constitution were distinguished above all the men of their time for their skill and accuracy in the use of language; they knew the exact meaning of every word they employed, and they understood thoroughly the effect of every provision they inserted in that instrument. Whenever they intended to confer upon Congress complete powers of legislation over an entire subject they did so in appropriate terms. For instance, when they intended to confer upon Congress the power to lay and collect taxes, duties, and imposts, to regulate commerce, to establish post-offices and post-roads, and to coin money, they did not declare simply that it should have the power to regulate the manner of doing these things. On the contrary, they provided in clear and explicit terms, without qualification or limitation, that it should have the power to do the very things themselves; and such a delegation of authority carried with it, of course, the implied power to do whatever might be necessary and proper to accomplish the objects intended. Such a grant confers full power to legislate over the whole subject and over all its incidents. It gives the right to appropriate money, to impose fines and penalties, to create offices, and to establish and maintain all the political machinery and appliances that may be necessary to a complete execution of the power.

But it will require very little argument, I presume, to show that a power merely to regulate the manner of doing a thing does not extend to the very substance and vital part of the subject, and especially when the subject itself is left, in the first place, under the jurisdiction and control of another authority. Now, this is all that was done by the framers of the constitution when they came to deal with the subject of elections, a subject which properly belongs to the several States, and which affects to a great extent the elective franchise in the hands of the citizens. They provided that Congress should simply possess the power to regulate the "manner of holding" them; not the power to legislate upon the whole subject as in the other instances I have mentioned; not the power to regulate the exercise of the elective franchise by appointing officers to judge of the qualifications of voters and admit or exclude them at pleasure; but a mere power to determine in what manner the election itself shall be held or conducted. Such a power relates only to the form, the mode, the method of carrying on or holding the election, leaving everything else connected with the subject untouched.

Mr. KELLEY. Will the gentleman pardon me for a moment?

Mr. CARLISLE. Certainly.

Mr. KELLEY. Did not Patrick Henry in his assault upon the provision of the constitution touching this question admit it went beyond that, and say Congress might give one gentleman one vote, or one hundred, and deny it to others? Did not Mr. Madison explain that where the State regulations made suffrage unequal Congress might make it equal, and point to the case of the city of Charleston?

Mr. CARLISLE. In the first place, it cannot in any proper sense be said that Patrick Henry admitted anything in relation to this subject, because he was opposed to the constitution; but he charged certain things which the friends of the constitution denied. Mr. Madison never said, and I am sure my friend from Pennsylvania cannot cite such a declaration from him, that the general government would, under any circumstances, have the power to regulate the right of suffrage itself. I know what Mr. Madison said in reply to Mr. Monroe, and although unable at this instant to quote his exact language from memory, I am very sure he did not state what the gentleman from Pennsylvania alleges.

Mr. KELLEY. I think the gentleman will find that Mr. Madison, in reply to an interrogatory put to him by Mr. Monroe, clearly and fully admitted the right of Congress to regulate suffrage in elections for United States officers.

Mr. CARLISLE. Mr. Madison said this:

> Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the general government.

That is the exact language of Mr. Madison, and it is, I suppose, the declaration to which the gentleman alludes. Taken in connection with the subject upon which he was speaking, its obvious meaning is, that if the State should deprive the citizen of his right of suffrage by its failure or refusal to make regulations as to the times, places, and manner of holding elections for representatives, it could be remedied by the general government; and this I admit.

Mr. KELLEY. If the gentleman will pardon me I will give him that language a little more fully

Mr. CARLISLE. Not now. Mr. Chairman, when interrupted by the gentleman from Pennsylvania I was endeavoring to show that this was not a delegation of plenary power over the whole subject of elections, and all its incidents, but that it was a narrow, restricted power to make or alter regulations merely respecting the manner of holding them. Very similar language to that employed in the clause now under consideration is used in another part of the constitution, and its practical construction, acquiesced in ever since the organization of the government, strongly supports my position. The first section of the fourth article, after declaring that full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State, provides:

> And the Congress may by general laws prescribe the *manner* in which such acts, records, and judicial proceedings shall be proved, and the effect thereof.

Here, then, as in the case of elections, is a power conferred upon Congress to prescribe the "manner" in which a certain thing shall be done. The power is as complete and comprehensive in the one case as in the other. In neither does it extend to the actual performance of the very function or act itself, but only to the mode or method of performing it. The first Congress that assembled after the adoption of the constitution, a Congress composed largely of men who, as members of the federal convention or of the State conventions, had assisted in framing and adopting the constitution, enacted a law for the purpose of carrying into execution the power delegated by the clause just read; but it does not seem to have been supposed by these men, familiar as they were with the plan and scope of the constitution and the meaning of its several provisions, that they had power, under this clause, to provide for the actual proof or authentication of the records and public acts of the States, to provide for the appointment of officers of the federal government to make the certifications, or to supervise them, or to impose fines and forfeitures upon the officers of the State for their acts or omissions concerning that matter. On the contrary, the act of May 20, 1790, is a strict and literal execution of the constitutional power according to the plain and obvious import of the terms in which it was conferred. It simply prescribes the "manner" in which they shall be authenticated, and leaves the authentication itself to be made by the State authorities without interference or control by any officer or agent of the general government.

Mr. Chairman, I shall not undertake to say, because according to my view of the character of the laws under consideration it is not necessary for me to say in this debate, precisely how far Congress might properly go in legislating under the power to make or alter regulations respecting the "manner of holding" elections. By the act of July 25, 1866, it has prescribed the time and manner of holding elections for senators, but it sent no federal officers to conduct the elections or to oversee the State authorities by whom they are conducted. By the nineteenth section of the act of February 28, 1871, it provided that all votes for representatives shall be by written or printed ballots; and by the act of February 2, 1872, it required representatives to be elected by districts composed of contiguous territory and containing as nearly as practicable an equal number of inhabitants; but in none of these provisions is there any attempt to impose penalties upon the citizen or upon the officer of the State for a failure to conform to their requirements. If the vote of the citizen is not cast by written or printed ballot, it will not be counted; if the representatives are not chosen by districts, they will not be admitted. In both cases the remedy is applied here in the execution of the power of the House to judge of the elections, returns, and qualifications of its own members. These three acts appear to be legitimate exercises of the power, but I confidently submit to gentlemen upon the other side that the laws which we now propose to repeal are of an entirely different character, and cannot be justified upon any rational construction of the constitution or upon any proper theory of our State and federal systems of government.

The power is to "make" or to "alter" regulations as to the manner of holding elections. These laws do neither; they do not make any new regulations as to the manner of holding the elections, nor do they alter any such regulations previously made by the States. They do not make or alter any regulations respecting the manner in which the votes shall be cast, or the manner in which they shall be received, or recorded, or certified. On the contrary, every law and regulation

made by the several States upon these subjects is left in full force, and these extraordinary statutes were enacted upon the assumption that it is the right and duty of the general government to take charge of, and to direct and control by its executive officers and its judicial tribunals, the execution and administration of the State laws, both as to registration and election. It is the first instance in the history of our legislation, so far as I am advised, in which the government of the United States has, in time of profound peace, usurped the entire authority of the several States over the subject of elections, or any other subject—the first instance in which it has forcibly wrested from the States an entire code of civil and penal law and placed its administration under the exclusive supervision of federal officers and federal courts. The whole State authority, not only over the election, but over the voter and over the elective franchise itself, is subverted. Every officer and citizen of the State, from its governor down to its constables, and from the judges of its highest court down to the inspectors and clerks who conduct the elections, is completely subordinated to the authority of the federal police provided for in these statutes. The fact that they are called supervisors and special deputy marshals of elections is immaterial; they are police nevertheless. It is not the name but the nature of the functions performed that must determine the character of the officer, and the chief duties, the most effective duties, performed by these officers who swarm around the places of registration and around the ballot-boxes, are constabulary in their nature. And, sir, no matter how degraded their characters may be, no matter how ignorant they may be of the plainest principles of law and justice, or how arbitrary and despotic in the exercise of their authority, their persons are sacred and their power is supreme under these laws over every functionary of the State from the highest to the lowest. They may command them all, not only to submit to their authority, but to aid them in compelling others to submit also. Armed with the imperial authority of the United States, every man is compelled to bow in humble submission to their demands, however insolent or illegal they may be; for no man can resist them by lawful means or otherwise while engaged in the discharge of their duties under these statutes. No State officer, although holding process regularly issued from a State court, can touch them, and no citizen can appeal to the tribunals of his own State for redress, civilly or criminally, on account of any outrage they may perpetrate under color or pretense of their official authority.

It is a fact worthy of notice, that although the election laws of the United States are full of provisions prescribing the most severe punishments for the officers and citizens of the States, not only for what they may actually do, but for what they may offer or attempt to do, no matter how free they may be from intentional wrong, there is not a single provision imposing even the slightest penalty upon these federal election officers for any outrage or crime they may commit; and yet every civil and criminal prosecution against them must go into the federal courts!

But, returning for a moment to the special duties prescribed for these officers, let us see whether or not they relate merely to elections for representatives. They are to inquire into and decide upon the qualifications of citizens who offer to register or to vote, but they do not confine their investigations merely to his qualifications to register or vote for representatives in Congress; they pass upon his right generally, and consequently if there are local State officers to be elected at the same time, as is nearly always the case, they exercise precisely the same power in respect to them as in respect to the representatives. If they prevent a citizen from registering, where registration is required by the State law, he can no more vote for local officers than for a member of this House. If, when he approaches the polls they arrest him and carry him away, before he has voted, as they were instructed to do, and did, in New York, he is deprived of his right of suffrage for local officers as completely as for representatives in Congress. It is evident, therefore, Mr. Chairman, that even if the general nature and purpose of these statutes were such as to bring them within the constitutional provision concerning the manner of holding elections for representatives, they are so framed as to make them necessarily unconstitutional in their practical operation and effect. For this reason alone, if there were no other, they ought to be repealed at once.

In order to enable these supervisors and special deputy marshals to accomplish this unwarranted interference with the local and municipal elections in the State, they are, as I have already stated, clothed with the power to override and suppress the authority of every state officer in the vicinity of the polls. They are to keep the peace and preserve order, which, of course, implies the authority to decide when the peace has been, or is about to be, broken, and when order has been, or is about to be, disturbed; but if they make arrests, as they are required to do, with or without warrant, for assaults and batteries or other breaches of the peace, they must carry the party before a United States commissioner, who has not a shadow of jurisdiction over the offense. In order to enable them to do this idle thing, to perform this farce, every state conservator of the peace is obliged, if called upon, to place himself under the control of these men.

Mr. Chairman, under the clause of the constitution from which it is claimed the authority to pass these laws is derived, Congress possesses precisely the same measure of power to make or alter regulations respecting the time and manner of holding elections for senators that it does to regulate the time and manner of holding elections for representatives. About this there is no room whatever for controversy. Whatever power is delegated as to the time and manner in the one case is necessarily delegated in the other, for exactly the same language applies to both. If, therefore, federal officers can be authorized and required to guard and scrutinize the process of electing a representative, to count the votes, and to arrest the citizen, or the inspector, judge, or clerk, while the election is progressing, and take him away from the voting place, so they may be authorized and required to guard and scrutinize the process of electing a senator by the State legislature, to count the votes in that body, and to arrest the members, or the presiding officer, or secretary before the election is commenced, or while it is going on, or after it is over, just as it may suit the will or caprice of the officer. Imagine, if you can, sir, a federal police force surrounding the chair of the presiding officer in the legislature of your State during the election of a United States senator, clothed by a federal law with absolute authority to arrest him without complaint or process and drag him instantly from his place whenever, in their opinion, his decisions and rulings are not in accordance with the laws. Imagine the same character of officials standing guard over the clerk or secretary while he calls the roll and records the votes of the people's representatives, with like authority to seize him in the midst of his duties and eject him from his place. Imagine them on the floor of the hall examining the credentials of members to ascertain whether they have a right to vote, scrutinizing their conduct and motives to see whether they have been bribed or intimidated, and arresting all who vote or attempt or offer to vote contrary to the law as interpreted by these subordinate executive officials. These are not by any means improbable scenes if such laws as these are constitutional. They may occur in every State in the Union if the precedent established by this legislation is not repudiated, for it is clear that those who will not respect the plainest rights of the people themselves will have no regard for the rights of their representatives. The right of the representative is no more sacred than the right of his constituent; in fact it is nothing but the right of the constituent represented in the person and official character of his elected servant. Every blow aimed at the freedom and independence of the individual citizen inflicts a wound upon the government under which he lives and brings shame and dishonor upon all who fail to resent it. The citizen is the source, the very fountain head, of political power in our system, and when he is not safe from the assaults of usurped authority his representative need not hope to escape.

Is there a gentleman upon this floor, is there an intelligent man within the limits of this broad land, who conscientiously believes that the framers of the constitution ever intended to confer upon Congress this monstrous power, a power to break up the Union by destroying the States of which it is composed? And yet, sir, that is what must be contended for by every gentleman who attempts to justify these laws under the provision of the constitution relating to the holding of elections for senators and representatives.

Let no gentleman, here or elsewhere, say that I am in favor of giving immunity to fraud, whether it be committed on the day when the votes are cast or on the day when the votes are counted. An honest count is as necessary as an honest vote. My doctrine is, and always has been, that every man in this country who is entitled by the constitution and laws of his State to the right of suffrage, no matter what may be his race, or his color, or his politics, or his religion, or his standing in the community, ought to be afforded a free and unobstructed pathway to the polls. But, sir, it is as great a crime to disfranchise the citizen after he has voted as it is to disfranchise him before. It is as great a crime fraudulently to reject his ballot after he has deposited it as it is to prevent him, by intimidation or otherwise, from putting it into the box in the first instance; [applause;] and whatever authority the government of the United States rightfully possesses to protect the rights of the citizen in these respects, I am willing shall be exercised, but I will never consent to go a step beyond the grant of power in the constitution even to accomplish what the majority may think is a good purpose.

Now, Mr. Chairman, in conclusion, disclaiming any intention to make appeals to passion, disclaiming any purpose to excite partisan feeling or to further embitter the debate upon these very exciting questions, I say to the gentlemen upon the other side, not in any spirit of arrogance or dictation, but with all the deliberation and earnestness which the gravity of this great subject deserves, that these odious and oppressive statutes must be repealed, and this dangerous power of the Executive to control the election of the people's representatives must be taken away. [Applause.] These laws are unconstitutional, unnecessary, and in the highest degree offensive to the genius of our republican institutions. They were partisan in their origin and purpose, and have been administered in a spirit of intolerance and persecution. They must no longer stain and disfigure the pages of the statute-book. The contest which we are now waging against them will go on with increasing earnestness and determination until all the questions involved in it are finally settled. If they are not settled here, the struggle will pass from these halls into that great tribunal where the people themselves pronounce and execute judgment upon public men and public measures. It requires no gift of prophecy to predict what the end will be. With such questions as these to be discussed, and such a people as ours to decide them,

there can, in my judgment, be but one result. The history of the great race to which we belong is an almost continuous record of heroic struggles against the exercise of arbitrary power and of splendid triumphs over the oppressors of the people, and its current cannot now be reversed by any human authority. In my judgment, no two institutions have contributed more to preserve the spirit of liberty, of order, and of self-government among the men of that race than the trial by jury and the elective franchise; and so long as they shall continue to exist in their usual strength and vigor the Anglo-Saxon will be a freeman.

Impartial juries and free elections—these, sir, are the words to be inscribed on every banner that leads the people in the coming contest. [Applause.] With unbounded confidence in the intelligence, patriotism, and courage of that great constituency which sent us here and which will choose our successors, I shall not hesitate to stand by my convictions in this matter until the end comes, whatever the end may be, nor shall I hesitate to take my share of the responsibility which belongs to those who have inaugurated this struggle for impartial trials by jury, for free elections, and for independent representation. [Great applause.]

Mr. McKINLEY obtained the floor.

Mr. SPRINGER. If the gentleman from Ohio will yield to me, I will move that the committee do now rise.

Mr. McKINLEY. I will yield for that purpose.

Mr. SPRINGER. Then I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

SUBPŒNA TO AN OFFICER OF THE HOUSE.

The SPEAKER laid before the House the following communication:

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., April 16, 1879.

To the Speaker of the House of Representatives:

SIR: I have the honor to transmit herewith a subpœna addressed to Mr. Ferris Finch, file clerk of the House of Representatives, whose attendance is required on the 18th instant as a witness before the general court-martial in the case of Colonel D. S. Stanley, Twenty-second Infantry, with request that the subpœna may be delivered to Mr. Finch.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The SPEAKER. The subpœna had better be read.

The Clerk read the subpœna, as follows:

Subpœna for witness to appear and testify before a general court-martial.

To Ferris Finch, Esq., file clerk of the House of Representatives, Washington, District of Columbia, greeting:

You are hereby commanded to appear as witness, on the 18th day of April, 1879, at eleven o'clock a. m., at Army Building, New York City, before the general court-martial appointed thereat by Special Orders No. 66, issued from headquarters of Army, Adjutant-General's Office, of date of March 20, 1879, to testify to certain matters before said court in the case of the United States *against* Colonel D. S. Stanley, Twenty-second Infantry, for the United States; and you are further commanded to bring with you and produce before the court manuscripts of the testimony given by Colonel W. B. Hazen, Sixth Infantry, before the Military Committee of the House of Representatives, in 1872; also answers of said Hazen to interrogations propounded to him at the same time by said committee (by the chairman thereof) both written and printed; and to then and there remain and abide the order of said court in the premises, pursuant to the statute in such cases made and provided. Of your appearance before said court, at the time and place stated in this summons, fail not, under penalty of the law.

Given under my hand this 14th day of April, A. D., 1879.

D. G. SWAIM,
Judge-Advocate, United States Army.

The SPEAKER. This is a subpœna to an officer of the House for his personal presence, and in addition it requires him to produce certain files of the House, and the Chair believes original papers now upon the files in the Clerk's office.

Mr. SPRINGER. I understand from the reading of the subpœna that it calls for the original manuscript of the evidence given before one of the committees of this House. I do not know myself how far we are at liberty to give to courts and courts-martial the testimony of witnesses who may appear before committees of this House.

I understand that so far as the privileges of members are concerned they are not to be questioned elsewhere for what they say or do here, and I understand that witnesses who come before our committees are to be protected in coming here and going hence, and as to what may be brought out before a committee of the House by the rules of evidence.

I think, therefore, that this is a matter of very great importance, and that it had better be referred to the Committee on Rules that they may report what action the House will take in the premises.

A MEMBER. Say the Committee on the Judiciary.

Mr. SPRINGER. Then I will modify my motion so as to refer the matter to the Committee on the Judiciary.

The SPEAKER. The committee had better be directed to report immediately.

Mr. SPRINGER. I will move, then, that they have leave to report at any time. My motion is that these papers be referred to the Committee on the Judiciary, with instructions to report at the earliest time possible what action the House shall take in the premises.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. WHITEAKER, by unanimous consent, leave was granted to withdraw from the files of the House the papers relating to the Klamath Indian reservation; there being no adverse report thereon.

On motion of Mr. JOHNSTON, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of Sallie Hardeman; there being no adverse report thereon.

Mr. ATKINS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated;

By Mr. ACKLEN: The petition of Joseph H. Acklen, (accompanied by draught of bill,) for the regulation of the tariff on sugar—to the Committee of Ways and Means.

By Mr. ELLIS: The petition of the members of the Metropolitan police force of the District of Columbia, (accompanied by bill,) that they be paid the 20 per cent. additional compensation given to Government employés by the act approved February 28, 1867—to the Committee of Claims.

By Mr. FERDON: The petition of James H. Reeve, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. GILLETTE: The petition of Edward H. Gillette, (accompanied by draught of bill,) that a pension be granted William E. Prince—to the same committee.

By Mr. HUNTON: The petition of James B. Burdett, administrator of Janus Broadus, that a bill in the form therein set forth may be passed for the payment of a revolutionary claim—to the Committee on Revolutionary Pensions.

By Mr. JOHNSTON: Papers relating to the claim of W. B. Isaacs & Co., of Richmond, Virginia—to the Committee on the Judiciary.

By Mr. KNOTT. The petition of certain seamen, officers, and shippers, of vessels destroyed by the Alabama, Florida, and Shenandoah, in their own behalf and of others; of owners, masters, officers, and crew of the bark Harvest; and of the owners and proprietors of the Dispatch line of packet-ships between New York and China, for indemnity for losses sustained by the attacks upon their vessels by the Alabama and other rebel cruisers during the late war, and the payment thereof out of the balance of the Geneva award—to the same committee.

Also, the petition of Margaret G. Meade, administratrix of the estate of Richard W. Meade, deceased, that she be paid an amount adjudicated by the Spanish government to be due said decedent, the payment of which amount was subsequently assumed by the United States, and for the passage of a bill as therein set forth—to the Committee of Claims.

By Mr. LINDSEY: The petition of Carlos Butterfield, (accompanied by draught of bill,) that the Secretary of State be required to deliver to him certified copies of all papers and accounts filed in the State Department by the late joint commission, being proofs of indebtedness of Mexico to the late firm of Carlos Butterfield & Co.—to the Committee on Foreign Affairs.

Also, the petition of Carlos Butterfield, (accompanied by draught of joint resolution,) that the Secretary of State be required to furnish information to Congress in reference to the claim of Carlos Butterfield against the government of Denmark—to the same committee.

Also, the petition of Greenleaf Cilley, commander in the United States Navy, to be restored to the active list—to the Committee on Naval Affairs.

By Mr. NEWBERRY: The petition of 80 citizens and business firms of Detroit, Michigan, for authority to construct a bridge across Detroit River, at Detroit—to the Committee on Commerce.

By Mr. PRESCOTT: The petition of Dr. Mary E. Walker, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. ROBERTSON: A paper relating to the establishment of a post-route from Palestine, Louisiana, to Conerly, Mississippi—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH, of Pennsylvania: The petition of Jacob and Elizabeth Sener to be refunded tax and penalty unjustly assessed and collected from them—to the Committee of Claims.

By Mr. TOWNSEND, of Ohio: The petition of Corning & Co. and 17 other firms, of Cleveland, Ohio, for the amendment of the revenue laws—to the Committee of Ways and Means.

By Mr. WISE: The petition of Morgan R. Wise, (accompanied by draught of bill,) that a pension be granted Mary A. Casterweller—to the Committee on Invalid Pensions.

By Mr. FERNANDO WOOD: The petition of Adam Roediger, for an inquiry into the sale of the steamer Josie and the disposition of the proceeds, which steamer was seized and sold by United States revenue officials—to the Committee on the Judiciary.

By Mr. WRIGHT: The petition of J. C. G. Kennedy, of Washington, District of Columbia, relating to the United States census—to the Committee on the Census.

IN SENATE.

FRIDAY, *April* 18, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. INGALLS presented the petition of Matthew O'Regan, late of Company E, Third United States Artillery, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Margaret Cahill, widow of James Cahill, late a captain in the Second United States Cavalry, praying to be allowed a pension; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 445) for the relief of Joseph B. Campbell; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 446) granting a pension to Jefferson Kinder; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 447) to authorize the Southern Minnesota Railway Extension Company to lay out and construct and operate a railroad from the western boundary-line of Minnesota to the Missouri River; which was read twice by its title, and referred to the Committee on Railroads.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 448) for the relief of the Fifth Baptist Church (colored) of Washington, District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Select Committee on the Freedman's Savings and Trust Company.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions," the first business in order is the resolution offered yesterday by the Senator from Pennsylvania, [Mr. WALLACE,] which will be reported.

The Secretary read the following resolution submitted by Mr. WALLACE April 17:

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

Mr. EDMUNDS. I see by the printed Calendar of resolutions that a resolution offered by myself on the 19th of March respecting going into general legislation stands first in order, and then the "resolution by Mr. HOAR, relating to the effects of certain proposed legislation." I had the impression myself, I am bound to say in the candor which should and does characterize all that we say, that both those resolutions had been laid upon the table by a vote of the Senate. If so, I suppose that is an order of the Senate which takes them off the Calendar of everything entirely. I ask the Chair if I am right about that?

The PRESIDENT *pro tempore*. The Chair understood day before yesterday, on inquiring of the clerks whether there were any resolutions on the Calendar which had to be called up at the expiration of the morning business, that there were only two resolutions, and they had both been laid upon the table on a vote by yeas and nays. The Chair supposed then, and so stated to the Senate, that they were not resolutions to be submitted to the Senate at the expiration of the morning business, but could only be taken up on a motion to take them from the table. Yesterday there was the same announcement, and no objection was made.

Mr. EDMUNDS. I think the Chair is entirely correct. I only called attention to it because on the printed Calendar these resolutions appear to stand at the head. If they did, I wanted them acted upon; but I have no doubt the statement of the Chair is perfectly correct. With that understanding I hope the Calendar, when next printed, will have those resolutions left off. The Senate have refused to consider those two resolutions, and I want it so understood.

The PRESIDENT *pro tempore*. The question before the Senate is on agreeing to the resolution offered by the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. EDMUNDS. I should like to have it reported again. My attention was diverted.

The Secretary again read the resolution.

Mr. EDMUNDS. I should like to hear the order read which the resolution proposes to repeal.

The PRESIDENT *pro tempore*. The order will be read.

Mr. WALLACE. It is at page 160 of the Manual.

The Secretary read as follows:

Resolved, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively as heretofore; but when made during the session of the Senate, any such removal to be first approved by the President of the Senate on reasons to be assigned therefor by the officer making the removal; and when in the recess, such reasons, in writing, to be laid before the President of the Senate on the first day of the succeeding session, and to be approved or disapproved by him.

Mr. ANTHONY. Mr. President, we all understand that the passage of this resolution has been determined by a power higher than the Senate, for there is in the Senate a power greater than the Senate itself, an *imperium in imperio* which governs by its own mere motion.

Mr. SAULSBURY. Let me ask the Senator how he understands that? He says that "we all understand." I should like to know how he understands it?

Mr. ANTHONY. We understand it from the declarations that have been made on the other side, that measures would be introduced into this body by the committee appointed by the democratic caucus.

Mr. SAULSBURY. I am afraid the Senator from Rhode Island has a very fertile imagination.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island yield to the Senator from Delaware?

Mr. SAULSBURY. The Senator deceives himself. He can hear sounds in the air which nobody else can hear. I assure the Senator that so far as his statement is concerned he is wholly incorrect. If he means to say that there has been a caucus determination upon this question, I know as a democratic Senator that the gentleman is entirely mistaken.

Mr. ANTHONY. I judge from the declarations made the other day upon the other side of the Chamber; for when the Senator from Massachusetts [Mr. HOAR] made a speech, an admirable and I conceive it an unanswerable one, upon the revolutionary tendency of forcing legislation upon appropriation bills as a condition of voting the money to support the Government and to carry into effect existing legislation, he was rebuked for introducing the discussion of a subject in the absence of the Senator who had it in charge; and when my friend from New York [Mr. CONKLING] naturally enough asked how a Senator, other than he who introduced it, could be said to be in charge of a measure that had not been reported or even referred to a committee of this body, the reply was that it was in charge of the Senator from Ohio, [Mr. THURMAN,] then absent, and who now graces the chair, the chairman of a committee appointed by the democratic caucus; that he was pondering upon the legislation that was proper to be introduced into this body; that he was considering what measures we should act upon; and that when in his good pleasure he should report them they would be acted upon, and would so commend themselves to Congress that they would pass. Why would they pass? Because they would have been agreed upon in the democratic caucus; and so improper was the discussion considered in the absence of the chairman of the executive committee of the democratic caucus, that a motion was made to lay the measure on the table, pending which the Senate, by a party vote, adjourned, effecting the same object that would have been accomplished if the motion to lay upon the table had prevailed, cutting off debate.

And when a few days later, fully recognizing the law laid down upon the other side, that it was improper to take up any measure which had not been passed upon by the democratic caucus, I innocently suggested that if the chairman of that august body, superior to the Senate, had nothing to offer, had no commands to lay before us, we should proceed to the consideration of executive business, the very mention of the word "caucus," although coupled with a full admission of the authority claimed for it on the other side, so grieved and offended the feelings of our democratic brethren that they found themselves unfitted for the transaction of public business, and sought relief for their wounded sensibilities in a hasty and indignant adjournment.

Mr. President, I should be chargeable with an uncommon degree of vanity if I supposed that any argument I might advance, that any fact I could adduce, would be more than the fly upon the wheel of this car of Juggernaut which rolls through the Senate, crushing out our venerable precedents, trampling upon our ancient usages, and breaking in upon the freedom of our discussions; but I will venture to reproduce some sentiments which cannot be denied, though they may be repudiated, sentiments spoken by one of the most distinguished of the ancient leaders upon the other side of the Chamber, a man who long held a conspicuous position in this body, the position that now is so ably filled by my friend from Connecticut, [Mr. EATON,] and who is able to fill any position in this body—chairman of the Committee on Foreign Relations. This will show what was democratic doctrine in 1854, twenty-five years ago, and may serve to mark the progress that has been made from that time to this in the great measures of reform. The wholesome rule which this resolution proposes to abrogate was adopted at the first session of the Thirty-third Congress on the report of a committee, of which James M. Mason, of Virginia, was chairman. In the report he says:

The committee concur entirely in the recommendation of the Sergeant-at-Arms that the officers in the employ of the Senate should be permanent.

The Senate is a permanent body, liable to be convoked separately from its coordinate branch, and should be always in a state of efficient organization. The only sound objection to such organization would be on the score of expense; and under that recommended by the committee it will be found that this is materially diminished.

* * * * * * *

In the opinion of the committee the correct and safe transaction of the business of the Senate is materially dependent on retaining in its service a corps of experienced well trained, and diligent officers; and this can only be done by security in

their respective positions so long as they continue faithful in the discharge of their duties.

While, therefore, they recommend, as in the office of the Secretary of the Senate, that the appointment of his subordinates and the power of dismissal should remain with those officers respectively, who must be responsible for all the service committed to their charge, yet they further recommend that their subordinate officers, during the sessions of the Senate, shall be dismissed only by the Secretary of the Senate and the Sergeant-at-Arms, respectively, for reasons to be stated in writing, and such dismissal to be approved by the President of the Senate; in the recess of the Senate such dismissal, with the reasons therefor, to be reported to the President of the Senate in writing on the first day of the next meeting of the Senate thereafter, and then in like manner to be subject to his approval.—*Senate Reports*, Thirty-third Congress, first session, Report No. 344.

And in the debate which ensued the same Senator spoke as follows—a motion being made by Mr. Bright to strike out the part of the resolution which made the appointment of those officers subject to the approval of the Vice-President—

Senators who have read the report will find—

Mr. Mason said—

that the object of the committee was, and they thought it was in accordance with the judgment of the Senate, to make the organization of the Senate permanent, to have an efficient body of officers to assist them in the discharge of their public duties, and to remove from the Senate every inducement or desire to keep its organization unsettled by the introduction of new officers from session to session, or from Congress to Congress.

We know, sir, that the practice of the Government, in its various Departments, has been, upon a new accession to power, to change all the subordinates, all the ministerial officers, not because they have been inefficient men, but solely and simply to put in others who wanted the places. It is to prevent the introduction of that practice into the Senate that the committee have recommended the permanent character of the organization.

Sir, no Senator who has been in the discharge of his duties here long enough to know the practice of the Senate, and what is required of Senators, can fail to be impressed with the exceeding importance to him, in the discharge of his duties, and to the public who are to be benefited by that discharge, of having a competent body of officers in the Senate, men who are trained and educated in the Senate, who know where to find what you want, how to give you information when you want it, and where to direct you to it. It is highly important to all the Senators, and more especially to Senators when they come here for the first time. The fear was, that unless the power of removal was in some way restrained, the officer having the power of appointment might at times feel himself coerced to remove some of the employés in his department to put in others who wanted the places, and who, ninety-nine times in a hundred, would be incompetent in the discharge of their duties.

Mr. Mason goes on to say, in reply to the proposition of Mr. Bright:

There may be reasons in favor of that proposition, but in my judgment, at least, the reasons against it are insuperable. These offices are valuable offices, not in emolument only but in dignity. But they are valuable also in emolument in the eyes of office-seekers; and if the Senate determine to go into an election of these officers at each Congress, the effect of it will be that those outside who are seeking office will consider it a proclamation for proposal, and they will come here and besiege the door of the Senate Chamber—

Mark the prophecy—

besiege the door of the Senate Chamber from all quarters, and their respective friends, to turn out the existing officers. Now, sir, I will not repeat what I said before as to the great importance to the Senate of preserving an efficient organization. But what will be the efficiency if the principal officers, those who are responsible for the execution of the duties of all, are changed from time to time? I hope it will not be done.—*Congressional Globe*, volume 28, part 3, first session Thirty-third Congress, (1854,) page 1768.

Mr. President, I will not supplement these just and conservative remarks by any observations of my own; if they had any effect it would be to weaken the force of them, if they retain any force under this new *régime* of reform; but I will only say that whomsoever the exigencies of party may bring to fill the places now occupied by faithful, diligent, courteous, trained and experienced officials they will find the house "swept and garnished." They will find the files of the Senate arranged, classified, accessible—to those who know how to look for them. They will find in the basement of this vast edifice forty thousand volumes, mainly the surplus accumulations of a Government of nearly a hundred years, so arranged that any one who knows where they are placed (and there are men here who do) can go down into a room, in the dark, and pick out a designated volume. They will find a methodical, orderly, economical, and honest administration of the affairs of the Senate. Whether the new and untried and inexperienced men who shall succeed them will be able to contribute as much to our comfort and convenience and to the dispatch of the public business experience will show.

Mr. HILL, of Georgia. Mr. President, I suppose there is no man in the Senate who has greater personal regard for the Senator from Rhode Island than I have; but I must confess, being a young man here as I am, that it surprises me very much to hear just such a speech from that Senator as he has made this morning, and as he made once before. That Senator has read to us what he is pleased to term a very conservative record upon the subject of the permanency of the officers and employés of the Senate in 1854. They are very good sentiments; but I suppose about 1861, if you examine the records you will find that the Senator from Rhode Island joined in turning out permanent officers, officers who had been in this body for years, and who would have been retained if the sentiments he has read to us had been observed.

I suppose in 1854 the persons who then had control of the Senate had the employés of the Senate, and they were very much in favor of making them permanent. I suppose in 1861 the Senator from Rhode Island was of a different opinion. I suppose that Senator will not dispute the fact that he joined in turning out the officers of the Senate in 1861. There is a sudden change which has come over the spirit of his dream. I suppose that even since the meeting of the Senate there have been changes on each side of the Chamber upon that subject as to partial permanency, because whereas this side of the Chamber was not in favor of universal permanency at the opening of this session, I suppose now even this side would be in favor of partial permanency. I suppose there are officers now in the office of the Secretary of the Senate and the Sergeant-at-Arms, and others, that we on our side would agree should stay there. I expect gentlemen on the other side would not agree to have them and would be opposed to permanency at once. I suppose, to tell the truth, if by some extraordinary occurrence the political complexion of the Senate should change to-morrow and our republican friends on the other side should be in a majority, they would be in favor of changing the officers again.

Now, why discuss this question? Why make these issues? Does not everybody know that, whether fortunate or unfortunate, wise or unwise, all parties are guilty, if it be guilt, of desiring ministerial officers in accord with the dominant party. Is there anything unusual about it? Is there anything criminal about it? Has not every member on the other side done that thing? Has not the venerable Senator from Rhode Island voted that way? Is not that his record? When the Senate changes from republican to democratic, why is it that the republicans all at once are seized with a wonderful desire to make the officers permanent and object to change? If it is changed from democratic to republican again, why will the democrats be seized with a desire to make the officers permanent and object to a change? With all due deference to the venerable Senator, it does strike me as childish. The Senator may take the record of 1861, when the complexion of this body was changed, and I will venture to say that more changes were made then in the officers and employés of the Senate than will be made by this body when all the changes shall be made that are designed. I challenge the Senator to the record on that subject when these changes are all over. I venture that the democrats in this body will remove fewer of the officers of this Senate than were removed by the republican party when it came into power.

Then, again, I had hoped the Senator had exhausted himself on caucus action the other day when he said if there was no business from the caucus, or a subcommittee of the caucus, or something of that sort, he would move that the Senate go into executive session. Does not that Senator know that the impression he is seeking to make on the country, that this body is governed by caucus action, is not correct? Has this body proposed any action whatever that lessens the free agency of the Senator from Rhode Island or anybody else here? Have we adopted any measure that bills and resolutions shall not be introduced by that Senator on any subject he pleases, that they shall not be introduced by anybody who pleases to introduce them? Is there anything that prevents any gentleman on this floor from introducing any bill or resolution that he sees proper under the rules? Has any motion been made anywhere that bills or resolutions should not be referred to a committee and should not be passed upon by a committee and reported from a committee, and when reported freely debated and discussed? Are we not discussing measures of that kind every day? You can propose as many amendments as you please. Why, then, seek to make the impression that a caucus has taken control of this body?

Now, I will say to that Senator another thing on which I am perfectly willing to go to the country, that the democratic party as far as I know its action—and I believe I am informed upon that subject—has never yet in caucus or out of caucus passed any rule or order or resolution that any member even of the democratic party shall be bound in his place by anything the caucus has done. I suppose the democratic members, as the republican members have done a thousand times, meet in caucus and confer for the purpose of having concert of action. That party does it every day; that party has done it during this session; that party has done it to a very memorable extent during the last ten or twelve years. All parties do that. And I suppose if you look into the history of this country you will find that the republican party have matured a great many measures in caucus to be introduced in this House and in the other House, and a great many bills and resolutions have come into the Senate after having been agreed upon by the party in caucus. I do not know whether the republican party did it in caucus or not, but I will say to the Senator that so far from the democratic party ever having passed any order or resolution that any member on that side of the Senate either in whole or in part should be bound by its caucus action, they have never done anything that binds even a single member of the democratic party in his official action in this body and in the other House.

I think we might as well meet these things as grown men ought to meet them. I suppose from the foundation of this Government, or from the division of the country into parties, all parties have had their caucuses, have conferred together as to what was the best policy to pursue in their judgment; I suppose that thing has been done just as long as parties have existed in this country. I do not see anything criminal in it; I do not see anything wrong in it. I expect I am as good a civil-service reformer as anybody ought to be. I do not see any harm in a party that is responsible for the legislation of the country having concert of action and adopting means for concert, as I say all parties have done; and I think if we go on with the business of the country without making these unnecessary issues the

country will certainly not be damaged, and I think it will be benefited. I say this with the greatest kindness, for I have great respect for the Senator from Rhode Island. He is a man that I do esteem very much; and when a venerable Senator like that Senator, who has been here so long and understands so well what has occurred in this body, who has seen so many changes, and who has seen every party change the officers when it attained power, when he has himself helped to make such changes, when he has never failed to help to make such changes, I dare say, it is strange that one so distinguished, that one who should be an example to us all, should attempt to make issues of this kind which are unjust.

One of the most remarkable things that has ever occurred to me is this: whenever the democratic party attempt to do anything in this world now that the republican party have happened to do, they charge us with revolution at once; and if we do the very things which the republican party has done, if we adopt their methods in any respect, it seems to excite, it seems to alarm them. My friend says we are putting general legislation on appropriation bills. A great deal has been said upon that subject. That, it is said, is revolutionary; and yet the records show that the republican party has done that three hundred or four hundred times in a few years, and it never was revolutionary before!

He says we are holding democratic caucuses and we are maturing measures in the democratic caucus and agree upon measures to be pursued by the democratic caucus. Did the republicans never do the same thing? No party in this country ever did it more, or did it more rigidly, than the republican party; yet the very moment we are supposed to do anything that they have been doing, they raise the cry of revolution!

Now I respectfully and kindly say to the Senate, let us be done with this sort of childish business and go on with the business of the country.

Mr. ANTHONY. Mr. President, "the venerable Senator from Rhode Island" receives with all proper submission and humility the lecture delivered to him by his youthful friend from Georgia. The subject of caucus was not introduced in this Chamber by me; it was introduced on the other side, when it was assigned, as the reason for not considering a bill, that it was under deliberation by a committee of the democratic caucus. I am not responsible for the introduction of it here.

Mr. HILL, of Georgia. Now I ask the Senator did he, because the Senator from Kentucky or some other Senator said that a certain matter was under consideration by the democratic caucus, understand the Senator to mean that that democratic caucus was going to control the legislation, so that the free agency of this body would be disturbed, so that the right of introducing bills and referring bills and reporting upon bills by committees should be in the least changed, in the slightest degree lessened? Did he so regard it?

Mr. ANTHONY. I regarded him as meaning just what he said, that it was improper to discuss the question, in the absence of the chairman of the committee who had charge of it, according to the democratic caucus; and if it was improper to discuss it, of course it was improper to act upon it.

Mr. HILL, of Georgia. I did not understand the Senator from Kentucky as saying it was improper to discuss anything in the absence of the chairman of the democratic caucus committee, and I say to my friend—if "venerable" offends him I will say my youthful friend——

Mr. ANTHONY. No; I take it as a compliment.

Mr. HILL, of Georgia. I understood my friend from Kentucky to say no such thing; but I did understand him to say this, that the reply by the Senator from Massachusetts [Mr. HOAR] to a speech made by the Senator from Ohio [Mr. THURMAN] in the absence of that Senator and when that Senator was detained at home sick, he did not think was proper; and that so far as the action of the caucus was concerned, I did understand the Senator from Kentucky to say that as the measure would be brought in in proper form before this body at an early day, he thought it proper to postpone discussion until the measure in a matured form was brought before the body. That was the substance of what he said.

Mr. ANTHONY. Well, I will give the exact words of what he said. The Senator from New York [Mr. CONKLING] had asked—

Will the Senator allow me to understand him? To what committee does he refer as one of which the Senator from Ohio is chairman?

Then, what followed?

Mr. BECK. A democratic committee now considering how it is best for this side of the House who have the responsibility to act to determine how we can best present the measures fairly and properly.

Mr. CONKLING. Not a committee of the Senate?

Mr. BECK. No, sir; not a committee of the Senate as such.

Mr. CONKLING. I beg the Senator's pardon.

Mr. BECK. But a committee that I believe will present legislation that Congress and the country will approve and indorse; when that committee does act and those bills are up for consideration—

Not to be up for consideration until that committee had acted—

then we will discuss all these questions to the satisfaction of gentlemen on the other side, we hope.

Again he said:

Therefore, as this resolution and speech has been, as I think, flung in improperly, in the absence of the gentleman who we recognize as having more to do with the preparation of the bills than anybody else—I mean the Senator from Ohio, [Mr. THURMAN]—and as his former speech has been attacked behind his back, I move that the resolution of the Senator from Massachusetts be laid on the table.

Being appealed to to withdraw it, he said:

I decline to withdraw it. The question has been argued in the absence of the gentleman mainly in charge, and I object.

Mr. President, the Senator from Georgia referred to the advent of the republican party into power, in this Chamber, in 1861. We changed then, I think, a single officer, the Sergeant-at-Arms. The Senate and the country were in a peculiar situation. The treason that had long been hatching in the South, in this city, and in this Chamber, had burst into open rebellion, into flagrant war. The seats upon that side of the Chamber were mainly vacant, vacated by men who had deserted them, to go into rebellion against the Government which they had sworn to support.

Mr. HILL, of Georgia. Will my friend, the Senator from Rhode Island, allow me one question?

Mr. ANTHONY. I have very few remarks to make, and I will listen to the Senator after I finish.

The PRESIDENT *pro tempore*. The Senator from Rhode Island declines to be interrupted.

Mr. ANTHONY. It was necessary that the elective officers of the Senate should be in sympathy with the party which sustained the Union and the Constitution. The elective officers have access to our executive and to our secret legislative sessions; they are familiar with all our proceedings; they are necessarily the depositaries of our secrets, and they know, to some extent, the foreshadowed action of the body. It was not deemed prudent that any man whose fidelity to the Union and Constitution was not above suspicion or equivocation, should be admitted into the secret sessions of the Senate, and for that reason the change was made.

The venerable Secretary of the Senate, who was a democrat and had been for more than twenty years in office, was retained, retained until he became incapacitated, by sickness and old age, from performing the duties of his office. Mr. McDonald, who had been in the service of the Senate twenty-two years, was a democrat, and was retained and promoted. Mr. Bassett, who had been here more than twenty years, was retained and promoted; and of the subordinate employés there were very few removals made. There were many vacancies; because many of the officers followed their patrons, who abandoned their seats and went into the South carrying their sympathies, if not their swords, to the aid of the rebellion, and their places of course were filled by men of our own political persuasion.

I have a list, somewhere, of the number of officers that were retained; it is very large, and they were retained for a long time, and very few changes were made. None, probably, would have been made from political considerations. They were made from loyal considerations.

Mr. HILL, of Georgia. Will the Senator allow me to ask him a question?

Mr. ANTHONY. Certainly.

Mr. HILL, of Georgia. If the Senate should become republican in 1881, two years from now, will he oppose a change of the officers then?

Mr. ANTHONY. I will answer that when the time comes; and I hope to see it. I cannot tell whether another rebellion may not break out in the South. There seem to be signs of it now.

Mr. HILL, of Georgia. If a rebellion does not break out, how then? Will you move to change them or not? Suppose we do not rebel?

Mr. ANTHONY. It will depend upon the manner in which they fulfill the duties of their offices. I do not think I shall ever be found advocating the removal of officers of this body who have performed their duties with fidelity, with honesty, and with intelligence.

Mr. HILL, of Georgia. Will you not conclude that a republican only can perform the duties in that way when you get into power?

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. EDMUNDS. Mr. President, I move to amend the resolution by striking out all after the word "resolved" and inserting what I send to the Chair.

The PRESIDENT *pro tempore*. The words proposed to be inserted will be read.

The Secretary read as follows:

That, in the opinion of the Senate, the correct and safe transaction of the business of the Senate is materially dependent on retaining in its service a corps of experienced, well-trained, and diligent officers, and this can only be done by security in their respective positions so long as they continue faithful in the discharge of their duties.

Mr. EDMUNDS. I will merely say that that is verbatim, except that I have inserted the word "Senate" in place of "committee," the report of the democratic committee of 1854 which I believe was unanimously acquiesced in and agreed to by men of all parties in this Chamber at that time.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

Mr. CONKLING and Mr. EDMUNDS called for the yeas and nays; and they were ordered.

Mr. HILL, of Georgia. Is that offered as a substitute for the resolution of the Senator from Pennsylvania?

Mr. EDMUNDS. That is it exactly.

Mr. HILL, of Georgia. Not as an amendment?

Mr. EDMUNDS. An amendment to strike out all after "resolved" and insert this.

Mr. SAULSBURY. I shall not vote for that amendment. I view

it rather as an assumption on the part of members on the other side that the majority of the Senate are not capable of appointing proper employés for the Senate to enable us to transact the public business. I think we are fully competent to manage the affairs of the Senate and retain such officers as in our judgment it is proper to retain and to remove such as in the opinion of those who are charged with the management of the public business in this Chamber should be removed.

I have nothing to say against the employés of the Senate, those that have been placed in power by our republican friends. Their bearing toward me has been courteous and kind, and I have nothing therefore to say against any of them; but I take it upon myself to say that we can select from our own ranks gentlemen equally as competent, equally as faithful in the performance of these duties, and I do not know any good rule or reason why we should not at least divide something of the patronage of the Senate with our own friends. I have never complained of the republican side of this Chamber for filling all the places in the employment of the Senate with their own friends.

Mr. ANTHONY. Will the Senator allow me to interrupt him?

Mr. SAULSBURY. I desire to go on; but I will yield if the gentleman desires especially to interrupt me.

Mr. ANTHONY. I merely wish to say that when the Senator says the republicans filled all the offices of the Senate with their own political friends he is mistaken, for about one-quarter of the employés of the Senate were democrats.

Mr. SAULSBURY. I do not know what may have been the experience of other democratic Senators; but I have had the honor of a seat on this floor for more than eight years, and there is not a single employé in the Government, not only in the Senate, but there is not a single employé in the whole Government service that owes his position to any influence that I have exerted. One of the daughters of a late admiral of the Navy to whom I gave a letter to the Public Printer when I had the honor to be a member of the Committee on Printing under the chairmanship of the Senator from Rhode Island, an old lady, destitute and impoverished, went to the Government Printer and secured a position worth $20 a month. But with that exception there is not an employé under this Government that owes his or her appointment to any influence I have exerted, so far as I know. I have on one or two occasions attempted to secure for a person in very indigent circumstances employment in some of the Government Departments, but never with success. I have applied myself personally once or twice to the late Sergeant-at-Arms of the Senate, and I have never been favored with any employé except, I believe, on one occasion a young man was put in the folding-room to fold speeches during a press of business, at a dollar and a half a day, and who was retained perhaps for two or three weeks. And yet, after such exclusion of democratic Senators from participation in the patronage of the Senate, and the patronage of the Government, I think it ill becomes gentlemen on the other side to complain that we now propose to divide properly and fairly the patronage of this body by giving part of it to our own political friends.

Why, sir, that is a new-born virtue in the republican party which would deal impartially with men who are opposed to them politically. I have in my hand now a copy of a circular issued in Massachusetts which betrays something of the animus that has governed that party in the distribution of its patronage. Employés have been discharged or compelled to vote in conformity with the political wishes of republican employers. I hold in my hand a copy of a circular issued last year in Massachusetts, which I will read, addressed to an employer of men:

DEAR SIR: Your co-operation with the Massachusetts republican State central committee is most earnestly requested. It is in your power, by the authority you can exercise over those employed by you, to maintain the honor of Massachusetts and keep it out of the hands of spoilers and political knaves who have selected General Butler as their candidate. His election would disgrace our State and ruin our standing at home and abroad. A thorough canvass of those you employ and an early report to the secretary of the republican State central committee will be thankfully received.

That circular discloses the animus of the republican party in Massachusetts at least. They wanted employers to bring their power to bear on their employés——

Mr. DAWES. Will the Senator be kind enough to yield a moment?

Mr. SAULSBURY. I prefer going on with my remarks.

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield?

Mr. DAWES. Does the Senator decline to yield?

Mr. SAULSBURY. I desire to say for one that I have no disposition to see a slaughter of the innocents; but at the same time as a democrat I should be untrue to my own feelings, I believe I should be untrue to the party that placed me as a Senator on this floor, if I should prefer my enemies to my friends. I do not do it, and I think there are places within the employment of this Senate that should be given to our democratic friends, and for one I shall advocate that policy, notwithstanding it meets with reprehension from gentlemen on the other side.

Mr. DAWES. Mr. President, I am surprised that the Senator from Delaware forgot his usual courtesy when reading a document which purported to come from Massachusetts that he declined to let a Massachusetts Senator arrest him. The document which he read and which he said emanated from the republican State central committee of Massachusetts is a forgery; it was pronounced by the State central committee of Massachusetts the day it appeared in print as a forgery; it was known to be a forgery by the man who sent it to the committee, from whose documents the Senator read, obtained by him, got up by him (as there is no doubt from the evidence) in the city of New York, and brought to Massachusetts to be used just in the way that the Senator from Delaware has been induced to use it this morning. It appeared in print in Massachusetts in the afternoon of the day before the election. The State central committee of Massachusetts pronounced it a forgery, and offered a reward for any particle of evidence that it ever was issued by them, or the appearance of any person in Massachusetts who had ever received a copy of it. That was all known in Massachusetts months before that paper was sent here to Washington, and has been incorporated into the files of one of our committees, and has been imposed upon the Senator from Delaware.

Mr. CONKLING. On what page of the document is this?

Mr. DAWES. It heads the first of the "papers laid before the committee, printed by order of the Senate made March 27, 1879." It stands at the head. I suppose, therefore, it is considered by the committee the most authentic piece of information they have in this whole document. The parties who got it up in Massachusetts abandoned it in less than twenty-four hours after they had put it forth, and there never could be found in Massachusetts, although a reward has been offered for him, the man who ever saw it or who brought it. It came into Massachusetts and was carried upon the platform of a public meeting in Massachusetts with the assurance that somebody had brought it from a printing-office in New York; but the man who brought it from the printing-office could not be found. No reward, no search-warrant has been able to this day to produce him. I am sorry the Senator from Delaware has been so imposed on.

Mr. SAULSBURY. Does the Senator from Massachusetts deny that the following letter was written by the chairman of the republican State committee?

Dear sir——

The PRESIDENT *pro tempore*. Has the Senator from Massachusetts concluded his remarks?

Mr. DAWES. No, sir. Mr. President, it is no answer to this undertaking to put upon the public this forged document to ask me whether some other document is authentic or not. I am dealing with this one that stands at the head, and I not only pronounce it a forgery, but an acknowledged forgery in Massachusetts, and it must have been known to be such, if it was sent here from Massachusetts by anybody who has common intelligence in that State. If the committee who put it upon their records sent out to Massachusetts and themselves got it, they may take the responsibility themselves for it; but if any man in Massachusetts of ordinary intelligence sent it here, who reads the newspapers and is able to read the newspapers, he sent it here knowing that it was a forgery.

Mr. SAULSBURY. Will the Senator from Massachusetts be kind enough to tell me whether the following letter dated—

REPUBLICAN STATE COMMITTEE OF MASSACHUSETTS,
HEADQUARTERS, 376 WASHINGTON STREET,
Boston, September 26, 1878.

(Adin Thayer, chairman; S. B. Stebbins, treasurer; George G. Crocker, secretary.)

DEAR SIR: In order to enable us to distribute documents effectively, will you kindly furnish us immediately with a list of the male members of your church and parish, and with such other names as you may deem expedient. By so doing you will aid us in saving the honor of our Commonwealth.

With esteem, yours,

ADIN THAYER, *Chairman.*

GEORGE G. CROCKER, *Secretary*—

was not distributed to clergymen, and whether they did not invoke the aid of the church as well as the aid of the employers of men to assist in carrying out the republican schemes in Massachusetts?

Mr. DAWES. The Senator is quite willing to interrupt me after having declined to yield to me to correct a statement of his. Before I reply I first want to have a perfect understanding with the Senator from Delaware, and I want to know if he has anything further to say about this forgery before I pass to the other thing—the forgery which he read and which he declined to permit me to interrupt him to correct him on. I wish to know if he has anything further to say. Will he tell us how he came by it? Will he tell us who is the author of it? Will he tell us from what responsible source in Massachusetts it came here to be entered in the public records? Perhaps the Senator can tell us that which we have been unable to ascertain in Massachusetts, who did commit the forgery? The Senator is the first responsible gentleman I have seen yet who has undertaken to palm it off upon the public. Now, that I have found a responsible man, I should like very much to have him give us some information about the authorship of this paper. I think he is a responsible indorser to this paper; and according to the law-merchants the indorser cannot deny the genuineness of the signature, and I hold him responsible. I will answer his question about this other letter when he answers my question about the first one.

Mr. SAULSBURY. It is said to be common in the region of country from which the Senator comes, when a question is propounded, to answer it by asking another. The Senator said the first letter which I read was a forgery. Then when I asked whether the second was not addressed to the clergymen it purported to be sent to, he pro-

pounded another question to me in reply. I desire to elicit a specific response to the inquiry which I made.

Mr. DAWES. The Senator is mistaken in the order of things. The Senator had a question propounded to him and he tries to escape by putting another to me, and now he thinks I ought to answer that before he answers mine. If the Senator will confess that somebody has palmed off this forgery upon him, I will let him off. I have not the slightest objection to answering his question about the other letter.

The PRESIDENT *pro tempore*. The morning hour has expired.

Several SENATORS. Regular order.

Mr. BAYARD. I ask that the resolution offered by the Senator from Pennsylvania and the substitute of the Senator from Vermont [Mr. EDMUNDS] be printed.

The PRESIDENT *pro tempore*. The order to print will be entered.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. MCDONALD. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

Mr. WITHERS. I ask for the yeas and nays on the motion.

Mr. EDMUNDS. Let us try it on a division first.

Mr. WITHERS. Very well. It is not a debatable proposition, I know.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was not agreed to; there being on a division—ayes 20, noes 31.

RULE AS TO INTERRUPTIONS.

The PRESIDENT *pro tempore*. Before proceeding to the order of the day, the Chair begs leave of the Senate to be permitted to read Rule 38, a failure to observe the last part of which sometimes gives rise to disagreeable colloquies in the Senate:

38. The presiding officer shall name the Senator who is to speak, and in all cases the Senator who shall first rise and address the Chair shall speak first. No Senator shall speak to or interrupt another Senator in debate without his consent; and to obtain such consent he shall first address the Chair.

The Chair will feel it his duty to enforce that rule, the non-observance of which sometimes gives rise to very disagreeable colloquies.

Mr. EDMUNDS. And I am sure every Senator will thank the Chair if he will enforce it.

INTEROCEANIC CANAL SURVEYS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a copy of the report of the commission appointed by the President on the 15th of March, 1872, relating to the different interoceanic canal surveys and the practicability of the construction of a ship-canal across this continent; which, on motion of Mr. ANTHONY, was ordered to lie on the table and be printed.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question being on the amendment of Mr. BLAINE to add to the sixth section the following words:

And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. RANDOLPH. Mr. President, the weight of argument against the pending bill is not directly to the defense of an existing law which permits the use of troops at the polls, but ostensibly to legislation upon an appropriation bill, which, if passed into law, effectually dismisses United States soldiers as an element of power in American politics.

Objection is urged to legislation upon an appropriation bill which, if passed into law, will effectually prohibit the presence of United States troops at election precincts.

I have had grave doubts, not as to the power of Congress to legislate by this process, but as to the expediency of the use of that power. I say now that I think it should be rarely resorted to, and only under circumstances of emergencey or pressing necessity. The law concerning the use of the Army at the polls has proved to be a standing menace to the liberties of a free people, and I deem no duty placed upon their Representatives or those of the States superior to that of repealing an obnoxious and menacing law.

The question presented in a simple form is this: As a condition of granting supplies to the Army, has Congress a right to demand a redress of what a majority of its members deem "grievances" concerning its use?

The history of New Jersey from its earliest settlement as a province, through its colonial life and ever since its existence as a State, is filled with instruction and evidence upon this very subject; and no true representative of the example, traditions, and history of the State need doubt for a moment as to the demand of true Jerseymen upon him touching this question.

From first to last, from the day that the province contained but a handful of hardy adventurers in 1664, through all intervening years, till now counting a million and a half of people, there has been no expression of her representatives in provincial, colonial, or State Legislatures against the right to couple redress of grievances with appropriations of money. To the contrary, the assertion of this right glows through the pages of a full history and discloses the broad and enduring foundation of that singularly free government which the people of New Jersey have enjoyed from the earliest settlement of its Territory.

Nay, more, sir, the unceasing assertion of the right to couple grievances and appropriations, as made by Jerseymen, did more to quicken into active life the germ of State independence than all other controversies antedating the great revolutionary struggle.

The student of history will have small trouble to understand the quick response of the colony of New Jersey to the demand made on all liberty-loving Americans in 1776, and still less trouble to appreciate the patience, endurance, and bravery of her people through all the eventful years of our revolutionary struggle, if he considers the earlier history of the State.

The Senate will pardon the detention I give in briefly alluding to prominent facts in the record of New Jersey that to me seem to bear strongly upon what right and duty is at this hour.

PROVINCIAL HISTORY.

In 1664 an article of "concessions and agreements" was made between the lords proprietors of the Province of New Jersey, and the "adventurers," as they were styled, who had or should settle there.

Among other grants of power to the governor appointed by the lords proprietors, made under authority of the crown, the following is found:

For the better security of all the inhabitants in said province it is ordained:

First. They are not to impose nor suffer to be imposed any tax, custom, subsidy, tollage, assessment, or any other duty whatsoever, upon any color or pretense, upon the said province and inhabitants thereof, other than what shall be imposed by the authority and consent of the General Assembly, and then only in the manner as aforesaid.

Again, regarding the use of the military force of the province, this provision is made:

Fourthly. To place officers and soldiers for the safety, strength, and defense of the forts, castles, cities, &c., according to the number appointed by the General Assembly, to nominate, place, and commissionate all military officers (under the dignity of the said governor, who is commissioned by us, over the several trained bands and companies, constituted by the General Assembly,) as colonels, captains, &c., and their commissions to revoke at pleasure. The governor, with the advice of his council, * * * shall exercise the whole militia, as fully as we by the grant from his royal highness can empower them to do: *Provided*, That they appoint no *military forces* but freeholders in the said province, *unless the General Assembly shall consent.*

Thus, sir, it will be observed that under the first written agreement or constitution of my State, made and promulgated two hundred and fifteen years ago, and more than one hundred years before the war of the Revolution, the inhabitants of the Province of New Jersey, "*being freemen*," demanded and obtained:

First. The right to choose their own representatives from among themselves, to form their own Legislature, and make their own laws.

Second. To regulate all taxation and grants of money.

Third. To raise soldiers at their option; to officer them with the governor's approval. But no authority could appoint any military force save freeholders of the province, unless the General Assembly first consent.

It is needless to detain the Senate further than to call its attention to the fact that the initial page of the history of New Jersey has written upon it the complete subordination of the military to the civil power, and its absolute dependence for life upon the will and action of the people. It will be noticed that the existence of troops other than freeholders, if raised, did not depend upon the governor's consent; it hinged alone on the consent of the members of the Assembly. It will not be forgotten, in seeking an analogy, that the governor represented the lords proprietors and the British Crown thereby.

In 1681, two hundred years ago, the Province of New Jersey being divided, and called East and West Jersey, the first government of the latter was instituted, and the government under authority of the lords proprietors (and the Crown) agreed with the people of the province upon certain "*fundamentals of government*," which, in part, were:

First. "There shall be a general free assembly for the province, yearly and every year, at a day certain, chosen by the free people of said province"—to make laws.

Second. "That the governor of the province aforesaid, his heirs or successors, for the time being, shall not suspend or defer the signing, sealing, and confirming of such acts and laws as the General Assembly (from time to time to be elected by the free people of the province aforesaid) shall make or enact for the securing of the liberties and properties of the said free people of the province aforesaid."

Third. "That it shall not be lawful for the governor of said province, his heirs or successors, for the time being, and council, or any of them, at any time or times hereafter, to make or raise war upon any account or pretense whatsoever, or to raise any military forces within the province aforesaid, without the consent and act of the general free assembly, for the time being."

Fourth. "That it shall not be lawful for the governor of said province * * * to levy or raise any sum or sums of money, or any other tax whatsoever, without the act, consent, and concurrence of the General Assembly."

Fifth. "That no general free assembly hereafter to be chosen by the free people

of the province aforesaid shall give to the governor of the said province for the time being, his heirs or successors, any tax or custom for longer time than one whole year."

The second constitution of the province, like the first, secured to the people the right of self-government, the full control of all armed forces, the taxing power, the limit of appropriations to *one* year, and the absolute *denial of the* VETO *power* to the governor.

It must be remembered that these assertions of "rights" were made two centuries ago by a handful of men in a then remote and sparsely settled province.

I have spoken of these agreements and "fundamentals" between the governor and the people of the province of New Jersey as having the same significance and authority as if made directly with the Crown of Great Britain, and in this assertion I am borne out by the following language, reciting the terms of the original grant from Charles II, and found reincorporated in the letters-patent of Queen Anne to the lords proprietors in 1702.

And King Charles the Second, for himself, his heirs, and successors, did give and grant to the said James Duke of York, his heirs, deputies, agents, commissioners, and assigns, full and absolute power and authority to correct, punish, pardon, govern, and rule all such subjects of the said king, his heirs and successors, as should from time to time adventure themselves into the parts and places aforesaid.

Difficulties having arisen concerning the separate government of the provinces of East and West Jersey, the proprietors, in 1702, surrendered their rights to Queen Anne, and in an article of acceptance by the queen from the proprietors of what she termed their "*pretended*" right of self-government, she gave at once the note of warning to the "free inhabitants" of the province and struck the spark that seventy years later was ablaze on the altar of American liberty.

Upon the acceptance by Queen Anne of the proprietary rights she appointed her cousin, Lord Cornbury, grandson to Chancellor Clarendon, governor of the consolidated provinces of New Jersey.

In the queen's commission to the governor the following clause, among others, appears:

And to the end that nothing may be passed or done by our said council or assembly to the prejudice of our heirs and successors, we will and ordain that you, the said Lord Cornbury, shall have and enjoy a *negative* power in the making and passing of all laws, statutes, and ordinances aforesaid; and that you shall and may likewise, from time to time, as you shall judge it necessary, adjourn, prorogue, and dissolve all general assemblies.

That no doubt might exist in the minds of the "free inhabitants" of New Jersey concerning the queen's purpose toward their assertion of the right of "free government," this additional power was placed in the royal commission. I quote from the document:

And we do hereby give and grant unto you, the said Lord Cornbury, by yourself, and by your captains and commanders, by you to be authorized, full power and authority to levy, arm, muster, command, and employ all persons whatsoever residing within our said province of Nova Cæsaria, or New Jersey; and, as occasion shall serve, *them to transport from one place to another*, * * * to any of our plantations in America, if necessity shall require, * * * and to do and execute all and every other thing and things which to any captain-general and governor-in-chief doth or ought of right to belong.

I may quote as a part of interesting history, rather than as information bearing directly upon the subject under discussion, another portion of the commission given by the queen to Lord and Governor Cornbury indicative of her purpose to disregard the principles underlying the assertions of the free inhabitants of the province by tempting some and forcing others to participate in the slave trade of England with Africa. The commission recites:

You are to give all due encouragement and invitation to merchants and others who shall bring trade into our said provinces, or any way contribute to the advantage thereof, and in particular to the Royal African Company of England.

And whereas we are willing to recommend unto the said company that the said province may have a constant and sufficient supply of *merchantable negroes* at moderate rates, in money or commodities, so you are to take special care that payment be duly made, and within a competent time according to their agreements.

Mr. President, I have quoted enough to show that the "free inhabitants" of the province of New Jersey of 1664 found themselves in 1702, thirty-eight years later, confronted by a great and pressing peril to their rights and liberties.

The lords proprietors of the province, with whom "the inhabitants" had made their "agreements" and "fundamentals," and which by their terms induced large immigration for that period from England and the continent to the favored province, finding no satisfactory advantage to themselves from their large possessions, surrendered to the Crown of Great Britain the territory it had granted to them. With the surrender of territory—so thought the queen—came also the surrender of rights. Not so believed the sturdy "free inhabitants" of Jersey. The proprietors might give away the lands remaining to them, said these "inhabitants," but they could not extinguish any privilege before derived from royal grants, relating to personal liberty, or matters of privilege, *or right of free government*, which, having enjoyed more than forty years, "must forever be deemed a privilege to the inhabitants."

Thus, sir, the issue was early and clearly and fully made between the representative of Great Britain and the free inhabitants of New Jersey. We have seen the claims of each. Could they have been more distinctly separated?

The right to tax, to raise and support armies, to transport them anywhere at the will of the Crown, was claimed on the one side; on the other, the right to vote for rulers, to have free assemblies, to make their own laws, to levy their own taxes, *to raise or omit to raise troops, to regulate their action when raised*, and, in a word, to grant supplies or not, as the representatives of the people deemed safest, wisest, best.

I will not trespass upon the Senate by a lengthy recital of the events of this most interesting period of history, following through many years the advent of the queen's new government.

It is enough to say that the people of both the provinces of East and West Jersey—theretofore in controversy and filled with jealousy of each other—became united in a common struggle for the preservation of sacred rights and against the encroachments of foreign power. The contest was long, and with men of lesser nerve and patriotism would have seemed hopeless.

I pass over the events from 1702 until 1707, when the governor required in the queen's name, that the General Assembly which the people had persisted in electing from year to year should "raise a revenue" for the support of the provincial government. What did the assembly of "free inhabitants" do, sir? The record says "they received the governor's message and *resolved themselves into a committee of the whole to consider their grievances.*" They also sent an address to the governor, the opening of which I will delay to read:

May it please the governor, we, her majesty's loyal subjects, the representatives of the Province of New Jersey, are heartily sorry that, instead of raising such a revenue as is by the governor (as we suppose by the queen's directions) required of us, we are obliged to lay before him the unhappy circumstances of this province.

In the same address the Assembly reminds the queen's representative that he has violated the privilege of the body by assuming to judge of the qualifications of its members; of presuming to negative the selection of voting freeholders and the like—sentences which may be profitably placed against acts of our current history.

This pregnant address to the governor closes in these words, which the Senate will agree lose nothing of their truth or force because uttered one hundred and seventy years ago, or because uttered by pioneers of independence who knew their rights and dared assert them; these are the words:

Liberty is too valuable a thing to be easily parted with, and when such mean inducements procure such violent endeavors to tear it from us, we must take leave to say they have neither heads, hearts, nor souls, that are not moved with the miseries of their country, and are not forward with their utmost power lawfully to redress them.

We conclude by advising the governor to consider what it is that principally engages the affections of a people, and he will find no other artifice needful than to let them be unmolested in the enjoyment of what belongs to them of right; and a wise man that despises not his own happiness will earnestly labor to regain their love.

By order of the house:

SAMUEL JENNINGS,
Speaker, (and ex-governor.)

The answer of the arrogant ruler was in keeping with his acts of administration. In a paper, filling a small volume, he anticipates the "vengeance of just Heaven" upon them; tells them they had "little regard for the truth;" that he had urged them to "settling a revenue," and that instead of so doing they had "squandered away their time in hawking after imaginary grievances." The Assembly's answer to the governor was ever the same, "that they would raise no money till their grievances were redressed."

These grievances were ever stated with clearness; they concerned the lives, liberties, and welfare of the inhabitants of the province. Months grew into years, but the representatives of the people stood firm and resolute. If their addresses to the queen's representative grew less courteous in "stile," so that Quaker members of the Assembly, concurring in the matter of them, objected to the "stile," they grew in vigor and rung with stirring sentences. To one of the governor's charges the Assembly's reply was, quoting Nehemiah:

There is no such thing done as thou sayest, but thou feignest them out of thine own heart!

Such were the processes by which Jerseymen of early days confronted the encroachments of power. "The queen's servants were to serve her according to law;" not against their rights, they insisted. Closing one of their final addresses to the governor, and appealing from him to the queen, refusing all appropriations for the support of government meantime, these plain words were used:

If these and what we have named before be acts of mercy, gentleness, and goodnature; if this be doing for the good, welfare, and prosperity of the people of this province; if this be the administering laws for the protection and preservation of her majesty's subjects, then have we been the most mistaken men in the world and have had the falsest notion of things—calling that cruelty, oppression, and injustice which are their direct opposites, and those things slavery, imprisonment, and hardships which are freedom, liberty, and ease; and must henceforth take France, Denmark, the Muscovian, Ottoman, and eastern empires to be the best models of a gentle and happy government.

The queen at last, in 1708, deposed the obnoxious governor, and thus, after a contest that in greater or less degree had lasted through years, the free inhabitants of New Jersey were vindicated in their assertion of the right of self-government.

The new governor, Lord Lovelace, lived but a short time, and was succeeded in 1710 by Governor Hunter. The Assembly's reception of him was cordial, and through all the years of his administration no serious misunderstanding occurred twixt him and the representatives. But the key-note of the Assembly's purposes toward the representative of the queen is found in this sentence of their address of welcome: "*We have always thought it equally reasonable to support a government, and to deny that support to tyranny and oppression.*"

Here, sir, is found, in unmistakable words uttered by freemen, few

in number but resolute of purpose, not only the living, glorious creed of their insistence, but the very life and essence of that immortal Declaration of Principles that seventy years later declared these States free and independent.

Mr. President, if I have somewhat detained the Senate by a partial and imperfect recital of the political history of the province that is now a "free and independent State," of which I am a representative, my apology will not need be made to her citizens, at least, who love their State's history and revere its traditions.

The border State of the Revolution, every acre of whose soil was trod by contending armies and every power of whose people was freely given to compel the liberties of all the peoples of all the "old thirteen"—I can do no better service to my State, to my people, to my country, at this period when partisan feeling is blinding patriotic judgment, than to remind Senators that it is as true now under this great Government as it was one hundred and seventy years ago under provincial New Jersey, "that it is equally reasonable to support a government, and to deny that support to tyranny and oppression."

THE POWER OF CONGRESS OVER THE ARMY.

Mr. President, objection is made to what is termed the coercive quality of the proposed legislation regarding the use of the Army.

The powers of Congress conferred by the Constitution and enumerated in section 8 of that article are well known to the Senate. They are as follows, sixteen in number:

SECTION VIII.

The Congress shall have power

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;
2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;
4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
7. To establish post-offices and post-roads;
8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
9. To constitute tribunals inferior to the Supreme Court;
10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
13. To provide and maintain a navy;
14. To make rules for the government and regulation of the land and naval forces;
15. To provide for calling forth the militia to execute the laws of the Union, to suppress insurrections and repel invasions;
16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

It will be observed that of these powers, explicitly conferred, only two of them have any reservation whatever attached to them. The first is to compel uniformity in laying duties, imposts, and excises in the States, and the second concerns the existence and support of the Army.

These are the words of the Constitution:

The Congress shall have power * * * to raise and support armies, *but no appropriation of money to that use shall be for a longer term than two years.*

When this provision of the Constitution was put before the Federal convention framing that instrument Mr. Gerry, of Massachusetts, objected to any provision looking to a standing army or any grant of money to the military for a longer period than one year. To this Mr. Sherman, of Connecticut, replied that as each Congress would last two years it would be more convenient to make but one appropriation for this service with each Congress; and that the convention would remember that the Congress, under the Constitution, was only "permitted," not "required," to appropriate money for the Army.

With this understanding on the part of the convention, the short debate, and the only debate of consequence regarding this grant of power to Congress, ceased; and the clause was adopted without division.

Constitutionally, appropriations for the legislative, executive, and judicial branches of Government, for the Navy even, may be made, both as to amount and time, at the discretion of the Congress; but appropriations for the Army, and for this branch of the public service *alone*, are surrounded by a restriction.

Thus did the framers of the Constitution declare that of all the elements of powers given under the fundamental law, this one alone, the Army, should forever be a *dependent one*.

The Army, so the Constitution declares, shall be reviewed *as to its cost, its composition, and its acts* by every new representative of the people, by every new Congress, and every two years.

It, of all the agencies of Government, is alone compelled to this review within a given and very limited period.

Its longest tenure of life is but two years.

Its breath is forever at the mercy of a mere majority of either branch of Congress, and not infrequently at the mercy of a single person exercising the executive power

Not even the Navy, the twin power of the Army, holds its life by such frail tenure. Appropriations may be made for that service as far ahead as Congress may deem proper; only the Army is the subject of constitutional warning.

Mr. President, we may safely assume that the founders of this Government did not count upon the absolute continuance of this arm of the service for the peace, prosperity, or perpetuity of the Government.

Would it not be most absurd, sir, in view of the well-known facts I have called the Senate's attention to, to speak of *any* restriction that Congress may choose to put upon the Army, or even the utter denial of any appropriation for its support, as "revolutionary?"

If it be said, sir, that some military power is essential to the preservation of the peace and the maintenance of the dignity, and at times the perpetuity, of the Government, I agree.

But, sir, the whole history of legislation concerning the Army of the United States, although mainly liberal, and justly so, indicate that its peace organization is not an element of indispensable power, and which by itself will suffice for the maintenance of order. That duty rests upon the States and their officers. Nor is its existence essential to the perpetuity of the Government; that charge is sacredly held by the people.

The Army is and ever will be, under our theory of government, the valuable nucleus of that other and supreme power, held by the States and by the people, and which, thus considered and used, has been found in every exigency all-sufficient for the purposes of its creation.

No man in this body is more friendly to the Army of the United States than I am. I am proud of its men and their achievements. Its fame and its history form a large part of the honorable record of the nations of earth.

But, sir, I would be lost to all sense of truth and remembrance of history if I admitted for a moment the monstrous and dangerous doctrine that this Government held its power, far less its life, in a period of peace, through the existence of its Army, or that its total disbandment would bring serious danger to the Government.

No, sir, when upon this branch of service alone the fundamental law of the land has placed the close and continuous grip of the representatives of the people and of the States, I cannot be brought to believe that any action concerning its use, whether on the frontier or on the seaboard, whether to treat the people of a State as "banditti" or to attempt to throttle the people of all the States by impertinent, dangerous, and illegal interference at the polls, is beyond the clear, absolute, and never-to-be-yielded power of Congress.

Nay, more, sir, it rises higher than a power which may be held in abeyance; it is the great duty of Congress to limit, confine, and restrict the use of its military arm to what it deems wise and safe; not what some other department may deem wise and safe, but what Congress may. That other department is the constitutional commander of the Army when it exists, but its existence is at the breath of Congress alone, as its death, so far as sustenance goes, may be contemporaneous almost with the power which gives it support.

Whatever arguments may be adduced as to legislation on appropriation bills other than that for the Army, it is clear the framers of the Constitution contemplated giving to Congress, and did give to Congress, every needed control over the Army as to its cost, its use, and its very life.

Because, Mr. President, we speak of the Army as a force apart from the people we are charged with hostility to it. Nothing could be less true. A free people, however, will ever look with jealous eye upon any great military force within their domain, knowing that every page of history warns them against the tendencies of military power. An army must needs be a force apart from the people. Its composition and its usefulness compel it to be so. The laws which govern it are those of blind, implicit, unreasoning obedience as to its main constituent. Against the most revolting service that may be assigned to it by a partisan President, or a political general-in-chief if such happen to be in command, there is no escape. Have we not seen battle-scarred men and officers put to the ignoble and distasteful labor of protecting thieves and usurpers in sovereign States? Have we not seen brave men commanding batteries of United States guns brought into this very city pending the decision of Congress as to who was the rightful President? It is safe to say that three-fourths of all these officers and men hated the duty put upon them, but they performed it.

No, sir; the Army is like a choice and essential weapon. It must only be in responsible hands, ever ready and rarely used.

Mr. President, I have been witness to the use of the troops of the United States, protecting so-called officials of a State government, as they trod upon the liberties of citizens and the rights of the State. I have seen the military power of this Government put forth within three years—the Senator from Maine will observe, within three years—and successfully put forth, and unlawfully put forth, and by the President of the United States, to keep one pretended State Legislature in power and another from its rights; and of that Legislature thus unlawfully and forcibly kept in scarce one of them to-day is not an inmate of a penitentiary, under indictment for mean crime, or a fugitive from justice.

This was the class of "citizens" that the Army of the United States was compelled to "protect and defend" against the people's own.

Can ours be an idle warning to a free people that have seen and

felt the usurping power? Will it be said, sir, that no president of a republic will dare to misuse this power?

I know to the contrary. I had the honor to bear a message in 1876 from Governor (now Senator) HAMPTON to the then President of the United States, requesting him to withdraw his troops from the State-house of South Carolina in deference to a decision of the supreme and highest court of that State. I urged the importance of it with all the force of appropriate language at my command. I told the President that in the judgment of eminent lawyers the governor, then out of office by expiration of his term, had not lawfully invoked the assistance of Federal power inasmuch as he had made no effort to convene his Legislature, though easily done, and obtain their action on a matter so vital; that the newly elected governor desired the attendance of the representatives of the people in their State-house, from which Federal bayonets—as I myself knew—kept them. And finally, that the contest being one of purely State concern, regarding only the claims of State officers, and these having been definitively settled by the highest legal tribunal that could ever take cognizance of the case—*i. e.*, the supreme court of South Carolina—I urged that the Federal forces should be promptly withdrawn from the State capital.

You may imagine, sir, my astonishment and indignation when, in angry tone and uncivil manner, the President replied, "I won't withdraw the troops; I don't regard the decision of the supreme court, and if I had any message to send to General HAMPTON it would be that his message to me is an impertinence!"

"An impertinence," sir, for the governor of a State to communicate his wishes, not demand his rights as he might properly have done, to the President of the United States! An impertinence, indeed!

> Upon what meat doth this our Cæsar feed,
> That he is grown so great?

No, Mr. President, we cannot make too much haste to guard the liberties of freemen everywhere in this broad land from the chance of blotting the pages of our history with a repetition of the usurping act of a President less than three years ago.

I may repeat, sir, in conclusion, in the earnest, forcible, and stirring language of the patriot Jennings, speaker of the New Jersey Assembly, in his address to the representative of Britain's queen more than a century and a half ago: "*Liberty* is too valuable a thing to be easily parted with; and where such mean inducements procure such violent endeavors to tear it from us they have neither heads, hearts, nor souls that are not moved with the miseries of their country, and are not forward, with their utmost power, *lawfully to redress them.*

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maine, [Mr. BLAINE.] Is the Senate ready for the question?

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. Let the amendment be read.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to add to section 6 the following:

> And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? The Secretary will call the roll.

Mr. BAYARD. I merely desire to say, Mr. President, that an arrangement seems to have been made in the Senate in discussing the Army appropriation bill with the disputed provisions, which has not been known heretofore,—at least it has not been known to me,—that gentlemen who desired to be heard on this bill and make expression of their views had furnished their names to the Chair, and that they were to be recognized by the Chair in a certain order of debate. I have heard of such arrangement with surprise, for I have never known this arrangement made in the Senate before, nor do I myself become a party to it. I confess that I prefer that easy, and I may add, that dignified course that the Senate has heretofore always observed in respect of its deliberations, that debate is unlimited except in the discretion of the members, that it would be so continued, and that the convenience of Senators was to be considered as to the time when they proposed to submit their views to the Senate.

But understanding that this new arrangement had been made, I consulted the Chair and obtained a view of a list containing certain names put down there for the purpose of this debate. To my great surprise, while that list is not nearly exhausted, I find the question suddenly about to be brought to a vote before the Senate.

I do desire to lay before the Senate and the country my view of the real issue connected with the proposed regulation of the uses to which the Army of the United States may be put contained within the bill that provides for their existence; but to do that properly or in a manner to be in any degree satisfactory for myself, I should crave of the Senate a few hours' notice at least. Upon a question of this kind, which soars far beyond the mere question of pecuniary expenditure, which touches in its very essence the liberty of the American people, I do not think it unreasonable, when called upon by this dislocation of arrangement which I supposed had been made and was to be carried out, that I should ask for a delay of a few hours.

I should have no objection to a vote being taken upon the amendment of the Senator from Maine. It is not that to which I propose to address myself, but it is to the other question of the right and not only the right but the duty of the Congress of the United States in providing money for the existence of an armed force to couple it with such regulations as shall prevent that armed force from being used in a manner inconsistent with public safety. I do desire the opportunity to show that force, armed force, cannot be emancipated from the harness of the law; that the Army is but the creation of the law; it is the arm of a government of laws; and in providing funds for its existence the law to regulate its use is as much a duty to be combined in the very same act as any other duty that possibly can devolve upon the representatives of a people.

I am willing, therefore, to take the vote upon the amendment of the honorable Senator from Maine and not delay the Senate further at this time; but I shall ask that the main question lie over until to-morrow morning, if the Senate shall adjourn until to-morrow only, in order that I may, in the performance of that which I believe to be my duty, state my reasons for insisting that Congress has no right or power in a bill providing money to raise armies to avoid the regulation of the use to which those armies shall be put in the same bill that provides money for their support.

Mr. ANTHONY. I quite agree with the Senator from Delaware in his objection to the innovation of making a list of Senators to speak in order. I think it much better to leave the matter to the discretion and the impulses, and the desires of Senators. I think the request which the Senator makes is a very reasonable one, and I would be willing that the amendment should lie over until to-morrow if he prefers to speak on the amendment.

Mr. BAYARD. I prefer to speak to-morrow.

Mr. GORDON. Not on this amendment?

Mr. BAYARD. Not on this amendment; I care nothing for this amendment; I am prepared to vote against it now.

Mr. EDMUNDS. There is no need of merely taking a vote on the amendment; that will not speed the bill any. If the matter is to go over until to-morrow, it may as well go over open, so that the whole thing can be disposed of after the debate is through. There is no use in taking a vote now. I see the Senator from Maine himself is not in the Chamber. He might wish to submit something further in support of his amendment.

Mr. WITHERS. I merely wish to state that so far as the arrangements are concerned, I know of none beyond those which have heretofore prevailed in this body ever since I have been a member of it. I know that it has been customary for the President of the Senate, when several gentlemen were expected to speak upon a pending proposition, to put down their names so as to afford him some guide at least in recognizing them in case several rose together. I know of nothing more in the present case. If it be an evil, it is an evil that has been in existence ever since I have been a member of this body.

I have no objection whatever that the Senator from Delaware shall have an opportunity of making the remarks which he proposes to submit to the Senate at such time as suits his convenience, but I do not see why we cannot vote upon the pending amendment without at all interfering with his purpose. If the Senate is now ready to take a vote upon that amendment I see no reason why we should not vote upon it, and then the question will come up upon any other amendment or upon the bill on its merits.

Mr. RANDOLPH. The Senator from Delaware has referred to a list that he supposed was in the hands of the President of the Senate, and that the names of Senators on that list had been taken up by the President in the order in which they appeared. I want to say so far as I am concerned that I asked the President of the Senate whether I should interfere with any one by speaking this morning, and until this morning I had made no request upon the subject whatever. I spoke this morning simply because there was no one else to occupy the attention of the Senate. I do not think anything could have been more modest than that.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. The Chair begs leave to make an explanation before Senators proceed further. When the present incumbent of the chair took the chair he found a list in the handwriting of the Vice-President of names of Senators, some of whom had spoken and some of whom were put down to speak on this bill. The list had been followed up to that time, and the Chair understood that it was the intention of the Vice-President to follow it up. That list has been extended as one speaker after another addressed the Senate and others came and requested to be put down upon it. The Chair was not aware that it was an unusual proceeding at all, because in the actual knowledge of the Chair it has been done a dozen times since the Chair has been a member of the Senate. The Chair wishes to say further that if it is a practice disagreeable to the Senate it shall be abolished.

Mr. HAMLIN. I wish only to suggest that I think the practice is wrong from beginning to end. I confess I never heard of it until yesterday. I never knew of a list as I do now learn there have been heretofore lists prepared. It is bringing into this body a practice that grew up in the other House. There may be a necessity for it in a

large body like that; there is none here. It is objectionable in this point of view: the presiding officer of this body, be he whom he may, will hold the reins with an impartial hand, and he will be sure to see, in the exercise of the power with which the rule clothes him, that even-handed justice is done. Now, a Senator speaks upon this side of the Chamber, and he may in his remarks render it eminently proper and just that a certain Senator on the other side should reply to him, and that Senator may desire to do so at that time. The Senator upon this side may discuss questions of a local character, of a personal character, and a variety of subjects that render it more proper that some one Senator upon the other side should answer than that others should. If that Senator rises at the same time with another Senator, I say that it is appropriate that the discretion of the Chair should come in and he should assign the floor to that Senator who would most appropriately speak at that time. Hence your rigid rules are all wrong. They would make a Procrustean bed at both ends. I do not want to see it cut off at more than one end, and I would a little rather not see it upon either end. The Chair will do better than any rule of formality, and if it has been heretofore innovated upon I do hope the Senate will, as the Chair has suggested, depart from it.

Mr. MORGAN. Mr. President, it is probable that the difficulty which is presented to the Senate this morning has originated from the fact that I did not take the floor to discuss this question at the time that I had intended to do so. I was not a party to any arrangement under which a list was prepared, but I did have an understanding with the Vice-President, who was then presiding in the Senate, that on the day before yesterday I should like to have the floor for the purpose of discussing this bill. I took the floor for that purpose. It became a duty of justice as well as of courtesy that I should yield my right to the floor to the Senator from Indiana, [Mr. VOORHEES;] and in yielding my right I said that hereafter, at some time of this debate, I would ask the attention of the Senate to some remarks that I desired to submit upon it, not designating any particular time when I might see proper to come forward and present those views.

The Senator from New Jersey [Mr. RANDOLPH] took the floor this morning, as he has stated, because no one else occupied it. He might have gone further and said that there were Senators on this side of the Chamber who very much desired to hear him upon the very interesting topic which he brought to the attention of the country, the history of New Jersey in connection with the proposition to control the destinies of this country through a standing army. I did not intend, as I announced yesterday, to participate in this debate until it became necessary to do so in vindication of the southern people. I stated, and I stated correctly, that the proposition to repeal this law now standing on the statute-book was a proposition that came from a democratic member of the House of Representatives during the last Congress from a northern State, and that so far no southern Senator had debated this proposition as a political question.

The honorable Senator from Virginia [Mr. WITHERS] having charge of this bill made some explanation of its principles, but he did not go into the political phases of the question at all. I thought that his course upon that subject was entirely correct. After having made up my mind first that I would undertake to address the Senate on the subject, I thought it better to allow the debate to become exhausted between gentlemen who live on the northern side of the line that divided the people of the United States in their recent great troubles, so that this question, as far as we possibly could arrange it, should be discussed without reference to the bearing which the late rebellion might have upon it; that it might be discussed as a question of pure constitutional law, as a question which concerned the most vital interests and liberties of this country in all the different sections.

The honorable Senator from Delaware seems to have been misled by the idea, I suppose, that I was to occupy the floor to-day; but he did not do me the honor to listen to my remarks on yesterday when I declared my purpose not to interfere in this discussion until the debate had exhausted itself between Senators from the Northern States and until it became necessary, if it should ever become necessary, that some gentleman from the South should rise on the floor of the Senate for the purpose of vindicating the action of the people of the South in reference to the legislation of Congress since 1865. I have not seen any occasion as yet for entering upon that vindication. It is very true that much has been said which is calculated to arouse feeling and to engender animosity between the sections of this country, but so far as I am concerned (and I think that is the feeling which pervades the entire South) we intend to discuss this question without reference to those events which are calculated to irritate the public judgment. We intend to try, so far as we are concerned, to bring this subject soberly to the attention of the people of the United States, so that they may consider it just as freely to-day as if they were considering it a hundred years from this day.

We regard it as a great constitutional question, a great question of the liberty of the people of this country, which ought to be entirely separated from all arguments which might arise upon the recent disturbances between the South and the North, and which ought to be decided solely with reference to its future influence upon the destinies of this great country, in which I hope that we have at least equal interest with the other sections of the American Union; and in reference to which I believe that we have also a thorough, full, complete, patriotic purpose of endeavoring to form the policy of this Government so that we can assist all the different sections of the United States in the development of the true glory of the American nation, or Union, or Government, or whatever else you please to call it; so that we can assist to the utmost of our power and ability to make it "a government of the people, for the people, and by the people," believing as we do that the people have the capacity to govern themselves, that they have the patriotism to do it honestly and justly, and that they are just as wise in the exercise of the powers of government in the localities where these different State governments are found as they are in Congress; and that they have in these State governments men to make laws and men to administer laws who are quite as wise, and quite as honest, and quite as good, and quite as well-informed as the delegates whom they send here either to the Senate or the House of Representatives.

Mr. President, I think it is proper, I think it is prudent also, that the Senators from the Southern States should not interfere in this debate until those from the Northern States who are not incriminated in any venture of rebellion against this Government should be fully heard by the country; and when we do come forward, if come forward we shall at all, it ought to be for the purpose of showing, as I think we can demonstrate, that since 1865, since we have been readmitted into our Federal relations, the people of the South as represented in both branches of Congress have not attempted at all to interfere with that series of measures which were called war measures, some of which still linger upon the statute-book. We prefer, so far as we are concerned, not to attempt to make a repeal of those measures upon our own responsibility. We prefer to outlive them. We have outlived them. Our being here to-day represented on the floor of the Senate and on the floor of the House of Representatives is not due to the fact that those measures have been removed from the statute-book or that they have been broken down by public opinion, but it is due to the fact that we have, as was stated by the honorable Senator from Indiana yesterday, by a patient course of honest obedience to law, outlived the consequences of those fatal measures. We know perfectly well that in a very large degree, if not entirely, the strength which the people of the South exhibit to-day upon the floor of the Senate and House of Representatives is due to the fact that the republican party of the United States have coerced or attempted to coerce the people in the casting of their ballots and in the conduct of their local affairs, and that this very coercion exercised through deputy marshals, through supervisors of election, and through the military power in the Southern States has been above all others the great cause of the consolidation of the southern people.

Therefore, Mr. President, I did not desire, and do not now desire to enter into this debate for the purpose of discussing this great question upon its merits. I merely desire, and I only intend, so far as I am concerned, to engage in the debate for the purpose of showing that these measures of coercion which have been placed upon the statute-book have been the very measures of all others which have contributed most to the consolidation of the Southern States.

I trust that the honorable Senator from Delaware will have an opportunity of proceeding to discuss this question at his leisure. I trust that the Senate will not force a vote upon this question to-day, inasmuch as the Senator has evidently been misled by what he supposed to be an arrangement between Senators in reference to the course of this debate, and has thereby been deprived of an opportunity, as I suppose to-day, of proceeding with his remarks. So far as I am concerned I shall not only yield the floor to him with great pleasure, but I hope that he and other Senators on both sides of this Chamber from the Northern States shall proceed with this discussion, and enter fully upon all the matters that they think bear upon the best interests of this country.

Mr. GROOME. Mr. President, it is fortunate that man is so constituted that he can forget much and forgive more. But it was not to be expected that any one could so soon forget the wrongs perpetrated in the recent past upon the people of the loyal State of Maryland by the military arm of the Government during the period that it held control there, and it would be unfortunate for the cause of constitutional liberty if the patriotic heart could ever learn to forgive them.

I was not, therefore, surprised when the Senator from Kentucky, [Mr. BECK,] in his speech on Tuesday last, asked me concerning them, but to have attempted to answer his question then at length would have been to interrupt him at a time when he was warmed up with his subject and presenting his views upon it with great power. I therefore forbore to answer him at that time.

But as I fully agree with him that the interference by the General Government with the freedom of an election in a State, at the time in full relations with the Union and the overwhelming majority of whose people intend to maintain those relations, and no portion of whose soil is invaded or threatened by hostile forces, can find no excuse in the fact that the Government was at the time engaged elsewhere in a struggle for its existence with other States which had attempted to sever their connection with it; and as I believe what has been once done in a time of excitement is likely to be again done in times either of great excitement or of urgent political necessity—as in fact we have had a very recent example of how far our political opponents sometimes go in the way of availing themselves of the forms of law to defeat the popular will when brought face to face with what they consider the imperative necessity of maintaining their party supremacy—I cannot but feel that it is extremely important that the Senate and the country should be reminded of the extent to which

the General Government has gone in interfering of its own motion with the freedom of elections in the loyal State of Maryland.

I shall therefore take this occasion to answer the question of the Senator from Kentucky, and I do not propose to discuss the general question as to the necessity or propriety of repealing the clause of the act of February, 1865, permitting by way of exception to the general words of prohibition the General Government, without being called upon by the State authorities, to use troops or armed men to keep the peace at the polls, further than a statement of the facts concerning the military interference with the freedom of elections in Maryland and of the motives which induced that interference can be considered as such discussion.

I will state that, on several occasions during the late war, at the stated periods when by the constitution and laws of the State of Maryland her people were called upon to select their rulers the military power of the General Government was exerted to the utmost to prevent them from exercising any freedom of choice, and to compel them to accept such rulers as the Administration thought would best subserve its purposes, and hence what was by courtesy called an election was but a solemn mockery of the forms of law.

The interference by the military assumed many forms. Proclamations were issued which were intended to intimidate and prevent voters who were opposed to the ticket favored by the military from coming to the polls. Test oaths of the most searching character, for which there was no legal warrant, were established, and the judges of election were forbidden under heavy penalties to accept the ballot of any person who declined to take them, and many persons who were able and willing to take them were by the military refused permission to do so or to vote. Many persons in every part of the State who were legally entitled to vote were prevented from doing so, while soldiers who were known to be non-residents were permitted to vote in some instances without challenge and in others in spite of challenge. Wholesale arrests of unoffending citizens were made, and judges of election were threatened with arrest if they dared to disobey the military edicts, and in the few instances where they were bold enough so to do the threat was carried into effect. At one or more of the elections armed soldiers surrounded some of the polling places, and prevented such persons as they did not desire to vote from approaching them. At other polling places the voter had to approach the ballot-box between soldiers with drawn sabers. At still others the military officers sat in the room with the judges and challenged and rejected votes at their pleasure, examined the tickets as they were presented, and permitted none but the favored ticket to be voted. In a word, the military scrupled at nothing which was required to defeat the will of the people and to secure the result desired by the Administration of the General Government.

In November, 1861, there was an election for governor and other State officers and for members of the State Legislature. General John A. Dix, who was then military commander of what was known as the middle department, issued the following proclamation:

All persons are requested to point out to the judges of election and to the police any individual attempting to vote, or who may be present at the polls, who may have been actually engaged in acts of hostility to the United States or in actively aiding and abetting those in arms against the United States, and especially those who, on the 19th of April and subsequent days, took part in opposing the march of the United States troops, or in transmitting stores and supplies or forwarding persons or communications into States engaged in the rebellion.

Upon the 19th of April, 1861, the utmost efforts of the entire police department of Baltimore failed to some extent to protect a Massachusetts regiment, which unexpectedly appeared on the streets of that city, from the violence of a hastily improvised mob. As, in the days of terrible excitement which followed close upon that ever-to-be-regretted day, almost the entire adult population of the city was under arms to prevent the passage of other regiments through it, which it was currently reported had threatened to reduce it to ashes, the terms of General Dix's proclamation were sufficiently broad to justify the arrest of almost every one. And every person who approached the polls fully understood that he did so at the imminent risk of arrest, unless he voted as was desired by the military authorities. An election so conducted could have but one result, the selection of the ticket favored by the Government by an overwhelming majority.

Nor was the interference of the military at this election mitigated by the fact that the ticket which was elected would have been chosen, although by a majority greatly reduced, (as I admit would unquestionably have been the case,) if the people had been permitted to vote without interference and intimidation according to their desires. The character of the act does not depend upon the question whether it actually changed the result of the election, but upon the question whether it was intended to defeat the popular will. Unless it had that intent it was meaningless.

There was another general election in the State on November 4, 1863, for State officers, a Legislature, and members of Congress, at which military interference was carried even further. A few days before it took place General Schenck, who was then in command of the department, issued his famous—perhaps I should more properly say infamous—General Order No. 53, in which, after reciting that there were many evil-disposed persons at large in the State, he ordered, among other things—

That all provost-marshals and other military officers do arrest all such persons found at or hanging about or approaching any poll or place of election on the 4th of November, 1863, and report such arrest to these headquarters.

Governor Bradford wrote a letter to President Lincoln earnestly protesting against the use of the Army, as proposed by General Schenck's military order, to control the election, in the course of which he used this language:

EXECUTIVE OFFICE, ANNAPOLIS, *October* 31, 1863.

To His Excellency President LINCOLN:

SIR: Rumors are to-day current, and they reach me in such a shape that I am bound to believe them, that detachments of soldiers are to be dispatched on Monday next to several of the counties of the State with a view of being present at their polls on Wednesday next, the day of our State election. These troops are not residents of the State, and consequently are not sent for the purpose of voting; and as there is no reason, in my opinion, to apprehend any riotous or violent proceedings at this election, the inference is unavoidable that these military detachments, if sent, are expected to exert some control or influence in that election. I am also informed that orders are to be issued from this military department on Monday presenting certain restrictions or qualifications on the right of suffrage, of what precise character I am not apprised, which the judges of election will be expected to observe.

Then he adds:

I cannot but feel that to suffer any military interference in the matter of our election, or to prescribe any test of oath to voters when all the candidates in the State—with the exception, perhaps, of two or three in one congressional district—are all loyal men, would be justly obnoxious to the public sentiment of the State.

The President, after waiting until it was too late for his action to be made known throughout the State prior to the election, made some modification of General Schenck's order, but permitted it to stand as modified. Governor Bradford then issued his proclamation directing the judges of the election to conduct it under the laws of the State, and General Schenck issued an order to the newspapers forbidding them to publish the governor's proclamation, and laid an embargo on all steam-vessels trading with that part of the State to which troops were sent to prevent the governor's proclamation from reaching it until after the election. The military forces were scattered throughout that portion of the State east of the Chesapeake Bay and known as the Eastern Shore. When the commander of a cavalry regiment had reached the Eastern Shore he issued a proclamation which shows so plainly what is meant by the General Government "keeping the peace at the polls" by the aid of the military that I quote it entire:

HEADQUARTERS THIRD MARYLAND CAVALRY,
Chestertown, Maryland, November 2, 1863.

Whereas the President of the United States, in reply to a letter addressed to him by Hon. Thomas Swann, of Baltimore City, has stated that all loyal, qualified voters should have a right to vote, it therefore becomes every truly loyal citizen to avail honorably upon the record or poll-books at the approaching election by giving a full and ardent support to the whole Government ticket, upon the platform adopted by the Union League convention. None other is recognized by the Federal authorities as loyal or worthy of the support of any one who desires the peace and restoration of this Union.

CHARLES CARROLL TEVIS,
Lieutenant-Colonel Commanding.

O shade of the heroic Charles Carroll, of Carrollton, whose memory Maryland honors as the noblest of her sons who signed the Declaration of Independence for his fearless patriotism and unselfish, unfaltering love of liberty, what a desecration of thy honored name for this base minion of arbitrary power, who for the paltry honor of commanding a regiment was willing to accept the ignoble service of preventing the people of a sovereign State from exercising that right of self-government which thou risked so much to secure for them, to vaunt himself thy namesake!

How the military order was carried into effect, and how the modifications of the President and the proclamation of the governor of Maryland were disregarded, can best be told in the language of Hon. A. W. Bradford, the loyal governor of Maryland. I quote from his message to the Legislature in January, 1864. The governor said:

I avail myself of this occasion to advert to certain events connected with our recent election which deserve your most serious consideration.

He then adds:

A few days before that election a military order was issued from the Army headquarters at Baltimore which in effect placed the polls under the surveillance and at the command of the military authority.

I was the less prepared for any such order from the fact that though in frequent personal communication with the military authorities of the department, I had received no intimation whatever of such a proceeding or of any supposed necessity for it. In that part of the State against which the movement seemed to be more particularly directed—the Eastern Shore—there would seem to have been less necessity as there certainly was less semblance of authority than elsewhere; for while martial law had been proclaimed upon the Western Shore of the State in June last, and had not been repealed up to the day of election, upon the Eastern Shore it had never been proclaimed at all.

You will be furnished with a copy of this order and it is not necessary further to recite it than to state in general terms that it was to be executed by the military, aided by the provost-marshals. They were to arrest voters whom they might consider disloyal approaching or hanging about the polls; a prescribed form of an oath was furnished, without taking which, no one, if challenged, could vote; and the several commanding officers were charged to report to headquarters any judge of election who should refuse to administer that oath or to aid in carrying out that order. The President modified the first part of the order on the Monday preceding the election, but even that modification seemed to receive no attention from those intrusted with its execution, and was in some instances openly disregarded.

Prominent among the provost-marshals to whom the execution of this order was in part committed were several who were themselves candidates for important offices.

These marshals appointed for the purpose of the militia enrollment and draft were placed by the law creating them under the control of the provost-marshal-general, but to insure the right to employ them about this election order, special authority was obtained from Washington to place them for the time being under the orders of the military authorities.

If with these facts before me, and seeing the judges of election, sworn to conduct it according to the laws of the State, openly menaced with arrest unless they recognized the military authority and conducted it by the rules which that authority prescribed, I had stood silently by and failed to assure them of the protection of the State to the extent of its ability, I should have felt myself utterly unworthy of the place of its chief magistrate.

I therefore on the Monday evening preceding the election issued a proclamation giving them this assurance, a copy of which is herewith submitted.

Before the following morning military orders were sent to the Eastern Shore, directing its circulation to be suppressed, the public papers were forbidden to publish it, and an embargo laid on all the steamers in port trading with that part of the State lest they might carry it.

* * * * * * *

On the day preceding the election the officer in command of the regiment which had been distributed among the counties of the Eastern Shore, and who had himself landed in Kent County, commenced his operations by arresting and sending across the bay some ten or more of the most estimable and distinguished of its citizens, including several of the most steadfast and uncompromising loyalists of the shore. The jail of the county was entered, the jailor seized, imprisoned, and afterward sent to Baltimore, and prisoners confined therein under indictment were set at liberty. The commanding officer referred to gave the first clue to the character of the disloyalty against which he considered himself as particularly commissioned, by printing and publishing a proclamation.

And then the governor sets out the substance of the proclamation which I have already read in full. He then adds:

To secure the election of that ticket seemed to be the business to which he and his officers especially devoted themselves throughout the day of election. In the statements and certificates which have been forwarded to me from different counties in that congressional district I have been furnished I presume with an account of part only of the outrages to which their citizens were subjected. The "Government ticket" above referred to was in several if not in all of these counties designated by its color (it was a yellow ticket) and armed with that a voter could safely run the gauntlet of the sabers and carbines that guarded the entrance to the polls, and known sympathizers with the rebellion were, as certified to me, allowed to vote unquestioned if they would vote that ticket, while loyal and respected citizens, ready to take the oath, were turned back by the officers in charge without even allowing them to approach the polls.

In one district, as appears by certificate from the judge, the military officer took his stand at the polls before they were opened declaring that none but the "yellow ticket" should be voted, and excluded all others throughout the day. In another district a similar officer caused every ballot offered to be examined, and unless it was the favored one the voter was required to take the oath, and not otherwise; and in another again, after one vote only had been given, the polls were closed, the judges all arrested and sent out of the county, and military occupation taken of the town.

But I will not detain you with a recapitulation of all the abuses that these statements disclose. I have caused copies of them to be transmitted to you and they cannot fail to arrest your attention. They present a humiliating record, such as I had never supposed we should be called upon to read in any State, still less in a loyal one like this. Unless it be indeed a fallacy to suppose that any rights whatever remain to such a State, or that any line whatever marks the limit of Federal power, a bolder stride across that line that power never made even in a rebel State than it did here on the 4th of last November.

A part of the Army which a generous people had supplied for a very different purpose was on that day engaged in stifling the freedom of election in a faithful State, intimidating its sworn officers, violating the constitutional rights of its loyal citizens, and obstructing the usual channels of communication between them and their executive.

Then he adds:

If men interested in accomplishing certain political results can by any influence enlist in their behalf such a tremendous instrument of power as was here employed, no election will probably ever occur in which the same means will not be again attempted.

This is the language of a governor who was the candidate of the extreme Unionists of the State, and who during the term of his office proved himself so pronounced a "loyalist," to use the designation so fashionable at that day, that when a confederate raiding party crossed over into Maryland, it, in retaliation for a similar outrage committed by the Union soldiery upon the property of Governor Letcher, of Virginia, set fire to and destroyed his private residence, a loss for which he has never been reimbursed. It is the language of a governor who was so decided an emancipationist that in the same message from which I have quoted he, with a view to securing the abolition of slavery in the State, urged the Legislature, itself elected by reason of the military interference he so properly denounced, to submit to the people the question whether or not they desired a constitutional convention, although he could not but know that the elections to decide whether or not that convention should be called and whether its work should be adopted or rejected, must be held under such circumstances that their results, although they must be acquiesced in, could by no means be accepted as fairly indicative of the popular will.

To show that this interference with the election of November, 1863, was not prompted by any fear that persons deemed by the military authorities "disloyal" might obtain possession of the machinery of the State government, it is only necessary to quote from the proclamation of General Schenck "to the loyal people of Maryland," issued on November 3, 1863, the day before the State election. That proclamation contains this language:

Governor Bradford himself cannot appreciate more highly than I do the sterling loyalty of the great majority of the people of Maryland.

What, then, was the cause of the military interference with this election? The answer is not hard to find. In the spring of 1861, when certain of the States had attempted to sever their connection with the General Government, and when the large majority of the people of the Union were anxiously hoping that by adopting some plan of conciliation and compromise these States could be induced to return to their allegiance, the leaders of the republican party, who had secretly resolved that such return should not be permitted until the institution of slavery could be abolished, so cunningly prepared their plans as to bring about a crisis, in which the South was betrayed into the fatal mistake of firing upon the flag of our common country. Instantly the men of the North, inflamed with patriotic ardor, sprang to arms, to fight, as they were assured and believed, for the restoration of the Union, with all the rights of the States and the people under the Constitution unimpaired and guaranteed. But as the struggle progressed it soon became evident to all close observers that it was not waged solely for the restoration of the Union, and a reaction set in which threatened to send a majority to the lower House of Congress opposed to the Administration. Maryland at that time elected her members of the National House of Representatives only one month before the meeting of Congress in December, and after the congressional elections had taken place in all the other States except one or two. If left to themselves, the people of the State would have elected on the Western Shore three Congressmen opposed to the Administration and one favorable to it, and on the Eastern Shore they would have elected Hon. John W. Crisfield, an able lawyer and a sincere Unionist, but one who could not be depended on to vote in favor of an amendment to the Constitution abolishing slavery, or in favor of any scheme of the Administration believed by him to be violative of the Constitution. If this result had been permitted to be accomplished, the Administration would have been unable to organize the House of Representatives. It therefore determined that the Maryland congressional districts must be secured. In June, 1863, an invasion of Maryland afforded a plausible reason for declaring martial law on the Western Shore, and although the invaders were speedily driven beyond the State, the proclamation was continued in force. Consequently three of the Western Shore congressional districts were uncontested, and the Administration was enabled to use nearly all the soldiers in the State upon the Eastern Shore to secure the election, in the stead of Mr. Crisfield, of another gentleman who it believed could be depended upon to support its extreme measures.

Speaking of this election, the Boston Commonwealth, which was, if I mistake not, regarded as the organ of the outspoken, scholarly, and eloquent Charles Sumner, of Massachusetts, used this language:

We do not find fault with the machinery used to carry Maryland and Delaware. Having nearly lost control of the House by its blunders in the conduct of the war from March, 1861, to the fall of 1862, the Administration owed it to the country to recover that control somehow. To recover it regularly was impossible, so irregularity had to be resorted to. Popular institutions will not suffer, for the copperhead element will have a much larger number of members in both branches than it is entitled to by its popular vote. Ohio, with its nine thousand republican majority, will be represented by five republicans and a dozen or more copperheads. It is fitting that this misrepresentation of popular sentiment in the great State of the West should be offset, if necessary, by a loyal delegation from Maryland and Delaware, won even at the expense of military interference. If laws are silent amid the clank of arms we must take care that the aggregate public opinion of the country obtains recognition somehow or other.

The will of the people as expressed at the polls, and as it would have been declared by the electoral colleges if they had been constituted in accordance with that expressed will, was at the close of the last presidential contest reversed by the fraudulent contrivances of certain southern returning boards, and victory thus turned into defeat. The fact that by the use of the Army in 1863 the national House of Representatives was organized in a manner that would have been impossible but for such use, and that there have been attempts since the war in some of the States to influence the result of elections by its use, has determined the democratic party that the law shall be so altered that the Army can never be used by the national Administration for the purpose of forcing at the polls a result which it may desire. This is the "true inwardness" of the determination of the democratic party to repeal at this time that provision of the act of 1865 which enables the General Government to interfere with the freedom of elections in the State upon the specious pretext of preserving "the peace at the polls." I have, perhaps, no right to inquire into the motives which actuate Senators upon the other side of this Chamber; but it would be interesting to know whether the desire to have the Army so used is the "true inwardness" of their determination to spare no effort to prevent the repeal of the present law.

The last observation which I quoted from Governor Bradford's message, that "if men interested in accomplishing certain political results can by any influence enlist in their behalf such a tremendous instrument of power as was here employed, (that is to say, the influence of the Army,) no election will ever probably be held in which the same means will not be again attempted," received a singular verification not long after he gave expression to it. In the latter part of October, 1866, as the general election approached, the republicans of Maryland found, in spite of the provisions of a registry law which they had framed for the express purpose of disfranchising a large portion of the citizens of the State, that the political power of the State would certainly pass into the hands of the democrats unless it could be prevented by a resort to some desperate means unknown to the law. They therefore, upon the pretext that Governor Swann was about to remove the police commissioners of Baltimore City without, as they claimed, due authority of law, attempted to bring about such a condition of excitement and lawlessness in that city as would create an apparent necessity for sending into the State the military forces of the United States, by the aid of which they had on former occasions succeeded in preventing the will of the majority of the people of Maryland from finding due expression at the polls. President Johnson referred the matter to General Grant, who, on the 24th of October, 1866, made a report to the President from which I shall read the con-

cluding portion. I ask especial attention to these words of General Grant:

> The conviction is forced on my mind that no reason now exists for giving or promising the military aid of the Government to support the laws of Maryland. The tendency of giving such aid or promise would be to produce the very result intended to be averted. So far there seems to be merely a very bitter contest for political ascendency in the State. Military interference would be interpreted as giving aid to one of the factions, no matter how pure the intentions or how guarded and just the instructions. It is a contingency I hope never to see arise in this country while I occupy the position of General-in-Chief of the Army, to have to send troops into a State in full relations with the General Government, on the eve of an election, to preserve the peace. If insurrection does come, the law provides the method of calling out forces to suppress it. No such condition seems to exist now.
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> U. S. GRANT, *General.*

It is an interesting inquiry whether the Senators who sit on the other side of this Chamber, and who have twice aided, since he used the language I have quoted, in electing him to the Presidency, and whose party, if general report is to be credited, in its desperation contemplates calling upon him to become for the third time a candidate for that high office, agree with him in hoping that the contingency may never arise in which troops may be sent "into a State in full relations with the General Government on the eve of an election to preserve the peace." And it is an interesting inquiry, upon which we will doubtless be fully informed before the close of the discussion upon the bill now before the Senate, whether those Senators think it would be revolutionary in us so to amend the law as to make the contingency which General Grant so earnestly deprecated impossible, except upon the application of the State Legislature, or of the executive when the Legislature is not in session and cannot be readily convened.

I have now answered the question of the Senator from Kentucky whether there was any military interference during the war with the freedom of elections in Maryland—a State the majority of whose people were at the time "sterling loyalists," as shown by the testimony already cited of her loyal governor, Augustus W. Bradford, and of the military commander, General Robert C. Schenck; and whose State government was under the absolute control of the most pronounced wing of the Union party, and whose people, even if they had desired to commit that act of folly, could not, with an immense Union army lying between them and the disaffected States, have taken any steps toward severing their relations with the General Government.

But before taking my seat I would like to say that during the period that the military were stationed in Maryland it was not upon the election days alone that they committed gross outrages upon the people and set at defiance the Constitution and laws of the United States and of the State.

I would like to ask the Senators on the other side of this Chamber whether they would like to see all freedom of speech abridged and the liberty of the press destroyed by the suppression of newspapers and the arrest and incarceration of their editors without any attempt to indict them or to bring them to trial? whether they would like to see the writ of *habeas corpus* contemptuously disregarded even when issued by the Chief-Justice of the United States? whether they would like to see private houses searched without oath and without warrant, and upon the vaguest suspicion? whether they would like to see the worship of the Most High forbidden unless the flag be displayed in or waving over the sacred edifice? whether they would like to see those members of a city council, whose convictions of duty will not permit them to vote for an appropriation deemed by them not to be sanctioned by the municipal charter, compelled to resign by the mild persuasion of a military "request"—which they understand to be a command coupled with a threat—and their places filled by more pliant successors chosen at an election held under military supervision? whether they would like to see the members of a State Legislature, when about to enter upon the discharge of their duties, arrested and sent to distant forts, only to be released after long incarceration without trial and without as much as being informed of the cause of their arrest? whether they would like to see an honored judge brutally beaten over the head and dragged, all covered with gore, from the seat of justice and placed in confinement, because of charging a grand jury that the Constitution of the United States is the supreme law of the land in time of war as in time of peace? whether they would like to see an aged minister, upon the Sabbath morn, as the church-bells are ringing out the delightful music which summons his loving congregation to listen to the gospel of the Prince of Peace which he is accustomed to proclaim from the sacred desk, arrested by a rude soldiery, despite the protest of the assembled congregation, and carried to a distant part of the State upon the vague charge that in casual conversation he has used some expression disrespectful to the Government or some of its officers? whether they would like to see a district meeting in which the members of a political party are peaceably assembled to discuss their local affairs entered by a mob of disorderly soldiers and several reputable, law-abiding citizens murdered, and when indictments are found against the murderers, whether they would like to see them spirited away by their military commander to prevent their trial and conviction?

All these and many other outrages, in the wantonness of an arbitrary, irresponsible power, were committed by the military upon the people of Maryland during the period when it was quartered in the State for the alleged purpose of keeping the peace.

I would like to ask the Senators who occupy the other side of this Chamber whether they approved of these acts when they were committed, and whether they would be willing to see them repeated by the military in the States they represent, if it should become necessary to enable them to maintain their political supremacy therein? I would like to ask them whether the use, when not demanded by the State authorities, by the General Government of the military under the pretext of keeping the peace at the polls, or under any other pretext, to interfere with the freedom of elections in the States, is not sure, if persevered in, to undermine the foundations of the Government and to prepare the way for the erection of a military despotism upon the ruins of constitutional liberty? I would like to ask them whether any political party can afford to pay such a price for a victory over its opponents? I would like to ask them whether they have forgotten the truth taught by the fable of the frogs, who having dissensions among themselves, selected the stork to be their king, but found too late that his majesty, after first eating up such of them as had opposed his accession to power, continued to indulge his luxurious tastes until the last of his subjects had become the victim of his insatiable appetite?

I say I would like to ask these questions, but I should be pained to have them answered, if, as I fear may be the case, the answers should indicate that there are some Senators upon the other side of this Chamber who are willing to risk the destruction of our form of government, who are willing to jeopardize the cause of constitutional liberty, in the hope that they may continue to hold, after the expiration of the term of the present incumbent, the possession of the executive department of the Government, and that they may regain the control of its legislative departments.

I am done, sir.

Mr. LAMAR. I move that the Senate adjourn until Monday at twelve o'clock.

Mr. WITHERS. I hope that the Senate will continue in session so that we may get through with the discussion of this bill and come to a vote upon it as speedily as practicable.

Mr. MAXEY. I design to make some remarks on the pending question, but I would prefer very much not doing so this evening. I shall be ready in the morning, if it suits the Senate to adjourn until that time. I prefer not to speak this evening.

Mr. CONKLING. May I inquire what the question is before the Senate?

The PRESIDENT *pro tempore.* The Senator from Mississippi moves that the Senate do now adjourn until Monday.

Mr. CONKLING. Hearing that motion, which as the rules declare is not debatable, I wondered on what the debate was proceeding.

The PRESIDENT *pro tempore.* By unanimous consent.

Mr. CONKLING. I think we had better vote on the motion.

Mr. GARLAND. There were some messages sent in to-day, and I move that the Senate proceed to the consideration of executive business.

Mr. CONKLING. Which motion has precedence?

The PRESIDENT *pro tempore.* The Chair will find out.

Mr. CONKLING. Manifestly the motion to adjourn has precedence.

Mr. EATON. I move that the Senate now adjourn.

The PRESIDENT *pro tempore.* The motion to adjourn to a day certain has precedence over a motion to go into executive session.

Mr. LAMAR. I am perfectly willing to withdraw my motion in order to go into executive session.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore.* The Senator from Connecticut has moved that the Senate do now adjourn.

Mr. EATON. I withdraw my motion.

The PRESIDENT *pro tempore.* The motion to adjourn is withdrawn. The Senator from Arkansas moves that the Senate proceed to the consideration of executive business.

Mr. WITHERS. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened; and, (at three o'clock and fifteen minutes p. m.,) on motion by Mr. MCDONALD, the Senate adjourned until Monday.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 18, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. CLYMER. In the absence of the chairman of the Committee on Appropriations, [Mr. ATKINS,] who has charge of the legislative appropriation bill, I desire to move that the morning hour of to-day be dispensed with, and that the House resolve itself into Committee of the Whole for the further consideration of the legislative, execu-

tive, and judicial appropriation bill. It will be borne in mind by gentlemen that, this being Friday, the morning hour of to-day, if there be one, will be devoted to the consideration of bills of a private nature. There being no business of that character now ready, I submit the motion I have made.

Mr. BLACKBURN. Before that motion is submitted I desire to offer a resolution touching the organization of the House.

Mr. CLYMER. I will yield for that purpose.

SERGEANT-AT-ARMS.

Mr. BLACKBURN. I ask consent to present, only for reference to the Committee of Accounts, a resolution looking to the authorization of the Sergeant-at-Arms of this House to employ a clerk and two messengers, who are now employed and paid by provisions in appropriation bills, and who it is deemed best should be provided for by law. I simply ask that the resolution be referred to the Committee of Accounts.

The Clerk read the resolution, as follows:

Resolved, That the Sergeant-at-Arms be, and he is hereby, authorized to employ, in addition to the force in his office now authorized by law, one clerk and two messengers for the present Congress and until further order, at salaries to be fixed and determined by the Committee of Accounts; the duty of said messengers being among other things to assist in keeping order upon the floor of the House; all salaries herein mentioned to be paid monthly by the Clerk of the House out of the contingent fund.

There being no objection, the resolution was received and referred to the Committee of Accounts.

GOVERNMENT FOR INDIAN TERRITORY.

Mr. WADDILL. I ask consent to submit at this time for reference to the Committee on Indian Affairs a resolution of the State Legislature of Missouri, requesting her Senators and Representatives in Congress to vote for and use all means in their respective capacity to establish an efficient and suitable government in the Indian Territory.

Mr. REED. I object.

QUINCY BAY, ILLINOIS.

Mr. SINGLETON, of Illinois. I ask the unanimous consent of the House to present at this time, for reference to the Committee on Commerce, a joint resolution, of the senate and house of representatives of the State of Illinois, purely local in its character.

Mr. HAZELTON. I object. I wish to inquire why these memorials cannot go into the petition-box the same as petitions and memorials which I have presented?

Mr. SINGLETON, of Illinois. I hope the gentleman from Wisconsin [Mr. HAZELTON] will withdraw his objection until the joint resolution is read.

Mr. HAZELTON. I would inquire why it cannot go through the petition-box?

Mr. SINGLETON, of Illinois. I will ask that the resolution be read for information. If the gentleman then objects, he will be excused for cause.

Mr. HAZELTON. I will hear the resolution read, reserving my right to object.

The Clerk read as follows:

Whereas for the want of sufficient and well-improved harbors on the Mississippi River there is great annual destruction of steamboats and other water craft by the breaking up of ice and by storms on said river, involving losses of the greatest magnitude to the shipping interests of the whole Mississippi Valley; and

Whereas the Quincy Bay, of Quincy, in the State of Illinois, is one of the best natural harbors on said river, embracing as it does a body of still water more than three miles in length and of sufficient width and depth, except in a few places obstructed by sand-bars, to afford a safe and convenient shelter and harbor for vessels navigating the Mississippi River; and

Whereas, by the expenditure of a comparatively small amount of money, considering the magnitude of the shipping interests involved, in the improvement of the Quincy Bay, it would become a safe and convenient harbor for vessels navigating said river: Therefore,

Be it resolved by the house of representatives, (the senate concurring herein,) That the Representatives and Senators in Congress from the State of Illinois be, and they are hereby, requested to use all honorable means to secure the permanent improvement of the Quincy Bay by the Government of the United States in such a manner as to make it a safe and permanent harbor on said river.

And be it further resolved, That the secretary of state be, and is hereby, requested to transmit a copy of these resolutions to each of the Representatives and Senators in Congress from the State of Illinois.

The SPEAKER. Is there objection to receiving the joint resolution just read for reference?

Mr. HAZELTON. I insist upon my objection. That class of papers have always gone through the petition-box.

The SPEAKER. The Chair presumes that the gentleman from Illinois [Mr. SINGLETON] desires to present it in open House, in preference to putting it in the petition-box.

Mr. HAZELTON. Let it go as other papers go.

Mr. GARFIELD. I would suggest to my friend from Wisconsin [Mr. HAZELTON] that resolutions of State Legislatures have usually been permitted to be presented in open House.

The SPEAKER. They are always presented in open House on Monday. The Chair has always stated, in announcing the order of business for the morning hour of Monday, that resolutions and memorials of State and territorial Legislatures will be in order for reference and printing.

Mr. SINGLETON, of Illinois. I trust there will be no objection to receiving this resolution at this time and referring it to the Committee on Commerce.

Mr. HAZELTON. I object to its being presented now. Let it come in on Monday.

Mr. SINGLETON, of Illinois. We have had no morning hour of Monday yet; no opportunity to present these resolutions.

Mr. HAZELTON. I object.

GEORGE T. ROGERS AND BENJAMIN P. GAINES.

Mr. SPRINGER. I ask consent to submit a resolution at this time for reference to the Committee of Accounts.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives, That the Clerk of the House be, and is hereby, directed to pay out of the contingent fund of the House to George T. Rogers and Benjamin P. Gaines each the sum of $180 for services rendered as clerks to the Committee on Expenditures in the State Department during the month of November, 1878.

The SPEAKER. Is there objection to receiving this resolution for reference at this time?

Mr. SINGLETON, of Illinois. I object.

ORDER OF BUSINESS.

The SPEAKER. The question is first on the motion of the gentleman from Pennsylvania [Mr. CLYMER] to suspend the rules so as to dispense with the morning hour, which he proposes to supplement by a motion that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the legislative appropriation bill.

Mr. STEPHENS. I wish to inquire of the Chair what will be the business to-day if the morning hour be maintained?

The SPEAKER. The business in the morning hour will be the call of committees for private business or reports of a private nature.

Mr. STEPHENS. We could not go on with the silver bill?

The SPEAKER. The majority of the House, finding no business of a private nature reported from committees in the morning hour, might determine to go next to the order which provides for the introduction of resolutions from States, beginning with the State of Maine.

Mr. STEPHENS. The unfinished business of yesterday could not be taken up in the morning hour to-day?

The SPEAKER. It could not. On the motion of the gentleman from Pennsylvania to suspend the rules so as to dispense with the morning hour, a vote of two-thirds will be necessary, in accordance with the rule adopted at the beginning of the present session.

The motion was agreed to; two-thirds voting in favor thereof.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLYMER. I now move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Ohio [Mr. MCKINLEY] is entitled to the floor.

Mr. MCKINLEY. Mr. Chairman, the first movement in the programme of a restored democracy has already been accomplished so far as this House is concerned in the paralyzation of the executive force to preserve peace at the polls. The second step in the same programme is only checked by a few intervening days when the purity of the ballot-box is to be submitted to the same lawlessness, with no power in the Federal head to insure or preserve it.

The proposition offered by Mr. Southard in the closing hours of the Forty-fifth Congress, and for the most part now renewed in the extraordinary session of the present Congress, to repeal certain sections of the statutes of the United States known as the Federal election laws, is a bold and wanton attempt to wipe from the law all protection of the ballot-box and surrender its purity to the unholy hand of the hired repeater and its control to the ballot-box stuffers of the great cities of the North and the tissue-ballot party of the South.

So determined is the democratic party in the House to break down these wise and just measures, intended to secure an honest ballot to the legal voter, that they make them a rider to an important appropriation bill, making them, in the language of my colleague, [Mr. MCMAHON,] "a necessary companion to the money voted in the bill."

The repeal of these laws will remove every safeguard against fraud in the exercise of the elective franchise, and will again make possible the enormous outrages upon a pure ballot and free government which marked the elections in the city of New York and elsewhere in 1868, the wickedness and extent of which made existing law necessary and imperative. The proposition we are now considering is an open assault upon the freedom and purity of elections.

What are these laws which are to be repealed in so unusual and summary a manner? Let us briefly examine them; and, first, let me pause to refute the very general charge, so often made, that these laws interfere with State and local elections and encroach upon the rights and powers of the States. They do not apply to elections for State and local officers in any way. The States fix their own regulations, and these statutes have no force or operation upon the election machinery employed by the several States for their local elections. There is and can be no conflict between the State officers and the Federal supervisors and deputy marshals. The law applies and can only

be invoked when there is an election for Representative or Delegate to Congress.

The supervisors provided for in this act are appointed in cities and towns of not less than twenty thousand inhabitants upon the written application to the United States circuit court of two citizens of said city or town, and shall be appointed in any county or parish in any congressional district upon like application to said court of ten citizens of good standing, being citizens thereof. These supervisors, it will be observed, are to be appointed by the circuit court of the United States, not by the executive power of the Government nor upon the motion of any Federal executive or office-holder, but the application comes from the people themselves; their number is limited to two for each election district or voting precinct, and they shall be of different political parties.

Their duties are prescribed in sections 2016, 2017, and 2018 of the Revised Statutes, to which I beg your attention:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

Their duties, summarized, are as follows:

First. To attend the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate to Congress

Second. To attend at the election held for a Representative or Delegate to Congress.

Third. To guard and scrutinize such elections.

Fourth. To witness, inspect, and report thereon, with the right of challenge, and the right to personally scrutinize, count, and canvass each ballot, "to the end that each candidate for the office of Representative or Delegate to Congress may obtain the benefit of every vote for him cast."

Section 2022 provides that supervisors, in the absence of the marshal and deputies, or if required to assist them, shall have the same duties and powers as is conferred upon deputy marshals by this act, which includes the power of arrest and the preservation of peace.

The original purpose of the majority of this House was to repeal the entire body of the election laws, including that portion to which I have just called your attention. It is now proposed, under a more recent decree of the democratic caucus, to strike down the deputy marshals only, and wrest from the supervisors the executive powers now vested in them. This modification is not important in itself, it is no concession in the interest of an honest election, but it is highly important and valuable in another view—that of the constitutionality of the law itself. During the brief discussion in the last House the most distinguished leaders of the democratic party habitually declared the entire law, supervisors and all, wholly unconstitutional. They seem, since that time, to have read more carefully section 4 of article 1 of the Constitution, which declares—

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Which constitutional provision confers upon Congress full and adequate powers at any time to make or alter times, places, and manner of holding elections for Representatives, and to make or alter such regulations.

The democratic party has thus abandoned the constitutional objection by allowing the sections in relation to supervisors of elections, with some limitations, to remain. They surrender the constitutional doctrine so strenuously urged against existing law. My distinguished friend from Ohio [Mr. HURD] and the gentleman from Kentucky, [Mr. CARLISLE,] who addressed the committee yesterday, seem not to have been present at the last caucus of their party, for their arguments are wholly based upon the constitutional question. Let me suggest to my friends that if the law is unconstitutional the courts are open to them, where that question can be judicially determined for all time; and let me remind them that this law has been on the statute-book for now seven years, and the question they make, although decided adversely to their theory by an inferior court, has never found its way to the final tribunal in such cases—the Supreme Court of the United States. To that tribunal we invite them to go. I repeat that permitting the supervisors law to stand is a giving away of all constitutional objection to the entire body of the law. It explodes the old dogma of State rights and removes all necessity for any discussion upon that point.

Enough of the law is left to recognize the principle always contended for by the republican party, that Congress had the power and that it was its plain duty to guard and protect elections where its own members were to be chosen to seats in this body; but while admitting the constitutional right, they are careful to wipe out all the provisions which give such a law practical effect in securing an honest election and preventing force and fraud at the polls. They are in favor of the law, but opposed to its execution. Now, let us briefly review what is proposed to be stricken from the law. This statute provides for the appointment of special deputy marshals; section 2021 prescribes the manner of their appointment, and section 2022 prescribes their duties. I call your attention to them at length, because their careful reading will dispose of much of the misrepresentation which has been heaped upon them in debate, and correct much of the misapprehension which prevails concerning them:

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants, or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal, or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

As in the case of the supervisors, they have nothing to do with the elections for State and local offices and can only be appointed at an election for Representative or Delegate in Congress. They are to aid and assist the supervisors of election; to keep the peace at the polls; to preserve order and protect the supervisors in the discharge of their duties. They are to prevent fraudulent registration and fraudulent voting. What honest man can object to provisions of law looking to such important results? They are to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited in this act, or who commits any offense against the laws of the United States. Great exception is made to that part of the law which authorizes the marshals to arrest without process. The impression is sought to be made that this power is exceptional and without any qualification, while an examination of the law itself shows that the power is carefully limited and guarded. My colleague [Mr. HURD] falls into this error, and would leave (unintentionally I have no doubt) a wrong impression of the law. Here is the language of the gentleman, found in his speech of April 1:

The third objection is that these supervising officers are armed with authority unknown in the history of the common law or State laws. They have authority at the polls on the day of election to arrest, without warrant, any man whom they may suspect of being about to engage in a violation of the laws. There is no principle of common law or State law which can authorize the arrest of citizens on suspicion of an intention to commit an offense.

My friend has not read the law aright, as he will observe. Here is the language of the statute, "but no person shall be arrested without process, for any offense not committed in the presence of the marshal or his general or special deputies." Arrest without process can only be made upon view of the crime committed in the presence of the officer, not upon suspicion or idle rumor, not upon information, but upon actual view. There is nothing exceptional in this law. It is as old as the common law; it is the common law, as old as criminal jurisprudence; it prevails everywhere throughout the country. The lowest executive officer to the highest is authorized to arrest a person whom he sees committing a crime against the laws of the country. In some of the States this power is reposed in every citizen. It is the power vested in every police officer of the land. And why should

any distinction be made between the violators of the general laws of the country and the violators of the election laws of the United States? This dangerous power, so called, is exercised by the police officers of the capital city, yes of the very Capitol itself. * The deputy marshal stands in relation to this law as the policeman to the general laws against crimes and misdemeanors, and the same necessity exists for their appointment as for the maintenance of a city police force. If crimes against the election laws are committed before his eyes, and in the immediate presence of the officer, it is his duty to arrest without warrant. What honest man will object to this? Such offenders ought to be summarily taken into custody, and the public sentiment of the country, the common law, and public morals approve and justify. It is no infringement of the constitutional liberty of the citizen. The party arrested is to be forthwith brought before the commissioner or judge for examination of the offense alleged against him. If guilty, he is held to answer by the court; if not guilty, he is summarily discharged.

This power, I admit, should be most carefully exercised and only reposed in discreet and honest hands. The appointment of deputy marshals is confined to cities of twenty thousand inhabitants or upward. They cannot be appointed in any congressional district where there is no city of that population or greater. The country districts are not immediately interested in this provision. In Ohio not more than one-fourth of the congressional districts can invoke this provision of law. In the country and smaller towns deputy marshals are not needed; here an honest election is secured by the watchful interest of a large body of fair-minded citizens. Fraud is difficult to commit where everybody is acquainted with his neighbors and where the legal voters are known to every citizen. Yet the voter in the country districts, indeed every voter throughout the land, is interested in free and honest elections everywhere, for without them his vote loses its legitimate force. An honest election in the country is of little significance if its true force is to be overcome by fraud in the large cities. Herein the interest becomes personal and immediate. In large cities the great bulk of the population are strangers to each other; few citizens know their fellow-voters, and from necessity this is the case. Fraud is easily accomplished, and is inevitable, I may say, without the most rigorous safeguards and the firm enforcement of law.

I have tried fairly to meet and answer the principal objections urged to this law. Are there any others? In the discussion had in the Forty-fifth Congress much stress was placed upon the great expense attending the execution of the law. I learn that in Cincinnati, in my own State, the expense of deputy marshals in 1878 was less than $400, and they never had a fairer, purer election than at that time. But to this, in general terms, I answer, what signifies the cost if thereby we can secure a free and fair ballot in this country? Who will count the cost if the enforcement of this law will prevent the repeaters and moonshiners from controlling the elections and subverting the popular will? For involved in this proposition is the existence of the Republic and the perpetuation of republican institutions. If honest, fair elections cannot be had, free government is a farce; it is no longer the popular will which is supreme. Free government cannot be estimated by dollars or measured by cost. We have long ago discarded that consideration. This objection has been urged many times before to the enforcement of great fundamental doctrines and principles. The same objection was urged to the prosecution of the war for the integrity of the Union and of free government. Public sentiment did not listen then to the cry of cost; it hesitated not, it faltered not then; it ignored the cost, it fought and successfully fought the great battle of freedom, and public sentiment will not now pause to count the paltry cost when free and fair elections, the foundation-stone of free government, are involved in threatened danger. If I do not misjudge, the people who fought for free government and maintained it at so great a cost will now be found firm and invincible for a free ballot and fair elections. Let me remind the other side of this Chamber that supervisors and marshals will not be needed, and therefore no cost will be incurred, whenever the party which employs tissue ballots and drives colored citizens from the polls shall do so no more forever, and whenever democratic repeaters shall cease to corrupt the ballot—the great fountain of power in this country—in a single sentence, whenever throughout this whole country, in every State thereof, citizenship is respected and the rights under it are fully and amply secured; when every citizen who is entitled to vote shall be secure in the free exercise of that right, and the ballot-box shall be protected from illegal voters, from fraud and violence, Federal supervisors of Federal elections will be neither expensive nor oppressive.

Until then, the order-loving, patriotic citizen will insist, at any cost, upon some legislative measure or measures which will the more certainly protect the citizen in his right of suffrage, which is secured to him under the Constitution and the laws.

My colleague [Mr. MCMAHON] urges another reason for the repeal of these laws. He says, in his speech in the last House:

> The marshal of the United States is the creature of the President. The special deputies are the mere creatures of the marshal. There is no law nor any general practice requiring them to be equally divided between the political parties. *And if the republican marshal selects so-called democratic deputies it is to keep them quiet, or with the express or implied agreement* that they will vote for or possibly openly support the republican ticket.

What will the democratic party think of this grave accusation from one of the party leaders: that for a consideration, and that, too, for an appointment as deputy marshal for a single day, democrats will break away from old party affiliations, surrender their convictions, and vote the republican ticket? Now, if this be the only objection, it can be avoided by an amendment, which the gentleman can offer at the proper time, prohibiting the appointment of any democrat as a deputy marshal, thus preventing the corruption of democratic electors. [Applause.]

Again it is urged that the presence of supervisors and marshals intimidates the democratic voter. Who ever heard of the presence of an officer of the law deterring anybody from doing what he has a legal right to do? Their presence is a restraint upon no honest voter. They prevent no citizen who is a legal voter by the laws of his State and the United States from freely and peaceably exercising that right. Their presence is his safeguard and security. They disfranchise no man. They defraud no voter of his just rights under the law. Every legal voter is made safe in the exercise of his right of suffrage. In the practical operation of this law since 1872, I have heard of but one instance of injustice, the case of Peter Coleman, cited by my distinguished friend from New York, (Mr. Hewitt,) a member of the last House, and although he alleges that four thousand arrests were made on election day in the city of New York in 1878, he finds but one victim of oppression, and his restraint and imprisonment seem to have been self-imposed. I read from his remarks:

> Fortunately for the cause of liberty, out of these four thousand citizens thus summarily deprived of their freedom, * * * one man alone, so poor that he had no friends to become his bail, and so friendless that he seems not to have known that he might have walked away, was committed to jail, and allowed to lie there until by accident his case was made known in the proper quarter, and proceedings of *habeas corpus* were taken to test the question of the legality of these arrests. The name of that unfortunate citizen was Peter Coleman.

How carefully and discreetly must this law have been administered when there can be found but one instance of injustice or wrong!

Has any legal voter in the United States been prevented from exercising his right of suffrage by this law, or by the officers acting under it? This is the practical question. None that I have ever heard of; while thousands, yes, tens of thousands of illegal voters have been deterred from voting by virtue of it. The honest voter has no fear of this law; it touches him as lightly as the law of larceny touches the honest man or the law of murder touches him whose hands are stainless of human blood. The thief hates the law of larceny; the murderer the law of homicide. They, too, can truthfully urge the cost of the execution of these laws; both are expensive and onerous to the tax-payer. But I have never known such argument seriously entertained as a reason for their repeal. The law is without terror save to wrong-doers. The presence of officers of the law only deters criminals from the commission of crime. They are no restraint upon the honest man. You can form no system of laws which will not be open to some criticism and abuse. These prove nothing against the importance and necessity of their maintenance. But if any better method can be offered for preserving the ballot-box in its purity, I will cordially accept it and labor for its passage, but until such better method is proposed we should stand by existing statutes.

We cannot afford to break down a single safeguard which has been thrown around the ballot-box. Every guarantee must be kept and maintained. Fair-minded people everywhere are interested in honest elections. It is not a partisan measure; it falls alike upon all political parties. The law recognizes no political creed, and those who execute it should carefully obey its letter and spirit. It protects democrats and republicans and men of all parties alike.

This House, not content with prohibiting the use of soldiers to keep the peace at the polls, forbidding their employment by the President in any emergency, however grave, now seeks to remove every remaining safeguard to a fair and honest election. The better sentiment of the country, North and South, will not submit to such unbridled license upon the ballot-box. Mr. Chairman, what will the end be? By an amendment to an Army appropriation bill which was not connected with the subject-matter thereof, peace at the polls can no longer be maintained by the Chief Executive, no matter how grave the emergency or how pressing the necessity. Tumult and riot may hold high carnival at a Federal polling place and the Federal arm is powerless to restrain it. This restriction of Federal power, this paralyzation of executive authority, ought to have satisfied the most extreme State-rights democrat; but not so. Having forbidden the use of the executive force to keep the peace at the polls, they now demand that the purity of the ballot and the freedom of the voter shall be subjected to the same lawlessness with no power in the Government to restrain it.

Mr. Chairman, my purpose thus far has been to present this law, the repeal of which is demanded, upon its merits wholly. The proposition, however, of the democratic side of the House is to offer this amendment not to the sober, independent, judgment of the House and the co-ordinate branches of the Government, but to rush it through right or wrong, justly or unjustly, as a part of a bill making appropriations for the pressing and needful wants of the Government. It is an attempt to do by force what ought to be done, if at all, in the free exercise of the law-making power by each branch of the Government acting in its proper functions under the Constitution. If force and coercion be not intended, then why not introduce and consider this legislation under the rules with deliberation and debate upon its own merits, independent and separate from an ap-

propriation bill? This is the ordinary course of legislation, recognized by long practice, founded in wisdom, and never before abandoned for the purposes of coercion. Want of time cannot be urged in favor of this course; days of idleness have already been spent sufficient for the purpose. The resort to this method of legislation is a confession of the injustice, wrong, and weakness of the proposed measure, and evinces a determination to accomplish wrongfully that which cannot be rightfully accomplished. One of the pretexts urged in favor of placing this amendment upon an appropriation bill is that the law itself was passed by the republicans in the same way. This impression has become so general throughout the country, that it would seem necessary to state the facts in relation to the passage of the supervisors law. This law substantially as it is now in the statutes was introduced into the House, referred to the Judiciary Committee, considered by that committee, and reported back to the House by the chairman, where it was discussed, voted upon, and passed entirely independent of any appropriation bill; it took the same course in the Senate. It was not a rider to a bill appropriating money. It is true that the sections extending the supervisors to country districts and restricting their powers in such districts were passed June 10, 1872, upon the sundry civil appropriation bill.

Not to coerce the President or the Senate, not to obtain what could be obtained in no other way, for all of the branches of the Government were then in political accord.

I have not stated it as strong as the gravity of the case justifies. The proposition is to grant no money for the necessary expenses of the Government in its several departments unless the Executive will affix his signature to a bill which he may not approve. This doctrine was boldly announced by the distinguished Senator from my own State [Mr. THURMAN] in the closing hours of the Forty-fifth Congress. That I may do him no injustice, let me give you his exact language:

> But that countervailing influence, that countervailing power, was supposed to be found in the fact that all money bills must originate in the House of Representatives; that the House should hold the purse-strings, and should say, as our forefathers in England had said to the lords and king, "We will only grant supplies upon condition that grievances are redressed."
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> I grant it may be an extreme measure for the House of Representatives to affix upon an appropriation bill such provisions as are contained in this bill.
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> * * * * * * *
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> We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances.

The Senator from Kentucky [Mr. BECK] was equally pronounced.

While in the House there seemed to be but one sentiment among the democrats, which was that these laws must be repealed or the machinery of the Government must stop. Mr. Southard, who was designated by the caucus of his party to present the proposition to repeal the law relating to supervisors of elections, declared in his speech, "Let the issue come now. Not a dollar of the appropriations should be voted until this most reasonable redress of grievances is conceded." And applause from his democratic colleagues followed this revolutionary utterance. Another colleague [Mr. MCMAHON] was no less emphatic. He says:

> It is our duty to repeal these laws. It is not worth while to attempt the repeal except upon an appropriation bill. The republican Senate would not agree to, nor the republican President sign, a bill for such repeal.
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> * * * * * * *
>
> We have the power to vote money; let us annex conditions to it and insist upon the redress of grievances.

This states their position in the strongest light. He admits the repeal cannot be accomplished except upon an appropriation bill; that the republican President would not sign it; and because he will not, the proposition is to starve the Government until he does sign it. Hon. Jere N. Williams, of Alabama, and Hon. J. D. C. ATKINS, of Tennessee, Representatives from the South, speak to the same effect.

Mr. Williams says:

> An appropriation bill is a necessary medium at this time, because we can secure a repeal in no other way. Let the work go on, and let those who heed the Constitution and truly represent their States and people stand with unalterable purpose in the position that we have here taken.

Mr. ATKINS says:

> The right of the Representatives of the people to withhold supplies is as old as English liberty. History records numerous instances where the Commons, feeling that the people were oppressed by laws that the Lords would not consent to repeal by the ordinary methods of legislation, obtained redress at last by refusing appropriations unless accompanied by relief measures.

I might multiply these utterances, North and South, all showing a settled purpose upon the part of the democratic majority to have their own way in matters of legislation or they will paralyze the Government. We might well imagine we were back amid the stormy days of 1860 and '61, when this same party announced the same doctrine, evinced the same spirit, and pronounced in only another form the same threat. Restored, but not reconstructed, they are as intent upon controlling the Government absolutely, in defiance of the Constitution, and in their own way, as they were in the old days of slavery. They controlled the Executive then; thank God, they cannot do it now. [Applause on the republican side.] This mode of legislation was severely condemned by the early statesmen of both political parties, and when I have brought to your attention their recorded sentiments on this subject you will fully justify me in my characterization of this proceeding. In 1855 an attempt was made to place upon the civil and diplomatic bill certain tariff legislation, which was resisted by distinguished Senators representing both parties.

I first quote from Mr. Clayton, and read from the Congressional Globe, (in the Senate,) second session Thirty-third Congress, page 1035. Mr. Clayton said:

> Now, sir, what must be the consequence hereafter of sustaining such a proposition as the House have put into this bill? Whenever a majority in one branch of Congress shall desire any great object, which they cannot attain by a separate bill, they will move to put it on the civil and diplomatic appropriation bill, and thus compel the other branch of Congress to accept the whole or none. * * * It is a most dangerous precedent; it is an example that has never been set to us before, and I hope will never be attempted again.

Mr. Bayard said:

> Mr. President, I can hardly express in language the objections which I entertain to the condition of things at which we are now arriving, resulting from the abandonment of all rules necessary for the preservation of order and the rights of the minority in reference to the legislation of the country. * * * I am not willing, by my vote, to sanction the adoption of a general system of legislation on the appropriation bills for any and every purpose that a majority may see fit to place on them.—*Congressional Globe*, second session Thirty-third Congress, page 1044.

Mr. Seward said:

> Mr. President, I regard the proposition to incorporate a new tariff system into the civil and diplomatic appropriation bill as one of a revolutionary character. * * * Let me state the question. The House of Representatives virtually says that if the Senate will agree that certain modifications of the tariff in regard to wool shall be made, &c., then the President and other executive officers of the Government, civil, judicial, and diplomatic, may receive their salaries secured to them by the Constitution and laws. But if the Senate will not consent to these modifications, then no officer of the Government, however high, no servant of the people, however low, shall receive any compensation.—*Congressional Globe*, second session Thirty-third Congress, page 1048.

Mr. Douglas said:

> I should be against this measure at the first blush, on the ground that it is not a revenue tariff; that it is not a free-trade measure; that it is a return to what I had hoped was the exploded doctrine of protection. In the next place, even if the bill were right in itself, if its provisions were correct, I could not consent by my vote to put it on this appropriation bill, for the reason that such a course is revolutionary in its character. * * * Sir, if you begin to break through those safeguards which experience and wisdom in all free governments and legislative bodies have erected, you will have opened the gates to the floods which will flow in and overwhelm your appropriation bill. * * * I say, therefore, that I cannot give my sanction to a course of proceeding so dangerous, so revolutionary in its character as this, even if I were satisfied with the character of the tariff provision which is proposed to be retained in the bill.—*Congressional Globe*, second session Thirty-third Congress, page 1060.

Again, in 1856 the House sought to put upon an Army appropriation bill the following proviso:

> *Provided, nevertheless*, That no part of the military force of the United States herein provided for shall be employed in aid of the enforcement of the enactments of the alleged Legislative Assembly of the Territory of Kansas, recently assembled at Shawnee Mission, until Congress shall have enacted either that it was or was not a valid Legislative Assembly, chosen in conformity with the organic law by the people of the said Territory: *And provided*, That until Congress shall have passed upon the validity of the said Legislative Assembly of Kansas it shall be the duty of the President to use the military force in said Territory to preserve the peace, suppress insurrection, repel invasion, and protect persons and property therein and upon the national highways in the State of Missouri or elsewhere from unlawful seizures and searches: *And be it further provided*, That the President is required to disarm the present disorganized militia of the Territory of Kansas, to recall all the United States arms therein distributed, and to prevent armed men from going into the said Territory to disturb the public peace or to aid in the enforcement or resistance of real or pretended law.—*Congressional Globe*, first session Thirty-fourth Congress, page 1969.

Which in the Senate led to resistance; and I extract from the discussion then had. Mr. Cass said:

> I am utterly opposed to this mode of coercion by which provisions are to be inserted in appropriation bills. * * * The effect of such a system must be that, instead of having a government with two branches in the legislature—a government composed of popular numbers and of State sovereignties, each a check on the other—you would have a government of but one branch, and it would, in fact, degenerate into a French convention. * * * You may not call it revolutionary, but it will lead to revolution.—*Congressional Globe*, first session Thirty-fourth Congress, page 2229.

Mr. Douglas said:

> One word upon the principle involved. I hold that the proviso of the House is not only palpably unconstitutional, but directly revolutionary.—*Congressional Globe*, first session Thirty-fourth Congress, page 2230.

Mr. Mason said:

> This House of Representatives, of whom I speak with all respect, have tried on more than one bill, and now, after three conferences, insist to the latest hour on making the appropriation bills the vehicle of revolutionary measures. For one, I am prepared to try it before the American people.—*Congressional Globe*, first session Thirty-fourth Congress, page 2230.

Mr. Cass said:

> The tendency of this principle is to concentrate all power in the House of Representatives; to allow them to annex any provision they please, without reference to the subject of appropriation. Appropriation bills are intended to be bills to carry into effect pre-existing laws; but this would be the establishment of a great fundamental unconstitutional principle, irreconcilable with the nature of our Government.—*Congressional Globe*, first session Thirty-fourth Congress, page 2231.

This attempt involves the overthrow of the Constitution. This is the lesson taught by the early statesmen whose warnings I have just cited. It would destroy the veto power of the President, one of the safeguards against bad legislation, one of the checks provided by the organic law.

It in effect says you dare not exercise your veto prerogative even though you do not approve of our legislation; if you do, the wheels of the Government must stop. It overrides one of the constitutional guarantees; it attempts to take away freedom of action upon the part of the Executive; it is the first step in the pathway of revolu-

tion. What are the powers of the several departments of the Government in respect to legislation? I read from section 7, article 1, of the Constitution:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

And the same is true of every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary except on a question of adjournment. In the face of this provision my colleague [Mr. HURD] says "he [the President] has nothing to do with the legislation of this country." By this provision the President becomes a part of the law-making power; two-thirds of both Houses alone can override his judgment of any measure which may be proposed. This proceeding ignores the fundamental law and sets at naught the veto power except at the cost of closing up the great departments of the Government.

What does this mean? Is it too violent a presumption, is it too strong a statement to say that the party which for four years sought to destroy free government by arms are now seeking by the more peaceful but less manly methods of coercion and intimidation to control the Government which they could not destroy? If the Constitution is to be ignored, if free and honest elections cannot be had everywhere throughout the country, free government is as effectively overthrown as though it had been done by the sword. The President must surrender this power vested in him by the Constitution, which he solemnly swore to observe and obey, or the whole machinery of the Government must cease to exercise its functions. The scope and necessity of this power is discussed in the Federalist, from which I extract the following, published March 21, 1788:

It [the veto power] establishes a salutary check upon the legislative body calculated to guard the community against the effects of faction, of precipitancy, *or of any impulse unfriendly to the public good*, which may happen to influence a majority of that body.

* * * * * * *

The primary inducement to conferring the power in question upon the Executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community *against the passing of bad laws through haste, inadvertence, or design.*

* * * * * * *

The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones.

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It is evident that there would be greater danger of his not using his power when necessary than of his using it too often or too much.

* * * * * * *

In the case for which it is chiefly designed—that of an immediate attack upon the constitutional rights of the Executive, *or in a case in which the public good was evidently and palpably sacrificed*—a man of tolerable firmness would avail himself of his constitutional means of defense, and would listen to the admonitions of duty and responsibility.

* * * * * * *

It is to be hoped that it will not often happen that improper views will govern so large a proportion as two-thirds of both branches of the Legislature at the same time, and this, too, in spite of the counterpoising weight of the Executive.

This veto power was wisely provided for by the framers of the Constitution, and until now was never sought to be abrogated. It has more than once been eulogized by the democratic party of the United States. In 1856 this party, in national convention at Cincinnati, commended this power as one of the great constitutional safeguards. Let me read it:

NINTH DECLARATION.

That we are decidedly opposed to taking from the President the qualified veto power, by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interest, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives until the judgment of the people can be obtained thereon, and which has saved the American people from the corrupt and tyrannical dominion of the Bank of the United States and from a corrupting system of general internal improvements.

The above was reaffirmed in the democratic conventions of 1860, held in Charleston and Baltimore.

It was a wise power then "to guard the public interest and suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives until the judgment of the people can be obtained;" but now, in the language of my colleague, [Mr. HURD,] who announces the new doctrine of the democratic party, the right of the President to participate in legislation is denied—"he has nothing to do with the legislation of this country." This proceeding is a violation of what was once a fundamental principle of the democratic faith. Everybody knows the merits of this amendment cannot secure the approval of two-thirds of either House, much less of both Houses. That is well understood, and nothing is left in such an event, using the language of the platform, but to wait and obtain the judgment of the people, and to this tribunal we invite the democratic party in this House to go.

The gentleman from Mississippi, [Mr. CHALMERS,] in his speech in this House on the 1st instant, declares that these questions have already been tried before the people. When and where, I ask? In what State or national platform was the repeal of the election laws demanded? In what political contest were they discussed? The issue is a new one, never tried before the people, and now for the first time pressed upon Congress by the democratic leaders as a necessity to their political campaign of 1880. In the next presidential contest there must be no safeguards to an honest ballot, no peace at the polls. Fraud and force, the great weapons of democratic ascendency, must be unrestricted. The repeal of these laws is a democratic necessity to the next presidential election.

We are willing to try before the people the question of the constitutional powers of the President, and whether the election laws, passed in the interest of a free and honest ballot, shall be maintained or repealed. The great body of voters in this country want the Constitution preserved in full force, and want and will have, sooner or later, fair play at the elections both North and South. Repeating, ballot-box stuffing, the use of tissue ballots, fraud at the polls, intimidation, and restraint of a free ballot in whatever form, must cease. The public sense abhors all these, and the party which practices such methods or quietly suffers them to be put in operation will be swept from power by the irresistible force of an honest and enlightened public sentiment. [Applause.] Who is demanding this amendment, and in whose interest? Not in the interest of free elections—the honest citizen is not demanding it; on the contrary, the general wish is for such legislation as will the more certainly and securely make the right of suffrage free and untrammeled.

Mr. Chairman, on the 2d day of December, 1878, the President of the United States in his annual message of that date called the attention of Congress to this subject and its great importance, using the following language:

The three constitutional amendments, which conferred freedom and equality of civil and political rights upon the colored people of the South, were adopted by the concurrent action of the great body of good citizens who maintained the authority of the National Government and the integrity and perpetuity of the Union at such a cost of treasure and life, as a wise and necessary embodiment in the organic law of the just results of the war. The people of the former slaveholding States accepted these results, and gave, in every practicable form, assurances that the thirteenth, fourteenth, and fifteenth amendments, and laws passed in pursuance thereof, should in good faith be enforced rigidly and impartially, in letter and spirit, to the end that the humblest citizen, without distinction of race or color, should under them receive full and equal protection in person and property and in political rights and privileges. By these constitutional amendments, the southern section of the Union obtained a large increase of political power in Congress and in the electoral college, and the country justly expected that elections would proceed, as to the enfranchised race, upon the same circumstances of legal and constitutional freedom and protection which obtained in all the other States of the Union. The friends of law and order looked forward to the conduct of these elections as offering to the general judgment of the country an important opportunity to measure the degree in which the right of suffrage could be exercised by the colored people, and would be respected by their fellow-citizens; but a more general enjoyment of freedom of suffrage by the colored people, and a more just and generous protection of that freedom by the communities of which they form a part, were generally anticipated than the record of the elections discloses. In some of those States in which the colored people have been unable to make their opinions felt in the elections the result is mainly due to influences not easily measured or remedied by legal protection; but in the States of Louisiana and South Carolina at large, and in some particular congressional districts outside of those States, the records of the elections seem to compel the conclusion that the rights of the colored voters have been overridden and their participation in the elections not permitted to be either general or free.

I respectfully urge upon your attention that the congressional elections in every district, in a very important sense, are justly a matter of political interest and concern throughout the whole country. Each State, every political party, is entitled to the share of power which is conferred by the legal and constitutional suffrage. It is the right of every citizen possessing the qualifications prescribed by law to cast one unintimidated ballot and to have his ballot honestly counted. So long as the exercise of this power and the enjoyment of this right are common and equal, practically as well as formally, submission to the results of the suffrage will be accorded loyally and cheerfully, and all the departments of Government will feel the true vigor of the popular will thus expressed. No temporary or administrative interests of Government, however urgent or weighty, will ever displace the zeal of our people in defense of the primary rights of citizenship. They understand that the protection of liberty requires the maintenance in full vigor of the manly methods of free speech, free press, and free suffrage, and will sustain the full authority of Government to enforce the laws which are framed to preserve these inestimable rights.

This invitation by the Chief Executive to Congress to devise some means for a fair and honest election, for greater security in the right of suffrage, "that every citizen possessing the qualifications prescribed by law can cast one unintimidated ballot, and to have his ballot honestly counted," is met with no favorable response or action. No additional safeguards to the ballot-box are proposed. No increased security to the voter is extended to him, but in the face of this recommendation, and in the presence of facts upon which it is based, a democratic Congress deliberately proposes to remove all existing safeguards to a free and honest ballot.

The recommendation of the President is wholly disregarded; the fraud, force, and violence which marked some of the congressional elections in 1878, to which our attention has been called in this solemn manner, are utterly disregarded. Instead of new or additional legislation in the interest of a fair election, old legislation looking to that end is to be swept from the statute-books. The force and intimidation hitherto employed at polling places for carrying the elections are to continue without any restraint, and the same methods are to be used upon the President to coerce him to approve an amendment which will make fraud upon the elective franchise more easy of accomplishment and bulldozing beyond the power of correction.

This party in Congress, so thirsting for power, is unwilling to await the will of the people. They seek in advance of that will to usurp all governmental powers. They are endeavoring to absorb all of the constitutional functions of the President by threat and coercion. They cannot await, in their eagerness, for the voice of the people to call them to further power. I assure them that no other course will succeed. Let me suggest in all kindness, but with great plainness of

speech, to the gentlemen on the other side, who so recently were engaged in the work of trying to break up this Government, that they are getting along fast enough, they already have too much power, and this is made more and still more apparent day by day as we witness the use of the power now reposed in their hands.

I have not forgotten that the gentleman from Kentucky [Mr. BLACKBURN] who now presides over this committee with so much ability declared a few days ago upon the floor of this House, *"It is this organization* [the democratic] *that has come back to rule and that means to rule."* That this is their purpose I have never doubted. How and in what manner let the gentleman's own words speak and I read an extract from his speech:

For the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges.

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We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book.

Mr. FINLEY. Will my colleague yield for a moment?

Mr. MCKINLEY. I cannot yield.

Mr. FINLEY. I desire simply to ask the gentleman to finish the sentence he has read in part. I do not say he has garbled anything; but why does he not finish reading the sentence?

Mr. MCKINLEY. I have not garbled at all. If the gentleman from Kentucky, [Mr. BLACKBURN,] who is now in the chair, or my colleague [Mr. FINLEY] wants the entire speech read and I can have my time extended for that purpose, I should be very glad.

Mr. FINLEY. I merely ask for the completion of the sentence.

The CHAIRMAN, (Mr. BLACKBURN.) If the gentleman from Ohio [Mr. MCKINLEY] will permit the present occupant of the chair he will ask that the gentleman read, not the entire speech, but the sentence, instead of a part of the sentence.

Mr. MCKINLEY. What sentence is it?

The CHAIRMAN. The last one referred to by the gentleman.

Mr. MCKINLEY. Have you, sir, the whole speech? if so, I will gladly read further.

The CHAIRMAN. The Chair has not a copy at hand.

Mr. MCKINLEY. I would not do the gentleman any injustice for the world.

The CHAIRMAN. The Chair will furnish a copy to the gentleman.

Mr. MCKINLEY. The gentleman from Kentucky is one of those brave, courageous men who speak the sentiments of his party and does not cover them up. [Laughter and applause on the republican side.] We know just what he means. I repeat his language:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book.

They have already entered upon their unholy work; they are engaged in it now. Only the other day, and while the Army bill was being considered, the gentleman from Virginia, [Mr. TUCKER,] one of the able and distinguished men of this House, proposed an amendment repealing section 1218 of the United States Statutes. What is the section the repeal of which he demands? Let me read it:

No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

The Army list is to be opened and revised, so that men who served in the confederate army, who for four years fought to destroy this Government, shall be placed upon that list as commissioned officers. Ay, more, the men who were in our Army before the war as commissioned officers, who were educated at the public expense, who took an oath to support the Constitution of the United States and when the nation was threatened with danger resigned their commissions and forsook the flag, are to be eligible for reappointment to that Army again. Are we quite ready for this?

This is not all. On the 13th of February, 1878, the chairman of the Committee on Invalid Pensions of the Forty-fifth Congress [Mr. RICE] reported to the House, with the sanction of a majority of that committee, a bill repealing section 4716 of the United States Statutes. Let me read the section to be repealed:

No money on account of pension shall be paid to any person, or to the widow, children or heirs of any deceased person, who in any manner voluntarily engaged *in, or aided or abetted*, the late rebellion against the authority of the United States.

And the same bill contained the following affirmative legislation:

SEC. 7. That the Secretary of the Interior be, and is hereby, authorized and required to restore to the pension-roll the names of all invalid pensioners now living who were stricken therefrom on account of disloyalty, and pay them pensions from the 25th day of December, 1868, at the rate which they would have been entitled to had they not have been dropped from the pension-roll.

These are some of the war measures which are to be "wiped out" from the statute-book. These are some of the degrading badges which are to be torn off.

Mr. TOWNSHEND, of Illinois, rose.

Mr. MCKINLEY. I decline to yield. The gentleman occupies this floor often enough without attempting to interrupt me.

Mr. TOWNSHEND, of Illinois. I wish to say that is the bill which passed the republican Senate last Congress, and was approved by the President.

Mr. MCKINLEY. These are only a foretaste of the war measures which are to be wiped out and of the peace measures which are to be enacted. I am not surprised that, speaking in the same spirit, the Southern States, a newspaper published in Okolona, Mississippi, should say:

Let the Federal brigadiers take back seats in the work of restoration. The Republic has no further use for the Lincoln hirelings.

By the way, Yankees, don't it make you feel queer to think that we've defeated you fellows *after all* and captured the capital?

Have they "*after all*" captured this country? Have they "come back to rule?"

The first fruits of their dominion are not assuring to the country, and will not, I am certain, incline the people to clothe them with still greater power. Threatened revolution will not hasten it, extra sessions, useless and expensive, will not accelerate it. Threat and menace, disturbing the business interests of the country, will only retard it. It will come when your party have shown that you deserve it. When you have demonstrated that the financial, industrial, and business interests of the nation are safer and wiser in your hands than any other, and, more than all, when you have demonstrated that free government will not perish in your keeping, it will come then, and not before. I hope, Mr. Chairman, this amendment will not be insisted upon. It is wrong in itself; it endangers free government. I believe the method proposed under the circumstances I have already designated is revolutionary. There is no necessity for such haste. The law can have no force and effect until 1880, except in the State of California. If the amendment must be passed, let it come in the ordinary course of legislation. There will be ample time at the regular session next winter and before any other Federal elections will be held.

The country is not asking for it. Business will suffer and is suffering every day from the agitation of a continued extra session of Congress. Uncertainty in legislation is the terror to all business and commercial interests, and this uncertainty exists and will continue so long as we remain in session. Let us remove it. Let us pass the appropriation bills, simple and pure. Let us keep the Executive Departments in motion. Let the courts of the United States go on and clear up their already overcrowded dockets. Let the representatives of the Government abroad, upon whom our commercial relations with other nations so largely depend, be not crippled. Give the pensioners of the Government their well-earned and much-needed pensions. Let the Army be clothed, provisioned, and paid. Do this, striking out all political amendments from the appropriation bills, adjourn speedily, and give the country that peace and rest which will be promotive of the public good. When we have done this we have evidenced the wisdom of statesmen and the work of patriots. [Great applause on the republican side.] Let the people, then, the final arbiter, the source of all power, decide the issue between us.

Mr. BLACKBURN (Mr. SPRINGER in the chair) rose.

Mr. MCKINLEY. I desire——

Mr. BLACKBURN. I decline to yield if I have the floor.

The CHAIRMAN. The gentleman from Kentucky [Mr. BLACKBURN] has the floor.

Mr. BLACKBURN. I follow the worthy example of the gentleman from Ohio. I decline to yield.

Mr. FINLEY rose.

Mr. BLACKBURN. I decline to yield to anybody.

It seems, Mr. Chairman, that I am peculiarly unfortunate. This is not the first time that I have been forced to come from the chair of the Committee of the Whole House by reason of reflections made upon me; and, as on a former occasion, I now protest my unwillingness to engage in any discussion of the merits of the measure that is pending. I had hoped that when a member of Congress undertakes to quote from the RECORD words that he alleges have been uttered by a colleague on the floor, he would show a degree of intelligence and a degree of fairness sufficient to prevent the garbling of an official utterance. It is, sir, a pitiable instance either of the weakness of the man or the weakness of the cause, or the combined weakness of both, that prompts any man to garble and misquote the utterances of another.

The gentleman who has last occupied the floor told this committee that I had declared—and he pretended to read from the official RECORD, speaking for the party to which I belong, and of which I am the humblest mouth-piece—that we never intended to stop until we had stricken from the statute-book the last of the war measures. Mr. Chairman, that utterance was not warranted; that utterance was not true, and the RECORD shows it. But worse than that; from the chair I asked the gentleman to do me the justice to read the whole sentence, not the speech.

Mr. MCKINLEY. I ask the gentleman——

Mr. BLACKBURN. I decline to yield the floor, with all deference to the gentleman. I will speak for myself, as he refused to speak for me when I was gagged. I asked him to read the sentence which he garbled. He declined. I sent to my desk and took an official copy of that speech which he pretended to quote from; I underlined and underscored the remainder of the sentence; I wrote a marginal note on the page expressed in these very words:

Why be so unfair as garble a sentence in this fashion?

He took that, when sent to him by a page, pitched it on his desk, and refused to give me the opportunity of being heard from the RECORD. Now I will read the sentence which the gentleman declined to do me the justice before the House and the country to read:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these—

Which, like these election laws—
were born of the passions incident to civil strife and looked—
Alone—
to the abridgment of the liberty of the citizen.

[Applause on the democratic side.] Take that, sir. When the gentleman comes with a cut-and-dried speech to treat the country to, let him take that and gnaw it to his heart's content.

Does that embrace constitutional amendments? Is there a man in this Chamber so ignorant as to go to the statute-books of this country to hunt for a constitutional amendment? There never was a constitutional amendment borne upon the pages of a statute-book. It is above statute law; it is the organic law of this land. I accept and recognize as fully as does the gentleman from Ohio the binding force of every amendment to the Federal Constitution. [Applause on the democratic side.] I do not impeach the methods of their passage; I recognize their validity; I recognize them as to-day the organic law of the land; and I hold that man faithless to his duties of citizenship who refuses to give to them full force and effect. [Applause.]

More than that, as the language never could, even as misquoted by the gentleman from Ohio, have applied to the constitutional amendments, this sentence puts me on the record as declaring it to be the purpose of the democratic party to do nothing except to repeal the war measures that you passed for the abridgment of the liberty of the citizen. That was my declaration, and it is the only declaration that I have been justly held responsible for. It did not allude to nor reach the question of pensions to which the gentleman sought by an unfair and torturing construction to apply them. The want of candor, the want of fairness, the want of truth in the effort that has been made to put me before this House and before the country in an unfair and an improper light is my only apology for trespassing for a moment upon the patience of this committee.

Mr. HAWLEY and Mr. MCKINLEY rose.

The CHAIRMAN, (Mr. SPRINGER.) The gentleman from Tennessee [Mr. HOUSE] is entitled to the floor.

Mr. HAWLEY. I rise simply with a view to get at a correct understanding of this matter——

Mr. ELLIS. We all understand it.

Mr. THOMAS TURNER. He knew very well that the gentleman from Kentucky did not mean what he attributed to him.

Mr. MCKINLEY. I desire to be heard for a moment.

The CHAIRMAN, (Mr. SPRINGER.) The gentleman from Tennessee [Mr. HOUSE] is entitled to the floor. Does he yield to the gentleman from Ohio?

Mr. MCKINLEY. I desire to say a single word of a personal character in reference to the statement made by the gentleman from Kentucky.

The CHAIRMAN. The gentleman from Ohio rises to a personal explanation.

Mr. MCKINLEY. What I have to say is only with reference to a personal matter which seems to have occurred between the gentleman from Kentucky and myself. I wish to say I meant no discourtesy to the gentleman from Kentucky presiding over this committee; and as I think the committee will bear me out, and I am sure the reporters' notes will verify the statement I am about to make, I said distinctly in the course of my remarks that if the gentleman presiding over the committee desired me to read the whole body of his remarks, or any part thereof, not to come out of my time, if he would send me the speech, which I did not have before me, having only the simple quotation which I read, I would take pleasure in reading that to the committee.

Now it is due to me and due to the respect which I have for the gentleman from Kentucky [Mr. BLACKBURN] as the presiding officer of this committee, to say that if I had observed that when the page brought his speech to me and had seen the request upon the margin thereof, I would have stopped when I got to the end of the sentence and read all that the gentleman from Kentucky has read. That was my purpose.

Mr. THOMAS TURNER. Why did he not paste the whole of it on his paper when he put it on it?

Mr. MCKINLEY. I desire to say that when this paper was sent to me, as alleged, I was just about closing my speech. I said in the course of my remarks that I would read whatever the gentleman desired I should read. I make this statement, not for the purpose of modifying or taking back anything I have said, but to place myself right in the respect due to the Chairman of the committee. I do not think that the remaining clause, which the gentleman from Kentucky reads, changes at all the part I read; but I leave that question to the committee and to the judgment of the country.

Mr. SCALES. Will the gentleman, in order that this matter may be properly understood, allow the explanation given by the gentleman from Kentucky [Mr. BLACKBURN] to go in his own speech?

Mr. MCKINLEY. I presume the statement of the gentleman from Kentucky, with my speech, will be a part of the record of to-day, and that will bring the two statements together to enable the country to judge between the statement made by the gentleman from Kentucky and that made by myself.

Mr. HOUSE. Mr. Chairman, the scope and tenor of the remarks which I propose to submit to the Committee will make necessary at least a passing reference to the entire batch of laws sought to be repealed, to wit, the statute allowing troops to keep the peace at the polls, the test oath for jurors, and the election laws. I shall enter into no labored argument to establish the unconstitutionality of those laws, for the constitutional argument has been so clearly and so ably made by gentlemen who have preceded me, and remains so conspicuously unanswered and unrefuted, that I would feel indisposed to embark upon that line of the discussion even if I felt that I could add anything to the weight and conclusiveness of what has already been said upon that subject; but I desire to call attention to another aspect in which the laws in question may be viewed and which to my mind furnishes sound and sufficient reasons for their absolute repeal.

It should be the aim of all good government, especially of a government based on the popular will, recognizing no privileged classes, and proclaiming an equality of political rights among all its citizens, looking to the confidence and affection of the people as the firmest foundation for its stability, as the best guarantee of its perpetuity, to sanction no law which will enable those who may happen to be in power to invoke its provisions to perpetuate their ascendency and to overawe opposition to their continuance in power. No such laws can secure the willing acquiesence or command the respect of those who happen to be out of power, and who feel that they are the victims of such unfair and unequal legislation. We are told that no one can be hurt by the mere presence of troops at the polls, charged with the simple duty of keeping the peace. But if troops are allowed by law to surround the polls for this or any other purpose, it cannot be denied that a President so disposed may use them in such a manner as to confer upon the political party that elevated him to office, and to which he may look for future favors, a great advantage over his political opponents in all elections that come off in the presence or under the supervision of an armed force subject to his orders. It is no answer to this objection to assert that during the time this law has remained on the statute-book no President has ever abused it or sought to use it in his own interest or that of his party. On this point there may be a difference of opinion. But if the claim should be admitted to be just and well-founded, it would neither vindicate the wisdom of the law nor disprove the dangerous character of the power conferred. It may establish, if admitted, that we have been so fortunate during the time the law has been in force as to have Executives too patriotic and honorable to use unworthily the power placed in their hands; but there this argument for the harmless character of the law spends its force. It is silent as to the future. If this law is to remain on the statute-book, who shall give to the country a guarantee that for all future time we shall continue to have Presidents too good to abuse the dangerous power thus placed at their disposal by a confiding people? It is as much the duty of a Representative of the people to repeal a law that confers dangerous powers in advance of a positive evil arising from its abuse as it is to eliminate it from the statutes after its pernicious character has been demonstrated by hurtful results, and far wiser to do so.

I must express my astonishment that any man in this country can be found willing to advocate the propriety of conferring, in a time of peace, such a power upon the Executive. Such a law can never receive the deliberate sanction of the American people. The Anglo-Saxon race must forget all the traditions of its history and be revolutionized in all its instincts before it can cease to look with jealousy, if not abhorrence, upon a power so dangerous lodged in the hands of one man. It is impossible to reconcile our people to the existence of such a power in the hands of any President. Its liability to abuse, its antagonism to the genius of our institutions, its anti-republican and un-American character, not to mention the constitutional objection, must always prove a source of apprehension and repugnance.

It may be that our people are too sensitive and too jealous upon such questions; but they came honestly by the failing, if it be one, for they inherited it from their English ancestors. The presence of armed troops at the polls from the time of Edward I has been considered dangerous to English liberty.

The act of George II, passed in the year 1735, emphasizes the utter abhorrence with which the English mind contemplated the presence of an armed force at the polls where a free election was to be held. By that act, whenever an election of peers to represent the peers of Scotland in Parliament, or of any member of Parliament, is to be held, it is made the imperative duty of the secretary at war to order the removal of "every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place." When such election is to be held the troops are to be removed at least two miles from such voting place at least one day before the election, to remain at least two miles away from such voting place until one day after the election. And it is further provided that if the secretary at war should neglect or omit to issue such order to the troops he shall be liable to indictment, and, on conviction, shall be dismissed from office and forever rendered ineligible to hold any office, civil or military, in the realm. Armed troops, under the provisions of this act, were not only not allowed to be present at the polls as a police force to keep the peace, but, if they happened to be quartered in a city, borough, or town where an election was to be held, they were required to be removed and not even allowed to be nearer than two miles of any place where an election was to be held.

In the light of this old English statute, it sounds strangely enough to hear American statesmen in the year 1879 upon the floor of Con-

gress defending a law which allows the President, as Commander-in-Chief of the Army, to send his armed troops to the polls.

One of the charges on which George III was arraigned at the bar of the civilized world by the authors of our Declaration of Independence was that he had sought to render the military independent of and superior to the civil power. And another was that he had quartered large bodies of armed troops among the people of the colonies.

Why any people with such antecedents should be supposed to favor the law now under discussion it is difficult to see. The presence of troops at the polls to keep the peace, or for any other purpose, is an experiment that was never tried in this country until our unfortunate civil war; and the law which permitted it then found its way upon the statute-book only as a war measure. Those who on the passage of the act insisted on the presence of troops at the polls to keep the peace did not attempt to justify the dangerous and unprecedented innovation upon any other ground than that war was raging, that the life of the Union was in peril, and that therefore, as a means of self-defense, the Government had a right to place troops around the ballot-box.

Senator Howard, of Michigan, who made an elaborate adverse report on the bill introduced by Senator Powell, of Kentucky, expressly claims the right to have troops at the polls as one of the necessities of a state of war. But what was originally justified as a military power and a belligerent right alone is now claimed as a law sanctioned by the Constitution in a time of peace. What was originally justified as a military necessity only, to which the Government had a right to resort to save its life endangered by a great war, is now claimed, after the war is over and the cause and occasion for the passage of the law have long since ceased to exist, as an eminently proper provision to take its place upon the statute-book as a permanent enactment.

Mr. Chairman, the effort now made to retain in peace what was born amid the clash of arms, to legitimize by constitutional adoption this bastard offspring of licentious war, warns us of the danger of permitting what was originally only claimed and conceded as a military necessity to stand in respectable and unchallenged association with other laws upon our statute-book until it shall have become crystallized into a precedent and form the starting-point for other and more dangerous innovations.

When a great and powerful political party, with that vast influence which party organization exerts over the members that compose it, is willing to inscribe this war measure upon its banners and insist on retaining in a period of peace what was never meant to live beyond the military necessity that called it into being, it is time to settle the question whether this law shall stand or be repealed. The issue has not been made too soon, nor has it been made too late; for the doom of this measure is sealed, whether it receives its death-blow in its present struggle in Congress for existence or succeeds in postponing its fate to a decision of the people upon its merits at the ballot-box. Its unconstitutionality, its dangerous character, its manifest inequality and unfairness, all unite in the invocation for its repeal.

If a test oath is prescribed which places it in the power of one political party to monopolize the right of acting as jurors in the trial of citizens, and thereby to exclude their political opponents from being represented in the jury-box, who will deny that such a state of the law can be made a powerful engine in the interest of that party from whose ranks the jurors are to be selected? It is saying substantially to the citizens of the country, "If you do not wish to be tried by a jury of your political enemies, your interests may be subserved by changing your political opinions and party affiliations."

The right of trial by jury is among the most cherished muniments of liberty. The liberty and safety of the citizen demand that it shall remain inviolate. Our Constitution provides that in all criminal prosecutions the accused shall not only have the right of trial by jury but by an "impartial jury." A test oath which virtually fills the jury-box with those of one political party, and thus confers the power upon that party to pack juries and procure political convictions, is evidently in violation of that clause of the Constitution to which I have alluded.

No party in a free State should ever be invested with such a startling power over the liberty of the citizen or be allowed to enjoy such an advantage to perpetuate its own ascendency and overawe opposition to its claims to popular approbation. If an army of deputy marshals may be appointed from one political party clothed by law with authority to arrest their political adversaries without process or without even a complaint made against them, it will not be denied by any one having any pretensions to fairness that such an extraordinary power is subversive of the liberty of the citizen and in direct violation of that clause of the Constitution which declares—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Nor can it be denied that such a law confers upon the political party having the power to appoint these deputy marshals an immense advantage over any other party that may seek to dispute its ascendency. Can such an enactment as this remain upon the statute-books of any country of equal laws and equal privileges? Is it fair, is it just, that laws which should be made for the benefit of all should be so framed as to redound to the advantage of one political party and the detriment of the other? Arm any party in this country with the powers conferred by the laws in question, and if it does not perpetuate its power, even against the popular will, it will be because it is too honest or too timid to use the means placed at its disposal by these laws. Intrenched behind the power to surround the ballot-box with bayonets, to pack juries, to punish obnoxious citizens, to arrest *ad libitum* on mere suspicion, without warrant or complaint, and thus tie the hands and feet of political opponents until the polls are closed, any political party may laugh to scorn all efforts to take the fort defended by such means. Give to an ambitious or a bold partisan President the right to send the soldiers under his command to the polls; give to a compliant Federal judge the power to pack juries with the members of his own political faith; give to United States marshals the power to appoint an unlimited number of deputies with authority to arrest citizens at will against whom no complaint has been filed and no warrant issued, and what is to prevent any political party in a position to wield these great powers in its own behalf from stifling the voice of the people and perpetuating its own ascendency in defiance of the popular will?

And shall such a state of things be sanctioned by the law of the land? Can fair-minded men demand that such laws shall stand for the benefit of their party and to prevent the people, in a government based on the will of the people, from effecting a change of rulers if they so desire? Can these laws be defended on any principle of justice, of fairness, of equality, even if the Constitution should fail to raise its potential voice in solemn protest?

Political parties as such are unrecognized by our Constitution and laws. What right has one party to demand that the laws of the land shall be so framed as to confer upon them great and decided advantages in contests with any and all adversaries who may see fit to challenge their continuance in power by an appeal to the people as the arbiters to whom all such controversies must be referred?

Let it not be forgotten that we are not seeking to deprive a republican President of the power to send troops to the polls that we may confer such power upon a democratic President, but we seek simply to repeal the law and deny with equal emphasis to a democratic as to a republican President the power to surround the ballot-box with bayonets—we only ask to have our elections free from the presence of any portion of the Army, whether a democratic or a republican President may happen to be its Commander-in-Chief. We do not seek to wrest from the republican party any advantage which they may derive from the continued existence of the test oath, that we ourselves may seize the dangerous power, to prostitute our temples of justice with packed juries and political prosecutions; but to blot the law from the statute-book, so that no man in this free country shall be challenged as a juror on account of his political faith or party associations. We do not propose to deprive the republican party of the right to appoint an unlimited number of deputy marshals, clothed with unlimited powers, that we may manipulate the artfully contrived machinery of these election laws in the interest of our party; but to repeal all such unequal legislation, that the road to the ballot-box shall be obstructed by no barriers erected by the law of the land. No, sir, this is no attempt to charge the enemy's works and capture his guns that we may turn them upon him, but to spike guns that are turned not only upon us but which are trained upon the very citadel of liberty itself.

Political parties in time of high excitement and in the struggle for power may commit irregularities or even resort to fraud and violence, but we have laws for the punishment of this as well as other classes of offenders. We do not propose to subtract one atom from the force and vigor of any law that denounces such crimes nor to abate one jot or tittle of the punishment affixed thereto. But under our system of government the violators of election laws must be indicted as the violators of other laws are, and they must be tried by an impartial jury. There is no help for this. There is no near cut or by-path by which the Constitution can be flanked and the citizen seized and punished contrary to its provisions, and there ought to be none.

It may be said that if they are so indicted they will not be punished, but will be acquitted and set free. Suppose they are, what help is there for it? If gentlemen have come to the point of pronouncing our system of government a failure; of demanding that it shall be changed in its character so as to punish citizens who violate the law in some other way than by indictment or presentment and a trial by an impartial jury, let them say so, and I can understand their position. But, Mr. Chairman, as long as our Government remains one of equal rights to all citizens let our laws be equal and just; as long as we retain the ballot-box as the channel through which a free people shall express their will let our laws at least be free from the imputation of blocking the approaches to it, whatever unprincipled or violent men, contrary to law, may do in that direction. And whenever it is done in any part of the country in the interest of any political party let the law at least rise to rebuke it; but let it never be said that the law itself provides the means and gives its sanction to any impediment placed in the way of the citizen to that great repository of national power, the ballot-box, whether the impediment be in the form of armed men, deputy marshals, or any other shape that an obstruction can take.

Mr. Chairman, without going into details I have touched upon some of the more salient points against the laws which are now sought to be repealed, for the purpose of showing that the laws themselves and in themselves are obnoxious to such grave and weighty objections

that a member of Congress, impelled alone by the force of his convictions as to their dangerous character, may honestly feel it to be his duty to his country to seek their repeal by all the means allowed by the legitimate methods of parliamentary proceedings. Is it so extraordinary for an American citizen to believe that such laws are in violation of the Constitution, dangerous to liberty, unfair and unequal in their effects, that his efforts to repeal them must be ascribed to a motive other than his conscientious convictions? Do these laws come before the country with such high and sacred credentials to public favor as to impeach the patriotism of any man who may see fit to oppose them? Or have we a class of men upon this floor who are nominally Representatives of the American people, but who are not allowed the privilege of forming their opinions upon the merits of all public measures and of declaring those opinions to the country without an impeachment of their motives, their patriotism, their honor as men, and their loyalty as citizens.

During the debate which took place upon the Army bill the gentleman from Ohio, [Mr. GARFIELD,] in addressing himself to those who tried, to use his language, "to shoot this Government to death" during the late war, said:

> Notwithstanding your utmost efforts to destroy it, the Government was saved. Year by year since the war ended those who resisted you have come to believe that you have finally renounced your purpose to destroy and are willing to maintain the Government. In that belief you have been permitted to return to power in the two Houses.
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> To-day, after eighteen years of defeat, the book of your domination is again opened, and your first act awakens every unhappy memory and threatens to destroy the confidence which your professions of patriotism inspired. You turned down a leaf of the history that recorded your last act of power in 1861, and you have now signalized your return to power by beginning a second chapter at the same page; not this time by a heroic act that declared war on the battle-field, but you say if all the legislative powers of the Government do not consent to let you tear certain laws out of the statute-book you will—not shoot our Government to death, as you tried in the first chapter—but you declare that if we do not consent against our will, if you cannot coerce an independent branch of this Government against its will, to allow you to tear from the statute-books some laws put there by the will of the people, you will starve the Government to death. [Great applause on the republican side.]
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> Between death on the field and death by starvation, I do not know that the American people will see any great difference. The end, if successfully reached, would be death in either case.

Mr. Chairman, this is a grave charge, an accusation which, if true, discloses a state of affairs no less dangerous to the stability of this Government than it is dishonoring to those against whom it is made. If it is true that there are Representatives upon this floor who cherish in their hearts a hostility to the Government under which they live and which they have solemnly sworn to support so deadly that they only need the power and await the opportunity to strike the fatal blow, then indeed is this great Government reposing in fancied security upon the trembling summit of a volcano, subject at any moment to be ingulfed in one tremendous ruin. If the horoscope with which the gentleman scans the political heavens has correctly forecast the probable fate of the country, then dangers, doubts, and darkness rest upon its future. There is no security, there can be none, for anything in a government when the white-caps of threatened revolution are ever visible above the political horizon. Under its uncertain protection labor may well despair of reaping the fruits of its toil and capital hesitate to emerge from its hiding place to invigorate the industries and energies of the land. Commerce may fold her white wings and well fear to spread them upon such a sea. The artisan, the mechanic, the manufacturer, the banker, the farmer, the merchant, the day-laborer, and all who follow the avocations of a state of blessed peace, may set their houses in order and await in trembling suspense the advent of red-handed revolution and the carnival of ruin that always follows in its footsteps; for the enemies of the Government are in possession of both Houses of Congress, and from Capitol Hill, where these traitors plot their treason, their guns are trained on the White House at the other end of the Avenue. This is the picture which republican leaders have seen fit to paint of the situation at the National Capitol, and which are now being scattered broadcast among the people of the North for the purpose of inflaming passions that are fast dying out for the want of fuel to keep them burning and awakening prejudices that should be permitted to sleep in a grave above which no trumpet of resurrection should ever be sounded.

Mr. Chairman, I am one of those who do not believe that sectional hate is a national blessing. I have seen it rage with wild and reckless fury. I have seen it culminate in a war that shook the world with the thunders of its reverberations. Along the track of desolation where it has passed I search in vain for one solitary monument it has ever erected to the glory of the country. We look over this country, and along the marts of trade, in the thoroughfares of commerce, in the walks of humbler life, we can hear the cry of financial distress and behold the wrecks of broken fortunes. Everywhere the battle with bankruptcy has been fierce, a hand-to-hand conflict, and God only knows how many have gone down in the struggle or how many may yet go down before it is over. What benefit it is proposed to confer upon the country by seeking to sow distrust among the people broadcast and to repress and repel whatever indications of returning confidence may have shown themselves, I must confess I am at a loss to see.

Just before the close of the last session of Congress I heard from the distinguished gentleman from Ohio a declaration to the effect that any political party which sought to gain popular favor by an appeal to the passions and prejudices engendered by the war would find itself without followers. I heard that statement with great pleasure, both on account of the influential source from which it came and as an earnest that a kinder and more conservative feeling had become prevalent among the masses of the northern people. I little thought then that within the short space of a few weeks that gentleman himself would be the first to step to the front and make an appeal to those very prejudices and passions in the interest of his own party, and to sound a note of alarm to the country based on the assumption that those who took part in the late war on the southern side were present in the Halls of Congress as the authors or abettors of another revolution that sought the life of the Government. Mr. Chairman, it is unquestionably true that many gentlemen who drew their swords for the South in the late struggle now have the honor of seats upon this floor. But how came we here? We neither came in at the back door nor did we crawl in at the windows. We came in at the open door in broad daylight, and at the desk took an oath to support the Constitution of the United States. If we had no right to seats here, why was objection not made to our being sworn in? If we are here by the provisions of law and by the will of our constituents, why is it that we are not allowed to form our opinions upon public measures and are virtually denied the right to exercise the courage of our convictions?

Why is it, because we see fit to vote and act upon measures of public interest in opposition to the opinions of gentlemen of an opposite political faith, that our action should be ascribed to a feeling of disloyalty and hostility to the Government? It is true we have not joined the republican party; it is true that we vote for many measures which they oppose and oppose many measures which they support. Surely we have a right to do this, if we have the right to be here at all. If a Representative is denied the privilege of acting from his convictions on any and all measures that may come before the body of which he is a member, then he is in no sense a representative of the people. He is nothing more than a political prisoner in the hands of keepers who claim the right of censorship over his actions and utterances, holding in terrorism over him and over the people he is said by courtesy to represent, the wrath and indignation of the loyal people of the country if he dares to step aside from the path which has been marked out for him to tread. He was once in rebellion and what right has he to express opinions on public measures and select a course of action distasteful to those by whose sufferance he holds his seat. Have they not the undoubted right to put such manacles on his limbs as will make him harmless, and to carry in their pockets the key of the padlock that swings from his mouth?

Mr. Chairman, I am not unmindful of the fact that the republican party when they were in power passed amnesty laws removing the political disabilities of southern men who had participated in the late civil war and thus rendered them eligible to fill all positions of honor and trust to which their fellow-citizens might see fit to elect them, nor do I seek to detract from the republican party any of the honor that may belong to them for the passage of those laws.

I also admit, without mental reservation or qualification, that in accepting positions of responsibility and power after the passage of these amnesty laws we came under obligations to preserve the peace, promote the prosperity and glory of the country, and defend the honor of its flag, as high and sacred as can bind the conscience and the honor of man; and, standing here to-day in my place, as one of the humblest Representatives from my section, I challenge any man in Congress or out of it to point to the time and occasion when any Representative of the South who ever took the oath of office at that desk has proven false and recreant to that obligation. How and wherein have we been unfaithful to our plighted honor or disloyal in any respect to the Constitution and the Government of the United States? That we love our own section I will not deny. I trust I shall never reach that point of political degradation and personal infamy when I shall feel willing to turn my back on the "land where I first saw the light," or be unmindful of the welfare or the woe of her brave and generous people.

It is true we were engaged in a terrible and disastrous war in which we were unsuccessful. The causes which led to that war, the motives of the men who engaged in it on both sides, its victories and defeats, and all the vicissitudes and incidents that marked the sanguinary struggle, belong now to the domain of history. Before that august tribunal let the matter rest, and when reason shall mount her throne, when the fires of passion shall have burned themselves to ashes, the impartial historian will tell to other times and other men the true story of the great war in which their fathers were engaged. I think he will find in the valor and heroism displayed on both sides much that will not cause the children of those brave men to hang their heads in shame on account of the achievements of their ancestors. God grant that he may tell his story to a powerful, united, and prosperous country!

Sir, the restoration of the Southern States to their normal condition in the Union, the rehabilitation of their State governments, and the passage of the amnesty laws were required by the necessities of the situation. To have held the Southern States after the close of the war in perpetual vassalage as conquered provinces, to have imposed upon their people lasting disabilities, would not only have been violative of all the promises and pledges on which the war was waged, utterly subversive of our system of government and the theory of our

Constitution, but would have been so destructive to the material prosperity of the country that the people, burdened with the weight of a large national debt, could not and would not have long submitted to such a state of things. It would have produced a paralysis of the productive energies of the country that would have made the situation intolerable. The methods of reconstruction, of course, contain many features which from my stand-point as a southern man I could not approve, but I am not unmindful of the difficulties that surrounded the situation. I do not wish to discuss those methods now. They belong to the past, and let the past deal with them. But in the process of time all the Southern States have taken their places in the Union with all their rights under the Constitution guaranteed to them, and their Representatives are here upon this floor. I wish to deal with the situation as it has existed since this restoration and rehabilitation. And I repeat the question: when have the Representatives from the Southern States since they were thus admitted to seats upon this floor shown themselves hostile to the Government of the United States or untrue to any duty that patriotism enjoined or any obligation that honor imposed upon them? Was it during the fierce and excited contest that raged in Congress over the count of the electoral vote in the Forty-fourth Congress?

If we are the deadly enemies of the Government which it is sought to make the northern people believe we are, why did we not rush to the front on that memorable occasion to precipitate the country into the vortex of anarchy and to launch the ship of state upon the wild and tempestuous waves of revolution? If we are here as perjured miscreants, who, having taken an oath to support the Government, are only lying in ambush to take its life, we certainly on that occasion let the most splendid opportunity to accomplish the nefarious purpose pass unimproved that may again present itself in a century. The candidate of our choice, and as we believed of the choice of a majority of the lawfully elected members of the electoral college, had certainly received a large majority of the popular vote. We then had a majority of the American people believing as we believed upon this subject. The opportunity was at hand to strike the deadly blow, and if we had been the secret enemies, the deadly foes of the Government that we are charged with being, the situation of the country might have been far different from what it is to-day. The apprehension upon the public mind on that momentous occasion was too painful to have faded from the memories of men, and when the struggle resulted in a peaceful solution of the difficulties and complications that surrounded the situation the feeling of relief was too deep to have been forgotten. The republican press of the country did not hesitate to express their warm commendation of the patriotic course of southern Representatives, and to award to them the exercise of a lofty patriotism that, rising above all mere party considerations, looked alone to the good of the country.

The Cincinnati Commercial of March 1, 1877, used this language:

> The country will remember that the peaceful adjustment of the presidential controversy is due to the moderation of the southern democratic Representatives in Congress. * * * There is (in their action) an assurance that the leaders of southern opinion are more interested in the welfare of the people than in the success of parties, and that they sincerely wish tranquillity, law, and order to prevail throughout the Union.

In a similar strain spoke the Chicago Tribune, Boston Daily Advertiser, New York Times, and other leading and influential republican journals. But all this amounts to nothing now when it suits the waning fortunes of a party in the violent convulsions of its divorce from power to make a contrary impression on the public mind. Every incautious utterance dropped from a southern man in the heat of debate, every intemperate editorial from a village newspaper however obscure and unrepresentative in character, every circumstance however trivial and unimportant, is seized upon and paraded before the country as a token of disloyalty and the nascent germ of a new revolution.

Sir, I assert here to-day that history may be searched in vain for any instance in which a brave and vanquished people, under all the circumstances that surrounded the southern people at the close of the war and that have since environed them, have more readily adjusted themselves to the altered condition of their affairs and accepted the decision of the sword on all questions that were referred to its arbitrament. What issue settled by the war is any southern man to-day seeking to revive? What national policy justified as a condition of victory or demanded by the stern logic of defeat are the southern people seeking to overturn?

Have not southern Representatives been loyal in their support of all measures necessary to the maintenance of the national faith and credit and to the support of crippled and disabled Union soldiers? We know that we have among us many wounded and disabled southern soldiers, hobbling to their humble graves on the precarious charity of an impoverished land; but the government which they fought to establish failed in its struggle for independence, and they therefore have no government to stretch forth its paternal hand to relieve their wants or lighten the burden of their declining years.

We do not complain of this as either unreasonable or unjust. It is one of the results of the war which we accept without a murmur and have abided by without repining. Nor do we complain of the policy which pays millions annually in the way of pensions to disabled Union soldiers, although we contribute our proportion of the taxes to the fund out of which they are paid. We recognize it as the duty of the Government to take care of the brave men who were disabled in its service, a duty that all governments owe to their maimed and wounded defenders.

In what, then, have we offended? In what respect have we been false to our professions or shown ourselves the enemies of the United States Government since we furled our flag, surrendered our arms, and the smoke of battle floated from the field of Appomattox? When the South, exhausted in resources and weary of war, stacked her arms, her representative men and the masses of her people bade an eternal farewell to all schemes of establishing an independent government, and at once turned their thoughts to the cultivation of peaceful relations with the United States Government and a restoration of their Commonwealths to their former positions in the Union. They accepted defeat as a finality of all their efforts to establish an independent government; and even while the swords they surrendered were still warm with recent fight, they showed every manifestation that men could give not only of their willingness but of their anxiety to resume in the utmost good faith all the duties, responsibilities, and obligations of American citizens under the Constitution and Government of the United States.

After the close of the war, as all will remember, President Johnson sent General Grant on a tour of inspection through the South, charged with the special duty of ascertaining the animus and disposition of the southern people toward the Government. General Grant, on his return, reported that he was satisfied that the mass of thinking men in the South accepted the situation in good faith, and he said further in his report:

> My observations lead me to the conclusion that the citizens of the Southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government, not humiliating to them as citizens, and that if such a course was pointed out they would pursue it in good faith.

Commenting on this report of General Grant, in a speech which I had the honor to deliver in this House on the 18th of May, 1876, I said:

> Such was the testimony of General Grant as to the wishes and temper of the southern people in the very year of the close of the war. It was true in every particular; and I here aver upon this floor that there has never been a day or an hour since that truth was written when the southern people were not willing, ay, anxious, to do whatever they thought "the Government required, not humiliating to them as citizens." Such is the temper, such the wish of the southern people to-day. We are anxious to discharge in good faith all our duties as citizens, to contribute as far as we are able to the glory of the American name and the stability of the Government of the United States, but spare us the bitter cup of degradation and a surrender of our honor. To rob us of this would not enrich you and would make us poor indeed. Waive this demand, which manhood forbids you to make and us to yield, and the past can be buried forever. Upon this platform we can meet and shake hands over the graves of our soldiers, and under the auspices of a restored Union march on together in peace and fraternity to grander achievements than we have ever known and a future far more glorious than our past.
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> Stripped of her wealth, and, I fear, growing poorer every year; crippled by the war, depressed in spirit, staggering under the weight of accumulated debt, the South looks and longs for peace as anxiously as ever the mariner looked for the star, by which he might guide his wandering bark aright, when "night and the tempest had gathered around him." If any one section of this country has a deeper interest than another in the restoration of fraternal peace and the stability of good government, the South is that section. If the northern people cannot bring themselves to the point of trusting the honor and relying on the pledges of the South, they certainly cannot be unmindful of the fact that her interest in keeping the peace is fully equaled by her inability to break it. But we have no desire to break it. If the flag that floats over this Capitol is not our flag, we have none; if this is not our country, we have none; we are aliens in the land of our birth and exiles in the homes of our childhood. Here the bones of our ancestors are buried, and here we expect our dust to sleep when our weary feet stand still upon the thorny road we have traveled. This country must be the home of our children; they will have no other home, no other country but this; here they must live, here die, and here be buried. For party purposes, our loyalty may be doubted and our names sought to be dishonored and detested, but if the time should ever come when a foreign enemy shall invade these shores and this country needs stout hearts and true to defend it, all will then see, in that hour of trial and national danger—
>
> Whose dripping blade and stalwart arm
> Will hew a red circle in the line,
> And fence their country's flag from harm.

Sir, I repeat to-day, with added emphasis, what I then uttered.

Mr. BURROWS. Mr. Chairman, I have no disposition to revive or discuss the issues of the war. It is my purpose to confine myself to the questions of the present. No sooner had the republican minority of this House, overborne by numbers, been driven from its first intrenchment where it made a stand in the defense of a peaceful ballot, than it is again assaulted by an exultant and defiant majority, and forced to do battle in the defense of a pure ballot. Now, as then, we present upon this side of the Chamber a solid front, confident of the strength of our position and the justice of our cause, and confident also that though defeated now we shall ultimately be supported by that mighty reserve, the majority of the American people, whose invincible power no party can possibly withstand.

It will be remembered that upon the Army appropriation bill recently passed the democratic majority of this House ventured to undertake the modification of but two sections of existing law. Flushed with victory and emboldened by success, it will be observed that upon this bill they have determined not only upon the modification of four sections, but the absolute repeal of fourteen more. It is also a noticeable fact that in both instances the main force of the majority has been hurled against the election laws, laws which have for their purpose only the maintenance of the sanctity of the ballot-box.

I have neither the time nor the disposition to enter into a general discussion of the character of the provisions of those laws sought to be repealed. Their nature and purpose are well known to the House

and to the country; but I cannot refrain from observing that if gentlemen on the other side of the Chamber are really anxious to preserve the peace and purity of the ballot-box, why attempt to tear down the only remaining national fortress reared for the defense of either? Do you desire, gentlemen, an honest registration? These laws provide for it. Do you want a pure ballot? They promote it. Do you want a fair count? They insure it. Do you desire a true return? They enjoin it. Do you want order and peace at the polls? They command it. Do you want repeaters and ballot-box stuffers, thugs and red-shirts punished? They secure it. And there is nothing in these laws that is a terror to any man except him who has already committed or is now meditating some outrage upon the ballot-box of the country.

You declare that you want a pure and peaceable election; and while you have been unsparing in your denunciation of all means employed by the Federal Government to insure it, not one word of rebuke, not a word of regret even has fallen from the lips of any man on that side of the Chamber for the outrages perpetrated at the polls in the South, especially in Louisiana and in South Carolina, not six months ago; in South Carolina, where you carried the elections by a system of frauds and ballot-box stuffing unparalleled in the history of nations; in Louisiana by driving voters from the polls, seizing ballot-boxes through the instrumentality of armed ruffians, destroying ballots, driving men into exile, and invoking that system of murder and intimidation so long in vogue in the South, and which has been so efficient in crushing an entire race. Let me read a word from the report of a Senate committee touching the question of elections in Louisiana in the fall of 1878. I read from the report of the Teller committee:

> The examination of the committee, it will be seen, was confined to but seven of the fifty-two parishes of Louisiana. In these seven parishes the evidence shows there were murdered "for political purposes," during the campaign of 1878, twenty-three persons. Besides these there were fully as many others murdered, whose names the committee were unable to ascertain, whose corpses were seen, by witnesses who testified before the committee, hanging on trees or lying dead in the streets or fields. Dozens more were wounded from shots fired at them with murderous intent, some of whom were present as witnesses before the committee exhibiting their scars; others were whipped, or beaten, and mutilated; wives were tied up by the thumbs and whipped for refusing to tell where their husbands were secreted; scores of leaders in politics among the colored men were driven from their homes, leaving their crops in the field and their families unprovided for. In brief, a literal "reign of terror" existed, and in fact still exists, over a considerable portion of Louisiana as the result of the policy adopted by the democracy for perpetuating its rule in that State.

Mr. GIBSON. Will the gentleman yield for a question?

Mr. BURROWS. Not now. When I read such a history and remember how you have overcome majorities in the south and stamped out a party in blood, and made free speech and a free press, free homes, free emigration, and a free ballot impossible within many portions of the Southern States, I must confess that I listen with impatience to the hypocritical cant about peace, protection, and purity at the polls. [Applause.] This very hour while you are professing such jealous care for the rights of American citizens, a whole race is fleeing from your presence as they would fly from a pestilence. Not to escape Federal bayonets, but southern bludgeons; not to escape Federal bullets, but southern bowie-knives; not to escape Federal interference, but southern intimidation; not to escape Federal force, but southern fraud; not to escape election laws, but enforced exile; not to escape from Federal marshals, but from southern murders; not from honest registration, but from masked raiders; not from supervisors of election laws, but from southern shot-guns. In a word, fleeing from a people and country where their every right is cloven down and their every wrong unredressed. When I hear gentlemen on the other side of this Chamber denounce these outrages upon a free ballot and free men in many portions of the Southern States, it will be time for me to believe that they are really sincere and solicitous for the protection of the citizen and the purity of the ballot-box. Pardon me if I express my honest convictions.

Mr. GIBSON. Will the gentleman yield now to a question?

Mr. BURROWS. I cannot. Pardon me, I say, if I express my honest convictions that with all your professions you want neither peace nor purity at the polls. Your chiefest desire is the election of a democratic President in 1880. By what means you little care. You want these laws repealed because they stand in the way of the consummation of such a purpose, for you know full well, and the country knows, that if they are permitted to stand, and can be enforced, and every man in this Republic, North and South, allowed to vote as his conscience dictates, without injury or fear of injury to life or property, you could no more elect your President in 1880 than you are honestly entitled to your majority in either House of this Congress to-day. [Applause on the republican side.]

But I did not rise to address myself so much to the character of the election laws and the necessity for their continued existence as to the method and means by which their repeal is sought to be consummated. The country, Mr. Chairman, is to-day alarmed, and justly so, not for the safety of these laws, but for the security of the Government itself. They are alarmed at the oft-repeated declaration of the democratic majority in this Congress, that they propose to wipe from the statute-books all the legislation of the last eighteen years, which is regarded as offensive to the democratic party, and to enter upon that work now by starving the Government into submission. This threatened revolution has overshadowed all other questions and has become the main issue of the hour. The question now is not whether we may have any army to keep the peace at the polls, but whether we shall have an army at all. It is not a question whether the Navy may be used for this or that purpose, but whether its deck shall be wholly abandoned and our men-of-war lie with stripped sails rotting on our shores. It is not so much a question whether the President of the United States has the constitutional power to place troops within the limits of a State as whether the executive department shall be permitted to exist at all unless supporting itself by private resources or public charity. It is not so much a question whether the judiciary of the country would hold the election laws constitutional as whether we shall have a judiciary at all unless it shall consent to surrender its judgment on constitutional law to the dominant party in Congress and drag its unsullied ermine through the slough of a democratic caucus. It is not so much a question whether Congress had the constitutional power to pass these laws as whether we shall have a Congress at all. It is not so much a question which one of the three great and co-ordinate branches of the Government has power to direct the use of the Army and Navy as it is whether there shall any longer be three branches or only one, and that this democratic House, holding sovereignty and unquestioned sway, at whose feet executive and judiciary alike shall kneel with uncovered head and like cringing mendicants plead for bread. In a word, the issue this democratic Congress presents is simply this: to the minority in both Houses, "Yield your judgment to ours;" to the President of the United States, "Sign the bills we present;" to the judiciary, "Echo our views of the Constitution, permit us to load appropriation bills with political riders until we have effected the repeal of all laws offensive to a democratic caucus, or we will withhold all supplies for the support of the Government, throw the machinery out of gear, and hold it there until we starve you into submission." These are the questions of the hour, and if this be not revolution, in the name of Heaven what is it?

It has been stated that your conduct in 1861 was honorable and heroic, meaning I suppose as contrasted with what is now proposed, but I am prepared to characterize the rebellion of 1861 as treason, and your purposes of to-day but little else, and, so far as the South is concerned, an exhibition of the basest ingratitude. Is it fitting for you to smite the hand that fed you and sting the breast that warmed you back to life? Have I exaggerated your purpose?

Let me recount a brief but startling history. On the 4th day of March just passed the President of the United States, by public proclamation, informed the country that the Forty-fifth Congress had closed its deliberations "without making"—and I quote the language of the proclamation—"the usual and necessary appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and without making the usual and necessary appropriations for the support of the Army for the same fiscal year."

Every statement in that proclamation is literally true. That Congress did adjourn without making the slightest provision for the support of the legislative, executive, or judicial branches of the Government, and without appropriating one single dollar for the support of the Army of the United States. That same Congress knew, the moment it adjourned, that if no further legislation was had until the time for the regular session of this Congress in December next it was inevitable that in less than four months from the hour of its adjournment the three great pillars that sustain and support the Federal fabric would, unless supported by the omnipotent arm of a patriotic people, crumble and fall, while the Army, disbanded by starvation, would not be suffered to survive the dissolution that it might even stand guard over the sacred ruins.

That same Congress knew the moment it adjourned that if matters were undisturbed, that if the country now would comply with what Jefferson Davis demanded in 1861, "Just let us alone," the rising sun of July 1, 1879, would gild, not the temple, but the tomb of the Republic. Had there been no Executive to disturb this plot the nation to-day would be tottering to its dissolution. Yet, thanks to the President of the United States, thanks to his patriotism and his courage, it is made possible for us to avert so dire a calamity.

Sir, by the same proclamation, a portion of which I have already read, both Houses of the present Congress were convened in extra session on the 18th of March for the simple and single purpose of making provision for the support of the Army and the legislative, executive, and judicial expenses of the Government, a work so simple that it might have been consummated in one week, and the session closed. But what have we witnessed? For more than ten days both Houses of this Congress, now under democratic control, went through the idle ceremony of meeting and adjourning from day to-day. For what? Awaiting the pleasure of a democratic caucus which, if rumor is to be credited, was considering, not how the needed supplies for the support of the Government might best be provided, but how rather they might be withheld, and the very necessities of the Government, which we were summoned to relieve, seized upon and made available to prosecute and sustain a siege already inaugurated, until the Executive should be forced to surrender to the domination of Congress. The democratic majority of this Congress began just where the democratic House of the last left off.

Why did the Army bill and the general legislative bill fail in the last Congress? Was it because there was any serious or irreconcil-

able difference of opinion between the House and Senate on any item of appropriation? I understand not. Not that. But these bills failed solely because the then democratic House insisted upon ingrafting upon these appropriation bills measures of a political character known to be offensive to the republican Senate, then saying to the Senate in spirit if not in words, "Consent to the obnoxious legislation or no supplies will be voted for the support of the Government."

And now what is attempted? Why, sir, it is no longer necessary to coerce a Senate, for both branches are now under the undisturbed control of the democratic party. But an executive is to be overcome, and the very same measures which were then used to coerce a Senate are now invoked to coerce the President. Am I mistaken in that? If you do not mean coercion, divest this bill of its offensive political legislation, and I venture the assertion that it will pass this House to-day without one dissenting voice from this side of the Chamber; will as quickly receive the sanction of the majority of the Senate, and within forty-eight hours become a law by executive approval. If you do not mean coercion, separate these measures and let each stand or fall upon its own merits. First feed the Army and supply the means for the support of the Government, and then consider your political legislation. Do this, and I think I hazard nothing in saying that there will not be the slightest objection on this side of the Chamber to the introduction and immediate consideration of any bill embodying this or any other legislation you may see fit to enter upon touching the use of the Army or the modification of the election laws.

Do I hear consent to this proposition from the other side? Oh, no. The siege is to be prosecuted without mercy and with no terms of capitulation but unconditional surrender. In a word, your avowed purpose is this: to ingraft upon any and all of the appropriation bills any measure of general legislation which a democratic caucus shall have previously approved, and then pass these bills with such legislation attached; and if the President, in the exercise of his constitutional power of veto, shall return these bills to this House with his objections thereto, and we of the minority shall not in sufficient numbers surrender our judgment to constitute the requisite two-thirds to overcome such veto, then you will withhold all supplies for the support of the Government and adjourn this session of Congress; and if again summoned by the President, you will repeat the folly and persist in the crime until the President or the minority of Congress is starved into submission, or until the Executive and congressional terms shall have expired by limitation of law. Have I overdrawn your designs? Have I exaggerated your intentions?

When the distinguished gentleman from Ohio [Mr. GARFIELD] now before me, in opening the debate on the Army appropriation bill, charged the democratic majority of this House with such revolutionary purpose the evidence in support of the accusation was in a large measure circumstantial, but nevertheless of sufficient weight to carry conviction to the minds of the most incredulous. Time, which reveals the purposes of men, has dispelled all doubt and to-day there is no question of your purpose; to-day you stand arraigned before the country at the bar of public judgment, on your own plea of guilty, self-convicted conspirators against the life of the nation. [Applause.]

Bear with me while I read some of your voluntary confessions of guilt. The distinguished gentleman from Ohio, [Mr. HURD,] in his speech of April 2, said:

It is objected to these measures of legislation which we propose that there is a possibility by our passing these laws of restraining the veto power of the President; or, as my distinguished friend from Ohio put it the other day, of "interfering with his participation in the legislation." I deny that the President of the United States has any right to participate in the legislation of this country.

Mr. MULDROW, of Mississippi, in his speech of April 3, said:

If the gentleman from Ohio is correct in his assumption that the President will veto these repeals, then, I repeat, let the responsibility be upon him and the republican party. If there is revolution in that they are the revolutionists; they are the party and he is the officer whose veto will thwart the will of the people as expressed by their representatives in Congress, and he will for partisan purposes exercise a constitutional prerogative in the interest of tyranny and in violation of every principle of liberty and freedom.

Mr. ARMFIELD, of North Carolina, in his speech of April 3, said:

The President shall veto no law passed by Congress except for one of two reasons: first, that it is unconstitutional; second, that it is hasty or inconsiderate.

Mr. SINGLETON, of Mississippi, declared in a speech on April 4:

For myself, President or no President, veto or no veto, I am prepared to fight upon this line until the work proposed is done, effectually done, whatever of time, labor, or expense it may involve.

Mr. TURNER, of Kentucky, in a speech made April 4, said:

Well, sir, if Mr. Hayes vetoes this bill on account of the sixth section guarding the right of suffrage, then the responsibility will rest on his shoulders, and not on ours, for starving the Army. I do not believe Mr. Hayes will veto the bill on account of the sixth section. But if he does, and persists in that veto, and thereby starves the Army of the United States, then let the responsibility rest where it belongs, on the head of the President, for vetoing a bill, right, proper, and constitutional, passed by a majority of the representatives of the people in the exercise of their constitutional rights.

The distinguished gentleman from North Carolina, Mr. KITCHIN, in a speech on April 3, said:

The honorable gentleman need not remind this House of the evil results that might flow from the anticipated act of the President; it will neither drive nor lead from an honest and faithful discharge of duty; we will perform our duty to the country and let them assume the responsibility of defeating the will of the majority and, if you please, as they say, destroying the Government. I plant myself on this rock and say, in the language of the valiant Fitz-James:

Come one, come all, this rock shall fly
From its firm base as soon as I.

The gentleman from South Carolina, Mr. O'CONNOR, said:

We have been thus early convoked here by the President to furnish supplies to run the Government, just as we were prepared to do in the last Congress until impeded and opposed by the Senate. The Representatives of the people, who are the sovereigns of this country and hold the purse, do not intend to be coerced. It is our province and our prerogative, it is our duty, to see before we give the taxes of the people that all grievances are redressed.

The gentleman from Mississippi [Mr. CHALMERS] said in his speech on April 2:

Sir, it is said that the Army shall eat nothing because the republican party in its arrogance refuses to eat humble pie. You threaten to starve the Government to death because you have grown so great that you cannot even do what is right if it happens to be demanded by the majority of an opposite party.

Now, I do not believe that the Government is going to die; but if it should die from the issue now presented, upon whose shoulders will the responsibility rest?

* * * * * * *

Andrew Johnson on that trying occasion set an example to his republican friends which they would do well to remember now. Rather than see the wheels of this Government stopped he signed that bill; but he signed it under protest, and thus made his appeal to the country.

If it is deemed necessary to make another appeal to the people on the question now at issue, the republican President can make his choice—he can either follow the example of Andrew Johnson, or he can, as the gentleman from Ohio said, destroy this Government without firing a single hostile gun. It is for him, not for us, to say which course he will choose.

* * * * * * *

If free government must die, and die at the hands of such a President as this, then the democratic party can look in the face of the expiring goddess of liberty and say:

Shake not thy gory locks at me,
Thou canst not say I did it.

Mr. MCMAHON, of Ohio, in his speech of March 29, said:

I believe that we have made up our minds fully to take all the consequences before the people of an adherence to our views. If the President of the United States prefers to "starve the Government" * * * with him will rest the responsibility.

The gentleman from Illinois, [Mr. SPARKS,] who had the Army bill in charge, said:

I deny, therefore, that the President has any legislative power. He has the power to arrest; only the power to arrest. Now let us take the case before us. It is insisted that the President is attempted to be coerced by the proposed legislation and that this action is revolutionary. Now, sir, we pass a law. All appropriations of money from the Treasury must be made by law. We pass this law appropriating nearly $27,000,000. In that law we make provision that the Army, for which the appropriation is made, shall not be used "to keep the peace at the polls" in the various precincts and polling places throughout the United States. The President chooses, if you please, to arrest it. He says: "I arrest this law and return it to the Congress with my objection." What do we do? I do not know what gentlemen generally will do; but my idea in this particular case would be to say to the President, "Very well, sir; if you do not need this law, why should we want it? We certainly have the constitutional power to let it alone, and, Mr. President, as you have chosen to arrest it by your positive act of objection or veto, all right; now just let the subject drop." But then he will say, "But, gentlemen, that will not do; this law must be passed; I must have this law." "Well, then," we answer, "why did you not take it, sir, and make it effective after we had passed it and presented it to you?" "Because," he says, "it had some provision in it that was objectionable to me." "Well, sir, what do you propose to do?" "Why, I propose that you shall pass a law unobjectionable to me; in other words, you shall pass the kind of law that I want you to pass."

The gentleman from Virginia [Mr. TUCKER] in his speech of April said:

I tell you, gentlemen of the House of Representatives, the Army dies on the 30th day of June unless we resuscitate it by legislation. And what is the question here on this bill? Will you resuscitate the Army after the 30th of June with the power to use it as keepers of the polls? That is the question. It is not a question of repeal. It is a question of re-enactment. If you do not appropriate this money, there will be no Army after the 30th of June to be used at the polls. The only way to secure an Army at the polls is to appropriate the money. Will you appropriate the money for the Army in order that they may be used at the polls? We say no, a thousand times no.

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The gentlemen on the other side say there must be no coercion. Of whom? Of the President? But what right has the President to coerce us? There may be coercion one way or the other. He demands an unconditional supply. We say we will give him no supply but upon conditions.

* * * * * * *

When, therefore, vicious laws have fastened themselves upon the statute-book which imperil the liberty of the people, this House is bound to say it will appropriate no money to give effect to such laws until and except upon condition that they are repealed. [Applause on the democratic side.]

* * * * * * *

We will give him the Army on the single condition that it shall never be used or be present at the polls when an election is held for members of this House, or in any presidential election, or in any State or municipal election.

* * * * * * *

Clothed thus with unquestioned power, bound by clear duty, to expunge these vicious laws from the statute-book, following a constitutional method sanctioned by venerable precedents in English history, we feel that we have the undoubted right, and are beyond cavil in the right, in declaring that with our grant of supply there must be a cessation of these grievances, and we make these appropriations conditioned on securing a free ballot and fair juries for our citizens.

The distinguished gentleman from Kentucky, [Mr. BLACKBURN,] in his speech of April 4, said:

May I not assure that gentleman and his associates that the dominant party of this Congress, the ruling element of this body, is also equally determined that until their just demands are satisfied, * * * this side of the Chamber, which has demonstrated its power, never means to yield or surrender until this Congress shall have died by virtue of its limitation. [Applause on the democratic side.] We will not yield. A principle cannot be compromised. It may be surrendered; but that can only be done by its advocates giving proof to the world that they are cravens and cowards, lacking the courage of their own conviction. We cannot yield, and will not surrender.

* * * * * * *

Now, sir, the issue is laid down, the gage of battle is delivered. Lift it when you please; we are willing to appeal to that sovereign arbiter that the gentleman so handsomely lauded, the American people, to decide between us.

* * * * * * *

I do not mean to issue a threat. * * * But I do mean to say that it is my

deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by parade of power. He must stand upon his conviction and there we will all stand. He who dallies is a dastard, and he who doubts is damned. [Great applause on the democratic side.]

At the close of the Forty-fifth Congress, Senator THURMAN, of Ohio, said:

We claim the right * * * to say that we will not grant the money of the people unless there is a redress of grievances.

The distinguished Senator from Kentucky, Mr. BECK, in the last Congress, said:

They seemed further to agree, and I agreed with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people.

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We insist that those matters pertain solely to the States and are part of their absolute right. * * * When these three laws are submitted to the President for his approval, as they will be, and are approved by him * * * the next Congress will in my opinion be ready to pass every appropriation bill. * * * If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own election, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. * * * Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

Such, gentlemen, are your voluntary confessions. Are they not sufficient to dispel all doubt from the public mind that it is your deliberate, premeditated, unalterable, and wicked purpose to starve this Government to death if the Executive shall dare to use his constitutional power to arrest legislation which his judgment cannot approve? And what do you urge in extenuation of this crime? What have you to say why the judgment of the country should not now be pronounced? From one I hear a feeble response that the President, in exercising his veto power, is resisting the will of the majority in Congress, and therefore his wishes should be disregarded.

Did it ever occur to the constitutional lawyers upon the other side of this Chamber that the veto power of the President is always exercised against the will of the majority of both Houses of Congress; that until a measure shall have passed Congress the President is powerless to veto? I have been unable to find a single instance where any President ever vetoed a measure that had not passed Congress. [Laughter.] To say, then, that the veto shall not be used against the will of the majority is to say that it shall not be exercised at all.

Another responds, We are not responsible for the death of the Government; we vote supplies and the President declines them; and with him and the minority rests the responsibility. Such a plea is a compound—pardon the expression—of idiocy and insolence seldom equaled, never excelled. It deserves no answer. As well might the merciless jailer place before a famishing prisoner food mixed with poison and then say to him: Eat or refuse; the responsibility of your life rests entirely with you.

To the many other pleas interposed, that the President has no part in legislation, that he is a sort of chief clerk to a democratic Congress, I shall only reply in the language of two distinguished democratic Presidents. I refer to the messages of Franklin Pierce and James K. Polk upon the veto power of the President.

In the fourth annual message of President Polk, sent to Congress December 5, 1848, I find the following:

The Constitution provides that "every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it."

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty, at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it, as well by his obligations to the people who have clothed him with his exalted trust as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both Houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution, or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve, or disapprove, every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty, and he cannot escape it if he would. He has no election. In deciding upon any bill presented to him, he must exercise his own best judgment. If he cannot approve, the Constitution commands him to return the bill to the House in which it originated, with his objections.

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Any attempt to coerce the President to yield his sanction to measures which he cannot approve, would be a violation of the spirit of the Constitution, palpable and flagrant; and, if successful, would break down the independence of the executive department and make the President, elected by the people and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender on his part of the powers with which the Constitution has invested his office, would effect a practical alteration of that instrument, without resorting to the prescribed process of amendment.

With the motives and considerations which may induce Congress to pass any bill the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the Constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power, that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the Constitution, and that the executive veto is a "one-man power," despotic in its character.

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That the majority should govern is a general principle, controverted by none; but they must govern according to the Constitution, and not according to an undefined and unrestrained discretion, whereby they may oppress the minority. The people of the United States are not blind to the fact that they may be temporarily misled, and that their representatives, legislative and executive, may be mistaken or influenced in their action by improper motives. They have, therefore, interposed between themselves and the laws which may be passed by their public agents various representations, such as assemblies, senates, and governors in their several States, a House of Representatives, a Senate, and a President of the United States. The people can by their own direct agency make no law; nor can the House of Representatives, immediately elected by them; nor can the Senate; nor can both together without the concurrence of the President, or a vote of two-thirds of both Houses.

The people, by the Constitution, have commanded the President as much as they have commanded the legislative branch of the Government to execute their will. They have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve "he shall return it to the House in which it originated, with his objections." In withholding from it his approval and signature he is executing the will of the people, constitutionally expressed, as much as the Congress that passed it. No bill is presumed to be in accordance with the popular will until it shall have passed through all the branches of the Government required by the Constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate; and so a bill passed by the Senate may be rejected by the House. In each case the respective Houses exercise the veto power on the other.

Congress, and each House of Congress, hold, under the Constitution, a check upon the President, and he, by the power of the qualified veto, a check upon Congress. When the President recommends measures to Congress he avows, in the most solemn form, his opinions, gives his voice in their favor, and pledges himself in advance to approve them if passed by Congress. If he acts without due consideration or has been influenced by improper or corrupt motives, or if from any other cause Congress or either House of Congress shall differ with him in opinion, they exercise their veto upon his recommendations and reject them; and there is no appeal from their decision but to the people at the ballot-box. These are proper checks upon the Executive wisely interposed by the Constitution. None will be found to object to them or to wish them repealed. It is equally important that the constitutional checks of the executive upon the legislative branch shall be preserved.

If it be said that the Representatives in the popular branch of Congress are chosen directly by the people, it is answered, the people elect the President. If both Houses represent the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them.

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In the exercise of the power of the veto the President is responsible not only to an enlightened public opinion but to the people of the whole Union who elected him, as the representatives in the legislative branches who differ with him in opinion are responsible to the people of particular States or districts who compose their respective constituencies. To deny to the President the exercise of this power would be to repeal that provision of the Constitution which confers it upon him. To charge that its exercise unduly controls the legislative will is to complain of the Constitution itself.

If the principle insisted on be sound, * * * we must remodel our whole system, strike down and abolish not only the salutary checks lodged in the executive branch, but must strike out and abolish those lodged in the Senate also, and thus practically invest the whole power of the Government in the majority of a single assembly—a majority uncontrolled and absolute, and which may become despotic. To conform to this doctrine of the rights of majorities to rule, independent of the checks and limitations of the Constitution, we must revolutionize our whole system. We must destroy the constitutional compact by which the several States agreed to form a Federal Union and rush into consolidation, which must end in monarchy or despotism. No one advocates such a proposition; and yet the doctrine maintained, if carried out, must lead to this result.

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If he [the President] surrender this power [of the veto] or fail to exercise it in a case where he cannot approve, it would make his formal approval a mere mockery, and would be itself a violation of the Constitution.

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The executive, legislative, and judicial, each constitutes a separate co-ordinate department of the Government, and each is independent of the others. In the performance of their respective duties under the Constitution neither can, in its legitimate action, control the others. They each act upon their several responsibilities in their respective spheres; but if the doctrines now maintained be correct, the executive must become practically subordinate to the legislative, and the judiciary must become subordinate to both the legislative and the executive; and thus the whole power of the Government would be merged in a single department. Whenever, if ever, this shall occur, our glorious system of well-regulated self-government will crumble into ruins, to be succeeded first by anarchy, and finally by monarchy or despotism.

President Pierce in his message vetoing the French spoliation bill, sent to Congress February 17, 1855, said:

It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment or be faithless to the trust reposed in him. If he approve a bill, he shall sign it; but if not, he shall return it, with his objection, to that House in which it shall have originated for such further action as the Constitution demands, which is its enactment, if at all, not by a bare numerical majority, as in the first instance, but by a constitutional majority of two-thirds of both Houses.

While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation; for, while it requires him to sign if he approve, it, in my judgment, imposes upon him the duty of witholding his signature if he do not approve. In the execution of his official duty in this respect he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or the wrongfulness of the proposed law. * * * The President's responsibility is to the whole people of the United States as that of a Senator is to the people of a particular State, that of a Representative to the people of a State or district. * * * When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality but of the impropriety or injustice in other respects of any measure, if he declare that he approves he is false to his oath and he deliberately disregards his constitutional obligations.

In the light of this democratic authority let me say to the democratic party on the other side of the Chamber that you cannot possibly stand upon the position you have taken; it is wholly untenable; it is revolutionary and revolting to the better sentiment of the American people; and because it is so we propose to resist it now and

here, as in the Army appropriation bill, to the extent of our power. For if we yield now, when and where, tell me, are we to make a stand? Let no gentleman upon this side of the Chamber indulge the delusion that if this point is surrendered there will be no further advance on the part of the enemy! Sir, this is the beginning of a series of assaults to be followed up and pushed with relentless vigor until every fortress reared for the defense of free men and a free ballot—for peace and purity at the polls; for national life and individual liberty—shall be torn down and demolished, that lawless violence, fraud, and murder may run riot in the land.

Should we yield now, how long will it be before upon an appropriation bill for the support of the Post-Office Department a provision will be incorporated excluding from the southern mails, as was done in times of the slave power, all printed matter tending to instruct the colored people in their political rights and responsibilities; and then say to the President, "Sign, or no mails?"

How long before upon an appropriation bill for the support of the judiciary will a provision be incorporated making an appropriation for the payment of slaves and the Supreme Court menaced with starvation to extort from it a decision that the constitutional prohibition was never constitutionally adopted? "Mr. President, sign, or no court."

How long before upon some appropriation bill a provision will be attached submitting an amendment to the Constitution abolishing the three great constitutional amendments? "Mr. President, sign, or no support."

How long before a provision will be incorporated upon some appropriation bill for the re-establishment of slavery? "Mr. President, sign, or your Government stops." How long before upon some appropriation bill a provision will be made for the payment of the cotton tax, and the interest thereon, and the liquidation of all southern claims? "Mr. President, sign, or starve." How long before upon a bill granting pensions to Union soldiers a provision will be incorporated for pensioning confederate soldiers also? Even now you cannot pension the survivors of the Mexican war without including Jefferson Davis. "Mr. President, sign, or no pensions for Union soldiers." And so the work might go on, through the instrumentality of appropriation bills, of undoing the entire legislation of eighteen years, as has been threatened; until the last vestige of those laws for the protection of human liberty and individual rights shall have been swept away.

A word more and I have done. The distinguished gentleman from Kentucky, [Mr. BLACKBURN,] the acknowledged leader of at least the southern wing of the democratic party of this House, took occasion to say in his recent speech in this Hall that "this side of the Chamber," alluding to the democratic majority, "never means to yield or surrender until this Congress"—mark the word, not this session or the next, but until "this Congress—shall have died by virtue of its limitation." I have given his exact words. That event cannot happen until the 4th of March, 1881.

And so the order is promulgated from the Federal Capitol, in the face of this nation, by an ex-confederate soldier, to prosecute the siege until this Republic, which he and his co-conspirators could not destroy by the sword, shall be reduced by starvation. And no sooner is the order given than the whole democratic party, North and South, leap into the trenches at the rallying cry of their chosen leader, "He who dallies is a dastard, and he who doubts is damned." Thus is the siege begun, thus is it prosecuted. And with an air of defiance, smacking a little of southern domination, we are told that "the issue is laid down, the gage of battle is delivered; lift it when you please." Be it so, and be this my answer: that it is our supremest pleasure to lift it now and here, [applause on the republican side;] and we are prepared to make good the appeal. [Renewed applause.]

Sir, we accept the challenge you now present in no spirit of boastful arrogance, but with an unflinching purpose and a sublime courage, awaiting the issue with the utmost confidence and composure. It is not the first time we have encountered a solid South conspiring against the life of the Republic; and although your forces may be somewhat augmented by your northern allies, yet I see nothing in the increased array to cause a heart to faint or a cheek to blanch. [Applause.] As you failed then you will fail now. As you could not kill, you cannot starve. Did it ever occur to you, gentlemen, that although you should withhold all supplies for the support of the Government that possibly it might yet survive? Did it ever occur to you that although you should protract this siege until this Congress shall have died by virtue of its limitation, that possibly there would be no necessity for surrender? Withhold support from the Executive; are you quite sure there will be no President? Refuse to feed the Army; are you entirely certain there will be no troops? Deny to your Navy the means to keep it afloat; are you certain you will force it to anchor? Withhold support from the judiciary; is it clear there will be no courts? Refuse the needed supplies for maintaining the legislative branch of the Government; are you confident there will be no Congress? Why, sir, you are as impotent to overthrow the Government by starvation as you were to annihilate it by the sword. You may distress, but you cannot destroy. [Applause.] For, let me tell you, when that time comes the same loyal people from the same loyal States who took their lives in their hands and went forth to do battle for the life of the republic, enduring the weary march, the protracted siege, the smoking hell of battle and the more horrible hell of Southern prison-pens, until from the dark waves of rebellion they bore upon broken arm and lacerated breast the bleeding form of the republic and planted her feet upon the immutable rock of constitutional government and civil liberty—I say from the same States thirty millions of people, animated by the same patriotism, will, when you attempt to starve this Republic, fly to her side at the first cry of her distress, and there they will stand in ceaseless vigil, not with a sword, but with sustenance; not with the implements of war, but with unmeasured wealth; not with shotted cannon, but with unlocked coffers; not with bandages, but with bounty; and, bending over her prostrate form, will they succor and sustain her, ministering to her necessities, until, in the fullness of time, they can wrench from her throat the cowardly hands that clutch it; and then, thrilled with a new life, will she spring to her feet, and the very altar you builded for her immolation shall become a throne upon which she shall stand, in the majesty of her power, resceptered and recrowned, goddess of nations. [Long continued applause.]

Mr. COFFROTH obtained the floor.

Mr. GIBSON. The gentleman who has just taken his seat [Mr. BURROWS] quoted to this House certain testimony taken during last winter before the Teller committee in the city of New Orleans, in which certain charges were made against the citizens of Louisiana. I desire simply to say that those citizens were arrested upon the charges then made against them; they were conveyed four hundred or five hundred miles from their homes to the city of New Orleans; they were tried before juries to which the test oath was applied; they were tried before judges who formerly were in sympathy with the republican party, and they were fully and honorably acquitted. That, sir, is the answer I propose to make to the gentleman so far as his charges relate to the citizens of Louisiana.

Mr. BURROWS. I would like to inquire of the gentleman whether he denies the statement I have made.

Mr. GIBSON. I do deny it.

Mr. BURROWS. What portion of it?

Mr. GIBSON. I deny it to be true. I do not deny it is a part of the report; but I say that citizens were arrested upon those charges, and acquitted.

Mr. BURROWS. Upon what charges?

Mr. GIBSON. Upon similar charges to those by the deputy marshals and supervisors of Louisiana.

Mr. BURROWS. You are referring to that portion of the report which says they were not punished?

Mr. GIBSON. I say that they were tried and acquitted.

Mr. BURROWS. Who were?

Mr. GIBSON. These citizens.

Mr. BURROWS. That is an easy trick down there. [Laughter and applause on the republican side.]

Mr. GIBSON. If this was a "trick" it was a "trick" by the men who could take the iron-clad oath. It was a "trick" performed in the presence of judges who were republicans. It was a "trick" by the very men whom the gentleman now invokes to conduct the elections in those States—deputy marshals, supervisors, judges, and men put upon the jury-boxes who could take the iron-clad oath, swearing to the fact that they had never had any sympathy with the southern people in the late war. The iron-clad oath was administered to those jurors. I should like to know now why it is that a republican should speak in this legislative assembly in such disrespectful language of the judiciary of the United States. Has that judiciary, Mr. Chairman, fallen so low, has it already become so degraded, have the United States district attorneys lost their character to such an extent, are the men who could take the iron-clad oath so little entitled to the regard of this body and to the respect of the republican member who has just taken his seat, as to be called "tricksters?"

And, sir, when citizens have been taken from their homes, carried four or five hundred miles to the city of New Orleans and tried in the most solemn manner under the forms of the Constitution and laws of our country, is that a "trick?" Sir, I had hoped, although the gentleman may employ his declamation against the men who were enlisted in the cause of the South, although he may please his constituency, perhaps, by calling us conspirators, and the democratic party in this House our co-conspirators, I say I had hoped a decent respect for his own party, if not for the amenities of this House, if not for the Constitution, [laughter on the republican side,] if not for the united people of this country, would have led him to abstain from assailing the judiciary of the country and calling them "tricksters." [Applause on the democratic side of the House.]

Mr. BURROWS rose.

Mr. COFFROTH. I believe I am entitled to the floor.

Mr. GARFIELD. I ask the gentleman from Pennsylvania to let the gentleman from Michigan say a word.

Mr. BURROWS. There is certainly no propriety, Mr. Chairman——

Mr. COFFROTH. I do not object if it is the wish of the House that the gentleman should proceed.

The CHAIRMAN. The Chair understands that it will not come out of the gentleman's time.

Mr. GARFIELD. It will not be taken from the time of the gentleman from Pennsylvania.

Mr. BURROWS. Mr. Chairman, there is no occasion for the warmth exhibited by the distinguished gentleman, for I only read the report of a committee showing that intimidation and murder had been permitted in Louisiana during the last election. I made no accusation

against the courts or any officers of the courts. I simply declared what the report of the committee showed, that in Louisiana there had not been a fair and free election. It is a notorious fact that in many of the districts of Louisiana there was not a free or peaceable election. I have in mind one district now in particular, in which Caddo parish is located, a district extending thirty-five or forty miles. There the ballot-box was placed at the northern extremity of that parish, and men were compelled to make a journey of twenty miles and back again in order to cast their votes. It is a notorious fact that three hundred black men made that march and deposited their ballots; and it is equally notorious that after they had deposited their ballots an armed band of ruffians seized that ballot-box, broke it to pieces, and destroyed the ballots. And no man can deny it, for it is supported by abundant evidence. It is also admitted, and cannot be denied, that in another parish that usually casts a heavy republican vote, not one solitary republican vote was polled, and why? Because you drove the leaders of the republican party from that county, serving upon them notice to leave, and they are in exile today.

Mr. ELAM. Let me interrupt the gentleman one moment.

Mr. BURROWS. Not now.

Mr. ELAM. That is the parish of Natchitoches.

Mr. BURROWS. Yes, Natchitoches.

Mr. ELAM. That is the parish where these people were acquitted.

Mr. GIBSON. Yes, sir; where they were acquitted of that very charge.

Mr. BURROWS. I wish to say one word further.

The CHAIRMAN. Does the gentleman from Pennsylvania yield?

Mr. FRYE. The Chair said this was by unanimous consent, and did not come out of the time of the gentleman from Pennsylvania.

Mr. BURROWS. It is a notorious fact that witnesses were subpœnaed——

Mr. OSCAR TURNER. The man who said the democratic party was a band of conspirators and sought to overturn this Government is not entitled to any courtesy from that party or from this House. [Applause and laughter.]

Mr. *BURROWS*. I appeal to the Chair.

The CHAIRMAN. The Chair will recognize nobody until order is restored. In common fairness the Chair cannot do less than recognize the right of the gentleman from Pennsylvania to claim the floor when he chooses.

Mr. BURROWS. I wish to finish the sentence which I commenced before I was intimidated by my distinguished friend on the other side. [Laughter.] I wish to say it is a notorious fact that witnesses subpœnaed to appear before the United States courts to testify in regard to these outrages were taken from the boat on their way to New Orleans at an unusual landing place and there surrendered to a band of armed men without hats or shoes, but masked, and the whereabouts of these witnesses has never been known from that day to this.

Mr. ELAM. Will the gentleman from Pennsylvania [Mr. COFFROTH] give me five minutes?

Mr. COFFROTH. I yield to the gentleman five minutes.

Mr. ELAM. During the canvass in 1876 and before, I had always used what influence I had in Northern Louisiana to prevent violence and intimidation; and I have never heard that it was charged that there was ever any fraud there. I know whereof I speak. On the day of the last election I was not in Shreveport or at any other polling place, because I was down with wounds I had received by being thrown from a carriage.

As to the Natchitoches case, where the republican party charged that Blount and some of his followers were driven out of the parish in order that they might not organize the republican party and carry the parish——

Mr. BRIGHT. I rise to a question of order. There is too much confusion and interruption.

The CHAIRMAN. The point is well taken. The committee will come to order.

Mr. ELAM. In that case all or most of the leading men of the parish were indicted by a United States grand jury. Both the judges of the circuit court and the district court are republicans. The iron-clad oath was administered wherever the republican district attorney desired it; because you remember that under the eight hundred and twenty-first section of the Revised Statutes that official has the right to insist upon it. The jury was impanneled; the case was tried by men who could take the iron-clad oath and did take the iron-clad oath; and these gentlemen were acquitted. And with regard to a very considerable number of those prisoners, the judge, a republican judge, said there was no evidence on which they could have been convicted.

Mr. REED. What had become of the evidence?

Mr. ELAM. The evidence?

Mr. REED. Yes, sir.

Mr. ELAM. It was all before the court.

Mr. STONE. What of the evidence taken off the steamboat?

Mr. ELAM. Oh, I heard all about that after I came to Washington.

Mr. DUNNELL. I object to these interruptions of the gentleman from Louisiana.

Mr. ELAM. It is very easy to prove anything you want to about a thing of this kind. It is not only so there, but everywhere else in this country; and I deplore it as much as any man.

The CHAIRMAN. The time allowed to the gentleman from Louisiana has expired.

Mr. COFFROTH. Mr. Chairman, trial by jury is defined by the renowned English commentator on common law to be the bulwark of English liberty. An honest and fair election, where the elector can deposit his ballot untrammeled and unawed, is the palladium of American liberty.

In the early history of our country the great object of our fathers was to establish a free government for the people, and that the people in the exercise of the elective franchise should be unrestrained. The arraignment of George III had been tried by battle, and his despotic power was lifted from the necks of our people. When we contemplate the long struggle for freedom we can readily conceive how anxious and determined were the framers of the Constitution to protect the ballot from either military or civil interference by the Federal Government. The teaching of all our statesmen from the earliest history of our country down until the republican party came into power is an unbroken declaration that the Federal power has no authority to interfere in the elections, but that each State of the Union should regulate the qualifications of the voter and control the manner of holding its elections.

As the democratic party is once more in power in both branches of Congress, the people expect, yea demand, of it that it shall wipe from the statute-books all laws that are unwise, unjust, and obnoxious, and that in any degree trammel the voter in exercising the rights of a freeman. The ballot is the weapon which the freeman uses to protect his personal liberty, his civil rights, his property, and to perpetuate to himself and children the blessings of good government. It is the ballot that—

> Executes a freeman's will,
> As lightning does the will of God.

Mr. Chairman, during this discussion and the discussion on the Army bill I have been wonderfully surprised at our republican brethren on the other side of this Chamber. The gentleman from Ohio [Mr. GARFIELD] sounded the war tocsin and furiously waved the "bloody shirt" and the whole camp danced to it. After hearing their loud and bitter denunciation of the democrats and their howling cry of revolution and of "starving the nation to death," I ventured to look across this Chamber and I was delighted to see that our republican friends were not actually enraged, but in fact they were as peaceable and pleasant in appearance as a May morning. There they stood or sat with their faces beaming with joy and apparently saying to the "brigadier-generals" of the South "Come to us, come help us, though your 'sins be like scarlet,' we will open our arms wide and fold you to our hearts and make you the highest in our synagogue, provided, dear southern brethren, you will be republicans and help us to keep the democrats, who deceived you during the war, out of power."

Now, sir, if the voters of the country had been present to hear and see—in the language of my distinguished colleague, [Mr. KELLEY,] "how thoroughly Pickwickian is the cry of revolution"—they would be satisfied that this acrimonious debate as it appears in the newspapers is only intended to arouse bitter feelings for no purpose under the heavens than to keep the republican party in power. Have we not heard enough said about the late war, and the miseries incident thereto? Has our country not suffered enough? The President of the United States, the choice of the gentlemen on the other side of this Chamber, has clasped the endearing hand of friendship "across the bloody chasm." He took into his Cabinet a confederate soldier, one, to use the language of the other side, "whose hands were yet reeking with the blood of Union men." And I appeal to our republican friends if he has not made a good officer, and if they are not happy over his appointment? Has not this same President appointed other distinguished confederate or rebel generals to high places of trust, emolument, and honor? Again, this same President, in his southern trip, made good conciliatory Union speeches. He described the men north and south who were in the war as "Greek meeting Greek," and accounted for the victories achieved by the Union armies on the ground that there were more northern than southern Greeks.

Again this republican President respected the will of the people in the States of South Carolina and Louisiana. He recognized and sustained the men who had been elected by the people and gave these States good governments to the dismay and discomfiture of the "carpet-baggers" and republican plunderers who had been kept in office by the strong arm of the military power of the Government by his republican predecessors. By these utterances and acts the President has discarded the issues and bitterness of the late war.

The cry of revolution and starving the nation to death is a mere trick by which our political opponents expect to alarm the timid, frighten the weak, and unite the broken and scattered fragments of the republican party. Who wants to starve the nation? Can any sensible man be made to believe that the democratic party desires to starve the nation? That grand old party that has ever been the guardian of the Constitution and the liberty of the citizens has a noble and honorable future before it. Its aim is the prosperity of the nation; its object is to protect every citizen in a free exercise of all the rights given him by the Constitution and the laws to build up our ruined commerce, manufactures, and business interests.

Mr. Chairman, I propose to discuss the Army bill as well as the bill under consideration. In the Army appropriation bill it is proposed to strike from the first section of the act of the 25th of February,

1865, the words "or to keep the peace at the polls." This section, as amended, will then read:

No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State unless it be necessary to repel the armed enemies of the United States.

Now, sir, the words "or to keep the peace at the polls" are stricken out to prevent military interference at the elections. So that for no pretended reason of keeping the peace can the military power be used to control elections and coerce and deprive the voter of the free exercise of his right to vote. The fourth section of the fourth article of the Constitution declares that the United States "shall protect each State against invasion, and on application of the Legislature or of the executive (when the Legislature cannot be convened) against domestic violence." The act of Congress of February 28, 1795, provides:

In case of an insurrection in any State against the government thereof, it shall be lawful for the President, on application of the Legislature of such State, or of the executive when the Legislature cannot be convened, to call forth such number of the militia of any other State or States which may be applied for, as he deems sufficient to suppress such insurrection, or on like application to employ for the same purpose such part of the land or naval forces of the United States as he deems necessary.

The power conferred upon the President by the Constitution and the act of 1795, to use and direct the military forces of the Government, was the law of the nation until the passage of the act of 1861, which was passed as a war measure and which was perverted by the war power so as to use soldiers at the polls for every purpose. Under the construction placed upon the law of 1861, the military were stationed around and about the polls on the most frivolous pretexts, in order to intimidate and coerce the voter. The law of 1861 did not provide for any penalty for the improper use of troops at the polls. The act of the 25th of February, 1865, passed the Senate on the 2d of June, 1864. Senator Powell, of Kentucky, amended the first section of the act so as to read:

No military or naval officer or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.

Mr. Pomeroy, of Kansas, moved to amend the section by adding to it, "or to keep the peace at the polls." To this amendment Mr. Powell objected, and said "it would destroy the effect of the bill. The State authorities can keep peace at the polls."

Mr. Saulsbury, of Delaware, said:

That is the very pretext on which these outrages were committed in my State, and it is the very same pretext that will be put forward again.

Mr. McDougall, of California, said:

I am one of those who were taught to think that the weapon of the ballot in the hands of a free citizen is a better weapon than steel of the finest temper. That point of instruction in my youth has become the faith of my maturer years. The ballot, the free ballot, the uncontrolled ballot is the only power possessed by a free people which enables them to overawe those in authority. Arbitrary power is most expressed by the presence of armed men, and I would not have them where the citizen was exercising this high privilege.

The amendment "or to keep the peace at the polls" was adopted by a vote of yeas 16, nays 15. Every vote in the affirmative was cast by republican Senators and all the democrats who voted cast their votes against the amendment. After the bill was amended all the democrats who voted on the bill voted for the amended bill. They voted for it because of the second section, which provides for the punishment of the improper use of the troops at the polls. The second section is as follows:

That any officer or person in the military or naval service of the United States who shall order or advise, or who shall directly or indirectly by force, threat, menace, intimidation, or otherwise, prevent or attempt to prevent any qualified voter of any State of the United States of America from exercising the right of suffrage at any general or special election in any State of the United States * * * shall be liable to indictment for a misdemeanor, and on conviction thereof shall pay a fine of not exceeding $5,000 and suffer imprisonment in the penitentiary not exceeding five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

Before the bill came into the House for its action the election of 1864 had been held. The bill was reported from the Judiciary Committee of the House on the 22d day of February, 1865, and on its final passage all the democratic members of the House who voted on the bill voted for it. I was among the number.

Mr. Chairman, I voted for the bill because by the authority of the "war power" exercised by the then Administration armed soldiers were stationed at the polls. In at least two of the counties of the district I had the honor then to represent on this floor deputy provost-marshals and squads of soldiers surrounded the polls at the election in 1864; they coerced, intimidated, and arrested voters. At one of the polls in Bedford County, I am informed, a peaceable farmer protested against armed soldiers being present, and for asserting a right he had under the laws of our State he was brutally murdered by some of the soldiers after the polls closed. I was opposed then, as I am now, to the amendment, "or to keep the peace at the polls," adopted by the Senate, but the force of circumstances then induced me to vote for the bill. What I could not then get I gladly accept now.

Sir, England has guarded her ballot-box from military interference. Colonel Pipori's Official Manual of English Military Law contains the following order:

In order that the freedom of the election of members to serve in Parliament may not be influenced by the military, it is enacted by the tenth and eleventh Victoria, chapter 21, that on every day appointed for the nomination or for the election, or for taking the poll for the election, of a member to serve in Parliament, no soldier within two miles of the city, borough, or place where the nomination or election is to be declared or poll taken, shall be allowed to go out of the barracks or quarters in which he is stationed, unless for the purpose of mounting or relieving guard or of giving his vote at such election; and that every soldier allowed to go out for any such purpose within the limits aforesaid, shall return to his barracks or quarters with all convenient speed as soon as his guard shall have relieved or vote tendered.

When I turn to the statutes of my own State—the "keystone to the Federal arch"—I find the following law on this subject, approved the 2d day of July, 1839:

No body of troops in the Army of the United States, or of this Commonwealth, shall be present, either armed or unarmed, at any place of election within this Commonwealth during the time of such election: *Provided*, That nothing herein contained shall be construed so as to prevent any officer or soldier from exercising the right of suffrage in the election district to which he may belong, if otherwise qualified according to law.

Mr. Chairman, in 1871, at an election held in Philadelphia a company of marines from the navy-yard was marched around the various polling places. Governor Geary, a brave and distinguished general in the late war and an ardent republican, in his message to the Legislature commented on this species of military intimidation as follows:

The employment of the United States troops at elections without the consent of the local and State governments has recently received considerable attention and reprehension. It is regarded as an interference with the sovereign rights of the States which was not contemplated by the founders of the General Government, and if persisted in must lead to results disastrous to peace and harmony. The practice is one so serious in its character and so injurious in its tendencies as to merit prompt consideration and decisive action, not only by the General Assembly but by Congress. One of the complaints of the colonists against the British King was the oppression growing out of the assumption of this power. They said "He has kept among us in times of peace standing armies without the consent of our Legislatures;" and, what is especially pertinent to the case in point, "He has affected to render the military independent of and superior to the civil power."

The perpetuity of our free institutions as well as the prosperity of the country demands that the military shall be subordinate to the civil power, and the right of an unawed ballot be guaranteed to every elector in the nation.

Mr. Chairman, I now turn to the bill under discussion. In it we propose to repeal certain statutes regulating supervisors of election and the appointing of deputy marshals.

First. The judges of the United States circuit court at the instance of any two citizens of any town or city having upward of twenty thousand inhabitants, or at the instance of any ten citizens in any county or parish, may appoint two citizens resident of the city, town, or voting precinct, being of different political parties, who shall be designated as supervisors of election. These supervisors are required to attend at all times and places fixed for the registration of voters who are entitled to vote for a Representative or Delegate in Congress, to challenge any votes supposed to be improperly offered, to remain with the ballot-box after the voting is over, until the votes are entirely counted, and after the votes are counted out and tabulated to certify their correctness or append objections, and do and perform other acts and things in the premises.

Second. United States marshals are authorized to appoint deputy marshals who are authorized "either at the place of registration or polling place or elsewhere, and either before or after registering or voting, to arrest and take into custody without process any person who commits or attempts or offers to commit any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States."

Sir, it will be seen that this law authorizes the arrest of a citizen without process on the mere whim or caprice of a deputy marshal. If the most upright citizen in this great nation offers to vote, not having been registered, he is liable to be seized, taken into custody, and imprisoned by a deputy marshal. Sir, where is the boasted liberty of the citizen if he can be arrested and imprisoned without process of law? Why, sir, under the law of my State about one in twenty of all the voters at every congressional election are subject to arrest under this statute, inasmuch as about that proportion are generally not registered; yet, by the law of the State, non-registered citizens are entitled to vote by making affidavit to their residence if otherwise qualified.

The Constitution of the United States provides in article 4 that "the right of the people, to be secure in their persons against unreasonable seizures, shall not be violated; that no warrant shall issue but upon probable cause, supported by oath or affirmation." And in article 5 it declares that no person shall be deprived of "liberty or property without due process of law."

Thus it will be seen that the power given to deputy marshals is not only dangerous to the dearest rights of the citizen, but is in violation of the Constitution of the United States.

I beg permission to read from the report of the committee appointed by the last Congress to examine into and report on the laws in regard to the appointment and pay of supervisors of election and deputy marshals:

The law was enacted professedly to aid in securing a full, free, fair, honest ballot. That it has failed has become a matter of history; for since the enactment of these sections and the exercise of power under them there has been complaint of more and greater fraud than ever existed prior to its passage.

The power to anticipate an election fraud, real or fanciful, prior to its attempted perpetration, to seize and hold to bail or put in prison a voter as a means of preventing his coming to the poll, or to deter therefrom upon suspicion, is a little more power than should be conferred upon any partisan.

The experiment to secure an honest vote, by the medium of appointees under this law, we believe has signally failed, and the powers conferred have been too often used to prevent rather than to secure an honest vote. The administration of these laws has not only been productive of no affirmative good, but has cost large sums of money without any good return.

Mr. Chairman, at the elections held in 1876 there were 4,863 supervisors and 11,610 deputy marshals, at a cost to the United States of $275,296.70. At the elections held in 1878 the number of supervisors was 4,599, and there were 4,467 deputy marshals, at a cost to the United States of the enormous sum of $202,291.69.

In New York City alone there were 1,494 supervisors and 3,565 deputy marshals in 1876, at a cost to the United States of $155,021.88. This enormous sum of money was taken from the people to hire men to corrupt the voters and pollute the ballot-box in order to carry the State of New York for the republican party. In Pennsylvania there were 1,592 supervisors and 396 deputy marshals in 1876, at a cost to the United States of $33,590. All the supervisors and deputy marshals were in Philadelphia, except 273, and the amount expended in Philadelphia to coerce the voter and keep that city republican was $30,860.

In 1878 in Pennsylvania there were 1,682 supervisors and 773 deputy marshals, at the enormous cost to the United States of $43,943. All of the deputy marshals and all of the supervisors except 312 were at Philadelphia. The sum spent in Philadelphia at this election was $40,820.

The sworn testimony of the marshal of the eastern district of Pennsylvania before the Wallace-Teller investigating committee of the United States Senate shows the most astounding fact that every one of the deputy marshals in Philadelphia was a republican. Even if they had been reputable persons, which they were not, this would be so unjust that it should meet the condemnation of every fair-minded citizen.

Now, sir, I will give a summary of part of the sworn testimony before that committee to prove the desperate and depraved character of these deputy marshals.

Detective Charles Miller, connected with the district attorney's office of that city, testified that—

He knew Philip Madden, a deputy of the Fourth ward. He was one of the worst men in Philadelphia, violent and dangerous. He has been out of prison about eight months for highway robbery. Andrew Lamvello, of the First ward, is a fugitive from justice; Dan Redding is a bad, dangerous character, and has been tried for murder; George Cornelius is of bad reputation; Michael Slater is a notorious repeater and thief; Pitts, of the Seventh ward, keeps a gambling place; he is colored, and has been arrested; Henry Scott, colored, of Lombard street, has a bad reputation; Radney F. Springfield, of the Fifteenth ward, was tried for murder and acquitted. All these men were deputy marshals to the knowledge of the detective.

Other witnesses testified to the bad and debased character of the deputy marshals; that many of them were drunk; that they insulted and maltreated the voters. From this sworn testimony, and which I am told cannot be contradicted, among the depu y marshals in the great city of Philadelphia appointed to protect the purity of the ballot-box and sustain a free and untrammeled election we find the most debased characters, highway robbers, fugitives from justice, repeaters, thieves, keepers of gambling-houses, murderers, keepers of bawdy-houses, and drunkards.

Mr. Chairman, this is an astonishing revelation. Think of it, sir! This in the city where "old independence bell" first rang out the joyous peals of liberty. Liberty of the citizen was then the thrilling cry of the patriots of the Revolution; but now, more than one hundred years thereafter, comes up a bitter and shameful complaint that the inestimable right of the citizen to a free ballot uncontrolled by military or civil Federal power is trampled under foot by a horde of debased and drunken deputy marshals.

Mr. Chairman, as a native of the great State of Pennsylvania and one of its Representatives on this floor, I enter my solemn protest against this debasing interference with the elections in my State. Pennsylvania has laws upon its statute-books which secure to every elector his right to vote.

Mr. Chairman, although these unwise and obnoxious laws are but feebly defended on this floor by the gentlemen on the other side of this Chamber it is alleged by them that it is illegal and some of them even go so far as to say that it is revolutionary and destructive of the Government to "place their repeal on appropriation bills." Now, sir, is this sound logic? The bill provides for the expenses of the Army. Then, sir, as Congress has only the constitutional right to make this appropriation, it undoubtedly has the power to determine how the money shall be expended, and to prescribe by law that the Army shall not be used for political purposes, nor to interfere at elections, or be allowed to destroy civil government and erect on its ruins a military despotism.

When Congress appropriates money to maintain the judicial, legislative, and executive departments of the Government it has the constitutional right to enact in the appropriation bill that the money thus appropriated for upright purposes should not be squandered on drunken and debased deputy marshals to interfere with the rights of the citizen, and it also has the right to repeal any law that is wrong in principle and in conflict with the will of the majority, and which is executed by either of the departments for which the appropriation is made.

But, sir, this is a matter of parliamentary usage. It has been practiced so long "whereof the memory of man runneth not to the contrary." By precedent and practice it has been ingrafted into the parliamentary law of Congress. Certainly our republican friends should not complain of this class of legislation. Now, sir, from the 5th of July, 1862, until the 3d day of March, 1875, the number of acts of general legislation tacked on appropriation bills were three hundred and eighty-seven. These sections of general legislation will be found on the Indian, Army, legislative, executive, and judicial, sundry civil, consular and diplomatic, deficiency, Navy, and Military Academy appropriation bills, and can be found under these heads, commencing in volume 12 and ending in volume 18 of the Statutes at Large

During all this period of time, from the 5th of July, 1862, to the 3d day of March, 1875, the republican party had the undisputed control of both Houses of Congress, and after this superfluity of precedents made by themselves it comes with an ill grace from them to say that we have no right to put any general legislation on the appropriation bills. We are only asking to repeal part of the bad legislation heretofore passed by our political opponents, and a part of which was tacked on the sundry civil appropriation bill of 1871.

Why, sir, on the Army appropriation bill of 1867 (Statutes at Large, volume 14, pages 486 and 487) was put a measure of legislation which deprived the President of the United States of his constitutional powers as Commander-in-Chief of the Army. It fixes the headquarters of the General of the Army in Washington, and provides that all orders relating to military operations shall be issued through the General of the Army, and that he shall not be removed, suspended, or relieved from command or assigned to duty elsewhere than at headquarters, except at his own request, without the previous approval of the Senate, and that all orders issued contrary to the section shall be null and void. This was intended to degrade the then President of the United States because he did not approve the bad legislation then being enacted.

In 1856 the republicans had a majority in this House, while the democrats had a majority in the Senate. The Kansas trouble was upon us, and the House put on a section in the Army appropriation bill declaring that the Army should not be used for certain purposes, directing in that appropriation bill how the Army should and should not be used. When the bill was under consideration in the Senate the cry of revolution, as now made because of this proposed legislation, was met by old Ben. Wade, then a republican Senator from Ohio, in the following strong language:

Here we are told it is revolutionary, and therefore we must not breathe the breath of life into their action, but must permit it to go back to the House with an appeal to the House to recede. Sir, I do not know but that you may succeed under the idea that this is revolution; but, so help me God, I hope that the man who proposes to recede a hair's breadth from the action of the House will never find his way back again; and I do not believe he will.

Mr. Chairman, I especially commend this language to the gentleman from Ohio, [Mr. GARFIELD,] as well as to the other gentlemen on the other side of this Chamber.

Now, sir, I do not perceive any reason for this cry of starving the nation to death. When these bills are passed they will be presented to the President for his approval. The Army bill appropriates $26,797,300; the legislative, judicial, and executive bill appropriates $15,154,475.60. These sums are all that are required for the fiscal year ending June 30, 1880. If the President approves the bills, then the nation will not be starved to death; but if the President says to Congress, the immediate representatives of the people, "I will not approve of the appro priation bills, but will veto them," then he becomes responsible if the nation is starved to death. I do not fear this. The history of this country does not show a single instance where a bill repealingan act of Congress has been vetoed.

But, sir, it is suggested that the people of this nation are being starved to death by the ruinous financial policy of the President and his advisers. The financial suffering of our people bears emphatic witness to the truth of this charge. Now, sir, to relieve the people by wise and just financial legislation should be the aspiration of the members of both Houses of Congress. The cry of hate and sectional strife should be hushed, and we should give heed to the wail of distress that comes to us from the farmers, mechanics, laboring-men and all engaged in every kind of business who were formerly in comfortable circumstances. Here is a field worthy of our efforts—to aid in building up the depressed business of the country, to relieve the people from universal bankruptcy. Under the present Administration the money-changers have the people by the throat.

The Administration demands legislation and construes the laws to make the rich richer and the poor poorer. The rich bondholder pays no taxes, although the poor man does pay taxes on the log house in which he shelters his family. The bondholder gets gold interest, and the wounded soldier, the defender of his country, is paid in paper currency. Indeed it is asserted that the pensions of the widows and orphans are held back an insufferable length of time because the money it requires to pay these pensions will interfere with the specie-resumption policy of the Administration. The men who saved the nation in its darker hours are being starved to death in order to carry out a policy to enrich a favored class. Why, sir, only the other day when the gentleman from Ohio [Mr. MCMAHON] offered the following amendment to the appropriation for the Pension Department—

In order to provide for the speedy payment of arrearages of pensions, the Secretary of the Treasury is hereby authorized and directed to issue immediately in pay-

ment thereof, as they may be adjusted, the ten millions of dollars in legal-tender currency now in the United States Treasury, kept as a special fund for the redemption of fractional currency—

how was this just proposition met? Sir, the gentleman from Ohio [Mr. GARFIELD] raised the point of order and declared it was "the entering wedge to a general purpose to break down the system of reserves on which the maintenance of resumption depends." But, notwithstanding this, the amendment was adopted. I have referred to this matter simply to show that the gentlemen who are so loud in their cry about the democrats starving the nation to death are the last to help to feed the soldier who saved the nation.

Now, sir, the issue is made. We throw down the gage of battle. We squarely plant ourselves on the issues raised in these bills. We are for the Constitution of our country, good laws which will bring back prosperity to our people, the freedom of the citizen, the purity of the ballot-box, and the independence of the voter.

I yield the rest of my time to the gentleman from Ohio, [Mr. DICKEY.]

Mr. DICKEY. Mr. Chairman, the great questions of civil government that have caused this Congress to convene in extra session grow out of legislation enacted during the war, or shortly after, by the republican party, chiefly with a view to maintain themselves in power. The legislation is all partisan in its character. No impartial man can read these sections without conviction that their aim and purpose was as I have stated.

It is unnecessary to enter into a discussion now and give reasons for the repeal of the jury test oath. There seems to be little or no objection to its repeal. I will therefore but briefly notice it. Under the head of "the judiciary" in the Revised Statutes, sections 820 and 821, are found the causes of disqualification and challenge of grand and petit jurors of the United States in the following language:

SEC. 820. The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

These sections were passed June 17, 1862, (volume 12, page 430,) in the midst of civil war, and whatever the propriety or necessity for them then the reason for their existence has long since ceased, and therefore they ought to be repealed. They are now manifestly improper and unjust. They exclude from the grand and petit juries the great mass of intelligent men who lived in the Southern States during the war. These men may hold any office in the gift of the people or of appointment by the President of the United States, as many of them do, but by the provisions of these sections are disqualified from sitting upon juries involving the simplest questions of the right of property.

The republican Congress of 1871, seeing the manifest injustice of this law, by an act approved April 20, 1871, volume 17, page 15, repealed it; and it never was the intention of Congress since that time that these sections should have any place in the laws of the Government. How comes it, then, that they are in the statutes of to-day? They were not re-enacted as independent measures by Congress. No bill was ever introduced for their re-enactment. They were never approved by the President of the United States, so that it must be either by inadvertence, mistake, or fraud upon the law-making power that they are to-day in the statutes. How did this happen? By an act approved June 27, 1866, three commissioners were authorized to be appointed, whose duty it should be "to revise, simplify, arrange, and consolidate all the statutes of the United States, general and permanent in their nature, which shall be in force at the time such commissioners may make the final report of their doings."

It will be seen by this provision that these commissioners had no authority to incorporate into the body of the Revised Statutes any law that had, before their final report should be made, been repealed by Congress. On the 22d of June, 1874, an act was passed providing that the statutes of the United States general and permanent in their nature on the 1st day of December, 1873, as revised and consolidated by the commissioners, shall be designated and cited as the Revised Statutes of the United States. These Revised Statutes contain, as I have said, these sections in regard to juries. I do not believe they are constitutionally in the statutes of the United States, but some of the courts continue to treat them as in force, and hence the necessity and propriety of their repeal.

THE ELECTIVE FRANCHISE.

I now come to consider those questions which more immediately affect the great body of the people. Those questions which were strangers to the laws of this country prior to the advent of the republican party, and which, in every view of them, tend to extend the power of the Federal Government far beyond its constitutional limits, and which, in the interest of liberty and fair elections, the democracy of the country are pledged to repeal.

The first of these is section 2002 of the Revised Statutes, and is as follows:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States *or to keep the peace at the polls.*

It is proposed to repeal the words "*or to keep the peace at the polls.*" If there is any day in the year in which the people should be entirely free from all Federal interference and bayonet rule, it is on the election day, for it is then that the Government in a certain sense returns into the hands of the people, and they are indeed sovereign. They may dictate new policies and new laws by the election of such men representing such principles as they desire shall be enacted into law. So that it would be subversive of their rights as freemen for the Federal Government to interfere in any degree with their perfect freedom on that day. Our Government is based upon the idea of virtue and intelligence in the people of the country, and it is unreasonable and unjust to place it in the power of any man to interfere with their perfect freedom in expressing their wishes at the ballot-box.

Again, there is no constitutional warrant for converting the Army of the United States into police officers to keep peace at the polls; the constitutional provision being section 4 of article 4, as follows:

SEC. 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

So that it is only upon the application of the Legislature of a State, or the governor of a State when the Legislature cannot be convened, that the General Government has constitutional power to send troops into a State to protect it against domestic violence. To make mere peace officers of the Army of the United States at election places, when there is no violence, never was contemplated by the framers of the Constitution. Again, if the government of the State, under the constitution and laws thereof, is "republican in form," as required by this section, there is nothing in this regard for the General Government to do. The people of the State have complied with the requirements of the Constitution, and their local government, including laws relating to elections, is clearly, wholly, and lawfully in their hands and under their control. For the General Government to undertake to make and enforce different laws, though they be also "republican in form," is a usurpation unwarranted by the Constitution.

But when this section comes to be considered in connection with the sections relating to supervisors, marshals, and deputy marshals, as connected with elections, the injustice and unconstitutionality of the provisions will be still more apparent. These sections are as follows:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon

receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application in writing of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times or places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies have the same duties and powers as deputy-marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2031. There shall be allowed and paid to the chief supervisor for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section 2020, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. * * * And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

The Forty-fifth Congress adjourned without passing two of the great appropriation bills necessary for the support of the Government. The one for the support of the Army, the other the legislative, executive, and judicial bill. The House of Representatives was democratic; the Senate was republican. The House passed the bills, the same ones that are under consideration now, and with them the repeal and modification of the laws I have named. They went to the republican Senate and that body refused to pass them in that form, and the Forty-fifth Congress expired by limitation of law, and on the 18th of March the President convened the present extra session. I do not care to argue now who was at fault, or whether anybody shall be blamed for the failure of the Forty-fifth Congress to pass these bills. It is enough to know that the democratic House passed them and the republican Senate refused to pass them. The issue is squarely made and the parties as squarely divided, and the questions briefly stated are: Shall the jury iron-clad test oath and the statute authorizing the civil authorities of the General Government to call troops to the polls; the sections authorizing interference with the voters by Federal supervisors, marshals, overseers, spies, and paid electioneerers be repealed? The democratic party respond "Yes; the Constitution requires it; freedom of elections and liberty demand it." Let me briefly summarize these laws.

First. That two citizens may be appointed by the judge of the circuit court of the United States, to be known as supervisors of elections.

Second. These supervisors are required to attend at all times and places fixed for the registration of voters who would be entitled to vote for a Representative or Delegate in Congress; and to challenge any person offering to register, and to personally inspect and scrutinize such registry.

Third. These supervisors are also required to attend at all times and places for the holding elections of Representatives or Delegates in Congress; and to remain and personally inspect and scrutinize, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, tallies, &c., are kept.

Fourth. They are required to personally scrutinize, count, and canvass each ballot cast in their election district or voting precinct.

Fifth. They are directed, on the day of election, to take, occupy, and remain in such position, whether before or behind the ballot-boxes, as will best enable them to see each person offering to vote or register; and at the closing of the polls they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of canvassing the ballots, and there remain until the work is complete.

Sixth. Whenever an election, at which Representatives or Delegates in Congress are to be chosen, is held in any city of twenty thousand inhabitants or upward, the marshal for the district shall, on application of two citizens, appoint any number of special deputy marshals to assist the supervisors.

Seventh. The marshal, his general deputies, and special deputies are empowered to arrest and take into custody any person without process, and carry the person so arrested before a commissioner, judge, or court of the United States for examination, according to law in case of crimes against the United States.

Eighth. In addition there is the necessary machinery, powers, fees, per diem, &c., for carrying into effect those provisions.

Thus it will be readily seen that it is the voter who is interfered with by these laws as well as an additional count provided for. Now, I ask by what authority the United States can interrupt or interfere with peaceable voters on election day? Article 1, section 2, of the Constitution provides that "the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for an elector of the most numerous branch of the State Legislature." By this provision of the Constitution the several States of this Union have the original and only authority to fix and determine who shall be voters at all elections. It is true that by the fifteenth amendment of the Constitution the States are denied the power to abridge the right of citizens to vote on account of race, color, or previous condition of servitude. But the Supreme Court of the United States, in 2 Otto, 215, holds as follows:

> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

In discussing this question of the right of suffrage and what power shall control it, Mr. Hamilton, in the sixtieth number of the Federalist, says:

> This forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the time, places, and manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution, and are unalterable by the (Federal) Legislature.

Again, in the fifty-second number, in speaking of the qualifications of electors, he says:

> They are to be the same with those of the electors of the most numerous branch of State Legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the Constitution. To have left it open for the national regulation of Congress would have been improper, for the same reason and for the additional reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper, for the same reason and for the additional reason that it would have rendered too dependent on the State government that branch of the Federal Government which ought to be dependent on the people alone. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the Federal Constitution.

Again and again has the Supreme Court decided that the right to vote in the States comes from the States. In support of this I cite the case of Minor *vs.* Happersett, 21 Wallace, 178:

> The Supreme Court decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States has no voters of its own creation in the States. And in the Grant parish case it is said "the right to vote in the States comes from the States."

Also 2 Otto, page 555:

> In Minor *vs.* Happersett, 21 Wall., 178, we decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In United States *vs.* Reese *et al.*, *supra*, page 214, we hold that the fifteenth amendment has invested

the citizens of the United States with the new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, &c., is. The right to vote in the States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

And in the case of The United States against Cruikshank *et al.*, 2 Otto, 542, the court say:

The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. The power of the National Government is limited to the enforcement of this guarantee.

They further say:

We have in our political system a Government of the United States, and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights within its jurisdiction it must protect. * * * The people of the United States, resident within any State, are subject to two governments, one State and the other national, but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes, and have separate jurisdictions. * * * The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

So that the question as to who voters are, and by what authority they vote, seems so clearly and unquestionably settled by the Constitution and the decisions of the Supreme Court as to need no argument. And it cannot be denied that the laws under consideration are directed against the voter, for they seek to interfere with the voter; they undertake to arrest and restrain him on election day upon the mere suspicion that he may not be a legal voter, not under the Federal law but under the law of the State of which he is a resident.

But it is section 4 of article 1 under which it is more particularly claimed that this right and power in Congress exists. The section is as follows:

SEC. 4. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This provision of the Constitution was framed with reference to the laws of the States, and not with reference to the action of the people under them. These laws, without altering the election laws of the State, are supplemental in their nature to the State laws. It does not seem to be an attempt to make or alter, as the Constitution says, but rather an attempt to force in overseers for the States. But if the laws of the States are fair, just, and constitutional for the election of Representatives, there is the end of the matter, and Congress cannot interfere without usurpation of the rights and powers of the State. The State has exercised its constitutional duty and there is no opportunity for the exercise of this power of the General Government. There is nothing to call it into action. The primary machinery of the Constitution occupies all the ground, and the secondary, or ultimate machinery, cannot operate.

If there is no person in a State who desires to be represented in Congress and the State has no law for the election of Representatives, the enacting of a law by Congress for elections in that State could not compel the people to elect Representatives. There must be a party in the State willing to be represented. The people may decline to elect Representatives, and yet remain in the Union, subject to all other laws. There is no force in the case. Hence I maintain that this provision relates solely to the question of whether or not the people desire to be represented and whether or not the State has proper laws for elections, and upon this depends the inquiry, whether or not Congress can interfere.

Does the State and the General Government possess a power in common on the subject of regulating elections? If so they may come in conflict, and surely no one will contend that the framers of the Constitution intended any such thing as that. By this section of the Constitution it is made the duty of each State to fix the time, places, and the manner of holding elections. The State may have made regulations best suited to its tastes, perfectly constitutional and in harmony with the whole theory of our Government. The Federal Government, nevertheless, according to the claims set up here, may override and overthrow such regulations and enforce others better adapted to the desires and designs of the party which happen to have control of Congress. And these very laws now under discussion are but the offshoot of designing partisans, intended through their operations to keep in power the party that enacted them.

This power of the States to regulate elections is something more than a reserved right of the State. It is not an express grant of power to the States, but is a power which existed in the States, not only reserved by them but was expressed in the Constitution, and is mandatory in its nature.

It would be unconstitutional in a State to fail to enact proper election laws. But having complied with their constitutional duty, having enacted laws in harmony with the spirit, intent, and letter of the Constitution, is it not, I ask, a clear and palpable violation of the plain constitutional right and power of the State for Congress to override and overthrow, under its secondary and ultimate power, the lawful machinery of the State?

And this claim is all the more startling when we consider the indisputable fact that voting is purely the creation of the State, that the voter is amenable to the State only, and the fact that these laws, enacted under a constitutional clause which contemplates only the exercise of an ultimate power for the preservation of a right of the State to be represented in Congress, attacks and assails the voter and deprives him of his inestimable privilege.

No such construction of this section of the Constitution has ever been given by any respectable authority, and I emphatically deny that any such conflict of power exists. It is not complained by anybody that every State in this Union has not upon its statute-books fair and constitutional election laws, with full power to enforce them. But let us more carefully examine these statutes with relation to their constitutionality. They do not undertake to affect the time, the place, nor the manner of elections.

Hamilton, in the fifty-ninth number of the Federalist, in discussing this section of the Constitution, says:

Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

So that it is evident that even Mr. Hamilton, who ought to be recognized by the other side as authority, regarded this section of the Constitution only as a means of preserving the Government in case the States should fail to make proper provision for the election of Representatives and Senators.

Again, in the same number, he says:

It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been applicable to every probable change in the situation of the country, and it will therefore not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably organized; that it must either have been lodged wholly in the National Legislature or wholly in the State Legislatures, or primarily in the latter and ultimately in the former. The last mode has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government in the first instance to the local administrations.

Judge Paschal, in his reprinted notes on the Constitution, says:

That the manner of conducting elections as mentioned in the Constitution means by ballot or *viva voce*. Manner relates to the method or form, and is never applied to vital or substantial matter, no more than the manner of speaking is to the subject-matter and essence of the speech; the method or form of voting may be by ballot or orally; but the vital part of suffrage, the person voted for and the free and untrammeled right to exercise that franchise as a citizen of a State, cannot be controverted, subject of course to the law of necessity, when the contingency may arise for its exercise.

Story on the Constitution says:

In the first place the power may be applied by Congress to correct any negligence in a State in regard to elections as well as to prevent a dissolution of the Government by designing or refractory States, urged on by some temporary excitements. In the next place, it will operate as a check in favor of the people against the designs of a Federal Senate and their constituents to deprive the people of the State of their right to choose Representatives.

In the next place, it provides a remedy for the evil if any State, by reason of invasion or other cause, cannot have it in its power to appoint a place where the citizen can safely meet to choose Representatives.

It has been argued on the other side that if a faction controlling a State should declare that all the electors in a congressional district shall vote in one town at the extreme corner of a district of twenty counties, this Congress certainly has the right to interfere and to say there shall be a voting place provided for so many inhabitants or for so many square miles.

Now, suppose we grant the extreme and unheard of case as put. Then there would be some pretext for Congress exercising its ultimate power, for then the primary power of the State would have been improperly and unjustly exercised as against the people. But it is not pretended that any State has at any time provided such unjust legislation in regard to elections. The exercise of the ultimate power in Congress to legislate upon this subject would in that event properly arise; or when the State failed to provide for the election of Representatives to Congress, this body would then have the right to exercise its power of providing for elections, both as to the time, places, and manner. For this section of the Constitution was formed upon the theory that there would always be a party in the State willing to support the Federal Government, and, although those controlling the State Legislature might repeal all laws in relation to the election of members of Congress, Congress would have power to enable that party of the State who adhered to the Federal Government to send Representatives to Congress. But are not the Legislatures of the States a little nearer the people than Congress? Have not all the States just, fair, and constitutional laws of their own making for the preservation and purity of the ballot-box and the election of Representatives? And suppose it is as my friend from Indiana [Mr. CALKINS] says, "a concurrent jurisdiction," which I deny. Still, have not the States, legally and in harmony with the Constitution, exercised their jurisdiction as required by the Constitution first; and is it not a fair and well recognized principle of law that where there is concurrent jurisdiction the power first lawfully exercising it holds and controls it?

Again, why should it be argued that Congress, in the exercise of its power, would be more fair or just than the State Legislature? Is it not more reasonable to believe that those nearer the people, where any abuse could and would be more readily corrected by the people themselves, would more carefully and scrupulously guard their interests in free and fair elections than a more distant and cumbersome

government would? Are gentlemen on the other side afraid to trust the people? Has your brief imperial sway of power so destroyed the principles of free government and the relation of States to the General Government that you have come to think that the will of Congress is superior to the Constitution? We think it is not, and we propose to take that idea out of Congress. We intend to wipe away the gloom that has hung like a pall over this country, brought on by legislation under this false theory of yours. We intend to repeal your anti-republican and centralizing laws, and enact such statutes as will give relief to the people, and place the country on the highway of prosperity. The people are down—down under the weight of your oppressive, unjust, and class legislation. We intend, so far as in our power lies, to place them on their feet again. They see and understand the broad and underlying distinction between the principles of the two great parties of this country. In yours they see a strong centralized government permeating every highway and by-way, every village and every hamlet with an oppressive and heavy hand, limiting their liberties and impoverishing their homes; in ours they see local self-government, equal taxation, just and much-needed financial reform, as well as revenue reform, so that the burdens of the Government will fall more lightly and evenly upon them. These differences between our parties are wide and distinct. They are the very fundamental elements upon which the great parties rest, and upon them we are willing to go before the people and abide by their voice.

You have been reconstructing for years, and all your measures of reconstruction tend to centralization and despotism. We intend to restore the Union of the fathers. We intend to return to local self-government as the old landmark of safety and liberty. Your encroachments upon the rights of States to regulate in a constitutional way the elections was usurpation. Our Government in theory is republican in form, and we intend to make it so in practice. Local self-government will guard liberty and the rights of citizens far more securely and better than centralized power.

Jefferson, in his first inaugural as President of the United States, declared the principles of the Government to be—

> Equal and exact justice to all men of whatever state or persuasion, religions or political; the support of the State governments in all their rights as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor as the sheet-anchor of our peace at home and safety abroad and jealous care of the rights of elections by the people. * * * The supremacy of the civil over the military authority; economy in the public expenses that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; the encouragement of agriculture and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of public reason; freedom of religion, freedom of the press, and freedom of persons under the protection of the *habeas corpus* and trial by juries impartially selected. These principles formed the bright constellation which has gone before us and guided our steps through an age of revolution and reformation.

These are the fundamental principles of the democratic party. It is the creed by which we stand, and it is from the doctrines as taught by the fathers that we have learned to oppose all such unreasonable and unjust measures as are found embodied in the laws we seek to repeal. There are other objections to these laws than those I have named. The extraordinary expenses paid out of the common Treasury of the people is an objection worthy of some consideration. I submit a table claimed to be compiled from official sources, which shows the extraordinary uses to which this law has been applied:

Supervisors and deputy marshals employed in 1876, *with compensation.*

States and districts.	Amount paid chief supervisors.	Number of supervisors.	Amount paid supervisors.	Number of deputy marshals.	Amount paid deputy marshals.	Total amount paid.
Alabama, northern				150		
Alabama, middle				244		
Alabama, southern	$2,208 38	19	$500 00	192	$2,530 00	$5,238 38
Arkansas, eastern				785		
Arkansas, western				214		
California	1,578 99	105	5,220 00	244	4,225 00	11,023 99
Delaware				135		
Florida, northern				745		
Georgia	567 50			207	1,410 00	1,977 50
Illinois, northern		188	5,640 00	115	1,105 00	6,745 00
Louisiana	4,463 33	270	4,115 00	840	5,705 00	14,283 33
Maryland	977 55	574	2,950 00	1,222	8,085 00	12,012 55
Massachusetts	253 20	66	660 00	117	1,170 00	2,083 20
Mississippi, northern	50 50			239		50 50
Mississippi, southern				9		
Missouri, eastern	187 40	152	1,330 00	1,032	16,385 00	17,902 40
Nevada				9		
New Jersey	3,771 19	85	3,420 00	249	5,085 00	12,276 19
New York, northern	7,723 70	339	9,975 00	342	7,925 00	25,623 70
New York, eastern	12,150 52	370	11,674 00	723	11,986 00	35,810 22
New York, southern	19,383 36	1,070	32,115 00	2,500	39,785 00	91,233 36
North Carolina, eastern	591 84			166		591 84
Oregon				13		
Pennsylvania, eastern, (Philadelphia)	3,449 40	1,368	27,360 00	347	3,500 00	34,309 40
Pennsylvania, western		224	2,240 00	49	490 00	2,730 00
South Carolina	879 14			338	395 00	1,274 14
Tennessee, western	129 00			30	150 00	279 00
Texas, eastern	249 92	33	1,800 00	18	900 00	2,949 92
Virginia, eastern	551 05		1,630 00	201	1,785 00	3,966 05
Virginia, western	206 00					206 00
West Virginia				4		
Idaho				4		
New Mexico				78		
Utah				18		
Total	59,371 67	4,863	110,629 00	11,610	112,616 00	282,616 67
Amount paid United States commissioners in New York City for service under election laws						3,304 60
Total expenditures reported for 1876						285,921 27

Supervisors and deputy marshals employed in 1878, *with compensation.*

Alabama, southern	$1,551 71		$1,000 00		$1,000 00	$3,551 71
Georgia				34	170 00	170 00
Illinois, northern		224	4,480 00	224	2,240 00	6,720 00
Kentucky	116 00		870 00		870 00	1,856 00
Louisiana	1,313 00	206	3,600 00	120	4,000 00	8,913 00
Maryland	351 03	230	2,950 00	700	4,445 00	7,746 03
Michigan, eastern		52	1,300 00		2,935 00	1,435 00
Massachusetts		282	8,460 00		135 00	11,395 00
New Jersey	7,324 84	148	3,050 00	192	2,880 00	13,254 84
New York, southern (city)		1,225	30,000 00	1,350	27,000 00	57,000 00
New York, eastern	15,972 33	354	10,620 00	584	6,500 00	33,092 33
New York, northern	7,558 80	374	11,000 00	374	7,000 00	25,558 80
Ohio, southern	740 45		890 00	71	447 78	2,078 23
Pennsylvania, eastern	5,830 00	1,370	27,440 00	750	7,550 00	40,820 00
Pennsylvania, western		312	3,121 00			3,121 00
South Carolina	579 35	34	680 00		700 00	1,975 35
Virginia, eastern	585 00	70	620 00	102	570 00	1,775 00
Total	41,922 51	4,881	110,081 00	4,725	68,442 78	220,446 29
Amount paid United States commissioner for services under election laws in New York city						2,267 95
Total expenditures reported for 1878						222,714 24

Thus showing that for the years 1876 and 1878 you had in the service of the republican party over twenty-six thousand electioneerers, who were paid with the people's money, taken from the Treasury, the enormous sum of $513,635.51. No wonder you struggle to keep this force in the field, for you know that upon this fraudulent, unlawful, and villainous scheme hangs your hope of power in the future.

One other reason for the repeal of these laws, and I shall have done with the subject. It is the policy of the democratic party to keep the General Government, in the exercise of its powers, within the constitutional limitations. And this we do in the interest of the people, in the interest of liberty, in the interest of good government, in the interest of the Union, the Constitution, and their perpetuation. It is the policy of the republican party to build an empire upon the ruins of our Republic, which, by insidious and constant encroachments upon the well-defined landmarks of liberty, you seek to destroy. This must not, shall not be, and these laws must be repealed, as one necessary step in the direction of the preservation of constitutional liberty.

THE VETO POWER.

We have been threatened again and again with the veto power. Let us briefly consider this power. Hamilton, in the seventy-third number of the Federalist, uses this language:

> The primary inducement to conferring the power in question upon the Executive is to enable him to defend himself. The secondary is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.
>
> * * * * * * *
>
> A king of Great Britain, with all his train of sovereign attributes and with the influence he draws from a thousand sources, would at this day hesitate to put a negative upon the joint resolutions of the two houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle the measure disagreeable to him in its progress to the throne to avoid being reduced to the dilemma of permitting it to take effect, or to risking the disfavor of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative but in a case of propriety or extreme necessity. If a magistrate so powerful and so well fortified as a British monarch would have scruples as to the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States clothed for a short period of four years with the executive authority of a government wholly and purely republican.

Much has been said on the other side about this nation and the power of the nation. Gentlemen argue as though this were a *united state* and that all the law-making power of the land was vested in Congress; but they must remember that these are *united states*, a union of States, each State retaining all power not delegated to the United States, and not a *State*. This proposed legislation does not in any way encroach upon the powers of the President. It is not hasty, for it is the same as proposed and discussed in the Forty-fifth Congress. And the freest and fullest debate has been allowed here. It is not against public good, but, on the contrary, is for local self-government as against centralized power, and is in perfect harmony with the spirit and genius of our institution. It is constitutional. It seeks only to repeal laws of at least doubtful constitutionality and we believe wholly unconstitutional. The country is at perfect peace. Elections are transpiring quietly and fairly. There are no extraordinary circumstances, no extreme necessities, no occasion in the world for the existence of these laws, and were they offered for the first time here to-day I do not believe they would receive the support of the other side of this House.

And should they pass I am sure they ought and I have no doubt would be vetoed, with such just and satisfactory constitutional reasons as would put a quietus upon them forever. There is not in the whole history of the Government a single instance to be found where the veto power was exercised for the mere repealing of a statute.

Again, we are charged with being revolutionists, with attempting to coerce the President, and to subvert the Government. Upon what grounds gentlemen place these grave charges I am wholly at a loss to understand. They cry "thief" when there is no thief. They cry "treason" when there is no treason, and "revolution" when there is no revolution. They yell "confederates" when there are no confederates, for all on this floor are equals under the laws and Constitution. They try to alarm the country by the most extraordinary and unfounded charges, by magnifying mole-hills into mountains, by fleeing when no man pursueth, and when at last defeated and overthrown, quietly and gently they subside; for all is well, the people are free, and the Constitution preserved.

But while on this subject of coercing the President let me quote from the speech of the gentleman from Illinois, [Mr. BARBER.] He said:

> But this I do know.
>
> Mark you, he says he knows it.
>
> I do know, if the Chief Magistrate of this country, in the event of this bill passing both Houses of Congress, should approve and sign it, so that it should become a law, he [the President] will incur the lasting execration of an overwhelming majority of the people of the North.

The party lash is raised over the President by his own friends, and yet they charge us with coercing him! Where did the gentleman get this information? Who authorized him to speak so emphatically for the people of the North? Did he draw his inspiration from the splendid victory in the election in Chicago, which made that sterling democrat, Carter Harrison, the mayor of that city; or is it the bombast of fury finding vent from the expiring lion? In any event, I feel confident the President is not trembling under such idle, empty, and unfounded threatenings as that; and I further feel confident that when these bills shall have passed both branches of Congress, and have been sent to the President for his signature, he will not veto them, but, in justice to the country and in obedience to the voice of the people, will approve them.

Mr. PRICE obtained the floor.

Mr. ATKINS. If the gentleman from Iowa will yield I will move that the committee rise.

Mr. PRICE. Certainly.

Mr. ATKINS. Then I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

PAY OF COMMITTEE CLERKS.

Mr. HENRY. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the committees of this House designated on the 15th instant as entitled to clerks under the legislative, executive, and judicial appropriation bill making appropriations for the year ending June 30, 1880, be, and they are hereby, authorized to employ clerks during the session within the present fiscal year, and any excess of clerks hereby authorized over the number provided for by existing law shall, under the direction of the Committee of Accounts, be paid out of the contingent fund of the House.

Mr. CONGER. Does that come from the Committee of Accounts?

The SPEAKER. The Chair understands that it does.

Mr. HENRY. The resolution does not come from the Committee of Accounts. The only object of it is to provide for the pay of committee clerks. Under the existing appropriation bill there are only twenty-one clerks provided for; and some question has arisen whether the fund that is provided is applicable to the payment of the clerks under the assignment made by the Committee of Accounts and approved by the House.

Mr. CONGER. The resolution had better go to the Committee of Accounts.

The SPEAKER. The Chair supposed the resolution was from the Committee of Accounts, the gentleman from Maryland who offered it being the chairman of that committee.

Mr. CONGER. The Committee of Accounts desires to have supervision of the expenditure of the House accounts, and I think it proper, whether the resolution comes from its chairman or anybody else, that it should have the sanction of that committee.

The SPEAKER. The Chair suggests to the gentleman from Maryland that the Committee of Accounts have leave to report at any time.

Mr. CONGER. Let it be referred to them, and they can report it to-morrow.

Mr. HENRY. Very well.

The resolution was referred to the Committee of Accounts.

ORDER OF BUSINESS.

Mr. COFFROTH. I suggest that the House take a recess until to-morrow at eleven o'clock.

The SPEAKER. The Chair asks leave to submit some requests to the House.

There was no objection.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MASON, indefinitely, on account of sickness; and

To Mr. LADD, for ten days, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. BREWER, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Joseph W. Seeley, Frederick Carlisle, John Barton, William A. Morse, Wellington V. Heusted, and Frederick C. Dunker; there being no adverse report thereon.

On motion of Mr. LORING, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Annie D. Rundlett; there being no adverse report thereon.

REFRIGERATING SHIPS FOR DISINFECTING PURPOSES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Navy, suggesting an amendment to the bill authorizing the construction of refrigerating ships for the disinfection of vessels and cargoes; which was referred to the Committee on Epidemic Diseases.

The Clerk read the letter, as follows:

NAVY DEPARTMENT,
Washington, April 8, 1879.

SIR: In reference to Senate bill No 55, which has been brought before the House of Representatives, authorizing the Secretary of the Treasury to contract for the construction of a refrigerating ship for the disinfection of vessels and cargoes, I have the honor to suggest that it be amended, in lines 10 and 11, by striking out the words "an officer of the Bureau of Steam Engineering of the Navy," and inserting in lieu thereof the words "a naval constructor and a chief engineer of the Navy in their respective departments," as it seems to me that both a constructor and an engineer should be detailed to superintend the construction of such a vessel.

I have the honor to be, sir, very respectfully, your obedient servant,

R. W. THOMPSON,
Secretary of the Navy.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

MISSISSIPPI JETTY WORKS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from Captain James B. Eads in reference to the progress of the Mississippi jetty works.

The Clerk read the letter, as follows:

WAR DEPARTMENT,
Washington City, April 18, 1879.

SIR: I have the honor to transmit herewith for the information of Congress a communication from Captain James B. Eads, dated the 8th instant, and a report from the Acting Chief of Engineers thereon, dated 15th instant, in reference to the progress of the Mississippi River jetty works and in regard to the propriety of forthwith securing congressional action to insure prompt payment of any and all lawful demands on account of said works.

Although a question is pending in the Treasury Department as to whether any money is available for further payment to Captain Eads of such demands, and an opinion will probably be rendered by the Attorney-General at an early date on the questions raised by the Acting Chief of Engineers, yet I deem it proper to invite the attention of Congress to this matter without further delay.

In order to remove all doubts concerning funds available to meet all proper obligations in this connection, I recommend that Congress appropriate the requisite amount of money to pay said Eads, or his legal representatives; otherwise, under the provisions of the act of March 3, 1875, if Congress shall have failed to appropriate the money, Captain Eads may claim payment in 5 per cent. bonds, and I submit herewith the draught of a bill, which, if passed, will doubtless accomplish the objects in view.

Very respectfully,

GEO. W. McCRARY,
Secretary of War.

To the SPEAKER *of the House of Representatives.*

An act making appropriations for constructing jetties and other works at South Pass Mississippi River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the requisite amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay all money that may become due and owing to James B. Eads and his associates, or that may become payable to said Eads, his assigns or legal representatives, in accordance with the provisions of the act approved March 3, 1875, and the acts amendatory thereof, and to continue the monthly payments in the manner and to the full extent of the amount specified in the act approved June 19, 1878, chapter 313, Statutes at Large.

The SPEAKER. The letter will be referred to the Committee on Appropriations if there be no objection.

Mr. REAGAN. I think it should go to the Committee on Commerce.

Mr. CONGER. The letter refers entirely to the subject of the bonds authorized by a former law of Congress.

Mr. REAGAN. The subject I know was referred to the Committee on Commerce, and the act of 1878 and 1879 was reported from that committee.

Mr. CONGER. This relates to the appropriation of money under existing law.

Mr. ATKINS. The subject has been before the Committee on Appropriations once or twice. It is simply a question whether the appropriation shall be made or whether failing to make the appropriation the payment shall be made to Captain Eads on his bond.

Mr. CONGER. It has no connection with the work or its superintendence.

Mr. REAGAN. The Committee on Appropriations would have the privilege of reporting at any time, but the Committee on Commerce has not. But the act of 1875 and all the acts relating to the subject have been acted on by the Committee on Commerce.

The SPEAKER. The Chair thinks that if the communication be in relation to a change of the original act, then it properly belongs to the Committee on Commerce, but the Chair does not so understand.

The communication was referred to the Committee on Appropriations.

EVENING SESSIONS.

Mr. BROWNE. Before a motion is made to adjourn I desire to make a suggestion to the House. It has been determined that the debate upon the pending bill shall close next Friday. There are many gentlemen who desire to be heard, and it will be impossible for them to have a hearing unless the House consents to hold night sessions next week on the nights intervening between this and the day fixed for the close of the discussion. I hope, therefore, that the House will consent that we may have sessions on each night of next week, to give those an opportunity to talk who are willing to come here and talk, even to empty benches.

Unfortunately I have not had an opportunity to say anything upon this subject, and may not have one unless the House kindly consents that I may come here some time next week at night. I make the motion with the distinct understanding that no business will be transacted at these evening sessions and that they shall be for debate only.

The SPEAKER. On what evenings does the gentleman propose that these sessions shall be had?

Mr. BROWNE. I would suggest each evening, on Monday, Tuesday, Wednesday, and Thursday. I speak at the instance of quite a number of gentlemen who will have no opportunity of being heard unless they have the indulgence of the House, and certainly those old members who particularly have opportunity to obtain the floor will give this indulgence to modest gentlemen who have not had the pleasure of serving their constituencies heretofore.

Mr. PRICE. Where are they?

Mr. NEW. I desire to concur in the suggestion and request made by my colleague. I have not been able to get my name on any list and I will not get it upon the list on the pending bill. I could not get it on the list on the bill which has just passed the House, and unless some such opportunity is given I shall have no opportunity to be heard.

I will say to those who do not want to come that they can have the opportunity to retire to their boarding-houses.

The SPEAKER. The gentleman from Indiana [Mr. BROWNE] asks that an order be passed that the House on Monday, Tuesday, Wednesday, and Thursday may take a recess from half past four o'clock p. m. to half past seven o'clock p. m., the evening sessions being for debate only and no business except debate be transacted at the evening sessions.

There was no objection, and Mr. BROWNE's motion was agreed to.

Mr. BROWNE. Would that cut off a motion to adjourn at half past four o'clock if the motion were made?

The SPEAKER. The gentleman had better leave that open; it is hardly likely that this order will be interfered with, but in the event that it is hardly necessary to have a session the House might desire to adjourn. The gentleman had better leave it within the power of the House to do so.

Mr. WHITE. How will it be in respect to the list that has been made out of speakers on these evenings?

The SPEAKER. The Chair has nothing to do with the list; that belongs to the chairman of the Committee of the Whole.

Mr. WHITE. I understand that; will the order of debate at night sessions be followed according to the list?

The SPEAKER. The Chair is unable to answer any questions touching a matter of business in the Committee of the Whole.

Mr. BROWNE. I am authorized to say that the list will not be followed.

Mr. PRICE. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-eight minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BINGHAM: The petition of Louis Brauer, concerning contagious diseases, in particular yellow fever—its origin, progress, nature, and action—together with suggestions, remedies, and improvements in sanitoriums and hospital buildings—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. BRAGG: A draught of a joint resolution to require the assembling of a court of inquiry in the case of Thomas Worthington—to the Committee on Military Affairs.

By Mr. CALDWELL: The petitions of Saran Landers and of P. S. Rush, (accompanied by draughts of bills,) for pensions—to the Committee on Invalid Pensions.

Also, the petition of George D. Blakey, late collector of internal revenue for the third district of Kentucky, (accompanied by draught of bill,) to be relieved from accounting for money of the United States stolen from his deputies—to the Committee of Claims.

Also, the petition of Samuel Martin, (accompanied by draught of bill,) for relief from loss of money while acting as deputy internal-revenue collector third district of Kentucky—to the same committee.

Also, the petition of J. P. Zimmerman and H. P. Snow, (accompanied by draught of bill,) for relief from a forfeited mail-route bond—to the Committee on the Post-Office and Post-Roads.

Also, papers relating to the war claim of R. D. Solmonds and others, (accompanied by draught of bill)—to the Committee on War Claims.

By Mr. COFFROTH: The petition of William R. Wimer, for a pension—to the Committee on Invalid Pensions.

By Mr. DIBRELL: Papers relating to the pension claim of William Bain—to the Committee on Revolutionary Pensions.

By Mr. ELLIS: Papers relating to the war claim of George F. Brott, assignee—to the Committee on War Claims.

Also, the petition of Eugene O. Sullivan, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. FELTON: The petition of citizens of Georgia, for a post-route from Dirt Town to Chattoogaville, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. HASKELL: The petition of citizens of the District of Columbia, (accompanied by draught of bill,) for the passage of a bill to extend the jurisdiction of justices of the peace in said District and to regulate proceedings before them—to the Committee for the District of Columbia.

By Mr. HATCH: Papers relating to the pension claim of William C. Ebert—to the Committee on Invalid Pensions.

By Mr. HUNTON: Papers relating to the pension claim of George Foster—to the same committee.

Also, papers relating to the claim of C. W. C. Dunnington, for compensation for superintending the payment of gas bills, the consumption of gas, and the keeping in repair the public lamp-burners, for the Capitol and public buildings—to the Committee of Claims.

Also, the petition of Albert V. Conway, trustee, (accompanied by draught of bill,) that the Secretary of the Treasury issue to him bonds for certain registered United States bonds redeemed or assigned by the Government upon forged assignments—to the Committee of Ways and Means.

Also, the petition of James H. North, of Culpeper County, Virginia, for the removal of his political disabilities—to the Committee on the Judiciary.

By Mr. KETCHAM: The petition of Charles Spencer, a United States soldier, for pay for clothing lost by fire in the camp—to the Committee on Military Affairs.

By Mr. LADD: Papers relating to the petition of Harlan P. Eggleston for a readjustment of his accounts with the Government—to the Committee of Claims.

Also, papers relating to the claim of Dr. S. S. M. Doak for services as an assistant surgeon United States Army—to the same committee.

Also, papers relating to the claim of George Conway for compensation for property lost while in the service of the Government—to the same committee.

By Mr. LORING: Papers relating to the claim of Francis Low for money expended in the service of the United States—to the Committee on War Claims.

Also, papers relating to the petition of the owners of the steamer City of Fredricton to authorize the issue of an American register for said steamer—to the Committee on Commerce.

By Mr. MARTIN, of North Carolina: The petitions of Edward Wood, of John A. Overman, and of Quinton Mitchell, (accompanied by draughts of bills,) for pensions—to the Committee on Invalid Pensions.

Also, the petition of Mrs. A. P. Bell, postmaster Bertie, North Carolina, (accompanied by draught of bill,) that she be paid the amount of money belonging to the Government, and of post-office money-orders, destroyed by fire—to the Committee on the Post-Office and Post-Roads.

By Mr. McMAHON: The petition of George W. Parris, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. MURCH: The petition of Charles Douglass, for a pension—to the same committee.

Also, the petition of citizens of Hartland, Maine, in favor of making all moneys issued by the Government of the United States a full legal tender—to the Committee on Banking and Currency.

Also, the petition of citizens of Athens, Maine, of similar import—to the same committee.

By Mr. RICE: The petition of Henry Waterman, for an extension of a patent for improvements in tempering wire and steel—to the Committee on Patents.

By Mr. RYON, of Pennsylvania: The petition of J. W. Ryon, (accompanied by draught of bill,) that a pension be granted Edward H. Lieb—to the Committee on Invalid Pensions.

By Mr. SMITH, of Pennsylvania: Papers relating to the petition of Jacob and Elizabeth Sener, to have certain taxes and penalties refunded, alleged to have been collected from them improperly by United States revenue officers—to the Committee of Claims.

By Mr. STEPHENS: The petition of Alexander H. Stephens and others, that Congress pass an act to put the coinage of gold and silver upon the same footing—to the Committee on Coinage, Weights, and Measures.

Also, the petition of John N. Reed, George T. Rogers, and others, employés of the House of Representatives, Forty-fifth Congress, for compensation for services rendered—to the Committee of Accounts.

By Mr. VANCE: The petition of William Wheeler Hubbell, (accompanied by draught of bill,) for pay for the use hereafter by the Government of the vibrating and secured breech-block invention of fire-arms, and the inclosed center-primed cartridges—to the Committee on Patents.

Also, the petition of William Wheeler Hubbell, (accompanied by draught of bill,) relating to a patent for fire-arms—to the same committee.

By Mr. WADDILL: Resolution of the Legislature of Missouri, relating to the government of the Indian Territory—to the Committee on Indian Affairs.

By Mr. WHITTHORNE: Papers relating to the war claim of James Henderson—to the Committee on War Claims.

Also, the petition of John M. Sanford, for an increase of pension—to the Committee on Invalid Pensions.

Also, the petition of W. G. Adkisson, for pay for a horse lost in the Mexican war—to the Committee of Claims.

Also, the petition of citizens of Tennessee, for a post-route from Tona to Linden, Tennessee—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Alabama: Papers relating to the revolutionary war claim of the legal representatives of Francis Ware—to the Committee on Revolutionary Pensions.

By Mr. WILLIS: The petition of John B. Davis, late mail contractor on route No. 7605, in Arkansas, for additional compensation for carrying United States mails—to the Committee of Claims.

By Mr. YOUNG, of Tennessee: The petition of Mary and James Boro, for pay for rent and damages to property occupied by the United States Army—to the Committee on War Claims.

By Mr. YOUNG, of Ohio: The petition of Thomas L. Young, (accompanied by draught of bill,) for the retirement of Brevet Major-General William H. French, colonel Fourth Artillery, United States Army, late major-general of volunteers, with the rank and pay of a brigadier-general—to the Committee on Military Affairs.

Also, the petition of Thomas L. Young, (accompanied by a draught of bill,) for the relief of William G. Halpine on account of loss of horse and baggage while serving in the United States Army in 1862 and 1863—to the same committee.

Also, the petition of Thomas L. Young, (accompanied by draught of bill,) that the Enterprise Fire and Marine Company of Cincinnati, Ohio, be paid the amount of tax overpaid by said company on the 25th of March, 1867, to the collector of internal revenue for the first district of Ohio—to the Committee of Ways and Means.

Also, the petition of Thomas L. Young, (accompanied by draught of bill,) that a pension be granted Valentine Rapp—to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 19, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

JOURNAL—PETITIONS.

The Journal of yesterday was read, closing with the list of petitions introduced and the references made of them.

Mr. GARFIELD. I wish to call the attention of the Chair and of the House to the somewhat novel feature connected with the reading of the Journal this morning. I believe we have never before had read at the Clerk's desk, as a part of the Journal, the list of petitions presented through the petition-box and the references made of them. I hope it will not pass into a precedent, for the reason that sometimes the reading of the petitions would consume perhaps an entire hour. If it becomes a part of the rule, or of the practice, that the list of petitions is to be read as a portion of the Journal, it may very seriously cripple our legislative work, because without unanimous consent the reading of no portion of the Journal can be omitted. I do not know but what if the claim should be insisted upon one might demand that the body of the petition be read.

Under the rules and our practice the Speaker is required to examine and correct the Journal before it is read. He is required to examine by themselves the petitions which have been presented. This would indicate that the examination of petitions is a different thing from the examination of the Journal. The duties enjoined upon the Speaker by the rules seem to be divided into two separate parts; the one, the examination of the petitions as placed in the box for the purpose of calling the attention of the House, it may be, to any that may have been improperly referred; and the other, an examination of the Journal of the proceedings of the House. It occurs to me that that must necessarily mean that they are two separate things; that petitions are not properly included in the Journal, or else the duties of the Speaker would not be divided in that way.

I raise this point at this time, not because I have personally any objection to the reading of what has been read, but because, if it shall pass into a precedent, I think we will find ourselves greatly embarrassed. Suppose that a number of members here desire to delay legislation, they could file an unusual number of petitions, which would have to be journalized, and then the next day the list would have to be read, unless there was unanimous consent to omit the reading.

I therefore make this suggestion and desire to inquire of the Chair whether he has had the list of petitions read as a part of the Journal for some special purpose, or is it designed as the introduction of a new method of keeping the Journal?

The SPEAKER. The Chair since Monday last has examined the Journal each day so far as related to the petitions put into the petition-box, which was never the practice before that time. Since the Chair adopted this plan of examination the statement has been made here in the House by members that the House had no opportunity of knowing what reference had been made of petitions and no opportunity to correct any improper reference that might have been made of the petitions and memorials placed in the petition-box.

The Chair therefore thought that during the period of the controversy as to the introduction of bills the better plan in order to save every possible objection was to cause the list of petitions and memorials with their references to be read so that the House as well as the Chair might have an opportunity of judging as to the propriety of the reference.

During the present week the Chair has caused several changes to be made in the reference of petitions and memorials accompanied by bills. The effect has been to bring about controversies between members and the Chair as to the propriety of the change of reference, the Chair assuming that the reference should be to one committee, while the member thought that perhaps it should be to another committee. In all cases of a difference of opinion like that the Chair would prefer that the House should determine. It is for that reason that the Chair has caused the Journal to be read in the manner it has been read this morning. The rule also states that petitions put into the box shall be entered upon the Journal.

Mr. GARFIELD. The Chair will remember that in the Digest of the Rules and Practice of the House it is stated, on page 234:

Since the rule authorizing the presentation of petitions in the House has been rescinded, that portion of the Journal which contains the record of petitions handed to the Clerk is never read, but is published.

The SPEAKER. That statement is made in reference to a different condition of things than seems to the Chair to exist at this time.

Mr. GARFIELD. If the Chair will allow me——

The SPEAKER. Certainly.

Mr. GARFIELD. I will submit this motion, that the question of having read as a part of the Journal by the Clerk the list of petitions presented and referred through the petition-box be referred to the Committee on Rules for report; and that in the mean time the reading of such list be not considered obligatory upon the Speaker or the Clerk, or as required by the rule. My motion is that this subject, without prejudice to the merits or the result as to how it shall come out, be referred to the Committee on Rules.

The SPEAKER. The gentleman will see that when these petitions are read as part of the Journal and prior to the approval of the Journal, the opportunity is presented to any member, if he wishes, to raise the question whether memorials and petitions accompanied by bills are properly referred. The complaint was made in the House the other day that the House never had an opportunity to review the references of these bills so referred. The Chair intended, and only intended, that such a criticism should no longer be made.

Mr. GARFIELD. I think that matter could be corrected with a great deal less trouble to the House by allowing members to raise the question of reference when the memorials appear in print in the RECORD, as they usually do every morning. We have now on our desks, and we ordinarily have every morning, a printed statement in the RECORD of the references which have been made. We could adopt a rule that if during the day when the memorials appear in print in the RECORD any gentleman chooses to raise the question of reference he can do so.

The SPEAKER. That would be a remedy; but that has never been understood to be the privilege of a member.

Mr. GARFIELD. Well, I think it would be far better for the business of the House to adopt such a rule than to consume time by the reading of these petitions or memorials every morning as a part of the Journal. If there be no objection, I hope my motion to refer this subject to the Committee on Rules will be adopted.

Mr. FRYE. I desire to make a parliamentary inquiry. A petition, under the rule, is deposited in the box, and the reference desired is indicated upon it by the party depositing the petition. Now, when does that reference actually take place?

The SPEAKER. It should take place the next morning. The petitions are distributed by the petition clerk to the committees to which the references have been made. That has been done heretofore on the morning following the presentation of the petition; but it has not been done since Tuesday last; for the Chair has retained quite a number of these papers with a view of consulting members as to such reference when he thought an improper reference was indorsed thereon. Thus the distribution of them by the petition clerk to the several committees has been delayed.

Mr. FRYE. Now, suppose when the Journal is read I find that a certain petition has been referred to a certain committee. It has not been referred by my vote; I have not voted either in the majority or in the minority upon the question. Is it in my power then to make a motion to reconsider that reference?

The SPEAKER. In point of fact the petition is not technically referred until the Journal is approved; and that is the reason the Chair proposes to give to every member the opportunity to test the sense of the House upon the question whether any bill referred in this way has been improperly referred.

Mr. FRYE. Then I desire to call the attention of the Speaker to this question: how shall the House, or any member, have knowledge of the proper reference? For instance, I find among the petitions as printed in to-day's RECORD the following:

By Mr. KETCHAM: The petition of Charles Spencer, a United States soldier, for pay for clothing lost by fire in the camp—to the Committee on Military Affairs.

Now, how does the House know whether this was a loss caused by "fire in the camp" during the war, and is thus a war claim, which, under the rules, must be referred to the Committee on War-Claims, or whether it is a claim arising long since the war, and consequently not a war claim.

The SPEAKER. The gentleman can find that out when the Journal is read by asking the member who presented the petition its substance, if doubt exists. This is the object of the Chair: that opportunity shall be given to any member to find out the reference and test the question whether a bill has been properly referred, bills not having been heretofore referred in this way.

Mr. FRYE. Then I desire to call the Speaker's attention to two or three of these petitions. Here, for instance, are papers presented by my colleague [Mr. LADD] "relating to the claim of Dr. S. S. M. Doak for services as an assistant surgeon in the United States Army," which are referred to the Committee of Claims. Now, if this is a war claim, it certainly should go to the Committee on War Claims. Then here is the next one:

Papers relating to the claim of George Conway, for compensation for property lost while in the service of the Government.

That sounds like a war claim, but it is referred to the Committee of Claims. Then here is a petition presented by the gentleman from North Carolina, [Mr. MARTIN:]

The petition of Mrs. A. P. Bell, postmaster Bertie, North Carolina, (accompanied by draught of a bill,) that she be paid the amount of money belonging to the Government, and of post-office money orders, destroyed by fire—to the Committee on the Post-Office and Post-Roads.

Now it has been the universal custom in this House to refer petitions and bills of this description to the Committee of Claims.

Then I find that the gentleman from Tennessee [Mr. WHITTHORNE] presented the "petition of W. G. Adkisson, for pay for a horse lost in the Mexican war," which was referred to the Committee of Claims. Clearly this should have gone to the Committee on War Claims. Then there is a petition presented by the gentleman from Ohio, [Mr. YOUNG:]

The petition of Thomas L. Young, (accompanied by a draught of bill,) for the relief of William G. Halpine on account of loss of horse and baggage while serving in the United States Army in 1862 and 1863.

This is referred to the Committee on Military Affairs, though it is clearly a war claim, and should have been referred to the Committee on War Claims.

The SPEAKER. The advantage of correcting at this stage of the proceedings any improper references is that it saves the committees to which papers are improperly referred the necessity of coming back into the House and asking to be relieved from the consideration of such papers and that they be referred to some other committee. This during the course of the session is being constantly done.

Mr. FRYE. But, Mr. Speaker, after the rule gives the supervision of these petitions to the Speaker, is it necessary for members to go over this list and pick out, as I have done, petition after petition, and then make a motion for reconsideration, or something of that kind, in order that the reference may be changed and the papers referred to the proper committees?

The SPEAKER. If the Journal when read is not correct it ought to be corrected, and if a bill is improperly referred in the Journal that reference should be changed before the Journal is approved.

Mr. GARFIELD. If the Chair will allow me, it is not a question of the correctness of the Journal, because the Journal does state correctly what reference has been made. I could not rise and say the Journal was not correct. In all the cases referred to by the gentleman from Maine the Journal is correct, for it tells what has been done. The objection is to the references themselves.

The SPEAKER. The Chair has fulfilled his duty under the rule.

Mr. GARFIELD. It occurs to me there are two or three ways in which we can correct it. It has just occurred to me we might have a committee on reference of petitions, to which all these papers should be referred, to order, on their responsibility as a committee, the proper references, and thus save the Speaker from the laborious and somewhat difficult duty now imposed upon him. That could be done. If the practice of having all these petitions go upon the Journal should prevail, then I have undoubtedly the right to call for their reading as a part of the Journal.

The SPEAKER. The Chair did this only to meet the objection raised upon the floor that the House had no opportunity to test the question as to the reference of these petitions.

Mr. GARFIELD. I can understand the Chair's motive, and he ought to be protected. The new phase which matters have taken has imposed upon the Chair a duty alike burdensome and difficult. What I would suggest is that the whole subject be referred to the Committee on Rules to devise some proper method of avoiding the whole trouble which has come upon us in this new mode of procedure. I hope my motion will prevail.

The SPEAKER. The Chair thinks it would take two hours each morning of the time of the Speaker to read and make the proper reference of these petitions. In the judgment of the Chair this duty should be performed by the Clerk of the House.

Mr. GARFIELD. I think that is asking too much of a person who is not a member of this body.

The SPEAKER. But the Clerk has the records as to past references in kindred cases and what references like petitions have taken.

Mr. GARFIELD. That is the reason I wish the whole subject referred to the Committee on Rules.

Mr. FRYE. I wish to ask the Speaker another question. This has grown up from the fact that on last Monday opportunity was not afforded to gentlemen to present bills in the ordinary way for reference to appropriate committees, so that when the bills were before the House reference could be intelligently made. Now, suppose the Speaker should find on next Monday, as he is very likely to do, there is no further objection to gentlemen on the other side of the House putting in any bill, no matter how absurd and wicked, and having it referred to a committee—suppose there is no further opposition to that being done, will the Speaker then feel under the necessity of requiring the petitions to be journalized during the remaining portion of this Congress?

The SPEAKER. The Chair will be guided by the wish of the House in every respect. The contingency mentioned by the gentleman from Maine as likely to occur will of course lessen the duty of the Chair.

Mr. STEPHENS. Let the whole subject go to the Committee on Rules.

The SPEAKER. Perhaps the suggestion of the gentleman from Ohio is the proper one.

Mr. CONGER. I think the entire trouble would be avoided if the Committee on Rules should report a rule forbidding the presentation of petitions by placing them in the petition-box. That would be a simple and direct way of avoiding what otherwise, if this practice should continue, will take up much of the time of the House every morning.

The SPEAKER. And the Committee on Rules might provide a time which could not be interfered with when each and every member might have the unquestioned right to present bills and petitions for reference.

Mr. CONGER. All that could be taken into consideration by the committee, and of course proper representations would be made by those interested in the subject.

Mr. MILLS. I desire to have referred at the same time to the Committee on Rules the resolution offered by me the other morning, to which no objection was made, providing that resolutions calling for information from the several Departments shall be provided for under the rules, so that they may be offered and disposed of without delay.

Mr. GARFIELD. I have no objection to that going to the Committee on Rules.

The SPEAKER. The Chair hears no objection, and the reference will be made to the Committee on Rules as suggested.

The Journal was then approved.

LEAVE OF ABSENCE.

On motion of Mr. HAYES, by unanimous consent, Mr. THOMAS was granted leave of absence for this day on account of sickness.

SUBSIDIARY SILVER COIN.

The SPEAKER. The morning hour begins at twenty-six minutes to one o'clock.

Mr. GARFIELD. I call up the unfinished business of the morning hour.

The SPEAKER. The unfinished business in the morning hour is the bill (H. R. No. 4) to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $10; on which the gentleman from Ohio on the right [Mr. WARNER] is entitled to the floor. After the disposition of this business, the business alluded to by the gentleman from Ohio on the left [Mr. GARFIELD] will come up.

Mr. WARNER. I yield to the gentleman from Ohio to offer his resolution if he desires.

Mr. GARFIELD. If the gentleman yields, I will call up the resolution in reference to the distribution of documents.

Mr. WARNER. With the understanding that it is not to consume any time.

Mr. STEPHENS. I only consent if it does not come out of the morning hour. I want to get through with the pending business.

Mr. GARFIELD. It would probably have to come out of the morning hour.

Mr. STEPHENS. Then waive the consideration of your resolution till we get through with this bill.

Mr. GARFIELD. Very well.

Mr. WARNER. I am directed by the Committee on Coinage, Weights, and Measures to offer an amendment to section 3, which I ask the gentleman from Iowa [Mr. WEAVER] to accept, to strike out all after the word "payment" and substitute "of all dues public and private."

Mr. GARFIELD. We have not got down to that yet. We are now on the first section.

Mr. WARNER. Let the amendment come in in its order, then. Section 3529 of the Revised Statutes provides that coins of nickel, bronze, and copper may be redeemed by the Treasurer of the United States when presented in sums of not less than $20. Section 3527 of the Revised Statutes provides that fractional silver coins, or silver coins less than $1, other than the trade-dollars, may be paid out of the Treasury to any extent. That, however, has been modified by subsequent acts. Under the act of 1876, section 3, silver coins of smaller denominations than $1 may be paid out from the Treasury in exchange for legal-tender money without limit, up to fifty millions; but there is no provision whereby subsidiary silver coins—using the word "subsidiary" to mean silver coins of less denominations than $1—can be exchanged at the option of the holder for full tender money.

This was evidently an omission in the law providing for fractional currency. The object of this bill is simply to make our currency more homogeneous, to unify it, by providing that these coins of less denominations than $1, when they accumulate in the course of retail trade at any center, may be exchanged at the Treasury or any subtreasury or depository for full legal-tender money. The bill also provides that the legal-tender limit of our subsidiary silver shall be changed from $5 to $10. In England, fractional coins are legal tender for £2 or $10. So throughout the States composing the Latin union, all divisional coins, as they are there called, are legal tender for fifty francs, or about $10, the same as is proposed in this bill for our subsidiary silver coins.

At the limit at which these coins are a legal tender, Mr. Speaker, it is proposed to make them exchangeable for lawful money, and thus to unify our whole currency. I submit that that is as it should be. It practically gives to all our subsidiary coins the effect of full-tender money; and I think gentlemen on the other side can hardly take exceptions to a provision that would thus unify and make homogeneous our currency and enable those who are compelled to take these coins as legal tender in retail trade, when they gather in large quantities, to turn them over to the Treasury, as the common reservoir whence they may be redistributed to other parts of the country where needed.

Mr. STEPHENS. I think the modification suggested by the gentleman from Ohio [Mr. WARNER] accomplishes the original object of the Committee on Coinage, Weights, and Measures quite as well as if the House should adopt the language of the clause as it now stands. I want a vote on this bill speedily, and I intend to ask the previous question. I have stated that amendments may be offered to each section, and that they may be offered by general consent after the previous question has been ordered by the House.

Now, sir, upon the subject of currency and our silver coins generally, I have a few remarks to make. I wish that I had more than five minutes to make them in. The general opinion of the House seems to be that the subsidiary coin is nothing but fractional silver coins for small change. The truth is the fractional or subsidiary coins, so called, is a debased currency. It is true the term "subsidiary" did not get into the law, but that is the name by which this kind of coins is known. The term comes from the word "subside," to sink, to lower, to degrade, to debase. Our half dollars and quarter dollars are not only fractional, but debased coins.

Our country to-day presents the strange spectacle of having three separate, distinct, silver coins, no two of them of the same value: the trade-dollar of 420 grains of standard silver; the standard silver dollar of 412½ grains of like standard; and the fractional coins, consisting of halves, quarters, and dimes, are only 385.80 grains of standard silver. Two of our silver halves or four of the quarters or ten of the dimes are 26.70 grains short. They are all, therefore, debased coins. That, sir, is all wrong. It is not right; it is not just. Its evil falls most heavily upon labor, upon the toiling poor. The loss on every one of these fractional silver coins is over 6 per cent.

These great evils I do not propose now to touch. I want the House to pass this bill as the first step of reform, and then proceed afterward to other measures. There is a demand for the passage of this bill all over the country. Let us pass it and let us hereafter take up these other and graver matters. I will not at this time pursue the discussion further.

Mr. MILLS. I hope the gentleman from Georgia will not move the previous question until I have an opportunity of offering an amendment.

Mr. STEPHENS. The understanding was that after the previous question was ordered amendments may be offered, submitted, and voted on.

Mr. MILLS. I will state to the gentleman from Georgia that I desire to submit a substitute for the bill, and I would like to be heard on it for five minutes.

The SPEAKER. The Chair understands the agreement to be, that the bill shall be considered by sections under the five-minute rule, and that it shall be open to amendment.

Now, if the gentleman from Georgia [Mr. STEPHENS] desires to demand the previous question and test the sense of the House thereon, it would be better that the various amendments to the several sections should be submitted now, rather than after the previous question has been seconded.

Mr. STEPHENS. Let them be submitted now.

Mr. MILLS. I offer what I send to the Clerk's desk as a substitute for the entire bill.

The Clerk read the substitute, as follows:

Strike out all after the enacting clause and insert:

SEC. 1. That of the silver coins, the one dollar shall be of the weight of 412½ grains; the half dollar of the weight of 206¼ grains; the quarter dollar of the weight of 103⅛ grains; the dime or tenth part of a dollar of a weight of 41¼ grains; the half dime or twentieth part of a dollar of a weight of 20⅝ grains; and that dollars, half dollars, quarter dollars, dimes, and half dimes shall be a legal tender of payment, according to their nominal value, for any sum whatever.

SEC. 2. That the holder of any of the silver coins of the United States that are now or may hereafter be coined may, on presentation of the same in sums of $10, or any multiple thereof, at the office of the Treasurer or any assistant treasurer of the United States, receive therefor United States legal-tender money.

SEC. 3. That the holder of any of the 420-grain dollars of the United States, or of any Mexican dollars containing more than 417 grains of standard silver and more than 377 grains of pure silver, may, on presentation of the same in any sum not less than $10 at the office of the Treasurer or any assistant treasurer of the United States, receive therefor United States legal-tender money.

SEC. 4. That any holder of silver bullion or other foreign coin than that hereinbefore mentioned, in any quantity, shall receive for each 371¼ grains of fine silver $1 of United States legal-tender money.

SEC. 5. That the Secretary of the Treasury is hereby directed to have all foreign coins coming into the Treasury, and all bullion, and all subsidiary coins of the United States below the standard prescribed in the first section of this act, sent to the mints and recoined into pieces of the standard weight prescribed in the same.

SEC. 6. That the Secretary of the Treasury is hereby ordered and directed to apply all the said legal-tender silver coins in the Treasury of the United States, or that may hereafter come into the same, first, to the payment of the interest on the bonds of the United States; second, to the payment of the principal of such bonds as are due and shall become due; third, for the purchase of such bonds as may not be due.

SEC. 7. In exchanging United States legal-tender money for silver the Secretary of the Treasury is hereby directed to pay out notes of the denomination of one and two dollars till he shall have paid out the sum of $50,000,000.

Mr. GARFIELD. I rise to offer an amendment to the first section. I approve of the purpose of this bill. It was evidently an omission of the law, and not an intentional omission, that there is no provision

in the statute by which a glut of fractional silver coin can be disposed of where it has accumulated unduly. The trouble is not, however, with the individual people; they have no such trouble. The trouble is where these silver coins accumulate—on street railways, in banks, and ferries, or places where payments are made in small sums. There there is an accumulation of this coin, and that accumulation not only works hardship there, but helps to keep this currency away from the ordinary circulation among the people.

It ought to be arranged by law that when it has accumulated in such places it shall be sent to the Treasury to be distributed to the people, so as to keep it in circulation. I agree cordially to the general object of the bill; my objections are to minor points. In the first place, I think it is a mistake to have the limitation of exchange so low down as $10. We find that the trouble is, the glut of this silver coin in the classes of business I have spoken of. They can just as well send $100 of this silver as $10.

It is not wise to authorize by law the sending of these small packages, burdening the Treasury, increasing the business and increasing the risk very much. The Secretary of the Treasury himself suggests that the limit ought to be $100, so that persons having this fractional currency may send it in amounts of $100 and upward. I think, however, it might be convenient to say $50. I move, as an amendment, to strike out the word "ten," in line 5, and insert in lieu thereof the word "fifty."

Mr. STEPHENS. I have no objection in the world to that; let us put it at $50 instead of $10.

Mr. GARFIELD. I think it would be unwise to make it smaller. In line 7, in order to make the bill conform to our statutes, I think we ought not to import new terms. We ought to keep to the old terms. We do not want to say "shall receive legal-tender money;" that money is known as the "lawful money" of the United States. That is the language employed in the statute and it covers the point, and wherever it occurs let us keep to the accredited words of the law.

I now turn for a moment to another word that has crept into the preamble of the bill and into the third section—the word "subsidiary" coins. I think that should be stricken out. It is unnecessary. The law now recognizes the minor coinage, the copper and nickel coins, but nowhere have we the word "subsidiary" coinage, and we ought not to multiply terms. Let this coinage be equal to silver coins of a less denomination than $1; that is perfectly described within the law, and use no new terms which might muddle the minds of the people who would not know the difference between subsidiary and minor coinage.

The most serious objection I have to the bill is to the third section. I do not think we ought to change the amount for which fractional silver is a legal tender. I hope it will remain at $5.

With these amendments I am heartily in favor of the bill; but I move to strike out the third section.

Mr. SPRINGER. I desire to offer an amendment.

Mr. MILLS. Do I understand that the gentleman from Georgia [Mr. STEPHENS] allows five minutes each to discuss amendments?

Mr. HAWLEY. I desire to raise the point of order on the amendment of the gentleman from Texas, [Mr. MILLS.] It seems to me that it is not germane to the bill. It proposes a complete reorganization of the subsidiary coinage, and it strikes me that it is not germane.

The SPEAKER. The amendment came in without objection.

Mr. STEPHENS. I hope that we shall have a vote upon it.

The SPEAKER. Amendments were allowed to be offered; and at the time this amendment was offered no point of order was made.

Mr. HAWLEY. I had no opportunity to make the point of order any earlier, for the gentleman from Ohio [Mr. GARFIELD] took the floor for debate.

The SPEAKER. A point of order will take any member off the floor.

Mr. HAWLEY. I confess I was not aware that I could interrupt the gentleman from Ohio by a point of order. Does the Speaker overrule the point of order?

The SPEAKER. The Chair does not overrule it; the Chair thinks it was not made at the proper time.

Mr. REED. I hope the Chair will not come to that conclusion, because these amendments were presented all together and really no opportunity was allowed to make points of order. I think that when amendments are presented in this fashion——

Mr. MILLS. It is too late to make a point of order after an amendment has been received and discussed.

Mr. REED. The Speaker ought to allow the largest latitude in that regard.

The SPEAKER. The Chair always has.

Mr. GARFIELD. I thought the amendment was read for information.

The SPEAKER. It was read as an amendment pending, and then was the time to make the point of order. The Chair does not overrule the point of order, and does not say what he would have ruled had the point of order been made in time.

Mr. GARFIELD. I thought the Chair ruled that the first section of the bill was pending. The gentleman from Texas [Mr. MILLS] had a proposition which could be in order only at the end of the reading of the bill. I took it that the amendment was read for information as to what he desired to do when it should be in order, which would be at the end of the reading of the bill. I certainly should have made the point of order at the time if I had not supposed that the amendment was read merely for information. I confined my remarks to the first section of the bill.

Mr. MILLS. It is a rule of law, which will apply, I suppose, to parliamentary assemblies as well as to courts of justice, that the law favors the vigilant, and not the man who sleeps upon his rights. There is a time when a point of order can be properly made. If not made at that time the law would say that the man should not be presumed to have spoken when he was silent. In this case that time has passed. If the member having the right to make the point of order does not make it at the proper time, then he yields the point of order.

Mr. CLAFLIN. I make the point of order that the first section of the bill only is now under consideration.

Mr. HAWLEY. I was about to say that I supposed the first section of the bill was under consideration for amendment and five-minute debate. The gentleman from Texas offered a proposition, which was read, I supposed, rather for information, and which is really a substitute for the entire bill. I think that is another point of order.

The SPEAKER. The amendment of the gentleman from Texas, [Mr. MILLS,] as a substitute for the whole bill, would not come up for action until after the House had disposed of the amendments which have been offered to perfect the original text.

Mr. REED. And the point of order would not lie upon the amendment until it came up in that way.

The SPEAKER. It was allowed to come in as an amendment pending.

Mr. REED. I do not think the House so understood it.

The SPEAKER. The Chair is not going to take advantage of any one nor allow any advantage to be taken.

Mr. REED. Certainly; that is what I supposed.

Mr. GARFIELD. The gentleman from Georgia [Mr. STEPHENS] proposed to call the previous question. I made the point that we were now considering the bill by sections under the five-minute rule, and therefore that the previous question should not be moved until we had gone through all the sections of the bill. The gentleman from Texas [Mr. MILLS] submitted an amendment which I supposed was read for information only, because I immediately proceeded to offer an amendment to the first section of the bill and to debate it. I should have raised the point of order upon his amendment if I had supposed or understood that it was then submitted.

Mr. CLAFLIN. I ask the ruling of the Chair on my point of order that we are now considering the first section only.

Mr. MILLS. When I present my amendment the rules of the House require that gentlemen should make their points of order upon it. If they do not then speak, when the rules require them to speak, the Chair cannot extend equity to them to my disadvantage. I hope the Chair will rule that the gentleman has lost his opportunity to make the point of order on my amendment.

Mr. SAMFORD. The Speaker in response to the gentleman from Texas [Mr. MILLS] said that the substitute might come in after the bill had been perfected. The gentleman then replied that he would have it read so that it should come in in its order. I did not understand that it was subject to a point of order at that time.

The SPEAKER. If the gentleman from Ohio [Mr. GARFIELD] or the gentleman from Connecticut [Mr. HAWLEY] or the gentleman from Alabama [Mr. SAMFORD] understands the matter in that way, the Chair will not take any advantage by reason of a misapprehension.

Mr. WARNER. The gentleman from Ohio [Mr. GARFIELD] is substantially correct. When I proposed to submit my amendment I did so not thinking that we were then considering only the first section of the bill.

The SPEAKER. The Chair understands the gentleman from Ohio [Mr. WARNER] to confirm the position taken by his colleague, [Mr. GARFIELD.]

Mr. WARNER. That is my understanding of it.

The SPEAKER. The Chair will allow the amendment to be considered as subject to a point of order.

Mr. TOWNSHEND, of Illinois. What is the understanding?

The SPEAKER. That the amendment was read for information.

Mr. TOWNSHEND, of Illinois. Why, the gentleman from Texas offered it in good faith as an amendment to the bill.

Mr. MILLS. Was it not the understanding that before the previous question should be moved all amendments that were to be voted on should be offered? In accordance with this understanding I have offered the amendment; and if any gentleman in this House has been derelict in his attention to his duties here he must not plead that as any reason why I should not have the advantage of my rights under the rules. When the Chair extends such indulgence to him he extends it to my disadvantage and in derogation of my rights.

The SPEAKER. The Chair thinks not.

Mr. MILLS. Well, I think so.

The SPEAKER. The Chair, on a disputed understanding of the situation of a question, is not willing to deprive any member of a right to raise a point of order against an amendment allowed to be offered.

Mr. SPRINGER. I should like to have read the amendment which I send to the desk, so that it may be considered as pending.

Mr. STEPHENS. I yield to the gentleman to have his amendment read.

The Clerk read as follows:

Amend section 3 by inserting for the word "coin," in the second line, the words "and trade-dollars."

The SPEAKER. Does the gentleman from Illinois [Mr. SPRINGER] submit that as an amendment to the first section?

Mr. SPRINGER. To the third section.

The SPEAKER. The Chair suggests that the bill be taken up by sections, as originally proposed by the gentleman from Georgia, and that amendments be offered to each section as it is taken up. That is the more intelligent method of proceeding.

Mr. GARFIELD. I have amendments pending to the first section.

The SPEAKER. The first section will be read.

Mr. REAGAN. Will this arrangement exclude the amendment offered by my colleague [Mr. MILLS] as a substitute?

The SPEAKER. It does not exclude it, but it gives the right to any member to raise a point of order on it.

Mr. GARFIELD. There are now two amendments pending to the first section.

Mr. STEPHENS. Let the first section be read.

The SPEAKER. The gentleman from Iowa [Mr. WEAVER] desires, as the Chair understands, to present a substitute for the entire bill; but the first proceeding should be to perfect the text of the bill.

Mr. MILLS. Is the bill open to debate?

The SPEAKER. It is, of course.

Mr. STEPHENS. I have the floor. If the gentleman from Texas wants to speak, I yield to him.

Mr. MILLS. I hope that this bill will be defeated because I can see no possible good in it, but a great deal of evil. I can see no reason why the subsidiary silver coins of the United States should be restricted in their debt-paying power (which gives it its chief function of value to the people) to $10. We might as well abandon the whole question, and surrender the whole demand of the people for the free coinage of silver to enable them to pay their debts, to exchange the products of their labor, to elevate the value of their property, as to say that we will coin silver but will withhold from it its function of money. I understand this to be the question which we have been debating, and the real issue which has been agitating the popular mind for the last two or three years.

Why have the people demanded the unlimited coinage of silver if silver is not to be used as money? What advantage are they to derive from it? If they cannot compel their creditors to accept it in payment of their debts it may as well remain in the mines.

To what extent has the silver coins the debt-paying power in this country? How many standard dollars have been coined since the foundation of the Government? Out of $180,000,000 of silver coined by the mints of the United States only eight million standard silver dollars have been coined. If they are all in existence now, that is all the full legal-tender silver we have, except the recent coinage. How disproportionate the amount of silver dollars coined at your mints as compared with the fractional silver currency! It is the fractional silver currency that constitutes the body of your silver money; $109,000,000 in half-dollar pieces and $27,000,000 in twenty-five-cent pieces were coined where you coined only $8,000,000 in dollar pieces. Yet now gentlemen come before the Congress of the United States and propose that this subsidiary coinage, constituting the vast body of our silver money, shall have debt-paying power to the amount of $10 only. What is the difference between such a provision and that of the act of 1873, which has brought down from the people of the United States such a storm of indignation? Only the sum of $5; that is all. Fractional silver currency is a legal tender now to the amount of $5, and you propose graciously to extend its legal-tender quality to $10!

The people of the United States demand that their silver coin shall be raised from the degraded position in which it is placed to-day and that it shall have equally with gold the debt-paying power, that they may be enabled to take themselves out of the jaws of the sharks who now prey upon them. And you propose to give ten dollars' worth of relief to a people oppressed with twenty hundred millions of indebtedness. You neutralize the whole silver of the country. I propose in the substitute, which it seems we are not to have the privilege of voting for, to bring back the coinage of the subsidiary silver of the country to where it was in 1837, to make all your coins of full weight, the dollar of 371¼ grains of pure silver—of 412½ grains of standard silver, and the half dollar of half of that amount, and the quarter dollar of quarter of that amount, and the dime of one-tenth of that amount, and to make the whole, as our fathers made it, a legal tender in payment of all debts to any amount, public and private. Then your silver will come up and gold will fall down. Why? Because the demand for gold ceases just in proportion as silver is put into business channels to contend with it in supplying the demand for money. Then silver will be applied to the payment of the bonded indebtedness of the United States and help to relieve the people of the hundred millions of taxation now imposed to pay interest on that debt every year.

Let me ask where are the silver dollars which were coined under the silver act of two years ago? Who sees them in circulation? The half dollars are in circulation because they are not legal-tenders, but where are the dollars?

Mr. WARNER. Let me ask the gentleman from Texas where are the half dollars and quarter dollars coined prior to 1854?

Mr. MILLS. They have all sunk out of sight. When cheaper money came into circulation it became the medium of exchange, in obedience to that law that the cheaper money of a country always transacts its business and the dearer money passes into the coffers or out into foreign countries, where it is worth more. There is where the silver has gone. When we remonetized silver two years ago Mexican dollars and old silver dollars of this country came out of their hiding-places once more. I was told by the Director of the Mint that there came into circulation silver dollars nearly a hundred years old when remonetization took place. Then silver currency was once more resurrected and is in circulation now.

[Here the hammer fell.]

Mr. MORTON. Mr. Speaker, the gentleman from Kansas, [Mr. HASKELL,] in his remarks on Thursday last, claimed that the bill now before the House was in the interest of banks and bankers of the large cities and towns. I beg leave to differ with the honorable gentleman. I believe the bill is in the interest of the people of the United States; in the interest of every man, woman, and child possessed of a single piece of fractional coin. The accumulations of these coins are purchased by bullion dealers at a discount and resold by them at an advance or paid out in small sums at par. The Government issues these coins at par and should, in my judgment, redeem them at par. Unless so redeemed and the Government continues to issue them, it is inevitable they will sooner or later pass at their bullion value, which is even less than that of the legal-tender silver dollar of 412½ grains, the present bullion value of which is about eighty-three cents.

I agree with the honorable gentleman from Pennsylvania [Mr. KELLEY] that it is against the dignity and honor of this Government to maintain these coins in circulation without providing for their redemption. This bill provides for such redemption, and will, I hope, be passed by this House.

Mr. STEPHENS. I want to say, Mr. Speaker, only a few words in reply to the gentleman from Texas, [Mr. MILLS.] This bill does not restrain or restrict the present debt-paying power of these fractional silver coins. It enlarges it. It is true that it does not enlarge it to the extent that I would wish; but, nevertheless, it is a step in the right direction. The fractional silver coins now are a legal tender and have the debt-paying power only for $5. This bill extends it to $10.

I have already said that if I had my way I would put all the fractional silver coins of this country upon an equality with the standard silver dollars. That is, two halves, and four quarters, and ten dimes should, respectively, contain 412½ grains of standard silver. I would have no discrimination or differences in the silver coins of the country. At some future day, and at an early day, too, I trust to be able to introduce a bill equalizing the silver coins of the country. But certainly this bill is in the right direction as far as it goes. I wished barely to reply to the remarks of the gentleman from Texas that it limited the debt-paying power of fractional silver coins. It enlarges it; it doubles it. I would make it ten-fold more; but now I take what I can get. The majority of the House and of the country seem to demand this.

One word in reply to the gentleman from Ohio, [Mr. GARFIELD.] When he suggested his amendment of "fifty" instead of "ten," I thought it applied to the third section, and intimated I was willing to do that. I now prefer the bill to stand as it is.

Now, Mr. Speaker, I demand the previous question, and after it has been seconded, by general consent, the debate may go on. I do it now in order to have the main question ordered in the morning hour.

Mr. CHALMERS. Let the amendments be printed.

Mr. STEPHENS. Very well; and the vote can be taken on Tuesday next.

Mr. GARFIELD. I do not see how the gentleman can ask the previous question on the whole bill and amendments, because we have not yet reached the second section.

Mr. STEPHENS. There will be no objection to allowing amendments to be offered in their order.

Mr. REAGAN. Let it cover the whole bill.

The SPEAKER. It will cover the first section unless the gentleman moves the previous question to the whole bill.

Mr. STEPHENS. What I propose is that the general debate go on under the five-minute rule, and that when the question next comes up the bill shall be taken up by sections and every amendment voted on in its order, down to the substitute offered by the gentleman from Texas, [Mr. MILLS.]

Mr. EWING. And any amendment that may be offered meanwhile.

Mr. STEPHENS. Yes; in their order.

Mr. CANNON, of Illinois. Do I understand there can be debate after the previous question is ordered?

Mr. STEPHENS. By general consent there may be.

Mr. CANNON, of Illinois. I do not think debate should be cut off.

Mr. PRICE. If the previous question is now ordered, can amendments be offered after that?

The SPEAKER. If the previous question is ordered, its operation will take the bill out of the morning hour; that is, the expiration of the morning hour would have no effect on this bill, and it would proceed to a conclusion. As regards debate, after the previous question

is ordered by the House there would be allowed, under the agreement, five minutes to close debate to the gentleman from Georgia who reported the bill, because the bill by agreement is now being discussed under the five-minute rule.

Mr. STEPHENS. I ask that the previous question be sustained, and then that, by general consent, debate may proceed under the five-minute rule.

Mr. CANNON, of Illinois. If that general consent is given, I have no objection to the previous question being seconded.

Mr. McMILLIN. Does not the ordering of the previous question cut off amendments?

The SPEAKER. If the demand for the previous question is sustained it cuts off amendments.

Mr. EWING. But it is part of the proposition of the gentleman from Georgia that any amendments hereafter offered may be voted on notwithstanding.

The SPEAKER. That requires unanimous consent.

Mr. FRYE. What on earth is the object of the previous question if debate and amendments are to be allowed hereafter to an unlimited extent?

Mr. STEPHENS. The object is to get it out of the morning hour.

The SPEAKER. If the previous question should be seconded, the bill would go right along to-day.

Mr. STEPHENS. I am willing that it should do so.

Mr. FRYE. I think, so far as I am concerned, I should prefer that the bill should remain in the morning hour. It is a pretty safe and healthy bill to be in the morning hour, and I would rather have it there than some unsafe and unhealthy ones.

Mr. MILLS. Under the rules I have the right to make the motion that the House fix a day for the consideration of this bill, and from day to day thereafter till disposed of. I move to fix its consideration for next Saturday.

Mr. WARNER. I raise the point whether the gentleman has the right to make that motion under the rule.

Mr. MILLS. I know that I have, for I drew the rule myself.

Mr. HAWLEY. Is there not an understanding which already governs us that this bill is being considered as in Committee of the Whole, with a right to debate it in five-minute speeches? If so, I object to any further understanding till we get through this bill section by section.

Mr. MILLS. I withdraw my proposition.

Mr. STEPHENS. I move the previous question on the first section of the bill and the amendments pending thereto.

The previous question was seconded and the main question ordered.

The SPEAKER. The question is first on the amendment of the gentleman from Ohio [Mr. GARFIELD] to the first section which the Clerk will read.

The Clerk read as follows:

In line 5 strike out the word "ten" and insert "fifty;" so that if amended the section will read:

That the holder of any of the silver coins of the United States of smaller denominations than $1, may, on presentation of the same in sums of $50, or any multiple thereof, at the office of the Treasurer or any assistant treasurer of the United States, receive therefor United States legal-tender money.

The question was taken; and there were—ayes 68, noes 101.

Mr. GARFIELD. I call for tellers.

Tellers were ordered; and Mr. GARFIELD and Mr. WARNER were appointed.

The House again divided; and the tellers reported ayes 57, noes not counted.

So the amendment was not agreed to.

The Clerk read the next amendment to the first section, offered by Mr. GARFIELD, as follows:

In line 7 strike out the words "United States legal-tender money" and insert "lawful money of the United States."

Mr. STEPHENS. I see no difference between United States legal-tender money and lawful money of the United States. The amendment does not change the substance of the provision, and therefore I oppose it.

The SPEAKER. Debate is not in order.

The question was taken, and the amendment was agreed to.

The Clerk read section 2, as follows:

SEC. 2. The Treasurer or any assistant treasurer of the United States who may receive any coins under the provision of this act shall exchange the same in sums of $10, or any multiple thereof, for United States legal-tender money, on demand of any holder thereof.

Mr. GARFIELD. I propose the same verbal amendment to that section; to strike out the words "United States legal-tender money" and to insert "lawful money of the United States."

The amendment was agreed to.

The Clerk read section 3 of the bill, as follows:

SEC. 3. That the present fractional or subsidiary silver coin shall hereafter be a legal tender in all sums not exceeding $10 in full payment, and shall be taken up and legal-tender money given in exchange for them when presented to the Treasurer or any assistant treasurer of the United States in sums of $10, or any multiple thereof.

Mr. GARFIELD. I ask that the same correction be made in that section by substituting "lawful money of the United States" for "legal-tender money."

Mr. STEPHENS. I have no objection.

The amendment was agreed to.

Mr. STEPHENS. I demand the previous question on the section and amendments thereto.

The previous question was seconded and the main question ordered.

The Clerk read the first amendment pending to the third section, offered by Mr. SPRINGER, as follows:

Amend the third section of the bill by striking out the word "ten" in the third line and inserting in lieu thereof the word "twenty."

The question was taken; and there were—ayes 100, noes 82.

Mr. GARFIELD and Mr. FORT called for tellers.

Tellers were ordered; and Mr. GARFIELD and Mr. EWING were appointed.

Mr. HAYES. Has the morning hour expired?

The SPEAKER. It has not; but if it had, the previous question is pending on this section and the amendments offered thereto, and that would carry it beyond the morning hour.

The House divided; and the tellers reported—ayes 103, noes 86.

Mr. GARFIELD. I call for the yeas and nays.

The yeas and nays were ordered, forty members voting therefor.

The question was taken; and there were—yeas 123, nays 103, not voting 60; as follows:

YEAS—123.

Acklen,	Dickey,	Kenna,	Sapp,
Anderson,	Dunn,	King,	Sawyer,
Armfield,	Elam,	Kitchin,	Scales,
Atherton,	Evins,	Klotz,	Shelley,
Atkins,	Ewing,	Le Fevre,	Simonton,
Bachman,	Felton,	Lewis,	Singleton, J. W.
Beale,	Finley,	Lowe,	Slemons,
Belford,	Ford,	Manning,	Sparks,
Bicknell,	Forney,	Martin, Benj. F.	Speer,
Blackburn,	Forsythe,	Martin, Joseph J.	Springer,
Bright,	Frost,	McKenzie,	Stephens,
Browne,	Geddes,	McMillin,	Stevenson,
Cabell,	Gillette,	Money,	Taylor,
Caldwell,	Godshalk,	Murch,	Tillman,
Calkins,	Goode,	Myers,	Townshend, R. W.
Chalmers,	Gunter,	New,	Tucker,
Clardy,	Hammond, N. J.	Nicholls,	Turner, Oscar
Clark, John B., jr.	Haskell,	O'Connor,	Turner, Thomas
Cobb,	Hatch,	Orth,	Valentine,
Coffroth,	Henry,	Persons,	Vance,
Colerick,	Herbert,	Phelps,	Waddill,
Converse,	Herndon,	Phister,	Weaver,
Cook,	Hill,	Reagan,	Wellborn,
Cravens,	Hooker,	Richardson, John S.	Whitthorne,
Culberson,	Hostetler,	Richmond,	Williams, Thomas
Daggett,	Houk,	Robertson,	Willis,
Davidson,	House,	Rothwell,	Wise,
Davis, Joseph J.	Hull,	Russell, Daniel L.	Wright,
Davis, Lowndes H.	Hunton,	Ryan, Thomas	Yocum,
De La Matyr,	Jones,	Ryon, John W.	Young, Casey.
Dibrell,	Jorgensen.	Samford,	

NAYS—103.

Aldrich, Nelson W.	Cowgill,	James,	Reed,
Aldrich, William	Davis, George R.	Joyce,	Rice,
Baker,	Deering,	Keifer,	Robeson,
Barber,	Deuster,	Ketcham,	Robinson,
Barlow,	Dunnell,	Kimmel,	Shallenberger,
Bayne,	Dwight,	Lapham,	Sherwin,
Beltzhoover,	Errett,	Lindsey,	Smith, A. Herr
Blake,	Farr,	Loring,	Starin,
Bliss,	Ferdon,	Marsh,	Stone,
Bowman,	Field,	Martin, Edward L.	Talbott,
Boyd,	Fisher,	McCoid,	Townsend, Amos
Bragg,	Fort,	McGowan,	Tyler,
Brewer,	Frye,	McKinley,	Updegraff, J. T.
Briggs,	Garfield,	Miles,	Updegraff, Thomas
Buckner,	Gibson,	Mitchell,	Van Aernam,
Burrows,	Hall,	Monroe,	Voorhis,
Butterworth,	Hammond, John	Morrison,	Wait,
Cannon,	Harmer,	Morton,	Warner,
Carpenter,	Harris, Benj. W.	Newberry,	Washburn,
Caswell,	Hawk,	Osmer,	White,
Chittenden,	Hawley,	Overton,	Whiteaker,
Claflin,	Hayes,	Pierce,	Williams, C. G.
Clark, Rush	Heilman,	Poehler,	Willits,
Clymer,	Hiscock,	Pound,	Wood, Walter A.
Conger,	Hubbell,	Prescott,	Young, Thomas L.
Covert,	Humphrey,	Price,	

NOT VOTING—60.

Aiken,	Einstein,	Mason,	Ross,
Bailey,	Ellis,	McCook,	Russell, William A.
Ballou,	Harris, John T.	McLane,	Singleton, O. R.
Bingham,	Hazelton,	McMahon,	Smith, Hezekiah B.
Bland,	Henderson,	Miller,	Smith, William E.
Blount,	Henkle,	Mills,	Steele,
Bouck,	Horr,	Morse,	Thomas,
Brigham,	Hurd,	Muldrow,	Thompson,
Camp,	Johnston,	Muller,	Urner,
Carlisle,	Kelley,	Neal,	Van Voorhis,
Clark, Alvah A.	Killinger,	Norcross,	Ward,
Cox,	Knott,	O'Brien,	Wells,
Crapo,	Ladd,	O'Neill,	Wilber,
Crowley,	Lay,	O'Reilly,	Wilson,
Dick,	Lounsbery,	Richardson, D. P.	Wood, Fernando.

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. STEELE. I am paired with the gentleman from Massachusetts, Mr. NORCROSS.

Mr. CLARK, of Missouri. My colleague, Mr. WELLS, is paired with the gentleman from Pennsylvania, Mr. KILLINGER, and my other colleague, Mr. LAY, is paired with the gentleman from Pennsylvania, Mr. DICK.

Mr. KENNA. I desire to say that my colleague, Mr. WILSON, is absent on account of sickness, and is paired upon all questions.

Mr. WAIT. Mr. HARRIS, of Virginia, is paired with Mr. RICHARDSON, of New York, both being absent on business.

Mr. MURCH. My colleague, Mr. LADD, is absent by leave of the House. If present, he would vote "ay."

Mr. HISCOCK. My colleague, Mr. CAMP, is paired with Mr. SMITH, of New Jersey. Mr. CAMP, if here, would vote "no" and Mr. SMITH "ay."

Mr. HARRIS, of Massachusetts. My colleague, Mr. RUSSELL, is paired with Mr. MORSE, and my other colleague, Mr. CRAPO, is paired with Mr. ROSS, of New Jersey.

Mr. STONE. My colleague, Mr. HORR, is paired with Mr. BOUCK.

Mr. BAILEY. I am paired with Mr. LOUNSBERY. If he were present, I should vote "no."

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with the gentleman from Ohio, Mr. MCMAHON. If here, Mr. BALLOU would vote "no."

Mr. COVERT. My colleague, Mr. FERNANDO WOOD, is confined to his house by serious illness.

Mr. ROBESON. I am paired upon all political questions with the gentleman from Ohio, Mr. HURD, but my pair does not include this question, on which we are agreed, and therefore I vote "no."

Mr. URNER. I am paired with my colleague, Mr. MCLANE.

Mr. HAZELTON. I am paired with the gentleman from New York, Mr. COX. If he were present, I should vote "no."

Mr. ATKINS. Mr. BLOUNT is absent by leave of the House, and is paired.

The result of the vote was then announced as above recorded.

Mr. SPRINGER. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. STEPHENS. I move to reconsider, but I do not move to lay the motion to reconsider on the table. I wish time to examine this amendment, in order to see how far it is in symmetry with the other portions of the bill.

Mr. SPRINGER. Very well. I will not object to that course. Let the motion to reconsider be entered merely and disposed of hereafter.

Mr. STEPHENS. I also enter the motion to reconsider the votes by which the amendments offered by the gentleman from Ohio [Mr. GARFIELD] were adopted, changing the words "legal-tender money" to "lawful money of the United States." I want time to consider those amendments, and I therefore enter the motion to reconsider that I may have until Monday to examine those amendments.

The SPEAKER. But the previous question is prevailing on the section.

Mr. STEPHENS. I will yield now to the gentleman from Tennessee, [Mr. ATKINS.]

Mr. ATKINS. Has the morning hour expired?

The SPEAKER. It has; but the previous question is operating upon this section and the amendments thereto. There are two amendments yet to be voted upon.

The next amendment (proposed by Mr. WEAVER) was, to strike out of section 3 all after the word "payment," as follows:

And shall be taken up and legal-tender money given in exchange for them when presented to the Treasurer or any assistant treasurer of the United States, in sums of $10 or any multiple thereof.

The question was taken upon the amendment; and it was agreed to.

Mr. WARNER. By an amendment to this third section the legal-tender quality of fractional currency coins has been changed from $10 to $20. That presents an incongruity in the bill in this respect: by the first section of the bill these subsidiary silver coins are made changeable for lawful money in sums of $10 or any multiple thereof. By the third section they are made legal tender for $20. The first section of the bill should be amended by striking out "$10" and inserting "$20." I ask unanimous consent that that be done.

Mr. WHITE. I object.

The next amendment (moved by Mr. WARNER) was in section 3 of the bill, after the words "full payment," to insert the words "of all dues public and private."

The amendment was agreed to.

The SPEAKER. The question is now upon the section as amended.

Mr. SPRINGER. There is another amendment to be voted upon, offered by myself.

The SPEAKER. The amendment will be read.

The amendment was to insert after the words "silver coins" the words "and trade-dollars;" so that the section would read as follows:

That the present fractional or subsidiary silver coins and trade-dollars shall hereafter be a legal tender in all sums not exceeding $20 in full payment of all debts, public and private.

Mr. REED. If that is now offered as an amendment, I want to make a point of order upon it.

Mr. SPRINGER. What is the point of order?

Mr. CLAFLIN. It is not germane to the bill.

Mr. REED. It is not germane to the bill. The bill relates to subsidiary coins.

Mr. SPRINGER. The amendment has been pending for half an hour, and it seems to me that the point of order comes too late.

Mr. REED. The trade-dollar is not a coin of the United States.

Mr. SPRINGER. The trade-dollar is not?

Mr. REED. No, sir. It was coined simply as a measure of weight, to be used in foreign countries. I have heard it spoken of here two or three times as if it was on a basis with other coins of the United States.

Mr. SPRINGER. If our Government has time and mints to coin money for other countries, I would like it to devote a little attention to this country.

Mr. REED. That is a sneer, not an answer.

Mr. CLAFLIN. It is nothing but bullion; it is not legal tender.

Mr. SPRINGER. Then we should pass a law to make it a legal tender. If the Government of the United States is to coin a piece of money and then refuse to recognize it——

Mr. REED. It was coined at the express request of those who wanted the United States to refuse to recognize it as money.

Mr. HASKELL. On this question of a point of order I want to say——

Mr. SPRINGER. The point of order is too late. The amendment has been pending now about half an hour.

Mr. HASKELL. You might as well make any kind of bullion considered as coin, and make it redeemable, as to make these trade-dollars coin. If we are to pick up every stray piece of bullion in the United States and make it redeemable as coin, then we might as well take the silver ornaments upon the squaws on our western borders and direct that they shall pass as coin, and make them redeemable, as to pick up these disks of silver which never were coins of the United States, which were made for circulation in foreign countries, which never were legal tender, and have no more to do with the coinage of the United States than if they had never existed.

Mr. BRIGHT. Permit me to ask the gentleman a question.

Mr. HASKELL. Very well.

Mr. BRIGHT. I wish to make this statement, that though the trade-dollar is not a legal tender, it is confessedly a coin of the United States.

Mr. REED. Yes; the gentleman from Illinois [Mr. SPRINGER] confesses it.

Mr. BRIGHT. It is beyond contradiction a coin of the United States, and no person can undertake to make it without the peril of prosecution for counterfeiting the coin of the United States.

Mr. CLAFLIN. Is it claimed that these trade-dollars——

Mr. BRIGHT. If the trade-dollar has been demonetized as to its legal-tender quality——

Mr. REED. It never had any legal-tender quality, and so cannot be demonetized.

Mr. BRIGHT. It certainly is a silver coin of the United States and germane to this bill.

The SPEAKER. The Chair desires to have Rule 48 read.

The Clerk read as follows:

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House.

Mr. SPRINGER. Is the point of order entertained by the Chair as coming within the time when it should be made?

The SPEAKER. The Chair thinks the understanding was that by considering this bill by sections an opportunity would be presented to make points of order against amendments as the sections to which they relate were reached.

Mr. SPRINGER. If that be so, I desire to speak to the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. SPRINGER. I submit that this proposition is germane to the pending section. This section provides "that the present fractional or subsidiary silver coin shall hereafter be a legal tender in sums not exceeding $20 in full payment," &c.

Now, the title of this bill is "A bill to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $10." This title has reference to coinage of less value than the silver dollar of 412½ grains. The trade-dollar is a dollar containing more than 412½ grains of silver, but under existing laws it has not the legal-tender quality which the dollar of 412½ grains has. Now, while this trade-dollar is not a subsidiary coin in the ordinary meaning of the term, it has in point of fact taken its place in the circulation of the country as a coin of less value than the standard silver dollar. It is a part of the coinage of the Government, at least, and, as such, its legal-tender quality is a kindred subject to that of other silver coins of the United States.

Mr. WARNER. Allow me to suggest to the gentleman that the Committee on Coinage, Weights, and Measures have now under consideration bills which cover all this ground; and it was not anticipated that there would be an attempt on this bill to bring in all these questions relating to the silver currency.

Mr. SPRINGER. I am very glad that the committee intend to bring in a bill on this subject.

Mr. STEPHENS nodded assent.

Mr. SPRINGER. Upon the assurance of the chairman of the Committee on Coinage, Weights, and Measures that a bill for this purpose will be reported at an early day, I ask leave to withdraw my amendment. I understand that the bill to be reported by the Committee will make the trade-dollar a full legal tender.

Mr. WARNER. It will cover that ground.

Mr. SPRINGER. A legal tender for amounts of $20 or less or a full legal tender?

Mr. STEPHENS. For any amount.

Mr. SPRINGER. I prefer that these trade-dollars should be made a legal tender for all debts, public and private, just like the dollar of 412½ grains; but, of course, I would rather take half a loaf than have no bread at all.

The SPEAKER. Does the gentleman from Illinois withdraw his amendment?

Mr. SPRINGER. I do.

The SPEAKER. The gentleman from Georgia moved a reconsideration of the vote on one of the amendments. That question should properly be taken now.

Mr. STEPHENS. I withdraw that motion.

The SPEAKER. The Chair is advised that the gentleman from Ohio submitted a motion to strike out the entire section. He is not advised whether the gentleman insists on that motion or not. If he does, the question should now be taken.

Mr. CLAFLIN. The entire section has been changed since, and there is now no objection to it.

Several MEMBERS. Yes, there is.

The SPEAKER. The section, as amended, will now be read.

The Clerk read as follows:

That the present fractional or subsidiary silver coin shall hereafter be a legal tender in all sums not exceeding $20, in full payment of all debts, public and private.

The SPEAKER. The motion of the gentleman from Ohio to strike out the section was made before it was amended. If that motion is not considered as withdrawn it should now be voted on.

Mr. MONROE. I make the motion to strike out section 3 as amended.

The motion was not agreed to; there being ayes 14, noes not counted.

Mr. LEWIS. I move to strike out the first and second sections of the bill.

The SPEAKER. Those sections have been agreed to.

Mr. LEWIS. Amendments were offered to those sections of the bill, but there has never been an opportunity to offer a motion to strike out both sections together.

The SPEAKER. The House has passed from the consideration of those sections.

Mr. LEWIS. But they were considered one at a time.

The SPEAKER. But it would have been in order to strike out each section at the time it was under consideration. The House has now passed from the consideration of those sections.

The question being taken on agreeing to the third section as amended, it was agreed to.

Mr. STEPHENS moved to reconsider the vote by which the section was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MONROE. Has not the morning hour expired?

The SPEAKER. It has.

Mr. MILLS. But was not the previous question operating?

The SPEAKER. Only on that section.

Mr. MILLS. But the previous question operates on my amendment.

The SPEAKER. No; the previous question has not been called on the amendment of the gentleman from Texas.

Mr. REAGAN. The gentleman from Georgia [Mr. STEPHENS] called the previous question on the pending section and amendment, including, as I understood, the substitute of my colleague. It operated, I believe, upon all.

The SPEAKER. The Chair thinks the amendment of the gentleman from Texas was not an amendment to the third section.

Mr. MILLS. No, sir; it was a substitute for the whole bill.

The SPEAKER. The time has not come when a substitute for the whole bill can be considered.

Mr. STEPHENS. Let my motion to reconsider the vote agreeing to the third section be not acted on now, but lie over until the next morning hour.

Mr. REED. Has not the motion to reconsider been laid on the table?

The SPEAKER. The Chair thinks that the motion to reconsider the vote by which the third section was agreed to was made, and was supplemented by a motion to lay on the table, upon which the vote was taken.

Mr. STEPHENS. Very well; let the motion go.

Mr. REED. I do not make any objection; I only want the record right.

Mr. KENNA. Does the previous question, as demanded and ordered, reach the fourth section?

The SPEAKER. It does not, because it was not ordered on anything but the third section and the pending amendments. The gentleman from Ohio [Mr. MONROE] now raises the point that the morning hour has expired.

Mr. MILLS. I desire my amendment shall be printed in the RECORD so gentlemen can examine it.

The SPEAKER. The Chair suggests that all amendments proposed to be offered to this bill be handed up now so they may go into the RECORD to be printed. The amendment of the gentleman from Texas having been read is already in the RECORD.

Mr. GARFIELD. I desire to give notice that I shall reserve all points of order upon these amendments.

The SPEAKER. That of course will be the understanding.

Mr. LEWIS. Was there any motion made to reconsider the vote by which either the first or second sections of the bill were passed?

The SPEAKER. The Chair thinks such motion was made and laid upon the table.

Mr. LEWIS. I have no recollection of it.

The SPEAKER. The Chair is advised by the journal clerk that a motion to reconsider and lay upon the table was not made in the case either of the first or second sections as amended.

Mr. LEWIS. Then I move to reconsider the vote by which those sections were adopted.

The SPEAKER. The morning hour has expired, but the motion to reconsider will be entered.

Mr. LEWIS. My motion to reconsider, then, is pending.

The SPEAKER. It is. Gentlemen will now present all amendments they propose to offer to the bill so they may be printed in the RECORD for information.

Mr. MCMILLIN. I shall move to add to section 4 the following:

The Clerk read as follows:

That the silver coin known as the trade-dollar, heretofore coined by the mints of the United States, shall be a legal tender to the full extent that a silver dollar of 412½ grains now being coined is.

Mr. BUCKNER. I make the point of order on that now.

The SPEAKER. All points of order are reserved by the gentleman from Ohio.

Mr. GILLETTE. I move as an additional section between the third and fourth sections to insert the following:

That the Secretary of the Treasury shall, when desired by the holders of minor coins or of legal-tender money, redeem such coin or legal-tender money when presented at the office of the Treasurer or any assistant treasurer of the United States in sums of $10, or any multiple thereof, in fractional paper currency of ten-cent, twenty-five-cent, and fifty-cent denominations, which shall be a legal-tender for $10 and re-exchangeable for lawful money of the United States in sums of $10, or any multiple thereof.

Mr. NEWBERRY. I move to add to the first section the following:

That all coins of every description of the United States of the face value of twenty-five cents and under shall be received at all post-offices for the payment of postage or the purchase of postage-stamps in any sum not exceeding $3.

Mr. STEPHENS. This is an additional section.

The SPEAKER. All these points will be decided when these amendments come up for action. They are merely presented now for information and to give the notice required.

Mr. FORT. I now present the following as an additional section:

That the Secretary of the Treasury shall cause to be exchanged at the Treasury and at all subtreasuries of the United States legal-tender silver dollars of 420 grains standard silver for trade-dollars at par; and shall recoin the said trade-dollars into legal-tender dollars of 412½ grains of standard silver, as now provided by law; and shall stop the further coinage or trade-dollars.

Mr. RYON, of Pennsylvania. I move as an amendment, after the word "debts" in the third line of section 3, to add the words "dues and demands."

Mr. EWING. As the House does not understand very clearly what has already been done, I hope consent will be given that amendments may be presented on Monday next, and handed to the Clerk, to be printed and pending.

Mr. WARNER. I object.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I now move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committe of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Iowa [Mr. PRICE] is entitled to the floor.

Mr. PRICE. I yield for two minutes to the gentleman from Maine, [Mr. FRYE.]

Mr. FRYE. Mr. Chairman, there seemed to be some misunderstanding yesterday between the honorable gentleman from Kentucky [Mr. BLACKBURN] and the honorable gentleman from Ohio, [Mr. MCKINLEY.] I desire to give here the construction which is put upon the speech of the gentleman from Kentucky in the State of Mississippi by the now famous paper, which I receive through the mail, called the States. Let me read: "Okolona, Mississippi, April 16, 1879." It is complimentary to the chairman, and therefore he will take no offense:

What was it that brave JO BLACKBURN said in the House, Messrs. Softshells?
Oh, yes! We remember now; he remarked that our party would strike the last vestige of the war measures from the statute-books.
The States never said more and never said less than that.
You repudiate the States.
Will you repudiate BLACKBURN?
You are silent.
Will you repudiate BLACKBURN?

You are still silent.

Well, gentlemen, we will give you just one more chance. Answer, or forever after hold your peace as far as the States is concerned: *Will you repudiate* BLACKBURN?

Down with the devil-born amendments!

Down with centralism and its hints of crown and scepter!

Down with the pictures of Lincoln and the scoundrels who surrounded him in the battle-days of '61-'65.

Down with every anti-democratic idea and idol!

These be the watchwords for '80.

[Great laughter and applause on the republican side.]

The copy of the paper which I received this morning actually bristles all over with indorsements of papers all over the South and indorsements from political friends. [Laughter and applause on the republican side of the House.]

Mr. CLYMER took the place of Mr. BLACKBURN as chairman of the committee.

Mr. BLACKBURN. Mr. Chairman, if this be not the first time I have been forced to complain of unfairness at the hands of my friends on the other side it is surely the first time I was ever compelled to make such a complaint against the gentleman from Maine. I have but this to say: I regret that each recurring day brings up some personal assault which it seems to me that fair-dealing, honesty of construction, and ordinary manhood would repudiate; but, sir, with each recurring day I find myself forced to repel a misconstruction given either by some member of this House to language uttered in the shape of garbled quotation or else an unwarranted, unfair, unnatural construction put upon somebody else's language by a member on that side.

So far as the newspaper article that the gentleman from Maine has read to this House is concerned, I care nothing for it. The editor of that paper, a contribution from Ohio to Mississippi, it would seem repeats the unfair, ungenerous, and untruthful effort that was made here on yesterday to misrepresent me. I care nothing for the utterance of that paper. But when the gentleman from Maine seeks to add his high authority to the injustice done by the editor of that inconsequential sheet, it then becomes a more serious and noticeable matter; then I group the paper and the gentleman from Maine together, and say to this committee and to the country that it occurs to me they are well-mated; the one is about as much unfair as the other is illiberal and crazy. [Applause.]

Mr. FRYE. Mr. Chairman, the one was a colonel in the confederate service and not a carpet-bagger from Ohio. The one was the peer of the gentleman from Kentucky in the service of the South. Of the other I have nothing to say.

Mr. BLACKBURN. But I have. I have this to say of the other: he seems to be more perfectly familiar with the history, the antecedents, and the merits of this adventurer than I care to be. But whether he served in that army or the other is a matter of no concern to me. I simply desire to repeat that in the article which the gentleman has read, complimentary as he chooses to term it, in order to twist it to a partisan purpose, he perpetrated an act of gross injustice to which the gentleman from Maine, to my utter amazement, has sought to lend his high authority.

Mr. FRYE. Mr. Chairman, I did this and nothing more: I heard the speech of the gentleman from Kentucky when it was made upon this floor, before it appeared in the RECORD, as it was taken by the Associated Press and sent all over this country. I say that in the South I had not one scintilla of doubt the construction would be put upon the gentleman's language which the States has put upon it; and if the gentleman here upon the floor of the House made a declaration which the Associated Press at the time could declare to be what it did, and which the States subsequently, from the dispatches of the Associated Press, can declare jubilantly to be what its heart desires it to be, I say it is not I who should be called to an account for having it repeated in this House. I say that it is my right and not illiberal, and not unjust to the gentleman from Kentucky, to cite here to the House no words of mine, only the words of this paper published in the State of Mississippi; only the words of this editor, as I said, indorsed by score upon score of papers in the South. I know, sir, that I intended no injustice to the gentleman from Kentucky. I do not think that the personal relations existing between us would lead him for a moment to suppose that I would make an attack upon him which would injure him. I say, sir, on my conscience, and from the utterances I have seen in the papers of the South—I say I am entitled to believe that the gentleman from Kentucky, if he had uttered on this floor the very words written in this paper, no more, no less, would have commended himself to nine out of every ten of the democrats south of Mason and Dixon's line to-day.

Mr. DAVIDSON. You do injustice to our people in saying so.

Mr. BLACKBURN. I wish the gentleman from Maine distinctly to understand me. I stand by the record made in this House. I say his colleague and himself acted as fairly——

Mr. MCKINLEY. Will the gentleman allow me——

Mr. BLACKBURN. Not now.

Mr. MCKINLEY. Only for a question.

Mr. BLACKBURN. He will have a chance if he wants it afterward. I stand by the record made in this House; and I go further. The words that I uttered here were stronger on the very line that I made my remarks upon on yesterday and to-day than they stand as they should be quoted from the RECORD itself. I say more. There was no dispatch sent by the Associated Press that warranted the garbling of my utterances to which I have been subjected both by the gentleman's colleague and by that emissary whom he sent among my people. I do not know what inducement was offered to this gentleman to make his home among a people that he persistently seeks to misrepresent. I am not prepared to say, possibly the gentleman from Maine can tell, whether forced contributions levied upon departmental clerks and Government employés constituted the motive that led him to the work that seems to answer so good a purpose. [Applause on the democratic side.] Of this I do not know. I do not take issue with the gentleman from Maine when he says that this man is my peer, or was once. That may or may not be.

Mr. FRYE. In the Army.

Mr. BLACKBURN. But I only mean to say this: that in the matter of injustice done, misrepresentation made, he has not shown himself superior to the gentleman from Maine to-day.

Mr. MCKINLEY and Mr. FRYE rose.

Mr. BARBER. I rise to a point of order.

Mr. MCKINLEY. Will the gentleman from Kentucky allow me to ask him a single question?

Mr. BLACKBURN. As many as the gentleman desires.

The CHAIRMAN. Does the gentleman from Illinois [Mr. BARBER] insist on his point of order?

Mr. BARBER. I do not.

Mr. MCKINLEY. I desire to ask the distinguished gentleman from Kentucky, who in such very violent language as I see by the RECORD this morning, charged me with having garbled his remarks—I desire to ask him if his speech, and especially that sentence, a part of which I quoted in my speech of yesterday, appears in the RECORD of April 4 as it was delivered before the committee in the House of Representatives?

Mr. BLACKBURN. It does, with no substantial alteration made.

Mr. MCKINLEY. Ah!

Mr. BLACKBURN. But weakened instead of strengthened from the language that was held.

Mr. MCKINLEY. One other question, if the gentleman will permit me.

Mr. BLACKBURN. Yes, sir.

Mr. MCKINLEY. Just a single question. I want to have a distinct understanding about this matter and I seek nothing more in this controversy; I therefore ask the gentleman if this is not the language which he used before this committee, and which was taken down by the reporters and sent all over this country by the Associated Press:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these, looked to the abridgment of the liberties of the citizen.

And I will ask the gentleman if he did not, subsequent to his delivery of the speech before the committee, go into the reporter's room and add the following words after the word "these:" "were born of the passions incident to civil strife and?"

Mr. BLACKBURN. Precisely; I will read the speech now as it was spoken on the floor and as it was published in the RECORD:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these looked to the abridgment of the liberties of the citizen.

That is what was said on the floor.

Mr. MCKINLEY. And you added to that?

Mr. BLACKBURN. I hope the gentleman will be patient, as I am speaking in my own time now, and allow me to answer his question.

Mr. MCKINLEY. All right; I do not desire to take advantage of the gentleman.

Mr. BLACKBURN. Now, what I inserted were these words:

Were born of the passions incident to civil strife.

If that is a substantial alteration of the RECORD, if that is a transgression of the liberty which every member upon this floor takes with the notes sent to his rooms for supervision and correction, if it should be held by the distinguished gentleman from Ohio, [Mr. GARFIELD,] to whom I was replying, that I have been guilty of any violation of the practice of this House or any material alteration or change in the language used on this floor, I am willing to abide by his judgment. I say upon the contrary that I weakened instead of strengthened the expression I used.

Mr. MCKINLEY. The question to the gentleman which I desired to put, and which I think he has frankly answered, was whether he changed his speech. He did change the speech and put in the RECORD language different from that which he used in the committee here.

Mr. BLACKBURN. I deny that. I did not change it, nor change one word.

Mr. MCKINLEY. Did I understand the gentleman to say that he did not insert the words—

Were born of the passions incident to civil strife?

Mr. BLACKBURN. I did; but I changed nothing.

Mr. MCKINLEY. I desire to ask the gentleman from Kentucky another question. He said that yesterday when I was somewhat heated in debate he sent me a pamphlet copy of his speech delivered upon the Army appropriation bill on April 4. As I stated yesterday I did not observe the paper. My attention was not called to it immediately. After I sat down a gentleman called my attention to it, and, as the RECORD shows, I rose for the purpose of complying with

my promise to the gentleman from Kentucky and read that portion of the speech to which he called my attention. Now, referring to the pamphlet copy of the speech, I desire to ask the gentleman from Kentucky if in that pamphlet copy the sentence we are now discussing is not different from the copy of the speech in the RECORD?

Mr. BLACKBURN. Does the gentleman refer to the word "alone?"

Mr. MCKINLEY. That is the word I refer to.

Mr. BLACKBURN. I will answer the gentleman, and say that that portion of my speech I never did revise. I never revised that portion of the notes furnished by the stenographer of the House to me; they were not revised by myself at all.

Mr. MCKINLEY. Allow me to ask another question.

Mr. BLACKBURN. The gentleman need not be impatient; he will get all the answers he wants.

Mr. MCKINLEY. I have no doubt of that.

Mr. BLACKBURN. And then he will hear some questions in addition.

That portion of the notes of my speech were not revised by myself, but by one who was requested to correct any grammatical errors and matters of punctuation. I never saw it; I never touched it. The word "alone," I think, was used upon this floor. I find it in that pamphlet copy, and I do not see it in the RECORD. I cannot undertake to say, nor do I care. If the gentleman wants to make that point, he is welcome to it.

Now let me catechise the gentleman a little. He made a speech yesterday which I am satisfied his sense of fairness will induce him to wish he had never uttered. I ask the gentleman whether the notes of that speech were submitted to him for revision and whether he revised them?

Mr. MCKINLEY. They were.

Mr. BLACKBURN. I would like to ask him one more question. As he seems not to have been content with the result of yesterday, and comes now to make some further correction of his egregious blunder, will he tell me now, if he be fair-minded, why it was that on yesterday, when the charge was hurled into his face of a deliberate act of injustice done, in spite of appeal made openly from the chair, in spite of a written note which I saw put in his hand by a page and carelessly flung away by him—after he had done that and he was called upon by the gentleman from North Carolina [Mr. SCALES] to make at least some amend for this unquestionable conduct by allowing the colloquy to go into his speech—why did he refuse even that poor remedy?

Mr. MCKINLEY. Is that your question?

Mr. BLACKBURN. Yes, sir.

Mr. MCKINLEY. In answer to that I desire to say what I said on yesterday. I announced here to the House that my speech, with the gentleman's remarks and explanations in relation to what he termed the garbling of a portion of his speech—I declared before this committee at that time that the two speeches should go into the RECORD together, side by side; and they appear so in the RECORD this morning. If the gentleman has any desire to have his remarks in relation to this particular sentence accompany my speech, or to have my speech accompany his remarks, I give him the privilege now to publish my speech with his explanation, and to circulate them wherever he pleases throughout this country.

Mr. BLACKBURN. I thank the gentleman for his kindness; but in candor I assure him that I do not feel that I would be benefited by the association. [Applause and laughter on the democratic side.]

Mr. MCKINLEY. I am sure I would not, and I am sure this country would not be benefited by any such association.

Mr. BLACKBURN. Now I have but a word to say. I trust that I am done with these miserable wrangles. And to anybody and everybody against whom I have held either real or imaginary cause of grievance, I say to them all now, once and for all, neither in this place nor elsewhere did I ever complain of a manly blow stricken from the front; but it is only the unmanly stab that is delivered in the back. Quote men fairly. Why will you undertake to quote one-half of a sentence out of a gentleman's speech and read it in print, when you do not stop at a period (.), you do not wait to reach a semicolon (;), you stop at a comma (,) and then persistently refuse to read the other two lines that would complete the sentence.

Mr. MCCOID. I would like to ask the gentleman from Kentucky [Mr. BLACKBURN] a question.

Mr. BLACKBURN. I have no objection.

Many MEMBERS. Regular order! Regular order!

Mr. MCCOID. I want to ask the gentleman if he did not end the sentence in this way——

Renewed cries of "Regular order!"

Mr. STEVENSON. I rise to a point of order.

The CHAIRMAN, (Mr. CLYMER.) The gentleman will state it.

Mr. STEVENSON. My point of order is that this discussion is entirely out of order.

The CHAIRMAN. The point of order is well taken, and the committee will come to order. The gentleman from Iowa [Mr. PRICE] is entitled to the floor.

Mr. MCCOID. I wish to ask this one question.

The CHAIRMAN. The gentleman is not in order. The gentleman from Iowa [Mr. PRICE] will proceed.

Mr. MCCOID. I was recognized——

The CHAIRMAN. The gentleman now seeking the floor is not in order, as the Chair has said several times. The gentleman from Iowa [Mr. PRICE] is entitled to the floor and will proceed as soon as order is restored in the committee. [After a pause.] The gentleman will proceed.

Mr. PRICE. Mr. Chairman, in the few moments that I have upon this subject I do not propose to make any comments upon the Constitution of the United States. I do not propose to make any comments upon any of the lengthy or learned decisions of the Supreme Court of the United States in connection with the discussion of this question; nor do I propose to review English history back to the time of the Edwards. That has been done by gentlemen on the other side of this Chamber sufficiently for the occasion, I think. Nor do I intend to base what arguments I may present to the committee upon anything that has been done or omitted to be done by the House of Commons of the English Parliament. That ground has been thoroughly gone over and discussed more ably than I would be able to do, even if I undertook it. In addition to that, I think that more than one hundred years have elapsed since we dissolved the business and political partnership that existed between this country and Great Britain and set up to do business for ourselves, and that we were entirely competent to manage our own political affairs.

As I understand it, the subject before this committee is the consideration of two appropriation bills that failed to pass the Forty-fifth Congress. I am of the opinion that the country looks on with perfect astonishment and surprise that nearly four hundred men, selected from the body of the people presumably for their intelligence and integrity, should have allowed the Forty-fifth Congress to die without making any provision that the Government should live.

The whole question that has caused this failure to pass these appropriation bills in the Forty-fifth Congress, and that has called together at this expense of time and money the Representatives of the people from different parts of the Union in this extra session, is simply a question whether we will vote the supplies to keep the machinery of the Government in operation. When it comes to be divested of all the trimming and tinsel foreign to the real question at issue it amounts to this: that the republican party (and I read from the bill, that there may be no mistake) say that—

> Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Divested of all surplusage, the republican party say that none of these things shall happen under a penalty of fine and imprisonment unless it be necessary. But I ask gentlemen on the other side of the Chamber, in all good faith and honesty, are they prepared to say that if it is necessary this shall not be done? In all this discussion—and I want to bring this before the committee and before the country—no one man upon the other side of the Chamber has had the courage to say that in case there is a necessity for it, it should not be done. But in general terms gentlemen on the other side propose to strike from the law these eight monosyllables, "or to keep the peace at the polls;" the effect of which would be that no power, civil or otherwise, shall be used, even if *necessary*. This is the differenec between the democratic and republican parties on this bill. Republicans say the peace *shall* be kept at the polls and good citizens protected in their rights, and that force shall be used if *necessary*. The democrats say it shall not.

The principal object I have in taking the floor at this time is to make this matter plain to the people of the country, because it is very evident that the whole object of this discussion and the failure to pass this bill in the Forty-fifth Congress and the efforts to defeat its passage in this Congress is to make political capital for elections in the future. Nobody will dispute that; it is patent to everybody.

The battle-cry, the slogan of the democratic party is "free elections;" and the attempt is made to create the impression that as a consequence, if they are in favor of free elections, then we, the republican party, are opposed to free elections. Well, the only difference, Mr. Chairman, is this: we are in favor of free elections for honest men, law-abiding citizens, order-loving people of the land who are entitled to the use of the ballot; and on the other side they are in favor of free elections for men who do not obey the laws, for men who are disloyal to the country, for men whose business it is to see that the ballot-box is not kept pure but is corrupted, that there shall neither be a fair vote nor a fair count. I make this charge, fearless of successful contradiction. The history of the country in the past and the practices in the present justify me in the declaration. To-day while we are discussing this question upon this floor, there are men in the Atlantic cities of this Republic who are hidden away in the dark alleys, in the dens, and in the cellars, who when night draws her sable curtain over the earth will swarm out from their hiding places to prey upon honest, law-abiding citizens. Every one of these men wishes the democratic party success in the repeal of this part of the election laws. Every ballot-box stuffer, every repeater, every rough, every short-boy, every white-liner, every "dead rabbit"—every man of this disreputable class by whatever names you characterize them, wishes you success in this enterprise and is aiding and abetting you in furtherance of your project. Now remember I do not say that all the men who are in favor of this project are of that class; I am glad

to say that such is not the case; but I reiterate that all this class of men I have enumerated are in favor of the repeal of this part of the election laws. And the democratic party in this House say that these laws shall be repealed even if by so doing, roughs, rowdies, repeaters, bullies, and ballot-box stuffers take possesssion of the polls and drive peaceable and good citizens from them. And they also say that in order to compel compliance with their demands, they will withhold the needed supplies for carying on the Government; that the Army shall be disbanded; the courts shall hold no sessions, and that lawlessness may run riot throughout the land unchecked. The republican party have opposed this doctrine to the extent of their power and will continue to do so and appeal to the soverign people to decide who is right.

Suppose we take a sample of an election held under this law. The law-abiding citizens, the men entitled to vote, are depositing their ballots peaceably and quietly as good people do. A band of roughs armed not with the ballot but with the bludgeon and the bowie-knife, surround the polls and take possession of them; and unless you have an armed force to meet an armed force you cannot disperse these law-breakers. I am not drawing on my imagination for this case; for while we have been discussing this question in this House within the last two weeks an election was in progress at Flatbush, Long Island, at which, according to the telegraphic dispatches in our papers, the class of men I have described did take possession of the polls, did drive away the peaceable, law-abiding citizens so that it became necessary to send over to the city of New York to get an armed force to disperse these "roughs" and armed bullies so that peaceable men might be allowed to exercise the elective franchise. Now, there is not a respectable democrat in this House or elsewhere who would not say that in a case of that kind an armed force ought not to be called in to restore peace at the polls. Yet you propose to strike from your laws the authority under which this may be done; for these two bills are substantially the same; their object being simply the preservation of the purity of the ballot-box and the fair holding of elections among the people—which are the foundation-stones of our civil fabric.

In passing I wish to ask gentlemen on the other side of the House if it was the honest intention to test upon this question the will of the people, the source of all power, why not do as you did in reference to that portion of this bill which provided for the prevention of the cattle disease? Why not take from the bill these provisions and refer them to a proper committee so that they may come up on their merits? You say that the people are with you. If they are, you risk nothing. If you will do that, we can pass these appropriation bills in thirty minutes, so that the country may promptly have peace and rest. You do not believe what you say—I know that is a pretty bald declaration, but I believe it honestly—you do not believe what you say when you declare that the people are with you on this question. If you so believe, you risk nothing by passing these provisions as separate measures. You can put them through this House without our consent; and we will promise not to filibuster; we will meet you fairly; we will vote as our consciences dictate. And if you pass them through this House you can pass them through the other branch of Congress; you can send them to the President. If he signs the bill you have your law, and if he vetoes them you can go to the country upon that issue; and if the people are with you, you have achieved a victory that is lasting in its results.

Do you not see it? But you dare not do it. You have been challenged again and again to make squarely this issue before the people, and you have refused simply because you have not dared to trust yourselves before the people upon this question. You place these repealing clauses upon the general legislative appropriation bill, and in effect you say to the President of the United States, sign this or we will starve your Army and your judiciary. I do not propose to say anything about what the President will do, because I do not know anything about it; but I will say this, that I believe all the talk about the power of the President to do or not to do, about his duty to do or not to do, is time lost and labor thrown away.

The Constitution of the United States without any note or comment to it is so plain no man need err in reference to it. When a bill is presented to him the Constitution says, "If he has no objection to it he shall sign it." That is plain. Those are as strong English words as we have. "If he has objections he shall return it to the House where it originated with his objections." That is the end of it. We, therefore, need not speculate about what the President is going to do, for it is a plain and straightforward matter so far as he is concerned, and I presume he will act accordingly.

But you place him in that position and you are going to the country upon that issue. You say to him, "Sign this bill or we will starve your Army." The gentleman from Virginia [Mr. TUCKER] on my left—and I think a good deal of him, for he was one of the few men with whom I had the pleasure of voting to stop legislation on Sunday—that gentleman surprised me by saying, and I will not pretend to give his exact language, but if I make any mistake in reference to it he is listening to me and can make the proper corrections—I was surprised, I say, to hear him state to the House that if the President vetoed these bills the Army would die on the 30th day of June next. He also stated that if he had this to do again, referring to his past history in reference to the recent troubles which agitated the country, he would, under the same circumstances, do the same thing over again. He now tells us that unless the President signs these bills the Army will die on the 30th day of June next. I wish the country to understand if the democratic party can have its way then the Army dies on the 30th day of June next. And if the Army dies on the 30th of June, then there will be no protection to the Indian frontier; then there will be no protection to the Mexican border, and peaceable citizens will have to lose their lives and property because the democratic party in the House of Representatives, and in the Senate too, I presume, although I know nothing and care nothing about that, because the democratic party refuses to pass an appropriation bill unless it has a rider upon it which they think the President will veto. This shows the animus of the party, and I arraign it at the bar of public opinion on these charges, and to them they will have to plead and make answer.

I was a little surprised, nay, Mr. Chairman, I was a good deal surprised to hear my amiable friend from Mississippi whom I do not see in his seat—I wish I did—say in reference to this republican party that reckoning some of the evils and the ills that occurred, sir, during the years of the past and the great many bad things the republican party had done, I was astonished to hear him say in his speech that this republican party was "dead and damned." [Laughter.] It was bad enough to be dead, but I think he will find that it is about the liveliest corpse of which history gives any account. [Laughter.] But to be damned! that is horrible in the extreme. If I understand the meaning of the word, theologically it means this: It is only applied to sinners, and if to sinners and applies to us, per consequence, the democratic party being in opposition to us, opposed to us as much as the poles are, diametrically opposed to us, then the democratic party must be the party of saints. Now, I ask you to look at it. If I may be allowed the expression, and it will not be unparliamentary, I would say to casual observers it looks like a pretty rough-looking lot of saints. [Laughter.] They may be *fiat* saints; that is another kind; I am not prepared to say. But that is the kind of language used toward this side of the House; and we have stood here patiently because we have that charity which suffereth long and is kind; we think no evil; we bear all things and suffer all things; and therefore have taken these things quietly. If I reply to gentlemen on the other side of the House, and quote them literally and make no unfair comment, they cannot complain. They must not think I am their enemy because I do that, because he is your true friend who tells you the truth in reference to yourself.

Then another gentleman from Mississippi, who I think is in his seat, went to the Bible for proof that they were right and that we were wrong. I thought then, and I think now, that it is the worst book in the world for the democrats to go to for precedents. [Laughter.] But I will give the quotation; I have it here before me, and will read it if necessary. I see my friend in his seat. He referred us to the fact that they ought to be let alone. I do not give his exact language, and will not unless you ask it. Perhaps I had better give the exact language, for I do not wish to be charged with garbling it. Here it is. He says:

> But we said to you as the patriarch Abraham said to Lot, "Let there be no strife between thee and me; you go to the North and we will go to the South."

Well, that is good reading. But I have an indistinct, nay, not a very indistinct but rather a distinct idea that that same language was substantially used toward us in the years of the past. They said to us—we had had some strife, you know, between our herdsman and the masters of the other herds and when Missouri was admitted into the Union after a great deal of strife we agreed to admit her with slavery, and then they said: "You go to the North," just as Abraham said; "and we will go to the South;" and if I remember distinctly we made a line running on the line of 36.30; and we said slavery may come up to that line but shall not cross it; and the people to the south of the line agreed to it. We of the North, though we did not believe in slavery, said we would not interfere with it there. Did we divide the land?

Mr. CHALMERS. Will the gentleman yield to me for a question?

Mr. PRICE. Yes, sir; for a question.

Mr. CHALMERS. Did you or did you not refuse to extend that line to the Pacific Ocean?

Mr. PRICE. Ay, my friend, at a certain time and under different circumstances. When the circumstances of the case were different we did refuse to extend the line to the Pacific Ocean, but we kept the original contract, and you did not. You, after a while, had filled up, as you supposed, your territory, though we had added to it that vast empire, as the gentleman from Texas very properly termed it in his speech the other day—we had added that vast empire of Texas to the Union as slave territory. Not satisfied with that, you proposed to cross that line of 36.30 under the shadow of squatter sovereignty, and you did cross it, and you did kill the people on the other side, and you did destroy the property. You had shot down old John Brown's son in cold blood on the public highway, and had destroyed the property of those who had property there. And when old John Brown, driven to desperation, rallied sixteen men, armed with iron pikes, and went over to destroy the State of Virginia, the Mother of Presidents, you took him and tried him and hung him. You were not satisfied with that. You hung him because he was a traitor, I suppose; because he was stirring up insurrection among the people; because he was making it unsafe for the lives and property of the people of Virginia. I suppose that was the reason. At all events, you hung him. He is dead, and his body is in the grave.

Mr. ACKLEN. Will the gentleman permit me——

Mr. PRICE. Not now. The gentleman will sit down. You did not stop there. You came over, aided by democrats from the North, and I want my democratic friends of the North to remember this and remember it to some good purpose—you came over on our side, and with the aid of democrats of the North in this House (and I want to say right here parenthetically that the democrats of the North have always been controlled by the democrats of the South; they were so until 1861, and they are so to-day)—well, you came over to our side; after you had got Texas and had made this bargain to stay on your own side of the fence you came to our side, and with the aid of these men you made us the slave-catchers for the South. That was one of the most unholy laws that ever disgraced the statute-book of any nation claiming to be civilized, not to say Christianized.

What was the effect of it? A man in the sugar plantations of Louisiana or the rice-fields of Georgia or the cotton-fields of Mississippi has a wife and three children; it becomes necessary for the pecuniary benefit of his master to sell one of the children; after awhile it becomes necessary to sell another; after awhile it becomes necessary to sell the third; the children are then all gone; after awhile the wife is sold also, and the man is left alone. He is a black man, presumed to have neither soul nor feeling. He has a body, however, or you would not want him. He is satisfied it is necessary for him to do something for himself; and on some night, when the sable curtains are drawn over the earth, he takes the north star for his guide and strikes for freedom, as every man with the instincts of a man would do. He lays by in the day-time and hides in the swamps or the forests, but, steady to his purpose, travels by night. As soon as his flight is discovered the blood-hounds, the four-legged and the two-legged blood-hounds, are after him, and the whole power of the United States Government is brought to bear against him. The Constitution of the United States was found broad enough and long enough and deep enough to cover all that; and you levied the forces not only of the South but of the North and followed that man, if he was fortunate enough to escape from you, till he reached Plymouth rock itself and knelt upon that sacred spot and looked out upon the waves yet luminous with the track of the May Flower; and there kneeling to thank God for deliverance, the mailed hand of the law, backed up by the Constitution of the United States and the entire civil and, if necessary, the entire military power of the United States was laid upon him, and you dragged him back to chains and slavery. That is what you did under that law; that is what you did when you had bargained to stay on your side of the line; and we submitted to it till, thank God, in the dispensation of Providence and the order of events, the republican party took possession of the Government and struck that law from the statute-book, never again to be restored.

The Constitution was not infringed; the Constitution was not at all interfered with when you did that. That was all right when the South was to be benefited, but it is all wrong when you propose to protect decent men at the ballot-box and drive back and punish the rowdies and shoulder-hitters. It would be unconstitutional to do that. But you said that if we elected a northern man President you would let loose the dogs of war upon us, and you did it, not at Harper's Ferry but at Fort Sumter; and there was the first grand mistake that the democratic party made, and you are profiting by the mistake you then made. You will never do it again.

So far as diplomacy is concerned you are more than the equals of the North; so far as maneuvering at the ballot-box is concerned you are more than the equals of the North, for you all stand solidly together; but when you fired the first gun at Fort Sumter it was the one grand mistake of your lives, and when the reverberations of that shot echoed through the land there arose a power in the North of which you knew nothing. It had been slumbering and you awoke it, and awoke it to your cost and to your sorrow.

I was surprised the other day to hear gentlemen talk about starving the Government. You never can leave it in a worse condition, than you did when Buchanan left the presidential chair. You had no money in the Treasury, and no man would trust you. You had had the control of this Government uninterrupted in time of perfect peace excepting during the brief period of the Mexican war, and any man who knows anything about the history of the country knows that you had it all your own way, and yet when you had to surrender the Government you had not a dollar in the Treasury and no credit in any of the money markets of the world. You could not borrow money without paying 8, 9½ or 12 per cent., and you only wanted $20,000,000 and could only get one-half of that at these high rates. Now we borrow millions at 4 per cent. and we can hardly supply the demand made for our bonds. This is the work of the republican party. And yet with this state of facts the democrats have no word of praise but volumes of censure for republican men and measures.

Mr. TOWNSHEND, of Illinois. Will the gentleman allow me to ask him a question?

Mr. PRICE. No; no. I have no time to yield, and the gentleman will please sit down. I seldom take the floor, and when I have it I cannot give all my time to interruptions. I wish to say in this connection that the South does not want this amendment of the law. What do they want it for? You have no soldiers in the South. There are four or five Southern States, Mississippi notably, where there is not a soldier. Let me see, I have the list of them here. Delaware has no soldiers in it, nor are there any in West Virginia, Tennessee, Kentucky, Missouri, or Mississippi. There is not a soldier in any of these Southern States if this record which I have before me be true, and in the other Southern States, in Alabama, for instance, there are thirty-two United States soldiers, and in some of the other Southern States a very few; for instance, Maryland, one hundred and ninety-two; Virginia, at Fortress Monroe, two hundred and eighty-two; North Carolina, thirty; South Carolina, one hundred and twenty; Georgia, twenty-nine; Florida, one hundred and eighty-two; Arkansas, fifty-seven; Louisiana, two hundred and thirty-nine—most of whom are guarding posts or forts for the protection of harbors. Six Southern States without a single soldier, and only the small number above scattered located all over the other States on guard duty. So the South has no fear of United States troops, and cares nothing for this amendment. The South is peaceable. Order reigns in Warsaw. Every man votes as he pleases, provided always that he votes the democratic ticket.

No, Mr. Chairman, the repeal of this law is not needed for the South so much as it is for New York City and other large cities where the repeaters and ballot-box stuffers most do congregate.

Is Alabama afraid that those thirty-two soldiers would overcome her liberties and deprive her of free representation? You must remember you do not confine it to the Army, but you include the Navy. If some stranger were sitting here and listening to the debates he would think that every soldier in the United States was on a forced march to the ballot-boxes at different points in the United States, and that the entire Navy was under full press of sail, with every pound of steam on which it could possibly carry without shattering the machinery, and bearing up to the places of holding elections wherever water enough could be found to float a vessel. We wanted you to leave in the law the right to use the civil power to preserve the peace at the polls when necessary, and we would let you take away the Army and the Navy; but you refused and continue to refuse even that.

I was proceeding to say that a man who was not acquainted with the history of this country and knew nothing about our political divisions would think that we on this side of the House had been spending the last eighteen years in trying to destroy the country, and that these patriots on the other side of the House had sacrificed everything, home, country, and almost life itself, for the purpose of its preservation. I do not know of any parallel to this in history excepting in the case of the man who had murdered his father and mother and was arrested, tried and convicted for the offense, and when sentence was about to be pronounced upon him he invoked the mercy of the court because he was an orphan. [Great laughter and applause.] I believe the court did not admit the plea. I think they hung the man. [Laughter.]

I do not say that the same rule should be applied to gentlemen on the other side of the House, but I do not know anything that comes nearer a parallel. You spent years in trying to destroy the Government, and ran up the stars and bars in place of the Stars and Stripes, and when you were fairly beaten on the battle-field, and you fought there bravely I admit, but that exemplified the fact that God and one are a majority. We had Providence on our side and we have now opened the door wide and you are in here and you are so excited, so exhilarated, and, you will allow me to say it without meaning any offense, so drunk with power that you are determined to destroy the last vestige of the bulwarks erected by the republican party in the last eighteen years.

The gentleman from Tennessee [Mr. BRIGHT] had a few left-handed compliments to pay to the republican party. He was very mild in comparison with others, and I am glad that he was, because I have been thinking for the last two weeks that if I was to read many of these democratic speeches and repeat their own language I would become tolerably profane. [Laughter.] But Mr. BRIGHT puts it more mildly. After saying a great many things that were not complimentary to the republican party and its operations, he says this:

Here is a prostrate country at your feet.

Of course. Do you not see it? We have done it all. We are the fellows that did all this mischief.

Its condition cannot be laid at the door of the democratic party.

Certainly not. They are as innocent as lambs. They have never done anything bad in all their lives. [Laughter] I wish my friend was in his seat to hear my comments upon his sermon.

Your administration is condemned.

That is what he says. That is not quite so hard as what was said by my other friend. And then he quotes:

Mene, mene, tekel upharsin. You have been weighed in the balance and found wanting.

I quote from his speech. Now, I grant that with the scales you have weighed us in we are found wanting. But then it is not so much the republican party that is wanting as it is the scales that you used. I will remind that gentleman that if he will look at a certain place in an old book which a great many democrats do not read very much—I am sorry my friend from New York, [Mr. COX,] who sometimes reads the Bible to his associates, is not present—if he will look in that old book he will find it written that "a false balance is an abomination to the Lord." [Laughter.] That is the kind of balance you have been weighing us in.

Now, I wonder if I dare say anything about the gentleman from Kentucky, [Mr. BLACKBURN.] [Great laughter.] I am not going to

get into any trouble on this score; I am going to ask the Clerk to read from his speech two passages which I have marked. I ask that because it will save me the trouble of doing it, and his voice is better than mine, and then everybody will hear it and they will know that it is not garbled, but properly read. [Laughter.]

The Clerk read as follows:

I am willing, and those with whom I stand are willing, to accept this issue, and we go further, *we tender it*. We are the ones to make the issue and we are ready for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

* * * * * * *

Standing upon such grounds, we intend *to deny to the President of this Republic the right to exercise such unconstitutional power. We do not mean to pitch this contest upon ground of objection to him who happens, if not by the grace of God yet by the run of luck, to be administering that office.*

I tell you here that if from yonder canvas [pointing to the picture of Washington] the first President of this Republic should step down and resume those powers that the grateful people of an infant Republic conferred upon him as their first Chief Magistrate, if he were here fired by that patriotic ardor that moved him in the earlier and better days of this Republic, to him we would never consent to yield such dangerous and unwarranted powers, to rest the liberties of the citizen upon any one man's discretion, nor would he receive it.

It was not for the earlier but for the later Executives of this Government to grasp and seek to retain such questionable prerogatives. You cannot have it. The issue is made—it is made upon principle, not upon policy. It cannot be abandoned; it will not be surrendered. Standing upon such ground, clothed in such a panoply, resting this case upon the broadest principles of eternal justice, we are content to appeal to the people of this land. There is no tribunal to which we are not willing to carry this case of contest; and we are willing to allow Him who rules the destinies of men to judge between us and give victory to the right.

I do not mean to issue a threat. Unlike the gentleman from Ohio, I disclaim any authority to threaten. But I do mean to say that it is my deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by parade of power. He must stand upon his conviction and there we will all stand. He who dallies is a dastard, and he who doubts is damned.

Mr. PRICE. Now, in the language that Gratiano used to Shylock, I say to the gentleman from Kentucky, [Mr. BLACKBURN,] "I thank you for that word." I find no fault with the gentleman from Kentucky. I like a brave foe. I believe in a man who walks out in the open field and runs up his banner and fights under it, because I believe he fights for his convictions. And whether he agrees with me or not, I honor him for his honesty in fighting for his convictions.

I want to say to the gentleman from Kentucky [Mr. BLACKBURN] and to this House that this is the very speech in substance that I have been making to the people of my district for the last four years. I have told them that if they placed the democratic party in the seats of power in this country, if they again placed in your hands the reins of government as they were in the past, then you would do all in your power to render null and void all the acts of the republican administration that bear upon this question. I believed it then, I believe it now. I believe that while the gentleman from Kentucky makes use of this language he but expresses the very sentiments that nineteen out of every twenty of his party hold, particularly in the South.

I have not garbled the extracts from his speech. I give them entire, paragraph by paragraph, in connection as they occur. I am willing that they should go to the country. I want the people of my section of the country, the two hundred and odd thousand people I try to represent on this floor, to understand that when I told them in the years and days of the past, while I was not a prophet, yet I understood exactly what was to be done.

They think that if they take a good citizen, (and there are good citizens in the democratic party, just as good as there are in any other party; clever gentlemen, good neighbors, honest dollar-and-cent men,) they think that when they take one of that class and elect him on the democratic ticket and send him to Congress he will do just as well as any republican they can send here. I have said to the people in my district—and to show you that I will not say behind your backs what I am afraid to say to your faces, I said to them: take the best democrat in the State of Iowa, and they are just as good there as anywhere—good friends, kind neighbors, honest men in the dollar-and-cent point of view—take the best you have in Iowa, send him to Congress as a democrat elected on a democratic ticket, and he will vote just exactly as the ultra men of the South vote on every question. Am I not right? Who will call that in question? A solid body on that side of the House, and every man of you will vote at the dictation of the democratic caucus!

Will anybody deny that it is dominated by the men of the South? No man dare deny it. You vote solidly together. That is what I tell them at home. Take these men outside of the democratic party, outside of politics, and they are just as good men in many respects as anybody. And these gentlemen from the South are not all bad; I do not say that; they are good social gentlemen; but the very minute you begin to talk about the republican party or reconstruction or any question connected with that, down go their heads, and their horns begin to shake, and they begin to paw the ground. [Laughter and applause.]

Mr. CHALMERS rose.

Mr. PRICE. I did not interrupt the gentleman. Let us have an open field and a fair fight in this matter. If I tell you anything that is not true you have plenty of time to contradict it. It would be bad policy for me to do anything of that kind if I were so disposed.

This is the position this matter assumes to-day. I will not say it is revolutionary; it is not necessary for me to say that. If it is revolutionary it speaks for itself. I want you gentlemen to understand that you are making capital against yourselves in the country among the people who read and think. All the brains of this country are not in Congress. [Laughter.] There are several men outside these Halls who happen to know something, and they will hold you to a strict responsibility for your action here. If you propose to tear down the bulwarks established by the republican party during the eighteen years of its existence, under which the country has prospered financially and otherwise as no nation on the globe ever did prosper; if you propose to reinaugurate the policy which prevailed before the advent of the republican party to power, and if you expect to receive in this the approbation of the country, you very much miscalculate, you very much mistake the sentiment and judgment of the northern people.

We were willing to give you equal rights and privileges with ourselves. When you came back here, we expected you as a matter of course to come here as equals; but we expected you to abide by the good and wholesome laws that had been established by the republican party and had proven themselves to be good and wholesome in their adminstration during the years of the past when the country was prosperous and happy. The republican party is entitled to more credit than the men of this generation will give it. We will have to wait for posterity to do justice to the republican party. Under circumstances the most unfavorable it took possession of the Government—circumstances under which no other party ever assumed the reins of government. Yet under its administration—I speak it with pride, and if I never have a chance to utter another syllable on the floor of Congress I want it to be remembered—under its administration the republican party did what no other party ever dared try to do: it made the Declaration of Independence a fact, as it never had been before. You know this. You had the power of this Government for fifty years uninterruptedly, and you never attempted to make the Declaration of Independence anything but a theory. It was written in the Declaration of Independence that all men were created equal; that they were endowed by their Creator with certain inalienable rights, among which were life, liberty, and the pursuit of happiness. You said that; yet you sold Sambo, and Jane, and Sallie, and John the next day on the auction-block. [A Voice: "How about the Chinese?"] I do not know what they would do with the Chinese; they had not come in then. This republican party will have justice done to it. I know you are b k here in the seats of power for the first time in eighteen years; you hold the reins of government so far as the legislative branches are concerned. I grant you that for the time being a cloud seems to overshadow the prospects of the republican party. But there are rifts in that cloud; and the indications coming from the elections of the last few weeks are that this cloud will shortly break and the republican party come forth strong and bright as ever. The glorious history of the republican party, the measures and the processes introduced and carried forward by it, had begun to make our national horizon radiant; and along that pathway of light thus generated by the republican party we were rapidly working out the problem of man's political salvation.

You boast of your temporary power to-day, but it is slipping from your grasp. You are politically less strong in this House now than you were four years ago, and not very far in the future you will be relegated to your original position, because justice must triumph over wrong, right must triumph over error. It is certain to come. We can afford to wait. Sorrow may endure for a night, but joy will come in the morning. The republican party has learned in the years of the past "to labor and to wait." Those who have looked into eastern history remember that in the years of the past the Parsees stood upon the plains of Persia in the silence and gloom and darkness of night, with faces turned to the east, waiting for the appearance of the object of their worship. Ever and anon through the silent watches of the night, to encourage each other, they would exclaim, "He is coming! He is coming!" And when the king of day rolled up the eastern horizon, walked through the open gates of morning, gilding tree-top and tower, and chasing before him the squadrons of the night, then they burst forth in one simultaneous shout of joy and triumph, "He has come! He has come!" So it will be with the republican party. We can afford to wait. We will wait till the "good time coming," which is not very far in the future. The "sober second thought" of the people is never wrong; it is always efficient; and it will sweep from the seats of power these men who seek now to bring them into bondage; and when the people come to see this as they will, they will erect a monument—no, sir, not a monument only—they will erect a temple to the honor of this party that has accomplished so much for this country. And that temple will reach above the clouds, and will be surmounted, not with the "blue flag," with its legend of *Sic semper tyrannis* upon it, which was the battle-cry of the assassin who struck down with murderous hand the immortal Lincoln; not that, sir, but that starry banner which floats above your head, Mr. Chairman. It will surmount the summit of that temple, and will be hailed by the peoples of all sections as the flag of our country, the

flag of the nation—not of a State, but of an undivided nation; and they will remember that that fact is due to the republican party. And all the people will then rejoice that "the land it floats o'er is as free as the air by which it is fanned." And the gleam of the morning's first beam will light up this temple, making it luminous from turret to foundation-stone with inscriptions declaring that the party in whose honor it was erected were believers in and practicers of the doctrine of the universal brotherhood of man and fatherhood of God.

And all men will then rejoice that the patriotism and devotion to truth and justice exhibited by the republican party through long years of trial and suffering has made it possible to say truthfully today that there is—

No slave-hunt in our borders,
No pirate on our strand;
No shackles on our free soil,
No slave within the land.

The CHAIRMAN. To whom does the gentleman from Iowa yield the remaining portion of his time?

Mr. PRICE. I will yield it to my colleague.

Mr. SAPP. How much time has my colleague left?

The CHAIRMAN. The gentleman has three minutes.

Mr. SAPP. I see the time allotted to my colleague has about expired, and therefore I will not now trespass upon the attention of the House, but will seek another opportunity of getting under the wing of some other gentleman who has time to spare.

Mr. FISHER. Mr. Chairman, it is not my intention to occupy the time of this committee with any elaborate argument on the legislation sought to be repealed by "a tacking on" to this bill making appropriations for the legislative, executive, and judicial expenses of the Government. I shall be as brief as possible in my remarks and confine them entirely to the sections relating to the duties of supervisors and deputy marshals. It is proposed now, Mr. Chairman, to repeal sections 2016, 2018, and 2020, and all of the succeeding sections of statutes down to and including section 2027, also section 5522, and amending sections 2017, 2019, and 2028 as indicated in the bill.

Mr. Chairman, under sections 2011 and 2012 of the bill, entitled The Elective Franchise, two citizens of any city or town having upward of twenty thousand inhabitants desiring any election guarded and scrutinized may make the same known to any judge of the circuit court of the United States, and he will appoint two citizens, residents of the city or town or of the election district or voting precinct, who shall be of different political parties and able to read and write the English language, and who shall be known and designated as supervisors of election; and in addition to these supervisors, section 2021 provides that the marshal for the district in which the city or town having twenty thousand inhabitants or upward shall, for an election at which Representatives or Delegates in Congress are to be chosen, on the application of two citizens residing in such city or town, appoint deputy marshals, whose business shall be, when required, to aid the supervisors. Now, then, under the provisions of these sections, it appears they are only applicable to sixty-nine cities throughout the whole Union, there being just that number of cities exceeding twenty thousand of inhabitants. Section 2022, relating to duties of marshals, sought to be repealed, the gentleman from Mississippi [Mr. SINGLETON] styles the sum of all villainies. He quotes it as follows:

The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and IMMEDIATELY, *either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States.* * * * For the purposes of arrest or the preservation of the peace, the *supervisors* of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, *have the same duties and powers as deputy marshals.*

But is that the section? No, sir. He has eliminated the qualifying clause, which reads:

But no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them.

Does the gentleman consider that fair, when he says he gives it in its own language, and then does not quote the entire section? And, sir, my colleague, [Mr. COFFROTH,] who addressed the committee yesterday, misrepresents the effect of the section. He says, quoting part of the section:

United States marshals are authorized to appoint deputy marshals, who are authorized, "either at the place of registration or polling place or elsewhere, and either before or after registering or voting, to arrest and take into custody without process any person who commits or attempts or offers to commit any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States.

And just stops when he comes to the qualifying clause, and then adds:

Sir, it will be seen that this law authorizes the arrest of a citizen without process on the mere whim or caprice of a deputy marshal.

No, sir; I deny it; and the gentleman himself knows that the marshals *must witness an open violation of the law*, and cannot arrest on whim or caprice, as he asserts. Why, the marshal can just do what any police officer can do; he has authority to arrest summarily in case of an open violation of the law in his presence. This is no wrong. What we want, what we demand, is a fair election, and especially is it necessary for us to provide for fair elections in cities of upward of twenty thousand of inhabitants. Fraud has been practiced in all large cities, and the gentleman from New York has given you some idea of its extent in New York City. We of the North believe in a free ballot. We concede to every man his right to his own opinions, Republicans and democrats alike stand here on common ground. The mass of our people, without regard to political preferences, are both honest and just. In our rural districts we have scarcely an attempt at fraud; but we also know that we do have in all our large cities the rounder and repeater. And I say to northern democrats upon this floor that the order-loving and law-abiding element of the North will not sustain you in your action here in an attempt to destroy the safeguards to a free and honest ballot.

Now, Mr. Chairman, section 4, article 1, of the Constitution says:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Gentlemen say this is not mandatory. Of course not; but you do not deny the right; you cannot deny the right of Congress to say when and where Representatives in Congress shall be voted for. You cannot deny the right of Congress to say that Representatives shall be voted for on separate tickets, and not on slips with candidates for county offices, as is now practiced in some States. You cannot deny the right of Congress to put supervisors and marshals, not only in cities of twenty thousand inhabitants and upward, but in every precinct or polling place throughout the whole Union, if we desire it, when national elections are held.

I say to you gentlemen on the other side of the House that in demanding this repeal and in effecting a repeal as far as you can you are facilitating cheating at the polls. You cannot get away from this conclusion. If you desire fair elections, and have no confidence in the marshals being all of one political faith, why not amend and provide for selection of deputy marshals in equal numbers from both political parties? Equal representation possibly is the reason why you let the supervisors remain, but you propose to take away their efficiency and power; to make them mere witnesses, powerless to prevent fraud. Can you expect, should you expect under such conditions an honest and fair national election? If you cannot do this, then repeal the law as to supervisors. We do not desire the "shadow without the substance."

Now, Mr. Chairman, my friend and colleague [Mr. COFFROTH] in his speech yesterday said:

All the supervisors and deputy marshals were in Philadelphia, except two hundred and seventy-three, and the amount expended in Philadelphia to coerce the voter and keep that city republican was $30,860.

Coerce the voter and keep Philadelphia republican! Only think of it! I am glad, sir, we have this testimony before us taken by the Wallace-Teller investigating committee; I am glad I have an opportunity today to show you from the admissions of these witnesses themselves just what they are as to character, intelligence, and credibility; for, sir, in this warfare made against these sections of the Revised Statutes it has been asserted by democratic papers time and again that stupendous frauds were practiced in Philadelphia and the Wallace-Teller investigating committee would unearth them. But let us first see who these witnesses are who testify before this Wallace committee. First witness is Michael McMurray, the *moral* man. He testifies in regard to Charles Oliphant, a deputy marshal:

Question. Was he [Oliphant] drunk or sober when you saw him?
Answer. He was drunk in the evening when he came in there, and through the day he was drinking a great deal.
Q. Did you see him drink?
A. Yes, sir.
Q. Did he go away from the polls to get his liquor?
A. He came into the restaurant and got liquor.
Q. Did he get liquor from you?
A. He got liquor from me.
Q. Do you know whether or not the law or the ordinances required that drinking saloons should be closed on the day of a general election?
A. I heard so; I could not say that it is so; I often heard persons make that remark.
Q. Was your place closed or open?
A. The side door was open.
Q. The front door was closed?
A. The front door was closed.
Q. And you were engaged that day in tending bar?
A. Yes, sir.
Q. You gave liquor to everybody who came after it, did you?
A. Yes, sir.

Now, sir, I submit that here is a man brought before this Wallace committee, at the Girard House, in Philadelphia, to testify against a better man than himself, when he should, according to his own admission, have been down in Moyamensing prison serving a term for violation of the laws of the State for selling liquor on the day of election.

We will for the next witness call the *intelligent* man, John Printner. He says:

Question. You are a democrat?
Answer. Yes, sir; I have never been anything else but that.
Q. Are you what is called a democratic worker in your ward?
A. I have been called that, yes.
Q. You were at the election at that time distributing tickets?
A. I was there at that time electioneering and distributing tickets; and anything else that I could do I tried to do it.

Q. Did you see any difficulty at the polls on that day other than the one you have referred to?
A. I saw a few little scrimmages that did not amount to anything.
Q. Nothing but what was usual on election day?
A. No, nothing of any importance.
Q. Who was the democratic candidate for governor at that election?
A. *Oh, I have no idea.*
Q. Who was the democratic candidate for lieutenant-governor?
A. Well, you are taking me clean through the State.
Q. No, I do not take you out of the city of Philadelphia nor out of the twenty-ninth ward.
A. I do not remember now who it was. I have all these things—the papers—at home. I didn't know you were going so far as that with me, or I would have posted myself a little further in the matter—that is, about these other things. I didn't think that there was anything further than our own division that you were going to tax me about.
Q. Who was in your own division the democratic candidate for lieutenant-governor?
A. *I could not tell you.*
Q. Who was the democratic candidate for State senator in the senatorial district in which you reside?
Q. *I cannot give it to you.* I have got my memory off from that entirely. *I have no memory about that.*

We will next call Michael McGinnis, the *honest, candid, and fair-minded* witness. Hear him:

Question. When you speak of the democratic majority, do you mean to be understood as saying that you know the political feeling there very well?
Answer. Yes, sir; I have been an inside officer.
Q. Have you been an active worker?
A. Yes, sir; all the time.
Q. May I inquire what your age is?
A. My age is twenty-seven years.
Q. So that you have been a voter for six years?
A. Yes, sir.
Q. Consequently, in your opinion, as a person very well acquainted with that precinct and a democratic worker, the rights of the democratic party would not be very safe in the hands of this republican State police if they were left to them alone?
A. No; I don't think they would be.
Q. Do you think there ought to be some other authority than this State police there to keep the peace?
A. Yes; if they would get the right kind of men; if they wouldn't work together in that way.
Q. But suppose that these national democrats had the power to appoint the Federal officials, who would come in and see that a fair election was had; then it would be all right; it would be a good thing, would it not?
A. Yes; it would be a good thing if the democrats had the power.
Q. Did you distribute democratic tickets at the November election?
A. I had some tickets in my pocket, and if I would see a friend or any one who would want a ticket I would give one to him.
Q. I ask you if you distributed tickets?
A. Yes.
Q. And you were a *United States supervisor?*
A. Yes.

It is unnecessary, Mr. Chairman, to comment upon the *weight* that should be attached to the testimony of this class of men; the testimony speaks for itself; but, sir, I desire to state here the necessary qualifications which entitle every male citizen to a vote in Pennsylvania:

1. He shall have been a citizen of the United States at least one month.
2. He shall have resided in the State one year (or, if having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned, then six months) immediately preceding the election.
3. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.
4. If twenty-two years of age or upward, he shall have paid, within two years, a State or county tax, which shall have been assessed at least two months, and paid at least one month before the election.

Now, sir, the question is, were any illegal votes cast at the last election in Philadelphia, as has been charged by enemies of the elective franchise law, and, if so, who cast them. First, John Johnson, democrat, cast an illegal vote, by his own admission:

JOHN JOHNSON sworn and examined.

By the CHAIRMAN:

Question. Where did you live at the November election last year?
Answer. At 740 South Twelfth street, Third ward, sixteenth division.
Q. Were you arrested?
A. Yes, sir.
Q. By whom?
A. By a deputy marshal.
Q. Who was the deputy marshal?
A. Roberts.
Q. What were you arrested for?
A. I came up to the poll to vote. He challenged me on my tax receipt
Q. Where did you get your tax receipt? Did you pay the tax?
A. *No, sir; it was sent to the house to me.*
Q. Did this man Roberts, the marshal, make any threats as to what he would do if you undertook to vote?
A. No, sir.
Q. He just came and arrested you afterwards?
A. Yes.
Q. When they had your examination before the commissioner you were present, were you?
A. Yes, sir.
Q. Do you not remember that the individual in the tax office whose signature purported to be signed to your receipt was brought there to the office, and that he swore that the name attached to your receipt was a forgery?
A. Yes.
Q. Did he do that?
A. Yes, sir.
Q. Do you know who left the receipt at your house?
A. I could not positively say.
Q. You cannot give the name of the person who left it there?
A. His name was McMenamin.
Q. What was his first name?
A. I do not know.
Q. Where does McMenamin live?
A. He belongs to the same precinct.
Q. Is he the same man who was a candidate for city commissioner on the democratic ticket?
A. I do not know.
Q. Was he not arrested for having fraudulent and forged tax-receipts on his person?
A. Not to my knowledge.
Q. You do not know whether he was or not?
A. No, sir.
[After some discussion between the chairman and members of the committee upon the testimony of the witness concerning the genuineness of his tax-receipt, the following was elicited:]
The CHAIRMAN. What do you say as to that?
The WITNESS. *The tax receiver's clerk swore that it was not his signature.*
Mr. CAMERON. And his is the name that appeared to be on that receipt?
The WITNESS. Yes, but I cannot recall to my recollection what the name was.

Second. Charles F. McCrony, democrat, cast an illegal vote by his own admission.

Question. Did you pay your poll-tax?
Answer. I don't know that I paid it personally myself; but it was paid.
Q. I ask you if you paid it?
A. I did not—not for that election.
Q. Did you have a receipt of the payment of your poll tax?
A. Yes, sir.
Q. When?
A. I always had a receipt with the exception of that time. I had been paying tax on running a wagon, and that was just the same as a tax.
Q. What was your last remark?
A. I had been running a team on the streets of Philadelphia all along, and I calculated that what I paid on that was the same as paying a tax.
Q. You calculated that?
A. Yes, sir.
Q. Is that the only tax that you paid?
A. *That was the only tax that I paid at that time.*

Third. Thomas Hacker, a *democratic supervisor* of election, cast an illegal vote because he was twenty-two years of age in August and voted the following November, and admits he never paid any tax. He says:

Question. Are you a property-owner in that division?
Answer. I am.
Q. When did you last pay a poll tax prior to the last November election?
A. I have not paid any poll tax; I was only in my twenty-second year.
Q. What is your age now?
A. I will be twenty-three next August.
Q. You were twenty-two last August, were you?
A. I was twenty-two last August.
Q. Did you know that if you were twenty-two years of age or upwards at the time of the election you were not entitled to vote unless you paid a tax?
A. I did not. I thought if you were over twenty-two, that was my idea.
Q. When were you twenty-two?
A. I was twenty-two on the 23d of last August.
Q. Then you were over twenty-two at the time of the last November election?
A. I suppose I was.
Q. When you were outside were you engaged in electioneering?
A. The only thing I was engaged in was holding the window book.
Q. Did you or not distribute democratic tickets to those who wanted them?
A. I guess I did; I would not say positively that I did not.
Q. Then you were engaged in electioneering just as Scott was engaged in electioneering, you for one ticket and he for the other.
A. I suppose so.
Q. Did you not understand that it was your duty as a supervisor to remain inside and watch the poll there?
A. No, sir; the only time that I thought I would have to stand inside was after the polls were closed, and to see the vote counted.

Fourth. Michael Shay, or a repeater calling himself by that name, cast an illegal vote. He was a democrat. Here is Thomas Dwyer's testimony in this matter:

Question. Were you present when a man named Shay came to vote?
Answer. No, sir; but I was coming out of the house and called him back, and asked him what was the matter. He said he had gone up to vote, but could not vote; that the deputy marshal challenged him; and then he went up with me a second time.
Q. What was his name?
A. Michael Shay.
Q. When you then went to the polls what occurred?
A. We went up to the polls, and I vouched that Shay was a qualified voter of the precinct. After I vouched for him he went inside.
Q. Did he vote?
A. *He voted.* Then the deputy marshal took hold of him. I asked him what he was doing that for, and he said, "I am going to lock him up." I asked him, "What for?" and he said, "Never mind," for me to get away from there, and "I'll lock you up too." *I said to him to go around and see if Shay lived where he said he did.*
Q. Where did he live?
A. He lived at 243 South Sixth street.
Q. Who owned the house?
A. I don't know.
Q. What was Shay's business?
A. He sells soap for a living.
Q. Is he a married man?
A. Yes, sir; he has children.
Q. How many?
A. A couple, to my knowledge.
Q. Did his wife and children live there at that time?
A. Yes, sir.
Q. They lived at that place?
A. Yes, sir,
Q. For how long had they lived there?
A. Six months, to my knowledge.
Q. Did they make a living, work there?
A. Yes, sir.
Q. Was his name on the printed list?
A. His name was not on the list. He lived down in the basement, and they didn't go down there to get his name.

Now, Mr. Chairman, it is a very well-known fact that No. 243 South Sixth street is occupied on the first floor by attorneys at law as offices. The name of the janitress is Shay, but she is not married. *There is no man by the name of Shay there, nor is the basement occupied as stated by Dwyer, nor has it been occupied by any one.*

Fifth. John Devine cast an illegal vote because he voted upon a fraudulent tax receipt, and he was the *democratic assessor* at the time. Here is his testimony:

Question. What office, if any, did you occupy with reference to the democratic party?
Answer. I held the office of assessor.
Q. Did you pay your poll tax?
A. No; I did not pay it; I don't suppose I did.
Q. You know whether you did or not, do you not?
A. *It makes no difference who paid for it as long as I had it.*
Q. I am not arguing that with you; I am simply asking you the question; I ask you if you paid it?
A. No, sir.
Q. Have you a receipt for it?
A. I have one down home; I haven't it with me.
Q. When and by whom was it delivered to you?
A. I could not say; it was delivered by a gentleman; I don't know who he was.
Q. When was it delivered to you?
A. Prior to the November election.
Q. How long prior?
A. Two months, or a month.
Q. Will you bring your receipt here to-morrow?
A. Yes, sir.

[A tax receipt was here produced by the witness and offered in evidence by Mr. CAMERON. The following is a copy of the tax receipt, the words and figures in italics indicating the portions in writing, the remainder being a part of the printed form:]

37911.

2nd Ward. PHILADELPHIA, *10—1*—1878.

{ City of Philadelphia. } Received of *John Devine*, FIFTY CENTS, For personal taxes for 1878.

GEO. P. KERN,
For Receiver of Taxes.

J. H. Bryson, 43 S. 4th st., Phila.

John Devine, recalled.
Mr. CAMERON stated that the purpose for which the witness had been recalled, in pursuance of his suggestion to the chairman, was to have identified the tax receipt produced by the witness when previously on the stand.
The CHAIRMAN, (exhibiting tax receipt produced by witness.) Is this your tax receipt?
The WITNESS. Yes, sir.
Q. (By the CHAIRMAN.) It is the one on which you voted at the last November election?
A. Yes, sir.
[A copy of the tax receipt appears in the testimony of the witness when previously called.]

Now, Mr. Chairman, here are no less than five of these witnesses convicted of illegal voting by their own admissions on cross-examination, and out of forty or fifty witnesses called before this committee three-fourths of them *democratic supervisors*, (ward politicians, active poll-workers,) as they admit; and yet all of these men fail, yes, utterly fail, to name *one single man that cast a fraudulent vote at this election*, where my friend and colleague [Mr. COFFROTH] says *coercion was used to make Philadelphia republican*. But I prefer that these democratic supervisors should answer my colleague [Mr. COFFROTH] as to whether force, intimidation, or any other influence was exercised to deprive democrats of their legal votes; for I shall show from their own admissions that *not a single democrat entitled to vote at that election was deprived of his right*, and also that not a single republican can be named by any one of all the witnesses that voted that day who was not entitled to a vote. Here is the evidence. John Brown, *democratic supervior*, says:

Question. Did you make a report to the chief supervisor?
Answer. No, sir.
Q. You say you were United States supervisor in that division on that day?
A. Yes, sir; I did not make any report at all.
Q. Give the name of any democrat who was entitled to vote in that division who was prevented from voting on that day?
A. There was not anybody prevented in that division. They are generally pretty well known there and they always have a voucher to vouch for them. I vouch for my neighbor and somebody else vouches for me.
Q. Then, so far as you know, everybody who is legally qualified to vote in the ward and desired to vote had an opportunity to vote?
A. Yes, sir.

The next is Patrick J. McCarthy:

Question. Where do you live?
Answer. In the Second ward, twenty-first division.
Q. Were you at the election poll of that election division on the day of the last November election?
A. Yes, sir. I was United States supervisor.
Q. That division is a democratic division, is it?
A. Yes, sir; by a large majority.
Q. Do you know of any democrats being prevented from voting that day who were authorized to vote?
A. No; there was a general challenge all day, from morning until night; they were all challenged, I believe.
Q. But they all voted?
A. Yes, they all voted; by showing their authority, by getting their papers and tax receipts.
Q. Do you know of any republicans who voted who were not legally qualified to vote?
A. I do not. There are only about thirty-seven or thirty-eight in the whole division.

The next is Felix Campbell:

Question. In what division and ward do you live?
Answer. In the Second ward, twenty-third division.
Q. Did you live there at the last November election?
A. Yes, sir.
Q. Were you at the election?
A. Yes, sir.
Q. What was your position there?
A. United States supervisor.
Q. Are you a democrat?
A. Yes, sir.
Q. Do you know of any democrats in the division who were legally entitled to vote who were prevented from voting?
A. I do not.
Q. Do you know of any republicans in that division who were legally entitled to vote who were prevented from voting?
A. I do not.

The next in order is John B. Cahill:

Question. What are the politics of your division?
Answer. Democratic. We always roll her up there. We only do two things there, "Mr. Mac," vote the democratic ticket and pray to God Almighty.
Q. Do you tnink you are as effective in praying to God Almighty as you are in voting the democratic ticket?
A. I do.
Q. What are your politics?
A. Red hot. A democrat, I am.
Q. How long have you held the office of constable there?
A. Five or six years.
Q. How long have you been "red hot?"
A. All my life.
Q. Then it struck you in your youth, did it?
A. Yes, sir.
Q. What was the democratic vote there in the last November election?
A. I think about 134.
Q. What was the republican vote?
A. About forty-odd; I cannot recollect exactly.
Q. Do you know of any democrats in the division who were legally entitled to vote who were prevented from voting?
A. I do not.
Q. Do you know of any republicans in that division who were legally entitled to vote who were prevented from voting?
A. I do not.

Then we have George F. Benedict, another democratic supervisor, who says on his examination:

Question. What are your politics?
Answer. I am a democrat.
Q. Did you hold any office there?
A. I was supervisor of that division.
Q. You attended to your duties, of course, as faithfully as you could?
A. Yes, sir.
Q. Do you know of any democrat who was entitled to and offered to vote who was prevented from voting?
A. No, sir; ours is a very quiet division.
Q. Do you know of any republican who was not entitled to vote who was permitted to vote?
A. I do not.

Other democratic supervisors testify to the same effect. So it is perfectly clear that force, intimidation, and coercion did not exist at the polling places at the late election in Philadelphia. But my colleague [Mr. COFFROTH] has said that men of the worst class had been selected to act as deputy marshals, and cites the testimony of Charles F. Miller. This man Miller is the private detective of the democratic district attorney of Philadelphia. He says he is a murder detective, his business requiring him to be circulating around and become familiar with all the worst classes of men within the city limits. Yet this man Miller, with all his advantages and superior facilities for learning who the desperate men are, was able to name only eight or nine out of a list of seven hundred and seventy-three deputy marshals that were bad characters, and one of these is Rodney F. Springfield. When asked what was Springfield's reputation, Miller testified that he was tried for killing a colored man, for shooting him, and when cross-examined by Mr. CAMERON was asked the question, "Was he convicted?" and replied, "No, sir, he was acquitted." He was a police officer; Springfield in the discharge of his duties as an officer of the law shot an offender, was tried, and acquitted. Yet this man Miller sought in his direct testimony to convey the impression that Springfield had committed a murder.

Here, Mr. Chairman, I have given very fully the testimony of the chosen witnesses of the Wallace committee. When the proper time arrives, Marshal Kerns, of the eastern district of Pennsylvania, will show to this committee that, notwithstanding Philadelphia is one of the best governed and most law-abiding cities not only in this country but on the face of the civilized globe, no people dwelling in greater security in the peaceable enjoyment of their personal rights and property, possessing an unequaled and certainly an unexcelled police force, a mayor so efficient and so faithful that the good, order-loving people of Philadelphia never tire of re-electing him—notwithstanding I say that Philadelphia possessed all these advantages, it will be clearly shown to this Wallace committee and the country that had it not been for the presence of the deputy marshals and supervisors at the late election in that city, hundreds and hundreds of men would have voted upon fraudulent tax receipts similar to that upon which John Devine cast his vote. Nor am I surprised that some unworthy men succeeded in being appointed deputy marshals. By the admissions of some of these democratic supervisors we must certainly all agree that they, too, were unworthy, for some of them will be shown up as gamblers, ballot-box stuffers, shoulder-hitters, prize-fighters, thieves, professional repeaters, and rounders; and yet if, with some of these unworthy instruments to carry into effect the provisions of the elective franchise law, *a fair election was had* and a *free ballot secured to the legal voters of Philadelphia*, I submit, Mr. Chairman, it is only an *additional and stronger argument* against the repeal of the sections of this law here sought. This Wallace investigating committee, Mr. Chairman, left here on this shearing expedition with high expectations; they have returned to us now bringing, it is true, a *little wool* as the reward of their labors. But, sir, from the evidence they have submitted to us it is incontestably shown that the entire fleece was shorn from the back of the *old bell-wether of the democratic party*.

I have been impressed with the belief that there exists on the other side of the House what might appropriately be termed a hyena-like desire to wipe out all the legislation of the past eighteen years. The gentleman from Mississippi [Mr. CHALMERS] says:

But, Mr. Chairman, I am rejoiced to know that the hour of deliverance has come. Could I express my preference in the provisions of this bill, I would not leave upon the statute-book a single vestige of these laws. Could I wipe the dark spot from the nation's escutcheon which they have placed there, could I blot from the memory of man all recollection of them, I should esteem it one of the proudest moments of my life. But fealty to my party teaches me submission to its superior wisdom, and I acquiesce in the partial repeal of the supervisors law, with notice to all concerned that I accept this as only the first installment of justice due to a long-suffering people, and that I shall hereafter claim full payment of the debt by the abrogation of every line, word, and letter of said act.

I admire the gentleman's candor and thank him for his frank avowal. With the distinguished gentleman from Connecticut, [Mr. HAWLEY,] I believe we will see a systematic attempt to wipe from the statute-books all legislation enacted by the republican party, and if it cannot be done the right way it will be attempted in a wrong way.

Mr. Chairman, the gentlemen on the other side have admitted that as a rule general legislation tacked on appropriation bills should be avoided, but quote precedent to justify them. Even if the republican party has done this thing, it does not make it right. You have precedent for the violation of civil and criminal law in all countries; that does not prove the laws unjust. You have precedent in the violation of all the commands of the decalogue in the records of history; that does not prove their unwisdom. You have given us a precedent for rebellion against this Government, against this Constitution. You do not dare to say that that gives you or any one else the right to rebel again. Article 1, section 1, says all legislative powers herein granted shall be vested in a Congress of the United States; hence some affect to believe that the President will not stop the wheels of Government by vetoing an appropriation bill simply because it is sought to repeal a law. Whether or not the President will exercise the veto power I do not know. He must answer to his country and his God for his acts, and we trust he will do what is right in his best judgment. Yet, notwithstanding section 1, article 1, gives the legislative power to Congress, practically section 7, article 1, makes the Executive a factor in legislation, because any bill which shall have passed the House of Representatives and the Senate and is not approved by him, shall be returned, and then a two-thirds vote in both Houses is required before it becomes a law.

It is argued here that because a British king has not exercised the veto power for one hundred and fifty years, the Executive should not; that the two forms of government are analogous. With the distinguished gentleman from New Jersey, [Mr. ROBESON,] I deny the analogy. What analogy exists between the House of Lords and the Senate of the United States? What analogy between the sovereign of Great Britain and the Executive of the United States? None. The former is hereditary, the latter chosen by the people every four years. Indeed the Executive is closer to the people than are our Senators; certainly much closer than a hereditary king. Our Executive cannot declare war as does the King, nor has he the kingly power to dissolve the House of Representatives at will as the English sovereign can dissolve Parliament, and which power is exercised. I would remind gentlemen on the other side of the House that if the Chief Magistrate of this nation had such right and would now choose to exercise it your lease of power here would in all probability be just two years shorter than it is now.

The gentleman from Kentucky now in the chair [Mr. BLACKBURN] in his beautiful peroration apostrophized the Father of his Country, and declared that if he should step down from yonder frame and resume those powers that the grateful people of an infant Republic conferred upon him as their first Chief Magistrate, even to him he would never consent to yield dangerous and unwarranted powers. Oh, no; no one here could believe that Washington would ask it, but if it were possible for him to step down in living, breathing, and animated form, it is much more reasonable to believe that he would leaf over his last and best legacy to the American people and address some of the gentlemen on the other side with this paragraph:

"The unity of government which constitutes you one people is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your National Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it, accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity, watching for its preservation with jealous anxiety, discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest or to enfeeble the sacred ties which now link together the various parts."

Could you in reply say in the words of the young man in the Scriptures, "All these precepts have I kept from my youth up." What would you say? Oh, what could you say?

Several gentlemen have taken occasion to disavow the sentiments of a certain Mississippi paper quoted from by the gentleman from Maine. But a paper whose character and influence no one will question, the Louisville Courier-Journal, says, "'This is a nation,' solemnly said GARFIELD." We are indeed, Mr. GARFIELD, a nation of States, thirty-eight in number. And is this all; tell us gentlemen of the other side, is that the whole of it? Do you deny that we are forty-five millions of people living under one Government, obeying one Constitution, and recognizing one flag? Do you see nothing above and beyond thirty-eight States? We of the North believe it to be a Union one and indivisible. We have heard in the course of this debate of wrongs and injuries without parallel inflicted upon the unhappy people of this country by the republican party during the period it has shaped legislation. Not one word had we heard of the magnanimity of this great party until the gentleman from Tennessee [Mr. HOUSE] on yesterday, in his speech, paid a merited tribute to the republican party in these words:

Mr. Chairman I am not unmindful of the fact that the republican party when they were in power passed amnesty laws removing the political disabilities of southern men who had participated in the late civil war and thus rendered them eligible to fill all positions of honor and trust to which their fellow-citizens might see fit to elect them, nor do I seek to detract from the republican party any of the honor that may belong to them for the passage of those laws.

In its desire for peace and harmony and a restored Union it has made it possible for the vice-president of the late confederacy to become a member of this body, also a distinguished member of the Jeff Davis cabinet, as well as scores of men who struck at the flag of their country and who put forth their best efforts to trail it in dishonor—all these are here now avowing exalted devotion to the Constitution and the Union. In regard to this action of the republican party it is possibly not yet the proper time to speak, but God forbid that history should record this great magnanimity as the most grievous error that shall be laid at the door of the grandest political party that ever existed among a free people.

Mr. STEELE. Mr. Chairman, I shall not commence my remarks on this occasion by quoting from a hymn:

From many an ancient river,
From many a sunny plain,
They're marching to diskiver
The links in error's chain.

[Great laughter and applause.]

Having said precisely what I do not intend to do, I ask the committee to listen to what I do intend to do. [Laughter.]

Mr. Chairman, during the progress of the discussion on the Army appropriation bill, the gentleman from Maine [Mr. FRYE]—I dislike to call anybody's name in this House, because it is not precisely parliamentary—addressed the House in an impassioned speech, in which, among other things, he alleged that there were no free elections in the South, because the white people, who were in the main democrats, by violence and intimidation, controlled the blacks into subjection to their will. This charge constituted the gravamen of the gentleman's speech. During it he took occasion to indulge in some spiteful and uncharitable animadversions upon the conduct of his own race, in the South, which, to my mind, were not entirely becoming in one of his ability and position. Appeals were made by him to feelings engendered during the late unfortunate civil war, which it was supposed ended nearly fifteen years ago, and whose bitter memories it is not the part of wisdom, statesmanship, nobility of soul, or even courage, to revive and excite. The language of the gentleman was so sweeping and comprehensive that I felt it to be a duty which I owed to the State, one of whose Representatives I have the honor to be, to ask if he meant to charge that the alleged offenses which he was denouncing (the violation of the freedom of the ballot) were committed in the State of North Carolina. I wanted a "bill of particulars," because I thought common fairness required it. Instead of answering the question in that manly way which his brave words would have led one to expect, he resorted to what I conceived to be an evasion, and responded, inferentially at least, that these outrages were less common in the State of North Carolina, because of the number of white republicans who lived in it. Inasmuch as this answer clearly involved the charge that fear, and not a desire to observe the law, nor a regard for the duties and obligations of good citizenship, controlled our people, I pressed the gentleman for a specific reply, when, as he ought to have done, he withdrew the imputation. As this was practically all the vindication which I desired, I chose not to pursue the subject further, but to allow others whose constituents had been assailed to come to the defense of their own people.

Mr. FRYE. Will the gentleman allow me a minute?

Mr. STEELE. Oh, yes; certainly I will.

Mr. FRYE. I was profoundly ignorant when the gentleman asked me the question he did in relation to the history of North Carolina in connection with these matters under discussion. I have since that time been investigating the history of that State, and I now feel entirely able to say to him, and entirely able to satisfy the country, if I could get fifteen or twenty minutes at any time in which to do it, that North Carolina ought not to be exempted at all; that murders and outrages were as frequent there as in many other States; that "moonshiners" abound there in great plenty; and that it takes the

Army to enforce even the revenue laws; and by and by, if I get a few minutes, I will devote such portion of the time as gentlemen feel inclined to listen, to North Carolina.

Mr. STEELE. "Angels and ministers of grace defend us!" [Laughter.]

Mr. Chairman, the gentleman from Maine need not to have made an acknowledgment upon the floor of this House of his ignorance in certain particulars; for charity would suppose that was the cause, rather than something else, of his remarks. That is all I have to say upon that point.

Not long after this a member of this House, and I shall not specify the State for reasons which are satisfactory to myself, who made his appearance upon the floor for the first time about a month ago, being, as I suppose, "gorged with statesmanship," [laughter,] as another member was once characterized by one of his colleagues, proceeded, doubtless to his own great gratification, to disgorge himself of something which was very much removed from statesmanship, but closely allied to that which is far less elevated and noble. If it is true that "out of the abundance of the heart the mouth speaketh"—I believe that is Scripture; if it is not, my reverend friend from Iowa will correct me——

Mr. PRICE made a remark which was not heard.

Mr. STEELE. I presume the gentleman's remark was pretty good, but I did not hear it. That member's heart is overflowing with the gall of human unkindness, and he shows a chivalry in words, in a time of peace, which I suspect far surpassed his heroic deeds when armed men were engaged in deadly strife. He vauntingly calls my attention to certain volumes in the Library of Congress, whose record, he tells us, is "like the history of hell and the proceedings of the damned." I confess, Mr. Chairman, that I do not know anything of the similitude, having no knowledge, nor a desire to have any, of the "history" and "proceedings" to which the member so familiarly refers. [Laughter.] I shall not say, Mr. Chairman, that this member came from the State of Iowa. I take it for granted, however, that he has been a close student and an attentive observer of a region of which he professes such extraordinary knowledge, and I do not see how he acquired such an intimate acquaintance except by a personal visit, which enabled him to become a medium for the disclosure of "the unnumbered horrors which hang around the second death." That is from a hymn, too. [Laughter.] Having had the advantage of a personal visit to the dominions over which reigns the monarch of all evil, I trust he will not soon again "to sulphurous and tormenting flames render up himself," but remain awhile on this earth for the purpose of warning sinners against the awful realities of the place of the damned. [Laughter.]

I was not ignorant, Mr. Chairman, of the existence of the volumes to which my attention was directed, nor was I entirely unadvised of the character and purposes of the investigation which called them into being. I know, too, not a little of the credibility of the witnesses, who, as a general thing, were summoned by the ostensible authors of the inquiry to speak in regard to the subject-matter of the investigation. Most of it was gone into by the high court of impeachment of North Carolina in the trial of Governor Holden for "high crimes and misdemeanors in office," a trial where the people and the respondent were both represented by eminent counsel, and which was conducted with the utmost fairness. The respondent was convicted, and among the other offenses for which he was tried, and for which judgment was rendered against him, was, that he had suspended the writ of *habeas corpus*, which the constitution declared should never be suspended. All that the testimony did disclose was that there had been outrages upon the persons of citizens of the State, but there was no evidence that any one had been deprived of his constitutional right to vote as he pleased. That is the question, and no other, which the amendments under consideration make it proper to discuss. But since the Member has so needlessly thrust the matter before the House, with a view only to inflame the passions of the people of his section of country against those who he knows are unable to defend themselves, except "with bated breath," I beg leave to submit a few observations, intended only to "vindicate the truth of history."

Under the Constitution of the United States, as it existed prior to the adoption of certain amendments, the States had the indisputable power "to regulate the internal government and police thereof" and to admit to the privileges of the ballot such of their people as they might regard the proper custodians of this highest prerogative of citizenship. It belonged exclusively to them to fix the qualifications of electors. But party necessities made it desirable that this right should be overthrown; and to effect it the Constitution was ruthlessly trampled under foot by those who had solemnly sworn to support it. This was the greatest outrage upon the freedom of the ballot which was ever committed in this country, and they who did it, and they who apologize for it, ought in very shame to "put their hands on their mouths and their mouths in the dust." It does not become them to speak of the glories of a free ballot. All their laudations are the most transparent of mockeries. However, the deed was done; the amendments are a part of the Constitution—not by the free will of the people of the South, who were lawfully entitled to determine it, but by their acquiescence and submission. That acquiescence and submission give them all the vitality which they possess. Notwithstanding the "questionable shape" in which they were inserted, they are now, by the means which I have indicated, as much parts of it as if adopted according to the methods prescribed. We of the South regard them as entitled to our respect and obedience, and yield to them a patriotic submission, because "*interest reipublicæ, ut sit finis litium.*" We trust that their provisions, as well as all others of the Constitution, will be carried out in their letter and spirit.

Mr. HUMPHREY. Will the gentleman allow me one question?

Mr. STEELE. Yes; but I do not promise that I will answer it.

Mr. HUMPHREY. You can do as you please about that. I ask the gentleman this question: he says that the amendments to the Constitution are entitled to their force and effect from the acquiescence and submission on the part of the southern people?

Mr. STEELE. Oh, no; I do not say that.

Mr. HUMPHREY. Excuse me; I so understood it.

Mr. STEELE. My friend is too good a lawyer not to understand what I mean.

Mr. HUMPHREY. I wanted to ask the gentleman if that is what he said?

Mr. STEELE. You know what I meant, and you know, and every lawyer who knows anything about constitutional law knows, that some things having their origin in wrong, fraud, and force, yet, by the submission of the people to them, have become the law of the land.

Mr. HUMPHREY. Yes; but only when they have their origin in the eternal fitness of things.

Mr. STEELE. Oh, yes; John Bunyan, or somebody else. [Laughter.]

Mr. HUMPHREY. May I ask the gentleman another question?

Mr. STEELE. Not now.

Under the new order of things produced by these changes of the Constitution, the patience of the people of the Southern States was tried to the very verge of forbearance. A swarm of hungry political vultures, with all the hateful characteristics of that—

> Wee blastit wonner,
> Detestit, shunned by saunt and sinner.

whose appearance on the "miss's fine Lunardi," at the church, gave Burns the opportunity of writing some of his finest lines, came flocking to the South, to gorge their ravenous carcases upon what little the ravages of the war had left. Professing an ardent love for the newly-made citizen, these creatures soon wormed their way into his confidence and thus possessed themselves of the lucrative offices of States in which they really never intended to remain, except so long as the hope of plunder offered a temptation. These are the beings who bear the enticing and suggestive name of "carpet-bagger." Notwithstanding the assertion often made to the contrary by those who either did not know the facts or who willfully perverted them, the term was never applied by our people to any honest citizen of the North who removed to the South to make himself a part of the people, ready to bear their burdens and participate in their joys. These are always welcomed. Under the baleful influence of the adventurers whom I have named, every department of the government of the States which they infested became corrupt. The legislative was largely composed of the ignorant and depraved, the executive was often filled by aliens with no feelings in common with the people, and the judicial disgraced by men who either knew nothing of the law which they were called upon to administer, or were so malignant and venal, that justice was frequently either "sold, denied or delayed."

In my own State there were some honorable exceptions, and these I do not intend to include in my statement. Of our judges I shall speak of but two—one a native, as much opposed to granting suffrage to the negro as any one, until he found that he could profit by it and get a position for which everybody knew neither his learning nor his character fitted him; and the other a "carpet-bagger" of no ordinary ability, but believed by nine-tenths of our intelligent people to be totally destitute of principle, and moved only "by the instigations of the devil and his own evil passions." In the two districts presided over by these men the courts failed to do justice to such a degree that in an evil hour some indiscreet men, in their very despair, took the administration of the law into their own hands; and, having done so, often committed grave violations of the very provisions which they assumed to enforce.

I am not the advocate of the "higher law," regarding it always as a dangerous experiment and often productive of evils of greater magnitude than those which it proposes to remedy. In one of these districts, composed in part of some of the counties which I represent—where the "masked ruffians" lived, as they are sometimes called—the members of the bar, without regard to party affiliations, held a meeting and unanimously agreed upon a memorial to the General Assembly of the State, which was intended by them to be the foundation of articles of impeachment against the judge, in which it was distinctly charged that his incompetency was so glaring that his conduct tended to increase, and did increase, rather than diminish crime. His stupidity was so great that I have understood it was said, and I believe that it was said, that a prominent judge of his own party (I will not say he was from the bench of the supreme court) declared of him, that, "like an owl, he was blind in proportion to the light shed upon him." [Great laughter.]

It was in these two districts "where sin was robed in ermine and in gold," and for these causes, and no others, which I have indicated, that the organization known as the ku-klux had its origin, mostly flour-

ished, and exercised in the main its unlawful prerogatives. It is error to charge that it was composed exclusively of democrats. In nearly every case where this band inflicted the punishments which the courts failed to impose, acting upon the principle that "diseases desperately grown by desperate appliances are relieved," the evidence is overwhelming that the parties upon whom its avenging hand was brought down, had been guilty of offenses against the criminal law, and some of these offenses were felonies of the highest grades. In a few of them the persons punished had used their power to harass unoffending citizens and subject them to outrages under the forms of legal prosecutions without the hope of legal redress. It would have been far better, I admit, had a suffering people been content to have borne longer the "weary life" to which they were subjected, and trusted in a final vindication, when the goddess of justice once more became seated upon her throne. But the infirmities of human nature are not confined to one State nor one section of the country, and they who accuse our people of wrong are not always guiltless themselves. They should be careful how they "throw the first stone."

The case to which the gentleman from South Carolina [Mr. AIKEN] and the gentleman from Kansas [Mr. HASKELL] alluded a few days ago only demonstrates that even in the latter State the public patience is sometimes exhausted and wreaks swift-footed vengeance, because it is unwilling to await "the law's delay." It is by no means a solitary instance, as every one who has read the newspapers of this city within the last few days will recollect. What is known as "Lynch law" is administered now and then in every State of the Union, and will be administered, despite all conservative teachings, so long as murder, arson, burglary, and all the other felonies continue to be committed. These will doubtless take place until the arrival of that happy period, apparently very far in the future, when universal peace shall spread her white wings over the earth, and "the leopard shall lie down with the kid, and the calf and the young lion and the fatling together, and a little child shall lead them."

When these offenses occur in the South they are ascribed to political feeling by those whose joy it is to "laugh at our calamities and mock when our fear cometh." When at the North they are either overlooked by partisans, whose only desire is to make political capital, or attributed to the passions which are the inheritance of frail mortality. If a negro is maltreated or killed in our section, whatever may have been the provocation, even such as referred to by the gentleman from Kansas, [Mr. HASKELL,] whether murder, arson, or rape, tears of sympathy are shed over his fate, "as fast as the Arabian trees their medicinal gum," by those whose only feeling for him is a selfish wish to use him as "a hewer of wood and drawer of water," for their political enjoyment.

In their excessive zeal for him, most generally hollow and pretentious, the mere "trappings of woe," there is no tender chord of feeling to be touched for the people of that race, "greatly wrought, perplexed in the extreme" by the treatment which they receive, which kindled and fed the fires of civilization that have sent their gladsome light to illumine the darkness of earth.

What I have said in regard to the causes which contributed largely to the infractions of the public peace in my own State can, I doubt not, be truthfully said of similar occurrences in the other States of the South. Where judges, whose duty it is to administer the law as it is written, shall so discharge their official functions that no good citizen can have cause to complain, the law will be respected and easily enforced; for then there is confidence that its strong arm will be used to protect and defend the persons and property of all the people. But "thieves for their robbery have authority when judges steal themselves;" and if the bench becomes either so ignorant or corrupt that faith in the pure administration of justice shall fail, it need surprise no one if the evil example shall be followed to the partial or entire dethronement of the law and the substitution of violence in its stead. The favorite policy of the republican party, to keep up its control in the country and at the same time insult and degrade the white people of the South—a policy, as I have said, based upon an acknowledged violation of the Constitution—resulted, as every thoughtful man must have known it would result, in placing in authority over the lives and liberties of our people quite a number of men entirely unfitted to hold the scales of justice, and who never would have held them but for the abnormal condition of affairs which *party madness* and fanaticism and malignity created. The natural fruits of such a stupendous outrage upon "truth, justice, and the Constitution" came in due course of time, and the wonder is that the "abused patience" of the people was quiet so long. The very men who had imposed these heavy burdens upon us themselves would not have exhibited the forbearance which was shown by the helpless victims of their political malice. The act was not one of genuine courage or lofty statesmanship or generous humanity; and now, when the purpose has failed, when the fruit which was expected to have the taste of nectar has "turned to ashes," the authors of the wrong, in their desperation, charge that the natural law which makes intelligence control ignorance is unnatural and revolutionary. To induce the negro to be still longer subsidiary to their purposes, these very persons are now enticing him away, under delusive and fraudulent hopes and representations, from a climate and pursuits to which he is accustomed into a strange and inhospitable land, that he may add to the political strength of another section of country. That is all the object, and they will get tired of it, I predict. [Laughter and applause.]

Among other reasons given for the maintenance of an offensive surveillance over the actions of the southern people—offensive because it comes in conflict with the traditions and practices of the fathers and presupposes criminal intent on our part—is that we need subjugating into the propriety of allowing the free exercise of opinion among us. It is alleged that we are intolerant of any differences on the part of those who were educated under other influences and under what is pharisaically called a higher civilization than the one beneath whose shadow we were reared. We are told, and the country is told, (for what purpose is apparent to every intelligent man,) that the southern democracy place under the ban of their social displeasure all who settle among them and entertain political views not in accordance with their own; and hence the necessity of our being taught by Federal authority that humility on our part is essential to the full development of the changed condition of affairs. Doubtless some weak-minded and timorous men believe these stories; but no one who is well informed can be so extraordinarily credulous. The same causes which would render a southern man odious to the northern people if he should settle among them would unquestionably operate to produce unpleasant relations in the South. Men who are new residents anywhere, if wise, will always exercise prudence and be careful not to wound the sensibilities or even prejudices of their neighbors. If a citizen of Alabama should remove to Maine, and shortly after his arrival should stand up in the market-place and indulge in censorious criticisms upon the manners, customs, and language of the natives, contrasting with them the superior condition which existed in his mother State, he would be sure to excite bad blood and bring upon himself the ill-will and even the maledictions of those upon whom his animadversions were made. [Applause.] They would probably think that he would act more discreetly if he waited a little longer before indulging in his lectures; or they might treat him with contempt as a fool. Whatever might be his opinions, if he exercised good sense and proper forbearance for their supposed follies and ignorances and showed himself in sympathy with their interests he would command respect, and his peculiar views, when they learned them, would be tolerated as the outgrowth of a defective education, subject to change by the superior intelligence of his surroundings. [Laughter.] If this is true, need any one be astonished if the same sensitiveness to supposed arrogance on the one hand and hope for reformation on the other should exist at the South?

The danger of maltreatment is purely ideal. We welcome all immigrants who come to be citizens and help us to develop the resources of our country and add to its wealth, prosperity, and happiness. But we do not want patent statesmen—persons who are distrusted and worthless where they were raised, but who, so soon as they snuff our balmy air, undergo a sudden metamorphosis and robe themselves in the gorgeous paraphernalia of statesmanship. The honest settler at the South who exercises a reasonable share of good sense and who has merit will never complain of the treatment which he receives at the hands of our people.

On the 15th of January of the present year a convention of northern settlers in the South assembled in the city of Charlotte, in my district—a place somewhat famous for the declaration of independence in May, 1775—in pursuance of the following circular-letter of invitation, written by a native of Massachusetts, now a citizen of Charlotte:

CHARLOTTE, NORTH CAROLINA,
December 14, 1878.

DEAR SIR: I have consulted with a number of gentlemen who have moved from New York, New Hampshire, and other Northern States and settled in this State, South Carolina, and Georgia since the war, many of them ex-Union soldiers; I myself am from Springfield, Massachusetts. The conclusion we have arrived at is that northern men who have settled in the South have in their hands the solution of the question as to whether any considerable number of good northern men and active northern capital can be diverted to the South. Many of the northern papers are giving wrong notions as to how northern people are received. You know many of our friends will not put much faith in what southern men or papers say on this head. We who have consulted upon this matter deem it wise to hold a convention of northern men only who have settled South since the war—good, fair, representative men. Your name has been given as such a one. It is thought wise to hold this convention about January 15, at Charlotte, North Carolina, it being more central for all. Arrangements have been made with the railroads for the round trip at one fare. Will you be kind enough to signify if you will come or not, and if you cannot come, please address me a letter stating your views. It is desired in the convention to prepare a statement for publication in northern papers, setting forth the soil, climate, prices, ease of making a living and social treatment of the individual northern man. It is not desired to cover any question of politics or extreme views of any kind.

In your letter, whether of acceptance or declination, please state if you were in the Federal Army, company, and regiment; where you moved from to your present residence, and how long you have resided at your present whereabouts.

We shall be glad to hear from you at the earliest day.

Your obedient servant,

N. DUMONT,
Charlotte, North Carolina.

The author of this letter is personally known to the gentleman who represents the Springfield district of Massachusetts, [Mr. ROBINSON,] and he can say whether he is a respectable man. He commands the respect of our people who know him, not only on account of the general propriety of his conduct but because of the interest which he manifests in the prosperity of our section of country. This convention was attended by about eighty persons of northern birth who

have become citizens of the South since the close of the late war, who after consultation among themselves made among others, the following "findings," which I commend to the consideration of all fair-minded and candid men, believing them to be a complete refutation of the slanders which are uttered against the people of the South:

First. That in the States of our former homes there exists an active prejudice against the South and its people; that this prejudice is mighty in its influence for evil on the nation; that by it and through it the conditions of the country are largely disquieted; that it is fomented and kept alive for ends ulterior to the common weal; that the real interests of the nation are kept out of sight in keeping alive this prejudice; that much of this prejuice, if not all of it, is due mainly to wrong information concerning (and partial and total ignorance of) the facts existing in a large portion of the South.

Second. That in the portions of the South in which we reside the right of any man, from no matter where, to express publicly as well as privately his opinion upon any subject and of every nature is nowhere and in no manner restrained; that all laws are well administered and as truly enforced against the wrong-doer as in any part of any State of the Union.

Third. That any man who has so conducted himself at his former home as to win the regard of honest men and decent people, by pursuing the same course of life in the South, does gain and keep the regard and respect of all people regardless of any question of politics or religious faith; and we further find that being a northern man is certainly no disadvantage.

Fourth. That every citizen recognizes that he is amenable to the law, and that local self-government is as much required and encroachments upon these as much deplored as in any State North, East, or West.

Fifth. We find, too, that persons foisted themselves upon the polity of the South, and by their conduct cast discredit upon the northern name

Sixth. Those of us who were in the Army of the Union never for a moment pretended to think of denying our uniform or the old cause. The confederate soldier has always evinced the true soldier instinct in the grasp of those who were his enemies in war.

Seventh. That considering reputed outrages, if these were carefully sifted it will be found that the complainants for like acts would have suffered at the hands of any people under like provocation.

BUSINESS AND SOCIAL RELATIONS.

Eighth. We find that in business relations the ex-confederate is willing to sell his land on time to northern men, even to people who could not get the same accommodations at the North, East, or West. We find, too, that in the ramifications of business they indorse our notes and bank paper, and are not over-anxious or inquisitive on questions of extension, and they frequently say, "It is as much our interest as yours that you should succeed and by your success help fill the country with thrifty people."

Ninth. That as neighbors they visit our firesides and welcome us to the privileges of public worship and sympathize in our sorrows and afflictions; that they admire sturdy integrity and real principle; that their definition of what these things are corresponds with the idea of the same our neighbors in the North held in common with us. We find that we are not tabooed nor subjected to any kind of persecution for proper conduct or good northern ideas or principles, and though differing from many of our southern neighbors on many essential questions in politics and otherwise, we have lived and prospered here among them, they knowing these differences.

I should be glad to give the names and residences of all the parties who drew up and signed these "findings," but time will not permit it. Among them is Rev. Dr. Mattoon, president of Biddle University, at Charlotte, a colored institution, who removed from the State of New York—a gentleman of talents and culture and esteemed by all who know his character and virtues. The other signers are persons who emigrated from Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, and other Northern and Northwestern States, [laughter,] who all testify without hesitation that the injurious allegations which are so often made as to the South are utterly untrue, and they aver that the persons and property of all classes of people are quite as secure in that section as in any other part of the American Union.

Mr. ARMFIELD. Was one named Conger? [Laughter.]

Mr. STEELE. I am asked whether one was named Conger. That was the name of one of them; there is no doubt of it. [Laughter.]

In addition to the conclusions reached by the convention, quite a number of letters were received by Mr. Dumont from persons of northern birth, and all concur in one emphatic vindication. Many of these gentlemen were soldiers in the Federal Army—not sutlers, contractors, paymasters, or wordy warriors—and like brave men who gave unmistakable evidence of their convictions by placing themselves in front of hostile armies, they show their appreciation of the character of those who were equally sincere by avouching for the truthfulness of their declarations when they laid aside the habiliments of war. The great bulk of the courageous men who encountered the dangers of the battle-field were rejoiced when the trump of mortal strife had ceased to be heard, and hoped that lasting peace would prevail in the land. With them the war ended when the South laid down her arms and furled the flag which she had borne with chivalric heroism for four long and weary years. They scorned to strike further a fallen foe, preferring rather to lift him up, take him kindly back to the old mansion, and joyfully renew the pledges of friendship which had been broken by human frailty and deep conviction. Like the eagle, they were ready to strike while the enemy stood living and defiant before them, but too proud, too noble, too brave, to assault one who had "dropped from his nerveless grasp the shattered spear." We know and history will tell who they are that have acted the part of "vampires and worms." [Applause.]

What is the evidence to sustain the charge that the public voice is stifled in the South? Only this: the South is democratic notwithstanding the number of negro voters who are in it. The argument is, that the negro is naturally, and in gratitude ought to be, a factor for the success of the republican party; that he would do as he ought to do, (and as it was intended he should do,) if not prevented by fraud or force; that the democrats use fraud and force, or members would come to Congress from the South who would serve the purposes of the republican leaders. It is certain that during the "carpet-bag" and bayonet dynasty of the South the bulk of the members from our section were not its representatives. Having no interest there, except to hold office, the "carpet-bag" element was only so much additional strength to the States from which it had seemingly emigrated. Now, our members are identified with their own people and they do not sell themselves like some of their predecessors for their private emolument. But could any one suppose, did any one ever suppose, that the negro when the ballot was placed in his hands had the intelligence to govern himself, and that he would not become the mere instrument in the hands of others to work out the purposes of the superior power? So long as aliens controlled him and made him register their decrees no complaint was uttered by the Pharisees that he was operated upon by falsehood and fraud, and sometimes even by threats and force. Now, when that overshadowing power is gone, and gone too by the influence of natural laws which all reflecting men knew would at last resume their sway, great indignation is uttered. It is not the fraud which hurts, but only the result of the elections.

But if the negro at the South is naturally a republican, I desire to know if the white man of the South is not naturally a democrat? [Laughter.] If the negro is acting unnaturally and for false reasons who votes or is voted the democratic ticket, is not the southern white man acting unnaturally and for false reasons who votes the republican ticket? It is simply a Roland for an Oliver in that case. Now, it is well known that nine-tenths of the white natives of the South are democrats, whatever may have been their former party differences. As ignorance should be controlled by intelligence for the public benefit, I submit it to the candor of northern men whether it is not better that nine educated men rather than one should exercise the superior influence? It is not to be supposed that a few persons, and they not our most intelligent people, should understand more thoroughly the interests of one of the best sections of this country than the great body of the native population who received freedom and full citizenship as an inheritance from their ancestors. The presumption would be utterly idle and puerile.

But besides this, there are reasons readily understood by all why the negro has become tired of the rule of his pretended friends. Many of them are beginning to see that the ballot was placed in their hands not for their protection, but for the sole purpose of keeping some other persons in power. When they have wanted office they have found that the small portion of the white race who acted with them could readily furnish all the official material, while they were left to do the voting. And I have known some instances where they were nominated by the republican party where they stood no chance of election. [Laughter.] I do not say that ever occurred in this House. [Laughter.] They have learned, too, that despite all the falsehoods and inflammatory appeals which have been made to delude them, whenever they need any substantial aid it is to be obtained almost entirely from those against whom they have been placed in an unnatural antagonism, their pretended friends "keeping the word of promise to the ear and breaking it to the hope," and like the "juggling fiends" in Macbeth they should "no longer be believed." They have comprehended, too, that labor and not statesmanship is their calling, and they must work while their professing friends are rioting on the fat of official position. Naturally, the negro would act with his former master, and everybody knows it who knows anything of his character. It required fraud and force and fear artfully applied to change the natural law. And now, after years of strain against it, the normal condition is returning. What have been the consequences? Since the brain and character of the South have resumed their legitimate and proper sway the dark clouds of corruption and distress which hung like a pall over the Southern States during the night of bayonet and "carpet-bag" rule are drifting away, and the sunlight of peace and contentment and happiness is sending its glorious rays to adorn and bless and gladden the land.

I need not tell any southern man what took place in nearly all of their States during the dark days of what is euphemistically called republican rule. It is a black page in the history of this Government. When did free elections come in Arkansas, Tennessee, and even in Missouri? How long were many of the very best men in these States disfranchised for no other reason than because they would not vote to keep tyrants and plunderers in office? In two of these States the governor had a power which no monarch in Europe possesses. Why, sir, in the county in which lives my excellent friend, the chairman of the Committee on Appropriations, [Mr. ATKINS,] having a male population over the age of twenty-one years of about three thousand, the voters were reduced to a few hundreds by arbitrary and tyrannical power, and one of these few hundreds told me that he was restored to the ballot by a subscription to the Knoxville Whig, a newspaper owned by the governor of the State; in other words, he paid $2 for it. Free elections, indeed! The republican party a party of a free ballot! Its whole history as connected with the South demonstrates that that was precisely what it did not want, and what it intended to prevent. A party of justice! Why, sir, under the third section of the fourteenth article of the Constitution it is well known that party favoritism was almost invariably extended to those only who showed penance by shouting hosannas to the republican party. The party of personal liberty and manhood

suffrage! Its legislation for the past fourteen years shows that it has sought rather to protect the rich and grind down the poor. Under the guise of "honest money" this party has organized and carried into practice a policy for the benefit of overgrown wealth, and to the great injury of the debtor and laboring classes of the country.

But then, Mr. Chairman, the alarm is sounded by the "truly loyal," and especially by that portion of them who "cried havoc and let slip the dogs of war," while they remained at a safe distance far in the rear and "out of the shot and danger" of mortal strife, that the "confederate brigadiers" are getting too numerous in this Hall for the peace and weal of the country. Is it that which is feared? "'Twere damnation to think so base a thought." No, no, Mr. Chairman, it is the democrat who is feared, and he is feared, not for the sake of the country, but because he endangers the continued rule of the republican party. The "confederate brigadiers" who allied themselves with that party are not only harmless, but the very quintessence of patriotism. They can be trusted as Cabinet officers and foreign ministers and Federal judges. Loyalty to that party is loyalty to the Constitution in the eyes of these loyal brigadiers of the bomb-proof department, who omit no opportunity, now when the battle is over and the foe has laid down his arms, to exhibit the valor of Falstaff over the dead body of Percy, or that of the plumed knight of the ridge-pole after his wife had killed the bear. [Laughter.]

We of the South yearn anxiously for peace and harmony and complete fraternization. We want personal liberty and the preservation of all the constitutional rights of all the citizens of the country. Whatever may have been our sins we have paid a penalty sufficiently severe for the boon of condonation. When we see some of our trusted leaders in that heroic struggle in which we staked our fortunes and lost all but our honor placed in high official position by the party whose leaders hurl such fierce anathemas at us and continually remind us of our offenses, we cannot help asking if we were any more steeped in crime than they who now flourish in all the glories and bask in the sunshine of high trust and distinguished responsibility. What is the difference? Our only solution of the perplexing problem is that these have shouted "Great is Diana of the Ephesians;" great is the republican party, while we have not learned to become such suppliant devotees. Shall the material interests of the country suffer by neglect while those who should direct their energies toward their advancement are spending their time in assaulting "castles in the air," dangers which exist only in their diseased imaginations? We have no peace, because the party which assails us lives only upon sectional strife and sectional hatred, and means never to allow the wounds of the late unhappy war to heal so long as they shall serve to minister to their political ascendency. Such conduct brings nothing but woe to the country; and under all the circumstances such conduct brave men ought to be ashamed to exhibit.

No people under the sun have more reason to desire good government than the democrats of the South. Every interest which they have demands it. Their hope of regaining the prosperity which was lost by the war and providing the means of supporting their families and educating their children, and of the security of their persons and their estates, requires them to be the advocates of law and order, freedom and justice. We ardently desire "domestic tranquillity" and "the blessings of liberty to us and our posterity." These cannot be maintained by armed soldiers or the emblems of our degradation standing around the polls; for both of them, while they are ostensibly used to uphold, will inevitably destroy free institutions. Let the presumption of innocence prevail; let our people understand that they are to be treated simply as the equals of all other people in this model Republic; that their honor is not assailed by Federal intervention, and elections will not only be free, but the liberties of the country, whenever assailed, will have defenders who will come to the rescue from love and not as slaves to carry out the will of their masters. Remove all badges of our humiliation; and if the evil day shall ever come when the moloch of despotism shall assail the altars of freedom, the men of the South will stand, with all other liberty-loving men, as "a wall of fire" for their protection. [Great applause.]

Mr. BAILEY obtained the floor.

Mr. STEELE. I believe I have a few moments remaining, and I will yield them to the gentleman from Kentucky, [Mr. McKENZIE.]

Mr. McKENZIE addressed the committee. [His remarks will appear in the Appendix.]

Mr. RUSSELL, of North Carolina. I am permitted by the courtesy of the gentleman from New York [Mr. BAILEY] to say that I understand that my colleague who has just taken his seat [Mr STEELE] has made several allusions to me. What those allusions were I do not know because I did not hear them. I desire merely to say that I shall hereafter ascertain what those allusions were, and if I deem it necessary I shall make a reply thereto.

Mr. STEELE. What is that which the gentleman says?

Mr. RUSSELL, of North Carolina. I was merely saying that I am going to read the RECORD on you, and you can read it on me. I do not know whether certain allusions made in your speech were to me or not.

Mr. STEELE. They were not, and I will relieve my colleague, for I distinctly excluded him from my reference to the other two judges.

Mr. RUSSELL, of North Carolina. I did not understand my colleague, and there appears to be some misunderstanding among gentlemen on this side of the House.

Mr. STEELE. When my colleague reads my speech he will find that in that reference I made my colleague an honorable exception.

Mr. CLYMER. If the gentleman from New York [Mr. BAILEY] will yield for that purpose I will move that the committee rise.

Mr. BAILEY. I yield for that purpose.

Mr. CLYMER. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CLAFLIN, for four days, on account of important business; and

To Mr. KELLEY, indefinitely, on account of sickness in his family.

WITHDRAWAL OF PAPERS.

On motion of Mr. MYERS, by unanimous consent, leave was granted for the withdrawal from the files of the House of papers in the case of Jefferson Kinder; no adverse report.

On motion of Mr. BAYNE, leave was granted to withdraw from the files of the House papers in the cases of Samuel C. Schoyer and James M. Boreland; no adverse reports.

Mr. STONE. I move that the House do now adjourn.

Mr. WHITE. Pending that motion, I move that when the House adjourns it adjourn to meet on Tuesday next. [Loud cries of "Oh, no!"] Well, I make the motion.

Mr. RUSSELL, of North Carolina. On that motion I demand the yeas and nays.

Mr. FRYE. There is no need of that.

Mr. RUSSELL, of North Carolina. Very well; if the gentleman thinks there is no need of it I will not insist upon the demand.

The question was taken on Mr. WHITE'S motion; and on a division there were—ayes 38, noes 67.

So the motion was not agreed to.

The question was then taken on Mr. STONE'S motion, and it was agreed to; and accordingly (at four o'clock and fifty minutes p. m.) the House adjourned until Monday.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Papers relating to the petition of Henry W. Birkey, late assistant surgeon United States Navy, to be reinstated in his former position—to the Committee on Naval Affairs.

By Mr. ANDERSON: The petition of J. A. Anderson, (accompanied by draught of bill,) that the Secretary of the Treasury be directed to pay W. H. Powell $9,857.10, which shall be full compensation for a distillery with the furniture and fixtures thereto attached, seized and sold by the United States revenue officials; and that the judgment against John Mills and others, of Dayton, Ohio, (bondsmen for W. H. Powell & Co.,) be released—to the Committee of Ways and Means.

By Mr. ARMFIELD: The petition of R. F. Armfield, (accompanied by draught of bill,) for the payment to Samuel G. Stauber, J. J. Petree, and Adaline M. Shouse of $262.50 each for tax alleged to have been unlawfully exacted from them as a special tax on brandy—to the same committee.

By Mr. BEALE: Papers relating to the pension claim of J. J. Purcell—to the Committee on Invalid Pensions.

By Mr. BLACKBURN: The petition of Dallas B. Mefford, that the compensation of the postmaster at Owenton, Kentucky, be fixed at $900 per year, and for the passage of a bill as therein set forth for that purpose—to the Committee on the Post-Office and Post-Roads.

By Mr. CLAFLIN: The petition of R. D. Mussey, for the repeal of the charter of the National Capital Insurance Company of Washington, District of Columbia—to the Committee for the District of Columbia.

By Mr. DE LA MATYR: The petition of John Childs, (accompanied by draught of bill,) for the passage of a bill to establish a greenback currency, and to relieve the financial distress of the country by granting aid to certain companies incorporated by State authority for works of internal improvements—to the Committee on Banking and Currency.

Also, the petition of John Childs, (accompanied by draught of bill,) for the improvement of the Mississippi and Ohio Rivers—to the Committee on Commerce.

By Mr. DEUSTER: The petition of P. V. Deuster, (accompanied by draught of bill,) for a pension for Thomas Farmer—to the Committee on Invalid Pensions.

By Mr. DIBRELL: Papers relating to the war claim of Joseph Ruohs—to the Committee on War Claims.

By Mr. ERRETT: Papers relating to the war claim of Nancy G. Miller, of Pittsburgh, Pennsylvania—to the same committee.

Also, papers relating to the claim of certain citizens of Allegheny County, Pennsylvania, to be reimbursed the amounts expended by them in averting an impending injury to commerce and the public interests in the navigation of the Ohio River, arising from the pro-

posed construction of a bridge across the Ohio at Parkersburgh, with channel spans of less width than the requirements of navigation demanded, under an authority granted by Congress—to the Committee on Commerce.

Also, a paper relating to the construction of a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania—to the Committee on Public Buildings and Grounds.

By Mr. FARR: The petition of E. K. Pray and 23 others, members of New Found Grange, Bristol, New Hampshire, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. FELTON: The petition of Horace J. Gambrill, to be restored to the revenue-marine service—to the same committee.

By Mr. FERDON: The petition of citizens of Rockland County, New York, to appropriate $2,000 for repairs of the Government dock at Stony Point, on the Hudson River—to the same committee.

By Mr. FORT: The petition of Thomas B. Larkins, (accompanied by draught of bill,) that bankers be prevented from discounting pensioners' checks—to the Committee on Banking and Currency.

By Mr. GARFIELD: The petition of W. M. Ewing and others, colored citizens of Forest City, Arkansas, for the creation of a commission to investigate the condition of the negro schools in the South, and that an appropriation of $1,200 be made for defraying the expenses of said commission—to the Committee on Education and Labor.

By Mr. GOODE: Papers relating to the pension claim of Catharine Kelley—to the Committee on Invalid Pensions.

By Mr. HAMMOND, of Georgia: The petition of John Ussery and others, citizens of Georgia, for the establishment of a post-route from Forsythe to Cornucopia, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. HARMER: The petition of 1,200 citizens of the United States, consumers of matches, for the repeal of the stamp tax on matches—to the Committee of Ways and Means.

By Mr. MANNING: The petition of Cyrus Beede, (accompanied by draught of bill,) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867—to the Committee on Indian Affairs.

By Mr. McGOWAN: Resolutions of the Legislature of Michigan, asking for an appropriation for the improvement and deepening of Saint Mary's River, so as to admit the passage of vessels of the same draught of water as will be allowed by the Saint Mary's Falls ship-canal when the new lock or canal now in course of construction is completed—to the Committee on Commerce.

By Mr. MONEY: The petition of H. D. Money, (accompanied by draught of bill,) that E. C. Clements be paid $200 for rent of ten rooms in Macon, Mississippi, from July 1, 1865, to October 31, 1865, for which rent a voucher was given by the proper quartermaster—to the Committee of Claims.

Also, the petition of H. D. Money, (accompanied by draught of bill,) for the improvement of the navigation of the Mississippi River—to the Committee on Levees and Improvement of the Mississippi River.

Also, the petition of H. D. Money, (accompanied by draught of bill,) that Samuel W. Futhey be paid an amount claimed to be due him for services rendered as a mail messenger at Grenada, Mississippi—to the Committee on the Post-Office and Post-Roads.

By Mr. MORTON: The petition of Clinton E. Colgate, for compensation for the use by the Government of certain of his inventions—to the Committee of Claims.

By Mr. MURCH: The petition of T. H. Murch, (accompanied by draught of bill,) that Alfred B. Meacham be paid $15,000 for injuries, losses, and damages sustained by him while acting for the Government as special commissioner to the Modoc Indians—to the Committee of Claims.

Also, the petition of T. H. Murch, (accompanied by draught of bill,) that a pension be granted George Andrews—to the Committee on Invalid Pensions.

By Mr. REED: The petition of Joseph Wescott & Son, for relief from loss arising from a mistake in a contract with the United States—to the Committee of Claims.

By Mr. RICE: The petition of Moses G. Farmer, for an extension of patents numbered 6296 and 5181—to the Committee on Patents.

By Mr. SHELLEY: The petition of George V. Hebb, for compensation for services rendered in the Doorkeeper's department House of Representatives, Forty-fifth Congress—to the Committee of Accounts.

By Mr. SPRINGER: The petition of Hon. J. C. Holmes, of the eighth congressional district of Iowa, that such action be taken by the House of Representatives as will give to him his legal rights as Representative of the eighth congressional district of Iowa in the Forty-sixth Congress to which he is entitled by virtue of an election held in conformity to the laws of the United States on the 5th day of November, 1878—to the Committee of Elections.

By Mr. TUCKER: The petition (accompanied by draught of bill) of J. P. Wright, of Lynchburgh, Virginia, for pay for advertising done for the Post-Office Department—to the Committee of Claims.

Also, the petition (accompanied by the draught of bill) of J. Henry Rives, a citizen of Lynchburgh, Virginia, asking compensation for services in securing the revenues of the Government—to the Committee of Ways and Means.

Also, the petition of J. U. Ayres, of Bedford County, Virginia, (accompanied by the draught of bill,) to remit and refund taxes illegally assessed against him—to the same committee.

Also, the petition of Mary B. Kirby, of Virginia, (accompanied by the draught of a bill,) for a pension—to the Committee on Revolutionary Pensions.

Also, the petition of Folks & Winston and others, (accompanied by draught of bill,) that the Court of Claims be granted jurisdiction of their claim for compensation for property taken and destroyed during the late war—to the Committee on the Judiciary.

Also, the petition (accompanied by draught of bill) of Charles W. Button, for pay of cost of advertising property levied on by the collector of United States internal revenue in the fifth district of Virginia—to the Committee of Claims.

Also, the petition (accompanied by draught of bill) of Moses Lacy, of Lynchburgh, Virginia, for balance due him for rent of a warehouse upon contract made with a quartermaster of the United States Army—to the Committee on War Claims.

Also, the petition (accompanied by draught of bill) of certain citizens of Lynchburgh, Virginia, for refunding to them taxes improperly collected from them on manufactured tobacco—to the Committee of Ways and Means.

Also, the petition of John Kelly, (accompanied by draught of bill,) for compensation for supplies furnished the United States Army—to the Committee on War Claims.

Also, the petition of Thomas P. Mitchell, (accompanied by draught of bill,) that the Court of Claims may take jurisdiction of his claim for property taken from him, which claim is barred by the statute of limitations from the Court of Claims—to the Committee on the Judiciary.

By Mr. VAN AERNAM: The petition of Henry Reems, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. WAIT: The petition of Edward Binningham, for a pension—to the same committee.

By Mr. WRIGHT: The petition of Sidney Maltby, (accompanied by draught of bill,) that in engaging vessels for refrigerating purposes advertisement be made, and that the work may be open to competition—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

IN SENATE.

MONDAY, *April* 21, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of L. D. Covington and others, citizens of Fannin County, Texas, praying for the establishment of a post-route from Monkstown, in that county, to Cooper, in Delta County; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. DAWES presented the petition of Moses G. Farmer, praying for the passage of an act extending the reissued patents Nos. 6296 and 5181 for a period of seven years from August 31, 1879, and November 15, 1880, the dates when they respectively expire; which was referred to the Committee on Patents.

Mr. VEST presented resolutions of the Merchants' Exchange of Saint Louis, Missouri, in favor of a commercial treaty with France; which were referred to the Committee on Commerce.

Mr. CARPENTER presented the petition of Matthew O'Regan, late of Company E, Third United States Artillery, praying to be allowed a pension; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 449) in relation to the Washington Market Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 450) to establish a circuit court of the United States in and for the State of Texas, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 451) to reimburse the Creek orphan fund; which was read twice by its title, and, together with the papers on file relating to the case, referred to the Committee on Indian Affairs.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 452) for the relief of Priscilla Watson; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 453) to authorize the Secretary of the Navy to fit a new propeller to the United States torpedo-

boat Alarm, and for other purposes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. HAMLIN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 454) to provide for the erection of a monument at the Naval Cemetery at Annapolis, Maryland, in commemoration of the officers and others who perished by the wreck of the United States steamer Huron; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 455) for the relief of Reuben S. Jones; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 456) for the relief of Alston M. Boyd and Rufus P. Walt; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 457) for the relief of Lucinda McGuire; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRIS. I ask an order to be made in all these cases that the papers on file be withdrawn and referred to the Committee on Claims with the bills just introduced.

The PRESIDENT *pro tempore*. Have there been adverse reports?

Mr. HARRIS. There has been no report in the last case that I am aware of. In the first two cases the order ought to be made upon leaving copies in accordance with the rules. As I have introduced the bills by request, and do not know in the first two cases if there have been adverse reports, I want the rule to be applied.

The PRESIDENT *pro tempore*. The orders will be made, and the rule requiring copies to be left will be observed if there has been an adverse report.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 458) to authorize a preliminary examination and survey of the passes between the affluents of the Upper Missouri and Columbia rivers for the purpose of asctrtaining the distances between the navigable waters of said rivers and the practicability of uniting said rivers by canal or otherwise; which was read twice by its title, and, together with the papers on file relating to the case, referred to the Select Committee on Transportation Routes to the Seaboard.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 459) for the relief of Elizabeth B. Custer; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 460) to ascertain and determine the title to the tract of land known as the Rancho Panoche Grande, in the State of California; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 461) granting an increase of pension to Elmer A. Snow; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALKER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 462) for the relief of William Byers, of Batesville, Arkansas; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 463) to amend section 688 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 18th instant approved and signed the following act and joint resolutions:

An act (S. No. 55) to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes;

A joint resolution (S. R. No. 17) authorizing the printing of a portrait of the late Joseph Henry, to accompany the memorial volume heretofore ordered; and

A joint resolution (S. R. No. 20) relating to the organization of the National Board of Health.

PAPERS WITHDRAWN AND REFERRED.

Mr. GROVER. I ask the following order to be made; there has been no report in the case:

Ordered, That the papers in the case of Colonel Thomas Worthington be taken from the files of the Senate and referred to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The order will be made.

Mr. CAMERON, of Wisconsin, submitted the following order:

Ordered, That the papers be taken from the files of the Senate and referred to the committees hereafter named in the following cases, namely:

John W. Chickering—to the Committee on Military Affairs.
Patrick Sullivan—to the Committee on Military Affairs.
John L. Williams—to the Committee on Indian Affairs.
Dabney Walker—to the Committee on Claims.
Sewell B. Corbett—to the Committee on the Judiciary.

Mr. CAMERON, of Wisconsin. No adverse report has been made in any of the cases.

The PRESIDENT *pro tempore*. If there has been no adverse report, the order will be made.

PERSONAL EXPLANATION.

Mr. EATON. Mr. President, I desire to give notice that I shall ask to be heard to-morrow morning, as soon as the morning business of the Senate is concluded. I should have asked the same privilege on Thursday or Friday of last week if the Senator from Maine [Mr. BLAINE] had been in his seat. As my friend from Delaware [Mr. BAYARD] will go on with his remarks on the Army appropriation bill this morning, I shall ask the Senate to hear me to-morrow morning immediately after the ordinary morning business of the Senate.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

The PRESIDENT *pro tempore*. If there is no further routine business, the Chair lays before the Senate the resolution offered by the Senator from Pennsylvania [Mr. WALLACE] on the 17th instant, to amend the standing order of the Senate relating to the appointment and removal of the employés of the Senate.

Mr. DAVIS, of West Virginia. I notice that the Senator from Pennsylvania who has the resolution in charge is not in his seat, and I am told that he is not in the city. Therefore I ask that it be laid aside and that the regular order be taken up, as the Senator from Delaware [Mr. BAYARD] is prepared to speak on that.

The PRESIDENT *pro tempore*. The Senator from West Virginia asks that the resolution be informally passed over, as the Chair understands.

Mr. DAVIS, of West Virginia. Without losing its place.

The PRESIDENT *pro tempore*. Without losing its place.

Mr. DAVIS, of West Virginia. And I call for the regular order.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senate resumes the consideration of its unfinished business.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question being on the amendment offered by Mr. BLAINE to the sixth section of the bill.

The PRESIDENT *pro tempore*. On the pending question the Senator from Arkansas [Mr. GARLAND] is entitled to the floor.

Mr. GARLAND. On last Friday when I made the motion for an executive session it was not with a view of getting the floor to address the Senate upon the pending question, although I expect before the debate closes to make some remarks upon it. As other Senators have signified that they prefer to go on to-day, I yield the floor for that purpose to the Senator from Delaware, [Mr. BAYARD.]

Mr. BAYARD. I am thankful for the courtesy of my friend from Arkansas.

Mr. BAYARD. Mr. President, the bill before the Senate is the usual annual bill "making appropriations for the support of the Army of the United States for the fiscal year ending the 30th of June, 1880, and for other purposes." The amount appropriated by this bill is in round numbers $27,000,000. I believe that every demand of the military service is amply supplied by the bill. Nothing is withheld that would tend to promote the efficiency and usefulness of this honorable branch of the public service. But it is evident that the discussion of the bill has been accomplished in this body and elsewhere with an unusual degree of feeling. A deep but I do not consider too deep an expression of interest has been apparent.

In this discussion I shall deprecate anything like an appeal to passion. I know how much more quick is the response whether of challenge or approval where passion can be invoked, and I know how much more feeble is the response to the appeals to reason. Yet I have none to make except to reason. I propose to advance no doctrine intended for a sectional influence. I propose to say nothing that shall not be addressed to all parties, to everybody within the broad limits of our country who is a friend to constitutional republican government.

By the Constitution in its first article and eighth section all the power delegated to the Federal Government by the States in relation to erecting military establishments is to be found. The power is given to Congress—

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.
To provide and maintain a navy.

But there is no limit to the duration of the appropriation for that branch of the military service. Next:

To make rules for the Government and regulation of the land and naval forces.

These are clustered, they may be said to be coupled in their arrangement, as they must be in their execution.

It is to be noted that the restriction for the appropriation to maintain an army is to two years; and by our unbroken custom since the foundation of the Government, which has hardened into law, the appropriation is but for a single year. Note well, then, that a *standing* army, a permanent institution, was never to exist, but that its duration was limited at the outside to two years, and that every two years at the furthest recurrence was had as to the advisability of its continuance.

But let us look further. I turn to the second article of the amendments to the Constitution. These articles of amendment may be called conditions concurrent to the adoption of the Constitution, because, to use the language of the convention of the great State of New York, it was only "in full confidence" that these ten articles of amendment, restrictive of the power of the Government of the Union, would be adopted that the Constitution was approved by that and by other States. Indeed in some cases the condition was absolutely annexed to their ratification. The second article of these amendments provides that—

A well-regulated militia being necessary to the security of a free State, the right of THE PEOPLE to keep and bear arms shall not be infringed.

Note, I beg of you, Senators, that while there is a restriction as to time for the existence and the appropriation to continue the employment of the Army, there is to be no restriction at any time upon the right of each State to be secured by its own militia, and of THE PEOPLE at all times and forever during the existence of this Government to bear arms. That was never to be infringed. Therefore military establishments of the Union, it will be plain, were intended to exist and be dependent only upon the consent of Congress, given from year to year.

It is well when we are examining these fundamental principles which lie at the very basis of our system of government, that we should heed those counselors from whose virtues and mighty intellects this Government sprang. In the twenth-sixth number of the Federalist, (page 172 in the copy from which I read,) Mr. Hamilton tells us distinctly that—

The power of raising armies at all, under those constitutions—

That is, the State constitutions—

can by no construction be deemed to reside anywhere else than in the Legislatures themselves; and it was superfluous, if not absurd, to declare that a matter should not be done without the consent of a body which alone had the power of doing it.

Then, said he, in considering the armies of the Union:

The Legislature of the United States will be *obliged*, by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents. They are not *at liberty* to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence.

Again in the fortieth number of the Federalist he says:

Next to the effectual establishment of the Union, the best possible precaution against danger from standing armies is a limitation of the term for which revenue may be appropriated to their support. This precaution has prudently *added*. I will not repeat here the observations which I flatter myself have placed this subject in a just and satisfactory light.

Referring to the danger expressed lest two years might be too long a period, and that there was not the safety which was found in the provision of the English system, which required an annual appropriation for the continuance of the Army, he says:

Ought not suspicion herself to blush, in pretending that the Representatives of the United States, elected freely by the whole body of the people, every second year, cannot be safely intrusted with a discretion over such appropriations, expressly limited to the short period of two years?

And I find here by his hand in italicized letters emphasis given to the words "elected freely by the whole body of the people, every second year;" because he was referring to the originating power of the Constitution vested in the House of Representatives over all bills providing money for the support of the Government. It is therefore in the discretion of the House of Representatives that the origination of measures necessary for the continuance of the Army is deposited.

I am aware that there have been allegations of irregularity in the attachment of measures of general legislation upon appropriation bills. I am not sure that such charge has not been abandoned in the present case. If it has not been abandoned a slight examination will show that it is wholly groundless.

I am ready to concede, first, the constitutionality, but, next, the impropriety of encumbering ordinarily appropriation bills with provisions of general legislation of an extraneous character. I do not propose at this moment to discuss that question further than to reiterate the statements which I have often made in deprecation of such a practice. But by the very nature of things no such reasoning or objection applies to the bill now before the Senate to which such objection is sought to be affixed. By the very nature of things supplies to keep on foot an army must be accompanied with rules for the regulation of the army. Every expense of an army can only be measured by the uses to which it is to be put. You cannot appropriate for the expense without measuring and limiting the use. The two are inseparable. There is, therefore, no bill which can be devised which shall provide regulations for the employment of the army so fitly as the bill which provides money to support it in executing its duties. Each must be taken into consideration. The expenses of the army are based upon estimates. Estimates are based upon the intended uses and occupation of the force. Expenses in war are infinitely greater than in peace, and all expense of every nature depends upon and must be measured by the exigency contemplated. This is only common sense. You cannot appropriate money for an expense without measuring and estimating the cost of executing the duty proposed; and therefore it is that upon this bill, and upon no other bill, regulations for the use of the armies of the United States must be framed, and in our history of legislation have generally been found.

Let me refer to the intelligent results of the labors of the honorable Senator from Pennsylvania [Mr. WALLACE] in the speech that he made on the 14th of April on this subject. He had made a thorough examination of the statute-book, in order to find what proportion of legislation concerning the Army of a general and permanent nature, had been enacted upon appropriation bills, and he discovered, that in the present revision of the statutes from sections 1094 to 1361, inclusive, the number of sections under the title of "The Army" is two hundred and sixty-eight. Of these ninety-two were derived directly from appropriation acts, including acts appropriating for the support of the Army, sundry civil, consular and diplomatic, Military Academy, and fortifications. Thus it appears that more than one-third of the general and permanent provisions of law regarding the Army were enacted upon appropriation bills prior to 1874. But, in fact, the proportion was much more than one-half, because many other sections were derived from acts consolidating the statutes in relation to the Army, passed from time to time, beginning at an early day in our legislation, which statutes were derived in great part from provisions attached to previous appropriation bills. These permanent and general provisions of law derived from appropriation bills, were passed upon such in the various years extending from 1832 down to 1873, and the greater part of such legislation on appropriation bills was enacted, as he says, under the rule of the republican party.

I may say further that had time been given me, I could have shown that in a branch of the public service military in its nature, and in regard to which the chief expenses of our Army are incurred, in the Indian appropriation bills, the great body of general legislation in respect of the Indian tribes and their control is to be found upon appropriation bills of money to carry out our stipulations and control of that people.

How idle, then, Mr. President, is it in the face of history, and how unworthy and untrue is the cry of revolution raised for merely party ends to alarm the anxieties of the country, when such amendments so thoroughly germane to the subject, so indissolubly connected with the execution of the appropriations, in the course of the regular administration of the Government according to its parliamentary rules and unbroken custom, are now proposed to be enacted into law. I do not believe that the American people are at all in a humor to seek for unrealities, or that they will not resent in their good sense all such hollow and insincere alarms. I believe they will be resented by the country, and that they will recoil upon those who would seek to make them causes of discord and contention, and deprive the country of that rest and opportunity for recuperation which we all feel to be so much needed.

Equally unjust and absurd in the cry of coercion. Parliamentary rules of order and the composition of our own Government are alike disregarded in search of this mere political capital. I know of no grosser impropriety in parliamentary procedure; I know of no more manifest breach of the rules of order, than introducing statements in debate in either House of Congress intended to affect the determination of subjects, whether that influence is of the executive branch or whether it be the influence of the co-ordinate House of Congress.

See upon this subject what has been said. I read from section 1714 of the Law and Practice of Legislative Assemblies by Cushing:

1714. It is considered, and with reason, so important *that each branch of the legislature should act with entire independence*, that it is regarded as irregular and disorderly, to attempt to promote or oppose any measure, by stating the proceedings in reference to the same or a similar measure, in the other branch; as for example, to say, that "if the gentleman who made the motion had been informed of what had passed in the House of Lords the preceding day he never would have made that motion as he knew no bill could pass without the Lords;" that "he should bring in just such another bill with the amendments, and then gentlemen who meant to oppose it should recollect that it had passed that house without even a division, and that it had passed the House of Lords without any or with very little opposition;" or, to speak of the large majority by which this bill had been carried, in the other house of Parliament.

1715. III. It is also highly irregular to introduce the name of the sovereign in debate, for the purpose of influencing the determination of the house, for two reasons: first, because the sovereign cannot be supposed to have a private opinion apart from and independent of the responsible advisers of the Crown, and therefore the private opinion of the sovereign is of no more account than that of any other individual; and, secondly, because the sovereign, acting under and with the advice of the constitutional and responsible advisers of the Crown, cannot participate in any such manner in the functions of legislation.

1716. The legislative power of the sovereign is defined with admirable force and clearness in the remonstrance of the Lords and Commons addressed to Charles I, 16th December, 1641, in which they declare:—"That it is their ancient and undoubted right that your majesty ought not to take notice of any matter in agitation and debate, in either of the houses of Parliament, but by their information or agreement; and that your majesty ought not to propound any condition, provision, or limitation, to any bill or act in debate or preparation in either house of Parliament, or to manifest or declare your consent or dissent, approbation or dislike, of the same, before it be presented to your majesty in due course of Parliament; and that every particular member of either house hath free liberty of speech to propound or debate any matter, according to the order and course of Parliament; and that your majesty ought not to conceive displeasure against any man for such opinions and propositions as shall be in such debate; it belonging to the several houses of Parliament respectively to judge and determine such errors and offenses, which, in words or actions, shall be committed by any of their members, in the handling or debating any matters there depending."

1717. In accordance with the constitutional doctrine here laid down, the Commons, on the 17th December, 1783, resolved:—"That *it is now necessary to declare*, that to report any opinion or pretended opinion of his majesty, upon any bill or other proceeding depending in either House of Parliament, with a view to influence the votes of the members, is a high crime and misdemeanor, derogatory to the honor of the Crown, a breach of the fundamental privileges of Parliament, *and subversive of the constitution of this country*."

1718. It is, therefore, an established rule, which is strictly adhered to, in spirit

as well as in letter, in both branches, that no member shall introduce any mention of the name of the sovereign in debate, in such a manner as to interfere with the freedom of debate, or for the purpose of influencing the determination of the house, or the votes of the members, in reference to any matter pending in Parliament.

Then he passed on to give instances of the strictness with which this rule has been upheld, and in the note of the American editor, he says:

It seems hardly necessary to observe that what is said in the foregoing chapter concerning the sovereign is applicable in this country to the executive branches of our several governments.

And there is a long foot-note of authorities in which reference to the pleasure or the displeasure of the Executive in respect of any pending measure is held to be highly disorderly. Therefore it is that I have listened with amazement and strong disapproval to the numerous attempts made in this debate on the other side of the Chamber directly to coerce senatorial opinion by threatening us with what may be the action of the executive department of the Government. I hold that no rule is plainer than that the safety of our Government is dependent upon the just independency of its various departments. The powers of Congress are theirs alone; the powers of the Executive are his alone. The responsibility for the action of each rests upon each alone. It cannot be divested, and it cannot be used excepting wrongfully and improperly, out of its appropriate sphere.

Mr. President, whether we are exercising our powers or whether officers of other departments of the Government are exercising their powers, let it not be forgotten that the spirit of administration must be the same in all to avoid conflict and confusion. The Government must be administered in all its parts, under the great rule of construction, that every power must be so exerted as to accomplish the one great object for which it and all other powers were delegated and vested in any department of the Government or any officer thereof. That great object being to keep in view always the perpetuation and continuance of free republican government.

The spirit of comity and just administration can alone be relied on to prevent collision and jar between the great departments of the Federal Government itself, as well as between the Government of the Union and those of the several States. Critics of the philosophy and structure of our Government have often observed that one of its infirmities consisted in the Constitution being in writing, arguing that therefore it lacked that elasticity or flexibility which would enable it under pressure to give way temporarily without breaking its ties; in other words that it could not be chained down, without injury, to a mere frame of words when the principles underlying its exercise would equally have been secured and respected by a liberal construction of its meaning. Let those therefore who would administer this Government by its letter and not its spirit, remember that rigid inflexibility of phrase and letter will often prove as destructive of its just ends and as disastrous as loose disregard of its forms of expression.

As I have shown, Congress in its sphere is vested with power to declare war, to levy supplies, to raise armies, and regulate and control them. The President of the United States, the chief of the executive branch of the Government, is *ex officio* the Commander-in-Chief of the armies; but he can neither abridge nor interfere with any of the powers of Congress over this subject. It was for the safety of the country and the people, that the power to raise armies and regulate their use was given into a different hand from that which was to command them when they had been raised. I hold that any construction of the Constitution that gives to the Commander-in-Chief of the armies of the United States legislative control over their existence, their composition, or regulation, tends to defeat the great rule of liberty intended to be secured by the subdivision and distribution of powers.

The executive power of course extends to the nomination of all officers of the United States, civil and military, but beyond this he has no authority or control over the members and composition of the Army. I do not omit section 7 of the first article of the Constitution, which requires that every order, resolution, or vote to which the consent of the two Houses is necessary (except a resolution to adjourn) shall be approved by the President; but I do mean to call attention to the fact that the intent and spirit of the Constitution was to prevent the discretionary power to raise armies and regulate their use from being deposited in that official who was also to be their commander-in-chief.

So thinking, let me come to the proposed regulation of the Army which is contained in the present bill, and which has been made the subject of such violent denunciation coupled with so many dark threats. Section 6 of this bill is the only part that I understand is objected to. It provides:

That section 2002 of the Revised Statutes be amended so as to read as follows.

Here let me say that by the law as it now stands, in amending regulations whether of the Army or of the Navy or of the Indian department, in making any amendment to the existing law, it is required that the section so amended shall be printed in the form in which it will read when amended.

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

These are the provisions objected to. The only difference between the regulations as they now stand upon the statute-book and those proposed by this bill are that now the Army may be brought, by any civil or military officer of the United States, "to keep the peace at the polls." The regulation proposed in this bill by the House of Representatives for the Army of the United States is simply that it shall *not* be employed to keep the peace at the polls; that is all. It is on the two sides of this question that the two parties seem to have arrayed themselves.

In February last the House of Representatives passed and sent to the Senate, a bill identical in substance and in form with the bill now under consideration, excepting the provisions now inserted, carefully providing that the duty and power of the Executive to suppress domestic insurrection in the States on the call of the Legislature or governor thereof, shall not be abridged. Then, as now, the democratic majority in the House said to the Senate "here we tender you a bill providing for the maintenance of the Army in all respects amply and fully, for the coming year; but we couple with it this regulation that it shall not be employed to keep the peace at the polls of election in the several States." The answer of the republican Senate on the 3d of March last, without debate and with no reason given at any time that appears by the record was, "we will not have an Army in the United States on such terms; it shall be used to keep the peace at the polls or it shall not exist. If we cannot use it at the polls we will suffer it to be disbanded for want of supplies." There was at that time no cry made that I am aware of that the regulation proposed by the House of Representatives was revolutionary or unjust. It was simply the will of the republican majority in the Senate that the regulation should not be adopted. In proof that there was no principle contended for by that majority, look at the act approved by the President on the 18th day of June, 1878. See section 15 of that act, containing what is called the *posse comitatus* clause, that the Army of the United States—I speak from memory as to its substance—should not be liable to be called on except under the express provisions of law to be used as a *posse comitatus*, and imposed a punishment by fine upon the officer disobeying it. In March, 1877, the House of Representatives, then, as now, in the control of the democratic majority, passed an Army appropriation bill with a clause forbidding the use of the Army as a *posse comitatus*, and a republican Senate deliberately voted that there should be no Army unless it could be used as a *posse comitatus;* and, standing upon the constitutional exercise of their powers, the republican majority in the Senate defeated the Army appropriation bill, and it became necessary for the President to convene Congress in extra session in the month of October following.

Mr. ALLISON. Will the Senator allow me? I do not understand that the defeat of the Army bill in March, 1877, rested at all upon the idea that the Army could not be used as a *posse comitatus*, but it rested upon a section in that bill which declared that the President of the United States should not use that Army to maintain State governments in States of this Union; and it was upon that difference of opinion between the Senate and the House that the Army bill failed in March, 1877.

Mr. BAYARD. Mr. President, I had intended to have that bill referred to before me; and therefore, as to the fact which is so easy of arbitration between the honorable Senator and myself, say that as at present advised I do not concur with him. The history of that case shows that a bill originating in the House of Representatives was passed, almost at once upon the reconvention of Congress, for the relief of the suffering officers and soldiers of the Army, who had been deprived of their pay since the 30th of June of that year, and that, on the 18th day of June, 1878, the bill as proposed in March, 1877, by the House of Representatives was passed by the Senate on a yea-and-nay vote and met the prompt approval of the Executive, thereby becoming a law and now standing upon the statute-book. We heard nothing on that occasion of coercion, because there was none, and there is none now; and yet the exercise of this discretion by the House was then as positive and specific in the Army appropriation bill in June, 1878, which was passed by a republican Senate and signed by the President, as is the law now proposed. In fact there was more reasonable ground for discussion in that case than there can be found in the present. Let me ask from those around me more familiar with the appropriation bills and the Army bills than I, whether an amendment proposing an entire reorganization of the Army was not put upon the appropriation bill by the then majority of the Senate upon the application of my honorable friend from Rhode Island, [Mr. BURNSIDE.] Is not that so?

Mr. WITHERS. That was put on in the House.

Mr. BAYARD. It was put on in the House, but it came before the Senate and as I recollect no objection to its regularity came from any

quarter. The only thing said, and said by me among others, was that I hoped that upon an appropriation bill, without time for examination, we should not conclude so important a question, but that we should postpone it for six months that we might examine it, for all had not either knowledge or the opportunity which the gentlemen of the special committee who had studied the question and who by the way had never communicated their views by a report had had, that they having enjoyed greater opportunities, we should have time to learn the value of their reasons; but as to anything like irregularity because it was general legislation of the most reformatory character connected with the Army, not one word was raised and not one objection came from any source. The only question was the convenience of considering so important a subject in the short time allotted to us before the adjournment. I believe I state that correctly.

But, Mr. President, there are rules and regulations which neither Congress nor the President nor both combined have, in my judgment, the power to impose upon the Army of the United States. It is not lawful and it cannot be made lawful for a government depending upon the elective action of its people for its existence, in time of peace to bring to the place of holding an election an armed force. The very presence of force is inconsistent with free choice. It is but stating a truism, too palpable to need repetition, to say that to choose means to choose voluntarily, and not involuntarily; that a choice which is not free is no choice. An election is but a choice, and an election which is not free is no election. If an Administration which depends for the perpetuation of its power upon popular election can, under pretense of keeping the peace or anything else, intrude the element of force at the polls to influence in any degree the will of the citizen, then it has struck a fatal blow at the very root of popular government.

Some propositions are too clear to be debated, they are so strong in their simple statement as to have no need of discussion. Daniel Webster spoke of certain popular rights as "fireside rights," that no man could safely suffer to be drawn into question, and the right of the people peaceably to assemble and hold their elections free and undismayed by the presence of armed force or by the threat of armed force or intimidation under any pretense whatever, is an essential right without which all others are insecure. Election-day is the one day of freedom, the day of days for the citizen. If a man may not be free on that day he shall be a slave for the remaining days of the year. On that day comes the opportunity to retrieve mistakes, to inaugurate reform, to redress grievances, to withdraw power that has been abused, the day to which men of law-abiding spirit look forward with patient endurance of present evils because it is the day of their deliverance. Sir, it is the day when power is to return to the people from whom it emanated, or it may never return. Free election is the great safety-valve of human discontent; it is the wise substitute of our forefathers for desperate and forcible revolt of misery against the oppressions of constituted authority. Election day brings the ruler back to judgment at the hands of his people, to be deprived of his temporary power or to receive renewed expression of public confidence. Read what Blackstone says in his Commentaries upon the necessity for absolute freedom in elections—this text-book of free government, this book that forms the chief lesson put in the hands of every man who would understand and obey the spirit of the laws of a free country:

As it is essential to the very being of Parliament that elections should be absolutely free, therefore all undue influences upon the electors are illegal and strongly prohibited; for Mr. Locke ranks it among those breaches of trust in the executive magistrate which, according to his notions, amount to a dissolution of the government, if he employs the force, treasure, and offices of the society to corrupt the representatives, or openly to pre-engage the electors, and prescribe what manner of persons shall be chosen. For thus to regulate candidates and electors, and new-model the ways of election, what is it (says he) but to cut up the government by the roots, and poison the very fountain of public security? As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended.

Mr. President, if the use of the armies, the employment of the force, the treasure, and the offices of society "is to cut up government by the roots and poison the very fountain of public security," what an illustration of this danger have we not steadily witnessed in this country in the past few years! Two years ago, in the elections of 1876, we saw a Cabinet officer, the chairman of the executive committee of one of the great parties, using his official power, his influence, his time, and so of every officer under him, for the purpose of controlling the elections in favor of the party to which he was attached. All the way down the official grade it was so. An officer who sat at a desk in the Senate was employed in like manner, as was shown by the circular produced here and read the other day. And yet how carefully did our fathers seek to guard against this very danger! Look at the constitutional provisions on the subject. Everywhere and all through this charter are to be found the most impressive proofs that they carefully intended that power, intrusted to officials for the benefit of all, should not be used as stepping-stones for their advancement or the perpetuation of power in their hands; and therefore it was that when the provisions were inserted in the Constitution to provide for the choice of electors for President and Vice-President it was expressly restricted:

But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

What was the design of that provision but that constitutional power intrusted to the hands of officials for the benefit of all should not be used for the benefit of one party alone? See also the provision of section 6 of the first article, that—

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

For what was that intended except to prevent men in power from using that power corruptly for their personal benefit and advantage? The same thing in regard to the office of President of the United States. It is provided that he shall receive a sum that shall neither be increased nor diminished during his term. Not increased, why? Because he might use his official power for the purpose of procuring it. All these things combine to show that the influence of power intrusted into the hands of the Administration for the general public welfare, cannot with safety and should not lawfully be employed for the purpose of advancing the interest of one portion or one party in this Union against the other.

Sir, I was sent the other day a letter published by an historian of the Constitution, whose erudition, ability, and research give weight to what he says wherever he is known—Mr. George Ticknor Curtis, of New York—from whose letter I will read this extract:

Upon these theories—

Referring to the power and duty of the Federal Government to interfere in elections in the States—

Upon these theories a practice has grown up of stationing Federal troops at the polls—a practice, the anticipation of which, if it could have been foreseen when the Constitution was framed, we may be sure would not only have prevented the introduction of the clause above quoted, but would have rendered the establishment of any national constitution an impossibility. I know not whence the advocates and partisans of this practice derive the power so to use the Army of the United States. If they seek for it in the clause relating to Federal elections, they seek it in a place where every sound constitutional lawyer will tell them it is not to be found. They ought to know that no people have long tolerated such a practice and preserved their liberties. It is the very practice by which the French Republic in our own times was converted into an empire, and it cannot go on in this Republic without sooner or later leading to the same kind of result. It matters not in whose hands the executive power may be. If one party can wield such a weapon, another party can adopt it in turn; and between them, in their struggles for supremacy, our liberties will be overthrown.

I ask the Senate to consider, if such jealousy in regard to free elections is exhibited under a monarchical government as Blackstone has described, where the executive power is permanent and transmissible from ancestor to heir by inheritance, and when the inducement for executive interference would be so much lessened, by reason of the fact that the possession of executive power is permanent and incapable of disturbance, how infinitely greater becomes the necessity in an elective form of government like our own, where power is not permanent nor hereditary and was not intended to be permanent, but always limited by terms of duration, that those to whom it has been temporarily intrusted should not use their official power to perpetuate their control and authority over their fellow-citizens! Look at every charter of the colonies; look at the constitution of every State, and see spread all over them the doctrine that without the consent of their Legislature no armed force shall exist in their midst. Look at every provision in regard to the freedom of elections, and can you not see everywhere a stern demand, an inexorable necessity for the existence of a republican government that elections shall be free, and that the force of the community shall never exist except in the harness of the law, arranged and fitted by the law-making power. In the early constitution of that little Commonwealth which it is my pride and honor partly to represent on this floor, I find this doctrine plainly given, in no jealousy of the power of the government, but in jealousy of Liberty when endangered in any quarter. The constitution of 1776 provided in article 28:

ART. 28. To prevent any violence or force being used at the said elections no persons shall come armed to any of them, and no muster of the militia shall be made on that day; nor shall any battalion or company give in their votes immediately succeeding each other, if any other voter, who offers to vote, objects thereto, nor shall any battalion or company, in the pay of the continent, or of this or any other State, be suffered to remain at the time and place of holding the said elections, nor within one mile of the said places respectively, for twenty-four hours before the opening of said elections, nor within twenty-four hours after the same are closed, so as in any manner to impede the freely and conveniently carrying on the said election: *Provided, always*, That every elector may, in a peaceable and orderly manner, give in his vote on the said day of election.

Such, sir, was the exhibition of feeling of that early day; and shall it be said that we have retrograded? Shall we own that where the power has so infinitely increased that may threaten us, our anxieties or our duties have been lessened in a converse proportion? Go back, sir, into the pure and wholesome air of the earlier history of the State of New Jersey and read from the records of her colonial struggle to secure civil liberty, as related the other day by the honorable Senator from New Jersey, [Mr. RANDOLPH.] The history of American government in all the charters and constitutions of the States is marked by the design to perpetuate liberty by means of free and constantly recurring elections; and in the light of such a record of every State and of the Government of the United States, I hold that the law of any State or of the United States that authorizes the presence of the armed forces of a State or of the United States—any armed force, I care not what—at the polls of a popular election, is a law leveled at free government, it is a blow at freedom itself; it is impossible for it to have any other object or result; and if there be those who shall

be so blind as to believe that force at election and freedom can exist together, they will awaken soon to a sad realization of their mistake.

There is no greater man, and there are few utterances of that man more impressive to the American people than those of Daniel Webster in his oration upon the completion of the monument upon the battle-ground of Bunker Hill. It is a good time to read them now. There was at that time profound peace in the country. Few men of that day had taken part in armed struggles. The few veterans who surrounded him on that occasion were the survivors of the war of 1812, and that as we know was not waged upon the soil of Massachusetts. Let me repeat what he there said:

> Quite too frequent resort is made to military force; and quite too much of the substance of the people is consumed in maintaining armies, not for defense against foreign aggression, but for enforcing obedience to domestic authority. Standing armies are the oppressive instruments for governing the people, in the hands of hereditary and arbitrary monarchs. A military republic, a government founded on mock elections, and supported only by the sword, is a movement indeed, but a retrograde and disastrous movement, from the regular and old-fashioned monarchical systems. If men would enjoy the blessings of republican government, they must govern themselves by reason, by mutual counsel and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority, properly expressed; and, above all, the military must be kept, according to the language of our bill of rights, in strict subordination to the civil authority. Wherever this lesson is not both learned and practiced, there can be no political freedom. Absurd, preposterous is it, a scoff and a satire on free forms of constitutional liberty, for frames of government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword.—*Works of Daniel Webster*, volume 1, pages 98 and 99.

We were told the other day that there was no danger of such interference, and the honorable Senator from Maine found time to make himself merry with our apprehensions and, amid much laughter and applause from his party friends on the floor and in the galleries, to prove how absurd it was to fear military power because, at present the Army was scattered over the broad face of the country, and was at present being used only for just and proper purposes. The answer of the honorable Senator from Pennsylvania, [Mr. WALLACE] sufficiently disposed of such fallacies.

I do not propose now or at any other time to stir the dying embers of past strife. I do not propose to recall any of those scenes enacted during a period of war, and which were to be accounted for only by the existence of war. I would gather from such memories only warnings to instruct but never to excite or inflame, and therefore I shall say nothing about the irregularities and lawlessness pending a condition of war, and which could not be expected to cease instantly after such violent convulsions. But, sir, it pleased the Senator from Maine to proclaim that there had been no presence of troops at the polls since the war, and he vauntingly challenged contradiction.

Mr. BLAINE. The Senator will be good enough to state my words precisely if he intends to quote them?

The PRESIDENT *pro tempore*. If the Senator from Maine wishes to interrupt the Senator from Delaware he will address the Chair.

Mr. BLAINE. Then I address the Chair for that privilege.

The PRESIDENT *pro tempore*. Will the Senator from Delaware yield?

Mr. BAYARD. Certainly.

Mr. BLAINE. Will the Senator quote my words accurately?

Mr. BAYARD. I should have to turn to the RECORD for the Senator's precise language——

Mr. BLAINE. Quote the substance accurately.

Mr. BAYARD. But the substance of it I do not doubt.

Mr. BLAINE. I call the attention of the Senator from Virginia [Mr. WITHERS] to what I said. He stated that day that I had made an absolute assertion. I said that in my judgment there was not a Senator on that side of the Chamber who had ever seen a United States soldier at the polls. That was my assertion.

Mr. BAYARD. If the Senator prefers to limit his statement to the actual vision of Senators on this floor, of course I have no objection. Far from me be it to misrepresent or misquote him; but I did consider that such was the substance of his statement; and I remember very well the confident manner in which he made proclamation of it.

Mr. BLAINE. Yes, and the confidence of which has not in the least been disturbed by any response which has been made to it yet.

Mr. BAYARD. I accept the statement of the Senator in his own language. I have no time to get the RECORD, but if it is necessary I can do that, to find the exact words; but whether he said it or no, I take his statement now as being that which was made. I do not propose to refute his statement by reference to the Southern States, which are regarded still as objects of suspicion by himself and his party, but I will refer to the records of the action of General Grant's administration in that city of the North from which whole armies were recruited in defense of the Union, and which never was the theater of war at any time. In the New York Tribune of the 9th of November, 1870, will be found the following account of the proceedings of election in that city which took place the day previous:

> The military enjoyed a day of leisure. If they had not been stationed in force in the city no one can so much as imagine the fearful scenes there might have been enacted in our streets. But Tammany ruffians have never liked the smell of powder, and a wholesome fear of bullets and bayonets restrained them from their usual evil practices.
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> To the colored men of the city all praise should be given. They voted almost unanimously the republican ticket, and many worked hard all day in bringing voters to the polls. The many colored marshals, about whom such an outcry has been made, performed their duties quietly, modestly, and at the same time with firmness and promptitude.

Then follow the official orders:

[Official.]

WAR DEPARTMENT,
Washington City, October 27, 1870.

SIR: In view of the apprehension that there may be possible opposition made to the United States laws in connection with the coming election in the city of New York, November 8, 1870, the President directs that you instruct Brigadier General McDowell, commanding the Department of the East, to hold the troops in that vicinity in readiness for service during a week, if necessary, to protect and assist the civil officers of the United States in their duty of enforcing the laws. The engineer troops and all others in the harbor of New York and vicinity will, for the occasion, be at his command. You will instruct General McDowell to confer fully beforehand with the United States marshal and the United States district attorney, to concert with them proper measures, and to promptly respond to any call made upon him for troops by the marshal during the week of the election, ordering them in such numbers and to such points in the city as the marshal may signify.

The President hopes that the use of the United States troops for the purpose indicated will never be required, but the law must be enforced, and he therefore expects General McDowell and the officers and troops under his command, while using the utmost discretion, to take care that the purpose of the Government to enforce the law is fully carried out; but in the performance of this duty they are only effectually to execute the measures indicated to them by the authorized civil officers of the United States.

I am, sir, very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.
CHAUNCEY McKEEVER,
Assistant Adjutant-General.

General W. T. SHERMAN,
United States Army, Washington, D. C.

[Special Orders No. 229.]

HEADQUARTERS DEPARTMENT OF THE EAST,
New York City, November 5, 1870.

1. The available officers and two hundred non-commissioned officers and privates of the engineer troops at Willett's Point, New York Harbor, will come to the headquarters building in this city, on next Monday evening, November 7, so as to arrive by ten o'clock p. m., prepared for armed service, and to remain at least till Wednesday morning. They will come in a steamboat, which the quartermaster's department will send for them, and will be landed at the foot of Spring street, (Pier No. 43 North River,) and march thence and take the station which may be shown them by the district quartermaster. They will bring a day's cooked rations. Facilities will be afforded in the building for making hot coffee.

2. All the available officers and men of the Eighth Infantry will be brought to the city on Monday, the 7th instant, to arrive about ten o'clock p. m. They will come prepared for armed service, with their overcoats and blankets, to remain at least till Wednesday morning, the 9th instant. The colonel, with five companies, will take post in building No. 161 Avenue B, near the northeast corner of Tompkins square, and the lieutenant-colonel, with five companies, will take post in buildings Nos. 322, 324, and 326 East Forty-fifth street, between First and Second avenues.

3. The available officers and men of the companies of the First Artillery at Forts Hamilton, Wadsworth, and Wood, under Colonel Vogdes or the senior officer, will come to the city on Monday evening, the 7th instant, to arrive by about ten p. m., prepared for armed service, and to remain at least till Wednesday morning. They will take post in building No. 294 Broadway, near the corner of Reade street, and will land at the wharf most convenient for their reaching that point. They will bring with them a day's cooked rations and their camp-kettles for making coffee. The district quartermaster will furnish drays to carry their effects from the steamboat.

4. The troops above indicated, and the Fifth Artillery from Fort Trumbull and Fort Adams, are to be brought here to aid the United States civil officers in the execution of their duty in enforcing the United States laws; and it cannot be too strongly impressed on them that the duty they have to perform is one of exceeding delicacy and of the highest importance, and that it may depend largely on their fidelity and good conduct that peace is maintained. They will be held in readiness for service at literally a moment's notice; and from the time of their arrival not a man will be allowed to leave the building on any account, or for any purpose whatever, unless under a commissioned officer.

5. Commanders of the stations above named will, immediately on their arrival, send a report of the fact to department headquarters.

By command of Brigadier-General McDowell.

ROBERT C. PERRY,
Acting Assistant Adjutant-General.

The troops came on Monday night—

As they were ordered, says the same paper—

and disembarked silently to their several quarters. During the day perfect order reigned. The headquarters of the department, at the corner of Houston and Greene streets, presented a quiet appearance. The stairways, however, leading to the two upper stories of the building were packed with troops. The engineer department from Willet's Point, numbering three hundred men, with Companies H and I of the Fifth United States Artillery from Fort Trumbull, New London, Connecticut, all under command of Colonel Kiddoe, were quartered in the halls and on the stairs. Their arms were stacked, and the men were scattered around on benches and on the floor, or stood in groups engaged in conversation. All were armed with the latest improved needle-gun and furnished with forty rounds of ammunition, with one hundred rounds a man in reserve.

At pier No. 27, North River, Companies A, B, and L, of the Fifth United States Artillery, from Fort Adams, Newport, were quartered on the steamer Metis. In addition to these was Dupont's Light Battery of four guns. None was allowed to leave the boat or to enter without a pass. The men were in the lower part of the boat and the officers were in the cabin, under Colonel Hunt.

Companies B, C, D, H, and M, of the First United States Artillery, Colonel Vogdes, from Forts Hamilton and Wadsworth, New York Harbor, were stationed in the three upper stories of No. 294 Broadway.

At No. 161 Avenue B, near Tompkins square, there were stationed the first five companies of the Eighth Infantry, Colonel Bomford in command. This regiment came from David's Island, and was armed with the needle-gun. They were quartered in the hall over a lager-beer saloon, and Company A was kept under arms ready for marching orders. The remaining five companies of the regiment were on Forty-fifth street, between First and Second avenues, in the large room of a brewery. Guards were, as in all cases, stationed at the top and bottom of the stairs, and all who applied for entrance were taken under guard before Colonel Edie. Long rows of stacked arms extended the whole length of the hall. An ample supply of ammunition was brought to the place, amounting in the aggregate to one hundred and forty rounds for each man.

And then it seems that the then Secretary of the Navy, Mr. ROBESON, lent his ready aid:

In the river and harbor, the frigates Guerriere and Narragansett were at anchor at the foot of Chambers street, North River, and Wall street, East River, respectively. The port-holes were all closed, however, and every appearance of warlike

preparation on board was avoided. None other than the troops regularly stationed there were on Governor's Island.

Mr. BLAINE. I will not interrupt the Senator if it is in the least degree inconvenient to him, but I would be glad, with his permission, to ask him a question; not otherwise.

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield?

Mr. BAYARD. If the Senator wishes to ask me any question on this point, of course I yield to him.

Mr. BLAINE. I was merely going to ask the Senator, when selecting a precedent nine or ten years ago, which I will not comment on now at length, if he could not have found one a little nearer the spot where he is speaking, where in a mere municipal election in 1857, with Mr. Buchanan as President, the marines of the United States were called out in this city and seven men shot down by them in the streets? It was a mere municipal election in which the Government of the United States had no interest at all. I should like the Senator to give his attention to that precedent, in which, as I say, the marines of the United States shot down seven citizens here in the public streets, within half a mile of where we are sitting.

Mr. BAYARD. Mr. President, the honorable Senator is the best guardian of his own reputation, but it seems to me that when he rose here and so positively scoffed at the explanations made to him of events much nearer the scene than twenty-odd years ago, he is not wise now to go back in American history to scenes more than twenty years old, while I am referring to the very date to which the Senator's observations on this floor a few days since applied.

Mr. BLAINE. Mr. President——

Mr. BAYARD. I shall not now discuss with the Senator the history of the occurrence of 1857; but I only will say that there is no event, no party, no man in the United States who sought to infringe the liberty of an American citizen who does not meet my condemnation now and will at all times.

Mr. BLAINE. Will the Senator yield to me a moment?

Mr. BAYARD. With pleasure.

Mr. BLAINE. In regard to the Senator's direction as to my wisdom of course I will take care of that myself. The Senator began the interruption which I made by palpably misquoting what I had said.

Mr. BAYARD. I accepted the Senator's correction.

Mr. BLAINE. Then the Senator comes back now and gives me monition as to my lack of wisdom in making an assertion which he had put in my mouth and which had no foundation whatever in fact. That is all to which I desire to call attention.

Mr. BAYARD. The Senator does me injustice. His lack of wisdom I shall never attempt to supply.

Sir, I hold such military orders as I have just read and the employment of the armed forces of the United States then to have been simply atrocious. I believe they should consign the men who issued or approved them to the reprobation of a people who love their liberties.

Even during the war it never was pretended that the presence of armed forces at the election was anything else than a belligerent right to be exercised as a necessity growing out of the war. I hold in my hand the report of a gentleman of ability, a member of this body when I first entered it, whose legal learning was admitted by all parties, whose violence as a partisan was deplored by many. Mr. Howard, of Michigan, made a report on the 12th of February, 1864, being Report No. 14 of the Thirty-eighth Congress, first session. At that time complaint had been made of the gross abuse of military force in interfering with elections in many of the States. In my own State there had been complaint; and I had witnessed the complete occupation of the polls by the military of the United States. I had seen military order No. 54 issued by General Schenck, represented in the other Hall of Congress, and not the will of the people. I had myself deposited my ballot at polls where sentinels stood armed with guns which I and others had been taxed to purchase, in the attempted intimidation of the right of that people freely to vote according to their conscience and according to the Constitution and laws of the United States and of the State of Delaware. But as I said that was *flagrante bello*. It was on that occasion that Mr. Howard represented his party, and making a report concurred in by the entire Committee on Military Affairs spoke of the rightfulness of the exercise of this interference by the General Government at that time in bringing armed forces to the elections. First, he begins:

> That elections should be free from all violence and intimidation, is an axiom of free government accepted by all, and so evident that it need not be discussed. Violence and threats of violence, and all disturbance, actual or threatened, calculated to keep the legal voter from the polls or to constrain his free will and choice in exercising his right, are plainly incompatible with the principles on which our governments, whether State or Federal, rest. But it must at the same time be remembered that the *purity* of elections is equally essential to the proper working of that theory, and that to admit to the polls persons not possessing the requisite qualifications of age, citizenship, residence, &c., is by no means a less injury to the rights of the lawful elector than open violence.
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> It is vain to deny that in the present struggle the Government of the United States is justly, and upon principles of public law, entitled to exercise toward their domestic enemies every belligerent right and power, every warlike appliance, recognized in the code of war; and that it is not only the right, but the duty of their officers and agents, in waging the contest, to exercise the utmost vigilance in detecting, restraining, and punishing the common enemy, and all who abet, sustain, or encourage him. To deny to it this right is to lay it prostrate and helpless at the feet of its deadly foes.
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> Were the war a foreign war, waged with any independent nation, there could be no dispute as to the right of the Government to expel from the country every subject of the foreign power, and every person justly suspected of giving it aid and comfort, or to hold such parties in confinement till the war should terminate. This right is in the primary class of belligerent rights, pertaining to every independent nation; and no greater absurdity can be proposed than to say that, although the Federal Government is vested with all the powers known to the laws and usages of war, and may, unrestrained by any constitutional prohibition, use them against the subjects of a foreign government at war with the United States, yet, as to an organized, widespread insurrection of whole political communities within their own limits, acting under a *de facto*, though usurped government, it is stripped and denuded of this important means of annoyance and defense. It is plainly in its essence a military power—a belligerent right; as plainly such as the right of capture by sea, which has recently received the solemn sanction of the Supreme Court, in a judgment eminent for the power and clearness of its analysis, the profoundness of its learning, and the unanswerable character of its logic.

Further on, he says:

> And it is impossible to see any distinction in principle between such a case and the case of disloyal voters, who at the polls attempt by their ballots to do the same thing. In either case *hostility* to the Government and a desire for its overthrow stand as the sufficient reason for the preventive interference of the military arm. Not to use it on proper occasions is to expose to destruction the Government itself, and the liberties and rights it guards. It is the inalienable duty of self-defense.
>
> That this inherent right of war may be abused, as it possibly may have been occasionally during the present struggle, is certainly no reason for denying its existence, or, if it exist, for stripping our commanders of it by legislation; and the present time, when disloyalists swarm at every poll in large districts of country near the rebel lines, would seem to be most unpropitious for such innovation. The committee believe that no such restraint should be placed upon this tutelary authority of commanders at all; because, though liable to possible abuse, we are persuaded that the evil which might accidentally grow out of it would be, as it undoubtedly has been, as nothing, compared with the good that flows from its exercise.

This then is the language of that committee through its chairman, accepted and acted upon by the Congress under which the provision of the present law which is now proposed to be stricken out came into existence. There was no pretense that it was other than a belligerent right, to be exercised only during a period of war.

Such uses of the Army were never pretended to be justified excepting *flagrante bello*. It is to me simply amazing to hear gentlemen now gravely assert that the spirit of law and civil government can be found in such statutes as provide for holding popular elections in the presence of armed force. I do not desire at this time to address myself to this question on the ground that it is an invasion of the reserved and essential rights of the States by the Federal Government; I am not unmindful that this law and the contentions for power under, it are intended to take from the States and to transfer to the Government of the Union, the just and necessary control over their own elections.

It is not necessary for me now to consider that. I want to consider the question under the idea and doctrine that force unrestrained by law is fatal to freedom; and the issue before us is nothing less deep, nothing less clear, than that. It is force as against free will on which then the true strength of American government depends. Whether force or their free will shall control the people of the United States in their elections of members of Congress, the choice of their State legislators, or electors for President and Vice-President. The dangers of the centralization of all powers over these elections in the Federal Government I may discuss hereafter in connection with other measures that come before us.

My only object at this time is to warn this Senate and to warn the people of the United States against the doctrine of permitting, under the pretext of civil rule, the establishment of a military power that necessarily must become superior to it. If this law authorizing the President of the United States in his discretion to bring the Army of the United States to the polls of the several States, under pretext of keeping the peace—if such a law can be sustained, then will our elections necessarily become military forms merely, and the party that can obtain control of a government possessing such powers will inevitably possess the means for its own perpetuation, and the liberties of our people will rest only in a government of men and not of laws, in the conscience or degree of audacity or military capacity which any President and Administration can possess or control.

Mr. President, reverse the present political majorities. Suppose a republican House of Representatives—and a republican Senate—and a democrat in the presidential chair. I submit to the candor and the conscience of all fair men—would a solitary vote be given by our opponents in favor of placing such a provision on the statute-books—or of against its removal as is now proposed? I ask, would republican Senators ever consent that such a power should be vested in a democratic President? For their sakes and our own I trust they never would.

Amid the features of this debate which I have noticed with great regret, not, however, unmingled with surprise, have been the frequent and excited references by the Senators from Maine, Illinois, and Massachusetts to the fact that on the floor of this Chamber, and voting in its present majority, are a number of gentlemen who fifteen years ago bore arms against the Government of the United States in the late civil war. In the excited utterances of the Senators referred to, the presence of Senators from the Southern States in this body was held to constitute a just cause of alarm for the safety of our institutions, and the Senator from Illinois especially seemed quite unable to forgive himself for any share of magnanimity and leniency toward these

"erring brethren." It is, however, my impression that it is not owing to the wishes of the republican party or its leaders that the present representation of the Southern States in this body is due. I cannot recall any speeches made at any time during the last ten years by any of the gentlemen who so mourn the presence of the ex-confederates upon this floor, that they have been found by their votes or counsel at all in accord with such results. I attribute the presence of the Senators whom I see around me from the Southern States to the logic of events: to the steady, irresistible pressure of the tide of wise and broad public sentiment, which rising throughout the country has compelled, for the sake of public welfare, a diminution and cessation of the violent practices approved and resorted to by the republican leaders to maintain power exclusively in their own hands.

It is to a wise, generous and magnanimous public sentiment that we owe the fact that seats on this floor are now filled by Senators from the Southern States who truly represent their people. I hail their presence here as a proof of the strength of my Government and not its weakness; a proof of public wisdom and not of folly—a reason for congratulation and not of fear.

Perhaps in this presence personal allusions should not be made; but they have been made, unkindly, disrespectfully, and unjustly to those whose sense of personal dignity has forbidden them to make reply—surely there can be no impeachment more gross than that of the good faith of a sworn officer to the performance of his duty, or of a citizen and a Senator in the honest support of his Government and its laws.

But will not the country, with a judgment more just than that of bitter partisanship, recognize the fact, which I believe no one will attempt to deny, that, among the gentlemen of the republican party on this floor, there is not one who, if he needed personal or professional counsel and aid in any matter involving the rights of person, property, or character, would not intrust all to the protection and care of any one of the Southern Senators upon the floor of this Senate; and if this be so, of their private lives, cannot it equally be said of their public lives? And is it not therefore unfair, disingenuous, and unjust, for party purposes to hold up an entire body of men as dangerous to the interests and the welfare of the country, when they are only to be regarded with esteem and confidence for their personal and private qualities?

The honorable Senator from Massachusetts [Mr. DAWES] told us in the outset of his address that he would not add to the present excitement if he was "able to possess himself," and he forthwith proceeded to prove that he was quite unequal to the task of self-repression.

If his speech was to be taken as representing the spirit of the people of the ancient and honorable Commonwealth from which he comes, I shall indeed feel apprehensive for the public peace and welfare, but I do not believe it can be. There have been other utterances I had rather cite, and now will do so in order that they may go forth in the same debate and "by the survival of the fittest" prove their relative worth.

On the one hundredth anniversary of the battle of Lexington, a celebration of that momentous event was held on the battle-ground. From all quarters of the country came Americans to pay honor to the memory of the brave men who stood sponsors for Liberty on that day of her bloody baptism. Among other invited guests was a soldier than whom—

> No worthier knight was found
> To grace in Arthur's golden age
> The fabled table round.

It was "William Francis Bartlett," of Massachusetts, who was asked to respond to the toast, "*The North and the South*," and although, as Colonel Palfrey, his biographer tells us, he "was chilled through and faint from want of food," he spoke as follows:

> When I opened the letter from your committee asking me to come from five hundred miles away and say a few words here to-day it seemed impossible. But as I read further your desire that I should speak on the "relations of the North to the South," and your assertion that, as an unprejudiced observer, what I might say would help to restore fraternal relations between the two great sections of our country, although knowing how greatly you overrated the value of any poor words of mine, I felt that if they could lend the least aid to the result you described, inclination and the cares of business must yield to the voice of duty, and I came. But, sir, I am not an "unprejudiced observer;" on the contrary, I have a prejudice, which is shared by all soldiers, in favor of peace. And I think I may safely say that between the *soldiers* of the two great sections of our country fraternal relations were established long ago. I have also a strong prejudice against any man or men who would divide or destroy or retard the prosperity and progress of the nation whose corner-stone was laid in the blood of our fathers one hundred years ago to-day. Moved by this prejudice, fourteen years ago I opposed the men who preferred disunion to death. True to this prejudice, I to-day despise the men who would, for the sake of self or party, stand in the way of reconciliation and a united country. The distinguished soldier who is your chief guest to-day never came nearer to the hearts of the people than when he said, "Let us have peace." And, sir, the only really belligerent people in the country to-day, North and South, are those who, while the war lasted, followed carefully the paths of peace. Do not believe that the light and dirty froth which is blown northward and scattered over the land (oftentimes for malicious purposes) represents the true current of public opinion at the South. Look to their heroes, their leaders—their Gordons, their Lees, their Johnsons, Lamar, Ransom, and Ripley—and tell me if you find in their utterances anything but renewed loyalty and devotion to a reunited country. These are the men, as our great and good Governor Andrew told you at the close of the war, these are the men by whom and through whom you must restore the South, instead of the meaner men for whom power is only a synonym for plunder. As I begged you last summer, I entreat you again: do not repel the returning love of these men by suspicion or indifference. If you cannot in forgiveness "kill the fatted calf," do not with coldness kill "the prodigal."

This speech rang through the country—and despite of narrow hatred and partisan bitterness its echoes will never cease. The lips of the noble speaker have closed in death, but the lesson of his life, his spirit, his example and the blessings of them to his countrymen will not die. His devotion and intrepidity won early for him rank and distinction and he engraved his name high on the shaft of fame—but his chief triumph and most enduring, was over the hearts and minds of those whom he had striven to conquer only to save.

In verses of singular force and beauty, a poet of his own native State, whose elevation of sentiment and purity of expression are unsurpassed by any living writer of our language, has given him a fitting epitaph—

> His fame who led the stormy van
> Of battle well may cease,
> But never that which crowns the man
> Whose victory was Peace.

Sir, one has not far to look in order to see why it is that these southern Senators are acting with the democratic majority on this floor. "Men do not gather grapes of thorns or figs of thistles." Nor do sympathy, good-will, and affiliation extend themselves toward a party that has never ceased to denounce them as unworthy of trust, unworthy of respect, obtaining their seats in Congress by mingled violence and fraud, and intending to use their power only for the subversion of the Government in whose service they have been sworn to act. I find it impossible to believe that the gentlemen of the republican party who complain of the "solid South" do not desire to make and keep it "solid," so that having succeeded in creating a sectional division of the country upon geographical lines, they may succeed in alarming the more numerous and powerful population of their own section in order to secure the continuance of their party predominance. In the face of the continued objurgations, assaults and threats, so constantly employed by the republican press and members of that party in both Houses of Congress, against the white population of the South, I cannot believe that they expect the South to remain otherwise than "solid," in its opposition to their plans, and such I am compelled to believe to be their deliberate intention. These are things for the people of this country gravely to consider, for I am well assured that a preponderance of one geographical section of the country, so obtained, will speedily lead to the depression and degradation of the other section, and to the ultimate ruin of both.

Why, sir; what is the object and intent of such language as was used by the Senator from Illinois the other day when, in the midst of very audible denunciation, he warned us in his most tragic tones, and with the aid of his elaborated manuscript, in such words as these:

> Let democrats of the South and their northern allies beware the storm they are raising. The spirit of retaliation once raised, sir, will only be appeased by the most radical assurances of future quiet. If the disease upon our body-politic again requires the knife, they may rest assured the surgeon will "cut beyond the wound to make the cure complete."

This simile may be termed one of surgery; to many it will be more suggestive of butchery. I do not propose to exchange warnings, much less threats, either with the Senator or his party; but to my fellow-countrymen I suggest that the knife, the use of which is to be restricted only "by the most radical assurances of future quiet," may indeed "cut beyond the wound" and reach the life of the patient.

Mr. President, the only just object of the late war between the Government of the United States and the Southern States was for a restoration of the Union on the basis of a constitutional government. The military methods that were resorted to for that restoration were intended to cease when it had become complete. The restoration of the Union was not intended to be accomplished at the cost of civil liberty in this country; nor was it intended that a military rule should be raised upon the ruins of civil government. I am convinced that methods of reason and justice and civil administration are those only which can restore to us the peace and prosperity, which are so essential for the continuance of our constitutional republican system. A departure from the methods of civil rule has led to consequences, which all thoughtful men recognize as putting a terrific strain upon the capacity of our people to maintain constitutional government.

To maintain our public credit in the face of an enormous indebtedness: to readjust our disordered finances; to reform our system of public revenues and taxation; to provide means for the distribution of our productions, mechanical and agricultural; to re-establish our carrying trade upon the high seas and give to us our just share of the benefits of the world's commerce and our rightful standing in influence and power in the great family of nations; all these call for the best energies, the most constant attention, and vigorous co-operation of all classes of our people, all political parties, and all sections and subdivisions in our country. These are the arts and the means of peace, these are the arts alone which can restore to us the security and confidence which are the essential conditions precedent to the prosperity so greatly desired.

If, as I trust, the period of reason has come and the era of excitement and revolution has passed, then I may hope that this calm and earnest plea for the cessation of military methods, and the restoration of civil rule alone among our countrymen may be heard and heeded. The opportunity, perhaps the natural inducement to make reply to the denunciations which have been bestowed upon the party represented by the majority in this Chamber, I have not been unmindful of, but believing as I do, that when the question we are now con-

sidering and on either side of which stand the two parties in this Chamber, is comprehended without the obscurations of party heat or denunciations, that the American people cannot and will not hesitate, in obedience to every tradition of their Government, to every teaching of history, to every sentiment of constitutional liberty, to agree, almost with one voice, that their elections shall be free, and shall not be held under the surveillance of armed forces, whether of the United States or of any State. To their deliberate judgment I submit the issue and await their decision with entire confidence.

Mr. MAXEY. Mr. President, there is no contest over the pending bill (H. R. No. 1) for the support of the Army, except the sixth section. That section reads as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

Section 2002, Revised Statutes, which this section is designed to replace, reads as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

The Senator from Maine [Mr. BLAINE] proposes the following amendment to section 6 of the pending bill, and this proposed amendment is the pending question, namely:

And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Before proceeding to the main issue, I shall devote a few words to the amendment offered by the Senator from Maine. It assumes that Congress possesses the constitutional power to punish by fine and imprisonment, at the discretion of the court, the wearing of arms within a mile of any voting place for Representatives to Congress at any general or special election. Nothing in the course of this discussion has surprised me so much as the assumption that Congress has the constitutional power to pass this amendment, for I assume, of course, that the amendment is proposed in good faith.

The second amendment to the Constitution reads as follows:

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

This is not an inhibition upon the States, or in any wise a right granted the people, for the rights of the people to keep and bear arms were possessed before the adoption of the Constitution; it is an absolute prohibition upon the Federal Government to interfere in any wise whatever with the inalienable, unparted-with right of the people to keep and bear arms in any way or manner whatever that they may see proper.

Speaking of the second amendment, of the right to keep and "bear arms," which "shall not be infringed," the Supreme Court, in United States *vs.* Cruikshank *et al.*, 2 Otto, on page 553, says:

This is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed; but this, as has been seen, means no more than that it "shall not be infringed by Congress." This is one of the amendments that has no other effect than to restrict the powers of the National Government, leaving the people to look for their protection against any violation by their fellow-citizens of the rights it recognizes, to what is called in The City of New York *vs.* Miln, 11 Pet., 139, the "powers which relate to merely municipal legislation, or what was perhaps more properly called internal police," "not surrendered or restrained" by the Constitution of the United States.

The sole and exclusive power of regulating the manner of bearing arms, and of prohibiting their being borne in particular places, is in the States—a police power in the States—and is "neither surrendered nor restrained" by the Constitution of the United States. It follows that the object sought by the amendment of the Senator from Maine is not within the constitutional power of Congress, as is not only manifest by the second amendment but by the decision of the Supreme Court before cited, and I leave that amendment of the Senator from Maine to be met and answered by the second amendment to the Constitution, and by the utterance of the Supreme Court, that "it"—the right to keep and bear arms—"shall not be infringed by Congress," and its further utterance that the only effect of that amendment is "to restrict the powers of the National Government." The second amendment leaves the people to look for protection to their own State governments, in the exercise of their well-known police powers, and these powers they do exercise, in some of the States at least, not only in the prohibition to carry concealed weapons at public gatherings including elections; but in some States, as in Texas, it is made a penal offense by State laws to carry concealed weapons at all.

This is all I care to say in reply to the proposed amendment of the Senator from Maine, except that the Senator from Maine in effect, by his amendment, concedes the vice in section 2002 of authorizing troops to be used to keep the peace at the polls at any general or special election in any State by restricting the offense and penalty to elections for Representatives to Congress. If section 2002 is good law, why did not the Senator apply his amendment to any general or special election in any State according to that section? I now pass to the real question at issue: a free ballot, unawed, uninfluenced, uncontrolled by armed soldiers in the uniform and under the pay of the Government of the United States—yes or no. That is the question, and the vital question we are to consider and vote upon. This issue is squarely presented by the democratic party in the sixth section of the pending bill, which is simply an amendment of section 2002 Revised Statutes, the amendment consisting in striking out the words in the last line of the section, namely, "or to keep the peace at the polls." Can the military power of the United States be constitutionally and lawfully employed to keep the peace at the polls? Section 2002, although negative in form, assumes affirmatively the right of the United States to authorize and direct their military and naval officers to order, bring, keep, and have under their authority and control troops and armed men at the place where any election, general or special, is held in any State in the following cases:

First. Where it may be necessary to repel the armed enemies of the United States.

Second. To keep the peace at the polls.

The first proposition is conceded, and is the sixth section of the pending bill, the proviso in that section being explanatory only, and inserted to prevent the section being construed as in any wise affecting section 5297, Revised Statutes. That section is as follows:

In case of an insurrection in any State, against the government thereof, it shall be lawful for the President, on application of the Legislature of such State, or of the executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State or States, which may be applied for, as he deems sufficient to suppress such insurrection; or, on like application, to employ, for the same purposes, such part of the land or naval forces of the United States as he deems necessary.

(See act February 28, 1795, vol. 1, p. 424, and act March 3, 1807, vol. 2, p. 443, Rev. St., 2d ed., p. 1029.) And these acts, embraced in section 5297, were passed to carry into effect section 4, article 4, of the Constitution. About section 6, then, of the pending bill there is no dispute. It is conceded on all sides that it is both constitutional and expedient.

Why, then, declare as has been done over and over again by republican speakers that it is coercion, revolution? The Senator from Maine boasts that it is the work of a republican Congress. Why object to it? Surely the bill contains nothing objectionable. They concede that. What, then, is the cause of all this commotion? It is that this bill, while inserting in section 6 all of section 2002 of the Revised Statutes that it ought to contain, strikes down and out those eight little words, "or to keep the peace at the polls." And never in all history did the friends of liberty do a manlier act, one more conducive to the restoration of constitutional free government, one more in harmony with the inalienable rights of the people and the genius of free government. It is the assertion of free ballot against armed Federal power. And in a great measure like this the method—if it be but constitutional, as the method proposed is beyond cavil—sinks into utter insignificance compared with the object to be accomplished.

Those eight little words, "or to keep the peace at the polls," have aroused all this assumed wrath which has fretted the ears of the public for weeks past; all this cry of revolution, all this denunciation of the South specially, and of the democratic party generally. One would suppose that the fate of free government rested on the divine right of armed Federal soldiers to control the ballots of freemen exercising their inestimable birthright under the laws of their States. Upon what grant in the Constitution does this power of the Federal Government "to keep the peace at the polls" by an armed force rest? Point it out; name it; locate it; give us the article and section of the Constitution relied upon to support this assumed power, and which does support it. It has not been done, nor in my judgment can be.

The Senator from Maine says:

I beg you to observe, Mr. President, that this is the first instance in the legislation of the United States in which any restrictive clause whatever was put upon the statute-book in regard to the use of troops at the polls. The republican party did it with the Senate and the House in their control. Abraham Lincoln signed it when he was Commander-in-Chief of an army larger than ever Napoleon Bonaparte had at his command. So much by way of correcting an ingenious and studied attempt at misrepresentation.

That is perfectly true; and let me tell the Senator that until the republican party acceded to power it was never conceived in the imagination of man that the day would dawn on this country that any administration would need to be restrained by such an act. It was passed, it is true, when the republican party had control of both Houses; but save and except the eight little words, "or to keep the peace at the polls," it was demanded by the democratic party, and

introduced by a democrat, and the honest, liberty-loving people of all parties would have resisted with righteous indignation the refusal to pass it. But those eight little words, "or to keep the peace at the polls," were not asked by democrats, but protested against by them. They were the offspring of Mr. Pomeroy, of Kansas, a bright and shining light of the republican party, a republican of republicans, and democrats were forced to take this wonderful gift in order to secure what they asked, which is just what is now in the bill. I think I should have suspected the concealed freight of this Grecian horse. At all events, I think the warning of Virgil, "*Timeo Danaos et dona ferentes*," worthy of consideration in respect to political gifts from the republican party. It is true that nothing in the conduct of any administration prior to that time gave occasion to such a statute. It is said that a citizen of a nation in ancient times, which had no law against parricide, was asked by a stranger the cause of what seemed to him such singular and extraordinary omission, and was answered: It is impossible for our people to conceive that such a crime could be committed. Before the advent of the republican party this crime of military interference with free elections was not conceived of.

But I again ask, where is the power lodged in the Constitution, authorizing the Federal Government to keep the peace at the polls? If there is no such grant in the Constitution, the power does not exist. The tenth amendment to the Constitution reads:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Supreme Court in the Cruikshank case, already cited, 2 Otto, 551, says:

> The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

If, then, the grant to the Federal Government to keep the peace at the polls is not to be found in the Constitution it has no such power. Is it in the thirteenth, fourteenth, or fifteenth amendment? In United States *vs.* Reese, 2 Otto, 217, the Supreme Court says:

> The fifteenth amendment does not confer the right of suffrage upon any one.

In Minor *vs.* Happersett, 21 Wall., 178, last paragraph, the court says:

> The Constitution of the United States does not confer the right of suffrage upon any one.

On page 170 of the same opinion the court says:

> The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by State voters. The members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requsite for electors of the most numerous branch of the State Legislature.

This opinion was rendered in October, 1874, long after the adoption of the thirteenth, fourteenth, and fifteenth amendments, and declares emphatically that "the United States has no voters in the States of its own creation." I might rest as to voters here, upon the point, that, as the United States have no voters in the States, that as *all* elective officers, including Representatives in Congress, are elected by State voters, the protection of these voters, and control of elections, are, in the very nature of things, and necessarily, exclusively under the control of the States, and therefore any law of Congress which seeks to interfere with elections in the States is unconstitutional, null, and void; and that portion of section 2002 of the Revised Statutes which authorizes the use of Federal troops to keep the peace at the polls, being without grant of authority in the Constitution, and repugnant to the reserved rights of the States, and in conflict with the duty, right, and power of the States to keep the peace and protect their voters by their own police regulations, is unconstitutional, null, and void, and it is the bounden duty of Congress to remove it from the statute-books; and it is not of the slightest consequence whether this is done by separate bill, or on an appropriation bill, or on any other bill.

And right here I beg to call the attention of the Senate specially to section 2002 of the Revised Statutes before quoted, and repealed by section 6 of the pending bill, and an examination will show that the use of troops as therein authorized is not limited to elections of presidential electors and Representatives in Congress, but authorizes the use of troops "to keep the peace at the polls" "at the place where any general or special election is held in any State," and thus elections for purely State officers are, under that section, just as much subject to armed interference as those for presidential electors and Representatives in Congress, a palpable infraction of State jurisdiction and control in matters of purely State concern. And it is well to bear in mind that if this power to interfere by placing armed troops under Federal authority to keep the peace at the polls, "at the place where any general or special election is held in any State," exists, whether the elections concern the electors for President and Vice-President, Representatives in Congress, or State officials, then the same power could be exercised by surrounding State capitals with Federal troops "to keep the peace at the polls" whenever an election for Senators to this body was to take place, for there is precisely as much authority under the Constitution to regulate, influence, or in any manner interfere with the manner of holding elections of Senators by the presence of armed troops, as of the manner of holding elections for electors, Representatives, or State officers. The doctrine is alarming. It enables the party in power, if unscrupulous, to dominate all elections. It subordinates the civil to the military power, and violates rudely the very genius of our institutions. It will not do to say that such a power will never be exercised. The sad history of the driving out by armed military power the Legislature of Louisiana, and the notorious military outrage of the Legislature of South Carolina, are more fresh in memory than the outrages of Pride and Cromwell in the House of Commons, and the derisive "take away the bauble" of Cromwell may be repeated in the legislative halls of some State in the land consecrated by our ancestors to be the home of freedom and civil liberty forever.

I beg now to direct the attention of the Senate to another point in this important inquiry. The right of the people peaceably to assemble themselves together for any lawful purpose whatever existed long before the Constitution was adopted. The right to assemble together for the purpose of voting is lawful, and an assemblage for that purpose is a lawful assemblage. It is a lawful assemblage of the people as citizens, not of the United States, but as citizens of the State, and to exercise their rights as voters, not of the United States, but of the State; for bear in mind, Mr. President, I have shown by the decision of the highest judicial tribunal known to this land that first, "the United States has no voters in the States of its own creation;" second, the elective officers of the United States are all elected directly or indirectly by State voters.

It follows, then, as surely as "grass grows and water runs," that under our Constitution the entire control of elections must be under the States whose voters assemble; whose right to vote is not drawn from the Constitution of the United States, but existed and was freely exercised long before its adoption; whose right to assemble existed and was freely exercised long before the adoption of the Constitution. Now, the right to assemble and the right to vote, existing before the adoption of the Constitution and never having been parted with, delegated, or granted, are reserved by the very terms of the Constitution, tenth amendment, "to the people," and the duty as well as power of protecting the people in their right to assemble and in their right to vote having been lodged in the States at and prior to the adoption of the Constitution, and never having been parted with, delegated, or granted, are by the very terms of the same amendment "reserved to the States respectively," and having been so reserved in the case of the right of the people to assemble and vote and in the case of the duty, right, and power of the States respectively to protect them, there is, by the most beneficent provisions of our matchless form of government, no room for the bayonet to pierce these sacred and inestimable rights and duties of the people and of the States.

And in support of this position in respect to assemblage and protection I again refer to the Cruikshank case, 551 to 555, inclusive, as follows:

> The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is and always has been one of the attributes of citizenship under a free government. It "derives its source," to use the language of Chief-Justice Marshall in Gibbons *vs.* Ogden, 9 Wheat., 211, "from those laws whose authority is acknowledged by civilized man throughout the world." It is found wherever civilization exists. It was not, therefore, a right granted to the people by the Constitution. The Government of the United States when established found it in existence, with the obligation on the part of the States to afford it protection. As no direct power over it was granted to Congress it remains, according to the ruling in Gibbons *vs.* Ogden, id., 203, subject to State jurisdiction. Only such existing rights were committed by the people to the protection of Congress as came within the general scope of the authority granted to the National Government.
>
> The first amendment to the Constitution prohibits Congress from abridging "the right of the people to assemble and to petition the Government for a redress of grievances." This, like the other amendments proposed and adopted at the same time, was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National Government alone. Barron *vs.* City of Balt., 7 Pet., 250; Lessees of Livingston *vs.* Moore, id., 551; Fox *vs.* Ohio, 5 How., 434; Smith *vs.* Maryland, 18 id., 76; Withers *vs.* Bockley, 20 id., 90; Persear *vs.* The Commonwealth, 5 Wall., 479; Twitchell *vs.* The Commonwealth, 7 id., 321; Edwards *vs.* Elliott, 21 id., 557.
>
> It is now too late to question the correctness of this construction. As was said by the late Chief-Justice in Twitchell *vs.* Commonwealth, 7 Wall., 325, "the scope and application of these amendments are no longer subjects of discussion here."
>
> They left the authority of the States just where they found it, and added nothing to the already existing powers of the United States. The right was not created by the amendment; neither was its continuance guaranteed, except as against congressional interference. For their protection in its enjoyment, therefore, the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States. The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of those "inalienable rights with which they were endowed by their Creator." Sovereignty for this purpose rests alone with the States.

I respectfully submit, first, that the right of assemblage of the people is vested, and was so before the adoption of the Constitution; second, that the duty and exclusive power of protection of such assemblages, including assemblages at the place of voting, are in the States, and that the highest duty of the States is to afford such protection, and such protection is exclusively within State jurisdiction, the power having been orignally placed in the States and not parted with; third, the United States have no constitutional power to interfere with the duties and powers of the States or rights of the people in this regard.

And it follows, it seems to me, inevitably that the power to keep the peace at the polls, as well as in all other assemblages of the people, being exclusively in the States, the clause repealed by the sixth section of the amendment is properly, lawfully, and constitutionally stricken out.

No one, so far as I know or have heard, pretends to lodge this power in the fourth section, fourth article of the Constitution. That article guarantees to every State in this Union a republican form of government, and every State has such form of government. It obliges the United States to protect each of the States against invasion, and invasion has nothing to do with keeping the peace at the polls; and, lastly, on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence. Section 2002 draws no inspiration from that clause, for it does not so much as say "by your leave" let alone "by your invitation" to either Legislature or executive. I have heard it intimated that the power might be lodged in clause 1, section 4, article 1, Constitution, namely:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The only possible word out of which a vivid imagination could raise the semblance of an argument in the above clause is in the word "manner." The very limited debate on this clause in the convention is sufficient to show that the point sought to be guarded against was not the people at the polls, and was not the fear of a breach of the peace at the polls. Mr. Madison (page 1280, volume 3, The Madison Papers) expressed concern as to the course Legislatures might take. He speaks of the abuses that might be made by the Legislatures if the power were exclusively in them of regulating the times, places, and manner of holding elections, and says "these words are of great latitude;" that "it was impossible to foresee all the abuses that might be made of this discretionary power" that is in the Legislatures; that "the State Legislatures 'might' sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices."

The following extract from the remarks of Mr. Madison in the debate contains a brief summary of his reasons for wishing Congress to have the power to make or alter such regulations as to the times, places, and manner of holding elections for Senators and Representatives as the Legislatures may have prescribed, namely:

Whether the electors should vote by ballot or *viva voce;* should assemble at this place or that place; should be divided into districts, or all meet at one place; should all vote for all the Representatives, or all in a district vote for a number allotted to the district—these and many other points would depend on the Legislatures, and might materially affect the appointments. Whenever the State Legislacures had a favorite measure to carry, they would take care so to mold their regulations as to favor the candidates they wished to succeed.—(*Ib.*, p. 1280, 1281.)

Now, it will be noted that Mr. Madison's batteries are directed against the Legislatures; the bayonets under section 2002 are directed against the people. Mr. Madison expresses no fear of the people. Section 2002 implies fear of the people. Mr. Madison expresses fear of the Legislatures. Section 2002 neither expresses nor implies fear of them. It is perfectly manifest, I submit, that the use of troops was not contemplated in connection with that clause of the Constitution.

In support of this power in the Federal Government to keep the peace at the polls, much stress has been laid upon an expression of Mr. Alexander Hamilton in the fifty-ninth number of the Federalist, concerning the regulation of elections. Discussing in that number the first clause of section 4, article 1, of the Constitution, which declares that—

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators,

Mr. Hamilton says:

Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

There is nothing whatever in conflict with this expression and the reasons which I have before cited, of Mr. Madison in the convention that framed the Constitution, in support of the power of alteration in Congress.

"The means of its own preservation" in that clause consist in the control which Congress may exercise over the Legislatures, and those means are plainly stated on the face of the clause in question to be that Congress may alter—

First, the times of holding elections for Senators and Representatives.

Second, the places of holding elections for Senators and Representatives, (except as to the places of choosing Senators.)

Third, the manner of holding elections for Senators and Representatives.

All three of these points were discussed by Mr. Madison in the convention, and wholly and legitimately, in respect to the control of the Legislature over them, and the necessity, in his judgment, of the check given by that clause to Congress over the Legislature. Not a word was said in that debate of a check over the people, nor a reference to an armed force, nor was anything said in that convention by Mr. Hamilton in that or any other number of the Federalist of a check over the people, or in respect to keeping the peace at the polls with an armed force.

And Mr. Hamilton's proposition, "that every government ought to contain in itself the means of its own preservation," if it has any application to the matter in issue, proves too much for those who introduce it. If the United States Government "ought to contain in itself the means of its own preservation," "each State government ought to contain in itself the means of its own preservation." This is impossible when upon any reason the control of its elections are taken from it. The existence of the State rests upon the consent of the governed, freely expressed through the ballot-box, and when it is or may be deprived of the power of protecting its people in the freedom of ballot, it does not contain in itself the means of its own preservation. The argument is a boomerang. Mr. Hamilton's proposition cannot be twisted or distorted into a support of the doctrine that the Federal Government may interfere by armed force with elections under any guise or pretext whatever.

The question before the convention of 1787 was, Should Congress have any check over the Legislatures in these regards? Mr. Madison thought yes. Mr. Pinckney and Mr. Rutledge thought no. A single remark of Mr. Sherman, to be found on page 1282, 3 Madison Papers, in the course of that debate, discloses precisely the point in the minds of the convention, namely:

Mr. Sherman did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

Were there no light shed by the debates on this clause, sound reason, it seems to me, would construe it without doubt or difficulty. The question respected the times, places, and manner of holding elections. A breach of the peace is not an element in either time, place, or manner of holding elections. The law provides lawful methods of holding elections, and then, not in some occult way, not under a bushel, provides against their infraction, and appropriate penalties therefor.

Great as Mr. Hamilton undoubtedly was, and patriot as no one doubts, it is painfully true that Mr. Hamilton had not that high respect for the average intelligence of the people, for their capacity for self-government, that most of his compatriots entertained; but Mr. Hamilton would never have shocked the sensibilities of the American people, jealous of their rights, by a proposition that under any contingency Federal soldiers could have been marched to the polls and kept there during the election under the flimsy guise of keeping the peace.

The student of constitutional history has not failed to mark the jealousy with which our ancestors regarded a standing army. Had such a construction been put on the Constitution before its adoption as is now contended for it never would have been adopted. And it is noteworthy that this privilege to Congress was never exercised for eighty years after the adoption of the Constitution; and when exercised, the time was established throughout the States and Territories of holding elections for Representatives and Delegates. The places were established to be districts, composed of contiguous territory, as near as practicable of an equal number of inhabitants. The manner of holding elections was established to be by ballot, and all votes received or recorded other than written or printed ballots should be of no effect. Congress, I submit, exhausted its power, and justly construed its full power under clause 1, section 4, article 1, in sections 23 to 27, inclusive, of the Revised Statutes; so that we have the natural meaning of the clause, the construction put on it pending its discussion and before its adoption, and the construction put on it by Congress when it came to act upon it, and these all concur. So I conclude that it is impossible to draw the power from this clause, and I have endeavored to show that it cannot be drawn from any other clause, section, article, or sentence of the Constitution, expressly or by necessary implication. Besides, the section 2002 does not require the troops to be moved upon the ground in the event of a breach of the peace, but are put there nominally to keep the peace, and may be moved there even before the polls are opened. The presumption of law is that every man knows the law and will obey it. This section proceeds upon the theory that the people will disobey the law, and therefore need restraint.

The Army in my judgment was not designed for any such purpose; nor do I doubt that such duties are exceedingly distasteful. The legitimate duties of the Army in this country in time of peace are the protection of the public property intrusted to their charge and the protection of our thin settlements along our extended frontier. It is a branch of public service in its nature subordinate to the civil authorities; it has no wish to be otherwise employed than in its legitimate duties, and the very genius of our institutions forbids its use as an armed police power at the polls. The people have always been jealous of military interference with their rights, an interference in no wise tolerated by the laws of the country from which we sprang, and which were well known to the framers of the Constitution whose jealousy of a standing army is distinctly marked in the proceedings of the convention that framed the Constitution, as well as in the debates in the convention of the States which ratified it, and I submit that the political history of our country is against the claim of the United States to interfere with the people at the polls, in either Federal or State elections.

I now pass to another position to which the Senator from Maine devoted some attention. It was insisted that because of the very small number of troops in the States east of Omaha, as he expressed, or correctly, perhaps, east of the frontier line, the repeal was not a matter of such importance in any event as to be placed upon an appropriation bill. I might reply that if it were of little consequence, opposition to its repeal need not be so persistent.

Its repeal is not regarded by the party with which I act as trifling or inconsequential. I believe that every violation of the Constitution should be zealously resisted, and when convinced that the Constitu-

tion has been violated that it is our bounden duty to retrace our steps and return to the ancient "landmark." Every violation of the Constitution is dangerous. Every statute left upon the statute-book violative of the Constitution is a false teacher, educating the people in false doctrine. No doctrine can be more false or pernicious than interference with the free exercise of the right of suffrage. The position that the evil complained of is not great in proportions or exigent, and therefore need not be remedied, is not new. Daniel Webster, whose giant intellect shed light upon every subject he touched, made known to the Senate his views as to the necessity of guarding against every encroachment upon the rights of the people, however small that encroachment might be. See his speech, May 7, 1834, on the presidential protest, to be found in volume 4 of his works, beginning on page 103. I extract from that speech what may be found on pages 109 and 110, as follows:

Every encroachment, great or small, is important enough to awaken the attention of those who are intrusted with the preservation of a constitutional government. We are not to wait till great public mischiefs come, till the Government is overthrown, or liberty itself put into extreme jeopardy. We should not be worthy sons of our fathers were we so to regard great questions affecting the general freedom. Those fathers accomplished the Revolution on a strict question of principle. The Parliament of Great Britain asserted a right to tax the colonies in all cases whatsoever; and it was precisely on this question that they made the Revolution turn. The amount of taxation was trifling, but the claim itself was inconsistent with liberty, and that was in their eyes enough.

This claim is inconsistent with liberty, and that in democratic eyes is enough.

It was against the recital of an act of Parliament, rather than against any suffering under its enactments, that they took up arms. They went to war against a preamble. They fought seven years against a declaration. They poured out their treasures and blood like water, in a contest against an assertion which those less sagacious and not so well schooled in the principles of civil liberty would have regarded as barren phraseology or mere parade of words. They saw in the claim of the British Parliament a seminal principle of mischief, the germ of unjust power; they detected it, dragged it forth from underneath its plausible disguises, struck at it; nor did it elude either their steady eye or their well-directed blow till they had extirpated and destroyed it, to the smallest fiber. On this question of principle, while actual suffering was yet afar off, they raised their flag against a power to which, for purposes of foreign conquest and subjugation, Rome, in the height of her glory, is not to be compared; a power which has dotted over the surface of the whole globe with her possessions and military posts, whose morning drum-beat, following the sun and keeping company with the hours, circles the earth with one continuous and unbroken strain of the martial airs of England.

The necessity of holding strictly to the principle upon which free governments are constructed, and to those precise lines which fix the partitions of power between different branches, is as plain, if not as cogent, as that of resisting, as our fathers did, the strides of the parent country against the rights of the colonies; because, whether the power which exceeds its just limits be foreign or domestic, whether it be the encroachment of all branches on the rights of the people, or that of one branch on the rights of others, in either case the balanced and well-adjusted machinery of free government is disturbed, and, if the derangement go on, the whole system must fall.

I have not found anywhere a passage more worthy to be placed before the American people on the question before the Senate. I trust that the positions of the two parties on this question will be calmly and dispassionately and with the dignity becoming the issue laid before the people. If the democratic party are to be condemned for their earnest desire and earnest effort to secure to the people beyond peradventure or contingency the free ballot, so be it.

Free government rests upon it, cannot exist without it, and will inevitably go down if this grand conservator is destroyed. The pride and boast of our people is that their government is "of the people, by the people, for the people, and shall not perish from the earth;" that through the ballot the people's will is effectively spoken. It is

A weapon that comes down as still
As snow-flakes fall upon the sod;
But executes a freeman's will,
As lightning does the will of God.

It is to preserve the ballot in its purity that we seek the repeal of a law which we believe is calculated to despoil its purity.

Whether or not troops have been kept at the polls since the war was over, and since courts, Federal and State, were opened is a question of fact, and I presume the memory of thousands of living witnesses will settle it. The Senator from Maine complains that of the forty-two democrats in the Senate "thirty are from the South, twenty-three, a positive and pronounced majority, having themselves been participants in the war against the Union, either in military or civil station." The Senator will find, I think, these thirty southern democrats as attentive to their duties, as careful of the public interests, as decorous in intercourse with their brother Senators as any like number of Senators from any other parts of the Union on this floor.

Their crime consists in their inability to see with others' eyes, and in possessing the inborn self-respect to favor their convictions of right regardless of whom they may please or displease. By the Constitution and laws of the land they are eligible to seats on this floor, and having been honored by their States with the positions they hold the Senator from Maine may rest perfectly assured that they will assert and maintain the equality of their States with any other States, and themselves as the equals in right and in honor and the offices of courtesy with the Senators from the other States of the Union. Claiming no superiority, they recognize none in others. They do not attempt to stir up the fast failing embers of the past, because they believe that every interest of the whole country demands conciliation, reconciliation, and restoration of a genuine spirit of brotherhood among a people having a common flag and a common destiny. In my judgment he is a cruel, cold man who could—

Lift, unflinching, the pall
From the bier of the dead past.

The Senator from Maine made allusion to the martyred President calculated to cause his devoted admirers to condemn those who support the proposed legislation, because he connects Mr. Lincoln's name with the legislation sought to be repealed. While all accord to Mr. Lincoln independence of thought and fearlessness of action, no man was more ready than he to accord to others the same right he claimed for himself. His last inaugural address contains a sentiment that all good men the world over indorse—"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right." Our people were firm in the right as God gave us to see the right, and we accord to the people of the North the same honesty, the same fearlessness in the right as God gave them to see it. No more, no less.

Strife and contention over the dead past do no good and much harm. So believing, I avoid part and lot in it. I would rather aid in rebuilding our shattered commerce, in securing additional profitable outlets for our surplus productions, in securing the great prize of Mexican and South American trade, in setting in successful motion the plow, the loom, and the anvil. I believe "that whoever could make two ears of corn or two blades of grass to grow upon a spot of ground where only one grew before would deserve better of mankind and do more essential service to his country than the whole race of politicians put together;" certainly than the whole race of political barrators and common scolds, whose highest idea of statesmanship is to find fault with somebody and to stir up strife, and go in on the upheaval.

Mr. President, the question at issue is a simple one, in which there is no legitimate room for stirring up bad blood. The effect, if not the purpose, will be easily discerned by an intelligent people. I have presented my views dispassionately and as I think with perfect fairness. I believe the argument sound, and if it is there can be no question as to the constitutionality and expediency of the proposed legislation. The majority of the Senate will be held responsible by the people for the action of this body; they go before the country giving the reasons for the faith that is in them, and, in the language of Mr. Webster, "the Senate must stand on its rendered reasons."

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

Mr. WITHERS. Will the Senator withdraw that motion a moment in order that we may see whether any other Senator desires to continue the discussion to-day?

Mr. ALLISON. Certainly.

Mr. WITHERS. It is an early hour.

Mr. ALLISON. If any other Senator desires the floor to-day, I will withdraw my motion for that purpose.

Mr. WITHERS. It is only a few minutes after three o'clock, and as I last week gave notice that I would ask to have a vote on the bill by the middle of this week, I am desirous that every Senator who wishes should have an opportunity of participating in the debate before that time. If no Senator takes the floor, I shall yield to the motion of the Senator from Iowa.

Mr. ALLISON. I will yield to any Senator who may desire to speak to-day.

Mr. PENDLETON. I ask the Senator to withdraw his motion for a moment, that I may present some papers and have them referred to a committee.

Mr. ALLISON. I withdraw the motion for morning business.

PETITIONS AND MEMORIALS.

Mr. PENDLETON presented additional papers relating to the application of Crafts J. Wright, late colonel of the Thirteenth Missouri Volunteers, to be allowed a pension; which were referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 464) for the erection of a public building at Montgomery, Alabama; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 465) granting an increase of pension to George Smith; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 466) for the relief of George McDougall; which was read twice by its title, and referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 467) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians proclaimed January 21, 1867; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. BAILEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 468) for the relief of John W. Cheeks; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 469) for the relief of the City Distilling Company of Pekin, Illinois; which was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE SESSION.

Mr. ALLISON. I now renew my motion for an executive session.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is, Will the Senate proceed to the consideration of executive business?

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at three o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 21, 1879.

The House met at twelve o'clock m. Prayer by Rev. GILBERT DE LA MATYR.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twenty-one minutes past twelve o'clock. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials of State and territorial Legislatures are in order.

Mr. HASKELL. I ask unanimous consent that the call of States and Territories be continued until the list is gone through.

Mr. STEPHENS. I hope that will be granted.

Mr. FINLEY. I object for the present. It will be time enough to make that motion when we see how nearly we are through at the termination of the hour.

The SPEAKER. The Chair will recognize the gentleman from Kansas at the end of the morning hour to move to suspend the rules for the purpose he has indicated.

Mr. FINLEY. I withdraw the objection to the request of the gentleman from Kansas, [Mr. HASKELL.]

Mr. HUNTON. I rise to mention the fact that to-day is the day set apart under the rules for business of the District of Columbia; and I propose at two o'clock to ask unanimous consent that next Monday at two o'clock be set apart for District business instead of to-day.

There was no objection, and the order was made.

The SPEAKER. The gentleman from Ohio [Mr. FINLEY] has withdrawn his objection to the request of the gentleman from Kansas [Mr. HASKELL] that the call of States and Territories be continued until the list is gone through. The Chair hears no further objection, and it is so ordered.

PERSONAL EXPLANATION.

Mr. WILSON. I rise to a personal explanation. When I left here last Saturday week I gave to the Speaker's messenger a written memorandum, asking that leave of absence be granted to me on account of serious sickness in my family. I do not find, by reference to the RECORD, that the leave was granted.

Mr. CARLISLE. I will state to the gentleman that the leave was granted on one occasion when I was occupying the chair myself as Speaker *pro tempore*, and it is so announced in the RECORD.

COINAGE OF GOLD AND SILVER.

The SPEAKER. The morning hour begins at twenty-five minutes past twelve o'clock. There comes over as unfinished business a bill offered by the gentleman from Maine [Mr. LADD] on last Monday.

The bill (H. R. No. 5) to put the coinage of gold and silver upon the same footing was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BOEHM BROTHERS.

Mr. FRYE introduced a bill (H. R. No. 6) to refund a duplicate tax to Boehm Brothers, New York; which was read a first and second time, and referred to the Committee of Ways and Means.

DISTRIBUTION OF GENEVA AWARD.

Mr. FRYE also introduced a bill (H. R. No. 7) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WRONGS TO CHILDREN.

Mr. FRYE also introduced a bill (H. R. No. 8) to prevent and punish wrongs to children in the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BOUNDARY OF THE UNITED STATES AND CANADA.

Mr. MURCH presented a memorial of the Legislature of the State of Maine, in relation to the navigation and bridging of certain rivers which constitute the boundary line between the United States and the Dominion of Canada; which was referred to the Committee on Foreign Affairs.

INTEREST-BEARING DEBT.

Mr. MURCH also introduced a bill (H. R. No. 9) to prevent the further increase of the interest-bearing debt of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

FRACTIONAL CURRENCY.

Mr. MURCH also introduced a bill (H. R. No. 10) to provide for an issue of fractional currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

TRADE-DOLLAR, ETC.

Mr. MURCH also introduced a bill (H. R. No. 11) to provide for retiring the trade-dollar, for its recoinage into the standard silver dollar, and for the redemption of fractional silver coins; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

AMENDMENT OF AN ACT.

Mr. MURCH also introduced a bill (H. R. No. 12) to amend an act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes, approved May 18, 1872;" which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PERMANENT FORM OF GOVERNMENT FOR DISTRICT OF COLUMBIA.

Mr. MURCH also introduced a bill (H. R. No. 13) supplemental to an act entitled "An act for providing for a permanent form of government for the District of Columbia;" which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

EIGHT-HOUR LAW.

Mr. MURCH also introduced a bill (H. R. No. 14) in relation to the observance and enforcement of the eight-hour law of the United States; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

TREATY OF 1871.

Mr. MURCH also presented joint resolution of the Legislature of the State of Maine, relating to the termination of Articles 18 and 21 of the treaty of 1871 with Great Britain; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

GREENLEAF CILLEY.

Mr. LINDSEY introduced a bill (H. R. No. 15) for the relief of Greenleaf Cilley; which was read a first and second time, and referred to the Committee on Naval Affairs.

CHARLES H. ORDWAY.

Mr. BRIGGS introduced a bill (H. R. No. 16) granting an increase of pension to Charles H. Ordway; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH L. STEVENS.

Mr. BRIGGS also introduced a bill (H. R. No. 17) for the relief of Joseph L. Stevens, postmaster at Manchester, New Hampshire; which was read a first and second time, and referred to the Committee of Claims.

HENRY P. ROLFE.

Mr. BRIGGS also introduced a bill (H. R. No. 18) for the relief of Henry P. Rolfe, late United States attorney for the district of New Hampshire; which was read a first and second time, and referred to the Committee of Claims.

LABAN HEATH & CO.

Mr. BRIGGS also introduced a bill (H. R. No. 19) for the relief of Laban Heath & Co.; which was read a first and second time, and referred to the Committee of Claims.

JOHN BEAN.

Mr. JOYCE introduced a bill (H. R. No. 20) granting a pension to John Bean; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HORACE BROWN.

Mr. JOYCE also introduced a bill (H. R. No. 21) granting a pension to Horace Brown; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAJOR F. ALLEN.

Mr. JOYCE also introduced a bill (H. R. No. 22) granting a pension to Major F. Allen; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES LARRO.

Mr. JOYCE also introduced a bill (H. R. No. 23) granting a pension to James Larro; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AZEM G. ESTY.

Mr. JOYCE also introduced a bill (H. R. No. 24) granting a pension to Azem G. Esty; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARTHA A LEWIS.

Mr. JOYCE also introduced a bill (H. R. No. 25) granting a pension to Martha A. Lewis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES W. RYAN.

Mr. JOYCE also introduced a bill (H. R. No. 26) granting a pension to James W. Ryan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PHYLINA SAWYER.

Mr. JOYCE also introduced a bill (H. R. No. 27) granting a pension to Phylina Sawyer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DELINUS L. MELAIN.

Mr. JOYCE also introduced a bill (H. R. No. 28) granting a pension to Delinus L. Melain; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY LACHMAN.

Mr. JOYCE also introduced a bill (H. R. No. 29) for the relief of Henry Lachman; which was read a first and second time, and referred to the Committee on War Claims.

MARY H. FRENCH.

Mr. JOYCE also introduced a bill (H. R. No. 30) granting a pension to Mary H. French; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWIN F. LEWIS.

Mr. JOYCE also introduced a bill (H. R. No. 31) granting a pension to Edwin F. Lewis, late acting second assistant engineer United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RHODA L. BARBER.

Mr. JOYCE also introduced a bill (H. R. No. 32) granting a pension to Rhoda L. Barber; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CATHERINE F. EDMONDSON.

Mr. JOYCE also introduced a bill (H. R. No. 33) granting a pension to Catherine F. Edmondson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAMUEL N. BLAIR.

Mr. JOYCE also introduced a bill (H. R. No. 34) granting a pension to Samuel N. Blair; which was read a first and second time, and referred to the Committee on Invalid Pensions.

OLIVER T. SMITH.

Mr. JOYCE also introduced a bill (H. R. No. 35) granting a pension to Oliver T. Smith; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY F. BRINK.

Mr. JOYCE also introduced a bill (H. R. No. 36) granting a pension to Henry F. Brink; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PENSIONS FOR WAR OF 1812.

Mr. JOYCE also introduced a bill (H. R. No. 37) to amend the act of March 9, 1878, relating to pensions for service in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

PENSIONS.

Mr. JOYCE also introduced a bill (H. R. No. 38) to amend section 4702, title 57, of the Revised Statutes of the United States, relating to pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DARWIN JOHNSON.

Mr. JOYCE also introduced a bill (H. R. No. 39) granting a pension to Darwin Johnson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EBENEZER G. BIGELOW.

Mr. JOYCE also introduced a bill (H. R. No. 40) granting a pension to Ebenezer G. Bigelow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY M. FERRIS.

Mr. JOYCE also introduced a bill (H. R. No. 41) granting a pension to Henry M. Ferris; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BARTON BLACKMER.

Mr. JOYCE also introduced a bill (H. R. No. 42) granting a pension to Barton Blackmer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANK PAGE.

Mr. JOYCE also introduced a bill (H. R. No. 43) for the relief of Frank Page; which was read a first and second time, and referred to the Committee on Military Affairs.

MERRITT BARBER.

Mr. JOYCE also introduced a bill (H. R. No. 44) for the relief of Merritt Barber, first lieutenant of the United States Infantry; which was read a first and second time, and referred to the Committee of Claims.

SOLDIERS' ASSOCIATION, CHELSEA, VERMONT.

Mr. JOYCE also introduced a bill (H. R. No. 45) donating condemned cannon to the Soldiers' Memorial Association, of Chelsea, Vermont; which was read a first and second time, and referred to the Committee on Military Affairs.

DAVID WARD.

Mr. JOYCE also introduced a bill (H. R. No. 46) for the relief of David Ward, of Middlesex, Vermont; which was read a first and second time, and referred to the Committee of Claims.

CLAIMS FOR HORSES.

Mr. JOYCE also introduced a bill (H. R. No. 47) amending section 3489 of the Revised Statutes of the United States extending the time for presenting claims for horses lost in the United States military service to June 30, 1880; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALCOHOLIC LIQUOR TRAFFIC.

Mr. JOYCE also introduced a bill (H. R. No. 48) to provide for the appointment of a commission on the subject of the alcoholic liquor traffic; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WAR CLAIMS.

Mr. JOYCE also introduced a joint resolution (H. R. No. 2) proposing an amendment to the Constitution prohibiting the payment of claims of disloyal persons for property injured or destroyed in the late war of the rebellion; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CLAIMS OF STATES FOR WAR EXPENSES.

Mr. TYLER introduced a bill (H. R. No. 49) to declare the intent and meaning of an act approved July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in the defense of the United States;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PERLEY P. ROBERTS.

Mr. BARLOW introduced a bill (H. R. No. 50) granting a pension to Perley P. Roberts; which was read a first and second time, and referred to the Committee on Invalid Pensions.

D. D. WEAD.

Mr. BARLOW also introduced a bill (H. R. No. 51) to reimburse D. D. Wead, postmaster at Sheldon, Vermont, for stamps and money stolen from him December 31, 1873; which was read a first and second time, and referred to the Committee of Claims.

GEORGE YOUNGER.

Mr. BARLOW also introduced a bill (H. R. No. 52) for the relief of George Younger, of Saint Albans, Vermont; which was read a first and second time, and referred to the Committee of Claims.

DE FOREST W. CARPENTER.

Mr. BARLOW also introduced a bill (H. R. No. 53) for the relief of De Forest W. Carpenter, postmaster at Richford, Vermont; which was read a first and second time, and referred to the Committee of Claims.

EDGAR A BEACH.

Mr. BARLOW also introduced a bill (H. R. No. 54) to pay Edgar A. Beach, of Essex, Vermont, the sum therein named; which was read a first and second time, and referred to the Committee of Claims.

SPRINGFIELD AND NEW LONDON RAILROAD.

Mr. ROBINSON introduced a bill (H. R. No. 55) granting the right of way across Water Shops Pond in Springfield, Massachusetts, to the Springfield and New London Railroad Company; which was read a first and second time, and referred to the Committee on Military Affairs.

HUGH DONNELLY.

Mr. ROBINSON also introduced a bill (H. R. No. 56) granting an additional pension to Hugh Donnelly, late captain Thirty-seventh Massachusetts Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WATSON S. BENTLEY.

Mr. ROBINSON also introduced a bill (H. R. No. 57) granting an additional pension to Watson S. Bentley, late a private in Company B, Thirty-seventh Massachusetts Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONDEMNED ORDNANCE FOR MONUMENTAL PURPOSES.

Mr. ROBINSON also introduced a bill (H. R. No. 58) authorizing the Secretary of War to deliver certain condemned ordnance to the town

of Brimfield, Massachusetts, for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN MURPHY.

Mr. ROBINSON also introduced a bill (H. R. No. 59) for the relief of John Murphy, of Chicopee, Massachusetts; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WAGES OF LABORERS, ETC., UNDER EIGHT-HOUR LAW.

Mr. ROBINSON also introduced a bill (H. R. No. 60) to amend an act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

A. H. EMERY.

Mr. ROBINSON also introduced a bill (H. R. No. 61) for the relief of A. H. Emery; which was read a first and second time, and referred to the Committee of Claims.

E. W. BLACKINTON.

Mr. ROBINSON also introduced a bill (H. R. No. 62) for the relief of E. W. Blackinton; which was read a first and second time, and referred to the Committee of Claims.

JULIA E. SEELEY.

Mr. ROBINSON also introduced a bill (H. R. No. 63) for the relief Julia E. Seeley; which was read a first and second time, and referred to the Committee of Claims.

GOVERNOR OF NAVAL ASYLUM, PHILADELPHIA.

Mr. HARRIS, of Massachusetts, introduced a bill (H. R. No. 64) to authorize the assignment of a rear-admiral on the retired list of the Navy to duty as governor of the naval asylum at Philadelphia; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MOVABLE TORPEDOES FOR MILITARY AND NAVAL DEFENSE.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 65) to provide for experiments in, and the purchase of, movable torpedoes for military and naval defense; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REUBEN H. PLASS.

Mr. HARRIS, of Massachusetts, also (by request) introduced a bill (H. R. No. 66) for the relief of Reuben H. Plass; which was read a first and second time, and referred to the Committee of Claims.

UNITED STATES STEAMER ALARM.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PROFESSORS OF MATHEMATICS, UNITED STATES NAVY.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 68) relating to the appointment of professors of mathematics in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CHAPLAINS UNITED STATES NAVY.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 69) for promoting the efficiency of the corps of chaplains of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

BOARD OF ASSISTANTS UNITED STATES NAVY.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 70) providing for the establishment of a board of assistants for the Navy of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

INCREASE OF PENSIONS.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 71) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SOLDIERS' MONUMENT AT TAUNTON, MASSACHUSETTS.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 72) granting condemned cannon to Grand Army Post No. 3, of Taunton, Massachusetts, for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COMPLETION OF MONITORS.

Mr. HARRIS, of Massachusetts, also introduced a bill (H. R. No. 73) making appropriation for completing the double-turreted monitors Puritan, Amphitrite, Terror, and Monadnock; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

Mr. RICE introduced a bill (H. R. No. 74) extending the time for the completion of the Northern Pacific Railroad; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

CENTRAL BRANCH UNION PACIFIC RAILROAD.

Mr. RICE also introduced a bill (H. R. No. 75) for the relief of the Central Branch Union Pacific Railroad; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

PACIFIC RAILROAD COMMISSIONERS.

Mr. RICE also introduced a bill (H. R. No. 76) to establish a board of Pacific Railroad commissioners; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

INTERSTATE RAILROADS AND COMMERCE.

Mr. RICE also introduced a bill (H. R. No. 77) to establish a board of supervisors of interstate railroads and commerce, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HENRY WATERMAN.

Mr. RICE also introduced a bill (H. R. No. 78) for the relief of Henry Waterman; which was read a first and second time, and referred to the Committee on Patents.

ISAAC T. HOOTEN.

Mr. RICE also introduced a bill (H. R. No. 79) granting a pension to Isaac T. Hooten, of Boston, Massachusetts; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN PRATT.

Mr. RICE also introduced a bill (H. R. No. 80) granting a pension to John Pratt, of Worcester, Massachusetts, of Company C, Fifty-first Regiment Massachusetts Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADALINE SMITH.

Mr. RICE also introduced a bill (H. R. No. 81) granting a pension to Adaline Smith, of Shrewsbury, Massachusetts; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES E. BARNARD.

Mr. RICE also introduced a bill (H. R. No. 82) granting an additional pension to Charles E. Barnard; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH SIMPSON.

Mr. RICE also introduced a bill (H. R. No. 83) granting an additional pension to Joseph Simpson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NELSON P. TIFFANY.

Mr. RICE also introduced a bill (H. R. No. 84) granting a pension to Nelson P. Tiffany; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DONATION OF CONDEMNED ORDNANCE.

Mr. RICE also introduced a bill (H. R. No. 85) donating condemned cannon to the town of Paxton; which was read a first and second time, and referred to the Committee on Military Affairs.

THEOPHILUS P. CHANDLER.

Mr. RICE also introduced a bill (H. R. No. 86) for the relief of Theophilus P. Chandler; which was read a first and second time, and referred to the Committee of Claims.

SAMUEL M. BLAIR.

Mr. FIELD (by request) introduced a bill (H. R. No. 87) for the relief of Samuel M. Blair, of Boston, Massachusetts; which was read a first and second time, and referred to the Committee on War Claims.

TELEGRAPHIC CABLE.

Mr. ALDRICH, of Rhode Island, introduced a bill (H. R. No. 88) to authorize the laying of a telegraphic cable from the mainland in Rhode Island to Block Island; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PURCHASE OF LAND AT PROVIDENCE, RHODE ISLAND.

Mr. ALDRICH, of Rhode Island, also introduced a bill (H. R. No. 89) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

REPRESENTATIVES OF ASBURY DICKINS.

Mr. HAWLEY introduced a bill (H. R. No. 90) for the benefit of the legal representatives of Asbury Dickins; which was read a first and second time, and referred to the Committee of Claims.

EDWARD K. WINSHIP.

Mr. HAWLEY also introduced a bill (H. R. No. 91) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward

K. Winship, United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

AUSTIN G. DAY.

Mr. WAIT introduced a bill (H. R. No. 92) for the relief of Austin G. Day by the issue of additional letters-patent for improvements in hard India rubber; which was read a first and second time, and referred to the Committee on Patents.

JOSEPH JORDAN AND THOMAS EUSTICE.

Mr. WAIT also introduced a bill (H. R. No. 93) extending the letters-patent granted Joseph Jordan and Thomas Eustice seven years from May 18, 1879; which was read a first and second time, and referred to the Committee on Patents.

UNLOADING OF FOREIGN VESSELS.

Mr. WAIT also introduced a joint resolution (H. R. No. 3) relating to the unlading of foreign vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF NEW HAVEN HARBOR.

Mr. PHELPS introduced a bill (H. R. No. 94) making an appropriation for continuing the work on the breakwater at the entrance to New Haven Harbor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

He also introduced a bill (H. R. No. 95) making an appropriation for continuing the improvement of the channel in New Haven Harbor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BEACON-LIGHT, CONNECTICUT RIVER.

Mr. PHELPS also introduced a bill (H. R. No. 96) making an appropriation for the establishment of a beacon-light at the mouth of Connecticut River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENTS IN CONNECTICUT RIVER.

Mr. PHELPS also introduced a bill (H. R. No. 97) making appropriations to continue improvements in and at the mouth of Connecticut River, in the State of Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAMES CALER.

Mr. PHELPS also introduced a bill (H. R. No. 98) for the relief of James Caler, of Stamford, Connecticut; which was read a first and second time, and referred to the Committee on Commerce.

ROBERT C. NARRAMORE.

Mr. PHELPS also introduced a bill (H. R. No. 99) for the relief of Robert C. Narramore, late postmaster at Derby, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

SIDNEY F. OVIATT.

Mr. PHELPS also introduced a bill (H. R. No. 100) for the relief of Sidney F. Oviatt, postmaster at Orange, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

CHAUNCEY DICKINSON.

Mr. PHELPS also introduced a bill (H. R. No. 101) for the relief of Chauncey Dickinson, of Haddam, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

MARVIN H. AMESBURY.

Mr. PHELPS also introduced a bill (H. R. No. 102) for the relief of Marvin H. Amesbury; which was read a first and second time, and referred to the Committee on War Claims.

BARK GRAPE SHOT.

Mr. PHELPS also introduced a bill (H. R. No. 103) for the relief of the owner of the bark Grape Shot; which was read a first and second time, and referred to the Committee of Ways and Means.

AMENDMENT OF REVISED STATUTES.

Mr. PHELPS also introduced a bill (H. R. No. 104) to amend section 4895 of the Revised Statutes of the United States; which was read a first and second time, and referred to the Committee on Patents.

REPEAL OF REVISED STATUTES.

Mr. PHELPS also introduced a bill (H. R. No. 105) to repeal a part of section 5175 of the Revised Statutes of the United States and to provide for the circulation by national banking institutions of notes of a less denomination than $5; which was read a first and second time, and referred to the Committee on Banking and Currency.

PROTECTION OF ATTORNEYS.

Mr. PHELPS also introduced a bill (H. R. No. 106) to provide for the protection of attorneys doing business before the Patent Office and the other bureaus and Departments of the Government; which was read a first and second time, and referred to the Committee on the Judiciary.

REPEAL OF REVISED STATUTES.

Mr. PHELPS also introduced a bill (H. R. No. 107) to repeal section 5522 and to amend section 5528, being parts of chapter 7 and title 70 of the Revised Statutes, and relating to crimes against the elective franchise and civil rights of citizens; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. PHELPS also introduced a bill (H. R. No. 108) to amend section 800 and to repeal certain other sections, being parts of chapter 15 and title 13 of the Revised Statutes, and relating to juries; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

He also introduced a bill (H. R. No. 109) to amend certain sections and to repeal certain other sections of title 26 of the Revised Statutes, relating to the elective franchise; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ERECTION OF PUBLIC BUILDINGS.

Mr. BLISS introduced a bill (H. R. No. 110) to provide for the erection of a public building at Brooklyn, New York, for use as a post-office and United States court, and for the accommodation of United States internal revenue officials, and for other Government purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JURISDICTION OF CIRCUIT COURTS UNITED STATES.

Mr. BLISS also introduced a bill (H. R. No. 111) relating to the jurisdiction of the circuit courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. BLISS also introduced a bill (H. R. No. 112) to amend section 4400 of title 52 of the Revised Statutes of the United States, concerning the regulation of steam-vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AUGUSTINE DE YTURBIDE.

Mr. BLISS also introduced a bill (H. R. No. 113) to reinstate on the trial calendar of the United States district court the case of the executors and heirs of Augustine de Yturbide *vs.* The United States, for trial on its merits; which was read a first and second time, and referred to the Committee on the Judiciary.

WALLABOUT BAY.

Mr. BLISS also introduced a joint resolution (H. R. No. 4) providing for the sale of property in Wallabout Bay to the city of Brooklyn, for market purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ARMOR FOR SHIPS.

Mr. BLISS also introduced a bill (H. R. No. 114) to provide for experiments with cellular armor for giving greater resistance to iron-clad ships at much less cost; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ALBERT J. KENNEY.

Mr. BLISS also introduced a bill (H. R. No. 115) to reinstate Albert J. Kenney as mate in the Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

MARGARET KEARNS.

Mr. BLISS also introduced a bill (H. R. No. 116) granting a pension to Margaret Kearns; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARTHA WESTERVELT.

Mr. BLISS also introduced a bill (H. R. No. 117) granting a pension to Martha Westervelt; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS HALL.

Mr. BLISS also introduced a bill (H. R. No. 118) granting a pension to Thomas Hall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JULIA H. OWEN.

Mr. BLISS also introduced a bill (H. R. No. 119) granting a pension to Julia H. Owen; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JEREMIAH PHELAN.

Mr. BLISS also introduced a bill (H. R. No. 120) placing the name of Jeremiah Phelan upon the retired list of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

F. L. DALLON.

Mr. BLISS also introduced a bill (H. R. No. 121) for the relief of F. L. Dallon; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

TUNNEL UNDER DETROIT RIVER.

Mr. BLISS also introduced a bill (H. R. No. 122) to authorize the construction and maintenance of a tunnel under the Detroit River, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ANN JANE WENDELL.

Mr. BLISS also introduced a bill (H. R. No. 123) granting a pension to Ann Jane Wendell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS SHANNON.

Mr. BLISS also introduced a bill (H. R. No. 124) granting a pension to Thomas Shannon; which was read a first and second time, and referred to the Committee on Invalid Pensions.

R. B. TALFOR AND H. C. RIPLEY.

Mr. BLISS also introduced a bill (H. R. No. 125) for the relief of R. B. Talfor and H. C. Ripley; which was read a first and second time, and referred to the Committee of Claims.

JANE A. O'BRIEN.

Mr. BLISS also introduced a bill (H. R. No. 126) granting a pension to Jane A. O'Brien; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY F. HALL.

Mr. BLISS also introduced a bill (H. R. No. 127) granting a pension to Mary F. Hall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PHOTOGRAPHIC PLATE-HOLDERS.

Mr. BLISS also introduced a bill (H. R. No. 128) authorizing William Lewis and William H. Lewis to make application to the Commissioner of Patents for the extension of their patent for new and useful photographic plate-holders; which was read a first and second time, and referred to the Committee on Patents.

HANNAH OTTROGE.

Mr. BLISS also introduced a bill (H. R. No. 129) granting a pension to Hannah Ottroge, widow of Christian Ottroge, late private Company D, Eighty-eighth Regiment New York Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. MARY LEGGETT.

Mr. BLISS also introduced a bill (H. R. No. 130) granting a pension to Mrs. Mary Leggett; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANN SMART.

Mr. BLISS also introduced a bill (H. R. No. 131) granting a pension to Ann Smart; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH T. DUBOIS.

Mr. BLISS also introduced a bill (H. R. No. 132) granting a pension to Elizabeth T. Dubois; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANNA VOSHAGE.

Mr. BLISS also introduced a bill (H. R. No. 133) granting a pension to Anna Voshage; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN BOYLE.

Mr. BLISS also introduced a bill (H. R. No. 134) granting a pension to John Boyle; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELEANOR K. FILLIS.

Mr. BLISS also introduced a bill (H. R. No. 135) granting a pension to Eleanor K. Fillis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JANE ANN ROOF.

Mr. BLISS also introduced a bill (H. R. No. 136) granting a pension to Jane Ann Roof; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

STAFF OF MARINE CORPS.

Mr. BLISS also introduced a bill (H. R. No. 137) to regulate and define the rank of the staff of the Marine Corps; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

FLEET AND MARINE OFFICERS.

Mr. BLISS also introduced a bill (H. R. No. 138) regulating the rank and pay of fleet and marine officer in the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SCHOONER TWO MARYS.

Mr. COVERT introduced a bill (H. R. No. 139) to change the name of the schooner Two Marys; which was read a first and second time, and referred to the Committee on Commerce.

THOMAS F. YOUNGS.

Mr. COVERT also introduced a bill (H. R. No. 140) for the relief of Thomas F. Youngs, of New York, assignee of Byam K. Stevens; which was read a first and second time, and referred to the Committee on War Claims.

JULIA A. STIMERS.

Mr. COVERT also introduced a bill (H. R. No. 141) granting a pension to Julia A. Stimers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAX BEEBER.

Mr. COVERT also introduced a bill (H. R. No. 142) for the relief of Max Beeber, of New York City; which was read a first and second time, and referred to the Committee on War Claims.

FRANCIS WATT.

Mr. COVERT also introduced a bill (H. R. No. 143) for the relief of Francis Watt; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANN M'LAUGHLIN.

Mr. COVERT also (for Mr. MULLER) introduced a bill (H. R. No. 144) granting a pension to Ann McLaughlin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SUSANNA KREUDER.

Mr. COVERT also (for Mr. MULLER) introduced a bill (H. R. No. 145) granting a pension to Susanna Kreuder; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS W. SAMPSON.

Mr. COVERT also (for Mr. MULLER) introduced a bill (H. R. No. 146) for the relief of Thomas W. Sampson, enabling him to receive a medal of honor from the Government of the United States; which was read a first and second time, and referred to the Committee on Commerce.

CHANGE OF NAME OF A STEAMBOAT.

Mr. COVERT also (for Mr. MULLER) introduced a bill (H. R. No. 147) to change the name of steam-propeller Nuhpa to Metropolitan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WORK ON PUBLIC BUILDINGS.

Mr. COVERT also (for Mr. MULLER) introduced a joint resolution (H. R. No. 5) asking the President to appoint a board to examine into and report on a better system of doing work on our public buildings; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

REVISION OF REVENUE LAWS.

Mr. FERNANDO WOOD introduced a joint resolution (H. R. No. 6) providing for the appointment of a joint select committee upon the revision of the revenue laws; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PERMANENT SINKING FUND.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 148) to establish a permanent sinking fund; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

DUTIES ON IMPORTS.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 149) to amend the acts imposing duties upon foreign imports; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

APPEALS FROM DECISIONS OF COLLECTORS OF CUSTOMS.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 150) respecting protests or appeals from decisions of collectors of customs; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

FREE INTRODUCTION OF SAMPLES.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 151) to provide for the free introduction of samples; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

BONDS FOR DUTIES.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 152) to provide for the abolition of all bonds for duties on imported merchandise while the latter remains in the custody of the Government, &c.; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

NEW YORK CHAMBER OF COMMERCE.

Mr. FERNANDO WOOD also introduced a bill (H. R. No. 153) to convey to the Chamber of Commerce of the State of New York certain lands in the city of New York; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM J. PIPER.

Mr. MILLER introduced a bill (H. R. No. 154) for the relief of William J. Piper, of Frankfort, New York; which was read a first and second time, and referred to the Committee of Claims.

M. D. TITSWORTH.

Mr. MILLER also introduced bill (H. R. No. 155) for the relief of M. D. Titsworth, postmaster at Adams Centre, New York; which was read a first and second time, and referred to the Committee of Claims.

LOUIS C. SANDS.

Mr. MILLER also introduced a bill (H. R. No. 156) for the relief of

Louis C. Sands, of Herkimer County, New York; which was read a first and second time, and referred to the Committee of Claims.

AMENDMENT OF REVISED STATUTES.

Mr. STARIN introduced a bill (H. R. No. 157) to amend title 33, section 2504 of the Revised Statutes of the United States, second edition; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM BOWIE.

Mr. STARIN also introduced a bill (H. R. No. 158) granting a pension to William Bowie; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HEIRS OF GEORGE FISHER.

Mr. STARIN also introduced a bill (H. R. No. 159) for the relief of the minor children of George Fisher, late of Company E, One hundred and fifty-third Regiment New York Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ASA O. GALLUP.

Mr. PRESCOTT introduced a bill (H. R. No. 160) for the relief of the heirs of Asa O. Gallup; which was read a first and second time, and referred to the Committee on War Claims.

MARY P. ABEEL.

Mr. PRESCOTT also introduced a bill (H. R. No. 161) for the relief of Mary P. Abeel; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANNA HULSER.

Mr. PRESCOTT also introduced a bill (H. R. No. 162) granting an increase of pension to Anna Hulser; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY LARKINS.

Mr. PRESCOTT also introduced a bill (H. R. No. 163) granting a pension to Mary Larkins, mother of Michael Larkins, late a private of Company A, Tenth Regiment Ohio Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN WEBER.

Mr. PRESCOTT also introduced a bill (H. R. No. 164) granting a pension to John Weber, late a private in Company K, Twenty-seventh Regiment, Michigan Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MONUMENT TO GENERAL HERKIMER.

Mr. PRESCOTT also introduced a bill (H. R. No. 165) to consummate the resolution of the continental congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer as therein directed; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REFUND OF TAXES.

Mr. LAPHAM introduced a bill (H. R. No. 166) to provide for the refunding of certain taxes in conformity with a decision of the Supreme Court; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DUTIES ON IMPORTS.

Mr. LAPHAM also introduced a bill (H. R. No. 167) to explain the Revised Statutes relative to duties on imported merchandise; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PAY OF ARMY OFFICERS.

Mr. LAPHAM also introduced a bill (H. R. No. 168) to equalize length-of-service and longevity pay among officers of the Army of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SOLOMON JEWELL.

Mr. LAPHAM also introduced a bill (H. R. No. 169) granting a pension to Solomon Jewell, late a private in Company M, New York Cavalry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONDEMNED ORDNANCE FOR MONUMENTAL PURPOSES.

Mr. LAPHAM also introduced a bill (H. R. No. 170) to authorize the Secretary of War to deliver to the authorities of East Bloomfield, New York, four abandoned cannon for the soldiers' monument in said town; which was read a first and second time, and referred to the Committee on Military Affairs.

FRANKLIN LEE AND CHARLES F. DUNBAR.

Mr. PIERCE introduced a bill (H. R. No. 171) for the relief of Franklin Lee and Charles F. Dunbar; which was read a first and second time, and referred to the Committee of Claims.

PHŒBE MEECH.

Mr. PIERCE also introduced a bill (H. R. No. 172) for the relief of Phœbe Meech; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CAPTAIN HUGH HUGHES.

Mr. CAMP introduced a bill (H. R. No. 173) granting a pension to Captain Hugh Hughes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DERRICK F. HAMLINK.

Mr. CAMP also introduced a bill (H. R. No. 174) granting an increase of pension to Derrick F. Hamlink; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAJOR JOHN M. AUSTIN.

Mr. CAMP also introduced a bill (H. R. No. 175) granting a pension to Major John M. Austin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM W. RAPPLEYE.

Mr. CAMP also introduced a bill (H. R. No. 176) for the relief of William W. Rappleye, of Farmer Village, New York; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DISTRIBUTION OF GENEVA AWARD.

Mr. McCOOK introduced a bill (H. R. No. 177) to provide for the further distribution of the moneys received under the Geneva award; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

STEAMBOAT ALEXIS.

Mr. McCOOK also introduced a bill (H. R. No. 178) to provide for the change of name of the steamboat Alexis; which was read a first and second times, and referred to the Committee on Commerce.

THOMAS J. CHUBB, DECEASED.

Mr. McCOOK also introduced a bill (H. R. No. 179) for the relief of Martha W. Chubb and Mary L. Chubb, and Martha W. Chubb as administratrix of her father, Thomas J. Chubb, deceased; which was read a first and second time, and referred to the Committee on Patents.

EDWARD C. QUINCY.

Mr. DWIGHT introduced a bill (H. R. No. 180) granting an increase of pension to Edward C. Quincy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INCREASE OF PENSIONS.

Mr. DWIGHT also introduced a bill (H. R. No. 181) to amend chapter 261 of the laws passed during the second session of the Forty-fifth Congress increasing the pensions of certain pensioned soldiers and sailors; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDGAR HUSON.

Mr. DWIGHT also introduced a bill (H. R. No. 182) for the relief of Edgar Huson; which was read a first and second time, and referred to the Committee on Patents.

CUSTOMS REVENUE LAWS.

Mr. MORTON introduced (at the request of a committee of the Chamber of Commerce of the city of New York) a bill (H. R. No. 183) for the correction of errors and amendment of customs-revenue laws; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PATENTS.

Mr. MORTON also introduced a bill (H. R. No. 184) to amend the statutes in relation to patents and for other purposes; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

JOHN H. MORRIS.

Mr. MORTON also introduced a bill (H. R. No. 185) for the relief of John H. Morris; which was read a first and second time, and referred to the Committee of Claims.

ANN M. PAULDING.

Mr. CHITTENDEN introduced a bill (H. R. No. 186) granting a pension to Ann M. Paulding, widow of Rear-Admiral Hiram Paulding; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY A. RIPLEY.

Mr. HISCOCK introduced a bill (H. R. No. 187) for the relief of Mary A. Ripley; which was read a first and second time, and referred to the Committee on War Claims.

PUBLIC BUILDING, ROCHESTER, NEW YORK.

Mr. HISCOCK also introduced a bill (H. R. No. 188) directing the Secretary of the Treasury to report upon the necessity of a public building at Rochester, New York; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

NEHEMIAH OSBURN.

Mr HISCOCK also introduced a bill (H. R. No. 189) authorizing Nehemiah Osburn to sue in the Court of Claims for balance alleged to be due for building Baltimore court-house; which was read a first and second time, and referred to the Committee of Claims.

THOMAS ALLCOCK.

Mr. HISCOCK also introduced a bill (H. R. No. 190) granting a pension to Thomas Allcock, of Rochester, New York; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DARIUS DAVIS.

Mr. HISCOCK also introduced a bill (H. R. No. 191) for the relief of Darius Davis, of Charlotte, New York; which was read a first and second time, and referred to the Committee on Commerce.

HULDA L. BARNARD.

Mr. HISCOCK also introduced a bill (H. R. No. 192) granting a pension to Hulda L. Barnard, of Albion, New York; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMPULSORY PILOTAGE.

Mr. ROSS introduced a bill (H. R. No. 193) relative to compulsory pilotage; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FOG STATION, LONG BRANCH, NEW JERSEY.

Mr. ROSS also introduced a bill (H. R. No. 194) to provide for the construction of a light and fog-station at Long Branch, New Jersey; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. ANN DOBSON.

Mr. ROSS also introduced a bill (H. R. No. 195) granting a pension to Mrs. Ann Dobson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LIEUTENANT FRANCIS V. GREENE.

Mr. ROBESON introduced a joint resolution (H. R. No. 7) authorizing Lieutenant Francis V. Greene, United States Army, to accept certain decorations conferred upon him by the Emperor of Russia; which was read a first and second time, and referred to the Committee on Foreign Affairs.

REMOVAL OF TOBACCO.

Mr. BRIGHAM introduced a bill (H. R. No. 196) authorizing the removal of tobacco in process of manufacture; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JOHN C. COMFORT.

Mr. BELTZHOOVER introduced a bill (H. R. No. 197) for the relief of John C. Comfort, of Cumberland County, Pennsylvania; which was read a first and second time, and referred to the Committee of Claims.

JOHN WEARY.

Mr. BELTZHOOVER also introduced a bill (H. R. No. 198) for the relief of John Weary, late of the Thirteenth Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

BERNARD REILLY, JR.

Mr. RYON, of Pennsylvania, introduced a bill (H. R. No. 199) to authorize the President to restore Bernard Reilly, jr., to his former rank in the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

HENRY C. PARRY.

Mr. RYON, of Pennsylvania, also introduced a bill (H. R. No. 200) for the relief of Henry C. Parry, M. D., late an assistant surgeon in the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN B. WELCH.

Mr. FISHER introduced a bill (H. R. No. 201) for the relief of John B. Welch; which was read a first and second time, and referred to the Committee of Claims.

MARY A. TYSON.

Mr. FISHER also introduced a bill (H. R. No. 202) granting a pension to Mary A. Tyson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES POLK KEGERREIS.

Mr. FISHER also introduced a bill (H. R. No. 203) for the increase of pension of James Polk Kegerreis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LAWRENCE GROSS.

Mr. FISHER also introduced a bill (H. R. No. 204) granting a pension to Lawrence Gross; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB GELWICKS.

Mr. FISHER also introduced a bill (H. R. No. 205) granting a pension to Jacob Gelwicks; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN GREEN.

Mr. FISHER also introduced a bill (H. R. No. 206) granting a pension to John Green; which was read a first and second time, and referred to the Committee on Invalid Pensions.

H. S. DIMM.

Mr. FISHER also introduced a bill (H. R. No. 207) to increase the pension of H. S. Dimm; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEWIS W. DETRICH.

Mr. FISHER also introduced a bill (H. R. No. 208) to increase the pension of Lewis W. Detrich; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ROBERT A. M'DONALD.

Mr. FISHER also introduced a bill (H. R. No. 209) granting a pension to Robert A. McDonald; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM M. WRIGHT.

Mr. FISHER also introduced a bill (H. R. No. 210) to restore the name of William M. Wright, of Chambersburgh, Pennsylvania, to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GREAT KANAWHA RIVER.

Mr. YOCUM introduced a bill (H. R. No. 211) to authorize the adjustment of accounts for the construction of locks Nos. 4 and 5 in the Great Kanawha River, West Virginia; which was read a first and second time, and referred to the Committee on Commerce.

ALEXANDER WORRALL.

Mr. WARD introduced a bill (H. R. No. 212) for the relief of Alexander Worrall; which was read a first and second time, and referred to the Committee on War Claims.

HEIRS OF WILLIAM R. DOWNING.

Mr. WARD also introduced a bill (H. R. No. 213) for the relief of the heirs at law of William R. Downing, deceased, late captain and assistant quartermaster of United States Volunteers; which was read a first and second time, and referred to the Committee on War Claims.

MICHAEL CONNELLY.

Mr. WARD also introduced a bill (H. R. No. 214) for the relief of Michael Connelly, of Chester, Pennsylvania, which was read a first and second time, and referred to the Committee on War Claims.

MARGARET E. WEST.

Mr. WARD also introduced a bill (H. R. No. 215) granting a pension to Margaret E. West, widow of Robert M. West, late colonel of the Fifth Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY A. GIBSON.

Mr. WARD also introduced a bill (H. R. No. 216) for the relief of Mary A. Gibson, and granting her a pension; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ABNER HOOPES.

Mr. WARD also introduced a bill (H. R. No. 217) granting a pension to Abner Hoopes, late a private in Company A, First Pennsylvania Reserves; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JESSE HICKEN.

Mr. WARD also introduced a bill (H. R. No. 218) granting a pension to Jesse Hicken, of Chester, Pennsylvania, a soldier in the late war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH DOUGHERTY.

Mr. WARD also introduced a bill (H. R. No. 219) granting a pension to Elizabeth Dougherty, widow of Charles Dougherty, deceased, a soldier in the late war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZA M'CONNEL.

Mr. WARD also introduced a bill (H. R. No. 220) granting a pension to Eliza McConnel; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANN JESTER.

Mr. WARD also introduced a bill (H. R. No. 221) granting a pension to Ann Jester, mother of Vincent Jester, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CELESTIA DARLINGTON.

Mr. WARD also introduced a bill (H. R. No. 222) granting a pension to Celestia Darlington, widow of Major William Darlington, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BETSEY GRANTEER.

Mr. OVERTON introduced a bill (H. R. No. 223) granting a pension to Mrs. Betsey Granteer; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

CHARLES N. WARNER.

Mr. OVERTON also introduced a bill (H. R. No. 224) to restore Charles

N. Warner to his former rank and position in the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

MELISSA WAGNER.

Mr. SHALLENBERGER introduced a bill (H. R. No. 225) granting a pension to Melissa Wagner, widow of Joseph F. Wagner, late private in Company B, Sixty-seventh Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INCREASE OF PENSIONS.

Mr. SHALLENBERGER also introduced a bill (H. R. No. 226) to increase pensions in certain cases; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

STANDARD SILVER DOLLAR.

Mr. SHALLENBERGER also introduced a bill (H. R. No. 227) regulating the exchange of silver bullion for the standard silver dollar, and providing that gold and silver jointly, and not otherwise, shall be a full legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

GEORGE W. LEAMY.

Mr. SHALLENBERGER also introduced a bill (H. R. No. 228) granting a pension to George W. Leamy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS LOWRY.

Mr. SHALLENBERGER also introduced a bill (H. R. No. 229) granting a pension to Thomas Lowry, late sergeant of Company A, One hundred and forty-seventh Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMPULSORY PILOT FEES.

Mr. O'NEILL introduced a bill (H. R. No. 230) to relieve certain ships and vessels from compulsory pilot fees; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PROFESSORSHIPS AT ANNAPOLIS.

Mr. O'NEILL also introduced a bill (H. R. No. 231) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

EDWARD SHIELDS AND OTHERS.

Mr. O'NEILL also introduced a bill (H. R. No. 232) for the relief of Edward Shields, Mary Willis, Michael Farrell, Ellen Butler, Henry Steger, and Hugh McLaughlin; which was read a first and second time, and referred to the Committee on Military Affairs.

JAPANESE INDEMNITY FUND.

Mr. O'NEILL also (by request) introduced a bill (H. R. No. 233) in relation to the Japanese indemnity fund; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

FORT MIFFLIN, PENNSYLVANIA.

Mr. O'NEILL also introduced a bill (H. R. No. 234) authorizing a contract to be made for the leasing of meadow-land adjacent to Fort Mifflin, Pennsylvania, in consideration of repairs and maintenance of the river bank upon the leased premises; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

N. & G. TAYLOR COMPANY.

Mr. O'NEILL also introduced a bill (H. R. No. 235) for the relief of N. & G. Taylor Company; which was read a first and second time, and referred to the Committee of Ways and Means.

MARK WALKER.

Mr. O'NEILL also introduced a bill (H. R. No. 236) for the relief of Mark Walker; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM S. HANSELL & SONS.

Mr. O'NEILL also introduced a bill (H. R. No. 237) for the relief of William S. Hansell & Sons; which was read a first and second time, and referred to the Committee on Military Affairs.

J. J. PURMAN.

Mr. O'NEILL also introduced a bill (H. R. No. 238) for the relief of J. J. Purman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD L. WILSON.

Mr. O'NEILL also introduced a bill (H. R. No. 239) for the relief of Edward L. Wilson; which was read a first and second time, and referred to the Committee on Patents.

JOSHUA JOHNSON.

Mr. GODSHALK introduced a bill (H. R. No. 240) for the relief of Joshua Johnson, late private Company D, Fifteenth Regiment Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on War Claims.

JOHN D. M'GILL.

Mr. HARMER introduced a bill (H. R. No. 241) for the relief of John D. McGill; which was read a first and second time, and referred to the Committee on Naval Affairs.

THOMAS A. M'LAUGHLIN.

Mr. HARMER also introduced a bill (H. R. No. 242) for the relief of Thomas A. McLaughlin; which was read a first and second time, and referred to the Committee of Claims.

LOUISE BAINBRIDGE HOFF.

Mr. HARMER also introduced a bill (H. R. No. 243) granting a pension to Louise Bainbridge Hoff, widow of Henry Kuhn Hoff, late rear-admiral United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAGDALENA DOCKS.

Mr. HARMER also introduced a bill (H. R. No. 244) granting arrears of pension to Magdalena Docks, widow of Francis Docks, late private Company A, Third Regiment Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NAVAL CONSTRUCTORS.

Mr. HARMER also introduced a bill (H. R. No. 245) to promote the efficiency of the corps of naval constructors of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ANNA MAYER.

Mr. HARMER also introduced a bill (H. R. No. 246) granting a pension to Anna Mayer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CAROLINE M. EGBERT.

Mr. HARMER also introduced a bill (H. R. No. 247) granting arrears of pension to Caroline M. Egbert, widow of the late Medical Director Daniel Egbert, United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD H. LEIB.

Mr. HARMER also introduced a bill (H. R. No. 248) for the relief of Edward H. Leib, late captain Fifth United States Cavalry and brevet lieutenant-colonel United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

MARK WALKER.

Mr. HARMER also introduced a bill (H. R. No. 249) for the relief of Mark Walker, late first lieutenant United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES B. W. NEILL.

Mr. HARMER also introduced a bill (H. R. No. 250) for the relief of James B. W. Neill, captain in the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HENRY C. WATTERSON.

Mr. BAYNE introduced a bill (H. R. No. 251) for the relief of Henry C. Watterson; which was read a first and second time, and referred to the Committee of Claims.

CLAIMS FOR PRIZE-MONEY.

Mr. BAYNE also introduced a bill (H. R. No. 252) to provide for adjusting and paying of claims for prize-money due to certain citizens of Allegheny County, Pennsylvania; which was read a first and second time, and referred to the Committee on War Claims.

CAPTAIN SAMUEL C. SCHOYER.

Mr. BAYNE also introduced a bill (H. R. No. 253) to increase the pension of Captain Samuel C. Schoyer, late of Company G, One hundred and thirty-ninth Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES M. BORELAND.

Mr. BAYNE also introduced a bill (H. R. No. 254) granting an increase of pension to James M. Boreland; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANN A. BUCHANAN.

Mr. BAYNE also introduced a bill (H. R. No. 255) granting a pension to Ann A. Buchanan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES L. JORDAN.

Mr. BAYNE also introduced a bill (H. R. No. 256) granting a pension to James L. Jordan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAMUEL D. NELSON.

Mr. BAYNE also introduced a bill (H. R. No. 257) for the relief of Samuel D. Nelson; which was read a first and second time, and referred to the Committee on Patents.

EXTENSION OF PATENT.

Mr. SMITH, of Pennsylvania, introduced a bill (H. R. No. 258) to enable the heirs of Harris Boardman, deceased, to make application to the Commissioner of Patents for the extension of letters-patent Nos. 35867 and 49971 for improvements in cork machines, granted July 15, 1862, and September 19, 1865, to the said Harris Boardman; which was read a first and second time, and referred to the Committee on Patents.

GEORGE W. BRINTNALL.

Mr. SMITH, of Pennsylvania, also introduced a bill (H. R. No. 259) granting a pension to George W. Brintnall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY MULLEN.

Mr. SMITH, of Pennsylvania, also introduced a bill (H. R. No. 260) for the relief of Henry Mullen, first lieutenant Company A, One hundred and ninety-first Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

PENSIONS TO SOLDIERS, SAILORS, MARINES, ETC.

Mr. KLOTZ (by request) introduced a bill (H. R. No. 261) to amend the laws granting pensions to the soldiers and sailors of the war of 1812, and to their widows, and the soldiers, sailors, and marines employed in the war with Mexico, and their widows; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZA M. FRICK.

Mr. KLOTZ also introduced a bill (H. R. No. 262) granting a pension to Eliza M. Frick, widow of Clarence H. Frick, of the Mexican war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB GINDER.

Mr. KLOTZ also introduced a bill (H. R. No. 263) granting a pension to Jacob Ginder, father of David H. Ginder, captain in the late war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DAVID T. BOWEN.

Mr. KLOTZ also introduced a bill (H. R. No. 264) granting a pension to David T. Bowen, a blind man, and late a soldier in the Mexican war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES EDWARDS.

Mr. KLOTZ also introduced a bill (H. R. No. 265) for the relief of Charles Edwards, late second lieutenant, Company C, Eighteenth Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

MARCELLUS WILSON.

Mr. KLOTZ also introduced a bill (H. R. No. 266) for the relief of the widow and minor children of Marcellus Wilson, a deceased soldier; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHAMBERS C. MULLEN.

Mr. KLOTZ also introduced a bill (H. R. No. 267) granting an additional pension or relief to Chambers C. Mullen, an invalid and late member Second Pennsylvania Regiment Mexican Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REFUGIO M. BOWLER.

Mr. KLOTZ also (by request) introduced a bill (H. R. No. 268) for the relief of Refugio M. Bowler of San Diego, California, widow and administratrix of Thomas F. Bowler, deceased; which was read a first and second time, and referred to the Committee of Claims.

HOMESTEADS.

Mr. WRIGHT introduced a bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CHARLES DOUGHERTY.

Mr. WRIGHT also introduced a bill (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry; which was read a first and second time, and referred to the Committee on Foreign Affairs.

MARY B. DALLAS.

Mr. WRIGHT also introduced a bill (H. R. No. 271) granting a pension to Mary B. Dallas; which was read a first and second time, and referred to the Committee on Invalid Pensions.

STATE WAR CLAIMS OF 1812.

Mr. COFFROTH introduced a bill (H. R. No. 272) to provide for the recomputation of the accounts between the United States and the several States and between the United States and the city of Baltimore growing out of moneys expended by the several States and by the city of Baltimore in the war of 1812 with Great Britain; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NICHOLAS H. STAVEY.

Mr. COFFROTH also introduced a bill (H. R. No. 273) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

ELIZABETH PORTWOOD.

Mr. COFFROTH also introduced a bill (H. R. No. 274) granting a pension to Elizabeth Portwood; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

EDWARD HEINZEL.

Mr. COFFROTH also introduced a bill (H. R. No. 275) granting a pension to Edward Heinzel; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ROBERT HAWLEY.

Mr. MITCHELL introduced a bill (H. R. No. 276) for the relief of Robert Hawley; which was read a first and second time, and referred to the Committee on Appropriations.

V. B. HOLLIDAY.

Mr. MITCHELL also introduced a bill (H. R. No. 277) for the relief of V. B. Holliday; which was read a first and second time, and referred to the Committee of Claims.

HENRY ROGERS.

Mr. MITCHELL also introduced a bill (H. R. No. 278) for the relief of Henry Rogers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

O. C. HOPKINS.

Mr. MITCHELL also introduced a bill (H. R. No. 279) granting a pension to O. C. Hopkins; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DENNIS M'GINNIS.

Mr. MITCHELL also introduced a bill (H. R. No. 280) for the relief of Dennis McGinnis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANCIS B. M'NAMARA.

Mr. MITCHELL also introduced a bill (H. R. No. 281) granting a pension to Francis B. McNamara, of Coudersport, Potter County, Pennsylvania; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIHU CHADWICK.

Mr. MITCHELL also introduced a bill (H. R. No. 282) for the relief of Elihu Chadwick, granting a pension to the same; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB CRAMER.

Mr. O'NEILL introduced a bill (H. R. No. 283) for the relief of the heirs of Jacob Cramer, lieutenant of the Pennsylvania Continental Line in the revolutionary war; which was read a first and second time, and referred to the Committee on Private Land Claims.

CAPTAIN GEORGE W. BRADFORD.

Mr. MARTIN, of Delaware, (by request,) introduced a bill (H. R. No. 284) granting a pension to Captain George W. Bradford, of Delaware; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GENERAL WARD B. BURNETT.

Mr. MARTIN, of Delaware, also (by request) introduced a bill (H. R. No. 285) providing for the increase of the pension of General Ward B. Burnett; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NAVY.

Mr. KIMMEL introduced a bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JULIET LEEF.

Mr. KIMMEL also introduced a bill (H. R. No. 287) for the relief of Juliet Leef, widow, and the children of Henry Leef, deceased, and John McKee; which was read a first and second time, and referred to the Committee on Commerce.

STEAMER DE SOTO.

Mr. KIMMEL also introduced a bill (H. R. No. 288) for the relief of the owner of the steamer De Soto; which was read a first and second time, and referred to the Committee on Naval Affairs.

JOHN T. HENNEMAN.

Mr. McLANE introduced a bill (H. R. No. 289) for the relief of John T. Henneman, of Baltimore, Maryland; which was read a first and second time, and referred to the Committee of Ways and Means.

S. ROSENFELD & CO.

Mr. McLANE also introduced a bill (H. R. No. 290) for the relief of

S. Rosenfeld & Co., of Baltimore, Maryland; which was read a first and second time, and referred to the Committee of Ways and Means.

SALLY M. BUCHANAN.

Mr. McLANE also introduced a bill (H. R. No. 291) granting a pension to Sally M. Buchanan, widow of the late General Robert C. Buchanan, of the United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH D. WINDER.

Mr. McLANE also introduced a bill (H. R. No. 292) granting a pension to Elizabeth D. Winder, widow of the late Captain Edward S. Winder; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POLITICAL ASSESSMENTS.

Mr. McLANE also introduced a bill (H. R. No. 293) to prohibit officers of and claimants against or contractors under the United States from contributing money for political purposes; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

CAPITOL, NORTH O STREET AND SOUTH WASHINGTON RAILROAD.

Mr. HENKLE introduced a bill (H. R. No. 294) to amend the act incorporating the Capitol, North O Street and South Washington Railroad Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

MOUNT PLEASANT RAILROAD.

Mr. HENKLE also introduced a bill (H. R. No. 295) to incorporate the Mount Pleasant Railroad Company of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DISTILLERS' BONDS.

Mr. HENKLE also introduced a bill (H. R. No. 296) to amend section 3262 of the Revised Statutes relating to distillers' bonds; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SUBURBAN RAILWAY COMPANY.

Mr. HENKLE also introduced a bill (H. R. No. 297) to incorporate the Suburban Railway Company of Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. HENKLE also introduced a bill (H. R. No. 298) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

MOUNT PLEASANT AND POTOMAC SIDE RAILWAY.

Mr. HENKLE also introduced a bill (H. R. No. 299) to incorporate the Mount Pleasant and Potomac Side Railway Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

MARYLAND AND DELAWARE SHIP-CANAL.

Mr. HENKLE also introduced a bill (H. R. No. 300) to aid in the construction of the Maryland and Delaware Ship-Canal and to secure to all vessels of the United States service, for all time, the right of navigation through said canal free of tolls and charges; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

WILLIAM R. WILMER.

Mr. HENKLE also introduced a bill (H. R. No. 301) for the relief of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland; which was read a first and second time, and referred to the Committee of Ways and Means.

W. C. SPENCER.

Mr. HENKLE also introduced a bill (H. R. No. 302) for the relief of W. C. Spencer, late a captain in the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

LEWIS RODRICK.

Mr. URNER introduced a bill (H. R. No. 303) to authorize a change of record in the case of Lewis Rodrick, late a private in Captain Daniel Shawen's company of Maryland Militia in the war of 1812; which was read a first and second time, and referred to the Committee on Military Affairs.

REPRESENTATIVES OF MRS. M. D. DALL.

Mr. URNER also introduced a bill (H. R. No. 304) for the relief of the legal representatives of Mrs. M. D. Dall, deceased; which was read a first and second time, and referred to the Committee on War Claims.

GEORGE SMITH.

Mr. HUNTON introduced a bill (H. R. No. 305) granting a pension to George Smith; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

R. L. ROTCHFORD.

Mr. HUNTON also introduced a bill (H. R. No. 306) for the relief of R. L. Rotchford; which was read a first and second time, and referred to the Committee on the Judiciary.

JOHN Q. LARMAN.

Mr. HUNTON also introduced a bill (H. R. No. 307) for the relief of John Q. Larman, Joseph L. Harley, and James B. Sparks; which was read a first and second time, and referred to the Committee of Claims.

ALBERT V. CONWAY.

Mr. HUNTON also introduced a bill (H. R. No. 308) authorizing the Secretary of War to issue bonds to Albert V. Conway, substituted trustee, for certain registered United States bonds redeemed or assigned by the Government upon forged assignments; which was read a first and second time, and referred to the Committee of Ways and Means.

CLAIMS OF STATES, WAR OF 1812.

Mr. HUNTON also introduced a bill (H. R. No. 309) to provide for the recomputation of the accounts between the United States and the several States, growing out of moneys expended by said States in the war of 1812; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ENOCH GRAYSON.

Mr. HUNTON also introduced a bill (H. R. No. 310) for the relief of Enoch Grayson; which was read a first and second time, and referred to the Committee on the Judiciary.

JULIA A. DARRALL.

Mr. HUNTON also introduced a bill (H. R. No. 311) granting a pension to Julia A. Darrall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

J. SCOTT PAYNE.

Mr. HUNTON also introduced a bill (H. R. No. 312) for the relief of J. Scott Payne, an officer of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

G. H. HILL.

Mr. HUNTON also introduced a bill (H. R. No. 313) to remove the political disabilities of G. H. Hill, of Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

POSTAL RAILWAY SERVICE.

Mr. HUNTON also introduced a bill (H. R. No. 314) to reorganize the system of superintendents and assistant superintendents of railway service and special agents of the Post-Office Department; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

WASHINGTON EYE, EAR, AND THROAT HOSPITAL.

Mr. HUNTON also introduced a bill (H. R. No. 315) to incorporate the Washington Eye, Ear, and Throat Hospital: which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ASA WALL.

Mr. HUNTON also introduced a bill (H. R. No. 316) to remove the disabilities of Asa Wall, imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

JAMES BROADUS.

Mr. HUNTON also introduced a bill (H. R. No. 317) for the relief of James Broadus, of the Second Regiment of the Virginia Continental line of the war of the Revolution; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

CLAIMS OF REVOLUTIONARY OFFICERS.

Mr. HUNTON also (by request) introduced a bill (H. R. No. 318) to provide for the settlement of the unpaid claims of those officers of the line of revolutionary army who served to the close of the war of Independence, and so returned on the books of the Treasury; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

CLAIMS OF MARYLAND AND VIRGINIA.

Mr. HUNTON also introduced a bill (H. R. No. 319) to provide for paying certain advances made to the United States by the States of Maryland and Virginia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

BRIDGE ACROSS POTOMAC RIVER.

Mr. HUNTON also introduced a bill (H. R. No. 320) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Island; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

LANDS SOLD FOR DIRECT TAXES.

Mr. HUNTON also introduced a bill (H. R. No. 321) for the relief of the owners and purchasers of lands sold for direct taxes in insurrectionary States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REAL-ESTATE TITLES IN DISTRICT OF COLUMBIA.

Mr. HUNTON also introduced a bill (H. R. No. 322) to quiet title to real estate in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

PUBLIC BUILDING, LYNCHBURGH, VIRGINIA.

Mr. TUCKER introduced a bill (H. R. No. 323) making an appropriation for a Government building to be used as a post-office, court-house, and bonded warehouse at Lynchburgh, in the State of Virginia; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PERMITS FOR PURCHASES IN INSURRECTIONARY STATES.

Mr. TUCKER also (by request) introduced a bill (H. R. No. 324) to declare the legal effect of permits granted by the President of the United States to purchase products of the insurrectionary States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC BUILDING AT DANVILLE, VIRGINIA.

Mr. CABELL introduced a bill (H R. No. 325) for the erection of a public building at Danville, Virginia; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SPIRITS DISTILLED FROM APPLES, PEACHES, ETC.

Mr. CABELL also introduced a bill (H. R. No. 326) to repeal so much of section 3251 of the Revised Statutes and subsequent or existing laws as imposes a revenue tax upon spirits distilled from apples, peaches, and other fruits; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. CABELL also introduced a bill (H. R. No. 327) to amend and re-enact section 3357 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ISABEL L. EVANS.

Mr. CABELL also introduced a bill (H. R. No. 328) granting increase of pension to Isabel L. Evans and children; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. HENDERLITE.

Mr. RICHMOND introduced a bill (H. R. No. 329) for the relief of George W. Henderlite, late collector of internal revenue for the eighth collection district of Virginia; which was read a first and second time, and referred to the Committee of Ways and Means.

CHARLES W. ROGERS.

Mr. BEALE introduced a bill (H. R. No. 330) for the relief of Charles W. Rogers; which was read a first and second time, and referred to the Committee of Claims.

AMENDMENT OF REVISED STATUTES.

Mr. BEALE also introduced a bill (H. R. No. 331) to repeal section 3412 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WILLIAM TABB.

Mr. BEALE also introduced a bill (H. R. No. 332) for the relief of William Tabb, of Fredericksburgh, Virginia; which was read a first and second time, and referred to the Committee of Claims.

E. K. SNEAD.

Mr. BEALE also introduced a bill (H. R. No. 333) for the relief of E. K. Snead, deceased, and his sureties for the loss of certain books of special stamps and coupons; which was read a first and second time, and referred to the Committee of Ways and Means.

THOMAS W. TANSILL.

Mr. BEALE also introduced a joint resolution (H. R. No. 8) authorizing the Secretary of the Treasury to adjust the accounts of Thomas W. Tansill, late quartermaster and commissary under the joint commission to run the boundary-line between the United States and Mexico; which was read a first and second time, and referred to the Committee of Claims.

EDUCATION OF THE PEOPLE.

Mr. GOODE introduced a bill (H. R. No. 334) to apply the proceeds of sales of public lands to the education of the people, &c.; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

IMMIGRATION OF CHINESE.

Mr. GOODE also introduced a bill (H. R. No. 335) to restrict the immigration of Chinese to the United States; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. GOODE also introduced a bill (H. R. No. 336) to remove the disabilities imposed by the third section of the fourteenth article of the amendments of the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PENSIONS TO SOLDIERS AND SAILORS OF THE MEXICAN WAR.

Mr. GOODE also introduced a bill (H. R. No. 337) granting pensions to certain soldiers and sailors of the Mexican war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRESH-WATER BASIN FOR NAVY-YARD, NORFOLK.

Mr. GOODE also introduced a bill (H. R. No. 338) to provide for the construction of a fresh-water basin for iron-clad vessels in the vicinity of the navy-yard at Norfolk, Virginia; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ARTILLERY SCHOOL.

Mr. GOODE also introduced a bill (H. R. No. 339) in relation to the artillery school; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

DISMAL SWAMP CANAL.

Mr. GOODE also introduced a bill (H. R. No. 340) to aid the Dismal Swamp Canal Company in improving their canal; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

JOHN S. BRAXTON.

Mr. GOODE also introduced a bill (H. R. No. 341) for the relief of John S. Braxton, collector of customs at Norfolk, Virginia; which was read a first and second time, and referred to the Committee of Claims.

ENFORCEMENT OF EIGHT-HOUR LAW.

Mr. GOODE also introduced a joint resolution (H. R. No. 9) to provide for the enforcement of the eight-hour law; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

DANIEL M. COOK.

Mr. SCALES (by request of his colleague, Mr. VANCE) introduced a bill (H. R. No. 342) for the relief of Daniel M. Cook; which was read a first and second time, and referred to the Committee on Patents.

EDWIN I. NUTALL.

Mr. SCALES also introduced a bill (H. R. No. 343) granting a pension to Edwin I. Nutall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PUBLIC BUILDING, GREENSBOROUGH, NORTH CAROLINA.

Mr. SCALES also introduced a bill (H. R. No. 344) providing for the purchase of a site and erecting thereon a post-office and court-house in the city of Greensborough, North Carolina; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ABOLITION OF TAXES ON BRANDY MADE OF APPLES, ETC.

Mr. SCALES also introduced a bill (H. R. No. 345) to abolish all taxes on brandy made of apples, peaches, or grapes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM H. THOMPSON.

Mr. SCALES also introduced a bill (H. R. No. 346) for the relief of William H. Thompson, late collector of internal revenue for the fifth district of North Carolina; which was read a first and second time, and referred to the Committee of Ways and Means.

DISTILLERS OF BRANDY FROM APPLES, ETC.

Mr. SCALES also introduced a bill (H. R. No. 347) to refund to distillers of brandy from apples, peaches, or grapes all of the special taxes paid by such distillers under the act of July 20, 1868, which is in excess of $50; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

VALUE OF TRADE AND MEXICAN DOLLARS.

Mr. SCALES also introduced a bill (H. R. No. 348) fixing the value of the trade and Mexican dollars, and providing that the legal-tender silver dollar shall be the unit of value; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

REFUND OF DIRECT TAXES.

Mr. SCALES also introduced a bill (H. R. No. 349) to refund certain direct taxes on land collected from citizens in the late insurrectionary States under the act of August 5, 1861; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

POLICE REGULATIONS, INDIAN RESERVATIONS.

Mr. SCALES also introduced a bill (H. R. No. 350) authorizing the President to prescribe suitable police regulations for the government of the various Indian reservations, and to provide for the punishment of the crimes of murder, manslaughter, arson, rape, burglary, and robbery upon the various Indian reservations; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

EXTINGUISHMENT OF INDIAN TITLE.

Mr. SCALES also introduced a bill (H. R. No. 351) authorizing the Secretary of the Interior to negotiate with the Warm Spring, Umatilla, Chippewa, Ute, and certain other tribes of Indians in the United States for the extinguishment of their title to the lands now occupied by them, and for their removal to and consolidation upon certain other reservations established by law; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

PUBLIC-LAND ENTRIES BY INDIANS.

Mr. SCALES also introduced a bill (H. R. No. 352) to confirm certain entries of lands by Indians; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MIAMI INDIANS, KANSAS.

Mr. SCALES also introduced a bill (H. R. No. 353) to provide for the sale of the lands of the Miami Indians in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

LANDS TO INDIANS IN SEVERALTY.

Mr. SCALES also introduced a bill (H. R. No. 354) authorizing the Secretary of the Interior to allot land in severalty to Indians; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

DEFICIENCY APPROPRIATION.

Mr. SCALES also introduced a bill (H. R. No. 355) to amend an act entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1875, and prior years, and for other purposes," approved March 3, 1875; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

NEW YORK INDIAN LANDS, KANSAS.

Mr. SCALES also introduced a bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CHIPPEWA INDIANS, WISCONSIN.

Mr. SCALES also introduced a bill (H. R. No. 357) for the relief of the Lac de Flambeau, Lac Court Oreilles, and Bad River bands of Chippewa Indians in the State of Wisconsin; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

WESTERN JUDICIAL DISTRICT, NORTH CAROLINA.

Mr. STEELE introduced a bill (H. R. No. 358) to provide for the appointment of an additional clerk in the western judicial district of North Carolina; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

O. G. FOARD.

Mr. STEELE also introduced a bill (H. R. No. 359) for the relief of O. G. Foard, of North Carolina; which was read a first and second time, and referred to the Committee of Claims.

ALEXANDER SUTHERLAND.

Mr. STEELE also introduced a bill (H. R. No. 360) for the relief of Alexander Sutherland; which was read a first and second time, and referred to the Committee of Claims.

MOSES W. ALEXANDER.

Mr. STEELE also introduced a bill (H. R. No. 361) for the relief of Moses W. Alexander; which was read a first and second time, and referred to the Committee of Claims.

JOSEPH BOST.

Mr. STEELE also introduced a bill (H. R. No. 362) for the relief of Joseph Bost; which was read a first and second time, and referred to the Committee of Claims.

PUBLIC BUILDING, CHARLOTTE, NORTH CAROLINA.

Mr. STEELE also introduced a bill (H. R. No. 363) to make an appropriation for the erection of a United States court-house and post-office in the city of Charlotte, North Carolina; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

AMENDMENT OF APPROPRIATION ACT.

Mr. DAVIS, of North Carolina, (by request,) introduced a bill (H. R. No. 364) to amend an act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes, approved May 18, 1872; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

TAX ON STATE BANKS.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 365) to repeal the tax of 10 per cent. on State banks and State banking associations; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CUSTOMS AND INTERNAL-REVENUE LAWS.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 366) to repeal sections 19, 20, and 21 of the act entitled "An act to amend existing customs and internal-revenue laws, and for other purposes," approved February 8, 1875; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SECTION 682, REVISED STATUTES.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 367) to amend section 682 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

COMPENSATION TO NORTH CAROLINA.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 368) to compensate the State of North Carolina for the use and occupation of certain grounds and buildings by United States troops; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

TAX ON BRANDY.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 369) to reduce the tax on brandy made exclusively from apples, peaches, or grapes, to thirty-five cents, and to provide for the collection of the same; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SECTION 4716 REVISED STATUTES.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 370) to repeal section 4716 of the Revised Statutes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF USURY LAW.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 371) to amend section 5198 of the Revised Statutes, relating to usury; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

JOHN B. SUGG.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 372) for the relief of John B. Sugg, of North Carolina; which was read a first and second time, and referred to the Committee on War Claims.

PUNISHMENT FOR CONTEMPT.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 373) to amend sections 102 and 104 of the Revised Statutes and to restore to either House of Congress the power to punish for contempt; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

F. P. HAYWOOD.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 374) for the relief of F. P. Haywood, of North Carolina; which was read a first and second time, and referred to the Committee on War Claims.

PHILEMON B. HAWKINS.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 375) for the relief of Philemon B. Hawkins; which was read a first and second time, and referred to the Committee of Claims.

AMELIA ANN WHITAKER.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 376) for the relief of Amelia Ann Whitaker; which was read a first and second time, and referred to the Committee on War Claims.

REFUND TO NORTH CAROLINA.

Mr. DAVIS, of North Carolina, also introduced a bill (H. R. No. 377) to refund to the State of North Carolina certain moneys therein named; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

EIGHT-HOUR LAW.

Mr. DAVIS, of North Carolina, also introduced a joint resolution (H. R. No. 10) in regard to the enforcement of the eight-hour law; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

LACON R. TILLMAN.

Mr. EVINS introduced a bill (H. R. No. 378) for the relief of Lacon R. Tillman; which was read a first and second time, and referred to the Committee of Claims.

THOMAS P. WESTMORELAND.

Mr. EVINS also introduced a bill (H. R. No. 379) for the relief of

Thomas P. Westmoreland; which was read a first and second time, and referred to the Committee of Claims.

CHARLES B. ROBERTS.

Mr. EVINS also introduced a bill (H. R. No. 380) for the relief of Charles B. Roberts; which was read a first and second time, and referred to the Committee of Claims.

CLAIMS AGAINST THE UNITED STATES.

Mr. COOK introduced a bill (H. R. No. 381) providing for the judicial ascertainment of claims against the United States; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

MARBLE FOR MONUMENTAL PURPOSES.

Mr. COOK also introduced a bill (H. R. No. 382) to admit duty free marble for monumental purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

BANKS AND BANKERS.

Mr. SMITH, of Georgia, introduced a bill (H. R. No. 383) for the relief of banks and bankers; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ATLANTIC AND MEXICAN GULF CANAL COMPANY.

Mr. NICHOLLS introduced a bill (H. R. No. 384) granting the right of way to the Atlantic and Mexican Gulf Canal Company of Georgia and Florida through the lands and waters of the United States along said canal route; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

ROBERT ERWIN.

Mr. NICHOLLS also introduced a bill (H. R. No. 385) to amend the act entitled "An act for the relief of Robert Erwin;" which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM BATTERSBY.

Mr. NICHOLLS also introduced a bill (H. R. No. 386) for the relief of William Battersby; which was read a first and second time, and referred to the Committee on the Judiciary.

JOEL A. BILLUPS.

Mr. SPEER (by request) introduced a bill (H. R. No. 387) for the relief of Joel A. Billups; which was read a first and second time, and referred to the Committee of Claims.

PROCEEDS OF PUBLIC LANDS FOR EDUCATION.

Mr. SPEER also introduced a bill (H. R. No. 388) to apply the proceeds of sales of public lands to the education of the people, &c.; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

UNIVERSITY OF GEORGIA.

Mr. SPEER also introduced a bill (H. R. No. 389) to provide improved breech-loading rifles to the University of Georgia, for the purpose of drilling the students of said university; which was read a first and second time, and referred to the Committee on Military Affairs.

SPECIAL TAXES.

Mr. SPEER also introduced a bill (H. R. No. 390) to exempt farmers and planters from special taxes for selling leaf-tobacco of their own production; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON BRANDY.

Mr. SPEER also introduced a bill (H. R. No. 391) to exempt the distillation of brandy made exclusively from apples, peaches, or grapes from taxation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

IMPROVEMENT OF COOSA RIVER.

Mr. FELTON introduced a bill (H. R. No. 392) appropriating $200,000 for the improvement of the Coosa River between Rome, Georgia, and Wetumpka, Alabama; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

W. B. FARRAR.

Mr. FELTON also introduced a bill (H. R. No. 393) authorizing the Commissioner of Internal Revenue to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877; which was read a first and second time, and referred to the Committee of Ways and Means.

WILLIAM HEDGPETH.

Mr. FELTON also introduced a bill (H. R. No. 394) for the relief of William Hedgpeth, of Paulding County, Georgia; which was read a first and second time, and referred to the Committee of Claims.

STANDARD SILVER DOLLAR.

Mr. FELTON also introduced a bill (H. R. No. 395) to compel national banks to recognize and receive the standard legal-tender silver dollar as equivalent in value to the gold coins of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ESTATE OF NEHEMIAH GARRISON.

Mr. FELTON also introduced a bill (H. R. No. 396) for the relief of the executor or administrator of the estate of Nehemiah Garrison, assignee of Moses Perkins; which was read a first and second time, and referred to the Committee of Claims.

SOLDIERS OF MEXICAN AND OTHER WARS.

Mr. FELTON also introduced a bill (H. R. No. 397) granting pensions to certain soldiers and sailors of the Mexican, Florida, and Black Hawk wars, and certain widows of deceased soldiers and sailors of the same; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RECOINAGE OF SILVER DOLLARS.

Mr. FELTON also introduced a bill (H. R. No. 398) to make the trade-dollar a legal tender for all claims at their nominal value, and to require their recoinage into standard silver dollars; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BALAAM A. BRIDGES.

Mr. FELTON also introduced a bill (H. R. No. 399) for the relief of Balaam A. Bridges, of Barton County, Georgia; which was read a first and second time, and referred to the Committee of Claims.

JACOB SRITE.

Mr. FELTON also introduced a bill (H. R. No. 400) granting a pension to Jacob Srite, of Georgia, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

DUTY ON SULPHATE OF QUININE.

Mr. FELTON also introduced a bill (H. R. No. 401) to repeal the duty on sulphate of quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REUBEN FLETCHER.

Mr. FELTON also introduced a bill (H. R. No. 402) to place the name of Reuben Fletcher, of Catoosa County, Georgia, upon the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

OATH OF MEMBERS OF CONGRESS.

Mr. FELTON also introduced a bill (H. R. No. 403) to prescribe and establish a form of oath or affirmation to be taken and subscribed by members of Congress before entering upon the duties of their office; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

L. P. GUDGER.

Mr. FELTON also introduced a bill (H. R. No. 404) for the relief of L. P. Gudger, of Georgia; which was read a first and second time, and referred to the Committee of Ways and Means.

SPECIAL TAX ON TOBACCO.

Mr. FELTON also introduced a bill (H. R. No. 405) to allow farmers and planters sell leaf-tobacco of their own production to other persons than manfacturers of tobacco without special tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JAMES A. STEWART.

Mr. HAMMOND, of Georgia, (by request,) introduced a bill (H. R. No. 406) for the relief of James A. Stewart, of Fulton County, Georgia; which was read a first and second time, and referred to the Committee on War Claims.

AMENDMENT OF UNITED STATES COINAGE LAWS.

Mr. STEPHENS introduced a bill (H. R. No. 407) to amend the laws of the United States upon the subject of coinage, to perfect the double metallic standard of value, and to provide for issuing gold and silver bullion certificates on specified conditions; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

TAX UPON BANKS.

Mr. STEPHENS also introduced a bill (H. R. No. 408) to repeal the existing tax on State banking and to equalize the tax upon all legally chartered banking institutions in the United States, whether State or Federal; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

METRIC SYSTEM.

Mr. STEPHENS also introduced a bill (H. R. No. 409) to enable importers to use the metric weights and measures; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

COINAGE OF METRIC GOLD COIN.

Mr. STEPHENS also introduced a bill (H. R. No. 410) to authorize a new metric gold coin for international uses, to be known as the "stella;" which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

GOLOID METRIC DOLLAR.

Mr. STEPHENS also introduced a bill (H. R. No. 411) to authorize the coinage of the goloid metric dollar, two dollars, and fractions of a dollar, and also the coinage of the metric gold double eagle, eagle, and half eagle, all of standard value; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

MINTAGE OF INGOTS OF METRIC GOLD ALLOY, ETC.

Mr. STEPHENS also introduced a bill (H. R. No. 412) to authorize the mintage of ingots of metric gold alloy and of metric goloid alloy, its deposit in the Treasury, and issue of certificates therefor; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

PUBLIC BUILDING IN AUGUSTA, GEORGIA.

Mr. STEPHENS also introduced a bill (H. R. No. 413) to provide for the erection of a public building in the city of Augusta, Georgia, for United States court-house, post-office, and internal-revenue service; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

COOSA RIVER, GEORGIA.

Mr. FORNEY introduced a bill (H. R. No. 414) making an appropriation to continue the work on the Coosa River in the States of Alabama and Georgia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF TENNESSEE RIVER.

Mr. FORNEY also introduced a bill (H. R. No. 415) making an appropriation to continue the improvement of the navigation of the Tennessee River in the States of Alabama and Tennessee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. M. J. DONAHOE.

Mr. FORNEY also introduced a bill (H. R. No. 416) for the relief of Mrs. M. J. Donahoe; which was read a first and second time, and referred to the Committee of Claims.

GEORGE V. HEBB.

Mr. FORNEY also introduced a bill (H. R. No. 417) for the relief of George V. Hebb, late captain and assistant quartermaster in the war with Mexico; which was read a first and second time, and referred to the Committee of Claims.

CREEK ORPHAN FUND.

Mr. FORNEY also introduced a bill (H. R. No. 418) to reimburse the Creek orphan fund; which was read a first and second time, and referred to the Committee on Indian Affairs.

SOLDIERS, ETC., OF MEXICAN AND OTHER WARS.

Mr. LEWIS introduced a bill (H. R. No. 419) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOEL S. HANKINS AND WILLIAM BOYD.

Mr. LEWIS also introduced a bill (H. R. No. 420) for the relief of Joel S. Hankins and William Boyd, citizens of Lamar County, State of Alabama; which was read a first and second time, and referred to the Committee on the Judiciary.

LIBRARY OF THE UNIVERSITY OF ALABAMA.

Mr. LEWIS also introduced a joint resolution (H. R. No. 11) in relation to the library of the University of Alabama; which was read a first and second time, and referred to the Committee on the Library.

CERTIFICATION OF LEGAL QUESTIONS.

Mr. HERBERT introduced a bill (H. R. No. 421) to authorize circuit and district judges to certify certain difficult questions to the Supreme Court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

AMENDMENT OF REVISED STATUTES.

Mr. HERBERT also introduced a bill (H. R. No. 422) to amend section 688 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

He also introduced a bill (H. R. No. 423) to amend section 5440 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CONECULA AND ESCAMBIA RIVERS.

Mr. HERBERT also introduced a bill (H. R. No. 424) to improve the navigation of the Conecuh and Escambia Rivers, in Alabama and Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WRITS OF ERROR IN CRIMINAL CASES.

Mr. HERBERT also introduced a bill (H. R. No. 425) to provide for writs of error in certain criminal cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MILEAGE OF MARSHALS.

Mr. HERBERT also introduced a bill (H. R. No. 426) to regulate the mileage of marshals, and for other purposes; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

PUBLIC BUILDING IN MONTGOMERY, ALABAMA.

Mr. HERBERT also introduced a bill (H. R. No. 427) for the erection of a public building in the city of Montgomery, Alabama; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MARGARET A. SPENCER.

Mr. HERNDON introduced a bill (H. R. No. 428) granting a pension to Margaret A. Spencer; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

DEPOSIT SAVINGS ASSOCIATION, MOBILE, ALABAMA.

Mr. HERNDON also introduced a bill (H. R. No. 429) for the relief of the Deposit Savings Association of Mobile, Alabama; which was read a first and second time, and referred to the Committee of Claims.

MARINE DOCK COMPANY.

Mr. HERNDON also introduced a bill (H. R. No. 430) for the relief of the Mobile Marine Dock Company; which was read a first and second time, and referred to the Committee of Claims.

EMANUEL JONES.

Mr. HERNDON also introduced a bill (H. R. No. 431) for the relief of Emanuel Jones, a British subject; which was read a first and second time, and referred to the Committee on Foreign Affairs.

WILLIAM C. EDMONSTON.

Mr. HERNDON also introduced a bill (H. R. No. 432) to adjust the pay and accounts of William C. Edmonston; which was read a first and second time, and referred to the Committee of Ways and Means.

FRANCIS M. JOHNSTON.

Mr. SHELLEY introduced a bill (H. R. No. 433) for the relief of Francis M. Johnston; which was read a first and second time, and referred to the Committee on Private Land Claims.

STEAMER JACKSON.

Mr. SAMFORD introduced a bill (H. R. No. 434) for the relief of certain owners of the steamer Jackson; which was read a first and second time, and referred to the Committee of Claims.

RIVERS AND HARBORS.

Mr. SAMFORD also introduced a bill (H. R. No. 435) to correct the reading of an act making appropriations for the construction, repair, preservation, and completion of certain works on rivers and harbors, and for other purposes, approved March 4, 1879; which was read a first and second time, and referred to the Committee on Commerce.

AFFIDAVITS BY UNITED STATES COMMISSIONERS.

Mr. SAMFORD also introduced a bill (H. R. No. 436) to amend section 2290 of the Revised Statutes so as to allow affidavits therein provided for to be administered by United States commissioners; which was read a first and second time, referred to the Committee on Revision of the Laws, and ordered to be printed.

PUBLIC BUILDING AT JACKSON, MISSISSIPPI.

Mr. HOOKER introduced a bill (H. R. No. 437) to provide for the erection of a public building at Jackson, Mississippi, for the use of the district and circuit courts of the United States, for a land office to preserve the records of entries of public lands, an office for the register and receiver of the land office, and for the collector of internal revenue, and for a post-office, and for other Government purposes; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

PASCAGOULA RIVER.

Mr. HOOKER also introduced a bill (H. R. No. 438) for the removal of the bar at the mouth of the Pascagoula River, and for the improvement of the navigation of the same; which was read a first and second time, and referred to the Committee on Commerce.

PEARL RIVER.

Mr. HOOKER also introduced a bill (H. R. No. 439) for the removal of the bar at the mouth of the Pearl River where the same debouches into the Mississippi Sound, and for the improvement of the navigation of the same from Jackson to its mouth; which was read a first and second time, and referred to the Committee on Commerce.

CHOCTAW INDIANS.

Mr. HOOKER also introduced a bill (H. R. No. 440) for the ascertainment of the amount due the Choctaw Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

POTTAWATOMIE INDIANS.

Mr. HOOKER also introduced a bill (H. R. No. 441) to carry into effect the tenth article of the treaty with the Pottawatomie Indians of February 27, 1867; which was read a first and second time, and referred to the Committee on Indian Affairs.

ELMER A. SNOW.

Mr. HOOKER also (by request) introduced a bill (H. R. No. 442)

granting an increase of pension to Elmer A. Snow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REDEMPTION OF SILVER COINS.

Mr. MULDROW introduced a bill (H. R. No. 443) to retire certain silver coins now in use and to provide for the exchange of subsidiary silver coins for legal-tender money under certain circumstances; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

REDEMPTION OF UNITED STATES BONDS.

Mr. MULDROW also introduced a bill (H. R. No. 444) to authorize the issue of United States notes and to provide for the redemption of certain United States bonds, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

DEPARTMENT OF AGRICULTURE.

Mr. MULDROW also introduced a bill (H. R. No. 445) to make the Department of Agriculture an executive department of the Government; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

SOUTHERN MAIL CONTRACTORS.

Mr. SINGLETON, of Mississippi, introduced a bill (H. R. No. 446) to amend so much of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878," as provides for paying certain mail contractors in the Southern States for services rendered prior to the late war; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

PUBLIC PRINTING AND BINDING.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 447) to reduce the expense of the public printing and binding, and for other purposes; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

UNITED STATES COURT DECREES.

Mr. MANNING introduced a bill (H. R. No. 448) to give effect to judgments and decrees rendered in the circuit and district courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RANCHO "PANOCHE GRANDE."

Mr. MANNING also introduced a bill (H. R. No. 449) to ascertain and determine the title to the tract of land known as the Rancho "Panoche Grande," in the State of California; which was read a first and second time, and referred to the Committee on Private Land Claims.

INDIAN TREATIES.

Mr. MANNING also introduced a bill (H. R. No. 450) to carry out the stipulations of certain Indian treaties; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

PUBLIC BUILDING AT OXFORD, MISSISSIPPI.

Mr. MANNING also introduced a bill (H. R. No. 451) to provide for the erection of a public building at Oxford, Mississippi, for use as a post-office, United States court, and for United States internal-revenue officials, and for other Government purposes; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

REBECCA A. NABORS.

Mr. MANNING also introduced a bill (H. R. No. 452) for the relief of Rebecca A. Nabors; which was read a first and second time, and referred to the Committee of Claims.

ELIZA J. YARNALL.

Mr. MANNING also introduced a bill (H. R. No. 453) granting a pension to Eliza J. Yarnall; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS D. ISOM.

Mr. MANNING also introduced a bill (H. R. No. 454) for the payment of $600 to Thomas D. Isom, of Oxford, Mississippi, for rent of judges' official chambers; which was read a first and second time, and referred to the Committee of Claims.

ESTATE OF J. R. BOWLES.

Mr. MANNING also introduced a bill (H. R. No. 455) for the relief of the estate of J. R. Bowles, deceased; which was read a first and second time, and referred to the Committee on War Claims.

JAMES H. ANDERSON.

Mr. MANNING also introduced a bill (H. R. No. 456) for the relief of James H. Anderson, of Tunica County, Mississippi; which was read a first and second time, and referred to the Committee of Claims.

SAMUEL COLLINS.

Mr. MANNING also introduced a bill (H. R. No. 457) for the relief of Samuel Collins, (colored,) of Water Valley, Mississippi; which was read a first and second time, and referred to the Committee of Claims.

MISSISSIPPI RIVER IMPROVEMENT.

Mr. CHALMERS introduced a bill (H. R. No. 458) to provide for the organization of the Mississippi River improvement commission and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of the said Mississippi River and the protection of its alluvial lands; which was read a first and second time, referred to the Committee on Mississippi Levees, and ordered to be printed.

GRANT-PEMBERTON MONUMENT, VICKSBURGH, MISSISSIPPI.

Mr. CHALMERS also introduced a bill (H. R. No. 459) authorizing the Secretary of War to purchase the site of and attach to the Vicksburgh National Cemetery the Grant-Pemberton Monument at Vicksburgh, Mississippi; which was read a first and second time, and referred to the Committee on Military Affairs.

MEMPHIS AND VICKSBURGH RAILROAD COMPANY.

Mr. CHALMERS also introduced a bill (H. R. No. 460) granting the right of way to the county of Warren, in the State of Mississippi, and to the Memphis and Vicksburgh Railroad Company through the United States cemetery tract of land near Vicksburgh, Mississippi; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CORRUPTION IN ELECTIONS.

Mr. CHALMERS also introduced a bill (H. R. No. 461) to prevent corruption in elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE W. KOUNTZ AND OTHERS.

Mr. CHALMERS also introduced a bill (H. R. No. 462) for the relief of George W. Kountz and others; which was read a first and second time, and referred to the Committee on the Judiciary.

JUDICIAL DISTRICT IN MISSISSIPPI.

Mr. CHALMERS also introduced a bill (H. R. No. 463) to establish a western division of the southern judicial district of Mississippi; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MEMPHIS AND VICKSBURGH RAILROAD.

Mr. CHALMERS also introduced a bill (H. R. No. 464) granting to the Memphis and Vicksburgh Railroad Company authority to erect a railway draw-bridge over the Yazoo River, in Mississippi, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

A. C. CRAWFORD.

Mr. CHALMERS also introduced a bill (H. R. No. 465) for the relief of A. C. Crawford; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

HOWARD UNIVERSITY.

Mr. CHALMERS also introduced a bill (H. R. No. 466) to amend the charter of Howard University and to encourage and aid the education of the colored race in the District of Columbia and in the several States and Territories; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SELECTION OF SEATS IN HOUSE OF REPRESENTATIVES.

Mr. CHALMERS also introduced a bill (H. R. No. 467) to regulate the selection of seats in the United States House of Representatives; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PACIFIC RAILWAYS.

Mr. CHALMERS also introduced a bill (H. R. No. 468) to complete the system of Pacific railways; which was read a first and second time, referred to the Committee on Pacific Railroads, and ordered to be printed.

DOUBLE STAMPED ENVELOPES, ETC.

Mr. MONEY introduced a bill (H. R. No. 469) to provide for double stamped envelopes, double postal cards, &c.; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

HEIRS OF JAMES T. JOHNSON.

Mr. MONEY also introduced a bill (H. R. No. 470) for the relief of the legal heirs and representatives of James T. Johnson, deceased, of Carrolton, Mississippi; which was read a first and second time, and referred to the Committee of Claims.

ALBERT STEVENSON.

Mr. MONEY also introduced a bill (H. R. No. 471) for the relief of Albert Stevenson; which was read a first and second time, and referred to the Committee of Claims.

A. BURWELL.

Mr. MONEY also (by request) introduced a bill (H. R. No. 472) for the relief of A. Burwell; which was read a first and second time, and referred to the Committee of Claims.

ESTATE OF JAMES A. RALSTON.

Mr. MONEY also (by request) introduced a bill (H. R. No. 473) for

the relief of the estate of James A. Ralston; which was read a first and second time, and referred to the Committee of Claims.

AUGUSTUS WATSON.

Mr. MONEY also (by request) introduced a bill (H. R. No. 474) to reward Augustus Watson for inventing and introducing stamped newspaper wrappers on sale at post-offices for eighteen years; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

PRIVATE LAND CLAIMS.

Mr. ROBERTSON introduced a bill (H. R. No. 475) for the judicial investigation and adjustment of private land claims in the States of Louisiana, Arkansas, Missouri, Florida, and the States of Alabama and Mississippi south of the thirty-first degree of north latitude; which was read a first and second time, and referred to the Committee on Private Land Claims.

MISSISSIPPI RIVER IMPROVEMENT COMMISSION.

Mr. ROBERTSON also introduced a bill (H. R. No 476) to provide for the organization of the Mississippi River improvement commission and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River, and the protection of its alluvial lands; which was read a first and second time, referred to the Committee on the Mississippi Levees, and ordered to be printed.

GEORGE W. MUNDY.

Mr. ROBERTSON also introduced a bill (H. R. No. 477) for the relief of George W. Mundy, administrator of the estate of Major-General Eleazur W. Ripley, deceased; which was read a first and second time, and referred to the Committee of Claims.

THOMAS GREEN DAVIDSON.

Mr. ROBERTSON also introduced a bill (H. R. No. 478) for the relief of Thomas Green Davidson, of the State of Louisiana; which was read a first and second time, and referred to the Committee on Private Land Claims.

LEWIS ALLEN.

Mr. ROBERTSON also introduced a bill (H. R. No. 479) for the relief of Lewis Allen, of the State of Louisiana; which was read a first and second time, and referred to the Committee on Private Land Claims.

ELIZABETH BURRISS.

Mr. ROBERTSON also introduced a bill (H. R. No. 480) for the relief of Elizabeth Burriss; which was read a first and second time, and referred to the Committee on Private Land Claims.

C. S. BALDWIN.

Mr. ROBERTSON also introduced a bill (H. R. No. 481) for the relief of C. S. Baldwin, of the State of Ohio; which was read a first and second time, and referred to the Committee on Private Land Claims.

BATON ROUGE GAS-LIGHT COMPANY.

Mr. ROBERTSON also (by request) introduced a bill (H. R. No. 482) for the relief of the Baton Rouge Gas-Light Company, in Louisiana; which was read a first and second time, and referred to the Committee on War Claims.

MRS. ELIZA E. HEBERT.

Mr. ROBERTSON also introduced a bill (H. R. No. 483) for the relief of Mrs. Eliza E. Hebert, of Louisiana; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM H. YOUNG.

Mr. ELAM introduced a bill (H. R. No. 484) for the relief of William H. Young; which was read a first and second time, and referred to the Committee on War Claims.

IMPROVEMENT OF RED RIVER.

Mr. ELLIS introduced a bill (H. R. No. 485) making an appropriation for the improvement of the mouth of the Red River in Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FREDERICK COOK.

Mr. ELLIS also introduced a bill (H. R. No. 486) to authorize the Commissioner of Patents to hear and determine the application of Frederick Cook; which was read a first and second time, and referred to the Committee on Patents.

G. ALEXANDER RAMSEY.

Mr. ELLIS also introduced a bill (H. R. No. 487) for the relief of G. Alexander Ramsey; which was read a first and second time, and referred to the Committee on Private Land Claims.

APPOINTMENT OF CIRCUIT AND DISTRICT JUDGES.

Mr. ELLIS also introduced a bill (H. R. No. 488) in regard to the appointment of circuit and district judges of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DR WILLIAM MARTIN.

Mr. ELLIS also introduced a bill (H. R. No. 489) authorizing the President to appoint Dr. William Martin a surgeon in the regular Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

LIEN ON VESSEL FOR REPAIRS.

Mr. ELLIS also introduced a bill (H. R. No. 490) to create a lien in favor of material-men and others for supplies, materials, and repairs furnished to a vessel in her home port, and to make the laws upon that subject uniform throughout the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE F. BROTT.

Mr. ELLIS also introduced a bill (H. R. No. 491) for the relief of George F. Brott; which was read a first and second time, and referred to the Committee on War Claims.

BEN HOLLADAY.

Mr. ELLIS also introduced a bill (H. R. No. 492) for the relief of Ben Holladay; which was read a first and second time, and referred to the Committee of Claims.

THOMAS B. HARRIS.

Mr. ELLIS also introduced a bill (H. R. No. 493) for the relief of Thomas B. Harris, of New Orleans; which was read a first and second time, and referred to the Committee on War Claims.

DECREES, ETC., PROVISIONAL COURT, LOUISIANA.

Mr. ELLIS also introduced a bill (H. R. No. 494) to ratify and confirm the orders, decrees, and judgments of the provisional court of the United States for the State of Louisiana; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. AGNES E. FRY.

Mr. ELLIS also introduced a bill (H. R. No. 495) for the relief of Mrs. Agnes E. Fry, widow of Joseph Fry; which was read a first and second time, and referred to the Committee on Naval Affairs.

WIDOW OF CAPTAIN CHRISTOPHER M. HAILE.

Mr. ELLIS also introduced a bill (H. R. No. 496) for the relief of the widow of Captain Christopher M. Haile, United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

STOCKHOLDERS IN NATIONAL BANKS.

Mr. ELLIS also introduced a bill (H. R. No. 497) authorizing the admission of certain proof in cases wherein the stockholders in national banks are sued; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

G. P. WORK.

Mr. ELLIS also introduced a bill (H. R. No. 498) for the relief of G. P. Work, a citizen of Louisiana; which was read a first and second time, and referred to the Committee of Claims.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. ELLIS also introduced a bill (H. R. No. 499) to secure from loss the depositors in the Freedman's Savings and Trust Company; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

RAILROAD AND TELEGRAPH LINE.

Mr. ELLIS also introduced a bill (H. R. No. 500) to provide for the speedy completion of a line of railroad and telegraph between the ports on the Lower Mississippi, the Gulf of Mexico, and the Pacific Ocean, along or near the southwestern frontier of the United States, and to aid in the construction of the same, and for other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

BRAZILIAN MAIL STEAMSHIP SERVICE.

Mr. ELLIS also introduced a bill (H. R. No. 501) to authorize the establishment of ocean mail steamship service between the United States and the Empire of Brazil; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

HENRY HULL.

Mr. ACKLEN introduced a bill (H. R. No. 502) for the relief of Henry Hull, of Pattersonville, Louisiana; which was read a first and second time, and referred to the Committee on War Claims.

JEAN LOUIS COMEAUX.

Mr. ACKLEN also (by request) introduced a bill (H. R. No. 503) to compensate Jean Louis Comeaux, of the parish of La Fourche, Louisiana, for services rendered to the Government of the United States in recruiting and enlisting soldiers during the late war; which was read a first and second time, and referred to the Committee on Military Affairs.

SURVEY OF RIVERS IN LOUISIANA.

Mr. KING introduced a bill (H. R. No. 504) for the survey and improvement of certain rivers in Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

COURT-HOUSE AT MONROE, LOUISIANA.

Mr. KING also introduced a bill (H. R. No. 505) making an appropriation for the rebuilding of the court-house at Monroe, Louisiana; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

LOUISIANA AND TEXAS RAILROAD.

Mr. KING also introduced a bill (H. R. No. 506) for the relief of Morgan's Louisiana and Texas Railroad and Steamship Company; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MISSISSIPPI RIVER.

Mr. KING also introduced a bill (H. R. No. 507) for the prevention of the cutting of the Mississippi River into the lake of Concordia, Louisiana, and for the prevention of the destruction of the harbors of the cities of Vidalia, in the parish of Concordia, Louisiana, and Natchez, in the county of Adams, in the State of Mississippi, by the Mississippi River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SAND-BARS IN MISSISSIPPI RIVER.

Mr. KING also introduced a bill (H. R. No. 508) making an appropriation for the removal of sand-bars in the Mississippi River, between Memphis and New Orleans; which was read a first and second time, referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

FOREIGN TELEGRAPHIC COMMUNICATION.

Mr. MONROE introduced a bill (H. R. No. 509) relating to telegraphic communication between the United States and foreign countries; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

ADJUDICATION OF CERTAIN CLAIMS.

Mr. MONROE also introduced a bill (H. R. No. 510) authorizing the adjudication and payment of certain claims upon the fund created by section 15 of chapter 459 of the laws of the Forty-third Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SALE OF LIQUOR IN THE DISTRICT.

Mr. MONROE also introduced a bill (H. R. No. 511) to provide against the evils resulting from the sale of intoxicating drinks in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

STEPHEN D. POND.

Mr. MONROE also introduced a bill (H. R. No. 512) granting a pension to Stephen D. Pond; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SANFORD S. PARKER.

Mr. MONROE also introduced a bill (H. R. No. 513) granting an increase of pension to Sanford S. Parker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY SHRIBER.

Mr. MONROE also introduced a bill (H. R. No. 514) for the relief of Henry Shriber; which was read a first and second time, and referred to the Committee of Claims.

W. M. BEEBE, JR.

Mr. MONROE also introduced a bill (H. R. No. 515) to restore W M. Beebe, jr., to his former rank in the Army; which was read a first and second time and referred to the Committee on Military Affairs.

WILLIAM KEPLER.

Mr. MONROE also introduced a bill (H. R. No. 516) granting a pension to William Kepler; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NANCY BUSH.

Mr. MONROE also introduced a bill (H. R. No. 517) granting a pension to Nancy Bush, widow of Jeremiah Bush, late private Company I, Sixteenth Regiment of Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ISAAC ROSHON.

Mr. MONROE also introduced a bill (H. R. No. 518) granting a pension to Isaac Roshon; which was read a first and second time, and referred to the Committee on Invalid Pensions.

L. L. RICE.

Mr. MONROE also introduced a bill (H. R. No. 519) authorizing L. L. Rice to locate land warrant No. 79099 issued under the act of March 3, 1855, in his own name or to sell and assign the same; which was read a first and second time, and referred to the Committee on Public Lands.

CHANGE OF NAME OF BANK.

Mr. BUTTERWORTH introduced a bill (H. R. No. 520) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio; which was read a first and second time, and referred to the Committee on Banking and Currency.

SECTION 2990 REVISED STATUTES.

Mr. BUTTERWORTH also introduced a bill (H. R. No. 521) to amend section 2990 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

INTERNAL REVENUE.

Mr. BUTTERWORTH also introduced a bill (H. R. No. 522) to repeal section 7 of an act entitled "An act to amend the laws relating to internal revenue," approved March 1, 1879; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

RELIEF OF COLORED EMIGRANTS.

Mr. GARFIELD introduced a bill (H. R. No. 523) to authorize the Secretary of War to issue rations and tents to relieve the temporary distress of certain destitute colored emigrants, and making an appropriation for that purpose; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

NATIONAL-BANK NOTES.

Mr. EWING introduced a bill (H. R. No. 524) providing for the retiring of circulating notes of national banks, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

INCOME TAX.

Mr. EWING also introduced a bill (H. R. No. 525) to provide for assessing and collecting a graduated tax on incomes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SILVER-COIN CERTIFICATES.

Mr. EWING also introduced a bill (H. R. No. 526) to provide for the issue of silver-coin certificates and their exchange for silver bullion at current market rates; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

FRACTIONAL CURRENCY.

Mr. EWING also introduced a bill (H. R. No. 527) to provide for the interchange of fractional currency and legal-tender currency, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

REDEMPTION OF TRADE-DOLLARS.

Mr. EWING also introduced a bill (H. R. No. 528) authorizing and requiring the redemption and recoinage of trade-dollars; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

NEW JUDICIAL DISTRICT IN OHIO.

Mr. EWING also introduced a bill (H. R. No. 529) to create a new judicial district in the State of Ohio, and to provide for holding district and circuit courts of the United States therein; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SETTLERS IN CALIFORNIA.

Mr. EWING also (by request) introduced a bill (H. R. No. 530) for the relief of settlers on certain lands in the State of California; which was read a first and second time, and referred to the Committee on Private Land Claims.

SAN MATEO COUNTY, CALIFORNIA.

Mr. EWING also (by request) introduced a bill (H. R. No. 531) to authorize the correction of boundaries of certain lands in San Mateo County, California; which was read a first and second time, and referred to the Committee on Private Land Claims.

J. J. LINTS.

Mr. TOWNSEND, of Ohio, introduced a bill (H. R. No. 532) for the relief of J. J. Lints; which was read a first and second time, and referred to the Committee of Claims.

MARY WALSH.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 533) for the relief of Mary Walsh, guardian of Redmond Walsh; which was read a first and second time, and referred to the Committee of Claims.

MRS. ROSETTA L. M'KAY.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 534) granting a pension to Mrs. Rosetta L. McKay, mother of Frederick A. McKay; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. ELIZA ELY.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 535) granting a pension to Mrs. Eliza Ely, widow of James S. Ely; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PUBLIC BUILDING AT CLEVELAND, OHIO.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 536) to authorize the Secretary of the Treasury to repair and extend the public building owned by the Government at Cleveland, Ohio; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ANSON SMITH.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 537)

granting a pension to Anson Smith, a volunteer of the war of 1812 with Great Britain; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

JULIUS M. CARRINGTON.

Mr. TOWNSEND, of Ohio, also introduced a bill (H. R. No. 538) for the relief of Julius M. Carrington; which was read a first and second time, and referred to the Committee on Military Affairs.

J. H. RUSSELL.

Mr. FINLEY (by request) introduced a bill (H. R. No. 539) for the relief of J. H. Russell; which was read a first and second time, and referred to the Committee on War Claims.

THOMAS J. GOODMAN.

Mr. FINLEY also introduced a bill (H. R. No. 540) granting a pension to Thomas J. Goodman, Company D, Thirty-fourth Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DANIEL SPEAR.

Mr. FINLEY also introduced a bill (H. R. No. 541) granting a pension to Daniel Spear; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATHAN BLEW.

Mr. FINLEY also introduced a bill (H. R. No. 542) granting a pension to Nathan Blew, of Ohio, late private in Company A, Fifteenth Regiment Ohio Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN PARK.

Mr. FINLEY also introduced a bill (H. R. No. 543) granting a pension to John Park, Company B, Thirty-eighth Regiment Ohio Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM B. SARDEN.

Mr. FINLEY also introduced a bill (H. R. No. 544) granting a pension to William B. Sarden; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARCUS DE MOSS.

Mr. FINLEY also introduced a bill (H. R. No. 545) granting a pension to Marcus De Moss, of Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES R. RICHARDSON.

Mr. FINLEY also introduced a bill (H. R. No. 546) for the relief of James R. Richardson, of Mansfield, Ohio; which was read a first and second time, and referred to the Committee on War Claims.

R. G. PETERSON.

Mr. FINLEY also introduced a bill (H. R. No. 547) granting a pension to R. G. Peterson, late a private in Company B, One hundred and twentieth Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

VICTORINE MOTT.

Mr. FINLEY also introduced a bill (H. R. No. 548) granting a pension to Victorine Mott, widow of Peter Mott, late a private of Company I, Fifteenth Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES C. SWASICK.

Mr. FINLEY also introduced a bill (H. R. No. 549) granting a pension to James C. Swasick, of Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EQUALIZATION OF BOUNTIES.

Mr. LE FEVRE introduced a bill (H. R. No. 550) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SARAH SEARLE.

Mr. LE FEVRE also introduced a bill (H. R. No. 551) for the relief of Sarah Searle, widow of Milton Searle, Seventy-first New York State Volunteers and Seventy-third New York State Veterans; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES WILSON.

Mr. LE FEVRE also introduced a bill (H. R. No. 552) granting a pension to James Wilson; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

DAVID HUGHES.

Mr. LE FEVRE also introduced a bill (H. R. No. 553) granting a pension to David Hughes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DAVID W. STOCKSTILL.

Mr. LE FEVRE also introduced a bill (H. R. No. 554) for the relief of David W. Stockstill, of Sidney, Ohio; which was read a first and second time, and referred to the Committee on Military Affairs.

HATTIE J. ROSSON.

Mr. LE FEVRE also introduced a bill (H. R. No. 555) granting a pension to Hattie J. Rosson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WIDOW AND CHILDREN OF GENERAL WILLIAM GATES.

Mr. LE FEVRE also introduced a bill (H. R. No. 556) for the relief of the widow and children of General William Gates, United States Army; which was read a first and second time, and referred to the Committee of Claims.

REPORTER OF UNITED STATES SUPREME COURT.

Mr. NEAL introduced a bill (H. R. No. 557) defining the duties of reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distribution of said reports; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CIRCUIT COURTS OF THE UNITED STATES.

Mr. NEAL also introduced a bill (H. R. No. 558) supplementary of the act entitled "An act to determine the jurisdiction of the circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PORTSMOUTH, OHIO, A PORT OF DELIVERY.

Mr. NEAL also introduced a bill (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARY BLOWERS.

Mr. NEAL also introduced a bill (H. R. No. 560) to authorize the Secretary of the Interior to place upon the pension-roll the name of Mary Blowers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MILTON KENNEDY.

Mr. NEAL also introduced a bill (H. R. No. 561) for the payment of $800 to Milton Kennedy for night services of the steamboat Piketon; which was read a first and second time, and referred to the Committee on War Claims.

ENTERPRISE FIRE AND MARINE INSURANCE COMPANY.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 562) for the relief of the Enterprise Fire and Marine Insurance Company, of Cincinnati, Ohio; which was read a first and second time, and referred to the Committee of Ways and Means.

ARREARAGES OF PENSIONS.

Mr. YOUNG, of Ohio, also introduced a bill (H. R. No. 563) to authorize the Secretary of the Treasury to issue bonds to pay arrearages of pensions; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. WARNER introduced a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and the deposit of coin and bullion in the Treasury for certificates; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

STAFFORD PALMER.

Mr. WARNER also introduced a bill (H. R. No. 565) granting a pension to Stafford Palmer, of Morgan County, Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

OSCAR B. NOTT.

Mr. WARNER also introduced a bill (H. R. No. 566) granting a pension to Oscar B. Nott, late a private of Company K, One hundred and sixty-first Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES W. FOULKE.

Mr. WARNER also (by request) introduced a bill (H. R. No. 567) for the relief of Charles W. Foulke; which was read a first and second time, and referred to the Committee on Expenditures in the Treasury Department.

WESLEY JAMES.

Mr. McKINLEY introduced a bill (H. R. No. 568) granting a pension to Wesley James; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN J. HOLLINGER.

Mr. McKINLEY also introduced a bill (H. R. No. 569) granting a pension to John J. Hollinger; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ROBERT CARY.

Mr. HILL introduced a bill (H. R. No. 570) granting an increase of pension to Robert Cary; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DR. C. E. TUPPER.

Mr. HILL also introduced a bill (H. R. No. 571) for the relief of Dr. C. E. Tupper, Putnam County, Ohio; which was read a first and second time, and referred to the Committee on War Claims.

SIDNEY SAUNDERS.

Mr. HILL also introduced a bill (H. R. No. 572) granting a pension to Sidney Saunders, late first sergeant Company K, Fourteenth Ohio Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN M. STUTER.

Mr. HILL also introduced a bill (H. R. No. 573) granting a pension to John M. Stuter, bugler of Company I, Fourth Regiment of Ohio Volunteer Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH MANNER.

Mr. HILL also introduced a bill (H. R. No. 574) granting a pension to Joseph Manner, late private Company ——, Kansas Volunteers; which was read a first and second time, and referred to the Committee on Pensions.

JOHN C. DOUGLASS.

Mr. HILL also introduced a bill (H. R. No. 575) for the relief of John C. Douglass, of Allen County, Ohio; which was read a first and second time, and referred to the Committee on Military Affairs.

SOLOMON ROBINAULT.

Mr. HILL also introduced a bill (H. R. No. 576) to relieve Solomon Robinault, late private Company G, Forty-ninth Ohio Volunteer Infantry, from the charge of desertion; which was read a first and second time, and referred to the Committee on Military Affairs.

SUSAN R. GASSAWAY.

Mr. HILL also introduced a bill (H. R. No. 577) for the relief of Susan R. Gassaway, late widow of William H. Estell, deceased; which was read a first and second time, and referred to the Committee on Military Affairs.

WILSON PONTIUS.

Mr. HILL also introduced a bill (H. R. No. 578) for the relief of Wilson Pontius; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ENGRAVING AND PRINTING OF NATIONAL CURRENCY, ETC.

Mr. HILL also (by request) introduced a bill (H. R. No. 579) relating to the engraving, printing, and issuing of national currency, United States notes, bonds, internal-revenue stamps, and all other Government issues; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

VIRGINIA MILITARY DISTRICT, OHIO.

Mr. DICKEY introduced a bill (H. R. No. 580) to construe and define "an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SIMON J. FOUGHT.

Mr. CONVERSE introduced a bill (H. R. No. 581) granting an increase of pension to Simon J. Fought; which was read a first and second time, and referred to the Committee on Invalid Pensions.

UNITED STATES COURTS, COLUMBUS, OHIO.

Mr. CONVERSE also introduced a bill (H. R. No. 582) to provide for circuit and district courts of the United States at Columbus, Ohio, and transferring certain counties from the northern to the southern district in said State; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE W. SWARTZ.

Mr. ATHERTON introduced a bill (H. R. No. 583) for the increase of an invalid pension to George W. Swartz; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANK LOGSDON.

Mr. GEDDES introduced a bill (H. R. No. 584) granting a pension to Frank Logsdon, late private in Company K, Ninety-third Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY LINDSEY.

Mr. GEDDES also introduced a bill (H. R. No. 585) granting a pension to Mary Lindsey; which was read a first and second time, and referred to the Committee on Pensions.

CATHERINE YODER.

Mr. GEDDES also introduced a bill (H. R. No. 586) granting a pension to Catherine Yoder; which was read a first and second time, and referred to the Committee on Pensions.

ELIZABETH PORTWOOD.

Mr. BLACKBURN introduced a bill (H. R. No. 587) granting a pension to Elizabeth Portwood; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

WILLIAM H. GRAY.

Mr. BLACKBURN also introduced a bill (H. R. No. 588) for the relief of William H. Gray, of Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

WASHINGTON MARKET COMPANY.

Mr. BLACKBURN also introduced a bill (H. R. No. 589) to repeal the charter of the Washington Market Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

MRS. CARRIE A. CROXTON.

Mr. BLACKBURN also introduced a bill (H. R. No. 590) granting relief to Mrs. Carrie A. Croxton; which was read a first and second time, and referred to the Committee on Foreign Affairs.

MIXED NATIONAL TRIBUNALS.

Mr. BLACKBURN also introduced a joint resolution (H. R. No. 11) in relation to records, papers, and documents of mixed international tribunals on file in the State Department; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ELIZA K. ASHLEY.

Mr. McKENZIE introduced a bill (H. R. No. 591) for the relief of Eliza K. Ashley, widow of John P. Ashley, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JURISDICTION OF CIRCUIT COURTS.

Mr. McKENZIE also introduced a bill (H. R. No. 592) to repeal parts of sections 563 and 629 of the Revised Statutes of the United States and to regulate the original jurisdiction of the circuit courts in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM C. DOWNS.

Mr. McKENZIE also introduced a bill (H. R. No. 593) granting a pension to William C. Downs, of Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SALE OF LEAF-TOBACCO.

Mr. McKENZIE also introduced a bill (H. R. No. 594) to permit the growers of tobacco to sell one thousand dollars' worth of their own growth without a license so to do; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ELIZA TURNER.

Mr. McKENZIE also introduced a bill (H. R. No. 595) granting a pension to Eliza Turner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

D. L. ADAIR.

Mr. McKENZIE also introduced a bill (H. R. No. 596) for the relief of D. L. Adair, of Hancock County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

QUININE ON FREE LIST.

Mr. McKENZIE also introduced a bill (H. R. No. 597) to put salts of quinine and sulphate of quinine on the free list; which was read a first and second time, and referred to the Committee of Ways and Means.

BIG SANDY RIVER.

Mr. PHISTER introduced a bill (H. R. No. 598) for the improvement of the Big Sandy River and appropriating money for said purpose; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC BUILDING, MAYSVILLE, KENTUCKY.

Mr. PHISTER also introduced a bill (H. R. No. 599) for the purchase of suitable ground in the city of Maysville, in the State of Kentucky, and the erection thereon of a public building for post-office, United States collector's office, United States commissioner's office, and for the use of other United States officers in said city, and appropriating money for said purpose; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

C. A. DIETRICH.

Mr. PHISTER also introduced a bill (H. R. No. 600) granting a pension to a C. A. Dietrich, of Bath County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FELIX WARREN AND THOMAS J. WRIGHT.

Mr. PHISTER also introduced a bill (H. R. No. 601) for the relief of Felix Warren and Thomas J. Wright, of Bath County, Kentucky, late privates of Company M, Seventh Regiment Kentucky Cavalry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE WORMALD.

Mr. PHISTER also introduced a bill (H. R. No. 602) for the benefit of George Wormald, of Maysville, Kentucky; which was read a first and second time, and referred to the Committee on Military Affairs.

HENRY A. MILES.

Mr. KNOTT introduced a bill (H. R. No. 603) for the benefit of

Henry A. Miles, of Nelson County, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

J. W. BOWLING AND J. S. GOLLADAY.

Mr. KNOTT also introduced a bill (H. R. No. 604) for the relief of J. W. Bowling and J. S. Golladay, of Kentucky; which was read a first and second time, and referred to the Committee of Claims.

DISTRIBUTION OF GENEVA AWARD.

Mr. KNOTT also introduced a bill (H. R. No. 605) to provide for the further distribution of the moneys received under the Geneva award; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES CLARK SMITH.

Mr. KNOTT also (by request) introduced a bill (H. R. No. 606) for the relief of James Clark Smith; which was read a first and second time, and referred to the Committee of Claims.

PUBLIC BUILDING AT PADUCAH, KENTUCKY.

Mr. OSCAR TURNER introduced a bill (H. R. No. 607) to provide for the construction of a public building at the city of Paducah, State of Kentucky; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

FARAN & M'LEAN.

Mr. CARLISLE introduced a bill (H. R. No. 608) for the relief of Faran & McLean, of Cincinnati, Ohio; which was read a first and second time, and referred to the Committee of Ways and Means.

UNITED STATES COURTS IN KENTUCKY.

Mr. CARLISLE also introduced a bill (H. R. No. 609) to prescribe the times for holding the circuit and district courts of the United States in the district of Kentucky; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE W. TAYLOR.

Mr. CARLISLE also introduced a bill (H. R. No. 610) for the relief of George W. Taylor, of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

SAMUEL E. OGDEN.

Mr. CARLISLE also introduced a bill (H. R. No. 611) to compensate Samuel E. Ogden, of the steamers Des Arc and Emma No. 2, for carrying the United States mail from Memphis, Tennessee, to Duvall's Bluff, Arkansas, and intermediate places, twice a week, from the 27th of November, 1863, to the 31st of December, 1864, under peremptory orders of the officer of the United States Army then in command at the post of Memphis; which was read a first and second time, and referred to the Committee on War Claims.

JOHN TALOR & SON.

Mr. CARLISLE also introduced a bill (H. R. No. 612) for the relief of John Talor & Son, of Newport, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

ASHBROOK & TUCKER.

Mr. CARLISLE also introduced a bill (H. R. No. 613) for the relief of Ashbrook & Tucker, of Covington, Kentucky; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

ESTATE OF DR. JOEL C. FRAZIER.

Mr. CARLISLE also introduced a bill (H. R. No. 614) for the relief of the estate of Dr. Joel C. Frazier, deceased, of Harrison, Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

HENRY MARCOTTE.

Mr. CARLISLE also introduced a bill (H. R. No. 615) for the relief of Henry Marcotte; which was read a first and second time, and referred to the Committee on Military Affairs.

COMMERCE AMONG THE STATES.

Mr. WILLIS introduced a bill (H. R. No. 616) to regulate commerce among the States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SUITS IN UNITED STATES COURTS.

Mr. WILLIS also introduced a bill (H. R. No. 617) to enable certain persons to sue in United States courts without payment of or security for costs; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. WILLIS also introduced a bill (H. R. No. 618) to amend section 3221 of the Revised Statutes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PENSION AND BOUNTY LAWS.

Mr. WILLIS also (by request) introduced a bill (H. R. No. 619) to amend the pension and bounty laws of the United States; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JESSE D. SEATON.

Mr. WILLIS also introduced a bill (H. R. No. 620) for the relief of Jesse D. Seaton, of Louisville, Kentucky; which was read a first and second time, and referred to the Committee on Military Affairs.

GERMAN NATIONAL BANK, LOUISVILLE, KENTUCKY.

Mr. WILLIS also introduced a bill (H. R. No. 621) for the relief of the German National Bank of Louisville, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

ROBERT M. ROGERS.

Mr. WILLIS also introduced a bill (H. R. No. 622) for the relief of Robert M. Rogers; which was read a first and second time, and referred to the Committee of Claims.

BRANNIN, SUMMERS & CO.

Mr. WILLIS also introduced a bill (H. R. No. 623) for the relief of Brannin, Summers & Co., of Louisville, Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

ROBERT S. GOODALL.

Mr. WILLIS also introduced a bill (H. R. No. 624) granting a pension to Robert S. Goodall, late first-class pilot in the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WARREN MITCHELL.

Mr. WILLIS also introduced a bill (H. R. No. 625) for the relief of Warren Mitchell; which was read a first and second time, and referred to the Committee of Claims.

INTERNAL IMPROVEMENTS IN KENTUCKY.

Mr. THOMAS TURNER introduced a bill (H. R. No. 626) appropriating money for the improvement of the Kentucky, Licking, and Big Sandy Rivers, and for the improvement of the falls of the Cumberland River, in Kentucky; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SALES OF LEAF-TOBACCO.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 627) to authorize producers of tobacco to sell not exceeding one hundred dollars' worth of leaf-tobacco of each year's production without license or tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON INCOMES.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 628) to levy and collect a tax on incomes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CHARGES IN SLEEPING-CARS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 629) to regulate the charges for the use of Pullman palace cars and other sleeping-cars patented by the United States Government; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EMPLOYMENT OF MEMBERS OF CONGRESS AS ATTORNEYS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 630) to make it illegal for any member of either House of Congress to act as general advisory attorney for certain corporations and patentees; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DUTIES OF UNITED STATES MARSHALS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 631) to define the duties of United States marshals; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ALEXANDER DRAKE.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 632) for the benefit of Alexander Drake, of Wolfe County, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

PETER W. CLINE.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 633) for the relief of Peter W. Cline, of Floyd County, Kentucky; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS W. HART.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 634) for the relief of Thomas W. Hart, of Whitley County, Kentucky, late a private of Company D, Fourth Regiment of Kentucky Mounted Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

NICHOLAS BALL.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 635) for the relief of Nicholas Ball, of Laurel County, Kentucky, late a private of Company A, Seventh Regiment of Kentucky Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM K. GOODMAN.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 636) for the relief of William K. Goodman, late a private of Company F, Thirty-ninth Regiment of Kentucky Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

PENSIONS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 637) to amend the third subdivision of section 4693 of the Revised Statutes of the United States, title "pensions;" which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETER W. CLINE.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 638) for the relief of Peter W. Cline, of Floyd County, Kentucky; which was read a first and second time, and referred to the Committee on Military Affairs.

CHRISTOPHER C. HARBIN.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 639) for the relief of Christopher C. Harbin, of Laurel County, Kentucky, late captain of Company C, Second North Carolina Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ABIJAH B. GILBERT.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 640) for the benefit of Abijah B. Gilbert, of Owsley County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

MRS. SUSAN HALL.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 641) for the relief of Mrs. Susan Hall, of Knox County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEWIS C. DILS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 642) for the relief of Lewis C. Dils, late private Company B, Thirty-ninth Kentucky Volunteers; which was read a first and second time, and referred to the Committee on War Claims.

THIRTY-NINTH REGIMENT KENTUCKY INFANTRY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 643) for the relief of certain soldiers of the Thirty-ninth Regiment of Kentucky Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES B. M'KINNEY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 644) for the relief of James B. McKinney, of Lee County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DELIAH COLLY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 645) for the relief of Deliah Colly, of Breathitt County, Kentucky, widow of Harmon Colly, late a private of Company D, Sixth Regiment of Kentucky Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MOORE JOHNSON.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 646) for the benefit of Moore Johnson, of Montgomery County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAMUEL BEATTY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 647) for the benefit of Samuel Beatty, of Lee County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

PATENTS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 648) to amend section 494 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GOVERNMENT OFFICIALS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 649) to amend sections 193, 194, and other sections of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

JOSEPH CRAFT, SR.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 650) for the relief of Joseph Craft, sr., of Letcher County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

CAPTAIN LEWIS SOWARDS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 651) for the benefit of Captain Lewis Sowards, of Pike County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

MRS. SARAH HAMILTON.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 652) for the relief of Mrs. Sarah Hamilton, of Floyd County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. SUSAN HALL.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 653) for the relief of Mrs. Susan Hall, of Knox County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PENSIONS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 654) to amend section 4693 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ISHAM GAMBREL.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 655) for the relief of Isham Gambrel, of Bell County, Kentucky, late a private of Company H, Twenty-fourth Regiment of Kentucky Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

WILBURN LONG.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 656) for the relief of Wilburn Long, of Magoffin County, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

M. B. MOSLEY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 657) for the relief of M. B. Mosley, of Irvin, in the State of Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

THOMAS W. HART.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 658) for the relief of Thomas W. Hart, of Whitley County, Kentucky, late a private of Company D, Fourth Regiment of Kentucky Mounted Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

HEIRS OF JOHN WHALEN.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 659) for the relief of the heirs of John Whalen, of Rockcastle County, Kentucky, late a private of Company K, Third Regiment of Kentucky Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MRS. MARY A. SEABORN.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn, of Laurel County, Kentucky, mother of Thomas Seaborn, late a private of Company B, Fourth Regiment of Kentucky Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JEPTHA BOONE.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 661) for the relief of Jeptha Boone, of Powell County, Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

NIMROD M'INTOSH.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 662) for the relief of Nimrod McIntosh, of Breathitt County, Kentucky, late a Second Lieutenant of Company K, Fourteenth Regiment of Kentucky Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EXECUTIVE PATRONAGE.

Mr. THOMAS TURNER also introduced a joint resolution (H. R. No. 12) directing the House and Senate Committees on Civil Service Reform to inquire into the propriety of limiting executive patronage by constitutional amendment, and inquiring into the propriety of adopting some new method of keeping the accounts of the Federal Government by which they can be held to a more rigid accountability; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MEMBERS OF CONGRESS.

Mr. THOMAS TURNER also introduced a joint resolution (H. R. No. 13) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SPECIAL OR PRIVATE ACTS.

Mr. THOMAS TURNER also introduced a joint resolution (H. R. No. 14) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

QUININE FREE OF DUTY.

Mr. MCMILLIN introduced a bill (H. R. No. 663) to permit the importation of quinine to the United States without the payment of import duty thereon; which was read a first and second time, re-

ferred to the Committee of Ways and Means, and ordered to be printed.

TRADE-DOLLAR A LEGAL TENDER.

Mr. McMILLIN also introduced a bill (H. R. No. 664) to make the trade-dollar a legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

IMPROVEMENT OF CUMBERLAND RIVER.

Mr. McMILLIN also introduced a bill (H. R. No. 665) to continue the improvement of the navigation of the Cumberland River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JURISDICTION OF FEDERAL COURTS.

Mr. McMILLIN also introduced a bill (H. R. No. 666) to define and limit the jurisdiction of Federal courts; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

SALE OF TOBACCO WITHOUT LICENSE.

Mr. McMILLIN also introduced a bill (H. R. No. 667) authorizing the producer of tobacco to sell the same to any purchaser without license; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON INCOMES.

Mr. TAYLOR introduced a bill (H. R. No. 668) levying a tax on incomes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REPEAL OF TAX ON TOBACCO.

Mr. TAYLOR also introduced a bill (H. R. No. 669) repealing the tax on tobacco in the hands of the producer; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JOHN RYAN.

Mr. TAYLOR also introduced a bill (H. R. No. 670) granting a pension to John Ryan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CATHARINE VAUGHAN.

Mr. TAYLOR also introduced a bill (H. R. No. 671) granting a pension to Catharine Vaughan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PROFESSORS OF MATHEMATICS IN THE NAVY.

Mr. WHITTHORNE introduced a bill (H. R. No. 672) relating to the appointment of professors of mathematics in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

RESTORATIONS TO ACTIVE LIST IN NAVY.

Mr. WHITTHORNE also introduced a bill (H. R. No. 673) to regulate applications for restoration to the active list of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SITE FOR NAVAL OBSERVATORY.

Mr. WHITTHORNE also (for Mr. MORSE) introduced a bill (H. R. No. 674) to locate and purchase a new site for the United States Naval Observatory; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PENSIONS.

Mr. WHITTHORNE also introduced a bill (H. R. No. 675) to provide for pensions to soldiers of the war with Mexico, and of the Seminole war of 1836, &c.; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY S. FRENCH.

Mr. WHITTHORNE also introduced a bill (H. R. No. 676) for the relief of Henry S. French, of Nashville, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

ODD FELLOWS' LODGE, PULASKI, TENNESSEE.

Mr. WHITTHORNE also introduced a bill (H. R. No. 677) for the relief of the Odd Fellows' Lodge, of Pulaski, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

R. G. P. WHITE.

Mr. WHITTHORNE also introduced a bill (H. R. No. 678) for the relief of R. G. P. White; which was read a first and second time, and referred to the Committee on War Claims.

REMOVAL OF CITIZENS FROM SOUTHERN STATES.

Mr. WHITTHORNE also introduced a joint resolution (H. R. No. 15) to authorize the appointment of a joint select committee to inquire into the causes leading to the removal of large bodies of citizens from the Southern States to certain other States; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

WILLIAM R. BUTLER, ADMINISTRATOR, ETC.

Mr. BRIGHT introduced a bill (H. R. No. 679) for the relief of William R. Butler, administrator, &c.; which was read a first and second time, and referred to the Committee on War Claims.

FREE COINAGE OF SILVER DOLLARS.

Mr. BRIGHT also introduced a bill (H. R. No. 680) providing for the free coinage of the silver dollar; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

TRADE AND MEXICAN DOLLARS.

Mr. BRIGHT also introduced a bill (H. R. No. 681) making the trade-dollar and Mexican dollar a legal tender; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REDUCTION OF NATIONAL CURRENCY.

Mr. BRIGHT also introduced a bill (H. R. No. 682) to prevent the reduction of national currency by fraudulently withdrawing legal-tender notes from circulation; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

LINCOLN SAVINGS BANK.

Mr. BRIGHT also introduced a bill (H. R. No. 683) for the relief of the Lincoln Savings Bank of Fayetteville, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

DANIEL PARKER.

Mr. BRIGHT also introduced a bill (H. R. No. 684) for the relief of Daniel Parker; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

TOLLEY & EATON.

Mr. BRIGHT also introduced a bill (H. R. No. 685) for the relief of Tolley & Eaton, of Lynchburgh, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM T. LEAGUE.

Mr. BRIGHT also introduced a bill (H. R. No. 686) for the relief of William T. League, of Franklin County, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

ADMINISTRATORS OF E. L. ALLEN.

Mr. BRIGHT also introduced a bill (H. R. No. 687) for the relief of M. D. Hampton and C. S. Wilson, administrators of E. L. Allen, deceased; which was read a first and second time, and referred to the Committee of Claims.

SURETIES OF FRANKLIN TRAVIS.

Mr. ATKINS introduced a bill (H. R. No. 688) for the relief of the sureties of Franklin Travis; which was read a first and second time, and referred to the Committee of Ways and Means.

JAMES ARNOLD.

Mr. ATKINS also introduced a bill (H. R. No. 689) granting a pension to James Arnold; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FIELDING HURST.

Mr. ATKINS also introduced a bill (H. R. No. 690) for the relief of Fielding Hurst; which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM M. LANDRETH.

Mr. ATKINS also introduced a bill (H. R. No. 691) for the relief of the heirs of William M. Landreth; which was read a first and second time, and referred to the Committee on Military Affairs.

MARY ANN HARE.

Mr. ATKINS also introduced a bill (H. R. No. 692) for the relief of Mary Ann Hare; which was read a first and second time, and referred to the Committee of Claims.

HIRAM JOHNSON AND OTHERS.

Mr. ATKINS also introduced a bill (H. R. No. 693) to refund to Hiram Johnson and certain other citizens of Tennessee taxes illegally collected from them by military orders; which was read a first and second time, and referred to the Committee on War Claims.

REPEAL OF DUTY ON QUININE AND SALT.

Mr. ATKINS also introduced a bill (H. R. No. 694) to repeal the duty on quinine and salt; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON TOBACCO.

Mr. DIBRELL introduced a bill (H. R. No. 695) repealing the tax on tobacco in the hands of the producer; which was read a first and second time.

Mr. DIBRELL. I ask that this bill be referred to the Committee on Agriculture. It does not interfere with the revenue. If referred to the Committee of Ways and Means it would never see daylight again, and I hope it will be referred to the Committee on Agriculture.

The SPEAKER. The bill seems to belong to the Committee of Ways and Means.

Mr. DIBRELL. It does not interfere with the revenue at all. There is not a dime of revenue raised from that source.

The SPEAKER. The Clerk will read Rule 151.

The Clerk read as follows:

151. It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department, and such other propositions relative to raising revenue and providing ways and means for the support of the Government as shall be presented or shall come in question, and be referred to them by the House, and to report their opinion thereon by bill or otherwise, as to them shall seem expedient; and said committee shall have leave to report for commitment at any time.—*March* 2, 1865.

Mr. DIBRELL. There is now a prohibition on farmers from selling leaf-tobacco under a certain penalty, and this bill proposes to remove that penalty. There is not a dime of revenue collected from that source; so I have been informed by the Commissioner of Internal Revenue.

The SPEAKER. If there be no objection the bill will be referred to the Committee on Agriculture.

There was no objection, and the bill was referred accordingly to the Committee on Agriculture, and ordered to be printed.

TAX ON INCOMES.

Mr. DIBRELL also introduced a bill (H. R. No. 696) levying a tax on incomes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SILVER DOLLARS.

Mr. DIBRELL also introduced a bill (H. R. No. 697) to make the trade and other silver dollars receivable for public dues, &c.; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

UNITED STATES COURTS AT CHATTANOOGA, TENNESSEE.

Mr. DIBRELL also introduced a bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JUDGMENTS OF UNITED STATES COURTS.

Mr. DIBRELL also introduced a bill (H. R. No. 699) regulating the exemptions upon judgments in the United States courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

M'MINNVILLE AND MANCHESTER RAILROAD.

Mr. DIBRELL also introduced a bill (H. R. No. 700) directing the Quartermaster-General to settle with the McMinnville and Manchester Railroad Company, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

IMPROVEMENT OF TENNESSEE RIVER.

Mr. DIBRELL also introduced a bill (H. R. No. 701) to continue the work on the Tennessee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF HIAWASSEE RIVER.

Mr. DIBRELL also introduced a bill (H. R. No. 702) to complete the work on the Hiawassee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PENSIONS UNDER ACT MARCH 9, 1878.

Mr. DIBRELL also introduced a bill (H. R. No. 703) to prevent the withholding of pensions from pensioners under the act of March 9, 1878; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

ELLEN W. P. CARTER.

Mr. DIBRELL also introduced a bill (H. R. No. 704) granting a pension to Ellen W. P. Carter; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW J. HOOPER.

Mr. DIBRELL also introduced a bill (H. R. No. 705) to restore the name of Andrew J. Hooper to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

A. B. ROWDEN.

Mr. DIBRELL also introduced a bill (H. R. No. 706) for the relief of A. B. Rowden; which was read a first and second time, and referred to the Committee on Military Affairs.

ALEXANDER KELLY.

Mr. DIBRELL also introduced a bill (H. R. No. 707) to pay Alexander Kelly, of Tennessee, for services on a military commission; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM T. CATE.

Mr. DIBRELL also introduced a bill (H. R. No. 708) for the relief of William T. Cate, late postmaster at Chattanooga, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM S. BURGESS.

Mr. DIBRELL also introduced a bill (H. R. No. 709) for the relief of William S. Burgess and others; which was read a first and second time, and referred to the Committee of Claims.

JACKSON GRUBB.

Mr. DIBRELL also introduced a bill (H. R. No. 710) to refund to Jackson Grubb internal-revenue tax wrongfully collected; which was read a first and second time, and referred to the Committee of Claims.

R. N. CORBIN.

Mr. DIBRELL also introduced a bill (H. R. No. 711) for the relief of R. N. Corbin; which was read a first and second time, and referred to the Committee of Claims.

L. T. GREEN.

Mr. DIBRELL also introduced a bill (H. R. No. 712) for the relief of L. T. Green; which was read a first and second time, and referred to the Committee of Claims.

J. R. FISHER AND OTHERS.

Mr. DIBRELL also introduced a bill (H. R. No. 713) for the relief of J. R. Fisher and others, employés in the House post-office; which was read a first and second time, and referred to the Committee of Accounts.

ALVAH W. HICKS.

Mr. DIBRELL also introduced a bill (H. R. No. 714) for the relief of Alvah W. Hicks, of Cincinnati, Ohio; which was read a first and second time, and referred to the Committee of Claims.

HOT SPRINGS RESERVATION, ARKANSAS.

Mr. YOUNG, of Tennessee, introduced a bill (H. R. No. 715) for the relief of the settlers on the Hot Springs Reservation, in the State of Arkansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MESSRS. MOSBY & HUNT, MEMPHIS, TENNESSEE.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 716) for the relief of Messrs. Mosby & Hunt, of Memphis, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

REDEMPTION OF LANDS.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 717) to provide for and regulate the manner of redeeming lands sold for nonpayment of direct taxes; which was read a first and second time, and referred to the Committee on Private Land Claims.

VAN DEVENTER'S IMPROVEMENT IN EXCAVATORS.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 718) for the extension of the patent known as the Van Deventer's improvement in excavators for water-courses having currents; which was read a first and second time, and referred to the Committee on Patents.

MARINE HOSPITAL, MEMPHIS, TENNESSEE.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 719) to provide for the construction of a marine hospital in the city of Memphis, Tennessee; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

SOLDIERS OF MEXICAN AND OTHER WARS.

Mr. SIMONTON introduced a bill (H. R. No. 720) granting pensions to Mexican and other soldiers and their widows and minor children; which was referred to the Committee on Revolutionary Pensions.

BIG HATCHIE RIVER.

Mr. SIMONTON also introduced a bill (H. R. No. 721) to authorize the Secretary of War to cause a survey and estimate of costs of improvements proper to be made of Big Hatchie River, in the State of Tennessee; which was read a first and second time, and referred to the Committee on Commerce.

ESTATE OF H. C. SHEPHARD.

Mr. HOUSE introduced a bill (H. R. No. 722) for the relief of the estate of H. C. Shephard; which was read a first and second time, and referred to the Committee of Claims.

BOUNTIES OF SOLDIERS.

Mr. HOUK introduced a bill (H. R. No. 723) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIS N. ARNOLD.

Mr. HOUK also introduced a bill (H. R. No. 724) for the relief of Willis N. Arnold; which was read a first and second time, and referred to the Committee of Claims.

NANCY GALBRATH.

Mr. HOUK also introduced a bill (H. R. No. 725) for the relief of Nancy Galbrath, of Knox County; which was read a first and second time, and referred to the Committee on War Claims.

JOHN DOLAN.

Mr. HOUK also introduced a bill (H. R. No. 726) authorizing the President to appoint John Dolan to a second lieutenancy in the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES A. BAKER.

Mr. HOUK also introduced a bill (H. R. No. 727) for the relief of

James A. Baker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JUSTICES OF THE PEACE IN THE DISTRICT OF COLUMBIA.

Mr. HOUK also introduced a bill (H. R. No. 728) to extend the jurisdiction of justices of the peace in the District of Columbia and to regulate proceedings before them; which was read a first and second time, and referred to the Committee on the District of Columbia.

GEORGE W. DICE.

Mr. HOUK also introduced a bill (H. R. No. 729) for the relief of George W. Dice; which was read a first and second time, and referred to the Committee on War Claims.

JOHN HENRY.

Mr. HOUK also introduced a bill (H. R. No. 730) to replace the name of John Henry on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MITCHELL J. CHILDRESS.

Mr. HOUK also introduced a bill (H. R. No. 731) for the relief of Mitchell J. Childress, of Knox County, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

WILLIS N. ARNOLD.

Mr. HOUK also introduced a bill (H. R. No. 732) for the relief of Willis N. Arnold; which was read a first and second time, and referred to the Committee on Military Affairs.

AGATHA O'BRIEN.

Mr. HOUK also introduced a bill (H. R. No. 733) granting a pension to Agatha O'Brien, widow of John P. J. O'Brien, brevet major United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PAYMENT TO LOYAL CLAIMANTS.

Mr. HOUK also introduced a bill (H. R. No. 734) to provide for the payment of loyal claimants, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DR. JOHN BLANKENSHIP.

Mr. HOUK also introduced a bill (H. R. No. 735) for the relief of Dr. John Blankenship; which was read a first and second time, and referred to the Committee on Military Affairs.

REPEAL OF REVISED STATUTE.

Mr. HOUK also introduced a bill (H. R. No. 736) to repeal section 2 of the act approved June 16, 1874; which was read a first and second time, and referred to the Committee on Military Affairs.

SOLDIERS AND SAILORS OF THE MEXICAN WAR.

Mr. HOUK also introduced a bill (H. R. No. 737) granting pensions to the soldiers and sailors of the war with Mexico, and to the widows of such as are deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMMISSARY-GENERAL OF THE ARMY.

Mr. HOUK also introduced a bill (H. R. No. 738) making an appropriation for the Commissary-General of the Army, and for other purposes; which was read a first and second time, and referred to the Committee of Claims.

CLAIMS AGAINST THE UNITED STATES.

Mr. HOUK also introduced a bill (H. R. No. 739) providing for the judicial determination of claims against the United States; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MARTHA J. ROBINSON.

Mr. BICKNELL introduced a bill (H. R. No. 740) granting a pension to Martha J. Robinson, widow of James H. Robinson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

VALENTINE MELCHER.

Mr. BICKNELL also introduced a bill (H. R. No. 741) granting a pension to Valentine Melcher; which was read a first and second time, and referred to the Committee on Pensions.

EDWARD P. TULEY.

Mr. BICKNELL also introduced a bill (H. R. No. 742) for the relief of Edward P. Tuley, of New Albany, Indiana; which was read a first and second time, and referred to the Committee on War Claims.

JOHN M. HENDERLIDER.

Mr. BICKNELL also introduced a bill (H. R. No. 743) for the relief of John M. Henderlider; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE S. WILSON.

Mr. BICKNELL also introduced a bill (H. R. No. 744) for the relief of Lieutenant George S. Wilson; which was read a first and second time, and referred to the Committee on Military Affairs.

COLBY HORNADAY.

Mr. BICKNELL also introduced a bill (H. R. No. 745) granting a pension to Colby Hornaday; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANNA E. HALLOWELL.

Mr. BICKNELL also introduced a bill (H. R. No. 746) for the relief of Anna E. Hallowell; which was read a first and second time, and referred to the Committee on Pensions.

CALVIN D. HUFF.

Mr. BICKNELL also introduced a bill (H. R. No. 747) granting a pension to Calvin D. Huff; which was read a first and second time, and referred to the Committee on Pensions.

REBECCA S. ALLEN.

Mr. BICKNELL also introduced a bill (H. R. No. 748) granting a pension to Rebecca S. Allen; which was read a first and second time, and referred to the Committee on Pensions.

WILLIAM R. BENTLEY.

Mr. BICKNELL also introduced a bill (H. R. No. 749) for the relief of William R. Bentley; which was read a first and second time, and referred to the Committee of Claims.

JOHN F. LANE.

Mr. BICKNELL also introduced a bill (H. R. No. 750) to restore the name of John F. Lane to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HARVEY BURK.

Mr. BICKNELL also introduced a bill (H. R. No. 751) granting a pension to Harvey Burk; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOEL R. CARTER.

Mr. BICKNELL also introduced a bill (H. R. No. 752) granting a pension to Joel R. Carter; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS J. JACKSON.

Mr. BICKNELL also introduced a bill (H. R. No. 753) granting a pension to Thomas J. Jackson, late lieutenant-colonel Eleventh United States Colored Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREEMAN HOSTON.

Mr. BICKNELL also introduced a bill (H. R. No. 754) directing the Secretary of the Interior to place the name of Freeman Hoston on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DAVID D. DIVINE.

Mr. BICKNELL also introduced a bill (H. R. No. 755) granting a pension to David D. Divine; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SUSAN P. VANCE.

Mr. BICKNELL also introduced a bill (H. R. No. 756) for the relief of Susan P. Vance; which was read a first and second time, and referred to the Committee on War Claims.

SAMUEL H. PATTERSON.

Mr. BICKNELL also introduced a bill (H. R. No. 757) for the relief of Samuel H. Patterson, of Clark County, Indiana; which was read a first and second time, and referred to the Committee on War Claims.

BARTHOLOMEW AGRICULTURAL SOCIETY, INDIANA.

Mr. BICKNELL also introduced a bill (H. R. No. 758) for the relief of the Bartholomew Agricultural Society of the State of Indiana; which was read a first and second time, and referred to the Committee on War Claims.

JAMES RICHARDSON.

Mr. BICKNELL also introduced a bill (H. R. No. 759) for the relief of James Richardson; which was read a first and second time, and referred to the Committee on War Claims.

CATHARINE A. TALBURTT.

Mr. BICKNELL also introduced a bill (H. R. No. 760) for the relief of Catharine A. Talburtt, administratrix of George W. Talburtt, deceased; which was read a first and second time, and referred to the Committee on War Claims.

THOMAS CRAWFORD.

Mr. BICKNELL also introduced a bill (H. R. No. 761) for the relief of Thomas Crawford; which was read a first and second time, and referred to the Committee on Military Affairs.

PHILIP LESTER.

Mr. BICKNELL also introduced a bill (H. R. No. 762) for the relief of Philip Lester; which was read a first and second time, and referred to the Committee on Military Affairs.

EBENEZER KNIGHT.

Mr. BICKNELL also introduced a bill (H. R. No. 763) for the relief of Ebenezer Knight; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES G. HARRISON.

Mr. BICKNELL also introduced a bill (H. R. No. 764) for the relief

of James G. Harrison; which was read a first and second time, and referred to the Committee of Claims.

INTEREST ON WAR LOANS.

Mr. NEW introduced a bill (H. R. No. 765) to reimburse the several States for interest paid on war loans, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM T. PATE AND SILAS Q. HOWE.

Mr. NEW also introduced a bill (H. R. No. 766) for the relief of William T. Pate and Silas Q. Howe, of Patriot, Indiana; which was read a first and second time, and referred to the Committee of Ways and Means.

GALLUS KERCHNER.

Mr. NEW also introduced a bill (H. R. No. 767) for the relief of Gallus Kerchner; which was read a first and second time, and referred to the Committee of Claims.

ALBERT V. CONWAY.

Mr. NEW also introduced a bill (H. R. No. 768) authorizing the Secretary of the Treasury to issue bonds to Albert V. Conway, substituted trustee for certain registered United States bonds redeemed or assigned by the Government upon forged assignments; which was read a first and second time, and referred to the Committee of Ways and Means.

STATE CLAIMS.

Mr. COBB introduced a bill (H. R. No. 769) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SASSER SULLIVAN.

Mr. COBB also introduced a bill (H. R. No. 770) for the relief of Sasser Sullivan, of Pike County, Indiana; which was read a first and second time, and referred to the Committee on War Claims.

TAXATION OF TREASURY NOTES.

Mr. COBB also introduced a bill (H. R. No. 771) to authorize the local taxation of the legal-tender Treasury notes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JURISDICTION OF CIRCUIT COURTS.

Mr. COBB also introduced a bill (H. R. No. 772 to amend section) 1 of the act entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN BURKE.

Mr. COBB also introduced a bill (H. R. No. 773) for the relief of John Burke, of Knox County, Indiana; which was read a first and second time, and referred to the Committee on Military Affairs.

EQUALIZATION OF BOUNTIES.

Mr. COBB also introduced a bill (H. R. No. 774) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HARBOR AT MICHIGAN CITY, INDIANA.

Mr. CALKINS introduced a bill (H. R. No. 775) appropriating $100,000 to aid in the construction of a harbor at Michigan City, Indiana, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNIVERSITY OF NOTRE DAME DU LAC.

Mr. CALKINS also introduced a bill (H. R. No. 776) refunding to the University of Notre Dame Du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles; which was read a first and second time, and referred to the Committee of Claims.

J. C. BIRDSELL.

Mr. CALKINS also introduced a bill (H. R. No. 777) for the relief of J. C. Birdsell; which was read a first and second time, and referred to the Committee on Patents.

BETSY FRY.

Mr. CALKINS also introduced a bill (H. R. No. 778) for the relief of Betsy Fry, widow of Alfred Fry; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES W. TIMMONS.

Mr. CALKINS also introduced a bill (H. R. No. 779) for the relief of James W. Timmons; which was read a first and second time, and referred to the Committee on Military Affairs.

EQUALIZATION OF BOUNTIES.

Mr. CALKINS also introduced a bill (H. R. No. 780) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RELIEF OF DISCHARGED SOLDIERS.

Mr. CALKINS also introduced a bill (H. R. No. 781) for the relief of discharged United States soldiers whose final discharge papers have been lost or destroyed; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PETER SCONDEN.

Mr. CALKINS also introduced a bill (H. R. No. 782) for the relief of Peter Sconden, late a corporal of Company K, Twelfth Indiana Volunteer Cavalry, a resident of White County, Indiana; which was read a first and second time, and referred to the Committee on Military Affairs.

SOLDIERS' AND SAILORS' HOMESTEADS.

Mr. CALKINS also introduced a bill (H. R. No. 783) to amend section 5 of an act entitled "An act to amend an act relating to soldiers' and sailors' homesteads;" which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ERASTUS GAY.

Mr. CALKINS also introduced a bill (H. R. No. 784) for the relief of Erastus Gay, late a musician in the regimental band of the Fifth Regiment United States Infantry; which was read a first and second time, and referred to the Committee on Public Lands.

ANN N. MORRISON.

Mr. CALKINS also introduced a bill (H. R. No. 785) for the relief of Ann N. Morrison; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WARREN M'NARY.

Mr. CALKINS also introduced a bill (H. R. No. 786) granting a pension to Warren McNary, of Saint Joseph County, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JESSE H. GAINES.

Mr. CALKINS also introduced a bill (H. R. No. 787) granting a pension to Jesse H. Gaines, of Saint Joseph County, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES J. FERRIS.

Mr. CALKINS also introduced a bill (H. R. No. 788) for the relief of James J. Ferris; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ALEXANDER E. WOODIN.

Mr. CALKINS also introduced a bill (H. R. No. 789) granting a pension to Alexander E. Woodin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLOTTE STEWART.

Mr. CALKINS also introduced a bill (H. R. No. 790) granting a pension to Charlotte Stewart; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

Mr. HOSTETLER introduced a bill (H. R. No. 791) granting pensions to soldiers and sailors of the war with Mexico, and to the widows of such as are deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EQUALIZATION OF BOUNTIES.

Mr. HOSTETLER also introduced a bill (H. R. No. 792) to equalize the bounties of soldiers, sailors, and marines of the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REDEMPTION OF UNITED STATES BONDS IN SILVER.

Mr. HOSTETLER also introduced a joint resolution (H. R. No. 16) requiring the Secretary of the Treasury to redeem interest-bearing bonds in certain cases in standard silver dollars; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. COLERICK introduced a bill (H. R. No. 793) amending sections 563, 629, and 5136 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

He also introduced a bill (H. R. No. 794) amending section 639 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUITS BY NATIONAL BANKS.

Mr. COLERICK also presented a resolution of the Legislature of the State of Indiana, asking for the amendment of the national banking law so as to prevent national banks from bringing suits against citizens of the same States in which said banks are located in the courts of the United States; which was referred to the Committee on Banking and Currency, and ordered to be printed.

CORNELIUS FITZGERALD.

Mr. STEVENSON introduced a bill (H. R. No. 795) to reinstate the

name of Cornelius Fitzgerald on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW J. MIFFORD.

Mr. STEVENSON also introduced a bill (H. R. No. 796) for the relief of Andrew J. Mifford; which was read a first and second time, and referred to the Committee on Invalid Pensions.

B. N. EWING.

Mr. STEVENSON also introduced a bill (H. R. No. 797) to reimburse B. N. Ewing, postmaster at Minier, Illinois, for money stolen from him on April 1, 1879; which was read a first and second time, and referred to the Committee of Claims.

EQUALIZATION OF BOUNTIES.

Mr. STEVENSON also introduced a bill (H. R. No. 798) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SOUTHERN WAR CLAIMS.

Mr. STEVENSON also introduced a joint resolution (H. R. No. 17) proposing an amendment to the Constitution of the United States prohibiting the payment of southern war claims; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RICHARD P. TAYLOR.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 799) granting a pension to Richard P. Taylor, of Westville, Illinois; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN HAWKINS.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 800) granting a pension to John Hawkins; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHRISTOPHER C. FLEENER.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 801) granting a pension to Christopher C. Fleener; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WYATT BOTTS.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 802) granting a pension to Wyatt Botts, late a private in Company D, Eighty-eighth Regiment of Infantry, Ohio Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DANIEL Z. WARD.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 803) granting a pension to Daniel Z. Ward, late a private in Company I, One hundred and seventeenth Regiment of Infantry, Indiana Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HAMILTON ROBB.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 804) granting a pension to Hamilton Robb, late chaplain of the Forty-sixth Indiana Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM O. MORGAN.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 805) granting a pension to William O. Morgan, sergeant of Company K, Thirty-seventh Regiment Illinois Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAMUEL AND DAVID WILSON.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 806) for the relief of Samuel and David Wilson; which was read a first and second time, and referred to the Committee of Ways and Means.

DONATION OF CONDEMNED CANNON.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 807) donating condemned cannon to the Danville Light Battery A, Illinois National Guard; which was read a first and second time, and referred to the Committee on Military Affairs.

PETER W. TAYLOR.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 808) for the relief of Peter W. Taylor, late lieutenant-colonel Fortieth Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

PUBLIC BUILDING, QUINCY, ILLINOIS.

Mr. SINGLETON, of Illinois, introduced a bill (H. R. No. 809) to provide for the erection of a public post-office building in the city of Quincy, in the State of Illinois, and for other purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WESTERN JUDICIAL DISTRICT OF ILLINOIS.

Mr. SINGLETON, of Illinois, also introduced a bill (H. R. No. 810) to create the western judicial district of the State of Illinois, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ROBERT TILLSON AND MAITLAND BOON.

Mr. SINGLETON, of Illinois, also introduced a bill (H. R. No. 811) for the relief of Robert Tillson and Maitland Boon, in the State of Illinois; which was read a first and second time, and referred to the Committee of Claims.

MISSISSIPPI RIVER IMPROVEMENT COMMISSION.

Mr. SINGLETON, of Illinois, also introduced a bill (H. R. No. 812) to provide for the organization of the Mississippi River improvement commission, and for other purposes; which was read a first and second time, referred to the Committee on the Mississippi Levees, and ordered to be printed.

ADDITIONAL ISSUE OF UNITED STATES NOTES.

Mr. SINGLETON, of Illinois, also introduced a bill (H. R. No. 813) to provide for the issue of an additional amount of United States notes, and to direct the uses to which they shall be applied; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ELIZABETH LEEBRICK.

Mr. SINGLETON, of Illinois, also introduced a bill (H. R. No. 814) for the relief of Elizabeth Leebrick, of Quincy, Illinois; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IMPROVEMENT OF QUINCY BAY.

Mr. SINGLETON, of Illinois, also presented joint resolution of the State of Illinois, asking for the improvement of Quincy Bay, Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

REMOVAL OF CAUSES.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 815) to repeal certain sections of the Revised Statutes and to amend certain sections of the Statutes at Large relating to the removal of causes from State courts; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

LEAF-TOBACCO.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 816) to amend section 3244 of the Revised Statutes, relating to the sale of leaf-tobacco by farmers and planters; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

REPEAL OF DUTY ON QUININE.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 817) to repeal the duty on quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

COMMERCE BY RAILROAD.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 818) to amend section 5258 of the Revised Statutes, and to regulate commerce by railroad among the States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BRIDGES ACROSS OHIO RIVER.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 819) supplementary to an act approved December 17, 1872, entitled "An act to authorize the construction of bridges across the Ohio River, and to prescribe the dimensions of the same;" which was read a first and second time, referred to the Committe on Commerce, and ordered to be printed.

INDEMNITY CLAIM, WHITE COUNTY, ILLINOIS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 820) to provide for the payment in money of the indemnity claim for swamp and overflowed lands in White County, Illinois; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SWAMP AND OVERFLOWED LANDS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 821) to provide for the payment in money of the indemnity claim for swamp and overflowed lands in White County, Illinois; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INDEMNITY CLAIM, ILLINOIS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 822) to provide for the payment of the indemnity claim for swamp and overflowed lands in the counties of Richland, Saline, Jefferson, Hamilton, Hardin, Wayne, Gallatin, Franklin, Edwards, and Wabash, Illinois; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SIDNEY D. FLANNIGAN.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 823) granting a pension to Sidney D. Flannigan, widow of Richard Flannigan, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN B. TUCKER.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No.

824) granting a pension to John B. Tucker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NANCY J. DUTTON.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 825) granting a pension to Nancy J. Dutton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PETER PHILLIPS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 826) for the relief of Peter Phillips; which was read a first and second time, and referred to the Committee on Military Affairs.

SAMUEL M. NALLEY.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 827) for the relief of Samuel M. Nalley; which was read a first and second time, and referred to the Committee on War Claims.

DANIEL JACOBS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 828) for the relief of Daniel Jacobs; which was read a first and second time, and referred to the Committee on War Claims.

FREDERICK MYERS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 829) for the relief of Frederick Myers, late private Company L, Sixth Illinois Cavalry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

JACOB B. KING.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 830) for the relief of Jacob B. King, late lieutenant Company C, Eighty-first Regiment Illinois Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS D. R. BROWN.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 831) granting an increase of pension to Thomas D. R. Brown, late private Company H, Sixty-sixth Regiment Indiana Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PAY OF OFFICERS RESTORED TO ARMY AND NAVY.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 832) to amend section 1228 of the Revised Statutes relating to the pay and allowance of officers of the Army and Navy who have been dismissed and afterward restored to the service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM E. TAYLOR.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 833) granting a pension to William E. Taylor; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM RANDALL.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 834) for the relief of William Randall; which was read a first and second time, and referred to the Committee on Military Affairs.

N. C. PACE.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 835) for the relief of N. C. Pace, captain of Company E, Eightieth Regiment Illinois Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MRS. MARY J. EDDY.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 836) for the relief of Mrs. Mary J. Eddy; which was read a first and second time, and referred to the Committee on War Claims.

RATCLIFFE M. HARRELSON.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 837) granting a pension to Ratcliffe M. Harrelson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LOUISA RITCHEY.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 838) granting a pension to Louisa Ritchey, widow of the late J. J. Ritchey, captain of Company H, Sixth Illinois Cavalry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 839) granting an increase of pension to William Hamill; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH H. CROW.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 840) granting a pension to Joseph H. Crow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY WINEMILLER.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 841) granting an increase of pension to Henry Winemiller; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BASIL M. MITCHELL.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 842) for the relief of Basil M. Mitchell, postmaster at Keensburgh, Illinois; which was read a first and second time, and referred to the Committee of Claims.

ISHAM C. TAYLOR.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 843) for the relief of Isham C. Taylor; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM S. DAVIS.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 844) granting arrears of pension to William S. Davis, late private Company F, Thirty-first Regiment Illinois Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SOUTHERN WAR CLAIMS.

Mr. TOWNSHEND, of Illinois, also introduced a joint resolution (H. R. No. 18) proposing an amendment to the Constitution prohibiting the payment of claims for property used, injured, or destroyed during the late war for the maintenance of the Union in any States which were engaged in war against the Government of the United States; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

SPECIAL ASSESSMENTS IN THE DISTRICT.

Mr. TOWNSHEND, of Illinois, also (by request) introduced a bill (H. R. No. 845) relating to assessments for special improvements in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ARREARAGES OF TAXES IN THE DISTRICT.

Mr. TOWNSHEND, of Illinois, also (by request) introduced a bill (H. R. No. 846) in relation to the payment of arrearages of taxes and assessments in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ROCK STREET, GEORGETOWN.

Mr. TOWNSHEND, of Illinois, also (by request) introduced a bill (H. R. No. 847) to abandon a portion of Rock street, in the city of Georgetown, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DISTRICT SPECIAL ASSESSMENTS.

Mr. TOWNSHEND, of Illinois, also (by request) introduced a bill (H. R. No. 848) to empower the commissioners of the District of Columbia to revise, correct, or annul special assessments upon the written application of any person whose real property in said District has been assessed, providing for an appeal to the supreme court of the District of Columbia from the action of the commissioners in respect to such application by any person feeling aggrieved thereby, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

He also (by request) introduced a bill (H. R. No. 849) to empower the commissioners of the District of Columbia to revise, correct, or annul special assessments upon the written application of any person whose real property in said District has been assessed, providing for an appeal to the supreme court of the District of Columbia from the action of the commissioners in respect to such application by any person feeling aggrieved thereby, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

REMISSION OF PENALTIES, ETC., IN THE DISTRICT.

Mr. TOWNSHEND, of Illinois, also (by request) introduced a bill (H. R. No. 850) to authorize the commissioners of the District of Columbia to remit certain charges, penalties, commissions, interests, and other expenses upon payment of the original amounts of the general and special taxes and assessments recited in the act within ninety days from and after the passage of the act, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

HEIRS OF COLONEL STEPHEN H. LONG.

Mr. MORRISON introduced a bill (H. R. No. 851) for the relief of the heirs of Colonel Stephen H. Long, late of the United States Topographical Engineers; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN HOBSON.

Mr. MORRISON also introduced a bill (H. R. No. 852) for the relief of John Hobson, of Madison County, Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

CAROLINE STIEF.

Mr. MORRISON also introduced a bill (H. R. No. 853) to place on the pension-roll the name of Caroline Stief; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LOUISA BADGLEY.

Mr. MORRISON also introduced a bill (H. R. No. 854) for the relief of Louisa Badgley, of Saint Clair County, Illinois, daughter of James Reid, deceased, a pensioner of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

CHARLES VALIER.

Mr. MORRISON also introduced a bill (H. R. No. 855) for the relief of Charles Valier, late of Company M, Seventh Regiment of Illinois Cavalry; which was read a first and second time, and referred to the Committee on War Claims.

ADOLPH MUELLER.

Mr. MORRISON also introduced a bill (H. R. No. 856) for the relief of Adolph Mueller, of Madison County, Illinois; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM E. GERE.

Mr. MORRISON also introduced a bill (H. R. No. 857) for the relief of William E. Gere, of Madison County, Illinois; which was read a first and second time, and referred to the Committee on War Claims.

ANSON K. YOUNG.

Mr. HAWK introduced a bill (H. R. No. 858) granting a pension to Anson K. Young; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM H. SCRIBNER.

Mr. HAWK also introduced a bill (H. R. No. 859) granting a pension to William H. Scribner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HOMESTEADS.

Mr. DAVIS, of Illinois, introduced a bill (H. R. No. 860) for the relief of certain persons locating homesteads upon the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MRS. EVELINE DUNN.

Mr. DAVIS, of Illinois, also introduced a bill (H. R. No. 861) granting a pension to Mrs. Eveline Dunn; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CYNTHIA BURT.

Mr. DAVIS, of Illinois, also introduced a bill (H. R. No. 862) granting a pension to Mrs. Cynthia Burt; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. WOODWARD.

Mr. DAVIS, of Illinois, also introduced a bill (H. R. No. 863) granting a pension to George W. Woodward; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANCES WILKINSON.

Mr. DAVIS, of Illinois, also introduced a bill (H. R. No. 864) granting an increase of pension to Mrs. Frances Wilkinson, widow of Lorenzo D. Wilkinson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ORIN R. M'DANIEL.

Mr. FORSYTHE introduced a bill (H. R. No. 865) granting a pension to Orin R. McDaniel, Sixty-fourth Regiment Illinois Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BRANCH MINT AT CHICAGO.

Mr. ALDRICH, of Illinois, introduced a bill (H. R. No. 866) to establish a branch of the Mint of the United States at Chicago, Illinois; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

HENRY A. BATEMAN.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 867) for the relief of Henry A. Bateman, of Chicago, Illinois; which was read a first and second time, and referred to the Committee of Claims.

W. F. AND G. E. WILLARD.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 868) for the relief of William F. Willard and George E. Willard, of Ferrisburgh, Michigan; which was read a first and second time, and referred to the Committee on War Claims.

CHARLES C. MERRICK.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 869) for the relief of Charles C. Merrick, captain Company G, Fifty-first Regiment Illinois Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

TRANSPORTATION OF DUTIABLE GOODS.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 870) to amend the statutes in relation to immediate transportation of dutiable goods; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CHARLES C. MERRICK.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 871) granting a pension to Charles C. Merrick, late captain in the Fifty-first Regiment Illinois Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THE T. W. SNOOK.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 872) to change the name of the steam-barge T. W. Snook to Alderman; which was read a first and second time, and referred to the Committee on Commerce.

MARGARET BEYMER.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 873) granting a pension to Margaret Beymer, of Chicago, Illinois; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JENNIE M. SNOW.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 874) to pay to Jennie M. Snow a sum of money claimed by her as back pension due to her as the mother of Edwin D. Snow, late a private in the Twelfth Illinois Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN B. SLACK.

Mr. ALDRICH, of Illinois, also introduced a bill (H. R. No. 875) for the relief of John B. Slack, late an acting third assistant engineer of the United States Navy; which was read a first and second time, and referred to the Committee on War Claims.

NAVIGATION OF THE MISSISSIPPI RIVER.

Mr. ALDRICH, of Illinois, also presented joint resolution of the Legislature of Illinois for so expending the money appropriated to improve the Mississippi River as to protect the navigation of said river at points named, and to prevent the river from breaking into Long Lake; which was referred to the Committee on Levees and Improvements of the Mississippi River.

JAMES REA.

Mr. ALDRICH, of Illinois, also introduced a joint resolution (H. R. No. 19) to authorize the Secretary of State to allow for expenditures within named to James Rea, late consul at Belfast, Ireland; which was read a first and second time, and referred to the Committee on the Judiciary.

PENSIONS TO SOLDIERS, SAILORS, ETC.

Mr. SPARKS introduced a bill (H. R. No. 876) granting pensions to certain soldiers and sailors of the war of 1846 with Mexico and the Black Hawk war, and the widows of deceased soldiers and sailors; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. SHUGART AND ROBERT F. SHUGART.

Mr. SPARKS also introduced a bill (H. R. No. 877) for the relief of John H. Shugart and Robert F. Shugart; which was read a first and second time, and referred to the Committee on Military Affairs.

DEPOSIT OF SILVER BULLION.

Mr. SPARKS also introduced a bill (H. R. No. 878) to authorize the deposit of silver bullion in the Treasury and the issue of certificates therefor; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CONTESTED ELECTIONS.

Mr. SPRINGER introduced a bill (H. R. No. 879) relating to contested elections; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

PURCHASE OF SILVER BULLION.

Mr. SPRINGER also introduced a bill (H. R. No. 880) to authorize the purchase of silver bullion and the issuing of silver certificates; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

SIGNAL STATION AT SPRINGFIELD, ILLINOIS.

Mr. SPRINGER also introduced a bill (H. R. No. 881) to establish a signal weather observation station at Springfield, Sangamon County, in the State of Illinois; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

L. S. ENSEL.

Mr. SPRINGER also introduced a bill (H. R. No. 882) for the relief of L. S. Ensel; which was read a first and second time, and referred to the Committee on the Judiciary.

HENRY VOELTER.

Mr. SPRINGER also introduced a bill (H. R. No. 883) to repeal an act entitled "An act for the relief of Henry Voelter," approved March 3, 1877; which was read a first and second time, and referred to the Committee on Patents.

LEVICIA A. CARTER.

Mr. SPRINGER also introduced a bill (H. R. No. 884) for the relief of Levicia A. Carter; which was read a first and second time, and referred to the Committee on Private Land Claims.

PURCHASES OF SWAMP LANDS.

Mr. SPRINGER also introduced a bill (H. R. No. 885) to extend the

provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands, and for other purposes;" which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

CAPTAIN J. R. MADISON.

Mr. HENDERSON introduced a bill (H. R. No. 886) granting a pension to Captain J. R. Madison; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AMENDMENT OF PENSION LAWS.

Mr. HENDERSON also introduced a bill (H. R. No. 887) to amend an act entitled "An act to increase pensions in certain cases," approved June 18, 1874; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALBERT F. PADEN.

Mr. HENDERSON also introduced a bill (H. R. No. 888) to remove the charge of desertion from the military record of Albert F. Paden, late a private in Company D, Fifty-fifth Regiment Illinois Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN DOLAN.

Mr. HENDERSON also introduced a bill (H. R. No. 889) granting a pension to John Dolan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARTHA BLEDSOE.

Mr. HENDERSON also introduced a bill (H. R. No. 890) granting a pension to Martha Bledsoe; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHANGE OF NAME.

Mr. HENDERSON also introduced a bill (H. R. No. 891) to change the name of the steamboat Robert Ross to Mollie Keator, of Moline; which was read a first and second time, and referred to the Committee on Commerce.

WILLIAM F. JOHNSON.

Mr. HENDERSON also introduced a bill (H. R. No. 892) granting an increase of pension to William F. Johnson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES W. THOMPSON.

Mr. HENDERSON also introduced a bill (H. R. No. 893) granting a pension to James W. Thompson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GUSTAF FROM.

Mr. HENDERSON also introduced a bill (H. R. No. 894) for the relief of Gustaf From, of Rock Island, Illinois; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM R. ROGERS.

Mr. HENDERSON also introduced a bill (H. R. No. 895) granting a pension to William R. Rogers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ILLINOIS AND MISSISSIPPI CANAL.

Mr. HENDERSON also introduced a bill (H. R. No. 896) to provide for the construction of the Illinois and Mississippi Canal and to cheapen transportation; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HOMER R. PARISH.

Mr. HENDERSON also introduced a bill (H. R. No. 897) for the relief of Homer R. Parish; which was read a first and second time, and referred to the Committee on War Claims.

JOHN HEBERER.

Mr. THOMAS introduced a bill (H. R. No. 898) for the relief of John Heberer; which was read a first and second time, and referred to the Committee on Military Affairs.

CAPTAIN THOMAS J. SPENCER.

Mr. THOMAS also introduced a bill (H. R. No. 899) for the relief of First Lieutenant and Brevet Captain Thomas J. Spencer, of the Tenth Regiment of Cavalry, United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN H. FERRELL.

Mr. THOMAS also introduced a bill (H. R. No. 900) granting a pension to John H. Ferrell, late a pilot on the United States steamer Moose, in the Mississippi squadron; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LUCINDA BARRETT.

Mr. THOMAS also introduced a bill (H. R. No. 901) granting a pension to Lucinda Barrett, widow of Thomas S. Barrett, late a private in Company M of the Sixth Illinois Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REV. ERASTUS LATHROP.

Mr. THOMAS also introduced a bill (H. R. No. 902) for the relief of Rev. Erastus Lathrop, of the State of Illinois; which was read a first and second time, and referred to the Committee on War Claims.

A. J. ARNOLD.

Mr. THOMAS also introduced a bill (H. R. No. 903) granting a pension to A. J. Arnold, late a private in Company D, Eighty-ninth Regiment Illinois Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IMPROVEMENT OF GRAND CHAIN RAPIDS.

Mr. THOMAS also introduced a bill (H. R. No. 904) for the improvement of Grand Chain Rapids on the Ohio River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

COLONEL JAMES S. REARDEN.

Mr. THOMAS also introduced a bill (H. R. No. 905) for the relief of Colonel James S. Rearden, of Illinois; which was read a first and second time, and referred to the Committee of Claims.

JOSEPH W. KING.

Mr. THOMAS also introduced a bill (H. R. No. 906) for the relief of Joseph W. King, late first lieutenant and captain of Company E, One hundred and twentieth Illinois Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

RECESS.

The SPEAKER. The Chair desires to say that there is an order heretofore made that at half past four o'clock to-day the House shall take a recess until half past seven o'clock for debate only. The Chair would like that the present call shall be continued after half past four o'clock if necessary, so that it may be completed; that order will be pursued if it be the pleasure of the House.

Mr. BUCKNER. Nothing will be gained by delaying these matters until next week. I therefore move that we now take a recess.

The SPEAKER. The Chair is quite willing to stay until the call is completed; it does not interfere with the evening session. The recess can be taken whenever we get through with the call until half past seven o'clock. The Chair would prefer that the call should be completed, and would think it a hardship if those members whose States have not been called have no opportunity to present their bills as other members have had.

Mr. MCKINLEY. No other business?

The SPEAKER. No other business but the introduction of bills for reference.

There was no objection, and it was so ordered.

HERMAN J. KORFF.

Mr. BARBER introduced a bill (H. R. No. 907) for the relief of Herman J. Korff, late lieutenant-colonel commanding Tenth Regiment Ohio Volunteer Infantry and colonel commanding Sixty-Ninth Regiment Indiana Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

PARMENAS TAYLOR TURNLEY.

Mr. BARBER also introduced a bill (H. R. No. 908) for the relief of Parmenas Taylor Turnley, late captain and assistant quartermaster United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

M. L. COURTNEY.

Mr. BOYD (by request) introduced a bill (H. R. No. 909) for the relief of Captain M. L. Courtney, Twenty-fifth United States Infantry, for loss sustained by fire at Fort Stockton, Texas, on the night of November 17, 1872; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES E. FAHNESTOCK.

Mr. BOYD also introduced a bill (H. R. No. 910) for the relief of Charles E. Fahnestock; which was read a first and second time, and referred to the Committee of Claims.

PHILIP T. BROAD.

Mr. BOYD also (by request) introduced a bill (H. R. No. 911) to remove the mark of desertion from the name of Philip T. Broad on the books of the Southampton; which was read a first and second time, and referred to the Committee on Military Affairs.

NATIONAL BOARD OF AGRICULTURE.

Mr. FORT introduced a bill (H. R. No. 912) to establish a national board of agriculture; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

TRADE-DOLLARS.

Mr. FORT also introduced a bill (H. R. No. 913) to provide for the exchange of the trade-dollars for legal-tender dollars; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

MIRIAM V. KINNEY.

Mr. FORT also introduced a bill (H. R. No. 914) granting a pension to Miriam V. Kinney; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SWAMP LANDS IN ILLINOIS.

Mr. FORT also introduced a bill (H. R. No. 915) to authorize the Commissioner of the General Land Office to adjust and settle the claim of the State of Illinois for indemnity for swamp lands sold by

the United States in accordance with the provisions of section 2482 of the Revised Statutes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CLAIMS FOR HORSES.

Mr. FORT also introduced a bill (H. R. No. 916) to provide for the payment of claims for horses used in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NICHOLAS VEDDER.

Mr. MARSH introduced a bill (H. R. No. 917) for the relief of Major Nicholas Vedder, United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS BELGER.

Mr. MARSH also introduced a bill (H. R. No. 918) for the relief of Major Thomas Belger; which was read a first and second time, and referred to the Committee on Military Affairs.

LANDS WASHED AWAY BY MISSISSIPPI RIVER.

Mr. CLARK, of Missouri, introduced a bill (H. R. No. 919) for the relief of persons whose lands have been or may hereafter be washed away or submerged by the Mississippi River or its navigable tributaries; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

UNITED STATES COURTS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 920) regulating the practice in United States circuit and district courts as to the time and manner of instructing juries and arguing the cause; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HOY COOPER.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 921) granting a pension to Hoy Cooper, of Boonesborough, Missouri; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FEES OF UNITED STATES MARSHALS AND CLERKS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 922) to reduce the fees of clerks and marshals of the United States courts; which was read a first and second time, and referred to the Committee on the Revision of the Laws.

IMPROVEMENT OF MISSOURI RIVER.

Mr. CLARK, of Missouri, also presented a joint and concurrent resolution of the Legislature of Missouri in regard to the improvement of the Missouri River at Saint Charles, Cedar City, Glasgow, and Kansas City; which was referred to the Committee on Commerce.

RETIREMENT OF NATIONAL-BANK NOTES.

Mr. BUCKNER introduced a bill (H. R. No. 923) to retire the circulating notes of the national banks, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

AUSTIN-TOPOLOVAMPO RAILROAD.

Mr. BUCKNER also introduced a bill (H. R. No. 924) to survey the Austin-Topolovampo Pacific route; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

STANDARD SILVER DOLLARS.

Mr. BUCKNER also introduced a bill (H. R. No. 925) to amend an act entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character, and for other purposes," approved February 28, 1878; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

JAMES B. ARMSTRONG.

Mr. BUCKNER also introduced a bill (H. R. No. 926) amendatory of an act entitled "An act for the relief of the heirs and next of kin of James B. Armstrong, deceased," approved March 3, 1873; which was read a first and second time, and referred to the Committee of Claims.

PRIVATE LAND CLAIMS.

Mr. BUCKNER also introduced a bill (H. R. No. 927) to provide for ascertaining and settling private land claims in certain States and Territories; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

BRIG GENERAL ARMSTRONG.

Mr. BUCKNER also introduced a bill (H. R. No. 928) for the relief of the captain, owners, officers, and crew of the late United States private armed brig General Armstrong, their heirs, executors, administrators, or assigns; which was read a first and second time, and referred to the Committee on Foreign Affairs.

RICHARD H. PORTER.

Mr. BUCKNER also introduced a bill (H. R. No. 929) for the relief of Richard H. Porter; which was read a first and second time, and referred to the Committee of Claims.

SAINT CHARLES, MISSOURI.

Mr. BUCKNER also introduced a bill (H. R. No. 930) to improve the landing and harbor of the city of Saint Charles, in the State of Missouri; which was read a first and second time, and referred to the Committee on Commerce.

NATIONAL-BANK RESERVE.

Mr. BUCKNER also introduced a bill (H. R. No. 931) requiring the reserves of national banking associations to be kept in the standard gold and silver coin of the United States in lieu of lawful money; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

MRS. H. C. SMITH.

Mr. BUCKNER also introduced a bill (H. R. No. 932) restoring the pension of Mrs. H. C. Smith to the amount originally granted her; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SALE OF LEAF-TOBACCO.

Mr. HATCH introduced a bill (H. R. No. 933) to repeal so much of the sixth clause of section 3244 of the Revised Statutes of the United States as prohibits farmers and planters from selling leaf-tobacco at retail directly to consumers without the payment of a special tax and to allow farmers and planters to sell leaf-tobacco of their own production to other persons than manufacturers of tobacco without special tax; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

JOHN T. PENNINGTON.

Mr. HATCH also introduced a bill (H. R. No. 934) granting a pension to John T. Pennington, of Adair County, Missouri; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM C. EBERT.

Mr. HATCH also introduced a bill (H. R. No. 935) granting a pension to William C. Ebert; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IMPROVEMENT OF WESTERN RIVERS.

Mr. HATCH also presented a joint and concurrent resolution of the Legislature of the State of Missouri, asking for an appropriation for the improvement of the rivers of the Western States; which was referred to the Committee on Commerce.

JURISDICTION OF FEDERAL COURTS.

Mr. HATCH also presented a joint and concurrent resolution of the State of Missouri, asking for the enactment of a law or the submission of a constitutional amendment to prevent the Federal courts from exercising or assuming jurisdiction in cases wherein any county or other subdivision of a State is or shall be a party; which was referred to the Committee on the Judiciary.

REPORT OF SUPREME COURT DECISIONS.

Mr. HATCH also introduced a joint and concurrent resolution of the Legislature of the State of Missouri, in reference to the copyright of the reports of the decisions of the Supreme Court of the United States; which was referred to the Committee on the Library.

RELINQUISHMENT OF TITLE.

Mr. CLARDY introduced a bill (H. R. No. 936) relinquishing the right of the United States to an island therein named; which was read a first and second time, and referred to the Committee on Private Land Claims.

SAMUEL A. LOWE.

Mr. CLARDY also introduced a bill (H. R. No. 937) for the relief of Samuel A. Lowe; which was read a first and second time, and referred to the Committee of Claims.

WARREN HALL.

Mr. CLARDY also introduced a bill (H. R. No. 938) for the relief of Warren Hall; which was read a first and second time, and referred to the Committee of Claims.

HEIRS OF ISRAEL DODGE.

Mr. CLARDY also introduced a bill (H. R. No. 939) for the relief of the heirs and legal representatives of Israel Dodge, deceased; which was read a first and second time, and referred to the Committee on Private Land Claims.

MRS. MARGARETTA BENDER.

Mr. CLARDY also introduced a bill (H. R. No. 940) to refund to Mrs. Margaretta Bender certain money paid by her into the United States Treasury to compromise a violation of the revenue law by her insane husband; which was read a first and second time, and referred to the Committee of Ways and Means.

BRANCH MINT AT SAINT LOUIS, MISSOURI.

Mr. WELLS also introduced a bill (H. R. No. 941) to establish a branch of the Mint of the United States at Saint Louis, Missouri; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

HARLOW J. PHELPS.

Mr. CLARDY also introduced a bill (H. R. No. 942) for the relief of Harlow J. Phelps; which was read a first and second time, and referred to the Committee of Claims.

IMPROVEMENT OF MISSOURI RIVER.

Mr. CLARDY also presented a joint and concurrent resolution of the Legislature of the State of Missouri, memorializing Congress to appropriate money for the immediate improvement of the Missouri River at Saint Charles, Glasgow, Cedar City, and Kansas City, Missouri; which was referred to the Committee on Commerce, and ordered to be printed.

TERRITORY OF OKLAHOMA.

Mr. FROST introduced a bill (H. R. No. 943) to provide for the organization of the Territory of Oklahoma; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

GENERAL JAMES SHIELDS, OF MISSOURI.

Mr. FROST also introduced a bill (H. R. No. 944) authorizing the President of the United States to appoint James Shields, of Missouri, a brigadier-general of the United States Army on the retired list; which was read a first and second time, and referred to the Committee on Military Affairs.

INTERNAL REVENUE.

Mr. FROST also introduced a bill (H. R. No. 945) to repeal section 7 of an act approved March 1, 1879, relating to internal revenue; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

MRS. LOUISA O'GALLAGHER.

Mr. FROST also introduced a bill (H. R. No. 946) granting a pension to Mrs. Louisa O'Gallagher; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. SOPHIA BUMP.

Mr. FROST also introduced a bill (H. R. No. 947) granting a pension to Mrs. Sophia Bump; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WIDOW OF JOSEPH DALTON.

Mr. FROST also introduced a bill (H. R. No. 948) granting a pension to the widow of Joseph Dalton, late watchman of the relief-boat John M. Chambers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

E. B. M'PHERSON.

Mr. FROST also introduced a bill (H. R. No. 949) for the relief of E. B. McPherson, of Saint Louis, Missouri; which was read a first and second time, and referred to the Committee of Claims.

DR. EDWARD EVERS.

Mr. FROST also introduced a bill (H. R. No. 950) to authorize the President to appoint Dr. Edward Evers a surgeon in the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

JAMES CULLINANE.

Mr. FROST also introduced a bill (H. R. No. 951) granting a pension to James Cullinane, father of the late Timothy Cullinane, private in Company E, of the Second Battalion, Eighteenth Regiment United States Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ORGANIZATION OF INDIAN TERRITORY.

Mr. FROST also presented a joint and concurrent resolution of the Legislature of the State of Missouri in regard to the organization of the Indian Territory; which was referred to the Committee on the Territories, and ordered to be printed.

FIFTEENTH AND SIXTEENTH MISSOURI CAVALRY VOLUNTEERS.

Mr. WADDILL introduced a bill (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MARTHA A. WILLIAMSON.

Mr. WADDILL also introduced a bill (H. R. No. 953) granting a pension to Martha A. Williamson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS H. REEVES.

Mr. WADDILL also introduced a bill (H. R. No. 954) for the relief of Thomas H. Reeves; which was read a first and second time, and referred to the Committee on Public Lands.

CHARLES A. PERRY & CO.

Mr. SAWYER (by request) introduced a bill (H. R. No. 955) to authorize the Court of Claims to hear and determine the claim of Charles A. Perry & Co.; which was read a first and second time, and referred to the Committee on the Judiciary.

R. H. HOFFMAN.

Mr. SAWYER also (by request) introduced a bill (H. R. No. 956) for the relief of R. H. Hoffman; which was read a first and second time, and referred to the Committee on War Claims.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

Mr. SAWYER also presented a joint and concurrent resolution of the Legislature of the State of Missouri in favor of granting pensions to soldiers of the Mexican war; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN O'SULLIVAN.

Mr. SLEMONS introduced a bill (H. R. No. 957) granting an increase of pension to John O'Sullivan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AMENDMENT OF REVISED STATUTES.

Mr. SLEMONS also introduced a bill (H. R. No. 958) to repeal section 3412 of the Revised Statutes, second edition; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WILLIAM BYERS.

Mr. DUNN introduced a bill (H. R. No. 959) for the relief of William Byers, of Batesville, Arkansas; which was read a first and second time, and referred to the Committee of Elections.

JOSEPH R. PRATT.

Mr. CRAVENS introduced a bill (H. R. No. 960) for the relief of Joseph R. Pratt; which was read a first and second time, and referred to the Committee on Military Affairs.

HEIRS OF ANDY AUSTIN.

Mr. CRAVENS also introduced a bill (H. R. No. 961) for the relief of the heirs and legal representatives of Andy Austin; which was read a first and second time, and referred to the Committee on the Judiciary.

AGNES N. MILES.

Mr. CRAVENS also introduced a bill (H. R. No. 962) to grant a pension to Agnes N. Miles; which was read a first and second time, and referred to the Committee on Invalid Pensions.

L. A. MORRIS.

Mr. CRAVENS also introduced a bill (H. R. No. 963) for the relief of L. A. Morris; which was read a first and second time, and referred to the Committee on the Judiciary.

FORT SMITH MILITARY RESERVATION, ARKANSAS.

Mr. CRAVENS also introduced a bill (H. R. No. 964) to provide for the reappraisement and sale of the abandoned military reservation at Fort Smith, Arkansas; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

G. W. JOBE.

Mr. GUNTER introduced a bill (H. R. No. 965) for the relief of G. W. Jobe, late second lieutenant of Company F, Forty-sixth Missouri Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ELIAS C. BOUDINOT.

Mr. GUNTER also introduced a bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims; which was read a first and second time, and referred to the Committee on the Judiciary.

AMENDMENT OF REVISED STATUTES.

Mr. GUNTER also introduced a bill (H. R. No. 967) to repeal section 3480 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CLAIMS UNDER INDIAN TREATIES.

Mr. GUNTER also introduced a bill (H. R. No. 968) to extend the jurisdiction of the Court of Claims to claims growing out of treaties between the United States and Indian tribes, and the laws pertaining thereto; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CANE HILL COLLEGE.

Mr. GUNTER also introduced a bill (H. R. No. 969) for the relief of Cane Hill College, Arkansas; which was read a first and second time, and referred to the Committee on War Claims.

SURVIVORS OF MOUNTAIN MEADOW MASSACRE.

Mr. GUNTER also introduced a bill (H. R. No. 970) donating three hundred and twenty acres of public land to each of the survivors of the Mountain Meadow massacre; which was read a first and second time, and referred to the Committee on Public Lands.

MEXICAN AND OTHER WARS.

Mr. GUNTER also introduced a bill (H. R. No. 971) granting pensions to certain soldiers and sailors of the Mexican, Florida, and the Black Hawk wars, and certain widows of deceased soldiers and sailors of the same; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUITS AGAINST CORPORATIONS.

Mr. GUNTER also introduced a bill (H. R. No. 972) to amend the judiciary act as to suits against certain corporations; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

J. M. HOBBS.

Mr. GUNTER also introduced a bill (H. R. No. 973) for the relief of J. M. Hobbs, of Benton County, Arkansas; which was read a first and second time, and referred to the Committee of Claims.

ELIAS B. MOORE.

Mr. GUNTER also introduced a bill (H. R. No. 974) for the relief of Elias B. Moore; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM H. ENGLES.

Mr. GUNTER also introduced a bill (H. R. No. 975) for the relief of William H. Engles; which was read a first and second time, and referred to the Committee on War Claims.

CHRISTIAN CHURCH, FAYETTEVILLE, ARKANSAS.

Mr. GUNTER also introduced a bill (H. R. No. 976) for the relief of the Christian church at Fayetteville, Arkansas; which was read a first and second time, and referred to the Committee on War Claims.

JACOB L. SHINN.

Mr. GUNTER also introduced a bill (H. R. No. 977) for the relief of Jacob L. Shinn; which was read a first and second time, and referred to the Committee on War Claims.

PRYOR N. LEA.

Mr. GUNTER also introduced a bill (H. R. No. 978) for the relief of Pryor N. Lea, of Washington County, Arkansas; which was read a first and second time, and referred to the Committee on War Claims.

ELIJAH DAVIDSON.

Mr. GUNTER also introduced a bill (H. R. No. 979) for the relief of Elijah Davidson; which was read a first and second time, and referred to the Committee on War Claims.

JAMES WHITEHEAD.

Mr. GUNTER also introduced a bill (H. R. No. 980) for the relief of James Whitehead, of Van Buren, Arkansas; which was read a first and second time, and referred to the Committee on Indian Affairs.

LOUISE VON PUECHELSTEIN.

Mr. GUNTER also introduced a bill (H. R. No. 981) granting a pension to Louise von Puechelstein; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN CRUDMORE.

Mr. GUNTER also introduced a bill (H. R. No. 982) for the relief of John Crudmore; which was read a first and second time, and referred to the Committee of Claims.

HENRY K. SANGER.

Mr. NEWBERRY introduced a bill (H. R. No. 983) for the relief of the estate of Henry K. Sanger, late United States depositary at Detroit, Michigan, and for other purposes; which was read a first and second time, and referred to the Committee of Claims.

BRIDGE ACROSS DETROIT RIVER.

Mr. NEWBERRY also introduced a bill (H. R. No. 984) to authorize the construction of a railroad bridge across Detroit River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOSEPH SAWYER.

Mr. NEWBERRY also introduced a bill (H. R. No. 985) for the relief of Joseph Sawyer, of Detroit, Michigan, late an acting master in the Navy of the United States; which was read a first and second time, and referred to the Committee on War Claims.

JEPTHA RUBERT.

Mr. NEWBERRY also introduced a bill (H. R. No. 986) granting a pension to Jeptha Rubert; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EXPENSES OF DISTRICT JUDGE, MICHIGAN.

Mr. STONE introduced a bill (H. R. No. 987) to provide for the payment of certain expenses of the district judge of the western judicial district of Michigan; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

JOSEPH BROWN.

Mr. STONE also introduced a bill (H. R. No. 988) for the relief of Joseph Brown, postmaster at Coopersville, Ottawa County, Michigan; which was read a first and second time, and referred to the Committee of Claims.

JOHN H. STANDISH.

Mr. STONE also introduced a bill (H. R. No. 989) for the relief of John H. Standish; which was read a first and second time, and referred to the Committee of Claims.

ENNO J. PRUIN.

Mr. STONE also introduced a bill (H. R. No. 990) granting a pension to Enno J. Pruin, late a private in Company G, Twenty-first Regiment Michigan Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD DENHAM.

Mr. STONE also introduced a bill (H. R. No. 991) granting an increase of pension to Edward Denham; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MILITIA.

Mr. STONE also introduced a bill (H. R. No. 992) to reorganize and discipline the militia of the United States; which was read a first and second time, referred to the Committee on the Militia, and ordered to be printed.

JAMES N. HILL.

Mr. STONE also introduced a bill (H. R. No. 993) for the relief of James N. Hill, heir at law of Joshua Hill; which was read a first and second time, and referred to the Committee on War Claims.

MICHIGAN AND ERIE WATER ROUTE.

Mr. STONE also introduced a bill (H. R. No. 994) to provide for a water route to facilitate transportation between Lake Michigan and Lake Erie; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

HARBOR OF SAUGATUCK.

Mr. STONE also presented a joint resolution of the Michigan Legislature, asking Congress for an appropriation in money to preserve improvements already made and complete necessary improvements of the harbor of Saugatuck, in the county of Allegan and State of Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

LIGHT-HOUSE AT MANISTEE RIVER.

Mr. HUBBELL presented joint resolution of the Legislature of the State of Michigan, asking Congress to make an appropriation for the erection of a light-house at the mouth of Manistee River, Lake Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF SAINT MARY'S RIVER.

Mr. HUBBELL also presented joint resolution of the Michigan Legislature, asking for an appropriation to improve and deepen the channel of Saint Mary's River; which was referred to the Committee on Commerce, and ordered to be printed.

MARGARET MILLS.

Mr. WILLITS introduced a bill (H. R. No. 995) granting a pension to Margaret Mills, widow of Madison Mills; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EMANUEL H. CUSTER.

Mr. WILLITS also introduced a bill (H. R. No. 996) granting a pension to Emanuel H. Custer, father of the late Brevet Major-General George A. Custer and Brevet-Lieutenant-Colonel Thomas V. Custer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES H. JOHNSON.

Mr. WILLITS also introduced a bill (H. R. No. 997) for the relief of Charles H. Johnson, late first lieutenant of the Fifteenth Michigan Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES OLMSTEAD.

Mr. WILLITS also introduced a bill (H. R. No. 998) for the relief of James Olmstead, late supernumerary second lieutenant of the Eleventh Kentucky Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

JOSHUA J. FISHBURN.

Mr. WILLITS also introduced a bill (H. R. No. 999) for the relief of Joshua J. Fishburn, late of the Fifteenth Michigan Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN RENTZ.

Mr. WILLITS also introduced a bill (H. R. No. 1000) for the relief of John Rentz; which was read a first and second time, and referred to the Committee on Military Affairs.

PATENTS.

Mr. BREWER introduced a bill (H. R. No. 1001) to amend the statutes in relation to patents, and for other purposes; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

TIMOTHY BAKER.

Mr. BREWER also introduced a bill (H. R. No. 1002) for the relief of Timothy Baker, of Saint Johns, Michigan; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

JOSEPH W. SEELEY.

Mr. BREWER also introduced a bill (H. R. No. 1003) to increase the pension of Joseph W. Seeley, late private in Company H, Seventh Regiment of Michigan Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREDERICK C. DUNKER.

Mr. BREWER also introduced a bill (H. R. No. 1004) granting a pension to Frederick C. Dunker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM R. MORSE.

Mr. BREWER also introduced a bill (H. R. No. 1005) for the relief of William R. Morse; which was read a first and second time, and referred to the Committee on Military Affairs.

WELLINGTON V. HEUSTED.

Mr. BREWER also introduced a bill (H. R. No. 1006) granting a pension to Wellington V. Heusted; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN BARTOW.

Mr. BREWER also introduced a bill (H. R. No. 1007) granting a pension to John Bartow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREDERICK CARLISLE.

Mr. BREWER also introduced a bill (H. R. No. 1008) for the relief of Frederick Carlisle, of Pontiac, Michigan; which was read a first and second time, and referred to the Committee on the Judiciary.

DANIEL W. PERKINS.

Mr. HORR introduced a bill (H. R. No. 1009) for the relief of Daniel W. Perkins, of East Saginaw, Michigan; which was read a first and second time, and referred to the Committee on the Judiciary.

GEORGE STRATTON.

Mr. McGOWAN introduced a bill (H. R. No. 1010) granting a pension to George Stratton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREDERICK W. SMITH.

Mr. McGOWAN also introduced a bill (H. R. No. 1011) granting a pension to Frederick W. Smith; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DANIEL C. LARRABEE.

Mr. McGOWAN also introduced a bill (H. R. No. 1012) for the relief of Daniel C. Larrabee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY O'NEILL, JR.

Mr. McGOWAN also introduced a bill (H. R. No. 1013) for the relief of Henry O'Neill, jr., of Jackson, Michigan; which was read a first and second time, and referred to the Committee on Military Affairs.

PRIZE-MONEY.

Mr. McGOWAN also introduced a bill (H. R. No. 1014) to authorize the payment of prize-money to the captors of the steamboat New Era No. 5, and cargo; which was read a first and second time, and referred to the Committee on Naval Affairs.

LAND CLAIMS IN MISSOURI.

Mr. McGOWAN also introduced a bill (H. R. No. 1015) to confirm certain land claims in the State of Missouri; which was read a first and second time, and referred to the Committee on Private Land Claims.

ANNA M. CLARK.

Mr. McGOWAN also introduced a joint resolution (H. R. No. 20) approving the adverse decision of the Commissioner of the General Land Office in the claim of Anna M. Clark; which was read a first and second time, and referred to the Committee on Private Land Claims.

KLAMATH INDIAN RESERVATION.

Mr. McGOWAN also introduced a bill (H. R. No. 1016) to adjust the claims of the owners of lands within the limits of the Klamath Indian Reservation, in the State of Oregon; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC BUILDING AT KEY WEST.

Mr. DAVIDSON introduced a bill (H. R. No. 1017) to provide for the construction of a public building in the city of Key West, in the State of Florida; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

RAILROADS IN FLORIDA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1018) to enable the citizens of the State of Florida to transfer a portion of their preemptions or homesteads to aid in the construction of railroads; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

PRESBYTERIAN CONGREGATION, SAINT AUGUSTINE, FLORIDA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1019) granting to the trustees of the Presbyterian congregation in Saint Augustine, Florida, a lot of land on which to erect a church building and parsonage; which was read a first and second time, and referred to the Committee on Public Lands.

LIGHT-HOUSE AT PUNTA RASSA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1020) making appropriation for the erection of a light-house at the port of Punta Rassa, in Monroe County, Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAMES L. WHITE.

Mr. DAVIDSON also introduced a bill (H. R. No. 1021) to remove the political disabilities of James L. White, of Marion County, State of Florida; which was read a first and second time, and referred to the Committee on the Judiciary.

LIGHT-HOUSE AT ANCLOTE KEY, FLORIDA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1022) providing for the erection of a light-house at Anclote Key, in Hernando County, Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NAVAL WHARF AT KEY WEST.

Mr. DAVIDSON also introduced a bill (H. R. No. 1023) making appropriation for the erection of a naval wharf at Key West, in the State of Florida; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

UNITED STATES COURTS IN FLORIDA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1024) to provide for the construction of a building for the United States courts and other Government offices in the city of Tallahassee, in the State of Florida; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

TAMPA, FLORIDA.

Mr. DAVIDSON also introduced a bill (H. R. No. 1025) making the port of Tampa, in the county of Hillsborough, State of Florida, a port of entry and delivery; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARINE HOSPITAL AT CEDAR KEY.

Mr. DAVIDSON also introduced a bill (H. R. No. 1026) making appropriation for the erection of a marine hospital at the entrance of the harbor of the port of Cedar Key, in the State of Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

STEAMBOAT INSPECTION AND LICENSE.

Mr. HULL introduced a bill (H. R. No. 1027) to amend section 4400 of the Revised Statutes relating to steamboat inspection and license; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INTERSTATE COMMERCE.

Mr. REAGAN introduced a bill (H. R. No. 1028) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REGULATION OF STEAM-VESSELS.

Mr. REAGAN also introduced a bill (H. R. No. 1029) to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States concerning commerce and navigation and the regulation of steam-vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MEXICAN WAR PENSIONS.

Mr. REAGAN also introduced a bill (H. R. No. 1030) granting pensions to certain soldiers and sailors of the Mexican and Florida and Black Hawk wars, and certain widows of deceased soldiers and sailors of the same; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FOREIGN-BUILT SHIPS.

Mr. REAGAN also introduced a bill (H. R. No. 1031) to amend the Revised Statutes of the United States so as to allow the purchase and registry of foreign-built ships by citizens of the United States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WAR CLAIMS.

Mr. REAGAN also introduced a joint resolution (H. R. No. 21) to amend a joint resolution entitled "Joint resolution prohibiting payment by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of its suppression," approved March 2, 1867; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MONEYS DUE STATE OF TEXAS.

Mr. REAGAN also introduced a joint resolution (H. R. No. 22) authorizing the Secretary of the Treasury to pay over to the State of Texas the balance remaining of the funds appropriated by the acts of September 9, 1850, and February 28, 1855, for the payment of the creditors of the late Republic of Texas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

He also introduced a joint resolution (H. R. No. 23) authorizing and directing the Secretary of the Treasury to pay to the State of Texas $1,629,615.69 on account of moneys paid out by said State for frontier defense; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

Mr. REAGAN also introduced a joint resolution (H. R. No. 24) pro-

posing amendments to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SOUTHERN MAIL CONTRACTORS.

Mr. REAGAN also introduced a joint resolution (H. R. No. 25) to apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain southern mail contractors; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

E. P. CLANDON.

Mr. REAGAN also introduced a bill (H. R. No. 1032) for the relief of E. P. Clandon, editor of the Rio Grande Courier, of Brownsville, Texas; which was read a first and second time, and referred to the Committee of Claims.

THOMAS G. MACKIE AND OTHERS.

Mr. REAGAN also introduced a bill (H. R. No. 1033) for the relief of Thomas G. Mackie and the heirs at law of William A. Hyde, late of New Orleans, Louisiana; which was read a first and second time, and referred to the Committee on Commerce.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT LOUISIANA.

Mr. REAGAN also introduced a bill (H. R. No. 1034) to enable the United States district court for the eastern district of Louisiana to execute the judgment thereof; which was read a first and second time, and referred to the Committee on the Judiciary.

POSTAL RAIL HIGHWAY.

Mr. REAGAN also introduced a bill (H. R. No. 1035) to aid in the construction of a military, commercial, and postal rail highway from the district headquarters of the United States Army at San Antonio, in the State of Texas, to the Rio Grande, at or near the town of Laredo; which was read a first and second time, and referred to the Committee on Railways and Canals.

RAPHAEL M. MILLER.

Mr. REAGAN also introduced a bill (H. R. No. 1036) for the relief of Raphael M. Miller, of Brownsville; which was read a first and second time, and referred to the Committee of Claims.

WRITS OF HABEAS CORPUS OF UNITED STATES COURTS.

Mr. CULBERSON introduced a bill (H. R. No. 1037) to compensate State officers for transporting prisoners under writs of *habeas corpus* issued by a judge of a United State court; which was read a first and second time, and referred to the Committee on the Judiciary.

ELLA P. MURPHY.

Mr. CULBERSON also introduced a bill (H. R. No. 1038) for the relief of Ella P. Murphy; which was read a first and second time, and referred to the Committee on Naval Affairs.

LIENS OF JUDGMENTS OF UNITED STATES COURTS.

Mr. CULBERSON also introduced a bill (H. R. No. 1039) in relation to liens of judgments of United States courts; which was read a first and second time, and referred to the Committee on the Judiciary.

RIGHT OF ACTION IN COURT OF CLAIMS.

Mr. CULBERSON also introduced a bill (H. R. No. 1040) to revive and extend the right of action in the Court of Claims in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

COURT-HOUSE, ETC., JEFFERSON, TEXAS.

Mr. CULBERSON also introduced a bill (H. R. No. 1041) to provide for the purchase or construction of a suitable building for court-house and post-office at Jefferson, Texas; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

UNLIMITED COINAGE OF SILVER.

Mr. CULBERSON also introduced a bill (H. R. No. 1042) to provide for the unlimited coinage of silver; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

WRIT OF ERROR.

Mr. CULBERSON also introduced a bill (H. R. No. 1043) to give the right to a writ of error in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

IMPROVEMENT OF CYPRESS BAYOU.

Mr. CULBERSON also introduced a bill (H. R. No. 1044) for the improvement of the navigation of Cypress Bayou and the lakes tributary to Red River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NATIONAL BANKS, ETC.

Mr. CULBERSON also introduced a bill (H. R. No. 1045) to abolish national banks and substitute Treasury notes for their notes; which was read a first and second time, and referred to the Committee on Banking and Currency.

COURT-HOUSE, ETC., DALLAS, TEXAS.

Mr. WELLBORN introduced a bill (H. R. No. 1046) to provide for the construction of suitable buildings for court-houses and post-offices in Dallas and Graham, Texas; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

HENRY WARREN.

Mr. WELLBORN also introduced a bill (H. R. No. 1047) for the relief of Henry Warren; which was read a first and second time, and referred to the Committee on Indian Affairs.

JOSEPH CLYMER.

Mr. WELLBORN also introduced a bill (H. R. No. 1048) for the relief of Joseph Clymer, of Texas; which was read a first and second time, and referred to the Committee of Claims.

BONDS OF THE UNITED STATES.

Mr. MILLS introduced a bill (H. R. No. 1049) directing the Secretary of the Treasury to make all bonds hereafter sold by the Government payable, principal and interest, in gold, silver, or legal-tender notes of the Government; which was read a first and second time, and referred to the Committee of Ways and Means.

POST-OFFICE, HOUSTON, TEXAS.

Mr. MILLS also introduced a bill (H. R. No. 1050) authorizing the construction of a post-office in the city of Houston, Texas; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

DEPOSITS IN SAVINGS-BANKS.

Mr. MILLS also introduced a bill (H. R. No. 1051) to repeal that part of section 37 of the act of the 6th of June, 1872, exempting deposits of savings-banks from taxation; which was read a first and second time, and referred to the Committee of Ways and Means.

SHIP-CANAL, GALVESTON BAY, TEXAS.

Mr. MILLS also introduced a bill (H. R. No. 1052) making an appropriation to continue the work on the ship-canal in Galveston Bay, Texas; which was read a first and second time, and referred to the Committee on Commerce.

BONDS OF THE UNITED STATES.

Mr. MILLS also introduced a bill (H. R. No. 1053) directing the Secretary of the Treasury to make all bonds hereafter sold by the Government payable, principal and interest, in gold, silver, or legal-tender notes of the Government; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

E. J. GURLEY.

Mr. MILLS also introduced a bill (H. R. No. 1054) for the relief of E. J. Gurley, of McLennan, Texas; which was read a first and second time, and referred to the Committee of Claims.

W. W. MILLS.

Mr. JONES introduced a bill (H. R. No. 1055) for the relief of W. W. Mills; which was read a first and second time, and referred to the Committee of Ways and Means.

JOHN FRIERY.

Mr. JONES also introduced a bill (H. R. No. 1056) for the relief of John Friery; which was read a first and second time, and referred to the Committee of Claims.

POST-OFFICE, COUNCIL BLUFFS, IOWA.

Mr. SAPP introduced a bill (H. R. No. 1057) appropriating money for the purchase of a site and the erection of a post-office and other Government offices in the city of Council Bluffs, State of Iowa; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

INTERSTATE MIGRATION.

Mr. SAPP also introduced a bill (H. R. No. 1058) to encourage interstate migration, and for other purposes; which was read a first and second time, and referred to the Committee on Agriculture.

LAND WITH MILITARY WARRANTS.

Mr. SAPP also introduced a bill (H. R. No. 1059) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants described therein, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

REPEAL OF PRE-EMPTION LAWS.

Mr. SAPP also introduced a bill (H. R. No. 1060) to repeal all acts and parts of acts relative to the pre-emption of the public lands of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

SETTLERS ON THE PUBLIC LANDS.

Mr. SAPP also introduced a bill (H. R. No. 1061) for the protection of settlers on the public lands of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

NATIONAL RAILWAY COMPANY OF THE UNITED STATES.

Mr. SAPP also introduced a bill (H. R. No. 1062) to organize the National Railway Company of the United States, and for other purposes; which was read a first and second time, and referred to the Committee on Railways and Canals.

ARREARS OF PENSIONS.

Mr. SAPP also introduced a bill (H. R. No. 1063) to amend an act to provide that the pensions on account of death or wounds received or disease contracted in the service of the United States during the late war of the rebellion which have been granted or which shall hereafter be granted shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and for other purposes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COUNCIL BLUFFS, IOWA.

Mr. SAPP also introduced a bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near that city; which was read a first and second time, and referred to the Committee on Public Lands.

GEORGE W. CLARK.

Mr. SAPP also introduced a bill (H. R. No. 1065) granting relief to George W. Clark; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES G. EDDY.

Mr. SAPP also introduced a bill (H. R. No. 1066) for the relief of Charles G. Eddy, of Chicago, Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

DES MOINES RIVER LAND TITLES, ETC.

Mr. SAPP also (by request) introduced a bill (H. R. No. 1067) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM R. ANDERSON.

Mr. WEAVER introduced a bill (H. R. No. 1068) granting a pension to William R. Anderson, late private in Company E, Fifty-third Pennsylvania Infantry Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

STANDARD SILVER COIN.

Mr. WEAVER also introduced a bill (H. R. No. 1069) directing and requiring the Secretary of the Treasury to pay out standard silver coin without discrimination; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JOHN T. PHILLIPS.

Mr. WEAVER also introduced a bill (H. R. No. 1070) for the relief of John T. Phillips, late private in Company L, Ninth Regiment Iowa Volunteer Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

HENRY SIMONS.

Mr. WEAVER also introduced a bill (H. R. No. 1071) for the relief of Henry Simons, late private in Company B, Fourth Regiment Iowa Infantry Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ISSUE OF TREASURY NOTES.

Mr. WEAVER also introduced a bill (H. R. No. 1072) to authorize the Secretary of the Treasury to issue $600,000,000 of United States notes, to be known as lawful money of the United States, to be paid out as Congress shall hereafter direct; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

FRACTIONAL CURRENCY.

Mr. WEAVER also introduced a bill (H. R. No. 1073) to authorize the Secretary of the Treasury to issue $50,000,000 of fractional currency and to put the same in circulation; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. WEAVER also introduced a bill (H. R. No. 1074) to amend section 639 of the Revised Statutes of the United States, second edition, relating to the removal of causes from State courts to the circuit courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REDUCTION OF SALARIES, ETC.

Mr. GILLETTE introduced a bill (H. R. No. 1075) to reduce salaries, wages, fees, or compensations paid by the United States; which was read a first and second time, referred to the Committee on Public Expenditures, and ordered to be printed.

AMANDA M. COOK.

Mr. PRICE introduced a bill (H. R. No. 1076) for the relief of Amanda M. Cook; which was read a first and second time, and referred to the Committee on Indian Affairs.

AUGUSTA ASMUSSEN.

Mr. PRICE also introduced a bill (H. R. No. 1077) granting a pension to Augusta Asmussen, the widow of Charles W. Asmussen, major and assistant adjutant-general of volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WHITEWOOD FLUME COMPANY.

Mr. PRICE also introduced a bill (H. R. No. 1078) incorporating the Whitewood Flume Company; which was read a first and second time, and referred to the Committee on Mines and Mining.

CHARLES ZANDA.

Mr. PRICE also introduced a bill (H. R. No. 1079) for the relief of Charles Zanda; which was read a first and second time, and referred to the Committee of Claims.

TRADE-DOLLAR.

Mr. PRICE also introduced a bill (H. R. No. 1080) making the trade-dollar a legal tender; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

FRED. DANT & CO.

Mr. PRICE also introduced a bill (H. R. No. 1081) for the relief of Fred. Dant & Co.; which was read a first and second time, and referred to the Committee of Claims.

LAURIE TATUM.

Mr. PRICE also introduced a bill (H. R. No. 1082) for the relief of Laurie Tatum, of Cedar County, in the State of Iowa; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS H. CANFIELD.

Mr. PRICE also introduced a bill (H. R. No. 1083) granting a pension to Thomas H. Canfield; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BARNARD M'NALLY.

Mr. PRICE also introduced a bill (H. R. No. 1084) to authorize the payment of the claim of Barnard McNally, of Sabula, Iowa; which was read a first and second time, and referred to the Committee of Claims.

LEVI PRICE.

Mr. PRICE also (for Mr. URNER) introduced a bill (H. R. No. 1085) for the relief of Levi Price; which was read a first and second time, and referred to the Committee of Claims.

ARCHIBALD A. CAREY.

Mr. PRICE also (for Mr. UPDEGRAFF, of Iowa) introduced a bill (H. R. No. 1086) granting a pension to Archibald A. Carey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES W. BALDWIN.

Mr. PRICE also (for Mr. UPDEGRAFF, of Iowa) introduced a bill (H. R. No. 1087) granting a pension to Charles W. Baldwin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES O. M'KENNA.

Mr. PRICE also (for Mr. UPDEGRAFF, of Iowa) introduced a bill (H. R. No. 1088) granting a pension to James O. McKenna; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ASA M'NAMARA.

Mr. PRICE also (for Mr. UPDEGRAFF, of Iowa) introduced a bill (H. R. No. 1089) granting an increase of pension to Asa McNamara; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN W. HUMPHREY.

Mr. PRICE also (for Mr. UPDEGRAFF, of Iowa) introduced a bill (H. R. No. 1090) for the relief of John W. Humphrey, of Howard County, Iowa; which was read a first and second time, and referred to the Committee on War Claims.

CAPTAIN J. S. ALEXANDER.

Mr. CLARK, of Iowa, introduced a bill (H. R. No. 1091) for the relief of Captain J. S. Alexander; which was read a first and second time, and referred to the Committee on Military Affairs.

MRS. ELIZABETH DAVIS.

Mr. CLARK, of Iowa, introduced a bill (H. R. No. 1092) granting a pension to Mrs. Elizabeth Davis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

C. L. QUAKENBUSH.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1093) for the relief of C. L. Quakenbush; which was read a first and second time, and referred to the Committee on War Claims.

HIRAM W. LOVE.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1094) to refer the claim of Hiram W. Love to the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM D. OYLER.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1095) for the relief of William D. Oyler; which was read a first and second time, and referred to the Committee on Public Lands.

ALBERT THOMAS.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1096) granting a pension to Albert Thomas; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES W. ROBBINS.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1097) granting a pension to James W. Robbins; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BROOKLYN VETERAN UNION, OF IOWA.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1098) authorizing the Secretary of War to place a piece of ordnance in the custody of the Brooklyn Veteran Union, of Brooklyn, Iowa; which was read a first and second time, and referred to the Committee on Military Affairs.

HOMESTEADS.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1099) to amend sections 2305 and 2309 of the Revised Statutes in regard to the perfecting of homesteads; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ENGLISH LANGUAGE IN TERRITORIAL COURTS.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1100) providing that proceedings in the courts of the Territories of the United States shall be in the English language; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

THIRTY-SEVENTH REGIMENT IOWA VOLUNTEERS.

Mr. CLARK, of Iowa, also introduced a bill (H. R. No. 1101) granting pensions to the surviving officers and members of the Thirty-seventh Regiment of Iowa Volunteers, known as the Graybeards; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN S. CORLETT.

Mr. CARPENTER introduced a bill (H. R. No. 1102) granting a pension to John S. Corlett; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH N. GASTON.

Mr. CARPENTER also introduced a bill (H. R. No. 1103) granting a pension to Joseph N. Gaston; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW J. WELCH.

Mr. CARPENTER also introduced a bill (H. R. No. 1104) granting a pension to Andrew J. Welch; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PATENTS.

Mr. DEERING introduced a bill (H. R. No. 1105) to amend the statutes in relation to patents, and for other purposes; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

MRS. SARAH J. CHIPMAN.

Mr. DEERING also introduced a bill (H. R. No. 1106) granting a pension to Mrs. Sarah J. Chipman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. ELIZABETH UPRIGHT.

Mr. DEERING also introduced a bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INCREASE OF PENSIONS.

Mr. DEERING also introduced a bill (H. R. No. 1108) to amend the act approved June 14, 1878, to increase the pension of certain pensioned soldiers and sailors, &c.; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATHANIEL W. COTTON.

Mr. DEERING also introduced a bill (H. R. No. 1109) granting a pension to Nathaniel W. Cotton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW LEECH AND OTHERS.

Mr. DEERING also introduced a bill (H. R. No. 1110) for the relief of Andrew Leech and the heirs of Stephen P. Yeomans; which was read a first and second time, and referred to the Committee of Claims.

S. T. MARSHALL.

Mr. McCOID introduced a bill (H. R. No. 1111) for the relief of S. T. Marshall, of Lee County, Iowa; which was read a first and second time, and referred to the Committee on Indian Affairs.

JOHN O. VALLANDIGHAM.

Mr. McCOID also introduced a bill (H. R. No. 1112) for the relief of John O. Vallandigham, Company E, Thirty-fifth Regiment Iowa Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

J. G. GILLHAM.

Mr. McCOID also introduced a bill (H. R. No. 1113) for the relief of J. G. Gillham, late private Company I, Seventeenth Iowa Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADAM HINE.

Mr. McCOID also introduced a bill (H. R. No. 1114) for the relief of Adam Hine, of Keokuk, Iowa; which was read a first and second time, and referred to the Committee on War Claims.

DES MOINES RAPIDS, MISSISSIPPI RIVER.

Mr. McCOID also introduced a bill (H. R. No. 1115) for the relief of certain employés on the work for the improvement of the Des Moines Rapids of the Mississippi River; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MERRITT H. CRAM.

Mr. HUMPHREY introduced a bill (H. R. No. 1116) granting a pension to Merritt H. Cram, private Company F, First Regiment of the United States Sharpshooters; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN WILLANS.

Mr. HUMPHREY also introduced a bill (H. R. No. 1117) granting a pension to John Willans; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COLONEL G. W. LAPOINTE.

Mr. HUMPHREY also introduced a bill (H. R. No. 1118) granting a pension to Colonel G. W. Lapointe; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN P. M'CLANATHAN.

Mr. HUMPHREY also introduced a bill (H. R. No. 1119) granting a pension to John P. McClanathan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MATILDA SHIELDS.

Mr. CASWELL introduced a bill (H. R. No. 1120) for the relief of Matilda Shields; which was read a first and second time, and referred to the Committee on War Claims.

SEWELL B. CORBETT.

Mr. CASWELL also introduced a bill (H. R. No. 1121) for the relief of Sewell B. Corbett; which was read a first and second time, and referred to the Committee on War Claims.

PATRICK SULLIVAN.

Mr. CASWELL also introduced a bill (H. R. No. 1122) for the relief of Patrick Sullivan; which was read a first and second time, and referred to the Committee on Military Affairs.

JOANNA W. TURNER.

Mr. CASWELL also introduced a bill (H. R. No. 1123) for the relief of Joanna W. Turner; which was read a first and second time, and referred to the Committee on War Claims.

LYDIA S. BICKNELL.

Mr. CASWELL also introduced a bill (H. R. No. 1124) granting a pension to Lydia S. Bicknell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMPENSATION OF UNITED STATES DISTRICT ATTORNEYS.

Mr. BRAGG introduced a bill (H. R. No. 1125) fixing the compensation of United States district attorneys, and for other purposes; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

TESTS OF RIFLED GUNS.

Mr. BRAGG also introduced a bill (H. R. No. 1126) to provide for the tests of certain rifled guns in possession of the War Department; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ARMS FOR ARMY.

Mr. BRAGG also introduced a bill (H. R. No. 1127) to secure the most efficient arms for the use of the regular Army and militia of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES M. RUBY.

Mr. BRAGG also introduced a bill (H. R. No. 1128) for the relief of James M. Ruby; which was read a first and second time, and referred to the Committee on Military Affairs.

LABORERS ON GOVERNMENT WORKS.

Mr. BRAGG also introduced a bill (H. R. No. 1129) for the relief of certain laborers employed upon the Government works; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ESTHER E. LIEURANCE.

Mr. BRAGG also introduced a bill (H. R. No. 1130) granting a pension to Esther E. Lieurance; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WAR CLAIMS.

Mr. BRAGG also introduced a joint resolution (H. R. No. 26) pro-

posing an amendment to the Constitution prohibiting the payment of claims for property taken, used, injured, or destroyed in the late war of the rebellion; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HARBOR OF REFUGE AT MILWAUKEE.

Mr. DEUSTER introduced a bill (H. R. No. 1131) to reimburse the city of Milwaukee for money paid in the construction of a harbor of refuge at the port of Milwaukee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

RELIEF OF DISABLED SOLDIERS, ETC.

Mr. DEUSTER also introduced a bill (H. R. No. 1132) for the relief of certain totally disabled soldiers and sailors; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETER MEAGHER.

Mr. WILLIAMS, of Wisconsin, introduced a bill (H. R. No. 1133) for the relief of Peter Meagher; which was read a first and second time, and referred to the Committee on Naval Affairs.

INTERNATIONAL ARBITRATION.

Mr. WILLIAMS, of Wisconsin, also (by request) introduced a bill (H. R. No. 1134) asking an appropriation of $25,000 to defray the expenses of a commission of international arbitration provided for under the joint resolution of June 17, 1874; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

DABNEY WALKER.

Mr. WILLIAMS, of Wisconsin, also (by request) introduced a bill (H. R. No. 1135) for the relief of Dabney Walker; which was read a first and second time, and referred to the Committee on War Claims.

MOSES LADD AND JOHN L. WILLIAMS.

Mr. WILLIAMS, of Wisconsin, also introduced a bill (H. R. No. 1136) authorizing the Secretary of the Interior to adjust the claims of Moses Ladd and John L. Williams, half-blood Menomonee Indians, and the Secretary of the Treasury to pay the amount found due; which was read a first and second time, and referred to the Committee on Indian Affairs.

JOHN WHITTAKER.

Mr. WILLIAMS, of Wisconsin, also (by request) introduced a bill (H. R. No. 1137) authorizing the Secretary of the Treasury to adjust the claim of John Whittaker against the United States of America; which was read a first and second time, and referred to the Committee of Claims.

WINNEBAGO INDIANS.

Mr. POUND introduced a bill (H. R. No. 1138) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits and to promote their civilization; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CHIPPEWA INDIANS OF WISCONSIN.

Mr. POUND also introduced a bill (H. R. No. 1139) for the relief of the Lac de Flambeau, Lac Court Orielle, and Bad River bands of Chippewa Indians in the State of Wisconsin; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MENOMONEE INDIANS.

Mr. POUND also introduced a bill (H. R. No. 1140) for the relief of the Menomonee Indians in the State of Wisconsin; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SWAMP AND OVERFLOWED LANDS.

Mr. POUND also introduced a bill (H. R. No. 1141) to authorize the State of Wisconsin to select indemnity lands for sixteenth sections and swamp and overflowed lands included within Indian reservations; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

OPERATIONS OF THE LIGHT-HOUSE BOARD.

Mr. POUND also introduced a bill (H. R. No. 1142) to extend the operations of the Light-House Board over the Saint Croix River and Lake, in the States of Minnesota and Wisconsin, and the Chippewa River, in the State of Wisconsin; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BENJAMIN BUCK.

Mr. POUND also introduced a bill (H. R. No. 1143) granting a pension to Benjamin Buck, late private in Company G, Eighteenth Regiment of Wisconsin Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DANIEL M. MORLEY.

Mr. POUND also introduced a bill (H. R. No. 1144) to restore to the pension-roll the name of Daniel M. Morley, of Morley, Barron County, Wisconsin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PUBLIC LANDS.

Mr. POEHLER introduced a bill (H. R. No. 1145) to reduce the price of public lands within railroad limits; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RICHARD DEVITT.

Mr. POEHLER also introduced a bill (H. R. No. 1146) for the relief of Richard Devitt; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES E. MOLEN.

Mr. POEHLER also introduced a bill (H. R. No. 1147) for the relief of Charles E. Molen; which was read a first and second time, and referred to the Committee on Military Affairs.

LIZZIE BAILEY.

Mr. POEHLER also introduced a bill (H. R. No 1148) for the relief of Lizzie Bailey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

P. H. M'DERMID.

Mr. POEHLER also introduced a bill (H. R. No. 1149) for the relief of P. H. McDermid; which was read a first and second time, and referred to the Committee of Claims.

JAMES DEVINE.

Mr. POEHLER also introduced a bill (H. R. No. 1150) for the relief of James Devine; which was read a first and second time, and referred to the Committee of Claims.

ALBERT FREITAG.

Mr. POEHLER also introduced a bill (H. R. No. 1151) for the relief of Albert Freitag; which was read a first and second time, and referred to the Committee of Claims.

PRE-EMPTORS ON PUBLIC LANDS.

Mr. WASHBURN introduced a bill (H. R. No. 1152) to extend the time for the payment of pre-emptors on certain public lands in the State of Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

FORT RIPLEY RESERVATION.

Mr. WASHBURN also introduced a bill (H. R. No. 1153) to restore to the public domain a part of the military reservation known as the Fort Ripley reservation, in the State of Minnesota, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

REDUCTION IN PRICE OF PUBLIC LANDS.

Mr. WASHBURN also introduced a bill (H. R. No. 1154) to reduce the price of public lands within railroad limits; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RELIEF OF LAND SETTLERS IN MINNESOTA.

Mr. WASHBURN also introduced a bill (H. R. No. 1155) for the relief of settlers upon certain lands in the State of Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

EXTENSION OF DULUTH AND WINNIPEG RAILROAD.

Mr. WASHBURN also introduced a bill (H. R. No. 1156) to authorize the Duluth and Winnipeg Railroad Company to extend its line through the Red Lake and Pembina reservation; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SIOUX WAR CLAIMS.

Mr. WASHBURN also introduced a bill (H. R. No. 1157) to authorize the Secretary of the Interior to ascertain the amounts due to citizens of the United States for supplies furnished to the Sioux or Dakota Indians in Minnesota subsequent to August, 1860, and prior to the massacre of August, 1862, and providing for the payment thereof; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

JAMES D. WOOD.

Mr. WASHBURN also introduced a bill (H. R. No. 1158) for the relief of James D. Wood, late captain and assistant adjutant-general; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES C. D. WILLIAMS.

Mr. WASHBURN also introduced a bill (H. R. No. 1159) for the relief of C. D. Williams, late captain Company G, Nineteenth Illinois Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

SPECIAL IMPROVEMENTS, DISTRICT OF COLUMBIA.

Mr. WASHBURN also (by request) introduced a bill (H. R. No. 1160) fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for the revision of assessments for special improvements; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

PRE-EMPTION OF PUBLIC LANDS.

Mr. DUNNELL introduced a bill (H. R. No. 1161) to repeal all acts and parts of acts relative to the pre-emption of the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SETTLERS ON RAILROAD LANDS.

Mr. DUNNELL also introduced a bill (H. R. No. 1162) to extend the provisions of an act approved June 22, 1874, entitled "An act for the relief of settlers on railroad lands;" which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PRE-EMPTIONS IN MINNESOTA.

Mr. DUNNELL also introduced a bill (H. R. No. 1163) to extend the time for payment of pre-emptors on certain public lands in the State of Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

TIMBER LANDS.

Mr. DUNNELL also introduced a bill (H. R. No. 1164) to regulate the survey and sale of the timber lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ZACHEUS FOWLER.

Mr. DUNNELL also introduced a bill (H. R. No. 1165) granting a pension to Zacheus Fowler; which was read a first and second time, and referred to the Committee on Invalid Pensions.

E. P. LIEBERG.

Mr. DUNNELL also introduced a bill (H. R. No. 1166) for the relief of E. P. Lieberg; which was read a first and second time, and referred to the Committee on War Claims.

ISAAC SLOCUM.

Mr. DUNNELL also introduced a bill (H. R. No. 1167) for the relief or Isaac Slocum; which was read a first and second time, and referred to the Committee on War Claims.

GEORGE W. HARD.

Mr. DUNNELL also introduced a bill (H. R. No. 1168) for the relief of George W. Hard; which was read a first and second time, and referred to the Committee on Invalid Pensions.

OCEAN MAIL SERVICE.

Mr. DUNNELL also introduced a bill (H. R. No. 1169) authorizing the establishment of ocean mail service between the United States and foreign countries; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

H. K. BELDING.

Mr. DUNNELL also introduced a bill (H. R. No. 1170) for the relief of H. K. Belding; which was read a first and second time, and referred to the Committee on War Claims.

AMENDMENT OF REVISED STATUTES.

Mr. DUNNELL also introduced a bill (H. R. No. 1171) to amend section 2774 of the Revised Statutes; which was read a first and second time, and referred to the Committee on Commerce.

HANNAH W. OSBORNE.

Mr. DUNNELL also introduced a bill (H. R. No. 1172) granting a pension to Hannah W. Osborne; which was read a first and second time, and referred to the Committee on Pensions.

CHARLES H. GORGIUS.

Mr. DUNNELL also introduced a bill (H. R. No. 1173) to remove the charge of desertion against Charles H. Gorgius, late of Company B, Hatch's Independent Battalion Minnesota Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

MERTON STANCLIFF.

Mr. DUNNELL also introduced a bill (H. R. No. 1174) granting a pension to Merton Stancliff; which was read a first and second time, and referred to the Committee on Pensions.

JENNIE E. SIMONS.

Mr. DUNNELL also introduced a bill (H. R. No. 1175) granting a pension to Jennie E. Simons; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARITIME JURISDICTION OF THE UNITED STATES.

Mr. DUNNELL also introduced a bill (H. R. No. 1176) to declare and define the jurisdiction of the United States over the harbors and navigable waters of the United States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CONTRACTS FOR SERVILE LABOR.

Mr. WHITEAKER introduced a bill (H. R. No. 1177) to prohibit contracts for servile labor; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

WILLIAM L. ADAMS.

Mr. WHITEAKER also introduced a bill (H. R. No. 1178) for the relief of William L. Adams; which was read a first and second time, and referred to the Committee of Claims.

H. C. WILSON.

Mr. WHITEAKER also (by request) introduced a bill (H. R. No. 1179) for the relief of H. C. Wilson; which was read a first and second time, and referred to the Committee of Claims.

RILEY, HARDIN & TAYLOR.

Mr. WHITEAKER also (by request) introduced a bill (H. R. No. 1180) for the relief of Riley, Hardin & Taylor; which was read a first and second time, and referred to the Committee of Claims.

L. J. CECIL AND WILLIAM BILLIPS.

Mr. WHITEAKER also (by request) introduced a bill (H. R. No. 1181) for the relief of L. J. Cecil and William Billips; which was read a first and second time, and referred to the Committee of Claims.

REIMBURSEMENT OF KANSAS.

Mr. ANDERSON introduced a bill (H. R. No. 1182) to reimburse the State of Kansas for expenses incurred by said State for the United States in repelling invasions and repressing Indian hostilities; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC BUILDING AT LEAVENWORTH, KANSAS.

Mr. ANDERSON also introduced a bill (H. R. No. 1183) to provide for the purchase of a site and for the erection of a building for the use of the United States district and circuit courts, post-office, and other Government offices, at Leavenworth, Kansas; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SUFFERERS FROM INDIAN DEPREDATIONS.

Mr. ANDERSON also introduced a bill (H. R. No. 1184) for the relief of certain persons, sufferers from Indian depredations; which was read a first and second time, and referred to the Committee on Indian Affairs.

JOHN C. HUGHES.

Mr. ANDERSON also introduced a bill (H. R. No. 1185) granting a pension to John C. Hughes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WELLINGTON V. HEUSTED.

Mr. ANDERSON also introduced a bill (H. R. No. 1186) granting a pension to Wellington V. Heusted; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELISHA DRESSER.

Mr. ANDERSON also introduced a bill (H. R. No. 1187) granting a pension to Elisha Dresser; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHRISTIAN H. STIENMEIER.

Mr. ANDERSON also introduced a bill (H. R. No. 1188) granting a pension to Christian H. Stienmeier; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LIEUTENANT JOHN A. PAYNE.

Mr. ANDERSON also introduced a bill (H. R. No. 1189) for the relief of Lieutenant John A. Payne, of the Nineteenth Infantry, United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN B. LUTE.

Mr. ANDERSON also introduced a bill (H. R. No. 1190) for the relief of John B. Lute; which was read a first and second time, and referred to the Committee on Military Affairs.

S. D. HOUSTON.

Mr. ANDERSON also introduced a bill (H. R. No. 1191) for the relief of S. D. Houston; which was read a first and second time, and referred to the Committee on Public Lands.

IMPROVEMENT OF THE KANSAS RIVER.

Mr. HASKELL introduced a bill (H. R. No. 1192) to provide for the improvement of the Kansas River from its mouth to Junction City, Kansas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed

DANIEL S. M'DOUGAL.

Mr. HASKELL also introduced a bill (H. R. No. 1193) for the relief of Daniel S. McDougal; which was read a first and second time, and referred to the Committee on Indian Affairs.

DELAWARE INDIANS.

Mr. HASKELL also introduced a bill (H. R. No. 1194) for the relief of the Delaware Indians in accordance with treaty stipulations; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CLAIMS FOR HORSES.

Mr. HASKELL also introduced a bill (H. R. No. 1195) to provide for the payment of claims for horses used in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DENNIS M'CARTHY.

Mr. HASKELL also introduced a bill (H. R. No. 1196) granting a pension to Dennis McCarthy, a soldier of the Mexican war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RELIEF OF SETTLERS.

Mr. HASKELL also introduced a bill (H. R. No. 1197) for the relief of settlers upon the absentee Shawnee lands in Kansas, and for other purposes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

DENNIS SMITH.

Mr. HASKELL also introduced a bill (H. R. No. 1198) granting a pension to Dennis Smith; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THE STATE OF KANSAS.

Mr. HASKELL also introduced a bill (H. R. No. 1199) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TERRITORY AND STATE OF KANSAS.

Mr. HASKELL also introduced a bill (H. R. No. 1200) to confirm certain conveyances executed by guardians appointed by the courts of the Territory and State of Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

AWARDS TO CREEK INDIANS, ETC.

Mr. HASKELL also introduced a bill (H. R. No. 1201) providing for the payment of awards made to Creek Indians who enlisted in the Federal Army, loyal refugees, and freedmen; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

JOSEPH R. PRATT.

Mr. HASKELL also introduced a bill (H. R. No. 1202) for the relief of Joseph R. Pratt; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE W. SMITH.

Mr. HASKELL also introduced a bill (H. R. No. 1203) for the reappointment of George W. Smith, of Kansas, second lieutenant Ninth Cavalry, late captain Eighteenth Infantry, to be captain Eighteenth Infantry, with his relative rank and grade in the Army from August 5, 1861, provided he is not to receive any pay or allowances for the time he was out of the military service, (June 15, 1866, to August 6, 1873;) which was read a first and second time, and referred to the Committee on Military Affairs.

SALE OF NEW YORK IDNIAN LANDS IN KANSAS.

Mr. HASKELL also introduced a bill (H. R. No. 1204) to provide for the sale of certain New York Indian lands in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

DAVID ALLEN.

Mr. HASKELL also introduced a bill (H. R. No. 1205) for the relief of David Allen; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLAIMS OF CITIZENS OF KANSAS.

Mr. HASKELL also introduced a bill (H. R. No. 1206) authorizing the settlement of the claims of certain citizens of Kansas named therein; which was read a first and second time, and referred to the Committee of Claims.

L. FRENCH WILLIAMS.

Mr. HASKELL also introduced a bill (H. R. No. 1207) granting an increase of pension to L. French Williams; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ISAAC M. WARD.

Mr. HASKELL also introduced a bill (H. R. No. 1208) to remove the charge of desertion from the military record of Isaac M. Ward; which was read a first and second time, and referred to the Committee on Military Affairs.

JOSEPH BOWERS.

Mr. HASKELL also introduced a bill (H. R. No. 1209) granting a pension to Joseph Bowers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

J. R. MILLS AND R. P. HAYDEN.

Mr. HASKELL also introduced a bill (H. R. No. 1210) for the relief of J. R. Mills and R. P. Hayden, late of Company G, Twentieth Regiment Kentucky Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

SPENCER W. TRYON.

Mr. HASKELL also introduced a bill (H. R. No. 1211) granting a pension to Spencer W. Tryon; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JUSTICES OF THE PEACE IN THE DISTRICT.

Mr. HASKELL also introduced a bill (H. R. No. 1212) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CLAIMS FOR HORSES AND EQUIPMENTS.

Mr. HASKELL also introduced a bill (H. R. No. 1213) to extend the time for filing claims for horses and equipments lost by officers and enlisted men in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HIRAM HUNTER.

Mr. HASKELL also introduced a bill (H. R. No. 1214) granting an increase of pension to Hiram Hunter; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLAIMS OF POSTMASTERS, ETC.

Mr. HASKELL also introduced a joint resolution (H. R. No. 27) to enable certain postmasters and late postmasters to institute certain proceedings in the Court of Claims; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

SETTLERS ON OSAGE LANDS.

Mr. RYAN, of Kansas, introduced a bill (H. R. No. 1215) for the relief of settlers upon the Osage trust and diminished reserve lands in Kansas, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SUFFERERS FROM PRAIRIE FIRES.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1216) to extend the time to pre-emptors on the public lands who have suffered damage from prairie fires; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

FORT DODGE MILITARY RESERVATION.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1217) to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation to actual settlers under the provisions of the homestead laws; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

IMPROVEMENT OF ARKANSAS RIVER.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1218) to provide for the improvement of the Arkansas River between Fort Smith and Wichita, Kansas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CONDEMNED ORDNANCE.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1219) donating condemned cannon and cannon-balls to the city of Topeka, Kansas, for monumental purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM H. MORGAN.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1220) for the relief of William H. Morgan; which was read a first and second time, and referred to the Committee on Military Affairs.

HARRY FONES.

Mr. RYAN, of Kansas, also introduced a bill (H, R. No. 1221) for the relief of Harry Fones; which was read a first and second time, and referred to the Committee on Military Affairs.

RAILROADS IN INDIAN TERRITORY.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1222) granting the right of way through the Indian Territory to railroad companies; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

JURISDICTION OVER INDIAN TERRITORY.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1223) to give concurrent jurisdiction over the Indian Territory to the United States district and circuit courts of Kansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SARAH A. M. CHAMBERLAIN.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1224) granting a pension to Sarah A. M. Chamberlain and minor children; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CAPTAIN DAVID L. PAYNE.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1225) granting a pension to Captain David L. Payne; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ISAAC PATCH.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1226) for the relief of Isaac Patch; which was read a first and second time, and referred to the Committee on Military Affairs.

SARAH MARKLE.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1227) to grant a pension to Sarah Markle; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AARON H. FULLER.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1228) granting a pension to Aaron H. Fuller; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHRISTOPHER WEIDNER.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1229) for the relief of Christopher Weidner; which was read a first and second time, and referred to the Committee on Indian Affairs.

FRANCIS M. GREEN.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1230) for the relief of Francis M. Green; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GUILFORD A. WOOD.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1231) for the relief of Guilford A. Wood; which was read a first and second time, and referred to the Committee on Public Lands.

O. D. LEMERT.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1232) for the relief of O. D. Lemert; which was read a first and second time, and referred to the Committee on Military Affairs.

FEES OF REGISTERS AND RECEIVERS.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1233) in relation to certain fees allowed registers and receivers; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JOHN S. FRIEND.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1234) for the relief of John S. Friend; which was read a first and second time, and referred to the Committee on Indian Affairs.

DAVID MORROW.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1235) for the relief of David Morrow; which was read a first and second time, and referred to the Committee of Claims.

JOHN H. GRAY.

Mr. RYAN, of Kansas, (by request) also introduced a bill (H. R. No. 1236) granting a pension to John H. Gray; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HIRAM C. HENDERSON.

Mr. RYAN, of Kansas, also introduced a bill (H. R. No. 1237) for the relief of Hiram C. Henderson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SYLVANUS SANDFORD.

Mr. RYAN, of Kansas, also (by request) introduced a bill (H. R. No. 1238) for the relief of Sylvanus Sandford; which was read a first and second time, and referred to the Committee on War Claims.

CONVEYANCE OF LAND.

Mr. MARTIN, of West Virginia, introduced a bill (H. R. No. 1239) to authorize and direct the Secretary of War to convey by deed to the board of education of the district of Harper's Ferry, West Virginia, a lot of ground (No. 2 in block B) with the buildings thereon, for the use of the common schools thereof; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ARREARS TO GOVERNMENT EMPLOYÉS.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1240) providing for the payment of the amounts due the employés in, and the contractors who furnished castings to, the United States armory at Harper's Ferry, Virginia, in March and April, 1861; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

UNITED STATES COURT AT MARTINSBURGH, WEST VIRGINIA.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1241) to authorize the holding of terms of the United States district court for the district of West Virginia at Martinsburgh; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES ALLENDER.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1242) for the relief of James Allender, of Preston County, West Virginia; which was read a first and second time, and referred to the Committee on Commerce.

JAMES E. MERIFIELD.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1243) for the relief of James E. Merifield, late musician of the Fifteenth West Virginia Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PUBLIC BUILDING AT CHARLESTOWN, WEST VIRGINIA.

Mr. KENNA introduced a bill (H. R. No. 1244) for the construction of custom-house, post-office, and United States court-rooms at Charlestown, Kanawha County, West Virginia; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

METHODIST EPISCOPAL CHURCH, CHARLESTOWN, WEST VIRGINIA.

Mr. KENNA also introduced a bill (H. R. No. 1245) for the relief of the Methodist Episcopal Church South at Charlestown, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

ELIZABETH J. BALLARD.

Mr. KENNA also introduced a bill (H. R. No. 1246) granting a pension to Elizabeth J. Ballard, of West Virginia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

METHODIST CHURCH AT RALEIGH, WEST VIRGINIA.

Mr. KENNA also introduced a bill (H. R. No. 1247) for the relief of the Methodist church at Raleigh Court House in Raleigh County, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

CHARLES A. COBB.

Mr. KENNA also introduced a bill (H. R. No. 1248) granting a pension to Charles A. Cobb, of West Virginia; which was read a first and second time, and referred to the Committee on Pensions.

WESLEY M'COY.

Mr. KENNA also introduced a bill (H. R. No. 1249) for the relief of Wesley McCoy, late private Seventh Regiment West Virginia Veteran Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ROBERT H. FIELD.

Mr. KENNA also introduced a bill (H. R. No. 1250) for the relief of Robert H. Field, of Kanawha County, West Virginia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BAPTIST CHURCH, RALEIGH, WEST VIRGINIA.

Mr. KENNA also introduced a bill (H. R. No. 1251) for the relief of the Baptist church at Raleigh Court House in Raleigh County, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

SAVING LIFE IN MARINE DISASTERS.

Mr. WILSON (by request) introduced a bill (H. R. No. 1252) for the better protection of life during marine disasters; which was read a first and second time, and referred to the Committee on Commerce.

JANE A. HARRIS.

Mr. WILSON also introduced a bill (H. R. No. 1253) granting a pension to Jane A. Harris; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN FOLGER.

Mr. WILSON also introduced a bill (H. R. No. 1254) to grant a pension to John Folger; which was read a first and second time, and referred to the Committee on Pensions.

DAVID H. MYERS.

Mr. WILSON also introduced a bill (H. R. No. 1255) granting a pension to David H. Myers; which was read a first and second time, and referred to the Committee on Pensions.

ELIJAH M. HART.

Mr. WILSON also introduced a bill (H. R. No. 1256) for the relief of Elijah M. Hart; which was read a first and second time, and referred to the Committee on Pensions.

LOT BOWEN.

Mr. WILSON also introduced a bill (H. R. No. 1257) for the relief of Lot Bowen; which was read a first and second time, and referred to the Committee of Claims.

MARY M'NAMARA.

Mr. WILSON also introduced a bill (H. R. No. 1258) granting a pension to Mary McNamara; which was read a first and second time, and referred to the Committee on Pensions.

PHINEAS GANO.

Mr. WILSON also introduced a bill (H. R. No. 1259) granting a pension to Phineas Gano; which was read a first and second time, and referred to the Committee on Pensions.

METEODIST EPISCOPAL CHURCH, CLARKSBURGH, WEST VIRGINIA.

Mr. WILSON also introduced a bill (H. R. No. 1260) for the relief of the trustees of the Methodist Episcopal Church South at Clarksburgh, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

IMPROVEMENT OF LITTLE KANAWHA RIVER.

Mr. WILSON also introduced a bill (H. R. No. 1261) to authorize a further appropriation to continue the improvement of the Little Kanawha River in West Virginia; which was read a first and second

time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES DISTRICT COURT, VIRGINIA, IN 1861.

Mr. WILSON also introduced a bill (H. R. No. 1262) for the relief of witnesses and jurors who attended the United States district court for the western district of Virginia at the spring term of 1861; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARTHA A. BEERBOWER.

Mr. WILSON also introduced a bill (H. R. No. 1263) granting a pension to Martha A. Beerbower, of West Virginia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. TETER.

Mr. WILSON also introduced a bill (H. R. No. 1264) granting a pension to George W. Teter, Company D, Tenth Regiment West Virginia Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CASSA ANN COTTRILL.

Mr. WILSON also introduced a bill (H. R. No. 1265) granting a pension to Cassa Ann Cottrill; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN BURNS.

Mr. WILSON also introduced a bill (H. R. No. 1266) for the relief of John Burns; which was read a first and second time, and referred to the Committee of Claims.

TREATY WITH MEXICO.

Mr. WILSON also introduced a joint resolution (H. R. No. 28) providing for a treaty with the Republic of Mexico; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

J. C. LANDREAU.

Mr. WILSON also introduced a joint resolution (H. R. No. 29) for the relief of J. C. Landreau; which was read a first and second time, and referred to the Committee on Foreign Affairs.

WILLIAM HAYDON.

Mr. DAGGETT introduced a bill (H. R. No. 1267) for the relief of William Haydon; which was read a first and second time, and referred to the Committee of Claims.

JOHN S. LUFF.

Mr. DAGGETT also introduced a bill (H. R. No. 1268) for the relief of John S. Luff; which was read a first and second time, and referred to the Committee of Claims.

JOHN M. DORSEY AND WILLIAM F. SHEPARD.

Mr. DAGGETT also introduced a bill (H. R. No. 1269) for the relief of John M. Dorsey and William F. Shepard; which was read a first and second time, and referred to the Committee of Claims.

APPORTIONMENT OF REPRESENTATIVES TO NEBRASKA.

Mr. VALENTINE introduced a bill (H. R. No. 1270) supplemental to an act entitled "An act for the apportionment of Representatives to Congress among the several States according to the ninth census;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BRANCH MINT AT OMAHA, NEBRASKA.

Mr. VALENTINE also introduced a bill (H. R. No. 1271) to establish a branch mint of the United States at Omaha, in the State of Nebraska; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BRIDGE AT DECATUR, NEBRASKA.

Mr. VALENTINE also introduced a bill (H. R. No. 1272) to provide for the construction of a bridge across the Missouri River at Decatur, Nebraska; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SWAMP AND OVERFLOWED LANDS.

Mr. VALENTINE also introduced a bill (H. R. No. 1273) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

LANDS LOCATED WITH MILITARY WARRANTS.

Mr. VALENTINE also introduced a bill (H. R. No. 1274) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ALBERT TOWLE.

Mr. VALENTINE also introduced a bill (H. R. No. 1275) for the relief of Albert Towle; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

He also introduced a bill (H. R. No. 1276) for the relief of Albert Towle; which was read a first and second time, and referred to the Committee of Claims.

NATHAN BLAKELY.

Mr. VALENTINE also introduced a bill (H. R. No. 1277) for the relief of Nathan Blakely, late receiver of the land office at Beatrice, Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

PROTECTION OF LIFE.

Mr. VALENTINE also introduced a bill (H. R. No. 1278) for the better protection of life during marine disasters; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

COINAGE.

Mr. BELFORD introduced a bill (H. R. No. 1279) to provide for coinage at the branch mint at Denver; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

MINING CLAIMS.

Mr. BELFORD also introduced a bill (H. R. No. 1280) to amend section 2326 of the Revised Statutes relating to suits at law affecting the title of mining claims; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

PUBLIC BUILDING AT DENVER.

Mr. BELFORD also introduced a bill (H. R. No. 1281) to provide for the purchase of a suitable site and the erection of a public building in the city of Denver; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

FRANK D. YATES.

Mr. BELFORD also (by request) introduced a bill (H. R. No. 1282) for the relief of Frank D. Yates for transportation furnished in the removal of the Indians of the Whetstone agency, Dakota Territory, in the years 1872 and 1873; which was read a first and second time, and referred to the Committee on Military Affairs.

PENSIONS.

Mr. BELFORD also (by request) introduced a bill (H. R. No. 1283) concerning the payment of pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

R. M. THOMAS.

Mr. CANNON, of Utah, introduced a bill (H. R. No. 1284) for the relief of R. M. Thomas; which was read a first and second time, and referred to the Committee of Claims.

ROSWELL SCOVILL.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1285) for the relief of Roswell Scovill, private soldier in the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

THOMAS NEWMAN.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1286) for the relief of Thomas Newman; which was read a first and second time, and referred to the Committee on Military Affairs.

CAMP DOUGLAS, UTAH.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1287) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ABRAM HATCH AND COMPANY.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1288) for the payment of Abram Hatch & Co. for cattle sold to Utah Indian agency, Utah Territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

APPROVAL OF LAWS, UTAH.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1289) relating to the approval of bills in the Territory of Utah; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PROPOSED STATE OF WASHINGTON.

Mr. BRENTS introduced a bill (H. R. No. 1290) for the admission of the State of Washington into the Union; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

YAKIMA LAND DISTRICT.

Mr. BRENTS also introduced a bill (H. R. No. 1291) creating Yakima land district in Washington Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INDIAN WAR CLAIMS.

Mr. BRENTS also introduced a bill (H. R. No. 1292) for the payment of expenses incurred by the people of Yakima County, Wash-

ington Territory, in defending themselves against Indian hostilities; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

INDIAN ATTACKS.

Mr. BRENTS also introduced a bill (H. R. No. 1293) to provide for ascertaining and reporting the expenses incurred by the Territories of Washington and Idaho and the people thereof, in defending themselves from attacks and hostilities of the Nez Percé Indians in the year 1877, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY TELEGRAPH LINE.

Mr. BRENTS also introduced a bill (H. R. No. 1294) for the construction of a military telegraph between Pomeroy and Fort Colville, in Washington Territory, and a connecting line to Camp Cour d'Alene, in Idaho Territory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHEHALIS RIVER, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1295) for the improvement of the Chehalis River, in Washington Territory; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MILITARY POST IN YAKIMA VALLEY, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1296) for the establishment of a military post in the vicinity of the Yakima Valley, in Washington Territory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SETTLERS UPON SCHOOL LANDS, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1297) for the relief of settlers on school lands in Washington Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RUFUS G. NEWLAND.

Mr. BRENTS also introduced a bill (H. R. No. 1298) confirming title in certain lands to Rufus G. Newland, of Washington Territory; which was read a first and second time, and referred to the Committee on Public Lands.

F. PROSH AND T. F. M'ELROY.

Mr. BRENTS also introduced a bill (H. R. No. 1299) for the relief of F. Prosh and T. F. McElroy, of Washington Territory; which was read a first and second time, and referred to the Committee of Claims.

GEORGE A. MILLER.

Mr. BRENTS also introduced a bill (H. R. No. 1300) for the relief of George A. Miller; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN L. BUTLER.

Mr. BRENTS also introduced a bill (H. R. No. 1301) for the relief of John L. Butler, for carrying the mails in Washington Territory; which was read a first and second time, and referred to the Committee of Claims.

JOHN G. PARKER.

Mr. BRENTS also introduced a bill (H. R. No. 1302) for the relief of John G. Parker for carrying United States mails in Washington Territory; which was read a first and second time, and referred to the Committee of Claims.

A. D. FISHER.

Mr. BRENTS also introduced a bill (H. R. No. 1303) for the relief of A. D. Fisher, of Washington Territory; which was read a first and second time, and referred to the Committee on Indian Affairs.

PENITENTIARY IN DAKOTA.

Mr. BENNETT introduced a bill (H. R. No. 1304) setting aside and appropriating certain proceeds of internal revenue for the erection of a penitentiary in the Territory of Dakota; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

MILITARY RESERVATIONS IN DAKOTA.

Mr. BENNETT also introduced a bill (H. R. No. 1305) abolishing the military reservations of Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale, the same as other public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ASSAY OFFICE AT DEADWOOD, DAKOTA TERRITORY.

Mr. BENNETT also introduced a bill (H. R. No. 1306) to establish an assay office at Deadwood, in the Territory of Dakota; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

LAND DISTRICT IN DAKOTA.

Mr. BENNETT also introduced a bill (H. R. No. 1307) to establish a land district in the Territory of Dakota and to locate the office at Grand Forks; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

OLD SIOUX RESERVATION, DAKOTA TERRITORY.

Mr. BENNETT also introduced a bill (H. R. No. 1308) for the relief of settlers on the old Sioux reservation, in Grant County, Territory of Dakota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RESURVEY OF LANDS.

Mr. BENNETT also introduced a bill (H. R. No. 1309) to authorize the resurvey of lands where the surveys are fraudulent, erroneous, or obliterated, and to legalize certain surveys; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

REPEAL OF REVISED STATUTES, ETC.

Mr. BENNETT also introduced a bill (H. R. No. 1310) to permit any person, except when such person may have sold or assigned a "claim" upon which he has filed his declaration of intention, to use his right of pre-emption on different tracts of land until he shall have made final proof and payment, and to repeal section 2261 of the Revised Statutes; which was read a first and second time, and referred to the Committee on Public Lands.

JOHN L. TAYLOR.

Mr. BENNETT also introduced a bill (H. R. No. 1311) restoring the name of John L. Taylor to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WORTHINGTON, ETC., RAILROAD COMPANY, SIOUX FALLS, DAKOTA.

Mr. BENNETT also introduced a bill (H. R. No. 1312) to authorize the Worthington and Sioux Falls Railroad Company to extend its road from the village of Sioux Falls, in the Territory of Dakota, in a westerly direction to the east bank of the Missouri River; which was read a first and second time, and referred to the Committee on Public Lands.

CHICAGO, MILWAUKEE AND SAINT PAUL RAILROAD COMPANY.

Mr. BENNETT also introduced a bill (H. R. No. 1313) to authorize the Chicago Milwaukee and Saint Paul Railway Company to extend its road through the Territory of Dakota; which was read a first and second time, and referred to the Committee on Public Lands.

UNION PACIFIC RAILROAD COMPANY.

Mr. BENNETT also introduced a bill (H. R. No. 1314) authorizing the President of the United States to designate a railroad company to construct the north branch of the Union Pacific Railroad, under the act of Congress approved July 2, 1864; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

NICHOLAS WHITE.

Mr. CAMPBELL introduced a bill (H. R. No. 1315) for the relief of Nicholas White; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM B. HUGHES.

Mr. CAMPBELL also introduced a bill (H. R. No. 1316) for the relief of William B. Hughes, or his assigns; which was read a first and second time and referred to the Committee on Indian Affairs.

E. N. FISH & CO.

Mr. CAMPBELL also introduced a bill (H. R. No. 1317) for the relief of E. N. Fish & Co. or their assigns; which was read a first and second time, and referred to the Committee on Indian Affairs.

WILLIAM HOOPER & CO.

Mr. CAMPBELL also introduced a bill (H. R. No. 1318) for the relief of William B. Hooper & Co., or their assigns; which was read a first and second time, and referred to the Committee on Indian Affairs.

JUDICIAL SYSTEM OF MONTANA TERRITORY.

Mr. MAGINNIS introduced a bill (H. R. No. 1319) to reorganize the judicial system of the Territory of Montana; which was read a first and second time, and referred to the Committee on the Territories.

CITIZENS OF MONTANA TERRITORY.

Mr. MAGINNIS also introduced a bill (H. R. No. 1320) for the relief of citizens of Montana who served with the United States troops in the war with the Nez Percés and for the relief of the heirs of such as were killed in the service; which was read a first and second time, and referred to the Committee on Military Affairs.

LEGISLATIVE ASSEMBLIES IN TERRITORIES OF THE UNITED STATES.

Mr. MAGINNIS also introduced a bill (H. R. No. 1321) concerning the Legislative Assemblies of the several Territories of the United States; which was read a first and second time, and referred to the Committee on the Territories.

ELECTION OF OFFICERS IN TERRITORIES OF THE UNITED STATES.

Mr. MAGINNIS also introduced a bill (H. R. No. 1322) to provide for the election of a territorial governor, secretary, and other territorial officers in the several Territories of the United States; which was read a first and second time, and referred to the Committee on the Territories.

PROTECTION OF THE FRONTIER OF MONTANA.

Mr. MAGINNIS also introduced a bill (H. R. No. 1323) to provide for the protection of Southern and Southwestern Montana against

hostile Indians; which was read a first and second time, and referred to the Committee on Military Affairs.

STEAMER J. DON CAMERON.

Mr. MAGINNIS also introduced a bill (H. R. No. 1324) for the relief of sufferers by loss of the Government steamer J. Don Cameron; which was read a first and second time, and referred to the Committee on Military Affairs.

MICHAEL M'CARTHY.

Mr. MAGINNIS also introduced a bill (H. R. No. 1325) granting a pension to the widow of Michael McCarthy, late a private, United States Army; which was read a first and second time, and referred to the Committee on Pensions.

MINERAL LANDS.

Mr. MAGINNIS also introduced a bill (H. R. No. 1326) to amend the mineral land laws; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

SCHOOL LANDS FOR TERRITORIES.

Mr. MAGINNIS also introduced a bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

HANNAH M. WRIGHT.

Mr. MAGINNIS also introduced a bill (H. R. No. 1328) granting a pension to Hannah M. Wright; which was read a first and second time, and referred to the Committee on Pensions.

PAUL M'CORMICK.

Mr. MAGINNIS also introduced a bill (H. R. No. 1329) for the relief of Paul McCormick; which was read a first and second time, and referred to the Committee of Claims.

GEORGE H. WRIGHT.

Mr. MAGINNIS also introduced a bill (H. R. No. 1330) for the relief of George H. Wright, lieutenant Seventh Infantry United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES L. DAHLER.

Mr. MAGINNIS also introduced a bill (H. R. No. 1331) for the relief of Charles L. Dahler; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM FLANNERY.

Mr. MAGINNIS also introduced a bill (H. R. No. 1332) for the relief of William Flannery; which was read a first and second time, and referred to the Committee of Claims.

HENRY ELLING.

Mr. MAGINNIS also introduced a bill (H. R. No. 1333) for the relief of Henry Elling, of Virginia City, Montana; which was read a first and second time, and referred to the Committee of Claims.

GEORGE CLENDENIN, JR.

Mr. MAGINNIS also introduced a bill (H. R. No. 1334) for the relief of George Clendenin, jr.; which read a first and second time, and referred to the Committee on Military Affairs.

L. M. BLACK.

Mr. MAGINNIS also introduced a bill (H. R. No. 1335) for the relief of L. M. Black; which was read a first and second time, and referred to the Committee of Claims.

LAND OFFICE IN MONTANA.

Mr. MAGINNIS also introduced a bill (H. R. No. 1336) for the establishment of a land office in the Territory of Montana; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories having been concluded the Chair will now recognize gentlemen who were not in when their States were called.

Mr. SINGLETON, of Mississippi. I was in and responded, but since then I have obtained another batch of bills.

The SPEAKER. The Chair will recognize the gentleman now.

CHICKASAWHA RIVER, MISSISSIPPI.

Mr. SINGLETON, of Mississippi, introduced a bill (H. R. No. 1337) to improve the navigation of the river Chickasawha, in the State of Mississippi; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN RYAN.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1338) for the relief of John Ryan & Co.; which was read a first and second time, and referred to the Committee on War Claims.

DRURY BYNUM.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1339) for the relief of Drury Bynum; which was read a first and second time, and referred to the Committee on War Claims.

J. D. RYAN.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1340) for the relief of James D. Ryan; which was read a first and second time, and referred to the Committee of Claims.

G. C. HARPER.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1341) for the relief of G. C. Harper; which was read a first and second time, and referred to the Committee on War Claims.

C. G. GILMER.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1342) for the relief of C. G. Gilmer; which was read a first and second time, and referred to the Committee on War Claims.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FISHER, for two days after to-day;

To Mr. HOUK, until Monday next, on account of sickness in his family; and

To Mr. AIKEN, for one week, on account of important business.

Then, in pursuance of previous order, the House (at six o'clock and ten minutes p. m.) took a recess until half past seven o'clock p. m.

EVENING SESSION.

The recess having expired the House resumed its session.

LEGISLATIVE APPROPRIATION BILL.

Mr. MARTIN, of Delaware. I move that the rules be suspended and that the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880, and for other purposes.

Mr. NEW addressed the committee. [His remarks will appear in the Appendix.]

Mr. BROWNE. Mr. Chairman, I can be but a gleaner in this debate, for all the logic of this great controversy has been gathered up by the able disputants who have passed before me over the field. At this late hour I do not hope to submit anything novel, nor do I flatter myself that I shall be able by any word of mine to influence any vote or in any wise change the resolves of the dominant party in this House. An English commoner once said:

> I have heard many arguments in Parliament that influenced my judgment, but none that ever influenced my vote.

How rare it is here that the argument controls the vote! It is indeed unfortunate that in our exasperating political discussions we too often subordinate the peace and well-being of the country to the demands of party. In my judgment the present crisis is upon the country because of the dictation of that imperious and exacting despot, a party caucus. Whole pages of our statutes are to be radically amended or wholly "wiped out," not because the people have asked it, but because a caucus regards these laws in the way of democratic success.

Depend upon it, sir, the people will not be misled by the miserable pretense that these measures interfere with the liberties of the citizen, or impair that right inestimable to every free American, the right to vote for whom he pleases. They have witnessed the peaceful, healthful operation of these laws and have uttered no word of complaint. A free people jealous of their liberty do not stand mute when it is invaded. Search the record and tell this House, tell the country, who of the millions have petitioned for the relief you are in such hot haste to give. The people are not clamoring for a repeal of the election laws. Why is it, then, that the peace of the country is disturbed by this meeting of Congress? Let the facts answer. A few weeks ago, sir, the duty of making the ordinary appropriations for the support of the Army and to carry on the legislative, executive, and judicial branches of the Government devolved upon the American Congress. This was an unquestioned duty, and its performance presented no perplexing problems. The democratic party, then as now in the ascendency in this House, knew that the failure to pass these supply bills would, after the 30th of June next, most disastrously affect the public service. It was legislation never denied, and demanded by every interest of the Government, for without this relief the Government—that agent which executes the powers and protects the liberties of the people—would be seriously crippled if not altogether destroyed. The people, to whom you gentlemen are answerable, will ask the question—they are asking it every hour all over this Union—why this legislation, so indispensable to the public safety, was not passed by the Forty-fifth Congress? What excuse will you offer? Why were these bills not passed? They were matured; it was known how much money was wanted, and where and in what manner it was to be expended.

From the beginning it was little else than a matter of arithmetic, a simple sum in multiplication and addition. Bills appropriating the money necessary to carry on these departments of the Government, unburdened by irritating partisan measures, could have been passed without dissent by the Forty-fifth Congress, but Congress "dragged its weary length along" and finally adjourned without providing a

farthing for these purposes. Who is responsible for this extraordinary session, the apprehension it excites, and the great expense it entails? The responsibility will be placed somewhere. There is no escape. The honest and intelligent people of this country know that these supply bills failed in the last Congress because the democratic party of this House thrust into them obnoxious political legislation; legislation for which there was no popular demand; legislation wholly foreign to the subject of appropriations and intended only to subserve party ends, and made the acceptance of this partisan legislation by the minority, by the Senate and the President, the condition upon which the Government was to have money. The undisguised purpose of the majority was to force this ill-timed and unsavory party legislation through by tacking it to measures as essential to the life of the nation as is blood to the life of the physical body.

The gentlemen on the other side told us menacingly and arrogantly, "take this dose nauseating as it is and we will give the Government so much money as it needs, refuse it and the Army, the courts, the President and Congress, the Cabinet and the whole body of executive and administrative officers, shall go penniless till the crack of doom." We were unwilling to do this unmanly and cowardly thing, although ready to make any honorable concession to save the country the infliction of an extra session of Congress.

Three extraneous and purely partisan measures were put as riders upon these bills by the majority in the last Congress. First, the abolition of the so-called test oath; second, the repeal of sections 2002 and 5528 of the statutes in regard to the employment of troops to keep the peace at the polls; and third, the abrogation of certain laws authorizing the use of deputy marshals and United States supervisors at national elections. The republican minority were anxious to save the people the expense of this session and avoid the great embarrassment to the public service the failure to make appropriations would necessarily occasion. We therefore offered to adjust, fairly and honorably, the differences that existed between the majority and ourselves, but our overtures went for nothing. The majority knew that upon the conditions then proposed these bills could be passed and an extra session avoided. We proposed to yield two if the democracy would yield one point of the differences then existing. I submit to the country that this proposition for compromise was a magnanimous one. We were ready to concede the abolition of the test oath and the repeal of the two sections in regard to the use of the Army, and only insisted upon retaining the election laws—laws that we believed could not be surrendered without placing our popular elections at the mercy of the mob. How was this proposition for compromise met? The distinguished chairman of the Committee on Appropriations [Mr. ATKINS] said:

> What might have been effected if the whole subject had been left to the conferees themselves, and to themselves alone, it is not necessary for me here to say; nor am I warranted in saying even that they could have come to a conclusion. But they each felt that there was a power behind them which would admit of no agreement. The disagreement between them is radical.

Again he says:

> Speaking for myself alone it seems to me the majority, having demanded the repeal of these iniquitous laws, have reached a point where retreat is impossible, and where it will be easier to go through than to retrace their steps.

And the majority resolved "to go through," every offer of adjustment was rejected, the Forty-fifth Congress was dissolved, and the means for carrying on the Government were not provided. But the efforts of the minority to avoid an extra session of Congress did not end with the rejection of their proposal for compromise. To tide the Government over until Congress could meet in regular session next December, the gentleman from Ohio [Mr. Foster] asked leave to introduce and pass under a suspension of the rules a bill to provide temporarily for the expenses of the Government.

This was refused. This, gentlemen, is history. It is before the country and the people will judge us by it. But, gentlemen, you have changed front since the last Congress. You then proposed to repeal by the Army bill certain sections concerning the use of the Army, and the Army alone, but you now propose to strike down the civil power as well. You have advanced your lines. You trained your guns then on the Army, but now you propose to capture the civil authority. The difference between what you then attempted and now demand is clearly stated by the gentleman from Ohio, [Mr. GARFIELD,] and as our position has been misrepresented I ask to read from his remarks of the 4th of April. He said:

> Now, Mr. Chairman, let me add a word in conclusion, lest I may be misunderstood. I said last session, and I have said since, that if you want this whole statute concerning the use of the Army at the polls torn from your books, I will help you to do it. If you will offer a naked proposition to repeal those two sections of the Revised Statutes named in the sixth section of this bill, I will vote with you. But you do not ask a repeal of those sections. Why? They impose restrictions upon the use of the Army, limiting its functions and punishing its officers for any infraction of these limitations; but you ask to strike out a negative clause, thereby making new and affirmative legislation of the most sweeping and dangerous character.
>
> Your proposed modification of the law affects not the Army alone, but the whole civil power of the United States. "Civil officers" are included in these sections; and if the proposed amendment be adopted, you deny to any civil officer of the United States any power whatever to summon the armed *posse* to help him enforce the processes of the law. If you pass the section in that form, you impose restrictions upon the civil authorities of the United States never before proposed in any Congress by any legislator since this Government began. I say, therefore, in the shape you propose this, it is much the worst of all your "riders." In the beginning of this contest we understood that you desired only to get the Army away from the polls. As that would still leave the civil officers full power to keep the peace at the polls, I thought it was the least important and the least dangerous of your demands; but as you have put it here, it is the most dangerous. If you reenact it in the shape presented, it becomes a later law than the supervisors and marshals law, and *pro tanto* repeals the latter. As it stands now in the statute-book, it is the earlier statute, and is *pro tanto* itself repealed by the marshals law of 1871, and is therefore harmless so far as it relates to civil officers. But if you put it in here, you deny the power of the marshals of the United States to perform their duties whenever a riot may require the use of an armed *posse*.

This states the whole case. It is said that "revolutions never go backward." This one gives point to the saying, for it has not only gone forward, but has grown more arrogant and exacting. It has increased its demands. We are again confronted by the same questions that defeated the appropriations in the last Congress. We are again admonished that we must accept legislation intensely partisan or the Government must go without money. Do you imagine, gentlemen, that your programme for subjugation will succeed? Is your victory assured? You mistake yourselves. You forget your weakness. True, a republican Senate no longer obstructs your work, but there is one obstacle in your way, the power to veto which the Constitution you adore vests in the Executive. You have thought in your desperation you might subjugate the President. It has been broadly insinuated on this floor that the tenure by which he held his high office was by far too frail to withstand the pressure of a veto. Wait, gentlemen, and you will see. With this insinuation you couple the threat that if the right of veto is exercised and your "grievances not redressed," you will for all time withhold supplies. I know your desperate courage, but you dare not do this thing. Should you stop the wheels of Government, close the Departments, close the courts, leave the Army and Navy to starve and our ships to rot, an indignant and outraged people would wither you with their curses. When it becomes possible for one department of the nation to coerce another, its equal, by this kind of duress, it will be a sad day for constitutional government. And yet you are attempting to do this thing this very day in the American Congress. This page of our history has its parallel. The Irish volunteers in 1778 inscribed on their cannon "free trade or this." That meant coercion. A democratic Congress writes on the muzzle of its appropriation bills "this, or no money," and it means coercion. The people understand this thing. What the President will do, what answer he will make to this democratic menace, I do not know and I will not conjecture, but I know that no act of legislation is complete until it has received his approval or been passed over his negative by a two-thirds vote of each House of Congress. I know moreover that the veto power is always well employed when it is done to arrest ill-timed, unwise, and unjust partisan legislation. If the President should find it his duty, under his oath and according to his conscience and his judgment, to veto these bills, should they pass, the people will not be inconsolable. An enlightened and patriotic people always admire a public servant who has the pluck to accept any responsibility which his convictions of duty imposes.

THE METHODS EMPLOYED.

But, sir, we come to the merits of this question. And first, I earnestly protest against the methods employed to compel the repeal of these statutes. That they have been employed heretofore does not commend them, for I will follow no precedent that my conscience and my judgment condemn. On this question I have tried to be consistent. From the day I took my seat in this House to this hour I have voted steadfastly against putting general legislation into bills of the kind under discussion. This method of law-making is, in my opinion, wholly indefensible and utterly vicious. That which cannot be passed on its merits is unworthy a place in the statutes of a free people. The fact that a measure has to be tacked to an appropriation is conclusive proof that it seeks to accomplish some end that does not commend itself to the free judgment of the legislative power. There is nothing in the past of this practice to commend it to favor. For one, at least, I am unwilling it shall go unchallenged. We have all acknowledged its unfairness, and we are now in the presence of its dangers. If it is to prevail it will become the efficient ally of revolutionists and the refuge of safety for every conceivable legislative iniquity.

THE BARRIERS SHOULD NOT BE REMOVED.

But, Mr. Chairman, I do not maintain that these statutes, the election laws, provide the best possible protection for the ballot. They may need revision, but I have no sympathy with the present partisan effort to remove the barriers and weaken the defenses that tend to secure a free, peaceable, and pure national election. The charge that these laws are but radical election machinery intended only to keep the republican party in power is but the bluster of democratic rhetoric. If this insinuation was worthy an answer I would respond; if laws that give the people the opportunity for a free and fair election tend to keep the republican party in power, it is but right that it control the Government. No party is fit to live a single hour that denies the right of free thought, free speech, or a free ballot. The republican party has stood on this platform and proclaimed this gospel in evil as well as good report. In the defense of these principles many of its bravest hearts have gone down in the van of the battle. We would have our elections so entirely free that every man entitled to the ballot, whatever his condition, race, religion, or politics, might, without fear of violence or social ostracism, vote the ticket of his choice. The republican party would have elections honestly conducted, and would, had it the power, make intimidation, ballot-box stuffing, repeating, tissue tickets, and every kind of fraud and partisan outrage on the franchise that now corrupts the very sources of

political power, impossible forever. To secure these results it asks but law, judicious, constitutional law. To make certain the right to cast a free ballot it demands the most efficient methods that an enlightened and patriotic statesmanship can devise, and that they be enforced, when necessary, by every power of the Government, civil and military; for when the ballot-box no longer gives expression to the voice of the people, popular government is a most shameless pretense.

THE CONSTITUTIONAL QUESTION.

Are these laws unconstitutional? You so pronounce them. This is a question proper for the courts, and why not settle it there? Smite them with a judicial decision. Submit your case, gentlemen, to the Supreme Court, the highest judicial tribunal in the nation, and if that court pronounces these laws unconstitutional the people will be satisfied. Do not dodge the issue. Drag these statutes before the courts, and tomahawk them there if you can. They have been enforced for a decade, and yet you have not dared to subject them to the judicial test. Are you afraid of the courts? If you are, it is a confession that you regard the democratic position as indefensible.

I enter upon a very brief discussion of the constitutional question with much trepidation. I must pass over a beaten track. After the learned and elaborate arguments already submitted on this phase of the controversy, nothing is left me but to gather up the fragments.

I concede this to be a government of delegated powers. "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people." These are the words of the tenth amendment.

The eighth section of the Constitution enumerates the powers of the United States, and in conclusion says that Congress shall have power "to make all laws which shall be necessary to carry into execution the foregoing powers and all other powers vested in the Government of the United States, or any department or officer thereof."

Here it is given Congress to legislate for the execution, first, of the enumerated powers; and, secondly, "all other powers vested in the Government of the United States." How have these provisions been construed by Congress and the Supreme Court? Let us see how they have defined the duty and power of the nation in enforcing the third clause of the second section of the Constitution. It is the obsolete fugitive slave clause, and reads:

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

This delegates to the United States no power whatever. It simply asserts that fugitives shall not be withheld but shall be delivered up. Delivered up by what government, that of the State or that of the nation? The Constitution is silent upon the point. Clearly if the strict construction that obtains on the other side of the House is to prevail the whole power over escaping slaves was lodged in the States, for as that power was "not delegated to the United States, nor prohibited to the States, it was reserved to the States respectively." But Congress under this power enacted the most obnoxious fugitive-slave laws, the courts upheld them, and the Executive enforced them. In the case of Prigg *vs.* The State of Pennsylvania a majority of the judges held that the power to enforce this provision of the Constitution was exclusively in the General Government. Justice McLean, in the case of the fugitive McQuery, says:

It is admitted that there is no power in the Federal Government to force any legislative action on a State. But if the Constitution guarantees a right to a master of a slave, * * * the power is given to effectuate that right.

Now, if the Constitution has created a House of Representatives, clothed it with legislative functions, and made it a necessary department of the Government, it is unquestionably within the power of Congress to make any law necessary to its preservation. This power must reside in the United States, because, as Judge McLean states it, "the Government cannot force the State to take legislative action." The States by mere non-action might absolutely destroy the nation. They might merely fail to provide for "the time, place, or manner" of holding congressional elections, and this House would perish. I do not deny the right or power of the States to make and enforce police regulations to preserve the peace and make sure the right to vote without molestation. I deny, however, that they possess this power to the exclusion of the National Government. The right of suffrage is of the essence of democratic institutions; "it is a fundamental article in republican government." The right is established and defined in the Constitution. The regulation of national elections is vested primarily in the State Legislatures, but ultimately in Congress; and in the language of the Federalist, "this was deemed essential that the Government should contain in itself the means of its own preservation."

Am I now asked in what part of the Constitution I find the power conferred on the Government to supervise its own elections? I answer, first, in that part of it that creates that branch of its legislative power, the House of Representatives. What is this House? It is the creature of the Constitution—an indispensable branch of the law-making power. Without it there could be no constitutional government. To claim that the nation may regulate the election of members of this body is but to assert that this House has the constitutional right to live and that life so essential to free government is under the guardianship of the Government. By what law is the representative in this branch of Congress created? He owes his existence wholly to the Constitution of the United States, but the Constitution commits his election to certain persons in the States. The State does not confer the right to vote for a member of this House upon any one, but it makes a certain class of its citizens legal voters in the election of members of the most numerous branch of its Legislature and the Constitution casts upon that class the right to elect Representatives to Congress. When one of these citizens votes he does so by virtue of the power conferred on him by the national Constitution. Again, Representatives are apportioned among the States, their qualifications prescribed, and the duration of their office fixed by the Constitution. When one assumes to be a member of Congress his right to exercise that function is not determined by his State, but the final and irreversible judgment on that question is pronounced by a tribunal deriving all its powers and jurisdiction from the Constitution. Without the Constitution there could be no Congress, and without the Congress there could be no National Government.

Nothing can be more evident—

Said Alexander Hamilton—

than that the exclusive power of regulating elections for the National Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs.

The first article of the Constitution provides that the time, place, and manner of holding elections for Representatives in Congress shall be prescribed by the State Legislatures, but Congress may "at any time by law make or alter such regulations." Congress may, therefore, at any time make regulations as to the time, place, or manner of holding congressional elections in the States. Some gentlemen are disposed to give this section a very narrow and technical construction. They say, "True, Congress may fix the time and place for the election and prescribe the manner for conducting it, but here the power of the Government ends." Now, I submit if the Constitution has provided that the legislative power shall in part reside in the House of Representatives, has provided for agents to execute this power, and has reserved to itself the right to fix the time and place and regulate the manner of electing these agents, Congress, under the eighth section of the Constitution, may unquestionably make all laws which shall be necessary to carry into execution these powers. To deny this is to say that the United States has a legislative function, but no power to make it effective or protect its existence. It is assumed, however, that whatever power Congress may possess in regard to the time, place, and manner of holding elections, and preserving the legislative function, it may not intervene to protect the person of the voter so that he may safely exercise the right of suffrage. In support of this position a decision of the Supreme Court of the United States has been frequently referred to in this debate. In that case it was held that the United States has no jurisdiction to try and punish "a conspiracy to falsely imprison and murder citizens of the United States within the territory of a State." The court very properly held that the duty and power of protecting the citizen in the enjoyment of his "natural rights" resided wholly in the State government. "Sovereignty for this purpose," said the Chief-Justice, in delivering the opinion of the court, "rests alone in the State." No one questions this. To make and enforce laws securing these rights is clearly within the reserved or unprohibited powers of the States. The Government of the United States does not assume jurisdiction of assaults, riots, or murder as offenses against the natural rights of the citizen, but if the assault, riot, or murder prevents or obstructs the exercise of any right or the execution of any duty secured or imposed by the law of the nation, made in conformity to the Constitution, a crime is committed against the Government which it may declare and punish. Congress does not assume by its election laws to prohibit these offenses and punish them because they strike down the personal right of liberty or life, but for the reason that intimidation, fraud, riots, and murder prevent a free and honest national election, interfere with the operations of the Government, impair its powers, arrest its methods, tend to the destruction of its prerogatives, and, in fact, attack in the most vital point its very existence.

THE DUTY TO ENFORCE THE LAW.

If it be true that the nation may by law protect its own elections in the States, the duty of the Executive to enforce the law when made will not be controverted.

The power to enforce obedience to law should be ample. The duty of keeping peace at the polls and protecting the ballot should be given to the civil authorities. They should be armed with the power to arrest when a crime against the elective franchise is committed. The duty should be enjoined upon them to keep the peace at elections, to give every legal voter an opportunity to deposit his ballot without being molested, and generally to prevent any fraud or repress any tumult or disorder that interferes with the due execution of the election laws. The republican Congress did this, and no more than this, in providing for the presence of United States supervisors, marshals, and deputy marshals at the polls on election day. But Congress may rightfully go further than this. It may supplement the civil by the military power. It may provide by law for calling forth the military arm of the Government to execute the laws. When the civil authorities are resisted they may call to their aid force, all the force necessary to execute their mandates. The citizen, the State

militia, and the regular Army are all parts of the *posse comitatus* and are subject to be summoned to the aid of the officer of the law.

That all this may be done will not be denied; but, in support of the position, I beg leave to quote a single authority. Mr. Cushing, speaking of the *posse comitatus* and the power of the marshal to summon it, says:

This authority comprehends not only bystanders and other citizens generally, but any and all organized armed forces, whether militia of the State or officers, soldiers, sailors, and marines of the United States; and if the object of resistance to the marshal be to obstruct and defeat the execution of the provisions of the Constitution or acts of Congress the expenses of such *posse comitatus* are properly charged to the United States.

But I go further, and insist, if the Government has good reason to apprehend that its laws will, on some particular day or at some particular place, be defied, and its agents resisted by a force that cannot be suppressed by the ordinary methods, it may in advance place within the easy reach of its agents so much of its Army as may be necessary to aid them in the enforcement of the laws. To deny this is to deny the nation's right of self-preservation. The employment of supervisors, marshals, deputy marshals, and armed troops has been authorized solely for the purpose of securing prompt and peaceable obedience to law. No other end was to be achieved.

The republican party has been charged with a purpose to put the military over the civil power. No such thing is proposed. We believe in the subordination of the military to the civil power, but we are willing to use armed force rather than have the laws of the land and the rights and liberties of the people subordinated to the relentless despotism of a mob of cut-throats that seek to overthrow all the safeguards of free government. All we have done, all we desire to do, is to organize law in the defense of a free and uncoerced ballot, believing as we do, that a fair and honest election is the very breath and blood of republican institutions.

IS GOVERNMENT CONTROL DANGEROUS.

It is said that to place the power of supervising congressional elections in the Government is dangerous because the national Administration is in the hands of a political party, and this power might be made to subserve partisan purposes. But have gentlemen forgotten that a State is as much under the control of a political party as the nation? Is a democratic governor or Legislature less partisan than a republican President or Congress? If the United States may lend its power to a party to keep it in the ascendency, may not a State do the same thing? If United States marshals may employ their official positions to intimidate voters, may not a State constabulary do it also? Are United States supervisors taken from each of the political parties more dangerous to the freedom and fairness of elections than a local police made up wholly from one party? What is more partisan than a city police?

But, Mr. Chairman, I have conceded the right of States primarily to regulate the elections of members of this body. I prefer personally the States should exercise the power. There are many reasons why they should do this. No one desires to interfere with the prerogatives of the State.

Suppose, however, the States or any State fails to secure a free and fair election either for want of physical power or want of inclination to do so, what then? Then, sir, as I have said, this duty rests upon the Government, and it should perform it promptly and fearlessly.

Let the States make the right of suffrage secure and the people of all parties will be content.

Do the States protect the voter? Do the States give the citizen a free, honest, and peaceful election? No, sir. If there is any truth in the history of this country during the last few years, as it has been written by eye-witnesses, by congressional investigating committees, and in the records of the courts, the voter in several of the States has been deliberately robbed of his right of suffrage. Speaking in the light of this history, I declare that almost every possible crime has been committed upon the integrity of the ballot-box. Mob violence and fraud in many localities have made fair elections impossible. In some sections of this Union, Mr. Chairman, a man voted the republican ticket at the peril of his life.

If we can confide in human testimony these frauds and outrages have been persistent and long continued. The local authorities have been unwilling to prevent them or powerless to do so. I shall refer to instances of anarchy in some of the States to prove that conditions have existed in the past when free elections would have been impossible without the intervention of a power more potent than the local authorities. The paroxysm of fury that explodes in riot on the election day is not so much to be dreaded as that organized rage that comes before it and paralyzes the country with fear. The terror inspired by a brute force that rides booted and spurred, threatening and scourging before the election day, is perhaps the most dangerous foe to our elective system. The brute force that drives the citizen from the poll no more destroys the liberty of the ballot than that systematized fury that deters him from going to the election. If the Government may not protect him from either, it is a conspicuous failure. As I pass along I will give shocking instances of both these types. I begin ten years back in my review of this gloomy record.

A special committee of the Tennessee Legislature in 1868 reported that in Middle Tennessee numerous murders and other outrages of the most aggravated character were being committed. The committee said:

In these counties a reign of terror exists which is so absolute in its nature that the best citizens are unable or unwilling to give free expression to their opinions. The terror inspired is so absolute that the officers of the law are powerless to execute its provisions, to discharge their duties, or to bring the guilty perpetrators to punishment. * * * These marauders bid defiance to the civil authorities and threaten to drive out every man, white or black, who does not submit to their arbitrary dictation.

Happily this turbulence has passed away from this State, but that it once existed proves its possible recurrence. I come now to the State of Louisiana. My authority is the current history of those unhappy days. At the May election of 1868 the republicans carried the State of Louisiana by 26,000 majority and in November the democratic majority was 41,000. In the spring, in the fifteen parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Jackson, La Fayette, Morehouse, Sabine, Saint Bernard, Saint Martin's, Saint Landry, Union, Vermillion, and Washington the republicans cast 10,323 votes, and in November the total republican vote was but 35. There was a falling off of over 10,200 votes in fifteen parishes. How was this extraordinary change wrought in the politics of Louisiana? A member of the congressional committee appointed to investigate the election frauds in that State that year writes:

The testimony shows that over two thousand persons were killed, wounded, and otherwise injured in that State within a few weeks prior to the presidential election; that half of the State was overrun by violence; midnight raids, secret murders, and open riot kept the people in constant terror until the republicans surrendered all claims.

* * * * * * *

The parish of Orleans contained 29,910 voters, 15,020 of which were colored. In the spring of 1868 that parish gave 13,973 republican votes. In the fall it gave Grant 1,178, a falling off of 12,795 votes. Previous to the election notices were scattered through the city warning colored men not to vote. * * * But the most remarkable case is that of Saint Landry, a planting parish on the river Teche. Here the republicans had a registered majority of 1,071 votes. In the spring they carried it by 678 majority. In the fall they gave Grant no vote—not one—while the democrats cast 4,787 votes, the full vote of the parish, for Seymour and Blair. Here occurred one of the bloodiest riots on record, in which the ku-klux killed and murdered over two hundred republicans, hunting and chasing them for two days and nights through fields and swamps. Thirteen captives were taken from the jail and shot. A pile of twenty-five dead bodies were found half-buried in the woods. Having conquered the republicans, killed and driven off the white leaders, they captured the masses of the colored voters, marked them with badges of red flannel, enrolled them in clubs, led them to the polls, and made them vote the democratic ticket, and gave them certificates of the fact.

Has there been a marked and hopeful improvement in Louisiana? We shall see as we proceed. How about South Carolina?

In 1871 the grand jury of the United States circuit court in their report to the court say that the most revolting and atrocious crimes were committed during the preceding year upon the colored people in that State, and especially in the counties of Union, York, and Spartanburgh. I will quote one paragraph only from that elaborate report:

Organized bands inflicted summary vengeance on the colored citizens of these counties by breaking into their houses at the dead of night, dragging them from their beds, torturing them in the most inhuman manner, and in many instances murdering them; and this merely on account of their political affiliations. Occasionally additional reasons operated, but in no instance was the political feature wanting.

I could cite from the current history of these days of anarchy innumerable instances of the most horrid and revolting outrages committed upon a poor, defenseless, and unoffending people in North Carolina, Alabama, Mississippi, and other States because of their politics, but those already given answer my purpose. To these pages of infamy I refer regretfully. They are a reproach to democratic government—a deep and damnable disgrace to the age in which we live. My only object in calling the attention of the House and the country to these matters is to show there are times when free thought and voluntary political action in portions of this Republic are impossible without the intervention of the mailed hand of the National Government. Look at the last elections in Louisiana and South Carolina. History is but repeating itself. A committee of the Senate has just reported upon these elections. That report and the evidence taken are before the country. In Louisiana the investigation was confined to the parishes of Caddo, Natchitoches, Tensas, Concordia, Point Coupée, Saint Mary's, and New Orleans, seven in all. The report says:

In these seven parishes there were murdered for political purposes during the campaign twenty-three persons: John Williams, Robert Williams, Luke Wiggins, Lot Clarke, Billy White, Green Abrams, Josiah Thomas, Charles Bethel, William Singleton, Monday Hill, Lewis Postlewaite, Richard Miller, James Starver, Commodore Smallwood, Charley Carroll, John Higgins, Doc. Smith, William Hunter, Hyams Wilson, Wash. Ellis, Asbury Epps, John Robinson, and Rufus Mills. Besides these there were fully as many others murdered whose names the committee were unable to ascertain, whose corpses were seen by witnesses who testified before the committee hanging on trees or lying dead in the streets or fields. Dozens more were wounded from shots fired at them with murderous intent, some of whom were present before the committee exhibiting their scars; others were whipped or beaten and mutilated; wives were tied up by the thumbs and whipped for refusing to tell where their husbands were secreted; scores of leaders in politics among the colored men were driven from their homes, leaving their crops in the fields and their families unprovided for. In brief, a literal "reign of terror" existed, and in fact still exists, over a considerable portion of Louisiana as the result of the policy adopted by the democracy for the purpose of perpetuating their rule in that State.

The truth of this report is denied, but the evidence taken by the committee fully supports it.

In South Carolina democratic methods for securing a party victory were somewhat less sanguinary but no less effective. The result was always the same—the democratic ticket was counted in, in utter disregard to fairness or common honesty. When in 1876 Charleston County returned seventeen republicans to the Legislature by an average majority of about six thousand, the Hampton government turned them all out upon the cowardly pretext that the colored republicans had bulldozed and intimidated the white chivalry on election day. A special

election resulted in a sweeping democratic victory; its ticket was elected by a unanimous vote, although the colored population of the county outnumbered the white population by more than fifty thousand. But, sir, I come to the election of 1878. Here frauds were systematized. To make sure the election polling places were changed or abolished, particularly in the republican counties of Charleston, Colleton, Beaufort, and Orangeburgh, so that voters were compelled to travel from twenty to forty miles to reach the polls. Ballot-box stuffing, tissue tickets, and false registrations were the order of the day. Dead men and imaginary men were placed on the poll lists as legal voters. At one poll there seemed to be a numerous family of Bulls, for there were registered John Bull, Jacob Bull, Tom Bull, Isardis Bull, Jim Bull, and Peter Bullwinkle. These were unknown to the oldest inhabitants. But the most amiable and ingenious villainy resorted to to subvert and corrupt the election was the device of tissue ballots. Fifty of these were, in some instances, cast by a single voter. When the ballots in the box were found to exceed in number the names on the poll lists, after counting all the dead men and men of straw—all the Bulls and Bullwinkles—the tickets were all returned to the box, thoroughly mixed, and then a blindfolded man drew out the excess, and those remaining were counted. A mere touch was sufficient to distinguish the tissue ticket, and it was always left to be counted as an honest ballot. This was done to secure a fair count "according to law." This infamous invention did not fail its corrupt projectors. It was a conspicuous success. Let me read the testimony of Robert Grover, a colored man, who was the republican challenger at the poll at Jacksonburgh, in Colleton County. He tells in his uncouth but inimitable way how it was done. I read from pages 661 and 662, Teller committee report:

Question. Were you present at the counting of the votes?
Answer. Yes, sir.
Q. Now you may state what occurred at the counting.
A. After they got through voting the box was opened and all the tickets were picked out—democrats here and republicans there. They were not counting them then, but just separating them. In opening the tickets (I was sitting right behind the clerk) the very first one he opened I saw, and as he unfolded it I saw a ticket about the size of this little tissue ballot roll out; although this tissue ballot is not one of the same kind as that which dropped out. The moment I saw that drop I was astonished. It was directed that none of the republican voters should vote anything but one straight republican ticket. The moment I saw that drop out I went over to Captain Gray's and said to him, "Well, it don't pay us to count. If seven come out of one what in the devil is the use of our counting?"
Q. What did Captain Gray say?
A. "Oh," he said, "never mind; we will bring this out peaceably." "Yes," I said, "I want it done peaceably, but *honestly*," and at the same time a friend of mine came to me and touched me. As I had instructed the people not to have any disturbance, I thought it would not do for me to be the first to make a disturbance. The first time I saw seven, and the second time I saw five, and when they opened another I saw as high as sixteen in one ballot. I said, "Jesus! God Almighty! There is no use for me to count." I never got excited until I saw thirty-seven come out of one. I started for Captain Gray's, and I said I did not blame the democrats for these papers, "but," I said, "I believe you are the one that brought these men here." When I first spoke to him it was secretly, for I didn't want to alarm the others. It went on further, and it went as high as fifty-nine on one ticket. I said, "Gracious God! I had better go home." I said, "When you take out this fine silk paper all night you will nearly carry the election!" Then we went on counting. When I saw fifty-nine I was doubtful immediately.
Q. Were these tissue tickets?
A. Yes, sir; every one of them. After we got through counting I said, "Now, Captain Gray, as an honest man, you who have seven times as much honor as me who is as black as the ace of spades, why does this happen? Why does this hat hatch out democratic tickets and not republican? "Well," he said, "a man can vote as much as he wants to; he can vote fifty tickets if he wants to." "Well," I said, "that is no law for me." I thought as an honest republican I could put in one vote, but that was all I was entitled to. We went on further until we got through counting, and when we got through counting the democrats were 530 and the republicans were 636.
Q. How many did you have on your poll list?
A. Well, there was 900. In regard to the little democratic tickets, one of the managers said, "It don't make any difference, we can tear up these tickets." He said, "All you do is to put them carefully by themselves until we count them out, and if you are entitled to them you can have them." When we got through there was two hundred and something over the poll list; I don't exactly know what it was.
Q. Well, they drew out the extra ones; were there more votes in the box than names on the poll list?
A. Yes, sir.
Q. How many more?
A. There was 900 altogether on the poll list.
Q. There was 226 extra; now how did they dispose of those?
A. The three managers then said, "How shall we manage?" It seemed they didn't ask me directly, but I didn't mind that; I, however, took a part as I took an interest in it. It seems that all the eyes on our side were right on me, and I thought it was my duty to face them. It seems like they wanted me to say or do something in the matter, and I said, "Gentlemen, go according to law and then it will be all right." Then one of the managers replied that the law requires that they must be thrown in the box where they can be thoroughly stirred up, and picked out one at a time. My reply was, "If you do it, when doing it I want you to understand that you shall not take any advantage of me, for you have done it already." I said common judgment will lead me to know what to do. I took up one of the tickets and said, "You can feel that immediately." "And," said I, "here is a straight-out democratic ticket, you can tell that at once." "And," said I, "here is the republican ticket, put on good paper, and you can tell them too." Well, they went on, as they said, according to law. There was one hundred and ninety or something torn up of the republican tickets. Then I called their attention to the fact, and I said, "I told you before that that is the way it would happen." The republicans had no opportunity to elect anything. I thought as I had instructed the people not to make any disturbance it would not do for me to create any myself, and so I wanted the result to be made up peaceably. I felt very bad, going out as I did with a very bad cold, but I was obliged to go. They were mad, that is, my friends, because the tickets were torn up, and I had to talk to them to quiet them the best I could.

No wonder this unsophisticated negro "was doubtful immediately" when he saw the fifty-nine tissue tickets drop from one ballot. That he exploded with a little profane indignation when he saw "the hat hatched nothing but democratic tickets" was pardonable. Nobody, Mr. Chairman, has the courage to openly defend such rascality. But with what alacrity gentlemen sometimes come to the rescue of the person who holds his certificate of election by reason of it! King Louis said his chancellor was a scoundrel, but he could not do without him, and you know these pretended elections to be but bald frauds, but you seem unwilling to get on without their help.

During the campaign of 1878 fraud and force held high carnival. Ballot-boxes were stuffed; armed men broke up republican meetings; ballot-boxes were seized and the tickets and tally-sheets destroyed; United States supervisors were driven from the polls; men—native-born white men—were compelled by the mob to leave their homes and seek safety in flight; armed and organized bands rode through the parishes, whipping, shooting, hanging, and drowning. And this "whole contagion of hell" was not let loose to defeat northern scallawags and ragamuffins, for no carpet-bag interloper had a place on any ticket. This war seems to have been made largely upon the supporters of an independent political movement. Do gentlemen call a poll taken under these circumstances and with these surroundings an election. It could be nothing but a miserable farce, a horrid mockery. I ask, Mr. Chairman, if elections are to be run by the methods I have mentioned, if popular government is not at an end. Let me quote here an extract from a letter of Horace Greeley to Samuel J. Tilden, written in regard to the election frauds in New York in 1868. I most cordially indorse it:

> Whenever it shall be generally understood that the results of the elections are not determined by the ballots of legal voters, but by frauds in voting or frauds in counting, then the advent of avowed, unequivocal despotism must be near at hand. Between the rule of an emperor and the rule of a clique of ballot-box stuffers, every intelligent man must prefer the former as less rapacious and more responsible. When honest citizens shall avoid the polls, asking "What is the use of voting? the result is already fixed," the days of the Republic will be numbered. Between a ruler who prohibits voting altogether and the gang who make it a sham by filling the ballot-boxes with illegal votes, or miscounting those actually cast, the sway of the former is every way preferable.

Speaking for myself, I repeat that I hope it may never be necessary to send armed men to polling places, but rather than see republican institutions assassinated by armed marauders I would encamp the standing Army in sight of every voting precinct in the nation.

I know nothing about the truthfulness of the evidence taken by the Teller committee. I hope for the credit of American character it may turn out that these statements are exaggerated. But election frauds and outrages have not been confined to any section. The elections in our populous cities in the North have been carried, not by force and menace perhaps, but by repeaters and bummers, who mercilessly crucified the popular will by repeating and manipulating tickets and ballot-boxes. New York and Cincinnati especially have contributed their full quota to this record of shame.

I have shown, Mr. Chairman, or at least I have tried to do so, that the United States has the power to make and enforce laws protecting its own elections; that there exists a necessity for the employment of that power; and now I beg to discuss another question for a few moments.

HAS THE GOVERNMENT ABUSED ITS POWER?

Has the Government, under republican control, abused the powers conferred upon it by election laws?

Has any officer or enlisted man, in the performance of any duty under the law, committed any act of violence or outrage?

I have listened attentively, sir, to this entire discussion, and must confess my surprise that no grave offense has been imputed by anybody, within my hearing, to the military. It is a compliment to its discipline and its chivalry. Look at the facts as they stand in the record of the elections. The States of the South—those States that were to "be subjugated by bayonet rule"—have been constantly increasing their democratic majorities. With all the appliances of "centralized power," of force-bills, election laws, supervisors, marshals, and bayonets, the total votes of the States have grown larger every year. Take Mississippi from 1868 to 1876. In 1868 its total vote was 118,393; in 1872 it was 129,463, and in 1876 it reached 164,778. This is true of the States generally. The Administration has had for eighteen years the Army under its control, and yet an adverse Congress sits in this Capitol. The fifteen States of the South return, with three exceptions, a solid democratic representation. Of 192 democratic Senators and Representatives in this Congress 129 of them were elected by these States. There has been no interference with individual liberty or the right of suffrage. Occasional instances may be given where the power has been abused or where the law has not been wisely executed, but if this be an objection it may be made to every law of the land. Every law is subject to abuse, and human agents are never perfect. Before condemning a statute let it be honestly enforced in its spirit, and then judge it by its results. A notable instance of the effect of the employment of troops at the polls was given in the debate the other day by the distinguished gentleman from Connecticut, [Mr. WAIT.] At the congressional election of 1876 there were distributed among the thirty-nine election precincts in the four counties of Edgefield, Barnwell, Colleton, and Beaufort, in South Carolina, 507 United States troops. The total vote of these counties was 12,056, and 6,297 of these were cast for the republican and 5,659 for the democratic candidate. The democratic candidate carried two counties, Edgefield and Barnwell, and the republican candidate carried two, Colleton and Beaufort. The democratic vote was largest where the greatest number of troops were stationed. The largest number stationed at any precinct was at

Edgefield Court-House, and there the democratic candidate received a majority. This election was peaceable and fair. There were no riots, no coercion, no intimidation.

Our past experience, the increasing asperities of the political campaign, the insatiable greed of the politician, and the growing disposition to disregard fairness and honesty in elections, admonish us to intrench the ballot about with the most rigid defenses. Mr. Chairman, we are rapidly losing our power to secure a just enforcement of the law. To inflame the minds of the people and create a spirit of disquiet and unrest partisan speakers and a partisan press traduce every department of established authority. The President is denounced as a usurper and the nation, under republican administration, as a centralized despotism. When courts indict, arrest, and bring to trial persons charged with the most atrocious outrages upon the citizens and the franchise, the prosecuting officers of the Government are denounced as malignant and the judges assailed as vindictive partisans. If there is an acquittal the accused are given ovations and received by enthusiastic processions with music and banners; but if justice is done and the laws vindicated by a conviction, the triers are anathematized as "niggers" or ignorant whites packed into the jury-box to convict. These assaults encourage law-breaking and violence. The miscreant who stuffs the ballot-box, the rough who repeats, the swaggering desperado who, armed and disguised, terrorizes over the country and keeps the voter from the election, or who drives him from the polls or compels him to vote at the muzzle of the shot-gun, takes fresh courage from all these attempts to cast odium upon national authority and to render difficult the enforcement of the law.

Now I am done with this question and will ask the indulgence of the committee but a few moments longer.

We have been admonished, sir, time and again since this debate was opened, that the sad history of the war must be kept out of sight—that we must forbear to draw upon it either to enforce a lesson or illustrate an argument. All allusion to the rebellion is unpatriotic and is reprimanded as an attempt to reopen the wounds and renew the bitterness of the strife. And yet, in the teeth of these protests, the rebellion, merciless and bloody as it was, has been excused if not justified on the ground that the North provoked it by "Boston riots, Kansas wars, and John Brown raids." We are told moreover, sir, that the South in attempting to secede, simply "exercised the Heaven-given inalienable right declared at Philadelphia and consecrated at Bunker Hill and Valley Forge." That I do not garble or misrepresent, I quote the language employed on this floor by the gentleman from Texas, [Mr. JONES.] He said:

> A little school sprang up and began to teach contempt and hate for the Constitution of our fathers. Pandora's box was opened. All know the evils that rushed out. Boston riots, Kansas wars, John Brown raids, personal-liberty laws; but why recount? Madness fell upon the people. Douglas was mocked and hissed in Chicago. Webster was denied a hearing in Faneuil Hall. The South became alarmed. Distrusting the sufficiency of the Government to protect, and fearing its machinery to oppress, the southern people in the exercise of the Heaven-given inalienable right declared at Philadelphia and consecrated at Bunker Hill and Valley Forge, attempted to secede, and following the example of their revolutionary sires, to form a new government laying its foundation on such principles and organizing its powers in such form as to them seemed best. War ensued.

I do not object to these references to the war, or to a discussion of its causes. I say in the words of Draper:

> Let us put this sad and gloomy history—this fearful experience—in the primer of every child; let us make it the staple of the novel of every school-girl; let us tear from this bloody conflict its false grandeur and tinsel glories and set it naked in the light of day, a spectacle to blanch the cheek of the bravest man and make the heart of every mother flutter as she sits by her cradle.

I will observe the injunction and be silent. I will not

> Harrow up the soul, freeze up the blood,

by holding up the utter wreck and universal ruin brought upon the country by that most wicked revolt against constitutional liberty and the Union of the States. It is too late to charge the war to the abolitionists of Boston or to the raid of John Brown. The war was the outgrowth of the restless ambition and the remorseless greed of the slave power. We tried to avoid the fearful arbitrament of arms. To save the Union we made and executed with unseemly alacrity degrading fugitive-slave laws, we abrogated most sacred compromises, pronounced Dred Scott decisions, and offered to abandon the poor slave to his hapless fate for all coming time. I regret that the war came with its flood of agony, its tears, and its terrors; I deplore its atrocities, and cover my face in shame in the presence of its unspeakable barbarisms, but am thankful that the nation triumphed, that in the fierce conflict the fetters were melted from every limb, and that to-day no American has a single link "of the chain of bondage clanking about his rags."

THE POLITICAL PARTIES CONTRASTED.

Gentlemen on the other side of this Chamber, forgetting the logic of the controversy, have made haste to arraign republican administration and the republican party for high crimes against constitutional liberty. This is a portion of the indictment presented by the eloquent and impetuous gentleman from Mississippi, [Mr. CHALMERS:]

> Mr. CHALMERS. Mr. Chairman, my time is limited, and I hope the gentleman will not interrupt me any further. When the battle was won you tore off the veil that covered your hideous deformity; you dissolved the Union that you had saved; you changed the Constitution of our fathers for which you had pretended to fight; you changed State sovereignties into military provinces; you converted the constitutional Union by usurpation into almost a military despotism presided over by a successful military chieftain; you organized returning boards that stole State governments and ended in stealing the Presidency itself. And when you had riveted the chains as you believed upon Southern States you forged chains for the States of the North.

There is more of this, but I have no time to read it now. Let me say, sir, that if there is to be a reopening of the books we are ready. Let "putrescence be uncovered" and the "fires of sectional hate be rekindled" if gentlemen wish. The democratic party has made its record and it cannot change the types. The infamy of that record during a whole decade is imperishable. Would you see it? Look back along the pathway of the years, of the last quarter of a century, if you please, and what has the democratic party done that a lover of his country can point to with pride? And yet these were eventful years—years pregnant with a great work and immense opportunities. It was a time when absolutism was measuring swords with human liberty. What did the democratic party do for liberty? Did it break a chain or unloose a fetter? Did it give freedom to a race, or reach down its strong arms and lift up to "equal rights before the law" the poor and lowly? Was it the friend of freedom or free labor? No, sir; for in every phase of the anti-slavery conflict it was the implacable foe of the slave. Human liberty never won a battle but it had to rout its hosts and break in pieces its battalions. In the day of our great peril it was unwilling that slavery should perish that the nation might live. What was democratic statesmanship in that fearful epoch when the tramp of contending armies shook the nation?

Sir, prompt and courageous action might have saved the nation from the unparalleled horrors of the civil war, but a cowardly democratic statesmanship refused to suppress the revolt or to save the public property from plunder. It cunningly devised an interpretation of the Constitution that relieved treason of its odium and made rebellion respectable. And when encouraged by this cowardice and this perfidy war came, and our institutions were put in peril, democratic policy perpetually weakened the cause of the Union and strengthened the hands of its enemies. I will not retort further. The country wants peace. Be it so.

But the gentleman says we dissolved the Union we had won. We did dissolve a union—the union with slavery, the auction-block and the slave-pen and all their barbarisms. We made a new one, leaving out of it those iniquities that went down in the storm of the battle. And "you changed the Constitution of our fathers." I do not deny it. We cut from it the decayed and shattered branches, only that liberty might have a more perfect and a more vigorous growth. We abolished slavery, and made its brood of fugitive-slave laws and spawn of Dred Scott decisions infamous forever. We recast the ideas of a people. We wrote new charters of liberty-giving freedom, citizenship, and the ballot to millions of a despised and oppressed race. By this republican usurpation the slave power was smitten as with the wrath of God.

> Its once strong arms hang nerveless evermore;
> * * * *
> And they who ruled in its imperial name,
> Subdued, stand sullenly apart
> And scowl at the hands that overthrew its reign
> And shattered at a blow the prisoner's chain.

I do not propose, Mr. Chairman, to answer this assault on the republican party further. It needs no defense. It does not shrink from its record or cry for quarter when it is attacked. Its courage, its patriotism, and its statesmanship have been tested. The eighteen years of its power were crowded full with fearful responsibilities. As it struggled along through these years with a formidable foe in its front and marplots and conspirators in its rear, it may have sometimes blundered in its work; but it met unblanched the shock and agony of a gigantic civil war, and in the midst of the unutterable woe of that ghastly conflict it never for a moment wavered in its devotion to human liberty or to the Union of the States. In that day of gloom and foreboding it maintained an undying faith in the ultimate triumph of the Government, and the complete restoration of constitutional liberty. When the war was over it gathered tenderly up the fragments of the nation, broken under the cannon-wheels of war, and rebound them into a more perfect and glorious Union. It has made liberty the corner-stone of a restored republic. With the British poet we may now say:

> Slaves cannot breathe in our land; if their lungs
> Receive our air, that moment they are free;
> They touch our country, and their shackles fall.
> That's noble, and speaks a nation proud and jealous of a blessing.

And look at our financial record. The waste and extravagance of war left us a dishonored credit and a prostrate currency. An onerous public debt burdened the people and a relentless taxation oppressed them. An abundant currency stimulated a reckless spirit of speculation, and improvident investments resulted in bankruptcies and financial ruin. With the crash came stagnation of business and suffering and want. Hunger sat at our hearth-stones. Malcontents advocated open repudiation. In this period of depression and panic the wildest financial heresies had rapid growth, and there was uncertainty and alarm all over the country. Here, again, sir, republican statesmanship was equal to the great crisis. It grasped the situation, and by a wise economy and prudent management put our national credit alongside that of the most favored people of the world. It has brought our discredited and depreciated currency up to a par with coin. Our despised greenback is equal to gold in London or in Paris.

We have reduced our annual interest rate and largely diminished taxation. We have restored public confidence, and see once more the unmistakable signs of a coming prosperity that will cheer the hearts of the despondent and bring a harvest of blessings to all our people. We laid our financial system on a foundation so solid that it will withstand the assaults of all comers. We have accomplished these results amid the hisses and reproaches of a most appalling opposition. But the republican party did not falter on its way. It marched right on, until it attained the grand results for which it struggled. It has supplemented its victory in war by its achievements in peace, and it cheerfully submits its work and its record to the judgment of a patriotic people. And in this contest, this great struggle of parties, we stand by the liberty that survived the battle and the laws made for its protection. We resist this attack on the laws in the interest of a common country and to secure to the people the most perfect fairness and freedom in our national elections. We do not fear the amplest freedom, but we dread even the shadow of oppression; we do not fear law, but we dread anarchy and misrule. It is said the Greeks put over the gates of the temple at Delphi these words: Liberty, law, peace. I would make these the trinity of a reunited and regenerated republic. When the nation puts liberty, the freedom of thought, of speech, and of the ballot under the guardianship of law, then peace will come; and it will not be one of bayonets, "smelling rank of rotting liberties," but a peace unintimidated, unawed, uncoerced, overshadowing alike with its white wings the lowly cabins of the poor and the turreted and gilded palaces of the rich. Then, sir, under the auspices of that peace that law and liberty secures, democratic institutions will be safe, and we may hope, whatever the fate of administrations or political parties, the Republic, charged with the destiny of a free people, will endure through the ages.

Mr. DEUSTER. Mr. Chairman, after due consideration and reflection I have come to look upon the repeal of this law as an absolute necessity, demanded alike by reasons of justice and policy. My objections to it are not of a political nature, but none the less deserving of the most careful attention and approval of all who believe in equality before the law and have preserved a due respect for the fundamental principles of our republican institutions. One cannot point to a more striking contrast, a greater variance, between the alleged objects of the law and its practical consequences, between the avowed purpose of any measure and its real results, than this law presents. Enacted, as its very title claims, "to enforce the rights of citizens of the United States to vote," this very law has served as a cloak for disfranchising a large class of voters by the very officers to whom its faithful execution has been intrusted.

ENFORCEMENT WITH A VENGEANCE.

There has never been a greater conflict between the declared intention of a law and the facts resulting from its execution; there could be no wider, astonishing discrepancy between word and deed than is presented to us by the practical workings, the appliance of this law and its effects upon naturalized citizens in the largest city of the Union during the past seven years. No fair-minded, impartial observer can fail to look with surprise and justifiable apprehension upon the arbitrary, excessive, and unconstitutional powers which officers of the Government appointed under this law have arrogated to themselves. Instead of protecting the citizen, officers of election, who owe their official existence to the enactment of this law, deprived thousands of inoffensive citizens of the documentary evidence of their citizenship under threats of criminal prosecution, and thus rendered worthless to them the boon of citizenship, conferred upon them in legal form by the courts of their State and accepted by them in good faith, with all its obligations as well as all the privileges implied in the act of naturalization.

I do not hesitate to brand this unprecedented assault upon the rights of the naturalized citizen, as committed by the chief supervisor of elections in New York upon legal voters of that city, as one of the greatest outrages ever planned and executed in this country under cover of law! Such an unblushing violation of a most important provision of our fundamental law, which grants security against unreasonable seizures to the persons and papers of our citizens, should not be permitted to escape the severest censure, and I would be derelict in my duty to the people who sent me here did I fail to characterize these high-handed proceedings as the crowning infamy of any ever perpetrated under pretext of law!

No better proof is needed of the necessity of repealing or essentially modifying this law than the tyrannical authority assumed by that officer under the interpretation he chose to give it. A law liable to such an unjust, illiberal, and oppressive interpretation, and capable of leading to such flagrant violations of universally recognized fundamental principles of equality and justice, should at once be stricken from the statute-book and consigned to oblivion. A law that can furnish the pretext for the wholesale arrest and imprisonment of inoffensive citizens, not one of whom is afterward convicted of any offense, must condemn itself in the opinion of every unprejudiced mind.

PLAYING THE MISCHIEF WITH THE SACRED RIGHTS OF NATURALIZED CITIZENS.

It is a matter of utter indifference whether the East or the West, the North or the South has furnished the scene for such disgraceful acts. The naturalized citizen must be safe and must feel protected in the exercise of all the privileges of citizenship in New York as well as in San Francisco, in Milwaukee as well as in New Orleans; and the occurrence of such outrages as those enacted in the city of New York is none the less to be discountenanced and their recurrence guarded against than if the victims had resided in any other part of the country. In fact these proceedings, as I shall directly show, have not only already affected the rights of the naturalized citizen all over the country, but may even affect them beyond the limits of our national domain.

They furnish a remarkable instance of the unforeseen extent to which any arbitrary exercise of power may lead at any time, and of the intricate questions likely to arise when such arbitrary powers are once conferred or implied. They will lie dormant only until, in the natural course of events, they lead to such abuses as we have witnessed in New York. A most dangerous precedent was thus created by the mere assumption of an election officer; for whence could such an official derive his authority to declare judicial documents, which are valid on their face, to be fraudulent, and prosecute their holders, before he had fully satisfied himself, by due process of law, that an offense was committed? Not in a single instance had the charge of forgery been preferred, and if the judges or clerks of the courts which issued the documents have ever been indicted for any offense I have not heard of it.

The dangers consequent upon any such law which loosely grants powers or implies what arbitrary powers or authority minor officers of the Government may arrogate to themselves under cover of it would alone be sufficient to condemn it as being in conflict with the spirit of our republican institutions, and would justify its repeal. I am well aware of the claims made that the courts whose decrees were thus set at defiance and whose judicial power was thus contemptuously ignored had not complied with the laws governing the act of naturalization; but I contend that such objections to judicial proceedings or doubts in the legality of documents issued thereunder must be argued in due form of law before the courts, and that any attempt to make the holder of such official decrees suffer for such doubts, without previous judicial inquiries, must be denounced as a high-handed, unwarrantable, and unjustifiable proceeding.

Whenever the principle of individual rights, as secured by constitutional guarantees, is surrendered to measures of temporary emergency or for party advantage, no matter how well meant such measures might be, then there is no telling where the encroachment upon those rights will stop!

A NEW WAY OF DISPENSING JUSTICE.

To question the validity of naturalization papers issued by State courts in proper form and under their seal, *not* by proceedings in court to set them aside, but by arresting the citizen possessing such a paper and compelling him to prove his innocence of any fraud in obtaining it, or its validity as a judicial document, is so novel a method in our administration of justice that I am in charity disposed to believe that the officers who assumed the authority for introducing such innovations would have shrunk from the responsibility attendant upon their remarkable action had they been fully cognizant of its logical consequences.

Under this new dispensation of justice we were compelled to witness in New York the singular spectacle of an officer, backed by the authority of the United States, demanding and obtaining the surrender of certificates of naturalization on the part of citizens who had complied, so far as they could, with the law under which they were entitled to them—not because any court had decided these certificates to be illegal and void, but because this presumptuous officer took it for granted that they were not properly obtained, and because he was vested with sufficient authority to give these citizens of New York the full benefit of his opinion!

If it were not for the grounds afforded by this law, which would cover almost anything done by election officers under its provisions, I should be at a loss to harmonize such strange doings with what has heretofore been considered good law upon the subject of certificates of naturalization and the rights acquired under them. I could step into the ranks of the very advocates and administrators of the law as it now stands for my authority in asserting that these doings in New York are in striking contrast with the decisions of the best authorities upon the laws of naturalization and election. From the mass of opinions of prominent writers upon this subject I will quote but one excellent authority, Hon. George W. McCrary, now Secretary of War, who, in his Treatise on the American Law of Elections, has this to say upon the subject:

> A certificate of naturalization in due form, issued by a court possessing the jurisdiction to grant the same, is *prima facie* evidence of naturalization, and an election officer cannot go behind it. If a voter could be obliged to bring proof *aliunde* to sustain such a certificate, and the judges of election could be obliged to hear evidence *pro* and *con*, the value of the boon of citizenship which we confer upon foreigners who come to our shores would be greatly lessened. Besides, in many localities where the number of naturalized voters is very large this mode of proceeding would be impossible, since a few cases would consume the whole of the day of election, and many would remain unheard. (Commonwealth *vs.* Lee, 1 Brewster, 273. Ib. *vs.* Sheritt, ibid., 183; Ib. *vs.* Leary, ibid., 270.)

When this plain statement of a self-evident, logical conclusion is compared with the remarkable spectacle afforded by the doings of an election officer in New York charged with the execution of a law entitled, as if in mockery of justice, "An act to enforce the right of citizens of the United States to vote," and who, in enforcing this

very law, drags thousands of naturalized citizens, legal voters, away from the polls and subjects them to imprisonment, legal proceedings, and many other annoyances, merely upon the strength of an assumption that the documentary evidence of their citizenship, produced by them in due form, *might* be contestable, one cannot fail to become impressed with the conviction that either the law itself which sanctions such proceedings is unjust and oppressive, or that its execution is intrusted to improper hands, or that both are at fault.

A COMMON SENSE DECISION BY A UNITED STATES COURT, AND HOW IT IS COMPLIED WITH.

In deciding upon one of the cases brought before him under this remarkable administration of the election laws, (United States circuit court,) Judge Blatchford, of New York, felt constrained to say:

It is hardly to be supposed that Congress intended to make the applicant for citizenship responsible for a non-compliance with any other conditions than such as he had the power to comply with. The applicant can declare his intention, and can take the prescribed oath, and make the prescribed renunciation; but he cannot see to it that the proceedings and renunciation are recorded. He can produce a witness as to his residence and character, and can appear in person in the proper court and be sworn there in open court, with his witness, as to the matter prescribed in the statute. When this is done he can do nothing more than to receive such certificate from the court as that which Coleman (the defendant) received from the court, a certificate which sets forth that it is given *by the court under its seal.*

Yet notwithstanding this sensible decision, the same arbitrary course toward the naturalized citizen is still pursued there under this law. I maintain that it is unwise and impolitic as well as unjust to the naturalized citizen to perpetuate a law upon the statute-book that furnished the pretext for establishing a dangerous precedent for foreign nations to question the validity of naturalization papers issued to their former subjects. For what recognition, I ask, can we reasonably expect of them for American certificates of naturalization, if United States officials at home may refuse to accept them as *prima facie* evidence of the rights of citizenship acquired by the persons to whom they were issued by the courts?

EX-SECRETARY OF STATE HAMILTON FISH KNEW BETTER.

Such international questions may spring up at any moment, and this virtual disfranchisement of naturalized citizens in New York by an officer of the United States Government may prove a dangerous weapon against us whenever an occasion should arise compelling our Government to recognize the principle of upholding the legality of such certificates of naturalization. That the Government is well aware of its true position under such circumstances, is best shown by a correspondence which passed between the German embassador, Baron Schloezer, and the Secretary of State, Mr. Fish, in reference to the case of two brothers, Jacob and Herman Kastellan, former Prussian subjects, who left their native country in May, 1866, and June, 1867, respectively, and returned to Prussia in 1871, after having been naturalized in the early part of that year. It was thus evident that they could not have complied with the requirements of the naturalization laws as to prior residence, and on December 31, 1874, the German embassador, transmitting these naturalization papers to our Department of State, requested information upon the following points:

First, whether these papers were valid under the laws of the United States; and,

Second, whether the Government of the United States recognized the Messrs. Kastellan upon these certificates of naturalization as American citizens.

On January 8, 1875, the Department of State forwarded the following reply to Baron Schloezer, (see Foreign Rel., 1875, Pt. I, No. 252:)

Mr. Fish to Mr. Schloezer.

No. 252.] DEPARTMENT OF STATE,
Washington, January 8, 1875.

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, inclosing, *sub petitione remissionis*, the certificates of naturalization as citizens of the United States of Jacob Kastellan and Herman Kastellan, former subjects of Prussia.

The certificates bear date, respectively, the 12th of January and the 13th of February, 1871, and your note conveys the information that in the same year, 1871, the Messrs. Kastellan returned to Prussia and settled at Koshmin, in the province of Posen, their native place.

It appears, also, that after the return of the brothers Kastellan to Koshmin, certain inquiries were instituted by the local authorities of that place in relation to their citizenship, and that in response to the inquiries Jacob Kastellan stated that he received his discharge as a Prussian citizen from the government of Posen in 1866, and left for the United States in the month of May of that year; that Herman declared that he received his discharge from the same authority in 1867, and that he left for the United States in the same year; and you further state that official inquiry made at the government of Posen verified the correctness of these statements as to the date of the respective discharges, Jacob Kastellan having, as it is alleged, received his on the 20th of February, 1866, and that of Herman having been granted on the 6th of May, 1867.

These subsequent statements and facts appearing to be incompatible with the declaration of the certificates to the effect that each of the parties in question had resided in the United States five years previous to his naturalization, you desire to be informed, first, whether the certificates are valid before the laws of the United States; and, second, whether on the strength of these documents Jacob and Herman Kastellan are recognized by this government as American citizens.

These inquiries involve a question of the gravest judicial character. The two papers which I had the honor to receive with your note are certificates of regular decrees purporting to have been rendered by courts of general jurisdiction, and are accompanied with the ordinary evidence recognized by the laws of the United States as attesting the genuineness of solemn documents emanating from such tribunals; they are received as verities in all other courts of the United States and of the several States, and accepted with like credit by the executive branch of the Government.

It appears, moreover, that these certificates expressly state that the fact of the required previous residence was proved to the satisfaction of the court; and it will be remembered that the law requires proof to be furnished in such cases by the oath of the party and other sworn testimony in corroboration thereof.

What the precise evidence submitted in the case under consideration may have been this Department is not informed, but the presumption of correctness and regularity which obtains in relation to proceedings in judicial tribunals, under the laws of the United States, is equally applicable to naturalization proceedings and applies to them with full force.

By the decree, therefore, of a competent court, after a hearing upon sworn testimony, and with the parties before the court, it has been adjudged that these applicants for citizenship had complied with the law as to residence and otherwise, and that they were legally admitted to citizenship. Such an adjudication affects the rights and property of individuals and their children, and may seriously affect a change in the rights and interest of third parties. To assume to question the legality or binding force of such a decree upon statements afterward made by the parties or obtained from other sources, would practically amount to the annulling of such decree affecting all these classes of persons upon statements not under oath, taken *ex parte*, and without a hearing on the question.

If the political department of the Government may from time to time pass upon such questions according to the apparent credibility of the particular evidence offered to impeach the decree or the varying statement of an interested party, no uniformity of decision or security for acquired rights could exist.

In view of all these considerations, I have the honor to inform you that under the circumstances and in the case you state certificates of naturalization, valid on their face and founded on the decree of a competent court, cannot be questioned except through judicial proceedings instituted for the purpose, or in which the correctness of the facts formerly passed upon may properly be adjudicated, and that it is not within the province of the political department of the Government to anticipate what would be the result of a judicial inquiry into the question.

In pursuance of your request I have the honor to return herewith the two certificates in question.

Accept, &c.,

HAMILTON FISH.

VALID ON ITS FACE FOR EVERYBODY—EXCEPT THE SUPERVISOR OF ELECTIONS.

No more distinct recognition of its duty under such circumstances could be asked of the Government. Here we have an instance where the certificates of naturalization bore the plain mark of fraud upon their very face, and yet the Government hastened to promptly notify the representative of a foreign government that their holders must be recognized as entitled to American citizenship! And why were they so recognized? Because, says Mr. Fish, "certificates of naturalization, valid on their face, and founded on the decree of a competent court, cannot be questioned except through judicial proceedings." And then he goes on to tell the representative of a foreign government, in explanation of the constitutional powers of the various branches of our Government, that "it is not within the province of the *political* department of the Government to anticipate what would be the result of a judicial inquiry."

Compare this lofty declaration which proclaims as sacred and inviolable the decree of a court granted a naturalized citizen under circumstances, even, which cast the dark shadow of doubt upon his claims to citizenship, with the summary and arbitrary nullification and confiscation of certificates of naturalization, and the wholesale arrest, imprisonment, and tyrannical treatment of their holders, citizens of New York, by an officer of the Government—not upon the judgment of a court against them, but because this arbitrary officer believed himself authorized, under this very law, to substitute *his* opinion as to the legality of these papers for the judicial inquiry usually necessary before the validity of the decree of a court can be questioned. If officers of our own Government are permitted to arrogate to themselves, under the provisions of this law, the power to determine how far they may recognize or deny the claims to citizenship of a naturalized citizen, how can we insist upon a due recognition of these claims by foreign governments, if any of our naturalized citizens happen to be within their jurisdiction? How can we extend our boasted protection to an American citizen in any part of the world, if we discriminate against any class of them at home? And how can we demand that the decisions of American judicial tribunals be respected at home or abroad, if government officials may set such a dangerous example of a flagrant violation of their sanctity?

ITS INJUSTICE FELT AT THE TIME OF THE PASSAGE OF THE LAW.

I can understand and appreciate the motives which prompt the gentlemen who now so gallantly defend this law, but I should like to call their attention to the fact that some of them, then members of the Congress which passed this law, felt conscientious scruples as to its constitutionality, justice, and fairness. There was a feeling of insecurity, an apprehension of certain unforeseen and undefined dangers which lurked about this measure, principally on account of the extensive powers vested in minor officers. Among those who most plainly expressed this feeling of insecurity as to the logical results of the passage of this law was the distinguished Senator from Illinois, then a member of this House, Hon. JOHN A. LOGAN. During the debate upon this law he raised the point "whether a soldier, who, if called upon to assist a United States marshal in making arrests at an election, should kill anybody in the discharge of his duty, would be subject to civil or military jurisdiction," and declared that unless he could be satisfied upon this point he could not vote for the bill. The gentleman's conscientious scruples seem to have quieted down very soon, however, for we find him afterward among those voting "ay" upon the question of the passage of the bill.

Such instances were quite numerous, and foreshadowings of complicated questions, problems of an intricate nature and difficult of solution, will always follow in the wake like the punishment overtaking the offender whenever in disregard of the well-defined lines of constitutional authority powers are assumed which were not legally vested in the usurper, or rights abridged which cannot be questioned except by due process of law.

When I examine the creditable record made by some of these distinguished gentlemen in their defense against what they then considered a dangerous encroachment upon popular rights, I can only admire the courage and ingenuity with which they now maintain their position upon the other side, after finding from subsequent developments and the history of this law since its enactment the worst fears realized which they then entertained.

It is immaterial whether the remarkable proceedings in New York are directly traceable to the distinct provisions of this law, or whether the officer charged with its execution exercised an authority not anticipated in creating his office. It is sufficient to justify its repeal that it failed to restrict him within proper and reasonable limits in the exercise of his functions, and also failed to define the authority to which this officer, vested with such extraordinary powers, should be directly responsible and answerable for his conduct or the faithful discharge of his duties. A law susceptible of such willful interpretation and unlimited "stretching" is too dangerous to public safety and popular liberty to remain upon the statute-book.

HOW DAVENPORT WAS ENCOURAGED BY THE DEPARTMENT OF JUSTICE.

Besides, I have been unable to learn of any efforts made or measures taken to hold that officer accountable for his actions toward inoffensive citizens of foreign birth or to restrict him somewhat in the unlimited exercise of this self-created authority. For aught I know to the contrary, there may be an election held in the city of New York to-morrow and Mr. Davenport may repeat his outrages upon legal voters again and again with the same impunity with which he has proceeded heretofore. So far from being obstructed in his assaults upon the people, he did not even receive a friendly warning such as was given to others. It will be found by reference to the report of the Committee on the Judiciary to the Forty-fifth Congress (see Report 135, Forty-fifth Congress, third session) upon the charges against Mr. Davenport investigated by it, that the Attorney-General of the United States, perhaps somewhat alarmed at the summary proceedings of that officer, over whom he could only claim a "supervisory" authority so far as the cost of this expensive luxury is concerned, thought it proper to officially "advise" the United States district attorney at New York, who acted in concert with Mr. Davenport, not to proceed too indiscriminately, and, to use his own words, "not to take any steps which could not be successfully sustained before the courts."

In the same letter, however, dated July 31, 1878, the honorable Attorney-General thus encourages his subordinate, the district attorney, and indirectly, through the latter, his associate, Mr. Davenport: "I do not anticipate," he says, "that you will find any difficulty in bringing to justice a sufficient number of *offenders!*" This is the fullest extent of any official reprimand or censure which I am able to find upon record as having been received by Mr. Davenport, directly or indirectly, from those high in authority for his questionable proceedings. Offenders, forsooth! I should like to ask the honorable Attorney-General upon what principle in law, equity, or justice he bases his opinion that the citizens voting upon the strength of certificates of naturalization obtained years ago in good faith, and issued to them by the courts of their respective States in due form and under the seal of such courts, were or had become offenders before the law? I should like to inquire according to what process of reasoning or logical deduction the possession of a judicial document, the genuineness of which can only be questioned before the courts, constitutes an offense in the eyes of the honorable gentleman who presides over the Department of Justice?

Mr. Davenport's full and undisputed sway over the election machinery in New York provided by the Government in pursuance of this law enacted in order "to enforce the rights of citizens of the United States to vote" is sufficiently attested to require no further illustration or comment. But a still more remarkable proof of the manner in which his illegal proceedings were countenanced by the Department of Justice is furnished by the following correspondence between the United States district attorney at New York, who acted in concert with Mr. Davenport, and the honorable Attorney-General, as I find it in the report of the Committee on the Judiciary, already referred to, (see Report 135, Forty-fifth Congress, third session:)

A REMARKABLE DISPLAY OF IGNORANCE BY A LEGAL LUMEN, AND HOW THE ATTORNEY-GENERAL KNEW NO BETTER.

OFFICE OF THE UNITED STATES ATTORNEY,
FOR THE SOUTHERN DISTRICT OF NEW YORK,
New York, August 21, 1878.

SIR: In reply to your letter of 31st July, 1878, I furnished a copy of the same to Commissioner Davenport. Yesterday he writes me asking what action I purpose taking respecting the complaints on file in his office charging fraudulent registrations and the possession of fraudulent certificates of naturalization.

He states in such letter that there are now about eighty-five hundred such complaints filed with him, and that he is informed the number may be increased about fifteen hundred.

I have to-day written him that unless his experience as chief supervisor of elections suggests a different course I will publish a card stating the information received from him, and *requesting all persons holding such certificates to surrender them to him* before the 10th of September proximo.

I do not propose to proceed further against parties who shall avail themselves of this privilege of voluntary surrender. On and after September 10 I will, as fast as the force at my command shall permit, examine the complaints against parties not surrendering their fraudulent certificates, and will then endeavor to select a number of the worst cases and press them to trial.

I trust that this action will accord with the suggestions contained in your letter of July 9, 1878, on this subject, and will meet your approval. I suppose that this action may logically lead to the approval of the commissioner's accounts for receiving the several complaints and administering the oath thereon. This would be less than $1 on each complaint. I don't see how I can in any other manner intelligently discriminate between the many parties against whom the supervisor has felt it his duty to receive complaints. Inclosed please find copies of Mr. Davenport's letter to me dated yesterday, and my reply thereto dated to-day.

Very respectfully, yours,

STEWART L. WOODFORD,
United States Attorney.

Hon. CHARLES DEVENS, *Attorney-General.*

To which the Attorney-General replied as follows:

DEPARTMENT OF JUSTICE,
Washington, August 31, 1878.

SIR: I have read your letter to me of the 24th instant, in which you state the course which has been determined upon in relation to the parties charged with holding fraudulent naturalization certificates, and I desire to say that the same meets my full approval.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

STEWART L. WOODFORD, Esq.,
United States Attorney, New York, N. Y.

The United States district attorney at New York, thus, in plain words and with the expressed approbation of the Department of Justice, tells a large number of naturalized citizens that he intends to examine into the validity and incontestable nature of their certificates of naturalization, but that before doing so he will kindly grant them a respite, in order that they may voluntarily come forward and —surrender them! Surrender the evidence of their citizenship acquired in good faith! The same evidence of citizenship which four years ago the dignified head of the Department of State declared himself ready to uphold and defend against any foreign nation, if necessary, with all the power of the United States!

The United States district attorney at New York, that legal *lumen*, neglected to state whether he also had the authority, real or assumed, to absolve those "offenders" from all obligations as citizens under certain emergencies.

When the most singular theory of this United States district attorney and his superior, the honorable Attorney-General—that a citizen is an offender before the law until he proves his innocence to the satisfaction of his prosecutor—is contrasted with our modern ideas of justice and the law upon this particular subject of naturalization, as expounded and interpreted so clearly in the excellent treatise of that distinguished associate of the honorable Attorney-General in the Cabinet, the Secretary of War, one cannot help thinking that better law and justice prevail to-day at our War Department than at our Department of Justice.

Remembering how under cover of this law such a wholesale disfranchisement of legal voters could occur—and instead of restitution being made or attempted the parties guilty of such a flagrant violation of the sacred rights of citizens were upheld and countenanced by the judicial department of this administration—it seems as if a prophetic spirit had prompted one of my predecessors in this House from the State of Wisconsin, Mr. Eldredge, while he antagonized this measure at the time of its enactment, to say—

> It bears on its face, and in all its provisions the clearest evidence of its origin and purpose, not to secure, but to prevent pure and fair elections; not to aid the voter to express his own unbiased judgment, but to awe him into submission, and control him against his conviction. *Its very title is a false pretense, if not a lie,* adopted for the purpose of defrauding the people and cheating them into the support of a most infamous measure. * * * No sane man can believe that this is a bill *to enforce the rights of citizens of the United States to vote.* It must be seen that it is a bill to prevent, hinder, and delay citizens in voting. It provides a system to drive citizens from the polls, and to disgust all honest men with our elections.

EQUAL JUSTICE TO ALL—TO THE NATURALIZED CITIZEN AS WELL AS THE NEGRO.

I am well aware that some such expedient as this measure has been claimed to be necessary to maintain the political rights of the "nation's ward," and more particularly the colored citizen of the South. How far the rights of colored voters were denied or encroached upon by political opponents in the South I must leave to others to discuss; I can only say that it appears to me neither just nor advisable, nor in accord with our ideas of popular liberty and good legislation, to concentrate such dangerous powers in the hands of irresponsible officers, and to curtail the rights of one large class of citizens in order to confer a questionable benefit upon another class. Again, so far as my knowledge extends, the Federal courts had neither at the time of the enactment of this measure nor since then ever suspended the administration of the law for one moment; and if the colored voters were unlawfully interfered with, they could apply the same remedy in protecting their rights to which the citizen of the North must resort when his privileges as such are endangered. There can be no good reasons for "protecting" by any special law or forcible measure any class of citizens of the South, or anywhere else, so long as the Federal courts are open to them and so long as behind these courts stands the whole power of the United States to enforce their mandates and assert the majesty of the law; nor can there be any good reason for the continuation of a measure which only tends to bring these very courts into disrepute and contempt—for throwing the cloak of judicial sanction around acts as unjustifiable, discreditable, and lawless as those we have witnessed in the city of New York. I am unwilling to believe that these questionable operations against naturalized citizens on account of the pretended dubious legality of their certificates of naturalization could have been based upon the detestable theory that the naturalized citizen is less entitled to the fullest protection of the law than he who is to the "manner born," or the colored citizen who has become the "ward of the nation." If such a theory

has been entertained but for a moment, then all those directly or indirectly connected with this outrage deserve to be relegated to the obscurity of private life, with the stigma of lasting infamy upon their names. Such mistaken notions cannot be cured too soon or too radically wherever and whenever they appear upon the surface of public life to modify or practically nullify our equality before the law. Any deviation from this course antagonizes the liberal spirit of our institutions and renders worthless the protection promised and inducements offered the foreigner who assumes, with its privileges, also the obligations of American citizenship and tends to turn the tide of immigration from our shores, instead of fostering and encouraging it. As a nation we are not isolated in the appreciation of the influx of capital, the increase of numerical strength and power of development of natural resources which attend immigration.

The liberality of our naturalization laws is equaled, and in a few instances even surpassed, by some other countries. Austria, Prussia, Russia, Belgium, and Holland require no prior residence of the foreigner who swears them allegiance. In Würtemberg the purchase of real estate constitutes the purchaser a citizen. France requires but three years' prior residence, and but one even, in the case of distinguished persons, talented and skilled artists, manufacturers and artisans. Brazil also requires but three years; Portugal, Greece, and Mexico two; Denmark, Peru, and other countries but one year's prior residence.

THE SUPERVISOR MUST GO—WE WILL FEED HIM NO LONGER.

One word more. A great deal is being said about the manner in which the repeal or modification of this obnoxious measure is sought to be attained. But while a separate, distinct enactment for this purpose *may* be impartially considered by the executive branch of the Government, and *might* receive its sanction, the necessity for this repeal or modification is apparently so great, the injustice of its further continuance so patent, that it would not seem advisable to endanger the result by the merest probability that political considerations could prevent its approval by the Executive. It is a case where the ends justly sanctify the means. We cannot imply an indirect assent to the perpetuation of this law by granting the money required to carry out its provisions. We can justly decline to appropriate money for a purpose which we hold to be unconstitutional, unjust, and oppressive, and if the other business of the Government is thereby retarded the blame must rest with those who insist upon retaining this unjust law upon our statute-book.

While I admire the brilliant forensic talent which has been displayed on both sides during our debates, I have been puzzled to understand what good effect upon the general welfare of the country these reminiscences of the war and sectional disputes can be expected to exercise. As I said in the beginning, I have no such arguments to offer, no political grounds to bring forward. I plead only for equal rights and equal justice to all. I can only say that no party can live that cannot afford to be just, and that after all the people themselves are the component parts of all parties. Let us, above all, be just to them, even to the most humble portion of them, and thereby demonstrate that while we may differ as to the ways our common object always will be the same, that of the welfare and prosperity of this great nation.

Mr. FORD. Mr. Chairman, we have passed through the ordeal of a most exciting debate upon the Army appropriation bill, the spirit of which cannot, I think, be commended save as it may be viewed from the most ultra-partisan stand-point. I had hoped that in the present discussion gentlemen might see the propriety suggested by a high order of patriotism of viewing the issues presented in the bill under consideration as Americans, citizens of a great country, having a common destiny, cherishing a profound respect for its beneficent institutions, and earnestly laboring to still further perfect and perpetuate them. Much has been said of the prerogative of the States, and infringements upon their rights forcibly and eloquently deprecated—all of which is wise and proper, inasmuch as the functions of government in each separate Commonwealth are important and not to be ignored. All sovereignty legitimately attached to them should of right be recognized, for they compose our glorious Union, whose stability and authority are most desirable, whose life is endeared to the good men of all parties who revere their Government and are not less sensitive to the nation's requirements and its duties than they are to the rights of the States.

This admitted, and I think there are few, if any, who will question the truth of the proposition, a solemn duty rests with us to secure to every individual invested with the proud insignia of citizenship immunity from interference or intimidation, whether these attacks are to be resisted in Pennsylvania or New York, Massachusetts or South Carolina.

I know, sir, that good, sincere men, who pray for peace and harmony throughout our country, feel that we should remit this whole matter to the people themselves; that they are responsible for the injustice and violence complained of, and they can, if they will, purify the politics of the nation and banish the thugs whose infamies on election day are a reproach and disgrace to the age. I wish it were possible to reduce this theory to practice; it would be much more in accord with the spirit of our institutions; but, sir, all such attempts, I fear, will prove but as the dreams of the idealist until the demagogue shall have been excluded from caucus and convention and the patriot be recognized as the true exponent of the people's will.

When a new order of things shall have been reached, the millennium proclaimed and accepted, authority may be dispensed with, as antagonisms and interests of a selfish and ignoble character will have disappeared. I submit that repression of the most criminal character affecting the freedom of elections, invading the sacred precincts of a free franchise and designed to strike down the manhood of the country, degrading the people to a condition of helotism, cannot be doubted if we accept as true the statement of the republicans as to the number and character of outrages in the Southern States more in accord with the barbarism of Patagonia than the civilization of any State of this Republic. Nor is the picture less repulsive, less hideous or more assuring, when, sketched by the democratic artist in its somber shading, is portrayed similar crimes; and the charges are directly and positively made, deliberately preferred, that fraud, treachery, the most vile political and mercenary appliances, are sought to be effectively used by the opposite party to stamp out overwhelming democratic majorities. Where there is so much smoke there must be some fire; for, sir, it would be derogatory to the character of the prominent gentlemen of both parties to this controversy, indulging in these severe charges and counter-charges, to assume they are made to order, manufactured merely for political effect.

Mr. Chairman, I look upon these developments as being of the most serious character, boding but little promise of hope for the future of our country, freighted with consequences that may eventuate in the destruction of civil liberty in America.

The mere assertion that frauds were perpetrated, the bare suspicion that any party in our political life is base enough to meditate such a revolting crime, so impious as to place its sacrilegious hands upon this ark of the covenant of American liberty, should excite the condemnation and unsparing censure of men yet free whose first duty is to country, not party, who, when its life is endangered, its integrity assailed, its authority questioned, accept the great responsibility of stepping to the front in its defense, whose mission it is to preserve the rarest jewel of earth, this Republic, that its brilliancy may challenge the admiration of the less fortunate of other lands subjected to the unfeeling domination of despots.

It is, sir, a grave question agitating the minds of many good and true men to-day whether this nation can exist and that full measure of liberty be secured to the people so fondly cherished by the patriotic founders of our Government unless a more scrupulous regard for the rights of all and a higher and purer estimate be placed upon the purity of the ballot-box.

It is quite common in these latter days to hear utterances that to some seem strangely out of place, sentiments thoroughly at variance with that good, old-fashioned doctrine that the voice of the people is the voice of God in the political order, a truth that should ever inspire the humblest in the land with a lofty patriotism, an idea that invests the toiler unless convicted of crime with the proud decoration of citizenship, the franchise of which should not be coerced or enfeebled by the stratagems of professional politicians. Strange and impossible as it may seem, the advance guard of "special privilege" is occasionally heard in this fair land; its bugle blast sounds "down with manhood suffrage;" the wisdom of the fathers is doubted, their simplicity pitied, and men of some pretension and culture, if not eminence, are found advocating restrictions and qualifications whose imposition is intended to disfranchise the many and erect upon the ruins of political equality an intolerable, soul-abhorring aristocracy. Against this treason now somewhat popular, this innovation wholly un-American, I desire to enter my humble protest; imbued with that feeling, impelled by that motive, I do not hesitate to declare upon this floor that I believe any measure, whether intended or not to impair the efficiency of supervisors of election, that denies to them proper facilities to alike prevent illegal voting and all attempts at the intimidation of citizens legally entitled to vote, is a very grave mistake and should not be entered upon in obedience to the whims and caprices of partisan interest and necessity.

Gentlemen can best serve their country by placing safeguards around the ballot-box that will tend to purify the approaches to this sanctuary of the people; they will thus fortify with renewed hope the devotees of free government who yet hesitate to admit that we are incapable of the exercise of sufficient virtue to preserve intact and perpetuate the priceless heritage of popular government. Mr. Chairman, I suppose it is claimed that any interference such as I believe to be necessary upon the part of the Federal Government is unconstitutional, arbitrary, and dangerous to the independence of the several States. Whether we have sufficient reason to dread the exercise of this power I will not discuss, but this much I sincerely believe: that it should be the duty of the National Government to step in between the oppressor and the oppressed and protect the voter in all his constitutional rights independent of partisan considerations; for, sir, the stability and permanency of this Union depend upon the free and unconstrained ballot of the masses. I sincerely regret, sir, that the majority in this House did not see proper to present these repealing clauses as separate measures. For some of them I could cheerfully vote if so presented, because I am persuaded they serve while on the statute-book but to irritate the people and revive the discords and bad passions of the past.

I desire to vote for this appropriation bill, a measure of such magnitude and importance as not to be overestimated; which simply means, as I understand it, providing for the support of our governmental system. A very grave responsibility is forced upon us, and I seriously question the propriety of a policy—whether pursued by democrats or republicans, I care not—that compels us either to vote against an appropriation bill because of an objectionable feature, such as we fear is embodied in the proposed legislation, that if adopted will render wholly powerless supervisors of election, and thus leave the individual voter subject to the outrage and abuses gentlemen complain of, and a repetition of which Congress should sedulously guard against at this time. There are some gentlemen upon this floor who are willing to vote for the repeal or abolition of the jurors' test oath and provide for such modification as would secure protection and freedom to every voter by preventing excesses of partisan officials; and these measures, sir, should have been presented to us upon their merits, enabling us to assume the responsibility of voting for or against them untrammeled by the danger of defeating an appropriation bill. I trust, sir, it is not yet too late to avoid the conflict so much talked of between Congress and the President; and so trusting and believing, I hope this committee may so amend this bill as to avoid "a dead-lock" that if precipitated must prove disastrous to the whole country.

Much of the time devoted to partisan appeals could have been utilized for the enacting of measures of relief that would be hailed as a promise of a bright future for the depressed industry and discouraged labor of this nation, a duty upon our part so plain and imperative that to longer trifle with it must arouse the indignation of an outraged people. I trust this extraordinary session of the Forty-sixth Congress may wisely determine upon a policy tending to abolish the widespread want and suffering now so bitterly complained of, ameliorating the condition of the toilers whose homes are forfeited to exacting capital, whose labor is degraded, whose poverty is pronounced a crime punishable by imprisonment in some portions of our country. This spirit of relief breathed into the nation's laws would enkindle a devotion now dormant in the breasts of those tortured by pangs born of neglect, worthy of grave consideration here, and cannot be safely postponed to some future time. Promises of congressional relief do not buy bread. Some measures of a substantial character should be secured; and, sir, the sooner the better.

Mr. FROST. Mr. Chairman, I thought, when I took my seat in this House that I had some accurate ideas concerning the tenets, the faith, and the principles of the party with which I act. I thought that we had assembled here to consult as to the best methods of advancing the interests of trade, commerce, and agriculture, to devise some means to relieve the people from the burdens which oppress them, to grapple with those problems of finance, of tariff, of the relations of capital and labor, which demand for their solution all our energy, all our courage, and all our wisdom. I had concluded, sir, from my observation of political platforms promulgated almost annually since 1865, and from the opinions of the people with whom I mingled, that I might safely assume that the war was over; that its legitimate results were acquiesced in universally North and South; that the later amendments were recognized as a portion of the organic law as sacred and as binding as the rest of the Constitution; that this being the general sentiment, we had turned our backs upon the past, facing steadily to the future, with a common purpose and a common hope of accomplishing something for the common welfare.

I had nothing to do with that past, neither with precipitating the issues of the war nor with their final settlement, for I belong to a generation that has grown up to manhood and to a participation in the government of the Republic since the last shot was fired in that contest, which in my opinion so fortunately resulted in the preservation of the Union.

But I find here gentlemen on this side of the House as on that side, who were in either one or the other of those great opposing armies which for four long years made of this continent a mighty camp. I saw them stand side by side before that desk, and with hands upraised to their Creator, whose sanction they invoked, I heard them swear to support the Constitution and the laws of the United States. As I was sincere myself in that solemn act, so I gave them credit each and all of equally honest purposes.

But if I am to believe the utterances of gentlemen here, in all this I have been laboring under a gross delusion. If I am to believe the distinguished gentleman from Ohio—a leader of the other party, and an able and eloquent one—[Mr. GARFIELD,] the democracy is here to-day not for the purposes I have mentioned, not in obedience to the oath we have taken, but to reopen the book where the page was turned down in 1861 to the music of the artillery that played upon Fort Sumter. Their designs are as treasonable now as they were then, though the mode of their execution is less manly—"when they failed to shoot to death, they now undertake to starve." Led by the same confederate brigadiers, they aim a more insidious and a more deadly blow at the life of the Republic. Another distinguished gentleman, from Michigan, [Mr. BURROWS,] tells us that this is the beginning of a series of assaults, to be followed up and pushed; that lawless violence, fraud, and murder may run riot in the land. He intimates that unless we are checked in our nefarious plans it will not be long before the emancipated slaves will be paid for, the constitutional amendments abolished, slavery re-established, cotton taxes and southern claims liquidated, and the soldiers of the confederacy pensioned.

It has been loudly and persistently asserted upon this floor that the language of the gentleman from Kentucky [Mr. BLACKBURN] is fairly open to this interpretation. He needs not that any one should come to his defense. Panoplied with truth and animated with the ardor of honest conviction, he has shown to the satisfaction of all impartial hearers that by no forced construction can his manly words be tortured into any other meaning than such as the purest patriotism justifies.

Now, sir, if I believed for a moment one tithe of these charges, that moment would sever my connection with the democratic party. But, sir, I do not believe it and the country does not believe it. We do not purpose to open any musty tome closed in 1861 and buried forever at Appomattox. We will take up a new volume, unstained with the horrors of internecine war, and on its virgin pages we will commence to write our record—a record of harmony, peace, and goodwill, glorious with the application of imperishable principle to the ever-varying wants of the people.

I repeat, sir, that the country does not believe these charges. Over and over again for the last fifteen years they have been sown broadcast, and the answer to them has come back in a steadily decreasing republican vote, until that party has lost both branches of the Legislature, and if it retains the Executive the general voice declares it to be only through a fraud. This last relic of their former greatness, too, they are doomed soon to lose.

From an overwhelming majority a few years ago, at the last election for the members of this House they were in a minority of one million two hundred and fourteen thousand votes. A majority of nearly a million and a quarter of the people of this country have declared their want of confidence in that party which has ever turned a deaf ear to the cry of distress arising from every corner of the Republic, or tried to stifle it by the unhallowed bugle-blast calling to sectional hatred and animosity. A wise law of ancient Rome forbade the erection of any trophy in commemoration of victories won in civil strife. A majority of a million and a quarter of the American people have determined that every trophy born of the passions of war in the interest of partisan tyranny shall be expunged from the statute-book.

They will submit to nothing less, for their own rights and franchises are endangered by all laws such as those under discussion "which look to the abridgment of the liberties of the citizen." This is why gentlemen of the third party on this floor join with us in demanding this repeal. We demand it in the name of this great majority, not at the dictation of confederate brigadiers, but because every voter throughout the length and breadth of the land, from Boston to New Orleans, is threatened in the exercise of his right of suffrage—a right of higher nature than life, liberty, or property; for it is to us a buckler of defense for our lives, our liberties, and our property. These laws give to an Administration which represents but a minority of the people the power to coerce, intimidate, and defraud the majority. That the will to do so has not been wanting in the past I shall show in the course of these remarks.

In self-protection, in a patriotic spirit, recurring to the fundamental principles which underlie free government, we demand that the ballot-box be restored to that freedom which it enjoyed in the better days of the Republic, freedom from the military arm of the Federal authority as from its civil minions basely bribed from the Federal purse.

I should not, sir, trouble the House at all upon this occasion were it not that I have some personal experience with the application of those laws which we now propose to repeal. They were enforced in the district which I now have the honor to represent on this floor in the election of 1876, and their enforcement was equally obnoxious to all classes of our citizens, whatever may have been their past experiences, or whether they came from the North or the South. At present the democratic party utters the most violent complaints, but after 1880 the other side of this Chamber may resound with even louder denunciations.

The question of the repeal of these laws should therefore be considered with judicial calmness and an entire freedom from sectional or party feeling. To avoid technicalities, the sections which it is proposed to repeal are those authorizing the appointment of United States supervisors and marshals to attend at elections and the registration preceding elections for the purpose of keeping the peace and the prevention of all frauds and violence.

The supervisors are required to challenge all fraudulent voters, to personally inspect, scrutinize, and count each ballot, to make a return of their count to the chief supervisor, and to do this they are directed to enter the rooms where the ballots are kept and to take such a position with reference to the ballot-boxes as they may deem advisable. The marshals may be appointed without limit as to number, and their duties are to assist the supervisors. They have the power to arrest any one without process, before or after voting, who commits any offense in their presence against the laws of the United States.

These powers are absolute, being limited only by the discretion of those charged with their execution; and it is apparent that the bal-

lot-box is entirely under the control of these officers and that the State officers are subordinate to them. The first question which arises is as to whether they are constitutional, and upon this I shall offer a few brief considerations. Whatever right of interference or control Congress may exercise over elections is granted by section 4 of article 1 of the Constitution, which reads as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Congress may then regulate the time, place, and manner of electing Representatives, and may to the same extent regulate the time and manner of the election of Senators, but has no control over the place where these latter shall be chosen.

The juxtaposition of these powers, relatively, to the election of Senators and Representatives would seem to be sufficient to demonstrate the unconstitutionality of these laws, for if they may be enacted with reference to the election of the one, why not of the other? But will any gentleman here seriously maintain that we may enact a law whereby United States supervisors and marshals may take their stations on the floor of a State Legislature, and as the members of that body cast their votes for United States Senator, may have the right to challenge them, and in case of any want of qualification, in their judgment, on the part of any member of that Legislature, may then and there arrest such a representative and drag him before a United States commissioner or judge? And yet the humblest citizen endowed with the right of suffrage by a State law holds it by as secure a title and has the same rights to its exercise as a member of the Legislature of the same State. The right is as sacred and entitled to the same protection in the one case as in the other. Both the citizen and his representative in the State Legislature hold their franchise under and by the State law.

It is not disputed that the qualifications of electors of members of this body are fixed and established by the States, when these latter indicate who shall be electors of the most numerous branch of the State Legislature. The second section of article 1 of the Constitution guarantees this. It was never contemplated in the adoption of section 4 that any such powers should be granted to Congress as are contained in these laws. Judge Story and the Federalist, neither of whom are prone to a strict construction of Federal powers, sufficiently explain the full meaning of the words "to regulate the time, place, and manner."

They claim this power as necessary in Congress for the following reasons; I read from the second volume of Story, page 290, section 823:

> In the first place, the power may be applied by Congress to correct any negligence in a State in regard to elections, as well as to prevent a dissolution of the Government by designing and refractory States, urged on by some temporary excitement. In the next place it will operate as a check in favor of the people against any designs of a Federal Senate and their constituents to deprive the people of the State of their right to choose Representatives. In the next place it provides a remedy for the evil if any State, by reason of invasion or other causes, cannot have it in its power to appoint a place where the citizens can safely meet to choose Representatives. In the last place (as the plan is but an experiment) it may hereafter become important, with a view to the regular operations of the General Government, that there should be uniformity in the time and manner of electing Representatives and Senators so as to prevent vacancies when there may be calls for extraordinary sessions of Congress. If such a time should occur or such a uniformity be hereafter desirable, Congress is the only body possessing the means to produce it.

Such were the contingencies to provide for which this section was inserted.

Neither of these authors contemplated for a moment that the terms of this section would ever warrant the assumption of such powers as have been inserted in the statutes under consideration. They and the men of their generations were too strongly imbued with that respect for the freedom of elections and that dread of governmental interference, which is carried to such an extent in England that the most desperate election riots, resulting often in loss of life, are considered less dangerous to free institutions than the presence of a single government official at the polls.

Section 2022 of the Revised Statutes gives to any marshal the right to arrest without process, before or after voting, any person who commits or who offers to commit any offense in the presence of any of the supervisors or marshals. The chief offense herein contemplated is that of illegal voting. The marshals, therefore, by this clause, have the right to arrest without process any person whom they may consider disqualified from voting. They are not required to afford the accused any hearing, but may arbitrarily arrest him and thereby deprive him of the franchise. I maintain, sir, that this section is in violation of the fifth amendment to the Constitution, which reasserts that most important provision of the bill of rights:

> Nor shall any person be deprived of life, liberty, or property without due process of law.

"The right of voting is a right in the plaintiff by the common law, and he shall maintain an action for the obstruction of it," says Lord Holt, in the case of Ashby *vs.* White, reported in Smith's Leading Cases. This principle has been repeatedly reaffirmed in Massachusetts, in Ohio, in Wisconsin, and in Tennessee. It is a species of property. The possessor of the franchise of course cannot part with it, cannot sell it as he may other property, but it is a right vested in him by the laws, and against any invasion of which he may invoke the laws. It is a right so sacred that, says the court, in McCafferty *vs.* Guyer, 59 Pa. St. Rep., 109:

> The Legislature cannot add to the constitutional qualifications of voters. One who is a qualified voter under the Constitution cannot be deprived of the elective franchise by a legislative enactment.

It will of course be conceded that the Legislature, in case of a failure by the Constitution, may regulate the times, places, and manner of voting in such a way as to ascertain and facilitate the right of voting, but they can in no wise impair or obstruct the right or add or subtract a single qualification. Registration laws have been held to be valid where they complied with principle, but the courts in sustaining them have constantly intimated that the least departure from it would render them invalid. In the case of the State *vs.* Staten, in 6 Coldwell, it is said:

> The elective franchise is a right which the law protects and enforces as jealously as it does property in chattels or lands. It matters not by what name it is designated, the right to vote, the elective franchise, the person who, under the constitution and laws of the State, is entitled to it, has a property in it which the law maintains and vindicates as vigorously as it does any right of any kind which men may have and enjoy. The rules of law which guard against deprivation or injury the rights of persons in corporeal properties, are alike and equally applicable to the elective franchise, and alike and equally guard persons invested with it against deprivation of or injury to it. Persons invested with it cannot be deprived of it otherwise than by due process of law.

Again, the learned judge says:

> The right of suffrage is a privilege; it is a right; one that is regarded by our race of people as more valuable than any other right with which he is invested. When clothed with the right he has a vested interest of which he cannot be deprived by any act of the Legislature. It can only be taken by due process of law or by the will of the people acting in their sovereign character.

But what is "due process of law?" It means the uniform, equal judgment of a court of some kind, free from partiality or arbitrariness. It implies a *trial*. Webster says:

> It is the general law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial.

The right of franchise is conferred by the State; the United States has nothing to do with it. It may create a citizen, but it cannot make a voter. Under the second section of article 1 of the Constitution the qualification of a voter is to be fixed by the State. How, then, can it be pretended that the United States shall send its officer to the polls, there, without any trial, without any hearing, without any process of law, to deprive a voter of the right of franchise by his arbitrary judgment as to the latter's qualifications?

But, sir, even were these laws within the letter of the Constitution, they are of so dangerous a character, so liable to abuse, they operate so gross a violation of the rights of the voter, that they should not be permitted to remain a moment longer upon the statute-book which they disgrace. The experience of all history has amply demonstrated that governmental interference, whether by its civil or military officers, necessarily terminates in the destruction of the freedom of elections; that which pretends to be the shield of defense to the voter is turned into a weapon of death; the antidote by a base transmutation becomes a deadly poison. I shall show, sir, for what purposes and in what manner these laws have been applied in Saint Louis. At the election of 1876, there was but one district, that which I have the honor to represent, which was considered as assuredly democratic. Various causes, which it is needless to detail, seemed to insure a republican triumph in the other two. The democratic majority in the third was reckoned at about one thousand. There were no well grounded fears that any trouble was likely to arise. Election riots were unknown in the city and the police had always been entirely competent to keep the peace and arrest all violators of our election laws, which are extremely rigid and comprehensive. Mr. E. T. Allen, the chief supervisor appointed under these statutes, testifies in Miscellaneous House Document No. 51, page 274:

> Answer. That I am not able to state. I will say this, that as far as my duties as supervisor were concerned I had no occasion to make use of United States marshals, and saw no occasion for their use, and so expressed myself often, and am prepared to say the same thing now.

And Mr. W. D. W. Bernard, the chief deputy marshal, repeats the same opinion on page 321:

> Question. Now, in the previous elections in this city for Congressmen at which there were thirteen democrats elected to the House of Representatives, were not the elections conducted peaceably and order preserved by the police?
>
> Answer. So far as I know, sir; there was a little excitement at times, but those were natural with men when they get excited.

And yet, notwithstanding this, ten hundred and twenty-eight deputy marshals were appointed, of whom seven hundred and twenty-eight were located in the third district. On the face of it it is apparent that as this was the only democratic district such a distribution could only have been made with a fraudulent intent. But if there be any doubt of the fact, Mr. Bernard's candid admissions dispel the last shadow. I read from page 320:

> Question. In order to be precise I will say, independently of all party consideration, was there any more necessity for the appointment of marshals for that election than for any previous election?
>
> Answer. Oh, well, you gentlemen know very well that in a political struggle for party ascendency that it is necessary for the co-ordinate branches of the Government to be in accord, and there was an effort on the part, so I interpreted it, of the party which I acted with to regain control of the House of Representatives.
>
> Q. That party was the republican party, was it not?
>
> A. The republican party, sir.

Mr. Bernard considers himself and his horde of marshals as a co-ordinate branch of the Government, as they were indeed its officers

but in this instance transformed into republican partisans, ready to stoop to any baseness to insure a republican success. He continues on page 321 and tells us why it had been deemed necessary to invoke these guardians of the ballots, by tens and by hundreds from the shades of private life:

Question. Was it not hoped by the republican party that upon the appointment of these marshals, from four to six districts might be carried in this State?

Answer. Well, I stated, I think, in a conversation with some political friends in Washington, that in the enforcement of that law that we could carry six. I was at Washington very frequently, perhaps six or seven times a year, and used to feel a little strange sometimes to go up to the House or Senate and not find a republican from Missouri.

Q. Did not you tell those gentlemen at Washington that if they placed that power in your hands you would guarantee them from four to six republican Congressmen from the State of Missouri?

(Objected to as irrelevant by counsel for contestee.)

A. I did not, but I told them this, that if that law was enforced in Missouri that I thought that we could. I did not say "put it in my power;" I had no thought of any active participation in the matter then.

Is it possible to doubt for a moment in the face of this evidence, that there was a conspiracy between the Administration in Washington and republican managers in Saint Louis to enforce this law, not for the purpose of keeping the peace, not for the purpose of preventing election frauds, not for the preservation of the purity of the ballot-box, but simply and solely by bribery and intimidation to secure a republican majority in the last House of Representatives, and gentlemen will remember that this is the evidence of the chief of the marshals, a kind of generalissimo of General Grant, as he is called by Mr. Allen, the chief supervisor. The following extracts, and I could give many more, but I do not desire to trespass too much on your patience, will show how this noble band was recruited:

Question. How did you come to be appointed?

Answer. I was down round the post-office a couple of days trying to get an appointment, but didn't know how those fellows worked it there, but I met a friend of mine and he told me.

(Counsel for contestee objected.)

A. Well, he fetched me to John O. Codding, and gave me an introduction to John O. Codding.

(Counsel for contestee objected to anything Codding said.)

A. Well, Codding got me put on there. He didn't have time to talk to me at first; he went down stairs. After he came back again we catched him in the hall, and this young man Barrett, who was with me, asked him about it, and he asked me who I was going to vote for for Congress, and I didn't answer. I was studying what answer to make him, and he says, "If I get you a commission," he says, "if you are in the first district I want you to vote for Ittner, and in the second to vote for Cole, in the third for Metcalfe," but I didn't make no answer. He had a commission made out for both. I believe Barrett said he would vote for Metcalfe. I didn't say anything. He handed me the commission, and handed him one. This fellow that gave me an introduction to him, a friend of mine, I don't know what his name was. I met him on the street. He says, "This fellow is a republican," and Codding says, "It don't matter if he is a democrat," he says; "so much the better, as long as you get him to vote for Congressman."

Q. Did he make that a condition, for you to vote for Congressman?

A. Yes; that I should vote for Congressman.

Q. Or else you couldn't get an appointment?

A. Or else I couldn't get an appointment.

Q. Did you have any conversation with John O. Codding before you were recommended by him?

(Contestee's counsel objects on the ground that conversations with Codding, unless he is shown to be a United States officer, have no relevancy to this case; and second, that John O. Codding is competent to testify in regard to whatever instructions he gave to this man himself.)

A. Yes; I had a conversation with him, and in that conversation he told me that I could get on provided I should vote for the Congressman. He said if I was in the first district I should vote for Ittner, and if I was in the second I should vote for Cole, and if I was in the third I should vote for Metcalfe, and the rest of the ticket he told me he didn't care so I voted for the republican Congressman.

It was in this manner, sir, that votes were secured for many republican gentlemen who held seats in the last and perhaps in the present Congress.

But the marshals served another purpose. After selling their own votes for money stolen from the public Treasury, they were ready to intimidate honest voters from the exercise of their franchise. Under the pretense of revising the registration lists, of purging them of fraudulent voters and repeaters, they were sent from house to house throughout the city, a visitation which resulted in the striking off of fifty-seven hundred names, which list was used for challenges at the polls. How this duty was performed, let the record show. I read from page 235:

Question. What did you do with the list, as between democrats and republicans?

Answer. Well, we were told that we knew our business in that.

Q. You were told you knew your business?

A. Captain Bishop furnished—gave me the list, and said, "You know your business, how to do it."

Q. What did you understand from that?

A. Well, what I understood my commission—several things. I understood I was to do all I could in the interest of Metcalfe with the list; that it was for me to keep democrats from coming to the polls and voting that I thought had no right to.

Q. Well, did you strike off many democratic voters?

A. Yes; struck off a good many votes. I don't remember how many.

Q. Of duly qualified voters?

A. They were—*I don't* know whether they were qualified or not. I think the list was furnished from the central committee. I can't say whether they were qualified or not. I think the list was furnished from the republican central committee.

Q. Did you strike many off?

A. Yes; struck off a good many.

Q. Well, now, after you went to the house and found the man lived there, and you went in and asked if so-and-so was at home, and they said "Yes," and you asked if he would be at home on election day, and they said they didn't know, what did you do with a name like that?

(Objected to as leading.)

A. Well, if it suited us we would strike it off. It was left to our own discretion.

Q. What do you mean by "if it suited you?"

A. Well, I suppose if it was thought to our interest or to Metcalfe's interest to strike it off, we would do it.

How many lawful voters were in this manner deterred from casting their ballots it is impossible to ascertain, but when we consider that these challenges were made by ruffians, in many instances chosen from the dregs of the populace, protected by a badge of office and with power to call out a *posse comitatus* to arrest and drag the victim to prison, the number of intimidated voters must have been very large.

Success crowned these efforts, a democratic majority of 1,000 or more was overcome, and the purity of the ballot-box was preserved.

The last scene of this conspiracy terminates, sir, in Washington, there where the curtain had been rung up. I will let Mr. Bernard relate it in his own graphic manner, a most fitting peroration to such a mass of crime and corruption. The parties are a little more elevated in rank, but their conversation is of a character which shows that they are not entirely unacquainted with the vernacular of the "swell mob" which has just rendered their party such a service. I read from page 323:

Question. You think those marshals did very good service in the cong ressional election, do you not, Mr. Bernard?

Answer. When I went to Washington with Mr. Mudd, who was chief deputy marshal, for the settlement of this account, Mr. Taft asked Mr. Mudd how many marshals he had.

Mr. SHIELDS. Taft, the Attorney-General?

A. The Attorney-General.

(Counsel for contestee objected to any conversation between the witness and the Attorney-General as irrelevant, and, second, as hearsay; third, as not involved in issues; and, fourth, it took place after the election.)

A. Mr. Taft asked Mr. Mudd how many marshals he had. Mr. Mudd referred him to me, and said I had charge of the marshals; and he turned to me, and I said, "One thousand and twenty-eight." The old gentleman wheels round in his chair and says, "Were there no others out in Missouri you could have made marshals?" Says I, "Mr. Taft, we went in to win, and if it had been necessary to have had a *posse comitatus*—I think that is what you call it—and every man over fifteen years of age should have seen a fair election;" and he said, "You bring a good deal of sugar in your spade."

Q. "You bring a good deal of sugar in your spade;" what did he mean by that?

A. In your bill.

Q. What did he mean by that?

A. I don't know; I suppose that we had been successful.

If it be true that the tree shall be judged by its fruits, who will hesitate to lay the ax at the roots of a tree which blooms with such Dead Sea fruits as these? The outside promise may be fair, but put these statutes to the test and nothing is disclosed but a mass of corruption. And, indeed, from such laws nothing else is to be expected. They confer a power too great and too dangerous to be trusted in any hands, however pure. I would not trust such a power to an administration of my party. I do not think it can be safely confided in any other. The Executive may have the most upright intentions, but how can he control his subordinates, whose retention in office depends upon the success of his party?

I appeal to gentlemen on the other side to remember that if these laws remain in force, sooner or later, with the political revolutions which are sure to occur, they "will return to plague the inventor." We demand this repeal, sir, in no factious spirit, but because we are convinced that a great principle is at stake; because we believe that here a power is given to the Executive to employ the force and treasure of the State in order to subvert the popular will; that here is a standing legalized menace to that freedom of elections which, once destroyed, can only result in the dissolution of the Republic. We demand it in the name of the people, whose right of choosing those that are to bind them with laws is invaded by these statutes. We demand it because we are profoundly imbued with those sentiments of Locke, where, speaking on this subject, he says:

For thus to regulate candidates and electors and new-model the ways of elections, what is it but to cut up the Government by the roots and poison the very fountain of public security?

Mr. MARTIN, of Delaware. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. MARTIN, of Delaware. I move that the House now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Eliza Hudson, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. ATKINS: A communication from T. M. Hurst, recommending that the pension of R. K. Baird be increased—to the same committee.

Also, resolutions of the Medical Society of the State of Tennessee, relating to the establishment of a national board of health—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. BELTZHOOVER: Papers relating to the war claim of Edmond Wolfe and others—to the Committee on War Claims.

Also, papers relating to the claim of John A. Rea, for the return of certain taxes paid to the Government—to the Committee of Claims.

By Mr. BRENTS: The petition of James Milroy and 105 others, citizens of Washington Territory, for an appropriation for the improvement of the Chehalis River, Washington Territory—to the Committee on Commerce.

By Mr. BRIGHT: Papers relating to the claim of J. W. Newman, administrator, &c., for pay for services as assistant engineer on improvements in the Tennessee River—to the Committee of Claims.

By Mr. BUTTERWORTH: Papers relating to the war claim of Thomas Worthington—to the Committee on War Claims.

Also, papers relating to the petition of Colonel Thomas Worthington, asking an investigation into certain charges of which he was found guilty by a general court-martial—to the Committee on Military Affairs.

By Mr. CAMP: The petition of Henry R. Rathbone, that an order issued by the War Department discharging him from the Army as a supernumerary officer be investigated, and for relief—to the same committee.

By Mr. CANNON, of Illinois: The petition of Mary Manly and others, of Tolono, Illinois, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CARLISLE: The petition of W. A. H. Allen, passed assistant engineer United States Navy, that the Secretary of the Navy be directed to issue to him and those of his date commissions whose dates, in comparison with those of the officers of his grade who entered late in 1862, shall give to those who entered early in 1863 the same relative position as to date of present commission that they held on entering the service—to the Committee on Naval Affairs.

Also, papers relating to the war claims of John Taylor & Son, of Newport, Kentucky, and of Samuel E. Ogden, of the steamers Des Arc and Emma No. 2—to the Committee on War Claims.

Also, the petition of Faran & McLean, to have refunded them taxes alleged to have been illegally collected from them—to the Committee of Claims.

Also, the petition of George W. Taylor, of similar import—to the same committee.

Also, the petitions of J. W. Allen and of William Stone Abert, to be relieved from taxes levied for repaving Pennsylvania avenue, Washington City—to the Committee for the District of Columbia.

Also, the petition of Henry Marcotte, for an increase of retired rank—to the Committee on Military Affairs.

By Mr. CARPENTER: The petitions of Joseph N. Gaston and of Andrew J. Welch, for pensions—to the Committee on Invalid Pensions.

By Mr. CHITTENDEN: The petition of W. H. Schiefflin & Co., of New York, for the return of moneys alleged to have been illegally collected as customs duties—to the Committee of Claims.

By Mr. CRAVENS: The petition of James Clifford, for compensation for manufacturing iron doors and windows for the United States prison at Fort Smith, Arkansas—to the same committee.

Also, papers relating to the claim of T. J. Newber for pay for use of rooms occupied by the United States district court for the western district of Arkansas, at Fort Smith, Arkansas—to the same committee.

Also, papers relating to the pension claims of Agnes N. Miles, of Robert Jackson, and of Wilson G. Gray—to the Committee on Invalid Pensions.

By Mr. DEERING: Six petitions of citizens of Howard, Chickasaw, Floyd, Butler, Bremer, Black Hawk, and Worth Counties, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles, and that the royalty and damages for infringements be confined to manufacturers and vendors—to the Committee on Patents.

By Mr. DIBRELL: Proceedings of the Medical Society of Tennessee, in regard to a national board of health—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

Also, papers relating to the war claim of William Clift—to the Committee on War Claims.

By Mr. DUNNELL: Papers relating to the claim of Patrick Nash, for damages on account of being compelled to cease work, by order of Government officers, on a contract with the United States—to the Committee of Claims.

Also, papers relating to the claim of Agnes W. Mills, for pay for property taken and used by the Government in New Orleans during the war of the rebellion—to the Committee on War Claims.

By Mr. ELLIS: The petition of citizens of Louisiana, for the repeal of section 7 of the revenue law relating to wine and distilled and fermented liquors—to the Committee of Ways and Means.

Also, memorial of the board of health of the State of Louisiana, in regard to the construction of wharves at quarantine station in the Mississippi River for the purpose of disinfecting ships—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. EVINS: Papers relating to the claim of Theodore Dehon, for compensation for rice taken from him for the use of the Freedmen's Bureau—to the Committee of Claims.

By Mr. FORSYTHE: Papers relating to the war claim of S. B. Colby—to the Committee on War Claims.

By Mr. FROST: Resolutions of the Merchants' Exchange of Saint Louis, Missouri, favoring a treaty of commerce with France and other nations—to the Committee on Foreign Affairs.

By Mr. HALL: The petition of members of Rochester Grange, Rochester County, New York, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. HASKELL: Resolutions of the Kansas Legislature, in relation to the title to certain lands in Allen County, Kansas—to the Committee on Public Lands.

By Mr. HOUK: The petition of citizens of Roane County, Tennessee, for an appropriation to improve the rivers of East Tennessee—to the Committee on Commerce.

By Mr. HUBBELL: The petition of S. B. Grummond and 27 others, of Detroit and Port Huron, Michigan, for the reduction of inspection fees on steam-vessels—to the same committee.

By Mr. JOYCE: The petition of Frank A. Page, to be restored to his place on the retired list of the Army—to the Committee on Military Affairs.

By Mr. KETCHAM: The petition of Martin Buell, guardian of Frederick Johnson, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Major John A. Whitall, for indemnity for paymaster's vouchers stolen—to the Committee of Claims.

By Mr. LAPHAM: The petitions of Peter Julius, of Solomon Yewell, and of Charles H. Wisner, for pensions—to the Committee on Invalid Pensions.

By Mr. LE FEVRE: The petition of Thomas McGinnis and others, of Auglaize County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. McKENZIE: Papers relating to the pension claim of Eliza K. Ashley—to the Committee on Invalid Pensions.

Also, papers relating to the petition of the sureties on the official bond of John P. Hall, deceased, late collector of internal revenue for the first district of Kentucky, for relief—to the Committee of Ways and Means.

By Mr. McLANE: The petition of wholesale liquor dealers and rectifiers of Baltimore, Maryland, for the repeal of section 7 of the revenue laws, relating to wine and distilled and fermented liquors—to the same committee.

By Mr. MORTON: The petition of brewers of New York, for an increased duty on barley malt—to the same committee.

Also, the petition of J. Howard Livingston, for pay as a second lieutenant Seventh New Jersey Volunteers, from September 21, 1863, to February 13, 1864—to the Committee on Military Affairs.

By Mr. MULLER: The petition of David B. Barnum, for the change of the name of the steamer Nuhpa to Metropolitan—to the Committee on Commerce.

By Mr. MURCH: The petition of Robert C. Murphy (accompanied by draught of bill) that he be paid the amount found due the United States from William Knapp, jr., late United States vice-consul at Shanghai, China, and charged to the account of said Murphy as consul at that port—to the Committee of Claims.

Also, the petition of John B. Slack, (accompanied by draught of bill,) late acting third assistant engineer, United States Navy, that he be paid a certain bounty paid him by the State of Maine and yielded up by him on being commissioned an officer and afterward covered into the Treasury of the United States—to the same committee.

Also, the petition of the Workingmen's Assembly of the District of Columbia, for the eight-hour law of the United States to be applied to all contract work on public buildings in the United States—to the Committee on Education and Labor.

By Mr. MYERS: The petition of citizens of Hancock County, Indiana, for an increase of the pension of Eli C. Francis—to the Committee on Invalid Pensions.

Also, the petition of Emmett Langston, to be restored to the pension-roll—to the same committee.

By Mr. NEWBERRY: The petition of Edwin A. Leavitt, for a pension—to the same committee.

By Mr. O'NEILL: The petition of the sufferers by the explosion of the United States arsenal at Bridesburgh, Pennsylvania, August 7, 1875, for relief—to the Committee on Military Affairs.

Also, memorial and form of an agreement concerning the proposition of Edgar N. Black for keeping in repair and maintaining the banks of the Delaware surrounding Fort Mifflin and the meadows, in which he proposes a lease to him of said meadows—to the same committee.

Also a paper signed by the superintendent and heads of departments at the Naval Academy, recommending the passage of a bill to establish on a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy—to the Committee on Naval Affairs.

By Mr. OVERTON: The petition of U. A. Porter and 14 others, citizens of Pennsylvania, that a pension be granted Mrs. Betsy Gruntar—to the Committee on Revolutionary Pensions.

By Mr. PHISTER: A paper relating to the establishment of a post-route from Maysville, via Rectorville, to Burtonville, Kentucky—to the Committee on the Post-Office and Post-Roads.

By Mr. POEHLER: The petition of Richard Devitt, for a pension—to the Committee on Invalid Pensions.

By Mr. RICE: The petition of Adaline Smith, for a pension—to the same committee.

Also, the petitions of Joseph Simpson and Charles E. Barnard, for an increase of pension—to the same committee.

Also, the petition of Paxton, Massachusetts, for condemned cannon for a soldiers' monument—to the Committee on Military Affairs.

By Mr. RYAN, of Kansas: The petition of 160 women of Emporia, Kansas, for legislation to make effective the anti-polygamy laws—to the Committee on the Judiciary.

By Mr. RYON, of Pennsylvania: The petition of Henry C. Matthews, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. SPEER: A paper relating to the establishment of a post route from Long Creek, in South Carolina, to Clayton, in Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. STARIN: The petition of Mrs. Sarah L. Adams, widow of James Adams, Fort Plain, New York, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Andrew Farrell, of Canajoharie, New York, father of John Farrell, late of Company E, Forty-third New York Volunteers, for a pension—to the same committee.

Also, the memorial of J. R. Simons, in behalf of citizens of Mohawk Valley, New York, for an appropriation to aid in completing the Herkimer monument—to the Committee on Military Affairs.

By Mr. STEPHENS: The petition of William W. Hubbell, for the passage of a bill to authorize the preparation of ingots of gold and ingots of silver for exportation and manufactures, as therein set forth—to the Committee on Coinage, Weights, and Measures.

Also, the petition of William W. Hubbell, for payment for expert services rendered, and reference of papers from the files to the Committee of Accounts in accordance with the suggestion of the Committee on Appropriations of the Forty-fifth Congress—to the Committee of Accounts.

By Mr. STONE: The petition of S. S. Stout and 69 others, citizens of Cheshire, Michigan, for the establishment of a post-route from Cheshire Centre, Allegan County, Michigan, to Bloomingdale Centre, Van Buren County, Michigan—to the Committee on the Post-Office and Post-Roads.

By Mr. TAYLOR: Papers relating to the pension claims of Penelope C. Brown, of Mary A. Conkin, of Sarah Duke, of Rebecca English, of Elijah Killday, of Jennette McClelland, of Mary Mitchell, of Isaac Raines, of Catharine M. Recter, of George W. Sexton, of Joseph M. White, of Daniel Willhait, of James Woolsey, and of Rebecca Yokeley—to the Committee on Invalid Pensions.

Also, papers relating to the petition of Nelson Shelton for commutation of rations while a prisoner of war—to the Committee on Military Affairs.

By Mr. THOMPSON: Papers relating to the war claim of Ellen J. Brasman—to the Committee on War Claims.

By Mr. TOWNSHEND, of Illinois: The petition of William Dickison, for the passage of a bill to reduce the rate of interest on taxes in arrears in the District of Columbia—to the Committee for the District of Columbia.

Also, the petition of William B. Moses, that he be paid an account for certain goods and merchandise furnished by him and used to furnish the rooms of the orphans' court of the District of Columbia—to the same committee.

Also, the petition of Matthew Dent and others, owners of real estate in the District of Columbia, for the revision of erroneous special assessments and for the return of moneys alleged to have been unlawfully collected from them—to the same committee.

By Mr. VALENTINE: The petition of Frank S. Marsh, for a pension—to the Committee on Invalid Pensions.

By Mr. WAIT: Papers relating to the petitions of Oliver M. Blair, administrator of Oliver M. Blair, deceased, that the war claim of said decedent be referred to the Court of Claims—to the Committee on the Judiciary.

By Mr. WARNER: The petition of Dudley S. Nye and 53 others, of Marietta, Ohio, for the amendment of the coinage law so as to admit the unlimited coinage of silver on the same conditions with gold, and to provide for silver certificates—to the Committee on Coinage, Weights, and Measures.

By Mr. WILSON: The petition of Jacob G. Brown, for a pension—to the Committee on Invalid Pensions.

Also, the petition of M. C. Smith and others, of West Virginia, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Susan E. Flesher and others of West Virginia, of similar import—to the same committee.

Also, the petition of Miss Annie Smith and others, of similar import—to the same committee.

Also, the petition of Mrs. E. D. McCoy and others, of West Virginia, of similar import—to the same committee.

By Mr. FERNANDO WOOD: The petition of Adolph Joseph, late a first lieutenant of the Sixty-eighth New York Veteran Volunteers, for pay as such first lieutenant from the 8th day of August, 1863, to the 13th day of November, 1863—to the Committee on Military Affairs.

By Mr. YOUNG, of Tennessee: The petition of E. R. Hart, of Memphis, Tennessee, praying that the Commissioner of Internal Revenue be authorized to reopen and pass upon his claim for tax illegally collected—to the Committee of Claims.

Also, the petition of Thomas F. Perkins, executor of estate of Eliza M. Dawson, deceased, late of Memphis, Tennessee, for the payment of a war claim—to the Committee on War Claims.

IN SENATE.

TUESDAY, *April* 22, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. FARLEY presented the petition of M. F. Forrest and other women of Santa Ana, Los Angeles County, California, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. MAXEY presented the petition of J. M. Wilson and others, citizens of Grayson, Cooke, and Denton Counties, Texas, praying for the establishment of a post-route from Dexter to Pilot Point, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BECK presented the petition of John W. Allen, of Washington, District of Columbia, praying for the passage of an act relieving him from the payment of alleged illegal taxes, for repairing B street and Pennsylvania avenue, in that city; which was referred to the Committee on the District of Columbia.

CHANGE OF NAME OF NATIONAL BANK.

Mr. BAYARD. I am instructed by the Committee on Finance, to which was referred the bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio, to report it without amendment. I ask that it be placed upon the Calendar.

Mr. PENDLETON. I desire to ask the unanimous consent of the Senate that, instead of the bill being placed on the Calendar, it be put immediately on its passage.

Mr. CONKLING. What is the bill?

Mr. PENDLETON. It is a bill only to change the name of the National Bank of Commerce of Cincinnati, Ohio. It has been recommended by the banking department in the Treasury and has received the unanimous report of the Committee on Finance. The bill merely provides that a change shall be made in the name of a bank which proposes a reorganization on the 1st of May, and time is rather important.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 470) to provide for an investigation and examination of the accounts of certain land-grant railroads, in accordance with the decision of the Supreme Court, and for a full report of the results thereof to Congress; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. INGALLS. I have been requested to introduce a bill to aid in the construction of the Denison and Pacific Railway from Denison, Texas, to the Rio Grande River. I have not examined the bill, and do not wish to be considered either as its advocate or as committed to its provisions.

By unanimous consent, leave was granted to introduce a bill (S. No. 471) to aid in the construction of the Denison and Pacific Railway from Denison, Texas, to the Rio Grande; which was read twice by its title, and referred to the Committee on Railroads.

Mr. COCKRELL. Without previous notice, and by request of a firm of reputable attorneys in this city, I desire to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 473) for the relief of William R. Testerman; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S No. 474) for the relief of William McGovern; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WITHERS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 475) granting a pension to Henry J. Churchman; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. JONAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 476) for the relief of Thomas M. Simmons; which was read twice by its title, and, with the papers on the file relating to the case, referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 477) for the relief of General Ward B. Bur-

nett; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. VOORHEES. I move that the accompanying memorial, which is very brief, be printed with the bill.

The motion was agreed to.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 478) to replace the name of Laurence A. Williams, late major Sixth Cavalry, United States Army, upon the rolls of the Army; which was read twice by its title, and, with the papers on the file relating to the case, referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 479) for the relief of Riley A. Shinn and Henry P. Gilbert, sureties on the bond of Charles S. English, late collector of customs for the port of Georgetown, District of Columbia; which was read twice by its title, and referred to the Committee on Finance.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 480) for the relief of William P. Patrick; which was read twice by its title, and referred to the Committee on Military Affairs.

COLORED REFUGEES FROM THE SOUTH.

Mr. INGALLS. Mr. President, I have received this morning from the mayor of the city of Wyandotte, and the chairman of the relief committee of that town, a communication upon a subject of public importance, which with the permission of the Senate I will read. It is addressed to my colleague and myself:

COMMITTEE ROOMS OF CITIZENS' RELIEF COMMITTEE,
Wyandotte, Kansas, April 19, 1879.

GENTLEMEN: Hundreds of colored refugees from the Southern States throng our streets, sick and penniless; large numbers have died.

Wyandotte has exhausted her resources in relief that she has already extended.

Large numbers of equally destitute are at our threshold. In this emergency we earnestly appeal to you to use your influence in securing means for their immediate relief, and to enable us to forward these destitute families to western homes, where they can be self-sustaining.

Contributions should be sent to H. M. Northop & Sons, bankers.

Yours, truly,

J. S. STOCKTON,
Mayor, and Chairman of Relief Committee.
E. SPRAGUE,
Secretary.

From authentic information it appears that several thousand of these unfortunate people are delayed in different portions of the Mississippi and Missouri Valleys from Saint Louis northward *en route* to their destination. I do not propose at this time to advert to the causes, the impulses, or the impetus of this extraordinary migration. Whether they are fugitives from injustice and oppression, or whether they are moved by an irresistible impulse to better their condition, I do not at this time definitely know. It is sufficient to say, however, that the movement is going on, and is rapidly assuming extraordinary proportions.

The great free communities of the West will welcome these people; they will absorb them into the body of their citizens; they will guarantee them in the full exercise and enjoyment of all their political and civil rights; but until the re-adjustment of the social forces can be obtained and the disturbance resulting from this withdrawal of labor from one portion of the country to the other can be settled, burdens are imposed upon localities and communities for which they are not responsible, and which they ought not to be called upon wholly to bear.

There are many instances where Congress has been called upon to relieve suffering occurring under similar circumstances heretofore. The bills for the relief of those who were rendered destitute by the inundations of the Mississippi and for those communities afflicted by yellow fever will occur to those now upon the floor and who have acted upon similar measures during the past two or three years. In view of this emergency I have felt called upon to introduce a bill for the relief of those destitute colored persons now migrating from the Southern States, located in the valleys of the Mississippi and Missouri from Saint Louis northward. I ask that the bill be twice read and referred to the Committee on Appropriations, taking this occasion to say that there is urgent necessity for immediate and efficient action upon the subject.

By unanimous consent, leave was granted to introduce a bill (S. No. 472) for the relief of destitute colored persons now migrating from the Southern States; which was read twice by its title, and referred to the Committee on Appropriations.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. VOORHEES, it was

Ordered, That the papers in the case of Mrs. Elizabeth Wirt Goldsborough, widow of Rear-Admiral Goldsborough, United States Navy, be taken from the files of the Senate and referred to the Committee on Pensions.

Ordered, That the papers in the case of Shinn & Gilbert be taken from the files of the Senate and referred to the Committee on Finance.

Ordered, That the papers in the case of Alexander Montgomery be taken from the files of the Senate and referred to the Committee on Military Affairs.

Mr. WINDOM. I ask that the following order be made:

Ordered, That F. W. Ruggles have leave to withdraw his papers from the files of the Senate.

The PRESIDENT *pro tempore*. Has there been any adverse report?

Mr. WINDOM. I understand not, but let the order be granted under the rule, whatever it is.

The PRESIDENT *pro tempore*. It will be so ordered if there is no adverse report.

PROPERTY IN CHARGE OF SERGEANT-AT-ARMS.

Mr. HILL, of Georgia. I offer the following resolution, on which I ask present consideration; it is a small matter:

Resolved, That the expenses of the commissioner appointed by the Committee to Audit and Control the Contingent Expenses of the Senate to inspect the property of the United States in charge of the Sergeant-at-Arms of the Senate be paid out of the miscellaneous item of the contingent fund of the Senate.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. CONKLING. What is the commissioner referred to?

Mr. HILL, of Georgia. I will state that I did not draw the resolution and did not know the word "commissioner" was used, but it does no harm. It is simply an agent, appointed by the Committee to Audit and Control the Contingent Expenses of the Senate to inspect the property of the Senate as turned over by the late Sergeant-at-Arms to the present Sergeant-at-Arms, for the benefit of both those officers, to see that it was correct.

Mr. CONKLING. May I inquire of the Senator what is the amount to be paid under this resolution?

Mr. HILL, of Georgia. The amount is very small. I suppose it will be about $20 or $25, or something of that kind. It will be a very small amount at least.

Mr. CONKLING. I have no objection to the resolution, but I did not understand from the use of the word "commissioner" what was the purport.

The resolution was agreed to.

ASSISTANT IN DOCUMENT-ROOM.

Mr. PENDLETON submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Sergeant-at-Arms of the Senate be, and he hereby is, authorized to appoint an additional assistant in the Senate document-room during the present session of the Senate, said assistant to be paid out of the contingent fund of the Senate at the same rate now paid the other assistants.

INTEROCEANIC CANAL SURVEYS.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 200 additional copies of the report of the commissioners on an interoceanic route between the Atlantic and Pacific be printed for the use of the Navy Department.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

Mr. WALLACE. The resolution introduced by myself several days ago I ask to have considered.

The PRESIDENT *pro tempore*. That will come after the routine business. If there is no further morning business the morning hour has expired, and the Chair calls up the resolution on the Calendar offered by the Senator from Pennsylvania [Mr. WALLACE] to amend the standing order of the Senate in regard to the appointment and removal of the employés of the Senate. The pending question is on the amendment offered by the Senator from Vermont [Mr. EDMUNDS] to the resolution offered by the Senator from Pennsylvania, on which question the yeas and nays have been ordered. Is the Senate ready for the question?

Mr. CONKLING. Let us hear the amendment read.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out all after the word "resolved," and insert:

That in the opinion of the Senate the correct and safe transaction of the business of the Senate is materially dependent on retaining in its service a corps of experienced, well-trained, and diligent officers; and this can only be done by security in their respective positions so long as they continue faithful in the discharge of their duties.

Mr. PENDLETON. Mr. President, the amendment offered by the Senator from Vermont contains a very just statement of fact and of opinion; but it seems to me that it is not quite full enough, inasmuch as it declares only a general rule of action of the Senate, without application at all to the removals which have been made or those which may hereafter be made in the discretion of the principal officers of the Senate.

It is very true that a faithful discharge of duty is one of the requisites of a good officer. It is also very true that an officer may be extremely faithful in the discharge of his duties, and yet by reason of his manner he may be disagreeable to Senators, or by reason of his person he may be offensive to them, and therefore not a fit person to discharge acceptably the duties of the office. I propose, therefore, to amend the amendment so as to supply its deficiency in that respect.

It is also, I think, true that the Senate charges certain officers of the body with the duties of their respective offices and holds them responsible for the convenient transaction of business and for the comfort of Senators in the performance of that business. Inasmuch as we hold them to that responsibility, it seems to me that we ought to give them the liberty of appointment and removal, without subjecting their will to that of an officer who, however high he may be in the Government, is not a Senator upon this floor, and is not charged with the responsible duties of a Senator.

I am led more to this conclusion from the fact that the Senate can at any moment relieve these officers, the Secretary and the Sergeant-

at-Arms, from the responsibility thus put upon them, by taking to itself the election of any of the subordinate officers. We can thus relieve either one of these officers from the duty of appointment and from the responsibility of the just discharge of the duties committed to the subordinates.

It is with a view of supplying what I think a deficiency in the amendment of the Senator from Vermont, offered by way of substitute for the resolution of the Senator from Pennsylvania, that I propose to add to the end of the amendment what I send to the Secretary's desk.

The PRESIDENT *pro tempore*. The amendment will be reported.

The SECRETARY. It is proposed to amend the amendment by adding thereto these words:

And acceptable to a majority of the Senators. And inasmuch as the appointment of the subordinates and the power of dismissal should remain with those officers respectively, who must be responsible for all the service committed to their charge: Therefore,

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms, shall be appointed and removed from office by those officers respectively."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio [Mr. PENDLETON] to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. CONKLING. Mr. President, if I were not surprised to hear coming from a democratic source doctrine such as that stated in the amendment to the amendment proposed by the honorable Senator who has just taken his seat, still I should be surprised to hear that doctrine coming from Ohio. If I understand this declaration aright, it is that because the Sergeant-at-Arms of the Senate is in some sense responsible for the discharge of his duties, and the Secretary of the Senate in like manner responsible for the discharge of his duties, therefore no supervisory power, in one word, nothing but his will, should determine the question of the selection, retention, or removal of subordinates. The Sergeant-at-Arms is not a bonded officer, if I mistake not. The Sergeant-at-Arms gives no bond, does he?

Mr. ANTHONY. No.

Mr. CONKLING. The Sergeant-at-Arms is not the custodian of money in large sums. The Sergeant-at-Arms is not one of the many officers whose responsibilities are so hazardous and delicate in respect of their subordinates. The contrast is very marked between the Sergeant-at-Arms of the Senate and the sub-treasurer at New York, for example, an officer chargeable with millions upon millions constantly, an officer who with sureties gives heavy bonds to render an account of every penny coming into his custody, an officer compelled to employ many deputies and assistants, exposed to every one of whom is all the money for which he must respond. So in the case of marshals, of collectors of customs, of collectors of internal revenue. Yet it has been said by very high democratic authority as I supposed, by the newspapers and the organs of democratic sentiment, by a great body of intelligence deeming reform in the civil service an overmastering topic of importance, that by competitive examination, by the determination of boards constituted for the purpose, by the decision of third persons, bonded officers responsible with their sureties in enormous amounts for the action of their subordinates should be compelled to defer their own judgment and their own power of selection to the determination thus to be made.

It has been said with great force that in such cases officers giving bonds with sureties to respond, and respond for moneys intrusted to their subordinates as well as otherwise, should have the power to select those agents for whom they must thus respond. But despite that argument, it has been said, and said as I supposed with broad sanction of democratic sentiment, that men were politicians, were schemers in the use of Federal patronage, who denied the propriety of having boards of examiners select subordinate officers despite the will of the superior. But now comes the honorable Senator from Ohio, and what does he affirm? That an officer who gives no bonds, who is not the custodian of money but simply the head of the constabulary force of the Senate, the custodian of the furniture of the Senate, the officer to whom the janizaries and doorkeepers of the Senate report, cannot execute safely his office if he is obliged to submit the removals he makes to the President of the Senate; that that supervision so far shackles and impedes him that relief must be had.

Mr. President, this brings me to what struck me in the first place as the leading thought about this resolution, shearing the President of the Senate of his power. The honorable Senator from Ohio, I know not why, strangely oblivious as it seems to me of the selection which has been made, said that the President of the Senate was not a Senator on this floor. What! How can the Senator from Ohio say that of our revered, or, as the filial Senator from Georgia [Mr. HILL] would say, our venerable, presiding officer? Not a Senator upon this floor! It was the bearing of this proposition upon the distinguished Senator who acts as the moderator and presiding officer of the Senate now that struck me first of all when I heard it read. I should like to know how it happens, when for lo five and twenty years established by democrats on the report of a democratic committee the rule has prevailed that the presiding officer of the Senate should act as a check upon the caprices of the Sergeant-at-Arms of the Senate in dismissing and changing the attendants of the Senate, that now with the leader of the democratic party on this floor in the chair of the President of the Senate, (not a stranger there, but there *qua* his Senatorship, I remind his colleague)—I should like to know why it is that when he, the democrat of democrats, is in the chair his party associates on this floor propose to deprive him of the power which belongs to his place. What is the meaning of it, Mr. President?

The other day my honorable friend from Rhode Island [Mr. ANTHONY] discussed this resolution. No man is more familiar with the amenities and proprieties of official life; no man is more graceful in their illustration than the honorable Senator from Rhode Island; but he will forgive me for saying that I was surprised and pained, after the admirable speech he made, when he took his seat without allusion to the assault which seems to me in this resolution to be made upon the distinguished presiding officer of this body.

I repeat, Mr. President, what does it mean? Do democrats doubt, does the honorable Senator from Ohio doubt the loyalty, the democracy, the thoroughness of administration of the Senator who now presides in the Senate? Does he doubt that he would consent to the removal of any officer who ought to be removed? Or is it a touching and delicate tribute to the presiding officer of the Senate? Does he wish to be relieved from the onerous, I will not say odious, care which it is intended to impose upon him? Does the distinguished presiding officer of the Senate refuse to become the headsman of the democratic party to behead the Union soldiers and cripples who stand about this Chamber? Is it to relieve him from that ungrateful and ungracious task that the practice of a quarter of a century is to be upturned in a moment? I do not know.

I read the other day in a great organ of democratic sentiment—I wish I had it here—an illuminated and pictorial organ of democratic sentiment it was for that day—that the present occupant of the chair is in truth and in reality President of the United States, [laughter,] and when this resolution came in I was reminded of it—President as of the 4th of March, 1877—President now. Well, during that term to which according to this statement he has succeeded, we know that the policy in this regard is expressed by the amendment now pending offered by the Senator from Vermont. During the present presidential term the doctrine and the practice has been that public officers, while they remained faithful, while they discharged their duties, and their characters were unsullied, were to remain in their places; and it struck me that the design of this resolution might be to embarrass in respect of his administration the new presiding officer of the Senate, to establish a doctrine here which he during the present or during his next term of office in the one place or the other would find confronting him should he attempt to continue and perpetuate the modes of purifying and elevating the public service which have recently prevailed.

Now, Mr. President, I do not understand which of these purposes the resolution signifies. I can hardly believe that members of the Senate on either side are seeking about for the small offices, the petty places of laborers and messengers about this building, and that in order to reach them this resolution is introduced. I would rather explain it upon some of the other theories which, in jest or in earnest, I have referred to.

I believe, speaking very seriously, that every word said by that committee of which Mr. Mason was chairman is true, that the convenience of the Senate, not the mere personal likes or dislikes of Senators, but the convenience of the Senate, the readiness of performing the functions of the Senate, the advantage of having experienced men, knowing where to find documents and papers and how to do the various things which they are called to do, is of importance paramount to any value in any sense, political or otherwise, of these offices as patronage. And I regret that after all we heard when the chief officers were chosen, after repeated disclaimers of intentions charged then to remove generally the minor officers of the Senate, it turns out now after the democrats on this floor have elected their chosen President of the Senate so that no political or party prejudice of the presiding officer stands in their way, that in order to make a cleaner sweep than they can hope to do subject to his advice and subject to his action, they come here with a resolution to sweep away a quarter of a century of practice observed by both political parties, and to do that which no one during a generation on either side has proposed in this body. I say I regret it for its appearance and for its effect. It is a mistake when done once, and will be a still greater mistake if it is repeated and perpetuated.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio [Mr. PENDLETON] to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. ANTHONY. This resolution was postponed yesterday in the absence of the Senator from Pennsylvania who introduced it, and as the Senator from Vermont who introduced the original amendment is absent, I suggest that the matter lie over until to-morrow.

The PRESIDENT *pro tempore*. Does the Senator make any motion?

Mr. ANTHONY. I move that it be postponed until to-morrow.

Mr. WITHERS. Is the Senator from Vermont absent from the city, does the Senator know?

Mr. ANTHONY. I do not know.

Mr. WITHERS. The occasion of the postponement yesterday was that the Senator from Pennsylvania was absent from the city.

Mr. ANTHONY. I suppose if a Senator is absent from the Chamber it does not make much difference where he is.

Mr. WITHERS. His presence may be secured, probably, if he is in the building.

Mr. ANTHONY. The Senator from Vermont has been sent for. He is not in his committee-room. He has not been well for several days, and I presume he is at his house; but I do not know.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the further consideration of this resolution be laid over until to-morrow.

The motion was agreed to.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. If there be no further morning business, the morning hour has expired, and the Chair lays before the Senate the unfinished business of yesterday, which is the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question being on the amendment offered by the Senator from Maine [Mr. BLAINE] to the sixth section of the bill. On this question the Senator from Iowa [Mr. ALLISON] is entitled to the floor.

Mr. PENDLETON. I ask the Senator from Iowa to yield to me for an instant. I desire to give notice that, immediately after the disposition of the pending order, the Army bill, on Thursday next, if it shall be convenient, I desire to call up the bill (S. No. 227) to provide that the principal officers of each of the Executive Departments may occupy seats on the floor of the Senate and House of Representatives. Upon that bill I propose to address the Senate, and shall afterward either ask that it be referred to a select committee or that it lie upon the table for further discussion, if Senators desire to speak upon it.

Mr. ALLISON. Mr. President, when I took the floor last evening with a view of submitting some remarks on this bill I did not know that the Senator from Arkansas [Mr. GARLAND] had given way yesterday to the Senator from Delaware, [Mr. BAYARD.] I understand that he would prefer to go on at this time. If so, I will cheerfully yield to him; otherwise I will proceed. The Senator from Illinois sitting on my right [Mr. DAVIS] desires also to submit some remarks, and if he prefers to go on now I will yield to him.

Mr. DAVIS, of Illinois. I will speak after the Senator from Arkansas.

Mr. GARLAND. Mr. President, as I intimated yesterday, I desire to submit some remarks on the pending question and I will proceed now by the kindness of the Senator from Iowa to do so, not indulging the hope that I shall be able to say anything new at this late hour of the debate, nor even entertaining the belief that I shall be able to interest the Senate by any remarks I shall address to it. The question has been as thoroughly sifted and discussed as any question I have ever heard debated, or any one of which I have ever read the debates; and really I feel like apologizing to the Senate for attempting to discuss it at this time; but I feel it my duty under the circumstances to submit some general ideas on a few phases of the question to the Senate. The reasons for that course will appear as I progress in the remarks I shall make.

The point immediately in hand is that in the Army appropriation bill the committee reporting it seek to amend section 2002 of the Revised Statutes, which section was passed, the Senate will bear in mind, on the 25th day of February, 1865. That section is only altered in the amendment presented by leaving out after the words "United States" the following words:

Or to keep the peace at the polls.

This bill then proceeds:

That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section.

Thus holding, under the proviso, what we claim on this side is the only contingency in which under the Constitution, according to section 4, article 4, the President of the United States can call forth the force of the Army of the United States to be used in the respective States. To this amendment the Senator from Maine [Mr. BLAINE] offers an amendment in reference to bearing arms. That amendment is objectionable for the same reason that I will offer to keeping the words "or to keep the peace at the polls" in the original statute; but that amendment was so thoroughly disposed of by the convincing and lucid argument of the Senator from Texas [Mr. MAXEY] yesterday that it needs nothing more at my hands or those of anybody else in my opinion.

There are two questions now presented: first, should these eight words be stricken from the statute-book, should they in justice and in right go from the book of laws? second, if they should go, is it right and proper that they should make their disappearance by and through an appropriation bill?

These are the two questions in this debate presented by this amendment. Twelve or fifteen years ago this would not have been a debatable question in either House of Congress; twelve or fifteen years ago it would not have been presented in either branch of Congress; and when we look at the country across the water from which we gather in the main our institutions, and the sensitive feeling in this country always in regard to the use of this power in any shape or form except in actual war, it is certainly astonishing, and it must strike the public mind so, that any one should contend that these words should be kept in the statute-book at this time.

I will now give only some few references to the feeling in England upon the use of the army, especially in towns in time of peace, at elections. Many have already been produced, and where I touch upon them it will be only incidentally for the purpose of enforcing some objection I wish to make. I read from Clode on the Military Forces of the Crown, which, by the way, starts out with the following splendid motto taken from Burke, which it will not be out of place to read here:

An armed disciplined body is in its essence dangerous to liberty; undisciplined, it is ruinous to society.

That is the starting point to Clode's work on the Military Forces of the Crown, taken from Burke, volume 5, page 17.

So far as the land forces were needed, upon alarm all the fortresses of the kingdom had been manned by the militia. When for the first time soldiers of the king's army, instead of the hamlet-men—

Which means, in our language, our militia—

were placed in the tower of London, the people petitioned Parliament, and both houses thought themselves betrayed. An examination of the lieutenant of the tower as to this exceptional proceeding was at once taken and an assurance obtained from him that no guard should come into the tower save of the hamlet-men.

And we see breathing through our own Constitution parallel in the first article, in the fifteenth paragraph of section 8, that Congress may make rules for calling out the militia to suppress "insurrections and repel invasions," but it does not say call out the regular Army of the United States. Those are the hamlet-men, according to the author here, as named and known in England.

In after years, when the troops were admitted to the tower, they went there under an old established rule—

What rule is that?—

by the order of a parliamentary minister, the secretary at war, and not of a military officer or the commander-in-chief.

See how this spirit runs again and is made to live and speak in our own Constitution by one of the amendments that subordinates the military all the time to the civil power. The secretary at war acts not as a war officer, but as a civil officer. It is as a parliamentary minister that he makes that order, and in no other capacity. Now proceed to page 192 of the same volume:

4. As to the presence of soldiery in and about the houses of Parliament, or rather the House of Commons, the rule, until the Crimean war, was that no soldier should be admitted therein, unless sent there as a representative of the people, or called for as a witness by the house.

* * * * * * *

13. The exclusion of soldiers (not being members) from the house probably originated in the prohibition issued by Parliament against the entrance of the guards sent by Charles I for their protection or surveillance. Charles I came to the house with guards, and the Commons protested against it as their journals show. When Charles II, in February, 1669, was accompanied by his guards, the incident called forth the remark from Ralph "that it was the first instance we meet with in history of a sovereign entering upon the exercise of legislative power under the awe and influence of the sort." But whatever might have been the reason of their exclusion it is clear beyond controversy that they were excluded, and that the rule was not relaxed until August, 1855, when they were permitted for the future to enter the house unarmed.

14. As to the presence of soldiers at the election of members for the House of Commons, the rule still is that of exclusion from the places of election save as to those having votes and who come to exercise their elective franchise. The right to vote and to proceed to the election without leave from the Crown or the commanding officer is secured to the soldier by statute; and when summoned to Parliament by order of either house the soldier must, as some contend, obey the summons without leave or order.

On page 197 the celebrated statute 8 George II is referred to:

The preamble lays down the constitutional rule on this subject in these words.

I shall not read the statute, but simply the preamble, because that has not, according to my recollection, been read in this debate:

Whereas by the ancient common law of this land all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward the First, of famous memory, it is commanded, upon great forfeiture, that no man, by force of arms nor by malice or menacing, shall disturb any to make free election.

By the ancient common law of the land, one of the greatest and, in my judgment, I am ready to say the greatest system of laws yet known to civilized man, all elections ought to be free. That is what our State constitutions say, every one of them, in so many words.

On page 202 and 203 the same author says:

The 10 Victoria, chapter 21, carries out the same arrangements for the troops at elections that, as will be shown in this chapter, Mr. Windham made for them at assizes in 1798. Thus, by section 2, on days appointed for nomination, election, or taking the polls no soldier within two miles of any city or place where such shall take place shall be allowed to go out of the barracks or quarters unless for the purpose of mounting or relieving guard or of giving his vote at such election.

In the year 1861 exception was taken in the House of Commons to the presence of volunteers in military array at the unopposed election of the late Lord Palmerston, and they were prohibited on all future occasions from assembling at drill or any other purpose between the issue of the writ and the termination of the election, or during the progress of any municipal election.

* * * * * * *

The exclusion of the military forces from assize towns during the holding of the assizes dated from an earlier period than the Revolution, and the first order is probably that of Charles II, given in the appendix.

Then, upon page 125 and following, the opinions of the law officers are given concerning these different statutes. In the second volume of the same work, under the title "The action of the military in aid of the civil power," I find:

After the establishment of guards and garrisons in the reign of Charles II, the immediate sequence was their employment under the orders of the Crown in the discharge of police duties. The introduction into our civil polity of such an instrument of coercion was calculated to create—as it failed not to do—a spirit of aversion toward the army, and of suspicion towards the dynasty resting its authority upon such support.

Then he proceeds to tell how that was disposed of and set aside. On page 134:

From the entries in the war-office letter-books, the bread riots in the west of England in 1766 appear to have been the first occasion upon which the secretary at war issued anything like a general order for the troops to act in aid of the civil power without a previous reference to him. The terms in which these instructions were framed show that the course adopted by the secretary at war was novel; but certainly, from the debates, first, on Mr. Burke's motion in 1769 for an inquiry "as to the employment of the military in St. George's fields," and then on Mr. Pownall's motion in 1770 "to introduce a clause into the mutiny bill that the justice should make his requisition in writing," it is evident that the authority of the justice was then fully recognized as a sufficient justification to a military officer for using his men in aid of the civil power.

We shall come to see after a while in a celebrated case in New York that they did not even protect a subordinate officer under an order given to him to have his troops on election day and exhibit them around there.

In the period which intervened before the employment of the military in aid of the civil magistrate again came under discussion, the legislature had restrained the Crown from employing the militia as a military force except in case of rebellion, and then only upon a *previous* communication to Parliament, if sitting, or by order of council. Moreover, the power of the lord-lieutenant to search for arms to secure the public peace was withdrawn. The restriction still remains, and there is at the present time no statutory authority for the *dis*embodied militia to act in aid of the civil power, while, on the other hand, an opinion of some weight has been expressed in Parliament that the force should never be used in that service.

That concludes the references I wish to make in Clode's book, and I produce them for the purpose of showing, in addition to the authorities already offered to the Senate by other Senators who have spoken on the subject, what a concurrence of opinion and what a uniformity of sentiment exist in the country from which we take our institutions in great part, the country alluded to so well yesterday by the Senator from Delaware [Mr. BAYARD] as differing in so few respects from our constitution of government.

Now, if the Senate will go with me for a while in tracing that sentiment from that country to this, we shall find it embodied in the Constitution and laws of the United States as well as those of the different States. There is not a varying feature, there is not a dissenting expression, there is not a difference of opinion anywhere to be found until this statute of 1865 became a law, as to the mere presence of the military, whether for drill or for exercise or for any other purpose, not merely at elections, but at the time of holding court, at the time of dispensing justice on the day of election.

Let us come to our own country. I wish to read where this law is summarized by Judge Cooley, in his work on constitutional limitations. On page 614, under the title of "the freedom of elections," he says:

To keep every election free of all the influences and surroundings which might bear improperly upon it, or might impel the electors to cast their suffrages otherwise than as their judgments would dictate, has always been a prominent object in American legislation. We have referred to fundamental principles which protect the secrecy of the ballot, but in addition to these there are express constitutional and statutory provisions looking to the accomplishment of the same general purpose. It is provided by the constitutions of several of the States that bribery of an elector shall constitute a disqualification of the right to vote or to hold office. The treating of an elector, with a view to influence his vote, is in some States made an indictable offense. Courts are not allowed to be held, for the two reasons that the electors ought to be left free to devote their attention to the exercise of this high trust, and that suits, if allowed on that day, might be used as a means of intimidation.

He refers there to two cases of some prominence in the New York reports.

Legal process in some States, and for the same reasons, is not permitted to be served on that day; intimidation of voters by threats or otherwise is made punishable, and generally all such precautions as the people in framing their organic law, or the Legislature afterwards, have thought might be made available for the purpose have been provided with a view to secure the most completely free and unbiased expression of opinion that shall be possible.

Now we come to the point here:

And with a just sense of the danger of military interference, where a trust is to be exercised, the highest as well as the most delicate in the whole machinery of government, it has not been thought unwise to prohibit the militia being called out on election days, even though for no other purpose than for enrolling and organizing them.

He refers there to a New York case, which I shall take occasion to cite after a while.

The ordinary police is the peace force of the State, and its presence suggests order, individual safety, and public security; but when the militia appear upon the stage, even though composed of citizen militia, the circumstances must be assumed to be extraordinary, and there is always an appearance of threatening and dangerous compulsion which might easily interfere seriously with that calm and unimpassioned discharge of the elector's duty which the law so justly favors. The soldier in organized ranks can know no law but such as is given him by his commanding officer, and when he appears at the polls there is necessarily a suggestion of the presence of an enemy, against whom he may be compelled to exercise the most extreme and destructive force, and that enemy must generally be the party out of power, while the authority that commands the force directed against them will be the executive authority of the State for the time being wielded by their opponents.

The very sentiment which, in another form, General Grant himself published, that was read so timely the other day by the Senator from Maryland, [Mr. GROOME,] and I may also take occasion to refer to it before I finish.

It is consequently of the highest importance that the presence of a military force at the polls be not suffered except in serious emergencies, when disorders exist or are threatened for the suppression or prevention of which the ordinary peace force is insufficient; and any statute which should provide for or permit such presence as an unusual occurrence or except in the last resort, though it might not be void, would nevertheless be a serious invasion of constitutional right and should not be submitted to in a free government without vigorous remonstrance.

That is the result of the authorities summarized by Judge Cooley in a book that we all read with pleasure and interest and, I hope, with profit. Now, I wish to call attention to the New York case here referred to, 11 Johnson, 521. A subordinate officer brought his company out on the day of election simply for the purpose of enrolling and organizing, not to drill them, not to make any demonstration. He was sued for that, and he pleaded two matters: first, that it was merely for the purpose of enrolling; and, second, that he acted under the orders of his superior officers. The court held both pleas insufficient, and said:

Under the twenty-fifth section of the act to regulate elections, (sess. 36, c. 41,) no officer can order out any part of the militia during any election, or ten days previous thereto, even for the purpose of enrolling or organizing them, and not to exercise.

Merely for the purpose of putting their names on the books and organizing them and then sending them home; but the court said, "No, they had no business there." Their very appearance, in the language of Judge Cooley, suggested menace, gave suspicion of intimidation, which was not to be tolerated at a free election; and an election is not an election when it is not free. I read this to show the jealousy existing all over this country at the exercise of any such power as this, and that it is discountenanced by all the authorities, the highest as well as the lowest. I could quote other cases (but I do not care to detain the Senate) that are referred to by Judge Cooley. Why is this, Mr. President? The very preamble to the Constitution of the United States, among other things, says it was formed for the purpose of securing "liberty to ourselves and our posterity." The personal right, the personal liberty of the voter is to be secured. That is what it is, to secure his liberty in all that is guaranteed to him, and there is nothing more sacred than the right of voting at a free election. Mr. Jefferson and Luther Martin both opposed with all the violence and all the power of their nature and their intellect the adoption of the Constitution, because, among other things, it did not have in it what is called a bill of rights. Mr. Hamilton and others answered that the Constitution itself was a bill of rights. But the people were not satisfied with that answer, and the clamor rose so high that at the very first session of Congress the first ten amendments were proposed, nearly all of which looked to the personal liberty and personal rights of the citizens. So sensitive now has this feeling become, not with our side but with the other side also, that even in the testimony taken before a committee of which I have the honor to be a member, great efforts have been made to show, noticeably at Columbus, Mississippi, that a cannon was fired on election morning just before the opening of the polls. For what purpose? Evidently for the purpose of showing that there was intimidation through the belching of this cannon. If they can have on a fit of indignation for that act, what must we who oppose this whole business say as to companies and platoons and regiments mustering around on the day of election with bayonets in their hands? The feeling is well founded, I admit; but the firing of a cannon is mere child's play, mere nonsense, compared with the mustering of companies by sections and platoons on the day of election. At the arsenals they have been firing a cannon, and probably do it yet, late in the evening and early in the morning for the purpose of indicating the rising and setting of the sun, and to make it more binding. What the people in Columbus and other places fired cannon for I do not know, but I share this feeling with the other side. They have no business to be firing cannon on election day; and if they have not, they have no business mustering companies with bayonets in the presence of the voters and the ballot-box on the day of election in the States to keep the peace of the States.

Mr. President, what peace are they there to keep; whose peace is it? It is not the peace of the United States, for I say there is no such thing as the peace of the United States under our Constitution and our laws, except possibly it is in the forts, arsenals, and dock-yards. There is no such thing. It is evidently the peace of the State of Indiana, or the State of Arkansas, or the State of Ohio as the case may be, where the election is held. Judge Cooley says, so do the English authorities, that the police power is sufficient for that. At all events if it is not sufficient the United States cannot supply it with its militia, if it has any, or with its regular troops. Suppose a United States soldier arrests me for violating the peace, as it is called on election day, and I am voting at Indianapolis, Indiana, whose peace have I violated? Who is to try me? The United States courts? Not at all. Suppose I am convicted, who is to pardon me? The President cannot pardon me for I have offended against no peace of the United States. I hold, under the course of the argument I am attempting to make, strengthened by that taken by the Senator from Texas yesterday, [Mr. MAXEY,] that you had just as well send down the troops to guard and watch the city of New Orleans and the city of Mobile, to do their patrol and police duty, as to send down soldiers there on the day of election. The police powers belong to the States and, as the Supreme Court has often said, they cannot be surrendered. But, says the Senator from Maine, there are only fifty-seven in Arkansas, twenty-nine in Georgia, and none in Missouri. Those fifty-seven in Arkansas I know, and it gives me great pleasure to attest their good sense and their patriotism and their great conervatism. The commanding officer at that post is a gentleman of intelligence and culture in any society, and in any circle; and I take occasion to say here, that I do not believe from General Sherman to the lowest soldier of the American Army they want this power or that they care to have it, and they would rather be rid of it.

But the Senator from Maine ignores the principle and confines himself to the mere matter of the size of the agent that inflicts the evil or the size of the result. It is told in some old books by the malicious opposers of the Catholic religion that the priests in forgiving sins make parties who come before them and confess that they have stolen goods divide the profits with them before they forgive them; and in one instance, as a stray member of the church happened to steal a very large black hog, the priest said to him that was a sin of more than ordinary capacity and he should have to charge him three-fourths of that hog to forgive him. [Laughter.] Marryatt exhausted the force of that argument in his Midshipman Easy when Mrs. Easy's nurse was found to have been the mother of an illegitimate child. He tells the story thus:

Dr. Middleton, who sat between the bed and Mr. Easy's chair, rubbed his hands and laughed.

In the mean time Mr. Easy had untied the string and taken off the cap of the young woman, and was very busy putting his fingers through her hair, during which the face of the young woman expressed fear and astonishment.

"I am glad to perceive that you have a large portion of benevolence."

"Yes," replied the young woman, dropping a courtesy.

"And veneration, also."

"Thanky, sir."

"And the organ of modesty is strongly developed."

"Yes, sir," replied the girl, with a smile.

"That's quite a new organ," thought Dr. Middleton.

"Philoprogenitiveness very powerful."

"If you please, sir, I don't know what that is," answered Sarah, with a courtesy.

"Nevertheless, you have given us a practical illustration. Mrs. Easy, I am satisfied. Have you any questions to ask? But it is quite unnecessary."

"To be sure I have, Mr. Easy. Pray, young woman, what is your name?"

"Sarah, if you please, ma'am."

"How long have you been married?"

"Married, ma'am?"

"Yes, married."

"If you please, ma'am, I had a misfortune, ma'am," replied the girl, casting down her eyes.

"What, have you not been married?"

"No, ma'am, not yet."

"Good heavens! Dr. Middleton, what can you mean by bringing this person here?" exclaimed Mrs. Easy. "Not a married woman, and she has a child!"

"If you please, ma'am," interrupted the young woman, dropping a courtesy, "it was a very little one."

"A very little one!" exclaimed Mrs. Easy.

"Yes, ma'am, very small indeed, and died soon after it was born."

That is the argument now of the Senator from Maine. Now I care not if there is but one soldier in Arkansas, or if there is none there, the authority existing at the White House is the terror at last. We all know it is not the commandant of the forces or the forces themselves, but it is the authority that lies back of them which is to be feared. The flag of the United States on a piece of land, though there be no soldier there, is what strikes terror to the person who would molest the property of the Union. It is not the poor disabled soldiers out at the Soldiers' Home whom the people fear who may go there to commit depredations and destroy that property, but it is what lies behind them. The few shillings that brought Charles's neck to the block would not have paid for a coffin to bury him. The tax upon the tea that brought the Revolution about was not worth the life of the meanest soldier that died in the cause. Away with such arguments about the size of the Army! It could almost in the twinkling of an eye be made twenty thousand to choke the liberties of a State to death and trample it under foot forever.

Mr. President, I wish to read before I quit that branch of the subject from a letter of the present Secretary of State when he was Attorney-General in 1868. It was addressed to Alexander Magruder, a United States marshal, by William M. Evarts, Attorney-General, and at that time Mr. Evarts, as the papers had it, was confined in his room living on bread and water by way of physical diet, and on Hawkins's Pleas of the Crown and Howell's State Trials and York on Forfeiture by way of mental diet to prosecute Mr. Davis and the leaders of the rebellion for treason. Here is his letter:

The special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which, under our Government, belongs to the civil authorities of the States, and not to the civil authorities of the United States.

That was common school-boy learning until the statute of 1865 was passed. That is what Judge Cooley says; that is what all the authorities say. After stating the marshal's duties under the law, Attorney-General Evarts proceeds:

I have thus called your attention to the general considerations bearing upon the subject to which your letter refers, for the purpose of securing a due observance of the limits of your duty and authority in connection therewith. Nothing can be less in accordance with the nature of our Government or the disposition of our people than a frequent or ready resort to military aid in the execution of the duties confided to civil officers. Courage, vigor, and intrepidity are appropriate qualities for the civil service which the marshals of the United States are expected to perform, and a reinforcement of their power by extraordinary means is permitted by the law only in extraordinary emergencies.

Using the very language of Judge Cooley. I will not read the letter of General Grant. It is fresh in the memory of the Senate, having been read by the Senator from Maryland [Mr. GROOME] the other day. It preceded this. Written in 1866, it came before the letter of Mr. Evarts. In it he said that he hoped it would never be, particularly in his official career, necessary to use military force at the elections, and he used substantially the language that Judge Cooley does. He deprecated the use of military force then, as every patriot must deprecate it. There must be no two ideas on that subject.

But, says the Senator from Maine, this was a war measure, a measure ingrafted upon the statute-book in time of war. We have been told by one of the best decisions ever delivered by the Supreme Court of the United States that we had a Constitution for peace and for war as well, the same Constitution for both. I propose to read, as familiar as that is, one or two sections from that decision. I refer to the celebrated Milligan case, one of the opinions that were made not to die:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times—

Not merely in peace—

and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the Government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.

That is the decision made almost immediately after the first hush of arms on the soil of this country at the close of the late war. I can imagine, and so I suppose can the eminent and distinguished jurist who delivered this opinion, that in case of war there might be no election at all; it might tie up the whole election machinery and put it away; but if there is an election it must be free, because he stultifies himself who says an election is an election when it is not free.

But grant that the war power if you please, like charity that covers a multitude of sins, justifies all these acts, what war is going on now in this country? Where is there any war? The Senator from Massachusetts [Mr. HOAR] when he introduced his roving resolution some days ago—I mean no disrespect by calling it by that name—prefaced his remarks by saying that there was no war, that it was a time of profound peace, when the tramp of the soldier was not heard, or words to that effect. Now, where is the war? All the States are back in this Government, or, to use the happy expression of Mr. Lincoln, are in practical relations with the General Government, and the bare fact of the smallness of the Army that the Senator from Maine planted himself upon so squarely is a fact sufficient to prove that there is no war, and the pretense of keeping the peace at the polls is a sheer pretense in fact.

Now, the "extraordinary emergency," to use the language of Mr. Evarts and of Judge Cooley, does not exist for the exercise of this power. We are as peaceful to-day in every part of the South (so far as that is attempted to be made the Ireland of this country) as in Massachusetts or in Maine or any portion of the Union; and the complaint that we have against the gentlemen on the other side and their party—and I am not much of a complaining man; I am as accepting a man as you will ever find, I expect—is that they are shedding or attempting to shed at this time, as David accused Joab, the blood of war in time of peace. You cannot run this country in time of peace in a war harness; the country will not permit it. If there was a necessity for it in 1865, which I say legally and constitutionally there was not, that necessity no longer exists. It is a maxim of the old system of law that the reason of the law ceasing, the law should cease. If the necessity that brought forth this law existed, but has departed, let this law depart with it. That is the common sense, that is the plain, unvarnished English of this matter.

Now a few words as to the appropriation bill; for I have finished the other branch of the argument. Complaint has been made that repealing these sections in an appropriation bill is not to be permitted. Mr. President, this has become sanctioned by a practice now nearly as old as I am in this Government. It has become so completely interwoven in the very web and woof of the Government in its parliamentary course that there can be no going behind it, no disputing it. Men of all parties have done this thing. The Senator from West Virginia [Mr. HEREFORD] the other day, the Senator from Indiana, [Mr. VOORHEES,] and the Senator from Kentucky [Mr. BECK] showed various acts of this kind on the part of the party that oppose this bill. I do not wish to refer to any of them for the purpose of accusing them or for the purpose of showing their shortcomings.

The power of the House of Representatives to originate money bills and the power of Congress to raise and support armies are unlimited except as to the duration of the appropriation. They are the judges of how it shall be done and what disposition shall be made of it; and I will court the investigation of gentlemen to this proposition: can they find an Army appropriation bill in which some provision specifying how the Army shall be commanded, where it shall be, and when it shall go, is not to be found?

The appropriations for building bridges, for erecting public buildings, and so on, contain provisions of that character. For symmetry and propriety of legislation, I admit with the Senator from Delaware [Mr. BAYARD] that it is not proper and right in itself, but nothing short of a constitutional amendment can ever get it out of our system of legislation. There is one statute of this sort that I shall be pardoned for referring to, because my memory loves fondly to linger upon it. That is to be found in sixteenth Statutes at Large, page

235. In the general legislative, executive, and judicial appropriation bill, there I find the following:

For payment of judgments which may be rendered by the court in favor of claimants, $100,000: *Provided.*

Here comes a long proviso—I shall not read it all but it is what is known as the celebrated Drake amendment—in which the whole law and the whole system of pardons by the President was attempted to be reversed and the doctrine lying at the bottom of it turned back on the country. For example, instead of the pardon when it was produced in the Court of Claims showing that the man was loyal, it was to be taken as evidence that he was disloyal, and the Supreme Court was denied jurisdiction of a case which had been dismissed on a plea of that sort. But the safety-valve of the Government had not yet been expelled from this country, and when Klein's case (reported in 13 Wallace) went to the Supreme Court they said to these gentlemen, "Stand aside, the Supreme Court has already said in a case in 4 Wallace that the pardon was as broad as the offense and necessarily the grace must be as broad as the sin, and when the man is pardoned he is restored as though he had never committed the offense." I myself received from Andrew Johnson a pardon as big as a Dutch blanket. I pleaded that in the Supreme Court and they announced the doctrine there that I was fully as good a man, if not somewhat better, than I was before I committed treason; and in the case of Klein, in 13 Wallace, the Supreme Court said this celebrated Drake amendment could not stand; it was unconstitutional—I will not use the word revolutionary, but that came as near being a revolution by legislation as any I have been able to find on the statute-book—it subverted the whole doctrine of pardons and the power of the President to grant them and the operation of a pardon when granted; and therefore this act must stand as if it never had been passed. After providing $100,000 for the Court of Claims, that act went on to say:

Provided, That no pardon or amnesty granted by the President, whether general or special, by proclamation or otherwise, nor any acceptance of such pardon or amnesty, nor oath taken, or other act performed in pursuance or as a condition thereof, shall be admissible in evidence on the part of any claimant in the Court of Claims as evidence in support of any claim against the United States, or to establish the standing of any claimant in said court, or his right to bring or maintain suit therein; nor shall any such pardon, amnesty, acceptance, oath, or other act as aforesaid, heretofore offered or put in evidence on behalf of any claimant in said court, be used or considered by said court, or by the appellate court on appeal from said court, in deciding upon the claim of said claimant, or any appeal therefrom, as any part of the proof to sustain the claim of the claimant, or to entitle him to maintain his action in said Court of Claims, or on appeal therefrom; but the proof of loyalty required by the twelfth section of the act of March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February 24, 1855, and by the third section of the act entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States," approved March 12, 1863, and by the third section of the act entitled "An act to provide for appeals from the Court of Claims, and for other purposes," approved June 25, 1868, shall be made by proof of the matters required by said sections, respectively, irrespective of the effect of any executive proclamation, pardon, amnesty, or other act of condonation or oblivion. And in all cases where judgment shall have been heretofore rendered in the Court of Claims in favor of any claimant on any other proof of loyalty than such as is above required and provided, and which is hereby declared to have been and to be the true intent and meaning of said respective acts, the Supreme Court shall, on appeal, have no further jurisdiction of the cause, and shall dismiss the same for want of jurisdiction: *And provided further*, That whenever any pardon shall have heretofore been granted by the President of the United States to any person bringing suit in the Court of Claims for the proceeds of abandoned or captured property under the said act approved March 12, 1863, and the acts amendatory of the same, and such pardon shall recite, in substance, that such person took part in the late rebellion against the Government of the United States, or was guilty of any act of rebellion against or disloyalty to the United States, and such pardon shall have been accepted in writing, by the person to whom the same issued, without an express disclaimer of and protestation against such fact of guilt contained in such acceptance, such pardon and acceptance shall be taken and deemed in such suit in the said Court of Claims, and on appeal therefrom, conclusive evidence that such person did take part in and give aid and comfort to the late rebellion, and did not maintain true allegiance or consistently adhere to the United States; and on proof of such pardon and acceptance, which proof may be heard summarily on motion or otherwise, the jurisdiction of the court in the case shall cease, and the court shall forthwith dismiss the suit of such claimant.

It was decided in England and followed in this country on the question of pardon, that after a man had received his pardon, an action of slander would lie against a person for accusing him of committing the offense of which he was pardoned. That doctrine has been repeated here in this country. Now they reverse the engine completely, and say when he exhibits his pardon it is proof that he is disloyal. The Court of Claims dismissed Klein on that, and he appealed to the Supreme Court. That is a statute which it would be well for people to remember and not forget. It is one of those unfortunate things that occur in time of high partisan feeling, but which I for one hope has passed away never to return, the last semblance of which being the matter we now have in hand.

I will not say all these acts were passed with a view to coercive purposes, but all these acts tended to this—and let the student of the philosophy of the history of our Government and its nature think of that a moment—tended to make what I believe Mr. Thaddeus Stevens claimed openly in the other House, that this was a congressional government as distinguished from a constitutional government; that Congress was the government of this country as Parliament was of England. But soon after the passage of these acts, of course not for the purpose of coercing Andrew Johnson—nobody would say that—failing to secure what they thought was in hand through Congress, Cæsar came and with the coming of Cæsar they supposed all things else would come that it was desirable should come, and it was believed that through the President, General Grant, all these things could be accomplished with or without legislation of this character, notwithstanding the grand letter he had written in 1866 when he was General-in-Chief of the Army. If such statutes as this can find themselves on an appropriation bill, let no man, woman, or child in this country complain of that mode of proceeding so that we take care that there shall not be unconstitutional provisions incorporated.

But further, when we met in December under the law, our term was limited to the 4th of March. In the great clash of business requiring the passage of bills and the pressure for investigating different measures, these provisions of the statute which the country demands shall be repealed had little or no opportunity for consideration in separate bills. They would have perished either in one House or the other, or between the two, as it turned out they did at the last hours of the session. Now mark. Immediately upon that the Congress is called together, for what purpose? For the purpose of considering appropriation bills alone. How else are you to get off these provisions that, if I am not mistaken, the country is loudly clamoring for the repeal of? The President's message is not longer than the blade of an ordinary penknife, calling us together. He calls us for two appropriation bills. He says virtually, "consider them, and go home." We propose to consider them with all other measures necessary to protect the rights of citizens in this country.

The Senator from Maine the other day undertook to frighten us by telling us this fine Capitol would have to go down and not be kept up, and our commerce would be suspended, and our Supreme Court and other courts. That there may be no misunderstanding on that proposition, so far as I am concerned, I have to say that I would see this building crumble and given up to the owls and bats and rats, and every ship of ours rot in its moorings, and the Supreme Court and all the balance of them suspended before I would see, without attempting to protect them, the rights of the humblest citizen shackled by legislation of Congress, or the humblest citizen of this country deprived of his rights in any way. The twelve Cæsars, when they punished men for what they thought, boasted of the splendor and grandeur of their great city, when their legions were trampling their citizens under foot as so many leaves in the forest. They had their blazing avenues; they had their grand domes and their magnificent palaces; but the personal liberty of the citizen was gone. Give me that first, and I will then help build your fine temples and your commerce and all that. The boast of the English government is that its humblest citizen will receive its protection, if it be at the mouth of their cannon, whether he is on their own soil or on foreign distant soil, and that is the secret of the strength and power of that government to-day. I concur with the eloquent words of the Senator from Indiana, that the people are not going to stand upon the order in which these vicious measures shall be taken from the statute-book; they want them off. We have asked to have them taken off, and if we cannot get them out of the way by any other means than through appropriation bills, bring on your appropriation bill and let us have them there.

There is no coercion in this; I mean no coercion to the President. He is as independent in his sphere as we are in ours; and we are as independent in ours as he is. Did we when we passed the Chinese bill send over to him to know whether he would veto it or not? Did we when we passed the silver bill? Are we reduced to this that we must send to him as it were in the old code of practice a "letter missive" requesting him to hold up his hand? Let him do his duty and let us do our duty, and then all will go on well. I have no fault to find with these gentlemen if they conscientiously believe this, but I repudiate the idea that any person on this side wants to coerce the President. No intimation of that character has been given out. We heard floating around us rumors that he would veto the Chinese bill, and it fell with his veto. We heard then as now that he would veto the silver bill; which he did, and it was passed almost before his veto was dry on the table. With a general sentiment here at this session evidenced by the resolution introduced by the Senator from Vermont [Mr. EDMUNDS] that we should consider no general legislation during the session, how are we to approach and get to this second bill of rights for the American citizen except through the medium of the appropriation bills? If the Senators on the other side give us a plan, I am perfectly willing to adopt it.

So, Mr. President, this measure in itself is unjust, and it should go out of the statute-book. That I do not believe any man can doubt. Is it proper that the repeal should be in an appropriation bill? It is supported by precedent so long back that the memory of man runneth not to the contrary; and if it was not, there is no other means to get at it but through an appropriation bill.

I have discussed the question as it suggested itself to me, and I have done it in good feeling to all. I believe yet, notwithstanding the threat of coercion and revolution and all that, the country will still live. Somehow or other it manages to get along and live. I believe yet a high destiny is before us, but that destiny is best secured by adhering to the Constitution, never going away from it; and adhering to that, I believe that yet, like the hand on the sun-dial, we shall count only the hours that are bright.

Mr. DAVIS, of Illinois. Mr. President, the caucus is an important factor in American politics, and both the great parties of the country employ its agency. This is done on the theory that party action is

most easily perfected by this method. I do not complain of the mode adopted to reach results, but as I have been for many years viewing public affairs from an independent stand-point, it does not help *me* to decide any question that may come before the Senate. Although usually preferring to give a silent vote, I cannot suffer this measure to be passed on without saying something on the subject.

The heat that has been manifested on the occasion of this debate has surprised me, if anything can surprise me in politics. A stranger unaccustomed to our modes of debate would suppose that the Union was in danger, and that the old questions, passions, prejudices, and purposes which it had been thought were laid aside forever were again revived. And this, too, fourteen years after the rebellion was conquered, and when there is no complaint from any quarter that the Federal compact presses too hard upon one section at the expense of another, and when the Federal Government is obeyed throughout the entire South.

There does not seem to be the least ground for the excitement and bitterness that have characterized the discussions in Congress at this session, and I should be amazed were it not that the record of all parties prove that majorities invariably commit legislative wrongs and minorities invariably protest against them. If it be true as charged that the success of one of the great parties of the country means revolution and ruin to constitutional liberty, of what value would be the securities of the Government, or indeed any other species of property? In the nature of things, if a revolution was impending or there was any danger apprehended to free government or popular liberty, the Government would not be able to sell bonds at 4 per cent. interest, nor the stock market in New York maintain its present high rate.

This charge, Mr. President, is mere fiction and has no foundation to rest on, but it produces infinite mischief and tends to demoralize the country and every material interest in it; alarms the thoughtless and timid, unsettles business and values, and produces a state of unrest in every community. It may succeed in winning elections, but it cannot restore prosperity. That great object can never be accomplished through a continuance of sectional strife and the violence that accompanies it, nor do I believe the people are in the mood for this kind of politics. They have had more than five years of harsh experience and they want to find some mode of relief from their present sufferings and impoverished condition. And they will honor the statesman who contributes to the stock of knowledge on this subject rather than the political leader who will not let the past alone.

I have no peronals concern, Mr. President, in the rise and fall of parties, but I am deeply solicitous that the affairs of Government shall be so administered that labor seeking employment can obtain it; that all industrial pursuits will be suitably rewarded, and that *heart* be given to the people, North and South, to work out of their present embarrassments. We are one people, of the same blood and with the same destiny, and unity of feeling is essential to lift us out of the mire and to help us on the road to prosperity.

The different parts of our common country are so intimately connected in trade and commerce that, as a general rule, whatever injuriously affects one part has a corresponding effect on the other, and whatever benefits the one benefits the other.

It is, Mr. President, in my judgment, the imperative duty of the hour, instead of turning the attention of the people back into history with its animosities, to direct it to the troubled business interests of the country and the way to relieve them.

With the past buried and discussions on living issues, the people would soon regain confidence which is essential in any plan for relieving the present hard times. It may be that such a course would affect the fortunes of parties—for both parties in Congress on any question of practical legislation fall to pieces—but it would have the most beneficial effect upon the fortunes of the country.

Without intending to reflect upon the patriotism of either party, it does appear to me that the speeches on the pending bill do not represent the wishes or opinions of the masses of the people of either section. Experience has taught them that legitimate business principles which lead to wealth and social happiness require a cessation from agitation on past subjects, and that sound policy dictates the cultivation of peace and good-will between the sections. The country, Mr. President, cannot be prosperous so long as the old conflict between the North and South is used at each recurring presidential election as an instrumentality of party success, and the statesman who shall rise equal to the occasion, and put it at rest, will receive the gratitude of a suffering people.

The bill before us is for the support of the Army for the ensuing fiscal year. It is attacked because the sixth section alters two provisions of the Revised Statutes. Section 2002 of these statutes reads as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

And section 5528 is in these words:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

These sections, though widely separated in the Revised Statutes, are parts of a general law passed on the 25th of February, 1865, "to prevent officers of the Army and Navy and other persons engaged in the service from interfering in elections in the States." (Statutes at Large, volume 13, page 437.)

The first section denounced the use of troops at elections except in two specified cases, and the second section provided the penalties for disobedience. The two excepted cases are when the troops were necessary to repel the armed enemies of the United States or to keep peace at the polls. The sixth section of the appropriation bill proposes to strike from both sections the words "or to keep the peace at the polls," and nothing more, so that the Army cannot be used hereafter at elections for any purpose. As an abstract proposition can there be any rational objection to this? Ought the Army to be used at the polls when there has been profound peace for more than a decade? Does any one believe that such a law would ever have received the approval of the American Congress if it had been brought forward in a time of peace? It was passed when a formidable civil war was in progress, taxing to the utmost the resources of the country.

In the opinion of the patriots of that day the state of feeling in certain parts of the country was of such a character as to endanger peaceful elections while the war lasted, unless a military force was kept in readiness for any outbreak of popular commotion. This was the conviction that prompted the legislation, but I venture to say no one of the eminent men who voted for it intended or expected that it would remain a part of the permanent law of the land. They were too well read in the lessons of history and the traditions of the Anglo-Saxon race to believe that a free people would tolerate—except on great emergencies like a war waged for the maintenance of the Union—the interference of the military in civic concerns. And they were men of principle and did not wish it to be otherwise.

It is no new thing in time of peace to repeal a law passed in time of war. Indeed, no wise statesman will hesitate to do it if the law be unsuitable to the changed condition of things. It is a part of the very nature of every man of our race to rebel against anything which interferes with the freedom of elections, and the days of the Republic are numbered if the people ever consent to place the ballot-box under the protection of the bayonet.

But, Mr. President, this consent will never be obtained until they have forgotten the principles of constitutional liberty and the precedents set by the Commons of England. These precedents I refrain from referring to at length, but the preamble to an act passed in the time of George II (1735) forbidding the presence of troops at elections is so appropriate that I beg leave to read it:

Whereas by the ancient common law of this land all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward the First, of famous memory, it is commanded, upon great forfeiture, that no man, by force of arms, nor by malice or menacing, shall disturb any to make free election; and forasmuch as the freedom of elections of members to serve in Parliament is of the utmost consequence to the preservation of the rights and liberties of this kingdom; and whereas it has been the usage and practice to cause any regiment, troop, or company, or any number of soldiers which hath been quartered in any city, borough, town, or place where any election of members to serve in Parliament hath been appointed to be made, to remove and continue out of the same during the time of such election, except in such particular cases as are hereinafter specified.—*Pickering's Statutes*, volume 16.

And the History of Parliament contains this incident:

The military having been called in to quell an alleged riot at Westminster election in 1741, it was resolved, December 22, "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom." The persons concerned in this, having been ordered to attend the house, received, on their knees, a very severe reprimand from the speaker.—*Parliament History*, IX, 326.

Can it be possible that a principle of common law—the right of the people to have an election free from the presence of troops—so dear to Englishmen one hundred years ago is not equally dear to their descendants at the present day?

Mr. President, it will require some one now living to write accurately the history of these times, for the future historian will be slow to believe that there was any basis on which to rest such an inquiry in the Congress of the United States during the latter part of the nineteenth century. Why, then, should not the law of 1865 be altered in the manner proposed by this bill?

It is said that Mr. Lincoln signed it, and the inference is that it would reflect on his memory to change it. To say the least this is a pretty strong presumption from such a predicate. No man loved Mr. Lincoln better or honors his memory more than I do, nor had any one greater opportunities to learn the constitution of his mind and character and his habits of thought. He was large-hearted, wiser than those associated with him, full of sympathy for struggling humanity, without malice, with charity for erring man, loving his whole country with a deep devotion, and intensely anxious to save it. Believing as I do that he was raised up by Providence for the great crisis of the war of the rebellion, I have equal belief, had he lived, we would have been spared much of the strife of these latter days, and that we now would be on the high road to prosperity. Such a man, hating all forms of oppression, and deeply imbued with the principle that induced the men of 1776 to resist the stamp tax, would never

have willingly intrusted power to any one, unless war was flagrant, to send troops to oversee an election.

Why, then, I repeat, should not the proposed measure pass? There is no rebellion, nor any threatened, nor any domestic uproar anywhere. The Union is cemented by the blood that was shed in defense of its integrity; the laws are obeyed North and South, East and West, and our only real differences relate to the administration of the internal affairs of the Government. By the constitution of the human mind, there will of necessity be diverse opinions among the people on the best way to manage their internal affairs, and Congress meets periodically to legislate for the people and to represent their views on the questions dividing them. But surely these differences, be they great or small, afford no justification for a departure from any of the principles that underlie republican government. If they do, the charter of our liberties will be soon frittered away.

The charge that this is "revolutionary" legislation has no force. It might be called a partisan device. Congress has power under the Constitution to raise and equip armies, and the House of Representatives holds the purse strings.

In the pending Army bill, nothing is proposed but to strike out a single clause forbidding the presence of troops at the polls. In no respect is the authority of the President to answer a call to repel invasion, or to suppress insurrection, in any way abridged. The amendment is germane to the bill, and is simply a condition as to the use of the Army, which the people's representatives had a perfect right to impose. It is not in any proper sense general legislation, and if it was, the statute-books are full of precedents that the friends of the present measure might cite against their opponents.

Whether the clause in question ought to be repealed is a fair subject for discussion, but the form of presenting it is not liable to just criticism. Personally, I should have preferred to vote on the proposition as an independent bill, because the practice of both parties of legislating on appropriation bills is more to be honored in the breach than in the observance. If this course had been pursued it is probable the whole debate would have been less acrimonious, and the excitement which has followed it could never have been worked up to so high a pitch.

It has been alleged that there is an attempt to coerce the Executive in this bill. Certainly none appears on the surface, and he is left entirely free to exercise his own judgment if it should be sent to him in the present or in a modified form. To assume that he will approve or will veto it, or to introduce him in any way into this debate, is a departure from wise usage. The President's sphere of action is defined by the Constitution, and any attempt to influence legislation by suggestions of what he may or may not do, is an obtrusion deserving rebuke.

It will be time enough to criticise the act of the President when he shall have exercised his constitutional right, and any discussion of his supposed course before then is wholly out of place in this body. Let us hope, Mr. President, when this bill has passed from our hands that the angry debate which has attended it will operate as electricity does in purifying the atmosphere, and that we will all come together better disposed to give to the country what has been given to party, in a united effort to provide relief for the prevailing distress in every pursuit of life.

Mr. ALLISON. Mr. President——

Mr. LOGAN. Before the Senator from Iowa proceeds I should like to ask my colleague a question, as I misunderstood him, I think, in one remark that he made.

The PRESIDENT *pro tempore*. Does the Senator from Iowa yield to the Senator from Illinois?

Mr. ALLISON. I yield for a moment.

Mr. LOGAN. Just for a moment. Without wishing to enter into any discussion or controversy with my colleague, I desire to know if I misunderstood him in a remark he made in regard to the obedience that is given to the laws by the citizens of the South and the North? I understood him to say that the laws are now obeyed alike in the North and South.

Mr. DAVIS, of Illinois. So I understand; I understand that the laws are obeyed; the Federal laws, I mean.

Mr. LOGAN. I am speaking of the Federal laws. I do not desire to enter into a discussion, but inasmuch as we both represent the same constituency and so that our constituents may not be led astray in their views as to the facts in regard to obedience to the laws by the statement of my honorable colleague, I wish to say that I find in the annual report of the Commissioner of Internal Revenue for 1878 a table of seizures made of illicit distilleries during that year. The number that year is twelve hundred and fifty-eight. In all the Northern States, containing twenty-five million people, the seizures were sixty-seven. Deduct sixty-seven from twelve hundred and fifty-eight, and eleven hundred and ninety-one more seizures were made in the sixteen Southern States, where there are fourteen million people, than were made in the Northern States.

Again, as my colleague referred to submission to and compliance with the national law, the number of arrests of persons in the whole United States made for violation of the laws of the United States alone in reference to the internal revenues of the United States was twenty-nine hundred and ninety; in the Northern States fifty-five; in the Southern States twenty-nine hundred and thirty-five more than in the Northern States. The number of persons killed in arresting violators of the laws of the United States in the United States within the last year was five. Where were the arrests made? All five in the Southern States. The number of persons wounded in the execution of the national laws under the internal-revenue system of this country was thirteen, all in the Southern States.

Now, let me recapitulate. In the Southern States, in the midst of fourteen million people, there have been eleven hundred and ninety-one violations of law more in the Southern than in the Northern States. In the arrests there have been twenty-nine hundred and thirty-five more in the Southern than in the Northern States. The murders committed in the execution of the laws were all in the Southern States. The persons wounded in the execution of the laws were all in the Southern States.

I merely put this table before the country to show that my colleague's statement is not correct; and that is all, Mr. President.

Mr. DAVIS, of Illinois. There may be more whisky thieves in the South than there are in the North. In the Northern States smuggling is going on. In my own State unlawful distilling is going on. There may be more persons in the South who are engaged in this class of business than there are in Illinois and other Northern States; but I am not aware that that has anything to do with the sort of laws that I spoke of as being obeyed.

Mr. LOGAN. My colleague said that the national laws were alike obeyed in the North and in the South. These are the national laws of which I speak, and they are not alike obeyed in the North and the South.

Mr. WITHERS. In that connection I wish to say a word.

Mr. DAVIS, of Illinois. Wait a moment. There may be more effort made to arrest the whisky thieves in the South than in the North.

Mr. WITHERS. That was what I was going to suggest.

Mr. DAVIS, of Illinois. I do not know anything about it; but there are plenty of such offenders both in the North and in the South; the violation of the internal-revenue laws is going on all over the country. There may be a greater proportion of men who are prosecuted down there than there are in the North; I know nothing about that. But that is a very small matter. I was speaking of obedience to the general law of the land. The criminal law of this country of course may be disobeyed by individuals; but the community is not disobeying it at all.

Mr. LOGAN. Mr. President——

Mr. GORDON. Will the Senator from Illinois [Mr. LOGAN] allow me to ask him one question?

Mr. LOGAN. As soon as I make a reply to my colleague I will hear the Senator from Georgia. The answer I do not think is sufficient, at least it is not satisfactory to me, to say that there are plenty of men who violate the law, North and South. I put the question to my colleague whether he can show where a solitary murder of a revenue officer attempting to execute the national laws as to internal revenue or on any other subject has been committed in the North, or where a man has been wounded in the North in attempting to execute the laws of this Government against the citizen who violates them. The question is not whether there are criminals both North and South. That is the case, of course. The question is whether the laws are alike obeyed, respected, and submitted to in the North and in the South, and the records of the country show this not to be the case. Now I will hear my honorable friend from Georgia.

Mr. ALLISON. Mr. President——

Mr. DAVIS, of Illinois. My colleague is determined to have the last word on this subject, I see. I do not know whether the criminal laws are obeyed as well in the South as in the North or not. My general impression is that in regard to the distillation of whisky, in the mountains of Tennessee and in some other States there is a greater violation of the internal-revenue laws of the country in the South than elsewhere; but when you speak of the great Federal system of this country, it is obeyed and allegiance is given in the South as well as in the North. I adhere to what I said.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Iowa [Mr. ALLISON] is entitled to the floor.

Mr. ALLISON. Mr. President, I have been moved on several occasions to make some remarks upon this bill, but this morning I yielded to the Senator from Arkansas and my honored neighbor from Illinois as they desired to speak in the time that I should have occupied if I had then proceeded to address the Senate.

Either the Senator from Illinois who has just taken his seat [Mr. DAVIS] and most of the other Senators who have discussed the question on the side of the Chamber usually known as the democratic side have totally misapprehended the questions involved in this debate, or I have no comprehension myself of the questions involved. Is it possible that we are sitting here day after day, hour after hour, to debate whether in a republic there shall be a free and an honest ballot? Is there any party in this country arrayed against a principle so well grounded in our governmental history? If there is such a party, it is not the republican party.

What is the real question before us to-day, Mr. President? First, what is the bill before us? It is professedly an appropriation bill providing for the Army of the United States from the 1st day of July next for one year. Unless this bill shall pass before the 1st day of July, then all the usual uses to which an army is applied must be stopped or they must go on without the necessary appropriations.

Is an army in this country necessary? It seems to me experience shows that it is necessary for the preservation of peace upon our borders, for the protection of our forts and arsenals and all public property, and above all it is the only protection we have this day in this capital for our treasure, our archives, and all the forces of government that are concentrated here, against organized resistance that may at any time appear in this capital.

This is no new arm of our Government. I listened to the Senator from Kentucky [Mr. BECK] the other day quoting from Jefferson the opinion that Government could be protected by a well-organized militia. That was not the opinion of the framers of our Government or of Mr. Jefferson. The Army of the United States is as old as the Government itself. The seventh act of the First Congress of the United States was an act to organize the Army and the Department of War. It has continued from that day to this as one of the ordinary and efficient means for the general purposes of our Government and as one of the great forces in it. As early as Jefferson, who was quoted by the Senator from Kentucky, and under his first administration in 1802, a military school was established at West Point, which has continued from that day to this to educate the sons of our country and from every portion of our country by provision of law.

This school for the training of our young men in the art of war has always been regarded as essential to the efficiency of our Army, and has been sustained by liberal appropriations.

Appropriation bills for the support of the Army have been independent of other appropriation bills since the year 1800. The bill before us is the regular appropriation bill that has been enacted into statute law and found a place upon our statute-books for each successive year without variation since the year 1800. For what purpose is it enacted? It is to supply, among other things, the pay of the officers of our Army, who are in office presumably, under the statute, for life. It is further to provide for the pay of the retired officers of our Army to whom we have stipulated to give three-quarters pay during their lives; retired because of wounds in battle or because of long and faithful service. It is for the clothing, subsistence, and pay of the soldiers of the Republic who have enlisted, under our laws, for a period of five years. I hear it stated (and of course the Constitution is quoted to show) that appropriations for the Army cannot exceed a period of two years. This is true, but our laws require that every soldier in the Army of the United States shall be enlisted for five years, and when enlisted he is compelled to take an oath that he will obey the rules and articles of war, one of which is that if he deserts from the Army he shall in time of war suffer death, and in time of peace any penalty a court-martial shall impose less than death. Yet we propose by withholding supplies from them, unless they are given on conditions of which I shall speak presently, that these soldiers of the Army, four-fifths of whom have yet to serve for periods of more than two years, shall not receive the compensation provided by law, nor shall they receive clothing or subsistence. And the law says, although they are not thus provided for, yet if they desert they may be punished as a court-martial may direct with any penalty less than death.

Now it is proposed that these necessary appropriations shall not be made unless laws are changed to suit the majority in this Chamber and in the House of Representatives.

From the beginning of this discussion Senators on the democratic side of the Chamber insist that the sixth section of this bill is put here for the purpose of redressing grievances; that there is a present impending grievance which must be redressed now and here and on this bill. I believe the honorable Senator from Ohio who now so acceptably occupies the chair [Mr. THURMAN] first invented in this Chamber, in a former debate at the close of the last session, the expression that this was a "redress of grievances," and he illustrated his view on this subject by the statement that under our written Constitution it rested with the House of Representatives to refuse appropriations unless the Senate would consent to put upon the appropriation bills such legislation as the House asked of us. So we have heard from that time till now that this sixth section is inserted to provide for a redress of grievances.

When were these two sections now sought to be modified discovered to be grievances? The democratic party has been in power in the House of Representatives since March, 1875. I challenge successful contradiction when I say that no petition has been presented in that House or in this Chamber from any citizen of the United States by any member of the House or any Senator on this floor since 1875 asking for a repeal or a modification of these sections under debate. There has been a strong, and I am sorry to say a growing, minority on the democratic side in this Chamber since that time, and yet no Senator has risen in his place to present such a measure, although he could do so any morning. Among the ten thousand bills that have been presented in this Chamber in that time no one has proposed amendments to the sections now sought to be repealed or modified and sent the proposed amendments to the appropriate constituted committee of this body, either the Committee on Military Affairs or the Committee on the Judiciary. Has that been done? If not, why not? Because they were not regarded as grievances to be redressed.

The question of the use of troops in various ways in the different States, or the general question of the use of the Army and its organization, has been constantly in debate in this Chamber for many years. In 1876 the democratic House of Representatives, upon their return to power in the House, placed on the Army bill a number of sections providing for the reorganization and reduction of the Army. It seems curious and worthy of note here that the Army appropriation bill ever since the democrats have come into power has been an object of dispute and discussion between the House and the Senate. In 1876 the regular Army appropriation bill had placed upon it a provision for the reorganization and reduction of the Army, reducing the number of the regiments and reducing the total number of soldiers in the field. Did anybody in the House of Representatives propose then on that bill a redress of grievances in this regard? There had just been an election in 1874 in every State of this Union for Representatives in Congress. No complaint was made and no proposition was made in the House for a redress of grievances with reference to the question of the use of the Army "to keep the peace at the polls." That bill came to the Senate and the Senate rejected the provisions reorganizing the Army. The House refused to assent to the bill unless we would agree to provide a commission that should take into consideration the reorganization of the Army. Finally, I believe at the very last hour, or nearly the last hours of the first session, the Senate agreed to what the democrats in the other House insisted as a condition of making appropriations, that there should be a commission on the reorganization of the Army, which should report at the next session on that subject. That was the "grievance" to be redressed then.

What followed that, Mr. President? Here I wish the attention of my friend from Delaware, [Mr. BAYARD,] because he has singularly misread the history of the several provisions with reference to the use of the Army that have been placed upon the Army appropriation bills. The session of 1876–'77 came, the second session of a Congress with a democratic majority in the House of Representatives. What did they propose then? Did they propose then this great measure of "liberty" that is proposed now? This monstrous grievance was not thought of by any Senator or by any Representative. They proposed then that the troops should not be used for what purpose? For the purpose of maintaining a State government in the State of Louisiana obnoxious to them, and they persisted in that until the end of the second session of the Forty-fourth Congress. The Army bill failed because the Senate of the United States would not agree that the President of the United States should be interfered with in his constitutional right to recognize the person he might regard as the proper executive of a State. There was no question about the *posse comitatus* clause in that bill; it was not even suggested in either House. I wish to call the attention of the Senate now to that Army bill, because my friend from Delaware yesterday, when I interrupted him, stated that I wholly mistook, or at least it was his impression that I mistook, the provision. I have the bill here. This provision is found in the printed bill H. R. No. 4691 of the second session of the Forty-fourth Congress. There is no intimation in it in reference to the *posse comitatus* clause. That question was not debated in the House or in this Chamber at that time; it was not a question of difference between the two Houses; and the question relative to the establishment of a State government, so far from being surrendered by the Senate of the United States, was absolutely surrendered by the House of Representatives at the extra session which met in October, 1877. They reported early in the extra session an Army bill pure and simple, and it passed the Senate without opposition, so that the provisions which killed the Army bill in the second session of the Forty-fourth Congress were not renewed by the House of Representatives in the Forty-fifth Congress.

Mr. BAYARD. Mr. President, I am inclined to think the honorable Senator from Iowa is more correct than I was yesterday in the history of the Army bill brought in from the House in the spring of 1877. I had collected, as I thought, all those bills, but in coming into the Chamber I found in the many papers handed to me that the were mislaid, and I spoke, and said that I spoke, from recollection only. The Senator is historically right in saying that the difference between the two Houses of Congress in the spring of 1877 which caused the failure of the Army bill at that session, was because of the insistence on the part of the House that the President of the United States should not use the Army to sustain a pretended State government, as we considered it, in the State of Louisiana. On that account the Senate suffered the bill to fall. I believe the Senator is correct; that was the point of difference. Then I stated exactly what he has said, that upon the reconvention of Congress the House with great promptness sent in here a bill to pay the officers and men of the Army that which had been withheld from them since the 30th of June, and that bill the Senate accepted. Then I went further to say that the bill of 1878 which passed and was approved on the 18th of June, did contain the *posse comitatus* clause, which was an act so-called of general legislation; it was an act proposed by the democrats and approved by the republicans; it came from the House and was objected to here by the majority to which my honorable friend belongs. I cited that bill because it contained a feature of general legislation so much more open to discussion and possible objection than the one contained in the present bill. I hope that I do my honorable friend the justice to state that he was right and that I was not right yesterday in the history I gave of the act of 1877; but he will perceive that my object in referring to it was simply to show that there had been an act of general legislation, even more general than the one now proposed, accepted by the Senate in the Army appropriation bill of 1878.

Mr. ALLISON. I trust I shall not spend a great deal of time in the discussion of the question whether it is the practice to place upon appropriation bills matters of legislation. That, of course, has been the practice more or less since I have been in this Chamber, and before I came into it. That is not the question under consideration. I am undertaking to give a history of these appropriation bills for a totally different purpose, of course, from that of the Senator from Delaware. I am undertaking to show that this "grievance" is a suddenly discovered grievance, and that it has no foundation in public opinion as expressed at any election and reflected through any of these prior bills for being pressed now upon the Senate. So the Senator from Delaware truly says the *posse comitatus* clause was put on the bill of 1878.

Mr. BAYARD. May I correct myself? I want to say further in regard to the contested feature of the act of 1877, that the reason why in the fall of that year the democratic House sent in the bill containing the full supply for the Army was that all they had contended for in regard to the employment of the Army in Louisiana had been accomplished.

Mr. ALLISON. Why was the *posse comitatus* clause, so called, put upon the bill in 1878, and not these provisions? Can any Senator answer me that question? The *posse comitatus* clause agreed to by the Senate in 1878 was not originally reported with the Army bill. I have been told that even that was the subject of a caucus in the other branch of Congress. I know that it was reported from the Judiciary Committee of the House and not from the Committee on Appropriations. It was reported by the chairman of the Judiciary Committee. If this grievance existed then, why is it that the Judiciary Committee of the House of Representatives in 1878, a majority of whom were democrats, had not discovered it and presented it also with this *posse comitatus* clause?

Mr. HILL, of Georgia. Will the Senator allow me to ask him a question?

Mr. ALLISON. Certainly.

Mr. HILL, of Georgia. Is the Senator willing to vote for the repeal of the law which authorizes the troops to be used to keep the peace at the polls? Does the Senator think that law ought to be repealed?

Mr. ALLISON. The Senator from Georgia is only endeavoring to get in the beginning of my remarks what I mean to say before I conclude. If he will wait until I have progressed somewhat further he will understand what I am willing to do with reference to this particular clause about which he is now asking me. I am undertaking to show that this grievance which is now made the reason for the hot haste and pressure of this matter upon an appropriation bill at the beginning of a Congress and not at the end of it is born of political excitement and political strife, created in Congress and not out of it, and that it does not rest upon any real grievance. That is what I am endeavoring to show.

In 1878 the Judiciary Committee of the House proposed an amendment to the Army appropriation bill, preventing the use of the Army as a *posse comitatus*. I want to read from that section:

> From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus*, or otherwise, under the pretext or for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by act of Congress.

There, so far from making a proposal to repeal this provision, they substantially re-enacted the provision embodied in section 5528 of the Revised Statutes, because they inhibited the use of the Army except where it was expressly provided for by law, as it is provided for by law in section 5528 of the Revised Statutes. Therefore the Judiciary Committee of the House of Representatives, after careful consideration in 1878, not only failed to provide for a repeal of these sections or a modification of them, but in substance re-enacted them, and this grievance, of which we hear so much now, could not have existed then. That twenty-ninth section of the appropriation bill of 1878 came to the Senate. The Senate did not refuse to agree to it, but agreed to the section as proposed by the House of Representatives with a modification. That modification was material, it is true. Afterward the whole question went to a committee of conference, and now the law stands so that the Army cannot be used as a *posse comitatus* except where it is expressly authorized to be used by law. Therefore there is no parallel whatever in the two provisions. The *posse comitatus* clause, which we agreed to last year, expressly reserves the right to use the Army where the law authorizes its use, as in the case of section 5528, and it may be said very truthfully that that law was re-enacted.

But it was not discovered that this law ought to be repealed until February last. The Army bill introduced in the House of Representatives on the 23d of January, 1879, made no provision for a repeal of this law or a modification of it, and it was not moved in the House of Representatives until after a democratic caucus had sat upon the question on the 2d of February, 1879, when it was put on as a rider in the House of Representatives and persisted in to the end as a condition on which the moneys for the Army should be appropriated. Of course the time was short in the Senate. The Senator from Delaware says that provision was disagreed to without debate in this Chamber. Why? Because these two bills, the legislative, executive, and judicial bill and the Army bill came in here practically together, and all within eight or twelve hours of the expiration of the last Congress. The debate happened to occur on the legislative, executive, and judicial bill, as Senators will remember, and therefore there was no time to debate this bill. But it does not change the fact that the House of Representatives through its conferees absolutely refused to pass appropriations for the Army unless we would agree to this new legislation.

I object, however, to this legislation being put upon this Army appropriation bill for another reason. We are now in the beginning of a Congress. There is no necessity for pressing this legislation upon an appropriation bill. Whatever these questions are, they are political questions, are they not? Whatever there is involved in this discussion is political. It is political in the sense that it divides the two great parties in this country, the republicans and the democrats. The democratic party chances now to have a small majority in the House of Representatives; it has on this floor a clear majority; but I think I do not misstate the fact when I say that in this country the republican party has a majority of all the voters in it if there is what gentlemen talk so much about, a free ballot and an honest ballot in every part of it. Therefore I say it is not treating fairly one-half the people of this country to press upon an appropriation bill as a condition of the support of the Army a measure which has never been debated in the country. Especially is that so when the people of this country in the twenty-one States north of Mason and Dixon's line are particularly sensitive about this character of legislation. Especially ought this not to be done now when this measure affects or may affect the lately enfranchised race in this country, and when thirty-two Senators, making up the democratic majority, come here from States largely populated by people recently enfranchised by the constitutional amendments whose rights are more or less affected by the proposed change. Of the forty-two Senators on the democratic side of this House to-day there are thirty-two from States more or less affected by the fourteenth and fifteenth amendments to the Constitution, and which amendments are involved in this measure. I ask Senators who thus represent such constituencies if they consider it a fair and bold and manly way of securing legislation to place the regular appropriation bills in a condition where they will not be passed unless we agree and the President agrees to legislation which a majority, or at least one-half the people of this country, are of opinion ought not to pass? Is that fair legislation? Is it not a menace to the President who represents all the people to say to him that necessary appropriations shall not be made unless he agrees to provisions which may affect injuriously the rights of citizens recently enfranchised by the fifteenth amendment?

Mr. HILL, of Georgia. May I ask my friend a question? Do I understand him to say that a majority of the people of this country or even one-half of the people of this country think it right to use the Army to keep the peace at the polls?

Mr. ALLISON. By no means; I am not saying that just at this moment; I am saying that you propose legislation here, and I will endeavor to show what that legislation is after a little—legislation which may interfere with the rights of the lately enfranchised race; and the people, and more than a majority of them, are sensitive upon that subject and mean that it shall not be done; and I say it is not a manly way to put it, to force it upon an appropriation bill and practically proclaim "take that or destroy your Army," and still less is it proper legislation when twenty-three members of this majority are men who were in one way and another engaged in the rebellion, and who are on record as against these amendments to the Constitution which are so cherished by the people who put down the rebellion. That is the reason why I say, as a measure of justice and fair legislation, it is not right to put these political riders upon an appropriation bill, especially so as they have never been discussed, they have never been debated before the people in the North or the South. The questions involved in this section of the pending bill have never been discussed at the hustings pending a general election. No petitions have come here for a repeal; no remonstrances have come here against the use of the Army as provided in the sections which it is proposed to repeal or modify; and therefore I say that it is not a fair and manly way of legislation to press it here and now upon an appropriation bill, and much less is it so when it is boldly avowed not only by the circumstances of the case which I have already related, but by nearly every Senator who has debated this subject, that these sections are placed on the bills as a condition of the appropriation of money for purposes provided for by law. The Senator from Kentucky [Mr. BECK] clearly made this statement, or else I misapprehend his language.

Mr. HILL, of Georgia. Allow me to ask the Senator, by his permission, whether the merit of a bill is to be judged by what the bill itself says, or by what somebody says about it?

Mr. ALLISON. The merit of a bill and the provisions of a bill are to be expounded and understood by what is said by the great men who expound and interpret their meaning and purpose, and what will be done with the measure if not assented to elsewhere. The purposes of a party are known, not always by what happens to appear on the face of a bill, but by what happens to be said here and occur here and there and elsewhere.

The Senator from Pennsylvania now in my eye [Mr. WALLACE] made a long speech in the beginning of the debate on this very question, and in that speech—I will not stop to quote his language—he said that it was the constitutional right of the Executive to veto this

bill, but that it was the constitutional right also of both Houses of Congress to fail to act in case he did veto it; and he went further and said that it was the constitutional duty of the Senate to refuse to act. That is the substance of the language of the Senator from Pennsylvania. What does that mean?

Mr. WALLACE. Will the Senator permit me a word of explanation?

Mr. ALLISON. Certainly.

Mr. WALLACE. What I said was this, and I repeat it: it is the power of the legislative branch to decline to act; and where it involves a great civil right, one of the liberties of the people, it becomes the duty of the legislative branch to decline to act.

Mr. ALLISON. And this is that case according to the view of the Senator from Pennsylvania; and therefore the Senator now but reiterates what he stated before, namely, that it is within the province of this Senate and the House of Representatives, in case the President in the exercise of his independent constitutional power shall believe that these riders put on this bill are not such as should be passed, are not promotive of the public welfare, but the reverse, for a majority of the Senate and House to say to him, "You shall have no appropriation to pay the soldiers of the Republic engaged in its defense, although they have enlisted for five years, and although they can be incarcerated and punished for desertion, unless these measures thus obnoxious shall accompany the bill." The Senator from Kentucky and the Senator from Pennsylvania were in accord upon this question. I do not need to go very far to find out what is proposed, nor does the President. If these things and these statements, authoritatively made as they are on this floor, are not menaces to him, then I fail to understand the force of the English language.

The Senator from New Jersey [Mr. RANDOLPH] spoke the other day. I do not now see him in his seat, but he stated the question involved perhaps with more precision even than the Senator from Pennsylvania, and I want to read what he said:

> The question presented in a simple form is this: as a condition of granting supplies to the Army, has Congress a right to demand a redress of what a majority of its members deem "grievances" concerning its use?

This majority is to judge of the grievance and withhold supplies unless the conditions are complied with.

"As a condition." That is the language of Senators on this floor to the President of the United States used in open debate. Are not these words of menace to the President? I agree with every word uttered by the Senator from Delaware yesterday as to the independence of the Executive over either or both Houses of Congress.

Mr. BAYARD. And the independence of the Houses of Congress?

Mr. ALLISON. I believe in the independence of both, but I want to ask the Senator from Delaware, as he puts that question to me, whether, believing that there are three great co-ordinate departments or branches of the Government, each having authority to act with reference to the particular things submitted to it, and each being independent of the other, and the concurrence of all being necessary, he would consider it fair legislation, or even constitutional legislation, within the spirit of the Constitution, for one co-ordinate branch to coerce the other? And yet that is what is proposed here. The President of the United States has one-sixth of the legislative power of this Government deposited with him by the Constitution. If he chooses to veto this bill because it contains certain provisions which in his judgment are unwise and in derogation of the constitutional rights of the citizen, are we permitted to say in the fair exercise of our constitutional power that we will not appropriate money which the laws of the land declare shall be appropriated unless he abandons his judgment and agrees with us? That is the question.

Mr. BAYARD. What law of the land?

Mr. ALLISON. Our laws provide for an army officered by men appointed by fair intendment for life, with soldiers enlisted for five years. Can it be possible that we are not required, in the fair exercise of our constitutional duty here, to appropriate money for the support of this Army? Certainly we are unless the constitutional form which requires two-thirds to override the veto of the President be set aside.

But now, sir, what is the issue presented here? Is it simply that troops shall not be at the polls for the purpose of interfering with and controlling elections? Does any Senator say that troops may be used at the polls for the purpose of interfering with and controlling elections? I know of no Senator on this floor who believes in a doctrine of that sort. What is the issue? The issue as presented is not alone what troops may lawfully do, but whether or not the power of the Government of the United States shall in any event be exercised at elections for any purpose whatever. This statute we have been discussing is a criminal statute; it is a penal statute, and I undertake to say here now, in repetition of what is understood to have been said by the Senator from Maine [Mr. BLAINE] the other day, that, since 1870 at least, there has not been found a United States soldier at any polling place in the United States.

Mr. WITHERS. In 1876 they were in Petersburgh.

Mr. ALLISON. At a polling place?

Mr. WITHERS. Immediately contiguous to it.

Mr. ALLISON. How near it?

Mr. WITHERS. Within half a square, or thereabouts.

Mr. ALLISON. Then they were not there for the purpose contemplated in this statute?

Mr. WITHERS. That was the avowed purpose.

Mr. ALLISON. Avowed? Avowed by whom?

Mr. WITHERS. By the parties who applied for them and by the President who sent them.

Mr. ALLISON. Then, do I understand the Senator from Virginia to say that those troops were there at a time when there was no riot or disturbance?

Mr. WITHERS. Yes, sir.

Mr. ALLISON. Then, I submit to him that under the statute every officer there was liable to indictment and punishment by fine of $5,000 or imprisonment in the penitentiary, or both.

Mr. WITHERS. That may all be true, but when I introduced a resolution in the Senate to inquire into the cause of it, there was no allegation made that there was any breach of the peace, but it was feared a breach of the peace might occur.

Mr. ALLISON. Nor was there any allegation that those troops were at the polls; they were not at the polls; there was no pretense of it. I am not quite familiar now with all the facts, but I listened to the Senator then, and I made up my mind then, as I am clear now, that that was not a case within the provisions of this statute at all. There was an apparent necessity for troops in that locality and the troops were sent there, and if I mistake not they were expressly ordered not to appear at the polling places unless riots and disturbances should occur, and if they did so appear they appeared in violation of this statute, and therefore were liable to be fined and otherwise punished.

Mr. WITHERS. I will say, with the permission of my friend, that those troops were sent to Petersburgh in advance of the election, the day before the election; and upon a resolution of inquiry being addressed to the President as to the reason why they were sent there and the necessity for their presence at the election at the polls, he transmitted a letter from the Attorney-General stating that he had received information from the district attorney that there was a probability that the peace might be disturbed on the day of election, and applying for troops, and he sent them in consequence of that requisition.

Mr. ALLISON. And they were there within the statute, and of course were not punished for its violation.

Mr. WITHERS. Certainly not; but there was no riot, no disturbance, and had not been any for a long time previously.

Mr. ALLISON. Then of course these troops were not at the polls. Senators do not seem to draw the distinction which I undertake to make here, and that is that this is a penal statute; and if the polling places are interfered with and men are intimidated or are refused the opportunity to vote by means of the troops, the officers in charge are punished with imprisonment and with heavy fines, and they appear at the peril of punishment for a violation of this penal statute.

Mr. WITHERS. I will merely repeat that the governor of the State issued a proclamation protesting against this invasion, avowing his perfect willingness and power to preserve the peace within the State.

Mr. ALLISON. Undoubtedly; and that brings me to the very point. I am much obliged to the Senator for stating the true question. That is the very question involved in this controversy. The one side insist that the Government of the United States shall be a stranger and an alien in the States, and that the State authorities alone shall conduct elections in their own way, and that the Government of the United States shall not put into force the fourth section of the first article of the Constitution, which clearly authorizes it to make rules, regulations, and laws in reference to the election of Senators and Representatives to Congress.

Mr. WITHERS. We only insist that the fourth section of the fourth article shall be observed.

Mr. ALLISON. That is the real issue in this case; it is that there can be no peace at the polls to protect by means of the authority or forces of the United States, whatever they are, civil or military.

Mr. President, this bill, although it is simply, as has been so often stated here, a repealing statute, contains much more than the repeal of a single clause in section 2002 and section 5528 of the Revised Statutes. We must consider in connection with it the *posse comitatus* clause quoted by the Senator from Delaware and the Senator from Pennsylvania, the other day, which we agreed to last year, and which is now the law of the land. That *posse comitatus* provision says that the Army of the United States shall not be used as a *posse comitatus* except in cases expressly provided for by law or by the Constitution. Therefore, of course, if this provision is repealed, the marshals and other officers of the Government executing the laws of the United States cannot use the military power, because they will be inhibited by this modified section. But that is not all. The Senator from Maine called attention to the language of this section—and I am only repeating what he said the other day—this section provides that no military or naval officer or other person engaged in the civil, military or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at any place, &c.

This provision, if it is allowed to stand, with the *posse comitatus* clause also standing, makes it impossible for any marshal of the United States to have at any election place or anywhere else an armed man to protect the rights of the United States or citizens of the United States at the polls, a right guaranteed by the fifteenth amendment to the Constitution. Therefore when Senators say that the issue here is between

keeping the troops at the polls to suppress riot, or tumult, or turbulence, and keeping them away from the polls wholly, they do not present the real issue. Under the disguise of a simple repeal, it is proposed here to tie the hands of every marshal of the United States, and every officer of the United States on election day, and say that he shall not use an armed force for any purpose on election day, that the armed force on election day, whatever may be the provocation or necessity, shall be under the control wholly of the sheriffs and the constables and the local police, although members of Congress are to be elected, and the State authorities may wholly fail to protect the citizen in his right to vote. Senators may be able to maintain that issue before the people of this country, but I do not believe the people will consent that the election laws for the protection of the citizen at national elections which we now have standing on our statute-book, and which authorize the Government of the United States to witness and in specified instances to supervise elections on the days when members of Congress are elected in order that the right of a free and honest ballot shall be secured to every citizen, shall be repealed and that the election of members of Congress shall be hereafter wholly under the control of the State authorities without interference or control of the Government of the United States. We have had in the recent past too many examples of the necessity for this interference and supervision. We have had these examples in southern States and in northern States, and in the great cities of this country particularly.

The Senator from Delaware yesterday read the orders issued in 1870 with reference to troops to be held in New York City on the day when members of Congress were to be elected in that year. I listened very carefully to the reading of those orders. I found not one word in them which would justify the statement that those troops were to be used at the polls to interfere in the slightest degree with the free and honest exercise of the ballot in that city. I also remembered, however, as he was reading those orders the circumstances and facts which led up to them. I remembered that in 1868 John T. Hoffman was supposed to have been elected governor of the State of New York by means of fraudulent transactions in the city of New York, by which 60,000 fraudulent votes were polled, and that it was conceded in testimony taken before a congressional committee that men voted from one to forty times at several polling places in the city of New York. That was in 1868, and in 1870 our Federal election laws were passed, chiefly because of the frauds that had been committed on the ballot in the State of New York in that year, by which not only Governor Hoffman was elected, but the electoral vote of the State was cast for the party engaged in the frauds and against the fairly expressed will of the people. The discussions in Congress which followed that investigation led to the passage of the election laws now on our statutes.

Now, it is proposed by the repeal of these provisions that should another exigency arise similar to that in that great city on election day no Federal official shall exercise any power whatever in the city of New York, because no marshal can exercise any power if this section 6 is enacted, no matter what may be done with the election laws which are soon to come before us. If you tie the hands of the marshal so that he can exert no authority at the polls when members of Congress are to be elected, then your election laws may be permitted to stand or fall; it makes very little difference which. Upon this simple repeal, then, of these eight words, as we are told is all that is proposed, connected as they are with the other statute, depends the efficiency and efficacy of the whole system of elections, as provided now in the Revised Statutes.

Mr. BAYARD. May I ask the honorable Senator a question?

Mr. ALLISON. Yes, sir.

Mr. BAYARD. I understand the honorable Senator to say that the effect of adopting the present provision will be to repeal the power of a civil officer to serve process at the polls, no matter for the breach of what law of the United States? Mr. President, that surely is an erroneous statement. Until 1865 there had been no law of the United States that would have warranted the use of the Army at the polls, and I mean to say that the only effect of this amendment is that no marshal of the United States and no civil officer of the United States and no military officer of the United States shall bring the Army to the polls at the time of an election. Does that prevent the *posse comitatus* from being summoned? Does that interfere with all the powers the marshals have?

Mr. ALLISON. Undoubtedly.

Mr. BAYARD. It does not affect them in the least.

Mr. ALLISON. Allow me to tell the Senator how it does.

Mr. BAYARD. Certainly.

Mr. ALLISON. This provision says that no armed men shall be brought or used by any civil officer at the polls. The marshals of the United States to-day, by a law passed in 1807 under Thomas Jefferson, may in their proper sphere exert the powers of the sheriff of a county. The sheriff of a county can call the bystanders and the *posse comitatus*. Those bystanders are of no use unless they are armed. Here there is an inhibition on the marshal if he undertakes to call the bystanders to assist him in case of a riot on election day in the city of New York, is there not?

Mr. BAYARD. The issue raised is a perfectly plain and simple one. I do not stand on the words "Army of the United States." As I said yesterday it matters not to me if it is the army of a State; it is the question of armed force as opposed to free will; and it is only on that occasion and at that time when the free will of the people must be exhibited or else it might be silenced to death for the rest of the year, that I do object and stand upon the principle that you may not either by a civil officer or by a military officer obtrude an armed force on the peaceful deliberations of the people.

Mr. ALLISON. But suppose an armed mob is there; and unless I am very much mistaken the testimony taken by the Teller committee discloses that armed forces were brought right up to the election polls in some of the voting precincts in South Carolina at the last election, and men were driven away by these armed mobs: do I understand the Senator from Delaware to say that there shall be no power in the United States in such a case to use authorized armed force against unauthorized armed force and protect and preserve the electors and the honest effort of men to cast votes at such elections? Do I understand him to hold that?

Mr. BAYARD. Mr. President, such occurrences as the Senator has described would simply make the election a farce and make it void. Who is to judge of that? Where has the Constitution placed the power and what tribunal has it created? Each House is the judge of the elections and returns of its own members; and if such facts came up from the States in this country that any armed force, I would say whether the armed force of the United States or of a State or of a mob led there by anybody thus intervened, it would invalidate that election and make it void. There is the cure for it; it is that if men will resort to such dishonest outrages as the Senator has depicted they shall gain nothing by them; that when such farces and outrages shall come here in the name of elections, the House of Congress appropriate to consider it will declare it to be null and of no effect. That is the mode by which we are to meet such wrong and outrage.

Mr. BUTLER. Mr. President——

The PRESIDING OFFICER, (Mr. MORRILL in the chair.) Does the Senator from Iowa yield?

Mr. ALLISON. Allow me a moment; I wish to say a word first to the Senator from Delaware. The difference between the Senator from Delaware and myself is this: he says that he will allow this question to be decided in the House of Representatives after the elections have taken place and the wrong has been done, which House is the judge of the elections and qualifications of its members. We say that under the Constitution of the United States, the fourth section of the first article, it is the duty of Congress when these things are occurring year after, to provide for an honest and a fair election at every poll where a Congressman is to be elected, and that the men of all the States shall be represented on the floor of the House, and not leave the whole matter to an election committee which may or not report until the very closing hours of Congress.

Mr. BAYARD. And the Army of the United States to determine!

Mr. ALLISON. No; I am not now speaking of the Army of the United States. I am speaking of the exertion of physical force by the civil officers of the United States under authority of law, which they have now, but which it is proposed by this section to strike down, in order that when the other bill comes here the election laws may be ineffectual. Now, I yield to the Senator from South Carolina.

Mr. BUTLER. I did not catch the language of the Senator from Iowa in reference to South Carolina. I should be very glad if he would repeat what he said on that subject as to armed men at the last election of 1878. I should be obliged to the honorable Senator if he would state where there was any force of armed men at the polls in 1878 in South Carolina.

Mr. TELLER. If the Senator from Iowa will allow me, I will state——

Mr. ALLISON. Certainly; I only referred to it.

Mr. TELLER. The reference made by the Senator from Iowa is to an occurrence in Louisiana, not in South Carolina.

Mr. BUTLER. Then I understand the Senator withdraws his language as to South Carolina.

Mr. ALLISON. I do not of course impute to South Carolina what did not occur there.

Mr. BUTLER. Then I have nothing to say.

Mr. ALLISON. And if I did use the word "South Carolina" I did so inadvertently, not having the book before me; but I call the attention of the Senator from Colorado for a moment to the fact that I was referring to the testimony taken by his committee.

Mr. BAILEY. Will the Senator from Colorado state at what place in Louisiana bodies of armed men appeared at the polls?

Mr. TELLER. If the Senator from Iowa will yield to me a moment, I will state for the benefit of the Senator from Tennessee, who was on the committee and must have forgotten it. The testimony shows that in a parish in the upper part of the State of Louisiana, after a number of colored people had traveled a distance variously estimated at from thirty to forty miles to vote and had deposited their votes to the extent of two hundred and seventy, immediately after the votes were in and during the day and before the time for closing the polls, an armed body of men numbering sixteen or twenty, most of the voters having left the polls, came down there, broke up the ballot-box, and destroyed the ballots.

Mr. BAILEY. My recollection is that the statement was upon rumor, that after the voting had been concluded and when the officers were carrying the ballot-box to some other point, it was said that the ballot-box was captured.

Mr. TELLER. The Senator refers to another case.

Mr. BAILEY. It was not while the election was in progress.

Mr. TELLER. The evidence shows in the case that I referred to that during the same day and before the canvass was completed they came down, as I recollect it. The case referred to by the Senator from Tennessee, where they were carrying a box, was in another parish, at another time. This is shown by the testimony of some witnesses, as well as the report of the supervisor of the election. It can be found in the report made by the committee.

Mr. ALLISON. I did not intend to allude to special instances nor to discuss the details of the occurrences at the last election reported upon by the Teller committee. I leave that discussion to others more familiar with it, as I have not had time to examine the testimony with care. I was only undertaking to illustrate what can take place, if this law should be modified as is now proposed, by what has taken place in some of the States. Here let me say that in my judgment there are several things essential in order to secure a free ballot, and the Senator from Colorado has just stated one of them, and that is that people who are to vote shall have an opportunity of going to convenient polling places and there casting their votes. Is that true in South Carolina even now? I say to my friend from South Carolina that, as I understand it, the election districts were diminished largely last year in South Carolina so that great numbers of people are compelled to go to a single polling place in order to cast their votes, and oftentimes to a great distance in that State and in other States in the South.

Mr. BUTLER. In 1875 the polling places in South Carolina were largely increased in order to enable repeating to be done in Charleston County. That is the fact in reference to Charleston County. In 1875 the voting precincts in Charleston County were increased for the specific purpose of enabling voters to repeat, and in 1877 those precincts were changed, and I undertake to say that there is the amplest opportunity for every voter in Charleston County to cast his vote without the slightest molestation.

Mr. TELLER. With the permission of the Senator from Iowa, I wish to ask the Senator from South Carolina if it is not a fact that there are less voting places in Charleston County now than there were twenty years ago?

Mr. BUTLER. No, sir; that is not the fact.

Mr. TELLER. The testimony so shows before our committee.

Mr. BUTLER. That is not the fact.

Mr. ALLISON. Mr. President, the facts are and still remain that the polling places have been decreased in South Carolina and in the city of Charleston. The Senator from South Carolina says they have been decreased in order to prevent repeating. Mr. President, in the city of New York they have two hundred and fifty or perhaps three hundred and fifty polling places. These repetitions go on there. In the State of Pennsylvania they have a constitutional provision I believe that election districts shall not have more than four hundred voters in them.

Mr. WALLACE. Two hundred and fifty.

Mr. ALLISON. Two hundred and fifty only vote at any one election precinct in Pennsylvania. Why is that? It is in order that there shall be a free ballot, not a repeating ballot as is the case in South Carolina. There must be a necessity for Federal intervention and supervision in South Carolina where repeating is possible in polling places where a thousand men or more are required to vote at a single poll.

Mr. WALLACE. I will say to the Senator from Iowa that restricting an election division to two hundred and fifty voters does not prevent repeating in the city of Philadelphia. It is a very common vice there.

Mr. ALLISON. So I have been told, and yet I find in the constitution of the State of Pennsylvania other safeguards for elections; and one is this: The Senator from Indiana the other day exhausted his vocabulary of invective against the Federal judges of the United States because they were authorized to appoint commissioners or overseers or supervisors of election; and he used the word "overseer" as a term of reproach, alluding to the old slavery days, and said he hoped that word would be rung in the ears of the American people until it became a by-word and a reproach. And yet I find in the constitution of the State of Pennsylvania a provision which authorizes the judges of the common-pleas courts in every county in that State to appoint two overseers of election upon the request of five citizens, and that these shall be members of different parties; and they have power to control votes at the elections, have they not?

Mr. WALLACE. That is true; and there is no kind of necessity for Federal overseers or supervisors, and as the marshal himself swore there is no kind of necessity for deputy marshals. Besides, sir, we of Pennsylvania do not want Federal power to enforce State restrictions against voters of the State. We can take care of the polls ourselves. We do not want Federal troops to enforce the State restrictions. That is for us, and not for Federal power.

Mr. BLAINE. One moment. Will the Senator from Pennsylvania be good enough to state who it was that asked that Federal supervisors might be appointed in Philadelphia?

Mr. WALLACE. Federal supervisors were sought for by the democratic party in part and by the republican party in part——

Mr. BLAINE. By the democrats, then, mostly. The democrats asked for them.

Mr. WALLACE. Will the Senator wait till I answer? Please to await the completion of my answer. I assert that they became the only means by which the democrats could protect themselves against the gross wrongs that were perpetrated upon them by the repeaters and marshals in the city of Philadelphia.

Mr. BLAINE. Very well, the Senator admits that the Federal election law with its supervisors was applied at the request of the democrats of Philadelphia and protected them against repeaters. If that is not giving away the whole case, I do not know what is.

Mr. WALLACE. The Senator misstates my answer entirely. I said this protected them against marshals of disreputable character, protected them against republican repeaters, protected them against wrongs on the ballot and the constitutional right of franchise.

Mr. ALLISON. Now, Mr. President, the Senator from Pennsylvania objects to the presence of Federal supervisors. He wants the State authorities to have the whole control, and that is what I say is the issue involved here. It is one between those who believe that the Government of the United States shall be a stranger and an alien in the States on election day, and those who believe that the Federal Government should have its presence on election day when members of Congress are to be chosen. And I will say to my friend from Pennsylvania that he does not seem to agree with the democratic committee of the House of Representatives who made investigation into the election in Philadelphia in 1876. I have here a report signed by a select committee on alleged fraudulent registration and fraudulent voting in the cities of New York, Philadelphia, Brooklyn, and Jersey City, all democrats, in which they complain that the Federal supervisors in Philadelphia were not active enough and vigilant enough in the discharge of their duties. They say:

> Your committee would call particular attention to the fact that the chief supervisor of elections for the city of Philadelphia (a Federal officer) failed to do his duty, in this, that he did not instruct the supervisors under him to canvass and purge the registration lists in order to find who were *bona fide* citizens and voters, as was done in the cities of New York, Brooklyn, and Jersey City.

That is the report of a democratic committee of the House of Representatives commending this law, as they do commend it, and saying that to this law we were indebted in 1876 for a fair and honest election in the city of New York, and that the Federal supervisors in that city had discharged completely and thoroughly the duties imposed upon them by law, and did not engage, as the Senator from Indiana said they did, in the exercise of acts of arbitrary power. Here is an indorsement by a democratic committee, signed S. S. Cox, chairman, A. V. Rice, and A. M. Waddell, all democrats; a report made on the 3d of March, 1877, indorsing this whole supervisor system, and complaining that in Philadelphia the supervisors did not do their duty.

But, Mr. President, I have been led somewhat astray from the line of my arguments by these interruptions. I come back again, however, and repeat that if you repeal this provision of law or if you allow it to be modified as is proposed in the sixth section of this bill, you take away from all the civil officers of the Government of the United States all power and authority over elections on the days when members of Congress are to be elected in the several States of the Union. I do not say that that is the purpose of this bill, but I do say that is the argument made by Senators on this floor who support it, and that will be its effect. They insist that all Federal authority shall be withdrawn, that there shall be no exercise of power by the marshals with respect to the elections at which members of Congress are to be elected, and there can be no assertion of power except through the tedious processes of the courts, which cannot be served until the wrong is accomplished.

If what I have said be true with reference to this sixth section, then it is true that this bill is intimately connected with and associated with a repeal measure that is to follow and is also to be presented to the President upon an appropriation bill, the appropriations to be passed upon the condition that he will agree to the repeal of the sections of the Revised Statutes which constitute our election laws, or so much of them as are effectual to preserve the purity of the ballot-box. That is the issue. You may cover it up by historic recitals of what was done in 1863–'64, as did my friend from Maryland [Mr. GROOME] the other day; you may snow it under by allusions to what has been done hitherto at the State capitals in reference to Legislatures; but you must come back in the end to the real difference existing between the democrats and the republicans, which is, that you insist that there shall be no supervision by the General Government of elections at any time and any place, while we insist that that supervision shall go on, and that is involved as much in this bill as it is involved in the legislative, executive, and judicial bill which is to follow; and if one bill is signed the other might as well be; and if one bill is vetoed upon the principles adhered to by the republican party the other must necessarily be vetoed. I do not know and I have no right to express an opinion as to what an independent department of the Government will do or ought to do with regard to this question; I only mean to say here that the two measures are interwoven, and what is done with one will necessarily be done with the other.

Mr. President, I do not think that I ought to occupy the time of the Senate in a discussion of the question as to whether we have the authority to provide for the use of the Army of the United States to enforce the laws of the United States in cases of great emergency. Have we reached a point in this discussion that it is necessary to argue that question? The Army of the United States has been so used

from the foundation of the Government till now. General Washington used the Army to enforce the laws in the State of Pennsylvania in 1794, and did what would shock the sensibilities, I suppose, of our democratic friends in this Chamber. He permitted the governor of the State of Virginia to be commander-in-chief of the militia of the States of New Jersey and Pennsylvania. The Congress that followed gave him express authority to keep a force of one thousand five hundred men in the western counties of Pennsylvania. In 1807, under the administration of Jefferson, the regular Army of the United States was authorized to be used as the militia of the United States could before be used. And so from that day to this.

Now, sir, it is said that the President of the United States ought to sign these bills with this legislation upon them, that it will be revolutionary on his part (as we say this action is on the part of the two Houses of Congress) if he should fail to do this. Why, sir, the President of the United States is an independent branch of this Government, and must exercise his own judgment and will in this regard, and in its exercise he exerts one-sixth of the legislative power of the nation.

Mr. JONES, of Florida. Does not the Constitution say that "all" legislative power therein granted is vested in the two Houses of Congress?

Mr. ALLISON. The very first words of the Constitution I believe the Senator has very nearly quoted. It does say that all legislative power shall rest in Congress; but it says that all executive power shall vest in the President of the United States, and it says that all judicial power shall vest in a Supreme Court of the United States and in such inferior courts as Congress may from time to time ordain and establish. Yet, do we not all know that we exert here this day and hour executive power? Do we not pass upon every nomination that is made, and therefore the executive power is not wholly vested in the President? Do we not exercise judicial power in cases of impeachment and in many other cases in this Chamber? And yet the same Constitution says that all judicial power shall be vested in the Supreme Court and such inferior courts as Congress by law shall establish. These are general terms; they are modified, of course, by specific provisions, and when the veto power was placed in the hands of the President it was placed there as an additional negative, which he could exercise to impede legislation, and when exercised it requires a two-thirds vote of both Houses to overcome it.

Is it said that the veto power cannot be exercised by the President in his discretion? It is too late for democrats to make that claim, I submit. It is too late for anybody to make that claim in the United States. I believe in the constitution of every State in this Union there is to-day a veto power authorized in the governor. How is it in the State of Florida? Does not the governor in that State exercise the veto power, and does it not require two-thirds of both branches of the Legislature to overcome it? In twenty-three States of this Union, and in those States which have most recently framed constitutions, they have adopted this provision that the executive shall exert upon all bills sent to him legislative power to the extent of rejecting them and requiring two-thirds to overcome the veto.

That is now the settled policy of this country as reflected in nearly all, if not all, the State constitutions. Some States, it is true, only require a majority of all the members, others three-fifths, but in all the veto power is recognized as an essential element of safe legislation.

But, sir, it is the menace that is contained in this bill which our democratic friends have presented to the President, which is an interference with the executive power, and which, persevered in, will be revolutionary. Some have heretofore made complaint of the use of the word "revolution." What do we mean by "revolution?" We mean the accomplishment of a purpose outside of the Constitution; we mean an amendment of the Constitution without the ordinary processes. That is revolution. The Constitution of the United States says that bills shall be passed by both Houses and receive the signature of the President of the United States. If they do not have that signature they do not become laws unless by a two-thirds vote of each House. Yet Senators say that unless he shall be coerced or menaced into signing this bill, they will refuse the appropriations necessary to carry on the Government. General Jackson would have been astonished and amazed in his day at doctrines such as are presented here familiarly by democratic Senators on this floor. I have in my hand General Jackson's celebrated protest in 1834 to the Senate of the United States where the Senate had simply passed a resolution saying that the President of the United States had assumed powers not granted by the Constitution. He sent to the Senate of the United States a protest against the passage of that resolution, although it had no effect whatever, except as a simple declaration of opinion by the Senate of the United States. I quote from General Jackson's protest:

> The resolution of the Senate, as originally framed and as passed, if it refers to these acts—
>
> The removal of the deposits—
>
> presupposes a right in that body to interfere with this exercise of executive power. If the principle be once admitted, it is not difficult to perceive where it may end. If, by a mere denunciation like this resolution, the President should ever be induced to act—
>
> That is, coerced into action as is proposed here—
>
> in a matter of official duty, contrary to the honest convictions of his own mind, in compliance with the wishes of the Senate, the constitutional independence of the executive department would be as effectually destroyed and its power as effectually transferred to the Senate as if that end had been accomplished by an amendment of the Constitution. But if the Senate have a right to interfere with the executive powers, they have also the right to make that interference effective;—

And that is what is proposed now to make that interference effective—

> and if the assertion of the power implied in the resolution be silently acquiesced in we may reasonably apprehend that it will be followed at some future day by an attempt at actual enforcement. The Senate may refuse, except on the condition that he will surrender his opinions to theirs and obey their will, to perform their own constitutional functions; to pass the necessary laws; to sanction appropriations proposed by the House of Representatives, and to confirm proper nominations made by the President.

He said that if he did not protest *in limine*, in the very beginning, against this exercise of senatorial power, which was simply the expression of an opinion with reference to the constitutional duties of the Executive, in the end we should see the Senate of the United States making this effective by proposing conditions to appropriation bills; and that is what is proposed here to-day.

Mr. JONES, of Florida. Will the Senator allow me to interrupt him for a moment?

Mr. ALLISON. Yes, sir.

Mr. JONES, of Florida. The same thing was said in the convention at Philadelphia in 1787, when the proposition was first brought forth to give to the House of Representatives the power to originate money bills, that it could be used for that purpose. That was the argument then.

Mr. ALLISON. But it never has been used for that purpose, it never can be constitutionally used for that purpose, because the moment the House of Representatives undertakes to say that it will not appropriate money to carry out the provisions of law, that moment it commences its career of revolution for the upturning and overthrowing of this Government. It is true the Army may go on, as it did go on two years ago, for six months without appropriations, but the Army cannot continue for any great period of time without appropriations nor can the executive and judicial officers of this Government execute their functions and discharge the duties imposed upon them by law for a long period of time without appropriations. Therefore, when the House of Representatives assume to say what was said in the debates in the convention in reference to what might be done assume to exercise a power and authority which is in itself revolution, because they take upon themselves the power to legislate according to their will, when the Constitution requires the concurrence of the Senate and the Executive or a two-thirds majority in both Houses.

Mr. President, I had noted some other points to which I desired to call attention; but I have been interrupted so much and have been diverted so often from questions that I was attempting to discuss that I think I shall not occupy the attention of the Senate longer. I want to say in conclusion that Senators mistake the temper of the republican party—I use that term because this is a political debate—they mistake the temper of the republican party and I believe the temper of the great body of the people of this Union when they suppose that we stand arrayed here in any opposition to a principle of free and honest elections in this country. They equally mistake the temper of the public mind when they suppose that they can by the repeal of statutes and the modification of statutes prevent the people of this country from having an honest and fair election in every part of it.

That will be done at congressional elections, and it will be done, in my judgment, if the States fail to do it honestly and fairly, by the interference of the Government of the United States. It may not be done this year or next year, when the democratic party has majorities in both Houses of Congress, but these questions will be discussed on the hustings and before the people, and there will be no such miserable and narrow contest as whether or not to repeal a penal statute which prohibits the use of soldiers at the polls except to prevent turbulence and riot and strife. No such question as that will be in debate before the American people, but the higher and greater question, which of the two political parties of this country *is willing* to see to it that all its citizens are permitted to go to an election-poll and cast one honest ballot at every election in this country. That is the contest, and that contest will be made North and South. There will be an honest ballot in the near future in all the Southern States as well as all the Northern States, and there will be no intimidation permitted there of armed forces under authority of the United States nor intimidation by armed forces in the shape of rifle clubs or other organizations of a like character.

There must be, and there will be sooner or later, such laws enacted by the Government of the United States as will secure free and fair elections in every congressional district in the United States. That is the real issue involved in this contest. If you see proper, having the majority now in the Senate and in the House, to say that unless your view upon this subject shall prevail you will stop the appropriations necessary to carry on the ordinary operations of the Government, so be it. I mistake the temper of the American people if they do not meet you on the ground you have chosen and stand against you, with or without appropriations.

Therefore, Mr. President, I shall vote now, here, and always against the modification of our statute law proposed in the sixth section of this bill, as reported by the Committee on Appropriations; and if it is finally agreed to as reported, I shall vote against the bill at every stage in which it appears, because I believe in doing so I am, instead of thwarting an honest ballot, protecting and securing free elections and honest elections in every State of this Union.

Mr. PADDOCK. I present an amendment in the form of a substitute for one previously submitted by me in lieu of the sixth section of the pending bill, which I shall propose at the proper time. I move that it lie on the table and be printed.

The motion was agreed to.

Mr. GARLAND. If no Senator wishes to address the Senate now, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore*. While the Sergeant-at-Arms is clearing the galleries the Chair will lay before the Senate a communication from the Postmaster-General, which will be read.

The Secretary proceeded to read the communication.

Mr. FERRY. As that is a matter relating to a building for the Washington City post-office, I move that it be referred to the Committee on Public Buildings and Grounds and be printed.

The motion was agreed to.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at four o'clock and five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 22, 1879.

The House met at twelve o'clock m. Prayer by Rev. GILBERT DE LA MATYR.

THE JOURNAL.

The SPEAKER. The Chair desires to state that the Journal of yesterday is not yet made up, it having been a physical impossibility to complete it.

Mr. STEPHENS. I ask unanimous consent that the reading of the Journal be dispensed with.

There was no objection, and it was ordered accordingly.

SUBSIDIARY SILVER COIN.

The SPEAKER. The morning hour begins at four minutes past twelve o'clock, and the House resumes the consideration of the bill pending at the close of the morning hour last Saturday, being the bill (H. R. No. 4) to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $10. The pending question is on the motion entered by the gentleman from Alabama [Mr. LEWIS] to reconsider the votes by which the first and second sections were adopted.

Mr. DUNNELL. Let the sections be read as they now stand.

The SPEAKER. The two sections to which this motion relates will be read.

The Clerk read as follows:

Be it enacted, &c., That the holder of any of the silver coins of the United States of smaller denominations than $1, may, on presentation of the same in sums of $10 or any multiple thereof, at the office of the Treasurer or any assistant treasurer of the United States, receive therefor lawful money of the United States.

SEC. 2. The Treasurer or any assistant treasurer of the United States who may receive any coins under the provisions of this act shall exchange the same in sums of $10 or any multiple thereof for lawful money of the United States on demand of any holder thereof.

Mr. STEPHENS. I propose to move that the motion to reconsider be laid on the table. In the mean time I yield to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I wish, Mr. Speaker, that we might cut out of this debate all that is extraneous and irrelevant to the original question, and find out the true intent and meaning of the bill as presented by the Committee on Coinage, Weights, and Measures. I have given my best attention to the bill, and I will try to state what I understand to be its effect.

The law at present provides no redemptive agent for the subsidiary coin of the United States. The result is that small dealers in our large cities, and some large dealers, when they get into their possession more of this coin than they can use are compelled to sell it at a loss. Sometimes the discount is 1 per cent., sometimes 2 or 3. Now I ask every gentleman on this floor whether it is right that, for want of authority on the part of the Government to redeem this subsidiary coin, business men should be compelled to sell their surplus of this coin at a sacrifice? It must be apparent to everybody that this is not right.

Now, what is the intent and purport of this bill? It simply corrects that wrong. As presented by the committee the bill has four sections, but all its provisions are unimportant except this which requires the Government to redeem its subsidiary coin. It is true the bill alters the limit of legal-tender quality as respects this coinage; and I would prefer the ten-dollar limit to the twenty-dollar limit as now fixed in the bill. But even that is of trifling importance. If the Government is compelled to relieve those who have more of this coin than they want by giving in exchange for it legal-tender greenbacks, the other matter will take care of itself.

This bill is of great importance to small dealers in large cities. The law which should control this question is a law of common sense—a law, so to speak, like the law of gravitation; and if this measure be passed it will, in my judgment, elicit from the people nothing but approbation, because it will give relief to those who suffer from the present condition of affairs.

I trust that gentlemen of the House, discarding all irrelevant questions and looking at this matter in a non-partisan point of view, will consider the case in the light in which the committee present it. The measure is for the relief, not of bankers or brokers or capitalists, but of small traders in all our large cities. That is all there is of it, and all that can be made of it.

Mr. STEPHENS. I think that the first two sections of this bill are just as good as we are likely to get them. I should prefer $20 to $10 as the amount; but the bill is directly in the line of the petitions which have come to us on this subject. I therefore move that the motion to reconsider be laid on the table.

Mr. LEWIS. I would like to state briefly the reasons which prompted me to make the motion to reconsider the vote by which the first two sections of this bill were adopted.

Mr. STEPHENS. I yield five minutes to the gentleman.

Mr. LEWIS. Mr. Speaker, I think that all the people need in reference to this matter is that the subsidiary coinage shall be increased in its legal-tender property to the amount of $20. This will obviate, so far as the masses of the people are concerned, all the difficulties and objections now connected with the subsidiary coinage. But if, in connection with the increase to $20 of the legal-tender quality of subsidiary coin, you pass the first two sections of this bill, then it will really be a measure in the interest of contraction. It will then become a bill against the best interests of the people—and why? We all know that the national banks of the United States desire that the small legal-tender bills, the "greenbacks" of small denominations shall be retired, as they come into competition with national-bank notes of small denominations. In this way they wish to have the entire business of this great Government as well as the business of the people done in their money instead of in the legal-tender money of the Government. There is no limit to the amount a banker can take to the Treasury of the United States or to any sub-treasury for deposit, and receive therefor the legal-tender money of the United States. For instance, if he takes $500 in amount he can demand a five-hundred-dollar bill, and it will be given to him, because we know from past experience that the Treasury Department assists the national banks to retire bills of small denomination of United States legal-tender money in exchange for large bills. Every dollar that is deposited and locked up in the Treasury becomes to that extent "dead capital," and we then have large bills instead of our present small legal-tender bills. We have also a certain amount of subsidiary coin locked up in the Treasury as gold is now locked up there. This is practical contraction. In this way the minor coins, which are necessary for the smaller transactions of the great masses of the people, are entirely subjected to the control of the capitalists and bankers. If you make it the interest of the latter to seek these minor coins with the same avidity as they do the gold, then that which is subsidiary in theory will no longer remain so in practice.

I say, Mr. Speaker, that this is the practical operation of this bill, and if it be passed with these first two sections you will find that it will result not only in favor of national banks in these two respects, but will also create a demand for national-bank notes of small denominations. The banks desire to issue such notes, for, unlike large bank-bills, they go far away from the banks, are worn out, lost, or destoyed, and many are never returned for redemption. If the banks can substitute their small bills for United States legal-tender notes they will thus subserve a purpose which they have long desired to carry out. Now, a half dollar does not perform simply the functions of a half dollar, but if you take two half dollars they perform the functions of one dollar, and four of them will perform the functions of two dollars. The subsidiary coin of the country is now performing the functions of small bank-bills, and if the banks can lock them up in the United States Treasury, the consequence will be to create a demand for national-bank notes of small denominations. That is a strong desire on the part of the banks, and they are not to be blamed for it. I appeal to any man acquainted with the practical operation of banks and banking in the United States if the effect will not be to create a demand for the small bills of the banks by locking up the subsidiary coin in the Treasury Department.

Mr. MILLS. Let me ask the gentleman a question before he takes his seat.

Mr. LEWIS. Certainly.

Mr. MILLS. Is not the limitation which is placed upon the legal-tender quality of subsidiary silver in the same direction? Are not all sums of silver over $20 designated to be kept out of the market to make place for the paper of the banks?

Mr. LEWIS. I think it is wise to increase it to $20.

Mr. MILLS. But do you not think it wise to strike down all limitation?

Mr. LEWIS. I am not prepared to answer that question, which is a very grave one.

Mr. STEPHENS. I think, Mr. Speaker, the gentleman from Ala-

bama is entirely mistaken as to the operation of these sections. When these subsidiary coins get into the Treasury, not the banks, the United States will put them out again. I am myself utterly opposed to contraction, and if I thought this bill would have that tendency I would oppose it. I do not think it will. I do not wish, however, to consume the time of the House, and will therefore move to lay upon the table the motion to reconsider.

The House divided; and there were—ayes 92, noes 29.

So the motion to reconsider was laid on the table.

The SPEAKER. On Saturday last various amendments were presented to be acted on in order in which they came. The Clerk will read the amendment offered by the gentleman from Tennessee [Mr. MCMILLIN] to come in as a new section.

The Clerk read as follows:

SEC. —. That the silver coin known as the trade-dollar heretofore coined by the mints of the United States shall be a legal tender to the full extent that the silver dollar of 412½ grains now being coined is.

Mr. MCMILLIN. I wish to be heard on my amendment.

Mr. REED. I rise to a point of order on that amendment.

The SPEAKER. The gentleman will state it.

Mr. REED. It is that the proposed amendment is not germane to the bill. If the Chair will permit me, this is a bill providing specifically for the interchange of subsidiary coins for legal-tender money, and relates to a class of coins entirely different from the trade-dollar and involves a principle entirely different. I suppose the object of the rule of order that matters should be germane to the bill is that the House may not be surprised into a discussion of matters which should not properly come before them, I mean without proper notice. Now, this is a point of order which addresses itself not only to this amendment, but to several others of like character which have been suggested.

Mr. STEPHENS. I wish the gentleman from Tennessee would withdraw his amendment. We have got that subject before the Committee on Coinage. It is not exactly germane to this bill. There will be a report in a few days.

Mr. MCMILLIN. On the information of the gentleman from Georgia, that the question is before the committee and that a report will be made very soon, I withdraw the amendment.

The next amendment (proposed by Mr. GILLETTE) was read, as follows:

Insert as an additional section, between the third and fourth sections, the following:

That the Secretary of the Treasury shall, when desired by the holders of minor coins or of legal-tender money, redeem such coin or legal-tender money, when presented at the office of the Treasurer or any assistant treasurer of the United States in sums of $10, or any multiple thereof, in fractional paper currency of ten-cent, twenty-five-cent, and fifty-cent denominations, which shall be a legal tender for $10 and re-exchangeable for lawful money of the United States in sums of $10, or any multiple thereof.

Mr. REED. I raise the point of order on that amendment.

The SPEAKER. The gentleman will state his point of order.

Mr. REED. That it is not germane to this bill.

Mr. GILLETTE. I would like to say a word upon that point. If I understand the object of this bill it is to do away with the great inconvenience arising from the accumulation of this fractional silver coin. Now, before this silver coin was issued we never heard of any such inconvenience; and the object of this amendment is to reinstate the condition of things under which we then were. I urge it as a matter of economy and as a matter of convenience. Thousands of dollars of this fractional paper currency used to pass in our mails every day all over this country. It thus distributed itself wherever it was wanted. But this silver is barred out from the mails.

Mr. STEPHENS. I have no objection individually to the amendment of the gentleman from Iowa; but that matter can come up hereafter. I do trust this bill, specific in its objects, will not be encumbered with any extraneous matter. I hope the gentleman will withdraw the amendment.

Mr. GARFIELD. The real point of order is that this is a bill to make fractional silver coin exchangeable for legal-tender money. The proposition in the amendment is to issue a new kind of paper money. That is not germane in a bill providing for the redemption of silver coin. It is not germane to the subject-matter of the bill, nor to any line in it.

Mr. FRYE. Do I understand the gentleman from Georgia to say that he is in favor of this amendment going upon this bill?

Mr. STEPHENS. Oh, no; I said I hoped the gentleman would withdraw the amendment.

Mr. FRYE. I wish to say that I am in favor of the gentleman's bill as he reported it to the House, and I hope it will not be encumbered with these amendments.

Mr. GILLETTE. The gentleman from Georgia informs me that he proposes to introduce from the Committee on Coinage, Weights, and Measures a bill to the same effect as what is proposed in my amendment. I therefore withdraw it.

The Clerk read the next amendment (proposed by Mr. NEWBERRY) as follows:

Add to the first section the following words:

And that all coins of every description of the United States of the face value of twenty-five cents and under shall be received at all post-offices for the payment of postage or the purchase of postage-stamps in any sum not exceeding $3.

Mr. STEPHENS. I see no objection to that amendment coming on this bill.

The SPEAKER. The House has passed from that part of the bill.

Mr. GARFIELD. I make the point of order that we have passed from the first section.

Mr. STEPHENS. I understood the amendment to be offered as an additional section.

The SPEAKER. The language employed is to "add to the first section."

Mr. STEPHENS. That is not in order.

Mr. NEWBERRY. When I offered this amendment the gentleman from Georgia remarked that it would be added as an additional section. I introduced it at first as an amendment to the first section; but it was subsequently stated that it was offered as an additional section to the bill.

The SPEAKER. The gentleman may have so stated on the floor; but that does not appear on the amendment.

Mr. GARFIELD. Let it be offered as an additional section. It need not come in as an addition to a section already adopted.

Mr. NEWBERRY. It was intended at the time that it should be offered as an additional section.

The SPEAKER. The Chair, of course, has no objection to the amendment being introduced. Does the gentleman from Georgia admit the amendment offered by the gentleman from Michigan as a new section?

Mr. STEPHENS. I have no objection to it myself. But I prefer it should be offered as a separate bill and that this bill should not be encumbered with it.

Mr. NEWBERRY. The RECORD shows that the gentleman from Georgia admitted it as an additional section at the time.

Mr. STEPHENS. I am perfectly willing it should be offered.

The SPEAKER. The Chair has only to do with what is actually written out on the amendment.

Mr. STEPHENS. I told the gentleman he should have an opportunity of offering this as a fourth section, and I have no objection to his doing so. However, I think it better not to encumber this bill with it. I am with the gentleman in his object.

The SPEAKER. The gentleman from Michigan [Mr. NEWBERRY] has appealed to the RECORD. The RECORD reads:

Mr. NEWBERRY. I move to add to the first section the following.

The Clerk read as follows:

And then there is a remark by the gentleman from Georgia:

Mr. STEPHENS. This is an additional section.

Now, the gentleman from Michigan himself introduced it as an addition to the first section.

Mr. NEWBERRY. It was so at first, but I agreed to the suggestion made by the gentleman from Georgia.

The SPEAKER. There was nothing said on that subject, as the Chair sees.

Mr. NEWBERRY. The suggestion was not opposed in any way. I offer this now as an additional section, and I do not think there will be any objection to that.

Mr. STEPHENS. I have no objection to the principle of the amendment, but I do not want this bill encumbered with it. I have already told the gentleman that the subject is before the committee, and a report will be made upon it. In my own opinion all these separate and distinct subjects should be embodied in separate and distinct bills. There will be a report on this subject, and I prefer that the gentleman should withdraw his amendment, as there are some here in favor of the bill who are opposed to the amendment.

The SPEAKER. There was clearly an agreement by which additional amendments might be offered. The Chair will entertain this as an additional section.

Mr. STEPHENS. That is correct; but I would ask the gentleman not to press it. If he does, however, the House can vote on it.

The SPEAKER. The amendment will be read, to come in as section 4.

The Clerk read the amendment, as follows:

SEC. 4. That all coins of every description of the United States of the face value of twenty-five cents and under shall be received at the post-office for the payment of postage for the purchase of postage-stamps in any sum not exceeding $3.

Mr. NEWBERRY. Upon examining this bill I found that certain classes of coins were not provided for. There is a twenty-cent silver coin, a five-cent silver coin, a two-cent copper and bronze coin, and a three-cent nickel and copper coin; they are not provided for.

This difficulty has arisen in regard to such coins: in my own district parties have gone to the post-office and have returned stating to me that they had been refused postage-stamps for three-cent coins; had been refused even a single postage-stamp for a three-cent coin. Poor people, many in my own employ, have so stated to me. Again, they could not pay a debt of thirty cents with a twenty-cent piece and a ten-cent piece. There are many difficulties of that sort in regard to those coins. I consider it but proper that the people should have some way of disposing of these small coins. To use them for the purchase of postage-stamps is substantially to make these coins almost the same as legal tender; it would be a practical redemption of these coins if people can go to the post-office in their own township or village and purchase postage-stamps with these small coins. In that view of the case I hope the amendment will be adopted without objection.

Mr. MITCHELL. This amendment, it seems to me, would be a ben-

efit on one side only; it certainly would increase the difficulties under which postmasters would labor. We all know very well that frequently large amounts of these small coins are collected, and, if people were so disposed, they might greatly embarrass the postmasters by presenting these small coins to them. If this amendment is insisted upon there ought be some way for the postmasters to get out of this difficulty.

Mr. NEWBERRY. I took pains to go to the Departments and obtain the circulars which have been issued providing means by which these small coins can be redeemed. One means is to allow parties to send these small coins in certain sums by registered letter without prepayment of postage. That is a practical redemption; but there is no power to compel the postmasters in the different townships to receive the small coins.

Mr. MITCHELL. I appreciate that difficulty, and with the explanation of the gentleman I have no objection to his amendment.

Mr. WARNER. These minor coins are already legal tender to the amount of twenty-five cents. If the amendment now proposed should be adopted they would be made legal tender to postmasters for $3. No provision is made by which the postmaster can pay them over to the Government in any other sum than as legal tender for twenty-five cents. I submit there would be an inconsistency in adopting this amendment without making some provision allowing postmasters to pay these coins over to the Government in settlement of their accounts.

Mr. REAGAN. In section 3586 of the Revised Statutes it is provided that—

The silver coins of the United States shall be a legal tender at their nominal value for any amount not exceeding $5 in any one payment.

Therefore it will be seen that these silver coins are now legal tender to postmasters for that amount.

Mr. ATKINS. That does not embrace the one and two cent pieces.

Mr. REAGAN. In a subsequent section it is provided that—

The minor coins of the United States shall be a legal tender at their nominal value for any amount not exceeding twenty-five cents in any one payment.

It seems to me it would result in great inconvenience to adopt the amendment now before the House. It is sufficient that we can use all these silver coins, five, ten, twenty-five cents and upward for the purchase of postal stamps to the amount of $5. It would be hard upon postmasters to require them to receive and handle large amounts of the one, two, and three cent pieces; that is the change made by the proposed amendment. I apprehend that the law making silver coins a legal tender for $5 in any one payment covers the case and is sufficient.

Mr. HASKELL. Sections 35 and 39 of the Revised Statutes already provide for the redemption of these coins, and when presented in sums of $20. They are a legal tender for sums of twenty-five cents. No postmaster in the United States has a right under the statute to refuse to take these coins for that amount. When a man has purchased twenty-five cents' worth of postage stamps with twenty-five cents of the minor coinage he can purchase twenty-five cents more with twenty-five cents of the minor coinage, and their redemption is provided for under the act of 1873 in the statute I have referred to.

The absurd feature of this bill is that you provide for the redemption of fractional silver in sums of $10 and make them a legal tender to the amount of $20, redeeming them at half the amount that they are a legal tender for among the people, and that in face of the fact that it takes two thousand pennies to procure redemption. The bill ought to be so arranged that the redemption of silver coins can be done in sums of $50 or $100 or less, if the legal tenders are left at $20 or less. It should be defeated, because as it now stands it is simply a bill for the retirement of the silver coins of this country, and there is no doubt about that.

Now, I favor as heartily as the gentleman from New York the redemption of the silver coins, but let us fix this bill so as to give some sort of rationality to it. You make these coins a legal tender for $20, and propose that the subtreasurers throughout the country shall redeem them at $10, at the same time you have no law for their redemption. What is the effect? It simply militates against the silver coins.

Mr. BRIGHT. I wish to call the attention of the Representative from Kansas to the fact that there is no redemption of the minor coinage except it be presented in sums of $20. It is a legal tender for twenty-five cents, but not redeemed unless presented in sums of $20.

Mr. HASKELL. That is exactly the point and there is where the absurdity of this measure comes in. You compel the shopkeepers to accumulate two thousand of these coins before he can get them redeemed, but any man who has $10 in silver can get it redeemed.

Now, no shopkeeper has a plethora of these coins when he has ten dollars' worth of them in his drawer, and by limiting their redemption to $50 you give the shopkeeper the burden and responsibility of securing the distribution of these small coins, or else if they have silver coins allow them to be redeemed at $10.

Mr. BRIGHT. I wish simply to call the attention of the gentleman from Kansas [Mr. HASKELL] and the House to the fact that the clause to which reference has been made by the gentleman from Kansas provides for the redemption of the minor coins in sums of $20, but not in sums under that except to the extent of twenty-five cents. As I understand it, the principle of this bill is, to make the minor coinage a legal tender not only to the amount of $10, but, under the amendment, to the amount of $20.

Mr. WARNER. Only the silver coinage, not the minor coinage.

Mr. BRIGHT. The gentleman included the silver coinage in his remarks. I was answering the remarks of the gentleman from Kansas.

Now it will be seen that the object of the bill is only intended to remedy the existing defects of the statute as it now stands, and that is to make them a legal tender for all sums up to $20, and in that way utilize the minor silver coins and give the advantage to the holder; otherwise he would be cut off from it; otherwise when he presents them to the bank he is repulsed, except he does it to a very moderate extent; when he presents them to an individual in the payment of a debt he is repulsed. The coin of the United States is intended to serve the purpose of currency, and is so limited in circulation as to defeat its own object.

Mr. STEPHENS. As I said before, individually I am not opposed to this provision; it is, however, not exactly germane to the object of the bill. I want a vote upon the bill to-day. I therefore move the previous question upon the amendment offered, and leave it for the House to decide whether it shall come in or not.

The previous question was seconded and the main question ordered.

Mr. STEPHENS moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The first question was upon the amendment offered by Mr. NEWBERRY.

The Clerk read the amendment, as follows:

SEC. 4. That all coins of every description of the United States of the face value of twenty-five cents and under shall be received at all the post-offices for the payment of postage or purchase of postage-stamps in any sum not exceeding $3.

The amendment was agreed to.

The next amendment was the amendment offered by Mr. FORT, which proposed to add an additional section, as follows:

That the Secretary of the Treasury shall cause to be exchanged, at the Treasury and at all subtreasuries of the United States, legal-tender silver dollars of 420 grains standard silver for trade-dollars at par; and shall recoin the said trade-dollars into legal-tender dollars of 412½ grains of standard silver, as now provided by law; and shall stop the further coinage of trade-dollars.

Mr. REED. I make a point of order on that amendment, that it is not germane to the bill.

Mr. FORT. I have consented to withdraw that amendment, and I now withdraw it.

The next amendment was read, as follows:

After the word "dues" in the third line of the third section add the words "debts and demands;" so as to read: "in full payment of all dues, debts, and demands, public and private."

Mr. STEPHENS. I have no objection to that.

Mr. REED. Has not that section been passed?

The SPEAKER. It has. The gentleman from Maine [Mr. REED] makes the point that the House has passed from the consideration of the third section; that a motion to reconsider the vote agreeing to that section has been laid on the table, and that no amendment to the section is now admissible. The Chair sustains the point of order.

The next section was read, and agreed to, as follows:

SEC. 4 [5.] That all laws or parts of laws in conflict with this act be, and the same are hereby, repealed.

The SPEAKER. The question now comes up on the substitute of the gentleman from Texas [Mr. MILLS] which was read the other day.

Mr. GARFIELD. There is a point of order pending against that substitute.

Mr. STEPHENS. I think the gentleman from Texas [Mr. MILLS] will withdraw the substitute.

Mr. MILLS. I decline to withdraw it. Let the Chair rule on the point of order.

The SPEAKER. Does the gentleman from Connecticut [Mr. HAWLEY] who made the point of order desire to speak upon it?

Mr. HAWLEY. I stated the other day the grounds for the point of order. The proposed substitute is not germane to the purposes of the pending bill. The bill is "to provide for the interchange of subsidiary coin for legal-tender money under certain circumstances, and to make such coins a legal-tender in all sums not exceeding $10," which is now changed to $20.

Mr. MILLS. If the Chair holds that the point of order can now be made I will not insist upon offering the substitute, for I know the point of order is well taken if it can be entertained.

The SPEAKER. The Chair is never led into a denial of any right which he thinks is possessed by any member of this House. Therefore the Chair entertains the point of order.

Mr. MILLS. I am satisfied the substitute is subject to the point of order.

The SPEAKER. The substitute is withdrawn.

Mr. EWING. I offer as a substitute for the whole bill the proposition which I send to the desk.

The SPEAKER. The previous question is operating and has been partly executed.

Mr. EWING. It was distinctly understood that amendments might be offered.

The SPEAKER. That is true; but this was not offered when amendments were in order.

Mr. EWING. It is offered now.

The SPEAKER. But the previous question has been seconded and

the main question ordered on the bill and amendments, which cuts off any further amendments whether as a substitute or as an amendment to the original text.

Mr. EWING. I must have been out of the House when the previous question was seconded. I was called away for a moment, and perhaps it occurred then. I relied upon the statement of the gentleman from Georgia [Mr. STEPHENS] made last Saturday——

The SPEAKER. The Chair would, of course, have recognized the gentleman from Ohio [Mr. EWING] if he had offered the amendment prior to the seconding of the previous question.

Mr. EWING. I hope the gentleman from Georgia will at any rate allow the substitute to be read.

Mr. STEPHENS. Let it be read.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

SECTION 1. That the fractional silver coins and notes of the United States shall hereafter be exchangeable, at the pleasure of the holder, for lawful money of the United States when presented in sums of $20, or any multiple thereof, at the office of the Treasurer or of any assistant treasurer of the United States.

SEC. 2. That the lawful money of the United States shall hereafter be exchangeable, at the pleasure of the holder, for fractional silver coin or for fractional notes of the United States when presented in sums of $20, or any multiple thereof, at the office of the Treasurer or of any assistant treasurer of the United States.

SEC. 3. That fractional notes and fractional silver coin shall hereafter be a legal tender, in sums not exceeding $20, in payment of all debts, public and private.

SEC. 4. All acts or parts of acts limiting the amount of fractional currency are hereby repealed.

The SPEAKER. This proposition can come in by unanimous consent.

Mr. STEPHENS. It is not entirely germane, and as I want to put the bill on its passage to-day, I object to the substitute. I am in favor of the gentleman's purpose; but I do not wish to encumber this bill with provisions of that kind.

The SPEAKER. The proposed substitute is not before the House.

Mr. WARNER. I ask unanimous consent that the phrase "$10" in the first and second sections of the bill be changed to "$20" so that these sections shall not be incongruous with the third section as now amended.

Mr. STEPHENS. I have no objection to that.

The SPEAKER. If there be no objection the modification suggested by the gentleman from Ohio [Mr. WARNER] in order to make the several sections of the bill congruous, will be agreed to.

There was no objection, and it was ordered accordingly.

The bill was then ordered to be engrossed and read a third time.

Mr. GARFIELD. I do not call for the reading of the engrossed bill; but I ask that the bill as it now stands may be read in full for the information of the House.

The bill was read, as follows:

Be it enacted, &c., That the holder of any of the silver coins of the United States of smaller denominations than $1 may, on presentation of the same in sums of $20 or any multiple thereof, at the office of the Treasurer or any assistant treasurer of the United States, receive therefor lawful money of the United States.

SEC. 2. The Treasurer or any assistant treasurer of the United States who may receive any coins under the provisions of this act shall exchange the same in sums of $20, or any multiple thereof, for lawful money of the United States on demand of any holder thereof.

SEC. 3. That the present fractional or subsidiary silver coins shall hereafter be a legal tender in all sums not exceeding $20, in full payment of all dues, public and private.

SEC. 4. That all coins of every description, of the United States, of the face value of twenty-five cents and under, shall be received at all post-offices for the payment of postage or the purchase of postage-stamps in any sums not exceeding $3.

SEC. 5. That all laws or parts of laws in conflict with this act be, and the same are hereby, repealed.

Mr. NEWBERRY. I hope that the gentleman in charge of this bill, as well as all other members, will consent that the word "minor," as suggested by the gentleman from Ohio, be inserted in the fourth section, in place of "subsidiary," which I believe is the word there used.

Mr. WARNER. "Minor coins" would refer not to the twenty-five-cent pieces, but to nickel and copper pieces only.

Mr. STEPHENS. I prefer that the word "subsidiary" should remain.

Mr. GARFIELD. Twenty-five-cent pieces are not "minor coins."

Mr. STEPHENS. The word "subsidiary," where it occurs, is perfectly proper.

The SPEAKER. There is objection to the change suggested.

Mr. STEPHENS. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. STEPHENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DUNNELL. I suggest an amendment to the title of the bill.

Mr. STEPHENS. Yes; I now intend to amend the title of the bill. I move the title be amended to read "twenty" instead of "ten," and the words "and for other purposes" be added.

The SPEAKER. The title will be read as amended.

The Clerk read as follows:

A bill to provide for the interchange of subsidiary coins for legal-tender money under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20, and for other purposes.

Mr. DUNNELL. The gentleman did not understand me. I propose to strike out the word "interchange" and to substitute for it the word "exchange."

Mr. STEPHENS. I have no objection to that.

Mr. GARFIELD. And the words "legal-tender money" should be stricken out and the words "lawful money of the United States" substituted therefor.

Mr. STEPHENS. I agree to that also.

The SPEAKER. The bill will be read as amended.

The Clerk read as follows:

A bill to provide for the exchange of subsidiary coins for lawful money of the United States under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20, and for other purposes.

The title, as amended, was agreed to.

CLERKS OF COMMITTEES.

Mr. SMITH, of Pennsylvania, from the Committee of Accounts, submitted the following report, on which he demanded the previous question:

Resolved, That the committees of this House designated on the 15th instant as entitled to clerks under the legislative, executive, and judicial appropriation bill, making appropriations for the year ending June 30, 1880, be, and they are hereby, authorized to employ clerks during the session within the present fiscal year, and any excess of clerks hereby authorized over the number provided for by existing laws shall, under direction of the Committee of Accounts, be paid out of the contingent fund of the House.

Mr. WISE. I wish to offer an amendment.

Mr. SMITH, of Pennsylvania. I have demanded the previous question which cuts off all amendment.

The previous question was seconded and the main question ordered, and under the operation thereof the resolution was adopted.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

Mr. ATKINS, from the Committee on Appropriations, reported a bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes; which was read a first and second time.

The bill was read, as follows:

A bill to provide for certain expenses of the present session of Congress, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, namely: To meet the miscellaneous expenses of the House of Representatives, to be disbursed by the Clerk of the House, $20,000.

To pay Watson Boyle, H. A. Alcot, and W. H. Smith, employed under resolutions of the House, at $3.60 per day each from and including March 1 to June 30, 1879, $1,317.60.

To pay William Douglas, in charge of water-closet, from and including March 1 to June 30, 1879, $282.30.

To pay person employed in preparing general index to Journals of Congress under resolution of the House of June 18, 1878, at the rate of $2,500 per annum, from and including March 1 to June 30, 1879, $840.30.

To pay eight messengers in the post-office of the House, from and including April 4, 1879, until the conclusion of the present session of Congress, at the rate of $800 each for seven months.

Mr. GARFIELD. Why not put those items upon the legislative appropriation bill, to which they are appropriate?

Mr. ATKINS. I hardly think they are.

Mr. GARFIELD. These items belong there. There is a good deal of miscellaneous appropriation in the bill which is now in the Committee of the Whole. We do not want to make a point of order on this proposition.

Mr. ATKINS. This bill makes appropriations for several persons for the remaining portion of the present fiscal year.

The SPEAKER. It is in the nature of a deficiency.

Mr. GARFIELD. I thought it was for the next year. If it is in the nature of a deficiency, of course I withdraw all objection.

Mr. COFFROTH. I desire to ask the gentleman from Tennessee to yield to me for the purpose of submitting an amendment.

Mr. ATKINS. What is the gentleman's amendment?

Mr. COFFROTH. There ought to be an appropriation made to pay postage on answers to letters received by the Committee on Invalid Pensions in reference to claims pending before that committee. There are over two thousand cases there, and there should be an appropriation of at least $500 for postage.

Mr. ATKINS. Has it been usual to make appropriation for postage for committees of this House?

The SPEAKER. The Chair has never known such a thing.

Mr. ATKINS. I think I can hardly yield to that amendment.

Mr. COFFROTH. This is an extraordinary case.

The SPEAKER. It is a question of propriety.

Mr. ATKINS. Of course, and it is a question not to be determined by me.

Mr. COFFROTH. The Committee on Invalid Pensions will have two or three thousand cases. That number of letters will come to that committee. They should be answered, and the answers will require the payment of postage. The constituents of all members of the House are interested.

Mr. ATKINS. There are a good many committees which have voluminous correspondence, and I am sure the Committee on Appro-

priations is one of them, and there is no provision in the bill for the payment of postage of those committees. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed the bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio; in which the concurrence of the House was requested.

WASHINGTON CITY POST-OFFICE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General relative to a building for the Washington City post-office.

The SPEAKER. The communication, if there be no objection, will be referred to the Committee on Public Buildings and Grounds.

Mr. STEPHENS. I move that it be referred to the Committee on the Post-Office and Post-Roads.

The SPEAKER. This communication relates only to a building. It is in reference to the building at present occupied by the city post-office, and which the Postmaster-General states is inadequate in size to the proper discharge of the duties of the office. The same subject was last session before the Committee on Public Buildings and Grounds.

Mr. STEPHENS. Very well; I thought it related to the Post-Office Department.

The SPEAKER. It does not relate to any postal laws or anything of that sort. It relates simply to a public building.

The communication was referred to the Committee on Public Buildings and Grounds.

Mr. ATKINS. Has the morning hour expired?

The SPEAKER. It has.

SUBPŒNA TO OFFICER OF THE HOUSE.

Mr. KNOTT. I am instructed by the Committee on the Judiciary to submit the report which I send to the desk. It is the unanimous report of the committee, and has relation to a matter on which the committee was authorized to report at any time.

The Clerk read as follows:

The Committee on the Judiciary, to which was referred the following communication from the Adjutant-General of the Army of the United States—

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 16, 1879.

SIR: I have the honor to transmit herewith a subpœna addressed to Mr. Ferris Finch, file clerk of the House of Representatives, whose attendance is required on the 18th instant as a witness before the general court-martial in the case of Colonel D. S. Stanley, Twenty-second Infantry, with request that it may be delivered to Mr. Finch.

I have the honor to be, sir, most respectfully, your obedient servant,
E. D. TOWNSEND,
Adjutant-General.

To the SPEAKER *of the House of Representatives.*

Accompanied by the following paper:

Subpœna for a witness to appear before a general court-martial.

To Ferris Finch, esq., file clerk, House of Representatives, Washington, D. C., greeting:

You are hereby commanded to appear as witness on the 18th day of April, 1879, at eleven o'clock a. m., at Army building, New York City, before the general court-martial appointed thereat by Special Order No. 66, issued from headquarters of the Army, Adjutant-General's office, of date March 20, 1879, to testify to certain matters before said court in the case of the United States against Colonel D. S. Stanley, Twenty-second Infantry, for the United States; and you are further commanded to bring with you and produce before the court manuscript of the testimony given by Colonel W. B. Hazen, Sixth Infantry, before the Military Committee, House of Representatives, in 1872, also answers to interrogatories propounded to him at the same time by said committee, (by the chairman thereof,) both written and printed, and to then and there remain and abide the orders of the said court in the premises pursuant to the statute in such cases made and provided. Of your appearance before said court at the time and place stated in the summons fail not under penalties of the law.

Given under my hand this 16th day of April, A. D. 1879.
D. G. SWAIM,
Judge-Advocate, United States Army, Judge-Advocate of the said Court.

having had the same under consideration, would respectfully submit the following report:

Section 1202 of the Revised Statutes provides that "every judge-advocate of a court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the State, Territory, or district where such military courts shall be ordered to sit, may lawfully issue," and the question which lies at the threshold of the investigation your committee has been required to make in this instance is whether, under that provision, a citizen can in any case be lawfully compelled to go out of the State, Territory, or district in which he resides to testify as a witness before a court-martial. In other words, whether the process which the judge-advocate is authorized by this section to issue may run to any part of the United States, as is the case with similar process from the circuit and district courts of the United States in criminal proceedings, or whether it is limited to the State, Territory, or district in which such military court shall be ordered to sit.

If the first of these hypotheses is correct, the judge-advocate of a court-martial is certainly invested with the most extraordinary powers. He may compel a resident of Maine, under an unlimited penalty of fine and imprisonment, to abandon his home, his business, and his family to attend the trial of some trivial matter supposed to be "unbecoming an officer and a gentleman" pending before a military court sitting upon the borders of New Mexico, while upon similar process for a similar purpose the citizen may be taken from his home in the south of Florida to the northern boundary of Alaska.

Nor can it be claimed that it is indispensable or even necessary to the proper conduct of the public service or the security of private right that such a tremendous power should be conferred by law upon any military officer of the Government. A court-martial may be ordered to sit at any time or at any place, and depositions of witnesses residing beyond the limits of the State, Territory, or district in which any military court may be ordered to sit, if taken on reasonable notice to the opposite party and duly authenticated, may be read in evidence before such court in any case not capital.

It is reasonable to presume, therefore, that if Congress intended to confer upon the judge-advocate of a court-martial a power so tremendous and at the same time so unnecessary, it would have done so in clear and unequivocal language—language about which there could be no possible mistake. There are several forms of expression in which such an intention could have been shown to the exclusion of all possible doubt. It might have been done by simply adding to the section the words "and such process may run into any State, Territory, or district of the United States," and that, too, without obscuring the meaning or marring the euphony of the sentence. Or if it had been the intention of Congress to confer upon the judge-advocate of a court-martial the same power to compel the attendance of witnesses before such court as that exercised for similar purposes by the circuit and district courts of the United States in criminal cases, that intention could have been as clearly expressed.

That has not been done, however. The language of the statute is that the "judge-advocate of a court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the State, Territory, or district where such military courts shall be ordered to sit may lawfully issue." What courts are here referred to? Certainly not the courts of the United States; first, because, as already remarked, if such had been the intention the natural and obvious language would have been "the courts *of the United States* having criminal jurisdiction." And, second, because if "the courts of the United States of criminal jurisdiction" are meant, the expression "within the State, Territory, or district where such military court shall be ordered to sit" is totally unnecessary and meaningless, for the power of the United States courts to issue process to compel witnesses to appear before them and testify in criminal cases is the same in every State, Territory, or district, no matter where such military court might be ordered to sit. It would seem, therefore, that the courts referred to in this section should be taken to be the courts of the State, the Territory, or the district having criminal jurisdiction, and as their process to compel witnesses to appear and testify cannot run into another State, Territory, or district, neither can that of a court-martial sitting within their limits.

This construction of the section under consideration is not only authorized by the familiar rule of legal interpretation which requires a statute conferring summary power upon a court or officer to be construed strictly, but justified by other instances in which the mode of procedure in tribunals established by the laws of the United States is regulated by the laws of the State in which such courts are held.

For example, section 914 of the Revised Statutes provides that the practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the circuit and district courts shall conform as near as may be to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such circuit or district courts are held, any rule of the court to the contrary notwithstanding.

Again, it is provided in section 915 that "in common-law causes in the circuit and district courts the plaintiff shall be entitled to similar remedies by attachment or other process against the property of the defendant which are now provided by the laws of the State in which such court is held for the courts thereof; and such circuit and district courts may from time to time, by general rules, adopt such State laws as may be in force in the States where they are held in relation to attachments and other process: *Provided*, That similar preliminary affidavits or proofs and similar security as required by such State laws shall be first furnished by the party seeking such attachment or other remedy."

So, also, it is provided in the next section that the party recovering a judgment in any common-law cause in any circuit or district court shall be entitled to similar remedies upon the same, by execution or otherwise, to reach the property of the judgment debtor as are provided in like causes by the laws of the State in which such court is held.

Another, however, and perhaps a stronger reason for the conclusion that it was never intended that the process which the judge-advocate of a court-martial is authorized by this section to issue should run beyond the State, Territory, or district in which such court should be ordered to sit, is that during the same session of Congress, and by an act approved on the same day, the following provision was adopted as the ninety-first article in the rules and articles for the government and regulation of the Army:

"The depositions of witnesses residing beyond the limits of the State, Territory, or district in which any military court may be ordered to sit, if taken upon reasonable notice to the opposite party and duly authenticated, may be read in evidence before such court in cases not capital."

If, therefore, the construction of these two sections together justifies the conclusion that the process which the judge-advocate is authorized to issue to compel the attendance of witnesses cannot run beyond the limits of the State, Territory, or district in which the court-martial is ordered to sit, it follows that as the court before which Mr. Finch is desired to appear is sitting in the State of New York he would be under no legal obligation to obey its subpœna if served upon him in the District of Columbia or elsewhere beyond the limits of that State.

There is a further question, however, and perhaps so far as this House is concerned a more important one, yet to be considered, and that is whether Mr. Finch or any other officer of the House has the right or can be lawfully compelled without the consent of the House to produce in obedience to a *subpœna duces tecum* any paper belonging to its files.

The rule as laid down in Archbold's Queen's Bench Practice (volume 1, page 353) on the authority of Lord Ellenborough in Amy *vs.* Long (9 East, 473) is that the writ of *subpœna duces tecum* is of compulsory obligation on a witness to produce papers thereby demanded which he has in his possession and which he has no lawful or reasonable excuse for withholding, of which excuse the court and not the witness must judge; and the same doctrine was substantially held by Chief-Justice Marshall in the trial of Aaron Burr, (Burr's Trial, volume 1, page 188.) The qualifications to this rule, however, (that is, what constitutes a lawful or reasonable excuse for refusing to produce papers demanded by a *subpœna duces tecum*,) are as much a part of the law as the rule itself; and one of the most obvious and important of these qualifications would seem to be that if the person to whom legal custody of the paper belongs could not be lawfully required to produce it, neither can the person in whose actual possession it may be found. Some of the American cases go to the extent indeed of asserting that a witness cannot be compelled to produce a paper upon a *subpœna duces tecum* unless he has the legal control as well as the actual custody of it. For instance, in the case of the president and directors of the Bank of Utica *vs.* Hillard (5 Cowen, 153) a *subpœna duces tecum* was issued at the instance of Hillard, the defendant in the action, commanding one Collings, the clerk

of the bank, (which was the plaintiff,) to produce certain books and papers belonging to the bank, and upon his refusal to produce them the court said:

"The obligation of Collings to produce the books upon the *duces tecum* depends on the question whether they were in his possession and under his control. He was the mere clerk of the plaintiffs, and in that character had no such property in or possession of the books as imposed the obligation to bring them. They were under the control of the cashier, who might forbid their removal or place them beyond the reach of the witness."

On a subsequent trial of the same case the defendant sued out a *subpœna duces tecum* commanding the cashier to produce them, and upon his refusing to do so a motion for an attachment against him was overruled on the ground "that the course for proving the books or papers of a bank where it is the adverse party is to give notice to produce them, and on its non-compliance to show the contents by other evidence as in other cases," which was equivalent to saying that as the bank could not be legally compelled to produce them neither could their cashier who had them in his custody and under his control. It may be added here that Chief-Justice Marshall in the trial of Burr was of opinion that the *subpœna duces tecum* should be directed to the head of the department in whose custody the desired papers were, and not to a mere subordinate in whose actual possession they might be found.

If these principles are correct it is obvious that the file clerk could not be lawfully compelled by a *subpœna duces tecum* to remove any paper or document whatever from the files of the House. He is not even mentioned or recognized in the rules as an officer or employé of the House. He is merely an assistant employed by the Clerk to enable him to discharge one of the functions which from the necessity of the case or the unbroken practice and usage of the House pertains to his office, namely, that of preserving and arranging the papers belonging to the archives of the House so that they may be immediately produced whenever the business of the House or the convenience of any of its members may require. He has no property in nor authority to remove a solitary paper from the files for any other purpose than those just specified. Were he to attempt to do so the Clerk could forbid it, remove the papers beyond his reach, or remove him from his position, as he might choose. It is scarcely necessary to add that if he cannot be compelled by legal process to take a paper from the files he has no authority to do so voluntarily, unless by the permission or under the direction of the House.

Nor has the Clerk of the House himself any such authority, either of his own volition or in obedience to a *subpœna duces tecum*. It is simply his duty, as one of the incidents of his office, to keep the files of the House, preserve the papers belonging to its archives, and see that they are arranged in convenient and proper order. He has no such property in possession of or control over them as to impose any obligation upon him to produce them before a court or to authorize him to do so of his own accord. They belong to the House, and are under its absolute and unqualified control. It can at any time take them from the custody of the Clerk, refuse to allow them to be inspected by any one, order them to be destroyed, or dismiss the Clerk for permitting any of them to be removed from the files without its expressed consent.

The reasons why the House should not only have, but be especially careful to maintain such absolute and unconditional control of the papers belonging to its archives, are as patent as they are manifold. As already intimated, they are preserved for the use of the House, and are liable at any time to be required by its members to facilitate the discharge of their various duties; and if they were allowed to be taken from the files at the pleasure of any of its officers, without its previous permission or direction, to be produced in court or carried elsewhere and kept an indefinite length of time, it is not difficult to see that inconvenience, delay, and uncertainty in the transaction of the business of the House might frequently be the result, to say nothing of the increased liability of the papers themselves to ultimate destruction or loss. And besides, instances might frequently occur in which the House could not consent to the use of papers belonging to its files in a public trial without a violation of good faith or a breach of public policy; especially in cases where witnesses have given testimony before the House or some of its committees tending to disgrace or render themselves liable to a criminal prosecution other than for perjury committed in giving such testimony. In this regard it has long been the settled and invariable practice of the English Parliament to refuse to permit the testimony taken before any of its committees to be used in any criminal proceeding involving the party who testified, provided he testified truly.

But again, it is a principle well understood that the President, the governor of a State, or the head of a department is not bound to produce papers or disclose information communicated to him when in his own judgment the disclosure would, on consideration of public policy, be improper or inexpedient, (1 Greenl., E., § 251,) and by parity of reason the House of Representatives, having the exclusive custody and absolute control of the papers belonging to its own archives, should judge for itself whether the production or inspection of these papers would be injurious to the public interests or not, and refuse or permit such production or inspection accordingly as its own judgment might dictate.

Of course your committee will not be understood as intimating that the House should refuse or even hesitate to do anything consistent with its duty to itself and the public interest to facilitate the ascertainment of truth or promote the proper administration of justice in any case pending in any court, civil or military, or that cases may not arise in which, upon a proper request, it would be the duty of the House to order that original papers belonging on its files be produced in a court, however remote from the seat of Government, to be used as evidence in a cause there pending.

Such cases, however, will probably be of rare occurrence, and in others in which the House may deem it proper to refuse to permit original papers to be taken from its files, but shall consent that copies may be had, such copies upon being properly proven may be made available as evidence; and as it does not appear that the papers asked for in the present instance are to be used as evidence in any criminal proceeding against the party who gave the testimony embraced in them, your committee sees no reason why that course should not be pursued in this case. The adoption of the following resolutions is therefore recommended:

Resolved 1. That no officer or employé of the House of Representatives has the right either voluntarily or in obedience to a *subpœna duces tecum* to produce any document, paper, or book belonging to the files of the House before any court or officer, nor to permit any copy of any testimony given or paper filed in any investigation before the House or any of its committees, or of any other paper belonging to the files of the House, except such as may be authorized by statute to be copied, and such as the House itself may have made public, to be taken without the consent of the House first obtained.

2. That the consent of the House is hereby given to either party in the case of the United States against Colonel D. S. Stanley, now pending before the general court-martial sitting in the city of New York, to have made and properly proven such copies of the papers mentioned in the *subpœna duces tecum* issued by the judge-advocate of said court, and directed to Ferris Finch, esq., file clerk of the House of Representatives, on the 16th instant, as may be desired, but that the originals thereof shall not be removed from the files of the House.

Mr. GARFIELD. The resolutions reported by the committee I think are in the main just, and I concur with them. But I certainly do not concur in the reasoning in part that has led to these conclusions. It seems to me a very violent construction of the law to say generally about our files and our officers here that a court-martial has no power to issue its summons and enforce it outside the State where the court happens to be held. If this House gives its assent to that doctrine it will authorize the refusal of citizens everywhere, so far as the authority of this House goes, to obey the summons of courts-martial if they happen to live across the line of the State, a thing which has never been done, so far as I know, either in the practice or in the constructions which have been given to the law.

Of course I concur heartily and thoroughly with what the committee say about any court, either military or civil, not having the right to take original papers from our files. But I would think it was going too far for us to say that we would not permit the taking of papers from our files under any circumstances—and I believe the resolutions do not quite say that—for it might be an allegation of forgery that was pending, and the only proof as to whether there had been a forgery or not would be the original document.

Mr. KNOTT. If the gentleman will permit me to interrupt him I will say that the resolutions do not go to the extent he seems to suppose. They simply assert that no officer of this House has a right to remove any paper belonging to its archives from its files without the consent of the House.

Mr. GARFIELD. So I understand, and I concur in that.

Mr. KNOTT. And it is further said that the committee do not seek to intimate that cases may not arise in which it would be the duty of the House to order the production of papers on a request for that purpose before a court however remote.

Mr. GARFIELD. I understood that, but I was objecting only to that branch of the reasoning which seemed to limit the power of a court-martial to enforce its summons by the boundaries of the State in which it was convened. And I think the resolutions all right, except as to one thing. I think we ought as a matter of comity to direct our Clerk to forward a certified copy. We are not obliged to do so, but as a matter of comity I think we should.

Mr. KNOTT. Will the gentleman permit me to suggest that a certified copy would not answer the purpose? It would have to be an examined copy, proved by the deposition of the witness making the examination.

Mr. GARFIELD. Why should we not in this case, as a matter of comity, authorize our file clerk to answer the summons, but at the same time direct him to retain the custody of our original papers?

Mr. KNOTT. It would be about as convenient for the parties desiring these papers to come here and obtain examined copies in the way I have suggested as it would be for an officer of this House to leave his post of business and go to New York and remain there an indefinite length of time, keeping the papers in his custody. In fact, it would be far more inconvenient to the public service to authorize our officer to take our records from their place on the files to a remote city than it would be to authorize the persons desiring them to come here and procure copies.

Mr. GARFIELD. If they want the originals as the substantive element in the testimony, then any copy they might make here would not answer, and in that case we would be obliged to act again and to authorize our clerk to carry the originals to where the court is sitting and bring them back to us.

I do not know whether the court wants the original papers in this case or certified copies, and we are delaying their action unnecessarily by this resolution. I have now said all I desire to say.

Mr. KNOTT. With regard to the remarks of the honorable gentleman from Ohio [Mr. GARFIELD] upon the jurisdiction of the judge-advocate to send process outside of the State in which the court-martial may be sitting, I will simply remark that what has been submitted by the committee is merely by way of argument in support of their conclusion; in fact, is not definitely stated. The question is not definitely determined whether the judge-advocate of a court-martial has power to send process beyond the limits of a State in which his court is sitting. It is merely a suggestion that he has not that power, and for one I may be permitted to say that I have no doubt on the question whatever, and that I believe that he has no power to send his process outside of the State, district, or Territory in which the court may be sitting.

I will not argue the point or trespass further on the time of the House. The propriety of the House in preserving its own archives is so obvious that further argument is unnecessary. I therefore move the previous question upon the adoption of the resolutions reported by the committee.

Mr. SPRINGER. I trust the gentleman from Kentucky [Mr. KNOTT] will allow this matter to go over until to-morrow.

Mr. KNOTT. No, sir; we may as well settle it now; time is running.

Mr. SPRINGER. I hope the gentleman will not press the question now. I think the request of the court is a reasonable one, and I see no necessity for haste in the matter.

Mr. KNOTT. I have demanded the previous question.

The SPEAKER. The Chair was listening a moment; it is not unusual to hear suggestions from members even when a demand for the previous question is pending.

The previous question was seconded and the main question ordered.

The question was put on agreeing to the resolutions reported by the Committee on the Judiciary, and on a division there were ayes 73, noes not counted.

So the resolutions were agreed to.

Mr. KNOTT. I move to reconsider the vote by which the resolutions were adopted, and also move that the motion to reconsider be laid on the table.

The question was put; and the motion was agreed to.

Mr. SPRINGER. I appeal to the gentleman from Kentucky [Mr. KNOTT] not to lay the motion to reconsider on the table, but to postpone it until to-morrow, for gentlemen after looking into this matter may change their minds. It will be much better for him to allow the motion to lay the motion to reconsider on the table to lie over.

The SPEAKER. The Chair will again submit the question.

The question was again put on the motion to lay the motion to reconsider on the table; and it was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I now move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from New York [Mr. BAILEY] is entitled to the floor.

Mr. BAILEY. Mr. Chairman, I do not propose at this stage of the debate to consume the time of the committee or prolong the hours of this extra session of Congress by any extended remarks upon the amendments now under consideration.

Gentlemen on this side of the House have with marked and signal ability presented to this committee and to the country the constitutional questions involved in this legislation, and the beneficent results accomplished by its provisions, with far greater clearness and perspicuity, than I could ever hope to do; yet I am not content, for myself or those I represent, to remain an idle spectator and not lift my voice in protestation of what I conceive to be an infamous and shameful usurpation of power at this time and in this manner on the part of the democratic majority of this House.

We are legally and presumably here as legislators in our respective representative capacities in the popular law-making department of the Government, in the supposed proper exercise of our official duties, that include within their broad and widening circle not only the interests of our individual constituents but the welfare and prosperity of over forty millions of the most enlightened people of the English-speaking race. Mr. Chairman, who demands this legislation? Do the mechanics, the artisans, the working classes, who really comprise the majority of our population and who are so well schooled in practical common sense and judgment—do they demand it? Go ask the unemployed thousands all over the land who are begging for work and fighting want and starvation from their homes and their firesides. Does commerce demand it? Let the drooping sails of our merchantmen, the markets glutted with the products of our industries, and the almost deserted wharves in some of our southern cities answer the question.

Do the business interests of the country require it? Go into our workshops, our factories, our counting-houses, on change, and let the prostrate energies of the country, the unparalleled number of business failures, and the general depression in trade write the reply in the history of the hour.

Who, then, demand it? The answer goes up from every hill-top and valley, all over the land: not the people, not the country, but the democratic leaders and politicians. I deny that in my section of the State any considerable number of the rank and file of the democratic voters have ever asked or petitioned for this legislation or, to my knowledge, have ever taken exceptions to the practical operations of those statutes now under discussion appointing deputy marshals and supervisors of election to maintain a free ballot and insure an honest count.

I say, Mr. Chairman, that in my district, comprising within its limits two cities, the fair-minded thinking men of all political shades of opinion and party, until the edict was issued at the democratic star-chamber caucus in this Capitol, very generally commended the provisions of this supervisors and marshals law, and were quite satisfied with the manner of its execution and its conceded beneficial results in the interests of a pure and free election.

In the State of New York there was a very general and popular demand for the enactment of these laws. Elections had almost become a farce and the popular will was subverted by illegal votes and fraudulent counts. I desire in this connection to incorporate in my remarks a portion of that famous open letter of that pure and good man the late Horace Greeley, in October, 1869, to Samuel J. Tilden, the then chairman of the democratic State committee:

> You and I grew up in the country, and are familiar with elections as there conducted. We both know that, except in a few districts where the voters are all on one side, it is morally impossible that any considerable proportion of fraudulent votes should there be polled. For those who attend a poll are nearly all well known to each other, and hardly ever is one entitled to vote who is not known to be so to men of each party. If one should offer a vote who is not so known, he is challenged and questioned of course, and his answers will convict him if a bogus voter. I do not believe that the illegal vote in the rural districts was ever 1 per cent. of the whole number polled, even when there was no registration of legal voters.
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> How different is the case in cities, and especially in this Babel, you very well know. Long as you have lived in Gramercy Park, and eminent in social position and fortune as are the inhabitants of that favored locality, you could not tell within twenty which of the residents in sight of your front door are and which are not entitled to vote; you could not make a list of the legal voters residing on that square which would even approach accuracy. How it must be, then, with the nomadic denizens of our "back slums" and of our great tenement houses—how utterly impossible it is that any one should know which among them are and which are not legal voters, and whether the man who offers to vote at 11 a. m. at one poll has not already voted several times at different polls, and whether he is or is not en his way to vote still oftener at other polls, you cannot help knowing if you would. I can imagine how a man may shut his eyes to many things which he deems it convenient not to know, but I speak of what you must know, however you may wish or seek to be ignorant of it.
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> The matter to which I call your attention is vital to the very existence of free popular government. Whenever it shall be generally understood that the results of the elections are not determined by the ballots of legal voters, but by frauds in voting or frauds in counting, then the advent of avowed, unequivocal despotism must be near at hand. Between the rule of an emperor and the rule of a clique of ballot-box stuffers, every intelligent man must prefer the former as less rapacious and more responsible. When honest citizens shall avoid the polls, asking "What is the use of voting? the result is already fixed," the days of the Republic will be numbered. Between a ruler who prohibits voting altogether and the gang who make it a sham by filling the ballot-boxes with illegal votes, or miscounting those actually cast, the sway of the former is every way preferable.
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> Mr. Tilden, I have been voting here for thirty-seven years, and an active politician for more than thirty of them, and I appeal to God for my sincerity and to my public record for a witness that in all those years I have earnestly sought and labored to have our elections decided by legal votes and none other. Seeing how great are the temptations and the facilities, under a right of suffrage so general as ours, to poll illegal votes, I have openly and actively favored every effort to shut them out and keep the suffrage pure and legal. That every legal voter should have a full and fair opportunity to vote once at each election; that no one should be enabled to vote more than once, and that none but legal voters should be allowed or empowered to vote at all; such has been my constant aim. I have not confined myself to barren professions, but have shown my faith by my works.
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> How is it with you? You hold a most responsible and influential position in the councils of a great party. You could make that party content itself with polling legal votes, if you only would. In our late constitutional convention I tried to erect some fresh barrier against election frauds; did you? The very little that I was enabled to effect in this direction I shall try to have ratified by the people at our ensuing election. Will you?
>
> Mr. Tilden, you cannot escape responsibility by saying, with the guilty Macbeth—
>
> "Thou canst not say I did it; never shake
> Those gory locks at me!"
>
> for you were at least a passive accomplice in the giant frauds of last November. Your name was used, without public protest on your part, in circulars sowed broadcast over the State, whereof the manifest intent was to "make assurance double sure" that the frauds here perpetrated should not be overborne by the honest vote of the rural district. And you, not merely by silence, but by positive assumption, have covered those frauds with the mantle of your respectability. On the principle that "the receiver is as bad as the thief," you are as deeply implicated in them to-day as though your name were Tweed, O'Brien, or Oakey Hall.

Let us consider just where we are and what are our responsibilities! When the country is in a state of perfect tranquillity and peace; when no foreign enemies menace our shores, or domestic violence and internal strife run riot through the land; when a long series of business depressions and a widespread stagnation of commercial interests and trade are slowly but gradually giving way to a healthier tone in public sentiment and a renewed prosperity along all the lines of our diversified business affairs; when the executive and judicial departments of the Government are being exercised with the broadest and truest statesmanship, infusing new life into the body-politic by its reforms in the public service, the rigid enforcement of the law, the speedy punishment of crimes, and its successful solution of the great financial problems of the age, that aside from any political considerations, challenge the respect and admiration not only of our own people, but of the world—while all these conditions prevail, the President of the United States, by the power vested in him by the Constitution and under an imperative and acknowledged necessity for the support and maintenance of the Government, has been compelled to convene this Congress in extra session. And, Mr. Chairman, why? Not because any extraordinary emergency has arisen in public affairs, not because any general legislation is needed to protect and preserve all our rights of person and property, but because the dominant political party in this House in the Forty-fifth Congress, under the imperial dictation of a party caucus, refused to pass two of the appropriation bills necessary for the support and maintenance of the Government unless there was ingrafted within its provisions the repeal of certain statutes, statutes about the wisdom of which I concede conscientious and patriotic men may honestly differ in sentiment, but statutes the abrogation of which at this time, or before the convening of the regular session of this Congress, no gentleman on the floor of this House, in debate, on the rostrum, or in the public press of the country, has ever dared to raise his voice or wield his pen in the utterance or statement that a single inalienable right of a single individual under the Constitution or the laws would be jeopardized or imperiled.

I summarize the statement that in no State of this Union, except the State of California, is there to be or can there be a general election wherein these sections of the statutes sought to be repealed are applicable before the regular session of this Congress, on the first Monday of December next. Then why this unseemly haste? Why this precipitation of legislation upon the country? Why this unnecessary expense levied upon a people long suffering with onerous local, municipal, and State taxation? I venture a reply. I read it in the democratic party press of the country. I hear it gossiped on the street corners, in the lobbies of the hotels, and in the corridors of the Capitol. The great and wise men on the other side of the House, in language susceptible of no misinterpretation, and with eloquence in style and diction have, on repeated occasions during the discussion of this bill, afforded us unmistakable evidences of their partisan purposes and designs.

I am not trusting to memory, Mr. Chairman, or a fancied imagination in making these statements. Look back over the history of

this debate in the RECORD and judge for yourselves. You will find that on the 3d day of March last a very distinguished Representative from Mississippi [Mr. SINGLETON] representing now for the sixth term a highly enlightened and patriotic constituency, a gentleman ripe in age and culture, and whose locks have whitened in the congressional service of his country, in the debate upon this bill, referring to the deputy marshals appointed at the South at elections, used the following language:

They are generally men who have very little standing, often illiterate colored men, or, if white, those who have not ordinarily as much brains as would lie upon your thumb-nail. Let me say to you in all truth, however unpalatable it may be to republican taste, that these white men who are opposed to our people and willing to officiate in this capacity are under the ban of society.

And again, the same distinguished representative of his party, in the second edition of his invaluable political ethics, at this session of Congress and upon this very subject, said:

I beg leave to call the attention of the House for a moment to the practical effects of this law in the Southern States, but more especially in Louisiana and Mississippi. I premise my remarks upon this point by the statement that a large majority of white men of intelligence and respectability belong to the democratic party in these States. The few that are outside of it and are seeking to stir up race antagonism are under the ban of society. They hate the democratic party, and are not loved in return.

What distinguished statesmanship, what considerate and philanthropic utterances read in the light of our history of the past twenty years. "Under the ban of society!" What society? Has Mississippi or the cotton States an unwritten law that prescribes the social standing of their white race according to birth, family, or wealth? I believe not, for I very cheerfully bear witness, both at their domestic firesides and elsewhere, of their refined courtesy, their uniform politeness, and their proverbial and unbounded hospitality.

No, Mr. Chairman, it is not this. The proper interpretation of the remarks I have quoted, the true sentiment therein expressed, leads to far more disastrous and alarming conclusions; it goes to the political rights of a large number of our fellow-citizens; to the gradual disfranchisement of the colored race, and the political outlawry of the white population at the South who believe, in and have the courage to proclaim the tenets of the republican faith, and who from a pure devotion to conscience and principle refuse to be dragooned into a solid South. The "ban of society" is a political ban that allows no conscience, brooks no teaching, courts no charity, and knows no law.

And again, Mr. Chairman, another loyal democratic statesman from the same State, [Mr. CHALMERS,] in the debate on the Army bill, April 1, said:

This Government for the last eighteen years has been reeling like a drunken man. It has rocked like a ship at sea without chart, compass, or rudder. The unbridled will of a mere despotic majority has bid defiance to law and Constitution. Bribery and corruption have held high carnival in the Halls of Congress, and reckless and criminal extravagance have permeated every branch of the Government. It is time that the old ship was righted up; that the officers and crew, drunk with power, debauched by the continuance of licentious indulgences, should be driven out and replaced by purer and better men.

And again, upon the same occasion, referring to the late civil war and its results:

You sent grand armies after us. You hemmed us in by land and by sea. You not only threatened to shoot but you shot us to death. With the battle-cry upon your lips of the Constitution as it is and the Union as it was, you rallied the whole North without regard to party in defense of the old flag, and when the battle was won you tore off the veil that covered your hideous deformity; you dissolved the Union that you had saved; you changed the Constitution of our fathers for which you had pretended to fight; you changed State sovereignties into military provinces; you converted the constitutional Union by usurpation into almost a military despotism presided over by a successful military chieftain; you organized returning boards that stole State governments and ended in stealing the Presidency itself.

What a terrific arraignment, not only of the republican party but of the loyal men of this country, (who, thank God, were and are still found in all parties and in all States,) by that Spartan confederate hero of Fort Pillow. Mark the lamentations! "Reeling like a drunken man;" "bribery and corruption in the Halls of Congress;" "drunk with power;" "replaced by purer and better men." The wretch that drew Priam's curtain in the dead of night and informed him his Troy was sacked could not have been more scared and terrified than were the eminent and distinguished men of this country when they heard or read these burning words that welled from such an ethereal source.

I have quoted from the speeches of two of Mississippi's illustrious sons. I must supplement it by reading an extract from her contemporaneous press, already a part of the records of this House. I read from the Southern States, a paper published at Okolona, Mississippi:

Yes, thank God, we have captured the Capitol, and in 1880 our man will walk up the White House steps and take his seat in the presidential chair. Then will our glorious triumph be complete; then will we proceed to tear your amendments from the Constitution and trample them in the mire; then will we break the shackles you have forged for the free, sovereign, and independent Commonwealths of the Union; then will we recognize the right of secession, a right that is not dead, but sleeping; then we will decorate the Capitol with the pictures of Davis and Lee and Stuart and all the glorious leaders of a cause that is not lost, but living still. Yes, thank God, we have captured the Capitol, and from that coigne of vantage we propose to rule the Republic in a way that will make your radical laws and your radical leaders forever odious in America.

I can only add the significant and expressive couplet:

You may break, you may shatter the vase, if you will,
But the scent of the roses will hang round it still.

Again, Mr. Chairman, an honorable gentleman [Mr. Fleming] from Georgia, a State that is represented to-day and has been in the past by such distinguished men, in the course of his remarks on this amendment, February 25 of the present year, said:

It is no answer to say that the act of Congress makes the offense an offense against the United States. That is precisely what we complain of—that it deprives the State of jurisdiction and confers it upon the United States, and in this way interferes with the right of local self-government. Although it be an election for Congress it is still a State election, held in the State and by the State, and conducted and presided over by State officers. Offenders at such an election ought surely to be tried under the laws of the State, and to deprive the State of jurisdiction is a palpable interference with the right of local self-government. In this point of view the issue before us is the great issue that will be before us in 1880, upon which, in my judgment, will depend the existence of free institutions in this country, the right of local self government, the continuance of constitutional liberty. Am I asked how is it that these issues will be before the country in 1880 any more than in elections that are past? I reply, let facts answer. Is it not a fact that there is a strong movement in the republican party to return General Grant to the White House?

And again, that very eminent lawyer and favorite son of Tennessee, [Mr. BRIGHT,] in a well-considered speech in this House during the present session in the debate on the Army bill, said:

The man it is said is in training abroad now; he has been feasted and ovated in Europe by the bondholders and creditors of the United States who wish a strong Government to chain the people down to their dungeon floor and to flay them with taxation, and in response to their complaints to give them the bayonet. Under the instigation of those men you will find that there is a candidate in training for the presidential race. He will land at the golden gates of the Pacific; he will find a splendid palace car to receive him and will be met by shouting thousands. They will shout hosannas to the returning hero; some perhaps so abandoned they will throw up their hats and render homage to an American Cæsar.

And again, Mr. Chairman, the gentleman from Maryland, [Mr. KIMMEL,] having for his constituency a portion of that proud and beautiful city of Baltimore, on the 19th of February last, during the debate on this bill, made the following doleful remarks:

Every indication proclaims the coming struggle. The messages of the President, the reports of the Secretary of War, the Burnside bill, the renewal of the unholy appeal to sectional prejudices, the restoration to places of power of the men who shamefully led the carnival of extravagance and crime which so degraded the people as to fit them to accept the usurpation of 1876 and 1877, and, above all, the candidacy of General Grant, emphasize the impending shock. Flattered by the attentions of courts and kings, who may see in his surroundings, tendencies, and capabilities the means by which may be obscured the governmental example which undermines their thrones, this spoiled child of fortune returns to the land of Washington, to spurn the example which made Washington immortal by entering upon a campaign for a third presidential term.

This, then, is the political nightmare that "frights the souls" of our democratic statesmen. I charge it here, upon my sincere belief and responsibility, that the proposed repeal of these statutes by the party majority of this House, at this time and in this manner, is not in the interests of a fair ballot, an honest count, and a free election; but is, as indicated in the speeches I have quoted from and according to the general tenor of this debate, in the interests of democratic ascendency and success in the presidential campaign of 1880. Go on, gentlemen; hesitate not in your wild career; abrogate, as you have in part, the wholesome rules and regulations of this House; introduce bills on all subjects and kinds of legislation through the petition-box, if you cannot do it otherwise, and allow certain committees to make reports at any time; cripple, if you can, the commercial and business interests of the country by tinkering with the tariff, destroying the national banks and their circulation, and giving us new laws upon finance and the currency; prolong this extra session of Congress until the summer sun shall dry up our mountain streams and wither the green grass that now freshens the beautiful lawns of the Capitol; repeal these laws under consideration, and if perchance the Executive, influenced by a wise discretion and judgment, should exercise his constitutional prerogative by interposing a veto, consummate your threats and revolutionary schemes by refusing to vote the needed supplies.

Not only inaugurate, as you have done in these Halls of Congress, the presidential campaign of 1880, but advance the picket-line in your unholy party crusade, fling your political banner to the breeze, and inscribe in golden letters on its waving folds your chivalric motto, "A solid South." Crystallize the incongruous forces and opposing factions of that cipher-telegraphic modern democracy that yields to no temptation, prates "in season and out of season" its own immaculate virtue in the administration of public affairs, and stands upon that hybrid party platform of hard money in the East, soft money in the West, and political outlawry in the South. Assemble and parade your late confederate major-generals, your brigadiers, your colonels, and your captains, and issue your General Orders No. 1 to the South that you have "captured the Capitol," and No. 2 to the North that you are reconstructed and want "peace and reconciliation." Characterize the election of 1876 and the constitutional majority therein expressed by the verdict of a free people as an "usurpation" and a "fraud." Draw a veil over the history of the late rebellion, if you can, and let the loyal minds and hearts of the country forget, if they will, their vast contributions of treasure, the sacrifice of a million lives of the best blood in the land, and the desolation of thousands of happy homes for the maintenance and preservation of constitutional Government and the Union. Reproach in the choicest language of your democratic vocabulary, as you have done, some of the wisest and purest statesmen of the country, who have recently been called by an appreciative constituency "to places of power." Stigmatize and revile the greatest general of the age, who led the

Union armies to victory; traduce his personal character; disparage his late administration; scoff at his foreign travels for recreation and culture; talk loudly about "imperialism," "centralizing policy," and "ruins of the Republic" in connection therewith. You are only erecting a monument to your own consummate folly; you are arousing the popular will of a free and thinking people; you are cementing into an active, vigorous life the vital elements of a tremendous political power that will solidly close up the rank and file in the republican column and march to political victory in 1880 as triumphantly as Sherman "marched to the sea"—a victory foreshadowed in the light of coming events; a victory that will give to the whole people and the whole country a President honored and revered alike at home and among all the nations of the earth; a President invincible in arms, patriotic in peace, competent and honest in official life, and pre-eminently possessed of that decision of purpose and character so illustriously displayed on that Sunday made memorable in American history at Appomattox.

You may style all these proceedings and this manner of legislation, statesmanship; you may brand it with the imposing sentiment "constitutional liberty;" you may claim for yourselves and your party all the virtues of the decalogue: but what sensible man, woman, or child who believes in the intelligence, loyalty, and patriotism of a free people will mistake the issue or the result? I leave it to impartial history to vindicate the truth and inscribe on its enduring pages the supreme folly and everlasting shame of this proposed democratic legislation.

We are entering upon the second century of our national life. We love our common country and our Constitution. We revere and honor our great men who have gone before us but whose memories are still fresh and green in the hearts of a grateful people. We esteem and admire our living heroes, whether in private or official life. We love the old flag with its stars and stripes that has been trailed but never dishonored—the flag of our fathers, and I trust of our children's children, that floats so peacefully and proudly to-day from every home of the North and South and East and West; that every breeze of heaven lifts and nightly dews baptize, the first sunbeams of morning and the last of evening kiss, and that with its living memories and its loyal loving hopes is "sacred next to our faith and our God."

Mr. COVERT. Mr. Chairman, I had not intended to take any part in this discussion. I had been quite content that the issue should go before the country upon the arguments submitted by other gentlemen upon either side of this Chamber. I have been a close observer and a patient hearer of this debate from its inception, and I have been quite willing that the country should judge where the merits of the discussion rest. Ours is a nation of readers and our readers read between the lines. They will search in vain, sir, for argument in support of the retention of these laws—their further existence—in suggestions which have been indulged in by the other side as to possible weaknesses in the Constitution which has stood the test of a century's trial; to the history of slavery; to reminiscences of the rebellion; to unmanly and uncalled-for references to the presence of "rebel brigadiers" and "ex-confederate colonels" upon this floor. They will search in vain for suggestions pertinent to this discussion in laudatory references to Grant, and prophecies as to the campaign of 1880—such as have characterized the speech of my colleague [Mr. BAILEY] who has just taken his seat. Our readers, reading the lines and between the lines, will pay much more regard and give much greater weight to the calm, dispassionate expositions which have come up from this side of the House upon the constitutional law governing this question, the absolute right of the sovereign States to control their elections under the Constitution without Federal interposition.

I would have made no effort, sir, to secure recognition but for the fact that the recent illness of my distinguished colleague, [Mr. FERNANDO WOOD,] upon whose motion the Judiciary Committee of the last Congress investigated the methods pursued under color of this law in the city of New York, has thus far prevented him from speaking upon this question; and that in the natural anxiety of so many members to discuss the matter, my colleagues upon this side may perhaps find themselves without opportunity to voice here the sentiments upon this proposition of a large body of the people of our State.

I venture, under these circumstances, to detain the committee for a brief space only in the presentation of a few facts gleaned from the report of the committee to which I have referred.

I have no hesitation in saying, sir, that if no other reason existed, if no consideration of constitutional law entered into the question, the facts elicited by the sworn testimony taken by this committee ought and ought alone to be sufficient to bring about the repeal of this measure now under discussion.

Had I not determined to present these facts without criticism and without comment, I should say that political history nowhere presents darker or more infamous pages than those wherein this testimony is recorded—the story of the shame and disgrace inflicted under color of Federal authority upon citizens of the sovereign State of New York.

So far back as 1869 the question was raised as to the legality of naturalization papers issued during the preceding year in the city of New York.

The methods pursued in granting naturalization had been the same before all the judges, and were in every respect the methods which had obtained during ten years prior to 1868, and which were in fact followed down to 1874. A uniform kind of deposition was used alike in the various courts of the State having power to act in the matter. An index was kept by the clerk of the court granting naturalization, in which was made the various necessary entries: the name of the person naturalized, the country from whence he came, and the names and residences of his witnesses.

The claim made so early as 1869 was that every naturalization paper issued from the supreme and superior courts of New York, with the exception of six, was illegal and void for the reason that no entry had been made by the clerks of the courts, in the formal court minutes, of the granting of the certificates.

From time to time since 1869, upon occasions of elections, Commissioner Davenport had caused voters holding these 1868 certificates to be challenged at the polls, and had in some instances taken away their papers of naturalization. Ten years rolled by. Not an arrest was made and no effort was instituted to have the legality of these certificates tested. Not until one year ago, in the spring of 1878, was it determined to make a wholesale crusade upon the holders of these 1868 certificates. Last summer, and late in the season, complaints were made against nearly every voter who had registered in the election of 1876, in New York City, upon these certificates—aggregating about ten thousand people. Over two thousand warrants were issued under these complaints. Some three hundred persons were arrested and brought before the commissioner. They were there told they had been guilty of a felony, but would not be punished if their naturalization papers were surrendered. When they made the surrender of their papers they were discharged. Not a single man of them all was indicted, and still no attempt was made by Davenport or by any person in authority or claiming authority to try or test the validity or legality of these certificates.

The autocrat of the New York ballot-box floated in an atmosphere of political delight. In the excess of his satisfaction he wrote to the Attorney-General of the United States detailing what he had done—advising the highest law officer of the country, the legal adviser of the President—that all the certificates granted in the two courts I have mentioned in 1868 were illegal, and that by prompt action he could obtain the surrender of the certificates before election. The Attorney-General, however, to his credit be it stated, refused to adopt the views presented, and replied to this notification of the chief supervisor in these terms. Let me read:

> It does not seem to me proper that criminal proceedings should be commenced which are not intended to be pursued and are not intended to result in any punishment, the only object being to induce these persons to give up their certificates. If they have been guilty of any offense they are to be prosecuted and punished. If not, the criminal process is not to be used for any other but its legitimate purpose of punishing offenders.

This announcement might seem to be a check upon the further operations of the chief supervisor, but it did not prove so. Davenport was "Sir Oracle," and a few months later, at his suggestion, the United States district attorney for that district published a notice to the effect that inasmuch as it was alleged that many persons were fraudulently possessed of naturalization papers, such persons could avoid arrest and prosecution by appearing before the commissioner and surrendering such certificates if they should appear fraudulent. Under this notice three thousand foreign-born citizens, fearing molestation, with the dread of legal difficulty and of personal trouble which was held up before them, gave up their papers of naturalization.

Mr. McCOOK. Did not all of those men who surrendered their certificates of naturalization sign a deposition stating distinctly and clearly that they knew what they were about?

Mr. COVERT. I will answer my colleague's question. I am not prepared to say that that is the case. On the contrary, I think my colleague is mistaken in the assumption that all the persons who surrendered their papers signed a certificate to that effect; but I call the attention of my colleague and the attention of the House and the country to the testimony upon that topic as embodied in the report of the Judiciary Committee. The witnesses appeared upon the stand, and then, when the same question was propounded to them which has been propounded by my colleague to me, they said almost with one voice that in no instance was this clause of this so-called deposition read to them, and they had no knowledge whatever of the fact that they had been asked to sign any such statement. That was the testimony before the committee.

Mr. FRYE. Will the gentleman allow me a moment?

Mr. COVERT. My time is limited. I have soon to yield the floor, and cannot yield further; more particularly, if the gentleman from Maine [Mr. FRYE] will allow me to say so, because he possibly interrupts me to advertise the Okolona States, of which paper he seems to be the agent on this floor. [Laughter.] I beg to assure the gentleman I do not want to subscribe for the paper. [Laughter.]

Mr. FRYE. Now, Mr. Chairman——

Mr. COVERT. I cannot yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. COVERT. Possibly this was not intimidation. Possibly no intimidation was used in the cases of these three thousand men but slightly acquainted with our forms and rules of law. But in the face of the proclamation of the United States district attorney, hinting at "arrest" and "prosecution," but one view, it seems to me, can be

taken of the matter. But there were those who wanted a legal test other than the *ipse dixit* of Davenport applied to these papers. Three adopted German citizens, all of whom had been told by Davenport that their certificates were illegal because their issuance was not entered in the court minutes, applied to the superior court of New York by formal proceedings for a correction of the record in this respect, so that every demand of the commissioner might be fully complied with.

Formal notice of the argument of this motion was given to the district attorney and to the commissioner, but neither of them attended upon the hearing. Judge Friedman, after full examination of the matters submitted, denied the motion to correct, holding, in an elaborate opinion, that at best the point suggested was a technical error, that it affected every naturalization in that court from 1858 to 1873, over forty thousand in number, including one thousand women.

Mr. Davenport had no more regard for this judgment of the court than for the judgment of the Attorney-General, for, incredible as it may seem, on the very afternoon of the day that this opinion was delivered he telegraphed to the supervisors and marshals in each district to pay no attention to it.

For consistent hardihood in desperate daring, for absolute and supreme disregard of all law, for perfect and entire independence of the decrees of courts, Mr. Commissioner Davenport is entitled, it seems to me, to the most conspicuous place that can be assigned to any American citizen in contemporaneous history!

Not in scattered and remote sections where shot-guns are alleged to be carried to the polls; not where the color line is alleged to be drawn; not where a weak and ignorant and helpless race are alleged to be at the mercy of their more powerful white neighbors; but in the peerless city of New York, the metropolis which is the boast and pride of this Republic, these acts occurred, and further indignities were inflicted upon the rights and upon the persons of citizens.

Not only were supervisors of elections instructed to pay no regard to the decision I have quoted, but on the same day they were told whenever the holders of these certificates offered to register to take from them their certificates and forward them to the chief supervisor. And in obedience to these orders, these papers were taken from nearly two thousand people who presented themselves at the places of registry for the purpose of registration.

Think of this, Representatives of the people! Think of this, you who profess to believe in the binding force of the fourth amendment to the Constitution:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searchers and seizures, shall not be violated.

After Judge Friedman's decision, and with full knowledge of it, just before the fall election in 1878, Davenport directed a clerk in his employment, and who was also a deputy marshal, to swear to complaints against every man who had registered in 1878 upon the certificates issued in 1868 except the six whose naturalization was entered in full in the minutes of the court.

These complaints alleged the belief by the complainant that a crime had been committed; but, as he himself admits upon his examination, he had no personal knowledge whatever of the person complained against; had no conversation with the supervisors who furnished information as to the registry, and, with the exception of the two hundred and fifty complaints which he himself filled up, out of three thousand one hundred, he knew absolutely nothing as to the truth or falsity of any one fact stated in the complaint so sworn to. These complaints were verified on the Sunday and Monday preceding the election, and upon them Davenport issued warrants of arrest.

Where did the crime come in? Where was the criminal intent? To make them criminals the holders of these certificates must have guilty knowledge of the improper character of the certificates, and no averment of this guilty knowledge appeared in the complaint. On the contrary, under the only judicial decision which had been rendered in the matter, they had every reason to suppose that the certificates were regular and valid.

How were these warrants executed? In many instances they were given to deputy marshals, who in some cases placed them in the hands of republican supervisors of election detailed to overlook the ballot-boxes at the various polling places. Whenever any of these voters came to deposit his ballot the supervisor, if he wanted the man arrested, would hand the warrant to a deputy marshal, and the victim would be taken from the polls and into the presence of the chief supervisor. Over six hundred persons were taken in this way before that officer, who on the day of election held regal sway as a "court" in the Federal building in which the post-office is located.

The scene here, as detailed by the statements of sworn witnesses, almost beggars description. In the iron cage or pen used for the detention of criminals, at times crowded to its utmost capacity, were all descriptions of people—the decent, respectable voter crowded by the drunken, filthy wretch with whom contact meant contagion. The hearing before the commissioner was short, sharp, and decisive. If the prisoners had not voted they were required to promise they would abstain from doing so before they were discharged.

And all this in the face of the notification of the Attorney-General to the commissioner that the criminal process was not to be used "for any other but the legitimate purpose of punishing offenders."

I have not the patience to follow this matter any further. I have not the time to speculate as to the number of honest voters of foreign birth who were intimidated by these high-handed proceedings from going near the polls on the day of election. The testimony adduced before the committee bears its own comment. I commend to every Representative here, to every lover of constitutional liberty in the land, to every man who values fairness, to every one who yields respect to the decrees of courts, to every man who believes in the right of free election, the testimony taken in New York by the Judiciary Committee of the Forty-fifth Congress.

It is not possible, Mr. Chairman, that proceedings like these can continue unchallenged and uncontrolled in the metropolitan city of this free Republic. It is not possible that the plain provision of a constitutional amendment giving to every person protection from unreasonable seizure of persons and papers is to be scornfully disregarded. It is not possible, sir, that the solemn adjudication of a State court of record is to be laughed at and openly defied by a Federal officer when that court has full jurisdiction of the subject-matter determined.

And finally, sir, when scenes like these are enacted in the city of New York, and when they may occur in every city and in every State throughout the length and breadth of this land under color of this law, it is not possible that any conscientious lover of that Constitution which gives to the several States the right to enact their own election laws and to establish the qualifications of their voters—it is not possible that any lover of this Constitution can relax any and every lawful effort to secure the repeal of these enactments.

Men talk, sir, of the presence of the Army at the polls. This House has voted to repeal the law which permits their presence there. Army officers are emphatically gentlemen by birth or breeding or by association and education. They are not the character of men who would permit, if they could avoid it perhaps, the occurrence of disreputable acts at the polls or any unnecessary interference with the rights of the voter. It is the spirit of intimidation suggested by the presence of soldiery at the ballot-box rather than the *personnel* of these agents that is objectionable. But to the presence at the polls of a swarm of supervisors and marshals the objection goes further. It is not only the intimidation which is born of their presence and their acts, but it is to the character of these civic officials that the objection extends. To great extent they seem to have no characters to lose; they, as in the case of Mosier, in New York, do not hesitate to swear to complaints embodying facts of the existence of which they know nothing; they have no appreciation of the high and almost sacred character of the work they are called upon to supervise. The country had better, it seems to me, a hundredfold countenance the presence of armed troops at the polls, at little additional expense to the people, rather than the costly presence of the Davenports, the Mosiers, and the thousands more of unarmed, perhaps, but still more powerful and dangerous supervisors and deputy marshals.

The vast majority of the people of this country have determined that these offensive laws shall be repealed, not violently, not by revolutionary measures, in the popular acceptation of the term, but by the moral force of overwhelming public sentiment. I have faith to believe that the people see and understand the danger which surrounds them, the condition so aptly described by De Tocqueville in his "Democracy in America." That observant author says, in substance, that revolutions are not what he most fears for the people of this Republic. It is rather their disposition to shut themselves within the narrow circle of domestic interests to such an extent as to ultimately become inaccessible to those great and powerful public emotions which perturb nations but which enlarge and recruit them. He expresses the fear that the people of this land may arrive at such a state as to regard every new theory as a peril, every social improvement as a stepping-stone to revolution, and that they may refuse to move altogether for fear of being moved too far.

Is it possible, sir, that this fear, expressed so many years ago by a profound and impartial observer of our institutions, is about to be realized? God grant that this may not be so, and that neither revolution nor sluggish inaction and unconcern may affect the permanency and prosperity of the Republic.

The majority of the people, speaking through their agents in this Congress, purpose to repeal these sections of existing law. They realize that the occasion which rendered this legislation seemingly necessary has gone by. They begin to believe, with the author of the History of Civilization in England, that—

> The most valuable additions made to legislation have been enactments destructive of preceding legislation, and the best laws which have been passed have been those by which some former laws were repealed. * * * The concession merely consists in this: the legislators have retraced their own steps and undone their own work. If we examine the policy of the most humane and enlightened governments we shall find this to be the course they have pursued. The whole scope and tendency of modern legislation is to restore things to that natural channel from which the ignorance of preceding legislation has driven them. This is one of the great works of the present age; and if legislators do it well they will deserve the gratitude of mankind.

And this is a part of the great work which the majority of the people, represented by the democratic members of this Congress, have determined to do, so far as they have the legal power to do it.

Not a man on this side of this House whose conscience does not call him and urge him to this work; not a man here but who believes that this call comes to him as the call of duty. And as fully

as he may—as completely as in him lies—every democratic Representative here will do his part in the attempt at least to repeal these odious and unconstitutional enactments, holding himself responsible for his action to the people whom he represents and to the God in whose name he has sworn to discharge as well as he may the duties of the people's agent upon this floor.

Mr. GEDDES. I will yield three minutes of my time to the gentleman from Mississippi, [Mr. MULDROW.]

Mr. MULDROW. Some days ago the gentleman from Maine [Mr. FRYE] made reference to certain indorsements which he claimed had been made of the Okolona States, a paper published in Mississippi, and which, through the gentleman from Maine, has become quite notorious in this country. In the allusion which that gentleman made to that paper, which he insisted reflected southern political sentiment, he uses this language:

The paper which I received this morning actually bristles all over with indorsements of papers all over the South and indorsements from political friends.

He further says in regard to it:

I say that it is my right and not illiberal, and not unjust to the gentleman from Kentucky, to cite here to the House no words of mine, only the words of this paper published in the State of Mississippi; only the words of this editor, as I said, indorsed by score upon score of papers in the South.

Now, I did not believe it possible for the gentleman from Maine, in his partisan fervor to make capital for his political party, to have made declarations which a mere recital of the facts will show to have been so reckless. In the first place, the paper to which he refers in citing these indorsements which it claims, cites more articles of laudation, or, if not more, quite a number of articles of laudation, from republican and not democratic papers.

The gentleman from Maine says that the paper he received bristled all over with indorsements of papers in the South. There was not a single indorsement of a single sentiment uttered or promulgated by that paper since this controversy began. The editor himself confesses that these indorsements are from newspapers printed in the years 1875, 1876, 1877, and 1878, and not a single indorsement from any paper in the South since these recent articles have been published in that paper which have given it so much notoriety.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MULDROW. One minute more. To show what is the feeling with regard to that paper in Mississippi, I send to the Clerk's desk and ask to have read a resolution recently adopted by the democratic executive committee of the very county in which it is published. The resolution is from the Messenger, a democratic newspaper published at Okolona.

The Clerk read as follows:

Resolved, That we indorse the statements of Colonel H. L. MULDROW, our Representative in Congress, recently made in a debate in Congress, as to the conservative sentiments of the people of Mississippi, and that the Southern States, a newspaper published in the town of Okolona, "does not represent the sentiments of the democracy of Mississippi."

Mr. MULDROW. All I desire to add in connection with that is that I think whenever the gentleman seeks to rekindle the fire of sectional discord for the benefit of his party he should quote from papers whose laudation comes from democrats and not from republicans, as in this instance.

Mr. FRYE. One moment.

The CHAIRMAN. The gentleman from Ohio [Mr. GEDDES] is entitled to the floor.

Mr. GEDDES. Being a new member of this House, I doubted the propriety of participating in this discussion [laughter] knowing that the time would be profitably employed by more experienced members.

Mr. FRYE. One moment.

Mr. GEDDES. Other considerations, however——

Mr. FRYE. That is the courage of the democratic side of the House. The gentleman from New York [Mr. COVERT] and other gentlemen make their flings, and then shut the door to any reply. That is courage, that is chivalry.

The CHAIRMAN. The Chair desires to ask the gentleman from Ohio [Mr. GEDDES] to permit the Chair to ask the consent of the committee that the gentleman from Maine [Mr. FRYE] may be heard a few minutes without taking it from the time of the gentleman from Ohio.

Mr. GEDDES. I yield cheerfully for that.

Mr. THOMPSON. I move that the gentleman from Maine [Mr. FRYE] be allowed three minutes, the time allowed the gentleman from Mississippi.

The CHAIRMAN. Is there objection to the gentleman from Maine proceeding? [After a pause.] The Chair hears no objection.

Mr. FRYE. I thank the Chairman for this that he did not permit these statements to be made without a chance for a brief reply. He would not do as the gentleman from New York who has just sat down, [Mr. COVERT,] make a fling at a colleague on the floor of the House and then close the door so that he could make no reply. The gentleman from Mississippi [Mr. MULDROW] has had an extract read from a paper published in his district, a copy of which I have also received, so that it appears I am not the advertising agent alone of the Okolona States.

Mr. MULDROW. Permit me one moment.

Mr. FRYE. What is it?

Mr. MULDROW. I would ask the gentleman if he has not also received a circular from the Okolona States requesting him to post it in a public place in order to aid the circulation of that paper?

Mr. FRYE. I never had but one letter from the gentleman who edits the Okolona States, and that is the one I caused to be read the other day.

Mr. MULDROW. I am not talking about a letter, I am talking about a printed circular.

Mr. FRYE. No, sir; I have received no printed circular. I would not myself engage in circulating such poison as is published in that paper. But the gentleman has had read an extract from another paper published in that district—an opposition paper—and says that that represents the sentiments of the democracy.

Now I want to read an extract from that paper. [Laughter and applause on the republican side.] It is from the same issue from which the gentleman took his clipping. It is this:

We admire General Chalmers as much as any member we have in Congress. Indeed—

That was the General CHALMERS who made the speech to which I replied the other day, and who made such charges against the northern people of this country.

Mr. SAMFORD. That gentleman is not now in his seat.

Mr. FRYE. I read:

Indeed we think he comes nearer saying the right thing at the right time than almost any member from the South, and for this reason, we earnestly protest against the recent attempt of the Bourbons to injure him and impair his usefulness by covering him with fulsome praise. They tried detraction and denunciation until they discovered, (hard as they are to learn anything,) that such a course on their part was beneficial to the "Little Game Cock," and now they have changed tactics and would have the world believe CHALMERS is one of them. No such thing; CHALMERS is a conservative democrat—

That is, a southern conservative!—

CHALMERS is a conservative democrat who is popular enough to be elected in a district having an overwhelming negro majority.

Mr. MULDROW. I should like to ask the gentlemen a question right here.

Mr. FRYE. Wait a minute.

Mr. MULDROW. If the gentleman will permit me.

Mr. FRYE. Yes, sir.

Mr. MULDROW. I ask the gentleman this question: I ask him to put his finger upon a single sentiment or to cite a single utterance which has emanated from the gentleman from Mississippi [Mr. CHALMERS] upon this floor which is not conservative.

Mr. FRYE. The House and the country have the speech of the gentleman from Mississippi.

Now, I wish to take an indorsement of the same gentleman from the Okolona States (which the gentleman from New York [Mr. COVERT] said I had advertised) to see whether the two papers do not run in the same current; whether they do not eat their soup out of the same bowl with the same spoon. [Laughter and applause on the republican side.]

That recent speech of Hon. J. R. CHALMERS, on the use of troops at the polls, will thrill the South to the very core of its heart. It was grand, it was great, it was the speech of the crisis. Mississippi is proud of her brigadier. Cheers for CHALMERS!

Mr. MULDROW. I insist that the gentleman shall——

Mr. FRYE. Right below it in the same connection is the following:

The men who unleashed the hounds of war upon our people in the name of "Union" were traitors, and they must be branded as traitors before the world and damned to the depths with the Benedict Arnolds who opposed secession and secessionists in the days of the Revolution.

[Laughter and applause on the republican side.]

So much for the two papers. Now for the Okolona States. Some gentleman has handed me, I do not know who, but I presume it is correct——

Mr. MULDROW. Was he a democrat or a republican?

Mr. FRYE. A statement of the Okolona States's circulation, which shows that it has increased its circulation since 1874 127 per cent.

Mr. VANCE. But what circulation did it start with?

Mr. FRYE. It has to-day, he states, as large a circulation in its county as any paper in any southern county outside of some large city.

Mr. MULDROW. I wish to say a word.

The CHAIRMAN. The gentleman's time has expired.

Mr. MULDROW. My question in reference to the gentleman from Mississippi [Mr. CHALMERS] whose utterances the gentleman from Maine has stated are incendiary and revolutionary, has not been answered. He has referred to no sentiment of the gentleman from Mississippi which shows the statement he has made can be substantiated. I will say further that the quotation which the gentleman from Maine has just made comes from the same paper which recently has become so popular with the republican party.

Mr. GEDDES. Now, Mr. Chairman, I do not wish to be considered as wanting in courtesy, and I declined to yield to the gentleman from Maine simply because of the limited time allowed me. But as we are charged with being wanting in chivalry, I notice that when a similar appeal was made to the other side the other day, a gentleman there said, "Not now, sit down!"

Mr. SAMFORD. There were two or three of them said the same thing.

Mr. GEDDES. Mr. Chairman, being a new member of this House, I have doubted the propriety of participating in this discussion, knowing the time could be more profitably employed by the more experienced members. Other considerations, however, have induced me to ask the indulgence of all for a short time.

We all appear to realize the magnitude of the questions before us and the responsibilities resting upon us, but the able and exhaustive arguments already submitted, with those coming after me, will, I have no doubt, enable us and the country to reach a safe conclusion.

From our stand-point personal and civil liberty seems to be imperiled. It appears to be a struggle for the maintenance of popular government. In such a contest every pulsation of my heart beats in unison with the interests of the people.

This is not the first time these questions have been considered in this country. They divided political parties in the infancy of our Government, and have frequently since agitated the public mind and the judgment of the American people required in reference to them. They are still vital to our political well-being.

These laws under consideration should be repealed on three grounds:

1. They are unconstitutional.

2. The purely partisan purposes to which they have been and can be applied.

3. They are vicious and impolitic in principle.

I shall only attempt to discuss briefly the last-named proposition; the others have been unanswerably established.

The republican party having obtained and for long years held absolute, almost unlimited control of the Government of this country, could and did exercise the power of fastening upon the people measures that have produced countless evils, and still threaten more serious consequences.

This gives rise to the questions pending before us, and they must be decided in view of our accountability to that great tribunal—public opinion—from which there is no appeal but to our own consciences and our God. The final result before a liberty-loving people, capable of self-government, cannot be doubtful.

We must, then, as their representatives, enter upon and carry out this grand, patriotic work of real reconstruction of the laws on the basis of the Constitution, with the same dignified, dispassionate, and unconquerable spirit that animated and guided the founders of our institutions. To do this many of the idols of the republican party must be demolished. Precious principles long neglected and contemned must be restored. We must return to the political landmarks of the fathers. The paradise of government practically subverted by the vicious legislation during republican rule must be regained. As Moses the leader of God's chosen people took the molten calf which the people had made of the golden ear-rings of their wives and daughters, and burnt it in the fire and ground it to powder, and strewed it upon the water, so must we utterly destroy this ruinous legislation of the past. We must start out and travel along the broad, plain highway of constitutional liberty.

I am alarmed and tremble for my country when I find a respectable minority—men of gigantic intellect and wielding immense influence—vigorously and persistently struggling to maintain upon our statute-book a species of legislation seriously at war with popular government. It certainly is in the direction—unintentionally I trust—of a monarchical form of government. Will it not recall to the public mind the action and spirit of men who aroused the patriotic apprehensions of General Washington at an early period, when he wrote to Mr. Jay, saying:

> What astonishing changes a few years are capable of producing! I am told that even respectable characters speak of a monarchical form of government without horror. From thinking proceeds speaking; thence to acting is often but a single step. But how irrevocable and tremendous! What a triumph for our enemies to verify their predictions! What a triumph for the advocates of despotism to find that we are incapable of governing ourselves and that systems founded on the basis of equal liberty are merely ideal and fallacious! Would to God that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend.

These words of wisdom and undying love of freedom come to my mind and heart at this time as peculiarly appropriate, and in my action I desire to heed them.

Much of the legislation of the Federal Government during the time the republican party held unlimited control of our affairs and guided the destinies of this mighty Republic was enacted with reference to a real or supposed temporary exigency, and without much consideration of or regard for the Constitution of the country or the real spirit and genius of our form of government. The laws for the appointment of Federal officials as supervisors of election in the several States belong to that class of legislation, and are so obnoxious to the people and subversive of free institutions that the people all over the land demand their immediate repeal. These laws make a bold direct attack upon the dearest rights of freemen. They cannot be justified or defended on any ground consistent with the perpetuity of free institutions. They strike down and would destroy the most sacred rights of the people. The very basis upon which the founders of our Government erected the grandest institutions known among men is endangered by these measures, and, if allowed to stand, the superstructure—the grand and inimitable political architecture we so much admire—will soon totter and fall.

The laws providing a test oath for jurors and expressly authorizing the presence of armed Federal soldiers at the polls, it is said, might have been repealed without resistance if democrats had consented to allow the laws authorizing the appointment of Federal supervisors of election and of deputy marshals to take control of elections to stand. Such a concession on our part would have been an inexcusable surrender of a great principle and abhorrent to the people we represent. I know that that alone would be a grand work, and it will be a bright page in our history.

For the people—peaceful, law-abiding citizens in the performance of their duties and in the enjoyment of their immunities—feel a deep-seated aversion, an irrepressible repugnance to Federal muskets at the polls. They are naturally and wisely jealous of such influences. They understand and interpret the true and unmistakable meaning, of soldiers at the voting places to be that the people cannot be trusted, and that brute force is essential to maintain order. Thhis mode of subduing men cannot be acceptable to the masses of any party. It would therefore have been gratifying to to me, and a far more hopeful sign of the times, if laws so vicious and so destructive to civil liberty could have been wiped out by common consent. They should and will be buried with the alien and sedition laws and kindred measures, all conceived in partisan bitterness and for a season sustained for mere partisan purposes. But, rest assured, the unerring judgment of the people will place over their tomb such an emphatic condemnation as will make their sleep everlasting.

And this inglorious effort on the other side of this House to rekindle the fires of sectional bitterness and feed and fan the withering, blighting, and blasting flames of discord and hatred will prove unavailing before the great mass of the people of all sections of our country, who now stand with outstretched hands imploring the good angel of peace, fraternity, mercy, and good-will to men to avert the mischief and give us once more—

> A union of waters,
> A union of lands,
> A union that none can sever;
> A union of hearts,
> A union of hands,
> Our own glorious Union forever.

These statutes under consideration are antagonistic to the cardinal doctrine of home rule, local self-government; the right of each State to enjoy in the spirit of the original Union all the rights not surrendered to the General Government. This constitutes the distinctive and vital feature of our political edifice. I know it has become the habit of the times, when any reference is made to the principle of home rule, sneeringly to meet it with the assertion that the States have no rights the Federal Government is bound to respect, and that what is wanted is a stronger government. A great centralized government, with the reins in the hands of one man—freed from the present constitutional restraints, freed from the checks and restraints of a legislative body—would, they reason, give us "peace and rest." But it would be the peace of a loathsome despotism, and the rest found in the grave of liberty.

Our country is of such vast extent, with such an infinite variety of local interests, and with such diversified wants growing out of climate, soil, productions, and habits, that the necessary and unalienated rights of the local authorities of the States must be adhered to, preserved, and cherished. The founders of our Union succeeded in overcoming the difficulties in their way, and establishing the Union consistent with local self-government in the States.

In thus solving this grand political problem, they manifested a wisdom, foresight, and statesmanship unequaled in the history of our race. What they settled I hope to see as enduring as the everlasting hills. They determined to have a national government—a union of the States—with the rights of the nation and the rights of the States based on principles consistent with the welfare and prosperity of each. By their action, the sovereignty of the several States was left unimpaired and unaffected in respect to all matters of local jurisdiction. They at the same time recognized and adopted the principle that the Federal Government was also the creature of the will of the people, and that the Federal Government should possess, exercise, and enjoy such functions as were essential for the efficient administration of the interests connected with the general welfare of the nation. Each—the States on the one hand and the Federal Government on the other—moving within the limits of this sphere assigned, and we have a system of government the best, purest, and grandest ever made by men for the people.

The inaugural address of Mr. Jefferson, delivered on the 4th of March, 1801, presents such an admirable epitome of the principles of the democratic party of that day, and for which we are now contending, that I will read a few paragraphs from it. He says the essential principles of our Government are these:

> Equal and exact justice to all men, of whatever state or persuasion, religious or political; the support of the State governments in all their rights as the most competent administration for our domestic concerns, and the surest bulwarks against anti-republican tendencies; the preservation of the General Government in its whole constitutional vigor as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people; a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the

vital principle and immediate parent of despotism; the supremacy of the civil over the military authority. They should be the creed of our political faith, the text of civil instruction, the touchstone by which to try the services of those we trust, and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

Mr. Chairman, these principles are cardinal with the democratic party and should be, I submit, dear to every lover of popular institutions. Ever since our unfortunate civil war closed we have struggled to restore, and permanently secure, constitutional government and home rule wherever they were denied to any portion of our common country.

Under one pretense after another the principle was disregarded and trampled under foot by the party in power, and the legislation now about to be repealed forms one of the darkest pages of that history. Posterity will regard it as a disgrace to the party responsible for it. The disinfecting matter thrown over it in this dying effort to justify and perpetuate it cannot suppress the loathsome character of these laws nor the offensive manner of their execution.

I shall not stop to recount or describe the revolting scenes that have occurred in the free cities of the North in the execution of these laws. I leave that to others; I merely discuss the principle involved.

If I knew that in this beautiful city—the capital of this great nation every family were threatened with destruction by gunpowder concealed beneath each hearthstone, I would certainly give the alarm, trusting they would not wait to see the practical working of it before removing the danger. It should be enough for us to know that these laws are in principle pernicious and deadly.

This law, after providing for the appointment of an unlimited number of special deputy marshals to attend the polls under compensation at the rate of $5 per day, not exceeding ten days, by section 2022, makes the further provision which I desire to have read, and invite the earnest attention of every lawyer and representative of the people to its terms.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

This provision should arouse and startle the most confiding and indifferent citizen. After a careful reading of these laws I am shocked by the letter and spirit of them. It is absolutely amazing to see any intelligent man yield his assent to them unless he first deliberately resolved that our people are incapable of self-government and must at once be provided with a master. The country should be alarmed to find so many of their representatives willing to preserve and perpetuate these hateful, malignant, and destructive laws. An examination of the section read will show clearly their odious character. They show an unjust distrust of the people. There is implied a want of confidence in the honesty, integrity, and capacity of the people. The people are boldly told that they must be watched, guarded, and scrutinized as to the manner in which they enjoy their most precious immunity as citizens. This is an inexcusable insult to freemen. I regard these laws an unmitigated outrage. It is to my mind vile, wicked, partisan machinery, devised in the interests of a party now repudiated and in progress of being expelled from power by the people whose precious blood-bought rights were thus assailed.

The elective franchise is a sham, a mockery, and deceptive if surrounded by such influential and absolutely coercive appliances. If the hired minions of a party can be clothed with authority at discretion to supervise the conduct, interpret the motives, and construe the acts of a freeman as he is about to deposit his vote, and then and there, without process, arrest and imprison him, thereby robbing him of his liberty and dearest rights, then popular government in this country is a thing of the past.

By this law unlimited authority and discretion are conferred upon these Federal officials. Every citizen in the exercise of his right of suffrage is placed at the mercy of the hired minions of a party. These officials are empowered to appear at the place of voting, and, either before or after voting by a citizen, to arrest and take him into custody with or without process.

This he is authorized to do if in his judgment and discretion the citizen commits, or attempts or offers to commit, any of the acts or offenses prohibited. "Fraudulent voting" or "fraudulent conduct on the part of any officer of election" are designated as acts provided against.

Consider for a moment the mischievous and alarming power here conferred. For example, officers of election in the States, chosen by the suffrages of their fellow-citizens, in the performance of their duties must decide all questions of the elector's right to vote, and in discharging that duty their judgments and consciences lead them to accept the ballot of an elector, and forthwith the little Federal deputy marshal decides that the officers were thereby guilty of fraudulent conduct, seizes them, and removes them from the polls. Is not this utterly destructive of free elections?

Again, a freeman in the act of depositing his ballot or in approaching the polls for that purpose may be ruthlessly seized and held in confinement by one of these Federal officials without any cause, and with the simple excuse that the officer thought the citizen "had offered to commit" one of the offenses prohibited. The Federal officer is at liberty under this law to torture and misconstrue any word, act, or look of an elector, or of any officer of election, into an "offer to commit the offense." This infamous act not only confers the right to arrest a party when the Federal marshal or supervisor may think he has committed some offense prohibited, but when the official says the voter offers to commit it. They are allowed to pass judgment on the motives and intent of a party.

My colleague [Mr. MCKINLEY] in his speech on Friday last asserted in the presence of men learned in the law that these laws to be repealed are no innovation on the principles of the common law. I deny it. No such stigma rests upon that collection of laws transmitted to us through the purest channels of wisdom and love of freedom. If in my studies I had discovered such principles, my youthful ardor and stronger love of later years for the profession of my choice would have been weakened, if not entirely destroyed.

My friend palpably misconstrues this statute, and is thereby misled into a criticism of the remarks of my colleague, [Mr. HURD.]

To show the error, I quote from the speech of the gentleman, in which he says:

Great exception is made to that part of the law which authorizes the marshals to arrest without process. The impression is sought to be made that this power is exceptional and without any qualification, while an examination of the law itself shows that the power is carefully limited and guarded. My colleague [Mr. HURD] falls into this error, and would leave (unintentionally I have no doubt) a wrong impression of the law. Here is the language of the gentleman, found in his speech of April 1:

"The third objection is that these supervising officers are armed with authority unknown in the history of the common law or State laws. They have authority at the polls on the day of election to arrest, without warrant, any man whom they may suspect of being about to engage in a violation of the laws. There is no principle of common law or State law which can authorize the arrest of citizens on suspicion of an intention to commit an offense."

My friend has not read the law aright, as he will observe. Here is the language of the statute, "but no person shall be arrested without process, for any offense not committed in the presence of the marshal or his general or special deputies." Arrest without process *can only be made upon view of the crime committed in the presence of the officer*, not upon suspicion or idle rumor, not upon information, but upon actual view. There is nothing exceptional in this law.

The words quoted from the statute by my colleague [Mr. MCKINLEY] when thus detached from the words immediately preceding might mislead a non-professional person. The infidel by that method of detaching words tried to prove the Bible said, "There is no God," but the words immediately preceding in the same verse and connection furnished the explanation. The whole verse reads: "The fool hath said in his heart, there is no God."

Now, my colleague, [Mr. MCKINLEY,] for whom I entertain the kindliest feeling, construes the words he quotes to provide that an arrest without process can only be made upon view of the crime actually committed in the presence of the officer. To correct him let me read from the statute the words immediately preceding the words he quotes, in connection with his quotation, and the sense, force, and meaning of it is so clear that the plain, practical, common-sense men of the country can understand it and will not be misled. I read from the statute:

To arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies.

Thus it will be seen, when the offense is committed elsewhere than in the officer's presence then arrest without process is unauthorized.

I invite my colleague to review his examination of this law, and as he has attempted to defend it on an erroneous construction I still hope to hear him denounce it.

If a little Federal officer, called special deputy marshal or supervisor, should at the polls decide or profess to believe that a high-minded citizen was not entitled to vote, and finding him approaching the polls, he may under this law seize him and imprison him, on the sole pretense that he was "attempting or offering" to commit the offense. What becomes of the right of the people to be secure in their persons if this law is tolerated? Has love of liberty departed from the land, and must our rights be so insecure?

If we must have a despotism, I beg of you give it some appearance of decency. If such immense power is to be delegated to some one to overawe, intimidate, and control the action of electors, give it to agents who make pretension to fairness and have some sense of honor even when acting unjustly and arbitrarily. I hate, loathe, abhor despotism in any form, but I would infinitely prefer a military force at the polls to this unlimited number of unscrupulous deputy marshals. A monarch would afford better protection to person and property than these thousands of petty, corrupt, irresponsible officials. Great power invested in petty, irresponsible officials is the most alarming.

Then, Mr. Chairman, all danger of fraud at elections can be provided against without establishing a centralized despotism. All over

this country the people are divided into political parties, with partisan zeal and vigilance always sufficient to guarantee an untiring watchfulness at the polls to detect frauds, expose every infraction of the election laws, and bring offenders to punishment. This is not offensive to electors, and secures the highest degree of fairness practicable. It is then a contest of citizen with citizen, on equal footing, with equal rights, each prompted by pure, honest, patriotic motives, struggling for the triumph of what each believes to be right.

When our political contests, inseparable from popular government, are thus conducted, it may even be with great zeal and a high degree of partisan feeling, even bordering upon bitterness; but when the result is known all render a cheerful submission to the voice of a majority. This feature of the practical working of our system of government has commanded the admiration of the civilized world. As we have from time to time passed through the fiery ordeal of political controversies and settled our differences at the polls, yielding peaceful obedience to majorities and moving forward with the most extraordinary growth in all the elements which constitute the real greatness and glory of a nation, who has not felt proud of his country and had his heart swell with emotions of gratitude for the blessed achievements of our ancestors in behalf of freedom. Let us, then, enjoy and perpetuate this beneficent form of government.

These laws to be repealed affect most directly and materially the Northern States. This does not change the principle, but should awaken and "fire up" the northern heart to the dangers now brought home to our own doors. Another illustration is here furnished of the unchangeable law that you cannot by legislation do injustice to another, either individual, a party, or section of country, without sooner or later feeling the evil influences reacting and returning to vex and torment their authors. History is full of illustrations and warnings on this subject from the time Haman erected a gallows on which to hang good old Mordecai and got hung himself down to the present hour. In my youth this unalterable law of God was taught me by a good man repeating these lines:

He digged a pit, he digged it deep,
He digged it for a brother,
But the pit he digged he himself fell in,
The pit he digged for another.

We have been told that the President would veto our action, as if that should settle the question in advance. This is in keeping with the past history of that organization. With the republican party the Executive is at one time the Government, then again Congress, and then in turn the judicial department. But they should learn that in a free government such infractions of the constitution are not only criminal, but impolitic.

Our form of government has wisely conferred upon the three departments, executive, legislative, and judicial, distinct rights, duties, and prerogatives. They must each move and keep within the orbit prescribed or the entire system is endangered. Under this system of government these different departments may not at all times be in entire accord on questions of policy. What is to be the result? Must the immediate representatives of the people, fresh from their homes, familiar with the pressing wants, interests, and hopes of the people, surrender their convictions in obedience to the partisan necessities and greed of the minority or the views of policy that the Executive may be supposed to entertain? Must the legislative department in advance consult the will of the Executive and conform its action to his wishes? I trust not. We are here representing freemen, and whatever fate awaits us in the future, for myself I enter an earnest, heartfelt protest against this attempt to intimidate and coerce the legislative department. We are not required to anticipate the views or action of the Executive on these questions nor to assail his title to the exalted position he is allowed to fill. Our record on the question of that title—if I may be allowed the digression—has been made and has passed into history.

On the 3d day of March, 1877, the next day after the completion of the electoral count—of eight outvoting seven—a resolution passed this House by an affirmative vote of 146 democrats, and no democrat voting against it, as follows:

Resolved, That it is the duty of the House to declare, and this House does hereby solemnly declare, that Samuel J. Tilden, of the State of New York, received 196 electoral votes for the office of President of the United States, and that Samuel J. Tilden, having received the votes of a majority of the electors appointed as aforesaid, he was thereby duly elected President of the United States of America for the term of four years commencing on the 4th day of March, 1877.

This was followed by a resolution declaring the title of Mr. Hayes unassailable on the ground of the decision of the electoral commission. A party may be deprived of his home by the unjust judgment of a court in gross violation of the plainest principles of justice and law, and yet the title thus secured, it may even be by vicious, wicked means, remain secure from assault. Thus we must for the present acquiesce in that decision, but we cannot forget or forgive the great wrongs by means of which Mr. Hayes holds his seat. We have, therefore, as American citizens sworn upon our country's altar never, never to cease our efforts or lay down our peaceful, lawful, and constitutional weapons of warfare until the frauds and crimes committed to secure that high office for the present incumbent are condemned by a free election, and the choice of the people inaugurated and firmly seated in the presidential chair. To this end these instruments of fraud now under our control must be destroyed. This cunningly devised machinery that may be used to thwart the will of the people must be annihilated. These chains, forged to enslave us, are in our possession, and we would be untrue to ourselves, recreant to the great trust committed to us, and unfaithful to our children, if we failed to break them to pieces and grind them into dust.

Again, Mr. Chairman, we have heard it proclaimed on the other side of this Chamber, over and over, by my distinguished colleague [Mr. GARFIELD] and others, and the key-note thus sounded has been echoed back by a portion of the partisan press of the country, that this proposed repeal of certain laws is "revolutionary;" that by these measures we will starve the Government and it will die. Now, is this a serious apprehension, or is it mere declamation for political effect? Laws with us are not unalterable. To seek and accomplish a modification or repeal of an existing law is often the result of the second sober thought of the people, exhibiting the highest degree of wisdom and patriotism. What, then, confers upon the republican party the right to enact laws, and, when a repeal is attempted, boldly and defiantly to charge the act as disloyal and treasonable. Upon what meat doth these our Cæsars feed that they have grown so strong? "Though you speak with the tongues of men and of angels, and have not charity, you become as sounding brass, or a tinkling cymbal." The gentleman from Iowa, [Mr. PRICE,] in his speech on Saturday last, claimed for his party the charity "that suffereth long," but did not claim the charity spoken of in the balance of the verse, "a charity that vaunteth not itself, and is not puffed up, doth not behave itself unseemly, and rejoiceth not in iniquity."

It is not pretended that it would be revolutionary to make the appropriations provided for, or separately to introduce and pass the repealing measures included in this bill. But it is urged that this course threatens coercion of the Executive, and is therefore revolutionary. Is that the just or necessary inference? If so, then in numerous instances the republican party attempted to coerce the Executive and has thereby made a fearful record of its disloyalty. These very laws to be repealed were brought into being in that treasonable manner.

But we cannot know in advance the will of the Executive in reference to these measures. If we could be so devoid of the dignity and manhood becoming the representatives of the people as to seek it all the past history of the delicate and responsible duties incumbent upon the Chief Magistrate admonishes us that we would fail. He may be now impatiently waiting to gratify the people by a prompt and cheerful approval of them, but we cannot know it. It is certainly premature to conjecture the action of the President and imagine consequences that may follow, and from this vehemently and frantically charge the dominant party in Congress with the high crime of "an assault upon the life of the Republic."

Now, sir, this charge hardly merited the serious, earnest, and triumphant answers given it on this floor. When I heard the charge of a revolutionary purpose made it seemed to me, from my knowledge of the motives, aspirations, and hopes of my colleagues on this side of the Chamber, to be in keeping with the feelings of the tender-hearted maiden who was sobbing and crying hysterically, when her mother inquired the cause, and she said she had been thinking she might in a few years marry, and then in the course of time be blessed with a beautiful child, and then it might wander off into the woods and starve to death, and that it was nearly breaking her heart.

This claim that we are about to starve the Government and it will die informs me for the first time that the Executive, or members of Congress, or members of the judiciary constitute the Government. Every member of Congress might commit suicide, which is not supposable; the President might abandon the White House and flee to parts unknown forever, a still more improbable thing; and every member of the judicial department might leave the country in disgust at republican legislation, altogether the most probable thing, and still the Government would live.

The life of this great nation—of the Government of this country—does not depend upon what the members of these departments may eat, drink, or wear. Its existence is not contingent upon the payment of the President's salary or my salary. We are not the Government. The Constitution of the country, the great organic, cardinal, and fundamental principles upon which our system of government rests, constitute the Government.

Our national life—the vital breath upon which our national existence depends—is the principle involved in this contest, the purity of the ballot-box, and freedom of elections. That precious right is here assailed, and when individuals or a party threaten to destroy it, we say we will not feed you or vote you money of the people while you are doing it. This is our mode of self-defense. We firmly believe the Government cannot live unless we so defend it.

Mr. Chairman, in conclusion I must say I have an abiding, unwavering faith in the capacity of the people for self-government; faith in the ultimate triumph of truth; faith in the permanency of the principles for which we now contend; faith in the triumph of constitutional liberty, and above all faith in the God of our fathers, and shall firmly and unflinchingly cling to the principles of civil government introduced by the statesmen of the Revolution. Following in their footsteps, I feel there is safety.

Mr. THOMPSON. Mr. Chairman, after the long and exhaustive

arguments which have been devoted to these questions by the leading gentlemen upon both sides of this Chamber, I do not flatter myself that anything I may say will throw any additional light upon the subject. But being the Representative and mouth-piece of a district in the State of Kentucky which feels the deepest interest in the repeal of the statutes now under consideration, I deem it my duty, in reflecting their sentiment upon this floor, to unite my voice, feeble as it may be, with that of gentlemen who have preceded me in calling a halt upon the policy of this Government which has trampled beneath its feet for nearly seventeen years the right of the States to control their own elections in their own way. I join with other gentlemen on this side in advocating the restoration to the States of the right to manage and control all elections within their own bounds according to the laws enacted by themselves.

These are great questions, Mr. Chairman, and I think it but right that the consideration and discussion of them should be continued until this House is satisfied; for the more they are discussed the more certain it will be that even gentlemen upon the other side who now stand firm against the repeal of these statutes, when left to themselves, and when the passions of the hour die within them, will come forward, as men and patriots, and stand upon the same platform on which the democratic party stands—that there shall be in this land, henceforth and forever, free elections, untrammeled by either the civil or military power of the Government, and untainted by fraud on the part of its officers.

These questions which we are called upon to decide are fraught with more of evil or of good to future generations than any that Congress has been called upon to decide since the adoption of our Constitution. When that instrument was adopted no man who voted for it in the convention, or who framed any provision that is a part of it, dreamed for a moment that the power granted to the Federal Government to make or alter the regulations of the States with reference to the election of Senators or Representatives would be prostituted in the manner in which it has been. The democratic party intend to go on with this conflict until each and all of these statutes are repealed. They have renewed it here and now, in the interest of the people, in the interest of the Constitution, in the interest of liberty, and in the interest of the sacred rights of the States.

I hold, Mr. Chairman, that within the limits of the Constitution there can be found no warrant for the usurped authority that has been exercised by the Federal Government to control the election of Representatives by the States under the cover of enactment by virtue of that clause in the Constitution which authorizes it to make or alter such regulations as the States may make in regard to their election. I submit that the Federal Government, under the Constitution, can never hold an election of any kind. Such a thing as a United States election is unknown to that instrument; it contains no provisions for holding such an election. Can there be a United States election without a United States voter? Can you hold an election without electors? And if there are no United States voters, (which has been held and decided by the highest courts of this land interpreting the Constitution for us,) shall we provide ways and means whereby the Federal Government shall interfere with the rights of the voters of the States—by bulldozing and intimidation, driving away from the polls those whom the States, acting within their constitutional authority, have authorized to approach and register their will undismayed and unintimidated by any interference upon the part of the Federal Government or any foreign power.

Will any gentleman on this floor claim that there is any such thing as a United States voter in this land? Will any man in this House claim that the Federal Government has ever conferred upon any individual the right to vote? Not one. Gentlemen on the other side, who have stood here defending these laws, have not ventured to take the ground that there are any citizens who are made voters under the laws or by the Constitution of the United States.

The fifteenth amendment of the Constitution, which is the only provision having any relation to the right of suffrage, confers that right upon no one; it simply limits the right of the States to disfranchise any man on account of race, color, or previous condition of servitude. The fifteenth amendment provides no more than this—that no State of this Union which theretofore had the right to fix the qualifications of electors should disqualify any citizen as a voter upon the ground simply that he was of African descent. That is all the amendment means or says.

Then, Mr. Chairman, if the United States Government has no voters or electors, in the name of common sense what right has this Government to go into the States and seize upon the electors or voters of a State when they are exercising their rights under the constitution and laws of the State? I know that Congress has the right to make regulations on this subject, or to alter regulations which the States may have made, and when it does make or alter such regulations I know that it is incumbent upon the States to send Representatives here in accordance with the regulations that Congress has made. That being so, gentlemen on the other side who address themselves to this subject ask, "Cannot the Government control this matter? Is not power given in the Constitution to the General Government to enforce these regulations? Do gentlemen upon the democratic side claim that Congress is to enact a law which it has no power to enforce?" I answer no, gentlemen; far from it. The Government has the power to enforce these regulations; this power is given by the Constitution itself. In what form is it given? In the provision that—

> Each House shall be the judge of the elections, returns, and qualifications of its own members.

If any State dares to send here men not elected according to the requirements of the laws of Congress in regard to the time, place, and manner of holding elections, then Congress must refuse seats to such men, and the State must go unrepresented in these halls. That is the only means this Government has of enforcing such regulations as may be enacted.

This is just and fair, if there be any such thing as State sovereignty. What do you mean by sovereignty? What is the difference in this respect between the States and the Federal Government? The Federal Constitution and the State constitutions limit to a certain extent the power of the States. But for these limitations the States would be sovereign in the fullest sense of the term, possessing full power to do whatever they chose, without restrictions of any character whatever.

When we look at the Federal Government we find that it is by the very terms of its creation a government restricted in its powers. The Constitution is the charter and law of its being. Every right which it is to exercise must be found there, given either expressly or by necessary implication as an incident in carrying out some expressed grant.

They stand upon different footings: the one the possessor of all power that is not expressly denied to it; that is a sovereign indeed; and the other the possessor of only such power as the charter grants to it, which, as I have said, is that which gives to it life and is the law of its being and existence. Therefore, when you come to investigate these matters you will find there is in this land and in this country such a thing as the sovereign power of a State, which sovereign power has a right to control all matters of election within its limits. The Federal Government has no more right to invade the precincts of a State in the case of a congressional election than it has in any other State election.

Do any gentlemen upon the other side of this House pretend that if a State refuses to act, as some of these gentlemen have put it, Congress can pass a law and send supervisors of election and Federal marshals there to hold their own election, and send men into the halls of Congress without the aid of the State? Not one pretends to say that. You know that unless a Representative comes direct from the State, clothed with the authority of the State, with the votes counted, and his certificate of election given to him by the governor of the State, he has no right of entrance into these halls though he may have all the certificates that all the supervisors and marshals of this land could give him thrust into his pocket.

Then if this election is a State election, what right has the Government to interfere in it? None whatever; none at all. How far can it interfere? It only furnishes the regulations by which the election is held by the State. It can take no part in the election whatever. The Government furnishes the rule and the State goes by it. The Government can go no further than the Constitution authorizes, and that is "to make or alter such rules." Its duty and power ceases there. After the election it can go so far as in the Hall of this House when the Representative comes to present his credentials, to see that his election and qualifications and the returns are in accordance with the laws of Congress and the Constitution of the country. But the gentleman says: "Suppose the State refuses to act, what then? Suppose some State says it will not send to the halls of Congress a Representative, then if a majority of them so act, why Congress must die and the Government be dissolved." That may be true, gentlemen, if enough of the States of this Government were deliberately to determine they would send no longer their Representatives to Congress. Whenever this shall take place, whenever this Government falls so low in the estimation of a majority of the States of this Union, whenever it becomes so contemptible, degraded, or tyrannical that a majority of the States shall deliberately determine in their wisdom that they will no longer send to this House their Representatives, it is better that this Government should die, and that the people should institute another against which they have no prejudices, and which will not perpetrate upon them those wrongs which have brought into hate and contempt the Government with which they refuse to affiliate and support.

I say there can come no wrong to the Government from a source of that kind. No State will refuse to send here her Representatives. Why? Because if she fails to send her Representatives here she has to bear taxation without representation in the halls of Congress. She cannot escape from the payment of her dues, although she receives no benefit from those assessments. And if some State were to determine even for the time being not to send Representatives, the time would come when the patriotism of the State and of its people would assert itself and their Representatives would be returned to the halls of Congress. Non-action or failure to elect Representatives by a majority of the States might produce death, but no republic can by its constitution provide against non-action at some time on the part of the many branches into which the various powers are distributed. There is no remedy consistent with its form; there is none except a centralization of all power into the hands of one person; then there is no room for dispute, and non-action cannot occur.

Neither is there room for liberty. Our forefathers wisely preferred a republic, however evanescent, with its powers distributed, to absolutism perpetual. They preferred to rely upon a love of liberty and patriotism to protect the Government from death by non-action. When in the history of this world did any republic ever die from non-action? Point to it. Not one. But the shores of time are strewn with the wrecks of those who have been broken by the storms, passions, and the ruder shocks of brute force. Brute force is military power. Brute force is soldiers at the polls. Brute force is hired bullies and paid spies, called here supervisors and deputy marshals, by which those in power perpetuate and increase it. It is the same police and *gendarmerie* relied upon by the Bonapartes and other tyrants of the world, when in the name of law and order, ay, even liberty, they surrounded the polls to keep the peace and prevent fraud, and under surveillance like this the people were said to have established a strong government to protect them from fraud and to keep the peace at the polls. After that the Emperor never troubled them with other elections except when he wanted his power increased or confirmed.

The theory of our whole system oppose any interference even by the State, much less the General Government, in the polling precincts on the day of election. Our Government is founded upon a thorough conviction that the people are capable in the States of taking care of their State affairs, in the county of their county affairs, in each voting precinct of theirs. Thus is each local community made independent and trusted to take care of its own affairs. The law presumes there is enough interest, enough honesty, enough sense at each poll to see there is a free election and a fair count; that each party will watch the other, and interest will protect and defend against opposing interest, ambition against ambition, just as it is in the highest branches of the Government. Mere laws in the Constitution or upon paper are idle barriers to ambition or wrong. There must be opposing influences to restrain. If local influences fail to secure a fair election, then the theory of our Government is a failure and the experiment will sooner or later end in disaster. Paid bullies and hired spies under the control of distant power cannot do good, but will themselves become the source of frauds and oppression not dreamed of before. These laws not only lay down the gap by which all manner of frauds and evils may enter, but themselves violate those provisions of the Constitution which enable the States to fix the qualifications of the voters. The qualifications of the voters in some States are dependent upon registration, and the States alone can fix their qualifications. Yet we find in these laws, sections 820–821, sought to be repealed, wholesale provisions for United States supervisors and marshals over the registration lists which are made for the use of the State and under its own authority, whereby such registration lists are virtually annulled and set aside. They may challenge any one who presents himself for registration. They may inspect the list and mark any name for challenge. They put their names upon State records without authority of the State, and all this long before the election is held. No stretch of the words "manner of holding the election" can be made to cover this arbitrary and tyrannical assumption of power on the part of the Federal Government over the registration lists of the States, which are the records of the qualifications of the voters. This power is expressly given to the States and denied to Congress by the Federal Constitution.

These laws go even further than this. They make the supervisors and marshals peace officers, and direct them to keep the peace at the polls. Keep whose peace? Not the Federal Government, for it has no peace except upon the high seas, in this District, and such territory as has been ceded to it by other States, and in the Territories. To keep the peace of the State! Can the Government keep the peace of the State at the polls? What provision of the Constitution gives this extraordinary power? Nowhere; no man will claim it. The peace may be broken at the polls without in any way affecting the election. What amounts to a breach of the peace often puzzles the brain of astute judges. If two drunken men get into a row the peace is broken and they must be arrested by United States marshals, and in my district it is well known what this means. It means, guilty or not guilty, confinement in jail, separation from family, transportation to a distant part of the State, robbery of what little the poor fellow has, and finally a return, half naked, starved, and half dead, to where he once had a shelter and family and home to find all sacrificed in a vain effort to protect him from unjust persecutions at the hands of United States marshals. A man who if guilty before any magistrate would pay a small fine for an election spree must be arrested and bail taken after being carried before some commissioner who may live fifty miles away, confined until bailed in a loathsome jail, all at the caprice of some irresponsible deputy marshal. The United States Government has no more to do with the peace at the polls in Kentucky than the Czar of Russia, unless in case of invasion or insurrection when called upon by the State authorities under the circumstances prescribed in the Constitution. If the congressional elections were broken up by force there is no United States statute to punish the criminal, because it is no offense against the Government, but against the sovereign power of the State.

For over three-fourths of a century in the history of this Government no such laws were dreamed of, no one ever thought about the General Government entering a protectorate over the State from the frauds of its own citizens, or placing its hired bullies around the ballot-box, with unlimited and irresponsible power of arrest over the voters. Whence came these laws which are a satire upon self-government? And if there exists such a necessity as to render it imperative to retain them, destroy the hopes of man in the ultimate success of this probably the last grand experiment under fortuitous circumstances of self-government by man. Upon what foundation are they based, where is the prototype upon which they were modeled? Did our republican friends go to the teachings of the fathers, to the Constitution of the country, to any of the grand old Commonwealths who, never overrun by invading foes, still feel the pride of their ancestry? No. The laws on which these were modeled were exhaled from the miasmas of the swamps which around the Crescent City breed and generate noxious poisons and disease, and which, like the yellow fever, are conveyed to the systems of those with whom they are brought into contact by ties of commerce or association. The rottenness, degradation, and infamy of carpet-bag rule in Louisiana brought forth the leprous offspring which was adopted by its paternal sire, the great republican party, and invested with power to control the elections in this country against the will of the people, in order that they might gratify their unholy lust for place, plunder, and power. The disfranchisement of the majority of the respectable people made their enactment possible. They provided the ways and means for a continual reproduction of the same result. Registrations, supervisors, and marshals were then for the first time used as machinery to thwart the expressed will of the people, to renew the lease of power in the interest of those who appointed them. The means were so apt, covered by a pretense so laudable and in their operation so certain that the great leaders at Washington, with the foresight worthy of a better cause, determined to provide against the fall of their own dynasty by similar means. The use of United States marshals and deputy marshals under the enforcement act satisfied these wise political rascals that a modified law would serve their purpose, and they determined to put under the surveillance of their own party the election of Congressmen in every State in this Union, so far as was necessary to secure a continuation of their power.

Now, Mr. Chairman, what necessity exists for these laws? As my time is limited I will not stop to consider the subject of the Army provisions which have been so long and elaborately talked about by the various gentlemen who have taken part in this debate. It is not worth while now to spend time upon that. The very gentlemen upon the other side of the House who have so ably argued that question admit—the gentleman from Ohio, [Mr. GARFIELD,] himself the leader of the party on the other side and the only gentleman who has presented a plausible statement of their case before the country, was himself forced to admit that the measure was just and right, and if presented as an independent measure he would vote for it himself. He was opposed to its enactment; he is opposed to the continuation of it. Even the gentleman from Michigan [Mr. CONGER] came to the House with a proposition the other day, offered to the democratic party, that he would agree to the repealing of this clause, but he objected to the enforcement of these penalties on those who violated the law. He wished the clause simply stricken from the statute. Now, we intend not only to repeal the power to place soldiers at the polls; we intend to impose a penalty on the man who dares to put them there that will forever prevent the recurrence of the sights we have witnessed in this country. Men say here that soldiers have not been illegally used at the polls. Did not my colleague from Kentucky [Mr. KNOTT] read from the history of that State instances when, time and again, they had been used there? I do not refer merely to the scenes which were witnessed in that State just at the close of the war; for I know the license which war gives to override the law. But, sir, when peace reigns in the land as it does now, when the storms and passions of the war have gone by, and we are still called to witness gross outrages occurring under the cover of this law, I ask is it not proper and right we should repeal those laws which authorized those unjust acts to be committed, especially when there is no such thing now as insurrection or rebellion? Ought we not to take away the power from any man to ever again trample on the rights of voters at the polls?

Now you have seen States laid low with Federal invasion. Why, not two years ago—yes, a little longer than that—you recollect that in 1876 what a wail went all over the country from the little State of South Carolina, when her representatives, elected by her sovereign people, went to the halls of legislation and were met by a corporal's guard under the command of a rough, uneducated, brutal corporal, who was as ignorant as he was imperious, and backed by soldiers who obeyed his orders without questioning his power or authority, and those men who were elected by the people were turned away from the halls of legislation and were not permitted to enter. If you want to prevent a recurrence of similar scenes we must put our condemnation upon the illegal use of power, we must take from these men who upon occasions of this kind, urged on by passions, illegally use the soldiers; we must deprive them of the power of thus illegally using them. Shall we not do it now, when the voice of discord has ceased, when the passions of war have ceased, when every soldier has gone to his proper place on the frontier or on the Rio Grande? Is it not just and fair, is it not right and proper, to enter on the statute-books of the country our objection, without regard to

party, our universal condemnation of the use of soldiers either at the polls or in the state-houses of the various States, either to regulate legislation or to control elections?

Now, furthermore, the military power is not the worst oppression in this matter. As I have shown, I hope, in the short time that I have had, the illegal use made of the military and how the Constitution has forbidden and prohibits the Federal Government from interfering in any measure with voters at the polls, may I not show how the marshals and supervisors are illegally used? Will gentlemen say now that this power is not capable of being greatly abused, and will we suffer an unconstitutional statute which is capable of accomplishing and does do more evil than good to remain on the statute-book; which authorizes the Federal Government to interfere at the polls by virtue of the civil power when we are willing to strike out and take away the military authority? Is it more degrading to a freeman to be driven from the polls at the point of the bayonet than by a United States deputy marshal? Is it less an invasion of his sovereignty under the rights guaranteed to him by the constitution of his State to allow the power of the Federal Government to interfere in one way with his right to vote than it is in another?

These outrages have been occurring all over the country. You need not go to New York in 1876 as the only time and place at which outrages have occurred, but farther back than that. I want to read to you a report made seven or eight years ago upon this subject of United States marshals and upon their use at the polls by a republican Senate committee to a republican Senate. Here is what they say about it:

> In the First and Third wards of the city of Little Rock the enforcement act and the United States marshals seem to have been employed in attempting to break up the legal polls after they were organized; while in the townships of Ashley, Badgett, and Campbell it and the United States marshals were used to vote 176 more votes in said township than there are votes in them.

This was at the commencement of the employment of these United States marshals at the polls, and there was a report made to a republican Senate, by republican members of the Senate, that the United States marshals were thus used and united in the commission of the most infamous frauds ever perpetrated upon a free people.

That is not all they say; they say further:

> The heart grows sick and our confidence in the integrity of mankind sickens and grows less day by day as we probe the acts of corruption perpetrated in this country at the late election. Our sympathies are with the cause under whose banner these unblushing and bare-faced frauds were committed, but we feel republicanism cannot prosper, nor does it deserve to prosper by the use of means employed in Pulaski County, Arkansas.

This, gentlemen, is the earliest report upon the acts of United States marshals at the polls. If they broke up the legal polls then will not they do it now? If they perpetrated frauds so black as to render sick at heart their own political friends and make them lose confidence in mankind and ashamed of their own party, will they not do so again? If they voted one hundred and seventy-six more votes in the precincts of Archer, &c., than there were votes there altogether, will they not do it again? Will you continue them in power for such a purpose or to give them such opportunities for fraud and crime? Now turn to New York in 1876, and then Davenport, as shown by the testimony taken before a committee of Congress, issued on the night before the election thirty-two hundred warrants of arrest for foreign-born citizens, not for any crime they had committed, but to prevent them from voting under their naturalization papers obtained in 1868. They had used them every year from that time on, eight years in all. They had complied as far as they were able with every provision of the law. They not only had a right to vote, but were as conscientious in it as in any pure act of their lives. A test case had been tried before Judge Blatchford, a Federal judge of great distinction, in New York, and another before Judge Freedman, a State judge, and they each held that the papers were all right. Yet this supervisor instructed his deputy marshals to ignore these decisions and arrest all these thirty-two hundred men who offered to vote the democratic ticket, for those who would vote republican were not touched. On the contrary, all arrested who would agree to vote as they wanted him were discharged immediately. Under this wholesale order six hundred and sixty were arrested and dragged to jail deprived of the privilege of voting and shut up in a pen, worse than the "black hole at Calcutta," and kept in confinement until after the election was over and then turned loose without a trial. In fact, many of them had not voted and were guilty of the great offense of "wanting" to vote. Ten thousand foreign-born citizens were intimidated and driven from the polls on that day. Many who called upon Davenport in obedience to his imperial orders before the election had their papers taken from them by this supervisor and retained by him until now, as he exhibited some of them to the committee. You can tell how great this outrage was when you know that forty thousand foreigners were naturalized in 1868 in New York City, and Davenport by his act undertook to disfranchise all but six of this mighty number.

This is the way supervisors prevent fraud and protect the ballot. These outrages ought to be sufficient of themselves to repeal the law. There was a time when a party known as the "know-nothing" party waged an unjust war upon the foreign population and the people arose in their wrath and might and swept the party from existence. There was a time when a wrong perpetrated upon a single foreign-born citizen, however humble, would wake a thrill of passion in the breast of every American. Responsive to its call, we have extended our sympathy freely to them struggling in every land for liberty and reform. The names of Sobieski, Kosciusko, and Kossuth are as familiar to us here as household words, because they were martyrs in sufferings for the cause of liberty and freedom of mankind, and will we, who shed our tears so freely over these poor foreigners when oppressed by tyranny at home, turn from them without sympathy when their sacred rights which we have given them are ruthlessly violated by a petty tyrant here? Will we suffer the law to remain which enables such wrongs to be perpetrated?

[Here the hammer fell.]

Mr. McKENZIE. I ask unanimous consent that my colleague be allowed to conclude his remarks.

Mr. BAYNE. How long does the gentleman want?

Mr. THOMPSON. I will stop in five minutes.

The CHAIRMAN. The Chair hears no objection to the extension of the time of the gentleman from Kentucky.

Mr. THOMPSON. I will finish what I have to say upon the line of thought upon which I have been dwelling, then I will conclude.

Mr. Chairman, while upon this subject if you turn to the elections in New York in 1872 you will find that the cost of the presence of these agents on this occasion at the polls, as reported by the Caulfield committee, amounted to $120,000 in a single city; all used to pay the expense of the supervisors and marshals at a single election. You will find that in 1876, when Samuel J. Tilden was a candidate for the Presidency, in order to control the vote of that great city and State, they spent over $150,000 within the State for the purpose of hiring marshals, and they did hire five thousand men to stand around the polls and influence the election. That was nearly $30 to each man. What was the object of it? What was the purpose sought to be accomplished by it? However just the law may be, there was but one purpose that could have been had in view, and that was the purpose of corruption. It must be for the fraudulent purpose of buying votes, or using influences that ought not to be tolerated, or placing around the polls armed men to intimidate and drive away those legally qualified to vote.

Now, have we any use for this? Recollect that in Philadelphia these same scenes were repeated. A few weeks ago the Wallace committee took testimony upon that subject and United States Marshal Kerns was called to the witness-stand and testified upon this subject. I will read a short extract from that testimony. After he had testified that $50,000 of the people's money had been spent there for the employment of men to stand around the polls, Mr. HOAR asked him a question, to which the marshal replied:

> I believe the election would have been peaceable and safe from fraud without the deputy marshals. The city can do very well without the law for the appointment of supervisors and deputies; the local authorities can protect the polls.
>
> Question. Do you think the police amply sufficient to keep peace on election day?
>
> Answer. I think so, sir.

That is the statement of a republican official, of a man who administered this law in Philadelphia at the last election at an expense to the people of $50,000. He says that there were seven republican officers under the State, including the police of the city, that were already at each poll, and that they were amply sufficient to keep the peace on election day. This testimony, taken by the Senate committee, shows that the very deputy marshals were selected from the lowest and most degraded men. Murderers and drunkards were the men in whose hands this power was placed.

Can we in these hard times afford, even putting it simply on the grounds of economy, to spend $50,000 in Philadelphia, $150,000 in New York, and in proportion in all the cities of the Union having more than twenty thousand inhabitants? In 1876 the expenses aggregated about $285,000, in 1878 a little less. Thus is $500,000 of the hard-earned money wrung by taxation of the highest and most oppressive and unjust character turned to illegal purposes of corruption and intimidation at the polls of the States by the Federal Government. There are about forty cities in which the marshals can be placed, which, at $50,000 each, would make $2,000,000 expended out of the public Treasury to control the election of Congressmen. This is a large sum, but there is no reason why two, three, four, or five millions cannot be used in the same way. Every republican and every man in the city capable of being corrupted by $50 can be employed, and must be paid, if so employed, out of the public Treasury for ten days at $5 per day. Add to this the fact that all of them would be peace officers, and you may well wonder what our republican friends want with soldiers at the polls when they have a hireling force like this to rely on. With unlimited corruption funds provided from the public Treasury by these laws, and swelled with assessments on its officers, with the military to use when the necessity arises, the voice of the people can be and will be forever stifled and unheard. No wonder their elections for President are annulled and set aside.

I see that my time is about to expire. There are many other things I would like to have said upon this subject, but must forbear. I have one matter to which I would like to refer, a comparative table of the number of marshals, supervisors, and expenses. I will ask leave to append it to my remarks.

I thank the House for the attention they have given me and for the extension of my limited time.

Supervisors and deputy marshals employed in 1876, with compensation.

States and districts.	Amount paid chief supervisors.	Number of supervisors.	Amount paid supervisors.	Number of deputy marshals.	Amount paid deputy marshals.	Total amount paid.
Alabama, northern				150		
Alabama, middle				244		
Alabama, southern	$2,208 38	19	$500 00	192	$2,530 00	$5,238 38
Arkansas, eastern				785		
Arkansas, western				214		
California	1,578 99	105	5,230 00	244	4,225 00	11,023 99
Delaware				135		
Florida, northern				745		
Georgia	567 50			207	1,410 00	1,977 50
Illinois, northern		188	5,640 60	115	1,105 00	6,745 60
Louisiana	4,463 33	270	4,115 00	840	5,705 00	14,283 33
Maryland	977 55	574	2,950 00	1,223	8,085 00	12,012 55
Massachusetts	253 20	66	660 00	117	1,170 00	2,083 20
Mississippi, northern	50 50			239		50 50
Mississippi, southern				9		
Missouri, eastern	187 40	152	1,300 00	1,032	16,385 00	17,902 40
Nevada				9		
New Jersey	3,771 19	85	3,420 00	249	5,085 00	12,276 19
New York, northern	7,723 70	339	9,975 00	342	7,925 00	25,623 70
New York, eastern	12,150 52	370	11,674 00	723	11,986 00	35,810 22
New York, southern	19,383 36	1,070	32,115 00	2,500	39,785 00	91,283 36
North Carolina, eastern	591 84			166		591 84
Oregon				13		
Pennsylvania, eastern, (Philadelphia)	3,449 40	1,368	27,360 00	347	3,500 00	34,309 40
Pennsylvania, western		224	2,240 00	49	490 00	2,730 00
South Carolina	879 14			338	395 00	1,274 14
Tennessee, western	129 00			30	150 00	279 00
Texas, eastern	249 92	33	1,800 00	18	900 80	2,949 92
Virginia, eastern	551 05		1,630 00	201	1,785 00	3,966 05
Virginia, western	206 00					206 00
West Virginia				4		
Idaho				4		
New Mexico				78		
Utah				28		
Total	59,371 67	4,863	110,629 00	11,610	112,616 00	282,616 67
Amount paid United States commissioners in New York City for servisce under election laws						3,304 60
Total expenditures reported for 1876						285,921 27

Supervisors and deputy marshals employed in 1878, with compensation.

Alabama, southern	$1,551 71		$1,000 00		$1,000 00	$3,551 71
Georgia				34	170 00	170 00
Illinois, northern		224	4,480 00	224	2,240 00	6,720 00
Kentucky	116 00		870 00		870 00	1,856 00
Louisiana	1,313 60	206	3,000 00	120	4,000 00	8,913 00
Maryland	351 03	230	2,950 00	700	4,445 00	7,746 03
Michigan, eastern		52	1,300 00		2,935 00	1,435 00
Massachusetts		282	8,460 00		135 00	11,395 00
New Jersey	7,394 84	148	3,050 00	192	2,880 00	13,254 84
New York, southern, (city)		1,225	30,000 00	1,350	27,000 00	57,000 00
New York, eastern	15,972 33	354	10,620 00	584	6,500 00	33,092 33
New York, northern	7,558 80	374	11,000 00	374	7,000 00	25,558 80
Ohio, southern	740 45		890 00	71	447 78	2,078 23
Pennsylvania, eastern	5,830 00	1,370	27,440 00	750	7,550 00	40,820 00
Pennsylvania, western		312	3,121 00			3,121 00
South Carolina	579 35	34	680 00		700 00	1,975 35
Virginia, eastern	585 00	70	620 00	102	570 00	1,775 00
Total	41,922 51	4,881	110,081 00	4,725	68,442 78	220,446 29
Amount paid United States commissioner for services under election laws in New York city						2,267 95
Total expenditures reported for 1878						222,714 24

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BAYNE] is entitled to the floor for one hour.

Mr. BAYNE. I ask unanimous consent that the time for taking the recess this afternoon be extended from half past four o'clock until five minutes past five, an hour from this time. The reason why I make this request is that the hour to which I am entitled is to be divided between three gentlemen, each having twenty minutes. They desire to speak this afternoon. One is unwell and it does not suit him to come here to-night, and the other does not desire to speak to-night. I ask that the recess to-day be taken at five minutes past five o'clock.

Mr. STEPHENS. I hope there will be no objection to that.

Mr. THOMAS. The gentleman from Pennsylvania [Mr. BAYNE] has kindly agreed to yield me twenty minutes of his time. I do not feel able to speak this afternoon. I would ask that the time which the gentleman from Pennsylvania has agreed to yield to me I may be allowed to occupy at some other time when I am able to speak. If no such time can be given me, then I will ask leave to print my remarks.

The CHAIRMAN. The House has ordered that a recess be taken this afternoon at half past four o'clock. It is not in the power of the Committee of the Whole to change an order made by the House.

Mr. HUMPHREY. The motion to reconsider that order was not laid upon the table. It was left so that it could be changed.

The CHAIRMAN. The Chair thinks the gentleman from Wisconsin [Mr. HUMPHREY] fails to understand the difficulty. It requires the action of the House to set aside an order made by the House.

Mr. HUMPHREY. I understand.

The CHAIRMAN. If the gentleman from Pennsylvania [Mr. BAYNE] desires it, the Chair will accept his suggestion as a motion that the committee rise for a moment, with a view to modify the order which has been made by the House.

Mr. STEPHENS. Let the committee rise and let the House change the order.

Mr. BUCKNER. The House is now very thin. There should be a fuller attendance before an order of the House is changed.

The CHAIRMAN. The Chair did not hear any objection to the request when made by the gentleman from Pennsylvania, [Mr. BAYNE.] It is merely a formal motion in order to obtain the consent of the House.

Mr. STEPHENS. I ask consent that the order of the House directing that a recess be taken this afternoon at half past four o'clock be so modified that for to-day the recess shall commence at ten minutes past five o'clock.

There was no objection, and it was so ordered.

Mr. FORT. Allow me to suggest that when the recess is taken it be until ten o'clock to-morrow morning.

The SPEAKER. The Chair thinks that perhaps there are some speeches arranged for this evening.

Mr. FORT. My proposition is that when the recess is taken this evening it be until ten o'clock to-morrow morning.

Mr. STEPHENS. I would not object to that.

The SPEAKER. That can be done to-night.

Mr. ELAM. I do not think it would be competent for the House to-night, when probably there will not be more than ten or fifteen members present, to change any order of the House.

The SPEAKER. The proposition is that the recess be taken from to-night until to-morrow at ten o'clock. That is a matter that can be determined by the House to-night.

Mr. FORT. I now move that the House resolve itself into Committe of the Whole on the state of the Union, to proceed with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BAYNE] is entitled to the floor.

Mr. BAYNE. Mr. Chairman, there are three conspicuous objections to the bill under consideration, either one of which should defeat its passage.

The first is that it is framed to coerce the President to join the Senate and House in repealing or modifying the United States election laws under penalty of refusing the Government necessary supplies, and is therefore usurpation on the part of the majority in the Senate and House.

The second is that the repealing and modifying the United States election laws as proposed in the bill is supported on the ground that the Government of the United States has not the constitutional right to supervise and regulate elections of members of Congress unless the States are in default in providing suitable election laws, and would thereby put a dangerous if not fatal interpretation on the Constitution.

The third is, that the bill proposes the repeal of certain sections of the Revised Statutes and destroys the efficacy of the others by amendments, whose existence and enforcement are indispensable to fair and pure elections in many sections of the country.

I shall take these propositions up in their order, and endeavor to sustain them.

The distinguished gentleman from Ohio, [Mr. HURD,] in his speech of April 2, said:

> It is objected to these measures of legislation which we propose that there is a possibility by our passing these laws of restraining the veto power of the President; or, as my distinguished friend from Ohio put it the other day, of "interfering with his participation in the legislation." I deny that the President of the United States has any right to participate in the legislation of this country.

And the gentleman from Illinois, [Mr. SPARKS,] who had the Army bill in charge, said:

> I deny, therefore, that the President has any legislative power.

I quote these gentlemen because they are recognized leaders of their party, because their utterances were applauded to the echo by their party friends, and because they pointedly and succinctly deny that the President has legislative power.

Now, sir, although the Constitution says that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives," the limitation expressed is but apparent. In point of fact, the President has legislative power. Let us examine this question in the light of existing conditions. What is this I hold in my hand and which is under consideration? Why, a bill. It was a bill when it was first introduced. It will be but a bill after we shall have passed it. It will be but a bill after the Senate shall have passed it. What will make it a law? The President's approval, either directly by affixing his signature to it or indirectly or tacitly by retaining it for ten days. It is this approval, therefore, express or tacit, which transforms what is merely a bill, with certain attributes, into a law. What gentleman will say in the face of these facts that the President has not legislative power? It is his act, dictated by the same considerations presumptively that influence the action of this body and the action of the Senate in passing the bill, which makes the bill a law. The motives which influence him to approve the bill and those which influence us to pass it are identical. And his participation is just as essential, *pro tanto*, as that of this House or the Senate. Well, sir, if the President has legislative power, what is its extent? Is it so insignificant that it may be overborne at the pleasure of Congress without shock to constitutional equilibrium of powers, or is it so substantial as to render its assertion and preservation essential to the full and free exercise of the functions of government?

The answer to this question will be best presented by the closest possible analysis of the legislative power of the Government. At the risk, perhaps, of some criticism and possibly at the risk of correction, I shall undertake to show that the legislative power of the Government is susceptible of an accurate mathematical subdivision.

Since Professor Jevons has formulated algebraically politico-economic problems and converted many of them, as I think, into theorems, I may be pardoned the less pretentious effort to subdivide this legislative power into arithmetical proportions. The Constitution limits and enumerates the powers conferred on the different departments of the Government. Either by expression or necessary implication all the powers possessed by the legislative, executive, and judicial branches of the Government are defined. These powers are qualitatively and quantitatively separable, and the quantity and quality of power possessed by the legislative part of the Government as well as by the others are ascertained and prescribed definitely by the Constitution. Now, to legislate is to make a law. Who can make a law? The House of Representatives cannot do it; nor can the Senate; nor can both, unless the intervention of the President has brought into existence a certain condition of things. The House, the Senate, and the President, however, can make a law. The three concurring in the formal approval of a bill makes it a law. That, without qualification, would place one-third of the legislative power in each. But the Constitution says:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

This diminishes the President's legislative power one-half. For whereas without this provision of the Constitution, or if his veto was absolute, he would possess one-third or four-twelfths of the legislative power, and the House and the Senate a like quantity, with this provision the House and the Senate, by a two-thirds vote, have the power to enact a bill into a law notwithstanding the President's objections. Therefore, ultimately five-twelfths of the legislative power of the Government reside in the House, a like quantity in the Senate, and the remaining two-twelfths in the President. Before, however, he exercises his right to negative the bill, and after it has passed both Houses and been sent to the President, neither one nor both of the Houses can recall it, and the President constitutionally makes it a law by signing it, or retaining it for ten days in spite of Congress, thus denoting as plainly as facts and their logic can denote the absolute possession of legislative power by the President at that juncture of the bill's career. Why should not the President have legislative power? Story, Kent, the authors of the Federalist, and others agree that the qualified negative of the President is necessary to the protection of the executive authority; that it is an important security against the enactment of rash and improper laws, as I trust will be demonstrated regarding the present bill; that it is a salutary check upon legislation, and "calculated to preserve the community against the effects of faction, precipitancy, unconstitutional legislation, temporary excitement, as well as political hostility." These reasons indicate that the legislative function of the President is of the very highest importance.

And there is yet another reason why he should have a portion of the legislative power. He selects seven of the most eminent and able citizens of the country to act as his advisers, and he and they, with a full knowledge of all the departments and bureaus of the Government, its secrets, if it has any, its necessities, and its dangers, are surely excellent judges of the propriety of bills which necessarily bear upon matters pertaining to the Government. How much Congress depends upon the President and heads of Departments in preparing legislation is well known here. If it were not for the information so obtained I apprehend that many gentlemen who make much ado on this floor would cut a sorry plight if their zeal would hold out.

Although vetoes are not numerous in the history of the Government, the occasions when they have been overruled by the requisite votes in Congress may be counted, if I am correctly informed, on the fingers of one's hand. This indicates that, although the President's negative is qualified, it is practically almost coextensive with the absolute negative possessed by the Senate or the House of Representatives.

Two notable instances in our history show that the vetoes not only killed the bills but converted majorities into minorities as to the measures in the Houses of Congress. The first was that of President Jackson, who, in 1832, vetoed a bill renewing the charter of the United States bank. So convincing was the reasoning of his veto message, or so docile were his party followers, that they took up his principal objection, which was the unconstitutionality of the proposed charter, and made it their party shibboleth, and from that day to this no democrat in the whole country could or can reconcile a United States or national bank with the Constitution. The other notable instance was the veto of the inflation bill by President Grant. Now, sir, in view of the demonstration, as I must think, of the proposition that the President has legislative power, and in view of the corollary that his approval of a bill, according to the theory of the Constitution, is indispensable to enact it into a law, unless two-thirds of each House of Congress overrule him, what name will denote, what phrase describe the confessed attitude of the majority in this House regarding the bill now before it? When the Army appropriation bill was pending the gentleman from Kentucky, [Mr. BLACKBURN,] who is frank and outspoken, said:

> I am willing, and those with whom I stand are willing, to accept this issue, and we go further, we tender it. We are the ones to make the issue and we are ready

for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

* * * * * * *

I do not mean to issue a threat. Unlike the gentleman from Ohio, I disclaim any authority to threaten. But I do mean to say that it is my deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by parade of power. He must stand upon his conviction and there we will all stand. He who dallies is a dastard, and he who doubts is damned. [Great applause on the democratic side.]

The gentleman from Ohio, [Mr. MCMAHON,] in his speech of March 29, said:

I believe that we have made up our minds fully to take all the consequences before the people of an adherence to our views. If the President of the United States prefers to "starve the Government" * * * with him will rest the responsibility.

The gentleman from Mississippi [Mr. SINGLETON] said in a speech April 4:

For myself, President or no President, veto or no veto, I am prepared to fight upon this line until the work proposed is done, effectually done, whatever of time, labor, or expense it may involve.

And the Senator from Kentucky, [Mr. BECK,] in the last Congress, said:

They seemed further to agree, and I agreed with them, that if an extra session must be called, much as it is to be regretted, the very moment it is called the committees of both Houses would be organized and separate bills would be framed and passed as soon as possible asking the President of the United States to agree with the representatives of the States and people.

* * * * * * *

We insist that those matters pertain solely to the States and are part of their absolute right. * * * When these three laws are submitted to the President for his approval, as they will be, and are approved by him * * * the next Congress will in my opinion be ready to pass every appropriation bill. * * * If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own elections, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. * * * Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.

It was said by another gentleman from Kentucky, [Mr. CARLISLE,] whose ability and deliberation entitle his utterances to distinguished consideration, that "these laws," referring to the United States election laws, "must and shall be repealed." I quote the gentleman from memory. It has been decided by a democratic caucus that they shall be repealed. The repealing and modifying clauses are tacked to this appropriation bill, whose proper purpose is to supply the necessary means to sustain the Government in all its civil activities, and without which means the Government must cease to act. The menace is obvious; the purpose is evident. The majority says to the President "You must consent to repeal and modify these laws to suit us or the Government shall not have supplies."

There is but one word in the English language, in my opinion, which aptly and fully expresses the attitude of the majority, and that word is usurpation. It is an effort to wrest from the President the approval of a bill under the menace of anarchy. It is more than revolutionary: it is sheer, downright usurpation. It is an arbitrary arrogation of the legislative power of the President. It is a blow aimed at the heart of the Constitution.

The second proposition is that the repealing and modifying the United States election laws as proposed in the bill is supported on the ground that the Government of the United States has not the constitutional right to supervise and regulate elections of members of Congress, unless the States are in default in providing suitable election laws, and would thereby put a dangerous, if not fatal, interpretation on the Constitution.

It is unnecessary, in view of the repeated declarations of the gentlemen on the other side of the Chamber, to argue that the denial of the constitutional right of the Government to supervise and regulate elections of members of Congress, unless the States have failed to provide laws, is alleged as the chief reason for making the riders to the bill, because every gentleman, I believe, on the other side of the Chamber who has spoken to the question, has expressly alleged that the laws sought to be repealed are unconstitutional under existing circumstances. All who have spoken, so far as I have observed, insist that these laws are in violation of the Constitution. The gentleman from Ohio [Mr. HURD] fairly represents and produces views which seem to be unanimously entertained by the democratic majority when he says:

I know that gentlemen undertake to sustain the constitutionality of this legislation by referring to a provision of the Constitution, article 1, section 4:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

The manifest and true construction of this provision is that in the event of the people of a State failing to make provision on these subjects Congress in the exercise of its discretion may make regulations on the subject, and that when States make regulations Congress may alter them as to "the times, places, and manner of holding elections."

What is the meaning of section 4 of article 1 of the Constitution? The section reads:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

In the first place, the contemporaneous construction of this section, coupled with the historical fact that there was then as now—though not so strictly a partisan division then as now—one portion of the people who desired the formation of a nation with a government possessing all the necessary attributes of sovereignty and the inherent faculties of preservation, will shed some light upon it. Madison and Hamilton, the one a democrat and the other a federalist, were distinguished leaders of this portion of the people. The present republican party holds these views. The other portion of the people desired a confederation of States with the attributes of sovereignty residing in each State and certain delegated powers in the "Federal Government," as they chose to call it. The present democratic party holds these views.

Now, during the first Congress some of the States recommended amendments to the Constitution, some of which were adopted and others rejected. Among them was the following, which was moved in the House by Mr. Burke:

Congress shall not alter, modify, or interfere in the times, places, or manner of holding election of Senators or Representatives except when any State shall refuse or neglect or be unable by invasion or rebellion to make such election.

During the progress of the debate on this motion Mr. Madison said:

Mr. Madison was willing to make every amendment that was required by the States which did not tend to destroy the principles and the efficacy of the Constitution. He conceived that the proposed amendment would have that tendency, and was therefore opposed to it.

Mr. Burke's motion was defeated. At this same session Congress proposed twelve amendments to the States, ten of which were ratified by them and are now the first ten amendments to the Constitution. Is it not plain, in the presence of these facts, that section 4 of article 1 should not be construed as contended for by the other side. Why, the construction sought to be placed on this section was submitted almost *in hæc verba* as an amendment, and was rejected, and was rejected, too, on the ground that it would "destroy the principles and the efficacy of the Constitution." So we have not only a contemporaneous interpretation by an able democratic leader adverse to the construction of the majority of this House, but we have an actual repudiation of it as a proposition.

In reply to Mr. Monroe in the Virginia convention of June 13, 1788, who put the following inquiry:

Mr. Monroe wished that the honorable gentlemen who had been in the Federal convention would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators; and also why there was an exception as to the place of electing Senator.

Mr. Madison said:

Mr. Chairman, the reason of the exception was, that if Congress should fix the place of choosing the Senators, it might compel the State Legislature to elect them in a different place from that of their usual sessions, which would produce some inconvenience and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution.

With respect to the other point, it was thought that the regulation of the time, place, and manner of electing Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to Charleston, which has a representation of thirty members. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of this, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the Constitution.

In the second place, the obvious, fair meaning of section 4, article 1, is that Congress may at its pleasure, with or without reasons, at any time, by law, alter such regulations as the States may have made as to time, places, and manner of holding elections for Senators and Representatives, except as to the place of choosing Senators; or Congress may at its pleasure, with or without reasons, at any time, by law, make regulations, except as to the place of choosing Senators, prescribing the times, places, and manner of holding elections for Senators and Repesentatives. The complement of this section are those portions of section 2 of article 1 which read:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

* * * * * * *

No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

And those portions of section 3, article 1, which read:

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote. * * * No person shall be a Senator, who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State for which he shall be chosen.

And that portion of section 5 of article 1:

Each House shall be the judge of the elections, returns, and qualifications of its own members.

And section 2 of the fourteenth amendment:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Thus we find in the Constitution that the qualification of electors of a Representative shall be such as are requisite for electors of the most numerous branch of the State Legislature; that the Representative shall be chosen every second year; that he shall be at least twenty-five years of age; that he shall be a citizen of the United States; that he shall be an inhabitant of the State in which he shall be chosen; that a Senator shall be chosen by the Legislature of the State for six years; that he shall be at least thirty years of age; that he shall have been at least nine years a citizen of the United States; and that he shall be an inhabitant of the State for which he shall be chosen. And we find that Congress has power at any time by law to make regulations prescribing the times of holding the elections for Senators and Representatives, the places of holding such elections, except those of Senators, and the manner of holding such elections. We also find that each House shall be the judge of such elections, the returns, and the qualifications of those elected.

We further find that Representatives shall be apportioned among the several States according to their respective numbers; that the right of any male citizen of the United States twenty-one years of age to vote, unless forfeited by crime, for electors for President and Vice-President, Representatives in Congress, executive and judicial officers, or members of the Legislature of a State, shall not be denied or abridged.

All these provisions of the Constitution may be enforced by appropriate legislation. Now, sir, it seems to me to be perfectly clear that the powers conferred on Congress by the Constitution embrace everything that it is competent for the States to do in the matter of regulating elections for Senators and Representatives, except only as to the places of choosing Senators. And the powers not only embrace everything the States may do, with the single exception, but the exercise of them by Congress in making a system of laws relating to such elections would supersede and nullify the regulation of the States, for such system of laws when made by Congress becomes, by virtue of the second paragraph of article 6 of the Constitution, the supreme law of the land.

But the powers of Congress in controlling the elections for Senators and Representatives, not only embrace everything that it is competent for a State to do, but the fourteenth amendment augments these powers, and brings the elections for the judicial, executive, and legislative officers of the State measurably within the supervision of Congress.

Having the powers I have just enumerated, Congress may prescribe every necessary safeguard to a free, fair, honest election of its members. It may pass laws to prevent and punish illegal voting; to prevent and punish repeating; to prevent and punish ballot-box stuffing; to prevent and punish the use of tissue ballots; to prevent and punish all persons who make false counts, false returns, or take any step to defeat an honest expression of the popular will. In a word it may enact all necessary laws to prevent and punish those who by fraud, force, intimidation, bribery, or corruption, defeat an honest vote, an honest count, and an honest election.

The Government of the United States has the right and the power to preserve itself. Everything that may be necessary to its preservation and the integrity of the United States as a nation may be done by it through the constituted authorities. To prevent those from voting who have no right to vote, to protect those in voting who have the right to vote, and to prescribe such method and to appoint such officers for conducting elections as will secure these results—all these are clearly within the power of the General Government. The security of the ballot-box against all attacks, whether made insidiously under the guise of a strict construction of the Constitution or openly by lawlessness in any of its Protean forms, is the bulwark of free institutions and the liberties of the people. Do the laws sought by this bill to be repealed and modified transcend the competency of Congress to protect the freedom and purity of elections of its members? The proposition of the bill is to repeal the following sections of the Revised Statutes:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed.

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section 2020, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. * * * And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or his special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

Now the sections which I have just read are those which the majority desire to have wholly repealed. The sections which they propose to amend are as follows:

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check-books, whether the same be required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

SEC. 2028. No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not, at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section 2020, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. And there shall be allowed and paid to each supervisor of election, and each special deputy marshal who is appointed and performs his duty under the preceding provisions, compensation at the rate of $5 per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed, in any case, to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants. And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts, to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

It is proposed to amend section 2017 by striking out the words "and required;" and that section 2019 be amended by striking out the words "for the purpose of engaging in the work of canvassing the ballots," and by striking out the words "in respect to such canvass;" that section 2028 be amended by striking out the words "or a deputy marshal," and by striking out the words "city, town, county, parish;" that all of section 2031 of said statutes, except so much thereof as relates to the pay of supervisors of elections, and that all other sections of the Revised Statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special or general deputy marshals of elections, and prescribing their duties and powers and allowing them compensation, be, and the same are hereby, repealed.

Now, in all these sections, those the majority insist upon repealing and those they insist upon amending, is there a provision, is there a clause, is there a word which tends in the remotest degree to infringe upon the rights of any law-abiding citizen or to hinder any man having the right to vote from voting? On the contrary, do they not all look to the protection of the rights of the honest voter, to a fair count, and to the declaration of the true result? They speak for themselves; they contain their own argument.

The third proposition is that this bill is objectionable because it proposes the repeal of certain sections of the Revised Statutes and to destroy the efficacy of others by amendments—all which sections I have just read—whose existence and enforcement are essential to pure and fair elections in many sections of the country.

The multitude of facts brought to the attention of everybody from time to time through the press, reports of committees of Congress, and other sources of information, sufficiently suggests the necessity of stringent regulations for the conduct of elections. I shall not undertake to recount these facts, but shall content myself with a few quotations from the report of the House in the Fortieth Congress appointed to investigate election frauds alleged to have been perpetrated in New York in 1868, and the report made by the committee of the Senate to the last Congress on the election outrages in Louisiana and South Carolina in 1878. The present United States election laws, which the democratic majority want repealed or modified into mere semblances of the things they are and ought to be, were largely the outgrowth and consequence of these frauds in New York, and were so framed as to preclude to a large extent the possibility of the repetition of the frauds. It is not surprising that the democracy wince under the constraint of these laws, for before their enactment they could count in New York City on any majority necessary to carry the State. How much the prospective presidential canvass of 1880 may influence them in their desire for the repeal and emasculation of these laws may be conjectured without difficulty.

But I will quote from the report of the committee. It sums up its conclusions as follows:

Among the most prominent of the frauds committed in the interest of the democratic party in the city and State of New York in connection with the election in November, 1868, are these:

1. Many thousands of aliens fraudulently procured or were furnished with certificates of naturalization illegally or fraudulently issued, by means of which they were enabled to register as voters, and voted in violation of law.

2. Many hundreds of certificates of naturalization were granted in the names of fictitious persons, to be used by native-born and naturalized citizens and aliens in falsely registering as voters and to enable them to vote many times at the election.

3. Many hundreds of persons voted in New York City from two to forty times, or more, each under assumed or fictitious names, fraudulently registered for the purpose.

4. Extensive frauds were committed in canvassing tickets, and names of voters were entered on the poll lists and democratic tickets counted as if voters representing them voted, when no such persons voted at all.

5. To accomplish these frauds, gross neglect of duty and disregard of law, so great as to evince a criminal purpose, prevailed in some of the courts, while officers and democratic partisans of almost every grade, either by official influence or otherwise, aided, sanctioned, or knew of and failed to prevent them. The same influence shielded the perpetrators in nearly all cases from detection or arrest, and when arrested they have, through the agency of judicial officers and others charged with the duty of prosecution, escaped all punishment.

6. Through these agencies the democratic electors of President and Vice-President and the democratic candidate for governor of the State of New York were fraudulently elected.

7. And the investigations of the committee show that existing State laws and the mode of enforcing them are wholly inadequate to prevent these frauds, but that Congress has the power to enact laws which, if faithfully executed, will to some extent furnish remedies hereafter.

The report of the Teller committee, as it is called, of the Senate regarding the elections of 1878 in Louisiana and South Carolina contains such a mass of outrages upon the rights of the voters that I can only quote a few selections as specimens. The report says regarding Caddo Parish, Louisiana:

The democrats declared, through the press and otherwise, their determination to carry the election. They organized a rifle company and cavalry companies, claiming that such organizations were necessary for the protection of the white people. In ward 1, with its southern boundary within five miles of Shreveport and its northern boundary on the Arkansas line, the voting place was located at the extreme northern part of the ward, about thirty-five miles from the southern boundary. The registered vote in this ward was, colored 325, white 15. Nineteen-twentieths of the voters were compelled to travel at least twenty miles, making a total trip of forty miles, through swamps and across bayous, to deposit their ballots. In the ordinary stage of water it would have been impossible for the voters to have reached the poll except by a water-route of sixty miles. It is claimed by the democrats that the republicans, when in control of affairs, had located the polling place at the lower end of the ward, and thus discommoded the voters of the north end. The republicans, on the contrary, insisted that there was at that time one voting place in the northern part and one in the southern. However this may be, the majority of the voters resided in the southern part of the ward. Notwithstanding the distance and the character of the country to be traversed, about three hundred voters made this trip, starting on Sunday night and reaching the polling place early on the morning of election. Two hundred and seventy deposited their votes for the republican candidates. But after the most of the voters had left for home a band of armed white men took possession of the ballot-box, and broke it up and destroyed the ballots, so no return was ever made from that voting place.

After showing a great variety of outrages in Natchitoches, Tensas, Concordia, Pointe Coupée, and Saint Mary's Parishes, the committee gives the following summary of murders and violence:

The examination of the committee, it will be seen, was confined to but seven of the fifty-two parishes of Louisiana. In these seven parishes the evidence shows there were murdered "for political purposes," during the campaign of 1878, John

Williams, (page 45;) Robert Williams, (44, 57, 186, 192, 236, 347, 470;) Luke Wiggins, (44, 48;) Lot Clarke, (46, 58, 62;) Billy White, (46, 48, 62;) Greene Abrams, (49;) Josiah Thomas, (58;) Charles Bethel, (192, 236, 337, 347, 561;) William Singleton, (178, 191, 348;) Monday Hill, (186, 192, 236, 347, 469;) Louis Posthelwaite, (186, 347;) Richard Miller, (192, 236, 347;) James Starver, (192, 347, 473;) Commodore Smallwood, (236, 348, 355;) Charlie Carroll, (236, 355;) John Higgins, (278, 348;) "Doc." Smith, (347, 355, 359;) William Hunter, (348;) Hyams Wilson, (348, 355;) Wash Ellis, (348;) Asbury Epps, (244, 348;) John Robinson, (355;) Rufus Mills, (416.) Besides these there were fully as many others murdered, whose names the committee were unable to ascertain, whose corpses were seen, by witnesses who testified before the committee, hanging on trees or lying dead in the streets or fields. Dozens more were wounded, from shots fired at them with murderous intent, some of whom were present as witnesses before the committee exhibiting their scars; others were whipped, or beaten, and mutilated; wives were tied up by the thumbs and whipped for refusing to tell where their husbands were secreted; scores of leaders in politics among the colored men were driven from their homes, leaving their crops in the field and their families unprovided for. In brief, a literal "reign of terror" existed, and in fact still exists over a considerable portion of Louisiana as the result of the policy adopted by the democracy for perpetuating its rule in that State.

In South Carolina, which, like Louisiana, is naturally a republican State, all kinds of tricks and devices were resorted to, not only by the democrats in unlawful organizations, such as white-liners, white-leaguers, &c., but by the Legislature itself, to defeat fair elections. Charleston County has a population, by the State census of 1875, of 89,883 colored; 33,606 white. It has been a republican county from the organization of the republican party, and in 1876 gave a republican majority of over 6,000.

The report of the committee says:

The Legislature * * * began preparation for the next election by changing and abolishing the polling places in Charleston and other counties. The counties most affected by this act were those of Charleston, Colleton, Beaufort, and Orangeburgh—all republican counties. Some of the polling places abolished by this law had existed before the war, and the change of the polling places made it necessary for the voters to travel, in going to and from the polls, a distance of from twenty to forty miles. The polling places in Charleston County were reduced from fifty-five to thirty-two.

I forbear further quotations. My purpose in making those I have is not to stir up either sectional or party animosities, but to show the imperious necessity of national control of the elections for members of Congress, if the will of the people is to be respected.

No party can afford to extenuate such wrongs before the people of this country. By repealing and modifying the election laws as proposed, the opportunities will again recur for the perpetration of frauds in New York. In the Southern States these laws and their ministers are powerless. But even they cannot long afford to disregard and trample under foot the rights of a portion of this people. The great exodus now going on must admonish them that the day of reckoning has come. Righteousness will exalt us as a nation, but sin will bring many reproaches.

It must not be forgotten. The position should never be relinquished by the people of the United States that the United States is a nation. On that theory of our Government, carried into practical operation by the legislative, executive, and judicial departments, depend national unity, national perpetuity, and that homogeneity of our institutions which will inspire fealty and devotion on the part of all the people of our great Republic. It seems to be thought by the democratic party that the absorption of power by the General Government is fraught with dangers to the rights and liberties of the people. This is a faithless and wanton heresy. The power to enact such laws as may be necessary to redress wrongs and protect rights must reside in one of the governments under which we live. What difference does it make to the citizen, if his wrongs are promptly redressed and his rights effectually protected, which government, the State or National, does it? I believe in the least quantum of government—only so much as is indispensable to peace and good order. We know how the blind trust in legislation is misleading many otherwise good men. We find men who think that acts of Congress possess some subtle force, some mysterious alchemy, by which business can be revived or depressed according to their design. We have men among us who would make us all rich by an act of Congress containing an appropriation for a printing press. We see the social organism borne down with parasites in the shape of useless officers. Over-legislation, the dread of statesmen and philosophers, is visible everywhere. But I submit that the national legislature, with all its faults, and they are manifold, is less addicted to excesses of legislation than are the State Legislatures. The National Legislature has not "scaled" the obligations of the United States as have South Carolina, Georgia, Tennessee, Virginia, and other States. It has not created official sinecures for the favorites of political rings at the expense of the people, as several States North and South have done. No, the tendencies of national legislation, especially since the republican party has been in power, have been in the interest of the rights and liberties of the people and their general welfare. A vast majority of the people so think, and all such will cheerfully accord to the Government of the United States their allegiance and support, imbued with that patriotism which found its best expression when a million of the country's bravest men rushed to its defense against treason and rebellion, and conquered the Republic's unity and prosperity and the supremacy of the Constitution.

Mr. Chairman, I now yield to the gentleman from Illinois, [Mr. THOMAS.]

Mr. THOMAS. Mr. Chairman, as I have already stated, I am not able to speak this evening; and while I should like very much indeed to address the House on this subject, I shall be compelled to take my chances hereafter. Therefore I relinquish my right to the floor in favor of any gentleman who may desire to speak.

Mr. BAYNE. I yield to my colleague, [Mr. SHALLENBERGER.]

Mr. SHALLENBERGER. Mr. Chairman, I think I speak the sentiments of my constituency when I say that they find in the elaborate and able parliamentary conflict of words upon this floor for the past few weeks no palliation or excuse for the present extra session of Congress.

The country is rich beyond precedent in the productions of the soil; the capabilities of our peoples were never greater; yet workshops are closed and willing hands are idle. Why? Production waits upon consumption, and consumption upon employment, and employment upon capital, and capital waits a reasonable assurance that investments in industrial enterprises shall not be disturbed and imperiled by every returning Congress. Every material interest cries aloud at this moment against the threatened changes in our tariff and currency laws which a democratic majority upon this floor has so recently shown itself willing to precipitate upon the country at any moment. It is no excuse to affirm that currency and tariff laws can be improved in minor details. We admit the fact, but denounce the constant meddling as we should denounce the transplanting of young and thrifty trees every season, because perchance a little richer ground or a little better exposure could be found.

Where shall we look for a valid reason why this Congress should not adjourn and go home? Two distinct subjects are before us, and only two. First, to pass the needed appropriations; second, to change the election laws. The committees of both Houses are in running order; nothing else before them. The committee to which appropriations are intrusted has the floor day after day. The committee to which any and all changes in the election laws should be referred under the rules of the House and the practice of parliamentary bodies is called for reports day after day. Weeks are passing. The majority in the House and in the Senate have the power to pass both these measures in twenty-four hours just as they are if reported separately from the proper committees. Not a whisper of objection to that regular course is heard upon this side of the Chamber at this hour. The republican minority bitterly protest, but yield gracefully to superior numbers and refuse to obstruct. Again I ask, and the country will ask, why are not these two measures reported by separate committees in regular form and put upon their passage. There is no want of time as there might be in the closing days of a session. Besides, no man is rash enough to deny that they can be passed separately in one-fourth or one-tenth the time that will be required to pass them together.

You tell us, gentlemen of the majority, that you prefer to pass them together, and that is reason enough; but I submit that a better reason must be found. You tell us that free consent and independent action are absolutely indispensable, and resent the slightest suggestion upon this floor of the possible action of the Executive as indecent intimidation. You cannot, therefore, expect to get a single additional vote for the more objectionable measure by hitching it to the other; and you certainly are estopped from even suspecting that the President will be less sensitive than yourselves as to his constitutional duty to disapprove whatever his conscience cannot approve, without reference to your subsequent and equally independent action.

The strictest regard for the free and independent constitutional prerogatives of the House, the Senate, and the Executive may result in the failure of one or both of these bills. What then? Up to that point there is nothing to alarm the country. Bills have been vetoed before. The anti-Chinese bill passed both Houses by a large majority. It was vetoed. It failed to receive two-thirds majority over the veto. You did not refuse to pass any consular and diplomatic bill unless the anti-Chinese rider was attached. You would have found that subject germane to the Chinese consular service. You would have held that it tended to retrench expenditures because it was invented for the purpose of aiding the election of democratic officials. But you did not do it, and yet you expect the country to forgive you. You say a bare majority has the absolute right and it is their bounden duty to pass just such appropriation bills as they choose, burdened with such measures or coupled with such restrictions as they choose, and that if the President should exercise his constitutional right to disapprove, and more than one-third of this House exercise their constitutional right to disapprove, you will cut off supplies.

Are you aware, gentlemen, of the overwhelming condemnation of that principle by the American people as expressed in the organic law of three-fourths of the States of this Union? The free consent of the executive or the equally free consent of two-thirds of both branches of the Legislature, as a condition-precedent to the passage of any bill, is embodied in the constitutions of the following States: California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nevada, New York, New Hampshire, Oregon, South Carolina, Texas, Virginia, Pennsylvania, Wisconsin, Massachusetts, and Michigan. Maryland and Nebraska require three-fifths majority. Maryland says it is to guard against the encroachment of the legislative upon the executive and judicial departments of the Government. Some of these States—Illinois for instance—demand two-thirds of all elected, not simply present and voting.

The States of Colorado, Georgia, New York, and Pennsylvania, my own State, empower the executive to veto any item or items, the same to be void unless passed by two-thirds majority. These consti-

tutions have been but recently amended, and accord with the growing sentiment of the country that the veto power of the executive should be increased rather than diminished. The constitution of my own State was adopted by a majority of one hundred and fifty thousand. My democratic colleagues upon this floor cannot afford to stand before such a constituency on the bare majority theory, independent of the Executive, nor can any man in the light of such facts. I need not stop here to argue the merits or defects of these election laws, as the majority have absolutely refused to permit any amendments to be offered. You picture in glowing colors, gentlemen, the abuses which are possible under these laws, but you decline to permit a suggestion to correct any possible abuse. You declaim against the partisan complexion of supervisors and marshals when you know that supervisors must be of different political parties and when you refuse to permit an amendment requiring deputy marshals to be equally or otherwise divided between the political parties, showing conclusively that you do not want any supervision at all, not even a perfectly fair supervision of elections.

Sir, what must be the inevitable conclusion in the minds of honest men? From the inherent weakness of your case, gentlemen, you are compelled to misrepresent the entire purpose and scope of these laws. You say the President of the United States may appoint these officers for the purpose of controlling an election at which he himself may be a candidate, when you know that the judges of the circuit courts of the United States appoint all supervisors, and never except upon the application of citizen voters residing in the district who desire to have the election "guarded and scrutinized." You know that deputy marshals cannot be appointed except upon the application of citizens, not to the President but to local authority. You boldly proclaim that all supervision of elections which confers the power to keep the peace and insure a fair count must cease, and that a bare majority of Congress must sit for two years rather than yield.

But, sir, let me ask who constitute this bare majority in the national House of Representatives that arrogates to itself the right to such extraordinary powers? By what superior title do you hold your seats, gentlemen of the majority? Without the slightest intention to cast any personal reflection, let me take up the Congressional Directory of the last session and name five gentlemen who are indebted to the magnanimity of two-thirds of a republican Congress in removing their disabilities for the very seats they occupy upon this floor. Hon. J. D. C. ATKINS, of Tennessee, chairman of the Committee of Appropriations, late of the confederate army and confederate congress; Hon. JOHN T. HARRIS, of Virginia, chairman of the Committee of Elections, late of the confederate legislature; Hon. JOHN H. REAGAN, of Texas, late postmaster-general of the Confederate States, chairman of the Committee on Commerce; Hon. ALEXANDER H. STEPHENS, of Georgia, chairman of the Committee on Coinage, Weights, and Measures, late vice-president of the southern confederacy; Hon. W. C. WHITTHORNE, of Tennessee, chairman of the Committee on Naval Affairs, late adjutant-general of Tennessee during the rebellion. No other five men or five committees of this House have one-fifth as much control of the floor as these I have just named. I do not discredit the eminent ability of these gentlemen. They were men of mature convictions, of earnest purpose, and of unflinching courage when they staked their lives, their fortunes, and their sacred honor against this Government as they are now while engaged in the more peaceful work of shaping its destinies. How many votes of all parties do these five gentlemen represent? Group the districts and we have, by official figures, in round numbers, 96,000 all told.

I open the Congressional Directory to the State of Michigan, (my friend says Iowa, but I take Michigan as I have collated its figures;) I pass the first district, where a vacancy existed and no figures are given; I take the second, third, fourth, fifth, and sixth districts, represented by Messrs. WILLITS, MCGOWAN, KEIGHTLEY, STONE, and BREWER respectively, all able gentlemen, but under democratic control of the House given but little prominence upon the floor; and what of their title—their constituency? Grouping the five districts they represent, I find the official figures give 192,000 voters, as against 96,000 for our five confederate friends. Contrast the power of 192,000 voters, always loyal, with 96,000 voters who "accept the situation." All this is constitutional, it is within the rules of this House, it is inevitable under democratic ascendency; it occurred in the last House under one of the ablest and most conservative Speakers that the democratic party could possibly elect. In the present Congress the South claims largely increased power. They say, "Thank God, we have captured the Capitol; we have come to enjoy our heritage; we will not rest until every vestige of your objectionable war measures is swept from the statute-books. So long as the North consents to elect democratic Congressmen who yield to southern dictation that policy will march on to completion, for the South is solid and will remain so." As I have referred to the last Congress, let me make one reference to the present Congress of a like character.

Alabama has eight congressional districts, in all of which 88,300 votes were cast at the last election for Representatives. As a State she is represented on sixteen committees of this House. Mississippi has six districts, in all of which less than 52,000 votes were cast. As a State shaping the legislation of this country she is represented on twelve committees of the House. Kansas, that young giant of the west, has three districts, in which nearly 138,000 votes were cast at the last election for her Representatives. As a State, whose free ballots should be heard from in legislative halls, she has representation on three committees of this House. Kansas has 3 votes upon this floor, is on three committees, backed by over 137,000 votes. Mississippi and Alabama have 14 votes, are on twenty-six committees, backed by only 140,000 votes.

My genial friend from Kansas, [Mr. ANDERSON,] with his 1 vote and his place on the Committee on Agriculture, speaks and acts for over 51,000 ballots, while the entire State of Mississippi, with her 6 votes and her work on twelve committees, speaks and acts for less than 52,000 ballots.

And what is the voice of Mississippi to-day, not the political utterances of her public men carefully revised in the CONGRESSIONAL RECORD, but of her people who make her Representatives and will shape their policy?

I find in the Philadelphia Evening Bulletin, of April 21, the following, copied from one of her papers:

MUST BE VINDICATED.

The principle of secession must be vindicated. The Federal brigadiers, whom the Government educated in the doctrine of State rights, must be denied a voice in the restoration of the Republic, for they sinned with their eyes wide open to the enormity of coercing sovereign Commonwealths, and knew that it was point-blank treason.—*Okolona (Miss.) Southern States, (Dem.)*

[Extracts from the Okolona States, April 16, 1879.]

Let the speeches of Phillips and Sumner and Linkhorn, and all that stamp and brand of traitors be expurgated from the school-books of the country, and let the political works of Calhoun again form a part of the curriculum of our colleges.

We are taxed to pension Lincoln hirelings for killing our people, burning our homes, laying waste our fields, stealing our property, and hurling us headlong into ruin, poverty, and despair.

We are taxed to pay for the enforcement of false and fraudulent laws that were enacted to cow, humiliate, and put us utterly to shame.

We are taxed to pay the salary of a criminal who stole the Presidency.

We are taxed to pay the returning-board thieves and perjurers, and unhung scoundrels whom he appointed to office.

Down with the devil-born amendments!

Down with centralism and its hints of crown and scepter!

Down with the pictures of Lincoln and the scoundrels who surrounded him in the battle-days of '61-'65!

Down with every anti-democratic idea and idol!

These be the watch-words for 1880.

"REVOLUTION! Revolution! Revolution!" Yell the radicals at the top of their lungs.

Well, y-e-s. It is a revolution and no mistake.

The first have become last and the last first.

The Federal brigadiers have been collared and jammed into back seats and the confederates have been called to the fore.

But this is only the beginning.

Wait!

We are knocking the props from under your amendments.

Wait!

When the revolution has run its course there will be never a law nor a statute in the land that will conflict with State rights, the principle of secession, or white supremacy.

Wait!

[Indorsements.]

The Okolona States circulates in twenty-five States. Merit never fails to win.—*Macon (Mississippi) Sun*, (democratic.)

The Southern States teems with editorials of the true democratic ring.—*Mount Gilead (Ohio) Register*, (democratic.)

The Okolona States is the best edited organ of the Mississippi democracy.—*Allegan (Michigan) Journal*, (republican.)

For a red-hot, uncompromising democratic journal, commend us to the Okolona States.—*Macon (Mississippi) Sun*, (democratic.)

The Southern States is one of the ablest as it is one of the truest democratic papers in Mississippi.—*Bucyrus (Ohio) Forum*, (democratic.)

The States, published at Okolona, Mississippi, is a paper whose political utterances ring out clear as a bell.—*Memphis Appeal*, (democratic.)

The Southern States, one of the purest and best democratic papers published in our State, has entered upon another year.—*Oxford Eagle*, (democratic.)

The Southern States, published at Okolona, Mississippi, is a true representative of the feelings of the southern masses.—*Saint Clairsville (Ohio) Gazette*, (democratic.)

The Okolona States sparkles like a crown full of precious gems. Every earnest hater of radicalism should read it.—*Columbus (Mississippi) Democrat*, (democratic.)

We will remark that the Southern States is a newsy paper, and we now return thanks for any assistance we may have received from it.—*New Orleans (Louisiana) Vindicator.*

For intelligent consistency, marked ability, superb distinction, and rigorous logic, the Okolona States ranks with the first of southern newspapers.—*Starkville (Mississippi) Times*, (democratic.)

But why all this? Sir, it is not to provoke passion or prejudice. It is in the hope rather of preventing that impending conflict which the unblushing demands of the democratic majority upon this floor, small as it is, constituted as it is, will inevitably provoke if carried into execution.

What are these demands? This, and nothing less: the United States shall waive all right to supervise its own elections, and deny itself all power to prevent armed interference therewith. A State may neglect or refuse to elect Representatives to the national Congress; in which case Congress may, in the exercise of a power which no one denies, under article 1, section 4, of the Constitution, proceed to fix time, place, and manner of such elections, in order to secure representation. And yet, if that State which neglected or refused to hold the election permits armed and lawless bands to interfere with the election ordered by Congress, amendments upon the Army bill provide a possible fine of $5,000 and imprisonment for five years at hard labor for any civil officer, not alone military and naval, but for any civil officer, who shall bring or keep armed men at those polls to keep the peace. A marshal may call upon citizens, not soldiers; and yet, if he arm them with power to quell a riot, he incurs the penalty named.

By the most unblushing misrepresentation of the proposed legislation the majority upon this floor seek to distract the attention of the country and cover the objectionable purpose. They decry lustily against the military at the polls and yet absolutely refuse to allow the republican minority to insert an amendment which shuts out completely both military and naval interference.

They boldly take up the cry, "Down with bayonet rule at the ballot-box," while the indictment against them by an outraged country for systematic armed interference with the freedom of the ballot is being read by every school-boy in the land. Equality before the law and the freedom of speech and of the ballot the idol of the solid South! Was ever a broader farce used as a cloak for the resuscitation of a principle which but recently cost this country such fearful sacrifice? Who can fail to recognize the heresy of the rebellion?

The gentleman from Maryland [Mr. McLANE] boldly asserted the other day, and not a whisper of dissent was heard from his associates:

It is unconstitutional for the United States to keep the peace in the States at the polls or elsewhere.

Subsequently the same was said by the gentleman from Ohio, [Mr. McMAHON:]

The United States can keep the peace, so called, nowhere.

The United States Mint at New Orleans may be surrounded by an angry mob, who threaten to take, as actually was taken in 1861, $500,000 in gold belonging to the tax-payers of the Union, and yet we are told the United States cannot keep the peace anywhere in the States. The most sacred rights of the freedmen to the elective franchise may be denied at an election every detail of which was ordered by Congress, and yet the United States cannot keep the peace at the polls.

Now, Mr. Chairman, no man upon this floor can possibly surpass me in demanding an election absolutely free from any interference, civil, military, or naval. Every instinct of the republican party has been and is in favor of a free election and a fair count. It is because of our love for absolute non-interference that we insist on retaining the power to prevent interference. I care not to discuss at this time the details of legislation now upon the statute-book. It is not a question of amending, but of expunging. The most eloquent periods of democracy are found to be assaults upon the personal character of officials or the abuse of power too loosely given or arbitrarily exercised. I have no defense for such things. I plead for their correction. But when they are used only to prevent the possible exercise of lawful and proper measures to protect the ballot, I have no sympathy for the criticism. The unworthy policeman or the inefficient system in some cities may lead me to an effort to dignify and elevate, but not degrade and destroy the office of policeman.

Mr. Chairman, I have listened with much interest and admiration to the logical disquisitions upon the constitutional powers of this Government as they come from the other side of this Chamber, but I cannot forget that in the troublous days of 1860 and 1861 many of these gentlemen, and others still more adroit, took up these same sections of the Constitution and proved conclusively to a large minority of the people of this country that the United States could claim no possible right to protect itself against disunion.

I have no regrets for the unparalleled magnanimity of the North. It was based on the hope that the heresy of State rights as against the Federal authority had been torn from the bleeding South and had been buried in the graves of her fallen sons. But, sir, when I read the later utterances of her deposed executive in the celebrated Macon letter; when I hear eulogies pronounced in the Senate of the United States upon the living incarnation of that fearful rebellion, and when I awake to the realization of the possible conflict that will one day check the progress of this same old heresy warming into life, I am justified in calling the attention of my countrymen to the folly of tempting the South as it was and the South as it is into the delusion of peacefully reaping all the results foreshadowed in their return to power. The remedy is simple. It involves no humiliation for any section of the country, no appeal to passion. It is but the quiet resolve, formed in the heart of loyal men of all parties, that the men who so recently attempted to destroy this country may bask in the sunshine of its magnanimity, but they cannot and shall not rule it. Why should they rule it? What of their history; their regard for human rights; their sympathy for free speech, a free press, and, above all, for free elections?

Hon. ALEXANDER H. STEPHENS, when vice-president of the confederacy, the venerable gentleman whom I esteem as one of the ablest and most conservative of the Representatives of the South, said at Savannah, March 21, 1861, in speaking of Jefferson:

The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution were that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. * * * Those ideas were fundamentally wrong; they rested upon the assumption of the equality of the races. This was an error. * * * Our Government is founded upon exactly the opposite ideas. Its foundations are laid. Its corner-stone rests upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and normal condition. * * * They (anti-slavery men) assume that the negro is equal, and hence conclude that he is entitled to equal privileges and rights with the white man. If their premises were correct, their conclusions would be logical and just; but their premises being wrong their whole argument fails.

If the gentleman was wrong then and claims to be right now, in other words, to have repented, may I ask how long it may possibly take him to repent of his conversion, and are the rights and privileges of four million negro citizens safest in the hands of his party? But what of the freedom of the ballot? How many men in the South dared to vote for John C. Fremont or Abraham Lincoln, white men I mean, save at the peril of their lives? Said Hon. J. M. Mason, Senator of Virginia, May 16, 1861:

If it be asked what are those to do who in their consciences cannot vote to separate Virginia from the United States, the answer is simple and plain; honor and duty alike require that they should not vote on the question; if they retain such opinions they must leave the State.

The Louisville Journal, of June 1, says:

The vote of Virginia last week on the question of secession was a perfect mockery. The State was full of troops from other States of the confederacy, while all the Virginia secessionists, banded in military companies, were scattered in various places to overawe the friends of the Union and drive them from the polls.

Again, in its issue of the 13th:

The spirit of secession appears to have reached its culminating point in Tennessee. * * * The pretense of submitting the ordinance of secession to the vote of the people of the State, after placing her military power and resources at the disposal and under the command of the Confederate States without any authority from the people, is as bitter and insolent a mockery of popular rights as the human mind could invent.

I quote now from Greeley's American Conflict:

An attempt a short time before the election to hold a Union meeting at Paris, Tennessee, resulted in the death of two Union men, shot by the disunionists, and a notice that Hon. Emerson Etheridge would speak at Trenton, Tennessee elicited the following correspondence:

"TRENTON, TENN., *April* 16, 1861.

"To J. D. C. ATKINS and R. G. PAYNE:

"Etheridge speaks here on Friday. Be here to answer him Friday or next day."

The following is the answer to the above:

MEMPHIS, *April* 16, 1861.

To Messrs. ——:

I can't find ATKINS; can't come at that time. If Etheridge speaks for the South, we have no reply; if against it, our only answer to him and his backers must be, cold steel and bullets.

R. G. PAYNE.

Parson Brownlow, in his experiences among the rebels, says:

For separation and representation at Richmond, East Tennessee gave 14,700 votes. One-half of that number were rebel troops, having no authority under the Constitution to vote at any election. For no separation and no representation, East Tennessee gave 33,000 straight-out Union votes, with at least five thousand quiet citizens deterred from coming out by threats of violence and by the presence of drunken troops at the polls to insult them.

And yet this is the State and Mr. ATKINS one of the men who are to protect the purity of the ballot and the freedom of elections.

Rev. John H. Aughey, a Presbyterian clergyman of northern birth, who settled in Mississippi, and whom I personally knew as a gentleman of credibility and character, says of the election in Mississippi for the election of delegates which assumed to take that State out of the Union:

Approaching the polls I asked for a Union ticket and was informed that none had been printed, and that it would be advisable to vote the secession ticket.

In southern communities a voter had just the same right to be a Unionist that he had to be an abolitionist; that is, none at all. May 23, 1861, West Virginia held an election to ratify or reject the ordinance of secession. Three days after the election General George B. McClellan, good democratic authority, from his headquarters at Cincinnati, issued an address to the Union men of West Virginia, in which he testified:

The General Government has long enough endured the machinations of a few factious rebels in your midst. Armed traitors have in vain endeavored to deter you from expressing your loyalty at the polls.

Governor Hicks, of Maryland, issued an address to his people April 18, 1861, in which he said:

The people of this State will in a short time have the opportunity afforded them in a special election for members of Congress of the United States to express their devotion to the Union or their desire to see it broken up.

Here was a special election separate and distinct from a State election, where United States officers alone were to be elected, an election which was to be accepted by the people of a State as deciding the momentous question of union or disunion, peace or war, and yet the democratic doctrine upon this floor to-day affirms that the United States is and should be utterly powerless under the Constitution to protect those polls against the high crimes of Tennessee by and through which the majority of that State were forbidden by armed interference at the polls to hold the State loyal to the old flag.

Sir, guard the use of even civil power at the polls; punish every abuse of the power held by marshals and deputy marshals; strike for that high ideal of elections in a free republic when not a finger of authority, State or national, shall be needed at the polls to keep the peace, but never, never while human nature and the practices of men remain as I have pictured them and as elections in this country within the last ten years abundantly prove them, never relinquish the power to prevent that armed interference which has made the sanctity of the ballot the football of insurrectionists and traitors.

And, now, in conclusion, I love the old Constitution; I admire the genius of those great men who have expounded it; I respect the decisions of the Supreme Court which has interpreted it; but, sir, the Union existed before the Constitution, which was designed to establish a more perfect Union, not to create it. There comes a time when the nation must interpret its own will. That time came in the recent

past. Amid the thunders of artillery that shook a continent, above the dying wails of countless thousands of our bravest men, drowning the moans of stricken families, the nation's interpretation of its Constitution rang out in clarion notes and treason quailed. The later amendments to the Constitution voice that will hitherto unwritten. The United States has the power to keep the peace on every foot of ground over which its flag may lawfully float; in every village, town, hamlet, or city of every State of this Union where the United States has a duty to perform in protecting its property, collecting its revenue, or guarding its polls; and, having that power, will use it, as it has in days gone by, to protect its citizens of every race, color, and condition in every right conferred upon them.

Representatives, so called, may prove recreant to duty and refuse supplies which they hold in trust for a brief period; but, sir, the sovereign people who once rescued this fair land from the designs of a solid South at the point of the bayonet, and by the voluntary sacrifice of blood and treasure unparalleled, will be equally quick now as then to discern impending danger, equally free with wealth and wisdom to sustain a loyal administration, equally prompt to send from every voting precinct of the North enough recruits to constitute a multitudinous army, not of bayonets but of ballots, which will voice their will in committees and in legislation upon this floor that need not bring the blush of shame to the cheek of every loyal man.

Mr. PRICE. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. CHITTENDEN, indefinitely, on account of important business; and

To Mr. CABELL, for three days from to-morrow, on account of business.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for withdrawal of papers from the files of the House in the following cases, there being no adverse reports:

To Mr. WHITTHORNE, in the cases of Reuben S. Jones, A. M. Boyd, and Lucinda McGuire;

To Mr. WILLITS, in the case of Mrs. Elizabeth B. Custer;

To Mr. BLACKBURN, in the case of James Saffell; and

To Mr. VAN AERNAM, in the case of Charles Pratt and others.

CONGRESSIONAL ELECTION IN IOWA.

The SPEAKER laid before the House papers relating to the congressional election held in the ninth district of Iowa on the 5th of November, 1878; which were referred to the Committee of Elections.

The SPEAKER. At the session of this evening the chair will be occupied by the gentleman from Kentucky [Mr. THOMPSON] as Speaker *pro tempore*. The hour fixed by the order of the House having arrived, the House now takes a recess until half past seven o'clock this evening.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m., and was called to order by Mr. THOMPSON as Speaker *pro tempore*.

The SPEAKER *pro tempore*. The session of to-night is held for the purpose of debate upon the legislative appropriation bill, no other business being in order.

Mr. WADDILL. I move that the House resolve itself into Committee of the Whole to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. WADDILL. Mr. Chairman, I am perhaps violating a custom of this House in rising to address this committee, this being my first term as a Representative on this floor. I had thought, sir, that I would take no part in this discussion, so far as addressing the committee, at least; but I am here representing my constituents, and I esteem my duty to them far higher than any mere formal custom, and, prompted by these motives alone, I shall say what seems to me proper to be said. I shall not, however, attempt an elaborate speech on the question under consideration. That has already been done by older and more experienced gentlemen than I. Indeed, I think there has been much more discussion than the simplicity of the issue demanded.

There is no great constitutional question involved in the issue here presented as to the power of the majority to repeal laws in the manner proposed in this bill. There is no republican lawyer on the other side of the House who has denied either the right or the lawful power of this side of the House to pass this bill or the Army appropriation bill already passed. On the contrary, the distinguished gentleman from Ohio [Mr. GARFIELD] and many others on that side admit both the right and the constitutional power.

Let us look at the issue joined in this debate for a few moments. What is proposed to be done in this bill, and what was proposed to be done in the Army appropriation bill already passed the House?

In the Army appropriation bill it was provided that the Army should not be used at any election poll in any of the States of the Union to keep the peace unless at the request of the State Legislature, or of the governor when the Legislature could not be convened—simply the substantial provision of the Constitution which has existed since the formation of the Government.

In the present bill it is sought by this side of the House to repeal obnoxious and vicious statutes, which give to the party in power, or any party which may come after it, the power to appoint an indefinite number of men, called deputy marshals, and in effect to absolutely control the elections in all cities having twenty thousand population or over. It amounts simply to that. These deputy marshals have unlimited powers of arrest over the citizen coming to exercise the highest right of a freeman—that of casting a freeman's ballot for whomsoever he may choose. No complaint is necessary, no warrant is required to make this arrest, but only the imperial and absolute will of a deputy marshal appointed by and through the machinery of the party in power, and need I say appointed to do its will.

Is this such a law as should obtain in this free Republic? Is this such a law as the freemen in this country desire? I say no. I denounce it as anti-American, as against the genius and spirit of free institutions, and against both the spirit and the letter of our free Constitution. But the lawful power to repeal these laws in the manner proposed by the majority in this bill being admitted on each side, and therefore disposed of, the only question which I shall consider is the policy and justice of repealing them. Is it right to repeal these laws? Is it just to the interest of the people of this country? Gentlemen on the other side argue that it is coercive of the Executive, and therefore revolutionary, and even charge the democratic party, through its representatives on this floor, with the design of bringing about a revolution. I have but few words to say on this subject. Every student of history knows that the history of our mother country, Great Britain, from which we in the main are descended, and drew most of our laws, is full of precedents of this character, whereby the rights of the Parliament and the freedom of the people were wrung from an unwilling king.

The English Commons have again and again refused to vote supplies to the Crown until their just redress of grievances was secured and obnoxious orders and practices were repealed and abrogated. The history of our own country is just as replete with precedents. It has been the practice in this country for many years to attach to appropriation bills similar legislation to this. Indeed, the history of the republican party itself is full and overflowing with precedents. And the very measures now sought to be repealed by the democratic majority in this House were passed by a republican Congress and became laws as amendments to an appropriation bill; and the gentleman from Ohio [Mr. GARFIELD] who now shouts "revolution" so lustily was one of the managers of the conference committee which reported the bill. But I shall not enter into a detailed recital of the numerous precedents of this kind. That has already been done by gentlemen who have preceded me.

Now, sir, with this history and record staring gentlemen on the other side in the face, with what poor grace must they appear in the eyes of the country and the world charging upon the democracy revolution for seeking to repeal obnoxious and anti-republican laws by the same means and in the same manner in which a republican Congress passed them years ago.

Sir, the democratic party of this country to-day, through its representatives here, is making a fight for free institutions, free elections, and free ballots, and upon this platform it is willing to stand and be judged by the people. No man on this side, as I understand my associates, shrinks from the issue or its responsibility. No man on this side, in my opinion, will falter in the path of duty so manifestly opened up before him.

If this be revolution, then I confess I know not what revolution means. It is simply a determination on the part of the majority in this House to repeal obnoxious, oppressive, anti-American, unrepublican, and unconstitutional partisan legislation. It is sought to be done in a peaceful and constitutional way, and by the usual and lawful methods, and the wild charge of revolution is but the flimsy pretext and vain subterfuge of men who are trying to dodge, and who are seeking to raise false issues on which to go before the people in 1880.

Why is it that gentlemen on the other side have in a succession of bitter and impassioned speeches sought to fire the hearts of the people of the North and West, and raise before the startled gaze of a whole nation the specter of a new rebellion and a democratic revolution? Why the florid and disgusting efforts of so many gentlemen on the other side to rekindle the dead ashes of a dead and buried rebellion? What do gentlemen mean by looking over to this side and sneeringly speaking of "rebel brigadiers?"

Mr. Chairman, there are others on this side besides "rebel briga-

diers." There are ex-Union soldiers here, standing side by side with ex-confederate soldiers in this grand struggle for a free ballot. There are on this side many who "wore the blue" in the late unhappy war. I myself, sir, was a Union man, and when but a boy of seventeen years enlisted in the Army of my country to fight for the preservation of this Union. And were it to come again to-day as it did in 1861, I would enlist now as then. I did it because I believed I was right; and, sir, so did the men of the South. They were just as honest, just as sincere when they took their stand beneath the stars and bars as was I, or any other sincere Union man, when he stood beneath the grand old flag of our country. No reasonable, thinking man can doubt this; and I do not propose to enter into an argument to convince unthinking and unreasonable fanatics.

But standing here to-day as an ex-Union soldier, I denounce as cowardly and mean beyond the power of characterization the jeering taunt of "rebel brigadier" on the part of one member of this House to another. The issues of the late war have been settled for fourteen long years, and it is the instinct of the jackal and not of a man to burrow down and raise them from their moldering tomb. What has the legislation proposed on this bill to do with the late rebellion or its adherents? Ah, Mr. Chairman, it is evident, even to the stupid, that gentlemen are seeking to dislodge from the thoughts of the people the great questions of their material interests and welfare which to-day and for many days past have been engrossing their attention.

The republican party of this nation is pledged and wedded to its financial policy of hard money, gold, and contraction. A policy which, with other republican mal-legislation has ruined and bankrupted hundreds of thousands of our people, swept away all values in the West, and wiped out as with a sponge the industries of a great people. To-day that party, hearing the muttering thunders of the people's wrath and seeing the "hand-writing on the wall," is seeking to dodge the issues which the people propose to submit, and to raise a storm of excitement over an imaginary democratic revolution and the spectered ghost of a new rebellion. And thus swinging the "bloody shirt" and crying "revolution," "rebellion," and "rebel brigadiers," the plunderers and despoilers of the industries of a great people propose to take a new lease of power in 1880.

But, gentlemen republicans, sharp and shrewd politicians as you are, mark a prediction: The people of this country will not be deceived or misled by this piece of political jugglery. The question which will be fought out on the political battle-field of 1880 is the question of finance. No possible adroitness on the part of politicians, no false alarms, no cry of a new rebellion, no shriek of revolution, no waving of the "bloody shirt," can change or alter the determination of a bankrupt and long-suffering people. When you raise your false alarm to attract their attention, they will demand work and bread. When you cry a new rebellion, they will demand the unlimited coinage of silver, and the issue of silver certificates both on silver coin and bullion, and the receiving of these certificates by the Government for all debts due to it of all characters whatsoever. When you shriek revolution, they will demand greenbacks, the abolition of the national banks, and the substitution of greenbacks for national-bank notes. And, lastly, when you wave the "bloody shirt," however artistically it may be done—and I admit you are experts—they will demand no further issue of bonds by the Government, and the rapid cancellation of the interest-bearing debt of the nation by payment in the vast quantities of silver dollars which an unlimited coinage will give to the country.

These will be the prominent issues which the people of the country will demand to be settled by the election of 1880. And, Mr. Chairman, when these great issues are settled, and settled in the way demanded by the people, that prosperity and happiness, that contentment and peace, and that rich abundance which in a nation possessing the vast resources of our grand country is the birthright and inheritance of every industrious citizen, will fall upon our land like a blessed benediction, and the nation will speed on in its grand march of progress, pushed forward by the faithful hands and robust strength of its contented and devoted citizens. Then will true peace come with blessed healing in its wings; then there will be no cry of rebellion; then there will be no wild shouts of revolution; then there will be no tearing open of the healed wounds of a terrible war; and then, too, like Othello's, will be gone the occupation of that species of eight-by-ten statesmen, the spawn of civil commotion, the monster products of morbidity in nations, whose only capacity is to inflame evil passion, and whose only occupation is to stir up bitter strife between those who should be friends and brethren; and with their occupation gone they will step down into that obscurity for which God and nature so fitly prepared them, and the nation will be at rest and the people will rejoice.

Mr. CRAVENS. Mr. Chairman, the statute upon the subject of elections proposed by this bill to be repealed is in my judgment one of the most objectionable ever enacted by the Congress of the United States. It is objectionable for the reason that it destroys or is calculated to destroy the free and untrammeled choice by the States, or "by the people of the several States," of their Representatives in the Congress of the United States. The guarantee in this regard is found in section 2, article 1, of the Constitution, in these words:

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

The choice is to be made not only by the States, but by the identical electors who, under the laws of the States, are authorized to make choice of members to a similar representative body in the State governments, in which provision there seems to be great propriety. That under this paragraph of the Constitution the qualifications of the voters at elections for Representatives in Congress are determinable by the laws of the several States, admits of no sort of question. The language is so unequivocal, and the decisions of the Supreme Court referred to by the gentleman from Ohio [Mr. HURD] in the debate upon the Army appropriation bill are so clear, that no member upon this floor, as yet, has dared to deny it.

This same section provides that no person shall be a Representative "who shall not when elected be an inhabitant of that State in which he shall be chosen." It further provides for the apportionment of Representatives "among the several States," that "each State shall have at least one Representative," and that until the enumeration therein provided for shall be made "the State of New Hampshire shall be entitled to choose three, Massachusetts eight," &c. Elsewhere in the Constitution reference is made to the State or to the people. To arrive at undeniable conclusions as to the correct interpretation of the Constitution in many particulars is deemed important in the discussion of this bill, and to that end I appeal to the records of the Supreme Court of the United States.

In 1795, William Paterson, of New Jersey, one of the justices of the Supreme Court, and one of the framers of the Constitution, in the decision of a cause used the following language:

> I conclude, therefore, that every particle of authority which originally resided either in Congress or in any branch of the State governments was derived from the people, who were permanent inhabitants of each province in the first instance and afterwards became citizens of each State; that this authority was conveyed by each body-politic separately, and not by all the people in the several provinces or States jointly, and, of course, that no authority could be conveyed to the whole but that which previously was possessed by the several parts; that the distinction between a State and the people of a State has in this respect no foundation, each expression in substance meaning the same thing.

From this it appears that in the earlier times of the Government no distinction was made between the expression "a State" and "the people of a State."

As late as the December term of the court, 1868, Chief-Justice Chase, speaking for the court, after declaring the supremacy of the Government of the United States, within the scope of the powers with which it is invested by the Constitution, said:

> On the other hand, the people of each State compose a State, having its own government and endowed with all the functions essential to separate and independent existence. The States disunited might continue to exist. Without the States in union there could be no such political body as the United States.

This is the language of one distinguished alike as a judge and as a statesman, and who held, politically and judicially, the Union and the States under the Constitution equally indestructible.

Later and at the same term of the court, in speaking of the sense and meaning of the term "a state generally," as well as with reference to the use of the word in our Constitution, he expressed himself in the language following:

> It describes sometimes a people or community of individuals, united more or less closely in political relations, inhabiting temporarily or permanently the same country. Often it denotes only the country or territorial region inhabited by such a community. Not infrequently it is applied to the government under which the people live. At other times it represents the combined idea of people, territory, and government. It is not difficult to see that in all these senses the primary conception is that of a people or community. The people, in whatever territory dwelling, either temporarily or permanently, and whether organized under a regular government or united by looser and less definite relations, constitute the state. This is undoubtedly the fundamental idea upon which the republican institutions of our country are established. It was stated very clearly by an eminent judge, (William Patterson, of New Jersey,) in one of the earliest cases adjudicated by this court, and we are not aware of anything in any subsequent decision of a different tenor. In the Constitution the term State most frequently expresses the combined idea just noticed of people, territory, and government. A State, in the ordinary sense of the Constitution, is a political community of free citizens, occupying territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution and established by the consent of the governed. It is the union of such States under a common constitution which forms the distinct and greater political unit, which that Constitution designates as the United States, and makes of the people and States which compose it one people and one country.
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> The use of the word in this sense hardly requires further remark. In the clauses which impose prohibitions upon the States in respect to the making of treaties, emitting of bills of credit, and laying duties of tonnage, and which guarantee to the States representation in the House of Representatives and in the Senate, are found some instances of this use in the Constitution. Others will occur to every mind. But it is also used in its geographical sense, as in the clauses which require that a Representative in Congress shall be an inhabitant of the State in which he shall be chosen, and that the trial of crimes shall be held within the State where committed.
>
> And there are instances in which the principal sense of the word seems to be that primary one to which we have adverted, of a people or political community, as distinguished from a government.
>
> In this latter sense the word seems to be used in the clause which provides that the United States shall guarantee to every State in the Union a republican form of government and shall protect each of them against invasion. In this clause a plain distinction is made between a State and the government of a State.

The unmistakable points deducible from these adjudications of the Supreme Court are that the States, representing the combined idea of people, territory, and government, under the clause first quoted from section 2, article 1, of the Constitution, are entitled to choose

Representatives in Congress, and that the words "by the people of the several States" are equivalent in meaning to the words "by the several States." Language more decisive could not be used and logic or reasoning more convincing could not be employed.

It is difficult to imagine how a people or body-politic, with a written constitution and laws, could be held to make choice of representatives in any legislative body except in conformity to the laws created by themselves for their own government as such body-politic in the selection of elective officers.

All republican governments must necessarily provide the means of election, the agencies through which the voice of the electors can be taken and the result ascertained. The States, by the more perfect bond of union by them, adopted the Constitution, and in the capacity aforesaid—for no sane man can deny their existence at that time in the sense of a people, territory and government—expressly reserved to themselves the right of choice of representatives in the Congress of the government created by that instrument. Prior thereto, under the articles of confederation, the right of each State, in its own way and in conformity to its own laws, to choose delegates to the Congress of the United States had been enjoyed, and, therefore, its enjoyment under the government to be created by the Constitution was provided for in like manner, although limitations were to be placed upon the suffrage of the States, and each have a vote and voice in the House of Representatives equal only to the number of members, while before each State had an equal vote and voice, no matter whether represented by many or only a few delegates. The States, jealous of their rights and of none more so than that of equality, could not yield more even for the sake of a more perfect union, and therefore provided for perfect equality in the Senate, and for protection for all time to come, guarded against being deprived of it by amendment, or otherwise, without their consent.

To-day Rhode Island is the peer of New York in that body; but doubtless it would have been otherwise had the States at the date of the adoption of the Constitution been less jealous of their rights of independence and equality.

Looking to the history of the States from the beginning of their struggle for independence up to the date of the establishment of the Constitution between them by their own voluntary ratifications in the capacity of independent sovereignties, as by that instrument provided, no warrant can be drawn for assuming that they intended to yield the freedom of the ballot in the choice of their agents or servants, upon whose vote and voice their perpetuity and prosperity so greatly depended.

No, sir; the men of that day rather than have yielded the right of raising revenues to others than those of their own choice, selected in their own way, would have accepted war as preferable.

Their gallantry and the true spirit of freedom which alone must have animated them and given success in their unequal and bloody struggles forbid the thought of their having made concessions by which their voice could be stifled by Federal bayonets, Federal supervisors, or other appliances under Federal authorization.

It is manifest that the people of the States did not intend to confer upon the Federal Government any authority or power whatever through or by means of which they in their sovereign and governmental capacity could be deprived of the most perfect freedom in determining the qualifications of their own voters, or be deprived of judging of their qualifications, by and through the means provided by their own laws, at any and all elections.

There is not a paragraph or clause in the Federal Constitution which gives the slightest sanction to the assumption of such power by the Federal Government.

By some who attempt to maintain the validity of the provisions of the statute proposed to be repealed, it is claimed that the authority for their enactment is conferred by the following paragraph of section 4, article 1, of the Constitution:

> The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

What is the evident object of this provision? It was an imperative necessity for the Legislatures of the States to prescribe the times, places, and manner of holding elections for Representatives, because until elected there could be no Congress. After this, then, as now, the means or instrumentalities to be used to hold elections, the times, places, and manner being prescribed, had to be furnished by the State; such, for instance, as poll-books, judges, and clerks of election. The State authorities then as now had necessarily to declare the result of the elections primarily.

Without this, then as now, no man could think of obtaining a seat in Congress without question. How is it possible under the Constitution for the House of Representatives to be organized unless those who ask for membership present some sort of declaration of their election from the State authorities, it being expressly provided by the Constitution that Representatives shall be chosen by the people of the several States?

Whatever other construction may be put upon this provision, it cannot be reasonably insisted that it authorizes the Federal Government to interpose or interfere at all in the actual holding of elections by the States for their Representatives.

It is my impression that Congress exhausted its power in this regard as to time by fixing the times of holding the elections, as to place by providing for the elections by districts, and as to manner by declaring they should be by ballot.

The propriety of this legislation by Congress no one questions, and that it was under the authority conferred by that paragraph no one can doubt. In the passage of these laws the general purpose of that provision of the Constitution was accomplished, that general purpose evidently being to secure uniformity in the times, places, and manner of holding the elections by the States for their Representatives in Congress.

The laws passed and whatever laws it may be practicable and lawful for the Congress to pass regulating the times, places, and manner of holding such elections are and would be directory or mandatory, if you choose, to the State authorities. The Constitution and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land—so says the Constitution—and are alike binding and obligatory upon citizens and officials, both Federal and State. The officials of both classes are required to make oath or affirmation to support the Constitution, and neither can be said to do this without yielding implicit obedience to all laws made in pursuance thereof. Laws of Congress relating to the times, places, and manner of holding elections for Representatives both citizens and officials will ever with good cheer obey. The House of Representatives, being the judge of the elections, qualifications, and returns of its own members, will ever and always command obedience on the part of the people of the several States to the laws of Congress prescribing the times, places, and manner of holding elections for their Representatives in Congress.

This I say will ever be true of each and every State so long as and whenever they are entitled to representation in Congress at all. While this is true, I assert that the people of the several States have not consented and never will consent that the Federal Government shall hold the elections in the States, but will always insist upon their right to choose in the capacity of States their Representatives in Congress by their own votes, with the qualifications requisite for electors of the most numerous branch of their Legislatures under their own constitutions and laws, and through the means appointed by their own laws for ascertaining their choice of election officers. But some men in their blind fury for pretexts to justify infractions of the Constitution and invasions of the rights of the States in the choice of their Representatives claim, because the House of Representatives is the judge of the elections, qualifications, and returns of its own members, that therefore the Congress is authorized to pass laws to prevent frauds at the elections in the States.

In answer it is sufficient to say that the House of Representatives is not the Congress of the United States, and therefore the power to judge can pass no law upon that or any other subject. We hold that the law-making power of the States is the proper source from which must emanate the means to protect against fraud therein, such power being derived by grants from the people in their sovereign capacity, as they are primarily the source of all power in republican governments. Were it otherwise the elections for Representatives could not be said to be holden "by the people of the several States." The elections of Representatives "by the people of the several States" are effected through their retained sovereignty—that not granted to the Federal Government.

By our system State governments not in harmonious relations with the General Government under the Constitution are not entitled to representation in Congress at all, while those occupying such relations of course are, and while yielding support to the Constitution and laws enacted thereunder are entitled to the fullest protection under them of their reserved rights, as well as those expressly guaranteed by that instrument.

The House of Representatives, then, if true to the Constitution under which it is convened, in judging of the elections of its own members, can only look to facts to determine whether those applying for membership are the true choice of the people, made conformably to the laws of the States they ask to represent as well as the United States statutes relating to the times, places, and manner of holding elections in the States for Representatives. As I have said before, the State authorities must adopt some means of ascertaining the result; but the means adopted may not be perfect, so that persons may be declared elected who may not be in point of fact the true choice of the people. To correct evils of that kind and make good the guarantee of the Constitution that the people shall be represented by persons of their own choosing, the two Houses are made the judges of the elections, qualifications, and returns of their own members. It is useless to argue further this point, for it certainly will occur to the dullest comprehension that the authority to judge does not embrace that to legislate. No one can be legislated into the House, not even by the power of both branches of Congress. Because the House may disregard the certificate of election given to one by the State authorities and admit some one else as a member, argues nothing against the right of choice by the States. All courts of any sort of respectability hold that a certificate of election or a commission does not confer title, but that it requires an actual election to vest title. All, then, that the House may do is to judge of the actual election of its own members. This right the States granted, none other, and in so doing

only added an additional safeguard to the purity of their own elections.

To show something of the relations of the States to the indissoluble government of the Union, created by the establishment of the Constitution between them, I make the following quotation from the decision of Chief-Justice Chase, to which allusion was last made:

> But the perpetuity and indestructibility of the Union by no means implies the loss of distinct and individual existence or of the right of self-government by the States. Under the articles of confederation each State retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still all powers not delegated to the United States nor prohibited to the States are reserved to the States or to the people. And we have already had occasion to remark at this term of the court "that the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence," and that "without the States in union there could be no such political body as the United States." Not only can there be no loss of separate and independent autonomy to the States, through their Union under the Constitution, but it may be not unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design of the Constitution as the preservation of the Union and the maintenance of the National Government.

Now, while this distinguished judge declares the indissolubility of the Union under the Constitution, yet it is clear from his reasoning that to destroy autonomy in the States, including the free and untrammeled choice of Representatives, the dissolution of both governments as contemplated by our system would necessarily follow. Can a republican government exist without a law-making power, and does not the Federal Government exercise this through the Congress, made up from Representatives and Senators chosen by the States? If the rights of States are blotted out in this regard can there remain any lawful law-making power in the Federal Government? There are duties to be performed by the Federal Government toward the States. Invasions of their rights weakens its own power and may be carried to the extent of destroying both. I know the judge in delivering this opinion was considering the right of a State to dissolve its relations with the Federal Government, and I admit the correctness of his conclusions upon that point. That is settled; but when it comes to considering what the General Government may do in the way of dissolution by the use of unwarranted power, that is another thing. He was writing from the stand-point of the inviolability of the Constitution by the Federal power.

If from the present law, that sought to be repealed, which attempts to authorize Federal officials to challenge and judge of the qualifications of voters in the States fixed by State laws and make arrests on election days upon suspicion and without warrant, further and continued aggressions be made until the elections shall be held by Federal officials exclusively, can the States be said to have Representatives in Congress of their own choosing?

By this accomplishment the Union under the Constitution would be at an end and for the reason that the Constitution itself would be totally ignored. The Government in that case would be one of force in contradistinction to that of a government of Constitution and laws. While we may pray Heaven to avert the day when each and every State of the now Union shall fail or decline under Federal supervision to send representatives to the Congress of the United States, yet the anarchy that would follow such a result cannot be misconceived. If we can suffer our minds to contemplate such an exigency, it must be observed that the Government would remain intact in only two of its departments, the executive and judicial.

What would follow? There being no Congress to guarantee to the States, in the sense "of a people or political community," governments republican in form as contemplated by the Constitution, when their relations with the Federal Government are disturbed the Executive would be left without chart or guide, and, without the support of the people of the States, powerless to restore the order and government ordained by the Constitution, denominated in the preamble to that revered instrument "a more perfect union." Such action on the part of the States would produce complications from which we could not escape it is feared with safety.

The gentleman from Ohio [Mr. GARFIELD] alludes to such a possibility as follows:

> For example, if the people of the United States should say we will elect no Representatives to the House of Representatives. Of course, this is a violent supposition; but suppose that they do not, is there any remedy? Does the Constitution provide any remedy whatever? In two years there would be no House of Representatives; of course, no support of the Government, and no Government. Suppose, again, the States should say through their Legislatures we will elect no Senators. Such abstention alone would absolutely destroy the Government; and our system provides no process of compulsion to prevent it.

Such a result can never come without a cause. The people of the several States are not dissatisfied with the grants of power made by them to the Federal Government, and will never complain at its rightful exercise. To be secure against such and like calamities we need only to maintain the Constitution in its integrity. The people have placed limitations upon the governments, both National and State, and so long as authority may be exercised within these limitations there can be no inharmony between them, and there need be no cause of alarm. But let either overstep and go beyond their constitutional authority; the people will not silently submit, but in some form or other will in time put an end to the usurpation. The American heart is so fully imbued with the spirit of liberty as that usurped power cannot hope long to abridge the freedom of the people under any government. They in their majesty, when lost for the time being, will regain against every attempted usurpation the right of choice of their representatives.

Now, through their Senators and Representatives, who understand fully the popular will and obey it, they propose to strike from the Federal statutes provisions born of party craft abridging that blood-bought right.

Neither the President nor any one else can condemn this their most just demand for the repeal of a law inimical to their interests. They are the source of all power, and their will lawfully expressed, and this they do through the Congress, the law-making power under the Constitution, the Executive cannot well refuse to sanction except for overpowering reasons, such as ought to be alike satisfactory to the people themselves as well as to their Senators and Representatives. To offer such objections as satisfies the public mind of the unconstitutionality of an enactment of Congress will justify the exercise of the veto power. Such other objections as will indubitably change the public mind against an enactment may possibly justify it; but to offer the hackneyed objections of partisans struggling for supremacy no President can afford. This we are told the President will do. I hope not. The veto power was lodged with him for no such purpose, but the more exalted one of securing healthful and beneficial laws. Is it reasonable to believe that one so renowned as to be the choice of the American people for so distinguished a station will be swayed by party predilections or prejudices to veto a measure securing the same liberty and freedom to them in their choice of Representatives as that by which the President and Vice-President are chosen?

Presidential electors are elected by the States without any sort of lawful supervision or control by Federal officials, and why should not Representatives be chosen in like manner?

Neither the President nor any member upon this floor can assign any valid reason against it. The ultraists who framed the supervisors law dared not embrace the election of electors in so many words.

The most hideous of all the doctrines advanced to support these laws relating to supervisors is the one that Congress derives the authority to pass them from section 4, article 4, of the Constitution. That section is as follows:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.

The Supreme Court decides, as shown by the quotation already made, that the term State is used in this section in the sense "of a people or political community as distinguished from a government," and that it is to the States in that sense the United States guarantee republican forms of government and protect against invasion. The language of the court could not be more emphatic in the establishment of that point.

This view has the full support of common sense. It was certainly not intended that the United States should change, alter, modify, or in any manner disturb the governments existing in the States at the date of the adoption of the Constitution.

That section cannot be regarded as a declaration upon the part of the people of the States adopting the Constitution that their governments were not republican in form, and as imposing an obligation upon the United States to make them such.

The States ratifying the Constitution were such in the combined sense of people, territory, and government, and by their union under the Constitution in that capacity the Government of the United States was created.

The doctrine that a State government, with Senators and Representatives in the Congress of the United States, is not republican in form, and that the Congress can go to work and change, alter, or modify it to make it republican, they still retaining their seats, is shocking to the commonest intelligence and in the extremest degree. Under the Constitution that fact alone settles the character of the government to be republican in form.

That the Congress may declare the government in a State not to be republican in form cannot be denied, but that such cannot be done with the State represented in it needs no denial.

Chief-Justice Taney, in the case of Luther *vs.* Borden *et al.*, with reference to this provision of the Constitution, said:

> Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the government, and could not be questioned in a judicial tribunal.

The judgment of the court, delivered by Chief-Justice Chase in the case of Texas *vs.* White, from which quotations have been made, is equally strong in language, and affirms the correctness of the opinion in the case of Luther *vs.* Borden *et al.*

Now, each and every State in the Union has Representatives in Congress, and each must therefore have a government republican in form. No Representative upon this floor dare rise in his place and say that either his own or any other State has not a government in form republican. Why, then, all this talk about the authority of

Congress to legislate under that provision of the Constitution, when there is not a State in the Union without a government republican both in form and in fact?

I do trust the members of this House may come to the discussion of questions of such gravity as the one now before us in soberness and sincerity, and not defame the name of the American Congress by giving interpretations to the Constitution totally devoid of both reason and patriotism. We represent intelligent constituencies, and it is due to them and ourselves that no act be done or left undone affecting their rights in the selection of our successors for which an honest, patriotic, and intelligent reason cannot be given.

It will not do to say that party interests demanded that this or that be done or left undone. The people are entitled to and demand representation through Representatives of their own choosing as guaranteed by the Constitution. As of old they regard this "a right inestimable to them and formidable to tyrants only." To say that they are incapacitated to choose, and therefore must be supervised, is treason against their liberties and cannot be spoken, save by the blasphemous tongue of a tyrant. Sir, it is in behalf of constitutional liberty that I speak and demand the repeal of these obnoxious statutes, and in doing so I but reflect the voice of my constituency, democrats and republicans alike, with perhaps an occasional exception.

Mr. DWIGHT. Mr. Chairman, the bill we are discussing is attracting in an unusual degree the attention of the people of the whole country. Its title shows its importance, which is in the words following:

A bill making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

This bill must pass or the three branches of the Government named in the title will be obliged to suspend their operations after the 30th day of June next, or if they continue they will do so in violation of law. The general provisions of the bill are in the usual form, and are perhaps as satisfactory to the members of this House and to the people as such bills are expected to be. Why, then, did it not pass as it should have passed before the expiration of the last Congress? This important inquiry is agitating the public mind, and in this House has raised an issue that cannot be evaded. Upon its proper settlement the whole question of good government rests.

Ordinary matters of difference sink into insignificance before the gravity of the issue presented by the majority. The total amount appropriated by this bill might be adjusted, in many respects, so that it would be essentially improved, but as I have before said we are not now objecting to minor details. The minority, both in the last and in the present Congress, have shown a willingness to compromise differences, and are altogether indisposed to block the wheels of legislation by unnecessary objection. The objection to the bill as presented is fundamental. To abandon it would be to abandon principle. To compromise would be to yield where good government demands firmness.

The majority propose to repeal laws, which were placed on the statute-book by an overwhelming necessity, to preserve the purity of elections. They go outside and beyond the usual methods for the enactment of law by incorporating such a provision on an appropriation bill and they say to the minority in Congress and to the Executive of the nation, "Unless you aid us in repealing these laws, we will cut off your supplies." Sir, such action and such demands are as reckless and as revolutionary as the drawn sword of open rebellion. It is of no consequence how the Government is revolutionized; whether it is done by armed resistance to its constitutional and legal authority or by withholding the means necessary to enable it to perform its functions and perpetuate its existence. The Army, which has been educated, fed, clothed, and equipped by the nation, and which has taken a solemn oath to sacrifice life, if need be, in defense of the honor and perpetuity of the Government, is no more sacredly bound to the discharge of its duty than is the legislative branch of the Government, and the former is no more guilty of unfaithfulness and treason when it betrays its trust and joins the enemy and helps to destroy the power that nurtured it than is the latter when it raises its sacrilegious hand to smite the Government to death by refusing to supply it with the means necessary to its life. Both alike are acts that should subject the guilty to the doom and the punishment which traitors deserve.

I trust that I may be justified in repeating some truths of history. I greatly regret that the southern democracy is constantly creating the necessity for referring to these truths. The chairman of this committee, the distinguished gentleman from Kentucky, [Mr. BLACKBURN,] in a speech made by him on the 3d instant, if I remember the date correctly, alluded to the repealing clauses which were proposed in the Army bill, involving substantially the same principles now under discussion, and said:

I am willing, and those with whom I stand are willing, to accept this issue; and we go further, we tender it. We are the ones to make the issue and we are ready for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power, she proposes to celebrate her recovery of her long-lost heritage, by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which, like these, were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

I quote the gentleman's language on the occasion referred to, as it perhaps embodies more fully than any other gentleman has expressed it the purposes of the majority in seeking to repeal the enactments which have been in the way of ballot-box stuffers and repeaters. This startling statement is repeated in language more or less forcible whenever there is an opportunity by the gentleman and his friends who conspired with him in the mad effort, apparently not yet abandoned, to destroy the Government.

The distrust and alarm aroused throughout the country by the language used by the gentleman cannot be allayed by the repeated explanations he has since made.

It is observed that he has not yet specifically stated what legislation is included within the terms employed by him. Where will he draw the line in striking from the statute-book the "war measures?"

It is notorious that the people of the rebellious States, with few exceptions, believe that the thirteenth, fourteenth, and fifteenth amendments to the Constitution "were born of the passions incident to civil strife." Will the gentleman and his friends "strike" from the statute-book the legislation without which these "amendments" are inoperative?

That the democracy is back in power after eighteen years is a joyful occasion with them no doubt. But their bugle-note is blown too soon and too loud for their good. The people have heard and, hearing, have, I trust, resolved that such sentiments shall not triumph now no more than they did in 1861–'65. The hand is outstretched for the coveted heritage, but the people have recognized it as a traitor's hand, and once again, as I hope and believe, it shall fall paralyzed and powerless ere it grasps the prize.

It is wiser to judge a party by what it has done than by what it has said, and the oft-repeated acts of the democratic party in the South and in several of the larger cities of the North say, in terms that cannot be misconstrued, that she intends to tear off all "badges of servitude" at the ballot-box by surrounding it, not with Union bayonets, but with rifle clubs, by protecting it vigorously from republican votes, and purifying it with all the processes known to New York repeaters and South Carolina stuffers.

Mr. Chairman, you and your coadjutors have a great horror of elections, however fairly and honestly conducted, that give majorities against your party. The election of 1860, which placed as good and as able a President in the presidential chair as ever occupied it, honest Abraham Lincoln, was a fair and free election. No one complained of its being conducted unfairly, but it resulted against you, and you complained of it, and affirmed that it afforded you just cause for rebellion. Whenever your party was victor, no matter how responsible it was for frauds, you have never complained. When elections are honest and go against you, you make yourselves hoarse with the cry of "Fraud! Fraud!"

I am not aware that any party possesses an inheritance in the sense that the eloquent and figurative gentleman from Kentucky claimed it for his degenerate party. I admit that the democratic party in the days of Jackson earned the heritage of a good name by daring to be honest and executing the laws. It also had a record for being in favor of honest money then which it has not now. It had a record for the confinement of human slavery within its prescribed limits and for a fearless dealing with nullifiers and disunionists. And President Jackson made another record and left it as a heritage for his party in the shape of a letter which I will read, and I desire to have it embodied as a part of my remarks:

Letter of General Jackson, Globe, page 32, Thirty-sixth Congress.

[Private.]

WASHINGTON, *May* 1, 1833.

MY DEAR SIR: I have had a laborious task here, but nullification is dead, and its actors and courtiers will only be remembered by the people to be execrated for their wicked designs to sever and destroy the only good government on the globe, and that prosperity and happiness we enjoy over every other portion of the world. Haman's gallows ought to be the fate of all such ambitious men who would involve their country in civil war and all the evils in its train that they might reign and ride on its whirlwind and direct the storm.

The free people of these United States have spoken and consigned these wicked demagogues to their proper doom. Take care of your nullifiers, you have them among you; let them meet with the indignant frowns of every man who loves his country.

The tariff, it is *now* [and he italicises or underscores the word "now"] known, was a mere pretext; its burden was on your coarse woolens. By the law of July, 1832, coarse woolen was reduced to 5 per cent. for the benefit of the South. Mr. Clay's bill takes it up and classes it with woolens at 50 per cent., reduces it gradually down to 20 per cent., and there it is to remain, and Mr. Calhoun and all the nullifiers agree to the principle.

The cash duties and home valuation will be equal to 15 per cent. more, and after the year 1842 you pay on coarse woolens 35 per cent. If this is not protection, I cannot understand. Therefore, the tariff was only the pretext, and disunion and a southern confederacy the real object.

The next pretext will be the negro or slavery question.

My health is not good, but improving a little. Present me kindly to your lady and family, and believe me to be your friend. I will always be happy to hear from you.

ANDREW JACKSON.

The Rev. A. J. CRAWFORD.

The party as then existing hated nullification, treason, secession, and repudiation; but this "heritage" was not bequeathed to those who succeeded later to its then honorable title. In 1854 it began to "tear away its badges of servitude." It tore away the Missouri compromise line for the demarcation of slavery. Later it tore away free-

dom of elections in Kansas by invasion, armed possession of the polls, murder, and arson.

Permit me to quote as a part of my speech a portion of the report of the majority of a congressional committee which was made to Congress on the subject of the election held in Kansas March 30, 1855, which was managed and controlled by the democratic party, and in accordance with its then and present most approved notions of fair elections:

On the same day that the census was completed the governor issued his proclamation for an election to be held on the 30th of March, A. D. 1855, for members of the Legislative Assembly of the Territory. It prescribed the boundaries of districts, the places for polls, the names of judges, the apportionment of members, and recited the qualification of voters. If it had been observed a just and fair election would have reflected the will of the people of the Territory. Before the election false and inflammatory rumors were busily circulated among the people of western Missouri. The number and character of the emigration then passing into the Territory were grossly exaggerated and misrepresented. Through the active exertion of many of its leading citizens, aided by the secret society before referred to, the passions and prejudices of the people of that State were greatly excited. Several residents there have testified to the character of the reports circulated among and credited by the people. These efforts were successful. By an organized movement, which extended from Andrew County in the north to Jasper County in the south and as far eastward as Boone and Cole Counties, Missouri, companies of men were arranged in irregular parties and sent into every council district in the Territory, and into every Representative district but one. The members were so distributed as to control the election in each district. They went to vote, and with the avowed design to make Kansas a slave State. They were generally armed and equipped, carried with them their own provisions and tents, and so marched into the Territory. The details of this invasion form the mass of the testimony taken by your committee, and is so voluminous that we can here state but the leading facts elicited.

First district—Lawrence: The company of persons who marched into this district was collected in Ray, Howard, Carroll, Boone, La Fayette, Randolph, Macon, Clay, Jackson, Saline, and Cass Counties, in the State of Missouri. Their expenses were paid, those who could not come contributing provisions, wagons, &c. Provisions were deposited for those who were expected to come to Lawrence in the house of William Lykens, and were distributed among the Missourians after they arrived there. The evening before and the morning of the day of election about one thousand men from the above counties arrived at Lawrence and camped in a ravine a short distance from town, near the place of voting. They came in wagons (of which there were over one hundred) and on horseback, under the command of Colonel Samuel Young, of Boone County, Missouri, and Claiborne F. Jackson, of Missouri. They were armed with guns, rifles, pistols, and bowie-knives, and had tents, music, and flags with them. They brought with them two pieces of artillery loaded with musket-balls. On their way to Lawrence some of them met Mr. N. B. Blanton, who had been appointed one of the judges of election by Governor Reeder, and, after learning from him that he considered it his duty to demand an oath from them as to their place of residence, first attempted to bribe him and then threatened him with hanging in order to induce him to dispense with that oath. In consequence of these threats he did not appear at the polls the next morning to act as judge.

The evening before the election, while in camp, the Missourians were called together at the tent of Captain Claiborne F. Jackson, and speeches were made to them by Colonel Young and others, calling for volunteers to go to other districts where there were not Missourians enough to control the election, as there were more at Lawrence than were needed there. Many volunteered to go, and on the morning of the election several companies, from one hundred and fifty to two hundred each, went off to Tecumseh, Hickory Point, Bloomington, and other places. On the morning of the election the Missourians came over to the place of voting from their camp in bodies of one hundred at a time. Mr. Blanton not appearing, another judge was appointed in his place; Colonel Young claiming that, as the people of the Territory had two judges, it was nothing more than right that the Missourians should have the other one to look after their interests; and Robert A. Cummings was elected in Blanton's stead because he considered that every man had a right to vote if he had been in the Territory but an hour.

The Missourians brought their tickets with them, but not having enough they had three hundred more printed in Lawrence on the evening before and on the day of election. They had white ribbons in their buttonholes to distinguish themselves from the settlers.

I also copy what the gentleman from Kansas [Mr. HASKELL] said here the other day in confirmation of the truth of the majority report, as he was present and saw it:

Now, Mr. Chairman, March 28, 1855, was the first day I ever saw within the Territory of Kansas. I came up from Kansas City, Missouri, to the town of Lawrence, in company with these one thousand men whom I saw afterwards at the polls in that town casting their ballots for the election of the Legislature of that Territory. I can vouch for the truth of the foregoing statement.

I desire also to show what was the result of that election, two sections of the old statutes of the Territory of Kansas that were afterwards enacted by that Legislature, enactments made possible in consequence of elections carried in that way by mobs and armed forces, accompanied by artillery. I was there and know myself the accuracy of what I state.

I will now give a few of the results that immediately followed the most approved democratic methods of conducting elections, and which they are now and here so vigorously contending to perpetuate.

The following are the two sections of the statutes above referred to:

SEC. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated in this Territory any book, paper, magazine, pamphlet, or circular containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years.

SEC. 13. No person who is conscientiously opposed to holding slaves or who does not admit the right to hold slaves in this Territory shall sit as a juror on the trial of any prosecution for any violation of any of the sections of this act.

On the 5th of May, Judge Le Compte delivered a charge, highly partisan in its character, to the grand jury of Douglas County, of which the following extract is in his own words:

"This Territory was organized by an act of Congress, and so far its authority is from the United States. It has a Legislature elected in pursuance of that organic act. This Legislature, being an instrument of Congress, by which it governs the Territory, has passed laws; these laws, therefore, are of United States authority and making, and all that resist these laws resist the power and authority of the United States, and are, therefore, guilty of high treason. Now, gentlemen, if you find that any persons have resisted these laws, then must you, under your oath, find bills against such persons for high treason. If you find that no such resistance has been made, but that combinations have been formed for the purpose of resisting them, and individuals of influence and notoriety have been aiding and abetting in such combinations, then must you still find bills for constructive treason; the blow need not be struck, but only the intention may be evident."

The following is from the report of the Committee of Claims of the House of Representatives on "Kansas claims:"

In the mean time the remainder of the force, comprising several hundred men, with United States muskets and fixed bayonets, were taking position in the town. Men endeavored by argument, and women by tears, to alter the determination of Jones, but in vain. At three and a quarter o'clock he announced to Messrs. Eldridge that he would give them till five to remove their families and furniture from the house. The work of pillage had already commenced; the contents of the printing offices were scattered in the streets, and the red flag planted on the roof, first of the office of the Herald of Freedom and afterward on the Eldridge House. The family of Mr. G. W. Brown were driven from their house, and the immediate pillage of the hotel prevented only by the resolute interference of a few citizens, aided by some individuals of the mob, who kept a strict guard at the doors and insisted the families of the proprietors should have the time promised by Jones in which to collect their most necessary effects and leave. At last the cannon were placed and ready, and it was announced to Colonel S. W. Eldridge that the bombardment would commence in five minutes. His wife and children and such personal effects as they had been enabled to collect were placed in carriages and driven off between files of United States bayonets and amid the yells of the impatient mob. As they left the town the first boom of a cannon told that the work of destruction had begun. Soon (as the impression made by the cannon was not great) the building was fired, and with the aid of gunpowder reduced, with its furniture and stores, to a pile of ruins.

The work of pillage spread through the whole town, and continued until after dark. Every house and store which could be entered was ransacked, trunks broken open, and money and property taken at will. Where women had not fled they were in some cases insulted, and even robbed of their clothing. From one house over $2,000 in money were carried away. The house of Charles Robinson was pillaged and burned to the ground. The same evening the forces were drawn off to their camp, and the sack of Lawrence was concluded.

Some incidents of this authorized outrage here demand mention. While Messrs. Topliff and Perry were aiding the marshal in making the arrests both their houses were broken open and pillaged. Some of the flags which floated beside that of the Union had for mottoes, "Superiority of the white race;" "Kansas the outpost;" "South Carolina;" while one had the national stripes, with a tiger in place of the Union; another had alternated stripes of black and white. While the cannon were being placed for the destruction of the Eldridge House, David R. Atchison, late Vice-President of the United States, was conspicuous among the mob. When the final doom of the hotel and the printing-offices was pronounced it was said by the officials to be by order of the Government, as the grand jury of Douglas County had ordered them abated as nuisances. The only charge against the Eldridge House was its ownership by the Emigrant Aid Company.

It will be observed at this period that the democratic party had no such fear of military encroachments and usurpations as has now taken possession of it. On the contrary, they used all the military force they could command at the polls and everywhere else where necessary to accomplish their hellish purposes.

Mr. Chairman, I now desire to call attention to the reasons that placed the law you seek to repeal upon the statute-book.

First, I give the memorial of a committee of the Union League Club of the city of New York to Congress:

[Fortieth Congress, third session. Senate Mis. Doc. No. 4.]

Memorial of a committee of the Union League Club of the city of New York, praying the appointment of a special committee to investigate the naturalization and election frauds and irregularities perpetrated in the recent election in the city and State of New York.

DECEMBER 14, 1868—Referred to the Committee on the Judiciary, and ordered to be printed.

To the honorable the Senate and House of Representatives in Congress assembled:

The undersigned, a committee of the Union League Club of the city of New York, respectfully represent that the said association, embracing more than a thousand loyal citizens of New York, having resolved at a meeting held on the 4th of November that in their deliberate judgment a large majority of the legal voters of the State voted for Grant, Colfax, and Griswold, and that that vote of the majority had been overruled and subverted by wholesale fraud, appointed the undersigned to investigate the said matter, and to institute such measures in connection therewith as they might deem expedient and proper; and that after a careful investigation the undersigned do now, on behalf of the said body and of the law-abiding community of New York, respectfully represent as follows:

I.—AS TO THE FACT OF A LARGE FRAUDULENT VOTE.

By a comparison for the past eighteen years of the election statistics of the city of New York with the census returns of the United States and of the State of New York, it is evident that the vote reported as cast in the city of New York in the recent election for presidential electors and State officers was larger than the actual number of legal voters in the city, and still larger than the number of legal votes cast by them in the said election.

Referring to the tabular statistical statements hereto appended (see schedules marked 1, 2, 3, 4, 5, 6, and 7) in regard to the city and county of New York and the county of Kings, including the city of Brooklyn, as illustrating the point, they show that a careful comparison of statistics of population and elections, extending over twenty years, demonstrates the fact—

First. That the rate of annual increase in the number of voters in this city is 4 per cent. per annum; and,

Second. That the proportion of votes cast to the whole number of legal voters has ranged from 70 to 90 per cent., and that at least 10 per cent. for absentees should be deducted from the total number of voters to show the number who actually vote.

The State census of 1865 (see table 3) shows the whole number of votes cast in the city that year to have been	128,975
Which, increased at the rate of 4 per cent. per annum, made the whole number of votes in 1868	143,894
And, by deducting 10 per cent. for absentees, the actual number of legal voters exercising that right in 1868, was	129,504
The total number of votes registered in the city of New York was (see table 4)	170,222
The total number of votes cast by wards and districts (table 5) was	156,050
And it thus appears that the number of votes cast exceeded the total voting population as shown by the census	12,156
That it exceeded the actual voters, as shown by deducting 10 per cent. for absentees	26,546
And that the number of voters registered exceeded the total number of persons entitled to vote by	26,328

Showing a nearly equal number of illegal votes and of illegal registries.

The statistics of the separate wards of the city show where this increase of illegal voting is to be found, as for instance in the Sixth ward. The voting

population by the census of 1865—native, 399; foreign, 3,546; total	4,145
Increased by 4 per cent. per annum, it would be, in 1868	4,642
The number of votes registered in 1868 was	5,686
The number of votes officially reported as cast was	5,401
Being an excess in the registry of	1,044
An excess of votes cast over the total number of voters of	759
And over the 90 per cent. who vote of	1,223

But in this case it is an ascertained fact that the male population of the Sixth ward, which in 1860 was 13,465, and which in 1865 had diminished to 9,717, a loss of 3,748, has, since 1865, diminished still further, from dwellings giving place to stores and factories, which makes the fraudulent excess in registry and votes cast much larger than in the above estimate, in which an increase is allowed of 4 per cent. per annum.

A similar examination of the statistics of other wards in the down-town districts, where the foreign and floating element is large, shows still greater discrepancies between the number of votes, as shown by the census, and the votes officially reported.

Passing from the vote of the city to that of the State, it is found that in the counties containing large cities, such as Kings, Albany, Rensselaer, and Erie, and along the line of the Hudson River there is an increase of votes much larger than was ever before given. Heretofore 90 per cent. has been the extreme limit of the votes cast compared with the total voting population. In Kings County it is 102 per cent. In Delaware nearly 101 per cent., with a similar increase, although not so large in Rockland, Orange, Broome, Ulster, and other counties along the line of the Erie Railroad.

II.—AS TO THE MANNER IN WHICH THE FRAUD WAS PERPETRATED.

1. The naturalization of aliens in the city of New York during the present year has been conducted in the court of common pleas, the superior court, and the supreme court.

In the court of common pleas, where the law seems to have been faithfully executed and the records are properly kept, the records show a total of twenty-nine hundred and seventy-eight certificates of citizenship issued from June 10 to the 25th of October.

In the supreme court the books are said not to be written up nor the records arranged, and the clerk has refused, after advisement, as is believed, by a judge of the court, to allow the records to be submitted to examination.

In the supreme court, one of the judges holding the circuit and over and terminer, sat also in October for some twenty days for the purpose of naturalizing aliens, and his sessions for this purpose frequently continued until late at night. During the progress of the work it is believed that no record whatever was kept, but that the original papers were bundled up and sent to the clerk's office, where they are now being slowly arranged.

The proceedings were conducted in a manner but little calculated to inspire respect for the discretion of the court and the supremacy of the law or the dignity of American citizenship. Roughs and bullies were admitted, to the exclusion of respectable citizens. Newspaper reporters, who attended to report the proceedings, were ejected, and a member of the bar was forcibly turned out. Numbers of applicants for naturalization were vouched for by the same witnesses; and there is reason to believe that gangs of men were repeatedly passed before the judge under the assumed names of aliens for whom naturalization papers were desired, but who were unable or unwilling to take the necessary oaths.

The number thus naturalized in the supreme court, fairly or fraudulently, is variously estimated from 20,000 to 50,000. Irregular and illegal naturalization is believed to have occurred also in other parts of the State. In Ulster County a county judge is reported to have opened court every morning at the clerk's office, and to have left the clerk to issue certificates of citizenship to parties whom he had never seen nor examined. The number of certificates thus issued is stated at over 600. In Troy a justice of the peace, with no jurisdiction in the matter, assumed to act, and 1,700 pretended certicates are believed to have been issued. The clerk of the court is reported to have admitted that the names were entered by him in the court records some weeks after the papers were issued, from recollection. A similar issue of pretended papers, although less in number, is reported as having occurred in Greene County, and like irregularities in other counties of the State.

III.—FRAUDULENT MANUFACTURE, SALE, AND DISTRIBUTION OF PRETENDED CERTIFICATES.

From the preliminary proceedings in the case of Rosenberg, now under indictment in the United States district court, it appeared that the accused had acknowledged having himself furnished 7,000 certificates of citizenship, and that he had offered to furnish 5,000 to the witness on condition that they should not be used by republicans. The trial of Rosenberg is suspended until the decision of the Supreme Court of the United States upon questions of law raised by the defendant, upon which Judges Nelson and Blatchford divided in opinion, and it is believed that upon the decision in this case depends also the finding of some thirty other indictments against other parties for naturalization and election frauds.

Until these questions shall be decided all proceedings under the law of the United States are stayed.

The undersigned are advised and charge that these fraudulent papers were supplied in large numbers from the city of New York to the workmen in the manufactories in the interior of the State; among other cases to three hundred workmen at the West Point foundery, who had not left their work, and to gangs of workmen at Verplank's, America, and other places; and that they were furnished on order, in any name and for any part of the State; that they were offered wholesale at $1.50 apiece, and at retail at $2, and that they were subsequently hawked about in blank, at prices descending to twenty-five cents, and pressed gratuitously upon aliens not entitled to be naturalized and who neither asked for nor wanted them.

IV.—FRAUDULENT REGISTRATION.

Proofs are in hand showing that a large number of names, real and fictitious, have been fraudulently entered upon the registries with false residences attached thereto.

This particular fraud has been perpetrated with a boldness, system, and success which, until the rights of citizens are more perfectly protected by the Legislature and the judiciary, will render the preservation of the purity of the franchise a task impossible.

The ascertainment of frauds of this sort is a work of time and labor which the undersigned have but partially accomplished. One or two extracts from the returns made by examiners in certain localities will show their character:

Bowery.

	Registered.
No. 30	30
No. 38	10
No. 40	12
No. 42	16
No. 44	24
Total	92

Of which number not over ten were legal voters.

Bayard street.

	Registered.	Legal voters.
No. 30	30	1

Baxter street.

	Registered.	Legal voters.
No. 88	9	1
No. 90	38	15
No. 92	28	15
No. 94	26	15
No. 96	9	1
Total	110	47

5. Repeating, by individuals, and gangs of men who, with a flimsy attempt at disguise, occasionally exchanged coats and hats, and who voted a second and third time at the same poll, being furnished by a person in attendance at the polls with a list of names from the registry of those who had not yet voted, and who continued this system of repeating in other voting districts.

6. Terrorism and violence on the day of election were resorted to to prevent the challenging of illegal votes, and two republican inspectors were improperly arrested, one of them by a bogus warrant issued by two of his co-inspectors and served while he was performing his official duties at the poll, from which he was dragged to prison.

7. To the proclamation of Mayor Hoffman the attention of your honorable bodies is specially directed, as having afforded official encouragement to those engaged in the attempt to influence the election by the use of certificates, genuine in appearance but void in fact; by assailing the officers of the United States and its grand jury as having attempted to interfere with the freedom of election in the Empire State; by complaining that the authority of the judges and the seal of the supreme court of the State were defied, and by denouncing those who were attempting to protect the purity of the franchise as designing and wicked men.

The proclamation was as follows:

"PROCLAMATION.

"MAYOR'S OFFICE,
"*New York, October* 31, 1868.

"*To the people of the city of New York:*

"We are on the eve of an important election. Intense excitement pervades the whole community. Unscrupulous, designing, and dangerous men, political partisans, are resorting to extraordinary means to increase it. Gross and unfounded charges of fraud are made by them against those high in authority. Threats are made against naturalized citizens, and the authority of the judges and the seal of the supreme court is defied. A grand jury of the United States court, summoned through the agency of those who are in this scheme, has, as I have been informed, been induced, without that preliminary examination which is usual, and which is afforded by law for the protection of character, to find in great haste and secrecy bills of indictment against divers persons for the purpose, openly avowed, of intimidating them in the discharge of their public duties. The United States marshal, a violent political partisan, has assumed to himself the power and duty of appointing swarms of special deputies to take their place at the polls, and to threaten and awe the electors of the State of New York in the exercise of their high privilege of casting their votes for the chief officers of the nation and State. It is the first time in the history of the country that United States Government officials have attempted to interfere with free elections in the Empire State, and the act is attended with danger.

"Evidence is accumulating that the combination of dangerous men who have set on foot and thus far carried into execution these unusual and unjustifiable movements have done so for two purposes:

"First. To conceal and cover their own schemes of fraud, which they hope to consummate by the aid of untried or pardoned criminals.

"Second. So to excite the masses of people in this city, who are opposed to them, as to lead them into acts of disorder and violent resistance.

"In the exercise of my duty as chief magistrate of this city, I call upon all good people to unite in preventing the consummation of this scheme. Let them watch carefully the movements of those who seek to perpetrate great frauds, while they charge frauds upon others, and above all things let them see to it that there shall be no scenes of violence or disorder on the day of election. Perfect peace and order are essential to the welfare of the city and prosperity of the State, and the maintenance of the rights of the people.

"Nothing but evil and calamity can come from any disturbance of the public peace. Those in authority and those out of it alike find their protection in the maintenance of law and the preservation of order.

"Let no citizen, however, be deterred by any threats or fears from the discharge of his duty at the polls or elsewhere, but let him assert his rights boldly, resolutely, and at the same time with calmness and dignity, and he will find his perfect protection under the laws and lawfully constituted authorities of the State of New York.

"By virtue of authority vested in me by law, I hereby offer a reward of $100, to be paid on the arrest and conviction of any person charged with a violation of the election laws of this State, and a like sum to be paid on the arrest and conviction of any person charged with intimidating, obstructing, or defrauding any voter in the exercise of his right as an elector.

"In witness whereof I have hereunto set my hand and official seal, at the city hall, in the city of New York, this 31st day of October, 1868.

"JOHN T. HOFFMAN, *Mayor.*"

This document, singular in its disregard of official courtesy and propriety, was calculated to bring into discredit and contempt United States officials for their efforts to preserve the purity of the franchise, and tended to neutralize the effect of the judicious charge of Judge Benedict on the naturalization frauds; to induce unqualified aliens to believe that they had a right to use certificates duly signed and sealed, without regard to the manner in which they were obtained; and to deter honest citizens and inspectors of elections from individual attempts to check by challenge illegal votes, which were thus virtually encouraged, while those who were honestly endeavoring to protect the franchise were officially denounced as wishing to cover their own schemes of fraud.

The attention of your honorable bodies is asked also to the following circular throwing light upon the tactics of the party or the faction by which the fraudulent conspiracy had been organized to change the vote of the State.

It is perhaps proper to say that Mr. Tilden, whose name is subscribed to it, has publicly denied that he authorized it; but the undersigned have evidence to show that the circular did come from the rooms of the democratic State committee; that they have reason to believe that arrangements were made in accordance with the provision of the said circular for the transmission of telegrams; that telegrams were received from the rural districts with estimates of the vote, addressed to William M. Tweed, Tammany Hall, as therein directed; that the election returns in the city were in many cases kept back until a later hour than usual on the night of the election; that the democratic inspector in one case declared he was ordered to keep them back; that in some districts the police were compelled to appoint new canvassers on account of the refusal of the democratic canvassers to properly and promptly proceed with the canvassing; and that when the returns were made in many districts at a late hour the next morning the vote was, as already stated, largely in excess of the legal voters, and in some districts in excess also of the votes registered.

The circular was as follows:

[Private and strictly confidential.]

"ROOMS OF THE DEMOCRATIC STATE COMMITTEE,
"*October* 27, 1868.

"MY DEAR SIR: Please at once to communicate with some reliable person, in three or four principal towns and in each city of your county, and request him (expenses duly arranged for this end) to telegraph to William M. Tweed, Tammany Hall, at the minute of closing the polls, not waiting for the count, such person's estimate of the vote.

"Let the telegraph be as follows:

"'This town will show a democratic gain (or loss) over last year of (number;)' or this one if sufficiently certain: 'This town will give a republican (or democratic) majority of ——.'

"There is of course an important object to be attained by a simultaneous transmission at the hour of closing the polls, but not longer waiting. Opportunity can be taken of the usual half-hour lull in telegraphic communications over lines before actual results begin to be declared and before the Associated Press absorb the telegraph with returns and interfere with individual messages; and give orders to watch carefully the count.

"Very truly, yours,

"SAMUEL J. TILDEN,
"*Chairman.*"

Upon the foregoing statistical returns, facts, and statements the undersigned respectfully submit—

That they indicate the existence of a conspiracy which certain circumstances connected with the issue of certificates and the release on *habeas corpus* of persons arrested for false registering and illegal voting would seem to indicate was initiated and carried on with the cognizance and connivance of local judges and other court officials; that the conspiracy had its agents and emissaries in various parts of the State of New York, and was intended to carry the recent presidential and State elections by fraud: first, by the issue of fraudulent naturalization papers on a gigantic scale, to which encouragement was virtually given by the official proclamation of the mayor; then by fraudulent registration and fraudulent repeating; and lastly by a circular, secret and strictly confidential, dated at the rooms of the democratic State committee, which, unexplained, seems to indicate that its authors had then abettors and tools in every county, city, and town of the State, who were to aid them by discovering at the last moment after the polls were closed and before the count was had what additional fraud in the shape of a false count in the city of New York might still be necessary to enable them to attain the important object of defeating the will of the people of the State as expressed by their legal votes, and securing the return of the candidates in whose interest the conspiracy had been planned and executed.

That by carefully compiled comparative statistics it is demonstrated that the victory thus achieved was won by illegal votes which could by no possibility have been honestly cast; that in this manner the will of the people of the State of New York has been fraudulently and violently overruled in reference to the electoral ticket, as well as in regard to their own State officers.

That the existing naturalization laws of the United States have proven insufficient to preserve the system of naturalization from abuse by gross irregularities and fraud; that some of the State courts empowered to confer citizenship, with its weighty rights and privileges, the right to exercise the suffrage, the right to hold property, and the right the world over to claim the protection of the flag, have imperfectly and improperly exercised the powers thus given, and that pending the decision in the Rosenberg case there is no law by which such irregularities and frauds can be detected and punished; that the disclosure of such an organized conspiracy in this city to change the result of the State and presidential election exhibits a state of things fraught with danger to the whole body-politic, and demands the serious and earnest attention of Congress and the wise exercise of the power conferred upon it by the Constitution to make and alter the time, place, and manner of electing members of the House of Representatives.

That properly to legislate for the prevention and correction of the existing evils in New York and other large cities it is essential that Congress should be correctly advised in regard to their character and extent, and that, inasmuch as officers of local courts are implicated in the matter of the naturalization fraud, and the district court of the United States is temporarily, at least, without jurisdiction, pending the decision of the Supreme Court, there is no other way in which Congress can properly advise itself on the subject than by appointing a committee of investigation with power to send for persons and papers, and to report the facts fully and fairly, without fear or favor, as well in regard to the frauds herein charged as in regard to that scheme of fraud which Mayor Hoffman officially proclaimed that his opponents hoped to consummate by the aid of untried or pardoned criminals, and that scheme of violence into which he officially charged that they hoped to excite the masses of the people.

It is clear that whenever good faith and honor are discarded by party managers, and fraud is deliberately resorted to as a weapon of party warfare, and that fraud becomes successful, and is installed in power, and clothed with official dignity, none but the supreme authority can prevent its future domination and restore to the people confidence in their institutions.

Unaided in investigations by the judiciary of the city or of the nation, deeming it hopeless by individual effort to gather such legal proofs as might be necessary to place in their seats the men whom we believe were fairly elected by the votes of the people of the State of New York, we appeal to your honorable bodies for protection in the future.

Were it once established that a faction which by fraud has triumphed over the people is to enjoy with impunity its ill-gotten victory, it would, of course proceed to perpetuate its power by further frauds and wicked usurpations, while honest citizens of both parties would protest by withdrawing from the polls where popular elections had become a sham. In such a case our elections, no longer the source of noble debate on great principles or generous rivalry on public interests, would degenerate into mere contests for place, power, and profit. Unprincipled politicians, like reckless gamesters, would seek by secret fraud and open violence to accomplish the most unjust and ignoble of purposes; justice would become a matter of purchase, and an elective judiciary the leaders of the conspiracy.

In addition to the necessity and importance of the most searching scrutiny into the conduct of the last election for the advisement of Congress in regard to the legislation proper to correct those abuses and wisely to determine the manner in which members of Congress should be elected, the appointment of a committee of investigation will be hailed with satisfaction by honest men of all parties as a means of discovering the mass of frauds which have been committed, especially in reference to the electoral vote, and as indicating the proper legislation by which the purity of the franchise and the safety of the nation may be henceforth preserved. Such an investigation will be hailed alike by the republicans whom Mayor Hoffman arraigned and by the honest democrats who may have repudiated with scorn the fraudulent proceedings of their associates, and who may be able to show that they used their best endeavors to defeat, expose, and punish the villainies that have been perpetrated in the interest of their party.

We therefore pray Congress to appoint a special committee, with power to send for persons and papers, to investigate the naturalization and election frauds and irregularities perpetrated in the recent election in the city and State of New York, with a view to the thorough advisement of Congress in reference to the evils in connection therewith, requiring to be remedied by national legislation in pursuance of the national Constitution; and your petitioners will ever pray.

WILLIAM E. DODGE, *Chairman.*
MOSES H. GRINNELL.
MARSHALL O. ROBERTS.
HORACE GREELEY.
ISAAC SHERMAN.
ISAAC H. BAILEY.
JOHN H. WHITE.
LEGRAND B. CANNON.
JACKSON S. SCHULTZ.
JOHN JAY.

NEW YORK, *December* 8, 1868.

The high character of the gentlemen whose names are subscribed to this petition and the startling information conveyed therein induced Congress to make the investigation asked for, and from the report of the committee I desire to submit the following extracts:

These frauds are so varied in character that they comprehend every known crime against the elective franchise. They corrupted the administration of justice, degraded the judiciary, defeated the execution of the laws, subverted, for the time being in New York State the essential principles of popular government, robbed the people of that great State of their rightful choice of electors of President and Vice-President, of a governor and other officers, disgraced the most populous city of the Union, encouraged the enemies of republican government here and everywhere to deride our institutions as a failure, and endangered the peace of the Republic by an attempt to defeat the will of the people in the choice of their rulers. The events of the past year in New York and the evidence taken by the committee furnish the proof of all these allegations. Among the most prominent of the frauds committed in the interest of the democratic party in the city and State of New York in connection with the election in November, 1868, are these:

1. Many thousands of aliens fraudulently procured or were furnished with certificates of naturalization illegally or fraudulently issued, by means of which they were enabled to register as voters, and voted in violation of law.

2. Many hundreds of certificates of naturalization were granted in the names of fictitious persons to be used by native-born and naturalized citizens and aliens in falsely registering as voters, and to enable them to vote many times at the elections.

3. Many hundreds of persons voted in New York City from two to forty times or more, each under assumed or fictitious names, fraudulently registered for the purpose.

4. Extensive frauds were committed in canvassing tickets, and names of voters were entered on the poll lists, and democratic tickets counted as if voters representing them voted, when no such persons voted at all.

5. To accomplish these frauds, gross neglect of duty and disregard of law, so great as to evince a criminal purpose, prevailed in some of the courts, while officers and democratic partisans of almost every grade, either by official influence or otherwise, aided, sanctioned, or knew of and failed to prevent them. The same influences shielded the perpetrators, in nearly all cases, from detection or arrest; and when arrested, they have, through the agency of judicial officers and others charged with the duty of prosecution, escaped all punishment.

6. Through these agencies, the democratic electors of President and Vice-President and the democratic candidate for governor of the State of New York were fraudulently elected.

7. And the investigations of the committee show that existing State laws and the mode of enforcing them are wholly inadequate to prevent these frauds, but that Congress has the power to enact laws which, if faithfully executed, will, to some extent, furnish remedies hereafter. There is no law of Congress professing to prevent or punish frauds in voting or conducting elections; and the penalties relating to certificates of naturalization are by no means adequate. (Chapter 1, pages 4 and 5.)

Prior to the year 1868 naturalizations were effected in State courts in New York City only in the court of common pleas and the superior court. The average number naturalized each year in the common pleas, from 1856 to 1867, inclusive, was 5,252, and in the superior court 3,955, or a total annual average of 9,207. The highest number in any one of these years, in both these courts, prior to 1865, was 16,493, in 1856. On the 6th of October, 1868, the supreme court commenced the work of naturalization. In the year 1868 these courts, as reported by some of their officers, naturalized as follows:

In the common pleas	3,145
Superior court	27,897
Supreme court, in October	10,070
Total	41,112

This is more than four times the average of previous years, and about two and a half times greater than the largest number in any preceding year; and it is not possible that there could have been any such number of legal applications. (Chapter 2, pages 5, 6, and 7.)

There is a large class of fraudulent certificates issued to aliens who not only never appeared in court, but who never asked that application should be made for them. They were left at houses, stores, and other places, or sold or given away. Individual instances are numerous. (P. 17.)

Among the frauds practiced under the naturalization laws were the false personation of applicants for naturalization, perjury of witnesses under real and assumed names, the fabrication of applications for naturalization and oaths in support of them, with names of applicants and witnesses forged; the granting of certificates of naturalization in fictitious names, and an application regular in form, but without the presence of any applicants, and to persons not entitled to them. To accomplish these it was necessary to secure the active co-operation of some of the courts, or their passive acquiescence or negligence so gross as to raise an irresistible presumption of fraudulent participation. (P. 21.)

The actual number of illegal, fraudulent, and fictitious naturalizations never can be known, but, including those sent from New York City over the State to persons never appearing in court, it is probably safe to say that fraudulent certificates were issued from these two courts alone as follows:

Fraudulent minor applications, as shown above		6,656
Highest number of prior naturalizations since 1855	16,493	
Number as reported in 1868	41,112	
Difference—estimated fraudulent		24,619
Of the 27,068 missing blank certificates in the supreme court, it would doubtless be safe to assume, on the evidence, that there have been used		27,068
In the counties of Ulster, Monroe, Westchester, Renssalaer, Putnam, Green, and Orange, estimating what is probable from what is proved		5,000
As the evidence shows a widespread conspiracy, it is safe to estimate for other portions of the State		5,000
Or a total of not less, and probably more, than		68,343

(Page 31.)

There is evidence to show that it was a part of the gigantic scheme of carrying the democratic ticket in the State of New York by fraud to delay the canvassing

of the vote in the city of New York until the result in the counties of the State should be known, and then make up any deficiency not supplied by repeating and other fraudulent voting, by stuffing the ballot-boxes. (Pages 47 and 48.)

No democratic official, officer of justice, or politician took any measures to defeat or prevent these frauds, but they did take measures to aid them and to obstruct the purposes of those who attempted in vain to defeat them. To make these means successful, the necessary agencies were employed to prevent detection as far as possible, and to defeat the purposes of those who would expose or interfere with the execution of these fraudulent schemes. (P. 54.)

The percentage of increase from 1864 to 1868, as indicated by the enormously large vote of the latter, was 41.1 per cent., or more than twice as much as the average percentage of increase of previous presidential elections. (P. 62.)

In view of all the facts, it is safe to estimate that the total fraudulent and illegal votes cast in the State of New York at the election in November, 1868, were not less, and probably exceed 50,000 votes.

As the result of the work of this committee, the law which you now seek to repeal was enacted. It cannot be embraced in the category of "war measures," which "were born of the passions incident to civil strife." It was enacted not as a rider upon an appropriation bill, but as an independent measure made necessary by the great frauds committed by the democratic party in the State of New York, and here is the law as it was passed:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

This brief statute, made necessary by the democratic party, is the occasion of this extra session of Congress and the mischief it is creating.

The reasons are obvious. At the election of 1868, as we have seen, the democratic party secured the electoral vote of the State of New York and elected its State ticket. At the election in the same State in 1872 there was a fair and honest election, which was secured by the provisions of this law, and the result was a majority for the whole republican ticket of more than fifty thousand votes.

Next I give the letter of the democratic candidate for President in 1872, Horace Greeley, to the democratic candidate for the same high office in 1876, Samuel J. Tilden, which ought to be good authority with every honest democrat in the country:

SIR: You and I are growing old. We came here young men from the country, and have lived and struggled side by side for nearly forty years. We have participated ardently in many political struggles, always on different sides. You were the pupil of Van Buren and Silas Wright; I a disciple and follower of Henry Clay. But this I will say for you, that I am confident you have never sought to enrich yourself by politics or at the expense of the public; that whatever of wealth you may have acquired or enjoyed was earned in your profession as a lawyer; and that your instincts and your influences, partisanship apart, have generally been felt on the side of economy in public expenditure and uprightness in the conduct of public affairs. Of my course in these respects you are welcome to say whatever you think true.

On one very important point, however, your bitterness as a partisan has impelled you to ignore and come short of your duty as a citizen and a professed upholder of government by the people; and for this dereliction I here arraign you. I allude to the preservation of the purity of the ballot-box.

You and I grew up in the country, and are familiar with elections as there conducted. We both know that, except in a few districts where the voters are all on one side, it is morally impossible that any considerable proportion of fraudulent votes should there be polled; for those who attend a poll are nearly all well known to each other, and hardly ever is one entitled to vote who is not known to be so to men of each party. If one should offer a vote who is not so known, he is challenged and questioned of course, and his answers will convict him if a bogus voter. I do not believe that the illegal vote in the rural districts was ever 1 per cent. of the whole number polled, even when there was no registration of legal voters.

How different is the case in cities, and especially in this Babel, you very well know. Long as you have lived on Gramercy Park, and eminent in social position and fortune as are the inhabitants of that favored locality, you could not tell within twenty which of the residents in sight of your front door are and which are not entitled to vote; you could not make a list of the legal voters residing on that square which would even approach accuracy. How it must be then with the nomadic denizens of our "back slums" and of our great tenement houses; how utterly impossible it is that any one should know which among them are and which are not legal voters, and whether the man who offers to vote at eleven a. m. at one poll has not already voted several times at different polls, and whether he is or is not on his way to vote still oftener at other polls, you cannot help knowing if you would. I can imagine how a man may shut his eyes to many things which he deems it convenient not to know, but I speak of what you must know, however you may wish or seek to be ignorant of it.

The matter to which I call your attention is vital to the very existence of free popular government. Whenever it shall be generally understood that the results of the elections are not determined by the ballots of legal voters, but by frauds in voting or frauds in counting, then the advent of avowed, unequivocal despotism must be near at hand. Between the rule of an emperor and the rule of a clique of ballot-box stuffers, every intelligent man must prefer the former as less rapacious and more responsible. When honest citizens shall avoid the polls, asking "What is the use of voting? the result is already fixed," the days of the Republic will be numbered. Between a ruler who prohibits voting altogether and the gang who make it a sham by filling the ballot-boxes with illegal votes, or miscounting those actually cast, the sway of the former is every way preferable.

Mr. Tilden, I have been voting here for thirty-seven years, and an active politician for more than thirty of them, and I appeal to God for my sincerity and to my public record for a witness that in all those years I have earnestly sought and labored to have our elections decided by legal votes and none other. Seeing how great are the temptations and the facilities, under a right of suffrage so general as ours, to poll illegal votes, I have openly and actively favored every effort to shut them out and keep the suffrage pure and legal. That every legal voter should have a full and fair opportunity to vote once at each election; that no one should be enabled to vote more than once, and that none but legal voters should be allowed or empowered to vote at all; such has been my constant aim. I have not confined myself to barren professions, but have shown my faith by my works.

How is it with you? You hold a most responsible and influential position in the councils of a great party. You could make that party content itself with polling legal votes if you only would. In our late constitutional convention I tried to erect some fresh barrier against election frauds. Did you? The very little that I was enabled to effect in this direction I shall try to have ratified by the people at our ensuing election. Will you?

Mr. Tilden, you cannot escape responsibility by saying, with the guilty Macbeth—

> "Thou canst not say I did it; never shake
> Those gory locks at me!"

for you were at least a passive accomplice in the giant frauds of last November. Your name was used, without public protest on your part, in circulars sowed broadcast over the State, whereof the manifest intent was to "make assurance double sure" that the frauds here perpetrated should not be overborne by the honest vote of the rural district. And you, not merely by silence, but by positive assumption, have covered those frauds with the mantle of your respectability. On the principle that "the receiver is as bad as the thief" you are as deeply implicated in them to-day as though your name was Tweed, O'Brien, or Okey Hall.

Mr. Tilden, you and I were ardent participants in the struggle of 1840, wherein Martin Van Buren was ousted from the Presidency by General Harrison. You know how thoroughly our city was absorbed in that contest, wherein every man, woman, and child took a deep and lively interest. Our elections were then held throughout three days; there was a registration freshly enacted which blacklegs had not yet learned to circumvent; the right of suffrage was as widely diffused as it now is; no one ever complained that a single legal voter was unable then to poll his vote. And, though our city has since largely increased its population, the lower wards were quite as populous then as they are to-day—several of them more so. They were full of boarding-houses crowded with clerks and mechanics. Many of these covered sites since given up to great warehouses and manufactories, their denizens have moved up-town, over to Brooklyn, or out on some of the railroads that lead out into the open country. Practically, the lower wards are being given up to commerce, and no longer shelter by night the multitudes who throng their streets by day.

Now look at the vote of four of these wards in 1840 and 1868, respectively:

Wards.	President, 1840.		Governor, 1868.	
	Harrison.	Van Buren.	Griswold.	Hoffman.
Fourth ward	1,138	1,177	480	3,820
Sixth ward	806	1,223	369	5,032
Seventh ward	1,707	1,728	1,265	6,895
Fourteenth ward	1,142	1,393	726	4,526
Four wards	4,793	5,521	2,840	20,283

Van Buren's majority, 728; Hoffman's majority, 17,443.

Mr. Tilden, you know what this contrast attests. Right well do you comprehend the means whereby the vote of 1868 was thus swelled out of all proportions. There are not twelve thousand legal voters living in those wards to-day, though they gave Hoffman 17,443 majority. Had the day been of average length, it would doubtless have been swelled to at least twenty thousand. There was nothing but time needed to make it one hundred thousand, if so many had been wanted and paid for.

Now, Mr. Tilden, I call on you to put a stop to this business. You have but to walk into the sheriff's, the mayor's, and the supervisors' offices in the City Hall Park, and say there must be no more of it—say it so there shall be no doubt that you mean it—and we shall have a tolerably fair election once more. Probably a good part of the fifty thousand supplied last fall with bogus naturalization certificates will offer to register and to vote—some of them pretending not to know that they are no more citizens of the United States than the King of Dahomey is—but very few will vote repeatedly unless paid for it; and we shall not be cheated more than ten thousand if you simply tell the boss workmen that there must be no illegal voting instigated and paid for.

Will you do it? Your reputation is at stake. The cowardly craft which

> "Would not play false,
> And yet would wrongly win,"

will not avail. If we republicans are swindled as we were swindled last fall, you, and such as you, will be responsible to God and man for the outrage. Prosecutors, magistrates, municipal authorities, are all in the pool; we have nothing to hope from the ministers of justice and the villains have no fear of the terrors of the law. I appeal to you and anxiously await the result.

Yours,

HORACE GREELEY.

NEW YORK, *October* 20, 1869.

TO SAMUEL J. TILDEN,
Chairman Democratic State Committee.

Gentlemen of the majority, you have been too generously and magnanimously treated by the republican party and the Government. You have presumed a great deal, but you have now, as you did in 1861, gone a step too far. Your purposes are transparent and would have been understood, if you had not so boldly stripped off the thin gauze of patriotic pretension that had partially concealed them. You mean to elect your candidate for President next year by fraud, as you elected a majority of the Forty-fourth, Forty-fifth, and Forty-sixth Congresses, and as you attempted to elect your nominee for the Presidency in 1876. You committed outrages at these elections which are a disgrace to the civilization of the age and *that will* remain for all time a blot on the American name. Men of forecast do not believe you can elect either a President or a majority of Congress in 1880 with a fair vote and an honest count. There is, then, no hope of success on your part unless you can get rid of United States supervisors and soldiers. They must be banished from the polls, or your cause must perish and you be remanded to private life.

Let me give you the condition of one congressional district, the fifth South Carolina, as reported to me by Hon. Robert Smalls. As he stated, there were, by the census of 1875, 25,000 colored and 11,000 white voters in that district. Mr. Smalls was elected in that district to the Forty-fourth and Forty-fifth Congresses, and he was a candi-

date for re-election in November, 1878, and, as he believes, had a majority of 8,000 on a fair count, but the democratic candidate was declared elected by a majority of 15,745. At one polling precinct 682 ballots were cast for him by that number of colored voters; the record of their voting was so kept there could be no doubt of that fact; yet when the returns were made not one vote was returned as having been given for him. The box was stuffed with tissue ballots on which was the name of his opponent, and in drawing the excess from the box till the number left corresponded with the poll-list the republican ballots could be distinguished by the touch from the tissue ballots, so that the man, blindfolded according to law, drew out all but the tissue ballots and left Mr. Smalls without a single vote. With supervisors at the polling places to discover and point out such practices, and loyal Union soldiers within convenient access to secure enforcement of the laws against the guilty violators, there would be an end to democratic majorities, and here is the true inwardness of your objections to supervisors and soldiers.

The time has come when there should be reconciliation, full, thorough, and complete. But it should begin at the loyal, Union-loving end of the line this time. Something is due and should at least be demanded, insisted upon, and received by this side. The maimed, decrepit soldier and his dependent family, the sorrowing widow, and the fatherless children, the childless parent, made so by you and your party, are entitled to be consulted. The derangement of the entire business interests of the country, for which you alone are responsible, the burden of a grievous public debt, oppressing all classes, created by you—all these interests you should satisfy and be required to obtain their sanction of your worthiness to administer the affairs of their Government, or you should be required to take back seats.

You promised to accept the results of the war in good faith, that you would respect the amendments to the Constitution and help to execute the laws, and that you would see that every citizen, white and black, had all the privileges you claimed for yourselves. These assurances were so strongly given by you to an honest, hopeful, and confiding administration that it generously trusted you, and in accordance with such mutual understanding the troops of the United States, which have been so offensive to you since 1861, were withdrawn from your States, and you were left, as you desired to be, to control your own affairs as fully as though you had never forfeited your right to do so; but you have been as unfaithful to the Government and to the pledges upon which it consented to trust you as you were during the rebellion.

If it had been conceived at the most important period of the struggle that a score of rebel brigadiers would be members of the United States Senate to-day, and that that branch of Congress and this also would be controlled by them and their abettors, it would have been, in my judgment, difficult, if not impossible, to have kept men enough in our Army to capture the rebel capital. But this contempt cast upon the loyal soldiers who saved the Union on the bloody fields of conflict is but the foreshadowing of what is to come if your schemes to get possession of the Government in all its branches are successful. We have already seen the attempt made to reduce the Army in numbers until it could offer little resistance to an armed conspiracy organized to overpower the officers of the law. We have also seen a purpose to stop promotions, no matter how just and proper. No considerate observer of events can doubt that if these men once get full control the Army would soon be largely increased in numbers and rebel generals would succeed to its command. If such are not your purposes why this extra session of Congress? The agitation which you have caused here is detrimental to every interest of the country. No prudent man dare enlarge his business or engage in enterprises that would employ labor and capital. Hence you are criminally postponing the time when universal prosperity shall again gladden the hearts and households of the land.

You lost the election in 1860, and purposely that you might use it as a pretext to reconcile your own section to your scheme of breaking up the Union. After going through with a ceremony which you called secession in several of your States, your sympathizers and abettors sought to assassinate the constitutionally elected President, Abraham Lincoln, while he was on his way from his western home to this capital to enter upon the discharge of his official duties. You threatened, through your accredited leader, Wigfall, in the other end of the Capitol, that if the Government sent its flag, with thirty-four stars upon its folds, at the mast-head of its ships, with provisions to feed its famishing soldiers quartered in Fort Sumter, Charleston Harbor, you would commence war on the Government you had often sworn to protect. Your attempt to starve the Government and the Army until they would become obedient to your unholy mandates is not new. It began more than eighteen years ago, and the provisions which you have ingrafted into this bill, vicious and revolutionary as they are, are in perfect harmony with your early and most approved methods of securing submission to your dictation. You did not starve the Army nor the Government into subjection then, and I do not apprehend that you will do so now.

When you fired on Fort Sumter you united all loyal men in the North, democrats and republicans, in the determination that the Union should be preserved regardless of cost in blood or treasure. I have no doubt you counted then as now on the idea that money must be had to perpetuate the Union, and that it could not be provided. But you did not properly estimate the united determination and ability of the free, self-reliant North. A bill was drawn appropriating $3,000,000 by the Legislature of the State of New York as soon as it could be perfected after the news reached Albany that the gallant Anderson's forces had been attacked. It was a voluntary loan to aid the Government to preserve itself against all enemies. I had the honor and the privilege of participating in that legislation; and I rejoice to say, if my memory is not at fault, that there were only six votes against the passage of the bill, and they were cast by New York city democrats, most of whom soon sadly regretted their mistake. The seventy-five thousand volunteer troops asked for by President Lincoln were forthcoming, and men and money were freely tendered faster than the men could be equipped or armed. The governor was importuned to authorize the organizing of companies and regiments and to permit them to drill and fit themselves for active service, and to enter upon it as soon as the Government here would accept them, and he complied with such requests.

The loyal States vied with each other in their efforts to see which could contribute the most and do their work best. Your friends could and did murder some of Massachusetts' best men in the streets of Baltimore when its first regiment was on the way to this capital in compliance with its duty. You could sacrifice the lives of more than a million of industrious citizens, perpetrate the sickening horrors and barbarities of Andersonville and Libby, clothe nearly every household in the loyal States with sadness and mourning, and add, as you did, all the miseries and sufferings that are a part of and attach to such a condition of affairs. Your earnest sympathizer and friend, whose life and character were the natural outgrowth of your institutions, statesmanship, and inspirations, John Wilkes Booth, could and did assassinate as good a man as ever lived and as good a President as Washington, Jefferson, or Jackson. Yet you could not, with all this, starve the Army nor destroy the Union of the States.

You may continue to carry elections in the northern cities and States in the future, as you have in the past, by perjury, ballot-box stuffing, and false counts, and in the South by rifle-clubs, red-shirts, white-liners, assassination, and murder. And after trying all these and still being defeated, you may try again to buy returning boards and electoral votes, invent and organize a machinery called an electoral commission in the hope of running it in your interest by artifice, and still find yourselves defeated. Then, when the candidates fairly elected are duly inaugurated, you may violate your pledges and agreement to abide by the result, and create investigating committees and attempt revolution by attacking titles that you have settled by your own legislation. You may do all this and more; you may continue to violate the Constitution and your own oaths of office by refusing to provide the means needed to feed and clothe the Army and for the support of the Government; yet, after you have done all this, I do not expect to see you succeed in starving the Government to death. The liberty-loving, loyal people of the North and West are as true now as they were in 1861-'65, and as able and ready to advance the means requisite to perpetuate the nation's life as they were before, and if you create the occasion they will do it. No, gentlemen, I cannot apprehend that you can by any possibility succeed in destroying the Government after you shall have done your utmost to accomplish it. My hope is that the God who presides over the destinies of nations as well as the affairs of individuals will again inspire the loyal citizens of the country to do their full duty now as He has in all the struggles of the past.

Mr. ROBERTSON. Mr. Chairman, representing as I do a constituency more directly interested in the results of this debate than those of most of my colleagues, I am impelled by a sense of duty to participate in it so far as to touch on a few points which, as it seems to me, my abler colleagues have passed over.

Reserving for the close of my remarks the vindication of my people from aspersions as unfounded as they are unjust, yet which have in part constituted the pretexts for the unconstitutional legislation which is now sought to be set aside by the amendments under consideration, I shall attempt briefly to disprove some of the assumptions and assertions of the advocates of that legislation on this floor. Two of these gentlemen, the member from Ohio [Mr. GARFIELD] and the member from Maine, [Mr. FRYE,] in opening this discussion on the amendments to the Army bill, have displayed so much ingenuity in the defense of a bad cause as almost to "make the worse appear the better reason." Yet, though not boasting their persuasive powers, relying on the might and majesty of truth, I confidently appeal from their false doctrine and false presentation of facts to the judgment of an enlightened people in whatever section they may dwell. For, Mr. Chairman, I cannot regard these questions as sectional—though such an aspect has been given them—for they involve much larger and wider issues; involve, in fact, free suffrage and the perpetuation of constitutional liberty throughout the extent of this recently restored Union. To narrow the issue would be to give up to faction what was meant for mankind; to make ours a government of parties, not of the people, and turn this grave debate of ours into a mere partisan wrangle.

Recently restored, as we of the South have been, to a full participation in the administration of our common Government, we claim to be loyal to the Constitution, the great anchor of that Government, as any men from any section, and more than once recently have proved our inflexible determination to preserve in its pristine purity and

vigor that Government which our fathers bequeathed us. The questions which have elicited the present grave debate strike at the very root of our institutions, at the Constitution; that Constitution which we have taken our solemn oaths to protect, preserve, and defend on taking our seats here. That document is the charter of my allegiance; not a new nation discovered or invented by latter-day politicians; nor that newer "sovereign" annointed by the member from Ohio, and crowned by his rhetoric with a more than kingly crown, "in whom resides the State's collected will," commonly termed mobocracy. For myself and those I represent, the written Constitution as framed by our fathers and amended by their successors with the assent of the States comprising this Union, is the only charter of our liberties, the only infallible guide for the conduct of our affairs, and hence I take exception to the broad proposition laid down by the gentleman from Ohio, that there is a higher court of appeal from that instrument to what he terms the sovereign power, the "people themselves."

It has been the fate of the present generation of American citizens to have been favored with many new doctrines, heresies, and schisms of a political character, commencing with that distant time when the great expounder of Massachusetts assailed, and the great expounder of South Carolina defended State-rights doctrine, followed by the proclamation of the new evangel of the higher law, which was above the Constitution, and the declaration of the transformation of a federation into a nation. But it has been reserved for the gentleman from Ohio to discover that we are living under a monarchy, although he has a right to claim—as first discoverer—this new sovereign of ours to whom our first and last allegiance is due. I quote his langnage:

> The sovereign of this nation, the God-crowned and heaven-annointed sovereign, in whom resides "the State's collected will," and to whom we all owe allegiance, is the people themselves. Inspired by love of country and by a deep sense of obligation to perform every public duty; being themselves the creators of all the agencies and forces to execute their own will, and choosing from themselves their Representatives to express that will in the forms of law, it would have been like a suggestion of suicide to assume that any of these great voluntary powers would be turned against the life of the Government. Public opinion—that great ocean of thought from whose level all heights and all depths are measured—was trusted as a power amply able, and always willing, to guard all the approaches on that side of the Constitution from any assault on the life of the nation.

To this exposition I oppose the sayings, doings, and written Constitution of the founders of our Government, the accredited expounders of our Constitution, the faith and practice of our Government and people to-day, each and all of which contradict the eloquent speaker. I appeal from his irresponsible "sovereign" to a government of law, which gusts of popular passion may shake but cannot overturn. I place my trust in a written charter instead of the wild utterances of the voice of the populace, which, although it may be the "voice of God," history proves may sometimes draw its inspiration from the opposite source. Why, Mr. Chairman, let any member of this body reflect for a moment on the oath he takes on being sworn into his seat and entering on his functions, and he will see where and how his allegiance is due and how far the shadowy sovereign evoked by the eloquent member can control our decision or our action.

No man respects or would readily defer to an enlightened public opinion lawfully expressed more than myself; but no man will more sternly repudiate and resist undue interference with respect to the powers delegated us in our legislative capacity.

Under our system of government, although the source and fountain of all authority be and must be the people, yet the instrument through which they must exercise that authority as certainly have been and must continue to be the constituted authorities, and having thus divested themselves of that original power, they can only collectively resume it by revolution. Such revolution might be peaceful, but the people who possess even that power are the people of the States, not the individuals composing the great mass of our population, else New York and a few other larger States in which the numerical majority reside might at any time revolutionize our whole system of government.

But the position taken by the gentleman in this regard contrasts strangely with the most authoritative exposition given by his party on a memorable occasion. I refer to the extreme State-rights doctrine expounded by the republican members on the presidential commission when they declared they could not go behind the returns covered by the broad seal of the State of Louisiana, although it was clearly proven that there was a forgery on the face of those electoral returns, that the present occupant of the Executive Mansion "was counted into office at most upon one hundred and eighty-three votes," and that "as to two electors at least there never was before the commission for consideration any vote from Louisiana at all."

Mr. Chairman, by every principle of justice, every rule of law, fraud vitiates and forgery annihilates all it touches. As forgery was apparent on the face of the Louisiana electoral certificates, it destroyed every muniment of title under it. Yet the startling spectacle is presented to the gaze of a free and enlightened people that the highest offices in this Republic have been conferred by fraud, sanctioned by forgery, and perpetuated by perjury and subornation of perjury; and, to consummate the infamy, he who holds by this tenure of office seeks to degrade citizens of my State because they refuse to condone the stupendous crime and bend the suppliant knee "that thrift may follow fawning," while he honors and rewards the forgers and perjurers who do.

The gentleman from Ohio, himself a member of the electoral commission, may hold that there is no appeal from its decision except to that sovereign power created by his lordly elocution, but which may have been proclaimed for an ulterior object, perhaps to inaugurate another President not elected by the people (in the legitimate exercise of their sovereign will) as well as to resist the proposed legislation now under consideration.

But the gentleman from Ohio charges that the course of the democratic party in demanding the repeal of certain measures which are mischievous and useless is revolutionary. He even has the boldness to give a ringing challenge to that effect in the following words:

> I am discussing a method of revolution against the Constitution now proposed in this House, and to that issue I hold gentlemen in this debate and challenge them to reply.

The gentleman's life-long affiliations and political associations certainly qualify him to speak authoritatively on "methods of revolution against the Constitution," for there are few which he and his party have not tried. He should, however, have looked nearer home for them than in the democratic party or even in this Congress. He need only look home, and look back to the very origin and birth of the party of which he is now the mouth-piece, to see that it owes its existence and its reign over this country for the last eighteen years to "methods of revolution against the Constitution" of the most reckless and audacious description.

The first "method of revolution against the Constitution" was devised by the old abolition party—the nest-egg from which the republican party was hatched—when it declared the Constitution of the United States to be "an agreement with death and a covenant with hell," and therefore to be utterly ignored and disregarded by all conscientious citizens. It was only after abolition had become an active element in politics that one of the master spirits of the new party devised a second "method of revolution against the Constitution" by softening this strong expression into the polite phrase of "a higher law" than the Constitution, preaching up under it the doctrine of "an irrepressible conflict" between the sections as a consequence of the conflict between the Constitution and the national conscience. These early "methods of revolution against the Constitution" were not even of native origin, but were foreign importations. They were first devised by British abolitionists, with whom Americans affiliated, and British gold was not spared, nor did British lecturers and emmissaries fail to be sent over to weaken a formidable rival by creating dissensions. These were the men who sowed the dragon's teeth which have since produced such a crop of armed men, and these the "methods of revolution" of the republican party in its childhood.

For many years after the adoption of this method its advocates, both native and foreign, were so odious and unpopular, even in the boasted "liberty-loving" region of New England, that they were pelted with rotten eggs whenever they made their appearance and treated as disturbers of the public peace.

When, however, such leaders as Mr. Seward and Mr. Chase joined this "forlorn hope" of fanatics and agitators this "method of revolution" gained strength and form. From a contemptible faction they became a party, and from a party, thanks to the fraternal strife of which they had sown the seeds, they gained absolute control of the Government.

When the clash of arms was over and the whole country subjected to one rule, the same party devised new "methods of revolution" to retain power which threatened to escape their grasp if the rule of constitutional law were resumed under the old methods. Slavery, which had been made a pretext for the war and a bid for northern and foreign sympathy, but which during the continuance of the conflict had been made a mere pawn in the game, was again used as a make-weight against the South, so as to perpetuate radical domination over that section.

Mr. Lincoln, who was the representative man of radicalism, plainly showed by his course the uses of this "new method," as well as the entire want of sympathy with the negro entertained by himself and his party after he had been made use of. Even Mr. Lincoln's boasted proclamation of emancipation does not really deserve that name, for he restricted it to southern territory not in Federal occupation, and true emancipation dates from the constitutional amendments ratified by the States after their passage through Congress. Mr. Lincoln showed his want of confidence and sympathy in the colored race yet more clearly in his proposal of their deportation from this country as unfit for the duties of citizenship and a standing source of embarrassment should they remain.

These are facts which history must record. The "new method," devised after Mr. Lincoln's death, of retaining radical possession of the Southern States through the colored vote, and the retention of radical control by exercising the right of suffrage for that end, never entered into Mr. Lincoln's calculations. That was reserved for his less sagacious successors to try, and the common sense of the liberated slave has frustrated that precious plan, to the rage and mortification of the plotters, who have strengthened, not weakened, the South thereby. Partially educated as the colored man yet is as to the duties of his new station, he has learned enough to distinguish his true from his false friends, his real from his alleged interest. Thus it happens that while the very men who forced suffrage and civil rights upon him would now, if they could, take them from him, I, in common with my people, since he has become free, do not regret

his possession of the ballot, and will oppose all efforts to withdraw it from him.

This rapid and succinct statement of historical facts must convince all who have been dazzled by the glare of the Bengal lights in the oratory of the eloquent member from Ohio, that all the "methods of revolution against the Constitution" hitherto attempted have been devised and practiced by his own party, and do not lie at the doors of the democracy. His attempt thus to designate the repeal of obnoxious legislation, through a legislative method habitually practiced by his own party majority, until the scepter departed from them, must be regarded simply as an oratorical extravagance inspired by disappointment and desperation.

Terrified by the specter of his own creation, the gentleman shrieks out that "the integrity of the Constitution is assailed by revolution," and declares he "will fight for it as though it were a Kohinoor of purest water," although rather curiously comparing that "integrity" to a "chip." These are his words:

Victor Hugo said, in his description of the battle of Waterloo, that the struggle of the two armies was like the wrestling of two giants, when a chip under the heel of one might determine the victory. It may be that this amendment is the chip under your heel, or it may be that it is the chip on our shoulder. As a chip, it is of small account to you or to us; but when it represents the integrity of the Constitution and is assailed by revolution, we fight for it as if it were a Kohinoor of purest water.

Now, if the honorable member will only refresh his memory and recall some of the incidents of a not distant past in his own section of country, he must remember how elastic the provisions of the Constitution became in the hands of his friends, and how they trampled on its "integrity," treating it as a dead letter, under the tyrant's plea of State necessity. If he will recall those memories, his present morbid susceptibility should surprise even himself as much as it does his hearers, who cannot forget these things.

Mr. Chairman, it is of record in the courts of Illinois and of the Supreme Court of the United States that in Illinois, as well as in other Northern States, men were arrested and imprisoned without color of law or legal warrant, and that a reign of terror, with its Bastiles full of prisoners—"on suspicion of being suspect," to borrow a phrase from French revolutionary times—was substituted for the Constitution and laws, even where war had never reached. To prove how utterly without warrant or even show of legality these high-handed proceedings were, I need only cite one out of hundreds of cases—that of a brave citizen of Illinois, M. Y. Johnson, who defied these violators of the liberty of speech and person in a State where there was no suspension of the regular courts, yet who was violently seized while in the sacred precincts of the temple of justice itself, dragged away without any warrant, and left to languish many months in the Bastiles into which American forts had been converted for the incarceration of State prisoners, a class unknown to the Constitution or our laws, specially created for the occasion.

Unterrified by imprisonment and persecution, this brave man, conscious that he had violated no law, instituted suit against his captors and the instigators of this persecution, and for nearly seven years after his liberation followed it up through the courts to the Supreme Court, and was finally triumphantly vindicated, and his adversaries (among whom were some of the most prominent political leaders in the Northwest) escaping his just vengeance only after making a most abject apology and confession of wrong-doing in writing, which constitutes part of the records of this remarkable case.

It never has been considered sound doctrine, in the part of the Union from which I come, that the Constitution of the United States was not equally as binding in time of war as in time of peace; and this case offers a curious commentary on the fervent professions of the gentleman from Ohio, as contrasted with the practices of his political friends and neighbors in the Northwest, who have substituted arbitrary powers for the provisions of the Constitution wherever and whenever the opportunity offered.

The Supreme Court, in the case just mentioned, declared in substance:

That the President had no such powers as those exercised in this arrest, and that he and all those acting under his orders were trespassers. That in his military capacity his authority was restricted to the lines of the Army.

That such power as claimed for the President and his subordinates cannot safely be intrusted to any government by a people claiming to be free. Where it is only limited by his discretion it is an absolute despotism and constitutional government merely a theory.

But the gentleman from Ohio does not enjoy a monopoly in his denunciation of democracy as the enemy of the Constitution. We find another extremist in the honorable member from Maine, [Mr. FRYE,] whose nightmare is more violent than that of the member from Ohio. In his visions he is haunted by the terrific spectacle of the "capture of the Capitol" by the democracy, who he strives to stamp with disloyalty to the Constitution and the Union. This is his language, and it is strange language indeed, addressed to a majority of a representative body by one of the minority:

Gentlemen, you are standing close by the Capitol, I admit, but not so close as you stood over here in Virginia when your troops were following ours after Bull Run. The Capitol is not in so much danger as it was then, but you are standing dangerously near, and that hand of yours is outstretched now, thank God, not a bloody one. It will never again be a bloody one. You have a better opinion of northern men than you had twenty years ago and you will seek no more blood, but your hand is stretched out now apparently ready to grasp the crown. Gentlemen, the angel of God will touch that hand and it will wither.

On this point I take direct issue with the member from Maine, and deny that he and his party can claim any distinctive right or have taken out any patent privilege to protect and defend the Capitol or enjoy a monopoly of all the patriotism and love of country existing in this Union, stronger now than ever, since its reconstruction and the removal of the only bone of contention that imperiled the harmony of the sections. Why the gentleman is a sleepy watchman, and sounds his alarm too late. The democratic party has for more than four weeks past been in actual occupation and possession of the Capitol, and will so continue certainly until the close of the Forty-sixth Congress, and probably for an indefinite term beyond. Hence the prayer or imprecation with which the member from Maine closes his appeal has been rejected before he uttered it, as the prayers of the wicked usually are.

It is high time that this cant of superior patriotism on the part of men who have done their best or their worst to violate both the letter and the spirit of the Constitution for mere partisan purposes should cease. The democratic party has always proved its devotion to the Constitution and to the Union as constituted by our fathers by deeds as well as words, as its record shows.

Since the war, so far as the South is concerned, let it be said once for all and forever, that having submitted her cause to the high arbitrament of war and failed, the South on re-entering the Union made pledges to which she will be true, and neither now nor hereafter will she revive the question of slavery or of secession from the Union, which that struggle settled forever, yet which, like a troubled ghost, is ever invoked on the opposite side to revive fraternal hate, which should be buried with the war. The northern men who actually came to the defense of the national capital in time of war with other arms than epithets and invective entertain no such sentiments of suspicious rancor, which seem a monopoly of the non-combatants of Maine who rush to the defense of the Capitol when it is in no danger. One might really suppose that the Capitol was the exclusive property of these gentlemen or of their party from the way they talk, instead of being the common property. Before making this pretension it would be well for them to exhibit their title-deeds, for we claim to be here not by sufferance but by right as well as they. Hence this idle talk of protecting the Capitol from the democracy or preventing our capture of it after we are in full possession has a very revolutionary sound. So much for these vague general charges in which assertion is substituted for proofs and epithets for argument.

Let us now touch on a point that comes nearer home to my constituents, who have been held up to the country as ruffians, murderers, and violators of the ballot-box, when in truth they have been the victims of partisan oppression and misrepresentation and of a lawless despotism unparalleled in the history of free government. I can speak with thorough knowledge of the constituency which I represent, having myself been a resident and sufferer in common with them.

The whole field is too vast to be covered here; I shall merely attempt to vindicate that community from the senseless howl which has been raised against it to perpetuate the reign of fraud, perjury, theft, outrage, and lawless violence which constituted radical rule. The general impression has prevailed at the North that since the war three of the parishes which I represent have been the theater of lawless violence, intimidation, and murder for political purposes, and that for this state of things the resident white population were responsible; all of which I solemnly deny and challenge the proofs. I will go further, and deny that the colored population should be held responsible for this state of things, which arose from external influences, and was brought about directly by carpet-bag and radical rule in the State, backed by Federal bayonets.

The world now knows what manner of government Louisiana was long afflicted with, as well as by what manner of men the power was administered, but the world never will know the extent to which the corruption and disregard of common law and common honesty and justice on the part of those men rendered life and property insecure; and what was stigmatized as "outrages" were despairing efforts to defend person and property from the clutch of thieves and assassins, supported, sustained, and countenanced by the central carpet-bag government. These disturbances had chiefly no political significance or complexion, and have also been grossly exaggerated. The true condition of things then existing may be briefly thus described: From the time the government of Louisiana passed into the hands of the carpet-baggers under the reconstruction acts, and through the whole course of that rule, it was impossible to obtain justice in the courts, and more particularly in the administration of the criminal-law jurisdiction. The records of those courts will show that the people subject to this rule were for a long time patient under suffering and remained law-abiding for seven long and dreary years. During the whole of that period corrupt and venal judges, mere political tools, as ignorant of law as of honesty, and often inveterate and beastly drunkards, distributed injustice from the judicial bench, especially on the criminal side of the court. Men were brought up for trial without color of law, fined and imprisoned, or summoned before magistrates (some of whom were drawn from the lowest dregs of the populace, often unable to read or write) whom they were obliged to bribe to obtain liberation. Powers were given to justices of the peace in certain misdemeanors to arrest and examine parties with a view to determine a threatened breach of the peace, and on the most frivolous pretexts men were dragged from their homes and business to

answer such charges. Innumerable witnesses would be summoned and the business of the community retarded that the accused party might be heavily mulcted in costs for the benefit of these corrupt officials. This became a common practice, to the infinite annoyance and loss of all the respectable portion of the community.

The administration of the criminal law in the parishes was a reproach and a by-word. Neither person nor property found protection in the courts, while the impunity afforded to crime by this state of affairs gave unbridled license to the thieves and ruffians engendered by it. Landed proprietors of all colors, who had been left by the war in possession of their real estate and live-stock as their only means of living, were at the mercy of these depredators, who almost wiped out the stock by theft of the most barefaced description, often accompanied with violence. After the stock was nearly all stolen and destroyed and the people left to depend alone on their crops for subsistence, exacting the most grinding and perpetual toil throughout the year, when the harvest was rich and ripe for gathering, these thieves would descend upon the fleecy cotton-fields by night like a cloud of locusts and bear away the fruits of the farmers' toil to the nearest cross-roads shop—the receiver of the stolen booty. These shop-keepers belonged to no party, class, or color, and they managed their business so adroitly and were assured of such impunity from the courts that the despoiled people in despair were reduced to the alternative of selling their lands and emigrating, (which many of them did,) or devising some protection for their property outside of the mockery of appealing to the courts for a redress of their grievances.

At last these men, rendered desperate, banded together for mutual protection, and struck when human endurance had been tested to the utmost. Their sole object was self-preservation and for the protection of home and fireside and rights of property against an organized banditti. Their first blow fell on the theivish receivers who were accumulating wealth out of the plunder stolen from the planters. Formal notice was given these men that their illicit traffic in the plundered property of the people must cease, or punishment would be meted out to them. At first, disregarding these warnings and treating them with contempt in consequence of their long impunity, these traders continued their iniquitous traffic; when to their astonishment they were visited at night by bodies of armed men, who, allowing them to remove their money and accounts, burned down the buildings, with all their stolen contents, often of considerable value. The men who were thus visited by this self-constituted tribunal were almost exclusively white men and democrats, so that no political considerations did or could influence the formation of these associations or the action of these avengers. It is not positively known, but generally believed, that white and black men, republicans and democrats, joined in this work of deliverance, and it was generally admitted that the leader was a prominent republican of East Feliciana.

Innocent persons may possibly have suffered through mistake, yet such cases must have been rare indeed in communities where every man is so well known to his neighbors. In one case, in my own parish, a young trader was notified of a visitation, and he, being a brave as well as an innocent and honest man, published a card in the papers after receiving the notice declaring his innocence and intention of defending himself and property. Several days having passed, he was surprised one evening, unarmed, in his shop by a body of armed men confronting him, who gave him an agreeable surprise by informing him that they had examined into his case and, being satisfied of his innocence, did not intend to interfere with him, while at the same time they desired to prove to him that his threats had not deterred them and that he was powerless to resist them.

It required but a few examples to stop effectually the contraband trade and stealing of cotton; and in front of the shops, in town and country, might be seen on large signs, painted conspicuously, "No seed-cotton bought here," the seed-cotton being that stolen from the fields before it was ginned. This stopped the trade; and the Legislature of Louisiana passed a law prohibiting the sale of cotton in the seed after dark, thereby ratifying the justice and need of these acts.

Such, to a great extent, was the origin of the bulldozers, whose name has been made the scare-crow throughout the North and identified with political proscription and intimidation.

But we need not go so far as Louisiana to find examples of such proceedings, nor need we go to the wild West in search of them; for in the decorous and law-abiding East, in the very State which enjoys the privilege of numbering my colleague among its Representatives here, we find a remarkable precedent, where the purpose was purely political and not dictated by self-preservation. If I am correctly informed, (and I have good reasons to believe I am,) shortly after the breaking out of the late war, while the courts were all open in the loyal State of Maine, and amply sufficient to protect every citizen in his rights, a citizen of that State, for simply expressing his sentiments in the exercise of that right of free speech guaranteed by the Constitution, was arrested without warrant of law, dragged from his home, and incarcerated in one of the Bastiles prepared for State prisoners, whence he was finally discharged after months of imprisonment without receiving notice of any charge against him or even the form of a trial. Curiously enough, this gentleman, Robert Elliott by name, was a prominent citizen of Freedom, Maine, and had filled important public offices. This State prisoner's property was twice bulldozed by midnight incendiaries, his barns well filled with hay being twice burned down, and his loss very great. His crime was his profession of democratic principles. His dwelling-house was also burned down through the same agencies, which everybody knew were political. We may thus regard political bulldozing as a Maine institution and Freedom its birth-place.

It has been further stated to me from a reliable source that the property of other democrats in this place being also set fire to by incendiaries and destroyed, a system of reprisals was instituted by which the property of several prominent republicans was destroyed, when finding that this was "a game two could play at," the parties mutually ceased firing, and bulldozing ceased at Freedom, Maine. For if this were not bulldozing, then things as well as names must be different in Maine and Louisiana.

Another and very remarkable demonstration by a people goaded to desperation by the infringement of their rights and liberties is afforded by the glorious strike for the sacred right to keep and bear arms made by the people of New Orleans, 14th September, 1874, in assertion of that right which the Constitution of the United States gives in these words: "The right of the people to keep and bear arms shall not be infringed." For the effort to deprive them of this inalienable right was the last straw that broke the camel's back. Our people had endured every shape and form of civil and military tyranny, had peacefully borne wrong, insult, and injury, but when the attempt was made to disarm them and deprive them of that last right which neither the executive, legislative, nor judicial department of government, State or Federal, could wrest from them, they indignantly struck down the bastard government of Kellogg, which disappeared like a foul vapor, to be reinstated only by the military power of the Government. This clash of resounding arms awakened the people of the North and spoke in more eloquent tones than all the reports of all the investigating committees so liberally showered down on Louisiana. It caused them to pause and reflect and to respond with sympathy to the righteous indignation of their own *kindred and blood*, and struck a chord in their hearts which vibrated through the length and breadth of the land.

Whenever the liberty of the citizen—no matter what his race, color, or condition—is infringed, the true American heart, unwarped by prejudice or party, must beat responsive to resistance. The most remarkable feature of this strike of the 14th of September was that no colored man was interfered with or molested in the city of New Orleans, where they were completely at the mercy of the so-called white league. On the contrary, they were more secure from violence then than they had been under any previous rule.

Standing here as the representative of a very large body of colored voters, I desire to vindicate that class of my constituents from the slanders of their quondam friend, the gentleman from Maine, who, in the last Congress, lamented in set terms the necessity forced upon his party of giving the colored man the ballot, where he made the following unjust reflection on the whole of that class of voters, thus:

> I sometimes wish we had not given it, (the ballot,) because to-day it is only putting increased power into the hands of the South, and none to the negro.

I do not share in this statement. I do not regret the gift which the colored man is showing himself competent to use. The rapid progress which the better class of colored men have made, both in intelligence and in acquisition of property, and their earnest efforts to improve the condition of their children, convince me that they will not abuse the boon that has been made them. And it is a curious fact that, with his improvement, instead of antagonizing with his white neighbors (which he was taught by the carpet-bagger and Freedman's Bureau was his best policy) he is daily drawing closer and nearer in fraternal feeling to his white neighbors and friends, whose interests are identical with his own. The next generation will probably see a yet more solid South than that which alarms northern extremists to-day. For just so long as the policy of repression and hatred and distrust of the South continues to be the evangel of radical agitators, just so long will unity and peace and brotherly concord between the sections delay their visit to this too long distracted country.

The great heart of the American people now beats for peace. The public mind, wearied of perpetual agitation on pretexts as false as they are frivolous, longs for rest, for a return of fraternal feeling and an end of partisan rancor and strife. The democratic party, North or South, is not responsible for the continuance of this agitation. Its first act on attaining power has been to stanch the bleeding wounds of the country and to restore an era of good feeling by the repeal of vicious legislation enacted for mere partisan purposes, so as to restore the Constitution to its purity and leave the people of the whole country untrammeled in the exercise of that great right which lies at the foundations of our free institutions. That great right once secured by the legislation we are now striving to effect against a factious opposition, we can address ourselves to other measures of relief which will unfetter the hands of labor, manacled by the narrow and unwise legislation of the party whose power is now passing away—a party which has ever consulted the interests of a few monopolists at the expense of the great working masses of our people, whom they have caused to writhe under a restrictive legislation, concentrating wealth and power in the hands of the few to the impoverishment of the many.

When we have effected these things, then, and not until then, shall

we, the triumphant democracy, be able to boast that our new republic, after its baptism of blood and tears, has really become what our fathers sought to make it—

Great, glorious, and free,
A model for all the nations.

Mr. KITCHIN. Mr. Chairman, I shall preface what I have to say on this occasion and this subject by reference to a proviso attached to an appropriation bill to prevent the payment of the fund to the territorial officials in Kansas until certain conditions were complied with. While said proviso was under consideration in the first session of the Thirty-fourth Congress Hon. John Sherman, now the republican Secretary of the Treasury, said:

It does seem to me that gentlemen on all sides of the House should accept this for the peace and harmony of the country. If the Senate will not yield this much, then, sir, let us stop the supplies.

I presume, sir, that John Sherman is about as good authority as the expounder of the doctrines and principles of the republican party of to-day as St. Paul was of the doctrines of the Christian religion in his day, but what a wonderful change has taken place; what was once orthodox and catholic with that party is now denounced as unsound and dangerous.

Sir, the country is not prepared for the struggle that has been and is now going on between the two contending parties in this Congress for the repeal of this statute so obnoxious and detestable in the eyes of all unprejudiced, liberty-loving people. It was hoped and believed that after years of peace, reconciliation, and harmony, both sections and all parties would cordially unite in one grand and noble effort to expunge from the statute-books every law passed in times of great political commotion and found by experience to be unwise and in derogation of the rights and liberties of the American citizen.

But unfortunately for the prosperity and happiness of our land and the independence and freedom of its subjects we have become accustomed to and familiar with military life and military rule until we have ceased to regard the usurpation of political and military power with feelings of indignation and the infringement of our dearest rights with contempt. Thirty years ago he who would have been so bold and daring as to have suggested the law we are now attempting to repeal would have been driven from public service, disgraced, and denounced as a tyrant and usurper. But to-day we have men on this floor, able and eloquent, from whom the country expected better things, advocating a doctrine which would have damned them politically less than twenty years ago—a doctrine which has neither been claimed nor exercised by any crowned head of England in more than a hundred years, not even in her dark and bloody days when Jeffries became a willing and corrupt tool in the hands of his wicked master.

If the right of Federal interference in State elections should become crystallized and incorporated in our organic law we can no longer boast of our free institutions and republican form of government, but will have demonstrated to the eyes of all the world what has been so often said by kings, emperors, and monarchs, that a republic was an empty sound, a Utopian dream of blinded fanatics.

The aristocracy and nobility of England, not even the lords themselves, who were born, cradled, and reared under arbitrary power, and whose personal aggrandizement would have led to the concentration of power in their own household, and especially in the hands of their chief rulers, have not for nearly a century advocated such a fearful and dangerous doctrine. The experience of the whole civilized world has long since demonstrated that power cannot with safety to the subject be trusted in the hands of one man and his privy council. Thus we see that England, predisposed to the absorption of civil and political powers by custom and education, has reserved to her subjects the privilege to elect their House of Commons without let or hinderance from the Crown. But here in America, where the goddess of liberty stands with her burnished sword uplifted ready to strike down the tyrant who would dare usurp her throne, we find those who heretofore claimed to be the champions of the inalienable rights of the people, attempting in noonday light, with an assassin's hand, to stab her to death.

I am aware that some of the ablest commentators on the Constitution and the laws claim that the Federal head has the ultimate right under the Constitution to superintend the elections in the States for members of Congress. But neither the supreme courts of the States nor the Supreme Court of the United States, the highest tribunal and last resort, have ever given such a construction or interpretation to that instrument. The clause we are now attempting to repeal is in contravention and open violation of both the letter and spirit of the Constitution and should be wiped from the statutes at the earliest possible opportunity by the united efforts of both political parties.

Sir, this contest here in this Hall is but the forerunner of that conflict that must sooner or later take place between the toiling millions and the combined moneyed power of this country. Let no man call me a leveler. I am as far from it as the east is from the west. I would give to capital the fullest and freest latitude in its legitimate sphere, in leveling down the mountains, in rifling the bowels of the earth, in covering the seas with floating cities, and in developing all the material interests of this grand and noble country. But I would place labor on the same high and grand level; they should march hand in hand, side by side to the loftiest watch-towers of human genius, human effort, and human development.

No people, sir, ever lost their freedom suddenly and unexpectedly from causes within their own dominion, but by degrees almost imperceptible they are educated in the school of servile submission, relinquishing one and then another right, until finally, under pretended and assumed constitutional and legal forms, the tyrant, while the people are lulled to sleep in their imagined security, seizes the iron scepter, and with an iron heel stamps the Constitution under foot and waves his sword over a nation reduced to slavery. We have already witnessed in this capital of the nation the soldier, the bayonet, and the cannon at the count of the electoral vote and the inauguration of a President. May such a scene never again be presented to the American people. The legislation in question is a foul blot upon our reputation and a damning disgrace to American civilization. Could the originators and framers of our system of government have anticipated and foreseen the encroachments upon the Constitution, the infringements upon the inherent and reserved rights of the people, and the enormous and despotic power placed in the hands of an irresponsible marshal and an unprincipled partisan supervisor of election, they would have recoiled from the plan conceived, bowed their heads in shame and grief, and confessed that man was utterly incapable of self-government.

Such power and authority has never been claimed and exercised in any civilized country since the Cromwellian period, until America gave birth to a republican party and a spirit of military predominance and civil subordination. Think of it: an insignificant partisan subordinate, whose only desire is to do his master's will, clothed with supreme power to call to his aid the whole *posse comitatus* including the Army, upon his own motion, without information, affidavit, or warrant in arresting and incarcerating his fellow-citizen, because, forsooth, in his wicked and distempered imagination he anticipates some one will be intimidated and not allowed to vote the republican ticket in a republican State under republican laws! No commander of an army, or governor, or president in this country ever possessed such supreme and destructive power as these supervisors and marshals.

I would like for some gentleman on the other side of the Hall to divest himself of passion and party prejudice, and put on the pure robe of disinterested patriotism, and tell me, if the right to appoint their agents by a free ballot was not reserved to the people in their grant or delegation of powers to the General Government, what right or rights were reserved? The great fundamental principle, the foundation-stone upon which the whole superstructure of our grand and sublime system of human government has been reared, has been contemptuously ignored and rejected by the republican side of this Chamber. How did your Federal Union originate? What power created and gave to it substance, form, and life? Was it not created of the delegated powers by the States? Is it not the creature and the States the creators; and is it not impossible for it to possess or exercise any powers other than those delegated or surrendered by the States in the adoption of the Federal Constitution? Without the States the Federal Union could never have existed. Strike down the blood-bought and God-given freedom of the States and you at the same time and with the same stroke blot out the Federal Union and substitute in its stead a consolidated despotism.

The Federal Government cannot exist one moment under the Constitution without the pre-existence and coexistence of the States clothed with all their original reserved right. I would not be misunderstood; when a State has once surrendered a part or all of its rights to the General Government it can never under any circumstances, legally and constitutionally, resume them, and any attempt to recover the powers once surrendered would be revolution in its broadest and most comprehensive meaning. And, on the other hand, any effort on the part of the Federal Government to exercise powers not surrendered, not granted, not delegated in the Federal Constitution, would be a usurpation which if not checked in its inception would lead ultimately to the final overthrow and destruction of our system of government. Self-preservation is the first law of nature, and it would have been more than folly in our forefathers to have formed and cemented a union with their affections, tears, and blood without sufficient self-sustaining power to preserve its own life, and by a legitimate and constitutional employment of this power, through the appointed channels, it draws its nourishment and life-blood from every artery and fountain of the States; and to this no intelligent, honest man objects, but rather rejoices that the genius, wisdom, experience, and patriotism of the grand old heroes and statesmen of '76 discovered and established such an inexhaustible reservoir from which the Federal Union could obtain supplies and become perpetual.

But upon the other hand it would be a stultification of the intellect, in opposition to all reason and theory and an imputation upon the honesty, integrity, and patriotism of the orginators and framers of the Constitution to suppose that they intended to give or did give to the Federal Union in the Constitution power sufficient to absorb all the functions of the States, to override the State constitutions not in conflict with its own, and to crush out and trample under foot the nearest and dearest rights of the citizens which the States were so careful and so anxious in reserving to themselves when they entered into the Federal Union. This Congress has by the Constitution, article 1, section 8, power to levy duties, provide for the defense of the United States, to regulate commerce, to coin money, &c. These are

subjects the supreme control of which was surrendered to the General Government, and the States are forever estopped from claiming any control whatever over them; and any attempt to do so would be revolutionary and in violation of the original compact, and the courts, both Federal and State, would so declare. But those subjects and powers the control of which has not been surrendered or delegated to the Federal Government are as fully, completely, and as absolutely under the control and direction of the States as they were before the Federal Union was created; and any attempt whatever on the part of Congress or the President or the Federal judiciary, or any of their appointees or subalterns, to control or interfere with the same is in gross violation both of the letter and spirit of article 10 of the Constitution, which reads as follows:

The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

Mr. Chairman, so long as any State has a republican form of government, and her constitution and laws are not in conflict with the Constitution of the United States, and no invading foe treads her sacred soil, and so long as no United States law is violated, just so long is it the constitutional, legal, and moral duty of the President, of Congress, of the Federal courts and their marshals to refrain from any interference whatever in the execution or the non-execution of the State laws. The Supreme Court of the United States has decided, in Minor *vs.* Happersett, 21 Wall., 178, "that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States." So the right of suffrage is derived from the State constitution and laws, and must of necessity and from the very nature of our system of government be under the influence and control of State authority.

Now, Mr. Chairman, I must be allowed to express my condemnation of the conduct of those gentlemen upon the other side of the Hall who have made it convenient to search the dusty records for half a century back, and charged upon the South all the sins of the nation both of omission and commission.

We are defiantly told that a solid South will make a solid North, and with this flimsy reasoning it is expected to unite the North against the South in 1880, and drive the colored man back into the republican ranks. But this game has been played just one time too many. The good people of the North will not again be deceived and misled at the flaunting of your bloody shirt, nor will the honest, decent, colored man give a listening ear to your false wooings. At Appomattox we grounded our arms and furled our worn and tattered flag which had never been lowered in the dust or trailed in disgrace, and at the bottom of your hearts and in the secret fountains of your souls you could but admire the courage that unfurled it and the courage that surrendered it. Had your course then toward the South been that of a brave, chivalrous, magnanimous conqueror, scorning with indignation to take the advantage of a brave though fallen foe whose arms had been laid at your feet, you would have captured and gathered around your political standard a large and gallant band of southern soldiers. Instead of adopting that policy, passion inflamed by prejudice dethroned reason, and you, apparently to gratify your ambition and to further punish and humiliate the South, adopted a policy more ignominious, damnable, and inhuman than could have been justified against the red man of the West.

We had staked all on the result of the war, and had lost all save honor. The distance from the cradle to the grave had been carefully scanned and culled for soldiers. Our means and energy had been completely exhausted in the terrible conflict; our fields had been devastated and ruined; and all we had save our honor, virtue, and manhood had been swept away as with a besom of destruction, and a threatening cloud, blacker than midnight, hung like a pall of death over the whole South. Society had been convulsed, and its upheaval had turned things upside down and inside out. Four millions of colored people, who had been obedient and faithful slaves, shrouded in ignorance and superstition, whose emancipation had been almost as sudden as Paul's conversion, were without homes, without shelter, without bread, and five millions of white people were even in a more deplorable condition if possible, save their intelligence and experience. While in this earthly pandemonium, the heart of both black and white aching and longing for relief, the colored man, in the simplicity of his nature and the gratitude of his soul, was educated by northern emissaries and political blood-suckers to suspect and hate not only the democrat, who had been his master, but the word democracy itself.

In this unfortunate state of affairs, with the disfranchisement of a large number of our ablest and most experienced statesmen, these bad men were enabled to control the colored vote and gain a complete possession of the State governments. The result is a matter of history and need not be gone into by me in my limited time. But finally the day-star of our salvation began slowly but surely to make its appearance, and in the north and west faint gleams of light were discerned by the patriot darting across the political horizon. That same orb that emitted the first beams of light continued to rise higher and higher and to shine brighter and brighter until our whole country, both North and South, has felt the beneficent influence of its glorious rays, and ere two years shall get behind us she will mount to the zenith of her glory in her noon-day splendor, and no false cry of treason, traitor, rebel, revolution, and conspiracy can cover up its light. Mr. Chairman, if the confederate soldier on this floor were to join the republican party to-day he would be purged with lightning speed of all revolution, treason, and conspiracy; yes, purified, sanctified, and glorified like Mosby, Longstreet, and others. Sir, it seems the crime is not that he attempted to shoot the Government out of existence. Oh, no, that is a small matter, provided he is a fawning sycophant at the republican shrine.

The great and unpardonable crime is that he is a democrat. There is something fearful and alarming in that word to a stalwart republican; it grates harshly upon the tympanum of his soul; he raises his hands in horror at its sound, and, at the top of his voice, shouts in tones approaching the rattling, rumbling thunders of an earthquake, "revolution," "treason," "conspiracy," "confederate brigadiers." And while the gentleman from Michigan was on the floor one not familiar with the style of manufacturing blood and thunder campaign speeches to fire the northern heart and rekindle the dying flames of hate, malice, and revenge against the South would have almost expected a "rebel" charge on the capital with fixed bayonets. The gentlemen, in their regret, I presume, for not having "fit, bled, and died" for their country in the late struggle, feel a heavy obligation resting on their consciences to fight that war over again in the Halls of Congress, though with weapons less dangerous to their personal safety. If you find any consolation and glory in your unmanly and uncalled-for assaults on the southern section of this Union; if it affords you any solid comfort and soul-felt joy to make false and slanderous charges against your peers and equals and your fellow-countrymen who are bone of your bone and flesh of your flesh; if you have seven vials of wrath whose age has added to its quickening powers, and pouring it on our heads will increase your glory and reputation for statesmanship and patriotism among your people at home, then, gentlemen, for your special benefit and the sake of peace, harmony, and brotherly love we will grant you that privilege—yes, submit.

Mr. Chairman, if I may be allowed to digress, I want to say one word in behalf of the colored people of this country while the very great sympathy of the other side of this House seems to be so much enlisted in their behalf. If I live I intend before this Congress shall expire by its limitation to give them an opportunity to do them a substantial kindness and benefit. If all the promises your party leaders made to our colored people in their political harangues since 1867 had been faithfully and honestly fulfilled they would neither need your sympathy to-day nor mine. They were promised as the reward of their fealty to the republican party forty acres of rich land and a fat mule to each. You did more than this; you declared, through your heralds and emissaries, that colleges and school-houses for their intellectual development and churches for their moral and religious training should cover every hill and dot every valley, and that in a short time they would grow rich in wealth and rich in learning; yea, more, you led them to believe that the day had already dawned in which they would be your equals in all things and our superiors. These promises ought not to have been made or they ought to have been kept.

You have squandered millions upon millions of money and public lands enough to give each a homestead in the shape of subsidies and grants to moneyed rings and moneyed corporations. You have been lavish in your aid to those who did not need it. I now ask you, in the name of fourteen millions of people, to appropriate a few million acres of land or a few million dollars for the purpose of educating the poor children, white and black.

Now, as to the political complexion of the blacks. Upon what authority do you assume that the colored man is a republican, and if allowed to vote untrammeled and according to his own will he would vote the republican ticket? Is black hair and black skin the normal condition of a republican? Does he belong to you as completely as he did to his old master? Have you bought and paid value received for him? If the former be true, you would repudiate and reject your name and assume another quicker than a flash of lightning could dart across the heavens; if the latter be true, then the colored man was emancipated from a master who fed him, clothed him, paid his doctor's bill, took care of him in old age, and buried him when death called him home, and was sold to one who does none of these things, but holds him as a hewer of wood and a drawer of water, without warming by the one or quenching his thirst with the other.

When you have no power to confer a favor or give an office you are very greatly aroused in his behalf; but when in your power to give office you are as tame as a lamb and as silent as a mole. Sir, back behind all this are two great fundamental principles which underlie the secret and cause of the South being democratic and the reconciliation of the whites and blacks. It is well understood and admitted the world over that intellect, talent, virtue, and Christianity must and will finally prevail. You had as well undertake to force the waters of the Mississippi River back through its channel to its fountain-head; you had as well undertake to dry up the fountains of the mighty deep or turn Jupiter from his orbit in the starry heavens as to undertake to crush out the wisdom, the experience, and the intelligence of the South. It is against the unchangeable laws of nature and the irreversible decrees of Him who presides over the destinies of nations as well as the fate of individuals. And the eternal principles upon which the democratic party was inaugurated, the foundation-stone upon which its golden temple was reared, had their origin

in the courts above and their growth in the midst of a wise, intelligent, patriotic, Christian, God-fearing people.

You had as well undertake to blot out our civilization and remit us back to heathen barbarism and military despotism; you had as well undertake to shut in the light of the silver queen of night or extinguish the luminous rays of the golden king of day in his meridian glory as to undertake to crush and annihilate these lofty principles and destroy this noble temple. If they should perish and go down, it will be from the hands of their friends in their own household. No enemy, no midnight assassin's hand can reach them; they are lodged and rooted in the hearts of the American people. Yet when we plead for a free and untrammeled election under State laws, you cry out "rebel;" when we defend and maintain the Constitution in its original spirit and purity as the fathers did, you cry out "treason;" when we pledge our plighted faith and honor to our country, you cry out "war, blood, revolution;" when we demand as the Representatives of a majority of the people to be heard in the councils of the nation, you cry out "confederate brigadiers;" when we remind you that the Constitution is being violated and trampled under foot, you cry out "you are opening the book at the chapter and page turned down in 1861 with an effort to starve the Union to death;" when we on behalf of the overburdened toiling millions of the American people demand and insist that the Army shall not be used at the polls, that the Federal head through his marshals and supervisors shall not control the elections in the States for partisan ends, you cry out "you are attempting to coerce the President;" when we claim the constitutional right of the majority to pass laws and present them to the President for his approval, you cry out "you are upsetting the granite foundation of free consent." You have made the "confederate brigadiers" the scapegoats for your sins and transgressions for the last fourteen years until you have completely exhausted the brigadiers, and your sins have become intolerable to your own people, and you must not only seek a scapegoat, but a steed sufficiently strong and fleet to bear your bodies as well as your many sins.

Ah, this will not last always. The burning, seething volcano of public opinion will compel you to get upon a higher level, a loftier plain. The time is and will be when you must and shall meet the democracy of this country upon the all-important and living issues now pending and being tried before that august tribunal of near fifty millions of human souls who will never consent to wear the yoke and bear the burden you have willfully, through malice and passion, placed upon them. And this contest must be determined upon a field and in a position not of your choosing, nor ours, but of the tribunal itself. It will be a manly, patriotic, virtuous contest between the people and the combined moneyed influences for universal suffrage, universal rights, and universal freedom. No threatening, no bulldozing, no coercion, but a weighing and balancing of principle and patriotism in the golden scales of justice and human rights, and a quiet, manly, honorable, and patriotic submission of all parties to the righteous will of the American people, honestly, legally, and constitutionally expressed. The democratic party has been charged repeatedly during this discussion with a purpose and design of destroying the Union of the States. The charge is utterly unfounded and without even the semblance of truth.

No man of reason and ordinary intelligence can believe it; no honest man will believe it. The fear is not for the Union, for you know it is as safe and as perpetual as the "granite foundation of free consent," but the fear is for the safety and perpetuity of the republican party. You tremble for fear of your expulsion from power and because of the apprehended loss of the patronage and emoluments of the Government. Your party may die, the earth may open and swallow it up, the democratic party may perish, but this Constitution and Union, never! They have withstood the wreck of parties and the storm of revolution when its surging waves, more terrible and destructive than an avalanche, dashed against its battlements. But, Mr. Chairman, how are these two great sections, both absolutely indispensable to the salvation, glory, and perpetuation upon constitutional principles of the Federal Union, to understand each other?

Will the North ever understand the true feelings and sentiments of the southern people so long as its information and knowledge are obtained and received through the medium of extreme partisans, demagogues, and professional politicians? If the source of information is corrupt and poisonous, it is natural and reasonable to expect the information to be tainted and contaminated with the same poison and corruption. If the country really desires the "whole truth and nothing but the truth," unvarnished, as to the real sentiment and alleged crimes of the South, it must be derived from other and better sources. The witnesses tendered here on this floor, with their wild declamation and their impassioned eloquence, are incompetent and their evidence totally inadmissible because their political life and existence depend entirely upon the country's accepting as true the infamous and slanderous charges preferred against the southern section of this Union.

Now, Mr. Chairman, if the charges of the commission of crime, the violation of law, and the subversion of the right of the citizens be true, it is indeed a wonderful and fearful commentary on republican administration of justice and republican officials. At the time most of these crimes are alleged to have been committed in the Southern States it is a historical fact that nearly or all of the Southern States were completely under the control of your republican emissaries and political adventurers and their political allies in the Southern States. They held the executive, legislative, and judicial departments of the States in the hollow of their hand. Nine-tenths of the sheriffs and jurors, both grand and petit, and the solicitors, were republicans; and especially was this true in the sections where these crimes are charged to have been committed; and, furthermore, nearly all the witnesses were republicans. Now, if these alleged crimes were not punished with the machinery of the State and Federal governments in your hands, together with the judiciary and all its machinery, the country must arrive at one of two conclusions—either that you sold out the justice you had sworn to administer, or that you are utterly incapable to administer justice. You can take either horn of the dilemma, and either will justify the verdict of the American people that your party is incapacitated to govern this country and execute its laws, or that it is too corrupt and wicked to be longer intrusted with the administration of the Government.

Mr. ELAM. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. THOMPSON having resumed the chair as Speaker *pro tempore*, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. ELAM. I move that the House adjourn.

Mr. FORT. I hope that the gentleman will yield so that I may move a recess until half past ten o'clock to-morrow morning.

Mr. ELAM. No, sir; I am opposed to that. I cannot consent that five or six members on this floor should alter the order of the House.

The motion to adjourn was agreed to; and accordingly (at ten o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Mrs. C. Smith, for compensation for damages to property taken for military purposes during the late war—to the Committee on War Claims.

By Mr. BRENTS: Papers relating to the claim of John L. Butler, for pay for carrying the mails in Washington Territory—to the Committee of Claims.

Also, papers relating to the claim of T. F. McElroy, for pay for binding the statutes of the Legislature of Washington Territory—to the same committee.

Also, a paper relating to the claim of John G. Parker, for pay for carrying United States mails in Washington Territory—to the same committee.

Also, papers relating to the claim of citizens of the Territory of Idaho, for expenses incurred in defending themselves from the attacks of Nez Percé Indians—to the Committee on Military Affairs.

By Mr. BRIGGS: Papers relating to the claim of Henry P. Rolfe, for pay for services as United States district attorney for the district of New Hampshire—to the Committee of Claims.

Also, papers relating to the claim of Joseph L. Stevens for reimbursement for the loss of postage-stamps—to the same committee.

Also, a paper relating to the pension claim of Charles H. Ordway—to the Committee on Invalid Pensions.

By Mr. COFFROTH: A paper relating to the pension claim of Louis Groverman—to the same committee.

By Mr. EWING: Papers relating to the war claim of John Dwyer—to the Committee on War Claims.

By Mr. FORT: Papers relating to the patent claim of Jacob D Felthousen and the heirs of W. H. Akins, deceased—to the Committee on Patents.

By Mr. GOODE: The petition of workingmen of Portsmouth, Virginia, for the enforcement of the eight-hour law—to the Committee on Education and Labor.

By Mr. HENDERSON: The petition of John Dolan, for a pension—to the Committee on Invalid Pensions.

By Mr. HENKLE: Papers relating to the war claim of Thomas R. Johnson, administrator, &c.—to the Committee on War Claims.

By Mr. HERBERT: The petition of Henry F. Lines, (accompanied by draught of bill,) that the proper accounting officers of the Treasury Department be authorized and instructed to restate an account between the United States and himself—to the Committee of Claims.

Also, the petition of J. T. Holtzclaw, (accompanied by draught of bill,) for the passage of a bill to pay the estate of J. M. Micow for rent of property by the Quartermaster's Department, United States Army, in 1865 and 1866—to the same committee.

By Mr. HERNDON: A paper relating to the pension claim of Margaret A. Spencer—to the Committee on Revolutionary Pensions.

Also, papers relating to the claim of the Deposit Savings Association of Mobile, Alabama, for amount of taxes alleged to have been illegally collected—to the Committee of Claims.

Also, papers relating to the claim of the Mobile Marine Dock Company, for compensation for the use and occupation of the property of said company and for material taken by the military authorities of the United States from April 16 to November 15, 1865—to the same committee.

By Mr. HUNTON: Papers relating to the claim of R. L. Rotchford, for the proceeds of the sale of property sold under the confiscation act—to the same committee.

Also, papers relating to the claim of John Q. Larman, Joseph L. Harley, and Thomas P. Sparks, for compensation for services rendered in the Bureau of Engraving and Printing of the Treasury Department of the United States—to the same committee.

By Mr. JORGENSEN: Papers relating to the war claim of B. W. Hunter—to the Committee on War Claims.

By Mr. KITCHIN: A paper relating to the war claim of Sophia B. Moore—to the same committee.

By Mr. KLOTZ: The petition of C. C. Mullin, for a pension—to the Committee on Invalid Pensions.

By Mr. LINDSEY: Papers relating to the claim of William Wood, for compensation for unwarranted imprisonment by United States authorities—to the Committee of Claims.

Also, papers relating to the petition of Joseph Brown, postmaster of New Castle, Maine, that he be credited with certain postage-stamps stolen from him, in the settlement of his accounts—to the same committee.

By Mr. LORING: The petition of Abbie M. Mudge, for a pension—to the Committee on Invalid Pensions.

Also, a paper relating to the pension claim of Thomas L. Peterson—to the same committee.

By Mr. MARTIN, of West Virginia: Papers relating to the claim of the Ammoniated Fertilizer Company of Washington, District of Columbia, for pay for fertilizers furnished at the Executive Mansion by order of General Babcock—to the Committee of Claims.

Also, a paper relating to the claim of Sweeny, Rittenhouse, Fant & Co.—to the same committee.

By Mr. NORCROSS: The petition of B. M. Reese, of Greenfield, Massachusetts, for legislation necessary to secure to him and others the bounty of $2 per month awarded private soldiers who were recommended for meritorious conduct in the battles in the valley of Mexico—to the Committee on Invalid Pensions.

By Mr. O'NEILL: Papers relating to the pension claim of Emma H. Young—to the same committee.

By Mr. OSMER: The petition of the Women's National Christian Temperance Union and 88 others, that no change be made in the internal-revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee on the Judiciary.

Also, the petition of the Women's National Christian Temperance Union and 50 others, of similar import—to the same committee.

By Mr. POEHLER: Papers relating to the bounty claim of George M. Robbins—to the Committee on Military Affairs.

By Mr. SIMONTON: Memorial of citizens of Lauderdale County, Tennessee, asking aid for the improvement of Hatchie River, Tennessee—to the Committee on Commerce.

By Mr. STONE: The petition of A. C. Strachan and 48 others, citizens of Michigan, against the passage of any act extending the patent of John C. Birdsell—to the Committee on Patents.

By Mr. THOMPSON: Papers relating to the claim of Joshua S. Dye for compensation for giving information and aiding in the suppression of illicit distilleries—to the Committee of Claims.

By Mr. VANCE: The petition of Edward Kolb, that he be paid, out of any funds in the hands of the Secretary of the Interior belonging to the Western Cherokee Nation of Indians, a board bill contracted by Richard Field, a commissioner of said nation accredited to represent their interests before the Government of the United States—to the Committee on Indian Affairs.

By Mr. FERNANDO WOOD: The petition of Margaret Brewster, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

WEDNESDAY, *April* 23, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a letter from the Second Auditor of the Treasury recommending legislation to place the claims of certain white and colored soldiers upon the same footing; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAWES. I present resolutions of the State of Massachusetts in favor of the establishment of a national bureau of labor. I ask that they may be printed, as they are resolutions of a State Legislature, and also printed in the RECORD and referred to the Committee on Education and Labor.

The resolutions were referred to the Committee on Education and Labor and ordered to be printed, as follows:

COMMONWEALTH OF MASSACHUSETTS,
In the year 1879.

Resolution concerning the establishment of a national bureau of labor.

Whereas labor and capital are so essentially dependent upon each other in the successful prosecution of business enterprises that comity and equity are among the primary requisites which mutual interests should seek to ingraft upon their associative relations; and

Whereas nothing can so effectually harmonize and unify existing divergencies between capital and labor as a comprehensive statement of all facts relative to the condition and necessities of the labor classes: Therefore,

Resolved, That the United States Congress should establish a national bureau of labor; and

Resolved, That a copy of this resolution be sent to each of our Senators and Representatives in Congress.

HOUSE OF REPRESENTATIVES, *March* 4, 1879.

Adopted. Sent up for concurrence.

GEO. A. MARDEN, *Clerk*.

SENATE, *March* 10, 1879.

Adopted in concurrence.

S. N. GIFFORD, *Clerk*.

Mr. SAUNDERS. I hold in my hand a petition from all the pastors of the leading churches, and indeed of all the churches, I believe, in Yankton, Dakota Territory, praying that some legislation may be had to secure permanent homes for the Ponca Indians. It will be remembered by the Senate, no doubt, that these Indians were removed two years ago from Dakota to the Indian Territory, contrary, as they say, to any agreement that they made. They are dissatisfied with their present home and want to return. They claim that they have not disposed of the title to their lands. This petition prays that some action may be taken to secure permanent homes for these Indians. As the petition is very short, and will be referred to the appropriate committee, and probably there will not be a report upon it at this session, I should like to have it read at length, so that the Senate may understand it.

The PRESIDENT *pro tempore*. The petition will be read.

The Secretary read the petition, as follows:

To the Senate and the House of Representatives in Congress assembled:

We would respectfully call your attention to the sad case of the Ponca Indians who two years ago were forcibly removed from their homes in Dakota Territory to the Indian Territory.

The change has been fatal. They have already lost one-fourth of their number by death. Those yet living are so thoroughly convinced that to stay there is death to them that they are wrought up almost to the point of desperation.

You have been informed of their recent attempt to get away. Thirty of them, under Standing Bear, one of their chiefs, reached the Omaha agency, and were then captured by the troops and returned to the south a few days ago. There is imminent danger of another Cheyenne horror.

They still own their old reservation lands in Dakota Territory; nor could these lands be taken from them by the Government, for their title is peculiar, these lands having once been sold by the tribe to the United States, and then sold back again to the tribe, "ceded and relinquished" by our Government to them. (Revised Treaties, page 665.)

These lands were taken for a time for the use of Spotted Tail's tribe, hence the removal of the Poncas; but Spotted Tail would not stay there, and the lands are now unoccupied.

It would be only justice to the Poncas to allow them to return to their old homes. It would also be for the general welfare. Not only would it avert the danger of another Indian war, but their former white neighbors on the border, who remonstrated against their removal, would feel safer if they were allowed to return, because they would stand between them and the Sioux. If allowed to return, they would virtually move themselves if rations were furnished them; but as they have lost most of their horses by going south, it would be only just to replace them.

We would therefore ask:

1. That they be allowed to return to their old homes in Dakota Territory.

2. If that cannot be allowed, that they be suffered to come north and join whichever of the tribes they may severally choose—the Omahas, the Santees, or the Yanktons.

3. Or if neither of these be done at once, that a commission be sent to investigate their case.

We respectfully urge that something be done at once, and that these Indians be assured immediately that they will be removed from the Indian Territory before another summer.

Mr. SAUNDERS. I move that the petition be referred to the Committee on Indian Affairs.

The motion was agreed to.

INTEROCEANIC CANAL SURVEYS.

Mr. ANTHONY, from the Committee on Printing, to which was referred the following resolution, reported it without amendment, and it was considered by unanimous consent and agreed to:

Resolved, That 200 additional copies of the report of the commissioners on an interoceanic route between the Atlantic and Pacific be printed for the use of the Navy Department.

BILLS INTRODUCED.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 481) for the better organization of the district court of the United States within the State of Louisiana; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PENDLETON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 482) to authorize the Secretary of the Treasury to repair and extend the public building owned by the Government at Cleveland, Ohio; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 483) for the relief of William L. White; which was read twice by its title, and referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JONAS, it was

Ordered, That the petition and papers relating to the claim of Joseph R. Shannon be taken from the files of the Senate and referred to the Committee on Claims.

TRANSPORTATION OF THE MAILS.

Mr. TELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what balances, if any, have been audited and are due for the transporting of the mails prior to the 1st of July, 1878, and which are unprovided for by any appropriation by Congress.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

The PRESIDENT *pro tempore*. The next business in order is the resolution offered by the Senator from Pennsylvania [Mr. WALLACE] to amend the standing order of the Senate relating to the appointment and removal of the employés of the Senate. The pending question is on the amendment offered by the Senator from Ohio [Mr. PENDLETON] to the amendment offered by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. Let it be reported, Mr. President.

The PRESIDENT *pro tempore*. The amendment of the Senator from Ohio [Mr. PENDLETON] will be reported.

The CHIEF CLERK. It is proposed to amend the amendment of the Senator from Vermont [Mr. EDMUNDS] by adding thereto these words:

And acceptable to a majority of the Senators. And inasmuch as the appointment of the subordinates and the power of dismissal should remain with those officers respectively, who must be responsible for all the service committed to their charge: Therefore,

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

Mr. EDMUNDS. I ask for the yeas and nays on the adoption of the amendment to the amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. Mr. President, I am rather surprised at the language of the amendment to the amendment, the first part of it in particular. Of course the last part merely reaffirms the original resolution.

My proposition was taken from the report and the unanimous judgment of the Senate, both democrats and whigs, or republicans, whatever name they had at that time, in 1854, that efficiency, fidelity, capacity to discharge the duties, and permanence should be the true and honest test for the appointees in this body, and the exclusive one. That has stood for twenty-five years through all administrations of various parties, and it has been substantially lived up to.

The Senator from Ohio proposes to add to that the cumulative qualification that the appointees in the Senate are to be "acceptable to a majority of the Senators." What does that mean, Mr. President? How "acceptable?" Socially? In respect of drinks or the absence of drinks? In respect of snuff or tobacco, or Graham bread or white bread? In respect of religion, and if so which kind of religion? What sect are we to stand by as "acceptable" to the majority of the Senate? Or is it politics? If it comes to that—which I suppose is the complexion which we reach at last (that is what it means I suppose)—then I can understand it. I take it as meaning undoubtedly and intended to mean, in view of what has taken place, exactly that, that in addition to fidelity, to capacity, to honor, to good conduct, to everything which makes a good clerk, or a good deputy sergeant-at-arms, or a good page, whatever it may be, there shall also be acceptability in the political sense to a majority of the Senate. That is to be made into a standing order, so that when agreed to and the rectifying providence of the times shall bring around a majority of this body that does not think exactly as the present majority does, then there is a standing order of the Senate that none of the persons who the day before were acceptable to a majority of the Senate shall be acceptable any more; because that is what it necessarily means if you refer to politics, as this undoubtedly does.

Is that right, Mr. President? Is that according to what has been the usage and tradition of this body?

There is force in what the Senator from Georgia [Mr. HILL] said the other day—I believe it was he—that there is no use of crying for spilled milk when your bowl is turned over, and gentlemen on this side of the Chamber ought not to make wry faces because gentlemen on the other side prefer their own political associates. We do not. But if the Senator from Georgia would have the same patience that Senators who preceded us on this side of the Chamber had in old times, under exactly the same rule, they would find that, without kicking out a man because he differed on the true construction of some act of Congress, or thought the tariff ought to be 30 per cent. instead of 40, or whatever it might be, vacancies would happen by natural causes in a considerable body (as the body of our employés is) from day to day and from year to year. There are natural causes of change, resignation, illness, removal from town, death; everything that enters into the composition of a long period of time makes vacancies that are then naturally and properly filled up among gentlemen otherwise equally well qualified by those whose notions are agreeable to the majority. Very well; the consequence in such a case would be, in this change of affairs that has now occurred in the Senate, that in a very short time there would be, whenever vacancies occur in the way I have named, gentlemen introduced whose faith is of the democratic persuasion, to which nobody would object in the slightest degree. Then as time went on and a larger proportion of democrats occupied all these places under the Senate and there then came a change in political phases that should make what is now called the present democratic party in a minority and gentlemen of other views in the majority, the same slow process of change would go on, and the order and fitness of our doing business would be standing secure all the time, and everybody of all parties in the long run would get his equal rights and his equal representation, if you can use such a term in respect of these employments. All it wants is a little faith and a little patience.

We are told by gentlemen that this Government as it is is going to endure now; that there are not going to be any more efforts to overthrow it. If it does, here will always be the Senate; and if we can have self-control enough to let these natural causes operate to make the gradual changes that will be agreeable to gentlemen's political views, shall we not have done wisely? Shall we not have done what democrats and whigs and republicans twenty-five years ago after an experience under a rule just as you would now make it, found was necessary and wise, will continue to be necessary and wise? It seems so to me.

Therefore not out of any hostility to democratic gentlemen who would like these places—quite the reverse—but out of faith in the perpetuity of this body and faith in the justice that every man politically will get if you hold on to the rule as it stands by steady methods and slow processes an absolutely correct average in the end, I very much regret that this proposal is made. So regretting, Mr. President, I have asked for the yeas and nays upon it, and I ask a division of the question so as to take the vote first upon the first part of the amendment, about acceptability to Senators.

Mr. PENDLETON. Mr. President, I desire to inform the Senator from Vermont that the language of the amendment which I have offered, except that portion of it which relates to the acceptability of officers, is quoted from the report which received the commendation of that Senator and others upon the floor of the Senate the other day in discussion. I refer to that portion of my amendment which serves as a preamble to the resolution which I have introduced as a part of the amendment. Inasmuch as both the doctrine and the language of that report received such hearty commendation from the Senator from Vermont the other day I think he must have been unaware that this language was used in that report or it would not have met his criticism.

So far as the use of the term acceptable is concerned I do not care to follow the Senator into a very close examination as to the meaning of that term or the application that it may have, whether, as he has chosen to name the points, to taking a drink or using snuff, or religion, or even politics—I say it is as necessary to the comfort and convenience of Senators that the officers should be acceptable to Senators as it is that they should be faithful in the discharge of their duty. Does the Senator propose that the officers who are recommended and appointed here shall be not acceptable to Senators? Does he desire that no regard shall be paid to whether they are acceptable or unacceptable, provided an equal fidelity in the discharge of duty can be found in both?

I hold that an officer thoroughly fulfilling his duty might by reason of his manners, by reason of his conduct outside of the immediate discharge of his duty, by a course of comment upon the conduct of Senators upon the opinions they hold, upon their capacity in debate, upon their mode of conducting debate, upon a thousand other peculiarities of Senators, might become so unacceptable that it would be the duty of the majority to remove him, and I would be one who would take the lead in doing so.

I think it is easy to distinguish wherein the term "acceptable to a majority of the Senators" applies in this connection. Therefore I trust that the amendment to the amendment will be adopted.

Mr. EDMUNDS. Mr. President, I made no criticism upon that part of the Senator's preamble that he got out of the democratic report of a committee. I devoted all that I had to say to the part that he says is a new invention of his own. Therefore I trust I shall not be thought to be inconsistent, for it does not logically follow that because I am in favor of the democratic doctrine of 1854 I am in favor of the democratic doctrine of 1879. They may possibly be quite different things.

What the Senator has said about the preamble illustrates the whole case. The report of the committee in 1854, from which the Senator has quoted the paragraph and from which I did, the substance of the whole report, concluded as a consequence with a proposition which the Senate unanimously agreed to, to make the rule of the Senate as it now stands and as it has stood ever since. The Senator takes a fragment of the same report as the inducement to repealing and reversing that rule. That is rather a strange method of drawing conclusions, I must say. Either the conclusion that the committee of 1854 drew from the principles that they laid down was a radically erroneous one, or the conclusion exactly in the opposite direction that the Senator draws from the fragment he has taken must be an erroneous one,—one or the other. You cannot draw two opposite conclusions from the same premise; at least you could not until the present time. I do not know how it is now. The part of the preamble to which the Senator refers is unobjectionable in itself, but he cannot wrest it into the means of coming to a conclusion that this rule ought to be reversed and set aside from the same premise. That is plain enough.

My honorable friend says that an employé of this body may so conduct himself as to become unacceptable to Senators. So he may; but if he conducts himself in the way the Senator has described he would be removable under the existing rule, not for unacceptability to Senators but for misconduct unbecoming his place. There would be cause in the very language of the order of the Senate, upon which the Sergeant-at-Arms would report him for removal to the President of the Senate, be he who he may, whether the Vice-President or the President *pro tempore*, whichever the rule means, or if it means both—to the one who was in the chair at the time. There would be cause, just cause, I agree, and I should follow the lead that the Senator says he would take with entire satisfaction as a matter of duty, no matter who the employé might be.

You do not need, therefore, Mr. President, any change of this standing order which has come down to us for a quarter of a century in order to redress any grievance (for that is the popular term now) that Senators may have in respect of the misconduct of a clerk or a page in this body. The whole power exists already. The only difficulty with the order as it stands now is that there must be a cause stated to the President of the Senate, and it seems that gentlemen are unwilling to state the real cause, that the person proposed to be removed happens to believe in the Declaration of Independence instead of believing in something else. There is the difficulty. Probably it has been found somewhere and in some way that the President of the Senate, be he the Vice-President, who unfortunately, as we all feel, is absent on account of illness in his family, or be it our honored and respected President *pro tempore*, will construe that rule where it uses the word "cause" as being a cause that affects the demeanor and good conduct and capacity of the person employed, and not his abstract opinions upon questions of the Constitution of the United States or the by-laws. There is the rub, and we may just as well face it fairly.

If it is thought wise in the long run, if it is thought expedient in view of the means that I have suggested of making all this equal in the long run by the slow and gradual processes of what I might call nature, merely for political considerations, in order to give places that have salaries to gentlemen who very likely, when they have been here as long as those who are now here, may do the duties just as well, but who in the mean time cannot and will not, then let us say plainly and fairly that the whole point and object of this is to find places for political adherents, and find them faster than a rule adopted unanimously in democratic times and kept in force ever since will allow. That is all there is to it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio [Mr. PENDLETON] to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. I ask for a division of the question.

The PRESIDENT *pro tempore*. A division is asked by the Senator from Vermont. It is the opinion of the Chair that the amendment to the amendment is divisible and that the question is to be put first upon adding to the amendment offered by the Senator from Vermont these words:

And acceptable to a majority of the Senators.

So that if that amendment be adopted it will read:

That in the opinion of the Senate the correct and safe transaction of the business of the Senate is materially dependent on retaining in its service a corps of experienced, well-trained, and diligent officers; and this can only be done by security in their respective positions so long as they continue faithful in the discharge of their duties and acceptable to a majority of the Senators.

On this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. WALLACE, (when his name was called.) I am paired with my colleague [Mr. CAMERON, of Pennsylvania] on all political questions, and as the Senate seems to divide politically on this question I decline to vote. If my colleague were here, I should vote "yea."

The Secretary resumed and concluded the call of the roll.

Mr. ALLISON, (after having voted in the negative.) I for the moment forgot that I am paired with the Senator from Maryland, [Mr. WHYTE.] I desire to withdraw my vote.

Mr. BECK, (after having voted in the affirmative.) On all political questions I am paired with the Senator from Nevada, [Mr. JONES.] I withdraw my vote as I observe that this is a political question.

Mr. HEREFORD. I rise for the purpose of stating the fact that my colleague [Mr. DAVIS, of West Virginia] is paired with the Senator from Minnesota [Mr. WINDOM] upon this and upon all political questions. My colleague is not in his seat to-day, and will not be here for some days on account of a death in his family. If my colleague were present, he would have voted "yea" and the Senator from Minnesota would have voted "nay."

Mr. EATON, (after having voted in the affirmative.) I voted inadvertently, forgetting that I am paired on political questions with the Senator from Massachusetts, [Mr. HOAR.] I withdraw my vote.

Mr. MCMILLAN. As has been announced by the Senator from West Virginia, [Mr. HEREFORD,] my colleague [Mr. WINDOM] is paired with the Senator from West Virginia, [Mr. DAVIS.] If my colleague were here, he would vote "nay."

The result was announced—yeas 36, nays 23; as follows:

YEAS—36.

Bailey,	Call,	Farley,	Groome,
Bayard,	Cockrell,	Garland,	Grover,
Butler,	Coke,	Gordon,	Hampton,
Harris,	Jones of Florida,	Pendleton,	Vance,
Hereford,	Kernan,	Randolph,	Vest,
Hill of Georgia,	Lamar,	Ransom,	Voorhees,
Houston,	McDonald,	Saulsbury,	Walker,
Johnston,	Maxey,	Slater,	Williams,
Jonas,	Morgan,	Thurman,	Withers.

NAYS—23.

Anthony,	Carpenter,	Hamlin,	Platt,
Bell,	Chandler,	Ingalls,	Plumb,
Blaine,	Conkling,	Kirkwood,	Rollins,
Booth,	Dawes,	Logan,	Saunders,
Burnside,	Edmunds,	McMillan,	Teller.
Cameron of Wis.,	Ferry,	Morrill,	

NOT VOTING—17.

Allison,	Davis of W. Va.,	Kellogg,	Whyte,
Beck,	Eaton,	McPherson,	Windom.
Bruce,	Hill of Colorado,	Paddock,	
Cameron of Pa.,	Hoar,	Sharon,	
Davis of Illinois,	Jones of Nevada,	Wallace,	

So the first branch of the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is upon the adoption of the remainder of the amendment offered by the Senator from Ohio [Mr. PENDLETON] to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. Will the Chair please have the remainder reported.

The PRESIDENT *pro tempore*. It will be reported.

The Chief Clerk read as follows:

And inasmuch as the appointment of the subordinates and the power of dismissal should remain with those officers respectively, who must be responsible for all the service committed to their charge: Therefore,

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line; so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

The PRESIDENT *pro tempore*. On this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. DAWES, (when the name of Mr. HOAR was called.) My colleague [Mr. HOAR] is necessarily absent from his seat. This question has assumed such serious party proportions that the Senator from Connecticut [Mr. EATON] has kindly consented to pair with him.

Mr. WALLACE, (when his name was called.) I am paired as I have already stated.

The roll-call was concluded.

Mr. HEREFORD. I desire to state that my colleague [Mr. DAVIS, of West Virginia] is paired on this subject with the Senator from Minnesota, [Mr. WINDOM.] If my colleague were here, he would vote "yea."

Mr. RANDOLPH. I was paired on all political questions with the Senator from Kansas, [Mr. PLUMB.] As he has voted, I vote "yea."

The result was announced—yeas 35, nays 23; as follows:

YEAS—35.

Bailey,	Grover,	Kernan,	Slater,
Butler,	Hampton,	Lamar,	Thurman,
Call,	Harris,	McDonald,	Vance,
Cockrell,	Hereford,	Maxey,	Vest,
Coke,	Hill of Georgia,	Morgan,	Voorhees,
Farley,	Houston,	Pendleton,	Walker,
Garland,	Johnston,	Randolph,	Williams,
Gordon,	Jonas,	Ransom,	Withers.
Groome,	Jones of Florida,	Saulsbury,	

NAYS—23.

Anthony,	Carpenter,	Hamlin,	Morrill,
Bell,	Chandler,	Ingalls,	Platt,
Blaine,	Conkling,	Kellogg,	Plumb,
Booth,	Dawes,	Kirkwood,	Rollins,
Burnside,	Edmunds,	Logan,	Saunders.
Cameron of Wis.,	Ferry,	McMillan,	

ABSENT—18.

Allison,	Davis of Illinois,	Jones of Nevada,	Wallace,
Bayard,	Davis of W. Va.,	McPherson,	Whyte,
Beck,	Eaton,	Paddock,	Windom.
Bruce,	Hill of Colorado,	Sharon,	
Cameron of Pa.,	Hoar,	Teller,	

So the second branch of the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is, Shall the amendment of the Senator from Vermont, as amended, be adopted as a substitute for the original resolution? on which the Chair supposes that the order for the yeas and nays on the original amendment prevails, and that the vote must be taken by yeas and nays.

Mr. EDMUNDS. I should like to have the resolution part of it now read, merely the resolution, not the preamble.

The PRESIDENT *pro tempore*. The resolution offered by the Senator from Ohio, [Mr. PENDLETON?]

Mr. EDMUNDS. Yes, sir; the one that has just been agreed to.

The Chief Clerk read as follows:

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secre-

tary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

Mr. EDMUNDS. Mr. President, first I wish to call attention to the fact, as I understand it to be, that every assistant doorkeeper, our venerable friend who sits at your left, is an officer in the department of the Sergeant-at-Arms, and the Senate turns the fate of this gentleman who has been with us so long over to the Sergeant-at-Arms. I dare say the Sergeant-at-Arms will not abuse the power; but the principle we go upon is that every officer may be thus removed. The executive clerk and the Chief Clerk of the Senate are officers in the department of the Secretary of the Senate. The Secretary of the Senate therefore can dismiss those gentlemen to-morrow, although they were elected only a week ago.

But I did not rise to say anything about that in particular. I rose to move an amendment to be added at the end of the resolution as a qualification, in these words:

But no officer or employé of the Senate who served in the forces of the United States in suppressing the late rebellion shall be removed except for cause, stated in writing to the President of the Senate, and approved by him in writing.

Mr. WALLACE. I apprehend there need be no apprehension on the part of the Senator from Vermont that those who act on this apparently tender subject with him will make such removals. I speak for myself——

Mr. CONKLING. Then there is no objection to this amendment.

Mr. WALLACE. But a majority of this body may not see fit to accept as binding law what is really the wish of the majority of this body. It seems to me that has been the action of the Senator from New York, and those who acted with him in the past, and I assume that it will be in the future with those who are in the majority in this body. As to the assistant doorkeeper, he was put in his place by a vote of this body, and I assume that he will not be removed save by a vote of this body. The executive clerk also was put in his place in the same way, and I assume he will not be removed save by a vote of the body.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. WALLACE. Certainly.

Mr. CONKLING. Did I understand him aright when I thought he said that the majority had not removed and did not intend to remove any Union soldier or wounded Union soldier?

Mr. WALLACE. The Senator heard me correctly. They have not removed and do not intend to remove such.

Mr. CONKLING. I understood the Senator with surprise; I understand him with surprise now, because I assert that they have already acted in violation of what the Senator says. I assert that they have already removed a Union soldier, a man who served in the armies of the Union and was discharged because of the injury he received; and yet the honorable Senator says it is not worth while to guard this because the majority may be trusted to abstain, much as the overseer may be trusted to abstain from the lash.

Mr. WALLACE. Will the Senator state the name of the party that has been removed? If there be such a case I do not know it.

Mr. CONKLING. I do not think I shall fail to indulge the Senator in the name. I refer to Mr. Fitz, who has been removed from a position in the office of the Secretary of the Senate, a position whose duties he never neglected or came short in, Mr. Fitz having served, I repeat, in the armies of the Union and having been discharged because of the injury and suffering that came upon him in that service.

Mr. KERNAN. Mr. President, I do not find that when our friends on the other side were in power they made any such rule. I for one acting here shall act and intend to act justly toward soldiers and particularly toward wounded soldiers; but I propose to do it from my own sense and not because the other side now seek to make a new rule tying us up in that respect. If we do it we should do it because we think it is right and proper to honor them, and I do not think we should be called upon to do it by their making a rule which they never adopted when they were in power themselves. [Applause in the galleries which was checked by the President *pro tempore*.]

Mr. CONKLING. My colleague seems to earn the applause of somebody in the galleries by strangely forgetting or strangely ignoring the truth of the matter to which he refers.

The PRESIDENT *pro tempore*. Will the Senator from New York permit the Chair to interrupt him for a moment? The Chair wishes to state that if there has been any such removal, he is wholly ignorant of it. The Chair has seen a statement in the newspapers that the present incumbent of the Chair signalized the first day of his service here by consenting to the removal of some employé of the Senate. The Chair wishes to say that no application whatever for leave to remove anybody has been made to the present incumbent of the chair, and therefore there is no foundation for any such statement.

Mr. CONKLING. Mr. President, before concluding the remark I designed to make in reply to my colleague, I pause to observe the statement which has fallen from the Chair, and I am glad to say that I did not suppose, I had not been informed, and if so informed I should not have supposed, that the presiding officer of the Senate had approved of the proceeding to which I referred. But I intended to state, and I do now repeat the statement, that the officer whose name I gave was some time ago, by his official superior notified that he must vacate his place and the day was fixed on which he must vacate, and my honorable friend by my side [Mr. HAMLIN] tells me that the successor of this officer to be removed is here on the spot to take his place.

Now, I turn back to what was said by my colleague. He is going to act upon his own judgment and he is not going to act with the other side, thereby meaning this side, for some new rule that they are to establish, and he says they never established any rule for the protection of officers, of this class of officers at all events. Why, Mr. President, does not my colleague know that this resolution is aimed at the rule which the republican party established by maintaining and affirming it for nearly twenty years? During all that time this side of the Chamber maintained a rule which said that no doorkeeper, no janizary, no police officer of this body should be driven away to make place for a favorite unless the presiding officer of the Senate could be acquainted with reasons for his dismissal which amounted to good cause and approved of them. That was the rule made on this side of the Chamber, made by being inherited from democrats, and maintained and preserved from session to session and year to year even unto this day, even when they came into power and found both wings of this Capitol swarming with men who were the enemies of the Republic——

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. CONKLING. Very well.

Mr. WITHERS. I call for the regular order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4) to provide for the exchange of subsidiary coins for lawful money of the United States under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, which is the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, the pending question being on the amendment offered by the Senator from Maine [Mr. BLAINE] to the sixth section.

Mr. BLAINE. If the Senator from Kentucky [Mr. WILLIAMS] who is expected to claim the floor will pardon me a moment, I ask leave, for the purposes of modification, to withdraw the amendment which I offered to the bill.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, and it can be withdrawn only by consent.

Mr. BLAINE. I ask consent.

The PRESIDENT *pro tempore*. Is there objection to the withdrawal of the amendment offered by the Senator from Maine? The Chair hears none, and it is withdrawn.

Mr. BLAINE. The honorable Senator from Kentucky will pardon me for a moment longer. I see the honorable Senator from Connecticut [Mr. EATON] in his seat. On the day before yesterday the honorable Senator from Connecticut formally notified me, as appeared in the RECORD, to be in my seat yesterday morning, and I was here promptly and waited for the honorable Senator all the day. I do not appeal to him now for any other purpose than to learn when it will be his convenience to desire my presence.

Mr. EATON. Mr. President, I did not notify the honorable Senator at all. I said this, that I should on Thursday or on Friday last have asked permission of the Senate to make a few remarks, if the Senator from Maine had been in his seat; and I said further, that I should ask the Senate to hear me "to-morrow morning." That was yesterday morning. I did not notify the Senator from Maine. As a matter of courtesy, I did not go on because of his absence for two days. Yesterday morning gentlemen desired to press this discussion, and, as that was not a public matter, but a matter private to myself, I withheld asking the favor of the Senate to hear me yesterday. At the proper time, and as soon as may be, I shall ask the Senate to hear me on that matter.

Mr. BLAINE. All I desired from the Senator was that as he seemed in some form to attach some consequence to my being present, I might know in as public a manner as he has already given notice to the Senate. The RECORD of yesterday contains the following, as a part of the proceedings of Monday last:

Mr. EATON. Mr. President, I desire to give notice that I shall ask to be heard to-morrow morning, as soon as the morning business of the Senate is concluded. I should have asked the same privilege on Thursday or Friday of last week if the Senator from Maine [Mr. BLAINE] had been in his seat. As my friend from Delaware [Mr. BAYARD] will go on with his remarks on the Army appropriation bill this morning, I shall ask the Senate to hear me to-morrow morning immediately after the ordinary morning business of the Senate.

I took that as a very distinct notice to myself. The Senator had twice refrained from speaking because I was not in the Chamber. He notified the Senate that when I was present he would proceed the next morning. I sat in my seat all day waiting for the honorable Senator; and all I desired now was that I might have the hour assigned when the Senator would desire me to be present and not have to wait and to watch his movements and his pleasure. That was all.

Mr. EATON. Mr. President, it strikes me that the Senator from Maine is driving the matter unnecessarily. I withheld two days from asking the favor of the Senate because of his absence, and he ought to know that I shall not go on in his absence, and he need not sit here longer and be annoyed by hearing speeches that it is difficult for him to answer, to-day or any other day. I will give him notice whenever I shall call the matter up.

Mr. BLAINE. That is all.

Mr. WILLIAMS. Mr. President——

Mr. CONKLING. Mr. President, the Senator from Kentucky allows me to make an inquiry of the Senator from Virginia who has this bill in charge. I should like to inquire of the Senator from Virginia when it is his wish that the debate which now proceeds shall conclude?

Mr. WITHERS. I will state that about a week ago, or perhaps more, I gave notice in the Senate that I should ask for a vote upon this bill to-day. That is my purpose still. My desire was that ample time should be given for discussion. I think that the subject has been very thoroughly debated, and I now announce that it is my purpose, if a majority of the Senate shall concur with me in opinion, to endeavor to secure a vote on the bill to-day.

Mr. CONKLING. When does the Senator say he gave the notice to which he refers?

Mr. WITHERS. I think about a week ago, and I have repeated it since on one or two occasions.

Mr. CONKLING. I misunderstood the notice if the Senator's recollection is correct. I did not understand the notice to be for to-day. I am told there are several Senators who wish to-day to address the Senate. I should be sorry myself to prolong seriously the debate, and yet I should be glad for an opportunity to submit some observations of my own to the Senate; and therefore, as I think there has been some misunderstanding about this which led me to ask the question, it would be better for the Senator not to say that he will attempt to get a vote to-day.

Mr. WITHERS. I only wish to say that my recollection is very clear on the subject, and I certainly regret that the Senator from New York has misunderstood the matter, and thereby may possibly be embarrassed in his anticipated purpose of addressing the Senate. I do not desire to cut short the debate in any particular, further than directing attention to the passage of the bill.

Mr. CONKLING. I beg the Senator not to misunderstand me as disputing the statement about the notice he gave. I only said I did not so understand the notice. I thought it related to a later day; and on this day, without displacing several other Senators who have told me they wished to address the Senate, I cannot be heard, nor can anybody except those Senators, as three of them I believe have intimated to me that they intended to speak. So then if it be the pleasure of the Senator and of the Senate I shall ask that any Senator on this side who wishes to-morrow to address the Senate may be enabled to do so.

Mr. WITHERS. In view of the statement made by the Senator from New York, I wish to make a suggestion, if it meets with his approval and the approval of all the Senators present, that we fix an hour to-morrow, say four o'clock, at which the vote shall be taken on this question. If so, it will be perfectly agreeable to me.

Mr. CONKLING. That might be entirely convenient to me individually, and I answer as the Senator addresses me among others; but I suggest to him that we had better not do that now. It will be very awkward for any Senator on this side—I speak for myself—it would be awkward for me should the floor fall to me in the morning, to occupy so much of the time, an hour being fixed, that any other Senator might be cut off. Therefore I suggest to the Senator that he had better allow it to stand simply with the understanding that after to-day he will get a vote as soon as may be. I do not intend myself to occupy a very long time, and yet I should prefer not to know in advance that I was not at liberty to speak more than a certain length of time.

Mr. WITHERS. I should be perfectly willing to agree to a postponement of the vote on this question until to-morrow to meet the views of Senators who desire to address the Senate on the question. I had supposed that the debate was pretty well exhausted. I had no knowledge or information that more than one or two other Senators desired to submit their views to the Senate, and supposed that no difficulty would be had in securing a vote to-day. I think the long notice which I gave in advance indicated my unwillingness to place any obstruction or impediment in the way of such full discussion of the question as might be desired.

Mr. WILLIAMS. Mr. President, I gave way to a gentleman to ask simply a definite question and get a definite answer. I did not expect discussion would arise upon it. I suppose the preliminaries of closing the debate can be settled after I am done speaking. I hope gentlemen will now let me have the floor.

The PRESIDENT *pro tempore*. The Senator from Kentucky will proceed.

Mr. WILLIAMS. Mr. President, it is with extreme diffidence that I rise for the first time to speak in this august body; and nothing but the gravity of the great questions of liberty that lie at the bottom of this debate would justify me in asking this indulgence of the Senate.

Before coming to the merits of the discussion, I desire to say a few soothing words to those Senators over the way, who have manifested apprehension and alarm at seeing so many confederate brigadiers in the Congress of the United States. One would think from their speeches that they were still in doubt as to whether the war for the Union had been a success or not.

Upon this point we wish to assure them that in our deliberate opinion, and our experiences should give our opinion great weight upon this subject, that the war has been a complete success; and I regard the presence of these brigadiers as the best possible proof that the Union is restored.

I wish from the bottom of my heart that the people of the North had shown an equal disposition with the people of the South to honor their heroes, and had given us more Federal brigadiers in Congress. If the complications growing out of the war had been left for solution to the brave men who fought its battles, the country would have been at peace long ago. But the men who shared not its dangers and its hardships, but remained safely at home, and made money out of the blood and miseries of the people while the soldiers were fighting, these are the tongue-valiant warriors who have been a stumbling-block in the path of peace and reconciliation.

In common with the people of my State, I was opposed to secession. Mr. Clay had taught us all that secession was treason, and that liberty and property were safer in the Union than out of it. But when the war came my lineage, my affections, my property all conspired to carry me South, and I went in with a hearty good-will and fought it out to the end; but when the bonny-blue flag went down in the dust, overwhelmed by millions in arms, we buried it with the honors of war, accepted the situation, and renewed our allegiance to the Union of the States. We have no apologies to make, we feel no regret or remorse for the part we bore in the dreadful drama of the past, but we do feel that our own honor demands the faithful discharge and performance of every duty and every obligation imposed upon us by our restored relations to the old Government; and we have from the first been ready and willing to strike hands with all good and true men everywhere in a common patriotic effort to restore peace and prosperity to our common country. We have but one flag, one country, and one destiny. Why, sir, I regard these reconstructed brigadiers as the best Union men in Congress. Of all men they are the least inclined to coerce anybody or anything.

I know of but one possible occasion that would rouse them up with the spirit of conflict again. It is this: The great thinker and soothsayer of the republican party, Wendell Phillips, has made the prophecy that the next rebellion will come from New England. Now should this come to pass in our time, you will find all these confederate brigadiers rallying around the old flag to whip these seceded States back into the Union again. The whole South will be for coercion then.

Thirty years ago, when that flag was insulted and the country called for volunteers to avenge the insult, there are on our side of the Senate now several of these much-abused "confederate brigadiers," who in the prime of their young manhood responded to that call; they hired no substitutes, but rallied themselves around the old flag and followed it in a deadly climate upon many a bloody field. They bore it up at Monterey and Buena Vista; planted it on the castle of San Juan de Ulloa and the walls of Vera Cruz; upon the heights of Cerro Gordo, and finally waved it in triumph over the halls of the Montezumas. Which of you did as much for your country then? These flings at us are never made in society, and it is time to stop them here and not attempt to deceive the people by these mock-heroics longer.

Having said thus much to quiet the apprehensions of my friends on the left, I come to the questions before the Senate.

Mr. President, I have not the slightest difficulty in deciding as to my duty upon the questions before us. At the last session the House of Representatives passed the usual appropriation bills for the support of the Government. These bills came to the Senate, and two of them were amended by striking out several important sections and returned to the House, which refused concurrence in the Senate's amendments. Thereupon committees of conference were appointed, which committees did not agree, and Congress adjourned without providing the necessary means for carrying on the Government for the fiscal year beginning on the 1st of July next. This failure of Congress rendered it necessary for the President to call us together in this extraordinary session.

We are met to-day by the same issues, but under widely different circumstances; then the conflict was between a democratic House and a republican Senate, but there is complete harmony between both branches of Congress now. The reign of the carpet-bagger is ended, and the party of the Constitution and of the people, for the first time in twenty years, has a pronounced and harmonious majority in both branches of Congress; and you, sir, are the first democratic President of the Senate who has sat in that chair since the time of John C. Breckinridge.

And, sir, I can see no good reason why we may not accomplish in a few days all necessary legislation and return to our respective homes before the heated season, for I am sure there is no member of the dominant party in either House of Congress who wishes to withhold from any branch of the public service its necessary supplies but when we vote away the people's money we insist upon our right to say how it shall be used. In voting supplies to the Army we propose to say that none of them shall be used to employ soldiers at the polls. When we vote money to the Department of Justice and to the Executive we insist upon saying that none of it shall be used to

support judges and juries where fair and impartial trials may not be had, and that none of it shall be used to hire deputy marshals and special deputy marshals to interfere with the freedom of elections.

We will give liberally, but we propose, at the same time we give, to repeal all those sections of the Revised Statutes which authorize the presence of soldiers at the polls to keep the peace or for any other purpose, and which allow Federal judges to exclude from juries good and true men because they have served in the confederate army or sympathized with the rebellion.

We propose to repeal all those sections providing for the appointment of deputy marshals and special deputy marshals, to harass and vex the people on election day, and armed with power to prevent free men from voting and to arrest and imprison them without due process of law.

In these appropriation bills, we propose to repeal and wipe out forever this whole batch of iniquitous legislation, which is a standing reproach to the statute-book of a free people. They are the offspring of tyranny and hate, engendered in a military epoch, and it is amazing that they find apologists and defenders now.

I hold in my hand a statement of the proposed changes in the Revised Statutes, I will not read it now, but adopt it as part of my speech, so that the country may understand precisely what legislation we propose to repeal:

SEC. 820. The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: Without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

SEC. 2016. The supervisors of election so appointed are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom or addition thereto of any name.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of elections are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the Clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menances, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appoint, ment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file al- oaths of office of supervisors of election and of all special deputy marshals apl pointed under the provisions of this title, and all certificates, returns, reports, and records of evey kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed.

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and with all due diligence, shall forward to the chief supervisor in and for their judicial district all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

SEC. 5528. Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

In all free governments the majority is responsible to the country, and must be allowed to select its own subjects for legislation, and the mode of effecting such legislation. We have selected our subjects and our modes, and while we will gladly listen to the friendly suggestions of the minority, we do not propose to be governed by their dictation or frightened from our duty by the cry of revolution, nor all the ghosts and hobgoblins the great wizard from Maine can summon from the shades below; but will march straight on in the line of our duty, making liberal appropriations for the support of the

Government, and appending to our bills such legislation as we deem necessary and proper; and when these bills come to the President, if he refuses his assent to laws, the most wholesome and necessary for the public good, it will be he and his party who will have locked the wheels of Government and "starved it to death."

Why, sir, it is the man who puts on the breaks that stops the train, and not he who puts the machine in motion. But, sir, we have no right to presume in advance what will be the action of the President, and if we knew, it would be unparliamentary and a breach of privilege to proclaim it here; but we have a right to say what his duty is, and we unhesitatingly say that his duty will be to approve the bills we pass, and I believe he will do so.

Mr. President, it was a cardinal doctrine of the old whig party, of which the President and most of his constitutional advisers were honored members, that the veto was only to be used in cases of clear violation of the Constitution, or of manifestly hasty and inconsiderate legislation.

Now, I submit that there can be nothing violating the Constitution in an effort to repeal laws of doubtful constitutionality themselves, and utterly repugnant to the spirit of free institutions; nor can an act be called hasty and inconsiderate legislation which has been thoroughly discussed both in and out of Congress, through three congressional campaigns, and which discussions have resulted in reducing the republican party from a two-thirds majority in both branches of Congress down to a minority in each. There remains, then, but one possible reason for the veto, which is, that this repeal is not in the interest of the republican party.

But, sir, I have too much regard for the President to believe that he will prostitute his great office to such partisan purposes and service. On more than one occasion he has shown himself capable of resisting the extreme demands of his own party, and of rising to a higher and purer atmosphere of patriotism and public duty. I do not believe, sir, that the President will veto these bills, but a knowledge of that fact would not change my convictions or my conduct. We have no warrant for saying that he will veto them, except loose and passionate threats made here and elsewhere. These measures are in perfect accordance with his early political teachings and with his letter accepting the nomination made at Cincinnati; they are in complete harmony with the doctrines of his inaugural address, and with the policy he has indicated for the government of his administration, and they are right in themselves and demanded by the voice of the country.

The Army is the creature of Congress, and is kept alive by annual appropriations made for its support. When these cease, the Army itself will cease to exist.

Will the President disband the Army unless he is allowed to use it at the polls? Will he permit all our forts, arsenals, and coast defenses to be dismantled and fall into decay? Will he abandon the women and children of our northwestern frontier to the tomahawk and scalping-knife of Indian savages? Will he leave our whole Mexican border open to murder and pillage, merely because he is not allowed to use his soldiers to keep the peace on election day? Will he allow the temples of justice to be closed and the execution of the law to cease because his supervisors and deputy marshals are not allowed to conduct popular elections? He cannot, he will not do it.

But suppose he should veto them, what then? I think the country will survive even that shock. But should such a calamity befall us, no man has authority to say what the majority will do; it will be time enough to decide that when the President refuses to assent to the passage of laws demanded by the will of the people.

Why all this rhetorical flourish and clatter about coercion and revolution? Is there anything irregular, unparliamentary, coercive, or revolutionary in passing general laws in appropriation bills? Has it not been the practice from the beginning of the Government? An examination of the Journals of Congress from 1862 to 1875 will show that this has been the usual mode of legislating. I hold in my hand a carefully prepared tabulated statement of the precedents for this mode of legislation, and from this it will appear that in these thirteen years of republican rule no less than three hundred and eighty-seven different and substantive items of general legislation were passed in appropriation bills. These laws so passed embraced every possible subject of legislation, from the act depriving President Johnson of the command of the Army down to the act providing Parson Newman with a ship of war and a salary of $5,000 a year, with all expenses paid, for a voyage around the world to spread at our foreign missions the moral ideas of his august and most Christian court. These objections do not come with a good grace from a party which has given us precedents enough to establish this mode as a fixed principle of American parliamentary law.

I hold, sir, that the President is not a part of the law-making power. He has a qualified veto upon legislation, but there are several modes by which a measure may become a law without his consent. Shall we hesitate in the discharge of our duty until we are advised of the President's views? Must we send a committee to ascertain his will and pleasure before we dare to legislate at all?

Sir, the President bears to the legislative power about the same relation that the Senate does to the appointing power. He sends nominations daily to the Senate, and we approve them as a matter of course, unless there are very special reasons for rejection.

Now, suppose the Senate were to conclude that the fair thing required the President to send in for confirmation the names of as many democrats as republicans, and we stubbornly refused to confirm any of his nominations unless he did so, what would be said of the democratic Senate? We should then hear a real howl of revolution throughout the length and breadth of the whole land.

Only think of the republican party talking of coercion now—a party whose vital principle has from the beginning been coercion; a party which has governed by force throughout all the long years of its glory, blunders, and crimes! No wonder it clings to laws which are the very essence of force. It knows full well that with fair and free elections it will be rejected by the people.

The republicans have possession of all the strongholds of power; they have the collection and disbursement annually of three hundred millons of revenue; they have all the great corporations and monopolies, and the whole money power on their side; they have an army of more than one hundred thousand office-holders ready to contribute a million a year to a corruption fund. Now give them this election machinery with the Army and Navy to run it, and they will spit upon the people who want honest government.

They now complain of a solid South, as if that was a crime. Who made it solid, sir? Your injustice and oppression drove all the respectable white people from you, and your false promises and dishonest transactions with the negroes have driven a large number of them also into the democratic party, the only party that has ever treated either the white or the black men of the South with justice and humanity.

These are the reasons why the South is solid for the democratic party; and I warn gentlemen that they must mend their ways and take their feet off the necks of the people or the North will soon be solid too; solid against the republican party.

The bloody shirt has had its day and the people of the North will not rally again upon that color line; they want peace and business, and not commotion.

But, sir, the real question in this whole matter is whether the legislation proposed is right and proper or not; there can be no doubt as to its constitutionality or of the regularity of the mode chosen to effect it. Is it necessary or right to have armed men at the polls on election days?

There is nothing more repugnant to freemen than the presence of soldiers at the polls. We inherit this feeling of aversion from our English ancestry.

There are numerous English statutes forbidding the presence of soldiers at the polls. That of George II requires that all soldiers shall be withdrawn to their barracks for three days, and forbids their coming within two miles of the voting place on the election day; and yet here in free America it is proposed to bring them on the ground beforehand and have them there ready when the voters assemble, under pretense of keeping the peace, but really to intimidate and browbeat the people and to co-operate with supervisors and marshals to suppress the freedom of elections.

The President has no power to keep the peace at the polls. Congress cannot give it to him. A breach of the peace is an offense against the common law and the statutes of the States, and not against the dignity of the nation, and is punishable only by State authorities. Congress cannot create a constabulary force either of soldiers or deputy marshals to keep the peace in the States. This whole business belongs to that mass of rights reserved to the States.

What would the great men who framed our matchless form of government have said if one had told them that the time would come when armed soldiers would be brought to the hustings to prick freemen from the polls with their bayonets? It will not do to say that nobody proposes to use this power now or that there are but few soldiers east of the Mississippi. This argument is too transparent to deceive the people and is unworthy the great talents of the Senator who employed it. Everybody understands how easy it is to transport troops from the most distant parts to any desired point. If they do not intend to use this power, why not surrender it and stop all this discussion and agitation?

We want to take away the power to use them at all, many or few; and while we are glad to say that the present incumbent of the executive office has shown great moderation in the employment of troops, yet we are not willing to trust him or any other President longer with this dangerous power. We have seen it used in a merciless manner by his immediate predecessor. We have seen it used in all the border States to suppress the freedom of elections. We have seen governors deposed and governors installed and State legislators dispersed by the bayonet; and we are resolute in our purpose to put a stop to these outrages upon public liberty. We intend to take away the power to employ the Army at the polls, whether it be to keep the peace or to count the vote and determine who is elected. We will resort to every means known to the Constitution to secure free elections and impartial trials by jury—the two chief bulwarks of our freedom.

For these heroes have poured out their blood upon the battle-field and martyrs have died upon the scaffold and the block, and we cannot surrender them without disgrace and slavery. When we have banished the Army from the polls we will repeal the law authorizing Federal judges to apply the test oath to juries. Why, sir, shall a good and true man be excluded from the jury-box because he sympathized with the rebellion? The highest offices in the country are

now open to all alike, and we find confederate soldiers in nearly every branch of the Government service. We find them in the consulate and diplomatic service; we find them Cabinet ministers as well as foreign ministers; we find them in the House of Representatives and upon the floor of the Senate; then why exclude them from juries? No good reason can be given why this obnoxious law should not be at once repealed.

We next propose to repeal all those sections of the Revised Statutes which authorize the appointment of supervisors of elections and the employment of deputy marshals to arrest and imprison freemen at the polls, without process of law, and deny them the right to vote. The practical workings of this piece of election machinery has been that the very worst class of men have been selected and paid $5 per day not to protect the purity of the ballot but to corrupt it. The proof taken by the committees of the House shows that roughs and rowdies, jail-birds and penitentiary convicts, the very cankers of city populations, have been selected to do this dirty work. What freedom and purity of ballot could be expected with such guardian angels as these protecting the sacred right of suffrage? The fact is established that they prevented from voting many thousand naturalized citizens who had been voting for ten years, upon the pretense that their naturalization papers had not been recorded in a proper manner. The courts overruled these decisions of the supervisors, but the election was over and their votes were lost. Many elections for Congress have been carried in this way.

The friends of this election scheme say that it is necessary to protect the negro voter against intimidation from his old master; but there is not a word of truth in this, for the real object is to control the elections in the great cities of the North—for nine-tenths of all the money expended upon supervisors and deputy marshals has been expended in the Northern States.

The people do not want these Federal officers at the polls, whether they be soldiers, supervisors, or deputy marshals. They want no interference with their State elections, and elections for Congress are State elections, and Congressmen themselves are State officers and not Federal officers.

The Legislatures of the States and the people of the several districts are the constituency of Senators and Representatives in Congress. They receive their commissions from the governor, and when they resign (which is very seldom) they send their resignations to the governor and not to the President. They are State officers and not Federal officers. This has been authoritatively settled in the case of William Blount, United States Senator from Tennessee, who was impeached by the House of Representatives in 1798, and the impeachment was dismissed upon the ground that a United States Senator was not an officer of the Federal Government.

Section 4, article 1, of the Constitution reads:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Under this power Congress by the act of February, 1872, fixed the time of holding the elections on the Tuesday after the first Monday in November of each alternate year, the place in convenient districts of contiguous territory, and the manner by ballot. This exhausted the power of Congress over the subject, and left to the local authorities the entire business of conducting the elections.

The appointment of judges, clerks, and sheriffs, the keeping of the peace at the polls, the challenging of votes, and the punishment of perjury and fraudulent voting, and indeed the entire machinery for conducting elections, was left by the Constitution to the local authorities.

The second section of the first article of the Constitution provides that—

> The electors—
>
> For Representatives—
>
> in each State shall have the qualification requisite for electors of the most numerous branch of the State Legislature.

Now, I submit that the power to prescribe the qualifications of voters includes the power to judge of these qualifications, and therefore the officers who are to conduct the elections and determine who are and who are not legal voters must be appointed by the States.

Section 4 of the same article applies to Senators as well as Representatives; and if supervisors and deputy marshals are to conduct the elections for Representatives in Congress, why may they not preside over Legislatures of the States when they come to elect their Senators. But all these odious laws should be repealed, even if they were clearly constitutional, because they are hateful to the people. All this machinery of test oaths, of bayonets and deputy marshals at the polls was designed to control the elections in the interest of the republican party.

Suppose one of these deputy marshals arrests a democratic voter on suspicion that he is about to cast a fraudulent vote; who is to try him for this political offense, and what chance has he for justice when he is arraigned by a partisan attorney before a partisan judge and tried by a packed jury and his liberty sworn away by hired witnesses? He has no more chance for justice or mercy than a Spanish heretic before one of the courts of Torquemada. Hundreds of exactly such cases are to be found upon the dockets to-day in Louisiana and South Carolina. We got along well enough under the old system for eighty years, and why not return to it? Why shall the people be harassed and bedeviled by this everlasting intermeddling and interference of Federal officials in their local affairs? It has become positively oppressive to them.

Under republican rule the tendency of the Government has been constantly toward centralization and imperialism. This spirit of encroachment has marked the movement of every branch of the Government. Presidents, Congress, and judges have all invaded the functions of the State governments and attempted to make everything hinge and turn upon central influence. In the earlier and better days of the Republic the people looked to their State governments for everything. The hand of Federal power rested so gently upon them that they were reminded only of its existence by the occurrence of the presidential election once in four years. They looked upon the flag of the common country as the symbol of a great and invisible power, created to defend them against foreign invasion, to protect their commerce upon the high seas, and to attend to a few general duties which could not be so well done by the States in their separate capacities; but now they see this power pervading every branch of business and life.

I can remember, sir, when the governor of a State was a great dignitary in the land, but I have lived to see him so shorn of his power and consequence by Federal usurpation that his office is only coveted now as a stepping-stone to some higher position.

In the olden times State Legislatures were august assemblies, where the greatest political problems were solved and where genius, eloquence, and patriotism were trained for the highest walks of statesmanship; but they too have been dwarfed by the blighting influence of central power until they have become mere debating societies and spend their time in passing private bills.

The judge of a State circuit court was once an official of great consequence and conducted his courts with dignity and decorum; but now he is so overshadowed by the judge of his Federal district that he is treated with less respect than was once shown a Virginia justice of the peace; and a deputy United States marshal snubs the sheriff of a county.

All this has followed from the practical assertion of that most pernicious political heresy, that the Federal Government is one of absolute supremacy. The Constitution is supreme, but the Government founded by it is not absolute, but subject to it.

Mr. President, this eternal intermeddling with their local affairs has a most chilling effect upon the sentiments of patriotism and loyalty in the breasts of the people. Will they love a Government that sends its pimps and spies and detectives into every nook and corner of the land to watch them in their private affairs? Can any man feel like a freeman when he knows that all his movements are watched by the *gendarmes* of a government that treats him as a suspected felon? Are such circumstances favorable to the development and growth of that manly spirit of independence which distinguishes a freeman from a serf? No, sir, they are utterly destructive of manhood among men and will sink the citizen into the subject—the freeman into the slave.

Mr. President, the high mission of the democratic party is to assert the supremacy of the Constitution; to subordinate the military to the civil power; to bring the Federal Government back to its constitutional limits and to restore to the States and people their rights and liberties; to make a new procession of the boundary-lines between Federal and State authority and set up again the ancient cornerstones of freedom that have been thrown down by the violence of war and party passion.

Men often talk about the legislation of war. There is no such thing; the decrees of war are written in blood; its laws are the laws of force and find no place in the statute-book of a free people.

The war established some facts but no new theories of government. It freed the negro and established the fact that the people were determined that the union of the States should be perpetual. Even the three amendments made no fundamental changes in the principles of our Government. They all relate to one and the same subject, the negro. The first makes him a freeman, the second makes him a citizen, and the third a voter. That is all. The Federal Government has acquired no new powers and the States have lost none of their rights nor the people any of their liberties by the war; but they all stand under the Constitution equal and free just as they did before the war.

To re-establish this Constitution and to reassure these rights and liberties is the great mission of the democratic party. All this we propose to accomplish not by revolution or coercion but by the peaceful and constitutional arms of the voice and the ballot, which must be free and fair. It has a herculean labor before it, but it will prove equal to the occasion. This grand old party existed before the birth of the Republic and has been fighting the battles of the people for more than one hundred years, and it is to-day stronger than ever before. It has survived all the great parties that have existed in the country since the Government began. It has lived to drop a tear upon the grave of the old whig party, the greatest of all its rivals and foes, and it will yet live to strew with flowers the green grave of the great party founded by Seward, Sumner, and Lincoln. Look at it! It stands to-day, like a mighty oak, deep-rooted in the rock of the Constitution and lifting on high its scarred and majestic trunk, its

branches greener and fresher than when planted by the hand of God in the affections of the people.

Mr. JONES, of Florida. Mr. President, this discussion has taken such a wide range that I hardly know where to begin, and I shall be fortunate if I know where to end.

The resolution that was introduced sometime ago by the Senator from Massachusetts [Mr. HOAR] who is not now in his seat was the first step in the discussion. It was followed by a very able discourse by that Senator, and when that question was pending I had intended to make some observations to the Senate upon it. It was called up and put aside to suit the wishes of gentlemen who desired to speak upon it, and we have had some very able and interesting speeches upon the subject which is presented to the Senate.

Then the Senator from Maine [Mr. BLAINE] in his discourse the other day referred to a bill which is not now before us, which is still pending in the other House, and he said with great truth that the subject-matter of that bill was so connected with the one under debate that he was compelled from necessity to allude to it. So, too, in speaking upon this subject I shall not consider myself as departing from any rule of propriety or of order if I shall review or at least refer to the several topics that have been brought into this discussion by the Army bill, the resolution of the Senator from Massachusetts, and the bill which is now pending in the other House.

It seems to me, Mr. President, that this resolution violates one of the cardinal principles of parliamentary law. Although it attempts to disguise its true object by the use of the words "one House of Congress," it must be clear that it means to arraign the House of Representatives for a refusal to make appropriations except upon conditions offensive to this body and the Executive. Sir, nothing has happened at the last session, or is anything likely to happen at the present one, to justify the passage of this resolution. The House of Representatives has at no time since I have been a member of this body imposed any such conditions on this House or on the Executive as are mentioned in this resolution. It is true that before the late adjournment of the Forty-fifth Congress appropriation bills were sent here containing provisions which failed to receive the concurrence of the Senate and for that reason did not become laws. Still, sir, no man has a right to say in his place in Congress, that when these bills were before the other House it was the duty of that body to anticipate the sense of the Senate or the Executive in regard to any of the provisions of said bills. There is no way known to the Constitution in which one House can get the sense of the other except the regular parliamentary way—by transmitting its acts and resolutions in conformity with the joint rules of the Houses, and having them voted on by a quorum of either body.

The resolution speaks of the refusal of the House to make appropriati ns except upon condition that this body and the President give their consent to legislation which they disapprove. Where is the evidence of this? If the House of Representatives, following the many examples of the past and in strict conformity to its own rules, should put a proviso repealing a statute on an appropriation bill, how is the sense of this body or the Executive to be ascertained before the bill reaches them in the constitutional and parliamentary way? Is the House to rely upon idle rumors, the exaggerations of the press, or the gossip of the lobby in a matter of this kind. And can the House have no other object than the coercion of the Senate and the President in taking such a step? Who can say that it was not its purpose to avoid the delays which obstruct ordinary legislation when opposed by a strong minority? But, sir, the Senate has no right to draw in question the motives of the other House respecting a matter which is within its exclusive jurisdiction. Each House of Congress under the Constitution has the right to determine the rules of its proceedings, and no power on earth can legally or rightfully invade that right.

The House of Representatives in one of its rules, as I understand, has made it proper for general legislation to be ingrafted on appropriation bills if it tends in the direction of retrenchment and is germane to the bill. Now, who can question the right of the people's Representatives to adopt that rule under the Constitution, or the conclusive force of the decision of their Speaker when he decides that a provision falling within it is germane to the bill. How is it possible, sir, for a compliance with such a rule to amount to revolution? By revolution I understand the subversion of legal authority and regular government; the overturning of established laws and institutions and the displacement of the sovereign power in the state. We have become so accustomed to dwell upon the subject of revolution that we have lost all just conception of its real character and import. If the exercise of a clear and undisputed power, conferred by the Constitution the better to secure the independence and efficiency of Congress, be revolution, then the case which I have been considering and which is denounced by the resolution of the Senator from Massachusetts amounts to revolution. Say what we will, sir, the Congress in which we are now sitting is an American Congress deliberating under the authority of the Constitution of the United States, and the people of this great country must know and feel that their rights and interests can never be seriously affected by a compliance on the part of their representatives with the laws under which they live.

The exclusive power conferred on the House of Representatives to originate money bills was put into the Constitution after the most careful consideration and the fullest debate. It has been said that the example of the British constitution in respect to such bills is not applicable to our system; but, sir, I affirm that it was that example and the struggles for human liberty with which it is associated that led to its imitation by the framers of the Constitution.

When this subject was under consideration in the convention at Philadelphia the very objections that were mentioned by the Senator from Iowa [Mr. ALLISON] last evening in his speech were presented. What said Mr. Randolph?

He argued, first, that he had not wished for this privilege while a proportional representation in the Senate was in contemplation, but since an equality had been fixed in that House the large States would require this compensation at least. Secondly, that it would make the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body and will expect that the usual guards against its influence will be provided, according to the example of Great Britain. Thirdly, the privilege will give some advantage to the House of Representatives if it extends to the originating only; but still more if it restrains the Senate from amending. Fourthly, he called on the smaller States to concur in the measure as the condition by which alone the compromise had entitled them to an equality in the Senate.

And it is astonishing to me that many of the Representatives from the large States of this Union at the present day should be found acting in opposition to this provision, which was a concession on the part of the small States to them in exchange for the concession of equality of representation in this body to the smaller ones. That is the true history of the provision. Mr. Wilson said he—

Was himself directly opposed to the equality of votes granted to the Senate by its present constitution. At the same time he wished not to multiply the vices of the system. He did not mean to enlarge on a subject which had been so much canvassed, but would remark, as an insuperable objection against the proposed restriction of money bills to the House of Representatives, that it would be a source of perpetual contentions where there was no mediator to decide them. The President here could not, like the executive magistrate in England, interpose by a prorogation or dissolution. This restriction had been found pregnant with altercation in every State where the Constitution had established it. The House of Representatives will insert other things in money bills, and by making them conditions of each other destroy the deliberate liberty of the Senate. (The Madison Papers, volume 3, page 1309.)

That argument was made, as I said to the Senator from Iowa yesterday evening, against the adoption of this provision, and it was stated in debate that the very results which we have now before us would follow from its adoption, but still the argument carried no weight. It was distinctly avowed by the advocates of this provision in the convention of 1787 that their purpose was to give the people of the United States all the security which the free constitution of the House of Commons had thrown around the liberties of Great Britain. Mr. Randolph, as I said, compared the Senate to the House of Lords, and insisted that the same safeguards against its influence should be adopted which had proved so healthful in the mother country.

The enemies of the power argued that it would be used to support general legislation, and no one denied that the House would have authority to so employ it. We have been told that in Great Britain since 1688 no attempt has been made to ingraft legislation on appropriation bills. But why was this? During that time the King has not employed his negative. The Lords have not opposed the will of the nation as expressed in the House of Commons. There is another reason. In 1693, for the first time, a new element was infused into the British constitution, which since that day has been a great popular lever, and has controlled the whole system. I refer to the organization of the ministry. Before 1688 this institution was unknown. Since 1696 nothing has been necessary to enable the House of Commons to carry out any policy or measure but a majority against the ministry.

It can readily be seen why no House of Commons since 1688 has found it necessary to coerce the Lords or the monarch by legislation on appropriation bills. The doctrine, sir, that the House of Representatives is under constitutional obligations to provide money to maintain all existing establishments, and cannot in a money bill provide for the destruction of an expensive, unnecessary, and unconstitutional power, is to my mind something worse than revolutionary.

I do not intend to weary the Senate by the long reading of documents, but this question arose I think for the first time in the Congress of 1796, and came to the consideration of those men who were familiar with the adoption of the Constitution, and who had very enlightened opinions in regard to the meaning of its provisions. No more useful man I suppose ever lived in this country than Albert Gallatin; no man more devoted to the Government and the Constitution than he ever held high public office under it, and what did he say as early as 1796, when this question was brought up for the first time in Congress?

Mr. Gallatin felt alarmed at the principle advanced by Mr. Sedgwick, for if admitted it might be applied in future on some other and important occasion. The motion made by the member from New York ought not, perhaps, to be adopted, but there was certainly a discretionary power in the House to appropriate or not to appropriate for any object whatever, whether that object was authorized by law or not. It was a power which, however inexpedient on the present occasion, was vested in this House for the purpose of checking the other branches of Government whenever necessary.

"Checking" them! That is now called revolution.

That such a right was reserved by this body appeared from their making only yearly appropriations for the support of the civil list and of the military establishment. Had they meant to give up the right they would have such appropriations permanent. There was one instance in which this House had thought it proper to abandon the right. In order to strengthen public credit they had consented that the payment of interest on the debt should not depend on their sole will, and they

had rendered the appropriation for that object not a yearly but a permanent one. Whenever that was not the case, and the right had been reserved, it was contradictory to suppose that the House were bound to do a certain act at the same time that they were exercising the discretionary power of voting upon it.—*Abridgment of the Debates of Congress*, volume 1, page 626.

That was the doctrine announced and successfully carried out in that very case in the Congress of 1796, and I imagine that if any man had got up at that day and charged Albert Gallatin with being a revolutionist because he was contending for the constitutional privileges of the body of which he was a member, the cry would have received little attention from the American people.

Of what avail would the power to originate money bills be to the House of Representatives or to the people whom it represents, if it is only to be used in providing means to nourish and continue every rotten and oppressive system which it finds in existence? This House, unlike the human body, undergoes a change every two years; the latter I believe every seven. This is the longest time which the Constitution gives that body to live away from the people. Every two years it must go back to the fountain of all power for a new supply of authority. The Senate is a permanent body but receives from the States every two years a partial infusion of new life, but always retains a majority accustomed to its duties and to support its character and dignity as a permanent establishment. The House of Representatives is intended to speak the voice of the American people as nearly as it is possible to do so under our Federal system.

The Senate, as we know, does not represent the people, but the States in their political character, without regard to wealth or numbers. Representation and taxation are twins of the Constitution and were born amid the throes of revolution; so it is all-important to the overtaxed people of this country who are represented in the other House that they shall have the power to protect their liberties and property from extravagance and oppression.

A majority of the people of the United States have declared in favor of impartial juries and free elections, and their Representatives at the late session, the better to secure these objects, repealed certain obnoxious laws, which they believed to be unconstitutional, authorizing the use of the Army at the polls and the employment of hordes of Federal officials to terrorize over their constituents. The repeal of these laws was effected by provisions on two appropriation bills. The House said to the Senate, Congress and the President enacted these laws when one-half of the country was represented in it by men who floated into power by the help of Federal authority. The intelligence and property of the South had, with a few exceptions, no Representatives here to speak for them. The Army had been used to set up governments there which were presided over by men who had no interests or feelings with the people whom they governed. In the course of time the influence of intelligence and the power of justice corrected these evils, and one by one the States of the South have been restored to their true position in the Union. The genius of true representation has come back to them, and, forgetting the asperities and the differences of the past, they are anxious to co-operate with you to restore complete peace and prosperity to the country.

Having been admitted to a participation in the administration of the Government upon terms of equality with the rest of the Union, the people of the South, through their representatives, have from time to time manifested great interest in the affairs of the country, and after a long night of estrangement have come to regard themselves once more as an integral part of the Republic. But since this change has occurred, and national representation has been something more than a mockery, it seldom happens that any important measure of legislation is discussed here or elsewhere without giving rise to the most bitter sectional criminations. Sir, it is melancholy to contemplate the folly and tendencies of this. Party differences I fear not, because heated and rancorous as are such conflicts they are never attended with the evils which flow from sectional or race antagonisms. Since the question brought before the Senate by the resolutions of the Senator from Massachusetts has been before the country every organ of the great party to which he belongs has labored to convince the people of the North that the legislation referred to originated in an unfriendly if not a hostile feeling on the part of the representatives from the South toward the Government of the Union.

When the veteran soldier from Missouri, covered all over with wounds which he received in defense of the country, and without consultation with southern men, tried to secure pensions for the brave old soldiers who fought with him to uphold your glory and conquer for you a continent, the occasion was used to pour out the vials of sectional wrath upon the men of the South, whose patriotism and chivalry led them into companionship of peril in planting your flag on the halls of Montezuma. And now, sir, when the democratic party of the country, animated by the consciousness of its right to speak for a majority of American people, without regard to race or sections, comes forward to reform those laws which were conceived in a spirit of revenge and are executed for the purpose of oppression, the country is told that this is a new war prosecuted by new means by the men of the South in order to subvert and revolutionize the Government. Sir, it would be uncandid to deny that the South, in common with the rest of the country, has an interest in the repeal of those laws which have been referred to in this debate, but that her people, or those who speak for them here, desire anything more than to live in peace with you under a common government is unsupported by a single fact or circumstance in their recent history.

And why should we not desire the repeal of these laws? Is it not notorious that they were mainly directed against the white population of the South and enacted at a time when that population, by the operation of the harshest policy ever put in practice, had no right to be heard here or in the other House of Congress. You divided the eleven States of the South into five military districts and placed the lives and property of a liberty-loving though subjugated people at the mercy of military commanders. These commanders and their soldiers set on foot civil governments by directing elections for conventions to frame constitutions already made and decided upon in other parts of the country; and worse than all, the white population, representing all there was of intelligence and property in the section and the only material in it out of which a government could be composed, were systematically excluded from all participation in the work of rehabilitation. To the black population, with the scales of slavery hardly removed from their eyes, without instruction or preparation of any kind for the business of government, was confided the important task of setting on foot local government for States which had ever been governed by men of the highest abilities and character. Then came Senators and members of Congress who were off-shoots of the local establishments, and sent here only to represent the prejudices and bitterness of that race which had just emerged from bondage and which was carefully cultivated by white leaders to preserve race domination.

The substantial interests of the South and its people received no attention except what we find indicated in the severest part of your criminal code. It was to maintain these vicious systems thus inauspiciously inaugurated by the Army, the colored race, and a few white political leaders, that those severe laws were enacted which have disgraced your statute-book. It never was the purpose of the party in power, from the day it became evident that the arms of the Union would prevail to the present hour, to conciliate the white element in the South. There never was a finer opportunity offered in the world for a great statesman than in the state and circumstances of that people at the end of the civil war. The mad scheme of trampling down the dominant race with an inferior one has met with the fate it deserved, and the men of your own blood, with the traditions of freedom before them for which their fathers and your fathers fought and bled, would have been false to everything which gives them a title to renown had they tamely permitted their liberties to be torn from them forever by the rude hands of their former slaves. Sir, he is a poor philosopher or statesman who can imagine that in a community where two races the most distinctly marked by nature, by feelings, associations, and traditions, make up the population, and are nearly equal in numbers, it is possible that their contests for power can be similar to the struggles of a homogeneous people. When you quarrel with the men of my section for the impassioned energy they display in their efforts to control public affairs you ought to remember that they are engaged not only in a political but in a race contest, and that the same feelings which animate and support them lie dormant and undeveloped in your own breasts. It is not all love for one party or hatred of another, nor is it, as you too often imagine, disloyalty to your flag or sectional hatred which inspires them to labor for success; but it is that higher and stronger feeling which no party or sect can appropriate, which God himself, for His own wise purpose, has implanted in every human heart—it is the law of self-defense.

In speaking thus plainly upon this great subject I would not be understood as manifesting the least unkindness toward the colored race of the South, upon which the republican party still relies for success. They are all poor laborers depending upon their daily toil for support, and probably I am the last man that would favor any system of oppression against such a class. Although I thought and now think that their premature entry into the field of politics was unfortunate for them and the country, still the rights which they have will be maintained; but it is to be regretted that the Government of the United States did not abstain from all interference with elections in the States after placing these people upon a footing of equality as respects freedom and civil rights with the white population among which they live. How often has it been said here that the only place for the black man is in the republican party, and that he could not with safety or consistency go elsewhere. The Government was not satisfied in making him a citizen and a voter, and then leave him to work out his own fortunes like other people, but it undertook to establish and did establish a harsh and expensive system of laws professedly to prevent but really to foment and intensify the natural and traditional antagonism of the two races.

It was often said that the word slavery was not used in the Constitution while many of its provisions recognized it as a living institution. If there was anything in this omission the example ought to have been followed by the wise law-makers of the republican party who, in the enactment of numerous and severe laws, have never failed to indicate to the world that they were intended to operate in favor of one class or race in the community and against another. Hence we find all over your criminal code the words "race," "color," "previous condition of servitude," "men of African descent," &c., as if it was necessary to divide the country into classes in order to protect the rights of all. These laws are based upon a principle of legislation which never ought to be recognized by a popular government. Such is the state of your laws at the present

day that the power and authority of your Government are stretched to immeasurable limits for the benefit of a particular class, and we have seen that your highest court has decided that an indictment could not be maintained unless it alleged that the offense charged was against a person of that class.

It matters not what offense a black man may commit on a white man; your laws take no notice of it except to shield him from punishment; but if the fact is reversed the whole power of this Government is set in motion against the white citizen, and he is deprived of the security of a trial by the courts of his State, and he must plead at the bar of a Federal tribunal. It is said that equality is the genius of the republican party, and these laws are intended to enforce it; but notwithstanding this claim it will be found that the laws which are now on the statute-book, and which are said to have been passed in pursuance of the fourteenth and fifteenth amendments to the Constitution, have a very unequal operation when applied to the classes which are expressly named in one at least of these amendments. The fourteenth amendment declares that all persons born and naturalized in the United States are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges of citizens of the United States.

The fifteenth amendment declares the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. These two short provisions of organic law have given existence to more unwarranted legislation than all the rest of the Constitution put together. From these two sources all the laws on your statute-book which are now the subject of complaint have sprung, and it is believed that a majority of the people regard them as palpable violations of the Constitution. "Liberty," says Mr. Burke, "is in danger of becoming unpopular to Englishmen in the midst of the American war," and it is to be feared that this is true to a great extent at the present day. Never since the days of the alien and sedition laws has there been anything to equal the oppressions which have taken place under your new election system. In one part of the country we find four thousand naturalized citizens arrested on the eve of an election in violation of all law and given the option of abandoning the right guaranteed to them in the fourteenth amendment or being consigned to a prison pen to await the pleasure of their master.

That this proceeding was begun and consummated with the purpose of preventing the four thousand men from voting there can be no doubt, and it was only by one of those accidents which sometimes baffle the best schemes of oppression that an opportunity was had to test its legality. Most of those men were poor and were dragged from their vocations; the prospect of lengthy confinement filled them with dismay. They were given the privilege of waiving an examination and going at large on their personal recognizances on the condition—great God! I hate to utter it—that they would give up their right to vote. One poor wretch, it seems, more ignorant and indifferent to his fate than the rest, in the confusion of the proceedings drifted into Ludlow-street jail. There he remained among the sweepings of the prison until his accidental discovery afforded the occasion (long sought for in vain) of testing the legality of all the arrests. The writ of *habeas corpus* will not reach constructive duress—there must be actual confinement. This man's case called for the great writ of liberty, and it was issued. His trial involved the rights of thousands of his fellow-men and his liberation admonished their oppressors that the spirit of justice was yet a living principle in the land. These men had violated no law, State or Federal. They simply registered their names as qualified voters in the State records, and for this they were marked out for vengeance and their arrest postponed until the very moment when they were going to exercise the right of suffrage. In another part of the country, under the same law and on a similar occasion, ten thousand warrants were issued, and many of them against the very best people in the community, charging them with illegal registration, but in reality to prevent them from going to the polls to exercise their rights as citizens.

I am reminded by my friend from Delaware, [Mr. BAYARD,] who very well remembers this statement of Judge Campbell, that eight thousand men were deliberately disfranchised by the officers of the Federal Government on that occasion in executing that law in the city of New Orleans.

These abuses of law are notorious. That they were inspired by party feeling and interest I have no doubt, and they constitute in my judgment as full a chapter of grievances as ever called for redress. Now, a word as to the authority of Congress to enact these laws, and in speaking on this branch of the subject I would remind our republican friends that if ever there was a party which took high ground on the doctrine of State rights it was their party. It had its origin, like the whig party in England, in resistance to established authority. The cardinal principles of its early creed went as far to limit and restrict the powers of this Government as anything ever written or said by Mr. Calhoun.

Massachusetts, now so ably represented in part by the Senator who introduced this resolution, as usual took the lead in promulgating the doctrines of the Jefferson democracy. Mr. Sumner in 1852, representing as he did the sentiment of his State, indorsed in one of the ablest arguments of his life the most extreme doctrines of the State-rights school. He then held and the republican party held that section 2 of article 4 of the Constitution, although regarded by a majority of the country as a positive grant of power, did not confer any authority on Congress to legislate in regard to fugitives from labor; and he felt himself justified, and his action was applauded by his whole party, in trying to effect the repeal of the act of Congress passed in pursuance of that section, and that, too, by an amendment to an appropriation bill.

We heard a little said here the other day on the subject of compacts; but, sir, there was a time in the history of this Government when Massachusetts took high ground with regard to compacts. Mr. Webster, it is true, used the expression, I think, once; but it was used frequently afterward by very distinguished men from that State. Mr. Sumner in his great speech referred to it. He said:

> The Constitution contains powers granted to Congress, compacts between the States, and prohibitions addressed to the nation and to the States. A compact or prohibition may be accompanied by a power; but not necessarily, for it is essentially distinct in its nature. And here the single question arises, whether the Constitution, by grant, general or special, confers upon Congress any power to legislate on the subject of fugitives from service.
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> When this clause, being in form merely a compact, came up for consideration in the convention, various efforts were made to graft upon it a power.
>
> * * * * * * *
>
> The compact—

Again he says—

> regarding the public records, together wi'h these various propositions, was referred to a committee, on which were Mr. Randolph and Mr. Wilson, with John Rutledge, of South Carolina, as chairman.
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> * * * * * * *
>
> A discussion ensued, in which Mr. Randolph complained that the "definition of the powers of the Government was so loose as to give it opportunities of usurping all the State powers. He was for not going further than the report, which enables the Legislature to provide for the effect of judgments."
>
> The clause of compact—

Adds Mr. Sumner—

> with the power attached, was then adopted, and is now a part of the Constitution.
>
> * * * * * * *
>
> Here another change was made. The clause relating to public records, with the power attached, was taken from its original place at the bottom of the clauses of compact, and promoted to stand first in the article as a distinct section.—*Sumner's Speeches*, (edition 1856,) pages 125, 129.

Here he comes down and he gives us from his high republican standpoint a clear and unequivocal statement of his views in regard to the nature of the Federal Government. It cannot be forgotten that in the overdesire of Mr. Webster to stand by the old whig party and its great national principles he was swept from power, and Mr. Sumner came here representing the sentiment of Massachusetts, as I said, as much as any Senator whom she ever sent to these halls.

Mr. Sumner again says:

> The integrity of our political system depends upon harmony in the operations of the nation and of the States. While the nation within its wide orbit is supreme, the States move with equal supremacy in their own. But from the necessity of the case the supremacy of each in its proper place excludes the other. The nation cannot exercise rights reserved to the States, nor can the States interfere with the powers of the nation. Any such action on either side is a usurpation. These principles were distinctly declared by Mr. Jefferson, in 1798, in words often adopted since, and which must find acceptance from all parties.

And here he quotes Mr. Jefferson's language with approbation:

> That the several States composing the United States of America are not united upon the principle of unlimited submission to the General Government; but that by compact, under the style and title of the Constitution of the United States and of the amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself the residuary mass of right to their own self-government, and that whereseever the General Government assumes undelegated powers its acts are unauthorized, void, and of no force.—*Sumner's Speeches*, (edition 1856,) pages 133, 134.

Mr. Sumner, I say, announced this doctrine in 1852 as the doctrine of all parties in this country, taking it from the works of Mr. Jefferson, and I read it now without comment to the Senate.

Mr. DAWES. Would it interrupt the Senator if I should make a remark?

Mr. JONES, of Florida. Oh, no.

Mr. DAWES. I do not quite understand whether the Senator from Florida means to be understood as saying that Mr. Webster was swept from power in Massachusetts and Mr. Sumner and the doctrine he represented installed in his place there because Mr. Webster differed from Mr. Sumner in the statement that the General Government and the States were each sovereign in their sphere. If the Senator means to make any such statement as that, it will be new in Massachusetts. I had supposed that that was the dividing line, and that Mr. Webster and Mr. Sumner were on one side and those were on the other side who believed that the States were sovereign each within its sphere, and that each with the powers granted or reserved under the Constitution was supreme. The United States derives its powers by grant from the Constitution. The State powers are reserved. Those granted to the United States, wherever they conflict with any power in the States, are supreme and must control. Those reserved to the States and not granted to the United States are equally supreme. That was the doctrine of Mr. Webster. That I understand to have been the doctrine of Mr. Sumner. I do not care whether Mr. Sumner, in attempting to express that idea, used the word "compact" or not; he intended to make that statement. The other doctrine Mr. Webster himself, here in the Senate Chamber forty years ago, ground into impalpable powder, and no statesman has ever been able to gather up from the dust of it enough to make an argument to refute his

argument upon that ground, and the ghost of it has been seen flying from a hundred battle-fields since and never found a foothold in this Government until within the last two years. It never found an advocate under the dome of this Capitol until the restoration in part to power of those persons who went out to establish it upon the field of battle.

Mr. JONES, of Florida. The Senator from Massachusetts of course is at liberty to draw his own inferences from the words I have read. I have not added a syllable to them. I read them for the purpose of illustrating the views entertained by that distinguished man when he cited the words of Mr. Jefferson.

Mr. DAWES. Mr. President——

Mr. JONES, of Florida. Hold on one moment; the Senator has made a speech pretty long already. I was going on to try to show that the best men and the most honest men might rationally differ in forming their opinions in regard to this subject, and they have differed. The Senator says, of course, that the State is supreme within the limits of her reserved power, and that the Government of the Union is supreme within the sphere of its delegated power. That is all true; and that is what those gentlemen have said in their works. The difficulty has been in practice. The difficulty has been in drawing the line between the power of the General Government and that of the States; but in regard to the principle itself there never has been any difference, I say, among leading public men in this country.

Mr. DAWES. Mr. President, I probably was led into a mistake in supposing that the Senator——

Mr. JONES, of Florida. If the Senator will allow me, I will state that I did not mean at all to insinuate for one moment that Mr. Webster was driven from power in Massachusetts because he entertained any different opinions respecting the powers of the Constitution from those entertained by Mr. Sumner.

Mr. DAWES. I understood the Senator to say that he was driven from power and Mr. Sumner who represented more truely the sentiment in Massachusetts came into power just at that point.

Mr. JONES, of Florida. I remember, Mr. President——

Mr. DAWES. The Senator will allow me; I do not want to misunderstand him. I suppose the Senator has some notion wherein the difference between Mr. Sumner and Mr. Webster existed. He certainly said that for some reason Mr. Webster was driven from power in Massachusetts and Mr. Sumner installed, and he said it in connection with expounding the Constitution upon the question whether the States were supreme or the United States was supreme.

Of course I do not want to misunderstand or misrepresent the Senator. I was desirous of ascertaining whether the Senator meant to intimate that there was any difference between Mr. Webster and Mr. Sumner upon that point or that Mr. Webster by using the term "compact" or "confederacy of States," if he used that, ever meant to inculcate the idea that this was an association or confederacy of States distinct from the idea of a nation. He always held that the powers of the General Government were supreme, and that the States, I am glad to say and to believe and to affirm, in the exercise of those powers that were reserved to them, were also supreme. There never could have been any doubt upon the subject. There never stood out in the arguments that have immortalized the one side or the other anything so clear, so unanswerable as the very argument of Mr. Webster that there never could exist such a thing as the right of a State peaceably to secede from the Union; you may call it a confederacy or what you please.

Mr. JONES, of Florida, Mr. President, my time is very short, the evening is growing late, and the Senator will have an abundant opportunity to reply.

Mr. DAWES. The Senator will allow me to read a paragraph from Mr. Webster, which a friend near me has been kind enough to hand me, and which I now read:

> That a national government ought to be established, consisting of a supreme legislature, judiciary, and executive.

These words are taken from the journal of the convention itself which adopted the Constitution. Mr. Webster, commenting on this language said:

> This itself completely negatives all idea of league, and compact, and confederation. Terms could not be chosen more fit to express an intention to establish a national government, and to banish forever all notion of a compact between sovereign States.

Mr. JONES, of Florida. The Senator seems to have misapprehended entirely my purpose in alluding to this matter. I merely read to show how little importance can be attached to the mere use of words. The word "compact" runs throughout the whole speech made by this great man, Mr. Sumner, at that time. He cites article 4 of the Constitution as containing nothing but compacts between the Government of the United States and the States. I do not pretend to assert that he said the whole Government was a compact, but he cited this paragraph, for instance:

> A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

He gave that as an illustration of a compact between the General Government and the States which did not authorize the Government to legislate on the subject. That is the whole of it. I am speaking now of an authority in the Government to enact certain legislation. I cite instances here of express provisions in the Constitution which a distinguished republican said gave no power to legislate or to carry them out because they were compacts, as he stated, between the General Government and the States. That is the doctrine he stated, not that the Government itself for the purpose of secession was a compact, but that certain provisions in it which were relied upon as the authority for legislation were compacts and did not authorize legislation as against the States or people.

Mr. DAWES. Will the Senator just tell us what he did mean when he said Mr. Webster was driven from power and Mr. Sumner brought into power in Massachusetts?

Mr. JONES, of Florida. He was not in accord, as I understand, with public sentiment in Massachusetts at that time upon the question that was agitating that section.

Mr. DAWES. It had no reference to their different views upon the construction of the Constitution itself?

Mr. JONES, of Florida. Not at all.

Mr. BLAINE. When, in the history of Massachusetts, did Mr. Webster and Mr. Sumner come into competition?

Mr. JONES, of Florida. In what?

Mr. BLAINE. In anything. When did they ever appear as rivals?

Mr. JONES, of Florida. I think they came in conflict on the question of the repeal of the fugitive slave law.

Mr. BLAINE. When, before or after the time stated, was Mr. Webster driven from power by Mr. Sumner?

Mr. JONES, of Florida. When Mr. Webster left the Senate, was not returned.

Mr. BLAINE. The Senator forgets the history of his country. Mr. Webster had gone out of the Senate and taken the State Department under Mr. Fillmore. He retired with all the honors of that State upon his head. Mr. Robert C. Winthrop, who was appointed *pro tempore*, was beaten by Mr. Sumner, and Mr. Robert C. Winthrop was a different man.

Mr. JONES, of Florida. Mr. Webster was not returned to the Senate after 1850.

Mr. BLAINE. Not returned! He was not a candidate. When the Senator speaks about Mr. Webster being defeated in the Massachusetts Legislature for the Senate, he is talking of his imagination and not of history.

Mr. JONES, of Florida. I remember to have read somewhere about Mr. Webster at that time; I do not remember particularly——

Mr. DAWES. Mr. Webster died——

Mr. JONES, of Florida. I do not wish to be interrupted so repeatedly.

Mr. DAWES. Let me correct the Senator.

Mr. BLAINE. Mr. Webster died while he was Secretary of State.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The Senate will be in order.

Mr. DAWES. Mr. Webster died when he was Secretary of State. There never was an hour since I was a boy when Mr. Webster was not in office that I know of. There never was an hour when he was driven from power for any cause whatever; and I was curious to have the Senator make the statement what it was that drove Mr. Webster from power and brought Mr. Sumner into power. Mr. Sumner came into power in Massachusetts at a subsequent period and upon clear and distinct grounds, where Massachusetts stands to-day——

Mr. JONES, of Florida. How long subsequent?

Mr. DAWES. Where Massachusetts stands to-day and where she will stand in this coming contest.

Mr. JONES, of Florida. I would prefer, Mr. President, that the Senator from Massachusetts should make his own speech, and I will try to get along with mine.

Mr. DAWES. Mr. President, I beg the Senator——

Mr. JONES, of Florida. No man living, I imagine, has greater respect for Mr. Webster's memory than I have, and I would not do him the least injustice before the people; but I remember to have read somewhere—I think I read it as coming from Mr. Phillips—that when he when to Faneuil Hall, in that very memorable place, the words which I shall repeat were uttered by him. He was making a great appeal, as we know, to the whig party, and said he: "I am a whig, a Massachusetts whig, a constitutional whig. If you break up the whig party, where shall I go?" This appeal was not listened to and the whig party was broken up, and it was the last he belonged to. It is known that he went from here, I think, and made that appeal to his own whig friends. All I meant by the remark was that while Mr. Webster and Mr. Sumner did not differ, as I understand, in reference to the provisions of the Constitution, they differed in regard to the question of slavery that was then agitating the country, and differed materially. That is the whole of it.

Mr. DAWES. Mr. President, I want to apologize to the Senator for having interrupted him. The Senator intimated to me that it would not trouble him at all to be interrupted, but if I have done so I ask his pardon. There is great impropriety in disturbing a Senator in making a speech, and I owe him an apology. I certainly should not have been led into it if he had not indicated that I was at perfect liberty to do so.

Mr. JONES, of Florida. But, sir, the other day my friend from Connecticut [Mr. EATON] happened to use the word "confederacy." I do not know in what sense he employed it; he can better explain that himself. A great deal has been said about the word "compact;"

but it was employed here twenty different times in this great speech of Mr. Sumner, and I read it for the purpose of showing that there were certain powers in the Constitution that this Congress could not carry out by legislation.

Mr. EDMUNDS. What are those powers, if I may ask the Senator?

Mr. JONES, of Florida. I will come to them after awhile. Mr. Sumner instanced this as one of them:

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

That he writes down as a compact.

Mr. EDMUNDS. That Congress cannot enforce?

Mr. JONES, of Florida. And these paragraphs:

A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

He went all through these provisions, and he went on to try to prove that they gave no authority to legislate. This I say affords subject of discussion about which lawyers might differ. I do not pretend to say that Mr. Sumner was correct in all the positions he took in that matter; I do not defend his judgment at all; but I have quoted from his speech in order to show that the Constitution is full of debatable ground upon which and about which men who are equally honest may differ, and that it is not a subject for passion, for crimination, or for denunciation because they do.

The section which I referred to, instead of a grant of power to Congress, was held to be a compact between the General Government and the States, the fulfillment of which rested with the good faith of the sovereign bodies who had entered into it. The Constitution was always held to be an instrument of delegated powers, establishing a government of limited authority though supreme to the extent of that authority. It is made up of direct and positive grants of power to the Congress, the Executive, and the judiciary of the United States; second, restrictions upon the powers of all departments of the General Government; third, of inhibitions upon the States to prevent them from exercising powers which would clash with those delegated to the Union; and fourthly, a class of powers which Mr. Sumner called compacts, to be found in section 1, article 4 of the Constitution.

Now, sir, if there was anything better settled than another in regard to our Federal system it was that the inhibitions contained in section 10, article 1 of the Constitution never were intended to confer any power on the Congress of the United States. From the time of the adoption of the Constitution to the period of the ratification of the recent amendments, it was well settled that an inhibition in the Constitution of the United States on the power of the States gave to Congress no additional power, but that when rights became affected by the disregard of such inhibitions they could only be vindicated by an appeal to the judicial department. No one ever pretended that when the Constitution declared that no State should impair the obligation of contracts, make any *ex post facto* law, or grant any title of nobility, that power was thereby given to Congress to carry the authority of this Government into the local concerns of the States.

Mr. EDMUNDS. Would it interrupt the Senator if I asked him a question, not to make an argument, on that point?

Mr. JONES, of Florida. I yield.

Mr. EDMUNDS. Mr. President, on that point I should like to ask my honorable friend a question, as I know he can answer it if anybody can. If under this very tenth section of article 1, which says that no State shall pass any bill of attainder, &c., or coin money, grant letters of marque and reprisal, make anything but gold and silver a legal tender, Congress should pass a law which should say that any person who should undertake to coin money in a State without the authority of Congress should be punished, would not that be a constitutional law?

Mr. JONES, of Florida. I am not here as a judicial authority or oracle. I can only give a horseback opinion about it; but I would question very greatly the constitutionality of such a law under that provision of the Constitution. It might or it might not be sustained by the judiciary; but I say that Congress has never attempted, as far as I can understand, to infer any authority from these negative provisions. There is another provision in the Constitution, as is suggested to me by my friend from Georgia, [Mr. HILL,] under which they might have that power; but these are inhibitions on the State. No State shall do these things. No State shall pass any law affecting contracts. No State shall grant a title of nobility. No State shall pass an *ex post facto* law. The inhibition is against a State, a sovereign member of the Union, so to speak, and was intended to operate upon the State in her sovereign or in her law-making character.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. JONES, of Florida. If I yield further I do not know when I shall be able to get through. The gentleman who has this bill in charge has given notice that he desired an early vote, and the Senator from Vermont has indicated a disposition to reach the same end, from what I heard him say the other day. If I thought I had time I would be very glad to hear the Senator, because I know he never speaks without affording us all instruction.

Mr. EDMUNDS. I should certainly afford instruction on this occasion, because I was only to ask a question which my honorable friend was to answer and we should get instruction in that way, indirectly through my means. I do not wish to interrupt my honorable friend unless it is perfectly agreeable to him.

Mr. JONES, of Florida. I am not making such a speech as Senators usually interrupt.

Mr. EDMUNDS. Then I beg my honorable friend's pardon. I will certainly not interfere with him if it is in the slightest degree disagreeable to him.

Mr. JONES, of Florida. It was early known that cases would arise which would call for the application of the principle of these provisions, but the fathers of the Constitution knew full well that it would endanger the safety of the whole system if Congress should attempt to legislate directly against the authority of the States or its officers.

I will say here, Mr. President, that when this question was discussed in the convention at Philadelphia, and in the Federalist, Mr. Hamilton said, in the clearest and strongest terms, that if you retain the old idea of a confederation you will retain a form of government which of necessity will involve coercion on the part of the General Government to make the States comply with its provisions; it is not the intention of our new system to have a government other than one which will operate upon individuals. One of the strong arguments he made was that a government of States would involve war and bloodshed and trouble, because there was no method left but compulsory methods directed by one government against another in order to compel the delinquent member to enforce the stipulations of the compact; hence the necessity for a constitutional system which would enable the Government of the Union to enforce its authority against the people, but not against the authorities of the States.

With respect to all claims of power between the States and Federal Government, and the enforcement of the provisions of the Federal Constitution restraining the powers of the States, no remedy or appeal was ever thought of except what was given by the judiciary act of 1789, which enables any person whose rights are affected by State laws unwarranted by the Constitution of the United States to have them reviewed by the highest judicial authority of the Union.

That was the doctrine of the great expounder from Massachusetts. It was his great argument on that subject which distinguished him more than any he ever made in his life when he took the ground that in all cases of conflicting powers between the States and the General Government the Constitution of the Union had established an umpire in the judicial arm of this Government which should pass upon and settle the question. That was his idea, not that Congress by positive legislation nor by the enactment of laws should undertake to settle it as against the officers of the State, but that when private rights became involved or affected by State legislation which was unconstitutional under the laws and Constitution of the Union the citizen whose rights were affected by it had the peaceful remedy of appealing to the highest tribunal in the Union to have his rights vindicated and restored. That was the constitutional remedy.

Sir, the absurd doctrine that the officer of one government acting in obedience to the authority of its laws can be punished by penalties and tribunals created and established by another never until a recent day received the sanction of any authority in this country. About whatever else parties differed, whether the tariff or slavery, sectional or national issues, they all were agreed that this is a Government of delegated powers, supreme, it is true, to the extent of its delegated authority; and operating with other governments over the same population, it was not competent to settle disputed questions of jurisdiction between the two, or enforce the authority of either by pains and penalties directed against the officers who were intrusted with the execution of the laws. Mr. Sumner in 1852 stated the true doctrine on this subject. "While the nation," said he, "within its wide orbit is supreme, the States move with equal supremacy in their own." But from the necessity of the case the supremacy of each in its own proper place excludes the other. The difficulty ever has been and is now not only in drawing the line which separates State from Federal power, but in determining the authority which should fix it. If it be said that one government ought to have the power to decide upon the limitation of its own authority, how shall it decide so delicate a question when it must affect the rights and powers of another government whose supremacy within the sphere of its just authority is acknowledged? The laws of the United States, it is said, passed in pursuance of the Constitution are the supreme law of the land. But laws not warranted by the Constitution are void. When the statutes of either government are directed only against its citizens, any usurpation of power can be curbed by the high judicial authority of the Union.

But, sir, when the laws of either undertake to punish the officers or agents of the other for acts or omissions in the line of their duty it is a subversion of our whole Federal system, and sooner or later will prove ruinous to it. Why is it that the officers of the States are bound by oath to support the laws and Constitution of the United States and the officers of the United States are not bound in like manner to support the laws of the States? It was expected that State officers would have an agency in administering United States laws,

but it never was intended that United States officers should administer State laws, or that punishment of any kind should be prescribed by this Government against officers of the States for any violation of duty imposed by the statutes of the States.

The democratic party, not of the South alone, but of the country, has uniformly held that the whole election code prescribed by this Government is unconstitutional. Its leading public men have made no concealments before the people on this subject, and have always avowed the intention of repealing it if their party came into power. When the Constitution was before the people for adoption grave fears were entertained that the Government proposed to be established would overstep the bounds of its authority and invade the local concerns of the States, and it was seriously asked what would be the remedy for such an evil. At that time the Virginia resolutions were not thought of, but the friends of the new Government were not wanting for an argument which put at rest the doubts and misgivings of the people. And what was the argument? It was that whenever the law-making power of the Union went outside of the Constitution and usurped power which was not delegated to it the people and the States could send to Congress new men who would repeal the obnoxious laws and restore the just equilibrium of the Constitution. No one ever imagined that in a case of that kind the veto of the President would ever be interposed. He occupies his office to execute, not to make laws, and, as General Grant once said, the best way to get rid of a bad law is to show up its defects in its execution, so that the people may demand its repeal by their representatives. Would it have been tolerated in the days of the alien and sedition laws, after the storm of indignation which they excited had swept over the land, that the President by his veto might have arrested their repeal? What would have been thought of the presumptuous functionary who, forgetting the wishes and sufferings of the people, should have attempted to prevent them from obtaining relief according to the forms of the Constitution? But we have been told that this is revolution. Revolution forsooth! Why, sir, this is one of the safeguards against revolution. You cannot make a revolution with rose water. You must have a little genuine human blood. All legislative power, not a part of it, is vested by the Constitution in the two Houses of Congress. How that power shall be exercised is a matter with which the Executive has nothing to do. Now, sir, we have been told that the number of troops all over the country is so small that it is worse than ridiculous to imagine any danger to the rights of the people from them. It is not pretended that the Army is too large. No one asks for its reduction; but, sir, I would consider the people more safe and secure with an army of two hundred thousand men and this law repealed than with one of ten thousand while it remains in force. It is not the force of numbers which we fear, but the ingrafting of a dangerous principle into the Constitution.

The payment of twenty shillings—

Said John Hampden—

would not be missed from my fortune, but by acceding to the principle upon which it is demanded will make me a slave.

We do not measure the enormity or injustice of an outrage by the number of the perpetrators. The greatest crimes against the life of society and law may be committed by a single wrong-doer. The argument of the Senator from Maine would lead us to the conclusion that the moral qualities of an act are to be tested by the number concerned in its commission, and not by its effect upon the rights of the party affected by it. Sir, there are some things in life which to touch them is to destroy them. It has been said a woman cannot be liberal with her virtue, a soldier with his honor, or a nation with its liberty. The presence of an infidel at the altars of the living God would cast a shadow over the cause of the crucifix. No one would think of selecting a Mormon prophet as a guardian for his daughter whom he wished to have instructed and guided by the law of Christian marriage. Sir, the Army is small, it is patriotic and useful, but it is large enough, under the direction of a bad man, to trample on your Constitution. No soldier can be quartered on the citizen in time of peace, and this great principle of individual security could be violated as well by one soldier as by a thousand.

Now if there existed a law authorizing the quartering of troops on the citizens in time of peace, what answer would it be to a demand for its repeal that the Army was small and scattered over a large area of country? Would not the principle be violated and the Constitution endangered just so long as the law continued? And so it is in cases of election. I have seen soldiers of the United States marched and counter-marched over my State, and if the Senator from Maine wants to look into the records of the War Department he can find evidences there showing that the troops in my State as late as 1876 were ordered from the forts on the seaboard hundreds of miles in the interior, to be present at the elections of the people. I assert the fact here that at the election of 1876 nearly a company of troops were ordered from Fort Barancas, Florida, to Marianna, Florida, and were present in that little town during the election of that year. I met them on the way there, and never shall I forget the feelings of humiliation that came over me when I learned the true object of their mission.

But military interference did not end with the election at the polls. Well do I remember the scenes in my own State. After the election I saw an officer in full uniform, with his side arms on, remain in the presence of the State officers until they had canvassed the returns from the various voting places in my own county, where there was not the slightest reason to apprehend trouble of any kind. And when the time came for the enactment of the drama of fraud, when the courage of the faithless officers who had determined to falsify the voice of the people of the State had to be supported in some way, when the consciousness of the great wrong they were about to commit filled the air around them with imaginary dangers and their souls stood aghast at the terrors of the great crime, a large part of the Army, with a general officer, was sent to sustain them and give a reluctant sanction to those proceedings which ended in robbing the whole American people of their highest and dearest right. In the course of a week it was easy to concentrate at the capital of my little State an armed force of three hundred men to shield the preconcerted villainy of a returning board and strike down the vital principles of popular freedom.

We have been told that our reputation is suffering in the estimation of foreigners from the exaggerations of the democratic party respecting the use of the Army. It is a pity that this sensibility for our republican character was not earlier manifested. Some good might have been done if at the time the popular voice of America was crying out for recognition, when 19 majority of the electoral college and 300,000 majority of the people had elected a President, and all Europe stood on tip-toe to see if he would be seated—if at that time the Senator from Maine, with half the eloquence he displayed the other day, had warned his party friends of the danger which was in store for our reputation on the other side of the Atlantic, he would have performed a service worthy of his great talents and his standing and consideration in the country. For my part I attach but little consequence to European opinions of what we do here; but if ever there was an event in our history which shocked the public sentiment of Europe it was the disregard of the voice of the majority in 1876 by the Senator's own party. The South, as usual, is brought to the foreground of this great contest. Every political anatomist in the republican party has been turned loose upon this half-living body. For years tortured and butchered by the most inhuman treatment, she sank down to the lowest degree of exhaustion, mangled and bleeding.

After surviving the cruel experiments of the republican dissecting-table and the hacks and scars of the rude operators who, without either feeling or science, cut to pieces limb after limb, it was to be hoped that time at least would be given her to recover from the wounds already inflicted before being subjected to a series of new operations from the same death-dealing hands. To say nothing of what has taken place in the other House, of which I cannot speak, here at least the performance has been remarkable. First came the Senator from Maine, with his fine, sharp instrument, which, with the grace of an O'Trigger, he used to the delight of his friends. One could hardly help feeling that if he had to die by the hand of another the skill of such a performer would relieve death of some of its horrors. He conjured all the living powers of wrath with the dexterity of a magician, went down to the lowest depths of passion and hatred, and like Mark Antony of old held aloft the blood-stained garment to incite his countrymen to deeds of violence and revenge. And what is the justification of all this? He complained of the power of one section of his country in this and the other body.

Sir, is the time never to come when sectional feeling shall cease? Can there be found no other issue to divide parties than that which is taken from the bloody conflicts of the past, which must always endanger the best interests of the country so long as they are relied upon to control public sentiment? An impartial man listening to the debates here of late might well have supposed that we were the representatives of two distinct countries or people, and that we had nothing in common but the privilege of abusing or misrepresenting each other. Instead of the public being attracted here by the discussion of some great question affecting the interests of the suffering people of a common country, your galleries are filled with excited multitudes who find something like the same kind of entertainment here that the populace of Rome once enjoyed in witnessing the feats of foreign gladiators. Why is it not possible for us to discuss the measures of legislation now pending in a calm and dignified manner? Why should the unhappy South, which has suffered so much and which is part and parcel of your country, be the object of attack and vituperation? It ought to be the desire of every true statesman to serve with equal devotion every part of his country.

If the Senator from Maine could only be induced to employ his great powers in cementing the ties of union and fraternity between the sections of this great country instead of reopening the wounds of the past, his name would live in the grateful memories of millions as a benefactor of his race. However much you may quarrel with the tastes and opinions of the South, it is no part of the business of legislation to make them conform to your own. God for His own wise purposes has diversified this continent with a variety of His best gifts. In soil, in climate, in population He shows you that you cannot hope for uniformity in all His great works. Why should you then "bite the chains of nature?" If you cannot govern a free and ardent people after the fashion of feudal times, and bend their proud spirits by severe penal laws, take wisdom from experience and govern as you can. Depend upon it that no law which is opposed by the moral sense or the public voice of the community can be of any value except to irritate and oppress, and irritation and oppression

will not add to your power or dignity or glory. There was a time when even law-abiding and Union-loving Massachusetts did not conceive it to be incompatible with loyalty and allegiance to this Government to oppose and denounce laws of the United States which bore hardly on her people. Sir, the laws which you have enacted for the South, and which her people complain of, are just as offensive to the people there as were the fugitive-slave law and the embargo law to Massachusetts.

You may say that the people of the South have not the same right to complain. This I deny; and I will not acknowledge that because by the power of your Constitution and the resources of the country you re-established over them the authority of your Government you thereby acquired the right to keep them in perpetual bondage. They are to-day part and parcel of the great community of American freemen. Twelve millions of people would not be lightly treated in any body but this. Now that you have grappled them to you with hooks of steel and are embarked for weal or woe on a common voyage of life and liberty in the old ship of the Constitution, they intend to do their duty and help keep her afloat. Many of them concur with a large portion of the people of the North and believe that the interests of the whole country require the repeal of these obnoxious laws.

I have said but little in regard to the method of the present repeal, because I do not doubt the right of the House to send us this bill. British precedents were read to show the great injustice of allowing the House of Commons to tack legislation on appropriation bills. But, sir, these precedents do not apply. In the first place the royal negative has been practically abandoned in Great Britain for more than two hundred years. And secondly, the Lords in England not having the right to negative money bills, if legislation could be put on such bills it would take away absolutely the right of the Lords to reject such legislation if standing alone. Here the Senate has a negative on all money bills as well as the right to amend them; and when legislation is put on a money bill the right of the Senate is not thereby taken away, as it would be in England under the same circumstances. We have been told that the Commons of England did not refuse supplies except when the Crown withheld the concession of some right which belonged to the people under the constitution, and that such refusal never extended to a change of the laws of the kingdom.

The early contests in that country between the people and the fierce princes of the Plantagenet and Tudor lines turned mainly on the right of the monarch to obtain money without appeal to Parliament. As regards a standing army the great contest over its establishment did not begin before the seventeenth century. The most despotic princes of all the early lines of kings were utterly powerless to oppress the people by military force. They had nothing to rely upon but a militia, which was occasionally brought into service as much to gratify their own warlike ardor as the ambition of the King. During the Middle Ages the check chiefly relied upon by the people of England to restrain the prince was the check of physical force. It is true that he was often permitted to indulge his cruelty upon individual victims, but the oppression of masses never failed to meet with resistance. Henry VIII, powerful as he was, was not interfered with when he sent the noble and accomplished Buckingham to the block, but when he attempted to levy one-sixth of the goods of his subjects without the authority of Parliament, the people rushed to arms and crushed his power. No fair precedent can be drawn from those rude days which will apply to a refined state of society, when wealth and power have become so much more important than ever before. With the advance of society and the increasing inclination of the people to pursue the peaceful vocations of life, the historian tells us that the time at last arrived when the profession of arms had to be made a distinct calling in the state.

Then it was, sir, that the real work for constitutional freedom began. Then it was that the Puritan fathers, losing all hope in the success of the people against their oppressors, sought an asylum here among rocks and savages from the excesses of that power which some of their descendants seem inclined to uphold. From the time that James I ascended the throne to the day when James II threw the great seal of England into the river Thames the contest over the right of the King to keep on foot a standing army, without the authority or permission of Parliament, was the all-absorbing subject of dispute. This darling object descended from the first to the last of the Stuarts, and never was abandoned until, after two revolutions, a deluge of blood, and the establishment of a new dynasty, it passed away with the last heir of the ill-fated house which had staked its fortunes upon its accomplishment. For years a dark conspiracy was on foot, unknown to the people, which had for its object the destruction of all public freedom in Great Britain.

The scheme was nearly complete and the chains were already forged for the tender limbs of liberty when one of those providential occurrences took place which the vulgar call accident, that frustrated the dark design of the tyrant and aroused the sleeping people to a realization of their danger and the necessity of exertion. Eleven years had been permitted to elapse without the meeting of a Parliament, and the interval was employed in perfecting the details of oppression. The star chamber, the high commission, the council of York were all completely reorganized and put in the highest state of efficiency for still bloodier and darker work than they were ever before called to perform. The regular courts of justice at Westminster, which were religiously confided in as the most sacred depositories of freedom and personal security, were packed with corrupt judges to perform their allotted parts in the hellish plot of destroying forever the liberties of their country. And, worse than all, the ministers of religion, (false and perfidious,) and with them altars of the living God, were enlisted in the work of infamy, and, abandoning the service of Heaven, lent all the authority and force of their high calling to the machinations and powers of hell. Such was the confidence of the tyrant in the completeness of his preparations and the success of his designs that he departed from the original plan of operations and, fatally for him, but fortunately for us and all mankind, determined to begin the work of enslaving the people in that high-spirited land on whose soil my friend from Kentucky [Mr. BECK] first saw the light of day.

No more parliaments were to be called until the spirit of the people was broken, and then only to record the will of the King. The judges had already decided that taxes might be levied by the Crown. The star chamber and high commission were ready for the work of blood, and the people were paralyzed in the presence of these terrible preparations, when Charles the First decided to destroy the religious freedom of Scotland by compelling her people to give up their own system of worship for the forms and ritual of Henry the Eighth. It was not supposed for a moment that the demands sent to Edinburgh, which was then farther from London (calculating by the facilities of travel) than Berlin is now, would produce the least discontent or interfere for a moment with the execution of the plan of Strafford and Charles in creating a standing army without the authority of Parliament.

But they little knew the temper of those bold Highlanders in whose bosoms were mingled the fiercest passion for battle and the warmest feelings of devotion for the memory and teachings of John Knox. As Macaulay tells us:

> They had butchered their first James in his bed-chamber; they had slain James the Third on the field of battle; their disobedience had broken the heart of James the Fifth; they had deposed Queen Mary and led forth her son a captive.

And they swore by the covenant that they never would give up their religious freedom at the bidding of Charles the First. It was the invasion of England by a Scotch army at this time that saved British liberty. The King had enough of mercenaries to enable him to carry out his purpose in time of peace and make himself absolute; but he had no army to meet the Scots, and he was thus forced by necessity, after eleven years, to reassemble the House of Commons in order to get a sufficient force to defend the kingdom. Parliament was assembled; the people were safe. And from that time to the present—except for a time during the Commonwealth—the people of England, through the House of Commons, have controlled the army. Their right to destroy or increase it has never been questioned, by their power over the supplies. And it was the preservation of this great right, after submitting to two revolutions, which saved them from absolute monarchy, such as you now see in the fairest portions of Europe. If ever the time comes that the Executive can employ the Army in defiance of the wishes of the people's Representatives, all freedom is at an end.

This is not simply a question of legislation on an appropriation bill. It lies deeper than that. The question is whether Congress has the power in making provision for the support of the Army to couple any conditions with the grant. If it has not, then surely the citadel of freedom has been left in a very unguarded state, and the lesson of the great English struggle against arbitrary power has been lost upon us. The Constitution does not permit us to make provision for our Army for a longer period than two years. The practice is to vote supplies only for one year. Why was the limit of two years fixed? In order to make the fate of the Army depend upon the will of each Congress. A new House of Representatives comes into life every two years fresh from the people, and no military force, even in time of war, can be continued without its consent. Authority is given to support a navy, and an appropriation for that purpose might be made for ten years in advance. Why? Because all experience teaches us that liberty never was destroyed by naval power. The Constitution, therefore, has placed the security of the public liberty in the hands of the people's Representatives. Have they not the right to say when called upon to exercise the trust imposed upon them by the Constitution with respect to the Army whether or not it shall be employed for any purpose connected with the election of members of their body? Can anything be more appropriate than for the House of Representatives to say, when required to give their consent to the continuance of the Army, that it shall not interfere with the election of members of that House? The power of the House of Commons in England has often been carried to the extent of punishing returning officers for making false returns, a power never claimed here.

It has been said that the President is threatened and that his veto power is in danger. These topics are out of place here. It will be a sad day for this Government when the two Houses of Congress hesitate to do what they regard as their duty for fear of encountering the hostility or opposition of the President. And when did this tenderness for executive feeling and power come over the hearts of our republican friends? You brought to this bar for the first time in our history a President of the United States for no other crime than the exercise of a power which every President from Washington had exerted as a lawful one. You took from him the command of the Army,

which is given to him by the express words of the Constitution, and lodged it in the hands of his subordinate.

And now, because Congress proposes to repeal the law which gives him power to employ the mailed hand of the military in the elections of the people it is revolutionary. One, sir, would suppose from what we have heard that the democratic party of the country has never been engaged in any work except the work of revolution and destruction. No credit is ever given to the illustrious services of its long line of illustrious followers in all the high places of Government, but no occasion is permitted to pass which offers an opportunity for impeaching its loyalty and devotion to the Government. As one of its humblest advocates, against this injustice I solemnly protest. The democratic party, like every other human organization, has its faults, God knows it has, "but they are redeemed by splendid virtues." And when I speak of that party I do not refer to an excrescence which has drifted into life by the waves of sectional passion, and which has fed and prospered upon the discords of the people. I mean a party whose principles came into life with the dawn of liberty on this continent, which has withstood the assaults of time like the promontory that is lashed in vain by the billows of the ocean; which, with a Jefferson and a Jackson at its head, has engraven its achievements on the hearts of succeeding generations; and which will yet add to the list of its victories by the destruction of everything which impairs the enjoyment of constitutional freedom. Controlling, as it now does, both Houses of Congress, it resumes the mantle of power by repealing those laws which infringe the liberty of the people.

In this we make no war upon what you call the results of the great civil struggle. You told the world that upon your part it was waged to preserve and perpetuate the Union according to the intent of the Constitution. The business of coercion and blood is now over. The great armies have been dispersed and are now mixed into civil life. The maxims of war are no longer applicable, and having at such heavy cost restored the authority of the Government over the whole country, the business of statesmanship is to make it secure for all time by a wise American policy. Depend upon it the free spirit of this country will never tolerate the arbitrary, repressive system of Europe. However much you may disparage your countrymen of the South, they have rooted in their natures the same love of liberty and hatred of oppression which everywhere distinguishes the Anglo-Saxon race. And this spirit, which for narrow ends and purposes many may undervalue or decry, is the very best safeguard of our noble institutions. So long as it lives the sanctuary of the Constitution will not be profaned by sacrilegious hands. At times it is true, it may wander away a little from the bounds of its elevated orbit, and with jealous eagerness to guard the citadel of freedom seek to confine the arm of authority to too limited a sphere; but such little irregularities cannot impair its value or utility. It is the quality of freedom to be outspoken and bold. With the passing mischiefs of its extravagance compare the inestimable blessings it has bestowed upon man.

It was this bold spirit of freedom which aroused the human mind from the torpor of ages, shook the foundations of oppression and tyranny, dispelled the darkness of ignorance, and filled the world with rays of eternal truth. The grand inquiries it has created have revealed the true foundation of all human rights. What is it that enables the eastern despot to hold with unquestioned power the life and property of his miserable slave? The instincts of liberty will at times arouse the tyrant's tranquillity and warn him that the day of vengeance may be nigh; but the security of despotism and the danger to freedom are always to be found in the despair and inactivity of the people. Compare not the sullen and inaudible murmurs of the oppressed with the manly remonstrances and the defiant tone which springs from freedom and the consciousness of its power. This very agitation which you have miscalled revolution is the natural outgrowth of your free republican system. In proportion to the mildness of government and the intelligence and virtue of the people will be the jealousy and apprehension of all invasions of their reserved rights. Blame not, therefore, this watchful and anxious regard for the public liberties. The best security you can have for the purity and duration of your Government is in the disposition of the people to confine its power within just bounds. The genius of your institutions is unfavorable to the operation of harsh laws. It is a mistake to suppose that the security of liberty is in proportion to the weight of the penalties they impose. It has been well said that in England, where torture was unknown, robbery was seldom followed by murder, but in France when the highwayman was broken on the wheel the traveler seldom escaped with his life. What was it but the mildness of the English law that prevented murder in all cases following robbery? The authority of Mr. Burke has been invoked. How happy would it be for mankind if the teachings of this great statesman were followed as much as they are admired. He pointed out in vain to Great Britain the remedy for American discontent. It was not followed and an empire was lost because the pride of power could not be made to yield to the demands of justice. His remedy was peace. "Not peace through the medium of war; not peace to be hunted through the labyrinth of intricate and endless negotiations; not peace to arise out of universal discord fomented from principle in all parts of the empire; not peace to depend upon the juridical decisions of perplexing questions or the precise marking the shadow of boundaries of a complex government. It is simple peace sought in its natural haunts; peace sought in the spirit of peace by restoring the former unsuspecting confidence of the colonies in the mother country."

Sir, we have been told on the floor of the Senate that the South has come back to these halls to disintegrate and destroy; that having failed by arms she now resorts to strategy to accomplish the same end. And where is the evidence of this? Is it to be found in the desire which is shown by liberty-loving men all over the North to repeal those terrible laws which you framed against us in the hour of our weakness, our suffering—I nearly said despair? Sir, it was expected that the spirit of justice would for a time be overridden by the spirit of revenge. It was expected that great harshness and suffering would follow the overthrow of the arms of the South; that families would be left desolate who were once independent; that tender women upon whom the winds of heaven had not been permitted to blow severely would have to toil in the open fields for their daily bread. These things were expected, and they were borne with a patience and a fortitude which would have done honor to Roman virtue in Rome's best days. The whole South a few years ago presented nothing but one vast scene of desolation and of suffering. Such distress and humiliation never before followed an unsuccessful struggle except that produced by the sword of Cromwell in unhappy Ireland.

Property, credit, government, everything which goes to make up individual and general prosperity, I might say ordinary comfort, was swept away. A few thousand bales of cotton, which had escaped the torch and the blockade, and the lands were all that was left. The "smartness of debate" will say that all this was penalty of secession, but I have no argument to address to him who has no heart to feel for human misfortunes or sufferings when they follow from the mistakes and errors of humanity. The devoted and self-sacrificing Christians who live amid the perpetual snows of the Alps to extend the hand of kindness and safety to the imperiled traveler never stop to ask him whether curiosity or error made him an object of relief. All must admit that the condition of the South after the war was most deplorable and required the nicest hand to adjust the affairs of the people. And how was this important interest then dealt with? Nearly one of the first laws passed after the peace was one to levy an export tax of $60,000,000 on the little cotton which was there, and barely enough to procure food and clothing for a starving people. Local governments were set on foot on the most economical scale to preserve order. The black and white population was beginning to accommodate themselves to the new order of things, and the best feeling existed between them.

And here, sir, I wish I could draw the veil of oblivion over what followed. General Grant, with a fairness which did him much credit, declared that such was the peaceful state of the South at that time that a single soldier of the United States was sufficient to keep order in a district where a regiment of confederate volunteers wearing the scars of a hundred battle-fields could be found. Why was this opportunity for lasting peace and unity neglected? You might have profited even by the examples of pagan nations in the adoption of an enlightened policy. I quote the words of a great orator, "Look at the warlike Roman, with the sword in one hand and the constitution in the other, carrying into subdued provinces all the rights and privileges of the imperial city. And look at his great rival, the noble Carthagenian, at the foot of the Alps ranging his prisoners around him and by the politic option of captivity or arms recruiting his legions from the very men whom he had literally conquered into gratitude." Pagan as they were, these rude masters of ancient polity laid the foundations of government in the immutable principles of honesty, truth, and justice which are planted in the human heart.

We have been told in the air of triumphant prophecy that the South has been for a time trusted with the business of self-government, and has failed to come up to the expectations of her judges. She has been, it seems, since the advent of the present executive government on trial for her life: and one would suppose from what was said here the other day that the short relaxation she has enjoyed from the grasp of military power was due to the voluntary and disinterested counsels of the Senator from Massachusetts and his friends. It was expected, it seems, that when the bayonet was taken from her throat, instead of using her liberty to prevent the return of oppression, she ought to have rushed into the arms of her enemies and repaid by the basest ingratitude and desertion the life-long devotion of her friends.

No fair man can contemplate the state of the South at present and compare it with its condition under the republican local rule without feeling the great change for the better which has taken place, not only for one race but for both. It is seen, sir, in public credit, in the thrift and enterprise of the people, in the character of the public officers, in the administration of the laws, and especially, sir, in the new-born zeal for public liberty and the determination to preserve it. For what ends are governments instituted among men? To protect life, liberty, and property, and enable every man to pursue his own road to individual happiness. But it is said that such is not the kind of government we have at the South, and the management of our local affairs has been severely criticised by those who know nothing of our condition beyond what they have learned from misrepresentation and the calumny of partisan witnesses.

Sir, I care not what may be said to the contrary, the establishment of democratic rule at the South and the overthrow of the rotten governments which so long existed there did more for the prosperity,

peace, and happiness of that section than anything which could have happened. Why, then, should any one quarrel with the local condition of affairs there who is not affected by it, and when it is so satisfactory to the people who are directly concerned in the maintenance of good local government? The framers of our Constitution thought they had provided sufficient safeguards against the officious, intermeddling propagandist spirit which, not satisfied with what it best understands and in abiding where it is best known, must obtrude itself always where it is least wanted, to create discord, dissension, and ruin.

The harmonious action of this Government must depend very greatly upon our honest observance of its principles. I feel, sir, that I have no right to question or criticise the domestic policy of Massachusetts. She has vast interests which are tender and peculiar, all lying within the scope of her local authority, and I am very sure that I would not feel justified in raising any alarm if she were to return to any of her errors of by-gone days. Looking at what she is and what she was, I am profoundly impressed with the wisdom of our twofold system of government; for in my judgment she owes much of her wealth and power to her local institutions and laws. I cannot permit this occasion to go by without expressing my regret at the tone and manner of some Senators toward the people of the South. It is to me most remarkable that an American statesman, anxious to extend the fame and to uphold the character of his whole country, should try to parade before the world what he regards as the shortcomings and errors of his own people.

The eye of the foreigner does not measure the national character by States and sections. He looks at the country as a whole, and those who are anxious for good reputations abroad ought to reflect upon what will be thought of us when the authority of an American Senator is cited to blacken the American name. For my part, sir, I know not what kind of service may be before me during the period I shall remain here. I know how inadequate my poor powers are to the performance of the high duties of this body; but, sir, if ever the time comes when for want of better employment I shall attempt to use the little ability with which I am gifted in casting reproaches upon any part of the people of this great country, I hope that my tongue may cleave to the roof of my mouth.

Sir, there is really no substantial ground for sectional differences at this time. Fourteen years have elapsed since the cause of the South went down in the flame of battle. We cannot destroy the past for that is beyond the power of the Almighty, but the future is yet within our control. How long it shall be in our power to control it depends upon ourselves. Depend upon it, you cannot keep up this sectional warfare with safety to the future interests of the country. No man lives who desires more than I do the perpetuity of our great Republic; but, sir, if parties and public leaders can find nothing else to divide upon except the memoirs of the late civil war and the prejudices it has engendered, the battles for the Union were fought in vain. I say it in all the sincerity of a heart anxious for real national amity. If you cannot accept the South as she is, and permit her to act and speak in these Halls as her interests and feelings prompt her, for what purpose has representation been given her?

The superior powers—

Says Mr. Burke—

may concede peace with honor and with safety, but the concessions of the weak are the concessions of fear.

You cannot break down all the barriers which nature has erected between the remote parts of a great country. The genius of our Government is distinguished for its flexibility rather than the uniformity with which it expands itself. It was intended more for detached than connected empire. It never was supposed that its powers would be great enough to unify and assimilate all the various shades and phases of human life and character which are to be found living under it. On the contrary it was expected that its temper would be suited to all sections and climates, and that while it could withstand the cold and freezing elements of the North it would also be suited to the melting and dissolving warmth of the South. And this adaptability to the varied interests and conditions of life is what distinguishes it from all other governments on earth. Day by day the tide of emigration is closing up the vast area which separates us from the Pacific Ocean, and the time is not far distant when numerous new States will be demanding admission into the Union. Who can tell what will be the state of your politics fifty years hence? Depend upon it, this southern question cannot live forever. A time will come when it must be closed. Why not close it now?

The whole country is suffering from distress, and the fairest portion of the land invites capital to go there, but politicians proclaim it to be in a state of siege, and intercourse and settlement are interdicted. You say that the black population of the South is not represented in the other House because men of color are not elected to Congress. I know of no provision in the laws or Constitution which entitles that class of persons to distinct representation. You increased the number of members from the South after you gave the ballot to the black man, but surely this was not done from any motive of kindness toward the white population. The concession did not have the effect intended, but this is not the first instance where the result of a measure disappointed the calculation of the lawgiver. A great benefit has ensued to the section, and you are entitled to the same credit that would be due to a person who administers a poison to destroy his victim and it happens to cure him of a terrible disease.

The misfortune of all your laws relating to the unhappy South is that they attempt to break down the landmarks of nature and arrogate to human power what God himself has never attempted to appropriate. There are limits to the range of human wisdom and arrogance in the political as well as in the natural world. Science and art have done much to improve and elevate the condition of man, but there are barriers to their labors which the wisdom of Providence will not permit them to pass. And so it is in the political world. Congregated here beneath the lofty dome of this grand Capitol, with the sovereign power of a great people lodged in our hands, we may vainly imagine that the authority of our laws can uproot the foundation of our social system.

As man preceded society, so society preceded government, and as the one must conform to the impulses and tendencies of individual life the other can never for any great length of time set itself above the wants, feelings, or interests of society. The people who ask the repeal of these laws are your own fellow-citizens. Whatever may have been the differences of the past it is your duty to forget them here. Much has been accomplished in the work of restoring harmony to the country and much remains to be done. Be assured that the memory of harsh laws will greatly overbalance any temporary advantage which may flow from them. Do not, I beseech you, proceed upon the false notion that it is wise to foment and perpetuate sectional strife. Even though you be the stronger party in the end it will not avail you, for it was the observation of a great statesman that conciliation was the true policy of nations whatever be their weakness or their strength, and that occasions might arise in the history of the most powerful State when those who are too weak to resist its authority might prove strong enough to compass its ruin.

Mr. BLAINE. Mr. President, I wish to give notice now that I shall offer the amendment I hold in my hand, which is just the amendment that, by the leave of the Senate, I withdrew this morning; and I do not offer it now to be pending; I simply give notice of my intention to offer it. I withdrew it in deference to the opinion of Senators who desired first to have a vote taken on striking out the sixth section unembarrassed by any amendment, and with that view I merely submit it to be offered at the appropriate time.

The PRESIDENT *pro tempore*. Does the Senator wish it printed?

Mr. BLAINE. I desire to have it printed.

The PRESIDENT *pro tempore*. The order to print will be entered.

Mr. BLAINE. My intention in offering this amendment——

The PRESIDENT *pro tempore*. Does the Senator wish to have the amendment reported to the Senate?

Mr. BLAINE. I should be glad to have it reported, though I suppose it is familiar to the Senate.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. At the end of section 6 it is proposed to insert:

And any military, naval, or civil officer, or any other person, who shall, except for the purpose herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than $500 nor more than $5,000, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. BLAINE. My design in offering this amendment was to test the sincerity of those Senators who are desirous of having no coercion used at the polls at the time of electing Representatives to Congress. It occurred to me, as I endeavored to state to the Senate a few days since, that the Senators who express alarm at the overriding of liberty by the Army of the United States are fighting a mere chimera; they are alarmed at an enemy that does not exist; they are speaking of a peril that is not present or possible; and they are entirely neglecting a frightful and ever-present source of danger to the ballot throughout the Southern States. In this case I speak of "the Southern States" because I do not believe that the remarks which I am going to make apply to the Northern States, whether they be under democratic control or under republican control.

I hold in my hand a report of a committee of this body. I might detain the Senate for a long time in reading testimony, of which I shall only give one or two specimens. Edgar J. Douglas testifies——

Mr. BUTLER. Where?

Mr. BLAINE. He resides at Statesburgh precinct, Sumter County, South Carolina, and I quote the following from his testimony:

Question. State what you saw at that place in the way of armed men, interference with voters, &c.?

Answer. On the night before the election I saw white men, members of the democratic party, coming in from all parts of the county to Statesburgh. They came in wagons, buggies, and on horseback. During the night they kept up a great firing, in volleys and single shots. On the morning of the election I was making my way to the polls very early, when I was overtaken by a large crowd of white men behaving themselves very disorderly. I was to act as supervisor of election. I took my place in the building where the election was to be conducted. A while afterward J. J. Dargan, after seeing a large crowd of colored men come up to vote, asked his men to close up around the polls. They staid there for two hours, playing drunk and hollering and pulling everybody around there, and threatening, and one white man in the crowd cut two colored men with knives.

That was at one poll. I find here——

Mr. BUTLER. Will the honorable Senator give me the page from which he read that?

Mr. BLAINE. The testimony I read at that moment was at page

312 of the report. On page 423 I find the testimony of H. W. G. Wilson. He testified that he noticed some men rather backward about coming up to vote. The Senator from Wisconsin whom I do not see in his seat, the senior Senator, [Mr. CAMERON,] said in an interrogative way: "Colored men?" and the answer is:

Yes, sir; well, there were some told me that there were several standing around that were afraid to come on account of the guns that were there. There were a great many guns.
Q. State where these guns were.
A. In the hands of white men.
Q. How many?
A. I do not know, but it varied from fifteen to twenty during the day, sometimes more and sometimes less.

At the precinct of Kingstree—the Senate will pardon me for reading these extracts, because they are an illustration of the necessity of my amendment—

Some of the men stopped and got scared. Then they marched down and came by the court-house and hollered, "File left," and they filed left. I was in front of them. They marched up the steps, and as they got up there Mr. Hanna was sitting on a box, and they said, "Get away from here, God damn you; what business you got here?"

And then followed a scene of very great disorder, a regular series of violent acts, in which a large number of men were taken out and threatened in this form:

Now form a line and we will shoot you pretty quick.

This was at various and divers polls throughout the State of South Carolina, at which there was no more freedom of election than there would be in a mob anywhere. I understood the honorable Senator from Kentucky, [Mr. WILLIAMS,] whom I regret I do not see in his seat at this moment, to say this morning that it was part of the liberty of elections to have an old-fashioned shindy and a drunk.

Mr. BUTLER. Will the honorable Senator——

The PRESIDENT *pro tempore*. Will the Senator from South Carolina address the Chair? Does the Senator from Maine yield?

Mr. BLAINE. Certainly.

Mr. BUTLER. I simply arose for the purpose of asking the Senator from Maine if he does not know that within the last three days an acquittal has been ordered in the United States court at Charleston, by the presiding judge, upon just such testimony as that?

Mr. BLAINE. I believe owing to a technical defect in the indictment.

Mr. BUTLER. No, sir.

Mr. BLAINE. I think so entirely. Nothing whatever has transpired in the court in the least degree conflicting with this testimony, in my judgment.

Mr. BUTLER. The Senator is entirely mistaken.

Mr. BLAINE. That is a question of fact upon which of course the honorable Senator has a right to have his judgment, and I mine.

Mr. BUTLER. It was upon precisely such testimony as that which the honorable Senator has read, which was given to a jury consisting of a majority of republicans, that an acquittal was ordered.

Mr. BLAINE. We shall see about that fact in due time. However, I merely state what I believe to be the case. The honorable Senator from Delaware [Mr. BAYARD] said he was ready to vote on this amendment immediately, and the honorable Senator from Texas [Mr. MAXEY] said that the amendment is in conflict with the Constitution, and that the Constitution forbids it because one of the articles of amendment says that the right to bear arms shall not be infringed, and therefore I understand the Senator from Texas to maintain that at all times a citizen of the United States has the right to bear arms.

Mr. MAXEY. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I do.

Mr. MAXEY. Did the Senator from Delaware state that he would vote for the Senator's amendment?

Mr. BLAINE. No; he said he was ready to vote against it without any argument whatever. He did not dignify it with an argument. I understood the Senator from Texas to say that this was in conflict with the amendment to the Constitution, and that Congress had no right whatever to say that any man should not go armed.

Mr. MAXEY. Yes, sir.

Mr. BLAINE. I understand the Senator to maintain that the Congress of the United States has no right to say that a juryman in a Federal court shall not take his arms into the jury-box, that a Senator here shall not bring his arms into this Chamber, that a judge on the bench shall not take his shot-gun into court. I understand the Senator to maintain that.

Mr. MAXEY. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I do.

Mr. MAXEY. I was not aware before that a jury in a Federal court was under State law. I said that elections were under State laws.

Mr. BLAINE. But these are United States elections for United States officers. These are United States elections. We are not pretending to talk about what you may do in State elections; and we are enlightened to-day, for the first time I believe in the history of this country, by the honorable Senator from Kentucky, with the information that Representatives in Congress are officers of the States. Does the honorable Senator from Texas maintain that a Representative in Congress is an officer of the State from which he comes? That is the ground laid down by the Senator from Kentucky to-day. I undertake to say that there is no pretense in any law in the statute-book of the United States, placed there by the republican party, of interfering with an election of a State. What we ask is that Representatives in Congress shall be elected by the free vote of the people of the respective districts, and there has never been such a travesty on truth, there has never been such a satire on fact, there has never been such a pretense to righteousness so utterly confounded by fact and so utterly ridiculed by history as for the Senators on that side to stand up here and demand a free election. Why, that is what we have been struggling for—a free election. There has not been a free election in five Southern States that I can name since the democrats have had power. There was no more a free election in South Carolina for the Congress now in session than there would be in a mob of violent roughs that had undisputed possession of a poll in the lower wards of the city of New York—not a particle more.

Mr. BUTLER. Mr. President, will the honorable Senator permit me to suggest one thing to him? How long have these laws been upon the statute-book? I ask the Senator how long these laws have been on the statute-book of the United States?

Mr. BLAINE. Different periods. Twelve or fourteen years, some of them.

Mr. BUTLER. I should like to ask, then, if they were not upon the statute-book when these "travesties," these mockeries of election, took place in South Carolina?

Mr. BLAINE. Since the democratic party came into power and trampled them under foot and overawed supervisors and drove them from the polls and defied the authority of the United States, certainly.

Mr. BUTLER. The Senator may make these statements——

Mr. BLAINE. I make this statement on the sworn testimony of witnesses whose veracity was not questioned where they testified.

Mr. BUTLER. The Senator may make these statements as much as he pleases, but, without intending to be disrespectful personally to him, I say that they are absolutely false as to South Carolina.

Mr. BLAINE. I do not make any solitary statement upon my individual authority. I assert that when the Senator says they are false he is confronting the sworn testimony of numerous citizens of his own State whose veracity was not questioned before the tribunal where the testimony was delivered.

Mr. BUTLER. Yes, Mr. President, but——

Mr. BLAINE. That is what I state.

Mr. BUTLER. A jury in South Carolina has recently sustained what I say.

Mr. BLAINE. That is the case down in Louisiana, a jury has done something or other there. I observe there was a perfectly peaceful election in Louisiana, only forty or fifty men were slaughtered; that was all, and a jury, I believe, has acquitted some of the murderers there and wiped all that out.

Mr. JONAS. Will the Senator permit me to make a statement?

Mr. BLAINE. Certainly.

Mr. JONAS. Mr. President, the trials in Louisiana were conducted upon the very identical testimony in that report, and the witnesses who testified before the committee were produced before a jury selected by the exclusion of those who could not take the test oath. That trial was conducted by a district attorney who had as his text-book the report of the Teller committee, which he examined as he put the witnesses on the stand to try to get from them the same evidence which they had given to that committee, and it was shown that he had sent that text-book, an advance copy of which he had, to the witnesses beforehand to refresh their memory. The parties accused were tried on the testimony of all these witnesses and before a jury upon which probably was not one democrat, upon which was not one man who could not take the test oath, and that jury acquitted those prisoners, and found that that evidence was false. And I state further, so far as the State of Louisiana is concerned, as to every investigation which has taken place before the courts, that the people of Louisiana have come to that pitch now, Mr. President, that they prefer to have these questions investigated before a packed jury in a Federal court rather than before a committee such as has been sent out recently, a partisan committee by the two Houses of Congress.

Mr. BLAINE. While the honorable Senator is on the floor——

Mr. JONAS. I think the fact is demonstrated that every charge made by the witnesses before that committee was false.

Mr. BLAINE. While the honorable Senator is on the floor, and is so ready to give information, will he please state what became of the witnesses who were mobbed and taken from a boat when on the way to court to testify?

Mr. JONAS. I saw that statement in a paper, but it was never substantiated.

Mr. BLAINE. I never knew before that it was denied.

Mr. JONAS. Those witnesses were supposed to come from the parish of Caddo——

Mr. BLAINE. I am perfectly willing to yield to the Senator for a question. I do not yield my time for a speech.

Mr. JONAS. I thought the Senator asked me a question, and I am giving an explanation. I saw that it was stated that those witnesses were brought from the parish of Caddo; that there were two colored men brought down who were taken from a boat. I say that the cases which were on trial from the parish of Caddo were cases of law only;

cases of the construction of a State law as to whether the commissioners, who were the only people indicted from the parish of Caddo, had properly interpreted the State election law or not, and there was no occasion for colored witnesses, and no occasion for witnesses at all, except those who were to interpret that law; and there has been no substantiation whatever of the report that two witnesses were taken from a steamboat and made away with.

Mr. TELLER. With the consent of the Senator from Maine——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I yield to the Senator from Colorado.

Mr. TELLER. The honorable Senator from Louisiana [Mr. JONAS] must have carelessly read the testimony before the committee, and probably did not hear the testimony before the jury at all. The facts with reference to those two witnesses were that they were subpœnaed by the United States court for the purpose of giving testimony with reference to the Caledonia affair, an occurrence that took place on the eve of the election at Caledonia, commencing before the election had closed. That is one of the cases in Louisiana where armed men appeared at the polls. There was some conflict of testimony as to the time when they came there. There is no conflict of testimony as to the fact that a large number of white men had arms in their hands before the polls closed. There is testimony, unquestioned and uncontradicted, that a number of persons were killed before the polls were closed, and the testimony shows that they hunted those people not only all that night but all the next day, and a deputy sheriff testified that he had made a report in which he estimated that twenty persons had been killed.

Mr. President, that is not the only case. There are a great many more cases in Louisiana where the testimony is unquestioned and uncontradicted that there were armed men at the polls and that men were slaughtered, and the governor in his message says that the troubles in Tensas Parish grew out of political matters. He makes that statement.

Mr. BLAINE. The logic of the honorable Senator from Louisiana, and I think to a large extent of the honorable Senator from South Carolina, amounts to this: here were ten or twelve or fifteen or twenty men murdered, their mangled remains found; testimony was adduced before a congressional committee showing the fact; six months after the Senator from Louisiana gets up and says Mr. A B was entirely cleared of that murder. He might have been, but that does not show that C D or E F or G H did not commit the murder. The whole of the logic of the Senator is like unto that by which the man was cleared from the charge of stealing a purse. There was only one man who saw him take the purse, and he produced a hundred who did not see him take it. That is the logic of the Senator. Bringing up some miscreant and clearing him of this crime does not show that the crime was not committed. And the governor acknowledged it, the governor of your choice acknowledged that great outrages had been committed in this parish and that murders had been committed by the wholesale.

Mr. JONAS. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I will for a question from the Senator. I do not yield for a speech.

Mr. JONAS. I only wanted to correct the Senator and to ask him to produce the evidence that the governor says anything of the kind.

Mr. BLAINE. Governor Nicholls.

Mr. JONAS. The governor said troubles had occurred in some of the parishes.

Mr. BLAINE. Does not Governor Nicholls acknowledge that there were men murdered in the parish of Tensas?

Mr. JONAS. Not for political reasons.

Mr. BLAINE. There is another qualification the Senator gets in.

Mr. JONAS. I deny that any one was murdered for political purposes.

Mr. BLAINE. The honorable Senator from South Carolina yesterday, in reference to the elections in Charleston County, advanced the novel theory—as I think he himself will conclude upon reflection—that the polling places had been made very far apart and very few in number in order that repeating might be prevented. Every other State in this country that has striven to prevent repeating has adopted the plan of having numerous polling places with a small area, with a strict registry, where every man entitled to vote at that particular poll should be personally known to the officers. That prevents repeating. That prevents it in the city of New York to a large extent.

Mr. BUTLER. Will my friend permit an interruption once more?

Mr. BLAINE. I yield to the Senator.

Mr. BUTLER. I want to say for his information when he refers to the laws of other States, the registration laws, &c., that in the constitution adopted by the republican convention on the reconstruction of South Carolina, in 1868, there was a provision that the Legislature should provide for the registration of the qualified voters of the State. I desire to inform the honorable Senator that the republican Legislatures of South Carolina from that time up to 1878 studiously avoided providing for that registration, for the express purpose of preventing that registration which the honorable Senator says is so common in other States.

Mr. BLAINE. Now, before I read, I wish to ask if the honorable Senator knows one James B. Campbell?

Mr. BUTLER. I know him very well.

Mr. BLAINE. Is he a reputable man?

Mr. BUTLER. Well, he is.

Mr. BLAINE. That is all I desired to know. Mr. Campbell says upon his oath, referring to the democratic Legislature:

> They reduced the number of precincts so that the voters (most of them poor and having to walk) would, in many instances, have to go twenty or forty miles to get to the polls.

Mr. BUTLER. Does Mr. Campbell state that?

Mr. BLAINE. He does state that under oath.

Mr. BUTLER. What Mr. Campbell?

Mr. BLAINE. Mr. James B. Campbell. I am reading his testimony *verbatim et literatim et punctuatim*. I will read it again:

> They reduced the number of precincts so that the voters (most of them poor and having to walk) would, in many instances, have to go twenty or forty miles to get to the polls.

Now, I will give you some more of Mr. Campbell's testimony:

> In my own county there was a very flagrant instance of that near Charleston, in one of the divisions of the county formerly known as Saint Andrew's Parish, which consisted of mainland and James Island, that is opposite Charleston. There were six precincts in the parish. They reduced them to one. They left one voting precinct on James Island, at Dill's Bluff, where there had been less votes taken than at any other of the precincts, showing that it was not populated very much, and could not be easily approached.

Mr. Campbell goes on to say:

> Well, I denounced this in the senate when I discovered it, (I discovered it accidentally,) and they immediately restored every one of the precincts on my motion, without any opposition.

Now I beg the attention of the honorable Senator from South Carolina:

> They immediately restored every one of the precincts on my motion, without any opposition.

Mr. Campbell proceeds further:

> Nobody said a word. A day or two afterward the bill came back from the house with these amendments rejected, and then it appeared that it was a part of the machinery. General Gary, representing the democratic committee at Charleston, appeared before the senate and announced that they desired to have the bill passed, whereupon they did pass it. I said I would go before the community and denounce the fraud, and I did that. General Gary said he did it at the instance of the chairman of the democratic committee of Charleston, a member of the house of representatives.
>
> Q. Was that Mr. Buist?
>
> A. Yes, sir.
>
> Q. Did you hear any discussion in the house on the bill?
>
> A. No, sir.
>
> Q. Do you know what reasons were given there for its support?
>
> A. I knew what reasons were given in the senate, and Mr. Buist stated them to me in person, saying that if they would pass that bill and Governor HAMPTON would appoint men as commissioners that they would name, that they would carry Charleston County. That was the reason.

Governor HAMPTON did appoint the commissioners that they named. I regret that he is not in his seat when I make that statement. I believe he did appoint the commissioners, and under the law of South Carolina, which required an impartial division between the two parties of the overseers of elections, or whatever their title may be, the republicans were not permitted to have a representation of a fair character on that board.

Mr. McDONALD and Mr. BUTLER addressed the Chair.

The PRESIDENT *pro tempore*. Does the Senator from Maine yield; and if so, to which Senator?

Mr. BLAINE. I yield to either or both of the Senators.

Mr. McDONALD. I say there is no such provision in the law of South Carolina.

Mr. BLAINE. There is not? I have got it here and I will read it for the honorable Senator's edification.

Mr. BUTLER. Mr. President——

Mr. BLAINE. In one moment; one at a time:

> It shall be the duty of the governor, and he is hereby authorized and empowered, at least sixty days prior to any such election, to appoint two boards of commissioners of election, consisting of three members each for each county; both political parties shall be represented. One shall be appointed and designated as commissioners of election for members of Congress and presidential electors; the other as commissioners of election for State and county officers.

That appears in evidence.

Mr. McDONALD. The boards of commissioners only are required by the statute of South Carolina to be so constituted.

The PRESIDENT *pro tempore*. Does the Senator from Maine yield to the Senator from Indiana?

Mr. BLAINE. Yes, sir.

Mr. McDONALD. The statute of South Carolina does not require the two parties to be represented in the judges of election.

Mr. BLAINE. It says that both political parties shall be represented.

Mr. McDONALD. Not in the judges of election.

Mr. BLAINE. Then I have the admission of the honorable Senator from Indiana that Governor HAMPTON did not appoint any except of one party. Is that what I understand? That he was not obliged to appoint from the other party?

Mr. McDONALD. In appointing the commissioners of the counties he did in every instance appoint one republican and two democrats.

Mr. TELLER. Oh, no!

Mr. BLAINE. The testimony is directly in the teeth of that statement.

Mr. BUTLER. Mr. President, that is another one of the Senator's statements.

Mr. BLAINE. That is the point the Senator from Indiana raised. If he is through I will hear the Senator from South Carolina.

Mr. BUTLER. I simply want to relieve the honorable Senator of some little trouble. I know personally the commissioners of election in Charleston County, and I undertake to say that one of them was a republican.

Mr. BLAINE. How many were there in all?

Mr. BUTLER. Three.

Mr. BLAINE. The testimony goes on to show here that a great many men who professed to be republicans, and were democrats in disguise, were appointed.

Mr. BUTLER. Mr. President——

Mr. BLAINE. That in that way nominal republicans were appointed, and that they thus got the whole of them on the democratic side.

Mr. BUTLER. Will the honorable Senator permit me to interrupt him?

The PRESIDENT *pro tempore*. Does the Senator from Maine yield to the Senator from South Carolina?

Mr. BLAINE. Yes, sir.

Mr. BUTLER. I merely want to give the honorable Senator a little more information. One of the commissioners of election was Colonel Montgomery who was for four years—I think I state correctly, certainly for two years—the presiding officer of the republican senate of South Carolina under the reconstruction laws. That man was one of the commissioners of election appointed by Governor HAMPTON at the last election.

Mr. BLAINE. Now I will give the honorable Senator some more information in regard to his own State. I will read some testimony on that point.

Mr. BUTLER. In reference to Mr. Montgomery?

Mr. BLAINE. No, not about him. I do not know anything about Mr. Montgomery?

Mr. BUTLER. But I do.

Mr. TELLER. Mr. President——

Mr. BLAINE. Nor do I know what particular point he has to do with this matter.

Mr. BUTLER. Mr. President——

The PRESIDENT *pro tempore*. Senators will cease. This dialogue is getting to be entirely disorderly. Does the Senator from Maine yield?

Mr. BLAINE. Does the honorable President mean that the Senator from Maine is in disorder?

The PRESIDENT *pro tempore*. No, sir; but I mean that this dialogue is not in order. If the Senator from Maine yields to the Senator from South Carolina he will let the Senator from South Carolina make his remarks and conclude. We have three Senators here on the floor at one moment.

Mr. BUTLER. I beg pardon if I have offended against any order of the Senate.

Mr. BLAINE. I was not doing it, I am very sure.

The PRESIDENT *pro tempore*. Does the Senator from Maine yield to the Senator from South Carolina.

Mr. BLAINE. As long as he chooses.

The PRESIDENT *pro tempore*. The Senator from South Carolina.

Mr. BUTLER. The honorable Senator I understand to charge that the statute law of South Carolina required that the commissioners should be appointed by the governor from each political party, and that Governor HAMPTON had not done that. That is what I understand to be the charge against Governor HAMPTON.

Mr. BLAINE. I did not charge anything against Governor HAMPTON. I charged that this testimony said that was so.

Mr. BUTLER. Ah!

Mr. BLAINE. Now, what does the Senator object to by that? Did I not state that the testimony in this book charged it? Do I profess any personal knowledge except the sworn testimony? Does the Senator understand me to profess any personal knowledge other than what I derive from this official report?

Mr. BUTLER. Mr. President, I did not understand the Senator to state that he got his information from that testimony.

Mr. BLAINE. I think I shall satisfy the Senator before I get through that I got it from this testimony.

Mr. BUTLER. I merely desired to satisfy the Senator on one point and to record the statement that one of the commissioners was a pronounced republican.

Mr. TELLER. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I yield to the Senator from Colorado.

Mr. TELLER. I should like to call attention——

The PRESIDENT *pro tempore*. The Chair will wait until he gets an answer.

Mr. BLAINE. I have three times advised the honorable President that I yielded to the Senator from Colorado.

The PRESIDENT *pro tempore*. The Chair had not heard it before.

Mr. TELLER. I desire to call the attention of the Senate to the character of republicans who were appointed on this commission or board. The honorable Senator from South Carolina says that Mr. Montgomery was a republican. At one time in his history he had acted with the republican party. At the last election he was not in sympathy with the republican party; it was understood that he did not vote their ticket; and he had no connection or sympathy with the party at all. It is in evidence by a democratic member of the board, Mr. White, who was chairman of the board, if I recollect, that this commission, composed as they say of two democrats and a republican, met and solemnly resolved that no republican manager of elections should be appointed at all. If that is not pretty good evidence that Mr. Montgomery was not a republican at that election, then I do not need any.

Mr. BUTLER. Mr. President——

Mr. BLAINE. One moment. I will just enlighten the Senator from South Carolina with a little more testimony.

Mr. BUTLER. I cannot be responsible for the character of the republicans in South Carolina.

Mr. BLAINE. I will just give a little testimony and I am only speaking from the testimony. I am not asked for my personal knowledge of the question. Here is the answer made by John L. West, a witness:

Question. Did you make any application in behalf of the republicans for an appointment of commissioners of election in the various counties? If so, state what you did, and the result of your application.

Answer—

Under oath—

I did make such application. By direction of the republican State executive committee, I corresponded with the county republican chairmen of each county in the State, requesting them to send to the State committee their choice as commissioners to represent them at the election. On the 4th day of September, I think that is the date, we had the list completed, and I took it down to the executive office to present it to Governor HAMPTON, through his private secretary. I was informed by his private secretary that the governor was absent, I think, at Cash's Valley. I was referred by him to General Kennedy, chairman of the democratic State executive committee. He said the appointments were discretionary with General Kennedy. I asked, "Does not the law require the governor to make these appointments?" He repeated that the matter was left discretionary with General Kennedy.

Q. Did you understand him to say that General Kennedy was to make the appointments, or was to recommend the appointments to the governor?

A. He said the appointments were discretionary with General Kennedy. I remember his exact words. Prior to seeing the secretary I had gone into the office of the secretary of state, and learned that during his absence they received and forwarded his mail; and I learned from the secretary's clerk that most of the commissions, if not all, had been made out for the commissioners. He showed me the list. I saw the list of republicans. I remonstrated against those appointments, stating that they were not representatives of our party. I told him that I held the only list. He said he had no voice in the matter. Subsequently, on asking of the private secretary from what source these recommendations came, I was told they came from the democratic committee.

Mr. BUTLER. Who testified that?

Mr. BLAINE. That is John L. West, testifying that the democratic committee recommended the appointment of republican commissioners. I will give the Senator a little more of the testimony.

Mr. BUTLER. Very good.

Mr. BLAINE. The question is asked:

The recommendations as to who should be the republican commissioners came from the democratic executive committee?

I do not know who asked this question. It might have been my honorable friend from Indiana, [Mr. MCDONALD,] who was surprised at that kind of performance. At any rate the question was asked, and the answer was:

Yes, sir. Of the thirty-two recommended by the republican executive committee there were but six or seven appointed. The others were appointed first, because HAMPTON had promised to appoint them before the list presented by us had been submitted.

Q. What was the character of the republican commissioners appointed, so far as you know?

A. So far as I could learn from correspondence with the chairmen of the different county committees, many were not republicans at all, were democrats; many who were not professed democrats were under democratic influence; many who were acknowledged republicans were illiterate.

There has been a great deal of talk about republicans having illiterate men to take charge of affairs in the South. In this case the few the democrats took who were unquestioned republicans, this colored man himself testifies, were so illiterate in many instances as to be unable to read or write, and consequently they were entirely unfit to represent any party in such a position.

Mr. BUTLER. Mr. President——

Mr. BLAINE. Wait a moment. I maintain that so far as the testimony goes it shows a deliberate and willful and systematic fraud upon the right of suffrage. On top of that, when these commissioners were entirely in the hands of one party, when the other party went to the polls those polls were surrounded. I have heard a good deal of talk on the democratic side about the cordon of bayonets around the polls. Up to this time testimony is lacking on the part of Senators who have seen those cordons of bayonets. The honorable Senator from Delaware [Mr. BAYARD] voted I think he said once between a line of bayonets, but I think he will remember that it was during the war, *flagrante bello*, when Delaware was at least a little under suspicion.

Mr. SAULSBURY. I beg the Senator's pardon, with permission of the Chair.

Mr. BLAINE. I was not referring to the honorable Senator now on the floor.

The PRESIDENT *pro tempore*. Will the Senator from Maine yield to the Senator from Delaware?

Mr. SAULSBURY. I know the Senator from Maine was not referring to me; but he made a reference to my State, and, as I understand, intimated that we were a little disloyal.

Mr. BLAINE. I did not say "a little."

Mr. SAULSBURY. I understood the Senator to make that accusa-

tion. I say that, so far as the people of Delaware were concerned, there was no obligation which they owed to this Government of the United States that they did not perform as cheerfully and as freely as any people in the United States. We paid every tax that was assessed upon us, we met every draft for troops——

Mr. BLAINE. I am not questioning the loyalty of Delaware. All I know is that Abraham Lincoln regarded it as a place where it would be safe at least to have a little watching done.

Mr. SAULSBURY. I do not know whether Abraham Lincoln or the Senator from Maine——

Mr. BLAINE. The Senator from Maine has nothing to do with it.

Mr. SAULSBURY. When imputations or accusations of disloyalty are made against my State, I repel them now. I know that the people of that State met every obligation. I lived in the State; I drew the resolution myself repelling the idea of secession from the Legislature of the State. I know as a citizen of the State what took place in that State, and I know that every accusation, emanate from where it may, which charges disloyalty upon the people of Delaware or unfaithfulness in her State organization to the Government under which they lived is neither true in fact nor in theory, I do not care where it emanates.

Mr. BLAINE. I do not desire any issue with the honorable Senator on that point. His colleague spoke of marching up through a cordon of bayonets to deposit his vote. All I desired to call attention to was that I think the honorable Senator will not state that he has done that since the war closed.

Mr. BUTLER. I have seen it done, if the honorable Senator will permit me to say so.

The PRESIDENT *pro tempore*. Does the Senator from Maine yield? The Chair begs to say to Senators that the rule is very explicit, that if a Senator desires to interrupt the Senator who is on the floor he must request the Chair to ask leave to do so, and the Chair submits the request to the Senator who has the floor whether he will be interrupted or not.

Mr. BLAINE. I will say once for all to the honorable President that Senators may interrupt me just as much as they please.

The PRESIDENT *pro tempore*. The Senator will suspend a moment. If the Senator who has the floor yields the floor to a Senator to make a remark he has no more right to interrupt that Senator than the Senator had to interrupt him, without that Senator's leave. If he yields to a mere question, that is another thing; but if he yields the floor to a Senator to make a speech in the midst of his own speech he has no more right to interrupt him without the leave of that Senator than the latter had to interrupt him without his leave.

Mr. BLAINE. The honorable President, however, will permit me to say that with some little observation in regard to presiding over deliberative assemblies, for a slight interruption the whole series of questions as, "Does the Senator yield" and "If the Senator does not yield does the other Senator yield" sometimes rather obstructs than facilitates the order of the body.

The PRESIDENT *pro tempore*. It certainly interrupts a spicy dialogue, but it does not interrupt the regular order of proceeding.

Mr. BLAINE. The rules do not contemplate that the presiding officer shall take part in a spicy dialogue.

Mr. President, there has been a great deal of chassezing, if I may use the phrase, around one particular historic fact about the use of the troops at the polls. There is my honorable friend from New Jersey [Mr. RANDOLPH] who delivered an elaborate speech the other day and summoned us to all the precedents of the past in the history of his patriotic and honored State. There was the honorable Senator from Maryland, I do not know whether he is in his seat, the junior Senator—yes, I see he is—who invoked the spirit of Charles Carroll in his eloquent remarks. Neither the Senator from New Jersey nor the Senator from Maryland, although they are the two of all others who should have called attention to this fact, ever thought of reading altogether the most flagrant violation of civil rights, if violation you choose to term it, that ever was attempted by soldiery. It was an order issued by a major-general of the United States Army to a general under his command. He is now the governor of New Jersey; and the Legislature that was dispersed under that order was the Legislature of Maryland. In citing the precedents both the Senator from New Jersey and the Senator from Maryland forgot to remember, or remembered to forget, that General George B. McClellan was the hero of that achievement.

Mr. RANDOLPH. May I answer the Senator?

Mr. BLAINE. Certainly, if the President will permit me.

Mr. RANDOLPH. The Senator from New Jersey, speaking for himself and not for the Senator from Maryland, has this to say: that he presumed that this enlightened body of Senators did not want to have repeated to them what had been already iterated and reiterated elsewhere upon this very subject. That was one reason.

Mr. BLAINE. That principle of exclusion might have taken a great deal more out of the Senator's speech.

Mr. RANDOLPH. There is another reason. When Governor McClellan, then General McClellan, issued the order that the Senator from Maine now speaks of, he was acting under the orders of a republican administration, and as a faithful and loyal soldier he did that which he was directed to do. It is only another evidence, Mr. President, of the necessity for having the military subordinated to the civil power, in my judgment. The fact that so good, and so faithful, and so loyal a man as Governor McClellan now is, and was then, so law-abiding a man as he, should have been constrained to the issue of that order, which I certainly never have indorsed, is only an illustration of the necessity of prescribing by law the proper rule which none shall be at liberty to violate.

Mr. BLAINE. On what authority does the Senator from New Jersey state that General McClellan issued this order by direction of any man superior to him?

Mr. RANDOLPH. Because he was under the direction, as the Senator from Maine knows, of the Commander-in-Chief of the Army.

Mr. BLAINE. Of course he was. He was under the direction of the Commander-in-Chief of the Army, and in that sense he never fought a battle, if the Senator carries out his logic. Upon what authority does the Senator from New Jersey state that in issuing that order General McClellan any more acted by specific direction of President Lincoln than when he fought the battle of Antietam?

Mr. RANDOLPH. I have stated that he did it under authority. Does the Senator from Maine deny that?

Mr. BLAINE. It is not for me to deny; it is for the Senator to substantiate.

Mr. RANDOLPH. I have asserted it.

Mr. BLAINE. It is for the Senator to substantiate a great public fact, and no private opinion of that kind will weigh against a public record.

Mr. RANDOLPH. I deny the right of the Senator from Maine or any other Senator on this floor to put in question my assertion.

Mr. BLAINE. Ah! the Senator cannot drift it off in that way. I asked him in regard to a great public act which he states was done by the authority of President Lincoln directing his commanding general. I ask him his authority, and then he asks me if I am questioning his veracity. The Senator cannot escape in that way. The question of personal veracity is not here; it is a question of great historic truth, and the Senator has no right to obtrude a question of personal veracity. That is not in the case.

Mr. RANDOLPH. I have made my statement.

Mr. BLAINE. Show the public record.

Mr. GROOME. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield?

Mr. BLAINE. I do.

Mr. GROOME. When I was summing up the outrages committed on the people of Maryland by the military arm of the General Government during the war I mentioned among the chief of them the arrest of the Maryland Legislature in 1861, an act which was utterly unjustifiable and for which there was no possible pretext, because before the arrest of that Legislature it had been proposed, upon a petition from Prince George's County, that an ordinance of secession should be passed by that Legislature, and upon the very day that the proposition came into the Legislature the committee on Federal relations reported against it, and by a vote of 53 to 13 it was decided that they had no authority to pass such an ordinance, indicating thereby in the plainest manner that there was no danger from any action of the Maryland Legislature looking to an attempt to sever the relations of the State of Maryland to our Union.

Mr. BLAINE. May I, with the permission of the Senator, ask him a question now?

Mr. GROOME. One single moment till I finish, sir. I want to say that so far as I am concerned (and I hope it is the view of every Senator on this floor) I denounce military usurpation just as strongly, just as firmly, just as determinedly, whether the usurper be a democrat or a republican. I stand upon the principle, and I stop not for one moment to inquire whether my blow, when I make my denunciation, falls on the head of an honored democrat or upon the head of a republican.

Mr. BLAINE. The Senator need not take up the afternoon. I yielded for a question.

Mr. GROOME. Well, I am done, sir.

Mr. BLAINE. Now, if the Senator will answer my question, can he state whether General McClellan knew that the Legislature had decided by 53 to 13 to remain loyal when he ordered its arrest and disbandment?

Mr. GROOME. I can only answer that it was a matter of public notoriety and general knowledge.

Mr. BLAINE. I noticed the other day in looking over the honorable Senator's speech—I may have done him injustice in not seeing that he referred to this—that he omitted to quote this while he quoted a great many other documents. I do not think he quoted the letter of General McClellan; I do not think any democratic Senator on this floor has quoted it, and lest injustice might be done to the honorable governor of New Jersey, of whom certainly I would not speak in any other than respectful terms, for personally our relations have always been kindly, I will read his letter:

HEADQUARTERS ARMY OF THE POTOMAC,
Washington, September 12, 1861.

GENERAL: After full consultation with the President, Secretaries of State, War, &c., it has been decided to effect the operation proposed for the 17th—

That rather looks as though General McClellan had "proposed it" in advance and entered subsequently into council with the Secretaries of War and State and the President. He goes on to say:

Arrangements have been made to have a Government steamer at Annapolis to receive the prisoners and carry them to their destination.

Some four or five of the chief men in the affair are to be arrested to-day. When they meet on the 17th you will please have everything prepared to arrest the whole party, and be sure that none escape.

How well General McClellan happened to know the democrats of the Maryland Legislature at that time; he was not going to trust one of them outside and at large.

It is understood that you arrange with General Dix and Governor Seward the *modus operandi*. It has been intimated to me that the meeting might take place on the 14th; please be prepared. I would be glad to have you advise me frequently of your arrangements in regard to this very important matter.

If it is successfully carried out it will go far toward breaking the back-bone of the rebellion. It would probably be well to have a special train quietly prepared to take prisoners to Annapolis.

The Legislature was then in session at Frederick.

I leave this exceedingly important affair to your tact and discretion and have but one thing to impress upon you—the absolute necessity of secrecy and success.

With the highest regard, I am, my dear general, your sincere friend,

GEO. B. McCLELLAN,
Major-General United States Army.

Mr. MORGAN. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine yield to the Senator from Alabama?

Mr. BLAINE. Certainly.

Mr. MORGAN. The date of the order the Senator has just read is September 12, 1861. I ask him to glance a few lines immediately above, on the same page of the same book, and see whether he will not find the following:

Secretary of War to General Banks.

WAR DEPARTMENT, *September* 11, 1861.

GENERAL: The passage of any act of secession by the Legislature of Maryland must be prevented. If necessary, all or any part of the members must be arrested. Exercise your own judgment as to the time and manner, but do the work effectually.

Very respectfully, your obedient servant,

SIMON CAMERON,
Secretary of War.

Mr. BLAINE. To whom was that addressed?

Mr. MORGAN. General Banks.

Mr. BLAINE. Not to General McClellan?

Mr. MORGAN. No.

Mr. BLAINE. You do not show any order to General McClellan.

Mr. MORGAN. It was an order to General Banks.

Mr. BLAINE. He was a subordinate. General McClellan seemed so anxious then to have a finger in the pie that he stepped in. This order went from the Secretary of War to General Banks. If General McClellan had not heartily approved and been anxious to get into it, he would not have stated what he did in his order. Does not the honorable Senator from Alabama see that?

Mr. MORGAN. I really do not.

Mr. BLAINE. He is the only Senator, then, who does not.

Mr. MORGAN. I think there are a great many who see it as I do, a great many who see it as the Senator from Maine refuses to see it, when he knew perfectly well that this was the authority under which General McClellan acted.

Mr. BLAINE. Will the honorable Senator from Alabama state that a private communication from the Secretary of War to a subordinate brigadier was the authority on which the major-general commanding the Army acted?

Mr. MORGAN. In the letter the Senator from Maine read General McClellan says that after full consultation with the President, the Secretaries of State, War, &c., it had been "decided to effect the operation proposed for the 17th?"

Mr. BLAINE. Yes.

Mr. RANDOLPH. Now, may I ask the Senator from Maine a question?

Mr. BLAINE. Of course.

Mr. RANDOLPH. I should like to know whether the Senator from Maine cannot find in the opening sentence of the letter of General McClellan a full answer to the question he asked me a little while ago as to where this authority came from?

Mr. BLAINE. I cannot.

Mr. RANDOLPH. You cannot?

Mr. BLAINE. No, and I will read it again to show why you cannot. He says:

After full consultation with the President, Secretaries of State, War, &c., it has been decided to effect the operation proposed for the 17th.

He is writing to General Banks. Perhaps he and General McClellan had been talking about it, and General McClellan, probably wanting his back stiffened a little, carried the question to the White House, and there had the consultation. But the honorable Senator from New Jersey will not say that that proves that McClellan received the order or that he did not originate it.

But I do not intend to be further diverted. The question I rose to discuss was this: If Senators intend in good faith that the bayonet shall not be present at the ballot-box, that the bowie-knife shall not be present at the ballot-box, that the revolver and shot-gun shall not be present at the ballot-box, let them say so. If you do not say so, the people of the United States will understand that you want to warn the Government of the United States off the ground where a Federal election is being held, and that the power of the United States being warned off, you will take care, as was taken care last year in South Carolina, by violence and threats and weapons and blood, to see that the democratic party carries the election. If you mean to have a peaceful election, say that no man shall go near those polls with shot-gun, revolver, or bowie-knife. Do not say that the United States alone, the party alone competent to keep the peace, shall not be there, but that every bloody-minded ruffian who wishes to assault an innocent and honest voter shall have free and absolute liberty to do as he chooses.

Mr. President, I was struck yesterday with the speech of the honorable Senator from Illinois, [Mr. DAVIS,] whom I do not now see in his seat. I was struck by the graceful manner in which he poised first on one side and then on the other, and at the very remarkable exactness with which he finally lighted on the democratic side of the fence. I sincerely wish the honorable Senator were here, I should like to ask him a question. He says that we should stop all this agitation—that, I suppose, was addressed to the democrats, for the republicans did not begin it. He says we should stop all this and attend to something for the relief of the country. The honorable Senator has been here now for over two years; this is his third year. What bill has he proposed for the relief of the country? What Senator is listened to with more respect than he is? What Senator can command the attention of the Senate more than he? And when he tells us to stop all this and go to work legislating for the good of the country, we are waiting to hear what the honorable Senator proposes. But I deny to him—I again sincerely regret he is not here that I could deny it before him—I deny to him the right to carry the traditions and the fame and the glory and the grandeur of Abraham Lincoln into the democratic camp. He may go there himself; he may sit on the side of the Chamber where he is the only man who gave Mr. Lincoln a support, but he cannot carry Mr. Lincoln's principles, or his great fame, with him. Had Mr. Lincoln lived, as the honorable Senator was saying yesterday, some things might have happened and other things might not have happened. But I can tell him of the things that might have happened that would most have surprised Mr. Lincoln would have been a Senator on this floor elected by the democratic party of Illinois over a Union general who was a republican and coming here with that record behind him to represent the principles of Abraham Lincoln! No, sir, the honorable Senator has the right to go where he pleases and when he pleases; he has the right to address to the living what arguments he chooses and whatever he may think proper; but he has no right, with the record of the great man of these last ten centuries made up into history, to drag him into the mire of the party to which, in all the mutations of American politics, Abraham Lincoln was opposed to the death.

COMMITTEE SERVICE.

Mr. WALLACE. I ask that the vacancies upon the Committees on Military Affairs, Mines and Mining, and Transportation Routes to the Seaboard, be filled by the Chair.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks leave to submit a motion at this time that the vacancies in the committees he has designated may be filled by the Chair. Is there objection? The Chair hears none. The Senate has heard the motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Chair appoints the Senator from South Carolina [Mr. HAMPTON] to fill the vacancies on the several committees named.

Mr. HAMLIN. Mr. President, I move that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 23, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SMOKING IN THE HALL.

The SPEAKER. The Chair desires to have read the latter clause of Rule 65.

The Clerk read as follows:

Smoking is prohibited within the bar of the House or gallery.

The SPEAKER. The Chair has thus far refrained from directing the attention of members of the House to this subject, in the hope that without being reminded of the rule they would see the necessity of abstaining from smoking in the Hall of the House; but to-day the Chair has been requested not to delay any longer to remind members of the existence of this rule. Those who do not smoke complain that members smoke in their seats on the floor. The Sergeant-at-Arms and his deputies will hereafter notify gentlemen who are seen smoking in the Hall that it is in violation of the rules.

PERSONAL EXPLANATION.

Mr. OSCAR TURNER. Mr. Speaker, in the New York Herald of the 19th of April last, there appears a letter from their correspondent dated 18th of April, purporting to give an account of the debate in the House of Representatives on that day, in which he says "Mr. TURNER, a Kentucky democrat, arose several times and shook his fist at Mr. McKINLEY and Mr. BURROWS," and makes still further severe

comments upon the action of "Mr. TURNER" in interrupting Mr. MCKINLEY and Mr. BURROWS, members of this House, which I do not care to repeat and make part of the record. Now, I desire to say that I was not present during the remarks of either Mr. MCKINLEY or Mr. BURROWS, being in a committee-room, and I did not interrupt either of them in any way whatever, as both of these gentlemen know. My relations with members of this House have always been pleasant during the short time I have been here. I have never violated parliamentary usage and that courtesy which exists among gentlemen, in my life, and I do not wish to be placed in a false position before the country. I should not have noticed the letter, but it was shown to me by some friends, who thought it referred to me. If the correspondent alluded to my colleague, Mr. THOMAS TURNER, who is in his seat and who is a "democrat from Kentucky," he ought to have said so; and I hope he will correct his reference. I hope that hereafter he and other reporters will remember that there are two "TURNERS" from Kentucky, both democrats, and will do me the favor to designate which they refer to by name. [Laughter.] Mr. Speaker, I should not have referred to this matter at all but for the fact that the article to which I have referred has been copied in Saint Louis papers, which are papers of importance, and circulate all over my district and State. These papers have been sent to me by friends, inquiring what circumstances of an unusual character had occurred to so excite me. I owe an apology to the House for thus consuming its time.

Mr. THOMAS TURNER. Mr. Speaker, the action of my respected colleague and kinsman makes it incumbent on me to rise to a question of personal privilege for the first time, which otherwise I should not have done. Let me assure him that nothing that such correspondents say of us can injure us where we or they are known.

I am the "Mr. TURNER" alluded to in the correspondence to which my colleague has referred. It reads thus:

> The House was tolerably disorderly to-day; but it was noticed that Mr. CONGER, the eminent Michigander, was refreshingly quiet. Mr. TURNER, a Kentucky democrat, took his place, but could not fill it. He arose several times and shook his fist at Mr. MCKINLEY and Mr. BURROWS, and howled.

I also find in the Saint Louis Globe-Democrat of the 19th instant that the special correspondent of that paper uses this language:

> Mr. TURNER, of Kentucky, who had been shaking his long arm and brawny fist, shouted, "You are a damned liar," in response to something uttered by Mr. BURROWS, of Michigan.

And the same issue of the Globe-Democrat contains a lying editorial based on the communication of its correspondent, written I suppose by its shaved-head culprit editor fresh from the jail where he was recently confined for defrauding the Government. [Laughter and applause.]

Mr. Speaker, it is utterly untrue that I shook my fist at either Mr. MCKINLEY, of Ohio, or Mr. BURROWS, of Michigan, or any one else at any time.

The plain unvarnished facts are these: The member from Ohio, [Mr. MCKINLEY,] in quoting from a speech of my colleague, Mr. BLACKBURN, stopped in the middle of a sentence, and when asked by Mr. BLACKBURN, who was presiding over the committee, to read the balance of the sentence, so as to show its true meaning, declined to do so, saying he had not the speech before him. Mr. BLACKBURN then proposed to furnish the speech, and sent it by a page to the member from Ohio, with pencil-marks indicating the part of the sentence omitted, and the member from Ohio declined to read the balance of the sentence, and afterward, when castigated by Mr. BLACKBURN for his unfairness, attempted to exonerate himself by saying he had read all that was in the printed extract before him; and at this point I, in that earnest and emphatic manner which is a part of my nature and which I cannot repress, [laughter,] asked him, if he meant fairness, why, when he made and printed the extract, he had not excerpted the whole sentence.

I understood the member from Michigan [Mr. BURROWS] to say in his speech that all the democratic members were traitors and conspiring to overturn the Government. I hope that in the noise and confusion I misheard him. I was a Union man in a section where to be such was not the road to Government contracts or political preferment, but entailed poverty and the sacrifice of public position. When, shortly after, the member from Michigan asked the unanimous consent of the House to continue his remarks beyond his allotted time I objected, and supported that objection by a statement that one who had indulged in such language was not entitled to the courtesy of the democrats of the House or of the country. I stand by what I said and am responsible for it here or elsewhere. [Laughter.] I did not say the member from Michigan was a "liar" or a "damned liar." I have too high a regard for personal and parliamentary amenities and decorum to indulge in such language. The correspondent who wrote this was trying to promote the member from Michigan, and had *not* honor and moral sense enough to understand that he was placing that member in a more unenviable light than he was me—in the position of having been publicly denounced as a "damned liar" and tamely submitting to it. I would rather have been the denouncer than the poltroon who would submit to it—if it had occurred. [Laughter.]

Besides this, during the last session the correspondent of the New York Tribune stated that I was intoxicated on the floor of the House. No correspondent, or man, or woman ever saw me intoxicated on the floor of the House or elsewhere. At the time that charge was made I had not seen or tasted a drop of spirits for three days, [laughter,] and was not aware that any could be obtained within the walls of the Capitol. [Renewed laughter.] Some other correspondent charged me with shaking my fist in the face of the member from Pennsylvania, [General WHITE.] This was not true. In the midst of an exciting debate, when many members were addressing the Chair at once and the presiding officer had ordered them all to take their seats, and the member from Pennsylvania and others did not obey the order, but kept on speaking, although not entitled to the floor, I advanced near to the Speaker's stand and General WHITE, and in an emphatic manner demanded that the Speaker restore order; that he should call the Sergeant-at-Arms and cause him to compel those out of order to obey him and take their seats. And I succeeded in having this done. The gentleman from Pennsylvania and I are and were good friends; and he will bear witness that I did not shake my fist at him or menace him, [laughter,] but was in a perfectly good humor, though determined to have order restored.

It perhaps would have been better if the framers of the Constitution had confided the selection of members of Congress to these correspondents and to the owners of the venal sheets they represent than to the people; but as that has not been done these correspondents and their employers must "accept the situation." [Laughter.]

None of these correspondents have any personal motives to slander me; and if they have erred unintentionally and are gentlemen, they will make the *amende*. But if the force of habit disables them from refraining from falsehood, [laughter,] or if they are required by their employers to lie and their pay is graduated and increased according to the scale of their mendacity, [renewed laughter,] it may become necessary in order to protect the members and the respectable correspondents, and most of them are gentlemen of culture, intelligence, and veracity, that we should deny the privilege of the reporters' gallery to these hired political Hessians and slanderers who have thus attacked the members of this House without regard to truth. [Laughter and applause.]

REVOLUTIONARY PENSIONS COMMITTEE.

Mr. WHITEAKER, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts;

Resolved, That the Committee on Revolutionary Pensions and the War of 1812 be allowed a clerk during the sessions of this Congress to be paid out of the contingent fund of the House at the same rate paid other committee clerks.

COMMITTEE ON MANUFACTURES.

Mr. WISE, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

> Whereas the chairman of the Committee on Agriculture certifies that his committee will require the services of the clerk appointed by him all the time and that he will have no time to devote to the Committees on Manufactures and Militia; Therefore,
>
> *Resolved*, That the House authorize the chairman of said committee to select a clerk and that he receive the same per diem pay as the clerks allowed by the Committee of Accounts out of the contingent fund of the House.

NEGRO EXODUS.

Mr. HASKELL. Mr. Speaker, I hold in my hand a communication from the governor of my State in reference to the late negro exodus from the South, giving a few facts as to their condition, and I ask unanimous consent of the House that it be read at the Clerk's desk and be referred for the information of the Committee on Appropriations to be taken into consideration in connection with the bill on that subject presented the other day by the gentleman from Ohio, [Mr. GARFIELD.]

The SPEAKER. Is there objection?

Mr. COX. Yes; I object.

CLAIMS BEFORE 1861.

Mr. VANCE. Mr. Speaker, I was unable to be present on Monday last on account of illness, and I now ask by unanimous consent to present some bills for reference.

There was no objection.

Mr. VANCE, by unanimous consent, introduced a bill (H. R. No. 1344) to repeal section 3480 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ILLICIT DISTILLATION.

Mr. VANCE also, by unanimous consent, introduced a bill (H. R. No. 1345) to authorize the circuit and district judges of the United States courts to fine and imprison at discretion in case of conviction for illicit distillation in lieu of the punishment now required by law, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TAX ON STATE BANKS.

Mr. VANCE also, by unanimous consent, introduced a bill (H. R. No. 1346) to repeal so much of the internal-revenue law as requires persons in State banking associations to pay a tax of 10 per cent. on the circulating issue of any State bank, and to punish national banks for accepting a usurious rate of interest; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

EDWARD KOLB.

Mr. VANCE also, by unanimous consent, introduced a bill (H. R. No. 1347) for the relief of Edward Kolb, of Washington City, Dis-

trict of Columbia; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SIOUX CITY AND PEMBINA RAILROAD COMPANY.

Mr. BENNETT, by unanimous consent, introduced a bill (H. R. No. 1348) granting right of way and depot grounds to the Sioux City and Pembina Railroad Company through the public lands of the United States from Beloit, in the State of Iowa, to the Missouri River, in the Territory of Dakota, at or near the mouth of White River; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ADMISSION TO THE FLOOR.

Mr. FARR. Mr. Speaker, I ask by unanimous consent that the speaker of the house of representatives of the State of New Hampshire be admitted to the floor during the remainder of this week.

There was no objection, and it was ordered accordingly.

MORNING HOUR.

Mr. DUNNELL. I now demand the regular order of business.

The SPEAKER. The regular order of business is the morning hour, which begins at thirty minutes after twelve o'clock m., and the call of committees for reports rests with the Committee on Appropriations.

NATIONAL LAFAYETTE AND BANK OF COMMERCE OF CINCINNATI, OHIO.

Mr. BUCKNER, from the Committee on Banking and Currency, reported back a bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio, with the recommendation that it do pass.

The bill, which was read, provides that the name of the National Bank of Commerce of Cincinnati, Ohio, located in the city of Cincinnati, in the county of Hamilton and State of Ohio, shall be changed to the National Lafayette and Bank of Commerce of Cincinnati, Ohio, whenever the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of said resolution, duly authenticated, to be filed with the Comptroller of the Currency, provided that such acceptance be made within nine months after the passage of the act, and that all expenses incident to such change, including engraving, shall be borne and paid by said bank.

The second section provides that all the debts, demands, liabilities, rights, privileges, and powers of the National Bank of Commerce of Cincinnati, Ohio, shall devolve upon and inure to the National Lafayette and Bank of Commerce of Cincinnati, Ohio, whenever such change of name is effected.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BUCKNER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CRAVENS. If the call of committees has been gone through with, then I desire to offer a resolution in reference to civil-service reform.

The SPEAKER. The call of committees has not been concluded.

Mr. CRAVENS. I ask unanimous consent at this time, then, to submit some resolutions.

The SPEAKER. That cannot be done at the present time.

DEPOSIT OF COIN IN THE TREASURY.

Mr. WARNER, from the Committee on Coinage, Weights, and Measures, reported back a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and the deposit of coin and bullion in the Treasury for certificates, with the recommendation that the bill be printed so as to show the words intended to be stricken out and the words intended to be added, and then that the bill be recommitted.

The SPEAKER. The Chair hears no objection, and the bill will be reprinted as indicated by the gentleman from Ohio and recommitted to the Committee on Coinage, Weights, and Measures, not to come back on a motion to reconsider.

DEPRESSED CONDITION OF LABOR COMMITTEE.

Mr. WRIGHT. Mr. Speaker, I have been directed by the select committee to inquire into the causes of the present depression of labor to submit the following resolution.

The Clerk read as follows:

Resolved, That the select committee to inquire into the causes of the present depression of labor be permitted to sit during the recess of Congress, and that they be allowed to subpœna and examine witnesses; and that to defray necessary expenses incurred, the sum of $3,000, or so much thereof as may be necessary, is hereby appropriated out of the contingent fund of the House of Representatives.

Mr. CONGER. That should go to the Committee of the Whole.

The SPEAKER. The gentleman from Michigan submits a point of order that this makes an appropriation and should have its first consideration in the Committee of the Whole.

Mr. WRIGHT. Mr. Speaker, it is an ordinary resolution from the committee having charge of this special subject.

The SPEAKER. The proposition then is to pay out of the contingent fund of the House. The resolution does not appropriate the money, as the money is already appropriated subject to the order of the House.

Mr. CONGER. It gives this committee leave to sit during the vacation and confers upon that committee additional power. I suppose it is open to objection.

The SPEAKER. It comes in here properly as a report from the committee on the regular call of committees. Does the gentleman make further objection?

Mr. CONGER. I have nothing further to say.

The SPEAKER. This comes regularly as a report from the committee and the question is on the adoption of the resolution.

Mr. WILSON. Let the resolution be read again.

The resolution was again read.

Mr. CONGER. I thought this was a simple resolution and when it was read I was misled as it did not appear that it came in as a report from any committee.

The SPEAKER. The Chair suggests that the resolution should state "to be paid out of the contingent fund of the House."

Mr. WRIGHT. Let it be so modified.

Mr. McCOOK. Let me ask, Mr. Speaker, whether an appropriation was made to pay the expenses of such an investigation in a former House?

The SPEAKER. The expenses of that committee were provided for in the appropriation bill.

Mr. McCOOK. Perhaps the Chair is correct.

The SPEAKER. The Chair is under the impression that the payment of witnesses and other expenses of that committee were provided for in the sundry civil appropriation bill.

Mr. McCOOK. If so, I see no necessity, then, for an appropriation now.

The SPEAKER. The probability is that amount has been exhausted.

Mr. RICE. I think there was no appropriation made.

Mr. COX. Has any report been made by that committee?

Mr. RICE. I think there was no appropriation made, but the committee was authorized to sit during the recess.

The SPEAKER. The Clerk estimated for the expenses of that committee, and the amount was embraced in the appropriation for the contingent fund of the House. The contingent fund was increased to an amount necessary to cover the expenses of that committee.

Mr. CONGER. I ask the gentleman from Pennsylvania whether the testimony taken by the previous committee has yet been printed?

Mr. RICE. The testimony taken before the last committee has been printed.

Mr. CONGER. Has any report been made by that committee?

The SPEAKER. The Chair is advised that the testimony has been printed. The gentleman from New York [Mr. Hewitt] of the last Congress was allowed the privilege of filing the report. Whether it has been filed or not the Chair is unable to say.

Mr. BAKER. I desire to ask the gentleman from Pennsylvania a question.

Mr. COX. Was any appropriation made for printing that report?

The SPEAKER. It came out of the general appropriation for printing.

Mr. BAKER. If the gentleman will permit me I should like to know what necessity exists at this time to authorize this committee to sit during the recess. It seems to me that question had better come up at the close of the session rather than now. Then the House will be able to determine whether or not there is any occasion for it.

Mr. WRIGHT. I can answer the gentleman. If there has been a committee appointed by this House intrusted with the consideration of any subject worthy of investigation that is the one provided for in the pending resolution. In order to examine into the whole matter it becomes necessary there should be witnesses called and the opinions of men taken with regard to the causes of the distress and depression of labor in this country at this time. This is a very small sum, not much larger than we pay a clerk appointed to a committee or a man in the employment of the House. It is always the case whenever there is a motion made here or an offer to do something in the way of inquiry in regard to the distress of the country, opposition is made to it. This morning you could pass a bill to change the name of a national bank; that is sacred; but when we follow that with a resolution to bring witnesses before my committee to make examination into the subject of the distress and depression of labor in the country it is met at the threshold with opposition. I tell you, sir, t is wrong, that there is an attempt to suppress an inquiry into the business affairs of this country as far as they affect this question. If it does not take the $3,000 I can tell the gentleman that fund will be carefully taken care of. There is no speculation in it, but it is for an honest purpose. It is right and proper that the inquiry into that important matter should be made, and I insist upon the passage of the resolution.

Mr. BAKER. Will the gentleman allow me to ask him another question?

Mr. WRIGHT. Yes, sir.

Mr. BAKER. My question is whether or not if the House authorizes this committee like the wandering Jew to travel all over this land this sum of $3,000 will be sufficient, or whether it is just the first drop in the bucket that they will be holding out to the Treasury to be filled in order to meet their wants.

Mr. WRIGHT. Well sir, if we have a wandering Jew who can fer-

ret out this great and important question in a way that will have a tendency to relieve the sufferings of the laboring-men of the country, the time has come to commission that wandering Jew to see if it cannot be ascertained how it is and why it is the laboring-men of this country are undergoing the trials and tribulations they are undergoing at this moment.

Mr. BAKER. I wish to say I have no objection to the gentleman going on his wanderings, but I should regret very much that we should miss the genial countenance of my friend from Pennsylvania and those of the other members of his committee during the session of Congress. I trust they will remain with us and prosecute their labors, and when we are near the close of this session of Congress——

Mr. WILSON. What objection have you to giving this authority now?

Mr. BAKER. We do not know it may be necessary. The committee may accomplish all they desire without traveling over the country. And if when the session is near its close we find it is necessary to send this committee over the country, I trust I will be found as willing as any one that the light of their countenances should beam over all parts of the country.

Mr. WRIGHT. I desire to ask the gentleman from Indiana a question. When does he suppose that the present session of this Congress will end? And let me ask him another question.

Mr. BAKER. One at a time. Let me answer your first question.

Mr. WRIGHT. I ask him if he supposes there will be in this session a single act passed that will benefit the country?

Mr. FORT. The gentleman from Pennsylvania asks when this session will end. As soon as this House passes the appropriation bills it can adjourn.

Mr. BAKER. I believe there is no need of our being in session more than forty-eight hours if that side of the House will attend to the business for which they were brought here. But if they go on as they have been going on, I apprehend the period during which under the Constitution we can sit here will expire before we disperse without anything being accomplished to relieve the depression of labor.

Mr. WRIGHT. Let me say to the gentleman that this session of Congress should never have been called; and since it has been it is merely for the passage of laws that benefit a class, and a class only.

Mr. BAKER. Does the gentleman from Pennsylvania believe there is no need of appropriations to carry on the great Departments of the Government? Is that what he means?

Mr. WRIGHT. To carry on the Departments of the Government?

Mr. BAKER. I understood the gentleman to say there was no need of our being called together. And yet the last Congress left the Government in a condition that, if this Congress had not been called together and if the necessary laws are not enacted by the present Congress, it would perish for means of support. And yet he says there was no need of the extra session of Congress.

Mr. HEILMAN. It seems to me that this is a proposition to rob the Government of $3,000. I hope my friend from Pennsylvania will have the good sense to let the financial question alone. The thing is regulating itself very fast. I can say that the business of the West, manufacturing interests and all, is improving rapidly; and if Congress will let the financial question alone it will regulate itself. [Applause.]

Mr. DUNNELL. I hope there will be no serious objection to the passage of the resolution reported by the gentleman from Pennsylvania. The amount of money asked for is very small. The depression of labor in this country has been serious and long-continued. I am not very certain that any light will be discovered by the committee; but I certainly hope that this side of the House will not object to the appropriation of that small sum of money, and that we will have a report. Let me express the hope that this committee, when thus authorized to investigate, will have force enough in itself to give us a written report. The committee of last year did not do itself or the House justice, by failing to report the result of its investigations. The gentleman from Pennsylvania will assure this House, I have no doubt, that he will give a report.

Mr. WRIGHT. Certainly I will.

Mr. DUNNELL. That is what I want, and I hope there will be no objection to the resolution.

Mr. WRIGHT. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. MONEY. I ask that the resolution may be again read.

The resolution was again read.

Mr. RICE. I desire to make a brief explanation in response to the remarks of the gentleman from Minnesota.

The SPEAKER. The previous question has been ordered. But if there be no objection the gentleman from Massachusetts will be permitted to make a brief explanation.

There was no objection.

Mr. RICE. I was a member of the committee of the last Congress to inquire into the causes of the depression of labor, of which Mr. Hewitt, of New York, was chairman. I think there was no appropriation made for the expenses of that committee. They were paid, however, from the contingent fund of the House the expenses actually incurred. The testimony was reported to the House. The chairman of the committee had so many other engagements on the Committee on Appropriations that he was unable to complete the very thorough report which was under preparation. He obtained permission to complete that report and have it printed with the testimony; and when that report is finished I believe that the member from Minnesota will have no occasion to complain that the duty of the committee has not been faithfully and fully performed.

Mr. DUNNELL. I am glad the gentleman from Massachusetts has had the opportunity of saying this much. I was, perhaps, too severe in my language, not remembering for a moment that the gentleman from New York [Mr. Hewitt] who was chairman of this committee in the last Congress had great labors imposed upon him as a member of the Committee on Appropriations.

The SPEAKER. The Chair will state that the expenses of the committee were paid out of the contingent fund of the House.

Mr. COX. The House refused to pay the expenses of the committee when the matter was brought before the House; and I wish that the whole matter could be stopped. It does not do any good.

Mr. PRICE. Not a bit of good.

The SPEAKER. Nevertheless, the witnesses were paid out of the contingent fund.

The question was put upon the adoption of the resolution; and on a division there were—ayes 95, noes 54.

Mr. VAN VOORHIS. I ask for the yeas and nays.

The yeas and nays were not ordered, only fifteen members voting therefor.

The resolution was agreed to.

Mr. WRIGHT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The call of committees for reports having now been concluded, the unfinished business pending before the House will be taken up. The Clerk will read the first resolution pending.

DISTRIBUTION OF DOCUMENTS.

The Clerk read the resolution presented by Mr. GARFIELD on the 19th of March, as follows:

Resolved, That the House documents of the Forty-fifth Congress not yet distributed be delivered to members of the present House.

Mr. DUNNELL. I offer the following as a substitute for the pending resolution:

Resolved, That the books and documents hereafter received in the folding-room of the House of Representatives be placed to the credit of the present members of the House with the following exceptions: One book or document of each kind shall be subject to the order of the members of the last House, and all bound volumes of the CONGRESSIONAL RECORD of the Forty-fifth Congress, all the memorial addresses except one on the life and character of the late members of the Forty-fifth Congress, and also those except one on the life and character of Professor Henry, shall be subject to the order of the members of the last House.

I trust that the substitute which I have just presented will meet the views of the House. I have shown it to some gentlemen who objected to it when it was first introduced, and on a more careful reading they are satisfied that it does justice to members of the last House while it substantially gives all books hereafter to be put into the folding-room of the House of Representatives to be subject to the order of members of the present Congress. I hope there will be no objection to it, and I ask for its adoption.

Mr. THOMPSON. The gentleman from Minnesota [Mr. DUNNELL] submitted this amendment to several gentlemen on this side of the House, and after a consultation among members those interested in this matter have agreed to accept it. We think that the retired members ought to have some of the books, and this resolution will give them only what is their right; therefore we accept it, and I hope there will be no opposition to the amendment.

Mr. VOORHIS. I would suggest to the gentleman that the books which have been given to those members who have gone out of office have been put into the market, and it appears to me that the proposition of the gentleman from Minnesota [Mr. DUNNELL] is to put all the documents now in the folding-room of the House of Representatives into the market instead of giving them to the people of those districts to which the members belonged.

Mr. DUNNELL. It is hardly fair to assume that the last Congress was less virtuous than this House, or that this Congress will be better than its predecessors.

The question was taken; and on a division there were—ayes 96, noes not counted.

So the amendment was agreed to.

The resolution, as amended, was then adopted.

Mr. DUNNELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF A DOCUMENT.

The Clerk read the next resolution, offered by Mr. PRICE on the 27th of March, as follows:

Resolved, That there be printed 5,000 copies of public act No. 90, third session, Forty-fifth Congress, entitled "An act making appropriations for the payment of arrears of pensions," approved January 25, 1879.

The question was taken, and the resolution was agreed to.

Mr. PRICE moved to reconsider the vote by which the resolution

was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The next business in order during the morning hour is the call of States and Territories for resolutions under Rule 52.

TREATY WITH FRANCE.

Mr. FERNANDO WOOD. I offer the following resolution:

Resolved, That the President be respectfully requested to consider the expediency of entering into a convention with the government of France for the negotiation of a treaty which shall secure a more equal interchange of the products and manufactures of each country and serve to cement closer relations of amity, trade, and commerce.

Unless some one desires to discuss the resolution, I call the previous question.

The previous question was seconded and the main question ordered, and under the operation thereof the resolution was agreed to—ayes 82, noes not counted.

Mr. FERNANDO WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL ACADEMY.

Mr. WILSON submitted the following resolution, upon which he called the previous question:

Resolved, That the Secretary of the Navy be requested to report to this House the condition of the Naval Academy as it regards the probable number of midshipmen who will enter the Navy during the present year; the entire number of midshipmen in the Navy, whether or not the number is sufficient for the service; and his opinion as to whether or not the presidential power of appointment of cadets should be restored.

The question was taken upon seconding the previous question; and upon a division there were—ayes 34, noes 15.

No further count being called for, the previous question was seconded and the main question ordered.

Mr. WILSON. By unanimous consent I will strike out so much of the resolution as calls for the opinion of the Secretary of the Navy as to whether the presidential power of appointment should be restored. I desire simply to ascertain the condition of the Naval Academy.

There was no objection, and the resolution was modified accordingly.

The question was taken upon agreeing to the resolution as modified; and upon a division there were—ayes 31, noes 66.

No further count being called for, the resolution was not agreed to.

Mr. WILSON. I do not know whether it is in order, but if it is I desire to offer another resolution.

The SPEAKER. That is not in order. The Chair will read the proviso to Rule 52:

Provided, That no member shall offer more than one resolution, or one series of resolutions, all relating to the same subject, until all the States and Territories shall have been called.

The Chair is advised that the practice which has heretofore prevailed has been to allow a member the privilege of offering but one resolution at a time, as this call is rarely ever reached.

Mr. WILSON. That is very acceptable to me. I will ask unanimous consent that the resolution I offered be referred to the Committee on Naval Affairs.

There was no objection, and the resolution was referred accordingly.

ROBERT T. BLAYLOCK.

Mr. VANCE submitted the following resolution; which was referred to the Committee on Reform in the Civil Service:

Resolved, That the Clerk of the House of Representatives be directed to pay out of the contingent fund of the House of Representatives one month's pay to Robert T. Blaylock, a page in the House in the Forty-fifth Congress.

AN ADDITIONAL PAGE OF THE HOUSE.

Mr. STEPHENS submitted the following resolution:

Resolved, That the Doorkeeper of the House be authorized to employ an additional House page on the floor to be paid out of the contingent fund of the House for this session, making the number of pages twenty-nine instead of twenty-eight.

The question was upon the adoption of the resolution.

Mr. STEPHENS. Allow me one word in regard to this resolution. During the last Congress the Doorkeeper of the House was authorized to employ one additional page. The number allowed by law is twenty-eight. In the appropriation bill for the next fiscal year the number is fixed at twenty-nine. This little boy is now on the floor of the House serving as a page, and I ask that during this session he may be paid out of the contingent fund of the House. Hereafter the number of pages will be twenty-nine.

Mr. BAKER. With all respect for the gentleman from Georgia, I would suggest that this resolution should go to the Committee of Accounts.

Mr. STEPHENS. I have no objection to that if the House desires it; but I think the resolution had better be passed now.

Mr. BAKER. No harm will come of sending the resolution to the Committee of Accounts.

Mr. STEPHENS. I would rather that question would be submitted to the House.

Mr. BAKER. It would have to go over if I desired to debate it.

The SPEAKER. Not necessarily, if the gentleman from Georgia demands the previous question.

Mr. BAKER. As I was on the floor objecting to the resolution, I have a right to debate it, as I understand the rule.

The SPEAKER. Did the gentleman from Georgia [Mr. STEPHENS] yield?

Mr. STEPHENS. I had not yielded the floor. But I want no question upon the matter; I will let it go the Committee of Accounts.

Mr. BAKER. As I understand the rules——

The SPEAKER. The gentleman from Georgia had the right to demand the previous question.

Mr. BAKER. I do not understand the rule to be that by demanding the previous question the privilege of any member to have the resolution put over by rising to debate it can be cut off.

The SPEAKER. The rule will be read, and the gentleman will then see whether he has that right or not.

Mr. BAKER. I simply speak from recollection.

The Clerk read as follows:

It is a common practice, when a resolution is submitted, for the mover to immediately demand the previous question, which, if ordered, will prevent debate and bring the House to a direct vote on the resolution, thus avoiding the necessity of its lying over, as would be the case if debate should arise.

The SPEAKER. That is the practice under the rule.

Mr. BAKER. I desire to have Rule 52 read.

The Clerk read as follows:

Reports from committees having been presented and disposed of, the Speaker shall call for resolutions from the members of each State and Delegate from each Territory, beginning with Maine and the Territory last organized, alternately; and they shall not be debated on the very day of their being presented, nor on any day assigned by the House for the receipt of resolutions, unless where the House shall direct otherwise, but shall lie on the table, to be taken up in the order in which they were presented; and if on any day the whole of the States and Territories shall not be called, the Speaker shall begin on the next day where he left off the previous day: *Provided*, That no member shall offer more than one resolution, or one series of resolutions, all relating to the same subject, until all the States and Territories shall have been called.

The SPEAKER. The first branch of the rule relates to reports from committees. In regard to the second branch the practice has been uniform, so far as the Chair is advised, to allow the member presenting a resolution to call the previous question. If the House desires debate upon it, it will vote down the previous question.

Some time subsequently,

Mr. BAKER said: I withdraw my objection to the resolution offered by the gentleman from Georgia, [Mr. STEPHENS.]

The question was upon adopting the resolution.

Mr. STEPHENS. I will state again the object of the resolution.

Mr. FORT. I hope that the gentleman will allow the resolution to be referred to the Committee of Accounts. If that committee reports favorably, there certainly will be no objection to it.

Mr. STEPHENS. That is just what the gentleman from Indiana [Mr. BAKER] desired, and afterward withdrew his objection to the resolution.

Mr. FORT. I know that, but I think the resolution should be referred.

Mr. STEPHENS. Let it go to the Committee of Accounts, then.

The resolution was accordingly referred to the Committee of Accounts.

EXECUTIVE INFORMATION.

Mr. DAVIS, of North Carolina, submitted the following resolution:

Resolved, That it shall be in order, immediately after the reading of the Journal every morning, for any member of the House to offer a resolution calling on the Executive or any of the heads of Departments for information, and said resolution shall be acted upon by the House at once without debate.

Mr. CALKINS. I make the point of order that under the rules this resolution must lie over one day.

The SPEAKER. The Committee on Rules already have this subject under consideration.

Mr. BAKER. I move that the resolution be referred to the Committee on Rules.

The SPEAKER. The Chair understands that the gentleman from North Carolina [Mr. DAVIS] does not object to the reference.

Mr. DAVIS, of North Carolina. Let it be referred.

There being no objection, the resolution was referred to the Committee on Rules.

CALL OF THE ROLL.

Mr. WILLIAMS, of Wisconsin. I offer the following resolution, on which I call the previous question:

Resolved, That in calling the roll of the House the Clerk shall call only the surname of members, with the prefix of "Mr.," except where there are two or more of the same surname, in which case the full name of such members shall be called.

Mr. FORT. Does not this go to the Committee on Rules?

Mr. CONGER. I object to the consideration of this resolution to-day.

Mr. WILLIAMS, of Wisconsin. I insist on my right to demand the previous question.

The SPEAKER. The Chair recognizes the gentleman's right.

Mr. WILLIAMS, of Wisconsin. But if it is the desire of members, I will consent that the resolution be referred to the Committee on Rules.

Several MEMBERS. That is right.

The SPEAKER. The resolution will be referred to the Committee on Rules.

Mr. FORT. I would have no objection to considering it now, but

I think the resolution ought to be modified by striking out the words, "with the prefix of Mr." I do not see the necessity of that.

The resolution was referred to the Committee on Rules.

CLAIMS AGAINST NICARAGUA.

Mr. ACKLEN. I offer the resolution which I send to the desk, and on its adoption demand the previous question.

The Clerk read as follows:

Resolved, That a select committee of five members of this House be appointed by the Speaker, which committee shall have power to sit during the recess, to inquire into all claims of citizens of the United States against the government of Nicaragua for indemnity for lives of relatives taken, wounds and other personal injuries inflicted, and property taken, injured, or destroyed, which claims have heretofore been filed in the Department of State and now remain pending and unsatisfied; and said committee shall ascertain and determine what amounts and to what persons the government of Nicaragua is liable to make compensation on account thereof, and report the same, with the evidence in reference thereto, to Congress at its next session; and said committee shall give such public notice as it may deem necessary of the times and places when and where it will sit to hear said claims and testimony in support of the same, and shall have power to send for persons and papers, and administer oaths. It shall also obtain and use all proofs relative thereto on file in the Department of State, and such other evidence as any party in interest may produce and offer that it may deem pertinent thereto. It shall have power to employ a clerk and a stenographer, and the necessary expenses of said committee shall be paid out of the contingent fund of the House on the vouchers of the chairman of said committee.

Mr. BAKER. Mr. Speaker, has not the morning hour expired?

The SPEAKER. The morning hour has expired, and this resolution will go over.

Mr. ACKLEN. I merely ask that the resolution be printed and that its consideration go over until to-morrow.

The SPEAKER. It will go over until this class of business may be again reached.

Mr. ACKLEN. As I understand, it will come up as unfinished business in the next morning hour.

Mr. CONGER. Let it come up when this class of business is again reached.

The SPEAKER. That is the only proper time.

Mr. ACKLEN. I understand that if the resolution goes over it will come up as unfinished business in the next morning hour.

The SPEAKER. The rules regulate when the resolution will again come up.

THOMAS J. WHARTON.

Mr. HOOKER, by unanimous consent, introduced a bill (H. R. No. 1349) for the relief of Thomas J. Wharton, of Jackson, Mississippi; which was read a first and second time, and referred to the Committee of Claims.

WILEY BRITTON.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 1350) granting a pension to Wiley Britton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM M'GOVERN.

Mr. COX, by unanimous consent, introduced a bill (H. R. No. 1351) directing the issue of an honorable discharge to William McGovern; which was read a first and second time, and referred to the Committee on Military Affairs.

MERCHANT SEAMEN.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1352) to amend title 53 of the Revised Statutes, relating to merchant seamen; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAPANESE INDEMNITY FUND.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1353) in relation to the Japanese indemnity fund; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

ACCOUNTS OF LABORERS, ETC.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1354) to settle the accounts of laborers, &c.; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

PROPAGATION OF SALT-WATER FISH.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1355) to protect the propagation of salt-water fish; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

J. H. MERRILL.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1356) for the relief of J. H. Merrill; which was read a first and second time, and referred to the Committee on War Claims.

COMMERCIAL INTERCOURSE WITH CANADA.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1357) to regulate commerce between the United States and the Dominion of Canada in articles the growth, production, or manufacture of said countries, and to provide for reciprocal navigation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REUBEN H. PLASS.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1358) for the relief of Reuben H. Plass; which was read a first and second time, and referred to the Committee of Claims.

LOUIS P. DI CESNOLA.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cypress; which was read a first and second time, and referred to the Committee on Foreign Affairs.

P. H. DOYLE.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1360) for the relief of P. H. Doyle; which was read a first and second time, and referred to the Committee on Indian Affairs.

ARMY OF THE UNITED STATES.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1361) to repeal section 1218 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN COLLISTER.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1362) for the relief of John Collister, injured by the falling in of the New York post-office in May, 1877; which was read a first and second time, and referred to the Committee on Invalid Pensions.

E. E. RICE.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, in Japan; which was read a first and second time, and referred to the Committee on Foreign Affairs.

RETIREMENT OF NATIONAL-BANK NOTES.

Mr. COX also, by unanimous consent, introduced a bill (H. R. No. 1364) to retire national-bank notes, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

EIGHT-HOUR LAW.

Mr. COX also, by unanimous consent, introduced a joint resolution (H. R. No. 30) to provide for the enforcement of the eight-hour law; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

NATURALIZATION TREATY.

Mr. COX also, by unanimous consent, introduced a joint resolution (H. R. No. 31) providing for the termination of the naturalization treaty between the United States and Prussia; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. HENRY. I was unable to be present on Monday, and I ask unanimous consent to introduce some bills for reference at this time.

Mr. CLYMER. There are a great many other members upon the floor who desire to introduce bills, and if the presentation of bills is to be general I should not object.

The SPEAKER. Objection is made.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLYMER. I move the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Maine is entitled to the floor.

Mr. FRYE Mr. Chairman, is there any foundation for these wholesale charges against Federal officers in their conduct of elections in the city of New York? Was there a condition of affairs in that city which rendered the intervention of the United States necessary? Has there been a wasteful expenditure of money in the attempt to correct election abuses there? Do the facts demand, as the other side insists, the repeal of the laws known as election laws, or do they fully justify their retention? These and kindred questions should be answered, not in any spirit of partisanship, but in truth and fairness. The safety of the Republic depends upon the purity of the ballot. Let us, then, view the great city, its condition, its population; glance hastily at its political record, and examine the remedies resorted to for its cure from political disease.

New York City has a population of about 1,100,000. It is sixteen and one-half miles long by an average of two and a half in width. Sixteen States only have a larger population than this city. About 45 per cent. is of foreign birth. Nearly one-half of the population reside between the Battery and Fourteenth street, on an area of 2,408 acres. About 55 per cent. of the people reside in 25,000 tenement houses, containing each four families and upward—605,000 in 25,000 houses. The Seventeenth ward in 1875, with an area of fifty-two one-hundredths of a square mile, contained more inhabitants than Louis-

ville, Kentucky, or Cleveland, Ohio. Fourteen cities only in the United States contained more. The Eleventh, Thirteenth, and Seventeenth wards, with an area, including streets, of a little less than one square mile, had a population of 200,000, which, leaving out streets, would make 1,000 to the acre. Only seventeen States in the last presidential election cast more votes than this city. It polled more votes than Vermont, New Hampshire, and Rhode Island.

There were lodged at station houses in 1871, 136,743 persons; in 1872, 147,215 persons; in 1873, 183,854 persons; in 1874, 221,968 persons; in 1875, 217,552 persons; in 1876, 186,876 persons. There were arrested in 1871, 83,672; in 1872, 82,589; in 1873, 88,538; in 1874, 92,112; in 1875, 91,363; in 1876, 92,830.

With this great army of vagrants, criminals, depraved and desperate men; with a foreign population of males over the age of twenty-one, according to the census of 1875, of naturalized citizens, 141,179, aliens, 48,305, very many of whom know absolutely nothing of our institutions or the principles of our Government, are the mere dupes of designing, wicked politicians, in a city two-thirds of the time under the absolute dominion of the democratic party, that party which here to-day, by its demands for legislation on these two appropriation bills, allies itself with and indorses ku-klux, white-leaguers, tissue ballots, repeaters, false and fraudulent naturalization, ballot stuffing, and every other device for the destruction of all purity of the ballot, what may we expect? Let the past briefly speak.

ELECTION FRAUDS.

1837: A committee of the assembly in their report declare that "they were a disgrace to the State and a manifest wrong to the country."

1844: Through them alone the State was lost to Henry Clay.

1856: Another committee declare that the election is not at all the will of the people.

1858: Another committee declare "of late years fraud and simulating at the ballot-box have become extensive and enormous."

1860: In one election district, for 63 names registered no person could be found to represent them. Two Irish boys, sons of a widow, one six and the other eight, were registered. In the Twelfth ward 500 out of 3,500 names were fraudulent; Seventh ward, 935 names fraudulent, and so on.

1862: General Wadsworth, the Union candidate for governor, was defeated by Horatio Seymour, and it can be safely asserted that false registration, repeating, and an unscrupulous count in the city gave him more votes than he had majority in the whole State.

1863: The notorious Judge McCunn was elected by a deliberate manipulation of the votes.

1864: In the campaign of Lincoln and McClellan marvelous frauds had been set on foot by forged soldiers' names, officers' certificates, false papers bearing names of sick, disabled, and dead soldiers. Some of the parties concerned were arrested and tried before a military commission in Washington. The city was full of southern sympathizers, deserters, bounty-jumpers, thieves, and other desperate characters. The agents of the confederacy were in strong force on the Canadian border and in constant communication with their spies and allies in the city. Application was made to the authorities at Washington for protection, and General Butler with six thousand troops was sent forward. The election was peaceable.

1866: Tweed ring in full power, and its will law. Every form of fraud and violence was resorted to. And this in spite of the fact that Kennedy was at the head of the police. Careful examination of the registry lists disclosed over fifteen thousand names not to be found at the places they claimed to register from. This was the time when the republicans endeavored to hold a meeting in the City Park to be addressed by General Butler, Horace Greeley, and Governor Curtin. That attempt is historical. Such a scene was never before witnessed in New York. A howling, raving mob of democrats ruled the hour.

NATURALIZATION, 1866.

Up to this time naturalization had been reasonably legitimate, confined to two courts, the superior and the court of common pleas. Prior to this year the average number naturalized annually in these courts from 1857 to 1865, both inclusive, was fifty-six hundred and eighty-two—many more in the common pleas than in the superior; but Judge McCunn was to preside in the latter this year, with James M. Sweeney, clerk, and Judge Cardozo could be used in the former. Cardozo made citizens at the rate of eight hundred a day on some days—swore them in in squads; a single runner brought before him in one day nine squads, aggregating fifty-two, and swore them all through; at another time this same man brought in twenty, vouched for them all. The result was that these two courts made 13,023 citizens, the average before having been, as I said, less than six thousand. Let it in this connection be remembered that in 1844 in Louisiana—Judge Elliot presiding—four hundred certificates were granted in one day; that the attention of Congress was called to this glaring abuse of power; that a committee investigated and reported that it was impossible such a number could have been legally naturalized in a day. On their report the judge was impeached, convicted, and removed.

1867.

Frauds were stupendous; illegal registration and repeating seemed almost to be the rule. A careful revision of the lists was made, and thousands of names were found fraudulently entered—in the Eighth ward alone over fifteen hundred. Companies of men from New Jersey and Pennsylvania voted. Rum ran in streams; and riot, assaults, and murders were the order. The courts were started, and, as the Tribune said, they ground out citizens "at the rate of one thousand a day, with no more solemnity than and quite as much celerity as is displayed in converting swine into pork in a Cincinnati packing house." In the superior court alone nearly eleven thousand persons received their certificates.

1868—CAMPAIGN OF GRANT AND SEYMOUR—HOFFMAN DEMOCRATIC CANDIDATE FOR GOVERNOR.

False registration, forgery, fraudulent naturalization, repeating, and every fraud and crime against the elective franchise culminated. The courts were in league with the democrats to destroy the last vestige of purity at the ballot-box.

JUDICIAL CONDITION.

The court of common pleas, with honest judges, went out of business practically. The superior court, for this business, practically went into the control of Judge McCunn, fraudulently elected, now a candidate for re-election. The supreme court, never before having anything to do with naturalization, was presided over by Judge Barnard, also a candidate for re-election. These two judicial scoundrels stripped off their coats and prepared for business. Barnard, on the 6th of October, declared that he would attend to no other business than this until the next term. The ready courts must be provided with blanks, so that there should be no hitch in proceedings. The following table will show no neglect in this direction:

Superior court, October 2, received 10,000 certificates; October 3, received 10,000 applications; October 8, received 10,000 certificates; October 15, received 10,000 certificates; October 16, received 20,000 applications. Total applications, 30,000; total certificates, 30,000.

Supreme court.

Date.	Number of applications.	Certificates.
September 16	10,000	9,000
September 19	10,000	.....
October 6	25,000	.....
October 12	5,000	5,000
October 13	10,000	5,000
October 15	.....	.....
October 16	5,000	10,000
October 19	5,000	.....
October 20	.....	10,000
October 22	5,000	.....
Total	75,000	39,000

Tammany's headquarters for naturalization were at No. 1 Center street, in a lager-beer saloon. They were provided with a red ticket, forty thousand in number, reading thus:

No. ——.

Please naturalize the bearer.

M. D. GALE,
Chairman Naturalization Committee, Tammany Hall.

And this, presented to the clerk of court, was an order on Tammany for the fees.

PROCEEDINGS IN COURT.

I call your attention to the testimony of M. R. Leverson, a member of the United States bar, an intelligent man, (Reports of committees, third session, Fortieth Congress, volume 3, pages 120 to 140, inclusive;) and allow me to read portions of his graphic description:

Question. You were in the courts witnessing the naturalization of persons desiring to be naturalized?

Answer. Yes; I first went into a room in the basement of the old city-hall building, which used to be the sheriff's office. When I first went into it in the day-time there were about four gangs of four clerks to each gang, one of whom acted in what may be termed the capacity of foreman to each gang.

The foreman had before him a list of names and addresses, and he would keep the other three at work, giving to each man a name and address which that man would fill into one of the forms before him. There were on the table two or three piles of papers. One of them was a pile of blank forms, affidavits, &c. The first form was one in which the applicant is required to swear that he has arrived at the age of twenty-one years; that he has resided in the United States three years next preceding his arrival at that age, and has continued to reside therein to the present time; and that he has resided five years within the United States, &c.

The three clerks would fill in each the name furnished to him as that of the applicant. It would be filled in as that of the applicant in three places, and the clerk would then sign the name of the applicant in each instance. In every case which I saw each of the clerks filled in the name of Patrick Goff as that of attesting witness for the applicant, without a single exception. The name of "Patrick Goff" was inserted as the witness by each of the three clerks, inserted as the name of the person who was well acquainted with the applicant, &c. The clerks did not sign the name of "Patrick Goff," but put it "Patrick Goff—his mark." The clerks wrote the name of Patrick Goff and made the mark also.

Q. Without his being there?

A. Yes. Whether Patrick Goff exists or not I do not know; at any rate he was not there, nor any one of the applicants whose names were signed. This was common to nearly every case. The mode in which the process was gone through in Judge Barnard's court was this: as the men came up they would hand in their papers—this form of affidavit—and it would be handed to the clerk by the usher, who would call out the names. It is a presumption on my part that they call the names of the persons who in that paper are represented as applicants and witnesses, because of course I could not tell that of my own knowledge. All I can tell with certainty is that the clerk purported to call out the names from the paper. On one occasion a man named Lush, or Lusk, was called forward while Judge Barnard was in court, and the clerk said to him, "Get your witness to sign his affidavit." The man looked about the court. I was at that time at the extreme end of the court, and I heard him say in a voice which I supposed was

heard by the judge and the clerk, "I don't know who he is, your Honor." The clerk would call out the names of persons so rapidly that I could not take them down. I commenced to do so at first, but it was performed too rapidly for me to follow it, but I made a mark on some papers which I had with me for each name called.

I do not think that while I was there there was any one occasion when the number was less than one hundred and ten, the lowest number mentioned in my report, in a batch. The average was about one hundred and forty to one hundred and fifty in a batch. When they came up they would be divided in groups around four or five Bibles; each Bible would be held up by four, five, or six men in the center, and the others would either touch it or stretch out their hands toward it on being directed so to do by the clerk or the judge, I am unable to say which. While they were being called up to touch the Bible, or in effect to stretch out their hands toward it, the clerk would call out the names. There was a double calling of the names: the first time to get them within the bar and the second for the purpose of getting them to touch the Bible. As the clerk called out the names he would hand the paper, being the affidavits before mentioned, to the judge, turning each paper over as he handed it, so that the place for the judge's signature might be presented at once to him to save time. The judge would make some mark, which I have no doubt you will find on the records when you have them produced, as his signature to the indorsement, being in fact the fiat for the naturalization. No evidence of any kind was taken by the judge, nor was any oath of any kind administered to the applicants prior to the judge's signing the papers in this way, which he did as fast as the clerk could hand the papers over to him. When they were all through in this way the judge then administered the oath in words which I took down at the time and which I will adopt from this report: "You, the several applicants, swear that you are twenty-one years of age; that you arrived in this country three years before attaining that age and have resided five years in the United States, and for the last year in the State of New York." He swore them in a batch to that form. He would then say, "And you, the several witnesses, swear that the contents of your several affidavits are true."

The judge repeated this form of oath, and every man was supposed to kiss the book. The batch ran from one hundred and up to two hundred; and I remember on one occasion when I counted over one hundred and eighty in a batch. A clerk at the gate of entrance for the bar called the names of the applicants and witnesses in the order in which the papers came to his hands, and on the persons called coming forward they were arranged within the bar, often one witness for four or five applicants at a time. When a number were thus arranged their papers were handed to the clerk, who stood at the judge's left hand, who, as he finished off the lot already in hand, took up the fresh batch. An applicant and a witness being now called by this clerk, and answering to their names, the judge would direct them to hold up their right hands. Very frequently the left would be held up, and the usher would have to help the man to put up his right hand instead of his left. The judge then proceeded to swear the parties in the following words: "You solemnly swear, in the presence of the ever-living God, that the affidavits which you have severally subscribed are true: so help you God."

The testimony of Colonel George Bliss, jr., found in the same volume, page 185, fully corroborates this witness. Colonel Bliss has since been United States district attorney. He timed the Judge and found that in one five-minute space he made thirteen American citizens, full-fledged, "all residents for five years, all men of good moral character," all well disposed, &c., and in another five-minute space he accomplished the marvelous task of turning out fifteen! Allow me also to read from the testimony of Henry Lyle commencing on page 460, same volume:

Question. State what you know of certificates of naturalization being issued by Judge McCunn, of the superior court, and in the supreme court by Judge Barnard.

Answer. I was engaged in that business during the months of September and October, 1868. I saw that everybody almost was going into it and I took a hand at it. I had an office at 33 Chatham street in this city. I staid there most of the time during the day and at night would go up town to Thirty-second street at a liquor store there where parties would send me names of persons to be naturalized. The next day I would fill up the applications, go before the judges, and put the men through. During the month of October I came down in the evening and put the men through before Judge Barnard, of the supreme court, who held the night sessions. I would sign the names of the applicants to the blanks; sometimes I would sign the applicant's name and sometimes he would himself, or if anybody else happened to be around he would sign it. I would take the papers down to the court and give them to the clerk. He would call my name and I would then go around and swear to the truth of the affidavits before the judge. After that I would go around to the clerk's desk; if the man was not there I would take the oath of allegiance, or if the man was too old to go through, otherwise the man himself would go around.

Q. How many certificates of naturalization did you procure during these two months?

A. I cannot tell, but I judge from six hundred to one thousand; that I would swear to. Sometimes I would swear to twenty or thirty, and sometimes fifty a day. I signed different names, just as it happened to come into my head. Sometimes I would sign my own name; at others that of Henry Laurence, or Lines, or any name.

Q. Do you know of any others engaged in the same business?

A. Yes, sir. One was Patrick McCaffrey; another was John Gallagher—he is in the street department, I believe; a man at 189 King street, and also John Verway, conductor on a Ninth avenue railroad car; he resides at 439 West Thirty-sixth street. I know William Thurben, who is also engaged in that business; he is a conductor on the Bleeker street line and resides somewhere in the Nineteenth ward. There is also John Moran, who resides in the Twenty-first ward. Also Chauncy Gray, who resides at the Putnam Country House, corner Twenty-sixth street and Fourth avenue.

Henry Lyle is simply a sample—one of a hundred.

I call your attention now to another representative case, one of many, as detailed in the testimony of Robert Murray:

Question. State your residence and official position.

Answer. I reside in the city of New York. I am marshal for the United States for the southern district of New York, and have occupied that position since the 20th of April, 1861.

Q. State if you have any knowledge of the issuing and sale of fraudulent naturalization certificates in the month of October, 1868.

A. In the early part of October there was a rumor in town that naturalization papers could be purchased at certain localities in this city for $2 apiece. I directed two of my deputies, named Jarvis and Dwyer, to ascertain if that rumor had any foundation in fact. They reported to me, in a few days afterwards, that those papers could be purchased from a man named Rosenberg, at No. 6 Centre street, and also that they could be purchased at No. 13 Centre street. He and I sat down and made out a list of four or five or half a dozen fictitious names. He went over to Rosenberg, at No. 6 Centre street, (witness subsequently employed Major Simms, his deputies being too well known.) Major Simms reported to me that he called on Rosenberg and represented to him that he resided in Yonkers, Westchester County; that he had some four or five friends there who wanted to become citizens of the United States; that they were poor men and could not spare the time to come to the city to go through the courts of law, and he inquired of Rosenberg if there was not any way by which he could fix it for him. Rosenberg replied, "Yes, give me the names, and I will have the papers for you to-morrow morning." Simms replied that he might want quite a large number, but that the list was imperfect at that time, and that he would call and see him again. He called there the second time and handed him this list of six or eight names, and he was told to call in the morning, and that the papers would be ready for him. He did call in the morning, and the naturalization certificates were handed to him. Simms paid Rosenberg $2 apiece for them. They were brought to me, and I made Simms mark them with his initials, and I think I marked them myself. The next day I sent a young man by the name of Butts with a list of three or four names—fictitious names—and I directed him to go there to No. 6 Centre street and purchase naturalization papers there. He reported to me that he had had an interview with Rosenberg, and that Rosenberg agreed to furnish him the papers the next morning. The next morning Butts handed me the certificates. I compared them with the list of names which I had furnished to him the day previously, and I found that they corresponded. I made Butts put his initials on the certificates, together with the date of them, and I put my initials on them also. The day after I made out another list of names of four or five or perhaps more, and sent a man by the name of Livingston, with instructions to go over and see Rosenberg and inquire if he could purchase naturalization papers. He reported back to me that the papers would be ready the following morning. The following morning Livingston handed to me these naturalization certificates. I compared them with the list of names which I had handed to him the previous morning, and found they corresponded. I made Livingston put his initials on them, together with the date, and I think I also put my initials on them. The next day I sent a man by the name of Reynolds over there to inquire whether he could purchase naturalization papers, and we made out a list of them together of fifteen or twenty names. I simply sent Reynolds there to have corroborating proof, for I meant to arrest Rosenberg that day; and I directed Reynolds to have no conversation with Rosenberg; to state to him that perhaps he might want four or five hundred of the certificates; that perhaps he could not furnish the list of names, as time was very short, and to inquire whether he could have certificates in blank. Reynolds reported back to me that he had had an extended conversation with Rosenberg, and that Rosenberg agreed to furnish him with five hundred of the certificates the next morning, at a dollar and a half apiece; that by taking a large quantity of them he would make a reduction of fifty cents; then he made a counter proposition, that anything else than one hundred would be charged $2 apiece, and over one hundred a dollar and a half apiece. He had quite a long conversation with him, and went into the details of the business. After Reynolds came back and reported to me, I sent another man over there by the name of McDonald, and directed him to do the same thing as Reynolds. He reported back to me substantially the same conversation that Reynolds had reported, that these men would furnish any quantity of these papers—one hundred for a dollar and a half apiece, but any quantity less than one hundred at $2 apiece. I considered then that I had the whole case complete. I went to the district attorney and made necessary affidavit and information, and then got out the warrant and arrested Rosenberg that afternoon at three o'clock.

HOW MANY WERE NATURALIZED?

In the supreme court there were filed in the clerk's office as sworn to certificates as follows:

Date.	Number.	Date.	Number.
October 6	6	October 16	721
October 7	8	October 17	633
October 8	379	October 19	955
October 9	668	October 20	944
October 10	717	October 21	773
October 12	723	October 22	675
October 13	901	October 23	587
October 14	523		
October 15	857	Total	10,070

But 75,000 blank applications had been obtained in this court from time to time. An examination by the congressional committee and the testimony of the clerk of the court proved conclusively that there were issued 27,068 certificates when no application was on file. Thus the number naturalized in this court was 37,178.

SUPERIOR COURT.

One of the clerks, Westlake, swore to the number naturalized each day; there being in twenty days in October the enormous number of 26,226, or a daily average of 1,311. Meeks, a deputy clerk, testified that Westlake had given the above from actual count; and Gillespie, assistant naturalization clerk, certified under oath to the correctness of the statement.

From these two courts in the month of October, 1868, there were undoubtedly issued at least 63,000 certificates.

STANDING WITNESSES.

In the supreme court twenty-one witnesses appeared for 2,749 applicants; and the same witnesses also acted their part in the superior court. Take these specimens: Patrick McCaffrey in the month of October, in the supreme court, swore to the good moral character, length of residence, &c., of 251 persons; and in the superior court of 252 persons; in all, 503. John Ward performed like duty in the supreme court for 324 persons; in the superior court for 195 persons; in all, 519. John Moran was witness in the supreme court for 455 persons; in the superior court for 299 persons; in all, 754. James Goff, and Patrick, his brother, certify to 666 in both courts.

Patrick McCaffrey was one of James O'Brien's deputies, and by him discharged for extortion. John Moran had served a term in State prison. The Goff brothers were notorious thieves, and both Barnard and McCunn, as criminal judges, must have known them well. As soon as the business of the court was over James stole a watch, chain, and two diamond rings. It was testified that one of these Goffs had four thousand of these certificates for sale.

Now, under the act of Congress of 1802 applications for naturalization must be made in open court, and the court must be satisfied that the person applying had during his residence "behaved as a man of good moral character, attached to the principles of the Constitu-

tion of the United States, and well disposed to the good order and happiness of the same;" and in no case could proof of residence be made by oath of applicant.

WHO ARE ENTITLED TO BECOME CITIZENS.

First. Those who came here over eighteen years of age and had resided here five or more years, and had made previous declaration of intention.

Second. Those who came under eighteen years of age and had resided here five years. These were not required to make previous declaration of intentions.

Third. Honorably discharged soldiers twenty-one years of age and residents of the United States for one year.

How shall all this be shown? By affidavit? Not at all. The common-law oath must be administered to both applicant and witnesses. "You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, so help you God." Then should follow an oral examination of applicant and witnesses as to residence, character, attachment to the principles of the Constitution, as to disposition to the good order and happiness of the country, &c.

In 7 Hill, New York Reports, page 137, Judge Dean held that under the statute the residence of the applicant must be proved by the oath of some party other than the one applying, and that affidavits were inadmissible and could not be received.

In The People *vs.* Sweetman, (3 Parke's Criminal Cases,) Judge Pratt held:

The laws of Congress require the application to be made to the court and the proof of five years' previous residence must be taken in open court. It must also be common-law evidence, taken by the oral examination of the witnesses; previously prepared affidavits are not competent.

Now, in both the superior and the supreme courts the applications were previously prepared out of court, subscribed and sworn to in court, and before Judge Barnard no oral examination was had at all and both applicants and witnesses were sworn in squads to the truth of printed forms of blank affidavits. In Judge McCunn's court the only oath administered was:

You solemnly swear that these affidavits by you subscribed are true.

The answers to the few questions put were not under oath. Right here, again, I wish to call your attention to the case of Judge Elliot, who was impeached and found guilty for naturalizing four hundred persons in one day. Notice the language of the congressional committee:

It was physically impossible, involving as it must the administering of twelve hundred oaths and the examination of eight hundred witnesses as to age, qualifications, residence, and moral character of the applicants.

And yet each of these judges must have averaged three thousand oaths and examined two thousand witnesses daily! *Mirabile dictu!* The army in Flanders could not have beaten this swearing.

This terrible picture would not be complete without brief references to "false registration," "repeating," and "ballot-box stuffing." A few instances of each must suffice. William H. Hendrick, with the sanction of Colonel Bliss, district attorney, was employed by a captain of repeaters, headquarters Peter Mitchell's liquor store. There was a gang of about fifty men, divided into squads of four, six, eight, and twelve. Each man received a card giving him his name and residence; on this he registered at one registry, then returned to headquarters, received a new name and residence, and so on. These men registered and voted, each from five to thirty times. It may be well to remark that Peter Mitchell was a candidate for the assembly.

Alexander Ostander, an attorney at law, investigated on election day; saw squads of men; thin slips with names and residences; saw them vote at one polling-place, then go to another and repeat, then to another, and so on.

William H. Greene, a patrolman, saw a gang of men, known to him personally, register from William M. Tweed's house, from Patrick Kernan's, the coroner's, and from Edward Shandley's, police justice. Some of them were challenged, but promptly took the necessary oaths. Most of these men were thieves; the leader, who registered from Kernan's house, was one Lawrence, alias "Wilson," alias "Nibbs" or "Nibbsey." This gang of eight was followed up, and it was found that they had registered one hundred and sixty on fictitious names. They were arrested, their books seized, revealing the fact that they had registered in two hundred and twenty places. On the evening of their arrest a writ of *habeas corpus* was served on the officers in charge, directing their bodies to be brought before Judge Barnard, no time being allowed for return, none being made. They were taken to Barnard's residence. They remaining on the side-walk, Mr. Howe, an attorney, took the writ, wrote on it, "The prisoners being charged with no offense on the annexed return, I order them discharged," gave it to a servant girl, who passed it to the judge, then in bed, obtained his signature, and the prisoners were discharged.

And lest there might not even then be votes enough to overcome the honest voters of the country portions of the State, "counting and canvassing" was indulged in to an unlimited extent. This was William M. Tweed's favorite method, less expensive, less liable to detection, and more certain of success. Under its operations the only thing necessary to know was the number of votes required. Hence the famous Tilden circular. Mr. Tweed, in his last confession, Report of Special Committee of the Board of Aldermen, pages 133 and 134, throws light upon this:

Question. Now, Mr. Tweed, when you were in office did the ring control the elections in this city?

Answer. They did absolutely.

Q. How did you control the election?

A. Well, each ward had a representative man who would control matters in his own ward, and whom the various members of the general committee were to look up to for advice how to control elections.

Q. What were they to do in case you wanted one man elected over another?

A. Count the ballots in bulk, or without counting them announce the result in bulk, or change from one to the other, as the case may have been.

Q. Then these elections were really no elections at all?

A. The ballots made no result. The counters made the result.

Again, he was asked if he ever gave any directions in any ward to falsify the results, and frankly said he had in every ward in the city. On pages 225 and 226 he is inquired of especially as to this election of 1868, whether the inspectors of election lumped the votes and declared them without counting, and replied that he thought they did; that means were taken to overcome the vote of the rest of the State by that of the city.

But time fails, and these incidents must serve merely as illustrations of a record perfectly appalling. False registration and repeating seemed almost to be the rule; hundreds registered from houses where only two lived; scores from buildings having no existence; an army from vacant lots, stables, beer-gardens, and houses of prostitution. What a picture! This a republic? This self-government? When the disgraceful story was published our whole nation trembled; its ruin was predicted in the English Parliament, and this election was the evidence. New York City was a reproach, and her best citizens of both parties fully appreciated it. These election frauds, increasing year by year, had not been quietly acquiesced in. The New York Assembly had enacted laws to prevent and to punish again and again, but corrupt courts, packed grand juries, bribed sheriffs, subservient policemen, the almost unlimited power of Tammany, the despotism of Tweed, the entire lack of conscience or moral sense in the democracy of the city, their intimate copartnership with grog-shops, gambling-hells, houses of prostitution, and all other dens of vice; their adoption of thieves, perjurers, assassins, State-prison convicts, and all the criminal classes, had rendered every such attempt futile. But this immunity had made them reckless, and their crime of 1868 was so gigantic, so full of peril to the Republic, that the whole country was aroused. The Union League Club appointed a committee to investigate—William E. Dodge, Horace Greeley, Moses H. Grinnell, Isaac Sherman, Marshall O. Roberts, Isaac H. Bailey, and John H. White, names sufficiently well known. They, November 13, 1868, issued an address, from which I will make a few selections.

To the people:

* * * * * * *

By these, among other measures yet to be developed, the plot to change by fraud the vote of the State was carried to completion. Commenced under color of law, with the connivance of courts of justice, by the issue of fraudulent certificates which were used for a fraudulent registry, furthered by the illegal voting of tens of thousands, and by gangs of industrious repeaters, and then by delayed returns and counts based upon reports obtained by secret circulars. The plot was also indebted for its accomplishment to the encouragement afforded by the proclamation of the mayor and to the deputies of the sheriff with void warrants, illegal arrests, threats, and violence. It is perhaps possible that we are without a remedy against the stupendous fraud thus perpetrated against the people of this city, of this State, and, as regards the electoral vote, against the nation. It may be that our State and congressional legislation, anticipating no such crime, has proceeded upon the supposition that our judges and other officials would be uniformly the protectors of the franchise, and never the tools of conspirators against its purity. It may be that for two years we must submit to the wrongful rule of usurpers who have effected a temporary triumph over the men honestly chosen by the people, and this in the face of proofs that compel the belief that the democratic majorities were obtained by fraud. But if this be so, and we find ourselves without redress or indemnity for the past, it is due to ourselves and our children, to the nation and the world, that we enter our protest against the wrong, and that we obtain by all proper means ample security for the future. It has been our acquiescence in the lesser and partial frauds of the Tammany ring in former years and the impunity with which that ring has plundered and disgraced our city, that has emboldened the preparation of this gigantic conspiracy to control the government of the State and nation. Nothing can be more clear than that a similar acquiescence on our part, now that the conspiracy has succeeded, would tend to make fraud in elections a disease chronic in the body-politic, spreading from city to city and from State to State, until our Republic should have become as rotten as the municipal government of this metropolis. When a fraudulent election is engineered by party conspirators, under the assistance and protection of convenient judges, the returned vote no longer indicates the will of the people, but simply the audacious designs of a desperate faction who regard politics as a game where truth and honor have no place.

Indeed, the success of the rebellion would not necessarily have dealt a more deadly blow at the honor and prestige of the Republic, and of republican institutions throughout the world, than a general debasement of the franchise similar to that which now confronts us, subjecting the entire State to the control of a local ring unparalleled in infamy. Already is the fear forcing itself upon honest men of all creeds and parties that, with individual local judges ready to abet or afraid to resist the most flagrant plot against the purity of elections and the sovereignty of the people, appeal to our court for protection to life and liberty and property may soon become as idle as those of the victims of the secret tribunal to the masked judges of the Inquisition.

This recital of the inception, growth, and ultimate strength of "fraud upon the ballot," of the attempts and complete failure of a well-disposed State to destroy or even restrain it, it seems to me ought to satisfy every intelligent lover of the Republic of the absolute, imperative necessity for interference by the United States, both by legislation and by a rigid enforcement of its laws. The perpetuity of republican institutions demanded both.

In December, 1868, Congress passed a resolution to investigate the alleged frauds in New York, by a vote of 134 ayes to 35 noes; and Hon. William Lawrence, of Ohio, was made chairman of a very efficient committee for that purpose. The investigation was thorough and exhaustive; the evidence taken is accessible to you all in the Congressional Libraries, and is terribly convincing. The committee recommended legislation, in consequence of which and of suggestions

of Mr. Davenport, made from time to time—the results of his experience in the enforcement of the earlier acts passed—Congress enacted the laws of May 31 and July 14, 1870, February 28, 1871, and June 10, 1872, making certain necessary amendments to the naturalization laws, providing for the appointment of a chief supervisor of elections in each judicial district of the United States; also for two supervisors in each election precinct, one from each party, in cities of twenty thousand inhabitants and upward, on application of two or more citizens, and of two supervisors for each county or parish in any congressional district, on application of ten citizens. Nearly all of this legislation is now found under title 26 of the Revised Statutes of the United States, entitled "the elective franchise," sections 2002 to 2131 inclusive, a vital portion of which it is now proposed by gentlemen on the other side to repeal.

Is the demanded repeal in the interest of free and pure elections, or is the law as it stands calculated to give every citizen entitled to it a right to vote, and does it insure to him that his vote shall be counted as it was cast? It seems to me the inquiry need go no further; and as these questions are answered our action on this bill, or rather on any bill properly and legitimately before us proposing the repeal of these statutes, should be determined. Surely gentlemen will not seriously undertake to raise and discuss the constitutionality of these laws now. That question was thoroughly considered when they were enacted. Besides they have stood the test of years of trial in the presence of bitter hostility, with all the courts open to the settlement of the question. Can any gentleman point to any decision against them in that regard?

In the case of the United States *vs.* Quinn, (Blatchford's C. C. Reports, volume 8, page 48,) Judge Woodruff, one of the most accomplished and learned judges in the country, held "that the section of the act in question, (act of May 31, 1870,) which assumes the power of Congress to make it an offense against the laws of the United States to fraudulently register, is a constitutional enactment." I should judge, from the frequent use made on this floor of the recent decisions of Judges Fruidman and Blatchford, that they went to the root of the whole matter and overturned all the law and all the facts, but they go only to the sufficiency of the record in naturalization. They overrule only that one point, so inconsequential that I have not even alluded to it in showing the utter falsity and fraud of the naturalization of 1868. The papers and the facts hereafter to be offered in evidence in the "Coleman" case will conclusively show that his registration was illegal.

Again, in the last Congress, in the case of Dean *vs.* Field, the democratic side planted itself squarely on the count of the supervisors of election, and on the strength of it gave Dean his seat. No, gentlemen, these laws must be weighed in the balance of experience, and to that I now ask your attention. In May, 1871, John I. Davenport was appointed chief supervisor in that judicial district including the city of New York, and at once entered upon the great work assigned him. Against him was arrayed the most powerful and unscrupulous combination ever known to the politics of this or any other country, but Davenport could not be terrified, cajoled, bribed, or driven. Bright, active, intelligent, vigilant, from investigations made, thoroughly acquainted with the ways of Tammany, he went into the fight *con amore* and came off conqueror; and now the vanquished foe to decent, well-ordered, and pure elections demands his decapitation and the repeal of the laws he succeeded in enforcing. Is this suggestive of the thought that history repeats itself? The task set before the supervisor was—

1. To obtain possession of from twenty-five to thirty thousand false and fraudulent certificates of naturalization issued from the supreme and superior courts in the month of October, A. D. 1868, then in use in the city, the balance having been sold in packages in New Jersey, Connecticut, and other sections of the State of New York.

2. To discover and prevent false registration whereby thousands claimed to reside in dwellings which were in fact brick-yards, vacant lots, parks, stables, gambling-houses, houses of prostitution and assignation.

3. To break up gangs of repeaters, numbered by the hundreds, each of whom was registering and voting from ten to thirty times.

4. To discover the immense number of living men voting upon the names of the dead.

5. To make a correct roll of the unpardoned criminals and convicts.

6. To prevent false counting and canvassing.

The work was herculean, but the workman was, too. Davenport commenced his operations with enthusiasm, prosecuted them with great earnestness and unflagging zeal. He encountered opposition but always triumphed over it. He was prosecuted before the courts in 1874. The presiding judge not only acquitted him but commended his ability, integrity, and decision in the administration of the duties of his office. In 1876 a congressional committee known as "the Caulfield committee" investigated him, and in the end were delighted to have him called off. Subsequent to the election of 1876, another committee, Hon. SAMUEL S. COX, chairman, made an investigation which resulted in his entire vindication. During the last Congress another was ordered, Hon. William P. Lynde, chairman, on which I had the honor to represent the minority. Witnesses were examined for two or three weeks to so little effect that no report was ever made. Two days before final adjournment of that Congress Mr. Lynde read to me his views, an argument in favor of the repeal of the election laws, but they were never submitted to the Judiciary Committee nor to the House. The only action had was, leave "to print and recommit." I shall have occasion to refer to these investigations again. All these obstacles had no more effect than the *débris* floating on its surface has upon the ocean.

There were from forty to sixty thousand false and fraudulent naturalization certificates to be followed up and destroyed. It was very difficult to determine how many of these were in use in the city, thousands of them having been sent into Connecticut, thousands into New Jersey and the river counties of New York, ten thousand having been delivered to Jim Fisk for distribution along the line of the Erie road; but the registration was carefully scrutinized, compared year by year; certificates of 1868 to be indexed; records of courts examined; holders of papers personally interrogated; threats, arguments, and entreaties used with the voters, until in 1876 there were registered under certificates issued from the supreme and superior courts for October, 1868, less than ten thousand persons. In the accomplishment of this no complaint had ever been made against Mr. Davenport's processes, and, comparatively speaking, no obstacles had been thrown in his way. Prior to the election of 1878, the supervisor having become thoroughly master of the situation, knowing every holder of these papers, all the facts touching their falsity, determined to close them out. There was no secrecy about it, no disguise; his purpose was published in the daily press; he notified a committee of Tammany of it and sought their co-operation, which at first they seemed inclined to give, but subsequently refused and on the contrary bitterly opposed. In the month of August he caused notices to be served upon these holders personally, also published them, informing them of the fraudulent character of their papers, that they would not be permitted to register under them; that if they would surrender, whenever they were entitled to naturalization they should receive their certificates free of cost; again served a like notice in September and again in October. Before registration was over, from three to four thousand of these papers had been surrendered, with affidavits that the surrender had been freely made; that the certificates were fraudulent, and each affidavit signed by the party affiant. Undoubtedly thousands more would have been freely given up had it not been for the violent and persistent opposition of Tammany. Just before the election some thirty-two hundred warrants were issued against parties who had registered under these papers. On election-day six hundred and six were arrested, and only twelve hundred and forty succeeded in voting. These arrests were made for illegal registration on warrants. Immediate examination was had before the commissioners. All expedition was used; as little trouble, delay, and vexation was caused to the arrested as was possible. Nearly all were discharged on their own recognizance, and very few if any were prosecuted to judgment before the courts, the authorities regarding them rather as dupes of Tammany than willful violators of the law.

A memorial was presented to the last Congress by the gentleman from New York [Mr. WOOD] complaining of arbitrary arrests, cruel treatment, confinement in filthy pens, intimidation, partiality of supervisors in administering the law, and wholesale arrests of innocent men. The Judiciary Committee, through Messrs. Lynde, FORNEY, and FRYE, investigated, as I said before. Tammany was represented by two able lawyers, Davenport by himself. Tammany had the subpœna of the United States, the largest liberty in its use, all free of cost; brought before us seventy or eighty witnesses, of course about all, and of course the very best samples of the injustice of the law. There were sixty-three of these memorialists, setting forth in words that burn their grievances. Their persons and residences were well known, and yet only eleven of them were put upon the stand. Where were the others? Why did not the able counsel call them? Surely they knew and could swear to the blistering facts presented to the House by the honorable gentleman from New York, [Mr. WOOD.] The papers of forty-two of these men on their face would have convicted them of illegal registration. Does this account for the absence of all but eleven? Davenport insisted that they should all be sworn as witnesses for the complainant.

I have no hesitation in saying, and I do it with the evidence and Mr. Lynde's views before me, that as to intimidation of honest voters, cruelty, partiality, vexatious delays, there is not sufficient evidence on which to convict a man of the theft of a farthing, not sufficient to awaken a decent suspicion in an unpartisan mind. On comparing the statements of these witnesses with their papers, I am satisfied that not more than a score were entitled to vote. Did not Tammany find the best specimens of the six hundred and six arrested men? And for this offense against the liberty of the citizen must this law be repealed? Why, you cannot enforce the law against burglary, theft, murder, or any other crime *without* arresting some innocent men. Must, then, these laws be repealed? I call your attention to this: from twenty-five thousand to thirty thousand fraudulent certificates on which men had registered in 1868 and voted, in 1878 thirty-two hundred only registered, twelve hundred and forty voted; and all this accomplished with no more complaint or cause for complaint than is found in the evidence taken by our committee. I submit to any candid, fair-minded man, is not a success like this marvelous, and its accomplishment with so little friction, so slight individual, personal injustice without parallel in the history of law and its enforcement?

And now I come to the second great crime against the right of suffrage, "false registration and repeating." Its extent I have already

indicated; its remedy was hard to find, and made especially so, first for the reason that the city authorities changed election districts every year, and sometimes twice a year, cutting frequently single blocks, single squares, in half, thus rendering impossible any comparison of registries and poll-lists of any one year with any preceding year; second, for the reason that registration under the law then closed only two days before election, thus giving no time for examination and comparison. To overcome these difficulties Davenport took a copy of the census, all males over the age of eleven—three hundred and thirty-three thousand—under the number of the houses, by election districts, assorted, wrote them on slips, boxed the slips, then sorted them alphabetically by the inside letters down to the last letter, so that it became a directory, an alphabetical list in addition to the house list; then copied the inspectors' books, the registers, and poll-lists, brought them into block books, so as to keep each block by itself; then made maps of every house, building, and lot in the city; also in blocks; corrected them every thirty days. Says Mr. COX in his report:

You cannot build a wing to your house, or change its number or add to its stories or rooms, or change the character or quality of the dwelling, without its being registered by the supervisor.

All vacant lots, parks, stables, houses of bad character, public buildings, &c., appear. So perfect was the machinery that Mr. Davenport says:

I did not care how often they changed the election districts, I could take one block and another block and make my election districts as fast as they could change theirs, and have it within twenty-four hours.

Then the law was changed giving ten days between final registration and election. Every supervisor was required to keep a copy of the registration in his district and return at once to the chief supervisor. False registration and repeating without detection became impossible.

The third and fourth classes of crimes against the ballot were, voting on the names of dead men, the registering and voting of unpardoned convicts. To prevent these the supervisor prepared books containing a record of every State-prison conviction in the county of New York for twenty-five years, with an accurate description of the man, his height, complexion, age, married or single, occupation, crime charged, trial, plea, verdict, sentence, whether pardoned or not; and this record was corrected every thirty days. Also for the same time records of all deaths, with street, number, name, age, nativity, color, occupation, time, place, and cause of death. And these crimes were effectually stopped.

False counting and canvassing was pretty thoroughly checkmated by the law and its enforcement by Mr. Davenport, as the following evidence shows:

By Mr. COCHRANE:

Question. Who has the custody of the records showing these several votes?

Answer. That is published in what is called the City Record, the official paper of the city.

Q. Who has the custody of the original returns?

A. The original canvass of the State officers—the State inspectors send their original canvass to the county clerk, one copy to the county clerk and one copy to the bureau of elections. The supervisors of elections send their canvass to me, and I have the returns from every election precinct, showing not only the supervisors' count, but also showing the inspectors' count; and in that way I have a check on any alteration of the returns thereafter, because I made them take down the count of the State officers, and then take their own count, and wherever there was a variance the man got into difficulty.

Q. You have no personal knowledge, however, as to the correctness of those returns, have you?

A. I have the official returns made under the law. The supervisors are sworn. I did not personally canvass the vote.

Q. Therefore you have no personal knowledge as to the correctness of these returns?

A. No, sir; I had the official reports certified by the county clerk and published in the official paper of the city. That I have here in Washington. That paper is made by law the place for publishing the official canvass.—*Davenport's testimony.*

But time will not allow me to specify further the means adopted by Davenport to secure pure elections. It does not seem to me that man could devise machinery more perfect, complete, and more certain to secure the desired end. How did it operate in New York? It must be remembered that Davenport commenced under the first election law in 1870; that both law and man were silent and powerless in the odd years and in the election of all officers except Representatives to Congress. Of the election of 1872 the New York Tribune, then good democratic authority, declared it "to have been most thoroughly honest and to have been nearer a pure election than the city of New York had had in years."

Allow me to give a few extracts from the testimony of a leading democrat and prominent official of the city, Mr. William C. Whitney, taken before the investigating committee of 1876, of which the honorable gentleman from New York [Mr. COX] was chairman:

When Mr. Davenport comes to explain to you the elaborate machinery for detecting frauds upon the franchise in New York City which he has devised and set in motion, you will see plainly that the security against frauds of this character is greater than anywhere else in the United States.

Again:

Of course you must understand that this system undoubtedly has the effect of preventing fraudulent voting.

Again:

From what I have seen of the preparation made to prevent fraudulent voting, with which Mr. Davenport is justly to be credited, I do not believe there is as honest an election in the United States as is held in New York City.

Again:

I am entirely familiar with the system that he has put in operation. I think it is very thorough, and if a man succeeds * * * in voting when he has no title to vote he is pretty smart.

Again:

Question. You think that the supervision of the election, under the system of Mr. Davenport, has had the tendency to prevent illegal voting and to give a fair election?

Answer. I think it has. Yes, sir.

Again:

I have heard him (Kelly) express the same opinion * * * that Mr. Davenport has been a very important accessory in preventing fraudulent voting in New York City.

The chairman of this committee, Mr. COX, says:

Whatever may be said about the United States law as to elections or their supervision by United States authority, &c., this must be said, that the administration of the law by Commissioners Davenport, Muirhead, and Allen, the United States functionaries, and their subordinates was eminently just, wise, and conducive to a fair public expression in a presidential year of unusual excitement, &c.

Again:

From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence. For this due credit should be given to men of both parties, and especially to the corporation counsel, Mr. Whitney, and the United States supervisors.

Now, sir, examine some figures from which correct conclusions are inevitable:

Sixth ward statistics.—For President, 1860, 3,224; for governor, 1864, 3,781; for President, 1868, 5,401; for secretary of state, 1869, 6,286; in May, 1870, for judges of the court of appeals, 6,350. Refer to the census and you will find this ward during this time steadily decreasing in number of inhabitants, but increasing in votes, as the above shows.

The national act of 1870 was enforced at the November election in this ward, and what was the result? For governor, November, 1870, 3,903; for Congress, November, 1870, 2,865. Supervision had affected some the governor's vote and reduced that for members of Congress more than one-half! Now look at the following year, 1871, an odd year, with which United States officers had nothing to do: For secretary of state, 1871, 4,104.

In February, 1871, the United States laws had been made more efficient. Now see the result in the same ward: For President, 1872, 2,485; for Congress, 1872, 2,414.

Eighth ward.—For several years, inhabitants decreasing, vote increasing under the fostering care of Tammany: For President, 1868, 6,803; for Congress, 1868, 6,587; in May, 1870, for judges of court of appeals, 9,512; for governor, November, 1870,* 5,412; for Congress, November, 1870,* 5,067; for secretary of state, 1871, 5,912; for President, 1872,* 5,311; for Congress, 1872,* 5,011.

Wards.	Population.		Registration.		Vote.	
	June, '70.	June, '75.	May, '70.	May, '76.	May, '70.	May, '76.
First ward	14,463	14,209	3,559	2,539	3,051	2,387
Third ward	3,715	2,878	1,606	904	1,382	819
Fourth ward	23,748	20,843	5,748	3,559	5,804	3,251
Fifth ward	17,150	15,966	5,880	3,263	4,374	2,947
Sixth ward	21,653	19,880	6,802	2,939	6,350	2,674
Eighth ward	34,913	32,488	10,162	6,414	9,512	5,932
Total	115,142	106,264	33,817	19,618	30,473	18,010

Observe that while the population decreased less than 9,000, the vote decreased more than 14,000; and yet the vote of 1876 was one of the largest ever thrown. Observe further that the decreasing vote is found in the democratic nurseries.

Please examine the party vote in the same wards, the scattering being excluded:

Wards.	Republican vote.		Democratic vote.	
	May, '70.	Nov., '76.	May, '70.	Nov., '76.
First ward	629	394	2,422	1,993
Third ward	203	235	933	584
Fourth ward	657	448	5,147	2,803
Fifth ward	627	842	3,747	2,105
Sixth ward	260	524	6,090	2,150
Eighth ward	1,038	2,244	8,474	3,688
Total	3,414	4,687	26,813	13,323

Total poll 1870	110,000
Total poll 1876	171,000

A democratic decrease of more than one half! Is this because the number of democrats has actually been reduced? Not at all. It is only this and nothing more: under these election laws his power of voting has been restricted. One democrat under the old *régime* was

* United States law enforced.

worth as much as two to-day. Of course such an interference with prolific democracy must be unconstitutional.

WHAT DO FACTS AND FIGURES SHOW?

Now, do not these facts and figures conclusively prove that there were no fair elections in New York City for many years, up to and including that of 1868; that false registration, repeating, corrupt naturalization, and fraud of every kind utterly overcame "the will of the people;" that interference by Federal authority was a necessity so far as it could constitutionally be had; that the election laws of 1870 and 1871, and their enforcement by United States officers, has purified elections? Why, then, this sudden democratic "hue and cry" against those laws? Why this determination to repeal the law or destroy the Government? Is it because of their cost? Are they, as the democrats insist, "heaping burdens upon the poor?"

The election of 1868 cost the city of New York $550,000, and what was it this money purchased? A farce! a fraud! That of 1870 cost $450,000; 1871, $375,000. Now the election costs the State only about $150,000. Add to that amount paid by the United States, even years, since the law went into effect, averaging, including all expenditures, chief supervisor and all, not over $100,000 a year, and the result is: Pure election, 1878, costs the United States and State $250,000; bastard election, 1868, costs the State $550,000.

Where are the burdens? No, my democratic friends, lovers of your kind, your cards are not good.

Is it because, as Mr. Lynde says, there were arbitrary arrests in 1878; because too much power is placed in the hands of a partisan supervisor? Why, gentlemen, there were fifteen hundred warrants issued in 1876 and three hundred arrests, all under the supervision of the autocrat Davenport; and yet there was no complaint, according to Mr. COX. Everything was serene and lovely. Is it because a score of men entitled to vote were arrested in 1878 and thus deprived of their rights? Mr. COX says such mistakes must inevitably happen, and they did occur in 1876; and yet everything worked together for good then. Is it because the enforcement of this law operates against the democratic party rather than against the republican? Of course it does. So does the enforcement of any law against crime. Repeal the whole criminal code; open the doors of every prison, jail, and penitentiary in this country; and the republican party would be shortly in a hopeless minority.

One illustration will serve to show in what soil this party of "reform" flourishes.

1862: General Wadsworth, the Union nominee for governor; Horatio Seymour, the democratic. The county of Saint Lawrence, made up of substantial, intelligent, and well-behaved farmers, cast a vote of 13,321. Wadsworth had 9,698; Seymour had 3,623. Thirty-nine election districts in the city, containing a little less population than Saint Lawrence, polled 14,345 votes. Wadsworth, 1,681; Seymour, 12,654.

The inhabitants of these districts were degraded, intemperate, ignorant, and criminal. These districts, as appeared by the police records, contained 2,743 groggeries, 279 brothels, 170 resorts of thieves, 105 policy shops, and gambling-houses and dance-houses in great numbers. They gave Seymour a greater majority than he had in the whole vote of the State of 602,546.

Right here, sir, I wish to call the attention of the committee to the testimony of a man of great experience, Mr. Ottarson, given before the COX committee in 1876. Mr. Ottarson had been a journalist in New York City for twenty-five years, connected with the Tribune from 1841 to 1865, subsequently with the Times and the Herald, the compiler of the Whig or Tribune Almanac, a careful student of social and political statistics:

I do not believe nor do I charge that all democrats are dishonest. But I do mean to say that every dishonest man, every vagabond, gambler, illegal rumseller, tramp, loafer, and bad citizen, in whatever line of business, from burglary down to French pools, is instinctively and practically in favor of Tammany democracy.

Again:

More than thirty years ago the whig and native American majority in the Legislature got up a bill to purify elections. Tammany opposed it. It was enacted. Tammany defied it. As soon as the democrats got a majority the law was repealed. When it was proposed to substitute glass ballot-boxes for the dark sepulchers, so easily packed before the polls opened, Tammany opposed it. When it was proposed to give each party an equal representation in the boards of election officers, Tammany opposed it. When it was proposed to close liquor shops during voting hours to prevent fighting and general disorder, Tammany opposed it. When it was proposed to remove ticket booths far enough from the polling places to avoid crowds and confusion, Tammany opposed it. When minority representation was proposed, Tammany opposed it. When the people found that the democratic leaders had been granting enormous donations or privileges to certain religious organizations and proposed an amendment to the constitution of the State forbidding appropriations to any sect whatever, Tammany opposed it. Whenever and wherever there has been proposed the least possible restriction of liquor selling, or the least attempt toward the enforcement of a regard for Sunday, Tammany has opposed it.

Words of mine would have failed in any attempt to describe Tammany democracy. This witness does justice to the subject. What a spectacle do we behold to-day—a union between the confederate democracy of the South and this Tammany democracy of the North! Have they forgotten history, and that it repeats itself? They have worked together before, worked for slavery and against the rights of man, worked for a despotism and against a republic; the one finally made a mad attempt to destroy the Government, the other cheered it on; the one fought for years to achieve its terrible purpose, the other sympathized, but, coward-like, dared not help. The one sowed the wind and reaped the whirlwind; the other cringed and shivered before the blast. The one mourned over blasted hopes, broken families, ruined fortunes, and a devastated country; the other lamented only the loss of political power. And now once more they clasp hands. The confederacy demands that all protection to the voter shall be withdrawn; that no civil or military officer shall, with armed men, secure to the trembling black citizen his right to the ballot; that kuklux and white-leaguers shall reorganize; that scourgings, beatings, and assassinations shall go unwhipped of justice; and Tammany as before shouts "Amen and amen." Tammany demands that "thieves, vagabonds, gamblers, tramps, loafers, and bad citizens" shall again control elections in the city of New York; that corrupt judges, false witnesses, and perjured applicants shall again swell their majorities; that false registration, repeating, simulating voters, and manipulating votes shall once more overcome the will of the people, and the confederate democracy shout back their amen. Together they demand that their wicked will shall prevail or the Army shall be starved and all the functions of Government shall perish. But the old ship of state sails calmly on. She has encountered in her voyage deeper seas, fiercer waves, angrier storms, more dangerous shores, and has found safety from them all. The Great Pilot is at her helm, and, freighted as she is with the hopes of man, all the powers of darkness cannot prevail against her.

Mr. ROBESON. Mr. Chairman, when I had the honor to speak to this committee on the Army bill, I endeavored in the few remarks which I then had occasion to make to illustrate the fact that that bill was not really designed as a limitation in any way upon the use of the United States Army; and I supported that proposition by the statement that during the last Congress a provision had been put into the Army bill then passed, which effectually restrained the power of the military officers to be present at or take any control of any popular election, and that therefore the words "naval and military" in this bill were nothing but a cover, a specious and thin cover, to the real design of this enactment, which is not to restrain the Army, for that is already done, but to strip from the officers of the courts, the civil representatives of the United States power, their authority for executing the laws of the General Government by summoning to their aid, if need be, the good citizens of their districts, to help them "keep the peace" at the polls.

It has been said that we were willing on our side of this Chamber to vote for the repeal of this law of 1865, provided it was presented in an independent section. And that declaration has, without authority, been perverted to mean that we were willing to vote for the amendment in the Army bill, if it was presented as a separate provision. Mr. Chairman, that is not only a different proposition, but exactly an opposite proposition. That amendment does nothing more than repeal an exception to a restricting law, and the repealing of an exception to a restricting law, so far from repealing the law itself, actually enlarges and increases its scope. I have thought it proper to make these remarks in order that our position might not be longer misunderstood. For myself I say that I am willing, if the gentlemen on the other side choose to present the proposition, to vote for the repeal of the whole restricting enactment of 1865, but I should not dare to go home to my constituents if I said that I was willing to take from the civil officers of the Government, from the civil instruments of the law, their power to maintain good order, quiet, and peace while they were in the exercise of their duties as free American citizens and voters.

With these remarks, Mr Chairman, I dismiss all the discussion that I care to make of the subject-matter of the last bill, and shall now confine myself entirely, as far as I may be able to confine my remarks made in this desultory manner, to the discussion of those legal and constitutional propositions which have been so fully, so ably, so boldly, and I am willing to say so fairly presented on the other side by the distinguished gentleman from Kentucky and his associates. The real question between the gentlemen on the other side and myself is a difficulty which arises on the main propositions of this case; not a difficulty in logic or in argument, not even in verbal propositions; but we differ about our premises, about the principles from which we start. And if it were otherwise I should hesitate myself before I arrived at a different conclusion *from the* distinguished gentlemen who have so clearly and ably presented the other side of this case. But the difference between us is found in our ideas of the organic principles of our Government, about the design of the men who established it, and the purposes for which it was constituted. These gentlemen seem to argue, and I believe—for such is the influence of early education and habit of thought—they honestly and habitually think that we are living, not under the Constitution of the United States, but under a confederacy of separate sovereignties; whereas I think that we are members of a *government* established for the government of the people and not of the States, a government which has all the attributes of a government, including sovereignty—a government which acts directly upon the people, upon their rights, and upon their property. It seems to me, if I have read aright the principles and history of our Government, that it was for this very purpose that our fathers abandoned the original idea of the confederation, and appealing again to the people, not to the States, drew from that rich and natural source the powers with which they endowed the Government under the Constitution. And when they turned to that source and took from that natural well their powers of government they took them pure and unalloyed by any intervening element which could impair or weaken; they drew them direct and pure, not

through the doubtful vehicle of intervening government or State sovereignty.

If I have read history aright, sir, our fathers found that a confederation of States where the central power was dependent upon the several States for the execution of its laws, the enforcement of its decrees, and the protection of its people was insufficient for the purposes of government; and therefore these men, learned in all the principles of government and law, elevated to a loftier mood by their contact with great principles and the great sacrifices they had made, turned again to the people of the country and from them sought anew the authority upon which this Government was founded, and, clothed with full powers by the people whom they directly represented, they proceeded to establish and ordain a new government with far different, broader, and better-established duties and powers.

Mr. Chairman, the spirit of these earlier leaders of thought and action who, severing with heroic energy the ties which bound them to the Old World, led their adventurous bands to new and hostile shores has not been lost to the nation which they founded. The children of every European race, they were the representatives of every system of European government and religion, and united in themselves much of what was vital and affirmative in them all. They came, as has been most eloquently said, "from the worn and broken crew of the Mayflower, from the ruined bands of Raleigh, from the free communities of the 'hollow land,' from the heavenly companionship of William Penn."

The qualities which dared the dangers of the winter seas and conquered the forests of the New World they transmitted to their descendants with the principles for which they had abandoned the old, and these were not unworthy to receive and maintain them. Themselves the giants of a new creation, their sons were the heroes of a new heroic age, when their day of trial came they were true to their inheritance of power, confirmed in their fathers' faith, and elevated to a higher mood by closer contact with the great principles involved in their struggle for liberty. When they came to settle forever the foundation principle of the government which they established, inspired by a noble ambition of good, they looked far beyond the present, and scorning alike the minor considerations of personal dignity or party policy they admitted the world to a share of their triumph and expanded their earlier idea of mere colonial independence to a broad assertion of the rights of man.

All circumstances combined to inspire, instruct, and aid the founders of our Government. Themselves successful rebels against the wrongs of the most liberal and advanced of European governments, they were so far imbued with its principles, yet so separated from its influences, that they could adopt the good which remained without prejudice or danger. The simple occupations and habits of pioneer life had produced a simplicity of tastes and manners which had not yet been wholly lost under like conditions, and the mighty ocean which rolled between separated them from the landmarks and associations of the Old World, its conventions and its forms, its statecraft and its priestcraft, "its grandeur and its gold."

Acting under His direction "who is the Ruler and Architect of all," and in the fulfillment of their and our destiny, our fathers established a government liberal indeed in its tendencies, simple in its operations, moderate in its requirements, and lenient in its decrees, but firm in its principles, clear in its purposes, and ample in its powers, not only for the wise and beneficent ends for which it was formed, but ample also for its own dignity, action, and preservation. This is the Government which they left to their children for their own benefit and for the benefit of mankind. A nation born of such ideas and established upon these principles, gathered from the vitality of every land, uniting in one community the enterprise and progressive energies of every race, and inspiring it with the kindling associations of every people, with a continent as a heritage and freedom as a birthright, it is fit that we should be as a nation the champion as well as the exponent of the world's advance for ourselves not only, but for all the peoples of the earth.

Let us look at the objects which the founders sought in establishing the Government, as it is expressed in the preamble of the Constitution itself.

What did they mean to do?

To form a more perfect union, establish justice, insure domestic tranquillity—

Not by the power of State laws or the interference of State officers, but by the force and action of the Government itself. And to—

secure the blessings of liberty to ourselves and our posterity, we—

Who?—

we, the people of the United States—

Do what? Do we enter into an agreement between parties? No. Do we join in a league between States? No. Do we make a confederation between governments? No. Is this a compact between sovereignties? No.

We do *ordain* and *establish*—

What?—

this Constitution—

For what?—

for the United States of America

This, then, is not a confederation of powers, not a league between States, not an agreement between sovereignties, but a Government established and ordained, constituted by this written Constitution, established and restrained, empowered and restricted by this written Constitution thus ordained.

I admit, Mr. Chairman, that all the powers of this Government are and must be found within the written Constitution. Here is the source from which the river of our power must flow or else run dry. Nothing is to be claimed, nothing is to be exercised except what flows from the powers there declared, the rights there guaranteed.

And if there be any power in these laws which cannot be rationally, legitimately, and logically inferred from the provisions and powers of this written Constitution of the country it should be swept from the statute-book in disdain and dishonor. But, my friends, if there be powers that are necessary for the maintenance of the Government itself, if there be powers that are necessary for its security and preservation, and if these powers be clearly derivable by right and proper reasoning from the Constitution itself or its proper inferences, it is just as much a violation of the Constitution to misconstrue them or deny their force as if you sought to ingraft some foreign power on the Constitution to the injury of the people for whose government and protection it was established.

Now, Mr. Chairman, the first conclusion which I endeavor to deduce from these general propositions is, that the Government established by the Constitution of the United States was a government with all the qualities, powers, and attributes of a government, a government which has citizens, and which acts directly upon those citizens though living in the States, for except those in the Territories or in this District all must live in the States. That it is a government established for the direct purposes of government, clothed with the powers and armed with the weapons of a government, with strength and power for its own action, preservation, and continuance; a fit organization for a people who were to be the leaders and champions of free principles of government and law for themselves not only but for all the peoples of the earth.

If ours is a government established by a free people for the purposes I have recited, and looking to the ends I have suggested, it must have all the inherent qualities of government, including that most necessary, though supreme power, which we call sovereignty, and my first proposition is that our Government is sovereign and supreme upon all subjects upon which it acts. It is a limited government, it is true, a government of limited powers, gentlemen are fond of saying; but let there be no confusion of ideas about this between the gentlemen on the other side and myself. It is a government of limited powers indeed, but limited how? Limited in the number, but not in quality of its powers. It is a government whose powers are limited to certain subjects and acts on certain specific objects with which it deals, but wherever it does deal with a subject, wherever it does act upon an object, there it is a government of sovereign and supreme power. Not only is this declared by the Constitution itself, but it follows from its very nature as a government. No government can be worthy of the name if it does not *govern* upon the subjects in regard to which it is clothed with power. Let there be no mistake about this proposition. Let it be either admitted or denied. This is a limited government, but limited only in the number of its powers and unlimited in its governmental power over the subjects to which it is legitimately directed. As it is then a sovereignty with sovereign powers upon these subjects, let me make another proposition which cannot be denied; it is this, that whenever it does act upon those subjects its sovereignty is not only unlimited, but exclusive. There can be no sovereignty other than that. If need be I could refer to many decisions of our highest court on this subject. I will, however, detain the committee a moment only to allude to a single case of which we have been speaking so much during the course of this debate. I read from the decision of the Supreme Court in the case referred to:

A government thus established and defined is also for certain purposes a government of the people. Its powers are limited in number, but not in degree; within the scope of its powers as enumerated and defined it is supreme and above the States.

I know that the opinions and decisions of the Supreme Court of this country are not binding authority here; but I know that they are deserving of great weight in the highest legislative body of the country though they are binding upon no man's constitutional ideas, nor do they control his governmental action. I admit this, and I have cited these words only to show that the highest tribunal of this country, entitled to the respect of all thinking men, has so decided this question.

Now, Mr. Chairman, this Government of ours has, under the direction of the Supreme Court of the United States, and by its sanction, exercised the highest attributes of government wherever its necessities required it. It has as a government, and without special delegation for the purpose, exercised the right of eminent domain, the highest exercise of governmental power, the right to take the property of the citizen against his will and appropriate it to government uses. In the city of Cincinnati, after the case had been contested through all the courts and decided by the Supreme Court of the United States, the United States took private property for the purpose of a post-office under the general power to "establish post-offices and post-roads."

Our Government has citizens of its own entitled to and enjoying all the rights of citizenship under the Constitution itself. Under the

Dred Scott decision it was held by many that the United States had no citizens except those who were such through their quality as citizens of the several States; but now, under the fourteenth amendment to the Constitution of the United States, which has been accepted and promulgated and which the orators and leaders on this floor have declared they meant to accept, the citizens of the United States now are citizens of the United States by virtue of its Constitution, and citizens of the States because they are citizens of the United States. They are no longer citizens of the United States because they are citizens of the States, but they are now citizens of the United States by virtue of the organic law declared in this Constitution, which makes them citizens of this country wherever they are, and citizens of a State when they happen to reside in a State, because they are citizens of the United States. I read from the fourteenth amendment:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States—

All persons coming within that described class are citizens of the United States. And what else?—

and of the State wherein they reside.

They are citizens of the United States wherever they are, and citizens of the States, by virtue of their citizenship of the United States wherever they reside in a State.

Then these United States have a government sovereign, supreme and exclusive in its powers wherever those powers act, a government with laws, with citizens, and with property, and with the power to act directly upon its citizens and directly upon their property. These make a State, citizens, and laws; they make a State.

> Men, high-minded men
> * * * *
> Men who their duties know,
> But know their rights, and, knowing, dare maintain;
> * * * *
> And sovereign law, that state's collected will,
> O'er thrones and globes elate,
> Sits empress crowning good, repressing ill.

These constitute a state, and these the United States of America has. This country has a government, powerful, sovereign, and, thank God, permanent and enduring. It has a people, free, thoughtful, conservative, and, thank God, I believe, loyal. It has all the powers of a government, not only for its own establishment and its own perpetuity, but all the powers of a government to secure to every citizen every right which that government gives him.

The gentleman from Kentucky [Mr. CARLISLE] has said, and he will please correct me if I misquote the sense of his proposition, that all the powers of this Government are to be found in the Constitution itself, and that nothing can be enforced by the General Government unless the power to *enforce* it is specially delegated.

Mr. CARLISLE. Unless the power be expressly delegated or fairly implied from some power which is delegated in the Constitution.

Mr. ROBESON. I will read what the gentleman says:

Whenever it attempts to exercise an authority over any subject it must find a warrant for it either in some express grant or some reasonable implication from some express grant in the Constitution itself.

And my friend has elucidated that subject by mentioning the right to bear arms, the right of liberty of conscience, the right of liberty for the press, the right of the people to assemble peaceably, &c., but all these are negative rights, which the Constitution simply says shall not be abridged. But when you come to a right which is a part of the government of the country, when you come to a right which is to be exercised as an important and affirmative function of the government itself, if there be no right to carry out and execute it, then there is no government. The distinction will be clear to the mind of my distinguished friend, the difference between a right merely guaranteed by negative provision, either in express language or in general statement, and a right which makes a part of the organization and movement of the Government itself.

Can such a right be established in the Government without the necessary implication to enforce and protect it? Do you make wheels to a wagon that are not to turn round? Do you put steam to an engine or motive power to any machinery which is not to be moved? When it is done, do you not find it a reasonable and fair implication from that fact that its movement and its exercise are contemplated?

The gentleman will pardon me a single moment if upon this question I turn again to a decision to which I have once before alluded, the decision of Justice Story in the celebrated case of Prigg against the Commonwealth of Pennsylvania. To the objection that the power there exercised did not fall within the scope of the enumerated powers of legislation confided to Congress, Justice Story answers:

Stripped of its technical and artificial structure the argument comes to this, that although rights are exclusively secured by or duties are exclusively imposed upon the National Government, yet unless the power to enforce these rights or to execute these duties can be found among the express powers of legislation enumerated in the Constitution, they remain without any means of giving them effect by any act of Congress, and they must operate solely *proprio vigore*, however defective may be their operation; nay, even although in a practical sense they may become a nullity from the want of a proper remedy to enforce them or to provide against their violation. If this be the true interpretation of the Constitution, it must in a great measure fail to attain many of its avowed and positive objects as a security of rights and a recognition of duties. Such a limited construction of the Constitution has never yet been adopted as correct, either in theory or in practice.

In the case of United States *vs.* Cruikshank, 1 Wood's Reports, which was afterward confirmed by the Supreme Court of the United States, the court says:

It seems to be firmly established by the unanimous opinion of the judges in the above-quoted case that Congress has power to enforce by appropriate legislation every right and privilege given or guaranteed by the Constitution. The method of enforcement, or the legislation appropriate to that end, will depend upon the character of the right conferred.

One other citation which, though not from the Supreme Court, ought to have weight, for it is a citation from one of the founders of our Government, a man whose authority will be recognized at least by gentlemen on the other side of the House. I read from No. 43 of the Federalist an article written by James Madison upon this very subject. Citing the clause of the Constitution which gives Congress the power to make laws to carry out its provisions, he says:

Had the Constitution been silent on this head there can be no doubt that all the particular powers requisite as means of executing the general powers would have resulted to the Government from unavoidable implication. No maxim is more clearly established in law or in reason than that whenever the end is required the means are authorized; whenever a general power to do a thing is given every particular power necessary for doing it is included.

Now, sir, I appeal from the constitutional arguments of the gentleman from Virginia [Mr. TUCKER] to-day to the constitutional exposition of these sound principles by James Madison at the time of the foundation of our Government. Again, is there anything to be found in the Constitution of the United States which establishes and confirms the proposition I have made? Yes; and let me read it in the hearing of the committee, for I fear we are apt in the heat of discussion——

Mr. TUCKER. Will the gentleman allow me a moment? Was he not mistaken in saying that he appealed from "the gentleman from Virginia" to the authority of James Madison? Did the gentleman mean to refer to me?

Mr. ROBESON. I appeal from what I understood to be the natural and necessary implication of the gentleman's position to the position established and declared by James Madison. If I have misstated any position of the gentleman, I beg he will correct me.

Mr. TUCKER. I did not desire to interrupt the gentleman. I only wished to say that nothing I have said in this debate conflicts at all with the views which the gentleman has read from the essay by James Madison.

Mr. ROBESON. That would probably be a matter of argument.

Mr. TUCKER. I supposed that the gentleman by mistake said "the gentleman from Virginia" when he meant to say that he was appealing from the gentleman from Kentucky [Mr. CARLISLE] to the authority of Mr. Madison.

Mr. CARLISLE. I have said nothing inconsistent with the view expressed by Mr. Madison.

Mr. ROBESON. The difference in all arguments between people who deal with subjects fairly is usually a difference in verbal propositions. We quarrel not usually about principles, but ordinarily about our method of stating them. We are not accurate in our definitions nor always fair in our deductions. If the gentleman does not mean the opposite of what Mr. Madison says, then I hold him up as a bright and shining example of justice, reason, and right on the other side of this Chamber—a gentleman who takes his stand here and says that when a general power is given or a general right guaranteed in the Constitution, the particular powers necessary to enforce that right follow by natural and necessary implication.

Mr. CARLISLE and Mr. MCLANE. Madison does not say that.

Mr. TUCKER. The honorable gentleman from New Jersey must not take me as sanctioning his own statement of Mr. Madison's proposition. I sanction and indorse what Mr. Madison himself has said.

Mr. ROBESON. I was about to read, from the Constitution of the country itself, exactly what the men who made it said when they declared these powers and conferred these rights. It is said here, (or if it be not said it is implied, such is the natural and necessary implication from the propositions and arguments of the gentlemen,) that we are dependent upon the States for the security of some of the privileges and rights of our citizens. This Constitution in article 4 declares:

This Constitution and the laws of the United States which shall be made in pursuance thereof shall be—

What? Submitted to the States for their revision and execution? No—

shall be the supreme law of the land.

"The supreme law of the land!" Not of the Territories only, not of the District of Columbia alone, but the supreme law of this broad land, stretching from ocean to ocean and from the frigid to the torrid zone. *Suprema lex!* What is supreme law? It is a law which has the power to execute itself upon citizens and property. This is no Dogberry law that our fathers gave us. To George Seacoal that most eminent legal authority says:

You are thought here to be the most senseless and fit man for the constable of the watch; therefore bear you the lanthorn. This is your charge; you shall comprehend all vagrom men.

There is the power given.

You are to bid any man stand in the Prince's name

That is the law.

Second Watchman. How, if he will not stand?

Dogberry. Why then, take no note of him, but let him go; and presently call the rest of the watch together, and thank God you are rid of a knave.

[Laughter.]

Is that the Constitution which our fathers gave for the purposes I have stated? Is that the Government which they established to insure domestic tranquillity throughout the land, and perpetuate the blessings of civil liberty for themselves and for their children? Those who attribute to them such contracted ideas and propositions do injustice and injury to their grateful memories before the world. What more does the Constitution say?

And the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

Not that the United States Government shall be bound by the action and tied up to the operations of a State government, but that the judges and the courts of every State shall be bound by the United States Constitution, anything in the constitution or laws of any State to the contrary notwithstanding.

One clause more.

The Senators and Representatives before mentioned—

That is, ourselves—

and the members of the several Legislatures, and judicial officers, both of the United States and of *the several States*, shall be bound by oath or affirmation to support this Constitution.

We, when we stand up before the Speaker's desk and raise our hands to Heaven and bind our governmental duty by the solemnity of an oath fast to the throne of the eternal God, swear to do what? Not to sustain the constitution and laws of any State, but the Constitution and laws of the United States. And every legislator, and every judge, and every executive of every State swears to maintain the Constitution of the United States. The United States representative or officer does not swear to maintain the constitution of any one of the several States, but all the officers of the States swear to maintain the Constitution of the United States.

These, Mr. Chairman, are general propositions I make. We come now more directly to the consideration of the authority which is to be found in this Constitution for the enactment of the laws now under consideration; for, as I have said, if they are unconstitutional let them be swept from the statute-book; but if they be constitutional, although in your wisdom, acting as a majority, you may see fit to repeal them, do not put it on the ground of their unconstitutionality, or else your judgment may remain a false precedent for future action, a landmark and guide-post to error and to wrong.

The gentleman from Kentucky, [Mr. CARLISLE,] who has so ably presented his side of the case, has said that the power derived from the second section of the first article of this Constitution was a power which I had the honor to discover. I should be proud if that were so, but it is a power which is as old as the Constitution itself, as old as the principles which are there set forth, a power which I do not believe has ever before been denied by any one.

Mr. CARLISLE. Was it ever asserted?

Mr. ROBESON. It would have been asserted if it had been denied. There are many things which are so self-evident when written upon the face of laws that they assert themselves to the understanding of all; and this has been so plainly written that it needed no reassertion by the feeble language of men like myself, for there it is, written on pages of the Constitution of our country, a self-existing, self-standing, self-asserting proposition which has challenged denial since the Constitution was formed:

The electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature.

Electors for what? For the House of Representatives. The House of Representatives of what? Of the National Legislature, of the Congress of the United States.

All legislative powers granted shall be vested in a Congress—

What of?—

of the United States, which shall consist of a Senate and House of Representatives.

Not the Legislature of a State, not a governmental body to make laws for a State, but a legislature of the United States, deriving its powers directly from the people and not from the States; a legislature that makes laws for the United States, the members of which swear to *maintain* the Constitution of the United States and not the constitution of any State.

They may not be civil officers such as come within the list of those enumerated as subject to impeachment. I know it has been held in the case of Senator Blount that he, for acts which he did as a private citizen or as governor of Tennessee, was not such an officer, and did not do acts which made him liable to impeachment as one of the civil officers of the Government under that clause of the Constitution. But the decision of that case goes to this extent, and no more. I care not whether you call Representatives in this House officers or not; I care not whether they are civil officers or not, it is a quarrel about words and names; they hold no commission, but they are members of the United States Government, to whom are committed important legislative functions. They discharge United States duties; they are amenable to the rules and government of this House, call them what you will.

I have said that this clause which I have read, though it confers no right of suffrage, yet adopts to its suffrage that class of voters which are here described. The doctrine of conveying rights by decription is not unknown to any of my friends. Laws even may be made by adoption. I may convey to my friend a lot in this city; if I choose I may describe it by proper metes and bounds, or I may say "lot numbered 1 in subdivision of square numbered 1, as surveyed and recorded in the clerk's office by the surveyor of the city," and when my friend takes the title for that lot does he take it from me or does he take it from the surveyor who describes it? Again, "all persons," says the fourteenth amendment, "born and naturalized in the United States are citizens of the United States." Do they take that title——

The CHAIRMAN, (Mr. GOODE in the chair.) The gentleman's time has expired.

Mr. CARLISLE. I hope unanimous consent may be given to enable the gentleman to complete his argument.

There was no objection, and it was ordered accordingly.

Mr. ROBESON. Let me pause to thank the gentlemen on all sides for their courtesy.

I was about to say, Mr. Chairman, that the fourteenth amendment of the Constitution of the United States declares that all persons born or naturalized in the United States are citizens of the United States and citizens of the State in which they reside. Do they take their title of citizenship from the mothers who bore them or the court which naturalized them, or from the Constitution of the United States which describes and adopts them? The Speaker of this House under certain contingencies may become the President of the United States, because he had been elected by the citizens of Philadelphia, and afterward selected by our votes to be Speaker. Does he derive that title from the Constitution of the United States or from the votes of the Fourth ward of the city of Philadelphia? It seems to me to be too clear for argument. There are some propositions which in their statement are so conclusive that you confuse them by illustration or argument.

Now, then, if this be a United States election for members of the United States Government, who are to have United States qualifications and to execute United States laws, is it not a right guaranteed to every citizen that that election shall be fair? Gentlemen will say there are no citizens; or would have said in the old time, there are no citizens except the citizens of a State, and therefore it is the State which must protect the rights which are guaranteed to citizens. Since the adoption of the fourteenth amendment, as I have said, we are citizens of the United States independent of and above the States; and by that Constitution we are as citizens entitled to every right which is there guaranteed and secured. More than that, this House, this national Legislature, is the judge of the election, qualification, and returns of its own members. Is that a State function or a United States function? And may it not be reasonably said, may it not be irresistibly argued, that the Congress of the United States has the right, if it chooses to exercise it, to make all laws and all rules which are necessary to give them all the information which it is proper and necessary they should have in order to decide upon these questions?

But it is not necessary to argue from general propositions upon this subject. By the eighth section of the first article of the Constitution it is provided that Congress shall have power—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

In the very section of the Constitution which gives this right and declares this qualification and establishes this election, and which also gives the right to Congress, when they choose, to make all needed regulations with regard to the time, place, and manner of holding it—in the very concluding section of that article the power to make these laws is expressly and explicitly given. Now, then, Mr. Chairman, what does that mean? If there is any remark to be made about this Constitution it is that it was the work of master hands, and that, dealing in general statements and general terms, there is nothing within it which is unnecessary to its operation.

Mr. SAMFORD. Will the gentleman yield to me for a moment?

Mr. ROBESON. Yes, sir.

Mr. SAMFORD. I would like to ask whether or not the same provision with reference to the election of Senators is not made in the section which provides for the election of Representatives?

Mr. ROBESON. I will answer that before I close. If I do not, I trust the gentleman will call my attention to it. I mean to be entirely fair in my discussion of this case, and I shrink from no logical conclusion from the propositions on which I stand. When I declare a principle I am willing that the reasoning of every fair man shall carry it to its legitimate conclusion.

I was about to say, Mr. Chairman, that this was an express authority to make these laws. Let us see whether it covers the whole of this case. The distinguished gentleman from Alabama, [Mr. LEWIS,] who opened this debate in a speech which seemed to me to be as fair, as compendious, and as logical as any that I have heard, put this proposition on what seemed to me to be its strongest ground, if strong ground it has. He said that this was an ultimate power of the United States Government, which resided originally in the States, and could not be exercised by the United States unless the State refused or neglected properly to exercise it. If I have misstated the proposition, I see the gentleman in his seat and I hope he will correct me. He founded that assertion on the language of some of the

writers of that time, and also on the debates on the Constitution in various of the States, and in the protests which some of the States made against its adoption. But it seems to me that the very argument on which he founded it avails for its overthrow. It was an objection made by the States. Why? Because it was not an ultimate power, but because it was an original power. It was an objectionable clause to which they proposed amendments, but those amendments after consideration were not adopted, and the original Constitution remained as it was.

It seems to me that that argument, on general principles and on the language of the section itself, which says that Congress may at any time have power to make or alter such regulations, embodies a proposition of such breadth and such compass that it cannot be restricted by any suggestion that it is merely an ultimate power. Upon this subject there is authority to which I commend the gentleman. Mr. George Ticknor Curtis, a distinguished lawyer, and a democrat of the State-rights school I believe, a Hebrew of the Hebrews if I do not mistake his political position, declares in his treatise upon the Constitution that the language is so broad that that proposition cannot be maintained. Still, I state it as an argument which is founded in broad consideration of the subject, and is worthy of the attention of statesmen and legislators.

Now what is left? The argument is that the words "times, places, and manner of holding elections" are not sufficiently broad to cover the subject; that there is something in the conditions of that language which restricts the power of the General Government. Let us see. We have a Representative to be elected. We have declared the qualifications of the person who is to be elected. They are specified in the Constitution. We have declared the qualifications of the persons who are to elect. These are specified in the Constitution. We have declared the power by which the election, qualifications, and returns of that elected Representative shall be decided. That also is specified in the Constitution. What remains? Why, "time, place, and manner" of holding the election; the qualifications of the elector; the qualifications of the elected; the qualifications, elections, and returns to be decided by this House; regulation of "time, place, and manner"—do not these include all the categories of the election? Is there anything else in that proposition which the ingenuity of man or the suggestion of lawyers can draw out or illustrate? And if it be so, what answer has my friend to make to the question? If the power be not all there, where is it? All that is given to the States is given also to the United States except the mere power to declare the place of the election of the Senators.

This was not a part of original State sovereignty. All powers which are not delegated are reserved to the States or the people. That is not denied; but nobody will contend that this is a part of original State sovereignty which is reserved to the States and results to them if it is not given to the United States; for it did not exist until the Constitution was formed. It was a right which was founded on and grew out of the Constitution of the United States, and lives there or nowhere. If that power be not in the United States Government, where is it? Who can control it? Again, the language of the Constitution is "shall regulate," make regulations. Gentlemen will not disagree with me when I say that in the words "to regulate," as a technical word used in laws and constitutions, is the broadest power known to the law. The power to make regulations, the power to make rules and regulations, is the broadest power ever given to a legislative body. Under the power to make rules and regulations for the government of the Territory the whole system of our territorial governments is built up. Under the power to regulate commerce the whole subject of our interstate and foreign commerce is controlled. The power to regulate, the power to make rules, is the power to make all the laws necessary to control the whole subject.

I refer gentlemen to the tax cases. I think it was the case of Hamilton against Dillon, in one of Otto's reports, I have forgotten which volume, in which it was expressly declared by the court that this power "to regulate" is a power which covers the whole subject, and I will also read a line or two, if the gentleman will pardon me, from Mr. Justice Story's Commentaries upon the Constitution of the United States:

> The power to regulate is a general and unlimited one; the power to regulate a particular subject implies the whole power, and leaves no *residuum*.

Mr. CARLISLE. I will not question the correctness of the proposition the gentleman makes as to the force and effect of the words "to regulate" or the words "to make regulations," but here the power is to make regulations concerning what? Not the times, places, and manner of electing or the elective franchise itself, but simply the manner and time of holding the election.

Mr. ROBESON. It is not the power to regulate the elective franchise, I admit, but it is the power to regulate the election and I claim that that power is only exercised fully when every man, who has the elective franchise has the full, fair, and free opportunity as an American citizen under the Constitution of his country to exercise the right not to vote merely but the right of voting, and it is just as important to him to be secured the full effect of that right as it is to exercise it; it is just as important to him that that right shall not be nullified by two fraudulent votes which are thrown to nullify his vote as it is that he shall exercise the right primarily himself. It is of just as much importance that the votes shall be properly counted and their result properly registered as it is that he shall have a right to cast his vote in the first instance. Can any reasoning man deny that proposition? If he is entitled to any rights under that clause he is entitled to all the rights which the clause gives him, and therefore I say that the only logical, rational, and reasonable argument is the argument of the gentleman from Alabama, [Mr. LEWIS.] You must deny it *in toto* or not at all. For all that there is of it is given to the United States, and if not in them, then it is nowhere.

There is another proposition which I desire to discuss, but I am conscious that I am trespassing on the patience of the committee. [Several members. "Go on!"] Before I leave the subject upon which I have been talking I must answer the proposition originally made by the gentleman from Kentucky, [Mr. CARLISLE,] and repeated by the gentleman [Mr. SAMFORD] who just rose to interrupt me. He says if we have a right to regulate the election of members of the House of Representatives, as the power of the Legislature of a State to elect Senators is given in almost the same words and that the same power of regulation must exist as to that.

Mr. SAMFORD. Exactly the same.

Mr. ROBESON. One word in reply. You say that the words are the same in the clause—not so. There can be no quarrel between us about verbal propositions or slips of the tongue. I read the clause from the third section of the first article of the Constitution of the United States:

> The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof.

Then we come to the fourth section of the first article:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.
>
> The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof.

We must construe these two clauses together; the gentleman will not deny that, but he asks: "Have you adopted Legislatures as your voters by that description, and will you regulate them?" Sir, I shrink from no logical conclusion in my proposition. We have adopted the Legislature of a State, who are made voters for this purpose, but we have adopted them as the Legislature of a State, as an organized body, with its own laws, its own rules of action, its own officers, its own right of determining the validity of the election of its own members.

We have adopted the Legislature of the State as such, and we cannot by the Constitution so interfere with it as to destroy its character as a Legislature. We have adopted an organized body, an organized machine, full-armed and equipped with all its functions. We have adopted that Legislature by the virtue of the United States Constitution, and that Legislature holds its right and exercises its power by the force of that Constitution and not by the force of State constitutions and State laws. That has been held by a democratic Senate in the Indiana case, if I mistake not. It was held that this power was derived from the Constitution of the United States and could not be interfered with by State regulations or State laws. And it was so held in effect in the Stockton case.

Mr. SAMFORD. Does the gentleman then concede that Congress has no power to send deputy marshals and supervisors into a State Legislature?

Mr. ROBESON. I concede that the Congress of the United States has no power to send *supervisors* into the Legislatures of the various States. I say the Constitution has adopted the Legislature of the State, and Congress cannot appoint new officers for it. In regard to the election of Representatives, the United States has power if it chooses to take the whole subject in its own hands, to establish its own polls, to fix its own times, to appoint its own officers, to make its own elections, and to prescribe its own methods of certifying and returning them. But in regard to the Legislature, that Legislature is adopted as a whole, and must act according to its constitution as a Legislature. The United States Government has no right to question the title of its members or to send officers in to make a part of that body to govern and control it. But I will say one other thing, and the gentleman will understand that I have limited my answer to his question. I have said that the United States had no power to send *supervisors* to make part of the officers of a Legislature and to control its proceedings; but if the authority of that Legislature, in the discharge of its functions derived from the Constitution of the United States, is interfered with by riot or disturbance, by State laws or State authorities, then I hold it to be not only the right of the United States, but its bounden duty to send its marshals to preserve the peace and to see that that Legislature has a right to exercise that United States function against anything which may come in to interfere with it. [Applause on the republican side.]

Mr. CARLISLE. Will the gentleman allow me——

Mr. ROBESON. Certainly.

Mr. CARLISLE. I desire to call the attention of the gentleman to the fourth section of the first article of the Constitution, which reads as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

I desire to ask the gentleman what, in his opinion, is the extent of the power of Congress over the State Legislature from this clause while engaged in the act of electing a United States Senator? In other words, if the laws now under consideration are authorized in their application to elections of members of this House, would not the same identical laws or similar laws be authorized in their application to a Legislature when electing Senators? If not, why not?

Mr. ROBESON. Whatever power the United States Government finds it necessary to employ in order that that Legislature, acting as an organized body, with its own officers and its own members, shall exercise its United States functions, that authority and power the United States has the right to apply, and it is its duty to apply.

I especially deny and disclaim the right of the United States to appoint officers of that Legislature who shall take part in its deliberations and actions. I expressly disclaim and deny the power of the United States to look to the qualifications of the members of that Legislature or to decide whether they are proper members of the Legislature or not. I say that by the Constitution we have accepted it as the State Legislature, and every member of it might be false and fraudulent, yet we would have no power to control it. But when that Legislature is organized, and acts, I say that no outside authority, neither individual nor the power of citizens, nor the power of a State, has the right to interfere with it, and that the United States, if need be, with all its power should protect and defend it in the exercise of its functions.

Do I state my propositions clearly? Do they meet the assent of right-minded men who believe that the United States has the power to preserve this Government and to maintain the organization which our fathers gave for that Government? Why, sir, for ten years, yes, for thirteen years, there has been a law upon the statute-book which regulates the election of United States Senators. Every Senator who now sits in the other end of this Capitol was elected under that law, which declares the time, which declares the manner, which declares how the election of Senators shall be made, and how recorded, and how returned. Has it ever been questioned as unconstitutional? Has the right of any Senator been denied under it? Does it not assume to control and regulate this subject?

But—said the gentleman in illustration the other day—the United States undertook to exercise this power for the purpose of districting the various States; and when certain States refused, their refusal was recognized in this House in a report made by Mr. Douglas and sustained by a vote of this House.

The gentleman has understated the proposition. Those members were seated here upon what ground? Not upon the ground that the United States had no power to act in districting the States, but that in acting they had not gone far enough; that they had not districted the States, but had merely directed the State governments to district them, and that the United States had no power by any process to make the States do this. It was said that if the United States wanted the States districted they ought to have gone into the States and districted them themselves; so that the case referred to by the gentleman is an argument in favor of the authority of the United States instead of against it.

But there is one other doctrine which has been advanced in this debate; and gentlemen will pardon me if I pause to discuss it, for I consider that it lies at the foundation of all the arguments on the other side and is the most dangerous of them all. The gentleman from Kentucky, [Mr. CARLISLE,] the gentleman from Maryland, [Mr. MCLANE,] and other gentlemen on this floor have suggested that these laws cannot be put in force. Why? Because they produce riot and disturbance, and that the United States Government has no "peace" in the States that it can keep. Do I fairly state the proposition? It is that we ought not to make these laws; that they are unconstitutional, because they may be resisted by force; and when forcible resistance comes, that makes a breach of the peace which the United States and its officers ought not to interfere with, but which should be left entirely to the States. Do I fairly state the proposition?

Mr. MCLANE. So far as I am concerned, I will say to the gentleman that in any remarks which I have addressed to the House I have never made any allusion to the supervisors or marshals as producing a riot. I made the simple point that a riot or a disturbance anywhere within a State is a breach of the peace of the State, and that the Federal Government can only interfere in the manner provided for in the Constitution when called on by the governor or the Legislature of a State, or when supporting a marshal in the execution of a process, or when the marshal is engaged in the execution of a law; but I never made the slightest allusion to the deputy marshals or the supervisors being the occasion of a riot.

Mr. ROBESON. I read the language of the gentleman from Maryland:

> The question I desire to put to the gentleman is with reference to the part of his discussion preceding that point. Do I understand him to say that the Government of the United States has the right to keep the peace anywhere within a State? Do I understand him to say that there is any "peace of the United States" at all recognized by the Supreme Court of the United States?

Mr. MCLANE. That was my inquiry; and it has never yet been answered.

Mr. ROBESON. I desire to answer it now. The proposition reduced to understandable words is applied to these laws (for if appropriate and germane to this debate it must be applied to these laws) and it affirms that these laws are unconstitutional or improper.

Mr. MCLANE. I dislike to interrupt the gentleman, but I fear that he will embarrass himself if he assumes that my inquiry which he has just read had any reference to these laws at all. I made no reference to these laws. We were then discussing the Army bill, and the question before the committee was whether the troops could be used to keep the peace at the polls. That is a question which has no reference to the present bill or the present amendment. I might or might not be of the gentleman's opinion as to the power of Congress to provide for the appointment of supervisors and marshals. That is a question upon which as yet I have expressed no opinion. I am very sure the gentleman from New Jersey can appreciate the distinction I make.

Mr. ROBESON. We were at that time discussing the Army bill; and I had just asserted broadly the proposition that the bill did not affect the Army but was an attack on the civil officers of the Government; that it took away their right to summon the *posse* to put down riots at the polls. We were discussing then the proposition that a marshal of the United States had no power at the polls to see that the laws were executed by the force at his command; and the gentleman took the position that there was no "peace" of the United States which could be there maintained by the civil officers of the Government. If his remark did not go to that extent I am not able to see how it was appropriate or germane to the question.

Mr. MCLANE. As my friend from New Jersey is not limited as to time, I have no hesitation in seeking to have this point well defined. I say again that the point at issue between the gentleman from New Jersey and myself had no reference at all to this bill, and can have no reference to it. The gentleman from New Jersey on that occasion, in his effort to deduce from this law relating to marshals and supervisors the right to use the Army at the polls, addressed to the gentleman from Kentucky, as well as myself, the question whether, if a riot occurred at the polls, the provision of the Army bill would not prevent the President from using the Army there at all? My reply was, certainly not, if he used the Army in the manner provided for by the Constitution; that if the President waited until the governor or the Legislature of the State called upon him he could then use the Army anywhere. That was my reply; and when the gentleman from New Jersey came to respond he said distinctly that he did not know of any authority of any court in this country which authorizes the President to use the Army to keep the peace.

Mr. ROBESON. I said so then, and I say so now; but I want to say (and I shall not pause any further, but shall go right through with my argument) that I consider a proposition, in whatever language clothed, which conveys to the mind of the people of this country that the Government of the United States has no "peace" for the operation and effect of its laws, the most dangerous that can be maintained by any man—the most destructive to the perpetuity of the Government and the liberty which that Government was framed to secure. That is what I mean to say. It is an argument against the supreme law of the land, declaring it unconstitutional because it may be resisted. Why, it seems to me that it is an argument conclusive against resistance, that it is the supreme law of the land; but I will not pause to argue that subject, but will turn to the first printed statutes of the United States and refer to the law made by the founders of our Government when the men who made this Constitution were in cabinet and council and in the Legislatures of the United States, and of the various States, when Washington was President and Madison was upon this floor. I read from a statute enacted February 28, 1795:

> *And be it enacted*, That the marshals of the several districts and their deputies shall have the same power in executing the laws of the United States—

Not only in executing the process, but in executing the laws of the United States—

> in executing the laws of the United States as the sheriffs and their deputies in the several States have by law in executing the laws of the several States.

The right to see that the laws are executed. And besides, the Executive of this great Government, the President of the United States, is enjoined by the Constitution specifically to see that the laws are enforced, and not that they give way when resisted; not that, when a man will not stand, you shall let him go and "thank God you are free of a false knave," [laughter;] but that you shall execute the laws with all the powers of the Government.

I would not allude to subjects which I may not state with candor and may not discuss with fairness; but let me in all honesty and good faith ask you whether this was not the very question which was settled by the war? Let me ask you, gentlemen, whether or not the question of whether the laws of the United States should be enforced against whatever resistance might be offered was not the very question which was submitted to the arbitrament of battle; and whether its decision is not written in letters of fire and blood on pages as grand and as splendid as any in the history of the world? [Applause on the republican side.] And do you not understand it? Is it so inherent in the nature of man that he cannot escape from the circumstances and feelings which surround him? Is it so difficult to realize a changed condition that you cannot, when you come back honestly meaning to live under our Government, adapt yourselves to the established principles of the Government? Do you not understand when you take

this position that there is no "peace of the United States" which is to be maintained, while its laws are to be enforced, that you are reopening, I fear, the old question?

Mr. DAVIS, of North Carolina. Will the gentleman allow me to ask him a question?

Mr. ROBESON. With pleasure.

Mr. DAVIS, of North Carolina. Do I understand the gentleman from New Jersey to say that when power is given to the President of the United States to see that the laws are enforced the President has under that provision of the Constitution power to send the Army into any one of the States of the Union?

Mr. ROBESON. I am not discussing that power, but I do declare, however, that all the laws of the United States made rightfully in pursuance of the powers given by the Constitution are to be enforced by the President of the United States against every resistance and over every obstruction. [Applause on the republican side of the House.]

Mr. DAVIS, of North Carolina. But that is not the question I asked the gentleman. I will again put the question, and hope he will answer. Do I understand him to say that the President of the United States has power to send the Army into any of the States to enforce any law?

Mr. ROBESON. There is already, as I have said, a law upon the statute-book which was passed by the last Congress which says that the Army shall not be employed unless specially authorized by law.

Mr. DAVIS, of North Carolina. Let me call the attention of the gentleman to another provision of the Constitution that Congress shall provide for calling forth militia to execute the laws and to repel invasion; which declares also that it shall be the duty of Congress to organize the militia, and which further provides that when any officer of the Federal Government calls for a *posse*, whoever may be present shall be at the command of that officer. Now, I want to know of the gentleman whether I understand him as drawing from that provision of the Constitution that the President shall see to the execution of the laws the right of the President to send troops into any of the States.

Mr. ROBESON. I say when there is a law authorized by the Constitution of the United States and passed by the Congress of the United States to be executed, that it is the duty of the President of the United States to see that the law is enforced and executed, as I said before, over every obstruction and despite every resistance; and I say that when that time comes, when acting under the express language or a clear deduction from the powers and duties of this Constitution, Congress has passed a law, that there will be ready at the call of the Executive, from every section, a million of men if need be, to maintain the integrity and power of the laws of the United States. [Applause on the republican side.] And I believe that my friends on the other side of this House, many of them, who entered into resistance to the laws before, would be found now ranging themselves on the side of constitutional government and the powers of the National Government and authority.

May I refer again for a single moment to another democratic authority? To leave their impress upon the times in which they live, to give to the destinies of their country a direction which they will retain for ages, has been said to be the rare prerogative of a few imperial spirits, but since the time of our Revolution there never has been a man whose character and whose conduct has so indelibly impressed itself upon the government and policy of this country as Andrew Jackson. He came from the Southwest, a man of commanding character, of clear conceptions of duty, of high purpose, of warm patriotism; and when the time came for his trial, he was true not only to his own character, but to the spirit of our Government and the destinies of our people. And when resistance was made by a gallant but erring Commonwealth, claiming to act as an independent sovereignty, he recommended to Congress and obtained from them this law; and it is a direct answer to the gentleman who has last questioned me:

> That whenever the President of the United States shall be officially informed by the authorities of any State or by a judge of any circuit or district court of the United States in the State that within the limits of such State any law or laws of the United States, or the execution thereof, or of any process from the courts of the United States, is obstructed by the employment of military force or by any other unlawful means too great to be overcome by the ordinary course of judicial proceeding or by the powers vested in the marshal by existing laws—

Then it should be lawful for him, as President of the United States, to issue his proclamation, and, if that were not obeyed, to use the whole force of the United States, its militia, its Army and Navy—to do what? To enforce the laws of the United States.

Louisiana and the Southwest are found upon this floor opposing the spirit of these laws. I had hoped that the name and influence of Edward Livingstone would have lived at the mouth of the Mississippi after the refinements of modern theorists had been dissipated and lost; that the spirit of Andrew Jackson would still rule in the Southwest. Maryland, also, is on the other side in this great controversy. But among her Pinkneys, her Carrolls, her Wirts, and her Martins, the name of Roger Taney, the Attorney-General and adviser of Andrew Jackson in this great emergency, shines the most brilliant in that bright galaxy of her sons. And there is another name familiar to students of his country's history associated with the great events of which I speak. The name of a man of whom the little Commonwealth that produced him may well be proud, for he stood midway between her Dickinsons and her Reeds, her Claytons and her Bayards, the representative of the gallant little Commonwealth of Delaware in the counsels of Andrew Jackson, his friend and his adviser, and, if there be a career of pride to a family well worthy of the study and imitation of those who come after him, it is the career which Lewis McLane fulfilled in the history of his country. I trust it will remain as a shining star, guide, and monument for the direction and guidance of those who come after and represent him. With the assent and approval of these his distinguished advisers, President Jackson declared the true principles of government in the following language, which I quote from his message to Congress:

> The duties of the Government become the measure of its power, and whenever it fails to exert a power necessary and proper to the discharge of the duties prescribed by the Constitution it violates the public trust not less than it would in transcending its proper bounds.
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> To refrain from executing the high and solemn duty thus imposed would neither comport with its own safety nor the rights of the great body of American citizens.
>
> If these measures cannot be defeated and overcome by the powers conferred by the Constitution on the Federal Government, the Constitution must be considered as incompetent to its own defense, the supremacy of the law is at an end, and the liberties and rights of the citizen can no longer receive protection from the Government of the Union.

Gentlemen of the other side, I have already appealed to you upon this question of resistance to United States laws; permit me to repeat and enforce it. You are here the leaders and representatives of the opinions of your section; communities are acted upon in masses; men are controlled by the spirit of organized society and in association together; and we all know how often in this world's history reason is dethroned by feeling and passion usurps the province of judgment. But you are better armed, you are better informed, you are better instructed, you deal more with the outside world than the people of the section you represent. Ought you not to be leaders and not followers of their ideas and opinions? Ought they not to take instruction from you, and ought you not so to teach and control them so that not only individual men but organized masses may learn to look to justice as a teacher and to strive for the right as for a victory? It may be asking much, but you have among you statesmen who in other days have made these halls vocal with their advocacy of great principles and rights; you have orators in whose blood the ardent currents of youth still flow with vehemence and power, men whose lips seem to be touched with the rod of Hermes, whose voices in hall and hustings ring out like "the silver clarion's sound." You have soldiers as brave as any that ever wore a sword; who have commanded armies greater than those with which Napoleon swept the continent of Europe, on fields more deadly than those where were decided the destinies of empires. You have statesmen fit to stand by any in the governments of the world. Will you not listen to the voice of reason and what I believe to be the teachings of your own hearts? Will you not understand that you are needlessly and unnecessarily, I think, forcing upon us a proposition which, stated broadly, is the old question whether the laws of the United States can be enforced when they are opposed; whether or not the United States has any peace which it may and can maintain. I ask you to pause upon the threshold of this question, and endeavor to take away your own minds from the impress of natural associations and natural feelings, and let your unbiased reasons and judgments have fair play.

You may be opposed here and at home. Men may revile you. Regard them not. It is but the scream of the vulture that you scare from his prey. You may, some of you, be called upon to make sacrifice for the right. Remember that the highest offering of a citizen to his country or a soldier to his cause is not always valor, but sometimes sacrifice. Remember that when the earth gaped in the Forum it was not fruits nor wine, not gold, nor precious stones, nor offerings of the forest or the field, not the gladiator, slave, nor rude barbarian, not client nor freedman, not even child nor wife that could avert the threatened danger, but the Roman citizen himself, patrician, soldier, knight, clad with the regalia and armed with the weapons of the highest type of citizen, soldier, and leader.

Mr. Chairman, I have done with the argument of this side of my proposition, and I thank the House for the attention which they have accorded me and for the patience with which they have listened while I have trespassed upon their time.

I repeat my propositions: The United States is a government of limited powers delegated to it by the Constitution, but limited only in numbers, and not in quality. Wherever they are clothed with power by the Constitution they are sovereign and supreme. Those powers are the supreme law of the land when organized in the form of law by the National Legislature, and when they are so organized they must be enforced by all the powers of the Government, or the Government will be destroyed or will remain only an object of derisive scorn for the enemies of free government throughout the world. [Great applause.]

Mr. FINLEY. Mr. Chairman, I have listened with close attention to the able argument of the gentleman from New Jersey [Mr. ROBESON] for two hours, certainly a very plausible argument, indeed. The gentleman from New Jersey has, in an ingenious manner, attempted to show to this House that members of Congress and Senators of the United States are officers of the Government. I did not wish to inter-

rupt the gentleman, or I would have called his attention to the decision of the Supreme Court of the United States in the case of the United States *vs.* Blount, decided in the Supreme Court years ago, where it was expressly held by the court that a United States Senator was not an officer of the Government. The gentleman alluded to that decision, claiming, as I understood him, that the question was not fully made; but if I am not mistaken you will find upon reading it that the court there made the decision fairly, going into the very question which the gentleman has argued, and decided that a Senator of the United States was not an officer of the Government, but that he was an officer of the State which he represented.

Is a member of this House an officer of the Government? By whom was the gentleman sent here as a member upon the floor of this House? Was he elected by the Government? No; he and all the members here were elected by their constituents—by the people of their districts. From whom did the gentleman receive his certificate of election by which he was authorized to take his seat upon the floor of the House? From the Government of the United States? No; he received it from the governor of his State, and if he were to resign and a vacancy should occur, to whom would he tender his resignation? To the United States Government? No, sir; he would tender it to the governor of his State.

Congress has the power under the Constitution to prescribe the time for the election of Representatives. It has done that. It has the power under the Constitution to prescribe the places where such elections shall be held also. It has done that. It has the power of prescribing the manner of holding elections. It has done that in providing that the election shall be by ballot, but when Congress did that it exhausted its powers under the Constitution. A member of Congress is an officer of his State and a Senator is an officer of his State, as was decided in the case to which I have referred. The argument of the gentleman in favor of the power of Congress to supervise and control the election of members of Congress, and to send supervisors of election and deputy marshals to the polls for that purpose, is based upon the assumption that members of Congress are officers of the Government. If his proposition is not a correct one, his argument falls to the ground. Does the gentlemen claim that Congress can send supervisors and deputy United States marshals into the several Legislatures where an election of United States Senator is taking place, with power to arrest members of the Legislatures? If a member of Congress is an officer of the Government so is a Senator according to the gentleman's argument, and if you can control the election of the one because he is an officer of the Government you can control the election of the other. Again, the officers conducting an election of member of Congress are officers of the State, appointed under a State law, and executing a law of the State. Are they to be arrested by United States officials for failing to execute a law of the State? That power, however, is given to deputy marshals and supervisors under the law now under consideration.

Now, Mr. Chairman, that is all I desire to say upon that subject. I propose in the time I have to speak to call attention to the manner in which these marshals have been appointed and used, the places where they have been used, and the character of the men that served as marshals at recent elections.

At the opening of this debate at the commencement of the session my colleague from Ohio [Mr. GARFIELD] came to the front and made an ingenious and able speech for his party, and I heard gentlemen on this side of the House express surprise that the ablest man upon that side of the House should come to the front, or, as it was termed, upon the skirmish line.

I am not surprised, Mr. Chairman, that he was put forward to open the debate; for in doing so my colleague coined an argument for his party. He coined an excuse for the factious opposition which his party is making to the repeal of these measures, and having done that all the republican newspapers of the country have joined in the refrain, and the arguments upon that side of the House have all been of the same nature and character.

What was the excuse that was coined by my colleague? Was it that the law was just and should be retained upon the statute-book? No; for he himself declared that it should be repealed, and that he was willing to vote for its repeal. Was it because it was put on an appropriation bill and was objectionable for that reason alone? No; because it has been shown in argument in this House that the republican party in the past twelve years have put riders upon appropriation bills in the nature of new legislation to the number of more than two hundred, embracing some of the most important legislation we have had.

The argument and excuse was that putting a rider upon an appropriation bill repealing certain sections of the statutes, coupled with the implied threat that unless the President approved the bill we would stop supplies, was coercing one branch of the Government and was therefore revolutionary, a threat to starve the Government, as the gentleman put it, and not to be submitted to by the minority. Now, the gentleman had no right to speak for this side of the House. The democrats in Congress as a party have not announced their intention to do anything of that kind any more than the President of the United States has announced that unless we repeal these laws in some other way than by tacking them on appropriation bills he will veto them. Individuals on both sides have expressed their opinion as to what would be done by Congress and the President. We have as much right to say that the President of the United States has threatened Congress and undertaken by the threat of his veto to coerce Congress as to the manner of its legislation as the gentlemen have to say that Congress is seeking to coerce the Executive.

This doctrine of parliamentary revolution is not a new one with my colleague. Not more than seven years ago he declared in this House that it was revolutionary for a minority of this House to obstruct legislation, or to prevent the majority from enacting laws in the ordinary and usual way. I read from the RECORD what he said on that occasion. Then as now Congress had under consideration an appropriation bill. Then as now a minority sought to prevent the passage of the bill. Then the majority was republican—now it is democratic. He said:

> Mr. Speaker, a question has therefore arisen in its importance far above any item in this bill, and even above the whole bill. It is simply this: shall the majority of the members of this House have the right to consider and act upon great appropriation bills in the mode provided in the rules? The moment a minority, however large, deny that proposition, that moment we are in the midst of a parliamentary revolution.

What is the majority of this House attempting to do but the very thing which the gentleman describes so aptly in his remarks? "Consider and act upon an appropriation bill in the mode provided by the rules." What is it that the minority are now seeking to do but that which he described in his remarks? Yet he said then, that in denying to the majority the right to consider and act upon appropriation bills in the usual way under the rules was revolutionary. He says now, that the majority is revolutionary in its proceedings, when we in the usual mode, pointed out by the rules, are considering and acting upon an appropriation bill. This is not a new question. This question has been discussed and very elaborately argued as far back as 1819. In 1819, during the second session of the Fifteenth Congress, this identical question came before the House, and was discussed by Clay, by Barbour of Virginia, by Smith, by Harrison, and by a large number of other gentlemen upon the floor of this House.

It arose in this manner: the President of the United States in a message to Congress at the first session of the Fifteenth Congress said that he believed Congress had not the right to appropriate money nor the General Government the power to construct military roads throughout the country, and intimated in his message to Congress that he would veto an appropriation or bill for that purpose. What was done? A rider was put on an appropriation bill appropriating $10,000 for the construction of a military road, and when that question came up Henry Clay, who was Speaker of the House, came upon the floor and used this language:

> It was proper to pass the bill and present it to the President, and if he refused to sanction it, then, Mr. Clay declared, he had no hesitation in avowing that he should be ready to proceed to hostilities with the President on this point, and withhold every appropriation until he conceded the point.

That was revolutionary in Henry Clay, if we are to believe the doctrine of gentlemen on the other side of the House.

But I desire to hasten on to my remarks which refer more especially to the manner in which marshals have been used in this country. In the election of 1876, notwithstanding the provisions of section 2021 of the Revised Statutes, which provides that special marshals shall only be used in cities of twenty thousand inhabitants or upward, Attorney-General Taft issued a general order in which he announced the opinion, that notwithstanding under the provisions of that law special marshals could only be employed in cities of twenty thousand inhabitants and upward, yet under section 2022 which provided that the marshals of the United States and deputy marshals shall keep the peace, they had power to appoint an unlimited number of deputy marshals all over the country. My colleague [Mr. MCKINLEY] in discussing this question the other day on the floor of the House used language which I will ask the Clerk to read.

The Clerk read as follows:

> This power, I admit, should be most carefully exercised and only reposed in discreet and honest hands. The appointment of deputy marshals is confined to cities of twenty thousand inhabitants or upward. They cannot be appointed in any congressional district where there is no city of that population or greater. The country districts are not immediately interested in this provision. In Ohio not more than one-fourth of the congressional districts can invoke this provision of law. In the country and smaller towns deputy marshals are not needed; here an honest election is secured by the watchful interest of a large body of fair-minded citizens. Fraud is difficult to commit where everybody is acquainted with his neighbors and where the legal voters are known to every citizen. Yet the voter in the country districts, indeed every voter throughout the land, is interested in free and honest elections everywhere, for without them his vote loses its legitimate force. An honest election in the country is of little significance if its true force is to be overcome by fraud in the large cities. Herein the interest becomes personal and immediate. In large cities the great bulk of the population are strangers to each other; few citizens know their fellow-voters, and from necessity this is the case. Fraud is easily accomplished, and is inevitable, I may say, without the most rigorous safeguards and the firm enforcement of law.

Mr. FINLEY. The gentleman announced on the floor of this House, and I notice that it has gone all over the country, that under the election laws in the country districts these special marshals cannot be employed. That is true, if a strict construction of the law was given. But under the construction put upon the statute by the Attorney-General in 1876, deputy marshals were appointed to the number of 11,615 in no less than twenty-two hundred and forty-four precincts, more than eleven thousand deputy marshals armed with

the power of special marshals. I desire the Clerk to read the instructions given to the marshals by the Attorney-General, so that gentlemen may fully understand that when it became necessary to employ more than the number prescribed by the statute, which was limited to cities of twenty thousand inhabitants and upward, he found a ready means to employ an unlimited number of deputy marshals, who surrounded polling places all through the country districts.

The Clerk read as follows:

You will observe that the "special" deputies mentioned in section 2021 of the Revised Statutes have peculiar duties assigned to them, duties which otherwise do not belong to deputy marshals. Such "special" deputies can be appointed only in cities of twenty thousand inhabitants or upward.

But the duties assigned to marshals and their deputies by section 2022, or other like statute, belong to all duly appointed deputies, whether they be general or be "special" within the meaning of that and the preceding section. Deputies to discharge this latter class of duties may be appointed to any number whatever, according to the discretion of the marshal, in all States in which sheriffs have a similar power. Section 2030 has no practical bearing upon this point in States where no limit is imposed upon the appointment of deputies by sheriffs, because in such States the laws of the United States "prior to the 10th of June, 1872," left marshals also unlimited as to the number of their deputies.

In this connection I advise that you and each of your deputies, general and "special," have a right to summon to your assistance, in preventing and quelling disorder, "every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*."

I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the laws of the United States. If such interference shall take place—a thing not anticipated—you are to disregard it entirely. The laws of the United States are supreme, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not by summons embody into your own *posse*; and any State *posse* already embodied by a sheriff will, with such sheriff, be obliged, upon your summons, to become part of a United States *posse*, and obey you or your deputy acting *virtute officii*.

Mr. FINLEY. Now, under that construction of the statute what was done? There were appointed, as I have said, 11,615 marshals, who were distributed in twenty-two hundred and forty-four precincts all over the country. Now, let us see where these marshals were placed and what they did. I have before me a statement showing that of these 11,615 marshals 10,874 were placed either in strong democratic precincts or in doubtful ones, at an expense to the Government of $232,034.52; that of the remaining marshals, 396 were stationed in Philadelphia, 115 in Chicago, which has since gone democratic and was then a doubtful city, and 117 in Mr. Dean's district in Massachusetts, which returned him, a democrat, to Congress that year. Let us look at the places where those deputies were stationed. In Alabama there were 586. They were stationed at one hundred and twenty-five voting precincts. How long were they employed? I have it from the report of the Attorney-General himself that they were employed fifteen days or thereabouts. Their instructions were "to preserve the peace at all meetings held to discuss political questions and to attend the different polling places at and preceding the presidential election." Their duties were "to repress all attempts to disturb the peace, and where such disturbanee actually occurred to arrest the parties guilty of any offense against any law of the United States." In Florida, northern district, there were 745 deputies, stationed at every voting precinct in nineteen counties, as appears from the report of the Attorney-General, as follows:

FLORIDA—NORTHERN DISTRICT.

The marshal reports that in addition to his regular force he appointed 745 general deputies, as follows: In the county of Escambia, 75 deputies, and in the county of Santa Rosa, 25 deputies, under the charge of a chief deputy for those counties; in the county of Washington, 25 deputies, under a chief deputy for that county; in Jackson County, 50, under a chief deputy; in Gadsden County, 50, under a chief deputy; in Leon County, 50, under a chief deputy; in Jefferson County, 50, under a chief deputy; in Madison County, 50, under a chief deputy; in Hamilton County, 6, under a chief deputy; in Lafayette County, 6, under a chief deputy; in Columbia County, 50, under a chief deputy; in Baker County, 10, under a chief deputy; in Nassau County, 30, under a chief deputy; in Alachua County, 50, under a chief deputy; in Orange and Volusia Counties, 25, under a chief deputy; in Clay, Saint John's, and in Putnam Counties, 6 each, 18.

All the voting precincts in these counties or nearly, were attended by deputies in greater or less number, as it seemed probable that their services were required.

The time of service of these additional general deputies was from date of appointment in October last until the 15th day of November, 1876.

It would appear that the results flowing from the appointment of these seven hundred and forty-five deputies stationed in every voting precinct in nineteen counties in this district were highly satisfactory to the party in whose interests they labored. The Attorney-General says:

The object of the appointment of these deputies was that a rigorous enforcement of the laws of the United States governing the elective franchise might be secured.

Each deputy appointed was furnished with printed copies of the statutes of the United States relating to the elective franchise and prescribing the duties of the marshal and *his* deputies in connection with elections, and with a printed copy of the letter of instructions from the Department of Justice, dated September 4, 1876, and was instructed to perform in full the duties of his office as therein directed.

The most satisfactory results accrued in nearly every part of the district from these precautionary measures which were taken to secure the peace and to protect voters.

In this connection I herewith append and make part of my remarks a table, compiled from official reports, showing the disposition of marshals in voting precincts in that election, as follows:

Statement of the number of deputy and special marshals employed in the election of 1876 *and the number of polling places attended by them, together with the amount paid out of the public Treasury for their compensation.*

States.		Polling places.	Marshals.	Amounts paid.
Alabama	Democratic	139	586	$523 83
Arkansas	Democratic	381	999	
California	Doubtful	56	244	11,023 99
Delaware	Democratic	10	135	
Florida	Doubtful		745	
Georgia	Democratic	2	207	1,977 50
Louisiana	Democratic	120	840	14,283 33
Maryland	Democratic	115	1,222	12,012 55
Mississippi	Democratic	71	248	50 50
Missouri	Democratic	93	1,033	17,902 40
New Jersey	Democratic	66	249	12,276 19
New York	Doubtful	905	3,565	152,717 28
North Carolina	Democratic	166	166	591 84
Oregon	Doubtful	7	13	
South Carolina	Doubtful	17	338	1,274 14
Tennessee	Democratic	10	30	279 00
Texas	Democratic	49	49	2,949 92
Virginia	Democratic	35	201	4,172 05
Kentucky	Democratic.			
West Virginia	Democratic		4	
Twenty States		2,444	10,874	232,034 52
Iowa	Republican.			
Maine	Republican.			
Michigan	Republican.			
Minnesota	Republican.			
Nebraska	Republican.			
New Hampshire	Republican.			
Rhode Island	Republican.			
Vermont	Republican.			
Wisconsin	Republican.			
Kansas	Republican		3	
Colorado	Republican.			
Ohio	Doubtful.			
Connecticut	Republican	1	1	$2,083 20
Indiana	Democratic.			43,784 40
Pennsylvania	Republican	348	396	
Illinois	Republican	161	115	
Nevada	Republican	9	9	
Massachusetts	Republican	25	117	
Eighteen States		544	641	45,867 60

In the State of Iowa, which was republican, there were none; in the State of Maine, republican, there were none; in the republican State of Michigan, none; in Minnesota, a republican State, none; in Nebraska, a republican State, none; in New Hampshire, in Rhode Island, in Vermont, all republican States, none; in Wisconsin none; in Colorado none; in Indiana none; in Ohio none. In Connecticut there was one; in Kansas there were three. The remainder, as I have said, were stationed in Pennsylvania, Illinois, Nevada, and Massachusetts, there being nine in Nevada. The bulk of these deputy and special marshals were stationed in three places, and I am told by gentlemen who have the means of knowing, that the bulk of those stationed in Philadelphia were in the third congressional district, the district of the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. O'NEILL. What is that? I ask the gentleman to repeat his statement.

Mr. FINLEY. I will do so with pleasure. I am glad the gentleman has waked up. I say I have it from good authority that the bulk of the marshals stationed at the polls in the city of Philadelphia were scattered around in the first congressional district, the district of the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. O'NEILL. Now, Mr. Chairman——

Mr. FINLEY. I decline to be interrupted.

Mr. O'NEILL. I deny the correctness of the gentleman's authority. I would like to know what his authority is.

Mr. FINLEY. The gentleman does not deny the statement.

Mr. O'NEILL. I think the gentleman should yield a moment.

The CHAIRMAN. That is a question for the gentleman from Ohio himself.

Mr. FINLEY. Now, Mr. Chairman, I want to call attention to another branch of this subject. I have said that nearly eleven thousand of these deputy marshals out of 11,615, were stationed in democratic strongholds or in doubtful districts. I have shown that barely six hundred were stationed in republican districts or republican cities, and even there in doubtful precincts. I desire to say in this connection that of the seventeen thousand deputy and special marshals appointed and used in the elections of 1876 and 1878, every marshal, every deputy marshal, and every special marshal, so far as the facts have been developed, was a republican; and the testimony as taken in New York and Philadelphia shows that these conservators of the peace, these gentlemen who were appointed at an expense of half a million dollars, paid at the Federal Treasury, were appointed as agents of the repub-

lican party, and worked at the polls from morning till night distributing tickets and doing a general electioneering business for the republican party. Yet gentlemen tell us that their objection to the repeal of this statute is not because they have the appointment of these marshals, not because under the construction given to the law by the Attorney-General they will have the power in 1880 to appoint one hundred thousand marshals if necessary, and pay them out of the Federal Treasury; not because they having the appointing power these marshals will be republicans, working in the interest of the republican party; not because, armed with the extraordinary powers which the law gives them these republican partisans masquerading as marshals can go to the polls, and whenever in their opinion an offense against the laws of the United States has been or is about to be committed can arrest their opponents and imprison them—and can by intimidation prevent them from voting; it is not because of all that. Oh, no! But they would make the country believe the cause of this opposition is because they are so much in love with a "pure ballot." It is because they want a "pure ballot" and an honest election! Why, Mr. Chairman, at the last election in Philadelphia, as I have said once before on the floor of this House, and as has been sworn to by Marshal Kern before a committee of the Senate, there were appointed in the city of Philadelphia seven hundred and odd deputy and special marshals, who went to the polls acting in conjunction with twelve hundred republican policemen, worked for the republican party, abused and mistreated democrats. I say the testimony shows that every one of those marshals were republicans, and that a majority of them were appointed especially because of their activity in favor of the republican party.

The testimony still further shows those marshals went to the polls and worked with the policemen, and in many instances, under the pretense that democrats had no right to vote, dragged them from the polls, snatched tickets out of their hands, and committed all manner of outrages. All this appears from the testimony before that committee.

Mr. O'NEILL. Will the gentleman yield to me?

Mr. FINLEY. I decline to yield. I am going to pay my regards in a few moments to some remarks of the gentleman made a few days since; but I do not wish to have my time taken up by him just now.

Mr. O'NEILL. The gentleman can have his time extended.

Mr. FINLEY. If that be done I have no objection.

Mr. O'NEILL. The gentleman should not make *ex parte* remarks and then refuse to yield.

Mr. FINLEY. Those remarks are not *ex parte*, as I will show. Out of the thirty-eight marshals appointed in that city the testimony of two days taken at random shows thirteen of them to have been convicted of crime.

Mr. O'NEILL. I can disprove that. [Laughter and applause on the republican side.]

Mr. FINLEY. Thirteen of them were convicted of crime, such as murder, burglary, shooting with intent to kill; two of them were keepers of houses of prostitution; two of them were keepers of doggeries; and of the whole list every one of them was an active, indefatigable worker at the polls. [Applause on the democratic side of the House.]

Mr. O'NEILL. If the gentleman will allow me I can show to the committee in one minute those statements are not based upon truth.

Mr. FINLEY. As the gentleman seems to be worried over this I will give him an opportunity in a moment. He said on the floor the other day, when I called attention to this testimony, that some of these men had been arrested for perjury.

Mr. O'NEILL. Do you want me to give you an instance?

Mr. FINLEY. Yes; I should like to have one. Who is the man?

Mr. O'NEILL. Mr. Duddy was arrested on the complaint of Mr. Springfield. I will give the gentleman the paper, if he wishes, where it all appears. Others also were arrested for perjury, and yet this committee of the Senate has not dared to return to Philadelphia and examine republican witnesses.

Mr. FINLEY. There has been but one man arrested so far as I have been able to learn, and that is Mr. John A. Duddy, who swears on page 159 of the testimony that he has been a republican all his life, and that he was appointed to office on the recommendation of the gentleman from Pennsylvania.

Mr. O'NEILL. To whom does the gentleman refer; does he state that he was appointed on my recommendation?

Mr. FINLEY. No, sir; on that of your colleague.

Now, Mr. Chairman, in a few moments I will call the attention of this committee to some of the testimony taken and sworn to before the Senate committee.

Mr. O'NEILL rose.

Mr. FINLEY. I do not wish to be interrupted by the gentleman just now. As I said, it is sworn testimony taken before a committee of the other House. Witnesses were put on the stand at random, reliable witnesses, who testify to the general character of these marshals. The first witness I will call upon the stand is Mr. John P. Cahill, who was sworn and examined, and I will ask the Clerk to read an extract from his testimony.

Mr. BAYNE. I want to ask the gentleman a question. I should like to ask him whether, because twenty-six of the fifty-two democratic county treasurers of the State of Ohio commit frauds and embezzlements, that is a reason why men should not be elected to the position of county treasurer?

Mr. FINLEY. I say to the gentleman this, that we find the republicans upon the floor of this House, and in the press, seeking to make the country believe that the only reason they want marshals at the polls is because they wish to have a pure ballot. Yet after having had experience in this matter, we find that same party appointing seventeen thousand marshals at the polls, (if the fact be true, and I say it is true as far as developed,) every one an active republican worker, and in many cases of the most disreputable character. I say, sir, it is the best argument in the world that they want these laws to remain not for a "pure ballot," but for the purpose of carrying elections, and that the very object of the fight made here is to preserve these statutes in order that the republicans may reap the benefit of such appointments in the future. I now ask the Clerk to read the extract which I send up to be read.

The Clerk read as follows:

John B. Cahill sworn and examined.

By the CHAIRMAN:

Question. Where did you live on the day of the last November election?
Answer. I lived at 133 Onis street, Eleventh ward, seventh division.
Q. What is your business?
A. I am a constable.
Q. Do you know John May, whose name is on the written list of marshals that I hold in my hand?
A. I do, very well.
Q. Is he the same who is on this list of marshals? [Indicating list in evidence.]
A. Yes, sir.
Q. What is his business?
A. He keeps a house of prostitution on the corner of Newmarket and Peg streets.
Q. Do you know whether he arrested anybody on election day?
A. I do not. At this last election he did not.
Q. Do you know Abraham Hoffman?
A. I do, very well.
Q. In what precinct does he live?
A. He is supposed to live in the fifth precinct of the Eleventh ward.
Q. Has he any other name than Hoffman?
A. Yes, sir.
Q. What is his other name?
A. I call him "Shad."
Q. Where does he live?
A. I give it up.
Q. What is his business?
A. He used to keep a house of prostitution on Fifth street, below Callowhill,
Q. Do you know anything about his occupation on election days?
A. Yes, sir.
Q. What is it?
A. A repeater.
Q. Who does he generally repeat for?
A. The republican party.
Q. How do you know that?
A. By following him on several occasions.
Q. Detail for us one of those little diversions of yours.
A. A couple of years ago he was out through the Thirteenth and Fourteenth wards.
Q. How many times did you see that he voted?
A. I suppose, at the least calculation, three to six times, at different places.
Q. Has he any known business now?
A. No; he skipped away for stealing a five-dollar note.
Q. When was that?
A. Here, some three or four months ago.
Q. Was there a warrant for him?
A. That I don't know.
Q. How do you know as a fact of his having stolen a five-dollar note?
A. He stole it from a man by the name of Lafayette Groul, on Third street, below Green.
Q. Do you know William Ackenbrine?
A. I do.
Q. Where does he live?
A. I don't know where he lives now.
Q. What is his character?
A. Billy is a first-rate fellow.
Q. What is the general reputation of the man?
A. Billy is a pretty good fellow.
Q. Has he been charged with any criminal offenses lately?
A. No, sir; I never knew him to be charged with anything, only he was arrested for larceny, but I believe the bill was ignored.
Q. Is he a republican?
A. Yes, sir.
Q. Has he any ostensible occupation?
A. Just now he has.
Q. What is it?
A. He works in a coffee-roaster's, in Third street below Coates, or Fairmount avenue, as it is now called.
Q. All these names are upon this list of marshals, are they?
A. Yes, sir.

Mr. O'NEILL. I wish to ask the gentleman whether it is fair to read the examinations-in-chief and not to read the cross-examinations in all the cases to which he refers?

Mr. FINLEY. I decline to yield.

Mr. Chairman, I have here a large amount of the same class of testimony which I will make part of my remarks, as follows:

WILLIAM DE BARTH AND THOMAS DONLIN, SEVENTH DIVISION, SIXTH WARD.

Martin Killack, witness.

Question. In what ward and division did you live at the time of the November election of 1878?
Answer. In the Sixth ward, seventh division.
Q. How long had you resided there?
A. About twenty-five years.
Q. Were you at the election on that day?
A. I was.
Q. Who were the deputy marshals?
A. William De Barth and Thomas Donlin.
Q. Do you know Donlin?
A. I do.

Q. How long have you known him?
A. From boyhood—probably twenty-three or twenty-four years; I knew his father.
Q. What is Donlin's character?
A. He is a drinking man.
Q. About what is his age?
A. Probably twenty-eight or twenty-nine years.
Q. Do you know whether he is an habitual drunkard?
A. He is considered such, and has been; I know that he has been; I don't know how he is now. He has been in the house of correction.
Q. For what cause?
A. For drunkenness. I think his mother put him there.
Q. Did you see any one arrested on that day?
A. I saw men threatened with being arrested; I saw nobody arrested. I saw, on one occasion, a man who was not on the assessor's list voting, and one of the officers was very rough with him. The police officers had to take the man inside to qualify him for voting. The deputy marshal then insisted on going in and arresting him inside. He told the man he would arrest him, if he did vote, when he came out. The officers qualified the man and took his vote, and one of them had to go out and threaten this marshal that if he would arrest the man he would prosecute him. So the marshal let him go.
Q. Which of the marshals was this?
A. De Barth.
Q. Was this a republican or a democratic division?
A. This was a democratic division.
Q. How many of the policemen were present there during the day?
A. I saw five or six at one time there.
Q. Were they at a distance from the polls or contiguous to them?
A. They were right up at the window where they were voting. They were there all day.
Q. Do you know of William McCaffrey being arrested?
A. I know of his being arrested and locked up all night, but that was not at that time; it was the election previous—that is, the election before the presidential election. The policemen remonstrated about his crowding about the window. He crowded them, and they locked him up and kept him until morning.
Q. Was Donlin violent?
A. He was disorderly; he was in liquor all day there, and interfered with people voting, threatening to arrest them or have them arrested.
Q. Do you remember the name of the man with whom De Barth interfered?
A. I do not know his name; he voted from Sixth street, below Race, I think.
Q. Was there any disturbance there during the day other than that which was produced by the marshal?
A. The democrats there had to keep very quiet and not say anything to them, or they would have all been locked up, I presume; so there was no disturbance. They had to keep very quiet and say nothing in order to get the vote out before the crowd came, before night came. There was a crowd at the polls in the evening there.

JAMES COLIGAN, EIGHTH DIVISION, SIXTH WARD.

Walter Brady sworn and examined.

By the CHAIRMAN:

Question. In what division and ward did you live on the day of the last November election?
Answer. In the Sixth ward, eighth division.
Q. Were you there all day?
A. Yes, sir; I was in the division all day or in the ward all day.
Q. Were you at the election-house most of the day?
A. Yes, sir.
Q. Who was the United States marshal there?
A. James Coligan, an ex-police officer.
Q. What was his condition during the day?
A. Most of the afternoon he was so drunk that he could hardly walk.
Q. Was there any interference by him during the day with voters, and, if so, what was it?
A. He was challenging everybody that came there, driving them away from the polls.
Q. What did he say and do to them?
A. He said that he was United States marshal, and had more authority around there than the judge inside or the police or anybody else. I was calling the policeman's attention to the fact that they had no business within thirty feet of the polls; and I asked him if they could read, that there was a notice signed by the judges, Ludlow and Fell. They said, "Oh, to hell with that," and Coligan came up. I told them that frequently during the day. When I told this police officer that in the afternoon, Coligan said, "Oh, you have got too damn much to say; I will take you in." I said, "No, I guess you won't; you are hardly able to take yourself in, you are so drunk now." He took hold of my collar, staggered into the gutter and back again against the house. Some citizens came up and said, "Why, you have no right to take this man in, he has done nothing." "Well, I'll take you in anyhow." The police persuaded him to let me go. I had said to him, "You might get yourself into trouble. I will hold you responsible if you do me any bodily harm;" so he let me go, and that was settled.
Q. What was he going to do with you?
A. He was going to take me down below, or, I suppose, to the station-house. He was an ex-policeman and a United States marshal, too.
Q. Had he a badge on?
A. Yes, sir.
Q. What was the badge?
A. I supposed it had "United States marshal" on.
Q. Had he the badge on during the day?
A. Oh, yes.
Q. What was he going to take you away for?
A. Just for ordering the police away from there. I called their attention to the notice signed by Judges Ludlow and Fell, that they should stay thirty feet away from the polls; and they laughed at me. I told them that frequently, and in the afternoon Coligan said I had too much to say.
Q. How many policemen were in attendance in the division there generally?
A. There were four or five all the time. Sometimes the lieutenant was there himself.
Q. Where were they?
A. All crowding around the polls.
Q. What were they doing?
A. Giving out tickets and interfering with the men.

HENRY SCOTT, SECOND DIVISION, SEVENTH WARD.

Benjamin F. Levy sworn and examined.

By the CHAIRMAN:

Question. Where do you live?
Answer. At 825 Lombard street, Seventh ward, second division.
Q. Who was the marshal there?
A. Henry Scott.
Q. What is his business?
A. I think he keeps a drinking-house where the polls are held.
Q. What is his character?
A. I hardly know.
Q. Were you at the polls during the day?
A. I was.
Q. Did you see him there?
A. I did.
Q. What was he doing?
A. He was electioneering, giving tax receipts, vouching for voters.
Q. Did you see those receipts?
A. I saw some.
Q. Many of them?
A. Yes, sir.
Q. Had the receipts the names of the voters in them, or were they in blank?
A. That I could not say.
Q. When a voter came up to the polls, did Mr. Scott hand him a tax receipt—did you notice him do that?
A. I saw him do that on the pavement, yes, sir.
Q. Did you see him distributing republican tickets?
A. That I don't remember.
Q. Did you notice him vouching for any one?
A. Yes, sir.
Q. He vouched for what?
A. For their residence.
Q. In the evening was he inside or outside of the polls?
A. He was inside the polls.
Q. Inside the room?
A. Inside the room.
Q. What was going on inside?
A. He was there counting the congressional vote.
Q. Were you inside?
A. Yes, sir.
Q. State what the result was inside and what Scott said.
A. When the polls closed, I went to my house, about a square from the polls. When I came back, Mr. Scott, the marshal, was taking the votes out of the box.
Q. Counting the votes?
A. Counting votes, at least he took them out and handed them to the judge. The judge read them off, and he tallied them and the clerk tallied them. The result was at the end of the count that General McCandless, for Congress, had five votes. I said, "That won't do; that I could count up double that number that came through the window. We had a great deal of talk about it, and finally they agreed to give us what the governor's vote was.
Q. Who was active about this, the marshal?
A. The marshal, yes.
Q. He handled the vote. How many votes did he say he would allow you to count for the candidate for Congress?
A. At another table they were counting the governor's vote. The democrats had about seventeen, I think, and we had noticed there were one or two scratches on the congressional vote of Mr. McCandless; and they agreed to give us what we asked for—fifteen, I think it was; fifteen or sixteen.
Q. Did Mr. Scott make any very distinct remark on the subject of what he might do if you would not take what he offered you?
A. No; he was very glad to give us what we asked for, because I said to him, "There is something wrong about this, and you know it, Mr. Scott; you had better not make any further trouble about it, but had better do just as I tell you."
Q. Did he put his hand in the box for each ticket?
A. Yes, sir.
Q. And brought out each McCandless ticket?
A. Yes, sir.
Q. But you stated that that would not do?
A. I said that that would not do, for I knew some eight or ten who voted for McCandless.
Q. How did you make the count; was there just an acceptance of the count; or were the tickets found?
A. The tickets were not found. We went over them. He proposed that. I said that I did not care anything about the count, for "I am satisfied there are only five tickets there." When I came in the room he had a handful of tickets in his hand, and was picking out with one hand and handing them to the judge. He was handling five tickets. I thought there was something wrong. I took off my coat, threw it across the bar, and turned my back to him, and while I turned my face from him the tickets had gone. I said, "What became of those tickets?" He said, "They are in the box." They were gone; they were not in the box or anywhere else.
Q. What position did Scott hold?
A. He was United States marshal.
Q. What position did you hold?
A. I was overseer.

CHARLES PRENDERVILLE, SEVENTEENTH DIVISION, FIFTH WARD.

Thomas Dwyer sworn and examined.

By the CHAIRMAN:

Question. Where did you live in November last?
Answer. At 431 Locust street, Fifth Ward, seventeenth division.
Q. Were you a qualified voter?
A. Yes, sir.
Q. Who was the United States deputy marshal in that district?
A. Charles Prenderville.
Q. Were you present when a man named Shay came to vote?
A. No, sir; but I was coming out of the house, and called him back, and asked him what was the matter. He said he went up to vote, but could not vote; that the deputy marshal challenged him; and then he went up with me a second time.
Q. What was his name?
A. Michael Shay.
Q. When you then went to the polls what occurred?
A. We went up to the polls and I vouched that Shay was a qualified voter of the precinct. After I vouched for him he went inside.
Q. Did he vote?
A. He voted. Then the deputy marshal took hold of him. I asked him what he was doing that for, and he said, "I am going to lock him up." I asked him, "What for?" and he said, "Never mind," for me to get away from there, and "I'll lock you up too." I said to him to go around and see if Shay lived where he said he did. He said, "No; I'll take you too." I said, "No you won't." He said, "I will." He arrested me and wanted to hand me over to the police officers. I said, "No, I won't go with anybody but you." I said he would have to take me if anybody did. He took me to the station-house and up to the United States court, before the marshal, and had me put under bail to appear at the United States court.
Q. What became of the case?
A. I have been notified five or six times to be up there. I have been up there half a dozen times.
Q. What did you do on the election day?
A. I gave tickets out around the precinct.
Q. But for what were you arrested?
A. I said, "Charley Prenderville, go around there and see if the man lives there." He said, "No, I wont." So I put my hand on him and he arrested me.
Q. Did you know that Michael Shay lived in the division?
A. I did.

Q. Did you know that he was a qualified voter?
A. I knew he was a qualified voter, too.
Q. Was any warrant issued for your arrest?
A. No, sir; he just took me right away from the polls.
Q. How long were you kept in custody?
A. Only about ten or fifteen minutes; I was bailed out right away again. They kept Shay pretty much all of the afternoon. I went up to the court to get a writ of *habeas corpus* for him. I got the writ and went to the station-house at Fourth and Union streets. The lieutenant said that Shay was not in.
Q. What did Prenderville do at the poll?
A. He was challenging voters all day; challenging democratic voters just as fast as they would come up.
Q. Was he electioneering?
A. He was electioneering.
Q. How long was Shay in the station-house?
A. He was arrested at about twelve or one o'clock; he was in the station-house until about three o'clock, I guess.
Q. What became of his case?
A. It was quashed right away. The United States marshal did not make any charge against him when we got into court, and he was discharged. Mr. Cassiday asked the marshal if he had anything to say, if he wanted to push Shay, and he said no. This was in the court-house in Sixth street, below Chestnut, which was where Shay had then been taken.

JAMES BROWN, FOURTEENTH DIVISION, FOURTH WARD.

Charles S. Lincoln sworn and examined.

By the CHAIRMAN:

Question. What is your official position?
Answer. I am clerk of the United States district court.
Q. Have you been such for some years?
A. I have been clerk of that court for four years, and have been in the office as assistant clerk for seventeen years.
Q. Will you turn to your records and tell us whether James Brown was convicted of any offense in your court; and, if so, when, and what it was?
A. [After referring to a record-book.] James Brown was convicted of personating and voting in the name of another person.
Q. What was the date of conviction?
A. The finding of a bill was on the 19th of November, 1872; the date of conviction (verdict) was November 22, 1872; the date of sentence was December 14, 1872.

By Mr. MCDONALD:

Q. He was convicted on what date?
A. The date of the verdict is November 22, 1872. It was for [reading from record-book] personating and voting in the name of another person at an election held on the 8th of October, 1872, the day of the congressional election. Sentenced to eighteen months' imprisonment.

ENOCH BAKER, SECOND DIVISION, THIRD WARD.

John Carroll sworn and examined.

By the CHAIRMAN:

Question. In what ward and division do you live?
Answer. In the Third ward, second division.
Q. Were you at the election in November last?
A. Yes, sir.
Q. What were you doing there?
A. I went to vote.
Q. Who was the marshal there?
A. Enoch Baker.
Q. What duty was he performing there; had he a badge?
A. He was inside when I saw him. He came outside and ordered a policeman to arrest me.
Q. What did you do?
A. I voted and then went with the officer, with both of them, to the marshal's office.
Q. Was it after you had voted that he ordered the policeman to arrest you?
A. He ordered my arrest before I did vote, but I was arrested after I had voted.
Q. He ordered your arrest before you offered to vote?
A. Yes, sir.
Q. Was your vote taken?
A. Yes, sir.
Q. Were you then arrested?
A. Yes, sir.
Q. Where were you taken?
A. To the marshal's office in Library street.
Q. Before whom?
A. I do not know the officers there. Before some of the officers there.
Q. Was there a hearing?
A. I entered bail for a further hearing on the Friday following.
Q. Did you appear on the Friday following?
A. I did.
Q. Was there a hearing then?
A. Yes, sir.
Q. What was the result?
A. I was acquitted.

JOSEPH HILFERTY, TWENTY-FIRST DIVISION, SECOND WARD.

Patrick J. McCarthy sworn and examined.

By the CHAIRMAN:

Question. Where do you live?
Answer. In the Second ward, twenty-first division.
Q. Were you at the election poll of that election on the day of the last November election?
A. Yes, sir. I was United States supervisor.
Q. Who was the marshal there?
A. Joseph Hilferty.
Q. What were his politics?
A. Republican, I believe. He was inclined to be a little troublesome. I did not know he was marshal until about ten o'clock.
Q. How did you come to know it then?
A. The police officers arrested the democratic supervisor of our division, and as the supervisor went across the street he called me to get him bail. I went across and he [Hilferty] followed me across and said, "If you interfere I will lock you up." I said, "What is your authority?" and he pulled out a badge, a little one—a piece of muslin.
Q. Did he know you were a United States officer?
A. Yes; I had a badge upon me.
Q. What were you doing?
A. I only went across the street to inquire of the man what he wanted of me. He said, "I wanted you to go to get me bail."
Q. Who was this man?
A. Campbell.
Q. Who was he?
A. He was supervisor of the other division—the twenty-third division.
Q. Was he a democrat?
A. Yes, sir.
Q. Did you go to get bail for Mr. Campbell?
A. I did.
Q. How many policemen were present in your division?
A. In the neighborhood of seven, eight, or nine were there all day.

WILLIAM M'GOWAN, TWENTY-THIRD DIVISION, SECOND WARD.

Charles Murray sworn and examined.

By the CHAIRMAN:

Question. Do you live in the twenty-third precinct of the Second ward?
Answer. Yes, sir.
Q. Were you there on election day?
A. Yes, sir.
Q. Did you see this difficulty which occurred?
A. Yes, sir.
Q. Were you outside?
A. I was outside electioneering the ticket. Mr. Campbell and Mr. Tomlinson blockaded the window up.
Q. Were they police officers?
A. Yes, sir. I went in and told Mr. Campbell to come out and try to get the votes in. Mr. McGowan was standing on the street and never interfered. He never showed any badge. Mr. Campbell came out and got hold of Officer Campbell. He would not go away from the window. Mr. Campbell asked me to assist him to get the policeman away, and I went to do it. When coming on down a couple of police officers came and arrested me and Mr. Campbell.
Q. What were the officers doing when the affair began?
A. The police officers were standing up by the window.
Q. Who wanted to vote?
A. There were two or three who wanted to vote.
Q. Where those men who wanted to vote at that time citizens of the precinct?
A. Yes, sir.
Q. Do you know they were citizens of the precinct who were trying to get to the window to vote?
A. Yes, sir.
Q. What prevented them from putting their votes in?
A. Mr. Campbell was standing right up by the window.
Q. How were the policemen dressed?
A. In full uniform.
Q. Who else was there with the policeman Campbell?
A. He was there and the other man with the window-book on the other side.
Q. Who was he?
A. I forget his name.
Q. Did you ask policeman Campbell to clear the way?
A. I asked him three or four times and then I went to get Mr. Campbell to do it.
Q. Did you call for McGowan, the marshal, to come?
A. I did not know that there was any marshal about there.
Q. Had the marshal a badge on at that time?
A. No, sir.
Q. Did you know McGowan?
A. Yes, sir.
Q. Was McGowan close to the window all that day?
A. He was electioneering the ticket all day.
Q. Electioneering what ticket?
A. The republican ticket.
Q. When did you first see the badge on McGowan?
A. I do not think I saw the badge on him until I heard, near night, that he was a marshal.
Q. Where did these people take you and Campbell?
A. To the station-house.
Q. How long did they keep you there?
A. From three quarters of an hour to an hour.
Q. Did you give bail?
A. Mr. Moran went our bail to appear the next morning at seven o'clock.
Q. Did you go the next morning?
A. I went there the next morning. I was a little late, the magistrate would not take bail, and I had to go the next morning.
Q. Did you go the next morning?
A. Yes, sir; I went again and entered bail.
Q. Have you heard of the case since?
A. I have never been called on.
Q. Did you see the policemen since?
A. I saw Mr. Lynch, the policeman, since. He is the one who said, "You Irish son of a bitch, I will blow your head off."
Q. Where was that?
A. On Tenth street, below Carpenter.
Q. How came he to say that?
A. I wanted to go to the alderman's and get a hearing before being locked up.
Q. What was Mr. Moran doing there?
A. Moran wanted me to go to the alderman's office and get a hearing, and the policeman pulled a pistol and drew it upon me.
Q. He pulled a pistol out and drew it upon you?
A. Yes, sir.
Q. Did you go along then?
A. I went along with him.
Q. Were you resisting and trying not to go?
A. No, sir; I only wanted them to take me first to the alderman's office and give me a hearing before they locked me up.
Q. How came the policeman to pull out a pistol? What were you doing then?
A. The crowd gathered around, and they wanted to lock me up.
Q. Did the crowd cause any difficulty there?
A. No, sir.
Q. What caused the difficulty there at the polls?
A. Policemen blockading the window up.

ROBERTS, SIXTEENTH DIVISION, THIRD WARD.

John Johnson, witness.

By the CHAIRMAN:

Question. Where did you live at the November election last year?
Answer. At 740 South Twelfth street, Third ward, sixteenth division.
Q. Were you arrested?
A. Yes, sir.
Q. By whom?
A. By a deputy marshal.
Q. Who was the deputy marshal?
A. Roberts.
Q. What were you arrested for?
A. I came up to the poll to vote. He challenged me on my tax receipt.
Q. Who challenged you?
A. Roberts, the marshal. I handed in my tax receipt. It was examined and inspected by the judge and inspector of the poll, and was passed as a genuine one. My vote was received; but as my tax paper was handed out to me again the deputy marshal made an attempt to take it, but somehow or other I got the best of him

and got it and put it in my pocket. 'Said he, "You are my prisoner." He took me and locked me up. He called the assistance of the police.

Q. Where did he take you?
A. To the station-house.
Q. How long were you kept there?
A. They kept me there from six at night until ten o'clock next morning.
Q. You attempted to vote, then, about a quarter to six in the evening?
A. At about a quarter to six o'clock.
Q. How long had you lived in that division?
A. For four years.
Q. Your tax receipt was passed into the room through the window and was there passed upon as good?
A. Yes, sir.
Q. Then your vote was received, when Mr. Roberts arrested you and took you and locked you up?
A. Yes, sir.
Q. What became of the matter afterwards?
A. The next morning I had a hearing before the United States commissioner and it was put to court. From the 2d of November to the 3d of March they kept me busy running to court, and the case has not come up yet. When I last made my appearance there I asked them if they had any idea of when my case was going to come up.
Q. To what official did you go?
A. I asked the prosecutor of the court if he had any idea when that case of mine was to come up, (I thought it was time for them to find out something about it; they had kept me running there two or three times a week;) he told me to stay at home until I was sent for. I said I understood they would not send for me, as I was not a witness in the case; I was the accused. He said, "Stay at home until you are sent for anyhow." They haven't sent for me yet.

As to Roberts, another witness testifies:

Question. Was he distributing tickets?
Answer. Yes, sir.
Q. Did he have the window-book?
A. He did.
Q. Did he keep charge of the window-book?
A. Yes, sir.
Q. What was his conduct or behavior, respectful and orderly, or overbearing and rude?
A. He was intimidating voters, threatening them, almost every voter that came up.
Q. What did he say?
A. He threatened to arrest those who voted on a white tax receipt.
Q. Were you there when he made the arrest of John Johnson?
A. Yes, sir.
Q. Do you know of his making any other arrests?
A. Yes; he made two others.
Q. What became of the other arrests?
A. He took the parties before the United States marshal, I believe, where they entered bail and got out.
Q. Where was Roberts employed?
A. He is employed in the gas office just now—a clerk there, I believe.
Q. How many policemen were there in that precinct on that day?
A. Between ten and fourteen.
Q. In uniform?
A. Yes, sir.
Q. Were there more deputy marshals than one there?
A. There were two.
Q. Was there any disturbance at the polls there?
A. None at all, only what a police officer made. The police officer came there between half past five and half past six o'clock in the evening, and said he was sent there to clear the polls. At that time there was a string of voters there, I believe five or six, and he pushed all the democrats out of this line, and pushed them away. He pushed on the democratic side, and said he could lick any son of a bitch around those polls.

CHARLES HERR, SECOND DIVISION, TWENTY-NINTH WARD.

Witness, John Trainer.

Question. Do you know the marshal who was there?
Answer. Yes, sir.
Q. Who was he?
A. Charles Herr.
Q. Have you known him any length of time?
A. I have known him about five years.
Q. What is his character and reputation, as far as you know him?
A. Very bad.
Q. Has he been arrested?
A. He has been arrested to my knowledge for receiving money under false pretenses.
Q. More than once?
A. Not to my knowing.
Q. Was this recently?
A. About a year ago.
Q. What occurred during the day when you were there in reference to a Mr. Emery?
A. After I had deposited my vote I stepped aside and was standing there when Mr. Emery came up to vote; and when he went up to put in his vote this Herr came up, got hold of him, pulled him away from the window, and told him he had no right to vote; that he did not live in the division. He squared off to fight him, [Emery,] hallooed for the police to come and arrest him, and Mr. Emery got rather frightened and ran down to the corner of the little street that he lived in, with the marshal and the police after him. I followed after Mr. Emery to see what they wanted to arrest him for; I saw that he had not done anything at the polls to be arrested for. I went to his house and asked his mother if he lived there. She said yes; that that was his home, and he had no other home. I told him to come around to vote, that he had a perfect right to vote, and I would see that he got his vote in; but he was rather frightened, and would not come. Then in the afternoon a gentleman told me that Mr. Emery had been arrested. I asked him for what and by whom. He told me that it was for trying to vote illegally in the division, and that the arrest was made by the police and the marshal of the United States in the division. I went around to the station-house and found it was so, and then went to Mr. Pritner and asked him what it was best to do about the matter; asked him if he knew the man, and knew that he was a resident of the division. He said he did, and said it would be best to have an order from the court. I went down and got a writ of habeas corpus to make them take his vote. It was to be served upon the police lieutenant of the district, and was returnable at six o'clock that evening, at Judge Fell's house, as it was too far to go to the court-house.
Q. What did you then do?
A. When I came up town I went to Mr. Pritner and told him what I had done. Mr. Pritner informed me that he had gone to the station-house and had bailed the gentleman, and had got him out and had taken him down and voted him.
Q. Do you know whether this man Emery was a qualified voter?
A. I do.
Q. Then this writ of *habeas corpus* that you got out did not get his vote in—he got it in without that?
A. He got his vote in without any writ.
Q. Had Herr any connection with the voting in any way?
A. He was soliciting votes.
Q. Had he in his possession republican tickets?
A. Yes, sir.
Q. Had he a badge on as a republican distributer?
A. He had a badge on under his coat. I only saw it on one occasion when the lappel of his coat was thrown aside.
Q. A republican badge?
A. Yes, sir.
Q. Did you see him soliciting men to vote?
A. Yes, sir; I saw him go and ask men to vote and hand them a ticket.
Q. Was there any disturbance at that time?
A. No more than he made by pulling the man away and not allowing him to vote.

I have here a statement also of the number of marshals, where they were used, and the amount paid them, which I will also make part of my remarks. As I notice my time is nearly expired I will have read only one other paper, the testimony of Mr. Charles F. Miller, with reference to the character of Phillip Madden, of the Fourth ward; of Francis McNamee, of the Eighth ward; of Daniel Redding, of the First ward; of Mr. Pitts, of the Seventh ward; of Henry Scott; of R. F. Springfield, of the Fifteenth ward; of Michael Slavin, of the Fifth ward. This man Springfield, the committee will observe, is the man that the gentleman from Pennsylvania [Mr. O'NEILL] said was arrested for perjury. He was a republican marshal of election, put there to help preserve the purity of the ballot-box.

The Clerk read as follows:

Charles F. Miller sworn and examined.

By the CHAIRMAN:

Question. In what precinct do you live and vote?
Answer. In the seventeenth division of the Nineteenth ward.
Q. Were you in that precinct on election day?
A. Yes, sir.
Q. State what occurred there with regard to the conduct of the marshals, if anything.
A. About five o'clock a gang of repeaters came there—three or four of them—brought there by a letter-carrier. One of them came up to vote in the name of Mr. Motts. He was challenged, as it was said he was not the man. I went up and looked at him. I knew Mr. Motts, and I told this man he was not the man and he would have to go away from there. So I took hold of him and took him around to magistrate Field's. He gave the name of Harrison; he had a hearing and was committed to prison. I took him down, and at that time got talking to him. I knew his face but did not know his name. Then he said his name was McCracken. He was taken to prison. The United States marshal there did not interfere. It was very quiet before that. About that time there was a little squabble in consequence of some man who came up with the workingmen's ticket hitting this man of whom I have spoken, but I stopped him.
Q. How do you know that it was a letter-carrier who brought that man there?
A. I saw him; I know him. I have seen him in uniform.
Q. Was he in uniform then?
A. No, sir.
Q. What is your official position?
A. I am the murder detective of Philadelphia.
Q. In connection with what office?
A. The district attorney's.
Q. Do you know Phillip Madden?
A. Yes sir.
Q. Where does he live?
A. On Bainbridge street, I think, above Seventh, in the Fourth ward.
Q. In what division?
A. I cannot tell; I think it is the fourth.
Q. What is the character of Philip Madden?
A. I think he is one of the worst men in Philadelphia.
Q. In what respect?
A. He is a dangerous man; he is violent and dangerous.
Q. How long has he been out of prison?
A. I think probably eight months or a year. He was convicted of highway robbery, I think.
Q. Do you know of this man Madden having shot anybody?
A. I did not see him shoot anybody. I heard he shot a boy at one time.
Q. Was he in prison, to your knowledge, more than this one time?
A. He was in prison twice.
Q. What is his general character; is it that of a peaceable citizen, or that of a desperate, bad man?
A. His character is that of a desperate, bad man.
Q. Do you know Francis McNamee, of the Eighth ward?
A. Yes, sir.
Q. What is his character?
A. I arrested him for being concerned in five robberies, about seven years ago, and convicted him for having stolen goods in his possession. He was sentenced, I think, to eighteen months. I am not certain about the length of the sentence.
Q. Do you know in what precinct he lives?
A. No, sir; he lives in the Eighth ward, somewhere about Locust street.
Q. Do you know Joseph Hilferty?
A. No, sir.
Q. Do you know Daniel Redding, of the First ward?
A. Yes, sir; very well. I guess everybody here knows him.
Q. What is the general reputation of Daniel Redding?
A. He is considered to be a very bad, dangerous man. He has been tried for murder.
Q. How long since was he tried for murder?
A. In 1869.
Q. Is his reputation still bad or good?
A. Bad.
Q. Do you know a Mr. Pitts?
A. Yes, sir.
Q. Of what ward?
A. The Seventh ward. He keeps a place in Lombard street above Eighth, on the south side.
Q. What is his business?
A. He keeps a gambling-place, and things of that kind.
Q. Is he a colored man?
A. He is a colored man.
Q. He keeps a gambling house. Is it a drinking house?
A. Yes, sir. He has been arrested once or twice, and was tried before.

Q. For what offense has he been tried?
A. I cannot remember; but he was arrested once or twice.
Q. To what ward does Daniel Redding belong?
A. To the First ward. His name does not appear upon the list of marshals as having been put down for the precinct in which he lives, but I think he lives in the twenty-third precinct; on Mildred street below McKean, I think.
Q. Is the name of Frank McGowan on the list of marshals here before the committee?
A. Yes, sir.
Q. Is the name of Philip Madden on the same list of marshals?
A. Yes, sir.
Q. Do you know Henry Scott?
A. Yes, sir.
Q. Who is he?
A. He keeps a hotel in Lombard street.
Q. Is he a white or colored man?
A. A colored man.
Q. Do you know anything of him?
A. His reputation is bad; I am forgetting about him.
Q. Do you know Rodney F. Springfield?
A. Yes, sir.
Q. Is he of the Fifteenth ward?
A. Yes, sir.
Q. What is his reputation?
A. He was tried for killing a colored man, for shooting him.
Q. Has he ever been convicted?
A. I don't think he has.
Q. He was never convicted?
A. No, sir; not to my knowledge.
Q. Has he been tried and acquitted?
A. Yes, sir.
Q. Then the inference from that would be that he was not guilty of any such offenses?
A. Oh, but he has so many good swearers. If all the gentlemen here would swear against him he would have three times that number to swear that he was not there.

The CHAIRMAN. The Chair desires to ask the gentleman from Ohio [Mr. FINLEY] what disposition he proposes to make of the remaining ten minutes of his time?

Mr. FINLEY. If the gentleman from Pennsylvania [Mr. BELTZHOOVER] desires it, I will yield to him the balance of my time.

Mr. BELTZHOOVER. I had intended to follow the gentleman, but as the time is limited to ten minutes I will not occupy it but yield it to the gentleman from Ohio.

Mr. FINLEY. Mr. Chairman, I have here a short sketch of the character of some of the deputy marshals appointed by the republicans as "purifiers of the ballot at Philadelphia" during the last election, compiled from the testimony taken before the Wallace committee, as follows:

Charles Oliphant, marshal second division, Twentieth ward, drunk on election day and insulting voters; seized Mr. Hackenberg without cause.

Charles Herr, marshal second division, Twenty-ninth ward, character and reputation bad, had been arrested for crime. On election day he arrested a voter, who was released by Judge Hare and voted. Herr wore a badge, and solicited votes as a republican.

Arthur Vance, marshal eighth division, Fifth ward, arrested Hutchinson, a voter, without cause. Vance was a notorious republican worker.

John Homeyard, marshal sixth division, Sixth ward, drunk, and arrested voters without cause; drew a club on a democrat for challenging a negro repeater. The police blocked up the poll, acted in concert with Homeyard, and brought voters to polls. Homeyard vouched for republican voters and distributed republican tickets. Shriver, a United States revenue officer, kept republican window-book.

J. R. Desano, marshal first division, Fifth ward, drunk all day; too drunk to arrest any one. There were five policemen at these polls. Desano never voted in that division before that day.

James Brown, marshal fourteenth division, Fourth ward, record of his conviction in 1872, for voting illegally, produced. Proof was made that he voted twice on the same day.

William Augustus, fourth division, Eighth ward, acted as marshal, assuming authority as such, but was not on the list; a republican worker.

Joseph Hilferty, marshal twenty-first division, Second ward, held the republican window-book all day and electioneered; threatened to arrest the democratic United States supervisor for procuring bail for a legal voter who had been arrested.

William McGowan, marshal twenty-third division, Second ward. A policeman blocked up the voting-window, and a democratic United States supervisor ordered him away, when McGowan and the policeman seized him and locked him up in the station-house on a charge of interfering with officers. The case was never tried. McGowan is employed in the gas office and paid by the city.

Charles N. Miller, detective, testified that in seventeenth division of Nineteenth ward a gang of repeaters were brought to the polls by a letter-carrier; he had one of the gang arrested.

Philip Madden, marshal Fourth ward, one of the most dangerous men in the city; has been in prison twice, once for highway robbery and the second time for shooting a colored boy.

Francis McNamee, marshal Eighth ward, had been arrested for five different robberies.

Andrew Lenoir, marshal First ward, a warrant has been issued for him for larceny.

Daniel Redding, marshal First ward, a bad and dangerous man; had been tried for murder.

Henry Pitts, marshal Seventh ward, a colored man who keeps a gambling-house and been arrested twice; distributed republican tickets and vouched for voters.

R. S. Str ngfield, marshal Fifteenth ward, had been tried for shooting a man; character very bad.

Michael Slavin, marshal Fifth ward, a thief and notorious repeater; had been arrested for subornation of perjury but never tried.

William Glenn, marshal Nineteenth ward, superintendent of Norris square, and paid by the city for his duties.

Enoch Baker, marshal second division, Third ward, arrested John Carroll, a legal voter, without cause, and locked him up; Carroll was discharged after a hearing.

J. Roberts, marshal sixteenth division, Third ward, arrested John Johnson, a legal voter, and locked him up all night; case never tried. Roberts electioneered for the republican ticket; was a clerk in the gas office and paid by the city; there were also twelve to fourteen policemen at that poll all day, and they blocked up the poll.

Andrew Jackson, marshal twenty-second division, Thirtieth ward, employed in the gas works under the city. Ackerman, republican judge of elections, acted as United States supervisor and judge, and refused to vacate the place of judge after written orders by Marshal Kerns and Judge Elcook. Jackson arrested Feeny, who had been legally appointed judge, and took him away from the polls. Did not return to get possession until 2 p. m.

C. A. Pinnexson, marshal Thirtieth ward, aided in arresting Feeny.

—— Taylor, marshal fifteenth division, Third ward, arrested Sweeny for illegal voting and locked him up; charge was found to be false and he was released and voted.

James Calligan, marshal eighth division, Sixth ward, so drunk in the afternoon he could not walk; seized a qualified voter by the collar and staggered with him against the wall; policeman brought a repeater to the polls, who was arrested, as was the policeman.

Henry Scott, marshal second division, Seventh ward, a man of bad repute; colored; keeps a low drinking house; electioneered and gave out tickets and tax receipts; was inside at the counting of the vote, and took tickets out of the box; only 5 votes came out for the democratic candidate for Congress; democratic overseer contested this, and Scott allowed 17 to be counted for him.

Thomas Donlan, marshal seventh division, Sixth ward, an habitual drunkard, and a graduate of house of correction for this; was drunk all day.

William D. Barth, marshal; same place, blocked up the voting window and would not allow legal voters to come to it; there were two United States marshals and six policemen at this poll.

John Archer, marshal twenty-seventh division, Nineteenth ward, acted as United States supervisor; was on both lists and paid as both officers; when a marshal wanted during the day to arrest a republican repeater he did not make known that he was a deputy marshal; had no badge; heavy republican division; no policemen there.

Joseph T. Fuller, marshal sixth division, Twenty-third ward, a guard in the house of correction, and paid by the city.

William Stringfield, marshal thirty-second division, Twenty-fourth ward, arrested a legal voter and took him to the magistrate's, where he was discharged; Stringfield was discharged from employment the day before election for stealing.

Charles Male, marshal seventh division, Eleventh ward, keeps a house of prostitution.

Abraham Hoffman, marshal Eleventh ward, a repeater, and had kept a house of prostitution within a year; a thief.

William Eckenbrim, marshal Eleventh ward, arrested for larceny; bill ignored.

David Beckman, marshal thirty-second division, Nineteenth ward, held the republican window-book and electioneered; threatened to put the democratic United States supervisor out of the room for challenging a voter; the vote was rejected, and the voter did not return.

William B. Ahern, marshal ninth division, Twelfth ward, employed in the United States revenue office.

—— Fleming, marshal sixth division, Eighteenth ward, distributed republican tickets and challenged voters; a legal vote was rejected on his challenge; intimidated many democratic voters.

William Boehm, marshal eighteenth division, Twenty-ninth ward, plug inspector, and paid by the city; electioneered and distributed republican tickets.

Charles Prenderville, marshal seventeenth division, Fifth ward, arrested a legal voter; case never tried; electioneered for republicans all day.

This was the record of a two days' investigation at Philadelphia.

I also attach as part of my remarks the following statement, clipped from a newspaper in this city, showing the number of marshals used at the elections in 1876 and 1878, and when appointed, together with the sums expended out of the Treasury for their pay. In a speech near the close of the Forty-fifth Congress the gentleman from Kentucky, Mr. Durham, gave the same statement, remarking that it was correct and obtained from official sources:

HOW THE REPUBLICANS CARRY ELECTIONS—SOME VALUABLE STATISTICS CONCERNING THE CORRUPTIONS PRACTICED ON THE BALLOT-BOX BY MARSHALS AND SUPERVISORS.

After several days' diligent search through the document-rooms of both Senate and House, The Post has managed to get together a more complete exhibit of the supervisors and deputy marshals employed at congressional elections than has yet been published. Not a single report of any kind in regard to the supervisors and marshals of elections has ever been issued from any of the Government Departments, except in response to a mandatory resolution of Congress. Though hundreds of thousands of dollars have been expended for supervisors and marshals, no Attorney-General has ever volunteered any information concerning them. Several House resolutions calling for detailed statements of the number of marshals employed in 1876, and the amounts paid them were not replied to at all; but the democratic members who had undertaken to find out this secret of the "Department of Justice" persisted, and three months after the adoption of a resolution Mr. Taft, then Attorney-General, sent in a report which seemed to have been made up with the view of concealing the information requested.

He submitted a lot of extracts from the letters or reports of the various United States marshals, giving reasons for the employment of election deputies and a few figures showing how many of the latter had been employed, but he gave nothing about the amount of money expended. Subsequent resolutions, repeating the demand for information in detail, brought responses from the Department of Justice and the Treasury Department, and by going through all of them The Post has been enabled to formulate the tables given below. Every one of the reports on this subject to Congress contains some excuse for not furnishing a complete showing of the information demanded. Either the marshals had not rendered all their accounts or there was some other pretext for omitting some of the figures. The reports sent last omit items of expenditure that were contained in those previously furnished, indicating that the heads of the Departments do not intend to let the people know the entire cost of the radical election machine if they can avoid it. Take, for illustration, the official reports or statements for the congressional election of 1876 sent to the present Congress, and by comparing them with the one furnished by Taft discrepancies amounting to thousands of dollars are found.

The tables given below contain only the figures of expenditure that have been reported to Congress in the various documents submitted from the Attorney-General's and Treasury Departments. They are undoubtedly districts in which money was paid for deputy marshals that have not been included in the exhibits. For instance, in the several official exhibits no expenditure for deputies is charged against Arkansas; but the marshal of the eastern district of that State, in his report embracing the congressional election of 1876, claimed allowance for seven hundred and eighty-five deputies employed one day, namely, November 7. The marshal of Florida for the same year reported that he employed seven hundred and forty-five deputies from the latter part of October until the 15th of November, but not a dollar is put down as having been expended for that State. In making out these reports of expenditures the departments seem to have adopted the rule of reporting only districts from which the accounts had been adjusted, and this would in each case omit a portion of the expenditures. In the table for 1878 the chief supervisor's expenditures for New York City are omitted for the reason that the amount had not been reported to Congress. That, as all the figures show, is the district in which the amount has always been greatest, and perhaps it was the size of the pile that had been used that prompted Mr. John Sherman to omit it from his statement.

Supervisors and deputy marshals employed in 1876, with compensation.

States and districts.	Amount paid chief supervisors.	Number of supervisors.	Amount paid supervisors.	Number of deputy marshals.	Amount paid deputy marshals.	Total amount paid.
Alabama, northern				150		
Alabama, middle				244		
Alabama, southern	$2,208 38	19	$500 00	192	$2,530 00	$5,238 38
Arkansas, eastern				785		
Arkansas, western				214		
California	1,578 99	105	5,220 00	244	4,225 00	11,023 99
Delaware				135		
Florida, northern				745		
Georgia	567 50			207	1,410 00	1,977 50
Illinois, northern		188	5,640 00	115	1,105 00	6,745 00
Louisiana	4,463 33	270	4,115 00	840	5,705 00	14,283 33
Maryland	977 55	574	2,950 00	1,222	8,085 00	12,012 55
Massachusetts	253 20	66	660 00	117	1,170 00	2,083 20
Mississippi, northern	50 50			239		50 50
Mississippi, southern				9		
Missouri, eastern	187 40	152	1,330 00	1,032	16,385 00	17,902 40
Nevada				9		
New Jersey	3,771 19	85	3,420 00	249	5,085 00	12,276 19
New York, northern	7,723 70	339	9,975 00	342	7,925 00	25,623 70
New York, eastern	12,150 52	370	11,674 00	723	11,986 00	35,810 22
New York, southern	19,383 36	1,070	32,115 00	2,500	39,785 00	91,283 36
North Carolina, eastern	591 84			166		591 84
Oregon				13		
Pennsylvania, eastern, (Philadelphia)	3,449 40	1,368	27,360 00	347	3,500 00	34,309 40
Pennsylvania, western		224	2,240 00	49	490 00	2,730 00
South Carolina	879 14			338	395 00	1,274 14
Tennessee, western	129 00			30	150 00	279 00
Texas, eastern	249 92	33	1,800 00	18	900 00	2,949 92
Virginia, eastern	551 05		1,630 00	201	1,785 00	3,966 05
Virginia, western	206 00					206 00
West Virginia				4		
Idaho				4		
New Mexico				78		
Utah				18		
Total	59,371 67	4,863	110,629 00	11,610	112,616 00	282,616 67
Amount paid United States commissioners in New York City for servisce under election laws						3,304 60
Total expenditures reported for 1876						285,921 27

Supervisors and deputy marshals employed in 1878, with compensation.

Alabama, southern	$1,551 71		$1,000 00		$1,000 00	$3,551 71
Georgia				34	170 00	170 00
Illinois, northern		224	4,480 00	224	2,240 00	6,720 00
Kentucky	116 00		870 00		870 00	1,856 00
Louisiana	1,313 00	206	3,600 00	120	4,000 00	8,913 00
Maryland	351 03	230	2,950 00	700	4,445 00	7,746 03
Michigan, eastern		52	1,300 00		2,935 00	1,435 00
Massachusetts		282	8,460 00		135 00	11,395 00
New Jersey	7,324 84	148	3,050 00	192	2,880 00	13,254 84
New York, southern, (city)		1,225	30,000 00	1,350	27,000 00	57,000 00
New York, eastern	15,972 33	354	10,620 00	584	6,500 00	33,092 33
New York, northern	7,558 80	374	11,000 00	374	7,000 00	25,558 80
Ohio, southern	740 45		890 00	71	447 78	2,078 23
Pennsylvania, eastern	5,830 00	1,370	27,440 00	750	7,550 00	40,820 00
Pennsylvania, western		312	3,121 00			3,121 00
South Carolina	579 35	34	680 00		700 00	1,975 35
Virginia, eastern	585 00	70	620 00	102	570 00	1,775 00
Total	41,922 51	4,881	110,081 00	4,725	68,442 78	220,446 29
Amount paid United States commissioner for services under election laws in New York city						2,267 95
Total expenditures reported for 1878						222,714 24

There is nothing on record throwing any light upon expenditures of this character prior to 1876, except the report of the Caulfield committee of the Forty-fourth Congress. That committee compiled a statement of expenditures from John I. Davenport, chief supervisor in New York, for the election of November 5, 1872, in that city. It was shown that the amount expended in New York City alone under the Federal election laws for that election was nearly $120,000, and this, very probably, is a fair illustration of the manner in which the public money was used all over the country to defeat Greeley and elect a republican Congress. A summary of the expenditures was as follows:

Amount paid deputy marshals on district rolls	$50,590 00
Amount paid deputy marshals on supplementary rolls	7,155 00
Amount paid supervisors of election on district rolls	23,885 00
Amount paid deputy marshals on headquarters roll	3,925 00
Total	85,555 00
To extraordinary expenses incurred in enforcing the acts of Congress in relation to elections at the election held in the city of New York on the 5th of November, 1872	33,434 36

This makes a total of $118,989.36 that was expended in that city at the one election, and the report contains the accounts, which show that the marshals of each assembly district expended a large proportion of the money for "carriage hire."

The "close" congressional districts were not only industriously worked for the republicans by deputy marshals, but Mr. George C. Gorham, as his testimony has shown, had a watchful eye upon them. He, as executive officer of the republican congressional committee, collected $106,000, of which $93,000 was squeezed out of the Department clerks in Washington. The United States marshals were in communication with Mr. Gorham, and during the canvass some of them came all the way to Washington to get directions as to how they should use their power for the "good of the party."

Mr. Gorham's testimony, and that of his assistants, before the Wallace committee, shows that the assessment plan was vigorously plied in every one of the Departments, and no person who drew money from the Government was overlooked. Solicitors were sent through each Department several times, and those employés who failed to pony up to them were subsequently reminded by circulars of the "debt of honor" they were expected to pay. The money was raised to be used in carrying the House for the republicans. This was openly announced, and Mr. Gorham remembered having sent the following amounts to the congressional districts named:

Maine	$5,000
New Hampshire	1,750
Vermont, third district	500
Connecticut, third district	1,000
New Jersey, first district	1,500
New Jersey, second district	500
New Jersey, fifth district	500
Pennsylvania, seventeenth district	1,500
Maryland, sixth district	1,250
West Virginia, second district	350
West Virginia, third district	500
Virginia, second district	1,000
Virginia, fourth district	1,300
North Carolina, fifth district	500
North Carolina, second district	300
Harris's district	500
South Carolina, first district (Rainey's)	1,000
South Carolina, fifth district	600
South Carolina, State	200
Florida, first district	500
Florida, second district	1,000
Alabama, fourth district	500
Tennessee, first district	500
Tennessee, second district	500
Missouri, second district	500

Missouri, third district	$500
Missouri, seventh district	100
Missouri, tenth district	1,000
Ohio, nine districts	9,300
Indiana, first district	2,000
Indiana, fourth district	1,000
Indiana, sixth district	1,000
Indiana, eighth district	500
Indiana, tenth district	500
Illinois, eighteenth district	250
Michigan	5,000
Iowa	5,000
Wisconsin	1,500
Oregon	200
Colorado	1,000
Total	53,900

In addition to the $106,000 which he received in and disbursed from Washington, Mr. Gorham testified that he authorized the various State committees to assess the Government employés within their respective States, and use the moneys raised in aid of republican congressional candidates. Adding the collections by the local committees to the amount raised by Gorham, the sum must have reached $150,000, which was distributed where it would do the most good.

In addition to cash collected from Government clerks, the republican party had the benefit of $200,000 of public money, which was used to pay deputy marshals to work for the candidates of that party. The election marshals of Philadelphia may be taken as a fair sample of them all, and the facts brought out by the Wallace committee.

I desire to call the attention of the committee to another fact in connection with the same subject. In addition to these marshals that were appointed in the manner I have indicated, it has been developed by the same testimony that a large election fund was levied on the employés of the Government and sent out where it would do the most good; and it is curious to observe where the money went in connection with where the marshals were appointed. It would appear that they went hand and glove together for the purpose of preserving a pure ballot. One hundred and six thousand dollars were collected and sent out to the various parts of the country at the last congressional election. I desire to read from a statement made by a republican as to what use is usually made of moneys when raised in large quantities. Speaking of the election in Chicago, he says a prominent republican who was closely identified with the inside work of the campaign management disposes of the whole question of fraud by the democratic party at the Chicago election in this statement:

The cry of fraud is absurd and puerile on the face of it, and for this reason, there was no inducement for the perpetration of fraud. I have had some experience in handling election tools, and I tell you it is costly and has to be paid for cash down. No repeater or illegal voter commits a crime on the ballot for love of any candidate or on account of any party enthusiasm. He wants money for his work. Now, I happen to know that the democrats of Chicago had little or no money.

This was said in respect to the election in Chicago. This man said that repeaters and ballot-box stuffers, men who work in an illegal and illegitimate manner, had to be paid cash down. And $106,000 were raised by contributions from the employés of this Government! What for? Was it to pay cash down for repeaters? Was it for the purpose of purchasing voters? The legitimate expense of the campaign could not amount to the enormous sum of $106,000. It has been shown that $9,000 went into my State, and I can speak for one district of that State. It has been shown that in some districts $13,000 were used. Why, in my district the bare campaign expenses that were paid by the democratic party amounted but to about a few hundred dollars, yet the legitimate expenses were all paid. What honest use could be made of $13,000 to $15,000 in a single district? Yet such was the fact in the State of New Jersey. The State from which the gentleman who has just preceded me comes used at the last election $13,250 for marshals, and $500 were sent from this campaign fund. In the State of Maryland in a single district there were $7,746 used for marshals, and $1,250 were sent out of this campaign fund.

So you can follow it all through, Mr. Chairman. In the State of South Carolina it has been shown by the same testimony that $1,380 were spent for marshals. One thousand dollars were sent into Mr. Rainey's district, $500 into the fifth district, and $200 to the State at large. And you will observe if you take the pains to hunt it up and compare the places where the money went which was sent out by this committee with the places where the greatest number of marshals were used, you will find, I will venture to say, with scarcely any exception, that in doubtful districts there were the greatest number of marshals placed and there was sent the largest amount of this fund.

In conclusion, I wish to say it will never do for our republican friends, after the use that they have made of this law, to say that they have no motive in their resistance to this repeal other than a desire to preserve the purity of the ballot. It is too clearly evident that the purpose of the republican party is, if this law is retained upon the statute-book, to make use of it for party purposes in a partisan way in the coming election, and I say, Mr. Chairman, that the country fully understands that to be their purpose.

[Here the hammer fell.]

Mr. MILLS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National La Fayette and Bank of Commerce of Cincinnati, Ohio.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. GARFIELD, during Wednesday's session; and

To Mr. FINLEY, for ten days, on account of important business.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for withdrawal of papers from the files of the House in the following cases, there being no adverse reports:

To Mr. RICHMOND, in the case of Mrs. Caroline Hawley; and

To Mr. DEERING, in the case of Charles S. Jones.

MILITARY ACADEMY.

The SPEAKER laid before the House a letter from the Secretary of War relating to deficiencies in the appropriation and pay of the Military Academy; which was referred to the Committee on Appropriations.

CLAIMS OF COLORED VOLUNTEER SOLDIERS.

The SPEAKER also laid before the House a letter from the Secretary of War asking an appropriation of $50,000 for the payment of certain claims of colored volunteer soldiers; which was referred to the Committee on Appropriations.

CYRUS THOMAS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior relative to the accounts of Cyrus Thomas, disbursing agent of the entomological commission; which was referred to the Committee on Appropriations.

COMMITTEE SERVICE.

The SPEAKER. By an arrangement between the gentlemen interested, the Chair desires to announce that on the Select Committee on the Ventilation of the Hall Mr. GEORGE B. LORING, of Massachusetts, will take the place of Mr. GEORGE M. ROBESON, of New Jersey; on the Committee on Mines and Mining Mr. GEORGE M. ROBESON, of New Jersey, will take the place of Mr. GEORGE B. LORING, of Massachusetts; and Mr. A. J. WARNER, of Ohio, will take the place of Mr. GIBSON ATHERTON, of Ohio; on the Committee on War Claims Mr. GIBSON ATHERTON, of Ohio, will take the place of Mr. A. J. WARNER, of Ohio.

This is done at the request of the gentlemen themselves.

ADDITIONAL MEMBER TO COMMITTEE ON MILITARY AFFAIRS.

Mr. STEPHENS, of Georgia, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Rules:

Resolved, That the Speaker shall appoint from among the Delegates from the Territories one additional member to the Committee on Military Affairs, which Delegate shall have the same privileges in the committee as in the House.

RECESS.

Mr. STEPHENS. I wish to make a suggestion, and it is that the House instead of adjourning to-night shall take a recess until ten o'clock to-morrow.

Mr. PHISTER. I shall object, unless it is understood that the additional hour shall be confined to debate only.

The SPEAKER. That will be the understanding.

There was no objection; and the motion of Mr. STEPHENS was agreed to.

G. T. ROGERS AND BENJAMIN P. GAINES.

Mr. SPRINGER submitted the following resolution; which was read, and referred to the Committee of Accounts:

Resolved by the House of Representatives, That the Clerk of the House be, and he is hereby, directed to pay, out of the contingent fund of the House, to George T. Rogers and Benjamin P. Gaines each the sum of $180 for services rendered as clerks of the Committee on Expenditures in the State Department during the month of November, 1878.

The House then, pursuant to order, (at half past four o'clock p. m.,) took a recess until half past seven o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

The SPEAKER. The session of to-night is held for the purpose of debate upon the legislative appropriation bill, no other business being in order.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATHERTON. I move that the House resolve itself into Committee of the Whole, to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Iowa [Mr. SAPP] is entitled to the floor.

Mr. SAPP. I yield a portion of my time to the gentleman from New York, [Mr. LAPHAM.]

Mr. LAPHAM addressed the committee. [His remarks will appear in the Appendix.]

Mr. FORT. Mr. Chairman, we have come to reconsider whether Congress should regulate by law or in any way supervise the election of members of this House.

Our State-rights friends on the other side of the Hall claim that it should be left to the States entirely to conduct such elections. And some deny the constitutional authority of Congress in this regard. They fly to the Constitution and interpret it to mean nothing.

Almost the first thing we find in that instrument, article 1, section 4, is a provision that—

Congress may at any time make or alter regulations for electing Senators and Representatives, except as to the place of choosing Senators.

This seems to read like pretty plain English, and one not trained in State-rights schools would not have discovered that it meant nothing at all. If there can be any doubt about the construction of this provision, then I confess that the gentlemen who framed our Constitution were very skillful in choosing language to conceal their real meaning. People unschooled in the mysteries of strict constructionists, or more properly speaking the blank constructionists, would suppose the authors of our Constitution meant just what they said. Our ingenious friends who believe the Constitution of the United States is only blank vellum have already been fully answered today by the gentleman from New Jersey [Mr. ROBESON] upon all these points, and I will pass them and consider for a few moments the policy of exercising this power. During the earlier days of the Republic mobs at the polls and frauds in elections were not frequent, and Congress did not exercise its unquestioned powers in this respect.

Some time in July, 1866, Congress passed an act drawn, I believe, by Hon. Lyman Trumbull, then a Senator from Illinois, regulating the election of Senators in every respect except as to the place of choosing. This law is still in force, and has worked well and speaks for the wisdom of its author. Before and about that time riot and violence at the polls and frauds in the elections became so frequent and monstrous that Congress passed other laws regulating in some respect the election of Representatives to this House, to the end that there might be peace at the polls, a free ballot, and a fair count.

These laws were regularly and deliberately passed after full debate and upon their own merits, and were not carried through as riders on appropriation bills, nor were they harnessed up with and dragged through by any popular measures, but were passed because they were needed and were right; and they have worked well. They have secured peace and prevented fraud, and under them and by them no man has been prevented from voting who wanted to vote and who had a right to vote. And now our friends on the other side of the Hall call upon us to make haste, in extra session and in this most extraordinary manner, to repeal these election laws. What do gentlemen mean? What do they want, and why do they want it just now? are inquiries that arise in every mind.

Do these laws promote peace at the polls, a free ballot, and a true count; or do they promote riot, fraud, and a false count? If the former, they ought to remain in force and be executed; if the latter, they ought to be repealed.

Do gentlemen claim that under State laws alone elections have always been conducted peaceably and fairly?

No, Mr. Chairman, unquestioned recent history declares they have not, and gentlemen on the other side know and admit they have not. They know that in the past, at various places where democracy was almost universal, where democrats and only democrats had the entire charge of the polls, unchecked mob violence ran riot, and frauds so stupendous were perpetrated that democrats themselves were shocked and cried out against them.

Under or rather in spite of the laws in some of the States, instead of having a free and unmolested ballot, the people had free and unmolested bulldozing; instead of having peace, they had riot; instead of having a true count they had an outrageously false count. And, sir, I fear the repeal of these laws means free bulldozing, free riot, and free fraud.

Our institutions rest upon the free ballot, which should be placed and replaced in order, and all counted and none excluded by law or for the want of law, and not be frightened by violence or tainted by fraud. And unless so guarded the foundations of the Government will crumble and sooner or later will as surely fall as if assaulted by the unchecked battering-rams of revolution.

I admit I would prefer that the States should make all regulations and conduct all elections for members of this House as well as for their State officers, but it is enough to know that some of them have failed to secure a fair result. And hence Congress, while it did not assume full control as it had a right to do under the Constitution, yet it did set up some additional safeguards for congressional elections but was careful not to make them apply in any respect to the election for State officers.

I regretted to hear the distinguished gentleman from Georgia, [Mr. STEPHENS,] who long ago and now holds a prominent position in this House, speak with so much warmth and bitterness and denounce these laws as odious and dangerous. He will pardon me for remembering that, when physically stronger than now and with all his sagacity and ability, on memorable occasions, carried away against his better judgment, no doubt, by the madness of his fellows, he then as now denounced many things as odious and dangerous which, by his actions if not by express words, he has since admitted were harmless and good. And so now I must believe he gives speech to the passions of others and not his own.

Other gentlemen on that side of the Hall have denounced these election laws as degrading and hateful. What are these dreadful laws, sir? The object, the letter, and the essence of them is to keep peace at the polls, to protect decent people who go there to vote, to secure to each legal voter, native and foreign born alike, the right to vote once at each election and to have his vote counted, and to prohibit any person from voting more than once at the same election. "Only this, and nothing more."

Mr. Chairman, the bill to repeal the law authorizing troops to be used when necessary to repel the armed enemies of the United States and to keep the peace at the polls is not before the House at this time, but the provisions for repeal in that bill and in this are only different parts of the same scheme. When one is up for discussion they are all up. A great ado is made about bayonets at the ballot-box. Why, sir, we want no bayonets at the ballot-box. The law places no troops at the polls. They cannot be taken within a mile of any poll except for two purposes—one to repel armed enemies of the United States, and the other to preserve peace when necessary, and at no other time. When the police and all civil officers are overpowered then the bayonets may come, and not before.

These same election laws provide (section 5528, United States Revised Statutes) that any officer of the Army or Navy, or civil officer, or other person in the service of the United States, who orders, brings, keeps, or has under his control any troops or armed men at any election in any State for any other purpose, or unless absolutely necessary to repel the armed enemies of the United States or to keep the peace, shall be fined not more than $5,000 and suffer imprisonment at hard labor not more than five years. These penalties seem to be heavy enough to keep, and do keep, the troops and all armed men away.

Under these laws no person will ever be frightened by bayonets at an election, unless such person is himself an armed enemy of the United States or is himself engaging in riot and violence. Why, sir, a person not a resident of this country who should hear gentlemen's speeches on the other side would get the impression that on election day in the United States the Army was in battle array; that the decks of war ships were cleared and made ready for action and gatling guns trained upon every ballot-box and a platoon of soldiers with bayonets fixed drawn up in front of every poll, and that no citizen approaching to vote was safe unless he carried a Union flag in one hand and a republican ticket in the other.

Gentlemen cry "bayonet," "bayonet," but there is no bayonet. It is only a mad-dog cry raised to alarm people at the presence of the civil law, that majestic mastiff, armed with bayonet teeth for enemies and evil-doers only. And our democratic friends are frantic to so change the law that armed enemies of the United States or mob violence cannot be repelled or suppressed under United States authority by armed men, civil or military. They say that when United States troops or armed men approach even for such purpose democrats are intimidated and frightened away. Well, I expect, frankly speaking, that is just what is the matter. Some of them who want to appear, and who do sometimes appear, as armed enemies and rioters are frightened away. But, sir, are honest democrats afraid of United States soldiers? I think not. Has any gentleman ever heard of a peaceable democrat who was ever intimidated, molested, or in any manner interfered with by troops at the polls? Do any of them know, of their own knowledge or from reliable information, of a single instance? I pause for a reply. Silence answers, none.

Sir, this cry about the bayonet and about military despotism and about troops intimidating voters is all for effect. It is not real. There is nothing in it. We have no bayonets and want none. There is not one soldier to a county in any democratic State; not one soldier to every fifty polling places, on the average. Gentlemen are talking about one thing and doing another. These bills repeal the laws authorizing civil officers of the United States to use armed men who are citizens only, and not soldiers, to keep order at the polls. While crying out against the military, gentlemen are by these bills striking down civil officers of the Government.

Sir, these election laws do not discriminate against democrats or in in favor of republicans. Of course no republican is or ever was an armed enemy of the United States. Whether the same can be said for democrats I will leave the gentlemen on that side to say. I will not speak for them. But, sir, should bad republicans ever disturb the peace at the polls these laws would repel and punish them, I should hope.

Mr. Chairman, what are the election laws it is demanded must be

repealed by this appropriation bill now under consideration? They provide that upon petition of citizens, judges of the United States courts shall appoint two citizens of different political parties, who are voters, to be supervisors of election for that time, who shall attend at the making up the registration of voters; shall attend at the election and observe the voting, and shall have the right to challenge any person offering to vote, and to personally scrutinize the count of ballots and the making up of returns. But they do not conduct elections in any respect. They are only officers of the court, who have a right to be present at elections for Representatives in Congress and witness all that is done. Additional deputy marshals may also be appointed, when necessary, who shall assist said supervisors in their duties and arrest such persons as violate the laws. These laws also punish severely rioters, ballot-box stuffers, and repeaters, and those who deprive any person of his rightful vote or commit fraud; and provide for the detection and apprehension of offenders. These are the odious and hateful laws that must be repealed in this hot haste, and on this appropriation bill, or this Government shall stop.

Mr. Chairman, next to that flag that hangs above your head the people are jealous of the chastity of the ballot-box. And, sir, disguise the matter as you may, argue as you have and as you will, this issue is understood. Neither eloquence, ingenuity, or sophistry can hide it or hide the purpose of the proposed repeal. This is a contest between the people and the "roughs" over the purity of the ballot-box, the womb of republican government. These laws are the sentinels that have been placed around to guard its virtue, and the good people say, and always will say, let these guards remain. Repeal, or no money to pay the Army, to pay the civil officers of the Government. No money to print another legal-tender note or coin another silver dollar.

We shall soon see, Mr. Chairman, whether our currency friends will confederate with the obstructionists or whether they prefer to run the legal-tender press and continue to coin the remonetized silver dollar.

To what will this monstrous doctrine of coercion lead? If you can coerce one branch of the Government you can another. You can proceed step by step until all the reconstruction laws are repealed, and then turn upon the Supreme Court and compel it to decide that all the amendments to the Constitution are void, or starve; and go on until all the dear and costly results of the war, including emancipation, are swept away. I do not say such is the present purpose of gentlemen, but they are traveling in that direction.

Mr. Chairman, the gentleman from the fourth district of Kentucky, [Mr. KNOTT,] a few days ago, here in the House, with much emphasis of speech, said:

Yes, sir, the democracy will "capture the Capitol," and they intend when they do so to restore this great Government to its original purity, to strip from the limbs of this great people the "shackles of usurped control and hew them link from link."

I do not know what the gentleman meant, but presume he meant that the democracy intended to return the Government to its *ante bellum* estate, and administer it as in the reign of President Buchanan, which republicans did not like and which the people rebuked.

Mr. Chairman, in order that we may know what is intended I send to the Clerk's desk to be read a letter written by a prominent democratic leader, now representing the fifth district of South Carolina in this House, [Mr. TILLMAN,] and published some time ago in a democratic paper of that State. I do not vouch for its authenticity. The gentleman can do so, or he can disclaim it:

LETTER FROM G. D. TILLMAN, OF EDGEFIELD.

"At the worst I hope and believe that our political oppressions will cease very shortly after the inauguration of the next President. If that President be a democrat, it is reasonably certain that a majority of both Houses of Congress will also be democrats, or at least conservatives. If so, the reconstruction acts will speedily be repealed, which would leave suffrage where it constitutionally belongs—under control of the States. Then, admitting the coerced amendments of the Constitution to be valid, the States could attach a property qualification to suffrage, without violating those amendments, which would practically destroy negro suffrage as a disturbing element in the body-politic.

"Again, after the democrats get possession of the executive and legislative departments, the present judges of the Supreme Court, following public opinion as law, in the future as in the past, and no longer dreading either impeachment or deprivation of salary, may declare the reconstruction acts, as well as the two fraudulent amendments, 'unconstitutional, null, and void,' or if they fail to do so the court can be reorganized simply by an increase of judges, even as the radicals did on a memorable occasion, and by making a proper appointment of new judges the Constitution of the fathers can be restored."

There comes to us daily from various sources notice unmistakable that unless they can have their way certain democrats are determined that this Government shall stop. This is what we were told twenty years ago, and it was attempted. And it is significant that for the most part the identical men that said so then say so now. We did not believe then they would attempt to do what they said they would do. We do not believe now they will attempt what they threaten to do. We were mistaken, however, then, and it is to be seen what is to come now. A true proverb says that if a person deceives you once it is his fault, but if he deceives you a second time it is your own fault.

Mr. Chairman, this debate is getting warm. The rank and file of the democratic party are all right and safe, but democratic leaders are troublesome and dangerous. Members around me will bear witness that I have never indulged in political discussion here, but have tried by conciliation to secure such action by Congress as would in my judgment relieve the distress of the people North and South alike and promote the national welfare. I have supported measures for the development of the South as cheerfully as for the North. It has been my wish that we might have peace and reconciliation and not tumult and agitation. I have hoped for more than I have realized. I have never waved the bloody garments of the late war here or elsewhere. In the short time I have been here we have witnessed a wonderful change in this Hall. Gentlemen on the other side are not as amiable as they were a few years ago, politically speaking. We have been told all along by democrats and assistant democrats that we must not speak of the past. Oh, no! That would be agitation, and we have been silent for the most part. We have now come to have the confederate gray waved at us on all occasions.

The distinguished gentleman from the fourth district of Kentucky [Mr. KNOTT] stated the other day that in 1863 a democratic convention assembled at Frankfort, Kentucky, was dispersed at the command of a military officer of the United States by the name of Gilbert, and thus, he said, achieved for himself an immortality of infamy. This is to be regretted, Mr. Chairman. It is of course to be presumed that the convention was loyal and had a right to meet; and while I know nothing about the circumstances, I venture to suspect that there was some significance about the convention that was not democratic.

The gentleman proceeded to eulogize some of the delegates to that convention in his forcible and pleasing style, and mentioned Joshua Bullitt, a judge of the court of appeals; and states that some of these delegates, together with other gentlemen, afterward requested Hon. Charles A. Wickliffe to become candidate for governor; and he said that "every one of these gentlemen had from the very beginning of the unfortunate strife between the two sections of our country been the very ablest and outspoken advocates of the cause of the Union."

I may not know, sir, what constituted a Union man at that time, and do not wish to question what has been said, but, in order that officer Gilbert may have some rivals for immortality, I have looked at the record of two of these patriots. I read from McPherson's History of the Rebellion, page 447. In speaking of that order known as the Knights of the Golden Circle, well understood to be in sympathy with and auxilliary to rebellion, he says:

In Kentucky Judge Bullit, of the court of appeals, is grand commander, and with Dr. U. F. Kalbfus and W. R. Thomas, jailer in Louisville, two other of the most prominent members, has been arrested and confined by the military authorities.

So, sir, if this history be true, some other military officer besides Gilbert has had something to do with this delegate to the democratic convention.

On page 420 of the same history it is stated that at a memorable convention about that time—

Mr. Wickliffe offered a resolution to the effect that Kentucky expects the first act of McClellan, when inaugurated in March next, will be to open Abraham Lincoln's prison-doors and set the captives free.

Another patriot heard from. I did not look up the political history of the other delegates the gentleman named.

The same gentleman from Kentucky [Mr. KNOTT] the other day, on behalf of the democratic party, arraigned the republican party for what he characterized as more than atrocious. He read an order made in 1863 by General BURNSIDE, then in command of the Union Army in Kentucky. It is as follows:

As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person will be allowed to vote, and to this end the military power is ordered to give them its utmost support.

I quote all of it he did; and he also read extracts of the orders of General Hurlbut to the like effect, and also some extracts of similar orders of other Union officers denying and depriving disloyal persons of the right to vote at elections held in certain districts of our then unhappy country which were under martial law and which were the battle-fields or near the battle-fields of that dreadful war. And after reading these orders of Union republican generals, among other severe things the gentleman said:

If what I have already shown is not sufficient to thrill the bosom of every thinking, patriotic American citizen with indignation and horror, I confess I am at a loss to conceive what possible condition of circumstances could excite their solicitude for the safety of their liberties or the perpetuity of their republican institutions.

But fortunately, sir, for the State, fortunately for the country, fortunately for the cause of human freedom everywhere, Kentucky was represented in the other end of this Capitol during the dark days of which I have been speaking by her honored and illustrious son, the lamented Lazarus W. Powell. When that sterling patriot, that sagacious statesman, that undaunted champion of popular liberty, saw the atrocious outrages against free elections which were perpetrated in his own State under the auspices of the military power of the Federal Government, he determined at once to prevent, if possible, the recurrence of such scenes by congressional enactment under the sanction of appropriate penalties.

"Fortunate for the cause of human freedom everywhere!"

Charmed words are these, Mr. Chairman. Yes, sir, charming indeed, but how often misapplied, as in this case. Mr. Chairman, these orders of Union generals were fortunate for the cause of human freedom everywhere. But Lazarus Powell was no Godsend for that cause.

Republicans must not refer to the past; that is agitation. Democrats may refer to the past; that is not agitation.

Sir, I have been meek and silent about as long as I can stand it.

The gentleman from Kentucky has gone back to fight his battles over again for his party, and may I not follow him to one or two places?

For myself, I justify the orders of these Union republican generals. They were right in preventing disloyal persons and enemies of the United States from voting at elections within their jurisdiction. Yes, Mr. Chairman, these orders of our Union republican generals did thrill the bosom of every patriotic American citizen, not with indignation and horror, but with hope and gladness. It will be observed, sir, that these orders did not prohibit democrats from voting, unless such democrats so offering to vote were disloyal to the United States. The gentleman knows better than I do whether such was the case. He can state whether in that locality disloyalty and democracy were synonymous terms. These orders did not exclude republicans from voting, and if they excluded democrats it was no fault of the orders. Would he have had the Union Army stack arms while confederate soldiers returned and voted to overthrow the Government? If the confederacy and confederate democracy had been permitted to unite they might have succeeded, sure enough. But BURNSIDE, Hurlbut, and other Union generals seem to have prevented the concert of action. Thank God!

Gentlemen on that side seem to argue as though whenever the political rights of disloyal persons have been in any way abridged that the purpose was to curtail the rights of democrats. For one I do not believe that disloyal persons ought to have been permitted to vote then or at any time. Does the gentleman think they ought? His argument answers in the affirmative. No one was excluded except disloyal persons, and the gentleman complains bitterly. The gentleman has gone back about sixteen years to dig up the dead past and tell us that the military bull of the republican party gored the democratic ox. It always makes a difference whose ox is gored. So let us look at another case. In 1856 Colonel E. V. Sumner, commanding the First United States Cavalry, with his sword girded on and troops at his back, under Franklin Pierce, President, entered the Kansas hall of representatives first, and then the chamber of the senate, and made and executed this order:

> Gentlemen: I am called upon, this day, to perform the most painful duty of my whole life. Under the authority of the President's proclamation I am here to disperse this Legislature, and, therefore, I inform you that you cannot meet. I therefore order you to disperse. * * * Such are my orders, and you must disperse. I command you to disperse.

Whereupon a member of the Legislature inquired as follows: "Colonel Sumner, are we to understand that the Legislature is driven out at the point of the bayonet?" To which Colonel Sumner replied: "I shall use all the forces in my command to enforce my orders." And the Legislature of Kansas, senate and house, was dispersed. This military order was executed in time of peace; and there was no claim that the Legislature or any of its members were disloyal to the United States.

Let us look at one more picture—not republican. In May of that year, at Leavenworth, Kansas, then garrisoned with United States troops, William Philips, an attorney at law, was seized by a mob for having protested against the frauds at an election, and was carried away in the presence of United States troops who were importuned to rescue him, and chafed to do so; but they had received orders not to keep the peace at the polls, and they could not interfere with the mob; and so he was, in the presence of the majesty of the civil and military power of this great nation, stripped and tarred and feathered and rode on a rail, and then in mockery sold at auction, a negro slave being compelled to act as auctioneer. I refer to page 86 of the Conquest of Kansas for my authority. It is unnecessary to say that the election went democratic.

The Army can be used under a democratic administration to disperse a Legislature in time of peace. The Army can be used under a republican administration to prevent disloyal persons from voting in time of war. You have the parallel; say which you like best, or hate most. I will let the military orders and the circumstances I have presented stand against military orders and the circumstances presented by the gentleman from Kentucky, [Mr. KNOTT,] and let democrats and republicans judge which will most (using his own language) thrill the bosom of every thinking, patriotic American citizen with indignation and horror.

Not long since the repeaters and ballot-box stuffers returned democratic majorities in some of the wards in New York City greater, as afterward ascertained on investigation, than all the people resident therein, counting men, women, and children. These frauds were so glaring and stupendous that a prominent citizen of that city, once a democratic candidate for President, (not Mr. Tilden,) held up his hands in astonished disgust and denounced them as atrocious; and it was the exposures of these frauds and the frequent violence and bloodshed at the polls in other places that called for and was the cause of the enactment of the laws it is now sought to repeal. And under these laws those frauds have not been repeated to such an extent; hence the democratic necessity for their repeal. Repeal these laws, and gentlemen know that these bummers, bullies, and ballot-box stuffers will return these old-time democratic majorities. Is that what they want?

Go to the Library, sir, and look over volume after volume of reports of investigating committees, composed of both political parties in Congress, and read till you are sick of fraud and violence and blood. Some one near me here says these books read like the records of hell, and if it may not be profane, I will say so too. Repeal these laws and we will have a little hell, if I may so speak, at every poll in some parts of this country.

Mr. Chairman, I would not speak offensively of any gentleman on either side of this House; I always have and always will speak of them and treat them with the utmost respect. As leaders of the democratic party I may speak of them and of their public political acts. Time proves all things and time has proven that in the past the advice and policy of the democratic party and its leaders have been costly and dreadful. Is it wise, is it safe for them to control? If Congress or the people had followed these same democratic leaders, these identical gentlemen, for the most part, the United States would have been blotted from the map of the world. Gentlemen will pardon me for mentioning their mournful mistakes. I do it in order to convince them how hazardous it would be to let them have their way.

I mean no personal disrespect to any of them, and I am sure that on a review of their political record they will come to the conclusion themselves that they are unsafe. Sir, it takes at least three qualities to make reliable statesmen. Wisdom, patriotism, and moral courage are essential. Now, sir, admitting that all democratic leaders are loyal, and I believe it has been decided that we are all loyal at the present time; and, sir, admitting that these democratic leaders are all as loyal now as anybody ever was, yet if one of the other essential qualities is wanting they are unsafe. If these leaders in the past have betrayed a lack of wisdom in considering and settling the true policy on any great national matter, or if at any time of threatened danger, if when the political skies grew dark and stormy, and when the deep mutterings of revolution were heard they deserted their posts and fled in dismay, or if when crossed or disappointed about some pet measure they pouted and kicked, if these democratic leaders did any of these things, are they safe? What a man does once under temptation he may do again, and usually he yields easier each succeeding time. I wish to be mild about this matter, sir, but there are very few graduates of a certain democratic school of politics so popular with that party whose wisdom, patriotism, and moral courage are sufficient to keep them in line of battle when State rights are firing on the pickets.

Now the trouble with so many of these democratic leaders is that their timidity or some other sensation so often gets the better of their patriotism. They may think they are right, but how dreadfully mistaken!

The chosen, acknowledged, and plumed leader of the democratic party in this House from the ninth district of New York [Hon. FERNANDO WOOD] was a prominent leader and an official of his party in 1861, and as such official before a hostile shot had been fired at the flag of his country sent a message to the council of the city of New York, which I will have read from page 42 of McPherson's Political History of the Rebellion.

The Clerk read as follows:

MAYOR WOOD'S RECOMMENDATION OF THE SECESSION OF NEW YORK CITY, JANUARY 6, 1861.

To the honorable the Common Council:

GENTLEMEN: We are entering upon the public duties of the year under circumstances as unprecedented as they are gloomy and painful to contemplate. The great trading and producing interests of not only the city of New York, but of the entire country, are prostrated by a monetary crisis; and although similar calamities have before befallen us, it is the first time that they have emanated from causes having no other origin than that which may be traced to political disturbances. Truly may it now be said, "we are in the midst of a revolution bloodless as yet."

Whether the dreadful alternative implied as probable in the conclusion of this prophetic quotation may be averted "no human ken can divine." It is quite certain that the severity of the storm is unexampled in our history, and if the disintegration of the Federal Government, with the consequent destruction of all the material interests of the people, shall not follow, it will be owing more to the interposition of Divine Providence than to the inherent preventive power of our institutions or the intervention of any other human agency.

It would seem that a dissolution of the Federal Union is inevitable. Having been formed originally on a basis of general and mutual protection but separate local independence—each State reserving the entire and absolute control of its own domestic affairs—it is evidently impossible to keep them together longer than they deem themselves fairly treated by each other or longer than the interests, honor, and fraternity of the people of the several States are satisfied. Being a Government created by opinion, its continuance is dependent upon the continuance of the sentiment which formed it. It cannot be preserved by coercion or held together by force. A resort to this last dreadful alternative would of itself destroy not only the Government, but the lives and property of the people.

If these forebodings shall be realized and a separation of the States shall occur momentous considerations will be presented to the corporate authorities of this city. We must provide for the new relations which will necessarily grow out of the new condition of public affairs.

It will not only be necessary for us to settle the relations which we shall hold to other cities and States, but to establish, if we can, new ones with a portion of our own State. Being the child of the Union, having drawn our sustenance from its bosom and arisen to our present power and strength through the vigor of our mother, when deprived of her maternal advantages we must rely upon our own resources and assume a position predicated upon the new phase which public affairs will present, and upon the inherent strength which our geographical, commercial, political, and financial pre-eminence imparts to us.

With our aggrieved brethren of the slave States we have friendly relations and a common sympathy. We have not participated in the warfare upon their constitutional rights or their domestic institutions. While other portions of our State have unfortunately been imbued with the fanatical spirit which actuates a portion of the people of New England, the city of New York has unfalteringly preserved the integrity of its principles in adherence to the compromises of the Constitution and the equal rights of the people of all the States. We have respected the local interests of every section, at no time oppressing but all the while aiding in the development of the resources of the whole country. Our ships have penetrated to every clime, and so have New York capital, energy, and enterprise found their way

to every State, and, indeed, to almost every county and town of the American Union. If we have derived sustenance from the Union, so have we in return disseminated blessings for the common benefit of all. Therefore New York has a right to expect, and should endeavor to preserve, a continuance of uninterrupted intercourse with every section.

It is, however, folly to disguise the fact that judging from the past New York may have more cause of apprehension from the aggressive legislation of our own State than from external dangers. We have already largely suffered from this cause. For the past five years our interests and corporate rights have been repeatedly trampled upon. Being an integral portion of the State, it has been assumed and in effect tacitly admitted on our part by non-resistance that all political and governmental power over us rested in the State Legislature. Even the common right of taxing ourselves for our own government has been yielded and we are not permitted to do so without this authority.

* * * * * * *

Thus it will be seen that the political connection between the people of the city and the State has been used by the latter to our injury. The Legislature in which the present partisan majority has the power has become the instrument by which we are plundered to enrich their speculators, lobby agents, and abolitional politicians. Laws are passed through their malign influence by which under forms of legal enactment our burdens have been increased, our substance eaten out, and our municipal liberties destroyed. Self-government, though guaranteed by the State constitution and left to every other county and city, has been taken from us by this foreign power whose dependents have been sent among us to destroy our liberties by subverting our political system.

How we shall rid ourselves of this odious and oppressive connection it is not for me to determine. It is certain that a dissolution cannot be peacefully accomplished except by the consent of the Legislature itself. Whether this can be obtained or not is in my judgment doubtful. Deriving so much advantage from its power over the city it is not probable that a partisan majority will consent to a separation, and the resort to force by violence and revolution must not be thought of for an instant.

We have been distinguished as an orderly and law-abiding people. Let us do nothing to forfeit this character, or to add to the present distracted condition of public affairs.

Much no doubt can be said in favor of the justice and policy of a separation. It may be said that secession or revolution in any of the United States would be subversive of all Federal authority, and so far as the central government is concerned the resolving of the community into its original elements; that if any part of the States form new combinations and governments, other States may do the same.

California and her sisters of the Pacific will no doubt set up an independent republic and husband their own rich mineral resources. The Western States, equally rich in cereals and other agricultural products, will probably do the same. Then it may be said, why should not New York City, instead of supporting by her contributions in revenue two-thirds of the expenses of the United States, become also equally independent? As a free city, with but nominal duty on imports, her local government could be supported without taxation upon her people. Thus we could live free from taxes and have cheap goods nearly duty free. In this she would have the whole and united support of the Southern States, as well as all other States to whose interests and rights under the Constitution she has always been true

It is well for individuals and communities to look every danger square in the face and to meet it calmly and bravely. As dreadful as the severing of the bonds that have hitherto united the States has been in contemplation, it is now apparently a stern and inevitable fact. We have now to meet it with all the consequences, whatever they may be.

If the confederacy is broken up the Government is dissolved, and it behooves every distinct community, as well as every individual, to take care of themselves.

When disunion has become a fixed and certain fact, why may not New York disrupt the bonds which bind her to a venal and corrupt master—to a people and a party that have plundered her revenues, attempted to ruin her commerce, taken away the power of self-government, and destroyed the confederacy of which she was the proud Empire City.

Amid the gloom which the present and prospective condition of things must cast over the country, New York, as a free city, may shed the only light and hope of a future reconstruction of our once blessed confederacy.

But I am not prepared to recommend the violence implied in these views. In stating this argument in favor of freedom, "peaceably if we can, forcibly if we must," let me not be misunderstood. The redress can be found only in appeals to the magnanimity of the people of the whole State. The events of the past two months have no doubt effected a change in the popular sentiment of the State and national politics. This change may bring us the desired relief, and we may be able to obtain a repeal of the law to which I have referred and a consequent restoration of our corporate rights.

FERNANDO WOOD, *Mayor.*

January 6, 1861.

Mr. FORT. New York City a little kingdom, levying tribute upon the commerce of the broad, free West, and the gentleman in his dreams a little king! But there was a lion in his path. The Union soldier, with heart and courage as big as the continent, dispelled the gentleman's hopes and fears as his mighty tramp kept step to music of the Union, and he is only king of the caucus of his party in this House.

There was some essential quality lacking in the gentleman who penned that message; using a homely phrase, there was a screw loose somewhere. Wisdom and patriotism were probably abundant, but not enough courage, not enough back-bone, sir, not enough backbone.

Mr. Chairman, the gentleman who bore the banner of the democratic party to defeat at the last presidential election, but who is still a great favorite among the more extreme and violent leaders of his party, in a letter to William Kent, of October, 1860, when revolution was threatened, used this language:

The single, slender, conventional tie which holds the States in confederation has no strength compared with the compacted, intertwining fabrics which bind the atoms of human society into one formation of national growth.

The masters of political science who constructed our system, preserved the State governments as bulwarks for the freedom of individuals and localities against oppression from centralized power. They recognized no right of constitutional secession, but they left revolution organized when it should be demanded by the public opinion of a State; left it with power to snap the tie of confederation as a nation might break a treaty, and to repel coercion as a nation might repel invasion. They caused us to depend, in great measure, upon the public opinion of the States in order to maintain a confederated Union; they intended to make it necessary for us, in every reasonable extent, to respect that public opinion.

As a rule of right and duty for the construction and execution of the Constitution, the theory maintained by Mr. Seward, and too extensively accepted, is entirely fallacious, as no contract governing complicated transactions or relations between men, and applying permanently through the changes inevitable in human affairs, can be effectual if either party intended to be bound by it is at liberty to construe or execute its provisions in a spirit of hostility to the substantial objects of these provisions. Especially is this true of a compact of confederation between the States, where there can be no common arbiter invested with authorities and powers equally capable with those which courts possess between individuals for determining and enforcing a just construction and execution of the instrument

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It is too late! It is too late! We are upon the breakers. Whose eye quails now? Whose cheek blanches? It is not mine, who felt a provident fear and have done all I could. Where is the excellent president of the chamber of commerce whom they perched up in the forecastle to assure us that a good lookout was kept for our safety? Where are the dozen great stakes, as Mr. Webster use to call them, whom they planted closely around him to shut out from the sight of the crew the beacon erected by Washington? Where are the thoughtless, reckless seamen who taunted me with cowardice when I vainly strove to warn them? I hear only the wailing cry of selfish terror as I sit upon the straining timbers and watch the rage of the sea. My mind is filled, my heart swells with the thought that you wave which towers before us will ingulf more of human happiness and human hopes than have perished in any one catastrophe since the world began.

S. J. TILDEN.

NEW YORK, *October* 26, 1860.

STALWART IMBECILITY, SIR.

"The single, slender, conventional tie has no strength." A rope of sand. "They left revolution organized." The seeds of its own destruction sown within it by its authors. "With power to snap the tie." A hint at secession. You can destroy if you wish. A great many screws loose here, sir; something lacking somewhere—wisdom, patriotism, or courage; not a single joint of back-bone, sir. But it was not too late. Lincoln took the helm, and, though the storm was long and dreadful, finally rounded the ship into port. Ah, Mr. Chairman, "fortunately"—borrowing the beautiful language of the gentleman from Kentucky [Mr. KNOTT]—"fortunately for the country, fortunately for the cause of human freedom everywhere," Abraham Lincoln and U. S. Grant, and those who around them stood, were made of sterner stuff.

And, Mr. Chairman, while we are considering the fitness of democratic leaders to lead, I send to the Clerk to be read the dispatch of the British embassador to his government relating to his interview with New York democrats in regard to foreign intervention.

The Clerk reads as follows:

LETTER OF LORD LYONS TO EARL RUSSELL RESPECTING MEDIATION.

WASHINGTON, *November* 17, 1862.

In his dispatches of the 17th and of the 24th ultimo, and of the 7th instant, Mr. Stuart reported to your lordship the result of the elections for members of Congress and State officers, which have recently taken place in several of the most important States of the Union. Without repeating the details, it will be sufficient for me to observe that the success of the democratic, or (as it now styles itself) the conservative party, has been so great as to manifest a change in public feeling, among the most rapid and the most complete that has ever been witnessed even in this country.

On my arrival at New York, on the 8th instant, I found the conservative leaders exulting in the crowning success achieved by the party in that State. They appeared to rejoice, above all, in the conviction that personal liberty and freedom of speech has been secured for the principal State of the Union.

They believed that the Government must at once desist from exercising in the State of New York the extraordinary (and as they regard them) illegal and unconstitutional powers which it had assumed. They were confident that, at all events, after the 1st of January next, on which day the newly elected governor would come into office, the suspension of the writ of *habeas corpus* could not be practically maintained. They seemed to be persuaded that the result of the elections would be accepted by the President as a declaration of the will of the people; that he would increase the moderate and conservative element in that Cabinet; that he would seek to terminate the war, not to push it to extremity; that he would endeavor to effect a reconciliation with the people of the South, and renounce the idea of subjugating or exterminating them.

On the following morning, however, intelligence arrived from Washington which dashed the rising hopes of the conservatives. It was announced that General McClellan had been dismissed from the command of the Army of the Potomac, and ordered to repair to his home; that he had, in fact, been removed altogether from active service. The general had been regarded as the representative of conservative principles in the Army. Support of him had been made one of the articles of the conservative electoral programme. His dismissal was taken as a sign that the President had thrown himself entirely into the arms of the extreme radical party, and that the attempt to carry out the policy of that party would be persisted in. The irritation of the conservatives at New York was certainly very great. It seemed, however, to be not unmixed with consternation and despondency.

Several of the leaders of the democratic party sought interviews with me, both before and after the arrival of the intelligence of General McClellan's dismissal. The subject uppermost in their minds while they were speaking to me was naturally that of foreign mediation between the North and South. Many of them seemed to think that this mediation must come at last, but they appeared to be very much afraid of its coming too soon. It was evident that they apprehended that a premature proposal of foreign intervention would afford the radical party a means of reviving the violent war spirit and of thus defeating the peaceful plans of the conservatives. They appeared to regard the present moment as peculiarly unfavorable for such an offer, and indeed to hold that it would be essential to the success of any proposal from abroad that it should be deferred until the control of the executive Government should be in the hands of the conservative party.

Mr. FORT. And so we find democratic leaders of highest rank conferring and intriguing with the representative of the Crown of England, and perhaps proposing to barter the dearest rights of this people and the destinies of posterity. They could have had no good or honorable purpose in any such conference. They supposed that liberty was expiring on the cross of treason, and proprosed, by submitting to intervention, to divide empire with England.

They parted my raiment among them and for my vesture they did cast lots. (John xix, 24.)

Let us look further, sir. The second officer of the late would-be confederacy [Mr. STEPHENS] is here, and is one of the democratic leaders, and I have no doubt sadly regrets his many political errors and their mournful consequences. Cabinet ministers, senators, and representatives of the late confederacy are here, all democratic lead-

ers. The greatest of confederate generals (JOSEPH E. JOHNSTON, of Virginia) and his subordinate lieutenant, major, and brigadier generals are here in great numbers, and all of them are democratic leaders. Jefferson Davis is yet absent, but is soon expected. His coming has already been heralded by eulogium and by applause in the other end of this Capitol. When he arrives they will all be here, and all be democratic leaders and all be repealers.

Sir, is it for their political constancy that we should follow and register the decrees of their caucus?

We had in republican days a roll of fourteen wounded Union soldiers on guard here in this Hall, assigned to various duties which they could perform as well as able-bodied men, but they nearly all fell at the first fire, when democracy made its triumphant entry here four years ago. And had they placed wounded confederate soldiers in their stead they might have been in some degree excusable, but able-bodied, shoulder-hitting democrats, who never smelt powder on either side, were for the most part put in their places. So stated an ex-democratic Doorkeeper under oath before an investigating committee. He demanded of democratic members to nominate to him for appointment wounded soldiers, according to the law. And although he had himself been in the confederate service, he understood and insisted that the law meant fourteen wounded Union soldiers, but they forced upon him able-bodied democrats. And because he chafed at this and their other unlawful demands, as I understand it, he was bounced and turned out. So he declares and I believe. His successor fared the same fate for about the same reasons.

About how much do these democratic leaders love the Union soldiers? Actions speak louder and plainer than professions.

When this present House was organized, a few weeks ago, and the members-elect from several of the democratic States were called up to be sworn, a circle of about fifty was formed around the bar, and those who were to take the regular ordinary oath, that they had not borne arms against the United States, &c., were invited to step forward and hold up their hands and be sworn, it will be remembered only four of the whole line advanced. Of those, two were republicans, (Mr. JORGENSEN, of Virginia, and Mr. URNER of Maryland.) The others were all democrats, and had to take a modified oath. These States used to send some democrats who could take the oath, but this time they seem to have selected their representatives with care, and kept all at home who were tainted with loyalty to the United States during the war. Of the five officers of this House elected two could take the oath and three could not, including the Chaplain.

Straws indicate the direction of the democratic atmosphere in some localities, especially in a caucus of democratic leaders.

These are the wise and trusty leaders who would now again control. Is it safe? Would they be reliable in time of emergency? I could almost submit the question to the candor of the gentlemen on the other side themselves to answer. They know they have been seldom right and often and lamentably wrong. They know that it was the republican party, aided by the loyal rank and file of the democratic party in the North, that in the delirium of their political madness saved them from suicide. And the hope of the country to-day is in the republican party and in the loyal rank and file of democracy and not in democratic leaders.

Now, Mr. Chairman, considering the animus of the head and front of the democratic party now dominant and arrogant here, considering its chosen leaders of to-day are the identical individuals who led to cruel and costly revolution heretofore, and considering the stupendous frauds committed, considering the bloody work of brutal mobs, considering the mournful past and its actors, can any patriotic, conscientious, fair-minded democrat, national, or republican consent that these laws, these bulwarks of a free ballot and a peaceful poll, shall be swept away? History answers with bonded and bloody tongue it would not be well. No, sir, let it not be done now or hereafter. Let the free and peaceful ballot rule this land forever.

Mr. BELTZHOOVER. Mr. Chairman, in the limited time allotted to me I will speak very briefly of those portions of the pending bill which pertain to the question of elections. This question should command the most serious and deliberate consideration of this House instead of exciting an acrimonious partisan debate. The gravity of the crisis which arose in the last national contest forced upon all thinking men the unpleasant conviction that the continued success or ultimate failure of free institutions depends upon the intelligent solution of the great question of how to secure honest elections. All patriotic people are willing to submit to the rule of the majority, but they will not long permit a minority by force or fraud to usurp the reins of government. Either elections must be more certain and more free from the domination of military and prerogative power, or revolution will follow instead of quiet acquiescence. In this discussion it will not do for the gentlemen on the other side to say that we demand the repeal of these Federal election laws for the purpose of controlling the next presidential struggle by fraud. In so doing they challenge the wisdom and integrity of the fathers and founders of the Republic. In so doing they challenge the honesty of all the elections in the past, from that of Washington to Lincoln. We demand nothing but what the authors of the Government gave us. We demand nothing but what is secured and guaranteed in the Constitution and laws under which the Government was reared and under which it grew to be the mightiest on the globe. We only ask the same election laws under which the long line of illustrious men were elevated to office who ruled the nation in its halcyon days. We do not ask any new enactments on the subject; on the contrary we complain of such measures which were the outgrowth of the bitterness and, perhaps, the necessarily arbitrary power of war, and ask to return to the laws which were passed under the sober influences of peace. We do not need to court any alliance with fraud before the people of a nation which gave us half a million of a popular majority in our last fight. We are ready and anxious to meet our antagonists in the coming and every political conflict on exactly the same arena, under exactly the same laws, and surrounded by exactly the same influences as those under which our great whig and democratic ancestors were marshaled for conflict.

We challenge the gentlemen to meet us on the same ground on which the great political battles of the past were fought. We have no misgivings, no fears, no doubts as to the result. It is the gentlemen on the other side who do not want to be controlled by the old methods established under the Constitution and maintained and sanctioned by the practice of all parties from the dawn of our history. It is the gentlemen on the other side who want the Army at the polls and a horde of corrupt, drunken, criminal deputy marshals to bolster up a cause which they do not dare to submit to the free verdict of the people, expressed as it has been in all times according to the election laws of the States themselves, enacted by men whose names have long since become household words with the people. We have no hesitation as to what the popular verdict will be on the question as to who contemplates fraud, if there be any, in the effort to perpetuate or repeal these election laws.

The issue as to the use of the Army at the polls has been practically abandoned already if we may judge from the declarations of the gentlemen on the other side. It is so plainly against the laws of all countries that have free elections, so plainly against the genius and spirit of republican institutions, and against all the lessons and traditions of free government in all times, that there can be no sincere defense of it. It has been passed upon and settled by the action of this House and is out of this debate. The questions which arise on the pending bill are more fairly the subject of contention, and relate, first, to the right of the Federal Government to interfere with elections in the States, and, second, to the manner and extent of this interference. The right to vote is a political right derived from the supreme power in the State in which it is to be exercised. This was settled as a common-law principle by the great case of Ashby and White, in 1705, and has been affirmed by the Supreme Court of the United States and by numerous decisions of the courts of the several States since. But, while we all agree upon this, we are confronted with a difficulty in the determination of the question which arises from the complex character of the sovereign power in the nation. The States are sovereign in the enjoyment of certain rights, and the National Government has delegated to it *from the* States certain powers in which it is sovereign. From which does the right to vote come, and which has the right to prescribe the regulations by which this right shall be controlled? The question was very thoroughly discussed and satisfactorily settled in the debates and proceedings in the conventions which formed and adopted the Federal Constitution.

The provisions of the Constitution which relate directly to the subject of suffrage have been quoted so often in this debate that they have become as familiar as old faces. They are, section 2 of article 1, which provides that "the electors in each State," in choosing Representatives in Congress, "shall have the qualifications required for electors of the most numerous branch of the State Legislature;" section 1 of article 2, which provides that "each State shall appoint" electors for President "in such manner as the Legislature thereof may direct." To these must be added article 15 of the amendments to the Constitution, which provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." It is very clear that subject to the fifteenth amendment the right to vote is vested by the Federal Constitution in the States. This amendment has been held by the Supreme Court of the United States to be intended solely for the benefit of the colored race and does not confer any right to vote, but that the right remains, as before, the exclusive prerogative of the States. (Slaughter-house cases, 16 Wallace.) The same decisions rule that "offenses against the right to vote are not cognizable under the power of Congress unless they have as a motive the race, color, or previous condition of servitude of the party whose right is assailed."

This view of the subject is also sustained by the case of the United States *vs.* Cruikshank, (13 A. L. R., 630,) in the circuit court of the United States, and by numerous decisions collaterally touching the question in the courts of the States. The same principle is maintained in many of the State courts where the question has arisen. In Pennsylvania the exclusive control of the right to vote is declared to be in the State in the cases of McCafferty against Guyer, Page against Allen, Huber against Reilly, and other cases. The decisions of the courts on this the fifteenth amendment furthermore are persuasive evidence that the law, as construed by our highest tribunals, does not favor interference by the Federal Government with the right of suffrage in the States. And on this high and important right we must remember that the tenth amendment to the Constitution provides that "the powers not delegated to the United States by the

Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people."

But section 4, article 1, is claimed to give the right to Congress to interfere with the right of suffrage in the States, and on this all the arguments in support of the act of 1871 have been based.

This section provides:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the place of choosing Senators.

In answer, first, to the claim which is made for the right of Congress under this section it may be said that no tribunal has ever held or decided that under this section Congress has the right or power to interfere with the regulations of the States on the subject of elections. On the contrary, the question of this right was squarely raised and decided adversely to the right by Congress itself. The act of June 25, 1842, provided that Representatives should be elected "by districts composed of contiguous territory." The States of New Hampshire, Georgia, Mississippi, and Missouri, disregarding this act of Congress, elected their members at large on a general ticket, in accordance with their own laws. The members so elected applied for admission to Congress, and the cases were referred to the Committee of Elections. After elaborate consideration and discussion of the question a majority of the committee of Congress, headed by that great patriot Stephen A. Douglas, reported against the validity of the act of Congress and admitted the Representatives elected in violation of this act of Congress to their seats, and they served out their terms. Since that time the House of Representatives have again recognized and affirmed the same view of the subject in the recent cases of Phelps and Cavanaugh, Representatives from the State of Minnesota.—1 *Bartlett*, 148.

To further show the inclination of the courts on this subject we may refer to the decision of the supreme court of Pennsylvania on the act of Congress of March 3, 1865, disfranchising deserters from the Army. In this case it was argued and contended that the act was unconstitutional for the reason that it was an attempt on the part of Congress to regulate suffrage in the States. The court held that the act did not so regulate or attempt to regulate the right to vote in the States, but declared that if it did it would be unconstitutional. (Huber against Reilly.) From these provisions of the Constitution to which we have referred, from the decisions of the courts, Federal and State, and from the reiterated determination of Congress itself on its acts under this section, we believe we are justified in maintaining the proposition that the right of suffrage being a State right the United States cannot lawfully interfere to abridge or limit or control it in any way except in the single contingency where the States themselves make no regulations on the subject. In all cases, however, where the States have provided by their constitutions and statutes for the exercise of the right to vote, a clear inhibition arises against any action whatever on the subject by Congress. The utmost that can be claimed by Congress is the right to interfere under the high prerogative of self-preservation, where the States neglect or refuse to provide for the exercise and control of the right of suffrage in the election of Representatives and Senators.

Where the States have provided fully for the holding elections for Members of Congress and Senators, the powers which are primarily delegated to the State Legislatures become vested, and no power remains to Congress. It is a well-settled rule of constitutional construction that where the Constitution specifies the circumstances under which a right may be exercised or a penalty imposed, the specification is an implied prohibition against legislative interference to add to the condition or extend the penalty. The language of the section itself makes it the imperative duty of the State Legislature to provide for the time, place, and manner of holding elections. These things, it is said, shall be prescribed in each State by the Legislatures thereof. It is a command of the supreme fundamental law to the Legislatures of the States. And the alternative is in the provision that Congress may by law make or alter such regulations. This view of the subject is strongly sustained by the arguments of the two men who were among the most distinguished authors of the Constitution and certainly the ablest advocates of its adoption. James Madison says:

The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. The provision made by the convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States, because, being fixed by the State constitution, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitution in such manner as to abridge the rights secured to them under the Federal Constitution.—*Federalist*, 52.

Alexander Hamilton says:

It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably organized; that it must either have been lodged wholly in the National Legislature or wholly in the State Legislature, or primarily in the latter and ultimately in the former. The last method has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government in the first instance to the local administration which in ordinary cases and when no improper views prevail may be more convenient and more satisfactory; but they have reserved to the national authority a right to interfere whenever extraordinary circumstances might render that interference necessary for its safety.—*Federalist*, 59.

These two extracts clearly show that it was held out to the State Legislatures in order to secure their ratification of the Federal Constitution that on this very question of the right to regulate suffrage there should not be any interference by the Federal Government except where the exigency of self-preservation arose by reason of the neglect or refusal of the States to act on the subject. For these reasons the act of 28th of February, 1871, which it is now proposed in part to repeal, is an invasion of the constitutional power of the States to control the right to vote and regulate the manner of exercising that right. It is against the genius and spirit of the Constitution, and subverts the carefully adjusted system of reserved and delegated powers between the States and the Federal Government. It is against the express stipulations of the compromises as shown in the debates and writings on the formation of the Constitution, on which the States ratified the Constitution and came into the Federal Union.

That act having been placed upon the statute-book unlawfully by a party that had learned to invade and violate the most vital provisions of the Constitution by the impunity and frequency with which it had done it for years during the turmoil of civil war, it is our duty, with the return of peace and the restoration of the civil power in the land, to return to the old paths and renew the old lines which limit the boundaries between the powers of the sovereign States and the power of the General Government.

In the language of one of the ablest writers on the Constitution—

Let us never forget that our constitutions of government are solemn instruments addressed to the common sense of the people, and designed to fix and perpetuate their rights and their liberties. They are not to be frittered away to please the demagogues of a day. They are not to be violated to justify the ambition of political leaders. They are to speak in the same imperative voice now and forever.—*Story*.

But we should be constrained to expunge these acts of usurpation from the statutes of the nation, not only because they are clearly unconstitutional, but because they are in themselves violent and tyrannical measures which violate the highest rights of the citizen, coerce and intimidate and keep from the polls the honest, peaceable voter, corrupt and mislead the weak, and put the ballot-box under the domination and control of the party in power! The provisions in these acts in reference to elections strike at the very foundations of such elections as were contemplated by the founders of the Government and intended to express without constraint of any kind whatever the will of the people freely and fairly. Section 5522 makes the officials designated and authorized therein superior to all State officers of election and gives its newly constituted agents of Federal power arbitrary authority, such as no State law ever authorized any of its citizens to exercise.

Under this section the officers authorized by the sovereign States to hold elections "shall be liable to instant arrest without process." What a power to be placed by the august authority of the Federal Government in the hands of the jail-birds and cut-throats and vagabonds and inebriates and repeaters and outlaws who were appointed deputy marshals in Philadelphia at the last election in that city to be used against the decent, sober citizens of that proud old metropolis! A committee of Congress has been investigating this subject, and a few examples from the sworn testimony of witnesses produced before that committee in Philadelphia will show some of the inner workings of this mighty radical machine for the control of elections.

Take the case of Charles Oliphant, a deputy marshal. An intelligent manufacturer, being called, says:

I am a silk manufacturer.
Question. How long have you lived in that section of the city?
Answer. With the exception of a year or so, eighteen or nineteen years.
Q. Are you a resident and owner of property in it?
A. I am a resident, not an owner of property. I had been election officer for that division for a number of years, with the exception of last year, when I declined to serve again, owing to want of time.
Q. Were you at the election in November?
A. Not continuously all day.
Q. But you were there?
A. Yes, sir.
Q. Did you see there this man, Charles Oliphant, the marshal?
A. Yes, sir.
Q. What was the condition of Oliphant—drunk or sober?
A. I take him to have been a drunken man. He was very noisy and quarrelsome. He had frequent disputes with the people outside on the pavement, especially with Mr. Howell; he threatened to fight Mr. Howell.

Another witness testifies in reference to Oliphant as follows:

Question. Were you there in the evening when Oliphant, the marshal, came in?
Answer. Yes, sir.
Q. What was his condition when he came in in the evening, and at what time was it?
A. It was between the hours of seven and eight in the evening, after the polls were closed. He came in there. He appeared to be drunk.
Q. Who was with him?
A. There were three or four men with him. They were with him all day.
Q. They were the men who were with him all day?
A. Yes, sir.
Q. What did he say or do?
A. He made threats. He wanted to get in to where the polls were, where the election officers were. Mr. Howell was in there. Oliphant came to me and asked me if I would not let him in. I told him that the door was locked and he could not get in. He made a threat that he could get away with this man Howell; and one of his friends said he had served three years in the penitentiary and he would serve three more for this man Oliphant; that he got good food there, that the people there did not know how to eat it, and he knew how to eat it, and he would serve three years more for this man Oliphant.
Q. What did Oliphant say he would do with this man Howell?
A. He said he could get away with him, and that he would make him take water.
Q. How long were they there?
A. I judge about half an hour. Then they came back again about nine o'clock. They walked up and down the bar-room and were boasting.

Q. Did they use bad language or threats?
A. Yes, sir; they used bad language. They went out from there afterwards and got into a fight on the other side of the street.

Take another specimen deputy marshal, Charles Herr. A respectable witness testifies as to him:

Question. Were you at the election on that day?
Answer. Yes, sir; I went around the polls in the morning to vote.
Q. Do you know the marshal who was there?
A. Yes, sir.
Q. Who was he?
A. Charles Herr.
Q. Have you known him any length of time?
A. I have known him about five years.
Q. What is his character and reputation, as far as you know him?
A. Very bad.
Q. Has he been arrested?
A. He has been arrested to my knowledge for receiving money under false pretenses.
Q. More than once?
A. Not to my knowing.
Q. Was this recently?
A. About a year ago.

Take next the case of De Sanno, another deputy marshal:

Question. Who was the marshal there?
Answer. I think his name was De Sanno.
Q. Does he live in that division?
A. I could not say.
Q. Did you ever see him before that day?
A. I never saw him before that election day.
Q. What was his behavior on that day?
A. He was drunk the whole day; from about nine o'clock until about six he was right drunk. He was just around the division there.
Q. His name is not on the list of voters in the division?
A. No, sir.
Q. What did he do?
A. He was standing around there all day, just walking up and down before the window.
Q. Had he a badge?
A. Yes, sir.
Q. What was on the badge?
A. I think it said "Deputy marshal."
Q. Did he arrest anybody?
A. No, sir; he was too drunk, I think.

Of De Sanno another witness answers:

Question. Do you know the man spoken of here as De Sanno?
Answer. I know him by seeing him, that is all.
Q. Did you ever see him before that election day?
A. Once or twice.
Q. What was his behavior on that day?
A. Oh, he was drunk.
Q. Were you at the election poll all the day?
A. Pretty much all the day.

And another:

Question. What was your business at the election poll?
Answer. I was a United States supervisor.
Q. Did you see this marshal, Mr. De Sanno?
A. Yes, sir.
Q. What was his behavior and condition during that day?
A. He was drunk all day long, from morning until night.
Q. Do you know where he lives?
A. No, sir. They say that he lived at that "bum" lodging-house.
Q. Do you know at what he works?
A. No, sir.
Q. How long have you lived in that division?
A. Since August, 1861, about seventeen or eighteen years.
Q. When did you first see De Sanno in that division?
A. On election day.
Q. Did you, to your knowledge, ever know of him having voted in the division before?
A. No, sir.
Q. Had he a badge on as marshal?
A. Yes, sir; as deputy marshal.

Take next James Brown, another deputy marshal. A witness says of him:

Question. What is your official position?
Answer. I am clerk of the United States district court.
Q. Have you been such for some years?
A. I have been clerk of that court for four years, and have been in the office as assistant clerk for seventeen years.
Q. Will you turn to your records and tell us whether James Brown was convicted of any offense in your court; and, if so, when, and what it was?
A. [After referring to a record-book.] James Brown was convicted of personating and voting in the name of another person.
Q. What was the date of conviction?
A. The finding of a bill was on the 19th of November, 1872; the date of conviction (verdict) was November 22, 1872; the date of sentence was December 14, 1872.
Q. He was convicted on what date?
A. The date of the verdict is November 22, 1872. It was for [reading from the record-book] "personating and voting in the name of another person at an election held on the 8th of October, 1872, the day of the congressional election. Sentenced to eighteen months' imprisonment."
Q. When was Brown pardoned?
A. That does not come within my knowledge. The pardon is sent to the marshal, I think, originally.

Another witness says of Brown:

Question. Do you know James Brown?
Answer. Yes, sir.
Q. Were you at the election in that division in November last?
A. Yes, sir.
Q. Who acted as marshal in that division?
A. James Brown.
Q. Had he a badge as marshal?
A. I am not positive about that; I think he had.
Q. How long have you known this man James Brown?
A. Twenty or twenty-five years.
Q. Is or not this James Brown who acted as marshal the man who was convicted in 1872?

Mr. HOAR. Were you present at the trial?
The WITNESS. I was a witness at the trial.
Q. Is the James Brown who was the marshal at this division in November the same James Brown who was convicted in 1872 for repeating and false personation?
A. Yes, sir.
Q. You were a witness in that case?
A. Yes. It was not within the same division; it was within the boundaries, but the division has since been cut; it was in what was then the eleventh division of the Fourth ward.
Q. What are the politics of this man James Brown?
A. He is a pretty good fellow, politically, I guess.
Q. Was he a republican or a democrat?
A. He is a republican.

And another:

Question. Do you know James Brown?
Answer. Yes, sir.
Q. The marshal acting in the fourteenth division of the Fourth ward at the November election?
A. I cannot answer that question.
Q. A marshal who was convicted for repeating or false personation in 1872?
A. I do not know of the marshal acting at all, not living in the division.
Q. Did you know the gentleman who was convicted?
A. Yes, sir.
Q. At the election in 1872, did you or not see him voting more than once?
A. I saw Mr. Brown vote once, but know that he voted twice.
Q. You know that he voted twice on the same day?
A. Yes, sir.
Q. Was it in the same ward?
A. No, sir; he voted in the Ninth ward and in the Fourth ward.
Q. You say that you know he voted twice. You do not mean to say that, do you?
A. Yes, sir; I mean to say that.

Take next a few extracts from the testimony of a witness who had peculiar facilities for knowing the character of the parties of whom he speaks:

Question. What is your official position?
Answer. I am the murder detective of Philadelphia.
Q. In connection with what office?
A. The district attorney's.
Q. Do you know Philip Madden?
A. Yes, sir.
Q. Where does he live?
A. On Bainbridge street, I think, above Seventh, in the Fourth ward.
Q. In what division?
A. I cannot tell; I think it is the fourth.
Q. What is the character of Philip Madden?
A. I think he is one of the worst men in Philadelphia.
Q. In what respect?
A. He is a dangerous man; he is violent and dangerous.
Q. How long has he been out of prison?
A. I think probably eight months or a year. He was convicted of highway robbery, I think.
Q. Do you know of this man Madden having shot anybody?
A. I did not see him shoot anybody. I heard he shot a boy at one time.
Q. Was he in prison, to your knowledge, more than this one time?
A. He was in prison twice.
Q. What is his general character; is it that of a peaceable citizen or that of a desperate, bad man?
A. His character is that of a desperate, bad man.
Q. Do you know Francis McNamee, of the Eighth ward?
A. Yes, sir.
Q. What is his character?
A. I arrested him for being concerned in five robberies, about seven years ago, and convicted him for having stolen goods in his possession. He was sentenced, I think, to eighteen months. I am not certain about the length of the sentence.
Q. Do you know in what precinct he lives?
A. No, sir; he lives in the Eighth ward, somewhere about Locust street.
Q. Do you know Joseph Hilferty?
A. No, sir.
Q. Do you know Daniel Reading, of the First ward?
A. Yes, sir; very well. I guess everybody here knows him.
Q. What is the general reputation of Daniel Reading?
A. He is considered to be a very bad, dangerous man. He has been tried for murder.
Q. How long since he was tried for murder?
A. In 1869.
Q. Is his reputation still bad or good?
A. Bad.
Q. Do you know a Mr. Pitts?
A. Yes, sir.
Q. Of what ward?
A. The Seventh ward. He keeps a place in Lombard street, above Eighth, on the south side.
Q. What is his business?
A. He keeps a gambling place, and things of that kind.
Q. Is he a colored man?
A. He is a colored man.
Q. He keeps a gambling house. Is it a drinking-house?
A. Yes, sir. He has been arrested once or twice, and was tried before.
Q. For what offense has he been tried?
A. I cannot remember; but he was arrested once or twice.
Q. To what ward does Daniel Reading belong?
A. To the First ward. His name does not appear upon the list of marshals as having been put down for the precinct in which he lives, but I think he lives in the twenty-third precinct; on Mildred street below McKean, I think.
Q. Is the name of Frank McGowen on the list of marshals here before the committee?
A. Yes, sir.
Q. Is the name of Philip Madden on the same list of marshals?
A. Yes, sir.
Q. Do you know Henry Scott?
A. Yes, sir.
Q. Who is he?
A. He keeps a hotel in Lombard street.
Q. Is he a white or colored man?
A. A colored man.
Q. Do you know anything of him?
A. His reputation is bad. I am forgetting about him.
Q. Do you know Rodney F. Springfield?
A. Yes, sir.
Q. Is he of the Fifteenth ward?

A. Yes, sir.
Q. What is his reputation?
A. He was tried for killing a colored man.
Q. Is he upon this list as a deputy marshal?
A. Yes, sir.
Q. The name of Springfield is on this list?
A. Yes, sir.
Q. Do you know Michael Slavin, of the Fifth ward?
A. Very well.
Q. What is his reputation?
A. He is a notorious repeater, a thief.
Q. Has that been his reputation for some time?
A. It has—so far as I know him—for eight or nine years. I have seen him lead gangs of repeaters to vote many a time; that is his profession, "repeater."

Take another instance, that of James Coligan, a deputy marshal. A witness says:

Question. Were you at the election-house most of the day?
Answer. Yes, sir.
Q. Who was the United States marshal there?
A. James Coligan, an ex-police officer.
Q. What was his condition during the day?
A. Most of the afternoon he was so drunk that he could hardly walk.
Q. Was there any interference by him during the day with voters; and, if so, what was it?
A. He was challenging everybody that came there, driving them away from the polls.
Q. What did he say and do to them?
A. He said that he was United States marshal, and had more authority around there than the judge inside or the police or anybody else. I was calling the policeman's attention to the fact that they had no business within thirty feet of the polls; and I asked him if they could read; that there was a notice signed by the judges, Ludlow and Fell. They said, "Oh, to hell with that," and Coligan came up. I told them that frequently during the day. When I told this police officer that in the afternoon, Coligan said, "Oh, you have got too damn much to say; I will take you in." I said, "No, I guess you won't; you are hardly able to take yourself in, you are so drunk now." He took hold of my collar, staggered into the gutter and back again against the house. Some citizens came up and said, "Why, you have no right to take this man in, he has done nothing." "Well, I'll take you in anyhow." The police persuaded him to let me go. I had said to him, "You might get yourself into trouble. I will hold you responsible if you do me any bodily harm;" so he let me go, and that was settled.
Q. What was he going to do with you?
A. He was going to take me down below, or, I suppose, to the station-house. He was an ex-policeman and a United States marshal, too.
Q. Had he a badge on?
A. Yes, sir.

Next let us see what a respectable citizen says of De Barth and Donlin, two deputy marshals:

Question. Were you at the election on that day?
Answer. I was.
Q. Who were the deputy marshals?
A. William De Barth and Thomas Donlin.
Q. Do you know Donlin?
A. I do.
Q. How long have you known him?
A. From boyhood; probably twenty-three or twenty-four years; I knew his father.
Q. What is Donlin's character?
A. He is a drinking man.
Q. About what is his age?
A. Probably twenty-eight or twenty-nine years.
Q. Do you know whether he is an habitual drunkard?
A. He is considered such, and has been; I know that he has been; I don't know how he is now. He has been in the house of correction.
Q. For what cause?
A. For drunkenness. I think his mother put him there.
Q. Was Donlin violent?
A. He was disorderly; he was in liquor all day there, and interfered with people voting, threatening to arrest them or have them arrested.

William Springfield was another deputy marshal. This is his character as given by a witness:

Question. What I want to get at first is who was the marshal at the polls?
Answer. The marshal was one William Springfield.
Q. Who was he?
A. William Springfield, another noted character, a man who could neither read nor write.
Q. Was he in his employ on the day of the election?
A. No, sir.
Q. Why not?
A. He had been discharged for stealing flour out of the mill, bags of flour. It had been discovered against him.
Q. How long before the election?
A. The day before.

John May was another deputy marshal. As to his character the witness says:

Question. What is your business?
Answer. I am a constable.
Q. Do you know John May, whose name is on the written list of marshals that I hold in my hand?
A. I do, very well.
Q. Is he the same who is on this list of marshals? [Indicating list in evidence.]
A. Yes, sir.
Q. What is his business?
A. He keeps a house of prostitution on the corner of Newmarket and Peg streets.

Abraham Hoffman was another, and the last one we will name. Of him the same witness says:

Question. Do you know Abraham Hoffman?
Answer. I do, very well.
Q. In what precinct does he live?
A. He is supposed to live in the fifth precinct of the Eleventh ward.
Q. Has he any other name than Hoffman?
A. Yes, sir.
Q. What is his other name?
A. I call him "Shad."
Q. Where does he live?
A. I give it up.
Q. What is his business?
A. He used to keep a house of prostitution on Fifth street, below Callowhill.
Q. Do you know anything about his occupation on election days?
A. Yes, sir.
Q. What is it?
A. A repeater.
Q. Who does he generally repeat for?
A. The republican party.
Q. How do you know that?
A. By following him on several occasions.
Q. Detail for us one of those little diversions of yours.
A. A couple of years ago he was out through the Thirteenth and Fourteenth wards.
Q. How many times did you see that he voted?
A. I suppose, at the least calculation, three to six times, at different places.
Q. Has he any known business now?
A. No; he skipped away for stealing a five-dollar note.
Q. When was that?
A. Here, some three or four months ago.
Q. Was there a warrant for him?
A. That I don't know.
Q. How do you know as a fact of his having stolen a five-dollar note?
A. He stole it from a man by the name of Lafayette Groul, on Third street, below Green.

These are but a few specimens from a vast number.

Under section 5522 it is provided that "every person, whether with or without any authority, power, or process, or pretended authority, power, or process of any State, Territory, or municipality, who obstructs, hinders, or otherwise interferes" with the supervisors, marshals, or deputy marshals, shall be liable to instant arrest without process, and shall be punished by imprisonment not exceeding two years and by fine not exceeding $3,000, both or either, and pay the costs. This power utterly overrides all State authority. It sets at defiance the laws and officers of the State. It does so without any cause or pretext, without any emergency in which the existence or safety of the Federal Government is endangered. It does not matter how perfect and complete the election laws of the State may be, no matter how rigid the restrictions and guards which it places around the ballot-box, no matter how honest and exemplary the election officers of the State may be, no matter how free and pure these elections, this law steps in and without pretext or cause, puts all under the surveillance of paid minions who have despotic control of the polls, with powers as arbitrary and wicked as were ever committed to the secret agents of a Tiberius or Richelieu.

The other sections of the law which lay down this code of inquisitions over free elections begin at section 2011 and end at section 2031. They provide a method of procedure to be pursued arbitrarily and without assigning any cause or pretext or exigency for the interference. The persons asking for supervisors are not required to found their application on affidavits or even averments that any fraud has been committed in the past, or that there is any reasonable apprehension that any fraud will be committed in the future, or that they believe the State laws will not secure a fair and honest election. This law does not require that the persons appointed as supervisors shall have even the old-fashioned and common qualification of being sober and intelligent men and of good moral character. There is nothing to indicate that they shall be men of any standing or character in their communities. The act on the contrary, by providing only that they shall be able to read and write the English language, leaves it open to the vilest of men. Any creature able to read and write the English language can be constituted a high inquisitor into the highest right of the citizens of the nation.

Sections 2017 and 2018, which it is proposed also to repeal, give the supervisors powers directly in violation of the sanctity and secrecy which the laws of my State and of many other States of the Union throw around the ballot-box. The latter section permits and directs the supervisors to open and pry into and handle and count the ballots of the electors after they have been polled and committed by the laws of the States directly and exclusively to the custody of the sworn officers of election. The sections from 2021 to 2027 are those authorizing the appointment of the deputy marshals, the most odious and worst class of the Federal agents. They are intended to be the tools of anything for which they may be needed, for the law authorizing them not only does not require them to be of good character and sobriety, but it omits the qualification prescribed for supervisors, who must be able to read and write the English language. Deputy marshals need not be able to read and write; they may be utterly illiterate, not able to read or write, and they may be criminals in all the grades of the calendar and drunkards and repeaters and vagabonds.

These are the paid creatures to whom is committed the important duty of keeping the peace at the polls and supporting and protecting the supervisors in the discharge of their duties and "to arrest and take into custody with or without process any person who commits or attempts or offers to commit any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States." And these illiterate and contraband deputy marshals are the judges of the right to arrest without process or information; and under this law thousands of the sovereign citizens of the nation, from New York to New Orleans, are annually arrested and their persons subjected to the violence and insult of such officials.

In New York City, under the administration of this law by Supervisor Davenport, at the last election acts were committed which should disgust intelligent, liberty-loving people. Six hundred and sixty citizens were arrested by the deputy marshals and taken before this petty autocrat for alleged offenses against this law of Congress.

Of this number only five were committed for trial, and of these none were ever tried. The following is an extract from the report of an able and impartial committee who investigated the subject of these arrests:

Commissioner Davenport sat in the United States court, which was crowded to its utmost capacity. No person arrested who appeared in it was allowed to leave under any pretense until his case had been heard. In consequence many were confined there for hours without food or drink. Mr. Secor interceded on behalf of one man who had been kept there four hours, but Davenport replied he could not help it; that he had too much to do to attend to them, a remark which elicited cries of "shame" from the audience. So strictly was the rule enforced that persons who had accompanied friends arrested into the room were unable to get out, and it was with great difficulty that their cases could be brought to Davenport's attention.

If any person made a noise Mr. Davenport directed him to be locked up.

Persons arrested were put in the iron cage or pen erected on the upper floor of the post-office building for the detention of the criminals tried in the United States courts. This at all times during the day contained some thirty persons, including the drunken, filthy, and boisterous prisoners as well as the respectable voters. At times it was crowded beyond its utmost capacity, and was so filthy that one prisoner, an old soldier, swore he would rather go all through the war again than stay there three hours.

We do not care to review each of the numerous sections of this Federal election law and the acts which are collateral to it. Section 2031 provides that each supervisor and deputy marshal shall receive $5 per day. This brings us to the cost of the machinery under this act which annually takes thousands of dollars out of the already depleted treasury of the nation. In Philadelphia last year alone there were 773 deputy marshals and 1,372 supervisors. The deputy marshals cost $7,600 and the supervisors $27,440, making an aggregate cost in Philadelphia alone in one year of $35,040 for the interference of the Federal Government in elections. What must be the aggregate throughout the South, where the law has its greatest effect, and in the other great cities of the North where the heel of the Federal Government is put on the necks of the people to wring from them an expression of their free consent?

This law is unconstitutional. It is tyrannical, and against the spirit and genius of free government. It is against the rights of the States, which were reserved to them in the solemn compact under which they came into the Union. It eats up annually thousands of dollars of the money which the impoverished millions of the nation need for subsistence. It is a prodigal, unlawful, despotic contrivance of the party in power to prolong its existence against the will of the people.

We will be recreant to our oath to support the Constitution of the nation, we will be derelict in our duty to the people whose sacred rights we must defend and preserve not only against open assault but much more against usurpation under the form of law, if we do not insist and demand the unconditional repeal of these unrighteous and tyrannical measures.

Mr. SAPP. Mr. Chairman, so much has been said, and so well said, already in the discussion growing out of these proposed repeals that I feel but little inclination to trespass upon the time and patience of the committee in considering the same, and my excuse for doing so is that I feel it would be doing injustice to the constituency I have the honor to represent on this floor were I to allow this debate to close without saying something against this not only unwise but in my judgment wicked legislation. Sir, the repealing provisions are broad and comprehensive, and leave us in no doubt as to the purposes intended. In what I have to say in this discussion I will confine myself to the proposed repeal of what is known as the election laws. It is the avowed object and purpose of the democrats in this House, one and all, both North and South, to wipe out every provision of national law securing the right of each elector to vote for a Representative or Delegate in Congress as his own judgment and conscience dictates, and to have that vote honestly counted, and this is done under the pretense of free elections.

Sir, I will endeavor before I am done to show what their real motives are, judging from what has been said by their chosen leaders, who have been selected to speak for them, as well as by the legitimate and necessary results of this proposed legislation, should they succeed. In order to obtain a correct understanding as to whether these election laws should be repealed or not, I will examine some of the reasons assigned by gentlemen on the other side justifying the action of the democratic caucus in demanding their repeal. Sir, it is insisted, first of all, by some of our democratic friends that these laws are unconstitutional, and that for this reason they should be repealed. If it be true that they are unconstitutional, then we ought, each and every one of us, to join cheerfully and earnestly in their repeal. But after listening to the able discussions here, and after the careful examination I have given the subject, I am convinced that it is not true. On the contrary, I think their constitutionality can scarcely be doubted. If gentlemen are sincere in what they say as to the unconstitutionality of these laws, if they honestly believe what they here pretend to believe, and if any considerable number share in that opinion, why is it that no effort has been made, no steps taken, to have this question passed upon by our courts? Why is it that their validity was never drawn in question until their repeal had been agreed upon by the joint caucus of the democrats in both Houses of Congress? This law has been upon our statute-books for seven years, during all of which time there has been the broadest opportunity desirable to have this question judicially determined. Why has it not been done?

But the Constitution itself is not silent upon this question. On the contrary, it seems to me its provisions are so ample that but little difficulty can exist among honest seekers after truth upon this question. Section 2 of article 1 of the Constitution provides who shall be electors for Representatives in Congress. It says:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This section provides how often Representatives shall be chosen, by whom they shall be chosen, and what the qualifications of electors shall be to entitle them to vote for such Representatives. It is left to the State to fix the qualifications of electors of the most numerous branch of the State Legislature, but when this is done it is as much the constitutional right of the elector to vote for a Representative to Congress as it would be if the Constitution had so provided in express terms. In other words, when the Legislature of a State has fixed the qualifications of electors of the most numerous branch of the Legislature, such electors so qualified have the undoubted constitutional right to vote for a Representative to Congress, and the State can neither prevent nor abridge his exercise of this right. It is the Constitution of the United States that guarantees it to the qualified electors, and not the State, and the Constitution not only secures the right but also declares what the qualifications shall be upon which this right depends. Now, sir, the Constitution having in express terms designated what the qualifications of such electors shall be, and guaranteed to them the right to vote for Representatives when they are so qualified, where does the responsibility rest to see that they are not prevented from exercising this right?

To which is the elector to look, to the State or National Government, for security and protection in the exercise of this right to vote? This protection is due him from one or the other of these governments, and which one of them has he the right to demand this protection from? Is it the State in which he lives, or is it the General Government that has guaranteed this right that he must look to for this security and protection? Can there be any serious doubt that this protection, which all will admit he is entitled to and has the right to demand, should come from the Government of the United States, it having secured to him the right. Can a man be found in this House of Representatives bold enough to claim that it is not the duty of the General Government to protect its citizens in the exercise and enjoyment of each and every right secured by the Federal Constitution? Sir, is not that the end and purpose for which all free governments like our own are instituted? And yet the democrats of this House are attempting to defeat this very principle by this proposed repeal of the election laws. But if there yet remains any doubt upon this constitutional question let me call attention to another provision of the Constitution bearing upon it. Section 4, article 1 of the Constitution provides as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This gives to Congress supervisory control over the time, place, and manner of holding elections for Representatives in the several States. The Legislature of each State shall fix the time, place, and manner of holding these elections in the first instance, but this provision gives to Congress not only the right to alter these regulations, but to make new ones so far as the election of Representatives is concerned. And when can this power be exercised? Congress can make new regulations or alter existing ones for any cause at any time whenever it shall see proper to do so. There is no restriction or limitation as to when this power may be exercised. It is left to the sound discretion of Congress to exercise it whenever it shall see fit to do so. There is no prescribed public necessity or condition-precedent to the exercise of this power by Congress when it has once been regulated by the State. The language of the Constitution is, "But the Congress may at any time, by law, make or alter such regulations." The Constitution not only fixes the qualification necessary to entitle an elector to vote for Representative, but it also gives to Congress the power to fix by law the time and place where that right shall be exercised, and also to make regulations as to the exercise of that right. If it was the intention of the framers of our Constitution to leave it to the State, and to the State only, to make such laws as they shall see fit, why these provisions of the Constitution? for what purpose were they put into that instrument? What purpose was intended by the framers of that Constitution in inserting these provisions if it was not to confer upon Congress the power to enact these very regulations now sought to be repealed?

If this is not so where is the necessity of such constitutional provisions as these? What was the necessity or purpose in doing more than to leave it to the State to say what the qualifications of electors should be, and to leave it wholly with the State to provide for the time, place, and manner of electing Representatives? Why give to Congress supervisory control and the power to make such regulations as it shall see fit and proper in respect thereto? Certainly this was unnecessary if the construction contended for by our democratic friends is the correct one to be given to that instrument. But it is not; this is only the shelter behind which the more timid may seek protection to shield them from the indignation of an outraged constituency at the North for their perfidy in deserting their post of duty in the hour of peril, when their services were most needed and expected by the people, who, whatever their political opinions may be,

are certainly in favor of a fair and honest election. Sir, it is not singular that these excuses should be furnished to them by democrats from the South. It always has been so in the past, and for aught that can be seen will continue to be so in the future. We all remember quite distinctly how zealously these southern democrats insisted that the war for the suppression of the rebellion was unconstitutional; that it was the constitutional right of the States to secede from the Union if they wished to do so, and all acts to coerce such sovereign States were denounced as acts of usurpation. These weak and foolish subterfuges then as now were furnished by southern democrats to their northern friends and allies, and were echoed all through the North, but now as then a patriotic and liberty-loving people will look through these pretenses and fathom their designs, which they seek to conceal.

But, sir, it is insisted that these election laws are repugnant to the feelings and wishes of the people, and that for this reason they should be repealed. Is this true? Is it the desire and wish of the honest and patriotic people of this country that these laws should be repealed? Is it the wish of those who believe in the purity of the ballot-box and in fair as well as free elections that they should be expunged from our statute-books? Do men think so who believe that our free institutions depend for their permanency upon the honest will of the people expressed through a pure and honestly guarded ballot-box? Or is it those who think more of party and party success by whatever means accomplished than they do of the peace, permanency, and prosperity of our free institutions? Is it not the white-liners, rifle clubs, moonshiners, ballot-box stuffers, and repeaters and the recipients of their nefarious crimes and outrages that desire the repeal of these laws? So much has been said about interference by the General Government under these laws during this debate that I will call attention to it at length, so far as the same relates to supervisors, United States marshals, and their deputies. The law is as follows:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2018. To the end that each condidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the Clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application in writing of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times or places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrests, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed.

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit-court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section 2020, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. * * * And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

These are all the sections in full of this law bearing upon the duties of supervisors, marshals, and deputy marshals in respect to elections. And it will be seen they have reference to elections of Representatives and Delegates in Congress and nothing else. So far as State officers and State elections are concerned these supervisors, marshals, and deputy marshals have no power to interfere; they have nothing whatever to do with these; their powers, duties, and authority are confined strictly to the election of Representatives and Delegates in Congress.

Let me give a concise statement as to their powers and duties under this law. The supervisors provided for in this act are appointed by the United States circuit court upon the written application of citizens of that locality. Their number is limited to two for each election district or voting precinct, and they must be of different political parties. Their duties are as follows: First, to attend the registration of voters who being registered would be entitled to vote for Representative or Delegate to Congress; second, to attend at the election held for a Representative or Delegate to Congress; third, to guard and scrutinize such elections; fourth, to witness, inspect, and report thereon, with the right to challenge, scrutinize, count, and canvass each ballot, "to the end that each candidate for the office of Representative or Delegate to Congress may obtain the benefit of every vote for him cast."

Now let us see what the duties and powers of the marshals are. At an election when a Representative or Delegate to Congress is to be chosen, the marshal of that district, on the application of citizens, may appoint deputies to assist the supervisors of elections in the discharge of their duties. They are, also, to keep peace at the polls and preserve order. They are to prevent fraudulent registration and fraudulent voting. They are to arrest and take into custody, with or without process, any person who commits, or attempts to commit, any of the offenses prohibited in this act, or any offense against the laws of the United States. They can only arrest without warrant when the offense is committed in the presence of such officer.

What is there in all this that an honest man need be afraid of? What is there in these laws that any one wishing nothing else but honest and fair elections can object to? Do they in any way inter-

fere with the rights of the honest elector in the exercise of his right to vote? On the contrary, they protect him against the lawless and violent. Sir, where do the objections to these laws come from? Who asks for their repeal? Has their repeal been petitioned for by the people? Where is the petition that has been sent to this House asking that they be repealed? Nothing of the kind has been done, that we have heard of.

At the last session of the Forty-fifth Congress complaints were made by democratic Representatives from the city of New York against the marshals of that city, charging them with abusing the power conferred upon them by this law at the preceding November election. It was then alleged that these marshals arrested and imprisoned electors who were entitled to vote, and in that way they were prohibited to vote at that election. These gentlemen asked to have the alleged charges made against the official conduct of those officers investigated. The Judiciary Committee was charged with the duty of making this investigation, and what was the result? I will let that question be answered by a member of that committee who assisted in conducting the same. On the 19th of February last the distinguished gentleman from Maine [Mr. FRYE] rose in his place and said:

I have just returned from an investigation into New York politics and New York elections. I have a few figures which I desire to give of that monstrous election of 1868, the most monstrous and marvelous that ever was held anywhere in this world for fraud, for wickedness, and for every device of the devil that the democratic party under the lead of Tweed and Tammany could suggest. Look at the horrible picture, and then tell me, do you wish it repeated?

In 1868 the supreme court of the State of New York suddenly came to the rescue of the democracy as a naturalization power. Prior to that year the court of common pleas and the superior court alone had issued naturalization papers. In 1868, on the 6th day of October, the supreme court, presided over by Judge Barnard, afterward impeached, naturalized in one single day twenty-one hundred and nine persons, and the superior court, Judge McCunn, also impeached, alone naturalized nine hundred and fourteen persons on the 19th day of October of that year.

In 1864 the supreme court of New York naturalized in the month of October ten thousand and seventy persons, and the superior court in the same month naturalized 27,897 persons, an average of a thousand a day. The common pleas court, an honest old court, out of fashion and favor with the democracy, naturalized only thirty-one hundred and forty-five persons.

More than five thousand minors presented their minor papers, were heard, and their case passed upon in one single court in New York City, and received certificates only to save the necessity for the two years' declaration of intention. In more than twenty thousand cases neither witness nor applicant ever appeared inside of either one of the New York courts. The papers were distributed in bundles to groggeries and groceries, to houses of ill-fame, to bar-rooms and billiard-rooms, in blank and filled up, as men called for them. In scores of instances ignorant natives of the United States voted upon these naturalization papers. They were sent in packages, five hundred in a package, up into the river counties of New York. They were sent, a thousand in a package, into the State of Connecticut, along the New Haven Railroad, and New Jersey received the full benefit of this democratic machine. In one instance they were delivered to thirty-six men working in a brick yard, the names being written in on the top of a machine. They were sold in scores of places for from fifty cents to $2 each.

There was one naturalization room where these poor ignorant fellows were sworn by a mock judge to support the Constitution and vote for Hoffman, and then received their papers clothing them with citizenship.

The superior court of New York was furnished in advance with thirty thousand blank certificates of naturalization; the supreme court with thirty-nine thousand; making sixty-nine thousand blank certificates in all. A count was made by the clerk of the court to ascertain the number that was left after the naturalization was over, and only eighteen hundred and some odd of these blanks were left. Therefore there were naturalized either in court or in Tammany Hall headquarters from sixty thousand to sixty-nine thousand in the year 1868, notwithstanding the records show only about forty thousand.

There were nine standing witnesses, with a captain of the squad, witnesses in behalf of nearly seven thousand persons desiring to become citizens. One of them, the captain of the squad, was a witness in one court in nine hundred and eighty-six cases, and the judge knew personally that he was a drunken thief. He swore that he knew all the men, while he probably did not know one single one of them, and the judge knew that he did not. That judge has since been impeached. What a loss to the party!

Nine men, repeaters, registered in three hundred different places, and voted in nearly every one of them. Men voted from two to forty times upon false registration. One vacant lot had registered from it one hundred and eighteen voters. More than five hundred persons were registered from localities where but fifteen actual residents could be found. And what shall I say more—for the time would fail me to tell of Tammany, of Tweed, of Tilden, and of Barnard, of McCunn, and the political scoundrels who through such rascality wrought works of unrighteousness and carried the State of New York for Hoffman by ten thousand majority.

Now, take the vote of 1868. The total increase during the thirty years previous was at the rate of 4½ per cent. a year. The vote for 1868 showed an increase of 49¾ per cent. in that single year. The average ratio of voters to the population from 1842 to 1860 was 8.41 per cent.; in 1868 the average ratio of voters to population was 1 to 4.65. Marvelous increase!

The committee of Congress sent there in 1869 to investigate this election found, as the result, that from fifty to sixty thousand fraudulent votes were cast.

Mr. Chairman, these crimes and outrages upon the purity of elections are without a parallel. Of all the outrages upon the ballot-box known in all past political contests, these are the most infamous. Much has been said about the outrages committed by ballot-box stuffers in different parts of the country, and the crimes committed by rifle-clubs, and moonshiners, in the Southern States. But bad as they are known to have been, I declare that, all things considered, these crimes and outrages perpetrated in the city of New York equal, if they do not eclipse, them all. These crimes and outrages upon the purity of elections were conceived and carried out by the democratic party in this the greatest commercial city in the Union, famous for its wealth and intelligence, where one would naturally expect the laws to reign supreme, and where, under the control of "the finest police in the world," any fraud on that safeguard of our liberties, the ballot-box, would be impossible. But turning our eyes from this disgraceful spectacle to the States so lately in rebellion against the Government of the United States, what do we behold? There we see the democratic party engaged in open violence, intimidation, and fraud, hesitating at nothing to carry out their measures to become the dominant party, equally ready for a Hamburgh massacre, or a thousand tissue-paper ballots, wherewith to overcome the colored vote without killing the voters, yet equally loud with the democrat from the Empire City in demanding the repeal of these laws. Indeed, their repeal is demanded by the democratic caucus, which is not only directed but controlled and governed by these democratic Representatives from the South.

The frauds perpetrated in our great cities at elections, and the open, bold, and flagrant violations of the law in the States so recently in rebellion render these laws indispensable, unless it is the purpose and intention of gentlemen on the other side to abolish all restraint and allow these things to be repeated at the pleasure of any person so disposed. Can this be what gentlemen mean by a free ballot, untrammeled elections, and unlimited freedom at the polls, of which they have spoken so long and so loud? During the course of this debate southern democrats have not only spoken exultingly of the return of that party to power, but have arraigned the republican party for what was done by it during the war for the suppression of the rebellion. Let me call attention to the manner in which that party is arraigned by the gentleman from Mississippi, [Mr. CHALMERS.] In a speech delivered by him a few days ago on this floor, he said:

We not only made no threats "to shoot the Union to death," but we said to you, as the patriarch Abram said to Lot, let there be no strife between thee and me, you may go to the North and we will go to the South. But it was you who said to us you shall not go. You sent grand armies after us. You hemmed us in by land and by sea. You not only threatened to shoot but you shot us to death. With the battle-cry upon your lips of the Constitution as it is and the Union as it was, you rallied the whole North without regard to party in defense of the old flag, and when the battle was won you tore off the veil that covered your hideous deformity; you dissolved the Union that you had saved; you changed the Constitution of our fathers for which you had pretended to fight; you changed State sovereignties into military provinces; you converted the constitutional Union by usurpation into almost a military despotism presided over by a successful military chieftain.

It is true, as stated by that gentleman, that we said to them they should not go; we also sent great armies after them, and we hemmed them in by land and by sea until they surrendered and acknowledged the supremacy of our Government. But it is not true that our battle-cry was "the Constitution as it is and the Union as it was," and in that way rallied the whole North, without regard to party, in defense of the old flag. This cry of "the Constitution as it is and the Union as it was" came from a party in the North opposed to the war, and which in national convention prior to that time had declared that the war for the suppression of the rebellion was a failure. Do gentlemen have any difficulty in understanding to what party I refer? It is the same party that is here demanding the repeal of these, to them, obnoxious laws, and that were far more effective in their attacks made in the rear of our armies than were these gentlemen who boast of the part they took in attacking our front. And this cry of "the Constitution as it is and the Union as it was" was not urged by the democracy of the North until they knew that the rebellion was near its close. But, sir, I submit, in all candor, that for gentlemen who did all in their power to destroy this Government and dissolve this Union to undertake to denounce what was done by the Government for its preservation shows an utter disregard of the gratitude they should feel toward the Government for the leniency extended to them and all others engaged in the rebellion.

Is it not a novel spectacle to witness gentlemen here on this floor of the House of Representatives, who so recently did all they could to put an end to the union of these States, not only dictating the laws that shall be passed by Congress, but also criticising what was done by the Government in suppressing the rebellion in which they were engaged. Such arrogance and audacity is without a parallel, unless it be found in the alacrity with which the doughfaces of the North do their bidding; for they are the aiders and abettors of the South in all things. Do gentlemen of the South think that their declared purpose to strike the last vestige of war measures from the statute-books is a fitting return for their restoration to all their civil and political rights; admitted to be an act of magnanimity unparalleled in the history of any country?

Sir, it is insisted by gentlemen that we are endeavoring to engender sectional strife and ill-will, because we see proper to refer to the past record of the democratic party in the discussion of these measures. If gentlemen are sincere in making this complaint, why is it that they persist in introducing these measures that necessarily provoke such discussion? Is it expected of us to remain entirely silent, and allow the things to be done they are here attempting to do without lifting our voice against them? During the war, gentlemen of the South said all they wanted was to be let alone, but we did not let them alone then, and we do not propose to let the democratic party alone now, and by so doing enable them to accomplish by legislation what they failed to do by force of arms.

It has been insisted by some gentlemen on the other side that if these appropriation bills are vetoed by the President, and for that reason the necessary appropriations for the support of the Government are not made by Congress, the responsibility rests with the republican party. We all know that this is not true, and it is advanced only by those who are afraid to meet the just responsibility and consequences of their own acts and that of the party to which they be-

long. Gentlemen on the other side say to the President and to us, "If you will consent to the repeal of these laws providing for fair and honest elections, and will agree that no interference by the Army or Navy or other persons shall under heavy penalties be permitted to keep the peace at the polls, then we will appropriate all the money necessary for the support of the Government; but if you will not consent to do this, the Government shall not have one dollar for its support." My democratic friends, this is the position you assume, and you take all the responsibility resulting therefrom. In other words, you say, "You must agree that we shall have our own way about other independent legislation, or we will not give one dollar to the Government for its support, let the consequences be what they may." And gentlemen of courage and candor among you admit this to be your position. The distinguished gentleman from Kentucky [Mr. BLACKBURN] who now occupies the chair, and an admitted leader on your side of the House, so stated the other day in the following bold and distinct utterances:

I am willing, and those with whom I stand are willing, to accept this issue, and we go further, we tender it. We are the ones to make the issue and we are ready for you to accept it. Planting ourselves upon this broad ground, we welcome controversy. We seek no quarrel with you, but for the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked alone to the abridgment of the liberty of the citizen.

We demand an untrammeled election; no supervising of the ballot by the Army. Free, absolutely free right to the citizen in the deposit of his ballot as a condition-precedent to the passage of your bills.

* * * * * * *

Now, sir, the issue is laid down, the gage of battle is delivered. Lift it when you please; we are willing to appeal to that sovereign arbiter that the gentleman so handsomely lauded, the American people, to decide between us.

Standing upon such grounds, we intend to deny to the President of this Republic the right to exercise such unconstitutional power. We do not mean to pitch this contest upon ground of objection to him who happens, if not by the grace of God, yet by the run of luck, to be administering that office.

I tell you here that if from yonder canvas [pointing to the picture of Washington] the first President of this Republic should step down and resume those powers that the grateful people of an infant Republic conferred upon him as their first Chief Magistrate, if he were here, fired by that patriotic ardor that moved him in the earlier and better days of this Republic, to him we would never consent to yield such dangerous and unwarranted powers, to rest the liberties of the citizen upon any one man's discretion, nor would he receive it.

It was not for the earlier but for the later Executives of this Government to grasp and seek to retain such questionable prerogatives. You cannot have it. The issue is made; it is made upon principle, not upon policy. It cannot be abandoned; it will not be surrendered. Standing upon such ground, clothed in such a panoply, resting this case upon the broadest principles of eternal justice, we are content to appeal to the people of this land. There is no tribunal to which we are not willing to carry this case of contest; we are willing to allow Him who rules the destinies of men to judge between us and give victory to the right.

I do not mean to issue a threat. Unlike the gentleman from Ohio, I disclaim any authority to threaten. But I do mean to say that it is my deliberate conviction that there is not to be found in this majority a single man who will ever consent to abandon one jot or tittle of the faith that is in him. He cannot surrender if he would. I beg you to believe he will not be coerced by threats nor intimidated by parade of power. He must stand upon his conviction, and there we will all stand. He who dallies is a dastard, and he who doubts is damned. [Great applause on the democratic side.]

Sir, these are the declarations boldly and defiantly made by the acknowledged leader of the other side, and he has stated as plainly as language can do what their real purposes are, and he admits that the consequences of a failure to appropriate money for the maintenance of the Government rests upon the democratic party.

Gentlemen, have you seriously considered all the consequences of a failure to make the necessary appropriations for the support of the Government? Have you carefully and honestly contemplated the results that will follow from such an act? If you have, and are willing to assume the responsibility, as you declare you are, then I declare your act to be revolutionary and you, one and all, to be revolutionists. I declare your crime against the Government it is your duty to support and defend but little better than treason—but little better than the bloody rebellion you inaugurated and prosecuted for its overthrow.

Sir, this Government raises annually by taxation in one form and another a little over $200,000,000 of revenue. By whom and for what purpose is it paid into the Treasury of the United States? Of this vast sum the whole of it is paid by the people of the States that did not secede but remained in the Union, excepting a little over $13,000,000, of which sum of thirteen millions Virginia paid for tobacco tax over $6,000,000. For what purpose is this money paid into the Treasury by the people? It is paid in for the following purposes, and for these only: for pensions to widows and disabled soldiers; to pay the public obligations; and to pay the annual expenses of the Government. The amount required for these purposes is susceptible of calculation and certainty. It is the duty of Congress to ascertain how much will be required for these purposes, and when this amount has been ascertained it is as much the duty of Congress, under the Constitution, to appropriate the same as it is to do any other act it is called upon to perform, for without it the Government must cease to exist. To assume the responsibility of not doing so is to disregard and set at defiance the plainest obligations of constitutional duty. Gentlemen on the other side have said repeatedly on this floor that unless these securities and safeguards to the ballot-box were broken down they would do this very thing. I warn them now that if they do they will bring down upon themselves the indignation of an outraged people, and that the place that knows them now shall know them no more forever. Sir, before closing, let me call attention to the real motives and purposes of the democratic party. Do they urge the repeal of these laws to secure fair and free elections? Is it to enable the will of the majority fairly and honestly expressed through the ballot-box to determine who shall fill the various elective Federal offices? Are gentlemen prompted by these considerations in putting this proposed legislation upon the appropriation bills for the support of the Government? Not at all. They hold their boasted majority in both branches of Congress at this time by means of intimidation, violence, ballot-box stuffing, and fraud as notorious and open as the light of day. They know that with anything like a fair election for President in 1880 defeat to their candidate will be the inevitable result. Hence their deep-felt anxiety for the repeal of these laws. But, sir, in this, like other conspiracies against the rights and liberties of the people that have marked their course in the past, they will be overwhelmed and defeated.

Mr. DEERING. Mr. Chairman, I will occupy the attention of the House but for a very short time. All legal points involved in the pending proposition have been fully considered and ably handled by gentlemen who have already spoken. I will not, therefore, enter upon that branch of the discussion, but will submit a few remarks of a general character which have been called out by numerous ill-timed and ill-tempered political speeches from the other sid of the House.

Mr. Chairman, the spectacle which we now present before the civilized world is, with perhaps one or two exceptions, the most humiliating and disgraceful of any in the history of this Republic. To other nations, at least, we certainly must appear to stand on the very verge of anarchy and revolution. The speeches and actions of those on the other side of the Hall who "put this ball in motion" will bear that interpretation and no other. Other nations will be interested to know, as our own people were, why we have this new and uncalled-for discord and disorder. Sir, the inquiry was well answered by the distinguished orator and leader on the other side of the Chamber, [Mr. BLACKBURN,] and in the following words, which have been so often quoted here:

For the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

Many others on that side have made, in substance, the same declaration.

This, sir, is the very answer that any person acquainted with American history would expect. Every intelligent person knows that this modern democratic party has left all along the highway over which it has traveled unmistakable evidence of violence and disorder.

For many years this party kept the country "on the ragged edge" of revolution, and finally plunged the differing sections into fratricidal and bloody war. Deserted and betrayed by her northern allies, the South was left to fight it out single-handed and alone. She was fairly whipped into submission and kept for a number of years under reasonable control.

Through clemency and magnanimity on the part of the victors (which I fear was misapplied) the old party has returned to power in the halls of Congress. And we see the result. Let the country and those who may come after us take warning. They abuse our generosity and celebrate their return by dealing new and stunning blows at the very life of the Government by an assault upon the Constitution and the laws of the country; by an attempt to tear away the safeguards which surround and protect the ballot-box. Sir, they do not even come in disguise, but in their old-time character, and the old spirit of contention and strife is still dominant in all their proceedings. Their first movement aims directly and solely at the perpetuity of their party supremacy in the Government. And in this they but follow those practices in which they were long since schooled and skilled. They know very well that the pure and free ballot, fairly counted in every city and State, would soon hurl their party from power and relegate their leaders to private life. Consequently all obstacles to repeating and stuffing at the ballot-box must be speedily removed.

By a system of tyranny and oppression that will forever stain and dishonor the pages of southern history, they have succeeded in stilling the voice of the weaker race and in strangling out their rights and privileges at the polls. The colored people of the South have been virtually disfranchised under a reign of terror and cruelty that will stand forth as a lasting disgrace to American civilization.

But, sir, it has given to the democratic party a solid South, and they now propose to extend their conquests over northern cities and States. The State of New York is their objective point. They have not forgotten the facility with which that State was formerly kept in hand. It was best stated by a quondam candidate of the democratic party for the Presidency, Mr. Greeley, in his famous letter to their later candidate, Mr. Tilden. On the 20th day of October, 1869, Mr. Greeley, in his letter, said:

Mr. Tilden, you cannot escape responsibility by saying, with the guilty Macbeth—

"Thou canst not say I did it; never shake
Those gory locks at me!"

for you were at least a passive accomplice in the giant frauds of last November. Your name was used, without public protest on your part, in circulars sowed broadcast over the State, whereof the manifest intent was to "make assurance double sure" that the frauds here perpetrated should not be overborne by the honest vote of the rural district. And you, not merely by silence, but by positive assumption, have covered those frauds with the mantle of your respectability. On the principle that "the receiver is as bad as the thief," you are as deeply implicated in them to-day as though your name were Tweed, O'Brien, or Oakey Hall.

* * * * * * *

Right well do you comprehend the means whereby the vote of 1868 was thus swelled out of all proportions. There are not twelve thousand legal voters living in those wards to-day, though they gave Hoffman 17,443 majority. Had the day been of average length, it would doubtless have been swelled to at least twenty thousand. There was nothing but time needed to make it one hundred thousand, if so many had been wanted.

It is well remembered that Mr. Tilden was leader of the managing forces and organizations of the democratic party in that State, and that the frauds referred to were not accidental, but were deliberately planned and perpetrated as one of the established methods to party success.

They now find in these supervisor laws a hinderance to similar frauds and practices in the future and the only real obstacle to the coveted prize—the next Congress and the next Presidency. This barrier must be removed at any cost, and that is the work upon which they have entered here.

Why, sir, they did not even wait for their advancing majority in the Senate to reach their seats, but under the intoxication of power and the frenzy of party passion dashed wildly upon our works. They now defiantly inform us that this mad act shall be carried to a successful issue even though they may "sit here until this Congress shall expire by constitutional limitations." Well, sir, such menaces and threats do not alarm us very much. They are not new to northern ears. Gentlemen from the South ought to know the North after a while. Four years of deadly encounter must have taught them something. In 1860 and 1861 the northern people knew they were right, and they stood their ground. In 1879 we again know that we are right, and we will be at our post of duty to the end. We can venture as far in defending as they can go in tearing down the frame-work of free Government.

They now assert with great positiveness that their action in this matter is justifiable and is right. Just so they declared in 1861, and as late as 1864, in their national convention at Chicago, that the war was a failure. But results have since shown that they have been often mistaken heretofore, and they may be in this instance.

But, sir, the most striking and amusing feature of this debate has been the loud protestations on the other side of the House of a desire to avoid "sectional strife." They first hurl these fire-brands into our camp, and then implore of us that we will not be unkind and resist or resent lest it should revive "old animosities." It seems rather late to deplore the conflagration after they have applied the torch with their own hands. It will be very difficult for you, gentlemen, to justify this precipitate and ill-starred act before the people, when we know, and you know, and the country knows that no election of importance under the supervisor laws can transpire until after another regular session of Congress. It was not even possible that any interest should suffer by delaying this action until next fall, and by giving to the country a season of rest and to the people an opportunity to express their wishes and opinions at the polls.

But, sir, it was, as I understand, decided at democratic headquarters that the success of their party in 1880 depended upon the repeal of these laws, and they were impelled to this rash venture by party purposes and advantages. All other considerations dwarfed into nothingness in comparison with party interests, and were made to bend to this one inexorable demand and decree. They dare not trust their fortunes to the well-guarded and well-regulated ballot, and therefore these safeguards and this protection must be broken down. At the same time we find them earnest in adjurations of sectional strife, and constantly pleading for peace.

Mr. Chairman, at the close of the war there was one great actor who said "let us have peace," and meant just what he said. He and his associates hung up their swords, and turned their attention to pursuits and practices of peace. Our people longed for tranquillity, and for good order and good-will. Had the South acted in good faith, all the now gaping wounds would have been long since healed. And if they now desire oblivion for all that is unpleasant in the past, they can easily find the way to peace and concord. They will find always a generous response from the North. Our people ardently desire harmony. But you cannot wrench from us our rights and our convictions. Nor can you reasonably expect harmony if you persist in carrying out the threat with which you have "signalized your return to power." You cannot "tear from the statute-books the last vestige of the war measures," and avoid "sectional strife." Under God the results of the great war must stand at any cost.

You can have peace and harmony and concord by simply obeying the Constitution and the laws of the country. But in view of your constant encroachments and exactions the northern people cannot be blamed for regarding your professions and protestations with distrust and suspicion. We do not know what may be the next step taken and the next demand.

Some things, sir, we cannot yield, and they had better not press these demands too far. We have not yet repented of the part we took in the late war. We do not like to believe just yet that it was any less respectable and patriotic to fight in defense of this Goverment than it was to fight for its destruction. We still believe that the republican party did well in releasing several millions of human beings from bondage, and think the reconstruction laws and those which require the payment of the national debt and pensions to Union soldiers are defensible and should be allowed to stand on the statute-books with many other acts of a similar character which grew out of the rebellion.

But, sir, how soon they may commence their assaults on these we cannot tell, nor when these demands will end. The general spirit and scope of remarks made by scores of speakers on the other side have been in effect that the measures and the policy of the republican party since 1861 have been a series of usurpations and great wrongs, and that the "last vestige" must be stricken from the book of remembrance. Such was the spirit of the entire speech of the distinguished gentleman from Kentucky. The able and usually candid gentleman from Mississippi, [Mr. SINGLETON,] in his speech of April 9, used this language:

I acquiesce in the partial repeal of the supervisors law, with notice to all concerned that I accept this as only the first installment of justice due to a long suffering people, and that I shall hereafter claim full payment of the debt by the abrogation of every line, word, and letter of said act.

Similar but more violent and suggestive utterances have fallen from the lips of many others.

In addition to this, sir, the old-time heresy of State sovereignty, or State rights, as it is more commonly called, has been rehabilitated and brought into prominence in this Chamber. Late in the last Congress the gentleman from Mississippi [Mr. SINGLETON] said, in reply to Mr. Foster, of Ohio:

I owe my first and highest allegiance to the State of Mississippi. That is my doctrine.

And since that time, notably since this new scheme has been under consideration, this dangerous doctrine has been advocated as openly and defiantly as it was in 1860. Under this theory of government, sir, they would again advertise to the world the miserable delusion that this Union of States is no better than a rope of sand, and is as easily disintegrated and destroyed. Now, sir, these declarations do not alarm us, by any means, but they do prove the base ingratitude of gentlemen who hold their seats on this floor through the generous clemency of the North.

Mr. Chairman, if any evidence has been wanting to convince the country and the world that the democratic party is dangerous and cannot be again trusted to administer this Government these exhibitions of bad faith and sectional spite cannot fail to furnish it. It seems rather early for them to forget that we have but recently fought over and settled the question of State rights on the "darkened and perilous ridges of battle." If they forget it the people of the North and West will not.

A great deal has been said about starving this Government to death, or destroying it by some other method; but, sir, it is not in the power of any party on this floor or in this country, from the South or from the North, to destroy this Government. There must be and is somewhere about the Constitution lodged the inherent power of self-preservation.

The time never has been and never will come when a mere handful of men who happen for the time being to hold brief authority in this Chamber or elsewhere can deliberately overturn and destroy this Government. If it should ever come to the alternative of deciding between providing supplies and the extinction of the functions of Government, money would, as I believe, come like rivers of water, voluntarily and without stint, to its relief; but if it should not, then, as a last resort, I am certain that extreme and extraordinary measures would be adopted. Stern necessity in any great exigency would not only justify but demand the sacrifice of certain minor rights in order to save from threatened extinction the vital forces and underlying principles of free government.

No, sir; those who have already assailed, or may hereafter assail, will perish and pass away, but this "Government of the people, by the people, and for the people" will remain to bless mankind long after those who fill these places shall have gone to their long rest and been forgotten.

Now, Mr. Chairman, a few words in relation to these supervisor laws which it is proposed at once to repeal. These laws apply simply to elections for Representatives or Delegates in Congress, and not in any sense to the election of local and State officers; not to small towns or to sparsely settled portions of the country, but to large cities and towns of twenty thousand inhabitants or upward. In these large cities, where an unknown and shifting population favors the perpetration of frauds by repeating and ballot-box stuffing, these laws provide for the appointment of supervisors by the United States circuit court, and from opposing political parties. They are appointed only on request of two or more citizens of good standing, and are required to guard and protect the ballot-box and the rights of voters in such manner as to secure a free and fair exercise of the rights of suffrage and an honest count of the votes. I will ask that several sections of the law may be read, and allow them to speak for themselves:

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representa-

tive or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election.

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry list, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of elections are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth and fairness of the election and canvass, which the supervisors of election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

Sections 2016 and 2018 and several other sections they now propose to repeal and to leave the supervisors utterly powerless, except to view the proceedings at elections as any other spectator would do in case they can obtain access to the polls; not to repeal them by the usual course of legislation, but by attaching to appropriation bills for sustaining the Army and carrying on the various departments of the Government. They admonish the President that if he shall decline to sign bills which his convictions do not perhaps approve, then the virtue of coercion is to be applied. It is for him, not me, to decide this question and his duty in connection therewith. It is for the people to consider and to pass upon the party that is responsible for these extraordinary and uncalled-for proceedings.

Mr. Chairman, it is our boast and our pride that there is on earth one place where the rich man and the poor man can meet as equals and on a common level, where the humblest citizen in the land is the peer of the most favored and most exalted in station. That place is at the well-regulated and well-guarded ballot-box. Each one expresses his will through his vote, and the will of each has precisely the same weight and influence in making and unmaking officers and laws. The guarantee of permanency in our free institutions and our popular form of government is in the rigid maintenance of the free and unobstructed ballot and the fair and honest count of the votes.

These supervisor laws which the democratic party propose now to repeal were wisely designed as a shield and protection to this sacred privilege, and there is no evidence that they have failed to accomplish the purpose for which they were enacted. Party interests alone have required the proposed change, and those who cannot consent to the repeal without surrendering their convictions of right and violating their oaths of office are to be coerced into submission under a menace in the hour of pressing necessity. But, sir, in utter ignorance of the feelings and purposes of the President, and without regard to what he may or may not do, I do not hesitate to venture the prediction that the same unseen hand that brought their late attempt upon the life of the Government to inglorious defeat will also bring this conspiracy to ignominious failure.

Mr. CLARK, of Iowa, addressed the committee. [See Appendix.]

Mr. HUMPHREY. Mr. Chairman, it has been frequently said upon the floor of this House, and the reference has been frequently made, that in dealing with this question we might look back to the powers that have been heretofore exercised by the House of Commons. We were referred a short time since by the gentleman from New York to the celebrated case of Ashby against White, for the purpose of showing that in that case the court of the king's bench decided that Ashby was entitled to bring a private action for damages for refusal to receive his vote.

Now while it is time, let us look for a moment to this case for the purpose of ascertaining what was the action of the House of Commons in the given case. It is true that it was decided in that case by Justice Holt, and on a writ of error to the House of Lords his opinion was affirmed, that the party whose vote was refused at the polls might bring his private action. Yet the House of Commons, immediately on the bringing of that action by Ashby against the returning officer of Aylesbury, took action and said that it was a breach of the privileges of the Commons of England for any individual to bring an action of that character. And while eleven judges decided, three in particular, that it was a breach of the privileges of the House of Commons, yet after the House of Lords on a writ of error brought before it reversed their action the House of Commons arrogated to itself the power to determine the right and privilege and decided that the court of king's bench was in contempt for entertaining an action of that kind.

After the House of Lords had passed resolutions declaring that it was not a question of privilege for the House of Commons to determine, and after the prorogation of Parliament and after Parliament had been convened again, other parties having brought the same action for damages, an action of trespass on the case, to determine their rights for having their votes refused, not only were the parties arrested and brought before the bar of the House of Commons but the attorneys and solicitors who acted in the case were also brought before the same bar and all were imprisoned.

I speak of this case in order to show that while it was correctly decided that an action did lie for the refusal to receive the vote of the voter, yet the exercise of the power on the part of the House of Commons was arrogant and unwarranted. The action and power of the House of Commons has frequently been cited in the past three weeks; yet it was a power which they were not entitled to exercise, but which they delegated to themselves and exercised in defiance of the law and of the privileges and liberties of the citizens of England. The House of Commons did imprison not only those who brought the action but the attorneys and the solicitors who brought the action for them.

While the House of Lords resisted the encroachment of the Commons, the action on the part of the House of Commons had gained a new impetus on their part, because a short time prior a man by the name of Colepepper at the head of one of the grand juries in one of the counties of England had signed a petition to the House of Commons to vote supplies that the wheels of the government might go on, and they had imprisoned him, and did so time after time until he was obliged to submit and on his knees ask pardon of the Commons. I say that being inspirited by their successes, this controversy was brought on between the Commons and the Lords and resulted in the imprisonment of the attorneys and of the parties who brought the action. And when the House of Lords called on the Queen to allow a writ of error in the cases for a *habeas corpus* in their behalf, her answer was that it might be proper for her to do so, but as she had no longer any reason to keep the two Houses of Parliament in session she would dissolve Parliament. She did so, and thus by that dissolution, says Hallam, a great constitutional question was avoided.

I speak of this to show that although the famous case of Ashby against White was decided on principle asserted by Justice Holt, yet the action of the House of Commons when referred to in this case and in others was an instance of arrogation of power which they had frequently delegated to themselves but which from that day to this they have never again attempted.

Mr. BRAGG. Has not the supreme court of your own State confirmed the decision in the case of Ashby against White?

Mr. HUMPHREY. I said in the outset that the case of Ashby against White was correctly decided; that he had a right to bring his private action for damages for the refusal to receive his vote. I cited the case, however, to show that the House of Commons of England, like all other numerous bodies, in the exercise of power is prone to excess. The democratic party, inspired by its accession to power in both Houses, has started out in the same career of excess of power, and if continued their lease of power will be brief. I cite it as an exercise of power that was not warranted on the part of the House of Commons by the constitution of England.

The supreme court of the State of Wisconsin did decide a case in reference to the right of suffrage, and it arose in this way: some time before I became a resident of the State of Wisconsin a vote of the people of the State was taken to decide whether colored men should have the right to vote. It was decided, I believe, by the official canvassers that a majority of all the votes cast at the election was necessary in order to adopt it, and hence for a time the colored man was deprived of his vote. After I settled in Wisconsin, in 1855, a colored citizen sued an election officer for refusing his vote, and the supreme court of the State decided that a majority of all the votes cast was not necessary for the adoption of the provision in reference to colored suffrage, but simply a majority of the votes cast on that subject; and from March, 1856, until the present time the colored man has had the right to vote in the State of Wisconsin. Thus the supreme court of our State did affirm the principle of the case of Ashby *vs.* White.

I have simply cited the case to show that the House of Commons deemed it an infringement on the privileges of the House for an individual to bring such an action, and all who brought such actions were arraigned before the bar of the House, with their attorneys and solicitors, and imprisoned for that act by which they sought to determine their right to the elective franchise which they claimed under the laws of the land.

But I must hasten on. Mr. Chairman, the security against the military power did not consist in the principle cited by the gentleman from Kentucky, [Mr. CARLISLE.] He reminds the House that since 1707 the veto power has not been exercised in England. Now, I desire to state that the reason why the veto power has not been exercised in England since 1707 is the fact that from that time to this when a minister takes his place at the head of the government he assumes the responsibility of the acts of the government. He says in so many words, "I have advised the Crown to take this action; I take the full responsibility upon myself;" and the moment that any measure brought forward on the part of the government is defeated by the House of Commons, that moment either the ministry must retire or the House of Commons must be dissolved and new writs of election issued, so that the question may go to the country. Thus in sixty or ninety days the people can determine whether the government shall be sustained or not. This is the reason it is not necessary for the Crown to exercise the veto power any longer. In the early history of England, as we all know, bishops were lord-chancellors, and lord-chancellors were prime ministers, and the ministry was not responsible for the measures brought forward by the Crown. But from 1707 to the present day it has been understood that the ministry is the government; that when the House of Commons refuses concurrence in the measures of the ministry the latter must retire and a new ministry be formed.

We are told further that in all cases bills of supplies went hand in hand with a redress of grievances. Now, I desire to state as a matter of constitutional history in England that such is not the fact. From the very time that a ministry was formed in England, from the very day when money was appropriated specifically for given purposes, from the very day the law was passed imposing penalties upon the lord of the treasury should he order the payment of one dollar of money for a different purpose from that named in the appropriation, and likewise a severe penalty upon the officer of the exchequer if he paid such warrant—from that time to this the appropriation bills have flowed, as Hallam says, with redundant profuseness, and this is the only security that the liberties of the people of England have required from that day to this. The supplies of the army depend upon the action of the Commons, and no soldier can be paid without an annual appropriation for that purpose. The mutiny act must be passed each year, because without it no officer or soldier could be punished for any offense. Since the establishment of these principles no rider has been attached to an appropriation bill; the supplies have been furnished without reference to any riders. It was only before the people of England had any constitutional guarantee that if they granted supplies for a certain purpose they would not be diverted to some other purposes—it was only before that time that the redress of grievances went hand in hand with bills of supply. And when was that time? It was prior to the revolution of 1688.

At one time Charles the First conducted the government of England without a Parliament for seventeen years. He who was afterward his Lord Chancellor, Sir Henry Finch, revived the old statute in regard to ship-money in order that by this statute and the granting of licenses he might obtain money, and with this money raise a standing army of foreign emissaries and train bands among his own people without regard to Parliament. It was subsequent to that time—subsequent to the time when the act providing for triennial Parliaments was passed, that a redress of grievances was asked when bills of supplies were called for. But never since the day of the act providing for triennial Parliaments, or rather never from the day annual Parliaments were provided to this has there been a single struggle in the Commons of England in reference to voting supplies.

And, Mr. Chairman, I have called attention to this fact to show that to-day we stand upon the same constitutional principles that the Commons of England do. We stand to-day upon the same points; we have an annual session of Congress; we vote our bills of supplies yearly; we have a constitutional provision against voting supplies to the Army for more than two years. We stand upon the same footing constitutionally as the people of England do to-day. From the very hour they attained that point in their constitutional history that we started out with, when we framed our Constitution, up to the present hour, they have never in any instance attempted to "tack" in any form whatever any redress of grievances as a condition of voting supplies.

You will bear with me, Mr. Chairman, as I wish to present one or two further points. One is as to the power of sheriffs. The police power of the realm was always exercised in the earliest ages of the common law of England by the sheriffs. The sheriffs exercised that police power, and in its exercise have always had the power to bring to their aid the *posse comitatus* of the country, or any armed force necessary to put down riots, or whatever was required to bring about domestic tranquillity.

When the office of lord lieutenant was created the power of that office was, in many respects, made concurrent with that of sheriff. The office of sheriff was the highest and most honorable under the common law of England. In the exercise of the functions of his office the sheriff had all the power that has been given by the law sought to be repealed in this appropriation bill, which gives marshals no greater power than that possessed by sheriffs at common law in England.

I must hurry on. Let me, however, right here call attention to one fact that has been mentioned, that the power of a standing army, that the use of military force has had the tendency to create absolute power and thereby to menace the liberties of the people. Now the tendency toward absolute power in England, the greatest tendency in a long period, was between the reigns of Henry VI and Henry VIII. That tendency to absolute power was at a time when the King had but fifty yeomen as his body-guard, and when there was not a soldier in the pay of the Crown of England; yet, as I have already said, there was a greater tendency in those reigns toward absolute power than has been shown from the time of Henry VIII down to the present time. And why was it? It was because of the encroachment on the part of the star chamber upon the right of trial by jury. It was because of illegal acts on the part of that star chamber and the illegal use of bills of attainder by the Commons. It arose from the imprisonment by the star chamber of jurors who brought in verdicts under their oaths and refused to follow the declaration of the corrupt powers.

Men were most unjustly imprisoned for verdicts which they brought in as jurors, and it was because of those illegal acts on the part, not of a mob, not because of the fear of a standing army, not from any encroachments on the part of any military power, but because of a servile House of Commons in certain instances obsequiously yielding to the demands of the Crown, in others denying any responsibility of the Crown or themselves to the people, assuming supreme legislative and judicial power, denying responsibility to God or man. It was because of illegal acts on the part of the star chamber, and because, too, the House of Commons held that they had the right to exercise supreme power, and that they were not beholden or responsible to the people or the Crown—I say it was illegal acts on the part of the star chamber in a judicial capacity and excess of power; in the Commons, by illegal bills of attainder that promoted the tendency in England to absolute power, and which placed the constitutional history of England in a retrograde scale instead of a progressive one.

Mr. Chairman, the constitutional history of England bristles not so much with bayonets as with the illegal exercise of power on the part of the Commons. In the case of Ashby *vs.* White referred to a great constitutional question was eluded by the dissolution of Parliament, and the illegal assumption of power by the Commons was again attempted, occasioned by the decision of Lord Denman in the famous case of Stockdale *vs.* Hansard, in 1837, in which Lord Denman told the jury that the order of the House of Commons was not a justification for any man to publish a private libel. On May 30 of that year the Commons resolved, among other things, that its jurisdiction was sole and exclusive to determine upon the existence and extent of its privileges; that to bring them into discussion or decision by the institution of any suit or other proceeding in any other tribunal is a high breach of its privileges and subjects all parties concerned to its judgment and punishment, thus attempting to bind, by its declaration of law, all subjects between whom in a court of justice a question of privilege might arise, relying for authority upon the dissenting opinion of the judges in the case of Ashby *vs.* White, and claiming the right to punish at discretion all persons, suitors, attorneys, counsel, and judges who might even indirectly bring their privileges in question in a court of justice. Well may Hallam ask if in the worst times of the Tudors and Stuarts such a doctrine was ever laid down in express terms by any grave authority.

> That the best ground of confidence in the discretion of a Parliament is the mild temper of the government, as numerous bodies are always prone to excess, both from the reciprocal influences of their passions and the consciousness of irresponsibility, for which reason a democracy, that is the absolute government of the majority, is in general the most tyrannical of any.

This war between the arbitrary and limited power of the Commons continued when, in 1840, the sheriffs of London were committed by the Commons for executing a writ of the queen's bench, and although the point raised by such commitment was set at rest by the statute of the third and fourth Victoria, yet this dispute still remains undetermined.

From the foregoing it may be seen that the assertion that redress of grievances in England go hand in hand with bills of supply so far as the liberty of the subject is concerned has no foundation in truth since the days of the Stuarts; that instead of Parliament being the guardian of the liberty of the subject, he has had to crouch under its iron arm until the judiciary lifted him up and said to Parliament, "Thus far canst thou go, and no farther."

How much brighter the page of American history would be if in the struggles for the personal liberty of the subject the judiciary had all stood firm against any encroachments. Familiar with that history, let us turn to the question at issue in the proposed legislation before us.

The gentlemen on the other side of this House have presented to the Executive the alternative to either sign these bills or the nation may go unprovided with any means of life and support. The Constitution provides that the President shall take care that the laws be faith-

fully executed. The power thus vested is not discretionary, it is not limited; it is an express power in trust, it is supreme in its object, and must be exercised by the President, for a failure to do so might result in the overthrow of the Government.

In Cohens *vs.* State of Virginia, 6 Wheaton, Chief-Justice Marshall uses this language:

A constitution is framed for ages to come, and is designed to approach immortality as nearly as human institutions can approach it. Its course cannot always be tranquil. It is exposed to storms and tempests, and its framers may be unwise statesmen indeed if they have not provided it, so far as its nature will permit, with the means of self-preservation from the perils it is destined to encounter.

No government ought to be so defective in its organization as not to contain within itself the means of securing the execution of its own laws against other dangers than those which occur every day. It is very true—

He continues—

that whenever hostility to the existing system shall become universal it will also become irresistible. The people make the Constitution and the people can unmake it. It is the creature of their will and lives only by their will. But this supreme and irresistible power to make and unmake resides only in the whole body of the people, and not in any subdivision of them.

The attempt of any of the parts to exercise it is usurpation, and ought to be repelled by those to whom the people have delegated the power of repelling it.

In view of the principles laid down by Chief-Justice Marshall as just cited, and in view of the fact that the Constitution says the President shall take care that the laws be faithfully executed, if in obedience to the laws he deem it his imperative duty to veto this bill and the Army bill that has passed, and the majority refuse any appropriation, what is the duty of the President? What laws are referred to? The laws of the United States. What do those laws have for their object? The answer must be that laid down in the preamble to the Constitution—to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. So that the object is to maintain the supremacy of the laws and promote the interests of the Government; and if any faction, party, or any State, or parts of these States, attempt its subversion by any means or process whatever, the President may exercise the power necessary to faithfully execute the laws and prevent any attempt, directly or indirectly, to overthrow the Government.

No rightful power can unmake or take away the life of the Government but that which created it. No one part of the people, no political party, or no one State or parts of the States has the rightful power to do so.

Such being the case the President while intrusted with the power given him under the Constitution may exercise it to preserve to the people the Government they have ordained, and may, in the exercise of the power thus granted use the means necessary to attain that result.

It is not too much to say, therefore, that when a majority in Congress refuse supplies, except upon a condition which shall be deemed by the President repugnant to the spirit of our laws, it is his right and lawful prerogative to veto the same to repel such usurpation and arbitrary power. And if supplies are still refused by an arbitrary act of a majority, he may take care that the laws be faithfully executed, and may lawfully exercise the power necessary to attain that result.

In considering this question there is one point of historical interest we may with profit keep in view, and certainly should not forget. In early times the Commons voted a certain share of their own goods. Their last grant of this character was in the twenty-second year of Edward III, in which they granted three-fifteenths of their goods. The Lords granted theirs separately. It is only since the reign of Charles I that grants have been by the Commons, the Lords assenting.

In the case of appropriations by Congress, the appropriation made is not a tax. The Appropriation Committee provides no ways and means, the Ways and Means Committee having all matters of that character in charge. The Appropriation Committee simply ascertain and prepares the estimates for each fiscal year, but have no power to tax one dollar.

Moreover we have already positive laws providing subsistence for the Army and sustenance for the different Departments of the Government; also laws providing how the revenues shall be raised to meet the current expenditures of the Government. But the democratic majority arbitrarily and through the Appropriation Committee say to the people: you cannot for the purposes you have by law provided draw one dollar from the Treasury of the sum you have provided by your revenue laws, unless you will submit to our demands and dictation. Thus the absolute government of a bare majority with its tyrannical, revolutionary, and coercive demands comes to the front with the crown of usurpation on its head to obstruct the Government. In such a condition of affairs and at such a juncture the power resides in the Executive to take care that the laws which provide subsistence for the various Departments of the Government be faithfully executed, and if he finds the democratic majority refuse to open the Treasury for that purpose, that the means already provided by law may be used; he may do as did President Lincoln when he found the door of the Treasury open, so left as the democratic party retired from it into the rebellion not leaving a dollar for the nation's support, he may appeal to the great sovereign of the country, namely, the people, and call upon them to voluntarily step forward and furnish nourishment and succor to strengthen hands and maintain the life of the Government.

Thus faithfully executing the laws already existing, made for the very object expressed in the Constitution, and to attain that just result for which the Government was ordained.

Such, Mr. Chairman, I believe to be the true spirit of our Constitution and laws, for it is "the letter of the law that killeth and the spirit that giveth life." Never were arguments more pregnant with sophistry, more untenable in fact, or more dangerous to free institutions than those brought forward by the dominant party in this House to uphold these illegal and revolutionary proceedings. They have not attempted to show that the laws they seek to amend are unconstitutional; they admit their validity, for they do not attempt the repeal of either but to amend and eliminate a portion thereof.

We now come to the reason advanced for this action, namely, to promote free elections. We deny, Mr. Chairman, that it will accomplish any such result, and believe the very opposite result will be attained. We have shown that if deprived of casting a legal vote any person thus aggrieved can have his action for damages therefor, and in the North the redress is certain.

In the case, however, of the colored people of the South, whose rights in some of those States are daily trampled under foot, that redress is practically denied, and the same power that overawes them at the polls also overawes them in the courts, and if they go to the Federal courts for redress they and their witnesses are arrested on some trumped-up charge made before a State tribunal, and they are thrown into prison. For attempting to exercise their franchise at the polls many have been murdered, others driven from their homes, or taken out and hanged, yet never has one single individual been punished for these offenses; while, on the other hand, never by the presence of any armed force at the polls to protect the voters has a single individual been killed; yet thugs and kuklux, red shirts and white-liners, have swarmed at elections and in the name of free elections have stuffed the ballot-box with tissue ballots, driven thousands of loyal voters from the polls, maimed and murdered hundreds more, and to-day they are fleeing from their oppressors, exclaiming as they go, in the language of the plebeians of Rome:

Since the patricians wish to enjoy the city alone let them enjoy it at their ease. For us Rome is nothing. We have neither hearths, nor sacrifices, nor country. We only leave a foreign city. No hereditary religion attaches us to this place. Every land is good for us. Where we find liberty there shall be our country.

Free elections! Turn your eyes to New York City. Democracy tells us she is there shorn of her jewels by these laws she seeks to repeal. What do we see? Only a week since Tammany society held her election. She would not call for Federal aid if she could. Apprehensive she might be overborne, not by republicans, not by any interference of Federal officers, but fearing the hoodlums of the party, fearing all the slums from which its party has drawn support at the elections would be turned loose upon her, we are told the doors leading to the main hall of Tammany are boarded up, and the main doors on Fourteenth street secured and barred with heavy scantling. In a partition leading across one of the main entrances a door is cut just large enough to admit one man at a time. In this door is a wicket four inches square, through which each one approaching is scrutinized before he is allowed to enter. Inside is a ballot-box of iron weighing two hundred and twenty pounds, guarded by two heavy locks; thus one at a time is allowed to vote, while in the basement are collected, ready for any needed action, two hundred plug-uglies, arrayed in the full panoply of their order, ready to do valiant service in case Tammany is beset by its own offspring, nurtured in its schools, receiving their diplomas from its professors. Thus stood Tammany, like King Lear, cursing its own progeny, claiming its downfall would be but the death-rattle of democracy.

What a commentary on free elections, and this in the city which we are told contains territory that can be encompassed by a ride of one-half hour, out of which may issue an illegal voting power sufficient to decide the next Presidency if these laws be repealed!

Sir, for evils like the present there is a sovereign remedy. As in the past so in the future will it apply a corrective for these great wrongs. That remedy will be found in the voice of the nation, and when it speaks its thunder-tones will reverberate through the land, proclaiming that its triumphs on the James shall not be surrendered on the Potomac.

Mr. RYON, of Pennsylvania. Mr. Chairman, the field of discussion covered by the bill under consideration has been so thoroughly, so ably, and so eloquently explored by the gentlemen who have preceded me that there is but little new left that can be said by anybody in relation to it. Nevertheless, at the risk of being obliged more or less to repeat what has been said by other gentleman and said much better than I can say it, I propose to ask the indulgence of the committee for a few moments while I urge some reasons in favor of the passage of the bill which we have before us and why it should become a law.

A great variety of objections has been made to this mode of legislation, the greater portion of which has no relevancy to the merits of the question at all, so that one sitting here and listening to what has been said by our friends on the other side would not fail to think there was a combined and studied effort on the part of the opposition of this House to suppress and keep from the eyes of the public the real controversy going on before the House.

Among the things which have been urged here with a good deal of force was the allegation that as the democratic side of this House consists of a greater number of southern democrats than of northern

democrats, that as they were in the majority on this side of the House, they demanded this legislation and northern democrats stood here and yielded to any demand made upon them by their southern brethern. Why, sir, let me say to you that there are but fourteen cities in the South which can be affected in the slightest degree by the execution of these election laws. A half dozen of those cities all together would not contain as great a population as the democratic city of New York or the great city of Philadelphia in Pennsylvania. They cannot be under any condition of circumstances affected in anything like the degree that these laws tend to injure and affect the democratic citizens of the northern half of this great nation. It is not in obedience to the demands of the South, because, no matter though this machinery has been enforced there to the extent that it could be lawfully used under the provisions of the act of Congress, the South is to-day, and has been, and will continue to be, democratic in spite of all their election machinery to the contrary. They are of most importance in the Northern States where the parties are nearly balanced, where a few thousand democrats deprived of the elective franchise determine the results in great States.

Why, sir, I stand here a Northern man with an ancestry in the Northern States extending back more than one hundred and fifty years, with every investment I possess on this earth in the North, with no sort of relations south of Mason and Dixon's line, separate or distinct from or other than the relations which one good citizen of this great nation is bound to bear toward another. And yet I am here to ask the repeal of these laws because they operate harshly and unjustly in the Commonwealth from which I came. I know they have been used in a partial manner so as to deprive one class of citizens of their right to vote. And that was the purpose and intent of these laws when they were put upon the statute-book. And we from the North, democrats as we are, yielding to no living man in our devotion to the North and in our devotion to the whole Union, demand the repeal of these most odious and most unjust measures.

Again, Mr. Chairman, it has been said here that this proceeding is entirely revolutionary. I am reminded of the fact that for eighteen long years our republican friends had absolute and uninterrupted control of both Houses of the National Legislature. During that long period of time they have filled our statute-books full of laws that were passed as parts of appropriation bills. If this mode of legislation be a vicious system, it is a wonder that in that long period of power some republicans did not stand up on this floor and condemn it. It is passing strange that our republican friends did not discontinue the practice that they now condemn with one voice as an odious system of legislation. But, as I have already said, they heaped upon their appropriation bills law after law, passed them with their appropriation bills, and they are to-day upon the statute-books; and many of them make most radical changes in the existing laws of the country. It ill becomes a party with such a record to stand up before the people of this country and denounce a practice which they continued for a length of time that in a court of justice would raise the presumption of a custom. Nevertheless, our friends have made themselves hoarse in declamation upon this subject, and they thought that they had absolutely frightened the country from its propriety. The nation was to fall to pieces; the Union was to suffer dissolution; and the Capitol was about crumbling and falling at our very feet; and the country was thoroughly frightened and terribly disturbed.

Right in the midst of all this clamor and noise, Mr. Chairman, we find the capitalists of the country coming down from that great democratic city, New York, to the very capital of the nation and investing in a single day one hundred and eighty-five millions of their surplus money in the loan of the Government that was about being destroyed; investing, sir, at a rate of interest not to exceed 4 per cent. What a commentary upon this fearful revolution that we were getting up here! It not only shows that the people take no stock in senseless talk upon questions of this kind, but it shows another fact: that because of the wicked and ruinous system of laws which have been adopted by the party in power in this Government, the industries and the business of the country have been prostrated and destroyed, so that capital is more profitably invested at 4 per cent. interest than in any legitimate enterprise in this country. Still our friends on the other side, by appealing to the worst passions of human nature, by tearing open the wounds that we had agreed to heal and never again break open, have sought to continue this state of things, and are still disturbing the peace of this great country at the time when they were predicting and all were hoping that we were about to return to an era of prosperity.

Mr. Chairman, what is this revolution of which we have heard so much in this House within the last ten days? It is simply the repeal of a statute without which this Government lived seventy-five years and prospered, and it will live seventy-five more years better without it than it ever will with it. The repeal of a statute which has no effect upon any power in this Government, which touches no one of the great functions of the Federal Government, which is in no wise essential to the existence of any single one of them, and yet over the repeal of such a statute our friends raise the cry of revolution, and seek to excite and alarm the country. We want this law repealed, sir, not as a revolutionary measure, but because we think our republican friends entirely too honest to have the absolute control of the ballot-box. There is occasionally a democrat in this country that on some great political occasion would like to poll his vote and have it counted among the returns, and who has a patriotic desire to take his fair share of responsibility in the management of the elections of this country. And right here you have the reason why democrats stand up and demand that your partisan laws shall be repealed. It is not a question of constitutionality that we care to discuss in connection with this matter. It is the fairness of the laws which you have enacted for the purpose of controlling the ballot-box. But rather than acquiesce in such repeal I find that the republican Representatives on the floor of this House will steadily vote against supplies to keep in existence the executive, legislative, and judicial branches of this Government. They will turn upon us and tell us that we want to starve the Government to death; and yet the only reason why they refuse to vote with us supplies to maintain these several departments is because we demand the repeal of certain laws that we regard most conscientiously and from observation and experience know to be unjust and partial in their operation.

Our friends have an absolute right to vote as they please upon these measures; but when they do so, if the question goes to the country, let them go home and like fair men tell their constituents that the reason they helped to defeat these measures was because they insisted upon keeping on the statute-books these laws relating to the appointment of deputy marshals. Let them explain these laws to their constituents, and ask them if they approve them.

Mr. HUMPHREY. May I ask the gentleman from Pennsylvania one question?

Mr. RYON, of Pennsylvania. Yes, sir; a very short one.

Mr. HUMPHREY. The gentleman has been speaking of Philadelphia. Is it not a fact (I have so understood) that the democrats asked for supervisors in the districts where they were appointed?

Mr. RYON, of Pennsylvania. I do not know how that may be. It is very possible that in order to counteract fraud in one direction they availed themselves of the provisions of the law relating to supervisors; and you will find if you read this bill that the supervisors are not disturbed.

Mr. HUMPHREY. If the supervisors are not disturbed by this bill, we have been (as has been frequently stated) putting chips on our shoulders and knocking them off *ad libitum*.

Mr. RYON, of Pennsylvania. The provision for the supervisors is left in the law; in that respect the statute is not repealed. Some of the powers of these officers are circumscribed, but they are *not* done away with.

Again, we are told that the President is going to veto this measure; that he is not in sympathy with the proposition to repeal these laws. If the inquiry is a fair one, I would like to ask, whom has the President ever authorized to make that declaration upon the floor of this House? To whom has he said that this is an effort to coerce him to sign bills which are distasteful to him? I infer that he never said it to anybody. I have a better opinion of his sense of propriety, I have a better opinion of his judgment than to suppose that he would intimate to his nearest and best friend what his possible action would be upon any measure that might be pending before the people's representatives.

Mr. HUMPHREY. May I state to the gentleman that I do not believe the President has ever intimated what he will do in regard to either of these bills?

Mr. RYON, of Pennsylvania. I had supposed from the way our republican friends—not here, but elsewhere all over the country—had spoken of the President that he was making an honest effort to be the President of the people, not of a party. The rottenness of a former administration had created a stench even in republican nostrils; and when the representatives of that party met in convention to nominate a candidate for President, they had to ignore the third-term man and take up a new man, putting him upon a reform platform. When inaugurated, the present incumbent of the presidential chair thought that reform was to be carried out in good faith, as the people expected. The chiefs of the party took a very different view of the subject. They thought that reform consisted in this: that where a man had been kicked out of office for larceny of the public funds he should be elevated to another and a better position that he might have time and opportunity for reform! This diversity of opinion being a material matter, affecting the harmony of this great political party, led to differences that were not easily reconciled. It in fact resulted in a split in that great political organization, and the split was so exactly upon the center as to expose the rottenness upon both sides.

On the 15th of May, 1878, the republican chiefs met in convention in the State of Pennsylvania to place in nomination a candidate for governor. Some came with their war-paint and scalping-knives; others came with the pipe of peace. For a small consideration, consisting chiefly of the promise of a few loaves and fishes, they effected a compromise by agreeing to say nothing about the Chief Magistrate; but to make their rebuke all the more pointed and effective they complimented the administration of Governor Hartranft. No one reading their platform of principles would learn from it that there was such a man on earth as the President of the United States.

In view of facts like these it becomes a matter of public interest to know when this great love-feast was celebrated between the factions, so that you see here in this House so much concern for the presidential happiness. Or is all this for public effect, to keep away from the reading public, the constituencies that sent us here, the true issue involved in this controversy? Is it true in point of fact that there

has been no reconciliation between the President and this hostile faction in the republican organization, and that all we have witnessed here in the last ten days in the way of concern for the President and his happiness is no more nor less than a "skim-milk masquerade" on the part of our friends in this House?

Mr. OSMER. Will my colleague allow me to ask him a question?

Mr. RYON, of Pennsylvania. Proceed, sir.

Mr. OSMER. Having the power to pass, independently of these appropriation bills, the repeal of these obnoxious laws, (as you deem them,) what reason can your side of the House give for putting the repeal upon these appropriation bills, never having tried to pass a repealing act separately?

Mr. RYON, of Pennsylvania. My friend from Pennsylvania probably has some knowledge of the facility with which the minority in this House may baffle the best intentions and prevent the passage of the best laws, until by lapse of time this body ought to adjourn. They resolved in caucus, if I am not misinformed, immediately upon the assembling of this Congress, that they would resist the passage of any measure except the appropriation bills. The gentleman now has the reason in part why I for one favor the passage of these repeal measures as a part of the appropriation bills.

I am also reminded—and I may properly say it here—that an effort was made to repeal these laws by separate enactments. The gentleman from Mississippi [Mr. MANNING] some two months ago introduced a bill repealing these laws, and every republican in this House voted "no." It was at a time when the rules had to be suspended, and the republicans voting against it there were not two-thirds in favor of the bill of the gentleman from Mississippi. Having glanced at some objections to the course of proceedings which has been adopted in this case, I will simply add that I can see no reasonable ground of objection to the enactment of laws in a legal, orderly, and constitutional method, such as I believe has been adopted in this case. Having answered the objections so far as I deem it necessary to answer them, I will proceed for a few moments to refer directly and specifically to the nature and character of these laws, and to show the reason, in my judgment, why they ought to be repealed.

Mr. HUMPHREY. Before the gentleman proceeds to that part of his argument, I desire to correct one point. I asked the question of the gentleman if the supervisors were not called for. The gentleman replied that this act did not repeal them. What I meant to say was, were not the marshals called for. I understand that this act does not take away the right of the supervisors to look on at the polls. But I ask if the gentleman's party did not call for deputy marshals in the election at Philadelphia?

Mr. RYON, of Pennsylvania. To what time do you refer?

Mr. HUMPHREY. Last fall.

Mr. RYON, of Pennsylvania. Possibly that might have been. There is not a great deal of objection to the supervisors, because one is to be a republican and the other to be a democrat.

Mr. HUMPHREY. I mean the deputy marshals; were they not called for?

Mr. RYON, of Pennsylvania. That I do not know.

The laws proposed to be repealed by this bill were enacted in 1870, 1871, and 1872. The sections proposed to be repealed are those which authorize the appointment of an unlimited number of deputy marshals, and confer upon them most unusual and extraordinary powers to be exercised at the elections. So much of the laws as relate to the duties of supervisors, and in any respect tend to aid in the promotion of a fair election and an honest count and fair return of the votes, remain in full force on the statute-book. So ne of the sections proposed to be repealed or modified are general, applicable alike to all sections of the country, while others, and by far the most stringent and oppressive of these laws, are applicable exclusively to the great cities and towns of this country having upward of twenty thousand inhabitants. The deputy marshals are empowered by section 2022 of the act referred to to keep the peace, to prevent fraudulent registration, fraudulent voting, or fraudulent conduct on the part of any election officer, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited therein; and in the absence of the marshal's deputies the supervisors may exercise the powers conferred upon the deputy marshals.

The power to arrest conferred upon these deputies under the circumstances indicated in this section is in the last degree arbitrary and despotic, and if the constitutional authority to confer such a power upon these officers was free from doubt or difficulty nothing short of an overpowering public exigency could justify its exercise. The deputy marshals may either before or after registering, either before or after voting, arrest and take into custody, with or without warrant, any person who commits or attempts to commit, or offers to commit, any of the acts or offenses prohibited. Who can deny that the power here given to the deputy marshals may be so used as to deprive the elector of his right to vote? Who can deny that the elector thus arrested would be deprived of his vote under a law which requires the marshal to carry his prisoner before a commissioner, judge, or court of the United States for examination? An attempt or offer to vote brings the citizen within the scope of this act, and the marshal may arrest without information or warrant, and upon his own motion, any qualified elector in this country. The ballot-box is the legal and orderly mode of declaring the public will in this Government. It is the recognized legal way of shaping the policy and working out the destiny of this great country. It is the power to which all parties must yield obedience, willing or unwilling. A free government recognizing the people as the source of all power can only be maintained a free government by securing to the qualified elector the free exercise of the elective franchise.

The elective franchise is not free, nor is it secure in the hands of the voter who is liable to be arrested at his polling place before he has voted by an officer with or without process. The instrumentalities and appliances conferred upon these deputies over the ballot practically constitute them the controlling power in this Government. It is within the reach of possibilities in this country, where political parties are so equally balanced, for these officers to make the ballot-box record a result hostile to the will of the actual majority of qualified voters. Such a power lodged in the hands of a single individual would endanger the liberties of any country, and it becomes a formidable, fearful engine in the hands of irresponsible, corrupt, and bad men for the absolute destruction and subversion of free constitutional government. It is not the part of wisdom to confer the power to destroy the Government upon any person, however good and just he may be. Safety admonishes us to take away the temptation to do wrong by withholding the power to do it.

Who are these deputy marshals, endowed with such extraordinary capabilities over the liberty of the citizen and the citizen's elective franchise? Are they high public functionaries acting under solemn and responsible obligations to the people or the people's Government, renowned for their high moral and intellectual standing, so that the people may repose confidence in them? To this inquiry but one candid, truthful answer can be given. They are responsible to no one on earth. Their official life dies with the closing of the election polls. They are political partisans; the curbstone orators in the advance-guard of republicanism. They draw their inspiration from the slums and grog-shops in our cities, and their patriotism is inspired by the $5 a day, paid with the people's money, drawn from all parties, to work for the success of the republican party at the polls. With such valuable instrumentalities in their hands, paid for partisan political services at the polls with the money of the whole people, is it a matter of surprise that our republican friends in this House have resolved to stand firm in support of these odious, tyrannical, and un-American laws, enacted for partisan ends, not to protect but to pollute and pervert the ballot-box and make democratic districts return republican Congressmen. I have said that these deputy marshals were not responsible to anybody on earth, and to sustain this charge I refer to section 5522 of the crimes act. They may seize and take from the performance of his duties any or all the election officers on the day of election, and leave the electors without the means of holding a legal election. They may deliberately shoot and kill any legal elector in the act of discharging the highest right of citizenship; and they are exempt from the service of any process from any State or United States court until a sufficient time has elapsed to put at least five hundred miles of distance between them and the court having jurisdiction of their crime. Deputy marshals may arrest with or without process. It will be noticed that the crimes for which they may arrest rank in no case in the act of Congress higher than misdemeanors. At common law an arrest may be made without process for treason, felony, and breach of the peace, under certain circumstances, which I will refer to in this connection.

A thousand years of judicial observation and experience in the country from which we derive our common-law doctrines have established the proposition that the right to arrest without process in the cases referred to is consistent with personal liberty on the one hand and the maintenance of constitutional government on the other; but this is the limit of safety. One suspected of a recent felony may be arrested by an officer or a private person without process; and if in point of fact he be a felon, the arrest may be justified; but if he should be innocent of the crime charged, the party arresting him would be liable to damages in an action for false imprisonment. To justify an arrest without process for a breach of the peace the offense must be committed in the presence of the party making the arrest. The Federal statute authorizes the deputy marshal to arrest without warrant officers appointed and acting under the authority of the State laws, also persons claiming rights under the election laws of the States, for divers acts of omission and commission, none of which, however, with one or two exceptions, amount to a breach of the peace. The purpose of these restrictions at common law upon the right to arrest is manifest. It is to maintain the personal liberty of the citizen, without which free government cannot exist. The unrestrained right to arrest at any time is full of danger; but the right to arrest given to the deputy marshals at a time when the citizen is in the act of exercising the sacred rights of an elector is a fatal blow at the life of our free government.

In addition to the exercise of the authority which has been referred to, these deputy marshals are authorized to keep the peace and preserve order at the place of registration and at the polls. Peace and order are most desirable attainments at any place and in any government, but they cannot be obtained by a resort to unlawful methods. Where does Congress get authority to go into a State with Federal officers to keep the peace and preserve order at the places of registra-

tion and at the polls? Where does Congress get authority to send Federal deputy marshals into States to supervise elections held under and by authority of State laws; to make arrests, with or without warrant, of election officers and electors for doing or attempting any act or thing in violation of a State law, or omitting to do anything required by the law of a State? It will be admitted that the registration of voters in the States where registration is required is done by State officers acting exclusively under State authority; that elections in all of the States are held and conducted by State officers appointed or elected under State laws, and that all the duties in respect to elections are imposed by the laws of the several States upon these officers; that if these State election laws were repealed there would be no officers and no authority by which elections in any of the States of this Union could be held. It is manifest, therefore, that the laws proposed to be repealed expend their force upon State laws and State regulations. In making a registry of the voters in an election district the officer is required to determine who are entitled to be put on the list. He is required to make a list of the qualified electors in his district. Where does he go for the law to inform him what the qualifications of an elector are? To the Federal statutes? By no means; he looks to the laws of his State; he finds there that the qualifications of a voter are minutely and carefully defined. In determining the right therefore he judges the law and the fact and acts in a sort of judicial capacity. So it is in respect to the officers authorized to hold an election; they judge of the qualifications of a voter by those rules which the laws of the State afford them, and as judges of the law and the facts determine in a sort of judicial way who are entitled to vote at any election. In deciding the right of a citizen to vote, questions difficult to decide not infrequently arise. The election officers, in the most perfect good faith, differ with the deputy marshal or Federal official as to their duty to receive or reject the vote of such citizen, and the Federal officer has at once a case of fraudulent conduct in the officers of the election and he proceeds immediately, with or without warrant, to arrest and take them before a commissioner, Federal judge, or court, to be tried. In Pennsylvania the willful violation of any duty imposed upon a registration officer or any election officer is made a criminal offense and punished by the infliction of severe penalties. The willful omission of any duty imposed upon registration or election officers is also made a criminal offense, visited by severe penalties. I have no doubt the same may be said of nearly all, if not of all, the States in the Union. The individual who fraudulently registers, fraudulently votes, or obstructs or interferes with the elections or any voter at an election, is severely punished by the laws of Pennsylvania. Just at this point the Federal election laws, which it is proposed to repeal by the bill now before the House, come in and denounce as crimes the very same acts and omissions which by the laws of Pennsylvania are made crimes, and subject the same persons to trial and punishment in the Federal courts. How can there be a concurrent jurisdiction over the same citizen for the same act? How can the same citizen for the same act be subject to double punishment, once in a State court and again in the Federal court? If these Federal election laws are constitutional they must be exclusive and the States must retire from the contest and give up any attempt to enforce their own election laws, otherwise we encounter the fifth article of the amendments to the Constitution, which provides that no "person shall be subject for the same offense to be twice put in jeopardy of life or limb." But I have already shown, in connection with this subject, that we have no general election laws, except State laws, and without them we have no machinery for the holding of an election. There is another view in respect to which these laws ought to be repealed. They act upon persons holding office under the laws of the States and performing the duties imposed upon them solely and exclusively by State laws. Can Federal laws impose duties upon a State officer which he will be bound to perform, and for the non-performance of which he may be proceeded against criminally?

In Prigg *vs.* The Commonwealth of Pennsylvania, 16 Peters, 540, the Supreme Court of the United States held that Congress could not impose duties upon a State officer that he would be bound to perform; that he might perform them if he chose to do so, but that the Legislature might prohibit him from performing such duties at any time. If this be a correct view of the subject it would seem to follow as inevitable that if Congress has no right to impose duties upon officers of a State, by a much stronger reason Congress would have no shadow of right to inflict punishment upon officers of a State for their violation of the laws of the State by which their official duties are prescribed.

As bearing upon the same general subject, Minor *vs.* Happersett, 21 Wallace, page 170, decides the following proposition:

The Constitution does not define the privileges and immunities of citizens. For that definition we must look elsewhere. In this case we need not determine what they are, but only whether suffrage is necessarily one of them. It certainly is nowhere made so in express terms. The United States has no voters in the States of its own creation. The elective officers of the United States are all elected, directly or indirectly, by State voters. The members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requisite for electors of the most numerous branch of the State Legislature.

Senators are to be chosen by the Legislatures of the States, and necessarily the members of the Legislature required to make the choice are elected by the voters of the State. Each State must appoint, in such manner as the Legislature thereof may direct, the electors to elect the President and Vice-President. The times, places, and manner of holding elections for Senators and Representatives are to be prescribed in each State by the Legislature thereof, but Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators. It is not necessary to inquire whether this power of supervision thus given to Congress is sufficient to authorize any interference with State laws prescribing the qualifications of voters, for no such interference has ever been attempted. The power of the State in this particular is certainly supreme until Congress acts.

When the Federal Constitution was adopted all the States, with the exception of Rhode Island and Connecticut, had constitutions of their own. These two continued to act under their charters from the Crown. Upon an examination of those constitutions we find that in no State were all citizens permitted to vote. Each State determined for itself who should have that power.

McCrary, Law of Elections, says:

Subject to the limitation contained in the fifteenth amendment to the Constitution of the United States, the power to fix the qualifications of voters is vested in the States. Each State fixes for itself those qualifications, and the United States adopts the State law upon the subject as the rule in Federal elections, as will be seen by reference to section 2 of article 1 of the Constitution, which provides as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The qualifications of voters for presidential electors are also to be fixed by the States, as will be seen by reference to section 1 of article 2 of the Constitution. Inasmuch as Representatives in Congress and presidential electors are the only Federal officers to be chosen by popular ballot, it is manifest that all controversy concerning the right of individuals to vote, whether at a State or Federal election, must be determined by reference to the local or State law upon this subject.

The right of suffrage is not a natural right, but a legal right, derived in this country from constitutions and statutes. It is regulated by the States, and their power to fix the qualifications of voters is limited only by the provisions of the fifteenth amendment to the Constitution, which simply forbids any distinction on account of race, color, or previous condition of servitude.

The recent amendments to the Constitution confer upon Congress only the power to protect the newly enfranchised citizens, and confer no power on Congress to legislate generally for the regulation and enforcement of the right of suffrage in the States. This view of the question is supported by an elaborate opinion delivered by Justice Bradley in The United States *vs.* Cruikshank, 13 Am. L. Reg., N. S., 630. This case is the last authoritative utterance upon the subject, and will be accepted as the correct interpretation until the Supreme Court of the United States changes it.

These authorities recognize very clearly and distinctly the doctrine that there are States, and that the Union is made up of States; that one peculiarity of the Federal Union is the clear and well-defined recognition of a double sovereignty; that within constitutional limits the Federal power is supreme and paramount, and that it lies in the powers expressly granted and necessarily implied; that in all other respects, except where power was surrendered to the Federal Government to be used for the benefit of all, the States have supreme authority. The United States declares who may be citizens, but cannot declare who shall exercise the elective franchise. Every voter ought to be, and probably is required to be a citizen, but every citizen is not a voter. There is not a State probably in the Union where a citizen merely, without other qualifications, would be allowed to exercise the elective franchise. The power in the State to determine who shall vote at the elections is vital. Upon it the existence of the State may depend. This deputy-marshal law confuses and confounds all these distinctions between State and Federal powers, and attempts to control the qualifications of electors by making a United States official the sole and final judge of the right of any citizen to vote at an election, and to enforce that control by a right to arrest before the voter has exercised his right to vote. This brings us to a consideration of the practical working of these laws.

Sixty-nine cities in the United States contain upward of twenty thousand inhabitants; fifty-five in Northern States, fourteen in Southern States.

In answer to a call for information by the Committee on Expenditures in the Department of Justice, the Comptroller of the Treasury reported that in the fall of 1878 there had been expended in about four Northern States for supervisors and deputy marshals over two hundred and two thousand dollars, and several accounts were not adjusted yet.

Philadelphia, with republican judges in all the courts, with the principal city departments in the possession of the republican party, with thousands of dependents and expectants ready to do the work of the party; republican mayor; 1,200 republican policemen; registration of voters chiefly in republican hands; 686 voting districts in the city; more than two-thirds of all these districts controlled by republican officers; the day before the election last fall the marshal of the eastern district of Pennsylvania appointed 773 deputy marshals for Philadelphia at a cost to the Government of $7,600, and the supervisors cost $27,440. Every man appointed deputy marshal was an active republican, and they were all active in influencing votes for the republican candidates.

Now I ask is it just, is it fair, that the money of the whole people should be taken from the Treasury and used as a campaign fund to put in office the candidates of one party?

That deputy marshal-law never was intended to be fair nor its administration for the good of the country. If it had been intended for good or wise purposes the appointment of these officers would not have been given to political partisans. I am ready to vote for any

fair law that will secure honest and fair elections; but I will never vote for election laws to be executed by the politicians of either one of these great political parties. Look at the political level of the great moral and intellectual city of Philadelphia where when Marshal Kerns sounded his bugle-blast for the ingathering of his chosen deputies first came the drunken bloat from his cellar groggery; next came the republican bulldozer and criminal; next came the bummer and repeater armed with a black-jack; next came the man of grip and gather, to gather in republican voters and grip and push from the polls democrats; next came the ballot-box stuffer with his pockets full of republican ballots; next came the man to keep the peace, and he kept his peace while repeaters voted; next from the den of infamy and shame comes the proprietor of the house of prostitution, and with him from their hiding places come the repeater and thief. For the correctness of my description of these officers I refer to pages 31, 38, 39, 56, 112, 113, 145, 146, 155, 156, 163, and 164 of the evidence taken before the Senate committee. Armed with the badge of Federal authority, these veterans in their respective vocations went forth to do and to die in the cause of honest elections. Such are the practical workings of these laws. The men who put the machinery of these laws in motion are selected for their known political service for their party. They have never arrested a republican for fraud upon the ballot-box; nor have they ever performed an impartial duty at the polls. The laws protect and legalize fraud upon the ballot-box. No fair man can justify the abuse of power by these deputy marshals, and no fair man will ask the continuance of such a power over the elections in this country.

Mr. ATHERTON. Mr. Chairman, since the beginning of this debate, each political party has hurled at the other the accusation of an entire responsibility for the extra session of Congress. The country wants repose. Who is responsible? The democrats at the last session could have procured the passage of the necessary appropriation bills, if they had waived their demand for fair and impartial trial by jury, free and untrammeled elections, and the subordination of the military to civil authority. On the other hand it is equally certain that the republicans could have secured them by abandoning their demand for the continuance of certain measures "born of the passions of the war" that were obnoxious to our institutions and that were generally admitted to be no longer necessary; that is to say, the iron-clad test oath, the jury law, the supervisors and marshals law, and the use of the Army at the polls. One party controlled the House, the other the Senate. One of them would not vote for appropriations with nor the other without these measures. Hence the dead-lock and the extra session; and each party must bear its just share of the responsibility for the result.

The people, however, know that this unfortunate disagreement, producing the extraordinary convening of Congress, is the result of a demand upon one side for principles in legislation as old as Magna Charta and as sacred as that for which martyr ever suffered or patriot died—for local self-government, impartial juries, free and fair elections; and on the other for prejudice, partiality, and ignorance in the jury-box, Federal interference in elections, both by officers unknown to the laws of the State and by the presence of armed men at the polls.

Our party demands admitted needed reforms, the other the continuance of existing abuses. The country is to be congratulated, however, as well as commiserated, and for a reason not contemplated by either party at the last session. Being convened in extra session an opportunity is afforded for legislation in the interest of the people. With both branches of Congress democratic, not only in name, but I hope in fact, its majority is ready to look out upon the wants of the people and legislate for their best interests. Among other things, restoring silver to its former place in the currency, favoring all just measures of financial reform, stimulating enterprise, and, so far as Government may, furnishing to labor a just reward.

Without entering upon general legislation at this time I think the end indicated may be accomplished without the exhaustion of any or but little additional time, and the country at large may have a reason, different from what its authors intended, to rejoice over the stubborn refusal of the republicans in Congress "to grant a redress of grievances," at the last session. So with these surroundings we of the present Congress are brought into the arena of action and duty, and it becomes us to diligently look over the field, take our bearings, weigh the argument, and, with the eyes of the nation upon us and under the responsibility of our official oaths, decide the questions at issue with an eye single to the best and paramount interests of the country. I do not flatter myself that in the discussion I can present any new facts for consideration. The whole field has been traversed, and the greater and the less important matters and considerations have all been brought forth and paraded with wonderful research and matchless power and eloquence. As we approach the close of this forensic struggle about all that is left is to resume, to sum up before the matter is submitted to the arbitrament of a final vote.

To one question of importance involved in the debate I have given some attention—the question of securing to the accused in every criminal accusation a fair trial by an impartial jury. I first call attention to the statutes relating to the qualification and challenge of jurors in the Federal courts. Section 821 of the Revised Statutes reads:

SEC. 821. At every term of any court of the United States the district attorney or other person acting on behalf of the United States in said court may move, and the court in their discretion may require, the clerk to tender to every person summoned to serve as a grand or petit juror or venireman or talesman in said court the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not without duress and constraint taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not directly or indirectly given any assistance in money or any other thing to any person or persons whom you knew or had good ground to believe to have joined or to be about to join said insurrection or rebellion or to have resisted or to be about to resist with force of arms the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against or to resist with force of arms the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury or venire to which he may have been summoned.

It will be seen that this and the preceding section provide for the exclusion from the jury-box of every person that has either taken up arms in any insurrection or rebellion against the United States or adhered or given any assistance in money or other thing to any person known to have joined, or there was reason to believe had joined or was about to join, any insurrection, or was about to resist the execution of the laws of the United States. It excluded not only the brave and impulsive youth that followed to the front the flag of his State, but even the father that in paternal affection, perhaps regretting his act, assisted the son to money or clothing, knowing his purpose.

And now, in the progression of political events, what do we see? The test oath modified so that confederates may enter Congress, sit in the Cabinet, (as Judge Key does to-day, Postmaster-General of the United States,) preside in the courts as judges, taking the modified oath, but commending to the lips of jurymen an oath they could not take themselves and driving men from the jury-box for the want of a qualification they, the judges, do not themselves possess.

During the discussion at the last session of Congress numerous instances were cited of judges, district attorneys, clerks, and marshals of the Federal courts who were secessionists, and among them were Hon. R. W. Hughes, on the bench in Virginia; Judge Dick, of the western district of North Carolina; Judge George S. Bryan, of South Carolina; Judge Settle, on the Federal bench in Florida; Judge Hammond, of Tennessee; and Judge Baxter, who now presides in the United States courts of my own State. I cannot stop to give the names or number of district attorneys in like condition, but quite a list has been named.

Now, how absurd is the proposition, that while men are deemed fit to sit in the Cabinet, as the constitutional advisers of the President, participate in the proceedings of Congress, and preside in the courts, that is, to fill the highest positions as law-makers, law expounders, and as law enforcers without taking the iron-clad oath, that a juror must be driven from the panel because he cannot take it. And how absurd and ridiculous it is to see a district attorney, who cannot take the oath, challenge a juror because he cannot take it; and the Federal judge who must himself refuse it exclude the juryman because he, the humblest actor in the court, must also refuse to take it.

It should be repealed, in the first place, to wipe out an incongruity in the law and to produce uniformity. It should be modified or repealed, in the second place, because its existence is a premium on ignorance and prejudice.

It is a matter of difficulty in the Southern States to procure jurymen who can take the iron-clad oath. And in this connection the vicious mode of selecting jurymen in the Federal courts might as well be mentioned. They are, under an existing custom having something of the sanction of law, selected arbitrarily by the clerk and marshal of the United States court. These officers are almost universally republicans. In the reconstructed States they are perhaps universally so, and generally intensely partisan. The judge is a republican; the clerk and marshal are republicans. The two latter look over the district and select men to act as jurymen. They are republicans and are generally ignorant and prejudiced colored men.

Now a large proportion, at least a very large number, of the alleged offenses for which men are now being arrested and tried in the Southern States are those growing out of alleged violation of such laws as section 5506 of the Revised Statutes of the United States, reading as follows:

Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be fined not less than $500, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment.

The acts or facts constituting an offense under this statute are illy defined. Confederation to hinder or delay a person from doing any act to qualify him to vote or from voting might in the eye of a jealous or prejudiced mind be inferred from many acts most innocent in their nature.

It is alleged that the republican party in the South are urging prosecutions under these statutes on an extensive scale, for the purpose of "intimidating" white men and preventing them from taking any part in the conduct of elections, and thereby regaining their lost power in that section. Without inquiring as to the truth of the charge, we do know that the southern papers come to us teeming with accounts of the wholesale indictments and arrests for alleged violation of the election laws. These people are dragged from their homes and taken hundreds of miles, incarcerated and tried—and before what kind of a court and

jury? How is the jury transformed into a patent machine warranted to convict? As I said, the judge is a republican and known to be. The district attorney is of like politics and a fierce partisan. The clerk and marshal have been given their places for services rendered their party. The jury, their creatures and partisans, selected as such, come to decide the guilt or innocence of the accused, who are generally known to belong to the opposite party. If a man perchance gets on the panel who may be intelligent or impartial, the district attorney requires the clerk to tender him the iron-clad oath, and if he refuses to take it the judge excludes him. On the trial intelligence and impartiality are driven from the jury-box. The smallest circumstances are magnified into pretended proofs of guilt, and with all the power and influence of the court and its officers on one side, and with an ignorant jury inflamed by partisan prejudice against the accused, the trial has but one result, and that is, with proof or without, to speedily register a verdict of guilty against the defendant, to be followed by the vindictive judgment of a partisan court.

Such a trial is a mockery of justice and a flagrant breach of constitutional right. The original Constitution in general terms secured to the citizen the right of trial by jury, but the people, jealous of their rights in that regard, demanded more explicit guarantees. The First Congress after its adoption also proposed article 6 of the amendments to the Constitution, and the States subsequently adopted it. It secured to the accused a speedy public trial by an impartial jury of the State or district where the crime was alleged to have been committed. Impartial is the essential word added by the constitutional amendment. The machinery heretofore adopted to select juries in the Federal courts is not designed or intended to secure a constitutional jury. Instead of selecting the peers of the accused, they select those far below him in the social, moral, and intellectual qualities. Instead of selecting the fair-minded and impartial, the system secures the unfriendly and the prejudiced. It is the hollow form of a constitutional jury—the sounding brass and tinkling cymbal—not the fairly selected, fair-minded, intelligent body that should decide all questions touching the life, liberty, or property of the citizen. Instead of convicting the guilty and vindicating the innocent, the system registers the guilt of all. "It holds the word of promise to the ear, but breaks it to the hope."

I am much afraid that a southern jury in a Federal court would never have inspired in Blackstone the matchless tribute to trial by jury found in his Commentaries. In book 3, page 379, he indicates incidentally the remedy for such a jury system as disgraces the Federal courts of the South. In speaking of the superiority of a jury over a single magistrate to determine questions of fact, he says:

> Here, therefore, a competent number of sensible and upright jurymen, chosen by lot among those of the middle rank, will be found the best investigators of truth, and the surest guardians of public justice.

They are not to be selected by partisans, but chosen by lot. Not from a peculiar class, but generally from the body of the citizens. Now, how do we propose to purify the jury-box by the legislation attached to this bill?

First. By a modification of the oath to be administered, allowing a juryman to qualify by the same oath by which the presiding judge qualifies himself for official station.

Second. By compelling a selection of names from which jurors are to be drawn from a large list furnished by the clerk, and a commissioner appointed by the court, but of different politics from the clerk.

When this is done we will again see intelligence, dignity, and independence enthroned in the jury-box, and the verdict will again mean guilt or innocence in fact as well as in name; and the grand birthright of freemen granted under the laws of Ethelred and confirmed in the reign of William the Conqueror will be restored to the State and the people. And, "unless the blood which courses our veins has degenerated from the vital fluid which made the Anglo-Saxon race great and free," we will forever maintain steadfast and under all circumstances the great principle of intelligent, impartial, and independent juries. In evil and in good report, in victory or defeat, in weal and in woe, as long as the sun drives his steeds through the sky, as long as the shadows follow the sides of the mountains, as long as grass grows or water flows, we will consistently and persistently insist on the preservation and maintenance of this bulwark of constitutional right, in truth and in fact, in substance as well as in name.

For lack of time I cannot discuss at length the other political provisions of this bill. The evils to be corrected and the grievances to be redressed are well understood. These do not so much touch the southern people as they do us. The machinery cunningly devised and the artillery shotted to the muzzle, to be used against the South as we supposed, has been turned upon the democratic communities of the North. The power of the Federal Government has invaded States and unlawfully interfered with their elections. A horde of supervisors, marshals, and their deputies, receiving large pay from the people's money, under the pretense of guarding the election of members of Congress, have interfered with the election of every candidate on the same ticket. They were strangers to the laws of the State, yet assumed to construe and enforce them—not in due course of law, for they waited ordinarily for neither affidavit nor warrant, but arrested without affidavit and without warrant. In most instances the parties arrested never knew in any legal form the nature of the accusation against them; never saw the witnesses; had no trial, speedy or otherwise; were arrested before voting, huddled together, detained till after the election, and then the purpose and end of the arrest was silently confessed by their discharge without formal complaint or the chance of a vindication by public trial.

On a recent occasion, in the city of New York, Mr. Davenport, on the night before the election, on the affidavit of his own clerk, issued warrants and on the day of election caused four thousand citizens to be arrested and deprived of their votes.

I find the following graphic pen picture of the facts before me, embodied in the RECORD at the last session, and I think not seriously disputed. I commend its perusal to every person who may think the liberty of the citizen to exercise his right of suffrage is not seriously menaced under the practice that has grown up under this law:

> Such a scene as the room of this court presented on that election day has never before been witnessed in this city or in this country, and it is to be hoped never will again. From early morning until after the polls were closed these rooms were packed and jammed with a mass of prisoners and marshals. Not only were they crowded beyond their capacity, but the halls and corridors were thronged with those who were unable to obtain admission; so that the counsel representing the prisoners and the bondsmen who were to be offered to secure their release had the greatest difficulty and were frequently unsuccessful in obtaining entrance. In addition to all this was this delectable iron "pen" on the upper floor, in which men were crowded until it resembled the "black hole of Calcutta," and where they were kept for hours, hungry, thirsty, suffering in every way, until their cases could be reached. With scarcely an exception these men had gone to the polls expecting to be absent but a short time. Many of them were thinly clad. Numbers had sick wives or relatives; some were sick themselves. There were carmen who had left their horses standing in the public streets; men whose situations depended upon their speedy return; men who wished to leave the city on certain trains. Every imaginable vexation, inconvenience, injury, and wrong which the mind can conceive existed in their cases, so that it was painful to the counsel who were endeavoring to secure their release to approach sufficiently near the railing to hear their piteous appeals and witness the distress which they had no power to alleviate. And over all this pushing, struggling, complaining crowd Mr. Commissioner John I. Davenport sat supreme, with a sort of oriental magnificence, calmly indifferent to everything but the single fact that no man who was arrested was allowed to vote. And after all this tremendous exhibition of the power of this great Government, after this exhibition of what a United States commissioner and chief supervisor of elections can do if he has a mind to, what was the result?
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> Surely if the offenses which these persons had committed were of so grave a nature as to require these wholesale proceedings; if the morals, the peace, and outraged laws of the community required to be vindicated by the summary arrest of four thousand persons on a single day, it was certainly necessary that the law should be enforced to the end, and that the offenses which were so dangerous as to require this arbitrary action should be punished.
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> But nothing of the kind was done. As these men were brought up before the three commissioners who sat in judgment they were asked if they had voted. If they had not they were required to promise that they would not do so. If to escape the terrors of Ludlow-street jail they surrendered their rights as American citizens and made the promise thus exacted, as the great majority of necessity did, they were released upon their own recognizance. If they did not, they were held to bail. If they had voted, although if not properly naturalized such vote was an additional offense instead of a palliation for the crime charged against them, they were immediately released. After sundown, when the polls were closed and it was too late for any one to vote, the doors appear to have been thrown open and all set at liberty.

Of all thus arrested at that time but one was ever tried, and he was acquitted, and acquitted upon a ground that established the innocence of all.

Such laws are a disgrace to the civilization of the age. An election where the voters are allowed to vote only one way is a cheat and a fraud. The other side of this House can declaim loudly against "intimidation" when a southern colored man is the supposed subject, but calmly behold an officer of the Federal Government, surrounded by the badges of authority and hundreds of subalterns and minions ready to do his bidding, arrest and imprison thousands, deprive them of the elective franchise, "intimidate" the entire foreign vote by contesting naturalization papers and arresting all who attempt to vote thereon; and they enter no protest, but will "starve the Government" to save the law. It will be a grand step in the right direction when the republican party can see and respect the rights of a German or Irishman to the same extent they do those of a negro.

Some minor objections are made because these conditions of repeal are attached to appropriation bills.

The Apollo Belvidere of the other side of the House, in opening this discussion on the Army bill, declared that this mode of repeal was revolutionary, and the other athletes of debate on the same side re-echoed the sentiment in chorus.

It has since been shown that in every Congress since the republicans came into power substantial legislation, in the shape of both enacting and repealing statutes, have been constantly attached to appropriation bills. A list of such bills is attached to the speech of the gentleman from Illinois, [Mr. BARBER,] delivered in this House April 4, 1879, showing that between 1862 and 1875 eighty instances of the kind appeared, and during all that time not a gentleman on the other side of the House shouted "revolution."

The familiar instance has also been adduced of Andrew Johnson being deposed from his position as Commander-in-Chief of the Army and Navy by a rider on an appropriation bill, and he compelled to humiliate himself and relinquish his high prerogatives to keep a republican Congress from "starving the Government to death." Where were the stalwarts then that now cry "revolution."

It is said, without contradiction I believe, that one of the very statutes now sought to be repealed came into existence as a rider on an appropriation bill. Where, too, were then the distinguished orators who now so declaim against "revolution" and in favor of the free consent of the Executive? When did the change come over the spirit of their dreams? By their silence then and their earnest

protests now we have the wonderful doctrine proclaimed that it was lawful—yea, commendable—to bring into existence a great body of statute law by attaching it to appropriation bills; that then the President might be properly and lawfully stripped of his constitutional powers by such means; but if a democratic Congress attempts to repeal a law thus enacted it is "revolution" and "unconstitutional governmental starvation."

As the debate proceeded the republicans have been partly driven from the position first assumed.

On the 19th of this month I find the following reported in the RECORD. The gentleman from Pennsylvania [Mr. KELLEY] said:

The whole system of putting such riders on bills is, as I have said, vicious and ought to be abandoned. But it is not revolutionary. And the gentleman from Ohio, [Mr. GARFIELD,] whose speech lies before me, under the title of "Revolution in Congress," has experienced a thorough revolution in opinion since the 8th of June, 1872, if he now believes the practice to be revolutionary.

Mr. GARFIELD. Will the gentleman allow me to correct him? I had supposed that there was nobody in this House who at this late day would say that I had ever asserted that it was revolutionary to put a rider on an appropriation bill. I never said so in my life. It is not in any printed, written, or spoken remarks that I ever made; and I suppose the gentleman from Pennsylvania in his mere iteration of such a charge, which is entirely foundationless, is obliged to take it up second-hand. I disclaimed absolutely such a view over and over again in the speech to which the gentleman refers.

Mr. TOWNSHEND, of Illinois. The gentleman had better take back the speech that he made on the Army bill.

On the 20th day of this month the gentleman from Michigan [Mr. BREWER] alluding to the closing hours of the Forty-fifth Congress said:

We on this side of the House did not then claim, nor do we now claim, that Congress had not the constitutional power to ingraft upon the appropriation bills the proposed political legislation, but we only sought to combat, as we do now, the policy of such a course.

The constitutional power to enact general legislation as riders on appropriation bills is admitted by those high in authority in the republican ranks, and has been confirmed by the repeated and constant course of legislation of a republican Congress, and it does not now lie in their mouths to question it. They are estopped by their own acts to allege its impolicy. Besides, every reader of history knows that the "practice of withholding supplies and thereby coercing a redress of grievances" is as old as English liberty. The power to originate bills to appropriate money is left by the Constitution to this House, and we may originate them upon or without condition.

It is said on the other side of the House that the President will veto the appropriation bill with these conditions attached. Whether he will or not we neither know or ought to know, or what we will do in case of a veto we know not. We will not cross the stream till we reach it. But if the representatives of the people, now fresh from their constituencies, in both Houses of Congress, representing the voice, the latest expressed wish, and the majesty of the nation, pass these bills we have no right to suspect they will be vetoed. I think it would be very safe to assert that he will not do it, unless you of the republican side "intimidate," "hinder," "delay," "obstruct," and "confederate and combine together" to prevent and obstruct him "in the free exercise of his right" to give his assent to the bill. If he could use the provisions of the southern election law against you in this regard, few of you would remain long beyond the clutches of that statute.

In conclusion, I have to say that the democratic party in Congress have adopted as a part of their unalterable creed and ultimate demand that the iron-clad test oath shall be modified so that the intelligence of the people may preside in the jury-box; that fair and impartial juries shall hereafter be impaneled, and constitutional rights restored and protected; that elections, the creatures of States and the birthright of a free people, shall be disenthralled from the interference of officers foreign to their customs and laws; and that the sheen of bayonet and menace of arms shall recede from the sacred presence of freemen while exercising their elective franchise, the highest prerogative of American citizenship.

He who would demand less is ignorant of the value of his birthright, and he who would recede from the demand would deserve the execration of a free people.

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, if the questions involved in this discussion were those of merely common legislative interest I should prefer to still remain a silent participant in your proceedings. But the issues now forced upon us by these hybrid and misnamed "appropriation bills" forbid that any Representative of an intelligent and patriotic constituency should fail to do his utmost, however imperfectly, to defend the liberties assailed and the great interests brought in peril.

For the harmony and progress of the country I regret this new sectional agitation. Against reviving confidence and prosperity, against the just demands of business and the daily necessities of labor, it is at once a "crime" and a "blunder." The democratic party has forced it upon the country. This extra session of Congress was not made necessary by any disagreement of the Forty-fifth Congress as to any appropriation necessary for the Government. The majority in the House determined to compel both the Senate and the President, under the threat of starving them into submission, to register and indorse the edict of that majority in favor of desperate partisan legislation. These political measures were inserted in the appropriation bills from which the majority refused to separate them. The Senate in the exercise of its own undoubted right of judgment, declined to yield its approval to these demands. The Forty-fifth Congress expired by limitation on the 4th of March, without having passed any appropriations for the Army or for the legislative, judicial, or executive expenses of the Government. The Senate and House now both in the hands of the democracy, a joint caucus of that party has decreed that the President shall abdicate his constitutional duty, and whether his judgment and conscience "approve" these mongrel measures or not he shall sign them or the Government shall stop.

The President has given no indication what will be his course on these measures further than the well-known and inflexible integrity of his purposes. But the whole discussion on the democratic side has been an assault upon the constitutional rights of the minority, the undoubted prerogative of the President, and the just claims of a portion of the people.

A democratic caucus has decreed that three great measures of political and partisan legislation shall be inserted in the appropriation bills now pending or that these necessary bills shall not pass. What are these measures? First, the repeal of the law allowing either the military or civil power to keep the peace at the polls; second, the repeal of the jurors' test oath; third, the repeal of the laws passed to provide proper safeguards in the elections of members of Congress.

The real issue in this contest it is impossible to mistake. The democratic majority claim the absolute right to compel the Executive to "approve" whatever measures they may pass, or to refuse to grant the supplies without which our Government cannot exist. They declare that unless the Army shall be used only as they direct in a certain case, it shall not be used for any purpose, but that it shall perish.

The discussion of the pending bill has been full of strange anomalies. In listening to it for weeks past I sometimes could scarcely believe I heard aright. The party which in the hour of peril abandoned the Constitution, and the men who for years sought even by the horrors of civil war to overthrow it, are here claiming to be its only authorized interpreters and defenders. From the lofty way in which they spurn the opinions and the work of those who saved that great charter of rights, it would seem that they regard themselves as a sort of Constitutional Priesthood, specially raised up and anointed as expounders and guardians of that sacred instrument. But, strange as it may seem, almost the only thing I have not heard denounced by them within the last four weeks as unconstitutional is the attempt to destroy the Constitution itself.

We have heard from the other side bitter denunciation of the men who stood by the Union and of the measures by which they defended and maintained it, but not one word of rebuke or condemnation for the men or the methods by which it was sought to destroy it. It would seem to have a strange quality of being binding only against its friends, but void against its foes. The fatal heresy of State rights, of which the rebellion was the logical outgrowth, is still upheld and defended just as lovingly as though it had not been overthrown in that conflict. But for half a century the democracy has been a revolutionary party. For half a century it has taught its followers to exalt the powers of States, to deny the sovereign nationality, and to despise the oneness of united America. The gentleman from Mississippi [Mr. CHALMERS] in abusive terms declared that for eighteen years our party had made of the Republic not only "a military" but "a drunken despotism," "reeling through the land," and "debauched the Government of our country."

Mr. Chairman, this Union lives to-day because of the loyalty and valor of the republican party, and it can but be proud of its illustrious men and its great achievements; not that it saved it without the aid of thousands of the brave democrats of the North, who in being patriots rose above partisanship. Has that gentleman forgotten that when the republican party received the control of this Government its Treasury was empty, its Navy and its Army scattered, its credit dishonored, and it stood a by-word among the nations. Your last democratic President—God grant he may be the last forever—had proclaimed to this country and to the world that this great nation had no power to preserve its own life. Then it was, I say to the gentleman from Mississippi, [Mr. CHALMERS,] that "it reeled like a drunken man." Then it was that, to borrow his own words, "it rocked like a ship at sea without chart, compass, or rudder." But the Ruler of nations had appointed its great captain, and it outrode that wild storm. Whether it is yet to be scuttled by pirates is in the great future. Mr. Chairman, the republican party in its long lease of power through these dark and stormy years has doubtless made many mistakes, and it may be has done many wrongs, but its record is the grandest page of American history, and over all and above all no one man, not one of its four million men in all those years ever raised his arm against his country's flag.

Mr. Chairman, through all its disguises, in spite of the pretexts thrown around it, and the eloquent special pleading in its favor, the real objects of these various measures placed upon the appropriation bills is to take away from the Government of the United States the right to protect citizens at elections of national Representatives. No democrat on this floor has proved that any man of his party has been intimidated or prevented from voting as he desired. But the authority and power of the National Government is to be got rid of in the interest of the heresy of "State rights," sometimes mildly called "home rule," and then with no supervisors in New York, and no "civil" or military power at the South to keep the peace at the polls and pro-

tect the weak, New York and the South can be made solid for the democracy by free fraud and organized murder. Gentlemen, your pretense of zeal for "free elections," so desperately urged even while you have it your own way at the South, will mislead neither the intelligence nor the patriotism of the people of this country.

You stand committed against allowing the black man of the South freely to exercise his political rights. North and South you have proclaimed that this is a "white man's government." The very names of some of your most powerful organizations in the South—"White Leagues" and "white-liners"—mean all of this and more. Your papers and your platforms declare it, and abundantly attested facts give bloody proof that it is true.

Eleven years ago, Mr. Chairman, as a spectator, I sat on the floor of this House and heard the then leader of the democracy here, in a learned, exhaustive speech, plant his party on the basis of eternal hostility to the political rights of the black man. I read from the Congressional Globe, second session Fortieth Congress. He says:

My theory, my principle, and I believe the principle of the democratic party, is one before which all other issues—tariffs, currency, taxes, armies, navies, all mere questions of the hour—dwindle into comparative insignificance. The only real living issue towers above all these, and that is, Is this, or is it not, a white man's government?

The first great proof of the negro's inferiority, and consequent reason that he should not vote, which he adduced is the style of his hair. I will give you his very words, as he cried out with startling emphasis, and I ask the Clerk to read them.

The Clerk read as follows:

The very hair which crowns his head is not hair, but it is wool, wool and wool only. He who will take the trouble to examine it through the microscope, the micrometer, and microtome will see that its structure is that of wool and not of hair. The hair of a white man is cylindrical. The section under the microscope appears perfectly circular, and is provided with a medullary canal, while the wool of the negro is flattened, so that its section exhibits an elongated ellipsis, in the axis of which no medullary canal is seen.

Mr. UPDEGRAFF, of Ohio. How monstrous the idea that any being, a section of whose hair exhibits "an elongated ellipsis," and not only so, but with no medullary canal in it, should ever be permitted by his vote to imperil our institutions! [Laughter.]

But the learned statesman did not stop even here. He declared that the nostrils of the negro were different from those of the Caucasian, which, he says, "form two nearly rectangular triangles, the hypotenuses of which are turned outward." But not to stand on the hair and nostrils alone as full proofs of his incompetency to vote, he relied, as his third great argument, on the fibula, which, he says, "curves outward, so that the knees are more apart than those of the white man." [Great laughter.] The difficulty of this great democratic discovery that the right to vote resides in the shin-bone is, what is to become of the bow-legged Caucasian? [Laughter.]

If there was any doubt now left as to the ruinous results of negro voting this learned democratic leader settled it forever by declaring his "prognathism" is such "as is confined to the lowest races of men, among them the negro." [Laughter.]

He summed up by declaring, "He has not the capacity of any species of popular government; he is not a brother if he is a man, and I will never consent to divide self-government with him," but it "will be resisted in the elective tribunals everywhere;" and adds, "If we degrade this Government into a southern negro Congo government it is as well to take into partnership the ourang, the chimpanzee, and the gorilla." The "fibula" and the "prognathous" carried the democracy in this House at that time, and they took the ground unitedly that the black man should never be permitted to vote. About that time the last of the great amendments to the Constitution was ratified against the bitter opposition of that party, both North and South. After these muniments of the black man's freedom, made necessary by the inexorable logic of the war, had become part of our Constitution, there to remain while the nation lives, the democratic national convention declared them to be "unconstitutional, revolutionary, and void." From that time to this that party has in spirit and in reality stood on the ground that political rights were for white men alone. True, in 1872 the democracy did, by a platform utterance, condone the fibula and the elliptical hair for the "usufruct" of his vote. [Laughter.] That was only in case he voted the democratic ticket. But that race never lacked the intelligence to know their real friends, and so they never voluntarily voted with that party.

In 1872 two leading United States Senators, still members of that body, united in an official report to Congress, in which concerning negro suffrage they declare:

There can be no permanent partition of power nor any peaceable joint exercise of power among such discordant elements. One or the other must have all or none.

And so, Mr. Chairman, from the hour when James Brooks in this Hall set your party on the basis of the denial of manhood or political rights to the black man, that party has sought to trample these rights in the dust. The design in part of these laws you seek now to repeal is to protect him in their exercise. Having given him the rights of a citizen, the Government cannot without infamy allow him to be deprived of them. No truer words were ever uttered on this floor than those of the eloquent gentleman from Texas, [Mr. MILLS,] when, a few weeks ago, he said:

A government is an institution to protect her people, and cannot fail to do it without being guilty of dishonor.

Will you say the black man can freely exercise his right of franchise in the South without this Federal protection? Why, you are pledged that he shall not. Your platforms and your papers are filled with declarations that he shall not. Only a few years ago, after the amendments were ratified, the governor of Maryland in his message to the Legislature said:

This Government was never intended to be shared by the African race. It is a white man's government exclusively.

January 8, 1868, a very large democratic convention met in this city. The president, Judge Dunlap, said:

Shall the people degrade themselves by making slaves the political equals of the men of the North and the South? Never; no, never.

One of the toasts of that convention was, "The Government of the United States, the exclusive creation and property of the white man."

For years the "color line" has been the slogan of the South. Do you expect the people of the country to believe that the men who waged a desperate war with this great Government to make slavery perpetual will now, in spite of your prejudices, your promises, and your platforms, allow these men, born of ages of submission and degradation, to freely exercise against you this new right?

You know it is only a pretense. You know that there are volumes of official proof that the South is solid by systematic outrage and violence. On this floor only two years ago Mr. LAMAR, then a member from Mississippi, in speaking of one of these, said "that no excuse or palliation can possibly be found for these outrages and this barbarism." And the men who spent years in an attempt to rend in twain the Union and the Constitution are now alarmed lest the protection of the citizen shall in some way be a disregard of that same Constitution. But it does not mislead the intelligence or the patriotism of the country. It means that the National Government is to be stripped of sovereignty. It means that the Constitution is to be interpreted as it was by the extremists of the same party in 1832, when South Carolina proclaimed her right to nullify any act of Congress to which she disagreed, and as it was interpreted by the rebellion of 1861, which was supposed to have been overthrown in battle, but which now and here to-day reasserts itself alike in the arrogance of its old domination, in its disregard of human rights, and in its fresh assault upon the national sovereignty, or any interpretation of the Constitution which shall leave its power to preserve its own life.

The people of this country know that the great men who framed our Government meant that it should lack no element for self-preservation. Fine-spun theories of constitutional law do not deceive them. They know that the democratic doctrine, whether expounded by Calhoun or Buchanan, or the State-rights brigadiers of this House, means the degradation or the destruction of the national sovereignty. Just now, as it holds the legislative control, it seeks to exalt that and practically nullify the Executive. Suddenly that party is alarmed to find that a President may have the power to arrest vicious legislation, and in advance a democratic caucus seeks to coerce that officer from the exercise of his sworn duty and his plainest constitutional prerogative by the threat of withholding the means necessary for the great and beneficent functions of the Government. The fact that that party has always advocated and defended the veto power does not seem in the least to influence its present hostility to it. In ignorance or disregard of the fact that the framers of our Constitution, after careful and mature deliberation, placed it in that instrument as one of its necessary checks to legislative encroachment, they declare it to be a dangerous abuse of power. It was not inserted in haste or without definite purpose. In that convention James Madison said:

Experience in all the States has evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger to the American constitutions, and suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles.

Mr. Morris concurred in thinking the public liberty in greater danger from legislative usurpations than from any other source. * * * When a strong personal interest happens to be opposed to the general interest, the Legislature cannot be too much distrusted. Much has been said of the intrigues that will be practiced by the Executive to get into office. Nothing has been said on the other side of the intrigues to get him out of office. Some leader of a party will always covet his seat, will perplex his administration, will cabal in the Legislature till he succeeds in supplanting him.—*Elliot's Debates*, volume 5, page 361.

Far-sighted surely, if not prophetic, of the dangers and designs of legislative party usurpation. But not yet can such results be consummated. The warnings of the fathers shall bring heed and guidance, if not safety, to the people.

George Mason, the great Virginia commoner, said:

The defense of the Executive is not the sole object of this revisory power. He expected even greater advantages from it. Notwithstanding the precautions taken in the constitution of the Legislature, it would still so much resemble that of the individual States that it must be expected to pass unjust and pernicious laws. This restraining power was therefore essentially necessary. It would have the effect not only of hindering the final passage of such laws, but would discourage demagogues from attempting to get them passed.—*Debates*, vol. 5, page 347.

Colonel Mason was one of the wisest men of his day, but he had never seen the Forty-sixth Congress at work on an appropriation bill, or he never would have decided what would discourage demagogues from attempting to get such laws passed.

Some of the members of that convention were in favor of an absolute veto. Mr. Randolph urged the necessity of three-fourths instead of two-thirds of each House to overrule the negative of the Presi-

dent; but in its present form it was placed in the Constitution by a unanimous vote.

In advocating its adoption, Madison urges this as one of its special benefits. He says, in the forty-eighth number of the Federalist:

The legislative department is everywhere extending the sphere of its activity, and drawing all power into its vortex. In a government where numerous and extensive prerogatives are placed in the hands of an hereditary monarch, the executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. But in a representative republic, where the executive magistracy is carefully limited, both in the extent and the duration of its power; and where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude; yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions.

Thomas Jefferson himself had long before urged the same view. I read from his Notes on Virginia. He says:

All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one.

Since the foundation of the Government this power has been exercised by almost every President, beginning with Washington. It has been used about fifty times, mostly by democratic Presidents. They have indorsed and defended it. You have indorsed it in the fullest measure in your national platforms. To attempt to repudiate or resist it now merely to serve a desperate party purpose is the very audacity of revolutionary treachery. Do you care nothing for the examples of your own illustrious Presidents and the authorized avowals of your own party, both of which you so profess to venerate? The democratic national platform of 1856 contains this declaration:

Ninth. We are decidedly opposed to taking from the President the qualified veto power by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interest, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives until the judgment of the people can be obtained thereon, and which has saved the American people from the corrupt and tyrannical dominion of the Bank of the United States and from a corrupting system of general internal improvements.

Not only was this declaration repeated in the democratic platforms of 1860, but the same platforms announce that democratic principles are in their very nature unchangeable. Either democratic principles have greatly changed, or we have here only a spurious article of that time-honored institution.

But let it be remembered that the veto against the National Bank, so fully indorsed in the above resolution of the national convention, was exercised by a democratic President against a democratic House, a democratic Senate, and against a measure which had been recommended by a democratic Secretary of the Treasury, and had been declared constitutional by a democratic Supreme Court. And yet while the democracy exalt the name of Jackson for this the most arbitrary use of the veto power ever made since the foundation of our Government, they are here on this floor denouncing it as an "unconstitutional power,"a "questionable prerogative," and declaring that if a republican President shall dare to exercise it against irregular and most dangerous legislation, the Army shall be left without rations, the Agricultural Bureau, the Pension Office, and the courts shall all be closed, the executive functions of the Government shall be stopped, and the light-houses along seventeen thousand miles of coast shall be darkened. For the first time in our history it is threatened that revolution shall be the answer to an executive veto from a party fully under the control of men lately in armed revolt against the Government.

President Polk in his message to Congress, December 5, 1848, says:

It is not alone hasty or inconsiderate legislation that he [the President] is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. In deciding upon any bill presented to him, he must exercise his own best judgment.

* * * * * * *

Any attempt to coerce the President to yield his sanction to measures which he cannot approve would be a violation of the spirit of the Constitution, palpable and flagrant, and, if successful, would break down the independence of the executive department and make the President, elected by the people and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. * * * If he surrender this power or fail to exercise it in a case where he cannot approve, it would make his formal approval a mere mockery, and would be itself a violation of the Constitution.

In this line of democratic precedents, on the 17th of February, 1855, President Pierce sent to Congress a message vetoing the French spoliation bill, in which he says:

It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment or be faithless to the trust reposed in him. * * * While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually has his approbation, for while it requires him to sign if he approve, it, in my judgment, imposes on him the duty of withholding his signature if he does not approve. In the execution of his official duty in this respect he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or the wrongfulness of the proposed law.

During the last year of the term of the last democratic President a great and beneficent measure of wide public interest, the homestead law, was killed by an executive veto; but that party threatened no revolt, nor even condemned the act, though in that veto message it was offensively declared that the grant of a homestead would "go far to demoralize the people," thousands of whom had petitioned for that beneficent measure of wise and elevating legislation. But the southern masters of the party had condemned it, for it was in the interest of free homes and free labor, as they are now aiming to "wipe out" legislation equally in the interest of the weak and the defenseless.

To justify their assault on a plain constitutional principle our opponents have taken a line of argument anomalous and amusing, if neither logical nor sincere. But what could they do? They could not appeal to the Constitution, for it was hopelessly against them. They could not urge party authority, for their national platforms openly indorse the veto and its use. They could not seek refuge behind their own precedents, for Madison, Monroe, Jackson, Polk, Pierce, and Buchanan had all freely used and most of them stanchly defended this time-honored democratic usage. What should they do, for a change of base was necessary to meet the desperate exigency of the new conspiracy?

In the closing hours of the last Congress a distinguished and versatile Senator [Mr. THURMAN] conceived the vagary of defending new and revolutionary measures of American legislation by English precedents of two hundred years ago. He went so far as to declare:

The question is whether or not that power which the House of Commons has exercised for now centuries gone by can be exercised by the House of Representatives, modified to some extent by the Constitution of the United States.

* * * * * * *

England was saved from despotism and an absolute monarchy by the exercise of the power of the House of Commons to refuse supplies except upon condition that grievances should be redressed.

Since that time Charles I and Edward have been constantly on parade in both branches of Congress, and our debates have become a confused mass of ancient history. British precedents are to govern us. Monarchical methods are to interpret our Constitution. Madison is obsolete. I have listened to this debate for a month without hearing a democrat name Jackson, for the House of Commons is the new Moloch of democratic worship. The pretended followers of Jefferson are now suddenly enamored with the English precedents, policies, and methods which that sturdy republican so honestly hated. Jefferson says he found the English heavy with beef and beer, and worshiping only wealth, rank, and power. The democrats of the Forty-sixth Congress find them altogether lovely, for they were often conspiring against the executive. No wonder some of these leaders think "intelligence and property" should govern. It would seem that, as slavery is dead, that party must have some idol of caste-power to worship.

The distinguished gentleman from Virginia [Mr. TUCKER] the other day said:

This weapon [the refusal of supplies] has reformed the British monarchy, purged away its despotic principles, secured public liberty and the personal rights of man by the splendid muniments of law and an independent judiciary, and brought the whole government under the influence and control of the will of the people.

Alas! "the will of the people" has no control in England, unless by people you mean only certain classes—classes privileged in some way, either by birth or wealth or power. No human being is recognized as having any political right in England in virtue of his manhood. Only a few years ago one of her great ministers exclaimed in Parliament, "What have the people to do with the laws but to obey them?" This is the real spirit of British institutions. The throne and the miscalled Commons alike are built on trampled rights. England's power is a colossal fabric, made vast by conquest and dowered with the spoils of the whole earth. Illustrious by literature and great in achievement, yet she regards humanity only as it may be a means of power or a source of danger.

Among all the nations of Europe her government is the only one which admits two hereditary branches. The King represents prerogative. The House of Lords represents birth-aristocracy. What does the Commons represent? Property or wealth-aristocracy. Is this true? Does it not really represent the people, as we are told it does every day in this debate? How can it with only a fraction over one-third of the adult men voting? The elective franchise itself is an aristocratic system. It is placed on a property basis. The majority of the men of England have no vote or voice in the election of that Commons. How, then, can it be a reflection of the will of the people? True, they have had from time to time parliamentary reform and have enlarged the sphere of the elective franchise, but it is always only a question of how much property shall give this right. In the time of Charles I, so often alluded to, the contest was simply between the King and a few thousand people of England, or between aristocracy and wealth.

The Commons of England really represents mainly the land of the country. More than twenty million people live in England. Thirty thousand men substantially own the agricultural land of that country. Sixty-two men own six million acres of the soil. Two hundred of these landowners, mostly of the "privileged orders" and many of them members of the House of Lords, a few years ago returned a majority of the House of Commons. In the debate on the late reform bill it was shown that there were in that house two hundred and five

members closely related to "peers of the realm," and of the six hundred and fifty-eight members only about two hundred had neither title, office, pension, or patronage. Even above this basis of flagrant mockery of popular liberty the members are so distributed as to give supremacy to the landed aristocracy.

In a late Parliament a single earl, owning eleven townships of land of more than two hundred and sixty thousand acres and containing four boroughs, was able to return seven members. The boasted reform of 1832 was settled on the basis of aristocratic supremacy. Lancashire, with a manufacturing population of over a million, and Lymington, called a seat of landed gentry, with three thousand three hundred inhabitants, had each a member. Yorkshire, the seat of the woolen manufacturers, with twelve hundred thousand people, had the same representation as two boroughs with a joint population of six thousand. By the boasted reform bill of 1866 the franchise was somewhat extended, merely as a measure of self-protection, and for months the high debate in Parliament ran upon the mighty issue whether it should require a rental or ownership of fifty or one hundred dollars to fully qualify and prepare a man to vote. In all the mass of precedents, good and bad, that make up the so-called British constitution, for they have no written constitution, I challenge any man to find an act, or law, or line of recognition of the political status of any human being in right of his God-anointed manhood.

Compared with this system of feudal pomp and mockery of liberty, and contrasted, too, with the sickly worship of them so fashionable and so constantly heard just now in various places, how refreshing and healthy to recall the brave, true words of the men who framed our Constitution. In that convention Franklin denounced the distinctions based on property. Wise George Mason said:

> We all feel too strongly the remains of ancient prejudices, and view things too much through a British medium. A freehold is the qualification [for voting] in England, and hence it is imagined it is the proper one. The true idea, in his opinion, was that every man having evidence of attachment to and permanent common interest with the society ought to share all its rights and privileges. Was this qualification restrained to freeholders? * * * Does nothing besides property mark a permanent attachment?—*Elliot's Debates*, v. 5, p. 387.

Now, the haughty barons it was who wrested from King John a charter of their feudal privileges, and not of popular rights. The conflicts between the Commons and the King and between the Commons and the Lords are the antagonisms between the rank of birth, the aristocracy of accident, and the no less exacting and absolute aristocracy founded in England on property and power. As the King's prerogatives are not limited by any written constitution, but settled only by precedents and sometimes by special acts, it is inevitable that there should be uncertainty, extortions, conflict. We have had a vast amount of random talk about "supplies" and "grievances," founded largely on misapprehension of facts. A large part of the "supply" granted to an English monarch is either to carry out his own arbitrary plans, as in the case of the ship-money demanded by Charles I, or, as often happens, vast sums for his own personal indulgence. May, in his Constitutional History, says:

> It was not till in the reign of Charles II that Parliament established the principle of appropriating supplies to specific services by statute, and to these were added, at various times, special grants for extraordinary purposes. It has been customary to grant the King, at the commencement of each reign, the ordinary revenues of the Crown, which were estimated to provide, in time of peace, for the support of His Majesty's dignity and civil government and for the public defense. * * * Whatever remained of this annual income, after paying the necessary expenses of the government, was at the King's absolute disposal, whether for the support of his dignity and influence, or for his pleasure and profusion. Not satisfied with these resources for personal expenditure, there is no doubt that Charles II applied to his own privy purse large sums of money specially appropriated by Parliament for carrying on the war.

This shows at a glance how grievance and supplies were constantly connected. The same connection has existed under that system ever since; but for two hundred years no House of Commons has voted to stop the supplies to carry on the government, though often those bills are loaded with the most absurd and odious burdens. Within the present century Windsor Castle, one of the royal residences, has received for improvements $15,000,000. The natural children of William IV have received in "supplies" $15,000, and the natural children of George IV no less than $500,000 in grants from Parliament. Half a million dollars have been granted to royal dukes and duchesses, and in one bill of "supplies" there was granted for the repairs of the Queen's kitchen garden at Frogmore $115,000, for the royal yacht $100,000, for the repairs of Pimlico Palace $750,000, and thousands more for what are well named "mysterious pensions."

The present Queen, one of the wisest and most moderate of England's rulers, absorbs yearly for royal prerogative and imperial pomp millions of money largely wrung by rental, tax, and excise from the millions of her people, who have no more voice or part in making the laws by which they are governed than the dogs in the royal kennel, to which a liberal "supply" was recently granted. At her marriage Parliament granted to the Queen $1,400,000 annually for the royal household expenses, besides the revenues of the Duchy of Lancaster, which in 1875 yielded three hundred thousand more. In short, the Queen and royal family receive in supplies over $6,000,000 to furnish the royal household and stables, the royal children, and the royal kennel. The other day I read in a London court journal that the Queen had now in Windsor Castle nine million dollars' worth of plate, and on the same page of the same paper is an account of the riot of starving men in the Walton manufacturing district, asking for work or bread.

Under such forms of government no wonder grievances grow up, and even wealth becomes weary of granting supplies. Under our system, with a written Constitution, minutely defining the scope and sphere of each of the co-ordinate branches, there can be no grievance, in the English sense, against a President. He has no prerogative. His powers and duties are directly granted and carefully guarded by the Constitution and the law. He, as much as this House, is the representative of the people. He is charged with the execution of the laws. If bad laws are on the statute-book it is absurd to call that a grievance against him. If he differ with the Legislature the Constitution tells him expressly what he "shall" do; and to call that dissent a grievance is to impeach that Constitution, and to resist that established principle is to conspire against the Constitution.

If the President oversteps the boundary of his rights, impeach him. That is the constitutional remedy, and the only one. Why shall the whole nation suffer in the loss of trade, in the loss of confidence, in the alarm of capital, in the stagnation of enterprise, and in the paralyzed functions of the Government for any wrong the Executive may do? It is only a pretense. The people know it is a desperate and revolutionary attempt to assure your own supremacy by means without precedent or warrant in law or Constitution. Driven from all your own usages and principles, you fly to the musty records of the imperial system which our illustrious fathers disowned and renounced. They told us, too, that our system was not designed to conform to any model.

In the convention Mr. Morris said:

> There is one difference, however, in the two cases [the King and the President] which disconcerts all reasoning from the British constitution. The British executive has so great an interest in his prerogatives and such power for means of defending them that he will never yield any part of them. The interest of our Executive is so inconsiderable and so transitory and his means of defending it so feeble that there is the greatest ground to fear his want of firmness in resisting encroachments. He concurred in thinking the public liberty in greater danger from legislative usurpations than from any other source.—*Elliot's Deb.*, vol. 5, p. 346.

In a discussion which occurred in Congress twenty-two years ago, the radical difference between our Government and that of Great Britain was put with great force by Senator Cass, a man of commanding influence in the democratic party. I read from the Congressional Globe, second session Thirty-fourth Congress, page 12:

> Gentlemen talk of stopping supplies. Even in England it is rather a flippant remark, and I do not think has occurred there for nearly two centuries. The last time it was done was, I think, in the time of Charles I. That is a tripartate government, an antagonistic government, with two hereditary bodies and one elective body. The radical difference between the two governments is, this is the government of the people and that is the government of the sovereign. The Queen there inherits the sovereignty. The supplies which the Commons may stop are not the supplies of the people. The government is not the government of the people Here, if you stop the supplies of the Government, whose supplies do you stop and whose Government do you check? The Government of the people. You stop the supplies of the people.

Mr. Chairman, during the progress of this discussion *I* have been not a little surprised to find gentlemen on the other side so blindly devoted to English precedents and methods. In many ways they are utterly at variance with the spirit of our Government. The mere mention of some of these, it seems to me, will convince us at once that they are utterly unsuited to our practices. English law has always dealt cruel punishment to those who have risen in rebellion against her power. Not stopping at death and confiscation of property of rebels, she has blotted out by attainder the civil rights even of their children. How utterly abhorrent are such laws compared with the mild and more than forgiving spirit of American legislation! So fully are we imbued with this humane unselfishness that not even the most devoted worshipper of English precedents has gone so far as to sanction these cruel and unwise customs. British barbarity even shot rebels out of loaded cannon, and has secured her power, strange as it may seem, by bloody penalties rather than by conciliation and forgiveness.

Incredible as it seems to us, the old and unrepealed English law of 1570 still forbids that a rebel shall sit in Parliament, for it declares that he is dead in law if not, as he generally is, in fact. Now, such a law is utterly unsuited to us. It would break up this Congress, defeat reform, and indefinitely postpone that political millennium so feelingly anticipated by the noted gentleman from Mississippi [laughter] [Mr. CHALMERS] when this Government, so long "debauched" by those who rescued it, shall be ruled by these "purer and better men." But I leave the whole question of English precedents, still in doubt whether some of their usages are wise or otherwise.

In the discussion of these measures much has been said about the Army and the peril of standing armies. Since the democracy has been in power in this House a continuous assault has been made on our little Army. It seems to carry with it unwelcome associations to our opponents, for it is still, small as it is, the symbol of the power that was the bulwark of the Union. So from year to year the attempt is made to reduce it, to harass it, to humiliate it, and now to starve it. Mr. Chairman, no other first-class power on earth would call our brave little band of twenty-five thousand a standing army. Our forefathers were jealous of standing armies, it is true, but they had in their minds the vast armies then kept by the great powers of Europe. Frederick the Great then had two hundred thousand soldiers in arms. The French had three hundred thousand, and soon increased to seven hundred and seventy thousand. The British Army was nearly two hundred thousand strong.

In discussing this very question, urging the adoption of the Consti-

tution, James Madison estimated a safe basis to be one to one hundred inhabitants, or an army of thirty thousand at that time, which would give us now at the same ratio an army of about three hundred and sixty thousand men. We have one to every eighteen thousand, or sixty to every million of the inhabitants. This little band is needed to protect our frontier of thousands of miles, and to man our sixty fortifications and arsenals. In many of the Southern States there is not a single United States soldier, and only eleven hundred and fifty-five in the whole South. The cry about a standing army is intended to arouse prejudice and to degrade and weaken still more the power of the National Government. Our Army is no "hireling" force but a part of the people, and inherits the proud and grateful memories which cling to that grand victorious host, the first and only great voluntary army known in the history of our race, whose glory was not conquest, but liberty, whose triumph was not oppression, but peace.

With these tender and holy memories yet fresh, of its sublime sacrifices, its illustrious achievements, and its quiet return to the ranks of peaceful industry, you cannot arouse fear or prejudice against our little Army of twenty-five thousand men. It may defend; it cannot endanger. It will protect; it cannot oppress. Had the statesmen of this country done their part of the great work as well as the soldiers did theirs, the land would now have peace, rest, and prosperity. This Congress would neither be in session, nor so constituted as to alarm the confidence, paralyze the reviving industries, and imperil the peace of the country.

Mr. Chairman, I would rejoice to know that the bitterness of our great sectional conflict could fade into forgiveness and forbearance if not into forgetfulness. Your party will not let it be so. You cannot deny that the Government, through its victorious party, has treated you and your great crime with a mercy and magnanimity unmatched in history. This very Congress is filled with proofs of a forbearance of which no nation ever before dreamed. The people were beginning to accept it in the hope of a true reconciliation. Five years ago, standing among the new graves of the brave dead of my own county, in a public address, I said:

> Remember that only when impotent resistance to the inexorable law of freedom and of progress on the one hand, as well as all proscriptions and distinctions of civic rights on the other hand, shall be buried by victor and vanquished, will the living be at peace and the dead truly glorified. Then only will reconciled enemies become united and one, not only in common valor and bitter experience, in interest and destiny, but in patriotism and heart, in peace and good will, with
>
> "One hope, one lot, one life, one glory."

Would it might be so. You are to-day making it impossible. As the original fire was of your own kindling, so this new stirring of the embers is your work. From the solid South comes an assault upon every department of the Government in which nationality still lives. The cry against Federal supervision at national elections, as it is plainly written in the Constitution, is an effort to get rid of the presence and power of the Government in the States. Then we know what will happen. For years you have declared the freedman shall not vote, and your fair promises and soft words have been followed by cruel massacre and superfluous crime. You tell us it is wicked and "sectional" to speak of these outrages, but not a word of condemnation of the outrages themselves. You commit an impudent invasion of the rights of every northern soldier or citizen when you thus build a bandit power on the crushed franchises of three million people, and trample the dearest rights of man under the bloody and brutal feet of might and murder. It is the glory of power to heed the cry of the humblest sufferer, and this great Government will not forsake the men it has lifted from chattels into citizenship.

Mr. Chairman, if reconciliation comes it must come with an equal recognition on both sides. It must come with justice, with obedience to law and to the sovereignty which the framers of our Constitution proclaimed must be "supreme." We will agree that our battered shields shall be hung up side by side as trophies of a common valor, but we will not agree that the dogmas which led to that awful conflict shall be honored and enthroned. We will not agree that loyalty shall seek pardon of treason. We will not agree that the unmatched defense of our Union shall ever be written down other than as everlastingly right. We will not agree that any man in any section of our land shall be despoiled of his political rights or ask in vain the shelter of our flag. We will not agree to exalt the perils or sanction the heresies that must endanger if not destroy our majestic possibilities.

In the past the republican party has dared, against prejudice and passion, to stake its power and anchor its legislation on what the great commoner of England has so well said is the only safe foundation, "the basis of eternal right." No party can afford to disregard this great truth. But I rejoice that there are forces higher and better than laws. There is a guidance wiser than that of statesmen. Free labor, free homes, open schools, the wealth of field and mine, are the irrepressible forces of national life. The truest thought and the wisest liberty are born to victory. The true end of political conflict is to find out and establish the right as the bed-rock of all wise legislation. So grounded and so governed our Union shall become an indestructible thing, our Constitution truly interpreted shall bear no seed of death, and through the ages the world shall take heart from the example of a mighty nation grandly illustrating *the wisdom of liberty, the safety of progress.*

Mr. FORT. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. FORT having taken the chair as Speaker *pro tempore*, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. HUMPHREY. In pursuance of the order of the House made this afternoon, I move that the House now take a recess until ten o'clock to-morrow morning.

The motion was agreed to; and accordingly (at ten o'clock p. m.) the House took a recess until to-morrow morning at ten o'clock.

AFTER RECESS.

The recess having expired, the House (at ten o'clock a. m., Thursday, April 24) resumed its session.

LEGISLATIVE APPROPRIATION BILL.

Mr. DAVIS, of North Carolina. I move the rules be suspended and the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880, and for other purposes.

Mr. SCALES. Mr. Chairman, this debate drags its slow length along. The subject is exhausted and yet the debate continues. I would gladly have seen it ended many days ago, but it was not the pleasure of the House so to order. I therefore claim the attention of the committee.

Let us for a moment retrace our steps and see what are the issues. It is proposed, first, to repeal so much of the law as authorizes the use of troops at the polls to keep the peace; second, so to amend the law in relation to jurors in the Federal courts that the test oath shall be repealed and that the jury list shall be made up and drawn in the presence of and by persons of both political parties, so as to insure absolute fairness and impartiality; third, to repeal the law which authorizes the use of supervisors and marshals at the polls, with this exception, that two supervisors may still be appointed for each precinct to attend at registration and at the polls merely as witnesses. I mention them all here, for they are in the same line of reform and have more or less contributed to the debate. A mere statement of the case decides it. As an original question it would not admit of debate. Cover it up in the passions engendered by the war and in the bitterness of political strife, and it becomes a grave question. Imagine for a moment a proposition introduced into the convention of our fathers that framed the Constitution that the President, who is Commander-in-Chief, should at his discretion use the Army to keep peace at the polls, and that he should at discretion *appoint* supervisors and marshals to attend at the polls, with the power to arrest voters either with or without process, what do you think would have been the result? It would have been rejected with scorn and indignation. From that day down to the breaking out of the late war, a period of over seventy years, there were no such laws and none dared to propose them.

The Government is based upon the will of the people, and that will should be expressed absolutely free from fear, favor, or any undue influence. This will is the source of all political power; corrupt the fountain and the stream will be corrupt. The legislative and executive branches of the Government derive their powers from the people, and are but agents to carry out their will under such restrictions as the people in their organic law have imposed. Let this will in any way be coerced, or subjected to even the shadow of force, and you strike a blow which, if followed up, must shiver to atoms the granite foundations of the Republic. It has been said that up to this time there has been no abuse of this power. Suppose this were true, does it prove that there never will be an abuse of the power? The President, from the very nature of the case, is more or less a partisan, and he himself is to be voted for. Members of Congress are to be elected, and party supremacy is dependent upon the result of the elections. Will he act in the interest of party? He may not, I trust he would not; but a people jealous of their rights will be slow to trust him.

Is it true that there has been no abuse of this power? Loud complaints and charges come from all over the country. It has been made the subject of investigating committees by Congress, and it is claimed that hundreds of voters have been disfranchised and many elections carried by these officers in the interest of party. It is not necessary to decide how this is. I will not undertake to do so now, but in all frankness I ask all parties is it not a dangerous power in the hands of an opposing party? The republicans have it now, but hereafter it may elude their grasp and may go into other hands. Will republicans then feel safe? I am proud to say in this matter that the democrats and greenbackers are together, and so they will stand until these obnoxious laws are repealed and the will of the people left free. Repeal these laws and all parties are placed upon the same footing, and all will go before the people upon their merits.

The framers of the Constitution gave to the several States the power to prescribe the qualifications for electors and to make the necessary regulations to secure free and fair elections. I believe this power is wisely bestowed. The people of the States are vitally interested in that branch of the National Legislature that alone has the right to originate bills to levy taxes and disburse public money, and they alone should have the power to have their interests ably and faithfully guarded.

In the wide expanse of territory embraced by this great Government there must and will be great diversity of feeling and interest. There must be compromises for the common good, so that the burdens and privileges may be shared equally by all. Let the Representative feel his dependence upon his State and her laws, and you place upon him a responsibility which guarantees faithfulness to its interest, without in the least interfering with his duties to the General Government. The General Government is made up of all the States, and if the interest of each State is faithfully represented and guarded, it must follow that the whole cannot suffer. Give this power to Congress alone, which is so far removed from the people, and you weaken responsibility, and in the same proportion lessen the faithfulness of the Representative. It has been asserted time and again that the democratic majority in seeking the repeal of these laws seek but to perpetuate their own power. I believe these laws are unconstitutional and dangerous to liberty, and for these reasons, above all party, they should be repealed; but at the same time I do not hesitate to declare that the only hope of the democratic party is in free elections. How is it with the republican party? If the democratic party, as is charged, seek the repeal for party ends, is it not also true that the republicans see in their perpetuation an indefinite lease of power to them? We need only recur to the history of this law and its execution, now so familiar to the States, to place this beyond controversy and develop the true inwardness of this contest. Let me again state the issue; its importance demands it.

The presidential campaign of 1880 is just before us. The frauds, intimidation, and coercion of that of 1876 brought this country to the verge of ruin. Both sides claimed the election, both sides charged fraud, and no man was bold enough to deny that frauds of the most startling character had been committed; the question was who did it. It was referred to an electoral commission made up of Representatives, Senators, and judges of the Supreme Court. The democratic party, relying upon the justice of their cause, intrusted the whole matter to a body, a majority of whom were of a different political complexion, but it was said they were judges and were above party. The result showed that the confidence was misplaced, and that party spirit wherever found overrides all other considerations. The commission was eight to seven. They decided that they could not go behind the frauds. They would not hear the proofs even; the rights of the States were so sacred that even fraud if committed in the States was too sacred to be unearthed. The decision was made not in justice or good faith but by reason of eight to seven. The country was cheated and a man made President who it is believed was never elected. With this precedent before us the democratic party desired as far as practicable to free elections from all unfair outside influence, and proposed the repeal of these laws. They wish all parties to go into the next campaign upon what they have done and propose to do, and let the people at the polls, free from all Federal influence or power, decide between them. Not so the republicans; they must have the Army and the supervisors and marshals and deputy marshals; they must have them at the polls. To pay these they will control near $300,000. In 1876 these supervisors and marshals cost $275,000; in 1878 $202,000 of the people's money, and they can employ them without limit. With these men and this money and this power thrown upon their side they propose to go into the election of 1880. With it they hope to win; without it they sink to rise no more.

The pretext is that if these laws are repealed you cannot get fair elections. What a commentary upon republican institutions! What a slander upon the people! If true, the people are no longer to be trusted. If true, it sweeps away the entire foundation of republican government. But it is said we seek our purposes in the wrong way; that we put the repeal upon an appropriation bill, and threaten to starve the Government unless the President signs it, and this is said to be revolution. Let us examine this a moment. It is a grave allegation, and, if true, too much honor cannot be awarded the faithful watchman who has discovered and proclaimed the treasonable purpose. But if untrue, then he who charges it is a traitor, a mover of sedition and strife, and deserves the scorn and indignation of an outraged people. What are the facts? The amendment is upon an appropriation bill, but it is there by the rules of the House as decided by the Chair, and sustained by a majority of its members, and by innumerable precedents established by the republican party themselves. There is no revolution, then, in placing a rider upon an appropriation bill. If more proof were needed, we have now the declaration from all the prominent men on the other side that there is nothing wrong in this. Where, then, does revolution come in? It is said that two prominent Senators of the democratic party at the last session of Congress claimed that they had a right to withhold supplies in order to secure a redress of grievances. Was this necessarily a threat? Was it intended to coerce any one? Not at all. These gentlemen did but give expression to their conviction that these laws should be repealed; that the safety of the country, as far as it depended upon fair elections, demanded it. They unhesitatingly declared that in obedience to that power vested in Congress by the Constitution to originate and pass appropriation bills they could not wisely give a dollar to keep troops at the polls or to pay supervisors and marshals and deputy marshals to watch over and control the elections, and this is the head and front of their offending.

The party, it is true, held a caucus for conference, and conference only. No one was bound by its action, and it was so announced. In that conference we agreed that we would seek to incorporate these amendments upon the appropriation bills, first, because we believed that we could reduce expenses without injury and greatly to the benefit of the Government $275,000; second, and more important still, because we hoped to secure free and fair elections. These were our convictions, and we acted upon them without regard to the convictions of others or what would be their action. Must we yield them at the wild and partisan cry of revolution? Must we surrender to the Executive at his bidding, lest the wheels of Government may be stopped by him? Away with such doctrine! It destroys the independence of the different branches of the Government and commits all legislative power to the President. This is the extent of the revolution, no more and no less.

But, Mr. Chairman, let us return to the last days of the Forty-fifth Congress and see the beginning of this matter and its progress to the present time.

On the 15th of February, 1879, (page 18 of the RECORD,) we find Mr. Hale, a leading republican from Maine, advising Mr. Hanna, of Indiana, not to put an amendment in which he was interested on the appropriation bill, for the reason that it would not pass. I give his language:

> Mr. HALE. Let me suggest to my friend from Indiana that if this appropriation be put in a separate bill it is much more likely to go through, if any appropriation bill goes through, than it would do if attached to a long appropriation like this, on which we are promised to be antagonized with special legislation, and if we got into a dead-lock *the appropriation bill will not go through.*
>
> But I do not think any one here will take the responsibility of antagonizing a bill to pay the arrearages of pensions so as to make the machinery efficacious. If the gentleman attaches it to this bill with all its incumbrances, *he will not accomplish what he desires.*

This was before any amendment had even been proposed, and I believe even before the form of the amendments and their extent had been agreed upon. There was a rumor and but a rumor in regard to them, and yet so eager was this active and irrepressible party leader to stir up strife and rekindle again the fires of sectional hate that he could not wait. Like the war-horse he smelleth the battle afar off, and determined, so necessary was conflict to his party, that if it did not come otherwise, to provoke it. This is the first threat and the first effort at coercion. Again, on the 19th of February (page 45 of the RECORD) he uses this language:

> I cannot predict the result. I can only say for one I believe this side of the House is determined that this revolutionary legislation shall not obtain. I can say for myself that ten years' experience have taught me no parliamentary wit and no device and no plan under the rules of the House which shall not be resorted to if this amendment is ruled in to prevent it being passed here and now on this appropriation bill.

Again, on the forty-eighth page:

> Mr. HALE. Now, I only want to say a word further, and I do not say it in any menacing way; I do not say it except in the spirit of sober warning. This side of the House believes sincerely that if this body of law be struck from the statutes, the laws of the several States afford no protection to the citizen when he seeks to exercise the right of suffrage.
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> * * * * * * *
>
> *We cannot and will not endure it.*

Where then was the distinguished gentleman from Ohio, whose patriotism has been so much shocked by the wicked efforts of the democratic party to starve the Government. I would not do him injustice; it is a grave matter; let him speak for himself, and out of his own mouth we shall judge him. February 19 (page 56) he says:

> Now, Mr. Chairman, if the effort to accomplish these purposes be persisted in, the minority will meet it in the spirit of the Constitution and by the fullest exercise of all our rights of resistance. We shall resist the repeal of these laws whether it take one night, two nights, ten nights, or all the days during which this Congress lives. [Applause.] Not by our consent shall you remove from our statute-books these muniments of the elective franchise. When you succeed you must do it because you have the full power to do it, and not by our help or our consent.

Where was the distinguished gentleman from Michigan, whose bugle-blasts have so often summoned the republican clans to the contest in his patriotic struggle against revolution:

> Where, where was Roderick then?
> One blast upon his bugle-horn
> Were worth a thousand men.

Alas!

> How vain are all things here below;
> How false, and yet how fair!

He is found on the side of the Hessians. He and his clans are deliberately, willfully, and of malice aforethought on the side of revolution—rank, criminal revolution. They were in the minority; they sought to defeat a decided majority and to stifle its will. To do this every effort was resorted to. They declined to vote to prevent a quorum, and well-nigh was it accomplished. I remember well the occasion, and the bitter disappointment manifested by the revolutionists when they failed. My friend from Illinois [Mr. FORT] and from Minnesota, [Mr. DUNNELL,] deeply absorbed no doubt in the consequences of revolution, for the moment forgot the situation and when their names were called, contrary to express orders from king cau-

cus, voted. An earnest effort was made by each of them to withdraw their votes, but the House would not allow it. Another vote was recorded by a pure-hearted old gentleman on that side. He voted against the amendments. A rush was made for him and he was asked, "Why did you vote?" In the simplicity of his nature he replied: "I voted against the thing because I thought it ought not to passs." In this way three votes were added to the democrats, a quorum was secured, and the revolution failed. This was indeed revolution. Is it doubted? Let us hear again what the distinguished gentleman from Ohio says within the last ten days, (April 5, page 18, RECORD:)

I never claimed that it was either revolutionary or unconstitutional for this House to put a rider on an appropriation bill. No man on this side of the House has claimed that. The most that has been said is that it is considered a bad parliamentary practice; and all parties in this country have said that repeatedly.

The gentleman from Kentucky [Mr. BLACKBURN] evidently thought he was making a telling point against me when he cited the fact that in 1872 I insisted upon the adoption of a conference report on an appropriation bill that had a rider on it; and he alleged that I said it was revolutionary for his party to resist it. Let me refresh his memory. *I said then and I say now that it was revolutionary for the minority party to refuse to let the appropriation bill be voted on. For four days they said we should not vote at all on the sundry civil appropriation bill because there was a rider on it, put there not by the House but by the Senate.*

I was sorry the rider was put on, and moved to non-concur in the amendments when they came to the House. But when the minority on this floor said that we should not act on the bill at all, because the rider was put upon it, I said and now say it was unjustifiable parliamentary obstruction. We do not filibuster. We do not struggle to prevent a vote on this bill. I will be loyal to the House that I am a member of, and maintain now as I did then the right of the majority to bring an appropriation bill to a vote.

This not only proves revolution but it was revolution without justification or excuse; for up to that time according to his own admission we had done nothing but what we had a right to do under the law. What was the object of this revolution? In the language of the same gentleman I answer it was to "starve the Government." Was it heroic? No. Was it chivalrous? No. Was it unmanly? Yes, an unmanly effort to starve the Government, by preventing necessary legislation, and preventing even a vote upon it.

Thou therefore which teachest another, teachest thou not thyself? Thou that preachest a man should not steal, dost thou steal? * * * Thou that abhorrest idols, dost thou commit sacrilege? Thou that makest thy boast of the law, through breaking the law dishonorest thou God?

Let me affectionately commend these sacred and yet pertinent words to gentlemen on the other side.

Then you were as anxious about the Senate as you now are about the President. You feared to trust them even though you had a majority there. Why this effort to forestall the Senate? Why this great haste? It was a party necessity and not an inch of ground must be yielded without a contest. Fight the amendments, get up revolution and sectional hate, and you starve the Government but you save the party. On the other hand, give the people free elections, and you save the Government and starve the party. True to their past history, they made the election and the Government was sacrificed. Look at their record. By their corruptions they have robbed the Treasury, by their extravagance impoverished the tax-payers, and by their legislation in favor of the moneyed power they have literally starved the laboring classes. And now they will stop the wheels of Government before they will allow free elections to the people.

At the last session we defeated the revolution and passed the bill in the House. It was defeated in the Senate. A conference was asked and obtained. We believed these laws as they stood were unconstitutional, and yet in the interest of compromise we modified our demands and asked for the amendments as now proposed; they refused, and hence this extra session. Where does the responsibility rest? The Senate is now democratic. Hence we hear the cry next raised that we intend to coerce the President. Who speaks for him to-day? Who is authorized to do so? The whole argument is based upon the fact that the bill will be vetoed. This fact is either assumed or is within the knowledge of some one. If known, and has been spoken by his authority, I undertake to say that such conduct is highly criminal and without a parallel. It is an effort to intimidate the legislative branch of the Government by threats of the Executive. It is revolutionary and dangerous, and shows the importance if not absolute necessity of taking from him all power over elections. If it is assumed, then it may be that all this storm has been raised without cause. He may sign the bills, and if he does, all is quiet and peace. This was feared, and the President must be forestalled, and he must be coerced by a party necessity into a veto. A caucus of the party had been held, and it was reported that a distinguished gentleman in that caucus had said that "if we had Grant we would know what to depend upon; but as for this fellow we know not whence he is or what he will do;" and then they proceed to make him do what otherwise he might not do. But it is said that some of these measures as they stand were introduced by democrats and passed by them. They are all in the same line, as I have shown, and I propose by incontestable evidence to show what democrats thought of this legislation. On the 20th of February, 1879, page 49, Mr. WILLIAMS, of Wisconsin, said:

Mr. Chairman, the opposition of the democratic party to the law now proposed to be repealed has been consistent, unremitting, and logical. In 1871, after the events of 1868, * * * men high in the democratic counsels, like the late honored Speaker Kerr, declared this legislation not only to be "unconstitutional and utterly void," but a "violation of common honor and common decency," and he was followed and sustained by distinguished democrats like the gentleman from New York, [Mr COX,] Mr. Eldredge of my own State, Mr VOORHEES, Mr. BAYARD, and others equally eminent, by whom this legislation was characterized as "outrageous and infamous," "surcharged with malice," "a blow at self-government," an "advance toward a constitutional empire," and the officers to be appointed under it, in language expressive if not elegant, were likened to the "locusts and lice of Egypt."

This, then, is no new thing with the democracy; not the democracy of the South but that of the North, East, and West; not the democracy that, as is alleged, endeavored to shoot the Government, but the democracy that stood by the Union and aided the Government to the extent of their power and influence in shooting down the rebellion. It is with them a living principle, whether many or few, strong or weak, at all times and under all circumstances they have been consistent. Democrats, this is your record; you have a right to be proud of it. As a democrat I rejoice in it; and had I the power I would with a pen of fire, in letters of living light, write it upon the heavens, that all might look up and read and see in these principles the perpetuity of republican institutions.

The Constitution declares that all bills for raising revenue shall originate in the House of Representatives. The Senate shall have the right to propose or concur in amendments as on other bills. Why was this given to the House alone? The reason can be found in the fact that the Representatives come directly from the people and are directly responsible to the people. They are familiar with the business, trade, and occupation of each locality, and understand what should be protected and what and how much burdens each should bear. Justice Story takes this view. In volume 2, page 47 and page 340, we find the following:

It may be fit that it should possess the exclusive right to originate money bills, since it may be presumed to possess more ample means of local information and it more directly represents the opinions, feelings, and wishes of the people; and being directly dependent upon them for support, it will be more watchful and cautious in the imposition of taxes than a body which emanates exclusively from the States in their sovereign political capacity.

What is all this worth if it is subject without restriction to the will of the Executive? Nothing; literally nothing. The clause is meaningless and the privilege intended to be conferred worthless. In the present legislative appropriation bill there are now one hundred pages, and many items on each page. If the President can veto without restriction any item which may not commend itself to his judgment or whim, he can block the wheels of Government, for he will have full power over all taxes and all disbursements of the people's money. The veto power is given in general terms; but surely it was not intended to override this provision in the Constitution which intrusts to the House alone the power to originate revenue bills. I can now recall but one instance of the veto of an appropriation bill, and that was because there was incorporated into it an amendment which violated the Constitution and infringed the prerogatives of the Executive. All the precedents are the other way. In 1876 even General Grant, as bold and imperious as he usually was, submitted to this principle. He found serious grounds of complaint against the sundry civil bill for the fiscal year ending June 30, 1871. He declared that such a bill was disastrous to the public interest; and yet he says, "I do not feel warranted in vetoing an absolutely necessary appropriation bill," and signed it.

Again, in 1865 the republican party, who had possession of both Houses of Congress, placed on an appropriation bill a clause which deprived the President of a part of his prerogative as Commander-in-Chief of the Army. If there was ever a case in the eyes of all men from the framing of the Constitution down to the present time which called for the prompt exercise of the veto power, this was one. But Mr. Johnson would not take the responsibility of stopping supplies. He protested, but signed it. We have in this bill placed before Mr. Hayes upward of $18,000,000, an ample amount to meet all the demands of the Government. Will he turn his back upon it because Congress has declared in an amendment that they will not pay one dollar to the Army or to the marshals at the polls? If so, let him take the responsibility. The South has been dragged into this debate and held up as again in revolution. The charge is wicked and slanderous. We above all things do not want agitation, but peace. The country will do us the justice to remember that this controversy is not of our seeking. We have convictions deep and strong; and as Representatives we have dared to express them, and this is our only offense. It is admitted on the other side that this repeal does not affect the South and is not intended for that section. On the 19th of February, 1879, (page 51 of the RECORD,) the gentleman from Maine [Mr. FRYE] declares:

Mr. FRYE. Mr. Chairman, I do not believe that this is a question affecting the South at all. This law has been upon the statute-book since 1872, and the republican party has disappeared in the South as the dew disappears before the rising sun. The South will be solid for the democratic candidate for the Presidency in 1880, law or no law, supervisor or no supervisor, United States marshal or no United States marshal.

But the South cannot elect a President of the United States. Something else is necessary. What is it? The electoral vote in the State of New York. There is the difficulty; there is the reason for this requirement of the repeal of this law. New York must be carried by the democratic party in 1880 in order to elect a democratic candidate for President. With this law upon the statute-book gentlemen know perfectly well that New York cannot then be carried for the democratic party.

In the face of all this the revolution of the South is harped upon day after day and by every republican orator. The reason is manifest. Without this there could be no sensation, and without a sensation the people are with us.

Mr. Chairman, the unhappy war through which we have passed

has been made the fruitful source of much strife and much unwise and mischievous legislation, yet I hope and believe that its results are not all evil. We have learned on both sides to know and appreciate our own people, their valor as well as their devotion to principle. This will make us tolerant and more cautious in infringing upon the rights, liberties, and opinions of each other, and will, I trust, give us an everlasting peace. The soldiers who fell on both sides were martyrs to principle; and if it be true that the blood of martyrs is the seed of the church, then surely the blood of these brave men, so freely shed all over our land, will water afresh the tree of liberty planted by our fathers. It shall grow and strengthen and spread until its shadow shall be cast over all nations, furnishing shelter not only to the unborn millions of our own children and children's children, but to the oppressed and down-trodden throughout the world.

Mr. Chairman, give us free elections, and a brighter day will dawn upon us. I speak in the spirit of prophecy. I have watched the day-spring from on high. In 1881 there will be another watchman upon Columbia's wall. His vision, his patriotism, and his platform will take in the entire country—the East, the West, the North, and the despised South as well. No more will we see section arrayed against section in civil dissensions and political strife; no more will we hear the croaking of the ill-boding crow that this land with its heritage of liberty is to be destroyed by revolution and starvation. But in its stead we will hear the joyful proclamation as it is borne upon the wings of the wind from Maine to California amid the ringing of bells, the thunder of artillery, and the gladsome shouts of a redeemed and united people:

> The winter is past, the rain is over and gone; the flowers appear on the earth; the time of the singing of birds is come, and the voice of the turtle is heard in our land.

Mr. DAVIS, of North Carolina. Mr. Chairman, I am obliged to my friend and colleague [Mr. SCALES] for yielding a portion of his time to me.

In the discussion which has been pending for some weeks in this Hall, the Army appropriation and the legislative, executive, and judicial appropriation bills have been considered together, and this discussion has assumed a much wider range than is necessary for a full, fair, and complete consideration of the bills themselves or of the political features, as they have been termed, incorporated in the bills. In my judgment, it is one of the strongest evidences of the propriety and justice of the measures proposed, that gentlemen who oppose them have to go beyond their legitimate consideration to find reasons—reasons did I say?—no, not reasons, but grounds of appeal to passions and prejudices and bitter, unpatriotic sectional hates, to urge against them.

What is it that we propose to do? Gentlemen on the other side, launched upon the stormy sea of passion and guided by partisan fears and partisan hatreds, have gone so far from reason's shore as to lose sight of the real issues, and, mistaking the rotten ship of the republican party on which they are embarked for the old ship of state which carries, and will safely carry, the fortunes of a restored Union held together by the strong bonds of a common interest, of mutual respect and fraternal esteem, and by just and impartial laws for each and every part of that Union—bonds of union which democrats North and democrats South intend to cement, and which they will not permit to be severed by any sectional party or parties—mistaking, I say, their rotten hull for this noble old ship, and feeling that the coming wave of another popular election will carry them to the bottom or wreck them on some political shore where they can no longer feed upon the spoils of office and plunder the public Treasury, they raise the howl of "revolution" and the despairing cry of "starvation," and these are the arguments and the only arguments which they address to this House or to the country.

Now, sir, let us bring our republican friends back from this stormy sea for a moment and see what it is that we propose and what it is that they, in their insane or pretended fears, call "revolution" and "starvation?"

First. We say that we will pass the appropriation bill for the Army; that the Army shall be fed and clothed and supplied with everything necessary for it, but it shall not be used at the polls, unless "on the application of the Legislature or the Executive, when the Legislature cannot be convened," and then only to protect the State against "domestic violence," as is provided by the Constitution. We say the Army shall not be used simply at the call of a deputy marshal for mere police duty; no such use is warranted by the Constitution; no such use is demanded or can safely be permitted in a country of freedom and law where the military power should be subordinate to the civil authority, and we will not vote one cent of the public money for any such use.

Our republican friends say—for if they do not mean that they mean nothing—they say unless you permit the Army to be "used to keep the peace at the polls, (for that is the only issue between us on the Army bill,) and that means, unless you permit the Army to be used as a political power to enable us to control elections and retain power, then the Army shall have no money and the Army shall starve. Wring it and twist it as you will, and this is the attitude of our republican friends on the Army bill: "Let the Army be used to keep the peace at the polls or we, the republican minority, will defeat the appropriation bill and the Army shall starve or be disbanded." This is the logic, this the irresistible conclusion of their argument. The argument means this or it means nothing. If this is not the fair deduction from their premises, then all they have said is nonsense.

Second. Judges of the Federal courts can require jurors to take what is called the test oath. This oath excludes from the jury-box every soldier who served in the confederate army, (and everybody knows that almost the entire white male population of the South was in that army,) and it excludes all who in any way gave aid and comfort to any one engaged in that army. Under this power Federal judges and district attorneys (some of whom cannot themselves take the oath which, in the interest of party and in trials for political offenses, they require of jurors) can pack juries and pollute the very fountains of justice; and this has been done, and done under the forms of law. The test, as is stated in the public prints, has been applied to democratic jurors, while republicans are not challenged. I am glad to say that this complaint does not apply to the judges or attorneys of my State.

We say to our republican friends, we will vote money to sustain the judiciary, but none of it shall be used to pay packed juries. Let the fountains of justice be pure and unpolluted—let us have fair courts and honest juries. The right to be tried "by an impartial jury of the State and district wherein the crime shall have been committed" is guaranteed by the Constitution, and we only ask that this guarantee of a most sacred right of freemen shall be observed. But our republican friends say: "No. If you do not leave it in the power of Federal courts to pack juries, by applying the test oath, we, the minority, will see that no money is allowed the courts, and justice shall die." If their argument does not mean this, it means nothing, and is nonsense.

Third. We say the Department of Justice shall have the money necessary for all legitimate purposes, but we will not vote money to pay deputy United States marshals (all or nearly all of whom are partisan republicans and appointed—notoriously and unblushingly appointed—for partisan purposes) to control elections and destroy freedom at the polls. Hundreds of thousands of dollars have been paid to these deputy marshals, and this has been a corruption fund in the interest of the republican party. Our republican friends say, "No, unless you give us money and permit us to employ deputy marshals at the polls, we, the minority, will see to it that this appropriation shall fail."

Fourth. We say the supervisors shall not have power to arrest citizens without warrant, and they shall not interfere with a free ballot. Remembering the services rendered by such partisan, political tricksters as Commissioner and Chief Supervisor John I. Davenport, who by his illegal, partisan use of power deprived hundreds and thousands of citizens in New York of their right to a free ballot, and remembering the partisan services of the thousands of supervisors appointed not in the interest of free elections but of party, our republican friends say "No, unless you allow supervisors at the polls with all the powers which we have given them, the appropriation shall fail and the wheels of Government shall stop." If their argument does not mean this, it means nothing, and all their talk is nonsense. How sincere they are is well illustrated by the case of Dean *vs.* Field, in the Forty-fifth Congress. By the returns of the poll-holders and by the supervisor's report Dean was entitled to his seat, but every member on the republican side of the House, except Mr. Butler, of Massachusetts, voted to seat Field.

In 1876, 4,863 supervisors and 11,612 deputy marshals were employed at a cost of $285,912, and in 1878, 4,881 supervisors and 4,725 deputy marshals were employed at a cost of $222,714, making over 26,000 in all, at a cost of more than $500,000; and I suppose no one on the republican side will be so wanting in candor as to deny that the bulk of this money was spent in the interest of the republican party and not in the interest of free elections. No one, I suppose, would be willing to be regarded so simple as to imagine, for instance, that Davenport was appointed for any honest purpose. For three-quarters of a century this Government had fair elections without the aid of deputy marshals and supervisors, and since their use there have been more frauds and villainies perpetrated by their aid than at all the elections from the foundation of the Government down to the day of their first appointment.

Has Congress the constitutional power to pass the pending bills? Unquestionably it has. Is there anything in them which violates the Constitution or interferes with the prerogative of the President or any other branch of the Government? No one will dare say that there is. No one who has any reputation to lose; no one who has any knowledge of the law, or whose opinion is worth a straw, will have the effrontery to say that there is. No one on the other side has ventured to say that there is; and yet gentlemen on that side, with a perversity of vision and a disregard of logic incomprehensible to me, say that it is revolutionary in us to do that which they admit we have the perfect legal and constitutional right to do, and which they themselves have done on many occasions, and on one at least when they willfully and deliberately invaded the constitutional rights of the President.

The gentleman from Michigan says that the majority says to the minority, "Yield your judgments to ours." Well, there is a difference of opinion—not about the legal right or constitutional power, but about the propriety of passing these bills, there is a difference of opinion, and there must be some settlement of this difference. The Constitution provides that "all bills for raising revenue shall originate in the House of Representatives." I have not time now to discuss

the reasons for giving to this House this power; but if it be revolutionary and little else than treason, as says the amiable, polite, considerate, and accomplished statesman from Michigan, [Mr. BURROWS,] who waves the bloody shirt so gracefully, and who, as he snuffs its odor, bellows over it as a herd of oxen at the smell of the blood of a slaughtered mate; if it be revolutionary for the majority to say to the minority, "Yield your judgments to ours or the supplies shall stop," what is it when the minority says to the majority, "You of the majority, yield your judgments to ours, or the supplies shall stop?" If one be revolution and starvation, what must the other be? I think I can find a partial answer to this question in the very polite language which the gentleman from Michigan [Mr. BURROWS] applied to us, "It is a compound—pardon the expression—of idiocy and insolence seldom equaled, never excelled." Of idiocy in supposing that a thinking people can be deceived by it, and of insolence and arrogance in supposing that the minority is the Government, that the republican party is the state. "I am the state," said Louis XIV. "Stand aside, I am holier than thou," said the Pharisee. In arrogance it excels Louis, and in comparison the Pharisee is a pattern of humility.

Now, sir, one would suppose that the questions at issue could be determined upon their merits; but, as I have said, the discussion has taken a wide range. Our republican friends have regaled us with all the horrors of the late war. For the want of better argument, all sorts of bad purposes have been attributed to us. We have been told that we were trying to starve the Government, that we were, using a polite epithet of the courtly and courteous statesman from Michigan, [Mr. BURROWS,] "co-conspirators," and the changes have been rung on treason, rebellion, slavery, the fugitive-slave law, and old John Brown has been again marched to the front; "full high advanced" the bloody shirt has waved, borne farthest to the front by some who did not so well like its appearance when the blood had a fresher smell; and my esteemed friend from Iowa has given us a very touching sermon, with the old fugitive slave and bloodhound for a text. He has discovered, and is filled with pride by the discovery, that the republican party has done what "no other party dared try to do." My friend has discovered, and "if he never utters another syllable on the floor of Congress" he "wants it remembered," that the declaration that "all men are created equal," as proclaimed by the Declaration of Independence, was only true in theory till his party made it a very fact and a very truth.

Well, sir, I confess that under the good old ways of democracy men were, in fact, born and grew up and were not created as Adam was, but my friend and his party have changed the mode and they are now, in fact, created equal. Will my friend tell us whether they will stay so? He says that during the eighteen years since the republican party came into power "the country has prospered financially and otherwise as no nation on the globe ever did prosper." Now when the millions of impoverished people in this land, millions impoverished by the financial policy of my friend and his party, when the laboring masses whose labor gives strength and power to this country, when the toiling millions read the gentleman's talk of prosperity, and look around them and see that this prosperity has been for the few, not the many, for the favored class who deal in untaxed bonds and enjoy the benefits of monopolies created by his party; when they see that only the favored few have been financially prosperous and by the aid of his financial policy have hoarded millions; that while business has been stagnant, thousands have been bankrupted and millions of working people have with difficulty been able to make bread, they will hardly be able to see this prosperity and they will be more grateful to my friend and his party for having established the absolute "equality of all men," at their creation if he will discover some plan to keep them so after they are created.

Mr. PRICE. Will the gentleman permit me a moment?

Mr. DAVIS, of North Carolina. My time is limited. It would give me pleasure to yield to my friend, for whom I have great personal regard, if I had the time. "Sambo and Jane, and Sallie and John" were "created equal" with my friend, but somehow my friend has gotten a long way ahead of them. It is true that he has aided "Sallie" by spelling her name S-a-l-l-i-e, but he will not let them stay equal with him. The equality will not "stick." A distinguished friend, who is in the habit of enforcing strong arguments by apt illustrations, tells a story of a man in the early days of the postage-stamp, when prepaid postage was three cents and unprepaid was five cents, and when the adhesive mucilage was not so good as it is now, he found great difficulty in making the stamp adhere to the letter, and, being anxious that his correspondent should know that it was prepaid, he wrote across it, "Paid if the picture sticks." Having created all men equal, will my friend support a juster financial system that will tend to keep them so? Will his equality stick?

But, sir, appeals of a more injurious character have been made to passion and prejudice by the gentleman from Michigan, [Mr. BURROWS.] He asks in an impassioned style:

> Should we yield now, how long will it be before upon an appropriation bill for the support of the Post-Office Department a provision will be incorporated excluding from the southern mails, as was done in times of the slave power, all printed matter tending to instruct the colored people in their political rights and responsibilities; and then say to the President, "Sign, or no mails!"

The gentleman is drawing upon a diseased imagination. He will not dare say that any single individual on this side of the House ever suggested or thought of such a thing. Our people are being taxed to their full capacity to educate the colored people equally with the white. In my State, and in all the Southern States, so far as I know, no distinction is made; the school fund is applied *pro rata*. Again he asks:

> How long before upon an appropriation bill for the support of the judiciary will a provision be incorporated making an appropriation for the payment of slaves and the Supreme Court menaced with starvation to extort from it a decision that the constitutional prohibition was never constitutionally adopted? "Mr. President, sign, or no court."

Like the former, this has no foundation. The intimation that any member on this side, or that any representative man of the democratic party, suggests or contemplates any such purpose would be as unfounded as the suggestion that the gentleman from Michigan could go to heaven with an unforgiving temper.

> From pride, vain-glory, and hypocrisy; from envy, hatred, and malice, and all uncharitableness, good Lord, deliver us.

Again he asks:

> How long before upon some appropriation bill a provision will be attached submitting an amendment to the Constitution abolishing the three great constitutional amendments? "Mr. President, sign, or no support."

Well this has less foundation, if possible, than either of the others. If the gentleman knows anything of the Constitution he ought to know that that instrument cannot be amended in that way. While the questions suggest the change, he cannot find any democrat, who represents any constituency, who ever proposed or thought of proposing such a thing. If I could be so insolent and unjust, I could with as much propriety ask how long will it be before the gentleman from Michigan will commit some great crime—murder, arson, burglary, or larceny—and with more propriety, for these are within the range of his power. He knows that we could not, if we would, do any such thing, and he has not the shadow of warrant or authority for intimating that we would if we could. If the question was asked of any intelligent man in my section, his reply would probably be, "You must take me for a fool, or you are,"—well, I will not say.

It takes two-thirds of Congress and three-fourths of the States to amend the Constitution, and to suggest that there is any danger of such amendments is the suggestion of folly. No one has proposed such amendments. No one that I know of has suggested them.

Again he asks:

> How long before a provision will be incorporated upon some appropriation bill for the re-establishment of slavery?

I think no such attempt will be made until it shall become the interest of republican politicians and Christian statesmen in the republican party, and then it cannot be done; for it requires the consent of three-fourths of all the States, and we will see that the attempt shall not succeed. And so of the other questions propounded by the gentleman. But then his imagination was running at large in fields in which Gulliver would have delighted to roam.

The gentleman from Michigan gave utterance to many harsh expressions calculated to provoke harsh replies, such as:

> It has been stated that your conduct in 1861 was honorable and heroic, meaning I suppose as contrasted with what is now proposed, but I am prepared to characterize the rebellion of 1861 as treason, and your purposes of to-day but little else, and, so far as the South is concerned, an exhibition of the basest ingratitude. Is it fitting for you to smite the hand that fed you and sting the breast that warmed you back to life? Have I exaggerated your purpose?

And he applied to gentlemen on this side such epithets as "co-conspirators." It may suit the gentleman from Michigan to use such language, but we do not intend to be drawn into anger by it. "In vain is the net spread in the presence of any bird." If the gentleman thinks that by his denunciations he is serving any patriotic purpose, I hope he feels better after the discharge; but he cannot be gratified by provoking us to angry words in reply, and if upon calm reflection he can find any consolation in having used them, I can only regret that any constituency should have sent to this Hall one so ignorant of our character, our purposes, and our aims. If he knew us better, it would perhaps humiliate him to know that gentlemen on this side are as ardently devoted to civil liberty, to the Constitution and laws of our country, and to the preservation of free government for all the people of every race and creed in the whole Union as is the gentleman himself, and, by deprecating sectional hatreds and doing all we can to eradicate them, I am sure that we are wiser if not better friends of the Union than they who so constantly appeal to the bloody past to arouse and keep alive sectional strife.

A friend from Alabama tells a story of a little boy who had his smaller brother down and was trying to maul him with his hammer, and because the little fellow at the bottom persisted in pushing him off, he vociferously called on his mother to make his brother "let him alone and behave himself." When the mother inquired what was the matter, he replied, "Johnny won't let me maul him on the head with my hammer." Whether the lamb drinks the water from the brook above or below, the wolf will not be pleased. I sometimes think some of our friends on the other side are like the big brother—sometimes like the wolf.

But, after all, the talk about "starvation and revolution," of which we have heard so much lately, is but the whip-poor-will's flight; it is a cry to deceive. When a trespasser comes near the nest of the whip-poor-will it flutters off and feigns being hurt. I have seen them feign death, and, taught by perfect instinct, act their part in a style which Forrest or Booth could not excel, and which the most accomplished Desdemona of the stage might envy. The republican nest has been disturbed.

Demetrius of old raised a cry lest "the temple of the great goddess Diana should be despised," not because he cared anything for the temple or for the goddess, but he was the manufacturer of idols, and his craft was in danger. Like Demetrius, our republican friends know by what "craft" they have their wealth.

I have been more than once struck by the fact, Mr. Chairman, as others must have been, that sentiments of a united brotherhood, of a restored Union, of kindly feelings, and of justice and equality for all parts of the country, East, West, North, and South, meet with hearty favor and applause on this side of the House. I have been as often pained to hear the bitterest utterances of sectional hate applauded on the other. On this side northern men and southern men, Federal soldiers and confederate soldiers, sit in harmony, and in the spirit of a true brotherhood forget that there has been a family feud. In the temple of liberty which our fathers built for us, we worship together, and the preservation of that temple is our dearest aim and our highest purpose.

Mr. COBB addressed the committee. [His remarks will appear in the Appendix.]

Mr. GILLETTE. Mr. Chairman, if this House, as is claimed, has the right to make such conditions in the appropriation of money as it may deem fit and proper, the insertion of sections which are not naturally a part of an appropriation bill, with a view of forcing their passage ought never to be made, whatever precedents may be quoted, unless in cases of direst necessity.

As I do not regard the repeal clauses under discussion as of sufficient immediate necessity to justify their insertion upon this appropriation bill, I shall vote as I voted, and as my party voted upon the political sections in the Army bill, namely, to strike them out. If the House decide to retain them, as in case of similar sections in the Army bill I shall deem it my duty to vote for the appropriation bills, but with no view of forcing executive approval.

As for the merits of these sections as separate propositions, I heartily favor most of them. I, however, question the wisdom of such sweeping curtailments of the duties and powers of the supervisors. The present laws give to the Executive a most dangerous power if he should choose to abuse it, a power that could render an election a mere farce, a power that I am sure the republicans would be unwilling to give a President not of their own party; and if these laws are only satisfactory to the party in power they are unsafe. Indeed, many republican members have stated that they would vote for most of these repeal clauses in a separate bill.

I do not question the right of this Government nor its duty to throw around the ballot-boxes where its officers are to be elected all necessary safeguards; but it is claimed by Representatives from all parts of the country that the powers now granted have already been abused in localities, so far as to practically disfranchise legal voters and change results of elections, and they produce very voluminous proof of this. Again, some sections of the country are extremely restive under what they regard an interference by the General Government in their elections.

We have heard in this debate very much about Louisiana and other localities in the South. I respectfully submit to the republican party that has tried so hard to alarm the country over the proposed repeal of these recent partisan laws whether, if your pictures of things, in Louisiana for example, are correct, this Government is justified in further pursuing your policy of fourteen years in this State. You have experimented with Louisiana in your own way; your test oath, marshals, supervisors, and Army have been applied as counter-irritants for many years; not only that, but you have sent down visiting statesmen to see and prescribe; not only that, but when, notwithstanding all your efforts, the votes did come in wrong, you have doctored them up to suit the necessities of the case; so it was all the same. And yet according to your own story, hell must be better governed than Louisiana. I once knew a boy whose father was overbearing and suspicious; his sharp eye was always on the lad; never trusted him; always complained of him; told him he was bad, whipped him because he was bad; often condemned him to a diet of bread and water, and forever excited his evil nature, until everybody looked askance at the boy and thought he was on the double-quick for perdition. Finally, at eighteen, he ran away among strangers, and for the first time was spoken kindly to and appreciated for what was good in him. Self-respect asserted itself, a feeling of responsibility and manhood came. That which was evil in him lay dormant, and he became an honor to society. You have treated Louisiana about as that deacon treated his boy. Now, for Heaven's sake, as Louisiana cannot run away, take hands off; call her of age; trust her; and see if this experiment will not bring better results. Reverse your policy every way. You contracted the money of the country just at the time Louisiana and other Southern States were coming back into the Union penniless, bereft of everything but their acres, until there was not enough left for the North even, as President Grant stated in his message of 1873, before you converted him.

Now open the doors of business and prosperity to her people and to those of other States as well, by supplying their greatest want, an abundant, reliable circulating medium, not in a way to rob but to enrich them. I say again, reverse your policy that has resulted only in ruin and anarchy. Give to your wayward children a chance to earn their bread, and, well fed, well clad, see if they do not become jewels in your crown.

HUNGER, LIKE RUM, IS THE MOTHER OF CRIME.

If such measures fail, it will then be soon enough to talk of further interference. The echoes of the civil war have filled this House like the thunders of Hades for weeks. Stentorian lungs have proclaimed on one side "You did it!" and the quick echo from the opposite side "You did it!" until we are constrained to say, in the words of another: "Is this unnatural, unnational, un-American war to go on forever?" Is there to be no end?

Abraham Lincoln once said, "Under God this nation shall have a new birth of freedom;" but it is more and more evident that those parties which are unable to lay aside the passions and language of war can never minister at this new birth of freedom. Before me on my right I see gentlemen who distinguished themselves during the war by their bravery, gentlemen whose shoulders a few years since glittered with golden stars, and on my left I see honorable gentlemen whose devotion upon the opposite side won for them equal rank. I observe that on both sides the epaulets and all other traces of the war are dropped from their garments, so their former rank as soldiers is known only to history. Would to God, as you have thrown off outwardly every insignia of war, you had also purged from your hearts all its prejudices and hatreds.

The greatest tribute to Washington was that he was first in peace. I fear there are few among the late military officers now before me over whose ashes it can finally be said: He was not only a brave soldier but distinguished himself equally as a legislator, by his efforts to heal the asperities of war and unify and bring prosperity to our whole country.

No sooner was this unfortunate debate opened than a general on the right [Mr. GARFIELD] charged upon the majority the purpose

TO STARVE THIS GOVERNMENT.

I desire to reply to him and to the many who have reiterated his words, that it comes with a poor grace from him or any representative of his party to charge others with purposes of starvation. I would remind them that their party has brought more American citizens to comprehend the meaning of that terrible word starvation than any other cause in the history of our country. When the friends of Pericles recited his virtues around his deathbed, he interrupted them and said: "You forget the only valuable part of my character. None of my fellow-citizens were ever compelled through any action of mine to assume a mourning-robe." Alas! through the action of your party in legislating for usurers, bankers, and monopolists, you have compelled the whole land to assume a mourning-robe, and starved out more industries, more hopes, more prosperity than any war in the history of the world ever crushed out. I read an item from a New York Tribune of recent date, which is only a sample of such items with which we have become too familiar:

SALE OF A DELAINE FACTORY.

PROVIDENCE, RHODE ISLAND. The manufacturing property of the Atlantic Delaine Company in this city was sold at auction to-day for $300,200. Providence men were the purchasers. The property cost over $2,000,000.

Manufacturing establishments in the East are salable at one-sixth their cost, while starvation wages are paid to the laborers employed, and the army of unemployed, wrecks of republican legislation, are treated as criminals. How fares the West, the great productive West under your legislation? I read from the same Tribune an instructive item:

REDUCTION OF INTEREST IN MINNESOTA.

SAINT PAUL, MINNESOTA.

Both houses of the Legislature have passed a bill reducing the legal rate of interest from 12 per cent. to 10 per cent.

A futile effort of the Minnesota Legislature to protect the men who feed the world from being starved out under your financial legislation that has doubled every debt in the land.

In the district which I have the honor to represent, which is almost purely agricultural, I take from a recent republican paper the statement that ten cows were sold for $2 per head at forced sale. In the same county, one of the most fertile in the United States, well watered, and supplied with railroads, and having as enterprising a people as can be found in the country, the chattel mortgages recorded in 1870 numbered nine, in 1878 they numbered nine hundred and forty, and I learn from letters that the highways are already filling with emigrant wagons, conveying the farmers of the Northwest who are starved out from the richest garden land in the world, a little further West to seek a new home among savages. This is at present the reward of industry in the United States.

But what is the condition of the people here in this District, under the shadow of this Capitol, the most favored spot in the country, for here the General Government expends annually for wages, salaries, &c., about $20,000,000? Forty-five hundred families or about eighteen thousand persons have been kept this winter from starvation by one relief association, the Provident Aid Society, as just reported to me by its president.

The last Congress appropriated $15,000 to fill an old canal in this city, really to give employment to idle, suffering workingmen. Eight thousand promptly applied for work at $1 a day. This appropriation, then, was not sufficient to give two days' work each, to the army of unfortunate sufferers in the streets of Washington, and illustrates the sad results of the starvation policy of the republican party; and I want to remind the republican leaders before me, who are so anxious lest the Government be starved out, that there is a flourishing soup-

house on E street where charity feeds hundreds of American citizens daily on broth at a penny a meal that under your long maladministration of the affairs of state are unable to feed themselves and their families, and it would not be an unjust retribution if the Government that has driven the workingmen into soup-houses in a time of abundant harvests and bursting granaries should itself have to

TASTE THE SWEETS OF SOUP-HOUSE CHARITY.

"One touch of nature makes the whole world kin." I believe if this happened, the Government would be brought to sympathize at last with the suffering people.

A few years ago our people and press mentioned with pride the constant large arrivals of immigrants in our ports. All were welcome, (though they were poor, ignorant of our customs, and even of our language,) because they were regarded as sturdy recruits to the great army of American laborers, whose mission it was to subdue this vast continent and make it bud and blossom as a rose. We even placed a money value of about $800 upon every one of them, because their labor was thought to be worth that to the country; but how is it now? Any accession of labor is dreaded as an evil. There is so little demand for it that a mechanic or workingman has little more to say about his wages than a slave, even when he can obtain employment, and there is a determination on the part of the States and governors, for the first time in our history, to punish poverty as a crime. Connecticut has just passed a blue law—no, a black law. Here it is:

AN ACT CONCERNING TRAMPS.

Be it enacted by the senate and house of representatives in General Assembly convened:

SECTION 1. Every tramp shall be punished by imprisonment in the State prison not more than one year.

SEC. 2. All transient persons who rove about from place to place begging, and all vagrants living without labor or visible means of support, who stroll over the country without lawful occasion, shall be held to be tramps within the meaning of this act.

SEC. 3. Any act of beggary or vagrancy by any person not a resident of this State shall be *prima facie* evidence that the person committing the same is a tramp within the meaning of this act.

SEC. 4. Any tramp who shall willfully and maliciously injure any person, where such offense is not now punishable by imprisonment in the State prison, or shall be found carrying any fire-arm or other dangerous weapon, shall be punished by imprisonment in the State prison not more than three years.

SEC. 5. Any sheriff, deputy sheriff, constable, special constable, or policeman, upon view of any offense described in this act, or on speedy information thereof, may without warrant apprehend the offender and take him before any competent authority for examination, and on his conviction shall be entitled to a reward of $5 therefor, to be paid by the State.

SEC. 6. All mayors, wardens, and selectmen are empowered and required to appoint special constables whose duty it shall be to arrest and prosecute all tramps in their respective cities, boroughs, and towns.

SEC. 7. This act shall not apply to any female or minor under the age of sixteen years, nor to any blind person, nor to any beggar roving within the limits of the town in which he resides.

SEC. 8. Upon the passage of this act, the secretary of state shall cause to be printed durable copies of this act to be sent to the several town clerks, who shall cause the same to be posted in at least twelve conspicuous places, six of which shall be in the public highway.

SEC. 9. This act shall take effect on the 28th day of April, 1879.

Approved March 27, 1879.

There is nothing lacking but the blood-hounds and the auction-block to complete this picture; but in place of the hounds we have hired spies, and in place of the auction-block the State pays $5 a head, then farms out her slave labor to the highest bidder. If this act came from a State south of Mason and Dixon's line, every republican paper in the North would print it as indisputable evidence of a determination on the part of the South to at once reinstate slavery. The honorable member from Connecticut [Mr. HAWLEY] who represents the city where this act was passed, condemns with choice rhetoric (?) the men who propose to reverse the policy by which his party has filled the land with tramps. That gentleman is extremely sensitive over extraneous matter upon appropriation bills and the financial theories of the nationals, while his party at home are enacting laws to imprison and disfranchise the poor of his State,

LAWS THAT WOULD MAKE A NERO BLUSH.

The penalty for stealing $15 in Connecticut is $7 fine and thirty days' imprisonment; for asking a crust of bread, if an outsider, it is one year in State prison at hard labor.

A temperate, industrious, and skillful but penniless mechanic came to me in Hartford, Connecticut, and begged me to find him employment in Des Moines, Iowa, saying he would walk out there if I would give him any encouragement. That law would cause his arrest and imprisonment if he should start now; but supposing he could by traveling nights, and stealing food rather than begging, run the gauntlet of Connecticut's spies, the republican governor of Iowa has just issued a proclamation instructing the sheriffs of counties and the mayors of cities to keep a sharp lookout for such men, arrest them and put them to work on stone piles or highways. It is not strange, under the circumstances, that discontent is assuming alarming proportions in this country. There is an unprecedented exodus to the Territories. The western-bound trains are crowded with men from nearly every State, whose hopes have been blasted, whose property has been sunk or snatched from them under unjust laws. Many have fled to Australia and other countries—anywhere to get away. Even the negroes in the South, like northern workingmen, are driven to seek a home on the cold prairies of the West.

The mayor of Saint Louis was so alarmed by the arrival of the first squads of these laborers that he issued a great proclamation to prevent others from coming, and tried to get the river-boats to return these.

The arrival of a few thousand Mongolians upon our western coast, although they are everywhere admitted to be industrious, frugal, and peaceable, has set the nation into a fever of excitement, and we are taking emetics, and possibly will continue to do so, until these unfortunates are spewed out into the suffocating country from whence they came. They come to America for the same purpose as the millions from other lands who have preceded them, namely, to better their condition. Their virtues, such as industry and economy, are regarded as objections and assigned as reasons for driving them hence, because under our laws there is not work enough in this vast undeveloped country for half our American-born laborers; and can we see our own children starve that Asiatics may be fed?

Before we reverse our time-honored policy of open doors and a welcome to all the world, and drive out and shut out foreign labor from our land; before the edict goes forth that "the Chinese must go," let us say to every law that has robbed labor and blasted enterprise,

YOU MUST GO FROM THE STATUTE-BOOKS;

the national banks must go! the national bonds must go! the land monopolist must go! the law that bars out silver from our mints must go! the mountain of idle money in the Treasury must go into the channels of business! the millions that have been absorbed by coin bonds must go out once more to make glad the heart of the toiler and redeem the bonds that bind him hand and foot.

When we have accomplished this, if we still find starvation wages and general distress, it will be in order to adopt the ancient civilization of the Chinese and barricade our land with a Chinese wall to keep out foreign laborers; then name our country the American Empire, for it will no longer be a republic. But this latter contingency will never occur under a system of finance adapted to our form of government and to our boundless territory and resources. Under such a system the overflow of other lands could never depress our labor or produce markets, and cause low wages and jealousies. All would be prosperous, and our enterprise and development would become the admiration and wonder of the world.

The determined policy of the republican party has been to fund our debt into coin bonds that cannot be paid for a generation, and to build upon this corner-stone a banking system that for a parallel of injustice to the people and favoritism to a class stands without a rival. What is a Government bond? It is an instrument for taxing the whole people for the support of the holder; an invention for taking from the producer the fruits of his industry, and giving it to a man who is thereby relieved from the necessity of productive labor. It is a scheme for building up an idle, useless class in society, and subordinating this great Government into a tax-gatherer for the benefit of that class.

I do not believe that it is the object or duty or office of this Government to tax the people for one dollar more than is necessary to sustain the Government economically. I for one am unwilling to see it degraded into a machine for building up a class of citizens at the expense of the masses. It is all wrong. It is a form of despotism which should be unknown in a republic. It is but

THE ECHO OF THE SLAVE-DRIVER'S LASH IN OUR LAND.

It is an ingenious, refined system of oppression, and it is bolstered up by cunning appeals to the honor of the robbed; but, torn of its disguises, it will soon be understood by the people in all the length and breadth and depth of its infamy.

Once our fathers were taught of the divine right of kings; they heard it everywhere, in schools, colleges, and churches, but they refused to acknowledge that right, and, after indescribable struggles and sufferings, disproved this axiom of despotism. Next we were taught that slavery was a divine institution. The clergy preached it; the Constitution was construed and laws framed to defend and strengthen it; but the people destroyed it in spite of false teachers and law-makers, in spite of all its intrenchments.

Now we have a new form of despotism as popular as its predecessors. Some preachers are preaching for it. Mr. Joseph Cook, of Boston, threatens revolution rather than see it overthrown. National honor is again appealed to that it may be sustained, and that is your bond scheme; but, gentlemen, false teachers and preachers, cunningly devised laws and refunding acts will never long hold the people in bondage to your latest engine of oppression. You have not only placed many of these bonds, by means of syndicates, in the hands of foreign capitalists and potentates, but by refusing to provide our people with necessary money to carry on their industries and furnishing nearly one-half our currency through national banks, making it enormously expensive to the borrower, you have forced our railroads and all parties that could to borrow money of foreigners rather than at home; so that we have again, as before the Revolution, the privilege of cultivating our fields and manufacturing our products for the benefit of foreigners; of toiling not only to sustain our domestic princes, but also foreign potentates upon their thrones and lords in their palaces. We do not shout

LONG LIVE THE KINGS AND QUEENS,

but toil early and late to sustain them with our choicest products and are tributes under republican rule to the leading despots of the world. Our boasted balance of trade of nearly $300,000,000 per annum does not come to us in coin, but largely in coupons and inter-

est receipts. Last year, with a trade balance of $257,000,000 in our favor, we actually had to send abroad about four millions of coin and bullion to balance up our interest and other accounts. Happy people! hewers of wood and drawers of water to foreigners!

To show the natural results of this foreign-debt policy, I insert an item which I have just clipped from a New York paper:

The Khedive of Egypt and the keen-witted foreigners who raise his revenues have a stern sense of "the sacredness of contracts" that would put our American bondholders to the blush. The Khedive has borrowed immense sums abroad to expend on his pleasures, and now as the French and English bondholders must be satisfied, the "fellahs" are far worse treated than our negro slaves were. The natives from the district around each sugar factory are compelled to abandon work in their own fields and furnish gratuitously the manual assistance needed in the government mills and plantations. The people are driven with whips to their work in the field by men who have not that sense of ownership which in a large degree tempered the cruelty of slavery. In some of the villages the people are past help, sitting naked like wild beasts, eating roots and suffering with the endurance of despair.

The United States Treasury in its long conflict with the enterprise and business of the country has completely triumphed, and after stopping the wheels of industry has mortgaged the future enterprise of the country for a generation with thirty-year bonds, and now asks the people it has robbed to applaud the very results brought about through their losses. As well might Wellington have asked Napoleon to cheer over Waterloo; like the king of Babylon who after breaking down the walls of Jerusalem, destroying its homes, and enslaving the people, then bade them to sing. "They that wasted us, required of us mirth," as the psalmist puts it, but they hung their harps on the willows and refused to sing. So now the men who have wasted the people and robbed them for many years are asking us to sing the triumphs of resumption in the face of our desolated homes and new thirty-year bondage. If we do sing over resumption this will be our song:

"There are ninety and nine, that live and die
In want, and hunger, and cold,
That one may revel in luxury
And be lapped in its silken fold;
The ninety and nine in their hovels bare,
The one in a palace, with riches rare.

They toil in the fields, the ninety and nine,
For the fruits of our mother earth;
They dig and delve in the dusky mine,
And bring her hid treasures forth;
And the wealth released by their sturdy blows
To the hands of the one forever flows.

From the sweat of their brows the desert blooms,
And the forest before them falls.
Their labor has builded humble homes,
And cities with lofty halls;
And the one owns city, and homes, and lands,
And the ninety and nine have empty hands."

The people have no heart for rejoicings; but, instead, their inborn independence will assert itself, and they will break the shackles you have forged for them to wear. They will not long be enslaved. The bonds will be paid, and never again will this Government extort usury of the people. We will pay the last farthing, but paid they shall be—

"But the night, so dreary, and dark, and long,
At last shall the morning bring,
And over the land the victors' song
Of the ninety and nine shall ring,
And echo afar, from zone to zone,
'Rejoice! for labor shall have its own.'"

If you inquire how is Government to raise money in time of war I answer, just as it raises men. You seize a citizen and make a breastwork for bullets of his body, and is the rich man's money any more sacred than the poor man's blood?

The people have been loath to withdraw their confidence from the republican party and believe that it has betrayed them, but the sad experiences through which they are passing, after unceasing promises at every election for years of better times just ahead, are opening their eyes. I have the honor to represent a district which has heretofore been overwhelmingly republican, and I wish I could faintly picture the determination of the people in their demands for relief. It was whispered in many localities by opponents during my canvass that I would fail the people when elected and forget my enthusiasm in their behalf. Repeatedly old men, who had been republicans since the organization of that party, came upon their staffs and told me with trembling voice if I failed them, forgetting their demands, I could never return to them alive.

Do you believe you can smother this fire? Do you believe you can satisfy these outraged citizens by continuing into 1880 your sectional quarrels? I tell you, if you try it, it will not down.

WHAT THE PEOPLE WANT IS BREAD, NOT BLOOD.

When I think of the thousands bereft of home, of employment, of everything that makes life dear, by no fault of theirs, I am amazed at their patient endurance and long suffering; but I advise prudence in your further legislation, and immediate measures of relief to the country. It is wise, and safe as well. Beware! The flight of a bird, the sound of a single human voice, has been known to start the Alpine avalanche.

I appeal to the majority of this House. You are now responsible not only for the measures passed by Congress, but also for any failure of needed legislation. You are watched by fifty millions of people, who have given you your majority because in parts of the country you denounced the ruinous policy of the republican party. How dare you trifle with your pledges to the people? Have you signalized your entry upon this great responsibility by an effort to force through measures of relief for the people? No! Bills to repeal the obnoxious laws that are making a poor-house of this nation? No! no! but, on the contrary, to repeal laws which though objectionable are not responsible for the poverty and suffering of the people, and for one month no bill for their relief was even allowed to be introduced. Dare you face your impoverished constituents after adjourning this House without having prevented the further increase of our bonded debt and provided for its speedy liquidation; without having divorced the national banks from the National Treasury; without having opened wide the mints to the silver mines of the country; without having unlocked the United States Treasury and given back to the people the mountain of idle, useless money in its vaults which they are paying interest upon? If you do, may the Lord have mercy on your souls!

What the people demand, what they will have, is relief, and any party that trifles with this demand, that prefers to resurrect the thrice dead issues of the past rather than to stay the hand of the spoiler that is laying waste the people, will be held responsible for the sufferings of the present and the calamities of the future.

Mr. GILLETTE. I yield the remainder of my time to the gentleman from Indiana, [Mr. DE LA MATYR.]

Mr. HENDERSON. Before the gentleman from Iowa takes his seat, I would be glad to ask him a question.

The CHAIRMAN. Does the gentleman from Iowa yield?

Mr. GILLETTE. I yield to the gentleman for a question.

Mr. HENDERSON. The gentleman has stated here that the republican party, as a party, was responsible for the contraction of the currency and the starvation of the people. I want to ask him if he does not know that immediately following the conclusion of the war a resolution was adopted by this House, and voted for by democrats as well as republicans, showing it to be the universal sense of all parties and of the country that there should be a contraction of the currency in order to prepare for a resumption of specie payments, and that the contraction of which he complains was made in pursuance of this resolution under the administration of Andrew Johnson while Mr. McCulloch was Secretary of the Treasury?

Mr. GILLETTE. My friend from Indiana complains that I am yielding too much of the time which I promised to him. But I will answer the question of the gentleman from Illinois. I hold that the party which has the majority in the House of Representatives and the Senate of the United States and whose Executive sits in the presidential chair is responsible for the legislation of the country.

Mr. HENDERSON. I wish to ask the gentleman another question.

Mr. GILLETTE. I am not here to apologize for hard-money democrats any more than to approve of what has been done by the republican party.

Mr. HENDERSON. I wish to ask the gentleman if he believes that the payment of the public debt of the country is in any just sense a contraction of the currency?

Mr. GILLETTE. The gentleman from Indiana to whom I have yielded the balance of my time refuses to yield further.

Mr. DE LA MATYR addressed the committee. Before he concluded,

Mr. REAGAN said. It is almost twelve. I move that the committee rise.

The CHAIRMAN. The gentleman from Indiana has seven minutes of his time remaining.

[The remarks of Mr. DE LA MATYR were resumed when the House next resolved itself into Committee of the Whole on the state of the Union. See page 816.]

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. BLACKBURN. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and fifty-nine minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAILEY: The petition of Catharine J. Gillis, administratrix of Thomas H. Gillis, deceased, that she be paid the proceeds of certain cotton seized and sold by United States authorities—to the Committee on the Judiciary.

By Mr. BLISS: The petition of Ollriche & Co. and Keinhards & Co., for the payment of interest on the amount of tonnage dues collected by the collection officers of the United States in violation of treaty stipulations—to the Committee on Foreign Affairs.

By Mr. BUCKNER: The petition of J. B. A. Broiullet, that the Secretary of the Interior be directed to issue a patent to certain lands,

claimed for the mission of Saint James, in Oregon—to the Committee on Private Land Claims.

By Mr. CLARK, of Iowa: Papers relating to the war claims of Hiram W. Love and of C. L. Quackenbush—to the Committee on War Claims.

Also, papers relating to the pension claim of Elizabeth Davis—to the Committee on Invalid Pensions.

Also, papers relating to the claim of J. S. Alexander for the difference between the pay of a sergeant-major and second lieutenant from March 19 to October 6, 1863—to the Committee on Military Affairs.

By Mr. DAGGETT: Papers relating to the claim of Milton B. Duffield for pay for extra services rendered while in the discharge of his duties as United States marshal for the Territory of Arizona—to the Committee of Claims.

By Mr. DIBRELL: Papers relating to the pension claim of William Truett—to the Committee on Invalid Pensions.

Also, papers relating to the war claims of A. H. Buchanan; of Cummings, Doyle & Co. and Doyle & Co.; of D. W. and Minnie H. Glass; of Duncan Marr; of James Scott and others; of B. B. Taylor; and of George W. Twidwell—to the Committee on War Claims.

By Mr. HARMER: The petition of John W. Gray, for pay for work done on models of the Navy for the centennial exhibition—to the Committee on Naval Affairs.

By Mr. HASKELL: A communication from the governor of Kansas, urging that the Government provide tents and rations for certain destitute colored immigrants to that State—to the Committee on Appropriations.

By Mr. KEIFER: The petition of Shepard S. Everett, for compensation for services rendered to the House Committee on War Claims during the third session of the Forty-fifth Congress—to the Committee of Accounts.

By Mr. LORING: The petition of Mrs. Caroline S. Webster, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. PIERCE: The petition of E. D. Jackson and others, against reissuing or extending the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. STEPHENS: The petition of A. R. Potts and others, that Dr. F. B. Culver be compensated for services rendered the Government as Indian agent in effecting the treaty of February 18, 1861, with the "five tribes" of Indians—to the Committee on Indian Affairs.

By Mr. STONE: The petition of Daniel Hoyt and 51 others, citizens of Michigan, and of A. Dickerson and 61 others, citizens of Michigan, against extending the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. TUCKER: The petition of Canteny, Jenkins & Co. and others, for the repeal of certain provisions of the revenue law relating to the bonds of rectifiers—to the Committee of Ways and Means.

By Mr. VAN AERNAM: The petition of the Storekeepers' Association of the first and third districts of Ohio, the sixth district of Kentucky, and the fourth district of Indiana, against the reduction of their salaries—to the Committee on Appropriations.

By Mr. VANCE: The petition of J. Mead and others, for a post-route from Shelby, via Gardner's Ford, to Joseph Mead's, on Crooked Run, Cleveland County, North Carolina—to the Committee on the Post-Office and Post-Roads.

IN SENATE.

THURSDAY, *April* 24, 1879.

Prayer by Rev. DAVID WILLS, D. D., of Washington City.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 4) to provide for the exchange of subsidiary coins for lawful money of the United States under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting a communication from the Paymaster-General, calling attention to certain deficiencies in the appropriations for the pay of professors at the Military Academy for the years 1878, 1879, and 1880, and in the appropriation for the cadets at the Academy for the year 1879; which was referred to the Committee on Appropriations.

NATIONAL ACADEMY OF SCIENCES.

The PRESIDENT *pro tempore* laid before the Senate a letter from the acting president of the National Academy of Sciences, transmitting, in compliance with the act of Congress of March 4, 1863, a report of its operations during the past year.

Mr. VOORHEES. I move that the letter and the report be printed and referred to the Committee on the Library.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the United States Internal Revenue Store-keepers' Association of the first and third districts of Ohio, the sixth district of Kentucky, and the fourth district of Indiana, remonstrating against a clause of the legislative, executive, and judicial appropriation bill, now pending in the House of Representatives, reducing their salaries; which was referred to the Committee on Finance.

He also presented the memorial of F. S. Stumbaugh and L. F. Eggers, of Kansas, presenting additional reasons why there should be an investigation into the election of Hon. JOHN J. INGALLS as Senator from the State of Kansas; which was referred to the Committee on Privileges and Elections.

Mr. VEST presented a resolution of the Legislature of Missouri; which was read, and referred to the Committee on Public Lands; as follows:

House concurrent resolution No. 41, joint and concurrent resolution concerning lands in the State of Missouri.

Whereas, by an act of Congress, approved July 4, 1866, there was donated to the State of Missouri, to aid in the construction and extension of the Iron Mountain Railroad, certain lands lying within said State of Missouri, under certain conditions set forth in the act; and

Whereas the conditions have not been complied with and said lands are yet withdrawn from the market: Therefore,

Be it resolved by the General Assembly of the State of Missouri as follows:

First. That our Senators in Congress be directed and our Representatives be requested to use their efforts and influence in securing the passage of an act donating to the State of Missouri said lands, that the State may offer the same for sale, and apply the proceeds of the sale of said lands to the payment of certain bonds issued in aid of said Iron Mountain Railroad.

Second. That the Secretary of State be directed to furnish each of our Senators and Representatives in Congress with a copy of this preamble and resolution.

Approved April 18, 1879.

MICHAEL R. McGRATH,
Secretary of State.

Mr. INGALLS presented the petition of George W. Parris, praying for arrears of pensions; which was referred to the Committee on Pensions.

MRS. CAROLINE S. WEBSTER.

Mr. DAWES. I have in my hand the petition of Caroline S. Webster, of Marshfield, Massachusetts. The circumstances attending this petition and the nature of its prayer are so peculiar that, with the indulgence of the Chair, I will state them as they appear in this memorial.

Mrs. Webster is the widow of the late Colonel Fletcher Webster, of Marshfield, the son of Daniel Webster. While Mr. Webster himself spent his entire life in the civil service of his country, entering the lower House of Congress in 1813, and with scarce any interruption closing it as Secretary of State in 1852, his two sons gave their lives to their country in the military service of the Government. His youngest son volunteered his services and gave his life in the war with Mexico. He had left only one son. Mr. Webster himself died in 1852 and left this son, the only one, to bear his name to posterity.

Colonel Fletcher Webster held various civil positions with honor, and gave promise of distinction. Early, however, in the war of the rebellion, as early as April, 1861, he, following the example of his brother, volunteered his services to the Government, and at the head of a Massachusetts regiment entered the service of the United States, and, serving with distinction, fell at the head of his regiment in 1862. Thus passed away all of the male members of the family. His widow with her children went to the homestead in Marshfield, and from that time devoted herself to the care of the papers and valuables that Mr. Webster left for his country in their old homestead at Marshfield, depending upon such means of support as she was able to obtain from that estate. In April of last year, by an incendiary fire, the homestead at Marshfield was consumed, and with it everything of value in it to the country and to the family, with the exception of a few pictures and some things of minor value, leaving Mrs. Fletcher Webster without any other support than the pension of $30 a month which had been granted her by Congress. She now prays Congress to increase that pension to $50 a month.

Under all the circumstances connected with the history of the name, as well as the services of her husband, for which she was granted the pension originally, and the fact that she is reduced by these casualties to want and dependence, it does not seem unreasonable that the prayer of her petition be granted. It is accompanied by a bill which I ask may be read twice at this time, if no one objects, and that both the petition and the bill be referred to the Committee on Pensions, who I trust will find ample ground for granting the prayer of her petition.

By unanimous consent, leave was granted to introduce a bill (S. No. 484) for the relief of Mrs. Caroline S. Webster; and it was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. BLAINE. Mr. President, if my honorable friend who sits in front of me [Mr. EDMUNDS] was not in the habit of objecting to having anything passed by unanimous consent without a reference, I would ask that that bill should be put upon its passage; and if I thought I should be sustained in it I would move that the pension be made a hundred dollars a month. We voted a pension of $3,000 per annum for life to the widow of Mr. Lincoln. We voted a pension of $2,000 per annum for life to the widow of Admiral Farragut.

The petitioner whose name is now before us is the surviving representative of all that there was of the name of Webster. She represents two heroes, as my friend has said, who sacrificed their lives in war for their country. She represents and inherits all that Mr. Webster has done for the country. I believe myself that the great mass of the American people, North and South, and East and West, would hold up both their hands in approbation of a unanimous vote in Congress to the effect I have suggested. I ask unanimous consent that the bill may be passed in that form.

Mr. EDMUNDS. Mr. President, I think I must fulfill the mission that the Senator behind me has imputed to me, and say that the bill should go to a committee. The bill that we passed to grant a pension to Mrs. Lincoln went to a committee and was duly considered. I think the people of the United States, although they are very grateful in the respects my friend has mentioned, also have a great interest in the orderly and deliberate progress of legislation. Therefore adhering to what has been stated of me I think the bill ought to go to a committee in the regular way.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered at this time.

Mr. DAWES. May I add, although the disposition seems to be nearly unanimous in the Senate not to do general business, that the committee will ask the Senate to make this case an exception if they find it, as I have no doubt they will, a proper bill to report, and that the Senate, whatever may be their disposition as to general legislation, will make this bill an exception.

The PRESIDENT *pro tempore*. The bill has been referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 485) giving the consent of the United States to the prosecution of the suit of G. W. Custis Lee for the recovery of Arlington on certain conditions; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 486) to provide for the payment of Joseph H. Jenkins for services rendered by him as clerk to the secretary of the Territory of Colorado; which was read twice by its title, and referred to the Committee on Claims.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 487) to provide for the appointment of an additional circuit judge in the eighth judicial circuit; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 488) supplemental to an act entitled "An act for the apportionment of Representatives to Congress among the several States according to the ninth census;" which was read twice by its title, and referred to the Committee on Privileges and Elections.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 489) for the relief of James P. Worrell; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 490) in relation to certain fees allowed registers and receivers; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Public Lands.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 491) for the relief of Cyrus Thomas, disbursing agent of the United States Entomological Commission; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 492) to authorize the Secretary of the Treasury to issue $10,000,000 of 4 per cent. bonds for the payment of arrearages of pensions; which was read twice by its title, and referred to the Committee on Finance.

Mr. SAULSBURY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 493) directing the removal of obstructions from the harbor at the Delaware breakwater; which was read twice by its title, and referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

On motion of Mr. HILL, of Georgia, it was

Ordered, That Mrs. Fannie A. Thompson have leave to withdraw her papers from the files of the Secretary of the Senate relating to the bill of last session for the relief of the heirs of General William Thompson.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National Lafayette and Bank of Commerce of Cincinnati, Ohio; and it was thereupon signed by the President *pro tempore*.

COMMITTEE SERVICE.

Mr. MORRILL. I move that the Chair be authorized to fill the vacancy in the Committee on the District of Columbia occasioned by the resignation of the Senator from Massachusetts, [Mr. DAWES.]

The motion was agreed to; and the President *pro tempore* appointed Mr. PADDOCK to fill the vacancy.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

The PRESIDENT *pro tempore*. If there are no concurrent and other resolutions the next business in order is the resolution offered by the Senator from Pennsylvania [Mr. WALLACE] on the 17th instant, to amend the standing order of the Senate in regard to the appointment and removal of the employés of the Senate, the pending question on which is the last amendment offered by the Senator from Vermont, [Mr. EDMUNDS.] The Senator from Vermont moved to add to the amendment of the Senator from Ohio, [Mr. PENDLETON,] which was adopted, what will now be reported.

The Chief Clerk read as follows:

But no officer or employé of the Senate who served in the forces of the United States in suppressing the late rebellion shall be removed except for cause stated in writing to the President of the Senate and approved by him in writing.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. ANTHONY. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. Mr. President, I believe the question is on agreeing to the amendment that I had the honor to offer yesterday.

The PRESIDENT *pro tempore*. Yes, sir.

Mr. EDMUNDS. I wish to say upon that subject that I think the remarks made yesterday in opposition to it, as an undue limitation upon the power of these officers, are not well founded in the respect that it was said it never existed before. The rule as it stood before, and as it stands now, until the proposition adopted yesterday shall become the law of the Senate, was that no employé could be removed without the assent of the President of the Senate. Now the majority of the Senate proposes to withdraw that conservative and controlling power from the President of the Senate and leave it absolutely in the discretion of the Secretary and of the Sergeant-at-Arms. The time has come, then, for putting on this limitation to preserve from removal, except for just cause, the two or three soldiers referred to in the amendment I have offered.

The objection, therefore, does not apply at all that this thing was never done before. It was never necessary to do it before, because the rule applied to them and to everybody else; nobody could be removed. But the Senate seems determined to have everybody removed at the wish of the Secretary and the Sergeant-at-Arms, or perhaps, as I suspect, against their wish but according to the wish of the people who want places. Now is the time to provide that these soldiers shall not be crowded out by mere place-hunters, and if they are to go out they are to go out for a reason that is satisfactory to the President of the Senate.

That is the state of the case, Mr. President, and that is the question we are to vote upon.

Mr. WALLACE. Mr. President, so much has been said upon the subject of the binding effect of this rule and of the fact of its not being broken during a period of twenty-five years, that I have taken some pains to look at what the record shows upon that subject.

This order was adopted as a standing order of the Senate on the 15th of July, 1854. Then there was a democratic Senate, and it so continued until there came a republican Senate in 1861, when the first movement was to elect a republican Secretary of the Senate. Mr. Asbury Dickins was the Secretary of the Senate, and Mr. John W. Forney was elected his successor, five Senators voting for Mr. Asbury Dickins, four for another gentleman, and the republicans as a body voting for Mr. John W. Forney. That was on the 15th of July, 1861. Mr. Dickins had not died; Mr. Dickins did not die until October, 1861. He was in full life and was voted for by a part of the minority on this floor. In 1868 Mr. Forney resigned, and at that time Mr. Gorham was elected. Mr. Dickins came into office in 1853; he was elected on the 17th of March, 1853. I find that on the 15th of July, 1854, this standing order was adopted, about the repeal of part of which there is so much complaint. I find that on the 16th of March, 1860, another order was adopted, which was in these words:

Resolved, That any vacancies now existing, or which shall hereafter occur, in the places of messengers of the Senate, by death, resignation, removal, or otherwise, such vacancy so existing or occurring shall not be filled by the appointment of other messengers until it is so ordered by the Senate.

That was adopted by a democratic Senate on that day. It remained the order of the Senate until the 12th of July, 1861, when a republican Senate having come in, Mr. Hale, the chairman of the republican caucus, proposed to repeal it. He said, on the 12th of July, 1861:

I offer the following resolution; and if there be no objection, I ask for its present consideration:

"*Resolved*, That the resolution of the Senate of March 16, 1860, in relation to the appointment of Senate messengers be, and the same is hereby, repealed."

Following this, on the 19th of July following, on page 206 of the Congressional Globe, I find that a resolution was adopted in these words:

Resolved, That the Sergeant-at-Arms of the Senate be, and he hereby is, authorized to fill any vacancy in the office of messenger of the Senate now existing or hereafter occurring by removal, resignation, or otherwise.

This is the form of the standing order of the Senate so far as mes-

sengers are concerned and this I find no repeal of. It remains to-day, so far as my examination goes, as the standing order of the Senate upon that subject, Thus the messengers are absolutely now under the control of the Sergeant-at-Arms.

I have taken some pains to look as to the truth of the boast that there were no changes made in 1861, or since. I find that on the 30th of September, 1861, the regular pay-rolls show fifty-three employés of the Senate. Of these seven died in service and there were six of the others on the rolls in January, 1879. So that there were from 1861 of these ancient officers remaining on the rolls in January, 1879, of the fifty-three but six. Take the six and add them to the seven who died in the service and we have thirteen, which take from the fifty-three leaves forty rotated out of office because other and new Senators had come into place here and their special friends needed place.

I take then the pay-roll of June 30, 1869, and contrast it with the pay-roll of January, 1879. I find that the total number of officers on the pay-roll in June, 1869, was sixty-nine; that there were remaining in service in January, 1879, but twenty-one of these. So that in the less than ten years which elapsed between June, 1869, and January, 1879, forty-eight men were rotated out of office as the result of the boasted practice.

This is in actual practice the effect of republican standing by this rule, the standing order of the Senate. These facts are shown by the pay-rolls of the Senate. Let us see further. In 1853 one D. R. McNair was elected Sergeant-at-Arms of this body. He came from the State of Kentucky. In 1854 this standing order was adopted. Mr. D. R. McNair was then Sergeant-at-Arms and remained so until a republican Senate came here on the 5th of July, 1861, when a caucus of republican Senators met and resolved to remove Mr. D. R. McNair, and to put in his place another gentleman, Mr. George T. Brown, of Illinois. Mr. Hale, the then chairman of the republican caucus, came into the Senate and moved that Mr. George T. Brown be elected Sergeant-at-Arms. He was elected by a party vote of 29 to 9. Was Mr. McNair in sympathy with the rebellion? He did not go with the South. He came originally from Kentucky, but after 1853 he lived here, and he died in this District. They wanted him removed for a party cause and for nothing else.

Let us see what the record shows on this subject. On page 10 of the Congressional Globe of 1861, under date of July 5, I find Mr. Hale moving the election thus:

Resolved, That the Senate do now proceed to the election of a Sergeant-at-Arms and Doorkeeper.

The resolution was agreed to.

The result was:

Mr. George T. Brown received 29 votes; Mr. D. R. McNair, 9; Mr. George Brown, 2; Mr. R. Beale, 1.

George T. Brown, having received a majority of the whole number of votes, was declared elected Sergeant-at-Arms and Doorkeeper.

Then Mr. Hale said:

I offer the following resolution:

"*Resolved*, That the Secretary of the Senate pay out of the contingent fund of the Senate to D. R. McNair, late Sergeant-at-Arms, an amount equal to the salary of Sergeant-at-Arms from the 5th of July instant until the first Monday of December next."

He follows it with this statement:

Mr. President, I will let that lie over until to-morrow, but I beg the indulgence of the Senate to make a single statement about it. At the last time of the election of a Sergeant-at-Arms by the Senate, when Mr. McNair was chosen, a similar resolution to this was passed in favor of the retiring Sergeant, Mr. Beale, except that Mr. Beale's salary was paid to the close of the fiscal year. But for this extraordinary session of the Senate, Colonel McNair's salary would continue until next December without any further interference of the Senate. As an act of justice and courtesy to Mr. McNair, who is removed without any cause affecting his moral character, to say the least of it, and whose intercourse with the Senate, so far as I know, has been pleasant, courteous, and gentlemanly, I have thought it due to him to offer this resolution; and that the Senate may not vote on it by surprise, let it lie over until to-morrow. I give notice that I shall call it up to-morrow morning.

Mr. SAULSBURY. I know that the Senator from New Hampshire never does an act without cause. I should like to ask him the reason why it was necessary to remove Colonel McNair at all. We have seen a good officer removed, no objection made to him, no reason assigned for that removal. Perhaps the Senator knows of some good cause; if so, we ought to be informed of it.

Mr. HALE. If the Senator from Delaware will tell me why the State of Delaware superseded Mr. Comegys, and sent him here, perhaps I may inform him.

Thus squarely, as I think, putting the proposition upon party causes and the necessity for party change. Now I come to the 6th of August, 1861. Let us see what occurred there. On page 450 of the Congressional Globe of that year I find a resolution came back to the Senate. It had gone to the Committee to Audit and Control the Contingent Expenses of the Senate. That resolution as offered was:

That there be paid out of the contingent fund, to Asbury Dickins, the late Secretary of the Senate, a sum equal to one year's salary as Secretary and disbursing officer, to mark the sense of the Senate of the long and faithful services of the said Asbury Dickins as Secretary.

What follows?

Mr. CHANDLER. Is it in order to move a further amendment?

The PRESIDENT *pro tempore*. It is still in order.

Mr. CHANDLER. I move to add, "and the late Sergeant-at-Arms, D. R. McNair." If we are going to be so liberal, I want to do justice to all around.

Upon that question there came a vote. Mr. Bingham opposed it and it was defeated by yeas 9, nays 27. It came up again on the motion of Senator Johnson, of Tennessee, subsequently and it was objected to, and it went over by reason of the adjournment of the extra session, and was not adopted.

Thus we have Mr. D. R. McNair, the Sergeant-at-Arms, removed, and Mr. George T. Brown elected under the leadership of the chairman of the republican caucus. No man had aught to say against his loyalty. The reverse of that is true; the record shows that the reverse of it is true.

Then when we come to 1869, when there had come a new President to the White House, Mr. Grant, on the 4th of March, this body had filled up with new Senators and there was another caucus held. Of that caucus the present chairman of the caucus of the republican party was chairman, and, following its orders, he came into this body on the 22d of March and made this motion:

Mr. ANTHONY. I rise to a privileged question. I move that the Senate proceed to the election of Sergeant-at-Arms.

The motion was agreed to.

There was then an election, and John R. French, of North Carolina, was elected. There was no ballot.

Mr. ANTHONY. I move that the Senate now proceed to the election of executive clerk.

The motion was agreed to.

And the executive clerk was then elected. He was Mr. John M. Morris, of South Carolina, Mr. John R. French, of North Carolina, having been elected Sergeant-at-Arms. Then there comes another motion:

Mr. CONKLING. I move that the Senate proceed to the election of a Congressional Printer, and for a particular reason I offer a resolution on the subject, which will explain itself:

"*Resolved*, That the Senate now proceed to the election of a Congressional Printer, and that such election shall take effect from and after the 15th of April proximo."

Mr. Defrees was rotated out of office and Mr. Almon M. Clapp was elected Congressional Printer. This was on the 22d of March, 1869; and it is reasonable and fair to presume that it came from a caucus of the republican party, because there was a caucus held then, and because the chairman of that caucus made the motion to make two of the changes.

Between March 31, 1869, and June 30, 1869, there are found on the pay-rolls these changes: The principal clerk on the 31st of March was H. Ware, on the 30th of June, J. H. Flagg. The executive clerk was Mr. Clarke on the 31st of March, and Mr. Morris on the 30th of June. The Sergeant-at-Arms was Mr. Brown on the 31st of March, and on the 30th of June Mr. French. The Chaplain was Mr. Gray on the 31st of March, and Mr. Newman on the 30th of June of the same year.

Now let us trace the record as to the executive clerk; let us go beyond the Sergeant-at-Arms and see how that was. On the 8th of December, 1855, one Joseph H. Nicholson, of Maryland, was appointed executive clerk of this body. He was not in complicity with the rebellion in 1861. He was the friend of Reverdy Johnson. He was made executive clerk of the Senate by a resolution, and remained such until the 19th of March, 1861, when, in pursuance of a caucus, Mr. Hale, the chairman of the republican caucus, moved to repeal the resolution that elected Mr. Nicholson, which was passed on the 8th of December, 1855, and which is found on page 1471 of the Globe of that year. He offered a resolution to that end, and it was laid over for the present. The effect of the repeal of that resolution would have been to turn Mr. Nicholson out of his office. What does he do? On the 4th of July succeeding, under this pressure, Mr. Nicholson resigned, he went out of office; and then on the 9th of July, 1861, Mr. De Witt C. Clarke, of Vermont, was elected executive clerk of the body. Mr. Clarke remained in office until the 22d of March, 1869. No man ever accused him of disloyalty, but then Mr. Clarke was removed and Mr. John M. Morris, of South Carolina, was elected.

Mr. EDMUNDS. Mr. President——

The PRESIDENT *pro tempore*. Will the Senator from Pennsylvania yield to the Senator from Vermont?

Mr. WALLACE. For a question.

Mr. EDMUNDS. Is the Senator sure that Mr. Clarke was removed?

Mr. WALLACE. I only know that Mr. Clarke seems to have been removed, because the vote upon the record shows that Mr. Clarke was not in office, for Mr. Morris was elected. There is no resignation to the Senate.

Mr. EDMUNDS. I will state to the Senator that Mr. Clarke was removed by a power greater even than the democratic caucus, and that was by the hand of death.

Mr. WALLACE. I think the Senator from Vermont is mistaken. Mr. John M. Morris, the subsequent executive clerk, died and Mr. Young took his place; but DeWitt C. Clarke was removed, as my information goes, because he said here that he did not believe a two-thirds vote could be obtained to impeach Andrew Johnson.

Mr. EDMUNDS. Mr. Clarke died just about that time; I do not know whether he was removed; but he certainly died.

Mr. WALLACE. Mr. Clarke went out of office and Mr. Morris, of South Carolina, as the Globe shows, was elected in his stead. Mr. Morris died and Mr. James R. Young, who has recently gone out of office, was elected in his stead.

Now, take the assistant doorkeeper. I find, in 1845, Isaac Holland, assistant doorkeeper. He remained in office until 1858 when Charles S. Jones was elected by a democratic Senate. He remained here until 1861, when, on the 6th of July, in the morning, a caucus was held and Mr. Isaac Bassett, the present assistant doorkeeper, was nomi-

nated, and elected by the Senate on the same day, on motion of Mr. Hale, chairman of republican caucus. From the place of messenger at the main door Captain Bassett was promoted to the place of assistant doorkeeper, in pursuance of a caucus held, and Mr. Jones, who never went into secession, who is living here to-day, a man of good character, was removed. On that day Mr. Hale, the chairman of the republican caucus, came into the Senate and moved the election of Mr. Bassett, and there was another party vote, a strict party vote, of thirty republicans to ten democrats. As a proof that Mr. Jones was not disloyal, if any were needed, the fact is that he was confirmed by the Senate to a place in the Army, within three months after his removal from the place of assistant doorkeeper of the Senate. He obtained that place, as I understand, and I have no doubt is the fact, through the solicitation of Ex-President Johnson, who was then a Senator in this body.

From July, 1861, to December, 1861, all the employés of the Secretary of the Senate in that office, as I am informed, were removed but five, and of the employés of the Sergeant-at-Arms's office all but two, as I am told, (Titcomb and Gorman,) were removed; and none of these went South or joined in complicity with the rebellion but two—Price and Latruite. The most of these dismissed men found employment in the Departments. They did not go South; they were not put into employment in the southern confederacy; but they were, most of them, put into employment here, or obtained other avenues of employment.

This is not all, sir. Between July, 1861, and December, 1861, when this clean sweep was made in which all the employés of the Secretary of the Senate but five and every employé of the Sergeant-at-Arms's office but two were swept out, every page of the Senate but two was swept out of the body, and when the Senate met in December, 1861, it had but two of the old pages. Nay, sir, the police and the restaurant-keeper were turned out of their places, as I am credibly informed by gentlemen upon whose statements I think I can rely.

There was then, sir, a condition of things under which if the party in power saw fit to make these changes it did not need to have this standing order changed, for of course if the caucus said, "We want to have these changes made," the Vice-President would accede to them. I assume that the Vice-President being in accord with the party in power, the caucus in accord with the party who desired to have a change made, would accede of course to the removals that the Senators coming in desired to make.

New conditions make new necessities, and there is not such a condition of things here now as there was then. I point to 1861 and 1869 for the proof of the necessity for this action as given to us by the republican organization. They have done precisely what is proposed to be done by us, and the necessity for the change in this rule is to my mind plain and clear. It should be done even in courtesy to the wishes of the Vice-President himself, for of course he does not want to aid in carrying out that which I suppose he and every Senator on the other side will admit is what his party should do.

It is said that the Secretary of the Senate has removed a soldier, a wounded soldier. I was somewhat surprised yesterday at the statement of the Senator from New York, [Mr. CONKLING.] I had heard nothing of the kind. I believe the official named was in the Union service. He went in as a musician. He was not wounded, he was discharged because of a diseased condition of the body. That disease was hernia. That is the history, I believe, of that case. This information comes to me of course from those whom I assume know it. I know nothing of it personally. I simply give it as I get it. If this be the instance on which the case of our friends is hung, if this is the class of soldiers to be protected, a different opinion prevails with them from that which prevails with us. We have no intention, as I said yesterday, and as I now repeat, and I think the Sergeant-at-Arms and the Secretary will vindicate the assertion, to remove any wounded soldier who is in service in or about the Senate.

Mr. EDMUNDS. Mr. President, I am not surprised that the honorable Senator from Pennsylvania has taken pains to discuss everything except the amendment that I have offered, which he has studiously avoided saying a word about, because he is too sensible not to see that nothing can be said in opposition to it justly, and he goes back to endeavor to vindicate the action that the Senate took in respect of two of its principal officers a month ago, as if he was not satisfied with that performance at that time, and has come in with a codicil to the will of the democratic caucus to explain the motive for changing the programme. That may be perfectly satisfactory to the Senator.

He says that in 1861 the party in the majority here turned out a good many officers, and that they did not assign any definite cause for it, and that now changed conditions make a change of necessities. If the Senator means by that to say that the changed condition of things is that we are back again exactly where we stood before the action of 1861 in all respects, then I can see the force of it, and I suppose that is what he does hold and mean. That is the tendency of his argument.

Mr. WALLACE. The Senator will permit me.

Mr. EDMUNDS. Yes, sir.

Mr. WALLACE. I mean simply by the changed condition, that we have now a democratic Senate and a republican Vice-President.

Mr. EDMUNDS. In 1860 we had a democratic Senate; I believe it did not cease to be democratic until 1861, and it ceased then, as the Senator knows, under circumstances that I am sorry to have him allude to, to rake up the unhappy memories of that time—very sorry indeed. I think if he had been in the Senate at that time he would have endeavored to be very sure that those officers of the Senate who were entitled to have knowledge of its confidential proceedings should be above the possibility of any suspicion of complicity with or sympathy with the other side—I will not use the harsh and unpopular expression that he did, "rebellion," but I will say "the other side." I think the Senator would, not on party grounds, but on the grounds of his country, as it appears to me; and sometimes, Mr. President, there is a difference between party and country, as has been observed at times, I will not say in connection with the party that the honorable Senator is the leader of in the course of its history in the last twenty years. I will not say that—I might transgress the proprieties of this body—but I will say in a general way that it has sometimes happened in the history of some countries that there was a wide difference between a party and the country.

And so the justification for this performance is found in the fact that in the period of 1861, which I need not waste your time or that of the Senate in describing, there was considerable of a sweep of the officers who were connected with the confidential operations of this body, and for obvious reasons, reasons that would commend themselves to the gentlemen even who left their seats and went away to fight on the other side—not reasons of party but reasons of security to the country—and that is made the justification, and the only justification, for the changes that are proposed now.

If the majority of this body has reason to believe that any of these employés or that the Secretary and the Sergeant-at-Arms who have gone, are inimical to the unity, the prosperity, and interest of their country, then, by all means, they ought to go, and I rather think that the Vice-President, or the President of the Senate, (if there be a difference, as likely in point of law there is,) could be brought, either or both of them, to agree to that proposition. But no such intimation is made, of course. It is stated on all hands that all of these employés are persons faithful, competent, diligent, respectable, not talking about the views of Senators whether they agree with theirs or not, but attending to their business. That is the universal testimony, I believe, upon all sides of the Chamber. If there are any exceptions, let those exceptions be acted upon.

That is the state of the case; and in respect of the changes that took place subsequently the Senator will see that they were not such changes as he now avows, changes for political considerations, because it was members of the same political party all the time that were removed or required to resign, and others of the same political party took their places. There was cause—people like to be tender about such things, very properly—there was in many of these instances, some within my own knowledge since I have been here, a good cause for the change, in respect of the better administration of the office. In many of the instances the change is to be accounted for in that way; and yet the Senator seems to be extremely anxious to prove that in 1861 the republican party was just as bad, set a bad example which is now to be followed. But as I said, Mr. President, in respect of the propriety of changing the Secretary and the Sergeant-at-Arms, that is a matter that has long gone by. It is a matter which we have not brought into this discussion at all. The question now is whether when we change a rule which prevents any removals without the assent of the President of the Senate into a rule which allows any removal to be made at the mere will of the Sergeant-at-Arms or Secretary as the case may be, we shall submit to their sole and personal power the removal of these Union soldiers, there being, I believe, two or three or four; I do not know how many, perhaps five or six.

That is the question, and that is the question which the Senator has not discussed. The Senator is mistaken, however, I will say in my opinion, with great deference to him, in respect of the power of the Sergeant-at-Arms under the present rule to remove messengers. The resolution that he read provided for the appointment by the Sergeant-at-Arms of messengers wherever there was a removal or a resignation or a death, &c.; but that did not confer on him the power to create a vacancy by a removal. The standing order of the Senate was that a removal could not be made without the assent of the President. This new resolution did not affect that. I submit that to the consideration of my honorable friend. That being the state of the case, he does not make any headway in respect to the power of the Sergeant-at-Arms by a reference to that old resolution which authorized him to fill vacancies. It appears that in 1860 the Senate thought that vacancies should be left unfilled because they thought the force was too large, I suppose. Afterward when the great business of the war made a heavy increase of duties of all kinds then the Senate ordered that those vacancies might be filled up. That is all there was to it.

But, Mr. President, I did not rise to delay the passage of this resolution, which is foreordained of course, by any remarks of mine, but only to correct, in connection with what the Senator has said, the misapprehension which he appears to labor under and which it may be that he would lead the Senate to labor under as to the history of this affair. Mr. Asbury Dickins was not turned out of office. An assistant being appointed to act for him and to use his name, &c., they could not get on well together, and at his own request the Senate elected a Secretary in his place. It was not in any sense either a

political removal or any other, and he was paid a long time in advance, though that, perhaps, has nothing to do with the point. He was not removed by a change in politics in the Senate at all; he was removed at his own request because of his physical inability to perform any duty whatever connected with the administration of the office.

So, then, Mr. President, there never has been a time yet since the resolution and order of 1854 passed without distinction of party in a Senate that was then composed of a democratic majority, when there has been any violation of that rule in any of the years that the honorable Senator has spoken of except in 1861, when, as I say, it was country and not party that led to taking the utmost precautions in respect to the confidential proceedings of the Senate.

Mr. ANTHONY. I take the liberty to correct my friend from Pennsylvania in regard to Mr. Dickins, Secretary of the Senate, who, he says, was removed when he was in full life. He was hardly in full life. He was upon the bed of sickness; the bed of death; and he had requested that he might be relieved from the office. An assistant secretary, a democrat, Mr. Hickey, was appointed to act with him and act for him; but the two did not agree very well. Mr. Dickins was incapable of performing the duties of the office himself by reason of the infirmities of age, and he was unwilling to delegate them to his assistant; and the result was that, at his request, the Senate went into an election of Secretary; and a provision was made for Mr. Dickins, which lasted after his death. His salary was paid for a year, and he died within the year.

The other removals of elective officers to which the Senator has referred were made for cause. I do not desire to allude to them here, but they were made for cause. The Sergeant-at-Arms was removed for reasons not affecting his moral character at all, but for cause. The change in the Public Printer's case was largely due to an unfortunate difference between him and a distinguished Senator now dead. In the political controversies of Indiana, remarks had been made by the man holding the office of Public Printer upon the Senator which were distasteful to him; but I am happy to say that before the Senator died a complete reconciliation took place.

The executive clerk, Mr. Nicholson, was a disloyal man. My recollection is that he resigned. I think he resigned. At all events, he was in full sympathy with the rebellion, and it was manifestly improper that such a man should remain in confidential relations with the Senate.

The PRESIDENT *pro tempore*. The morning hour has expired.

HOUSE BILL REFERRED.

The bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. WITHERS. Before the debate is resumed upon the Army bill I wish to state that it is the desire of the Appropriations Committee that this bill shall be disposed of before the Senate adjourns to-day, and I hope that it will be the pleasure of the Senate to sustain the committee in this purpose and secure its accomplishment.

Mr. ANTHONY. I would suggest to the Senator from Virginia that we fix a time to-morrow, by unanimous consent, when the vote shall be taken.

Mr. WITHERS. I made that effort yesterday without success, and I think now we shall arrive at a conclusion more speedily by determining that we shall have a vote upon the bill before we adjourn.

Mr. ANTHONY. Suppose we try it for to-morrow; say to-morrow at two o'clock?

Mr. WITHERS. If unanimous consent be given that the vote may be taken upon the whole bill and the amendments at two o'clock to-morrow, and the subject finally disposed of, so far as I am concerned I will not insist on a vote to-day.

Some Senators were heard to say "I object."

Mr. WITHERS. Objection is made, and therefore we must go on.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) There is no amendment pending to the Army appropriation bill.

Mr. CONKLING. Mr. President, during the last fiscal year the amount of national taxes paid into the Treasury was $234,831,461.77. Of this sum one hundred and thirty million and a fraction was collected under tariff laws as duties on imported merchandise, and one hundred and four million and a fraction as tax on American productions. Of this total of $235,000,000 in round numbers, twenty-seven States which adhered to the Union during the recent war paid $221,204,268.88. The residue came from eleven States. I will read their names: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia. These eleven States paid $13,627,192.89. Of this sum more than six million and a half came from the tobacco of Virginia. Deducting the amount of the tobacco-tax in Virginia, the eleven States enumerated paid $7,125,462.60 of the revenues and supplies of the Republic.

Mr. HILL, of Georgia. Will the Senator from New York allow me to ask him a question?

Mr. CONKLING. If the Senator thinks that two of us are needed to make a statement of figures I will.

Mr. HILL, of Georgia. Two no doubt can make it better.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Georgia?

Mr. CONKLING. After the expressed opinion of the Senator from Georgia that the statement needs his aid, I cannot decline.

Mr. HILL, of Georgia. I will not interrupt the Senator if it is disagreeable to him, I assure him. I ask if in the computation he has made of the amount paid he does not ascribe to the States that adhered to the Union, to use his language, all——

Mr. CONKLING. Having heard the Senator so far, I must ask him to desist.

The PRESIDING OFFICER. The Senator from New York declines to yield further.

Mr. CONKLING. I have stated certain figures as they appear in the published official accounts: the Senator seems about to challenge the process or system by which the accounts are made up. I cannot give way for this, and must beg him to allow me to proceed with observations which I fear to prolong lest they become too wearisome to the Senate.

The laws exacting these few millions from eleven States, and these hundreds of millions from twenty-seven States, originated, as the Constitution requires all bills for raising revenue to originate, in the House of Representatives. They are not recent laws. They have been approved and affirmed by succeeding Congresses. The last House of Representatives and its predecessor approved them, and both these Houses were ruled by a democratic Speaker, by democratic committees, and by a democratic majority. Both Senate and House are democratic now, and we hear of no purpose to repeal or suspend existing revenue laws. They are to remain in full force. They will continue to operate and to take tribute of the people. If the sum they exact this year and next year, shall be less than last year, it will be only or chiefly because recent legislation favoring southern and tobacco-growing regions has dismissed twelve or fourteen million of annual tax on tobacco.

This vast revenue is raised and to be raised for three uses. It is supplied in time of severe depression and distress, to pay debt inflicted by rebellion; to pay pensions to widows, orphans, and cripples made by rebellion; and to maintain the Government and enforce the laws preserved at inestimable cost of life and treasure.

It can be devoted to its uses in only one mode. Once in the Treasury, it must remain there useless until appropriated by act of Congress. The Constitution so ordains. To collect it, and then defeat or prevent its object and use, would be recreant and abominable oppression.

The Constitution leaves no discretion to Congress whether needful appropriations shall be made. Discretion to ascertain and determine amounts needful, is committed to Congress, but the appropriation of whatever is needful after the amount has been ascertained, is commanded positively and absolutely. When, for example, the Constitution declares that the President and the judges at stated periods shall receive compensation fixed by law, the duty to make the appropriations is plain and peremptory; to refuse to make them, is disobedience of the Constitution, and treasonable. So, when it is declared that Congress shall have power to provide money to pay debts, and for the common defense and the general welfare, the plain meaning is that Congress shall do these things, and a refusal to do them is revolutionary, and subversive of the Constitution. A refusal less flagrant would be impeachable in the case of every officer and department of the Government within the reach of impeachment. Were the President to refuse to do any act enjoined on him by the Constitution, he would be impeachable, and ought to be convicted and removed from office as a convict. Should the judges, one or some or all of them, refuse to perform any duty which the Constitution commits to the judicial branch, the refusal would be plainly impeachable.

Congress is not amenable to impeachment. Congressional majorities are triable at the bar of public opinion, and in no other human forum. Could Congress be dissolved instantly here as in England, could Senators and Representatives be driven instantly from their seats by popular disapproval, were they amenable presently somewhere, there would be more of bravery, if not less of guilt, in a disregard of sworn obligation. Legislators are bound chiefly by their honor and their oaths; and the very impunity and exemption they enjoy exalts and measures their obligations, and the crime and odium of violating them. Because of the fixed tenure by which the members of each House hold their places and their trusts, irreparable harm may come of their acts and omissions, before they can be visited with even political defeat, and before the wrong they do can be undone. A congressional majority is absolutely safe during its term, and those who suffered such impunity to exist in the frame of our Government, must have relied on, the enormity and turpitude of the act to deter the representatives of the people and the representatives of States from betraying a trust so exalted and so sacred as their offices imply.

Mr. President, it does not escape my attention, as it must occur to those around me, that in ordinary times obvious aphorisms, I might say truisms like these would be needless, if not out of place in the Senate. They are pertinent now because of an occasion without example in American history. I know of no similar instance in British history. Could one be found, it would only mark the difference between an hereditary monarchy without a written constitution, and a free republic with a written charter plainly defining from the begin-

ning the powers, the rights, and the duties of every department of the government. The nearest approaches in English experience to the transactions which now menace this country, only gild with broad light the wisdom of those who established a system to exempt America forever from the struggles between kingcraft and liberty, between aristocratic pretension and human rights, which in succeeding centuries had checkered and begrimed the annals of Great Britain. It was not to transplant, but to leave behind and shut out the usurpations and prerogatives of kings, nobles, and gentry, and the rude and violent resorts which, with varying and only partial success, had been matched against them, that wise and far-seeing men of many nationalities came to these shores and founded "a government of the people, for the people, and by the people." Such boisterous conflicts as the Old World had witnessed between subjects and rulers—between privilege and right, were the warnings which our fathers heeded, the dangers which they shunned, the evils which they averted, the disasters which they made impossible so long as their posterity should cherish their inheritance.

Until now no madness of party, no audacity or desperation of sinister, sectional, or partisan design, has ever ventured on such an attempt as has recently come to pass in the two Houses of Congress. The proceeding I mean to characterize, if misunderstood anywhere, is misunderstood here. One listening to addresses delivered to the Senate during this debate, as it is called, must think that the majority is arraigned, certainly that the majority wishes to seem and is determined to seem arraigned, merely for insisting that provisions appropriating money to keep the Government alive, and provisions not in themselves improper relating to other matters, may be united in the same bill. With somewhat of monotonous and ostentatious iteration we have been asked whether incorporating general legislation in appropriation bills is revolution, or revolutionary? No one in my hearing has ever so contended.

Each House is empowered by the Constitution to make rules governing the modes of its own procedure. The rules permitting, I know of nothing except convenience, common sense, and the danger of log-rolling combinations, which forbids putting all the appropriations into one bill, and in the same bill, all the revenue laws, a provision admitting a State into the Union, another paying a pension to a widow, and another changing the name of a steamboat. The votes and the executive approval which would make one of these provisions a law, would make them all a law. The proceeding would be outlandish, but it would not violate the Constitution.

A Senator might vote against such a huddle of incongruities, although separately he would approve each one of them. If however they passed both Houses in a bunch, and the Executive found no objection to any feature of the bill on its merits, and the only criticism should be that it would have been better legislative practice to divide it into separate enactments, it is not easy to see on what ground a veto could stand.

The assault which has been made on the executive branch of the Government, and on the Constitution itself, would not be less flagrant if separate bills had been resorted to as the weapons of attack. Suppose in a separate bill, the majority had, in advance of appropriations, repealed the national-bank act and the resumption act, and had declared that unless the Executive surrendered his convictions and yielded up his approval of the repealing act, no appropriations should be made; would the separation of the bills have palliated or condoned the revolutionary purpose? In the absence of an avowal that appropriations were to be finally withheld, or that appropriations were to be made to hinge upon the approval or veto of something else, a resort to separate bills might have cloaked and secreted for a time the real meaning of the transaction. In that respect it would have been wise and artful to resort to separate bills on this occasion; and I speak I think, in the hearing of at least one democratic Senator who did not overlook in advance the suggestion now made. But when it is declared, or intended, that unless another species of legislation is agreed to, the money of the people, paid for that purpose, shall not be used to maintain their Government and to enforce the laws—when it is designed that the Government shall be thrown into confusion and shall stop unless private charity or public succor comes to its relief, the threat is revolutionary, and its execution is treasonable.

In the case before us, the design to make appropriations hinge and depend upon the destruction of certain laws, is plain on the face of the bills before us,—the bill now pending, and another one on our tables. The same design was plain on the face of the bills sent us at the last session. The very fact that the sections uncovering the ballot-box to violence and fraud, are not, and never have been separately presented, but are thrust into appropriation bills, discloses and proves a belief, if not a knowledge, that in a separate bill the Executive would not approve them. Moreover both Houses have rung with the assertion that the Executive would not approve in a separate measure the overthrow of existing safeguards of the ballot-box, and that should he refuse to give his approval to appropriations and an overthrow of those safeguards linked together, no appropriations should be made.

The plot and the purpose then, is by duress to compel the Executive to give up his convictions, his duty, and his oath, as the price to be paid a political party for allowing the Government to live! Whether the bills be united or divided is mere method and form. The substance in either form is the same, and the plot if persisted in will bury its aiders and abettors in opprobrium, and will leave a buoy on the sea of time warning political mariners to keep aloof from a treacherous channel in which a political party foundered and went down.

The size of the Army and its pay, have both been exactly fixed by law—by law enacted by a democratic House, and approved by a second democratic House. It has been decided and voted that the coast defenses and the Indian and frontier service, require a certain number of soldiers; and the appropriations needed for provision and pay have been ascertained to a farthing. Nothing remains to be done, but to give formal sanction and warrant for the use of the money from time to time. This was all true at the last session. But a democratic House, or more justly speaking the democratic majority in the House refused to give its sanction, refused to allow the people's money to reach the use for which the people paid it, unless certain long-standing laws were repealed. When the Senate voted against the repeal, we were bluntly told that unless that vote was reversed, unless the Senate and the Executive would accept the bills, repealing clauses and all, the session should die, no appropriations should be made, and the wheels of the Government should stop. The threat was executed; the session did die, and every branch of the Government was left without the power to execute its duties after the 30th of next June.

We were further told that when the extra session, thus to be brought about, should convene, the democrats would rule both Houses, that the majority would again insist on its terms, and that then unless the Executive submitted to become an accomplice in the design to fling down the barriers that block the way to the ballot-box against fraud and force, appropriations would again be refused, and again the session should die leaving the Government paralyzed. The extra session has convened; the democrats have indeed the power in both Houses, and thus far the war and the caucus have come up to the manifesto. So far the exploit has been easy. The time of trial is to come; the issue has been made, and of its ignominious failure, there can be no doubt if the Executive shall plant itself on constitutional right and duty, and stand firm. The actors in this scheme have managed themselves and their party into a predicament, and unless the President lets them out they will and they must back out. [Laughter, and manifestations of applause in the galleries.]

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) Order.

Mr. CONKLING. Should the Executive interpose the constitutional shield against the political enormities of the proposed bills, and then should the majority carry out the threat to desert their posts by adjournment without making the needed appropriations, I hope and trust they will be called back instantly and called back as often as need be until they relinquish a monstrous pretension and abandon a treasonable position.

The Army bill now pending, is not, in its political features, the bill tendered us at the last session a few days ago; it is not the same bill then insisted on as the ultimatum of the majority. The bill as it comes to us now, condemns its predecessor as crude and objectionable. It was found to need alteration. It did need alteration badly, and those who lately insisted on it as it was, insist on it now as it then was not. A grave proviso has been added to save the right of the President to aid a State gasping in the throes of rebellion or invasion and calling for help. As the provision stood when thrust upon us first and last at the recent session, it would have punished as a felon the President of the United States, the General of the Army, and others, for attempting to obey the Constitution of the United States and two ancient acts of Congress, one of them signed by George Washington. Shorn of this absurdity, the bill as it now stands, should it become a law, will be the first enactment of its kind that ever found its way into the statutes of the United States. A century, with all its activities and party strifes, with all its passionate discords, with all its expedients for party advantage, with all its wisdom and its folly, with all its patriotism and its treason, has never till now produced a congressional majority which deemed such a statute fit to be enacted.

Let me state the meaning of the amendments proposed under guise of enlarging liberty on election day—that day of days when order, peace, and security for all, as well as liberty, should reign. The amendments declare in plain legal effect that, no matter what the exigency may be, no matter what violence or carnage may run riot and trample down right and life, no matter what mob brutality may become master, if the day be election day, any officer or person, civil, military, or naval, from the President down, who attempts to interfere to prevent or quell violence by the aid of national soldiers, or armed men not soldiers, shall be punished, and may be fined $5,000 and imprisoned for five years. This is the law we are required to set up. Yes, not only to leave murderous ruffianism untouched, but to invite it into action by assurances of safety in advance.

In the city of New York, all the thugs and shoulder-hitters and repeaters, all the carriers of slung-shot, dirks, and bludgeons, all the fraternity of the bucket-shops, the rat-pits, the hells and the slums, all the graduates of the nurseries of modern so-called democracy, [laughter;] all those who employ and incite them, from King's Bridge to the Battery, are to be told in advance that on the day when the million people around them choose their members of the National Legislature, no matter what God-daring or man-hurting enormities they may commit, no matter what they do, nothing they can do will meet with the slightest resistance from any national soldier or armed man clothed with national authority.

Another bill, already on our tables, strikes down even police officers armed, or unarmed, of the United States.

In South Carolina, in Louisiana, in Mississippi, and in the other States where colored citizens are counted to swell the representation in Congress and then robbed of their ballots and dismissed from the political sum—in all such States, every rifle club, and white league, and murderous band, and every tissue ballot box stuffer, night-rider, and law-breaker is to be told that they may turn national elections into a bloody farce, that they may choke the whole proceeding with force and fraud and blood, and that the nation shall not confront them with one armed man. State troops, whether under the name of rifle clubs or white leagues, or any other, armed with the muskets of the United States, may constitute the mob, may incite the mob, but the national arm is to be tied and palsied.

I repeat such an act of Congress has never yet existed. If there ever was a time when such an act could safely and fitly stand upon the statute-book, that time is not now, and is not likely to arrive in the near future. Until rebellion raised its iron hand, all parties and all sections had been content to leave where the Constitution left it the power and duty of the President to take care that the laws be faithfully executed. The Constitution has in this regard three plain commands:

The President "shall take care that the laws be faithfully executed."

Again, "The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States."

"The actual service of the United States" some man may say means war merely, service in time of war. Let me read again, "Congress shall have power to provide for calling forth the militia." For what? First of all, "to execute the laws of the Union."

Yes, Congress shall have power "to provide for calling forth the militia to execute the laws of the Union." Speaking to lawyers, I venture to emphasize the word "execute." It is a term of art; it has a long-defined meaning. The act of 1795, re-enacted since, emphasized these constitutional provisions.

Here it is, section 5298 of the Revised Statutes.

Whenever, *by reason of unlawful obstruction, combinations, or assemblages of persons*, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, *it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States*, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, *or the execution thereof forcibly obstructed.*

That section, enacted in substance during the administration of Washington, drawn and voted for by the men who framed the Constitution, only supplemented the provisions I have read. It has stood for eighty-four years unchallenged.

These constitutional provisions, enforced by the act to which the Senate has listened, were, and to-day are, the only authority under which the soldiers of the nation can go on election day or any other day to the polls or elsewhere within the jurisdiction of a State to quell violence and enforce law. If under these provisions armed men cannot be employed to subdue violence at the polls on the day of a national election, they cannot be employed at all; for there is, as I shall argue and as I think I shall demonstrate, no other authority for it; certainly none in the act which we are invited to strike down. If there was during eighty years of acquiescence too much latitude given to the President or the Army by the Constitution and by the act of 1795, that latitude was curtailed on the 18th of June, 1878. On that recent date, this provision became a law:

SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus*, or otherwise, for the purpose of executing the laws, *except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress;* and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000, or imprisonment not exceeding two years, or by both such fine and imprisonment.

Mark the language, a penal statute visiting with penalty the President and everybody else who attempts to employ troops in any case unless the Constitution or an act of Congress "expressly," not alone by implication, not alone by the spirit, which makes alive, but by the very letter which sometimes kills, authorizes such employment. So thoroughly is the Constitution hedged about already. I have said and I repeat that the act of 1865, against which this repeal is leveled, contains no authority, none whatever, under which any one soldier or any one armed man may go for the purpose of keeping the peace, or for any other purpose, to the polls on a national election day. Let me read the section aimed at by the amendment, and the section which immediately follows it, both of which were enacted as part of the statute of 1865:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, *or to keep the peace at the polls.*

Mark the following section:

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. (See sections 5530–5532.)

Does any lawyer listen to those two sections and know that they stood together in the act of 1865, and yet doubt that the act was a mere penal and restraining act? It conferred no power. It was designed for no such thing. It diminished, curtailed, restrained the olden power which from time immemorial had resided in the persons the section describes.

Mr. President, let me go back a moment, for I think, after reading some remarks which fell from the distinguished Senator from Illinois now before me, [Mr. DAVIS,] it is somewhat important that the Senate should know that I am right or know that I am wrong in this particular. I have said that the act of 1865 gives no authority to troops or armed men to visit the polls at which an election is being held. I have said that the power of the President resides in the act of 1795 and in the Constitution, and I add that until 1864 these constitutional provisions had always been deemed not only a suitable grant of power, but a sufficiently guarded grant.

National jurisdiction,—by that I mean the right of national authority to interpose—depends sometimes upon the *locus* as lawyers say, thereby meaning the place, and sometimes on the occasion without reference to place.

In a fort, an arsenal, a dock-yard, and in every other place under the sole jurisdiction of the United States, the national authority may always go to preserve the peace and to reign and dwell there. In the States, and everywhere in every State, on every rood of our soil, the national authority may always go, and lawfully go, when any act is to be done or law enforced in virtue of the Constitution of the United States.

The law protecting and regulating national elections is a law in virtue of the Constitution of the United States. The execution of that law is an act under and in virtue of that Constitution. It follows that it is one of the laws which the President is empowered and commanded to take care to have faithfully executed. It is one of "the laws of the Union" which he may command the militia as well as the national forces to execute. It is one of the laws in respect of which, when need be, he may exert all the power, civil and military, which he may exert, to execute any law whatever.

Are we to be told that the act protecting elections is unconstitutional, and therefore not valid and not "a law of the Union?" It is too late to say that. The democratic House, and what is more absolute, the democratic caucus, have abandoned the constitutional argument. They have decided that the election law is a valid constitutional law, and the judgment stands recorded in the legislative, executive and judicial bill lying on our tables as pending in the House. They recognize the election act; they deal with it; they assume that it exists. They cripple it, it is true; they cunningly emasculate it, they provide for its safe and easy violation and evasion. They so change it as to make a smooth and tempting walk for every ballot-box-stuffer and ruffian who would marauding upon the ballot-box, but they recognize it all the time, and deal with it as a valid constitutional enactment.

I said, and I repeat, that the authority to enforce this law resides in the Constitution and in the act of 1795. I said, and I repeat, that until 1864 no curb, no limitation, had ever been placed by Congress upon the right and duty to execute law and preserve peace on election day or any other day.

In 1861–'62 General McClellan, General Dix, General Schenck, and others, military commanders, issued orders in which they not only excluded disloyal voters from the polls, but undertook in some sort to prescribe the qualification of electors. General McClellan was a democrat and must be supposed to have been inspired in all the meanings and limitations of the Constitution. I never knew a democrat during the war, even if he could not read the Constitution by its title, who was not profoundly instructed and vehemently certain of all prohibitions of that famous instrument. General McClellan issued an order not only regulating elections, but suspending the privilege of the writ of *habeas corpus*, in order that at elections military authority might have full sway. Here it is:

HEADQUARTERS ARMY OF THE POTOMAC,
Washington, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major-general commanding—

That was General McClellan—

directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held, to protect the Union voters, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election.

For the purpose of carrying out these instructions you are authorized to suspend the *habeas corpus*. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,

R. B. MARCY
Chief of Staff.

Major-General N. P. BANKS,
Commanding Division, Muddy Branch, Maryland.

The democratic party did not learn for some time afterward how monstrous it is to confront ruffians with armed force. Indeed, the tender constitutional susceptibilities of that great organization were not then keenly alive to the wrong of trampling under foot that great prerogative writ, and boast of Anglo-Saxon freedom and jurisprudence, the *habeas corpus*.

Three years later the democrats met in national convention. The convention resolved that the war for the Union was a failure, a failure just at the time when it was about to triumph utterly, as it would have done long before but for incitement and encouragement given by northern democrats to the rebellion. Having recorded this sage, patriotic, and statesman-like judgment, the convention proceeded to nominate for President of the United States and Commander-in-Chief of the Army and Navy the very man who had sent soldiers to act as overseers of elections, who had trampled down by military force the privilege of the *habeas corpus*, and this, do not forget, in Maryland,—Maryland, a State in the Union, not even a seceded State.

Delaware too, was protected at her elections by military force, under military orders, and the governor of that State thanked the national authorities for that protection, approved it and aided it.

But these orders went very far. They prescribed with military rigor the qualification of voters, and rough proceedings no doubt ensued. The sword is not a mathematical instrument, it is not as exact as the guillotine, not as exact as the headsman's axe, nor even as the dagger, the bullet, or the halter of the assassin.

These orders prompted the act of 1865, not to confer power, I cannot repeat too often, but to restrain and curtail it.

The bill was introduced by Mr. Powell of Kentucky, that Senator who when the enrollment act came from the House is said to have remarked, "Go on with your draft; I feel no interest in it; Kentucky's quota is full on both sides." The bill was referred to the Military Committee of the Senate. On the 12th of February, 1864, the Military Committee reported against it, and for the time being that was the end of it.

A year later, having meantime been taken up and amended, amended as it now stands, it was passed. Every democratic Senator who voted voted for it as it stands now. Every democrat in the House who voted voted for the act as it stands now. Nay more; after it had been amended as it now is, after the words "except when necessary to keep the peace at the polls," had been established in it, Mr. Powell, a democrat from Kentucky, and other democratic members of the Senate again and again, as the Senator from Iowa knows, for he has just traversed the debate, urged the Senate, importuned the Senate to take up this now obnoxious act, amended as it now stands, and put it on its passage. Was it not so?

Mr. ALLISON. Yes, sir.

Mr. CONKLING. Mr. President, the act of 1865 was not, as the honorable Senator from Illinois stated, a war measure, to operate only in time of war. No, sir; it was passed in 1865, passed when Grant was tightening the coils around Richmond, passed when Sherman, everywhere victorious in the South, had led his conquering legions from the mountains to the sea. It was passed when the rebellion was in the very article of death. In less than sixty days the confederacy as a military fact had become a vanished dream. No, sir; it was passed at the end of a great war, and passed to put a bridle on permission, and power which had gone unchecked for three-quarters of a century during which statesmen had lived—for there were brave men before Agamemnon. It was meant to be, it was said to be, and it is, a mere check. It punishes ordering troops to approach the polls, except that when the order is for a lawful purpose it is not included.

Does that, I ask the honorable Senator from Illinois, confer authority upon anybody? Take an analogous case. Here is a statute,—the books of both hemispheres bristle with them,—denouncing homicide. What do they declare? The killing of a human being with *prepense* aforethought, shall be murder; but they except, or the court interpolates into them as an exception, the act of a sheriff in executing a criminal. That act shall not be punished. Did any lawyer ever hear that under a statute of that sort a sheriff might proceed to hang a man? Did anybody ever hear that if a statute punished an act and said "except it be lawfully done," that statute furnished the authority for doing it, or had any possible effect save only to say that, when lawfully done, when authority otherwise existed to do it, it should not be held punishable? A sheriff must have a death-warrant of a competent tribunal, and an express enabling statute when he proceeds to deprive a human being of life; without that he would be a murderer just as much under a statute excepting lawful executions from punishment as homicides, as without such a statute. So when a statute declares that troops shall be punished if they act except in a given condition of things, they must still be authorized, they must have authority on which to act as much as the sheriff must have authority on which to execute.

Again, this act forbids civil officers to have soldiers or armed men not soldiers at the polls, except it be necessary to quell violence. The amendment proposes to punish civil officers for trying to subdue rioters or mobs by soldiers or by calling upon men not soldiers if they are armed in any way; and this, we are told, is to subordinate the military to the civil authority!

Again, the act as it stands forbids, except in the case for which there may be authority, the presence of troops at the "place" at which an election is to be held. What does "place" mean? I ask emphatically what does "place" mean? The honorable Senator from Delaware cited the other day at great length an instance in which troops had been present in the city of New York within the meaning of this act, when they were conspicuously absent from every polling place; not allowed to go, even one at a time, to any polling place for any purpose whatever. Under this interpretation "place" must be construed to mean a whole city or a township, and under the proposed amendment so construed, on a day when election is held every soldier must be banished from the whole Island of Manhattan, and never allowed to return during the day even though the entire city should be wrapped in flames or sacked by mobs.

Again, the act of 1865 forbids the presence of soldiers save only when *necessary* to preserve the peace. My honorable friend from Connecticut smiles——

Mr. EATON. I do. Necessity is the plea of tyrants.

Mr. CONKLING. That is the lawyer's smile. My honorable friend knows as well as I know—we do not differ—that a statute providing that a thing may be done when necessary, commits to the discretion of somebody authority to judge of that necessity. No doubt of it. No doubt the discretion may be abused. All human discretion may be abused; almost if not all human discretion has been abused since the morning of time. The governor of every State may abuse similar discretion every day in the year; so may every sheriff, mayor, and constable. The President may mistake or abuse the discretion which calls for his judgment; he may do it under other statutes and provisions every other day in the three hundred and sixty-five. What is there, in God's name what is there in a Republic operating by universal suffrage and governed by majorities, which should pick out election day and hand that day over a prey to unchallenged ruffianism, brutality, and disorder?

Connected with the amendment we are now considering and a part of it, is the act for protecting and regulating national elections. That act applies to cities of twenty thousand or more inhabitants. It provides that two persons may be appointed by the court, not to act as overseers, but as supervisors of registration, voting and counting at national elections. One is to be a democrat, one is to be a republican. That is to prevent either side having advantage over the other. In rural regions with sparse populations, no provision is made. There, as a rule, all voters are known to each other; there, the danger of mobs and tumults is comparatively slight. In the large cities the case is different. There, these two supervisors are to see fair play: that is the whole of it. They have no powers, nor have the deputy marshals any power, not from time immemorial and from necessity reposed in all the States, as far as I know, in the inspectors of election. I read the provision as it stands in my own State, and I ask the Senate to mark what sort of power it confers on every inspector of election:

If any person shall willfully disobey any lawful commands of the board of inspectors of any election, or shall willfully and without lawful authority, obstruct, hinder, or delay any elector on his way to any poll where an election shall be held, or while he is exercising or attempting to exercise the right of voting, or shall aid or assist in such obstruction or delay, he shall, on conviction, be adjudged guilty of a misdemeanor, and be fined in a sum not exceeding $250, and may be imprisoned, in the discretion of the court, for not more than six months.

All these inspectors under this act are such "potentates and powers" that any man who dares to disobey their commands is to be punished; and yet the sensibilities of the gifted and ardent Senator from Indiana [Mr. VOORHEES] palpitated with indignant emotion when he thought of youth and age meeting at the polls and voting, with two persons, one democrat and one republican looking right at them when they did it; looking on to see that the receiver of ballots did not destroy or change them but put them in the box, and afterward to see that the ballots were honestly counted after youth and age had gone home to supper. I listened to a recital of that ordeal, and I made up my mind that on such an occasion youth and age after the day's fitful struggle might sleep well.

The election law came in to correct abuses which reached their climax in 1868 in the city of New York. In that year in the State of New York the republican candidate for governor was elected; the democratic candidate was counted in. Members of the Legislature were fraudulently seated. The election was a barbarous burlesque. Many thousand forged naturalization papers were issued; some of them were white and some were coffee-colored. The same witnesses purported to attest hundreds and thousands of naturalization affidavits, and the stupendous fraud of the whole thing was and is an open secret. Some of these naturalization papers were sent to other States. So plenty were they, that some of them were sent to Germany, and Germans who had never left their country claimed exemption from the German draft for soldiers in the Franco-Prussian war, because they were naturalized American citizens! [Laughter.]

The holders of these papers voted by thousands, and I have heard it said in this debate that Judge Blatchford has decided that these papers are legal. Never. I see the Senator from West Virginia [Mr. HEREFORD] nod. He does not nod very forcibly, but he nods enough to induce me to stop and read from the judgment of Judge Blatchford. Judge Blatchford passed upon a case made—lawyers will understand what that is—presenting a pure question of law. What was the question? Whether certain papers on deposit or on file in court in and of themselves, assuming their verity, assuming that they were genuine, constituted a record in the eye of the law. There was no question tried or decided whether they were forged or not; no ques-

tion whether they were fraudulent or not; no question whether they had been signed, as some of them had been, with the name of officers appearing on their face who never were elected until long after the paper was issued; but on the naked question presented to him, Judge Blatchford spoke. He refers to another case in which the same question had been presented, and says:

> The sole ground of such application was that the validity of the admission of the party to citizenship was disputed, on the allegation that there was no legal record of the judgment admitting him to citizenship,—

Why? I ask the Senate to mark—

> for the reason that the clerk of the court did not write out an entry in the minute-book of the court reciting the proceedings and showing the adjudication made. This is the same point now urged here.

There is the point of the decision and the whole of it as I understand.

I say thousands of men voted upon fraudulent naturalization papers. But all this was tame and paltry compared with other enormities. The city of New York was redistricted from time to time—sometimes so districted as to bisect blocks, and denizens of the same building could vote in different election precincts. In some cases the democratic majority was larger than the whole number of men, women, children, horses, cats, and dogs in the district, [laughter,] and I speak not in rhetorical figures but in Arabic figures.

Repeating, ballot-box stuffing, ruffianism, and false counting decided everything. Tweed made the election officers, and the election officers were corrupt. In 1868, thirty thousand votes were falsely added to the democratic majority in the cities of New York and Brooklyn alone. Taxes and elections were the mere spoil and booty of a currupt junta in Tammany Hall. Assessments, exactions, and exemptions were made the bribes and the penalties of political submission. Usurpation and fraud inaugurated a carnival of corrupt disorder; and obscene birds without number swooped down to the harvest and gorged themselves on every side in plunder and spoliation. Wrongs and usurpations springing from the pollution and desecration of the ballot-box stalked high-headed in the public way. The courts and the machinery of justice were impotent in the presence of culprits too great to be punished.

The act of 1870 came in to throttle such abuses. It was not born without throes and pangs. It passed the Senate after a day and a night which rang with democratic maledictions and foul aspersions.

In the autumn of that year an election was held for the choice of Representatives in Congress. I see more than one friend near me who for himself and for others has reason even unto this day to remember that election and the apprehension which preceded it. It was the first time the law of 1870 had been put in force. Resistance was openly counseled. Democratic newspapers in New York advised that the officers of the law be pitched into the river. Disorder was afoot. Men, not wanting in bravery, and not republicans, dreaded the day. Bloodshed, arson, riot were feared. Ghastly spectacles were still fresh in memory. The draft riots had spread terror which had never died, and strong men shuddered when they remembered the bloody assizes of the democratic party. They had seen men and women, blind with party hate, dizzy and drunk with party madness, stab and burn and revel in murder and in mutilating the dead. They had seen an asylum for colored orphans made a funeral pile, and its smoke sent up from their Christian and imperial city to tell in heaven of the inhuman bigotry, the horrible barbarity of man. Remembering such sickening scenes, and dreading their repetition, they asked the President to protect them—to protect them with the beak and claw of national power. Instantly the unkenneled packs of party barked in vengeful chorus. Imprecations, maledictions, and threats were hurled at Grant; but with that splendid courage which never blanched in battle, which never quaked before clamor—with that matchless self-poise which did not desert him even when a continent beyond the sea rose and uncovered before him, [applause in the galleries,] he responded in the orders which it has pleased the honorable Senator from Delaware to read. The election thus protected was the fairest, the freest, the most secure, a generation had seen. When, two years afterward, New York came to crown Grant with her vote, his action in protecting her chief city on the Ides of November, 1870, was not forgotten. When next New York has occasion to record her judgment of the services of Grant, his action in 1870 touching peace in the city of New York will not be hidden away by those who espouse him wisely. [Applause in the galleries.]

Now, the election law is to be emasculated; no national soldier must confront rioters or mobs; no armed man by national authority, though not a soldier, must stay the tide of brutality or force; no deputy marshal must be within call; no supervisor must have power to arrest any man who in his sight commits the most flagrant breach of the peace. But the democrats tell us "we have not abolished the supervisors; we have left them." Yes, the legislative bill leaves the supervisors, two stool-pigeons with their wings clipped, [laughter,] two licensed witnesses to stand about idle, and look—yes, "a cat may look at a king"—but they must not touch bullies or lawbreakers, not if they do murders right before their eyes.

If a civil officer should, under the pending amendment, attempt to quell a riot by calling on the bystanders, if they have arms, he is punishable for that. If a marshal, the marshal of the district in which the election occurs, the marshal nominated to the Senate and confirmed by the Senate—I do not mean a deputy marshal—should see an affray or a riot at the polls on election day and call upon the bystanders to quell it, if this bill becomes a law, and one of those bystanders has a revolver in his pocket, or another one takes a stick or a cudgel in his hand, the marshal may be fined $5,000 and punished by five years' imprisonment.

Such are the devices to belittle national authority and national law, to turn the idea of the sovereignty of the nation into a laughing-stock and a by-word.

Under what pretexts, is this uprooting and overturning to be? Any officer who transgresses the law, be he civil or military, may be punished in the courts of the State or in the courts of the nation under existing law. Is the election act unconstitutional? The courts for ten years have been open to that question. The law has been pounded with all the hammers of the lawyers, but it has stood the test; no court has pronounced it unconstitutional, although many men have been prosecuted and convicted under it. Judge Woodruff and Judge Blatchford have vindicated its constitutionality. But, as I said before, the constitutional argument has been abandoned. The supreme political court, practically now above Congresses or even constitutions, the democratic caucus, has decided that the law is constitutional. The record of the judgment is in the legislative bill.

We are told it costs money to enforce the law. Yes, it costs money to enforce all laws; it costs money to prosecute smugglers, counterfeiters, murderers, mail robbers and others. We have been informed that it has cost $200,000 to execute the election act. It cost more than $5,000,000,000 in money alone, to preserve our institutions and our laws, in one war, and the nation which bled and the nation which paid is not likely to give up its institutions and the birthright of its citizens for $200,000. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Senator will suspend a moment. The Chair will announce to the galleries that there shall be no more applause; if so, the galleries will be cleared immediately.

Mr. CONKLING. Mr. President, that interruption reminds me, the present occupant of the chair having been deeply interested in the bill, that the appropriations made and squandered for local and unlawful improvements in the last river and harbor bill, alone, would pay for executing the election law as long as grass grows or water runs. The interest on the money wrongfully squandered in that one bill, would execute it twice over perpetually. The cost of this needless extra session, brought about as a partisan contrivance, would execute the election law for a great while. A better way to save the cost, than to repeal the law, is to obey it. Let White Leagues and rifle clubs disband; let your night-riders dismount; let your tissue ballot box stuffers desist; let repeaters, false-counters, and ruffians no longer be employed to carry elections, and then the cost of executing the law will disappear from the public ledger.

Again, we are told that forty-five million people are in danger from an army nominally of twenty-five thousand men scattered over a continent, most of them beyond the frontiers of civilized abode. Military power has become an affrighting specter. Soldiers at the polls, are displeasing to a political party. What party? That party whose Administration ordered soldiers, who obeyed, to shoot down and kill unoffending citizens here in the streets of Washington on election day; that party which has arrested and dispersed Legislatures at the point of the bayonet; that party which has employed troops to carry elections to decide that a State should be slave and should not be free; that party which has corraled courts of justice with national bayonets, and hunted panting fugitive slaves, in peaceful communities, with artillery and dragoons; that party which would have to-day no majority in either House of Congress except for elections dominated and decided by violence and fraud; that party under whose sway, in several States, not only the right to vote, but the right to be, is now trampled under foot.

Such is the source of an insulting summons to the Executive to become *particeps criminis* in prostrating wholesome laws, and this is the condition on which the money of the people, paid by the people, shall be permitted to be used for the purposes for which the people paid it.

Has the present national Administration been officiously robust in checking the encroachments and turbulence of democrats, either by the use of troops or otherwise? I ask this question because the next election is to occur during the term of the present Administration. What is the need of revolutionary measures now? What is all this uproar and commotion, this daring venture of partisan experiment, for? Why not make your issue against these laws, and carry your issue to the people? If you can elect a President and a Congress of your thinking, you will have it all your own way.

Why now should there be an attempt to block the wheels of government on the eve of an election at which this whole question is triable before the principals and masters of us all? The answer is inevitable. But one truthful explanation can be made of this daring enterprise. It is a political, a partisan manœuvre. It is a strike for party advantage. With a fair election and an honest count, the democratic party cannot carry the country. These laws, if executed, insure some approach to a fair election. Therefore they stand in the way, and therefore they are to be broken down.

I reflect upon no man's motives, but I believe that the sentiment which finds expression in the transaction now proceeding in the two Houses of Congress, has its origin in the idea I have stated. I believe that the managers and charioteers of the democratic party

think that with a fair election and a fair count they cannot carry the State of New York. They know that with free course, such as existed in 1868, to the ballot-box and count, no matter what majority may be given in that State where the green grass grows, the great cities will overbalance and swamp it. They know that with the ability to give eighty, ninety, one hundred thousand majority in the county of New York and the county of Kings, half of it fraudulently added, it is idle for the three million people living above the Highlands of the Hudson, to vote.

This is a struggle for power. It is a fight for empire. It is a contrivance to clutch the National Government. That we believe; that I believe.

The nation has tasted, and drank to the dregs, the sway of the democratic party, organized and dominated by the same influences which dominate it again and still. You want to restore that dominion. We mean to resist you at every step and by every lawful means that opportunity places in our hands. We believe that it is good for the country, good for every man North and South who loves the country now, that the Government should remain in the hands of those who were never against it. We believe that it is not wise or safe to give over our nationality to the dominion of the forces which formerly and now again rule the democratic party. We do not mean to connive at further conquests, and we tell you that if you gain further political power, you must gain it by fair means, and not by foul. We believe that these laws are wholesome. We believe that they are necessary barriers against wrongs, necessary defenses for rights; and so believing, we will keep and defend them even to the uttermost of lawful honest effort.

The other day, it was Tuesday I think, it pleased the honorable Senator from Illinois [Mr. DAVIS] to deliver to the Senate an address, I had rather said an opinion, able and carefully prepared. That honorable Senator knows well the regard not only, but the sincere respect in which I hold him, and he will not misunderstand the freedom with which I shall refer to some of his utterances. Whatever else his sayings fail to prove, they did I think, prove their author, after Mrs. Winslow, the most copious and inexhaustible fountain of soothing sirup. The honorable Senator seemed like one slumbering in a storm and dreaming of a calm. He said there was no uproar anywhere—one would infer you could hear a pin drop,—from center to circumference. Rights, he said, are secure. I have his language here. If I do not seem to give the substance aright I will stop and read it. Rights secure North and South; peace and tranquillity everywhere. The law obeyed and no need of special provisions or anxiety. It was in this strain that the Senator discoursed.

Are rights secure, when fresh-done barbarities show that local government in one portion of our land is no better than despotism tempered by assassination! Rights secure, when such things can be, as stand proved and recorded by committees of the Senate! Rights secure, when the old and the young fly in terror from their homes, and from the graves of their murdered dead! Rights secure, when thousands brave cold, hunger, death, seeking among strangers in a far country a humanity which will remember that—

> "Before man made them citizens,
> Great nature made them men!"

Read the memorial signed by Judge Dillon, by the democratic mayor of Saint Louis, by Mr. Henderson once a member of the Senate, and by other men known to the nation, detailing what has been done in recent weeks on the Southern Mississippi. Read the affidavits accompanying this memorial. Has any one a copy of the memorial here? I have seen the memorial. I have seen the signatures. I hope the honorable Senator from Illinois will read it, and read the affidavits which accompany it. When he does, he will read one of the most sickening recitals of modern times. He will look upon one of the bloodiest and blackest pictures in the book of recent years. Yet the Senator says, all is quiet. "There is not such faith, no not in Israel." Verily "order reigns in Warsaw."

Solitudinem faciunt, pacem appellant.

Mr. President, the republican party everywhere wants peace and prosperity—peace and prosperity in the South, as much and as sincerely as elsewhere. Disguising the truth, will not bring peace and prosperity. Soft phrases will not bring peace. "Fair words butter no parsnips." We hear a great deal of loose flabby talk about "fanning dying embers," "rekindling smoldering fires," and so on. Whenever the plain truth is spoken, these unctuous monitions, with a Peter Parley benevolence, fall copiously upon us. This lullaby and hush has been in my belief a mistake from the beginning. It has misled the South and misled the North. In Andrew Johnson's time a convention was worked up at Philadelphia, and men were brought from the North and South, for ecstasy and gush. A man from Massachusetts and a man from South Carolina locked arms and walked into the convention arm in arm, and sensation and credulity palpitated, and clapped their hands, and thought an universal solvent had been found. Serenades were held at which "Dixie" was played. Later on, anniversaries of battles fought in the war of Independence, were made occasions by men from the North and men from the South for emotional, dramatic, hugging ceremonies. General Sherman I remember, attended one of them, and I remember also, that with the bluntness of a soldier, and the wisdom and hard sense of a statesman, he plainly cautioned all concerned not to be carried away, and not to be fooled. But many have been fooled, and being fooled, have helped to swell the democratic majorities which now display themselves before the public eye.

Of all such effusive demonstrations I have this to say: honest, serious convictions are not ecstatic or emotional. Grave affairs and lasting purposes do not express or vent themselves in honeyed phrase or sickly sentimentality, rhapsody, or profuse professions.

This is as true of political as of religious duties. The Divine Master tells us, "Not every one that saith unto me, Lord, Lord, shall enter into the kingdom of heaven; but he that doeth the will of my Father which is in Heaven."

Facts are stubborn things, but the better way to deal with them is to look them squarely in the face.

The republican party and the northern people preach no crusade against the South. I will say nothing of the past beyond a single fact. When the war was over, no man who fought against his flag was punished even by imprisonment. No estate was confiscated. Every man was left free to enjoy life, liberty, and the pursuit of happiness. After the Southern States were restored to their relations in the Union, no man was ever disfranchised by national authority—not one. If this statement is denied I invite any Senator to correct me. I repeat it. After the southern State governments were rebuilded, and the States were restored to their relations in the Union, by national authority not one man for one moment was ever denied the right to vote, or hindered in the right. From the time that Mississippi was restored, there never has been an hour when Jefferson Davis might not vote as freely as the honorable Senator in his State of Illinois. The North, burdened with taxes, draped in mourning, dotted over with new-made graves tenanted by her bravest and her best, sought to inflict no penalty upon those who had stricken her with the greatest, and, as she believed, the guiltiest rebellion that ever crimsoned the annals of the human race.

As an example of generosity and magnanimity, the conduct of the nation in victory was the grandest the world has ever seen. The same spirit prevails now. Yet our ears are larumed with the charge that the republicans of the North seek to revive and intensify the wounds and pangs and passions of the war, and that the southern democrats seek to bury them in oblivion of kind forgetfulness.

We can test the truth of these assertions right before our eyes. Let us test them. Twenty-seven States adhered to the Union in the dark hour. Those States send to Congress two hundred and sixty-nine Senators and Representatives. Of these two hundred and sixty-nine Senators and Representatives, fifty-four, and only fifty-four, were soldiers in the armies of the Union. The eleven States which were disloyal send ninety-three Senators and Representatives to Congress. Of these, eighty-five were soldiers in the armies of the rebellion, and at least three more held high civil station in the rebellion, making in all eighty-eight out of ninety-three.

Let me state the same fact, dividing the Houses. There are but four Senators here who fought in the Union Army. They all sit here now; and there are but four. Twenty Senators sit here who fought in the army of rebellion, and three more Senators sit here who held high civil command in the confederacy.

In the House, there are fifty Union soldiers from twenty-seven States, and sixty-five confederate soldiers from eleven States.

Who, I ask you, Senators, tried by this record, is keeping up party divisions on the issues and hatreds of the war?

The South is solid. Throughout all its borders it has no seat here save two in which a republican sits. The Senator from Mississippi [Mr. BRUCE] and the Senator from Louisiana [Mr. KELLOGG] are still spared; and whisper says that an enterprise is afoot to deprive one of these Senators of his seat. The South is emphatically solid. Can you wonder if the North soon becomes solid too? Do you not see that the doings witnessed now in Congress fill the North with alarm, and distrust of the patriotism and good faith of men from the South? Forty-two democrats have seats on this floor; forty-three if you add the honorable Senator from Illinois, [Mr. DAVIS.] He does not belong to the democratic party, although I must say, after reading his speech the other day, that a democrat who asks anything more of him is an insatiate monster. [Laughter.] If we count the Senator from Illinois, there are forty-three democrats in this Chamber. Twenty-three is a clear majority of all, and twenty-three happens to be exactly the number of Senators from the South who were leaders in the late rebellion.

Do you anticipate my object in stating these numbers? For fear you do not, let me explain. Forty-two Senators rule the Senate; twenty-three Senators rule the caucus. A majority rules the Senate; a caucus rules the majority; and the twenty-three southern Senators rule the caucus. The same thing, in the same way, governed by the same elements, is true in the House.

This present assault upon the purity and fairness of elections, upon the Constitution, upon the executive department, and upon the rights of the people; not the rights of a king, not on such rights as we heard the distinguished presiding officer, who I am glad now to discover in his seat, dilate upon of a morning some weeks ago; not the divine right of kings but the inborn rights of the people—the present assault upon them, could never have been inaugurated without the action of the twenty-three southern Senators here, and the southern Representatives there, [pointing to the House.]

The people of the North know this and see it. They see the lead

and control of the democratic party again where it was before the war, in the hands of the South. "By their fruits ye shall know them." The honorable Senator from Alabama [Mr. MORGAN], educated no doubt by experience in political appearances, and spectacular effects, said the other day that he preferred the democrats from the North should go first in this debate. I admired his sagacity. It was the skill of an experienced tactician to deploy the northern levies as the sappers and miners; it was very becoming certainly. It was not from cruelty, or to make them food for powder, that he set them in the forefront of the battle; he thought it would appear better for the northern auxiliaries to go first and tunnel the citadel. Good, excellent, as far as it went; but it did not go very far in misleading anybody; putting the tail foremost and the head in the sand, only displayed the species and habits of the bird. [Laughter.]

We heard the other day, that the "logic of events," had filled the Southern seats here with men banded together by a common history and a common purpose. The Senator who made that sage observation perhaps builded better than he knew. The same logic of events, let me tell democratic Senators, and the communities behind them, is destined to bring from the North more united delegations.

I read in a newspaper that it was proposed the other day in another place, to restore to the Army of the United States men who, educated at the nation's cost and presented with the nation's sword, drew that sword against the nation's life. In the pending bill is a provision for the retirement of officers now in the Army, with advanced rank and exaggerated pay. This may be harmless, it may be kind. One swallow proves not spring, but along with other things, suspicion will see in it, an attempt to coax officers now in the Army to dismount, to empty their saddles, in order that others may get on.

So hue and cry is raised because courts on motion, for cause shown in open court, have a right to purge juries in certain cases. No man in all the South, under thirty-five years of age, can be affected by this provision, because every such man was too young when the armies of the rebellion were recruited, to be subject to the provision complained of. As to the rest, the discretion is a wholesome one. But even if it were not, let me say in all kindness to Southern Senators, it was not wise to make it a part of this proceeding, and raise this uproar in regard to it.

Even the purpose, in part already executed, to remove the old and faithful officers of the Senate, even Union soldiers, that their places may be snatched by others—to overturn an order of the Senate which has existed for a quarter of a century, in order to grasp all the petty places here, seems to me unwise. It is not wise, if you want to disarm suspicion that you mean aggrandizing, gormandizing, unreasonable things.

Viewing all these doings in the light of party advantage—advantage to the party to which I belong, I could not deplore them; far from it; but wishing the repose of the country, and the real, lasting, ultimate welfare of the South, and wishing it from the bottom of my heart, I believe they are flagrantly unwise, hurtfully injudicious.

What the South needs is to heal, build, mend, plant, sow. In short, to go to work. Invite labor; cherish it; do not drive it out. Quit proscription, both for opinion's sake, and for color's sake. Reform it altogether. I know there are difficulties in the way. I know there is natural repugnance in the way; but drop passion, drop sentiment which signifies naught, and let the material prosperity and civilization of your land advance. Do not give so much energy, so much restless, sleepless activity, to an attempt so soon to get possession once more, and dominate and rule the country. There is room enough at the national board, and it is not needed, it is not decorous, plainly speaking, that the South should be the Mac Gregor at the table, and that the head of the table should be wherever he sits. For a good many reasons, it is not worth while to insist upon it.

Mr. President, one of Rome's famous legends stands in these words: "Let what each man thinks of the Republic be written on his brow." I have spoken in the spirit of this injunction. Meaning offense to no man, and holding ill-will to no man, because he comes from the South, or because he differs with me in political opinion, I have spoken frankly, but with malice toward none.

This session, and the bill pending, are acts in a partisan and political enterprise. This debate, begun after a caucus had defined and clenched the position of every man in the majority, has not been waged to convince anybody here. It has resounded to fire the democratic heart, to sound a blast to the cohorts of party, to beat the long-roll, and set the squadrons in the field. That is its object, as plainly to be seen, as the ultimate object of the attempted overthrow of laws.

Political speeches having been thus ordained, I have discussed political themes, and with ill-will to no portion of the country but good-will toward every portion of it, I have with candor spoken somewhat of my thoughts of the duties and dangers of the hour. [Applause on the floor and in the galleries.]

The PRESIDENT *pro tempore*. If there be no further amendment offered the bill will be reported to the Senate.

Mr. BLAINE. I move to strike out the sixth section of the bill.

Mr. WITHERS. I was going to call the attention of the Chair to the fact that one or two other sections of the bill have not been acted on in Committee of the Whole and are under consideration.

Mr. BLAINE. We cannot go out of committee yet.

Mr. PADDOCK. I desire to call the attention of the Chair to the fact that I have offered an amendment to the sixth section.

The PRESIDENT *pro tempore*. The Senator will remember that his amendment was laid on the table and printed, and was not formally offered.

Mr. BLAINE. I have moved to strike out the sixth section of the bill.

The PRESIDENT *pro tempore*. That is in order. The question is on the motion of the Senator from Maine to strike out the sixth section of the bill. Is the Senate ready for the question?

Mr. MORRILL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. VOORHEES. Let the section be reported.

The PRESIDENT *pro tempore*. The sixth section will be reported.

The Chief Clerk read as follows:

SEC. 6. That section 2002 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States: *Provided*, That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States, on application of the Legislature or executive, as provided for in said section."

And that section 5528 of the Revised Statutes be amended so as to read as follows:

"Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

The PRESIDENT *pro tempore*. On striking out the section just read the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. ALLISON, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] I should vote in favor of striking out the section, and I presume he would vote against striking it out, if he were here.

Mr. BECK, (when his name was called.) I am paired upon this and all political questions with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "nay."

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) I desire to say that my colleague [Mr. DAVIS] is paired with the Senator from Minnesota [Mr. WINDOM] and is detained from the Senate on account of a death in his family. If my colleague were here, he would vote "nay." I presume the Senator from Minnesota would vote "yea."

Mr. EATON, (when his name was called.) I was paired with the Senator from Massachusetts, [Mr. HOAR,] but an arrangement has been made so that he stands paired with the Senator from New Jersey, [Mr. MCPHERSON.] Therefore I vote "nay."

Mr. DAWES, (when the name of Mr. HOAR was called.) My colleague [Mr. HOAR] is necessarily absent from the city. He is paired on this question with the Senator from New Jersey, [Mr. MCPHERSON.] My colleague would vote "yea," and the Senator from New Jersey would vote "nay."

Mr. MCDONALD, (when his name was called.) On this question I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] If he were present, I should vote "nay."

The PRESIDENT *pro tempore*, (when Mr. THURMAN'S name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, I should vote "nay."

Mr. WALLACE, (when his name was called.) On this and all other political questions I am paired with my colleague, [Mr. CAMERON,] who is absent unavoidably. If he were here, I should vote "nay."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 25, nays 35; as follows:

YEAS—25.

Anthony,	Chandler,	Kellogg,	Plumb,
Bell,	Conkling,	Kirkwood,	Rollins,
Blaine,	Dawes,	Logan,	Saunders,
Booth,	Ferry,	McMillan,	Teller.
Bruce,	Hamlin,	Morrill,	
Burnside,	Hill of Colorado,	Paddock,	
Cameron of Wis.,	Ingalls,	Platt,	

NAYS—35.

Bailey,	Garland,	Jonas,	Saulsbury,
Bayard,	Gordon,	Jones of Florida,	Slater,
Butler,	Groome,	Kernan,	Vance,
Call,	Grover,	Lamar,	Vest,
Cockrell,	Hampton,	Maxey,	Voorhees,
Coke,	Harris,	Morgan,	Walker,
Davis of Illinois,	Hereford,	Pendleton,	Williams,
Eaton,	Hill of Georgia,	Randolph,	Withers.
Farley,	Houston,	Ransom,	

ABSENT—16.

Allison,	Davis of W. Va.,	Jones of Nevada,	Thurman,
Beck,	Edmunds,	McDonald,	Wallace,
Cameron of Pa.,	Hoar,	McPherson,	Whyte,
Carpenter,	Johnston,	Sharon,	Windom.

So the motion to strike out the sixth section was not agreed to.

Mr. BLAINE. I now move the amendment of which I gave notice, at the end of section 6 to insert the following words:

And any military, naval, or civil officer, or any other person, who shall, except for the purpose herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine not less than $500 nor more than $5,000, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

I ask that the vote be taken by yeas and nays. I desire without a single moment's detention to simply remark that I have adjusted the amendment to the penalties prescribed in the bill upon United States soldiers being present. I desire further to remark that with this amendment rejected, the section is a declaration that any one may go to the polls armed, and that with fifty armed men, twenty-five of them assailing and destroying the rights of voters, the other twenty-five cannot be used as a *posse* even to keep the peace against the assailants.

I have no desire to debate the amendment any further than to make that statement.

Mr. EATON. Mr. President, I have no desire to debate the amendment either. I simply wish to say that the intelligent people of the country will not so understand it. The States of this Union are capable of protecting the voters.

Mr. BLAINE. Yes, precisely; but the truth is, melancholy as it is to state it, that the States do not protect the voters, and the honorable Senator from Connecticut well knows they do not. The people understand that. Reports are on our desks filled to overflowing with instances of poll after poll being intimidated by persons with arms in their hands, and you say by rejecting this amendment that not even the civil police of the United States shall be present, but that whoever chooses to appear with arms in their hands, with dirks, bowie-knives, shot-guns, shall not be restrained in any way by any United States authority at a United States election. I ask the honorable Senator, representing a peaceful and law-abiding State, if he will vote that way and misrepresent his constituents?

Mr. EATON. It is not for the Senator from Maine to tell me what I know or what I do not know. What he knows he may tell. I deny that any argument of this sort can be made with any propriety. I beg to say to the Senator from Maine that I know the people I represent on this floor, and I vote, gladly vote, against this amendment. The people of Connecticut will take care of their ballot-boxes; the people of Maine will take care of their ballot-boxes; and we do not desire the interposition of Federal authority. I am instructed by my people to vote against all authority of this character.

Mr. BLAINE. In what form of instruction did that come?

Mr. EATON. It came in a form that I well understand, and I am not amenable to the Senator from Maine.

Mr. BLAINE. The form of instruction the Senator got was an overwhelming republican victory that sent a republican colleague here. That is the last expression of Connecticut. Is that the instruction the honorable Senator got?

Mr. EATON. No, sir; that is not the instruction. It is the little whispering I hear on the wind that the next election in Connecticut will be an overwhelming democratic victory.

Mr. BLAINE. Oh, yes; it is not the facts of the case that the Senator has; it is the dreams that he indulges in!

Mr. EATON. One word more, Mr. President. While my honorable friend from Maine is taking occasion to tell me with regard to Connecticut, let him look at his own burial-places at home. [Laughter in the galleries.]

The PRESIDENT *pro tempore*. Order! The Chair will be compelled to enforce the rule with respect to the galleries unless order is preserved.

Mr. VOORHEES. Mr. President, I do not rise to participate at all in what might be called debate, and still less as an arbiter between the Senator from Maine and the Senator from Connecticut as to which will be buried first. I think, however, if the Senator from Maine will look at the character of the Maine elections last year and the character of the governor who now presides over the destinies of his State, he will be less inclined to speak of his neighbors abroad if he will pay proper attention to the changes and revolutions going on at home.

But that is not what I rose to speak about. I have no taste for that style of debate. This amendment, however, proposed by the Senator from Maine is adroitly put, as indeed all his measures are, and with a political end in view; and my purpose is to state why I shall vote against it.

The first impression on the mind is as a matter of course against anybody wearing concealed weapons either on election day or any other day, at the polls or at any other place. So the people of Indiana have thought, and we have a law on our statute-book against carrying concealed weapons, a law which we consider sufficient for all purposes, a State enactment which we consider enough for election day or for any other public occasion.

I do not intend that the public shall lose sight of the point presented by this amendment. It is an attempt to legislate by Federal authority upon a purely State matter, and upon a matter in regard to which every State in this Union has already its laws. The Senator from Maine knows that his own State has laws on this subject. The Senator from Maine knows that if this amendment should pass Congress, it would simply be cumulative to, in addition to, or superseding, the laws of his own State in regard to carrying weapons at the election polls or any place else. So in regard to every other State represented on this floor.

Mr. President, we must suppose that the people of this Union in their capacity of States have some regard for public morality; that they have some regard for the public peace. Has it come to this, that we are to distrust the States of this Union? Are we to distrust the people, acting through their State Legislatures? Can they do nothing? The distinguished Senator from New York [Mr. CONKLING] to-day depicted the scenes of outrage in the city of New York. A sufficient answer to him is, why has not that great State, with himself at the head of it and his own party in the ascendency, passed laws, which they have a full right to do, to control and regulate and repress those outrages?

Sir, this whole legislation is in distrust of the people. This whole legislation is contrary to and subversive and in violation of the first elementary principles of this Government, which were that on the virtue and intelligence of the people our Government can safely rest. A new school of doctrinaires have risen here who say that you cannot trust the people. From the great Empire State comes the voice that you are to have repressive legislation from Congress or else New York herself is in a state of riot and disorder. Why not call upon the law-making power of the States if wrong is done?

I say to the Senator from Maine that neither his State nor my State needs this legislation to protect the polls from riot and disorder. As to the question of fact which he repeatedly thrusts in here as to whether there are scenes of violence and disorder at election places in other States, I will not dispute with him. I have my view and he has his. He read here yesterday afternoon from the report of a committee the testimony of witnesses and based his pungent, strong, terse arraignment of the democratic party on this side upon that testimony. We are not insensible to the power of the Senator from Maine; but I say to him that all the conclusion to be drawn from his arraignment of yesterday and again to-day is that he was reading from witnesses who were taken into court within the last week before whom? Before Judge Bond, one of the swiftest, speediest, and I say cruelest and most unjust of the Federal judiciary of the United States. They were sworn before juries who were purged of the last remnant, not simply of the rebellion, but of the democratic party; before juries to whom the question as to whether they had served in the rebellion or not was put to democrats but not to republicans. Men who had served in the rebellion were allowed to sit on those juries without examination if they had joined the republican party. Yet, upon the testimony produced here by the Senator from Maine which he has thrust before the country, in a court presided over by Judge Bond, before juries purged and winnowed of the last element that sympathized with the rebellion or with the democratic party, I do not know of a single conviction that was obtained. The press in its telegraphic column informs us that the prosecutions have fallen to the ground. The Senator from Maine said yesterday upon a technicality. What kind of a technicality? You had your republican district attorneys to draw the indictment. Where is your efficient civil service? You have the courts, you have the district attorneys, you have the judges, you have the juries, and you say you have the evidence there; and yet the witnesses when produced in court were discredited by your own tribunal.

Mr. BLAINE. Will the honorable Senator, before he sits down, be good enough to allow me to interrupt him?

Mr. VOORHEES. Yes.

Mr. BLAINE. I do not know what intelligence the Senator has in regard to the result of the trials in South Carolina. All that I saw in the public press in regard to them was that there was some sort of hugger-mugger there in which the republicans who were prosecuted by the State should be allowed to go free if the democrats prosecuted in the Federal courts should be allowed to go free. The papers of to-day show that Smalls, who has been held up as a thief, is pardoned; that Cardozo, who has been held up as a defaulter, is to go free; that Chamberlain, who was indicted, is not to be tried; that a great series of trials that were to come off in behalf of the State of South Carolina have suddenly been abandoned, and by some sort of an arrangement, I do not know what, by some sort of judicial hugger-mugger, all the prosecutions in the United States courts are abandoned. Is that what the honorable Senator from Indiana means by having these cases fail?

Mr. VOORHEES. I will answer the Senator. I congratulate myself, I congratulate the Senate and the country on one step of progress that I have made with the Senator from Maine. For the first time I have caused him to admit that his own people were scoundrels and in a hugger-mugger to cheat justice down in South Carolina. That is a specific charge. Who is embraced in his charge? Is Judge Bond?

Mr. BLAINE. If the Senator wants my answer, I did not assert the guilt of Smalls; I did not assert the guilt of Cardozo. I believe that Carpenter was the victim of judicial tyranny and corruption as much as any man who ever was punished in this world. I believe L. Cass Carpenter was convicted without testimony; and I say here that the charge of the judge in the Carpenter case would have dis-

graced a pupil of Jeffreys on the bloody assizes in England. I do not know who the judge was, and therefore I make no personal remark whatever in that.

Mr. BUTLER. Mr. President——

Mr. VOORHEES. Then, Mr. President——

Mr. BLAINE. Wait a moment. I say I believe all these men were prosecuted, just as Chamberlain was, for political reasons. What sort of influences have been used in South Carolina to make up this trade—a trade that began in the Ellenton cases, when the President of the United States telegraphed to the district attorney of South Carolina that out of fifty-seven men indicted for interfering and conspiring against the peace at the elections in many and divers quarters he need prepare for the trial of but one——

Mr. BUTLER. Mr. President——

Mr. BLAINE. Wait a moment. And I am glad that both the Senators from South Carolina are on the floor, so that they can correct me if I am wrong.

It was then understood that that trade was sufficient to get the republicans out, but they held on to the republican victims. In other words, South Carolina held the hostages after the others had been given up; and now it seems another twist has been made through some sort of Federal intervention, and that it took another holocaust of these victims to bring out those who were persecuted under the judicial tyranny of South Carolina. That is what I mean.

Mr. VOORHEES. Mr. President, the Senator from Maine and I have served long together, and he knows my kind sentiments toward him, and consequently he imposes a longer speech than my own upon an interruption; but if he has answered my question now, I should like somebody to rise and tell me how it is answered. I will not ask him, for he would take the floor for the next half hour, [laughter;] but if anybody can understand how he has answered my question I should like to know it. I asked the question based on his own statement that a trade had been made, or that strange word which I do not know that I ever heard before, a hugger-mugger in court. I asked him who was embraced in that sweeping accusation. I asked him whether Bond was. I am ready to believe almost anything the Senator will say against Bond.

Mr. BLAINE. I have nothing to say against Judge Bond.

Mr. VOORHEES. I asked him whether it embraced the officers of the United States court, and he got up and said he did not think Smalls was guilty. I did not ask him his opinion about his brother Smalls. Why, says he, "I did not say Cardozo was guilty." I had not asked him any such question as that. The Senator from Maine has his own way of debating, and he must pardon me if I desire to have distinct understandings as we go along. Now the Senator from Maine has been driven in this discussion to admit that a trade in defeat of justice and in fraud of justice has been made in South Carolina and that his own friends down there, whether he characterizes them as guilty or not, to escape the whip of justice went to trading with those who he says were guilty on our side. I am in the same condition that the Senator is, as to persons on our side. I do not know whether they were guilty or not. I know this: they were tried in your court. They were tried before your Jeffreys; they were tried before packed juries; they were tried on the testimony of witnesses whose names the Senator has rung in the Senate Chamber; and they have been acquitted. Whether it is by a trade or a hugger-mugger or not I do not know; and if it is so, it is to the discredit of the republican judiciary holding that court down there.

Mr. BLAINE. I asked the honorable Senator when I first rose whether he had any information on that subject other than that in the public prints. He did not stop to answer.

Mr. VOORHEES. How could they make an arrangement by which a trade should be made?

Mr. BLAINE. Does the honorable Senator possess any information in regard to the events in South Carolina of yesterday and the day before, other than that in the public prints?

Mr. VOORHEES. No, sir; I have not. I have been trying to get some from the Senator from Maine, but have failed most signally.

Mr. BLAINE. What the Senator from Maine desires to say is this: that the men who were taken up and prosecuted under the State of South Carolina and attempted to be disgraced and branded throughout Christendom were either guilty or not guilty. If they were not guilty, it was a disgrace for South Carolina to push their prosecution; if they were guilty, I will not say what it was for South Carolina to bargain and barter in a matter affecting the welfare of some others who were indicted in other courts.

Mr. BUTLER rose.

Mr. VOORHEES. The Senator from Maine makes a definite charge directly or by imputation upon South Carolina; he says it was a bad thing for her to make a trade; let the Senator state what knowledge he has to justify the statement.

Mr. BLAINE. What knowledge! The honorable Senator is very hard to please. I have this knowledge: I have the knowledge from the public prints that Judge Bond dismissed the prosecution in the Federal court on an alleged technicality of indictment, and at the same time, by one of those happy coincidences which represent cause and effect, the State courts of South Carolina or the executive of South Carolina, or whatever was the appropriate power in the State government of South Carolina, released and discontinued the prosecutions against the republicans that they had been pushing. That is what I said, and I only stated what was last night asserted in the Evening Star. That is my authority. If the honorable Senator has any other or different authority, I wish he would enlighten the Senate.

Mr. VOORHEES. My information is that there has not been a case disposed of except those that have gone to juries and where there have been acquittals.

Mr. BLAINE. I do not so understand it at all.

Mr. VOORHEES. I do; and when it was found that they could not convict upon the wretched testimony the Senator has paraded here, the district attorney, deeming discretion the better part of valor, continued the cases that were left on the docket.

Mr. BLAINE. That may be. The dispatch was not sufficiently full to give me exact information as to what the process was; but the one thing that arrested my attention, and, I think, will arrest the attention of the country, was that there happened to be a contemporaneous abandonment of prosecuting those men who had violated election laws in the Federal courts and prosecuting the republicans, big and little, black and white, in the State courts.

Mr. VOORHEES. The Senator knows that it takes two parties to make a bargain, one on one side and the other on the other. The Senator from Maine can accuse the authorities of the State of South Carolina; in a few moments I shall yield the floor, and the Senators from South Carolina will take care of themselves. I say that it takes two parties to make a bargain. He accused the State of South Carolina, through her officers, of being one party. Then, as a matter of course, the Federal judiciary, either the judge or the district attorney, or both, must be on the other side the parties to this bargain, or, in the classic language of the Senator from Maine, this hugger-mugger in fraud of justice; and there that matter has to rest, and there is no escape from it.

Mr. BUTLER. Mr. President, I will make but one single remark in reply to the Senator from Maine. South Carolina is quite able to take care of herself without any suggestions or reflections of that Senator; and fortunately for us there is nothing to sustain the charge which he makes, except his own statements, and if they are not more correct than a great many others that he has made in this Chamber they will not go for very much.

Now, sir, I say that so far as Smalls and Cardozo were concerned, his friends, it was determined weeks ago, I think, that they should be pardoned.

Mr. BLAINE. Did the public know anything about it?

Mr. BUTLER. I do not know that the public knew anything of it.

Mr. BLAINE. Does the Senator state that the public in any way knew anything about it?

Mr. BUTLER. I do not know whether the public knew anything about it, and I do not care.

Mr. BLAINE. That is the very point of the whole thing.

Mr. BUTLER. And I undertake to say that the cases against Mr. Chamberlain and against the others have not been discontinued. Therefore the statement made by the Senator is not true.

Mr. BLAINE. I only stated what was in the public prints. That was all.

Mr. BUTLER. Precisely; but the Senator gets up and makes these statements without regard to whether they are true or not, but so far as he is concerned he stands sponsor for them. As I said, fortunately for South Carolina, there is nothing to sustain the charge which he makes against her except his own unsupported statement. There has been no discontinuance of the prosecutions against those persons. I hope the time will come when they will all be discontinued in the interest of peace. I have advised it for the last twelve months, and I shall continue to advise it; and if the Senator denounces it as a bargain, let him denounce it. I think, Mr. President, the people of South Carolina can take care of her interests and her honor just as well without the dictation of the honorable Senator as with it; and yet he has been hurling again and again his anathemas against her, which I submit, if he will pardon me for saying so, is not becoming an American Senator.

I understand that Cardozo and Smalls have been pardoned, and I am glad they have been pardoned, but the cases against the others have not been discontinued. I think they ought to be; I am very frank to say so. I think they all ought to be, and, if I am not very much misinformed, the honorable Senator had the same opinion twelve months ago.

Mr. BLAINE. They never ought to have been condemned. That is the opinion of "the honorable Senator" if you want to hear it.

Mr. BUTLER. Ah, Mr. President, they ought never to have been commenced, nor ought many of the prosecutions in the United States courts ever to have been commenced. When the Senator talks about a bargain having been made in regard to the Ellenton prisoners, and some dispatches sent from Washington by the Executive, does the honorable Senator know that the Chief-Justice of the United States was presiding at those trials? Would he make a bargain? Does the honorable Senator charge that upon him?

Mr. BLAINE. Does the honorable Senator from South Carolina know that the Chief-Justice said it was impossible to procure a conviction?

Mr. BUTLER. No, sir.

Mr. BLAINE. He did say so, sir.

Mr. BUTLER. I know nothing of the kind, Mr. President, but I do know this that there were trials of thirteen of those prisoners and a mistrial; and if any bargain was made, upon the head of the Chief-Justice must the charge of the Senator fall, because he was there presiding in that court, and I know that twelve men were tried and a mistrial was the result of it. What may have been the opinion of the Chief-Justice upon that subject I do not know, but perhaps the Senator does.

Mr. BLAINE. Mr. President, it is very well for the Senator from South Carolina to speak of my hurling anathemas at his State. He tried yesterday to get me to state anything of that kind upon my personal knowledge. I read to him the arraignment that I made which was pertinent to this debate, and I read it from the testimony of James B. Campbell, and I took care to ask the honorable Senator before I read that testimony whether he was a reputable man. He is a democrat, I understand, a democrat who upon his own testimony was outraged with the injustice of the legislation of South Carolina. I brought nothing in the shape of anathema against South Carolina except legal evidence sworn to by one of her first citizens; and did I introduce this subject? It was the honorable Senator from Indiana who brought up this subject of the trials; I did not lug it in here. He brought it here to me that in contravention and contradiction of the testimony I had read there had been a conclusive adjudication in the Federal courts in South Carolina, and that everything I had read was disproved thereby.

I wanted then the honorable Senator from Indiana to state to me, as I would like the honorable Senator from South Carolina to do, whether he has any information other than that in the public press. If they have not, all that they can state and all that any man can state is that some sort of arrangement outside of trial, outside of judicial proceedings, governed by political arrangements was made by which a mutual release should be ordered on the part of the State of the criminals that South Carolina had prosecuted and on the part of the Government of the United States of the criminals the United States had prosecuted. That was all I stated, and the honorable Senator did not hear my language correctly, if he did not understand me as referring to the Evening Star of last evening as containing the information to which I alluded.

Mr. BUTLER. I never read the Evening Star.

Mr. BLAINE. Then the Senator is not so well informed as I am on the subject, and when the Senator tells the public that this was determined on three weeks ago, I ask him if there was any publication of the fact? If it was determined on three weeks ago, why was it not announced? Why was it held suspended? If a man was to be pardoned why was it held back? I am waiting for the honorable Senator to explain that.

But there is no occasion for striking attitudes. This is a question of fact; it is a question of debate upon evidence gathered before a committee of the Senate; and I am not to be deterred from discussing that by the gentleman trying to arraign me for abusing South Carolina. I have said not one word about South Carolina nor about any officer of South Carolina other than that which is contained in the report of a special committee of the Senate, and I do not propose to be dragged unnecessarily into any personal issues outside of that. I hold the Senator to the record, I hold him to the testimony of a man for whose veracity he stands sponsor and voucher, and I ask him not to answer me by stating anything in the shape of menace; I ask him to answer a reputable citizen of his own State at the bar of the Senate.

Mr. BUTLER. Mr. President, it certainly is not my habit, it never has been my habit to utter a menace against anybody, much less against a Senator on this floor. I have uttered no menace against the honorable Senator from Maine. If there has been any menacing in this debate, it has come from him.

I understand the honorable Senator to refer to certain disgraceful transactions by the authorities of South Carolina, and now he rises and says that he has never arraigned that State. If that is not an arraignment, I submit to the honorable Senator that he himself does not understand the English language.

Mr. BLAINE. If the Senator will permit me at that point, I stated to the honorable Senator from Indiana that if the arrangement made between the two courts, State and Federal, was as he referred to and was as telegraphed to the papers, it was disgraceful, disgraceful alike to the Federal authorities and to the State. I do not limit my criticism to the State. I put it hypothetically. I know nothing but what has been transmitted by telegraph to the public press, and on that the case is against both parties.

Mr. BUTLER. But, Mr. President, the Senator, without any qualification until I called his attention to it, arraigned the State, and he has never until now arraigned the Federal authorities as having been guilty of disgraceful conduct. I am very glad that the Senator has qualified his remark. If he had done that in the first instance this colloquy would not have been necessary.

Mr. BLAINE. I spoke of the judicial hugger-mugger, a word the honorable Senator from Indiana did not seem ever to have heard before, which meant a covering up on both sides. I have made no remark which I have qualified; I have made none which I desire to qualify. If the honorable Senator has misunderstood me that is his misfortune; it is certainly not my fault.

Mr. BUTLER. That is true, sir. Now, in reference to one other subject to which the honorable Senator has referred, he says that he produced the testimony of Mr. James B. Campbell, for whose veracity and character I vouched. Does the honorable Senator not know, or does he know, that that gentleman was a defeated candidate, nominated by the republican convention in the county of Charleston, running independent; and smarting, I have no doubt, under the defeat which he received overwhelmingly, he lashed himself into a fury and went before that committee, and I do not believe, in his cooler moments, he would repeat what he there stated.

Mr. BLAINE. It is very novel that a defeated candidate for the senatorial office in a State cannot tell the truth under oath.

Mr. BUTLER. I did not say that he could not tell the truth, and the Senator shall not put words into my mouth; I said no such thing. I simply mentioned that fact by way of illustrating the animus which actuated Mr. Campbell. As to these charges of bargaining by the State and Federal authorities, and as to the fact that Governor Simpson did not see fit to announce beforehand that he intended to pardon Cardozo and Smalls, I know nothing. I know nothing about the reason why the governor did it; I suppose he had good and sufficient reasons. But as I said a while ago, I am glad he did it. The cases in Charleston have been continued, and there is no court sitting in Columbia to continue the cases against the republicans who were charged; therefore the statement falls to the ground.

Mr. BLAINE. Mr. President, this has all been a diversion from the main point. I had one word to say to the honorable Senator from Indiana about the serious side of the question. He states, and I have no doubt with absolute correctness—his statement will be taken by me at any time—that there is no danger whatever in Indiana from any evil leveled at by the amendment which I have had the honor to propose, but the honorable Senator carries in that remark the heresy announced by the Senator from Kentucky yesterday, [Mr. WILLIAMS,] that Representatives in Congress are State officers, and that in Maine I have no right to take care of anything that concerns the election of a Representative in Indiana.

Mr. VOORHEES. I said nothing of the kind.

Mr. BLAINE. I said it carried this within it——

Mr. VOORHEES. I gave no opinion on that point.

Mr. BLAINE. Then does the honorable Senator agree with me? If he does not take that view does he agree with me that in a Congress in which we all sit, where all the States are represented, Indiana and Maine have the right to see that there is a fair election in South Carolina and Connecticut. Does not the honorable Senator from Connecticut agree with me that Connecticut has an interest in the election in Virginia, and that Virginia is interested in the election in Maine? I am only asking for a common and a general law. I am not asking to put upon the Southern States a solitary restriction that I do not ask to put on the Northern States. I am not asking to prescribe a qualification for Ohio that Maine is not willing to submit to, nor for the South that the North is not willing to submit to. I ask that there shall be a free election. I ask in the name of common justice, I ask in the name of common patriotism, I ask, Mr. President, in the name of common decency, that the American Congress shall not say on a bill wherein they debar the military force of the United States from being present in any event that ruffians, thugs, rowdies, and bloody-minded men may surround the polls with the weapons of destruction and of death, as has been done time, and time, and time again, as I read from the testimony yesterday.

Let us, if we are to have a fair election, decree here and now that any man is an offender who approaches the polls with a deadly weapon. Let us on that day, when peace should reign throughout all our borders, when the sick and the maimed and the blind and the halt go out to the polls to exercise a freeman's privilege in the North and the South, the East and the West—let us agree that then all shall be unarmed and that there shall be absolute peace for the weak as well as for the strong.

Mr. VOORHEES. Mr. President, the Senator from Maine asks me whether I agree with him that Indiana and Maine should join together and make regulations to control the elections in other States. That involves the point of radical difference between the Senator from Maine and myself.

Mr. BLAINE. Does the honorable Senator say that I asked him that question?

Mr. VOORHEES. I understood him to do so.

Mr. BLAINE. No. Will he agree to have me correct him?

Mr. VOORHEES. Why, certainly.

Mr. BLAINE. I think the honorable Senator draws a very long bow to his imagination when he states that I asked that Indiana and Maine should do it. I asked no such thing. I asked that the Congress of thirty-eight great commonwealths, interested alike each in the other's elections, should unitedly prescribe a common rule for all.

Mr. VOORHEES. Now, the notes will show that the Senator from Maine said no such thing. He never used the words "thirty-eight States." He did use the words "Maine and Indiana." He meant the thirty-eight States, and within thirty-six States he was right for he only mentioned two, and he mentioned them by name; and I appeal to the Reporter's notes for the verification of this statement. But that is neither here nor there. I take him for what he meant. He meant the Congress of the United States and he illustrated the Congress of the United States by the proposed union between Maine

and Indiana. Mr. President, I repeat that involves the point of radical difference between the Senator from Maine and myself, and between the school to which he belongs and the school to which I belong. I belong to that school in government which believes it is best to mind your own business and let other people do the same as to theirs. I belong to that school of politics which trusts the people of the United States under their various political organizations. I belong to that school of politics which believes that the people of a State have certain duties that you cannot limit here, and that they are competent to perform them, and I believe in their virtue and their intelligence to discharge them. The Senator from Maine belongs to that meddlesome school which is never happy except in some missionary colporteur enterprise, going abroad to correct peoples' morals and politics a long ways from home. The Senator from Maine is disturbed about the people of South Carolina, much disturbed about the people of Louisiana. I am not. There is the difference between us. I believe that the people who have sent the two Senators from South Carolina to this body are as competent, in their intelligence, their virtue, and their patriotism, to regulate their own affairs according to the highest standard of civilized morality as the people of Maine or the people of Indiana. I have faith in the American people. All the people of this country are my countrymen. The trouble with the Senator from Maine and those who train with him on the other side of the Chamber is that they have a deep distrust, that they have had a long hatred, they have had a long acrimonious spell of political hatred toward the people of the South. It is not possible for them to trust that people; and however well-behaved and disposed the people of the South may be, however upright in their motives, however determined to disarm hostile criticism, they may sit up nights, spend sleepless nights as well as vigilant days to show the propriety of their conduct, it will not disarm criticism on that side of the Chamber, it will not disarm distrust, because the political party represented by the Senator from Maine feeds, thrives, prospers, grows fat, and spreads its branches broad and wide on every trouble and every speck of lawlessness that occurs under the southern sky. You deceive nobody. I have for years in the other end of this Capitol seen the republican party build itself up upon disturbances alleged, sometimes real but most often unreal, throughout the South; and it would be contrary to human nature if the leaders of the republican party had not sent, as they often have, their emissaries, those carpet-baggers, to stir up strife between the two races down there because of the political capital that it would bring to the republican party in the North.

Consequently the Senator from Maine distrusts the people of South Carolina, and wants thirty-eight States—he named two, but he has got now to thirty-eight—to rush down and take charge of their affairs. He distrusts the people represented so well upon this floor by the Senator from Louisiana in my rear, [Mr. JONAS,] and he wants to spread his broad mantle of care, parental guardianship and protection over them.

Mr. President, that was not the Government our fathers made. I say here on this floor that that was not the Government that the fathers made when they framed this Constitution. They made a Government and allotted its powers to different localities, trusted the people to carry out and discharge their duties under those powers in good faith, and the trouble with that side of the Chamber is that that lesson of our Government has escaped them, and they have had their hands on the necks of the southern people and they are reluctant ever to withdraw them.

I think I have answered the Senator from Maine whether he and I and the rest of the States shall gather around and proclaim a protectorate over the people of any other State. When the people of a State, of such a thing should happen, become outlawed from civilized government, that raises a different question. But while their State is represented on this floor, while all the machinery of the State government is in operation smoothly and harmoniously, no greater outrage, according to my notions of government, can be proposed than for us to invade their local affairs and tear from them the control of their own matters

Mr. BLAINE. Then I understand the honorable Senator from Indiana is opposed to having two supervisors sent down?

Mr. VOORHEES. Yes, sir, I am. I am opposed to everything in the shape or name of supervisor. If I had my way I would not leave them standing as mere scare-crows; they should vanish from the polls.

Mr. BLAINE. Do I understand that the Senator will vote against that or against permitting that to be done.

Mr. VOORHEES. I will if I have a chance.

Mr. BLAINE. What prevents the Senator having a chance? Is he not permitted to do as he wishes? Will the honorable Senator tell the Senate why he does not vote that way?

Mr. VOORHEES. If the Senator doubts it and wants to put it to the test in any possible way, he will be accommodated most speedily.

Mr. BLAINE. What does the Senator mean?

Mr. VOORHEES. Whether I am permitted to do as I wish or not.

Mr. BLAINE. What does the Senator mean?

Mr. VOORHEES. Simply that I am free in my actions toward the Senator from Maine, and I am free in my action as a member of my own party, and free in another thing: in informing the Senator that I am not to be catechized in regard to my relations to my own party by him.

Mr. BLAINE. I inferred of course from the large line of liberty the Senator assumed that he would not possibly vote for permitting the two supervisors to remain.

Mr. VOORHEES. Oh, let me explain to the Senator frankly and squarely——

Mr. BLAINE. I thought the Senator had concluded with such a tremendous flourish that nothing more was needed.

Mr. VOORHEES. There is no use of by-play between the Senator and me. The Senator knows as well as I do that if I could have shaped this proposed legislation entirely myself and carried it through, I would not have left a shadow of a supervisor standing, but as I cannot I take the next best thing, and that is, destroy all their powers.

Mr. BLAINE. You take the next best thing, and leave the shadow standing.

Mr. VOORHEES. I take all their powers away. The Senator from Maine is not unmindful of the fact, that even great as he is—I am a very humble person—he cannot have his way altogether in his own party always to the fullest extent. He has come very near it, but has still fallen short sometimes.

Mr. BLAINE. I infer of course that the honorable Senator will go against having the shadows remaining. I infer also that the honorable Senator, if he had the power, would prevent any soldiers or any armed men being present at any poll in the Southern States. I infer that the Senator, if he could stretch the benign laws of Indiana over distant Commonwealths, would do it in order that there might be as fair an election elsewhere as he enjoys at home. But, Mr. President, it will not do for the honorable Senator to evade his responsibility; it will not do for a Senator belonging to that side of the Chamber that have resolved to support and are pledged to support a bill involving all there is of Federal intervention to get off in this way. Let me repeat that I say they are pledged to support a bill involving the entire principle of Federal intervention in elections for Representatives to Congress, even including my friend from Kentucky, who thinks they are only State officers. It will not do for the Senator from Indiana voting to send two supervisors to each poll, to back out of prohibiting armed men from being there on the ground that he will not intervene. He has given away that point of refuge. He will vote in this Senate, I venture humbly to predict, to intervene; he will vote in the course of time in this Senate for a bill that will permit two supervisors to be at the polls; he will by his vote declare it to be in the power of the General Government to intervene in elections in States; every democratic Senator on that side of the Chamber will vote that way; if I were permitted to say it every democratic Representative in the other end of the Capitol will vote that way; and they cannot evade and they cannot dodge the responsibility of permitting armed mobs to surround the polls on the ground that they cannot intervene in State elections. They have intervened; they propose to intervene. Every democratic Representative and every democratic Senator proposes to intervene.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maine, [Mr. BLAINE,] upon which the yeas and nays have been demanded.

The yeas and nays were ordered.

Mr. PENDLETON. Let the amendment be reported.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment of Mr. BLAINE.

The Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) I desire to repeat that I am paired with the Senator from Nevada, [Mr. JONES.] I should vote "nay" if at liberty to do so.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) I desire to say that my colleague [Mr. DAVIS] is paired with the Senator from Minnesota, [Mr. WINDOM.] If here, my colleague would vote "nay" and the Senator from Minnesota "yea."

Mr. MORRILL, (when Mr. EDMUNDS's name was called.) My colleague [Mr. EDMUNDS] is paired with the Senator from Ohio, [Mr. THURMAN.] If here, my colleague would vote for the amendment, and I suppose the Senator from Ohio would vote against it.

Mr. GROOME, (when his name was called.) The Senator from Maine [Mr. HAMLIN] is out of the Chamber for a few moments. During that temporary absence I am paired with him. If he were here, he would vote "yea" and I should vote "nay."

Mr. DAWES, (when Mr. HOAR's name was called.) I have already announced that my colleague [Mr. HOAR] is necessarily absent from the city. He is paired on this question with the Senator from New Jersey, [Mr. MCPHERSON.] My colleague, if present, would vote "yea" and the Senator from New Jersey "nay."

Mr. MCDONALD, (when his name was called.) I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] If he were present, I should vote "nay."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] Were he here, I should vote "yea."

The roll-call was concluded.

Mr. GROOME. The Senator from Maine [Mr. HAMLIN] having returned to the Chamber, I vote "nay."

Mr. ALLISON. On all questions relating to this bill I am paired with the Senator from Maryland, [Mr. WHYTE,] who is absent.

The result was announced—yeas 25, nays 35; as follows:

YEAS—25.

Anthony,	Cameron of Wis.,	Kellogg,	Plumb,
Bell,	Chandler,	Kirkwood,	Rollins,
Blaine,	Dawes,	Logan,	Saunders,
Booth,	Ferry,	McMillan,	Teller.
Bruce,	Hamlin,	Morrill,	
Burnside,	Hill of Colorado,	Paddock,	
Cameron of Pa.,	Ingalls,	Platt,	

NAYS—35.

Bailey,	Groome,	Jones of Florida,	Slater,
Bayard,	Grover,	Kernan,	Vance,
Butler,	Hampton,	Lamar,	Vest,
Call,	Harris,	Maxey,	Voorhees,
Coke,	Hereford,	Morgan,	Walker,
Eaton,	Hill of Georgia,	Pendleton,	Wallace,
Farley,	Houston,	Randolph,	Williams,
Garland,	Johnston,	Ransom,	Withers.
Gordon,	Jonas,	Saulsbury,	

ABSENT—16.

Allison,	Conkling,	Hoar,	Sharon,
Beck	Davis of Illinois,	Jones of Nevada,	Thurman,
Carpenter,	Davis of W. Va.,	McDonald,	Whyte,
Cockrell,	Edmunds,	McPherson,	Windom.

So the amendment was rejected.

Mr. WINDOM. I offer the following, to come in at the end of section 6:

That any person who shall, with intent to hinder, obstruct, or prevent the free exercise of the right of suffrage, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine of not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. President, the majority of the Senate has already voted that it is or should be a criminal offense punished by a fine of $500 or five years' imprisonment in the penitentiary, or both, for any person, either civil or military, to protect the ballot-box against violence. Even where the use of force is necessary to keep the peace at the polls, it shall be a criminal offense thus severely punished. The majority of the Senate has also just voted that to surround the polls by men armed with deadly weapons shall not be an offense against national laws provided these armed men do not come to keep the peace. Now I want to know whether the same majority is ready to vote that where armed ruffians and murderers shall surround the polls "with intent to hinder, obstruct, or prevent the free exercise of the right of suffrage," it shall not be an offense against our laws. I submit the amendment to test the judgments and feeling of the Senate on that point.

Mr. SAULSBURY. I just want to say to the Senator from Minnesota that the majority in the Senate do not intend that the Senator from Minnesota or that side of the Chamber shall shape this bill. We intend to vote this bill as it was reported here, and he may offer all the amendments he pleases. We know the animus by which he is animated in doing it. We intend to shape the legislation in this bill, and the Senator can save himself a good deal of trouble without undertaking to intrude upon our determination with these various amendments.

Mr. WINDOM. One purpose I had in view was to ascertain precisely how far your caucus decrees had gone. Now I ascertain from the Senator from Delaware that they have gone to the extent of forbidding all amendments no matter what they may be on this bill.

Mr. WITHERS. I feel authorized to state that the caucus has expressed no opinion and given no instructions whatever in regard to it, so far as I am apprised.

Mr. WINDOM. I will ask the Senator if there is not a managing committee of the caucus that has charge of this bill?

Mr. WITHERS. No, sir; not one word has been spoken by the executive committee or any other person about it.

Mr. WINDOM. I asked the Senator for information on this subject.

Mr. WITHERS. The Senator must remember that we are not as well skilled in our caucuses in prescribing the duties of legislation as the other side. We have had no caucus on these provisions of this bill. The Committee on Appropriations have reported this bill just as they in their judgment deemed best, and so far as I know there has been no expression of opinion by any caucus on the subject.

Mr. WINDOM. I should like to ask the Senator from Delaware, who speaks apparently with authority on this subject, from whom he derives his commission to say that it is of no sort of use for myself or anybody else on this side of the Chamber to offer an amendment to this bill?

Mr. SAULSBURY. I will say to the Senator from Minnesota that I have been a member of the Senate long enough to learn that the majority of the Senate always shapes its legislation. I remember to have seen the most obnoxious measures brought here by the Senator's own party, coming here I suppose from caucus decrees and forced upon the people of the country; measures of tyranny, measures of oppression. The democrats have fought against them, have called the attention of the country to their obnoxious laws until the people have waked up to the iniquities of his party, and have made them the minority party in this Chamber, and we now do not intend to let that minority party which has had the condemnation of the country come up here and shape our legislation. They have ruined themselves. They ought to be content with that and not seek to ruin us by their interference with our measures. [Laughter.]

Mr. WINDOM. Mr. President, we have heard to-day from the honorable Senator from New York [Mr. CONKLING] how this majority got its place upon this floor. I will not repeat what has been so well said by him. It is yet ringing in the ears of my honorable friend from Delaware. I want to ask him this, however: Suppose that this amendment which I have proposed is right and will improve the bill, then will the Senator vote it down and call upon his united party to do so simply because a member of the minority proposes it?

Mr. SAULSBURY. Well, I do not know; I will not say that nothing good can come out of Nazareth; but at the same time we think that we are fully competent to shape legislation while we are in the majority in this body.

Now, in reference to what has been said to-day. I have heard a great deal said to-day and a great deal said during this discussion that has no foundation in fact. I have heard it said here that the people of Delaware were protected by Federal troops in the right of free suffrage. Why, sir, I am a citizen of the State of Delaware, and like my colleague I voted under the protection, as it has been called, of Federal bayonets, when I saw with my own eyes Federal soldiers, at the dictation of a man in my town who was appointed provost-marshal, charge twice upon the polls at which I voted, and one man who was knocked down by the Federal bayonets was taken into my own office. I have seen the effects of your Federal troops, and I am prepared by my vote to wipe out and take from the President of the United States and from the Commander-in-Chief of the Army the right to send his troops to grant that kind of protection to the freemen of this country. Sir, I have heard a great deal and I am prepared to vote for this bill and to abide by it now, henceforth, and forever. Amen. [Great laughter.]

The PRESIDENT *pro tempore*. The Chair must remind persons present that the rule will be enforced, even to clearing the galleries, if there is not order kept; and there must be order kept on the floor of the Senate, too.

Mr. WINDOM. Mr. President, the honorable Senator from Delaware has a very great apprehension of soldiers I perceive, and I want to state to him that there is not a soldier in this amendment of mine. The Senator can dismiss all apprehension upon that subject. It does not say one word about soldiers. The majority of Senators have already voted that there shall not be a soldier about the polls to protect them from the violence of the armed ruffians and rowdies who thwart the will of the people by terrorism and murder. They have already voted too, or will very soon do it, that no civil officer shall be there with power to protect the polls from violence. They have also just voted that it is not an offense for armed men to come about the polls. Now, I want to have the Senator distinctly understand that the proposition I make is that where armed men come to the polls for the express and avowed purpose of violence and ruffianism, to break down the barriers that are provided for the protection of the ballot-box, and such intent can be proved, they shall be punished, and I want to know whether the Senator from Connecticut intends to vote that they shall not be punished when they come with that intent, and that intent is proved in the courts?

Mr. EATON. The Senator has asked me a question; now I want to put one first in all kindness, and I know that my friend will not for a moment suppose that I doubt his sincerity——

Mr. WINDOM. Not in the least.

Mr. EATON. For I believe him to be a very sincere gentleman. Now, if we adopt that amendment, will he vote for the bill?

Mr. WINDOM. The bill contains so many other things that are obnoxious that I would not vote for it; but I think the amendment would very much improve the bill. Does not the Senator himself think it would improve it?

Mr. EATON. I will answer the question put to me. This is question No. 2.

Mr. WINDOM. Well, try them both.

Mr. EATON. In the first place I shall not vote to amend the bill with that or anything else my friend can draw, by a provision which for one moment gives any Federal power. That is all. I want the Senator from Minnesota to understand my objection. It is that the Government of the United States has no constitutional power here, and therefore I will not vote for it. I have heard to-day, I heard my friend from New York say here, not in so many words, but he left the inference, that five hundred thousand of the citizen soldiers of the State of New York could not protect the people of the city of New York. Sir, I do not believe that doctrine. I believe that the citizen soldiers of my State can protect the people of my State, and they have the constitutional right to do it.

I want to say one other thing. For seventy-five years it did not enter into the mind of any living man that the Federal Government had any such power as this. For seventy-five years it did not enter into the mind of any statesman, of any member of any party, that the Federal Government had any power of this character, and therefore I will not vote for anything which gives to the Federal

Government a power of this description. That is my answer to the question.

Mr. WINDOM. Then I understand the answer of the Senator from Connecticut, and I think that he has fairly and honestly expressed the sentiment of his party.

Mr. EATON. I express my own.

Mr. WINDOM. If he has not expressed the sentiment of his party, I shall be glad to hear some other Senator deny it. I want to say this, then, that as I understood him he proposes that the Federal Government shall be warned from the boundaries of every State in the Union; that even in a case where the Constitution expressly provides that Congress may at any time by law make or alter regulations of the States as to the "time, place, and manner" of holding elections for members of Congress, even in that case the National Government shall be utterly powerless; that it shall be an alien enemy for all purposes; precisely the doctrine which brought about secession and rebellion. That doctrine is again brought here to-day and advocated by the Senator from Connecticut, and will be voted for, I apprehend, by every member of the democratic party. I have believed from the beginning of this debate that it was the doctrine of State rights, the old secession doctrine which ripened into rebellion and blood, that has brought this section of the pending bill before the Senate. It is not because the Senator from Connecticut or any other Senator on that side is afraid that the United States soldiers will interfere with elections. They know, as the Senator from Maine showed the other day, that there is but one-fourteenth of a soldier to every thousand people who are to be intimidated. No, Mr. President, it is not fear of the soldiers which moves the democracy, but it is because they will not have the emblem of nationality which appears in the blue coat of the United States soldier within the limits of any State in the Union. That is the secret of this whole movement. It is to destroy all protection to the ballot-box in order that, having solidified the South through the doctrine of State rights or "home rule" they may secure political success by defrauding the honest people of the North out of their votes. Before the war the democratic doctrine was that the United States should not go into any State in the Union unless it was to hunt down a panting fugitive from slavery. It is now proposed that the nation shall not go into any State except it be with an appropriation and without the old flag.

Mr. EATON. Ah, Mr. President, my honorable friend from Minnesota knows just as little about my conception of State rights as I know about the Hebrew dialect. He has no idea of it. The very moment that I propose to do what the Constitution of the United States says I ought to do, the very moment that I propose to do what his fathers and mine for more than three-quarters of a century did, that very moment he uncovers the ensanguined garment. It is high time that our friends on the other side should understand that the democratic party of this country as represented upon the floor of this Senate do not believe that the Federal Government has the constitutional power to control the elections in the States, call it what you please.

Mr. ALLISON. For members of Congress?

Mr. EATON. Yes, for members of Congress, or Senators, or President. They have no such constitutional power, and they never undertook to exercise it until an oligarchy in the House of Representatives, of which a gentleman from Pennsylvania was the chief, brought forward this heresy. Go to the convention that framed the Constitution, examine the debates, and point me to one single word from any man from which you derive any authority of this character.

Mr. CONKLING. Will it be agreeable to the Senator to hear me ask him a question?

Mr. EATON. Certainly it will.

Mr. CONKLING. Then I should like to inquire whether this evangel that he is preaching goes to this extent: he has said that the Government of the United States has no power to conduct an election for members of Congress. My question is, does it go so far as to deny that the United States may interpose to preserve peace while the States are conducting an election for members of Congress?

Mr. EATON. I did not quite say what my friend says; but I will not quarrel with the difference between the words "conduct" and "control." He used one and I the other.

Mr. CONKLING. I will use yours, whichever it is.

Mr. EATON. Mine was "control."

Mr. CONKLING. Very well; I will adopt that.

Mr. EATON. I say this in reply to your question: I am now speaking for myself, and not for anybody else. I am not speaking for any caucus or at the command of any caucus——

Mr. CONKLING. When the Senator speaks for himself, he speaks for the better part of the democratic party.

Mr. EATON. I am very much obliged to my friend for his good opinion of me.

Mr. CONKLING. That is my conviction.

Mr. EATON. I say the Government of the United States has no power under the Constitution to control the elections in the States for members of Congress, for presidential electors, or for any other officers; and I say further, that the uniform practice of this Government for seventy-five years (and nobody knows it better than the Senator from New York) runs on all fours with my claim. Was there any trouble in the country for three-quarters of a century, any trouble in New York?

Mr. CONKLING. I rise to thank the honorable Senator for the answer he has not made to my question.

Mr. EATON. I presumed that I would not give just such an answer as the honorable Senator from New York might want.

Mr. CONKLING. If the honorable Senator will pardon me, I endeavored to draw his attention to a different point——

Mr. EATON. I will hear the Senator.

Mr. CONKLING. And therefore I propounded this inquiry: The Senator affirms that the States and not the National Government have the right to control—I believe I use his word?——

Mr. EATON. Yes.

Mr. CONKLING. Elections at which Representatives in Congress are to be chosen. Now, I inquire of him, does he maintain and hold also that the United States has no power to preserve the peace or to encounter disorder when and while and where the States are conducting elections for national officers?

Mr. EATON. Mr. President, I am astonished, I am amazed——

Mr. CONKLING. So am I.

Mr. EATON. I am amazed that the Senator from New York should put a question of that character to me.

Mr. CONKLING. And I am also amazed that the Senator does not answer it.

Mr. EATON. I will answer it. The Constitution provides that when the authorities of a State require the assistance of the Federal Government that assistance shall be rendered to repel invasion, or to put down riot, or to do any other thing that may be necessary whenever the Legislature of the State requires it, or if the Legislature can not be convened, then the executive of the State. My friend is answered.

Mr. CONKLING. If my honorable friend will allow me, I again thank him for speaking to a point which I did not suggest to him. The honorable Senator from Connecticut is too good a lawyer not to know that "domestic violence," in the constitutional sense, and "invasion" were not the cases at all to which I referred. I am not speaking of a case where a State is invaded or where insurrection rises above the power of the State to cope with it. I am speaking of disorder in the ordinary and municipal sense, and I inquire again of the Senator whether his doctrine is that where disorders, riots, mobs break out where and when the States are conducting and controlling an election for the choice of national representatives, the national authority has no right to interpose to preserve order? That is my question, not whether the Legislature of a State or in its absence the governor may call on the United States for military assistance.

Mr. EATON. I answered that question when I said that the authorities of the State had the power to protect themselves and their people, and they exercised it for three-quarters of a century and did not call for or desire Federal assistance. I understand the Senator from New York to say that his great Empire State, with its half a million of citizen soldiers, is unable to keep the peace on election day. I regret that the State of New York has arrived at a condition of that character. It is not so with my State, sir. We are able to keep the peace and to protect the polls and to have honest ballots cast in the State of Connecticut.

Mr. CONKLING. If the honorable Senator is able to bear with me once more——

Mr. EATON. Why, certainly, always.

Mr. CONKLING. I rise to apologize for having asked him a distasteful question.

Mr. EATON. Not distasteful.

Mr. CONKLING. A question which he is unwilling to answer; and having ascertained his repugnance to it, I will withdraw it.

Mr. EATON. My friend knows that I have answered the question just as clearly as the question can be answered; that the State has the power, and it is the duty under the Constitution, the duty of the State, to keep the peace.

Mr. CONKLING. But, if my friend will pardon me, I did not ask him whether the States, I asked him whether the United States had the power, when an election is proceeding for the choice of national Representatives; not whether the States but the national power had authority to intervene, if need be, to throttle mob violence; and he will not answer me.

Mr. EATON. Suppose you drop New York, leave that for other men, then how could you determine whether Connecticut or Maine desired assistance in controlling their elections? Sir, it is a mere begging of the question. The Senator from New York knows that for three-quarters of a century the theory which he has advanced on this floor would not have been tolerated by anybody, whig, republican, or democrat.

Mr. WINDOM. Mr. President, I should like to press the Senator from Connecticut a little further to an answer on that point.

Mr. CONKLING. You cannot do it. [Laughter.]

Mr. WINDOM. I say so because I have offered an amendment here the validity of which will turn upon the constitutionality, perhaps, of the point raised by the Senator from Connecticut. The proposition I have submitted applies where an election for members of Congress is being conducted, and armed men, in large bodies or small, go to the polls for the purpose, with the declared and openly expressed intent to obstruct, hinder, and prevent the free exercise of the right of suffrage. In that case, does the Senator from Connecticut hold that the United States have no power to prevent it?

Mr. EATON. What do you mean by "power?"
Mr. WINDOM. Constitutional power.
Mr. EATON. Do you mean constitutional right?
Mr. WINDOM. Constitutional power.
Mr. EATON. Constitutional right—is that what you mean?
Mr. WINDOM. Constitutional power or right?
Mr. CONKLING. What is the difference between constitutional power and right?
Mr. WINDOM. I have put it in the alternative so that the Senator need not be troubled on that point. [A pause.] Is that the answer to the question, Mr. President?
Mr. EATON. Really, I was sat down on so hard by my distinguished friend from New York that I should like to have you put that question again to me if you can. [Laughter.]
Mr. WINDOM. I will make another effort. It seems to be very difficult for the Senator to understand it. I have offered a proposition here to punish armed men——
Mr. EATON. I am going to vote against it. [Laughter.]
Mr. WINDOM. I have not any doubt about that. Now, the Senator will allow me to start again, if he really wants to hear the question. The amendment proposes to punish armed men who go with the intent, the declared, avowed intent, to prevent the exercise of the right of suffrage; has the Government the right or the power—either one—to prevent it or to punish it?
Mr. EATON. I have now got the question a little different from what I did before, for the Senator did not put in "the Government of the United States." He says "the Government" now. Now, I answer, yes; I answer the last question. If you want to change it, I will answer again. You ask if the Government has any power. I say, yes. If any body of armed men interferes in the State of Connecticut with the polls, with the freedom of election, the people of Connecticut by its authorities have the power and will take care of it.
Mr. WINDOM. Now let me try my friend once more. Has the Government of the United States of America the right to punish armed men who go to the polls for the express and avowed purpose of preventing the free exercise of the right of suffrage at an election for members of Congress?
Mr. EATON. Now, my friend from New York will be evidence that I use the words of the Senator from Minnesota: has the United States Government of America the power to punish? Those are the words——
Mr. CONKLING. Oh, no.
Mr. EATON. I say no, not until a law is made, and that law I never will vote for.
Mr. WINDOM. Now, Mr. President, once more. I will ask the Senator once more whether Congress has the power to pass such a law, the constitutional power to pass it?
Mr. EATON. No. Now you have got your answer. Therefore I will not vote for it. If it had the constitutional power I might vote for it.
Mr. WITHERS. I hope we shall have a vote now.
The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Minnesota, [Mr. WINDOM.]
Mr. CONKLING. Let us have the yeas and nays.
The yeas and nays were ordered, and the Secretary proceeded to call the roll.
Mr. BURNSIDE, (when the name of Mr. ANTHONY was called.) My colleague, [Mr. ANTHONY,] if here, would vote "yea." He is paired with the Senator from Delaware, [Mr. BAYARD.]
Mr. KERNAN, (when Mr. BAYARD'S name was called.) I am requested by the Senator from Delaware [Mr. BAYARD] to announce that he is paired on this and kindred questions with the Senator from Rhode Island, [Mr. ANTHONY.]
Mr. BECK, (when his name was called.) I will not interrupt the roll-call any more during the vote on the different amendments on the bill, but now state once for all that on all these questions of amendment I am paired with the Senator from Nevada, [Mr. JONES.] If at liberty to vote on this particular amendment I should vote "nay."
Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague [Mr. DAVIS] is paired with the Senator from Minnesota, [Mr. WINDOM.] If he were present, my colleague would vote "nay."
Mr. BUTLER, (when the name of Mr. HAMPTON was called.) My colleague [Mr. HAMPTON] is paired with the Senator from New Hampshire, [Mr. ROLLINS.] If here, my colleague would vote "nay."
Mr. MORRILL, (when Mr. EDMUNDS'S name was called.) My colleague [Mr. EDMUNDS] is paired with the Senator from Ohio, [Mr. THURMAN.] If he were present, my colleague would vote for the amendment and the Senator from Ohio would vote against it.
Mr. DAWES, (when the name of Mr. HOAR was called.) I repeat the announcement that my colleague [Mr. HOAR] is paired with the Senator from New Jersey, [Mr. MCPHERSON.] My colleague, if he were here, would vote "yea."
Mr. MCDONALD, (when his name was called.) I am paired on this question with the Senator from Wisconsin, [Mr. CARPENTER.] If he were present, I should vote "nay."
Mr. ROLLINS, (when his name was called.) I am paired with the Senator from South Carolina, [Mr. HAMPTON.] If he were present, I should vote "yea."
Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia [Mr. DAVIS] on all these questions. If he were present, I should vote "yea."
The roll-call having been concluded, the result was announced—yeas 24, nays 32; as follows:

YEAS—24.

Bell,	Cameron of Wis.,	Hill of Colorado,	Morrill,
Blaine,	Chandler,	Ingalls,	Paddock,
Booth,	Conkling,	Kellogg,	Platt,
Bruce,	Dawes,	Kirkwood,	Plumb,
Burnside,	Ferry,	Logan,	Saunders,
Cameron of Pa.,	Hamlin,	McMillan,	Teller.

NAYS—32.

Bailey,	Groome,	Jones of Florida,	Slater,
Butler,	Grover,	Kernan,	Vance,
Call,	Harris,	Maxey,	Vest,
Coke,	Hereford,	Morgan,	Voorhees,
Eaton,	Hill of Georgia,	Pendleton,	Walker,
Farley,	Houston,	Randolph,	Wallace,
Garland,	Johnston,	Ransom,	Williams,
Gordon,	Jonas,	Saulsbury,	Withers.

ABSENT—20.

Allison,	Cockrell,	Hoar,	Rollins,
Anthony,	Davis of Illinois,	Jones of Nevada,	Sharon,
Bayard,	Davis of W. Va.,	Lamar,	Thurman,
Beck,	Edmunds,	McDonald,	Whyte,
Carpenter,	Hampton,	McPherson,	Windom.

So the amendment was rejected.
Mr. WINDOM. On page 14, line 20 of section 6, I move to strike out the word "civil;" so that the clause may read:

Every officer of the Army or Navy, or other person in the military or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State," &c.

The object of that I will state to the Senate. The argument of those who have favored this bill has been that there is great danger to the liberties of the people if the soldiers are permitted to keep the peace at the polls. This bill punishes civil officers who keep the peace at the polls precisely as it does military or naval officers. I want to strike out the word "civil," so that the punishment shall apply to the Army and Navy only, and so that civilians may keep the peace without going to the penitentiary for five years or paying $5,000 fine.
Mr. WITHERS. I wish merely to state in that connection that the object probably is different from that so exactly stated by the Senator. The object is simply to ingraft an amendment upon this bill. I care not how specious the character of it may be, I hope it will be voted down.
Mr. BECK. I simply rise to say that we have no more respect for John Davenport than we have for General Sherman controlling the Army on election day.
Mr. WINDOM. My purpose was not at all as it seems to be understood by the Senator from Virginia. I do not desire an amendment for the sake of an amendment, certainly. An amendment could do no great harm, however. There is no time fixed for an adjournment. The bill may go back to the House, if amended, and be acted on. I do not desire to hinder its passage by an amendment, but I do desire that when the bill is passed it shall not punish civil officers of the Government by fine and imprisonment for helping to keep the peace at the polls.
The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota, to strike out the word "civil" in the sixth section of the bill in line 20.
Mr. FERRY and Mr. WINDOM called for the yeas and nays.
The yeas and nays were ordered; and the Secretary proceeded to call the roll.
Mr. BURNSIDE, (when Mr. ANTHONY'S name was called.) On this question my colleague [Mr. ANTHONY] is paired with the Senator from Delaware, [Mr. BAYARD.] If my colleague were here, he would vote "yea."
Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague [Mr. DAVIS] is paired with the Senator from Minnesota [Mr. WINDOM] on all these questions. If he were here, my colleague would vote "nay."
The PRESIDENT *pro tempore*, (when Mr. THURMAN'S name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]
Mr. WALLACE, (when his name was called.) I am paired with the Senator from Vermont, [Mr. MORRILL,] who has left the Chamber temporarily. If he were here, I should vote "nay."
Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] I should vote "yea" and he would vote "nay," if he were present.
The roll-call was concluded.
Mr. ROLLINS. On this question I am paired with the Senator from South Carolina, [Mr. HAMPTON.] If he were present, I should vote "yea."
The result was announced—yeas 23, nays 31; as follows:

YEAS—23.

Bell,	Cameron of Wis.,	Hill of Colorado,	Paddock,
Blaine,	Chandler,	Ingalls,	Platt,
Booth,	Conkling,	Kellogg,	Plumb,
Bruce,	Dawes,	Kirkwood,	Saunders,
Burnside,	Ferry,	Logan,	Teller.
Cameron of Pa.,	Hamlin,	McMillan,	

NAYS—31.

Bailey,	Groome,	Kernan,	Slater,
Butler,	Grover,	Lamar,	Vance,
Call,	Hereford,	Maxey,	Vest,
Coke,	Hill of Georgia,	Morgan,	Voorhees,
Eaton,	Houston,	Pendleton,	Walker,
Farley,	Johnston,	Randolph,	Williams,
Garland,	Jonas,	Ransom,	Withers.
Gordon,	Jones of Florida,	Saulsbury,	

ABSENT—22.

Allison,	Davis of Illinois,	Jones of Nevada,	Thurman,
Anthony,	Davis of W. Va.,	McDonald,	Wallace,
Bayard,	Edmunds,	McPherson,	Whyte,
Beck,	Hampton,	Morrill,	Windom.
Carpenter,	Harris,	Rollins,	
Cockrell,	Hoar,	Sharon,	

So the amendment was rejected.

Mr. PADDOCK. I now offer the amendment that I submitted to the Senate some days ago, but which has not been hitherto formally offered.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to insert after line 16, section 6, the following proviso to the section:

That the provisions of the fifteenth section of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, shall not be construed so as to prevent the employment of the Army in the government and control of the Indians in any of the States or Territories, whether on or off an Indian reservation, or to prevent such employment in the enforcement of the intercourse laws, or laws affecting the government or control of Indian reservations, or as applying to, or be enforced against, the Army, or any part thereof, employed in the protection of life and property in the States of Nebraska, Oregon, Nevada, Kansas, and Colorado, and the Territories subject to Indian incursions.

Mr. PADDOCK. Mr. President——

Mr. LOGAN. I desire to move an adjournment. Before doing so, I wish to say in the presence of the Senate that I think there is no use in our struggling in reference to this bill to-night in order to obtain a vote upon it. There are one or two Senators who desire to be heard on the questions involved prior to taking the vote. I wish now to say, so that the Senate may understand it, that on the last section of the bill in reference to the retirement of officers, after we pass over the sixth section, there will be some discussion on that proposition. I merely give this notice so that it may lead the Senate to now adjourn and meet to-morrow as usual at twelve o'clock.

Mr. EATON. I think we had better discuss it to-night.

Mr. LOGAN. I move that the Senate do now adjourn.

Mr. WALLACE. I ask for the yeas and nays on that motion.

Mr. CONKLING. I ask the Senator from Illinois to withdraw the motion for one moment.

Mr. LOGAN. Certainly, with pleasure.

Mr. CONKLING. My object is to inquire of the Senator from Virginia, (and I will stop to say that I do this not for my convenience, because I am not one of those concerned,) whether an hour cannot be fixed to-morrow when the vote may be taken. I make this suggestion chiefly because there are several Senators, not on this side alone, who have made appointments which will be interfered with if they are compelled to stay here much longer now. I say again, I am not one of them, and I speak, therefore, in a behalf not my own. It seems to me that if we could fix some hour to-morrow convenient to all, by unanimous consent, it would be better, for the bill will not be advanced at all by the vote being taken to-night rather than at some hour to-morrow.

Having conferred with the Senator from Virginia and one or two other members of the Committee on Appropriations, I make this suggestion in the hope that it may be agreeable to my friend from Illinois and to everbody else.

Mr. WITHERS. I will state that two distinct efforts have been made to fix an hour to-morrow at which the vote may be taken upon the bill and all the amendments, and they have failed because of the want of the unanimous assent of the Senate.

Mr. CONKLING. Let us try it again.

Mr. BLAINE. Let us agree to vote at four o'clock to-morrow. ["No!" "No!"]

Mr. RANSOM. To-morrow is Friday; let us fix the time at two o'clock.

Mr. WITHERS. I individually have no objection in the world to such an agreement, and would defer to the convenience and wishes of Senators, but it is my duty to get the bill through at as early an hour as practicable. I have refrained from making an effort to weary the Senate by the process of sitting out the bill in order that a vote shall be secured, so long as I could do so consistently with my views of duty. I am not at all desirous of subjecting any Senator to inconvenience by insisting upon that course. Yet it is absolutely, I think, my duty to secure a vote upon the bill as speedily as practicable, and I am of opinion that the speediest mode of effecting that object will be by remaining in session until we shall have secured a vote upon it.

Mr. CONKLING. But may I inquire, will not the Senator name himself some hour to-morrow which, if others do not object, he will agree to as the time when we can vote?

Mr. WITHERS. I will make an effort to accommodate the wish of the Senator, and of several other Senators who have approached me on the subject. I will make a third effort to secure the fixing of an hour at which the vote shall be taken on the bill, and if there is unanimous consent I will name two o'clock to-morrow.

Mr. CONKLING. Is there objection?

Mr. LOGAN. Yes.

Mr. BLAINE. The honorable Senator gains nothing by fixing two o'clock. If the bill is passed at four o'clock it will reach the Executive just as soon practically as if passed at two o'clock.

Mr. CONKLING. Split the difference and make it three o'clock.

Mr. WITHERS. I will put it at three o'clock, if that meets assent, with the distinct understanding—let it be understood unequivocally—that at three o'clock to-morrow we shall proceed to take the vote upon the bill and all amendments, without further debate.

Mr. LOGAN. I merely wish to say that so far as I am individually concerned I have no preference as to the hour at which the vote shall be taken. I should dislike, however, to see the vote taken on the last section without the opportunity of an explanation and some discussion of it, if only for five minutes. I have no desire to discuss the bill further so far as I am concerned. There are Senators, however, who do desire to make some remarks on the bill. I propose to say but a few words on the last section, and any hour will suit my convenience provided there be an opportunity afforded at least of five minutes or ten minutes to Senators who desire to discuss the last section of the bill. I do not think it will require very much time.

Mr. HAMLIN. I hope there will be no objection upon this or the other side of the Chamber to the very fair proposition which the Senator who has the bill in charge has made. It is suggested by the Senator from Illinois that he wants a few moments to discuss a particular section of the bill. We shall have three hours after twelve o'clock, two hours after one o'clock, which will afford ample time. The Senator from Nebraska, [Mr. PADDOCK,] I think, has now the floor upon his amendment. He will have ample opportunity, I have no doubt, to present his views within that time, and it will give ample time for a brief debate upon any point. I hope there will be no objection to the proposition.

Mr. WITHERS. So far as I am concerned I will agree to that hour with the understanding I have stated.

Mr. PADDOCK. I would not ask the Senate to listen to any observations that I have to make, but upon my amendment it will be necessary to submit a few remarks. I think I shall not consume more than thirty or forty minutes, but I believe, under all the circumstances, it is due to me from the Senate that I should have thirty or forty minutes at an opportune and proper time. That is all I demand.

The PRESIDENT *pro tempore*. The Senator from Virginia suggests that at three o'clock to-morrow the discussion on this bill shall cease and, without further debate, the vote shall be taken on the bill and all amendments that are pending or may be offered.

Mr. WITHERS. That is right.

The PRESIDENT *pro tempore*. Is there objection to that arrrangement?

Mr. HOUSTON. If the Senator will say two o'clock I shall not object to it; but otherwise I shall.

Mr. PADDOCK. I hope the Senator will withdraw his objection after the statements that have been made.

Mr. WITHERS. I hope my friend from Alabama will withdraw the objection. There is only a difference of one hour. I am sure he will accommodate himself to what it is apparent is the sentiment of almost the entire Senate on both sides. Such an arrangement will secure a vote I think about as early as we can get it under any circumstances.

The PRESIDENT *pro tempore*. The Chair will once more state the proposition and again ask the Senate whether there is any objection to it. The proposition is, that at three o'clock to-morrow all debate on this bill shall cease, and the Senate shall then proceed to vote upon any pending amendment or amendments that may be offered, and finally on the bill itself without further debate.

Mr. CONKLING. That is right.

The PRESIDENT *pro tempore*. Is there objection to that understanding? The Chair hears none, and it is agreed to.

Mr. CONKLING. Now I move that the Senate adjourn.

Mr. HAMLIN. Let the Senator from Nebraska [Mr. PADDOCK] first take the floor for to-morrow.

Mr. CONKLING. The Senator from Nebraska has the floor on his amendment; I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Before the motion is entertained the Chair will suggest that there is an executive message on the table. If it is material that it shall be communicated to-night, a motion will be necessary for an executive session.

Mr. CONKLING. If the message be on executive business, I renew my motion that the Senate do now adjourn. A good many Senators would be incommoded by being detained longer.

Mr. WITHERS. The message can go over until to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York that the Senate adjourn.

The motion was agreed to; and (at six o'clock and three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 24, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

TREATY WITH FRANCE.

Mr. KELLEY. I rise to a question of privilege, or perhaps I should say for the purpose of receiving parliamentary instruction.

The SPEAKER. The gentleman will state the question to which he rises.

Mr. KELLEY. I have been absent from the House on leave, and I find from the RECORD that on yesterday the gentleman from New York [Mr. FERNANDO WOOD] introduced a resolution requesting the President to consider the expediency of entering into a convention with the government of France for the negotiation of a treaty touching international trade between the two countries. I observe also that the resolution carried by a small vote, and that the motion was then made to reconsider the vote by which the resolution was adopted, and that the motion to reconsider was laid on the table. I believe that the action of the House must have been inconsiderate. I do not think that it can have deliberately invited the executive department to assume the highest prerogative of the House, that of regulating the revenue.

Mr. FERNANDO WOOD. To what point does the gentleman rise?

Mr. KELLEY. I rise with the object of asking whether it is under any form of parliamentary law admissible to move to reconsider the vote by which the motion to reconsider was laid on the table.

The SPEAKER. It is not. The Chair directs a paragraph to be read from the Digest.

The Clerk read as follows:

A motion to reconsider a vote laying a motion to reconsider on the table is not in order; if entertained it would lead to inextricable confusion, by piling up motion upon motion to reconsider.

The SPEAKER. This has been the practice of the House as long as the present occupant of the chair has had the honor of being a member of this House and while the gentleman from Pennsylvania himself has been a member of this House, which is a little longer, that gentleman having been here nearly twenty years.

Mr. KELLEY. I feared such might be the decision of the Chair; but I felt myself bound to call the attention of the country to the resolution somewhat more emphatically than the mere vote itself might do.

DIRECTORS OF COLUMBIA HOSPITAL.

The SPEAKER. The Chair announces as directors on the part of the House for the Columbia Hospital Hon. JOHN H. REAGAN, of Texas, and Hon. HIRAM PRICE, of Iowa.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. MORSE, for ten days, on account of sickness.

REGISTRY OF VOTES IN PARLIAMENTARY BODIES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of State, transmitting a communication from the minister of the United States in Vienna relating to an apparatus invented by Mr. C. A. Mayrhofer for the registry of votes of parliamentary and deliberative bodies; which was referred to the Committee on Rules.

NATIONAL ACADEMY OF SCIENCES.

The SPEAKER also, by unanimous consent, laid before the House a letter from O. C. Marsh, esq., acting president of the National Academy of Sciences, transmitting a report of the operations of the National Academy of Sciences during the past year; which was laid on the table, and ordered to be printed.

PRINTING OF BILLS.

The SPEAKER. The Chair desires to ask in behalf of sundry members who had bills introduced and referred to committees through the petition-box that such bills may be printed for the use of the House. Of course, being presented through the petition-box, they would not have numbers, but they can be printed for the use of the House. The bills introduced on Monday last, public bills, are all ordered to be printed, and it is desired by members who resorted to the petition-box for the introduction of public bills that they be printed also.

Mr. CONGER. I suggest that they can be introduced on Monday next.

Mr. REAGAN. If the gentlemen who presented bills in that way will reintroduce them on Monday next, they can be ordered to be printed.

The SPEAKER. In that case they would secure numbers, and that would perhaps be the better course to pursue. They could then be referred to with convenience by their numbers.

Mr. CONGER. That would give precedence to those bills that have crept in in some other way than the usual way of introducing bills.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BLACKBURN. I understand that there are no bills to be reported this morning, and I therefore move that the morning hour be dispensed with in order to allow the House to resolve itself into Committee of the Whole on the state of the Union for the purpose of proceeding with the legislative bill.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. SPRINGER. I move the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Indiana [Mr. DE LA MATYR] has seven minutes of his time remaining.

Mr. DE LA MATYR. Mr. Chairman, this being my first experience in civil legislation, I had not proposed to enter the arena of debate this session, but this discussion has reached a point at which I desire to utter a few thoughts which have been suggested by its course.

The center around which this fierce war of words has seemed mainly to rave has been the anticipated action of the President. It strikes me that we have no legitimate concern with that matter whatever. We are not supposed to know what that action will be. "Sufficient unto the day is the evil thereof." It is at least a far-fetched and forced gage of battle. It indicates that the combatants are spoiling for a fight.

The charge made by the distinguished leader of one extreme of the House [Mr. GARFIELD] and echoed by every speaker on that side here and in the Senate, that the effort by the majority to repeal certain statutes which have been added to our laws within a few years is pregnant with the dire horrors of revolution and threatens to give birth to a monster, compared with which Milton's first-born of sin appears harmless and beautiful, impresses me as supremely ridiculous.

The further attempt to charge a purpose to starve this Government to death on the slim pretext that individuals have threatened not to strike the repeal of those statutes from the appropriation bills even if the President vetoes them, because of the clauses of repeal, is as ridiculous. The grave importance attached by the majority to the repealing clauses seems to me making a mountain out of a mole-hill. A stranger watching these frantic charges and counter-charges across the center of this House would judge that the nation represented here must be in the last throes of dissolution.

Does any man in his sane moments doubt that the Republic would abide the repeal of the statutes in dispute or that it will stand if they remain in force? The important fact is, this frenzied debate is the skirmishing between the two parties who have wrangled over the grave of the civil war for fourteen years, preparatory to the great struggle for power and pelf to come off next year. Its brilliant display of rhetoric and acting varied by tragic scenes has been a sublime farce. I am certain that when the actors have cooled off and amid calm reflection study their exhibition, they will find little to glory over.

Mr. Chairman, there is but one way in which the Republic can be seriously imperiled. It will be my aim to suggest where alone danger lurks. It is fortunate that the measureless interests embodied in our national life do not rest on those statutes in dispute, nor on any action the President may see fit to take concerning their repeal, nor on the course the majority of Congress may pursue after the President's action. This quarrel may cost the country much more than it has, but it cannot overthrow the Government.

Those statutes may or may not be repealed. The threatened collision between the Executive and Congress may come and expend all its fury, as this debate is dissipating the wrath of party leaders, and yet the Government will live and flourish. For the cost and disturbance of this protracted wrangle the people will hold its actors responsible, but they will not permit the Government to suffer material harm from so impotent and ridiculous a fiasco.

Sir, our Government rests upon the moral sentiment of the whole people and it can be destroyed only by debauching that sentiment. While the people have reason to love the Government, "the gates of hell shall not prevail against it." That party whose policy weakens the interest of the people in the stability of the Government is the dangerous traitor to be fought to the death.

The common-sense view of these statutes is, they increase the influence of the party in power over the elections. The influence resulting from control of scores of thousands of Federal office-holders scattered over the whole country, which the existing Administration exerts over elections, is as great as it is safe to give any party. Any addition is to be deprecated. Whatever of good may arise from these statutes in force, in my judgment, is more than balanced by the evil which must result from increasing the power of the party which may be in possession of the administration. If the democratic party were in power now, does any man question that every republican would vote for their repeal?

It was in committing the civil power to the hearts of the whole people instead of centralizing it that our fathers reversed the whole theory and practice of ruling civil society. They regarded man not as rich nor poor, patrician nor plebeian, white nor black nor mixed,

but alone in those high endowments which distinguish him as man. They wholly ignored orders and castes and special political rights in civil society and formed a government for the whole people. Such a structure must of necessity be sustained by the love of the governed. Our fathers with a sublime faith trusted the people to sustain their civil institutions solely from the inspiration of love for them. They wisely ordained that the power they intrusted to the people should express itself through the elective franchise, and find embodiment in written constitutions and statutes.

Their work was a grand experiment. The question which immediately arose and deeply interested the statesmen of the civilized world was, "Is a government not centralized, not supported by an army wielded by a single will, strong enough to pass through all the vicissitudes of national life?" The universal theory had been that society could be controlled only by force. The framers of the Constitution were themselves deeply impressed with a sense of the awful responsibility they assumed in basing their structure on an untried foundation. Those cautious and well-instructed men were impelled by a divine inspiration so far upon untrodden ground that they were startled at their own work, and as long as they lived they regarded it with extreme solicitude. The statesmen of the next generation shared the fears of their predecessors. Mr. Webster in the peroration of his immortal speech in reply to Hayne voiced that anxious interest. He said:

> I shall exert every faculty I possess to prevent the Constitution from being annulled, destroyed, or impaired; and even should I see it fall I will still, with a voice feeble, it may be, but earnest as ever fell from human lips, and with a fidelity and zeal which nothing shall extinguish, call upon the people to come to its rescue. When my eyes are turned for the last time to behold the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union.

The first severe test of the power of our Government was the civil war. That test was the all-important issue of that memorable struggle. It was so regarded by the civilized world. Immediately on its opening the haters of our institutions in Europe rejoiced at their overthrow as if already accomplished. In the language of our great historian, "Lord Russel, voicing the wishes and hopes of them all, hastened to publish through the palaces of Europe that the great Republic was in its agony."

It was in agony, but not of dissolution; it was the agony of the throes of the birth of a higher, grander life—a new incarnation of liberty.

With deep and awful anxiety the oppressed peoples of other lands watched our trial. Victor Hugo expressed that anxiety when he wrote, "If liberty should fall in America, there would be a frightful deluge—a shipwreck of humanity." The test could not have been more severe. In the glare of its lurid fires the pop-gun flashes and squibs of this sanguine debate sink beneath contempt.

Sir, there have been but few, if any, among the world's greatest commanders who have surpassed Lee. No general was ever supported by abler lieutenants, one of whom is now an honored member of this House. The immense armies he wielded were filled with men who regarded the war as a sacred defense of their homes. Never did braver men fight, never were armies more skillfully led.

The nation's chief, when first confronted with the formidable array, had no tangible force to meet it. He appealed to the invisible power of our Government, the moral sentiment of the people, and it responded to full measure of the extremest need. The people, inspired alone by love of their own Government, sacrificed partisanship to patriotism, laid on the nation's altar their accumulated and prospective wealth, and with quivering hearts and unwavering faith gave their sons to the hazards of war.

The great conflict which followed was a spectacle to men and to angels. The measureless issues pending; the giant forces in array; the daring, desperate, reckless stand of millions on one hand; the calm, steady, relentless march of millions on the other, forming lines of armies across a continent, and ever and anon hurling themselves together in the crash of battle, held the absorbed and profound attention of mankind. Millions of eager eyes were on us, because the interests of millions were in our keeping.

Had the confederacy secured its independence, its peculiar institution, its fatal theory of the right of any State to secede at will and set up for itself, and a powerful neighbor touching it on a long line destitute of any natural barriers, would have impelled it to the establishment of a centralized power, with a standing army as its right arm. That would have forced the Northern States to a like form of government, and power would have been transferred from the hearts of the people to standing armies wielded by tyrants, and liberty would have fallen in America, and there would have been a "frightful deluge, a shipwreck of humanity."

Thanks to the God of battles, the Government prevailed and the catastrophe of liberty was averted. That test will never be duplicated. Threats and fears of it are alike idle and puerile.

What has followed the war has given evidence of the strength of the sentiment of the people, on which the Government rests, only less convincing than the uprising of that sentiment to prosecute it to victory. The world's history furnishes no parallel to the fact that two vast armies, called from the ranks of the people and disciplined in the field, after four years of war returned their arms to the national armories and immediately retired to civil life. More surprising still, these armies, after fighting each other with desperation so long, filled the bloody chasm between them and together went to work to repair the wastes of their fratricidal strife.

It is an obvious fact that the sectional conflict which has been our weakness and disgrace since has been instigated and kept up mainly by those patriots of the North who made their sacrifices by urging their wives' relatives to enlist and by loaning their money to the Government at the rate of about fifty cents on the dollar, and when it emerged from its trial, and its every obligation was at par, persuading Congress and the President, "in order to strengthen the public credit," to change the contract and pay them gold instead of the depreciated currency which they agreed to take and with which they took their loans; and a class of politicians who have devoted themselves to crying "honest money," while they have secured legislation which has impoverished the great mass of the people to enrich themselves and their fellow-patriots, the bondholders; and at the South a set of infamous cowards who, to atone for sneaking into the swamps during the war, have given themselves to the pastime of shooting helpless negroes.

But very few men who really fought in the war now fight over its ghost. Brave men never fight disembodied spirits. Let any tangible enemy threaten this country; let any power or combination of powers challenge to battle, and the soldiers of the North and the South would rally under the old banner, forming such a host as was never led to battle in the world's heroic history. Down with this puerile cry of revolution raised by those who were cowards on the one side or cormorants on the other of the great struggle. I have no language in which to utter my supreme contempt for it. I cannot believe that either side will make any more political capital out of it. Cover up the foul putrescence and let the air clear itself from the unendurable stench.

Mr. Chairman, legislation demanded by a suffering people has been blocked for five long weeks by this unworthy clamor, and by every species of low filibustering, on the plea that the country needs rest. The system of financial legislation which has transferred all values from the many into the coffers of the few is now complete; the paralysis of death is on all productive enterprise; now let us rest; do not disturb this delicious repose; we have accomplished our supreme purpose; the money lords are satisfied and happy; their mortgages and bonds have appreciated in relation to all other property and labor so as to give them full control of them; now "let us have peace;" your agitation disturbs the country's nabobs; it makes them fear that the people will be aroused to throw off the intolerable yoke they have so complacently imposed. Thus plead the tools of the money power.

Sir, the country does need rest from this infamous sectional strife which those who cry "peace, peace," are perpetually fomenting. It is a cormorant *mêlée*, of the croaking of which the people both North and South have had a surfeit. It is apparent that all the lofty flights of eloquence in this debate have been for a like purpose that eagles soar. The poetic idea is that the eye of the eagle is fixed on the sun as he ascends, but the hard, unpoetic fact is his vision is steadily sweeping field and forest in search of a carcass on which to feed. Let me remind gentlemen that the civil war has been ended fourteen years, and the Constitution has been adjusted to the changed conditions, and each State which sought to secede is in normal relations to the General Government, and reconstruction is completed, and all danger which arose from slavery has expended its force, and all fears of peril from that direction which now disturb any member of this body, or any of the people, are like childish fears of ghosts. Let us have rest from it. But, sir, the quiet which these men demand would be the rest of death. There is a paralysis of productive energy which must be thrown off by immediate and determined effort. In this direction there will be no rest. The suffering people will not be lulled into repose that their stupor may enable their oppressors to complete their enslavement.

Mr. Chairman, let us survey the situation. We came out of the war deeply in debt. The payment of debts was the task before us. Much of the debt was matter of immense gain to our creditors. It had accumulated during the uncertainties of war. Hard conditions had been exacted, and perforce accepted. The nation's triumph made every obligation perfectly good, and greatly enriched its creditors. They alone were gainers by the war, and fattened on the miseries of others.

There was, however, nothing for the nation to do but to abide by its contracts, hard as they were. Repudiation was not to be thought of, for that would involve dishonor. There was but one way to pay those debts and not impoverish and distress the people, and that was to produce the means by labor out of our measureless undeveloped resources. That could be done only by keeping the people at work. The great problem which challenged our responsible statesmen was how to inspire to the full maximum the industrial forces of the whole people. Compared with that problem, all other questions which demanded their attention were "less than the small dust of the balances." Providence had made its solution comparatively easy. We had exhaustless resources in soil, mine, and forest. The South was a desert, but so situated that skill and muscle, aided by machinery, could have rapidly covered it with cotton-fields and fruit-orchards, making it, with its sunny climate, "flourish as the garden of the Lord."

The immense plains stretching from the Mississippi westward were

corn and pasture lands, cleared by the infinite Father and ready for the plow and the herd. Our mountains were stored with gold, silver, iron, and coal. The temper of the people favored intense activity. The tremendous excitements of the war had quickened the pulses of the masses. We were favored with a volume of currency, swelled by the exigencies of the war, based upon all the resources and the honor of the nation—a pretty substantial cradle for a rag baby—which set in motion and was competent to sustain a vast system of productive enterprise. The whole land echoed the cheerful voice of industry. The line of cottages and corn advanced as by magic over Dakota, Nebraska, Kansas, and Texas. Herds multiplied on the plains beyond. Still further on the mountain glens echoed the strokes of the pick and the quartz-crusher. There was less, yet hopeful, activity at the South.

This vast development of the West and South called for machinery, clothing, &c., in ever-increasing quantities, and to supply them manufacturing increased and flourished. All the land became a workshop, and production of substantial wealth was immense. Had that condition of industry been held steady up to this time all our debts would have been paid and the wealth of the nation more than quadrupled.

France, after her disastrous war with Germany, notwithstanding the smallness of her territory and poverty of natural resources, by the wisdom of her statesmanship inspired to intense activity her industrial forces, and kept every muscle, wheel, spindle, hammer, and plow in motion, and in less than three years fully repaired the wastes of the war and paid the enormous indemnity, and did not impoverish her people. The statesmen of France performed a far more difficult task than was committed to our statesmen at the close of our war. There was no possible way of keeping our people at work but by keeping their currency in equilibrium with the demands of the vast and widespread system of their industries, and that was the special work for the party which was in power. Unfortunately, instead of shaping their policy to that end the leaders of the republican party turned their attention exclusively to bringing the currency down to the gold basis, with the sole object of paying the principal and interest of the bonds and mortgages held against the people by the money-loaning class in gold or its equivalent. The result of that policy is now before us. It soon paralyzed productive enterprise, and it has been prostrate for five long years. The capital invested in production and commerce is lost. That large body of our citizens who live by earning wages are toiling for a bare subsistence or begging the opportunity to work, and are in utter poverty.

These years of ruin and misery to the people have been years of harvest to the money loaners. They have stood behind their counters, and in interest—ruinous, crushing interest—have gathered all the surplus of the people's earnings, and have appreciated their mortgages by the depreciation of all other property until they have confiscated vast amounts of the people's capital. Taking advantage of the desperate struggles of men to save a little of their life gatherings, the creditor class have turned down the screws of interest until the struggle has become hopeless, and then by foreclosure they have secured titles to the farms, factories, workshops, and homes of their victims, turning them adrift penniless, with their families, into a desert where there is no opportunity to earn bread by labor. Thus there has been a fearfully rapid gathering of values from the many into the hands of a few, and all property interest in the stability of the Government has been taken from a very large majority of the people.

It is not exaggeration to assert that four out of five of the men in mature life would be relieved by freedom from all claim on their future productions and permission to start again without a dollar. Not one in five is worth a dollar above the claims of creditors upon them, and many have mortgages fixed upon all they can produce till the day of death.

This concentration of wealth has created a tyrannical power over the masses. Money is power. A large capitalist has power and every temptation to be a tyrant. He can confiscate the business and property of small capitalists. He can oppress laborers with an iron hand. No intelligent man will dispute these statements.

Until since the war the number of very rich men in our country was too small to excite alarm; but now they imperil the liberties of the people. Their dangerous power is manifest in the obvious fact that they have dictated the legislation of the General Government. Congress, Presidents, and Cabinets have done their bidding with an obsequiousness utterly amazing. The passage of the bill to partially restore silver to the place from which they had degraded it is the only financial measure which they have not dictated since the war. They fought that measure desperately, through their agents, in both Houses of Congress, and their President vetoed it. It was passed over his veto, because the murmur of an outraged people made Congress afraid.

Now, sir, as the people, stripped of their property and robbed of the means of producing more, demand that there shall be a halt in this ruinous policy, and that legislation looking toward their relief shall be entered upon, they are told by their oppressors that they are ignorant of the awful mysteries of finance; that they are only reaping the fruits of overproduction and extravagance; that their asking for relief is dishonest and smacks of repudiation, and they are branded as communists and threatened with a strong government. Those who represent them and plead their cause are sneered at as blatent blatherskites; and in the original, chaste, elegant, scholarly, gentlemanly language of one of the most distinguished representatives of New England culture [Mr. HAWLEY] they are branded as the rag, tag, and bob-tail of the democratic party. Rev. Joseph Cook, another representative of New England nabobs rather than of the Divine Master who toiled as a mechanic and preached His gospel to the poor and laid the foundation of His kingdom in the hearts of the working people, has affirmed that before the people shall be permitted to regain control of their Government, rescuing it from the hands of aristocrats, the right of suffrage shall be taken from them, even if their blood has to be spilled in doing it.

Mr. Chairman, I wish with an unmistakable emphasis to assure these oppressors and despisers of the toiling masses of this country that neither their victims nor those who represent them on this floor feel alarmed or humiliated at these impotent assertions, threats, and sneers. We shall not turn and rail at them. I will not blame the money-loaners for what they have done. No doubt that most who call them Shylocks would do as they do if in their places. There are a few Christians who really do unto others as they would others should do unto them. There is occasionally a man with such a high sense of honor as not to desire to live off the toil of others without returning any equivalent, but such virtue is too scarce to reckon upon in this world. Governments are instituted to defend people from the rapacity of their fellows, and not to aid that rapacity to wholesale robbery as our Government has done for fourteen years.

The love of money is the master passion of human nature and "is the root of all evil." It coins hearts and consciences into a harder substance than silver. It congeals into supreme selfishness and cruelty the sympathies which were meant for mutual helpful offices. This money power has not and will not exhibit the slightest weakness of pity for the people who have been impoverished to enrich its class. It will not show the slightest disposition to compromise. It will exert its utmost energy to consolidate and extend its sway. It has and will use every press, legislator, and executive officer that money can buy. It has sent Mr. Grant, its chosen champion, careering over the Old World amid a halo of glory which has eclipsed all the splendors of ancient Roman triumphal processions. It is arranging to meet him on his landing at San Francisco and escort him across the continent in a style of magnificence that will throw into the shade the regal display of the former moguls of India. It boasts of its purpose to put the Government into his iron hand, that he may hush the threats of labor strikes and communistic murmurs of an outraged and suffering people by a strong administration.

Mr. Chairman, while I can see no peril in the petty matters over which this Congress is wrangling, I do see danger in this attempt of the money power to enslave the people. Sir, I am sure that the people of this country will not submit to permanent serfdom. Not even Grant with his iron will could administer a government over them for that purpose. There are ominous indications that efforts in that direction have been already carried to the very verge of the line of safety. Wisdom commands a halt. It is madness to cover up the facts or ignore them; the people cannot longer be deceived. The promise of relief through resumption has utterly failed, as any intelligent man not blinded by partisanship knew it must. With claims on the property of the country above what it would sell for in cash held by money-loaners, and with the prices of labor and property where resumption has brought them and will hold them, the people must toil for a bare subsistence and turn over all the surplus, through the channels of interest and taxes, to their taskmasters.. They cannot possibly meet the full drain of interest and taxes, and their indebtedness must increase, as it has steadily every year since this ruinous policy of depressing prices has been pursued. The producing classes in England, Russia, Germany, and especially India, are reduced by a like process to utter destitution and almost hopeless misery, and they are held to it by standing armies. Such is the slavery which is sought to be permanently fastened upon our people. It is far more intolerable than the slavery of the colored people at the South before the war, over which there has been a waste of morbid sentiment in this debate.

The southern slaves were cared for when sick, and when either too young or too old to work, but the slaves of the money oligarchy are fed and cared for only while they can work.

Mr. Chairman, it is the purpose of the national party to avert the danger indicated, by changing the policy of legislation and administration which has caused it. It proposes to do this in a legitimate and peaceful way before the contest between the people and their oppressors drifts into bloody revolution, which without such peaceful settlement it will inevitably do very soon.

I have slowly and reluctantly but fully reached the conclusion that such settlement can be reached only through a new, distinct, and separate party. I hoped until within the last three years that the republican party, of which I was a member, would see where its policy was leading and stop, but I was forced to learn that it had sold out to the money power and had become its willing and pliant instrumentality. I then hoped that the democratic party, purified in the furnace of defeat and disaster for so many years, would espouse the cause of the people and take direct issue with the republican party on the all-important matter of finance; but that hope has failed. If any measure of it had lingered when the debate began it would have been dissipated by its course. As long as these parties

continue to face each other the bloody shirt will be shaken as the inspiration of their fury. The Ethiopian cannot change his skin, nor the leopard his spots; no more can old political parties cease to do evil and learn to do well.

We must have a party organization that runs its lines north and south across the whole breadth of the country as well as east and west across its whole length. A new party, having no memories or prejudices which are sectional, can array the people on the vital issues of the day, and we propose to do it. We have devoted ourselves to the task of guiding the intense and restless sentiment of the people into the peaceful channel of seeking relief through the ballot. There is no need of resorting to communistic lines of redress. Mobs and disloyal acts are mad and futile efforts. The people do not want to destroy anybody's property. They need all the property to tax. Having the ballot and being the majority, they are sovereign. The Government belongs to them, and they can and will make it do their bidding. We propose to restore hope and inspire prosperity by having this Government supply the people with a currency in sufficient volume to be equal to the demands of the healthful maximum of their productive power, and not beyond that demand. We do not propose any wild inflation, as we are so liberally charged by the agents of the money power. We mean to have a currency made full legal tender, and not crippled as Congress crippled and degraded the greenbacks at the dicta of gold gamblers.

The war called forth and distributed the currency, which, though crippled by being only partly money, inspired the vast and active industry which followed it. We believe that if the issue of that currency was in accord with the Constitution in time of war, the issue of currency like it is constitutional in time of great commercial distress—distress which surpasses the suffering caused by the war. I am not a lawyer, but I have read the Constitution and have not found any provision by which war makes unconstitutional measures constitutional.

We propose to distribute the currency in part by a wise, judicious system of internal improvements. Such a plan would immediately furnish employment to the idle, suffering, and restless host, dissipate their bitterness, hush their complainings, and enable them to make their families comfortable, and to again become freeholders and gain a property interest in the stability of the Government and enable debtors to pay off the claims which make them slaves. It would also open facilities for marketing our augmenting products. At the same time it would quietly and legitimately infuse life currents into all kinds of industries by furnishing the indispensable means of exchange—money. Such a course pursued by the wise statesmen of France has made that country the most prosperous of the world at the present time.

I had the honor of presenting to the House at the request of Colonel John Chiles, of Kentucky, a memorial on the subject of internal improvement, accompanied by two draughts of bills prepared by him with great labor and care. One of them proposes the improvement of the Mississippi and Ohio Rivers by the Government direct. I most heartily indorse that bill. The other proposes that the Government shall loan to certain companies, whose works were carefully examined by Senator WINDOM'S committee and recommended by it, certain sums of money which that committee estimated they needed.

The bill is guarded as fully as such a measure can be. It seeks to open a general plan of extending aid without granting subsidies. Its general purpose I indorse, but I am not prepared to indorse the loan idea and I am opposed to building up corporative monopolies.

I regard the bill as worthy of the attention of the committee of this House to which it is referred, and the subject of it as worthy careful study and free discussion by the press.

We propose to distribute it further by paying it out to meet all current expenses of the Government and the interest and principal of the bonded debt as far as the original contracts will allow, and also for silver to pay the interest and principal of that portion of debt contracted to be paid in coin. We propose further that this currency, issued directly by the Government, shall take the place of the national-bank issues.

In conclusion, Mr. Chairman, I wish to say that I am proud to be a Representative of the toiling masses. My lot was cast with them in my early years and I have never aspired to be separated from them. I have never desired to rise above Him, who, though He was rich became poor that others might be enriched; who associated with the people and defended them against all who sought to oppress them, whose only severity was manifested toward the proud despisers of the people. Sir, it is sneeringly said that the people form the lowest stratum of society. We admit and glory in the fact. Geologists teach us that the lowest stratum of the earth's crust is the granite on which all the strata rests, even the uppermost which is soft and shaly. They teach us also that the mountain ranges whose sublime summits pierce the clouds, and whose capacious reservoirs are the sources of the streams and rivers which replenish the slopes and valleys, are but the upheavings of the granite. Sir, our Government rests upon the solid granite of the people, and the frail nabobs who would lord it over them would starve to death but for the supplies they furnish. From the people have risen the grandest men who have towered into the heavens of truth and gathered their treasures for the refreshing of the pampered sons of wealth whose feebleness forbids them to do more than drink at the fountain of the generous store.

From the people in this time of need I pray—

God give us men! A time like this demands
Clear minds, pure hearts, true faith, and ready hands—
Men who possess opinions and a will;
Men whom desire for office does not kill;
Men whom the spoils of office cannot buy;
Men who have honor—men who will not lie;
Tall men—sun-crowned—who live above the fog
In public duty and private thinking;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking:
For, while political tricksters, with their worn-out creeds,
Their large professions and their little deeds,
Wrangle in selfish strife, lo! Freedom weeps,
Wrong rules the land, and waiting Justice sleeps!

Before Mr. DE LA MATYR concluded his remarks the hammer fell, his hour having expired.

Mr. WEAVER. I hope the time of the gentleman from Indiana will be extended.

Mr. HAZELTON. I object; he is not saying anything about the bill.

Mr. WEAVER. He is saying something about the gentleman's party, which I suppose he does not want to hear.

Mr. BROWNE. I hope the gentleman's time will be extended to allow him to respond to one or two questions which I desire to ask him.

Mr. DE LA MATYR. Our party has had but one hour in this debate, and this is the first time that any one except Mr. KELLEY, of Pennsylvania, has been arrested in the course of his remarks upon either side; but we submit.

Mr. PHISTER. I hope objection will be withdrawn to the gentleman's proceeding.

Mr. HAZELTON. I cannot withdraw the objection; I make it as a matter of life and death to the balance of us.

The CHAIRMAN. Did the gentleman withdraw his objection?

Mr. HAZELTON. I did not.

Mr. DUNNELL. I yield fifteen minutes to the gentleman from Vermont, [Mr. JOYCE,] and then fifteen minutes to the gentleman from Pennsylvania, [Mr. O'NEILL.]

Mr. JOYCE. I will yield two minutes to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. While we are making history, I think that all of us on either side of this Hall will agree that we had better make it tell the truth. My colleague who last addressed the committee has given such a gloomy description of the State in which we both live that I want to correct him. One would suppose from his statement that every agriculturist in the State of Iowa was not only sold out but in a situation of starvation, if not on the road to the poor-house. All this, he says, is attributable to the republican party. Now I happen to have lived in the State of Iowa ever since that gentleman was four years old, and I know more about the State than he does.

Under democratic administration wheat was forty cents a bushel, payable in store goods; pork $1.50 a hundred and corn ten cents a bushel, payable in the same way. You scarcely ever got a dollar in money, and when you did get it, it was of doubtful value. Now all these products, under republican rule, are worth more than twice that amount, and payable in dollars worth one hundred cents each.

He also says that while the balance of trade was in our favor to the amount of two hundred and fifty-seven millions, last year it took all that and $4,000,000 more to pay the interest on our debt. I call the attention of gentlemen to this fact, that the whole interest that we are paying to Europe and every place else on our bonds is less than $100,000,000; and if the balance of trade in our favor is two hundred and fifty-seven millions, and four millions, added to it, were used to pay the interest on our debt, I would like to know whose arithmetic he studied when he went to school and where he learned these startling facts, to wit, that it takes two hundred and sixty-one millions to pay ninety-six millions of interest. The fact is that the whole argument on that side goes so far from the facts in the case that it is necessary to contradict them, because, unless they are contradicted, somebody in the country who has not the time or disposition to make the examination might think it proper to believe them. We are further told by this gentleman that the whole country is going to destruction and that all branches of business are in an awfully bad condition and daily growing worse.

I insert as part of my remarks the following statement, which shows the fallacy of that gentleman's statement in reference to the general depression of business throughout the country:

A busy summer is predicted in all the Lowell (Massachusetts) cotton mills.

The trade of Saint Louis has been exceptionally good for the last thirty days.

The Harmony Mills, at Cohoes, New York, are running on full time and capacity.

Thousands of pedometers are being manufactured in Newark, New Jersey, for Europe.

In Sandusky, Ohio, the building outlook is said to be better than it has been in years.

The Newark (New Jersey) cutlery manufacturers have, it is said, more orders than they can fill.

Pittsburgh, Scranton, and Troy are furnishing steel rails for the Southern Pacific Railroad.

The rolling-mills of Portland, Maine, are running day and night, with orders for months to come.

Ohio's iron interest shows marked signs of improvement. Blast-furnaces and rolling-mills are everywhere resuming operations.

At New Albany, the chief manufacturing city of Ohio, a highly encouraging condition of affairs is reported by the Cincinnati Gazette. All the factories are full of orders and running on full time.

Philadelphia, which eight years ago had only sixteen shoe factories, has now over one hundred and forty. Their annual production is estimated at forty-eight million pair. At the present time work is very brisk, and the employés are receiving higher wages than they have in many years.

Boston's boot and shoe trade is fairly active. Ready-made goods are reported to be in demand for immediate delivery, and jobbers who are able to fill orders from stock on hand are said to be doing a good business.

At Troy, New York, the iron-works are all busy. Twelve hundred and fifty tons of steel rails are produced by the Bessemer Works weekly, an unexampled product. A large extension will be made to the Burden Works, and it is reported that E. Corning & Co. contemplate an addition to their extensive establishment. All the founderies are running, and a first-class season is anticipated by stove manufacturers. The linen-goods business, in all its branches, promises well. All the manufacturers expect a hurried and profitable season.

Mr. GILLETTE. May I rise to correct the statement made by my colleague, [Mr. PRICE?]

Mr. PRICE. I want to reply to him if he does.

The CHAIRMAN. Does the gentleman from Vermont [Mr. JOYCE] yield?

Mr. JOYCE. I cannot.

Mr. GILLETTE. Then I rise to a question of privilege.

The CHAIRMAN. The gentleman will state it.

Mr. PRICE. And I shall rise to a question of privilege to reply.

Mr. GILLETTE. In my statement to which my colleague refers I did not confine myself to Government bonds, but I explicitly included all debts of every kind owed across the water. My statistics were from the Bureau of Statistics.

Mr. PRICE. The gentleman stated positively that this Government had to pay not only $257,000,000, but four millions more, as interest on its bonds and debts.

Mr. GILLETTE. I refer to my speech for an absolute refutation of the gentleman's statements.

Mr. JOYCE. Mr. Chairman, I desire to return my sincere thanks to my honorable friend from Minnesota [Mr. DUNNELL] for his courtesy in granting me a portion of his time.

In discussing the question now before the committee, I purpose, in the first place, to take a hasty glance at the course pursued by the democratic party in this House during the past four years, and, secondly, inquire what that party is now attempting to accomplish, the means and methods resorted to, and the intent and purpose by which it is moved and actuated.

Sir, I speak to-day from an overpowering sense of public duty. I speak because I can no longer remain silent and be justified. For four long years I have sat in this Hall and heard the people of the North defamed, maligned, and the republican party traduced and vilified. I have heard the loyal men of the North charged with being the originators and primal cause of all the crimes and blood and misery of the past eighteen years, while the conduct of traitors and rebels has been held up as heroic, as honorable, and as worthy of imitation. I have heard men who in their hearts despise the Union, who hate the flag, but who love the lost cause and glory in their treason, with brutal audacity and vulgar impudence prate about the sacred obligations of the Constitution, and lecture republicans upon their duties to the Republic.

I have heard men whose souls are stained with the blood of the prisoner and the helpless, and against whom thousands of murdered men will rise up in judgment, insult the intelligence, the patriotism, and the sense of justice of the American people by assuming the role of guardians of the Constitution and conservators of the public peace and the rights of the people.

I have heard the loyal and noble men whose strong arms and stout hearts crushed that unholy and accursed conspiracy, and vindicated the power of the Government to defend and preserve its own life, abused and reviled by those whom a just and righteous God will hold responsible for the brutal and fiendish outrages at Fort Pillow, at Bell Isle, and at Andersonville.

I have seen the whole democratic party in this country rise up and heard them howl about United States soldiers at the polls, while bands of armed ruffians in the South take possession of the ballot-boxes, stuff them with tissue ballots, and shoot down and hang those who refuse to vote the democratic ticket.

Sir, it is a shame and a mockery, and should be endured no longer. The time has come when modesty and delicacy should be laid aside, and the men of the North should denounce this arrogance, expose this hypocrisy, resent the insult, and again bid defiance to resuscitated treason and modified rebellion.

It may as well be known now as ever that the people of the North, "standing securely upon their own conscious rectitude and bearing aloft the shield of the Constitution of their country," have no further concessions to make, that they have no pardon or forgiveness to ask, but that under God they are determined that the great principles settled by the war and crystallized into the organic law of the Republic shall be preserved and enforced at all hazards and at any cost; and that the men who bared their bosoms to the storm of rebellion in 1861 to guard the life of the nation from the rebel's bullet and the traitor's steel are ready in 1879 to again stand in the breach and protect it against the treason of those who are now seeking to destroy it under the forms of law.

Mr. Chairman, the record of the democratic party since it has been in power in this House is full of instruction and warning, and cannot be too often held up to the gaze and contempt of the American people.

Through base deception and fraudulent representations that party gained control of the national House of Representatives in 1875. In the campaign of 1874 you told the people that the republican party was corrupt; that it had squandered and misapplied their money; that it had burdened them with taxes, and was responsible for the great commercial panic which the year before had prostrated business and placed an embargo on trade and enterprise.

You said then that if the people would give you the control of this House you would wipe out all corruption, you would cut off all the extravagant expenditures of the Government, relieve the people from the burdens of taxation, and revive and establish the prostrate industrial interests of the country.

Unfortunately you succeeded in making enough weak-minded men in the North believe you, so that with their help and a solid South you captured this branch of the National Legislature.

In December, 1875, you organized the House and proceeded, not to carry out the solemn pledges and promises you had made to the people during the canvass, but to break every covenant, violate every pledge, and repudiate every obligation.

Instead of originating and maturing legislation which would break the terrible force of the panic and relieve the commercial distresses of the people, you attempted through your usurped and fraudulently obtained power here to buy or steal the Presidency.

In your great anxiety to play the hypocrite you hastened to pass a resolution against the granting of subsidies by Congress in order to quiet and delude the people, and then you attempted to open the doors of the National Treasury to the greed and hunger of southern schemers and to pay thirty thousand millions of rebel war claims.

You have endeavored to destroy the Army and Navy that you might hereafter recruit and officer them with those whose crimes have rendered them unfit and unworthy to be again trusted by the Government.

You have exerted every power and tried every scheme to depreciate our currency, destroy our securities, and prevent resumption and the return of commercial confidence and prosperity.

You have made a show of cutting down the expenditures of the National Government only to waste the money you thus saved in fruitless investigations and in partisan efforts to blacken the fair fame of the men who saved the Republic from the treason and rebellion of the democratic party.

You have obstinately refused the necessary appropriations to carry on the several departments of the Government, to the great injury of the public business, so that you could have money to pay pensions to those whose names had been dropped from the national pension rolls for participation in the rebellion.

You have attempted to destroy the manufacturing interests of the North by repealing the tariff, and have done all in your power to render it impossible for the Government to collect its revenues in the Southern States.

You have violated the Constitution, set the laws at defiance, and outraged humanity by depriving the colored people of the South of the right to vote.

You have attempted to crush out the republican party in the South by fraud and violence, breaking up their meetings and compelling them by force to abandon their organization, while you stand here and insult the loyal people of the country by talking about a free ballot and pure elections.

You have by bloody persecutions and political intolerance driven the colored people, on whom you are really dependent for the food you eat and the clothes you wear, from your borders, and then when they are fleeing from the house of their bondage to the promised land in the great West you fall upon them and kill them in the wilderness.

You have stricken down the right of free speech in the South, and by violence and murder compelled free men to vote the democratic ticket against their will. You have shot and hung men for opinion's sake, and ridden into power in this House by intimidation, fraudulent voting, ballot-box stuffing, and false counting. You have by the most shameless partisanship and barefaced pettifogging turned out of this House members who were fairly and legally elected, and filled their places with men who are willing to do your bidding. You have sought to sanctify and canonize treason and to debase loyalty by eulogizing traitors and contemptuously spurning those who fought to save and preserve the Republic.

You have openly and boastfully declared on the floor of Congress that you intend not only to repeal the laws for the protection of the ballot-box, which you seek to do by this bill, but that you will also strike from the statute-book every vestige of legislation made necessary by the war, so that while you cannot lay your impious and sacrilegious hands upon the amendments to the Constitution you will by repealing all laws passed for their enforcement render them powerless and of no effect.

You have forced this extra session of Congress against the protest and determined efforts of the republicans because you could not compel the Senate of the United States to pass the Army and the legislative, executive, and judicial appropriation bills, loaded down with vicious legislation, calculated to perpetuate the power of the democratic power in the South and give them the control of the ballot-boxes in Cincinnati and New York City at the next presidential election.

Learning nothing by observation or experience, and taking counsel only of those who represent the worst element in your party, and

having gained control of the Senate, you now propose to coerce the Executive by threatening the Government with starvation and death unless he betrays his trust and surrenders to your demands. In this unconstitutional and revolutionary proceeding you affect to believe that the people are with you, and will respond with their votes. Let me tell you, gentlemen, that you are terribly deceived. Instead of the people standing by you and sustaining you in this attempt to destroy the purity of the ballot-box and subvert the Government, you are solidifying the people of the North against you and daily filling the ranks of the republican party with recruits from your own camp. Every patriot, every honest citizen, every lover of his race, and every Christian man and woman in the whole North is to-day arrayed against you.

You have missed the golden opportunity for victory, and your political doom in 1880 is already sealed. The rising wave of republican triumph is now gathering its conquering force and will soon strike the golden shores of the Pacific, and rolling eastward, bearing upon its sparkling crest the proud ensign of our great leaders, will ingulf the famous political chameleon of Ohio, bury the ambitious holder of the gavel from Pennsylvania, drown the backsliding statesman from Delaware, overwhelm the great railroad and revenue fraud at Gramercy Park, and finally swallow up in its mighty flood the last remnant of the democratic party.

Now, sir, I am well aware that because I speak plainly, declare the truth, and call things by their right names I shall be charged with cherishing a spirit of bitterness and hate toward the people of the South.

Why, sir, these gentlemen would have us weigh every thought, measure every word, and pluck from our memories every feeling and recollection of the war when we venture to speak of what has occurred in this country since 1860. The very moment a man on this side rises to defend the republican party from the assaults of those who sought for four years to destroy the Government, we are at once met with the charge that we are stirring up sectional strife and animosity. Why, sir, it is impossible to speak of the glorious victories and achievements of that grand old party without stirring up the anger and animosity of gentlemen on the other side over whom those victories have been won. If gentlemen so dislike these stinging memories, the way to settle this whole matter and bury the recollections of the past eighteen years is for the people of the South to renounce forever the doctrine of State rights and secession, disband their rifle clubs and ku-klux, and allow every citizen to cast his ballot free from fear and intimidation and to have that ballot honestly counted. If you will do this then may be realized in the near future the dreams and visions of the gentleman from Virginia, [Mr. TUCKER;] but if you persist in your present course, depend upon it the conflict will be and ought to be irrepressible until in God's own good time and way it shall, as it certainly will, be settled forever on the broad basis of right and justice.

Now, sir, what has the democratic party to offer as an offset to this long indictment of dark and damning sins? Nothing, sir; absolutely nothing. Not one honest patriotic motive or intention. Not one noble or loyal act, and not one victory for humanity, justice, and right, during these four long and dreary years of democratic outrage, audacity, and wrong. Truly doth the inspired word declare that "when the wicked bear rule the people mourn."

From this dark and disgraceful history of the past let us turn to the present, and see what this party, which has now control of both branches of the National Legislature, proposes to do, and the means by which it is sought to corrupt the ballot-box in our large cities in the interest of democracy, and drive honest men from the polls.

It is the science of true statesmanship not to cause unnecessary alarm by exaggerating and magnifying the evils which may at any time threaten us, but to fully measure and comprehend them, and then, by a wise and prudent course of action, surmount the difficulties and mitigate or avoid the evils.

Surely no man in his sober senses will accuse me of being an alarmist when I say that the people of this country find themselves to-day face to face with a question the magnitude and importance of which cannot be exaggerated, and which in its results may involve not only the future welfare and prosperity of the people, but the very life and existence of the nation. Treason, after lying in a state of partial stupor for the last decade, has through the warming influences of conciliation and republican magnanimity recovered, and again rears its brazen head, while the spirit of rebellion, taking on another form, again threatens the peace and perpetuity of the Government.

In the city named for Washington; in the sacred capital of the nation; ay, in the very halls of Congress, the men whose hands are yet red with the blood of thousands, and upon whose souls rest all the woes and crimes and agonies of four years of bloody and unnatural war, stand up and in the presence of the people of the North and before mankind laud their treason, eulogize the traitors, glory in the devilish dogma from which it sprung, and mourn only because they were not successful.

Sir, the same political elements, the same spirit of evil that in 1861 inaugurated rebellion and plunged the country into a civil war, which cost the people of the North the lives of a million brave men and seven billions of treasure, which scattered the weeds of mourning in every northern household and left a vacant chair at every hearthstone, have under the banner of democracy again come to the front, and with unblushing impudence and shameless audacity they now seize the Government by the throat and threaten its life unless they are permitted to tear down every bulwark and safeguard which wisdom and experience have placed around the ballot-box, and drag the Government down into the unfathomable depths of democratic infamy and corruption.

The men engaged in the present revolutionary and treasonable scheme manifest the same spirit of "rule or ruin" that has always characterized their purposes and acts from the time of Calhoun down to the present moment.

They and the ravenous and famishing horde at their backs, who are hungering and thirsting for the spoils of office, have set their hearts upon gaining control of the National Government in 1880, and there is nothing that bad men can conceive, or human ingenuity invent, to which they will not resort to accomplish their purpose.

They understand fully that with a free, fair ballot and an honest count they would stand no more chance of consummating their designs than they would of being translated.

In fraud, in intimidation, in ballot-box stuffing, in false registration, and fraudulent naturalization, in false counting, and in all manner of corruption and violence, which none but democrats could discover or would dare to resort to, lies the only road to a democratic victory in 1880, and they know it, and for this they are beginning to prepare by the repeal of every statute which stands in the way or which seems to offer the slightest obstruction to their scheme.

Sir, do the men who are engaged in this attempt at revolution; who are thus seeking, through the pollution of the ballot-box, to sap and mine the Government; who are, by repealing these laws, endeavoring to remove the last great prop which supports the Republic; who are intent upon striking down the ballot, and with it the cause of civil and religious liberty in this country; who are seeking to destroy the only free Government on earth and curse us with anarchy and despotism; who are ready and anxious to tear down the sacred right of suffrage and establish upon its ruins the edicts and behests of a corrupt and servile political caucus; who are laboring to encourage and protect fraud and corruption by relieving it from the possibility of detection of punishment—do these men suppose that the people of the North are asleep and off their guard; that they fail to comprehend the situation or that they will ever submit to such degradation at the hands of the men who now occupy positions of honor and profit under the Government through republican leniency and magnanimity? It may be well for the people of the South, amid their arrogant assumptions of to-day, to remember the lessons of the war.

The people of the North ask for nothing unreasonable or unjust, but what is their right they will have at all hazards. They are slow to anger and of a forgiving spirit, but when once aroused, in the maintenance of their rights, let the adversary beware. They make no threats, they offer no menace, but they are solemnly determined that, cost what it may, every citizen of the Republic, North and South, East and West, shall be protected in his rights, and if the principles for which they fought four years are, in the opinion of the Southern people, not yet settled, rest assured the time will come, and that right speedily, when they will be, and settled most effectually.

The right of every citizen of the Republic to cast his ballot without fear or intimidation, and to have that ballot honestly counted, is regarded by the people of the North as sacred as the right to life, liberty, and the pursuit of happiness. Whatever tends to secure, protect, and defend that right, they are earnestly in favor of, and whatever tends to weaken, impair, or expose it to danger, they as constantly and resolutely oppose.

Sir, the loyal men of this country are fully aroused by the revolutionary acts of the democratic majority in Congress; they see that the rebel element in that party is again in the ascendant; they believe that the acts of 1870 and 1871, now sought to be repealed, are absolutely essential to a free ballot and an honest count; they comprehend in its full force and power the momentous and vital importance of the issue now thrust upon them; and every republican in all this broad land, from President Hayes down to the most humble member of the party, is as firm as the everlasting hills, and ready to resist the repeal of these laws to the bitter end, regardless of the consequences.

Cheered and encouraged by the loyal and law-abiding people who send us here, we should be recreant to every principle of honor, betray the sacred trust committed to our charge, and deserve to be sent home in everlasting disgrace, should we fail to resist this atrocious and wicked conspiracy with all our power, and denounce this revolutionary and treasonable democratic scheme in the most emphatic manner and in language which cannot be misunderstood.

And, sir, as far as I am concerned, I desire gentlemen to understand here and now that if need be I will stand here to resist every encroachment upon the sacred right of suffrage and in defense of what I conceive to be the inalienable and constitutional right of every citizen of the Republic, North, South, East, and West, asking and giving no quarters until the expiration of my term on the 4th of March, 1881; and will also guarantee that at the end of that time the people of the first congressional district of Vermont will be represented here by a man who will be ready to assist in taking up the good work where we leave it and carry it on to a sure and certain victory.

Looking at this struggle from a political stand-point, I deem it exceedingly fortunate, Mr. Chairman, that this important question has

come up for discussion and, as I hope, for final settlement at this time.

I am glad the democratic party, under the lead of its southern masters, has, upon its accession to power at both ends of the Capitol, defined its position and taken its stand. The issue is now so plain and distinctly marked that the people everywhere understand and appreciate it.

It is the republican party standing up nobly and manfully for a free ballot and an honest count on the one side, and the democratic party as the advocate and champion of violence, murder, intimidation, ballot-box stuffing, and fraudulent counting upon the other.

Having paid my respects to the gentlemen on the other side, I desire now, Mr. Chairman, to examine a little more closely the question before the committee, and see what the democracy propose to do, how they seek to do it, and for what purpose. On reference to the printed bill now under consideration we shall find, on pages 83 and 84, a proviso which proposes, in a few brief lines, to repeal eleven sections of the Revised Statutes of the United States and amend four others, the object of which is to wipe from the statute-book every provision which authorizes Federal officers to protect the ballot-box and to keep the peace at the polls, and to deny to the General Government any and all supervision over the national elections, and leave them subject only to State laws and State control.

The sections of the statute sought to be repealed and amended provide, in brief, that the several circuit courts of the United States shall appoint a chief supervisor of elections for each judicial circuit, who shall be a commissioner of said court; that said chief supervisor shall assist the said circuit court in the selection and appointment of subordinate supervisors, when applied for under the law, furnish them with books, blanks, forms, &c., verify the registers of voters furnished by said subordinate supervisors, and preserve all returns, reports, and records provided for by the law; that the said subordinate supervisors shall attend at the registration of voters and at all national elections, and shall scrutinize, count, and canvass each ballot and make return of the same to the chief supervisor; and if they are interfered with in the discharge of their duties they shall report to the chief supervisor, and he shall take the testimony and transmit it to the House of Representatives.

They also provide that the United States marshals in the several districts may appoint deputies to aid the supervisors at the registration and voting, and that said deputy marshals shall keep the peace, prevent fraudulent registration and voting, and arrest any person who attempts to commit any offense against the laws of the United States, and when any marshal or deputy is hindered in the execution of his duty, he may call upon the bystanders or the *posse comitatus* to aid him, and they are bound to obey; that the marshals and court commissioners are to forward to the chief supervisor all complaints, records, and returns, and all oaths administered by them to subordinate supervisors and deputy marshals for preservation, and that any person arrested by either of the before-named officers is to be brought at once before the United States circuit court or a commissioner of said court for examination; also providing for the punishment of persons who shall hinder or resist a supervisor, marshal, or deputy marshal in the discharge of their various duties under this law, and for the payment of these officers for their services.

Now, sir, when these provisions of law, which were enacted for the protection of the voter and the purity of the ballot-box, are repealed, and no officer armed with the power and authority of the Federal Government is allowed at the polls, what assurance have we left that in New York City, in Cincinnati, as well as in nearly all parts of the South, our national elections will not be again controlled by fraud and violence, and instead of uttering the will of the people will only register the wild edict of a democratic mob?

It is true you leave upon the statute-book the law authorizing the appointment of two supervisors who may attend the registration of voters and be present on the day of election, but they are shorn of their power, they are stripped of their authority, they are powerless to prevent crime or to arrest the offender, they can only be present as witnesses, they are "there by the courtesy of the State," and are wholly "at the mercy of the mob."

The democratic caucus has determined, and the adoption of the proviso in this bill will accomplish it, that hereafter no civil officer of the Federal Government shall be permitted to approach the polls on election day, and that State authority shall be supreme, so that democratic repeaters, ballot-box stuffers, rifle clubs, and fraudulent voters may have free course and be glorified. And this you propose to do, not according to the customary and established rules and forms of law, but by seizing the Government by the throat and threatening to starve it into submission unless your outrageous demands are complied with. This assault by the democratic party upon the very citadel of our liberties the republicans stand solemnly pledged to resist; and, God helping us, we will resist it as long as a loyal voice can be raised in opposition and an honest vote cast in defense.

While we on this side of the House would resist the repeal of these laws in all forms and under all circumstances, yet had the majority brought in bills for that purpose they would have followed the usual forms of parliamentary usage, and we could have taken no exception to the manner of repeal and could only have resisted them on the ground that it was a blow struck at the purity of the ballot-box and would prove subversive of liberty. Had they placed them as riders on appropriation bills and nothing more, we could only have objected to that on the ground that such a practice is of evil and vicious influence, leading to all sorts of grave abuses and dangerous consequences; but when the repeal is attempted by tacking it on to an appropriation bill and saying to the Executive that unless he surrenders his constitutional rights and his judgment, and not only consents but approves of the repeal against his honest and settled convictions, you will destroy the diplomatic and consular service of the Government, shut up the Treasury, close the Pension Bureau, stop the work in the Patent Office, put out the lights on our coasts, and lock the doors of the courts, this is illegal, revolutionary, and criminal, and should be and will be resisted to the bitter end.

Gentlemen on the other side of the Chamber fall into a grave error when they talk about the laws they now seek to repeal as war measures, or as legislation growing out of the war; the fact is the war had nothing to do with them, and furnished no reason or motive for their passage.

In order, sir, to a full and complete understanding of the history of these statutes, and the real causes and reasons which led to their enactment, it will be necessary to go back to the political campaign of 1868, when the election in New York City was the culmination of democratic frauds and villainies at the ballot-box.

Prior to 1870, the Tammany wing of the democratic party had controlled the destinies of New York City most of the time for many years. They had done it by means of money which Tweed had accumulated, and which Samuel J. Tilden, as chairman of the State democratic central committee, had disbursed.

In the campaign of 1868, General Grant was the candidate of the republican party for President, and Horatio Seymour was the candidate of the democratic party.

The canvass was close and hotly contested by both parties, and at one time it seemed possible that the electoral vote of New York might decide the result of the national election.

In view of such a contingency, the issues of the campaign were deemed vital by the Tammany democracy, and every means was resorted to by Tweed and Tilden, backed up by Judges Barnard, McCunn, and Cardoza, which these ingenious and corrupt manipulators could invent to overcome all opposition, thwart the constitutionally expressed will of the people, and corruptly carry the State for Seymour and Hoffman against Grant and Griswold.

The evidence taken before a congressional committee established the fact, beyond cavil or question, of a deliberately planned gigantic conspiracy, on the part of the democratic party in New York, to perpetrate these frauds, and stamps with deepest infamy the conduct of that party during the whole campaign.

Prior to the year 1868, naturalizations were effected in that city only in the court of common pleas and the superior court; the average number naturalized annually, in both courts, from 1856 to 1867, being ninety-two hundred and seven.

In October, 1868, the supreme court, at the instigation of democratic politicians, commenced the work of naturalization, and in that month that court, presided over by Judge Barnard, naturalized 10,070 men, while the superior court, presided over by Judge McCunn, in the same period of time naturalized 27,897.

Why, sir, to such a perfect system was this business of making democratic votes reduced by these scoundrels that Judge Barnard naturalized 2,109 men in a single day, while Judge McCunn, who was equally corrupt but not quite as nimble, got through only 955 at a single sitting!

The naturalization laws of the United States provide that when a minor comes to reside here before he is eighteen years of age, he may be naturalized without having first made declaration in court two years before admission to citizenship of his intention to become a citizen. This is the shortest route for the foreigner to citizenship; requires less swearing and waiting, and consequently in New York City less perjury, and brings quicker votes. Under the provisions of this law out of 10,093 applications, filed for naturalization in Judge Barnard's court in October, 1868, 9,711 of them were minors' applications; and in Judge McCunn's court during the same month, out of 17,572 applications 13,541 of them were of the same character.

In addition to the facilities furnished by the courts of Judges Barnard and McCunn, naturalization offices were established by the democrats in different parts of the city, where the necessary papers were filled out and the forms of naturalization gone through with, so that, according to the best estimate, at least from sixty to seventy thousand persons were naturalized in that city in the year 1868, either in court or at the branch offices already referred to.

In the case of minors who come to reside here before they are eighteen, only two witnesses are required to swear to that fact and to their good character to complete the whole job of naturalization and put them in possession of the final papers which entitle them at once to all the rights, privileges, and responsibilities of an American citizen. For the accommodation of such applicants the democracy of Tammany Hall kindly furnished nine standing witnesses, with an officer to command them, and these nine witnesses made affidavit in behalf of nearly seven thousand applicants, one witness swearing in nine hundred and eighty-six cases, not a dozen of the applicants he or they had in all human probability ever seen or heard of before.

In Judge Barnard's court, twenty-one witnesses swore that they knew the fact that nine thousand seven hundred and eleven men who

applied for minors' certificates of naturalization came to reside in this country before they were eighteen, an average of four hundred and sixty-two to a witness; while in Judge McCunn's court thirty-seven witnesses swore to 13,541, an average of three hundred and ninety-three to each witness; a thing false upon its face and absolutely impossible, and the judges of course knew it. As auxiliary to all this democratic villainy and wickedness, bands of picked men, on the days of registration and election, traversed the whole city, registering and voting at all the different voting places on assumed or fictitious names. These scoundrels were called "repeaters," and in one instance "nine of them registered in three hundred different places and voted in nearly every one of them." Men voted from twice to forty times upon false registration; more than five hundred were registered from localities where but fifteen residents could be found, and one vacant lot had registered from it one hundred and eighteen democratic voters.

And these villains were all promised at the time protection from prosecution and immunity from their crimes by the democratic leaders, and from that day to this no one of them has ever been tried or punished. The result of all these frauds and crimes against suffrage and a fair ballot, by the democrats of New York City in 1868, was that not less than sixty-eight thousand fraudulent naturalization certificates were issued, and from fifty to sixty thousand fraudulent votes were cast, which carried the State for Seymour against Grant, and made Hoffman governor, as against Griswold, by ten thousand majority. As Judge Lawrence in his report says:

These appalling and startling frauds were the result of a systematic plan of gigantic proportions, stealthily prearranged and boldly executed, not merely by bands of degraded desperadoes, but with the direct sanction, approval, or aid of many prominent officials and citizens of New York, with the shrewdly concealed connivance of others, and almost without an effort to discourage or prevent them by any of those in whose interest and political party associations they were successfully executed, who could not fail to have cognizance of them, and whose duty it was to expose, defeat, and punish them.

They were aided by an immense corrupt and corrupting official patronage and power, which not only encouraged but shielded and protected the guilty principals and their aiders and abettors.

These frauds were so varied in character that they comprehended every known crime against the elective franchise. They corrupted the administration of justice, degraded the judiciary, defeated the execution of the laws, subverted for the time being the essential principles of popular government, robbed the people of that great State of their rightful choice of electors of President and Vice-President, of a governor and other officers; disgraced the most populous city of the Union; encouraged the enemies of republican government here and everywhere to deride our institutions as a failure, and endangered the peace of the Republic by an attempt to defeat the will of the people in the choice of their rulers.

These flagrant and unparalleled frauds committed by the democratic party in that city in the election of 1868 aroused not only the honest men of that State but of the whole country, and attracted the attention of Congress.

The result was that in answer to a memorial of a committee of the Union League Club of the city of New York presented in the Senate and House of Representatives on the 14th of December, 1868, a select committee was appointed by the House of Representatives charged with the duty of investigating "the irregularities and frauds alleged to have occurred in the city of New York affecting the recent election for Representatives to Congress and electors of President and Vice-President."

That committee, with Judge William Lawrence, of Ohio, at its head, proceeded to the city of New York, and after a most thorough and searching investigation into all the charges of fraud and corruption alleged to have occurred at that election, made their report that—

The events of the past year in New York and the evidence taken by the committee furnish the proof of all the allegations which had been made.

That these frauds were so monstrous in character and extent that they could not have been the work of a few or of many irresponsible individuals. It was the work of the democratic party. That in their purpose and modes of execution they showed a systematic plan, devised by controlling minds for the purpose of carrying the election in the State.

This report, including the recommendations of the committee regarding new legislation, was duly considered and most elaborately discussed in both the Senate and the House, and the result was the passage by Congress of the act of May 31, 1870, making illegal registration or voting at elections at which members of Congress were chosen a national offense; the act of July 14, 1870, providing for the appointment of supervisors of election and special deputy marshals in all cities having over twenty thousand inhabitants, and the act of February 28, 1871, which was a revision of the act of July 14, 1870, defining the rights, powers, and duties of the said officers, and providing more efficient measures for the enforcement of both the foregoing acts, all of which statutes it is now proposed by the democratic party to repeal and blot out.

Now, sir, why should these laws be repealed? Can any man give a reason or a shadow of reason for it? I am aware that it is claimed by the ignorant portion of the democratic party that these supervisors of election and deputy marshals are used to further the designs and build up the political fortunes of the republican party, as well as to deter democrats from going to the polls to vote. But no intelligent man who has any claim to respectability, or who values his reputation for truth, will dare to make such a statement. There is not a man on this floor, or an intelligent man in this country, who does not know that such a charge, from whatever quarter it may come, is as false as the source from which it originates.

Why, sir, in all the sweeping and costly investigations which have been made since the democratic party took possession of this House, nearly four years ago, not a single case has come to the notice of any committee where any citizen either North or South who had a right to vote has been kept from the polls or prevented from casting his ballot by the officers appointed under these laws.

Rogues and scoundrels have often been prevented from desecrating the ballot-box, their fraudulent and wicked schemes have been nipped in the bud, and the guilty prosecuted and punished through the fidelity and untiring efforts of these officers acting in the capacity of conservators of the public peace and as protectors and guardians of the purity of the elective franchise; but no honest man has suffered or in any manner been impeded or hindered by them in the exercise and enjoyment of all his constitutional rights.

Surely, if these officers had been guilty of such flagrant violations of law as is claimed it would have been susceptible of proof, and democratic zeal and enterprise and Tilden's money would ere this have brought them to trial and punishment. The very fact that not one of them has ever been tried and convicted is conclusive evidence to my mind that the charges are either ignorantly made or are willfully and maliciously false. Not only this, but the history of elections in New York City since 1868 under the operation of these laws not only gives the lie to such a charge, but furnishes the strongest possible argument against their repeal.

Before the passage of these laws, it is conceded by everybody that there had not been and could not be under the State authorities a fair and honest election in that city for years. Tilden and Tweed, backed by Tammany Hall, had by means of fraud, corruption, and violence been enabled to thwart the will of the people at the ballot-box and keep the democracy in power. But the power of the General Government, acting through the laws it is now proposed to repeal, has wrought a mighty revolution, and since they were put in force by Supervisor Davenport in 1872 the elections in that city have been as quiet, as peaceable, and as fair as could reasonably be expected in a city which is made up of all nationalities, and which in 1876 polled 171,000 votes.

And, sir, it gives me great pleasure, by the aid of the gentleman from Maine, [Mr. FRYE,] to be able at this time to present to the House the evidence of a no less distinguished witness than the eminent gentleman from New York, [Mr. COX,] in support of what I have said upon this point. In a report made by him as chairman of a democratic committee appointed to investigate the New York election of 1876, he says:

Whatever may be said about the United States law as to elections or their supervision by United States authority; whatever may be said as to the right of a State to regulate in all ways such elections, this must be said: that the administration of the law by Commissioners Davenport, Muirhead, and Allen, the United States functionaries, and their subordinates, was eminently just, wise, and conducive to a fair public expression in a presidential year of unusual excitement and great temptation.

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Of course the United States marshal had his deputies to execute the warrants. There was one marshal for each election district. Extracts from United States statutes were sent out in circulars, together with directions to supervisors and deputy marshals. More care could not have been taken, in the judgment of the committee, for the verification of the registry and the purity of the election.

The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities, acting in harmony for an honest purpose. In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions. Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the elective franchise.

From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence. For this due credit should be given to men of both parties, and especially to the corporation counsel, Mr. Whitney, and United States supervisors.

Mr. Commissioner Davenport had maps of every house and building in the city These maps were corrected every thirty days. You cannot build a wing to your house or change its number, or add to its stories or rooms, or change the quality or character of the dwelling, without its being registered by the supervisor. All the doubtful or suspected or bad houses are registered and known. When these changes are made that fact is brought to the attention of the functionaries in charge of the trust, and all trouble appeased and all wrong rectified.

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Whether this work, which is unexampled, should be accounted a republican work through their Federal election law, or the work of the local authorities and organisms, inspired by a desire for an honest vote among the people, who were especially jealous of it on account of what was occurring elsewhere, one thing the committee must report that it approximated as near to perfection as it was possible to do. There were no riots, no fights, no bayonets, no disturbance, no conflicts of authority, and none of the concomitants which accompany fraud and endanger free institutions.

The people of the country owe a tribute of respect to the police of a city of more than a million, and to the United States officers, who numbered thousands, for the harmony of action between the various officers, so as to illustrate to all the world how the imperial island city can conduct herself under great excitement and in view of startling events.

In Cincinnati so well satisfied are the honest people of that city with these laws and their administration that a few weeks ago they elected the supervisor city judge by a rousing majority, and no word of complaint has been heard, except from the scum of the city and interested democratic politicians; while in Philadelphia democrats as well as republicans petition the circuit court for the appointment of supervisors, so that peace may be preserved at the polls, honest men have a chance to vote, and the ballot-box be protected from violence and corruption. The objection is sometimes made that the dep-

uty marshals appointed under the provisions of these laws have the power to arrest persons who are found attempting to commit any offense against the laws of the United States.

Why, sir, this power is possessed by every marshal, deputy marshal, sheriff, deputy sheriff, constable, and police officer, under State and municipal laws, in every city, village, town, and hamlet in this whole country, and has been from the organization of the Government down to the present time.

It has also been urged with great vehemence by gentlemen on the other side of the Chamber that a great and grievous wrong was committed by Davenport, in New York City, in arresting men before they had a chance to vote. Sir, what earthly object could have been attained by arresting them after they had voted? The fact is Davenport had investigated this matter and found that thousands of men who intended to vote the democratic ticket held fraudulent naturalization papers. He had their names, residences, and descriptive lists, and there could be no possible mistake about it, and he had the warrants issued beforehand for their arrest in case they offered or attempted to vote.

This was the only way to prevent the great wrong which these rogues were intending to perpetrate. After their fraudulent votes are deposited in the ballot-box the great crime is consummated, and there is no remedy or atonement. What did Seymour and Hoffman care, after they had received the benefit of the fraudulent votes cast in 1868, what became of the men who cast them? No man who has a legal right to vote, or who desires a pure ballot-box and an honest election, would object to the exercise by these officers of this wholesome preventive power, and no man can point to a solitary case where an honest man has ever been hindered or prevented from voting, in New York City or anywhere else, by deputy marshals appointed under these laws.

It is because the democrats do not want honesty at the polls, because they want to stuff the ballot-boxes with fraudulent votes, and have them presided over by repeaters and bullies, that they are so anxious to pass the proviso to this bill and be rid of these troublesome deputy marshals, who are continually breaking up their plans, and preventing the consummation of their corrupt and wicked schemes.

The truth is, Mr. Chairman, the democratic party is determined, by the repeal of these laws, to remove all the safeguards which have been thrown around the elective franchise and expose it to the assaults of the corrupt and vicious, because they hope and expect, with a clear field, to carry the next presidential election by fraud, violence, and foul play at the ballot-box. No party that has an honest purpose or that desires a just and fair expression of the will of the people at the polls would ever seek the destruction of every defense and protection which the experience and wisdom of years have thrown around the ballot-box by the repeal of these laws, and no party that bases its hopes of success upon corruption and bribery would suffer them to remain a single moment upon the statute-book after it had the power to remove them.

Sir, this scheme is a deliberate and cold-blooded attempt on the part of the democratic party to destroy the purity of the ballot-box, to strike down the right of free suffrage in the North as it has in the South, restore the old *régime* of Tilden and Tweed in New York, place the result of our elections in the hands of bullies and prize-fighters, drive honest men from the polls, and clear the way for the most gigantic frauds in 1880 that were ever perpetrated and before which those of 1868 would fade into insignificance. It is democratic preparation to carry New York in 1880. With Federal supervision of the election such as we have had since 1871 they know it would be hopeless; but if these laws are repealed and they are left free to naturalize, stuff ballot-boxes, and count the votes as in 1868 and according to the present democratic standard in the South, New York can be made to roll up fifty or one hundred thousand democratic majority, which with a solid South that they will have, law or no law, would give them reasonable assurances of success.

In the repeal of these laws the democracy have two objects in view: one is to save from conviction and punishment the men whose crimes against the ballot secured them their late successes both North and South, and the other is to remove and clear away all obstacles and to make the way easy and safe to the perpetration of election frauds in the future. The democrats carried many of the Southern States last fall by means of the most gigantic frauds, the most brutal violence, and dastardly intimidation. Scores of the men engaged in it have been tried and convicted, many are already in the penitentiary, and others are fast following.

Owing to the zeal and fidelity of Attorney-General Devens and his subordinates in the Southern States, the democratic party is in danger of being broken up; and the desperate straits to which they are driven is evidenced by the fact that the democratic paper in this city warned the faithful that unless these election fraud prosecutions were stopped the flower and chivalry of the party would be in the penitentiary before the regular meeting of Congress in December, and that the republicans would be enabled to organize the House.

Now, sir, who has asked for the repeal of these laws? Where are the petitions and memorials which have come up to Congress from the people, praying to be relieved from the burden, the oppression, and the torture of this terrible republican inquisition?

Sir, from one end of this great country to the other not a prayer has been uttered and not a petition has been indited except in the hearts and desires of democratic politicians, who see through the fraudulent voting, ballot-box stuffing, and false counting, made easy and certain by the repeal of these laws, hopeful signs of a democratic victory in 1880.

Again, Mr. Chairman, if these laws are so outrageous and oppressive, and the republican party is constantly degrading them for political purposes in compelling men to vote that ticket and keeping honest democrats from the polls, why has this House not repealed them before this late day?

The democratic party has had control of this House for four years and could have passed any act they pleased during that time, and yet we search the record in vain for the evidence of an attempt even to repeal these obnoxious laws. Why, then, this great haste and reckless determination to repeal them now? Sir, the answer is, because heretofore the democratic bullies, ballot-box stuffers, and fraudulent counters, whose crimes and villainies have brought shame and reproach upon the cause of free suffrage, have not been brought up for trial and punishment; they have been permitted to go on in their iniquity without check or hinderance. The laws have not been rigidly enforced until Attorney-General Devens took hold of it, and now the democrats are alarmed; they are beginning to think that it will be difficult for them to keep up a majority in the national House of Representatives and in the State penitentiaries at the same time, and the leaders and presidential aspirants are calling lustily for repeal. The people have not asked for it; the masses do not require it, in fact they have protested in thunder tones against the outrage; but the terrible necessities and exigencies of the democratic party demand it, the caucus decrees it, and it must be done if at the expense of an extra session of Congress and the certain ruin of every industrial interest in the country.

The revolutionary manner in which it is sought to force the repeal of these laws by putting it on as an amendment to the legislative, executive, and judicial appropriation bill, with the evident design and purpose of compelling the President to approve it or stop the wheels of Government, has no parallel in the history of this country. Never before has any party in either House of Congress, even in the full flush of victory, dared to attempt to force upon the country vicious partisan legislation by a threat to cut off necessary appropriations and suspend the functions of the Government unless the other branches would accept the terms and bow to its decree. We have been taught to believe that the powers of the General Government are divided into three great co-ordinate branches, the legislative, the executive, and the judicial, each in its own sphere independent of the other, and yet so joined and blended as to all work together in perfect harmony in accomplishing the end of all good government, the welfare and happiness of the people.

We have always supposed that the only legitimate way to enact a law or to repeal one was by the voluntary concurrence of the House and Senate and the approval of the President. It has been always understood and never disputed or questioned before that under our form of Government, for the House of Representatives to attempt to compel the Senate to pass any measure, or the Executive to approve it, by refusing to pass the necessary appropriation bills to carry on the Government, would be as much a violation of the provisions of the Constitution as it would be for the Executive to attempt to intimidate Congress by the use of the military arm of the Government. Through all the years of our history until now no political party has been bold enough, no politician has had the audacity, to dream for a moment that the people of this country would ever consent that either branch should usurp the whole legislative power of the Government to the exclusion of the others in violation of law and in defiance of the Constitution.

No, sir, history records no parallel, and it was reserved for the democratic party of this day, made up and controlled as it is by the rebel element of the South, to inaugurate the scheme of stealing the Presidency, to commit this outrage upon the sacred right of citizenship for the purpose of wrenching the Government from the control of its rightful possessors and natural guardians, and installing in power a party controlled and led by the worst element that ever afflicted or cursed a people.

As has been well said during this discussion, "the proposition to repeal these laws takes hold, and violent hold, of the whole body of criminal law applicable to the purity of elections and ruthlessly repeals it while it substitutes nothing in its stead." It is an attempt "to cut out twenty sections from the body of the criminal laws of the United States, and virtually declare that the crimes of ballot-box stuffing, fraud at the polls, intimidation, and outrage of voters may go on without check or observation by national authority; that to poison the very fountain spring of the elective franchise shall be no crime against the nation; and that all the machinery for punishing it shall be destroyed." Ay, sir, it is more than this. As was said by an eloquent gentleman from Indiana in the discussion of this proviso in the last Congress:

It is another effort of the hydra-headed viper, State rights, to sink its poisoned fangs into the heart of our nationality; another demand that every landmark between loyalty and treason be effaced; another blow at the vital doctrine that we are a nation and not a mere confederation of States. It is intended as a recognition of the heresy that the States are absolutely sovereign and the nation powerless to enact such measures as will secure to every citizen qualified by law the right to vote at a national election and have such vote counted. It wrenches from the stat-

ute-book one of the safeguards of loyalty and aims a deadly stab at the purity of national elections. It is in the interest of the law-breaker of every grade, in the interest of fraud, force, intimidation, violence, and a corrupt ballot, and a vicious attack upon the purity and safety of the elective franchise. It will subserve the purpose of the outlaw in whatever field of villainy he may be an adept, and as a consequence the murderous rifle club, the ballot-box stuffer, the tissue-ticket user, the repeater, the plug-ugly, briber, and forger, and every criminal in the land will hail it with approval. It will encourage the lawless to strike down with impunity and rob the citizen of one of the inestimable rights guaranteed by the Constitution.

* * * * * * *

Can it be that those who inscribed upon their banner "Tilden, Hendricks, and reform" are driven to such extremes to preserve the liberty of the reformer? Must the criminal code be abolished, all penal provisions in United States laws wiped out, all safeguards for the protection of the honest voter repealed, for the reason that the same are a standing menace to democratic supremacy and tend to thwart the practices of the democratic reformer.

In this crisis, thus forced upon us by a reckless and disloyal party, there is but one course for the republicans to pursue, and that is to stand firm, and with courage and determination resist to the last the consummation of this infamous scheme. Upon the record made by the democratic party in the last Congress, supplemented by that of the present session, we can safely appeal to the people of this country for their verdict.

At a time when the industrial interests of the whole country require exemption from disturbance and agitation; when business needs time to recuperate and adjust itself; when the glad news of the revival of trade is wafted to us upon every breeze; and when courage and confidence are surely returning, the democratic party, for mere partisan purposes and to gratify an insatiate greed for power, dashes the brightening prospects of every business man to the ground, checks the rising hopes of every son of toil, and unsettles every enterprise by forcing upon us an extra session of Congress because the Senate refused to allow a revolutionary majority of the House of Representatives to inject into an appropriation bill legislation which is abhorrent to the feelings of every patriotic man and repugnant to all the principles of a free government.

It has also been urged by distinguished members of the democratic party upon this floor and at the other end of the Capitol that the sections of the statutes now sought to be repealed are in conflict with the provisions of the Constitution of the United States.

Now, sir, I shall not tax the patience of the House at this time by going into a discussion of that question, first, because I believe that the provisions of the Constitution under which we claim Congress has the power to provide for a fair ballot and honest count at the Federal elections, which declares that "the United States shall guarantee to every State a republican form of government;" which provides that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators;" which says that "each House shall be the judge of the elections, returns, and qualifications of its own members;" and finally decrees that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; * * * nor deny to any person * * * the equal protection of the laws," are so sweeping, so explicit, and so plain, that no intelligent, honest man can be misled by them, and no unbiased mind can entertain a doubt; and, second, because, if the opinion had been seriously entertained by anybody that Congress had no constitutional power to prevent by law fraudulent voting, ballot-box stuffing, and false counting at the Federal elections, there have been ample time and opportunities since 1871 to test the question in the courts, but it has not been done.

If the Government has power to preserve its own life; if it has the authority to put its foot upon the neck of treason, put down revolution, and crush red-handed rebellion; if it has the constitutional strength to guard and protect the citadel of American liberty and the very ark of our political covenant, then surely it must have the power to protect the voter from democratic intimidation and violence and guard the ballot-box from democratic fraud and corruption.

Sir, this howl of "unconstitutional" is the old democratic cry whenever Satan's stronghold is attacked and an effort is made to sustain honest government and to expose and punish corruption. It is the old "rebel yell" which revives the lost cause and marshals under the banner of democracy the serried legions of the defunct confederacy. It is State rights and secession revived and an attempt by the South to capture the Government and to gain by fraud and corruption what they failed to achieve in the field. In the courage and firmness of the Executive and the republicans in Congress are the hope and safety of the country.

Sir, upon this issue as made up I am in no doubt as to the position I should take. I am in favor of honest elections and a pure administration of the Government, and therefore opposed to the repeal of the laws which alone render them possible. I am not to be frightened from my position by threats nor prevented by intimidation from doing my duty. I was opposed to the bill creating the electoral commission, because I then believed, as I do now, that it was a surrender, under a threat, of our constitutional rights to the men who had tried by force of arms to destroy the Republic and had failed. I am opposed to the payment of southern war claims, to the restoration of rebels to the pension-roll, to the granting of southern subsidies, and to every measure and project which can give the South an undue advantage over the North or lift any man or party above and beyond the reach of the Constitution and laws.

I believe that treason is wicked and rebellion a crime, and that the welfare of the people and the honor and perpetuity of the Republic alike demand that a broad distinction should ever be maintained between the loyal citizen who risks his life for the Government and the traitor who tries to destroy it.

Conscientiously believing as I do that my position is right, I consider it my duty to maintain and defend it, not for an hour or a day only, but as long as God in his mercy permits me to live.

In my judgment the issue presented to us by this attempt to repeal all the laws which enable the republican party to guard and protect the right of suffrage is vital and admits of no compromise or backing down on our side.

By an attempt to usurp the whole powers of legislation the democratic majority of this House has forced upon the country an extra session of Congress, and for all the evils to the trade and commerce of the country, to the Government, to our finances, to our bonds and securities, which follow, the people will hold the democratic party responsible.

In conclusion, Mr. Chairman, permit me to say that I have no fears as to the ultimate issue of the question now before us, or as to the future destiny of our country. The men who saved this nation will protect and preserve it, and those who suffered it not to be overwhelmed by organized treason and armed rebellion in 1861 will not permit it to be destroyed now by the revolutionary acts of the men whose flag went down at Vicksburgh and Appomattox before the conquering legions of the North.

You threaten to stop the wheels of the Government by withholding supplies, but you will not do it, you dare not do it, and in the end you will surrender and ignominiously retreat from the position you have so unwisely and rashly taken. If in your folly and madness you refuse, depend upon it not a single democrat will be returned to the Forty-seventh Congress from north of Mason and Dixon's line.

The people of the North have allowed you, after having forfeited citizenship and even life itself, to come back to the halls of legislation and to the council-board of the nation, but they will not suffer you to destroy the Government or endanger its existence. You are here and you will be treated with moderation and fairness, and while you conduct yourselves as good citizens you will enjoy all the rights and privileges guaranteed to you under the Constitution and laws, but you will never be permitted to lord it over the people of the North or to dictate and shape the policy of this Government. The men who pay the taxes and do the voting, who stood by the flag amid the dark storms of the rebellion, will continue to hold the rudder, stand at the helm, and direct the course of the ship.

Sir, I believe if Congress passes these bills in their present form that the President will veto them, as he is in duty bound to do, and that when they come back here for further consideration gentlemen on the other side will take a second sober thought and conclude either to strike out the objectionable features and pass the bills or by a special act extend the present appropriations until next winter, allow the Government to go on, and give us a chance to come here and fight it out at the next session.

I do not believe the people of this country will permit the repeal of these election laws at any time or in any form, or that they will ever consent that the Federal Government shall be stripped of all authority and control over our national elections, and that the whole matter shall be turned over to the incompetent and dangerous power of State authority; and I believe, sir, if the majority in Congress will go home and commune with their constituents before they take the fatal leap they will come back here in December deeply imbued with that idea; and if they do not, depend upon it, that supreme power which stands in awful majesty behind this House will send men to the Forty-seventh Congress who will heed its admonitions and obey its commands.

No, Mr. Chairman, these wise and salutary laws will not be repealed, the voter will be protected, the right of suffrage preserved, the ballot-box guarded by all the power and authority of the General Government, and the republican party, which has paved the nation's pathway to a glorious future "with the shackles struck from four millions of bondmen," which has emancipated and enfranchised a race and cemented forever the bonds of our Federal Union with the blood of a million brave men, will, under God, continue to hold the power and guide this magnificent Republic onward and upward in her career of greatness and grandeur.

Mr. O'NEILL. I thank the gentleman from Minnesota [Mr. DUNNELL] for his courtesy in yielding me a portion of his hour.

Mr. Chairman, having had an opportunity during my congressional service of voting for most of these sections now before the committee for consideration, I propose to adhere to my votes, because I believe great good has been wrought by such legislation. I will vote against the repeal of the sections which have been proposed as amendments to this bill just as I felt it my duty to vote against the repeal of the sections which were added as amendments to the Army appropriation bill. I know that in the locality where I live the enactment of these laws—and I refer both to deputy marshals and supervisors of elections—has been of very great benefit. I desire to say to the committee, and I say it without fear of contradiction, that in the last eight years violence at elections has almost entirely dis-

appeared in Philadelphia. Ten or eleven years ago, for several years, election day in our city was certain to be a day of riotous proceedings, brought about by the violence of the democratic party. Since 1871 we have had a republican mayor and a republican police force; supervisors of election and deputy marshals when necessary.

The fair city of Philadelphia, the fairest in the country, the republican city *par excellence* of the country, has been maligned, abused, and insulted upon this floor, and no republican member from that city has been permitted the chance of making an answer to the fearful and unjust and baseless charges which have been made against her. To be sure I have taken occasion several times during the debate upon this bill and the Army appropriation bill, when Philadelphia elections have been assailed, to interrupt the assailant upon the spot and to defend the conduct of her republican election officers, her republican police force, and those who under the laws of the United States have been appointed by republican officials to see that the election laws were not violated by unscrupulous and unqualified voters. Now I have the floor I intend to state hard facts, and I only regret that I must condense and hurry through.

I allege here that no fairer elections have been held in this country than those which have been held in the republican city of Philadelphia while that city has been under republican control. No man has been deliberately deprived of his vote there by any republican election officer who was legally entitled to vote, excepting perhaps under a misapprehension of the law, while all the trouble in the six hundred and eighty-six election divisions has been brought about by the violence of those adhering to the democratic party. A deliberate breach of the election laws never has gone unpunished during the republican administration of the district attorney's office of Philadelphia, for the prevalence of republican principles in our city has never cherished or sustained wrong-doing at the polls.

In the divisions of that city which are republican no democrat has ever been deprived of his vote who was legally entitled to it, while in the divisions under the control of the democratic party hundreds of republicans have been driven from the polls and denied their right to vote. In the early days of voting of our colored population no election day passed in wards and divisions where they were entitled to vote and were largely in the majority and where democracy prevailed that they were not driven in terror from the voting places by hordes of democratic partisans. Assaults have been made upon my own colored constituents. Yes! this race of patient people in some parts of Philadelphia had to struggle for their rights at the polls, and to deposit their votes wounds and death had to be suffered.

The democratic party never willingly accepted the provisions of the amended Constitution and the laws which gave the colored man the right to vote, and even in the loyal republican city of Philadelphia the adherents of democracy, when its municipality was temporarily under its control, gloried in its success, in some localities accomplished by notoriously depriving freemen of their votes whose only fault in their eyes was their color. This patient colored race certainly has a future, and in spite of the depressing influences of democratic organization when accidentally in power they will exercise their rights and have the full enjoyment of citizenship. The powers conferred by the sections now under discussion and those which have been repealed, as far as the House is concerned when it voted upon the Army appropriation bill, protected, when it was necessary to use these powers, the rights of these citizens at the polls. Because of this protection the democratic party seeks their repeal.

Mr. Chairman, unfair and unwarranted assaults have been made in this committee upon some of my own constituents by members who have spoken. The testimony taken by the Wallace committee in Philadelphia has been partly read to the committee by the gentleman from Ohio [Mr. FINLEY] and by my colleague, [Mr. BELTZHOOVER.] The cross-examinations of those witnesses, however, have not been read by them. I would read them to the committee, but I have not sufficient time to do so. Those who will examine the testimony given by these witnesses, on cross-examination, will find that it almost invariably terminates with the statement that no democrat was deprived of his vote who was entitled to it, and this in election divisions which gave very large republican majorities.

Now, although several of these seven hundred and seventy-three men who have been appointed as deputy marshals may have had at distant periods of their lives reputations not entirely clear, yet almost all of them have been good and worthy citizens of Philadelphia, and to-day they stand better in the community than do the prejudiced democratic witnesses who were summoned before the Wallace committee to assail them for the purpose of mere party malignity. Not one of them who has been charged with a crime or misdemeanor has had the opportunity to defend himself, and from all appearances the chairman of that committee will never call it to meet again in Philadelphia, because the testimony of republican men will contradict with truth the false assertions under oath made by partisan witnesses, and for partisan purposes. Prosecutions for perjury have been commenced against some of these witnesses.

I wish more particularly to call the attention of the committee to my own district, and to one or two of my constituents who have been assailed. Dr. Oliphant, residing in the Twentieth ward, composing a part of my district, is a quiet citizen, a gentleman of business habits; and because of his intelligence and high reputation as a man he was persuaded to become a deputy marshal. Yet a democratic witness has had the hardihood before the Wallace committee to stand up and charge Dr. Oliphant with being a man given to drink, with having abused and interfered with voters, and in many ways has attempted to destroy his character. None of this is true. He was terribly beaten and black-jacked by democrats.

So with another man in the Eighth ward of my district, Mr. William Augustus, a very respectable, worthy, quiet, inoffensive, and good man. He has been charged with attempting to deprive men of their votes. This is a base fabrication. When the Wallace committee again goes to Philadelphia, if they have the manhood to go there and finish the work they have commenced, they will have before them witnesses who will testify to the respectability of these men to whom I have referred, and of others who have been named by the gentleman from Ohio [Mr. FINLEY] and my colleague, [Mr. BELTZHOOVER,] and outrageously abused by them through their quoting the falsehoods of democratic witnesses.

Our republican people have been demanding the return of that committee, yet the committee does not go because the majority of its members know that when they are brought face to face with republicans, with honest men, with men who believe in the purity of elections, the statements made by witnesses interested in depreciating that great republican city will be found to be entirely baseless. In defense of these men who have not been allowed to testify I will incorporate in my remarks the paper I hold in my hand, which contains affidavits setting forth the truth, and disproving the false statements of democratic accusers:

The other side—Marshal Kerns defends his deputy marshals—Affidavits for the Wallace committee—False testimony taken at the Girard House refuted.

When the Wallace investigating committee, after a two days' session at the Girard House, adjourned without giving the deputy marshals, whose personal and official characters were assailed, any opportunity of being heard in rebuttal, it was supposed that the committee would soon return to Philadelphia and resume its work. From present indications, however, it would seem that the committee did not intend to pursue the investigation any further, and the citizens of Philadelphia whose characters were so wantonly assailed by irresponsible and untruthful witnesses are obliged to seek another method of defending themselves. Marshal Kerns has addressed the following letter to the chairman of the committee with the accompanying affidavits:

"UNITED STATES MARSHAL'S OFFICE,
"*Eastern District of Pennsylvania.*
"*Philadelphia, April* 22, 1879.

"*Hon. William A. Wallace, United States Senator*
"*of Pennsylvania, Washington, D. C.:*

"SIR: I have the honor to inform you that I have received the printed testimony taken before the investigation committee of the United States Senate of which you are the chairman. I have given the testimony careful consideration and examination. The good name of our city and the conduct of elections here being involved, it is natural that in common with all good citizens I should feel indignant at the character of the evidence palmed off upon your committee as true. We have looked anxiously for your promised return, when the falsity of the charges made could be shown.

"Inasmuch, however, as the testimony taken—virtually *ex parte*—has been published and is being given to the country, I feel it my duty to state that I have sent for the deputy marshals and others therein charged with offenses, and find that the evidence given against them in nearly every instance is utterly untrue. I have already thus far affidavits not only of the deputy marshals, but of other reputable citizens, to disprove fully more than two-thirds of the charges made, and fix the stigma of fraud and wrong upon those making them.

"What I now respectfully ask is that an opportunity shall be offered to rebut the allegations and do that justice which I feel sure your committee desires in its investigations. The fact that your session is advancing must be my excuse for urging that you will at an early day return to Philadelphia and pursue these investigations.

"Meantime I desire as a matter of right to the people of Philadelphia, as well as to the officers whose good names have been assailed, that as chairman of the committee you will present this statement to the committee of the Senate at your earliest convenience. Out of the seven hundred and seventy-three deputy marshals who were appointed by me in the six hundred and eighty-six election divisions of Philadelphia, the character and conduct of but thirty-three have been attacked. Nevertheless it is due to them that the sworn affidavits in my possession which vindicate them shall be given publicity if the testimony they are ready to present cannot be heard before your honorable committee."

DEPUTY MARSHAL OLIPHANT.

"The first case heard by the committee, on page 28 of printed testimony, was in reference to the conduct of Charles Oliphant, the deputy marshal in the second division of the Twentieth ward. Mr. Oliphant was appointed upon the following application:

"PHILADELPHIA, *October* 25, 1878.

"DEAR SIR: We, the undersigned citizens of the second division, Twentieth ward, respectfully request you to appoint Charles Oliphant, 702 Girard avenue, deputy United States marshal, to serve at the coming election, Tuesday, November 5, 1878.

"Very respectfully, yours,
"JOHN D. SEVERN, 942 North Seventh street.
"WILLIAM SHUMAN, 916 North Seventh street.
"JAMES T. BRODIE, 931 Franklin street.
"E. CUMMING, 939 Franklin street.
"H. SLAYMAKER, 950 North Seventh street.
"ARTHUR NUSBAUM, 938 North Seventh street.
"THOMAS M. ADAMS, 900 North Seventh street.
"J. H. FENTON, 906 North Seventh street.
"L. B. WOLF, 958 Franklin street.
"THOMAS STINSON, 948 Franklin street.
"BENJAMIN H. BROWN, 944 Franklin street.
"HENRY A. FRY, 928 Franklin street.
"C. H. LARGE, 716 Girard avenue.

"Hon. JAMES N. KERNS,
"*United States Marshal.*"

AFFIDAVIT OF CHARLES OLIPHANT.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania*:

"Charles Oliphant being duly sworn says: That at the election held on the 5th day of November, A. D. 1878, he resided at 702 Girard avenue, where he car-

ried on the business of a druggist, in the second division of the Twentieth ward. I was appointed a United States deputy marshal upon the recommendation of a number of citizens of this division. The election went on quietly until about 2 o'clock in the afternoon, when R. C. Howell and others brought a man by the name of Henry Eisenhart there to vote, and insisted upon his voting. I knew Eisenhart; he did not live in that division; he resided at the corner of Eighth and Girard avenue. His vote was challenged by me, and the officers of election refused his vote for non-residence. About a half hour afterward a difficulty occurred, in which this man Howell assaulted John D. Severn and drove him from the polls. Mr. Severn was a resident of the division for many years, and resides at 942 North Seventh street. I then interfered with Howell, and took hold of him, and said he must not interfere with voters. He said he could whip me, and wanted to fight, and offered to bet money he could whip me. I told him that after the election was over I would accommodate him. Howell kept up a disturbance at the polls during the afternoon and until the polls closed.

"About six o'clock a man came there to vote, who was challenged on his tax receipt. He could not produce the tax receipt, and his vote was not received. William B. Hackenburg, a resident of the division, came there and blockaded up the window, and said that if this man could not vote no other person should be allowed to vote. I put my hand on him and told him he must leave the window. He wanted to know who I was. I told him I was the deputy marshal, and he should not interfere with the voters. He said I could not take him away or nobody else. I took him from the window, and told him if he interfered again I would arrest him. After the polls closed I went to the station-house to hear the returns of the election. As I was returning home, in the neighborhood of Eighth and Poplar streets, twelve or fifteen men met me and made an assault upon me, knocking me down with a club in the middle of the street, where they kicked me and beat me in a fearful manner. I was confined to my house for near three weeks from the injuries that I had received. These same men I had seen the same day with Howell in a cigar store before the polls closed, and I believe it to have been a job set up by Howell for that purpose. These witnesses that appeared before the Wallace committee swore that I was intoxicated. I had not taken a drink until the middle of the afternoon; was not intoxicated at any time during the election, which I can prove by a number of witnesses residing in that division.

"CHARLES OLIPHANT.

"Sworn and subscribed before me this 17th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

DR. OLIPHANT CORROBORATED.

"Personally appeared before me, the subscriber, one of the magistrates of the city of Philadelphia, John D. Severn and Arthur Nusbaum, who, being duly sworn according to law, depose and say: 'We are residents of the second division, Twentieth ward, Philadelphia, and legal voters in said division for ten years past, and at the election held November 5, 1878, were at said division house, and in said division all day; and further swear that Dr. Charles Oliphant, United States deputy marshal, was sober, and did not interfere with the voters in said division; that R. C. Howell swore to what was false and untrue when he swore to the contrary on March 27, 1879.

"'JOHN D. SEVERN,
"'942 North Seventh street.
"'ARTHUR NUSBAUM,
"'938 North Seventh street.'

"Sworn and subscribed to before me this 14th day of April 1879.
[SEAL.] "JOHN T. THOMPSON,
"*Magistrate Court* 14."

DEPUTY MARSHAL ROBERTS.

"On page 110 of the report, Isaac N. Roberts, the deputy marshal of the sixteenth division of the Third ward, is charged with the arrest of John Johnson, who was held for his appearance for trial before the United States court at Philadelphia. At the meeting of the investigating committee, held at the Girard House, at Philadelphia, John Johnson appeared and testified to the facts of his arrest. When upon cross-examination by Senators Cameron and Hoar he admitted, in the presence of the committee, that the tax receipt upon which he attempted to vote was declared to be a forgery by the clerk of the tax office, (at the hearing before the United States commissioner.) The tax clerk swore that it was not his signature; that it was forged and fraudulent.

"The affidavit of Isaac N. Roberts, deputy marshal sixteenth division, Third ward, is as follows:

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Isaac N. Roberts, being sworn according to law, says that he resides at 1220 Catharine street, in the sixteenth division of the Third ward; that he was appointed deputy marshal and acted in that capacity at the election in November, 1878. I arrested John Johnson for voting upon a fraudulent tax receipt. I challenged his vote, but the officers paid no attention to any challenges that were made. Johnson was taken by me to the United States marshal's office, and had a hearing before a United States commissioner. He was held to bail to appear at court. I had his tax receipt at the hearing. The clerk at the tax office was sent for; it was Cauffman James. He pronounced the signature upon the receipt of his name a forgery. I also arrested a man by the name of Lowry. I challenged his vote also. My challenge was disregarded. I saw the tax receipt in Lowry's hands. They were urging him to vote. He hesitated a good while, coming back and forward to the polls several times. At last he voted; and then I arrested him and took him before United States commissioner. He was held for court to be tried. The clerk at the tax office, Mr. John Stimmel, was sent for, and he declared the signature on the tax receipt to be a forgery of his name. I made complaint to the United States district attorney at his office after the election about the conduct of the election officers. Warrants were issued for their arrest, and they were bound over to appear at court and are now awaiting trial for receiving illegal votes. According to the best of my belief, they received twenty or twenty-five fraudulent votes at this election.

"ISAAC N. ROBERTS,
"1220 Catharine street, sixteenth division, Third ward.

"Sworn to and subscribed before me this 17th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

THE CASE AGAINST THE ELECTION OFFICERS.

"The examination of witnesses by Aubrey H. Smith, United States commissioner, in the matter of John Dougherty and Robert Hance, charged with receiving illegal votes.

"Isaac N. Roberts, sworn and examined:

"I live at No. 1220 Catharine street; was a United States deputy marshal for the sixteenth division of the Third ward on election day. I was on duty at the polls. I know the defendants in this case. Dougherty was the judge and Hance the inspector. I warned Dougherty and Hance repeatedly not to receive illegal votes, and they said they did not care for me. I went away and returned, and again warned the defendants. There was a man named John Johnson voted at the polls on that day. I was standing by the window-book man when Johnson came up to vote. I challenged the vote, and Lewis Boyd, the window-book man, also challenged it. I said to the people inside, I challenge this man Johnson's vote. The defendants took the tax receipt from Johnson and put his vote in the box, and I then locked Johnson up. They did not swear Johnson. I locked up Joseph L. Lowry for illegal voting before Johnson came up. When Lowry came up I challenged him on his tax receipt, and had my face opposite the hole in the window, so that those inside might hear. The defendants received Lowry's vote. They did not swear Lowry at all. They did not examine him as to whether he had paid any taxes or not. Another man, whose name I don't know, but whose name witnesses in the room know, came to the polls to vote. He was challenged on his tax receipt, and went inside and took the oath, but refused to answer the questions put to him, and went out laughing. The defendants put his vote in the box; he was challenged by the window-book man. I don't know who swore him.

"Cross-examination by Mr. Cochran:

"I follow the newspaper business now. Between eight and nine a. m. I warned defendants. The judge did not tell me that if I would produce from the United States marshal a certificate that these white tax receipts were illegal, or if any of us would say on oath that these were illegal, that they, the officers, would refuse to take these votes. I arrested two people on election day. Johnson voted between five and six p. m. I saw Johnson's tax receipt; it was a white tax receipt, signed with Cauffman James's name. Lowry was arrested after dinner. The officers inside took these receipts and looked at them.

"ISAAC N. ROBERTS."

TESTIMONY OF MR. BOYD.

"Lewis Boyd, being sworn, says: I live at No. 1320 Kater street; I am a plasterer; I held the window-book outside on election day; I was at the polls when Johnson came to vote; he came about dark; the defendants were inside when Johnson came to vote; I challenged Johnson on tax receipt; some one from the inside asked Johnson to produce his tax receipt; he produced a white tax receipt similar to the one now shown me, and handed it inside; it was handed to Johnson again, and he put it in his pocket; Roberts then arrested Johnson; I was at the polls when Lowry came first in the morning; he was challenged on his tax receipt, and saying he had none went away; I did not see him at the polls again.

"Cross-examination by Mr. Cochran;

"I have lived in this division twelve years; I know that Johnson is a *bona fide* resident of this division; the tax receipt was detained about one minute inside, and was then handed to him again.

"LEWIS BOYD."

AFFIDAVIT OF COLLECTOR STIMMEL.

"John Stimmel, being sworn, says: I was collector of taxes in January, 1877, at the office of the receiver of taxes. [Two tax receipts here shown witness.] The signature on either of these is not mine; the signatures are forgeries of my name and are good imitations; I always fill up the receipts myself, and never authorize others to sign my name; the receipts are in two different hands, and the number 1877 on these receipts should be 1876.

"Cross-examined by Mr. Cochran:

"I do not know that previous to the ordinance requiring stubs to be kept that most receipts were issued loosely.

"JOHN STIMMEL."

"The defendants were held in the sum of $500 each for their appearance at the United States district court by Aubrey H. Smith, United States commissioner."

HUTCHINSON'S CASE.

"STATE OF PENNSYLVANIA,
"*County of Philadelphia, ss:*

"Arthur B. Vance, jr., being duly sworn according to law, doth depose and say: During the recent examination in this city by a committee appointed by the National Congress, of which Senator WALLACE was chairman, and to inquire into the action of the United States marshals at the late elections in this county, one Frank M. Hutchinson, under oath stated that your deponent was the United States marshal at the eighth division of Fifth ward of said city, and that as such marshal your deponent arrested the said Hutchinson and brought him to the United States marshal's office. Hutchinson further states that your deponent threw open a door and called into the room that he would arrest said Hutchinson if he voted. Now, the facts of the case are simply these: Your deponent was not at the time, neither has he ever been, a United States marshal, neither did he arrest the said Frank M. Hutchinson, nor did he open any door or doors and call into the room where any election was being held, 'if that man votes I will arrest him;' so that as to all the foregoing statements made by Frank M. Hutchinson under oath I pronounce unqualifiedly untrue in every particular.

"At the election held for members of the national House of Representatives in November, 1878, I held, by appointment of the court of common pleas of Philadelphia County, the office of overseer of election, having no power whatever to make arrests, but having full power, not only by virtue of my office, but in my general rights as a citizen, to see that no outrage occurred in the conduct of said election without formally entering my protest. On the day of election in question I went into the room in which the said election was being held, and I there found the above-named Frank M. Hutchinson. I inquired of an election officer the trouble, and was informed that this man had been challenged. I asked him where he lived. His answer was, in the Record building, southwest corner of Third and Chestnut streets. Having resided in the division aforesaid for a period of ten years, and knowing The Public Record building to be devoted exclusively to business purposes, printing offices, &c., and remembering but one person ever to have voted from that place, I inclined strongly to the belief that all was not right with the man Hutchinson; your deponent then desired to see Hutchinson's tax receipt, and noticed that it was an 1878 tax receipt with the figure 8 erased; the whole general appearance of the receipt was suspicious in the extreme; I then looked over the record of persons who had paid their taxes for the last two years, but the name of F. M. Hutchinson was not upon the list; I then examined carefully the receipt again, and to my great surprise I discovered that it alleged to be a tax receipt for taxes paid in the Twentieth ward of this city, and not for the ward in which he was attempting to vote; I did not see that it was possible for this man to have procured a tax receipt of 1878 in time to have moved from his ward and to have resided in another long enough prior to an election to have entitled him to vote; under all the circumstances of the case I felt then that he was not entitled to a vote at that place, and I am confirmed in my opinion to-day; I told him that if he attempted to vote I should call on the proper parties to arrest him; this he did; I then went outside of the room, and as overseer of that election properly qualified, and with my certificate to that effect, asked the United States marshal to arrest him, which was done, a course I should feel bound to pursue under similar circumstances, and with a man who could give no more satisfactory account of his tax receipt than did Frank M. Hutchinson on this occasion; the statement that I was United States marshal, or that I arrested him, is deliberate and willful perjury.

"A. B. VANCE, JR.

"Sworn and subscribed to before me April 19, 1879.
[SEAL.] "HENRY C. HAWKINS,
"*Notary Public.*"

CARROLL'S FALSE TESTIMONY.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Enoch T. Baker, being duly sworn, says that he resides at No. 7 Chapman street, in the second division, Third ward; that he was appointed overseer for the election held on the 5th day of November, 1879, by Judge Ludlow; that he was not appointed a deputy marshal, and he did not act as such; that John Carroll swore falsely when he stated before the Wallace committee that I was a deputy

marshal. I have also read the testimony of Patrick Martin, who swore falsely when he said I was a deputy marshal; as overseer of that election I ordered Police Officer Andrew Myers to arrest John Carroll on the charge of illegal voting, both as to his residence and tax receipt; I was personally acquainted with John Carroll, and he only moved into the division three weeks and four days before the election, and the law requires sixty days; I know that he attempted to vote in another ward on the same day; when I challenged his vote I saw a piece of paper in his hand that he called a tax receipt; it was all in small pieces, and when he was arrested he threw it away; it was all in pieces, and could not be recognized as a tax receipt; he was afterwards brought before the United States commissioner, but as we did not have the tax receipt to produce at the hearing as evidence he was discharged; I have since made inquiries and have satisfied myself that he was not entitled to a vote and that he swore falsely before the Wallace committee when he said he was entitled to a vote.

"ENOCH T. BAKER,
"7 Chapman street, second division, Third ward.

"Sworn and subscribed before me this 17th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

ANOTHER WITNESS IMPEACHED.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"William B. Ahern, being duly sworn, says that he resides at 521 Fairmount avenue, in the ninth division, Twelfth ward; that one John F. Troester swore before the Wallace investigation committee that the said William B. Ahern was constable, clerk in the court of quarter sessions office, and in the revenue department, and that he acted as deputy marshal at the election held the 5th day of November, 1878.

"Your deponent further says, that the statement of the said Troester is false; that he was elected constable in 1877, but does not perform any of the duties appertaining to the office, nor was I employed either in quarter sessions office or revenue department at that time.

"That the said John F. Troester was not a citizen of this country until the 6th day of November, 1878, the day after election, which will appear by the records of the court of quarter sessions.

"That he had voted for several years previous, and upon the day of the last congressional election in the eleventh division, Twelfth ward, at which election he voted the democratic ticket, when he was not a citizen and not entitled to vote.

"WM. B. AHERN,
"521 Fairmount avenue, ninth division, Twelfth Ward.

"Sworn and subscribed before me this 17th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

DEPUTY MARSHAL TAYLOR.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"William Taylor, being duly sworn, says that he resides at No. 1226 Fulton street, fifteenth division, Third ward. I was appointed and acted as deputy marshal at the election held on the 5th day of November, 1878. A man came there to vote by the name of Charles Sweeney, his vote was challenged by Mr. Henry Hunter, who lives at No. 732 South Twelfth street. The judge of the election, Andrew Martin, declined to receive his vote, and pronounced his tax receipt fraudulent. I was standing at the window outside, and the judge ordered me to arrest him and take him to the United States district attorney's office, which I did. There was no other disturbance that occurred that day; it was peaceable and quiet. Charles McCrory swore before the Wallace committee that I was drunk at the polls. He swore to what was false, as I was not intoxicated, as others can testify to the facts.

"WILLIAM TAYLOR,
"No. 1226 Fulton street, fifteenth division, Third Ward.

"Sworn and subscribed before me this 16th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

CORROBORATING AFFIDAVIT OF MR. HUNTER.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Henry Hunter, being duly sworn, says that he resides at No. 732 South Twelfth street, in the fifteenth division, Third ward; that I was present at the polls at the election held on the 5th day of November, 1878; that William Taylor, who was the deputy marshal for that division, was peaceable and quiet. There was no disturbance at the polls all day. Charles McCrory, who testified before the Wallace committee, swore falsely when he stated that William Taylor, the deputy marshal, was intoxicated. I was at the window when Charles Sweeney came to vote, and when his vote was rejected by the judge; I heard the judge order the deputy marshal to arrest Sweeney and take him before the United States district attorney. I saw the tax receipt that Sweeney had, and it did not show upon it any date of payment; it would have answered for previous years as well as the year 1878.

"HENRY HUNTER,
"No. 732 South Twelfth street, fifteenth division, Third ward.

"Sworn and subscribed before me this 16th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

DEPUTY MARSHAL DONLAN.

"STATE OF PENNSYLVANIA,
"*City and County of Philadelphia, ss:*

"Whereas it appears by the published statements of the proceedings had before the Wallace-Teller investigating committee of the Senate of the United States held at the Girard House, in the city of Philadelphia, for the purpose of inquiring into the conduct of the last congressional election held in the said city on the 5th of November, 1878, that one Martin Killacky testified that I, Thomas Donlan, was the deputy marshal at the seventh division, Sixth ward, in the said city, and that on the said day of election I was drunk and unruly from the effect of liquor:

"Now, I, the said Thomas Donlan, being duly sworn according to law, do declare and say that I was the deputy marshal for the said seventh division, Sixth ward, on the said election day, and that during the entire day I did not partake of liquor in any manner or form, and that I had not drank or tasted liquor for more than a month previous to said election day, and that I was entirely free from all influence of liquor on that day, and the testimony of the said Martin Killacky as published, so far as it relates to myself, is a willful and malicious falsehood.

"THOMAS F. DONLAN,
"No. 529 Cresson street.

"Sworn and subscribed before me this 9th day of April, A. D. 1879.
[SEAL.] "JOHN H. POLE,
"*Magistrate Court No.* 10."

CUMULATIVE EVIDENCE.

"STATE OF PENNSYLVANIA,
"*City and County of Philadelphia, ss:*

"Frederick Baker, George C. Fitzgerald, Jeremiah J. Geary, Louis Weyser, and George Gardner, being duly sworn according to law, say that they reside in the seventh division, Sixth ward, of the city of Philadelphia, and were present at the place of voting in the said division at the last congressional election held in this city on the 5th day of November, 1878, and that they saw Thomas Donlan in attendance at the said division in the capacity of deputy marshal of the United States, and that he was perfectly sober and free from the influence of liquor during the entire day, and conducted himself in an orderly and proper manner, and that any testimony or statement to the contrary is wickedly false and malicious.

"FREDERICK BAKER.
"GEORGE C. FITZGERALD,
"JEREMIAH J. GEARY,
"LOUIS B. WEYSER,
"GEORGE GARDNER.

"Sworn and subscribed before me this 9th day of April, A. D. 1879.
[SEAL.] "JOHN F. POLE,
"*Magistrate Court No.* 10."

AFFIDAVIT OF WILLIAM AUGUSTUS.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"William Augustus, being duly sworn, says that he resides at 226 Currant alley, in the fourth division, Eighth ward; that he was appointed and acted as deputy United States marshal in that division at the last congressional election, held on the 5th day of November, 1878; that I did not make any arrest that day; there was no disturbance at the polls in that division; a man named Michael Gillespie came there to vote; I knew that he did not live in the division; his vote was challenged; I knew he lived in Locust street, between Fourth and Fifth streets, which is not in our division; he was taken inside to make affidavit to the election papers, and then it was that I was called inside; when asked for his tax receipt he could not produce one, and his vote was refused and he left; there was no other disturbance that day; I did not drink or taste a glass of liquor that day.

"WM. AUGUSTUS,
"226 Currant alley.

"Sworn and subscribed before me this 15th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

CHARLES PRENDEVILLE'S AFFIDAVIT.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Charles Prendeville, being duly sworn, says that he was deputy marshal in the seventeenth division, First ward, on the day of election; Michael Shay came there to vote; I noticed parties urging him to vote; when he gave his name I challenged him, as his name was not upon the registered list of voters; Thomas Dwyer came up and vouched for him; I knew Dwyer to be a notorious bad character; he had been tried and convicted several times for criminal offenses, and had served in the county prison; they went inside to prepare the papers, and I told the officers if they took that vote I would arrest him; in the mean time I sent James Codell to the place they said he lived, and he came back and said he did not live there; he had seen the person who kept the house, and no such person lived there; when I arrested Shay, Dwyer came at me and took me by the throat; I called on the police to assist, and we arrested them both; I took Dwyer at once to the United States district attorney's office, and charged Dwyer, before the United States commissioner, with assault and battery; he was to appear at court; I was present before the United States grand jury, and a true bill was found against him; at the meeting of the Wallace investigation committee Dwyer swore that Shay produced a tax receipt; he swore falsely, as he did not have any tax receipt and did not produce one; I had canvassed the division a few days before the election, and I found thirty-five names on the list of voters who did not reside in that division; I went before the State court, before Judges Ludlow and Biddle, and the names of the thirty-five persons were stricken from the list.

"CHARLES PRENDEVILLE,
"Seventeenth division, Fifth ward.

"Sworn and subscribed before me this 18th day of April, 1879.
[SEAL.] "CHARLES GIBBONS, JR.,
"*United States Commissioner.*"

WHY MR. STRINGFIELD WAS TRIED.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Whereas it appears by the published statements of the proceedings before the Wallace-Teller committee of the United States Senate, held at the Girard House, in the city of Philadelphia, that one Charles F. Miller testified that Rodney F. Stringfield was the deputy United States marshal for the forty-first division, Fifteenth ward, and that the said Stringfield had been arrested, tried, and acquitted on the charge of the murder:

"Now I, the said Rodney F. Stringfield, being duly sworn according to law, do say that I was the deputy United States marshal at the last congressional election in this city for the forty-first division, Fifteenth ward; that on the 20th of January, 1877, I was a police officer in said city; that in arresting one Whitty Dennis on the charge of theft he assaulted me and attempted to escape, when I fired at him, and he died from the effect of the wound; at a hearing before the coroner I was discharged; at the following May I was tried in the criminal court and acquitted under the charge of the court; that is the only time I was ever arrested during my life for any offense.

"R. F. STRINGFIELD,
"2515 Parrish, forty-first division, Fifteenth ward.

"Sworn and subscribed to before me this 16th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

DAVID M. BEEKMAN.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"David M. Beekman, being duly sworn, says that he resides at 2545 North Front street, in thirty-second division, Nineteenth ward; that he was appointed deputy marshal there, and acted as such at the election in November, 1878; the only difficulty we had there that day was referred to in the testimony of Henry Kohler; a gentleman came to the division to vote whose name was upon the assessor's list; I knew him to be the person assessed; Henry Kohler challenged his vote upon the question as to whether he had naturalization papers; there was no difficulty occurred about it; they refused his vote, and he went away; I had my badge on that day; there was nothing said about shooting anybody; I was there at the polls all day, and do not know of a fraudulent vote being polled, and I am not a drinking man, and was not in any way intoxicated on that day.

"DAVID M. BEEKMAN,
"2545 North Front street.

"Sworn and subscribed before me this 15th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

A LITTLE DIFFICULTY EXPLAINED.

"PHILADELPHIA, *April* 17, 1879.

"I, George W. Crouse, being duly sworn according to law, depose and say: That

I was a qualified voter at the last November election, and resided in the thirteenth division, Thirty-first ward; I was a deputy marshal on that day; on the morning of the election I was called into the room where the election was held by the judge of the division to clear the room of those who had no business there, and who were not the proper election officers; at that time it was five or ten minutes past 7 o'clock in the morning, and it was time the polls were open; there was a man in the room by the name of Frank Mershon, who claimed to be an inspector, but who was not elected; I told him he would have to leave the room, and he said if I wanted him to leave I would have to put him out, which I did; he, Frank Mershon, then went to court, and there Judges Mitchell and Fell both decided he was not entitled to serve as an inspector; the inspectors who were legally elected were Henry Linde and John Mullin, jr.

"GEO. W. CROUSE,
"2221 Frankford avenue.

"Sworn and subscribed to before me the 18th day of April, A. D. 1879.
[SEAL.] "HENRY SMITH,
"*Magistrate Court No.* 17."

THE DUDDY PERJURY CASE.

"On page 158 of the report published, John M. Duddy, who appeared as a witness before the committee, swore that William Springfield, the deputy marshal at the November election, 1878, acted as such in the thirty-second division, Twenty-fourth ward, that he had been in the employ of Mr. Sellers at his flour-mills, in West Philadelphia, and that the day before the election he had been discharged from Mr. Sellers's employment for stealing a bag of flour.

"Deputy Marshal Springfield had a warrant issued for the arrest of John M. Duddy, and a hearing took place before Police Magistrate William List. Mr. Sellers was sworn and examined, and his testimony fully exonerated William Springfield. He said that Springfield had been in his employ and worked by contract, that when the contract was completed, he paid Springfield his wages; that he had not discharged him for stealing a bag of flour.

"Return of proceedings before William H. List, magistrate of court No. 5, in Philadelphia:

"Commonwealth of Pennsylvania *vs.* John M. Duddy.

"Warrant issued on the 3d day of April, 1879, on an oath of William Springfield, subscribed to by said affiant, defendant charged with willful and deliberate perjury.

"April 7, 1879, defendant appears.

"After a hearing defendant required to give bail in the sum of $600, for his appearance at the next term of the court of oyer and terminer, and general jail delivery and quarter sessions of the peace, for the county of Philadelphia."

TESTIMONY OF NATHAN SELLERS.

"Knows a man named William Springfield; he is occasionally employed by him; he was employed for a job of work, and regularly discharged after the work was done; he was not discharged for the larceny of flour.

"William R. Leeds sworn: Was present and saw John M. Duddy come before the Wallace committee, and swear that William Springfield, deputy United States marshal, was discharged the day before his appointment for larceny.

"William Springfield sworn: Was not discharged from Mr. Sellers's place for stealing a bag of flour; the flour was paid to him for the work done, besides the money.

"Charles M. Voorhees sworn: Was present and saw Senator WALLACE administer the oath to John M. Duddy before he testified before the committee. Duddy testified that a man named Springfield was discharged from a Mr. Sellers's place for stealing; can't give the exact words, but it was taken at the time and can be produced.

"WILLIAM H. LIST,
"*Magistrate of Court No.* 5."

JOSEPH HILFERTY'S AFFIDAVIT.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Joseph Hilferty, being duly sworn, says that he resides in the twenty-first division, Second ward; that he was commissioned and acted as the deputy marshal on the day of election, November, 1878. I am not a drinking man. I have not drank any intoxicating liquor for more than seven years. I did not drink any on election day. The only disturbance that occurred there that day was that of a drunken man by the name of Campbell, who interfered with the voters, and a police officer arrested him, when Patrick J. McCarthy interfered and took hold of the police officer by the collar. McCarthy was also under the influence of liquor. He was the democratic supervisor. I threatened to arrest the supervisor for interfering with the officer, and ordered him to go inside of the poll where he belonged. The arrest made was not in the division. It was while the officers of the police were passing our division that the difficulty occurred. I made no arrest that day, and that was the only disturbance of any note that occurred.

"JOSEPH HILFERTY,
"1007 Pascal street, twenty-first division, Second ward.

"Sworn and subscribed before me this 15th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

HENRY PITTS IN HIS OWN DEFENSE.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Henry Pitts, being duly sworn, says that he resides at 706 Lombard street, in the first division, Seventh ward; that he was appointed and acted as United States deputy marshal in that division at the last congressional election, held on the 5th day of November, 1878; that the election held there on that day was peaceable and quiet; no disturbance of any kind took place; I did not make any arrests. The deponent further says that one Charles F. Miller, the murder detective, swore before the Wallace investigating committee that I was tried and convicted for receiving stolen goods; that I was arrested before and tried before for other offenses, and in other ways was a bad man. The deponent further says that he never was arrested, tried, or convicted for receiving stolen goods, nor was he ever charged with any such offense, or tried for any offense of a criminal nature before the courts; the only difficulty I ever had was once about my license in regard to a penalty, which I was obliged to pay.

"HENRY PITTS,
"706 Lombard street, first division, Seventh ward.

"Sworn and subscribed before me this 15th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

JAMES COLGAN.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Personally appeared before me James Colgan, who, being duly sworn, says that he was the deputy marshal in the eighth division, Sixth ward, and that he served in that capacity at the election in November, 1878; that Walter Brady was a witness before the Senate investigating committee, and that he swore that I was drunk at the polls on the day of election, and that I was interfering and challenging the voters when they came to the polls, and that I said I would arrest him; I was appointed deputy marshal and served there all day; there was no disturbance occurred in that division until dark, when a crowd of men gathered in front of the polls, blocking up the passage to the window; I then called on a police officer to assist me in clearing the pavement and the window, when Brady ordered the police officer to go away from the polls; I told him he should not interfere with the officer; if he kept raising a disturbance I would have to arrest him; he did not pay any attention to my request, and I was about to arrest him, and friends interfered and interceded themselves for him, and I let him go; we afterwards had a friendly drink together, and that ended the only disturbance that occurred there that day. I had not drank any liquor at the polls up to about two o'clock in the day, when I drank some beer; I was not intoxicated or abusive to the voters; no man who had a right to vote was deprived of his vote at that election. The election was peaceful and quiet until the big crowd came there in the evening.

"JAMES COLGAN.

"Sworn and subscribed before me this 19th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

MICHAEL SLAVIN.

'UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Whereas it appears by the published statements of the proceedings had before the Senate investigating committee of the United States held at the Girard House, in the city of Philadelphia, for the purpose of inquiring into the conduct of the last congressional election, held in the said city on the 5th day of November, 1878, that one Charles F. Miller testified that I, Michael Slavin, was a notorious thief and repeater; the said Charles F. Miller, upon cross-examination, when asked by Senator CAMERON what I had ever been tried and convicted for, said he did not know what I was tried for, but that he thought I had been convicted for some offense:

"Now I, the said Michael Slavin, being duly sworn according to law, do declare and say that I was never tried nor convicted for any such offenses in all my life; that I was never tried in any court for any offense, nor convicted in any court for any offense; that the testimony of the said Charles F. Miller, so far as it relates to myself, is a willful and malicious falsehood.

"MICHAEL SLAVIN.

"Sworn and subscribed before me this 19th day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

THE TWENTY-SECOND DIVISION OF THE THIRTIETH WARD.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Andrew Jackson and Joseph H. Sinex, of the Thirtieth ward in the city of Philadelphia, and Frank L. Cook, of the said ward and city, being duly sworn according to law, doth depose and say: Andrew Jackson and Joseph H. Sinex were appointed deputy marshals in the said ward, and Frank L. Cook was the inspector of the election in the twenty-second division, Thirtieth ward, on the day of election in November, 1878; that a dispute arose in said division in reference to who was the qualified person to act as judge of the election. At the previous election Mr. George A. Ackerman received the highest number of votes on the republican ticket, and was duly elected and qualified to act as the judge; one Michael Feeney came to the polls and claimed that he was the judge, and that he had been appointed to fill a vacancy by the Hon. Judge Elcock. He was told there was no vacancy, and if there was to be any vacancy that the appointment should be a republican, as this was a republican division and had been so for years. The democratic supervisor, Mr. McLaughlin, directed the democratic inspector not to allow the polls to be opened. Mr. Ackerman refused to vacate the chair as judge; there was so much confusion that the republican supervisor called in the deputy marshal, and ordered Mr. Feeney to leave the room, which he refused to do; the election officers ordered his arrest; the two United States supervisors then, by mutual consent, accompanied us to the marshal's office; the election then proceeded with Mr. Ackerman as judge, until Mr. Feeney returned, and again the difficulty was renewed; the democratic supervisor then ordered the marshal to arrest Mr. Ackerman, which was done by officer Jackson; we then went to the United States marshal's office, where the case was heard by the marshal and our difficulties explained by the democratic and republican judges, claiming that each was in the right; Marshal Kerns then stated to us that we should go before a judge of the State court and have the question settled, which we did, and the judge ordered Mr. Feeney to serve as the election judge. That was the only difficulty that occurred at the polls that day; the election went on as usual and the voters in that division exercised their rights as voters; we do not know of any democrat that was deprived of his vote, nor do we know of any republican who voted there illegally that day; that cannot be disputed by any person living in that division.

"ANDREW JACKSON,
"1736 Catharine street.
"JOSEPH H. SINEX,
"2611 Gray's Ferry Road.
"FRANK L. COOK,
"2906 Alter street.

"Sworn to and subscribed before me this 21st day of April, A. D. 1879.
CHARLES GIBBONS, JR.,
United States Commissioner.

ANOTHER CHARGE OF PERJURY.

"UNITED STATES OF AMERICA,
"*Eastern District of Pennsylvania:*

"Edward B. De Sanno, being duly sworn, doth depose and say that he was deputy marshal in the first division, Fifth ward, on the day of election in November, 1878, that I resided at the southwest corner of Front and Lombard streets, and was superintendent at that place at the election, and had resided there for more than a year previous to the election. I was not upon the assessor's list, because the assessor, James Morris, (the witness who swore that I was not known in that division, and that he had never seen me before,) had not visited the house where I resided and assessed me and others living there as it was his duty to do, as the assessor of the division. He knew me well, and he had met me a number of times previously; when he swore that I was not known in that division, he swore falsely. He also said that I stood around drunk all day. If the committee will give me an opportunity to be heard, I will produce a large number of the residents of this division who will testify to my condition on the day of the election. The election was peaceful and quiet. I made no arrest that day as there was no occasion to do so; I do not know of any qualified voter who was deprived of his right to vote that day in that division.

"EDWARD B. DE SANNO.

"Sworn and subscribed before me this 21st day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

DETECTIVE MILLER RECANTS.

"STATE OF PENNSYLVANIA,
"*City of Philadelphia, ss:*

"Andrew Lenoir, being duly sworn according to law, doth depose and say that he was the United States deputy marshal appointed for the fourth division, First ward, and acted as such on the day of election, November, 1878; that at the meeting of the Wallace investigating committee, which met at the Girard House, one

Charles F. Miller, said to be a murder detective in the employ of the district attorney, did upon oath, when the list of deputy marshals was handed to him, pick by name from the same, and when asked if he knew Andrew Lenoir, of the fourth division, First ward, said that he did; that I was charged with larceny and was a fugitive from justice.

"Now I, the said Andrew Lenoir of the fourth division, First ward, having received information of what Charles F. Miller swore to, immediately went to the Girard House while the committee was still in session, and met the said Charles F. Miller; I asked him what he meant by swearing before this committee that I was a thief and a fugitive from justice; then he apologized to me, and said he was mistaken; I demanded that he should come at once before the committee and take back what he had said. He went before the committee and asked to be re-examined. He stated to the committee I was not the person, and that he was mistaken. On the following day this testimony appeared in the Times, Public Ledger, and Record. As I am a man of family, and a story of that kind receiving such publicity, my character was greatly injured. I was fearful that my employers would discharge me from my employment. I then went to the court-house to see Charles F. Miller, and asked him to make a statement in the public press, in the same papers that he had published the libel on my character. He refused to do this, saying that he did not put it in the papers, and that I could go to the papers myself and do it.

"The election in the fourth division, Fourth ward, was quiet, and no disturbance of any character occurred in that division on the day of election.

"ANDREW K. LENOIR,
"Fourth division, First ward.

"Sworn and subscribed before me this 21st day of April, A. D. 1879.
[SEAL.] "WILLIAM A. THORP,
"*Magistrate.*"

A WITNESS WHO WAS NOT CALLED.

"STATE OF PENNSYLVANIA,
"*City of Philadelphia, ss:*

"Personally appeared before me, Daniel Reading, who, being sworn, says that he resides at No. 2121 Starr street, in the city of Philadelphia; that one Charles F. Miller, appeared before the Wallace investigating committee at the Girard House in the said city and testified that I was tried for murder, and that everybody knew me to be a bad and dangerous man; that I was so often before the court for trial, and that I always escaped from conviction; he said he believed that I was an honest man; he had never heard my character questioned in that particular; that was admitted on cross-examination by Senator CAMERON.

"Now I do further say that about ten years ago there was a political fight at the corner of Sixth and Tasker streets, in the First ward of the city of Philadelphia. It occurred after the polls closed. In the fight pistols were discharged and a man named William Martin was shot and died afterward, about a month afterward. I was not there at the time of the occurrence and knew nothing about the fight for more than an hour afterward. About a year after this occurred an affidavit was sworn against me and I was charged with the offense. I was tried before a jury of my countrymen and acquitted of the charge, the jury immediately rendering a verdict of "not guilty," as I was not near the place at the time the shooting occurred. I do further say that the testimony of this man Miller is false and malicious when he states that I have been tried for other offenses; I never was tried for any offense before this occurrence and never have been before any court since that occurrence, when I was fully exonerated of the charge. I wish further to state that I was subpœnaed to appear before the Wallace investigating committee at the Girard House and appeared at the committee-room and sent a request to the chairman that I desired to be heard before the committee in answer to the charges sworn to by this man Miller, but my request was refused, my name was not called. I was anxious to obey the subpœna, but was refused the privilege of denying the false statements of Miller. One of the clerks that was with the committee came to me and handed me $3 and said that was my witness fee and I should go home as I could not be heard. I waited there until the committee adjourned, but I was not called to testify.

"DANIEL READING.

"Sworn and subscribed before me the 21st day of April, A. D. 1879.
[SEAL.] "WILLIAM A. THORP,
"*Magistrate.*"

"On page 81 of the printed pamphlet, Patrick F. Sherry being sworn and examined, says: That he knew James Brown, a deputy in the fourteenth division, Fourth ward, and that he had been convicted in the year 1872 for personating and voting in the name of another person. He said that he had known James Brown for twenty or twenty-five years.

"On cross-examination by Mr. CAMERON, the witness stated that Brown was a pretty good sort of fellow; he was a republican; sometimes he would give us a lift on the other side; he was always considered to be a right good fellow; his occupation is a provision dealer at the present time; he did not know anything wrong about him; he is regarded by his neighbors and acquaintances as comparatively at least a respectable, decent man; he was at the election place that day; I had no occasion to find fault with Brown, or of the manner he discharged his duties as marshal at the November elections; he did not interfere; there was no occasion to interfere particularly; the election was quiet and peaceful."

JOHN H. FORD CONTRADICTED.

"STATE OF PENNSYLVANIA,
"*City of Philadelphia, ss:*

PHILADELPHIA, *April* 21, 1879.

"George W. Tryon, being duly sworn, doth depose and say, that at the election held in the city of Philadelphia, on the 5th day of November, 1878, he acted as United States deputy marshal in the fifteenth division of the Eighteenth ward of said city, by virtue of an appointment by James N. Kerns, esq., United States marshal, and as such deputy he was at the election poll all of the above-named day, and that he faithfully performed his duty; that one John H. Ford, a member of the bar, appeared before the 'Wallace committee,' and by solemn oath swore that the deputy marshal's name at said poll was Fleming; that there is no such name on the registry list of voters, and no such voter in the division, nor was there such a voter in the division during said November election; that all the facts testified to by said John H. Ford before said 'Wallace committee' were untrue; that there was no intimidation of voters whatever at said election poll on said day; that there was but one trouble during the whole of said day, when a voter was challenged for attempting to vote illegally upon a forged tax receipt; that the judge of said division refused to accept said vote, when at the instance of said Ford he was arrested and taken before the court of quarter sessions of this county; that said court, composed of Hon. Thomas R. Elcock (democrat) and Hon. D. Newlin Fell, (republican,) decided that said judge had acted properly in refusing the said vote, and returned him to his election poll; that after the return of said judge the said Ford appeared at the election poll again and tried to intimidate the judge and inspectors, by trying to compel them to receive said vote, notwithstanding the decision of the court to the contrary; that said Ford is not and never was a resident of said division, or voted therein; and that the only intimidation of voters practiced during the above-named day was by the said Ford himself.

"GEORGE W. TRYON.

"Sworn to and subscribed before me this 21st day of April, 1879.
[SEAL.] "LUKE V. SUTPHIN,
"*Magistrate of Court No.* 15."

DEPUTY MARSHAL COYLE.

"UNITED STATES OF AMERICA,
Eastern District of Pennsylvania:

"Personally appeared before me Francis Coyle, residing at 1529 Tudor street, eighth division, First ward, who, being duly sworn, says that he was the deputy marshal at the said election division on the day of the election, November, 1878. That he was at the polls during the entire day, and that the election was quiet and peaceful all day. No arrests were made. That the statement published that I was at my work and did not serve as deputy marshal is false in every particular. That the marshal kept $2 from my pay is also false and malicious. I was subpœnaed to appear before the Wallace investigation committee that met at the Girard House, in the city of Philadelphia. That I was in attendance at the committee-rooms, ready and anxious to be called as a witness. I found that all the witnesses being called were democrats, and after subpœnaing me to appear told me that I was not wanted. Had I appeared before the committee I should have been qualified to the facts hereto set forth.

"FRANCIS COYLE,
"1529 Tudor street.

"Sworn and subscribed before me this 22d day of April, A. D. 1879.
[SEAL.] "SAMUEL BELL,
"*United States Commissioner.*"

SIXTH DIVISION SIXTH WARD.

"I, Sol. W. May, resident of the sixth division, Sixth ward, being duly sworn, depose and say that I was clerk of the November election, 1878; was present when John Williams presented himself to vote; he was challenged by some one outside on his residence; his egress to the window was obstructed by one Thomas McGinnis, he placing his knee between Williams and the window. I reached out of the window and took the man by the coat, so as to draw him within speaking distance to enable the election officer to qualify and interrogate him. It was with the utmost difficulty this could be done, and finding it impossible, we requested him to come inside, which he did with the aid of several men who brought him in bodily. Answering to all questions touching his right to vote, was declared a qualified voter, remarking that this was a democratic election board. The result of this election was very close, being almost equally divided; and at the ensuing February election the republicans had a clear majority of twenty-nine.

"SOL. W. MAY.

"Sworn and subscribed to before me this 21st day of April, A. D. 1879.
"CHARLES GIBBONS, JR.,
"*United States Commissioner.*"

WITHOUT DISTINCTION OF PARTY.

"On page 182 a list of republican divisions is published.

"A list of divisions in which there were United States marshals that had large republican majorities at the November election, 1878, was presented to your committee, and you reserved the question as to the admissibility of the list; it purported to be a copy made from the election returns filed in the prothonotary's office. It is apparent to me that the object in presenting this list was to show that deputy marshals should not have been appointed in republican divisions.

"Section 2021 of the Revised Statutes says that whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants and upwards, the marshal for the district in which the city or town is situated shall, on application in writing, of at least two citizens residing in such city or town, appoint special deputy marshals.

"Upon the application of more than one hundred citizens residing in this city, and in each of the wards of said city, I did appoint deputies for each election division. If I had appointed deputies in the democratic divisions only, and allowed the republican divisions to be without an officer, it would have *been in violation* of the law of Congress, which makes it imperative upon me to appoint when petitions are filed asking for such appointments.

"The appointments were made in democratic and republican divisions, and the same instructions were given to all the deputies. (See page 15 of the committee's proceedings.)

"Philadelphia never enjoyed a more peaceful election than that of November, 1878.

"His honor the mayor of the city of Philadelphia is justly entitled to the greatest credit for the admirable disposition made of the city's efficient police force. In those parts of the city where the criminal and dangerous classes mostly congregate and dwell, they rendered valuable assistance in the preservation of the public peace. In these localities it was difficult to obtain men who would accept the position of deputy marshal. They were assured they should be protected both by myself and with the assistance of the police force.

"In the list of deputy marshals appointed by me there appears to be several who, upon the testimony of Charles F. Miller, served in some capacity in the municipal affairs of the city. Councilmen, keepers of public squares, (which are closed during the winter months,) constables, and employés who are paid by the city for the days actually employed. I know of no law of the United States, and I have been advised that there is no such law as prevents a member of councils or a school director from serving as a deputy marshal. It is stated that there were several police officers who acted as deputy marshals. If there was they had a right to act, for they were not on duty as police officers, and received no pay from the city. Police officers receive their per diem only upon the day they are actually on duty.

"The sworn affidavits and statements of the deputy marshals and others are in my possession, and will be presented to the committee at their pleasure. The witnesses are ready to appear before your honorable committee and substantiate the truth of these allegations.

"I am, sir, very respectfully, your obedient servant,

"JAMES N. KERNS,
"*United States Marshal, Eastern District of Pennsylvania.*"

In two instances men have been charged with the commission of murders; yet it is shown beyond doubt in one case that the man had been acquitted of the charge, he never having been near the spot where the murder was committed, and in the other case the party charged was Mr. Springfield, a constituent of my colleague, [Mr. KELLEY,] formerly an officer of the police force of Philadelphia, who in pursuance of his duty fired upon a man and shot him in the effort to make an arrest—a killing which did not occur on an election day. He was tried for murder and acquitted. Such are the charges made by the testimony which has been read here by the gentleman from Ohio [Mr. FINLEY] and my colleague, [Mr. BELTZHOOVER.]

Why, Mr. Chairman, every member from the city of Philadelphia now in my presence knows of the riotous proceedings in Philadelphia in 1868. Every member from Philadelphia knows that at the October election in that year six men were killed by democratic violence in the streets of Philadelphia and twenty-six wounded. Is it any wonder that upon another election day General Gregory, then the United States marshal of the eastern district of Pennsylvania, now some years deceased, a gentleman and a soldier, well known to every man in our

city and in the State of Pennsylvania, a gentleman who at one time had charge of a department of the Freedman's Bureau, who had a heart beating in sympathy with the colored man, dared to perform his duty at the third election division of the Fifth ward when the democratic mayor of Philadelphia stood upon the ground and refused to see the disgraceful scenes surrounding the election poll, his own policemen, all democrats, aiding the violent democratic mob in driving helpless, quiet, unoffending men from the polls, determined that the election in that division should result in giving a democratic majority.

Marshal Gregory called on the United States marines—as he had the power to do under the law—not to deprive men of their votes, not to drive men away from the polls, but to keep the peace; and he did keep the peace then and there, and most effectively. Every man who went to the polls was permitted to vote as he saw fit, and no disturbance occurred there during the remaining hours of that election day. Wherever soldiers have been at the polls there has been quietness and peace. Never, either South or North, did the United States soldier prevent a qualified voter from casting a ballot of his own choice; on the contrary his duty demanded of him that there should be a free election. One member of this House, I think from South Carolina, stated upon this floor that at his poll he had been invited by an officer of the United States Army to vote. He did not exercise that privilege because he disapproved of the presence of soldiers at elections. The United States Army certainly did not there prevent a citizen from voting but desired him to perform that duty. But to return to the third division of the Fifth ward of Philadelphia, one of the wards of the district then and now represented by the Speaker of the House. All the officers inside of the window were democrats with the exception of one or two who, under the election laws of Pennsylvania, represented the minority party. The election officers themselves closed the polls in that division, and not the marines. No marines were within forty or fifty feet of the polls at any time after the mob had been dispersed. The result was that upon the closing of the polls, in a division which should have given five or six hundred republican majority, the democratic majority was thirty or forty, I believe. The colored voters had been beaten and driven away by the democrats—affrighted and alarmed by the fearful raids upon them earlier in the day; they did not return to the polls to vote for fear of renewed and continued violence although they were protected by the United States marshal and marines as under the laws of the United States they had a right to be. This was an occasion when Marshal Gregory saw fit to call out the marines to preserve the peace. No man was injured by them; no man was prevented from voting as he wished; every man was permitted to vote in accordance with his rights under the laws. Never had United States marines, United States soldiers, or the uniformed militia of the State been required to be present at an election in a division in Philadelphia where the majority of the election officers were republicans. Republicans believe in free, untrammeled elections.

Again, who in Philadelphia can forget the fearful riot at an eastern election division of the Seventh ward, when a democratic mob charged upon the republicans and drove not only republican voters from the polls but also republican window-book men, and there murdered Policeman Young? Who can forget the wounding there of several republican citizens well known in their neighborhoods as influential political workers, who were, at the pleasure of the mob, when satiated with blood, allowed to be carried away from the middle of Lombard street? Two of the wounded men were supposed to be dead or dying. I knew these men. They were stalwart republicans, and are so now.

In October, 1871, a tremendous effort was made by the democratic party to continue in possession of the municipal government of the city of Philadelphia, especially to elect another democratic mayor.

Thus, Mr. Chairman, whenever a few years ago there was a struggle for the election of the head of the municipality of Philadelphia, we had these fearful riots and murders, which at one time, between 1868 and 1871, could not be quelled without the use of the power given by the United States laws, because in these three years we had a democratic mayor and a democratic police force that he himself dared not or could not control. The mayor was a gentleman himself, highly esteemed, then as now, for his intelligence and purity of character wherever he is known; but he had under him a police force which had been selected for him for the worst political purposes. These officers he could not restrain, for they were controlled by the local democratic politicians, at whose demand they had been appointed.

Mr. Chairman, election day, October 10, 1871, was bright and pleasant, and apparently everything was to be conducted quietly. Soon after midday, rioting commenced in the Fourth ward and extended into the Seventh ward. The colored population, very large in this section of Philadelphia, were peacefully endeavoring to cast their votes, much to the discomfiture of the democrats, and it was evident that the majority for the republicans in the Seventh ward would be very large, and the democrats, fearing they would not elect their mayor, began to abuse the voters, and especially to wreak their vengeance upon the colored people in that locality. Turmoil and confusion reigned. The unoffending colored voters were driven about the streets at the mercy of the mob, while the democratic policemen were afraid to make arrests, for the assailants were their political friends.

Three deliberate murders of colored republicans in cold blood was the result of that democratic riot, one of the victims being Professor Octavius V. Catto, a scholar, a gentleman, and a soldier who had attained the rank of major. He reminded me very much of Hon. Joseph H. Rainey who honored his State and his seat as a member of Congress from South Carolina for eight years, though Professor Catto had perhaps attained a more extended reputation as a scholar than Mr. Rainey, as my colleague [Mr. KELLEY] suggests. The other colored men who were murdered in the same neighborhood were Jacob Gordon and Isaac Chase, very respectable, hard-working, peaceable men, one of them killed in his own doorway.

One man was brought from Cincinnati and several times tried, but was not convicted; you cannot convict him. Another man is now on trial, or is about to be tried, who very likely will escape. His democratic friends will rush to his assistance as in the trials of the former.

Now, Mr. Chairman, not having time to go into these particulars as I should like to do, I will remark that I have on my desk a scrapbook, which was compiled by an intelligent man of color of the city of Philadelphia, Mr. William H. Dorsey, the messenger of the republican mayor of that city, in which are contained all of the newspaper statements of the occurrences on that fearful day in 1871. Here it is, and I ask members of the House to come and look at it, (many have already looked through it,) and to read these statements which fully verify all that I have said. At that election, October 10, 1871, a republican mayor of Philadelphia, Hon. William S. Stokley, was elected, and since that time there have been in that city no murders, no outrages at the polls. No man has been deprived of his right to vote in that city. He was elected then by a majority of eleven thousand and more republican votes against every effort of the democratic party and the democratic police force to defeat him. He was re-elected in 1874 by almost the same majority against a democratic combination with other voters, and re-elected again in 1877. And, sir, to-day, in Philadelphia no one is spoken of as a republican candidate at the next mayor's election but Mayor Stokley, such a reputation has he made for devotion to duty, for nerve, and for ability and judgment in selecting a police force. So we have in the eastern district of Pennsylvania, in United States Marshal Kerns, an official who knows his duty and dares to do it, a conscientious man who, in selecting deputies, always sought to have proper men. He fills his position greatly to his credit, and would not transcend his powers.

Mr. RANDALL, (the Speaker.) I will ask the gentleman to allow me to put a question to him after he has concluded what he has to say.

Mr. O'NEILL. Certainly.

The CHAIRMAN. The gentleman has one minute left.

Mr. O'NEILL. Only one minute left! I think, Mr. Chairman, if any member upon this floor has the right to appeal to the committee for an extension of time I am that member. The city which I in part represent here has been abused upon this floor more than once, and I ought certainly to have the opportunity of defending her people. Such opportunity has been denied me save where I could inject explanatory statements into the abusive speeches of gentlemen on the other side. I should certainly have my time extended in order that a proper defense should be made of that great republican city, the bulwark of the republican party, a city of intelligent men, of enterprising merchants, a city loving pure republican principles, a majority of whose citizens upon all occasions have known how to do their duty to the Republic in war and in peace.

Mr. FINLEY. Did I understand the gentleman from Philadelphia to say that that city was the bulwark of the republican party?

Mr. O'NEILL. Yes; I did say so, and it is true, and so it will continue to be. Why, sir, the last election in Philadelphia in November, 1878, and my colleagues will testify to that fact, was quiet and peaceful; there never was a quieter election. There were supervisors of election and deputy marshals and policemen at the polls. The results of that election were acquiesced in by everybody. No democrat complained. There were no people on the streets the next day after the election complaining of the 18,000 fair republican majority given in that republican city.

The CHAIRMAN. The gentleman's time has expired.

Mr. RANDALL, (the Speaker.) The gentleman said that he would yield to me when he had concluded. I only wished to ask him a question. I do not desire to enter into any of the individualities of the discussion in regard to my city, but I do want to ask my colleague whether he does not remember that the riots of 1877, known as the railroad riots, were kept in subjection and peace maintained in that city by a republican mayor and his police force, and that subsequently it was a source of great praise and commendation to that mayor and that police force that they were able to preserve the peace without interference on the part of the governor of the State and without asking Federal interference? Now in view of that fact I wish to know under the light of that experience what occasion there was to have brought into that city seven hundred and fifty United States marshals at an election which was conducted and gave promise of being conducted as peaceably as members sit here upon this floor?

Mr. O'NEILL. Mr. Chairman, I wish to say this, that Mayor Stokley, be it said to his praise, did quell that riot with twelve hundred republican policemen, every one of them republicans.

Mr. RANDALL, (the Speaker.) And without any United States marshals?

Mr. O'NEILL. He had not the aid of United States marshals, but there were Federal troops sent to Philadelphia after he had quelled the riot. That mayor, with his phalanx of true and able policemen, broke down the force of that riot, and it was the source of great credit to him. But, sir, I want to say to my colleague that until 1871, up to the time of the election of Mayor Stokley to the place which he honors, the riots and outrages brought about by democrats in that city were a disgrace to our community.

Mr. RANDALL, (the Speaker.) The gentleman does not answer my question. Let me ask again whether, in view of past experience and the power of the mayor to put down riots, he believes there was the least necessity to bring seven hundred and fifty marshals there at the last election?

Mr. BINGHAM. If the gentleman from Minnesota will allow me to answer my colleague——

Mr. O'NEILL. Mr. Chairman, some of these marshals were appointed at the request of democrats, and all of the supervisors were appointed at the request of democrats. We wanted to have the thing fair, and it was made so.

Mr. BINGHAM. I wish to say, Mr. Chairman, that there were twelve hundred members of the veteran organization of Philadelphia who volunteered to aid Mayor Stokley in suppressing those riots.

The CHAIRMAN. The gentleman from Minnesota is entitled to the floor, and will proceed.

Mr. DUNNELL. I feared my time would be infringed upon by my courtesy, and I submit that it be extended to cover what I have lost.

The CHAIRMAN. The Chair hears no objection, and it is so ordered.

Mr. DUNNELL. Mr. Chairman, during the short time allowed me under the rules in this debate, I desire especially to ask the attention of the committee to two positions which have been assumed on the other side in this discussion, positions which are not, in my opinion, tenable, and ought perhaps to have a fuller reply than they have already received. What I shall say, therefore, at this stage of my remarks will be wholly and entirely aside from the political discussion which has sprung up upon the political amendments to the pending bill and to the Army bill which has passed this House and is now in the Senate.

I ask attention for the present to these two points or positions: First, that the President has no legislative function or power; and, secondly, the very oft repeated comparison which we have heard here made between the United States House of Representatives and the English House of Commons.

The wisdom of the fathers was displayed, Mr. Chairman, probably in a higher degree in the adjustment of the different departments of the Government than in any other manner. They labored in the formation of the Federal Constitution to adjust the different departments so that there might be no encroachment of one upon another. Concessions or special rights were granted to one department, peculiar privileges or powers were granted to another, in order that they might be so balanced that there should be harmony and not discord in their operation. The provision in the Federal Constitution that the President should have the veto power, was made a part of that instrument by a unanimous vote of the convention. In the debates which occurred when the Constitution was being made and in the debates in the different State conventions, it was conceded that the President must have this power given him that he might protect himself against the encroachments of the legislative department of the Government. Nowhere in the great debates which have sprung up under the exercise of the veto power has ever the most violent opponent of the President exercising that power asserted at any time that the President had no legislative function. In the great debate in 1834, when Daniel Webster arraigned General Jackson, he conceded at the very threshold of his arraignment that the President had the right to do what he did do in vetoing the bill which called out that great debate. At no period in our history has the position ever been assumed that the President had no legislative function. For the first time, here and now, the announcement is made by the gentleman from Ohio, from the Toledo district, [Mr. HURD.] He says:

> I deny that the President of the United States has any right to participate in the legislation of this country.

The gentleman from Illinois [Mr. SPARKS] who had charge of the Army bill when it was before the House this session said:

> I deny, therefore, that the President has any legislative power.

Now, Mr. Chairman, for a few minutes, let me call the attention of the committee to the utterances of two distinguished men belonging to an earlier period in the history of the country, representing different and extreme views, two distinct schools in politics. I refer to the utterances of John C. Calhoun and to those of Daniel Webster. In the first place, let me give the views of Mr. Webster upon this point. Before reading the words of Webster let me remark that we have heard during this debate a great deal of violent criticism upon the anticipated action of the President. It has been assumed that he would veto this bill, and also the Army bill now in the Senate. It has been said upon the other side that he would have no right to do so, because it was against the express will of the people as represented through the House and Senate.

Nothing is of more importance in a government, as was well argued by the distinguished gentleman from New Jersey, [Mr. ROBESON,] than that the balanced and adjusted powers in it be preserved as fixed, because if they be disturbed there can be no foreseeing the results of such disturbance. Ours is a nicely adjusted and a limited Government. Daniel Webster said:

> The necessity of holding strictly to the principle upon which free governments are constructed and to those precise lines which fix the partitions of power between different branches is as plain if not as cogent as that of resisting, as our fathers did, the strides of the parent country against the rights of the colonies, because, whether the power which exceeds its just limits be foreign or domestic, whether it be the encroachment of all branches on the rights of the people or that of one branch on the right of others, in either case the balance and well-adjused machinery of free government is disturbed, and if the derangement go on the whole system must fall.

I now wish to furnish some of the utterances of John C. Calhoun. I read from the second volume of his speeches, on the four hundred and tenth page:

> Will not the same principle of our nature which impels one department to encroach upon the other equally impel Congress to encroach upon the executive department? Those who framed the Constitution clearly foresaw this danger and have taken measures effectually to guard against it. With this view, the Constitution has raised the President from being a mere executive officer to a participation in the legislative functions of the Government; and has, among other legislative powers, clothed him with that of the veto, mainly with a view to protect his rights against the encroachments of Congress. In virtue of this important power no bill can become a law till submitted for his consideration. If he approves, it becomes a law, but if he disapprove it is returned to the House in which it originated, and cannot become one unless passed by two-thirds of both Houses. And in order to guard his power against the encroachments of Congress through all the avenues by which it can possibly be approached the Constitution expressly provides that "every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary," (none other can operate beyond the limits of their respective Halls,) "except on a question of adjournment, shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Note, sir, the strong and conclusive language of Mr. Calhoun in this extract: "The Constitution has raised the President from being a mere executive officer to a participation in the legislative functions of the Government." No language could be stronger. These modern views of the Constitution would have sounded queerly in the ears of the fathers and the earlier expounders of the Constitution. They saw an adjusted government; its different parts so arranged that each should be a check upon the other, but it has been contended here that this House has only to utter its voice; that its voice should be the law even if a Senate and President do not agree to its utterances. This false construction of the Constitution has given us two extra sessions of Congress since the people in an evil hour turned over this House to the party now in power. It calls itself democratic, but not one member has or can quote one single line to sustain the wild doctrine that the President has no legislative function. Let me read one other extract from the words of Calhoun:

> Let us now cast our eyes back, in order that we may comprehend at a single glance the admirable arrangements by which the harmony of the Government is secured without impairing the separate existence and independence of either of the departments. In order to prevent the conflicts which would have resulted necessarily if each department had been left to construe its own powers, all the implied or constructive powers are vested in Congress; that Congress should not, through its implied powers, encroach upon the executive department, the President is clothed with the veto power, and that his veto should not interfere with the rights of the two Houses to control their respective proceedings, it is limited to bills or votes that require the concurrence of the two Houses. It is thus that walls are interposed to protect the rights which belong to us as a separate constituent member of the Government from the encroachments of the executive power, and it is thus that the power which is placed in his hands, as a shield to protect him against the implied or constructive powers of Congress, is prevented from being converted into a sword to attack the rights exclusively vested in the two Houses.

Let me read now from the second volume of Mr. Calhoun's speeches, a single sentence. Referring to a resolution which had been offered by the Senator from Kentucky, [Mr. Clay,] he said:

> It goes further, and is conclusive against the executive department itself as elected; for there can be no good reason offered why the will of the nation, if there be one, should not be as fully and as perfectly represented in that department as in the legislative.

This is read to refute what we have heard here during this debate—the announcement that the will of the people is only to be discovered in this House—that either here or in the Senate, or in these bodies united, resides the entire expressed will of the people; and that the people have no other repository of their will, no other protection or defense.

I hold that the President of the United States is, very often, and at the present time, a better exponent of the popular will than the House of Representatives. I make the announcement that the President of the United States to-day holds his seat by a much larger aggregate vote than the majority of this House. I assert, too, that the voter as he goes to the polls and casts his ballot for a President as much votes his will and as much expects that his will will be respected as when he votes for a Representative in Congress. The vote for President is always the largest vote, it is regarded as the most important vote that an American citizen can give, because by it he makes an expression of his will for the chief political officer of the Government. It is an expression of confidence, not only in the known political views of the man for whom he casts his ballot, but also in his high personal character. We have heard it said here very often that the President is not to exercise any will of his own. I will here insert extracts from a veto message sent to Congress by President Polk,

December 5, 1848, and also from a message of President Pierce vetoing the French spoliation bill, sent to Congress February 17, 1855.

In the fourth annual message of President Polk, sent to Congress December 5, 1848, I find the following:

The Constitution provides that "every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it."

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty, at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it, as well by his obligations to the people who have clothed him with his exalted trust as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both Houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution, or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve, or disapprove, every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty and he cannot escape it if he would. He has no election. In deciding upon any bill presented to him, he must exercise his own best judgment. If he cannot approve, the Constitution commands him to return the bill to the House in which it originated, with his objections.

Any attempt to coerce the President to yield his sanction to measures which he cannot approve, would be a violation of the spirit of the Constitution, palpable and flagrant; and, if successful, would break down the independence of the executive department and make the President, elected by the people and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender on his part of the powers with which the Constitution has invested his office, would effect a practical alteration of that instrument, without resorting to the prescribed process of amendment.

With the motives and considerations which may induce Congress to pass any bill the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the Constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power, that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the Constitution, and that the executive veto is a "one-man power," despotic in its character.

* * * * * * *

The people, by the Constitution, have commanded the President as much as they have commanded the legislative branch of the Government to execute their will. They have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve "he shall return it to the House in which it originated, with his objections." In withholding from it his approval and signature he is executing the will of the people, constitutionally expressed, as much as the Congress that passed it. No bill is presumed to be in accordance with the popular will until it shall have passed through all the branches of the Government required by the Constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate; and so a bill passed by the Senate may be rejected by the House. In each case the respective Houses exercise the veto power on the other.

* * * * * * *

The executive, legislative, and judicial, each constitutes a separate co-ordinate department of the Government, and each is independent of the others. In the performance of their respective duties under the Constitution neither can, in its legitimate action, control the others. They each act upon their several responsibilities in their respective spheres; but if the doctrines now maintained be correct, the executive must become practically subordinate to the legislative, and the judiciary must become subordinate to both the legislative and the executive; and thus the whole power of the Government would be merged in a single department. Whenever, if ever, this shall occur, our glorious system of well-regulated self-government will crumble into ruins, to be succeeded first by anarchy, and finally by monarchy or despotism.

President Pierce in his message vetoing the French spoliation bill, sent to Congress February 17, 1855, said:

It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment or be faithless to the trust reposed in him. If he approve a bill, he shall sign it; but if not, he shall return it, with his objection, to that House in which it shall have originated for such further action as the Constitution demands, which is its enactment, if at all, not by a bare numerical majority, as in the first instance, but by a constitutional majority of two-thirds of both Houses.

While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation; for, while it requires him to sign if he approve, it, in my judgment, imposes upon him the duty of withholding his signature if he do not approve. In the execution of his official duty in this respect he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or the wrongfulness of the proposed law. * * * The President's responsibility is to the whole people of the United States as that of a Senator is to the people of a particular State, that of a Representative to the people of a State or district. * * * When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality but of the impropriety or injustice in other respects of any measure, if he declare that he approves he is false to his oath, and he deliberately disregards his constitutional obligations.

There are some clauses in the foregoing extract to which I shall refer.

President Polk said:

The people by the Constitution have commanded the President as much as they have commanded the legislative branch of the Government to execute their will.

It is clear that the President of the United States has no more right to disregard his judgment, his convictions, to go against his views of public policy, than has any man holding a seat upon this floor. President Pierce said that the President who will sign a bill which does not meet with his approval is false to himself and false to his trust. Let me read the sentence:

When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality, but of the impropriety or injustice in other respects of any measure, if he declare that he approves he is false to his oath and he deliberately disregards his constitutional obligations.

In our Government the President constitutes a distinct branch of the Government, and is under obligations to obey the laws and to regard his oath with precisely the same carefulness and conscientiousness as an individual member of this House. I made the statement a little while ago that President Hayes was elected by a larger aggregate vote than the present majority of this House. The aggregate vote cast for the democratic members of this House was 1,778,313. The aggregate vote cast for Hayes in 1876 was 4,033,950. Less than one-half as many voters voted for and elected the majority of the House as voted for President Hayes.

It occurred to me to examine the vote cast in 1876 in a few States of the Union and then look at the votes of those States in 1878. I take in the first instance the State of Virginia. She has upon this floor eight democratic Representatives, and yet, what was the vote in that State in 1876 and 1878? Virginia gave for President Hayes 95,558 votes, yet she is represented on this floor by eight democratic members with an aggregate vote of 53,085.

The State of Kentucky, which has ten democratic Representatives, gave for Mr. Hayes 97,156, and yet those ten Representatives have come into this House by an aggregate vote of 86,169.

Take the State of Mississippi, your own State, Mr. Chairman, [Mr. HOOKER in the chair,] which you so ably represent. The State of Mississippi gave for President Hayes 52,605 votes, yet the six democratic Representatives from that State in this House hold their seats here by an aggregate vote of but 37,128.

The State of Arkansas gave for President Hayes 38,669 votes. For the four Representatives from that State who have their seats upon this floor it gave but 31,998 votes.

Take the State of Alabama: she has here upon this floor seven democratic Representatives. In that State President Hayes had an aggregate vote of 50,618, while these six democratic Representatives had an aggregate vote of but 40,295. Florida and other States could be included in this list.

Now, take these five States, with an aggregate representation of thirty-four members, which number being taken from the majority of this House would leave it largely in the minority, and those thirty-four democratic Representatives on this floor received an aggregate vote of 298,758, while in those very congressional districts President Hayes received an aggregate vote of 352,218. Where is the popular will? Shall these thirty-four men stand up here and say that they alone represent the popular will in those States? By no means. The President also represents those States, even if those members were elected by as large a majority as he received.

I find in volume 3 of the debates of the convention which was held in Philadelphia for the adoption of the Federal Constitution a speech made by a Mr. Wilson, in which this position is fully maintained in that convention as it was in others. He said:

I will proceed now to take some notice of a still further restraint upon the Legislature—I mean the qualified negative of the President. I think this will be attended with very important advantages for the security and happiness of the people of the United States. The President, sir, will not be a stranger to our country, to our laws, to our wishes. He will, under this Constitution, be placed in office as the President of the whole Union, and will be chosen in such manner that he may be justly styled the man of the people; being elected by the different parts of the United States, he will consider himself as not particularly interested for any one of them, but will watch over the whole with paternal care and affection. This will be the natural conduct to recommend himself to those who placed him in that high chair, and I consider it as a very important advantage that such a man must have every law presented to him before it can become binding on the United States. He will have before him the fullest information of our situation; he will avail himself not only of records and official communications, foreign and domestic, but he will have also the advice of the executive officers in the different Departments of the General Government.

If in consequence of this information and advice he exercises the authority given to him, the effect will not be lost; he returns his objections, together with the bill, and unless two-thirds of both branches of the Legislature are now found to approve it it does not become a law. But even if his objections do not prevent its passing into a law, they will not be useless; they will be kept, together with the law, and, in the archives of Congress, will be valuable and practical materials to form the minds of posterity for legislation. If it is found that the law operates inconveniently or oppressively, the people may discover in the President's objections the source of that inconvenience or oppression. Further, sir, when objections shall have been made, it is provided, in order to secure the greatest degree of caution and responsibility, that the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered in the journal of each House respectively. Thus much I have thought proper to say with regard to the distribution of the legislative authority and the restraints under which it will be exercised.

This much I have desired to say upon this point. In the few minutes remaining of my time I desire to make some reply to the position which we have heard advocated here, that the House of Representatives has in some way the right to have its will regarded; that it has the right to attach to an appropriation bill anything which it sees fit to style a redress of grievance; that we have the privilege of redressing grievances. Now I deny that the House of Representatives has any power given to it except it exercises that power in a legitimate way, in the regular passage of laws, either repealing vicious laws or in passing remedial laws which shall bring about a redress.

There is nothing in the Constitution that justifies the theory that the House of Representatives can stand out against the President; that it has the right to aggress upon the President, to coerce the President in the slightest degree. The messages of Polk and Pierce, the utterances of Calhoun and of Webster, are against this modern theory

drawn from a comparison between the English House of Commons and the American House of Representatives.

What was the English House of Commons when it made its aggressions upon the Crown and acquired the Magna Charta, the Bill of Rights, and the Petition of Rights? Was it acting under a written constitution which limited its powers? By no means. It was a body of men which had come into existence for the redress of grievances and the acquisition of rights, and it has a glorious place in English history; but it played its part independent of any written constitution. It had the right to do what it did do because there was no written constitution which restricted its acts.

When we come to the American House of Representatives we must find in the Constitution itself, and there alone, all its power. We have in our Constitution all that the English House of Commons secured for liberty; we have there our Magna Charta, our Bill of Rights, our Petition of Rights. Our Constitution is the repository of all that the House of Commons acquired for English liberty, and through the English nation acquired for us. All our fathers had to do when they adopted the Federal Constitution was to take to themselves all that the English House of Commons had acquired. It acquired everything prior to the adoption of our Federal Constitution. The English House of Commons has acquired nothing since we took their acquisitions and put them into the Federal Constitution; adopted them as our principles. Having done that we then marked out each department of the Government and made for us a Constitution, which alone can guide us.

I wish to refer to one or two remarks made by Mr. Webster on that point. He said:

> Our constitutions are not made to limit and restrain pre-existing authority. They are the instruments by which people confer power on their own servants. If I may use a legal phrase, the people are the grantors, not the grantees. They give to the Government and to each branch of it all the power it possesses or can possess; that which is not given they retain. In England before the Revolution, and in the rest of Europe since, if we would know the extent of liberty or popular right we must go to grants, to charters, to allowances, to indulgences. But with us we go to grants and to constitutions to learn the extent and powers of government. No political power is more original than the Constitution. None is possessed which is not there granted, and the grant and the limitations in the grant are in the same instrument.

Now, when we go to English history to find arguments why the American House of Representatives should aggress upon or coerce the President because an English House of Commons made its aggressions upon the Crown, we make a false argument. I will read from Mr. Webster another sentence bearing upon this point:

> The grant of power—
>
> Says Mr. Webster—
>
> the whole source of power, as well as the restrictions and limitations which are imposed on it, is made in and by the Constitution. It has no other origin. And it is this, sir, which distinguishes our system so very widely and materially from the systems of Europe. Our governments are limited governments; limited in their origin, in their very creation; limited, because none but specific powers were ever granted, either to any department of government or to the whole; theirs are limited, whenever limited at all, by reason of restraints imposed at different times on governments originally limited and despotic. Our American questions, therefore, must be discussed, reasoned on, decided, and settled on the appropriate principles of our own constitutions, and not by inapplicable precedents and loose analogies drawn from foreign states.

As I have already said, the House of Commons grew in power and in conceded privileges by its aggressions on the Crown in the interest of liberty. Nothing stood in its way; no constitution controlled it or arrested it. Its great demands upon the Crown were, it is true, in the interest of the people and of liberty. It secured them, and therefore the history of the English House of Commons during that period when it was, by its own contests, securing its present position in the government of England is worthy of great admiration.

Our House of Representatives is regulated by a written Constitution. While it may make rules for its own government, it cannot arrogate to itself a single power which is not specifically set out in the Constitution itself. It cannot go beyond the Constitution, and whenever it does attempt to go beyond the boundaries set for it by the Constitution, then it will enter into that revolutionary course of procedure which will endanger the very Government itself. Our Constitution is our supreme law, our only guide. It was formed for the safety of the people, for their largest liberty. American liberty is only safe when the Constitution is followed, when the checks and balances of power conferred are carefully and religiously observed. The Constitution contains all we have, and tells us precisely what we may do. It is the *suprema lex reipublicæ*.

Let me again read the closing sentence of an abstract already read from one of the speeches of Webster:

> Our American questions, therefore, must be discussed, reasoned on, decided, and settled on the appropriate principles of our own constitutions, and not by inapplicable precedents and loose analogies drawn from foreign states.

Now, gentlemen on the other side tell us that this House may seek a redress of grievances. I insist, sir, that the only redress of grievances that the American House of Representatives can secure must be alone secured by following the regular modes of legislation. We can secure no redress which cannot be obtained by the passage of remedial measures according to the Constitution, or by the repeal of vicious and hurtful legislation, no matter whether it was passed upon an appropriation bill or by other acts. I do not contend that it is revolutionary to place legislation upon an appropriation bill, but it will be revolutionary to attempt to force that legislation by a manifest departure from the specific modes pointed out in the language of the Constitution. Provided the House and Senate do agree in the passage of a bill, which in the judgment of the House and the Senate is in the interest of the people and of the Government itself; yet the President of the United States, under the Constitution, must agree with the House and Senate in the character of the legislation. If he cannot and shall not agree, then it is the duty of the House and Senate to agree in passing such measures as he can conscientiously approve, and in no event will the people sustain Congress in an attempt to stop the wheels of Government because the President, in the exercise of his constitutional prerogative, shall see fit to veto supply bills containing political provisions which, in his judgment, would be hurtful to the public good. The Constitution does not provide for revolutionary legislation. The wise founders of the Government guarded against revolution in the execution of the Government.

As I have already shown in my remarks, that the President is as free to exercise his will, to follow his conclusions as to the wisdom or folly of this or of that measure, bill, order, or resolution submitted to him for his approval, as the House in the aggregate, or as each individual member of the House or the Senate has a right to his opinion.

I further maintain that when Congress refuses to support the Government because the President refuses to give his approval to those supply bills, because they contain obnoxious general legislation, such action is revolutionary; and it is just here that the seeds of national death are sown, when Congress departs from its sworn duty to provide for the Army which it has itself raised. We have to-day an Army; it exists by force and operation of a statute of the United States. It is officered, and that Army is largely protecting the vast frontier portions of the Republic. It is an absolute necessity for the public weal. He is not a patriot who refuses to supply this Army, guarding the outposts of the Republic, who refuses to give the supplies simply because he desires along with these supplies to pass measures in the interest of a party. No man on this floor can deny in the presence of the American people that this legislation now sought is partisan. The dominant party in this House, and now in the Senate, has determined to leave no effort untried, no stone unturned, to prepare the way for a political triumph in the next presidential election. It is always to me an unpleasant duty in this House to make what may be called a political speech. I have done it in but one instance during the eight years I have served here, but I am prepared in this instance here and now to declare that this legislation, in my judgment, has no other inspiration than in the purpose, plan, and determination of the democratic party, by whatsoever means may be used, by whatever processes, to secure if possible a national triumph in the next approaching national election.

It is not easy to say to men that they wish a dishonest ballot, but in the face of the history of the party and in view of all the frauds that have been committed in the South and in the North, the country does not accept the declarations of the democratic party that it desires a repeal of this law that it may enhance purity at the ballot-box. The masses of the American people see through this whole pretended virtue of the party here in power. The people of this country are grandly intelligent, and to-day they comprehend the issue. I have no wish to arouse a single passion in the South or in the North; nor have I in these remarks made a single allusion to the war. With me, the war is over. I do not hold in less political regard that man in the democratic party from the South than I do from the North. The party is a solid party here; it acts as a unit. It is making its first presidential skirmish here in Congress. It commenced the contest when the Senate was republican. It gave us an extra session during the Forty-fifth Congress, and now that the Senate is democratic, the House and the Senate have given us another extra session—two extra sessions, the only political extra sessions that we have ever had since the foundation of the Government, gotten up and determined upon in caucus, in the interest of a forthcoming presidential election.

I cannot fail to believe that the candidate of this party in the last presidential election is to-day the inspiring genius of this present condition of affairs. The last presidential election exceeded and transcended in a thousand degrees, in corruption, in fraud, and in the wicked use of money any other presidential election. It has now determined to strike down the defenses which have been thrown around the ballot-box. It has been determined that no supervisor shall be present to witness, to make note, to make a report of the proceedings at a single poll in the Republic. The polls are to be given up. In the larger cities they are to be turned over to the thugs, to the ballot-box stuffers, to the bad men, to hold and control. Intimidation and the tissue ballot are a part of the machinery with which it is determined to carry the election at all hazards.

I say this not so much because it is a conviction of my own. I am speaking now what is the universally accepted conviction of the American people. Men upon the other side may talk ever so patriotically, they may talk about liberty, they may talk about a pure ballot, they may tell us and the country how much they love the Constitution, nevertheless the people will say to them, "You are seeking power, you love it more than purity, you love it more than the Constitution or liberty itself." It is power that you have determined upon. The greed with which you use it here, the rapidity with which you fill every place put within your reach, shows the terrible thirst, the insatiable greed with which you are reaching forward to take

hold of all the patronage and power of this great Government. The people see it, and while they may not be aroused upon the question of the war, yet the men who stood by the Union in her time of peril will stand by it in the future as in the past, because they love the Union and the liberty which it secures. I do not myself believe that the leading men in the democratic party from the South to-day are any worse than the men in that party from the North. The South has never raised the peer of Samuel J. Tilden. In organization for corruption and fraud he stands pre-eminent and without an equal. I have not yet been made to believe that these measures which have caused this extra session were urged upon us by men from the South. The northern democrat who has thrown himself into this contest is governed by no purer motives than the southern democrat who follows in the wake of his northern leader.

We are in extra session for the second time since this House came into the control of the democratic party. The Forty-fourth Congress organized in December, 1875. Hon. Michael C. Kerr was elected Speaker of that House. He received 173 votes; his republican competitor received 106 votes. That Congress left as a legacy an extra session, made necessary by its failure to pass the Army appropriation bill. That appropriation bill failed because the democratic majority of the House placed upon it a political rider. It arrogated to itself the right to load the Army bill with a political amendment. It did this although the Senate was clearly republican, and although the President was himself elected by the republican party. That extra session convened on the 15th of October, 1877. When the Forty-fifth Congress was organized the present able Speaker of this House was then elected for the first time. He received 149 votes, while his republican competitor received 132 votes. That Congress, learning nothing from the Congress which preceded it, determined to disregard both the Senate and the President, and loaded the Army appropriation bill, and the legislative, executive, and judicial appropriation bill with three important political amendments.

The failure of the Forty-fifth Congress to provide for the Army and the Executive Departments of the Government the necessary supplies has caused this extra session. This Congress, called together by the President's proclamation, was organized on the 18th of March last. The Speaker of the House was elected by a majority of 2. No one can wonder at the gradual decimation of the democratic majority in this House when its history here has been carefully and thoughtfully considered. It came into power after wonderful assurances made to the people. It had during the Forty-fourth Congress well-nigh a two-thirds vote. That majority has dwindled, until the regular democratic candidate for Speaker of this Congress was elected by the small majority of 2. I shall be allowed, Mr. Chairman, to say that this decrease in the democratic vote of this House has been earned, causes have done their work, the effect is the inevitable result of unmistakable causes. The country was early tired of the announcements of economy and its utter failure to secure the legislation which it promised the people when they intrusted that party with power. Let me here say that this extra session of Congress, threatening the business interests of the country, wholly uncalled for, wholly the result of political party plans, will prove to be a very poor investment to the party which has caused it. Since the adoption of the Federal Constitution there have been but eight extra sessions of Congress. Two of these have been called during the present administration. But one extra session was called during the period of the rebellion. In a period of profound peace, the majority of this House has deliberately caused two extra sessions of Congress, and these solely for political reasons.

I have not intended, Mr. Chairman, to make a speech which could in any way arouse sectional feeling, or which should at all allude to the war, but simply discuss the questions which are now before the committee. The country well understands the issue between the parties now in Congress.

We have heard much said about free elections, and yet there has been substantially no evidence presented to this House that for the last eight years, during the existence of these laws, there has not been everywhere a free election, except in the South, where the colored man has been denied his rights. This denial of rights has not been caused by these laws which are sought to be repealed. Much has been said about the presence of the Army, about the intimidation of the voter, about the peril of civil liberty, and yet no evidence has been brought before the committee that these laws which are sought to be repealed have at all interfered with the free exercise of the elective franchise.

It is also, Mr. Chairman, a significant fact that a majority of the members of the other side of this House have been elected from States where there was not a soldier during the election of 1878. President Hayes withdrew the Army from the South. The republicans of this House have declared, through the gentleman from Ohio, their willingness in a separate bill to repeal those sections of the law which authorized the use of troops to keep the peace at the polls; but the amendments that were put upon the Army appropriation bill go beyond a repeal of the laws against which so much has been said, and attempt to deprive every civil officer in every State of the Union of all power to keep the peace at the polls, or to secure aid in the exercise of his duties as a local civil officer. The far-reaching and dangerous legislation attempted by this Army bill amendment was most thoroughly brought out and exposed by gentlemen who have preceded me, and it has passed into the current history of this session that the democratic side of this House refused to strike out so much of that amendment as applied to civil officers. This fact has not escaped the attention of the country, and it has gone very far to create that indignation which is everywhere felt throughout the country. If this party, in addition to this, shall refuse to vote supplies for the Army and the Executive Departments of the Government, it may make early preparation to give up its partial power and yield to the party which can be loyal to the country, both in peace and in war.

Mr. THOMAS TURNER. Mr. Chairman, in order that the committee, the House, and the country may fully and fairly understand the grave issues which now divide us, I ask to have read and printed as an appendix to my remarks so much of the enactments as it is proposed to repeal by the Army and the legislative, executive, and judicial appropriation bills, and the order of the War Department dated 27th October, 1870, and Brigadier-General McDowell's special order No. 229, and Ex-Attorney-General Taft's letter of instruction to United States marshals. These military orders and this letter disclose the construction given to the legislation which it is proposed to repeal, the motives which inspired it, and the use which has been and is intended to be made of it. These documents place before the country the real issues and not the mere partisan statements of them by their advocates opponents.

It will be conceded that these enactments should be repealed if they are unconstitutional or impolitic, liable to gross abuse, dangerous to the liberties of the people, or grossly inconsistent with the genius of American institutions and the traditions of Anglo-Saxon liberty. In order to discuss intelligently the constitutionality of the enactments which purport to authorize the use of the Army to keep the peace at the polls, and which undertake to control elections and stifle the voice of the people through the instrumentality of supervisors and marshals, with power to call the military to their aid, it is well to recur to the fundamental principles of government, and to familiarize the people with them—and especially do our republican friends need to be reminded of them—to inquire into the nature and purposes of our duplex State and Federal system, the objects designed to be accomplished by and the powers confided to each of these governments, and the purposes for which they were so confided.

It is, or should be, the object of all governments to protect the persons of and secure to each of their citizens the proceeds of their own exertions. In a state of nature before governments were established no one was secure in person or property; there was no law to restrain the malevolent passions of men except the law of God, the hope of future rewards, and the fear of future punishments. Experience soon demonstrated that these were insufficient, that the replevy was too long and suggested the establishment of some tribunal with power to prescribe the rule of right, to determine who infracted it, to enforce its judgments, and to protect the persons of its citizens and adjudge to each one the possession and enjoyment of that which he or she had acquired by his or her labor. Civilization is based upon labor and an exchange of its products. Men will not labor unless with the hope of enjoying the proceeds thereof, and cannot unless their persons are protected while so doing. Individuals, then, from motives of necessity and mutual interest established the creatures called governments, and they derive all their powers from the individuals who establish them. And the people delegated to the State governments all powers not inconsistent with the objects and purposes for which they were formed, not inconsistent with the liberty of the individual and the rights of minorities. The governments thus instituted had to be administered through agents and officials to make laws, construe them, decide who had infracted them, to redress wrongs, to enforce rights.

These agents or officials to whom the administration of public affairs was to be confided had to be in some way selected and agreed upon. It could not be hoped or expected that all would concur in selecting the same agents, and the right of selection was properly located in the majority of those who formed the government or became citizens thereof by birth or adoption. This is self-government. No government is one of self-government in which majorities do not rule, subject to restrictions for the protection of individuals and minorities. In the progress of time the people drifted away from these great principles and submitted to the so-called divine right of kings to govern wrong. Our ancestors of the Anglo-Saxon race were the first to make a manly effort to restore government to its primal objects and purposes and to regain self-government. Step by step and inch by inch they fought the assumed power of the kings and nobles until they established *habeas corpus*—the great writ of personal liberty. Until they established that even the King of Great Britain could not, without permission, darken with his shadow the door of the humblest peasant unless armed with a warrant of law. In due time came trial by jury, the establishment of the supremacy of the civil over the military authorities, and the acknowledged right of the House of Commons, elected directly by the people, to control the purse and the appropriations, or, in other words, the right of the people, through their representatives, to control the application of money collected from them as taxes for the maintenance of the government. The right to control appropriations, to vote or not to vote them, implies the right to direct the purposes to which they shall be applied and to vote them on such conditions as the appropriating power shall choose to append.

As far back as 1407 King Henry IV, in an ordinance called "the indemnity of the Lords and Commons," admitted this right upon the part of the House of Commons, and it has never been questioned since. (See May's Law and Usage of Parliament, fifth edition, page 532.) On the 13th April, 1671, the House of Commons resolved unanimously "that in all aids given to the King by the Commons the rate or tax ought not to be altered by the Lords." On the 3d July, 1678, the House of Commons of the British Parliament passed this resolution:

That all aids and supplies, and aids to His Majesty in Parliament are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords. (See pages 120, 122, 123, third volume Hatsell's Precedents of Proceedings in the House of Commons.)

Bringing with them these great rights and liberties, our ancestry emigrated from Great Britain and established thirteen separate colonies or States, holding separate charters from the political authority of the mother country; and when George III threatened their liberties which they had thus inherited they formed a coalition for mutual defense; and at the end of the war of Independence, by the treaty of Paris of the 30th of November, 1782, Great Britain acknowledged the independence of each of the thirteen colonies as separate, sovereign, and independent States, and not as one United States, in these words:

His Britannic Majesty acknowledges the said United States, namely, New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia to be free, sovereign, and independent States, and he treats with them as such, and for himself, his heirs, and successors, relinquishes all claim to the government, proprietary, and territorial rights of the same, and every part thereof. (See Revised Statutes relating to treaties, page 261.)

At the end of the Revolution the thirteen old States were then each sovereign and independent States, and possessed of self-government or the right of majorities to rule and regulate their own social and property rights and internal police.

Their patriot statesmen looked to history and found that all efforts at self-government had proved a success, and the governments were honestly administered for the benefit of the whole people while the States were small and the citizens comparatively few so that the people could overlook their agents and officials and hold them to strict accountability in the exercise of their trusts, and could intelligently displace them if dishonest and continue them if honest and efficient. But when these republics grew in size, and embraced large populations and a wide expanse of territory and the scale of governmental operations swelled to such proportions as to defy investigation and the holding of their agents to accountability, that corruption and maladministration ensued, and the governments were administered not for the people but for the benefit of the officials and a favored few. On the other hand they recognized the fact that the kings and despots of the Old World, supported by large standing armies, felt that the existence of free states exercising the right of self-government rendered their thrones insecure and that they would use all their powers to crush out small infant republics.

Under these circumstances the thirteen old States selected their best men to devise a plan by which they could at once each maintain the right of self-government and could aggregate the physical force of all the States for the purpose of protecting each one in that right, and to this end first was framed the articles of confederation, and afterward the present Constitution of the United States and the present Federal Government. The Federal Government is, then, the creature of the States. They, through their delegates, framed the Constitution, and it was adopted by States. The people first delegated the general powers of government to the States, and out of these powers the States delegated to the Federal Government a few substantive powers and such adjective and resultant powers as were necessary and proper to carry them into effect, hoping that within the narrow boundary of power confided to the Federal Government the people would be able to understand the conduct and administration of their agents, so as to displace them when corrupt and retain them when honest and capable. I fear that the operations of the Federal Government have swelled to such colossal proportions, and that it gathers its revenues from and disburses them to so many sources, and its accounts are so large, that they now defy investigation and its officials have become practically irresponsible to the people or their representatives; and so selfish is human nature that irresponsible power will degenerate into corruption and despotism. If we have reached this point, patriotic efforts should be directed to the perfection of some plan by which the vast machinery and operations of the Federal Government can be simplified and subjected to rigid investigation and accountability.

It must be conceded, then, that the Federal Government is one of special powers, and has no constitutional right to employ the Army to keep the peace at the polls unless there is found in the Constitution a substantive grant of power to that effect or unless the use of the Army to keep the peace at the polls is a necessary and proper means of carrying into effect some granted substantive power. There is in the Constitution no express authority or permission to use the Army to keep the peace at the polls, and such use of the Army is neither necessary nor proper to carry into effect any granted power. None of the opponents of repeal have attempted to point out any such express or implied power. The Constitution authorizes but two purposes for which the Army can be used within the States, and they are in section 4, article 4, which reads as follows:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature or of the executive, (when the Legislature cannot be convened,) against domestic violence.

It is conceded that the Federal authorities may use the Army to protect a State against invasion, but they cannot rightfully use the Army to protect a State against domestic violence actually existing and defying State authority except on the application of the Legislature of the State, or the executive when the Legislature cannot be convened. The position of our opponents may be tersely stated thus: the President and Federal authorities cannot send the Army into a State to suppress domestic violence actually existing except on the application of the Legislature or executive, but can without such call send the Army into a State to be present at an election to prevent an apprehended breach of the peace. To state this proposition is to ridicule it. Again, in a government of special and delegated powers, the expression of a right to use the Army for one or more purposes or under certain circumstances is a denial of the right to use it for any other purposes or under any other circumstances. It will be hardly contended that the power to raise and maintain armies granted to Congress in section 8, article 1 of the Constitution carries with it the right to use them to keep the peace at the polls and control elections. If it does, there is no limitation to the purposes for which the Army may be used, and the administrators of the Federal Government may use it for any purposes they deem fit.

The Constitution on this subject must be construed in the light of the fact that our ancestry had ever deemed the presence of the military at the polls as destructive of liberty, and that in 1735 the British Parliament passed an act prohibiting, under heavy penalties, the presence of troops within two miles of the polls; and when, in 1741, a corrupt administration undertook to place a body of soldiers in the vicinity of the polls to overawe the citizens, the House of Commons passed a resolution "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom," and had the civil offenders who invoked the presence of the military arrested and brought to the bar of the house and reprimanded on their knees by the speaker. With this history and such traditions and these laws in force in the colonies we cannot for a moment indulge the presumption that the patriots who framed our Constitution intended to permit the presence of, or use of, the Army at the polls; that they were less jealous of military domination and of their liberties than the members of the British House of Commons. If any man or party, twenty years ago, before war had aroused the passions and blinded the reason of the people and accustomed them to violations of the Constitution, had proposed to legalize the use of the Army to superintend or control elections, he or it would have been met with a storm of indignation that would have sent him or it into merited retirement and disgrace. He or it would have been universally branded as an enemy to liberty and free government.

The convictions of the people upon the subject of the presence or use of the Army at the polls have been crystallized into law in many if not in most of the States. Upon a hasty examination I find that New York, Massachusetts, New Hampshire, Maine, Wisconsin, New Jersey, Pennsylvania, Virginia, and Delaware have statutes forbidding the use or presence of the Army or militia at the polls, and many of them inhibit the parading of the militia on election day or for five or ten days previous thereto, and declare that no election shall be fixed for a day on which the militia are paraded. (See Revised Statutes, New York, p. 488; of Massachusetts, p. 58. Laws of New Hampshire, p. 110; of Maine, p. 104; of Wisconsin, p. 227; of New Jersey, p. 338. Pennsylvania acts, 1803 and 1839. Delaware code, p. 107–108, and laws of Virginia.) I now come to the consideration of the constitutionality of the supervisors law. As it is conceded that the Federal Government is one of special powers, I may and will ask the opponents of repeal where in the Constitution do you find warrant for the passage of such enactments? The only provisions of the Constitution from which they claim or can claim to derive these extraordinary powers are these:

The United States shall guarantee to every State in this Union a republican form of government.

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The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

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Each House shall be the judge of the elections, returns, and qualifications of its own members.

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The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The Congress shall have power to enforce this article by appropriate legislation.

It is clear that the fifteenth amendment last quoted does not arm the Federal Government with power to make voters or confer suffrage, it can only see to it that no distinction is made by the States on

account of race, color, or previous condition of servitude. The second section of the Constitution reads thus:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This section affirms that the States retain the right to confer suffrage, but all those who by State law are armed with a vote in selection of members of the popular branch of the State Legislatures are recognized as having the right to vote for members of Congress. The Federal Government, then, has no voters; they are all State voters. The Supreme Court of the United States, constituted largely of republican judges, have given this construction to the Constitution, including the fifteenth amendment, and said the Federal Government has no voters of its own creation and can only see that the States in conferring suffrage make no distinction on account of race, color, &c. (See Minor *vs.* Hepperstett, 21 Wallace, Supreme Court Reports, 178; United States *vs.* Cruikshank, 2 Otto, 542; United States *vs.* Reese, 2 Otto, 214.)

But it is ingeniously contended by our republican friends that although the United States cannot and has not conferred the right of suffrage on any one, yet having adopted as her voters those on whom the State has conferred suffrage, it has a right to see that its adopted suffragists exercise their rights, and to that end send her armies or marshals into the States to superintend the elections. This argument is as transparent as it is specious. The authority that confers a right must determine upon whom it is conferred and when it is conferred, and the decisions of the State authorities must be final. They must of necessity decide upon whom it conferred the right to vote for members of the most numerous branches of the State Legislature; and under the second section of the Constitution of the United States no one can vote for members of Congress except those that by State law can vote for members of the popular branch of the State Legislature, so that no one can vote for Congress unless by State law and State decisions he can vote for members of the most numerous branch of the State Legislature. If Federal officials can decide when a State has conferred suffrage so as to qualify one to vote for Congress who by the decisions of the State authority was not entitled to vote for the most numerous branch of the State Legislature, and which latter right is the only one that authorizes him to vote for members of Congress, then they can confer suffrage and create voters. The provision that the United States shall guarantee to every State a republican form of government confers no power to overlook or control elections. No government is republican where it is subject to the control and domination of another power over its internal police.

To guarantee republican government presupposes its existence, and it is evident from the latter part of the sentence of the Constitution that the words guarantee republican form of government meant to protect the State in the enjoyment of self-government against external physical force. The very next sentence is "and shall protect each of them [the States] against invasion;" that is, from external force. It is evident that the guarantee and protection meant is from force outside of the State, for in the latter part of the clause provision is made as to how and when the Federal Government may protect a State from domestic violence or internal force. This brings us to that clause in the Constitution which reads thus:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It will be observed that the first part of this is mandatory upon the Legislatures, and that the latter is only permissive and allows Congress to make or alter such regulations. From this it might well be insisted that it was intended that Congress should exercise this power only when the States failed or refused to obey this mandate, but for the purposes of this argument it is not necessary to do so. The power to prescribe the time, place, and manner of holding elections does not carry with it the right to conduct the election or to determine who is entitled to vote, as manner relates to form and not to substance. To prescribe or write down the time, place, and manner of holding elections is one thing; to conduct and superintend and decide who shall vote at an election is another. To conduct and superintend elections is to determine who shall vote at them, and the authority conferring the right must do this. To regulate the time, place, and manner of holding elections is not to hold them or determine who shall vote at them, but to prescribe how those entitled to vote at them shall exercise that right.

It is evident that it was not designed that the Federal Government should conduct the elections for members of Congress, as the States reserved the exclusive right to determine who should vote for members of the most numerous branch of their Legislatures, and none but those so entitled can vote for members of Congress. The danger of a misconstruction of this clause and the fear that the Federal Government might assert the power under it of conducting and supervising the congressional elections evoked bitter opposition to the Constitution. It was perhaps assaulted with more bitterness by those opposed to the adoption of the Constitution than any one clause thereof. The conventions of the States of Massachusetts, New Hampshire, New York, Rhode Island, Virginia, and South Carolina accompanied their ratifications of the Federal Constitution with a solemn protest against the right of Congress to use this power except upon the failure or refusal of a State, and against the right of the Federal Government to in any manner interfere with elections, and the State of North Carolina refused to ratify the Constitution unless with an amendment declaring "that Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same."

The protests of the other States were to the same purport, and for eighty years after the adoption of the Constitution these views of a majority of the States that framed it and adopted it were conformed to—for eighty years, and until the republican party found that by corruption and extravagance they had lost the confidence of the people and determined to hold on to power in despite of the wishes and convictions of a majority and to control the elections in their own interest, through supervisors and marshals, with power to call the military to the polls to control and overawe the people. But it is contended that as Congress has jurisdiction of matters affecting the interest of the people of all the States, the Federal Government should have a right to conduct the elections for members thereof and see that they are fairly conducted whether the power is conferred on it by the Constitution or not. This is the tyrant's plea of necessity. The fifth section of article 1 of the Constitution confers upon each House of Congress the exclusive right to "judge of the elections, returns, and qualifications of its own members." Under this clause there might be a pretext, a mere pretext, for the House of Representatives alone to appoint agents to conduct the election of its members and to report to them, so that it could intelligently decide any contested election that might arise; and certainly if we are to imply any power in any part of the Federal Government to conduct elections, it must be implied in behalf of the tribunal that is made the final judge of them; and if the argument of our republican friends proves anything, it proves that the House of Representatives alone has power to conduct and superintend the election of its members, and the Senate alone the power to conduct and superintend the election of its members. The President and Senate have no voice in determining who is elected to the House of Representatives, and there is no reason why they should have any power to say how these elections shall be conducted.

I doubt not that if our republican friends were in a majority in the House of Representatives and the democrats had the Senate and the Executive, they would assume and attempt to exercise such power, for it seems to me that they assume the constitutional power to do and attempt to do everything necessary to their party success; but if the democratic House was to assume to do this you would hear from our republican friends a just denunciation that we intended to control the elections in the interest of the democratic party, and they would edify us with an ebullition of sound State-rights and strict-construction doctrine—a doctrine they inculcate when it suits their purposes and denounce when it does not.

Our republican friends contend for the right not of the House—that is the judge of the elections of its members—but of the Federal Government to send officials to the elections to report whether they are fairly conducted. If a court were to send its commissioner to witness a transaction that might become the subject of litigation therein, it would invite, deserve, and receive the contempt of Christendom.

In the last analysis the real argument of our republican friends is that a member of Congress is an agent or officer of the Federal Government, and that therefore the Federal authorities should overlook and conduct the election of members of Congress, although no such power is conferred by the Constitution.

Mr. Chairman, it is not necessary for the purposes of this argument, but if it was, it might be plausibly, if not soundly, contended that a member of Congress is not an officer of the Federal Government. It is true he discharges a Federal function and is paid for his services out of the Federal revenues, but he is selected by the people of the States, and is the officer or agent of those who elect or appoint him, and not of those who pay him or are affected by his action. The Constitution itself denominates members of Congress as representatives of the States. The second section, article 1, reads thus:

Representatives and direct taxes shall be apportioned among the several States * * * according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians *not* taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, *but each State shall have at least one Representative;* and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

This section of the Constitution is changed by the fourteenth amendment. It reads thus:

Representatives shall be *apportioned among the several States* according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

None but citizens of a State are eligible to represent it in Con-

gress. If a member of Congress is an officer of the Federal Government, all citizens of that Government should be eligible to the position if they reside in the United States. The Twenty-eighth Congress affirmed, by a vote of 126 to 57, that a member of Congress was the officer of the State that elected him, and among those voting to affirm this doctrine are such distinguished lights of the republican party as HANNIBAL HAMLIN, John P. Hale, and Andrew Johnson.

From the formation of the Government down to 1842 many of the States elected their members of Congress by general ticket, the electors of whole States voting in the selection of each of them. Congress, by act of the 25th of June, 1842, required the States to divide themselves into as many equal congressional districts as they were entitled to members, and to elect by districts. The Legislatures of New Hampshire, Georgia, Mississippi, and Missouri declined to district their States and elected by general ticket, and the seats of their members were contested, and on the 14th of February, 1844, the House of Representatives by the decisive vote named admitted them to their seats. While I claim that a State can elect her members of Congress by general ticket if she chooses, I would as a member of a State Legislature vote to elect by districts, so that each member could advise himself of the local needs of his people over which the Federal Government has jurisdiction. It has been decided by the Senate of the United States, sitting as a high court of impeachment, that a member of that body is not a Federal but is a State officer, and that soon after the adoption of the Constitution, while its framers were alive and while some of them were members of that body and many of them were in public life.

In 1797 William Blount, a Senator from the State of Tennessee, was guilty of corruption in the discharge of his duties, and articles of impeachment were preferred against him by the House of Representatives on the 7th of July, 1797, and he was tried on them by the Senate, and, although proven guilty, was on the 11th of February, 1798, acquitted by a vote of 14 to 11, on the ground that he was not a Federal officer, and that, therefore, the Senate had no power to try him. (See House of Representatives and Senate Journals of the Fifth Congress.)

I only moot these questions now, as their maintenance is not necessary to establish the unconstitutionality of the supervisor enactments. It is, however, true that the elections for members of Congress are not Federal, but State elections of a State officer to discharge a Federal function; and there is no pretext that the Federal authorities should conduct and oversee these elections. Then all pretext for interference in or overlooking congressional elections falls to the ground.

I might even go further, and assert that no popular Federal elections are held or known to the Constitution. The President is not elected by the people, but by electors appointed by the States, and even the infamous electoral commission had the grace and honesty to admit that the electors were State officers, and that elections at which they were selected were State elections. The truth is, Mr. Chairman, the Federal Government is not one of self-government—majorities do not control it. In the Senate a bare majority of the voters of the twenty States of New Hampshire, Rhode Island, Vermont, California, Delaware, Florida, Kansas, Minnesota, Nebraska, Nevada, Oregon, West Virginia, Arkansas, Maine, Connecticut, Louisiana, Maryland, South Carolina, Colorado, and Mississippi, with a population according to the last census of only 8,050,124, can pass or defeat a law against the will of the other States with a population of 30,155,474, so that it is possible for the voters representing only 4,026,000 people to defeat the will of 34,179,598 people in the event that the people of the other eighteen States agreed unanimously with the large minority in those twenty States. The President through the veto power, sustained by the votes of the Senators of thirteen of the smallest States, representing a bare majority of the 3,262,387 of people in those States, can defeat the will of the people of the remaining States, with a population of 34,943,211, and of a large minority in the thirteen States.

In the election of President the States of New Hampshire, Connecticut, Rhode Island, Vermont, Colorado, Arkansas, California, Delaware, Florida, Kansas, Louisiana, Maine, Maryland, Minnesota, Mississippi, Nebraska, Nevada, Oregon, South Carolina, Texas, West Virginia, New Jersey, Wisconsin, North Carolina, Alabama, Georgia, Iowa, and Kentucky, with a population of 16,596,962, can elect a President, while the remaining States have a population of 21,608,636; so we see that a bare majority of say 8,300,000 in the States named can elect a President against the unanimous will of all the other States and a minority of 8,296,962 in those States, or against the will of 29,905,598. Colorado with one ninety-third and Nevada with one seventy-third of the population of New York have each equal weight with New York in the Senate. It has happened prior to 1876 that a minorty have elected a President. In 1876 even, as the vote was fraudulently counted, Mr. Tilden had a majority of 250,935 votes over the present occupant of the White House. So far as this election was concerned it appears to have been a game of eight up and the republicans and democrats were seven and seven, and the republicans had the deal and turned up a knave (our people call it a jack) from the bottom of the pack and claimed to have won the game. But our republican friends are not willing to risk the next Presidency upon their skill in handling the pack, and propose to elect the next President with the Army and supervisors and marshals, and not to allow the people to have any hand in it unless they agree to vote for their candidate. If our republican friends are in a majority, they can without the Army protect themselves against a minority, and if in a minority they ought not to control.

It is because the Federal Government is not one of self-government in which majorities control, and is so far removed from the people that they cannot fully investigate and understand its operations and the conduct of its administration, that I advocate State rights and a strict construction of the Constitution of the United States. I would not by too liberal construction enlarge the powers of that Government which is far from the people and in which majorities do not rule, but would fairly construe it so as to retain the great body of governmental powers in the States where majorities govern and in which the people can subject the conduct of their officials to a stricter surveillance. In the main our General Government is federal in its character though national in some of its aspects, insomuch as in a few instances it acts directly upon the citizen and in its foreign relations.

But I do not and never did believe in that State rights which taught that the Union was a rope of sand, and the doctrine of secession and nullification. I was, am yet, and have ever been, a Union man. I never held to the doctrine that we owe a superior allegiance to the States and an inferior one to the Federal Government, or the doctrine that we owe a superior allegiance to the Federal Government and an inferior one to the States. The true doctrine is that each is supreme in the sphere of power confided to one by the people and to the other by the States, and that there can be no conflict of allegiance while each moves in the orbit of its constitutional limits. The true doctrine is that there is danger that poor, weak, corruptible officials will prostitute governments to their own purposes and not administer them for the benefit of the people; and that it is safest to have the great body of governmental power exercised on a small scale and near home, so that the people can overlook and check this tendency. Every farmer well understands that if he runs a comparatively small farm that is situated near him through an agent, and can overlook and see that he manages for his employer's interest and not for his own, he may make it a success and make money; but he also knows that if he has a large farm establishment (so large he cannot overlook its details) run by an agent a thousand miles from him, the agent will grow rich and he grow poor. This, if not the principle, is a fit illustration of the true principle of State rights.

Mr. Chairman, it seems to me so plain that the enactments we propose to repeal, if not unconstitutional are impolitic, destructive of liberty and at war with the genius of our institutions, that to demonstrate it is "to gild gold and paint the lily." If the people are entitled to select their officers they should be allowed to do so freely, unawed by the presence of armed power. But we are told that the military are to be present to prevent a breach of the peace if one should occur. This ignores the existence of the civil power and assumes that they will be unable to keep the peace. If this is true, then the military should be present at all times and places, and there is as much need for them on other public and exciting occasions as on election-days; and if the people acquiesce in the use of military at the elections, it will next be asserted that there is equal use for them at public discussions and other occasions, and every vestige of civil government will by degrees disappear.

The presence of the military at the polls is inconsistent with free elections, but if we are to have them let them be under the control of officers of the regular Army, not of irresponsible deputy marshals. Accustomed as the Army officers are to doing everything by force, they are also accustomed to command, and would not be so apt to grossly misuse their power as irresponsible deputy marshals, who, swelling with the importance of directing military force and assuming that they know their interests better than the people, and that they are doing them a favor, would brook no difference of opinion and allow no votes in opposition to their crude opinions, interests, or prejudice.

But we should dispense with these supervisors and deputy marshals, because they are a costly luxury, and have each year cost the overburdened tax-payers more than $200,000 a year. The law allows as many deputy marshals as may be deemed necessary at $5 per day for ten days, and this is actually made use of as a means of buying votes for the republican party, and thus the Treasury of the United States is made to furnish by indirection the money to buy votes for the republicans, and the people are taxed to raise this money, to pay these deputies or purchased voters and controllers of elections.

The truth is, Mr. Chairman, that while the people have been blinded by the passions incident to civil war, the leaders of the republican party have become so rich from the spoils of office that they are afraid to trust a Government of the people, and are clamoring and voting for a large standing army with which to keep the people down and with which to control the elections by force and prevent the voice of the people from being heard or heeded, and in order to conceal their real motives, they claim to do this in the interest of free and honest elections—and under pretense of devotion to the Union, by constant inflammatory harangues, they try to keep alive the passions and prejudices of the war so that in their blindness the people will not penetrate their real motives. Sir, no man is a practical Union man who tries to keep alive the passions and prejudices of the war and to excite sectional jealousy, distrust, and discord; who advocates inequality in the rights of sections and States. We cannot live together unless at peace, and we cannot have peace and co-oper-

ation if we are constantly exciting prejudices against each other, and our Anglo-Saxon traditions and blood will not allow us to live together except on terms of equality. It would be to greatly underrate the intellect of republican leaders to assume that they did not understand the effect and tendency of their constant effort to inflame and keep alive the passions and enmities of the war, and we might without being uncharitable come to the conclusion that, as they alleged of the southern leaders when Lincoln was elected, they prefer disunion to the relinquishment of power.

They complain that the South is a unit against them. It is their own fault that this is so. If when the war was over they had shown that they made it only to maintain and restore the Union by saying to the southern people, "You have laid down your arms and come back into the Union; we have spent our blood and treasure for four years to keep you in the Union and will not now keep you out," and had taken them by the hand and trusted them and done what was in their power to restore their prosperity and build up the waste places where had rolled the fiery tide of war—if they had done this it is my humble opinion that a majority of the South would have been republican to-day. But in their mad love of power and place and spoils they tried to place the South in a position that it could not vote against them and put them under military government, and sent swarms of carpet-bag adventurers, who were elected by the Army, to preside over them and misrepresent them in Congress, and who robbed not only the white people they were sent to oppress, but the negroes whom they pretended to protect and that about election time they have such a gushing affection for; and the robbed and deceived and betrayed negroes and the oppressed white people have both turned against the party that sent these vultures to prey upon their substance.

The controlling element of the South is Anglo-Saxon, and they have enjoyed and love liberty; and so long as the republican party is in power and they are menaced with military domination they will be a unit against that party and will subordinate all minor questions and policies. Displace the republican party from power and remove this menace, and the South will divide on questions of policy and become comparatively non-partisan; and I do not hesitate to say that I think this would be one of the best results that would follow that welcome event. It is time that all of us should be less of partisans and more of patriots. It is time that we should cease to gratify the prejudices or approve the opinions of the past, and unite in an earnest effort to restore the prosperity and liberties of the present and take council how to secure them in the future.

Let us bury all that is unpleasant in the past and remember the noble acts, the high courage and splendid achievements of both parties to our late unhappy struggle—they were Americans all—and unite in an effort to build up every section of the country, in an effort to rehabilitate the wasted fields of the South, and make her once more the best customer for the grain, pork, beef, and breadstuffs of the Northwest, the manufactures of the East, and the live-stock of Kentucky and the Middle States. Every consideration of humanity, patriotism, interest, and religion demands this of us; and the love of office and power and the interest of parties must yield to these demands. The love and desire for the perpetuity of the Union demand it of us. Stagnant trade, paralyzed industries, and starving and unemployed labor demand it of us.

Mr. Chairman, I wish that every patriotic editor in the country would place at the head of the first column of every issue in mammoth type these words: "He who strives to keep alive the prejudices and passions of the war and inflame the sections against each other, or advocates the inequality of States or sections, is a disunionist." This done for a few months, and the people would accept the plain truth. It is time that all of us should sacrifice partisan prejudice and the desire for power and place on the altar of patriotism and unite together in an earnest effort to restore the prosperity of the country and to revitalize its paralyzed energies. But our republican friends will not allow us. In this debate, as in every other, our arguments are not answered, our statements of facts are not questioned, and we are met with no reply but some appeal to passion and sectional prejudice, some rehearsal of a real or alleged outrage committed. The democrats and southern men never introduce these things; but no matter what proposition we make to relieve starving labor, to relieve business, to restore prosperity, it is met with these appeals, and our propositions and arguments receive no other answer.

The South accepted the result of the war, and has accepted in good faith the constitutional amendments, and desires to and will aid in their enforcement and not question their validity, and has done everything required of them; and I do not believe there is any considerable number of men in the South who would restore slavery if they had the power. Her people and her Representatives are honorable, and they profess in good faith to have returned to their allegiance and to be for the maintenance of the Union; and I for one believe that if a foreign war should occur they would rally around the old flag with alacrity and defend it with valor. Let us trust them. The republicans of this House as men do trust them. They trust their wives and daughters with them in society. They pair with them, and, trusting their honor, go home to their families and on business with a perfect confidence that they will not vote in their absence on any question about which they differ, and thus trust them with, or rather about, the interest of their constituents, and in private conversation speak of them as men of honor and rely on them and their statements; and yet in their speeches they uncandidly for political effect try to make their constituents believe they are a set of graceless scamps that cannot and ought not to be trusted and whose professions should not be accepted and relied on; and when asked why they make such speeches, they acknowledge they do so for political effect. In private conversation most of them condemn the constant effort to stimulate the prejudices of the war and of the sections, and admit that this course is unfriendly to the maintenance of the Union and say it is a party necessity. But only one of them has risen to that lofty plane of patriotism which impelled him to denounce this practice of his party leaders in a public speech.

Mr. Chairman, when the existence of the Union was in peril the administrators of the Federal Government, under the pretext that the Constitution of the United States was an elastic instrument that permitted the exercise of powers in war that it did not in peace, and assuming that the public safety was the supreme law of the land, arrogated to themselves extraordinary and dangerous powers with the express understanding that they were to be surrendered when the exigency was over, and with this understanding the people acquiesced. But when the war was over they did not surrender these extraordinary powers, but used them to perpetuate party ascendency, and as a pretext for their continued use contended that the war was not over, and have kept up that pretext for fourteen years; but the people have found that the war is over, and have determined that you shall surrender the powers you have so grossly and corruptly misused, and you had better make a virtue of necessity and surrender them gracefully and make haste to evade the verdict of unmitigated condemnation which awaits in the near future all who array themselves against a government of the will of the people and in favor of a military government.

You need not fear the fate of the overgrown fortunes which you and your friends have accumulated by fraud, corruption, and class legislation. A generous people if you will give back their liberties and let us repeal your odious class legislation will permit you to retain your ill-gotten wealth, and will trust to the influences of time, death, family division, and to the dissoluteness of your children nursed in idleness, wealth, and luxury, to redistribute the property back to the many from whom it has been taken unjustly under the form of law.

The commercial ruin, poverty, bankruptcy, and distress you have by misrule brought on the country has aroused them and set them to thinking and investigating, and they have found out that you have betrayed and deceived them, and they are in terrible earnest, and will never cease their efforts until they sweep from the statute-book every vestige of class legislation you have placed there, and establish civil supremacy, intelligent and impartial juries, and a free ballot.

APPENDIX.

SEC. 820. The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: Without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, *or to keep the peace at the polls.*

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signatures to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the super-

visors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election, to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the Clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the by-standers or *posse comitatus* of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit-court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed.

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit-court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section 2020, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. And there shall be allowed and paid to each supervisor of election, and each special deputy marshal who is appointed and performs his duty under the preceding provisions, compensation at the rate of $5 per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed, in any case, to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants. And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

Letter of Attorney-General Taft.

DEPARTMENT OF JUSTICE,
Washington, September 4, 1876.

SIR: The laws of the United States having made it my duty to exercise general direction over marshals in the manner of discharging their offices, I have prepared for their use this circular-letter of instructions as to the coming election, intending the same also as a reply once for all to numerous applications in like connection from private citizens in various States.

In the present condition of legislation, the United States occupy a position toward voters and voting which varies according as the election is for State and other local officers only, or for members of Congress and presidential electors.

In elections at which members of the House of Representatives are chosen, which by law include also elections at which the electors for President and Vice-President are appointed, the United States secure voters against whatever in general hinders or prevents them from a free exercise of the elective franchise, extending that care alike to the registration lists, the act of voting, and the personal freedom and security of the voter at all times as well against violence on account of any vote that he may intend to give as against conspiracy because of any that he may already have given.

The peace of the United States, therefore, which you are to preserve and whose violation you are to suppress, precedes as well as follows such elections, and protects (among others) the rights specified in the last paragraph, so that any person who by force violates those rights breaks that peace and renders it your duty to arrest him, and to suppress any riots incident or that threaten the integrity of the registration or election, to the end that the will of the people in such election may be ascertained and take effect, and that offenders may be brought before the courts for punishment.

Notorious events in several States, which recently and in an unusual manner have been publicly reprobated, render it a grave duty of all marshals who have cause to apprehend a violation of the peace of the United States connected as above with the elections to be held upon the Tuesday after the first Monday in November next, to be prepared to preserve and to restore such peace.

As the chief executive officer of the United States in your district, you will be held responsible for all breaches of the peace of the United States which diligence on your part might have prevented, and for the arrest and securing of all persons who violate that peace in any of the points above enumerated.

Diligence in these matters requires, of course, that you be and continue present, in person or by deputy, at all places of registration or election at which you have reason to suspect that the peace is threatened; and that whenever an embodiment of the *posse comitatus* is required to enforce the law, such embodiment be effected.

You will observe that the "special" deputies mentioned in section 2021 of the Revised Statutes have peculiar duties assigned to them, duties which otherwise do not belong to deputy marshals. Such "special" deputies can be appointed only in cities of twenty thousand inhabitants or upward.

But the duties assigned to marshals and their deputies by section 2022, or other like statute, belong to all duly appointed deputies, whether they be general or be "special" within the meaning of that and the preceding section. Deputies to discharge this latter class of duties may be appointed to any number whatever, according to the discretion of the marshal, in all States in which sheriffs have a similar power. Section 2030 has no practical bearing upon this point in States where no limit is imposed upon the appointment of deputies by sheriffs, because in such States the laws of the United States "prior to the 10th of June, 1872," left marshals also unlimited as to the number of their deputies.

In discharging the duties above mentioned, you will doubtless receive the countenance and support of all the good citizens of the United States in your respective districts. It is not necessary to say that it is upon such countenance and support that the United States mainly rely in their endeavor to enforce the right to vote which they have given or have secured. The present instructions are intended only to counteract that partial malice, wrongheadedness, or inconsideration which sometimes triumphs at critical moments over the conservative and, in general, prevailing forces of society, and to which the present and passing condition of the country gives more than ordinary strength, and, therefore, requires the Government particularly to observe and provide against.

In this connection I advise that you and each of your deputies, general and "special," have a right to summon to your assistance, in preventing and quelling disorder, "every person in the district above fifteen years of age, whatever may be their occupation, whether civilian or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the posse comitatus." I prefer to quote the above statement of the law upon this point from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years. (6 Opinions, 466, May 27, 1854.)

I need hardly add that there can be no State law or State official in this country who has jurisdiction to oppose you in discharging your official duties under the

laws of the United States. If such interference shall take place—a thing not anticipated—you are to disregard it entirely. The laws of the United States are supreme, and so, consequently, is the action of officials of the United States in enforcing them. There is, as virtually you have already been told, no officer of a State whom you may not by summons embody into your own *posse*; and any State *posse* already embodied by a sheriff will, with such sheriff, be obliged upon your summons to become part of a United States *posse*, and obey you or your deputy acting *virtute officii*.

The responsibility which devolves upon an officer clothed with such powers, and required to guard the highest rights of citizens, corresponds in degree with those powers and rights, and exacts of such officer consideration, intelligence, and courage.

It is proper to advise you that in preparing this circular I have considered recent important judgments given by the Supreme Court of the United States upon the acts of Congress which regulate this general topic.

I have founded the above instructions upon those acts as affected by such judgments, and I need in this place add no more than that these judgments do not concern elections for Federal officers.

You will find appended, in full or by reference, such statutory provisions as it seems important that you and your deputies shall in this connection read and consider.

In matters of doubt you are of course entitled to the advice of the United States attorneys for your district.

These instructions have been submitted to the President, and have his approval.

Very respectfully, your obedient servant,

——— ———,
Attorney-General.

To ——— ———, Esq.,
United States marshal for the district of ———.

[Special Order, No. 229.]

HEADQUARTERS DEPARTMENT OF THE EAST,
New York City, November 5, 1870.

1. The available officers and two hundred non-commissioned officers and privates of the engineer troops at Willett's Point, New York Harbor will come to the head quarters building in this city on next Monday evening, November 7, so as to arrive by ten o'clock p. m., prepared for armed service, and to remain at least until Wednesday morning. They will come on a steamboat which the Quartermaster's Department will send for them and will be landed at the foot of Spring street, (pier No. 43, North River,) and march thence and take the station which may be shown them by the district quartermaster. They will bring a day's cooked rations. Facilities will be afforded in the building for making hot coffee.

2. All the available officers and men of the Eighth Infantry will be brought to the city on Monday, the 7th instant, to arrive about ten p. m. They will come prepared for armed service, with their overcoats and blankets, to remain at least until Wednesday morning, the 9th instant. The colonel, with five companies, will take post in building No. 161 Avenue B, near the southeast corner of Tompkins Square, and the lieutenant-colonel, with five companies, will take post in buildings Nos. 322, 324, and 326 East Forty-fifth street, between First and Second avenues.

3. The available officers and men of the companies of the First Artillery at Forts Hamilton, Wadsworth, and Ward, under Colonel Vogdes or the senior officer, will come to the city on Monday evening, the 7th instant, to arrive about 10 p. m., prepared for armed service, and to remain at least until Wednesday morning. They will take post in building No. 294 Broadway, near the corner of Reade street, and will land at the wharf most convenient for their reaching that point. They will bring with them a day's cooked rations and their camp kettles for making coffee. The district quartermaster will furnish drays to carry their effects from the steamboat.

4. The troops above indicated and the Fifth Artillery from Fort Trumbull and Fort Adams are to be brought here to aid the United States civil officers in the execution of their duty in enforcing the United States laws, and it cannot be too strongly impressed on them that the duty they have to perform is one of exceeding delicacy and of the highest importance, and that it may depend largely on their fidelity and good conduct that peace is maintained. They will be held in readiness for service at literally a moment's notice, and from the time of their arrival not a man will be allowed to leave the building on any account or for any purpose whatever unless under a commissioned officer.

5. Commanders of the stations above named will immediately on their arrival send a report of the fact to department headquarters.

By command of Brigadier-General McDowell.

ROB'T C. PERRY,
Acting Assistant Adjutant-General.

WAR DEPARTMENT,
Washington City, October 27, 1870.

SIR: In view of the apprehension that there may be possible opposition made to the United States laws in connection with the coming election in the city of New York, November 8, 1870, the President directs that you instruct Brigadier-General McDowell, commanding the Department of the East, to hold the troops in that vicinity in readiness for service, during a week if necessary, to protect and assist the civil officers of the United States in their duty of enforcing the laws. The engineer troops and all others in the harbor of New York and vicinity will, for the occasion, be at his command. You will instruct General McDowell to confer fully beforehand with the United States marshal and the United States district attorney, to concert with them proper measures, and to promptly respond to any call made upon him for troops by the marshal during the week of the election. The President thinks that the use of the United States troops for the purpose indicated will never be required, but the law must be enforced, and he therefore expects General McDowell and the officers and troops under his command, while using the utmost discretion, to take care that the purpose of the Government to enforce the law is fully carried out. But in the performance of this duty they are only effectually to execute the measures indicated to them by the authorized civil officers of the United States.

I am, sir, very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.
CHAUNCEY McKEEVER,
Assistant Adjutant-General.

To General W. T. SHERMAN,
United States Army, Washington, D. C.

Mr. SPRINGER. It is impossible for me to discuss this question as I should like in the brief time allowed to me, and I shall postpone doing so till another day. I yield, therefore, to the gentleman from Indiana to finish his speech.

Mr. DE LA MATYR then concluded the speech which appears in full on page 816.

Mr. HARRIS, of Massachusetts. Mr. Chairman, much has been said during this debate against reviving the memories of the past and tearing open the wounds of war. Almost every speaker upon both sides has professed his unwillingness needlessly to refer to the sad and bloody scenes which attended the late civil war and which marked the period of reconstruction. It has been declared to be alike unstatesmanlike and unpatriotic to fan into flames again the expiring embers of sectional hatred. But almost every speaker has in a greater or less degree yielded to the temptation against which he has warned us. While I would gladly refrain from any reference to the past which can give offense, I must confess in the outstart that the subject presented for consideration is of such a nature as to make it impossible to wholly refrain from following the example of those who have preceded me. I shall, however, indulge in no unkind personal reference to any gentleman who has spoken or who may be a member of this House.

WHO IS RESPONSIBLE FOR BRINGING FORWARD THESE DANGEROUS SECTIONAL ISSUES?

Mr. Chairman, if any man or any party is responsible for awakening bitter memories at this time, that man is not a republican, nor is that party the republican party. We have not brought here or forced the political issues which now agitate Congress and the country. They are of necessity exciting issues. They connect themselves with the unhappy past; they come from and are a part of it. Gentlemen of the other side have brought these issues here, and have cast the defiant "gage of battle" at our feet and have bid us "lift it when we will." Their eloquent champion and leader threw down the challenge amid their tumultuous applause, and for his chivalrous action he received their warm congratulations. With their approval and as their appointed herald he warned all democrats of the dangers of straggling from his standard and leadership, and admonished all his democratic countrymen everywhere that "he who dallies is a dastard, and he who doubts is damned."

He notifies us that they "do not intend to stop until" they "have stricken the last vestiges of your" [republican] "war measures from the statute-book, which like these, were born of the passions incident to civil strife, and looked to the abridgment of the liberties of the citizen."

How much this "gage of battle" may portend we are not permitted to know. The extent to which the majority may intend to go is only known to themselves, if indeed it is known at all. The threat is broad enough to embrace all the great measures enacted from the time when Abraham Lincoln seized and upheld the tottering fabric of American liberty to this hour. Who can tell which of these measures may be regarded as born of the passions incident to civil strife, or which they shall think "looked to the abridgment of the liberties of the citizen," or whether all may not come under that condemnation.

This "gage of battle" may therefore portend the repeal of all the great enactments which bear the approval of Mr. Lincoln and his successors.

Knowing only that the threat portends danger to the country, its institutions, and laws, the gage has been "lifted" and accepted as promptly and as gallantly as it was delivered.

I give gentlemen on the other side credit for courage equal to their manifesto. I have no doubt some at least can contemplate the possible disruption of this Government and the destruction of this Union with undisturbed equanimity and with a fortitude akin to heroism. But I trust the history of the past, the recent past, has not all been forgotten, and that gentlemen will recall to memory the lesson which it cost so much to teach, that all the virtue and all the fortitude and all the valor and all the heroism are not to be found in one section or with one race. For myself and for my constituents and, I think, for all the loyal masses of this country, I may say to the gentlemen from the South we hoped for peace, for reconciliation, and for mutual good-will. We welcomed back the wayward sons of the Republic with joy. You are here clothed with all the power and endowed with all the rights possessed by those who offered their lives to save the nation's life. No penalty has been demanded and no privilege denied. I think I may with propriety and with no arrogance remind these our friends (if they will but have it so) that they are here not alone by their own volition, but by the generous permission and declared will of the loyal men of this country, before whose valor the confederacy fell and into whose hands they surrendered the weapons of rebellion which they had so long and so bravely wielded.

Without intending offense to any, I must be permitted to say that it seems to me that this challenge and this defiance come from the wrong source, considering all the past—the offense on the one hand and the generous forgiveness on the other. It would have come more appropriately, I think, from some other quarter. Out of a decent respect for modesty some man should have been found to hurl this challenge who was not loaded down with obligations for forbearance, generous pardon, and restoration to forfeited rights and privileges. It is not for me to complain of this, however. It is best that the will and purpose of the democratic party should find utterance on this floor through the lips of that man who most truly represents it. The body of the democratic party, if we look for majorities only, is at the South. One or two Northern States, or rather one or two great northern cities, uniting with the South may give promise of a national victory. It is, I confess, according to the eternal fitness of things that the leadership should be conferred upon the South, and entirely fit and most appropriate that that leader should have proved his fitness for such leadership by bravely and gallantly defending the cause of the South in the very front of battle. We are informed that you "will not stop until you have stricken from the statute-book the last vestige of your (our) war measures, which like these, were born of the passions

incident to civil strife, and looked to the abridgment of the liberty of the citizen." This language is capable of two constructions, one of which conveys to our minds a clear idea of what war measures were intended, and the other of which leaves us in doubt and uncertainty. I understood at the time it was uttered, and as I read it now I understand it to mean that the majority mean to strike from the statute-book all the war measures passed during republican administration, and to characterize them all as "born of the passions incident to civil strife, and as looking to the abridgment of the liberty of the citizen." The frank and open nature of the gentleman leads me to adopt this construction. He is not in the habit of disguising his purpose or indulging in ambiguous language. To say that you mean to strike from the statute-book only such war measures as were born of the passions incident to civil strife, &c., is to tell us nothing except to be prepared for everything and anything. It may mean much, little, or nothing, and the threat may be executed by doing much, little, or nothing, as the courage and power of the party may be strong or weak when the time for execution arrives. Under it you may undo all that has been done during the last eighteen years having relation to the re-establishment of the Union, the freedom and purity of the ballot, and the liberty of the citizen; and you may declare that giving liberty and the ballot to the freedman is an abridgment of the liberties of the citizen, and may inaugurate measures for the removal of the constitutional amendments. Whatever the challenge is, and whatever it means, we have it; we must perforce accept it; we have accepted it. Every republican in the land has heard it. Every loyal citizen of the country has heard it. They are pondering over it, and when the day of trial comes—the day of danger to the Republic—they will answer it as only heroic lovers of liberty and country can answer it, with a crushing blow.

I have said, sir, that the issue presented has reference to the past and can only be debated in connection with the history of the past. It is idle for the men who forced this issue upon us to chide us for bringing to light the history which belongs to it. The men who raised the issue knew that it could only awaken unpleasant memories and rekindle the slumbering fires of sectional hostility and bitterness. They must have deliberately intended to rake over the dying embers of old hatreds and to blow them into a flame again. That was their purpose and they could have had no other. They wanted new issues, something to rally a party on. They thought they had found it, and were determined to bring it to the front. The manner in which they have chosen to present their new issue proves it. They have by choice and with deliberation and malicious calculation coupled it with the issue of the life or death of the Republic. They place their proposed amendments on an appropriation bill granting supplies to carry on the Government. They make the supplies depend upon repeal. Why do this before you have tried repeal, unless you are feeling for an issue or "spoiling for a fight?"

Do we not agree to these appropriations in every detail and to the last item? Have we not, Mr. Chairman, without one word of unkindness and with unusual unanimity already agreed upon every item of these appropriations? Are not the bills ready, so far as the appropriations are concerned, to be finally passed? Upon the appropriations, then, we are in perfect harmony. But the majority say we desire to repeal or modify the election laws. We answer, bring in your bill for repeal or modification and we will sit here with you now if you insist—as you may and have the power to insist—and discuss, amend, and perfect them so as to make them just and fair to all. If they are oppressive to the honest voter we will consent to their modification. If they are defective and do not secure the purity of the ballot and do permit the practice of fraud and injustice let us, in evidence of the professions of a desire for a free and pure ballot which we are on all hands making, sit down together like statesmen and patriots and amend these laws, perfect what is imperfect, remove what is oppressive and unjust, if anything there be; repeal what is useless, obsolete, or offensive, and make the laws such that in this free land in which Government is of, from, and by the people no man shall be deprived of his vote, and that no man who has not the right to vote shall be allowed to corrupt by his ballot the sacred ark of republican liberty. We invited you to meet us in this spirit, promising every concesssion consistent with the preservation of the freedom and purity of elections.

Let us meet on the high grounds of patriotism and statesmanship and discuss this subject of the repeal, modification, and improvement of the election laws disconnected from all other exciting subjects. Do this, and we may be friends forever, and the bitter taunt and defiant threat will die upon our lips and be unheard. But this the majority decline to do while admitting it to be the usual and proper course to pursue. They give us to understand that they have made up their minds unalterably to a different mode of legislation; they propose to repeal or modify to suit themselves, taking no advice and listening to no suggestions from the minority, all the laws which now stand upon the statute-book, having relation to elections, which displease them. They say, "We cannot proceed in the ordinary way, for if we do the republicans may offer amendments which may be acceptable and desirable to some of us, and we may become demoralized and divided, and the President may not be willing to approve our measure, and may use his constitutional prerogative and veto it, and therefore we have agreed outside of this Chamber upon the precise form of words which we will make use of, and to permit no amendment whatever, not even the crossing of a *t* or the dotting of an *i*;" and they give notice that this bill, just as they have presented it, must become a law or they will make no appropriations.

This, then, gentlemen of the majority, is your plan of action, and these your motives. You propose to effect this repeal at all hazards when you see that by usual and constitutional methods you may not be able to accomplish it. You threaten danger to the country in the hope and belief that the President perhaps may take counsel of his fears, or, moved by motives of patriotism and to save the country from dire calamity, may sign a measure which his judgment disapproves and his conscience condemns. You demand of us and of the President that we shall be patriotic and for the sake of the country shall yield to what we believe to be unjust and dangerous legislation, while you, forgetful of patriotism, of all duty and love of country, will see the Government die and crumble into ruins if we do not surrender at your demand. It is the highwayman's method, "Your money or your life!" To yield to it were cowardly. Truly, in the presence of such a threat, to use the forcible and expressive, if not elegant, language of the distinguished gentleman from Kentucky, "He who dallies is a dastard and he who doubts is damned."

Mr. Chairman, the issue here presented reopens, and must have been expected and intended by its authors to reopen, the book of our past history and to revive unpleasant and bitter memories. In this they have not been disappointed. In this debate we have heard crimination and recrimination; bitter taunt and bold defiance hurled in vindictive wrath from side to side in this Chamber. Was this necessary at this time? For what reason was the dangerous issue made in this manner and at this time? Is there any public demand for this repeal? Is there such pressing and overmastering necessity for it, that it must be done now, this week, this month, or this year? Is the necessity so pressing and urgent that it will be better to let the Government languish and die of starvation, rather than not secure it? No general election for members of Congress will take place until November, 1880. There will be almost a year of legislative time between the assembling of Congress in the next regular session and that time. In the mean time the laws will be quite harmless.

Mr. Chairman, the motives which precipitated this contest at this time do not find justification in the laws sought to be repealed, for they have now no operation and lie dormant and harmless. There must be found some other motive for this action. I think that motive is well understood by the people of the country.

This quarrel was neither invited nor provoked by the minority. The majority must be held responsible for the consequences which may flow from it. We have nothing to do but to stand to our defense, holding our ground, strengthening our position, and waiting the final assault. We believe we are defending the freedom and purity of the ballot-box, and preserving the bulwarks of republican liberty, and we must not, therefore, surrender.

It has been asserted in this debate that these laws are unconstitutional. To this we have only to reply that the courts have not so declared, and the courts have stood open to all since their enactment. If the laws are unconstitutional they need not be repealed, for the courts will declare them null and void whenever you choose to make the appeal. There is no occasion to shake the country from center to circumference by an exciting and bitter political struggle over an unconstitutional law.

We have been so often alarmed at the false cry of "unconstitutionality" that we cease to believe it at the first sound. Under the shelter of that word great crimes have been committed in this country. Nullification shouted it in South Carolina in 1832. Andrew Jackson, who has been suspected of democratic tendencies, put his heel upon that monster and crushed it. The spirit of nullification has, however, unhappily survived to annoy and distress us and endanger the perpetuity of our Union. That doctrine declared that the Constitution of the United States "is a compact between sovereign States;" that "the States are its authors, their power created it, and their voices clothed it with authority; the Government it formed is in reality their government, and the Union of which it is the bond is a union of States and not of individuals;" that "as the States conferred so States can take away its powers." Nullification died at the hands of Andrew Jackson, the democrat; but its spirit survived and took the name of States rights. In its name have been perpetrated innumerable crimes against the State. It was all-powerful in behalf of slavery, but had no voice in favor of liberty.

In 1861 State rights assumed the new name of secession. That fatal Will-o-the-wisp led the Southern States out of the Union, to desert them at last after the sacrifice of the lives of a million of brave and heroic men and untold wealth in the slough of Appomattox. We had hoped that it had lost all power in this country and would never reappear to afflict and mislead us. It has served no good purpose, voluntarily or intentionally. It has arrayed section against section and done much to prevent this country from becoming a homogeneous and harmonious nation. In the providence of God this foul spirit has been made to render a great service to mankind. It provoked the occasion and provided the opportunity for the abolition of human slavery on this continent, which otherwise might have been perpetuated for centuries. In its insane efforts to make slavery national, which was before only a State crime, it invoked the demon of war in its aid, staked and imperiled all upon the issue of battle. Appomattox was reached, and secession and slavery died together.

On that field the decree went forth that this is a nation deriving all its powers from the people and none from States; possessed of the rights to defend itself against its enemies, foreign and domestic; to compel obedience to its laws constitutionally enacted. It was there decreed that the States were supreme only in subordination to the greater power of the nation and in matters over which the nation had been given no jurisdiction; that nullification and secession were simple rebellion and to be put down as such, even to the dismemberment and annihilation of States if need be, to save the nation's life.

But it seems that that fell spirit still survives. We hear its voice once more in this Hall denying that this great nation has the right to protect the ballot from contamination in national elections. It again raises the cry of "unconstitutionality" when striving to tear away the defenses provided to secure free and pure elections. It again endangers the nation's life. It claims for the States the sole right to regulate elections. It would again dwarf the great Union into the creature and servant of States, obedient to their will and dependent upon them for life.

In face of the facts, not to be denied except by the most brazen effrontery and an utter disregard of truth, that in many States the ballot-box has been almost wholly unprotected against fraud; that ballot-stuffing, kiss-joking, bulldozing, and murder have been wholly unrestrained and unpunished; that great cities, congressional districts, and even States themselves have been captured at the ballot by the means of force, violence, and wrong, the cry of State rights still comes up, that States alone have the right and the power to guard the purity of elections and protect the ballot-box.

We hear it announced that even at a bulldozers' riot at the polls, where men are shot and killed and the ballot-box captured or destroyed, it is only the peace of the State which is broken; that there is no such thing as the peace of the United States, even though upon that peace at the polls the nation's destiny may hang, or its life depend.

Would to God that this fell spirit of discord and sectional strife might cease from troubling us. It is the source of weakness to the nation and poverty and distress to the people of the South. I pray that that day may soon come. Then we may have peace and order and national and individual prosperity. Then will this grand Union of States—each separate State revolving in its appointed orbit, and all moving together in that sublime harmony designed by the fathers, many in one—shine forth as the brightest and grandest constellation that ever adorned the political heavens. All mankind will admire its beauty and harmony.

It can but have been noticed that the advocacy of the repeal of the election laws has come largely if not mainly from gentlemen who represent Southern constituencies, and these gentlemen dwell mainly upon the tyranny and injustice of those sections of the law relating to marshals and deputy marshals. They denounce in unsparing terms the oppression of these marshals. It is said that they dictate to the voters and are electioneering officers for the republican party; that they were created to enable the republican party to carry elections; that they oppress and terrify democratic voters and by their very presence deter honest democrats from voting. I invite the attention of this House while I present a few facts and figures, taken from reliable sources, showing how little real reason these gentlemen have for their bitter complaints and severe denunciations. It is only in cities having 20,000 inhabitants or more where marshals and deputy marshals have been or can be appointed or have jurisdiction.

I turn first to the State of Kentucky, in part so ably represented by the honorable chairman of this committee, [Mr. BLACKBURN.]

The only cities in that State which by the census of 1870 had 20,000 inhabitants are Louisville and Covington. Possibly Lexington, which then had 14,801 inhabitants, and Newport, which then had 15,087 inhabitants, may now have reached the prescribed limit of 20,000.

The gentleman represents the Lexington district. I think I am safe in assuming that in his district there has never been such an officer at an election as a deputy marshal acting under this law. I see that he was elected in 1878 by a vote of 8,632 against 3,548 for a national, and that no republican candidate was in the field. So I infer that marshals and supervisors did not deter many democrats in his district or protect any republican.

In the Louisville district the democratic member [Mr. WILLIS] had to compete with a democrat, a greenbacker, and a republican. He received 9,115 votes; his democratic opponent received 7,492; his greenback opponent received 383; his republican opponent received only 5,500. In this district the democrats got into the ballot-box, in spite of deputy marshals and supervisors, 16,607 votes, while with their aid the republicans only had 5,500. The "God-given democratic liberty to vote early and vote often" was not much abridged here I ween.

The district which includes Covington is represented by the distinguished gentleman [Mr. CARLISLE] who so ably, clearly, and fairly argued the legal and constitutional questions raised in this controversy the other day. He received the whole vote of his city, 949, and in his district 5,901 against 1,877 for a greenbacker.

Here we have displayed the hardships of Kentucky. I do not believe the evidence can be found to show that one man has been deprived of his just rights at the polls by any United States officer. Why, then, this appeal from Kentucky? Why this "gage of battle?" Why this threat of no appropriations?

I do not see the evidence that the gentleman [Mr. BLACKBURN] has borne from this Government an unjust burden of a feather's weight since the war. I hope not. I believe not.

There comes up from Mississippi a cry of oppression. The republican party is denounced in unmeasured terms by gentlemen from that State. And yet in all that State there is not one town or city having a population of twenty thousand; and the law authorizing the use of deputy marshals was never in force within its borders. Mississippi has no republican on this floor. In the last election the republican vote was almost silent in that State. What has become of the former republican voters and republican majorities in that State? A comparison of the congressional vote of Mississippi for the years 1876 and 1878 is worthy of the attention of the House and the country, and may answer the question. It demonstrates, I think, that no law of the United States, no law human or divine, has prevented the democrats in that State from executing their own sweet will. It proves unmistakably that no law of the United States has been sufficient to protect the ballot from race domination, and that the Mississippi plan has held free and undisputed sway.

Congressional vote of Mississippi for the years 1876 *and* 1878.

Candidates.	1876.	1878.
First congressional district:		
Muldrow, (democrat)	20,597	9,632
Lee, (republican)	6,420	.....
Davis, (national)	.....	6,602
Total	27,017	16,234
Second congressional district:		
Manning, (democrat)	20,329	7,339
Walton, (republican)	12,598	.....
Amacker, (national)	.....	5,969
Total	32,927	13,308
Third congressional district:		
Money, (democrat)	17,953	4,028
Chisholm, (republican)	6,320	.....
Scattering	.....	12
Total	24,273	4,040
Fourth congressional district:		
Singleton, (democrat)	19,130	4,650
Hancock, (republican)	4,547	.....
Scattering	.....	21
Total	23,677	4,671
Fifth congressional district:		
Hooker, (democrat)	19,858	4,816
Shaughnessy, (republican)	8,646	.....
Dearon, (republican)	.....	697
Total	28,504	5,513
Sixth congressional district:		
Chalmers, (democrat)	15,788	6,663
Lynch, (republican)	12,386	.....
Castello, (republican)	.....	1,370
Scattering	.....	21
Total	28,174	8,054

Upon this showing may we not well inquire what interest have the democrats of Mississippi in repeal? Why this cry of oppression? That republicans have not been converted to the democratic faith, these figures prove; that they have become nationals is not shown; that they have become "scattering," is certain. What voter of the democratic faith has been intimidated or prevented from executing the freeman's will in that State by any United States officer? What republican voter has been so protected while voting unlawfully or, what is more and worse, while voting lawfully?

Gentlemen from Mississippi cannot make this demand for repeal because of any wrong done them or their party in Mississippi, and they must have turned their eyes to the northern cities, to New York, to Chicago, to Cincinnati, and the rest, to States where great cities may overcome the vote of the country districts.

Has Mississippi so conquered the freedom of the ballot in her own borders that her democrats have no occupation at home and seek occupation in other States? Do her shot-guns rust in idleness, and is it proposed to polish them in the service of forcing the Mississippi plan of carrying elections in the northern cities—a few of them—just enough to enable the solid South to declare itself to be the nation?

Mr. Chairman, the language of denunciation which has been uttered upon this floor is without excuse or justification.

Virginia has but three cities within her wide domain which have sufficient population to entitle them to the protection of the marshals and deputy marshals of the United States provided for in the sections proposed to be repealed. They are Richmond, Petersburgh, and Norfolk. Richmond and Norfolk are represented by democrats, and Petersburgh at the last election for Representative in Congress cast 1,571 democratic votes to 1,097 republican votes.

Georgia has possibly three municipalities to which these sections can apply, namely, Savannah, Atlanta, and Augusta. These cities

are represented by democrats in this House, and on looking at the Directory the only district in the whole State in which there seems to have been a republican candidate for Congress is the second district, and he received 3,643 votes to 8,116 for the democratic candidate. It does not appear that Georgia has felt the hand of the oppressor, unless indeed the oppression has fallen upon republicans.

Louisiana has one city, New Orleans, where the law was in force, and that city is represented here by two democrats by overwhelming majorities. And yet there comes up from Louisiana the cry of oppression by marshals.

South Carolina has one city which is large enough in population to be entitled to the benefits of these sections—Charleston. The Charleston district in 1876 cast for a republican 18,180 votes, for a democrat 16,661 votes. In 1878 it cast for a democrat, if we may believe the Directory, 22,707 votes, kiss-joker and all, and for a republican 14,096. In the last Congress Mr. Rainey and Mr. Smalls, republicans, represented districts in Congress from that State. The one had a majority of 1,519, and the other a majority of 1,438. In the present Congress these majorities are not only wiped out, but in the former district the democratic majority is 8,611, and in the latter 15,745. The home of nullification and secession, the State where of all places on this continent the United States authority might justly be felt, has been able in spite of this pretended tyranny to elect democrats to this House by majorities startling in magnitude and suggestive of tissue-ballots and all manner of fraud. The history of that State during the election of 1878 is known to the people of this country. It furnishes abundant and overwhelming proof of the necessity of laws to protect the ballot-box and the freedom of the ballot. That the State does not protect its voters is certain, and that the United States should do so is most manifest.

The remaining cities of the South to which the sections under consideration can by any possibility apply are: Mobile, Alabama; Wheeling, West Virginia; Wilmington, North Carolina; Memphis, Tennessee; Nashville, Tennessee; Galveston, Texas; Houston, Texas; Saint Louis, Missouri; Saint Joseph, Missouri; and Baltimore, Maryland. Every southern city, twenty in number, to which these laws can apply is a democratic city. All but one is represented on this floor by a democrat.

Mississippi, Florida, Texas, and Arkansas have neither of them, so far as I know, known the presence of a deputy marshal acting under this law at any election.

I think I need add no further proof that the laws sought to be repealed and so bitterly denounced by southern men have not operated to repress the democratic party in that section of the Union, and that under them no man who has possessed the right to vote has been unlawfully deprived of his right.

Let us for a moment look upon another picture. Possibly we may be convinced that more marshals, deputy marshals, and supervisors, and even a little military power, would be useful. In Caddo Parish, Louisiana, the registered vote was as follows: white voters, 1,496; colored voters, 3,732. At the election in 1878 the democrats cast for member of Congress 1,815 votes, and the republicans cast only 279. At that election voters were made to travel by a change of polling place twenty miles. Three hundred men made that march through swamps and across bayous and back, camping nights and marching days. Two hundred and seventy of these cast their ballots lawfully and peacefully. But at the close of the day "armed white men took possession of the ballot-box, broke it up, and destroyed the ballots, so no return was ever made from that voting place." In the Shreveport district of the same parish the republicans fearing an outbreak largely refrained from voting. At Caledonia two negroes were killed and two whites wounded. In the Natchitoches Parish the population by the State census of 1875 was—whites, 5,907; colored, 15,504. At the election for member of Congress the democrats cast 2,819 votes, and the republicans none. The violence of the whites before the election exiled republican leaders and terrified the voters so that no ticket was placed in nomination. In Tensas Parish the population by the State census of 1875 was—whites, 1,417; colored, 17,100. The vote for member of Congress in 1878 was—democratic, 2,795; republican, 90. In that parish fifteen murders were committed and some died of exposure in the swamps. It is claimed, and there is evidence to prove, that many more, seventy or eighty in all, lost their lives. The treatment of the colored men by white armed desperadoes, if the evidence before the country is half true, was barbarous to the last degree, and in any half-civilized community some punishment would be meted out to the criminals; but it seems that in that community it is crime only in a negro to kill, even if he kill in defense of his own life, while white men who ride twenty miles to kill escape all punishment, and are even lauded for their bravery if they shoot the defenseless and unarmed. Such a civilization would be a disgrace to an Indian tribe. It is brutal and cowardly in all its purposes and methods. No wonder the negro again looks toward the north star as his only hope.

In Concordia Parish the population by the State census of 1875 was: whites, 673; colored, 10,955. The vote for Congressman was: democratic, 1,037; republican, 955. Seven or eight men were killed by white raiders, ballot-boxes were broken up, and violence and crime prevailed. That any republican vote was cast is evidence that the colored men have courage in defense of their opinions. The committee of the Senate who lately investigated these crimes make the following summary. (Senate Report No. 855, Forty-fifth Congress, third session, page 24:)

SUMMARY OF MURDERS AND VIOLENCE.

The examination of the committee, it will be seen, was confined to but seven of the fifty-two parishes of Louisiana. In these seven parishes the evidence shows there were murdered "for political purposes," during the campaign of 1878, John Williams, (page 45;) Robert Williams, (44, 57, 186, 192, 236, 347, 470;) Luke Wiggins, (44, 48;) Lot Clarke, (46, 58, 62;) Billy White, (46, 48, 62;) Greene Abrams, (49;) Josiah Thomas, (58;) Charles Bethel, (192, 236, 337, 347, 561;) William Singleton, (178, 191, 348;) Monday Hill, (186, 192, 236, 347, 469;) Louis Posthelwaite, (186, 347;) Richard Miller, (192, 236, 347;) James Starver, (192, 347, 473;) Commodore Smallwood, (236, 348, 355;) Charlie Carroll, (236, 355;) John Higgins, (278, 348;) "Doc." Smith, (347, 355, 359;) William Hunter, (348;) Hyams Wilson, (348, 355;) Wash Ellis, (348;) Asbury Epps, (244, 348;) John Robinson, (355;) Rufus Mills, (416.) Besides these there were fully as many others murdered whose names the committee were unable to ascertain, whose corpses were seen, by witnesses who testified before the committee, hanging on trees or lying dead in the streets or fields. Dozens more were wounded from shots fired at them with murderous intent, some of whom were present as witnesses before the committee exhibiting their scars; others were whipped or beaten and mutilated; wives were tied up by the thumbs and whipped for refusing to tell where their husbands were secreted; scores of leaders in politics among the colored men were driven from their homes, leaving their crops in the fields and their families unprovided for. In brief, a literal "reign of terror" existed, and in fact still exists, over a considerable portion of Louisiana, as the result of the policy adopted by the democracy for perpetuating its rule in that State.

In view of these facts, the following language employed in his speech in this House on the 3d of the present month by the honorable gentleman who represents a district which includes the parishes of Caddo and Natchitoches seems, to say the least of it, rather remarkable:

Mr. Speaker, this Congress has no power to pass a law regulating any feature of the election laws of the States until it shall be demonstrated that the State or States have failed to provide for elections in the form necessary to secure the perpetuity of our Government. But I assert that no such contingency exists now or did exist when these laws were passed. There is not a State in this Union which does not provide for the holding of free and fair elections for Senators and Representatives in Congress in accordance with the spirit of the Constitution; and if Mr. Madison could behold the spectacle of to-day he would regret the short-sightedness which induced him to say, "the congressional control will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."

I defy the gentlemen on the other side of this House to point me to a State whose system of laws does not provide for the "times, places, and manner" of holding elections for Senators and Representatives. If this cannot be done these laws which we are endeavoring to repeal are usurpations of power.

The presence at the polls in the States of these marshals, supervisors, and troops is in violation of the spirit, if not of the letter, of the Constitution. It is a denial of the ability of the States to maintain the purity and freedom of elections.

The grand jury of a United States court which frames an indictment against an individual for violations of an election law, as well as the district attorney who procures his conviction and the judge who wantonly assumes jurisdiction to which he has no claim, are equally conspirators against the individual and the whole people.

Two separate penal statutes for violation of election laws, two distinct judicial bodies, the one claiming jurisdiction over violations of a Federal statute and the other over violation of the statute of a State, both referring to the same subject-matter, and only the distinction existing that the statute of the State is in harmony with the Constitution, and the Federal statute is a violation of the Constitution, the bastard semblance of a law! This is the picture.

The men who have been arrested without affidavit or warrant for violations of Federal election laws were so arrested and convicted in the face of the very letter of the Constitution; and where they have been convicted and compelled to languish within the walls of a prison, it has been a violation of that liberty of the American citizen which is guaranteed to him under our institutions.

To the States is confided the regulation of elections, and if their laws provide for holding such elections in conformity with the Constitution, Federal statutes could not be passed regulating the same matter. But they have been; and the question is asked, there being a conflict, which must control? Unquestionably that one which is constitutional. Unless the emergency has arisen calling for the exercise of the "ultimate" power of Congress over this matter, laws passed by the latter are mere works of supererogation, and the constitutional statutes of the State must prevail and the jurisdiction of the State courts of offenses against those statutes must be maintained.

It seems that Louisiana will not protect the ballot-box, nor punish men who commit crimes against it and the United States cannot and shall not. This is the end of all elections and of all government by the people. No more dangerous, fatal doctrine was announced even in nullification or secession times. Turning now to South Carolina, let us take a few examples from the pages of her radiant history. The same committee inform us how free and pure the ballot was in the election of 1878 in Charleston and South Carolina:

CHARLESTON CITY, WASHINGTON ENGINE-HOUSE PRECINCT

At Washington engine-house precinct, in ward 6, Charleston City, the voting proceeded quietly all day. Walter Elfe was the republican supervisor and R. M. Wilson the democratic. At this polling place there is every reason to believe that there was a large republican majority. The count was commenced, there being in the room three republicans and from thirty to forty democrats. After a short time the gas went out. Candles were obtained and the count continued a short time longer, when the candles were put out. In the darkness that followed the ballot-box was broken up and the ballots destroyed. The number of votes cast was 865. No return was ever made from this box.

PALMETTO ENGINE-HOUSE PRECINCT.

At the Palmetto engine-house precinct, in ward 3, voting proceeded quietly until about half past three o'clock in the afternoon, when the supervisors called on the deputy marshal to arrest a man who had attempted to vote the second time. At this an attack was made on the supervisor, and his poll list destroyed. Up to that time his poll list showed that there had been 915 votes cast, and his poll list tallied with the poll list of the managers. From that time until six o'clock the supervisor did not keep any poll list. When the vote was canvassed at that poll, it was claimed that there had been 3,569 votes cast. If this number was cast, there must have been cast in two and a half hours 2,654 votes, or at the rate of 17 votes a minute. When the box was opened all agree that there were a great number of tissue tickets in it. These tickets were of very thin paper—so thin that print can be read through the paper; and only $3\frac{5}{8}$ inches in length and $1\frac{3}{4}$ inches wide, while an ordinary ticket is from $7\frac{1}{2}$ inches to $8\frac{1}{2}$ inches in length and from 2 to $2\frac{1}{2}$ inches wide. Just how many tissue tickets were in the box cannot now be exactly deter-

mined, because when the committee examined the boxes there were no tickets in this box, although tickets were found in the boxes used at all the other polling places except one. The supervisor swears that just before the poll closed the president of the democratic ward club came to the polls, and the witness says that he distinctly saw him put tissue tickets into the box in packages. The witness protested against this, but the managers said, if there are too many in the box we will not count them. When the box was opened, the witness says that he saw half a dozen packages of those tissue tickets that had never been folded, and they were all counted. The returns gave the democratic candidate for Congress 3,143 votes, and the republican candidate 416.

There was one other polling place in this ward—the Market Hall—at which the republicans are reported as having 121, and the Democrats 1,866; making the total vote of the ward 5,556. The highest vote ever cast in this ward was in 1876, when it cast 1,886.

That it is physically impossible in two and one-half hours to cast over 2,600 votes all must admit; and it becomes the more apparent when it is understood that, by the laws of South Carolina, every voter must be sworn to the effect that he is a voter, that he has not voted elsewhere at that election, &c. The evidence shows that during the day the voters at that poll were sworn, one by one, as they voted; and if from six o'clock in the forenoon to half past three in the afternoon only 915 persons voted, the increase from that time to six o'clock in the evening is more than remarkable.

HOPE ENGINE-HOUSE.

The United States supervisor testified that he did not reach the polling place until the polls had been open twenty minutes; the managers called it thirty, but witness said it was only twenty minutes. The supervisor kept a poll list after he arrived. When the count was made it was found that there were 1,286 names on the manager's list, and but 1,238 votes in the box. The supervisor had on his list (which contained the names of all who voted after half past six o'clock a. m.) 838 names. The poll lists of the republican and the democratic supervisors agreed. When the count was made at the close of voting, there were found in the box 323 tissue democratic tickets; and this number was found remaining in the box when examined by the committee. The tissue tickets were all counted as if honestly cast, and the return was, democratic tickets, 716; republican, 522. It is quite apparent that the difference between the supervisors' lists and the manager's arose from additions being made to the latter to cover the number of tissue tickets fraudulently placed in the box.

SUMTER COUNTY.

In Sumter County tissue tickets were also used; but it appears either that the leaders did not determine to use the tickets in the commencement of the campaign, or that they did not have confidence in their ability to carry the election by their use alone; for the most strenuous efforts were made to frighten the republican leaders from their attempted organization of the republican party. Republican speakers were threatened and maltreated, and republican meetings disturbed and broken up. Whenever and wherever the republicans attempted to hold meetings, the democracy attended in numbers, armed, and insisted on participating in the meeting, and, if refused, were threatening in their manner.

On the 12th of October the republicans attempted to hold a meeting at Sumter, the county seat. The democrats also called a meeting at the same time and place. The call for the democratic meeting was not issued until after that of the republican meeting. On the day of the meeting the democrats appeared in great numbers on horseback and on foot, armed and accompanied by an artillery company with two field-pieces. The democrats presented a programme to the republicans for division of time, but the republicans declined, and held their meeting some distance from where the democratic meeting was held. The republican meeting was not well attended, as many had feared to attend on account of the presence of the mounted and armed democrats.

Mr. Moise, a democratic witness, introduced by the minority of the committee, testified that the number at the republican meeting was about five hundred; that there were present in the town about two thousand white democrats, and among them between five and eight hundred armed cavalrymen. He said as the republicans were returning to the town after the meeting adjourned, with a band of music, and the national flag flying as they passed, about sixty of the red-shirt democracy in attendance became excited, and, leaving the democratic meeting, went after the republican procession. At once the cry was raised that there was to be a riot. The democrats loaded the cannon with nails, and ran it out for action. It does not appear that the colored republicans had in any manner interfered with the democrats. Mr. Moise says that the young men in the democratic party were excited at the sight of the American flag, which, he declared, was an unpopular emblem in that part of the country. He said the republicans carried the American flag at their meetings, and the democrats did not. Speaking of the national flag, he said: "When they see it at a republican meeting, where it is an emblem of oppression, it excites them. I hope it will be otherwise some time." He also testified that the colored people became very much excited; they were unarmed and did not appear to know what to do. The American flag was pulled down, but it is not clear whether it was taken down by the whites or the colored people.

It was under difficulties of this character that the republicans carried on the campaign. One witness says that every man who took a prominent part was menaced.

Tissue tickets appear to have been used in much the same way they were in Charleston County.

It is not strange that, with intimidation and threats, and the use of tissue tickets, the democrats were able to secure the returns in their favor, although the colored people are more than twice as numerous in Sumter County as the whites.

These crimes against the freedom and purity of the ballot not only find no punishment under the laws of South Carolina, but it seems that the majority of this House have determined that they shall be in no danger of punishment under any law of the United States. The laws of that State permitting votes to be thrown out to make the ballots and names on the lists agree seems to have invited if it was not intended to promote the tissue-ballot system. The small, delicate tissue ballots would never be thrown out by a blindfolded democrat intent on his business of securing a democratic majority, so long as his fingers could detect the difference between the ordinary large ballot such as must be used in voting and the tissue ballot. Are these villainies to find no condemnation in Congress, and shall all laws for their prevention be wiped from the statute-book?

The people of this country understand that this Congress is held here by no dire pressing public necessity, that these election laws are now merely silent and inoperative and cannot be called into exercise again until November, 1880, and that there is ample time for their modification and repeal before that period arrives, and that they hurt nobody and help nobody. They also see that the democratic party has not been repressed or hindered by these laws. They see that the South is a solid unit of democratic power. They see also that republican majorities at the South have fallen before violence, fraud, and crime. They also see that all this excitement and ill-temper has a political motive and origin, and that it finds its spring and fountain in the determination to secure a national democratic victory in 1880. They understand figures and statistics. They will turn to the election records and find that in 1876 the State of New York was carried for Tilden by a majority of only 32,742 in a vote of 1,011,156, and that the city of New York gave Tilden a majority of 53,979, and that the majority for Hayes in the State outside of New York City was 21,237. And they will know what these figures mean—which is that in order to carry the Empire State in 1880, and to be sure of it, the majority in the city must be increased, and that this cannot be done unless the laws preserving purity at elections in that great and corrupt city are wiped away that Tammany and some new Tweed may have undisputed sway.

They will look at Ohio and find that the majority for Mr. Hayes was only 2,747. They will find that the combined vote of the two counties, which include the cities of Cincinnati and Cleveland, was for Hayes 47,067 and for Tilden 43,876, giving a majority for Hayes of 3,191. They will see that this great quarrel about the election laws comes from these merest mathematical calculations. How to wipe out this majority of less than three thousand will be seen to be the question. The democratic eye is on Ohio and that small republican majority, and upon the cities of Cincinnati and Cleveland. If they can carry New York and wipe out the republican majority in Cleveland or increase the democratic majority in Cincinnati, they feel sure of a democratic majority and a southern victory. Philadelphia and Chicago are not overlooked. No city is overlooked by them which contains the materials of which repeaters and fraudulent voters are made.

Repeal the election laws and let loose the hordes of unnaturalized aliens and the criminal classes who congregate in great cities, and with some Tilden to organize a campaign and some Tweed to execute the plan, fraud and a solid South might bid high on a victory in 1880. That such is the true and real issue of this hour the people see and know full well, and no professions of zeal for a free and pure ballot from a party whose hope lies so largely in unrestrained fraud will deceive them.

This contest, this challenge, and this defiance, and these vindictive threats so out of season and so uncalled-for by any great public exigency or demand are not the offspring of a desire for a free and a pure election. They mean democratic domination in the nation at all and every hazard, southern domination in democratic councils, and so southern supremacy as of old.

To secure this end it is proposed to introduce southern tactics in elections into Northern States. In other words, State rights is about to be made to mean what it did of old, namely, that the Southern States shall force their laws, customs, and habits upon all the States. This is no new crusade. Slavery, a creature of State law, was safe under State constitutions, was protected also by the Constitution of the United States, and was possessed of an empire far beyond its wants or its capacity to people or develop. But it was not content with that; it demanded that other States and other people should respect and obey its laws and recognize the right of property in man, and that the spirit of liberty should be obedient to its will. The South demanded the right to capture fugitive slaves under the shadow of Fanuiel Hall and Bunker Hill and return them to bondage, and the demand was complied with, in shame be it said. Boston, Massachusetts, out of regard to the Constitution of the United States, allowed the crime to be committed and submitted to indignity and studied insult for the sake of peace and Union from a people who have since shown that neither Constitution nor Union were second in their love to slavery. The South claimed the right to plant the accursed thing upon the virgin soil of the Republic everywhere and to extend their laws and civilization to the remotest limits of national jurisdiction.

The attempt to rule all failed and drew after it sorrow and ruin. The attempt to transplant the southern system of carrying elections to northern soil will fail also and bring disaster to those who attempt it. There is at the North no feeble race—children of oppression and wrong—who have learned to tremble and crouch when a master frowns, who can be disfranchised and beaten and driven from the polls. All are freemen and "know their rights, and knowing dare maintain." It cannot be done. The liberty-loving people of the North and the West, from Atlantic to Pacific, will insist that the ballot shall be pure and that it shall be free, and to secure these they hold that all the power of the State and nation is pledged forever.

Again, I say to gentlemen on the other side who profess such zeal in behalf of the freedom of elections and the purity of the ballot, we are no less earnest than you and we will meet you in a friendly spirit, and will sit down with you to improve these laws where they are imperfect; we will repeal what is obsolete and useless; we will modify what is offensive or oppressive; we will strengthen what is weak or ineffectual; and we will provide swift and adequate punishment for all who may infringe upon the right of the citizen or corrupt the ballot-box, be he marshal, deputy marshal, or supervisor, or be he bulldozer, white-leaguer, ballot-stuffer, or tissue-ballot monger, and be he black or white, republican or democrat. To secure the peace, order, freedom, and purity of the ballot we will act with you and vote with you. But if the opposite is your purpose we must continue sternly and firmly to oppose you and resist you. The choice is yours, and the responsibility must be yours also.

Before taking my seat I desire again to remind gentlemen on the other side of this Chamber that if hard language has been made use of in this debate toward them, and if unkind references to the past have been indulged in by gentlemen on this side of the House, the occasion was sought and the provocation given by the majority and not by us. Gentlemen on the other side who, since they laid down their arms at the close of the war and gave over their effort to destroy this Union, have received nothing from the republican Administration and the republican party but forbearance, forgiveness, and restoration to forfeited rights, have risen in their places and with studied vindictiveness have denounced the men who saved the nation from overthrow and the laws enacted and the measures adopted by them for the purpose of restoring peace and prosperity and securing liberty to all the people. One gentleman has gone so far as to suggest that the crime was not in secession but in saving the Union.

Do gentlemen, after seeking and forcing the occasion for sectional controversy and pouring upon our heads the vials of their sectional wrath, expect us to remain silent and make no reply? It is not in human nature, nor does it comport with a manly self-respect. The republicans have, no doubt, made some errors in their efforts to save and restore the Union. They dealt with great problems and had no precedents for their guidance, for the history of the world has furnished none. But when taunted and denounced for such errors, or pretended errors, by the men who engaged and persisted to the end in the work of national destruction, we can but retort that the errors of the republican party were committed in the effort to prevent the consummation of your crime. We have shown our willingness to pardon and forgive you, and your presence here is evidence overwhelming that that pardon and forgiveness have been complete and unreserved. Can you not find it in your hearts to pardon real or fancied errors committed in the great and unexampled work of saving and restoring? If not, a sad mistake has been made and the doors of this Capitol have been opened to you all too soon. As illustrative of what I am saying I desire to quote a few words from the speech made on the Army bill on the 1st instant by the gentleman from Mississippi, [Mr. CHALMERS.] In speaking of this Government he said that—

> To us who know it as it is, as it has been consolidated by republican usurpation, as it has been administered by republican despots, it is the strongest and the mightiest government on earth. A British ministry would have been driven from power, a British king might have been decapitated for far less usurpations than have been made by the republican party during the last eighteen years.

Again, he says:

> This Government for the last eighteen years has been reeling like a drunken man. It has rocked like a ship at sea without chart, compass, or rudder. The unbridled will of a mere despotic majority has bid defiance to law and Constitution. Bribery and corruption have held high carnival in the Halls of Congress, and reckless and criminal extravagance have permeated every branch of the Government. It is time that the old ship was righted up; that the officers and crew, drunk with power, debauched by the continuance of licentious indulgences, should be driven out and replaced by purer and better men.

He also used this most remarkable language:

> But the gentleman from Ohio [Mr. GARFIELD] indulged in another historical reference to which I propose briefly to reply. After telling us there were two methods of destroying this Government without firing a hostile gun—one by the refusal to elect Representatives and Senators, and the other by the refusal of those Representatives to pass appropriation bills when they were elected—he said that the first method had been honorably attempted by the southern democrats in 1861, and that the other was now being dishonorably attempted by the united democracy in 1879. He said that because the republican party saw fit to elect a President of its own choice the southern democrats threatened to shoot the Union to death. Sir, we made no such threats, and the gentleman is as far from the truth of history when he makes this statement as he was when he charged that the democracy in 1864 advocated the clause in the law which we now seek to repeal. We claimed the right of peaceable secession, and for causes deemed sufficient to us we attempted peaceably to secede. Every son of the South who held a position here or in the Army or in the Navy gave it up. They turned over their commands to the United States Government. They settled their accounts to the uttermost farthing peaceably and honorably. We not only made no threats "to shoot the Union to death," but we said to you as the patriarch Abram said to Lot, let there be no strife between thee and me, you may go to the North and we will go to the South. But it was you who said to us you shall not go. You sent grand armies after us. You hemmed us in by land and by sea. You not only threatened to shoot, but you shot us to death. With the battle-cry upon your lips of "The Constitution as it is and the Union as it was," you rallied the whole North without regard to party in defense of the old flag, and when the battle was won you tore off the veil that covered your hideous deformity; you dissolved the Union that you had saved; you changed the Constitution of our fathers for which you had pretended to fight; you changed State sovereignties into military provinces; you converted the constitutional Union by usurpation into almost a military despotism presided over by a successful military chieftain. You organized returning boards that stole State governments and ended in stealing the Presidency itself.

Who are the republican despots here intended, who the usurper? Has any republican President filled that high office who was not first declared entitled to it by the sanctions of law? Abraham Lincoln is the man at whose memory the gentleman's poisoned shafts are aimed. He was the great representative republican leader of his time. As the head of this nation, he reflected the sentiments and executed the will of the loyal people of this country. He signed the great proclamation which gave freedom to four millions of bondmen—not hastily and in wrath, but only after all hope and the dream of saving the Union as it was had fled forever, and the slave-masters had forfeited by their treason not only their right to property in man but to property in anything, and even to life and liberty. He carried the war to a successful and glorious conclusion, and was permitted to see the day of final victory. His was the purest life, his is the fairest fame of modern times, and no accusations now of despotism, usurpation, or tyranny from that gentleman can sully either.

He wore no veil to cover any hideous deformity of aim or purpose. He did not dissolve the Union or permit it to be dissolved; and if he permitted, caused, or aided in the change of the Constitution, it was that liberty should be established forever. He was the great republican leader, and the gentleman cannot denounce the acts and measures of the republican party without reflecting upon him. Every great act of the party during his life bears the stamp and impress of his authority. He was the embodiment at once of august power and angelic gentleness, of unconquerable will and unswerving justice. He let fall no blow upon the heads of the rebellious children of the Republic without a pang of sorrow and regret. He never failed to hold high and far-extended the olive branch of peace. The promise of forgiveness, pardon, and restoration, on condition of submission to law and return to duty, was forever on his lips. When he died the world wept. His goodness and his greatness are universally acknowledged. His fame is safe in the keeping of impartial history. To call him a despot, a tyrant, or a usurper, or to impute to him deception or treachery is to shock the moral sense of all honest men. The witness is discredited; for being false in this thing, the greatest of all his accusations, we cannot accept his statements in anything.

Mr. HAZELTON obtained the floor.

Mr. YOUNG, of Ohio. I ask the gentleman whether he has any objection to allowing me to offer an amendment to the bill now being discussed in the Committee of the Whole?

Mr. HAZELTON. I cannot yield for any such purpose.

Mr. YOUNG, of Ohio. It will take but a moment.

Mr. HAZELTON. You can attend to this greenback mattter on another occasion.

Mr. YOUNG, of Ohio. I give notice, then, that I shall offer the amendment when I have the opportunity to do so.

Mr. HAZELTON. Mr. Chairman, this debate will be long memorable in the history of this country for its peculiar characteristics and for the wide range which it has taken, for its bold and manly assertion of constitutional rights, for the conflict of opinion over the nature and powers of the Government itself, which it shows still exists, which we supposed had been settled and settled forever by a hundred years of adjudications by the courts, by national debate, by the standard authorities upon constitutional law, and, more than all, by the victories of our armies on a hundred battle-fields. But we have seen during the progress of the debate over the Army appropriation bill, and the one under immediate discussion, here and there a flash from the smoldering fires of the rebellion; we have heard here and there an utterance in justification of secession, here and there the old assumption of State rights renewed; and we have heard, sir, during this debate, and outside of all questions involved in it, and neither germane nor profitable, and forced upon it without excuse or justification, the utterances of a little band of so-called "nationals" upon questions of financial policy. To me they seem to stand here, sir, in this hour of public peril with the drawn dagger of repudiation in their hands attempting to stab the nation's credit and the nation's honor—apparently they have no higher mission to perform. If they have a cause which will bear investigation; if they have a cause which can go before the country on its merits, let them bring it here on its merits and not undertake to thrust it into the solemnities of this debate, where it is as much out of place as the idle chatterings of some maudlin individual at a funeral ceremony. Why, the gentleman from Iowa [Mr. GILLETTE] comes here and tells us that we want a billion of greenbacks issued because ten heifers in his district were sold a week ago for $2 apiece. [Laughter.] Let me tell the gentleman from Iowa that perhaps he does not want so much a greater issue of greenbacks as he does a less issue of heifers in his district. [Laughter.]

Mr. PRICE. Name the gentleman from Iowa to whom you refer.

Mr. HAZELTON. I refer to Mr. GILLETTE, of Iowa.

Mr. GILLETTE. Will the gentleman allow Mr. GILLETTE to make one correction?

Mr. HAZELTON. Certainly. If I have made any misstatement, I would be glad to be corrected.

Mr. GILLETTE. I made no such proposition as the gentleman states.

Mr. HAZELTON. I beg the gentleman's pardon, Mr. Chairman. I supposed he was of that little band here who are knotted together in one great purpose and who, so far as the philosophy of finance is concerned, as against Hamilton and the great men of this nation, would not be able to run a peanut-stand one week without bankruptcy.

I do not wish to misrepresent the gentlemen under any circumstances; but when they drag into this debate subjects so foreign to it—a debate that involves the life as we claim of the Government, a debate that involves a free and an honest ballot for all time, upon which the liberties of this country must rest or fall—I cannot refrain from reminding them of the position of John Hancock in the continental congress on the question as to whether his property with that of other citizens should be burned in order to prevent the British army from occupying the city of Boston. He said:

> If it be necessary to save the liberties of this country; if it will subserve the cause of the colonies, then burn Boston and make John Hancock a beggar.

Go and learn from him what there is involved in this great question. Learn that there are sometimes in the history of nations questions of

higher importance to be considered and determined than those of dollars and cents or the price of heifers in Iowa.

STATE RIGHTS AND NATIONAL RIGHTS—A "FREE BALLOT" OR AN HONEST BALLOT.

Now, Mr. Chairman, so far as this debate is concerned, I look upon it as resting in just this class of issues: an issue between State rights and a so-called "free ballot," and national rights and an honest ballot. The question is whether a State shall control the ballot-boxes of this nation in national elections at all times and under all circumstances, or whether the nation itself, when the States prove incompetent or unfaithful, can reach down to the ballot-box and protect it as a means of preserving its own life and perpetuating its power—whether legitimate Federal authority shall be subverted and driven from the States forever; and beyond that comes the great question of fact, whether in all parts of this land we are capable of self-government to such an extent that we can leave the ballot-boxes of the country without any guardianship, without any supervision by the Federal Government. If we can, that is the end of this question; if we cannot, then I insist that the necessities of the case warrant the exercise of that power, and warrant the maintenance of all the safeguards which now surround the ballot-box, and which were created by the legislation of the General Government.

POLITICAL JURIES.

Now, before I proceed to consider the questions of the power of the Government and the necessity of exercising it, I desire to call the attention of the House and the country to one provision of this proposed legislation, and to enter my most solemn protest against its enactment as a law of the land. I know that it cannot be successfully vindicated and defended before the people of the North, however it may be regarded in other parts of the country; and that it may be seen and read of all men I give it in the language of the bill under consideration:

> And that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing the names of not less than three hundred persons possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen residing in the district in which such court is held, of good standing and a well-known member of the principal political party opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately until the whole number required shall be placed therein.

This is the way juries are to be made up in the Federal courts in the future if this shall become a law. This scheme is a wanton innovation upon the practice and the law governing the jury-box since courts began or civilization has been known among men. This scheme places down in the jury-box, which should be unbiased and free from prejudice for or against either party to a suit, the conflicts, the contentions, the uncertainties, and prejudices engendered by political strife. It makes every jury-box in the United States courts a political jury-box, nothing more and nothing less; and in that shape, and constructed as contemplated by this bill, must undermine and finally destroy a judicial system which has stood the test of a hundred years. I challenge you to find—and you are able men—a precedent for this pernicious scheme, this innovation upon well-established law and usage, in the history of this Government from its organization down to this hour, or in the common or statute law of England. I regard it as a blow at the dearest liberties we enjoy, and such a law if carried fully into effect will destroy the efficiency and the purity of American jurisprudence. Stand upon it if you will, and go to the people of this country upon the position that in the jury-boxes of our Federal courts shall be placed the political contentions that have almost rent the Government itself asunder.

Mr. TALBOTT. Will the gentleman allow me to ask him one question?

Mr. HAZELTON. Yes, sir; I yield for a question.

Mr. TALBOTT. Would it not be better to have on a panel six of each side than to have all on one side?

Mr. HAZELTON. How can they agree in that case? If you want a jury not to agree that is a mighty good jury for you; if you want a jury to agree upon a question of title to property, upon a question of personal liberty, upon a question of personal rights, then you have no jury at all. It is something unknown to the jurisdiction of any country on earth to have a jury of six of one political party and six of another political party selected, not by accident, but selected for the very purpose of defeating justice; selected to render the entire jurisprudence of that court an absolute uncertainty.

Suppose you put two judges on the bench, one democratic and the other republican; one chosen because he is a democrat and the other because he is a republican, and then bring a question before them with the understanding that the democrat is to stand by his side and the republican by his, and you have undermined the whole power of your courts.

CONSTITUTIONAL POWER OF THE GENERAL GOVERNMENT TO CONTROL NATIONAL ELECTIONS.

Now I return, Mr. Chairman, to the question of the power of this Government under article 1, section 4, of the Constitution, which is as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators—

to control the national elections whenever a necessity shall arise for so doing. And in this debate we on this side of the Chamber ought to show the necessity to a reasonable extent to vindicate the position we have assumed on the merits of this proposed legislation. Saying nothing about the revolutionary question that has arisen—the question of method—it is fair for us to show that there are places in this country where it is not safe to-day to leave the ballot-box to the exclusive control of local authority, for that authority either can not or will not protect and maintain the rights of all the citizens and the purity and fairness of the elections.

The fathers, when they framed and adopted that section of the Constitution which provides for the times, places, and manner of electing Representatives and Senators, understood and foresaw that in the future of this country might arise a necessity for the exercise of this very power by the nation, and they provided that wherever an exigency should occur; whenever a State should prove unfaithful to the trust they gave it; whenever a State should be guilty of bad faith in the execution of this power and in the conduct of elections for the officers therein mentioned, then it should be the province of the General Government to assume and exercise that power at her own will and for her own benefit.

There is no power clearer in the Constitution of the United States than the right of this Government to control the election of its national officers, of its national representatives. There is no power given, from the preamble to the end, more distinct, more complete, and more unlimited than that which vests this nation with the authority of controlling and protecting the sources of its own life by prescribing, if need be, the times, places, and manner of holding elections for Representatives and Senators and the enforcement of its conditions by the constitutional power of the Government—always by the civil arm if adequate, but when not, by the military arm.

The district judge of Western Virginia, a democrat, when one of these questions came before him, I am reliably informed, decided that the General Government could furnish the ballot-boxes, if need be, for such elections, and could control them absolutely.

Mr. THOMAS TURNER. Will the gentleman inform us where that decision is to be found?

Mr. HAZELTON. Yes, on Judge Jackson's record.

Mr. THOMAS TURNER. No, tell us where it is to be found.

Mr. HAZELTON. In Judge Jackson's decisions. If you want it you can go down there and get it.

THIS QUESTION NOT A NEW ONE—IT WAS FULLY CONSIDERED IN THE CONVENTION THAT FRAMED OUR CONSTITUTION AND IN THE STATE CONVENTIONS THAT VOTED ON ITS ADOPTION.

But I have an authority at hand as high as any known to our judicial writings, commenting on and giving construction to the power in question. I will read from Story on the Constitution, first volume, page 566, but before I read let me say that in the convention of 1787 for the formation of the Constitution, and in the conventions of the States considering the question of its adoption, a debate arose upon this very question. It resolved itself into this shape: first, whether this power should be vested in the State Legislature; second whether it should be vested in the National Legislature; and third, whether it should be primarily in the State Legislature and ultimately in the National Legislature; and never in the debates in the States upon the adoption of the Constitution, never in a single debate in the national convention or in any State convention adopting this Constitution, was it denied that if this article as it now is should be adopted that it carried unlimited power over the elections for Representatives and Senators to the hands of Congress.

The question under consideration and debate there was whether they should adopt the first, second, or third proposition; and adopting the third they conceded that Congress could at its discretion make regulations of its own or alter those prescribed by the Legislature of the State as to the times, places, and manner of holding elections for Senators and Representatives. What other language could be employed by man to extend this power? What other word could be added to make it more absolute? What is left after conferring this power as to "times, places, and manner of holding elections?" These words comprise and comprehend it all. Under this power "the Congress" can by law prescribe when the election shall be held; it does so now. It can prescribe how registrations shall be made, what kind of ballot-boxes shall be used, how inspectors of the election shall be appointed, their duties and their oath, how returns of elections shall be made.

JUDGE STORY'S OPINION.

Mr. Justice Story points out the danger of lodging this power wholly within a State Legislature as follows:

> In answer to all such reasoning it was argued that there was not a single article in the whole system more completely defensible. Its propriety rested upon this plain proposition, that every government ought to contain in itself the means of its own preservation. If in the Constitution there were some departures from this principle (as it might be admitted there were) they were matters of regret, and dictated by a controlling moral or political necessity, and they ought not to be extended. It was obviously impracticable to frame and insert in the Constitution an election law which would be applicable to all possible changes in the situation of the country and convenient for all the States. A discretionary power over elections must be vested somewhere; there seemed but three ways in which it could be reasonably organized. It might be lodged either wholly in the National Legislature; or wholly in the State Legislatures; or primarily in the latter and ultimately in the former. The last was the mode adopted by the convention. The regulation of elections is submitted in the first instance to the local governments, which in ordinary cases, and when no improper views prevail, may both conveniently and satisfactorily be by them exercised. But in extraordinary circumstances

the power is reserved to the National Government, so that it may not be abused, and thus hazard the safety and permanence of the Union. Nor let it be thought that such an occurrence is wholly imaginary. It is a known fact that under the Confederation Rhode Island, at a very critical period, withdrew her delegates from Congress and thus prevented some important measures from being carried.

Again he says:

Nothing can be more evident than that an exclusive power in the State Legislatures to regulate elections for the National Government would leave the existence of the Union entirely at their mercy. They could at any time annihilate it by neglecting to provide for the choice of persons to administer its affairs.

And again:

Besides there will be occasions in which the people will be excited to undue resentments against the National Government. With so effectual a weapon in their hands as exclusive power of regulating elections for the National Government, the combination of a few men in some of the large States might by seizing the opportunity of some casual disaffection among the people accomplish the destruction of the Union.

ALEXANDER HAMILTON'S OPINION.

Mr. Hamilton, in No. 49 of the Federalist, which paper is referred to in this volume from which I have read, takes the same position and declares that the propriety of this plan rests upon the evidence of this plain proposition: that "every government ought to contain in itself the means of its own preservation;" and adds "nothing can be more evident than that an exclusive power of regulating elections for the National Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy."

Now that power being lodged in the Constitution, how shall it be exercised as a question of power? There is a wide difference between the exercise of a power and the power itself. Can there be any question about the power of this Government to execute its own laws? If it makes a law under that power which shall be met by any kind of force that will overthrow the civil power of the Government employed to carry it into effect, overpowering completely the civil machinery of the Government, can there be any doubt then about the power of this Government to employ the military arm to carry its laws into effect? Is there any spot, I ask you, under the flag or under the jurisdiction of our laws, where fraud can set itself up, where riot and insurrection and violence can defy the power of the Government? Yet you have taken that position here to-day and throughout this long debate. On the other side of the Chamber the whole weight of the argument is that at the polls threatened riot, actual riot, insurrection, invasion may occur, and the General Government shall have no power to meet them. Everywhere but at the polls, every day but election day, the strong arm of the nation's power can confront and move upon riot and disorder and reduce it to submission, but you propose to legislate that at the polls the Government shall not be permitted to suppress riot or keep the peace.

RELATION OF THE MILITARY TO THE CIVIL POWER.

We obtain the principle of law from the English government that whenever our civil power is overwhelmed, whenever it becomes paralyzed, whenever it is overcome by riot, by invasion, by insurrection, by any combination of wrong stronger than the civil power, then the civil power may use the *posse comitatus*, and that *posse comitatus* may be the Army itself as much as the citizen.

During the riots at Westminster and Guildhall, at the time that the dwelling of Lord Mansfield was burned, at the time that riot held possession of the city and the civil power was prostrate before it, the question came up in the House of Lords as to the use of the army as a *posse comitatus* to put down that riot, insurrection, or whatever it might be called. Lord Mansfield laid down this principle, which is the law of America to-day:

LORD MANSFIELD ON THE USE OF MILITARY TO SUPPRESS RIOTS AND KEEP THE PEACE.

These several positions I take to be incontrovertible. A private man, if he sees a person committing an unlawful act, more particularly an act amounting to a violent breach of the peace, felony, or treason, may apprehend the offender, and in his attempt to apprehend him may use force to compel him, not to submit to him but to the law. What a private man may do a magistrate or peace-officer may clearly undertake, and, according to the necessity of the case arising from the danger to be apprehended, any number of men assembled or called together for the purpose are justified to perform. This doctrine I take to be clear and indisputable, with all the possible consequences which can flow from it, and to be the true foundation for calling in of the military power to assist in quelling the late riots.

The persons who assisted in the suppression of these riots and tumults in contemplation of law, are to be considered as mere private individuals, acting according to law, and upon any abuse of the legal power with which they were invested are amenable to the laws of their country. For instance, supposing a soldier, or any other military person, who acted in the course of the late riots had exceeded the powers with which he was invested, I have not a single doubt but he is liable to be tried and punished, not by martial law, but by the common and statute law of the realm; consequently the false idea that we are living under a military government, or that the military have any more power or other power since the commencement of the riots, is the point which I rose to refute, and on that ground to remove those idle and ill-founded apprehensions that any part of the laws or the constitution are either suspended or have been dispensed with.

* * * * * * *

On the whole, my lords, while I deprecate and sincerely lament the cause which rendered it indespensably necessary to call out the military to assist in the suppression of the late disturbances, I am clearly of opinion that no steps have been taken which were not strictly legal as well as fully justifiable in point of policy. Certainly the civil powers, whether through native imbecility, through neglect, or the very formidable force they would have been obliged to contend with, were unequal to the task of suppressing the riots and putting an end to the insurrection. The rabble had augmented their numbers by setting the felons at liberty. If the military had not been called in none of your lordships can hesitate to agree with me that within a very few hours the capitol would have been in flames, and shortly reduced to a heap of rubbish. The king's prerogative is clearly out of the question. His majesty and those who have advised him have acted strictly conformable to law. The military have been called in, and very wisely called in, not as soldiers but as citizens, no matter whether their coats be red or brown; they have been called in aid of the laws, not to subvert them or overturn the constitution, but to preserve both.—*Hansard's Parliamentory History*, column 695.

A DEMOCRATIC AUTHORITY—JAMES BUCHANAN.

And now, turning from this authority—these pages that contain the thoughts and sentiments of the greatest of all English jurists, I call the attention of the democracy to an authority which I hold in my hand. It is an authority which to them ought to be conclusive upon the question of the power of the General Government to use the Army, if necessary, at the polls. My own position is this: that while I believe this Government has the authority to use the Army when the civil power is insufficient for the execution of the law as against violence, still I do not believe in ballot-boxes that shall for any long period of time rest upon the power of bayonets. But I maintain that there is no spot in this Republic, either at the polls or elsewhere, where a riot, invasion, or insurrection exists, overpowering civil authority, that the Government may not interfere, if necessary, by the military power and suppress it.

You Representatives remember the old Kansas times; you remember James Buchanan. He is a household god with many of you. He was a good lawyer, if he was not a patriot. He understood in some respects the power and the necessity for the power of the Government to execute its laws, at least at the ballot-box in Kansas. In reply to the Silliman letter, written from Connecticut away back in Kansas times, Buchanan lays down this as his sworn and imperative duty:

The convention [in Kansas] will soon assemble to perform the solemn duty of framing a constitution for themselves and their posterity. And in the state of incipient rebellion which still exists in Kansas, it is my imperative duty to employ the troops of the United States should it become necessary in defending the convention against violence while framing the constitution, and in protecting the *bona fide* inhabitants qualified to vote under the provisions of that instrument in the free exercise of the right of suffrage when it shall be submitted to them for their approbation or rejection.

That is the doctrine of James Buchanan.

STATE LAWS ON THE SUBJECT.

Again, there is not a State in this Union where its commander-in-chief cannot approach the polls by military force to put down any insurrection or riot that may exist there. The law of my State makes this very exception, which was referred to the other day by my colleague, Mr. BRAGG, in reply to my colleague, Mr. CASWELL. Our law contains this very exception with reference to insurrection or riot; and in such cases the military power of the State may be used even at the polls for the purpose of putting down such unlawful opposition and in maintaining the supremacy of the law. Virginia has substantially the same law; Kentucky also; all the States of the Union have provisions of this kind, so far as I can learn, and may exercise the power whenever the emergency arises. Now, why shall not this Government of our fathers, why shall not the national sovereignty have the same power, the same right to compel the enforcement of its laws for national purposes that the State has within State jurisdiction for State purposes?

ENGLISH LAWS.

But it has been claimed, sir, on the other side of this Chamber, during the debate on the Army bill, at least by indirection, that riot and insurrection and unlawful combinations of bad men taking the civil law into their own hands can bear sway with impunity at the polls, overwhelming the civil power and trampling it under foot, and that the military forces of England, under the restraining power of a statute one hundred years old, dare not approach the scene of violence, but must remain four miles away. The proposition is a monstrosity. No such law ever existed or could exist in any government upon any other theory than that peace was to exist as a matter of fact at the polls without the intervention of the military. That law must have presupposed a condition of peace and tranquillity at the polls—a full, free, fair, and safe opportunity for every qualified elector of the borough to express his political sentiments and execute his will by his ballot. It presupposed an honest ballot, an honest count, and an honest return—all this—but it never contemplated that when the English army should move out from the polling precincts, rifle clubs, white-liners, red-shirts and white-shirts, bulldozers and defrauders, armed to the teeth, should move in. There is no spot on English territory where armed violence can take undisputed possession, can take the civil law into its own hands, and not invite and receive the whole military and civil power of that government, if necessary, to quell and suppress it. All the world knows that within the limits of her home government, and wherever you find an English colony, on continent or on the islands of the sea; wherever she erects an altar or unfurls the flag of her empire, she asserts and maintains the supremacy of her civil law, and always by the aid of the military power, whenever that law is prostrated by rebellion, by insurrection, by domestic violence, or by any combination of bad men.

KINGS AND COMMONS.

My friend from Virginia [Mr. TUCKER] claims that he has found a justification in English history for the position now assumed by the other side of this Chamber in withholding supplies from our Army and the legislative, judicial, and executive departments of the Government. He goes back to the great contest between the Stuarts and the Commons in Parliament assembled, and claims that he and

his associates are the Commons and we the King. The distinguished gentleman must not forget his origin. The cavaliers landed at Jamestown and not at Plymouth Rock. The Commons resisted a royal prerogative, claimed as a "divine right;" the distinguished gentleman from Virginia threatens the constitutional prerogative of the President conferred by a free people. The Commons registered a protest, in which "they asserted that the enactment of laws, the assent to taxes, and the rights and privileges of Parliament were inherent rights of every Englishman." This they asked and no more. The Congress of this nation having all these rights secured and unimpaired, the gentleman would convert it into a legislative despotism more intolerable even than the encroachments of the King. The Commons withheld supplies from the army of a tyrant; he withholds sustenance from the army of the people—freedom's army. They withheld supplies that they might compel the surrender of certain rights and privileges which the King arrogated to himself alone. In this contest the Executive usurps no right, nor exercises any that is not vested in him by the Constitution which he has taken an oath to support, and which has been exercised by every President of the Republic from the days of Washington. They would destroy a king that they might destroy his unnatural prerogative; you would destroy a government rather than not repeal a law that you as a party helped create.

NECESSITY OF NATIONAL SUPERVISION OF NATIONAL ELECTIONS—STATES DO NOT ALWAYS ESTABLISH AND MAINTAIN JUSTICE.

Now, sir, I desire to show the necessity of maintaining these laws enacted for the protection of the national elections. Have all the States performed their duty in the exercise of this power which is intrusted to them? Have their Legislatures all prescribed in good faith the "places and manner" of holding such elections? Have there been no wrongs committed by the people of the States, or some of them, by which the American freeman has been deprived of his just rights at the polls? Take up the law of South Carolina as to polling "places," and you find a proscription of voters instead of a prescription of the "places" contemplated by the Constitution for the convenience of voters. It is not in my power to give a more wanton and flagrant violation of this power over elections by a State than that which can be found from the pen of one of the members of the South Carolina Legislature, and one of the most distinguished democrats of that State. In his letter of November 1, 1878, addressed to the democratic voters of Charleston County, he says:

As to my opinions upon public affairs generally, and especially as to the policy of the party with respect to the colored vote, they were also well known, and for that reason I suppose I was not asked to make any pledges. They were open to be expressed to the convention, to its committee, or to individuals, high or low, that should ask. There never was a more pronounced independent candidate than I was when the convention adopted me. Its members knew it perfectly well. There could not be a representative more thoroughly independent of the open dictation or the true inwardness of the close corporation which at this day governs the democracy with a political tyranny unsurpassed and never before attempted in this State. I was elected without opposition. During the last session of the Legislature a bill came from the house reducing the number of voting precincts in this county. It came without any notice to me from its promoters. During its reading my attention was called to so much of it as applied to our county.

The number of precincts was reduced about one-third in the city and about two-thirds in the country, compelling the voter in some instances to make a round journey of even forty miles, others of twenty, twenty-five, and thirty miles, and in the greater number of cases from five, ten, and fifteen miles. Most of the voters are laboring-men, poor, and without means of transportation.

In Saint Andrew's Parish, consisting of James Island and the main territory, the poll on the main was abolished, and that on the island only retained, with a navigable stream to cross, and no bridge nor regularly kept ferry. I called the attention of the senate to these omissions, and moved their restoration.

It was done, and the amendments made without objection or a dissenting voice.

Upon further investigation I found that the time for keeping the polls, compared with the number of voters, made it next to impossible to receive all the votes, and quite easy for partisan managers to defeat the largest part of the votes.

Thus the time allowed is seven hundred and twenty minutes. On John's Island the number of voters is not less than one thousand. There is now but one precinct, two having been abolished. The time therefore allowed to each voter for the required oath, statement of name, residence, registration, and for such questions as any one or all of the managers may please to ask, is less than forty-five seconds, less than three-quarters of a minute.

Is any further explanation necessary? For the honor of Charleston I hope not. Subsequently the bill came back from the house with the amendments disagreed to. Then it was that General Gary appeared as the representative of the Charleston democracy, appointed by the chairman of your executive committee.

He announced that your chairman had instructed him to say that your committee wished the bill to pass without the amendments, and had asked him to so inform the Senate.

I then denounced the measure as a barefaced violation of the pledges made, and repeated again and again, not only to the colored people, but to the whole country.

I was not measured in the terms I used; they need not be repeated; each one of you, according to his value of fair play, justice, and good faith, will fancy what I said. What do you say to such legislation or the wish for it? I now say it is disgraceful to the State and a blot on its good name.

The senate went with General Gary and the committee. Then it was that I pledged myself to make the question before you if the time should come, and ask whether you approve and stand on such legislation or reject it. It is simply this and nothing else: Does the democracy of Charleston mean to disregard and break its plighted faith made before the whole country?

Now, suppose that in my colleague's district, in Dodge County, Wisconsin, voters were required to go forty miles to cast their ballots; suppose you were to strike out one-third, one-half, or two-thirds of their polling places, so that poor laboring-men would have to travel forty, fifty, or sixty miles to deposit their ballots; and suppose, when the attention of the Legislature is called to the matter, it would refuse to put the law in such form that voters would have the proper conveniences for voting—what do you suppose the people in Dodge County, Wisconsin, would do in such a case? Such a deprivation of their rights would produce revolution there. My colleague dare not go there and advocate that their polling places shall be forty miles apart, and claim that such a system is just or constitutional under our Government or an act of good faith on the part of a State Legislature.

Mr. BRAGG. Will my colleague allow a question? What does he think of a congressional district so arranged, in order to make it a republican district, that the voters must travel through three or four other congressional districts, some of them in other States?

Mr. HAZELTON. I think that is a mighty narrow district in parts. [Laughter.] I do not know what there is beyond the question—what is its bearing; but——

Mr. BRAGG. I refer to a congressional district in the State of Wisconsin, the north end of which is at Bayfield, its corner, like a sheep's leg, away down three hundred miles distant, where I live, and its other end on Green Bay.

INTERFERENCE WITH THE RIGHTS OF ANY CITIZEN IN ANY PART OF THE COUNTRY IS A WRONG DONE TO EVERY CITIZEN AND TO ALL PARTS OF THE COUNTRY.

Mr. HAZELTON. Well, I will tell you what I think about that. If there is nothing but the shape of a sheep's leg and a sheep's head to make a district of, it cannot be in any other shape. But suppose now a district has been gerrymandered; is that any justification for us here? Are we standing as American citizens, as Representatives of the American people, merely to play tricks, merely to fix up elections so we may carry our purposes a year from now? Or are we legislating for permanency, that the Government may live, that there may be an honest expression of the public will? Because Ohio and Indiana were gerrymandered and cut up to make democratic Representatives neither party is justified in striking at the public will anywhere; neither party is justified on that account in cutting off the opportunity of the legal voter to express his will at the polls. I tell you, sir, that the noblest heritage and the most sacred right that the poor man ever held or exercised in a free government has been and is and must always be his right of suffrage. It is his title to his freedom; it is his individual, sovereign will, reaching the remotest limits of political power, giving him a freeman's voice in the legislative, judicial, and executive power under which he lives and by which he is governed. If he cannot have it he is robbed of his most sacred right. And any man or combination of men who will rob him of this right in South Carolina or Louisiana or in Massachusetts, on every national question robs me and my constituents of their rights. You cannot strike down a ballot-box in South Carolina, in a national point of view, but it affects this whole country from the Atlantic to the Pacific and enters the volume of just political power, the just expression of the popular will, and corrupts it from top to bottom and from bottom to top. [Applause.] "We are all members of one body, and if one member suffers all the members suffer with it."

EVIDENCE OF SUCH INTERFERENCE IN THE SOUTHERN STATES.

And now, sir, further to maintain the necessity for national control of elections under existing laws, I refer to the condition of society itself in that State, and I make no charges except from the record. I am not here for crimination or recrimination; I am not here to say anything on this point except what the records and authorities recognize and sustain me in saying, and I appeal to the testimony taken by the Senate committee of which Senator CAMERON of my own State was chairman, and touching the national election of 1876 in South Carolina, upon the sworn testimony of republicans, democrats, black men and white men, showing that during the campaign of 1876 in South Carolina a large number of American citizens were assassinated for opinion's sake. Their names, in many cases, and their residences are given; their identity fully established, so that if the charges made in the testimony are not true the honor of that State demands that she should show it.

A "DEAD LIST."

I give here a few of the names of the persons which the testimony shows were thus assassinated in that campaign: James Cook, Moses Parks, Lieutenant Attaway, David Phillips, Hampden Stevens, Albert Minyard, Peter Williams, Henry Campbell, Basil Bush, John Williams, Kit Fennessey, John Kelsey, David Bush, Warren Kelsey, Samuel Brown, Wilkins Hamilton, Simon Coker, Abram Blake, Edward W. Bush, William Goodwin, George Turner, William Tutt, Zed. Golfin, Archie Burnett, Azariah Butler, Milo Robinson, Silas Goodwin, Perry Childers—thirty men who were assassinated at their own houses or in the fields at work, besides all who were killed at Hamburgh, Ellenton, and other general massacres. Some of these men had families, wives and children and aged parents, wholly dependent on them, and the circumstances of many of their murders are fiendishly cruel—almost beyond conception. There is no pretense that these men had committed any crime. On the contrary, the evidence clearly shows that they were deliberately murdered because they were supposed to be republicans, and for no other reason. Remember this is but a part of the murders in one State during one political campaign, and that in several other States during all the years since the war similar outrages have been systematically committed.

Can you group a picture like that in the Northern States of this Union. Will you place your national elections under the absolute control of a State power that enforces no law for the protection of these citizens thus murdered and that redresses none of these wrongs upon her own people? In a contest between democrats only for an

office in such a state of society the colored voter may be treated with fair consideration, but between the colored republican and a democrat in a contest for office the former invites not success but annihilation. It is hard for all the people of the South to learn this lesson, and it would be hard for all the people of the North to learn it, I presume, under the same circumstances, that he who was a slave, an absolute chattel, is to-day in the eye of this Government and before the law the political equal of the white race.

It is but a little while since the colored man was your slave and you his master; but a little while since the whole labor system of the Southern States was servile instead of free; but a little while since revolution, by yourselves invited, lifted a race from abject slavery to the level of constitutional liberty. It is hard for the dominant race to realize this great fact, and so long as a political party in the South shall deny him his just rights in his new relation to the Government and society, so long as the Legislatures and courts of the Southern States shall discriminate against him, and unkind prejudices growing out of his former relations to the white race shall be cherished, you must not find fault if the great Government that gave him his freedom shall protect his ballot.

CORRUPTION IN OUR LARGE CITIES.

But, sir, it is not in the South alone, where the old relations of master and slave have been rent asunder, that this necessity of which I speak exists. The laws which you seek to repeal as a condition of granting supplies to the Government authorize national supervisors in the cities of the Union, from the most populous down to cities of twenty thousand inhabitants, and these laws apply not to one section of the Union alone, but to all sections. Many of these cities are constantly absorbing the most vicious as well as the best elements of the Old World. Vice grows with their growth and strengthens with their strength, and the peace of society depends alone upon the strong arm of the law. Your objective point in the repeal of these laws is the great city of New York; not that you may secure thereby an honest expression of the popular will, but that you may secure a victory in the great campaign of 1880 without regard to an honest expression of the popular will. You seek to emancipate fraud by the repeal of these statutory laws that she may be free to bring you the trophies of the days of Tweed. The great city of New York is the democratic political maelstrom of fraud, in which, left to itself, the popular will of the Empire State is ever swallowed up and destroyed. Without Federal supervision under existing laws, anything but a dishonest expression of the people's will at the ballot-box is impossible. Thrice, and more, before these laws were enacted was the real majority of the vote in that great State defeated by corruption, fraud, false votes, and false counts in that city. Hordes of bad men—cut-throats, thieves, and villains—reigned supreme at the polls, and shaped by fraud the power of party and the destiny of men. These vicious elements of society still exist. You can no more trust the integrity of the elective franchise in their hands, unrestrained by a supervising power, than you could trust your property in the hands of Greek bandits, the commerce of the seas with pirates, or a child for safety and protection in the coils and fangs of rattlesnakes. I do not seek or want their votes, but I insist that the honest vote of honest men shall be guarded and protected against their frauds.

Cicero well describes the contest that exists between the forces of law and order and such elements as these:

> On the one side chastity contends, on the other wantonness; here purity, there pollution; here integrity, there treachery; here piety, there profaneness; here constancy, there rage; here honesty, there baseness; here continence, there lust.
> * * * * * * * *
> In such a conflict were human aid to fail, would not the immortal gods empower such conspicuous virtue to trample over such complicated vice?

Mr. STEELE. Is not that a translation you are reading from?

Mr. HAZELTON. It is. Perhaps the gentleman thought it was the original Latin.

Mr. DEUSTER. Will the gentleman allow me a question?

Mr. HAZELTON. Yes, sir.

Mr. DEUSTER. Will the gentleman say that those men who were arrested in New York by Davenport belonged to the class he has just described?

Mr. HAZELTON. Some of them did I have no doubt.

Mr. DEUSTER. He has arrested eight thousand and more, mostly naturalized citizens, men who held their naturalization papers in their hands, with the seal of the court attached.

Mr. HAZELTON. Do you claim that those naturalization papers were all originally right when they got them?

Mr. DEUSTER. That is not the question. You must know that as regards any naturalization paper or any other paper, even your marriage certificate, if it is issued and signed, nobody can go behind it, unless a court decides it is not legal. Will you classify those men who were arrested by Davenport in New York among those "hordes of bad men" that you have described?

Mr. HAZELTON. Hordes?

Mr. DEUSTER. I mean those men of whom you said that you would not have their votes. I tell you, sir, that there were honest men among them whose votes you would be glad to receive.

Mr. HAZELTON. That may be. There may be some honest men among them. But you cannot deny, nor can anybody else deny, that New York City has had and has exercised the power by just that class of men to reverse the entire vote of the State by 40,000 corrupt, fraudulent votes. The record shows it and Tilden admits it. Greeley charged it and Tweed admitted it. And it is written all over that State that this class of men were the men who did that foul business. And now, my dear sir, do you stand here and say that a corrupt court can give a corrupt certificate of citizenship and that this person can go and vote at the polls and be justified all the way through? Answer, yes or no.

Mr. DEUSTER. You say a corrupt court?

Mr. HAZELTON. Yes; a corrupt court, a corrupt voter, and a corrupt certificate.

Mr. DEUSTER. Mr. Chairman, we have no reason to believe there is a corrupt court.

Mr. HAZELTON. I do not yield unless you answer my question. My question is this: Will you sustain a vote where a corrupt court gives the certificate and a corrupt voter casts the vote and where in reality that man is not a legal voter or real voter? Will you sustain that?

Mr. DEUSTER. I will tell you what I sustain. I sustain a naturalization certificate.

Mr. HAZELTON. Whether it is fraudulent or not?

Mr. DEUSTER. I sustain a naturalization certificate issued by any court of record.

Mr. HAZELTON. Whether the man swore to a lie or not? Will you, if you know the man who swore it swore to a lie, will you sustain it? Will you do so if you know he lied when he asked for a certificate?

Mr. DEUSTER. Certainly I will not.

Mr. HAZELTON. That is all right. I am glad of it. And now I will ask the gentleman another question: Did you not say here, in your speech the other day, that Milwaukee did not want these laws?

Mr. DEUSTER. We do not want these laws?

Mr. HAZELTON. That you did not want these marshals or supervisors laws?

Mr. DEUSTER. Yes, sir; and I have found this, that they have never been employed in any State where the republicans had a majority, but only where democratic majorities existed.

Mr. HAZELTON. Do you claim there were any corrupt votes in Milwaukee when you were elected? Do you claim that any part of the vote of Milwaukee was corrupt or fraudulent on the last occasion when you were elected?

Mr. DEUSTER. Any part of the vote?

Mr. HAZELTON. Was any part of the vote fraudulent in the city where you live, in the city of Milwaukee?

Mr. DEUSTER. I do not know; but if any fraudulent votes were cast there, they were upon the republican side. [Laughter.] I know this, that in Milwaukee money was used by the republicans.

Mr. HAZELTON. You say that money was used at the election in the city of Milwaukee. The rich men like Mr. Mitchell there, who own the banks and the railroads, the men who constitute the money power there, are the men who sent you here.

Mr. DEUSTER. The gentleman has mentioned Mr. Mitchell. I state that Mr. Mitchell did not contribute one red penny to our electioneering fund.

Mr. HAZELTON. You are using my time, and I have but one minute left. [Laughter.] You and I can fight this out some other time.

Mr. DEUSTER. I only wanted to tell you that——

Mr. HAZELTON. Wait till I get through.

Mr. DEUSTER. The name of Mr. Mitchell has been mentioned, and I desire only to say that neither Mr. Mitchell nor any banks or railroads contributed money toward any election.

Mr. HAZELTON. I do not say that he has, but I say that your party had the money and the republicans were poor.

Mr. DEUSTER. I tell you that some republicans will get poorer now. [Laughter.]

Mr. HAZELTON. They have always been poor.

Mr. DEUSTER. It was the policy of the republican party that made them poor. [Laughter.]

Mr. HAZELTON. And the Government, too, if you get it.

THE LAW CAN DO NO HARM TO THE LAW ABIDING.

And now, sir, the Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and you insist that no appropriations shall be made at all except upon the conditions of this section of the law of 1865, which is as follows:

> No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls—

shall be not repealed, but so changed by striking out the last eight words as to destroy the power which the section as it now stands only restricts. Adopt this modification and what power have marshals, and supervisors even, to successfully resist violence at the polls of a national election? Certainly, under this modification if a riot should happen at a national election it could not be suppressed by national power. Such legislation should come in here, sir, if at all, in a separate bill entitled "A bill to confer certain powers and special privileges upon riots, fraud, and armed violence at the polls

of the national elections." You can repeal the section if you will, but you cannot change it as proposed.

Repeal this section and the authority to use the troops for the enforcement of the laws will stand where it did from Washington to Lincoln. If you are patriotic, if you concede the right of all men to enjoy the liberty to which they are entitled, you need not fear the power of this Government thus placed where the fathers placed it.

For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shall have praise of the same.

You long since said like Richelieu, "Take away the sword, States can be saved without it," and the President withdrew the troops from the South, and the little remnant that remains of freedom's army is engaged not at the polls but upon the forts, and in the defense of the frontiers of the nation.

THE THREAT TO WIPE OUT "THE LAST VESTIGE OF WAR MEASURES"—WHAT IT INCLUDES.

And now you demand that all the safeguards which the civil law employs for the protection of the citizen at the polls and to secure an honest expression of the popular will shall be wiped from the statute-books forever. I say all, for you have scaled them down to nothing; you have left the Government a supervisor, but he is not required to act. Nor do you pause here. "We do not intend to stop until we have stricken the last vestige of your war measures from the statute-books, which like these were born of the passions incident to civil strife and looked alone to the abridgment of the liberty of the citizen," is the recorded manifesto, sir, in your speech delivered before this House on the Army bill. I thank God "That murderous shaft that's shot has not yet lighted." You say, sir, that you do not include the question of pensions in this threat, nor the amendments to the Constitution. But this sentiment is not universal among the democracy of the South, as I learn from the tone of the public press. I find the following pertinent paragraph in the Jackson (Mississippi) Clarion, (democratic:)

If bygones are to be bygones let them be so in fact as well as pretension; but this system of pensioning the soldiers who fought on the winning side of the war at the expense of the side that lost (because of the overwhelming odds against them) is not only a disagreeable reminder of bygones but a most unfair and iniquitous proceeding. While large numbers of the soldiers on the side of the North honestly believed they were fighting to save their Government and were impelled by patriotic motives, others were mere soldiers of fortune from abroad who enlisted for pay regardless of the cause involved. On the side of the South, the struggle was for home, altar, and the right of self-government.

But your field of glory is not yet exhausted. The great laws by which the nation obtained means to suppress the rebellion, and many other laws of vital importance, form a part of the war legislation which you threaten to destroy.

THE VETO POWER—PRESIDENT JAMES K. POLK'S DEFINITION OF IT.

I cannot close, sir, without a reference to the constitutional right of the President to veto bills that do not meet his approval—a subject which has been so often referred to during this debate—and I find this right and power so clearly and tersely defined by a high democratic authority that I prefer adopting his language to attempting a definition of my own. President James K. Polk, of Tennessee, in his fourth annual message, December 5, 1848, says:

The Constitution provides that "every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it."

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it as well by his obligations to the people who have clothed him with his exalted trust as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both Houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check, but if at any time Congress shall, after apparently full deliberation, resolve on measures which he believes subversive of the Constitution or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve or disapprove every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty, and he cannot escape it if he would. * * * Any attempt to coerce the President to yield his sanction to measures which he cannot approve would be a violation of the spirit of the Constitution, palpable and flagrant, and if successful would break down the independence of the executive department and make the President, elected by the people, and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. * * * That the majority should govern is a general principle controverted by none, but they must govern according to the Constitution and not according to an undefined and unrestrained discretion whereby they may oppress the minority. * * * The people, by the Constitution, have commanded the President as much as they have commanded the legislative branch of the Government to execute their will. They have said to him in the Constitution which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve "he shall return it to the House in which it originated with his objections." In withholding from it his approval and signature he is exercising the will of the people constitutionally expressed as much as the Congress that passed it. * * * To deny to the President the exercise of this power would be to repeal that provision of the Constitution which confers it upon him. To charge that its exercise unduly controls legislation is to complain of the Constitution itself.

The veto power, sir, is not a new principle in governments. It existed as far back in history as when the tribunes of the Roman people exercised it against the decrees of the senate and the proceedings of courts, and since that time it has continued as a distinct and independent branch of governmental power, and to-day exists not only as a distinct and necessary function of the law-making power of this nation, but has passed into the constitutions of nearly if not all the States of the American Union. The governor of every State has the right to veto the bills which he does not approve. This power is one of the most valuable safeguards against hasty and injudicious legislation, and it is as essential that the Executive be respected and protected in the exercise of this power as that the Legislature be respected in the exercise of its constitutional powers. I shall await the action of the Executive of this great nation upon these bills which have engaged our attention and that of the American people throughout this entire session of Congress confident that he will perform his duty with prudence and with strict fidelity to the Constitution and the best interests of the country, and confident also that the American people will not sustain the policy now inaugurated by the democratic party in this Capitol, that the life and existence of the Government shall depend upon the modification or repeal of a law.

Mr. BRAGG proceeded to address the committee.

Mr. STEELE. My friend from Wisconsin [Mr. BRAGG] will understand that it is necessary that the committee should now rise, and I make that motion.

The CHAIRMAN. The House has ordered that to-day at half past four o'clock a recess shall be taken until half past seven o'clock. The question is upon the motion that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. STEPHENS. I ask unanimous consent that the time for closing general debate be extended from two o'clock to-morrow, as now fixed by order of the House, until five o'clock to-morrow.

Mr. BUCKNER. I object.

Mr. HAYES. If we can have some sort of understanding by which a final vote can be taken on this bill Saturday, I will not object. We ought certainly to have a vote on this bill Saturday.

Mr. BUCKNER. I withdraw my objection.

There being no further objection, the time for general debate was extended until five o'clock to-morrow.

Mr. STEPHENS. I also further ask consent that the order be now made that at the end of the session to-night a recess be taken until to-morrow morning at ten o'clock.

There was no objection, and it was so ordered.

The SPEAKER. The hour of half past four o'clock having arrived, in pursuance of previous order of the House, a recess will now be taken until half past seven o'clock this evening.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLARK, of Missouri. I move that the House resolve itself into Committee of the Whole, to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. SPRINGER in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. The gentleman from Wisconsin, [Mr. BRAGG,] who had not concluded his remarks when the committee rose this afternoon, is still entitled to the floor.

Mr. BRAGG. Mr. Chairman, the debate upon the present bill, together with that on the bill which preceded it, has been so able and exhaustive upon all the legal questions involved in either of them that a man who at this late hour would essay to give any new light upon the subject must indeed deem himself possessed of rare genius and logical powers. I have no such expectation; but the range of this debate has been such that I trust it will be my excuse for trespassing upon the time of the committee. From the beginning to the end of the debate there has scarcely been any allusion made to the merits of the real question involved, but on the contrary the effort has been studiously to avoid that question and substitute false issues as to the method and purposes of the amendments under consideration.

Most of the time has been occupied in proclamations of a new revolution just commenced, a revolution which is to be the counterpart of the revolution of 1861, and many men who have never heard a hostile shot, who in case of actual danger would have joined the horse marines, one would think, have arrayed themselves in caps and feathers and have unsheathed their swords and avowed their purpose to lead on to victory in another great battle which is to come.

Whenever they have been arraigned for any abuse of power or malfeasance of their party their answer has been not a defense or justification, nor even yet an explanation, but instead of it they raise their voices and shout with one accord, "You are confederates," as if that at this hour would blind the people to their excesses. They do not justify themselves, for they have no reason for their opposition to these bills, and, devoid of argument, they indulge in flings at

the former condition or political action of some of the gentlemen upon this side of the Chamber in an endeavor to arouse the sectional prejudices of the people and through passion escape popular condemnation.

Mr. Chairman, the State which I have the honor in part to represent has no taint of slavery in her lineage. She had no suspicion of disloyalty in her record. When in 1861 she was called upon for aid to the General Government there was no State that responded more promptly than she did, and the common soldiers whom she sent to the war love the national emblems with as stout hearts and as steady nerves as any of that grand citizen Army. Where the fight was hottest there were they, and where the dead lay thickest there might their bodies be found, with their backs to the field and their feet to the foe.

The democracy of my State was ever true to the Union. She ever entertained respect and honor for those who went down to the hot field of battle. And in testimonial of it she sends two of her citizen soldiers to represent her upon the floor of this House; and voting as they do and saying what they may say, I trust their motives will not be impugned nor the charge of disloyalty laid at their door.

I stand here to-day to defend the measures contained in the bill which has already passed this House, as well as the measures which are now under consideration by this House. I feel that it is my duty to speak, not for the South. My interests are with the West; my interests are with the North; my interests are with the men who manned the ships, with the men who went forth and did battle, with the men who came from their work-shops, from their fields, with the men who earn honest bread by their daily labor, with the men both native-born and foreign who claim the right to exercise the right of suffrage without being interfered with by national troops at the polls or by national marshals, the representatives of the thug interest, to scare them away with threats that their papers of naturalization are irregular or illegal and that they will be snatched up and carried off to foreign prisons if they see fit to exercise the franchises of the American citizen. It is for them that I speak and not for the South.

When these gentlemen propose to make this a southern battle they forget the communities in which they live. When they propose to stir up again the sentiment of discord, when they declare upon this floor that a new rebellion has been inaugurated, what sounds have responded? Instead of the cry coming back "To arms!" and the North being united to sustain them upon this sectional issue, there is coming back the taunting, derisive laugh of mockery from the people they seek to arouse and whose evil passions they endeavor to stir up in order to bring on a new conflict that they may profit by it.

While you stand here declaiming against southern outrages; while you are reading your Teller reports; while you are vouching for the testimony of witnesses who have shown themselves to be the disgrace of any civilized nation and of any age in the history of any government; while you come here vaunting the evidence of your Pinkstons and your Jenkses for the purpose of arousing northern sentiment, you forget that you are indebted for even the appearance, the semblance of honesty and decency that you wear as a party to the simple fact that the kind of witnesses whose testimony you are now seeking to use was so foul, rotten, and disreputable that when they confessed their misdeeds, by which you still have a branch of the Government, and pointed to you as the principals in crime, the northern judgment revolted at conviction upon the evidence of men and women whose character was so damnable; and you forget, too, that you appealed to that judgment not to condemn upon such evidence. And so the verdict upon the charges made against you was "not proven," though in the mind of every fair man in the country your guilt was scarcely the subject of a doubt.

But your failure to obtain the applauding response you desired and sought must teach you that the people of the North know that the men of the South who were brave enough to fight the battles they fought, when they laid down their arms laid them down as brave men always do, accepting the consequences of their defeat, and that you sound your "tom-toms and blow your horns" in vain. [Applause on the democratic side.]

You have paraded here the Goddess of Liberty mangled and torn and bleeding, brought from the battle-field on broken arms and bleeding breasts. You have shown her again to the country, and you have asked this country again to kindle anew the fires of conflict. Had the gentleman who portrayed that figure remained long enough in the military service of the United States, giving earnest of the brave words which he now utters by the actions that he then took, he might have had a far different vision present itself to his view. For in looking back through time he might have seen that Goddess first mourning over the evil spirit of discord which separated her children; he might have seen her again standing weeping over the graves of her brave dead; and he might have again seen her radiant in her majestic beauty, crowned with the chaplets of victory, when the boys in gray escorted by the boys in blue knelt at her altar and took anew the oath of allegiance and heard her say, "Rise, erring children, and be again American citizens." Ay, sir, he would then have known that the "blue and the gray" had formed an abiding compact to uphold and defend the institutions of this country and the liberties of this people against all foes, foreign and domestic. [Applause on the democratic side.]

Mr. Chairman, we are accused of starving the Army to death. Horrible sight! Think of an army of skeletons parading before us. We are charged with starving the nation to death. Are we? By what authority do you say we are starving the Army to death? When the appropriation bill for the support of the Army was put upon its final passage, so that that Army might be supported for the ensuing fiscal year; when provision was made in that bill to clothe it and feed it and to supply it with the arms and munitions of war; when we provided for the protection of our defenseless frontiers, the democratic and national vote on this side of the House was solid in favor of supplying that Army with all its needs and providing for all its wants. Where were the men who loved the Army so much then? Every mother's son of them voted "no." [Laughter.]

We are starving the Army to death, are we? When by our affirmative vote we proposed to feed and clothe it, and you, the minority, are interposing your "no" against that Army being fed and clothed, you denounce us with starving it to death. That gushing sentiment of love for the Army coming from the republican party was like the gushing love and feelings of sentiments it had toward the boys in blue when they came back from the late war. It hath this extent—no more: "So long as you serve our purposes and do our bidding, all hail; but when you refuse to wear our livery and vote us into power, the sooner you starve to death the better; for you will become full-fledged confederates and tear down the Government you shed your blood and risked your lives to maintain."

Actuated by just this sentiment so soon as the majority of this House, in obedience to the doctrines of our fathers, said that the money which we appropriate for the support and maintenance of the Army must be supplied for its support as an Army, and shall be no longer used to make that Army a political machine, the fountains of your sympathy all dried up; and being unable longer to use the Army, you had no hesitation in voting to "starve it to death." [Applause.] Having voted to "starve it to death" and failed, what next do you do? You call upon your union leagues, you call upon your ward clubs, you call upon your newspapers to stiffen the backbone of the President so that he too shall be disposed to do what?—to "starve the Army to death!" [Applause.] It is a fitting act for a party that has just lost its control of the Government. It will be a fitting close to the power of the republican party in every branch of this Government if at the dictation of partisan politicians, for mere party ends, a veto shall be interposed to thwart the will of the people expressed through the legislative branches of the Government.

I do not deny, Mr. Chairman, the right to use the veto power; but, sir, when the veto power is used it must be used for cause; it must be used for reasons; there must be something upon which to found it more than the dictates of a congressional caucus or of any ward club in this country. It must be founded upon reasons of State. Now, what reasons are there upon which to base the claims that this bill is to be vetoed? I say to the gentlemen upon the other side of this Chamber your commander-in-chief upon this floor surrendered the question and capitulated you with him when he said that were this presented in an independent measure he would vote for it. That capitulation commits you to the fact that the principle in the bill is not wrong. Then, if there is nothing wrong in principle, where is there anything upon which to found the presidential veto? The President cannot interpose his veto upon form, for form is nothing so that the substance is there. The question is, is the legislation wise? Is it in the interest of the American people? Does it conform to the sentiment of American institutions? If so, and the people demand it, it makes no difference whether it be engrossed upon white paper or black, upon blue paper or brown, upon a legislative appropriation bill or a deficiency bill; and if it is a measure of good and not of evil import and be passed by the representatives of the people in the proper exercise of the law-making power, and is presented to the Executive for his signature, it is his duty to sign it, and I verily believe he will sign it.

Now, I propose to show that there is nothing here requiring the interposition of any veto; I propose to show that there has been a complete surrender and capitulation of the republican party on this question, not only here but elsewhere, and that you are simply urging the Executive to do what you yourselves would not dare to do. You assume now to be the friends of him with whom you have been struggling and contending ever since he came into possession of the power which he now holds. You who have fought him, you who have compelled him to appeal to the democratic Representatives in Congress to aid and sustain him in the exercise of the powers conferred upon him by the Constitution of the United States to break down an oligarchy that had sought to absorb to itself all the powers of the Government and dictate and control the prerogatives of the Executive—you, forsooth, are now become the peculiar *friends* of the President and ask him to veto these bills, and threaten him with your displeasure if he exercises his own judgment and resists your coercion. I read, Mr. Chairman, from the remarks of a man whose name parliamentary courtesy forbids me to mention, sufficient to show that the surrender has been made, not only here but elsewhere, and that there is nothing in the Army bill except that by our votes we have declared the law to be in conformity with what the republican leaders say their construction of it and practice under it always has been:

The object of the proposed section, which has just been read at the Clerk's desk, is to get rid of the eight closing words, namely, "or to keep the peace at the polls," and therefore the mode of legislation proposed in the Army bill now before the Senate is an unusual mode; it is an extraordinary mode. If you want to take off a single sentence at the end of a section in the Revised Statutes the ordinary way

is to strike off those words; but the mode chosen in this bill is to repeat and re-enact the whole section, leaving those few words out. While I do not wish to be needlessly suspicious on a small point, I am quite persuaded that this did not happen by accident, but that it came by design. If I may so speak, it came of cunning, the intent being to create the impression that whereas the republicans in the administration of the General Government had been using troops right and left, hither and thither, in every direction, as soon as the democrats got power they enacted this section. I can imagine democratic candidates for Congress all over the country reading this section to gaping and listening audiences as one of the first offsprings of democratic reform, whereas every word of it, every syllable of it from its first to its last, is the enactment of a republican Congress.

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The alleged object is to strike out the few words that authorize the use of troops to keep peace at the polls. This country has been alarmed, I rather think indeed amused, at the great effort made to create a widespread impression that the republican party relies for its popular strength upon the use of the bayonet. This democratic Congress has attempted to give a bad name to this country throughout the civilized world, and to give it on a false issue. They have raised an issue that has no foundation in fact—that is false in whole and detail; false in the charge; false in all the specifications.

There is the language of a great republican leader in reference to this same Army bill that is to be vetoed, in which he declares the Army has never been used at the polls; in fact that they never intend so to use it; that the allegation or insinuation that there is any necessity for this clause to be stricken out of that statute is false in specification and false in detail.

I said I had no right to give the name of the author of those sentiments which I have just read, but I may say he is the man whom the great Illinois humanitarian, who, after having captured the devil and knocked off his horns and cut off his tail, and found him an agreeable gentleman, [laughter,] and abolished hell and substituted in its stead green fields and pleasant places, once distinguished by calling him the "plumed knight." [Laughter.] This is all I desire to say in reference to the Army bill.

Mr. Chairman, the first proposition which meets us in the present bill under consideration relates to the reorganization of the jury system which has just been so severely denounced by my colleague, [Mr. HAZELTON,] and who is the first man who has paid his respects to it upon the floor of the House. We insist that there must be a change in the method of providing jurors in the courts of the United States. The method which has always obtained has been the selection of jurors in most of the States at the whim of the marshal and the clerk, no one knowing but themselves how the panel was to be made up; no selection from the body of the district at large from which the panel was to be drawn, but they were chosen just as the marshal saw fit to designate them; giving him the power in the North as well as the South to pack any jury on any given case he may see proper. Now, the question arises shall we see the source of justice corrupted without raising our voices to stay that tide of corruption? Shall we see the jury-boxes, the very fountain of justice, packed for mercenary or for political ends, or in the interest of any particular person?

There was a time when the question of jurors for United States courts was not nearly of the consequence it is now, but by virtue of the laws passed within the last few years, not only to enforce the constitutional amendments but those which have given additional and increased jurisdiction to the court, that court, which was formerly unknown to the country towns in the different States at the North, now has its process running everywhere, so that no poor man whose dwelling-house is burned and who attempts to collect the money from the insurance company to which he has paid the premium is obliged to travel from sixty to one hundred miles to attend the court. That court is brought home now to all our citizens in every branch and class of business and of society.

So that the question of the jury-box in that court has now become a momentous one. The only difference between us and the South is that there is an additional power, which we propose to repeal here, which renders the packing of the jury more effective than it is with us. And while gentlemen may say there is no evidence of packing juries in the North, I state, from the testimony taken in the Blodgett investigation, that it appears in the city of Chicago men who expected to be indicted by the next grand jury were given, by permission of the marshal, the power to name five or six men to go upon that grand jury to take care of their cases. That is what was developed in the northern city of Chicago; and the report of the Attorney-General, Mr. Pierrepoint, calls the attention of Congress to the fact that great corruption exists in the drawing of jurors and asks that Congress may take some action to relieve us from that evil. We have taken action. We have provided for the appointment of a commissioner the same as when juries are drawn in the State courts. The authority to make up the panel from which the jury is drawn is given to the supervisor. We propose to have a Federal commissioner appointed. We propose to have a panel, not for a particular jury, but a panel drawn from the whole body of the district at large; and to prevent political trials, to prevent political discriminations, the provision is that the commissioner who is appointed and puts in one-half of the names to make up the three hundred, and the clerk who puts in the other half, shall be of different political parties, so that there can be no star-chamber practice in political cases.

In the South, sir, as the late trials have shown, this discretionary power which is given to the judges to apply the test oath has been brought in aid of the power given the marshal to pack the jury, and that power to administer the test oath is certainly an anomaly. A judge on the bench disqualified to sit as a juror, and the district attorney prosecuting a criminal and drawing the jury also disqualified to sit as a juror, those two men suffering under the same disqualification with the men of mind, men representing the talent, the property, the brains of the southern country—those two men by combination can keep men off the jury so as to accomplish their ends.

And in the late case in Charleston the record shows that the test oath was only applied to confederates where those confederates were democrats. Wherever the confederate was a republican he was deemed a fit and proper person to serve upon the jury.

How long shall such means to gratify malice or corruption continue in this country? How long should we be entitled to the name of a free people? How long ought we to boast of our institutions as more glorious than are possessed by any other nation on the face of the globe, of our freedom, of our happiness, of all of our institutions, when we leave that one upon which property, character, liberty, and life depends in the absolute control of political partisanship, combined sometimes with personal malice and too often with individual venality. If you gentlemen on the other side propose to adhere to this system of administering justice I pray you take down from the court-rooms the statue of justice, standing blindfold, holding in even poise the scales; the place is unworthy of it; and place in her stead a painted harlot, vending her wares unblushingly to the highest bidder, and there let her stand, the true type of any party that prostitutes the temple of justice for the advancement of partisan ends.

Mr. GARFIELD. Will it interrupt the gentleman if I ask him to allow me to correct something which I understand he has said as to my position. It will take less than half a minute?

Mr. BRAGG. I must decline to yield, as my time is so limited.

The next question involved is the interference by supervisors and Federal marshals in the execution of the election laws by the States. A great deal has been said upon the Constitution; a great deal has been said upon the powers of the General Government; and one thing of all others most noticeable in the debate is that the great constitutional lawyer who represents that side of the House has found it a fit and proper time to make the bold, broad, manly declaration of his views, and to urge and argue as the result of the war federalism has regained power in this Government, and federalism, with absolutism attending it, is the condition in which this country now finds itself. I thank him for that admission, because it shows what we claim and believe, and what I feared none upon the other side would be bold enough to announce, that this, instead of being a battle of democrats against republicans, or of confederate brigadiers against the Union, is the old fight of federalism against democracy and an effort to wipe out the power of the masses and to substitute in place of it the powers of a special class.

The Constitution does give, first, the right to fix the times and places and prescribe the manner of holding the election of members of Congress and persons who shall represent States in the United States Senate to the States. It gives it secondarily to the General Government. I have always understood, and so read the Federalist and the debates upon that subject, that there is, first, a positive direct, affirmative power in the State; secondly, a reserve power vested in the General Government to protect its own life and preserve its existence in case the State should fail to exercise the power which was conferred upon it. That is the doctrine which the men who drew the Constitution and prepared the arguments that induced the States to ratify it maintained.

And I cite from the Federalist to show how foreign it was from the purpose of the framers or advocates of the Constitution to interfere or give the right of interference in elections in the States to the Federal Government. Madison says:

Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments?

But now, Mr. Chairman, we find a party more wise than the old statesmen, and knowing better what they meant than they themselves did, asserting precisely the power by indirection which Madison in his support of the Constitution asserts "no man would hesitate to condemn both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments." I have said this is proposed by indirection and will now explain how the end is reached. In many of the States, and at the will of Congress it may be in all, members of Congress are elected at a general election, when State, county, and legislative offices are filled and the candidates are voted for upon one ballot. Now while federalism is not yet strong enough to claim supervision of the election of all the local officers, it does claim the right to supervise registration and to manage and control the election for member of Congress, and if it control it as to him, why it logically follows it controls all the rest, as there is but one registration, one box, one poll-list, and one ticket, and a challenge by the Federal officer goes to the whole ticket. So that by virtue of this power which they claim under the Constitution they exercise functions which of necessity absorb all the power and right in the people of the vicinage to regulate and control local elections. And one distinguished gentleman has said "this was settled by the war." That is a cheap way to bid the question down, but it will not down at the bidding. The people of this country will exercise their right of ballot and their right to manage their local government without interference from the Federal power; and when that

right is refused them they will have changed their own instincts and forgotten the traditions of the fathers, or they will compel a recognition of their right.

Mr. Chairman, I cannot leave this question of the relation and powers of the State and Federal governments without a reference to the beautiful figure illustrative of the mutuality and dependence of that relation used by the distinguished gentleman from New Jersey [Mr. ROBESON] in the discussion upon the Army bill, in which he formulated an idea which I had often tried to do myself, and did it in a manner so much better than I may hope to do that I beg his pardon if I use it here for the purpose of expressing my ideas:

> Now, Mr. Chairman, we belong to a system of government with co-ordinate and limited powers, all bearing relation to each other, each having its appropriate sphere, each clothed with its actual duty, each having under the Constitution its proper scope, power, and restraint. It is like the solar system in the heavens, each member of it dependent upon the other, each held in its place, each governed in its motions, each restrained in its orbit by the power and the attractions of the other members of that system. Let one of those spheres invade the orbit of the others, let it break loose from the influence of the laws of gravitation which move and direct it and from the centripetal and centrifugal forces which hold and control it, what becomes of it and of the system of which it is a member? It wanders abroad not only to the destruction of its co-ordinate spheres, but an object of terror to the universe and of destruction to itself.
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> Now, we are here co-ordinate members of this Government, all held in harmonious accord by rights, privileges, powers, and restrictions of the Constitution of the United States; and when one member of that system breaks loose from that attraction which holds and restrains it in its true relations to the other members, its old landmarks all swept away, its old traditions all forgotten, its old and safe attractions all gone, it will riot through the system an object of terror and dismay, a mighty instrument of evil.
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> Mr. Chairman, it is on the ruins of disrupted systems of government that military power arises. It is in the confusion, the disorder, arising from the loss of civil rights to be guaranteed and executed by the civil officers of the law, it is with the overthrow of constitutional law and amid the smoke of such a conflict which this occasions, that the "man on horseback" rises and liberty is sacrificed to order.

A magnificent idea most beautifully and clearly expressed. But, alas! that man should be so prone to forget his own teachings. Yesterday we had the same distinguished gentleman, with all the power and subtlety of his intellect, struggling against this bill and sustaining the legality and propriety of the supervisor and marshal laws—laws which cannot be exercised without a direct interference by one jurisdiction with another, by the Federal with the State, and the result of which must inevitably bring conflict, confusion, and disorder.

The supervisor and deputy marshal, clothed with the Federal authority, invade the orbit of the State officer in the administration of the State and local law regulating elections. Their presence at the polls and at the registration places is not in the execution and enforcement of any law of Congress providing "the time, place, or manner" of holding elections, for Congress has not provided any law fixing either "the place at or the manner" in which an election shall be conducted. Their presence and purpose, then, can only be to control, supervise, manage, direct, or interfere with the officers of the State in the execution of the laws of the State to which the supervisors and the marshals as officers are alien. Must not the direct result be the destruction of harmony arising out of the conflict of power and allegiance? And is it not amid the smoke of such a conflict that "the man on horseback" is expected to ride into power?

When the distinguished friend of "the silent man" of 1868 and 1872, one of his chosen privy councilors, argued so stoutly for the laws out of which this confusion may arise, it is not to be wondered that "the man on horseback" presented himself to his mind's eye in looking forward to 1880 as the means of restoring order at the sacrifice of liberty. Let us hope that "the wish was not father to the thought," but the logical effect of his argument tends strongly in that direction.

But, Mr. Chairman, there is still another view in which this question of the power of Congress to make these laws may be considered in reference to the general condition of the Federal laws as they now stand respecting the exercise of the constitutional power claimed for Congress under section 4 of article 1 of the Constitution.

Has Congress ever exercised the power claimed, admitting it to exist to the full extent claimed for the purpose of the argument?

The distinguished gentleman from New Jersey, [Mr. ROBESON,] in his argument, (I quote his exact language, wishing to do him full justice, for I admire his frankness and respect his ability,) speaking of the extent of the powers of the Federal Government and their nature and manner of execution, says:

> It is a government whose powers are limited to certain subjects and acts on certain specific objects with which it deals, but whenever it does deal with a subject, whenever it does act upon an object, there it is a government of sovereign and supreme power. * * * Let it be admitted or denied. This is a limited government, but limited only in the number of its powers, and unlimited in its governmental power over the subjects to which it is legitimately directed. As it is then a sovereignty with sovereign powers upon these subjects, let me make another proposition which cannot be denied; it is this, that whenever it does act upon those subjects, its sovereignty is not only unlimited but exclusive.

I do not care to combat this doctrine, while I do not say that in all its bearings I admit its full correctness. But apply the principle laid down to the question under consideration—"whenever it does act upon those subjects its sovereignty is not only unlimited but exclusive," hence it must logically follow that it has not properly acted upon the subject of election of members of Congress, or else its sovereignty is unlimited and exclusive.

It is well settled that the Federal Government executes its laws through its own agencies, its own officers; it may, it is conceded, confer power upon a State official; if he voluntarily executes it, well and good, but he cannot be compelled to execute it. Now, with this state of the premises, where do we find ourselves? If we have a Federal election law, it must be exclusively under the control and management of Federal agencies, or its execution may be devolved upon State officers, if they choose to execute it. These are the only methods of execution. Let us now look at the state of the law. No lawyer, nor even layman, would claim that we have any election law under which an election for a member of Congress could be held, votes canvassed and certificate of election be made. There is no Federal machinery devised for the holding an election; the whole system is governed and regulated by State law. And the certificate of election to a member of Congress is issued upon a canvass by a board of State officers of the votes cast, and it is signed by the executive of the State, who causes the writ for election to issue, not supervised nor controlled by any superior power.

If the States were to-day to refuse to order elections, there is no way under any Federal law now in existence whereby they could be conducted. Hence I argue, and it seems to me to be conclusive, that the present law is not in execution of the power claimed, and there is no other provision cited in its support, and none other under which the power can be claimed. What, then, should be done with the statute we seek to repeal? The distinguished constitutional lawyer [Mr. ROBESON] has furnished the answer. I give it in his own language:

> And if there be any power in these laws which cannot be rationally, legitimately, and logically inferred from the provisions and powers of this written Constitution of the country, it should be swept from the statute-book in disdain and dishonor.

To all which I say ay—

> If it were done, when 'tis done, then 'twere well
> It were done quickly.

Mr. Chairman, I have no desire to say more in reference to the law itself; but a few suggestions may not be amiss relative to the necessity for it, the practice under it, and the practical working of it.

You men on the other side who talk about using these officials as a means of preserving the purity of elections, ought you not really when you go home to look in your mirrors and see if the idea of your being in favor of the purity of elections does not make you blush? Purity of elections, and boasting "thank God" that we have not the President yet. Can you do that without reviving in your minds that contest which, in the words of one of your own partisans, a member of the Potter committee, was decided by adroit knavery? Can you do that without remembering that you have a representative in the White House, not so much the result of the ballot-box as the result of the practice of that adroit knavery in robbing the ballot-box, so that if the doctrine of *respondeat superior* obtains in politics the responsibility that may rest on the nominal head of your party may not be to a people who elected him through the ballot-box, but to the adroit knavery which cheated that ballot-box out of the fruits of victory?

Still you have the face to come here and talk to us about the purity of elections. An ordinary man would be ashamed. But a republican politician, bred up to the highest type of his class, a pharisee of the first order, who thanks God that he is not as other men are, can put on cheek enough not only to steal the Government itself, but to thank God for it, because the ends justify the means, and it is better to steal it than to let the "rascally democrats" get it. [Laughter.]

I was delighted with my colleague who last addressed this committee, [Mr. HAZELTON,] because he was frank enough and bold enough to openly avow on this floor that the people were not capable of self-government, and the ballot-boxes could not safely be intrusted to their control. The Federal seed cast by New Jersey yesterday has sprouted already in Wisconsin. Federalism is on the rise. My colleague openly avows that the people are not capable of self-government. I suppose he will qualify it in a Pinafore sort of way by saying "some people."

Not competent to govern themselves! The people, who are the source of all power; the people, who are the Government; the people, who make the Government, who sustain the Government, who pay the taxes and bear the burdens of government, are they not to be trusted with the ballot-box? Why? The reason is that the republicans are afraid of the people, and they have good right to be afraid of them. Year after year you have cajoled them with promises; year after year you have legislated for class; year after year you have built up capital at the expense of the people. You have paid no heed or warning to their call. You think now that you are strong enough with your millions and tens of millions in the hands of capitalists and the patronage of the Federal Government to back you to defy them, and so you speak out boldly in the legislative halls and declare that the people cannot be trusted with a free ballot. When the ides of November come, he who entertains such sentiments will find, notwithstanding a caucus nomination, "that many are called but few are chosen."

Mr. Chairman, during this debate this Hall has resounded with the cry of fraudulent voting on the part of the democrats. Every man of the opposition has shouted fraud and charged us with intended perpetration of frauds in the future as the incentive for repeal of this law. Let us for a moment stop and inquire when this era of fraud commenced. Under what dynasty, under the operation of what laws, did this fraud upon the ballot-box commence, and when did we first hear of it, and who originated it, and for what purpose? All the

cries of fraud that have been heard from the other side of the Chamber point to the fraudulent management and conduct of the ballot-boxes when they have been in charge of supervisors, and have been surrounded by a cordon of deputy marshals under these offensive laws. Now, if the argument in defense of the maintenance of this class of officers is that their purpose is to prevent fraud, while the result is that by their creation we have induced and fostered fraud, then certainly these officers have outlived their usefulness, and the sooner we dispose of them the better. We claim, Mr. Chairman, that they are the agents of fraud; that the purpose of their appointment is fraud; that they are appointed to surround the ballot-box for the purpose of deterring those among the laboring classes of foreign birth who may choose to vote the democratic ticket, and to secure safe entrance into the ballot-box of just so many ballots as may be offered by any person, no matter what his character or how often he may have voted, provided he be "one of the elect" and vote the republican ticket. They surround the box; they stand as a protection to the box against our votes; but they stand so that they may guard all those who come to that box desiring to vote their ticket, whether they be qualified or not. And the fearful democratic frauds are devices of these republican officials, who, under the hue and cry of "stop thief," hope to divert attention from themselves while they intimidate the honest laborer from voting by fear of arrest on false charge, and stuff the ballot-box, and profit by crumbs of Federal patronage dealt out with lavish hand.

Radicals sneer when we talk of an honest voter being intimidated or deterred from voting. They say, "show us your intimidated man." Arrest and imprisonment are not essential to intimidation. It exists in its most effective form without actual arrest and seizure. It is the presence of the official coupled with the power to do wrong and with the well-understood feeling in the community that it is their disposition to carry out that power whenever it becomes necessary for the accomplishment of their purpose that forms the strongest element of intimidation. The deputy marshals may be convicts, as the testimony shows they have been in many instances; they may be murderers, pickpockets, thieves, frequenters of houses of ill-fame—men of the very lowest grade of society, men whose touch is an abomination, yet they are clothed with the badge of the Federal Government, and they stand there representing the Federal power in all its majesty. They have no scruples of conscience, and the people know that their presence there if it be obnoxious to them means arrest, confinement the taking them away from their families and children who are dependent upon them for daily bread. This is the intimidation that is wrought by these people, and the number of men who are so deterred from voting is legion in every municipality where the marshals are put in requisition.

It is said there is only one case shown. Let me take two cities, one in the North and one in the South. In 1876 there were issued within two days previous to the election eighty-one hundred warrants in the city of New Orleans for alleged violations of the registration laws, the purpose being to arrest so great a number of persons that it would be impossible for them to have a hearing, and the fact that they stood charged by the arrest with improper registration furnished the excuse for the supervisors of election to strike them from the lists and prevent them from voting. Among those who were thus seized and arrested for being improperly registered was a respectable member of this House from the State of Louisiana, then a candidate for Representative in Congress, a man who was speaking in public day by day; yet he was arrested with others, showing the purpose to be not the protection of the ballot-box from fraudulent votes, but to use the power of the Federal Government for the purpose of keeping legal voters from the polls.

Now turn to the city of New York. Nine thousand warrants issued; nine thousand affidavits made upon the direction of the supervisor, he having no knowledge of the men against whom they were made, knowing nothing except as he said that he had made up his mind that naturalizations which took place in 1868 were necessarily fraudulent and illegal, although in precisely the same form and with precisely the same entries as had been had in the same courts from the year 1854—although many of these naturalizations were made in a court where the present Federal circuit judge of New York presided as one of the judges. In spite of all this, the supervisor procured to be made nine thousand warrants; and when the issuing and service of the warrant did not deter the voter from expressing a desire and determination to vote, he was locked up in the cage of the supervisor and held till the poll was closed, or until he promised to abandon the idea of voting, when he was permitted to go free. And this radicals call preserving free and pure elections. Oh, yes, it made it free for a republican to vote, and made it pure by scaring away or keeping away the voters of foreign birth, whose ballots in the same box would contaminate the ballot of the shoddy aristocracy who had grown rich under radical misrule.

These are two instances of the abuse of power, and I cite them because they are the most pronounced that have yet been developed. There was no waiting for any fraudulent attempt to vote; but upon the mere direction of the supervisor alone, warrants were issued against persons unknown, to the number of eighty-one hundred in the city of New Orleans (enough to have prevented the democrats from carrying that city) and over nine thousand in the city of New York—showing the purpose to be the same—the two cities remote, but each of the supervisors acting under the same general rule.

Look at it in another view. There are in this Government at least one hundred thousand Federal office-holders, exclusive of men engaged in the navy-yards and upon public buildings, with an aggregate of yearly compensation of $31,252,107.26. What percentage of tax upon this sum is required to raise a million of money for the purpose of corrupting the sources of liberty, the freedom of the ballot-box? But this large number of office-holders is not enough to satisfy the demands of the dominant party. By the act now under consideration they give the marshal of the district authority to appoint just as many special deputy marshals as he sees proper. Thus he may add to the one hundred thousand men who furnish the means to carry on the campaign just so many thousand Federal marshals as he may see proper, who, armed with the power of the Government and paid at the rate of $5 per day out of the Federal Treasury, may surround every ballot-box in the United States, peddling republican tickets. It is time there was end of this. Let politicians use their own funds, and not tax the people to pay the expenses of the men who are struggling to defeat and thwart the will of the people!

You may say this is not a fair statement of the case. I speak of it as the existence of a power. While you give the power to the marshal, it depends upon his discretion how he will exercise it; and if the emergency of the case demands, he will exercise it so as to meet the emergency, and his power is unlimited. It is a power I would be unwilling to see my own party possessed of; and while I would resist it in its exercise, I must be permitted to make a vigorous protest against intrusting its use to the opposition. Let us now look at it in an economical view. In 1876 we paid out of the Federal Treasury for these republican ticket peddlers over a quarter of a million of dollars. In the last congressional campaign we paid over $200,000. If you examine the districts in which that money was expended you will find it was expended in the close election districts, where the use of money and the appliances of the Federal Government "would do the most good." It will not do for people to go upon the theory or for any party or any set of men to plant themselves upon the ground that all honesty, all intelligence, all respect for the law rests with them, and that all crime and all fraudulent intent and purpose rests with the other party. But such is the key-note of the republican canvass. This expenditure of money is always put, not in republican districts, but in democratic districts which are close. We say there ought to be an end to this. This thing has gone on long enough. And when we point to all these sources of fraud of which you speak, and show that that fraud took place under the immediate inspection and eye of these men, we have answered all objections you make to our repeal of this law.

But it was said by the gentleman from Ohio [Mr. McKINLEY] that when we consent to allow the supervisors to remain as the witnesses of the canvass we have confessed judgment against the constitutional view we have urged. Not so. This House is judge of the qualifications of its own members. This House is to determine the legality of the election of any of its members. So this House or this Congress may, if it see fit for the purpose of securing information for itself to control its action in determining contested seats, appoint, designate by law, or authorize the appointment of two men, who may be present at every poll, having no power to interrupt or to interfere with the State law, but who stand there simply as witnesses, so that in the event of a contest arising upon the legality of the election of any member of this body we have two chosen witnesses of opposite political faith upon whom we can call, and upon whose testimony we can rely. Their standing there as witnesses in no wise interferes with the question we make as to the constitutionality and propriety of the law which clothes persons not with the function of witnesses, but with Federal authority to interrupt and to interfere with the elections going on in the States; and that is the distinction we make. We consent to give you the witnesses, that the last pretense on your part, that we intend fraud, may be done away with, for by this act we provide for the evidence to secure its detection and punishment.

Mr. Chairman, there has been much said upon this question of the method of legislation adopted by the majority in reference to the Army bill and this bill. It was declared at the outset upon the one side to be revolutionary. Five days afterward, after that declaration had been spread broadcast over the land and the telegraph had carried it to every section of the country, we find coming into this House the same gentleman, [Mr. GARFIELD,] who is charged with having uttered those declarations, and announcing that he never made any such statement. Now I submit, Mr. Chairman, in all frankness, and I desire to treat him with all candor, that he is mistaken in his declaration that he had never made any such utterance, and in order to sustain myself I desire to read the statements from his own carefully prepared speech made in this House March 29, 1879, as it appears in the RECORD of Tuesday, April 1:

> I have no hope,
>
> Said he—
>
> of being able to convey to the members of this House my own conviction of the very great gravity and solemnity of the crisis which this decision of the Chair and of the Committee of the Whole has brought upon this country.

What was that decision, Mr. Chairman? It was that the section which authorizes the repeal of so much of the statute as directed troops to keep peace at the polls was germane to the pending bill.

> I wish I could be proved a false prophet in reference to the result of this action. I wish I could be overwhelmed with the proof that I am utterly mistaken in my views. But no view I have ever taken has entered more deeply and more seriously

into my convictions than this: that this House has to-day resolved to enter upon a revolution against the Constitution and Government of the United States.

What language can be more explicit than that the ruling of the Chairman of the Committee of the Whole that this provision was germane to the pending bill was the entering upon a revolution against the Constitution and Government of the United States. But he says again:

Let it be understood that I am not arguing the merits of any one of the three amendments. I am discussing the proposed method of legislation, and I declare that it is against the Constitution of our country. It is revolutionary to the core, and is destructive of the fundamental element of American liberty, the free consent of all the powers that unite to make laws.

What was revolutionary to the core? The admitting this amendment to go upon the Army appropriation bill.

Again he says:

Let it be understood that I am not discussing the merits of this law. I have merely turned aside from the line of my argument to show the inconsistency of the other side in proposing to stop the Government if they cannot force the repeal of a law which they themselves made. I am discussing a method of revolution against the Constitution now proposed by this House, and to that issue I hold gentlemen in this debate, and challenge them to reply.

That went broadcast over the country, and, as I said this afternoon, instead of meeting the response which it was supposed it would meet from the country there came back a derisive laugh of mockery; and while that revolution was going on, and while the Constitution of this country was being undermined and the confederates were alleged to have seized the Capitol and set about the destruction of the Government, for the first time in its history Government 4 per cent. bonds were offered at a premium and one hundred and ninety millions were taken in a single day at a premium, and the capital of the country licked its chops for more; a fit comment that upon the idea that the people of this country supposed for a moment we were entering upon any revolution. Revolution, forsooth! It is a word of fearful meaning and import, that makes every true American heart shudder, but it was made and used as a catch-word to stand as the war-cry of radicalism—1861 was to be fought over again. But this congressional revolution was short-lived, and on the 5th day of April I find in the RECORD, uttered by the same gentleman:

I never claimed that it was either revolutionary or unconstitutional for this House to put a rider on an appropriation bill. No man on this side of the House has claimed that. The most that has been said is that it is considered a bad parliamentary practice; and all parties in this country have said that repeatedly.

I give the distinguished gentleman the benefit of his denial; but the RECORD requires great ingenuity to reconcile the different statements.

Mr. Chairman, from whence comes the charge of revolution? Any one familiar with the history of the country will see tacked on the Post-Office appropriation bill in the Forty-fifth Congress what was known as the Brazilian subsidy, and when that piece of legislation came to this House, any one who will examine the record will find that the distinguished gentleman from Ohio [Mr. GARFIELD] voted "ay," and so he has voted in every single Congress of which he has been a member for legislation on appropriation bills in one form or another. He was present in this House and he participated in the debate with the present Chief Executive of this nation when a rider was put upon an appropriation bill which robbed the President of his constitutional power, and not only robbed him of his constitutional power as Commander-in-Chief of the Army of the United States, but it did more: it made it a penal offense for an officer of the United States Army to bear, receive, or execute an order from the constitutional Commander-in-Chief, punishable by not less than two years and not more than twenty years' imprisonment. You made an article of impeachment against the President of the United States, who sought to exercise his power and communicate with his subordinates.

Where, where was Roderick then?
One blast upon his bugle-horn
Were worth a thousand men.

His bugle being silent like the harp of the Jews upon the willows; no fingers to sweep the chords, no breath to blow the blast. The present Chief Magistrate of the nation then honored the House by the occupancy of a seat therein and he, too, was silent!

These articles of impeachment passed this House, and both of these distinguished gentlemen were present and neither of them then raised his voice in behalf of the Constitution and against the assault made upon it. Another appropriation bill I think the distinguished gentleman from Ohio, who was a member of this House at that time, voted for, a bill taking away the effect of a pardon, and declaring by legislation after pardon was granted what should be its effect. And it will be marked, too, that it struck alike at the pardons granted by the lamented Lincoln and President Johnson.

Ohio had her Representative here then, but again his voice was silent. It will occupy too much time to single out these bills, but it will suffice to say that you will find almost continuously each year from 1793 down to the present legislation upon appropriation bills. And although it has been the invariable rule for the minority to complain, the complaint as a general rule (some exception, it is true, exists thereto) proceeds from a disposition to antagonize and defeat the majority without any other substantial reason therefor.

I contend, in the very reason of the thing and from the necessities arising from press of business, that legislation on an appropriation bill is not *per se* exceptionable. Why? First, it is very proper when you make a grant to affix such terms to it as you may desire, and the party making the grant has the right to judge of the terms; second, after the first few weeks of a session it is in the power of a factious minority to defeat important legislation by keeping bills either unreported or tied up by some parliamentary device. The Appropriations Committee can get the floor at any time, and thus if you can attach your measure to it you may save the life of most important legislation that would otherwise die for want of being reached in its regular order.

But, sir, I am trespassing too long upon the time of the committee; but before concluding I must again deny that the democratic party is of revolutionary tendency. It has at heart the well-being, the prosperity, and happiness of this country. And why should it not have? It is a child of its own creation. It sprang into life upon the principles which underlie the democratic party. It grew and strengthened, and was prosperous to a degree such as no nation ever witnessed, under the control of the democratic party. It is its own offspring, its own child. And when the democratic party was severed asunder the country was for the first time in danger. Churches had divided; the "Federal convention" had been held; secession had shown its head in the North at Hartford, it had shown its head at the South in South Carolina; but while the old democratic party stood solid together secession was as the wave that strikes the rock of Gibraltar and is broken asunder and scattered in harmless drops at the base of that impregnable fortress.

When the cloud of war hung over us we joined with all classes and creeds to strike down armed opposition to the Government. And now when peace reigns within our borders, the democracy, true to the teachings of the fathers, joins hands with every creed and race in securing to them and to us and to generations yet to come the blessings of civil liberty under the form handed down to us from our ancestry—a simple Republic, trusting for its strength upon the love of its citizens and the wisdom of its laws.

Sir, if it be true that our party is revolutionary and that we have not the good of the country at heart, but will sacrifice all for mere party advancement, as the radicals claim to believe, what better proof to give the lie to the assertion than its quiet submission to the count in 1876, when a majority of more than a quarter of a million of freemen lost the fruit of their suffrage and for the sake of order and the prosperity and happiness of the country quietly bided the time when again through the medium of the ballot-box the wrong could be undone. Sir, when the historian shall write the history of this decade he will point to that submission by the majority to the minority. Considering the elements of which the majority was composed, with the country just emerged from war, times depressed, the poor clamoring for labor or bread, and hundreds of thousands of trained soldiers in idleness and with scarcely the means of support, he will mark that event as the eighth wonder of the world, possible only in free America!

Sir, if we desired revolution there has not been a day since the sitting of this Congress that the majority could not have by its vote declared Mr. Tilden President and refused to recognize the authority of the present Chief Executive. What stronger proof is necessary to repel the charge of revolutionary purpose?

Mr. Chairman, we seek no revolution but a revolution of public sentiment which shall wipe out the extraordinary legislation, the natural concomitant of war. The union of the "blue and the gray" upon this side of the Chamber means a desire to bring this Government to the scale of constitutional law, and no more. The success of the democratic party means an economical administration of the restored Government; it means the cutting off of swarms of office-holders who waste the substances of the people; it means no more subsidies, no more class legislation; it means the subordination of the military to the civil power; it means a free, pure ballot-box and an honest count of the ballot cast, whether it be for or against us; it means, in fine, a return to the Jeffersonian doctrine—equal rights for all, but favors to none! If this be what you term revolution, then from city, hamlet, and prairie there are millions of voices shouting: "God speed such a revolution!"

Mr. CLARK, of Missouri. Mr. Chairman, I shall not attempt in the remarks I propose to submit to the committee to argue at any length the legal or constitutional questions involved, but shall address myself more particularly to the practical workings of the system of Federal interference in elections which has been inaugurated by the statutes we are now asking this House to repeal. In my humble judgment the enactment of this law was a step toward centralization never contemplated by the Constitution, and no student of the history of either our State or National Government can come to any other conclusion than that this enactment was a bold innovation on the laws and customs of our ancestors to get possession of the election machinery of the States for the basest of partisan purposes. And I assert now that it was originally intended and has been solely exercised in the interest and for the triumph of the republican party. Under this statute they have supplied themselves with money from the Treasury of the United States to bribe and corrupt the elective franchise, which is the foundation of all good government.

If the Government is to be pure and the people are to be free, the election of all officers must be free and unobstructed by Federal interference. This law gives the monstrous power to a partisan President of appointing a partisan marshal, and to that marshal the authority to appoint innumerable deputy marshals, the political existence of all depending on the success of a certain political organiza-

tion. Who will be bold enough to say that this force thus officered will not use every power conferred upon them by the law to give success to that political party to which they belong? These marshals are invested with dangerous and arbitrary powers—the power of arresting on the day of election thousands of voters without warrant and due process of law, to be dismissed after the voting is over without being heard and without a trial.

It is conceded on all sides that the State, and the State only, has the right to invest the citizen with the sacred right of suffrage—to make him a voter. The United States has no voters, and under the Constitution has only the authority to regulate the time and manner of holding elections. It has no power under the Constitution to say that a voter shall have certain qualifications; but that is left to the State, and the Federal authority must accept the voter as the State has created him.

We have, under the authority conferred by this statute, a marshal surrounded by an indefinite number of deputy marshals, all appointed by the chief marshal, and under the pay of the administration in power, ready to do any act of despotism necessary to defeat one candidate and elect another. They are stationed around the polls on election day and protected by statute from all State interference. They are above State authority, and the voter who owes his existence to the State can be forced away from the voting place, arrested, dragged to prison, and the State cannot lift its finger to either protect its voter or punish the marshal.

But let us here inquire what these Federal guardians of this most sacred of all the privileges of an American freeman can do on election day under this statute. It provides most amply and fully for its agent to literally take possession of the elective franchise by declaring that any person who refuses or neglects to aid and assist any supervisor of election, or marshal or his general or special deputies, or either of them, in the performance of his or their duties when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by fine not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of prosecution. The arbitrary power conferred is enough to condemn this law with all lovers of free government. It has been in operation only a few years, but even at this early day of its enforcement it is marked by the most shameful outrages against the liberty of the peaceful and law-abiding citizen.

They have been arrested without process, without being informed of the cause of arrest, incarcerated in prison with common malefactors, and then, when the time for voting had passed, discharged without being brought to trial. Those outraged citizens thus deprived of their liberty, robbed of the elective franchise, and humiliated with the disgrace of arrest have thus far, I am told, appealed in vain for redress. Could despotism do more to humiliate the citizen? Could it do more to arm dangerous, unprincipled, and corrupt partisans with arbitrary power? Could a more cunning machinery be invented to poison the true source of power, a free and fair election? If you arm the corrupt partisan with power to do as he pleases with the voter, it is the same thing as giving the elective franchise to the party in power.

I insist that the experience we have had in the execution of this statute has more than developed that it will always be used as a mere party machine, and in this connection I call attention to the following facts: The republican party has had the appointing of supervisors and marshals, and almost without exception they have been republicans. The deputy marshals have not been selected from that class called reputable citizens, but rather from that irresponsible class commonly called ward politicians, who live by doing the dirty work of a partisan campaign. They are known in many cases to be men of vicious habits and associations; men who for the per diem will do the despotic behests of a partisan leader; care, as a general rule, for no party, and are destitute of all the qualities of good citizens. They have been rarely employed in cities where there was a large republican majority, but always in those cities where a small number of votes would turn the scale of fortune in their favor; and their use has generally been followed by republican success.

In the entire history of the execution of this statute I do not believe there is a single instance of the arrest of a citizen who intended to vote the republican ticket, but with marked fatality the citizen interfered with has been a democrat. This proves one of two things, either that the republican party has all the good citizens in its organization and the democratic party all the bad, or that the republican party has been guilty of great abuse and has trampled under its feet for party success a most sacred constitutional right. That it is not the pure party the first proposition would indicate we have only to call before us in mournful retrospect its individual and public history. Many of its great leaders who would scorn to wear the badge of a deputy marshal have felt the withering blight of public scorn for official misdeeds. Those who have studied the history of the last few years will be very slow to believe that the purity of the republican party is such that elections are always fair in cities where they are in an overwhelming majority, and that fraud and corruption has only invaded the ballot-box in those where the democrats are in the majority.

It is just as singular that no republican voter is ever arrested by supervisor, marshal, or deputy marshal, or either of them; and when you take this fact in connection with their use in democratic districts only, it is plain that the statute is made an instrument by which to get rid of democratic votes. And then another fact which will, I think, strike the critical and candid observer of political events is that hundreds of arrests have been made by these officers and the citizen deprived of his vote, yet they have never been convicted of the offense for which they were arrested.

I now wish, Mr. Chairman, to call more particular attention to the phraseology of the statute in regard to the appointment of marshals and deputy marshals. Upon the application of two citizens in any city having a population of twenty thousand at the last Federal census the marshal of the district in which the city is situated shall appoint special deputy marshals for the purpose of "keeping the peace, preserving order, preventing fraudulent registration and voting, or fraudulent conduct on the part of any officer of election." The number of such deputy marshals is entirely in the power of the marshal, the law leaving the number indefinite.

This would be considered a dangerous power to grant to any two men in any city, however honest, reputable, intelligent, and patriotic they might be. But when this power is granted to any two citizens, without regard to character, it can but stagger and appall the well-informed citizen, who knows that our large cities are full of men of the most unworthy and disreputable character who would not hesitate for a small consideration to "petition in writing" for the appointment of these officers. These worthy or unworthy citizens are not required to make oath to the petition, but it is necessary to make the application in writing only. Thus, Mr. Chairman, two citizens who reside in such city may make the application, which the marshal must obey, and compel, as it were, the organization of a force, which may comprehend an indefinite number of men, to swarm around the polls, thus holding in their irresponsible hands every attribute of despotic authority to do what they please in carrying out this law. They or either of them can summon every other citizen or soldier to their assistance. If they refuse they do so with a penalty staring them in the face of "imprisonment for not more than two years, or a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the cost of prosecution."

These officers or either of them can arrest with or without process any citizen whom they suppose to have "committed, or attempted or offered to commit, any of the acts prohibited in this law," thus giving them the power to arrest as many voters as they see proper. The election is for one day only, and before the party can free himself from arrest by the embarrassing mode prescribed by the law the day is gone and the voter has lost his franchise. Two citizens are all that is necessary to start this machinery in motion which can take from any citizen his vote, subject him to arbitrary arrest and loss of personal liberty, while he is left utterly powerless to redress his wrongs or punish the officer who has ruthlessly invaded his rights. This machinery when put in motion by these two citizens, who in a majority of cases would be unable to give a bond to keep the peace, entails a cost upon the general tax-payer of thousands upon thousands of dollars. This machinery, Mr. Chairman, costing the Government many hundred thousand dollars, will never in the nature of things be invoked except for the very meanest of partisan ends.

It is bad and demoralizing enough that the office-holders of an administration should be taxed, from the highest to the lowest, to furnish a corruption fund to keep an unworthy party in power; but how infinitely worse that the Treasury of the United States should be used to pay a horde of hireling partisans to infest the polls and compel a majority by the intimidation and browbeating of honest citizens! These deputy marshals are so completely protected from responsibility for their own acts that we cannot resist the inference that the inventors of this infamous law intended that they should be impressed with their irresponsibility, so that they might feel a perfect freedom from interference in the discharge of orders received from political headquarters. The deputy marshal is only required to be a citizen, without regard to character; he may be a drunkard, pimp, or even an ex-convict; while every other officer under our laws who has the power of arrest cannot assume the duties of his office without first giving a bond that he will faithfully discharge the duties of his office. This is true in regard to all officers of this character, with the exception of the police in our cities, and in that case the city treasury is responsible for all illegal acts resulting in the distress and damage of the citizen.

The deputy marshal, without giving a bond, can do all acts of arbitrary arrest, and the outraged citizen has nowhere to look for redress when wrongfully and arbitrarily arrested. I presume, Mr. Chairman, if the entire list of deputy marshals in all the cities where they have been employed were critically investigated we would not find one in twenty responsible in damages for false arrest. This was true in the election of 1876 in the third district of Saint Louis, now represented by my colleague, [Mr. FROST.]

The gentleman from Ohio, [Mr. MCKINLEY,] a few days ago, said:

> What will the democratic party say of the grave accusation from one of the party leaders, that for a consideration, and that too for an appointment as deputy marshal for a single day, democrats will break away from their party affiliations, surrender their convictions, and vote the republican ticket?

It seems to me the gentleman has extraordinary faith to believe that among all the members of any political organization none can be found in its ranks who could be seduced from his party fealty by

the consideration of an appointment, with its per diem, which is not, as the gentleman says, for a single day, but may be for ten days. In the election in Saint Louis in 1876 the term of service was, 1 for one-half day, 139 for one day, 435 for two days, 138 for three days, 89 for four days, 63 for five days, 68 for six days, 18 for seven days, 4 for nine days, and 55 for ten days. Mr. Chairman, it is the misfortune of our times, and perhaps it has always been so, that men can be found in all political organizations who will sell the elective franchise for a very small consideration. In the election just alluded to it was proven by sworn testimony that men received commissions as deputy marshals in consideration that they would vote for the republican candidate for Congress.

The gentleman's confidence is remarkable when we must believe that instances of official corruption in high and low places in his own party are fresh in his memory. The dignity of the Cabinet was not sufficient to restrain a distinguished leader in his party, supposed to be of lofty character, from soiling his official hands with the corrupt use of his position for money.

It must be in the memory of all, the saddest memory in official life of the present generation, that the men who manipulated the vote in the last presidential election have each and all been rewarded with the best offices in the gift of the President.

But the same gentleman also says:

Again, it is urged that the presence of supervisors and deputy marshals intimidates the democratic voter. Who ever heard of an officer of the law deterring anybody from doing what he had a legal right to do? Their presence is a restraint upon no honest voter. They prevent no citizen who is a legal voter by the laws of his State or the United States from freely and peaceably exercising that right.

This is a most remarkable declaration for the intelligent gentleman from Ohio to make, and we can only account for it by supposing that he has not read the evidence taken by the sub-committee of the Judiciary Committee of the last Congress in regard to the intimidation of voters at the last election in New York City. There was a wholesale arrest of naturalized citizens on the pretense that their papers were irregular, and many of them prevented from exercising their legal right to vote. I want no better illustration, Mr. Chairman, of the abuse of power, to insult and intimidate the voter by supervisors and marshals, than was exercised at this election. That the country may understand how the republican party will use the powers conferred by this law in the future, if it is suffered to remain on the statute-book, I will read a portion of the evidence of the first witness sworn by this committee:

Edwin J. Denning sworn and examined.

By Mr. WINGATE:

Question. What is your business?
Answer. Dry goods.
Q. You are superintendent of the uptown store of A. T. Stewart & Co.?
A. Yes, sir; superintendent of the retail store.
Q. How many men have you under your charge as superintendent of that store?
A. It ranges from five hundred to one thousand people.
Q. When did you come to America?
A. In 1860.
Q. When were you naturalized?
A. In November, 1868.
Q. Who was your witness?
A. Alfred M. Weeks.
Q. Where is he employed?
A. In our store.
Q. Before what judge were you naturalized in 1868?
A. I declared it my intention some three years previously.
Q. Were you naturalized in the regular way?
A. Yes, sir.
Q. After you were naturalized, did you vote?
A. Yes, sir; right straight along.
Q. Until 1878?
A. Yes, sir; until that time.
Q. Tell the committee what happened when you went to register.
A. I registered in the same house that I always did, in Fourth avenue, near Tenth; I had been registered there all along. I have lived at No. 84 East Ninth street between six and seven years. The last week of October, I think about the 25th, I went to this same place that I had always been registered and offered my name and address, &c., which was taken. As I was on the point of leaving the gentleman there said he would like to see my papers, and I gave them to him and waited for him to return them. He said he would not give them back. I told him at once, says I, "That is a little bit singular; won't you give me some receipt for it?" "No," says he; "I do not want to do anything whatever."
Q. On that occasion were you informed that your papers were illegal in any way?
A. No. I tried to find out as to that, but I did not get any positive information.
Q. What steps did you take after that to find out if there was anything the matter with the papers?
A. I referred the matter to the lawyer of the house of A. T. Stewart & Co., Mr. H. H. Rice. I requested him to get me a duplicate, telling him that if there was anything wrong about it I would like to know it; and I believe he wrote to Mr. O'Brien, the chief clerk of elections in the city of New York, in regard to it. Mr. Rice received an answer from him, stating that he had no doubt it would be all right, and at the same time I received the duplicate of my papers.
Q. On election day you went to vote?
A. I went to vote. I walked out of the store without any overcoat on, the polling place being right next door. I went in and offered my vote. The gentleman there called to another person, who came up and told me that I was arrested.
Q. Did you have an opportunity to vote?
A. Oh, no. They would not let me vote. I had my ballot all ready, and presented it, but they would not allow it.
Q. Were you taken away?
A. Yes, sir; right off.
Q. Where?
A. First of all down to Clinton place.
Q. From there where were you taken?
A. Down to the city hall.
Q. You mean the post-office building, do you not?
A. Yes, sir; the United States court-house and post-office building.
Q. Please state what took place when you came down here.
A. The place was all in confusion. There was an immense number of men around. There was no getting at anything or anybody. I was running around from one room to another, first one way and then another; up-stairs to the third floor, down to the second floor, up to the fourth floor, and in three or four places.
Q. Mr. Rice was present?
A. Yes, sir; he was present, and offered to bail me.
Q. You were taken before Commissioner Davenport?
A. Yes. Finally I was taken to one of the gentlemen.
Q. Which of the commissioners?
A. I think it was Commissioner Deuel.
Q. What took place before him?
A. He wanted me to give bond for my appearance, which I rather demurred to.
Q. Did Commissioner Deuel say anything to you as to whether you had voted or not?
A. He asked me whether I had voted.
Q. Was there anything said as to whether you would or would not vote?
A. That was afterward. Commissioner Davenport allowed me to go, with the understanding that I would not vote.
Q. Then you went before Commissioner Davenport?
A. Yes, sir.
Q. State what took place before him.
A. Commissioner Davenport was very courteous in his manner. I told him that I would like to be allowed to go to vote, and he said that I could not vote; that I would not be allowed to go if I did not promise not to vote, and sooner than stay there all day I said that I would not vote.
Q. Were you here in the back part of the court-room?
A. Yes, sir; I was hustled all around everywhere.
Q. By this time there was quite a little bit of a crowd in the court-room, wasn't there?
A. Yes, sir; I almost had my coat dragged off of me getting through the doors.
Q. You remarked that you had no overcoat on when you came out; was it a cold day?
A. Yes, sir; I expected to be gone from the store but a few moments, and therefore I did not take my overcoat.
Q. Of course you suffered?
A. Of course I did. The whole thing was the greatest outrage I ever saw perpetrated; I positively would not have believed it unless I had experienced it myself.
Q. Was it suggested to Commissioner Davenport that the business of your house was suffering from your absence?
A. I believe Mr. Rice remarked something in that way to him.
Q. What time was it that you were finally released?
A. It must have been on towards two o'clock.

By the CHAIRMAN:

Q. Did you promise Mr. Davenport that you would not vote?
A. Yes, sir; that was the only way in which I was allowed to go.

This is only one from several hundred who were arrested on that day. In this city the attempt was made by a Mr. Davenport, who is said to have been the author of the election law we now desire to repeal, to strike from the list of voters of the city of New York four or five thousand naturalized citizens, who had been voting uninterruptedly without challenge since 1868. To give this House and the country some idea of the despotic power assumed by this individual, the intimidation, the insult, and the humiliation offered to naturalized citizens, I will now read an extract from the remarks of one of the counsel for one of the arrested men:

Such a scene as the room of the court presented on that election day has never before been witnessed in this city, or in this country, and it is to be hoped never will again. From early morning until after the polls were closed these rooms were packed and jammed with a mass of prisoners and deputy marshals. Not only were they crowded beyond their capacity, but the halls and corridors were thronged with those who were unable to obtain admission, so that the counsel representing the prisoners and the bondsmen who were to be offered to secure their release had the greatest difficulty and were frequently unsuccessful in obtaining entrance. In addition to all this, was this delectable iron pen on the upper floor in which men were crowded until it resembled the black hole of Calcutta, and where they were kept for hours, hungry, thirsty, suffering in every way until their cases could be reached. With scarcely an exception these men had gone to the polls expecting to be absent but a short time. Many of them were thinly clad. Numbers had sick wives or children. Some were sick themselves. There were carmen who had left their horses standing in the public streets; men whose situations depended upon their speedy return; men who wished to leave the city on certain trains. Every imaginable vexation, inconvenience, injury, and wrong which the mind can conceive, existed in their cases, so that it was painful for the counsel who were endeavoring to secure their release to approach sufficiently near the railing to hear their piteous appeals and witness the distress which they had no power to alleviate. And over all this pushing, struggling, complaining crowd Mr. Commissioner John I. Davenport sat supreme, with a sort of oriental magnificence—calmly indifferent to everything but the single fact that no man who was arrested was allowed to vote.

But, Mr. Chairman, the great objection to this law, as it has been interpreted by the highest law-officers of the Government, is that it places in the hands of those supervisors and marshals not only the power of summoning every citizen to assist in the arrest of any other citizen who may have offered to disregard the law, but they may also call to their aid so much of the Army of the United States as may be in the neighborhood of any city where the powers of this law have been invoked under the pretense of giving a free election. In this connection I desire to have read a portion of the instructions given to these officers in the elections of 1876 by the highest law-officer of the Government, the Attorney-General under President Grant. I allude to Mr. Taft, of Ohio, a State which seems to have a contract at present for carrying on the Government in the interest of the republican party. In his instructions from the Department of Justice, Washington, September 9, 1876, he says:

In discharging the duties above mentioned you will doubtless receive the countenance and support of all the good citizens of the United States in your respective districts. It is not necessary to say that it is upon such countenance and support that the United States mainly rely in their endeavor to enforce the right to vote which they have given or have secured. The present instructions are intended only to counteract that partial malice, wrongheadedness, or inconsideration which sometimes triumphs at critical moments over the conservative and, in general, prevailing forces of society, and to which the present and passing condition of the country gives more than ordinary strength, and, therefore, requires the Government particularly to observe and provide against.

In this connection I advise that you and each of your deputies, general and "special," have a right to summon to your assistance, in preventing and quelling disorder, "every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies, (whether of the State or of the United States,) under the immediate command of their own officers, does not in any wise affect their legal character. They are still the *posse comitatus*." I prefer to quote the above statement of the law upon this point from an opinion by my predecessor, Attorney-General Cushing, because it thus appears to have been well settled for many years.—6 *Opinions*, 466, May 27, 1854.

Now, sir, this is virtually placing the military arm of the Government at the disposition of any ignorant partisan who may have been selected from purely partisan motives.

Is it intended, Mr. Chairman, that the ward politician, a specimen of our citizenship who is entitled to very little respect, shall have a power that our fathers supposed was too great and dangerous to be intrusted to the President of the United States? The sentiment of all parties from the foundation of the Government has been universally in condemnation of the presence of any kind of military organization at the polls, whether it be militia or regular soldiers. The use of the military as a civil police—a police to interfere with the rights that specifically belong to the States under the Constitution—has been held by the best authority in all parties to be against public policy and the Constitution. In 1856 Mr. Seward, who was then justly regarded as the exponent of the sentiment of the republican party, and was then regarded as the probable candidate of the republican party for President, said in the Senate:

Civil liberty and a standing army for the purposes of civil police have never yet stood together, and never can stand together. If I am to choose, sir, between upholding laws in any part of this Republic which cannot be maintained without a standing army, or relinquishing the laws themselves, I give up the laws at once, by whomsoever they are made and by whatever authority; for either our system of government is radically wrong, or such laws are unjust, unequal, and pernicious.

This was the sentiment which impelled most of the States in framing their organic laws to make provision against the possible interference of soldiers at elections. That there may be no mistake in regard to this statement, although it may seem tedious, I will insert in my remarks extracts from the laws of different northern States, showing that the liberty-loving ancestry of these different States were not only strongly of the opinion but were convinced that the liberty of the citizen could not exist except by a fair election, uninfluenced by the intimidating presence of an officer with troops, or, which is the same thing, civil officers who are invested with the power of summoning soldiers to protect the voter. They knew full well that partisan zeal, made bitter by a long-continued canvass and the acrimonies that political debate always engenders, would impel any party that was in power to use every means that the law placed at their command to give success to the party they espoused; and hence they thought it necessary in most of the States to provide by law that there should be no military interference at the polls. But listen to the expression of opinion on this subject from the following States:

Penalties for violation of election laws.

NEW YORK.

If any officer or other person shall call out or order any of the militia of this State, to appear and exercise on any day during any election to be held by virtue of this chapter, or within five days previous thereto, except in cases of invasion or insurrection, he shall forfeit the sum of $500 for every such offense.—*Revised Statutes of New York State*, chapter 6, title 7, section 5, page 443.

MAINE.

If any officer of the militia parades his men or exercises any military command on a day of election of a public officer, as described in section 102 of chapter 10 and not thereby excepted, or except in time of war or public danger, he shall for each offense forfeit not less than $10, nor more than $300.—*Revised Statutes of Maine*, chapter 4, section 65, page 104.

PENNSYLVANIA.

No body of troops in the Army of the United States, or of this Commonwealth, shall be present, either armed or unarmed, at any place of election within this Commonwealth during the time of such election: *Provided*, That nothing herein contained shall be so construed as to prevent any officer or soldier from exercising the right of suffrage in the election district to which he may belong, if otherwise qualified according to law.—*Brightley's Purdon's Digest*, 1872; Pennsylvania; section 124, page 562.

NEW JERSEY.

No such election shall be appointed to be held on any day on which the militia of this State shall be required to do military duty, nor shall the militia of this State be required to do military duty on any day on which any such election shall be appointed to be held.—*Nixon's Digest*; New Jersey, revision of 1871; an act to regulate elections; section 33, page 262.

ILLINOIS.

Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same, and no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.—*Revised Statutes Illinois*, 1874; *Constitution* 1870, article 7, section 3.

MASSACHUSETTS.

No meeting for the election of national, State, district, county, city, or town officers shall be held on a day upon which the militia of the Commonwealth are by law required to do military duty.—*General Statutes of Massachusetts*, 1860, section 1, page 58.

If this is true in regard to State elections, why should it not be true in regard to Federal elections? They occur now in most of the States on the same day, so that an interference with one is an interference with the other. If the party in power chooses to use the power which this law offers, it cannot only influence the election of the members of Congress, but must necessarily control at the same time the election of all State officers. Let me ask, then, Mr. Chairman, what the statutes and constitutional provisions in these different States amount to in protecting elections from interference? If this law is to remain in force, to be used every two years for the election of members of Congress by the party in majority, they might as well burn up the statutes and quietly submit themselves to the tender mercies of a partisan administration, which may be either democratic or republican.

We have heard much in this debate from the other side of the House about the revolutionary policy of the democratic party in insisting on making the repeal of these obnoxious election laws a rider on appropriation bills. It is talked of as though this method of repealing laws was resorted to for the first time. They have changed front since the days of 1856, when the question came up in the precise form in which it is now presented, with one difference, which I have no doubt will seem to the country remarkable, if not extraordinary. The difference then was that the House was republican and the Senate democratic. The Kansas trouble was the difficulty which was agitating the public mind, and, curious to recall, the present Secretary of the Treasury put an amendment on an Army appropriation bill prohibiting the use of the Army or any part of it in the execution of the laws of the Kansas Legislature. I believe it was the democrats who denounced the measure as revolutionary, and the republican leaders, such men as Seward, Henry Wilson, Ben Wade, William Pitt Fessenden, and many others who have been illustrious in the republican party, spoke on the other side of the question. In that debate Mr. Wade enlightened the country with the following sentiment:

I say the House of Representatives have done right. Here we are told it is revolutionary, and therefore we must not breathe the breath of life into their action, but must permit it to go back to the House with an appeal to the House to recede. Sir, I do not know but that you may succeed under the idea that this is revolution; but, so help me God! I hope that the man who proposes to recede a hair's breadth from the action of the House will never find his way back again. Has it come to this, that if the House of Representatives do not think proper to frame a bill for the support of the Army of the country, appropriating twelve millions, in a way to satisfy the majority in this body, revolution shall follow and the responsibility be upon the House? Pray, sir, how? Because they will not agree to do as the Senate tells them they shall do.

The gentleman from Ohio [Mr. GARFIELD] would now denounce these sentiments as revolutionary and an effort of the confederate brigadiers to get back into power.

Mr. Fessenden, who was then one of the republican leaders of the Senate, expressed himself in the same decided manner as follows:

In the English Parliament from the earliest times not only have appropriation and revenue bills gone together, but in cases without number it has been the habit of that Parliament to check the power of the Crown by annexing conditions to their appropriation of money. Does he not know that the only mode in which our ancestors of Massachusetts checked the powers of their royal governors was by granting money only on conditions? The power to supply and the power of annexing conditions to supply have always gone together in parliamentary history; and their joint exercise has never been denounced as a case of revolution, or calling for revolution, or tending to produce revolution in any shape or form whatever. It is a power essential to the preservation of our liberties.

And so with all the leaders of the republican party. But now we are told that we are going to starve the Government to death by the same men who were stalwarts in defending the propriety and justness of annexing conditions to an appropriation bill.

Mr. Chairman, the issue is fair and square between the two parties; the one for continuing in force laws originally enacted for the purpose of giving the party in power, the republican party, the means of interference in elections, so as to control the House of Representatives; and the other, the democratic party, for removing from the statute-book all laws giving the Federal authority power over the elective franchise. The one is against a free and fair election, as our fathers intended the States should have, and as they did have until these odious laws put it in the power of unscrupulous party leaders to organize a force of partisans, paid out of the Treasury of the United States, to prevent the opposite party from exercising their constitutional right of voting for the men of their choice. The democratic party is in favor of leaving the election laws as the States have made them, believing that the States have as deep an interest in the purity of the ballot-box as the Federal Government can have, and that they will guard it more sacredly from all contaminating influences than any partisan administration can do, whether that administration be republican or democratic.

It is the same struggle which has been fought over and over again, whether the ruler should be the subject and the citizen the sovereign, whether we shall have a government which will quietly submit to the will of the people as expressed at the ballot-box, or a centralized despotism which shall take unto itself the control of elections and thus declare whomsoever it pleases the choice of the people. The American people, who consider the elective franchise their dearest birthright, the corner-stone as it were of all their liberties, have indicated that they are weary of the long misrule of the dominant party. This warning they have given by the election of a majority of democrats to both branches of Congress. The popular will so expressed in England would meet with instant submission, and the ministry would have the grace to resign. MacMahon resigned the position as head of the great French nation when the cry came up from the majority that his administration had proved faithless to the principles of the republic. It is only in this free country that legislative majorities, chosen fresh from the people, are defied, and the minority arrogates to itself the proud right of saying that the people

do not know their wishes. The minority in this instance is only the executive branch of the Government, the President, who holds his title to office by a minority vote, and yet he presumes upon his station to occupy a position in which royalty itself would feel rebuked. Upon this issue we are ready to appeal to the people, feeling confident that they will decide to go back to the old landmarks of constitutional liberty as made by the fathers of the Republic.

Mr. CLARDY. Mr. Chairman, I assure you that it is with unaffected diffidence that I submit my views upon the bill now pending before the committee, the political phases of which have been so ably and so exhaustively discussed by eminent gentlemen on both sides of this House that little that can challenge attention remains to be said. I cannot, however, content myself with a silent support of the bill, but I propose very briefly to give some of the reasons which induce such support, and to answer as best I can some of the objections urged against its passage. I shall not discuss at any considerable length the method by which we seek to repeal the obnoxious statutes which we have ingrafted on the appropriation bill now before the committee. I will say, however, as has been substantially said several times in the progress of this debate, that the Constitution of the United States does not provide the form of bills, nor does it contain any inhibition against passing a bill in the form of the one before us.

Indeed, it is not insisted that it is unconstitutional, but we are told that this system of legislation is improper and vicious. In what respect, Mr. Chairman, I ask, is it vicious or even improper? It contravenes no rule of this House, and it is not denied that "each House may determine the rule of its proceedings." It is remarkable that the addition of these provisions, germane to the subject-matter of the appropriation bills and in the interest of economy, should create such a profound sensation among republican leaders. They are not unaware that the practice of tacking even general legislation to appropriation bills has prevailed for more than a quarter of a century. They know, too, that the congressional record for the last twenty years is replete with instances where important measures have been ingrafted on bills appropriating money to carry on the Government. They have been reminded of the fact that some of the provisions we are now considering were passed into laws as parts of bills appropriating the people's money.

After the part gentlemen on the other side have taken in the enactment of statutes imperiling the liberty of the citizen, it occurs to me, Mr. Chairman, that they are estopped from challenging the propriety or fitness of the method we have elected to pursue in relieving the citizen of the menaces to his liberty and in restoring to him immunity from the operation of these vicious laws. And, again, I submit that the charge that our action is revolutionary ought not to come from those who in 1873 voted to each Senator and to each Representative in Congress $5,000 which he never earned and to which he was in no wise entitled on "a bill making appropriations for the legislative, executive, and judicial expenses for the fiscal year ending June 30, 1874."

This species of legislation commends itself to republican leaders when it transfers from the Treasury to their coffers money that belongs to the people; but when the object is to secure the freedom of elections and assure a just, a fair, and honest administration of the laws, to the end that the life, the liberty, and the property of the citizen shall be preserved, it is denounced as a most nefarious practice, the resort to which by the democrats in Congress betrays a spirit of revolution which, if not checkmated, may involve the country in civil strife. The distinguished gentleman from Pennsylvania [Mr. KELLEY] has well characterized this cry of revolution as preposterous.

But in one sense, Mr. Chairman, we may be said to be revolutionists, but not in the respect indicated by the gentleman from Ohio, [Mr. GARFIELD.] If it be revolution to strike from the statute-book laws which threaten the liberty of the people and laws which not only endanger but prevent an honest and intelligent trial of their causes in the United States courts, and to place thereon laws which operate equally upon all sections of the country and upon all the people regardless of their former condition, then we may be said to have inaugurated a revolution. We are commissioned by those who sent us here to carry on a revolution of that kind. This House has commenced by repealing, as far as it may do, the statute which undertakes to empower the President, as Commander-in-Chief of the Army and Navy, under the pretense of keeping peace at the polls, and without "the application of the Legislature of a State, or of the executive thereof when the Legislature cannot be convened," to invade any State of the Union and to invest with his troops any precinct therein, and, by overawing the citizens, control the elections.

And now, going further, we propose the repeal of those provisions of the statute that enumerate as causes of disqualification and challenge of grand and petit jurors in the courts of the United States participation in rebellion or the giving of aid and comfort to such rebellion as making unjust discriminations against the people of the South, whose record of fidelity to law for the last fourteen years is an earnest of what their future will be.

Despite the statements made on this floor, and reports to the contrary, we all know there is no section of the country where life and property are more secure than in the Southern States, if we omit the operation of the law to which I have referred, which places it in the power of the ignorant and dishonest elements of that section to commit judicial murders and to confiscate estates.

It has been truly said that under the statute to which I have just alluded a distinguished member of the President's Cabinet would not himself be a competent juror in a United States court, and that others who owe all the distinction they ever won to their devotion to the South during the late war, and who have been honored by republican Presidents with foreign appointments, might be excluded from the jury-box, while several of the judges and a number of the district attorneys charged with the enforcement of this odious statute could not themselves take the oath which it prescribes. The republican leaders ought years ago to have effaced these unjust statutes to show to the world that in the ashes of all bitter remembrances the animosities engendered by the war had been eternally buried; or, if not impelled by that motive, we would have supposed that when they saw their removal from place and power had been resolved by a people whose trust they had betrayed, they would have destroyed it because of the evidence it affords of their reckless disregard of the rights of their fellow-citizens and of the justness of the people's verdict against them.

There may have been some apology for the enactment of these provisions in 1862, but no excuse can be given for their retention on the statute-book now. So far in this discussion, I believe no member of this House can be reckoned as a defender of a statute which needs only to be mentioned that it may be despised. In fact it can no more be defended than its continuance on the statute-book for the last fourteen years can be apologized for or excused. But this jury law which I have been discussing, flagrantly unjust as it is, is not more antagonistic to the genius of our institutions than sections 2016, 2118, 2020, and other sections of the Revised Statutes of the United States, defining the duties and powers of supervisors of election, of marshals, and their special and general deputies.

After the learned discussion of these provisions, I repeat what I said a few minutes since, that it is with reluctance that I undertake to present my views upon them. I must be permitted to say, Mr. Chairman, that I have one objection to this bill, and that is that it does not go further and repeal the section of the statute authorizing the appointment by the circuit courts of the United States of supervisors of election, the employment of persons to oversee the registration of voters and elections for Representatives and Delegates to the Congress of the United States. In other words, I object that it does not destroy the power of the courts to commission spies upon the conduct of the citizens of the several States and Territories when they are choosing their Representatives and Delegates to Congress. This espionage on the conduct of the voters of a State is anti-democratic, anti-republican, and ought not to have the sanction of law. It may be said that with the sections sought to be repealed eliminated from the statute the liberty of the voter is no longer imperiled. This may be true, but we are taught to "avoid the very appearance of evil," and I would not even impliedly recognize the right of Congress to interfere with or in any manner control elections, except as it may lawfully do under section 4, article 1, of the Constitution.

This section, gentlemen on the other side invoke as authority for their position that Congress had the power to enact the sections to which I have referred. The section of the Constitution so relied on provides "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." What did the convention mean by giving Congress power to make or alter regulations?

Section 5 of the same article provides that "each House shall be the judge of the elections, returns, and qualifications of its own members." Was it the design of the convention to give to Congress the power to interfere with the choice of its own body by the people?

When the Constitution was assailed by its opponents in the State conventions because of the superintending power of Congress to make or alter such regulations its supporters contended that it was not susceptible of any such construction, but that the propriety of this grant of power rested upon the plain proposition that every government ought to contain in itself the means of its own preservation, and that the design of the section was to lodge this power in Congress in the event of the refusal or failure on the part of States to hold elections.

At a critical time under the Confederation, Rhode Island had withdrawn her delegates from Congress, thus preventing the passage of some very important measures.

Mr. Justice Story in his Commentaries on the Constitution refers to the action of Rhode Island to show that an occurrence such as was apprehended by the framers of the Constitution was not wholly imaginary. In discussing this clause in the Constitution he says:

> Nothing can be more evident than that an exclusive power in the State Legislatures to regulate elections for the National Government would leave the existence of the Union entirely at their mercy. They could at any time annihilate it by neglecting to provide for the choice of persons to administer its affairs. It is not sufficient answer that such an abuse of power is not probable.

Again, in reviewing the objections which were urged against this provision, he says:

> The reasons in its favor are of great force and importance. In the first place, the power may be applied by Congress to correct any negligence in a State in regard to elections, as well as to prevent a dissolution of the Government by designing and refractory States, urged on by some temporary excitements.

I repeat, then, that it never occurred to the framers of the Constitution that they were vesting a power in Congress to enable it to

regulate the manner of holding elections for Senators and Representatives, except in those cases where the States in the first instance failed or refused to do so; and Mr. Justice Story indicates very clearly that such was his opinion as to the extent of the power of Congress in the matter of elections.

If Congress has the power to regulate the manner of holding elections for Representatives as contemplated by the statute which is sought to be repealed, then it has the power to regulate in the same or in any manner the elections for Senators, for there is no limitation of the right of Congress "to make or alter such regulations except as to the places of choosing Senators." Does any gentleman suppose the framers of the Constitution ever intended that Congress should have the power to send its spies to the capitols of the several States "to scrutinize the manner in which the voting is done;" that they intended that these spies and paid informers, surrounded by a retinue of special deputy marshals to aid and assist them in a verification of the list of Senators voting, might take possession of the capitol of a sovereign State? And yet Congress can make such regulations if it had the authority to enact the law that we are now considering. The Constitution is an instrument of limited and enumerated powers; what is not conferred is withheld. I do not claim that there are no powers by implication, but I do say that the powers not expressly delegated to the United States by the Constitution nor prohibited by it to the States, and such as are not necessarily implied, are "reserved to the States respectively, or to the people."

The adoption of the ninth amendment to the Constitution of the United States, declaring that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people," indicates an apprehension on the part of the States that the General Government might arrogate to itself rights which it was intended should be retained by the people. The adoption of the tenth amendment shows a like apprehension on the part of the States. The Constitution does not by express words or by implication authorize Congress to assume control of elections in the several States. While it is true that the Constitution prescribes the qualifications of Senators and Representatives, it does not determine the qualifications of electors. This power belongs to the States, section 2, article 1 of the Constitution, providing that—

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

It is as a citizen of a State that a man has a right to vote. The Supreme Court of the United States, in the case of Minor *vs.* Happersett, in 21 Wal., a case that arose in my own State, has decided that the fourteenth amendment to the Constitution, which provides that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside," does not confer the right of suffrage on a citizen; that the States themselves confer the right of suffrage and fix the qualifications of electors. And the Supreme Court, in a recent case reported in 2 Otto, discussing the fifteenth amendment, decides that—

> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

And yet, while the court holds that the power of Congress to legislate at all upon the subject of qualifications of voters at State elections rests upon this amendment, and while all the authorities agree that the power to regulate the manner of holding elections belongs primarily to the States and ultimately to Congress, our republican friends, we can legitimately infer from the position they have taken on this question, would insist that Congress has unlimited power in the matter of elections, and may, at its pleasure, annihilate the power vested in the States. I say, Mr. Chairman, that Congress has no warrant in the Constitution from which it derives its right of legislation for the exercise of this power so dangerous to the welfare of the States.

But I shall not further discuss the unconstitutionality of these laws, nor shall I detain the committee long to show their impolicy. Those who assert their constitutionality will agree that the occasion must be extraordinary and the exigency unusual to call forth the exercise of the power claimed. My friend from Pennsylvania [Mr. COFFROTH] has given us an account of the practical working of this law in the city of Philadelphia, and shown with conclusiveness that instead of the marshal protecting the citizen in the exercise of the elective franchise, his office is to deter him from the enjoyment of such privilege. The conduct of the marshals at the elections in New York in 1876 and in 1878 is proof that the law that renders their existence possible is unwise and vicious, and therefore ought to be repealed. To these instances may be added the election in Saint Louis in 1876, when, as my colleague [Mr. FROST] has stated, these creatures of a Federal court dictated the representation in Congress from one of the districts in that city.

In conclusion, Mr. Chairman, I will say that the people demand a restoration to them of the right and privilege to elect in pursuance of the laws of the State in which they live their own Representatives, untrammeled by Federal interference and unawed by bayonets. And unless the veto of the President, with which we have been threatened by the leaders of his party on this floor, should arrest the act that is to reinvest them with their rights of citizenship, they will be restored.

Mr. COLERICK addressed the committee. [His remarks will appear in the Appendix.]

Mr. HENDERSON. Mr. Chairman, after the many able and exhaustive speeches which have been made on the bill now under consideration it would perhaps be wise if I should remain silent. There are, however, some things which I desire to say in regard to the proposed legislation incorporated in the bill, and this is the only opportunity I shall have to do so.

I am opposed, Mr. Chairman, firmly and honestly opposed, to the proposition contained in this bill to repeal certain sections of the election laws and to modify others. I am opposed to it, not only because I object to the manner in which it is proposed to be accomplished, but I believe the step is a step in the wrong direction; that instead of repealing laws which have been enacted for the purpose of preserving the purity of the ballot-box and maintaining honest and fair elections, we ought to amend them, and even make them stronger than they are for the purpose of protecting every citizen, whether high or low, rich or poor, black or white, if he be entitled to vote, in the right to cast a free and untrammeled ballot, and also to make that ballot effective by preventing dishonest and fraudulent votes from being polled by those who have no right to vote.

And now, Mr. Chairman, as to the manner in which this repeal and modification of the election laws is sought to be effected, I believe it to be wrong in principle, dangerous in practice, and wholly indefensible. Notwithstanding all that has been said on the other side of the House, it is revolutionary in its character; and all right-minded, right-thinking people of the country will so regard it. I know that gentlemen on the other side deny this, and speak even contemptuously of the idea of its being revolutionary to force legislation in this manner. But, Mr. Chairman, it strikes a blow directly at the independence of the different departments of the Government. It is coercive legislation. It says to one branch of the legislative department of the Government, you must accept such legislation as we, the other branch, think proper to incorporate into an appropriation bill, or no money shall be appropriated to maintain the Government. It says to the President, approve of whatever legislation we think proper to incorporate into this appropriation bill, or no money shall be appropriated to pay your salary, no money shall be appropriated to support and carry on the legislative, executive, and judicial departments of the Government. Now gloss it over as you may, no rhetoric, no logic, no eloquence, can escape the charge that if this be insisted upon and adhered to, in case the President shall veto this bill and two-thirds of both Houses of Congress shall not vote for it, after the President returns it with his objections, then it is revolutionary.

I concede the right of the majority of this House to incorporate into an appropriation bill any legislation they think proper, if it be done consistently with the rules of the House and the Constitution. I do not for a moment dispute this; but when the House incorporates into an appropriation bill legislation which is objected to by the Senate, and says to that body "You shall accept such legislation or no money shall be appropriated to support the Government, to pay the Army, to pay the legislative, executive, and judicial departments of the Government," what becomes of the independence of the Senate? What becomes of the Government? Have you not then reached the point of revolution, and must not the wheels of the Government then stop? The same thing is true, Mr. Chairman, as to the President, who has the right under the Constitution to return any bill that may be passed by Congress, with his objections. I know that the legislative power of the Government rests in Congress. I understand that perfectly well. But our fathers, whether wisely or unwisely, provided in the Constitution that before any act of Congress should become a law, it should have the executive approval, and conferred upon the President the power, if he did not approve, to return any bill passed by Congress with his objections, and unless on a reconsideration both Houses of Congress shall, by a two-thirds vote pass such bill, it shall not become a law. Now, sir, if the incorporation of this legislation in this appropriation bill means anything, it means that unless the President shall approve the bill with such legislation in it then no money shall be appropriated for the legislative, executive, and judicial departments of the Government unless those opposed to it shall surrender their convictions and vote in favor of the bill, notwithstanding the objections of the President. The majority virtually say to us and to the President, unless you accede to our notions and accept this bill with just such provisions in it as we think proper we will not appropriate a single dollar, and the wheels of Government shall stop.

This, sir, is vicious legislation. It is coercive and revolutionary in its character. But we are told that it has been done before, and many precedents have been cited to show the fact. My friend from Wisconsin, [Mr. BRAGG,] who has just taken his seat, has referred to us such precedents, and says in one instance a proposition to borrow money was incorporated in an appropriation bill. That may have been a legitimate thing to do. It may have been the only way to raise the money to meet the appropriation, to borrow it, and therefore very proper to provide in the bill for borrowing the money. I know, Mr. Chairman, this has been done, and that you can find precedents for it, but two bad precedents never make one good one, no more than two wrongs make one right. But, Mr. Chairman, this process of tack-

ing has certainly never been carried to the extent now proposed. If so, there has been no reference to it so far as I have heard, and I do not believe an instance can be found in our history. The gentleman from Kentucky, [Mr. CARLISLE,] in his very able speech, referred to the fact that in 1855 the House of Representatives incorporated into an appropriation bill a complete revision of the tariff laws. But in that case the bill was the civil and diplomatic appropriation bill; and the failure to pass that bill would not have been so serious, it would not have stopped the wheels of the Government; and the Senate struck out the provisions relating to the revision of the tariff.

The gentleman from Kentucky says that the bill was sent to the Senate, and, after an able and exhaustive debate by that body, they struck out the provisions relating to the tariff inserted by the House, but did it upon other grounds than because it was incorporated into an appropriation bill. I confess, Mr. Chairman, I was somewhat surprised at that statement made by the gentleman, whose ability, candor, and fairness it gives me pleasure to acknowledge, for I thought I had examined that debate with some care, and I had certainly reached a different conclusion. The impression made upon my mind from reading the debate referred to in 1855 on the motion to strike out the sections relating to the tariff was that the motion prevailed, because it was out of place to incorporate such legislation in an appropriation bill; that such a practice would break down and destroy the safeguards of legislation. The vote was very close, and a number of Senators who were in favor of a revision of the tariff certainly objected to the mode of legislation and voted for the motion to strike out. Among the distinguished Senators who objected to the incorporation of such legislation in an appropriation bill were Senators Bayard, of Delaware; Brodhead, of Pennsylvania; Douglas, of Illinois; Badger, of North Carolina; Seward, of New York, and Clayton, of Delaware.

Senators Douglas, Brodhead, and Seward all declared such mode of legislation to be revolutionary in character, and that it was out of place to incorporate such legislation in an appropriation bill. So did Senators Cass, Benjamin, Weller, James, and others. Weller was at first inclined to vote against striking out, but finally changed his mind and voted for the motion, because it was an improper and an objectionable mode of legislation. Senator Toucey, of Connecticut, was in favor of the proposed legislation, and voted against striking it out. But even he admitted that if it was stricken out by the Senate, and the House should then insist on retaining it in the bill, or pass no appropriation bill, that then it would be revolutionary. I quote his exact language, and I invite the attention of the committee to it; for he was a distinguished democrat, and what he then said sustains the views entertained by republicans now on this question. Senator Toucey said:

> If they—
>
> That is the Senate—
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> saw fit to reject it, then it was the intention of the committee to go forward and present the amendments which they had prepared. Is there anything wrong in this? Is there anything improper in the proposition of the chairman of the committee or of the committee itself? Nay, Mr. President, is there anything wrong in the position assumed by the House of Representatives? Sir, I can easily imagine the question which is raised here in anticipation, when it would become wrong. If, sir, we reject this revenue measure, and the appropriation bill goes back to the House of Representatives, and they insist upon it, or else will permit the civil and diplomatic bill to fail, and the wheels of Government to stop, then I take occasion to say that the House of Representatives would have reached the point of revolution. If they undertake by their subsequent action to force this revenue bill upon the Senate contrary to its opinion, or to stop the wheels of Government, they will then have assumed the revolutionary attitude, and the event will have arrived which has been darkly shadowed forth by some Senators in the course of this debate.

Now, this was the opinion of a democratic Senator in 1855, who favored the legislation then incorporated into an appropriation bill, and which Douglas and Brodhead, also democrats, as well as Seward, characterized as revolutionary in character; and hence I say when the majority of this House, at the last session of the last Congress, insisted upon the legislation then incorporated in the Army appropriation bill and in the legislative, executive, and judicial appropriation bill, and absolutely refused to pass these bills unless the Senate would surrender its opinions and accept the bills as passed by the House, it, in the language of Senator Toucey, "reached the point of revolution," "assumed the revolutionary attitude," and forced upon the country the necessity for this extra session of Congress. A democratic House then said to a republican Senate, "you must surrender your convictions and opinions or there shall be no appropriation for the Army, none for the executive, none for the Legislature, and none for the judiciary after the 30th of June next. Our will shall prevail or the wheels of Government must stop." And now when the new Congress has assembled in extra session, and both the House and Senate are democratic, you again incorporate the same objectionable legislation in the appropriation bills with some modifications; and in doing so, you say to the President, "You must approve or the wheels of Government must stop." This I believe to be the avowed purpose of the majority in Congress. Whether the President will approve or not I do not know. I doubt if any one knows or is authorized to state what will be the executive action; but this I declare here without any hesitation: if the President returns these appropriation bills with his objections, as he has the undoubted right under the Constitution to do, and the majority of Congress shall then refuse to pass necessary appropriation bills to carry on the Government, then I say to gentlemen on the other side of the House you will have again assumed a revolutionary attitude, you will again have reached the point of revolution, and the people will hold you responsible. You cannot shift the responsibility upon the President, you cannot shift the responsibility upon the minority in Congress, you cannot destroy the constitutional prerogatives of the President in that way. It is your duty to appropriate the money to support and maintain the Government, and as to any legislation you may wish to accomplish you must do it in a constitutional way.

This controversy has a higher significance, Mr. Chairman, than the mere question of the repeal or modification of these statutes. It involves the independence of the two Houses of Congress and of the Executive in the enactment of laws. It involves the stability of our constitutional Government. I am satisfied we are in the right, and that we can safely go to the country upon the issue presented. But as to the veto power. It has been asserted upon the other side of the House that there is no ground for a veto in this proposed legislation, and some gentlemen have argued the question as if we were a convention sitting for the purpose of amending the Constitution, or were discussing a resolution proposing an amendment to the Constitution modifying or repealing the veto power of the President. It is not a question, Mr. Chairman, whether the President should have the veto power or not. Our fathers in adopting the Constitution made it necessary for the President to approve every bill passed by Congress before it should become a law; or if he did not approve, they provided he might return such bill to Congress with his objections. Now, we may entertain and express our opinions as to the propriety or impropriety of any particular veto; but it is a clear, constitutional right of the President if he does not approve a bill, any bill that may be passed by Congress and presented to him, to return the same with his objections and if he does so, unless upon a reconsideration two-thirds of both Houses shall vote for such bill, it shall not become a law. It is therefore a clear constitutional right of the Executive to exercise the veto power. One that we cannot take away from him, unless we first amend the Constitution for that purpose, and one that should not be annulled or overridden in the way proposed by this bill

I do not know, sir, but I would be in favor of modifying the veto power so as not to require a two-thirds vote on a reconsideration of a bill vetoed by the President; but I cannot and will not now or at any other time sanction any attempt to annul the power of the President to veto a bill which contains provisions objectionable to him while the Constitution remains as it is. But, Mr. Chairman, I have said I was opposed to the repeal and modification of the sections of the election laws proposed. I do not for one moment doubt the constitutionality of these laws. I believe the Constitution gives to Congress full power to fix the time, place, and manner of holding elections for Senators and Representatives in Congress and for presidential electors, except as to the place of electing Senators; and that exception is for the reason that it would give to Congress the power to change the place of meeting of a State Legislature; and having the power to fix the time, place, and manner of holding elections, it is clear that Congress has the power in providing for the manner of holding elections to make any provision deemed necessary to secure a fair and honest election; to prevent fraud, intimidation, and violence, and to keep peace at the polls. It has the power to secure every citizen entitled to a vote in the right to cast a free, untrammeled ballot; and having that right, I believe, Mr. Chairman, it to be the duty of Congress to exercise it. If I were to say here to-day what I believe the people of my own section most earnestly demand, it would be that we shall have peaceable elections everywhere throughout the entire country; that every citizen of the United States who has the right to vote wherever he may live, whether in Illinois or Mississippi, Louisiana or New York, Maine or South Carolina, shall be permitted to exercise that right without any interference, and that those who have no right to vote shall not be permitted to do so; that ballot-boxes shall not be stuffed with tissue ballots, and above all that armed bodies of lawless men shall not be permitted to interfere with the rights of citizens and control elections in which every citizen of the United States has a deep interest.

This is the feeling, sir, in the section of country where I live; and I believe it exists among democrats as well as republicans. And, Mr. Chairman, while I have the honor of a seat in this House I shall insist in all our legislation affecting elections that every citizen shall be protected in his right to exercise the elective franchise. If that is not done and we do not maintain free, fair, honest elections we cannot maintain our free institutions, and there is no hope for the Republic. I will go as far as the farthest in providing laws necessary for the purpose of securing every citizen the right to cast an honest ballot, and will go equally as far in preventing fraud, intimidation, violence, bloodshed, and murder resorted to to control elections. The polls must be free and accessible to every citizen, and brute force must cease to be an element of power in the politics of the country.

Now, sir, a great deal has been said about fraud in elections. The gentleman from Wisconsin [Mr. BRAGG] a few moments since said that the republican party wanted to retain these officers provided for in the election laws of the United States to enable them to control elections and carry them by fraud. I do not believe this, Mr. Chairman, for a moment. All the republican party want is an honest vote and a fair count. I can more truthfully say that the democratic party desires to abolish these officers and repeal these provisions of

the election laws enacted to prevent fraud to enable them to perpetrate those frauds upon the ballot-box for which that party has been heretofore distinguished. I have heard a great deal said during the last two years on the floor of the House and elsewhere about fraud in the last presidential election, and about counting in the President by fraud. Mr. Chairman, I will say in all candor, because I believe it to be true, that if the electoral vote of Louisiana in 1876 had been by any possibility returned against the republican party, and the election of the democratic candidate for the Presidency had been thereby secured, it would have been the greatest outrage upon the elective franchise ever committed in the history of our country. I believe, sir, that there were parishes and parts of parishes in that State taken possession of by armed bodies of men; that republican voters were forced to keep away from the polls on election day, and that no free, fair, honest election was held in such parishes. I believe that the democratic majorities in such parishes were obtained by an organized system of violence and terrorism, by intimidation, and by bloodshed and murder such as was a disgrace to our civilization and age.

Mr. ROBERTSON. Will the gentleman allow me to interrupt him a moment?

Mr. HENDERSON. Certainly.

Mr. ROBERTSON. I would ask the gentleman if he does not remember that after the reconstruction acts of 1868 the democracy of the State of Louisiana carried that State by over thirty thousand majority; again in 1872 the State was carried by a majority of over ten thousand; again in 1874 by a majority of about six thousand; and in 1876 by a majority of about ten thousand, and this, too, at a time when the State government was under the control of the republican party, and that backed by the Federal Government and its bayonets, and yet the result of the election in favor of the democracy was nullified and set aside on the ground of intimidation?

Mr. HENDERSON. That has not been my understanding at all of the results of the elections in Louisiana, and I ask the gentleman from Louisiana if that be true what becomes of the claim that the democratic party has been constantly growing in favor in his State? It has been frequently stated here that the colored people were going over to the democratic party and were voting the democratic ticket in order to account for the wonderful changes in the votes of various sections of the South and of Louisiana.

Mr. ROBERTSON. They have been doing it from 1868 up to the present time. I have stumped the portions of the State on the same stand with these colored men in 1868, 1872, and 1876.

Mr. HENDERSON. My information in regard to the elections in the parishes referred to is based upon the testimony of those who have investigated these matters and have heard the testimony of sworn witnesses, and I believe from what I have heard, from the sworn testimony taken and from the reports made, that the statements made by me are true.

Mr. ROBERTSON. I know that in 1876 in regard to the fraud which has been mentioned by the gentleman in the parishes of East and West Feliciana and in Baton Rouge we had the most peaceable election on the part of the democracy that we have ever had since the war. I know that in the parish of East Feliciana there was a fraud concocted by the republican party by which it was determined that the colored votes of that parish should not be cast from the fact that leaders of that party stood at the polls on election day and prevented these colored people from voting in order to consummate their nefarious purpose. I know, further, that in an adjoining parish of West Feliciana, separated only by a small creek and where the voters were not interfered with, the fullest vote, colored and white, was cast that had been polled for many years.

Mr. HENDERSON. Mr. Chairman, I understand that very well. I understand just how peaceful the election was. It was the peace of the lion and the lamb after the lamb was on the inside of the lion. [Laughter and applause.] It was the peace of death. The force, the violence, the intimidation was long before election day. It was intended that there should be no violence on election day; the reign of terror had done its work before.

Mr. ROBERTSON. I deny that there was anything of that sort. On the contrary, it was our interest to keep the peace even if we had had a desire not to do it, because we knew that any disturbance would give the returning board a pretext for throwing out our votes.

Mr. HENDERSON. I grant the gentleman that there may have been peace on the day of election.

Mr. ROBERTSON. Yes, all the time.

Mr. HENDERSON. But does the gentleman deny that there were armed bodies of men in those parishes who attended all the political meetings, not only of democrats but of republicans, and pursued such a system of intimidation long before the day of election as virtually to drive voters away from the polls and deprive them of their right to vote?

Mr. ROBERTSON. I deny that proposition, and I state that in 1878 the republicans were riding all over my parish and all over East Feliciana with drums and fifes, and making speeches everywhere; but they were not interrupted. At Clinton, where Captain Rogers with a detachment of Federal troops was stationed at the time Packard spoke, there were a few questions asked and answered, and that was all.

Mr. HENDERSON. I supposed, Mr. Chairman, that the statements made by me were a matter of history well understood by the country. The people have certainly been greatly deceived if it be not true that violence, bloodshed, and murder have prevailed in various parts of Louisiana, and to such an extent that republican majorities have been changed into democratic majorities, and the State turned over to the democracy.

Mr. ROBERTSON. No, sir; not at all.

Mr. HENDERSON. I believe it to be true, Mr. Chairman, and think there is no other way of accounting for the wonderful falling off of the republican vote. Take, for instance, the parish of East Feliciana. In 1870 there were in that parish 1,273 republican votes polled; in 1872, 1,690; in 1874, 1,688, and in 1876, only 1. This speaks for itself. And now, Mr. Chairman, while we are talking about concord and fraternity between the different sections of our country allow me to say that what we want to establish is more freedom of thought, of speech, and of action. As long as men are proscribed for opinions' sake, and especially on account of political opinions, as long as violence, outrage, and wrong are permitted, and go unpunished, so long will there be bad feeling existing between the sections, and the way to avoid it is to remove the cause which excites it. I sometimes think, Mr. Chairman, when I hear gentlemen of the South complaining of their impoverished condition, that if the people of that fair portion of this great Republic would only forget their prejudices and passions; would only encourage freedom of thought, of speech, of action, and invite men of energy and enterprise, and men of capital, to settle among them and help to develop and build up the country, the South would soon begin to prosper as it has never prospered before. A brighter day would dawn upon the people of that section, and they would soon see and feel that they were advancing to a higher and better and nobler civilization.

But let us have peace, Mr. Chairman, peace everywhere and peace at all times; and the surest way to have peace is to establish right and justice everywhere and in all parts of the country. And if the good time shall ever come when a citizen of these United States can go from one State to another all over the land and express in a respectful way his honest thoughts and opinions free from proscription, free from molestation; when every citizen will be protected in all his civil and political rights, then will reconciliation, complete and permanent reconciliation, come to all parts of the country; then will our free institutions be loved and cherished by all sections, and the Republic established upon a broad, sure, firm foundation.

Mr. Chairman, I think this effort to break down the national election laws is to be deeply regretted. I have no disposition to stir up sectional strife; I have had no disposition to excite sectional animosities. During my term of service in this House I have abstained from anything of that kind; but the people of the North will look upon this action on the part of the democratic majority as an attempt to get control of elections by fraud and by violence when necessary for that purpose. I have evidence every day from the section of country where I live that such is the feeling there, and it is growing day by day.

It is most unfortunate, too, that the democratic party having been out of power since the beginning of the late rebellion should on coming back to power in the legislative department of the Government as one of its very first acts attempt to destroy all national authority over national elections; should revive again the old doctrines and opinions as to State rights which I had hoped were exploded and the question settled, and settled forever by the blood of many battlefields, that this was a nation and clothed with full and ample power to preserve and perpetuate itself, and especially that in the effort to accomplish its purposes it should assume a revolutionary attitude and should say, "We have the power now in our hands and if you do not graciously accept what we propose we will make no appropriations. We will stop the wheels of the Government." This will not do, Mr. Chairman, the party has put itself in the wrong, and has shown the people that it is not worthy of their confidence.

Mr. Chairman, a few words more and I am done. Since I have occupied a seat upon the floor of this House I have sat, and oftentimes impatiently, and heard the most violent denunciations of the republican party. It has been charged with frauds; it has been charged with corruption; it has been charged with gross violations of the Constitution, which its patriotism preserved and maintained. In fact, it has been charged with every political crime, and one would suppose to hear these denunciations from time to time that the history of the party was full of oppression, of usurpation, of injustice, and wrong; that it had trampled under foot the liberties of the people and had forfeited the respect and confidence of all good, liberty-loving citizens.

Mr. Chairman, it has been my pride and pleasure to belong to the republican party since its first organization. It was born, sir, out of a love of liberty and opposition to human bondage. It came into power to find the hand of rebellion raised against the Republic. It had graver duties to discharge and responsibilities to meet than any other party that ever existed in the country. During four years of bitter, unrelenting, cruel war it administered the Government with an unfaltering patriotism. It brought the country safely through all the perils and dangers that threatened it. It extended human liberty, and secured the civil and political rights of every citizen by constitutional amendments. No party ever made a grander and nobler his-

tory, and if the people of this great, free Government are only true to their love of liberty the luster of its great deeds will go down undimmed through the ages.

I know the financial legislation of the party has been severely condemned by gentlemen on the other side and by the "nationals;" but, Mr. Chairman, when we consider that when the party came into power it found an empty Treasury and an impaired public credit; that it had to raise immense sums of money to meet the extraordinary expenses of the war and maintain the public credit; when we remember that this has been done, that our public debt has been funded at lower rates of interest than ever before known in the history of our country, and that we have been brought back to a sound and reliable currency, I assert, Mr. Chairman, that the financial legislation of the republican party has, in my judgment, been such as to excite the admiration of the world. No, Mr. Chairman, I love the republican party. I regard it as the party of freedom and of progress. It has proven its patriotism and its devotion to the rights and liberties of the people, and I trust it will be maintained by them as the best and surest hope of the Republic.

Mr. BRIGGS. Mr. Chairman, I have no expectation that any words of mine will change the vote or modify the opinions of any member of this House, much less affect in the slightest degree the predetermination of the majority to pass the pending bill with all its objectionable provisions. It is a bantling of the democratic caucus, and has been adopted by the dominant party in this body. Party exigency requires its passage, and the whip and spur of party leaders I doubt not will secure it.

I cannot, however, let this occasion pass without entering my emphatic though unheeded protest, not only against the end sought to be accomplished by the democracy, but also against the manner which they have adopted with the hope of insuring success.

This bill, known as the legislative, executive, and judicial appropriation bill, provides the means for carrying on those three great departments of the Government for the fiscal year ending June 30, 1880. If it contained no provisions except those necessary for this purpose there would be no great difference of opinion in regard to its details among the members of the House and no serious objection to its immediate passage. But, sir, in addition to all that is legitimate and proper in an appropriation bill, *per se*, this provides not only for the modification but for the absolute repeal of section after section of the Revised Statutes in relation to the elective franchise, and it effectually breaks down every barrier of protection which the National Government has erected to secure a free and fair election and a correct and honest count of the votes for Members and Delegates to this House.

That the true character of the proposed legislation may be clearly understood, its importance fully appreciated, and its objects and purposes revealed, an examination of the existing law to the extent of the changes proposed in this bill may be necessary. The present law was enacted in 1871, with some additions in 1872, and may be found in the Revised Statutes, under the title of "The Elective Franchise," from section 2011 to section 2031, inclusive.

The stupendous frauds committed by the democratic party in the city of New York in the year 1868 had startled and alarmed the country by their enormity, and these laws were enacted to prevent their recurrence. The character and extent of these frauds, the men by whom they were perpetrated, and the political party benefited thereby are matters of recent history, and must be fresh in the recollection of every member of this House; and, sir, as the correctness of nearly every statement which comes from a republican source is challenged, I will let these frauds be characterized by a distinguished statesman who has received the indorsement of a national democratic convention as a candidate for the Presidency, and received the support of that party for that exalted position at the polls. From a letter under date of October 20, 1869, from Horace Greeley to Samuel J. Tilden, I extract the following:

Mr. Tilden, you cannot escape responsibility by saying with the guilty Macbeth—

"Thou canst not say I did it; never shake
Those gory locks at me!"

for you were at least a passive accomplice in the giant frauds of last November. Your name was used without public protest on your part in circulars sowed broadcast over the State, whereof the manifest intent was to "make assurance double sure" that the frauds here perpetrated should not be overborne by the honest vote of the rural district. And you, not merely by silence, but by positive assumption, have covered those frauds with the mantle of your respectability. On the principle that "the receiver is as bad as the thief," you are as deeply implicated in them to-day as though your name were Tweed, O'Brien, or Oakey Hall.

Mr. Tilden, you and I were ardent participants in the struggle of 1840, wherein Martin Van Buren was ousted from the Presidency by General Harrison. You know how thoroughly our city was absorbed in that contest, wherein every man, woman, and child took a deep and lively interest. Our elections were then held throughout three days; there was a registration freshly enacted which blacklegs had not yet learned to circumvent; the right of suffrage was as widely diffused as it now is; no one ever complained that a single legal voter was unable then to poll his vote. And, though our city has since largely increased its population, the lower wards were quite as populous then as they are to-day—several of them more so. They were full of boarding-houses crowded with clerks and mechanics. Many of these covered sites since given up to great warehouses and manufactories; their denizens have moved up-town, over to Brooklyn, or out on some of the railroads that lead out into the open country. Practically, the lower wards are being given up to commerce, and no longer shelter by night the multitudes who throng their streets by day.

Now look at the vote of four of these wards in 1840 and 1868, respectively:

Wards.	President, 1840.		Governor, 1868.	
	Harrison.	Van Buren.	Griswold.	Hoffman.
Fourth ward	1,138	1,177	480	3,820
Sixth ward	806	1,223	369	5,032
Seventh ward	1,707	1,728	1,295	6,895
Fourteenth ward	1,142	1,393	726	4,526
Four wards	4,793	5,521	2,840	20,283

Van Buren's majority, 728; Hoffman's majority, 17,443.

Mr. Tilden, you know what this contrast attests. Right well do you comprehend the means whereby the vote of 1868 was thus swelled out of all proportions. There are not twelve thousand legal voters living in those wards to-day, though they gave Hoffman 17,443 majority. Had the day been of average length, it would doubtless have been swelled to at least twenty thousand. There was nothing but time needed to make it one hundred thousand, if so many had been wanted and paid for.

Now, Mr. Tilden, I call on you to put a stop to this business. You have but to walk into the sheriff's, the mayor's, and the supervisor's offices in the City Hall Park, and say there must be no more of it—say it so there shall be no doubt that you mean it—and we shall have a tolerably fair election once more. Probably a good part of the fifty thousand supplied last fall with bogus naturalization certificates will offer to register and to vote—some of them pretending not to know that they are no more citizens of the United States than the King of Dahomey is—but very few will vote repeatedly unless paid for it; and we shall not be cheated more than ten thousand if you simply tell the boss workmen that there must be no illegal voting instigated and paid for.

Will you do it? Your reputation is at stake. The cowardly craft which

"Would not play false,
And yet would wrongly win,"

will not avail. If we republicans are swindled as we were swindled last fall, you, and such as you, will be responsible to God and man for the outrage. Prosecutors, magistrates, municipal authorities, are all in the pool; we have nothing to hope from the ministers of justice, and the villains have no fear of the terrors of the law. I appeal to you, and anxiously await the result.

Yours,

HORACE GREELEY.

NEW YORK, *October* 20, 1869.

To SAMUEL J. TILDEN, *Chairman Democratic State Committee.*

Frauds like these described by Mr. Greeley, committed under the leadership of the great modern reformer to whom this open letter was addressed, imperatively demanded the enactment of some statute to prevent their repetition, and the Congress of the United States, in obedience to the universal demand from every friend and advocate of a pure ballot, a fair and free election, and an honest and true declaration and return of the votes cast, enacted these laws which the democratic party in this House are in such hot haste to repeal.

What is the supervisor law, as it has been termed in this debate? What are its provisions? It is important to all that they should be thoroughly understood, not only here but throughout the country.

They provide that whenever in any city of twenty thousand inhabitants or more two citizens, or in any county or parish in any congressional district ten citizens of good standing, shall, prior to any registry of voters for an election of Congressman or to any election in which a Representative to Congress is to be voted for, make known in writing to the judge of the United States circuit court for that circuit their desire to have the registration, or election, or both "guarded and scrutinized," the judge shall open his court within not less than ten days prior to the registration or election, and shall proceed to appoint and commission from time to time and under the hand of the judge and the seal of the court for each election district or voting precinct in such city, town, or congressional district as may have made application in the manner prescribed, two citizens, residents of the city, town, or of the election district or voting precinct in the county or parish, who shall be of different political parties and able to read and write the English language, who shall be known as supervisors of elections, and the judge may change such appointments from time to time.

The supervisors are authorized and required to attend at all times and places fixed for the registration of voters, and at all times and places for holding elections and for counting the votes cast. They may challenge any person offering to register or mark any name registered for challenge. They may scrutinize the registry lists and mark them in such a manner as will detect and expose the improper removal of a name therefrom or addition thereto. They may challenge any vote offered by any person whose legal qualifications either of the supervisors may doubt.

They must remain at the polls until the voting, counting, and canvassing are completed, and proper certificates issued and returns made. They may inspect and scrutinize while the election is progressing the way the voting is done, and the method in which the poll-books, registry lists, tallies, and check-books are kept, and they are required to scrutinize, count, and canvass the votes cast, and shall make returns to the chief supervisor, attaching thereto any certificate required by law, and any statement as to the truth or fairness of such election or canvass which either of them may desire to

make, and which may properly and honestly be attached, that all the facts in relation to said election, counting, and canvassing may become known, "to the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast."

The supervisors are authorized to occupy such positions in the place of registration, voting, or canvassing as shall enable them to perform their duties; and all interference to prevent them from so doing is forbidden.

The law also requires the United States marshals of the district, upon the written application of the citizens of any city having twenty thousand inhabitants and upward, to appoint deputy marshals to aid and assist the supervisors in the verification of the registry and voting list and to be present at the places of registration and voting. The marshal and his deputies, regular and special, are enjoined to keep the peace, preserve order, prevent fraudulent registration, fraudulent voting, and fraudulent conduct on the part of the officers of election.

They may arrest, with or without process, any person who at the place of registration or election may violate the election laws of the United States. But no person can be arrested without process except for an offense committed or attempted to be committed in the presence of the marshal or supervisor, and any person so arrested must be brought forthwith before the commissioner or judge of a court of the United States for examination. This, Mr. Chairman, is an outline of the Federal election laws which the dominant party in this House and in the Senate, under the dictation of the democratic caucus, propose to strike from the statute-book.

I ask this House, and I ask the people of this country, what there is in these laws to justify the extraordinary conduct of the democratic party in the last Congress, or in this, in assuming the revolutionary position that unless these laws are repealed no appropriation shall be made to carry on the General Government? I know, sir, that these statutes have been charged as being partisan in their character. This charge I deny. They were not enacted in the interest of any party, but for the benefit of the whole people of the country. The power of appointing supervisors has been wisely lodged in the hands of the judges of the circuit courts of the United States, officials who are nominated by the President, confirmed by the Senate; whose salary is sufficient to place them in an independent position, and whose term of office is not to be affected by the rise and fall of political parties. They are selected not on account of any particular political opinion they may hold, but on account of their qualifications as distinguished and eminent members of the legal profession. They are men who preside over our courts when the rights of parties are to be tried and adjudicated, and to them are submitted the great questions which affect the life and the liberty of the citizen. Surely if a tribunal like this cannot be trusted to appoint officers of this character, there is none within the limits of this Government that can.

That, sir, is not all. The appointment of supervisors is not confined to applications therefor by members of the republican party. The courts and the process are open to the members of the democratic party as well, and in some instances within a very few years supervisors for the purpose of guarding and scrutinizing the registration of voters have been appointed upon the application of democrats. These applications are to be made by residents of the city, the town, or the district wherein their duties are to be performed, and the applicants are to be men of good standing in the community. Upon receiving this application the court appoints, not partisans, not republicans, but, as the law expressly provides, supervisors of different political parties. After these supervisors have been appointed and commence the performance of their duties, they attend the registration of the voters, they attend the elections, they supervise the counting, and in the performance of all their duties they act together and in the presence of each other. And in view of these facts I ask what becomes of the charge that is made that supervisors of elections are partisan in their character?

Another objection which has been urged with great vehemence against this law is the fact that the marshals and their deputies have power to arrest without process. No such power is granted to the marshals unless the offense is committed, or attempted to be committed, in their presence, and this is a power which sheriffs, policemen, and a large class of officers possess under State authority in the different cities and States of the Union, and it is a well-established doctrine of the common law, and has been for centuries. It is a power, I grant you, that should be carefully guarded and protected, but the experience of all civilized countries has justified its exercise, and there is nothing anomalous or extraordinary in its incorporation into this law.

The supervisor law, an outline of which I have given, simply does this: it secures or attempts to secure through its supervisors the placing upon the registration lists of the name of every man who has the right of registration and the exclusion of the name of every man who has not that right; it allows every man to exercise the right of suffrage in the place where he resides that has that right; it prevents or is intended to prevent any man from voting who does not possess the right to vote; it aims to secure a correct count of ballots cast, a true declaration, record, and return of that count, and it preserves all the facts and testimony in relation to the registration, the voting, the counting, the canvassing, and the returns that are necessary to make it plain that the election has been properly conducted. Can any man who desires a fair and honest election and a proper and correct count and return of the votes cast thereat object to this?

These election laws during this debate have been assailed and denounced as unconstitutional. The power of the General Government to interfere in any way with the elective franchise has been denied, and it has been claimed to be purely a matter of State legislation and State regulation. This, sir, is nothing more nor less than a reassertion in another form of the old heresy of State rights, a re-echo of the old cry that this is not a nation, but simply a confederation of States, without the power of self-protection or self-preservation. To me it seems rather late for gentlemen to make such a claim. That question was raised under the administration of Andrew Jackson, and he, comprehending the true character of our Government, appreciating the grave and responsible duties that devolved upon him as its Chief Executive, met that issue in his time with that firm, determined, and heroic spirit which characterized all his public acts, and State pride and State rights yielded to Federal authority. South Carolina knew that Andrew Jackson filled the presidential chair, that he was Commander-in-Chief of the Army and the Navy, and that the whole force of the General Government would be exerted to execute the laws of the land.

In 1861 this question of Federal power and authority was raised again. Not only was this authority denied, but the power of the General Government defied. James Buchanan, the last of democratic Presidents, sat in the chair of state, and spent the closing days and hours of his administration in studying the Constitution of his country, that he had sworn to support, to learn whether he was the President of a nation or not, and he called for the advice of his democratic law officer, the Attorney-General, to aid him in the constitutional investigation, and they arrived at the sage conclusion that there was no constitutional power to preserve the existence of the nation. About the time he made this grand discovery his term of office expired, and with him in this nation closed forever the history of democratic Presidents. His successor, Abraham Lincoln, was inaugurated the President of a nation, and under his administration this great question was submitted to the dread arbitrament of arms. In that great conflict, through those four years of desolating war, the power and authority of the National Government was maintained, and we all supposed that this question was settled forever. But, sir, from the oft-repeated utterances made from this floor during the debate on the Army bill, which has already gone to the Senate, and the debate on the bill now pending before the House, it seems the old State-rights question has returned to disturb our councils and distract our people.

It is not my purpose at this time to enter upon an extended discussion of the power of the General Government to legislate in regard to Federal elections. To me this power seems so plain and palpable under the terms of the Constitution itself that the wonder is that any fair-minded man should now controvert it.

Listen. Article 1, section 4, of the Constitution of the United States provides:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

From this language can there be a doubt as to the power of Congress over this subject? "Congress may at any time." How? "By law." Do what? "Make or alter such regulations." What language could have been employed by the framers of the Constitution to have made this grant of power more specific and more complete? The members of that convention were wise and sagacious men. They were engaged in a great work, framing a fundamental law for a great nation, not for a day, but for all time. Would they in their wisdom have been likely, in founding a government with the popular branch of its Legislature elected by the free suffrages of the citizen, to have left, as it is now contended, the entire election machinery under State jurisdiction, thereby making the very existence of the popular branch depend upon State authority? The office of member of Congress and the House of Representatives itself are creatures of this Constitution. Without it there would be no office of member of Congress, no national House of Representatives. Where do States derive the authority claimed for them to regulate Federal elections?

There were no Federal elections until the Constitution was framed and adopted. Their authority, if they possess such, must be derived from the instrument itself that created the office and created that body. If so, what power has the State which the General Government does not possess and has the right to assume and exercise at any time when the regulations provided by the State are not satisfactory to the Congress of the United States? Certainly the power claimed is either in the State or the Congress of the United States. The State Legislature, under section 4, just quoted, cannot have a greater power over this subject than Congress itself, and all the power which the State possesses must be subordinated to the power vested in Congress, for the right conferred upon the State Legislature to act is complete in the first instance. But suppose they do not act. Congress certainly can by law "prescribe the time, the place, and the manner" of electing Representatives. Or suppose the Legislature of the State itself prescribed by law the time, place, and manner, Congress still has the power under this clause in the Constitution to make new regulations, which would necessarily supersede those made by the State,

or to change to any extent the regulations which the State Legislature had prescribed, except as to the place of electing Senators.

An examination of the proceedings of the convention which framed this Constitution, the action of the convention by which this section was finally agreed upon as it now stands, the debate which took place therein, the action of several of the States when the question of its adoption was before them, and the discussions before their respective conventions will leave no room for doubt that the statesmen who framed the Constitution, and the people of that day regarded the provision now under consideration as conferring the power I claim.

Then, again, these laws which have been so vehemently denounced by the gentlemen on the other side as infringing upon the rights of the States, usurping State powers and State functions, have been upon the statute-books upward of seven years. The courts of the United States have been open to test their constitutionality, and, as was said by the gentleman from Tennessee, [Mr. HOUK,] there is no democrat in the land, whether he can read or not, who is not a profound constitutional lawyer. It is within the knowledge of all that the democracy have given great attention to constitutional questions, particularly for the last seventeen years, and in view of all this it seems a little strange that none of them have had sufficient confidence in their constitutional opinion to carry the question to the courts and have it adjudicated by the highest tribunal in the land.

Certainly there can be no doubt as to the power of Congress over this whole question, and it is equally true, as a matter of fact, that when these laws were passed the evils were so great as to demand Federal interference to prevent them. The results which have followed from the enforcement of these laws have in every instance vindicated not only the wisdom of the laws but the necessity for their enactment. The same reasons which demanded the passage of these laws to-day require their retention. Until States have provided the necessary safeguards for the protection of the ballot and for the prevention of frauds at congressional elections these laws should remain. Amend them if they are defective. Improve them if you can, but do not strike them down by the passage of this bill and thus surrender the ballot-boxes to the cheats and ruffians of the great cities, and the white-liners, red-shirts, and bulldozers of the South. To do so would be an act of madness if not of crime. The great right of suffrage which American citizenship confers is too sacred to be tampered with, abridged, or denied. Its exercise should be free, untrammeled, and unawed.

This is the citizen's right, and it is the duty of the National Government, so far as its congressional elections are concerned, to protect them in the enjoyment of it with all the power at its command. If that right could be enjoyed throughout the country to-day, there might be some excuse or justification for the repeal of these election laws; but, sir, there are sections of the South where free elections are unknown, where fraud, intimidation, and violence have destroyed a race as a political factor and disorganized and driven the republican party from the field. The evidence of these facts is overwhelming and can be found in the numerous reports which have been made from time to time by investigating committees of this House or the Senate now in the Congressional Library.

I have no desire to remove the veil and expose again to public gaze the details of the brutal and barbarous atrocities committed upon the republicans in the South that are recorded in these reports. But when you come into this House with a proposition to tear down the barriers which Congress has erected to protect the ballot and secure freedom and purity at elections, to seek to drive away the United States Government from the polls, with the claim upon your lips that the right of suffrage is respected and enjoyed everywhere in the South, and that these laws are unnecessary, you should not be surprised that this dark and bloody record arises to confront and confound you.

What, sir, was the condition of Louisiana and South Carolina at the very last election in 1878, and a congressional election at that? I have no wish to go back beyond that period. That will be sufficient for my purpose to show the necessity for Federal control at congressional elections.

In South Carolina the celebrated tissue ballots became an important factor, and by their aid and by intimidation the "divine right" (?) of the democracy to rule in that State was vindicated. I cannot go into details, but will select from the report of a Senate committee to investigate these frauds a few specimen extracts to show how purity of elections is secured in South Carolina under home rule, and leave to the determination of this House and the country whether the Federal authority, not only military but civil, should be driven from the polls at Federal elections, and all control over them thus surrendered to the South Carolina democracy. (Extracts from report of Teller committee.)

CHARLESTON CITY.

Washington engine-house precinct.

At Washington engine-house precinct in ward 6, Charleston City, the voting proceeded quietly all day. Walter Elfe was the republican supervisor, and R. M. Wilson the democratic. At this polling-place there is every reason to believe that there was a large republican majority. The count was commenced, there being in the room three republicans and from thirty to forty democrats. After a short time the gas went out. Candles were obtained and the count continued a short time longer, when the candles were put out. In the darkness that followed the ballot-box was broken up and the ballots destroyed. The number of votes cast was 865. No return was ever made from this box.

Palmetto engine-house precinct.

At the Palmetto engine-house precinct, in ward 3, voting proceeded quietly until about half past three o'clock in the afternoon, when the supervisors called on the deputy marshal to arrest a man who had attempted to vote the second time. At this an attack was made on the supervisor, and his poll-list destroyed. Up to that time his poll-list showed that there had been 915 votes cast; and his poll-list tallied with the poll-list of the managers. From that time until six o'clock the supervisor did not keep any poll-list. When the vote was canvassed at that poll it was claimed that there had been 3,569 votes cast. If this number was cast, there must have been cast in two and a half hours 2,654 votes, or at the rate of 17 votes a minute. When the box was opened all agree that there were a great number of tissue tickets in it. These tickets were of very thin paper—so thin that print can be read through the paper—and only $3\frac{3}{8}$ inches in length and $1\frac{1}{2}$ inches wide, while an ordinary ticket is from $7\frac{1}{2}$ inches to $8\frac{1}{2}$ inches in length and from 2 to $2\frac{1}{2}$ inches wide. Just how many tissue tickets were in the box cannot now be exactly determined, because when the committee examined the boxes there were no tickets in this box, although tickets were found in the boxes used at all the other polling places except one. The supervisor swears that just before the poll closed the president of the democratic ward club came to the polls; and the witness says that he distinctly saw him put tissue tickets into the box in packages. The witness protested against this, but the managers said, if there are too many in the box we will not count them. When the box was opened, the witness says that he saw half a dozen packages of those tissue tickets that had never been folded, and they were all counted. The returns gave the democratic candidate for Congress 3,143 votes, and the republican candidate 416.

There was one other polling-place in this ward—the Market Hall—at which the republicans are reported as having 121 and the democrats 1,866, making the total vote of the ward 5,556. The highest vote ever cast in this ward was in 1876, when it cast 1,886.

That it is physically impossible in two and a half hours to cast over 2,600 votes all must admit; and it becomes the more apparent when it is understood that, by the laws of South Carolina, every voter must be sworn to the effect that he is a voter, that he has not voted elsewhere at that election, &c. The evidence shows that during the day the voters at that poll were sworn, one by one, as they voted; and if from six o'clock in the forenoon to half past three in the afternoon only 915 persons voted, the increase from that time to six o'clock in the evening is more than remarkable.

Hope engine-house.

The United States supervisor testified that he did not reach the polling place until the polls had been open twenty minutes; the managers called it thirty, but witness said it was only twenty minutes. The supervisor kept a poll list after he arrived. When the count was made it was found that there were twelve hundred and eighty-six names on the manager's list, and but twelve hundred and thirty-eight votes in the box. The supervisor had on his list (which contained the names of all who voted after half-past six o'clock a. m.) eight hundred and thirty-eight names. The poll-lists of the republican and the democratic supervisors agreed. When the count was made at the close of voting, there were found in the box three hundred and twenty-three tissue democratic tickets; and this number were found remaining in the box when examined by the committee. The tissue tickets were all counted as if honestly cast, and the return was, democratic tickets seven hundred and sixteen, republican five hundred and twenty-two. It is quite apparent that the difference between the supervisor's lists and the managers' arose from additions being made to the latter to cover the number of tissue tickets fraudulently placed in the box.

CHRIST'S CHURCH PARISH PRECINCT, (MOUNT PLEASANT.)

The supervisor at this precinct swears that he arrived at the poll before six o'clock, but the managers declared that it was after six; and on his demand to see the inside of the box, they refused, saying it was too late. The poll list of the managers and supervisors agreed, the total number being 620. When the ballots were taken out it was found that there were 1,163, or an excess of 543. A large number were tissue tickets. At this, as in all other precincts, the regular democratic tickets and the republican tickets were so different in their texture that they could be easily distinguished by the touch. The 543 tickets in excess were drawn out and destroyed, and of this number 372 were republican and 171 democratic. The box from that precinct, when examined by the committee, contained 464 democratic tissue tickets. Thus at this precinct the excess of tickets fraudulently put in the box was the means of drawing from the box 372 republican tickets; and the true returns would have been: democratic, 101; republican, 419—a republican majority of 318, instead of a democratic majority of 366—or a clear loss to the republicans in this precinct of 684 votes.

This may be taken as a fair sample of other voting places.

SUMTER COUNTY.

In Sumter County tissue tickets were also used; but it appears either that the leaders did not determine to use the tickets in the commencement of the campaign, or that they did not have confidence in their ability to carry the election by their use alone; for the most strenuous efforts were made to frighten the republican leaders from their attempted organization of the republican party. Republican speakers were threatened and maltreated, and republican meetings disturbed and broken up. Whenever and wherever the republicans attempted to hold meetings, the democracy attended in numbers, armed, and insisted on participating in the meeting, and, if refused, were threatening in their manner.

On the 12th of October the republicans attempted to hold a meeting at Sumter, the county seat. The democrats also called a meeting at the same time and place. The call for the democratic meeting was not issued until after that of the republican meeting. On the day of the meeting the democrats appeared in great numbers on horseback and on foot, armed and accompanied by an artillery company with two field-pieces. The democrats presented a programme to the republicans for division of time, but the republicans declined, and held their meeting some distance from where the democratic meeting was held. The republican meeting was not well attended, as many had feared to attend on account of the presence of the mounted and armed democrats.

Mr. Moise, a democratic witness, introduced by the minority of the committee, testified that the number at the republican meeting was about five hundred; that there were present in the town about two thousand white democrats, and among them between five and eight hundred armed cavalrymen. He said as the republicans were returning to the town after the meeting adjourned, with a band of music, and the national flag flying as they passed, about sixty of the red-shirt democracy in attendance became excited, and, leaving the democratic meeting, went after the republican procession. At once the cry was raised that there was to be a riot. The democrats loaded the cannon with nails and ran it out for action. It does not appear that the colored republicans had in any manner interfered with the democrats. Mr. Moise says that the young men in the democratic party were excited at the sight of the American flag, which, he declared, was an unpopular emblem in that part of the country. He said the republicans carried the American flag at their meetings and the democrats did not. Speaking of the national flag, he said: "When they see it at a republican meeting, where it is an emblem of oppression, it excites them. I hope it will be otherwise some time." He also testified that the colored people became very much excited; they were unarmed, and did not appear to know what to do. The American flag was pulled down, but it is not clear whether it was taken down by the whites or the colored people.

It was under difficulties of this character that the republicans carried on the

campaign. One witness says that every man who took a prominent part was menaced.

Tissue tickets appear to have been used in much the same way they were in Charleston County.

It is not strange that, with intimidation and threats and the use of tissue tickets, the democrats were able to secure the returns in their favor, although the colored people are more than twice as numerous in Sumter County as the whites.

In the State of Louisiana, in Caddo Parish, the registration of voters was as follows: whites, 1,496; colored, 3,735. The colored men there, as everywhere, were true to the party which had freed and enfranchised them. At a republican meeting where the issues of the campaign were being discussed the democrats demanded the right to take part in the discussion, and the republican speakers were even compelled to desist on account of democratic interference. The democracy openly proclaimed their purpose to carry the election. Military companies were organized in its interest. In one ward, where the registered colored vote was 325 and the white vote 15, the voting place was changed and so located that nineteen-twentieths of the voters were compelled to travel a round trip of from forty to sixty miles to exercise the right of suffrage. Voters were compelled to start on Sunday evening in order to reach the voting place by the morning of the election. Two hundred and seventy republican votes were cast, notwithstanding these obstacles placed in the way, and after the voting was completed armed ruffians seized the ballot-box, destroyed the ballots, and no return was ever made.

At Caledonia two colored men were killed at the voting place. A negro hunt commenced, and if the testimony of a deputy sheriff is to be believed twenty were killed that night and the next day, and their bodies left unburied on the spot where they fell.

In Natchitoches Parish, by the State census taken in 1875, the whites numbered 5,907 and the colored 15,404. The votes cast for democratic candidate for Congress were 2,819, and for the republican candidate none! In September a republican ward meeting was held to elect officers for the ward club. Dr. Breda and his brother, who is a lawyer, both ex-confederate soldiers and southern men, Mr. Barron, Mr. Boult, and other white men, natives of the State, Rev. A. R. Blount, a man of property and a Baptist minister, with others, were present. The republican club was organized and short speeches made. The democratic nominating convention was in session a short distance away. After a recess in the latter a vote was taken to go down to this republican meeting and "disperse the mob," and a Mr. Cunningham was chosen captain of this band. He requested every one to "go and get their arms;" but the republican meeting had adjourned before the armed democratic desperadoes arrived. The day after the organization of the republican club the mayor notified the two Bredas to leave, and they did so. Mr. V. A. Barron, ex-confederate, Mr. Roby, president of the republican club, and John G. Lewis, secretary, were all driven into exile for opinion's sake, and John R. Hornsby, a native of the State, an ex-confederate, and a justice of the peace under the appointment of Governor Nichols, was permitted to remain on the following conditions:

That he should not speak to any nigger in regard to politics; that he should not interfere in regard to politics in any manner, shape, or form during the campaign; and that he should not write any speeches nor aspire to office. He asked the consequence if he did not sign. They replied, "You know what became of Blount and others; if you do not sign the articles you must leave the parish." He declined to sign, and was compelled to leave the parish, although he presented the appearance, when before the committee, of being in the last stages of consumption.

Thus were all the republican leaders driven from the parish, the party organization destroyed, and its voters disfranchised by conduct which would disgrace the highwayman.

In Tensas Parish, by the State census of 1875, there were—whites, 1,417; colored, 17,100. The vote cast for the democratic candidate for member of Congress, 2,795; for the republican candidate, 90! This parish was the scene of discord and bloodshed. Armed raiders rode through the country committing outrages upon the colored people. Men were whipped, shot, and hung by these white raiders, and others, driven away by fear, died of starvation. Comment upon deeds like these is unnecessary. They tell their own story. Human language is too weak to properly characterize their enormity, and sooner or later the hand of retributive justice will be laid upon the perpetrators.

Concordia Parish, by the State census of 1875, numbered, whites, 673; colored, 10,955. The vote returned for the democratic candidate for member of Congress was 1,037; for the republican candidate, 955. The democratic campaign here was carried on in the usual manner. Armed raiding parties roamed through the parish. Some seven were hung, some killed in other ways, and the people fled to the town for protection or to the swamps to avoid the murderers.

At Frogmore armed men took possession of the ballot-boxes and destroyed the ballots.

In Pointe Coupée Parish the democracy began their campaign early. Their first orders, quasi military, were issued in April or May to the colored voters, and they were of this character: "If you organize the party you will be strung up." "No republican ticket at the polls." In June following another movement in the democratic campaign was deemed necessary. The public must be impressed with the idea that the orders above given would be enforced, and I will let Mr. Randall McGowan give his own account of it.

The next morning Mr. Lewis said there were five men hung. I asked him what for, and he said Thomas Williams, a leader in the Fourth ward, was about to organize his club; that it was about time for us to go into the campaign; and those boys appeared that night. * * * They said they did these things to scare negroes, so that they might carry the election. These five men were given up for execution by one man, Legender, and they were all the hands, save one, on his place.

The exigencies of the democracy required the suppression of the republican vote, and in August the ordinary democratic appliances were brought into operation to accomplish this result, and as that is so well stated by Randall McGowan, as reported by the committee, I will allow him to state it in his own way:

He says that on the 14th of August a body of armed men came to his house at night-time and accused him of assisting to organize republican clubs. He protested that he had not been guilty of that offense They took him about four miles, where he expected to find some colored people, but on arriving they had disbanded. They went to the house of one Murdock, a leading republican; not finding him, they tied his wife up by her thumbs to compel her to reveal the hiding place of her husband. Failing to find Murdock, they went to the house of one Wells, whom they accused of having sought information as to how to organize a republican club. After whipping him, they called at the places of two other colored republicans, but did not find them at home. At this time they met the colored minister and his congregation returning from church. The people saw the crowd of armed men and fled. The minister was shot three times and left for dead, (although he recovered.) They committed outrages of a dastardly character on an old colored man, afterward giving him two hundred lashes. They told McGowan that he should bring all the colored people on the following Saturday and have them enrolled as democrats; and on promising to do so he was allowed to go.

But, sir, I weary with the recital of such barbarities and atrocities committed upon unoffending men to subserve the interest and insure the success of a political party. I will only add the summary of the report of the committee of the Senate appointed to inquire into the alleged frauds and violence in the elections of 1878, which may be found in Senate Report No. 855, Forty-fifth Congress, second session, page 24:

SUMMARY OF MURDERS AND VIOLENCE.

The examination of the committee, it will be seen, was confined to but seven of the fifty-two parishes of Louisiana. In these seven parishes the evidence shows there were murdered "for political purposes," during the campaign of 1878, John Williams, (page 45;) Robert Williams, (44, 57, 186, 192, 236, 347, 470;) Luke Wiggins, (44, 48;) Lot Clarke, (46, 58, 62;) Billy White, (46, 48, 62;) Greene Abrams, (49;) Josiah Thomas, (58;) Charles Bethel, (192, 236, 337, 347, 561;) William Singleton, (178, 191, 348;) Monday Hill, (186, 192, 236, 347, 469;) Louis Posthelwaite, (186, 347;) Richard Miller, (192, 236, 347;) James Starver, (192, 347, 473;) Commodore Smallwood, (236, 348, 355;) Charlie Carroll, (236, 355;) John Higgins, (278, 348;) "Doc." Smith, (347, 355, 359;) William Hunter, (348;) Hyams Wilson, (348, 355;) Wash Ellis, (348;) Asbury Epps, (244, 348;) John Robinson, (355;) Rufus Mills, (416.) Besides these there were fully as many others murdered, whose names the committee were unable to ascertain, whose corpses were seen by witnesses who testified before the committee hanging on trees or lying dead in the streets or fields. Dozens more were wounded from shots fired at them with murderous intent, some of whom were present as witnesses before the committee exhibiting their scars; others were whipped or beaten and mutilated; wives were tied up by the thumbs and whipped for refusing to tell where their husbands were secreted; scores of leaders in politics among the colored men were driven from their homes, leaving their crops in the field and their families unprovided for. In brief, a literal "reign of terror" existed, and, in fact, still exists, over a considerable portion of Louisiana, as the result of the policy adopted by the democracy for perpetuating its rule in that State.

With this record of recent transactions before us, showing that a free ballot, free speech, and free political action are absolutely destroyed by lawless power; that American citizens are exiled for their political opinions, wounded, mutilated, and murdered because they seek to exercise the rights of freemen; that tissue ballots, the bludgeon, and the bowie-knife have determined the election of members of this House, it is not time to withdraw the Federal power from congressional elections and to surrender the ballot-box into the dishonest and bloody hands of these men.

Mr. Chairman, I have endeavored to consider this question in a spirit of candor and fairness, discussing the origin of these laws and the necessity for their enactment, giving a brief abstract of their provisions, the power of Congress to enact them, answering some objections that have been urged against them, and stating my reasons for a belief in the need of their continuance upon the statute-books. I have not sought to rekindle the animosities of the war, or to excite sectional feeling and sectional strife. I know too well that the peace and the prosperity of our whole country and the happiness and welfare of our people demand a restoration of friendly relations and the re-establishment of mutual confidence and respect.

But, sir, that happy era will never dawn upon this land until deeds such as I have described shall have ceased. The leaders of the democratic party, in my judgment, possess the power to end them now and forever. Disband your rifle clubs, dismount your midnight raiders, cease to use these organizations as auxiliaries in your political campaigns, and rely no longer upon them and upon tissue ballots for party success, and they will disappear from the arena of politics.

Do more: protect and secure to all citizens, whether white or black, the full and free enjoyment of all their rights as American citizens, and strife between the sections will cease.

Mr. DAVIS, of Missouri. Mr. Chairman, it is to be deplored that the simple issues involved in the question under consideration should not have been examined and dismissed in a calm and dispassionate manner, free from even the semblance of partisan bitterness. What need of seeking to inflame sectional animosities or party prejudices in dealing with so plain and simple a question, concerning in an equal degree the rights and liberties of all parties and every section of this Republic.

It is nothing to the purpose of this discussion that errors and grievances have existed in the past, which were the outgrowth of other circumstances and conditions of this people and its government. We can better serve the country and honor ourselves by allowing the dead to bury its dead, and directing our energies to the vital and liv-

ing issues that immediately surround us. It can serve no useful or wise purpose to assail with undue asperity the originators of the laws we desire to repeal, still less can it avail to ascribe to those seeking their repeal a deliberate and willful intent to pervert the legitimate powers of legislation to party and personal ends. Our duty, as it should be our desire, is to remedy the error or wrong, and not engender or inflame party animosity.

Now, does or not the legislation which we seek to erase from the statute-book of the nation bear the impress of error or wrong? Clearly both, as will appear from a very casual examination of the subject. I shall assume at the outset, and I think satisfactorily demonstrate before I close, that the law as it now stands upon the statute-book is wholly unconstitutional, and therefore unauthorized and dangerous. And I cannot but consider every attempt to justify its continued existence as a plea for the establishment of unlicensed power and a thrust at the stability of republican government, because the prolonged existence of a government of the people wholly depends upon the free exercise of the elective franchise under the conditions which the people themselves have established. This has been the experience of all people in every age, and can the ingenuity of the wisest of us furnish a better guide?

There need be no cavil about this matter, such as is necessarily incident to the discussion of a mere question of expediency, for although some of the gentlemen who have spoken on the subject have inclined to defend the continued existence of this law on the grounds of its utility or necessity, I am unwilling to believe that they desire to rest their arguments on such an unstable foundation. I cannot consider the discussion of a grave constitutional question as in any way involving the subject of expediency. We are not here at this time to consider whether or not the provisions of the Constitution are all-wise and expedient. That inquiry we may well leave for more mature and timely investigation. We have simply and solely before us the abstract question whether or not the legislation sought to be repealed can lawfully exist under any of its provisions. I think we may safely assume that it cannot. If any such provision had existed the opponents of the repeal would have produced it, and its production would have obviated the necessity for resorting to the plea of expediency in its defense. If, then, this law is wholly unauthorized by the Constitution, it is worse than folly to attempt to justify its existence on the grounds of utility or expediency.

I believe there is no pretense by the opponents of this repeal measure that there is any direct authority in the Constitution for the existence of the present law relating to the appointment of Federal supervisors of elections. All their arguments draw the breath of their nostrils from implied power; and they can quite as well draw any other inference of license for despotic rule from the Constitution as the particular one now selected. Where will you draw the line of demarkation beyond which the demagogue or the despot shall not carry his inferences or implications when ambition is in his heart? Fortunately the wise and patriotic framers of the Constitution have fixed the bounds beyond which sophistry or passion cannot lawfully extend their interpretations of its language. They have said, in substance, you shall not infer power and authority which is not expressly or by clear implication delegated to you.

Listen for a moment to the words of the great and learned Story. He says, speaking of the Constitution:

> Being an instrument of limited and enumerated powers, it follows irresistibly that what is not conferred is withheld, and belongs to the State authorities, if invested by their constitutions of government respectively in them; and if not so invested, it is retained by the people as a part of their residuary sovereignty. (Volume 3, page 752.)

It follows, from this undoubtedly correct principle, that if the champions of this law cannot put their fingers on the line of the Constitution which expressly, or by clear implication, authorizes its enactment, it was enacted in positive violation of the Constitution, and its enactment and its present existence is an error and a wrong which every well-wisher of his country should desire to see corrected. The country and the world should not for a moment be left in doubt as to the desire of an American national legislature to correct an error or remedy a wrong on the instant of its discovery. That a grave error was committed in the enactment of this law can be made certainly sufficiently apparent, and to longer allow it unrepealed would be to do violence to the intelligence and patriotism of this body, and perpetuate the existence of a glaring wrong to the States whose prerogatives were unlawfully invaded.

You have been told that even if the constitutionality is doubtful, this law is necessary to prevent injustice and fraud. Injustice and fraud by whom? Toward whom? By the several States toward some of their own citizens; and this unconstitutional remedy is, I suppose, sought to be applied on the principle that two wrongs will make a right.

Now unconstitutional legislation, if not in itself obnoxious, is to be deplored for the dangerous precedent it establishes, and the feeling of insecurity which it engenders, but when its effect is at once to deprive States of a clear right and impugn their integrity it is doubly deplorable. But if the accusations made against the States were conceded to be true it could afford no justification for the passage of an unconstitutional law to correct the evil, and it looks very like an imputation thrown out to disguise the real motives which induced its enactment and which to-day animates the opponents of its repeal. You cannot have forgotten that the plea of necessity is the old device adopted by the unscrupulous and designing in all ages to undermine liberty and destroy free government. But does it not occur to the champions of this law that by seeking to sustain it on the ground of expediency they concede its illegitimacy? Gentlemen have told you that the Government must protect all its citizens in the enjoyment of all their rights. And this is the principle for which we contend. But how the gentlemen propose to protect the rights of all the citizens by an invasion of the rights of a very large part remains to be explained. In other words, they design to overthrow the clear constitutional rights of an entire Commonwealth to secure to a few the enforcement of a principle which is not guaranteed by the Constitution.

Another objection urged by the opponents of this repeal measure is that it seeks to establish a recognition of the doctrine of State rights; and hence they seem to be satisfied with disposing of the constitutionality of all these propositions with the cry that the claim for their unconstitutionality grounds itself on the old doctrine of State rights, which was exploded by the war; and with this they couple the idea that since the war we have a government—a nation. This is such a vague and indefinite and yet so popular declaration of the results of the war and of the nature of our present form of government that it may be well to examine how far it is correct.

The loyal portion of this country believed that the Union was not simply a confederation of States; not simply a compact between independent and sovereign States, owing allegiance to the General Government only at their pleasure; but that it was a government of the United States, to which all owe allegiance as the supreme power in the land, not only as citizens, but as States. They believed that the people of a State had no right, acting upon their own construction, to resist the powers delegated to the General Government, and dissolve all connection with it at their own discretion.

Many honest men in the South thought differently. They believed the Government of the United States was formed as a compact by the States in their sovereign capacity, and being voluntary parties to the compact, they had the right to voluntarily withdraw from it.

The majority believed every citizen owed paramount allegiance to the United States Government, and that the State governments were bound to the Federal Government. War was the result. The power of the South was broken, the idea of Unionists triumphed. Leaving out of consideration the abolition of slavery and its results, I ask what was this triumph? What were its results and effects? Did it change the nature and character of this Government? Did it change the frame-work of our Constitution? No. The result of this triumph was simply a vindication of the doctrine that it is a government of law, binding upon all, and not to be overthrown at the caprice or whim of any one man or set of men. It was not an overthrow of the Government, but a vindication of the interpretation of the Constitution that all the people of all the States are bound to and by it. It was not an overthrow of the Constitution, but the idea fixed and determined that the Federal Constitution is, in fact, the fundamental law of the land; that it is not a compact or promise proceeding from the people or States, but a law directed to the States and to the people, and is the supreme law of the land.

For this doctrine the loyal portion of this country fought. In a word they fought for the doctrine that the Federal Government does not contain the elements of its own destruction. And one of the greatest monuments to the good sense and patriotic spirit of the American people is, that after the exercise of such extraordinary powers during the war, they did not change the general frame-work and character of our Government, but preserved the Constitution as given us by our fathers, only stamping upon it the doctrine that when the people or the States feel aggrieved by any of its workings they are to seek redress inside of, and by prescribed methods, and not outside of and beyond the Constitution. We have, then, if you please, a consolidated union of the States with a general government resting upon the will of the people, and that will contained and expressed in the Federal Constitution. Being the will of the people, to it we should look for their wishes. Its language is unchanged, and to its terms we must look for its applications. Its rules of interpretations are still intact. We must use them to ascertain its meanings. It is the supreme law of the land and by it we must be guided. This fact being settled, we must not look to vague and indefinite notions of what the war accomplished for its true meaning, but to the instrument itself. One of the provisions of this instrument is this:

> The House of Representatives shall be composed of members chosen every second year by the people of the States, and the electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

This provision, it is urged by Mr. ROBESON, of New Jersey, impliedly confers on Congress the right to exercise a censorship over the election of members of this House. It seems to me this provision correctly interpreted proves the very reverse of what is contended by Mr. ROBESON in his argument, and instead of furnishing a pretext for Federal interference, conclusively negatives any such right. It provides that "the House of Representatives shall be composed of members chosen every second year by the people of the several States." Here, then, is a clear and absolute recognition of the power possessed by the people of the several States to choose their congressional Representatives without reservation. We need go no further, we need

examine no other provision of the Constitution to find where this power resides, for by this very clause it is expressly located and in the people of the several States respectively.

Now, it is a correct principle that a power inherent or granted implies the ordinary means of its execution. As Mr. Story says:

> What is a power but the ability or faculty of doing a thing? What is the ability to do a thing but the power of employing the means necessary to its execution? * * * What are the proper means of executing such a power but necessary and proper laws? * * * It would otherwise result that the power could never be exercised; that is, the end would be required and yet no means allowed. This would be an absurdity.

This power, then, to choose Representatives belonging to the people of the States as declared by the Constitution, it follows as a logical sequence that the possession of this paramount power exclusively by the States necessarily involves as an incident to its possession the retention of all other lesser powers essential to its exercise. It would be a perversion of all rules of logic to say that while the States possess the power to choose their Representatives they lack the power to regulate the conduct of the polls at which the choice is made. How, then, can any powers be lawfully exercised by United States supervisors?

The provision then continues:

> The electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

From this clause the gentleman from New Jersey frames the following argument:

> The qualifications of these electors are made by the States. The United States does not confer the right of suffrage upon these individuals, and takes as its voters a class which already have the right of suffrage given by the States.

From this he concludes the United States should see that this class has a free and fair election.

The bare statement of the proposition is the refutation of his conclusion. He says, "the qualifications of these electors are made by the States." If, then, the power resides alone in the States to make these qualifications, of course, as Mr. Story argues, the incidental power also resides there exclusively of determining what particular individuals possess these qualifications; in other words, the exclusive power of determining the individual voters and conducting the elections for this purpose; and the adoption of this class of voters by the United States is simply the adoption of voters whose qualifications the State alone has the power to prescribe, and whose qualifications the State alone possesses the power to pass upon. So in this clause there is a clear and absolute recognition of the power of the States to determine the qualifications of these electors, for it will not be contended that any power exists elsewhere than in the people of the several States to establish the qualifications for electors of their legislative bodies and the establishing of these qualfications for electors of the State Legislatures establishes them for the National Legislature. No one will pretend that the United States has the right to determine who shall vote for members of the most numerous branch of the State Legislatures; yet the very act of determining this is the very act of determining who shall vote for members of this House, for a man cannot be an elector for the latter unless he is for the former.

There is but one class of electors, and that is the class which includes electors for the most numerous branch of the State Legislature. There is but one enumeration of qualifications, and those are the qualifications requisite for electors of the most numerous branch of the State Legislature. In fact there is but one qualification for an elector for members of this House, and that is a qualification which the State alone has the power to determine. In other words, the recognition of a man as a voter by the State authorities is a condition-precedent to his qualification to vote for members of this House.

When, then, can the authority of the Federal Government be exercised? Where does its function or power come in, when the determination of the whole matter is within the power and jurisdiction of the State, and the Constitution says the General Government shall be guided by what the State says?

It must be constantly borne in mind that Congress is the mere creature of the Constitution. It possesses no power not delegated to it by that instrument; and this right of supervising State elections for members of this House is not only not delegated, but by the terms of the Constitution expressly resides in the States, and very wisely, for without it an independent State government could not well exist. The exclusive right to judge of the qualifications of its voters is a fundamental principle of all free States, and without it all other powers are futile and impotent. The Supreme Court of the United States has fully recognized this principle in holding that the Constitution does not confer the power to vote; and it will not be contended that from the Constitution of the United States originates the right of the elective franchise at all. It is a right derived solely from the constitutions of the several States, and exists quite independently of the United States Constitution.

Can it be logically contended that Congress can control the methods of exercising a prerogative which the Federal Constitution does not create? Congress can lawfully do no more than the Constitution permits it to do, and the Constitution does no more than prescribe the class of electors that may vote for congressional Representatives. The qualifications of the individuals composing that class are determined by the several States. For instance, if any State should require a property qualification in electors for the most numerous branch of the State Legislature, Congress could not constitutionally say that a person without property should be eligible as a congressional elector. It can only say that all persons possessing qualifications requisite for electors of the most numerous branch of the State Legislature shall be entitled to vote for members of this House. The several States and not the United States are the judges whether or not the person claiming to possess the necessary qualifications does in reality possess them. And it seems to me that the exclusive possession of this power being in the very nature of the case in the several States effectually disposes of this entire question; for if the States are the sole judges (which certainly they are) of the competency of any person offering himself as a voter at their polls, a United States supervisor can find no legitimate occupation there.

Let us suppose that a person claiming to possess the necessary qualifications of an elector for the most numerous branch of the State Legislature in a State requiring, for instance, a property qualification in a voter presents himself at the polls and tenders his vote. Can Congress declare by statute that such a person shall be entitled to deposit his vote on swearing that he possesses the necessary qualifications? Clearly not, because the people of the State alone can judge of the fact. The truth or falsity of his representations is to be determined by the local inspectors of elections at the polls where the vote is offered and in the manner prescribed by the laws of the State. Clearly, then, the United States can exercise no authority over such electors. And nothing that may be said in support of an assumption of such authority can be elevated into the dignity of a legal argument, since it has neither the sanction of law nor logic for its existence.

This provision of the Constitution, then, instead of sustaining the constitutionality of Federal interference with State elections for members of this House, demonstrates that in the very nature of the case, in the very exercise of powers which the State authorities are compelled to employ, there is no room and no occupation for a Federal supervisor or marshal.

This provision expressly says the election of members of this House shall be by the people of the States, and no one else; and we know the possession of this exclusive right implies the exclusive possession of all powers necessary to its exercise. The people of the State alone confer the right of suffrage, and hence it is their exclusive prerogative to regulate the methods of its exercise. This provision of the Constitution prescribes a qualification for electors of members of this House which can only be fixed and passed upon by the State authorities. This provision even disposes of the argument sought to be made on that clause which says Congress may regulate "the manner" of holding elections for Representatives; for we may grant the fullest latitude to this power, and yet the fact will stand out boldly that the qualification of an elector for members of this House is based on a qualification which the State alone can prescribe, determine, and pass upon, and which, when determined and passed upon, settles the whole question, and no power or authority has the right to prevent the voter declared thus to be qualified from depositing his ballot.

But the United States supervisors and marshals undertake the regulation of the elections, when the Constitution expressly says the members of this House shall be chosen by the people of the States. They pass upon the qualification of the electors—a power and right belonging to the people of the State alone.

Then is not the assumption of such authority unconstitutional and the laws granting such authority unconstitutional? Clearly. And nothing that may be said in support of such assumption of authority can be elevated into the dignity of a legal argument, since it has neither the sanction of law nor logic for its existence.

And if the champions of these statutes consider it either wise or expedient to attempt their vindication on any other grounds, they mistake the line of their duty and the true interests of the country. It was for the preservation intact of the Constitution that blood and treasure flowed like water in our civil conflict, and woe betide the party or faction that in times of peace shall seek in anywise to impair the legitimate triumphs of that awful struggle for its permanent supremacy.

Mr. HENRY addressed the committee. [His remarks will appear in the Appendix.]

Mr. KING. Mr. Chairman, the member from Michigan, [Mr. BURROWS,] in his remarks to this committee on April 18, undertook to sustain his charges against the democratic party by blackening the name of Louisiana. To effect this he quoted in part from the majority report of the "Teller committee," which he supplemented with striking pictures of outrage drawn from his own vivid imagination.

It is a common experience that it is easier to hatch a foul brood of falsehood than it is to destroy it when it has once flown from its nest. It is a useless task to attempt to hunt down all the winged fictions from fertile brains of men bent on deception and strife, but I conceive it to be my duty not to permit false charges against the State I have the honor in part to represent to go unrebuked. When a member attempts to pass his spurious small change as the subsidiary coinage of politics, I must beg leave to enter my protest.

Sir, I am amazed when I see a member of this House undertaking to base charges against the citizens of my State upon the flimsy testimony taken by the majority of the "Teller committee," especially when it must be within the knowledge of the member from Michigan

that forty of the very identical gentlemen indicted upon the charges made before that committee with alleged crimes against the election laws, confronted by the same witnesses, have been recently tried in the city of New Orleans and acquitted. Their trial was before a jury to the members of which the "test" or "iron-clad" oath had been applied, and presided over by two United States judges. I repeat that they were promptly and honorably acquitted. Another lot of over fifty in number, who were indicted and tried, failed of conviction, and still another lot of sixty had their cases continued until next fall upon the motion of the United States district attorney, made in open court, where they were standing ready for trial.

Who were these gentlemen so indicted? Were they the red-handed ruffians depicted by the member from Michigan? I answer, no; and it is scarcely permissible with reference to the dignity of this House to characterize these charges as they deserve.

Sir, who are these gentlemen who have been and are being thus persecuted? I can fairly claim that they are the peers of any on this floor. Many of them are graduates of the first universities of Europe, and of colleges and schools of this country, representatives of all the professions, the heads and members of some of the most respected families of this nation; property-owners, they are the true custodians of peace. They have, so far as the United States has chosen to bring them to trial, been adjudged guiltless of crimes by tribunals whose loyalty and fidelity to the republican party cannot be questioned by gentlemen on the other side of this Chamber, and they are made to suffer simply because they are democrats.

This, we are told by the member from Michigan, is a trick. If, then, it be a trick, as has been well said by my colleague, Mr. GIBSON, it is "a trick" performed by a Federal jury, a Federal district attorney, and Federal judges, all of whom were republicans. A trick, sir! Look at it. Torn from loving ones at home, from weeping wives and children, from sisters and mothers trembling with grief, these gentlemen were dragged hundreds of miles away to New Orleans, compelled to pay their own expense and the expenses of their witnesses, to leave their business in ruins and their families in distress. They were not tried by their peers nor by juries of the vicinage, rights guaranteed by the old common law of England, but by strangers, by men whose political prejudices were liable to bias their judgment. Why, sir, it is further from the scenes of these alleged outrages to New Orleans than from this city to New York or Boston. And yet every one of them was acquitted! But what redress have they against this partisan tyranny, these outrages? None, sir, but the repeal of the infamous laws in the name of which they were perpetrated. United States marshals, with, in some instances, the basest characters in the State for witnesses, were transported at heavy governmental expense to New Orleans from these distant points to confront them. It is estimated that these citizens, all of one political party, and with but few exceptions white men and of high standing, have been thus caused an outlay of many thousands of dollars, and that tens of thousands have been spent by the Department of Justice in their prosecution; and the member from Michigan calls this a trick. I call it a crime; a crime, against liberty, a crime against justice, a crime against humanity, a crime against the civilization of this age.

With but few exceptions, all who were indicted under the charges made by the witnesses summoned by the majority on the Teller committee chose not to appear before that committee, but before the Federal courts, there to be confronted by their accusers and to have their causes legally and finally disposed of. It is notorious that anything could be proven by most of the witnesses who appeared at the call of the majority of that committee.

If there has been bloodshed and riot in Louisiana, I charge the responsibility upon the carpet-bag adventurers and political tramps of the republican party, who would be far more apt to be the authors of violence, discord, and crime than the men of substance in the community. This needs no argument, and the investigating committees of this House have shown, not by the testimony of others, but out of the mouths of this alien and nefarious spawn of despotism, that they are all that is wicked and base.

Who that loves liberty has forgotten the dark days of republican rule in Louisiana, when the representatives of the people were driven by bayonets from seats in the Legislature to which they had been duly elected to give place to ignorant and brutal plunderers. But a new charge, or rather a new count of the old charge against our people is now being made. It is said by mendacious presses, and re-echoed by equally mendacious persons in this Capitol, that the colored man is being driven from Louisiana by oppression and political persecution.

Nothing is easier, Mr. Chairman, than for the imagination to build on isolated cases a theory utterly false in fact. At every corner of this city able-bodied colored men stretch out the hand of mendicancy with pitiful tales of distress. There are more negroes begging their bread between the White House and the Capitol than between Arkansas and the Gulf of Mexico. Are these cries of suffering in these streets real and genuine? if so, is it not the duty of those gentlemen who are alluring the negro of Louisiana from his home—where he can make a subsistence, even if it be a poor one—to attend rather to these cases before their own eyes, at their very doors. On the other hand, if the daily testimony of these beggars, their oft-repeated tales of woe, are fictions, why should there be attached more credit to the echo of reports from distant and unknown persons, generally given on hearsay, self-contradictory, and as stupendous in fabrication as the Arabian Nights?

We had a system of labor which, with all its faults, secured certain large economic results and most of the benefits of civilization. War and philanthropy, whether real or pretended, swept it away. We did not stop to weep over the destruction of the slave system, but set to work to re-establish order in society, to rebuild its foundations by patience and industry; but the United States Government was in the hands of men who knew nothing except how to demolish.

Reconstruction was worse than the destruction and havoc of war. There came an army of licensed thieves among us, tricked out in the trappings of the law, paid from the public funds, and labeled on the statute-books as governors, judges, attorneys, supervisors, or marshals. They robbed us and demoralized our labor systematically, and then derided us because we were poor and disorganized by their own wicked devices.

We admit our poverty and our disorganization, and they will not depart from us until we are rid of republican misgovernment. Even now while we are struggling to restore our fortunes, at the very moment our people, straining their credit, are pitching their crops, a great agitation is produced in the laboring class by the scattering of lying circulars among the most ignorant to induce them to desert their homes and seek a new land of Canaan.

Fortunately for the colored man, this movement is not likely to assume large proportions. If it were so, I should shudder at the possible fate of this unfortunate class of laborers, seduced from fields of toil to which they are trained and accustomed to localities where they will seek to earn their bread at every possible disadvantage and be exposed to the keen competition of the most industrious and energetic race in the world, before whose competition they are doomed to hopeless defeat and the beggary and vice which have always followed their unsuccessful competition with white labor in northern communities.

In such a contest they must go to the wall, and none know this better than the political leaders in this city, who for personal and party ends have instigated this negro exodus.

Sir, it had been my intention to discuss to some extent the broader issues before this committee, but they have been already so widely and so deeply argued that it would be useless for me to occupy the time of the committee in doing so.

The question is resolved into a nutshell. It is this: Shall we repeal the test oath and have a law that will give us fair juries? Shall we repeal an act passed by a former Congress authorizing the use of troops and an unlimited army of deputy marshals and supervisors to be appointed by the party in power and to be used at the polls? Or, in other words, shall we have fair juries and free elections as in times past? The voice of the nation demands that we shall, and I for one propose to sit here until that demand is complied with.

Mr. Chairman, I am not here to bid for the favor of any section. I have no cheap patriotism for sale. A democrat, I have never been and never shall become the superserviceable agent of any organization; but I claim that I have as honest a purpose to secure the welfare of our common country as the most blatant of those who decry my State. It is for that that I am sent here by people who, though suffering, are not alienated from their Government. I am their Representative here to secure them material interests and to utter their protest against misrepresentation. For thirteen long years did the noble people of that State struggle under the cruel, infamous tyranny imposed upon them by sheer force; but now, thank God. Louisiana stands once more with her sister States in this Union, at last free, and so she intends to remain.

Mr. SMITH, of Pennsylvania. Mr. Chairman, this is the second appropriation bill, and like its predecessor, the Army bill, is saddled with amendments notoriously obnoxious to the Executive of the nation. The proper and legitimate purpose of the bill should be to make appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880. For that purpose Congress was convened at this extra session. What is now to be done was left undone at the regular session, not that there was any disagreement as to the items or amount of appropriations, but because the dominant majority in the House then sought to coerce the Senate as it now seeks to coerce the Executive. Against this tyrannical procedure the republicans most earnestly protest.

The Executive is a co-ordinate branch of the law-making power, necessarily independent and distinct.

Under the Constitution, after a bill has passed both Houses of Congress, before it can become a law, it must be presented to the Executive. If he approve, necessarily implying the right and duty to investigate, he shall sign the bill; but if he disapprove, then he returns it with his objections. For both purposes he is to have ample time.

All this is carefully provided for in the Constitution, but now, for the first time in the history of the Government, to be utterly disregarded. The leaders of the late confederacy having come back to claim their alleged "heritage," under the flush of victory, with hands purpled and reeking from the fraternal strife—a strife by them unlamented and for which no palinode is to be sung, a strife not necessary to be renewed so long as the power to rule is enjoyed without the risk of strife—have declared in caucus against the judgment of experienced and able legislators, that if the President exercises his

constitutional powers by a veto, the needed means for the support of the Government will not be supplied. This is the deliberate, fulminated decree of a political caucus. The judgment and conscientious convictions of the President are to be entirely ignored. Caucus is king!

Without money the legislative, executive, and judicial departments of Government must stop. Not a dollar can be taken out of the Treasury except as authorized by law. Any attempt to evade this by indirection would be a ground for impeachment. Most of the employés of the Government are paid under existing laws. What right has a dominant majority to refuse to pay its watchmen who guard the public buildings because, forsooth, it cannot arbitrarily control the Executive? They are suffering for the necessaries of life. At their peril they must remain on duty. Millions of property are intrusted to their care. You employed them, and you should, as honest men, see that they are paid. They are no party to your needless quarrel with the President. And if on the 30th June, 1879, you make no provision for their support, they must under existing laws be discharged; and if loss and disaster follow, you must take the blame. You cannot shield yourself from the just indignation of an outraged people behind the shallow pretense that the Executive is a mere cipher, and that a factious majority, now for the first time in eighteen years in the ascendency, is supreme. You can readily get the money if you will but pass the appropriation bill pure and simple, striking out what is embraced in the bill and in the title under the ominous words "and for other purposes"—purposes foreign to the bill and justly offensive to the Executive.

It is perhaps altogether supererogatory to justify the necessity of the veto power. Wisely it has been secured to the President by the Constitution. In support of the same I cite a few lines from Story on the Constitution:

> The reasons why the President should possess a negative, are, first, there is a natural tendency in the legislative department to intrude upon the rights and to absorb the powers of the other departments of government. A mere parchment delineation of the boundaries of each is wholly insufficient for the protection of the weaker branch, as the executive unquestionably is; and hence there arises a constitutional necessity of arming it with powers for its own defense. If the executive did not possess this qualified negative, it might gradually be stripped of all its authority and become, what it is well known the governors of some States are, a mere pageant and shadow of magistracy.
>
> In the next place, the power is important as an additional security against the enactment of rash, immature, and improper laws. It establishes a salutary check upon the legislative body, calculated to preserve the community against the effects of faction, precipitancy, unconstitutional legislation, and temporary excitements, as well as political hostility. * * * He (the President) will have an opportunity soberly to examine the facts and resolutions passed by the Legislature, not having partaken of the feelings or combinations which have procured their passage, and thus correct what shall sometimes be wrong from haste and inadvertence, as well as design. He is the representative of the whole nation in the aggregate; they are the representatives only of distinct parts, and sometimes of little more than sectional or local interests.

It is needless to quote any more. This power, Mr. Chairman, has been used from the foundation of the Government up to the present time, by Washington and his successors with more or less frequency, and is the only shield of defense against a despotic majority influenced by partisan passion or sectional hate. From its exercise no harm can result to the people, for a two-thirds vote of both Houses can overrule the objections and pass the bill. It follows, therefore, as a natural sequence, that any attempt to vest all the law-making power in the legislative department is a gross usurpation upon the rights of the Executive. Story on the Constitution, quoting from the Federalist, says "that the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may be justly pronounced the very definition of tyranny."

Montesquieu holds that "when the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner.

Mr. Jefferson, in his Notes on Virginia, has expressed the same truth. Speaking of the constitution of government of his own State, he says:

> All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of a despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the Republic of Venice. An elective despotism is not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others.

The same sentiment thus forcibly expressed is embodied in the constitutions of the different States of this Union. In the constitution of Massachusetts, I find the following:

> In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws and not of men.

In Kentucky there is a similar provision in the constitution adopted in 1850, and it is in the exact language of that adopted in 1799. Article 1, section 1, declares that—

> The powers of the government of the State of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judiciary to another.

So, too, in Virginia, I find the following adopted in the constitution of 1864:

> The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others.

In the constitution of North Carolina, adopted in 1776, it is provided that "the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other." After a trial of one hundred years this provision was re-enacted in the constitution of 1876 in the same identical words. I submit that under these several constitutions, each recognizing the independent branch of the executive, no Legislature would be justifiable in forcing an obnoxious amendment on an appropriation bill and attempting by arbitrary means to coerce an executive to approve what his judgment and conscience, when free to act, would unhesitatingly condemn. In business transactions if a bond is obtained by duress it is null and void, and so every judge in Christendom would hold even though assassination might be the penalty of his honest judgment.

Imagine, if possible, what would be the harmonious confusion if the Legislatures of the different States, disregarding the rights of each executive, should follow the example of the dominant party in Congress. Some grievance, real or fancied, might be offered as an excuse for the repeal or enactment of a law upon an appropriation bill, followed by a threat that if vetoed the needed supplies for the civil and military support of the Government would not be furnished. How long, think you, would sensible people endure such an exhibition of culpable folly and madness from State legislators, and what reason have we to believe that they will be more tolerant with the dominant party in Congress that has furnished the dangerous precedent.

Among the thirty-eight States of this Union the commonwealth of Pennsylvania is one of the few that has thus far interposed a constitutional barrier for the protection of her executive against legislative tyranny. The following clause of her new constitution was adopted in 1873 by a majority of nearly two hundred thousand votes. In article 4, section 16, it is provided that—

> The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

That, Mr. Chairman, which could not be done by a State should not be done by a national legislature. We should not do in Washington what we could not if we would do in Harrisburgh. There it would be a legal, here it is a moral, wrong. That man who is only kept out of the Treasury by reason of its bolts and watchmen is a moral felon. To the majority I say this coercive course will not answer. Why not follow the suggestion of some of your able and experienced colleagues who suggested a fair and constitutional remedy?

I will now read from the remarks of my friend from New York, [Mr. COX;] and I cannot help adding how much better it would have been for us and the country had his wholesome advice been adopted by his party:

> I believe, and I urged in the democratic council preliminary to the introduction of this bill, that the repealing bills should be introduced here independently of the appropriation bill, pure and simple, as the better practice, more in consonance with the progress of political science, which demands bills should not be multifarious, should not be complicated. I knew both sides had more or less practiced wrongfully, but no two wrongs, no two set of practices, can make a right. Gentlemen will not have the opportunity just now to vote for these bills pure and simple. I wish they could have had that right, but I bowed in the councils of my party to the superior wisdom, if not experience, of others.

Why not introduce a separate bill to repeal these election laws which are such an alleged annoyance or grievance to your party? I will content myself by simply voting against the same. So I presume will my republican associates. The bill will readily pass the Senate, and then you must take your risk of a veto. The Constitution gives you a remedy. If that fails to secure the desired relief you must patiently abide the result. You would be justly stigmatized as disorganizers and revolutionists if you sought to attain your end by circumvention or violence. High authority has it, "He that entereth not by the door into the sheepfold, but climbeth up some other way, the same is a thief and a robber." Thus much on the coercive character of the measure.

A few words as to the merits of the law sought by this questionable method to be repealed. In the first place, the act of 1870 and its supplements provide for the employment of supervisors and marshals to protect the ballot-box at the election of national Representatives and Delegates in Congress. There are no bristling bayonets held up to overawe or frighten the naturally timid bulldozer, nor do the election laws come under the maranatha of the gentleman from Kentucky, [Mr. BLACKBURN,] who in his prophetic fury has promised to wipe all war measures from the statute-books. This is not, I repeat, a war measure. It is simply a civil law made to secure the purity of the ballot at national elections. It is not an outgrowth of the war but of fraud, a fraud without a parallel in the history of political warfare. These election laws were enacted to protect the ballot-box, not in New York alone, but in Baltimore, Philadelphia, and wherever

fraud is attempted. The law strikes not at a party but at a fraud. It was not made for partisans but for criminals, and is a terror only to evil-doers. To indicate the powers and duties of the supervisors and marshals, I give the sections from the Revised Statutes:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purpose of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section 2025, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants, or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal, or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

Its penal provisions do not interfere with the honest voter. The supervisor and his aid, the marshal, are simply policemen with similar powers and duties to detect fraud, and if perpetrated in their presence to arrest the offender.

It is no answer that these officers may abuse their power. So may police officers, judges, and all men in positions of honor or trust. Out of three thousand arrests in the city of New York under these election laws only one is shown to have been irregular. But the abuse of power is no argument against its use. Errors of detail in the law, if found to exist, should be corrected, and bad men if in office must be removed. He would be deemed a lunatic who, to rid himself of rats, would burn down his barn. The gist of the complaint of the majority in this House is that the guilty party is arrested. "Content yourself," say they, "with detecting the fraud, and try and punish afterward." To this we interpose an emphatic negative. We seek to prevent the perpetration of the fraud. The majority would lock the stable after the horse is stolen.

This law was enacted at the suggestion of a committee of Congress appointed to investigate the election frauds in the city of New York in November, 1868. I make the following extract from the report of the committee, presented February 23, 1869:

These frauds—

Say the committee—

were the result of a systematic plan of gigantic proportions, stealthily prearranged and boldly executed, not merely by bands of degraded desperadoes but with the direct sanction, approval, or aid of many prominent officials and citizens of New York, with the shrewdly concealed connivance of others, and almost without an effort to discourage or prevent them by any of those in whose interest and political party associations they were successfully executed, who could not fail to have cognizance of them, and whose duty it was to expose, defeat, and punish them. They were aided by an immense, corrupt, and corrupting official patronage and power, which not only encouraged but shielded and protected the guilty principals and their aiders and abettors.

These frauds are so varied in character that they comprehend every known crime against the elective franchise. They corrupted the administration of justice, degraded the judiciary, defeated the execution of the laws, subverted for the time being in New York State the essential principles of popular government, robbed the people of that great State of their rightful choice of electors of President and Vice-President, of a governor, and other officers; disgraced the most populous city of the Union; encouraged the enemies of republican government here and everywhere to deride our institutions as a failure, and endangered the peace of the Republic by an attempt to defeat the will of the people in the choice of their rulers.

The events of the past year in New York and the evidence taken by the committee furnish the proof of all these allegations. Among the most prominent of the frauds committed in the interest of the democratic party in the city and State of New York in connection with the election in November, 1868, are these:

1. Many thousands of aliens fraudulently procured or were furnished with certificates of naturalization illegally or fraudulently issued, by means of which they were enabled to register as voters and voted in violation of law.

2. Many hundreds of certificates of naturalization were granted in the names of fictitious persons, to be used by native-born and naturalized citizens and aliens in falsely registering as voters, and to enable them to vote many times at the election.

3. Many hundreds of persons voted in New York City from two to forty times or more, each under assumed or fictitious names, fraudulently registered for the purpose.

4. Extensive frauds were committed in canvassing tickets, and names of voters were entered on the poll lists, and democratic tickets counted as if voters representing them voted, when no such persons voted at all.

5. To accomplish these frauds gross neglect of duty and disregard of law, so great as to evince a criminal purpose, prevailed in some of the courts, while officers and democratic partisans of almost every grade, either by official influence or otherwise, aided, sanctioned, or knew of and failed to prevent them. The same influences shielded the perpetrators in nearly all cases from detection or arrest, and when arrested they have, through the agency of judicial officers and others charged with the duty of prosecution, escaped all punishment.

6. Through these agencies the democratic electors of President and Vice-President and the democratic candidate for governor of the State of New York were fraudulently elected.

7. And the investigations of the committee show that existing State laws and the mode of enforcing them are wholly inadequate to prevent these frauds, but that Congress has the power to enact laws which, if faithfully executed, will to some extent furnish remedies hereafter.

In another part of this report it also appears that over 50,000 fraudulent votes were cast at this election in the city and State of New York. Manifestly, Mr. Chairman, it is not necessary to attempt to strengthen what this report conclusively establishes, that great frauds were perpetrated in New York in 1868, and in consequence of the same the laws now sought to be repealed were enacted. The same necessity which existed then for the enactment of the laws pleads strongly for their continuance. New York is now, as it was then, a notoriously corrupt city. In it neither the living nor the dead are safe. Respectable women are robbed in broad daylight in public thoroughfares where police officers almost jostle each other, while in the darkness of night sepultures are despoiled of their dead for the sake of plunder by ghouls and human hyenas. Fraud has tainted the ermine and piled a mountain of debt upon innocent tax-payers. Some great partisan thieves, it is true, thanks to the vigilance of republican editors, have been exposed and punished or driven into exile, their names linked with infamy and used only as synonyms for crime; but the "slums" in the "Babel," as Greeley justly stigmatized them in his famous letter, still bear absolute rule, and unless checked by stringent laws are still ready to assume any guise or play any protean part for the benefit of the corrupt party that pays them best.

Congress has clearly jurisdiction over the subject-matter. It is not proposed to interfere with State or municipal elections. These, whether conducted honestly or not, are under the control of the municipality or State. But the election of national Representatives concerns the nation, and the right to hold an election involves as an incident the further right to have it fairly and honestly conducted. Without such a power the election would be an idle farce. Whenever a right is given under the Constitution the necessary means may be employed to enforce the same by adequate laws.

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress is authorized "to alter such regulations."

Madison, in 3 Elliott's Debates, 347, in the Virginia convention, said some States might regulate the elections on the principle of equality and others might regulate them otherwise. Should the people of any State by any means be deprived of the right of suffrage, it was judged proper it should be remedied by the General Government.

Mr. Webster, in regard to the right of suffrage, 6 Webster's Works, 224, lays down two great principles of the American system: first, the right of suffrage shall be guarded, protected, and secured against force and fraud; second, its exercise shall be prescribed by previous law. Congressmen, Mr. Chairman, and Delegates are national legislators. Although from particular States and districts, they are not to legislate solely for such States or districts, but for the United States as a nation. They belong, in a word, to the nation. The right, therefore, must vest in Congress to see that its members are legally elected; and the Constitution expressly provides that each House shall be the judge of the elections, returns, and qualifications of its own members. For this purpose its committee sits to investigate election frauds, and again and again ousts members for the same. Cannot the body that investigates fraud enact laws to prevent its perpetration? If not, then your National Government, so far as relates to national elections, is an undisguised failure. But this cannot be admitted. The right to prevent fraud at national elections must exist in Congress. States might, either from accident or design, fail

to secure an honest ballot. Party spirit or sectional hate might find it to their interest to wink at tissue ballots or fraudulent naturalization papers. "A right," says Mr. Madison in the Federalist, No. 43, "implies a remedy; and where else could the remedy be deposited than where it is deposited by the Constitution?" "meaning," says Story, as the context shows, "in the Government of the United States."

In Prigg *vs.* Pennsylvania, 16 Peters, 636, the Supreme Court say:

> The National Government, in the absence of all positive provision to the contrary, is bound, through its proper departments, legislative, judicial, or executive, to carry into effect all the rights and duties imposed upon it by the Constitution.

The Prigg case just quoted was a fugitive-slave case from York, Pennsylvania. The owner alleged he had a claim upon the fugitive, and the Supreme Court of the United States, Story delivering the opinion, held that wherever an end recognized by the Constitution was to be reached, proper means must be employed to secure the same. Under the Constitution the means to secure the return of the fugitive are not indicated. He was to be delivered upon claim of the owner. But by whom? How were the facts to be ascertained and the rights of master and slave determined? Who was to pay the expenses? On these and other kindred questions the Constitution was silent. But the South insisted that the end must be reached, and the fugitive-slave law was enacted to accomplish that purpose. Under the most stringent penalties all citizens were bound to aid in the recapture of the hunted fugitive, and none, without risk of fine and imprisonment, could offer him shelter or give him a crust of bread. At what expense to the nation and sacrifice of human feelings this odious law was executed is a matter of familiar history. Suffice it to say, this was in the interest of the South. But happily the occasion for this statute no longer exists. But under the same Constitution and this decision which secured the return of the slave we ask for the enactment of a national election law to insure a fair election. And in answer to the argument that there is no expressed delegated authority contained in the Constitution I quote the following from the above decision:

> But it has been argued that the act of Congress is unconstitutional because it does not fall within the scope of any of the enumerated powers of legislation confided to that body; and therefore it is void. Stripped of its artificial and technical structure, the argument comes to this, that although rights are exclusively secured by or duties are exclusively imposed upon the National Government, yet, unless the power to enforce these rights or to execute these duties can be found among the express powers of legislation enumerated in the Constitution, they remain without any means of giving them effect by any act of Congress; and they must operate solely *proprio vigore*, however defective may be their operation; nay, even although in a practical sense they may become a nullity from the want of a proper remedy to enforce them or to provide against their violation.
>
> If this be the true interpretation of the Constitution, it must in a great measure fail to attain many of its avowed and positive objects as a security of rights and a recognition of duties. Such a limited construction of the Constitution has never yet been adopted as correct either in theory or practice. No one has ever supposed that Congress could constitutionally by its legislation exercise powers or enact laws beyond the powers delegated to it by the Constitution; but it has on various occasions exercised powers which were necessary and proper as means to carry into effect rights expressly given and duties expressly enjoined thereby. The end being required, it has been deemed a just and necessary implication that the means to accomplish it are given also; or, in other words, that the power flows as a necessary means to accomplish the end.

Exercising the utmost charity for differences of opinion growing out of different localities, I cannot conceive how lawyers can reach the conclusion that under the decisions of the Supreme Court Congress had the right to legislate for the return of the slave, but cannot to secure an honest national election. One of Bulwer's heroes had a very elastic conscience; to-day it would scarcely stretch over a mole-hill; yesterday it easily covered a mountain. Now, as in other days, men who have swallowed a camel will strain at a gnat. Above and beyond the Constitution a nation, like an individual, has the right of self-defense, and a nation can be destroyed as effectually by fraud as by violence. But I will not reopen what ought to be settled, the right of self-defense. By a certain wing of the now dominant party it was once held that this right did not apply to a nation. On that heresy the republicans took issue, and the gage of battle then, as now, so arrogantly flung down was taken up and the arbitrament of the sword was in harmony with right and the mandate of law.

I have, Mr. Chairman, finished my argument on the law and the merits of the bill. A few words in reply to the threat of the gentleman from Kentucky, [Mr. BLACKBURN.]

Permit me to premise just here that with the eloquent gentleman I have no quarrel. On the contrary, his frankness deserves to be commended. It is eminently proper that the men who act as the exponents of party should fully proclaim their views. These have now been authoritatively announced. "For the first time," says the distinguished gentleman, manifestly speaking for his party, "in eighteen years the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power." How and in what way, I ask? Let his speech in the RECORD before me answer. "We," says the gentleman, "do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which," according to the latest revised edition, "like these, were born of the passions incident to civil strife, and looked to the abridgment of the liberty of the citizen."

But he and his wing of the party have "come back to rule." Like vagabond prodigals who needlessly, ay, criminally, left the paternal roof, and disgusted with the husks upon which they have since been feeding have at length returned, and now as their first act seek to signalize that return by defiantly breaking down the barriers reared to save a common heritage from destruction. No repentance has come from the eighteen years of exile, and probationary discipline has only served to intensify a latent malignancy now fully developed in the blatant threat.

In view of a historic example, significantly suggestive, I say to the gentleman and his sectional party, who threaten us with their destructive measures—

> Be advised; heat not a
> Furnace for your foe so hot that
> It doth singe yourselves.

After an absence of eighteen years—how carefully the time has been computed—they "have come back to rule." Where then, may I ask the gentleman, were you engaged during the first four years of the eighteen which are the burden of your jeremiad? I regret that the gentleman is not in the House to answer the interrogatory. I must therefore read what appears in the Congressional Directory: "Entered" (so runs the record) "the confederate army in 1861 and served throughout the war." I do not quote the record to hold the gentleman up to special odium in that service, not forced upon him by his State, and obviously a labor of love, but to show that if he was not in the councils of the nation to resist the enactment of partisan legislation it was not the fault of the republican party during the four years of our fraternal strife. But they "have come back to rule." They seem to think their sole mission is to rule, and that they were "born ready booted and spurred to ride rough-shod over the people." They aimed to rule at Charleston in 1860, and having failed to coerce their associates undertook to ruin the party. The result is well known. The defeat of their nominee, John C. Breckinridge, was a foregone conclusion, to which they directly contributed. Having ruined the party which they could not rule, they attempted to destroy the nation which they could not govern. Let me here fortify this position by a sentence from The American Conflict. On page 362, volume 1, Mr. Greeley says:

> The people of the United States had in an unexceptionably legal and constitutional manner chosen for their President an eminently conservative, cautious, moderate citizen of blameless life and unambitious spirit, born in slave-holding Kentucky, but now a resident of free Illinois, who held with Jefferson and nearly all our revolutionary sages and patriots that human slavery is an evil which ought not to be diffused and strengthened in this nineteenth century of Christian light and love.
>
> Hereupon the ruling oligarchy in certain States, who had done nothing to prevent, but much indirectly, but purposely, to secure this result, resolved to rend the Republic into fragments, tearing their own fragments away from the residue.

The same oligarchy, Mr. Chairman, have come back a united South, and mean to rule.

Ay, that party that has so grossly mismanaged its state affairs comes back to rule the nation. Look at the South; there is scarcely a single one of the late rebellious States that does not contemplate repudiation. Their debts are to be compromised, adjusted, or scaled—terms intended to molify and disguise the unmitigable meanness of repudiation. We protest against this mode of regulating national affairs. We insist that the national debt shall be paid, not compromised, adjusted, or scaled. Our integrity is our tower of strength, which they upon the adverse faction want. It was this that elevated us in the estimation of the world.

"Not your brilliant victories on the field," wrote a friend to me from the palace of King George, of Athens, "but the courage to tax yourselves to pay your national debt astonished the crowned heads of Europe, and raised you to the very pinnacle of moral grandeur." This was a just tribute to our integrity, and a faint echo of that higher law, "righteousness exalteth a nation."

Mr. OSMER. Mr. Chairman, there are some things which to an attentive observer of this protracted discussion of the committee seem to be conceded by both sides of this Chamber.

First. That the manner of the proposed legislation now resorted to, however supported by precedent, is objectionable in that it may be, and often is, resorted to by a majority to compel the assent of the minority to measures which could not be passed upon their merits rather than to defeat some wholesome and necessary law.

Second. That Congress has the right under the Constitution to pass laws to regulate the manner and secure the integrity of elections of members of this body.

Third. That the majority now in Congress have the power and the constitutional right to repeal any law passed by it.

I am not unmindful of the fact that from the beginning of this protracted, interesting, and learned discussion some members of the democratic party upon this floor have denied the right of the Government to interfere in any manner with the election in the States of members of Congress, insisting that the States alone have jurisdiction in the premises. And this in the face of the fact that the bill under consideration, reported by a democratic caucus and which we are asked to pass, concedes the right and authority of the Government to supervise these elections.

Whether supervisors shorn of power are permitted or required by law to be present as idle and impotent spectators merely, or whether they shall be present armed with power and authority to preserve the purity and integrity of elections, is of no consequence. The constitutionality of the law in question cannot be determined by reference to the scope of the supervisor's duty. The reiteration by the opposition of the assertion that the laws the repeal of which is now and in this

manner demanded are not only inimical to the true interest of the people, but that they are unconstitutional, makes it necessary and proper to recur to that instrument. The clause principally involved is section 4, article 1 of the Constitution, which is as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This provision is not chargeable with being ambiguous, and it would seem to have been well understood by statesmen at the time of its adoption. In an article upon it by Mr. Hamilton, (I read from the Federalist, No. 59,) he says:

Its propriety rests upon the evidence of this plain proposition that every government ought to contain in itself the means of its own preservation.

And again:

They [the framers of the Constitution] have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety. Nothing can be more evident than that an exclusive power of regulating elections for the National Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs. It is to little purpose to say that a neglect or omission of this kind would not be likely to take place. The constitutional possibility of the thing, without an equivalent for the risk, is an unanswerable objection. Nor has any satisfactory reason been yet assigned for incurring that risk. The extravagant surmises of a distempered jealousy can never be dignified with that character. If we are in a humor to presume the abuses of power, it is as fair to presume them on the part of the State governments as on the part of the General Government. And as it is more consonant to the rules of a just theory to intrust the Union with the care of its own existence than to transfer that care to any other hands if abuses of power are to be hazarded on the one side or on the other, it is more rational to hazard them where the power would naturally be placed than where it would unnaturally be placed.

This Government constituted by the fathers ordained this a nation, provided for a Congress whose Representatives on this floor should be chosen by the people, whose rights and duties are derived not from the Legislatures of the respective States or in any manner from the laws or constitutions of States, but rather under the Constitution from the whole great people who, as has been said by a gentleman on the other side, hold in their sovereign hands the destiny of the nation. And yet the argument is made that we are in some form officers of our respective States; that we derive our powers from them; that in some way or other we owe some sort of primary duty or allegiance to our respective States in regard to all matters, and that in the event that the passion, prejudice, or interest of the State should be in conflict with the manifest interest of the whole people we should yield to the former and ignore our obligations under the Constitution. I had thought that such theories had been settled by the court of last resort in which a forensic display was made that shook the continent. The position is fallacious and without foundation either in the Constitution or in the opinions of its best commentators. Allow me to read briefly from Webster. Upon an occasion not much unlike this he said:

Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the Government? Sir, they have settled this in the fullest manner. They have left it with the Government itself, in its appropriate branches. Sir, the very chief end, the main design for which the whole Constitution was framed and adopted, was to establish a government that should not be obliged to act through State agency or depend on State opinion and State discretion. The people had had quite enough of that kind of government under the confederacy. Under that system the legal action—the application of law to individuals—belonged exclusively to the States. Congress could only recommend; their acts were not of binding force till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit.

Again, and on the same occasion, he said:

I hold it to be a popular government erected by the people; those who administer it responsible to the people; and itself capable of being amended and modified just as the people choose it should be. It is popular, just as truly emanating from the people as the State governments. It is created for one purpose, the State governments for another.

But why cite authorities when the right and authority claimed declaimed against form the woof and web of the legislation proposed. Stripped of power, reduced to mere myths, the supervisors of elections are retained; they may testify to the frauds they witnessed if they shall have the courage, but are rendered powerless to prevent it. A mummy stationed there would answer as well, but you provide for their presence and thereby concede the right.

But, sir, the questions raised by your party do not rest here. It were well for the country if they did. If, as you say, the safeguards thrown around the ballot-box by the republican party are inefficient, why not amend them and make them more efficient? If they are inimical to the interests of your party, repeal them. Why divide them? Why tack a part of the repealing acts upon one and a part upon the other of the appropriation bills? You thereby say to all the people who differ with you that unless we accede to your demands the whole machinery of the Government shall cease. They might all have been tacked upon this bill, thereby providing for the pay and sustenance of our little Army of not more than twenty-five thousand men, which to-day stands guard on the western frontier between civilization and the savages, keeping the peace across the continent. Then you would have struck your blow at the civil service alone. But you strike at both the military and the civil service of the Government, and tell us it is not revolutionary! Why in the name of all that is reasonable and fair, having the power in both Houses to repeal these laws, do you not provide for the continued existence of the Government in all its branches and pass your repealing statutes as separate measures? Send your bills to the Executive, and let them abide their fate; if approved, you should be satisfied; if not, appeal to the people who shall judge between us. This you refuse to do and say you are not revolutionary! Upon the threshold of this Hall you stood on the last days of the past Congress and the first day of this, declaiming to us and to the country that unless we ignored our convictions and consented to the withdrawal of every protection by the Government to its citizens in the exercise of their highest civil right and privilege you would withhold from the officer, servant, employés, and pensioners the money which the people have furnished, and to pay which is a sacred duty.

Your demands are made a condition-precedent to the fulfillment of the highest governmental obligation. The doors of the courts shall be closed; civil rights jeopardized; justice delayed; Army disbanded; the national obligations go to protest; and you say it is not revolutionary! I was surprised, sir, to hear the gentleman who has just taken his seat pronounce a eulogy upon the civilization in this country of eighteen years ago. Need I remind him that eighteen years ago, here under the shadow of this Capitol, men and women were sold in the open market as merchandise? He should have said the barbarism of eighteen years ago. We have not brought these questions here. They were thrust upon us by you. The republican party stands to-day where she has always stood—for the right, for truth, for justice, for humanity, and points you to the emancipated and enfranchised millions whom she crowned as freemen. It was alleged that in the North and South there has been a denial of the right to vote; that frauds have been committed and the voice of the people disregarded and set at naught; that this, if permitted, would make the franchise a delusion and imperil the Republic. To secure every qualified voter in his right and to provide that his ballot should be counted, these laws were passed. Is it true that the whole history of election frauds in the South and in the North is false? That the volumes of testimony that to-day encumber the shelves of your library are untrue? I shall refer to but one of the reports on this subject, that of the Teller committee, touching these elections in Louisiana in 1878. I read briefly from the report:

In these seven parishes the evidence is that there were murdered for political purposes, during the campaign of 1878, twenty-three persons. Beside these there were fully as many others murdered whose names the committee were unable to ascertain, whose corpses were seen by witnesses who testified before the committee hanging on trees or lying dead in the streets or fields. Dozens more were wounded from shots fired at them with murderous intent, some of whom were present as witnesses before the committee exhibiting their scars.

Such is the evidence, such the means resorted to to capture the Capitol. Coming from such fields of conquest you regale our ears with platitudes about the freedom of the elections and the rights of the sovereign people. You say that the report is untrue and rest your denial upon the assertion that persons were arrested and indicted for these alleged crimes, and upon trial were acquitted. Need I say to any gentleman, to any lawyer, that that proves nothing more than that the persons arrested were not guilty or that the prosecution failed in obtaining and producing evidence sufficient to convict, or possibly, as it sometimes happens, that there are juries in certain sections unwilling to convict for certain offenses; that prejudice, which is corruption, often defeats the ends of justice? The guilty parties may not have been arrested, nor is it material. No one has denied the terrible facts that for "political purpose" twenty men were murdered; that others were hanged upon the trees; that the dead bodies were found by the way-side and in the fields. These are the damnable methods that signalized your journey here to possess your heritage. We complain of it not because it affects us so much as it violates the rights of the people. If permitted, the poor and the weak will vote by sufferance of the strong. Law-breakers, murderers, and assassins will rule the land.

The President is bound by his oath to take care that the laws be faithfully executed—and we have some concern in knowing that the people are secure in the enjoyment of every constitutional right and privilege. Mr. Chairman, the gentleman from Kentucky, [Mr. BLACKBURN,] in his impassioned oration, said that "we are the ones to make the issue," and that he tendered it; that the gage of battle is delivered; that you do not intend to stop until you have stricken the last vestige of our war measures from the statute-books, which, like these, were born of the passions incident to civil strife, and looked alone to the abridgment of the liberty of the citizen. After this manly declaration and bold threat can you complain that you have opened the pages of the history of that legacy of carnage and desolation which you left us eighteen years ago. But for your return to power—but for your proclaimed determination to again rule or ruin the Republic—this session would not have been. The country would have been at rest—its people pursuing their peaceful avocations, willing to forget the sad recollections of the past, and eager to welcome the dawn of returning prosperity and a better civilization. To-day, as heretofore, you adhere to your doctrine of the rights of States. Your teachings culminated in a war of four years. Your teachings reft the forum in 1861 and into the yawning gulf went down the American youth by hundreds of thousands. For evidences of

valor and subjects for poetic fancy let the student hereafter read the history of that heroic struggle which resulted in settling for all time that this is a nation.

Sir, it is said here that unless we consent to the repeal of these laws the supplies shall be withheld. We cannot and will not yield. The questions are vital. The Army will not starve nor will the Government perish. Behind us stand the people who love their country, who hear and know what is done here; and though shattered and torn so recently by your treason, they will come from around the graves of heroes whose memories are green—from the valleys and the mountains; from fruitful fields and abundant mines—to the aid of the nation. They have decreed that the government of the people, by the people, and for the people shall not perish unmasked. The question is simply this: shall we have honest and fair elections for Representatives and presidential electors, or shall fraud and murder hold high carnival on the day of election so as to make it possible for the democrats to elect a President in 1880? Do you need the electoral vote of New York, and do you require freedom to repeat your gigantic frauds there? Will it be necessary again to overcome the majority of thirty thousand which shall roll down from Erie to the Hudson, and that Tammany Hall shall make the count?

I do not know what gentlemen think, but it would seem to be vastly more important that each and all—the humblest with the greatest—should be secure in the free right to vote, and that such vote should be counted than that either party should triumph. When the people triumph the Republic is secure. But why add words to this protracted discussion. We all know that the argument was closed when the bill was reported to the committee. The decree of the caucus was then written. No argument can change or amend. It awaits but its formal entry, when the curtain will drop on your first act signalizing your return to power.

Mr. ELAM. Mr. Chairman, the gentleman from Michigan, [Mr. BURROWS,] in his speech delivered in the House on Friday, the 18th instant, used this language:

> Mr. Chairman, there is no occasion for the warmth exhibited by the distinguished gentleman, for I only read the report of a committee showing that intimidation and murder had been permitted in Louisiana during the last election. I made no accusation against the courts or any officers of the courts. I simply declared what the report of the committee showed, that in Louisiana there had not been a fair and free election. It is a notorious fact that in many of the districts of Louisiana there was not a free or peaceable election. I have in mind one district now in particular, in which Caddo Parish is located, a district extending thirty-five or forty miles. There the ballot-box was placed at the northern extremity of that parish, and men were compelled to make a journey of twenty miles and back again in order to cast their votes. It is a notorious fact that three hundred black men made that march and deposited their ballots; and it is equally notorious that after they had deposited their ballots an armed band of ruffians seized that ballot-box, broke it to pieces, and destroyed the ballots. And no man can deny it, for it is supported by abundant evidence. It is also admitted, and cannot be denied, that in another parish that usually casts a heavy republican vote, not one solitary republican vote was polled, and why? Because you drove the leaders of the republican party from that county, serving upon them notice to leave, and they are in exile to-day.

Now, I desire to repeat what I said in the five minutes in which I was allowed to reply to the charges contained in the above extract, that the Natchitoches prisoners were charged with having undertaken to inaugurate a conspiracy to drive Hornsby, Blount, and others out of the parish so as to prevent them from voting for my opponent.

These parties all went to the city of New Orleans and were present at the trial before the circuit court of the United States. These witnesses were cognizant of all the facts that transpired on the day they were ordered to leave Natchitoches and testified to them very fully. I have never heard it said or intimated before that there was any lack of witnesses to prove what transpired on that occasion.

The witnesses that it was intimated were taken off of the steamer Danube were so taken off, if at all, at a point on the river more than a hundred miles above the parish of Natchitoches, as I am informed and believe. They were not going to New Orleans to be examined as witnesses against the Natchitoches prisoners, but for the purpose of being used, I suppose, as witnesses against parties in Caddo Parish. The Caddo cases have not been tried but deferred until next fall.

The Natchitoches prisoners were tried in a United States court, presided over by a republican circuit and district judge, by a jury largely composed of republicans; and the iron-clad oath, prescribed by section 821 of the Revised Statutes, was administered to as many jurors as the district attorney required.

Now I think it is fair to assume that these parties so tried were acquitted, not for the want of evidence on the part of the prosecution, but because the evidence submitted was not believed, or was rebutted, and therefore the verdict of the jury in the case is entitled to much greater weight, they having been enabled to form a more correct estimate of the testimony of the prosecution against those prisoners than that read by the gentleman from the report of a partisan committee.

Now, as to what occurred in the parish of Caddo, I have this to say: At a precinct on Red River, at a poll, I think, called Caledonia, late in the evening after the voting had about closed, some one informed the deputy sheriff of the parish, who was conducting the election, that there were thirty or forty guns stacked in a school-house very near where the election was being held; that they had been put there the night before by the negroes, and that there was a party of negroes in that building then. He asked two or three of the bystanders to go with him and examine into the matter. When within a short distance of the door they were fired on by the armed crowd of negroes inside and two or three men shot down. A fight occurred, and there were five or six of the negroes killed and the balance driven off.

As to the statement contained in the extract that I have read from, that a ballot-box containing two or three hundred ballots was taken from the officers in charge by some armed ruffians and destroyed, I have heard this charge before, but I have never heard that it was known who these parties were. The impression is that they did not live in the parish or in the State. Those votes were illegally put into that box. The proper authorities had fixed upon another place near by as the proper polling place. The democrats went there and voted. The republicans, without any authority at all, took a ballot-box and went to another house in the neighborhood. They had no judges, no supervisors under the State law appointed by any authority. That is my information on that point.

I have evidence in my possession, furnished by white and colored republicans, that the reason their party did not carry the parish of Caddo was that the republican managers had caused the names of all their candidates to be printed on one ticket, with a view of depositing them in one ballot-box. That was the method provided by law while the republican party was in power in Louisiana. They overlooked the fact that after the democratic party came into power the Legislature repealed that statute and provided that the names of the State officers should be put upon one ticket—members of both houses of the Legislature, sheriff, clerk, and recorder; but candidates for justices of the peace, police jurors, and other ward officers, and for mayor and town offices, such as trustees and aldermen, should be voted for on separate tickets and placed in separate ballot-boxes. This change in the law it is supposed was overlooked by the republicans, and they had printed the names of their candidates so closely together and in such small type that they did not have time to alter them. This, no doubt, was an oversight on the part of the republican managers in the parish.

Now, in relation to the balance of the election in my district, and to explain why my majority was so much larger at the election in November, 1878, than it was in 1876, I have this to say: In Bossier, Red River, and Webster Parishes, two of them being republican and the other being very nearly divided, the republicans put my name on their ticket. I was not in any one of those parishes during the canvass of that year, and do not remember to have seen any one from either of them. I did not know this fact until after the election. In Vernon, Natchitoches, Sabine, and De Soto Parishes there was no republican ticket in the field for any office, and no republican votes were cast, nor do I believe there was any organization or any republican candidates in Bienville or Winn. I made no canvass on the east side of the river, in consequence of injuries that I received from the upsetting of a stage coach, and therefore I cannot speak positively as to the fact whether there was any ticket in the field in Winn and Bienville or not. Then the only parishes in which there was any contest between my opponent and myself worth speaking of was in Grant and Rapides.

During the course of this debate it has been broadly intimated here that all the political measures under consideration that have been attached to the revenue bill have been brought in here upon the demand of the South. This has been distinctly stated by a portion of the republican press. Now, I think it is due to the truth of history that this statement should be corrected.

All that the southern members asked for in the beginning, as I understand it, and insisted upon, was the repeal of the test-oath provision and a change in the mode of drawing juries in the United States courts to prevent them from being partisan. During the holidays I called upon a good many of my party friends in Congress who remained in the city, and brought this matter to their attention. While doing this I met Mr. HERBERT, of Alabama, who, when I mentioned to him my views, informed me that he had the same object in view, and these propositions were eventually agreed to and put in proper shape and form to be offered on the legislative, executive, and judicial appropriation bill. Afterward Mr. Southard, of Ohio, submitted that provision of the bill repealing and changing the law in relation to supervisors of election and deputy marshals. Northern and western democrats, doubtless because it affected the elections in their States, supported it and insisted that it should be incorporated with the other provisions relative to the test oath and the judiciary.

I referred to this matter for the purpose of contradicting the statements which have been made with a view of crediting the South with the demand for this legislation. It comes from no one section—it comes from the whole country; it is the demand for a return to constitutional government made by the majority of the people of the whole country through their democratic Representatives on this floor. When the bill providing for the appropriation for the Army was under consideration a few weeks since, various objections were made by the republican members to the legislation attached to that bill, to one of which, as it is kindred to that made to the present proposed legislation, I will briefly refer, as well as to the unanswerable argument advanced by the democratic members in reply thereto.

Although the position stultified the record of their party, although it embodied the declaration that the means by which a law could be adopted were not suitable to be employed for its repeal, the leader of that party on this floor on that occasion, who had denounced as "unconstitutional and revolutionary" the efforts of a minority to pre-

vent the adoption of that legislation, changed his position and charged with revolution a majority which proposed to repeal an unconstitutional law in the same manner in which it had been adopted, and that in pursuance of an unbroken line of precedents which had received the indorsement and sanction of the ablest statesmen of the present and the past.

As to the constitutionality of that law, as to the benefits to result from its repeal, as to the necessity for its repeal, as the issues involved in its consideration are substantially the same as those involved in the consideration of the pending bill, I shall address myself directly to them here.

It would be more correct for me to use the word issue instead of issues, for I regard every detail of the proposed legislation as springing directly from an attempt on the part of the Federal Government to usurp the power of the States. It has been more than an attempt, for it has been successful in revolutionizing our form of government.

I charge the republican party with revolution, and that of the most dangerous character, because its work has been done under the mask of secrecy and in the name of patriotism.

In an investigation before the Legislature of North Carolina, Richard C. Badger testified as follows:

Question. What are your present party affiliations?
Answer. Republican of the straitest sect. My theory is a government of the strongest kind—a centralized government.

I quote this as illustrative of the position of the republican party. The definition is concise and true, and its accuracy is attested by the very legislation we are seeking to repeal.

In the same connection I desire to quote briefly from the able speech made in the course of the discussion of the bill for the enforcement of the fourteenth amendment, in the United States Senate, by Mr. Vickers, with the view of showing that the members of the democratic party to-day, in seeking the repeal of these laws, hold to the same opinion as that entertained by them when they opposed the passage of these laws. Mr. Vickers said:

There may be a civil revolution as well as one by physical force; and is there any difference in principle or in character whether a government be subverted by force or by usurpation and unconstitutional measures?

We charged them then with revolution, and the proof that the charge was true is found in the existence of these laws upon our statute-books to-day. We charge them now with revolution, and the proof that the charge is true is found in the fact that they are here to-day opposing the repeal of unconstitutional laws. I propose, then, Mr. Chairman, to lay down the primary propositions, that the laws we propose to repeal are unconstitutional and revolutionary in their character; that they are subversive of our form of government and necessarily fatal to its perpetuity; and that the preservation of our form of government and the preservation of our personal rights and liberties demand their repeal.

The first section numerically of the Revised Statutes proposed to be amended is section 800. The effect of this amendment is simply to place the State of Pennsylvania on the same footing with her sister States as regards the selection of jurors in United States courts; is simply to make harmonious and uniform that system of selecting juries which has from the beginning been found to be the best and fairest. With the causes which led to the adoption of a different method in that State, which may have made it advisable, or with the changes which to-day make it no longer necessary for Pennsylvania to form the sole exception in this respect to the uniformity of the Federal jury system, I am not informed, but it was suggested by gentlemen from that State more familiar with the workings of the system there than I, and therefore far better able to present this question to the House.

THE TEST OATH.

In common with all of the Representatives from the Southern States I am prepared, Mr. Chairman, to speak fully as to the necessity which exists for the repeal of sections 820 and 821 of the Revised Statutes, which provide for the administering of the test oath to jurors in the Federal courts. The law requiring this oath belongs to that class of legislation which we term onerous. It belongs to that class which, existing in the early days of England, has been held in abhorrence as one of the instruments employed in the work of oppression, as one of the arms of tyranny—in the days of Catholic supremacy employed as a means to secure the conviction and execution of heretics; in the days of the Reformation as a means to secure the conviction and execution of Catholics! We have notorious examples of the use of this weapon whenever the law was to be prostituted and made the obedient servant of tyranny. We have, too, the record which shows how the people have condemned this policy and sooner or later shattered the power which evolved it. As an abstract principle, then, I assert without fear of contradiction that such a law is a disgrace to any government that pretends to give fair trials in criminal prosecutions to its people.

How did it come upon our statute-book? We speak of war legislation, not as legislation referring to the conduct of the war, but as legislation which was characterized by the looseness which prevailed in Congress during the times when excitement ran high, when the jesuitical doctrine that the end justifies the means controlled the deliberations of our Federal councils, when the Constitution was forgotten and the rights of the people under it ignored; and it is such legislation as I have described that the democratic party terms war legislation. This provision requiring the test oath forms a part of it. When it was reported from the Committee on the Judiciary of the Senate, in 1862, an unfavorable report accompanied it, and one of the first Senators in the republican party, Mr. Hale, of New Hampshire, was the first to condemn the measure. He said:

The objection I have to it is this: I hope to see, and at no very distant day, some of these States restored to the Union, and the machinery of the Union going on. If this bill is passed it will be utterly impossible to organize a jury in any of these States, provided this is a law.

* * * * * * *

Some of the best Union men we have have done it (aided the rebellion) under coercion; the authority of the State having been usurped by the seceded Legislature, they have every one of them indirectly given assistance; and if this bill passes in this form you cannot organize a jury in one of those States for twenty years to come.

Mr. Grimes said:

You can repeal the law when the sentiment of loyalty increases so as to justify it.

And that is what we propose to do now. And when the proposition was submitted to that Congress to limit the duration of the statute, Mr. Howe, the Senator from Wisconsin, said:

When the Congress of the United States gets sick of it, I suppose they will have power, if they are lucky in the progress of the revolution, to repeal it.

Mr. Davis, of Kentucky, said:

I hope the bill will pass; it is essentially necessary for the execution of the laws against treason in the State of Kentucky, and in all the border slave States.

These extracts answer the question I have submitted. This law was enacted for the purpose of convicting in the State of Kentucky and border States, where political excitement ran high and the division of sentiment had produced a feeling of bitterness unknown elsewhere, men charged with treason; but even then it was not passed but upon the guarantee of Senators Howe and Grimes that when the States were restored to the Union it should be repealed. In 1871 a bill passed this House repealing said sections, but it failed in the Senate.

Perhaps the only noticeable feature in connection with the vote in that body at that time is that a high officer of the present administration, Mr. Schurz, gave his vote in favor of repealing it. This is the history of this law so far as the records of Congress speak, but its unwritten history would fill a longer chapter. Its injury to our system of government, to our judicial system, to the individual, can never be written or estimated.

Why have not the other side of this House, although continuously in power for nearly a decade, complied with the promise which they made to their colleagues; why have they not repealed this unjust law?

The republican party can answer this but in one of three ways:

They may say, We wish to preserve it as one of the memories of the war, as one of the fruits of that struggle, for we purpose to-day to punish our opponents of thirteen years ago.

Against this course when this bill first came before the Senate Mr. Cowan, the Senator from Pennsylvania, advised them. He said:

I think, then, it is far better to allow the law to remain as it is, and not to build everywhere in our pathway, in endeavoring to reconcile these deluded people, monuments of our former differences, monuments which will remind us at every step of the misfortunes of the country, and the alienation of one part of our people from another.

There is another great principle which, I believe, is admitted on all hands by the wise men who have gone before us; that when a rebellion is suppressed, there are but two methods of treating those who participated in it. The one of the utmost severity, the other one of the utmost lenity. That which is forgiven must be forgotten; that which is remembered must be punished, but there must be no half-way measures. If a man is forgiven, he is to be forgiven entirely; he is not to be reminded constantly that at one time he was a traitor; because if you do that, you keep alive the spirit of treason, and it may break out again in another generation. I think, therefore, we had better leave the oath as it is, the law as it is on this subject, and trust to a returning sense of the people, when the rebellion is suppressed, to administer their laws duly.

I do not think the republican party will venture to say that they oppose the repeal of this law because they propose to punish the people of the South by depriving them of one of their greatest rights as freemen. A second solution of the cause of their unwillingness to repeal this obnoxious law might be found in their want of confidence in the people of the South to do justice as sworn jurors in issues to be determined in Federal courts. They may hold that the Federal office-holder, the newly enfranchised colored man, the interests of the Government would not receive justice at the hands of the southern juror. If they lack this confidence, if they can believe conscientiously such wrong of so great a people, then they may so account for their action.

But I do not believe this, the more especially because in the third reason, which may account for their action, I see a continuation of that policy which seems to have actuated them from the day their party came into power down to the present day, and that is a desire to maintain their party domination by means of a Federal judiciary clothed with a discretionary power which places the liberty of the citizen of the South within their power.

Certainly no one will doubt that the continuance on the statute-books of this law forms an important feature in that policy which is seeking to centralize our Government. The very discretionary power which is vested in the judge and district attorney as to requiring the juror to take the oath or not but adds to the partisan influence exerted under this law. Among the highest privileges of an American citizen is that to sit as a juror, and yet under this law the judge or

United States attorney, although unable to take the oath himself, may exclude from the jury-box every man presented who is unable to do so.

In effect it amounts to this, ex-confederates may be excluded, democrats are excluded. The price to be paid for the privilege of sitting on a jury in a United States court is the abandonment of the democratic party and the indorsement of the republican. The class of men eligible under this statute as jurors in the United States courts in the South is small. It consists of the few who have become domiciled there since the war, those who have attached themselves to the republican party, those who have attained their majority within a very few years and who were, therefore, too young to take any part in the war, and the negroes. No matter what part a man took in the late war, in practice the oath is not administered to him if he is a republican.

Is it probable that impartial juries can be obtained under this statute as administered by United States courts in the South? Clearly not. These juries are impaneled to convict, and for no other purpose. They are empaneled not to prevent violations of the laws of the United States, but the purpose of these prosecutions is to punish citizens, or to put them to great expenses and inconvenience, in the hope that they will be deterred from taking an active part in future elections for members of Congress, and they make of these courts not the interpreters of the law, not the vindicators of justice, but mere political machines, kept in operation to sustain the republican party, interfere with elections, trifle with the rights of the States, with a view eventually of having these courts form one of the links in the chain which the centralization party of this country is forging.

During the expiring moments of the Forty-fifth Congress, Mr. Hale said, on page 37 of the RECORD of March 5:

The gentleman from Kentucky [Mr. DURHAM] has said that it was necessary to put upon the appropriation bills this political legislation. Sir, my comment upon that statement is to say that I hold in my hand a bill passed seventy-four days ago by a republican Senate repealing the test oath so much insisted on by this democratic House. That bill is very brief and in these words:

"*Be in enacted, &c.*, That section 820 of the Revised Statutes of the United States be, and the same is hereby, repealed, saving the application of the same to all offenses committed prior to April 20, 1871, and all proceedings for prosecution of offenses pending on the said 20th day of April, 1871.

"Passed the Senate, December 20, 1878.

"Attest:

"GEO. C. GORHAM, *Secretary.*

"By WM. E. SPENCER, *Chief Clerk.*"

Seventy-four days have gone by since that bill came to us from the Senate, and no attempt has been made to take it from the Speaker's table and pass it, so as to give the gentleman from Kentucky [Mr. DURHAM] and his associates "an honest and an inteligent jury." [Applause on the republican side.]

Instead of that, a democratic caucus has taken this matter into its own hands, has ignored a proper bill passed by a republican Senate, and has demanded that this and other measures, which they declare to be of vital importance, shall be forced through Congress upon appropriation bills. It has attempted to array this House against a co-ordinate branch of the national Legislature, the Senate of the United States, as I believe with the intention on the part of some men belonging to the reactionary and revolutionary portion of that party to precipitate an extra session of Congress. That is what I have charged from the beginning, and in proof of the correctness of my assertion is this bill passed by a republican Senate, but which this democratic House has persistently refused even to take up and consider.

Now, he was ignorant or disingenuous, because the section of the Revised Statutes to which he refers is not that which provides for the administering of the iron-clad oath, but it is the next one succeeding, (section 821,) which is in these words:

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or venireman or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

Therefore the Senate bill to which he referred did not provide a remedy for the evils complained of, because if it had become a law it was still left discretionary with the presiding judge, upon the motion of the district attorney, or other person prosecuting in behalf of the United States, to administer the oath as the succeeding would have remained on the statute-book, as I have already shown.

My colleague [Mr. ELLIS] introduced a bill at the first session, I think, of the Forty-fifth Congress for the repeal of both of these sections. It went before the Judiciary Committee of the House, and my information is that the committee compromised on a bill to repeal the eight hundred and twentieth section and leaving the next in force, which was reported to the House and passed. If the republican majority in the Senate or the House had been as willing to do such an act of simple justice as Mr. Hale claims himself and friends were ready to do, at the last moment, it is very probable that this extra session might have been avoided. I think it fair to say that his party would not have made the concession which he then proposed, if they had not been driven to it by the firm attitude of the democratic party in the House in demanding the repeal of these sections of the Revised Statutes, and the amendment of the eight hundredth section, changing the method of drawing juries in United States courts.

As I have shown before, it was not possible for the republican party with its organization to have carried the last election in Louisiana, and these prosecutions under these Federal election laws have been instigated for the purpose of intimidating white men in the future. I feel it safe to say that no conviction in my judgment can ever be obtained on any of these indictments. It amounts simply to a persecution.

SUPERVISORS AND DEPUTY MARSHALS.

Sections 2016 to 2031 inclusive, which provide for the appointment of supervisors of election and of deputy marshals, were tacked on as riders to the sundry civil appropriation bill of June 10, 1872. The democratic party propose to repeal these provisions in the same manner as they were enacted.

The unconstitutionality of the existing law grows out of the fact that under its provisions the Federal Government has trenched upon the rights of the States and usurped powers specially reserved to them in the Constitution. I desire to refer briefly on this point to what I said on another occasion. Section 4 of article 1 of the Constitution reads as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

By this section it was made mandatory upon the States to regulate the holding of elections for Representatives, but an ultimate power is conferred upon Congress to "make or alter such regulations."

This power was purely a contingent power, capable of being exercised at "any time" when the States failed to make due provision, or having made provision for holding elections had so far departed from a system which would insure just and uniform representation as to justify the intervention of Congress, a power, as the discussion reported in Elliott's Debates shows, given solely to enable the Federal Government to preserve itself from destruction, in the event of the States declining to act. I quote from the debates on this section for the purpose of showing the object of adding this qualifying clause to this section of the Constitution.

I read from pages 366 and 367 of Elliot's Debates on the Federal Constitution:

Mr. Monroe wished that the honorable gentleman, who had been in the Federal convention, would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place, and manner of elections of Representatives, and the time and manner of that of Senators, and also why there was an exception as to the place of electing Senators.

Mr. MADISON. * * * It was necessary to give the General Government a control over the time and manner of choosing the Senators to prevent its own dissolution. With respect to the other point, it was thought that the regulation of time, place, and manner of electing the Representatives should be uniform throughout the continent. Some States might regulate the elections on the principle of equality, and others might regulate them otherwise. This diversity would be obviously unjust.

* * * * * * *

It was found necessary to leave the regulation of these, (time, place, and manner,) in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And, considering the State governments and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former, and the general regulations to the latter. Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional power will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution.

When in the Twenty-eighth Congress the construction of this section of the Constitution was brought to the attention of the House by reason of the fact that the right of the Representatives from the States of New Hampshire, Georgia, Mississippi, and Missouri, to seats in that Congress was in question, they having been elected under the general-ticket system, whereas Congress had by an act approved June 25, 1842, required elections for Representatives to be held under what is known as the district system, a report was submitted to the House by Hon. Stephen A. Douglas, of Illinois, to whom it had been referred. From his remarks accompanying this report I desire to read a few extracts. Mr. Douglas said:

It had been stated so many times on that floor that probably some might believe it, that twenty-two States of the Union had been districted in obedience to the act of Congress. Was it so? The gentleman from New York had told them that the State of New York was districted in obedience to the law of Congress. But what was the fact? Being a member from that State and living at the seat of Government the gentleman might be supposed to know. The very Legislature which passed the law districting the State, passed also a resolution protesting against the validity of the act of Congress and declared they did not district the State in obedience to that act. * * * Nearly two-thirds of all the States stood upon the same footing as the State of New York. His own State (Illinois) first passed a resolution declaring that the law of Congress was invalid, inoperative, and not binding upon the States; that it was the political trick of a desperate party to perpetuate its own power, in defiance of the will of the people. After doing this the Legislature districted the State according to their own wishes and not in obedience to the law. The State of Ohio did the same thing. A majority of the States of the Union did this, yet the gentleman from New York told the House that they did it in obedience to the law.

Again, Mr. Douglas says in this connection:

But to return to the question as to what the framers of the Constitution actually meant when they inserted that clause in the Constitution. The debates of the convention clearly showed that they who formed the Constitution and they who interpreted it and ratified it meant that the power of Congress over the elections

should be exercised only in the event of the States refusing to legislate upon the subject, or legislating in such a manner as [not] to submit the rights of the people to a fair representation. There could be no question or dispute upon this point. The report of the majority of the committee admitted that a majority of all the States of the Union protest against the exercise of this power, except upon the happening of the contingency to which he had referred. As to the intention of the framers of the Constitution upon this point there could be no doubt.

In addition I desire to quote one of the concluding resolutions of the report of the committee, having reference simply to the exercise of the power by the Federal Government, so far as districting the States is concerned, under the authority derived from section 4 of article 1:

Resolved, That the second section of an act for the apportionment of Representatives among the several States according to the sixth census, approved June 25, 1842, is not a law made in pursuance of the Constitution of the United States, and valid, operative, and binding upon the States.

Mr. Benton, speaking of the act of 1842, said:

This is a case of a command, of a mandamus. Congress does not district the States, but commands the Legislature to do it. It is a command without authority, without a sanction for its observance, without precedent, and, in my opinion, without constitutional warrant. I desire in this connection to add to this weight of authority the opinions of Alexander Hamilton and of Judge Story. Mr. Hamilton says in the fifty-ninth number of the Federalist: "They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations, which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose whatever extraordinary circumstances might render that interposition necessary to its safety."

He also says in the same article:

Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation. The correctness of the view I present of the intent of the framers of the Constitution in adding this qualifying clause is also sustained by Mr. Justice Story. He says: "In the first place, the power may be applied by Congress to correct any negligence in a State in regard to elections as well as to prevent a dissolution of the Government by designing and refractory States, urged on by some temporary excitement. In the next place, it will operate as a check in favor of the people against the designs of a Federal Senate and their constituents to deprive the people of their right to choose Representatives. In the next place, it provides a remedy for the evil if any State by reason of invasion or other cause cannot have it in its power to appoint a place where the citizens can safely meet to choose Representatives. In the last place, (as the plan is but an experiment,) it may hereafter become important, with a view to the regular operations of the General Government, that there should be a uniformity in the time and manner of electing Representatives and Senators, so as to prevent vacancies when there may be calls for extraordinary sessions of Congress.

When, in 1871, this question of Federal interference with congressional elections came before the Senate through a House bill amendatory of the act of May, 1870, it was made the object of severe comment by Mr. Vickers, the Senator from Maryland. A portion of his remarks are well worthy of reproduction here. He says:

It will be seen by the extracts I have read that the power was inserted for the especial purpose of guarding against a destruction of the Government in the last resort, to be used only to save life, not as a medicine to alleviate or assuage, but as a life preserver. If a power be granted for one purpose it cannot legally be used for another, although in form and letter it may embrace it. Every law and every constitution must be construed according to its intent and purpose when made.

Will gentlemen reflect calmly on the powers which are conferred on these supervisors and deputy marshals?

They are given the power to construe State laws and those laws regulating the exercise of the elective franchise; to play the part of the spy and the informer upon State officials; to arrest without warrant and deprive of his liberty, as well as of his right to cast his ballot, an American citizen. They are supervisors, judges, managing clerks, spies and partisans, and executive officers at the same time. Their duties are not limited to those I have described. Another important duty is that of voting, and I regret to say that this Government has been made the instrument, under this law, of bribing men for $5 a day to vote the republican ticket. And I feel no hesitation in saying that 75 per cent. of the deputy marshals appointed were composed of that class whose votes could be so purchased. To such men has the control of our State elections been confided.

I but repeat that which I find of record, and I shall select, not a record furnished from elections in the South, for which section this political machine was created, but I will take the record of the North and West to show you how this law has been abused, to what base purposes it has been applied.

In the eastern district of Missouri, at the election held there in 1876 for Representatives, there were appointed eleven hundred and twenty-three deputy marshals, all of whom were placed in and around the several election precincts in the city and county of Saint Louis, and not one of them was appointed in compliance with the wishes of the democratic candidate in the district where they were principally placed, but they were all appointed by a republican marshal. I quote further from the notice of contest served by Mr. FROST on his opponent in that election. He says:

That said eleven hundred and twenty-three deputy marshals were placed in and around said several election precincts in the city and county of Saint Louis, within said congressional district, on said day of election, in violation of law, and used their official positions for the purpose of securing votes for you for said office of Representative, and in discouraging and preventing legally qualified voters from voting for me; that by reason of the great number of said marshals, their oppressive action, their active partisan conduct in your behalf, their open expressions of hostility to me as your opponent for said office, and their willful and notorious abuse of the authority with which they were invested as such deputy marshals of the United States, more than five hundred voters within said district, and legally entitled to vote for Representative in Congress for said district, were on said day of election intimidated from voting for me, and did not vote at said election.

That more than nine hundred of the persons so appointed as deputy marshals of the United States were members of the democratic party, resided within said district, and were legally entitled to vote for said office of Representative, on said day of election; that your partisans, at whose request said appointments were all made, called upon said persons prior to said day of election and required from each of said persons a promise to vote for you, and use his best efforts to secure your election, as a condition-precedent to such appointment; that more than five hundred of said persons did so promise and did vote for you on said day of election, by reason of said promise and of said appointment; that after said appointment had been made said voters were made to believe, by persons acting in your interest, that it was not only necessary that said persons should vote and induce others to vote for you, but that if you were not elected no compensation would be paid to them for their services as such deputy marshals; that on said day of election and upon the pretense that it was necessary to have a witness to prove that said deputy marshal had voted for you at said election, in order to secure payment of the $40 which had been promised to each of them for services at said election, certain of your partisans went to said marshals respectively and placed in their hands ballots, whereon your name was printed as a candidate for said office of Representative, and insisted that said ballots should be voted in their presence; that the persons selected for said appointment as marshals were, with few exceptions, wholly unfitted for the duties of said office and wholly ignorant as to said duties; that a great majority of said persons believed that their sole duty at said election was to secure the election of yourself as Representative in Congress for said district; that said persons have been paid for their alleged services at said election the price and sum of $10 each, out of money belonging to the United States; that more than five hundred of said deputy marshals were induced to vote for you at said election by reason of said false and fraudulent representation of your said partisans and of the promise of money above set forth; that the appointment of the said eleven hundred and twenty-three deputy marshals was wholly unnecessary at said time and was done for the purpose of preventing a full and fair election for Representative in Congress for said district, and by illegal, wrongful, and disreputable means to overcome the majority of the democratic party in said district, theretofore, then, and now, exceeding sixteen hundred votes.

I select from the testimony of numerous United States deputy marshals taken in that case a brief extract from that given by Thomas Barrett, one of these officials, it being similar to that of nearly all of the deputy marshals sworn. He says, on page 154:

Question. Were you informed by him that you couldn't get the appointment as United States marshal unless you voted for a republican Congressman?

Answer. He told me himself I couldn't be appointed unless under those conditions I should vote for the republican Congressman. The rest of the ticket he said he didn't care about.

Cross-examination by the counsel for the contestee, George H. Shields:

Q. You promised you would vote for the republican ticket to get the appointment?
A. Yes.
Q. And in order to get the appointment you willfully told him a lie?
A. Well, I did't consider it was any of his business if he would appoint me. It was Government money that was to pay me, which had no right to be used in the interest of one man. It didn't matter what he was. That's the way I looked at it.

James Francis Ryan, another deputy marshal, testifies on page 158:

Question. Did he make that a condition, for you to vote for Congressman?
Answer. Yes; that I should vote for Congressman.
Q. Or else you couldn't get an appointment?
A. Or else I couldn't get an appointment.

Nicholas W. Dervy, another deputy marshal, says on page 199:

Question. Did he make it a condition that you should vote for the republican Congressman before you received your appointment?
(Counsel for contestee objected; let him state the facts.)
Answer. Well, that is what he said. As long as I said I would vote for Metcalfe I would get my commission. So he brought me in the room right next to the United States marshal, Leffingwell, and gave me my commission.
Q. What were your politics?
A. Democrat.

This is sufficient, I trust, to enlighten those who do not know of what kind of material United States deputy marshals are made and for what purposes they are appointed fully on this subject. I will, however, read one more extract from the testimony of John Berg, another deputy marshal, who says on page 246:

Question. Now, have you any objection to telling who you voted for for Congress?
Answer. I voted for L. S. Metcalfe, I think his name is.
Q. Now, what consideration moved you to vote for L. S. Metcalfe?
A. Well, I voted for Mr. Metcalfe more because them fellows put me in that club; and they put me on as United States deputy marshal, and then I thought it was no more than just to vote for him; otherwise, if I could not have been a deputy marshal, I would not have voted for him, and I guess they would not have put me on as marshal nohow unless they thought I was a republican.
Q. Those were the considerations that moved you to vote for Metcalfe?
A. Yes, sir.

But it may be said that Missouri is one of those border States which are still to be made the victims of war legislation. Let us go to Pennsylvania, examine the testimony taken before the committee of which Senator WALLACE is the chairman, and see what supervisors and deputy marshals do there.

The first and most startling disclosure made before this committee was in the shape of a petition submitted by a number of naturalized citizens of the State of New York, which, if the statements therein contained be true, affords the most damning proof of the iniquitous results of this system. I submit a portion of this petition without comment because it is a matter which must eventually come before this House. I regard it as of special moment, because it is the first time in our history that a subordinate officer of the Federal Government has ever dared by judicial action to determine the qualifications of voters in a State who had been naturalized and held their certificates in due form *of* law. A question had arisen as to the regularity of certain certificates of naturalization taken out in 1868. Of persons holding these certificates about five thousand had registered in 1878.

Judge Freedman, of the superior court of the State of New York, had "rendered an exhaustive opinion, deciding that the method of naturalization complained of was lawful and regular," and this opinion has since been sustained by that of Judge Blatchford. John I.

Davenport was in 1878 the chief supervisor of the city of New York. I read a portion of the petition submitted to this House:

On the 3d and 4th days of November, 1878, the day preceding the election, Commissioner John I. Davenport caused the said Stephen Mosher to swear before him to about four thousand printed complaints against the persons registered as voters in the different election districts in this city as having naturalization papers issued in the year 1868, charging them with having "on one of the days of registration, for the purpose of registering or otherwise, unlawfully used a certificate of naturalization, knowing that it had been unlawfully issued or made," but containing no further particulars; said Mosher having, and being known by Davenport to have, no knowledge whatever of the parties or of the facts, except such as he might have obtained from copies of the registry lists. On each of these so-called complaints, many of which he admitted upon his recent examination in court that he did not read, Commissioner Davenport issued a warrant for the arrest of the accused, and placed the same in the hands of the marshals he had detailed to the various polling places in the city so that they were there at the opening of the polls, the proceeding being kept strictly secret. As soon as each voter who had registered upon papers issued in the year 1868 presented himself he was arrested and dragged from the polls, unless known to be in favor of the combination ticket, when he was not molested. Early in the day the men were all arrested and taken away to intimidate the others. When this result had been accomplished, those coming later were told that if they did not vote they would not be interferred with; if they did vote they were arrested on the spot.

In many cases those arrested were taken in the first place to the republican headquarters of the district, and from there to Davenport's rooms. The others were taken there directly. On the upper floor of the post-office a large "slave-pen" had been provided, into which these men, guiltless of any crime, were thrust like wild beasts, until it was packed with a struggling mass of suffering humanity, and there they were kept in this condition for hours, without food or water.

In addition to those thus confined, the court-rooms of the circuit court were crowded with other prisoners waiting the slow process of having their cases disposed of by three commissioners—Davenport, Deuel, and Shields. There were several other commissioners in the building, or whose services could have been obtained. But these cases were only brought before these three, one being the instigator of the whole proceeding, and the other two clerks employed by him in his office as clerk of the United States circuit court, and therefore subservient to his will. In addition, it was physically impossible for these three men to hear the vast number of cases brought before them during election day.

The process pursued in the majority of the cases was uniform and evidently agreed upon beforehand. The men were called up one by one, and asked a number of questions, particularly if they had voted. If they had, and if their naturalization was regular according to their statements, they were informed that if they waived an examination they would be released upon their own recognizances to await the action of the grand jury, and were accordingly discharged. If it appeared not to be regular, they were held to bail. If they had not voted, they were told that they would be required to give bail varying from $1,000 to $5,000, unless they would pledge themselves not to vote, being also told that they would be arrested a second time if they broke their promise. It having been previously announced by Commissioner Davenport that he would exercise what he termed his legal right of taking twenty-four hours to examine into the sufficiency of any bail that might be offered, and would commit the party arrested in the mean time, this was equivalent to informing those men that they would be locked up for at least a day if they refused to give the required pledge, and, with more or less demur, it was given by all. Nor was the threat of punishment for its violation an idle one. Patrick Whelan, who was brought before Commissioner Deuel on election morning and released after this pledge had been extorted from him, voted in spite of it. He was at once arrested and brought again before that commissioner, who asked him if he had voted. He replied "that he had a legal right to vote and had done so, as he did not consider a promise obtained as his had been binding." Bail was at once offered in the person of Mr. John Foley, a well known and responsible business man, personally acquainted with Mr. Davenport. Commissioner Deuel evaded the responsibility by sending the matter before Davenport himself. The latter stated that he would hold Mr. Whelan in $5,000 bail, to await the action of the grand jury. Mr. Foley at once signed a bail bond in that amount, and justified as the holder of unincumbered real estate in a sum far exceeding it. Mr. Davenport, however, stated that he should take time to examine into his sufficiency as surety, and sent Mr. Whelan to jail.

It is unnecessary to say that this intimidation was directed against democrats. A few republicans were arrested, but it was by mistake and they were generally released by the marshals. At the election in Philadelphia in 1878, as appears from the testimony taken by the Wallace committee in that city, there were appointed seventeen hundred and thirty-two United States supervisors of elections, and seven hundred and seventy-three deputy marshals. These deputy marshals were paid for two days' service $7,730. The expenses of the supervisors amounted to $27,400. On page 23 of this testimony the evidence of R. C. Howell is valuable as showing the character of these deputy marshals and the manner in which they were engaged:

Q. Who was the United States marshal for your division?
A. Charles Oliphant.
Q. Was he drunk or sober on that election day?
A. He was drunk.
Q. Describe briefly his conduct.
A. He was insulting voters all day.
Mr. CAMERON. That is a conclusion rather than a fact. State whas he said.
The WITNESS. Whenever a democrat would come up, who was challenged, and who would present his tax receipt, he would say to the judge, "Put that receipt in your pocket."
Q. (By the Chairman.) Did he take hold of any person during the day?
A. Yes, sir; about six o'clock in the evening, Mr. William B. Hackenburg came to the polls to vote, when there was some dispute in regard to a vote. Mr. Hackenburg was standing there. Mr. Oliphant grabbed him, pulled him away from the polls, and said, "I'll arrest you anyhow." The people of the neighborhood got around and prevailed upon Oliphant to let go of Hackenburg. He did not take him away.
Q. Had Mr. Hackenburg's vote been challenged?
A. No, sir.

On page 31 Mr. Hackenburg testifies:

Question. What was the condition of Oliphant—drunk or sober?
Answer. I take him to have been a drunken man. He was very noisy and quarrelsome. He had frequent disputes with the people outside on the pavement, especially with Mr. Howell; he threatened to fight Mr. Howell. He had several assistants there, strangers to the division, men whom I had never seen there before.
Q. Were these men who were assisting him strangers in the division?
A. Yes, sir; I am confident they were not voters. I never saw them before nor at any other time.
Q. Did Mr. Oliphant challenge your right to vote before he seized you by the collar?
A. No, sir.
Q. What was the first intimation you had of his interference with you?
A. It was by catching hold of me by the collar and pulling me away with him

On page 38 John Trainer testifies:

Question. Do you know the marshal who was there?
Answer. Yes, sir.
Q. Who was he?
A. Charles Herr.
Q. Have you known him any length of time?
A. I have known him about five years.
Q. What is his character and reputation as far as you know him?
A. Very bad.
Q. Has he been arrested?
A. He has been arrested to my knowledge for receiving money under false pretenses.

On page 61 John Hughes testifies:

Question. Did you see the United States marshals, Muth and Homeyard?
Answer. Yes, sir; I saw Mr. Homeyard there.
Q. Have you known him for some time?
A. I cannot say that I am in any way acquainted with Mr. Homeyard; I have seen his face frequently, but to say that I know him personally I cannot.
Q. What was his behavior during that election day as to the conduct of his duties as United States marshal? What did you see him do?
A. I think I was down there myself in the morning about nine o'clock. I do not know whether it was Mr. Barr or Mr. McGinniss who had the window-book, but whichever it was, he asked me to take it for a few minutes. I took the window-book, and was standing on the cellar-door, when Mr. Homeyard was talking to a man by the name of Schriber. Then a colored man came along Cherry street, on the north side of the way, and an officer was with him. The colored man came over to the window to vote, with a ticket in his hand. I said to him, "You can't vote here." He said, "I can't?" "No, you can't," With that Homeyard jumped to me and said, "What's the matter with you?" I told him there was nothing the matter with me. I said, "This man does not live here, and has no right to vote here." Then I gave a general challenge as the man stepped on the cellar-door. Mr. Schriber told him to go and get a voucher. He left, and Mr. Homeyard said if I interfered any more he would lock me up. I told him that that would please me very much if he would, and I asked who he was or what authority he had there. Mr. Homeyard then left the polls, went across the street to a small cigar-store and came back with a badge on his coat to let me see that he was a marshal.

On page 72, James Morris testifies:

Question. Who was the marshal there?
Answer. I think his name was De Sanno.
Q. Does he live in that division?
A. I could not say.
Q. Did you ever see him before that day?
A. I never saw him before that election day.
Q. What was his behavior on that day?
A. He was drunk the whole day; from about nine o'clock until about six he was right drunk. He was just around the division there.
Q. What is his first name?
A. I do not know whether it is John, or what it is; I know that his name is De Sanno. It is not on the assessor's list in the division.
Q. His name is not on the list of voters in the division?
A. No, sir.
Q. What did he do?
A. He was standing around there all day, just walking up and down before the window.
Q. Had he a badge?
A. Yes, sir.
Q. What was on the badge?
A. I think it said "Deputy marshal."
Q. Did he arrest anybody?
A. No, sir; he was too drunk, I think.

The testimony of Charles J. Miller, the murder detective of Philadelphia, on pages 101 and 102, with reference to the character of these marshals is yet more startling. He says:

Question. What is the character of Philip Madden?
Answer. I think he is one of the worst men in Philadelphia.
Q. In what respect?
A. He is a dangerous man; he is violent and dangerous.
Q. How long has he been out of prison?
A. I think probably eight months or a year. He was convicted of highway robbery, I think.
Q. Do you know of this man Madden having shot anybody?
A. I did not see him shoot anybody. I heard he shot a boy at one time.
Q. Was he in prison, to your knowledge, more than this one time?
A. He was in prison twice.
Q. What is his general character; is it that of a peaceable citizen, or that of a desperate, bad man?
A. His character is that of a desperate, bad man.
Q. Do you know Francis McNamee, of the Eighth ward?
A. Yes, sir.
Q. What is his character?
A. I arrested him for being concerned in five robberies, about seven years ago, and convicted him for having stolen goods in his possession. He was sentenced, I think, to eighteen months. I am not certain about the length of the sentence.
Q. Do you know in what precinct he lives?
A. No, sir; he lives in the Eighth ward, somewhere about Locust street.
Q. Do you know Joseph Hilferty?
A. No, sir.
Q. Do you know Daniel Reading, of the First ward?
A. Yes, sir; very well. I guess everybody here knows him.
Q. What is the general reputation of Daniel Reading?
A. He is considered to be a very bad, dangerous man. He has been tried for murder.
Q. How long since was he tried for murder?
A. In 1869.
Q. Is his reputation still bad or good?
A. Bad.
Q. Do you know a Mr. Pitts?
A. Yes, sir.
Q. Of what ward?
A. The Seventh ward. He keeps a place in Lombard street above Eighth, on the south side.
Q. What is his business?
A. He keeps a gambling place, and things of that kind.
Q. Is he a colored man?
A. He is a colored man.
Q. He keeps a gambling-house; is it a drinking-house?

A. Yes, sir. He has been arrested once or twice, and was tried before.
Q. For what offense has he been tried?
A. I cannot remember; but he was arrested once or twice.
Q. To what ward does Daniel Reading belong?
A. To the First ward. His name does not appear upon the list of marshals as having been put down for the precinct in which he lives, but I think he lives in the twenty-third precinct, on Mildred street below McKean, I think.
Q. Is the name of Frank McGowan on the list of marshals here before the committee?
A. Yes, sir.
Q. Is the name of Philip Madden on the same list of marshals?
A. Yes, sir.
Q. Do you know Henry Scott?
A. Yes, sir.
Q. Who is he?
A. He keeps a hotel in Lombard street.
Q. Is he a white or colored man?
A. A colored man.
Q. Do you know anything of him?
A. His reputation is bad. I am forgetting about him.
Q. Do you know Rodney F. Springfield?
A. Yes, sir.
Q. Is he of the Fifteenth ward?
A. Yes, sir.
Q. What is his reputation?
A. He was tried for killing a colored man, for shooting him.
Q. Is he upon this list as a deputy marshal?
A. Yes, sir.
Q. The name of Springfield is on this list?
A. Yes, sir
Q. Do you know Michael Slavin, of the Fifth ward?
A. Very well.
Q. What is his reputation?
A. He is a notorious repeater, a thief.
Q. Has that been his reputation for some time?
A. It has, so far as I know him, for eight or nine years. I have seen him lead gangs of repeaters to vote many a time; that is his profession, "repeater."

John B. Cahill, on pages 163 and 164, testifies:

Question. Do you know John May, whose name is on the written list of marshals that I hold in my hand?
Answer. I do, very well.
Q. Is he the same who is on this list of marshals? [Indicating list in evidence.]
A. Yes, sir.
Q. What is his business?
A. He keeps a house of prostitution on the corner of Newmarket and Peg streets.
Q. Do you know whether he arrested anybody on election day?
A. I do not. At this last election he did not.
Q. Do you know Abraham Hoffman?
A. I do, very well.
Q. In what precinct does he live?
A. He is supposed to live in the fifth precinct of the Eleventh ward.
Q. Has he any other name than Hoffman?
A. Yes, sir.
Q. What is his other name?
A. I call him "Shad."
Q. Where does he live?
A. I give it up.
Q. What is his business?
A. He used to keep a house of prostitution on Fifth street, below Callowhill.
Q. Do you know anything about his occupation on election days?
A. Yes, sir.
Q. What is it?
A. A repeater.
Q. Who does he generally repeat for?
A. The republican party.
Q. How do you know that?
A. By following him on several occasions.
Q. Detail for us one of those little diversions of yours.
A. A couple of years ago he was out through the Thirteenth and Fourteenth wards.
Q. How many times did you see that he voted?
A. I suppose, at the least calculation, three to six times at different places.
Q. Has he any known business now?
A. No. He skipped away for stealing a five-dollar note.
Q. When was that?
A. Here some three or four months ago.
Q. Was there a warrant for him?
A. That I don't know.
Q. How do you know as a fact of his having stolen a five-dollar note?
A. He stole it from a man by the name of Lafayette Groul, on Third street, below Green.
Q. Do you know William Eckenbrine?
A. I do.
Q. Where does he live?
A. I don't know where he lives now.
Q. What is his character?
A. Billy is a first-rate fellow.
Q. What is the general reputation of the man?
A. Billy is a pretty good fellow.
Q. Has he been charged with any criminal offenses lately?
A. No, sir; I never knew him to be charged with anything, only he was arrested for larceny, but I believe the bill was ignored.
Q. Is he a republican?
A. Yes, sir.
Q. Has he any ostensible occupation?
A. Just now he has.
Q. What is it?
A. He works in a coffee-roaster's, in Third street below Coates, or Fairmount avenue, as it is now called.
Q. All these names are upon this list of marshals, are they?
A. Yes, sir.

Again, on page 168, Henry Kohler testifies:

Question. Where were you on the day of election in November, 1878?
Answer. I was United States supervisor in the thirty-second division of the Nineteenth ward.
Q. Who was the marshal there?
A. David Beckman.
Q. What occurred between you and Beckman in regard to the vote of the man to whom you objected?
A. David Beckman brought a man there to vote who had no papers. He was not a citizen. I challenged the man on a general challenge. David Beckman said to me, "Now, you know that man has his papers." I said, "I don't know anything of the kind; I want to see them." He kept on fooling, and at last he said to me, "Damn your soul, I will jerk you out of that poll." I said, "You have no more authority there than I have; I want to see this man's papers." The man went away and did not come back. David Beckman came in the polls after that and said, "Now, you know that man had his papers." I said I knew nothing about them. The man never came back to vote. I knew the man, and knew he had no papers.
Q. What were Mr. Beckman's politics?
A. He counted himself a democrat at one time; he was elected on the school-board and he sold the school-board out; he sold the democrats out; and after that the democrats kicked him out of the executive committee; then he went over to the republicans.

I have quoted these extracts at length, in order that this House and the whole country may know what manner of men the republican party is desirous shall preserve the purity of our elections. When they oppose the repeal of this law I wish the country to know that it is to maintain such men in a position to control the right of honest men to vote that the republican party to-day opposes the repeal of this iniquitous law.

These examples I have cited are not the exceptions, they are the rule. The high-handed acts of oppression done by this swarm of prize-fighters, drunkards, and murderers, in the interests of the republican party, in the name of law, and paid for out of the money of the people, are a disgrace to American civilization.

It will not do to talk about the South any longer. The violations of the Constitution intended to oppress the South have been found more useful in the North, and we of the South, Mr. Chairman, are here to-day hoping that we may be enabled to aid in preventing such occurrences like those which took place in the last elections in these districts. We are here, sir, and we represent a solid South not to obliterate one statute which is for the good of the people, but ready to blot out every one which infringes on the liberties of the citizen.

Mr. Chairman, I have shown I believe that these laws are unconstitutional, and that their repeal is necessary if our institutions are to be preserved. There is no doubt in my judgment as to what the action of Congress will be on these bills. They will be passed with the repealing legislation attached. I do not propose to venture a prediction as to whether the President will approve or disapprove them. If he disapproves, the responsibility will be on him and his party for stopping the necessary supplies for the support of the Government.

During the delivery of the foregoing speech the following colloquy took place:

Mr. WHITE. I understand from the course of the gentleman's remarks that he is speaking of the election of 1876.

Mr. ELAM. Yes, sir.

Mr. WHITE. And that he was not personally present at any poll at which an election was held.

Mr. ELAM. I made no canvass in one-half of my district. The district was divided by the river, and I canvassed the western side, but I was prevented from canvassing the eastern side of the river by an injury which I received.

Mr. WHITE. At what poll was the gentleman present?

Mr. ELAM. I was not present at any poll at that election.

Mr. WHITE. I wanted you to say by way of amusement and instruction what you knew of the election of 1876. Does my friend disclaim that there was any violence or outrage committed by the opposition to the republican party in 1876 in any of what are known as the "bull-dozed counties?"

Mr. ROBERTSON. I have spoken already in regard to the parishes of my district.

Mr. WHITE. I have this to say in answer to the gentleman, that in several parishes at the election of 1876, there were the darkest outrages ever perpetrated in the history of elections in this country, and I think that the record of crime, the record of murder, the record of violence, the record of interference with voters, has never been exceeded as it was in that case.

Mr. ELAM. Does the gentleman include Baton Rouge, and the region in that vicinity?

Mr. WHITE. I would include it if it were necessary.

Mr. ELAM. I want to ask you one question. I do not remember all the testimony, but I believe the gentleman has read the testimony or was a member of the committee?

Mr. WHITE. I have read the testimony.

Mr. ELAM. Yes, sir; you were down there?

Mr. WHITE. Yes, I was.

Mr. ELAM. You have read the testimony?

Mr. WHITE. Yes, and I think that Eliza Pinkston testified in her examination that her husband was killed, her own throat cut, as well as——

Mr. ELAM. I think that this violence was perpetrated by colored republicans. I think the testimony was to that effect. So much for Eliza Pinkston.

Mr. WHITE. Now, Mr. Chairman, in the testimony as to the persons who were killed, as to this woman who had her throat cut—that she was mutilated, that her husband was murdered, was known to citizens there. They did not call on the coroner, they did not send for the sheriff, nor was any effort made to arrest the perpetrators of this outrage. What does that show? It shows a condition of confusion, demoralization, disregard for law and right and order, which calls for the attention of the General Government.

Mr. ROBERTSON. Was not that under a republican administration?

Mr. WHITE. I do not care under whose administration it was——

Mr. ROBERTSON. That is all I wanted to know.

Mr. WHITE. No man who would allow a laborer of his to lie naked and murdered on the roadside is to my mind animated by proper instincts of law and order. Men who will allow such things to occur cannot be held up to the American people as exemplars of law and order in that portion of the country, or as individuals who can be trusted to secure to this humble portion of our fellow-citizens a free and uninterrupted exercise of the ballot.

Apropos to that I could refer my friend to the instance of Benjamin James, who on the very morning of the election left the city of Monroe with the ballot-box under his arm to go to the polling place, and was stopped on his way by a military company, a company of men calling themselves democrats; he was shot, was left for dead, and as a consequence no election was held in that locality on that day. Why was this negro, who was an election officer and I believe a constable of his locality, interfered with? Was not this political?

Mr. ELAM. I hope the gentleman will not take up any more of my time.

Mr. WHITE. I beg the gentleman's pardon. I merely referred to these things in answer to the remark that the elections in that region were peaceful and quiet and that there was no interference with the rights of the colored voters there.

Mr. ELAM. In the first place, the affair in the parish of Ouachita is said to have occurred in 1876.

Mr. WHITE. Certainly.

Mr. ELAM. That parish is not in my district.

Mr. WHITE. It is in Louisiana; it is one of the five bulldozed parishes.

Mr. ELAM. That parish is not in my district, nor was it in 1876; therefore, as to the facts occurring there, I cannot speak with the same accuracy as in relation to what occurred in my district in 1878.

I have one further statement to make. I do not remember whether I heard that testimony or not; but I talked with this gentleman, who was the old master of Eliza Pinkston.

Mr. WHITE. Why, he was examined; I heard him examined.

Mr. ELAM. I know he was examined, but I do not remember whether I heard his testimony or not; sometimes I was in attendance on the committee, and sometimes I was not. But there is evidence there to show (and it is the opinion of the people of that parish, so far as I could ascertain at the time) that Eliza Pinkston's husband was killed by a man of his own color, with whom he had formerly had a difficulty. Eliza Pinkston's husband in a fist-fight had whipped this man, who at that time threatened to kill him on the first opportunity.

Mr. WHITE. That is the allegation. There is a debate about that matter; and if the gentleman from Louisiana and myself, as lawyers, were defending the persons whom Eliza Pinkston in her testimony charged as being the perpetrators of the offense, we might probably acquit them. But what I mean to say is, that this outrage was perpetrated; and leading men like Mr. Tidwell, the ruling spirit of that parish, did not try to bring any of the perpetrators to justice.

Mr. ELAM. Mr. Chairman, there have never been greater outrages committed in this country in modern times than have been committed in the coal and iron regions of the State of Pennsylvania.

Mr. WHITE. Very well; we have brought the criminals to justice; we tried and hanged eleven of those men in one year.

Mr. ELAM. I cannot yield further.

Mr. WHITE. I shall not allow my State to be unjustly arraigned in that way. It is true that crimes were committed, wicked and criminal associations were formed——

Mr. ELAM. Those who live in glass houses should beware of throwing the first stone.

Mr. WHITE. What does the gentleman refer to?

Mr. ELAM. I allude to those atrocious crimes committed in the mining districts of Pennsylvania by the "Mollie Maguires" and organizations of that kind within the last four or five years.

Mr. WHITE. The answer to the gentleman is that while crimes of that kind were committed the perpetrators were hunted out by the authorities, were tried, convicted, and punished. Was the same thing done as to the perpetrators of these offenses in the State of Louisiana?

Mr. ELAM. It was wherever that could be discovered. Since the war I have defended more than a hundred colored men charged with murdering people of their own color.

Mr. ROBERTSON. I have done the same thing repeatedly.

Mr. WHITE. Was any effort made to bring the parties concerned in the Pinkston case to justice?

Mr. ELAM. I do not know; I have no information as to that.

Mr. WHITE. Have you any evidence that the public officers were invited to take any steps in the matter?

Mr. COFFROTH. Will the gentleman from Louisiana allow me a moment?

Mr. ELAM. Yes, sir.

Mr. COFFROTH. My colleague [Mr. WHITE] says that in Pennsylvania the Mollie Maguires were brought to justice; that is true; but there is a part of the history that my colleague does not give. As long as the organization known as the "Mollie Maguires" could be used by the republicans to carry elections in Pennsylvania they were not brought to justice. Eventually they were brought to justice through the efforts of a democrat in that State, the president of the Reading Railroad, who brought detectives there to ferret out the Mollie Maguires, and who carried on the prosecutions.

Mr. WHITE, of Pennsylvania, rose.

Mr. ELAM. I cannot yield further.

Mr. WHITE. I deny the truth of that statement. Frank Gowen was an active agent, but my friends, General Albright and Linn Bartholomew, and others in the county of Schuylkill, conspicuous members of my party, whom I could name, were prominent actors engaged in the arrest of the authors of those crimes and in bringing them to justice. Do you deny that General Albright had anything to do with bringing those criminals to justice?

Mr. COFFROTH. General Albright had nothing to do with the trial of the first causes; besides he does not live in Schuylkill County, he lives in Carbon County.

Mr. WHITE. He lives in Mauch Chunk. I referred to other friends and members of the republican party who aided to bring the criminals to justice.

Mr. COFFROTH. Hon. Frank B. Gowen and Hon. R. W. Hughes, both democrats then, the latter now a greenbacker, prosecuted those cases.

Mr. ELAM. I cannot consent to yield any further.

Mr. WHITE. My colleague should be ashamed to bring odium upon his own State.

Mr. COFFROTH. I do not bring odium upon my State. I repudiate anything of the kind. I bring odium upon the men who defended and prolonged the execution of the Mollie Maguires, the men who controlled them in the election until they secured the election of their governor in that State, and then, because of the pressure of party politics, issued the warrants for execution.

Mr. WHITE. In every one of those counties there was a democratic majority, and all the Molly Maguires were democrats. I defy contradiction.

Mr. COFFROTH. They voted the republican ticket.

Mr. ROBERTSON. Who prepared Eliza Pinkston for her appearance before the returning board?

Mr. WHITE. I did not bring her there.

Mr. ELAM then concluded his speech printed above.

Mr. WISE. Mr. Chairman, before the discussion on this bill is ended I propose to suggest a few thoughts from my stand-point, and ask how and in what manner will it affect the people of the country at large? In the light of experience the use of "troops at the polls" by the order of the President can only end in disaster to the people. The gentlemen who have seats on this floor must not forget that the people are forbearing with their rulers to a fault, but when aroused to the fact that there is a direct or indirect design to contravene their rights as free and independent citizens to declare their sentiments at the polls by hinderance or molestation, the party so doing will be denied consideration by them. The people have made up their minds on this question that "troops at the polls to keep the peace," at the call of Federal power through ANY party that may control the executive, is menacing in its character to the liberties of the people.

From the formation of the Government the people of the States have looked upon privileges given to the Federal Government with a great deal of jealousy. They are, irrespective of party, unwilling to allow any more power to be centered in the Federal Government. The universal opinion of the people of all the States is, that the power of the State government must first be exhausted before any call or assistance can be received from the Federal Government. I am free to express myself on this floor that more than 80 per cent. of *both* parties, in fact, all except the politicians, are against the use of "troops at the polls" on the pretext "to keep the peace." Our republican friends on the other side of this Chamber know that this is a dangerous tool to handle, and in a roundabout way they would favor the repeal incorporated in this bill if it were not for the *mode* of doing it. Now, I have no desire to criticise the motives of these gentlemen; but, Mr. Chairman, are not the republican politicians here really begging to have a little more time, inasmuch as an election is close at hand? If they can only use the military at that time, they will be satisfied. They have just learned how to use this force in connection with marshals and a host of political spies who have been fattening upon the hard-earned taxes demanded from the people.

I insert the sworn testimony of a witness before the Wallace investigating committee of the Senate, to show the means used by the republican party to keep the peace at the polls:

Charles F. Miller sworn and examined.

By the CHAIRMAN:

Question. In what precinct do you live and vote?

Answer. In the seventeenth division of the Nineteenth ward.

Q. Were you in that precinct on election day?

A. Yes, sir.

Q. State what occurred there with regard to the conduct of the marshals, if anything.

A. About five o'clock a gang of repeaters came there—three or four of them—brought there by a letter-carrier. One of them came up to vote in the name of Mr. Motts. He was challenged, as it was said he was not the man. I went up and looked at him. I knew Mr. Motts, and I told this man he was not the man and he would have to go away from there. So I took hold of him and took him around to Magistrate Field's. He gave the name of Harrison; he had a hearing and was committed to prison. I took him down, and at that time got talking to him. I knew his face but did not know his name. Then he said his name was McCracken. He was taken to prison. The United States marshal there did not interfere. It was

very quiet before that. About that time there was a little squabble in consequence of some man, who came up with a workingmen's ticket, hitting this man of whom I have spoken, but I stopped him.

Q. How do you know that it was a letter-carrier who brought that man there?
A. I saw him; I know him. I have seen him in uniform.
Q. Was he in uniform then?
A. No, sir.
Q. What is your official position?
A. I am the murder detective of Philadelphia.
Q. In connection with what office?
A. The district attorney's.
Q. Do you know Philip Madden?
A. Yes, sir.
Q. Where does he live?
A. On Bainbridge street, I think, above Seventh, in the Fourth ward.
Q. In what division?
A. I cannot tell; I think it is the fourth.
Q. What is the character of Philip Madden?
A. I think he is one of the worst men in Philadelphia.
Q. In what respect?
A. He is a dangerous man; he is violent and dangerous.
Q. How long has he been out of prison?
A. I think probably eight months or a year. He was convicted of highway robbery, I think.
Q. Do you know of this man Madden having shot anybody?
A. I did not see him shoot anybody. I heard he shot a boy at one time.
Q. Was he in prison, to your knowledge, more than this one time?
A. He was in prison twice.
Q. What is his general character; is it that of a peaceable citizen, or that of a desperate, bad man?
A. His character is that of a desperate, bad man.
Q. Do you know Frances McNamee, of the Eighth ward?
A. Yes, sir.
Q. What is his character?
A. I arrested him for being concerned in five robberies, about seven years ago, and convicted him for having stolen goods in his possession. He was sentenced, I think, to eighteen months. I am not certain about the length of the sentence.
Q. Do you know in what precinct he lives?
A. No, sir; he lives in the Eighth ward, somewhere about Locust street.
Q. Do you know Joseph Hilferty?
A. No, sir.
Q. Do you know Daniel Reading, of the First ward?
A. Yes, sir; very well. I guess everybody here knows him.
Q. What is the general reputation of Daniel Reading?
A. He is considered to be a very bad, dangerous man. He has been tried for murder.
Q. How long since was he tried for murder?
A. In 1869.
Q. Is his reputation still bad or good?
A. Bad.
Q. Do you know a Mr. Pitts?
A. Yes, sir.
Q. Of what ward?
A. The Seventh ward. He keeps a place in Lombard street above Eighth, on the south side.
Q. What is his business?
A. He keeps a gambling-place, and things of that kind.
Q. Is he a colored man?
A. He is a colored man.
Q. He keeps a gambling-house. Is it a drinking-house?
A. Yes, sir. He has been arrested once or twice, and was tried before.
Q. For what offense has he been tried?
A. I cannot remember; but he was arrested once or twice.
Q. To what ward does Daniel Reading belong?
A. To the First ward. His name does not appear upon the list of marshals as having been put down for the precinct in which he lives, but I think he lives in the twenty-third precinct; on Mildred street below McKean, I think.
Q. Is the name of Frank McGowan on the list of marshals here before the committee?
A. Yes, sir.
Q. Is the name of Philip Madden on the same list of marshals?
A. Yes, sir.
Q. Do you know Henry Scott?
A. Yes, sir.
Q. Who is he?
A. He keeps a hotel in Lombard street.
Q. Is he a white or colored man?
A. A colored man.
Q. Do you know anything of him?
A. His reputation is bad. I am forgetting about him.
Q. Do you know Rodney F. Springfield?
A. Yes, sir.
Q. Is he of the Fifteenth ward?
A. Yes, sir.
Q. What is his reputation?
A. He was tried for killing a colored man, for shooting him.

By Mr. CAMERON:

Q. Was he convicted?
A. No, sir; he was acquitted. He was a police officer, and the judge charged the jury that as he was a police officer, even if the man whom he shot was innocent, he had the right to shoot the man. The colored man was fleeing when this policeman shot him.

By the CHAIRMAN:

Q. Do you know George Cornelius?
A. Yes, sir; he is constable of the Fifth ward.
Q. Is he upon this list as a deputy marshal?
A. Yes, sir.
Q. The name of Springfield is on this list?
A. Yes, sir.
Q. Do you know Michael Slavin, of the Fifth ward?
A. Very well.
Q. What is his reputation?
A. He is a notorious repeater, a thief.
Q. Has that been his reputation for some time?
A. It has, so far as I know him, for eight or nine years. I have seen him lead gangs of repeaters to vote, many a time; that is his profession, "repeater."
Q. Do you know William Glenn of the Nineteenth ward?
A. Yes, sir.
Q. What is his business?
A. He is superintendent of Norris Square.
Q. Under what authority?
A. Under the city.
Q. Does his name appear on this list of marshals?
A. Yes, sir.
Q. Do you know Charles Boeler, [or Brinkler?]
A. He is the constable in the Sixteenth ward.
Q. Is he upon this list of deputy marshals?
A. Yes, sir.
Q. Do you know Charles Dannenhower?
A. No, sir; I might know him by sight.
Q. Do you know Thomas Hood?
A. I think I do.
Q. Do you know David Monat?
A. I do. He is a councilman from the Fifth ward. He is in the prothonotary's office.
Q. A clerk in the prothonotary's office?
A. Yes, sir.
Q. Is he upon this list of deputy marshals?
A. Yes, sir.
Q. Do you know John Patton?
A. No, sir; not by name. I might know him if I saw him.

To use such means to "purify" the ballot is simple mockery.

As we pass along this line of argument let it not be forgotten by the gentlemen on the other side of the House that when their party was first organized it was published to the country by no less a personage than Hon. Rufus Choate, who was a bosom friend of Daniel Webster; that the republican party was sectional, the members of which were parading the streets of Boston before Mr. Choate's office with a flag with but one-half the number of stars within its folds, and were engaged in breathing out all manner of epithets against the South. This is the same republican party which flourished in proportion as sectional principles prevailed in 1860, and now is dying out in proportion as the people of the nation are becoming united. This is verified in both Houses of Congress. Now, forsooth, in proportion as the Southern States are returning to the Union and to the democratic party, we find the same sectional appliances of hate, vituperation, and abuse employed on the part of the republican Representatives to effect the same end, and when that cannot be done, and the people still fail to vote the radical ticket, they come upon the floor of this House crying "Give us the Army—troops at the polls to keep the peace." It is patent to every close observer, to every one who reads, that since the people of the South have been relieved from the interference of the Army, through democratic influence, there is more prosperity, more happiness, less confusion in that section than when the Army had charge of the polls.

Now, Mr. Chairman, not only was the strong arm of the military used at the polls in the several parishes in the State of Louisiana, but the troops dictated who should preside in the Legislature in 1876 by interfering in the legislative hall in driving representatives from it, so that the political complexion of that body was changed. Mr. Chairman, I ask if this branch of the National Legislature, this committee, is not a *polling place*? This is a place where votes are cast, expressions are reflected. Cannot the President, under this law, when we get a little boisterous, as was the case on last Saturday—it was especially more so than I ever witnessed at home at my polling place—cannot he send the troops here to this polling place to "keep the peace at the polls?" I insist that this is inferable, but is not in accordance with the eternal fitness of things. Yes, sir; he can invade either or both of these Chambers on the pretext that he is "*keeping the peace at the polls*" just as well here as in any State or parish in the country.

Mr. Chairman, when these facts are fully realized by the people in the North, you will see a change in the political phase of the Northern States. There is no mistaking this. Sir, it is patent to every thinking man that the plea of the republican members on this floor is for a revolution in the political status of the country. It is for a military despotism instead of a free representative form as our fathers gave us. Then, Mr. Chairman, the minority in this House are as much dissatisfied as they were before the late war of the rebellion; they want a revolution; they want to drive the representatives of the Southern States away from these halls. They find that this can be accomplished only by the placing of "troops at the polls to keep the peace;" they find they cannot do it by *reason*, hence they desire to do it by the power of the sword. They, by the change of the fundamental law of the land, have increased the representation in the Southern States, and unless they can command the strong arm of the "Army at the polls to keep the peace," as they have it in the law, they fall into the minority on this floor. The approaching election makes them overanxious in regard to the repeal of the several sections indicated in this bill. Does this not conclusively prove that they have lost all confidence in the people to hold free elections? Insisting, as they do, for the "troops to be kept at the polls," do they not commit themselves in opposition to trusting the people? Do they not say that *self*-government is a failure? George III made this same demand of the colonies. It was on this very principle that we separated from the mother country. We defended the principles of self-government against a foreign power; are we to defend and contest the same principles with the rulers of our own Government?

Mr. Chairman, we as a nation are struggling with a political foe for as sacred a cause as engaged the colonial fathers with a despotic foe. It is the same revolution over again; only, instead of being a despotic foreign foe, it is a political usurpation of the rights and liberties of our people. Hence, this is a vital question to the American people. There is another view of this subject I desire the members of this House to examine before they vote on this question. Our republican friends have been in full power for about eighteen years,

and they learned too well that the *purse* and the *sword* are the power of the nation. They care nothing for public *opinion*. What they want is power. If the sections of the law proposed to be stricken out remain on the statute-book, then they have the use of the sword at the polls to "keep the peace." In my district the great struggle is to get the *purse* away from the republican party, back to the people, so that it can be so managed that the commercial industries can be revived. Under the management of the republican party the once thriving laborer and mechanic are too poor to obtain the prime necessaries of life.

In Pennsylvania we have to pass laws to punish tramps. It seems to have become a rule that the more business a man does the poorer he gets. The hardest-working man in the neighborhood is the first to be sent to the almshouse. The man who does the least to increase the volume of wealth in the country is flourishing out of large gains taken from the misfortunes of his useful business neighbors. But, Mr. Chairman, the scene does not close here; would to God that it did, and the curtain would drop and shut out from mortal vision the multiplied cases of deep distress and anguish which are on every hand. Investigation has disclosed a fearful situation among the laboring classes all through the North.

I here invite the attention of the committee to a report of an investigation made of the condition of the workingmen of Chicago:

A number of families were visited at meal-time. The food was observed to consist chiefly of black bread and broth. In a few instances there was a sort of a mess which had been cooked in an iron kettle, consisting of pieces of meat, bread, and soup. The physician stated, as a result of repeated observations, that much of the food eaten by this class was obtained at the slaughter-houses in the shape of refuse and blood.

Starvation has prevailed to an alarming extent, *with* and in the *face* of *unlimited crops* of every kind. These starving, suffering masses have been driven to *riot* and unlawful acts, not that they were intentionally wicked, but because they were in want of the common comforts of life. Sir, I might weary the patience of this committee by reciting tales of suffering and woe which have been endured by the best people of the country. During all this time the republican party has had full control of the Government.

Now, Mr. Chairman, let us account in some way for the situation. The picture is true of about nine-tenths of our people; the other tenth, I wish to speak of. They are the *favored* class of this country; their interests have been fully cared for in this Chamber. The taxes of the country have been lifted from their property and placed upon the shoulders of those least able to bear them. They, by being in a large majority on this floor, have seen fit to change the original contract of the foreign and domestic bondholder, thereby doubling the value of his bond at the expense of the people. In consonance with this they have a system of finance which is certain death to any of the business interests of this country. I refer to the national banking system in connection with the bond system; I know of no plan which could have been devised to so universally destroy the laboring classes as the one just referred to.

The dollar of the banker has *four times the power* of the dollar of the producer. The producer and manufacturer, after deducting taxes, can by careful industry and close economy save at the end of the year but little above 3 per cent. on capital invested, while this system of national banking realizes at least 12 per cent. The result of this is, the *useless* business has crushed out the *useful* vocations of the country while the money-selling banker has acquired great wealth and power; the industries are reduced to the lowest point of bankruptcy; the important law of *distribution* is violated to such an extent that a slavery is upon the white laborer of the North more loathsome and oppressive than was ever upon the black man of the South. I make no defense of southern slavery, because it was wrong; but what profit is it for the people of the North to offer up their lives for the abolishment of the one and then place themselves and their children under the *power* of a more exacting and oppressive master? At this juncture the republican party are calling most lustily for the use of the Army at the polls. This, to say the least, looks suspicious. They must mean more than "*honest elections and honest count.*" Do they not oppose the repeal of the clause allowing the "troops to be used at the polls?" And why, Mr. Chairman, do they do it? For this reason: *they* have the greatest maximum of power and the people are reduced to their greatest minimum of power; hence a *good* opportunity is presented to revolutionize the Government.

The suspicion is still further aroused when it is so strenuously insisted upon just before the approaching campaign, with their candidate in training among the crowned heads, and who has already received as lengthy a service in the presidential chair as the "Father of his Country" would accept for fear the people would look with suspicion on any movement of this kind as a step taken in the direction of imperial power. Taking all these facts into consideration—that eight years in the presidential chair is as long a time on an average as the crowned heads of Europe hold the reins of their government, and that the republicans are insisting upon the use of the Army at the polls when the people are at their minimum financial strength to achieve victory—there is but one solution, and that is *that the leaders of the republican party* rather than let the democratic party govern the country, by the power of the PURSE and the SWORD are determined to revolutionize the Government from one of OPINION to one of FORCE. Hence we conclude that the present issue is one of the most important in time of peace ever brought before the American Congress, and the democracy cannot satisfy the people if they return to their homes without repealing the law; for ours is a struggle for liberty—the liberty of the individual, the liberty of a fair and honest ballot. Liberty exists in the hearts of our honest and sturdy voters. They heartily exclaim, in the language of Colonel Lovall, who was confined in Cromwellian dungeons—

O Liberty, can man resign thee,
Once having tasted thy gentle flame?
Can prison bolts or bars confine thee
Or whip thy noble spirit tame?

Mr. WHITE. Will my colleague allow me to ask him a question?

Mr. WISE. I am always charitable, and will yield to my colleague.

Mr. WHITE. Was my colleague a democrat or greenbacker?

Mr. WISE. My colleague wishes to draw me out on that subject.

Mr. COFFROTH. He is a democratic greenbacker.

Mr. WISE. I am opposed to the national banking system.

Mr. WHITE. Is that the way they are in Greene County?

Mr. WISE. I am standing where President Jackson stood in 1832, and hold that the national banking system is dangerous to the liberties of the people, and I say four-fifths of the republican party in my county stand upon the same principle. They are opposed to the national banking system. They want the credit of the people given back to the people. They do not want it centered in the hands of a few men, taking the credit and property of the people for nothing and turning round and selling that credit back to them at a rate of interest which no business in the country can pay.

Mr. WHITE. How much "greenbacks" does the gentleman want?

Mr. WISE. As many as will subserve the best interests of the people. I do not propose to say how much that will be, but I propose to reach that particular point that will inure to the best interests of the people.

Mr. WHITE. Is my friend in favor of the billion proposed by the gentleman from Iowa?

Mr. WISE. I will give my answer in this way: I believe the present financial system has been sedulously contrived, not for the improvement of the condition of the people, but, on the contrary, to the destruction of their best interests. I refer the gentleman to his own district, and I am sorry to refer him to my own district, with which he is well acquainted.

Mr. WHITE. My own district is getting along well.

Mr. WISE. A few men are making themselves rich out of the misfortunes of their neighbors—making more in that way than by legitimate business, whether of mining, agriculture, or otherwise. The iron interest, sir, of your county is in a terrible condition. I say, sir, that in nine counties out of ten in my State instead of one sheriff we should have two or three to conduct the sales. I know that my colleague is too intelligent to make a mistake in that direction. But if he is subserving the best interests of the country I will acknowledge that I am mistaken and he is right.

Mr. WHITE. The sheriff says the sales are decreasing in my district.

Mr. WISE. Do you not know there are more sheriff sales in your district now than there ever were in all its history?

Mr. WHITE. No, sir; two years ago the sheriff sales were more numerous. Since that time we have seen prosperity returning to our people. Business is looking up, and it will improve still further if we turn our attention to more legitimate legislation than these partisan enactments. I would like to hear my friend upon that question.

Mr. WISE. I thank my friend for calling attention to that. I have been endeavoring to call attention to it all the while. But when we undertake to offer bills for the relief of the distress which prevails among the people what do we find? We could not come before this House and present bills for the relief of our people; and why? Because the party on the other side to which the gentleman belongs objected by absorbing the entire morning hour. I say, Mr. Chairman, that party will be held to an account for this insult—I cannot use any milder word—for this insult to the American people.

I know my colleague [Mr. WHITE] is a very popular gentleman. He carries his own district in spite of several candidates dividing the opposition vote. I have not been up there myself, but still I am satisfied that some day he will find his match and that a Moses will arise in his district who will lead his people away from the bondage of the money-changers and do better for their interests.

Mr. COFFROTH. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. COFFROTH having taken the chair as Speaker *pro tempore*, Mr. JONES reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. STONE indefinitely on account of sickness.

WITHDRAWAL OF PAPERS.

On motion of Mr. GOODE, by unanimous consent, leave was granted to withdraw from the files of the House papers in the case of Anna Perry; there being no adverse report thereon.

On motion of Mr. EVINS, by unanimous consent, leave was granted to withdraw from the files of the House papers in the case of Phœbe Meek; there being no adverse report thereon.

Mr. SHALLENBERGER. In pursuance of the order of the House made this afternoon, I move that the House now take a recess until ten o'clock to-morrow morning.

The motion was agreed to; and accordingly (at eleven o'clock p. m.) the House took a recess until to-morrow morning at ten o'clock.

AFTER RECESS.

The recess having expired, the House reassembled at ten o'clock a. m., (Friday, April 25, 1879.)

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. RICHARDSON, of South Carolina. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. RICHARDSON, of South Carolina, addressed the committee. [His remarks will appear in the Appendix.]

Mr. KIMMEL. Mr. Chairman, this law intends to clothe the United States Government with authority to keep the peace in the several States in violation of the Constitution, and therefore ought to be repealed.

The line of demarkation between the powers delegated to the United States and those reserved to the States and the people is clearly laid down in article 10 of the Constitution, in these words:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

However wide may be the differences between strict and latitudinarian constructionists of the Constitution in regard to many of its provisions, there cannot be honest difference here. The framers of the Constitution were too deeply interested in protecting the States from the power of the Federal Government and its dread instrument, a standing army, not to have provided in the plainest language against all interference with the internal order of the States except upon the demand of the States themselves, as follows:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.—*Article 4, section 4.*

This is too plain to be misunderstood. Domestic violence is broken peace. How, then, can the Federal Government keep the peace or assist even at keeping the peace in a State except in compliance with the application of the Legislature or the governor thereof. Therefore all attempts by the United States to keep the peace in a State is an indisputable violation of the Constitution, and such violation is most grossly aggravated when its officers or soldiers invade the most sacred of its precincts, the polls of a State, when the people thereof are in the act of exercising their highest right and most important duty, the election of their representatives in the United States Government, which by the presence of its soldiers and civil officers is attempting to usurp the rights of the State. So careful were the members of the Second Congress, 1792, many of them members of the convention which framed the Constitution, that this application by the Legislature or governor should not be covertly made, or the power of the General Government covertly exercised, they provided that before the power could be exercised proclamation should be made whereby the people of the State, as well as those who broke its peace, should have notice of the application for and of the intended exercise of this power by the Federal Government. For these reasons I demand the repeal of these laws.

NO EXCLUSIVE JURISDICTION IN A STATE.

This law pretends to clothe the United States Government with exclusive jurisdiction within the several States in cases not provided for in the Constitution, and therefore ought to be repealed. The Constitution provides the manner in which the United States may obtain the power to exercise exclusive jurisdiction over territory within a State as follows:

> The Congress shall have power * * * to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.—*Section 8, article 1, clause 17.*

It is hardly necessary to say that the statutes of the United States and the decisions of the Supreme Court of the United States are in accord with this provision of the Constitution and treat legislation and jurisdiction as synonymous terms. No such exclusive jurisdiction can be had for a single instant of time or over an atom of the soil of any State except by formal cession by the State and formal acceptance by the United States, or by formal condemnation and payment for private property taken for public use. I presume that no one will pretend that these places of registration or polls of election over which jurisdiction is claimed under this law have been acquired either by purchase or condemnation; and therefore this claim to exclusive jurisdiction is entirely without foundation in law.

AUTHORITY OF SUPERVISORS AND MARSHALS.

Having established beyond dispute that the United States has not authority to keep the peace in a State and that it cannot have exclusive jurisdiction within a State except as provided in the Constitution, I propose to show further in what manner this law violates the Constitution. Section 2022 provides that "the marshal and his general deputies, and such special deputies, shall keep the peace;" and that "the supervisors of elections shall, in the absence of the marshal's deputies, * * * have the same duties and powers as deputy marshals."

Section 5522 provides as follows:

> SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes or rejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal, or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

AUTHORITY OF MARSHALS AND SUPERVISORS.

This law provides for invasion of the States and the exercise of exclusive jurisdiction therein in violation of the Constitution in the manner following:

1. This law directs the judge of the United States circuit court (Judge Bond, for instance) to appoint supervisors with authority to exercise all the duties of marshals, and directs the marshal of the district to appoint deputy marshals, without limit as to numbers, without requirements as to character, without security as to transgressions of their duty under the law.

2. It clothes these supervisors and marshals with authority over places of registration and polls of election without any such description of such places of registration and polls of election as to define the territory over which their authority or pretended authority extends. This authority may be extended over a perch, a rood, an acre, a mile or miles, as these supervisors and marshals interpret the law.

3. It clothes these supervisors and marshals with authority not only to enforce the execution of the provisions of this law as to registration and voting, whereby upon the slightest pretense a voter may be arrested and deprived of the right to vote, but with the general authority to keep the peace and to employ the whole *posse* or power of the judicial district to keep the peace according to such interpretation as these supervisors and marshals may place upon the law, whereby the liberty and lives of the residents of the States may be endangered or lost either by resistance or obedience to their command.

4. It clothes these supervisors and marshals with power to make instant arrests with or without process, and forbids every person, with or without authority or process of any State or municipality, to hinder them in the exercise of these enormous and extraordinary powers, or in going to and from the places of registration and polls of election, under penalty of fine or imprisonment or both.

5. Under color of this law these supervisors and marshals and deputy marshals may disfranchise any voter, and may arrest, imprison, and take the life of any person who in the opinion of these supervisors and marshals hinders or obstructs or threatens or attempts or offers to do so, or refuses or neglects to aid and assist them in the exercise of these enormous powers, if such hinderance or refusal in their opinion extends to a breach of the peace, whether at the places of registration or polls of election or in going to or from such places of registration and polls of election, without regard to the time consumed or to the indirectness of the route by which they may choose to go to their homes, even though such time and route be availed of to escape beyond seas. And if under color of this law these supervisors or marshals commit violations of the law of a State, no matter how heinous, rising even to the degree of murder, and in the presence of any number of the citizens of that State, no one of those citizens, from its highest to its lowest, with or without authority or process, may hinder, obstruct, or arrest them in the act. And if after the return of these supervisors and marshals to their homes the State attempts to vindicate its broken laws they may plead the authority of the United States and cause removal of the trial to the courts of the United States where these very marshals summon the juries composed of the most ignorant and corrupt persons, by reason of the test oaths, which exclude every other element from the jury-box, and where the judges who appoint these supervisors and marshals warp

the laws as the necessities of the republican party may demand. Thus under color of this law, in a period of profound peace, the Federal Government is enabled to invade the rights of the States, New York or California, Maine or Texas, by setting up the right to an exclusive jurisdiction therein in violation of the Constitution, and for the purpose of maintaining the ill-gotten power of the republican party by making the judiciary of the United States the degraded instrument of partisan usurpation.

THE INDEPENDENCE OF THE REPRESENTATIVE DESTROYED.

This law, by enabling Federal authority to interfere with the election of the Representatives of the people of the States, subjects these representatives to the influence of the Federal Government, in opposition to the plain intent of the framers of the Constitution, and is therefore in violation of the spirit of that sacred instrument.

The first care of the convention which framed the Constitution was to establish the legislative department of the Government, and to describe the elements of which that department should consist in language so clear and distinct that no one whose mind is not warped by partisan feeling can mistake its meaning. It is in these words:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature.—*Section 2, article 1.*

Thus this second section of this first article of the Constitution establishes as the intention of its framers that the members of the House of Representatives should be the Representatives of the people of the several States, and not the Representatives of the people of the United States; and that this intention might not be misinterpreted it established in the States the right to fix the qualifications of the persons who are to vote for these Representatives of the people thereof. No one, I think, will deny that this article of the Constitution makes the election of these Representatives of the people a subject purely of State concern. Confirmatory of this intention the framers of the Constitution made section 4, article 1, to read as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This section 4 makes it the duty of the Legislatures of the several States to prescribe the times, places, and manner of holding elections for these representatives of the people of the States. No language could have made the intention of imposing this duty upon the Legislatures of the several States clearer or more imperative.

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." Shall be prescribed. Could the intention be expressed more clearly or more imperatively? And further, it imposes this duty primarily on the States solely and exclusively. And then, lest the Legislatures of the several States should refuse or neglect to perform this duty, and by such refusal or neglect by the Legislatures the people of the States might be deprived of the means of electing their Representatives in the Congress of the United States, and thus defeat the Union intended to be formed under the Constitution they had framed, they added to section 4 this clause: "but the Congress may at any time by law make or alter such regulations, except as to the places for choosing Senators." This added clause was a measure of precaution suggested by the frequent absence of members from the continental congress both before and after the confederation—some of the States being without Representatives, notably the State of Rhode Island, as long as six months in succession—and by the known repugnance to a Union having larger powers than those committed to the confederation felt by a large proportion of the able and influential citizens of the several States.

It was to prevent a recurrence of this failure on the part of any or of a majority of the States to provide times, places, and manner of holding the election for Representatives of the people of the several States and thereby depriving the people of Representatives in the new Congress that mainly induced the convention to add this clause, because by this means the Union could have been dissolved without even an avowal of the purpose. The best commentators agree as to this. History demonstrates that the precaution was wisely taken. In the cases of the purchase of Louisiana and the annexation of Texas distinguished members of the Massachusetts Legislature declared in favor of a dissolution of the Union. If disunion had been attempted would not failure to provide for election of Representatives in Congress been the first step in that direction? During the darkest hours of the war of 1812 the Hartford convention, claiming to represent New England, assembled to consider the policy of dissolution of the Union. Does any one doubt that refusal to elect delegates to Congress would have been the first step taken? During the campaign of 1856, with Frémont as its candidate, the free-soil party, aggressive and powerful, reared its banner of fifteen States and declared against a union with slave-owners. How else could they have effected their purpose except by refusing to provide the times, places, and manner of holding elections for Representatives in Congress? When, in 1861, the Southern States attempted to secede their first action was to withdraw their Representatives from Congress and then fail to provide for future elections. This added clause was a means of self-defense by which it was intended to afford to the people of the several States a means of maintaining the legislative department of the Government of the United States. It is true there were other reasons, notably these: the necessity for fixing the time for holding these elections so that there should not be vacancies in a called session of Congress as is now the case with California; the good policy of regulating the representation so that there should be uniformity as to elections by districts or by general ticket, all of which reasons have been assigned as of weight in inserting this additional clause. But nowhere does it appear that this clause was intended to cover the enactment of these laws by which the States are to be policed by the Federal Government by its Army or its civil officers, with power to summon the *posse* of their district, whereby the people of the States are to be overawed and coerced while in the act of electing their Re presentatives, and this, too, under color of law which, under pretense of authority to keep the peace at the polls, usurps exclusive jurisdiction. The wise statesmen who have been made immortal by constructing this greatest of all organic laws, the Constitution of the United States, could not have committed the fatal blunder of incorporating in that instrument the certain means of destroying its vital principle, free ballot by a free people, nor could they have failed to foresee that power in the Federal Government to influence the election of the Representatives of the people of the States would destroy the checks and balances by which they so sedulously sought to adjust the Constitution. They were too wise not to know that the only security for the liberty which the Constitution was intended to establish and preserve was to be found in the independence of the several departments of the Government, and therefore they placed not only the election of the Representatives beyond the control of the Federal Government but they also placed the House of Representatives beyond that control in a manner not to be misconstrued, as will be seen by article 1, section 5:

Each House shall be the judge of the elections, returns, and qualifications of its own members. * * * Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

And by article 1, section 6:

The Senators and Representatives * * * shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

The only exceptions of this nature to be found in the Constitution. And for the purpose of further securing these Representatives of the people of the States against the influence of the Federal Government the framers provided in article 1, section 6, as follows:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

This provision, intended to preserve the independence of the members of the House, stringent as it is, did not, in the opinion of many of the framers of the Constitution, go far enough. The wisest among them proposed that no member of Congress should be eligible to appointment to office under the Federal Government until one year after the term for which such member was elected had expired.

Now, sir, I ask if in the presence of all these provisions of the Constitution, so clearly and strongly expressing the intention of the framers to hedge around, defend, and maintain the independence of the individual Representative of the people against the power and influence of the Federal Government, is it possible for any sane man to believe that the framers of that immortal instrument could have intended to render all these provisions utterly void and of no effect by subjecting the election and thereby the independence of these Representatives of the people of the States to the dominating power of the Federal Government by clothing that Government with the most dangerous of all its powers, the right to be present at the polls with soldiers of the standing Army or with civil officers having authority to summon the *posse*, with exclusive jurisdiction over the liberty and lives of the voters there in the act of choosing these Representatives. No man fit to represent the people in this House, who entertains a decent respect for the opinion of his fellow-citizens, will dare upon cool reflection to declare such belief.

Statesmen wise as were the framers of the Constitution, versed in the history of the all-instructing past, and particularly in the history of England, its slow but steady progress toward peaceful, constitutional liberty, could not have failed to recognize in the Commons the creator and defender of the English constitution. Guided by the precedents of that long and arduous struggle they formed the House of Representatives on the model of the House of Commons improved by adapting it to the demands of a democratic, liberty-loving people, unencumbered in their new existence by the aristocratic accumulations of ages. As in the House of Commons these wise men placed in the House of Representatives absolute control of the purse and sword of the people and to maintain that House free of all influence of the Federal Government in whatever sense they established its independence as absolute as its control. How else could those great and wise men have effected their great and wise purpose of committing to the House of Representatives the highest of all governmental trusts, the protection of the liberties of the people? This law is so clearly in violation of the intent of the framers, as to make its unconstitutionality apparent to the dullest minds. It is so clearly partisan that

no man can mistake its purpose and so oppressive as to be intolerable. For these reasons an indignant people demand its repeal.

THE RIGHT OF THE PEOPLE TO CHOOSE THE PRESIDENT AND VICE-PRESIDENT ANNULLED.

Under color of this law, without even pretense of authority, the right of the people to choose the President and Vice-President is abrogated. It will not be denied that the presence of United States soldiers at the election polls of the States with authority or pretended authority to keep the peace, or United States officers with authority or pretended authority to keep the peace clothed with power to summon the *posse*, and with the further authority or pretended authority to arrest any one whose right to vote these officers may choose to doubt, destroys all semblance of a free election; the foundation on which the Government of the United States stands. If denied, let the experience of the last fourteen years in a period of undisturbed peace, attested by thousands of witnesses, refute the denial. It will not be affirmed by any man whose self-respect has not fallen below the level of contempt that there is the slighest semblance of authority for applying this law to election of President and Vice-President, and yet in every State where the election of Representatives and of President and Vice-President occur on the same day, this law is made to apply to election of President and Vice-President as effectively as it applies to the election of Representatives. And that there shall not be any escape from this oppressive usurpation, the Federal law has provided that the election of Representatives, President, and Vice-President shall take place on the same day in every State where the constitution of that State has not otherwise provided. Nor does the effect of this bold usurpation stop at this partisan control of the election of these Federal officers, but it enters into, affects, and controls the election of every officer elected by every State, county, city, and town which elects its officers on the same day on which the Representatives are elected.

It is no answer to say that the election of President and State and other officers may be held at other places. Apart from considerations of convenience and economy, the causes which could compel such a severance of the places of election would be as effectual in restraining the liberties of the people as though these soldiers and servants, the insignia and instruments of Federal power and usurpation, were present at these second polls. Was there ever a contrivance so subtle, all-pervading, and penetrating as this for the enslavement of a people under so plausible a pretense—the defense of the freedom of elections? A thousand times better the defiant usurper who vaults from his saddle to a throne, because the thunder of his artillery proclaims his purpose and summons the nation to resistance. Cowardice undermines, courage assaults the liberties of the people.

THE MAJORITY BY WHICH THIS LAW WAS PASSED WAS LESS THAN THE NUMBER OF MEMBERS APPOINTED BY THE SOLDIERS AT THE POLLS.

Under color of this law, sustained by a partisan judiciary and defended by the veto, the President may control the elections and delay its repeal indefinitely. A very small minority of the voters, advantageously located, the essence of whose political creed is distrust of the people, backed by the power of the Federal Government, its army of soldiers and more effective army of office-holders, and supported by the great monetary interests whose safety these interests are persuaded falsely to believe consist in restraining the masses, may under the provisions of this law sustain a party until the people maddened by tyranny may acquire by force what force and fraud withholds. Burdens may become too heavy—wrongs too grievous to be borne.

Sir, this very state of things has existed for the last ten years. The majority in the Congress which passed this law was not elected by the people of the States, but was appointed by the President of the United States by military interference. The Army at the polls elected the pretended majority in the House of Representatives. The Army at the polls elected the pretended majority in the Legislatures which elected the pretended majority in the Senate. The Army, the supervisors, and the marshals elected and counted in the last of these men who now holds a seat in the Senate, and that man introduced this supervisory law. The Army, the supervisors, and marshals made the electors in South Carolina, Florida, and Louisiana, who counted in Rutherford B. Hayes as President of the United States. The Army enforced his inauguration. By the Army he proposes to elect his successor if he vetoes this bill. That veto, if sustained by the people of the United States, is to destroy their liberty. In little more than one hundred years a nation, born and baptized in blood, achieved the most perfect freedom, accomplished the highest prosperity, and died a most ignoble death. If thus it dies, it dies without a struggle, and dies unhonored and unmourned. It is suicide, such as no history records. Sir, this cannot be. The people will scorn the veto, and crush the man who makes it. I bide the result with unfaltering confidence.

When, sir, on Tuesday last Hon. GEORGE M. ROBESON, Secretary of the Navy during nearly eight years of President Grant's administration and now a Representative of New Jersey on this floor, made an argument in defense of this law, I recognized him the only man who had the courage to follow its provisions to their logical conclusions. No doubt, no hesitation, no disguise weakened his utterances. A better cause would have been honored by the manliness of his defense. His courage had its force in the long exercise of the powers he maintained. He declared with unmistakable precision that the Federal Government had the right, and that it was its duty to exercise that right, to execute the provisions of this law, not only at the election for Representatives by the people at the polls, but also at the election of Senators by the Legislatures of the States; and that for the execution of this law it ought, if necessary, to employ all the force it could command; that if at the time and place of electing United States Senators by the Legislature of a State a riot should occur, it was the right and duty of the Federal Government to suppress that riot by the use of the Army, even in the legislative halls of a State. Startling as was the announcement, it was the unavoidable conclusion of an honest defense of this law, and it well became a member of President Grant's Cabinet to avow and defend the law. It was enacted by a Congress in which were members appointed by the Army sufficient to constitute its majority, and signed by President Grant, who executed it with remorseless energy. The country owes the Representative from New Jersey, Hon. GEORGE M. ROBESON, a debt of gratitude for stripping the velvet glove from the iron hand that clutches the throat of public liberty. That speech was a defiant justification of the past, an insulting proclamation for the future—a military despotism sustaining the use of all the means which ingenuity can devise as necessary to enforce all the powers which a latitudinarian construction can deduce from the Constitution.

In clarion tones he sounded the advance of the bannered hosts which his chief, in triumph advancing, hopes to lead to victory in 1880. Slaves, stretch forth your arms to receive the manacles prepared by your masters. The will of a monarch is the law of the land. That representative is Grant; Grant inaugurated Hayes, and Hayes preserves the machinery for inaugurating Grant.

THE MANNER OF REPEALING THIS LAW NO CAUSE FOR VETO.

Much stress has been laid on the manner in which it pleased the House of Representatives to present this law to the President for his signature, a matter of very grave objection—very. I know it has been denied that this House has been threatened with a veto. But, sir, it will not be denied that declaration has been made again and again on this floor that this bill cannot become law, although there is a majority in this House of twenty-six and in the Senate of eight. How can it fail to become law if not by the veto? The threat would have been more manly if more openly made. The denial was not courageous. Heretofore Presidents considered the substance, not the manner, of a bill. Does the present incumbent of the presidential office demand that the representatives of the people conform their bills to the humors of his caprice? Would he have his ever-faithful commons present on bended knee their humble petition to his most sacred majesty? Sir, the representatives of the people cannot so descend. They prefer rather to follow the precedent set by their sturdy fathers, who in the First Congress, 1790, presented the first appropriation bill passed under the Constitution of the United States, with general legislation incorporated therein, to George Washington, "first in war, first in peace, and first in the hearts of his countrymen," and by the free ballots of a free people unanimously elected first President of these United States; and, sir, he freely signed that bill. Nor did any one threaten a veto for lack of reverence in the form. This form has been followed from that time to this whenever convenient, expedient, or necessary; nor has lack of reverence been urged as just cause for veto. This House chooses to follow these precedents. Nevertheless, sir, this House may be contumacious. Things have become much altered of late. It may be that a President elected by the free ballot of a free people is not so much an object of reverence as a person who occupies that position by other means, even though not exactly in accord with a constitutional proceeding. However this may be, I have not learned that the fathers considered lack of reverence constitutional ground upon which to base a veto. The reasoning of the message may exhibit this. It is suggested that the Secretary of War entertains some such theory, prompted, it may be, by his higher breeding. Who knows?

THE VETO AS A LEGISLATIVE POWER—REPUBLICAN DOCTRINE.

Another objection is the coercive power of this bill, and therefore it cannot become a law, which is another covert threat of the veto power. This charge of coercion may or may not be well founded. It depends very much upon the definition of what is a proper use of the veto power.

The inference from the declarations and conduct of the republican side of this House is that the veto may be used for improper purposes, for the reason that the President differs from the House as to the expediency of a proposed law. According to this definition the veto may be properly used to estop legislation on the most important or most unimportant question or for mere party purposes, even against the spirit of the Constitution, as it has been intimated the veto will be applied in the case of the bill now under discussion. This definition converts the veto into a co-ordinate branch of the legislative department, and a very dangerous branch of that department it is, as in the present case. Here it sets up the will of one man, who at the election for President nearly three years ago was rejected by a majority of three hundred thousand of all the voters of the United States, and by a majority of nearly one million of the most intelligent portion of those voters, the voters of the Northern States, in opposition to the deliberately expressed will of the representatives of the people in two successive Congresses, and against the will of the representatives of the States through their Legislatures in the Senate. Converted into a co-ordinate branch of the legislative department, the power of the President as a legislator is equal only to the power

of either of the branches of that department—no more; and certainly his influence in shaping legislation ought to be much less, not more, than the influence of one man is to the influence of three hundred and sixty-nine men, they possessing, as he cannot possess, information as to the varied opinions of the one hundred and twenty-seven thousand people in each of their several districts and of the States which they respectively represent.

The Constitution confers on the House of Representatives the power to originate, discuss, amend, pass, and adhere to any bill. It confers on the Senate like power, except as to money bills, which the House only can originate. It confers on the President the power to suggest legislation to both the House and the Senate and to recommend the same by such unlimited and uninterrupted reasoning as he may choose to employ and to refuse to sign any bill presented to him, and may in his veto in like manner assign the reasons for this refusal. The President, like the House and Senate, may adhere to his negative vote, the veto. From this adherence to its vote by either House or by the President there is no appeal except to the people at the ballot-box, before whom these disagreeing legislators may appear for final judgment. Is disagreement coercion? Is adherence coercion? The Constitution confers the right to disagree and the right to adhere on each of these three co-ordinate branches of the legislative department, the House, the Senate, and the President, each independently of the other. They are equals. How can an equal coerce an equal? This, it seems to me, is the republican definition of the veto power, and according to that definition the charge of coercion fails—absolutely fails. It is a disagreement and adherence between the House, which represents the people, and the Senate, which represents the States on the side of liberty, and the President, who according to the Constitution does not represent any, on the side of despotism. The people will judge between them.

THE VETO AS INTENDED BY THE CONSTITUTION.

The doctrine on this side of the House is that the veto was conferred on the President for the purpose of checking hasty and immature legislation and of preventing unconstitutional legislation. It will not be pretended that the bill now under consideration can be classed under either of these descriptions. The law sought to be repealed by this bill is one of a series of laws passed for the purpose of perpetuating the power of the republican party long after the object for which it was created had ceased to exist. That object was the restriction of slavery within the States where slavery existed. Subsequent events added to this object the entire abolition of slavery. The war for secession which these purposes evoked gave powers to the republican party not originally conceived. The safety of the Union was proclaimed as the first duty of the Government, and even wise and patriotic men consented to what was claimed to be a necessary suspension of the Constitution. When the safety of the Union was assured by the surrender at Appomattox, wise and patriotic men demanded that the Constitution be restored. This demand was refused. This demand found formal expression in the Senate, in 1865, in the laws proposed by Mr. Powell, a democratic Senator from Kentucky, whereby he intended to restore the Constitution by restricting the Federal authority in the use of soldiers, as had been the practice under the plea of military necessity. This demand was formally refused in the amendment proposed by a republican Senator from Kansas, Mr. Pomeroy, and adopted by the republican Senate, which provided "except to keep the peace at the polls." These eight words were the formal refusal by the republican Senate to restore the Constitution. These eight words did more than refuse to restore the Constitution; they legalized the tyrannous practice under the plea of military necessity. These eight words converted the free institutions of the United States into a military despotism. The carpet-baggers who, from that time to the meeting of this Congress, constituted the republican majority in either House of Congress, were under the power concentrated in these eight words appointed by the President of the United States through military interference. After seven years of perfect peace the American people would not tolerate this open interference by the soldiery at the polls. Hardened as were these republican leaders by the long exercise of despotic powers, they dared not resist the indignation they had aroused. They saw they must yield, or seem to yield. Yield they would not; that was death to their power; but they would seem to yield. They would disguise the use of troops under a law which provides for supervisors and marshals, with power to call for troops if necessary—an army of politicians, backed by an army of soldiers, commanded by John Smith, deputy marshal, instead of Tecumseh Sherman, General of the Army. For this purpose a man, made a Senator for Louisiana by military appointment under the law of 1865, introduced this supervisory law in 1872. It was passed by a majority of Senators made so by military appointment, and that Senator now holds his Senatorship a second time by military appointment under the law he introduced. Thus for thirteen years, during a period of profound peace, the people of the United States have, under the semblance of free institutions, been governed by military power, whether under the law of 1865 or the law of 1872.

It is useless now to recall these usurpations by the military and civil officers of the Government as administered by the republican party during the long and dreary period of the continuance of these laws. These wrongs are melancholy memories. They are a disgrace to the republican party, dishonor to the American Government, and an indelible stain on the character of free institutions. Patiently have the people borne this wrong, firmly have they insisted on the right. By slow but steady approach they have gained the House of Representatives. By slower but steadier approach they have gained the Senate. Just as certainly will they recover the Presidency of which they were defrauded in 1876. Not the democratic party, but the people. In times of great danger the people know no party. As in 1776, as in 1812, as in 1861 the people in steady, enduring power marched to the battle-field, so will they march to the polls in 1880, and no power, supervisors, marshals, soldiers, may stay their will. They mean to be free, and when free they will settle their minor political differences as their fathers settled their differences, by a free ballot by a free people. No other people could have made the same progress under like difficulties. Their power lies in the calmness of conscious strength. From 1865 to this day every vote cast by every democrat, a large and steadily increasing majority of the American people, is a solemn protest against these usurpations, and especially against these laws which they seek to repeal.

The repeal of this class of legislation has been voted for, petitioned for, prayed for, during fourteen long and dreary years by a large majority of the American people, and therefore cannot be classed as hasty or immature legislation. Even if doubt as to the constitutionality of this law did not exist, its repeal could not be classed as unconstitutional legislation. The Government lived more than eighty years before it was enacted, and therefore it cannot be necessary. The repeal is not resisted because of encroachment on the prerogatives of the Executive. The repeal is not an infringement of the honor, dignity, or independence of the judiciary. If this repeal be not hasty, immature, inexpedient, not an encroachment on the prerogative, on the rights of the Executive, not an infringement on the honor, dignity, or independence of the judiciary, then wherefore the exercise of the veto power? But if, contrary to all reasonable expectation, the President applies the veto upon frivolous or party pretenses to secure a party triumph or to defeat wholesome restraint, then the people will mete out to him and his advisers that condemnation which an aroused sense of public justice never fails to apply. The Representatives of the people may await with confidence the expression of the people's will.

THE RIGHT TO WITHHOLD APPROPRIATIONS A CONSTITUTIONAL MEANS FOR REDRESS OF GRIEVANCE.

The right to refuse supplies is a constitutional means for redress of grievance; or, in other words, the right to withhold appropriations is a means within the Constitution to enforce repeal of unconstitutional and oppressive laws.

When public servants, honored by the highest trusts, avail themselves of the opportunity which possession of power affords to abuse the confidence reposed in them by their fellow-countrymen, by attempts to restrain them in the exercise of their constitutional rights, and most especially that most important of all rights, the right to remove such unfaithful servants, and when it is attempted to make such restraint perpetual by the enactment of laws not to be repealed which subject the ballot to the power of these unfaithful servants, whereby a Government intended to be free is converted into an irresponsible oligarchy, subverting the Constitution by destroying its vital principle, free choice by a free people, the highest duty demands the fullest exercise of all the powers known to the Constitution to resist the consummation of this most grievous wrong.

Under the Constitution there are three means for redress of grievance—the courts; the ballot; repeal, voluntary or enforced.

Redress through the courts is slow and uncertain, too slow, for the reason that the consummation is too imminent to admit of the law's delay. Before decision can be had another pretended election of President will have occurred and another usurper placed in the chair of Washington; or if decision could be had the partisan character of a majority of the courts forbids the hope of non-partisan decision.

Redress through the ballot is utterly unavailable, for the reason that no general election occurs before the next presidential election, and even that election takes place under this very law, whereby free ballot is denied by force. Redress through repeal is the only recourse of the people.

Redress through voluntary repeal, we are told, cannot be had, although a majority of twenty-six in the House of Representatives and a majority of eight in the Senate, representing nearly three hundred thousand majority of the popular vote, demand redress through repeal.

Redress through involuntary repeal is, therefore, the last means known to the Constitution. This last means the imminent danger to the liberties of the people commands the Representatives of the people to employ. In obedience to that command appropriations are made dependent on repeal of this oppressive and unconstitutional law.

This means for redress of grievance, the withholding of appropriations, known to the English constitution as refusal to vote supplies, has been exercised by all constitutional governments erected on the ruins of the Roman Empire. France, Spain, England have each defended their liberties by the exercise of this indubitable right.

In England it has been resorted to from the time whereof the memory of man runneth not to the contrary. Plantagenets, Tudors, Stuarts, William of Orange, all princes of high resolve, manly courage, and stubborn will, bent before the sturdy manhood of the liberty-loving Commons of England. Charles Stuart promised, pre-

varicated, lied. The Parliament of England closed its purse and drew its sword; and Cromwell's Ironsides redressed the grievance of the people at Marston Moor and Naseby's fight. The head of England's King was forfeit for outrage on England's constitution. Refusal of supplies, the Tower, the headsman's ax, dethronement, change of succession, exile, has ever been the penalty for non-compliance. The revolntion of 1688 was simply the successful reassertion of the principles of English liberty and the re-establishment of the will of the Commons as the supreme law of the land, so that since then a vote of want of confidence, which obviates the necessity for refusal to vote supplies, has compelled the resignation of the ministry in every case but one, and that exception was a personal struggle between Fox and Pitt on an India bill, in which no grievance was alleged. As late as 1864, during the reign of the present Queen, in the case of Holstein-Schleswig, when information was withheld by the ministry, the information was immediately furnished upon intimation of intention to refuse supplies. It is true supplies have not been refused since the case of the Irish forfeitures in 1700, but for the plain reason that the King dared not disobey the will of the Commons. I call the attention of the Representative from Ohio [Mr. GARFIELD] to this explanation of his statement "that supplies had not been refused for nearly two hundred years."

This right to withhold supplies lies at the very foundation of the English constitution. It is inherent, inalienable, and indefeasible. It was not given and cannot be taken away. It was established by custom, is approved by experience, and sanctioned by time. Struggle for the enforcement of this custom again and again involved England in civil strife and drove to the American wilderness the liberty-loving manhood of the land. Conviction that this right is indestructible was the great overmastering element in their minds. They remembered the maxim that redress of grievance brought supplies to the King; that refusal to redress brought the King to the block. They expressed it as the right of Englishmen. They fought, bled, and died to establish it as the right of Americans. Throughout their long struggle with the mother country, before the thought of independence was conceived, they maintained with the firmness of the deepest conviction that no power could rightfully take of their substance without their consent or appropriate their money against their will. What was this but the assertion, maintenance, and defense of the right to withhold supplies. When the mother country attempted by indirection to obtain supplies from the colonies against their will, by laying duties on the goods which the colonists were accustomed to import, these stern defenders of this ancient right resisted the attempt by entering into a solemn covenant to refuse to import all goods on which such duties were imposed and when the covenant was violated they destroyed the merchandise.

This right to withhold supplies runs throughout the entire history of the government of the American colonies, whether as colonial or as State governments, or as members of leagues for defense against Indians or the French, or as members of the continental congress or of the Confederation for defense of this right to withhold supplies.

Everywhere, under all conditions, the right to withhold supplies has been effectually, if silently, maintained. For the maintenance of that right the war of Independence was undertaken. The successful issue of that war was the triumphant establishment of that right, otherwise that war was fought in vain. The statesmen who framed the Constitution were the same men who guided the colonies, the States, the continental congress, and the Confederation through that war for the right to withhold supplies, and they incorporated that right, though silently, in the Constitution they framed, else why did they confer on the House of Representatives the power exclusively to originate bills for raising revenue, the identical power exercised exclusively by the House of Commons, exactly in the same manner and for exactly the same purpose as the House of Representatives is exercising that power now, for the protection of the liberties of the people against encroachments by the executive power? This power of originating all bills for raising revenue is conferred on the House of Representatives by article 1, section 7, in these words:

> All bills for raising revenue shall originate in the House of Representatives.

No man can misinterpret this. So simple, so strong, the words so few. It is the greatest power conferred by the Constitution. It is the power over the purse and the sword. The House of Representatives in the exercise of this power have no lawful superiors. They are responsible only to the people of the States who elect them. Concurrent with this great power is another power in the House of Representatives. It is the power to originate all bills of appropriation. This power is next in degree to the power of originating bills for raising revenue. It is this combination of powers which makes the House of Representatives in all matters of revenue and expenditures supreme. And yet the Constitution expresses not one word as to the power of the House of Representatives to originate bills of appropriation. The Constitution is as silent as to the power of the House of Representatives to originate bills of appropriation as it is as to the right of that House to withhold supplies. The right to originate appropriations and the right to withhold appropriations are based on custom equally ancient, equally venerable, and equally effective. For hundreds of years these concurrent powers have been exercised exclusively by the House of Commons in England and have been exercised exclusively by the House of Representatives here from the adoption of the Constitution to this day without a single exception. This power in the House of Commons and the use of this power by that house was well known and perfectly understood by the framers of the Constitution. They knew that the power to withhold supplies was the creator, promoter, and defense of English liberty, and therefore they incorporated it in the American Constitution as the defense of American liberty. This purpose they made more distinct and emphatic by the restriction they placed on the power of Congress to appropriate money for the support of the Army. They provided as follows, article 1, section 8, clause 12:

> To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

The purpose of this restriction is also self-evident. They intended that appropriations for the support of the Army should not be placed beyond the control of the people by a corrupt, pliant, or servile House of Representatives. As a further security for obedience to this provision of the Constitution they made the term of the members of the House of Representatives coexistent with the term for which such appropriation could be made, so that the people might pass upon the conduct of their Representatives. By this means the people, through their Representatives, could dissolve the Army whenever in their judgment the Army threatened their liberties.

This provision embodies in substance another custom of the House of Commons by which that house may dissolve the army. The English army exists by reason of the mutiny act. That act is passed for one year only. Refusal to pass that act dissolves the army. The House of Commons trusts the army for one year only. The House of Representatives may trust the Army for two years, but no longer. Executive encroachment on the liberties of the people, enforced by an army, was ever the constant dread of the framers of the Constitution. This dread is apparent throughout the history of the colonies, of the struggle for independence, and of the period of the formation of the Constitution, in the debates in the convention which framed the Constitution, in the Constitution itself, in the State conventions which adopted it, and in the amendments which the States required should be made to the Constitution. These provisions express that dread of executive encroachment, and if bravely executed will restrain such encroachment. That this law is the worst form of such encroachment as was dreaded by the fathers cannot be denied. Refusal to repeal this law is declaration of deliberate purpose to maintain and defend such encroachments. The perfect machinery which this law provides is the most dangerous form which such encroachments could be made to assume, because it wears the specious pretense of defending the freedom of elections. Under this false pretense this law enables the President to employ the whole power and machinery of the Government, its Army, Navy, officials, contractors, its judiciary, its treasury, and all whose interests are in any way dependent on it, to intimidate, imprison, impoverish, or kill, before, at, or after the election, any man or men who refuse to aid him in securing the election of any one whom he may choose to order to be elected.

It is the most penetrating, far-reaching, all-pervading, and irresistible form which executive encroachment can take on. Great as was the dread of the fathers they could not have foreseen anything as effective as this. This encroachment under this law utterly annihilates free ballots by a free people—the fundamental principle that underlies, pervades, and sustains the Constitution. It is the most grievous wrong which can be inflicted on a free people. If the President, by the exercise of the veto, forbids the repeal of this law, the redress of this most grievous wrong, he overthrows the Constitution and usurps monarchical power as effectually as though by armed soldiers he had dispersed the House of Representatives. If the President forbids the repeal of this law he as effectually prevents the meeting of an independent House of Representatives as did the English Kings when they refused to summon a new Parliament because they knew it would resist their encroachments. Better, far better, than a servile House is no House at all. A servile House would but register the presidential decrees with empty show of constitutional form. No House at all would startle the people by exposure of the naked despotism.

It was to protect the liberties of the people from encroachment like this that the fathers who framed the Constitution created an independent House of Representatives. For this they conferred on it supreme control over the purse and the sword of the people. For this they left it free to withhold supplies. With these powers intrusted to the House of Representatives, elected by the people of the States and responsible to them alone, they believed that men who inherited liberty would transmit it unimpaired. Instructed by the experience of a thousand years they builded a constitution intended to endure forever. Did they build in vain? Answer as ye are brave men or cowards.

Mr. VAN VOORHIS. Mr. Chairman, within the limits of the time allotted me by the courtesy of the gentleman from Illinois [Mr. HAYES] I have time barely to state a few propositions relating chiefly to the right of Congress to regulate the suffrage in the States at Federal elections.

The right to vote for Representatives is provided for in section 2 of article 1 of the Constitution. The section provides that "the

people" shall choose the Representatives, and it provides the qualifications of the voter. I quote the section:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

The people are to choose the Representatives, and the qualifications of the elector are made identical with those requisite for electors of the most numerous branch of the State Legislature. No State can alter or in any way modify this qualification. If the Constitution had recited the particular qualifications of electors of the most numerous branch of each State Legislature, it could not have been more explicit. If it had said that in the State of New York the elector should be of the age of twenty-one years, should have resided in the State a year, four months in the county, and thirty days in the election district in which he offers his vote, then no one would doubt that the qualifications were fixed by the Constitution, and the statement would then be no different in legal effect from what it is. The two expressions are each the equivalent of the other.

No State can say who shall or who shall not vote for Representatives. It is a matter controlled by the Federal Constitution. If a State should attempt to fix a different qualification from that defined in the Constitution, its act would be utterly void. It does not alter the case that the qualifications of the elector may vary somewhat in different States. The people who made the Constitution had the power and thought it wise to make the variance. They conceded something to the different conditions and laws existing in the different States. They established a rule, however, that should operate uniformly and equitably everywhere. They nowhere conceded to the States the right to make qualifications for electors of Representatives. They placed those qualifications unalterably in the United States Constitution.

The fourteenth amendment, in my judgment, has fixed the right to vote of citizens of the United States in the Constitution.

Before that amendment, such an entity as a United States citizen was unknown to the Constitution. By that amendment a new departure was taken by this Government. It was settled and determined that there should be a United States citizenship, which should be paramount to State citizenship. I read the first section of that amendment:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

By the thirteenth amendment four millions of slaves were emancipated. By the fourteenth amendment the freedmen had the franchise conferred upon them. They were made voters, not by the thirteenth amendment, nor by the fifteenth. They had the right before the fifteenth amendment was established. They did not have it prior to the enactment of the fourteenth amendment. They got the right to vote out of the fourteenth amendment and they got it nowhere else. By that amendment they were made United States citizens, and one of the "privileges and immunities" of a citizen is the right to vote. The freedmen were not named in this amendment. One United States citizen possesses under that amendment the same rights as any other; a white citizen the same as a colored citizen. But this we know, that before that amendment freedmen had no right to the elective franchise. We also know that since the enactment of that amendment they have the right to vote.

The fourteenth amendment has been construed by the highest authority known in this country. The people construed it when they established the fifteenth amendment. They say in the fifteenth amendment that the right to vote is an existing right, possessed by the citizens of the United States. The fifteenth amendment enacts nothing. It is a prohibition. It does not confer the suffrage on anybody. It asserts that citizens possess the right to vote, and citizenship had been established by the fourteenth amendment. I read the first section of the fifteenth amendment:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The "right of citizens of the United States to vote" is here expressly recognized in language that seems to be very plain—too plain to be misunderstood. The qualifications of the right, whatever they may be, it is not necessary now to inquire into. It is enough that the right exists.

It is one of the fundamental rules in construing constitutional provisions that the words used must be accorded their natural and obvious meaning. A constitution should be so plain that the people can read it and understand it. It is not subject to be interpreted away by the courts. You cannot go outside of it to find out its meaning. Arguments *ab inconvenienti* are never allowed in construing constitutions. A constitution is not made to meet the exigency of an occasion. It is made for all time. It is made for all changes of circumstances. You must therefore look to its language, and to its language alone, to ascertain its meaning. It means the same to-day that it will mean a hundred years hence, when, perhaps, very many of the conditions which exist to-day have passed away and been forgotten. It means the same thing under all changes and for all times.

Taking for a premise the fact which I deem must be conceded, that the freedmen get the right to vote from the fourteenth amendment and out of the fact of United States citizenship, it follows as a necessary conclusion that all citizens of the United States have the same right secured to them by the same amendment and in the same manner.

This right is one of "the privileges and immunities" of a citizen.

The expression "privileges and immunities" is used in section 2 of article 4 of the Constitution, and as so used has received judicial construction:

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

In Corfield *vs.* Coryell, (4 Wash. C. C. Rep., 380,) Mr. Justice Washington, speaking of the "privileges and immunities" of the citizen of a State, after enumerating certain personal rights as embraced by those terms, says "to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."

This learned justice recognizes the "elective franchise" as among the "privileges and immunities" secured to the citizens of every State by the provisions of the Constitution last referred to. The right to exercise the elective franchise, or, in other words, the right to vote, is secured to every United States citizen, and the States by the fourteenth amendment are absolutely prohibited from abridging the privileges of the citizen.

Chancellor Kent and Judge Story both refer to the opinion of Mr. Justice Washington with approbation.

Bouvier defines the word citizen as "one who under the Constitution and laws of the United States has a right to vote for Representatives in Congress and other public officers, and who is qualified to fill offices in the gift of the people."

Worcester defines a citizen to be "an inhabitant of a republic who enjoys the rights of a freeman, and has a right to vote for public officers."

Webster's definition is:

In the United States a person, native or naturalized, who has the privilege of exercising the elective franchise, or the qualifications which enable him to vote for rulers, and to purchase and hold real estate.

Mr. Richard Grant White, in his work on Words and their Uses, says of the word "citizen:"

A citizen is a person who has certain political rights, and the word is properly used only to imply or suggest the possession of those rights.

A citizen of the United States is of course a member of the nation, but it is a beggarly use of the word to say that it implies simply that and nothing more. The right of United States citizens to vote, therefore, being fixed in the fourteenth amendment, Congress is expressly authorized by section 5 of that amendment to enforce the provisions of that article by appropriate legislation. The laws now sought to be repealed are appropriate legislation to enforce those provisions.

I quote the language of Chief-Justice Waite from 2 Otto:

Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress, in the legitimate exercise of its legislative discretion, shall provide.

I now notice section 4 of article 1 of the Constitution, which provides for the manner of holding elections. It has been often quoted, and will bear quoting again.

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislatures thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The gentleman from Kentucky [Mr. CARLISLE] seems to get closer to the questions involved here and to treat them with more candor than any other gentleman who has discussed them on that side of the Chamber. He discards the construction given to this section by George Ticknor Curtis, and which has so often been repeated by gentlemen on that side of the House.

Mr. Curtis construes this section to mean that Congress has no power to make regulations when the State has acted and has made regulations. His exact language is:

If a State has legislated on all these matters, the power requisite to be exercised in order to secure the representation called for is exhausted, and nothing remains to be done by Congress unless it be to exercise the power provided in the last clause of the sentence.

This learned democratic jurist held that the power here given to Congress is in subordination to the delegation of power to the State Legislatures.

The gentleman from Kentucky [Mr. CARLISLE] is unable to agree with Mr. Curtis and his school upon this point. He says in his speech reported in the RECORD of Wednesday, in speaking of this provision of the Constitution:

If the language of the instrument were really ambiguous we would be authorized, and it would be necessary, to go back and examine the debates and proceedings in the Federal convention and in the State conventions for the purpose of determining its actual meaning. But the language appears to be free from all ambiguity. The words "at any time" would seem necessarily to confer upon Congress the right to decide for itself when and under what circumstances it should interpose by legislation to make regulations or alter the regulations previously made by the States.

I am willing to assume, for the purpose of this argument at least, that Congress has the power, at any time and under all circumstances, whether the States have legislated or not, and although they may have adopted reasonable, wise, and just

regulations upon this subject, to make or alter regulations as to the time, place, and manner of holding elections.

With such a concession from an adversary who occupies and is justly entitled to occupy the position of a leader of his party, and from a lawyer who is the peer of Mr. Curtis, I am content to pass from that point to the one the gentleman from Kentucky [Mr. CARLISLE] makes his stand upon. He contends for a very narrow construction of the word "manner." He claims that this amounts to nothing more or very little more than the form of the ballot. The word "manner" is a very comprehensive word. Congress may provide that the election shall be held in an orderly and not in a disorderly manner, in a peaceable and not in a bulldozing manner, in an honest and not in a fraudulent manner. In whatever manner it is desirable to have the elections held, Congress may so provide by law. Manner means the mode in which a thing is done, the method by which it is done, the way of doing it. The thing to do is to hold an election. Congress may fix the time; that is plain. It may name or designate the place; that is plain also. What is left? Nothing but the "manner" of conducting the election; the mode, method, or way of conducting the election. Whatever there is of an election besides the time and place of holding it is included in the word "manner." It includes the entire right to regulate the suffrage in all elections for Representatives.

The election laws now sought to be repealed were enacted for a wise and just purpose. They were intended to afford to every lawful elector the right to approach the polls and cast his vote peaceably and without molestation. They were enacted in the interest of honest voting and honest counting of the votes. They make fraud and bulldozing at the polls a crime. They are the bane of repeaters and of ballot-box stuffers. They discountenance the use of tissue-paper ballots and forged and fraudulent naturalization papers. They are for the punishment of all crimes against the ballot-box wherever and whenever the United States has jurisdiction over the subject-matter of the offense and the person of the offender.

It is a patent fact that the election laws of the several States which provide penalties for offenses against the ballot-box are a dead letter. The case is a rare one in which a fraudulent voter has been punished for his offense under the laws of his State. Not so with the United States election laws. Hundreds of crimes have been proven and the perpetrators punished under these laws. The United States courts are the only courts which the repeater and the fraudulent voter fear. Repeal these laws and we substantially do away with all law at the polls. In the rural districts of the Northern States the respect for law generally entertained by men of all parties practically insures fair elections. But it is not so in the large cities. There violent men and law-breakers must be restrained. There peace must be kept at the polls by the officers of the law, or there will be no peace at the polls. In the Southern States it needs no prophet to foretell what will be the fate of the colored voter if by a repeal of these laws he is turned over to the tender mercies of the ruffian and the bulldozer. If the United States cannot keep the peace at the polls in those States there will be no peace kept except on condition that colored citizens and republican voters either keep away from the polls or vote the democratic ticket.

If it be true that some officer has overstepped his duties in his zeal to enforce the law, that is no argument against the law itself. Most of the charges on that head come from partisan sources, and are untrue. The attempt of John I. Davenport to prevent the use of fraudulent naturalization papers ought to be commended, and not denounced. No political party can uphold the forgeries and frauds in the matter of naturalizations committed in the city of New York in the year 1868. Naturalization papers were issued by the wholesale by corrupt courts and officials, and peddled about the city. The attempt on the part of Davenport to suppress those papers was in the interest of good morals and good order.

No honest man can advocate the use of forged naturalization papers at the polls. John I. Davenport would not be feared if he was a law-breaker. He is feared because he fearlessly and vigorously uses his official power to prevent law-breaking and to punish violators of the law. John I. Davenport holds that forty men ought not to be permitted to vote from a house where only one man resides. In this he seems to be opposed by the leaders of the democratic party. John I. Davenport holds that to entitle a foreign-born citizen to vote he should comply with the naturalization laws of the country. In this also he seems to be opposed by the leaders of the democracy. The more the Davenport argument against the election laws is scanned the more it will appear that there is nothing in it adverse to those laws beyond a hue and cry.

The argument against the constitutionality of the election laws, and against the power of Congress in the premises, is the old one of State rights. One phase of that argument, at least—the right of secession and the right of the United States to coerce a State to remain in the Union—has been settled by the arbitrament of war. It has been settled that we are a nation, and not a confederation. It has been settled that in some things, at any rate, the United States is the supreme power. It is a government with laws which its Congress has enacted, and with a peace to be preserved.

It has been asserted with great emphasis on this floor that there is no such thing as the peace of the United States which that power can maintain and preserve within the States, and that there cannot be a breach of the peace of the United States. What is the peace of a State? It is good order and obedience to law. To keep the peace is to keep order and maintain obedience to the laws. Wherever a law is violated there is a breach of the peace. If a law of Congress is broken the peace of the United States is broken. Every person who commits any of the numerous crimes enumerated in the six chapters on crimes in the Revised Statutes commits a breach of the peace of the United States. Among those crimes are murder, arson, burglary, counterfeiting, forgery, perjury, and offenses against the ballot-box. The commission of any one of the offenses mentioned in the long category of crimes against the United States is a breach of the peace of the United States. If the United States can punish for a breach of the peace after it has been committed, it can take measures beforehand to prevent the commission of the offense. It can place watchmen at the Treasury to prevent its vaults from being broken as well as it can punish the burglar after he has succeeded in breaking into the vault. It can place an officer at the polls to prevent the commission of crimes there as well as it can punish the crime after it has been committed.

Mr. SHERWIN. Mr. Chairman, I have not the vanity to think that I can at this late day add anything in the way of argument to what has already been said in this great debate. My reason for trespassing at all upon the attention of the committee is to give some utterance, however faint, to the voice of my constituents, that it may not be thought that they are careless observers of the momentous and far-reaching legislation that is about to be consummated by this House.

It has been declared by nearly every speaker upon the questions before us that he is in favor of a pure, free ballot-box. So far we are in happy accord. We only disagree as to the method by which that freedom shall be secured and that purity maintained and preserved. It would seem that, being here for purposes of deliberation and not to advance our party interests except as the advancement of our country's interests advance them, we ought in reason to come to some agreement as to how to best promote our common design. So soon as we begin to discuss the mode of proceeding, however, we at once come upon a principle of constitutional interpretation which opens a chasm between us which no argument so far has been able to bridge. We at once meet questions that are as old as the Constitution itself, reaching far beyond the issue of to-day, to the very existence of the Government—questions which have been discussed by our greatest statesmen and publicists at different times with great eloquence and power—I mean those questions which bear upon the relations of the National Government to the States. Thus ever do the great concerns of humanity, society, government recur. What has been is; what is shall be.

The matter of this discussion relates to the rights, powers, duties, and limitations of the General Government in the regulation and control of elections of members of this House. The question is at once raised whether the Government has any power at all over such elections; whether they are not matters solely of State jurisdiction. You, as democrats, take the position that a member of the House of Representatives is a State officer, and that his election should be controlled by State laws; while we, as republicans, hold that he is an officer of the United States, and therefore the Government can and should control and regulate such elections in case the State refuses or neglects that duty. Believing that such a right existed in and such a duty was imposed upon the Government of the United States, a republican Congress enacted those laws regulating elections which you now seek to repeal. I do not now pause to speak of the specific reasons which caused their enactment, nor to discuss whether they are the best that might have been enacted, or whether they should or should not be modified at the present or some future time. I am discussing the question as to whether the Government has the right to enact laws regulating the election of members of Congress.

As has been stated many times upon this floor during this discussion, we claim that that right is given by the fourth section of article 1 of the Constitution. If the words of that section be taken in their natural, plain meaning, it would seem clear that they give to Congress the power to make such regulations as to the manner of holding said elections as it deems best at any time it may choose to exercise that power, provided other principles of the Constitution are not contravened.

The opinions of the great men who helped to frame and to adopt the Constitution fortify this view of the question. The section in question received as much and as earnest discussion as almost any other one question did. The State conventions of seven different States, New Hampshire, Massachusetts, Rhode Island, New York, Virginia, North Carolina, and South Carolina, recommended at the time they adopted the Constitution that that section should be amended, so "that," in the language of the New York convention, "the Congress shall not make or alter any regulation in any State respecting the times, places, and manner of holding elections for Senators and Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the Legislature of such State shall make provision in the premises."

Notwithstanding those recommendations, no such amendment was ever made or proposed to be made, and it stands now as it did originally. Not only did those State conventions think that Congress had the power to regulate elections given to it by that section, but the leading men of that time are recorded as expressing themselves

strongly upon that point. Luther Martin, of Maryland, inveighed against it as a "provision expressly looking to, and I have no doubt designed for, the utter extinction and abolition of all State governments." Mr. Bishop, of Massachusetts, said that the great difficulty with him was that the power given by the fourth section was "unlimited." Mr. Parsons, also of Massachusetts, contended for the section "not only as those powers were necessary for preserving the Union, but also for securing to the people their equal rights of election." John Jay gave as a reason for its adoption "that every government was imperfect unless it had the power of preserving itself." Mr. Iredell, of North Carolina, said:

An occasion may arise when the exercise of this ultimate power in Congress may be necessary. * * * And it seems natural and proper that every government shall have in itself the means of its own preservation.

Mr. Wilson, in his admirable argument, said:

If the Congress had it not in their power to make regulations, what might be the consequences? Some States might make no regulations at all upon the subject. And shall the existence of the House of Representatives, the immediate representative of the people in Congress, depend upon the will and pleasure of the State governments? * * * It is possible, also, that they may make improper regulations. * * * We find on examining this paragraph that it contains nothing more than the maxims of self-preservation so abundantly secured by this Constitution to the individual States.

It will thus be seen that those who were opposed to the section as well as those who were in favor of it agreed that it gave to Congress full and unlimited power over the matter as a means of self-preservation; a power to be assumed whenever Congress might see fit to assume it; an undoubted, original, and unlimited power over the whole matter, except the qualifications of voters, which were to be fixed by the laws of the States.

We also have the opinion of the Supreme Court of the United States in Gibbon *vs.* Ogden, 9 Wheaton, in which they declare the principle that "the power to regulate implies in its nature full power over the thing to be regulated."

It would seem that there could be no reasonable doubt that Congress had the right and the power to enact and enforce the election laws which you are seeking to repeal, and that when the occasion should arise it would be its duty to enact and enforce them.

I wish also to state a little history. So good and pure a democrat as General John M. Palmer, the leading man of that party in the State of Illinois, once issued an order for the use of troops at the polls. It was in Kentucky, and you may be sure that General Palmer would not have issued it had it not been necessary. It was as follows:

[General Orders No. 51.]

HEADQUARTERS DEPARTMENT OF KENTUCKY,
Louisville, Kentucky, July 26, 1865.

The near approach of an important election, to be held in all the counties of the State and Military Department of Kentucky, renders it proper, in the judgment of the general commanding, to require all officers commanding troops to give to the officers of the State charged by the law with the duty of conducting elections and to the legal voters of the State the most complete protection. Martial law prevails in the Department of Kentucky, and certain classes of persons are especially under military surveillance and control.

Here follows a description of such classes.

All persons of the class aforesaid are required to abstain from all interference with elections, and will, if they shall in any manner interfere therein, by voting or attempting to vote, or by persuading any other person to vote, or by appearing at the polls, be at once arrested and held for military trial.

Aid will be given to the civil authorities to enforce the laws and preserve the peace. Any person who shall counsel, advise, or encourage any judge of any election or any other person to disregard or disobey the law as declared in the proclamation of the governor of the State, will be at once arrested. The peace of the country can be secured only by obedience to the laws.

By command of Major-General John M. Palmer:

E. B. HARLAN,
Captain and Assistant Adjutant-General.

This order was issued more than three months after Lee's surrender. Kentucky had never been in insurrection, and there was not an armed rebel in the United States. Under this order of a democratic general two of the members now upon the floor of this House representing the State of Kentucky would have been at once arrested and held for military trial if they had attempted to vote or had even appeared at the polls. This, too, at an election of State officers only.

Another thing is noticeable in regard to the early discussions upon the section of the Constitution I have referred to. Much was said about securing to every man his right to vote, but nothing whatever was said about preventing those from voting who were not qualified to vote or preventing men from voting more than once. Their vision had not penetrated to that golden era in their country's history when in its chief city a man who was to become the candidate of one of the great parties for the Presidency should deliberately connive at repeating, and thus in the act of performing the highest civil right of a freeman rob honest voters of their rights. Their eyes had not been vouchsafed to see the day when thousands of men who had the most unquestioned right to vote should by means of lawlessness and murder be restrained from casting their ballots, while others should stuff the ballot-box until it should be made to speak what they desired it to. Their ears had not heard eloquent speeches of men in praise of a free, untrammeled ballot and in condemnation of tyranny who had mounted into power by reason of stupendous frauds upon the very ballot-box whose purity they extolled. Those sights and sounds were reserved for our century, to that time when men who had fought for long years to destroy the Constitution had come back again into power through the grace of their conquerors and, with an apparent consciousness of superiority in public morality and political wisdom, were instructing the men who had defended and preserved it from their bloody assaults as to its true meaning and intent, and were traducing the character and maligning the motives of its defenders. This sublimity of political self-assertion, this climax of political assumption, this arrogance of political insolence, was not to be forecast by any speculations, however deep, and could only be understood and believed after it had been witnessed in the flesh.

Sir, it is known to every member of this House that at the time of the passage of this act elections in New York and in some other large cities were a farce. The ballot-box was a vast sewer, into which emptied the vile contents of the alleys and the slums, in whose mephitic atmosphere honest men were stifled and nothing pure could live. This was known to be so by the leading men of both parties, but nothing was done to prevent it. And yet badges of office fished out of this festering, reeking reservoir were worn with apparent satisfaction by men who aspired to the highest offices in the land.

In order to give a hint as to how voters were made and elections were carried in New York at that time, I will read from the testimony of John I. Davenport, given before the Committee on the Judiciary of this House last February. This recital of Mr. Davenport is sickening to any true patriot, and would cause any one not blinded by partisan zeal to almost despair of republican government:

Question. I would like you to state as briefly as you can, and somewhat historically as you go along in order, the results of all your investigations into these frauds of 1868.

Answer. Well, sir, as I say, I learned, first, that the applications on file nowhere near approached the number of certificates that had been issued. I learned that there was a very large and extensive issue of certificates in blank—signed and sealed in blank. I also learned that there was an issue of several thousand certificates to fictitious persons, and for which there were applications made, but which are not now on the files of the courts. I also learned that a very large number of the certificates which were issued in the names of fictitious persons as applicants were on file, which applications were false and forged. I also learned that as to the applications on file for real persons, persons existing, those applications were forged as to the names of the witnesses signed to them; that many of the witnesses whose names appeared in an exceedingly fine handwriting cannot write to this day. I also learned that in the neighborhood of eighty ostensible persons appeared as witnesses for about nine thousand applicants; that in truth and in fact many of these eighty were not in existence and the names were fictitious, as for instance a man named Collins signed and appeared under his own name as witness for various persons, and then signed the name of Michael Morrel, and then appeared under that name as a witness for various persons. I also learned that the rule in the superior and supreme court was that applicants were not admitted to the court. Judge Barnard was the only judge who naturalized, beginning on the 6th day of October and closing on the 23d. On the 6th he naturalized six persons only, on the 7th he naturalized eight, on the other fourteen days he naturalized ten thousand and seventy.

I learned also that these certificates were sold openly and publicly, signed and sealed in blank in quantities; that contracts were made for their delivery in adjoining counties and in adjoining States at prices ranging from fifty cents each to $2.50. I learned that persons in other States and in this city and in other portions of this State were in the constant practice of bringing to the court long lists simply of names of persons and residences; that the court, upon those lists—none of the applicants being here and none of them frequently being in the State—issued certificates. I learned that at various places throughout the city, in almost every ward, there were headquarters and club-houses where certificates were given out—where men went and gave their names and in fifteen minutes received certificates, without any judge or court or witness or application or any other proceeding being gone through with. I also learned of the organization of mock courts, which met at various places in the city, chiefly in the room formerly used by the sheriff, known as room 12, in the old city hall. Applicants there generally had an oath administered to them, which oath was that they would support the Constitution of the United States and vote for John T. Hoffman for governor. That was one form. Another was that they would support the Constitution of the United States and vote the democratic ticket. * * *

A large number of these certificates were delivered in Bridgeport, Connecticut, under contract, and from there sent to different portions of the State. There was a large quantity delivered in bulk in Jersey City; a considerable quantity in Brooklyn—one thousand in one lot that I know of. To the best of my knowledge some ten thousand of them were delivered in blank to Mr. James Fisk or his representative for use along the Erie road.

This year the bureau of elections in San Francisco sent their representatives here and consulted my records, &c., with regard to a number of those certificates which were used there, and upon which some members of the constitutional convention had been elected. One of them was forced to resign from evidence obtained to that effect, as I was informed. * * * There were ninety thousand applications ordered in the month of October alone, and sixty thousand certificates.

These were the stupendous frauds that were referred to by Horace Greeley in his well-known letter to Mr. Tilden, in which he said, speaking of only four wards of New York:

There are not twelve thousand legal voters living in those wards to-day, though they gave Hoffman 17,443 majority. Had the day been of average length it would doubtless have been swelled to twenty thousand. There was nothing but time needed to make it one hundred thousand if so many had been wanted and paid for. * * * Probably a good part of the fifty thousand supplied last fall with bogus naturalization certificates will offer to register and to vote. * * * Prosecutors, magistrates, municipal authorities are all in the pool; we have nothing to hope from the ministers of justice, and the villains have no fear of the terrors of the law.

This letter was written in 1869 and before Mr. Davenport had made his investigation, and before the passage of the election law. This investigation by Mr. Davenport reveals the organization of the machine by which the great city of New York, with its million of inhabitants, could be declared to be for any ticket the election officers or a democratic caucus might wish it to be declared for; not only that, it could furnish all the votes which were necessary to carry the State; not only that, but Connecticut being doubtful, they could spare enough to carry that State; not only that, but New Jersey could be aided; not only that, but ten thousand of them could

be scattered out through Pennsylvania and New York. There was no boundary so distant but that they found their way thither, and we hear of their appearing in San Francisco and actually being the means of carrying an election there. They are a subtle poison pervading our whole electoral system, for one of those certificates upon its face would be good if presented at any voting place in the country. There is more danger to the institutions of our country from this subtle, constant menace than from all the soldiers in the land.

Since this law has been in operation the United States supervisor of elections in New York has prevented much illegal voting, and at the last election there probably prevented more than ten thousand illegal votes from being cast; and if the law can be kept upon the statute-books and enforced it will be but a few years before the national elections in our large cities will be nearly free from fraud, and that, too, without the aid of a soldier. Now, gentlemen, why do you wish to repeal this law? Are you in favor of fraud? Do you wish to repeal it in order to promote the purity of the ballot-box? Will you, gentlemen, in the presence of this overshadowing cloud of evil which threatens to stifle the true voice of the people at the polls, this real, ever-present evil which is before you and around you and upon you, remove every barrier to its frightful progress?

I have not time to mention with any detail at all the horrible, disgraceful affairs by which the voice of the people was suppressed in two or three of the Southern States. It is perfectly familiar to the country. The investigations of the Senate committee appointed last December reveal the burning disgrace entailed upon the American people in the attempt of the "wealth and intelligence" of the people to secure an election to Congress. The flight of large bodies of loyal though poor people from that land to one where the cost of citizenship is less dear, where they will not be vexed by the uncontrolled bailiffs of an irresponsible and hostile society, is a rebuke humiliating but well deserved to that powerful Government which has failed to protect them in their dearest constitutional rights.

According to the report of that committee—

The democrats declared through the press and otherwise their determination to carry the election. They organized a rifle company and cavalry companies, claiming that such organizations were necessary for the protection of the white people. * * * From the time tickets were in the field, armed bodies of white men appeared from neighboring parishes, raiding through the country, committing outrages on the colored people. Some were whipped, some were shot, and some were hung. Some of those raiding forces were under the deputy sheriff, and some were under the command of J. Floyd King, the democratic candidate for Congress. * * * A tragedy that results in the death of fifteen men in one county and eight in another ought certainly to call for an investigation in a civilized country; but no investigation has been made by either local or State authorities to determine where the blame rightfully belongs.

The same committee reports that in South Carolina, in Charleston County alone, more than five thousand democratic tissue tickets were voted, and one hundred and fifty-eight republican tissue tickets.

No prosecutions have been instituted by the States of Louisiana or South Carolina against the violators of their laws, and no efforts made to punish the men who have thus wantonly murdered or outraged their citizens; and when the United States courts have been resorted to for the purpose of punishing these outrages on the ballot, the complainant has been in nearly every instance arrested, clearly in violation of law, by the State authorities, on charges of perjury, libel, disturbing the peace, or some similar charge, and committed to jail unless he gave bail. Citizens are threatened that if they attempt to punish the offenders in the United States courts, the witnesses will be punished in the State courts; and thus the State declines to punish these criminals, but refuses to allow it to be done in the United States courts.

Now, gentlemen of the other side, here are wicked outrages proved in three of the great States of this Union, one in the North and the others in the South. You say that you are in favor of a free ballot-box and of unawed, unterrified voters. These are noble sayings of yours; they sound well and they read well. We say the same and we think the same. We therefore invite your enthusiastic co-operation in enforcing the laws against fraud and violence. It would seem as though we ought to join hands for so noble a purpose. Will you join with us? Bills are now pending before Congress for purposes of inquiring into the sewerage of this city and for the purpose of so improving and regulating it as that the inhabitants here may be saved from disease and death from such causes. It is a worthy object and one upon which party lines are not drawn. A bill has also been recently passed whose object is to stay the ravages of the scourge of yellow fever which so sadly smote the citizens of two or three States last year. Legislation upon that subject is prompt if not effective. Congress, without reference to party lines, proposes to do the best it can in the premises, and the nation rejoices.

Can we do less, gentlemen, than to do all we can, all we know how to do, to stay the great scourges of fraud and violence upon the ballot-box; to extirpate this dire disease upon the body-politic which threatens the overthrow, destruction, yea, death of free representative government? Can you find a higher duty, can you conceive a loftier aim than to make laws for such a purpose and furnish power for their enforcement? But you say that those duties belong to the States, not to the National Government. In reply, I say, that the States have neglected to make proper regulations, or if they have made such regulations have entirely failed to enforce them. There is no power to-day anywhere in those States which attempts to uphold the integrity of the ballot-box, except the power of the United States Government. And the democratic administrations of Louisiana and South Carolina and the leading democratic politicians of New York are throwing every obstacle in the way of the enforcement of the laws of the Government which they have at their command. Not only that, not one democrat upon this floor or at the other end of the Capitol has yet uttered a single word in condemnation of these frauds and outrages, but on the other hand you stand here a solid body demanding in the most objectionable manner the entire repeal of the United States statutes upon the subject.

It cannot be objected to these laws that they are "war measures," "born of the passions incident to civil strife and looking alone to the abridgment of the liberty of the citizen." They were passed long after the war had ceased. They are in the interest of the true liberty of the citizen, and are aimed at no section of the country but apply alike to all sections.

You shall not obscure this issue. The people shall understand that while you talk so grandly of freedom at the polls you are bending all your energies to trample out that freedom. It shall be seen that now, in the light of all the testimony as to the overwhelming frauds in the large cities of the North and in several of the Southern States, you gentlemen wish to repeal those laws or to so emasculate them that they retain no power whatever to discover or punish the perpetrators of the crimes, and while you are endeavoring to remove this last bulwark against fraud and violence and the only safeguard that is in existence for the real protection of the great body of the people, you declaim with dramatic unction about the liberty of the people, impending despotism, imperialism, and bayonet rule. Gentlemen may deceive themselves, but they cannot deceive the people by this false cry. The whole enormity of the crimes that are being committed against the people through the ballot-box by your party (and some other day, if permitted to become a recognized agency of political contests, might be committed by any other party) is at last seen and understood by the people of this country.

Popular government may be destroyed as effectually by fraud as by the sword. You could not destroy it by the sword, you shall not destroy it by fraud. The republican party will never consent to the repeal of these laws unless it can get something better in their stead. You cannot repeal them unless, indeed, the President shall approve your bill. The conscience of the people is being aroused; their sense of justice awaked. From this time forth you will see a public opinion that shall grow in constancy and unanimity, and gathering force and strength shall sweep with resistless power over all the land, until it shall pervade the hearts of the people of every quarter and of every precinct throughout our broad domain; a public opinion that shall demand the utmost freedom and the highest purity at elections, and shall, if necessary, bring to bear the entire power of this imperial Republic to enforce its purpose. Then shall the ballot-box express the honest, authentic voice of the people; and our laws, issuing from unpolluted fountains, shall be the stainless reflection of the people's will.

Mr. WILLIAMS, of Wisconsin, addressed the committee. [His remarks will appear in the Appendix.]

Mr. THOMAS. Mr. Chairman, the nation is listening with anxiety to the discussion now proceeding in this House, and watching with eagle eye the action of its members.

The course of debate upon the pending bill has been unusually kaleidoscopic in its character, embracing, as it does, every subject within the range of human knowledge. Much has been said upon real points at issue, while much more throws no light whatever upon the subject.

Our fiat greenback friends have attempted to tinge the waters of the seething, boiling political ocean with their favorite color. The importers' friends have shrieked for "free trade and sailors' rights." The protective-tariff men have held the House entranced while they have dilated upon their darling specialty. Confederate brigadiers have yelled and howled with rage, and sawed the air and wept over the lifeless form of what they call in death State rights, but which in other days was called secession, while their northern allies, with sycophantic smiles, chant pæans to the South's chivalrous (?) sons.

A decent regard for the rights, the constitutional rights, of the Executive would have prevented a discussion on the floor of this House of the probable action of the President when this and the Army appropriation bill shall have been submitted to him; but the insatiate appetite of the majority, their boundless and ungovernable desire to obtain absolute control of all the departments of the Government has frenzied their brain and caused them to ignore the rights of others and tread roughshod with impious feet upon the constitutional domain of one of the co-ordinate branches of the Government.

The charge so flippantly made by some and so gravely made by other distinguished gentlemen on the other side that these sections of the statutes are unconstitutional comes with bad grace from democrats, in view of the able arguments made in their defense by distinguished democratic Senators on the floor of the Senate prior to their adoption, and in view of the fact that upon the passage of the bill of which the two so-called odious sections were a part every democrat in the Senate voting, and every democrat in the House voting, voted for this bill. But now it has been discovered that these laws prevent "bulldozers," "white-liners," and "white-leaguers" from intimidating honest voters, and so the democrats in this House wake up and discover for the first time that the laws are unconstitutional.

But your course on this floor, taken and followed at the dictation of a democratic caucus, shows how inconsistent and insincere you are. If these laws are unconstitutional, and you really and truly

desire their repeal, why did you, when the distinguished gentleman from Michigan [Mr. CONGER] moved their absolute and unqualified repeal as an amendment to the Army appropriation bill, vote solidly against their repeal? An inspection of the record shows that every republican voting voted for the repeal of these laws, while every democrat voting voted against their repeal. Why say to this House and to the country that you are the chosen champions of a free ballot-box and opposed to bayonet rule at elections, and then come here and vote solidly for the retention of these laws?

O consistency, thou art a jewel!

An unconstitutional law in no way affects or abridges the rights of a citizen. If these laws are unconstitutional, is it not strange that that fact has only been discovered within the last few months? The courts of the country, within the constitutional province of which the question of the constitutionality or unconstitutionality of laws lawfully comes, have ever been open to the citizen since the enactment of these laws. Why not take them there and demonstrate their unconstitutionality, if such is the case, instead of wasting the people's precious time and money by senseless and unavailing discussion on this floor?

Gentlemen on the other side of this House claim that this proposed legislation is meritorious, that it is demanded by the country, and that they feel entirely confident of indorsement by their sovereign, the people. If these things be true, why the necessity of this extraordinary session of Congress with its attendant prodigal and criminal expenditure and wasting of the people's money?

The issue between the two great parties was squarely made in the last Congress. If you have confidence in the justice of your cause, why not go before the people on that issue? But no, gentlemen, the southern chivalric element of the democratic party represented on this floor and in the Senate by late confederate brigadiers has come to the front, and thinks to inaugurate the manners and customs which obtained here before the war, and ride rough-shod over the Executive and the people. But, gentlemen, we know you; and knowing, have no fears for the future. Your threat to starve the Government to death is an idle threat, and carries no fear or consternation to the hearts of the people.

You may refuse the enactment of necessary and salutary laws; you may refuse to appropriate the money paid into the Treasury by the people for the support of the Government; you may attempt to wipe from the statute-books all the laws made necessary by the war and the changed condition of affairs as you have threatened to do. But, Mr. Chairman, all this will not avail you. The loyal States and the loyal people of this land, without regard to their present party affiliations, stand ready to succor, sustain, and again defend if necessary this glorious Government of ours. In the Hall of the House of Representatives of this nation your challenge has been published and the gage of battle delivered; your chosen leader has announced that "he who dallies is a dastard, and he who doubts is damned." These notes of warning have fallen upon the ears of the people like the hiss and rattle of the deadly serpent, and the loyal millions of the North and the South, those stalwart defenders of free government and equal legal and political rights to all, are crowded upon the watch-towers and ramparts of the nation eagerly watching for your first invasion of their blood-bought liberties and rights and ready in the twinkling of an eye to hurl you, like the rebellious angels of old, over the ramparts of the nation down to that darkest pit of hell, the fit abode of traitors and the damned.

Mr. HAYES. Mr. Chairman, I regard the questions presented to this Congress in the Army bill, which has already passed this House, and in the bill now before us, as among the most important and vital questions that have come before the National Legislature for many years. Viewed in their true and most comprehensive bearings, these questions relate not merely to the making of an appropriation of $27,000,000 for the support of the Army and $18,000,000 for the support of the executive, judicial, and legislative departments of the Government; not merely to limiting the power of the President as Commander-in-Chief of the Army; not merely to the constitutionality or unconstitutionality of certain laws which now stand upon our statute-book; not merely as to whether the democrats or republicans shall be victorious in the present struggle; but they are questions which are higher, deeper, and broader than all these, and which affect the dearest and most sacred rights of American citizenship. They are questions which pertain to the right of every American elector to cast his ballot on election day as he sees fit, without molestation or interference, thus reaching down and affecting the very foundation principle upon which our Government rests.

I am aware, sir, that much has been said during this discussion about the unconstitutionality of the laws which the Army bill and the bill now before us propose to repeal. But upon what grounds do gentlemen on the other side base their assertions that these laws are unconstitutional? What is our Constitution worth if the individual citizen cannot claim protection under it when his most sacred rights are invaded? If its provisions are not broad enough to secure to every citizen his full rights, the sooner we know it the better. If that instrument is powerless in protecting every elector in his right to cast a free and untrammeled ballot, we had better proceed at once to remodel it and enlarge its provisions. I do not believe, Mr. Chairman, that our Constitution is as weak and powerless as these gentlemen assert. I hold to the idea that that instrument confers upon the General Government all the power necessary to enable it to protect every elector in his right to vote. I care not who that elector is, whether he be high or low, rich or poor, whether he lives in Maine or South Carolina, California or Illinois, the Government, under the Constitution, not only has the power to protect him in this right but fails in its duty if it does not exercise that power.

Now, Mr. Chairman, I do not propose to discuss the constitutionality of these laws. That has already been done by abler men than myself. But I do desire to say that I believe them to be constitutional. It seems rather strange to me that after a century of national life we have just discovered that our Constitution is powerless to protect the individual citizen in his dearest rights. It is a strange doctrine to be proclaimed upon this floor that ruffians and bulldozers are superior to the General Government and in their work of intimidation, fraud, and murder can bid defiance to that Government. It is a strange doctrine to advocate, that when these ruffians and bulldozers band together to prevent the individual citizen from voting, that citizen cannot appeal to his Government for protection against this unlawful combination. I do not believe in any such doctrine. On the contrary, I believe that our Constitution is broad enough and our Government has power enough to guard the ballot-box against fraud and protect the citizen in his right to vote.

We have heard much said during this discussion by gentlemen on the other side about the danger there is to our liberties in permitting marshals and armed soldiers at the polls. But I wish to say to these gentlemen that there are some things which are far more dangerous to the liberties of our people than the presence of a few armed men at the polls on election day, especially when they are there, as they always have been when there at all, to preserve the peace and to protect citizens in their rights. Once establish the principle that might makes right and that bulldozers and ruffians can control elections, letting only such persons vote as will vote to suit them, and what will the liberty that we now prize so highly be worth to us? No, Mr. Chairman, I do not share the fears which these gentlemen have in regard to this matter. I believe in the constitutional power of this Government to protect its citizens in their rights, and I can see no danger in its employing armed force when necessary to do this. The danger would be if it did not employ such force. Thinking thus, and believing also in the constitutionality of the laws which the majority in this Congress are seeking to repeal, I not only want these laws left as they are, but I want to have them enforced with the most rigid firmness at every voting place in the country where national officers are voted for. And this, sir, is the position taken not only by myself and my republican colleagues on this floor but by the entire republican party of the country.

I am aware, sir, that we who favor these laws are charged with favoring centralization, despotism, imperialism, and every other thing of a tyrannical nature. Gentlemen on the other side have taken delight in iterating and reiterating the assertion that the republican party has been laboring, and is to-day laboring, to destroy free government in this country and build upon its ruins a government in which the few should rule and the many obey. But nothing ever was or ever can be more false. In standing by these laws we do it simply and solely in the interest of fair and honest elections. We hold to the doctrine that every citizen who is entitled to vote shall be made secure in this right by the strong arm of law, and, if necessary, by military power. We want no restraint, intimidation, or interference in regard to the freedom of the ballot. This is all the republican party demands, and with nothing less will it be satisfied. Search the history of that party from the day it came into power in 1861 down to the present time, and you will find this to be the objective point of all its endeavors in the matter of elections. We have always taken firm and decided ground in favor of the purity of the ballot-box and freedom of the ballot, and this ground we have maintained persistently and to the best of our ability. We have opposed with all the legitimate power we had every effort made by the democracy to debauch the ballot-box, and we shall continue so to do to the bitter end. If democrats, in their defiance of law and their zeal for party success, combine to prevent electors from casting a free ballot, they must expect to encounter the firm and determined opposition of the entire republican party.

The republicans on this floor, Mr. Chairman, and I may say of the whole country, regret as much as any set of men can do the necessity that has now and then existed in the past for sending United States marshals and armed men to the polls to preserve order and protect voters. But who, sir, has created this necessity? What set of men are responsible for the fact that any United States officer or soldier has ever been present at a voting place? I make the assertion, and I make it boldly, that democrats, and democrats alone, have created this necessity by their unlawful and disgraceful efforts to prevent the individual citizen from voting as he desired, to debauch the ballot-box, and to make our elections a fraud instead of a free and correct expression of public sentiment. Had there been no democratic kuklux, no democratic white-liners, no democratic red-shirts, no democratic dead-beats, bullies, and repeaters in the land, there would never have been a marshal or an armed soldier near the polls on election day in his official or military capacity. Had the great democratic party of the country stood up with unbroken front and demanded that every elector should be protected in his right to vote once, and only once, on election day, and to have his vote honestly counted, there would

never have been any demand for these laws which the majority in this Congress are now seeking to repeal. These are facts which democrats will do well to consider.

It is true that gentlemen on the other side talk loudly about free and fair elections. They seem to be greatly troubled for fear that, under our laws as they now exist, some one is going to be deprived of his right to vote. This may all be very well. It is right and proper to be sensitive in regard to this matter. But what, I ask, have these gentlemen or the party which they represent ever done to show that they are in favor of free and honest elections? If they are as sensitive in regard to this matter as they profess to be, why is it that they have never labored to secure such elections? Why have they not at least entered their protest against the high-handed outrages of the rifle clubs, red-shirts, white-liners, and bulldozers of the South who have so often and so defiantly trampled upon the law, broken the peace, struck down the rights of the individual citizen, driven voters from the polls or murdered them in cold blood, taken forcible possession of the ballot-box, and controlled elections in the interest of fraud, rascality, and the democratic party? Why did they not put a stop to the wholesale frauds which for so many years under democratic rule disgraced the elections in the city of New York? These are not only pertinent but practical questions; and when democrats on this floor set themselves up as the especial advocates of a free ballot and of honest elections, I ask them why they do not put forth some effort to make their actions harmonize with their words?

The fact is, Mr. Chairman, the democracy are thoroughly and reliably inconsistent in this thing, as they are in almost everything else. They preach one thing while they practice another. They talk about the purity of the ballot-box while they attempt to debauch it at every election. They are not only willing but determined that any and every democrat shall vote, no matter if he is obliged to violate law in so doing; but they are unwilling that republicans should vote, even when they have the right to do so under the laws of the land. They are horrified at the idea of a marshal or an armed soldier being sent to the polls for the sole purpose of protecting the citizen in his rights and of keeping the peace; but they organize and arm white-liners, red-shirts, and bulldozers, and send them to the polls for the sole purpose of violating law, preventing citizens from exercising their right to vote, exciting riot, and shooting down innocent men. It would seem, if these men are so strongly opposed to the presence of marshals and soldiers at the polls for a good purpose, that they ought to be as strongly opposed, at least, to the presence of white-liners and rifle clubs, who are at the polls only for an evil purpose. I wish to say to the gentlemen on the other side that if they will take firm and determined ground in favor of free and fair elections, in deed as well as in word, and will labor honestly and energetically to secure such elections, they will not be troubled with either troops or marshals at the polls. But until they do this they will find that we republicans will stand firm by the position we have already taken, that the purity and freedom of the ballot-box must be maintained, even if it requires marshals and troops to maintain them.

But, sir, I said a moment ago that the democracy have never done anything to show that they favor free and honest elections. Look at the history of their party and see if this is not so. We have never had a party in this country which has been so utterly unscrupulous in the means employed to gain power. Its history shows that there has been no scheme too vile, no policy too corrupt, and no course of proceeding too rascally and base for the party to adopt, if by so doing it could gain votes and bolster up its fortunes. Every one remembers how the great campaign for "Tilden and reform" was carried on in 1876. Beginning with the Saint Louis convention, where Mr. Tilden was nominated, down to the day of the election, the democracy did not hesitate to resort to all kinds of trickery, rascality, fraud, bulldozing, and murder in order to make certain the election of their candidate.

In prosecuting the campaign the great cry of "Tilden and reform" was raised, taken up by every democrat in the country and shouted with the utmost vigor. And yet facts show that the party trusted for success more in Tilden's barrel than in the humbug cry of reform. Mr. Tilden surrounded himself with a set of political tricksters such as would disgrace any man or any party, and these men, loaded down with money, were sent out all over the country to work up his interests and to make success at the polls a certainty. The States of Indiana and Wisconsin were flooded with money which democratic "reformers" freely used in manufacturing votes for their great leader. The attempt to secure a presidential elector from Oregon for Tilden by the use of money is a matter of history which no man of ordinary intelligence and honor will deny. In South Carolina and Florida also the democracy attempted to purchase an elector for Tilden by offering an immense sum of money. But these cases all sink into insignificance when compared with the case in Louisiana. Here is a case where a republican elector, after the election was over, was approached by Mr. Tilden's friends and offered $100,000 if he would turn traitor to his party and cast his vote for "Tilden and reform." I affirm that never in the history of our country was a political campaign conducted in such a shameful and grossly corrupt manner as was the campaign of 1876 on the part of the democracy, and it is greatly to the credit of the American people that a party which resorted to such corrupt means to carry an election was defeated at the polls.

But not only was money employed but every other base means which democratic ingenuity could invent was resorted to in order to make success certain. The history of the democratic campaign of 1876 in the South is but the history of one of the most gigantic schemes of intimidation, fraud, and murder that ever disgraced a party. There is not a single Southern State in which there was anything like a free and fair election. Armed democratic organizations held full sway in every locality in that section, and by ballot-box stuffing, coercion, terrorism, and murder managed to carry all but three of the Southern States. Some of the congressional districts which are republican by from 6,000 to 10,000 majority were handed over to the democracy by these organizations with the democratic vote largely ahead. The shot-gun policy which worked so well during that campaign has been continued ever since, and to-day we see every Southern State in the hands of the democracy, while the republican party is virtually wiped out. Now, it is a well-known fact that many of the Southern States are republican. Give us a fair and honest vote and our party would carry Louisiana, Alabama, Mississippi, both the Carolinas, and Florida.

Now, sir, it has always been our boast in this Republic that the majority rule. But in the South to-day this principle is reversed. In almost every State in that section the minority, having by intimidation and murder brought the majority into subjection, alone bear rule and have everything their own way. I am aware, sir, that our democratic friends claim that the negroes have experienced a change in their political faith—that they have abandoned the republican party and taken refuge in the camp of the democracy; but no one of intelligence believes this. The fact is, the great democratic party of the South, which puts on such a fair exterior, wraps itself about with such a spotless mantle of purity and proclaims its honesty in such high-sounding phrases, has by fraud, intimidation, and murder crushed out the republican majorities and given the minority control. I charge that the democracy have secured the ascendency in the South not by honesty and fairness but by violating law, overriding justice, and resorting to a wholesale system of rascality and fraud. I charge that the democracy were enabled to secure control of this House only by means of frauds perpetrated at the ballot-box by democrats. I am convinced from the facts that have come to my knowledge that district after district was carried in the South at the election in 1878 by means that ought to damn forever, in a political sense, the party that resorted to them. Had every voter been allowed to vote as he desired once and only once, and had his vote been honestly counted, enough republicans would have been sent to this House from the South to give the republicans control of this body. In view of these facts, is it not decidedly out of place for democratic leaders to rise on this floor and denounce the republican party simply because we favor laws that will protect every citizen in his right to vote and will hold in check fraud-perpetrating and ballot-box-stuffing democrats?

The laws which these gentlemen want repealed, Mr. Chairman, interfere with no man's rights. Like all just laws they are a terror only to evil-doers. I defy gentlemen on the other side to point to a single instance where any man who had a right to vote has had that right interfered with under the operation of these laws; but there are hundreds of instances where the enforcement of these laws has secured the voter in his right to vote, when otherwise this right would have been denied him. It is true that these laws act as a restraint upon democratic bulldozers, repeaters, and fraud perpetrators, and it is because of this, and because they have for their object the securing of free and fair elections, that we republicans object to their repeal. Republicans believe in honesty and fairness at the polls the same as elsewhere. The doctrine of our party has been and is that every citizen in the land should be the equal of every other before the law. We have always held to the idea that the protecting arms of the Government should be stretched out to all classes of our people, guarding the interests and rights of the poor as well as the rich, the weak as well as the strong, and securing every citizen in every right guaranteed to every other citizen. By these broad, just, and humane doctrines we stand to-day, and demand, as we have often done before, that they be carried out both in the life and practice of the nation. Especially do we demand at this time that the republican majorities in the Southern States shall not be disfranchised. We stand by these election laws which the democratic majority in this Congress are seeking to repeal, and insist that they not only be allowed to remain as they are but that they be most rigidly enforced in the interest of honest and fair elections in every portion of the land.

But, once more. The question has been asked during this discussion, by gentlemen on the other side, why we republicans persist in reviving the issues of the past—in calling up matters which every one supposed had been settled years ago? The question is easily answered. It is because we see a disposition manifested on the part of the gentlemen on the other side to wipe out the legislation by which the results of the late war were secured to the country, and to so change the laws of the land that there will be nothing in our statute-book to indicate that treason is a crime, or that those who took part in the war of the rebellion did anything wrong. In this is to be found our answer, and I trust it will prove abundantly satisfactory to the gentlemen who have asked the question. These gentlemen must expect us to talk about the war and matters pertaining thereto, and to talk, too, with some degree of energy and force, so long as they continue in the course which they have taken for the past

few years and are taking to-day. Having sacrificed so much in treasure and blood, we do not propose to sit quiet while those who fought to destroy the Government tear from the statute-book every law that we put there to secure to us the fruits of our sacrifices.

If the majority on this floor do not want us to call to their remembrance the issues of the past, they must stop forcing upon us propositions which show that they regard these issues as still unsettled. What are some of these propositions? You come forward with your rebel claims and demand that the Government pay them, knowing that if you can get the Government to do this you get a recognition from the Government that it regards the treason of a rebel claimant worthy of as much consideration as the loyalty of a loyal claimant, and that the one is just as much entitled to receive pay on his claim as the other. You lay your hands upon the law which we enacted, providing that no rebel soldier shall ever be pensioned by the Government, and seek to tear it from the statute-book, knowing that if you can do this you open the way for pensioning rebel soldiers, thus placing them upon a platform of perfect equality with the Union soldiers, and declaring to the world that their treason is not a crime. In fact, you declare both by your actions and your words that you propose to wipe out every law enacted since 1861 which makes any distinction between loyalty and treason. In his speech on the Army bill a few days ago the gentleman from Kentucky, [Mr. BLACKBURN,] speaking for the majority in this Congress, used these words:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book.

This is the feast to which we who stood by the Government during the rebellion are invited. This is the pronunciamento made by authority in behalf of the great democratic party. The gentleman's language is clear and unmistakable in its meaning. There is to be no half-way work in this matter, but "the last vestige of your war measures" must go. Such language, taken in connection with the utterances of other gentlemen on the other side of this House and in connection with the action of the majority here, has a wonderful significance. It shows that the war did not end, as we had supposed, with the surrender at Appomattox, but that it is to be fought out in the halls of the National Legislature. It proves beyond the possibility of a doubt that the rebels of the South are determined to secure by legislation what they failed to secure at the point of the bayonet. It shows that these men are resolved to render the fruits of the war worthless to the country and of no avail in securing its future peace, unity, and prosperity. These things being so, why should you men complain if now and then we revert to the scenes of the past and remind you of the part you played therein. I would say to you that you have this whole matter in your own hands. We republicans are willing to let bygones be bygones just as soon as you will take your hands off from the legislation which secures to the country the results of the war and give us some assurance that you will let it alone. As soon as you will do this, I can assure you that this ghost of the past which rises to trouble you so frequently and so much will down forever. But it will never down so long as you persist in attempting to carry out the programme laid down by the gentleman from Kentucky.

But there is another utterance of the gentleman from Kentucky to which I desire to call attention. Speaking for the democrats on this floor, and with reference to the fact that the democrats to-day have control of both Houses of Congress, he says that his party has come back to its "birthright of power." I suppose, Mr. Chairman, that no republican will dispute the fact that the democracy are in full control of both Houses of Congress. In fact, we have it impressed upon our minds every day that they have, in the language of the Okolona (Mississippi) Southern States, "captured the Capitol." We are fully aware, sir, that those who sought to take the life of the nation a few years ago are in full command in this building, and we, on this side of the House, were made more fully aware of it than ever before, if such a thing were possible, when, the other day, in response to some remark of the gentleman from Mississippi, [Mr. CHALMERS,] we heard that old rebel yell ring out from the galleries with all the force and significance which characterized it during the war. Yes, gentlemen, you are here in full force, and no doubt you intend to remain, but let me tell you that your stay here will be brief unless you make up your minds to keep hands off and let the "war measures" alone, which the gentleman from Kentucky declares you are going to wipe out.

It may be all right for the democracy to boast of their "birthright of power" in this country. I do not know, sir, how thoroughly the gentleman from Kentucky had studied that expression before he uttered it, but, sir, in view of the past record of the democratic party, and in view of the present attitude of that party in Congress, the expression has a wonderful significance. The action of the democratic party for the past half century speaks louder than does the gentleman from Kentucky, proclaiming this assumed doctrine of the democracy that they are the only party in the country which has sufficient ability to run the Government—that they have, in fact, a sort of God-given right to rule. Acting upon this assumption, the democracy have always been determined to hold the reins of government, and whenever any other party has had the courage to step forward and oppose them, they have endeavored by every means in their power, whether fair or foul, to put that party down. Their motto has always been to rule or ruin, and they were ready at all times to trample the national flag under their feet, tear the Constitution to tatters, and destroy the Government, if they could not have their own way in managing the affairs of the Government.

In 1860 they were mad because they could not get votes enough to elevate their candidate to the Presidency, and they have been mad ever since it was known that they did not elect their presidential candidate in 1876. In 1860 they plotted revolution, and in the winter of 1876–'77 they plotted revolution again when they were concocting plans to put Mr. Tilden into an office to which he was not elected. In 1860–'61 they made war upon our Army and weakened it in every possible way, so that it could not be relied upon to prevent them from carrying out their revolutionary schemes, and for the past four years they have been making a like war upon our Army, crippling it here, cutting it down there, and seeking to make it weak and inefficient everywhere, so that when they attempted to revolutionize the Government again the Army would not be used as a power against them. And to-day they show both by action and word that they have not changed for the better, but are actuated by the same spirit which actuated them in 1860. They declare to-day that they must have their own way or the Government must stop. They say to the President, you must yield your constitutional rights and let us do as we please or we will withhold the appropriations and let the Government starve. This is the attitude of the great democratic party to-day, determined to break down the Government unless they are allowed to run it according to their own wishes.

Now, Mr. Chairman, let me beg gentlemen on the other side to pause and reflect a moment upon the evils that must necessarily result from persistence in such a course. Let them in all seriousness ask themselves if such a course will pay either them or the country. Let me urge them in this hour of danger to rise above party, plant themselves upon the high platform of enlightened, wise, and patriotic statesmanship, and act for the common good of the whole country. Let me ask them to labor not to destroy the sovereignty of the people, but to establish it upon a firmer foundation, if possible, than it now has. The ballot is the great weapon placed in the hands of the American citizen with which to maintain his rights, while the ballot-box is the great medium through which he gives expression to his individual political sentiments. Let the majority in this House remember this, and let them labor to preserve the purity of the ballot-box and to protect the citizen in his right to cast a free and unrestrained ballot. Every protection we can give the one, and every safeguard we can throw around the other will be so much toward maintaining the liberties of our people and securing the perpetuity of our free institutions. Let us, then, both republicans and democrats, unite our efforts and labor, not to destroy, but to preserve the free and full sovereignty of the people. Let us take a firm and decided stand for popular right and liberty, and thus do what we can to maintain the majesty of American citizenship and the glory of our Republic.

Mr. Chairman, on the 25th of last February I made some remarks upon the bill now before us, which was then before the House, and as those remarks bear particularly upon the provisions of the bill now under discussion I wish to submit them as a part of my remarks on this occasion:

Mr. HAYES. Mr. Chairman, I have thus far abstained from participating in the discussion of the bill now under consideration for the reason that I have been anxious to see the bill disposed of with as little delay as possible, and hence have been unwilling to take up the time of the House with remarks which might perhaps just as well remain unsaid. I realize the fact that what we do in the way of legislation must be done quickly, for we have but a few days left us in which to complete the work of the Forty-fifth Congress. Yet, sir, as the majority in this body seem determined to impede legislation by attempting to attach to this appropriation bill amendments which are entirely foreign to the bill and have no relation to it whatever, I feel called upon to say a few words at this time. It it scarcely necessary to remark that I am most decidedly opposed to the amendment offered by the gentleman from Ohio, [Mr. SOUTHARD,] and hope to see it voted down by an overwhelming majority. The reasons upon which I base my opposition are two: first, because I believe it to be bad policy to legislate in regard to general matters in an appropriation bill; and, second, because I heartily approve those portions of our law which this amendment proposes to repeal, and am in favor of letting them remain as they now are upon our statute-book.

It is, perhaps, unnecessary for me to say anything in regard to the first of these two reasons, as the point covered by it has been most fully and ably discussed by other gentlemen who have already participated in this debate. Yet, sir, I will add a few words to what these gentlemen have said. I hold to the idea that an appropriation bill should be an appropriation bill and nothing else, unencumbered by anything of a foreign or irrelevant nature. This, evidently, was the idea of those who drafted the rules by which this House professes to be governed, and I am fully persuaded that if these rules had been interpreted according to either their letter or spirit this amendment would have been declared out of order. A careful reading of these rules will be sufficient to convince any fair-minded man that this amendment is in direct violation both of Rule 48 and Rule 120. This being the case, why should such an amendment be declared in order? My idea is that if we have rules to govern us in our deliberations we ought to live up to them, and not be so ready to violate them whenever some little partisan advantage can be gained by so doing. If our rules are not what we want, let us proceed to amend them and get them to suit us. But so long as we have them and profess to be governed by them, let them be enforced.

But, sir, in the second place, I am opposed to this amendment because I desire to preserve the law which it proposes to destroy. What is this law, let me ask, or rather what are its provisions? The law simply provides that in certain cases the United States court shall appoint persons to act as supervisors of elections, and makes it the duty of United States marshals under certain circumstances to assist these supervisors in the discharge of their duties. The sole object of the law is to prevent fraud at the ballot-box and secure free, fair, and honest elections. This being so, why is it that the gentlemen on the other side are so hostile to it? Are they not in favor of fair and honest elections—of preserving the purity of the ballot-box? It would certainly seem not, if we are to judge from the bitter war they are making against this law. I am free to confess, sir, that I cannot see what objection any honest man can urge against the law as it now stands. I cannot see

why any one who is anxious to have fair and honest elections in this country should ask for its repeal.

The fact is, the war against this law is waged not so much by men who want fair and honest elections as by mere politicians who hope by wiping out this law to advance the interests of the democratic party, and thus help forward their own ambitious schemes. There is method in what these men are doing, and it will be well for us before we give our votes in favor of this amendment to pause and consider the meaning of the demand for its passage, to pause and consider what peculiar significance attaches to this cry that comes up from a democratic caucus, asking that this law be repealed. Why, sir, this cry is nothing but a note of alarm, a signal of distress. The democratic party is in trouble, and this House is called upon to help it out. The future looks dark for that party unles some relief is furnished at once.

The enforcement of this law by President Hayes has sent terror to democratic leaders everywhere. As the law goes forth and does its work, they see the immense democratic majorities in such cities as New York almost entirely wiped out. They see their friends and supporters in South Carolina, Louisiana, Florida, Maryland, and New York arrested, tried, convicted, and sent to the penitentiary. These facts lead them to fear for the future of their party. They know that if this law is suffered to remain upon the statute-book and is enforced, our penitentiaries will soon be filled with democratic voters. They know, too. that this law, honestly and fearlessly executed, would wipe out the heavy democratic majorities in many localities, both North and South. They understand fully that while this law is in the interest of honest elections and good government, it is not in the interest of the democratic party, and hence they have resolved to blot it out.

Now, sir, I do not blame the democratic leaders much for being alarmed at the situation. The signs of the times are ominous. This law is cutting down democratic majorities fearfully. Already hosts of democratic voters have fallen beneath its unsparing hand. No less than two stalwart democrats who claim to be elected to the Forty-sixth Congress are already indicted for election frauds, and may be landed in the penitentiary any day. Why, sir, if this thing is allowed to go on much longer, the democrats may find themselves in a hopeless minority in the next House. But this is only a part of the danger that threatens our democratic friends. If this law continues in force until 1880, and under its operation we can get a fair and honest election, not only will the democrats not be able to elect their candidate for President but many of our democratic friends on this floor will be retired to the ranks of private life.

Here is where the shoe pinches, Mr. Chairman. It is the fear of what the future has in store for them under the present order of things that troubles the democratic mind to-day. Hence they demand a repeal of this law in order that ballot-box stuffing and fraud may have full sway. There is certainly nothing either in this law itself or in its administration to alarm any one who is in favor of honest elections. Like all just laws it is a terror only to evil-doers. The democracy themselves would not find any fault with it if they were really anxious for fair elections. But the trouble is they do not want fair elections. They know that fair elections would bring defeat and ruin to their party. Hence, at the dictation of their caucus, the democratic majority come in here and demand the repeal of this law which stands directly across the path of democratic frauds and holds in check the hordes of democratic bullies and repeaters in their attempted raids upon the ballot-box.

This is the secret of the democratic hatred of this law. The fact is the democratic leaders have determined upon success at the next presidential election, and as this law stands in their way they have resolved to get rid of it. They propose to repeat in 1880 the frauds and dishonest trickery of their party in 1876, only upon a more extensive scale. They say that in order to carry the State of New York for the democracy the bummers, dead-beats, and plug-uglies of New York City must be allowed to vote half a dozen times apiece instead of only once, as they can do under this law. They say that the white-liners and rifle-club men must be permitted to intimidate republican voters, drive them from the polls, and vote tissue ballots to their hearts' content, or the Southern States will all go republican. The repeal of this law will be an act solely in the interest of the democratic party, and not in the interest of the country. It will simply mean the opening of the flood-gates of iniquity, ballot-box stuffing, intimidation, and fraud, in order to make democratic success certain in 1880. It will only give the democracy more complete control in those localities where they are in the majority, and thus enable them with impunity to perpetrate such frauds upon the ballot-box as will give them a victory.

To one unacquainted with democratic tactics and history such a proceeding as this would seem exceedingly strange, but to those who understand the democracy nothing could be more characteristic. In demanding the repeal of this law we see just the same spirit manifested that has characterized democratic action and democratic legislation for the past quarter of a century. It is a notorious fact that the great democratic party has had but one leading principle of action for the past twenty-five years, and that is, to gain power and hold it after they had gained it. For this they have been willing to sacrifice everything that ennobles and dignifies a party. For this they have violated the Constitution, torn down solemn compromises, attempted to force slavery upon a free Territory at the point of the bayonet, and plunged the nation into a cruel and bloody war. They have shown themselves ready and willing to tear down any and every thing that stood between them and power, no matter how sacred it was or how necessary to the safety and welfare of the people. And to-day we find them actuated by the same motives and controlled by the same spirit. We see them to-day at their old tricks again, and we cannot but feel that they are as hostile to the common good as ever. In demanding the repeal of this law they show that they are as ready as ever to resort to any means, however questionable, to achieve success. They want a President in 1880, and they are determined to so "fix things" that there will be no possibility of defeat. That is the meaning of all this planning and scheming, this special legislation in appropriation bills.

And I say again that I am not surprised at this action on the part of our democratic friends. It is only a continuation of the course entered upon four years ago and kept up from that time to the present. Knowing what I do of their actions in the past, I am not surprised now at anything they may do. A party that will go to work deliberately to buy the Presidency and to bulldoze Congress into counting in to the presidential office a man who was not elected thereto, that will resort to the most infamous frauds to carry elections, that will turn out of seats in this House republicans who were honestly and fairly elected to their seats and put democrats into them who had no shadow of right to them—a party, I say, that will commit such high-handed outrages as these I am not surprised to see come forward now and demand the repeal of this law.

The fact is, these gentlemen are determined to have the next President, if possible, no matter at what cost. They hope by repealing this law to make fraud at the ballot-box free all over the country and to give the democratic repeaters in our large cities a chance to vote as many times as they please. The whole thing is a grand scheme to advance the interest of the democratic party, and by means of it they expect to carry not only a "solid South" but New York, Connecticut, New Jersey, Ohio, Indiana, and perhaps Illinois, in the North.

With such a grand scheme for opening the flood-gates of fraud and ballot-box stuffing as this, the majority on this floor must not wonder if the republicans here stand solid against them. They must expect the gentlemen on this side to be firm and united to resist the consummation of such an infamous piece of legislation. Mr. Chairman, it would be well for the majority to pause and consider for a moment what they are going to gain by the attempt to force through such legislation as this. The democratic majority in the Forty-fourth Congress forced an extra session of the present Congress by their determination to attach partisan legislation to an appropriation bill, and the course the majority have entered upon may force an extra session of the Forty-sixth Congress.

Will an extra session of the Forty-sixth Congress pay the democratic party? I do not imagine that an extra session of the present Congress helped them any, and I do not believe an extra session of the Forty-sixth Congress would assist them to any great extent in the campaign of 1880. However, they are to be the judges; but I tell them here that, if an extra session comes, upon their shoulders must rest the entire responsibility. The present session is one extending over three full months. During all that time we have had nothing to do but to pass the appropriation bills. If these bills fail, there is and can be no excuse given for the failure. If they are not passed, it will be simply because the majority in this House will it otherwise. The responsibility for the failure will be theirs, and the people of the country will so regard it.

Mr. RICHARDSON, of South Carolina. I did not occupy all of my time while addressing the committee.

The CHAIRMAN. The gentleman has forty-five minutes of his hour still undisposed of.

Mr. RICHARDSON, of South Carolina. I yield that time to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. Mr. Chairman, the proposition before the Committee of the Whole is a simple proposition to amend the existing statutes of the country so far as they refer to the presence of supervisors and marshals at elections. It is as simple as was the amendment that was offered to the Army appropriation bill, which had for its purpose and office the keeping of troops away from the polls. Yet, sir, had a stranger to our laws and institutions walked into this Hall at any time during the debate, from its inception, when the honorable gentleman from Ohio [Mr. GARFIELD] commenced his discussion with gloves on, up to the time when the last gentleman who has just addressed the committee [Mr. HAYES] spoke with gloves off, they would have supposed that instead of being a proposition to change existing laws by the majority of the two Houses of Congress, it was a question as to whether or not the southern people were liable to be indicted for murder, arson, robbery, and every other crime known in the catalogue of crimes.

I shall endeavor to make good what I say by reference to the speeches made by the gentleman from Maine [Mr. FRYE] and the gentleman from Ohio. [Mr. GARFIELD,] by the gentleman from Wisconsin, [Mr. WILLIAMS,] and others. It has been asserted by the gentleman who has just taken his seat, [Mr. HAYES,] and whom I have not the pleasure to know, that the necessity for troops at the polls was never produced except by the action of the democratic party. Sir, the gentleman, if familiar with the history of Southern States since the war, might well have said that, from 1865, when the war closed, to 1875, a period of ten years, in every single Southern State you had men marching to the polls with their leaders with drawn swords on their shoulders, and their followers armed to the teeth.

For five long years in the capital of my own State after the war was closed, and at the precinct in the county where I live, I have seen the serried files of colored men, with their leaders with drawn swords on their shoulders and every colored voter armed, march up to the polls at the opening hour in the morning and hold them until the closing of the day. And you republicans, when you saw this being done, did not feel that there was any necessity for protecting the purity of the ballot-box. You could see the colored race of the South just manumitted, intrusted with the ballot against the advice of the most distinguished men of the republican party, among them the late Senator Morton, of Indiana, who said they ought to undergo a period of preparation for the exercise of this right. You refused any time for preparation, and insisted that they should be invested at once with the ballot. They were invested with it, and under the lead of the carpet-bagger and the scalawag of the South, whom your party set up there, you allowed the negro, with drawn swords in the hands of their leaders and arms in the hands of their followers, to take possession of the ballot-box in Mississippi. You held them for ten years, and never thought that it was any invasion of the right of the people to go to the ballot-box. You banded the negroes together, and drove them to the polls like sheep to the shambles, and voted them in the interest of the republican party and the maintenance of your power.

You had negroes in the North, enlightened and educated negroes. Yet though in Massachusetts in 1780 you had manumitted fourteen thousand of them, you never sent one to Congress to represent Massachusetts. About the same time you manumitted negroes in Maine, but you never sent one from Maine to represent you in Congress. And when I put the pertinent inquiry to the gentleman from Maine [Mr. FRYE] when he turned around with dolorous countenance and melodramatic hypocrisy and expressed his regret that the six southern colored men who formerly were Representatives in Congress were no longer here, when I put to him the query why the love for the negro had never found expresion in his State by sending one of that race to this Hall, he replied: "You will have to ask the people of Maine; I cannot tell."

I say, therefore, that this pretense of regard for the purity of the ballot-box is but hypocrisy; this pretension of the right of free ballot for the colored people is but a sham. I assert here to-day that in the capital of my own State, in the counties of my own district, and in numerous counties throughout the State of Mississippi armed bands of colored men have taken possession of and held the polls for years, and I have never heard one word of complaint or commiseration for the white race from the republican party.

You sent carpet-baggers and scalawags to wield this power which you had created in the interest of the republican party. You put them there with their feet upon the neck of your Anglo-Saxon and Caucasian people, blood of your blood, bone of your bone, with the same great lineage of constitutional liberty and with the right to protection, and yet you have never lifted a finger to protect them. And why? Because they were what the gentleman who has just taken his seat said they were—because they were red-shirted white democrats, who were powerless to cast a ballot, much less able to prevent anybody else from doing so. When I say this, Mr. Chairman, I speak of that which I know, for I have stood myself near the polls and never voted for six long years after the war had closed.

I say therefore, sir, this is but a pretense on the part of those who say now they are in the interests of free ballot and desire to keep troops at the voting polls because they believe the colored man does not exercise it. I know it and assert it that in Mississippi in the last two elections there was not a single colored man in the whole limits of the State who was not absolutely free to cast his ballot if he wished to do so.

This discussion, sir, was opened by the gentleman from Ohio, [Mr. GARFIELD,] as I have already said, in somewhat milder terms than some of his colleagues have seen fit to speak since. He uses this expression in the opening part of the speech which he made on the 29th day of March last; when speaking on a subject like this he says:

> But I mean to say the consequence of the programme just adopted, if persisted in, is nothing less than the total subversion of this Government.

It was a simple proposition, Mr. Chairman, to repeal a law standing upon the statute-book, a law which the gentleman from Ohio himself said he was opposed to, a law which he asserted he would vote to repeal himself if the proposition for repeal stood separate and disconnected from an appropriation bill. And yet it was a law which was passed connected with an appropriation bill! Now, sir, it is gravely asserted that a proposition to repeal this enactment is revolutionary. The distinguished gentleman from Michigan [Mr. BURROWS] who spoke the other day on this subject said that the threat on the part of a majority of this House and on the part of a majority of the Senate to repeal this law was revolutionary in its character. He said that the effort on the part of the majority of Congress to repeal it was revolutionary—and why? Because the President might veto it or the minority on that side might not concur with a sufficient number of the majority on this side to make up the requisite two-thirds to override the veto of the President.

Now, sir, the proposition is made, gravely made, that a democratic majority in both branches of the National Legislature shall fold their arms in quietude and peace and withhold all attempt to repeal obnoxious laws which for the last seventeen years have blurred and blotted the statute-books of the country, and which gentlemen on the other side of the House themselves say they are opposed to if it comes to a vote on their repeal independent and separate from the general appropriation bills.

But I desire to read still further from the speech of the gentleman from Ohio. In the same speech referred to he says:

> Up to this hour our sovereign has never failed us. There has never been such a refusal to exercise those primary functions of sovereignty as either to endanger or cripple the Government; nor have the majority of the representatives of that sovereign in either House of Congress ever before announced their purpose to use their voluntary powers for its destruction. And now, for the first time in our history, and I will add for the first time for at least two centuries in the history of any English-speaking nation, it is proposed and insisted upon that these voluntary powers shall be used for the destruction of the Government. I want it distinctly understood that the proposition which I read at the beginning of my remarks, and which is the programme announced to the American people to-day, is this: that if this House cannot have its own way in certain matters, not connected with appropriations, it will so use, or refrain from using, its voluntary powers as to destroy the Government.

What is the Government, sir? Shall this House refrain from the exercise of its voluntary powers to repeal obnoxious laws now standing upon the statute-book; shall the Senate refrain from the exercise of its powers; shall the democratic majority in the two Houses of Congress refrain from the exercise of their constitutional powers because the acts which they may pass repealing obnoxious laws may not be approved by the Executive? Such an argument is at once an estoppel of the Government itself, which is the people and the representatives of the people.

I read still further, however, before commenting upon the remarks of the gentleman from Ohio. He says further in this same speech of March 29, "Notwithstanding your utmost efforts to destroy it, the Government was not destroyed." Alluding to the result of the war, he says:

> Then your leaders, though holding a majority in the other branch of Congress, were heroic enough to withdraw from their seats and fling down the gage of mortal battle. We called it rebellion; but we recognized it as courageous and manly to avow your purpose, take all the risks, and fight it out in the open field. Notwithstanding your utmost efforts to destroy it, the Government was saved. Year by year since the war ended those who resisted you have come to believe that you have finally renounced your purpose to destroy, and are willing to maintain the Government. In that belief you have been permitted to return to power in the two Houses.

In that belief you, the democratic party, have been permitted to return to power in the two Houses. This is a most wonderful and gracious thing coming from a republican. He says we have been "permitted" as if the permission had come from the republican party of the country. He says, "You have been permitted to return to power in the two Houses." Now, I suppose, if we would humbly ask the President of the United States as to the sort of laws we should pass and whether His Excellency would approve them or not, then we would be permitted to stay in the majority, and if we would ask the minority in Congress as to the propriety of repealing laws passed during the last nineteen years, when the republicans were in power, we should be permitted to remain here. But I tell you, Mr. Chairman, that we are here by the omnipotent power of the people now with strong hand shaking the republican party from the strongholds of power which they have so long abused. You have abused your power to such an extent that you have not only enabled the colored man by the aid of the carpet-bagger and the scalawag to put his foot upon your Caucasian brother in the South, but you have abused the powers of the Government to such an extent that in the language of the distinguished gentleman from Philadelphia [Mr. KELLEY] in the Forty-fourth Congress, "There are to-day a million and a half of laboring-men in the North whose labor is worth $1.50 a day, but who are not able to earn the bread that may keep starvation from their doors."

Mr. PRICE. Will the gentleman allow me a moment?

Mr. HOOKER. I will yield for a question; I do not wish the gentleman to interject a speech into mine.

Mr. PRICE. The gentleman from Mississippi [Mr. HOOKER] is very fair, and as the gentleman from Ohio [Mr. GARFIELD] is not now here to reply, the gentleman from Mississippi ought certainly to give the republican party credit for this: that when we had a majority of two-thirds in both Houses of Congress we removed the political disabilities of gentlemen in the South who are now come back here, although we had the power in our hands to prevent it. The gentleman ought at least give us credit for that. That, I presume, is what the gentleman from Ohio referred to.

Mr. HOOKER. I give you credit for doing simply what was your duty, and if you had carried out the terms of surrender as made by your officers in the spirit and temper in which that surrender was made you would have passed those laws long before you did.

Mr. PRICE. My friend will agree with me that we had the power to do differently.

Mr. HOOKER. Oh, yes.

Mr. PRICE. We did voluntarily open the door and allow gentlemen from the South to come in here on this floor as equals.

Mr. HOOKER. To a certain extent you did. The gentleman will remember that for years his party had a "solid South" in the interest of the republican party; and they never objected so long as its solidity was of that political complexion. It was only after ten years of submission to the rule of the republican party in the South, that had impoverished every Southern State, that had loaded us with heavy debts, that had spread over our statute-book laws which were unjust and unequal—it was only after ten years of submission to such rule, inaugurated by the republican party through the instrumentality of the colored race, that we rose in opposition to it. Allow me to say that if we had sent emissaries from the South to the city of Boston or the State of Maine, who had proclaimed to the laboring people "The capitalists are oppressing you, and we want you to meet us in some public hall for the purpose of combining against the capitalists of the country and compelling them to give you fair wages"—if we had gone there and attempted thus to disturb the relations between capital and labor, if we had interfered in that way with the internal affairs of any city or State of the North, we would soon have been ornamenting some of your handsome lamp-posts. In Maine, or Massachusetts, or Iowa you would not have stood for twenty-four hours what the South stood for ten long years.

Mr. PRICE. But the gentleman must agree that he is mistaken in one of the statements he has just made. These political disabilities were removed, the doors were thrown wide open voluntarily long before ten years had passed; it was done within four or five years after the surrender. And let me remind the gentleman that the surrender at Appomattox was not a voluntary matter. Our action was a voluntary matter.

Mr. HOOKER. I cannot permit the gentleman to make a speech in my time. I only yielded for a question. I understand all that the gentleman states; but when you did pass these laws, when you did restore the right of suffrage and the right of representation to the southern people, did you do it with a condition? Did you hold out the amnesty with one hand and say, "It is yours, provided you use it in the interest of the republican party."

The gentleman from Maine [Mr. FRYE] said the other day, in substance, "We sent down into the South a few companies of blue coats and blue pantaloons, and they were able to keep order and secure justice and right in that region of country; we took them away, and we soon had a solid democratic South." Why so? Simply because you gave to the people of that country the right to vote. For ten years you held that section under radical rule, under the control of scalawags and carpet-baggers, and you never felt any sympathy for your Caucasian brethren there. You saw them driven from the polls, you saw them made the creatures of the absolute will of those in power, and you never regarded it at all. For ten years this was borne in the South as it never would have been borne in the North, in Maine or Massachusetts.

Mr. STEELE. Or in Iowa either.

Mr. HOOKER. But I pass to the consideration of other matters. I merely alluded to the language of the gentleman from Ohio [Mr.

GARFIELD] because it was the language of a master to servants; it was the language of a superior to an inferior; it was language which no man has a right to use toward the free representatives of the people on this side of the House. We are here, thank God, not by your permission, but in spite of you. We are here, thank God, not by any mercy or clemency of the republican party, but by the omnipotent power of the people at the ballot-box, and we do not come here for the purpose of asking your permission or consent as to what laws shall be passed.

We intend to sweep the laws from the statute-books that we believe impede free elections and prevent free ballots and a free expression of the voice of the people. That is all; and whether that is done by troops at the polls or whether it is done by the order of the Department of Justice in sending in swarms over the States in the South their deputy marshals to control the elections; in whatever form you have spread upon the statute-books this effort to override the people, to oversee the people, to dictate to the people, to interfere with their free ballots, we do intend to sweep it away. There is no concealment about it. Our action is open and free and candid.

But I pass from the consideration of the speech of the gentleman from Ohio [Mr. GARFIELD] to the speeches of some others who have spoken upon this subject. I shall refer first to the speech which was made by the gentleman from Michigan, [Mr. BURROWS,] in which, among other things, he says this:

> Pardon me, I say, if I express my honest convictions that with all your professions you want neither peace nor purity at the polls. Your chiefest desire is the election of a democratic President in 1880.

Further on he said:

> It has been stated that your conduct in 1861 was honorable and heroic, meaning I suppose as contrasted with what is now proposed, but I am prepared to characterize the rebellion of 1861 as treason, and your purposes of to-day but little else, and, so far as the South is concerned, an exhibition of the basest ingratitude.

Did the gentleman express his honest sentiments when he used that language? Did he represent the people for whom he speaks when he uttered that sentiment? Does he really believe that a proposition to repeal a law on the statute-book amounts to treason against the Government; that because the democratic party has tendered these bills for consideration to the House of Representatives and to the Senate, holding a majority in both branches, they are guilty of base ingratitude? Ah! Does he come under the category of the gentlemen who interrupted me a few moments ago and said, "We gave you the right to vote; we restored you the power to vote; but we expect you always to vote as we think proper?"

Mr. PRICE. Oh, not at all.

Mr. HOOKER. That is the English of it; you cannot get out of it.

Mr. PRICE. We only want you to let others vote.

Mr. HOOKER. It is a sort of irrepressible logic which you cannot evade, as the gentleman from Ohio [Mr. GARFIELD] sought to do in his metaphysical search after the voluntary powers of the Government.

Again, the gentleman from Michigan [Mr. BURROWS] uses this expression:

> Time, which reveals the purposes of men, has dispelled all doubt, and to-day there is no question of your purpose. To-day you stand arraigned before the country at the bar of public judgment, on your own plea of guilty, self-convicted conspirators against the life of the nation.

And that sentiment received the applause of the opposite side of the Chamber. A majority of this House proposing the repeal of an enactment upon the statute-book which looks to supervising elections in States, arraigned upon the charge of a conspiracy against the Government, upon which they plead guilty because they offer such a law!

Why, sir, I have been startled by the doctrine which has been enunciated by many of the gentlemen on the other side of this Chamber. They speak of the elections to the House as if they were elections by the Federal Government. They never have been so regarded. If that proposition had been uttered in the convention of 1789, when the representatives of the various States were debating the adoption of the Federal Constitution, it would have startled and alarmed the most extreme Federalist of that body. These are elections held by States, the polls created by State law, the registration created by State law, the votes deposited under State law, the elections held, if a vacancy occurs, by order of the governor of the State; all are State elections, to fill an office which simply has Federal functions to be performed; nothing more, nothing less. And the startling doctrine that the Federal Government can supervise the States was never heard of until you passed the supervisors law and the marshals law, after the war. But now, it is said, when you are driven from every foothold of defense of those laws, when your ablest champions concede the fact that they are of doubtful constitutionality, or that their enactment was not politic and not necessary; when driven from every position you occupied, you fly to the refuge of saying you are the valiant defenders of the colored race in the South, and that you want them to vote freely. That is the pretext on which the law is founded and you base your opposition to its repeal.

I will refer to one more observation made by the distinguished gentleman from Wisconsin, [Mr. WILLIAMS.] In the course of some remarks which he submitted to the House on the 2d of April, he used this language:

> The one government on earth which has come nearer to it than all others is this self-same Government of ours—the Government of the United States. I know of no bayonet rule here except, first, to win independence and maintain God-given rights; and, second, to put down one of the most cruel and causeless rebellions that ever cursed the earth; and lastly—

And I call the attention of the committee to this closing clause of his sentence—

> to prevent our southern friends from indulging in the delectable pastime of shooting negroes on sight.

Did the gentleman express his honest sentiments when he said that? Did he represent his constituency whom he is sent here to represent? Does he believe the gentlemen who sit on this side of the Chamber from the South represent constituencies such as he has here characterized? I assert, so far as the South is concerned, that we are the best friends that the colored man ever had. Oh, yes, I see the gentleman from Wisconsin smiles with some little incredulity. I will send to the Clerk's desk and have read a statement in connection with the exodus of the colored people to Kansas, which shows what the people in your own section do with those whom they hold so dear at a distance. They are like the lady in the novel who was always knitting stockings for the children of Timbuctoo Islands, while her own children had no stockings or shoes either. I want to show how these colored people, so dearly loved at a distance, are treated when they come to you.

The Clerk read as follows:

A protest of the people of Wyandotte, Kansas, concerning the negro immigration.

To the people of the United States:

Within the past two weeks over a thousand negroes direct from the South have been landed at Wyandotte. None of them have money to carry them further west or to purchase the wherewithal to supply their most urgent necessities for food or shelter. But few of them are sufficiently protected from the inclemency of the weather, and on account of exposure, want of proper food, care, and medicine, they suffer severely, and a terrible mortality affects them. Large numbers have died, and at least 5 per cent. of the whole number are sick with pneumonia and kindred complaints. In a word, over a thousand paupers have within a brief space of time been thrown into a town of about five thousand people, who are unable to properly provide for their wants.

These people are possessed of the most visionary ideas concerning what they must confront by coming to Kansas. Their sole idea seems to be to get West where Government land can be occupied, but they are wholly destitute of means to improve it or to sustain themselves until they can cultivate a crop. Go where they will in Kansas, they must be provided and cared for or they will perish. We have reliable information that thousands more are coming. If so, the situation will soon be a very serious one for the deluded, helpless, and ignorant negroes who are thus blindly rushing to Kansas, and a mighty burden will be thrown upon our people. There is not sufficient demand for farm labor to give employment to such a mass of people. They must become virtually a public charge upon the communities where they may happen to be cast.

In view of this state of facts we, the undersigned, citizens of Wyandotte, Kansas, denounce those who are encouraging these people to come to Kansas as really their worst enemies, whatever their intentions may be. We call upon humane and reflecting people everywhere to use their best efforts to check this most disastrous movement on the part of the negro population of the Southwest, and to correct the utterly baseless and visionary ideas concerning what is before the negro immigrant in Kansas, which seems to have taken hold on the minds of the thousands who are leaving their southern homes. We further say that the sentiments of this protest and memorial are those of the people of Kansas without regard to party; and we request papers throughout the country to publish this, our protest and warning.

J. S. Stockton, mayor of Wyandotte; Ant. Kuhls, Catholic priest; V. J. Lane; R. E. Cabe, probate judge; N. Cree, attorney; James S. Gibson, county attorney; William Albright, deputy county treasurer; S. Perkins, county commissioner; Perley Pike, county commissioner; E. R. Emmons, county clerk; W. H. Ryus, sheriff; G. H. Miller, superintendent institution for blind; J. S. Clark, register of deeds; H. M. Northrup, banker; George W. Betts, clerk of district court; J. A. Hale, city attorney; R. B. Armstrong, member of Kansas Legislature; E. L. Buesche, merchant; S. F. Mather, druggist; B. Judd, ex-senator; I. B. Sharp, attorney; F. B. Anderson, justice of the peace; J. M. C. Louther; W. P. Brush, school teacher; H. L. Alden, attorney; E. Sprague; Byron Sherry, attorney; H. J Armstrong, route agent; C. Hains, ex-mayor; O. D. Burt, jeweler; G. P. Nelson, ex-senator; L. Cook, councilman; H. H. Sawyer; Gottlieb Knipfer; D. S. Young, farmer; A. Caley, Times reporter; A. G. Walcott, lumber merchant; G. W. Bishop, merchant.

Mr. HOOKER. In this connection I desire to add to my remarks the following quotation from the Times of Kansas City, which has been kindly furnished me by my friend, Mr. CLARK, of Missouri:

> Matters at Wyandotte are approaching a serious crisis. At a meeting of the relief committee yesterday there was an open and free discussion of the immigration question and a generally expressed determination that no more paupers shall be landed at that point. Agreeably to this conclusion, Mayor Stockton, at the close of the meeting, issued a proclamation, addressed to the owners of steamboats and transportation companies, forbidding the landing of any more destitute persons, and stating that all boats, officers, or agents disobeying the proclamation would be held legally responsible, which implies a fine of from $1 to $500 under the city ordinance. We are assured that the extreme penalty will be enforced against any steamboat company violating the ordinance, and the boat will be seized and held until the fine is paid.

Mr. HASKELL. What is the name of that paper?

Mr. HOOKER. It is one of your own papers.

Mr. HASKELL. What paper is it?

Mr. HOOKER. I do not remember. It is signed by your judges, your mayor, your district attorney, and a great many of your leading citizens; and there is no question about its authenticity. You claim that your object in opposing the repeal of these laws is to enforce the right of the colored man to vote. I desire to say that while you have the negro at a safe distance and he is not a charge on you you are his friend; when he comes to you in want and distress you "protest." The other day you had actually a meeting in Philadelphia to raise means to support those negroes who had migrated to Kansas; and I am told that Hon. Mr. BRUCE, a Senator from Mississippi of the colored race, (and by the by the only one of that race save his predecessor who ever sat in that body during the long reign of the negro-loving radical party,) when applied to to subscribe in aid of

the emigrants, replied that he had rather wait awhile, as in all probability he should have to subscribe to carry them back.

A large portion of these people have gone from a region of country where the negro is as free to cast his ballot as in any portion of the country, as he is in Maine or Massachusetts or Iowa. The distinguished gentleman from Maine, [Mr. FRYE,] whose sympathies go out so much toward the colored members of the last Congress and who wishes that they were still here that he might associate with them, uses the following language:

What then? There were kuklux, there were white leagues, there were white-liners, and you slaughtered in cold blood hundreds, ay, thousands, of these same poor black men—men whom, when you were in the war, when you were away from your plantations, you left your families with, and who never betrayed the trust; men who worked in the fields and raised supplies, while you men who could carry the musket and the sword and the bayonet were permitted to fight the battles, as you said, of your country.

I say that the history has been written. No man can contradict it. There is piled up in this Capitol by the ton evidence which is uncontradicted; and history has been written with a pen of iron; and if you men do not know it, your children when they read it will put their faces in their hands and their hands in the dust. You murdered these men by the thousand. What then? A few troops were sent into the South, not numbering over twelve hundred, south of Mason and Dixon's line; a score or so in a great country in a voting precinct, in charge of a lieutenant, not within two miles of a polling place. I had occasion to investigate this with a great deal of care in Louisiana, and the investigation did not show one single instance where a soldier had been at a polling place interfering with the voters; on the contrary, their orders were not to move from their quarters without orders from the officer in command, and then only to keep the peace.

* * * * * * *

You have the Senate, I am aware of that, but thank God you have not the Executive yet. [Applause.] My judgment is, gentlemen, when you think you will have him by threatening you are making a profound mistake. You may have begged, as the gentleman from Mississippi [Mr. MULDROW] said, on bended knee, of him the withdrawal of the troops from the South, but do not presume too much. Do not presume because you succeeded in that you can go to him, with a pistol in your hand, demanding what you wish, with hope of success. [Loud cries of "Oh!" "Oh!" and laughter on the democratic side of the House.] A beggar may succeed and a highwayman fail.

The gentleman spoke particularly about persons who belonged to the democratic party, and he said they were democratic red-shirts. Has he forgotten the fact that in Mississippi the very first blood of colored men that was shed was shed at the mandate of your republican governor, not in the interest of right and justice and truth, but in the interest of the republican party.

I had occasion to say in the first speech which I made in the Forty-fourth Congress that the first proposition to take the ballot away from the negro would come from the republican party, and some time subsequently a message from the then President came here proposing to take the ballot from all who could not read and write in 1890. In that Congress I had occasion to say, in reply to Mr. HOAR, of Massachusetts, that the first blood of negroes shed in Mississippi was shed at the order of the radical governor whom you sent there from Massachusetts to rule over us. I allude to Mr. Ames. The State attorney-general, Mr. Harris, was asked, "Are you not afraid that it will lead to bloodshed?" That question was asked of Mr. Harris, the attorney-general. What was the reply? He had no sympathy with the negro, no holy horror of shedding negro blood, but on the contrary he said "that the blood of twenty-five or thirty colored men would be of use to the republican party just now." Under this advice, on the the 7th of December, 1874, the colored people marched upon the city of Vicksburgh, absolutely carrying with them baggage-wagons to bring away the spoils, and your republican governor said that "the blood of about thirty colored men would be of service to the republican party just then."

In support of your argument that the negro is not treated right, you refer to the exodus now going on of the colored people from Mississippi and Georgia to the Northwest.

I want to say further that much of the migration now proceeding is from my own region of country. It was gotten up in this way. Circulars were sent throughout the States of Mississippi and Louisiana, with instructions to the colored man not to show them to a white man, proffering large grants of public lands and support and maintenance until they could support themselves; and, instead of this, the poor deluded creatures find disease and starvation staring them in the face in this land of wondrous promise.

I have seen the colored man bring up his wagon and mules and little household goods under the belief that he was to be furnished with a hundred acres of land in Kansas. He sold them for a song, and now that he has emigrated he is absolutely raising a rebellion in Kansas, because the much-loved negro has emigrated to this land of promise and is met by his pretended friends with a protest "that he is a pauper, and cannot come in."

The people of Wyandotte in council assembled had before them a letter from an intelligent colored man, in which he wrote to his mother saying, "For God's sake send me money to buy a ticket to get home, and this is all I will ever ask of you." They have gone to their pretended friends and their friends do not want them.

In confirmation of what I have said I ask leave to insert in my remarks two letters from two of the victims to the deceit and fraud practiced on the credulous colored men, taken from the Madison Journal, as follows:

SAINT LOUIS, *March* 13, 1879.

DEAR SIR: I write to let you know that there are about thirty or thirty-five families of us colored people here in Saint Louis, without homes and some without money. We have been induced to leave home and break up all our home comforts by the lies and false promises of some white men, who lately went through our country and induced us by telling us if we went out to Kansas and help build a railroad we would get $100 in money and one hundred acres of land, and the Government would give us every assistance to raise a crop; we would have schools for our children, and in a few years we would be rich and independent. It was on promises such as these we left home and sold out what we had. We had to pay the steamboat $4 each to get here, and now that we are here we do not know what to do, and nothing but misery and starvation stares most of them in the face. We have no shelter at night, but some of the charitable people here are doing all they can to assist us. As there are a great many more coming up on different boats God only knows what will become of them unless they can get back home again. So I write you this letter in order that you may warn the colored people in our section of country to stay at home, and put in their crops and live happy and contented where they were born and raised, and where they can always make a living, and not come here to a climate that won't agree with them to raise crops that they don't know anything about. If you want to benefit our people warn them to stay at home, and when such villains come in their neighborhood with such stories, to pay no attention to them. I hope I may be able to get back home again, and I promise you I will stick close to my cotton patch and let others build railroa s who know all about them. If I can prevent any of my colored friends from being sold as I have, I will feel happy for writing this letter.

Your friend,

ISAAC COURSEY.

Mr. CURTIS POLLARD,
Stubbs Tract, near Delta.

SAINT LOUIS, *March* 13, 1879.

MY DEAR BROTHER BYNUM: I am here in Saint Louis with my family of ten persons, and will give you my experience since I left home as a warning to my friends and those of our people who may be inclined to break up as I have done. I am here among strangers, the victim of the most outrageous and lying misrepresentations; here without friends and out of money, having spent what I had in traveling in search of the promised land. Some time ago a white man, one of those so-called friends of our race, went through our country, as the most of our brethren around Delta will remember, and promised to all who would go out to Kansas and help build a railroad they would get $100 in money and one hundred acres of land, and the Government would give them every help in raising crops and making a farm, and in time we all would be rich and free and have schools for our children. On these high hopes and promises you all know I left home with my family and sold out what little I had in the world, which was a great deal to me, as I had a start and a home; I sold my horse and mules for almost nothing, and my fine Calhoun plows, that cost me $7 apiece last spring, for the sum of $1.25 each; and in that way I broke up a home where I was happy and comfortable to go where I am now a stranger without a home in a strange land and doing all I can to get back home again. I will tell you some of my experience: I paid the boat $28 to bring us to Saint Louis, and when I got here I went to Kansas City at a cost of $36, and when I got there I found no land or any one to give me land; every one had land to sell, and at a high price. I was told if I went farther, at a cost of $3 apiece, I could settle on some railroad lands, but they are so far away, if I was to go out there and pay out what little money I had left, I would be in a very sad state, without money to get back on.

Even should I have gone out there I had no money to buy stock for a farm or make a crop with if I had the land; so I turned back, seeing nothing before me in going further west but starvation and death in a cold country. It would take some time for a colored man to learn to raise wheat and the other crops that are raised in this country. Now, my experience is that our race had better stay in the country they know something about and where there is no starvation or begging as long as you are in health. I find in this city thousands of white men out of work and for colored people to stay or come here would be only filling the poor-house and may be the jail. There are here now about twenty-five or thirty families of us together in Saint Louis, who have been the victims of this white man's villainy and lies, and I hear that a great many more are coming up on the different boats. In the name of God, if you care for the welfare and happiness of our people, and those who live in your neighborhood and congregation, read this letter to them and warn them to stay at home and make their crops, and live contented and happy where they were born and raised. If they want to move anywhere in large numbers with their families let them do as the white man, send five or six of the best men or members of the church, and have them inspect the place where they intend going to, and then they know how to act with wisdom, for they can report from what they see and learn what is best to be done, but in God's name stop those that intend coming here, for nothing but disappointment, want, and misery will come to them if they move away from home on the false promises that are made to them. I think I have given you enough of my experience, and I write you this letter for the sake of stopping others from being imposed on as I have been, and I hope you will mention these facts to every one that is inclined to listen to those who would have them break up their homes and go in search of something that is only a picture.

Your friend and brother,

DAVID SMITH.

Elder HENDERSON BYNUM,
Monticello Church, near Delta, Louisiana.

Mr. BURROWS. I desire to ask the gentleman one question.

Mr. HOOKER. I will yield for a question, but not for a speech.

Mr. BURROWS. Will the gentleman explain how it happens that the republican vote in his district in 1876 was 8,646 and last fall it was only 686?

Mr. HOOKER. I will answer that question at once. The republican vote in 1876 was very large, but if the gentleman had been as industrious in hunting up the democratic vote as he was in hunting up the republican vote he would have seen that in consequence of the prevalence of yellow fever there were very few votes cast in my district last fall by either party.

In my own district, when I was absent from the State, when I was hundreds of miles away, the vote was very much diminished from what it was in 1876 or 1875 for the reasons which I have suggested. You found the republican vote diminishing, and as it diminished your sympathies for the negro began to rise. He was going away from you; you were losing control of him, because he had become convinced of the fact that you had hypocritically pretended to a friendship for him which you really and honestly did not feel; because he had become convinced that if the white people in Mississippi could make a cheap government for white men they would also make a cheap government for colored men. They had become convinced that your rule had impoverished the laborers of your own States, and they would no longer ally themselves with the party that had reduced the country to bankruptcy.

Mr. BURROWS. Will the gentleman pardon me if I ask him to explain how it happened that the yellow fever affected the republican vote so much more than it did the democratic vote?

Mr. HOOKER. I am not aware that it did, and if it did it did not affect it enough to make it successful. In my own district, when I was hundreds of miles away, I was elected by a majority of thousands against a man who came out in a secret circular and when I was not aware that I had any contestant. I desire to say that it was on that account that the vote of last year was different from the vote of former years. But I am not to be driven by interrogatories of gentlemen from the charge I make upon you, that so far from being the true friend of the colored man you have enacted in Northern States, where you manumitted him, more onerous laws against him than were ever enacted in the State of Mississippi. In Massachusetts you would not allow him to vote because he might not be able to read. But that is all right in Massachusetts and all right in Maine.

The trouble is you never had any use for the negro unless you could run him in the interest of the republican party. The moment you lost control of him, the moment the shackles of party were struck from him and he voted as he wanted to, then you had no further use for him. In the capital of my own State, where were Federal judges and marshals, and armed men upon my own homestead, we carried the county of Hinds in 1875 by twenty-six hundred majority. And now you say the colored man does not vote freely because he votes the democratic ticket.

I say that this is all a simulation of interest in the negro. When the distinguished gentleman on the other side of the Chamber, [Mr. GARFIELD,] with magnificent and Jupiter-like nod, announced the sentiment that this was revolution, and when the distinguished gentleman from Maine, whom I see sitting on this side of the House now, [Mr. FRYE,] reiterated the sentiment and talked about the destruction of thousands of people; when that sentiment was revamped by the gentleman from Wisconsin, [Mr. WILLIAMS,] I could hardly think that they themselves believed the statement that they made. Why, sir, we have sent our money to Georgia, Alabama, South Carolina, and all the other States to bring these colored people to Mississippi, Louisiana, and the more fertile lands of the Mississippi Valley. Now, will you be able to convince the people of the North that we have sent money for the purpose of bringing these colored people to our States in order that we may have the delectable pleasure of killing them? Even if we had not humanity, even if gentlemen forget that we are their brethren of the same blood, even if they do not give us credit for anything of humanity or Christianity, in God's name give us credit for some of the pocket virtue which is said to be possessed by people in certain regions of the country, and do not accuse our people of investing money to bring negroes to our States for the purpose of maltreating and killing them.

When I heard these distinguished gentlemen speaking so positively upon this subject, with so much ardor, with so much wisdom, with so much learning; as I saw their violent gestures, their earnest faces, I was reminded of what was said of a distinguished jurist in England on one occasion when he was delivering an opinion. A lawyer said of him that he was a hypocrite; and when his neighbor asked him why he made that statement he replied that it was impossible that any one man could be as wise as that man looked. So I think it is impossible for any set of men on the other side of the Chamber to hold these views and be sincere and honest.

I have two other letters here which I desire to embody in my remarks. With reference to this particular measure I desire to say that the gentleman from Michigan [Mr. BURROWS] asserted the doctrine that it would be necessary to apply to the President to know what his views were upon certain questions. The doctrine has been asserted that it was revolutionary for this House to pass any bill unless we had the assurance that it would receive the sanction of the President. Has it come to this that we in this House, the majority, must go to the Executive and say: "Will it please Your Excellency to approve this bill? If not, the democratic majority in the House will fold their arms and be quiet."

Shall we let the dignified Senate say, "May it please Your Excellency, will you approve this bill? If not, this Senate will fold its arms in quiet." Shall it be said we are "starving the Government" because the majority in Congress choose to exercise their power? Who dares say what the President will do? Let him take the responsibility of doing what he deems proper with the view of protecting the Constitution and preventing hasty and inconsiderate legislation; but let it not be said that the hands of the majority in both Houses of Congress shall be tied and that action upon any measure shall be prevented simply because the Executive may choose not to approve it and because there may not be two-thirds in either branch to pass the measure over his veto.

[Here the hammer fell.]

Mr. HASKELL. Just one word of explanation; just one word by way of refutation is all that I desire. My State has been alluded to on this floor as hostile to colored immigration. I deny it. My State is not hostile to colored immigration; on the contrary, we welcome such immigrants and will do our utmost to provide for them comfortable homes. But simply in the interest of humanity it is not deemed wise that hundreds and thousands of poor people, white or black, should be landed at any one point in my State or any other State, destitute and homeless, to depend entirely upon the charity of the residents in that locality.

This is all that is meant by any letter which has been written or any expression which has been made, merely that immigrants when they do come should come prepared to take care of themselves for the few days needed to secure a suitable location. We have taken care of hundreds of such people; we can take care of hundreds and thousands more; and we are willing to do so. We are entirely willing that these people should come; we want them to come; but we do not want them to come in such a way that the hands of our benevolence and philanthropy will be taxed beyond the possibility of providing for them.

Mr. HOOKER. Will the gentleman allow me to have read in reply to what he has just said a paragraph from one of the papers published in his State?

Mr. HASKELL. The gentleman had read a few moments ago a paragraph from a paper not published in my State.

Mr. HOOKER. This is from a paper published in the gentleman's State.

Mr. STEVENSON. As the hour of twelve o'clock is at hand I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

Mr. BLACKBURN. I move that the House do now adjourn.

The motion was agreed to, and accordingly (at eleven o'clock and fifty-eight minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BROWNE: The petition of 200 citizens of Wayne County, Indiana, against granting any renewal of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. DIBRELL: The petition of Henry B. Tyler, jr., first lieutenant United States Marine Corps, that his name be placed on the rolls of the Marine Corps and Naval Register in the rank to which he claims he is entitled by law—to the Committee on Naval Affairs.

By Mr. DICKEY: The petition of T. Worthington, for a pension—to the Committee on Invalid Pensions.

By Mr. HENDERSON: Papers relating to the claim of Sabin Trowbridge, postmaster at Lee Centre, Illinois, for relief from loss of postage-stamps stolen by burglars—to the Committee of Claims.

By Mr. HURD: The petition of T. P. Bierly and others, for an increase of the pension of Charles Heath—to the Committee on Invalid Pensions.

By Mr. McKINLEY: The petition of W. C. Boffinger and 603 citizens of Ashland, Ohio, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. MILES: Papers relating to the petition of John Tweedy, for relief from loss of postage-stamps stolen by burglars—to the Committee of Claims.

By Mr. YOUNG, of Ohio: The petition of Vann & Adair, for the payment of a debt due them from the Osage Nation of Indians—to the Committee on Indian Affairs.

By Mr. YOUNG, of Tennessee: The petition of George W. Payne & Co., of Memphis, Tennessee, for an extension of a patent known as the eclipse cotton-gin—to the Committee on Patents.

IN SENATE.

FRIDAY, *April* 25, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. CONKLING. Mr. President, I present concurrent resolutions of the senate and assembly of the State of New York, which I ask may be read.

The PRESIDENT *pro tempore*. The resolutions will be read.

The Secretary read as follows:

STATE OF NEW YORK, IN SENATE,
Albany, April 9, 1879.

Resolved, (*if the assembly concur*,) That the refusal by a partisan majority in Congress to appropriate for the support of the National Government the moneys raised by the people for that purpose, except upon condition of the repeal or amendment of existing laws, is a dangerous violation of the Constitution, amounting practically to revolution, which should be at all times resisted by the Executive by all constitutional means, and especially in the present crisis, when an attempt is being made to prostrate just laws heretofore enacted for the protection and purity of the elective franchise, under threat of withholding the means for carrying on the Government which the Constitution enjoins.

Resolved, (*if the assembly concur*,) That a copy of this resolution be sent to each Senator and Representative from this State in the Congress of the United States.

STATE OF NEW YORK, IN SENATE,
April 9, 1879.

The foregoing resolutions were duly passed.
By order:

JOHN W. VROOMAN, *Clerk*.

IN ASSEMBLY, *April* 21, 1879.

Concurred in without amendments.
By order of Assembly:

EDWARD M. JOHNSON, *Clerk*.

The PRESIDENT *pro tempore*. What disposition does the Senator from New York desire shall be made of these resolutions.

Mr. CONKLING. I move that they be printed and lie on the table.

The motion was agreed to.

Mr. FERRY presented a concurrent resolution of the Legislature of Michigan, in favor of the passage of a law by Congress authorizing the building of a bridge across the Detroit River at or near Detroit, in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, in favor of such legislation by Congress as will secure due protection to settlers under the homestead law in the counties of Oceana, Mason, Charlevoix, and Emmet, in that State; which was referred to the Committee on Public Lands.

Mr. CAMERON, of Pennsylvania, presented the petition of Jacob S. Upp and others, citizens of Philadelphia, Pennsylvania, praying for the passage of a law repealing the stamp tax on matches; which was referred to the Committee on Finance.

Mr. TELLER presented the petition of Wolff & Brown, praying for the passage of a law granting them compensation for property taken and appropriated to the use of the Government in Jefferson County, Colorado, in the year 1865; which was referred to the Committee on Claims.

Mr. JOHNSTON presented the petition of Sallie Yerger, Maggie J. Miller, and others, praying that their claim for compensation for property taken by the Government in the late war be referred to the Court of Claims; which was referred to the Committee on the Judiciary.

He also presented the petition of Alexander Donnon, of Petersburgh, Virginia, administrator of David Dunlap, deceased, praying for the passage of a law granting him compensation for certain property taken by the Government during the late war; which was referred to the Committee on the Judiciary.

He also presented the petition of Mrs. Virginia Taylor, of Petersburgh, Virginia, executrix of Joseph Taylor, deceased, praying that her claim for compensation for certain property taken by the Government during the late war be referred to the Court of Claims; which was referred to the Committee on the Judiciary.

He also presented the petition of David B. Tennant, of Petersburgh, Virginia, praying for the passage of a law granting him compensation for certain property taken by the United States Government during the late war; which was referred to the Committee on the Judiciary.

He also presented the petition of Watson McGill & Co., of Petersburgh, Virginia, praying for the passage of a law granting them compensation for certain property taken by the United States Government during the late war; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. HARRIS. The select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to which was referred the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, instruct me to report a substitute for the bill. I desire to give notice that as soon as the Army appropriation bill is disposed of, if the substitute that I now report shall have been printed by that time, I shall ask the Senate to proceed to the consideration of the bill that I now report.

Mr. CONKLING. What is the bill?

Mr. HARRIS. It is a bill clothing the National Board of Health with certain powers, and imposing upon it certain duties, looking to a national quarantine.

BILLS INTRODUCED.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 494) to authorize the President to restore Charles Brewster to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 495) to reinstate Thomas H. Lawrence as a third lieutenant in the United States Revenue Marine; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 496) providing for the examination and adjudication of pension claims; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 497) granting a pension to J. Clinton De Witt; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Pensions.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 498) changing the time of holding the November term of the United States district court in the district of Connecticut; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 499) granting a pension to Lee R. Seaton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 500) for the relief of William L. Adams; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 501) to amend section 5440 of the Revised Statutes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 23) authorizing the purchase of the pictures known as the portraits of Webster and Ashburton, painted by Healy while the Ashburton treaty was being negotiated; which was read twice by its title, and referred to the Committee on the Library.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GROVER, it was

Ordered, That the papers in the case of William L. Adams be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. MORGAN, it was

Ordered, That the petition and exhibits of Henry F. Lines be taken from the files of the Senate and referred to the Committee on Claims.

Ordered, That the papers in the case of Adilicia Cheatham be taken from the files of the Senate and referred to the Committee on Claims.

APPOINTMENT AND REMOVAL OF SENATE EMPLOYÉS.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions" to be offered, the next business in order is the resolution offered by the Senator from Pennsylvania [Mr. WALLACE] on the 17th instant to amend the standing order of the Senate in regard to the appointment and removal of the employés of the Senate, the pending question on which is the amendment offered by the Senator from Vermont, [Mr. EDMUNDS,] to be added to the amendment offered by the Senator from Ohio, [Mr. PENDLETON,] which was adopted as an addition to the original amendment of the Senator from Vermont, [Mr. EDMUNDS.] The amendment to the amendment will be reported.

The CHIEF CLERK. It is proposed to add to the amendment the following:

But no officer or employé of the Senate who served in the forces of the United States in suppressing the late rebellion shall be removed except for cause stated in writing to the President of the Senate and approved by him in writing.

The PRESIDENT *pro tempore*. On this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) I desire to state that my colleague [Mr. DAVIS] is paired with the Senator from Minnesota, [Mr. WINDOM.] If my colleague were present, he would vote "nay."

Mr. EATON, (when his name was called.) I should like my friend from Massachusetts [Mr. DAWES] to tell me whether he regards me as paired with his colleague, [Mr. HOAR.]

Mr. DAWES. I supposed the pair with my colleague had been transferred to the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. EATON. Then I vote "nay."

Mr. DAWES, (when Mr. HOAR'S name was called.) My colleague, [Mr. HOAR,] as I stated yesterday, is still necessarily absent from the city, and is paired upon all political questions with the Senator from New Jersey, [Mr. MCPHERSON.] If my colleague were present, he would vote "yea."

Mr. MCMILLAN, (when Mr. WINDOM'S name was called.) My colleague [Mr. WINDOM] is absent from the Senate and is paired with the Senator from West Virginia, [Mr. DAVIS.] If my colleague were here, he would vote "yea."

The roll-call was concluded.

Mr. ALLISON. On political questions I am paired with the Senator from Maryland, [Mr. WHYTE.] This seems to take that turn, and I therefore refrain from voting.

The result was announced—yeas 25, nays 31; as follows:

YEAS—25.

Anthony,	Conkling,	Kellogg,	Plumb,
Bell,	Dawes,	Kirkwood,	Rollins,
Burnside,	Edmunds,	Logan,	Saunders,
Cameron of Pa.,	Ferry,	McMillan,	Teller.
Cameron of Wis.,	Hill of Colorado,	Morrill,	
Carpenter,	Ingalls,	Paddock,	
Chandler,	Jones of Nevada,	Platt,	

NAYS—31.

Bailey,	Grover,	McDonald,	Thurman,
Beck,	Harris,	Maxey,	Vance,
Butler,	Hereford,	Morgan,	Vest,
Cockrell,	Hill of Georgia,	Pendleton,	Voorhees,
Coke,	Houston,	Randolph,	Walker,
Eaton,	Johnston,	Ransom,	Wallace,
Garland,	Jonas,	Saulsbury,	Withers.
Gordon,	Kernan,	Slater,	

ABSENT—20.

Allison,	Call,	Hamlin,	McPherson,
Bayard,	Davis of Illinois,	Hampton,	Sharon,
Blaine,	Davis of W. Va.,	Hoar,	Whyte,
Booth,	Farley,	Jones of Florida,	Williams,
Bruce,	Groome,	Lamar,	Windom.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is, shall the original amendment offered by the Senator from Vermont [Mr. EDMUNDS] as amended on the motion of the Senator from Ohio [Mr. PENDLETON]

be substituted for the resolution offered by the Senator from Pennsylvania, [Mr. WALLACE.] On the amendment offered by the Senator from Vermont, the yeas and nays were ordered, and the Chair supposes that that order requires the yeas and nays to be taken on the whole substitute as it now stands.

Mr. EDMUNDS. May I ask the Chair if I correctly understand the question? Do I understand the Chair to state that the question now is on agreeing to the original amendment that I had the honor to offer, as it was changed by the Senate on the motion of the Senator from Ohio, so as to substitute for the original resolution this matter as it now stands?

The PRESIDENT *pro tempore*. That the Chair understands to be the question. The Secretary will call the roll.

Mr. EDMUNDS. Perhaps the time of the Senate can be saved, if nobody desires the yeas and nays, by having the demand for the yeas and nays on this question withdrawn. There is practically now no difference whatever between the original resolution and the form in which the Senate has put the amendment. Therefore, if there be no objection I will withdraw my request for the yeas and nays and ask for the yeas and nays on adopting the resolution after this amendment is disposed of.

The PRESIDENT *pro tempore*. Is there objection to withdrawing the order for the yeas and nays?

Mr. CONKLING. I do not know that I shall object, but I wish the Senator from Vermont for my benefit would state how this stands now. I have lost the run of it a little.

The PRESIDENT *pro tempore*. The Senator from Vermont offered an amendment as a substitute for the original resolution. On the motion of the Senator from Ohio additions were made to the substitute offered by the Senator from Vermont. Now the question is, shall the amendment offered by the Senator from Vermont, as amended on the motion of the Senator from Ohio, be substituted for the original resolution? On the original amendment offered by the Senator from Vermont the yeas and nays were ordered. The Senator from Vermont now suggests that that order be rescinded. Is there objection to rescinding the order for the yeas and nays? The Chair hears none, and the order is rescinded.

Mr. EDMUNDS. Mr. President, I will now state just how the question stands, so that the Senate can see which of the two propositions, if either, it desires to adopt. The original resolution is in these words:

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

The pending amendment to that, as it is now perfected (speaking parliamentarily) by the vote of the Senate, is to strike out all after "Resolved," and insert these words:

That in the opinion of the Senate the correct and safe transaction of the business of the Senate is materially dependent on retaining in its service a corps of experienced, well-trained, and diligent officers; and this can only be done by security in their respective positions so long as they continue faithful in the discharge of their duties and acceptable to a majority of the Senators.

And inasmuch as the appointment of the subordinates and the power of dismissal should remain with those officers respectively, who must be responsible for all the service committed to their charge: Therefore,

Resolved, That the standing order of the Senate regulating the appointment and removal of clerks and other employés of the Senate be, and it is hereby, amended by striking out of the same all after the word "respectively," in the third line, so that the same shall read as follows:

"*Resolved*, That the several officers and others in the departments of the Secretary of the Senate and of the Sergeant-at-Arms shall be appointed and removed from office by those officers respectively."

The question is on agreeing to what I proposed with the addition that has been made by the Senate, that they not only be faithful, well-trained, and diligent, and are to have security in their respective positions so long as they continue in that way to discharge the duties, but they are also to be "acceptable to a majority of the Senators." And inasmuch as the appointment of these subordinates and the power of dismissal ought to remain with those officers respectively, who must be responsible for their services: Therefore, *Resolved*, That they be put at their mercy.

I rather think I am in favor of it on the whole.

The PRESIDENT *pro tempore*. The question is on agreeing to the substitute as amended.

The amendment, as amended, was agreed to.

The PRESIDENT *pro tempore*. The question now is, shall the resolution as amended be adopted.

Mr. EDMUNDS. I ask for the yeas and nays.

Mr. CARPENTER. I wish to offer an amendment. I move to add at the end of the resolution the following:

But no office or employment made vacant by the removal or dismissal of a person who served in the forces of the Union during the late war shall be filled or supplied by the appointment or employment of any person who served in the confederate army at any time during said war.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

Mr. CARPENTER. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. PENDLETON. May I ask to have the amendment reported again?

The PRESIDENT *pro tempore*. It will be again read.

The Secretary read the amendment of Mr. CARPENTER.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

The Secretary called the roll.

Mr. McMILLAN. My colleague [Mr. WINDOM] is absent, and is paired with the Senator from West Virginia, [Mr. DAVIS.] If my colleague were here, he would vote "yea."

Mr. HEREFORD. I desire to say that my colleague [Mr. DAVIS, of West Virginia] is paired on this resolution and all the amendments to it with the Senator from Minnesota, [Mr. WINDOM.] If my colleague were here, he would vote "nay" on the pending question.

Mr. ALLISON. I will only repeat that I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were here, I should vote "yea."

Mr. DAWES. I desire to repeat the pair of my colleague, [Mr. HOAR.] If he were here, he would vote "yea" on this amendment.

The result was announced—yeas 26, nays 34; as follows:

YEAS—26.

Anthony,	Conkling,	Jones of Nevada,	Platt,
Bell,	Dawes,	Kellogg,	Plumb,
Burnside,	Edmunds,	Kirkwood,	Rollins,
Cameron of Pa.,	Ferry,	Logan,	Saunders,
Cameron of Wis.,	Hamlin,	McMillan,	Teller.
Carpenter,	Hill of Colorado,	Morrill,	
Chandler,	Ingalls,	Paddock,	

NAYS—34.

Bailey,	Garland,	Kernan,	Thurman,
Bayard,	Gordon,	McDonald,	Vance,
Beck,	Grover,	Maxey,	Vest,
Butler,	Harris,	Morgan,	Voorhees,
Call,	Hereford,	Pendleton,	Walker,
Cockrell,	Hill of Georgia,	Randolph,	Wallace,
Coke,	Houston,	Ransom,	Withers.
Eaton,	Johnston,	Saulsbury,	
Farley,	Jonas,	Slater,	

ABSENT—16.

Allison,	Davis of Illinois,	Hoar,	Sharon,
Blaine,	Davis of West Va.,	Jones of Florida,	Whyte,
Booth,	Groome,	Lamar,	Williams,
Bruce,	Hampton,	McPherson,	Windom.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution as amended, on which the Senator from Vermont [Mr. EDMUNDS] demanded the yeas and nays, but there was no second. Does the Senator still wish the question taken by yeas and nays?

Mr. EDMUNDS. Yes, sir; give us the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague [Mr. DAVIS] is paired as I stated before, with the Senator from Minnesota, [Mr. WINDOM.] If my colleague were here, he would vote "yea."

The Secretary resumed and concluded the call of the roll.

Mr. McMILLAN. I desire to announce again that my colleague [Mr. WINDOM] is paired with the Senator from West Virginia, [Mr. DAVIS.] If my colleague were here, he would vote "nay."

Mr. ALLISON. I am paired, as before stated, with the Senator from Maryland, [Mr. WHYTE.] If he were here, I would vote "nay."

The result was announced—yeas 33, nays 26; as follows:

YEAS—33.

Bailey,	Grover,	Lamar,	Vance,
Beck,	Harris,	McDonald,	Vest,
Butler,	Hereford,	Maxey,	Voorhees,
Call,	Hill of Georgia,	Morgan,	Walker,
Cockrell,	Houston,	Randolph,	Wallace,
Coke,	Johnston,	Ransom,	Withers.
Farley,	Jonas,	Saulsbury,	
Garland,	Jones of Florida,	Slater,	
Gordon,	Kernan,	Thurman,	

NAYS—26.

Anthony,	Conkling,	Jones of Nevada,	Platt,
Bell,	Dawes,	Kellogg,	Plumb,
Burnside,	Edmunds,	Kirkwood,	Rollins,
Cameron of Pa.,	Ferry,	Logan,	Saunders,
Cameron of Wis.,	Hamlin,	McMillan,	Teller.
Carpenter,	Hill of Colorado,	Morrill,	
Chandler,	Ingalls,	Paddock,	

ABSENT—17.

Allison,	Davis of Illinois,	Hoar,	Williams,
Bayard,	Davis of W. Va.,	McPherson,	Windom.
Blaine,	Eaton,	Pendleton,	
Booth,	Groome,	Sharon,	
Bruce,	Hampton,	Whyte,	

So the resolution, as amended, was agreed to.

PERSONAL EXPLANATION.

Mr. EATON. Mr. President, I ask for one moment the attention of the Senate to a matter somewhat personal. It is not often, in fact never before perhaps, that I have taken any notice of what newspapers may have said with regard to my action; but manifest injustice by a certain portion of the press is now being done to a distinguished citizen of the United States who is abroad, and likewise to a committee of this body of which I have the honor to be chairman.

It has been stated in several newspapers that the Committee on Foreign Relations of which, as stated, "Mr. EATON, of Connecticut,

is chairman," have under investigation the amount of moneys, &c., which have been expended by the United States in furthering the voyages of a distinguished citizen, General Grant, abroad.

I only desire to say here that I never have heard in my position as a Senator or as a gentleman one word with regard to this matter; and if there was any investigation of that or any other subject before the committee of which I am chairman it would be known to the Senate of the United States and to the country as early as to myself.

I felt it my duty to say this much not on my own account as much as on account of the distinguished citizen who is now abroad.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from Nebraska, [Mr. PADDOCK,] on which he is entitled to the floor.

Mr. PADDOCK. I call for the reading of the amendment.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. The amendment is, after line 16 of section 6 to insert the following:

That the provisions of the fifteenth section of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, shall not be construed so as to prevent the employment of the Army in the government and control of the Indians in any of the States or Territories, whether on or off an Indian reservation, or to prevent such employment in the enforcement of the intercourse laws, or laws affecting the government or control of Indian reservations, or as applying to, or be enforced against, the Army or any part thereof, employed in the protection of life and property in the States of Nebraska, Oregon, Nevada, Kansas, and Colorado, and the Territories subject to Indian incursions.

Mr. PADDOCK. Mr. President, this amendment is not offered in any partisan spirit, nor with the view of securing for any citizen anywhere greater political privileges in any respect whatever than he now enjoys or will enjoy if the bill under consideration shall pass exactly as presented to the Senate. It is offered in the interest of no party and with no intention nor desire to obstruct or delay the legislation here contemplated. Indeed I frankly admit, speaking for myself alone, that I am prepared to accept the inevitable in regard to this whole subject here and now. But, sir, I offer this amendment from a sense of duty, knowing as I well do that the action proposed is imperatively demanded by imperiled interests in a great section of this country in which from the circumstances of its situation the presence, and sometimes the active aid of the Army is essential to the enforcement of law and the maintenance of order. But, sir, an army that cannot be used because bound hand and foot by legal restrictions, as is the case with ours under existing laws, can render very little assistance in Indian affairs or for frontier protection. To be effective there, it should be free and ready to strike at crime upon the demand of the civil authorities when otherwise no civil process can be enforced against the offenders, who combine for domestic violence and set at defiance the necessarily feeble defenses erected by society for the protection of life and property on the border.

The adoption of the section in the Army appropriation bill for the present fiscal year which I propose to modify has cost our State alone many lives, and probably not less than $1,000,000 from theft and the destruction of property, while the indirect damage to us has been far more serious than the direct loss thus sustained. A reign of terror characterized by murder and arson has existed during the past year upon the northwestern border. It has extended into and dominated an area within the limits of our State of greater territorial extent than that of the entire State of Maryland. And yet that district of country is so remote from the center of authority and power in our broad State that no relief whatever could be extended from that source, and the newly organized counties bounding this region on the east, from whose courts civil process must issue against the lawbreakers in this unorganized country beyond, are so sparsely settled, so weak financially and otherwise, as to be wholly unable to afford protection therein. The great Sioux reservation forms its northern boundary, and the Territory of Wyoming, among whose mountains white outlaws and roving bands of Indians under the present order of things hold almost undisputed sway, forms its western boundary.

This western section of Nebraska is one of the finest pasture-fields on the face of the earth. It is within bounds to say that not less than a quarter of a million head of cattle are to-day grazing upon the nutritious natural grasses of that vast region. The pioneer tiller of the soil—the homesteader—is also there. Unfortunately these two interests conflict; and therefrom bitter antagonisms have sprung which have helped to increase the complications. It is true there are two or three small military posts along the western line of the State, but these are almost of no account in preserving the peace between the homesteader and "the cow-boy," who dispute with each other for the occupancy of that fertile country; between the Indian and the white outlaw who steal from each other; between all these and the capitalists who have millions of dollars in herds of cattle and horses scattered widely over that country upon which the Indian, whose ponies have been stolen by the white outlaw, makes reprisals, upon which the outlaw, disguised perhaps as an Indian, makes raids, or for the general protection of these great interests which are otherwise imperiled through the antagonisms between the classes to which I have referred. Our Army cannot, as the law now stands, give aid to a sheriff or other civil officer anywhere, for any purpose whatever. Indeed, as for any service the United States troops can render they might as well be armed with Quaker guns, for no musket can be lawfully fired, and each and every officer and soldier who transgresses in this regard is liable under this section—the modification of which I ask—to a fine "not exceeding $10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment." I quote the exact words of the statute. And so it has happened that at least one of the most important interests of the whole country, which under the policy that had theretofore obtained of giving military support to the civil authority when needed for the protection of frontier interests generally had developed into vast proportions, has during the past year, because of the withholding of such aid, been nearly smothered out and ruined. And what is true of Northwestern Nebraska is in some degree true of this interest in Wyoming, Idaho, Montana, Eastern Oregon, Dakota, Kansas, and Colorado. It may be true of the States and Territories further south in respect of the cattle or other interests.

It will not do, Mr. President, to attempt to dismiss this subject with the answer that the country thus affected is new, sparsely settled, without political power, and on all the counts worth considering at this time of little or no consequence in comparison with the importance of these very laws to a great party, which through and by their aid in other States expects soon to come into full control of the National Government. Let me remind Senators that the country on behalf of which I make this appeal possesses an area larger than that of all the States of the South combined, even if the great State of Texas shall be added thereto. Remember, moreover, that it embraces within its limits the mines whence are to be drawn the gold and silver with which our national debt shall be ultimately discharged, and wherewith our whole people shall be enriched beyond the wealth of all other nations of ancient or modern times. From this vast country are also to come the wheat and the cattle that shall supply the flour-consuming and the beef-eating peoples of Europe as well as of the American continent. And, sir, when you strike at these great interests, remember there is not a voter anywhere in all this broad land whom you do not hit.

Tell me how shall you explain this unwise policy to the great States of Ohio and Indiana, Illinois and Wisconsin, which of all the States have contributed most largely of their sons and daughters to do the pioneer work in that almost limitless field of development, whose capital is there in the mines, in the farms, in the cattle on a thousand hills, whose manufactories are employed by the various industries that are constantly multiplying beyond the Missouri and causing a daily increasing demand from that section for their goods and wares, their labor-saving implements in agriculture and in mining? What answer will you make to the great cities of Chicago, Saint Louis, and Cincinnati, New York, Baltimore, Philadelphia, and Boston, whose commerce you are assailing by these methods? What will you say to the capitalists of New England, whose millions are there in railroads, in insurance risks, in mortgages, State, territorial, county, and individual; or to the people of the non-wheat-growing, non-beef-producing States of the East and the South, when you shall have given that great country over to the Indian and the outlaw of the frontier? These are pertinent questions; but, sir, there are many others that the people of this entire country will be ready to put to you when the consequences of this obstructive legislation shall come to be fully understood.

Remember a day is rapidly approaching—ay, sir, it is almost here—when the great country beyond the Mississippi is to become the seat of empire. Therefore, trifle not with its interests! Attempt not by these cheap methods, which for the moment may tickle the fancy of the voters in the narrow States hereabouts, to possess yourselves of the magic wand of authority and power, lest even while you reach for it—as a thing seemingly so easy to you that you may toy and dally with before you grasp it—an unseen hand from the farther West shall seize upon it, and it shall be lost to you ever more.

But, Mr. President, we are told by some—I refer to no one here—who for a possible political advantage in other States, and, as I believe, with no other motive under heaven, desire to retain this section, and who think that its modification in the manner indicated would be an argument in favor of its unconditional repeal, that there is sufficient authority already under section 4 of article 4 of the Constitution, and existing acts passed in pursuance thereof, to afford all the protection required for the frontier country. Let us see how this is. Under the law as it stands to-day, not a gun can be fired under national authority anywhere in a frontier State, not an ounce of force in any form can be employed until the Legislature or the governor thereof shall have formally notified the President that there is an insurrection characterized by "domestic violence" in such State which he is powerless to control; then the President in his discretion, considering the facts so certified to him, may issue his proclamation commanding the insurgents to disperse, and afterward, if they refuse to do so, all these things having been done with the most careful observance of all the red-tape requirements, the troops at a military post two thousand or more miles away on the frontier may be ordered to assist the State authorities, if by that time there shall be anything left of them to assist.

Now, as for any assistance the Army can render in Indian affairs, in quelling disturbances of the public peace by unruly Indians—either

on or off the reservations—by white outlaws on the border, or by both Indians and white outlaws, combining for the destruction of life and property, if no broader authority than this can be given for its use it might as well not be there at all. Before authority can be given to act under this law the whole frontier country may be laid waste. Two weeks or more might be required to get official consent for action, whereas if, as was formerly the rule, the Secretary of War or the commanding general of a department under him could have the proper discretion in and upon the borders of the Indian country, the troops would be always ready to act in the interest of peace and order. Undoubtedly if the military posts were sufficiently numerous, and those who make the trouble on the frontier were ignorant of the law, the moral influence of their presence would be worth something. But, unfortunately, as I have before said, it has come to be understood by these people that the troops cannot be used except in the manner I have stated, and the restraining influence heretofore so valuable resulting from the presence of troops at military posts in that region has been almost lost. At the last session of Congress I introduced a bill, substantially the same as this, which passed the Senate. It went to the House—I shall of course be permitted to speak of this because it relates entirely to the action, or rather the non-action, of the House of Representatives of a former Congress. I say it went to the House, and although there was no end of importunity, although I myself went personally to many of those who control politically and otherwise the action of that House, and urged upon them its immediate consideration, and although there was abundant proof of the existence of a semi-state of war, so to speak, along that frontier, showing that lives were being sacrificed and property stolen and destroyed, there seemed to be a political necessity to smother the bill, and it did finally go down, buried deep beneath the *débris* of dead measures that fell with that Congress.

I was moved to the introduction of that bill then by an appeal from citizens of my State, nearly all of whom are democrats, and quite all of whom are among the most wealthy and respected of our people. I submitted their communication, which related to the condition of things on the Nebraska frontier particularly, and to the peril in which vast interests of their own as well as of others were placed by the enforced non-action of the troops stationed there, to the General of the Army, and he made answer thereto. I have this correspondence here and will ask my good friend, the Senator from Wisconsin, who sits by me [Mr. CAMERON] to kindly read it, as he is a better reader either than the Clerk or myself.

Mr. CAMERON, of Wisconsin, read as follows:

OMAHA, *December* 2, 1878.

DEAR SIR: We beg to call your attention to the present condition of Indian affairs in the northern and western portions of our State. Within the last ten or fifteen days the agency Indians from Spotted Tail, and possibly from Red Cloud, camp have commenced depredations on the stock interests, and are stealing and running off the horses from the cattle ranges, and they have already taken quite a large number of horses from various parties, and have also in some instances killed cattle, and several herders have been wounded. We are, as we believe, reliably informed that demands have been made at the agency for stolen stock held by Indians, but they refused to surrender the same, and unless this state of things is remedied at an early date it must lead to serious complications and ultimately to very great loss if not total destruction to our stock-raising interest, which is fast becoming one of the most important interests of this State as well as of the West generally. We would therefore suggest that it would be greatly to the interest of all this western country if the law prohibiting the military authorities from interfering with civil cases could be suspended, as we have a large district of very sparsely settled country occupied mainly by cattle interests, and throughout this portion of the country are scattered very many desperate characters who prey on both whites and Indians and cause much disturbance, and the civil authorities are too weak or too remote to cope with them; hence the necessity of giving the military authorities power to deal with them where civil authorities are not at hand, and we hope you will make an effort to have the law modified as indicated.

Very truly yours,

W. A. SHARP.
W. A. PAXTON.
B. A. SHEIDLEY & BROS.
JAMES CREIGHTON.
JOHN A. CREIGHTON.
COE & CARTER.
KOUNTZE, YATES & CO.

Hon. A. S. PADDOCK.

HEADQUARTERS ARMY OF THE UNITED STATES,
Washington, D. C., December 12, 1878.

MY DEAR SIR: I beg to acknowledge receipt from you of what amounts to a petition to Congress to repeal the fifteenth section of the act of Congress approved June 18, 1878. I recognize the great importance of protecting and encouraging the growing and most valuable cattle interest in Nebraska; but with the most profound respect for yourself and for Congress, do not see how soldiers can do impossibilities with both hands and feet tied. Should Indians or white desperadoes come into Nebraska from the Indian country north, you make it a fine of $10,000 and imprisonment for two years if the soldiers help your sheriff. Now our officers do not usually have $10,000 handy about them, nor do I feel disposed to advise them to spend a couple of years in your penitentiary by trying to help your sheriff to arrest and punish these horse and cattle thieves. On the other hand, in the Indian country the soldiers can only act on the application of the Indian agents, and these Indian agents think that your constituents steal the ponies and cattle of their Indians; so we soldiers occupy a most unpleasant position, and I prefer to sign my name to the petition itself, for I sympathize sincerely and deeply with Messrs. Sharp, Creighton, and others who desire to add to the wealth and prosperity of our nation; but must frankly say that the law takes away from the Army the only legitimate way of helping them, by supplying the sheriffs of the border counties the necessary *posse comitatus* to make arrests.

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With respect,

W. T. SHERMAN, *General.*

Hon. A. S. PADDOCK,
United States Senate, Washington, D. C.

Mr. PADDOCK. This correspondence was presented to the Senate; it was printed in the RECORD; it was brought to the notice of the Speaker, to the attention of the chairmen and other members of the Military and Judiciary Committees of the House of Representatives of the last Congress; but nothing could be done. I do not mean by this to charge any party or individual in that Congress with intentional unfriendliness to northwestern interests. I do complain, nevertheless, that a poor, miserable political expedient was at that time—not here, but in the other Chamber—allowed to be placed in front, was permitted to choke the way of and crowd out a measure which a great and pressing exigency demanded. No one will deny that if there had not been a political consideration or interest thrust in its way this bill could at any moment of almost any day have been taken from the Speaker's table under a suspension of the rules of that House and on a proper presentation of the facts in the case passed without a dissenting vote. About that time a crime was committed in that unorganized portion of our State, by men who were not our own citizens, however, which shocked the moral sense of the whole country. Two men were taken from a sheriff and lynched, and their bodies burned while suspended from the tree which formed their gallows. This was done in retaliation for an assault resulting in the murder by the the parties afterward lynched of a sheriff who was about to arrest these men for cattle-stealing. Our whole State was aroused. From every community came a demand for the apprehension and punishment of these men.

The feeling was more intense because at that time it was reported and believed that the victims of this violence had been first tortured by burning and then hung; but the proofs afterward, as I am informed, satisfied the public mind that this was not true; on the contrary, that the burning was accidental, and occurred after the men were dead. These offenders were finally arrested, but more than once after their arrest were they in danger themselves of being lynched by the angry populace, and more than once was their capture from the State authorities threatened by their Texas allies. But, sir, at length the majesty of the law has been vindicated; these men have been tried, convicted, and sentenced.

Now, sir, it is my firm belief that if the troops could have been used on that frontier during the past year as formerly there would have been no such crimes committed; and no such troubles, no such demoralization nor dishonor would have befallen our State. With the usual Army restraints in the border country, the steps in the direction of disorder and lawlessness that led naturally up to these grave offenses against the law could not have been taken. The spirit of outlawry would long before have been stamped out, and order would have been everywhere maintained. My State, whose people are essentially peace-loving and law-abiding, has suffered terribly from this condition of things. They who have principally made this trouble are not our citizens; they are the natural outlaws who hang always upon the borders of the Indian country and the cattle-herders who have come into the great ranges in the extreme western part of the State from the southwestern border, whose life is nomadic, who reside permanently nowhere. And yet these infamies have been charged up against our whole State. Crimes and acts of lawlessness in other States very many years older than Nebraska, possessing a territorial area in extent perhaps not one-third that embraced within our State limits to guard, with courts everywhere accessible, in populous counties, have been attempted to be justified by comparison with these outrages to which I have referred, committed by non-citizens hundreds of miles distant from our capital in an unorganized country having a sparse population and contiguous to the great Sioux Indian country which lies along all the northern and a part of the western border of the State. This will not do.

A State scarcely twelve years old, with a population of four hundred thousand distributed sparsely over seventy-five thousand square miles of territory, seven-eighths of whom are engaged in agricultural pursuits, possessing six hundred churches, three thousand or more district schools at which more than one hundred and twenty thousand children attend, with more than $2,000,000 invested in common-school houses and school property; a State in which the sentiment of temperance is so strong that a bill to prohibit the sale of all spirituous liquors lacked only one vote of its passage in its last Legislature; a State that gives anywhere from ten thousand to twenty thousand republican majority, is not the natural abiding place of law-breakers and desperadoes. The bare statement of these facts is a sufficient answer to the reflections from which we have suffered on account of these border troubles, and for the removal of which we demand a change of this law enacted in the interest of politics elsewhere, as we think without reason and without a due regard for the interests of the whole country. Recollect that these border settlements of ours are the outposts along our common frontier. Beyond is the country belonging to and occupied by the great Sioux nation, more than forty thousand strong. Millions of acres of the domain of the United States are there to be settled and to be defended.

It is your duty and not ours to protect it, because it is an interest common to all the people of the country. The westward wave of immigration, representing in its constituent elements many States of the Union and many different foreign nationalities, moves onward unceasingly. It is estimated that at least one thousand souls every day pass beyond the turbid waters of the Missouri up into the fertile valleys, out upon the beautiful prairies and plateaus of Nebraska, seeking homes upon her broad acres. The line of permanent settlement is each day advancing, and very soon the frontier itself will have dis-

appeared from us and from you all forever. So that in helping us you are helping your own people everywhere as well. Considering these things, I have no patience with this political strategizing which, under a false pretense of protecting the liberties of the people, places the most important interests of my section in jeopardy.

Mr. President, our friends in the South tell us that they do not want the Federal soldiers in their States. They are not needed there. They are dangerous. They may be used to interfere with elections, and through such interference somebody may be deprived of his God-given right to vote. It is very commendable for the people of our country, in whatever State or section they reside, to be jealous and watchful of any method or effort threatening this great privilege. Indeed, it is one of the first duties of citizenship to guard it with religious care, to the end that no citizen, however humble, may have occasion to complain of its abridgment. But, sir, permit me to say I do not believe this sacred boon has been in the smallest degree interfered with by the Federal troops anywhere, at any time, except when rebellion was abroad in the land. Undoubtedly there have been times when the presence of Federal soldiers in the vicinage, operating only as a moral support, would have assisted in securing a pure election; whereas without such restraining influence there could be no election at all, because an actual majority at the polls through intimidation refrained altogether from exercising this inestimable right of citizenship. Our southern friends certainly, in these days of peace and pacification, would not object to the use of troops for such a purpose provided that no other power is able and willing to afford protection to the citizen who seeks to express his political opinions through the ballot-box by his vote for a member of the National Legislature?

At all events let us hope that those of our friends here who so vehemently protest against the Army in the interest of a pure election will always hereafter, if they may not have heretofore, demand for a certain class of voters who in large numbers dwell among them, and yet do never complain of these laws, nor of the presence of the soldiers of the Union, but for some reason do not vote, the same immunity in respect of the use at elections of armed men under local authority as our friends demand for themselves in respect of the use of the national forces on such occasions. And as an assurance in that direction, I urge them to support the amendment offered by the distinguished Senator from Maine. We have no fear of the soldier in our State. We respect and love and give our fullest confidence to the Army of the United States. A nobler, a more gallent set of men does not live in or out of uniform anywhere on God's green earth. We can never forget the great service they have rendered us in defense of our exposed border. We know the hardships they have endured, the sacrifices they have made, the dangers they have braved in that most trying, most laborious, most important service. Many instances of heroism, of unparalleled endurance, of suffering and death on the frontier by the brave soldiers of the regular Army are fresh in our memory, and will there remain so long as we live.

I do well remember, sir, that every house in our State was a house of mourning a few years since when the sad intelligence reached us that five or six companies of cavalry—the very flower of the Army of the United States—commanded by the gallant Custer, had been utterly annihilated in an encounter with the fierce and barbarous Sioux. These brave soldiers, carrying with them the flag and bearing the great name of our country, went to that distant frontier to attempt there, after all peaceful means long employed had failed, to establish the authority of the Government, which had hitherto been set at defiance by the savages who did maraud and murder, and for many years had held undisputed sway throughout that vast region of country.

This little band, under the leadership of their intrepid commander, after a long and most fatiguing march, suddenly rode into the very "jaws of death"—into the very gates of an Indian hell. Of all who followed the immortal Custer in that memorable charge not one remained to tell the story of their gallant deeds and of their untimely death. Not one of all was left to bear for his comrades the last words of affection, the last sad token of remembrance to their families and friends. All we do certainly know, sir, is that they bravely died in the service of their country, and that their mutilated bodies were buried, all in one common grave, in that far-off wilderness, remote from their homes, their kindred, their friends. But, Mr. President, I must not indulge myself nor consume the time of the Senate in expressions of sorrow for the brave unfortunates who fell at that Thermopylæ. There have indeed, sir, been many military events in our history of vastly greater importance than this in respect of the numbers engaged, the remarkable character of the combinations formed, the skillful movement of forces, and the great achievements resulting therefrom, but there has been none which, from the painful nature of the service rendered and the terrible catastrophe which marked its termination, will live longer in the memory of the people of this country.

It is easy for an army to be faithful, gallant, and brave in a great war like that against the recent rebellion, when the eyes of all the world are upon it and the rewards for great achievements are always ready, but in this frontier service, where glory awaits not the tedious daily routine of guard duty, nor the march to death at the hands of skulking savages, and in which promotions are necessarily slow, (it is proposed by this bill that they shall be utterly refused,) the ordinary incentives of ambition do not exist, and the manliest of manly qualities are demanded in the *personnel* of the army so employed.

This service has shown our Army to possess in a greater degree than any other on the face of the earth these very qualities. Such an army cannot be made a partisan auxiliary. In its constitution it is essentially non-partisan, and necessarily so, because in its composition all parties are represented. It cannot be used for oppression, or the abridgment of the constitutional rights and privileges of citizens anywhere at the behest of any party or cabal, because the Army understands full well that under our system such an abuse of power in the interest of any party temporarily controlling the Government would bring upon it swiftly and surely the same condemnation which would befall the party itself in whose interest it should thus act, and that its speedy destruction through legislation by the representatives of the people would be inevitable. The Army is eminently conservative, and this conservatism in times of great excitement is a restraining influence both upon its own action and upon that of the civil power. Moreover, it is absurd to assume that any political party would be sufficiently fool-hardy to attempt at any time anywhere to employ the Army against a pure ballot. The people are sovereign in this country; and the sovereign is not only intelligent and patriotic, but just, and jealous above all things of military intervention in civil affairs. We have inherited a prejudice in this regard which will last so long as the Republic shall stand. No party can afford, no party dare, make up a record to submit to the people seeking justification and indorsement for the use of our Army to curtail in the least degree any constitutional right or privilege of a faithful citizen of the United States. On the other hand, sir, no political party can live long in this country after the great masses of the people come to understand that these same rights and privileges of citizenship are being trampled in the dust, because the laws that party has caused to be enacted preclude the use even of the Army itself when it may happen to be the only instrumentality wherewith these rights can be protected.

But, Mr. President, there are other matters to be considered here. The people of the great North do not forget that only a few years since, without reason, without cause, the people of another great section of the Union sought its overthrow. That section, through the powerful party that represented it, had control then of this branch of the National Legislature. The peculiar views of its people were held by a majority of the Supreme Court of the United States, so that no legislation trenching upon their rights within their own States would be possible. Moreover, they were assured by the platforms of the successful party, by the frank and positive declarations of Mr. Lincoln and those chosen to aid him in his administration of the Government, that every State of that section should have as full and complete protection as the other States in the Union, as to life, liberty, and property; but nothing would satisfy them. They retired from the benches of the highest courts of the land; they withdrew from the halls of the National Legislature; they left their places at the heads of brigades, regiments, battalions, and companies of the Army, for which honorable service they had been educated at the expense of the whole nation; they went back to their States and organized a government within the jurisdiction and in defiance of the authority of the United States, and behind that government they gathered great armies for the destruction of the Union. More than this: they seized the forts and arsenals and the munitions of war at the military and naval stations in the South, to which they had been carefully distributed by a democratic administration; they seized the custom-houses and mints and post-offices and the moneys and properties of the United States found therein, and with all these they made war upon and undertook to overthrow our Government. More even than this: whatever there was of our little Army and Navy had been scattered to remote stations whence they could not readily be gathered together for the immediate defense of the Union against the impending blow, and as a proper climax for all they had so managed the finances of the Government that there was not a dollar left in the Treasury, nor any credit upon which to rely for loans for its suppport and its protection in that hour of trial and danger.

And now the people who saved the Union see within fifteen years from the close of that memorable struggle, the cost of which in blood and treasure was so enormous that no figures are equal to its measurement, that they who labored and suffered and made such sacrifices as men rarely ever before had done, to destroy the Republic, are in undisputed possession of both branches of its National Legislature, with the nation's purse and the nation's sword under their control. They see that only they who were among the most conspicuous of their leaders in the cabinet and in the field are thought to be fit and qualified for seats in these halls. They hear their advent to power signalized by declarations from some of these former leaders in rebellion, these representatives of southern sentiment, that all the measures of protection and safety made necessary by the acts of the southern people, for whom here they do stand, are to be blotted out, and, naturally enough, they who fought for the Union are now a little suspicious that this new-born zeal for anti-military legislation on the part of those who fought against the Union does not mean what is pretended, the placing of additional restrictions upon the use of the Army because loyal citizenship is anywhere in peril, but because these laws are in the way of party, and possibly of sectional ambitions—in the way of certain theories of State rights and State power, which

once brought the nation nigh unto death, theories yet cherished by our friends of the South, who only a little time ago imperiled all in asserting and defending them, and which, whatever they may now think, whatever they may now say, it is not in human nature for them so soon to surrender. And I tell them in all kindness they are committing a grievous blunder; it is too soon for them to undertake these things, it is too soon for them to employ such methods as in this session have been adopted by them. Loyal people nowhere in this country are alarmed about our insignificant little Army, nor about these laws, but they are alarmed by this exhibition of a determination here, through these unfortunate methods, to force the repeal of these acts.

Mr. President, there has been no end of references here to Roman, to English, and other history to prove that a great peril hangs over us—a new-born danger threatens our institutions from the presence upon our statute-books of these laws, even if they shall only remain for a few months longer; and this although for many years they have been there, and the Republic has endured, growing stronger each year, and although so far as the execution of these laws has gone it has been for the sole purpose of giving protection to life and property, altogether in the interest of pure elections, and to enable citizenship everywhere to assert itself, to be supreme in its sphere in respect of the rights and privileges thereunto belonging. No precedent, no authority has been cited by our friends on the other side which is in the slightest degree applicable to our situation. Recollect, sir, we are not called upon to cast out these statutes because anybody has been oppressed, but at the imperious demand of a powerful majority here, made up largely of those who only a little time since sought to cast out the very Constitution itself, and who now, sir, in contravention both of the letter and the spirit of that charter of our liberties, at the commencement of a session, when there is abundant time to deliberate, make their repeal a condition of voting the supplies for the maintenance of Government at all under that Constitution. When our friends will find a parallel for this case anywhere in the history of ancient or modern times—remembering what was very recently done or attempted to be done in this country, with all of which most of those who now make this demand were intimately connected, and considering their present exalted relationship by its generous consent to the very Government which within a space of time so short that it counts not more than a day in history they labored to destroy—it will be time enough to talk of Roman and of English precedents to justify this legislation on behalf of our institutions which we are told are thus imperiled.

Mr. President, I very much dislike to say these things. There is no Senator on the other side of this Chamber toward whom I do not entertain the warmest sentiments of personal regard. I have as a rule refrained from political discussion here, but I have thought it to be my duty at this time to speak frankly and freely the words that the great majority of my constituency are now thinking and speaking at home about these very matters, and this I have sought to do with moderation and courtesy, but plainly and positively.

Mr. President, there have been soldiers near the city of Omaha and at other points in our State at every election for ten or fifteen years. No one ever heard of a voter being intimidated there. But, sir, if our native-born citizens, or if the Germans or Irish or Scandinavians, of which foreign nationalities there are many in that city and State, should either of them take up arms to prevent either of the other nationalities from voting at an election for members of Congress, or if either or all of them combined should turn out to intimidate the three or four hundred negro voters there from casting their honest ballots at such an election, there is not a citizen of that State of any party who would not thank God for the presence of United States troops and for a law governing their movement that would permit their use in protecting the weaker against the stronger class of voters, when no other force could be commanded to perform such duty; and no man of any sense in that State would be afraid of the abuse of such a law. They who mean to do exactly right themselves in these matters need have no fear of the United States soldiery.

There are no people in our State, as I believe, who have any dread of their presence or of the laws as they have stood for many years, except the outlaw on the border hundreds of miles away from our main settlements. It is only the outlaw and the Indian in the neighborhood of our distant frontier communities whom we fear, and we do insist that no such restrictive measures as this which I seek to amend, or as those that our democratic friends are now urging, shall be forced upon us whose States and Territories border upon the Indian country. In the interest of peace, for the enforcement of the laws, for the protection of life and property, for the purpose of insuring to every citizen of every nationality, whatever may be his religious faith, whatever his political opinions, whatever the color of his skin, whatever his occupation, whether he be rich or poor, high or low, citizen or stranger, although he may be found in the remotest corner of our State, the same privileges and immunities that may be enjoyed by any other citizen anywhere in this broad land of ours, we ask you to remove these restrictions so far as they may operate to render the Army employed upon the frontier useless.

The PRESIDING OFFICER, (Mr. DAWES in the chair.) The question is on the amendment proposed by the Senator from Nebraska, [Mr. PADDOCK.]

Mr. PLUMB. Mr. President, I desire to call the attention of the Senate to a portion of section 9. I would not venture to do this if it was at all political; but as it is not, I venture to make a suggestion to the Senator who has charge of the bill, that a distinction in regard to promotions has been provided for in this section which I think unwise and unjust, and I feel that he will appreciate the objection. I am bound to assume that this distinction has crept in without due consideration, and that it will be the pleasure of a majority of the Senate to see that it is removed.

I refer to that portion of the section which forbids promotions or appointments in the Army above the rank of captain, except in the Corps of Engineers. I can very well see why the committee or why Congress might desire to limit promotions to vacancies occurring below the rank of captain; but I cannot at all see why that limit should not apply as well to the Corps of Engineers as to any other portion of the Army. My idea of an army has been an organization created for the purpose of fighting; and as incident to that, for the purpose of aiding it in developing the fighting functions, there are certain staff departments; but the essential part of an army after all is that portion which does the field duty. It is the part that we have the hardest work to get into the service. It is the only part, so far as I know, that ever required a draft to be resorted to to raise it. Nobody ever heard of an engineer, or a quartermaster, or a commissary, or a paymaster, or a surgeon having to be drafted. In fact those branches of the Army take care of themselves by free and voluntary enlistment. There has always been, I think, also fairly, a struggle to get into those positions. But when we wanted men to serve in the ranks where fighting duty was to be done, they sometimes have had to be got by other processes than volunteering. It is that part of the Army which we ought, as I think, to take the best care of; it ought to be the best paid; it ought to have the best chance of promotion; it deserves the grateful consideration of the people of the United States. This is not alone true of the Army as it was during the war, it is equally true of the Army as it is now.

There are about twelve or fifteen thousand men guarding a double line of frontier some four or five thousand miles long. They are the sole barrier against the incursions of Indians along that line. They are the protection of the mining and agricultural settlements and of the cattle ranches, and of all that diversity of interest which is growing up along that extended line. They are not in sufficient force to protect them as well as they might or as well as they deserve to be protected; but whatever of protection they have to-day grows out of the fact that the fighting part of the Army is encamped along that line.

I know something by observation of that section of country. The line on the map as it is shown conveys no idea of its actual extent or of the hardships involved in its protection. The men who have marched and fought, who have been vigilant in season and out of season during the last four or five years in the protection of that frontier, deserve as well of their country as any class of men ever did.

Not only have they to protect this frontier against the Indians, but they are the protection to-day of that magnificent empire known as the State of Texas from the incursions of hostile persons for the purpose of robbery and murder and rapine from the Mexican side.

This is the class of persons, this is the part of the Army that is to be cut out from promotion. They are to have no increased pay growing out of their dangerous service. They are to have no increased rank by reason of any casualty. Under no circumstances whatever can they have any promotion. But an exception is made which brings out more strongly the injustice of that by excepting that branch of the Army which is practically to-day the civil branch of the Army, if I may use the term. What are the duties of the engineer? I would not say a word against that branch of the Army in any way, either as individuals or as a corps; but the duties of that corps to-day are purely civil. There is not only no necessity for increasing the Corps of Engineers, but there is no necessity for increasing their rank or increasing their pay. Rank, as it is ordinarily understood, is created primarily for the purpose of command. Such a thing as a command is not known in the Engineer Corps, and never has been, and never will be, because there is nobody to command, in the ordinary sense of that term. Consequently rank is to be given under this bill or is permitted to be continued in that portion of the Army where rank is not needed, and in that portion of the Army, as I said, which has now devolved on it solely civil functions.

But this is not only a discrimination against the men who do the fighting, but it is a discrimination against the other staff corps. The paymasters and the quartermasters and the commissaries, a large portion of them, do field duty. They on occasions take the musket as officers are required to do on that frontier service, where one man has to do the duty of three in watching and in marching and in fighting. The quartermasters and the commissaries and the paymasters frequently take the musket also and go into the ranks and do service as enlisted men. But these corps of the Army are to be cut out from the privileges of promotion as well as the line.

Mr. President, it seems to me entirely incredible that it could have been the intention of anybody that such a distinction should be created by law. I am bound to presume, as I said in the beginning, that this has been a matter purely of inadvertence, and as such I hope there will be no objection to its elimination. These men out on the frontier deserve better of Congress than this provision would seem to indicate that Congress is willing to grant. They are doing a very ardu-

ous duty; they are a long way off; they have not the ear of power; they feel under any circumstances the most favorable as though to some extent the avenues of promotion were unjustly closed against them. If Congress were to step in and not only close promotion against them but leave to a more favored corps of the Army, doing no military duty whatever, the only chance for promotion, it would be doing them a very gross injustice.

I hope that there will be no objection whatever, therefore, to limiting promotion to all portions of the Army according to the terms of this bill, striking out that portion relating to the engineers, or else leaving it all open, so that promotions may go on as before.

There has been a great deal said about Army reorganization. I know that that is a pretext whereby at the last Congress promotions were stopped in the Army; but when the subject of reorganization was reported to Congress, Congress evinced no disposition whatever to reorganize the Army. Unless Congress should reorganize affirmatively the Army and put it on a footing which would limit the number of officers and limit the promotions, these men have a right to expect that under the existing establishment created by law, kept up and maintained for the purposes of the Army, they shall have always and on all occasions all the opportunities for promotion that there are.

I shall therefore, at the proper time, move to amend the ninth section, first, by striking out all that portion which relates to promotions whatever, and if that should be voted down I shall move to strike out that part which creates distinctions in favor of the engineers.

I may say further that I think Congress has heretofore not exhibited that regard for the engineers that seems to be implied in this bill. When we came to make a pass at the mouth of the Mississippi River we did not employ the Engineer Corps to do it. We employed a civilian; we contracted with a civilian. At the last Congress there was introduced a bill which, while it did not pass, received consideration and support, and it has been introduced at this session, which practically disorganizes the Engineer Corps. It takes up the chief part of their duties and transfers them to a commission to be largely, if not almost wholly, composed of civilians, and provides for transferring the material, the plans, so to speak, of that entire corps to this commission.

I think this provision must have crept in inadvertently, because there has been no such consideration shown to the Engineer Corps as a necessary part of the military establishment heretofore as would warrant this discrimination in their favor upon the subject of promotion.

Mr. WITHERS. I merely wish to say a word or two in reply to the Senator from Kansas. I concur almost entirely in everything he has said, but I do not concur in the action which he proposes to predicate upon his speech. My sympathies are, as his are, rather with the line than with the staff officers, but it is equally certain that a staff is essentially and indispensably necessary to the efficiency of the line. The reason of the exception made here in favor of the Engineer Corps, as I understand, is one which applies only to that corps. It is that in view of certain expected changes in the head of that corps it is desired by this clause simply to provide that the head of that corps shall be permitted to enjoy the same rank that the head of the other staff departments of the Army now enjoy. That is the whole of it.

Mr. PLUMB. I think the Senator from Virginia is entirely mistaken in that proposition, for he will find that that case is covered by the proviso which is in no way connected with that portion of the section to which I object. The proviso says at the close of the section:

That nothing shall prevent the appointment of a chief of engineers, with the rank of brigadier-general, when a vacancy shall occur, nor shall it prevent the promotion of any captain who has served twenty years in the United States Army.

Consequently, if the words to which I take exception shall be stricken out, still that branch of the Army would have the privilege of being commanded by a brigadier-general equal in rank to the ranking officer in the other staff corps. Therefore, it is not at all necessary that that exception should be continued in regard to all the classes of promotion under the reservation stated by the Senator from Virginia.

Mr. WITHERS. It is a provision to render possible under the operation of the general law the promotion which is proposed; that is all. The same result is obtained in either case.

Mr. LOGAN. Mr. President, I do not desire to discuss this bill any further at length; but having examined it, in connection with what the Senator from Kansas has said, I desire to call the attention of the Senator from Virginia who has the bill in charge to the language of the last section of the bill. I ask him if he will be kind enough to explain to the Senate the meaning of it. Section 9, the last section of the bill, provides:

That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain, except in the Corps of Engineers; and the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay; and that no officer below the rank of major shall be transferred to the retired list, except upon the report of a duly constituted board of officers, to the effect that such officer is no longer fit for active service; and that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement.

There are three propositions in this to which I desire to call the attention of the Senator who has charge of the bill. First, I would ask him how it is that this being an Army appropriation bill, its provisions are applied to the Navy as well as to the Army?

And the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay.

I ask the Senator to explain to the Senate what is meant by that part of this section.

Mr. WITHERS. I do not know that I can explain it more explicitly than the language of the bill.

Mr. LOGAN. Then, if the Senator cannot explain it, I ask him to please read it and state what it means.

Mr. WITHERS. The language is:

And the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay.

I do not see any difficulty in understanding the meaning of it. It means precisely what it says.

Mr. LOGAN. Very well; suppose it does mean what it says. The language there conveys, to my mind at least, the idea that all the time of the service of that officer, either in the Army or the Navy, as private or as officer, shall be computed in allowing him pay as an officer. Is that what it means?

Mr. WITHERS. Yes, sir.

Mr. LOGAN. The meaning of it, then, is that the officer is to have pay allowed him computing all the time of service while in the Army either as a private soldier or as a commissioned officer, in addition to what is called the fogy ration, or longevity ration, allowed by law hereafter, per annum?

Mr. WITHERS. Does the Senator wish a reply?

Mr. LOGAN. Yes, sir.

Mr. WITHERS. I do not know that I can reply any more definitely, as I said, than the language of the bill expresses it, which is that an officer in the Army or Navy in computing his pay shall have allowed him the actual time he has been in service. The Senator knows that the pay or allowances increase in proportion to the length of service.

Mr. LOGAN. Let me call the attention of the Senator to section 7 on page 150 of the statutes of 1877–'78. I read that section of a law already on the statute-book:

That on and after the passage of this act all officers of the Army of the United States who have served as officers in the volunteer forces during the war of the rebellion, or as enlisted men in the armies of the United States, regular or volunteer, shall be, and are hereby, credited with the full time they may have served as such officers and as such enlisted men in computing their service for longevity pay and retirement.

That law being already in the statute-book allowing them all the time as officers or as privates, either in the volunteer or regular service, as longevity in ascertaining their pay, as well in the Army as in the retirement from the Army, I ask the Senator then to tell me what the meaning of this provision is:

And the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay.

There must be some meaning, some reason for it. Now I ask the Senator to explain it. With this law I just now read already on the statute-book, I ask him to explain the meaning of this particular part of the ninth section.

Mr. WITHERS. No doubt it is owing to my confused intellect, because I do not really appreciate the possibility of explaining more fully than I have done the provision on which the Senator desires information. The effect of it, as it seems to me, is simply to provide for what the language expresses, I cannot express it more explicitly, that an officer in the Army or Navy in computing his pay shall have full credit for the actual time of his service. That is as explicit a statement as I am competent to give.

Mr. LOGAN. In other words, it means this: that the Committee on Appropriations that reported this section of the bill in all human probability did not understand exactly what it did mean. Is not that so?

Mr. WITHERS. The Senator is welcome to assume ignorance on the part of the committee——

Mr. LOGAN. I do not assume ignorance on the committee's part.

Mr. WITHERS. It is not for a member of the committee to acknowledge "the soft impeachment."

Mr. LOGAN. No, sir; I did not assume ignorance on the part of the committee; only a want of examination of this particular section, because it does seem to me that if the committee had examined it critically they certainly would understand what it does mean. Now the Senator does not seem to understand the meaning of it; I may not, but the provision already in the law that the time of service shall be computed in the pay of an officer of the Army whether he served as private or officer in the regular or volunteer service is substantially in the same language as this part of the section. There is then no necessity for enacting this particular part of the section except for one purpose; and what is that? To take out of the Naval Committee the examination of the question as to whether the Navy shall be put on the same basis as the Army in reference to the computation of longevity. That is the reason for it. It is that you in this Army bill undertake to provide for the Navy as well as the Army, when you profess that it is merely an act in reference to the Army. That is what it means, and that is what your provision is.

Now, let me go a little further. I call the Senator's attention to this proposition; the particular section that I have read from the stat-

utes of 1878, in the act of June 18, 1878, found its way into an appropriation bill. What does it do? Under the law organizing the Army of the United States, the officers are allowed an increase of pay according to the time they have served in the Army, so much per cent. increase for every five years of service. That increase continues up only until it shall reach 40 per cent. of the regular salary. That is the law. Now, instead of providing that it shall stop at 40 per cent., you, by inference at least, repeal that part of the statute which provides that the time shall be computed in that way, and allow them to receive pay irrespective of cutting it off at 40 per cent.

I have noticed sections of this kind sometimes before slipped into bills. To-day a colonel in the regular Army draws not only his salary, but if he has served many years in the Army, either as a private or an officer, his salary is increased 10 per cent. for every five years of service until that increase shall amount to 40 per cent. of his regular salary, and there it stops. But here you provide, without any stopping whatever, that it shall be computed according to all the time that he has served in the Army, so that when a party has served a sufficient number of years you double his salary instead of stopping at 40 per cent. increase.

If the committee intended that, we understand them; if that is what it means, let us know it. You not only give a longevity pay under this act paying 40 per cent. of the salary, but then under this section you give longevity, it is no matter how much; it may amount to 100 per cent. That is your proposition precisely. If that is what the committee meant, very well; that is what the law means if this shall be enacted into law.

Mr. WITHERS. That is not what the committee meant, and that is not what the section under consideration means.

Mr. LOGAN. Well, if that is not what the committee meant, the committee had better change the language of that section.

Mr. WITHERS. No doubt the suggestion is very judicious in the opinion of the Senator; but the committee think differently, unfortunately, and adhere to the language in its present form. It might possibly occur to the Senator, if he examined the question with the usual acumen which he devotes to such investigations, that the actual time of service in the Army or Navy is a different provision from the one he quotes, which says nothing about service in the Navy. There are officers in the Army who have also served in the Navy during the time of their service. Under the provision of the general law heretofore quoted by the Senator, their time of service in the Navy cannot be computed in fixing the amount of their pay in the Army; and this is simply designed to give them credit for their service in the Navy in computing pay, just as well as for their service in the Army.

In reference to the other of the criticisms of the Senator, that this is a virtual abolition of the provision restricting longevity pay, I will say that it is not designed, nor is it susceptible fairly of any such construction. It only prescribes the mode in which that pay shall be computed, of course subject to the provisions of the general law as to the 40 per cent., but they can compute the length of service in the Navy as well as in the Army to an officer now in the Army.

Mr. LOGAN. Now, in order that we may fairly understand each other, I will read the law in reference to longevity in the Army. I quote from the Revised Statutes:

SEC. 1262. There shall be allowed and paid to each commissioned officer below the rank of brigadier-general, including chaplains and others having assimilated rank or pay, 10 per cent. of their current yearly pay for each term of five years of service.

SEC. 1263. The total amount of such increase for length of service shall in no case exceed 40 per cent. on the yearly pay of the grade as provided by law.

Following these provisions in the Revised Statutes, in 1878, on the appropriation bill for the Army, Congress provided:

That on and after the passage of this act, all officers of the Army of the United States who have served as officers in the volunteer forces during the war of the rebellion, or as enlisted men in the armies of the United States, regular or volunteer, shall be, and are hereby, credited with the full time they may have served as such officers and as such enlisted men in computing their service for longevity pay and retirement.

And in this bill, following that, you provide that the full length of time shall be allowed all officers of the Army and Navy in computing their pay. Now, if all the time is allowed, if you allow all the time they have served in the Army in computing their pay, then I ask where is the restriction? In the statute as it stands the time is only allowed up to 40 per cent. at 10 per cent. for every five years, but in this bill you allow all the time, so that there is no restriction of time of service at all and the time of service may in computation increase the allowance up to 100 per cent. or an amount equal to the salary of the officer in addition to his regular pay. That is your provision, and that is the meaning of it. No other construction can be given to it in my judgment other than that which I have given.

I do not believe that this committee intended any such thing; and that is the reason why I said I feared that they had not probably given as critical examination to this case as it would be well for them to have done.

But then, sir, there is another very serious objection to this section. I do not assert it as a fact; but if the Senator does know who did draft this section I wish he would say to the Senate whether it was drafted by the committee or a member of the committee, or whether it found its way there, as sections sometimes do in appropriation bills, by some outside friend very kindly offering an amendment that is precisely to fit some peculiar case. If the Senator knows who drafted this section, I shall be glad to hear him state.

Mr. WITHERS. So far as my opinion in concerned, if I were aware of the author of the section, I do not think it would be necessary for me to state it. The provision is in the bill as it came from the House, and has been reported back by the Appropriations Committee of the Senate without amendment.

Mr. LOGAN. But is it not in this bill as it was in the last bill?

Mr. WITHERS. It is in this bill as it came from the House.

Mr. LOGAN. I beg the Senator's pardon. If he will make an examination he will probably find some little differences.

Mr. WITHERS. The Senator might, perhaps, without doing any violence to his imagination, suppose that the committee had examined the bill. They have reported the bill as it came to the Senate from the House, without amendment.

Mr. LOGAN. I see that. That is very evident. We all know that.

Mr. WITHERS. I am glad that we agree on one point.

Mr. LOGAN. I will now call attention to another portion of this particular section:

And that no officer below the rank of major shall be transferred to the retired list, except upon the report of a duly constituted board of officers, to the effect that such officer is no longer fit for active service.

I suppose the meaning of that is that no officer below the rank of major shall be put on the retired list except on the order of a board duly constituted deciding and declaring that he is no longer fit for active service. What does that mean? Why should not that apply to all officers of the Army if it is a good thing? Why should a captain or an officer of less rank than a colonel or brigadier-general be placed upon a different basis, so far as retirement from the Army is concerned, than others? Why should a major or a captain be required to be declared unfit for active service when any one above that rank may be retired, after he arrives at a certain age, by order of the President? Why is this distinction made that an officer of the rank of colonel may apply to be retired because of length of service in the Army, and may be retired by order of the President, but if he is below the rank of major he is not entitled to that retirement? I should like to know why this distinction is made. If my honorable friend from Virginia will state, I will give way for him to explain.

Mr. WITHERS. I would prefer that the Senator make his criticisms upon the whole section, and then I will endeavor to give him information. Conversational debate is interminable.

Mr. LOGAN. The reason I ask the information as I go along is because I actually wish to know. The language in this section is surprising to me; I may be mistaken, and I should like very much to hear the explanation from the Senator from Virginia. And further this section provides:

And that any officer hereafter retired by reason of wounds—

Mark the language that I shall now read—

And that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement.

Let us see what that means. That means this, if I can understand the English language: a gentleman holding the rank of captain in the Army to-day, who held the rank of major-general in the volunteer service and was wounded in that service, no matter whether wounded as a major-general, as a private, or as a subaltern officer, is now to be retired on the rank of major-general. That is the meaning of that particular provision, is it not? I here assert that in all the laws that have ever been enacted in England, in America, in Prussia, or in any country where armies are organized, such a provision has never found its way into a law regulating an army before. At least if it has, it has escaped my examination. No such law has ever existed from the organization of this Government down to the present time in reference to the retirement of officers of the Army. There was a clause inserted in the Army bill approved July 28, 1866, to this effect:

Officers of the regular Army, entitled to be retired on account of disability occasioned by wounds received in battle, may be retired upon the full rank of the command held by them, whether in the regular or volunteer service at the time such wounds were received.

That was the language of an amendment moved by Senator Fessenden, of Maine, and inserted in an appropriation bill in July, 1866, in that particular section of the law. Quite a number of officers applied for retirement, and some officers outside wanted to be retired with the rank of their command. There has been no such thing known in the Army as rank of command. The "rank" applies to the person. He is a major-general, a brigadier-general, a lieutenant-general, or a general. The rank is to himself, and not to his command. This law was found to be so contrary to every rule that had ever been known in the regulation of armies that a few years ago it was repealed by an act of Congress. I did not wish to advert to the many reasons that perhaps operated on the Senate and the House at the time for passing this clause in 1866, but it is the only time that any such law ever found its way on the statute-book, and that was considered entirely out of all rules that had ever been established in any army, the retirement of a man with the rank of command. It has always been the case that the retirement was with the rank held at the time the party was retired, except in special instances by special

legislation. So in this case now you do not retire a man with the rank that he held at the time of receiving the wound. The law that was enacted in 1866 put the retirement with the command held at the time the man received the wound. Now, how do you retire?

And that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement.

So that you do not retire him with the rank he held at the time he received the wound or the rank of his command at that time; but if he was a major-general in the Mexican war in the volunteer service and received a wound in the late war as a captain, you retire him as a major-general. That is the effect of your provision.

Now, sir, I want any man, lawyer, judge, or anybody else, to tell me if ever there was such an unheard-of provision in any law either in England or America as this is. The idea of a man who was a major-general of volunteers in the Mexican war receiving a wound in the late war as lieutenant shall be retired with the rank of a major-general! Why, such a thing is unheard of. A person may have been a colonel and may have been mustered out of service holding the rank of major-general in the volunteers, and may now be mustered into the service as a lieutenant for the very purpose of being retired, and then he is retired on what? He goes and asks retirement on account of wounds received in service, no matter whether the wounds prevented him from occupying his position in the Army or not, and he is retired by a board for wounds received in the service and draws a major-general's pay.

I merely call the attention of the Senate to these provisions; and I do say without hesitation that the Committee on Appropriations, if they did consider this section as they propose to put it on the laws of this country, have violated every principle that ever governed any army since the world began that I have ever heard or read of.

If there was a provision in this section that authorized the retirement of a civilian who never held rank in the Army at all, who never served in the Army even as a private soldier, I presume it would be passed just the same as any other. I do not presume that any argument or any statement of the question would affect in the slightest degree the passage of this bill, or would so change the views of any Senator on the other side as to allow the dotting of an "i" or the crossing of a "t." I presume that is true; but I will say to Senators on that side of the Chamber, that the next time they bring a bill into the Senate irrespective of objections to it, irrespective of faults that may be found in it, I hope they will at least consider the bill before they bring it before an intelligent Senate; at least understand what there is in it that they intend to place upon the statute-books of this country.

Why, sir, this provision in this bill would make the Senate of the United States and the Congress of this country, so far as the Army is concerned, a laughing-stock. It will be laughed at by every intelligent soldier from one end of this land to the other, except by some particular person that desires to receive the benefit of the act, who cannot be retired with so high a rank as the law now stands. If you are legislating for the benefit of some particular individual, and in doing that you wish to put the Army in a condition where every officer who held high rank in the volunteer service, who is now of low rank in the Army and was wounded, either as a private soldier or as a lieutenant or a captain, may go and say "I have wounds, and I ask retirement now under this section," I can understand it. No doubt in such a case the officer would be retired. He would say, "Retire me before the next meeting of Congress, for they may repeal this section," so as to give him retirement as a brigadier-general or a major-general. Put him on the retired list, drawing high pay, when he never was entitled to it.

This is all I desire to say with reference to this particular section except that the retired pay of an officer is 75 per cent. of his regular pay; so that the retired pay of a major-general is that which will support a very considerable family and in very good style, too. I could name you, if I chose, quite a number of gentlemen to-day in the Army with a rank less than major who held the rank of brigadier-general in the volunteer service, who bear scars, not such as to seriously injure them, however, but such as would authorize them to be retired under this bill by a board of their friends; and officers never fail to retire for wounds, there are so many seeking places. No man has ever failed yet, that I have heard of, to be retired when he presented himself on account of wounds received in the service. Thus you open the doors of retirement with high pay, for what purpose? God only knows; but it seems to me that this is an inducement held out to officers of the Army to seek retirement, and at the same time that they seek that retirement you provide that the Army shall not be filled up above a certain grade, that no promotions or appointments shall be made above that grade in the Army, and to leave this vast number of vacancies there until you can have an opportunity of providing how they may be filled. In that way the Army may be filled up again, perhaps, by a different class from those who now are the officers in the Army. If that is not the reason, God knows, I cannot fathom it.

Mr. BLAINE. Mr. President, I desire to read, by way of explanation, (not to participate in the present debate,) a dispatch which I received from Charleston, South Carolina, yesterday afternoon, but too late to make use of it in the little discussion which went on. It is addressed to myself, but not based on anything that was said yesterday, because it came last evening:

CHARLESTON, S. C., *April* 24, 1879.

Senator JAMES G. BLAINE, *Washington, D. C.:*

In the Barnwell case, recently tried in United States court, the defendants were charged with breaking up a republican meeting in Barnwell County. The evidence for the prosecution is correctly stated in a telegram to the Tribune of Saturday. The defendants' counsel asked the court to instruct the jury to bring in a verdict of not guilty, because in the first four counts there was no allegation that the conspiracy as alleged was on account of race, color, or previous condition of servitude, and, although the fifth count did so allege, yet there was no proof that the acts charged were committed on account of race or color. The witnesses for the Government having stated that they did not believe that the defendants interfered with their meeting on account of their race or color, but simply because they were republicans, Judge Bond accordingly charged that the right to meet peaceably for consultation in respect to public affairs as charged in the first four counts was neither granted nor guaranteed by the Constitution of the United States, but belonged to the people before the Constitution was adopted; and, under the decision of the Supreme Court in the Cruikshank case, the Federal courts had no jurisdiction to punish its obstruction or hinderance. In reference to the fifth and last count, which charged the defendants with conspiracy to intimidate, injure, and oppress certain persons in the free exercise of the right to vote on account of their race and color, the court charged that there was no proof to show that the parties were injured and oppressed on account of their race and color. In other words, the proof showed that certain parties were interfered with, injured, and oppressed on account of their republicanism, and not on account of their race and color; and through this technicality the defendants were acquitted, notwithstanding the proof was overwhelming that they did all that was charged; but it was impossible to prove that it was because of the race and color of the parties injured.

E. W. M. MACKEY,
Assistant United States Attorney.

This shows in behalf of South Carolina a remarkable degree of impartiality in the oppression of republicans. It is wholly without regard to race, color, or previous condition of servitude.

Mr. CARPENTER. Mr. President——

Mr. BUTLER. Before the Senator from Wisconsin proceeds, inasmuch as the honorable Senator from Maine has read the dispatch, I should like very much to have read the evidence taken for the Government and for the defense in that case, so that the whole case may go into the RECORD. I should like to ask the honorable Senator if he has any information from Mr. E. W. M. Mackey, assistant United States district attorney, of the case of the United States *vs.* Osceola Gantt, Daniel White, Andrew Bennett and others?

Mr. BLAINE. I have nothing but what I read, and I wanted to add (though I think I guarded it sufficiently yesterday) that I did not intend any reflection on Judge Bond. I disclaimed that yesterday and disclaim it now. I had no intention to say whether there was, what was inferable from the statement in the Evening Star of the previous evening, an arrangement made in South Carolina. I knew nothing more about it than was contained in the Evening Star. That did not in the least degree, in my judgment, implicate Judge Bond, and it is proper that I should entirely disclaim the least intention of so doing.

Mr. CARPENTER. Mr. President——

Mr. BUTLER. If the Senator from Wisconsin will permit me one moment, I should like, inasmuch as that dispatch recites that the testimony was overwhelmingly in favor of the Government, to have the testimony taken on behalf of the defendants read in that connection, as published in the Charleston News and Courier, in full. That is all.

Mr. EDMUNDS. That would require the time to be extended for a couple of hours.

The PRESIDENT *pro tempore.* Does the Senator from Wisconsin yield for the reading of the matter referred to by the Senator from South Carolina?

Mr. BUTLER. I ask to be allowed to print it in the RECORD as part of my remarks.

Mr. EDMUNDS. That has never been done in this body and cannot be done with my consent.

Mr. BUTLER. Will not the Senator from Wisconsin yield to me?

Mr. CARPENTER. I do not propose to enter into any political discussion on this bill. I only want to call attention to one or two amendments that I shall move when the time comes, and as I cannot explain them then under our understanding, I ask to do so now.

The PRESIDENT *pro tempore.* The Senator from Wisconsin declines to yield further.

Mr. CARPENTER. In section 9 it is provided:

That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain, except in the Corps of Engineers.

I shall move to amend that by adding there the words "and in the artillery."

I cannot speak of anything done in executive session, but from the newspapers I learn that nominations have been made for all the promotions which can be made in the cavalry and infantry branches of the service. This would stop all promotions except in the Engineers, when, if those nominations are confirmed, the infantry and the cavalry would have their promotions by these nominations which the newspapers say have been sent to the Senate; and this would open the door to the engineers; but it would produce this practical result: now the ranking lieutenant-colonel in the Army to-day is Lieutenant-Colonel R. B. Ayres, of the Third Artillery, and he is entitled to the first promotion to the rank of colonel; but if these nominations which the newspapers say have been sent to the Senate be confirmed,

this bill leaves the door open for promotion in the Corps of Engineers, and would just put the artillery entirely back of all the other corps in the Army, which of course would be a gross injustice to them.

Again, in the fourteenth line of this section, I find the following:

Provided, That nothing shall prevent the appointment of a Chief of Engineers, with the rank of brigadier-general, when a vacancy shall occur, nor shall it—

Which refers to nothing—

prevent the promotion of any captain who has served twenty years in the United States Army.

There is, of course, an accidental omission, and I shall move, when the time comes, to perfect it by inserting words so as to make it read "provided that nothing in this act contained shall" do so and so. That was evidently the intention of it, and it was omitted by a mistake. It makes bad grammar of the whole proviso and nonsense of the last part of it.

Mr. EDMUNDS. What is the pending question, Mr. President?

The PRESIDENT *pro tempore*. The pending question is on the amendment offered by the Senator from Nebraska, [Mr. PADDOCK.] The Chair was just going to state that he is a little in doubt whether it is competent or not to take the vote before the hour of three has arrived, because some Senators supposing the vote would not be taken before that may not be here.

Mr. EATON. If my friend from Vermont will allow me, I will move that that amendment lie on the table.

Mr. EDMUNDS. What amendment?

Mr. EATON. I move that the amendment offered by the Senator from Nebraska lie on the table.

Mr. EDMUNDS. I thought the Chair had recognized me.

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. EDMUNDS. Now may I ask my honorable friend from Connecticut what amendment it is that he proposes to lay on the table?

Mr. EATON. I supposed my friend understood me or I would not have made the motion. I said I would move that the amendment which the Chair had stated as pending lie upon the table.

Mr. EDMUNDS. I should like to have that reported because I am not sure that that is the exact amendment that I wish to speak about.

The PRESIDENT *pro tempore*. Does the Senator from Vermont yield to that motion?

Mr. EDMUNDS. Not just now.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment of Mr. PADDOCK.

Mr. EDMUNDS. I think the Chair would have the right to put the question on anything about the bill, except that as a Senator he is bound by the understanding. Of course the understanding of yesterday is not a part of the journals and orders of the Senate, but it is an understanding among Senators. The Chair of course must go on and administer the law of the Senate and put the bill to its passage after we dispose of it in the various ways. If the Senator from Connecticut merely wishes to dispose of this amendment so that it being disposed of I can have the floor to offer one or two amendments that I have, to save time, I have no objection to yielding for that purpose, if I can have the floor afterward to offer an amendment that I have myself.

Mr. EATON. That is all.

Mr. EDMUNDS. Then I yield to the Senator from Connecticut.

Mr. EATON. I simply desire to end that matter, but with no disrespect to my friend from Nebraska. I simply move that this amendment lie on the table.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves that the amendment offered by the Senator from Nebraska do lie on the table.

Mr. PADDOCK called for the yeas and nays, and they were ordered; and the Secretary proceeded to call the roll.

Mr. DAWES, (when the name of Mr. HOAR was called.) My colleague, [Mr. HOAR,] as I have announced on other votes, is necessarily absent from the city, and is paired with the Senator from New Jersey, [Mr. MCPHERSON.] My colleague would vote "nay," if present.

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 40, nays 28; as follows:

YEAS—40.

Bailey,	Gordon,	Jones of Florida,	Slater,
Bayard,	Groome,	Kernan,	Thurman,
Beck,	Grover,	Lamar,	Vance,
Butler,	Hampton,	McDonald,	Vest,
Call,	Harris,	Maxey,	Voorhees,
Cockrell,	Hereford,	Morgan,	Walker,
Coke,	Hill of Georgia,	Pendleton,	Wallace,
Eaton,	Houston,	Randolph,	Whyte,
Farley,	Johnston,	Ransom,	Williams,
Garland,	Jonas,	Saulsbury,	Withers.

NAYS—28.

Allison,	Cameron of Wis.,	Hill of Colorado,	Morrill,
Anthony,	Carpenter,	Ingalls,	Paddock,
Bell,	Chandler,	Jones of Nevada,	Platt,
Blaine,	Dawes,	Kellogg,	Plumb,
Booth,	Edmunds,	Kirkwood,	Rollins,
Burnside,	Ferry,	Logan,	Saunders,
Cameron of Pa.,	Hamlin,	McMillan,	Teller.

ABSENT—8.

Bruce,	Davis of Illinois,	Hoar,	Sharon,
Conkling,	Davis of W. Va.,	McPherson,	Windom.

So the amendment was ordered to lie on the table.

Mr. EDMUNDS. I wish to move to amend the bill on page 14, line 16 of section 6. I move to add after the word "section," at the end of the paragraph, the following words:

And nothing in this section contained shall be held or deemed to abridge the power or duty of the President of the United States, existing under the Constitution thereof, or under sections 5298 or 5299 of the Revised Statutes of the United States.

I should have been glad to have said something upon the merit of the question that is involved in the sixth section; but having been out of health for a week or two, and there having been a list made of Senators to speak, which I did not wish ungraciously to interfere with, the opportunity has not offered itself; but I think it a duty to offer this amendment to come in at the place I have stated. The proviso to the sixth section is—

That nothing contained in this section, as now amended, shall be held or deemed to abridge or affect the duty or power of the President of the United States, under section 5297 of the Revised Statutes, enacted under and to enable the United States to comply with section 4 of article 4 of the Constitution of the United States on application of the Legislature or executive, as provided for in said section.

That proviso to the prohibitory clause of the use of the Army to keep the peace of the United States,—that is, to prevent forcible and violent obstructions to the execution of its laws,—is inserted in order to allow the peace of the United States, and of the States too, to be kept by military force on election day, if it be on the call of the executive of a State, or of the State Legislature; and that covers not merely a Federal election, as it is called, (I should say a national election,) but it covers State elections proper, with which the United States, except under the guarantee clause and the invasion clause of the Constitution, have nothing whatever to do in the way of exerting power.

Therefore this bill itself, and this proviso sent over from the House of Representatives, recognize in the fullest degree the necessity of providing by law for the presence of the armed power of the United States, which is nothing but the power of the law and of the people, in order to repress illegal violence even, against the rights of the citizens of the States to elect their own State officers. So, I take it, the theory of the bill demonstrates that the presence of armed force in the name of the law, and under the law, and for the law, and for keeping peace at the polls, is recognized as one of the duties not only of the States but of the United States.

The amendment I have offered proposes to declare that in the same way and upon the same constitutional principle of proper necessity—

Whenever, by reason—

And now I read from the Revised Statutes of the United States to which my amendment applies, beginning with the act passed in 1792, in the administration of George Washington, stating in these very words, I believe, certainly substantially so, that—

Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States, within any State or Territory, it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress—

this violence. The act of 1792 said, to suppress obstructions to the execution of the laws of the United States, and to see that they were carried into execution. Therefore, if the election of a member of Congress is a part of the thing to be done by the Constitution of the United States and under its authority, and is to be done pursuant to the laws of the United States, which have provided, as we agree, right or wrong, for a certain supervision and inspection, and security of peace and fair play at the polls, where there is a forcible obstruction to the execution of the laws of the United States, then I say that this bill ought to contain all the provision which has existed since the administration of Washington, that forcible and violent opposition to the execution of the laws of the United States may also be suppressed, as well as opposition to the laws of the States by the forces of the Union.

That is the object of this amendment, and on it I ask for the yeas and nays. The time is up.

Mr. EATON. I move that the amendment offered by the Senator from Vermont lie on the table.

Mr. EDMUNDS. Let us have the yeas and nays, Mr. President.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves that the amendment offered by the Senator from Vermont do lie on the table, on which motion the Senator from Vermont demands the yeas and nays.

The yeas and nays were ordered and taken.

Mr. WINDOM. I will announce again, once for all on the unimportant votes, that I am paired with the Senator from West Virginia [Mr. DAVIS] on every vote relating to this bill.

The result was announced—yeas 40, nays 28; as follows:

YEAS—40.

Bailey,	Cockrell,	Garland,	Harris,
Bayard,	Coke,	Gordon,	Hereford,
Beck,	Davis of Illinois,	Groome,	Hill of Georgia,
Butler,	Eaton,	Grover,	Houston,
Call,	Farley,	Hampton,	Johnston,

Jonas,	Morgan,	Slater,	Walker,
Jones of Florida,	Pendleton,	Thurman,	Wallace,
Kernan,	Randolph,	Vance,	Whyte,
McDonald,	Ransom,	Vest,	Williams,
Maxey,	Saulsbury,	Voorhees,	Withers.

NAYS—28.

Allison,	Cameron of Pa.,	Hamlin,	Morrill,
Anthony,	Carpenter,	Hill of Colorado,	Paddock,
Bell,	Chandler,	Ingalls,	Platt,
Blaine,	Conkling,	Jones of Nevada,	Plumb,
Booth,	Dawes,	Kirkwood,	Rollins,
Burnside,	Edmunds,	Logan,	Saunders,
Cameron of Wis.,	Ferry,	McMillan,	Teller.

ABSENT—8.

Bruce,	Hoar,	Lamar,	Sharon,
Davis of W. Va.,	Kellogg,	McPherson,	Windom.

So the amendment was ordered to lie on the table.

The PRESIDENT *pro tempore*. The hour of three o'clock having arrived, all debate on this bill ceases. The bill was read and considered by sections up to and including section 6. If there are no further amendments to section 6 to be offered, the Chair suggests that the reading proceed and that amendments be offered to the subsequent sections as they are reached.

Mr. EDMUNDS. I do not know any rule which provides for the proceeding of the Senate in that way. I suppose the bill is open to amendments.

The PRESIDENT *pro tempore*. Undoubtedly it is open to amendment. The Chair only suggested that course as a matter of convenience.

Mr. EDMUNDS. Do I understand the Chair to say that it is an order of the Senate that the debate ceases, or is it an understanding such as has always been had heretofore?

The PRESIDENT *pro tempore*. The understanding is such as is usually had.

Mr. EDMUNDS. Ah, yes; I shall obey that with equal pleasure; I only wanted to know which it was. I have an amendment to offer.

The PRESIDENT *pro tempore*. To which section?

Mr. EDMUNDS. To section 6.

The PRESIDENT *pro tempore*. Then that is a proper amendment to be offered at this time.

Mr. EDMUNDS. On page 14, line 24, which is in section 6, after the word "States," I move to insert:

Or unless such force shall be necessary to be used to execute the laws of the United States contained in sections 5297, 5298, or 5599 of the Revised Statutes of the United States.

I ask that the section may be read in connection, so that we may see how it would read if amended as I propose.

The PRESIDENT *pro tempore*. The whole section?

Mr. EDMUNDS. No, sir; the clause beginning at line 17, to save time.

The PRESIDENT *pro tempore*. That portion of the section will be read.

The Secretary read as follows:

And that section 5528 of the Revised Statutes be amended so as to read as follows:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, or unless such force shall be necessary to be used to execute the laws of the United States contained in sections 5297, 5298, or 5299 of the Revised Statutes of the United States, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Mr. EDMUNDS. On that amendment I ask for the yeas and nays.

Mr. EATON. I move that the amendment lie on the table.

Mr. EDMUNDS. I have a right to have the yeas and nays ordered, on my request, I think, if I can get a fifth of the Senators to do it. Then the Senator can make his motion if he thinks it is within the understanding.

Mr. EATON. I am obliged to the Senator. I certainly did not intend to prevent the Senator from Vermont from securing the ordering of the yeas and nays.

The PRESIDENT *pro tempore*. The Senator from Vermont offers an amendment, which has been read, and on that he demands the yeas and nays.

Mr. WITHERS. I rise to a parliamentary inquiry.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to lay the amendment on the table.

Mr. WITHERS. That is it.

Mr. EDMUNDS. Mr. President, I rise to a parliamentary inquiry, or whatever it may be. I read from the CONGRESSIONAL RECORD of to-day the proceedings of yesterday afternoon:

The PRESIDENT *pro tempore*. The Chair will once more state the proposition and again ask the Senate whether there is any objection to it. The proposition is, that at three o'clock to-morrow all debate on this bill shall cease, and the Senate shall then proceed to vote upon any pending amendment or amendments that may be offered, and finally on the bill itself, without further debate.

I wish to ask the Chair and gentlemen on the other side whether laying these amendments on the table and not voting upon them as amendments, but laying them aside (for under our rules it is merely laying them aside in the technical sense, although we know it is death now) is within the understanding? The understanding was that we should vote on the amendments, and not dodge a vote on the amendments.

Mr. EATON. There is no dodging about it. A motion to lay on the table is perfectly proper under the understanding. It is a vote on the amendment to place it upon the table, where it belongs, in our opinion.

The PRESIDENT *pro tempore*. The Chair will state that there was nothing in the understanding which induced the Chair to suppose for a moment that a motion to lay an amendment on the table would not be in order. The Chair did not suppose that there was anything in the order that intended to make it obligatory upon the Senate to vote directly upon an amendment instead of laying it on the table, especially as this is an appropriation bill, and one of the modes of getting rid of an amendment on an appropriation bill is to lay it on the table.

Mr. EDMUNDS. Then I will ask if it is within the understanding of the order that I may ask for the yeas and nays on the motion to lay the amendment on the table? Is that within the understanding?

The PRESIDENT *pro tempore*. The Senator from Vermont demands the yeas and nays on the motion to lay the amendment on the table. Is there a second?

The yeas and nays were ordered; and being taken, resulted—yeas 40, nays 30; as follows:

YEAS—40.

Bailey,	Garland,	Jonas,	Slater,
Bayard,	Gordon,	Jones of Florida,	Thurman,
Beck,	Groome,	Kernan,	Vance,
Butler,	Grover,	Lamar,	Vest,
Call,	Hampton,	Maxey,	Voorhees,
Cockrell,	Harris,	Morgan,	Walker,
Coke,	Hereford,	Pendleton,	Wallace,
Davis of Illinois,	Hill of Georgia,	Randolph,	Whyte,
Eaton,	Houston,	Ransom,	Williams,
Farley,	Johnston,	Saulsbury,	Withers.

NAYS—30.

Allison,	Cameron of Wis.,	Hill of Colorado,	Paddock,
Anthony,	Carpenter,	Ingalls,	Platt,
Bell,	Chandler,	Jones of Nevada,	Plumb,
Blaine,	Conkling,	Kellogg,	Rollins,
Booth,	Dawes,	Kirkwood,	Saunders,
Bruce,	Edmunds,	Logan,	Teller.
Burnside,	Ferry,	McMillan,	
Cameron of Pa.,	Hamlin,	Morrill,	

ABSENT—6.

Davis of W. Va.,	McDonald,	Sharon,	Windom.
Hoar,	McPherson,		

So the amendment was ordered to lie on the table.

Mr. CARPENTER. I move to amend the bill by striking out the ninth section.

Mr. WITHERS. I suggest to the Senator that it would be better to have read the seventh and eighth sections and then reach the ninth section.

The PRESIDENT *pro tempore*. If the Senator has no objection the seventh and eighth sections will be read.

Mr. CARPENTER. Certainly.

The Chief Clerk read the seventh section of the bill, as follows:

SEC. 7. That the Secretary of War shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education.

Mr. EDMUNDS. Has there been any vote upon that section?

The PRESIDENT *pro tempore*. None whatever.

Mr. DAVIS, of Illinois. Mr. President——

Mr. EDMUNDS. I wish to move an amendment to it.

Mr. CONKLING. The Senator from Illinois [Mr. DAVIS] has an amendment to offer.

Mr. EDMUNDS. I yield to the Senator from Illinois, of course,—the only impartial man in the body.

Mr. DAVIS, of Illinois. I thank you, sir, for that compliment, whether meant in jest or earnest.

Mr. EDMUNDS. It was meant in jest.

Mr. DAVIS, of Illinois. Captain Grant of the Army has charge of certain Indians for the purpose of educating them at the Hampton school, at Hampton Roads. He met me the other day and suggested——

Mr. WITHERS. I would suggest to the Senator——

The PRESIDENT *pro tempore*. The Chair will remind Senators that debate is not in order.

Mr. WITHERS. I only intended to suggest to the Senator from Illinois that any remarks would open the door to debate.

Mr. DAVIS, of Illinois. I want to change the section by striking out in line 2 the words "an officer of the Army" and inserting "one or more officers of the Army," and at the end inserting:

And authority is given the Secretary of War to use any unoccupied forts and barracks available for Indian education so long as not required for military purposes.

So as to make the seventh section read:

That the Secretary of War shall be authorized to detail one or more officers of the Army, not above the rank of captain, for special duty with reference to Indian education; and authority is given the Secretary of War to use any barracks available for Indian education so long as not required for military purposes.

I would not have said a word, but I did not know that it would violate the understanding.

Mr. WITHERS. I move that the amendment be laid upon the table.

The motion was agreed to; there being on a division—ayes 34, noes 24.

The PRESIDENT *pro tempore*. The Secretary will report section 8.

The Chief Clerk read the eighth section of the bill, as follows:

Section 8. That section 6 of the act approved June 18, 1878, making appropriations for the support of the Army, be, and is hereby, repealed: *Provided*, That when the economy of the service requires, the Secretary of War shall direct the establishment of military headquarters at points where suitable buildings are owned by the Government.

The ninth section was read, as follows:

SEC. 9. That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain, except in the Corps of Engineers; and the actual time of service in the Army or Navy of the United States shall be allowed all officers in computing their pay; and that no officer below the rank of major shall be transferred to the retired list, except upon the report of a duly constituted board of officers, to the effect that such officer is no longer fit for active service; and that any officer hereafter retired by reason of wounds received in action shall be retired upon the highest rank, exclusive of brevet rank, actually held by such officer in the regular or volunteer service before retirement: *Provided*, That nothing shall prevent the appointment of a Chief of Engineers, with the rank of brigadier-general, when a vacancy shall occur, nor shall it prevent the promotion of any captain who has served twenty years in the United States Army.

The PRESIDENT *pro tempore*. The Senator from Wisconsin [Mr. CARPENTER] now moves to strike out the ninth section of the bill.

Mr. ALLISON. Before that motion is made I wish to move to amend the ninth section in line 14.

Mr. EDMUNDS. Let the question be first taken on striking out. The Senator can move the amendment afterward.

Mr. ALLISON. Very well.

Mr. EDMUNDS. It is not likely to be stricken out.

Mr. CARPENTER. I move to strike out section 9 of the bill.

The PRESIDENT *pro tempore*. The Chair has just stated the motion.

Mr. WITHERS. I move to lay the motion on the table.

Mr. CARPENTER. I call for the yeas and nays.

Mr. CONKLING. I rise to a parliamentary inquiry. Does the rule permit a motion to strike out to be laid on the table as an amendment?

Mr. WITHERS. It is in the form of an amendment, and such motions can be generally laid on the table.

The PRESIDENT *pro tempore*. Rule 29 declares that—

Any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

There is no doubt that this is a general appropriation bill, and in the opinion of the Chair a motion to strike out a portion of the bill is an amendment to the bill, and the motion may be laid on the table. The question is on the motion of the Senator from Virginia to lay the amendment of the Senator from Wisconsin on the table, on which the yeas and nays are demanded.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. ROLLINS, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. GORDON,] who is detained from the Chamber. If he were present I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 39, nays 28; as follows:

YEAS—39.

Bailey,	Groome,	Kernan,	Thurman,
Bayard,	Grover,	Lamar,	Vance,
Beck,	Hampton,	McDonald,	Vest,
Butler,	Harris,	Maxey,	Voorhees,
Call,	Hereford,	Morgan,	Walker,
Cockrell,	Hill of Georgia,	Pendleton,	Wallace,
Coke,	Houston,	Randolph,	Whyte,
Eaton,	Johnston,	Ransom,	Williams,
Farley,	Jonas,	Saulsbury,	Withers.
Garland,	Jones of Florida,	Slater,	

NAYS—28.

Allison,	Cameron of Wis.,	Ferry,	McMillan,
Bell,	Carpenter,	Hamlin,	Morrill,
Blaine,	Chandler,	Hill of Colorado,	Paddock,
Booth,	Conkling,	Ingalls,	Platt,
Bruce,	Davis of Illinois,	Jones of Nevada,	Plumb,
Burnside,	Dawes,	Kirkwood,	Saunders,
Cameron of Pa.,	Edmunds,	Logan,	Teller.

ABSENT—9.

Anthony,	Hoar,	McPherson,	Sharon,
Davis of W. Va.,	Kellogg,	Rollins,	Windom.
Gordon,			

So the motion to strike out the ninth section was ordered to lie on the table.

Mr. CARPENTER. I move to amend the ninth section by striking out these words:

That from and after the passage of this act, and until it shall be otherwise provided by law, there shall be no promotions or appointments in the Army above the rank of captain, except in the Corps of Engineers; and.

I ask for the yeas and nays on the amendment.

Mr. WITHERS. I move to lay the amendment on the table.

Mr. CARPENTER. Let us see whether we can have the yeas and nays ordered first. I called for the yeas and nays.

The PRESIDENT *pro tempore*. In the opinion of the Chair a motion to lay on the table may be made at any time.

Mr. EDMUNDS. Not when a demand for the yeas and nays is pending, Mr. President, I submit with great respect and with great confidence.

Mr. WITHERS. They may be ordered before the motion to lay on the table is made.

Mr. EDMUNDS. But preceding the motion to lay on the table there is a demand for the yeas and nays. Of course, if ordered, the call will be superseded by a motion to lay on the table.

The PRESIDENT *pro tempore*. The demand, then, must be considered a part of the motion; but that is not the impression of the Chair. However, the Chair will conform to the opinion of more experienced Senators and entertain the call. Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. Now the Senator from Virginia moves to lay the amendment on the table.

Mr. CARPENTER. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 40, nays 29; as follows:

YEAS—40.

Bailey,	Gordon,	Jones of Florida,	Slater,
Bayard,	Groome,	Kernan,	Thurman.
Beck,	Grover,	Lamar,	Vance,
Butler,	Hampton,	McDonald,	Vest,
Call,	Harris,	Maxey,	Voorhees
Cockrell,	Hereford,	Morgan,	Walker,
Coke,	Hill of Georgia,	Pendleton,	Wallace,
Eaton,	Houston,	Randolph,	Whyte,
Farley,	Johnston,	Ransom,	Williams,
Garland,	Jonas,	Saulsbury,	Withers.

NAYS—29.

Allison,	Cameron of Wis.,	Hill of Colorado,	Platt,
Anthony,	Carpenter,	Jones of Nevada,	Plumb,
Bell,	Chandler,	Kellogg,	Rollins,
Blaine,	Conkling,	Kirkwood,	Saunders,
Booth,	Dawes,	Logan,	Teller.
Bruce,	Edmunds,	McMillan,	
Burnside,	Ferry,	Morrill,	
Cameron of Pa.,	Hamlin,	Paddock,	

ABSENT—7.

Davis of Illinois,	Hoar,	McPherson,	Windom.
Davis of W. Va.,	Ingalls,	Sharon,	

So the amendment was ordered to lie on the table.

Mr. CARPENTER. Mr. President, I move to amend the ninth section, in the fourth line, by inserting after the words "except in the Corps of Engineers" the words "and in the artillery."

Mr. WITHERS. I move to lay the amendment on the table.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to insert the words "and in the artillery." The Senator from Virginia moves to lay on the table the motion to amend. The question is on the motion of the Senator from Virginia.

The motion was agreed to.

Mr. ALLISON. Mr. President, in the same line, after the word "engineers," I move to insert "and chiefs of the several staff corps."

Mr. WITHERS. I move to lay the amendment on the table.

The PRESIDENT *pro tempore*. The Senator from Virginia moves to lay the amendment on the table.

The motion was agreed to.

Mr. PLUMB. I move now to strike out all the words after "captain," in line 4 of section 9, to and including the word "engineers" in line 5, striking out the words "excepting in the Corps of Engineers."

Mr. WITHERS. I move to lay that amendment on the table.

Mr. PLUMB. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 39, nays 29; as follows:

YEAS—39.

Bailey,	Gordon,	Kernan,	Thurman,
Bayard,	Groome,	Lamar,	Vance,
Beck,	Hampton,	McDonald,	Vest,
Butler,	Harris,	Maxey,	Voorhees,
Call,	Hereford,	Morgan,	Walker,
Cockrell,	Hill of Georgia,	Pendleton,	Wallace,
Coke,	Houston,	Randolph,	Whyte,
Eaton,	Johnston,	Ransom,	Williams,
Farley,	Jonas,	Saulsbury,	Withers.
Garland,	Jones of Florida,	Slater,	

NAYS—29.

Allison,	Cameron of Wis.,	Hill of Colorado,	Platt,
Anthony,	Carpenter,	Ingalls,	Plumb,
Bell,	Chandler,	Kellogg,	Rollins,
Blaine,	Conkling,	Kirkwood,	Saunders,
Booth,	Davis of Illinois,	Logan,	Teller.
Bruce,	Edmunds,	McMillan,	
Burnside,	Ferry,	Morrill,	
Cameron of Pa.,	Hamlin,	Paddock,	

ABSENT—8.

Davis of W. Va.,	Grover,	Jones of Nevada,	Sharon,
Dawes,	Hoar,	McPherson,	Windom.

So it was ordered that the amendment lie on the table.

The PRESIDENT *pro tempore*. If there be no further amendments, the bill will be reported to the Senate.

The bill was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. Amendments are still in order.

Mr. EDMUNDS. On page 14, line 24, after the words "United States," I move to insert the words "or to be used in accordance with the provisions of section 2002 as amended by this act;" so that it will read:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the

United States, or to be used in accordance with the provisions of section 2002 as amended by this act, shall be fined not more than $5,000, &c.

In order to make it conform to the preceding proviso as to a call on the President.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. WITHERS. I move that the amendment be laid upon the table.

Mr. EDMUNDS. On that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 38, nays 28; as follows:

YEAS—38.

Bayard,	Grover,	Lamar,	Vance,
Beck,	Hampton,	McDonald,	Vest,
Call,	Harris,	Maxey,	Voorhees,
Cockrell,	Hereford,	Morgan,	Walker,
Coke,	Hill of Georgia,	Pendleton,	Wallace,
Eaton,	Houston,	Randolph,	Whyte,
Farley,	Johnston,	Ransom,	Williams,
Garland,	Jonas,	Saulsbury,	Withers.
Gordon,	Jones of Florida,	Slater,	
Groome,	Kernan,	Thurman,	

NAYS—28.

Allison,	Cameron of Wis.,	Hamlin,	Morrill,
Anthony,	Carpenter,	Hill of Colorado,	Paddock,
Bell,	Chandler,	Ingalls,	Platt,
Blaine,	Conkling,	Jones of Nevada,	Plumb,
Booth,	Dawes,	Kirkwood,	Rollins,
Bruce,	Edmunds,	Logan,	Saunders,
Burnside,	Ferry,	McMillan,	Teller.

ABSENT—10.

Bailey,	Davis of Illinois,	Kellogg,	Windom.
Butler,	Davis of W. Va.,	McPherson,	
Cameron of Pa.,	Hoar,	Sharon,	

So it was ordered that the amendment lie on the table.

The PRESIDENT *pro tempore*. If there be no further amendments, the question is, Shall the bill be read the third time?

The bill was ordered to a third reading, and was read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. EDMUNDS. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CARPENTER. Are amendments still in order?

The PRESIDENT *pro tempore*. Not after the third reading of the bill.

Mr. CARPENTER. I am sorry, because I wished to offer an amendment.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the passage of the bill.

The Secretary proceeded to call the roll.

Mr. HEREFORD, (when the name of Mr. DAVIS, of West Virginia, was called.) My colleague [Mr. DAVIS] is paired with the Senator from Minnesota, [Mr. WINDOM.] If he were here, my colleague would vote "yea."

Mr. WINDOM, (when his name was called.) I desire to say that I am paired with the Senator from West Virginia [Mr. DAVIS] on this question. If he were present, I should vote "nay."

The roll-call was concluded.

Mr. DAWES. I desire to state that on the final passage of the bill, my colleague [Mr. HOAR] being necessarily absent, is paired with the Senator from New Jersey, [Mr. MCPHERSON.] My colleague, if present, would vote "nay."

The result was announced—yeas 41, nays 30; as follows:

YEAS—41.

Bailey,	Gordon,	Kernan,	Vance,
Bayard,	Groome,	Lamar,	Vest,
Beck,	Grover,	McDonald,	Voorhees,
Butler,	Hampton,	Maxey,	Walker,
Call,	Harris,	Morgan,	Wallace,
Cockrell,	Hereford,	Pendleton,	Whyte,
Coke,	Hill of Georgia,	Randolph,	Williams,
Davis of Illinois,	Houston,	Ransom,	Withers.
Eaton,	Johnston,	Saulsbury,	
Farley,	Jonas,	Slater,	
Garland,	Jones of Florida,	Thurman,	

NAYS—30.

Allison,	Cameron of Wis.,	Hill of Colorado,	Paddock,
Anthony,	Carpenter,	Ingalls,	Platt,
Bell,	Chandler,	Jones of Nevada,	Plumb,
Blaine,	Conkling,	Kellogg,	Rollins,
Booth,	Dawes,	Kirkwood,	Saunders,
Bruce,	Edmunds,	Logan,	Teller.
Burnside,	Ferry,	McMillan,	
Cameron of Pa.,	Hamlin,	Morrill,	

ABSENT—5.

Davis of W. Va.,	McPherson,	Sharon,	Windom.
Hoar,			

So the bill was passed.

ADJOURNMENT TO MONDAY.

Mr. ANTHONY. I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. WITHERS. I hope not. We have got something to do to-morrow.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that when the Senate adjourns to-day it be to meet on Monday next. The question is on that motion.

Mr. WITHERS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 41, nays 26; as follows:

YEAS—41.

Allison,	Coke,	Johnston,	Randolph,
Anthony,	Conkling,	Jones of Florida,	Ransom,
Bayard,	Davis of Illinois,	Jones of Nevada,	Saulsbury,
Beck,	Edmunds,	Kellogg,	Saunders,
Blaine,	Farley,	Kirkwood,	Teller,
Booth,	Gordon,	Lamar,	Vest,
Bruce,	Hamlin,	Logan,	Whyte,
Butler,	Hereford,	McMillan,	Williams.
Cameron of Pa.,	Hill of Colorado,	Morrill,	
Cameron of Wis.,	Hill of Georgia,	Pendleton,	
Chandler,	Ingalls,	Plumb,	

NAYS—26.

Bailey,	Garland,	Maxey,	Vance,
Bell,	Grover,	Morgan,	Voorhees,
Burnside,	Hampton,	Paddock,	Walker,
Call,	Harris,	Platt,	Wallace,
Dawes,	Houston,	Rollins,	Withers.
Eaton,	Jonas,	Slater,	
Ferry,	Kernan,	Thurman,	

ABSENT—9.

Carpenter,	Groome,	McDonald,	Sharon,
Cockrell,	Hoar,	McPherson,	Windom.
Davis of W. Va.,			

So the motion was agreed to.

CHANGES OF SUNDRY CIVIL BILL.

Mr. EATON. I move that the Senate now proceed to the consideration of the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to take up the resolution he has designated.

Mr. EDMUNDS. Is that on the Calendar?

The PRESIDENT *pro tempore*. The Chair is informed that it is reported by the Committee on Appropriations.

The motion was agreed to.

Mr. ALLISON. Now, Mr. President, I move that the Senate adjourn.

Mr. EATON. I do not care to press the joint resolution to-night. I merely want to have it before the Senate.

Mr. ALLISON. I withdraw the motion to adjourn.

Mr. EATON. I have charge of this resolution from the Committee on Appropriations, and whenever the Senate is ready on Monday next I shall give way to my friend from Ohio, [Mr. PENDLETON,] so that he may submit some remarks on a bill which he has introduced.

COMMITTEE SERVICE.

Mr. LAMAR. I move that the vacancy in the Committee on the Improvement of the Mississippi River and its Tributaries be filled by the Chair.

The motion was agreed to by unanimous consent; and the President *pro tempore* appointed Mr. BRUCE to fill the vacancy.

EXECUTIVE SESSION.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifty-five minutes spent in executive session, the doors were reopened.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; and it was thereupon signed by the President *pro tempore*.

On motion of Mr. WALLACE, the Senate (at five o'clock and thirteen minutes p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 25, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. BLACKBURN. I move that the rules be suspended for the purpose of dispensing with the morning hour.

The motion was agreed to, two-thirds voting in favor thereof.

REPORT OF ENTOMOLOGICAL COMMISSION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, inclosing a communication from Professor C. V. Riley, chief of the entomological commission, relating to the publication of another edition of the first report of said commission; which was referred to the Committee on Printing.

WATER RENTS IN DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from the com-

missioners of the District of Columbia, relative to water rents in the District; which was referred to the Committee for the District of Columbia.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for the withdrawal of papers in the following cases, there having been no adverse report:

To Mr. GOODE, in the case of Anna Perry; and

To Mr. EVINS, in the case of Phœbe Meek.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILSON, for three days, on account of sickness in his family.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLYMER. I move that the rules be suspended and the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880, and for other purposes.

Mr. MANNING. Mr. Chairman, so much ground has been already traversed in this protracted debate, and so many arguments have been submitted and elaborated by gentlemen who have preceded me in this discussion, I shall find it difficult, if not impossible, to make any suggestion that will further elucidate the question at issue.

The single issue worthy of our attention in this discussion is, Shall this Government have the power to place soldiers and civil officers at the polling precincts throughout this country with authority to arrest voters? I shall not discuss the merits of the test oath, as the law imposing that oath has been repealed, and it is admitted is now upon our statute-book by mistake, inadvertence, or fraud on the part of the commissioners charged with the duty of simplifying, arranging, and consolidating the statutes of the United States.

Republicans upon this floor maintain that the laws asserting the right to place soldiers and civil officers at the polls should not be repealed, and we declare that they should. It is unfortunate for the country and also for the members of this Congress that we have not been able in this protracted debate to address ourselves to the consideration of the great subject before us with the greatest calmness and deliberation.

In my judgment, there should be no difference of opinion touching the merits of the proposition to repeal these laws among those who are friendly to the form and genius of this Government, and who desire to maintain and uphold that form in its purity, dignity, and grandeur; but there can be but little hope that our diverse views upon this or any other subject will ever be reconciled, while the "warp and woof" of our speeches are largely made up with passionate appeals that would be more fitting from the leaders of a mob than even from a private citizen without official station and responsibility, and having only a general interest in the welfare of the country.

The greatest reformation that could take place in this land—a reformation whose influence would radiate coextensively with the country—would be for us all to feel and realize in our heart of hearts that duty to ourselves, and to the best interests of the Government, should constantly be our pole-star; that it should be the nucleus around which should center the attributes of our greatness; that it should be an amulet to nerve our arms with new strength, and cheer and invigorate our hearts with a consciousness of its rectitude; that it should occupy our every thought as public men, and then we could expect to pass unsullied and unharmed through the fiery ordeal of the political crucible. A consciousness of duty performed would preserve you unmoved amid the incense of popular adulation on the one hand—or the storms of popular prejudice on the other, and at last entitle your brows to wreaths of purest fame.

I heartily concur that the principle now contended for is the great foundation-stone of republican institutions; that it is the pivotal principle of free government. The right of free election and the absence of troops from the polls comes down to us sanctified and endeared by the experience and good judgment of over twenty generations of the race from whom our laws and liberties have been obtained; and we would prove recreant and faithless to those we now represent, and to those who are to follow us in succeeding Congresses, and also to the generations that are to come after us, if we neglect the opportunity to repeal these unconstitutional and anti-republican laws, and to assert in this substantial manner this time-honored principle. It is trifling with history to declare that the framers of our organic law did not thoroughly consider, understand, and appreciate all the English liberty laws, and did not reproduce them for the people of this country with increased force and grandeur. It will be difficult to find a State constitution that is so crudely drawn as not to have therein the overshadowing doctrine that all elections shall be free. And yet, notwithstanding all this crystallization and reproduction of the right and privilege now demanded, there are gentlemen upon this floor who announce to the country that it is revolutionary to insist upon this doctrine. With the light of history before us it is manifest that the Constitution would never have been ratified if its framers had even intimated that it contained the doctrine now asserted by the republican party. I venture to assert that no other principle that has ever engaged the consideration of the American people, from the foundation of the Government down to this time, has been so overwhelmingly recognized and indorsed throughout the length and breadth of this land as that for which the democratic party now contends. This principle was universally recognized and upheld by all the political parties of this country anterior to the breaking out of the recent war; and then, for well-understood reasons, the republican party declared that the election should be controlled by the General Government.

But for our internecine strife no man would have been found bold enough to advocate such a monstrous doctrine. If the people are not entitled to be free from executive interference, and are not fitted for free elections, let it be boldly announced and maintained. We are called revolutionists and enemies to the peace, quiet, and prosperity of this country because we ask that these measures, born of the passions of the late struggle, shall now be repealed; but the honest, intelligent, and dispassionate voters cannot be deluded with this cry. The people care nothing about the method adopted to secure the recognition of their rights; they only desire us to consider the wisdom of the proposed legislation; but it is a well-known fact that there are numerous precedents for the method now adopted, and that we are in accord with both rule and Constitution. They do not need assistance, I hope, in understanding the true meaning and intent of the resistance which is now so energetically and desperately interposed to the passage of these bills. It is apparent from this discussion that the great object in view is to inflame the passions of the country, for it is not reasonable that the President will veto these measures. All fair-minded men must know that if we fail in our efforts to bring the country back to its original moorings on this all-important question, a direful revolution in the very form of our government will follow, and that it will in time probably result in absolute despotism.

The impartial observer of the history of the republican party must know that its revolutionary and centralizing acts commenced with its very advent into power, and since then it has followed wherever hate, malice, and ambition have suggested. It has waged wicked wars upon the rights of the States, upon the Chief Executive, and upon the court of last resorts, whenever such ruthless steps would tend to the accomplishment of party ends. The utter annihilation of certain State governments, the impeachment and trial of a President for certain alleged high crimes and misdemeanors, and the passage of a law by this House, in 1868, that was obviously intended to prohibit the Supreme Court of the United States from concurring with any United States or circuit judge in the event that such judge should declare such act unconstitutional or invalid, are marked instances of the revolutionary and despotic purposes and temper of the republican party.

The latter act clearly betrays a guilty consciousness that unconstitutional laws had been passed. Perhaps if this progressive party again has control of the law-making branch of this Government it will declare by legislative act that for the purpose of preparing electors and officials for the proper discharge of their respective duties certain mental and physical qualifications shall be possessed; as Plato, Aristotle, and other distinguished men in different ages of the world believed that no republic could be deemed perfect in which gymnasia as a part of their national establishments were neglected; that as the *sanior pars populi*—the cultivated minds of the nation—will be but ill-fitted to exert any powerful influence on the less enlightened minds of their fellow-countrymen if they are wanting in physical strength and development; as our muscles and nerves must be toughened and invigorated if we hope to possess the power and the needful vigor of mind and body to control men, we will perhaps be gravely asked to support a law to produce these inestimable results. When we have taken that important lesson at the hands of our republican leaders, who would not then be prepared to give in his adhesion to that other kindred doctrine for the improvement of the human family of which Mr. Darwin has so charmingly (?) written? I fancy when that day comes that several at least of the present republican beacon-lights upon this floor, the gentleman from Ohio [Mr. GARFIELD] and the gentleman from New Jersey, [Mr. ROBESON,] for instance, will stand forth as the champions of the Darwinian theory; but they can hardly hope that some who have not been blessed with such physical vigor as they enjoy, on their own side and some on ours, will be able to judge impartially and unselfishly of a revolution so great as that.

But to be serious, Mr. Chairman, who so wise that he can foretell the extent to which this centralizing doctrine of supervising the ballot with the bayonet and civil officers will go? If it is important to send soldiers and civil officers to watch an elector while he exercises the elective franchise; if that confidence in the integrity and capacity of State officials, and in the efficiency and wisdom of State laws is to be withdrawn, then it is more important to carry your supervising and overseeing forces into the very halls of State and National Legislatures. The members upon this floor each cast but one vote in their respective States; they are no more virtuous and intelligent here than when they cast a single vote at home under the eye of a supervising Federal officer or soldier; yet by our representative system of government we are each empowered, practically, by law to cast here about 30,000 votes, and each Senator casts from 50,000 to 500,000 votes. The Vice-President and Speaker of this House, on occasions

when the casting vote is to be by them given, have the authority respectively conferred upon them to speak the final words for about nine millions of electors. Our countrymen would be startled if they thought that we were drifting to this autocratic ground, and yet the advocates of the present election laws could easily and with force reply that we should determine the importance for the supervision of every vote cast by the importance of the vote itself.

It would be as defensible to put your soldiers here on this floor as it was to place them upon the floors of certain State Legislatures; and it would be more defensible for the General of the Army to enter these halls, and settle all contested-election cases now pending here, than it was for General Sheridan to determine who should occupy seats in the Louisiana Legislature, as in that case many were unseated whose election had received the benediction of the immaculate returning board of that State. I call to my support upon this branch of my remarks the utterances of a Cabinet officer while a Senator of the United States, and for the further purpose of showing what is likely to be his counsel to the President when these bills are presented for his action, and my apology for the lengthy extract I make from his speech is because his words are "like apples of gold in pictures of silver" touching the subject in hand:

I must confess that the news that came from Louisiana a few days ago has profoundly alarmed me. A thing has happened which has never happened in this country before, and which nobody, I trust, ever thought possible.

When the Legislature convened—and I repeat, it convened according to law, at the time and in the place fixed by law, called to order by the very officer designated by law—those persons were claimants for seats on the ground of the votes they had; some of them presenting claims so strong on the ground of majorities so large that even such a returning board as Louisiana had did not dare to decide against them; and when they had been seated in the Legislature organized as I have described, United States soldiers with fixed bayonets decided the case against them and took them out of the legislative hall by force. When that had been done the conservative members left that hall in a body with a solemn protest. The United States soldiery kept possession of it; and then, under their protection, the republicans organized the Legislature to suit themselves.

There is another thing which especially the American people hold sacred as the life element of their republican freedom. It is the right to govern and administer their local affairs independently, through the exercise of that self-government which lives and has its being in the organism of the States; and, therefore, we find in the Constitution of the Republic the power of the National Government to interfere in State affairs most scrupulously limited to certain well-defined cases and the observance of certain strictly prescribed forms; and if these limitations be arbitrarily disregarded by the national authority, and if such violation be permitted by the Congress of the United States, we shall surely have reason to say that our system of republican government is in danger.

I cannot, therefore, escape from the deliberate conviction, a conviction *conscientiously* formed, that the deed done on the 4th of January in the state-house of the State of Louisiana by the military forces of the United States constitutes a gross and manifest violation of the Constitution and the laws of this Republic. We have an act before us indicating a spirit in our Government which either ignores the Constitution and the laws or so interprets them that they cease to be the safeguard of the independence of legislation and of the rights and liberties of our people. And that spirit shows itself in a shape more alarming still in the instrument the Executive has chosen to execute his behests.

On all sides you can hear the question asked, "If this can be done in Louisiana, and if such things be sustained by Congress, how long will it be before it can be done in Massachusetts and in Ohio? How long before the constitutional rights of all the States and the self-government of all the people may be trampled under foot? How long before a general of the Army may sit in the chair you occupy, sir, to decide contested-election cases for the purpose of manufacturing a majority in the Senate? How long before a soldier may stalk into the national House of Representatives, and, pointing to the Speaker's mace, say, 'take away that bauble?'"

* * * * * * * *

The Federal office-holders in the South became the center of partisan intrigue and trickery. The Caseys and Packards carried off State senators in United States revenue cutters and held republican conventions in United States custom-houses, guarded by United States soldiers to prevent other republican factions from interfering. Nay, more than that, Mr. Packard, during the last election campaign in Louisiana, being at the same time United States marshal and chairman of KELLOGG'S campaign committee, managing not only the campaign, but also the movements of the United States dragoons, to enforce the laws and to keep his political opponents from "intimidating" his political friends. More than that, in one State after another in the South we saw enterprising politicians start rival Legislatures and rival governments, much in the way of Mexican pronunciamientos, calculating on the aid to be obtained from the National Government—the Attorney-General of the United States called upon to make or unmake governors of States by the mere wave of his hand, and the Department of Justice almost appearing like the central bureau for the regulation of State elections. And still more than that, we saw a Federal judge in Louisiana, by a midnight order, universally recognized as a gross and most unjustifiable usurpation, virtually making a State government and Legislature, and the National Executive with the Army sustaining that usurpation and Congress permitting it to be done.

And now the culminating glory to-day—I do not know whether it will be the culminating glory to-morrow: Federal soldiers, with fixed bayonets, marching into the legislative hall of a State, and invading the Legislature assembled in the place, and at the time fixed by law, dragging out of the body, by force, men universally recognized as claimants for membership, and having been seated; soldiers deciding contested-election cases and organizing a legislative body; the Lieutenant-General suggesting to the President to outlaw by proclamation a numerous class of people by the wholesale that he may try them by drum-head court-martial, and then the Secretary of War informing the Lieutenant-General by telegraph that "all of us," the whole Government, have full confidence in his judgment and wisdom. And, after all this, the whites of the South gradually driven to look upon the National Government as their implacable and unscrupulous enemy, and the people of the whole country full of alarm and anxiety about the safety of republican institutions and the rights of every man in the land.

He who in a place like ours fails to stop or even justifies a blow at the fundamental laws of the land makes himself the accomplice of those who strike at the life of the Republic and at the liberties of the people.

* * * * * * * *

If you really think that the peace and order of society in this country can no longer be maintained through the self-government of the people under the Constitution and the impartial enforcement of constitutional laws; if you really think that this old machinery of free government can no longer be trusted with its most important functions, and that such transgressions on the part of those in power as now pass before us are right and necessary for the public welfare, then, gentlemen, admit that the Government of the people, for the people, and by the people is a miscarriage. Admit that the hundredth anniversary of this Republic must be the confession of its failure, and make up your minds to change the form as well as the nature of our institutions; for to play at republic longer would then be a cruel mockery. But I entreat you do not delude yourselves and others with the thought that by following the fatal road upon which we are now marching you can still preserve those institutions; for I tell you, and the history of struggling mankind bears me out, where the forms of constitutional government can be violated with impunity, there the spirit of constitutional government will soon be dead.

* * * * * * * *

But still more, the people have begun to understand, and it is indeed high time they should understand, that the means professedly used to prevent and suppress outrages are producing far worse fruit than the outrages themselves; that—and hear what I say—the lawlessness of power is becoming far more dangerous to all than the lawlessness of the mob.

No more appropriate appeal to the republican party could be made at this moment and in this debate than the following, and I earnestly trust that it will be heeded, and that the distinguished gentleman will plead as patriotically with the President, should it be necessary, as he did with republican Senators:

I cry out to you once more, turn back, turn back in your dangerous course while it is yet time. In the name of that inheritance of peace and freedom which you desire to leave to your children, in the name of the pride with which the American lifts up his head among the nations of the world, do not trifle with the Constitution of your country, do not put in jeopardy that which is the dearest glory of the American name, let not the representatives of the people falter and fail in the supreme hour when the liberties of the people are at stake.

Can it be supposed that the author of these timely and patriotic words would be silent if he were to exchange his position as a Cabinet minister for a seat upon this floor? Unless he receded from the manly and statesmanlike ground which he formerly occupied, he would, if here to-day, be found contributing the full vigor of his intellect to the passage of these measures.

The question has been often asked upon the other side of this Hall, When, where, and by whom has it been demanded that these laws shall be repealed? When, where, and by whom condemned? These questions seem to illustrate that great partisan feeling and prejudice have made the propounders of these inquiries oblivious of much that has transpired in the last few years in the politics of this country. I suppose in reply to these oblivious gentlemen I have the right to cite the distinguished Cabinet officer from whom I have just read as one whose condemnation is without qualification; and it is interesting just here to know whether he was not invited by your republican President to the position which he now holds in deference to a large element in the republican party, who likewise condemn the usurpations, the fanaticisms, and unconstitutional laws and practices of that party.

But there is another Cabinet officer, your prime minister, whose judgment of condemnation I confidently invoke, and who even preceded Mr. Schurz in his patriotic speech in regard to the disgraceful invasion of the Louisiana Legislature by Sheridan and De Trobriand. Your Secretary of State, in a speech at Cooper Institute, New York, to a meeting of indignant citizens, used the following language:

Our fellow-citizens of New York have the understanding that patriotism and love of liberty and obedience to the Constitution are not in the possession of any political organization, that there are limits to their political competition and their antagonisms which no political party can safely pass. That when men vote and when their chosen officers meet and when without violence and without demonstration of insurrection they undertake to conduct the affairs of their political governments no soldiers can interfere. [Cheers.]

* * * * * * * *

There are two very distinct firm lines of limitation, which observed, will protect the machinery of the Government for the people, forty millions of people to-day, one hundred millions hereafter, that is, that the sole intervention of the Federal power within State authority shall be to suppress violence, and that their office after that shall not assume to go further unless when invited by the supreme authority of the State. [Cheers.] And that supreme authority of the State is named in the Federal Constitution, and is the Legislatures of the several States, and only in the casual condition when the Legislature is not in session can the governor represent the State, so as to demand Federal intervention in the political affairs of the State, but only on the condition that the Legislature cannot be convened.

Again he said:

Now, the laws of Congress require whenever a state of violence exists in a State to which Federal suppression should be applied that the exercise of that authority must be combined by a proclamation requiring the insurgents to disperse.

* * * * * * * *

What use is it to give the purse and the sword to the House of Commons if the King or the President by military power can determine what shall be the constitution of the House of Commons or the House of Congress? And that is what they fought for in England—the indubitable and ancient rights of Parliament to hold the purse when in danger, from the claims of royal power. For a while the House of Lords assumed the power and right to determine the qualification and membership of the House of Commons, but in 1624 the House of Commons determined that the qualifications of its members was at its own disposal; that the ancient liberties of the House of Commons required it, and no King and no House of Lords has questioned this power of the House of Commons from that day to this. [Applause.] And for this reason the people of the United States are justified in assuming that the supreme civil power shall dominate over the military, and that no merging of them or interference with them shall be permitted.

I suppose that two other Cabinet officers, the Secretary of the Navy and the Postmaster-General, will be found concurring with the Secretaries of State and Interior in their counsel to the President that these bills shall be approved, making four of the seven Cabinet officers who if consistent must stand with us in this contest, and but for the appearance of a recent article over the signature of the Secretary of War upon the subject under discussion I would feel that I was authorized to declare that he, too, was opposed to the use of the Army at the polls, for in his book on elections, page 315, section 418, he says:

An armed force in the neighborhood of the polls is almost of necessity a menace to the voters, and an interference with their freedom and independence, and if such armed force be in the hands of, or under the control of, partisan friends of any par-

ticular candidate, or set of candidates, the probability of improper influence becomes still stronger.

But this distinguished law writer has changed his views, like another contributor to judicial science who wrote commentaries upon the laws of England, and then saw fit to expound a different and conflicting doctrine after he became a politician. "Is this the wisdom of a great minister or the ominous vibration of a pendulum?" Junius's criticism of Blackstone in reference to his somersault in the celebrated Luttrell case may justly be made of our present Secretary of War in regard to his inconsistencies on the important question now before us.

It is more pardonable for him to change his views, however, than it is to predicate that change upon the alleged imperfections of the election laws in certain States, that exist only in his own imagination. For instance, on page 457 of the North American Review for May next, he says, "the vicious practice of permitting an elector to vote anywhere in the county of his residence prevails in Arkansas and in Kentucky," when the facts are that the constitutions of these States contain the following provisions respectively.

Article 3, section 1, of the former reads as follows:

> Every male citizen who has resided in the State twelve months and in the county six months and in the voting precinct or ward one month next preceding any election where he may propose to vote shall be entitled to vote, &c. (See Charters and Constitutions, The United States, part 1, page 157.)

And section 8 of article 2 of the constitution of the latter State, which was adopted in 1850, declares that:

> Every white male citizen of the age of twenty-one years who has resided in the State two years, or in the county, town, or city in which he offers to vote one year next preceding the election shall be a voter; but such voter shall have been for sixty days next preceding the election a resident of the precinct in which he offers to vote, &c. (See Charters and Constitutions, The United States, part 1, page 670.)

It seems that this distinguished writer is not aware that the republican constitution of 1868, in Arkansas, upon which he predicates his criticism, was abandoned upon the return to power of the democratic party of that State, and that the "vicious practice" of which he complains was cured by the adoption of the present democratic constitution.

It is a historic fact, I believe, that in every Southern State the republican party at once, upon its advent into power, changed the election laws so as to authorize electors to vote anywhere in the county of their residence, and that this "vicious practice" was promptly condemned, as in the case of Arkansas, as soon as the reins of government were restored to the democratic party.

Mr. Sherman, Secretary of the Treasury, strongly arraigned the democratic party in 1856 upon the charge that the Army was improperly used in the elections in Kansas Territory, and it was reserved for this gentleman at that time to contribute a precedent for the present method by placing a "rider" upon an appropriation bill, which declared that neither the governor, nor the judges of the courts of that Territory, should be paid their salaries until certain prisoners, then in the clutches of the law, were released. It is probable, however, that he has long ago changed his mind about "riders" and also about the use of the Army at the polls, and he may now counsel the President to veto these bills. But if Mr. William H. Seward were now alive he would doubtless be found in this contest on the side of a free and untrammeled ballot, for from his place in the Senate of the United States, in discussing the Kansas troubles in 1856, he declared that

> The time was, and that not long ago, when a proposition to employ the standing Army of the United States as a domestic police would have been universally denounced as a premature revelation of a plot, darkly contrived in the chambers of conspiracy, to subvert the liberties of the people and to overthrow the Republic itself.
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> *Civil liberty and a standing army for the purposes of civil police have never yet stood together, and never can stand together.* If I am to choose, sir, between upholding laws in any part of this Republic which cannot be maintained without a standing army, or relinquishing the laws themselves, I give up the laws at once, by whomsoever they are made and by whatever authority; for either our system of government is radically wrong, or such laws are unjust, unequal, and pernicious.
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> If the founders of the Constitution had been told that within seventy years from the day on which they laid its solid foundations and raised its majestic columns a standing army would have been found necessary and indispensable merely to execute municipal laws, they would have turned shuddering away from the massive despotism which they had erected.

The reasons for the views expressed by Mr. Seward are abundant and unanswerable, and in his speech he sets them forth in a manner that honored his head and heart alike. In that great speech he was contending for the great underlying principle for which we contend to-day—that the only reliance for the maintenance or preservation for State and General Government, and the execution of our laws, is upon the free and enlightened opinion of the people. It is not only in accord with the organic law but the very genius of our Government to leave to the States the great duty of seeing that equal and exact justice is secured to all the people within their respective borders, and to respond to their duties as citizens of a common country.

But I have somewhat digressed from my purpose to answer the question, "Who have condemned these laws?" I submit that the President himself, on March 4, 1877, condemned them by the following language employed in his inaugural:

> It must not be forgotten that only a local government, which recognizes and maintains inviolate the rights of all, is a true self-government.

His predecessor has been credited with yielding, in the last hours of his administration, to the demand for the withdrawal of troops from the South, and thereby giving practically his assent to the doctrine of local self-government. Mr. Hayes was quick to concur in this policy, and it is an open secret that he was pledged to its observance before he assumed the helm of state. Last year he approved the bill that prevented the Army from being used as a *posse comitatus*, and so I conclude he would be wholly unwarranted by his own record on this subject to interpose his veto upon the merits of these bills. There can be no doubt that a majority of the chief executives of the States earnestly desire the repeal of these laws. It will be remembered that but a few years ago a republican governor of Illinois (Governor Palmer) severed his connection with your party and left upon record in the office of chief executive of that State a scathing rebuke to his party for its despotic teachings and practices upon this subject. Governors Geary and Hoffman, of Pennsylvania and New York, have also spoken out in official papers in emphatic terms of condemnation. Certainly, the people of the city of New York and the whole country have had cause to be profoundly disgusted with the operations of the election laws under the damning manipulations of John I. Davenport, chief supervisor of elections for that State.

To properly understand and appreciate the outrages perpetrated by Supervisor, Clerk, and Commissioner Davenport, (for it seems that it was necessary for him to hold three offices at one time to make effective the conspiracy that was formed,) it should be known that the testimony recently taken before a congressional committee shows that in May, 1878, his chief clerk made a single affidavit against ninety-three hundred citizens of foreign birth, who had received, ten long years before, from the supreme and superior courts of New York, certificates of naturalization, and by virtue of which they had regularly voted at all elections since the issuance of their certificates. Mr. Davenport, as clerk of the United States court, issued five thousand and four warrants on the affidavit of his clerk, returnable before himself as commissioner of the United States court. Subsequently, when he ascertained that it was illegal for a complaint to contain more than a single name, he ignored the complaint previously made containing the names of the ninety-three hundred victims, and had twenty-eight hundred more affidavits made, and issued warrants thereon. The greatest consternation and alarm, of course, prevailed among these persecuted people, and thirty-four hundred of them, to secure their exemption from further persecution, actually gave up their certificates; but many others were arrested. When the election was at hand, in November, 1878, Davenport's unscrupulous clerk, at the instance of his master, made thirty-two hundred more affidavits, without knowing the facts of any case about which he swore. Warrants upon these affidavits were issued the night before the election, and placed in the hands of the supervisors of the election to be by them handed over to the deputy marshals on the morning of the election, so that the victims of this foul conspiracy might be seized when they presented themselves at the polling places to cast their votes.

The experience of two persons naturalized in 1868 should be also stated to illustrate the turpitude of Davenport's acts. The evidence shows that these two men appeared at the same time, in the same court, in New York City, in the year above stated, and testified for each other in procuring their certificates of naturalization, and that the same record was made in each case. One was a republican; the other a democrat. When the wholesale arrests before referred to were about to be made the republican sent his certificate of naturalization, by a prominent republican politician, to Mr. Davenport with the request that he would inform him whether it would be safe for him to attempt to vote thereon, and received a prompt reply that it would. The other man, being a democrat, was arrested the moment he appeared at the polls, and was thereby prevented from casting any vote upon that day.

In addition to the foregoing, I call attention to the following, which is vouched for by a member of the Forty-fifth Congress, Mr. Eickhoff, which will further enable the voters of this country to form some idea of the enormities of this law, and also the reason why the republican party insist that it shall not be repealed:

> Such a scene as the room of this court presented on that election day has never before been witnessed in this city or in this country, and it is to be hoped never will again. From early morning until after the polls were closed these rooms were packed and jammed with a mass of prisoners and marshals. Not only were they crowded beyond their capacity, but the halls and corridors were thronged with those who were unable to obtain admission; so that the counsel representing the prisoners and the bondsmen who were to be offered to secure their release had the greatest difficulty and were frequently unsuccessful in obtaining entrance. In addition to all this was this delectable iron "pen" on the upper floor, in which men were crowded until it resembled the "black hole of Calcutta," and where they were kept for hours, hungry, thirsty, suffering in every way, until their cases could be reached. With scarcely an exception these men had gone to the polls expecting to be absent but a short time. Many of them were thinly clad. Numbers had sick wives or relatives; some were sick themselves. There were carmen who had left their horses standing in the public streets; men whose situations depended upon their speedy return; men who wished to leave the city on certain trains. Every imaginable vexation, inconvenience, injury, and wrong which the mind can conceive existed in their cases, so that it was painful for the counsel who were endeavoring to secure their release to approach sufficiently near the railing to hear their piteous appeals and witness the distress which they had no power to alleviate. And over all this pushing, struggling, complaining crowd, Mr. Commissioner John I. Davenport sat supreme, with a sort of oriental magnificence, calmly indifferent to everything but the single fact that no man who was arrested was allowed to vote. And after all this tremendous exhibition of the power of this great Government, after this exhibition of what a United States commissioner and chief supervisor of elections can do if he has a mind to, what was the result?
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> Surely if the offenses which these persons had committed were of so grave a nature as to require these wholesale proceedings; if the morals, the peace, and out-

raged laws of the community required to be vindicated by the summary arrest of four thousand persons on a single day, it was certainly necessary that the law should be enforced to the end, and that the offenses which were so dangerous as to require this arbitrary action should be punished.

But nothing of the kind was done. As these men were brought up before the three commissioners who sat in judgment they were asked if they had voted. If they had not they were required to promise that they would not do so. If to escape the terrors of Ludlow-street jail they surrendered their rights as American citizens and made the promise thus exacted, as the great majority of necessity did, they were released upon their own recognizance. If they did not, they were held to bail. If they had voted, although if not properly naturalized such vote was an additional offense instead of a palliation for the crime charged against them, they were immediately released. After sundown, when the polls were closed and it was too late for any one to vote, the doors appear to have been thrown open and all set at liberty.

Four thousand citizens of New York city were arrested on corrupt affidavits made by Davenport's clerk on the day of election and imprisoned in an iron den, and many thousands kept away from the polls for fear of arrest at the hands of this desperate republican politician.

Added to all this, and to cap the climax, a Cabinet officer, and now a Senator, in the campaign of 1876 was found holding the position of chairman of the national executive republican committee, devoting much of his time and brain, and that of many of his subordinates to the work of manipulating United States marshals and supervisors of elections, and of electing the republican ticket, presidential and congressional.

If additional evidence were needed to show the adverse judgment of the people of this country to the continuation of these laws, it is to be found in the disappearance of republican majorities in the House of Representatives and Senate of the United States, and in the installation of the democratic party into power in that department of the Government, to say nothing of the fact that in the last presidential election a popular majority of all the voters of this country of over two hundred and fifty thousand, and a full million majority of white men, voted against the present incumbent of the executive chair, the solemn verdict of the immaculate substitution for a court of justice to the contrary notwithstanding.

But let us consider another important feature of this subject. Who should be held responsible for the consequences that will ensue if the President refuses to sign these bills? This is the great unanswered question before the people. It is said upon this floor that the republican party will find vindication before the country in the fact that we have placed "riders" upon the pending bills which repeal these election laws; that this means coercion upon the President, as it is alleged that bills to repeal these laws should have been introduced and passed as independent measures and in the due course of legislation. In answer, we point to precedents almost without number which have from time to time had the sanction of almost all the prominent men of all the political parties in the history of this country for thirty years past. On the 10th of February last, and before any of the bills now pending before the House were even reported from the committee, I had the honor to submit in due course of business a bill repealing sections 820 and 821 and also from sections 2011 to 2031, inclusive, which embody the test oath and the material election laws, and every republican upon this floor voted against it, the vote standing one hundred and twenty-six democrats for, to one hundred and fifteen republicans against the bill. This illustrates the baldness of the objection now presented. If these laws are unconstitutional, and I submit that they are, without going over the oft-repeated arguments presented during this protracted discussion to show their unconstitutionality, then it should be the pleasure of a patriotic President to concur in promptly striking them from the statute-books. It is certainly not unconstitutional to repeal them.

But if I conceded their constitutionality, even then I submit that it is the plain duty of the President to send back these bills with his approval. Let it then be regarded, if you please, as purely a matter of policy, and let us determine, if we can, what the President should do from that stand-point. To arrive at a correct conclusion it is essential that we shall briefly consider the form of our government, and the relations that its co-ordinate departments sustain to each other. It must be borne in mind that the President is not elected directly by the people, that he is elected by a small body of men composing an electoral college who meet for that purpose a short time before the day fixed by law for the inauguration of the President. He represents the patronage of the Government, the consumers, those who empty the Treasury, while this House represents those who fill the Treasury. The Judiciary is but an offshoot of the President, having no connection with the people except to expound the law for them. Senators are elected by the State Legislatures, and are the creatures of the Commonwealths; the House of Representatives is what its very name suggests—representatives of the people. Its members are elected by the people every two years for the purpose of enabling them to enforce obedience to their judgment in matters of magnitude.

For further protection to the people, the Constitution has confided to their Representatives "the sole power of impeachment" and the duty of originating "all bills for raising revenue." Now, upon a question of policy of such magnitude as this, even if we could not fortify our appeal to His Excellency by referring to many facts that have passed into our history showing the judgment of the country, which must therefore be noticed by him, is it not his duty to yield his own adverse views, if you please, to the demand that is voiced to him in a constitutional way by the representatives of the people? We do not threaten coercion, nor do we intend to be coerced, but there is a decent respect which the President is expected to show to the wish of the people, especially when the expression of that wish comes from both branches of Congress. His predecessors generally have exercised the veto power only to prevent unconstitutional laws, and laws that were passed inconsiderately and hastily through Congress. In the event he returns the bills with his veto he will be forced to place his action upon some extraordinary and unprecedented ground, as the proposed legislation is certainly neither unconstitutional nor inconsiderate. While I recognize the fact that the veto power is to be exercised as the President shall determine best under his oath, and that he has practically the right to come upon this floor and make a speech against a measure that has passed Congress, and move to reconsider, which motion must prevail, and that the bill cannot again pass unless two-thirds of both Houses shall assent thereto, yet I do not believe that he will outrage the judgment of this country by any such course. It is to be hoped that he appreciates the fact that he presides for a brief time over the destinies of a great people, and that this is an hour in their history of the supremest importance.

Ours is the grandest country upon the face of the habitable globe, and it should inspire us all to rise to the full height of our duty. Think of it! From its northern borders, where God's perpetual bow of peace ever glorifies the majestic waters of the Niagara, to our sea-girt southern land, whose genial soil and climate make it almost an Eden of fragrance and beauty; from the Atlantic, where the song of the eastern sea begins its morning music to the distant Pacific, whose western waters softly breathe forth their benediction to our land, as the tide upon that golden shore rolls out beneath the setting sun—everywhere and on every hand, from our mountains and our valleys, our brooks, rivulets, and majestic rivers, villages, towns, and cities, and waving fields of grain—from all these we should draw inspiration from our country, and with one voice should devoutly pray—

God bless our native land.

Mr. GOODE. Mr. Chairman, the bill now under consideration, besides making an appropriation for the legislative, executive, and judicial expenses of the Government for the next fiscal year, provides for the repeal of certain sections of the Revised Statutes which fix the qualifications of jurors in the Federal courts and define the powers and duties of supervisors and marshals in the conduct of elections. If I can receive the attention of the committee, I will endeavor to confine myself strictly to the merits of the questions involved. I will not undertake to revive those collateral issues which have been made so prominent in this and the prior debate which took place on the bill making an appropriation for the support of the Army.

I will not speak from a partisan stand-point or with any reference whatever to the impending political struggle of 1880. I will not anticipate the action of the President in the event of the passage of this bill by both Houses of Congress, nor will I assume authority to make any threat as to the action of the legislative department of the Government if he should think proper to interpose the executive veto. In my judgment it is unbecoming and unpatriotic for either party to this controversy to indulge in threats. No honest or brave man is ever deterred by such means from the discharge of a conscientious duty. We are here as the Representatives of the people in a grave and important crisis of public affairs to deliberate for the public good, to promote the public interests, and, above all, to preserve, protect, and defend the public liberties. Let us do what we believe to be right before God and the country. Let the President do what he believes to be right, and if, unfortunately, a conflict of opinion should occur and the public interests should thereby suffer, the sovereign people of this land will determine in due time upon whose shoulders the weighty responsibility shall rest. In a free republic like ours, there is no power above that of public opinion, and before that august tribunal Presidents and Representatives must all appear to render their account and yield their obedience.

The practical question which now presents itself is, shall we repeal the obnoxious statutes to which I have referred? Have we the constitutional power to do so? Is it wise and expedient to exercise that power if we have it? I shall waste no time upon the first proposition, because it has already been sufficiently discussed in a prior debate, and I do not feel able to offer any new suggestions. The constitutions of some of the States contain prohibitory clauses against general legislation upon appropriation bills, but there is no such provision in the Federal Constitution. On the contrary, it is expressly declared in that instrument that each House may determine the rules of its proceedings. This House has determined in Committee of the Whole through its chairman that the repealing clauses now under consideration are germane and proper, and gentlemen on the other side are forever estopped from denying the correctness of that conclusion by a long line of precedents, numbering not less than three hundred and eighty-seven, established from 1862 to 1875, while the republican party had undisputed control of both branches of Congress. The great and paramount question in this debate is whether it is wise and expedient to repeal the clauses in the Revised Statutes which are now under consideration.

To the discussion of that question I now address myself, and I invoke the calm and unbiased judgment of this committee. The bill provides that sections 820 and 821 of the Revised Statutes of the

United States are hereby repealed, and that all jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing the names of not less than three hundred persons possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of the court and a commissioner to be appointed by the judge thereof, which commissioner shall be a citizen residing in the district in which such court is held, of good standing and a well-known member of the principal political party opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge in a district in which such is now the practice from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the States. What are the sections in regard to the qualifications and selection of jurors which it is proposed by this bill to repeal? Section 820 reads thus:

The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: Without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

Section 821 reads as follows:

At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or veniremen or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

Now, Mr. Chairman, it is well known to this committee that nearly all the white people of the South would be compelled to decline that oath or else take a lie upon their lips and stain their souls with perjury. These statutes were enacted in 1862, *flagrante bello*, while the two sections of the Union stood face to face in hostile array, dissevered and belligerent, and the whole land was convulsed by the throes of a mighty revolution, such as the world never saw before. Fourteen years have now elapsed since the termination of the war. Abundant harvests have been gathered year after year from fields which have been made historic by the tread of contending armies. Year after year the beautiful flowers of spring have been scattered by the hand of affection over the graves of those who bravely encountered each other amid the shock of arms. The bones of the unselfish heroes who wore the "blue and the gray" have long since commingled in one common dust.

Shall these laws which grew out of the war and are a part of the legislation of the war be continued upon the statute-book? Have they not served the purpose for which they were intended, and should they not now be put away amid the other unhappy memories of the war? While they exist are they not a perpetual stigma upon the people of the South, and are they not a standing reproach upon the American statute-book?

The sixth amendment of the Constitution provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed. That is the language of the Constitution, but what is the language of the statute? Section 820 absolutely disqualifies from jury service every man who has given directly or indirectly any assistance in money, arms, horses, clothing, or anything whatever for the use or benefit of any person whom the giver of such assistance knew to have joined, or whom he had good ground to believe to have joined, or to have counseled or advised any person to join, any insurrection or rebellion against the United States. Section 821 authorizes the district attorney to move the court, and the court to require in its discretion the clerk to tender to every person summoned as a juror an oath to the following effect: That he has not adhered to the rebellion or given it aid and comfort; that he has not, directly or indirectly, given any assistance in money or any other thing to any person whom he knew to have joined or to be about to join, or to have counseled or advised any person to join, any rebellion against the United States.

I submit that these two sections are directly antagonistic to the sixth article of the amendments to the Constitution. How can that jury be called impartial which may thus be packed by the order of a judge upon the motion of a district attorney? How can that jury be called impartial from which ninety-nine hundredths of the community who possess any intelligence whatever are excluded by operation of law or the dictum of a judge? It is an historical fact, well known to this House, that during the civil war nearly all the white people of the South capable of bearing arms enlisted in the cause of the southern confederacy. If they were too old or too young to perform military service, they gave aid and comfort and sympathized with those actually engaged in the rebellion, so called. These statutes not only disqualify and exclude from the jury-box every southern man who took up arms against the Government, but even the gray-haired sire, tottering on the verge of the grave, who furnished money, clothing, or anything whatever to the son who was "bone of his bone and flesh of his flesh," or the little boy whose natural instincts prompted him to sympathize with his father, or the good Samaritan whose kindly disposition would not allow him to withhold assistance from the battle-scarred veteran on his weary and toilsome march.

No distinction whatever is made between those who may have been prompted by a spirit of hostility to the Government and those who may have been prompted only by charity or affection, or the tenderest and closest ties which bind man to his fellow-man. All are placed in the same category of proscription and ostracism, and all are visited with the same pains and penalties. Those laws are *ex post facto* in their operation. They presume the guilt of large classes in the community, and require them to remove that presumption by an expurgatory oath. Nothing could be more subversive of the spirit of our institutions, nothing more repugnant to the genius of the common law, than such an inquisition into the consciences of men. The Supreme Court of the United States has decided, in Cummings *vs.* The State of Missouri, and in *Ex parte* Garland, that "deprivation or suspension of any civil rights for past conduct is punishment for such conduct" and that a legislative act which inflicts punishment without a judicial trial is a bill of attainder.

It has also decided in Klein's case and in other cases that the effect of the general pardon and amnesty granted by the President in December, 1868, is to blot out and obliterate forever the offense of those engaged in the rebellion and to make them in contemplation of law innocent and loyal citizens. It says that pardon includes amnesty and that it blots out the offense pardoned and removes all its penal consequences. In view of the plain provisions of the Constitution, in view of the decisions which have been rendered by the highest judicial tribunal in the land, and in view of the manifest hardship and injustice of these statutes, it appears to me to be "strange and passing strange" that any fair-minded man of any party can be found to object to their repeal.

Why continue them as a stigma and reproach upon the statute-book at this late day, fourteen years after the termination of the war? Why require a test oath of a juror which is not required of the Representative who makes the law or the judge who interprets it? There are nearly one hundred gentlemen upon this floor who could not conscientiously take that oath. Nine-tenths of the judges and district attorneys and marshals who enforce Federal laws at the South are unable to take it. One of your cabinet ministers is unable to take it. Several representatives of the Government abroad are unable to take it; and yet you continue in operation a law, enacted in the midst of the excitement and passion engendered by the war, which disqualifies from jury service any and every man who is unable to take it. Can the republicans afford to stand upon such an issue before the country? Can they afford, in a time of peace, to challenge the confidence of the country as the champions of odious and obnoxious test oaths, utterly repugnant to the genius and spirit of our institutions? If the issue shall be forced upon us we are willing to submit it to the grand inquest of the nation, with an abiding faith and unshaken trust in that spirit of fairness and love of justice which characterize the American people.

It is provided further by this bill that sections 2016, 2018, 2020, and all of the succeeding sections of the Revised Statutes down to and including section 2027 and also section 5522 shall be repealed. In other words, Mr. Chairman, the bill proposes to repeal all the sections of the Revised Statutes and all laws and parts of laws which authorize the appointment of chief supervisors and special or general deputy marshals of elections. It does not propose to repeal sections 2011, 2012, 2013, 2014, 2015, 2017 of the Revised Statutes, which authorize the judge of the United States court to appoint supervisors of the election, representing the different political parties at each precinct, who are authorized to attend at all times and places for holding elections of Representatives and Delegates in Congress and witness the counting of the votes cast at such elections.

All the sections of the Revised Statutes authorizing supervisors to attend at the polling places to scrutinize the method of conducting the election and to witness the fairness of the count are permitted to stand unrepealed. What more can gentlemen reasonably demand? At the last session of Congress the majority in this House insisted upon the abolition of all supervisors and of all marshals, general and special, and the repeal of all laws regulating the conduct of elections by Federal officials. The legislative, executive, and judicial appropriation bill was defeated on account of a disagreement between the two Houses on this subject, and in consquence of that disagreement this extra session of Congress was called by the Executive. Now we come in a spirit of harmony, conciliation, concession, and compromise

and tender to the other side the olive branch of peace. We propose to retain the sections which authorize the appointment of Federal supervisors at each precinct to scrutinize the returns and supervise the conduct of the elections, but we demand the abolition of the office of chief supervisor and we demand that Federal marshals, general and special, shall be kept away from the polls.

But how has our overture been met by the other side? Has a corresponding spirit of concession and compromise been manifested by them? On the contrary we have been deliberately fired upon while bearing this flag of truce, and we are told in bold and defiant terms by the minority on this floor that all these odious and obnoxious laws which sprang from the hatred and passions of the war must and shall stand intact and unrepealed or the appropriation bill shall fail and the wheels of Government shall stop. Let me say to the gentlemen on the other side, in all kindness, that they seem to misunderstand entirely the spirit and the motives which animate gentlemen on this side. Earnestly desirous as we are to put an end to this controversy, we have offered to you a fair and liberal compromise. If you think the exigencies of party require you to reject it, then upon your heads must rest all the responsibility for the consequences which may follow. I am one of those who believe that there is no warrant in the Constitution for the enactment of any of these laws now on the statute-book which authorize the appointment of Federal supervisors or Federal marshals to supervise the conduct of elections. It is true the fourth section of the first article of the Constitution provides:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It will be observed that as to the State Legislatures in this connection the word "shall" is used, and as to the Congress the word "may" is used. Now what is the plain meaning of this section? In my judgment it intends to declare that the duty is imposed upon the State Legislatures to prescribe the times, places, and manner of holding the elections for Senators and Representatives, but if the State Legislatures shall fail or neglect to perform that duty then Congress is permitted to exercise the power in order to save the structure and perpetuate the existence of the Government. Congress may act if there is a necessity for it on account of the failure or neglect of the States, or if the States shall prescribe regulations which are inadequate or unsuitable to accomplish the end in view; then Congress in its wisdom may alter such regulations; in other words, the manifest purpose of this section is to enable Congress to perpetuate its existence and provide for full representation if the different State governments, from any cause, should neglect the performance of that duty.

Surely, Mr. Chairman, it cannot be contended upon any fair rule of construction that this clause in the Constitution confers upon Congress the power to do anything more than to regulate the times, places, and manner of holding elections for Senators and Representatives. It certainly does not confer upon Congress the power to prescribe who shall and who shall not be entitled to vote. The States, and the States alone, have power to fix the rule of suffrage and to prescribe the qualifications of the voters. That question is settled beyond the possibility of controversy by the second section of article 1 of the Constitution, which provides that "the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The Federal Government has no power whatever to prescribe the qualifications of the voters in any State. It has been claimed by some that the fifteenth amendment of the Constitution confers that power, but the most cursory examination will show that the claim is altogether unfounded. That amendment provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." If any doubt whatever could be entertained as to the proper construction of this amendment it must be entirely dispelled and removed by a recent decision of the Supreme Court, with which gentlemen are familiar, in which it was held:

> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his color, race, or previous condition of servitude.

The General Government cannot confer and never has undertaken to confer upon any citizen the right to vote. None can exercise the right of suffrage except those who possess the qualifications required of the voters for the most numerous branch of the State Legislature. Congress has no power in the premises, except to make or alter the regulations fixing the times, places, and manner of holding elections for Senators and Representatives. It will appear from a closer examination of this subject, that Congress has not undertaken to exercise this power in the enactment of the statutes which it is now sought to repeal. It has not undertaken to prescribe the times, places, and manner of holding the elections for Senators and Representatives. Congress has not undertaken either to make regulations for congressional elections in the several States or to alter the regulations which have been made by the States. Congress has accepted and adopted the regulations made by the States and has undertaken to prescribe punishment for their violation. It appoints supervisors and marshals to supervise and control the action of State officials under State laws and State regulations. It is not made their duty to bring to trial and punishment after the election those who have violated the laws governing elections, but their sole function is to supervise the conduct and interfere with the freedom of the electors before and on the day of the election and to make arrests with or without due process of law.

These statutes authorize the supervisors to attend at all times and places fixed for the registration of voters and to challenge any person offering to register; to personally scrutinize, count, and canvass each ballot cast at the election, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make reports to the chief supervisor, who is authorized to summon witnesses, compel their attendance, and administer oaths. It authorizes the chief marshal of any district to appoint as many deputy marshals as he may think proper. It authorizes the chief marshal and his deputies, general and special, to attend at any place of registration or voting, to arrest and take into custody, with or without process, any person who commits or attempts to commit any offense against the laws of the United States. It authorizes the marshal and his deputies, general and special, to summon and call to their aid the bystanders or *posse comitatus* of the district. Let us see, now, Mr. Chairman, what interpretation has been placed upon these statutes by the law officers of the Government, and how they have been enforced.

On the 14th day of September, 1876, Alphonzo Taft, then Attorney-General of the United States, issued a circular letter of instructions in which he informed his chief marshals that deputies might be appointed to any number whatever according to their discretion. Let me extract a passage or two from that remarkable circular:

> In this connection, I advise that you and each of your deputies, general and special, have a right to summon to your assistance in preventing and quelling disorder every person in the district above fifteen years of age, whatever may be their occupation, whether civilians or not, and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey you. The fact that they are organized as military bodies (whether of the State or of the United States) under the immediate command of their own officers does not in any wise affect their legal character. They are still the *posse comitatus*.

And again he says:

> There is, as you have virtually been already told, no officer of a State whom you may not by summons embody into your own *posse*; and any State *posse* already embodied by a sheriff will, with such sheriff, be obliged, upon your summons, to become part of a United States *posse* and obey you or your deputy acting *virtute officii*.

In other words, Mr. Chairman, according to this circular letter of instructions, the marshal may appoint deputies without limit as to number. He may in his discretion appoint every republican voter in the district. The marshal or either of his deputies, general or special, may arrest and take into custody upon suspicion, with or without process, any democratic citizen who offers to vote; and if resistance is made he may summon to his aid every person in the district above fifteen years of age, whatever may be their occupation, whether civilians, militia, United States soldiers, or marines. Every officer of the State or of the United States is bound to obey the commands of the marshal or his deputies.

The governor of the State at the head of his militia or the commander of the Army at the head of his soldiers is liable to be ordered hither and thither by any deputy marshal, however ignorant and insignificant he may be. Such are the provisions of the obnoxious statutes which we desire to repeal, and such is the interpretation which has been placed upon them by the highest law officer of the Government. It is well known to this committee and to the country how these laws have been enforced. Thousands of supervisors and marshals have been appointed, and hundreds of thousands of dollars have been expended. The law has been used as a mere machine for the purposes of party. The money drawn by taxation from the pockets of the people has been expended for the benefit of party. Instead of being the faithful and conscientious officers of Government, these supervisors and marshals have been in many instances nothing more nor less than the paid agents and pliant instruments of party. In the city of New York, at the November election in 1876, four thousand citizens were arrested in a single day upon the affidavit of a single man.

Those who surrendered their rights as American citizens and promised not to vote were released upon their own recognizance. The others were held as prisoners until the close of the polls at sundown, when they were set at liberty. Can any additional argument be necessary to demonstrate the propriety and necessity of repealing statutes which authorize and sanction the perpetration of such wrongs and outrages upon any portion of our countrymen? This is not a sectional question. It does not concern the people of the South alone. It concerns all the people of America. It involves the personal liberty of the citizen. It involves that most sacred and inestimable of all his rights, the right to a free and fair election, the right to cast his ballot unawed and unintimidated by any influence whatever. These obnoxious statutes were born of the passions and prejudices engendered by the war. They are a part and parcel of the legislation resulting from the war. Has not the time now arrived when they should be repealed? Are they not wholly unwarranted by the Constitution, utterly subversive of popular liberty, and clearly repugnant to the genius and spirit of our free institutions? Are they not a standing reproach upon the statute-book, and do they

not imply a real distrust of the capacity of the people for self-government?

Have we not had enough and more than enough of war legislation to satisfy the most vindictive and relentless spirit? Fourteen years ago the people of the South relinquished the struggle which they had made and surrendered to the victorious armies of the Union. They acquiesced in the thirteenth, fourteenth, and fifteenth amendments of the Constitution. They accepted in good faith all the consequences of their defeat and all the terms imposed upon them by their conquerors. When that was done and they had returned to their allegiance to the Constitution and the Union they expected, as they had a right to expect, that they would be received as coequals, and that they would be treated with justice if not with magnanimity. In their poverty and distress they have borne uncomplainingly more than their equal proportion of the burdens of government, and have performed faithfully all the duties incumbent upon them as good citizens. Their Representatives upon this floor, when they have protested that their most earnest aspiration was for a lasting and enduring peace, have been treated with derision and contempt, and plainly told that all their professions were hypocritical and insincere. Their State governments at home have been overthrown, their legislative assemblies have been dissolved, and the mandates of their supreme courts have been nullified by the simple edict of a Federal judge. The privilege of the writ of *habeas corpus* has been suspended, and helpless, unarmed citizens have been subjected to the arbitrary rule of military masters. Their state-houses have been filled with soldiers of the regular Army with fixed bayonets guarding the entrance to the halls of legislation, while the corporal of the guard has inspected and decided upon the credentials of the members.

A few years since an imperial edict was issued by the modern Cæsar forbidding the citizen soldiers of South Carolina to assemble peaceably for the purpose of celebrating the birthday and commemorating the virtues of the Father of his Country; and to-day in the same unhappy State we see the modern Jeffreys prostituting his high office to the base purposes of party, and in the very wantonness of power, through the agency of packed, iron-clad juries, sending to imprisonment and exile good and true men, "the latchets of whose shoes he is not worthy to unloose."

During the progress of this debate it seems to have been the deliberate purpose of many prominent gentlemen on the other side to revive sectional issues which should have been long since forgotten, and to rekindle bitter animosities and hates which should have been long since extinguished. While listening to those gentlemen I would have been disposed almost to despair of the Republic and to conclude that the passions and prejudices engendered by the war would survive this generation and be transmitted to our latest posterity, if I could have believed that they reflected fully and fairly the sentiments and feelings of the great body of the people whom they profess to represent.

But, Mr. Chairman, as an American citizen, proud of my country and hopeful of its future, I prefer to believe that these gentlemen are only acting a part for this particular occasion; that they are simply skirmishing for position in the presidential campaign of 1880; that they have made a mistake in the tactics which they have adopted, and that the feelings of revenge and hate to which they have given utterance here do not find a lodgment in the breasts of my fellow-citizens at the North. Turning away rather in sorrow than in anger from this unseemly spectacle, and unwilling to listen to the voice of crimination and recrimination which has continually vexed the ear of this House and the country ever since we assembled in extra session, I prefer to believe that the people of the North, unlike some of their Representatives here, recognize the fact that the war is over; that its issues have been fought out and decided, and that the rehabilitated States of the South are now coequal sovereigns in our confederated Union.

Instead of the "gorgons, hydras, and chimeras dire," which are daily held up to our contemplation here, I prefer to look upon another picture, which is to me much more pleasing and refreshing. I allude to the fraternal reunions of the real heroes of the war, the survivors who wore the "blue and the gray," and the decorations of the graves of the martyred dead on both sides who had the courage to die for their convictions. Amid the din and tumult of the hour, while carpet-knights are tilting in the forum of debate and waging a relentless war of "words, words, words," I prefer to recall to my recollection and to dwell with satisfaction and pleasure upon another picture which was presented to the people of this country in the summer of 1878.

When the southern section of the Union was afflicted with the scourge of yellow fever and the cry of distress came up from its plague-stricken cities the people of the North, the East, and the West responded with alacrity, and not only exhibited a large-hearted charity by the contribution of money and supplies but sent forward their unselfish men and devoted women who went with their lives in their hands to stand at the post of danger and to minister to the wants of the sick, the destitute, and the dying. Such an exhibition is a complete answer to all the denunciations of politicians. It demonstrates more clearly than words can express that however much we may differ upon questions of governmental policy and however bitter our political antagonisms may sometimes become, we are once more a united people and bound indissolubly together by the ties of a common brotherhood. Let us hope, Mr. Chairman, that the Representatives of the people here assembled may be animated by that spirit, that hereafter they will look more to the future than to the past, and instead of wasting their energies upon the dead issues of the war they will dedicate them to the re-establishment of a lasting peace, to the development of our material resources, the restoration of our ruined commerce, and the revival of our prostrate industries. If they will do this, the just expectations of the people will be fully realized and the long-predicted era of plenty and prosperity will soon dawn upon the land.

Mr. PRICE. When the gentleman talks of the charity and helping hand extended to the South during its affliction last summer from the North, I wish to remind him that every man on this side of the House participated in that act.

Mr. GOODE. And therefore, sir, I prefer to believe as I do that the gentleman from Iowa, [Mr. PRICE,] my reverend brother, is only acting a part on this particular occasion; that he is only skirmishing preliminary to the campaign of 1880; that he has made a mistake in the tactics which he has adopted, and that the time will come when the people behind him will say that he has not given utterance to their sentiments upon this floor.

Mr. PRICE. I wish to tell the gentleman from Virginia that the people behind me whom I represent stand up to me for everything that I have done and said; and I have said nothing and done nothing anywhere on any occasion different from that which I have said and done here in this House.

Mr. GOODE. I believe the time has come when the great body of the people of the North will rise up and say, when a gentleman gives utterance here to sentiments of revenge and hate, that he is not a fair representative of northern sentiment.

Mr. PRICE. The very same speech I made here I made over a hundred times in my district. [Laughter.]

Mr. GOODE. I am sorry to find the gentleman is so obdurate, but we are told that—

> While the lamp holds out to burn
> The vilest sinner may return.

[Laughter and applause on the democratic side of the House.]

Mr. PRICE. I can tell the gentleman that that applies exactly and is encouraging to the other side of the House. [Laughter and applause on the republican side of the House.]

Mr. GOODE. I believe that the gentleman from Iowa has not expressed his real sentiments. I believe that he is too kind-hearted, too benevolent a gentleman. I believe that he is engaged in the preliminary skirmish for the campaign of 1880; and while I am not a prophet nor the son of a prophet, and while I do not profess to be gifted with the spirit of prophecy, I undertake to predict that when the gentleman from Iowa goes back to his people they will tell him that the time has come when he as a Representative ought to recognize the fact that the war is over and that its issues have been fought out and decided. [Applause on the democratic side of the House.]

Mr. PRICE. Every time I make that speech to my people it increases my majority. [Laughter.] When, in the last canvass, I quoted to them what the gentleman who is now speaking [Mr. GOODE] said to his people when he went home, that the northern people did not look with much favor on southern claims during the preceding Congress, but that he thought they would when the next Congress met, I made that speech, quoting the remarks of my friend on the other side to my people, and my people increased my majority.

Mr. SPARKS. I wish to suggest to the gentleman from Iowa that in districts near his own the lightning has been striking. [Laughter and applause.] It may strike the gentleman's district.

Mr. PRICE. Oh, no; that district struck by lightning is not near mine, it is much nearer sundown. No danger of that kind of lightning in my district.

Mr. GOODE. All I have to say is this: if the gentleman undertakes to go forth in all time as the champion of the doctrine of revenge and hate, I have such an abiding faith, such an unshaken trust in the love of fairness, in the love of truth which has always characterized the American people, that in such a contest I am willing to submit the issue to the grand inquest of the nation, believing that the verdict will be that they are heartily sick and tired of the war and all its issues, and that their chief aspiration now is for that peace without which there can be no return of prosperity to our common country.

Mr. HISCOCK. Mr. Chairman, the Forty-fifth Congress adjourned, expired by its constitutional limitation, without making the necessary appropriations to carry on the Government, through the contumacy of its democratic House, and this Congress has been promptly convened by the President; and, democratic in both branches, it refuses the necessary supplies unless certain statutes obnoxious to the democracy are repealed. In the language of a distinguished gentleman upon the other side, they have a grievance to be redressed. If the usual significance is to be given language, and we are to believe gentlemen's purposes are indicated by their speeches, it is the intention of the majority to compass the repeal of certain laws, obnoxious, as I have said, to the democratic party, or destroy the Government. And sitting here to-day with the pending bill before us, we have no assurance even the concession of it will abate the danger.

When this discussion was opened—I say opened, for I regard the

debate as continuous upon the same general subject, commencing with the consideration of the Army bill—the gentleman who now presides over this committee, replying to the gentleman from Ohio, [Mr. GARFIELD,] said:

Ah, Mr. Chairman, let one take the darkened pages of his country's history for the last seventeen long years and read it carefully, and tell me then whether it lies in the mouth of that worthy leader of a once great but waning party to read lectures to anybody, either upon the score of revolutionary legislation or of extraneous introductions into appropriation bills. Better far in the face of the record that they have made, better to listen patiently to the confirmed inebriate as he dilates upon the virtues of temperance, better let the queen of the demi-monde elaborate the beauties of female virtue, or let the devil prate of the scheme of universal redemption, than for homilies upon good morals and lectures upon revolutionary legislation to be delivered from such a source. [Applause.]

He will not complain I quote him incorrectly. And a little further on he said:

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which like these were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

And supplemented all by the defiant declaration that—

This side of the Chamber, which has demonstrated its power, never means to yield or surrender until this Congress shall have died by virtue of its limitation. [Applause on the democratic side.] We will not yield.

Sir, it is not my purpose to quote here more of your party who, following your example, have tendered the issue,—the President must approve a bill against his judgment and his conscience, surrender his constitutional prerogative, or the nation shall die. I understand it to have been a race upon your side of the Chamber who first would get to your line of battle. I have carefully listened to or read all the speeches made by your friends, and if there have been faltering words they have not reached my ear.

I have said we have no assurance if the pending bill becomes a law the danger to the Government is passed. We of the republican party have been accustomed to look back upon what you term the darkened pages of this "country's history for the past seventeen years" with honest pride and point to a great rebellion crushed, a great nation saved from dismemberment, a national disgrace removed, an enslaved race enfranchised, and the foundations laid broad and deep for national progress, national prosperity, greatness, and the happiness and liberty of the people. And what, sir, is there in the "last seventeen long years" that justifies the rhetorical flourish:

Better far in the face of the record that they [the republicans] have made, better listen patiently to the confirmed inebriate as he dilates upon the virtues of temperance, better let the queen of the demi-monde elaborate the beauties of female virtue, or let the devil prate of the scheme of universal salvation; than for homilies upon good morals, and lectures upon revolutionary legislation from such a source.

The full offense of the republican party during that period is the saving of the nation when you would have destroyed it, and what are the "war measures like these" you menace? Are we to understand it is your purpose to turn back the wheels of time and tear out seventeen years of national history, undo the legislation of seventeen years which, if they have wrought great political changes, have been in the direction of national progress?

We must in discussing this question, it is but fair, keep in view who menace, who lead the assault upon past national legislation, who demand the presidential prerogative, the veto power shall be surrendered or they will destroy the Government, that it is, "the solid South," marshaled and officered as seventeen years ago; and is there one among the host that to-day doubts he was in the right then but that believes the seventeen years of departure from the principles for which he then fought are filled with errors and wrongs, and progress can only be made by turning back?

I say this with no desire to inflame sectional feeling; but where men who have so earnestly and lately given proof of their hostility to our national existence now so loudly threaten it, and yet do it in the name of liberty and progress, we must call the attention of the country to their antecedents, that it may correctly measure their patriotism.

Nothing more certainly indicates the desperate straits of the other side, and possibly their revolutionary purpose, than the continued appeal to the historic fact that the Crown for two centuries has not exercised in England the veto power; justifying therefrom their purpose of compelling its surrender by the President; and the failure to state the dissimilarity between ours and the English government—that in England the legislation practically emanates from the ministry, which is the government, formed in sympathy with and representing a majority of "the Commons," and therefore the veto of an act of Parliament would be a disapproval by the government of its own measure.

Under our Constitution the President is practically as independent a part of the law-making power as this House, but a co-ordinate branch of the Government with Congress, the one entirely independent of the other. Legislation is not shaped by the Executive; "bills" do not emanate therefrom; a majority of neither the Senate nor House must of necessity be in sympathy with the President; on the contrary, by the very method of their creation, they may be, and the Constitution contemplates, I perhaps might say intends, they shall be in political antagonism; and one of the purposes of the veto power is to prevent encroachments by the legislative department and its unconstitutional and inconsiderate action.

In the history of all governments of co-ordinate departments the tendency of the one has been to encroach upon the other, and that this Congress is no exceptional body in this respect is proved by these "riders" upon an appropriation bill. I propose briefly to examine these laws that constitute the grievance of the other side, the "war measures" born of the passions of civil strife, to accomplish the repeal whereof a democratic Congress propose, if necessary, to resort to unconstitutional methods and starve a co-ordinate branch of the Government into submission.

What are the laws that justify gentlemen in citing for their warrant in demanding their repeal English precedents in the great conflict between the Commons and the Crown, and that preceded or followed close on after, the execution of a king, civil war, and the revolution which established English liberty?

The President is not violating the Constitution, is not encroaching upon the privileges and jurisdictions of Congress, is not invading the rights and liberties of the people, is not threatening us with "Cæsarism," the ghost that so often affrights some gentlemen upon the other side of the Chamber. We have certain election laws passed by a previous Congress, approved by a former President, and which have been repeatedly approved by the people by the constitutional method, the ballot-box, and which I assert are to-day approved by the honest voters of the country, and they are the grievances of the other side, the democratic side, and which, it claims, justify these revolutionary assaults upon the Constitution, upon the life of the nation even, for their repeal. There was no offense committed, as I hope to show, by their enactment, against the Constitution, and through them no offense can be committed against honest men by the President or the officers of the law. They were passed by a Congress, I believe and the country believes, animated by as lofty a patriotism, as great a love for the country as this. As has been said before in this discussion there is no popular demand for the repeal, but by party leaders it has been determined upon as a party necessity.

First we have provisions for the appointment by the circuit courts of the United States of two supervisors of election, of different political parties, for each election district in any city of upward of twenty thousand inhabitants, when applied for by two citizens thereof; and in any county, parish, or congressional district, when applied for by ten citizens thereof of good standing. Then follows "a grievance," a "war measure;" section 2016 of the Revised Statutes:

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section 2026, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found.

The purpose of the provisions is that two officers appointed, not by the President or any of his officers, but by the court, a department of the Government removed from politics, and especially charged with the prevention of crime, two officers, of different political parties, nominated, as they practically have been, by their respective political organizations, may, first, challenge any person who offers to register, and compel, if you please, proper evidence that he is a voter and entitled to registration; second, mark for challenge to the right to vote on election day names of men upon the registration list; third, make copies of the registration lists, to the end that the right of those registered to registration and the ballot may be investigated, that it may be inquired of if they are citizens and residents of the election district, and that it may be investigated if false and fictitious names are upon the lists upon which repeaters may vote; fourth, mark the registration lists for identification so that others may not be substituted for them or false names added; and fifth, see that the ballots are honestly counted at the close of the polls, the manifest intention and full purpose of the laws being to prevent voting by men not entitled to the ballot, to prevent repeating, to prevent ballot-box stuffing, and to insure an honest count.

It will be borne in mind that the provisions cited and the subsequent ones I shall refer to apply only to the elections "of Representatives to Congress," and are in the direction of insuring to those honestly elected to this House their seats.

Section 2021 provides for the appointment and attendance with the supervisors of deputy marshals in cities of over twenty thousand inhabitants, to aid and assist the supervisors. Sections 2022 and 2024 I will quote in full:

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but

no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he, or either or any of them, is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or *posse comitatus* of his district.

The other provisions of the election law sought to be repealed it is unnecessary to read. They are auxiliary to section 2016, the part of section 2018, and sections 2022 and 2024, cited, and are substantially nugatory without them. I certainly may say the provisions read are those claimed by the other side as the objectionable ones, and my purpose is attained if I can defend them successfully against the assault.

Sections 2022 and 2024 empower the deputy marshals to keep the peace at the polls, protect the supervisors in the discharge of the duties I have reviewed, prevent fraudulent registration and fraudulent voting, and fraudulent conduct, ballot-box stuffing, on the part of election officers, and to arrest without process any person who in their presence commits or attempts to commit any of the crimes mentioned.

I have correctly read the laws complained of, pointed out their purpose, exposed their rigors and the full extent of their oppression. The only pertinent question is, do they disfranchise the legal voter? An election law should be so severe in its provisions as to prevent illegal voting and false counting, and yet insure the ballot to every one entitled to it. To fail in either respect would be an evil, an equal evil if to an equal extent. I know of no difference between the two wrongs, so far as they affect an election, the one disfranchising the legal voter, and the other preventing the illegal, unlawful electors to vote. And have gentlemen on the other side furnished us with evidence that under the operations of these laws men have been disfranchised. It is not enough that men may have been prevented from voting; it is not enough that alien-born citizens who had fraudulent naturalization papers have been prevented from voting. The surest test of this law after it has been in force eight years is the results, the effects. The last House had out its committee to investigate its operations in New York, where our democratic friends complain of it chiefly. The report of that committee asserts that warrants were issued irregularly and arrests made; it does not prove, it furnishes no evidence, that legal voters were disfranchised. The testimony submitted completely establishes that thousands of illegal and fraudulent votes were kept out of the ballot-box.

The feature chiefly complained of is, an officer may arrest if a man in his presence commits or attempts to commit a crime. To illustrate: the repeater is at the poll with the ballot in his hand; he is registered from a certain number, it has been ascertained the place is a vacant lot; it has been ascertained to a certainty he is not a resident of the election district, more, that under the same name, by a comparison of lists of registration, he is registered in twenty other election districts. The "grievance" is, the marshal, when—yes, before—the ballot is deposited in the box, may arrest the repeater. The other side urges not to allow that ballot, folded, secret, and unmarked, to be placed in the box and do its work of wrong and injustice, not to compel the officer of the law to find a magistrate and procure a warrant for the repeater before arresting him, thus giving opportunity for escape, visiting another poll, and repeating his offense, is an abridgment of the liberty of the citizen. An alien-born citizen justifies his right to vote under a naturalization paper issued in 1868, describing the man as a British subject, issued upon renunciation of allegiance to the Queen of Great Britain, the man confessedly is a German, and was never on English soil. Gentlemen on the other side say the man should be permitted to vote, though manifestly he has no right to, and thereafter criminal proceedings be instituted against him, if he can be found. This election law provides that crime against the elective franchise may be prevented.

The question is, Shall fraudulent voting be prevented or permitted without remedy, with the uncertain chance of finding the criminal, if not arrested on the spot, for punishment? I have heard it urged against these laws that they frighten men from the polls; to that I reply no honest man belonging to the largely dominant party in the city of New York, conscious of his right there, was ever driven away by a law which has no penalties for the innocent. If men have been deterred from voting in New York on account of these severe provisions, it was because with a guilty purpose they properly feared their rigors. Gentlemen upon the other side, the merit of the provisions referred to is that the elector is compelled to furnish evidence of his title to the elective franchise; the legal voter too surely prizes his great privilege to be annoyed even at that if it prevents his ballot being balanced by fraud.

But it is claimed these provisions are unconstitutional. Whenever the democratic party have been unable to defend their opposition to a public measure on ethical grounds it has shouted itself hoarse defending and interpreting the Constitution. All through the war of the rebellion at most of its conventions the party informed the country secession was unconstitutional, but also that all the measures adopted to suppress it were unconstitutional. As in the case of the illegal vote, the only redress was a warrant from a magistrate.

I suppose eloquent gentlemen on the other side will any day outdo us in denouncing illegal voting. Their denunciation of the crime will only be equaled by their denunciation of laws to prevent it. Let me fairly state your position: Fraud in the election of a Representative to this House is very wrong, but it is equally wrong for Congress to pass a law to prevent it; Congress can pass no law to prevent gangs of men, twenty in number, voting at twenty different polls on the same day; can pass no law to prevent the bribery of electors; can pass no law to protect an honest count of the ballots after their deposit in the box; all would be unconstitutional and void, and, from the democratic stand-point, an abridgment of the rights of the States, and consequently of the rights of the citizen. For a moment let me examine the provision of the Constitution. The first clause of section 2 reads:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

I grant this provision gives to the Legislature, indirectly, the determining of the qualification of the electors for Representative in Congress, but it does not give it uncoupled by limitation, it does not give it except as it adopts as a standard for the qualifications of the congressional elector, the elector of the most numerous branch of the State Legislature, which the State Legislature may of course from time to time vary. I say, therefore, the right of ballot at a congressional election comes from the United States Constitution; it declares to the State, you may define the qualification of your electors of members of the most popular branch of the Legislature, and change it as often as you like, but those electors and none others shall vote for Representatives to Congress; the Constitution of the United States guarantees and protects them in that right.

Suppose a State should restrict or enlarge the class who may vote for Representative in Congress within or beyond the qualified electors for the most numerous branch of the Legislature. I ask the gentleman from Kentucky if such limitation would not be unconstitutional and void? To illustrate: under the State law there is not in my State any property qualification attached to the elector for the most numerous branch of the Legislature; suppose a Legislature of the State should attach one to the elector for Representative in Congress that he should be taxed as the owner of one thousand dollars' worth of real estate, and under the system of State election laws those only possessed of that qualification could vote for Representative, will the gentleman tell me Congress could not protect the electors for the most numerous branch of the Legislature, unpossessed of the aforementioned property qualification, in the privileged constitutional right of voting for Representative in Congress?

Section 4 of the Constitution provides:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations.

It will be remarked the reservation to the State Legislature is no broader than the grant to Congress over this question. It is obvious there was no intention of reserving to the States more than it expressed in the Constitution. Independent of the Constitution, I will concede for the purposes of this argument the entire jurisdiction of the subject would be in the States. It seems to me, therefore, when in the broad language employed the Legislatures of the several States were authorized to determine the times, places, and "manner of holding elections," the phrase "manner of holding elections" includes the declaring how the ballots shall be voted, whether secretly or openly, what measures shall be taken to prevent illegal voting, and in what manner the votes at the close of the election shall be canvassed and returns made. The power to enforce when made is an incident to the authority to make laws. In constitutional law we do not look for legislative detail, but simply power for legislative detail in a subordinate body.

It is conceded on all hands the reservation "but Congress may at any time make or alter such regulations" as to the time, place, and manner of holding elections was that Congress might perpetuate itself, was for the self-preservation of that branch of the Government; if a State should not make the regulations Congress might; if a State made them unjustly or improperly Congress might alter them; but it will be borne in mind the power over the subject in Congress is independent of non-action or unjust and improper action on the part of a State Legislature. To have granted the power thus conditionally would have left as a debatable point what would constitute sufficient legislation or improper legislation on the part of the Legisture, and we find, I say, no limitation on the power of Congress to make regulations independent of State legislation; and I therefore insist, when the reservation to the States is no broader than the grant to Congress, and when it is manifest, is conceded by all here, asserted by all writers contemporaneous with the adoption of the Constitution, many of whom aided in its preparation, and since, that the clause gives Congress the power to make the needed election laws, to perpetuate itself by biennial elections this House, if the State failed therein, and yet gives it in absolute terms, not depending upon State action or want of State action, Congress has power to enact the proper

elections laws to secure an honest election and give the proper officers the authority to execute them. This is a question of power. And suppose a State Legislature had made no provision for an election of Representatives in Congress; I then judge, by the line of argument pursued by some of the speakers upon the other side, Congress might; and this concedes the issue, for the question involved is not one of propriety but of constitutional power.

I have urged the constitutional right to make laws infers the power of their enforcement; that whatever laws Congress may pass upon the subject she can compel the observance of under the Constitution. I have already said all the authority is to the effect this provision was intended to perpetuate the legislative branch of the Government. The last subdivision of section 8, first article of the Constitution, provides Congress has power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," (and perhaps it will be urged this applies to the powers only in section 8,) "and all other powers vested by this Constitution in the Government of the United States." Under this provision Congress has passed all the laws against obstructing mails and robbing them, the only other provision of the Constitution, reserving to Congress the power "to establish post-offices and post-roads."

The Constitution declares "Congress shall have power to lay and collect taxes, duties, imposts, and excises;" and thereupon and under the provision cited for carrying into execution the powers granted Congress we have our whole system of criminal laws to punish smuggling and violations of internal-revenue laws, and yet under the same authority, we are told, Congress cannot provide for the enforcement of the laws it may legally enact to protect the ballot-box from illegal votes, and provide for an honest count at the election of Representatives to this House.

The gentleman from Kentucky [Mr. CARLISLE] seems to have discovered a new argument against the constitutionality of these election laws; I do not remember to have seen it elsewhere. They are unconstitutional, he thinks, because Congress has the same power over the election of Senators it has over the election of Representatives, and, therefore, he urges these laws might be applied to the election of Senators. Does it not occur to the gentleman the constitutional authority to supervise, regulate, and protect a senatorial election is an authority to be executed within the forms of proper laws in reference thereto? Because Congress has the authority to provide for a senatorial election, and an honest one, and for the honest election of Representatives to this House, it does not follow it must be by the same forms of law and the same methods, that it has not that authority because what would be proper in the one case would not be in the other.

Mr. Chairman, that extra session has been rendered necessary and the bold attitude of the majority assumed because this election law is a protection against the repeaters and ballot-box stuffers of New York City; it is because of its effect as a restraint, then, it is attacked. It is not my intention to investigate the operations of the law in that great city; that will be thoroughly done by my colleague who will follow me; in fact, sir, the subject needs no elucidation. The methods of the illegal voters, the false counts in the past, have been known by the intelligent public, and I had hoped the day was past when the representatives of a great political party would openly demand the guards against them be removed. No rhetorical flourishes over the rights of the citizen, no citation of English precedents, no argument over the scope and meaning of the Constitution, covers your purpose and object; and it is fitting, in making this onslaught upon the purity of elections, you should, if unsuccessful, seek to strangle the judiciary.

If you cannot repeal the laws, the next best thing for your purpose will be to starve the courts which administer them; but do not, gentlemen, deceive yourselves. The allies you court will never gain you victory; the methods you have adopted will never gain you honor or power. The people value liberty and respect the Constitution, and believe the first can only be maintained by an honest ballot, which the last guarantees. If there was to-day any doubt in the minds of the people we had not the constitutional power to prevent fraud in the elections to this House you would hear on all sides expressions both earnest and loud not to repeal the laws we have, but to give them a constitutional foundation. Your purpose is fully understood. You will feel more assured of success in the presidential contest in 1880 with the safeguards to an honest election removed.

In the contest of 1876, your presidential candidate sought to debauch the count of the canvassing boards. Rallying under the same standard-bearer, you intend to carry the election in 1880 by fraud. You have made your demand, and with the threat against national life if it is not acceded to, I can only express my belief, give utterance to my hopes that your unholy purpose will be staid by the presidential veto, and if it shall be, the glad shout of triumph from a solid North will satisfy you this nation will not meet its death at the hands of ballot-stuffers and repeaters at the polls, or of their apologists and defenders in Congress. A majority of the people are in favor of honest elections and a government created by them and that majority, never fear, will make common cause, forgetting all lesser questions, to preserve the one and thus insure the other.

Mr. McCOOK. Mr. Chairman, this morning, in common with other Representatives from the State of New York, I received the following resolution of the Legislature of that State, which I ask the Clerk to read.

The Clerk read as follows:

STATE OF NEW YORK, IN SENATE,
Albany, April 9, 1879.

Resolved, (*if the assembly concur*,) That the refusal by a partisan majority in Congress to appropriate for the support of the National Government the moneys raised by the people for that purpose, except upon condition of the repeal or amendment of existing law, is a dangerous violation of the Constitution, amounting practically to revolution, which should be at all times resisted by the Executive by all constitutional means, and especially in the present crisis, when an attempt is being made to prostrate just laws heretofore enacted for the protection and purity of the elective franchise under threat of withholding the means for carrying on the Government which the Constitution enjoins.

Resolved, (*if the assembly concur*,) That a copy of this resolution be sent to each Senator and Representative from this State in the Congress of the United States.

STATE OF NEW YORK, IN SENATE, *April* 9, 1879.

The foregoing resolutions were duly passed.
By order:

JOHN W. VROOMAN, *Clerk*.

IN ASSEMBLY, *April* 21, 1879.

Concurred in without amendments.
By order of assembly:

EDWD. W. JOHNSON, *Clerk*.

Mr. FINLEY. Will the gentleman allow me to ask him a question? Was not that passed by a strict party vote?

Mr. McCOOK. It was passed by the Legislature of the State of New York.

Mr. FINLEY. And by a strict party vote?

Mr. McCOOK. I presume so.

Mr. Chairman, I do not know that I can say anything new in regard to the measures under discussion; but as I am absolutely certain that the city which I have the honor in part to represent is vitally interested in that portion which secures to us an honest vote and a fair count, I owe it to my constituents to give some of the reasons why I shall oppose any interference with it.

In regard to the constitutional questions involved or the propriety of attaching general legislation to appropriation bills, I shall have nothing to say. They have been so exhaustively discussed by able lawyers on each side of the House that I could do but little more than repeat the arguments; but I shall speak to what I claim are the merits of the law, the necessity for its continuance, and the injury that will result from its repeal.

It is a fortunate thing, I think, Mr. Chairman, that the majority of the people of this country are much more interested in laws that protect them in their rights of person and property than in elaborate constitutional arguments on abstract propositions. I am not indifferent, of course, to the necessity for a substantial adherence to the fundamental law of the Republic in our legislation, but no refinement of reasoning and no citation of precedents from English history can long deceive those to whom our written Constitution is accessible. In the language of Mr. Dallas, "its words are plain and intelligible, and it is meant for the home-bred, unsophisticated understanding of our fellow-citizens," and these same "fellow-citizens" know perfectly well that the men who framed it not only lived almost within sight of the days when the principles of the British constitution were established, but understood thoroughly its practical workings. Knowing all this, they are quite as well aware as we that while no king in England has exercised the veto power for over two hundred years, yet the men who gave to us our Constitution deliberately conferred it upon the President of the United States. Our constituents know quite as well as we that while the English House of Lords can be coerced by the unquestioned power of the executive to create peers in sufficient numbers to control its action, yet the authors of our Government made the Senate the equal in dignity and power of the House, limiting its purely legislative functions in the single instance of the right to originate bills for raising revenue. Knowing all this as they do, I do not believe that any attempt to intimidate the President or other co-ordinate branch of the Government will be sustained by them, and upon the simple but important questions necessarily involved the republican party can with entire safety appeal to the country.

Stripped of all the high-sounding words with which our democratic friends express their fears of centralization arising from Federal interference in elections, it is easy to discover what they hope to accomplish by insisting upon the changes suggested in this law. They understand very well that by the ordinary and usual methods of legislation it cannot be repealed, and they know quite as well that unless it is stricken from the statute-book the electoral vote of the State of New York in 1880 cannot be cast for their presidential candidate. In this calculation, and for reasons that I shall endeavor to give, the city of New York is an important factor; and to capture its vote a solid South, in close alliance with Tammany Hall, is in full hue and cry after an election law passed in the interest of fair play and honest voting.

It is inevitable of course that in any discussion involving the rights of the people and the question of national authority over its citizens a wail of sorrow should come up from the lately oppressed South; but so far as that section itself is concerned the election law is of no practical importance. The governing class in that portion of our country has already adopted such vigorous and effectual methods to preserve the purity of the ballot-box that Federal laws are unneces-

sary; and under the system of supervision established by them peace has been and will be kept at the polls, and the South kept solid, supervisors or no supervisors, deputy marshals or no deputy marshals. With the flight or annihilation of the "carpet-bagger" "radical misrule" has ceased; and, indifferent to Federal election laws and relieved at last of the incubus of Federal soldiery, the natural rulers of the land can work out in their own peculiar way the problem of the equality of the negro before the law. This new plan having resulted in the elimination of the black man from Congress, if not from politics altogether, the North, but especially the city of New York, is now to be saved from itself by removing the restrictions placed upon fraudulent voting and ballot-box stuffing. With a disinterestedness which I am sure we appreciate, our southern friends, with the aid of the few democrats on this floor from the North, offer us relief from the tyranny of United States laws and United States officials. No definite plan has yet been suggested as a substitute; but it is fair to infer that "rifle clubs" and "white-leaguers" are considered more efficient as conservators of the peace and guardians of the ballot than Federal marshals and supervisors.

Mr. Chairman, willing as the South appears to be to carry out the "reforms" proposed by the repeal of this law, a distinguished citizen of my own State is entitled to the credit of inaugurating the movement; for it was not until my colleague [Mr. FERNANDO WOOD] announced it to the last House of Representatives that the democratic party became thoroughly convinced that the law was an unconstitutional and dangerous one. It cannot be denied that prior to that there had been rumors that it was a bad one; but after its practical operation in the city of New York in the presidential election of 1876 had passed the scrutiny and received the approval of a democratic committee of investigation, of which my colleague [Mr. COX] was chairman, these rumors apparently died away. They were revived, however, and assumed form if not substance last autumn, just one month after the people of the State of New York had shown their utter distrust of the democratic party by electing to the Forty-sixth Congress twenty-five republicans out of the thirty-three Representatives to which she is entitled on this floor. So completely did they withhold their confidence from this so-called party of the people that in all that populous and important part of the State north of the city but one democratic member [Mr. LOUNSBERY] was elected. Even in the Tammany-ridden city itself we elected three republicans out of the seven composing our delegation; and the mover of the resolution that has caused all this trouble, that vigilant tribune of the people and leader of his party in this House, [Mr. FERNANDO WOOD,] finds himself in this Congress in a minority of fifty-two hundred and sixty-two, although elected in 1876 by over six thousand majority.

It was natural, perhaps, that this startling change should be accounted for in a way that would act as a salve to the wounded pride of defeated democratic leaders. More important still, excuses had to be made to that watchful and exacting section about to enter upon its second great struggle for the preservation of the Constitution of the fathers, and Tammany Hall, true to its instincts, pitched upon an election law passed to prevent fraudulent voting as the victim as well as the explanation. It was this that caused the appointment of the Davenport committee of investigation; and I am convinced that we are indebted to the same influences for the stand taken by the democratic party which has led to the expense, annoyance, and danger of this called session. Of the seven called sessions of Congress since the adoption of the Constitution two have been forced upon the country by the democratic party since October, 1877. They have signalized their return to power by making the first necessary because of an attempt by a democratic House in the Forty-fourth Congress to impose restraints upon the constitutional power of the President as Commander-in-Chief of the Army and Navy. The second has been forced upon us because a democratic House in the Forty-fifth Congress attempted to coerce the Senate of the United States. The first was the special work of the South in its determination to cripple the Army and tie the hands of the Executive. The second we owe to the democractic party acting at the dictation of Tammany Hall for the purpose of not only capturing the next House of Representatives but the Presidency itself.

If I am correct in asserting that a solid South has struck hands with Tammany Hall in preparation for the campaign of 1880, it may be well enough for us to know something of one of the parties to this powerful alliance. What the other is the world knows, for the history of the solid South in arms is written in blood from Bull Run to Appomattox, where, with a courage that we cannot but respect, it fought for the right of secession and disunion. Defeated at last, after four long years of terrible war, it now appears in the Congress of the Union which it failed to destroy as the champion and expounder of the Constitution which it tried to subvert. In this new role it has, as a rule, but few words but those of abuse for the party which, with all its mistakes, never faltered in its devotion to the integrity of the Union, and whose blunders were mainly on the side of generosity and magnanimity.

Mr. Chairman, the other ally, although not so well known, has played no insignificant part in the history of the country, for it dates back as far as the year 1789, when it was first established. In 1805 it was incorporated as a charitable organization, but it was soon perverted from its original purposes into a political machine, unscrupulous, powerful, and dangerous beyond example in our history. The celebrated Aaron Burr was one of its original members and organizers, and De Witt Clinton was one of its most relentless enemies. It is but fair to say that for the first thirty years of its existence many good men were numbered among its members, and even to-day some excellent citizens follow its fortunes. While it has an outside organization that is public it has an internal one that rules it absolutely and despotically. It is secret; it has its "sachems" and its "sagamores;" it practically registers the decrees and obeys the behests of one man; and it is essentially anti-democratic in all of its ways and tendencies.

From such a political organization it was inevitable that great evils should follow, until at last it never hesitated about the means it used to accomplish its ends, or the agents it employed to consolidate its power. I do not assert that all of its members were cognizant of the crimes committed by it against good government, but it is indisputable that it was the "fostering mother" of that peculiar and skilled talent which found its opportunity on election day and around the ballot-box. It was well described by an eminent writer when he said, in 1872, that "its theory of political action for the last twenty years has been that New York was to be governed from below, and not not from above; by the weight of ignorance and the strength of corruption, and not by the force of intelligence and virtue." So true was this that elections in the city became a mere farce, and honest men of all parties stood helpless and appalled in the presence of disreputable political intrigues and gigantic political frauds. Made bold by immunity from punishment, its satellites plundered the city openly and shamelessly; it placed its creatures on the bench and in other places of profit and trust, and in 1868 cheapened it American citizenship and outraged decency and justice by ordering some of its judges to issue thousands of fraudulent naturalization papers.

It was by these notorious means that the city of New York was carried by 60,578 majority and the State by 10,000 for the democratic candidate for President in 1868. It was the knowledge of these facts that led to a union of respectable men of all parties which swept Tweed and his gang from power and place; and it was with the hope and in the belief that the repetition of these crimes could be made impossible that the very law was passed which we are now called upon to strike from the statute-book. [Applause.]

I do not wish to be understood as saying that Tammany Hall, as at present constituted, is as wicked and corrupt as it was in the days which I have attempted to describe. It unquestionably is an improvement on the days when the citizens of New York were at the mercy of a merciless crew; but its traditions are not forgotten, its greed for power is unabated, and the sudden interest which it has developed in this election law should make us hesitate before we repeal or modify it.

Mr. Chairman, that I may not be accused of exaggerating the evils that called for the passage of this supervisor law, and to satisfy the gentleman from Kentucky [Mr. BLACKBURN] that he is mistaken when he refers to it as being "born of the passions incident to civil strife," I invite attention to the report of a congressional committee, of which Hon. William Lawrence was chairman, made to this House February 23, 1869.

The investigation was ordered in consequence of a memorial from many of the best citizens of New York, presented to Congress December 14, 1868, when the evidence of the infamous proceedings of the month previous at the presidential election was easily obtained. The report is very voluminous, but neither its statements nor its conclusions can be successfully controverted:

But, appalling and startling as these frauds have been in our past history, they are all surpassed in some respects by those perpetrated in the general election in the State, and especially in the city of New York, on the 3d of November, 1868.

These frauds were the result of a systematic plan of gigantic proportions, stealthily prearranged and boldly executed, not merely by bands of degraded desperadoes, but with the direct sanction, approval, or aid of many prominent officials and citizens of New York, with the shrewdly concealed connivance of others, and almost without an effort to discourage or prevent them by any of those in whose interest and political party associations they were successfully executed, who could not fail to have cognizance of them, and whose duty it was to expose, defeat, and punish them.

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These frauds are so varied in character that they comprehend every known crime against the elective franchise. They corrupted the administration of justice, degraded the judiciary, defeated the execution of the laws, subverted for the time being in New York State the essential principles of popular government; robbed the people of that great State of their rightful choice of electors of President and Vice-President, of a governor and other officers; disgraced the most populous city of the Union; encouraged the enemies of republican government here and everywhere to deride our institutions as a failure, and endangered the peace of the Republic by an attempt to defeat the will of the people in the choice of their rulers.

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Among the most prominent of the frauds committed in the interest of the democratic party in the city and State of New York, in connection with the election in November, 1868, are these:

1. Many thousands of aliens fraudulently procured or were furnished with certificates of naturalization illegally or fraudulently issued, by means of which they were enabled to register as voters, and voted in violation of law.

2. Many hundreds of certificates of naturalization were granted in the names of fictitious persons, to be used by native-born and naturalized citizens and aliens in falsely registering as voters, and to enable them to vote many times at the election.

3. Many hundreds of persons voted in New York City from two to forty times or more, each under assumed or fictitious names, fraudulently registered for the purpose.

4. Extensive frauds were committed in canvassing tickets, and names of voters

were entered on the poll lists, and democratic tickets counted as if voters representing them voted, when no such person voted at all.

5. To accomplish these frauds gross neglect of duty and disregard of law so great as to evince a criminal purpose prevailed in some of the courts, while officers and democratic partisans of almost every grade, either by official influence or otherwise, aided, sanctioned, or knew of and failed to prevent them. The same influences shielded the perpetrators in nearly all cases from detection or arrest, and when arrested they have, through the agency of judicial officers and others charged with the duty of prosecution, escaped all punishment.

6. Through these agencies the democratic electors of President and Vice-President and the democratic candidate for governor of the State of New York were fraudulently elected.

7. And the investigations of the committee show that existing State laws and the mode of enforcing them are wholly inadequate to prevent these frauds, but that Congress has the power to enact laws which, if faithfully executed, will to some extent furnish remedies hereafter.

There is no law of Congress professing to prevent or punish frauds in voting or conducting elections, and the penalties relating to certificates of naturalization are by no means adequate.

Mr. Chairman, prior to the year 1868, naturalizations in the city were effected only in the court of common pleas and the superior court. The average number naturalized each year in the two courts from 1856 to 1867 inclusive was 9,207. On the 6th of October, 1868, however, the supreme court, presided over by Judge Barnard, afterward impeached and removed, commenced operations, and in twenty-three days 10,093 American citizens and democratic voters had been ground out by this new process. Between the 8th and the 23d of that month, this good judge, single-handed and alone, ordered a daily average of 718 certificates of citizenship; but even his industry was exceeded by those who presided over the superior court, where McCunn, assisted by Garvin, naturalized in one day (October 14) 2,109 persons. On other days, 1,868, 1,856, 1,842, and 1,760 were naturalized, the daily average for seventeen days being 1,415; and the indefatigable McCunn declared that he could examine two witnesses in a minute, and often exceeded that number in practice. When it is remembered that time is consumed in calling applicants and witnesses; in explaining what is to be proved, and in making room by withdrawal for others; the committee's estimate of twelve naturalizations in one hour is a fair and liberal one. Attention is also called to the report of a select committee of the Twenty-eighth Congress, where in speaking of a judge in Louisana it says:

It further appears that nearly four hundred certificates were issued in one day, and it seems to your committee impossible that this could have been legally done.

The reputation of that State for extraordinary energy and ability in all matters pertaining to elections and the purity of the ballot-box is so well known that it needs no eulogy from me; but the skill displayed by the New York democratic judge was as two to one in comparison to his Louisiana prototype. Fortunately both were removed from the bench which they disgraced.

The common pleas court had some old-fashioned notions about honesty and decency, and naturally was not in favor with these patriots zealous to confer the rights of citizenship upon all comers, so that during the whole year it granted but 3,145 certificates. Altogether there were issued in the three courts during that year 41,112 certificates of naturalization; more than four times the average of previous years, and two and a half times greater than the largest number in any preceding year. In order to avoid the previous declaration required by law, the large majority of certificates issued were upon "minor applications," or those who had lived in the United States five years, including three years next preceding arriving at the age of twenty-one. In the supreme court in one month, out of a total of 10,093 naturalized, 9,711 were "minor applications." In the superior court, out of 17,572 certificates granted, 13,451 were on "minor applications." In many instances no renunciation of allegiance was made; and in some the records show that those who were born in Germany renounced allegiance to the Queen of Great Britain and Ireland.

That the whole plan was a prearranged one to cheat and defraud is clearly shown. The evidence is conclusive that between September 16 and October 23 there were printed for the use of the courts 105,000 blank applications and 69,000 certificates of naturalization, and this in the face of the fact that prior to 1868 the highest number naturalized in the city was 16,493 in 1856. Of this number 75,000 applications and 39,000 certificates were furnished to the supreme court between the 16th of September and the 22d of October, and to the superior court 30,000 applications and 30,000 certificates, and 10,000 were furnished to the supreme court so late as October 20, or within two weeks of the day of election. Of the whole number of certificates furnished the latter court but 1,800 remained after the naturalization mill had ceased from its labors in the interest of democracy and pure elections.

Certificates were issued in great numbers, signed and sealed in blank, and delivered to persons who never appeared in court or who never took the oath of allegiance. They were scattered broadcast over the city and to the adjoining counties, and democratic partisans in their anxiety for a fair ballot and an honest count supplied portions of New Jersey and Connecticut out of their abundance.

The papers were distributed in bundles to groggeries and groceries, to houses of ill-fame, to bar-rooms, and billiard-rooms, in blank, and filled up as men called for them. They were sold in scores of places for from fifty cents to $2 each.

Professional witnesses were employed in shoals and openly and notoriously advertised their infamy. Eighty witnesses appeared for over 9,000 applicants, swearing to their personal knowledge as to length of residence, place of birth, character, &c. One individual appeared as witness 455 times in the supreme court during October, and an examination of the record shows that the same man appeared on the same day 299 times in the superior court. Another is down as witness in one court 224 times in one month and 252 times in another court, while a third appears 251 times in the one and 195 times in the other. It is impossible to arrive at a correct estimate of the total number of illegal votes cast in the State at the presidential election, but from the best information gathered by the committee it is placed at 60,000, of which at least one-half went to swell the democratic majority in the city.

Every possible form of fraud was practiced, of which ballot-box stuffing and repeating were the simplest and easiest. False personation, perjury of witnesses, fabrication of applications and oaths to support them, and granting certificates in fictitious names and without the presence of the applicant, were some of the means by which the Tammany democracy proved their devotion to the principles of the Constitution.

The occasion, too, was one that called for the exercise of their highest powers. The republican candidate for President was the foremost soldier of his age, as magnanimous in peace as he had been chivalrous in war; and with them it was a labor of love to defeat the man who had been engaged in a "wicked and unconstitutional" struggle for the maintenance of the Union. To-day, with the prospect of renomination almost a certainty, Tammany and a solid South are arrayed against an election law made necessary because of the crimes committed by one of the allies; but as "anything to beat Grant" signally failed in 1868, so do I believe that it will fail in 1880.

Mr. Chairman, the story that I have tried very briefly to tell of the shameful practices that made this election law an absolute necessity is neither a new nor pleasant one. As a citizen of New York, proud of its intelligence, its wealth, its generosity, and its acknowledged financial and commercial supremacy, it is with regret that I have been compelled by a sense of duty to refer to a page in its history that I should like to see folded down forever. I mention it because so terrible have been the evils resulting from unchecked democratic domination in that splendid city, that I would be untrue to my people did I remain silent when an effort is made to break down the only bulwark we have against the flood of crimes that would inevitably destroy us.

The attempt is so entirely without justification, and has been pushed with so much arrogance and in such utter disregard of the interests of the city and the country, that it should be, and I hope will be, resisted at all hazards and to the bitter end. If there is any question upon which there is absolutely unanimity among those more interested in good government than in the rise or fall of individuals or of parties, it is that the ballot-box and the jury-box shall be kept free and pure. This is the question we are now called upon to decide, and we may be very sure that the country will hold us to a strict accountability for the exercise of our trust.

So far as I have any knowledge, this law was enforced in 1872 and 1874 in New York and throughout the country without any complaint either as to its constitutionality, its necessity, or the manner in which it was administered. The frauds which had made it necessary were so recent, so outrageous, and had been so clearly established that even the democratic party hesitated about facing the people on the issue of its repeal. Gradually, however, as the section which has always controlled the policy of that party grew stronger and more solid in Congress, the law was found to be an obstacle in the way of a complete capture of the Capitol. Under it "honest citizens" were interfered with in their sacred right to stuff ballot-boxes, repeat *ad infinitum*, or bulldoze black men, and an occasional United States official was discovered who insisted that the penalties attached to its violation were not mere pleasantries. In fact, it was found that when properly enforced it really did "abridge the liberties of the citizen" so beautifully and touchingly referred to by my friend from Kentucky, [Mr. BLACKBURN,] and for that reason it had to be looked after. Too wise, too prudent, and as yet too weak to fully carry out their designs the first effort was what might be called a tentative one, resulting in a committee of investigation to inquire into elections in northern cities in 1876, of which my distinguished constituent as well as colleague [Mr. COX] was chairman. No one who knows him will question his democracy, his devotion to his party, or his ability; yet the report which he made to the House March 3, 1877, must have been a sad disappointment to those who only wanted an excuse to sweep the law out of existence.

I read extracts from his report in regard to the law and the conduct of the election in New York City:

Whatever may be said about the United States law as to elections or their supervision by United States authority; whatever may be said as to the right of a State to regulate in all ways such elections, this must be said: that the administration of the law by Commissioners Davenport, Muirhead, and Allen, the United States functionaries, and their subordinates, was eminently just, wise, and conducive to a fair public expression in a presidential year of unusual excitement and great temptation.

* * * * * * *

Both political organizations presented applications for the appointment of supervisors. The court, following the decision of Judge Woodruff in 1872, recognized the lists which were indorsed by the State and national committees. Objections were made and heard, so as to purge the lists, and in the whole five hundred and sixty-nine electoral districts two supervisors of different parties were on hand to supervise the registry and aid the local or State officials.

* * * * * * *

The United States marshal, district attorney, and the counsel of the corporation of New York were called in. They were men of various politics. They came to an agreement, which was signed, so as to execute the law without straining it, and so as to adjudicate without irritation or impediment the questions which might arise during the day of election.

* * * * * * *

Of course the United States marshal had his deputies to execute the warrants. There was one marshal for each election district. Extracts from United States statutes were sent out in circulars, together with directions to supervisors and deputy marshals. More care could not have been taken, in the judgment of the committee, for the verification of the registry and the purity of the election.

* * * * * * *

The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities, acting in harmony for an honest purpose. In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions. Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the elective franchise.

From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence. For this due credit should be given to men of both parties, and especially to the corporation counsel, Mr. Whitney, and United States supervisors.

* * * * * * *

All cases of fraud which were brought to the attention of the committee were thoroughly examined, and the committee went so far as to find out that no more vigilance could have been exercised by any arrangement known to the law to prevent fraudulent voting. The telegraph, post-office, and police, and all the legal and police paraphernalia were in constant requisition and use to avoid any bad registry or voting. Conferences among the best men, irrespective of party, and the co-operation among men of all parties, and the watchfulness on both sides of the Hudson and East Rivers, counsel given and received from all classes of officials, all with the one main object, effectually estopped a fraudulent presentment of the popular wish.

* * * * * * *

Whether this work, which is unexampled, should be accounted a republican work, through their Federal election law, or the work of the local authorities and organisms, inspired by a desire for an honest vote among the people, who were especially jealous of it on account of what was occurring elsewhere, one thing the committee must report, that it approximated as near to perfection as it was possible to do. There were no riots, no fights, no bayonets, no disturbance, no conflicts of authority, and none of the concomitants which accompany fraud and endanger free institutions.

The people of the country owe a tribute of respect to the police of a city of more than a million, and to the United States officers, who numbered thousands, for the harmony of action between the various officers, so as to illustrate to all the world how the imperial island city can conduct herself under great excitement and in view of startling events.

The report from which I have read extracts is signed by three democratic members of Congress, Mr. COX of New York, Mr. RICE of Ohio, and Mr. Waddell of North Carolina.

Mr. Chairman, the next time this law was brought prominently before the country was when my colleague [Mr. WOOD] rose in his place and denounced it, as well as the officers who two years before had been complimented by Mr. COX. As I have before stated, this occurred within a month of the overwhelming defeat of the democratic party at the congressional elections of last fall in the State of New York; and, as we have seen, it led to the appointment of another committee of investigation. Long before that report could be made to the House the democratic party in the Forty-fifth Congress had determined to repeal the law; and, with the knowledge of the fact that after March 4 both Houses of Congress would be democratic, they attached the repealing clauses to an appropriation bill, knowing that a republican Senate would not agree to them. The result was as they expected; and now, with House and Senate in political accord, the Government is threatened with starvation unless the President approves a bill or bills submitted to him.

The election law that Mr. COX two years ago spoke of as "approximating perfection" is now denounced as "partisan" and "unconstitutional," and this, too, when the agents who enforced it are the same and the means by which it was executed identical. That this charge of partisanship in the administration of the law is untrue in fact is clearly shown by the evidence of Mr. Davenport before the Lynde commission, (page 491 and following,) to which I invite attention. It is too long to give in detail at this time, but it can be summarized as follows: With satisfactory evidence of the frauds committed in 1868, Mr. Davenport, as commissioner only, began in 1870 to attack the 1868 papers. In that election he proceeded to cause parties holding the papers to be challenged and inquired of, and, so far as possible, he endeavored to prevent their registering upon them. In 1872, acting as supervisor, he issued precisely the same instructions that he subsequently issued in 1874, 1876, and 1878. In addition, in 1876, having obtained from year to year more definite information as to the facts, he caused those who registered in that year on 1868 papers issued by the supreme and superior courts to be challenged upon the sole grounds that they had been illegally issued, unless it was otherwise specifically mentioned. The number registered that year was about ninety-five hundred, and he issued the order as a preliminary step to what was done at the election last autumn, and because he desired to bring home to each individual notice of the claim made that these papers were illegal. As a result of this action, about four hundred certificates were voluntarily surrendered in 1876.

Early in May, 1878, the chief supervisor determined to proceed finally against these papers, and that every appearance of partisanship might be removed he notified the authorities of Tammany Hall that it was his desire to take them up, if possible, with the acquiescence of all political parties. In response to this a committee was appointed by Tammany, two of the members of which at least met with the chief supervisor (at his request) on more than one occasion, but finally failed to appear. Why, I leave to this committee to determine. The express purpose of the supervisor was to avoid conflict at the fall elections and to enable those who were entitled to it to be naturalized properly and legally at once; and no complaint was made and no warrant sworn out against any man who had not registered on the papers of 1868 issued by the two courts engaged in fraudulent naturalization. After consultation, the United States district attorney suggested that some preliminary notice should be given, and on the 24th of August, 1878, the following was issued and published in the press of the city. In addition, the chief supervisor directed copies to be mailed to the persons interested, and the supervisors in the election districts were ordered to hand to each person who held one of the papers of 1868 on which he had voted in 1876 a copy of the notice as he came to register. The following is the notice:

UNITED STATES COURT-HOUSE, ROOM 1, FOURTH FLOOR,
New York, August 29, 1878.

SIR: As complaint has been filed with me charging you with being possessed of a false, fraudulent, and void certificate of naturalization, issued in 1868, your attention is called to the following notice from the United States district attorney.

Respectfully, yours,

JOHN I. DAVENPORT.

—

OFFICE OF THE UNITED STATES ATTORNEY
FOR THE SOUTHERN DISTRICT OF NEW YORK,
New York, August 24, 1878.

To holders of certificates of naturalization purporting to have been issued from supreme and superior courts in the city of New York in 1868:

I am officially informed by the chief supervisor of elections for this district that complaints have been lodged with him, as commissioner, charging many persons residing in this district with being possessed of fraudulent certificates of citizenship (commonly known as naturalization papers) purporting to have been issued by the supreme and superior courts in the city of New York in the year 1868. Such complaints further charge the holders of such certificates with having fraudulently registered thereon at the last congressional election in 1876. These are offenses against the laws of the United States. As some of the persons holding such certificates may be lawfully entitled to be naturalized, and as many of them were possibly ignorant and misled, and in order that no injustice may be done to any person now willing to obey the law, I hereby give notice that each person against whom such complaint has been made can avoid arrest and prosecution by appearing before Commissioner Davenport, in his office, in the United States district court building, room 1, fourth floor, on or before the 21st day of September next, (1878,) and surrendering such certificate, if, upon examination, it shall prove to be fraudulent. For the convenience of such of the accused as are laboring-men, the United States commissioner's office will, on and after Monday, the 26th instant, and until Saturday, September 21, proximo, be kept open until eight o'clock and thirty minutes in the evening.

STEWART L. WOODFORD,
United States Attorney.

As a result of this first notice over one thousand persons appeared and surrendered their certificates.

On the 21st of September a notice of a substantially similar character was given, extending the time to October 12. In response to this notice over two thousand persons appeared and surrendered their certificates; and on the last-mentioned date a third and last notice was sent out, extending the time until November 1.

Under these three notices thirty-four hundred appeared and, without compulsion or coercion, voluntarily surrendered their certificates of naturalization. In the case of each individual the surrender was accompanied by a deposition subscribed by him in the following words, and it can be found on page 552 of the evidence taken by the Lynde committee of the last House:

THE UNITED STATES }
vs. }
—— ——. }

SOUTHERN DISTRICT OF NEW YORK, *ss:*

—— ——, being duly sworn, deposes and says that he resides at No. ——, in the city of New York.

That he was born in —— about the year ——, and arrived in this country about the year ——, being at that time about —— years of age; that in the year 1868 deponent received a certificate of citizenship, purporting to have been issued to him by the —— court in the city of New York; that about —— years previous to obtaining the said certificate deponent —— declared his intention to become a citizen of the United States; that deponent has —— served in the Army of the United States, and his father or mother were —— naturalized citizens of this country during the period of his minority; that deponent could —— read and could —— write at the time of obtaining his said certificate, and that his witness was one —— ——, who had known deponent for about —— years, at the time deponent applied to be made a citizen; that deponent, upon learning that it is claimed that the certificate he so received is false, fraudulent, and void, and that complaint has been made of his possession of the same, desires to avail himself of the provisions of a notice issued by the attorney of the United States in this district on October 12, 1878, and therefore appears and voluntarily surrenders the said certificate, to the end and for the purpose that the same be canceled or destroyed by the court having jurisdiction in the premises; and he prays that such court will take such action in the matter.

—— ——.

Subscribed and sworn to before me this —— day of ——, 187-.

—— ——,
United States Commissioner, Southern District of New York.

In order that there could be no mistake about the question as to the knowledge of the person who subscribed the deposition, the chief supervisor swears:

I desire to be understood as testifying unequivocally that as to each person before me who surrendered a certificate I personally made the inquiry as to whether he had read the deposition or it had been read to him, and as to whether he fully understood the contents of the papers.

Many were read a second time and explained; all were signed in the presence of the chief supervisor, and every precaution taken to prevent misapprehension. No man of sufficient intelligence to exercise the right of suffrage could have signed such a deposition without knowing its full purport, and the mere fact that over three thousand subscribed it and voluntarily surrendered their papers is almost conclusive proof against every naturalization certificate issued in 1868 from the supreme and superior courts.

Mr. Chairman, if it be conceded that it is right to prevent men from voting on papers illegally issued, the action of the chief supervisor up to the day of election at least was prudent, unpartisan, and clearly in the interests of an honest vote. The principal grievance, however, is that on that day six hundred persons were arrested, and that this intimidated others whose right to vote was undoubted. The last I believe to be absolutely without foundation; and while there may have been individual instances of hardship in enforcing the law, that any number of legal voters were deprived of their rights is unsupported by evidence of any reliable character.

When we consider all the circumstances, the only wonder is that the law was enforced so fairly and with so few just causes for complaint. Within the narrow limits of the city a presidential election calls out more votes than in any one of twenty States of the Union. In 1876 its vote was larger than that of Arkansas, Delaware, and Florida combined; and larger than either one of the great States of Alabama, Louisiana, Mississippi, or Texas. It has five hundred and sixty-nine separate and distinct polling places; and to assert that the arrest of one man on an average at each place intimidated any one is simply absurd.

Just as it stands on the statute-book and administered precisely as it has been, the law secures to the citizens of New York what they imperatively demand—a fair election; and I adopt without reserve the conclusions of my colleague [Mr. COX] when he said of the election in New York which he investigated that—

> Of course, mistakes here and there occurred. Errors were made in consequence of mistakes of voters themselves as to registering their residence, but those mistakes were, as far as could be, remedied; and it would be wrong to hold the system pursued by State and Federal officers responsible for a few flecks and specks.

And now, Mr. Chairman, a few words more and I shall no longer trespass on the time and patience of this committee. I am a strong partisan and a firm believer in the necessity for republican rule in Congress and out of it; but if it can only be secured by interfering with the rights of the citizen, either under cover of law or in disregard of it, the price is entirely too great to pay for success. I believe in a perfect equality of rights and privileges, and I most certainly believe in protecting every citizen without regard to race or color in the full enjoyment of them. The war for the suppression of the rebellion left upon our hands a whole people suddenly, perhaps prematurely, endowed with the rights of citizenship; and when the Congress of the United States is discussing a law involving the freedom and purity of elections, we should not entirely lose sight of them in our zeal for the white man. It may be an old-fashioned idea, but I believe that it is as wicked and criminal to deprive the native-born black man of life, liberty, or his right to vote, as it is to deprive the foreign-born white man of either. I believe that officers of the Government who would use or abuse an election law so as to intimidate white democrats should be promptly and severely punished; and I also believe that those who use or encourage "rifle clubs" or "bulldozing" to intimidate black men who are republicans are public enemies and should be treated as such. [Applause.]

Mr. Chairman, in the darkest days of the rebellion, when the continent fairly trembled under the tread of armed men and when republican institutions were on trial, I never permitted myself to question the advantages of our form of government over all others; but no government is worthy of the name that is unable or unwilling to protect all of its citizens at home or abroad in peace as well as in war. Sentimental talk about the glories and beauties of the great Republic, with its motto of liberty and equality, in the presence of thousands of unpunished offenses against each, will deceive no one; and until white and black, native and naturalized, in every State in this Union, are protected in the exercise of all their rights, this Government of ours is but little more than a mere experiment.

Speaking for myself alone, I am neither alarmed nor disturbed at the prospect of seeing these great questions of equal rights and privileges carried into the next presidential campaign by the two parties dividing substantially on sectional lines. With many others, I had hoped that our sectional troubles and difficulties were buried beyond the possibility of resurrection, but as this new issue is none of our making, neither will we hesitate to accept it. Unless I much mistake the signs of the times the solid South in 1880 will be confronted for a second time by a solid North, [applause;] strong, patient, slow to anger or to recognize the fact that its confidence and generosity have been abused, but as firm for the right as it was once before in a memorable period of our history.

If, as has been said, the South is "solid" and will remain so in self-defense, the instinct of self-preservation will bind the people of the North together as firmly as in those stirring days when a solid North meant the preservation of the Union. There was no hesitation or faltering then, neither do I believe there will be now; and while it will not be a reassuring spectacle to see section arrayed against section, with the memories of 1861–'65, still fresh and unforgotten, it is barely possible that a solid North once more may not be without its advantages as a warning for the future. [Applause.]

Mr. ELLIS. Mr. Chairman, the issues presented in this bill have been so thoroughly and ably discussed that I feel great hesitation in further trespassing upon the patience and attention of the committee by attempting further argument; and I would not do so but for the fact that I come from a State and represent in part a people who have very often felt the iron enter their souls and the hard hand reached out for their oppression under color of the statutes we seek to repeal; and I feel it would be wrong for me to remain silent. A great battle is being fought, in which the interest and honor of my people are involved; and I do not think that I should stand with idle hands and permit others to achieve that peace and security which are to be obtained for them in the repeal of these obnoxious laws and in a full return to the plain and simple methods of the Constitution, unburdened by hostile enactments.

Before proceeding further, I desire right here and now to protest in the most solemn and emphatic manner against the long-continued and persistently repeated efforts of gentlemen on the republican side of the House to revive sectional issues, to array North against South, to bring back memories born of strife that has long since passed away. Oh, why will not the poisoned arrow lie still? Why will not the envenomed dart remain hidden beneath oblivious waters? Why must these discontented ghosts of the unhappy past, bearing back to us and to our people bitter and burning memories of an unholy and fratricidal war, be forever recalled?

Why is it that you republican Representatives of the great enlightened North and of a great political party will not cease to misrepresent the people of the conquered section? Why will you not cease to pour into the ears of your people the poison of hatred and sectionalism and distrust of the South? Is the Union never to be restored? Are the old fraternal feelings always to be banished? Do you seek to leave this legacy of hate to your people? Is your dream of Union ended and achieved by a mere physical, geographical, and political union? Do you not wish the Union which was imagined by our fathers, the Union of love, of confidence, of common hopes, common ambition, common achievements, common happiness? Is hatred and strife absolutely necessary to the life of the republican party? It is now more than fourteen years since the thunder of the last hostile gun disturbed the calm of our skies. The North triumphed fully; the South was conquered. Every issue of the war is settled. Slavery is forever gone, and no man regrets it. The doctrine of secession is forever dead. The political equality and rights of the ex-slave are fixed forever. Nobody here or elsewhere seeks to disturb them. I say, and let no man attempt to contradict what I assert, speaking not only for my own people, but as I believe for the entire people of the South, that they have accepted in the best of faith and with sincere hearts every single issue which was raised by the war and settled by the war.

The thirteenth, fourteenth, and fifteenth amendments to the Constitution, which were the outgrowth of the war, or rather which were enacted to preserve and secure what the distinguished gentleman from Ohio, [Mr. GARFIELD,] the leader of his party on this floor, declared to be the "precious results of the war," have been solemnly ratified and accepted, and to their maintenance the southern people have pledged their faith. No attempt at misrepresentation, no effort of any republican member to misrepresent or to garble what may have fallen in the heat of debate from the lips of democratic members can gainsay or detract from the truth of what I here solemnly proclaim. Oh, how weak, how utterly helpless must be that cause which requires to be bolstered and supported by misrepresentation, by misquotation of speeches, by citing isolated paragraphs from obscure papers edited by hair-brained idiots! Yet such has been the course of nearly all the republican members who have spoken on this question.

Mr. Chairman, no States have suffered in the past from the enforcement and abuses of the statutes we now seek to repeal as have Louisiana and South Carolina; and yet look at the sentiments of the people of those two States with regard to the constitutional amendments. No longer than the day before yesterday, when the people of Louisiana had assembled in convention to form a new constitution, the very first resolution which was entertained in a convention which is three-fourths democratic was, in substance, that the recent amendments to the Constitution and all the rights and privileges of the colored people under those amendments were sacred, inviolate, inviolable, and that there existed no intention on the part of any one to interfere with them, or to raise a single issue settled by the war. So much for Louisiana. The democratic convention of South Carolina assembled last year to nominate candidates and to adopt a platform, and the very first plank laid down in that platform was that the thirteenth, fourteenth, and fifteenth amendments are and ought of right to remain inviolate, and pledging the democracy of that State to maintain these amendments in letter and in spirit. In view of these solemn declarations and of the fact that since the South laid down her arms in surrender no word or act has been said or done by her except in obedience to the Constitution and the laws, I do appeal to you, representatives of the great republican party, to cease to misrepresent, to cease to revile us of the South. I beg of you, as you claim to have preserved the Union, not to jeopardize that Union either in the present or in the future, and not to make of it a mockery by

sowing seeds of hatred and distrust, and by endeavoring to array section against section. I appeal to you as men and as representatives of a great Republic, and as statesmen worthy to be the representatives of a free people, to place the issues involved in this bill away above the region of sectionalism, far, far above the clouds of hatred and of prejudice, in that clear and pure region where the sunlight of judgment and reason falls undimmed and unfailing, and by that light to read and debate these great questions, and by that light to settle the issues which now divide us.

Will it do to meet the arguments which we have advanced in favor of the repeal of these obnoxious statutes by shouting "revolution?" Nobody is affected by it; nobody believes it. Nobody but a fool would for an instant believe that there is the slightest danger of "revolution" in this country. A little more than a month ago we began this debate. The great leader of the republican party raised the cry of "revolution," "destruction of the Government," "starving the Union to death." How have the people heard his cry of alarm? I will cite but one single response to it. Capital is always timid. Capital never invests in a government that is tottering amid the throes of revolution. Capital is a halcyon bird and flies only under calm skies and above calm waters. A month ago the capitalists of this country heard the gentleman from Ohio shout "revolution," and yet since the 22d day of March—I have the authority of the Secretary of the Treasury for the fact—nearly two hundred and thirty millions of the securities of the Government have been taken up by capital. No, the sensible and thoughtful people of this country do not believe your cry of "revolution," nor will they believe that the southern people are disloyal and revolutionary. Nor do they believe that the democratic party, which for eighty years controlled the destinies of this country and conducted it to its highest pinnacle of glory, cannot be trusted now. They know full well that the only aim and object of that party is to restore the reign of the Constitution and to get rid of the extra-constitutional and tyrannical methods which have been superinduced in the conduct of our civil affairs.

The distinguished gentleman from New Jersey [Mr. ROBESON] who so refreshed this side of the House with an elaborate constitutional argument and succeeded, after two hours of great labor, in proving what everybody admits to be true, urges us of this side of the House not to "unnecessarily thrust this issue upon the country;" and another gentleman who holds high rank in the councils of his party [Mr. FORT, of Illinois] declares that all this question is mere sentiment; that there is no reality in the wrongs we complain of and which we seek to remedy; and my friend from New York [Mr. HISCOCK] who preceded me challenged the democrat who succeeded him in debate on this side to point out the "grievances" which may have been suffered under the laws we seek to repeal by this bill or by the Army bill. The gentleman from Illinois to whom I have referred further said that "there was a cry of bayonets" but "there were not any bayonets to complain of." Permit me, Mr. Chairman, to answer the challenge of the gentleman from New York and to contradict the assertion of the gentleman from Illinois. Bear with me, sir, while in a plain, unvarnished way I recount to this House what I have seen myself in the past eight or ten years done under color of these infamous statutes. When my honored friend, the eloquent and distinguished gentleman from Kentucky, [Mr. BLACKBURN,] spoke the other day of seventeen years of darkened history, he alluded more particularly to the events of the past eleven years, for it is within the history of those years that the events which I shall recount have taken place.

Mr. REED. Why did he say seventeen years?

Mr. ELLIS. I did not understand the remark of the gentleman from Maine.

Mr. REED. If you are explaining the position of the gentleman from Kentucky, I ask you if that gentleman meant ten years why did he say seventeen?

Mr. ELLIS. Mr. Chairman, it would seem, as we gather from Holy Writ, that people were sometimes attracted by the sight of a "reed shaken by the wind," but it is too common a spectacle in this House to excite much attention. [Laughter.]

Mr. REED. The expression quoted by the gentleman is rather too common to be repeated by an educated man. A friend near me suggests that there is wind enough, but the reed is not shaken. [Laughter.]

Mr. ELLIS. Well, be that as it may, it requires usually but very little to shake it. [Laughter.] When interrupted by the gentleman from Maine I was about to recount to this House some scenes that have transpired in my own State, some of which I saw, and others of which I know to be true; scenes the recounting of which will bring a blush to the patriot's cheek; scenes which too often repeated have made the pages of the history of our country for the past eleven years dark and shameful pages. In 1867 I saw States blotted out of the Union and "military districts," ruled by soldiers, created on their ruins. I saw troops conducting the registration of voters and stationed at all the polling places. I saw test oaths, infamous in their conception and ruinous in their effects, applied to the body of the citizens, in order that the virtue and wealth and intelligence of the Southern States might have no controlling voice in the elections. Let me cite one instance. An old man who had no part in the war, venerable in years, of the purest and most exalted Christian character, who had been for forty years a minister of the gospel of our holy religion, and was still one, though for a long time physically unable to preach, went to the registration office and asked to be registered. He was bowed with the weight of more than fourscore years. The question was asked him: "Were you in the confederate army?" "No," he answered. "Have you extended aid in any manner to the confederate cause?" Again he responded he had not. Again he was asked "Have you preached sermons advising secession and sustaining the rebellion?" and he responded that it had been long since his voice had been heard in the pulpit, and that he had never preached political sermons; "but," said he, "sometimes during the war, in the midst of their great sorrows, I prayed for my people." The soldier who was conducting the registration told him "stand aside, sir. You cannot register or vote."

In 1872 I saw the legally elected government of my State overthrown by bayonets. A company of United States troops marched to the state-house under the order of a drunken Federal judge, issued at midnight under cover of the very laws we now seek to repeal, and seized the building; and I saw Federal bayonets crossed above the entrance to the state-house, sentinels on guard all around it and pacing up and down its corridors. If a representative of the people was able to produce a pass to the legislative hall signed by the United States marshal he was admitted, but those who possessed not that "shibboleth" were denied admittance and ordered away.

Mr. HISCOCK. Will the gentleman allow me to ask him a question?

Mr. ELLIS. I cannot now. I did not interrupt that gentleman, and I decline to be interrupted by him now.

In 1874 I saw a United States marshal in charge of United States troops, with his pockets full of blank warrants of arrests, raiding the whole northern section of my State. Citizens guilty of no crime, against whom there was neither charge nor suspicion, were arrested at midnight and dragged from their homes and families for political effect, and for no other reason than that they dared to be democrats and to attempt through the peaceful agency of the ballot-box the overthrow of the infamous political party which was ruling and ruining the State. Writs of *habeas corpus*, legally issued to restrain these outrages and release the injured and outraged citizens, were returned to the civil officers, who attempted to serve them, with epithets that would have befitted the mouth of a harridan of the "fish market," and with a message to the honored judge who issued the writs too foul and indecent to pass the lips of a gentleman.

In 1875 I saw the legally elected legislators of my State peaceably assembled in the state-house in legal and constitutional session. The body had elected their speaker and their officers, and were proceeding with the discharge of their duties, when a regiment of United States troops with fixed bayonets surrounded the state-house. A detachment of those troops, commanded by a colonel and brevet brigadier-general of the Federal Army, entered the legislative hall and by force arrested and ejected from the hall five members of the Legislature legally elected, and thrust in and seated in their places five men who had been beaten at the polls.

Again, in 1876, under color of this law the troops were invoked both in Louisiana and South Carolina for no other purpose than to carry the elections, and that their presence did unquestionably carry the election for the republican candidates in South Carolina there is not a shadow of a doubt. In that same year, under color of this supervisors statute which we seek to repeal, I saw ten thousand men arrested in the city of New Orleans by United States marshals only five or six days before the election. Yes, arrested by virtue of these very statutes in which the gentleman from New York finds no harm, under which he solemnly declares no citizens have suffered grievance, and yet by these arrests we estimate that between two and three thousand citizens in the city of New Orleans were deprived of their right to vote. In connection with this latter statement I beg to read from the great argument of that distinguished and able jurist, Judge John A. Campbell, formerly of the Supreme Court of the United States, delivered before the electoral commission. Said he:

> I can tell you another fact. I can tell you a fact more startling than any fact which has been reported here and which may serve at the next election for the campaign speeches of that time. On the 30th day of October there issued out of the circuit court of the United States at New Orleans ten thousand and more of warrants of arrest, to seize ten thousand distinct individuals, inhabitants of the city of New Orleans, for having falsely registered themselves in 1874 as competent voters. They embraced many of the most respectable men in the city, my friend and family physician and one of our Representatives in Congress among the number of those arrested for false registration.

Yes, sir, I am the Representative in Congress who was one of those arrested for having fraudulently registered myself as a voter. I had lived in that city for many years and am a native of the State; my residence was upon one of the principal streets of the city; my law office was within four blocks of the court-house from which issued these warrants; I was in the midst of my campaign, speaking every day and night, and the daily papers contained notices of my movements and speeches; and yet, sir, under color of these most infamous laws I and ten thousand of my fellow-citizens, as good, as free, as honest, and as guiltless as I, were arrested and compelled to stand trial before a United States commissioner. Ten thousand men arrested before one commissioner five days before an election, deprived of the right to vote unless we could have trial and be acquitted; a physical impossibility almost that all of us could be tried within that time. Here, Mr. Chairman, was one of the most daring, infamous, flagrant outrages upon the rights and liberties of citizens, per-

petrated in the interest and at the behest of the republican party, and yet that party declares that we shall not repeal those laws, and distinguished representatives of that party assert that no grievance has been suffered under them; that the question of their repeal is a mere question of sentiment, and that there is nothing real in our complaints against their execution.

Mr. HISCOCK. What was the charge made against you?

Mr. ELLIS. I was accused of having falsely registered myself a voter.

But Judge Campbell continues:

Never was such a picture of any community as that. There were ten thousand lies sworn to in order to procure those warrants. There was not a scintilla of proof, nor any desire to have any proof. Thirteen hundred and sixty cases were tried and dismissed; but it effected the purpose. The affidavits were all made by two men, policemen, both of them. I have read a portion of the affidavits myself piled up in the court-house, covering a table so high.

Citizens arrested upon the affidavits of perjured partisans under color of this law, and yet we are told that no man has suffered grievance by its execution. Three thousand citizens deprived of their right to vote, and yet we are coolly told by the party who perpetrated this outrage that the laws must stand in order that the "ballot may be safe" and the "elections pure."

Mr. Chairman, the republican party declares it will appeal to the people. Sir, we will join them in that appeal; and I most fearfully mistake the tone and temper of that great sovereign of us all, the American people, if they do not sustain our action and declare, in a manner and with an emphasis that no one can mistake, that these blots and blurs upon the statute-books shall be repealed. But why not trust the people? Are you prepared to assert that the American people cannot be trusted with the management of their local elections without the supervision, espionage, and intermeddling of the Federal Government?

You will appeal to the people, but you refuse to trust them. In the ultimate I think the republican party will find out that the distrust is mutual. But grant that no citizen has been deprived of a right; that no one has been arrested or subjected to outrage under these laws; grant that no bayonet-point has ever been turned to the overthrow of State governments or the overawing of the people at the polls; grant all this, and yet I remember that Daniel Webster once declared in a great speech that "our fathers went to war for a mere preamble." I remember, too, how that sturdy champion of English liberty, John Hampden, refused to pay an odious tax, not because of the paltry shillings that it would cost, but because of the principle involved. In urging the repeal of these statutes we are contending for a great principle. We know that they are repugnant to the Constitution; we feel that they are at war with every American idea of civil liberty; and because of the principle involved we intend to exhaust every legal and constitutional means within our power to repeal them.

Mr. BAILEY. I desire to ask the gentleman if the dispatch published in a morning paper is correct, and if he has any knowledge of its correctness, in reference to the constitutional convention of his State?

Mr. ELLIS. Mr. Chairman, I thought when I yielded to an interruption that the gentleman from New York desired to propound to me a question pertinent to this issue. I have no time for interruptions not pertinent.

Mr. BAILEY. It is a question pertinent to the subject of our discussion. In the Republican of to-day I find the following:

LOUISIANA CONVENTION—STATE SOVEREIGNTY PREDOMINATES.

NEW ORLEANS, *April* 24.

In the constitutional convention of to-day several committees were appointed, and resolutions providing that members of the convention take an oath to support the Constitution of the United States was laid on the table by a vote of 64 to 63.

Mr. ELLIS. I have no knowledge of the truth or falsity of this dispatch.

Mr. BAILEY. It is an Associated Press dispatch to the Washington Republican.

Mr. ELLIS. I do not attach much credit to the dispatch; but grant that it is true, what difference does it make? I know of no law which requires delegates to a constitutional convention of a people to take any oath to the Constitution of the United States.

Mr. BAILEY. If there is no harm in Louisiana to refuse to swear to support the Constitution of the United States, then I beg the gentleman's pardon.

Mr. ELLIS. If the gentleman means by the production of that dispatch to reflect upon the patriotism of the people of Louisiana or their devotion to the Constitution of our common country then I take issue with him. It has been suggested to me by a distinguished lawyer that members of constitutional conventions are never required to take such an oath, and that no law requires it. My friend from Ohio [Mr. HILL] assures me that neither the members of the constitutional convention of New York or Ohio took any oath to the Constitution of the United States. No regulation that I am aware of requires such an oath.

Mr. BAILEY. I will say that I do not think in the State of Louisiana it is at all necessary.

Mr. ELLIS. No, because the people of my State love and revere the Constitution of the United States, and it requires no oath to remind them of their duty to it.

Mr. HILL. Will my friend from Louisiana allow me to make a suggestion?

Mr. ELLIS. With great pleasure.

Mr. HILL. I know that in the recent constitutional convention of the State of Ohio no such oath was required; and the loyalty of the people of that State has never, that I know of, been called into question.

Mr. KEIFER. Allow me to suggest to my colleague from Ohio that he is mistaken. All the members of the constitutional convention of Ohio did take an oath to support the Constitution of the United States.

Mr. ELLIS. I cannot be further interrupted. This colloquy has absolutely nothing to do with the question I am discussing.

Mr. Chairman, in my judgment it has been conclusively shown in argument upon this and the Army bill that the statutes which we seek to repeal are in conflict with the Constitution of the United States, and no serious attempt has been made by gentlemen upon the republican side to answer these arguments. The only attempt at any constitutional argument in reply was made by the gentleman from New Jersey, [Mr. ROBESON,] and after two hours of laborious effort he summed up the conclusion of his entire argument in these words; I read from the gentleman's speech:

I repeat my proposition: The United States is a government of limited powers delegated to it by the Constitution, but limited only in numbers, and not in quality. Wherever they are clothed with power by the Constitution they are sovereign and supreme. Those powers are the supreme law of the land when organized in the form of law by the National Legislature, and when they are so organized they must be enforced by all the powers of the Government, or the Government will be destroyed or will remain only an object of derisive scorn for the enemies of free government throughout the world.

Mr. Chairman, there is not a democrat who is prepared to dispute or take issue with that proposition. It is now more than fifty-eight years since the principle enunciated by the gentleman was laid down by Chief-Justice Marshall in the case of Virginia *vs.* Cohens, reported in 6 Wheaton, and it has never been denied. If the gentleman from New Jersey had gone but a step further and had quoted the language used by Chief-Justice Chase in the legal-tender cases, that any statute which had not its foundation in the Constitution was therefore null and void, he would have uttered the whole law and not a portion of it with regard to the construction of statutes. But my friend from New York [Mr. HISCOCK] is a little bolder in his assertions of Federalism, and declares that "the right to vote for members of Congress is given by the Constitution of the United States." There is no such thing known as the "right" to vote. Suffrage is a "privilege" and not a "right." Clearly it is not a natural right, nor is it a conferred right arising from the mere formation of men into political corporations, but it is a "privilege" which the citizens grant and take reciprocally by virtue of the law which they enact for their own government when they come to the formation of States and governments for their mutual protection and benefit. The gentleman from New York puts the argument rather ingeniously. He says "the right to vote for a member of Congress is derived from the Constitution of the United States." Well, the right to have members of Congress at all originates in the Constitution of the United States; but the right to vote, the naked privilege of voting at all never was given by the Constitution of the United States. This is expressly decided in the case of the United States against Cruikshank, and other cases.

Long before the Constitution of the United States was dreamed of, long before the Revolution of '76 was contemplated, the privilege of voting existed subject to various restrictions and modifications, and with various qualifications in the different colonies that constituted the first confederation. The privilege was preserved in the old confederation; and when the colonies assembled to frame the Federal Constitution they still had the privilege of suffrage, regulated and controlled by the colonial governments. The Constitution of the United States which they framed conclusively and expressly leaves that privilege with the States, with full power to regulate, modify, or qualify its exercise in any mode which they might deem proper. With regard to the election for members of Congress the Constitution fixes no qualification, but simply provides that those citizens in the States who vote for members of the most numerous branch of the State Legislature shall vote for Representatives in Congress. The right to vote for a member of Congress depends entirely upon the right to vote at all. If a person in a State has no right to vote at all, of course he cannot vote for a member of Congress, and no Federal law could confer it. The State government fixes the regulation and defines the qualification by which he votes at all. The State government determines and fixes the qualification, and when once fixed, and when once the qualification is filled and complied with, the privilege is secured, and then the citizen is at liberty to vote for all such officers as may have to be elected by the people, whether State officers or members to Congress.

The right to vote for a member of Congress is simply incident to the right or privilege of voting at all, which right or privilege he derives from his State government.

Mr. HISCOCK. Will my friend allow me to ask him a question?

Mr. ELLIS. I will, if pertinent to this issue.

Mr. HISCOCK. In the event they should prescribe a different qualification——

Mr. ELLIS. What does the gentleman mean by "they?"

Mr. HISCOCK. In the event that the State Legislature should, for instance, attach a property qualification to the right of voting for a member of Congress when no such qualification existed in order to have the right to vote for members of the State Legislature; or sup-

pose they should attempt in any other way to limit the right to vote for members of Congress different from members of the lower house of the State Legislature, would it be competent for Congress to pass laws to protect the electors of the most numerous branch of the State Legislature in their right to vote for members of Congress?

Mr. ELLIS. If the State should attempt to establish a property qualification——

Mr. HISCOCK. If they should attempt to abridge or enlarge the class entitled to vote for members of Congress and make it different from the class entitled to vote for members of the most numerous branch of the State Legislature——

Mr. ELLIS. I will answer the gentleman. There is in the Constitution but a single inhibition on the power of the State in regard to fixing the qualification of voters, and it is this——

Mr. HISCOCK. The question I asked is this: in the event of the State attempting to declare different qualifications for electors of members to the most numerous branch of the State Legislature, would Congress have the right to pass laws for the protection of the classes indicated (the electors of the most numerous branch of the State Legislature) in their right to vote for Representatives to Congress?

Mr. ELLIS. I apprehend that no State will stultify itself in attempting an enactment so directly in conflict with the express provisions of the Constitution.

Mr. HISCOCK. That is not the question. The question is one of power, of constitutional right. It is not a question of stultification.

Mr. ELLIS. A State would undoubtedly have the right to fix a property qualification. As I have already stated, there is but a single inhibition upon the power of the State with regard to fixing the qualification for electors, and it is that no State shall deprive any citizen of the privilege of voting on account of race, color, or previous condition.

Mr. HISCOCK. That does not answer the question. In the event that a State should do what I have stated, would Congress have the right to protect the person whose right of voting for members of Congress the State might undertake to abridge?

Mr. ELLIS. If my friend from New York will be still I will answer the question fully. As I understand, he wishes me to answer this question: whether the State of New York, for instance, would have the right to require of those who vote for members of Congress a qualification different from that required of those who vote for members of the most numerous branch of the State Legislature? I answer the State would clearly not have the power under the Constitution.

Mr. HISCOCK. Very well, then. The next question I ask is this: if the State should attempt to make such a distinction, would Congress have the right to interfere and enforce the right of the elector as against this unconstitutional law of the State?

Mr. ELLIS. The Constitution of the United States declares in express terms that those who vote for members of Congress shall have the qualification for electors of the most numerous branch of the State Legislature.

Mr. HISCOCK. I understand that, but suppose there should be a conflict in defining the qualification of the two classes of voters?

Mr. ELLIS. The gentleman wishes me to answer whether if a State should endeavor to do something forbidden by the Constitution the Government of the United States would have the power to assert its authority and maintain the Constitution?

Mr. HISCOCK. That is the very question.

Mr. ELLIS. I answer unquestionably in the affirmative. That is the very argument of the gentleman from New Jersey [Mr. ROBESON] which I quoted a few moments ago, and from which I said no democrat dissented; and it is, that the Government of the United States is absolutely and unquestionably supreme in all powers delegated to it by the people in the Constitution; and whatever a State should do or attempt to do in violation of the Constitution would be absolutely null. In the contingency supposed by the gentleman from New York the remedy of the citizen who should be deprived of his right to vote for members of Congress by onerous State regulation and unjust discrimination would be enforced and preserved, not by the direct action of the Government, not by an attempt on the part of Congress to modify or alter by statute the State regulation, but when Congress considered the claim of a Representative to his seat who had been elected by the operation of the onerous and unconstitutional qualification for electors prescribed by the State it would have the power to deprive him of his seat and to deny to the State which had enacted such unconstitutional legislation representation in Congress until it had altered the law and made the electors for members of Congress stand upon exactly the same basis as electors for members of the most numerous branch of the State Legislature, in direct obedience and perfect conformity with the provision of the Federal Constitution upon this subject.

But, Mr. Chairman, time presses me, and I must hurry on to a portion of the question involved, upon which I had originally intended to dwell particularly and at length. I did *not* intend to be drawn into the discussion of the constitutional aspect of these questions in the slightest degree. The arguments made by my friends, the gifted and eloquent gentleman from Virginia, Mr. TUCKER, Mr. HURD of Ohio, and Mr. CARLISLE of Kentucky, remain unanswered and unanswerable, and have demonstrated beyond the possibility of answer the flagrant unconstitutionality of the statutes we seek to repeal upon this and the Army bill. Without attempting an answer upon any legal or constitutional grounds, our friends of the republican side intrench themselves behind the old "war issues," and invoke sectional appeals, and the eternal "negro question." There is not a republican on the floor who will dare rise in his place and gravely maintain that the people of the Northern States cannot be trusted with the management of their State affairs and the conduct of their local elections. There is not one here who will assert that the great loyal people of the loyal North, who, in the language of our rhetorical friend from Michigan, [Mr. BURROWS,] will gather around the "bleeding, stricken, and starving form of the Republic" with "bandages," "soothing sirup," "beef tea," and the like, when we naughty democrats attempt to starve it to death, are not to be trusted in the matter of pure elections, of free ballot, and a fair count. These laws are unnecessary in the North, so the republicans hold, but *are* necessary for the protection of the black people of the South, and to enable them to vote in peace and security.

The argument is that the colored people are shot, killed, persecuted, driven from the ballot-box, or are overawed or cowed into voting the democratic ticket; and gentlemen point to the fact that the South is "solidly democratic" and that the negroes either vote the democratic ticket or do not vote at all in confirmation of their theory. Mr. Chairman, it is upon this question that I wish to dwell, and I believe that I can show that the causes which have wrought the great change in the minds of the colored voters of the South are powerful and natural, and amply sufficient to have caused the colored race to turn their backs forever upon the republican party. I assert now and maintain that from the time the African was stolen from his native land and brought here as a slave the republican party (and I will in a moment state my authority for giving that party such an ancient date) has been the worst enemy the colored race ever has had or ever will have. The republican party has been "the old man of the sea" upon the neck of that race. It has burdened it and ridden it and borne it down and denied it rest and peace, and all for its own political aggrandizement. No wonder that the colored race have at last thrown it down and are aiding the democratic party to crush it with their ballots.

A very distinguished member from Ohio, the ablest leader of his party in this House and perhaps in the whole country, a few years ago made a speech in which he traced the different civilizations of the North and South and the differences in principle between the democratic and republican parties back respectively to the early settlements of our fathers at Plymouth Rock on the one hand and at Jamestown on the other. I accept that gentleman's theory, and charge upon the republican party as it existed in the early days the introduction of slavery into this country. History will bear me out in the assertion that it was not the South nor southern men, nor southern merchants, nor southern ship-owners, nor southern ships that brought the slave to this country. A distinguished member from Connecticut [Mr. HAWLEY] in his speech on the Army bill told us how he had gone down South once for the purpose of buying and acquiring title to a colored man who had run away from the South and had risen to be a "D. D." That gentleman told us that he paid simply for "the boy Jim" and did not pay "for improvements." Let me remind that gentleman that it is not the first time gentlemen from New England went abroad for the purpose of acquiring property of that kind, and that they did not always return with a legal title for which they paid money, but they too frequently came back bearing with them the human chattel and holding it simply by the right of the robber and the title of the pirate.

Mr. REED. I hope the gentleman is not going to "revive sectional hatred."

Mr. ELLIS. No, I simply intend to revive historical truths, and to tear masks from hypocritical faces. Coming down a little later we find New England and the States of the North quietly getting rid of slave property, and the vast majority of slaves tending down toward the fertile plantations and more genial climate of the South where slave labor was profitable. Alas, the fatal beauty and richness of the fair States of the South fastened this curse upon her. A little later we find the States of the North emancipating by gradual process the slaves who remained in their midst, not from any feeling of philanthropy but because of the unprofitableness of slave labor in their midst. A little later we find the republican party making the slavery question an issue in Federal politics until at last, in 1861, war between the sections broke out which resulted in the total emancipation of the colored race. The year 1865 found the negro of the South a freedman. He had grown and developed from a low, degraded slave to a civilized being. He had ceased to worship the "fetish" or the sun, and had some idea of God and religion. He had ceased to speak a "gibberish" and had possessed the tongue and language of a man. He had so progressed from the untutored savage which he was, when called to the knee of the patient South, as to be in the estimation of all of our northern fellow-citizens fit to be a citizen of this great country and to participate in the conduct of its public affairs.

It has often seemed good to the omnipotent Father of us all to make of slavery a school for the education of races; and when you revile the South as a slave-owner; when you taunt her with the memories and the blot of slavery, I ask you to remember that in the providence of God she was also called to be the teacher of the colored race. You claim that the North made freedmen of four millions of

men held in bondage, and I claim that the patient and long-suffering South made a savage a civilized man. If you broke the fetters of a physical bondage that held him in the semi-patriarchal relation which existed between the southern master and the slave, I claim that we broke the bondage of his soul, the fetters from his mind, and that under the care and tutelage of the South the barbarian was converted into a civilized being. If you freed his body, we freed his soul; if you have conferred the right of citizenship, we prepared him to receive that right and to be able to enjoy and to exercise it. I believe that the civilization of the African race is not inherent but is imitative. Do you doubt it? I point you to Africa and to the fact that in the past fifteen centuries that race has made no progress whatever. While the spirit of progress "has moved upon the waters" of all the other lands of our earth; while man everywhere by his genius and his daring has made the most gigantic strides in progress in the arts and sciences and improvements of every character, the African race has stood still. To-day the savage warrior meets his enemy with the same weapons with which his fathers fought more than a thousand years ago. To-day the canoe that bears the African from place to place over the waters is precisely in build and size as the frail vessel which his father steered fifteen centuries ago. To-day the tribes of Africa indulge the same weird religious rites which characterized them, and their deities are the same that held their fathers in the bond of superstition fifteen centuries ago. The rest of the world has moved, but Africa has stood still. Every effort to civilize the African has failed. Efforts to improve him by colonizing from America members of his race who had been instructed and advanced to some degree of civilization have been tried and have failed. Experience has shown that so soon as left to themselves and the fostering care and restraining influence of the superior race is withdrawn, he has moved backward and steadily returned toward his ignorance, his barbarism, and his superstition.

In our own country it is conclusively proven that the negro has improved and has become civilized exactly in proportion to the nearness of his contact with his white owner. In the upland regions of the South, where the slave-owners were poor and the number of slaves held were few and the institution more nearly approximated the patriarchal relation, the civilization of the negro was more apparent and better defined. In the richer regions, where each slave-owner was possessed of hundreds of slaves and the contact with the master and his family was not so near and so immediate, the degree of civilization was not near so rapid or so great. The house-servant and the body-servant became in the course of a few years to a great extent polished in manner, polite in bearing, correct in language and deportment, and learned to speak with great correctness, and to acquire in a great degree those conventionalisms of manner and language which characterize our best society. The field-hand, on the contrary, on the large plantation, who had no contact with the white owner or his family, remained the same, awkward, ignorant, and stupid, from the day of his birth almost to the day of his death. The Southern States took the slave by her knee and after a hundred years made him what he was in 1865. She held him close to the strong blaze of American civilization and converted him from a savage to a human. She advanced him far enough and civilized him enough to be in the opinion of the republican party worthy the boon of American citizenship. When, however, in 1865, he was made a freedman his condition was one to excite the profound sympathy and pity of every thinking man. Torn away from the fostering care and patient instruction of his owner, he was left poor, weak, helpless to act for himself. What his condition imperatively demanded was that, as far as was possible, he should have the benefit of the instruction and example and influence of his former master. To the white owners of the land he was obliged to look for labor and wages. To the white man he was obliged to look for equal protection under the law. To the white man he was compelled to look for the enjoyment of those rights and privileges which had been conferred upon him. Every interest which he had demanded that the closest relation of friendship and sympathy compatible with the altered relation should be established and maintained between him and his former master. But the republican party, careless and callous of his condition, having no real sympathy with him, having used his body in war as food for gunpowder in a quarrel in the engendering of which he had no part, having made of his condition and fancied or real sufferings their sole political stock in trade, saw in him an instrument by which the political power of the republican party could be perpetuated and maintained in the Southern States.

In order to accomplish this it was necessary to enfranchise the negro and array him in deadly hostility to his former white owners, and so the republican party gave him the ballot, not for his good but for its own aggrandizement. Then that party organized freedmen's bureaus, whose agents taught the negro that the Government and the republican party would divide the land and stock of the white people equally with him. Yes, you organized your "loyal leagues" and swore them with the most terrible oaths to obey the behests of the republican party and to hate his white neighbor. You poured into his ear and soul the killing poison of hatred and hostility to the white race and alarmed his timid and ignorant mind by holding out to him the most dreadful threats of re-enslavement and punishment if he permitted the whites of the South to regain control of their State governments. You taught them that there was no virtue or binding force in the Constitution and its amendments, which granted to them these rights and liberties. You taught them that the vast sea of blood which had flowed in our unhappy civil war was a libation to the gods of falsehood and deceit. You taught them that the uniform of the United States was a badge of the tyrant, and the bayonet of the soldier was the sheen and point of a well-rounded falsehood. You taught them that the true political line was the color line, and that they must be republicans simply because they were black men. You professed to be the party of peace, yet you taught the colored man the infernal gospel of hate and strife. You professed to be the party of high moral ideas, yet you taught him corruption and fraud and enforced the lesson by the examples which republicans set him in the reconstructed governments of the South. You taught him that official stations were but institutions for the benefit of the office-holder and not for the people. You taught him that the position of a public servant and an office-holder was the particular personal property of the incumbent and ought to be used for no other purpose than to make money. The carpet-bag office-holder who called himself republican plundered and robbed and sold the prerogatives and influence of his office, whether it was the patronage of a governor, the vote of a legislator, or the decree of a judge, and there is no wonder that the colored man, unused to the exercise of political power, should follow the tempting example of his white instructor and political guide.

But, Mr. Chairman, not only did the republican party demoralize the colored race for its political advantage, but it robbed and plundered them. It organized by act of Congress the great "Freedman's Savings and Trust Company." Republican freedman's bureau agents and emissaries in the South invited the colored people to deposit their earnings in that institution. They taught them that it was a Government institution and that their hard earnings would be safe and sacred. This "savings and trust company" issued to the colored depositors bank-books upon the backs of which were engraved the faces of the lamented Lincoln, of Grant and Sherman and Howard and Sumner. While the colored man of the South generally could not read, he knew these familiar faces, and he was induced by the very sight of the pictures of the great men and professed friends of the negro race to believe that his little earnings would be safe. The colored people came up with their earnings. The woman who had washed and cooked or scrubbed all the week came to the bank on Saturday night to deposit her one or two dollars which remained over after her wants had been provided for; the field-hand at the end of each month deposited his five or ten dollars; the drayman brought his earnings; the porter or waiter deposited portions of his hard-earned pay, and each was happy in the thought that he was laying up something for the support of his declining years. Then a republican Congress enacted and a republican President signed the law which modified the original charter of that institution, struck down the safeguards which had been placed about it, enabled its philanthropic directors to loan money to their own favorites and confederates in villainy, accepted in pledge of said loan "wild-cat stock" and mortgages upon valueless real estate, until at last the bank suspended and utterly failed, and by one fell swoop the freedmen of the South were robbed of more than three millions of dollars. History does not record an instance of perfidy like this. Nothing has been done to right the wrong. Under the laws which a republican Congress and President approved the remnants of the freedman's earnings are now being paid out month by month and year by year to three directors, who do not even visit the bank, and to a whole army of clerks and attorneys, agents and messengers, who are of no use whatever and are simply cormorants, devouring the sum of which the negro race was robbed, or rather I should say are vultures feeding upon the carcass of this institution of the freedmen. It remained for a democratic Congress to investigate and bring to light the villainy of this great robbery, and for a southern ex-slave-holding, ex-confederate democrat to take the initiative to do justice to the freedmen.

But, Mr. Chairman, this was not all. Not only did the republican party array the negro against the whites and "rend away with curses" the ties which bound him to his only friends and leave him helpless and alone; not only did it rob him of his hard-earned savings; but it did more. For the past ten years it has shed his blood and caused it to be shed for the purpose of staining its party banners; and every red drop of the life-current which has flowed from the negro's veins in obedience to the mandate of the fierce Moloch of radicalism has been coined into political capital in the interest of the republican party. In order to "fire the northern heart" you have excited him to deeds of violence against the whites, knowing full well that retaliation, swift and sure, would be the result, and that his blood would be shed. But what mattered that to the republican party? The blood-curdling language of the carpet-bag governor of Mississippi [Mr. Ames] cited this morning by my eloquent friend from Mississippi [Mr. HOOKER] that "the blood of twenty-five or thirty negroes would be good for the republican party," and the no less brutal answer of the last carpet-bag governor of Louisiana, who told colored men "if the blood of five or six negroes in your parish is shed it will not be a bad thing for our party North," explains the doctrine of radicalism with regard to the killing of negroes in the South.

And here, Mr. Chairman, I may appropriately cite the evidence of Ex-Governor Moses, of South Carolina. A little over a year ago he published an elaborate confession of the crime and wrong which

had been done by the republican party in South Carolina. He said that they had hired roughs and rowdies and bad men to come from northern cities to South Carolina, and had arrayed them in the weird garb of the Ku Klux Klan, and had commissioned them to commit outrages and murders upon colored men, which were charged upon the native white citizens, and all done for the purpose of manufacturing political capital for northern consumption, "to fire the northern heart," to drive away love, to bring about and intensify hate.

Mr. Chairman, I do not hesitate to say here, upon my responsibility as a man before my country and my God and under the solemn sanction of my official oath, that ninety-nine cases out of every one hundred of murders which have been perpetrated in the South and of which colored men have been the victims, have been instigated directly by the agents and henchmen of the republican party in the Southern States for the sole purpose of keeping the northern mind set against perfect peace and perfect confidence in their brethren of the Southern States. How, then, does the record stand? Instead of educating the colored man the agents and emissaries of the republican party persistently stole the common-school fund year after year. I speak from the record and from the reports of republican school superintendents of education in Louisiana when I say that in eight years of republican rule $500,000 of the school fund raised by taxing the whites was stolen and plundered by republican officials. Instead of protecting your southern partisans have plundered him. Instead of enlightening him as to his duty as a citizen you have taught him fraud, force, violence, corruption. Instead of teaching him that he was a freedman and that his rights are fixed in the Constitution and are secure forever you have taught him that the Constitution was but a rope of sand that would be broken to pieces by the mere temporary triumph of one party over another in a State election.

Having thus plunged and steeped the colored race in misery, being directly responsible for his condition as a slave in the United States and for all the wretchedness, misery, and degradation which he has suffered and is to-day suffering in the United States, what do you now propose to do with him? You are determined he shall not rest. Despairing of further using him in the Southern States either as a voter or as a martyr, you propose now by your agents and emissaries to induce him to leave the land of his nativity, the climate and the soil and the labor best adapted to him, and for political purposes and no other, in order to weaken southern representation and to strengthen northern representation, to induce the negro to migrate to a land he knows not of, to labor to which he is unaccustomed, to a people whose race prejudices are stronger than those of the South, to a cold, ungenial climate where certain misery, want, and ruin await him. This is your finishing stroke to his ruin. It is utterly false that the negro is fleeing from oppression or from the "bludgeons" or stripes of southern democrats.

The movement in Louisiana has been principally from the parish of Madison, where there has been no complaint of "bulldozing," where the colored race is in an immense majority, where they elected their own officials, and where they are and have been on the best of terms with the white people. The movement is a purely political one. Secret circulars describing the beauties and glories of Kansas, chromos representing pictures of beautiful homes, of domestic peace and comfort, of billowy oceans of green wheat, of fruits such as the heathen poet never dreamed of in his most beautiful visions of the garden of the Hesperides, of a land "flowing with milk and honey," where the hours glide by on golden wings and the reign of Saturn still lingers, of free homes and Government lands, have been circulated among the negroes of the South to induce them to migrate to the North. Some thousands of them have started. Already their wailings and cries of despair reach us from the bleak shores of Kansas. A few weeks ago these colored emigrants with their helpless women and children left a land where spring sat upon forest and fields clad in her glorious garments of green all spangled with ten thousand bright flowers brought into life and beauty by the warm wooings of her balmy breath. They have reached the shores of the "promised land," where timid spring still hesitates to smile lest her warm impulses be frozen by the tyrant winter's breath. Cold and naked and hungry, these wretched dupes raise a piteous cry for aid.

The public charity is appealed to; bills for the relief of these unfortunate and starving emigrants have been introduced in this and the other branch of the National Legislature, and I wonder, Mr. Chairman, if upon the patriotic and philanthropic vision of the republican statesmen there is not adumbrating the enchanting dream of another "Freedman's Bureau," with its capacity to rob, to plunder, to steal, to mislead, and to ruin, and all for the benefit of the republican party and republican patriots.

But, sir, I cannot pause further now to dwell upon the ruin morally, ocially, and politically that has been wrought to the colored peo- by its inexorable task-masters, the republican party. Misled, pl uided, deceived, plundered, demoralized, and murdered for the mis t and in the behest of the republican party, is it any wonder beneh political sentiment of the colored race has undergone a great that th Is it any wonder that they refuse to be led any further by change? prophet? Is it any wonder that Southern States and dis- this veiled verwhelmingly republican have changed and are now tricts once Do you deny the capability of the colored man to change? democratic? assert your right to dominate him politically and Do you fiercely hen freed from mere physical bondage in order that morally? Is he

he may be your slave in mind and in soul? Sir, he has changed. Let me quote here an extract from a letter written after the last election by Hon. J. A. Gla, a colored man, a State senator and now a member of the constitutional convention of Louisiana, and an honor to the African race.

I cannot pause to read the whole letter, but will print extracts from it:

Here in Carroll the 5th of November passed off without a single misunderstanding in any portion of the parish. The colored voters went to the polls, voted unmolested, and returned to their homes. Their voting gave evident signs of a change taking place. Most of them made more inquiries on the morning of the election than had been made for years past put together who they would vote for, and chose in most instances for themselves. The unquestioning obedience of years back has evidently passed away, and the colored people are becoming free voters to all intents and purposes.

What has brought about this apparent progressive change? Why are our people dropping away from their white leaders? It is all nonsense to talk about bulldozing. No doubt such a thing exists, but it has not done the work attributed to it by a long way. The cause is deeper and wider than any bulldozing; it rests with republican leaders themselves who have abused and betrayed the confidence placed in them by the colored people.

* * * * * * *

Is it to be wondered at that the colored people have no further use for these republican white leaders? Is it any way astonishing that there is a break in the republican ranks? The mass of the colored people in their simplicity believed the many promises made, and innocently expected them to be fulfilled. They did not care so much for themselves, but they expected that the leaders of their own color, after so much labor and self-sacrifice, would be remembered; but they even have been forgotten, and cast politically aside as so much worn-out material. Hence the resentment now showing itself at the ballot-box.

* * * * * * *

These are pertinent questions, and my advice to-day to the people of my race in this senatorial district is to abandon past prejudices and join hands with the conservative people of the country, so that we may live long and prosper, with no more causes for inequality, but each man act well his part and independently assert his rights in the parish of East Carroll, the granite building in New Orleans, and throughout the State of Louisiana.

Respectfully,

J. A. GLA.

Again, sir, allow me to quote from the greatest, the brainiest, and ablest colored leader in the United States, I refer to Hon. P. B. S. Pinchback, and read now an editorial from his paper, the Louisianian, an able and fearless champion of the rights of the colored race in the United States:

The time having passed when the colored voters can be herded together and voted like sheep, the army of evil advisers who swarmed down upon us like the locusts upon Egypt have disappeared as mysteriously as they came. With the exception of a few, who still condescend to hold the offices, and whose days it is rumored are numbered, we are rid of their presence. Left to themselves, and at last thoroughly convinced of the necessity of making an effort from within the race to arrest the demoralization among them, we are persuaded to believe the time has come when they will listen to reason and be prepared to follow men capable of leading.

Again, sir, I have permission from my honored colleague and friend, Mr. GIBSON, to extract from a letter written by Hon. T. T. Allain, a State senator in Louisiana, and an eloquent champion of the rights of his race, a portion of a letter that might well be commended to the notice of the President of the United States before he vetoes the Army bill as well as the one we are now debating, because it seeks to lay down the doctrine of non-intervention by Federal power in State elections. I hold in my hand and will read the original letter of Senator Allain, in his own handwriting. It is addressed to one of Louisiana's noblest and purest sons, a grandson of Andrew Jackson:

HARD TIMES PLANTATION, RAPHAEL P. O.,
Iberville Parish, Louisiana, December 2, 1878.

DEAR COLONEL: Your esteemed favor of 22d ultimo was duly received, and, coming from so distinguished a source, afforded me much gratification, insomuch that you were pleased to appreciate and to recognize the efforts which I have made in behalf of conciliation, harmony, and concord between the white and colored races within my native State, and especially during my career as State senator.

To permanently effect such object has heretofore been and ever will be my supreme desire; and it is certain that no endeavor will ever be spared on my part to promote an era of perfect good feeling between the white and colored people of my section.

We may thank God, and it is universally conceded by our leading statesmen, that bygones shall be ignored, and that all our energies shall be devoted to the regeneration, the practical and material reconstruction, to the rehabilitation of our wasted and distracted State upon the basis of undisputed unification.

The appointment of that eminent colored lawyer, Frank Cassells, esq., as assistant attorney-general of the State of Tennessee by the democratic administration of that State is much appreciated; and should such precedent be continued in the Southern States, in my opinion combinations among present antagonistic parties will be formed in or before 1880 that will give republican newspapers little cause to again flaunt the emblem of the "bloody shirt."

As a colored man and a republican, representing the interests of my race, I would say that it is with serious apprehension that I have noted intimations that President Hayes contemplates a change in his "southern policy;" and it is my earnest hope and prayer that he will persevere in his present wise course of non-intervention in local State affairs. I am confident that a reversal or change of such policy would not be conducive but would be detrimental to the welfare of my people. All classes in Louisiana, whether white or colored, are now closing up their political issues; and I feel assured that the day is not far distant when the color line will be definitely obliterated in regard to civil matters, and an epoch of prosperity and happiness will brilliantly illuminate the horizon of our glorious State.

I have great faith in Governor Nicholls. I believe that he will see all cases of outrage against my people shall be thoroughly investigated; that the guilty shall be punished and that the laws shall be vigorously executed; and in so doing he will most assuredly be sustained by the best public sentiment of the State.

Let me here observe, in all frankness and candor, that I am not entitled to nor can I accept your congratulations upon the democratic success in Louisiana, as I am and have been on the other side of the political question.

In reply to the question propounded in regard to the personal and political freedom of the colored people in our parishes, I must confess my inability to give you other information than that obtained from the public prints; yet it does give me the liveliest satisfaction to be able to assure you that in spite of all the asperities

engendered during the recent campaign in this parish no disturbance of any nature occurred, but each voter deposited his ballot unquestioned and undisturbed.

As an evidence of the good feeling existing in my own immediate vicinity, the Second ward of this parish, where the republican vote has a majority of about ten to one, John W. Austin, esq., was elected overwhelmingly a member of the police jury, though well known to be a conservative democrat, and his name was on the tickets of both parties.

I mention this fact to illustrate that in numerous cases and in various localities the white and colored people in Louisiana are daily drawing closer and closer toward the elucidation of political issues.

Very respectfully, your most obedient servant,

THEOPHILE T. ALLAIN,
Late Senator Fourteenth District of Louisiana.

Colonel E. J. W. BUTLER,
1520 *Lucas Place, Saint Louis, Missouri.*

But, sir, I cannot now pause to comment even upon these letters of these three able and prominent colored men, one of whom writes from the most northerly parish in the State, another from a central parish, and the third from the city of New Orleans, in the southern part of the State. I commend their careful perusal to those violent and vindictive partisans who are so ready to quote from such testimony as was manufactured to order for the use of the Teller committee. I commend their careful perusal to those honest republicans of the Northern States who wonder that States and districts that were once republican are now democratic. And I tell them in all candor the colored people have changed and are changing their political views, not from fear, not from coercion, but because their eyes are at last opened to the falsehood, the treachery, the shameless robberies, the utter faithlessness, the broken promises of their inexorable task-master, the republican party. Soon will the two races in the South be most perfectly united. Through years of darkness, of misrule, of lawlessness, they have been apart. They understand each other now. The best and kindliest relations will spring up. Each race will understand and confess its errors and follies and crimes and blunders, and then there will be a union of interests that will leave no room for the crime of the bulldozer or the robbery and plunder of the adventurer.

Mr. Chairman, God is just. Strangely does He sometimes move to the fulfillment of His infallible decrees of justice and mercy, but yet they fail not. By lawless means a lawless party sought to humiliate and dominate the patient and enduring South by setting the African to rule above her. But to-day she rules herself in all her States, and the element which was introduced for her humiliation has become a new source of strength and power.

I have thus sought to show that the colored race no longer votes solidly the republican ticket. I have sought to show that the causes which have produced this change are natural and powerful. I have done this to meet the charge that colored men in the South are denied the right to vote as they please and to take away the last excuse of the republican party for wishing these laws we now seek to repeal to remain upon the statute-book. I have dwelt upon this subject because good and honest republicans of the North have wondered why districts where the colored voters are immensely in the majority go now overwhelmingly for democratic candidates. If I shall have thrown some light upon this vexed question, and if I shall have demonstrated that colored voters exercise their rights as American citizens freely and fully, then I have also taken away the last excuse urged by the republican party for desiring Federal intervention in State elections, either by the presence of Federal troops or Federal marshals or Federal supervisors at the polls.

But, Mr. Chairman, I am warned by the advancing hands of the clock that but two or three minutes of my time remain, and I must hurry to a close. The gentleman from New Jersey, [Mr. ROBESON,] in the close of his elaborate speech, alluded with an eloquence and beauty of language which I cannot command to that noble citizen of Rome who, fully armed and mounted and glittering in all the paraphernalia with which the Roman knight was accustomed to meet the enemies of Rome, plunged fearlessly into the gulf which had opened in the Roman forum in order that the city might be saved.

Mr. Chairman, the South is reviled, misrepresented, calumniated, and wronged; her patriotism and her honor are all the time called in question; but let me say to those who revile and to those who doubt and misrepresent that she is prepared to make any sacrifice which fealty and devotion to this Government shall ever demand of her patriotism; and if a gulf should open in our midst, threatening the destruction of our Union and our Constitution, and naught but her sacrifice would close it and save this people, then, sir, do I believe she would come, not glittering in armor nor clad in the habilaments of wealth and power—for she has none of these—but with face as sad as that eternal sadness which looks forever from the marble face of sculptured Antinous and with the blood and tears of her recent crucifixion still upon her garments, and yet with a martyr's resolution in her heart and with courage such as never nerved a Roman's heart or strung a Spartan's arm, would she willingly make the sacrifice for the Constitution and the Union and for our common country, with all its mighty destinies. [Great and long-continued applause.]

Mr. KEIFER. Mr. Chairman, the reapers over this broad field of debate have had no Boaz to command them to purposely let fall handsful of the ripe harvest for gleaners who should come after them. I may be permitted, however, to glean among the sheaves. In what I have to say to-day I shall attempt no display of wit, rhetoric, or eloquence. We are called on to deal with a matter of supreme national importance; it behooves us to talk and act with propriety and sobriety.

If it were proposed to go forward promptly and provide the necessary appropriations to carry on the legislative and judicial branches of this Government, also for the necessary expenses of the several Executive Departments, and for the maintenance and support of the Army, I think no acceptable apology could be offered by me for occupying the time of this House in debate. Other things are proposed, however. At the last session of the Forty-fifth Congress there was abundant time to have made these appropriations, but the House of Representatives refused, and persisted in an effort to coerce a co-ordinate legislative branch of the Government into the repeal of certain laws (of which I shall speak as I proceed) in no way connected with the appropriations. Failing in that attempt, the last Congress adjourned without having performed one of its first and highest constitutional duties.

Both of the legislative branches of the United States being now democratic, it is proposed to persist in passing the requisite appropriation bills coupled with other legislation foreign to the subject of appropriations and radically changing existing laws. By threats, boasts, and defiance we are given to understand the President will be coerced to surrender his constitutional prerogative and to approve any legislation, however much against his judgment or vicious it may be, or no further appropriations for the purposes named will be made. With a bare majority in this House and only a small majority in the Senate, the democratic party threatens (for the first time in the history of the Government) to annul the veto power of the President by, if possible, intimidating him to approve such bills as it may pass. This high prerogative, wisely reposed in him by the Constitution, that party, in its mad and revolutionary career, says shall be rendered a nullity, or this Government shall have withheld from it the sustenance that gives it life.

The Constitution (second paragraph, seventh section, article 1) invests the President with a legislative power equal to one-sixth of each branch of Congress. He cannot refuse to exercise this grant of power, if in his judgment the rights of the people are about to be struck down through unwise legislation, without being recreant to his august trust. This power cannot be taken from the President in the manner proposed without making a long stride in revolution. Let us pause on the brink of so fearful an abyss!

It is vain to argue and read portions only of the Constitution to prove that all legislative power is vested in Congress. To the astonishment of many of us who know so well the legal attainments of two of my colleagues [Mr. MCMAHON and Mr. HURD] we have heard them read portions of the Constitution with an air of satisfaction, to try to show that the President has nothing to do with legislation, and while still panting for breath after having announced so utterly untenable a position, turn upon the President and warn and threaten him and the country with the direst consequences if he does not lay at the feet of the democratic party a constitutional power they so vehemently deny he possesses. We have listened in vain for their reference to and comments on the seventh section, article 1 of the Constitution, which gives the President the veto power. They and others pass it by as though it was not to be found in the instrument. I would do my colleagues injustice to suppose they had never read or heard of it. I do them ample justice when I say their ripe judgments taught them that no subtle reasoning would convince anybody, not even their democratic brethren, that its plain terms were meaningless.

It is true that all legislation originates with Congress, as all bills for raising revenue must originate in this House. (Section 7, article 1, Constitution.) If Congress should refuse to pass any bills we would have no legislation; if this House would originate no revenue bills there would be no new revenue laws; but this does not prove that Congress alone can make a law or that this House can alone provide for raising revenue. In the cases given these bodies can alone prevent legislation but cannot alone create it.

The President is given the sole appointing power under the Constitution, (save as to certain officers,) yet the Senate must advise and consent or his appointments fall. The reasoning of gentlemen would authorize the President to say to the Senate that it should advise and consent at his dictation. The Constitution is wisely made up of "checks and balances." We cannot too clearly understand the momentous question, the final issue of which now engages the anxious attention of above forty-five million of people, who are just emerging from an era of long suffering and distress, connected with, growing out of, and incident to our recent great and bloody war, and entering upon a new era of comparative prosperity and happiness. The party now in possession of both branches of Congress, in its initial proclamation of ascendency to legislative power, notifies the country that it will leave the legislative and executive branches of the Government unprovided for; that the administration of justice in the courts of the United States shall stop—"the wheels of justice" shall no longer revolve; and that the Army shall be disbanded and our frontiers be left unguarded, our forts and arsenals unmanned and unprotected, and the peaceable and law-abiding people and their property be left without security against domestic violence too great to be controlled by State and other authorities; or otherwise the officers and men of the Army shall go unpaid, unclothed, and unfed; and all this, unless the minority in Congress and the chief executive head of the Government will assent to the repeal of all United States laws

affording protection to citizens at the ballot-box from intimidation, murder, and violence, and which may prevent ballot-box stuffing, repeating, and other election frauds.

More briefly put, the democratic party now says through its members here that all United States laws shall be repealed which stand in the way of free frauds and open intimidation and violence at the polls, or it will withhold the necessary means to longer carry on the Government. This is the issue and this is the stake. If that party cannot be allowed to hold and control this nation through a violation of the purity and freedom of the ballot-box, then this Union shall no longer live. Is this the height, breadth, and depth of the patriotism of that party or the strength of the tenure of its love for this country. One member [Mr. BLACKBURN] goes even further, and in his candor and frankness tells us his party does not intend to stop with what is now proposed. In his speech of the 3d instant he said:

> For the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power; she proposes to celebrate her recovery of her long-lost heritage by tearing off these degrading badges of servitude and destroying the machinery of a corrupt and partisan legislation. We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book, which, like these, were born of the passions incident to civil strife and looked to the abridgment of the liberty of the citizen.

This should be a timely warning, but warnings are seldom heeded. Eleven years and more have rolled by since a national democratic convention, in 1868, declared all the reconstruction acts of Congress "unconstitutional, revolutionary, and void." The next step may be to repeal all laws for the punishment of treason or the suppression of rebellion; they are also of our war measures.

My friend from Virginia [Mr. TUCKER] and many on the other side of this House speak of their return to the Union, to the "long-lost heritage" of which the gentleman from Kentucky speaks. Their forced return was welcomed with a patriotic joy unspeakable. At their coming there were bonfires, illuminations, shouts, prayers, praises, and invocations all over the loyal North. The gates of the Union were set wide ajar that their coming might not be obstructed. If their return was voluntary the inducement to return was involuntary. The only condition of their return was that they should remain and be good citizens. Southern democrats were forced at cannon's mouth and bayonet-point to take the ballot in the Union. When General Lee's army surrendered at Appomattox, Virginia, and General JOHNSTON'S at Greensborough, North Carolina, long steps toward giving the South a free ballot were taken.

Generals Grant and Sherman with their armies made a free ballot in the Union and under the Constitution for democrats in the South possible. And still the Army is abused and maligned.

Paradoxical as it may seem, the democratic party can now boast of nothing good in it (if it really possesses any merit) that it does not owe to defeat in peace or war.

The republican party blazed the way for the democratic party South to return to the Union, and on its return led its members up to the ballot-box, rebaptized them with American citizenship, reclothed many of them with justly forfeited civil rights, among which is the right to hold office, and rehabilitated many of them with the right to again gather around the sacred shrine of constitutional liberty and worship at its purified altar, on which, for its preservation and perpetuation and for the benefit and glory of all mankind, there was immolated half a million of patriots.

It is my purpose and design to briefly discuss the nature of the legislation proposed to be forced on this country, but before proceeding to do so I desire to notice the so often cited supposed precedent, drawn from English history, as a justification of the revolutionary course now entered upon by the dominant party here.

The distinguished gentleman from Connecticut [Mr. HAWLEY] in his recent able speech has fully shown that in two hundred years of constitutional government no such attempt as this has been made in monarchical England, where originally all power was vested in the Crown. I wish to add that from the days when a House of Commons was first formed and made the depository of legislative power; from the reign of Charles I—1625 to 1639—through all the long, bloody, and angry civil strifes in England, neither the House of Commons nor any other organized power contending with the king for concessions made a proposition even to take the life of the kingdom unless concessions were granted by the crown. It is true subsidies for the crown, the princes, and for the elevation and maintenance of royalty have been refused, also money to carry on a foreign war not approved of by the Commons has been withheld, and only granted as an equivalent for regal concessions to an oppressed people. But in vain will search be made in the history of England for a precedent for the action now proposed. When, in the history of Great Britain or any other country before this, has a legislative body ever said to the chief ruler, "Give us a law such as we demand, surrender to us a section of your arch of power, or we will destroy our own nation?" It is reserved to an American Congress controlled by a revolutionary democracy to first enter upon any such suicidal policy. The proposition is not to withhold power or appropriations from the chief Executive of the nation, but to destroy the Government by a failure to perform a sworn constitutional duty necessary to the Republic's life.

I crave your attention while I review, briefly as possible, the objectionable features of the proposed legislation.

THE TEST OATH.

It is proposed to repeal certain provisions of the statute known as the jury law, fixing the qualifications of jurors, the substantive part of which is found in sections 820 and 821 of the Revised Statutes of the United States. There is, I believe, a general acquiescence in the repeal of section 820, which makes acts of insurrection or rebellion causes of disqualification and challenge of jurors in the United States courts. This section was, doubtless, wisely enacted, but its repeal can do no great harm at this day.

Section 821 should not be repealed, in my opinion, though perhaps no great public injury would result. It only gives the attorney for the United States the right to move, and the court, in its discretion, the power to tender to persons summoned as jurors, an oath or affirmation to support the Constitution, and that they have been guilty of no act of insurrection or rebellion against the United States, and, on their declining to take such oath or affirmation, discharge them from serving as jurors. There may still be cases where persons once engaged in rebellion should not sit in judgment upon acts of others involving the same elements of guilt. Under this section the whole matter is in the discretion of the court.

But we are not permitted to vote alone for the repeal of the test-oath laws. The proposition comes coupled with one requiring the whole plan of selecting jurors to be overturned. I believe for the first time in the history of the United States, or any of the States, so far as I can learn, party politics is to be forced by law into the jury-box. In addition to the repeal of certain sections of the law relating to jurors, we are asked to vote for a provision which requires the clerk and a commissioner appointed by the court of the "principal political party opposing that to which the clerk may belong" to select one name, alternately, until the required number of jurors is obtained; they, of course, to select from their political party friends. Should a political millennium be found in any United States court district where all should see eye to eye in politics, no jurors could be selected at all. (Just now it does not look like we are approaching a political millennium.) Such a law can only be properly characterized as infamous. Jurors selected for party reasons would feel that the law justified them in standing by their respective party friends. Verdicts would be in many cases, both civil and criminal, impossible, and such is the avowed purpose of the proposed legislation. Such a law would be unconstitutional. It certainly violates the spirit if not the letter of the first section of the fourteenth amendment to the Constitution. It would abridge the privileges and immunities of citizens of the United States. Greenbackers, nationals, socialists, independents, and non-partisans are to have no officer to put them on juries; they are practically denied if not rendered ineligible by law to sit upon a jury in the United States courts.

Mr. LOWE. Swallow both parties. We will take the whole jury

Mr. KEIFER. I understand that you are capable of swallowing far more than you can digest. [Laughter.]

Mr. LOWE. There is no republican party in Alabama. They met in State convention and there committed political hari-kari, and refused to nominate a ticket or arrange a platform.

Mr. KEIFER. Taken together, the proposition is to qualify those recently engaged in rebellion, and to disqualify those who (as greenbackers, &c.) do not belong to one of the two principal parties of the country from sitting as jurors. I protest against the insult and outrage.

This proposition comes, like the others, after mature gestation from the womb of a democratic caucus, although the member from Illinois [Mr. SPRINGER] appeared as the putative father of it.

SUPERVISORS, MARSHALS, ETC., AT THE POLLS.

This bill contains provisions for repealing all of substance of the present law authorizing chief supervisors and supervisors of elections chosen from different political parties to be appointed by a United States court, to see that there is an honest registration of voters in States where registration is required; to scrutinize, count, and canvass the ballots, &c., to the end that an honest, free, and fair election and count of ballots cast for Representatives and Delegates in Congress may be had; also for the repeal of the law authorizing the appointment to keep the peace by United States marshals of special deputies in cities of twenty thousand inhabitants or upward; and also the law defining the duties on election days of the marshal, his general and special deputies; also the only section of the statute providing a punishment for interfering with the discharge of the duties of such supervisors, marshals, &c.; also to modify the law so as in no case to require (only authorize) supervisors of election to attend at the polls on election days, and to prohibit them from canvassing the ballots cast.

The sections of the Revised Statutes sought to be repealed are 2016, 2018, 2020 to 2027, inclusive, and 5522; and section 2017 is to be modified by striking out of the first line the words "are required," and section 2019 by striking out all relating to canvassing ballots, and section 2028 by striking out all relating to "a deputy marshal," and the words "city, town, county, and parish."

If this bill passes in its present form it will take away all laws requiring marshals and their deputies to attend on election days and keep the peace and protect the supervisors of election. Supervisors (not chief supervisors) of election may still be appointed, clothed with authority (not required) to go to the polls and stand around with their

hands in their pockets, at the risk of their lives, so they may have the sweet boon of informing on and swearing against violators of the law. What a glorious privilege granted to an American citizen! And herein lies all the boasted merit of the retained portion of the law authorizing the appointment of supervisors of election—the privilege (not duty) granted by law of watching their neighbors, and then swearing against them at some future time! The only section (5522) of the statute which would afford such supervisors the slightest protection while enjoying this privilege is to be repealed in such way as to indicate that while the law does not make it a crime for supervisors of elections to be at the polls, it is perfectly proper to break their heads while there. Their own hands are to be tied against resistance, and there is to be no law allowing any interference on election days to prevent breaches of the peace, murder, &c., at the polls. There is to be at the polls free frauds and free crimes, unrestrained by law.

It is not necessary to have a law to grant the privilege to become an informer and a witness where a crime is committed. That is a privilege belonging to every man's "heritage." The democratic party (should their bills now pending become laws) can go to the country and say "it has considerately permitted free swearing after elections as well as free fraud in their conduct."

The section especially objectionable to democrats is the one (2022) authorizing the United States marshal, his general and special deputies, to keep the peace and to protect the supervisors of election in the discharge of their duties, and which authorizes all these officers to arrest at the polls, without warrant, persons who in their presence commit crimes against the election and other laws of the United States.

It should be specially noted that at the polls on election days, under the proposed law, all persons are to be held sacred and free from arrest for offenses against the laws of the United States, although committed in the presence of officers of the law.

The power and right of marshals and their deputies in discharging their duties to call to their aid bystanders or a *posse comitatus* are to be taken away by the repeal of section 2024.

Is the power to make arrests without warrant an extraordinary one?

My colleague [Mr. HURD] said these "supervising officers are armed with authority unknown in the history of the common law or State laws. They have authority at the day of election to make arrests without warrants," &c.

With due deference I insist that he is grossly in error both as to the common law and State laws. At common law, high sheriffs, constables, marshals, and all other like officers are authorized to make arrests on view and hold the accused until a legal warrant can be obtained. This right is supposed to belong to any citizen.

In my State, (Ohio,) where the shackles of the law sit easy on the good citizens, all the constabulary force of the State is required by statute to arrest and detain all persons "found violating any law of the State," &c., "until a legal warrant can be obtained." (Section 21, criminal code, 1869.) Another section (22) of Ohio's criminal code is as follows:

> Any person not an officer may, without warrant, arrest any person if a petit larceny or a felony has been committed and there has been reasonable ground to believe the person arrested guilty of such an offense, and may detain him until a legal warrant can be obtained.

Mr. HURD. May I ask the gentleman a question?

Mr. KEIFER. Certainly.

Mr. HURD. Will the gentleman read the section of the Ohio statute to which he refers?

Mr. KEIFER. I have just read one and have accurately quoted the substance of the other.

Mr. HURD. Which section has the gentleman read?

Mr. KEIFER. I read section 22 and quoted section 21.

Mr. HURD. What was the section the gentleman has just read?

Mr. KEIFER. Section 22 of the code which you drafted.

Mr. HURD. Will you please read it again so that I may call the attention of the House to it?

Mr. KEIFER. I have not time to do it now, but I will send it to the gentleman and he can read it.

Mr. HURD. I will state that the provision of the Ohio code to which my colleague refers authorizes the arrest of private persons only in cases where petit larceny or felony has been committed.

Mr. KEIFER. All that is stated in the law, but I cannot yield longer to my colleague. I will send the provision to the gentleman, so that he can read it at his leisure. He wrote it, and he ought to know all about it.

Mr. HURD. I will state that it contains the well-established principle of the common law that no citizen can be arrested except for felony or breach of the peace.

Mr. KEIFER. My colleague is in error; it authorizes arrests by private persons without warrant.

Mr. GEDDES. Will the gentleman allow me to ask him a question?

Mr. KEIFER. Certainly.

Mr. GEDDES. Will the gentleman explain the meaning of that clause in section 2022 of the supervisors act which provides that a Federal official may arrest a party who attempts or offers to commit one of the offenses named in the statute?

Mr. KEIFER. I will say to the gentleman that I will do that when I have more time than I have now, and as I proceed.

My colleague [Mr. HURD] will allow me to do him an honor by saying that he drafted these sections of Ohio statutes which so properly arms both officers and citizens with what he now calls extraordinary power. Many of the States have the same wise provisions in their statutes. It is a felony in Ohio to cast a fraudulent vote, and to commit other offenses against her election laws; and hence by law any officer or private citizen may arrest at the polls without warrant all such offenders.

The law now sought to be repealed does not authorize arrests to be made "without process for any offense not committed in the presence of the marshal," his deputies, or of the supervisors of election. With these limitations the statute confers no unusual or extraordinary powers, but very necessary and salutary ones. Only those desiring to offend against the election laws, or to abet offenders against them, or to gather the fruits of election frauds, would be expected to complain of the present statutes.

There may be imperfections in the law or wrong done sometimes in its execution, yet not such as to afford a good reason for blotting it out. The sun, the center and source of all light and heat, has its dark spots. Who would for that reason favor striking it from the firmament of the heavens?

SHALL PEACE BE PRESERVED AT THE POLLS?

There is danger that some gentlemen may be deceived at the adroitness in which the proposed legislation on the Army bill is stated in debate. My friend from Virginia [Mr. TUCKER] and other distinguished members hardly want to deceive themselves in this way.

The question is not, shall troops or armed men be used at the polls to prevent a free and fair election; but it is this: shall peace be preserved at the polls to secure a free and fair election? No person favors the use of the military or civil power to prevent a free, fair ballot, but the democratic party says, in effect, we shall not use the military or civil power to secure a free, fair ballot. The words "or to keep the peace at the polls" are to be stricken out of sections 2002 and 5528 of the statutes, thereby making it a high crime for any military, naval, or civil officer of the United States to put down violence or suppress open crime at the polls on election days. It is now by law a high crime for any of these officers to in any way hinder or prevent any person from voting. (Revised Statutes, section 2009.)

Existing law also prohibits officers or other persons in the Army or Navy from interfering with the right of a person to vote at any election. (Revised Statutes, sections 2003, 5529–5532.) A violation of these sections subjects the guilty to a fine of not exceeding $5,000 and imprisonment at hard labor not more than five years, and also perpetual disqualification from holding any office under the United States. (Section 5532.) These extraordinary penalties having been affixed to any violation of the rights of a voter by United States officers, it remains to be determined whether their use to suppress riots purposely gotten up to prevent a full, free, and fair vote should be made a crime.

The proposition of the majority on this floor is to, by law, countenance and promote violence and disorders by lawless persons at the polls on election days. Failing in this, the democratic party say the Union is not worth supporting. It values free fraud and unrestrained violence more than the country.

To amend the law as now proposed will paralyze the officers of the United States, so that at least on one day and at one place in each year the shield of the laws of this country will be thrown around those who may engage in any kind of violence which will prevent a full, fair, and honest expression of the will of the voters.

In all this long debate not one word has escaped the lips of any democrat in condemnation of the bands of lawless persons who are to be permitted to invade the polls. Nothing has been brought to the notice of Congress or the country during this long debate which tends to prove that the officers of the Government have ever prevented a single man from voting, and as he wished. The polls on election days should be a place of absolute peace. Disorders and violence are the forerunners of and incident to election frauds. What is the objection to peace at the polls?

It must be kept in mind that the legislation proposed makes it a crime for marshals and other officers in the civil service of the United States to suppress riots, &c., by the aid of an armed *posse comitatus* at the polls. It is not the employment of troops alone that is to be prohibited at the polls, but the civil power of the Government is to be suspended there. On a former occasion I said the democratic party favored free frauds at elections. From the legislation now proposed that conclusion is irresistible.

By statute (R. S., sec. 788) the duties of marshals and their deputies in executing United States laws are the same as sheriffs and other like officers in executing State laws. These officers have always been charged with the public duty of keeping the peace. They have been at common law and by statute authorized and required not only to suppress riots, &c., but to make arrests without warrant and detain persons found violating any criminal law or ordinance until a legal warrant could be obtained. Under this legislation the functions of all this class of officers are to be suspended at elections of members of Congress.

The real cause of complaint is not that officers charged with the duty under the present law of keeping the peace have failed to do

their duty, or that they have prevented legal voters from voting, but that they have overawed, or are likely to overawe, disturbers of the peace at the polls who engage in preventing, by intimidation or otherwise, the legal voter from voting, or who engage in promoting fraud by repeating and ballot-box stuffing. To accomplish this end the democratic party threaten, on failure, to stop the wheels of the Government and initiate revolution. The people will stand amazed in the presence of such a threat, but they will meet it with patriotism and their sovereign power.

Again and again during this discussion of the Army bill has it been said these two sections are unconstitutional. My colleague from Ohio [Mr. HURD] and my friend from Virginia, [Mr. TUCKER,] both justly distinguished for their legal learning, reiterate this view. I must be pardoned for differing with them. The sections, taken alone or separately, do not undertake to authorize anything to be done by any person; they are wholly prohibitory and restraining, not permissive, statutes; they make the use of troops or armed men at the polls a crime on the part of any United States military, naval, or civil officer; they only limit a power which may exist under the Constitution and laws. As has been so often said, these sections are not to be repealed, but only re-enacted so as to make it a crime (hitherto unknown) to keep the peace at the polls.

The claim of gentlemen, then, is this: that it is unconstitutional not to make it a penal offense to keep the peace where elections are being held. By necessary implication the proper officers should, as a matter of duty, keep the peace everywhere else.

During this debate it has often been stated that the legislation proposed on the Army bill is similar to English law. This is wholly untrue. The honorable gentlemen from Kentucky [Mr. KNOTT] and from Mississippi [Mr. MULDROW] somewhat astonished us by the confident manner in which they read English statutes to justify this legislation. I need hardly do more than invite attention to the laws quoted by them to convince every person that there is no possible similarity between the two. The English statutes read are mere police regulations for the government of soldiers (not officers) when not on duty; no reference is even made to the duty of officers or the powers of the Crown. The English statutes require soldiers quartered within two miles of election polls to remain in barracks, &c., when not on duty during an election. The proposed law would apply only to officers, military, naval, or civil. There is not even an inference to be drawn from the English statute that the government designed to limit its power through its officers to keep the peace at the polls or anywhere else. These English laws do not undertake even to regulate the conduct of all the soldiery, but only such as are quartered within two miles of a nominating or voting place; there is nothing prescribed as to the conduct of all other British soldiers at the polls. English statesmen do not make and keep for one hundred years a defective law on the statute-books.

The statute of George II was passed when England had quartered all over it troops, who often made election days an occasion for riotous and disorderly conduct. The statute was then and is still a wise one, and would be utterly unobjectionable in this country.

I give here the section of the statute of George II so often cited:

SEC. 2. *And be it enacted*, That on every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election; and that every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered.

The government of England has frequently used its army to suppress election riots in London and other large cities; notably at elections held during the exciting times pending the repeal of the Corn Laws, and also when financial relief was demanded. In Scotland and Ireland the army has always been used to keep the peace when election riots have occurred. Pending the struggle which resulted in the passage of the reform bill (in 1831) the election riots in Belfast and other places in Ireland were put down by the British army, and it alone could keep the peace at the polls. Recently as 1872, during election and other riots in principal cities of Ireland, growing out of the deadly strife between Catholic and Orangemen, English soldiers were used to keep the peace. By law also all the police and constabulary force of the kingdom are specially enjoined to keep the peace at elections.

It will be found that it was left to the democratic party of this country to attempt to legalize fraud, outrage, and violence at elections.

My friend from Virginia [Mr. TUCKER] gave an instance where in 1741 an English officer was, "on bended knee," reprimanded by the speaker of the House of Commons for, my friend says, "using troops at the polls." Not so; but for, under a pretense of quelling an "alleged riot at Westminster," assuming to control the election of a member of Parliament.

Under our law a similar offense would not be punished by a parliamentary reprimand, but the offender would suffer fine, imprisonment, and total disqualification from holding an office under the United States. (Revised Statutes, section 5532.)

WHAT ARE FREE SOUTHERN ELECTIONS?

It is now alleged that recently peaceful, free, and fair elections have been held in the Southern States under democratic rule, and Mississippi, Georgia, and other States are given as instances to prove the good effects of the "liberty of the citizen" at elections uninfluenced by troops or United States officers. We are often told that the colored men when left free vote of their own volition the democratic ticket. Peace and order are now said to reign at the polls in democratic Southern States.

An examination of election returns reveals to us some startling facts. If democratic claims were true we would expect to find a largely increased vote in these States, especially democratic vote. At the risk of being tedious I give here some figures showing the vote in years when it is alleged the bayonet and carpet-bag rule held sway in comparison with more recent elections, held wholly free from such rule and conducted on the broader principles of "democratic liberty." A few examples must suffice for the whole southern vote where the same conditions exist.

In the second district of Georgia the democratic vote in 1872 was 9,530, the republican 9,616; in the sixth district the democratic vote was 9,993, and republican 6,196; and in the eighth district the democratic vote was 7,437, and the republican 6,230. In 1878 the vote in the same Georgia districts was, second district, (Mr. COOK'S,) democratic 2,628, republican 6; sixth district, (Mr. BLOUNT'S,) democratic 3,192, republican 18; and in the eighth district, (Mr. STEPHENS'S,) democratic 3,673, and the republican 54.

In these three districts of Georgia the aggregate vote on Congress men in 1872 was, democratic 26,960 and republican 22,042, and with a democratic "free election" in 1878 the total in the same districts was, democratic 9,439 and republican 78. The democratic vote fell off from 1872 to 1878 over 60 per cent. (17,521) and the republican vote all vanished save 78.

The Mississippi election statistics are, if possible, more significant. The vote given is on Congressmen.

In the third Mississippi district in 1872 the vote was, democratic 6,440 and the republican 15,047; in 1878 it was, democratic (for Mr. MONEY) 4,025 and republican 686.

In the fourth district in 1872 the vote was, democratic 6,870, republican 15,595; in 1878 it was, democratic (for Mr. SINGLETON) 4,025, republican 0.

In the fifth district in 1872 the vote was, democratic 8,073 and republican 14,817; in 1878 it was, democratic (Mr. HOOKER) 4,816 and republican 686.

In the sixth district in 1872 the vote was, democratic 8,509, republican 15,101; and in 1878 it was, democratic (Mr. CHALMERS) 6,663 and republican 1,370.

The total vote on Congressmen in these four Mississippi districts in 1872 was 29,892 democratic and 60,560 republican; in 1878 it was 20,154 democratic and 2,050 republican.

In 1872 the republicans, by large majorities, carried each of these four Mississippi districts; but in 1878, when the democratic vote had fallen off 33 per cent., (or 7,738,) democrats were elected in each nearly unanimously. The republican vote went down from 60,560 in 1872 to 2,050 in 1878. The total vote fell off from 90,452 in 1872 to 22,210 in 1878. This is the fruit of a democratic "free" election in the South.

The member from the third district of Mississippi in 1878 received 2,295 less votes than Mr. Chisholm received in 1876, when he was returned as beaten. The gallant Chisholm and his heroic son and daughter, with many of his political friends, had met violent deaths for their temerity in 1876.

Democrats boast that in the elections in Mississippi and other of the Southern States in 1878 peace reigned; it was the peace and serenity which succeeds death. The work of the kuklux, white-liners, rifle clubs, democratic regulators, through intimidation, assassination, and crime unparalleled in barbarity, bore its fruits and established the rule of an armed and lawless minority over the timid majority, and the elective franchise was trampled in the dust. To an implacable and merciless opposition the people surrendered their political rights. When the people no longer struggle for their rights against lawlessness then democrats cry, "peace reigns." The Czar Nicholas of Russia, after exterminating all the inhabitants of certain districts in poor unfortunate Poland and making a wilderness of the country, called it "peace." By the proposed legislation these lawless democratic bands are in effect to be legalized. The figures given show that the colored men did not vote the democratic ticket but did not vote at all.

The honorable gentleman [Mr. STEELE] of the sixth North Carolina district who did me the honor in February last of answering with some feeling a five-minute speech of mine, then assured the House that I was in error when I charged fraud, intimidation, violence, and murder to be in election matters the allies of the democratic party; and he also then, and in his recent speech, assured us of the utterly peaceful character of elections in his State, and especially in his own district. I need not furnish any evidence to the contrary. He did not however tell us why the vote in his district dwindled down from 23,261 in 1872 and 27,539 in 1876 to 5,328 in 1878; and he did not stop to explain why the democratic vote (as reported) went down from 17,256 in 1876 to 4,908 in 1878, or why the republican vote of 10,561 in 1872 and 10,282 in 1876 all vanished in 1878 but 258 votes. These figures are at least suggestive of a great controlling cause which compelled the people of his district to forego the privilege of voting. People do not voluntarily surrender this high privilege.

I make no charge against the honorable gentleman, but I assure him that the figures make out a case of wrong somewhere. He compared his district for fairness in the election with my own, (fourth Ohio.) My democratic opponent received about the same number of votes in 1878 cast in the same year for the three democratic members from the sixth, [Mr. STEELE'S,] the seventh, [Mr. ARMFIELD'S,] and the eighth [Mr. VANCE'S] North Carolina districts, and he was still beaten by 5,100 votes in a district below the average of Ohio districts in population, and in which no suggestion of fraud was made by any person. My opponent received in 1878 about 1,000 more votes than were cast in that year in the second, sixth, and eighth Georgia districts, and he was overwhelmingly defeated, while the three honorable gentlemen from that State [Mr. BLOUNT, Mr. COOK, and Mr. STEPHENS] are now chairmen of important committees of this House. With more votes than it takes to elect three of the most distinguished southern democratic members of this House, a single northern democrat is left at home. Other examples equally strong could be given to show the result of such democratic rule.

It does not come with good grace from gentlemen to assail my party with the charge of preventing the people from voting. No case has been cited to prove that any voter has been prevented by the use of the Army under republican rule from voting. The most that can be said is that in some instances lawless democratic bands may have been prevented from taking possession of the polls. It is not for the mass of the people of the South for whom the democratic party pleads. That party never did plead for their rights in times past. Is legalized riots one of the methods by which "property, intelligence, and education will rule the land?" as says a distinguished Senator, [Mr. THURMAN.] Prior to the war, when there was so much eloquence expended over the rights and wrongs of the South by democratic orators, nothing was said by them of the rights and against the wrongs of any persons, white or black, save those interested in slavery.

The census of 1860 showed 12,240,000 population in the fifteen Southern States, 8,039,000 of whom were white, 251,000 free colored, and 3,950,000 were slaves. The same census showed there were 384,884 slave-holders in the United States, less than 5 per cent. of the total white population of the South. Only about 20 per cent., as statistics show, of the total white population of the South in 1860 were, through family relationship or otherwise, interested in slaves or slave labor directly or indirectly. It is still over the supposed wrongs of this one-fifth of the white population (or their immediate descendants) of the South that the democratic party had so long mourned and still mourn, utterly forgetting that the 4,000,000 colored people once held in slavery and the 80 per cent. of white people of the South, many of whom through the curse of slavery, socially and otherwise, were once worse off than the black slaves, possessed any rights to be guarded. The word "liberty" had no meaning for them.

The democratic party now, as in the past, in mockery cry out for liberty and the people's rights.

That party precipitated this nation into a civil war in which blood flowed in torrents for above four years to secure the supposed rights of one-fifth of the white people of the South, and to enable that few to forge new fetters for the feet of 4,000,000 of God's people. And now that the democratic rebellion has failed that old party, before the sulphurous smoke and fumes of a hell-born war have quite blown away, proclaims itself the champion of the people's liberties.

When we have that freedom of the ballot desired by democrats it will be when and only when that sacred few of the South alone shall be suffered to vote, to the exclusion of the great mass of the white voters and all the colored. Unless a speedy remedy is applied the figures given warn us the day is near when this so much desired object of the democratic party will be attained.

CONCILIATION.

It is also said that all these election laws should be amended or repealed in the interests of conciliation. What is conciliation so much talked about on the other side of this Chamber? Webster says it is "to win over; to gain from a state of hostility." Are the gentlemen on the other side of the House and their constituents in a state of hostility? We are told the war and the rebellion have been at an end for above fourteen years, and yet daily and hourly here conciliation is demanded.

This demand is sometimes made to ring in our ears coupled with a threat that without it the nation is still imperiled. The thing demanded is concession (not conciliation) of the great fundamental principles of a free government, those for which the best blood of the land was shed. Are we never to be through conciliating those who tried to take the Republic's life? It is unworthy of a patriotic people to be constantly crying "Conciliate us!" "Conciliate us!" lest we do not become or remain good and patriotic citizens. Those who laid down their treason with their arms should ask no conciliation and they now need no forgiveness. Out of the goodness and abundant thankfulness of the hearts of the loyal, patriotic people of this Union all this class of persons were forgiven when the bells rang out and the cannon pealed forth the joyful sounds of peace; that slavery was dead; that America's proud banner waved over none but the free; and that the Union was vouchsafed to us in all its integrity. Is conciliation all on one side? The North and my party demand nothing of the South but that her people, possessed of equal rights before the law, stand by the Republic now and for the future.

When, unwillingly, the South laid down its arms, the republican party handed her hitherto rebellious people the ballot, granted them amnesty and pardon, rehabilitated them with full and complete citizenship, and without ample guarantees for the future made them the peers in political rights and privileges of those who, under God, saved through blood and tears, at the cost of untold millions, the Union. This was conciliation superadded to high magnanimity and grace. The North may yet tire of southern democratic demands. If, however, conciliation can be made still more complete by the continued exerise of grace and forgiveness I am most sincerely and heartily in favor of it. But if concessions of cardinal principles are still further demanded, with no arrogance I hope, and without threat, speaking as I believe not only for my party but the truly patriotic people of this whole country, I warn those who make such demands that they will be successfully opposed not only in debate and by vote here and elsewhere, but, should the final arbiter be appealed to, on the bloody theater of war.

Mr. Chairman, many of us have been surprised to hear advocates of this legislation against the purity of the ballot-box demand it in the name of

LIBERTY.

In February last, Mr. Hewitt, of New York, made a speech here favoring this legislation and headed it "personal liberty of the citizen." Others have said they favored such legislation because they desired "the subordination of the military to the civil power." My colleague [Mr. HURD] says he is filled with joy to recollect "that the party of the Army is not in power in this Congress." Has it come to pass that the "personal liberty of the citizen" hangs on his power to perpetrate fraud and violence on election days? Does it not absolutely depend on his amenity to law in case he engages in either of those things? Is the "subordination of the military to the civil power" secured by protecting by law open violence at election polls? Would this not be under sanction of law the subordination of both the military and civil power to the licentious mob? Would it not be the enthronement of lawlessness and the overthrow of the highest and dearest rights of an American citizen?

It is true the republican party "is the party of the Army." I hope it will, in the future as in the past, invoke that strong arm of this Government as a last resort to save endangered constitutional liberty. What is liberty, civil liberty? The nature of true liberty ought in this country to be understood. Liberty and authority go hand in hand in a republic. Liberty unrestrained by authority is license. Authority unmitigated by liberty is tyranny. The instructed eye can see no liberty where there is no restraint. Liberty and law sternly confront each other; if the latter is withheld the former falls. Law is the fly-wheel to the great mechanism of constitutional liberty. It is our proudest boast to-day that events of the last score of years have demonstrated that our Government is strong enough to maintain itself against foreign or domestic foes, yet shorn by its organic act of all power to oppress or degrade its most humble citizen. None now are so high as to be above the law and none so low as to be beneath the protection of the law. Liberty teaches us to reverence and support authority as well as to withstand tyranny. The love of liberty which does not produce these effects is as hollow and hypocritical as a religion which is productive of immorality and an evil life. Seldom have the rights of the people been assailed or cloven down that it was not done in the name of "liberty" or "religion," as though a great wrong could be sanctified by a name.

In the language of the heroic Madame Roland, as she bowed reverently before a statue of liberty at her execution: "O Liberty, what crimes are committed in thy name!"

Secession, rebellion, and treason invoked the sacred name of liberty to shield from the broad glare of the civilized and Christianized world the shame, the infamy, and colossal crime of attempting to perpetually enthrone human slavery! In this country, under the disgraced mantle of the Constitution of our fathers, slavery in its direst form was long protected and perpetuated. War was the only remedy for the eradication of such national sins. The sacrifices of that war, manifold and terrible as they were, are more than compensated for by the result attained. Let not licentiousness be mistaken for liberty. Licentiousness is a lawless power too often indulged in under a pretense of liberty.

The poet Milton fitly characterized a class of persons, all of whom are not yet dead. He said they were those—

> That bawl for freedom in their senseless moods,
> And still revolt, when truth would set them free;
> License they mean, when they cry—liberty.

Let us cease this mockery in the name of liberty.

In conclusion, Mr. Chairman, I beg to say this Government would rightfully spring to arms to redress a wrong done to one of its citizens in a foreign land. Let it not be said that the broad shield of the Constitution and laws of the United States shall not be thrown over and around an American citizen at home.

I hope the Stars and Stripes shall ever be an emblem of liberty and protection for all citizens of this Republic on land and sea, at home as well as abroad. [Great applause on the republican side of the House.]

Mr. SPRINGER obtained the floor.

The CHAIRMAN. The gentleman from Illinois [Mr. SPRINGER] has fifteen minutes reserved by the gentleman from Louisiana [Mr. ELLIS] and ten minutes from the gentleman from Ohio.

Mr. SPRINGER. Mr. Chairman, the Constitution of the United States in the first article, and the first section of that article, provides that "all the legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and House of Representatives," and in the second clause in the fifth section of the same article it is provided that "each House may determine the rules of its own proceedings."

By virtue of these constitutional powers this House has determined the rules of its proceedings, and among those rules will be found Rule 120, which prohibits propositions changing existing law, except such as being germane to the subject-matter of the bill shall retrench expenditures. This House need not have passed that rule; it need not have had any rule on the subject, or when passing a rule it might have provided that all legislation should be upon appropriation bills. It is the exclusive province of the House of Representatives to determine its rules of proceedings and its methods of legislation. Whether it makes proper rules or not, or whether its rules be acceptable to the other departments of Government or not, there is no appeal from its action in making them, and we are alone responsible to our constituents for making them.

It is said that we have placed riders upon the appropriation bills. Suppose we have; who has a right to complain of that? Has the Senate the right to complain of it? The Senate can make its own rules. Has the President a right to complain of it? He has nothing to do with it.

This House having placed these provisions on the appropriation bills it is alone responsible for them. If the President of the United States should see fit in the exercise of the powers conferred upon him to veto a bill passed by this House and the Senate, he must find another and a better reason than that there were two subjects embraced in one bill.

But I deny that there is any rider upon the pending bill, or upon the Army appropriation bill which has already passed this House and is now pending in the Senate. What is a rider? The House of Lords defined in 1702 what a rider was, or a "tack" on supply bills as it was then called, by passing the following resolution:

That the annexing a clause or clauses to a bill of aid or supplies, the matter of which is foreign to and different from the matter of said bill of aid or supply, is unparliamentary and tends to the destruction of the constitution of this government.

Mark the words "foreign to" and "different from."

I accept the doctrine in its fullest extent as applied to the English Parliament. But what do the Commons say in regard to their power? On the 3d day of July, 1675, the House of Commons laid down this rule with regard to appropriation bills; a rule which has been accepted by the House of Lords and by all the other departments of the government of England from that day to this, over two hundred years:

That all aid and supplies and aids to His Majesty in Parliament are the sole gift of the Commons; and all bills for the granting of such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons—

Mark these words:

it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills—

What?

the ends, purposes, conditions, considerations, limitations, and qualifications of such grant: which ought not to be changed or altered by the House of Lords.

That rule has been in force for more than two hundred years. It was the law of England one hundred years before our fathers rebelled against the authority of that government. When our Constitution was made the framers were cognizant of these provisions and reserved to the House of Representatives the right to originate money bills. And reserving that right, we took with it also, in passing every bill appropriating the people's money, the right to say what limit should be placed on the appropriation, what conditions should be placed upon it, what end should be attained, what purposes should be subserved, and what should be the qualifications of the grant.

It is for this House to say what will be the limitation placed upon appropriation bills. And what have we said? In reference to the Army appropriation bill we have said this and nothing more: that we will appropriate money enough to support the Army in suppressing bands of hostile Indians; we will appropriate money sufficient to keep a force upon the Mexican border; but we will limit the expenditures to those purposes only, and will refuse to vote the people's money to pay for an Army to be used as policemen to keep the peace at election polls. We will not make an appropriation for transportation, for the salary of the officers or the pay of the soldiers in the discharge of that kind of service; nor will we furnish them subsistence while engaged in that work. And, in addition to this, we will say to those who control the Army, it shall be unlawful to use soldiers for any such purpose.

Is such a provision a rider? It is not; it never has been so considered by any legislative body in the world. What have we proposed in reference to the election laws? We have proposed to appropriate all the money necessary for the courts; we will appropriate all the money needed to pay the expenses of the Government. But we will pay nothing for marshals to keep the peace at any poll in the United States on election day, for we do not want their services, and we will not appropriate money for that purpose. We have made some other changes in this bill. We have refused to appropriate money for what is known as the Hayden survey, for we were of the opinion that service was no longer necessary for the Government. We failed to put in the bill an appropriation for such purpose. Would it be proper for the President to send the bill back with his veto saying, "I will forbid the paying of your own salaries; the paying of the salaries of the judges and the expenses of the courts, and the paying of the clerks in the Departments unless you put in the bill a clause appropriating money to pay for the survey of the public lands?" It is not the province of any other department of the Government to question our right to limit an appropriation or to abolish any particular service that has heretofore called for the expenditure of the public money.

It would be strange indeed if the Executive should veto a bill, not on account of what was contained in it, but on account of that which it did not contain. Such a use of the veto power would give the Executive and a minority in one House of Congress the power to dictate all legislation, or "starve the Government to death."

Let us examine the precedents in this country in reference to legislation upon appropriation bills. In 1846, on the 12th day of August, David Wilmot, of Pennsylvania, moved a proviso upon an appropriation bill. That proviso has taken his name and has become a part of the history of this country. The bill appropriated $3,000,000 for the purpose of carrying on the war with Mexico, and "the Wilmot proviso" made it an express condition that none of that money should be used for the acquisition of territory upon which slavery should exist. When that provision was offered in the House of Representatives a point of order was made upon it. The Chair overruled it, an appeal was taken, and the Chair was sustained by the House. The proceedings, as recorded in the Globe, volume 15, page 1217, are worthy of careful consideration, and are as follows:

Mr. Wilmot moved an amendment, to add at the end of Mr. McKay's modified bill the following:

"*Provided*, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall be first duly convicted."

The first section of the bill was still under consideration, and after some conversation the amendment of Mr. Wilmot was received as an amendment to this section.

Mr. Dobbin rose to a point of order. He contended that the amendment of the gentleman from Pennsylvania [Mr. Wilmot] was not in order, the subject of slavery having no connection with the bill.

The chairman overruled the point of order. The bill (he stated) appropriated a certain sum of money to be put at the disposal of the President. It was certainly competent on the part of the House to adopt a provision limiting the application of the money and providing that it should be applied only on certain conditions.

Mr. Dobbin appealed from the decision.

The question on the appeal was taken by tellers; and the decision of the chairman was sustained—ayes 92, noes 37.

Thus the amendment was decided in order.

That decision of the Chair and the House would to-day be denounced by some gentlemen as "revolution in Congress." The House at that time was democratic, having elected John W. Davis, of Indiana, Speaker by a vote of 120 against 72 for his whig opponent.

That is not all. There are other precedents in our history. In 1856 there was pending in this House the regular Army appropriation bill—just such a bill as we had before this House a few days ago. At that time a gentleman, who is now one of the President's advisers, Mr. John Sherman, was a member of this House. He moved to that bill an amendment in the following language:

Provided, nevertheless, That no part of the military force of the United States herein provided for shall be employed in aid of the enforcement of the enactments of the alleged Legislative Assembly of the Territory of Kansas, recently assembled at Shawnee Mission, until Congress shall have enacted either that it was or was not a valid Legislative Assembly, chosen in conformity with the organic law by the people of the said Territory: *And provided*, That until Congress shall have passed on the validity of the said Legislative Assembly of Kansas it shall be the duty of the President to use the military force in said Territory to preserve the peace, suppress insurrection, repel invasion, and to protect persons and property therein, and upon the national highways in the State of Missouri, from unlawful seizures and searches: *And be it further provided*, That the President is required to disarm the present organized militia of the Territory of Kansas, and recall all the United States arms therein distributed, and to prevent armed men from going into said Territory to disturb the public peace or aid in the enforcement or resistance of real or pretended laws.—*Congressional Globe*, volume 32, part 3, page 1790.

When that amendment was offered a point of order was made, and a republican chairman, Mr. Leiter, of Ohio, then presiding, sustained the point of order and ruled out the amendment. Mr. Sherman took an appeal from that decision, and the committee sustained the appeal, declaring in effect that the amendment was in order upon an Army bill. The question was settled, not by the decision of the Chair alone, but by the Committee of the Whole House; and on an appeal by Mr. Sherman, the committee declared that it was germane to an Army appropriation bill to declare that no part of the money appropriated should be used for the purpose of enforcing certain laws in Kansas; and also that it was germane, in connection with the appropriation, to impose certain duties on the Executive as a condition of the grant of supplies.

That bill, with the Sherman proviso, became then the first great measure of legislation that marked the advent of the republican party in this country. That was the first Congress in which the republican party had a majority, having elected Mr. Banks Speaker after a protracted struggle. The Senate and the President were democratic. The Senate refused to agree to this Sherman proviso;

and the House of Representatives, controlled by the republican majority, resolved to adhere to it. They did adhere to it until finally the session adjourned without making appropriations for the Army. On the 18th of August, 1856, the first Congress in which there was a republican House of Representatives adjourned without making appropriations for the Army, because the Senate would not agree to the limitations which the House proposed to couple with the appropriation. President Pierce convened Congress in extra session three days thereafter.

Thus it will be seen that the republican party signalized its first existence as a majority in this House by forcing an extra session of Congress rather than yield a provision which it had placed upon an appropriation bill to the effect that no part of the money should be used for purposes which the House deemed unjust.

I will refer before I conclude to speeches made at that time by Mr. Wade, Mr. Trumbull, Mr. Fessenden, Mr. Seward, Mr. Joshua R. Giddings, Mr. John P. Hale, Mr. Henry Wilson, and other gentlemen who were conspicuous members of the republican party, some of them in this House and some in the other; all of them sustaining the action of the House holding that these provisions were germane upon an appropriation bill, and that it was the right and duty of the House to maintain its dignity and authority by insisting upon such limitations. Among those speeches was one by the late Vice-President Henry Wilson, in which he took the position that, according to the rules of Parliament, it was the right of the House of Representatives to maintain a similar attitude in reference to appropriation bills; and he quoted at that time an article of Mr. Madison in the Federalist, whose language was not only indorsed by Mr. Wilson, but by Senator Seward and other republicans. It was the accepted doctrine of all the leaders of that party in Congress at that time. I call the especial attention of republicans upon the other side of the House and of the people of the whole country to the following extract from the speech of Mr. Wilson. He said:

These Senators have assumed to veil themselves in the garments of constitutional law and parliamentary authority. I intend to disrobe the honorable Senators. I mean to strip them so naked that the mantle of charity, which is said to cover a multitude of sins, will not hide their nakedness from the public gaze. The action of the House is pronounced unconstitutional by these Senators. Other Senators have repeated the declaration. Will these Senators condescend to inform the Senate what clause of the Constitution the House has violated by putting this proviso in the appropriation bill? Will these Senators point to the violated section or clause?

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But the House is sustained in this conflict by the authority of James Madison. His capacious mind conceived and his skillful hand framed many of the provisions of the Constitution. If any American statesman among the living or dead ever understood the intentions of the framers of the Constitution or the powers of that instrument, James Madison was that man. He has been fitly designated the father of the Constitution. In No. 58 of the fifth volume of the Federalist Mr. Madison says:

"The House of Representatives can not only refuse, but they alone can propose the supplies requisite for the support of the Government. They, in a word, hold the purse, that powerful instrument by which we behold, in the history of the British constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Senator Wilson unqualifiedly indorsed this doctrine of Mr. Madison and the fathers of the Republic, and proceeded at length in sustaining the conduct of the House of Representatives at that time in insisting upon the Sherman proviso. He said:

I submit to every candid mind that the action of the House is fully sustained by this authority of Mr. Madison. "The House of Representatives," says Mr. Madison, "can not only refuse, but they alone can propose the supplies requisite for the support of the Government." This declaration is full, ample, complete. If the House can refuse the supplies requisite for the support of Government, if it possesses this complete and effective weapon for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure, the occasion surely demands the full exercise of that power by the House, and in its firm exercise, to use the words of Madison, it will be sustained by the consciousness of being supported in its demands by right, by reason, and by the Constitution.

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That Senator went so far the other day as to tell us that the House knew the Senate was opposed to the proviso. Well, sir, supposing the House did know the Senator from Connecticut and his compeers on that side of the Chamber did not relish this proviso, were the members bound to surrender their own judgments to gratify the wishes and meet the exigencies of those Senators? Perhaps it would save a great deal of trouble if the Senate should send down to the House whenever it made a proposition that it would be distasteful to the Senate to send the matter up here. Such a sentiment is better fitted for the senate of Louis Napoleon than for this Chamber. This proviso is revolutionary, unparliamentary, unconstitutional, because the House knew that it was distasteful to the Senate. Sir, such a suggestion as this would excite a smile if uttered by a third-rate county-court lawyer in some justice's court. I dismiss it from this Chamber.—*Congressional Globe*, volume 32, pages 38, 39.

This was the opinion of the late Vice-President Wilson in 1856, when the cry of "revolution in Congress" was raised against the Sherman proviso.

If gentlemen will read the whole article quoted from the Federalist by Senator Wilson they will be surprised to find that the language of the extract quoted is used with reference to that provision of the Constitution guaranteeing to the States equal representation in the House of Representatives in accordance with population. Mr. Madison, referring to the objection that the smaller States, through their power in the Senate, might refuse to the States of larger population this equal and just representation, said, in substance: "Here is the remedy which the House of Representatives will have." I hold in my hand a volume of the Federalist, published in New York in 1788, at the very time when the Constitution was pending before the people of the United States—published for the purpose of influencing their judgment upon that question. Thus these views sanctioned by James Madison, who is recognized as the "Father of the Constitution," became a part of the understanding of the people in ratifying that instrument. I will not detain the committee by reading, but will ask to have printed as a part of my remarks the following extracts from speeches on the Sherman proviso in 1856 by prominent leaders of the republican party.

Senator Lyman Trumbull, of Illinois, commenting upon the Senate amendment to strike out the Sherman proviso, said:

Now, if the proposed amendment is agreed to, we are to send a bill back to the House of Representatives, and say to its members: Unless you stultify yourselves, unless you admit those laws to be valid which you have said were void, and unless you are willing to appropriate money to be used in the employment of troops to enforce laws which you said were so invalid that they could not lay the foundation for an election of a Delegate from the Territory, the whole Army appropriation bill is to be lost, and the consequences are to be upon the country. I say, sir, if the Senate is prepared to take such a course, it assumes the responsibility and the whole responsibility of the defeat of this appropriation. It comes to us as one bill. I hope, then, if the Senate should concur in the amendment proposed by the Senator from Virginia, that when the House refuses to agree to it better counsels will prevail, and the Senate will recede and acquiesce in this legitimate and proper bill, which comes to it from the proper department of the Government.—*Appendix Congressional Globe*, Thirty-fourth Congress, page 1093.

Senator Trumbull at another time pending the same question said:

That House has made ample provision for the Army, and the question is simply shall the House of Representatives be coerced into an appropriation of money to enforce laws which have been found to be void, or shall this appropriation bill go unpassed? I say, sir, the responsibility is here, and it cannot be charged that it is adopting a revolutionary measure; but the responsibility is upon the Senate which demands an appropriation of money to enforce bogus laws in Kansas.—*Globe*, volume 32, page 2231.

Senator William Pitt Fessenden, of Maine, discussed the parliamentary question and held the Sherman proviso to be germane to an appropriation bill. He said:

Are we to be answered by the honorable chairman of the Committee of Finance that such a provision is not germane to the bill? It is perfectly so; nothing could be more so. The Senator is learned in parliamentary history. Does he not know well that in the English Parliament from the earliest times not only have appropriation and revenue bills gone together, but in cases without number it has been the habit of that Parliament to check the power of the Crown by annexing conditions to their appropriations of money? It is not only not a new thing, but a very common thing in the history of all Parliaments. Does he not know that the only mode in which our ancestors of Massachusetts checked the powers of their royal governors was by granting money only on conditions? The power of supply and the power of annexing conditions to supply have always gone together in parliamentary history; and their joint exercise has never been denounced as a case of revolution, or calling for revolution, or tending to produce revolution, in any shape or form whatever.

Sir, it is a power essential to the preservation of our liberties. We do not wish to dissolve this Government; but unless we would destroy it, we must point out the mode in which the money we grant is to be used, or else submit to any use of it that the Commander-in-Chief may choose to select. It is the peculiar prerogative and right of Congress to control the Commander-in-Chief of the Army and to control the Army which they raise. Do gentlemen argue here that our only business is to make the appropriations for the support of the Army, and not question the use that is to be made of them? That we cannot annex any conditions to our grants of money—a power that has always been claimed as essential to freedom from the beginning of English liberty, which we inherit, and from the beginning of legislation in this country? Sir, the idea that we cannot annex conditions of that kind, restraining the power of our military officers, is a notion that, if admitted, would reduce us to worse than colonial bondage. It is the only protection we have, unless we choose to do in fact what the gentleman from Virginia says we must necessarily be considered as doing when we affix any condition of this kind to a grant of money—initiate a revolution.—*Appendix Congressional Globe, Thirty-fourth Congress*, page 1096.

Senator John P. Hale, of New Hampshire, said:

Mr. President, I understand this principle to be the great principle of English liberty incorporated in our Constitution, and it is the only means by which the Parliament of Great Britain have held the King in check. If we surrender it we shall give our own Executive an arbitrary power unknown to the Constitution, and not vested in the King of England. It is the only principle that is left of popular government by which the supremacy of the popular will can be maintained in this country or in England; and if we give it up to-day we may just as well give up the experiment of this Government.—*Congressional Globe*, volume 32, part 3, page 2230.

Representative Joshua R. Giddings, of Ohio, said:

And now, sir, I take the position which I have always maintained here for myself, and which I am unwilling in the midst of passing events to leave unproclaimed on this floor, and that is, that the people have a perfect, unlimited control over their own funds. We are the Representatives of the people here. We are their agents, sent here to deal out their funds, and it is not for the Senate or for the Executive to say that we shall appropriate them for any object revolting to the proper sense of justice and propriety. I lay down this as a principle too old and too well understood to be disputed at this day.

More than six centuries since, as early as June 15, 1215, at the field of Runnymede, it was extorted at the point of the sword from King John, and the British people have from that day maintained their dignity and their rights, and the British sovereign whenever he has negotiated a treaty with any nation approaches the Commons in the language of dependence, acknowledging the prerogatives of the people. It is an historical fact that the Crown of England approaches the Commons saying: "We lay this treaty before you that you may judge of the propriety of making an appropriation to carry it into effect.—*Congressional Globe*, 1856, page 2196.

Senator Benjamin F. Wade, of Ohio, said:

The House of Representatives have put this provision in their bill. No doubt it is proximate, it is legitimate, it is germane to the subject, when they appropriate money, to say how it shall be applied and how it shall not be applied.

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What use is there in having a House of Representatives if you sit here to dictate on what principle they shall grant money; if they must swallow your views whole or be guilty of revolution, what becomes of your Constitution? I ask, Mr. President, has it come to this that the House of Representatives is so imbecile under the Constitution that you must set yourselves up here as the arbiters of all things and dictate to them precisely what provisions their appropriation bills shall

contain, and if they do not favor your fancies you will defeat the most solemn appropriation bill that can be framed. You are willing to go to the people on this issue; so am I. I glory in taking it to the people.—*Congressional Globe*, volume 32, page 14.

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The Senator from Virginia tells us that if the House attempt to interpose a condition to an appropriation bill which they make, it is revolution. Well, sir, if to resist in any way measures like these is revolution, I say let revolution come. The pride of the American people, the principles of the American Government, demand revolution, if that be revolution. But is it revolution, Mr. President? Must the people's House of Representatives sit with their arms folded, and although the Constitution of the United States confers emphatically upon them the power to originate all revenue bills, (which comprises the power to place these grants of money on such condition as they see fit,) must they refrain from exercising their authority in an emergency like this? Is this the liberty of the American citizen, that the people's House, where there really is a representation of the people, where the wisdom of the fathers placed the taxing power, are leading to revolution by annexing a condition to the appropriation of the people's money—a most wholesome restraint, putting a curb in the mouth of the traitor who sits in the executive chair, now stimulating this country, as fast as he can do it, to civil war?

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I repeat, I am sorry to see at this time, with all the light which we have on the subject, a disposition to resist the will of the people's representatives, when that will is nothing under heaven but what meets the approbation of every just and unbiased man.

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I say the House of Representatives have done right. They have inserted no provision in this bill but what may be defended now and hereafter, before any just earthly tribunal, and before the Almighty God. There is not a single article in the proviso proposed to be stricken out which does not meet the approbation of every just and unprejudiced man. The House of Representatives, representing a vast majority of the people, in view of these enormities, endeavoring to put some slight, though I admit inadequate, check on them, have offered you this mild and equitable restraint on the Executive. Here we are told it is revolutionary, and therefore we must not breathe the breath of life into their action, but must permit it to go back to the House with our appeal to the House to recede. Sir, I do not know but that you may succeed under the idea that this is revolution; but, so help me God! I hope that the man who proposes to recede a hair's breadth from the action of the House will never find his way back again; and I do not believe he will.—*Globe, Appendix*, Thirty-fourth Congress, page 1091.

Senator William H. Seward, of New York, said:

The time was, and that not long ago, when a proposition to employ the standing Army of the United States as a domestic police would have been universally denounced as a premature revelation of a plot, darkly contrived in the chambers of conspiracy, to subvert the liberties of the people and to overthrow the Republic itself. The Republic stands upon a fundamental principle, that the people, in the exercise of equal rights, will establish only just and equal laws, and that their own free and enlightened public opinion is the only legitimate reliance for the maintenance and execution of such laws. This principle is not even peculiar to ourselves—it lies at the foundation of the government of every free people on earth.

It is public opinion, not the imperial army, that executes the laws of the realm in England, Scotland, and Ireland. Whenever France is free, it is public opinion that executes the laws of her republican legislature. It is public opinion that executes the laws in all the cantons of Switzerland. The British constitution is quite as jealous of standing armies as a police as our own. Government there, indeed, maintains standing armies, as it does a great naval force; but it employs the one as it does the other, exclusively for defense or for conquest against foreign States. Fearful lest the armed powers of the State might be turned against the people to enforce obnoxious edicts or statutes, the British constitution forbids that any regular army whatever shall be tolerated on any pretense. The considerable military force which is maintained in different and distant parts of the Empire only exists by a suspension of that part of the constitution, which suspension is renewed by Parliament from year to year and never for more than one year at a time. Civil liberty and a standing army for the purposes of civil police have never yet stood together and never can stand together. If I am to choose, sir, between upholding laws in any part of this Republic which cannot be maintained without a standing army, or relinquishing the laws themselves, I give up the laws at once, by whomsoever they are made and by whatever authority; for either our system of government is radically wrong, or such laws are unjust, unequal, and pernicious.—*Appendix to Globe*, Thirty-fourth Congress, p. 1108.

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If the founders of the Constitution had been told that within seventy years from the day on which they laid its solid foundations and raised its majestic columns a standing army would have been found necessary and indispensable merely to execute municipal laws, they would have turned shuddering away from the massive despotism which they had erected.—*Ib.*, page 1111.

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Since the House of Representatives has power to pass such a bill distinctly, it has power, also, to place an equivalent prohibition in any bill which it has constitutional power to pass. And so it has a constitutional right to place the prohibition in the annual Army appropriation bill. I grant that this mode of reaching the object proposed is in some respects an unusual one, and in some respects an inconvenient one. It is not, therefore, however, an unconstitutional one, or even necessarily a wrong one. It is a right one, if it is necessary to effect the object desired, and if that object is one that is in itself just, and eminently important to the peace and happiness of the country or to the security of the liberties of the people. The House of Representatives, moreover, is entitled to judge and determine for itself, whether the proceeding is thus necessary, and whether the object of it is thus important.—*Appendix, Globe*, Thirty-fourth Congress, page 1107.

What next? You come back to argument. You assert that the course of the House of Representatives in insisting upon this proviso is unconstitutional and revolutionary. My excellent friend from Massachusetts, in his very able speech, has given you the authority of the Federalist for the very power which the House of Representatives is thus exercising.—*Congressional Globe*, volume 32, page 50.

I commend these extracts from the speeches of the fathers of the republican party to those who are now proclaiming "revolution in Congress," because this House is now doing what was so laudable and patriotic in 1856.

POWER OF CONGRESS OVER ELECTIONS.

I will pass to another subject, namely, the power of Congress over the elections of Representatives. Section 4 of the the first article of the Constitution is as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

This provision should be construed in connection with the first clause of section 3 of article 1, which is as follows:

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Let us analyze these two provisions with reference to the power of Congress over the elections of Senators and Representatives.

The Constitution clearly recognizes the following provisions on the subject:

First. United States Senators shall be chosen by the Legislatures of the States.

Second. The times, places, and manner of holding elections for Senators shall be prescribed in each State by the Legislature thereof.

Third. Congress may at any time by law make regulations, or alter State regulations, prescribing the times and manner of holding elections for Senators.

Fourth. The times, places, and manner of holding elections for Representatives shall be prescribed in each State by the Legislature thereof.

Fifth. Congress may at any time by law make regulations, or alter State regulations, prescribing the times, places, and manner of holding elections for Representatives.

The Constitution of the United States is remarkable for the precision of its language. Hence I have sought to make the provisions in reference to the elections of Senators and Representatives a little more clear by setting forth each power recognized by the Constitution in a separate proposition. Each of these five propositions can stand by itself, and each recognizes a distinct and independent constitutional power or requirement. As to Senators, the choosing function is lodged in the Legislatures of the States, and the times, places and manner of electing Senators shall be prescribed in each State by the Legislature thereof. But Congress may at any time prescribe the times such elections shall take place, and the manner of holding the elections. As the senatorial elections must be by the Legislatures of the States, Congress cannot, in the very nature of the case, prescribe any regulations as to the manner of holding the election, which would authorize agents of the Government to supervise the election or to personally inspect and scrutinize the manner in which the voting was done, or to enter the legislative halls while the elections were progressing, or to challenge the right of any member of the Legislature to vote, or to count the votes when cast and attach certificates to the records of the Legislature. But Congress may fix the times, and may prescribe any regulations as to the manner, of holding the elections of Senators, which are self-executing—such, for instance, as that the voting shall be by ballot or *viva voce*, by separate houses or in joint convention. Congress has already gone to the very extent of its power on this subject by passing the act of July 25, 1866, the provisions of which are printed in the Revised Statutes, sections 14 to 19 inclusive. This act prescribes the times and manner of holding the elections for United States Senator. But the law sends no Government agents there to supervise the election or scrutinize the methods employed, or to challenge the votes of members, or to count the votes cast for Senators. The body to elect being a State agency, no Government agents can interfere with it. The gentleman from New Jersey, [Mr. ROBESON,] in his remarks in this House on the 23d instant, referring to this subject, said:

We have adopted the Legislature of that State as such, and we cannot by the Constitution so interfere with it as to destroy its character as a Legislature. We have adopted an organized body, an organized machine, full armed and equipped with all its functions.

But the gentleman was even more specific than this. I will read from the RECORD a question put to him by the gentleman from Alabama, and his answer thereto:

Mr. SAMFORD. Does the gentleman then concede that Congress has no power to send deputy marshals and supervisors into a State Legislature?

Mr. ROBESON. I concede that the Congress of the United States has no power to send supervisors into the Legislatures of the various States. I say the Constitution has adopted the Legislature of the State, and Congress cannot appoint new officers for it.

And further, in answer to a question put to him by the gentleman from Kentucky, [Mr. CARLISLE,] the gentleman from New Jersey [Mr. ROBESON] said:

I especially deny and disclaim the right of the United States to appoint officers of that Legislature who shall take part in its deliberations and actions. I expressly disclaim and deny the power of the United States to look to the qualifications of the members of that Legislature or to decide whether they are proper members of the Legislature or not. I say that by the Constitution we have accepted it as the State Legislature, and every member of it might be false and fraudulent, yet we would have no power to control it. But when that Legislature is organized, and acts, I say that no outside authority, neither individual nor the power of citizens, nor the power of a State, has the right to interfere with it, and that the United States, if need be, with all its power should protect and defend it in the exercise of its functions.

We can doubtless all agree as to the soundness of this conclusion. Congress cannot interfere with the Legislatures in their elections of United States Senators. The protection referred to by the honorable gentleman is doubtless that which is provided in the fourth section of the fourth article of the Constitution, and not that which the Army afforded, without invitation, the Legislature of Louisiana in January, 1875.

ELECTIONS OF REPRESENTATIVES.

While we may all agree as to the powers of Congress over the elections of United States Senators, there has been the widest diversity of opinion on the subject of the elections of Representatives in Congress. It seems to me that we all might get much closer together on this question if we would take the letter and spirit of the Federal

Constitution for our guide instead of consulting our own wishes or our party necessities.

I will restate the constitutional provisions on this subject as I have already analyzed them:

Fourth. The times, places, and manner of holding elections for Representatives shall be prescribed in each State by the Legislature thereof.

Fifth. Congress may at any time by law make regulations or alter State regulations prescribing the times, places, and manner of holding elections for Representatives.

The only difference in the force of the language of the two provisions is this: the State Legislatures "shall," the Congress "may," prescribe the regulations. It is universally conceded that the States are required by the Constitution to prescribe the times, places, and manner of holding elections for Representatives in Congress. That power of the States is complete, and the terms used—"times," "places," "manner"—cover the whole subject, everything necessary to be done in order to bring a private citizen from his home in the State and seat him here as a Representative on this floor. Whether this power is conferred upon the States or reserved by the States is immaterial. The power is expressly set forth in the Constitution, and under it the States may exercise all legislative powers necessary to carry into effect the constitutional provision. But while this is true, it is equally true that Congress may at any time by law exercise precisely the same power—that is, Congress may at any time by law prescribe the times, places, and manner of holding elections for Representatives in Congress.

I concede the power of Congress over the subject to be as full, perfect, and complete as the power of the States. If Congress in its wisdom sees fit to assume this power, it may prescribe the times, places, and manner of holding elections for Representatives and appoint its own agents for executing its provisions and for carrying its laws into complete effect.

I concede further the fact that the Constitution and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land, and that the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. The laws which Congress may pass in pursuance of the Constitution will override and supersede all State laws on the subject.

And while considering this provision of the Constitution I will ask the careful attention of members to the articles in the Federalist on the subject. I read from the fifty-ninth article, written by Alexander Hamilton:

> The natural order of the subject leads us to consider, in the first place, that provision of the Constitution which authorizes the National Legislature to regulate in the last resort the election of its own members.
>
> It is in these words: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."
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> I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this proposition, that every government ought to contain in itself the means of its own preservation.
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> * * * * * * *
>
> It will not be alleged that an election law could have been framed and inserted in the Constitution, which would have been applicable to every probable change in the situation of the country; and it will therefore not be denied that a discretionary power over elections ought to exist somewhere.
>
> It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably organized: that it must either have been lodged wholly in the National Legislature or wholly in the State Legislatures, or primarily in the latter, and ultimately in the former. The last mode has, with reason, been preferred by the convention. They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations, which, in ordinary cases, and where no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose whenever extraordinary circumstances might render that interposition necessary to its safety.
>
> Nothing can be more evident than that an exclusive power of regulating elections for the National Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs.

Mr. Hamilton, who wrote these provisions, and Mr. Madison, who is recognized as the father of the Constitution, are equally responsible for the articles in the Federalist. The articles all appeared, in the first instance, under the same *nom de plume* of "Publius," and were published in newspapers pending the adoption of the Constitution in order to influence the decision of the people on the question of its ratification or rejection. These two great expounders of the Constitution are universally recognized as the highest authority on questions of constitutional construction. And when it is conceded that the power reserved to Congress to make at any time regulations as to the times, places, and manner of holding elections for Representatives was so reserved for the manifest reason that the Federal Government should have within its own control sufficient power to secure its own preservation, it follows that the reserved power was ample for that purpose. The power reserved in the General Government, then, is ample to preserve the existence of this House without any assistance, co-operation, or agency of the State governments. If that be not true, the authors of the Constitution did not understand the meaning of the language they employed, and the people who ratified it did so under a misapprehension of its meaning.

When may Congress exercise its reserved power to make regulations as to the times, places, and manner of holding elections of Representatives? I answer in the language of Mr. Hamilton:

> Whenever extraordinary circumstances might render that interposition neces sary to its safety.—*Federalist*, No. 59.

Congress may "at any time" make the regulations, and Congress alone must judge of the necessity or propriety of assuming its power over the subject. Congress has already assumed and exercised its reserved power as to the time of holding elections for Representatives, and has fixed with certain exceptions the day, to wit, the Tuesday after the first Monday in November every second year. No one has denied the power of Congress to fix that day and require all the States to comply with it; and an election held upon any other day than that prescribed by Congress would be absolutely void. The power to regulate the manner of holding the election is equally broad and complete. But when ought Congress to exercise its reserved power to regulate the manner of holding elections for Representatives? The letter and spirit of the Constitution evidently contemplated that the States would be left to exercise this important function, and for seventy-five years they did exercise it without question. Mr. Hamilton, in the fifty-ninth article of the Federalist, quoted above, says upon this subject:

> They [the framers of the Constitution] have submitted the regulation of elections for the Federal Government in the first instance to the local administrations, which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory.

And further, the power—

> Must either have been lodged wholly in the National Legislature or wholly in the State Legislatures, or primarily in the latter and ultimately in the former. The last mode has with reason been preferred by the convention.

Mark the language of this important statement: primarily in the States, but ultimately in the General Government—not to be exercised by both at the same time, but primarily in the one and ultimately in the other. The power to pass a law implies the power to provide for its enforcement. A law may be self-executing, or such that its operation does not require personal agents to carry it into effect; such, for instance, as a law prescribing the time of holding an election. Or a law may require agents or officials to enforce it, as for example regulations as to the registration of voters, the receiving and counting of the ballots, and the making out of the certificates or returns of the election. Congress may pass laws making regulations as to the manner of holding elections for Representatives which are self-executing, and leave the States to make all such regulations as require personal agents or officials to carry the provisions into effect, without producing confusion or collision. But as long as State Legislatures are required to prescribe regulations which require personal agents or officials to carry them into effect, the power of the State is complete over such regulations and over the agents or officers who execute them. It is an axiom in natural philosophy that "two substances cannot occupy the same place at the same time." It is equally axiomatic that two legislative jurisdictions cannot take effect upon the same subject-matter and the same persons at the same time. Two courts may have jurisdiction of the same subject-matter and the same parties, but cannot exercise it at the same time: as, for instance, a State court has jurisdiction to naturalize foreign-born persons, to try suits in which a citizen of one State is plaintiff and a citizen of another is defendant, and to try persons for counterfeiting the money of the United States.

A United States court in the same district has also jurisdiction of such cases, but both courts cannot try the same case at the same time. While the State court is exercising the jurisdiction, the Federal court and the Federal Government and all its agents and officials must refrain from any supervision, scrutiny, or interference whatever with the proceedings; and *vice versa*. The proceedings of the State court can only be reviewed on appeal or by writ of error to the supreme court of the State. And the decision of the State supreme court is final, unless some law of Congress or the Constitution of the United States is in question, and then error may be prosecuted to the Supreme Court of the United States. This doctrine is in no way affected or modified by the provision for transferring certain cases from State courts to Federal courts before trial. While a State court is trying a person for counterfeiting United States coins or notes, or a civil suit between citizens of different States, or hearing the application of a foreigner to be admitted to citizenship, it is exercising a jurisdiction concurrent with the Federal jurisdiction. But while a State court is authorized to hear an application for admission to citizenship, the right of determining the question is in that court, and, as no appeal from the judgment of the court is provided for, the decision of admission is final, and the certificate of naturalization is a record of the court and entitled to full faith and credit in every other State. Will it be claimed that because Congress may, if it sees fit, deprive State courts of jurisdiction in matters of naturalization, it may also, while the court is authorized to exercise the jurisdiction, send a United States supervisor or marshal into a State court to supervise and scrutinize the proceedings, to take a position beside the judge, to interrogate the witnesses, and finally to deny the right of the court to admit the party to naturalization and to the rights of citizenship? Such an absurd claim has never been asserted, and never will be.

It would be just as unconstitutional for the General Government to attempt to send agents, supervisors, or marshals into a State Legis-

lature to supervise, scrutinize, and count the votes cast for United States Senators, and make out certificates and enter them of record on the journals of the Legislature. It makes no difference that the State Legislature has the exclusive power of choosing the Senators. The State court has, when exercising jurisdiction as to naturalization, the right to exercise that jurisdiction in its own way, according to its own understanding of the law, and free from all advice, interference, or outside supervision or scrutiny of any kind whatever. So with the judges of elections, acting under State law and receiving their appointment and deriving their jurisdiction from State laws. The three election judges in Illinois, for instance, constitute an organized body—a court of certain jurisdiction, limited it is true, but complete as to the subjects committed to it. They may administer oaths and determine, by a majority vote, all questions of law and fact which may arise as to the qualifications of any person offering to vote. They have clerks to record their proceedings. They must count, certify, and return the votes cast, and do and perform all other acts and things necessary to complete the receiving, counting, and returning of the votes cast.

The gentleman from New Jersey, [Mr. ROBESON,] as I have already shown, concedes that the Congress of the United States has no power to send supervisors into the Legislatures of the States when those Legislatures are engaged in the work of electing Senators, for the reason that, by the Federal Constitution, we have adopted the Legislature of the State as a whole, and it "must act according to its constitution as a Legislature." He further said: "Every member of it might be false and fraudulent, yet we would have no power to control it." For myself I cannot see the difference between the right of a court, of a Legislature, or of a board of election judges to perform their legitimate functions in their own way, free from all "outside authority." The one is as completely an organized body as the others. If the laws of Congress or the Constitution of the United States adopt either of them to perform for the Federal Government a particular function, or exercise a particular jurisdiction, the body adopted must perform its duties in its own way, according to its own rules and judgment, and under the laws creating their offices and defining their powers.

The judges of an election are State officers. In the State of Illinois they take the following oath before entering upon the discharge of their duties:

I do solemnly swear that I will support the Constitution of the United States and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of judge of election, according to the best of my ability.

Their duties are clearly laid down in the State laws, and these are the duties they take an oath faithfully to perform. Under the laws of the State of Illinois, all ballots are numbered with a number corresponding with the number of the voter on the poll list. But it is made a misdemeanor, punishable by fine of $1,000 and imprisonment for one year, for any judge or clerk of election to ascertain, by comparison of the poll-book with the ballot, or allow any other person to ascertain by such comparison or otherwise, how any elector voted at the election. By section 2018 of the Revised Statutes of the United States it is made the duty of United States supervisors of election "to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot," and by the preceding section they may inspect the "poll-books, registry lists, and other tallies or check-books." And by section 5522 of the Revised Statutes of the United States it is enacted as follows:

Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the cost of the prosecution.

This is one of the sections which we propose to repeal by the pending bill. In view of this sweeping provision and sections 2017 and 2018 which authorize the supervisors of elections to scrutinize the poll lists and the indorsements on each ballot, and the law of Illinois which inflicts severe penalties upon an election judge of the State who permits this to be done, what is the unfortunate official sworn to faithfully perform his duties to do in the premises? If he executes the State law and refuses the inspection, he is "liable to instant arrest without process," and to a fine of $3,000 and imprisonment for two years, and if he violates the State statute and permits the inspection, he is liable to a fine of a thousand dollars and to one year in the county jail. But this is not all. By the laws of Illinois, the judges are required to admit certain specified persons to the room where the election is held, and no others. Yet the law of Congress makes it unlawful to exclude the United States supervisors of election. The State judges are authorized to pass upon the qualifications of every person offering to vote, to prevent illegal or fraudulent votes from being cast, &c. But by section 2022 of the Revised Statutes of the United States, it is made the duty of the marshal and his deputies "to prevent fraudulent voting or fraudulent conduct on the part of any officer of election," and immediately, either before or after voting, "to arrest and take into custody, with or without process, any person who commits or attempts or offers to commit any of the acts or offenses prohibited herein," &c. If the State judges of election should decide to permit any person to vote, whose vote the marshal or his deputies might, in their wisdom, regard as fraudulent, or if they should do anything which these marshals might regard as "fraudulent conduct," an offense capable of indefinite expansion or contraction, according to the partisan zeal of the marshal, the judges would be liable to instant arrest without process. Upon the slightest pretext the State officials might be dragged from their places, and a mob of partisans, headed by United States marshals and their deputies, could take possession of the polls and make the further holding of the election an impossibility—all under the color of a law of Congress. Is it possible that such a law can be passed in pursuance of the Constitution? Have our fathers transmitted to us as a sacred legacy a fundamental law which permits such outrageous usurpation? I do not believe it.

The States are now required to provide election blanks, to pay for making out registry lists, to post notices of the elections, to furnish ballot-boxes, to pay the salaries of the judges and clerks of the election, and to provide suitable rooms in which the elections may be held. The blanks, ballot-boxes, and rooms are procured by the States at their own expense, and for the accommodation of their own officials. It has been heretofore universally understood that whatever person or corporation or body-politic purchased and paid for, belonged to such person and could be used and controlled accordingly. But that principle is now openly disregarded by the Federal election laws. The States are now required to rent rooms, purchase ballot-boxes and election blanks, and pay all the expenses thereof, and United States supervisors are authorized to make indorsements on the State's blanks and certificates, to remain with the State's ballot-boxes, exercising a joint custody over them, and to enter the room rented and provided by the State, and "there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed." It is strange that this arbitrary power did not go a little further, and require the States to furnish the United States supervisors and marshals suitable rations and sleeping accommodations.

We submit this plain question to the honest judgment of gentlemen on the other side of the House: Can two jurisdictions be made to operate upon the holding of the same election at the same time? Is not this as absurd as to subject a person to trial for the same offense in two different courts at the same time? One court might sentence the prisoner to imprisonment for life, and the other to be hanged.

If jurisdiction to hold an election for Representatives in Congress be derived from State laws, passed in pursuance of the Constitution of the United States, it is exclusively, over that particular election, in the State officers conducting it. But if such election is held in pursuance of Federal laws, passed in pursuance of the Constitution, the jurisdiction is exclusively in the Federal officers, so far as the holding of the election is concerned. The holding of an election is a judicial function, as well as ministerial. Two sets of officials, deriving their powers from separate legislative jurisdictions, cannot be required to perform the same official duties in respect to the same subject-matter at the same time and in the same place. Nor can one legislative jurisdiction or law-making power require the agents or officials of another law-making power to execute its laws when such laws may conflict with the laws of the other. No man can serve two masters.

UNDER WHOSE PROTECTION ARE THE VOTERS?

When a Legislature is engaged in the duty of electing United States Senators, the members in going to and returning from the Legislature are under the protection of the State constitution and laws. If their deliberations are threatened by domestic violence, they may call upon the President of the United States to protect them. If they are dispersed by a mob and cannot assemble, it would be the duty of the governor of the State to call on the President of the United States for aid, and it would be the duty of the President to respond with all available forces at his command.

If a State court is engaged in trying a person for the crime of counterfeiting, or in the business of hearing applications for naturalization, or in any other official duty, the witnesses and jurors must look to the court for protection in going to, remaining at, and returning from the court, and parties litigant must be protected in the presence of the court, by the court. This is true, although the State court is exercising a jurisdiction derived from the Federal laws as well as from the State. So in regard to the matter of holding an election for Representatives in Congress. If the officials holding the election are the officers of the State, acting in pursuance of State statutes, and deriving all their powers from the State, it is the duty of the State to protect such officers, and all persons who may be entitled to vote at such

election, in going to, remaining at, and returning from the same. But if Congress should at any time by law make regulations for holding elections for Representatives in Congress, and appoint its officers for conducting the same, then and in such case, the United States would assume the duty and obligation of protecting its officers while holding the election, and all persons who were entitled to vote, in coming to, remaining at, and returning from the same. In this way alone can collisions and conflicting jurisdictions be prevented.

The Creator of the Universe has so ordained his laws that no two stars will ever, under any circumstances, chance to meet at the same point in space. Otherwise the whole solar system would be a failure, and the earth and the stars might at any time come into collision. There must be harmony in the laws of man as well as in those of the Creator. Richard Hooker, nearly three hundred years ago, discovered this truth. He said: "Of law there can be no less acknowledged than that her seat is in the bosom of God—her voice the harmony of the world." When our fathers made the Constitution of the United States they conceived the great truth that there could be two governments in this country—one State and the other Federal—an *imperium in imperio*, each having its appropriate sphere, each sovereign in its own powers, and the rights, powers, and jurisdiction of each so carefully defined that their working together could be as harmonious and as free from collision and conflict as the movements of the earth and stars in space. The statesmen of the Old World do not understand this Federal and State system of government. And I am sorry that so many of our own citizens fail to see, or seeing refuse to recognize, the peculiar features of our dual system. If we will carefully examine the Constitution of the United States we will find it to be, if not the perfection of human wisdom, at least the best system of government ever devised by the wisdom of men. It has survived the vicissitudes of nearly a century of time; it has proven itself equally strong and effectual in peace and in war; it has the undoubted power of self-preservation; it may exercise all its functions without encroaching upon the rights of the States or infringing upon the liberties of the people.

But I must pass on. I concur, Mr. Chairman, with much of the speech of the gentleman from New Jersey [Mr. ROBESON] delivered a few days ago on this subject. I put this question to him now, "Are these laws which have been passed, known as the Federal election laws, constitutional? Does he hold them to be constitutional? Does he hold them to be made in pursuance of the power of Congress to prescribe regulations as to "the times, places, and manner of holding elections?" He nods assent. He does hold them to be constitutional. I am glad the gentleman has given his opinion. I am only sorry he was not a member of the last House at the last session when the Dean-Field case was before the House. The minority of the committee, represented by four gentlemen on the other side, held that this law was not made in pursuance of that authority, but was made in pursance of the authority to enforce the rights of citizens of the United States to vote in the several States of the Union.

The CHAIRMAN. The gentleman's time has expired.

Mr. SPRINGER. I hope I may be allowed to continue for a moment longer.

Mr. PHISTER. I hope the gentleman will be permitted to conclude his speech as he very seldom occupies the floor.

Mr. EWING. I will yield the gentleman one minute of my time.

Mr. SPRINGER. I ask that the time I may consume shall not be counted out of the time of the gentleman from Ohio. If it is I will not consume further time.

Mr. GARFIELD. Does this extend the time when the debate is to be closed?

Mr. BREWER. I object to extending the time.

Mr. SPRINGER. I will take the minute allowed me by the gentleman from Ohio. It appeared in the contested-election case of Dean against Field that two supervisors at each voting place—twenty in all—appointed under the authority of Congress had shown by their report that Mr. Dean, a democrat, was elected; but when that report came before us as part of the facts in the contested-election case, every republican on that side of the House refused to give any weight to the supervisors' count and instead took the count of three aldermen made at night-time three days after the election when no supervisors were present to supervise the count. Was that right? I ask the gentleman from New Jersey whether it was. I do not think he believes it was.

I promised to answer a question put to me by the gentleman from Maine a few days ago when I was in the chair as chairman of the Committee of the Whole on the Army bill, but my time will not now permit. I will merely say that the marshals under the statutes of the United States have all the powers that sheriffs have in the States and no more.

FEDERAL ELECTION LAWS LEFT IN FORCE.

It has been frequently stated that should the pending bill pass, all laws of Congress for protecting voters and punishing frauds at elections would be repealed. No greater mistake could be made. In order to completely refute this statement I will ask to have printed as a part of my remarks the election laws of the United States as they will stand if the repealing measures are passed. They are as follows:

TITLE XXVI.

THE ELECTIVE FRANCHISE.

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualification of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. (See sections 5530–5532.)

SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

SEC. 2005. When, under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote.

SEC. 2006. Every person or officer charged with the duty specified in the preceding section, who refuses or knowingly omits to give full effect to that section, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2007. Whenever under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done by a citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to vote, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act.

SEC. 2008. Every judge, inspector, or other officer of election whose duty it is to receive, count, certify, register, report, or give effect to the vote of such citizen, who wrongfully refuses or omits to receive, count, certify, register, report, or give effect to the vote of such citizen upon the presentation by him of his affidavit, stating such offer and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2009. Every officer or other person, having powers or duties of an official character to discharge under any of the provisions of this title, who by threats, or any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall forfeit the sum of $500 to the person aggrieved thereby, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2010. Whenever any person is defeated or deprived of his election to any office, except elector of President or Vice-President, Representative or Delegate in Congress, or member of a State Legislature, by reason of the denial to any citizen who may offer to vote, of the right to vote, on account of race, color, or previous condition of servitude, his right to hold and enjoy such office and the emoluments thereof, shall not be impaired by such denial; and the person so defeated or deprived may bring any appropriate suit or proceeding to recover possession of such office, and in cases where it appears that the sole question touching the title to such office arises out of the denial of the right to vote to citizens who so offered to vote, on account of race, color, or previous condition of servitude, such suit or proceeding may be instituted in the circuit or district court of the United States of the circuit or district in which such person resides. And the circuit or district court shall have, concurrently with the State courts, jurisdiction thereof, so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the fifteenth article of amendment to the Constitution of the United States, and secured herein.

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representative or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election.

SEC. 2013. The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

SEC. 2014. Whenever, from any cause, the judge of the circuit court in any judicial circuit is unable to perform and discharge the duties herein imposed, he is required to select and assign to the performance thereof, in his place, such one of the judges of the district courts within his circuit as he may deem best; and upon such selection and assignment being made, the district judge so designated shall perform and discharge, in the place of the circuit judge, all the duties, powers, and obligations imposed and conferred upon the circuit judge by the provisions hereof.

SEC. 2015. The preceding section shall be construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this title.

[Section 2016 to be repealed.]

SEC. 2017. The supervisors of election are authorized * * * to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry list, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

[Section 2018 to be repealed.]

SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, as will enable them to fully perform the duties provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

SEC. 2028. No person shall be appointed a supervisor of election under the preceding provisions, who is not at the time of his appointment, a qualified voter of the election district or voting precinct in which his duties are to be performed.

SEC. 2029. The supervisors of election appointed for any county or parish in any congressional district, at the instance of ten citizens, as provided in section 2011, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof.

SEC. 2030. Nothing in this title shall be construed to authorize the appointment of any marshals or deputy marshals in addition to those authorized by law, prior to the 10th day of June, 1872.

SEC. 2031. And there shall be allowed and paid to each supervisor of election compensation at the rate of $5 per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed, in any case, to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants.

CRIMES AGAINST THE ELECTIVE FRANCHISE.

SEC. 5506. Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be fined not less than $500, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment.

SEC. 5507. Every person who prevents, hinders, controls, or intimidates another from exercising, or in exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery or threats of depriving such person of employment or occupation, or of ejecting such person from a rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished as provided in the preceding section.

SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

SEC. 5509. If in the act of violating any provision in either of the two preceding sections any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offense is committed.

SEC. 5510. Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects, or causes to be subjected, any inhabitant of any State or Territory to the deprivation of any rights, privileges, or immunities, secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or by both.

SEC. 5511. If, at any election for Representative or Delegate in Congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious; or votes more than once at the same election for any candidate for the same office; or votes at a place where he may not be lawfully entitled to vote; or votes without having a lawful right to vote; or does any unlawful act to secure an opportunity to vote for himself, or any other person; or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State, or of any Territory, from freely exercising the right of suffrage, or by any such means induces any voter to refuse to exercise such right, or compels, or induces, by any such means, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interferes in any manner with any officer of such election in the discharge of his duties; or by any such means, or other unlawful means, induces any officer of an election or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same; or knowingly receives the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, or aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or omit to do any duty the omission of which is hereby made a crime, or attempt to do so, he shall be punished by a fine of not more than $500, or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

SEC. 5512. If, at any registration of voters for an election for Representative or Delegate in the Congress of the United States, any person knowingly personates and registers, or attempts to register, in the name of any other person, whether living, dead, or fictitious, or fraudulently registers, or fraudulently attempts to register, not having a lawful right so to do; or does any unlawful act to secure registration for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or other unlawful means, prevents or hinders any person having a lawful right to register from duly exercising such right; or compels or induces by any of such means, or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interferes in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induces any officer of registration to violate or refuse to comply with his duty or any law regulating the same; or if any such officer knowingly and willfully registers as a voter any person not entitled to be registered, or refuses to so register any person entitled to be registered; or if any such officer or other person who has any duty to perform in relation to such registration or election, in ascertaining, announcing, or declaring the result thereof, or in giving or making any certificate, document, or evidence in relation thereto, knowingly neglects or refuses to perform any duty required by law, or violates any duty imposed by law, or does any act unauthorized by law relating to or affecting such registration or election, or the result thereof, or any certificate, document, or evidence in relation thereto, or if any person aids, counsels, procures, or advises, any such voter, person, or officer to do any act hereby made a crime, or to omit any act the omission of which is hereby made a crime, every such person shall be punishable as prescribed in the preceding section.

SEC. 5513. Every registration made under the laws of any State or Territory, for any State or other election at which such Representative or Delegate in Congress may be chosen, shall be deemed to be a registration within the meaning of the preceding section, notwithstanding such registration is also made for the purposes of any State, territorial, or municipal election.

SEC. 5514. Whenever the laws of any State or Territory require that the name of a candidate or person to be voted for as Representative or Delegate in Congress shall be printed, written, or contained, on any ticket or ballot with the names of other candidates or persons to be voted for at the same election as State, territorial, municipal, or local officers, it shall be deemed sufficient *prima facie* evidence to convict any person charged with voting, or offering to vote, unlawfully, under the provisions of this chapter, to prove that the person so charged cast or offered to cast such a ticket or ballot whereon the name of such Representative or Delegate might by law be printed, written, or contained, or that the person so charged committed any of the offenses denounced in this chapter with reference to such ticket or ballot.

SEC. 5515. Every officer of an election at which any Representative or Delegate in Congress is voted for, whether such officer of election be appointed or created by or under any law or authority of the United States, or by or under any State, territorial, district, or municipal law or authority, who neglects or refuses to perform any duty in regard to such election required of him by any law of the United States, or of any State or Territory thereof; or who violates any duty so imposed; or who knowingly does any acts thereby unauthorized, with intent to affect any such election, or the result thereof; or who fraudulently makes any false certificate of the result of such election in regard to such Representative or Delegate; or who withholds, conceals, or destroys any certificate of record so required by law respecting the election of any such Representative or Delegate; or who neglects or refuses to make and return such certificate as required by law; or who aids, counsels, procures, or advises any voter, person, or officer to do any act by this or any of the preceding sections made a crime, or to omit to do any duty the omission of which is by this or any of such sections made a crime, or attempts to do so, shall be punished as prescribed in section 5510.

SEC. 5518. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

SEC. 5520. If two or more persons in any State or Territory conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote from giving his support or advocacy, in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of the Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

SEC. 5521. If any person be appointed a supervisor of election or a special deputy marshal under the provisions of title "The Elective Franchise," and has taken the oath of office as such supervisor of election or such special deputy marshal, and thereafter neglects or refuses, without good and lawful excuse, to perform and discharge fully the duties, obligations, and requirements of such office until the expiration of the term for which he was appointed, he shall not only be subject to removal from office with loss of all pay or emoluments, but shall be punished by imprisonment for not less than six months nor more than one year, or by a fine of not less than $200 and not more than $500, or by both fine and imprisonment, and shall pay the cost of prosecution.

SEC. 5522. [To be repealed.]

SEC. 5523. Every person who, during the progress of any verification of any list of the persons who may have registered or voted, which is had or made under any of the provisions of title "The Elective Franchise," refuses to answer, or refrains from answering, or, answering, knowingly gives false information in respect to any inquiry lawfully made, shall be punishable by imprisonment for not more than thirty days, or by a fine of not more than $100, or by both, and shall pay the costs of the prosecution.

SEC. 5528. Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, * * * shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

SEC. 5529. Every officer or other person in the military or naval service who, by force, threat, intimidation, order, advice, or otherwise, prevents, or attempts to prevent, any qualified voter of any State from freely exercising the right of suffrage at any general or special election in such State, shall be fined not more than $5,000, and imprisoned at hard labor not more than five years.

SEC. 5530. Every officer of the Army or Navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order, or otherwise, the qualifications of voters at any election in any State, shall be punished as provided in the preceding section.

SEC. 5531. Every officer or other person in the military or naval service who, by force, threat, intimidation, order, or otherwise, compels, or attempts to compel, any officer holding an election in any State to receive a vote from a person not legally qualified to vote, or who imposes, or attempts to impose, any regulations for conducting any general or special election in a State different from those prescribed by law, or who interferes in any manner with any officer of an election in the discharge of his duty, shall be punished as provided in section 5529.

SEC. 5532. Every person convicted of any of the offenses specified in the five preceding sections, shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States; but nothing in those sections shall be construed to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

Mr. EWING obtained the floor.

Mr. CASWELL. I ask the gentleman to yield to me for one minute.

Mr. EWING. I yield to the gentleman for one minute.

Mr. CASWELL. Mr. Chairman, when the democratic party came into power in this House four years ago we were promised retrenchment and reform, not only in the reduction of expenses, but in the manner and methods of legislation. Soon after Mr. Tilden, who was nominated by that party for President of the United States, in his letter of acceptance under date of July 31, 1876, denounced the very policy which is now being pursued by that party in both branches of Congress. I send to the Clerk's desk an extract from that letter which I desire to have read.

The Clerk read as follows:

We see to-day the immediate representatives of the people in one branch of Congress while struggling to reduce expenditures compelled to confront the menace of the Senate and the Executive, that unless the objectionable appropriations be consented to the operations of the Government thereunder shall suffer detriment or cease.

In my judgment an amendment of the Constitution ought to be devised separating into distinct bills the appropriations for the various departments of the public service, and excluding from each bill all appropriations for other objects and all independent legislation. In that way alone can the revisory power of each of the two Houses and of the Executive be preserved and exempted from the moral duress which often compels assent to objectionable appropriations rather than stop the wheels of Government.

Mr. CASWELL. Mr. Tilden, it seems, thought it so important that all extraneous matter should be excluded from appropriation bills that he recommended the adoption of a constitutional amendment forbidding it. Yet, in violation of these pledges, this House at the last session refused consent to the passage of the ordinary appropriation bills unless acts of a general nature—acts which they knew would provoke discussion and upon which the people were divided—should be attached thereto.

This extra session was called for the purpose of making those provisions, and for nothing more. As soon as we are assembled the democratic party celebrate their entrance to power in both Houses of Congress not to the purposes of the session, but by precipitating this long, extended discussion of questions not in the least material to the present necessities of the country, and though we have been here for five weeks or more, we are no nearer to-day the passage of the desired bills than we were when first assembled, not because there is disagreement upon the appropriations, the real objects of the session, but because that party are insisting upon legislation of another character and so unnecessary at the present time. Eighteen months will yet elapse before the laws of which they so much complain could in the least degree embarrass them.

Is this long, protracted session for an unnecessary purpose a saving of money? Is this retrenchment or reform? Are you justified in keeping this Congress in session with the great expense attending it for the repeal of laws which can in no way harm you or the country before ample time and opportunity will intervene for their consideration and repeal? But you say these laws are unconstitutional and a menace to the people. If they are unconstitutional they will do you no harm; but if binding, and you intend to carry elections by fraud or violence, I concede they are a menace to you and the officers appointed under them will confront you; if your purposes are honest, they are not. Again it is said this is a sectional contest. I deny it. We do not make war upon any locality. We make war upon fraud and obstruction to a free and fair election, whether we find them in South Carolina or New York, in the South or in the North; and I tell you if you strike these safeguards from the statute, either at this or any other session, the people will condemn you for it.

This very session, these pending amendments, this long and continued agitation are a menace to the business and industries of the country. All eyes are upon us. The revolutionary plans of the party here in power cause the people to tremble, for it is so apparent that you mean to overturn and strike down the very measures which have protected the country from annihilation and ruin. You may continue this contest; you may seek to destroy the laws which have preserved and protected the liberties of the people, under the cry of liberty as you interpret it, yet I tell you, gentlemen, before the campaign of 1880 is reached you will cry out for the hills and rocks to fall upon and cover your record from the face of the earth.

Mr. EWING addressed the committee. [His remarks will appear in the Appendix.]

MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having taken the chair, a message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, without amendment, the bill of the House (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The announcement was received with applause on the democratic side of the House.

Mr. GARFIELD. Wait; he laughs best who laughs last.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The CHAIRMAN. The gentleman's time has expired.

Mr. GARFIELD. I rise to move an amendment under the five-minute rule.

The CHAIRMAN. The Chair will state that under the order of the House the general debate has terminated and the Committee of the Whole is now under the five-minute rule.

Mr. ATKINS. Who has the floor?

Mr. EWING. I still have the floor, and move to strike out the last word.

Mr. GARFIELD. I do not object, but I believe I first rose to move an amendment.

The CHAIRMAN. The gentleman will not lose his right but will be recognized afterward.

Mr. ATKINS. I ask the gentleman from Ohio whether it will not suit his convenience just as well to speak to-morrow?

Mr. EWING. Certainly.

Mr. ATKINS. Then I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having taken the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, and had come no resolution thereon.

ENROLLED BILL.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; when the Speaker signed the same.

JURISDICTION OF FEDERAL COURTS.

Mr. TUCKER, by unanimous consent, introduced a bill (H. R. No. 1365) giving the consent of Congress to the jurisdiction of the Federal courts in actions of ejectment in which the United States is interested; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BAILEY. I ask unanimous consent to present joint resolutions of the State of New York.

Mr. LOUNSBERY. I object.

ABRAHAM ALSTEAD.

Mr. WHITE, by unanimous consent, introduced a bill (H. R. No. 1366) for the relief of Abraham Alstead, late second lieutenant Company A, Fifty-fifth Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted by unanimous consent to Mr. TUCKER, on account of the necessity of being under the treatment of a physician.

C. A. CUTTER.

On motion of Mr. FORT, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of C. A. Cutter, no adverse report having been made.

And then, on motion of Mr. ATKINS, (at five o'clock and seven minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Daniel Kernan, for pay for work done in the folding-room, House of Representatives—to the Committee of Accounts.

By Mr. BREWER: Papers relating to the pension claims of John Barton, of Willington V. Heusted, and of Joseph W. Seeley—to the Committee on Invalid Pensions.

Also, papers relating to the claim of William R. Moore—to the Committee on Military Affairs.

Also, resolution of the Legislature of Michigan, asking for the protection of settlers under the homestead law in certain counties of that State—to the Committee on the Public Lands.

Also, resolutions of the Legislature of Michigan, asking that permission be given for the construction of a bridge across the Detroit River—to the Committee on Commerce.

By Mr. BROWNE: The petition of 179 citizens of Indiana, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. CRAVENS: Papers relating to the claim John R. Pratt for pay for a horse lost in the service of the United States—to the Committee on Military Affairs.

By Mr. DIBRELL: A communication from Second Lieutenant W. H. Carter, Sixth Cavalry, in regard to promotions in said regiment—to the same committee.

By Mr. FINLEY: Three petitions of citizens of Crawford County, Ohio, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. HILL: The petition of Frank Partee, Lyman Langdon, and others, of Defiance County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. HURD: The petition of M. Boos & Son, for the amend-

ment of the revenue law relating to the bonds of rectifiers—to the Committee of Ways and Means.

By Mr. JOHNSTON: The petition of tobacco manufacturers of Richmond, Virginia, to amend section 3385 of the Revised Statutes of the United States in regard to cancellation of export tobacco bonds—to the same committee.

By Mr. JOYCE: Papers relating to the petition of Frank A. Page, late a second lieutenant United States Army, retired, to be restored to his former rank and position in the Army—to the Committee on Military Affairs.

By Mr. MARTIN, of West Virginia: Papers relating to the war claim of Joseph R. Shannon—to the Committee on War Claims.

By Mr. MILES: The petition of Jacob Wiedeman, guardian of Leopold Schmidt, for a pension—to the Committee on Invalid Pensions.

By Mr. MORSE: The petition of Charles W. Abbott, pay director, and W. W. Barry, passed assistant paymaster, United States Navy, for relief on account of the defalcation of R. J. O'Reilly, a paymaster's clerk—to the Committee on Naval Affairs.

Also, papers relating to the claim of John R. Farrell, for pay for subsisting and lodging recruits for the United States Army—to the Committee of Claims.

By Mr. MULLER: The petition of F. W. Fisher and others, of New York City, for the passage of the bill, introduced by Mr. COX, to amend title 53 of the Revised Statutes, relating to merchant seamen—to the Committee on Commerce.

By Mr. SHELLEY: Papers relating to the war claim of Agnes and Maria De Leon—to the Committee on War Claims.

By Mr. SLEMONS: Papers relating to the claim of William Moss, for pay for preserving the archives of the United States land office at Washington, Arkansas—to the Committee of Claims.

By Mr. SPARKS: The petition of 265 citizens of Illinois, against the further extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. UPDEGRAFF, of Iowa: The petition of 31 citizens of Fayette County, Iowa, for a law restricting the remedy for the infringement of patents to actions against manufacturers—to the same committee.

By Mr. VAN AERNAM: Three petitions from 130 citizens of New York, against the further extension of the Birdsell clover-huller patent—to the same committee.

By Mr. WAIT: The petition of Jacob Roth, for bounty and back pay—to the Committee on Military Affairs.

By Mr. WASHBURN: A paper relating to the claim of James D. Wood, for pay for a horse lost in the military service of the United States—to the same committee.

By Mr. WILLITS: Memorial of the Legislature of the State of Michigan, asking that authority be granted to construct a bridge across the Detroit River at or near Detroit, Michigan—to the Committee on Commerce.

Also, the petition of Mrs. D. L. Wood and other officers of the Woman's National Christian Temperance Union, Ann Arbor, Michigan, that no change be made in the internal-revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 26, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

On motion of Mr. SHALLENBERGER, by unanimous consent, admission to the floor of the House for to-day was granted to Governor Stone and several members of the Legislature of Pennsylvania.

ORDER OF BUSINESS.

Mr. ACKLEN. I demand the regular order of business. It is important we should have a morning hour; there are matters which should be disposed of.

Mr. BLACKBURN. I can imagine nothing of more importance than disposing of the appropriation bill which we have been discussing for three weeks, and I believe by agreement both sides of this House expect to reach the vote on it to-day.

Mr. ATKINS. General discussion closed yesterday at five o'clock, and so far as I have been able to hear the expression of members, the wish is to close all discussion and vote on amendments at two o'clock to-day.

The SPEAKER. That would give about two hours for debate under the five-minute rule.

Mr. ATKINS. To be equally divided between the two sides.

Mr. CONGER. I think that is time enough.

Mr. ATKINS. I move, then, to dispense with the morning hour.

The motion was agreed to, two-thirds voting in favor thereof.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. Before moving to go into committee, I move, by unanimous consent, that all debate be closed at two o'clock.

The motion was agreed to.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATKINS. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BLACKBURN in the chair,) and resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. EWING resumed and concluded the speech commenced yesterday. [See Appendix.]

Mr. GARFIELD. I move as an amendment to the pending bill to strike out lines 2006 to 2064 inclusive, commencing with the proviso.

I had intended to speak somewhat elaborately upon this bill, but I have preferred to give way for the sake of allowing those who had not spoken an opportunity to be heard.

I would not rise now to ask the attention of the House at all but for the sake of correcting a few plain misapprehensions and evasions in this debate. The gentleman who has just taken his seat [Mr. EWING] has said that I have led in an attempt to raise sectional feeling in the North against the patriotic people of the South. It is the old and absurd cry of a sectional North and a national South; that is, the thirty million people of the North and their Representatives, of whom he is one, are sectional, passionate, unkind; and the fifteen million of the "national-minded and patriotic" people of the South are suffering from the narrow and unjust sectionalism of the thirty million among whom my colleague and I live.

The gentleman reminds me of what he was pleased to call a patriotic sentiment of mine uttered at the last session of Congress, when I said what I am glad to have remembered, that in my judgment the man or political party who sought to raise sectional issues and revive the unhappy passions that ought to sleep in the graves of our dead on both sides was not patriotic, nor would he find an echo to his sentiments in the hearts of the best people of this country. I said that deliberately, with all the meaning that the words import.

The blindness that leads my colleague to call two-thirds of this nation sectional also leads him to think my denunciation of those who reawaken old sectional strife can apply only to republicans. Let him not forget the origin of the present controversy. Who raised this unhappy issue? Did any republican begin it? Was it not brought here by the predetermined caucus action of the democratic party? Was it not embodied in the declaration of your Senators and Members that if you could not force certain acts of legislation upon the statute-book you would never grant supplies for the support of the Government? That was the party and that was the act which raised this controversy, involving an issue never raised before in this nation; and because we meet it and denounce it you declare that those who stand by the orderly and constitutional methods are sectional and you who make the innovation are national!

Gentlemen, I took upon myself a very grave responsibility in the opening of this debate when I quoted these declarations of leading members on the other side and said that the programme was revolution and if not abandoned would result in the destruction of this Government. I declared that you had entered upon a scheme which if persisted in would starve the Government to death. I say that I took a great risk when I made this charge against you as a party. I put myself in your power, gentlemen. If I had misconceived your purposes and misrepresented your motives it was in your power to prove me a false accuser. It was in your power to ruin me in the estimation of fair-minded, patriotic men by the utterance of one sentence. The humblest of you or the greatest of you could have overwhelmed me with shame and confusion in one short sentence. You could have said, "We wish to pass our measures of legislation in reference to elections, juries, and the use of the Army, and we will do so if we can do it constitutionally; but if we cannot get these measures in accordance with the Constitution, we will pass the appropriation bills like loyal Representatives, go home, and make the appeal to the people."

The CHAIRMAN. The gentleman's time has expired.

Mr. TOWNSEND, of Ohio. I will take the floor and yield my time to my colleague.

Mr. GARFIELD. I thank you. Now any man speaking for the majority who had made that declaration, uttered that sentence, would have ruined me in the estimation of fair-minded men, and set me down as a false accuser and slanderer. Forty-five of you have spoken. Forty-five of you have deluged the ear of this country with debate, and that sentence has not been spoken by a single one of you. On the contrary, by your silence, as well as by your affirmation, you have made my accusation overwhelmingly true.

And there I leave that controversy. The assaults upon my speech have been, from the beginning to the end, evasions of the issue. What

have you said? Not less than thirty of you, in spite of my plain and emphatic declarations to the contrary, have insisted that I said it was revolutionary to put a rider on an appropriation bill, a thing that no man on this side of the House has said. You were guilty, gentlemen, and in this I include the gentleman from Pennsylvania, [Mr. KELLEY,] of what Sidney Smith once called "an indecent exposure of your intellects."

Mr. KELLEY. Did I misrepresent you when I said that your speech which lay before me had the title of "Revolution in Congress," and said if the gentleman believed that doctrine now he had undergone a mental revolution? [Laughter and applause on the democratic side.]

Mr. GARFIELD. I cannot yield out of my time.

If the gentleman had read my speech as well as the title, he would have read that in 1872, in the debate from which he was quoting, the democratic party on this floor said we should not consider an appropriation bill at all. I said to them, "You have a right to vote against it; you have a right to filibuster to get a chance to speak on it if need be; but when you say that the majority shall not act on an appropriation bill at all, because there is a rider on it, that is parliamentary revolution;" and so I say to-day, and the gentleman quoted that as though it were inconsistent with my present position, which is as that of 1872, that to refuse to act on the appropriations is revolutionary. In 1872 the democracy said the appropriation bill should not be acted on at all because a rider was on it. Now they say the appropriation bills shall not be acted upon at all unless there are "riders" on them. I resisted the democratic position then, and I resist them now.

Mr. KELLEY rose.

Mr. GARFIELD. I cannot yield, having but a few moments. The gentleman can obtain the floor afterward.

There is another point which I must touch to show the evasions which have been resorted to in this debate. The other side seeks to go before the country on pleas like these that stand as the heading of the speech of the distinguished gentleman from Virginia, [Mr. TUCKER:] "Elections by the people must be free from the power and presence of the standing Army." They seek to make the people believe that democrats in Congress are struggling to get the bayonets away from the breasts of the voters, and that we are striving to keep the Army at the polls. The democratic press is everywhere stating the issue in this way, that the republicans are defending an odious law, enacted amid the passions of the war, to authorize the use of the Army at State elections.

Now "behold how plain a tale shall put that down." On this side this proposition was made: if you find fault with the law of 1865, we will help you repeal it altogether. On the motion of the distinguished gentleman from Michigan [Mr. CONGER] every republican on this floor who voted at all when the Army bill was here voted to repeal *in toto* the law of 1865, which you complained of to the people as putting the bayonets at the breasts of the voters; and every democrat who sits here and voted at all voted "no." You would not repeal the law, but you would tell the people we were trying to keep it on the statute-books and you were trying to get it off.

[Here the hammer fell.]

Mr. DUNNELL was recognized and yielded his time to Mr. GARFIELD.

Mr. GARFIELD. I thank the gentleman for his courtesy.

Now, Mr. Chairman, our vote on that subject has put us beyond all cavil on this high and unassailable ground. We are willing and we have voted to repeal the whole of that law, and we even went so far as to put that repeal on the Army bill, and you voted against it. Now, never again go to the people and say you tried to repeal the odious law of 1865, and the republicans would not let you.

My colleague [Mr. EWING] who has just taken his seat says that the sections sought to be repealed by the bill now before us authorize unwarrantable and unconstitutional interference with elections in the States. He says that the supervisors and marshals are intruders at the election of Congressmen; that they have no constitutional right to be there, even as witnesses. Gentlemen, I never believed in State rights to the extent you did and do; but there is one thing concerning which I have always thought that the State came pretty near being sovereign. I suppose that all our States claim the right to have a Legislature of two houses, each house with a right to make its own rules, sit in its own separate chamber, and pass measures according to its own rules, and regulate the conduct of its own clerks. Yet, gentlemen, if you will read from sections 14 to 19 of the Revised Statutes you will find that the following has been done: The supreme power of the United States by force of national law has gone into the Legislature of every State in this Union, and said to them: "There is a certain Tuesday, the second Tuesday after you have organized, when you shall not fix your own time of meeting; when you shall not even adjourn over. You shall meet at twelve o'clock. When you meet you shall not vote by ballot; you shall vote *viva voce*. Your clerk shall call the roll. You shall vote for a Senator." The law prescribes how the clerks of both houses shall make the entries on their journals. If there is no election the clerk shall certify it; and then this national authority says: "If there is no election by the separate vote of the two houses the second day, I take your two houses and consolidate them into one. I abolish the distinction between senator and representative; put them into one hall, and hold them in joint session from day to day, and they shall vote as one body until a Senator is elected."

Who does all that to State Legislatures? It is done by a law of the United States passed in July, 1866, and no democrat has denounced it as unconstitutional; no State Legislature has made any opposition to it; and every one of the seventy-six Senators now at the other end of this Capitol holds his seat in pursuance of the operation of that law.

Mr. EWING. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Not in my five minutes; not at present. Now, if we can do all that unchallenged in a Legislature of a sovereign State, in the name of all that is reasonable, who will say that we cannot go among our own citizens and supervise and protect our own ballot-boxes where men are to be elected to seats on this floor? Your constitutional question is given away when you admit the supervisions there, as you do in this bill; still more decisively it is given away by the universal acquiescence in the law for electing Senators.

Mr. EWING. Not at all.

Mr. GARFIELD. The great danger of this country is that our sovereign may be dethroned or destroyed by corruption. In any monarchy of the world if the sovereign be slain or become lunatic it is easy to put another into his place, for the sovereign is a person. But our sovereign is the whole body of voters. If you corrupt or kill or render lunatic our sovereign there is no successor, no regent to take his place. The source of our sovereign's supreme danger, the point where his life is vulnerable, is at the ballot-box, where his will is declared; and if we cannot stand around that cradle of our sovereign's heir-apparent and protect it to the uttermost against all assassins and assailants, we have no government and no safety for the future. [Applause.]

Mr. EWING. I hope the House will allow me to ask the gentleman a question, and him to reply. I ask the gentleman, may we therefore authorize United States supervisors to inspect the officers of the house and senate of each State as to the manner of election when electing a United States Senator, and appoint marshals to back up the supervisors, and send out the Army to back up the marshals?

Mr. GARFIELD. Not at all. The gentleman from New Jersey [Mr. ROBESON] answered that by anticipation.

Our Constitution adopted the Legislatures of the States as our agents to elect Senators, at the times and in the manner which Congress may by law direct.

For the election of Representatives to this House we may set up all our own machinery if we please. We may adopt the State machinery, and superadd our own national superintendence and safeguards; and the safeguards which have already been established we will maintain and defend. [Applause.]

Mr. STEVENSON. Mr. Chairman, before this debate shall close I desire briefly to state the reasons which influence me in giving my support to the pending bill. This measure in its main features proposes the necessary appropriations for the legislative, executive, and judicial departments of the Government for the fiscal year ending June 30, 1880. It is not insisted by any gentleman upon this floor, nor has it been intimated by any officer of the Government, that the appropriations here proposed will not to the fullest extent meet all the requirements of the public service. They are, in fact, sir, conceded to be ample. The opposition to this bill, then, is not because of any alleged deficit in amount, but for the reason, and the sole reason, that other legislation is contemplated by its closing sections. To justify a vote against an appropriation bill—a vote which, if successful, must inevitably tend to impair if not to cripple the Government in its necessary functions—there must exist some solid and constitutional ground upon which to base our opposition. If hostility to this bill springs from no higher motive than the mere advancement of partisan purposes we can stand justified neither in conscience nor before the country. Let us, then, sir, calmly and uninfluenced by partisan bias examine this bill in all its parts and ascertain whether in any of its provisions there is aught which will justify this House in accomplishing its defeat.

As I have said, Mr. Chairman, the sums appropriated by this bill are conceded to be sufficient for the purposes indicated. This narrows the discussion to what have been called the political sections of the bill, and to these I shall address my argument. What, then, are the features of this bill which have been so bitterly antagonized upon this floor? What is the political legislation proposed which gentlemen deem of so monstrous a character as to justify them in voting against necessary supplies for the General Government? I shall, sir, endeavor fairly to state these measures, as well as the amendments offered in committee, and to discuss them in a spirit of candor. They are, first, the repeal of the statute requiring a test oath for jurors in United States courts; second, the repeal of the statute authorizing interference with the freedom of the ballot; third, the amendment dispensing with biennial examinations of pensioners; fourth, the amendment providing for issuing in payment of pension arrearages the $10,000,000 now held in the Treasury for the redemption of fractional currency; fifth, the amendment abolishing the southern claims commission.

Mr. Chairman, before proceeding to the discussion of the sections intended to be repealed by the pending bill it may be well to inquire whether the mode of legislation is itself novel or extraordinary. An examination of legislative history will show that the right to attach conditions to supply bills has ever been held with a firm hand by the representatives of the people, both in our own country and in

England. The pages of English history are full of instances where the Commons have by their control of the purse prevented encroachments of the Crown upon popular rights. The framers of our Federal Constitution expressly placed the power of originating money bills in the House of Representatives. Section 7 of article 1 of the Constitution reads:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Mr. Chairman, it is no difficult task to show that instead of the method proposed by the pending bill being "revolutionary" or even novel in its character it has been employed by all of the political parties which have administered this Government from the earliest period of its history. It has, sir, in fact, in late years, been the constant habit of the majority to attach extraneous legislation to the general appropriation bills. During the twelve years extending from July 5, 1862, to March 3, 1875, three hundred and eighty-seven acts of legislation were passed as attachments to general appropriation bills; all of which time the republican party had the majority in both branches of Congress. Many of these were measures of great political importance. Sir, whatever of censure may attach to this method of legislation must be largely shared by those who now condemn it. It is but just, however, to all parties who have practiced it to say that for the first time in our history has it been characterized as unconstitutional and revolutionary. During the debate in the Senate upon the Army appropriation bill in 1856, Mr. Fessenden, of Maine, a leading republican Senator, used the following language:

Does he not know well that in the English Parliament from the earliest times not only have appropriation and revenue bills gone together, but in cases without number it has been the habit of that Parliament to check the power of the Crown by annexing conditions to their appropriation of money? Does he not know that the only mode in which our ancestors of Massachusetts checked the powers of their royal governors was by granting money only on conditions? The power of supply and the power of annexing conditions to supply have always gone together in parliamentary history; and their joint exercise has never been denounced as a case of revolution, or calling for revolution, or tending to produce revolution in any shape or form whatever. It is a power essential to the preservation of our liberties.

And while the same bill was under discussion, Senator Seward, of New York, distinguished alike as a jurist and statesman, said:

Since the House of Representatives has power to pass such a bill distinctly, it has the power also to place an equivalent prohibition in any bill which it has constitutional power to pass. And so it has a constitutional right to place the prohibition in the annual Army appropriation bill. It is a right one if necessary to effect the object desired and if that object is one that is in itself just and eminently important to the peace and happiness of the country, or to the security of the liberties of the people. The House of Representatives, moreover, is entitled to judge and determine for itself whether the proceeding is thus necessary, or whether the object of it is thus important.

The Representatives from the State of Iowa now holding seats upon this floor do so by authority of a statute attached to an appropriation bill passed while the republicans were yet in the ascendency. In the face, sir, of such authority and such precedents the cry of "revolution" is worse than idle.

JURORS' TEST OATH.

By sections 820 and 821 of the Revised Statutes all persons who bore arms against the Government or in any manner aided or abetted its enemies during the late rebellion are disqualified from acting as grand or petit jurors in any of the courts of the United States. This inability arises from the clause requiring the following test oath to be taken before entering upon such service:

You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States.

Can any gentleman suggest any necessity for longer retaining this law upon our statute-book? Under it a large proportion of the more intelligent citizens of the Southern States are excluded from the jury-box. Their political disabilities have in all other respects been removed; and while qualified to sit as Senators and Representatives in Congress, to hold Cabinet appointments, or the highest judicial positions, they are by this statute disqualified from serving as jurors. The Postmaster-General of the United States, a distinguished Federal judge, as well as many other appointees of President Hayes to high office, are incompetent jurors under the statute in question. No reasonable objection, I think, sir, can be interposed to its repeal.

FREEDOM OF ELECTIONS.

Mr. Chairman, the remaining sections which it is proposed to repeal are restraints upon the freedom of elections. It would be difficult to conceive of a question of higher moment or which more vitally concerns the sacred right of the citizen than that of the exercise of the elective franchise free from apprehension of unauthorized arrest and imprisonment. This is the chief corner-stone of all his other rights and privileges. The history of our race, both in this country and in England, is a succession of struggles against encroachments upon the rights of the people. During a period of eighty years of our history no laws such as we now seek to repeal were to be found upon our statute-books.

Mr. Chairman, are these laws salutary; do they accord with the spirit of our free institutions; is there a necesity for their continuation? The framers of our Federal Constitution, men who were deeply read in political science, wisely separated the powers of government into three co-ordinate departments, the legislative, the judicial, and the executive. Each of these, while in one sense a check upon the others, was nevertheless in its own sphere supreme. Their respective powers were clearly defined by the Constitution. To the legislative was confided the enactment, to the judicial the interpretation, and to the executive the execution of the laws. An infringement by either of these upon the prerogatives of the others was, by express terms, guarded against by the framers of the Constitution. In order that the legislative department of the Government, that in which the power of the people is most clearly manifested, should be left wholly under their control, the election of Representatives was guarded with great jealousy. Their perfect independence, so essential to the preservation of popular rights, could only be secured by a free ballot. It was thought the liberty of the citizen would rest upon a slender foundation if upon the day when power returned to his own hands he was liable to executive interference.

Now, sir, what is the question at issue? What is the legislation sought to be repealed by the pending bill? As I have said, Mr. Chairman, for eighty years of our history no laws which trenched upon the freedom of the ballot were to be found upon our statute-book. If the statutes under discussion by executive interposition trammel the elector in his choice of Representatives, it is clear that they are inimical to the letter as well as the spirit of the Constitution. The Executive in the exercise of the legitimate functions of his office cannot be restrained. His perfect independence is essential to the maintenance of Government. But it is none the less important that the law-making power should be freely exercised without restraint upon the part of the Executive.

It should be remembered that these laws abridging the rights of the people in the choice of their Representatives, were enacted either while the country was engaged in war, or just emerging from the chaotic condition which war had produced. They could never have received the sanction of a free people in a state of profound peace. The words of the distinguished Senator from Illinois, [Mr. DAVIS,] in his recent speech upon the Army bill, are worthy of the earnest consideration of the American people:

In the opinion of the patriots of that day the state of feeling in certain parts of the country was of such a character as to endanger peaceful elections while the war lasted, unless a military force was kept in readiness for any outbreak of popular commotion. This was the conviction that prompted the legislation, but I venture to say no one of the eminent men who voted for it intended or expected that it would remain a part of the permanent law of the land. They were too well read in the lessons of history and the traditions of the Anglo-Saxon race to believe that a free people would tolerate—except on great emergencies like a war waged for the maintenance of the Union—the interference of the military in civic concerns. And they were men of principle and did not wish it to be otherwise.

It is no new thing in time of peace to repeal a law passed in time of war. Indeed, no wise statesman will hesitate to do it if the law be unsuitable to the changed condition of things. It is a part of the very nature of every man of our race to rebel against anything which interferes with the freedom of elections, and the days of the Republic are numbered if the people ever consent to place the ballot-box under the protection of the bayonet.

Is there a necessity, Mr. Chairman, for the continuance of these laws? Are they to be permanent? Are the liberties of the citizen safe when he can be obstructed in the choice of his Representative, whether by the armed soldiery or deputy marshals? What is the monstrous power which gentlemen upon the other side so earnestly seek to perpetuate? A statute of the United States, by virtue of which deputy marshals may be appointed without limit as to number, who are required by law to be present at the places where the elections are being held. They are permitted, without process or warrant, without affidavit being made that any law has been violated, to make arrests, and this not only of the electors but of any officer of the State government who may be conducting such election.

More than this, sir. This statute authorizes such deputy marshals to arrest any voter when they may think he is about to violate any law. He is to be arrested, not for the actual commission of an offense, but whenever in the judgment of a partisan official there is an apprehension that he may do so. A kindred power to this can be found ingrafted upon no other statute-book either in our own country or in England. This clause absolutely places the citizen at the mercy of subordinates, and that upon the day when above all others he should be unrestrained in his liberty. I refer, sir, to the peaceable, orderly citizen, who has the lawful right to deposit his ballot. Under this particular clause of the statute he is as liable to arrest as though he were a malefactor. The objection is that the power to arrest is vested in any official of high or low degree, except for the actual commission of an offense or upon a lawful warrant. He who believes that the American people will consent that their liberties may be permanently held by so brittle a tenure has studied the history of our race to little purpose. This question, sir, rises far above the plane of mere partisan politics. In the mutations of party supremacy those who so earnestly defend this policy may be compelled to press the bitter cup to their own lips.

It must be remembered that this is in no sense a sectional controversy. The people of the North have far greater interest in the pending bill than the South can have; a more vital interest, from the fact that because of excess in population they are more nearly affected by it. Upon this question and that of the comparative cost of maintaining deputy marshals and supervisors at the polling places I am

indebted to the gentleman from Kentucky, [Mr. CARLISLE,] his summary being from official sources. He says:

According to the census of 1870 there were sixty-nine cities in the Union to which the most offensive and objectionable parts of these laws are applicable, fifty-five of them in the North and fourteen of them in the South. The fifty-five in the North contained a population of nearly five millions of souls, while the fourteen in the South contained only a little over one million and two hundred thousand. If we look at the expenditures we will find that more than five times as much money was disbursed in the years 1876 and 1878 to pay for the services of supervisors and special deputy marshals of elections in the Northern States as in the Southern States. The whole expenditure in 1876 was $275,296 60, of which the sum of $230,522 was paid for services in six Northern States, and only $44,774.60 for services in the South. In 1878 the whole sum expended was $202,291.09—so far as reported—and of this the sum of $177,652 was on account of services rendered by these officers at elections in the same six Northern States, and $24,639 in the whole South.

Sir, the purity of the ballot-box must be maintained. None should be permitted to approach it except such as have the lawful qualifications. To these the pathway must be unobstructed. Every necessary guard must be thrown around it to protect it against fraud. But, sir, while this is true, it is all important that the right of the people, unawed by menace, to elect their Representatives shall not be abridged. Upon the full exercise of this right depends not only the maintenance of the independencee of the popular branch of our Government, but of the integrity of the Government itself.

PENSIONS.

I come now, Mr. Chairman, to the discussion of the amendment offered by the gentleman from Ohio [Mr. MCMAHON] and adopted in committee, and now a part of the pending bill. That amendment has my earnest approval. It is as follows:

Sections 4771, 4772, and 4773 of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever in his judgment the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony except as to the certificate of the examining surgeon. In order to provide for the speedy payment of arrearages of pensions the Secretary of the Treasury is hereby authorized and directed to issue immediately in payment thereof, as they may be adjusted, the $10,000,000 in legal-tender currency, now in the United States Treasury, kept as a special fund for the redemption of fractional currency under section 1 of joint resolution 17 of the Congress of the United States, approved July 22, 1876.

I am unable, sir, to discover why any gentleman who desires to do justice to Union soldiers should oppose this section of the bill. It relieves the large proportion of pensioners from the trouble, expense, and delay of biennial examinations, as required by existing law. The proposed amendment, while it dispenses with unnecessary examinations, which have in many instances worked great hardships to the pensioner, nevertheless vests the Commissioner of Pensions with adequate authority to order special examinations whenever in his judgment they may be necessary to secure the ends of justice. The gentleman from Ohio has called the attention of the House to the fact that, notwithstanding the enormous expense of these biennial examinations, they are in rare instances of practical value to the Government. The Commissioner of Pensions has, in fact, recommended to Congress the repeal of the law requiring them. The pending bill appropriates a sufficient amount for the special examinations to which I have referred. The expense of the biennial examination of pensioners for the years 1877 and 1878 was $153,898.80. Less than one-third of this sum annually expended will be sufficient to meet the expense of all necessary special examinations. But, as before suggested, Mr. Chairman, the great advantage arising from the proposed legislation is to the pensioner himself. This, aside from motives of economy, should secure its adoption by Congress. It will be further seen that this section prevents the name of any pensioner being dropped from the roll or his pension reduced unless upon competent sworn testimony and after due notice. The justice of this provision is too palpable for argument.

Now, sir, I will pass to that portion of the section which provides for the speedy payment of arrearages of pensions. The law requiring such payment was passed by the last Congress. Shall that law remain a dead letter upon the statute-book, or shall we proceed now in good faith to give it practical effect? There being a deficiency, as shown by the report of the Secretary of the Treasury, the practical question arises, how shall these arrearages of pension be paid? How shall the necessary funds be obtained? Two modes are proposed: first, that of the Secretary of the Treasury, which will appear by the closing sentences of his official letter to the chairman of the Committee on Appropriations relative to these pensions, dated February 12, 1879. The Secretary says:

It would thus appear that the sinking fund must be entirely ignored and twenty-seven millions be provided for by additional legislation.

This may be accomplished by the imposition of some new tax adequate for the purpose, or by authorizing the money to be borrowed upon 4 per cent. bonds, which, in the present state of the market, can be sold at par.

As new taxes cannot be immediately productive, it is recommended that authority be given to raise the amount necessary by the sale of 4 per cent. bonds, described in the acts of July 14, 1870, and January 20, 1871.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

Second, the method proposed by the section of the bill now under consideration, providing that the $10,000,000 now kept in the Treasury as a special fund for the redemption of the fractional currency should be made available for that purpose. In other words, the policy of the Secretary is to raise the money by increasing our bonded debt, while the plan proposed by this bill is to pay out the ten millions now lying idle in the Treasury. It cannot be denied, Mr. Chairman, that these plans reflect the views of two wholly dissimilar schools in our financial politics. Between them each Representative upon this floor must here and now decide. We are now confronted with one phase, and an important one, of the great question in which the people of this country feel an abiding interest. The line of battle now drawn is that which shall separate the friends and foes of financial reform in the near future.

Sir, the people will not be deceived by the cry raised upon this floor, of "revolution," of an attempt to "starve" the Government. We meet this hypocritical pretense with stubborn facts. Every dollar necessary for the support of the Government is appropriated by this bill. Who then is "starving" the Government, those who vote for or those who vote against the pending bill? Unfortunately, Mr. Chairman, "starvation" does exist in many portions of this country, but it has been produced by the financial legislation which we seek in part to antagonize by the pending amendment. By this section it is proposed as a matter of justice to Union soldiers to pay without delay their arrearages of pensions, and this not by adding to our bonded debt, but by paying out money unnecessarily hoarded in the Treasury. As I have suggested, Mr. Chairman, the law granting arrearages of pensions was passed by the last Congress, but, according to the letter of the Secretary, new legislation is necessary to give it practical effect. Reject this section of the bill, and what avails the pension law? To those who are to be the recipients under it you but "keep the word of promise to the ear and break it to the hope."

The test vote already taken in committee upon the adoption of this amendment, has shown who favor and who oppose this meed of justice to Union soldiers. Every vote then given against this section was by republicans. And, sir, it will become a part of our legislative history, that if this most just measure shall fail, either upon the final vote in this House or when it shall have reached the executive chamber, it will be solely because of the hostility of those who heretofore have claimed to be *par excellence* the friends of Union soldiers. Why the opposition to this measure? Are the republican members of this House so wedded to the policy of contracting the volume of the currency, the policy of increasing our bonded debt, that they prefer that this pension law shall remain a dead letter upon the statute-book rather than the ten millions now held as a useless reserve in the Treasury shall be put in active circulation? Evil betide those whose dearest rights are antagonized by the darling financial theories of the republican leaders.

The proposed legislation, Mr. Chairman, is one step, but an important step in the right direction. We seek the repeal of no existing law by the amendment under discussion. By the act of June 30, 1864, the legal-tender circulation is limited to four hundred millions. The amount outstanding at present is in round numbers three hundred and forty-six millions, of which the ten millions affected by this section is a part. It is true, as has been said, the ten millions will fall short of the full payment of all arrears of pensions required by the law of the last Congress. How shall the deficit be provided? Simply by additional legislation increasing the volume of greenback currency to the full limit of the four hundred millions allowed by existing law. Taking the statements of the Secretary as correct, the conclusion is irresistible that these arrearages of pensions can only be paid in the manner I have indicated or by an increase in our interest-bearing debt.

SOUTHERN CLAIMS COMMISSION.

I pass now, Mr. Chairman, to the discussion of the amendment offered by the gentleman from Wisconsin [Mr. BRAGG] which abolishes the southern claims commission.

That amendment commands my earnest support. I gave it my vote in committee, and will do so again when the vote is taken in the House. Sir, this commission, of doubtful propriety in the beginning, has long since accomplished whatever of good it was capable. It should be remembered that it was organized in 1871, and for a temporary purpose. The law which called it into being provided that its functions should cease at the end of two years. From year to year its lease of life has been continued by appropriations such as we now propose to strike from this bill. If the amendment proposed by the gentleman from Wisconsin shall prevail, then this commission, with its power to oppress and defraud, will expire with the present fiscal year.

It should be borne in mind, Mr. Chairman, that this commission is in no sense a "court." It possesses none of the attributes of a court of law. The modes of procedure sanctioned by time and experience and so well adapted to secure the ends of justice by which courts are governed are unknown to this commission. If it had been the intention of its founders to originate a scheme by which favorites could be enriched and the public Treasury plundered, they could not well have devised a more fitting instrument. The rules of evidence by which honest claims are established in courts of law are wholly ignored by the act creating this commission. It is vested with absolute power upon *ex parte* testimony alone to allow claims without limit, and for all practical ends its arbitrament is final. I have said, Mr. Chairman, that the rules of evidence by which courts of law are controlled

may be ignored by this commission. If gentlemen will take the trouble to examine the statute creating this commission they will find that sworn evidence is not required in the establishment of claims before this tribunal. The words of the statute are:

The commissioners, in considering said claims, shall be satisfied from the testimony of the witnesses under oath, or from other sufficient evidence, &c.

What a discretion is here vested in this commission! What a gateway for trumped-up, fraudulent claims against the Government! The "other sufficient evidence" means the *ex parte* unsworn reports of agents and detectives. That such a tribunal with such powers can exist by law is, as the gentleman from Wisconsin has well said, an anomaly under our form of government.

Mr. Chairman, if any necessity ever existed for the establishment of the southern claims commission, that necessity has ceased to exist. I think I am warranted in asserting that with but rare exceptions all claims possessing but the semblance of merit have long since been passed upon by this commission. We have had fourteen years of peace, and yet it is insisted that this commission shall be continued for the sole purpose of allowing claims against the Government for property taken or destroyed during the war.

Is this, sir, to be a permanent tribunal? Are the finances of this country in so satisfactory a condition that the enormous sums annually disbursed from the public Treasury for the maintenance of this commission and its retinue of officers and agents and the payment of its awards shall continue indefinitely? Is the lapse of time to work no bar to these claims? The Legislatures of all our States have enacted statutes of limitation. In many of them promissory notes and bonds are barred at the end of ten years, while it is a perfect defense to open accounts and claims, whatever their original merit, that they were not sued in a court of competent jurisdiction within five years from maturity. And yet gentlemen gravely insist that after the lapse of fourteen years the Government is to have no benefit from the presumption which has been crystallized into law in each of the several States. But it has been insisted, Mr. Chairman, that it would work injustice to those whose claims are now pending if this commission is abolished. It must be remembered that this commission, by the act of its creation, was to expire by limitation at the end of two years from March 3, 1871. It was then supposed, and justly so, that whatever *bona fide* claims were held by loyal citizens against the Government of the United States for property taken or destroyed during the war could be presented within that period.

But, sir, under the pretext of allowing time for the adjustment of claims pending, the functions and powers of this commission have been continued already for a period of six years beyond the time it was to expire by the statute which created it. And gentlemen may rest assured that the day is far distant when there would be an end to the presentation of claims before this commission. Sir, the only protection to the Treasury is by the passage of this amendment, to avail ourselves of the benefit of the statute of limitations, which should have been interposed six years ago. And permit me, Mr. Chairman, to say that while gentlemen upon the other side of this Hall denounce this method of legislation as unconstitutional and revolutionary, it will be well for them to remember that the very law creating the southern claims commission was passed as a rider upon the Army appropriation bill of March 3, 1871, and that, too, when the republicans were largely in the ascendency in both branches of Congress.

In corroboration of this statement I refer to volume 16 of the United States Statutes at Large, pages 521 and 522. It was a high order of statesmanship to create this commission, with all its powers for plundering the Treasury, by a rider upon an appropriation bill; but when it is sought by the same method to abolish it and close up the avenues for perjury and fraud, it is denounced as unconstitutional and revolutionary. Sir, while I am far from favoring the practice of attaching extraneous legislation to appropriation bills in the main, yet I am free to declare that I know of no method of legislation warranted by the Constitution and legislative precedent which I would not approve if thereby the Federal Treasury could be protected from the further payment of stale and unauthorized demands.

In my judgment, Mr. Chairman, not only should Congress by adopting the amendment proposed by the gentleman from Wisconsin [Mr. BRAGG] refuse to make further appropriations for the continuation of the southern claims commission, but as a matter of justice to a people burdened with debt and taxation an amendment should be incorporated into our Federal Constitution forever prohibiting the payment of these claims either by direction of courts or by act of Congress. I had the honor some days since to introduce into this House a joint resolution proposing the submission to the Legislatures of the several States for ratification an amendment such as I have suggested, which I trust at no distant day will become a part of our organic law. Such a constitutional amendment, Mr. Chairman, will not only bar the doorway to the public Treasury against fraudulent claims, but it will eliminate forever from our national politics a disturbing question productive only of sectional animosity and strife.

A novel spectacle was presented in the Committee of the Whole when the vote was taken upon the amendment offered by the gentleman from Wisconsin, to which I have referred. While every Representative of the national greenback organization, and the large proportion of democratic Representatives upon this floor voted for this amendment, the republican members, with singular unanimity, voted against it. Why was this? Did it spring from a desire to perpetuate this commission with its enormous capacities for evil, or rather from an apprehension that its adoption now would result in the loss of that kind of political capital so essential to success in the coming presidential contest? Some of us, Mr. Chairman, have been charged with the intention of "paying rebel claims;" but, sir, in order that this question may forever be put at rest I propose the incorporation into both our statute and organic law of a perpetual bar against all these claims, let them come from whatever quarter or in whatever guise they may.

The sincerity of gentlemen in their opposition to the payment of "rebel claims" is to be tested. The vote upon this amendment is soon to be taken in the House, and no gentleman who votes a further lease of life to this commission can take shelter behind the plea that this amendment was attached to an appropriation bill. As I have shown by reference to the statutes, it came into existence as a "rider" upon an appropriation bill, and it is but simple justice that it should pass out of existence in the same manner.

Mr. Chairman, I shall detain the House but a moment longer. While I greatly prefer that each act of legislation should stand alone, yet I cannot forget that the mere method of legislation is of far less moment than its substance. Especially is this true when, as I have shown, the method violates no clause of the Constitution and is warranted by the whole course of our legislative history. If the measures I have discussed when presented as separate acts of legislation are wise and salutary, then, sir, they are none the less so because grouped in one bill.

No one, Mr. Chairman, regrets more than myself the attempts made upon this floor to arouse into new life the bitter passions which fourteen years of peace should have subdued. Evil and only evil can result from this attempt to array one section against the other. Partisan ends may be accomplished, but only by the longer postponement of that tranquillity so essential to material prosperity. Let these bitter animosities cease, and let us, I implore you, sir, turn our backs upon the past with its sad memories and strifes, and address ourselves to the consideration of the living, vital issues of the hour which so nearly concern us and those who shall come after us. With business paralyzed, capital shrinking from profitable investment, our workshops closed, and labor seeking employment, it is all important that sectional strife upon this floor should cease, to the end that we may address ourselves to measures of practical legislation so essential to the restoration of prosperity.

During the delivery of the above remarks the five minutes allotted to Mr. STEVENSON expired.

Mr. CABELL. I will take the floor and yield my time to the gentleman from Illinois.

Mr. STEVENSON resumed and concluded his remarks as above.

Mr. HORR. If I were able to follow the advice of my friend at my left here and "print," I should not now trespass upon the time of the House, but the pursuits of my life have been such that they have not prepared me for speech-making and much less for speech-writing, and the consequence is that I have to talk here, or I cannot print.

A circumstance of my early life will illustrate my condition. When I was a young man I was teaching school in one of the new counties of Ohio, which had among the other attractions of a pioneer life a village debating society. The question was up, whether it was just and proper to support the public schools by a general tax on all the property of the State. A gentleman of the village, a man of wealth, but one who had no children, opposed the law on the ground that it took his money, his hard earnings, to support the children of other people. On the other side of the question was a young man, full of enthusiam and eloquence, who made the usual arguments in favor of the law and then closed by an appeal to the judges who were to decide the question, not to strike down a law which gave education to his children, which carried an education to the little ones domiciled in the homes of the judges, and which enabled his opponent also to educate *his* children. When that gentlemen took the floor to reply, he said, before proceeding to answer his young and enthusiastic friend's elaborate argument he should devote a few moments to stating some of the difficulties attending an attempt to send children to school before they were born! [Laughter.] The statement made on that occasion would apply with great force in showing why I am not able to print my speech before it is made. [Laughter.]

While I would like to discuss this question and give you some of the reasons for the alarm which pervades this country at this time, I am compelled for want of time to do it but for a moment only. The alarm which is felt all over the North, I tell you candidly, is owing to the fact that this Government is about to pass into the hands of the men who so recently tried to destroy it. But there is another serious cause of uneasiness, and that is, the democratic party has gone over and given itself up to the "grand center" in this House—the "greenbackers." [Laughter.]

Now, I know something about that greenback disease. When it first strikes a man he will commence "running at the mouth," like one who has been salivated. The next thing, you will hear him belly-aching around about bondholders and national banks; then his bowels of compassion will begin to yearn over the poor of the country, though I never yet knew one of them to give a poor man a meal or a single day's work in my life. [Laughter.] Take the case of my honorable friend from Indiana, [Mr. DE LA MATYR.] Does he know what he

has done? Have you read the bill he has introduced for the creation of greenbacks to supply the wants of the people, as he calls it?

Mr. DE LA MATYR. That was simply a petition, offered at the request of another man, and was not my own bill at all; nor do I indorse it.

Mr. HORR. I supposed you drew it.

Mr. DE LA MATYR. Not at all.

Mr. HORR. Very well. I have read the bill, and its provisions would make a horse laugh unless he was entirely devoid of a sense of the ludicrous. [Laughter.]

Now, what do we find here? When our country needs rest and quiet; when the business interests of this land demand that we should come here and pass these appropriation bills pure and simple and then go home about our business, I say what do we find? We find the democratic party uniting with these men to flood this country with a mass of trash.

I have been doing some figuring upon this subject, and do you know if you should pass all the bills now introduced for increasing the volume of the currency, how long it would take to print the money?

[Here the hammer fell.]

Mr. WILLITS obtained the floor and yielded his time to Mr. HORR.

Mr. HORR. Thank you.

I was about to say that I had figured up the matter and I find that it would require, without doubt, the use of ten power presses and engines to be kept running night and day for the next six months.

Some man, who has figured it out, claims that in order to produce the flood it had to rain eight hundred feet of solid water every day. [Laughter.] Now, sir, in order to meet the requirements of these gentlemen, and supply the currency provided for by these bills, they would have to get their Chaplain here to ask our Father above to open again the doors and windows of heaven and have it rain "greenbacks" instead of water for the next forty days and forty nights. [Laughter and applause.]

Why, sir, the eloquent and elegant gentleman from Iowa [Mr. WEAVER] had the temerity the other day to intimate here to us that God was about to raise up a new David for political honors in 1880, intimating thereby, I suppose, that He was about to advance the interests of a gentleman at the other end of this Capitol who always writes or has others write after his name "independent." Now, I am not here to contend that such a thing is impossible with God. I have too much confidence in His power to doubt that He could perform even that difficult operation; but I ask the gentleman from Iowa, in all candor, if it is not asking too much of Providence! [laughter;] altogether too much! Why, who are these independent men? As a rule they are good for nothing in cases where anything is to be done. They are always on both sides of every question, and never squarely on either side of any. [Laughter.] They may be called political mermaids—half fish and half woman. Too much woman to be good for anything as a fish, and too much fish to be worth anything as a woman. [Laughter.]

I have said that what our country needs is rest—an opportunity to revive industries and set in motion the productive labor of the nation, the real and only source of wealth in every country. I am aware that we have a large number of men in this Hall who think to revive trade and set in motion the great enterprises of profit in this land by simply running a paper-mill backed by legal enactments. No greater delusion ever maddened the brain of mortal man. It is not simple nonsense, but nonsense boiled down to a sirup—sugared off! Mr. Chairman, if I only had the time I should like to say a word or two more. [Loud cries of "Go on!"]

Mr. WEAVER. I move that the time of the gentleman be extended.

There was no objection.

Mr. HORR. We of the North do not seek sectional strife. All we ask is that the laws shall be respected and executed all over the United States, North and South alike. Did it ever occur to you gentlemen to ask the question why it is that the North is filling up so with immigration while the South lags behind? Have you ever studied this question any? While canvassing my district last fall my attention was called especially to that fact. Way up in the northernmost part of the lower peninsula of my State I found a new county filling up with astonishing rapidity. In three counties of my district there have been opened up and put in cultivation during the last year over forty-five thousand acres of wild land, and from what I can learn there has been in that district alone during the past three years more immigration than into any entire southern State, except Texas.

Now, why is it? When I was up in that country I asked men there why it was that they sought homes in such a cold climate when the South was full of unoccupied lands? One gentleman told me that he had tried to live in the South, but that, having been a Union soldier and having settled in Mississippi near where Chisholm and his family were murdered, he was compelled to flee for his life. He claimed that these people were murdered on account of their politics, and added that had they not been republicans they would be alive to-day. A gentleman now in this city, who lived right there at the time, tells me the same story. Now, the first man left all he had in this world and took up a homestead in the wilds of northern Michigan, with nothing to rely on but his own two hands, rather than risk his life at the South. Another very intelligent-appearing gentleman stated to me that he too had tried the South; that while he lived there he was under no fear for his life, but he claimed that the people treated him with so much indifference on account of his political notions that he would not stay. He said that the habit in that country was to ostracise men from all good society unless they yielded obedience to the notions of the party in power. He said further that he would not have staid there for the entire State of South Carolina, such was the bitterness and hatred there toward strangers from the North who settled among them. Is such the case? Do you thus ostracise men who settle among you because they differ from you in politics? If so, why do you wonder that men refuse to live among you?

Why wonder that your lands lie unimproved and that emigrants turn from your shores with hasty tread? I do not wonder that your rivers, which contain power to run the machinery of the world, yet go on unused to the ocean, no hum of industry on their banks and without turning a spindle. The reason for it is plain. It is because of your hatred of northern men; because of your intolerance toward the opinion of others; because of your social ostracism exercised toward strangers who do not share your notions about the superiority of the southern chivalry or agree with you as to the destiny of the colored race. An inflation of the currency will not save the South. What you really need is to go to work. [Great laughter.] You should have more schools, more enterprise and thrift, and less recklessness of life, less hatred of what you call carpet-baggers—damned Yankees! Your business enterprises should be conducted more with piety and less with pistols. What Mississippi needs to-day is more corn and cotton and less cussedness, [laughter and applause;] more mills, more manliness; less murders, less moonshiners. What would improve South Carolina is more hams and fewer Hamburghs. She should raise horses and hogs more and hell less. [Great applause.]

I would like for a moment to discuss one other question, and I approach it tremblingly, because it brings more or less into view the question which has been pending here for the last five weeks; pending because we gentlemen on this side of the House will not adopt a certain policy and join with the other side in their efforts to ruin not only the political but the commercial interests of this country. Because we will not do this we are denounced as "sectionalists." A dozen gentlemen on the other side (I have kept the tally) have been continually making the charge against us on this side of the Chamber that we are sensationalists, that we are continually trying to create sectional strife, and they ask us if we are never going to stop waving the "bloody shirt." I want to talk for a moment about this bloody-shirt business. I find from a careful examination of the list that there are among the majority members of this House about seventy men who served in the confederate army. Now you gentlemen complain bitterly of us if we even in any way refer to the late war, and you seem to take great delight in taunting us with this "waving of the bloody shirt." But how is it down there among yourselves? It would seem that you do not hesitate to hoist your own bloody garments, so much so that I am told that a man in the South who did not serve in your army stands no show for political preferments. How is that? Does he?

Mr. DAVIDSON. Oh, yes.

Mr. HORR. It is said that in your conventions, at the hustings, everywhere upon the stump, you gentlemen are wont to boast of having worn the gray, and that it is the common custom among you at all times, in season and out of season, to unfold and call attention to your confederate uniforms. Is my information correct? If so, then it would follow that it is not so much the blood that you object to as it is the kind of blood. It is the talk about Union blood only that so much exasperates you! Here are some seventy of you who have traversed the entire South, holding up your own bloody garments at every precinct in that broad land, and yet if one of us happens to incidentally mention the lessons of the war you set up a howl about our "waving the bloody shirt," and grow red in the face denouncing such sectional strife.

All we claim at the North is simply the right to choose our own emblems. We had among us during the war another kind of shirt; I recollect all about it. It was worn by the men who sympathized with the South, who opposed the war; men who tried to prevent volunteering, who opposed the draft. And my distinguished friend from Ohio [Mr. EWING] knows how it was. I was in Ohio at that time, and I suppose it is no disgrace to have lived in Ohio. [Laughter.] I say we had another kind of shirt worn by those men who, when the draft could no longer be avoided, with blanched cheeks and relaxed muscles took a precipitate flight for the shores of Canada. [Laughter and applause.] It would, perhaps, suit you gentlemen better if we would hoist their shirts as our symbols. But you will pardon us, I trust, if we decline the job. You should not be too notional about the matter because we prefer the garments of our own boys in blue, though some of them may be armless, some of them riddled by deadly bullets, and smeared, it may be, with the life-blood of dying soldiers. You may honor your fallen heroes if you will, but you may not dictate to us with what feelings of affection we shall cherish ours.

I tell you this is a question about which the people of the North are in earnest. Again let me repeat that what the people ask of us to-day is, that we pass these appropriation bills pure and simple, as any business man would have drawn them, and then go home.

There used to be an idea prevalent among theologians or common in some mythologies that God sometimes brings about desired action among mortals by pestilence, famine, and terrible exhibitions of power. Now it has occurred to me that the Deity never had a better opportunity to bless this country to-day than by dispersing this Congress. He might do it by turning the yellow fever into this House. I should of course prefer that he would use good discrimination in making his selections. [Great laughter and applause.]

Anything that should stop this excitement—that should stay the hands of the majority from the blow already aimed at the life of the nation; anything that should thwart the attempt to enact the wild financial schemes to flood this country with irredeemable trash; anything, I say, that should give the business interests of the country quiet rest, would be welcomed by the people at almost any price. What they desire is to be released from this eternal tinkering at the revenue laws, this incessant meddling with the tariff and the currency. These things, sir, do more to paralyze the business and destroy the best interests of the country than all other causes combined. [Applause.]

Then let me urge upon you gentlemen of the majority the great responsibility that rests upon you. It is for you to say when this turmoil shall cease. It is for you to say whether you will continue to sustain and nourish this Government, or whether you will let it die of want; and let me beg of you not to commit yourselves beyond the power of revocation; for I say to you the people will hold you responsible for the result, and I tell you in all sincerity your plan of starvation will not work.

The method is not entirely a new one. Our people think that it has been tried before—first at Bell Isle; that it was repeated at Salisbury; that it was intensified at Andersonville! It did not work then, and trusting in the undying patriotism and loyal hearts of the men who saved the nation at that time, once more kneeling around the altars erected and consecrated to freedom in those trying days, and still having an abiding faith in that God "who holds the destinies of nations as in the hollow of His hand," we swear once and forever that it shall not win now. [Applause.] Do not compel us to go over again the terrible scenes of the past.

[Here the hammer fell.]

Mr. POEHLER. The gentleman who has just spoken [Mr. HORR] says to us that the country demands that we shall pass these appropriation bills and go home. I agree with that gentleman in that proposition. We intend to pass to-day the last appropriation bill that is asked for. If the other side shall oppose it, that will not be our fault. It will then be for the President to say whether this Government shall have the necessary appropriations or not.

Mr. Chairman, the bill now under consideration has been so ably argued on both sides that I shall not occupy the attention of the committee for any length of time. Still I feel it my duty to say a few words in behalf of my State, and in doing so I am confident that I express the opinion not only of all democrats but also a large number of republicans; for I doubt if there is any State in the Union where the law as it now stands would deprive the citizens of the right of suffrage to the same extent that it would in the State of Minnesota. It is true that it has not been applied or enforced there, but its application, if it is allowed to remain on the statute-book, is only a question of time or of party necessity. Disguise it as you may, its operation so far has been against naturalized citizens, and this is why it would work great injury to the people of the State which I have the honor in part to represent, a large majority of whom are of foreign birth and would be particularly affected by it.

According to the census of 1870, the total population was 439,706. Of these 285,516 were such whose parents were of foreign birth, and only 154,190 whose parents were natives, and among them thousands of grandchildren of foreign emigrants. According to our constitution, every foreigner who has resided one year in the United States and four months in the State, and who has declared his intention to become a citizen, is a voter.

Many of our citizens have filed their naturalization papers in the land offices to prove their right to pre-empt or "homestead" their lands. The election laws of Minnesota do not require the presentation of the naturalization papers as a requisite to have their names placed on the poll list.

The oath of the applicant stating when and where he was naturalized, that he has had a certificate of his naturalization, and that the same is lost, destroyed, or beyond his power to produce to the judges, is sufficient evidence; and the judges must enter his name on the poll list, and he is entitled to vote.

Now, Mr. Chairman, if the supervisors of election have the power under the supervisor law as it now stands, and John I. Davenport has assumed that power, to examine the certificates of naturalization and pass upon their validity, then, indeed, many of the voters of my State can be disfranchised. If the supervisors can pass upon the validity of certificates, what can they not do in the absence of the latter? Not one of that class would be permitted to vote if this law would be applied.

Mr. Chairman, I am not speaking in behalf merely of the democratic party. A majority of the adopted citizens in my State are allied to the republican party and vote with them. This is not a political question. It is a question of right to the immense majority of the people of Minnesota; it is a matter of justice to our State, for it annuls that part of our State laws which provides that the names of all persons voted for by an elector shall be on one ballot, and defines who shall have charge of the ballot-box and who shall count and canvass the votes. These laws have met the approval of all parties, and are respected and obeyed. There is no necessity for supervisors or marshals in Minnesota.

Is there a man, unless he be a selfish partisan, who would favor a law that gives almost unlimited power to one man to arrest men at will, using his sole judgment to determine if they have the right to vote or not, a power greater than the most despotic monarch of Europe dare exercise to-day? It is a power which no party should be allowed to exercise; those who use it to-day may suffer by it to-morrow. Gentlemen on the other side have declared the repeal of these laws to be revolutionary. They simply state it to be so, but fail to show where the revolution comes in. It cannot be in the mode or manner, for it has been clearly shown that some of the most important acts of Congress have been passed as amendments to appropriation bills. It cannot be in the repeal of the law, for the Government stood for more than eighty years without those laws under the wise rule of patriots who valued the personal liberties of the citizen as too sacred to be thrown into the political vortex for party purposes. Surely, Mr. Chairman, to repeal laws so obnoxious; to prevent men from exercising doubtful powers; to protect citizens in their lawful rights, ought not to, and cannot with truth, be called revolutionary.

It is claimed by the gentlemen on the other side that it is necessary to have the supervisors to protect the purity of the ballot-box, and the soldiers to keep the peace at the polls. Mr. Chairman, let us carry this to its logical conclusion by increasing the Army and placing a military chieftain in the executive chair, and then our dreams of peace will be realized! Order will then "reign in Warsaw." Mr. Chairman, I for one am opposed to all legislation which gives to one party greater influence and power to control elections than to the other. The effects of such legislation will not show themselves at once in every part of the country; they will at first appear isolated, but it will not be long before every State will have its Davenport.

Prince Bismarck has had a severe struggle with the Prussian Chambers ever since 1863. At different times has he dissolved the latter, but though he has thousands of officials and hundreds of thousands of soldiers at his disposal, with which he could surround every poll in the country, and control the election for the benefit of his candidates, yet he has never used that immense power, as even he knows that anything of the kind will make elections mere farces.

Such laws, as has been shown by several other speakers before, among them my friend from the Milwaukee district, [Mr. DEUSTER,] will be a damper upon emigration, for the Davenports select chiefly the emigrants upon which they can exercise that cruel authority which this law bestows upon them. And what would my State be without foreign emigration? What would the whole great Northwest be without it? The whole country is interested. It is your duty—your self-interest demands it—to repeal all such laws which in any way interfere with the tide of emigration. That the supervisor law which we now desire to repeal is such a law even the most partisan republican will not deny.

Mr. RYAN, of Kansas. Mr. Chairman, the early record of the State I have the honor in part to represent has been a theme of discussion running all through this long and weary debate. Gentlemen on the other side have seen fit to tell us that the first gun of the late terrible conflict was fired by a historic citizen of that State, and that thereby southern blood was shed upon southern soil.

Mr. Chairman, I deny that statement. The first gun was fired long before that time. The first gun was fired by the southern cohorts of slavery, when northern blood was shed upon northern soil So far as I know, John Brown never pointed his gun at mortal man until after he had witnessed atrocities committed by these emissaries of slavery that shocked mankind, until after he had witnessed his neighbors and his own son butchered like dogs in cold blood. It was then he took his rifle upon his shoulder, and with a few men following him, frenzied by wrongs sufficient "to stir a fever in the blood of age," he invaded the sacred soil of Virginia.

For that act of lawlessness I have not one word of defense. The recording angels, while they may write down in their eternal records that he violated law, will at the same time record the fact that he did so because of law that outraged humanity and the ordinances of Heaven. You arrested him; you charged him with treason, if I remember aright; you hanged him as a traitor.

And in the light of history we have the right to infer that at the time he was in the agonies of death you were meditating the destruction of your country. Before the green grass had sprouted upon the old hero's grave, you had fired upon her flag and drenched your native land in the blood of your brethren.

And when by the strong power of the Government you were forced to stop your career of carnage and desolation, you came upon the floor of this House, rewarded with high honors of state, to prate of the crimes of John Brown, and make laws for the country you sought to destroy. Do not misunderstand me. I do not complain that you are here. But I do complain that it is with ill-grace you open the grave

of the man you under such circumstances hanged for high treason and tear the lid from his coffin to spit the virus of envenomed hate upon his ashes.

And now a few observations upon the question under consideration. You would not have us think that you regard a pure ballot as a guarantee of the perpetuation of republican rule; yet you stand in solid column against all Federal legislation for the protection of the purity of Federal elections, and our party stands here as solidly in opposition to you.

You do not want the country to believe that crime against the ballot-box is the agency by which you hope to get complete control of this Government, yet you demand that all Federal laws that stand between an honest vote and fraud shall be stricken from the statute-book. You demand the repeal of all these laws because you say they have been abused in their administration. If that were true it would argue no fault in the law. A wholesome law ought not to be repealed because it has been abused, if the abuse may be guarded against by legislation. But you do not propose any corrective legislation to prevent and punish such abuses. Not at all. On the contrary, you strike down all laws for the prevention, detection, and punishment of offenses against the ballot. You open to the ballot-box an unobstructed highway for fraud and crime.

The ballot is the great foundation upon which the Government rests. This is a government of a people, maintained by their own will expressed through the ballot. It is the only means by which they can give that will expression. If, then, the ballot is corrupt it is not possible for them to express their will at all, and therefore the effect of a corrupt ballot is to exclude the popular will from any agency in the control of the Government. May not a fraudulent or unlawful ballot overturn the undoubted will of the people? Doing that, may it not actually mold the laws and shape the policy of administration? In that case the sovereign will is excluded altogether, and crime usurps its office and functions. What better calculated than that to inflame popular passion, breed public disorder, and foment revolution and anarchy? Then is it not a high duty of Government to jealously guard the purity of the ballot by every means that wise and patriotic statesmanship can suggest?

You are wont to amuse yourselves and weary the country with flaming speeches against the purity of the President's title to his high office. If the people believed you they would not be likely to be indifferent. They do not. They know that fraud, violence, and outrage reigned supreme at the elections in several of the States, utterly subverting the popular will. They know that by criminal agencies the electoral votes of several States were counted for Mr. Tilden which, by the fair expression of a legal vote, would have been given to Mr. Hayes. But suppose that Mr. Tilden had seated himself in the executive chair by a majority of one; suppose that subsequently it had been shown by undeniable proof that he actually bought that one vote; what, in that case, would have been the proper title of the Chief Magistrate of forty-five millions of people? Could he have been called their President? No; he would have been the mere result, the official creation of a monstrous felony. Think you an outraged people would not under such circumstances have hurled him from the chair of Washington? And yet who shall say the effort would not have been the occasion of internecine strife? And would Mr. Tilden be a less atrocious usurper if he had obtained that one vote by any other unlawful means? The logic of fraud against the ballot is to pervert the popular choice, and when that is done and repeated without redress anarchy is sure to follow.

Reference has frequently been made during this discussion to outrages upon the ballot-box in Kansas in her early territorial days. The history and results of that stupendous crime may profitably be considered now and here. Armed bodies of men from the then slave State of Missouri entered the Territory the night before election and encamped in the vicinity of the polling places. In the morning they took possession of the polls, voted in sufficient numbers to nullify the legal vote, carried the elections, and then returned to their homes in Missouri. Members of the Legislature were chosen at that election. That Legislature was the creature of a colossal crime. It enacted laws that sent a thrill of horror through the civilized world and stained the pages of American history. These wrongs inflamed in high degree the passions of the people of the North, and especially of the Territory. The people of the South became correspondingly furious. The result was that assassination, arson, and public disorder stalked unchecked through the Territory. Force was employed to execute these atrocious enactments; their execution was resisted, and the authorities elected or appointed in virtue of them defied.

Each succeeding outrage fanned the fury of popular passion. The famous John Brown invasion of Virginia followed, and close upon its heels came the outbreak of organized treason that for four long years visited upon our people all the horrors of civil war. So it is, that the results which flowed from that gigantic crime against the ballot culminated in the greatest rebellion recorded in history. It is possible that other causes contributed to bring about that contest of arms, but no man can safely affirm that we should have experienced that awful visitation but for that gross and outrageous perversion of the elective franchise.

I have not time to dwell upon the complete subversion of the popular will in several of the Southern States by modes that are open to the severest reprehension.

This you seek either to deny or palliate; but it is, nevertheless, a deplorable fact that cannot be disputed and that has already passed into history. It is to this you are indebted for your majorities in this House and in the Senate. The contemplation by the American people of a Congress ruled by a majority which is the creature of fraud, intimidation, and violence is not calculated to inspire them with very profound respect for either its public measures or its political policy. When you grow eloquent in declaiming about the "sovereignty of the people" and in asserting that this body is "fresh from the people," it might temper your ardor to reflect that you owe your ascendency here to the offense of having suppressed the free choice of the people.

The attempt to repeal these election laws naturally suggests the frauds perpetrated in the city of New York in 1868. In the language of the committee that investigated that outrage, "probably more than fifty thousand fraudulent votes were cast." The lawful vote elected a republican governor; the criminal vote gave the chief magistracy of that great State to the man who was not elected. Over sixty-three thousand spurious naturalization papers were issued. Hundreds of repeaters "voted from two to forty times or more." Frauds were extensively committed in canvassing the vote. Says that committee:

> Through these agencies the democratic electors of President and Vice-President and the democratic candidate for governor of the State of New York were fraudulently elected.

In commenting upon the consequences of this hideous crime the committee say:

> If evils like these may come, or if a republic in name cannot or will not be so in fact; if the popular voice is to be hushed and powerless before the mockery of elections, conducted in the name of the people, but reflecting only the purposes of terrorism and fraud, then revolution will be speedily invited, and the great Republic may crumble to atoms.

The election laws which you are here seeking to repeal grew out of these horrid developments. It is a shocking fact that the history of the last thirty years convicts the democratic party of repeated frauds against the elective franchise, of monstrous audacity and stupendous turpitude. It is fitting that it should celebrate the first hour of its restoration to supremacy in Congress, after a banishment of eighteen years, by the attempted destruction of all legislation designed to guard the ballot against pollution by the criminal agencies through which that party has long been accustomed to subvert the popular will.

There is another feature of this discussion which I must not overlook. This extraordinary session has been made necessary by the refusal of this House to vote supplies for the Army and the Government because the Senate would not approve certain other legislation. Then you aimed at the coercion of two co-ordinate powers. Now you have but one to bring to your feet. Then you sought to usurp the constitutional prerogatives and functions of two other branches of the Government. Now there remains but one to subvert. These supply measures are known as the Army appropriation bill and the legislative, executive, and judicial appropriation bill. Either these must be enacted into laws or the Army and the Government must perish, unless indeed the patriotic States and people of this Union shall come to the rescue, and from their respective resources supply the needed funds. Hence it is that your revolutionary attitude has filled the public mind with alarm.

The general debate upon these bills has embraced a discussion of all the contested issues. The questions arising upon them are the same in principle. They involve the same questions of constitutional law and relate alike to Federal supervision of Federal elections. Upon the Army bill you persisted in placing an extraordinary provision for the repeal of a clause in a section of the Revised Statutes which permitted the use of troops to keep the peace at the polls. Upon the pending bill you persist in placing an extraordinary provision for the repeal of all laws of the United States ordained for the prevention, detection, and punishment of offenses against the ballot-box.

In the outset of this debate you confronted us with the authentic avowal of the purpose of your party to refuse to vote supplies to the Army and the Government unless the Executive in violation of his conscience and judgment, in disregard of his sense of constitutional duty and oath of office, should approve this extraordinary legislation attached to the supply bills. To that we at once opposed the issue that such a course was a violation of the Constitution and revolutionary in the highest degree. It would be not only a high-handed invasion of the constitutional domain of the Executive, but would be a flagrant breach of our sworn obligation; for I hold it to be our paramount duty to do that which is necessary to preserve the Government. We were not permitted to take our seats until we had registered a solemn oath to do that. Shall it be said that at the very time we were taking that oath we were actually meditating the destruction of the Government by starvation unless the Executive should surrender to us his constitutional check upon us—upon Congress?

Such, then, Mr. Chairman, was the issue fairly made upon the threshold of this contest. How have you met it? First, by artfully misstating it; secondly, by the assumption that you are the embodiment of the sovereign will.

First. You assumed that the issue made by us is that you violated the Constitution by placing upon these appropriation bills this re-

pealing legislation. Upon this false assumption, upon this fictitious issue, you have predicated argument upon argument. To controvert it you have exhausted research and impressed into your service all the powers of logic and all the devices of rhetoric. We have made no such issue. On the contrary, we not only admit but affirm that you have such constitutional authority. You have constructed a scarecrow and called ostentatiously upon the country to behold the vigor and courage with which you tear him down.

Your second method of meeting the real issue has the merit of greater candor. You affirm that you, being the popular branch, are the embodiment of the popular will. Hence it is the people in their sovereign capacity that demand a resort to this extraordinary method to expunge from the statute-book all Federal legislation for preserving fair, free, and pure elections, and to oppose this is to antagonize our common sovereign. To do that is to assail a great fundamental principle of the Government, a thing that no one of the branches of the Federal system has a right to do. The absurdity of your logic is a vivid illustration of the dangers you threaten. It is not specious enough to deceive any fair intelligence. If your position is correct, your action, being expressive of the sovereign will, should be crystallized into law. It follows from your process of reasoning that this House is of itself all sufficient as a law-making body; that neither the Senate nor the Executive should have any part or lot in molding legislation or shaping the policy of administration, for otherwise they may override the will of the people.

What is this but overt revolution? Is it not a usurpation of the powers of all the other departments of the Government? Is not this a complete subversion of the Constitution? In the language of Mr. Jefferson, such "is not the Government we fought for," but "an elective despotism." Hear him:

All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the power of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others.—*Jefferson's Notes on Virginia.*

Ours is a mixed form of government; a government of varied powers, each essential as a balance to the other; a government of branches, each a check upon the other; and the powers and functions of each and every one of them are carefully provided for and guarded by a written constitution. The Executive is a check upon Congress, and the Constitution makes the exertion of the power mandatory. It provides that every bill that shall have passed both Houses "shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated." If his judgment and conscience do not approve the bill he is commanded by the Constitution and his oath to veto it. That is the executive check upon Congress. This check is not absolute, but qualified. It may be overcome by a two-thirds vote of each House. The Senate is a check upon this body, and has the constitutional power to interpose an absolute veto against any bill we may pass. This House is a check upon the Senate, and is vested with a like power to negative the action of the Senate.

The judiciary is a check upon the law-making power, and may declare null and void any act by which legislation seeks to invade constitutional rights. Congress is a check both upon the executive and judiciary, and may exert the power of impeachment if either shall violate its functions. These checks, with their respective powers and restraints, constitute our form of government. Destroy any one of them by suffering one department to usurp the functions of another, and your Constitution is subverted, your system of government fatally undermined, and the whole fabric hastens to become a prey to anarchy.

Mr. Madison, at the ripe age of eighty-four years, referring to this executive check upon Congress, affirmed "that a primary object of the prerogative most assuredly was that of a check to the instability in legislation which had been found the besetting infirmity of popular governments." And John Adams protested that this qualified check of the executive upon the legislative power was not sufficient to preserve the Constitution, but that it should be made absolute; in other words, that the negative given the Executive should equal the one given to the Senate and House respectively. He says:

Unless three powers have an absolute veto or negative to every law, the Constitution can never be long preserved.

Again he says:

The legislative power is naturally and necessarily sovereign and supreme over the executive, and therefore the latter must be made an essential branch of the former, even with a negative, or it will not be able to defend itself, but will be soon invaded, undermined, attacked, or in some way or other totally ruined and annihilated by the former.

And again, in his third letter to Roger Sherman on the Constitution of the United States, he says:

There is a sense and degree in which the executive, in our Constitution, is blended with the legislative: The President has the power of suspending a law; of giving the two Houses an opportunity to pause, to think, to collect themselves, to reconsider a rash step of a majority; he has a right to urge all his reasons against it by speech or message, which, becoming public, is an appeal to the nation; but the rational objection here is not that the executive is blended, but that it is not enough blended; that it is not incorporated with it and made an essential part of it. * * * It is, moreover, possible that more than two-thirds of the nation, the Senate and House, may, in times of calamity, distress, misfortune, and ill-success of the measures of government, from the momentary passion and enthusiasm demand a law which will wholly subvert the Constitution. The constitution of Athens was overturned in such a manner by Aristides himself; but we may take stronger ground, and assert that it is probable such cases will happen, and that the Constitution will, in fact, be subverted in this way. Nay, I go further and say that, from the constitution of human nature and the constant course of human affairs, it is certain that our Constitution will be subverted, if not amended, and that in a very short time, merely for want of a decisive negative in the Executive.

Let it be noted, too, that the power reserved to the people is also a check upon all delegated power. This body must surrender its authority to the people every two years. One-third of the Senate yields up to the sovereign its authority every two years. The Executive delivers back to the people his authority every four years. Thus it is within the power of the people to speedily correct any abuse of the veto or other powers with which the Constitution has invested the departments of Government. All these prescribed checks are necessarily vested with a discretion, but if they shall be unwisely employed the remedy is with the people, and not with this House or any other branch of the Government.

But you propose to constitute yourselves the judges of the soundness of the discretion exhibited by the Executive in the exercise of the power given him as a check upon you, and you also propose to regulate its exercise. What can be more reprehensible or despotic? In order to accomplish that purpose you are not content to stop with the threat that you will destroy the Government by starvation. Not at all. You have been careful to remind the President that his title to office is still in jeopardy. In other phrase, you put these measures before the Executive and command him to approve them, with a threat that if he refuses you will expel him from his office and force the Government to perish for want of money to preserve its life. Heroic party! Patriotic party!

The sophistry by which you seek to conceal your treasonable designs, the fallacy upon which you seek to justify all this, may be brought clearly to view by a careful consideration of a conclusion affirmed in this debate by the gentleman from Kentucky, [Mr. CARLISLE,] who is esteemed on both sides of the House for his fine legal acumen. I refer to this speech because I regard it as the ablest delivered on the democratic side during this debate. He says:

It is admitted that it is neither unconstitutional nor revolutionary simply to repeal these laws; but it is charged that it is both unconstitutional and revolutionary to attempt to repeal them in a manner the Executive does not like. One gentleman, at least—the gentleman from Maine, [Mr. FRYE]—has been candid enough to declare on this floor, amid the applause of his political friends, that we shall not repeal these election laws until, in some manner, the present Executive has been removed from office. Here is the exact language of the gentleman, as reported in the official debates:

"You have not repealed the law affording protection to the voter at the polls yet. You have not repealed the election laws yet; and you will not repeal them until you have removed the present Executive from his chair." [Applause.]

Sir, this presents a square issue from which we, as the representatives of a majority of the people, cannot shrink without dishonoring ourselves and degrading our constituencies.

If there had previously been a doubt as to the propriety of the course we have adopted, that declaration and its indorsement by the party of the Executive on this floor ought to have dissipated it. It has dissipated it; and I believe that to-day we stand as thoroughly united in our determination to assert the supremacy of the popular will, under the Constitution, and to redress popular grievances by lawful means, as any body of men have ever stood since our race first began its struggle for free government and individual liberty.

Even one usually so fair as this distinguished gentleman bows before a party exigency to misstate the position of his antagonist. It is not "charged that it is both unconstitutional and revolutionary to attempt to repeal them in a manner the Executive does not like." I hold if the President approves the repeal he must sign the bill, whether he "likes the manner" or not. If in his judgment the end sought by you is right the Constitution commands him to approve these bills, however objectionable may be "the manner" in which they are presented to him. But if you link these measures to the appropriation bills and submit them to him for his action and he shall then officially declare to you that he cannot approve them, you are lawfully notified of the exercise of his constitutional prerogative, and if after that you insist that he shall approve them or you will not vote supplies at all, you are resorting to force to compel the President to violate his conscience, his constitutional obligations, and his oath of office. And that we charge to be unconstitutional and revolutionary.

As reference has been made to the position assumed by the gentleman from Maine, let us take another case. Suppose these measures to have been incorporated in a separate bill, that it had passed Congress and been returned by the Executive with his objections. What has the Constitution declared of that bill in this condition? Why, that it ought not to become a law. The Constitution says that no bill ought to become a law unless this House, the Senate, and the President shall all officially declare that it ought to become a law.

The Constitution was made by the people for our government and theirs. They provided in that instrument the methods by which their will should be determined, and they made us swear that we would observe those methods. What are those methods? These: if the House shall approve a measure and the Senate shall approve it, and the Executive shall approve it, the popular will has been declared and crystallized into law. But "under the Constitution" if either this House, the Senate, or the Executive (unless overcome by two-

thirds of each House) shall say no, then the popular will as determined by those constitutional methods says it shall not become a law. So, then, in the case made we have before us a measure which the Constitution has declared shall not be a law, which the sovereign will under the Constitution has said shall not become a law. It is before us stamped with the condemnation of both the Constitution and the lawfully expressed will of the people.

The Constitution and our common sovereign have declared that it shall not become a law, but the gentleman from Kentucky and his party say it shall. Well, how? You must in some way override the Constitution. How do you propose to do it? By the application of force, of the element of coercion. Link it to a supply bill and compel the Executive to do what? He has declared upon his official oath that he cannot approve it. His judgment disapproving it, the Constitution commanded him to veto it; he recorded an oath in heaven that he would obey that command of the Constitution. Then what is it, I repeat, you thus seek to compel the Executive to do? Why, to trample the Constitution in the dust, to disregard his conscience, and violate his oath of office; to surrender to you a power delegated to him by the Constitution and by the people. For what was that power thus delegated to him? Why, as a check upon you, upon this body, upon Congress. In other phrase, you demand that he shall deliver over to you a power which the people gave him as a restraint upon you. The people, through their Constitution, have made him take an oath that he will employ that power to prevent less than two-thirds of both Houses from making any measure a law which does not meet his approval.

Now, in order to make your measure a law, you propose to make him surrender to you the power which his oath binds him to exercise to prevent you from making it a law, or if he refuse you will let the Government perish.

In this connection pardon me for again reminding you that the Constitution imposes upon you an obligation. The paramount obligation imposed upon this body, the obligation exalted by the Constitution above all others, is to preserve the Government. We were not permitted to take our seats until we registered an oath to faithfully discharge that obligation. I find no reservation or condition in that oath. I did not take it upon my lips with the mental reservation that I would preserve the Government if the President would consent to obey my commands. I did not take it with the mental reservation that I would not preserve the Government unless the Executive should consent to the repeal of legislation that might be offensive to me. I did not take that oath with a mental reservation that I would respect and observe it if the President would agree to surrender to me the power delegated to him by the people to check and restrain me. Did you take that oath with any such mental reservations?

Mr. Chairman, stripped of all sophistry, purged of every fallacy, the demand is that, in order to make these offensive and pernicious measures the law, the President of the United States shall trample upon the Constitution and violate his oath of office, or if he refuses you will trample upon the Constitution and violate your oath of office. This is the thing which the honorable gentleman tells us that he and his associates "cannot shrink from without dishonoring themselves and their constituents."

In conclusion, I congratulate myself and the country that this debate has torn from the democratic party, ruled now as in the past by a solid South, the veil which has hitherto concealed its designs against wholesome laws, against the Constitution, and against good government. You of the South should remember that upon you rests the responsibility for the acts and policy of that party, for you are a majority, and shape its course. In the caucus you rule the party, and the party rules the House and Senate. You freight the air with imprecations against us for what you are pleased to characterize as sectionalism.

I would have peace; the North longs for peace. But when you talk to us of peace you at the same time do that which provokes passion. You tell us that the North will not suffer the ghost of rebellion to down, and at the same time you flaunt in our faces the threat that you will celebrate your advent to power by expunging from the statute-book every vestige of our war legislation and wipe out all that is grand and glorious in the record of the last eighteen years. You appeal to us to "let the dead past bury its dead," and in the same breath you charge us with all the bloodshed, sorrow, and desolation of the war. You beg that we will not open anew the wounds of that conflict, and then complain that we shot treason to death. You tell us the war is ended, and then hurl maledictions upon us because, as you put it, we would not let you go in peace. You charge us with reviving the passions of civil strife, and at the same time denounce us as tyrants and despots because we expelled, in time of war, from the pulpit a clergy for desecrating the Christian religion by petitioning the Almighty to interpose in behalf of a monstrous crime for the destruction of our Government. You implore us to give you peace, and then shake your fists in our faces and tell us that "revolution has no terrors for you"—a flagrant and arrogant boast of the wicked part borne by you in the recent attempt to overthrow this Government. You offer us peace and reconciliation, but you demand as the price of it that you be restored to complete control of the nation. If you would have a lasting and valuable peace you must in earnest and patriotic sincerity haul down the rebel flag and salute the Stars and Stripes.

Mr. CHALMERS. Gentlemen upon the other side of the House in this debate have talked about everything in the heavens above, in the earth beneath, and in the waters under the earth. I propose now to bring them back to the question at issue in this bill, which is plain and simple.

There are two laws standing upon the statute-book in regard to supervisors of elections, one made for the country, the other made for the city, confessedly made for the city of New York; and John Davenport boasts that they were made at his dictation.

The city of New York is democratic; the country districts are republican. Hence we find that through the ingenuity of this matchless trickster in politics we have one law for the democrat and another for the republican. The supervisors who are to watch over the democratic polls are intrusted with extraordinary power to supervise registration, in effect to determine the qualifications of voters, and with or without warrant to arrest citizens at the polls. In the country districts there is no such power.

By section 2029 of the Revised Statutes, which remain unchanged, it is expressly provided:

> The supervisors of election appointed for any county or parish in any congressional district, at the instance of ten citizens, as provided in section 2011, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof.

Now all that is proposed by this bill is that we shall equalize the powers of supervisors everywhere in the Union—make their power the same in the cities that it is in the country districts, the same for the democrat that it is for the republican, the same for the bond-holding, purse-proud man in the rural districts of New York that it is for the toiling masses in the city of New York, who have been denounced on the floor of Congress as thieves, scoundrels, and the very scum of the earth.

That is the full extent of the legislation here proposed—no more. Yet when we have proposed to equalize the power of supervisors it has been suddenly discovered that they are mere "stool-pigeons with their wings clipped." If they are stool-pigeons, we did not create them; the republican party created them, and at the same time that they made stool-pigeons with clipped wings to nestle gently at republican polls they created vultures with fierce beaks and sharpened talons to hover around democratic precincts and to tear the vitals of democratic voters.

We simply demand that the law shall be equalized. We leave the supervisors as we found them. We do not even change their pay, lest perchance it should be said that we recognized the constitutionality of their appointment, which we utterly deny. We leave them the same in the South that they are to-day, not because it is right, but because we do not desire to demand upon an appropriation bill anything that is not vital and immediately essential for the preservation of civil liberty. That is all there is in this bill as to supervisors of elections.

In response to my gallant democratic friend from Ohio [Mr. EWING] who paid such a handsome compliment to the South I have a word to say. There was a time when I as a southern democrat believed that the position of northern democrats in the war was hateful. But, sir, I have learned to believe that the time will come when the historian will write it down that the northern democrats were the truest patriots in this country. They imitated the example of their old leader, Andrew Jackson. It will be remembered that when on the plains of Florida the militia, claiming that their enlistment had expired, attempted to return home, "Old Hickory," with the old flag in his hand, rallied the volunteers and drove the militia back to their places. When upon the next occasion the volunteers undertook to leave, he, with that same old flag in his hand, rallied the militia and drove the volunteers back to their places. So, sir, the historian will say that when the southern democrats undertook to leave the Union, the gallant democrat of the North, with the old flag in his hand, rallied the republican party and drove them back into the Union.

When the war was closed and the republican party undertook to destroy the Constitution, history will say that the same gallant northern democracy, with the same flag in their hand, rallied the southern democrats and drove the republicans back to their duty. [Applause.] We, sir, in the South loved the Constitution more than the Union; the republican party loved the Union more than the Constitution; but it will be written in history that the gallant democracy of the North were the truest patriots of the land, and that they loved both the Union and the Constitution one and indivisible. [Great applause].

Mr. KELLEY. Mr. Chairman, I agree with the sedate and pious gentleman from Michigan [Mr. HORR] who addressed us a few minutes ago in believing that the chief want of our country is quiet. I have so believed for years. As I have before told this committee, I strove by whatever personal influence I might exercise with the majority of the last Congress to avert this session, and had it been in my power I would have tempered the spirit in which the session was opened. When we were discussing whether the debate should be limited to brief speeches or whether ample time should be allowed I pleaded for the amplest time, that gentlemen on both sides might ex-

press themselves calmly and fully, and not be put to the necessity of belching forth the most passionate arguments or appeals that had occurred to them. I then said that by allowing ample debate the country would be enabled to discover how Pickwickian the cry of "revolution" was, and my prediction has been verified by the event. Gentlemen on both sides have made such patriotic utterances as will bind them in the future—utterances of which their constituents will take heed, and to which they will hold them. I had not intended to participate in this brief debate, and would not have done so had my name not been mentioned. But I do not intend that the gentleman from Ohio [Mr. GARFIELD] shall misrepresent me, even in a parenthetical ejaculation, and my purpose in rising now is simply to say that I never charged him with having asserted that to put riders on appropriation bills is revolutionary, because I could not believe that he so regarded it. When I spoke the gentleman's speech entitled "Revolution in Congress" lay before me, and I said:

The whole system of putting such riders on bills is, as I have said, vicious, and ought to be abandoned. But it is not revolutionary. And the gentleman from Ohio, [Mr. GARFIELD,] whose speech lies before me, under the title of "Revolution in Congress," has experienced a thorough revolution in opinion since the 8th of June, 1872, if he now believes the practice to be revolutionary.

What I feared was, that from the title of his speech and by its general expressions those who should not have the opportunity of examining it thoroughly would believe that the distinguished leader of the republican party did regard such legislation as revolutionary.

Now, sir, the country needs quiet; and it cannot be quieted by agitation. I now go further than I went before, and I say that the gentleman has seized on the phrases of a Glendower or two, and charges them as the sedate opinion of the democratic party. When Glendower told Hotspur how the heavens had been illuminated and the earth had shaken at the moment of his birth, the answer was, "Yes; and had your mother's cat kittened in that self-same hour, and you not been born, the heavens would have blazed and the earth shaken." That is the spirit of the response which I believe the great mass of the democratic members of the House would have made to the Glendowers whose phrases the gentleman set forth as the basis of a new revolution. [Applause.]

Mr. MONEY. Mr. Chairman, it is not my intention to occupy the time of this House with any discussion of this question. It has been exhausted until it is tedious as a twice-told tale. But I ask attention for one moment until I answer certain questions that have been from time to time propounded by gentlemen on the other side of the House as to the reason why the Chisholm murderers have not been punished. This is a distasteful matter for me to bring before the House; but I feel it to be a duty to my constituents that I should state briefly, clearly, and explicitly the reason why these men have not been punished.

When the gentleman from Pennsylvania [Mr. WHITE] put the question to my colleague, [Mr. SINGLETON,] in a tone that seemed to assert there was no answer to it, I attempted to obtain the consent of the House for five minutes to make this explanation; but it was objected to by the gentleman from Michigan, [Mr. CONGER,] who said that he had enough information on that subject and did not desire any more. Yes, Mr. Chairman; the gentleman from Michigan knows a great deal about that matter. The trouble with him is that he knows too much that is not true. It is the character, not the quantity, of his information that afflicts him. The gentleman also said that he wanted no further information. I do not know why he did not want it, unless it was that he did not desire to have his fancy trammeled by the facts of this mournful case.

In the October term, 1877, the first term of the circuit court held after the murder of Mr. Chisholm, the grand jury, after investigating the Chisholm case, found six indictments for the murder and twenty for the crime of being accessory to the murder. In the March term which succeeded, the district attorney having charge of the prosecution moved a continuance for the reason that witnesses material to the case of the prosecution were absent. Those material witnesses were the widow and the son of the murdered man. In the September term which followed the yellow fever prevailed all over the State of Mississippi; and the courts were pretermitted not only in that county, but in all the counties of my district, and I believe in every district in that State, except perhaps the first district. When the judge, in view of the public anxiety for the trial of these men for the murder of Mr. Chisholm, went despite the prevalence of the fever to hold his court in De Kalb County, he was petitioned by the board of health of the county, and the petition was signed by every member of the bar in the district, to adjourn the court until the next regular term. He did so in response to this petition.

When the next term of the court came in March, 1879, the prosecution again moved for a continuance, averring that witnesses material to the prosecution, Mrs. Chisholm and H. C. Chisholm, were absent. There have been two continuances—both of them at the request of the prosecution. These are the simple facts in that case. When the jury shall have had it under consideration, upon argument made, I do not doubt that they will return a verdict in accordance with the law and the facts.

I state these things because this case has been continually lugged into the debates on this floor as a matter of political capital. The facts have been continually misrepresented, and the character of the people of that community systematically and persistently maligned and traduced.

[Here the hammer fell.]

Mr. WHITE. Mr. Chairman, possibly I would not have alluded to the circumstances of which I am about to speak, if the gentleman who has just taken his seat [Mr. MONEY] had not recalled what took place some days ago when the gentleman from Mississippi [Mr. SINGLETON] was upon the floor addressing the committee. He was indulging in some very impassioned remarks about the character of the people who belong to the republican party in the South, when I asked whether it was not considered respectable in the State of Mississippi for a man to be a republican. He replied:

Yes, sir; if he comes there and intends to be a republican without showing himself to be unworthy of citizenship.

I asked him again, "Would not the social ostracism make it very unpleasant to be a republican?" He replied:

Not at all, if he was a respectable man; but respectable northern men as soon as they reach the confines of the State become democrats because they see at once that all respectability is on that side.

Now, I find, Mr. Chairman, that the RECORD does not represent that colloquy in that way. I find the question, "Would not the social ostracism make it very unpleasant to be a republican?" entirely eliminated from the colloquy, and the answer to the first interrogatory reads in this way:

Mr. SINGLETON, of Mississippi. In Mississippi a man's respectability does not depend upon his political opinions, unless those opinions are carried into practice to bring about race antagonism and place the lives of our people in danger. It rarely happens that men of intelligence come to Mississippi and affiliate with any other than the democratic party.

Now, that was not the answer which I received from the experienced gentleman from Mississippi. The correct answer was the answer which was published in the prints of the day.

I asked further whether Judge Chisholm was not a respectable man. The reply was that Judge Chisholm was not killed on account of his politics, but on account of a family feud. Now, that was correct. The actual colloquy which occurred on that subject was that which I hold in my hand.

Mr. WHITE. Was Judge Chisholm a "respectable" citizen of Mississippi?

Mr. SINGLETON, of Mississippi. Yes, sir; and Judge Chisholm was not killed on account of any political opinions, but in consequence of a personal feud, as the gentleman ought to know, which had existed between two families long anterior to the death of Judge Chisholm.

Mr. WHITE. If he had not been a republican would he have been killed?

Mr. SINGLETON, of Mississippi. I presume he would. I knew the men who were engaged in that feud; they were all men of courage, who would not submit to an insult.

Mr. WHITE. Have the murderers of Judge Chisholm ever been punished or tried?

Mr. SINGLETON, of Mississippi. Now you are asking questions which I do not propose to answer.

Instead of that I find in the RECORD—

Mr. WHITE. Was not Judge Chisholm a respectable citizen; and was he not killed on account of his politital opinions?

Mr. SINGLETON, of Mississippi. I have never understood that he was killed on account of his political opinions. His death grew out of a family feud existing long anterior to his death.

Mr. WHITE. Would he have been killed except for those opinions?

Mr. SINGLETON, of Mississippi. I do not know. Any opinion upon that subject could amount to nothing more than speculation.

Mr. WHITE. Have the murderers of Judge Chisholm ever been punished or tried?

Mr. SINGLETON, of Mississippi. I think not. They have been indicted, and the trials were postponed at the last term of the court on account of the absence of Mrs. Chisholm, the chief witness for the State—

and so on.

Now, Mr. Chairman, that is not the colloquy that took place at that time upon this floor. How the RECORD was altered, how my questions were changed, and how answers were given which I did not give, it is not for me at this moment to say.

I do not desire to make a point on any man, or to take advantage of any gentleman who sees fit to round off his remarks to complete a sentence; but I submit it is unfair to change a colloquy and to give it to the country in that way. The only reason I allude to the fact is because that was a great public calamity. I say now and here it was such a crime as the American Government should have taken notice of somehow. It was a political murder.

[Here the hammer fell.]

Mr. WARNER. Mr. Chairman, if the war speeches of 1861 have all been rehearsed, it is not too much perhaps to hope that a little time may be given by gentlemen on the other side to the consideration of the questions before the House on their merits. I mean no reflections on the speeches that have been made; many of them have been models of declamation, and I always did like speeches that had the stir of martial music about them—speeches that talked of shotted guns and smoking battle-fields. But I cannot help but reflect that I never heard one of them from a man who had spent the night before under a dog-tent or was fresh from a real battle-field. And I confess, without reservation, that I am no more in favor of the next war after having heard them than I was five weeks ago. I never did like war, and I am free to say that I am more opposed to it now that I know its utter fiendishness than before I had had any experience or it. I give due notice, therefore, that I shall favor the next war only on condition that it is limited strictly to those who want it; on the condition that they are to be the only combatants. I shall say little

about it; indeed, if limited as I suggest, I do not think there will be much for anybody to say.

But I wish to say, in the few minutes I have, a few words touching the merits of the question of marshals and supervisors.

First. Whatever constitutional right the General Government may have, if it chooses to exercise it primarily over the election of Representatives to Congress, we deny the constitutional right to send United States officers into States where elections are being held under State laws and by State regulations, to interfere with or control such elections. In other words, we deny the right of United States officers to assume the execution of State laws. I think it but true to say that this proposition has not been squarely met and answered by the other side.

The distinguished gentleman from New Jersey in his able argument, in nearly all of which I heartily concur, did not meet this point, nor did my colleague from Ohio [Mr. KEIFER] in his argument yesterday meet it as I hoped he would.

Second. But if there were no constitutional objections, is this machinery of supervisors and deputy marshals calculated to secure free and fair elections? Is it not rather mere party machinery that will be used always by the party having control of it for its own perpetuation? What more is needed to enable the Executive to determine any general election? Suppose the House and the Senate were republican and the President a democrat, would gentlemen on the other side then contend for the continuance of this power? I will go as far as any one in support of proper regulations that have in view only the purity of the ballot box; that are in the interest alike of the party out of power and the party in power, and that will tend to secure everywhere, in fact, free and fair elections—a correct count and honest and true returns. But that is what the machinery constituted by the laws it is proposed to repeal does not afford, but on the contrary is made the very agency by which free and fair elections are thwarted. Proof of this is abundant. The public Treasury by this machinery is drawn upon for party uses. No; this machinery is in every aspect partisan, unnecessary, unwise, and ought not to be perpetuated.

Mr. VANCE. Mr. Chairman, on yesterday the gentleman from Ohio [Mr. KEIFER] said that my colleague [Mr. STEELE] had failed to give a reason for the small vote in his district, and he also alluded to the smallness of the vote in my district, the eighth, as well as in those of my other colleagues, [Mr. SCALES and Mr. ARMFIELD.] I sought to obtain the floor at the time to ask the gentleman why he did not refer to the August election instead of the November election, but he declined to allow me to have the floor. I wish simply to state that we had two elections in 1878 in North Carolina. We had our State election in August, and there was a full "turn out." At the November election the vote was small, and the reason why it was small in my colleague's district, and in my district particularly, was because there was no opposition. I wish to call attention to this significant fact. The loss in votes, in a great measure, was in the strong democratic districts. No doubt but Mr. Waddell was defeated because the democrats did not vote.

I presume my friend intended to say there was something wrong down in those districts, and that the people were deterred from voting, and that it was necessary to send Federal supervisors there to look after the elections. Let me say to my friend, to the House, and to the country that that is quite a mistake, for there never was a more peaceful election. In fact, sir, it was quite too peaceful; there was not excitement enough to secure a full vote. Certainly no one, though, was deterred from voting.

Mr. KEIFER. That is what I object to. It was too peaceful.

Mr. VANCE. Sit down, my brother; you would not let me have a word yesterday. It was, no doubt, too peaceful for me. It would have been better if I had met with opposition so far as receiving a large vote was concerned.

My majority in 1872 was 2,500, in 1874 it was 4,500, and in 1876 it was nearly 9,000, and I believe my republican friends agreed that I should not have any opposition the last time lest it should be 16,000, and they therefore let me off. The fact is, and I regard it with pleasure, that I have been sustained by my republican constituents in the eighth district of North Carolina. They know that I am a clever fellow, [laughter,] and they know that I try to treat them right, and that I came here to sustain the Constitution of the United States as far as I am able. I came here in the interest of my own people—the people of my own district, of the citizens of North Carolina, and in the interest of this great country with its forty-five millions of inhabitants, and I am glad to say on the floor of the House that I have voted from conscientious motives all the time, and I have sincerely and truly desired from first to last that in the humble homes of the poor as well as in the palatial residences of the rich there should be peace and prosperity throughout our great country.

[Here the hammer fell.]

Mr. VANCE. Do you want me to quit?

The CHAIRMAN. The gentleman's time has expired.

Mr. VANCE. I should have liked to talk a little more, but I must submit.

Mr. ATKINS. The order made by the House was, I believe, that all debate should close at two o'clock. I had not expected to say anything at all upon this subject, and until half an hour ago I was still of that opinion. But in glancing over a RECORD shown to me by a friend I noticed the following statement in a speech by the gentleman from Pennsylvania, [Mr. SHALLENBERGER:]

> Here was a special election separate and distinct from a State election, where United States officers alone were to be elected, an election which was to be accepted by the people of a State as deciding the momentous question of union or disunion, peace or war, and yet the democratic doctrine upon this floor to-day affirms that the United States is and should be uttterly powerless under the Constitution to protect those polls against the high crimes of Tennessee by and through which the majority of that State were forbidden by armed interference at the polls to hold the State loyal to the old flag.

This is the first time, Mr. Chairman, that I have ever risen upon this floor to defend the State of Tennessee from any charge of disloyalty or to attempt to defend the South. It is not my purpose now to attempt any defense. If the course which the members from that State have pursued for the last eight years since they have been readmitted upon this floor is not an evidence of their loyalty to the Union, I can add nothing to the general judgment in that respect. But I want to contradict, right here and now, the statement that during the year 1861 there were any troops in Tennessee who prevented any man from voting at the polls. I know of no instance, and if there is a member from Tennessee upon the floor to-day, be he republican or democrat, who knows of any instance where any man was refused the right to vote or to express his sentiments on the day when Tennessee separated or voted to separate from the Union, I am willing to yield to him and invite him now to make the announcement.

Mr. HOUSE. Who makes that statement?

Mr. ATKINS. The gentleman from Pennsylvania [Mr. SHALLENBERGER] makes it. He speaks of—

> The high crimes of Tennessee, by and through which the majority of that State were forbidden, by armed interference at the polls, to hold the State loyal to the old flag.

Alluding to the election of 1861.

Mr. HOUSE. There is not a word of truth in that statement.

Mr. ATKINS. No, there is not a word of truth in it, and it was to say so that I rose. Now I wish to say I was in camp on that day, the day on which Tennessee voted to separate from the Union, at a place in the western portion of the State. There thousands of votes were polled on that day. The soldiers voted as well as the citizens. There was one vote it is true, and only one, against separation. But there was one who cast his vote against it, and that man marched to the polls and deposited his ballot without any challenge from any man. Now, sir, I state kindly and respectfully to my friend from Pennsylvania, who has made the statement doubtless believing it to be true, that there is not one solitary word of truth in it. If there is, it occurred without my knowledge and has occurred without the knowledge of any of my colleagues.

Mr. SHALLENBERGER. Does the gentleman desire to know the authority upon which I made that statement?

Mr. ATKINS. I do not care a cent who the author of that statement is. I do not believe there is one word of truth in it.

Mr. SHALLENBERGER. The democratic candidate for the Presidency was my authority.

Mr. ATKINS. You allude to Mr. Greeley, I suppose?

Mr. SHALLENBERGER. I do.

Mr. ATKINS. I am not here to impeach Mr. Greeley. But that has nothing to do with it. The statement may have been made in some document got out over Mr. Greeley's name, and Mr. Greeley might or might not have been responsible for it.

Mr. SHALLENBERGER rose.

Mr. ATKINS. I decline to yield further.

Mr. SHALLENBERGER. If Mr. Greeley is not responsible, I give the Louisville Journal of June 13, 1861, and others, including Andrew Johnson, of Tennessee.

The CHAIRMAN. The gentleman from Tennessee declines to yield and the gentleman from Pennsylvania is not in order.

Mr. WHITE. The gentleman from Pennsylvania should be allowed to give his authority.

The CHAIRMAN rapped to order.

Mr. WHITE. I rise to a question of privilege.

Mr. ATKINS. I have but one minute; but if it will appease the gentleman I will yield it to him.

Mr. WHITE. We do not want to be appeased. We want fair play. My colleague wants to give his authority.

Mr. ATKINS. I thought he had given it. Let us not wrangle any more about this matter.

Mr. WHITE. Andrew Johnson is the authority, and I could bring all the Union men of East Tennessee to make good the assertion that Tennessee was bulldozed out of the Union in 1861.

Mr. DIBRELL. The statement is not true. I was a Union candidate, in February, 1861, for the convention, and a Union man up till the time that the war commenced, and I say there never was a fairer election held in that State.

Mr. WHITE. What the gentleman states is not so.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. WHITE. I lived in Tennessee myself——

The CHAIRMAN rapped repeatedly to order.

Mr. ATKINS. I know that my friend from Pennsylvania [Mr. WHITE] is perfectly irrepressible, and I think the best way for the

House to do is to humor him and let him go on. He acts very much like a spoiled child. There is a Union man upon this floor from Tennessee. He was a Union boy during the war. He is descended from Union parents. His father was a distinguished member of Congress at one time. He was a distinguished man in Tennessee. I have never had one word of conference with my colleague on this subject, [Mr. TAYLOR,] but I am willing now for that gentleman to rise and state in his place whether the people of Tennessee were bulldozed out of the Union by force of arms at the election in 1861.

Sir, we have the authority of Mr. Brownlow that in East Tennessee 30,000 votes were cast against secession, while only 3,000 were cast in favor of it. Does that look much like bulldozing? I will now yield to my colleague, [Mr. TAYLOR.]

Mr. TAYLOR rose. [Cries of "Regular order!"]

The CHAIRMAN. The time has arrived at which by order of the House all debate upon this bill must cease.

Mr. FINLEY. I desire to call attention to the courtesy which has been extended by this side of the House and which is not reciprocated by the other side.

Mr. HOUSE. I think that unanimous consent might be given that my colleague [Mr. TAYLOR] might be heard.

Mr. ATKINS. I have never asked any favors of the other side of the House and I never intend to ask them, and I will grant very few hereafter.

The CHAIRMAN. Debate upon the bill and amendments is closed by order of the House, and the first question is upon the amendment offered by the gentleman from Ohio, [Mr. GARFIELD.]

The Clerk read Mr. GARFIELD's amendment, as follows:

Strike out all from and commencing with line 2006 down to and including line 2064, as follows:

Provided, That the per diem pay of each juror, grand or petit, in any court of the United States, shall be $2, and that the last clause of section 800 of the Revised Statutes of the United States, which refers to the State of Pennsylvania, and sections 801, 820, and 821, of the Revised Statutes of the United States, are hereby repealed; and that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing the names of not less than three hundred persons, possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen residing in the district in which such court is held, of good standing and a well-known member of the principal political party opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge in a district in which such is now the practice from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State; and no person shall serve as a petit juror more than one term in any one year, and all juries to serve in courts after the passage of this act shall be drawn in conformity herewith. All general and special laws in conflict herewith are hereby repealed: *And provided further*, That the following sections of the Revised Statutes of the United States, namely, sections 2016, 2018, and 2020, and all of the succeeding sections of said statutes down to and including section 2027, and also section 5522, be, and the same are hereby, repealed; and that section 2017 be amended by striking out of the first line thereof as printed in the Revised Statutes the words "and required"; and that section 2019 be amended by striking out of said section in lines 11 and 12 as printed in the Revised Statutes the words "for the purpose of engaging in the work of canvassing the ballots," and by striking out from line 13 of said section as printed in said statutes the words "in respect to such canvass."

That section 2028 be amended by striking out in lines 1 and 2 of said section as printed in the Revised Statutes the words "or a deputy marshal," and by striking out in line 3 of said section as printed in said statutes the words "city, town, county, parish." That all of section 2031 of said statutes, except so much thereof as relates to the pay of supervisors of elections, and that all other sections of the Revised Statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special or general deputy marshals of elections, and prescribing their duties and powers and allowing them compensation, be, and the same are hereby, repealed.

Mr. WEAVER. I offer the following as an amendment to the amendment:

Strike out all after the word "repeal," in line 2035, on page 83 of the bill, down to and including line 2064, upon page 84, as follows:

And provided further, That the following sections of the Revised Statutes of the United States, namely, sections 2016, 2018, and 2020, and all of the succeeding sections of said statutes down to and including section 2027, and also section 5522, be, and the same are hereby, repealed; and that section 2017 be amended by striking out of the first line thereof as printed in the Revised Statutes the words "and required;" and that section 2019 be amended by striking out of said section in lines 11 and 12, as printed in the Revised Statutes, the words "for the purpose of engaging in the work of canvassing the ballots," and by striking out from line 13 of said section as printed in said statutes, the words "in respect to such canvass."

That section 2028 be amended by striking out in lines 1 and 2 of said section as printed in the Revised Statutes, the words "or a deputy marshal," and by striking out in line 3 of said section as printed in said statutes the words "city, town, county, parish." That all of section 2031 of said statutes, except so much thereof as relates to the pay of supervisors of elections, and that all other sections of the Revised Statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special or general deputy marshals of elections, and prescribing their duties and powers and allowing them compensation, be, and the same are hereby, repealed.

Mr. FRYE. Is not that the same amendment as the one offered by the gentleman from Ohio, [Mr. GARFIELD?]

Mr. WEAVER. It is not the same amendment.

Mr. FRYE. I desire to make a parliamentary inquiry. Is the amendment offered by the gentleman from Iowa [Mr. WEAVER] an amendment to the amendment of the gentleman from Ohio, [Mr. GARFIELD,] or does he offer it as a substitute for that amendment?

The CHAIRMAN. The amendment offered by the gentleman from Ohio [Mr. GARFIELD] is now proposed to be amended by the gentleman from Iowa, [Mr. WEAVER,] and the Clerk will again report the two amendments.

Mr. GARFIELD. I think I can save time by stating that my amendment strikes out the whole proviso, and the amendment of the gentleman from Iowa strikes out only that part which relates to marshals and supervisors, but does not touch the jurors. That is the state of the case.

The question was taken upon Mr. WEAVER's amendment to the amendment, and it was not agreed to.

The question recurred upon Mr. GARFIELD's amendment.

Mr. GARFIELD. Upon that amendment I ask for tellers.

Mr. SPRINGER. Is this an amendment to strike out the whole proviso in reference to jurors and supervisors both?

The CHAIRMAN. For the information of the committee the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. SPRINGER. I would ask whether it is the practice in Committee of the Whole upon a vote by tellers for members who are paired not to vote?

Mr. GARFIELD. I suppose that depends upon the understanding between the parties who are paired. In ordinary cases a pair only covers votes taken by yeas and nays.

Mr. SPRINGER. Is it not understood that a pair is a pair upon every question?

Mr. FERNANDO WOOD. Undoubtedly.

The CHAIRMAN. It is not in the province of the Chair to answer as to what arrangement or agreement shall have been made by individual members. It is a mere question which commends itself to the understanding and honor of each gentleman who has made a pair. It is not for the Chair to determine how far a pair may extend.

Mr. GARFIELD. It is a question for each gentleman who has made a pair to determine.

Mr. SPRINGER. I understood that a pair is a pair upon every question, either a rising vote, a vote by tellers, a vote by yeas and nays; otherwise the pair would be of no avail in Committee of the Whole.

The CHAIRMAN. That is a question upon which the Chair has no right to decide at all.

Mr. SPRINGER. We may as well understand this matter of pairs alike upon both sides of the House.

Mr. FRYE. Is the vote now upon the amendment of the gentleman from Ohio [Mr. GARFIELD] or on the amendment of the gentleman from Iowa, [Mr. WEAVER?]

The CHAIRMAN. The Chair will state that the amendment of gentleman from Iowa has been lost, and the question now is upon the amendment of the gentleman from Ohio, [Mr. GARFIELD.]

Tellers were ordered; and Mr. GARFIELD and Mr. ATKINS were appointed.

The question was taken; and on a division there were—ayes 124, noes 138.

So the amendment was not agreed to.

During the taking of the vote,

Mr. FORSYTHE said: I have voted in the affirmative inadvertently and I now withdraw my vote, being paired with the gentleman from Maine, [Mr. LADD.]

Mr. SPRINGER. I move an amendment, with the consent of the chairman of the Committee on Appropriations, [Mr. ATKINS,] to correct a verbal error. In line 2062 of the bill strike out the words "or general;" and in the same line, after the word "elections," insert "or general deputy marshals having any duties to perform in respect to any election;" so that it will read as follows:

That all of section 2031 of said statutes, except so much thereof as relates to the pay of supervisors of elections, and that all other sections of the Revised Statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special deputy marshals of elections, or general deputy marshals having any duties to perform in respect to any election, and prescribing their duties and powers and allowing them compensation, be, and the same are hereby, repealed.

The amendment was agreed to.

Mr. DIBRELL. I desire to offer an amendment as a substitute for one which was adopted on page 29 of the bill.

Mr. ATKINS. I ask unanimous consent to go back for the purpose of amending the bill in certain particulars, which I think ought to be done for the good of the service. The amendment proposed by my colleague [Mr. DIBRELL] modifying the action already taken by the Committee of the Whole in relation to storekeepers, reducing their salaries, I think will meet the approbation of the House. I ask unanimous consent to go back for the purpose of considering that and certain other amendments which I desire to offer.

Mr. FORT. The gentleman alludes to storekeepers?

Mr. ATKINS. That is one amendment.

Mr. GARFIELD. With the limitation made by the chairman of the Committee on Appropriations I do not object.

Mr. ATKINS. I am not willing to open the bill to other amendments.

Mr. GARFIELD. There is no objection, I think.

There being no objection, the request of Mr. ATKINS was granted.

The CHAIRMAN. The Clerk will report the amendment sent up by the gentleman from Tennessee, [Mr. DIBRELL.]

The amendment was to insert the following in lieu of an amendment adopted on page 29 after line 702:

Provided, That hereafter storekeepers at distilleries that mash less than sixty bushels of grain per day shall be allowed not exceeding $50 per month; but when

one person acts as storekeeper and gauger his salary shall not exceed $4 per day for the time actually employed.

Mr. DIBRELL. I have submitted that amendment to the Commissioner of Internal Revenue, and it meets his approbation entirely.

Mr. CANNON, of Illinois. I desire to ask a parliamentary question.

The CHAIRMAN. The gentleman will state it.

Mr. CANNON, of Illinois. Should this amendment fail, will it leave the bill as it now stands in regard to storekeepers?

The CHAIRMAN. If this amendment is not agreed to it will leave the bill in its present shape.

Mr. ATKINS. It is a modification of the amendment already adopted reducing the salaries of storekeepers from $100 per month to $50 per month. If this amendment should fail the other amendment will stand.

Mr. CANNON, of Illinois. If this should fail, I understand the bill would remain as reported.

Mr. ATKINS. No; the other amendment has already been adopted.

The amendment of Mr. DIBRELL was then agreed to.

Mr. ATKINS. I have an amendment to offer on page 11 of the bill: in line 253 strike out "twenty-four" and insert "thirty-five;" and in lines 254 and 255 strike out "$30,543" and insert "$44,100;" so that the paragraph will read:

For thirty-five clerks to committees, at $6 per day during the session, $44,100.

The object of that amendment is to make the number of the committee clerks of the House conform to the report made by the Committe of Accounts a few days ago, and which was adopted by the House.

Mr. GARFIELD. That is all right.

The amendment was agreed to.

Mr. ATKINS. I move to amend, on page 25 of the printed bill in line 586, by striking out "ninety" and inserting "eighty," and to amend the total of the paragraph so as to read "$74,800." This is simply a reduction of the number of nine-hundred-dollar clerks in the office of the Treasurer of the United States, reducing the number from ninety to eighty, and it is made at his suggestion.

The amendment was agreed to.

Mr. ATKINS. I move to amend on page 39 of the bill by inserting after the word "dollars," in line 954, the words "for purchasing books, periodicals, and pamphlets containing information relative to monetary questions, $200;" so that the paragraph will read:

For contingent expenses of the United States mints and assay offices, namely: For specimens of coins, to be expended under the direction of the Secretary of the Treasury, $200; for books, balances, and weights, and other incidental expenses, $800; for purchasing books, periodicals, and pamphlets containing information relative to monetary questions, $200; and refining and parting of bullion shall be carried on at the mints of the United States and at the assay office at New York, &c.

That is for the purchase of books for the office of the Director of the Mint, which I think is necessary.

The amendment was agreed to.

Mr. ATKINS. On page 42, in line 1011, strike out "$7,500" and insert "$10,000;" also, in line 1020, strike out "$3,000" and insert "$6,000;" also, in line 1059, on page 44 of the bill, strike out "$7,500" and insert "$12,000;" also, in line 1062, strike out "$5,515" and insert "$15,000;" and in line 1069, strike out "$2,000" and insert "$6,000;" and in line 1077, strike out all of said line to the end of the paragraph and insert "$1,000; in all, $3,500."

The paragraphs as proposed to be amended were as follows:

Mint at Denver, Colorado:
For salaries of assayer in charge, $10,000; melter, $2,250; for assistant assayer, $1,400; two clerks, at $1,600 each; one clerk, $1,400; in all, $10,750.
For wages of workmen, $7,500.
For fuel, lights, acids, chemicals, crucibles, repairs, and other necessaries, $6,000.

Assay-office at Helena, Montana:
For salaries of assayer in charge, $2,500; and of melter, $2,250; and one clerk of class 1; in all, $5,950.
For wages of workmen, $12,000.
For fuel, crucibles, chemicals, light, and other incidental expenses, $15,000.

Assay-office at Boisé City, Idaho Territory:
For salary of assayer, who shall also perform the duties of melter, $2,000; one clerk, $1,000.
For wages of workmen, fuel, crucibles, chemicals, and repairs, and other incidental expenses, $6,000.

Assay office at Charlotte, North Carolina:
For salary of assayer in charge, who shall also perform the duties of melter, $1,500; and the assayer is hereby authorized in case of necessity to employ a clerk at not exceeding $1,000 per annum; for labor and other expenses, $1,000; in all $3,500.

Mr. ATKINS. These amendments are intended to supply the Mint department with larger appropriations than are embraced in this bill. The Director of the Mint has addressed a letter to this House, which has been referred to the Committee on Appropriations, asking for additional appropriations over and above those originally included in this bill and those which were originally estimated for. He says it is necessary to have this additional amount for the purpose of carrying on the mints for the coming fiscal year.

The amendments were agreed to.

Mr. ATKINS. On page 52 of the bill I move to amend in line 1268 by striking out all of the paragraph after the word "bureau;" as follows:

And the entire clerical force, six excepted, now employed on the Medical and Surgical History of the War shall be employed on the work necessary to the prompt payment of pensions.

That relates to the Surgeon-General's Office. Under the law six clerks only are allowed to work on the Medical and Surgical History of the War in order to complete it. The Surgeon-General desires that that restriction shall be removed, and, yesterday I believe it was, the Committee on Appropriations concurred in that suggestion.

The amendment was agreed to.

Mr. ATKINS. I also offer the following amendment:

On page 55, after line 1345, insert, as a new paragraph, the following:
For eight charwomen, to be employed in the office of the Secretary of War, in the new State, War, and Navy Department building, at $180 per annum each, $1,440; for four watchmen, two firemen, and one laborer in the part of the Adjutant-General's Office to be located on the first and second floors of the old Navy Department building; in all, $4,980. For contingent expenses of the Adjutant-General's Office, in the old Navy Department building, including fuel, light, heating apparatus, matting, cleaning, labor, and incidental items of care of two floors of Navy Department building to be occupied by Adjutant-General's Office, $2,000.

This amendment merely provides for additional force, made necessary in consequence of the removal from the old into the new War Department building.

The amendment was agreed to.

Mr. ATKINS. I offer also the amendment which I send to the desk.

The Clerk read as follows:

On page 61, in line 1479, after the word "hundred" insert the word "fifty."
In line 1480, strike out the word "four," where it first occurs, and insert "six."
In line 1482, strike out "four" and insert "five."
In lines 1486-7, strike out "96,320" and insert "100,690."
On page 62, in line 1510 strike out "twenty-five" and insert "thirty."
In lines 1513 and 1514 strike out $2,500 and insert $5,000.

Mr. ATKINS. This amendment provides for two additional clerks of class 4, deemed necessary by the Secretary of the Interior on account of the increased number of appeals that have been made from the Pension Office to the Interior Department. It also provides for an assistant messenger. It appropriates $5,000 additional for stationary. Only $25,000 was granted last year, and there was a deficiency. It also appropriates $25,000 for casual repairs of the Interior Department building. There has been no appropriation for that purpose within the last three or four years, and I have no doubt this amount is needed.

The amendment was agreed to.

Mr. ATKINS. I move also the following amendment:

After line 1592 on page 65 insert:
To enable the Secretary of the Interior to pay the expenses incurred by the Committee of the National Academy of Sciences during their consideration of the scientific surveys of the Territories, $300.

At the last session of Congress a clause of this kind which had been inserted in the sundry civil appropriation bill by the committee of conference was by accident omitted in the enrollment. The amendment proposes simply to pay the expenses of the National Academy of Sciences while engaged in making a report in reference to geological surveys, in accordance with a resolution of Congress. I hope there will be no objection.

The amendment was agreed to.

Mr. ATKINS. I now move that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committe of the Whole on the state of the Union had had under consideration the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1880, and for other purposes, and had directed him to report back the same with sundry amendments and with a recommendation that it be passed.

Mr. ATKINS. I now demand the previous question on the amendments to the legislative appropriation bill.

Mr. BRAGG. I ask the gentleman from Tennessee before he moves the previous question to permit me to offer an amendment to strike out the provision for the commissioners of southern claims.

Mr. ATKINS. If I were acting in my own capacity at this time, I would do so. It is true that I presented this bill without having been authorized to report it from any committee; but I am now acting as chairman of the Committee on Appropriations and I do not feel that I would be doing justice to the committee if I should assent to the gentleman's request.

Mr. GARFIELD. I ask unanimous consent that the yeas and nays may be taken on my motion to strike out the political legislation, extending from lines 2006 to 2064.

Several members objected.

The previous question was seconded and the main question ordered.

Mr. ATKINS moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair asks that gentlemen now indicate the amendments upon which they desire separate votes; upon the others the question will be put in gross.

Mr. HUBBELL. I ask for a separate vote upon the amendment striking out, in the paragraph relating to photolithographing for the Patent Office, the words "and in the city of Washington, if it can be done there at reasonable rates."

Mr. GARFIELD. I again ask unanimous consent that a vote be

taken by yeas and nays on striking out the political provisions embraced in the bill.

The SPEAKER. That request has been declined.

Mr. GARFIELD. I know, but I ask it again.

Several members objected.

Mr. ATKINS. I demand a separate vote on the proposition to increase the appropriations for the distribution and purchase of seed by the Agricultural Department.

Mr. STEVENSON. I object to any separate vote unless we can have a vote on the amendment of the gentleman from Wisconsin, [Mr. BRAGG.]

The SPEAKER. The gentleman has no right to object. It is the right of any member to have a separate vote on any amendments reported from the Committee of the Whole. Such a vote has been asked on two amendments. If there be no objection, the other amendments will be regarded as agreed to.

There was no objection.

Mr. ATKINS moved to reconsider the vote by which the amendments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The first question was upon the following amendment, on which a separate vote had been asked by Mr. HUBBELL:

In the paragraph relative to photolithographing for the Patent Office strike out, in lines 1703, 1704, and 1705, the words "and in the city of Washington, if it can there be done at reasonable rates," and insert in lieu thereof the following: "wherever it can be done at reasonable rates to the satisfaction of the Commissioner."

Mr. HUBBELL. I merely wish to say——

The SPEAKER. Debate is not in order.

The amendment was agreed to; there being ayes 160, noes not counted.

Mr. ATKINS moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next question was upon the following amendment, upon which a separate vote had been asked by Mr. ATKINS:

Strike out lines 1907 to 1915, inclusive, as amended, and insert the following:

For the purchase and propagation, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, $70,000; for parceling, packing, and distributing the same, $30,000: *Provided further*, That the Commissioner shall be required, and he is hereby instructed, to accompany his next annual estimate of the expenses of the Department of Agriculture with an itemized report of the quantity of seeds and plants purchased during the fiscal year for which this appropriation is made, the date of said purchases, the prices paid, and from whom said seeds and plants were purchased, and to whom distributed, and in what quantities, a reasonable and equal proportion of which seed shall be supplied for distribution among their constituencies to Members and Delegates in Congress when requested; provided no part of said sum shall be paid to salaried employés in said Department.

Mr. MILLS. The word "reasonable" was stricken out of that amendment as mere surplusage.

Mr. WHITE. I suggest to the gentleman from Texas [Mr. MILLS] that the language is all right as it stands. The proportion is to be "reasonable," and that reasonable proportion is to be distributed "equally."

Mr. MILLS. An amendment was made correcting the error of the language in this respect.

Mr. WHITE. I wish to ask a parliamentary question. I ask the gentleman from Tennessee, [Mr. ATKINS,] through the Chair, upon what he desires a separate vote—on the amount merely, or on the entire clause?

Mr. ATKINS. On the amendment of the gentleman from South Carolina.

The SPEAKER. The only way to get any part out is to strike it all out.

Mr. ATKINS. That will leave the bill as it was.

The House divided; and there were—ayes 158, noes 39.

Mr. ATKINS demanded the yeas and nays.

Cries of "No!" "No!" on the republican side.

Mr. ATKINS. I demand them, as I wish to see who it is will vote for the amendment.

The House divided; and there were ayes 16, not one-fifth of the last vote.

So the yeas and nays were refused.

The amendment was agreed to.

Mr. DE LA MATYR moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ATKINS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELAM and Mr. FRYE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 141, nays 120, not voting 25; as follows:

YEAS—141.

Acklen,	Armfield,	Atkins,	Beale,
Aiken,	Atherton,	Backman,	Beltzhoover,
Bicknell,	Felton,	Manning,	Singleton, O. R.
Blackburn,	Finley,	Martin, Benj. F.	Slemons,
Bliss,	Forney,	Martin, Edward L.	Smith, Hezekiah B.
Bragg,	Frost,	McKenzie,	Smith, William E.
Bright,	Geddes,	McLane,	Sparks,
Buckner,	Gibson,	McMillin,	Speer,
Cabell,	Gillette,	Mills,	Springer,
Caldwell,	Goode,	Money,	Steele,
Carlisle,	Gunter,	Morrison,	Stephens,
Chalmers,	Hammond, N. J.	Muldrow,	Stevenson,
Clardy,	Harris, John T.	Muller,	Talbott,
Clark, Alvah A.	Hatch,	Murch,	Thompson,
Clark, John B., jr.	Henkle,	Myers,	Tillman,
Clymer,	Henry,	New,	Townshend, R. W.
Cobb,	Herbert,	Nicholls,	Tucker,
Coffroth,	Herndon,	O'Connor,	Turner, Oscar
Colerick,	Hill,	O'Reilly,	Turner, Thomas
Converse,	Hostetler,	Persons,	Vance,
Cook,	House,	Phelps,	Waddill,
Covert,	Hull,	Phister,	Warner,
Cravens,	Hunton,	Poehler,	Weaver,
Culberson,	Hurd,	Reagan,	Wellborn,
Davidson,	Johnston,	Richardson, John S.	Whiteaker,
Davis, Joseph J.	Jones,	Richmond,	Whitthorne,
Davis, Lowndes H.	Kenna,	Robertson,	Williams, Thomas
De La Matyr,	Kimmel,	Ross,	Willis,
Deuster,	King,	Rothwell,	Wise,
Dibrell,	Kitchin,	Ryon, John W.	Wood, Fernando
Dickey,	Klotz,	Samford,	Wright,
Dunn,	Knott,	Sawyer,	Yocum,
Elam,	Le Fevre,	Scales,	Young, Casey.
Ellis,	Lewis,	Shelley,	
Evins,	Lounsbery,	Simonton,	
Ewing,	Lowe,	Singleton, James W.	

NAYS—120.

Aldrich, Nelson W.	Daggett,	Joyce,	Reed,
Aldrich, William	Davis, George R.	Keifer,	Rice,
Anderson,	Deering,	Kelley,	Richardson, D. P.
Bailey,	Dunnell,	Ketcham,	Robinson.
Baker,	Dwight,	Killinger,	Russell, William A.
Barber,	Errett,	Lapham,	Ryan, Thomas
Barlow,	Farr,	Lindsey,	Sapp,
Bayne,	Ferdon,	Loring,	Shallenberger,
Belford,	Field,	Marsh,	Sherwin,
Bingham,	Fisher,	Martin, Joseph J.	Smith, A. Herr
Blake,	Ford,	Mason,	Starin,
Bowman,	Fort,	McCoid,	Thomas,
Boyd,	Frye,	McCook,	Townsend, Amos
Brewer,	Garfield,	McGowan,	Tyler,
Briggs,	Godshalk,	McKinley,	Updegraff, J. T.
Brigham,	Hall,	Miles,	Updegraff, Thomas
Browne,	Hammond, John	Miller,	Urner,
Burrows,	Harmer,	Mitchell,	Valentine,
Butterworth,	Harris, Benj. W.	Monroe,	Van Aernim,
Calkins,	Haskell,	Morton,	Van Voorhis,
Camp,	Hawk,	Neal,	Voorhis,
Cannon,	Hawley,	Newberry,	Wait,
Carpenter,	Hayes,	Norcross,	Ward,
Caswell,	Heilman,	O'Neill,	Washburn,
Chittenden,	Henderson,	Osmer,	White,
Claflin,	Hiscock,	Overton,	Wilber,
Clark, Rush	Hubbell,	Pierce,	Williams, C. G.
Conger,	Humphrey,	Pound,	Willits,
Cowgill,	James,	Prescott,	Wood, Walter A.
Crapo,	Jorgensen,	Price,	Young, Thomas L.

NOT VOTING—25.

Ballou,	Einstein,	Lay,	Stone,
Bland,	Forsythe,	McMahon,	Taylor,
Blount,	Hazelton,	Morse,	Wells,
Bouck,	Hooker,	O'Brien,	Wilson.
Cox,	Horr,	Orth,	
Crowley,	Houk,	Robeson,	
Dick,	Ladd,	Russell, Daniel L.	

So the bill was passed.

During the vote,

Mr. MCKENZIE said: I rise to a parliamentary inquiry. Which party has voted to starve the Government to death? [Laughter and applause.]

The SPEAKER. The country will decide that.

Mr. TAYLOR. I am paired with my colleague, Mr. HOUK. If he were present, I would vote in the affirmative.

Mr. WRIGHT. I have been requested to announce that Mr. LADD is paired with Mr. FORSYTHE.

Mr. BRAGG. My colleague, Mr. BOUCK, is paired with Mr. HORR. If present, Mr. BOUCK would vote in the affirmative.

Mr. FORSYTHE. I am paired with Mr. LADD.

Mr. VAN VOORHIS. My colleague, Mr. CROWLEY, is paired with Mr. BLOUNT, of Georgia. If present, Mr. CROWLEY would vote in the negative.

Mr. HORR. I am paired with Mr. BOUCK, of Wisconsin. I should like to vote "no," and I strongly suspect if the gentleman from Wisconsin were here he would vote "ay."

Mr. HARRIS, of Massachusetts. My colleague, Mr. MORSE, is paired with Mr. STONE, of Michigan. My colleague would vote "ay" and Mr. STONE "no."

Mr. EINSTEIN. I am paired with my colleague from New York, Mr. O'BRIEN. If he were here, I should vote "no."

Mr. WILLIAMS, of Wisconsin. My colleague, Mr. HAZELTON, is paired with Mr. COX, of New York. Mr. HAZELTON would vote "no" and Mr. COX would vote "ay."

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with the gentleman from Ohio, Mr. MCMAHON. If present, Mr. BALLOU would vote "no" and Mr. MCMAHON would vote "ay."

Mr. ROBESON. I am paired with Mr. HOOKER, of Mississippi. If present, he would vote "ay" and I should vote "no."

Mr. ORTH. I am paired with Mr. WILSON, of West Virginia. He would vote for the bill and I against it.

Mr. RUSSELL, of North Carolina. I am paired with Mr. BLAND, of Missouri. If he were present, he would vote "ay" and I should vote "no."

Mr. WHITE. My colleague from Pennsylvania, Mr. DICK, is absent, sick. He is paired with the gentleman from Missouri, Mr. LAY.

The result of the vote was then announced as above recorded.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. ATKINS. I move that when the House adjourns to-day, it adjourn to meet on Wednesday next.

Mr. HUNTON. I desire to state that, by order of the House, the business of the District of Columbia was assigned for Monday at two o'clock.

The SPEAKER. Pending the motion of the gentleman from Tennessee the gentleman from Virginia [Mr. HUNTON] asks unanimous consent that instead of Monday the District Committee may have Wednesday at two o'clock.

Mr. HUNTON. That is, if the House adjourns over till Wednesday. I hope the House will only adjourn over till Tuesday.

The SPEAKER. The Chair hears no objection to the request of the gentleman from Virginia.

Mr. GARFIELD. I would suggest to the gentleman from Tennessee that instead of moving to adjourns over till Wednesday he should say Tuesday.

Mr. ATKINS. I am willing to modify my resolution in that way if the House so desires.

Many MEMBERS. No! No!

The question being taken on agreeing to the motion of Mr. ATKINS that when the House adjourns it be to meet on Wednesday next, there were—ayes 115, noes 105.

Mr. RICHMOND. I call for the yeas and nays.

Mr. ATKINS. I have no objection, so far as I am concerned, to say Tuesday.

The SPEAKER. It is a question for the House to determine.

Mr. SPRINGER. Is it in order to move to amend by inserting Tuesday?

The SPEAKER. The House is dividing.

The yeas and nays were ordered, forty-seven members voting therefor; more than one-fifth of the last vote.

The question was taken; and there were—yeas 91, nays 162, not voting 33; as follows:

YEAS—91.

Armfield,	Cowgill,	Horr,	Richardson, D. P.
Atkins,	Crapo,	House,	Robinson,
Bachman,	Cravens,	Hurd,	Ross,
Bailey,	Daggett,	James,	Ryan, Thomas
Barber,	Davis, George R.	Jorgensen,	Ryon, John W.
Barlow,	Deuster,	Killinger,	Sapp,
Bayne,	Dunn,	Kimmel,	Shallenberger,
Bicknell,	Dwight,	Knott,	Smith, A. Herr
Bingham,	Errett,	Lapham,	Smith, William E.
Blake,	Evins,	Lounsbery,	Talbott,
Bliss,	Ferdon,	Marsh,	Urner,
Bowman,	Field,	Martin, Edward L.	Van Aernam,
Brewer,	Finley,	Mason,	Van Voorhis,
Briggs,	Fort,	McGowan,	Voorhis,
Browne,	Godshalk,	Miller,	Wait,
Burrows,	Gunter,	Morrison,	Ward,
Butterworth,	Hammond, John	Newberry,	Washburne,
Calkins,	Harmer,	Norcross,	White,
Cannon,	Harris, Benj. W.	O'Neill,	Whiteaker,
Carlisle,	Haskell,	O'Reilly,	Willits,
Clark, Alvah A.	Hawk,	Osmer,	Wood, Fernando
Cook,	Hayes,	Poehler,	Wood, Walter A.
Covert,	Hiscock,	Rice,	

NAYS—162.

Acklen,	Converse,	Goode,	Le Fevre,
Aiken,	Culberson,	Hall,	Lewis,
Aldrich, Nelson W.	Davidson,	Hammond, N. J.	Lindsey,
Aldrich, William	Davis, Joseph J.	Hatch,	Lowe,
Anderson,	Davis, Lowndes H.	Hawley,	Manning,
Atherton,	De La Matyr,	Heilman,	Martin, Benj. F.
Beale,	Deering,	Henderson,	Martin, Joseph J.
Blackburn,	Dibrell,	Henkle,	McCoid,
Bragg,	Dickey,	Henry,	McCook,
Brigham,	Dunnell,	Herbert,	McKenzie,
Bright,	Einstein,	Herndon,	McKinley,
Buckner,	Elam,	Hill,	McMillin,
Cabell,	Ellis,	Hostetler,	Miles,
Caldwell,	Ewing,	Hubbell,	Mills,
Camp,	Farr,	Hull,	Mitchell,
Carpenter,	Felton,	Humphrey,	Money,
Caswell,	Fisher,	Hunton,	Monroe,
Chalmers,	Ford,	Johnston,	Morton,
Claflin,	Forney,	Jones,	Muldrow,
Clardy,	Forsythe,	Joyce,	Muller,
Clark, John B., jr.	Frost,	Keifer,	Murch,
Clymer,	Frye,	Kelley,	Myers,
Cobb,	Garfield,	Kenna,	Neal,
Coffroth,	Geddes,	Ketcham,	New,
Colerick,	Gibson,	King,	O'Connor,
Conger,	Gillette,	Kitchin,	Overton,
Persons,	Samford,	Stevenson,	Warner,
Phelps,	Sawyer,	Thomas,	Weaver,
Phister,	Scales,	Thompson,	Wellborn,
Pierce,	Shelley,	Tillman,	Whitthorne,
Pound,	Sherwin,	Townsend, Amos	Wilber,
Prescott,	Simonton,	Townshend, R. W.	Williams, C. G.
Price,	Singleton, J. W.	Tucker,	Williams, Thomas
Reagan,	Singleton, O. R.	Turner, Oscar	Willis,
Reed,	Smith, Hezekiah B.	Turner, Thomas	Wise,
Richardson, John S	Sparks,	Tyler,	Wright,
Richmond,	Speer,	Updegraff, J. T.	Yocum,
Robertson,	Springer,	Updegraff, Thomas	Young, Casey
Rothwell,	Starin,	Valentine,	Young, Thomas L.
Russell, Daniel L.	Steele,	Vance,	
Russell, William A.	Stephens,	Waddill,	

NOT VOTING—33.

Baker,	Clark, Rush	Ladd,	Robeson,
Ballou,	Cox,	Lay,	Slemons,
Belford,	Crowley,	Loring,	Stone,
Beltzhoover,	Dick,	McLane,	Taylor,
Bland,	Harris, John T.	McMahon,	Wells,
Blount,	Hazelton,	Morse,	Wilson,
Bouck,	Hooker,	Nicholls,	
Boyd,	Houk,	O'Brien,	
Chittenden,	Klotz,	Orth,	

During the roll-call the following announcement was made:

Mr. TAYLOR. I am paired with my colleague, Mr. HOUSE.

The result of the vote was then announced as above recorded.

Mr. ATKINS. I move that when the House adjourns it adjourn to meet on Tuesday next.

The question was put; and on a division there were—ayes 138, noes 52.

Mr. ELAM. Upon that question I demand the yeas and nays.

The yeas and nays were not ordered, only thirty members voting therefor.

So the motion was agreed to.

Mr. ATKINS moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF THE DISTRICT OF COLUMBIA.

Mr. HUNTON. I now ask unanimous consent that Tuesday next, after the morning hour, may be assigned for the consideration of reports from the Committee for the District of Columbia, instead of Monday, to which they would have been entitled.

Mr. GARFIELD. Say at two o'clock, which is the usual hour at which that business comes up.

Mr. CONGER. Will that prevent the question of consideration being raised upon any bill that may be reported?

The SPEAKER. Oh, no.

Mr. CONGER. I shall object to any bills coming before the House that cannot be legitimately reported.

The SPEAKER. The gentleman will have a right to object. There will be no advantage taken by the committee. Every point of order which would lie against the bill on Monday would rest against the bill on Tuesday.

There was no objection; and the order was made.

WITHDRAWAL OF PAPERS.

On motion of Mr. MARTIN, of North Carolina, leave was granted to withdraw from the files of the House papers in the case of Lieutenant John Scott, no adverse report having been made.

On motion of Mr. WASHBURN, leave was granted to withdraw from the files of the House papers in the case of Dennis Leamy, no adverse report having been made.

LEAVE OF ABSENCE.

Leave of absence was granted as follows:

To Mr. BARLOW, indefinitely;

To Mr. SAPP, for ten days, on account of important business;

To Mr. KILLINGER, for one week;

To Mr. RYON, of Pennsylvania, for one week, from Monday next;

To Mr. OSMER, for eight days from Monday next, on account of important business;

To Mr. DAVIS, of North Carolina, for eight days from Monday, on account of important business; and

To Mr. GODSHALK, for five days, on account of indisposition.

R. M. MILLER.

Mr. TUCKER (by request) introduced a bill (H. R. No. 1367) for the relief of R. M. Miller, of Brownsville, Texas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

EDWIN DE LEON.

Mr. TUCKER also (by request) introduced a bill (H. R. No. 1368) for the relief of Edwin De Leon; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

CHURCHES IN THE DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Illinois, by unanimous consent, introduced a bill (H. R. No. 1369) to relieve the churches of the District of Columbia, and to clear the title of the trustees to such property; which was read a first and second time, and referred to the Committee for the District of Columbia.

INDIAN RESERVATIONS.

Mr. SCALES, by unanimous consent, introduced a bill (H. R. No. 1370) giving all religious denominations equal rights and privileges in Indian reservations; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ISSUE OF LEGAL-TENDERS.

Mr. DE LA MATYR, by unanimous consent, introduced a bill (H. R. No. 1371) to substitute United States legal-tender paper money for national-bank notes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PIERRE BATTINEAU.

Mr. WASHBURN, by unanimous consent, introduced a bill (H. R. No. 1372) granting a pension to Pierre Battineau, of Minnesota; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARZEL ALTMAN.

Mr. WASHBURN also, by unanimous consent, introduced a bill (H. R. No. 1373) for the relief of Marzel Altman; which was read a first and second time, and referred to the Committee on the Public Lands.

JOHN R. TAGGART.

Mr. WASHBURN also, by unanimous consent, introduced a bill (H. R. No. 1374) for the relief of John R. Taggart; which was read a first and second time, and referred to the Committee on the Public Lands.

REUBEN J. CHEWNING.

Mr. WASHBURN also, by unanimous consent, introduced a bill (H. R. No. 1375) for the relief of Reuben J. Chewning; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INDIAN TRUST FUND.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, asking Congress to authorize him, as trustee for certain Indians, to deposit money in the United States Treasury in lieu of investment; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. KELLEY. I must object to the further introduction of bills. We want an occasional Monday's session, and next Monday has been dispensed with; but there will be a Monday a week from that, and if all this business gets in now there will be none. I object to it. I do not object to any particular gentleman's bill, but I object to doing this business on Saturday afternoon.

ADJOURNMENT TO TUESDAY.

Mr. ATKINS. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifty minutes p. m.) the House adjourned until Tuesday next.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAYNE: Papers relating to the pension claims of James M. Boreland and Samuel C. Schoyer—to the Committee on Invalid Pensions.

By Mr. BEALE: The petition of the mayor and town council of West Point, Virginia, that West Point be made a port of entry and placed in the Richmond district—to the Committee on Commerce.

Also, the petition of the mayor and town council of West Point, Virginia, for the survey of York River from that place to Yorktown, Virginia—to the same committee.

By Mr. CALDWELL: Papers relating to the pension claim of William H. Walker—to the Committee on Invalid Pensions.

By Mr. CANNON, of Illinois: The petition of Thomas J. Wood, Richard W. Johnson, and Samuel Ross, that retired officers of the Army who have not received their pay according to the rank on which they were originally retired be paid the difference of pay between the amount actually paid them and their pay as fixed by law on the rank on which they were retired—to the Committee on Military Affairs.

By Mr. CARLISLE: The petition of A. Y. P. Garnett and Philip McAlus, that the appropriate committee of the House be directed to inquire into and report upon the merits of an invention discovered by them by which frauds by the improper use of internal-revenue stamps upon cigar-boxes can be prevented—to the Committee of Ways and Means.

By Mr. CHALMERS: The petition of Ed. Fontaine and others, relative to certain maps, drawings, and explanations of the same he proposes to give to Congress, provided they are ordered printed—to the Committee on Levees and Improvements of the Mississippi River.

By Mr. CLARK, of New Jersey: The petition of Robert A. Boit, executor of Hugh A. Mercer, deceased, for the reimbursement of the proceeds of the sale of certain mining stock under a certain alleged illegal decree of the United States district court for the southern district of New York—to the Committee on the Judiciary.

By Mr. COX: The petition of Dr. Mary E. Walker, that in all cases of jury trial in the courts of the District of Columbia and the Territories, where a woman is a defendant and a non-complainant, or *vice versa*, one-half of the jury shall be composed of women; and that the jurors chosen shall be of the same sphere in life as the parties to any suit, provided that both men and women jurors can be found whose general reputation is good—to the Committee on the Territories.

By Mr. DEUSTER: Memorial of the Chamber of Commerce of Milwaukee, Wisconsin, against the passage of the bill now before Congress to grant permission for the erection of a bridge across Detroit River—to the Committee on Commerce.

Also, resolution of the Legislature of Wisconsin, opposing the passage of any bill to authorize the erection of a bridge across Detroit River—to the same committee.

By Mr. DUNNELL: The petition of L. G. Nelson, of Dodge County, Minnesota, for a post-route from Kasson to Dexter, Minnesota—to the Committee on the Post-Office and Post-Roads.

Also, the petition of Z. B. Daily and 10 others, of Minnesota, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. FORD: The petition of S. H. Gilihan and others, for the repeal of the tobacco tax—to the Committee of Ways and Means.

Also, the petition of S. A. Gilihan and others, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of Mary Ross and others, that the anti-polygamy law of 1862 be made effective—to the Committee on the Judiciary.

By Mr. FRYE: Papers relating to the claim of L. W. Tibbetts, to be refunded certain moneys lost while in the United States service—to the Committee of Claims.

By Mr. GARFIELD: The petition of Dr. J. H. Knight, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. JAMES: The petition of Dillzon Mallett, for a pension—to the same committee.

By Mr. MILLER: The petitions of D. C. Vaughn and others, of G. W. Flash and others, and of Samuel Magill and others, all of the State of New York, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. NEAL: The petition of Samuel Baker, for an increase of pension—to the Committee on Revolutionary Pensions.

By Mr. PHISTER: The petition of James H. Cracraft and others, of Robertson County, Kentucky, that he be permitted to manufacture cigars with his own hands, for sale, without license—to the Committee of Ways and Means.

By Mr. WILLIAMS, of Wisconsin: The petition of Thomas Sugden and 45 others, citizens of Wisconsin, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. YOUNG, of Ohio: Papers relating to the war claim of Sarah E. Herrel—to the Committee on War Claims.

IN SENATE.

MONDAY, *April* 28, 1879.

Prayer by Rev. R. L. DABNEY, D. D., of the Union Theological Seminary, Virginia.

The Journal of the proceedings of Friday last was read and approved.

LEGISLATIVE, ETC., APPROPRIATION BILL.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, announced that the House had passed a bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; in which it asked the concurrence of the Senate.

Mr. WITHERS. I ask that the bill be laid before the Senate in order that it may be referred to the Committee on Appropriations. I do not observe the chairman of the Committee on Appropriations [Mr. DAVIS, of West Virginia] in his seat at this moment.

The PRESIDENT *pro tempore*. The Chair will lay the bill before the Senate for reference.

The bill was read twice by its title, and referred to the Committee on Appropriations.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of the 23d instant, a statement showing what balances have been audited and found due for the transporting of the mails prior to the 1st of July, 1878, and which are unprovided for by any appropriation; which, on motion of Mr. TELLER, was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois. I present a memorial of the Legislature of Illinois, in the shape of a joint resolution, and as it is very short I ask that it be read.

The memorial was read, and ordered to lie on the table and be printed, as follows:

Joint resolution.

Resolved by the senate, (the house of representatives concurring herein,) That our Senators and Representatives in Congress be requested to urge the passage of Sen-

ate bill No. 780, reported from the Committee on Public Lands by Senator Oglesby in the United States Senate on the 5th day of June, 1878, a bill to provide for indemnity due the soveral States under the acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands; also of House bill No. 4739, introduced by Hon. G. L. FORT on the 6th day of May, 1878, a bill to authorize the Commissioner of the General Land Office to adjust and settle the claim of the State of Illinois and of other States for indemnity for swamp lands sold by the United States, and to bring about such other measures of relief as will hasten to final adjustment of all claims of the State of Illinois against the Government of the United States.

ANDREW SHUMAN,
President of the Senate.
WILLIAM A. JAMES,
Speaker of the House of Representatives.

Adopted by the senate April 18, 1879.

JAMES H. PADDOCK,
Secretary of the Senate.

Concurred in by the house of representatives on the 19th day of April, 1879.

W. B. TAYLOR,
Clerk of the House.

Mr. CONKLING. I present a memorial signed by a large number of women, members of the Woman's National Christian Temperance Union, remonstrating strenuously against the effort of importers of and dealers in spirituous liquors to secure the repeal of the amended internal-revenue act of March 1, 1879, or any change to promote the interest of dealers in spirituous liquors. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. CONKLING presented the petition of Dr. P. F. Reuss, late surgeon Seventh Regiment New York Volunteers, praying for a pension; which was referred to the Committee on Pensions.

Mr. SAUNDERS. I present a petition from sundry citizens in Dakota Territory on the subject of the removal of the Ponca Indians from the Indian Territory to their own reservation in Dakota Territory. A few days ago I presented a petition signed by all the ministers of the churches at Yankton, Dakota Territory. The petition I now present is signed by Rev. John P. Williamson, missionary of the Presbyterian Board of Foreign Missions at Yankton agency; Joseph W. Cook, missionary of the Protestant Episcopal Church to the Yankton Indians; Alfred L. Riggs, missionary of the American Board at Santee agency, Nebraska; W. W. Fowler, missionary of the Protestant Episcopal Church, Santee agency; Rev. F. L. Riggs, missionary of the American Board at Fort Sully, Dakota Territory; Rev. Thomas S. Williamson, missionary of the Presbyterian Board of Foreign Missions, Dakota, and several others, praying that prompt action may be taken by Congress for the return of these Indians. They set forth that one-fourth of the number of these Indians who twenty months ago passed from their reservation to the Indian Territory are now dead, and for the sake of humanity the petitioners pray that prompt action be taken by Congress on the subject. I call the attention of the Committee on Indian Affairs to this matter and I hope that they will give it prompt and early consideration.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Indian Affairs.

Mr. PENDLETON presented additional papers to accompany the bill (S. No. 482) to authorize the Secretary of the Treasury to repair and extend the public building owned by the Government at Cleveland, Ohio; which were referred to the Committee on Public Buildings and Grounds.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 502) for the better preservation of life at sea; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 503) to regulate the legal value of metallic money and to provide for the free and unlimited coinage of gold and silver bullion, and to restore coin to circulation; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 504) to correct the military record of William H. Terry, late a private in Company H, Thirty-fourth Regiment of Kentucky Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 505) relating to the Washington Market Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 506) to change the name of the steam-propeller Nuhpa to Metropolitan; which was read twice by its title, and referred to the Committee on Commerce.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 507) to increase pensions in certain cases; which was read twice by its title, and referred to the Committee on Pensions.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 508) for the organization of a secret-service bureau in the Treasury Department; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DAVIS, of Illinois. I beg leave to introduce a bill by request; I have not examined the bill to know whether I am in favor of it or not.

By unanimous consent, leave was granted to introduce a bill (S. No. 509) to amend the practice of the courts of the United States in suits against municipal corporations, by abolishing the use of writs of mandamus in certain cases, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HOUSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 510) for the relief of Joel S. Hankins and William Boyd; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VEST asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 511) for the relief of Eugene Wells; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 512) granting to the State of Missouri the public lands heretofore granted that State to aid in the construction of the Saint Louis and Iron Mountain Railroad, and repealing so much of the act of July 4, 1866, as places certain conditions and limitations upon said grant; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FARLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 513) to provide for the survey of the private land claim in Arizona called the Rancho of El Paso de los Algordones; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Private Land Claims.

Mr. PENDLETON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 514) to increase educational privileges and establish additional normal and industrial training schools for the benefit of youth belonging to such nomadic Indian tribes as have educational treaty claims upon the United States; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 515) empowering the Commissioner of Patents to extend the letters-patent granted to D. W. Crocker, of Deposit, State of New York, on railway-chairs; which was read twice by its title, and referred to the Committee on Patents.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 516) to extend the time of special postal service until service can be obtained by advertisement; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 517) for the relief of Francis S. Davidson; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 518) to incorporate the National Electric Light Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 519) for the relief of Edward L. Wilson; which was read twice by its title, and referred to the Committee on Patents.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 520) for the relief of the heirs of Andrew White; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 521) in relation to engineers in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 522) to extend the provisions of section 4631 of title 56, "prize," of the Revised Statutes, and of the act of June 8, 1874, in relation to prize-money to all fleet officers; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. VOORHEES. I move that the accompanying memorial be printed with the bill.

The motion was agreed to.

Mr. VOORHEES also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 523) for the relief of Dr. Charles H. Nichols; which was read twice by its title, and referred to the Committee on Finance.

Mr. LAMAR (by request) asked, and by unanimous consent, obtained leave to introduce a bill (S. No. 524) to provide for double-stamped envelopes, double postal cards, and letter-sheet envelopes; which was read twice by its title, and referred to the Committee on Post Offices and Post-Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GARLAND, it was

Ordered, That the papers in the claim of James E. Hargrove be taken from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. HARRIS, it was

Ordered, That the papers in the matter of the claim of Willis G. Reeves, of Tennessee, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. ANTHONY, it was

Ordered, That Mrs. Mary S. Harris have leave to withdraw the petition and papers of her late husband, Charles C. Harris, from the files of the Senate, she leaving copies of the same with the Secretary of the Senate.

PENSION-OFFICE BUILDING.

Mr. WILLIAMS submitted the following resolution:

Resolved, That the Committee on Appropriations be, and they are hereby, instructed to inquire whether the interests of the Government will be subserved by purchasing the building at the corner of Twelfth street and Pennsylvania avenue now leased for the use of the Pension Office and Bureau of Education, and report by bill or otherwise.

The PRESIDENT *pro tempore*. The resolution will go upon the Calendar.

Mr. SAULSBURY. That is a resolution which properly ought to be referred, I think, to the Committee on Public Buildings and Grounds. It appertains to the duties of that committee, and it ought to be considered by them.

The PRESIDENT *pro tempore*. If there be no objection, the resolution will be so referred.

Mr. EDMUNDS. I submit, Mr. President, that you do not want to instruct the Committee on Public Buildings and Grounds to inquire whether a resolution ought to pass instructing the Committee on Appropriations to make the inquiry. That is the form of the resolution.

Mr. DAWES. I suppose that the resolution should be adopted by the Senate.

Mr. EDMUNDS. To be sure, we on this side do not wish to interfere with the orderly progress of legislation; but, for one, I do not wish to burden the Committee on Public Buildings and Grounds with an inquiry such as the resolution imports, and that is, with inquiring into the propriety of passing a resolution to instruct the Committee on Appropriations to make another inquiry. The resolution ought to be amended undoubtedly so as to direct the inquiry to the Committee on Public Buildings and Grounds.

Mr. CONKLING. Let us hear it read.

Mr. DAVIS, of West Virginia. Let the resolution be reported and we shall see what it means.

The Secretary read the resolution.

Mr. DAVIS, of West Virginia. It is manifest that the instructions to the Committee on Appropriations ought to be stricken out, and that the resolution should go to the Committee on Public Buildings and Grounds. I make that motion.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves to strike out "Committee on Appropriations" and insert "Committee on Public Buildings and Grounds."

Mr. DAVIS, of West Virginia. I move to strike out the instruction and let the resolution go to the Committee on Public Buildings and Grounds, to be acted upon as they may think best.

Mr. DAWES. The Senator I think does not understand the resolution. It instructs the committee to inquire. Very evidently it ought to go to the Committee on Public Buildings and Grounds.

Mr. DAVIS, of West Virginia. As I understand the resolution, it instructs the committee to report by bill or otherwise; it requires them to make a report upon the subject in some form. I submit to the Senator that it would be better to let it go to the committee in the usual way, without instructions.

Mr. DAWES. I suppose that is the meaning of it.

Mr. DAVIS, of West Virginia. Then let us have it that way.

Mr. DAWES. I do not know who offered the resolution, but I suppose the meaning of it is to inquire into the expediency of purchasing the building. That matter was before the Committee on Public Buildings and Grounds at the last Congress, and the resolution evidently ought to go there now if it goes anywhere.

The PRESIDENT *pro tempore*. The resolution is an instruction to inquire. Is there objection to the amendment of the Senator from West Virginia to strike out "Appropriations" and insert "Public Buildings and Grounds?" The Chair hears none, and it is agreed to. Shall the resolution be referred to the Committee on Public Buildings and Grounds?

Mr. DAWES. It ought to be adopted by the Senate and not referred.

The PRESIDENT *pro tempore*. The question, then, is on agreeing to the resolution as amended.

The resolution, as amended, was agreed to.

POST-ROUTE IN MAINE.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be directed to inquire into the expediency of establishing a post-route from Carmel by North Carmel, South Levant, and Levant, to Kenduskeag in the county of Penobscot, Maine.

M'DONALD'S MANUAL.

Mr. MORGAN submitted the following resolution; which was read:

Resolved, That H. B. McDonald be directed to prepare a new edition of the Manual, and that 1,000 copies of the same be printed for the use of the Senate.

Mr. MORGAN. I understand that the present edition of the Manual has been exhausted, and that the resolution under which the edition was printed came from the Committee on Rules. More naturally I would suppose that the resolution ought to go to the Committee on Printing, but following the order which was taken before, I move the reference of this resolution to the Committee on Rules.

The PRESIDENT *pro tempore*. If it involves an expense of more than $500 it must go to the Committee on Printing.

Mr. MORGAN. We cannot tell as yet what will be the expense involved.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Rules.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 750 additional copies of the report of the National Academy of Sciences be printed for the use of the National Academy of Sciences.

Mr. ANTHONY. I would inquire if the usual number of copies of the report of the National Academy of Sciences was ordered to be printed?

The PRESIDENT *pro tempore*. The Chair is so informed by the Secretary.

REPORTS OF COMMITTEES.

Mr. WALLACE, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes, reported it with amendments.

VISITORS TO NAVAL ACADEMY.

The PRESIDENT *pro tempore*. The Chair will announce the appointment of the two Senators who are required by the act of February 14, 1879, to be of the Board of Visitors at the annual examination at the Naval Academy at Annapolis. The Chair appoints the Senator from New Jersey [Mr. MCPHERSON] and the Senator from Rhode Island, [Mr. ANTHONY.]

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. KERNAN, Mr. MCMILLAN, and Mr. TELLER submitted sundry amendments intended to be proposed by them respectively to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which were referred to the Committee on Appropriations.

SIDNEY P. LUTHER.

Mr. ROLLINS. I ask that the bill (S. No. 204) for the relief of Sidney P. Luther, which was referred to the Committee on Claims in the early part of the session by a mistake of my own, be referred to the Committee on Finance. It should properly go there.

The PRESIDENT *pro tempore*. That change of reference will be made if there be no objection. The Chair hears none.

CHANGES OF SUNDRY CIVIL BILL.

The PRESIDENT *pro tempore*. The unfinished business is the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act, approved March 3, 1879, on which the Senator from Connecticut [Mr. EATON] has the floor.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. EATON. I ask that the joint resolution be read.

The Chief Clerk read the joint resolution as proposed to be amended by the Committee on Appropriations.

Mr. EATON. The first amendment of the sundry civil appropriation act made by the joint resolution is to strike out the words:

And said Lewis and Coffee shall receive no allowance for witness fees and traveling expenses.

In the act of the last session will be found this clause:

To pay B. R. Lewis and J. J. Coffee the balances due them as marshal and clerk respectively at the consulate-general at Shanghai, China, during their absence attending on subpœnas as witnesses before a committee of the House of Representatives, the sum of $2,203.69, to be available at once; and said Lewis and Coffee shall receive no allowance for witness fees and traveling expenses.

Under the ruling of the Department they declined to pay the sum of $2,203.69, which is made available at once because of the concluding part of the paragraph:

And said Lewis and Coffee shall receive no allowance for witness fees and traveling expenses.

Therefore, it is deemed by the Committee on Appropriations proper that that clause should be stricken out, so that these gentlemen may receive the amount of money which is justly their due. It is recommended by the committee unanimously that that be stricken out.

The next item is to strike out from the sundry civil appropriation act the words:

Under the direction of the Secretary of the Interior, $100,000.

The committee have to say to the Senate that that is surplusage and ought not to have been in the act at all. The act provides—

That the Secretary of the Treasury be, and he is hereby, authorized to expend, out of the appropriation for defraying the expenses of collecting the revenue from customs, such amount as he may deem necessary.

That should be the end of the paragraph, but by mistake was added to it:

Not exceeding $100,000 per annum, for the detection and prevention of frauds upon the customs revenue.

It does not belong there at all, and therefore the committee ask that it be stricken out.

The next provision of the joint resolution as amended relates to the paragraph to be found on page 11 of the same act:

That the paragraph in said act relating to the extension of the military telegraph lines from Fort Buford to Helena, Dakota Territory, be amended so as to read as follows, namely: "For the extension of the military telegraph lines to Helena, Montana Territory, and the new post on the Milk River, and such other points as may be necessary, $20,000."

Following that is this clause:

That the paragraph in said act relating to the extension of the military telegraph lines from Fort Elliott, Texas, westward, be amended so as to read as follows, namely: "For the extension of the military telegraph lines to Fort Elliott, Texas, and westward, as may be necessary, $20,000.

No increase is proposed, but a simple alteration in the text. The Department and the Engineer Bureau are very anxious that this amendment should be made; the committee are unanimous in the opinion that it ought to be made; and therefore they recommend it. Then comes the paragraph in relation to the Moline Water-Power Company, and that my friend from Iowa [Mr. ALLISON] will explain.

Mr. EDMUNDS. Before the Senator from Iowa proceeds with the Moline Water-Power matter, I wish the Senator from Connecticut would explain a little more fully (I did not understand him at the time) as to this clause in the text of the joint resolution as it came from the House:

And that the following clause in said act, in relation to the publications of the geological survey, namely, the words "under the direction of the Secretary of the Interior, $100,000," be, and the same are hereby, repealed.

I did not understand the Senator's explanation in relation to that clause.

Mr. EATON. As the committee understand, that language was entirely surplusage in the original bill which was before us at the last session, and it is not necessary or proper to be in the act. Such was the information from the Department.

Mr. EDMUNDS. That is, it got into the act before through a misunderstanding?

Mr. EATON. If my friend has the original bill, the sundry civil appropriation act, on the twentieth page will be found:

For the expenses of the geological survey and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain, to be expended under the direction of the Secretary of the Interior, $100,000.

Again, on the twenty-first page, in the same clause, there is this clause, to which the clerk of the committee calls my attention:

And the money resulting from the sale of such publications shall be covered into the Treasury of the United States, under the direction of the Secretary of the Interior, $100,000.

Therefore the words on the twentieth page are surplusage and ought to be stricken out. The appropriation is twice made in words.

Mr. EDMUNDS. It was a blunder, then, in the former legislation, I understand?

Mr. EATON. Yes, sir.

Mr. EDMUNDS. Which this is intended to correct?

Mr. EATON. Yes, sir; the legislation of last Congress.

Mr. EDMUNDS. It is one more of the illustrations, Mr. President, of pasting things on appropriation bills.

Mr. EATON. It is last year's appropriation bill; not this year's.

Mr. EDMUNDS. Last session's?

Mr. EATON. Last session's.

Mr. EDMUNDS. The act approved the 3d of March.

The PRESIDENT *pro tempore*. The Committee on Appropriations have reported this joint resolution with sundry amendments. Does the Senator from Connecticut wish the vote taken on the amendments separately or in gross?

Mr. EATON. In gross unless a separation is called for.

The amendments were to add to the resolution the following clauses:

That the paragraph in said act relating to the extension of the military telegraph lines from Fort Buford to Helena, Dakota Territory, be amended so as to read as follows, namely: "For the extension of the military telegraph lines to Helena, Montana Territory, and the new post on the Milk River, and such other points as may be necessary, $20,000."

That the paragraph in said act relating to the extension of the military telegraph lines from Fort Elliott, Texas, westward, be amended so as to read as follows, namely: "For the extension of the military telegraph lines to Fort Elliott, Texas, and westward, as may be necessary, $20,000."

That the following paragraph in said act, namely: "That the Secretary of War is hereby authorized and empowered to lease the water-power at Moline, or such portion as may be agreed upon, to the Moline Water-Power Company, upon such terms and conditions, and for such term of years, as may be agreed upon, if the same can be done consistently with the interests of the Government of the United States; said lease to be made upon the condition that the said Moline Water-Power Company shall go on and complete the development of the water-power and maintain it at its own cost and expense," be, and the same is hereby, repealed.

That in the final settlement of the accounts of Henry C. De Ahna, late collector of customs at Sitka, Alaska, the proper accounting officers of the Treasury are hereby authorized and directed to allow and pay to the said De Ahna the further sum of $2,000, in full compensation and final discharge for all expenses incurred and losses sustained by said De Ahna in traveling to and from Alaska, and in obtaining and furnishing the Treasury Department with reports concerning the condition of public affairs in said Territory. And said sum of $2,000 is for that purpose hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WINDOM. I wish to say one word about the proposition in the joint resolution found on page 2 repealing that clause of the sundry civil bill which authorizes and empowers the Secretary of War to lease the water-power at Moline. I want to say to the Senate that I introduced the amendment and referred it to the Committee on Appropriations proposing to repeal this clause. I did it, not because I think the provision as it stands in the sundry civil bill is wrong, but because there was some objection made to it at the close of the last session on account of the fact that it had been brought before the Senate through a committee of conference, which at the time I admitted was informal, but it was resorted to on account of the extreme pressure of business, and having had this bill only some twenty-four hours the rule had been inadvertently stretched, if not broken.

I then suggested to the Senate that there would be time to pass the sundry civil bill if it chose to vote down the report on account of this proposition to which some objection was made; but the Senate did not see proper to do that, and the report was agreed to. I then sought the first opportunity to bring the matter before the Senate so that it might deliberately act on this proposition. I shall vote to-day to repeal it, and hereafter if a proposition shall be brought up in the Senate and I can vote upon it independent of an appropriation bill or a report from a committee of conference, I will vote myself to reinstate the provision precisely as it now stands in the sundry civil bill, although I hope the Senate will repeal it now.

I will read a very brief statement made by the president and directors of the Moline Water-Power Company, stating the facts of this case as they regard them:

When the United States arsenal was located on Rock Island, this company were the owners of the water-power. At the suggestion of the Government in 1867 a contract was entered into between the United States and this company, by the terms of which the company transferred its interest in the water-power to the Government (which was taken possession of) in consideration that the Government was to develop and maintain the entire water-power, and grant to the company the use in perpetuity of one-fourth part of the power developed, free from all charge for rent or repairs.

The charge that an immense sum of money was paid by the Government to the company for the water-power is entirely without foundation. Not a dollar was ever paid to or received by the company from the Government, directly or indirectly, for the transfer of its interest in the water-power. The only consideration was development and maintenance of the water-power, and the company to have free use of one-fourth part, as before stated.

Pending the final execution of the contract between the company and the United States the plans for developing the water-power were very generally discussed and considered. Subsequently changes in plans of development to suit the purposes and convenience of the Government in relation to the location of the arsenal shops have considerably increased the cost of the water-power development; and the commandant of the arsenal estimates that it will cost to complete the development the additional sum of $157,350, for which appropriations have been continuously recommended by the several Secretaries of War since 1876 without avail. An immense bar of sand and mud has been allowed to accumulate at the mouth of the "pool" which, for a very considerable portion of the time, prevents a supply of water to the company's wheels; and, further, in the Government improvement of the navigation of the rapids a chain of rock called the "Moline Chain" has been removed, thus deepening the channel of the river and materially lowering the head of water in the pool.

It is this condition of things that causes the company to claim, and insist, that, if Congress will not appropriate money to carry out in good faith its contract for development and maintenance of the water-power, it ought to allow the company such control as would permit it to complete the development and maintenance of the water-power, which the Government has thus far refused and neglected to do; and this, we believe, was the view taken by the conference committee in inserting the amendment, so thoroughly were they convinced that some measure of relief was due to the company in the absence of appropriations to relieve the embarrassment which the failure of the Government to carry out its contracts had brought upon it. This is all the job or trickery there is in the matter, and in the light of these facts it is difficult to see wherein any charge of wrong-doing on the part of this company can be made or sustained.

CHARLES ATKINSON, *President*,
J. M. GOULD,
C. H. DEERE,
S. W. WHEELOCK,
JOHN DEERE,
J. S. KEATOR, *Directors*.

Mr. President, since this contract was made there have been a great many efforts to induce Congress to make an appropriation to carry out the contract as they insisted existed between the Government and the company. I am entirely satisfied that these appropriations will not be made, and therefore I believe that the best way to settle the matter, because I think it will injure nobody, is as provided for in the sundry civil bill; but as the clause there was passed without due consideration, and as neither House has considered it as an original question, I hope it may be repealed, and hereafter that it may be presented in some form where it will be fully discussed and considered as it ought to be. I believe the Secretary of War has declined to act under the authority conferred upon him in the sundry civil bill. The committee of conference at the last session of Congress recommended the passage of this measure, believing it to be a measure of compromise agreed to by all parties in interest.

Mr. DAVIS, of Illinois. The Secretary of War has not declined to act. He has decided that it is not for the interest of the Government that this lease be made.

Mr. WINDOM. That is what I think I said; the Secretary of War had declined to act in making this lease, deciding that it was not for the interest of the Government to do it.

Mr. DAVIS, of Illinois. I agree to that.

Mr. WINDOM. Therefore I am entirely willing to have it repealed, and think it ought to be, so that hereafter the matter may be considered entirely independent of appropriation bills and upon its own merits. I am inclined to think that there will be trouble about this indefinitely; and this might be a good way to settle it. I understood the Senator from Illinois to recommend it to the conference committee at the last session, and I want to say that in recommending it myself at that time I acted upon what I supposed to be the judg-

ment of the Senators from Illinois as to its justice and propriety, as well as of the members of Congress from the district and the adjoining district in Iowa, and of all those who were supposed by the committee of conference to be best advised on the subject. The committee of conference acted on the very best information it could get. It acted unwisely, however, in bringing the matter at all before the Senate under the pressure of business, in violation of the rule as I admitted at the time it was, and therefore I hope it may be repealed

Mr. DAVIS, of Illinois. Being from the State of Illinois, I want to say one word about this matter, as my present colleague was not here at the last session of Congress, and therefore is, perhaps, not informed in regard to it. The Moline Water-Power Company had nothing to do with the insertion of this provision. It came from the hands of a member of the other House who was on the conference committee, and who has uniformly and persistently opposed making any appropriations for the benefit of the water-power there and to carry out the contract. The United States have a large arsenal at Rock Island. Millions of dollars have been spent on the building and on the works there generally. The Moline Water-Power Company contracted with the Government, giving them entire control of the water-power, or rather of so much of it as was necessary to carry on the works, and the Government agreed with this company that they would improve the water-power so that it should be useful to them to carry on their business. But there is now a town there of eight or ten thousand people. I believe with the Secretary of War that it is not for the interest of the Government to cancel this contract that was made with the Moline Water-Power Company, and I still believe that the Government should carry out its contract. Why whenever an appropriation has been put upon a bill in the Senate the conference committee uniformly agree to strike it out, I cannot tell, except that there was more persistence in a member of the other House who was then in Congress, and who opposed the measure, than there was in the gentlemen who were here. I cannot imagine any other reason in the world; but I do believe that the Government ought not to part with the benefits of the contract that has been made with the Moline Water-Power Company.

Now, sir, if this appropriation can be got at this session, or at any other session, all right; if not, then the Moline Water-Power Company ought to have the privilege of suing the Government for a breach of contract.

I have no doubt that the Senator from Minnesota believes I agreed to this provision. He had a right to think so, but it was really sent over, and the member of Congress from the district agreed to it. I told him then I did not believe that it was for the benefit of the Government that this should be done. The present Secretary of War has acted upon the report of the proper officer of the Government on the subject; and the only reason for repealing the clause now is that we do not know whether the present gentleman will remain Secretary of War. He may die or resign before a great length of time, and therefore it is better that the measure should be repealed. I have no reflections to cast on anybody, and I have no doubt that the committee of conference when they concurred in this clause believed that my then colleague and myself agreed to this provision.

Mr. WINDOM. That was certainly the understanding; and the information given to the committee by the Senators and the Members satisfied them that this was the right thing to do.

The Senator from Illinois raises the question how it came that when the Senate has inserted this affirmative proposition several times, it has always been lost. I will answer the Senator, and it enables me to illustrate a point which has been under discussion sometimes in the Senate. The Senate put on this affirmative appropriation. The House said, "We will defeat this bill before we will allow it to pass appropriating this money." Under the lead of Mr. Hewitt, of New York, who was a member of the House conference committee, we were plainly told, "We will not pass this bill with this appropriation of money for the Moline water-power in it;" and the Senate was bound to back out, as the Senator from Vermont [Mr. EDMUNDS] suggests, upon the principle that neither House has the right to insist upon one provision to the defeat of an entire appropriation bill. And that enables me to refer to some remarks made by the honorable Senator from Ohio, now in the chair, [Mr. THURMAN,] just at the close of the last session. I wish I had them before me.

The Senator then informed the Senate that if he had any particular forte in legislation it was logic, and in illustration of that logic he went on to say that there was no difference between putting an item of appropriation on a bill and an item of legislation and insisting upon it. I admit that fully, but this illustrates just exactly what we mean by it. The Senate had inserted this affirmative proposition. If it had insisted upon it to the defeat of the bill it would have stood precisely where the last House of Representatives stood when it put legislation upon the bill and insisted that it would defeat that bill unless we agreed to that amendment. Now, I say that an item of appropriation and an item of legislation which either House insists upon and says it will defeat a bill if that affirmative item is not agreed to stand in precisely the same relation to each other. I do not deny the right of either House to put legislation upon an appropriation bill, provided they submit it to the judgment of the other House to accept it or not; but when they insert provisions in the bill, either legislative or otherwise, and say to the other House, "you shall pass this particular item of appropriation," or "you shall pass this particular provision of legislation, or if you do not we will defeat the bill," the position is indefensible. We have never stood upon any such ground in the Senate, and we yielded, I will say, for the benefit of the Senator from Illinois, this item as to the Moline water-power appropriation rather than defeat the appropriation bill.

The PRESIDENT *pro tempore*. If there is no demand for a vote on these amendments separately, the vote will be taken on them in gross.

Mr. EATON. Perhaps a word ought to be said in regard to the last paragraph in relation to the settlement of the accounts of Henry C. De Ahna, late collector of customs at Sitka, Alaska. I simply want to say to the Senate that this appropriation is made unanimously by the Committee on Appropriations under the action of the Finance Committee of the Senate, and we understand it to be unanimous in favor of this claim, and have no doubt it ought to be paid.

Mr. LOGAN. I have not examined the proposition, but from what my colleague has stated to me and to the Senate, I desire to know from the Senator having the measure in charge whether or not if this repeal is effected there is any remedy now in law for the parties denominated the Moline Water-Power Company against the Government for their failure to provide properly for this water-power according to their contract?

Mr. DAVIS, of Illinois. I can answer my colleague that there is no provision now. The Government has not appropriated the necessary amount of money. The executive department of the Government has uniformly requested that it be done, but in some way it has not got on the appropriation bills in the House, and when they came into the Senate the appropriation was put on here but has been struck off as the Senator from Minnesota has said, so that if this provision is repealed the rights of the parties remain just as they were.

Mr. LOGAN. As they were prior to the act of last session?

Mr. DAVIS, of Illinois. Yes, sir.

Mr. LOGAN. There is then now no new remedy; that is, no law authorizing them to proceed against the Government? That will have to be done after.

Mr. DAVIS, of Illinois. If after my colleague and myself try to get an appropriation we do not succeed, then we must ask Congress to let the parties litigate their rights.

Mr. LOGAN. I merely wish to say now that if this is the case, as it is doubtless from the statement of the Senators both from Connecticut and Illinois, it certainly is the duty of the Congress of the United States to provide and give some authority to this company under which it may proceed against the Government for the purpose of recovering damages or the enforcement of its contract.

Mr. ALLISON. One word before the vote is taken. I opposed the provision in the sundry civil bill at the last session when it was reported from the conference committee, because I believed then, as I believe now, that the Government should not surrender the great advantage it has in holding this water-power through a contract with the Moline Water-Power Company; and while I believe that, I am not one of those who oppose a proper remedy to the company. I feel certain that this Government is bound to make appropriations to improve this water-power in accordance with the contract made in 1867. The Government not only failed to do what it obligated itself then to do, but it has, by the interference of the Government in reference to the main channel, absolutely destroyed the water-power unless this proposed improvement is made. When this contract was made with the Moline Water-Power Company the Mississippi River had across it chains or blocks, which to a certain degree dammed up the water and enabled the water to pass around this island. Since that time large appropriations have been made by which the main channel of the Mississippi River at this point has been cleared out, thus lowering the water during the low-water period, so that there is a double obligation on the part of the Government to improve this water-power. But I objected at the last session to this provision, because I do not desire under any circumstances that the Government shall give up a great advantage which it has of this water-power, which in my judgment will save the Government annually from $100,000 to $120,000 in the portions of the arsenal at Rock Island. Therefore I am in favor of its repeal as proposed, and I shall sustain my friend from Illinois and his colleague in securing a sufficient appropriation at the next session of Congress to make this improvement what it ought to be.

The PRESIDENT *pro tempore*. The question is on the amendments reported from the Committee on Appropriations.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

Mr. MORRILL. There should be an amendment to the title by adding the words "and for other purposes."

The PRESIDENT *pro tempore*. The Chair hears no objection, and that amendment will be made.

DEPARTMENT OFFICERS ON THE FLOOR OF CONGRESS.

The PRESIDENT *pro tempore*. The Chair now lays before the Senate the first bill on the Calendar, which is the bill (S. No. 227) to provide that the principal officers of each of the Executive Departments

may occupy seats on the floor of the Senate and House of Representatives, on which the Senator from Ohio [Mr. PENDLETON] is entitled to the floor.

Mr. HARRIS. I wish to give notice that when the Senator from Ohio shall have concluded his remarks I will ask that the bill named be informally laid aside in order that I may ask the Senate to take up for consideration the bill (S. No. 108) to prevent the introduction of contagious and infectious diseases into the United States.

Mr. PENDLETON. Mr. President, I do not propose to make an elaborate examination of this measure to-day. I intend only to state, as briefly and comprehensively as I can, the leading considerations which have brought me to the conclusion that it ought to be adopted. I am glad, in the midst of this heated political debate which we have had now for many days, to be able to remind the Senate that this is in no sense a party measure. It appeals to no partisan interest; it trenches upon no partisan susceptibility; it awakens no party spirit. It touches the relation of two great Powers in the State, and seeks to improve their methods of communication with each other. In the rapid alternations of success all parties will soon feel its effects. I therefore appeal with confidence to Senators on both sides of the Chamber for their impartial consideration of the subject. That consideration, I know, will be wise; and the conclusion, I believe, will be correct. I have not long had the honor of a seat here. I served for many years in the House of Representatives with many of the most eminent and honored of those who sit opposite me in this Chamber to-day; and I there learned by actual experience that, mere partisan politics and actions aside, a body of men fairer, juster, abler, wiser, cannot be selected in the whole country than those who are sent to represent the States and the people in the two Houses of Congress.

The bill provides:

First. That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney-General, and the Postmaster-General shall be entitled to occupy seats on the floor of the Senate and House of Representatives, with the right to participate in debate on matters relating to the business of their respective Departments, under such rules as may be prescribed by the Senate and House respectively.

Second. That the said Secretaries, the Attorney-General, and the Postmaster-General shall attend the sessions of the Senate on the opening of the sittings on Tuesday and Friday of each week, and the sessions of the House of Representatives on the opening of the sittings on Monday and Thursday of each week, to give information asked by resolution, or in reply to questions which may be propounded to them under the rules of the Senate and House.

The first section provides for a voluntary attendance to take part in debate. The second section provides for a compulsory attendance to give information. Whether the scope of the debate allowed by the first section should be more or less restricted; whether the compulsory attendance provided in the second section should be on two days in each week or only on one day; whether all the officers should attend on the same day, are questions touching the details of the scheme. They can be settled now on consideration according to the judgment of the Senate, or hereafter when actual trial shall have given us experience, or they can be arranged by the standing orders of each House. They in no wise affect its essential merits.

In order to carry the bill into effect, rules somewhat like the following should be adopted by each House, *mutatis mutandis:*

1. That the Secretary of the Senate shall keep a notice-book, in which he shall enter, at the request of any member, any resolution requiring information from any of the Executive Departments, or any question intended to be propounded to any of the Secretaries, or the Postmaster-General, or the Attorney-General, as to facts relating to public affairs or to the business pending before the Senate, together with the name of the member and the day when the same will be called up.

2. The member giving notice of such resolution or question shall, at the same time, give notice that the same shall be called up in the Senate on the following Tuesday or Friday; provided that no such resolution or question shall be called up, except by unanimous consent, within less than three days after notice shall have been given.

3. The Secretary of the Senate shall, on the same day on which notice is entered, transmit to the principal officer of the proper Department a copy of the resolution or question, together with the name of the member proposing the same, and of the day when it will be called up in the Senate.

4. In the Senate on Tuesday and Friday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

5. The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information, and the Secretary of the proper Department may reply, giving the information or the reasons why the same should be withheld, and then the Senate shall vote on the resolution, unless it shall be withdrawn or postponed.

6. In putting any question to the Secretaries, or the Attorney-General, or Postmaster-General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question; and, in answering such question, the Secretary, the Attorney-General, or Postmaster-General shall not debate the matter to which the same refers, nor state facts or opinions other than those necessary to explain the answer.

These rules do not make unreasonable exactions on the time of the Secretaries as has been feared by a most respectable friend of the bill. No question can be called up unless after three days' notice to the Secretaries. On days when no questions are voted to be called up there need be no attendance. These rules relate only to the execution of the last section of the bill—to giving information, to putting and answering questions; and here questions and answers ought to be limited to specific points that accuracy may be attained. They in no wise affect the debate permitted and invited by the first section. Our experience does not permit us to doubt that when once these officers have acquired the habit of coming on the floor to give information, they will eagerly come to participate in debate, which has been well said to be the life of legislation, and a wholesome instructor of both the members and the people. That debate may be unlimited. These rules may be amended as experience shall show their defects.

The object of the bill is to secure to members of Congress all the information which the heads of Departments may have on the matters committed to their charge. Its object is to establish an easy, open, public channel of communication between those to whom are confided the great subdivisions of public business into which the whole has been by your law distributed. Its object is to increase the closeness of the connection between them—no, I have used the words unadvisedly, not to increase the closeness of the connection, it is close enough now, but to put that connection which now exists, which is now in all aspects awkward and incomplete, and in some aspects unauthorized, private, secret, concealed, or if not concealed at least denied and therefore illegitimate, under the sanction and guardianship of the law that it may be made convenient, may be avowed before all men, be used in public, and be regulated by a scrutinizing public opinion.

Its method is to permit the Secretaries to come before the two Houses and debate pending legislation touching the matters within their Departments and to compel them to come at convenient times to give information accumulated in the execution of their trusts. Its method is to permit them to give opinions and require them to give facts for the benefit of Congress, and both under such reasonable regulations that their efficiency in administration and our independence in legislation may be greatly increased.

I avow at the outset that I do not propose an amendment to the Constitution; I do not seek either immediately or eventually to substitute Parliamentary for Presidential government; I do not seek either to aggrandize or impair the executive power as defined by the Constitution and vested in the President. The President, and the President alone, is the constitutional executive; he and he alone is the co-ordinate executive branch of the Government; he and he alone is the "Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States." He and he alone "shall have power to grant reprieves and pardons for offenses against the United States;" to make treaties with the advice and consent of the Senate, provided two-thirds of the Senators present concur; to nominate and by and with the advice and consent of the Senate to appoint embassadors and other public ministers and consuls, judges of the Supreme Court and all other officers of the United States whose appointments are not otherwise provided for; "to give to Congress information as to the state of the Union;" on extraordinary occasions to convene and adjourn Congress; "to receive embassadors and other public ministers; to take care that the laws be faithfully executed; to commission all the officers of the United States;" and to exercise the veto power. These are the functions of the executive power which is vested in the President by the Constitution. They can be performed neither in whole nor in part by another; neither the President nor the Congress nor both can delegate them or abridge them. Both the President and the Congress are bound to maintain and protect them. The Departments and their principal officers are in no sense sharers of this power. They are the creatures of the laws of Congress, exercising only such powers and performing only such duties as those laws prescribe.

The Constitution recognizes the power and duty of Congress to organize Executive Departments and charge them with specific duties, itself imposing only the simple duty upon the principal officers to furnish to the President their opinion, in writing, upon any subject relating to the duties of their offices.

The First Congress, after long debate, decided that the President should have the power of appointment and removal, unimpaired, except as in all other cases, by impeachment; and that the Secretaries should perform all the duties imposed upon them by law and by the constitutional power of the President to call for written opinions. The Secretaries were made heads of Departments; they were charged by law with certain duties, and invested by law with certain powers to be used by them in the administration confided to them by the laws. They were in no sense ministers of the President, his hand, his arm, his irresponsible agent, in the execution of his will. There was no relation analogous to that of master and servant or principal and agent. The President cannot give them dispensation in the performance of duty, or relieve them from the penalty of non-performance. He cannot be impeached for their delinquency; he cannot be made to answer before any tribunal for their inefficiency or malversation in office; public opinion does not hold him to stricter responsibility for their official con-

duct than that of any officer. They are the creatures of law and bound to do the bidding of the law. I do not seek to change their legal relation either to the President or the Congress. I do not seek to make their tenure of office in any wise dependent on the will of congressional majorities or on adverse votes of either or both Houses. I seek only to confer upon them a new privilege and to impose upon them a new duty. The privilege is to give us their advice in debate by word of mouth; the duty is to give us information face to face.

Has Congress the power to grant this privilege? Have both Houses either separately or jointly the power to admit persons not members to their floors with the privilege to address them? The question answers itself. "Each House may determine the rules of its proceedings." Under this power each House admits a chaplain to open its proceedings with prayer. Under this power the House of Representatives constantly admits contestants to argue their title to membership, and sometimes has admitted counsel to argue in the same behalf. Nobody would doubt the power of the Senate to extend the same privilege to a claimant or his advisers.

By the act of 1817 it was provided that "every Territory shall have the right to send a Delegate to the House of Representatives of the United States to serve during each Congress, who shall be elected by the voters in the Territory qualified to elect members of the Legislative Assembly thereof. * * * Every such Delegate shall have a seat in the House of Representatives with the right of debating but not of voting." No question has ever been raised as to the existence of this power. No doubt has ever been hinted. It is the same power whose exercise I invoke now.

A precedent directly in point has stood unchallenged for ninety years. The act of 1789, organizing the Treasury Department, passed within three months after the organization of the Government, provided that "the Secretary of the Treasury shall from time to time digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; * * * shall make report and give information to either branch of the Legislature *in person* or *in writing*, as may be required respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office, and generally shall perform all such services in relation to the finances as he shall be required to perform." That law stands on the statute-book to-day unchanged. It covers this case exactly. It was called into exercise repeatedly in the early history of the Government. When Hamilton made his great report on the public credit in 1790, he was on motion, after argument, required to make it in writing, because the details delivered orally would not remain in the memory of his hearers; but the power and the propriety of requiring the personal presence of the Secretary were not then called in question, nor have they been questioned at any time since. In the acrimonious debate after the removal of the deposits in 1833, Mr. Clay cited this law with approbation, and used it as proof of the absolute power of Congress over the Department and the officer. This view prevailing in the Senate cost Taney his confirmation on his first nomination as judge of the Supreme Court. This bill only permits and enjoins that to be done by all the Secretaries at convenient times, that which the law of 1789 required and permitted to be done at any time by the Secretary of the Treasury.

Can Congress enjoin the duty? The constitutional provisions in relation to the Executive Departments are very simple. The President "may require the opinion in writing of the principal officers upon any subject relating to the duties of their respective offices," and Congress may vest the appointment of such inferior officers as they think proper in the heads of Departments. All other powers and duties are, by inevitable implication and necessarily, prescribed by Congress. This was fully settled by the First Congress. Accordingly, every act organizing every Department has defined the duties of the principal officer. And very pertinent to the inquiry I am now making is the fact that the head of every Department is required to report directly to Congress in reference to the discharge of the duties thus imposed upon his office. I have quoted the language of the law organizing the Treasury Department. I will not weary Senators by reading the others. They may be found in the early pages of the Revised Statutes.

If by a line of precedents unquestioned and unbroken since the first year of the Government, Congress has established its power to require the heads of Departments to report to it directly, and also its power to admit persons to the floor of either House to address it, I submit the argument is perfect that Congress may require the report to be made or the information to be given by them in person on the floor and orally. I know full well that "no person holding any office under the United States shall be a member of either House during his continuance in office." But the head of Department does no more become a member of Congress by reporting in person and orally and by being admitted to certain debates than does your chaplain, or the contestant or his counsel, or the Delegate. He has no official term of two or six years. He is neither elected nor appointed to either House. He has no participation in the power of impeachment, either in the institution or the trial. He has no privilege from arrest. He has no power to vote in any case.

It has been suggested that this argument is too technical; that though the power claimed may exist in the letter, a change is involved which would violate the spirit of the Constitution and in some way disturb the system of government established by it; that it would in some way merge the co-ordinate departments of the Government or give undue ascendency to the one or the other. But when I ask for a more specific statement of the dangers to be apprehended gentlemen cannot agree among themselves. Some assert very strongly that the executive power will be brought into entire subjection to the influence of Congress, while others are equally confident that the independence of the Legislature will vanish before this immense aggrandizement of the presidential office. In my opinion neither effect will follow. I repeat, this bill proposes a change of methods only, not of powers. I submit to the candor of Senators, if the uniform duty laid on the heads of Departments for now nearly a hundred years to report annually and as often as required, directly to Congress and the regular performance of that duty, have not impinged on the powers of the President, have not affected the independence of Congress, have not merged the executive and legislative branches of the Government, have indeed only demonstrated the necessity for a more easy method of communication, so neither will requiring these reports and recommendations to be made orally instead of in writing, on the floor instead of from the office, tend to produce these injurious results.

And now, Mr. President, what is the practical inconvenience and evil which I propose to remedy?

The communications of the Secretaries to Congress are all in writing, and are made in pursuance of law at stated periods, or in response to special calls for information by either House. I may admit for the sake of the argument that these reports are full, exact, comprehensive, and that the opportunity and temptation never suffice to cause either an intentional coloring or omission of troublesome matter. They are accompanied by detailed statements of facts and figures and reports of subordinates, very necessary to be preserved in the archives, very necessary to be studied by the thorough political economist. I do not propose to dispense with them. They are voluminous; they are not always lucid, they do not always give the information desired; they are mines in which men will not dig through the waste possibly to find the ore; they must be pored over to be understood, and they must be pored over by each man for himself. Not one in ten of the members of Congress thoroughly reads them. The condensed statement of a few minutes delivered orally would give more intelligible information to the whole Senate than half a volume, the careful reading of which would cost every Senator many hours.

Special calls for information are answered slowly, because the Secretary has something which he deems more important, or is negligent, or the necessity of much copying takes time.

Calls are made improvidently, and pages of manuscript are copied and printed which are utterly useless for the purpose contemplated by the caller—useless, perhaps, for any purpose whatever.

Calls are evaded by the officer. He takes a long time to answer, then answers insufficiently, and the session expires before a new call can receive attention.

I do not desire to cite examples which might seem invidious They will occur to every Senator. I remember distinctly that during the war a resolution was passed by the House asking information as to the exchange of prisoners. A month elapsed, and a second resolution passed. Then the Secretary of War responded in a few lines that the whole subject had long before been confided to General Grant. Meanwhile the hearts of mothers and wives were bleeding, and sick, emaciated prisoners, despairing because they believed they had been deserted, were dying, to whom this gleam of hope would have brought comfort and strength and health.

During the last Congress an acrimonious debate occurred in the Senate on the subject of depredation on the timber of the public lands. It lasted several days. The animadversions on the Secretary were very severe. It resulted in a resolution of inquiry. A very brief answer satisfied the disputants. An explanation occupying ten minutes would have saved much misapprehension, much misrepresentation, and days of bitter debate.

On the whole, our present system of communication with the Departments is cumbrous, awkward, and insufficient—better than none—but susceptible of great improvement if supplemented by the addition I propose. A brief question put and answered within three days would in very many cases furnish satisfactory information, or show its irrelevancy, or show that for reasons involving the public good it ought not to be given. One-half of the resolutions of inquiry would not be offered. This would cause an immense saving of time and money—the time of Senators and Secretaries—the money of the public for copying and printing. May I illustrate even by the most imperfect comparisons?

Suppose the partners of a great manufacturing establishment, each having charge of a separate department, seeing each other every day, should communicate only in writing upon the matters of common interest committed to them.

Suppose the physician of a great hospital should require the nurse of each patient to report in writing, and if the report were insufficient, to correct it in writing, before he would attempt to relieve the sufferer.

Suppose corps commanders acting under instructions given alike to both, requiring co-operating action in the sight and hearing and actual presence of each other during varying emergencies, should refuse personal and oral communication, and consult exclusively in writing.

Suppose trustees of a great enterprise, having charge of interests which, though different, were so interwoven that the past, present, and future daily management and disposition of each were essential to the best management of the whole, should confine themselves to written communications.

Such a course would be tolerated, such parties would escape the penalty of criminal delinquency, only on the ground that partners, physicians, officers, trustees, were deaf and dumb and incapable of using the sign language.

And shall we, Congress and the Departments, trustees of these great public trusts, of legislation and execution confided to us by the people for their benefit, adhere to methods so incomplete and insufficient that they would not be tolerated in the management of private interests?

To this cumbrous, inconvenient, unsatisfactory method of writing and printing, which may possibly be necessary sometimes, let us add the plain, direct, satisfactory, convenient method of oral question and oral answer in the presence of the whole Senate.

But there is another phase of this question. There is another influence exerted by another kind of communication. The subjects and principles of legislation are comparatively few; the details of applying those principles to those subjects in all their phases are of infinite variety. The thorough information acquired by the practical administration in the Departments alone can fully comprehend them and wisely discriminate. By reason of this information the heads of Departments must necessarily exert great influence on the legislation. Members defer greatly to their opinions founded on facts and experience. Every man who feels the responsibility of legislation seeks the advice of the Secretaries; every Secretary who desires earnestly the good of the service seeks to impress on the members the result of his thought, his knowledge, his experience. It must be so; it is inevitable; it arises from the best motives. Gentlemen need not affect to deceive themselves or others; every man on this floor knows that he seeks privately the advice of the Secretaries. Nay, more; every man knows that the secrets of executive session are disclosed to the Secretaries and advice and counsel as to confirmation of appointments and ratification of treaties are asked.

Having no open communication between the Secretaries and the whole body of the Senate, the Secretaries seek the members, the members seek the Secretaries, and in the privacy of the Department or of a whispered talk at the member's seat or of personal intercourse elsewhere, the information, the argument, the persuasion, the consideration pass between them which ought to pass in the broad light of day under the full glare of public observation between two great officials of the Government.

It is not within the rules, certainly not within the custom, to allude to these conversations in debate; they are not available for argument in the Senate. If they were, the certain inaccuracy of repetition would make them valueless.

It is not necessary that I should assert the influence thus exerted is corrupt. It is private; it is unauthorized; it is liable to great abuse; it is not acknowledged; it is the fair subject of suspicion. Therefore I have ventured to call it illegitimate. Possibly it can never be abolished entirely. But if you will adopt this plan you will destroy the necessity, the excuse, for this secret communication and suspicious influence. Among all men this will go far to destroy the practice. If you will substitute public argument for private conversation an enlightened public observation will detect whether other inducement has been used.

I have seen a Secretary and his assistants come on the floor of the House of Representatives, and, by a process of private conversation, in two hours reverse a large majority by a succeeding vote, and not a man would declare the reasons for his change. I have seen that same Secretary retreat rapidly from the Hall when it was suggested to apply the provisions of the law of 1789, and to require him then and there publicly to give information on the matter pending before the House. Well may the people, distrustful of these hidden ways, exclaim with the confused and blinded warrior of old—

Give but to see, and Ajax asks no more.

Some persons have asserted that the measure I propose does not go far enough—that it loses all its value unless the Secretaries are made to retire on an adverse vote; and yet these same objectors oppose its adoption on the ground that it will unduly increase the influence of the Executive and stimulate the Secretaries to extraordinary efforts to secure a majority on the pending vote. I am not sure the effect would be to increase the influence of either the President or the Secretaries. It might stimulate them to increased exertion, but if the result of this increased exertion were defeat, and defeat carried the expulsion of the Secretaries from office, there would seem to be an undue increase of the power of Congress. However that may be, I propose to avoid either result. The plan proposed avoids the danger and secures the advantage.

Keep the midway, the middle way is best.

Its tendency will be to diminish the illegitimate influence of the Secretaries, not their legitimate influence. Its tendency will be to increase the practical knowledge and inform the judgment of Congress, not to diminish its independence. I do not expect that it will bring a higher order of intellect or morals into the public service. Men of the highest ability and purest morals are now in the public councils. I resent the intimation too flippant and common that mediocrity only is willing to take part in our politics. It may sift out the strongest to be heads of Departments, and require them to be well equipped with the knowledge of their offices. In that event it will also sift out the strongest to be the leaders of Congress and participants in debate. It will bring these strong men in contact, perhaps into a struggle to advance the public weal and thus stimulate their abilities and their efforts. The conflict of competing and exalted aspirations will certainly improve both the officer and the service.

Parliamentary government, ministerial responsibility, require that the Chief of state should belong to no political party. He must rise above all party divisions, and be able to mark with entire serenity their success and defeat; to note, without the sense of personal discomfiture, the installation and the fall of ministries. The Executive Power, the dignified part of the government as it has been called, around which cluster the traditions and affections of the people, is thereby made permanent. When death removes an incumbent, another designated by inheritance or by some other chance previously provided by law instantly takes his place. This gives stability, a certain rigidity, to the government. The ministry, nominally appointed by this stable executive, but really suggested by the parliament, is changed day by day according to the changes of majorities in parliament. They are supposed to respond instantly to the popular will. This furnishes the elasticity which is necessary. The fusion of the real executive power and the real legislative power, through the agency of a cabinet, constitutes the efficient working power of the government.

The Presidential system seeks to find in fixed terms and elections by the people at once this stability and elasticity. The Executive and Congress are not responsible to each other. They are both responsible to the people. They both return to the people at short intervals the several trusts they have received from the people; and they are like Antæus of old, who renewed his strength at the touch of his mother earth.

This very difference between the parliamentary and the presidential systems enables us to adopt this measure with perfect safety. It will prevent the permanent aggrandizement of either power. The Secretaries cannot assume undue leadership in Congress, because success will not prolong, as defeat will not terminate, their tenure of office. They may be removed by the President at any moment, notwithstanding their success. They may be maintained in office by him during his whole term notwithstanding their defeat. At the end of his term they will almost certainly leave office and soon have place in Congress. Their independence of Congress will prevent their succumbing to its will, and will rouse the natural jealousy of Congress to resist their power becoming too great. The concurrence of opinion between the President and Congress is not essential, perhaps is not possible. Neither will be broken down by the assertion of the will of the other in its own department, because both will soon be called to judgment by the people, and the people will correct any antagonism which threatens the effective working of the Government.

An intelligent French gentleman recently said to me that the French Republic is dying because of the weakness of the executive power. If this be true, the cause lies near at hand. The President is elected by the two Chambers, convened in joint meeting at a few hours' notice for that purpose. Although nominally elected for a term, he is responsible to the Legislature. Each of the two Presidents, Thiers and MacMahon, has found himself forced to resign his term before an adverse majority in the Legislature. There is no stability—neither that of the permanent executive, as in England, nor that secured by popular election, direct responsibility to the people, and short fixed terms, as in the United States.

In Europe every government which moves at all tends to the parliamentary system, because that system consists with the accustomed and cherished monarchy. In the new governments of this new continent, where "old things have passed away and all things have become new," each drifts to the presidential system, because the people fear the idea of monarchy and kingly prerogative. I seek to confirm this drifting. I seek to maintain an elective executive power by establishing the easiest communication of experience and knowledge with an elective legislature. I seek to prevent the consolidation of two great powers in one department by making each of two departments more worthy to possess its respective powers than one could possibly be to possess all powers.

The adoption of this measure will not in any degree impair the efficiency of the present system of committees. Their duties, functions, and methods will not be materially different. They will examine, investigate, and prepare legislation for a more general, intelligent, comprehensive consideration and debate than measures ever have had. Nor will it increase their labors that all the members will have with great ease to themselves the information which the committees usually dig out of ponderous communications at great labor.

It is asserted that the Secretaries are even now overworked, and will not have time to attend the sittings of the Houses even for a few minutes four days in each week. I have said before, if two days in each House are unnecessary or inconvenient, one day in each House may suffice. If it shall be inconvenient for all the heads of Departments to attend on the same day, it may be provided that they attend on different days. These are matters of detail merely, as I have said, and can be easily modified. The officers of other governments have time. Even those with portfolios and charged with the details

of administration have time to attend the sittings of the Chambers. If by reason of the immensity of our territory or the variety of our interests the Secretaries in fact have not time to perform this additional duty, the force in their offices should be increased. An undersecretary should be appointed, to whom could be confided the appointment of clerks and that routine of administration which requires only order and accuracy. The principal officers could then confine their attention to those duties which require intellectual activity and wise discretion; and then they would have abundance of time for their duties under this bill. Indeed, I believe the best interests of a sound civil-service reform would be subserved if the Secretaries were relieved of the harrowing and harassing cares of distributing clerkships and oiling the mere machinery of the Departments.

Fears have been expressed that unseemly controversies and painful badgering of Secretaries by sharp cross-examiners might result. But it might be our ox that is gored. The Secretaries are well able to take care of themselves. This present Cabinet is fully equal in debate to any like number of members of Congress. Most of them have tested their strength here, and one of them at least has not failed in conflict either here or in Europe. It will always be so. Any man fitted by business qualifications to take charge of a Department can tell clearly what he understands thoroughly. The rules which I have suggested would hardly admit of such unseemly wrangle. The enlightened sense of decency and dignity on the part of Secretaries and members would effectually prevent it. The decorum which has attested the keen sense of responsibility in both Houses should dispel such apprehensions, and if Secretaries or members should once forget themselves, the just public indignation would prevent a repetition.

If the Secretary should refuse to obey this law, the power of impeachment would suffice to punish him, even if it could not coerce obedience, as in all other cases of official delinquency.

I have not chosen to bring to my aid the authority of great names. Mr. Clay scouted the idea that the Departments were part of the constitutional executive. He declared they were the creatures of congressional enactment, and therefore were absolutely bound to obey its provisions. Professor Lieber declared that while members of Congress cannot be made heads of Departments, yet that heads of Departments can be admitted to the floor with the right of debate. Judge Story, with that fullness of learning and copious eloquence which marks all his works, has stated the argument which maintained the constitutionality and the expediency of a law such as I propose.

"Aping British ways," I see it sometimes written. No, it is not a British way; it is the way of the government of every civilized nation in the world which has a legislature and executive except our own. The republics of France and Switzerland, and Mexico and Central and South America, have adopted it. The limited monarchies of England and Holland and Denmark and Sweden and Spain and Belgium and Italy and Brazil have established it. The stern imperialism of Germany and Austria have admitted it. It is the reasonable, intelligent, progressive way; the way of improved legislation. No nation has ever abandoned it for the old way, more than a farmer has given up the mower and reaper for the scythe and the sickle.

But if it were a British way! The parliamentary history of England is the chief glory of the Anglo-Saxon race. It is the history of freedom, the history of human progress, the history of the amelioration of the evils of barbarism and the substitution of the blessings of the greatest liberty and the least law. It is the history of Magna Charta, the Petition of Rights, the Bill of Rights, the great remonstrance, the Habeas Corpus, the statutes of treason, the extension of suffrage. It is the history of Strafford beheaded, of Clarendon banished, of Danby imprisoned, of Oxford committed to the tower, of Bolingbroke and Ormond attainted, of Bute disgraced, of North, the beloved favorite of the haughtiest king who has sat on the throne of England since the imperious Henry, driven from power. It is the history of Somers and Russell and Bolingbroke and Walpole and Townshend and Chatham and Fox and Burke and Pitt and Sheridan and Canning and Brougham and Peel and Gladstone and Bright and Disraeli. It is the history of those immortal victories in the great struggle of liberty against prerogative, of the rights of the individual against the power of the community, whose glories will shine resplendent with undimmed brilliancy when the victories of mere force will have lost their effect and when Cœur de Lion and the Black Prince and Marlborough and Wellington will have become but the shadows of great names. Whose heart does not thrill at this thought of the Parliament? And the chief cause of its transcendent influence was that it opened the dark doors of ministerial cabinets; that it exposed to broad day the connection of the Crown and the Commons; that it substituted for the hidden corruption which bought votes the open influence of intelligence, character, information, intellect, argument, and thus stimulated at once its own and the nation's aspiration for a larger liberty and a purer life.

I would have our Congress emulate this notable example and surpass this wonderful success. I would have it gain all the benefits of the Parliamentary system without losing any of the advantages of Presidential government.

APPENDIX.

Constitutional provisions of various countries on this subject.

AUSTRIA.

Fundamental law of December 21, 1867.—Article 23: The members of the ministry are authorized to take part in all the deliberations of the delegates in the Reichsrath, and to submit their propositions personally or through the medium of a delegate. They have the right to be heard whenever they demand it. The delegates have the right to address questions to the ministry or to any one of its members, to call for answers and explanations, and to nominate committees of inquiry, to which the ministers must furnish the necessary information.

BELGIUM.

Constitution of 1831.—Section II, article 88: The ministers have no deliberative voice in either chamber of the legislature except where they are members thereof. They have the right to be present in each of the chambers and to be heard whenever they demand it. The chambers may require the presence of the ministers.

BRAZIL.

Constitution of 1824.—Chapter IV, article 53: The executive power exercised through one of the ministers of state, the right to propose laws; and it is only after an examination made by a committee of the Chamber of Deputies, in which the law is to originate, that such proposition can be converted into a bill.

Article 54: The ministers may discuss and defend the proposition after the report of the committee, but they cannot vote unless they are senators or deputies.

DENMARK.

Fundamental law of 1865.—V, 59: The ministers, in virtue of their duties, have admission to the Rigsdag, and have the right during discussions to participate in the debate as often as they please, while observing the established rules. They have no vote except when they are members of the Rigsdag.

FRANCE.

Constitutional law of July 18, 1875.—6: The ministers have the right of being present in the two chambers, and may be heard whenever they demand. They may cause themselves to be assisted by commissioners designated by decree of the president of the republic for the discussion of any bill proposed.

GERMANY, (EMPIRE OF.)

Constitution of 1871.—The Bundesrath is presided over by the chancellor of the empire, who has also the right to be present at the deliberations of the Reichstag or house of representatives, which is an elective body.

GREAT BRITAIN.

While the executive government is vested nominally in the Crown, it is practically in a committee of ministers known as the cabinet. All the acts of the ministry are liable to be questioned in Parliament; and as they may require prompt explanation, it is essential that the members of the cabinet should have seats either in the upper or lower house, where they may constantly answer for the policy and action of the government.

GREECE.

Constitution of 1864.—VII, 78: The ministers are admitted to the sessions of the chamber, and may be heard whenever they demand it. The ministers have no deliberative voice in the chamber, except when they are members of the same. The chamber may require the presence of the ministers.

ITALY.

Constitution of 1848, (extended over the annexed provinces of the Kingdom of Italy.)—66: The ministers have no deliberative voice in either chamber, except when they are members thereof. But they have constantly the right of being present, and may be heard as often as they demand.

NETHERLANDS.

Fundamental law of 1815, *as amended in* 1848.—Section IV, 89: Heads of the ministerial departments have the right of admission to the two chambers. They have only a deliberative share in legislation, unless they are members of either house. They communicate to the chambers, either verbally or in writing, the information demanded, whenever its communication is not judged contrary to the interest and safety of the kingdom or of its possessions and colonies in the other parts of the world. They may to that end be invited by each of the two chambers to be present at their sessions.

NORWAY.

Fundamental law of 1814.—Section 76: Every law must be first proposed to the Odelsthing [house of representatives] either by its own members or the government, and in the latter case through the medium of a counselor of state.

PORTUGAL.

Constitutional charter of 1826, *as amended in* 1852.—IV, 46: The executive power exercised by one of the ministers of state, the right of proposing bills, which belongs to it in the preparation of laws, and it is only after an examination in that chamber which must originate it that such a proposition can take the form of a bill.

47: The ministers may discuss and defend a proposition after the report of a committee, but they cannot vote unless they are peers or deputies.

PRUSSIA.

Constitution of 1850.—IV, 60: The ministers, as well as the state functionaries who represent them, have admission to both chambers, and may be heard whenever they demand it. Each chamber may require the presence of the ministers.

SPAIN.

Constitution of 1845, *readopted in* 1856.—IX, 64: The ministers may be senators or deputies, and may take part in discussions of the legislative assemblies; but they have no right to vote except in that chamber to which they belong.

SWEDEN.

Constitutional law of 1809, *as amended up to* 1866.—II, §53: The members of the council of state may assist at the sittings of each chamber, with the right of taking part in its deliberations, but not of voting, unless they are members of the chamber.

SWEDEN AND NORWAY.

Act of union of 1815.—V: The minister of state of Norway, and the two counselors of state who accompany the King, shall have a seat and a deliberative voice in the Swedish council of state whenever affairs relative to the two kingdoms are in question. If affairs relative to the two kingdoms are brought before the King in the Norwegian council of state, at whatever time or place it may be assembled, three members of the Swedish council of state shall also have seats and right of deliberation thereon.

SWITZERLAND.

Constitution of 1874, *article* 101.—The members of the federal council have a consulting voice in the two sections of the federal assembly, as well as the right to introduce propositions upon subjects under deliberation.

CHILI.

In the deliberations of the national assembly it listens to the orators of the senate and of the government, who must be one minister, one counselor of state, and one secretary of state.

COLOMBIA.

It is the duty of the ministers to communicate to both chambers, with the approbation of the executive power, all the information which may be demanded of them, orally or in writing, on the affairs of their respective departments, except in cases where publicity would be improper.

COSTA RICA.

The secretaries of state may be present at the discussions in congress or at either of the two houses, and they may take part in the same discussions, but they shall retire before the votes are cast.

GUATEMALA.

In Guatemala they may fill both positions, and in fact they always go together; so that the secretaries of government fully share in the discussion and have both voice and vote.

NICARAGUA.

In Nicaragua there is absolute incompatibility, and practically the secretaries leave the cabinet in order to go to congress at the time of meeting, returning, often, to the secretaryship as soon as the congress finally adjourns.

HONDURAS.

In Honduras the secretaries cannot be members of congress, but they may take part in discussions of all measures pending before them.

SALVADOR.

The practice and the law are the same as in Honduras.

HAYTI.

The secretary of state and the grand judge are the orators charged with representing the executive power, by oral communication, on the floor of the senate and the chamber of representatives.

Story on the Constitution, section 869 *et seq.*:

"The heads of the Departments are, in fact, thus precluded from proposing or vindicating their own measures in the face of the nation in the course of debate, and are compelled to submit them to other men who are either imperfectly acquainted with the measures or are indifferent to their success or failure. Thus that open and public responsibility for measures which properly belongs to the executive in all governments, and especially in a republican government, as its greatest security and strength, is completely done away. The Executive is compelled to resort to secret and unseen influences, to private interviews, and private arrangements to accomplish its own appropriate purposes, instead of proposing and sustaining its own duties and measures by a bold and manly appeal to the nation in the face of its representatives. One consequence of this state of things is, that there never can be traced home to the executive any responsibility for the measures which are planned and carried at its suggestion. Another consequence will be (if it has not yet been) that measures will be adopted or defeated by private intrigues, political combinations, irresponsible recommendations, and all the blandishments of office, and all the deadening weight of silent patronage. The Executive will never be compelled to avow or to support any opinions. His ministers may conceal or evade any expression of their opinions. He will seem to follow, when, in fact, he directs the opinions of Congress. He will assume the air of a dependent, when, in fact, his spirit and his wishes pervade the whole system of legislation. If corruption ever eats its way silently into the vitals of this Republic it will be because the people are unable to bring responsibility home to the Executive through his chosen ministers. They will be betrayed when their suspicions are most lulled by the Executive under the disguise of an obedience to the will of Congress. If it would not have been safe to trust the heads of Departments, as representatives, to the choice of the people as their constituents, it would have been at least some gain to have allowed them seats, like territorial Delegates in the House of Representatives, where they might freely debate without a title to vote.

"In such an event their influence, whatever it would be, would be seen and felt and understood, and on that account would have involved little danger and more searching jealousy and opposition; whereas it is now secret and silent, and from that very cause may become overwhelming. One other reason in favor of such a right is, that it would compel the Executive to make appointments for the high departments of government, not from personal or party favorites, but from statesmen of high public character, talent, experience, and elevated services; from statesmen who had earned public favor and could command public confidence. At present gross incapacity may be concealed under official forms, and ignorance silently escape by shifting the labors upon more intelligent subordinates in office. The nation would be, on the other plan, better served, and the Executive sustained by more masculine eloquence as well as more liberal learning. * * * There can be no danger that a free people will not be sufficiently wakeful over their rulers and their acts and opinions when they are known and avowed, or that they will not find representatives in Congress ready to oppose improper measures or sound the alarm upon arbitrary encroachments. The real danger is when the influence of the rulers is at work in secret and assumes no definite shape; when it guides with silent and irresistible sway, and yet covers itself under the forms of popular opinion or independent legislation; when it does nothing, yet accomplishes every thing."

THE EARLY USAGE IN THIS COUNTRY.

Our early history has not been without illustration of the necessity and of examples of this practice. In the early days of the Government the Secretaries were repeatedly called to the presence of either House for consultation, advice, and information.

"*Wednesday, July* 22, 1789.—The Secretary of Foreign Affairs (Mr. Jefferson) attended, agreeably to order, and made the necessary explanations."—*Annals of Congress, First Congress*, volume 1, page 51.

"*Saturday, August* 22, 1789.—The Senate again entered on executive business. The President of the United States came into the Senate Chamber, attended by General Knox, Secretary of War, and laid before the Senate the following statement of facts, with the questions thereto annexed, for their advice and consent."—*Annals of Congress, First Congress*, volume 1, page 66.

And again on the Monday following the President and General Knox were before the Senate.

"*Friday, August* 7, 1789.—The following message was received from the President of the United States, by General Knox, the Secretary of War, who delivered therewith sundry statements and papers relating to the same."—*Proceedings of House of Representatives, Annals of Congress*, volume 1, page 684.

"*Monday, August* 10, 1789.—The following message was received from the President, by General Knox, [Secretary of War,] who delivered in the same, together with statement of the troops in the service of the United States."—*Proceedings of House of Representatives, Annals of Congress*, volume 1, page 689.

Instances of this kind might be almost indefinitely multiplied, but these serve sufficiently to exhibit the practice established at an early day by those who framed the Constitution.

Mr. MORRILL. Mr. President, this measure was proposed by the distinguished Senator from Ohio [Mr. PENDLETON] while he was a member of the House in 1864, with this difference, that the proposition now includes the admission of the members of the Cabinet into the Senate as well as into the House of Representatives, and enjoins peremptory attendance each week for four days instead of two.

At that time it was my duty as one of the select committee to consider the subject; but the speech I then made upon it I do not intend now to repeat, although it possibly may be found, if my friend, the Senator from Ohio, will pardon me for saying so, to have at least as much vitality as the resurrected bill which died fourteen years ago in the House, and died then not from any lack of ability, as it will not now, on the part of the mover, but because the bill was an unfragrant exotic, which here found no congenial soil or climate.

That measure, tending to assimilate our form of government to such monarchies as are mainly controlled by cabinets, notwithstanding its advocacy by an eloquent expounder of the ultra theories of strict construction, will now find no new bulwarks erected in the Constitution for its support and none of the old removed that for almost a century have here barred and still bar its entrance.

It appears a little remarkable while many of the leading minds of Great Britain and of Europe seem eager to copy more and more of American principles and methods that we should find any one in the Senate of the United States, whether a student of Hamilton or of Jefferson, seeking to copy that feature of the British government through which the Crown maintains its pomp and prerogatives, and which dates first from the so-called "junto" and later from the "cabal" formed by Charles I wholly from his most devoted personal adherents. It is true that Charles lost his head, but the Crown has not lost the cabinet of the privy council. For some years after the revolution of 1688 these servants of the executive were by law excluded from seats in Parliament, but King William soon followed the management of the Stuarts and the law was repealed. Among the leaders of British cabinets who followed the notorious Jeffreys such names appear as Lords Bute, Walpole, and North. America was not unmindful of their despotic career during their lives, heeded the lesson in our organic law, and will be slow to offer opportunities for kindred ambition to imitate their example.

If I venture to call the attention of the Senate to the constitutional objections to the measure presented it is because they stand out so prominently as to be plainly read by plain men, and not because I do not know there are many other Senators here who by more extensive constitutional learning would be able to state these objections more clearly and with greater force. The first point to be considered is whether the Constitution offers any warrant for the adoption of this measure. If not, its inexpediency will the less need to be elaborately unfolded. Certainly a proposition which is to effect a grave and radical change in the executive and legislative branches of the Government as to the conduct of public affairs cannot receive favor without a clear and distinct grant of power appears. This should stand out visibly to all eyes where it can be seen, and seen without a compound microscope. But where is the article or section which covers it? Where is the substance of the idea even remotely hinted at? It may surprise even some of the friends of the new measure to learn the humble place where its residence is said to be located in the Constitution. Here it is:

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

That is the whole of the slender opening pointed out for the entrance of seven persons not members-elect into the House and Senate to take part in the debates and to bring as the heads of the Executive Departments executive influence more directly to bear upon the legislative branch of the Government. It was once supposed not to be easy for a camel to go through the eye of a needle, but the aperture here through which a whole ponderous Cabinet is to crawl is surely far more diminutive than a needle's eye.

Undeniably, "each House may determine the rules of its proceedings," but rules are determined by members for members and not for outsiders, especially not for executive officers. They concern its orderly proceedings, threaten to punish disorderly members, and guide the presiding officer in the daily routine of business; but rules are not laws reaching beyond the respective Houses unless their privileges have been invaded, and can have neither force nor relevancy in determining proceedings elsewhere. Rules may be one thing today and another to-morrow, depending upon the judgment or caprice of a partisan or non-partisan majority; but the Constitution remains fixed, whoever may make parliamentary rules. The power of each House over its rules has no more to do with the heads of the Executive Departments than with the justices of the Supreme Court; and a law attempting to compel the attendance of the justices, based upon the power to determine rules, would be no greater stretch of the Constitution, no more gross and even grotesque perversion of its letter and spirit, than a similar compulsion of the members of the Cabinet or even of the members of the New York Chamber of Commerce.

Whenever parties are hard pressed to find constitutional power for what they propose to do, they often resort to that clause of the Constitution which grants power "to make all laws necessary and proper for carrying into execution" the other vested powers of the Constitution. This, like the clause relating to the "common defense and general welfare," is the usual unfailing fountain, always bubbling, where latitudinarians are sure to find authority to do whatever was never done before. But instead of finding any powers of Congress or of the Executive in abeyance or which have not been discovered and fully and completely exercised as originally designed, it will be generally conceded that the extreme limits of the Constitution have been explored and occupied, possibly sometimes overleaped. Powers not delegated are "reserved to the States respectively or to the people," and cannot, under the mere forms of law, be appropriated by either the Executive or by Congress. If any have slumbered for ninety years, there is no magician who will be likely to wake them into life. No laws, of course, can be necessary or proper to carry an ungranted power into execution.

Another argument sometimes faintly brought into this discussion is one from analogy, derived from the law which permits territorial Delegates to have seats without votes in the House of Representatives. This law, however convenient it may be, finds its sole support in the "power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States." This, as the foundation for the creation of territorial Delegates, is at best so thin and shadowy that all must wish it could have been a little more substantial, and it can no more be seriously contended that it is broad and sound enough to be cited as a precedent wherever the word "rules" happens to be repeated in the Constitution than it can be cited as enough of itself to bear the additional weight of the seven heads of the Executive Departments, and it would be little or no worse to claim that such heads may be disposed of as "the property of the United States."

Again, it is claimed that the whole constitutional question was settled by the law of 1789 organizing the Treasury Department, which provided that the Secretary of the Treasury should "make report and give information to either branch of the Legislature in person or in writing as may be required." The words "in person" do not appear in the acts establishing either of the other Departments, and if they had so appeared no simple law could have added to or subtracted from the Constitution one jot or tittle. These Departments are not creations of Congress to be expanded at its will, but creations of the Constitution and subject to its limitations. But the whole of the debate at the time the act was passed, as reported in the Annals of Congress, furnishes a conclusive refutation of the groundless assumption that it was ever the purpose of Congress to give the Secretary of the Treasury a seat or a right to participate in the debates in either House. No one suggested or contemplated the idea. They were all very warmly in earnest against mingling the functions of the Executive with those of the Legislature, and abundantly cautious about granting even what power was accorded to the Secretary, objecting to "being led by him." They would not let him, when submitting information only, "obtrude his sentiments perpetually."

Fortunately almost instantaneous contemporaneous construction of the act referred to shows that, for whatever purpose the words "in person" were inserted, they were not used to give the Secretary any power to submit reports, or plans, or information, except in writing. Secretary Hamilton notified the House January 9, 1790, that, in obedience to its request, he was ready to make his financial report, that report which has made his name forever famous; and his friends, for that grand occasion only, attempted to obtain leave for him to appear in person and address the House, but instantly objections were made on all sides, and it was formally resolved, after full debate, but finally without even a division, that the communication must be in writing. It was thus that the question was disposed of by the very same House which framed the law organizing the Treasury Department and immediately thereafter. He must be a bold reformer who would reverse the decision of the First Congress as to the meaning of the most important act of its first session.

Once more the question appeared, and was bluntly and squarely settled. The Secretary of War and the Secretary of the Treasury, feeling that a report of a committee of the House on the defeat of General St. Clair had done them great injustice, a resolution was offered November 13, 1792, by one of their friends, inviting them to attend and furnish such information as would be conclusive in the investigation of the subject. This met with the same fate, of course, that befell the first attempt; but it has a further importance in having furnished the occasion for Madison, the father of the Constitution, to express his views on the constitutional merits involved in the question. He spoke as follows:

> Mr. Madison objected to the motion on constitutional grounds, and as being contrary to the practice of the House. He had not, he said, thoroughly revolved the matter in his own mind, and therefore was not prepared to state fully the effects which would result from the adoption of the resolution; but he would hazard thus much, that it would form an innovation in the mode of conducting the business of this House, and introduce a precedent which would lead to perplexing and embarrassing consequences, as it involves a conclusion in respect to the principles of the Government which at an earlier day would have been revolted from. He was decidedly in favor of written information.

These brief words bristle from beginning to end with the constitutional objections of Mr. Madison, even to a single dose of what the Senator from Ohio now proposes shall be our daily food; and the mere lapse of time has neither diminished the force nor the pertinency of his vigorous denunciations. Since Alexander Hamilton, that matchless Secretary of the Treasury, failed to obtain admission to the floor of the House to speak for once only, no one of his successors has ventured to allow his friends to apply for the privilege, and the statesman who contests a constitutional interpretation of Madison should husband his resources, and with that authority arrayed against him need not feel too much mortified if he should suffer defeat.

Having shown that the words "in person" in the law of 1789 did not, in the judgment of the same men who made the law, give any such authority as is now claimed for them, any further explanation is perhaps uncalled for; and yet, it should be observed that these words apply as much to the Senate as to the House. The Senate, so far as its advice and consent is required in appointments and treaties, possesses an executive character, and Washington, in the first months of his Presidency, was in the habit of going in person to the Senate, in company with one of the secretaries, on executive business; but this practice quickly ceased, and all subsequent communications were made in writing. The Senate, at the time referred to, was a small body of men, but little larger than a committee might be now, and its advice, therefore, was sought in an informal manner. There is not the slightest evidence that any secretary, though there "in person," ever opened his lips in the Senate except to deliver "a message in writing."

Having shown, as it appears to me, that there is no affirmative power granted in the Constitution by which the heads of the Executive Departments can have seats and participate in the debate of either branch of Congress it may not be without some profit to examine briefly the negative of the question, or where the power would seem to be directly or indirectly denied.

What is proposed here is nothing less than a qualified membership in both Houses of Congress, and the qualification is the withholding the right to vote. They are to have seats, participate in debate, and be present, but may not vote. In courts of justice the attorneys are not allowed in the jury-room when the verdict is made up; but here the attorneys of the Executive, when the vote is taken, are not to be excluded. Any man of talents, capable of persuasive argument, "round, unvarnished truth," and worthy of his place in the Cabinet of the President, would lose much less to be deprived of his vote than of his speech, and might fairly expect his facts and logic to count much more than a single vote, and to count as here and now proposed, not in one House alone, but in both. A membership of this sort would be of the very highest grade, higher than any ever dreamed of by Clay or Calhoun, Webster or Seward.

Some minor questions possibly, after all, are left by the bill a little mixed. Would these executive members be privileged from arrest, not liable to be questioned for any speech or debate in either House, or to punishment or expulsion for non-attendance or for disorderly behavior? Must they have attained the age of twenty-five years for the House and thirty years for the Senate? Would the acting Secretaries, or acting Postmaster-General, or acting Attorney-General have seats in Congress as they do in the Cabinet in case of the absence of the heads of the Executive Departments? The various parts of the machinery, it will be seen, would be likely to require constant amendment and very frequent lubrication.

The Constitution declares that "the Senate shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote." And it further declares that "the House of Representatives shall be composed of members chosen every second year by the people of the several States." In the face of these plain provisions it is now proposed to admit men, appointed by the President, with the most valuable privileges of membership, to both the Senate and the House. That membership may be estimated high or low, at half or at double the value of the ordinary voting member, but it would be the admission of a class of members unknown to the Constitution and with all of the prerogatives of potential leadership.

There is another stubborn provision in article 1, section 4, of the Constitution, that "no person holding any office under the United States shall be a member of either House during his continuance in office." The heads of the Executive Departments hold offices of the very highest order, and cannot, therefore, lawfully be either whole or half members of either House. If all other constitutional objections were removed, this would be insurmountable.

The President of the United States, it is provided, shall, "from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." In order that he might be the better prepared to discharge this duty he was empowered by the Constitution to "require the opinion in writing of the principal officers in each of the Executive Departments upon any subjects relating to the duties of their respective Departments." They are not required to give information of any sort to Congress on any subject, but to the President alone; and the only channel by which they are allowed to reach Congress appears to be through the President in writing. But the high functions thus conferred exclusively upon the President, and much more, it is now proposed shall be devolved upon seven subordinates, and each one of them, like Wolsey, "in full-blown dignity," is to stand, with "law in his voice and fortune in his hand," to give information, participate in debate, and show to both the Senate and the House what each one may judge necessary and expedient. This would seem to be an innovation of some magnitude, and yet wholly unauthorized by the Constitution.

The members of the Cabinet in charge of the Executive Departments are appointed, with the advice and consent of the Senate, by the President, and during his term hold office at his will, his power of removal of these officers being rarely contested, but by the change now urged they would be speedily brought under the absolute control of the House, practically dismissed at its will, and a fundamental change in the form of the Government would be thereby consummated.

It will be admitted, I suppose, that the highest authority as a commentator on the Constitution is that of Story; and while he maintains much reverence for British precedents, he shows that the heads of the Departments are, in fact, properly precluded by the Constitution from seats in Congress. He says:

> The restrictions upon executive connection with the Legislature were founded in deference to State jealousy and a sincere desire to obviate the fears, real or imaginary, that the General Government would obtain an undue preference over State governments.

Again he says:

The other part of the clause, which disqualifies persons holding any office from being members of either House during their continuance in office, has been still more universally applauded and has been vindicated upon the highest grounds of public policy.

I will read further:

The heads of the Departments are, in fact, thus precluded from proposing or vindicating their own measures in the face of the nation in the course of debate.

Again:

Still, however, the reasoning from the British practice has not been deemed satisfactory by the public; and the guard interposed by the Constitution has been received with general approbation, and has been thought to have worked well during our experience under the National Government.

These words of Story, added to those of Madison, would justify me in holding the constitutional argument concluded.

It cannot be pretended by any accurate interpretation of the language that there is any positive provision of the Constitution which grants power, direct or implied, for the admission of executive officers to seats and to participation in debate in either House of Congress; and the provisions where such a theory is unmistakably negatived are many, and the exclusion of these officers is made necessary in order to preserve unity in the construction of all parts of the Constitution.

I will trespass upon the time of the Senate with only a few words more as to the expediency of the measure. Under aristocratic forms of government, or those least under the control of the people, where the legislature, if any exists, is merely expected to register the will of the autocrat, king or emperor, the presence of cabinet ministers—like Disraeli or Bismarck—to initiate measures, may be indispensable; but the American Congress, it is to be hoped, is not so dull and so unambitious or wanting in capacity that all proper measures cannot be initiated, sufficiently debated, and matured, without calling for the constant presence and aid of the heads of the Executive Departments. It is no argument that Spain, Portugal, and Brazil, or that Hayti and Costa Rica, admit cabinet ministers into their legislative assemblies. We may indulge the hope without much vanity that it would be better for them to look up to our example than for us to be looking to them for leadership in the methods of free government.

One of the possible and most serious dangers which would follow the adoption of this measure would be the practical discovery and use of a new and facile method of changing the Constitution by an act of Congress, or possibly by a mere change of parliamentary rules. The tendency of Parliament and of Congress is ever towards aggrandizement, and from limited and obscure beginnings to advance their privileges and powers with regular and never ceasing steps. They would even claim power to extort or win concessions from the executive and judiciary by grants or by the refusal of grants. The Congress, if disposed to wage a contest with the Executive, might follow in the footsteps of the British House of Commons,* and aided by time, audacity, and connivance, gradually absorb the chief power of the Government and that sovereign power, without any increase of the power of the people, would be held by the House of Representatives uncurbed and responsible only to the dominant majority.

A legislature, with power to vary or modify the Constitution, would be a despotism, and none the less a despotism with three hundred tyrants than with one. Liberty and self-government, according to all American traditions, can be sustained only by a system of written fundamental laws, and are as sure to be undermined by popular absolutism under the leadership of an Alcibiades or a Mirabeau, as by a Cæsar or Napoleon. If the object aimed at here were ever so good, and not as our fathers thought, odious, it would be a dangerous experiment to have it introduced by a law made paramount to and in spite of the Constitution. Our people are not yet ready to exchange a constitutional government for a congressional government.

The preservation of the just and precise constitutional powers of both the executive and the legislative branch is equally essential to the health and longevity of the Government. Neither of them should obtain the mastery. It was the omnipotence of Parliament, where no law could strictly be denounced as unconstitutional, that led to the war with the American colonies, and much earlier would that war have ended if the Parliament had not been ruled by the King's cabinet. As early as 1780 Fox exclaimed that "as the members of Parliament walk through this room to take their places, you may ask each one of them what he thinks of the measures of the ministry, of their honorable character, or their wisdom, and he will answer 'that he despises and abominates them;' one may rest assured that no sooner has the member taken his seat than he votes in favor of a question for which the minister seems to interest himself." Not until nearly three years after this was Lord North allowed by King George to talk of peace, though the diary of the Premier shows that he would not have been unwilling to offer peace long before. Whether the Cabinet in Congress would exalt or degrade the power of the President, or of Congress, its presence cannot be safely tolerated, and would be equally disastrous to one as the other, as well as to the people.

That there might be some advantages in having members of a cabinet on the floor to explain and defend their own acts, or the measures proposed by them, or to answer inquiries for further information, may be readily conceded; but the framers of our Constitution were not ignorant of these advantages, and decided that they were not weighty enough to overcome the disadvantages which such a feature would bring into the practical workings of our republican form of government. Among them all it never had a friend to propose it. That honor appears to belong exclusively to my friend, the Senator from Ohio. The great principle in our early days that the executive, legislative, and judicial branches of our government should be forever kept distinct and independent was everywhere sacredly preserved.

Obviously, any cabinet of seven members with only tolerable ability, when admitted to the privileges of the floor, would largely magnify and increase executive influence in Congress, and surround the Executive with a much stronger support, with a more alert legislative bodyguard, than that regularly accorded to it in the popular branch of the Government by the votes of the people. Instead of suppressing what has been styled private or clandestine influence, greater opportunities would be opened for its grosser exercise, and a constant and more persuasive, if not dictatorial force, made bold by all the robes of official authority, would be superadded. Too great temptation would be ever present to enlist support by the distribution of patronage where politically it would take root and bear fruit; and whether so distributed or not, even Cæsar's wife would always be suspected.

Let me quote the recent words of an orator elsewhere, who, not afraid of the General-in-Chief of the Army, but still afraid, exclaimed:

What provision of the Federal Constitution, what law enacted by any preceding Congress, undertakes to clothe anybody, either the President himself or one of his privy council, even including his premier, his Secretary of State, to sit as he did on the floor of this Chamber on Saturday of last week and by his presence and his indications of approval seek to intimidate, overawe, and browbeat an American Congress?

That Secretary's power is certainly masculine, and suggestive no doubt of browbeating and of the club of Hercules; but he may have intended to seduce Congress; and it will be better not to expose such orators to the perils of a sevenfold multiplication of the premier's "indications of approval."

If it be the opinion of the distinguished Senator from Ohio [Mr. PENDLETON] that the executive power, as one of the co-ordinate branches of the Government, is waning, or too weak when contrasted with that of the House of Representatives or with that of the Senate, either in open or secret session, then I must respectfully suggest that a law or rule permitting a trained band of orators upon the floor of each House is not a legitimate way of re-enforcing that power; and further, if it is to be done, it should be done by a constitutional amendment submitted to and ratified by the people. How much of a chance think you, Mr. President, would such an amendment have before the people? If I might answer, I should say its support would be limited to the Marine Band.

If the pending or an equivalent proposition should ever be adopted, Cabinets would be selected with primary reference to their popular reputation as ready debaters, and not as to the possession of any wide information and sound judgment tending to fit them to conduct the important affairs of their respective departments. Such men as Jefferson, Gallatin, and Monroe, having few gifts of speech while on their legs, would be wholly excluded. The members of the Cabinet for the most part are now and must ever be heavily overtasked by their daily official duties. The great questions of finance, commerce, foreign relations, Army and Navy, Indian policy, public lands, pensions, patents, and postal service are all constantly in the forefront, with new and daily problems of national gravity pressing for immediate solution. The never-ending supervision over officials holding responsible trusts and the proper selection of those who are to fill important public stations are irksome and joyless fields of illimitable labor. Those who faithfully discharge these duties have neither time nor strength for anything more, and, if participating in debate, dual heads of Executive Departments would be at once demanded—one for congressional service and another for departmental; or, as in France, one minister with a portfolio and one without, or an upper and an under secretary. What, perhaps, is most indispensable in officers of the Cabinet after capacity and integrity is administrative or executive energy; and while that is not inconsistent with manly eloquence in debate, the combination is not so common as to be at all times obtainable; and consequently the field under the new programme from whence such officers could be supplied would be inconveniently restricted.

It is not just now proposed to attach any responsibility to the attendance of Cabinet officers upon the legislative branches of the Government. Whether their views shall coincide with those of the majority or not, or whether with or without its confidence, so far as it now appears, they are still to retain their places. They may talk four days in the week, but not vote, nor be displaced by the votes of the others.

In Great Britain the ministers, taken from members already belonging to Parliament, are held responsible for measures when introduced, and, of course, for their ultimate success. If belonging to the House of Commons, an acceptance of place in the cabinet vacates their seats until that elevation has been approved by their constituents and they are again elected. When defeated upon a parliamentary division as ministers, they resign, and surrender the administration of the government to the victorious party, but still hold their

*For the last one hundred and fifty years the public power is in the Parliament, and since then it has become more and more unpopular; in 1830 it endeavored by an innovation to uphold the public well-being, but in truth the more powerful parliament has become, the more is it hated.—*Conningsby*, (written by Disraeli before he became the Earl of Beaconsfield.)

places as members. They may also be dismissed by a direct vote of a want of confidence, or by the loss of confidence on the part of the Crown. The ministers are made the scape-goats for all the faults and mishaps of the government. The Queen reigns, but the ministers govern, and in turn they are governed by the Premier. When defeated in the House of Commons, the ministers may dissolve Parliament and appeal to the people. If this appeal fails, as it sometimes has failed, they give place at once to their opponents.

The British constitution is the slow growth of usage. There is no written or organic law which retires the ministers when they are unable to command a majority of the House of Commons; but the long and almost unvarying practice makes the rule imperative. The younger Pitt, it is true, supported by George III, defied it, until at last by his perseverance, eloquence, and official power he secured a parliamentary majority. No minister, not even Gladstone or Disraeli, now dares to brave public opinion by clinging to office in the face of a hostile vote. Three changes of premiership have occurred in one year, 1834, when Viscount Melbourne superseded Earl Grey; then came the Duke of Wellington, and then a brief episode of Sir Robert Peel, followed by the restoration of Melbourne in 1835. The question to be pondered, perhaps decided, is whether or not we can properly import this prominent feature of the British constitution, or any portion of it, into our republican form of government. The first step here, and it is always the first step that costs, would of course limit the appearance of the Cabinet, as members in the Senate and House, to debate only; but it is unlikely that those who are enraptured with the British example would long be content with so tame a copy cut short of its original proportions. Whenever an American Cabinet thus introduced should meet with an adverse vote their position would become embarrassing, a proud and sensitive member would soon feel called upon to resign, and usage or partisan clamor would ere long make resignation the common law and ingraft upon our Constitution in its fullest extent one of the marked characteristics of the unwritten constitution of England as it has already done in relation to appropriation bills. Our Constitution provides that only bills for raising revenue shall originate in the House of Representatives; but the House, without a shadow of authority except the authority of the British House of Commons, which claims the exclusive right to originate all money bills, now appears to insist, not only upon the exclusive right to originate all "bills for raising revenue," but equally as much that of its disposal in all general appropriation bills.

If, by a similar disregard of the Constitution, the official tenure of the heads of the Executive Departments should be made dependent upon their ability to secure and maintain a majority in Congress, our presidential contest would be repeated every two years instead of every four. It is questionable whether or not this might not add to the oscillations and instability of our popular elections, and prove injurious to the prosperity and business interests of the country.

The British Parliament, meeting only when convened by the Crown, is yet transcendent in its power, unconfined to metes and bounds as to subjects or persons. It has made and may unmake the British constitution. It assumes whatever power it pleases, and may change the succession to the crown or alter and amend the religion of the country. There is no article of the British constitution which can be quoted; and its obligation rests on tradition, and on concessions obtained from the Crown by pecuniary subsidies to carry on foreign wars. By act 1, in the reign of George I, triennial Parliaments were changed to septennial, and the members though elected for only three years held office for seven. De Lolme says:

> Parliament can do anything which is not impossible. Hence it cannot make a woman a man or a man a woman.

More soberly it was said by Sir Edward Coke:

> True it is, that what the Parliament doth no authority on earth can undo.

Our institutions are widely different; and while much was copied from British example much was also rejected. If we looked in that direction for things wholesome, we also looked for things monitory. What was not safe for a people in earnest for the self-government of mankind was refused. Congress was created by the Constitution, meets every year, and has no powers save those conferred by the Constitution. Any new article must be ordained by a vote of the States or of the people. The choice of a speaker by the House of Commons may be negatived by the Crown, and their clerk and sergeant-at-arms are appointed for life by the Crown. We have as much constitutional authority to incorporate these features into our system, by law or by rules, as we have to give seats in the House and Senate to the heads of the Executive Departments.

Wherever the system of executive representation invades legislative assemblies it will be found that the executive representatives take possession of the majority and conduct all business of importance, while the nominal representatives of the people must content themselves mainly in the lonely industry of voting members. The opposition, also, is thus equally driven to put forward those only who are expected to fill the government places whenever the existing administration can be overturned. It happens, therefore, that a few men monopolize the honors, lead their party, and guide the assembly, while the many, coming from all parts of the country and better acquainted with its wants, but never called upon for patient study or laborious investigation, sink into ciphers that only add value to the figures in their front. Whatever distinction the ministers of the Crown may achieve, the degradation of the main body of the legislative assembly closely follows the presence and the dominance of the ministers. The heads of the Executive Departments, no matter how brilliant may be their intellectual equipments, can bring here no compensation for the loss Congress would suffer by the contact. Congress cannot afford to drop to the plane of a theater for star performers drawn from the President's Cabinet.

Congress, under the Constitution, was designed to be, whether it is so or not, a council of sages, assembled from every part of a wide continent, to regulate liberty by law; to correct public abuses, if any should exist, and to frame laws, in harmony with American institutions, to meet the wants of advancing civilization; but it is not omnipotent, and cannot make members of Congress out of any or all the materials to be found among the heads of the Executive Departments.

Mr. President, I must frankly own that I was unwilling to have one side of this important question strongly presented to the Senate, as it was sure to be presented by the Senator from Ohio, without having something said on the other side, and, fortunately for me, solid reasons for the right require less skill than plausible reasons for the wrong. Having maintained only what the fathers of our Government believed would best uphold its principles of freedom and most surely transmit our institutions unimpaired to future generations, I shall confidently rely upon the future action of the Senate to show that I have been right in objecting to the introduction of the heads or tails of the Executive Departments into Congress.

Mr. PENDLETON. If no other Senator now desires to take the floor for the discussion of the bill I move that it lie on the table, and I shall call it up hereafter when the convenience of Senators may require.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) To this the Chair hears no objection, and it is so ordered.

PREVENTION OF EPIDEMIC DISEASES.

Mr. HARRIS. I ask the unanimous consent of the Senate to proceed now to the consideration of Senate bill No. 108.

Mr. CONKLING. I ask the Senator from Tennessee whether his wish be to take up the bill to-day that it may be unfinished business for to-morrow, or to proceed to vote upon it to-day?

Mr. HARRIS. I shall be perfectly satisfied, I will state to the Senater from New York, to take either course. I simply want to take the bill up for consideration so that we may proceed with it to-day, or to-morrow, as may be most agreeable to the Senate.

Mr. CONKLING. I suggest then, having no objection to the bill being taken up, having been able only at this moment now since I rose, for the first time to see it, that its importance is such, and the apprehensions felt in regard to it in respect of its effect upon commercial interests are such, that if the Senator has no objection to its being made the unfinished business for to-morrow, giving such others as would an opportunity to examine it in connection with letters which have been received meanwhile, I for one should prefer that to having it come up for consideration now.

Mr. HARRIS. I shall most cheerfully adopt the suggestion of the Senator from New York in that respect. I simply desire that the bill shall be taken up so that it will be the pending business; and it would suit me quite as well to proceed to-morrow as to-day.

The PRESIDING OFFICER. The question is on the motion to take up the bill, to which the Chair hears no objection.

Mr. EDMUNDS. I hope the Chair will put the question, for I am opposed to taking up anything at this session except appropriation bills. This is a bill to which I do not object, but I hope the Chair will put the question; I do not wish to be committed by unanimous consent to any sort of legislation.

Mr. HARRIS. Then I move to postpone the pending and all prior orders in order that I may move to take up the bill.

Mr. EDMUNDS. There are no prior orders. The motion to take up the bill is in order.

The PRESIDING OFFICER. The only motion required is a motion simply to take up the bill.

Mr. HARRIS. I supposed that the bills before this on the Calendar were prior orders.

Mr. EDMUNDS. No, sir.

Mr. HARRIS. That being the case, I move simply to take up the bill for consideration.

The PRESIDING OFFICER. The Senator from Tennessee moves that the Senate proceed to the consideration of the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States.

The motion was agreed to.

SUPPLEMENT TO REVISED STATUTES.

Mr. WALLACE. I ask the Senator from Tennessee to yield the floor to me.

Mr. HARRIS. I have no objection to informally laying aside Senate bill No. 108 in order that the Senator from Pennsylvania may proceed with the matter he has in hand.

Mr. WALLACE. My purpose is to move to proceed to the consideration of the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes.

Mr. CONKLING. I hope that will be done; it is important it should be done.

Mr. WALLACE. The measure was considered at the last session, and it seems a matter rather for the convenience of Senators and Representatives than a part of the legislation of the session.

The PRESIDING OFFICER. The Senator from Pennsylvania asks that the pending bill be laid aside informally, subject to the call of the Senator from Tennessee, for the purpose of considering the joint resolution which he has indicated. The Chair hears no objection, and it is so ordered.

Mr. WALLACE. I move that the Senate proceed to the consideration of the joint resolution.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes.

Mr. WALLACE. This joint resolution is the same as the one that passed the Senate at the last session of Congress, and commends itself in terms to Senators. I think I need not explain its provisions; Senators understand very well what it is. It came from the Committee on the Revision of the Laws at the last session, and they have reported again the joint resolution. I think it ought to be passed.

Mr. EDMUNDS. I should like to ask the Senator from Pennsylvania whether this is a part of the general legislation that he intends to go into, or is it supposed to be an exception?

Mr. WALLACE. This is no part of any general legislation; I assume it to be an exception. It is a measure intended for the benefit and convenience of Senators and Members rather than as a part of the general legislation of the country.

The joint resolution was reported to the Senate without amendment.

Mr. CONKLING. May I ask, if this is the same resolution, in the same form, which passed at the last session?

Mr. WALLACE. It is in exactly the same words.

Mr. CONKLING. Which fell by accident for want of time.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT TO A BILL.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes; which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. PLUMB, it was

Ordered, That John Bowles have leave to withdraw his papers from the files of the Senate.

EXECUTIVE SESSION.

Mr. DAVIS, of Illinois. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-five minutes spent in executive session the doors were reopened, and (at five o'clock and fifteen minutes p. m.) the Senate adjourned.

IN SENATE.

TUESDAY, *April* 29, 1879.

Prayer by Rev. A. W. PITZER, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. WITHERS presented the petition of Franciska Keitel, widow of Anton Keitel, late quartermaster-sergeant Fifty-second New York Volunteers, praying for a pension; which was referred to the Committee on Pensions.

Mr. DAVIS, of West Virginia, presented a copy of a letter addressed to the Speaker of the House of Representatives from the Secretary of the Navy, recommending the passage of the bill (S. No. 453) to authorize the Secretary of the Navy to fit a new propeller to the United States torpedo-boat Alarm, and for other purposes; which was referred to the Committee on Naval Affairs.

Mr. KERNAN presented the petition of Phebe A. Grinet, of New York, praying for the passage of a law increasing her pension from $20 to $40 per month; which was referred to the Committee on Pensions.

Mr. WHYTE presented the memorial of James L. Barbour and others, in favor of an appropriation for the purchase of a site and the erection of a new city post-office in the city of Washington, and submitting a plan for the location of the same; which was referred to the Committee on Appropriations.

BILLS INTRODUCED.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 525) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 526) granting a pension to Esther E. Lieurance; which was read twice by its title, and referred to the Committee on Pensions.

Mr. VANCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 527) to provide that all persons senteneed to imprisonment by the United States courts shall be confined in the prisons of the States wherein they were tried and convicted; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 528) to abolish the office of water registrar of the District of Columbia, and transfer the charge and control of the water supply to the Chief of Engineers in charge of the Washington Aqueduct; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 529) to provide for the better care and protection of quartermasters' supplies; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 530) for the relief of James P. W. Neill; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BAYARD. I desire to accompany the bill with a memorial of Captain Neill stating the reasons why relief should be granted to him. I move its reference also to the Committee on Military Affairs.

The motion was agreed to.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. HARRIS. I accompany the amendment with a letter from the commissioners of the District of Columbia, which I move be also referred to the Committee on Appropriations.

The motion was agreed to.

EXPENSES OF EXTRA SESSION, ETC.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions" the morning hour has expired.

Mr. WALLACE. I ask the Senate to take up and consider the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes. It is a small deficiency appropriation bill which came from the House, was considered by the Committee on Appropriations, and reported, and is now on our table.

Mr. HARRIS. If the bill suggested by the Senator from Pennsylvania be taken up will it displace the unfinished business of yesterday?

The PRESIDENT *pro tempore*. The unfinished business of yesterday will be laid before the Senate at one o'clock. It is in order to move to take up another bill during the morning hour.

Mr. HARRIS. So I supposed.

The PRESIDENT *pro tempore*. If that is disposed of, however, before one o'clock and no other business is proposed the morning hour will be at an end and the unfinished business will come up. The question is on the motion of the Senator from Pennsylvania.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes.

Mr. WALLACE. Let the bill be read.

The Chief Clerk read the bill.

The bill was reported from the Committee on Appropriations with amendments.

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania desire that the amendments shall be considered in gross, or shall they be considered separately?

Mr. WALLACE. I presume they will have to be considered separately, in order that Senators may understand the various items.

The PRESIDENT *pro tempore*. The amendments will be reported in their order.

The first amendment reported by the Committee on Appropriations was, after line 5, to insert:

SENATE.

To meet certain expenses of the Senate during the current fiscal year, as follows, namely:

For the payment of Lycurgus Dalton, as clerk to the Sergeant-at-Arms of the Senate, from the 1st day of April to the 30th day of June, inclusive, at the rate of $2,200 per annum, $368.70.

Mr. EDMUNDS. I should like to hear that explained, Mr. President.

Mr. WALLACE. This is made necessary by the fact that in the sundry civil bill of the last session the clerk of the Sergeant-at-Arms was paid by name until the expiration of the fiscal year. The new Sergeant-at-Arms has had this man Dalton in his employ. His services are necessary to conduct the business of the department, and it is unfair that he should not be paid. It was considered by the committee necessary to insert this provision.

Mr. EDMUNDS. It makes one addition to the force, then, for the time being?

Mr. WALLACE. Until the 30th of June.

The amendment was agreed to.

The next amendment reported from the Committee on Appropriations was, to insert after line 13, under the heading "Senate:"

For horses and mail wagons for mail and document purposes, $1,200.
For furniture and repairs of furniture, $3,000.
For miscellaneous items, exclusive of labor, $5,000.

The amendment was agreed to.

The next amendment was, to insert after line 19:

That the employés of the Senate who have served during the present session of Congress shall be paid their respective salaries out of the fund already appropriated for such service from the time they entered upon their duties until the time of their taking the oath required by law.

Mr. EDMUNDS. What does that mean, Mr. President?

Mr. WALLACE. In words it is what was in an appropriation bill of last year. Clerks were employed in one or two, or in three or four cases and went upon duty; they performed the duties of their offices; but they were not sworn, and when they came to draw their pay under the law they could only receive pay from the date of taking the oath. Having performed the service this provision, which is in accordance with precedents, is included in the bill in order that they may get their pay from the date at which they commenced work.

Mr. EDMUNDS. Why do they not take the oaths required by law if they have been appointed?

Mr. WALLACE. The only answer to the inquiry of the Senator from Vermont is the fact that neither they nor the chairmen of the committees of which they were clerks knew that it was necessary in the specific instances referred to. This provision was in one of the bills of last year, resulting from the same cause.

Mr. EDMUNDS. I should like to see that; but while we are looking that up, I want to know if this language is intended to excuse anybody from taking the oaths required by law and having the officers of the Senate hereafter paid without being sworn?

Mr. WALLACE. It certainly is not.

Mr. EDMUNDS. Then, if I shall not be deemed intrusive, I move in line 24 to strike out the words "of their taking" and to insert the words "they took," so as to make it in the past tense. I suppose they have found out what the law is, or will have found it out by the time this bill is signed.

Mr. WALLACE. I have no objection whatever to that amendment.

Mr. EDMUNDS. Without it the legal construction, I submit to the Senator, would be that it does not oblige them to take the oath at all, and they could continue as long as they like without taking it.

Mr. WALLACE. There is no objection to the amendment whatever. I am entirely satisfied with the amendment of the Senator from Vermont.

The PRESIDENT *pro tempore*. If there be no objection, the amendment to the amendment will be considered as adopted.

Mr. EDMUNDS. I understand, then, from the honorable Senator from Pennsylvania that this provision is not to cover constructive service, but merely to cover a period of time where in one or two cases, by accident, a person actually and legally employed otherwise than by taking the oath, failed to take the oath of office?

Mr. WALLACE. That is the fact; and it is also the fact that there is not double service paid for, the provision applying to a case where a vacancy in the position of clerk was filled by a man who performed the duty but failed to take the oath; and there is but one clerk paid during that time.

Mr. EDMUNDS. I understand, speaking of the performance of the duties, that the clerks in these instances were actually and lawfully appointed but that they failed to qualify, but still went on with their duties?

Mr. WALLACE. That is correct.

Mr. EDMUNDS. If that is the case, of course there is no objection.

The amendment, as amended, was agreed to.

The next amendment reported by the Committee on Appropriations was, after line 24 to insert "House of Representatives," and in line 27, after the word "Representatives," to insert "during the current fiscal year;" so as to read:

HOUSE OF REPRESENTATIVES.

To meet the miscellaneous expenses of the House of Representatives, during the current fiscal year, to be disbursed by the Clerk of the House, $20,000.

The amendment was agreed to.

The next amendment was, in line 29 to strike out "H. A. Alcot" and insert "H. A. Olcott."

The amendment was agreed to.

The next amendment was, in line 46, after the word "April," to strike out "fourth" and insert "first;" so as to read:

To pay eight messengers in the post-office of the House, from and including April 1, 1879, until the conclusion of the present session of Congress, at the rate of $800 each for seven months.

The amendment was agreed to.

The next amendment was, after line 49, to insert:

MINTS AND ASSAY OFFICES.

To provide for deficiencies in the appropriations for mints and assay offices for the current fiscal year, as follows, namely:
Mint at Philadelphia:
For contingent expenses, $10,000.
Mint at Denver, Colorado:
For wages of workmen, $800.
For contingent expenses, $700.
Assay office at Charlotte, North Carolina:
For wages and contingent expenses, $375.
Assay office at Boisé City, Idaho Territory:
For wages and contingent expenses, $2,000.
Assay office at Helena, Montana Territory:
For wages of workmen, $2,000.
For contingent expenses, $3,000.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. If there is no demand for a separate vote on any specific amendment, the question will be taken on concurring in the amendments made as in Committee of the Whole in gross.

The amendments were concurred in.

Mr. PLUMB. I offer an amendment to the bill. I move to add to the bill the following:

For mileage of Senators at the extra session, $36,000.
For mileage of Members of the House of Representatives and Delegates from Territories at the extra session, $100,000.

Mr. WALLACE. I raise the point of order on the amendment that it does not come from a standing committee of the body, or from the head of any Department, and is therefore not in order.

The PRESIDENT *pro tempore*. If that is the case, the point of order is well taken.

Mr. EDMUNDS. Is this a general appropriation bill? I think not.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate, if the Senator desires it.

Mr. EDMUNDS. I do not care anything about it; I do not think it is a general appropriation bill, however.

The PRESIDENT *pro tempore*. In the opinion of the Chair the same rule prevails in regard to this bill that applies to a general appropriation bill, and the amendment is contrary to the rule. But the Chair will submit the question to the Senate, if the Senator desires it.

Mr. EDMUNDS. I do not know what the amendment is; I did not hear it read; but in order to have a decision of the Senate whether one of these little special tail bills, as they may be called, falls within the rule, so that it shall stand as a decision, I wish the Chair would submit the question to the Senate, so as to have a decision upon it.

The PRESIDENT *pro tempore*. The Chair will be glad to do it, so as to have an understanding. The question is whether this bill is a general appropriation bill within the meaning of the rules, so that an amendment not reported by any standing committee nor estimated for, and which increases the appropriation made by the bill, is in order. The Chair believes that is a correct statement of the question.

Mr. EDMUNDS. That is the question.

The PRESIDENT *pro tempore*. Senators, as many as are of opinion that the amendment is in order will say "ay;" those of a contrary opinion "no." [Putting the question.] The Chair is unable to decide.

Mr. EDMUNDS. I ask for the yeas and nays. That will settle it.

The yeas and nays were ordered.

Mr. DAVIS, of Illinois. What is the question?

The PRESIDENT *pro tempore*. The Chair will state the question once more, and read the rule.

Mr. EDMUNDS. I wish the Chair would have the rule read.

The PRESIDENT *pro tempore*. That is what the Chair proposes to have done. The Chair begs the attention of Senators to this question. The twenty-eighth rule reads as follows:

All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are offered, be referred to the Committee on Appropriations; and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received; in like manner, amendments proposing new items of appropriation to river and harbor bills shall, before being offered, be referred to the Committee on Commerce; also amendments to bills establishing post-roads, proposing new post-roads, shall, before being offered, be referred to the Committee on Post-Offices and Post-Roads.

Mr. DAVIS, of Illinois. Please state what the question is?

The PRESIDENT *pro tempore*. The question is whether an amendment offered by the Senator from Kansas, which is not reported by any standing committee nor estimated for in the estimates of any of the Departments, can be received to this bill. That question depends upon whether the bill is a general appropriation bill within the meaning of the rule.

Mr. HAMLIN. Without indicating at all what may be my vote if the Senate should declare the amendment in order, I wish to say that I shall vote that it is in order, and I shall do so upon the plain reason, or what seems to me to be a very plain one, that this is not an appropriation bill coming within the scope and meaning of the rule which has just been read.

The PRESIDENT *pro tempore*. The Chair begs to interrupt the Senator a moment to say that another rule, perhaps, is the proper rule that should have been read, Rule 27, which provides that—

All general appropriation bills shall be referred to the Committee on Appropriations, except bills making appropriations for rivers and harbors, which shall be referred to the Committee on Commerce; and no amendments shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate; or proposed in pursuance of an estimate of the head of some one of the Departments.

That is the rule which the Chair intended to read.

Mr. HAMLIN. The decision to which the Senate should come, in my judgment, depends upon the construction which the Senate gives to the rules which have been read. Those rules all apply to general appropriation bills. Is this a general appropriation bill? What is a general appropriation bill? Within the meaning of the rule, in my judgment, it is a bill pertaining to the several Departments or some one of the several Departments and branches of the public service for which estimates and appropriations have been made and submitted to the Senate for its consideration. The Post-Office appropriation bill, the bill for the support of the Army, the bill for the support of the Navy, the sundry civil bill—all these various bills are general bills and have a distinct and a positive connection with some one of the Departments; and the Department with which that bill is connected furnishes to Congress its estimates and recommendations for the same. In my judgment, this bill has none of these properties and is not a general appropriation bill. To be facetious, I would say that it does not amount to a corporal.

I think under that rule I shall vote that the amendment is in order, without indicating how I shall vote upon the amendment itself on its merits.

Mr. EDMUNDS. Mr. President, this is an occasion probably when we can decide this point of order without any ulterior fears as to its effect. This bill is entitled "An act to provide for certain expenses of the present session of Congress, and for other purposes;" so that by the title of the bill it is not a general appropriation bill, but a particular appropriation bill for certain specified and particular objects, not for the fiscal year ending on the 30th of June, 1880, or to provide for deficiencies for the fiscal year ending June 30, 1879, but it is special and particular in its character. In that view, undoubtedly the Committee on Appropriations reported the amendment found on page 2, the last one of any consequence, which contains legislation, and general legislation in the sense of covering all the general objects to which it refers. It does not speak of any one man, but provides in general that all the employés of the Senate who have served during the present session of Congress and who have not taken the oath required by law shall be paid nevertheless. There is a provision of law which alters the existing law; it is a legislative provision which would be just as well in a separate bill as on this bill; and naturally if it were a matter of any consequence it ought to be in a separate bill. The committee must have proceeded upon the ground that they were not infringing the rule of moving a legislative amendment to a general appropriation bill, when that amendment was attached. In that view I did not make the point of order that I always endeavor to do in reference to putting legislation on general appropriation bills, because it appeared to me plain that it would be a point of order not well taken. If this is a general appropriation bill within the meaning of the rule, then this provision which has been reported from the Committee of the Whole is not in order, and I wish to make a point of order upon it, not because I am opposed to it, but because it is legislation. I thought I was not entitled to make the point of order for the reason I have stated.

Therefore it appears to me plain, as it does to the honorable Senator from Maine, who is much wiser than I am about this matter, that the bill is not a general appropriation bill within the meaning of the rule, just as its title describes it to be not a general appropriation bill, but one for certain, few, particular purposes relating to the present session of Congress.

Mr. PLUMB. Mr. President, I read the title of this bill, which is "to provide for certain expenses of the present session of Congress, and for other purposes." On looking it over yesterday I observed that the particular item for which my amendment provides had not been incorporated in the bill. Without having in mind particularly the terms of the rule quoted by the President, I considered that that was an omission which ought to be remedied. I am not prepared to say that these expenses which are provided for are all of them of a character which would not have been incurred if this extra session of Congress had not been called; but some of them are of that character no doubt, and a part of the expenses of this session is undoubtedly the mileage of the members of the Senate and House of Representatives.

This amendment certainly comes, whatever may be the interpretation of the rule, within the title and purposes of the bill, which is to provide for the expenses that have been made necessary, and have thereby been incurred, on account of this session. It seems to me, although I do not feel competent to add anything to what has already been said on the point of order, that if this is a general appropriation bill, then the bills which provide for the regular sessions of Congress are something entirely different from general appropriation bills. This is a bill which provides for an emergency which has been created, or which has come about. That emergency was evidenced by the issuance of the proclamation of the President convening us here and by our coming here at this time, which made these expenses necessary. This certainly is not a general appropriation bill in the sense that these appropriations are provided for inevitably and come about by reason of the existing law every year; but it has arisen by reason of our coming here at this time on an extraordinary occasion.

It would seem to me, therefore, that this amendment ought to be in order. It seems to me that this is an appropriation bill to provide a part of the expenses of this extra session, and as such the amendment is in order just as fully as the other expenses which are covered by the bill.

Mr. WALLACE. Being in charge of this bill, I felt it my duty to make the point of order which I have made. It seems to me that if the amendment is not within the plain technical words of Rule 27 it is certainly within its meaning and spirit:

All general appropriation bills shall be referred to the Committee on Appropriations, except bills making appropriations for rivers and harbors, which shall be referred to the Committee on Commerce.

As is stated by the Senator from Maine and the Senator from Vermont, the question is whether this is in its real meaning a general appropriation bill. It is certainly not a specific appropriation bill. It is an appropriation bill. It is general in the sense that it appropriates money for several purposes, to the Senate to pay certain expenses, to the House to pay certain expenses, to the Treasury Department or the Mint, for contingent expenses surrounding the conduct of the Mint. These are, so far as they go, certainly general appropriations; and is it to be said because it contains but half a dozen different heads of appropriations that therefore it is not general in its character? How are you to apply the rule? May not an appropriation bill cover a hundred or a thousand items of appropriation, or may it not cover six? Is not the real test the question as to whether it is general in its character and not specific and pointed in the appropriation that the bill makes? It seems to me that is the only test that can be applied to such a bill.

Hence it is, in my judgment, an appropriation bill within the meaning of the rule. Take the amendment that is proposed. Suppose it is embodied in the bill, what follows? That Congress has appropriated $136,000 in what is a specific and not a general appropriation bill under the amendment proposed by the Senator from Kansas. It seems to me the very fact that this bill is a vehicle upon which such an appropriation can be put and passed through brings it within the rule, and it is general in its character.

But, sir, the Senator from Kansas says that the amendment he proposes is a measure that ought to be passed now. We have had the subject under consideration in committee, and we think it ought not to be done now. On the contrary, we think the statute which provides for the payment of mileage only for regular sessions, and under which the Representatives and Senators have been paid only for regular sessions, should continue to be held to be the law. It is true that for extra sessions of the Senate mileage has been appropriated to the new Senators who came to those extra sessions; but the law does not cover cases in which there has been an extra session of Congress called, because the statute of 1866, which is now the law, provides that mileage shall only be paid for each regular session. This is certainly not a regular session. The proposition, then, is to repeal the statute as it stands to-day, and under which mileage has always heretofore been paid, and to add to the expenses of the Government $136,000. But upon the other ground that the amendment is clearly not in order, I think the Senate ought to refuse to pass it.

Mr. ANTHONY. Mr. President, we are too apt in this body to decide parliamentary questions according to the views of Senators upon the main question involved. I am opposed to this amendment, but I think it clearly in order. This bill is not a general appropriation bill. A general appropriation bill is defined in the rules, and embraces appropriations for a general period and for general purposes. This is a specific appropriation for a specific period and for a specific purpose. I have no doubt that the amendment is in order.

Mr. BECK. Mr. President, I may be wrong, but the view I took of this question, as a member of the Committee on Appropriations, was that specific appropriation bills are those which are limited to a particular purpose, and generally either to a particular person or to a particular corporation, or for something outside of the general maintenance of the Government. All appropriation bills are general which in their character are intended to carry on the Government, whether in the shape of deficiencies to supply defects in the original bills or in bills that are sent by heads of Departments, or to the general purposes, as I said, of carrying on the Government. This bill is of that character. The committee did not see fit to make it a great deficiency bill, although we were applied to by very many of the Departments of the Government to make it more general than it is. The fact that it is a bill of such a character that we could with propriety under the rules, it being a bill sent to us to supply deficiencies for one branch of the Government, have made it cover deficiencies in every other branch of the Government, seems to me to make it a general appropriation bill in its scope. It is certainly not limited to any specific purpose, nor to any particular individual, nor to the accomplishment of any one thing; but it is a bill as comprehensive in its character as any other deficiency bill which could be laid before the Senate. The very fact that we do not make it as large as we make many other deficiency bills does not alter the nature or character of the bill or narrow it down to a specific appropriation bill.

Mr. DAVIS, of West Virginia. Mr. President, the twenty-seventh rule requires that all general appropriation bills shall be referred to the Committee on Appropriations. Although this bill was less in size and in the number of items it contains than appropriation bills usually are when it came to the Senate from the House, under the rule it was referred, without a word of objection, to the Committee on Appropriations, as being the proper committee to whom it should be re-

ferred. There were probably fifty items or more sent to the committee for consideration. The committee, believing that this is an extra session and not a general one, confined itself as closely as possible to the actual necessities of the Government, and, therefore, made the bill as small as possible. But it will be noticed that there are, perhaps, twenty different items for various Departments of the Government in this bill. In its character, therefore, the bill must be general, or how could so many different objects be provided for in it? It has been considered and treated both at this end and at the other end of the Capitol as a general appropriation bill.

Each and all of us know that we have had appropriation bills called general appropriation bills which have probably not one-tenth of the various items that this bill contains. Take for instance the fortification bill. Perhaps two items make up the entire bill; yet it is a general appropriation bill. This bill contains items estimated for and specially recommended by the different Departments. Here you will find on the third page, under the head of "mints and assay offices," six or eight items specially asked for by the head of the Department, he coming to the committee and asking to have them put upon this bill. In my judgment it cannot be treated as anything else than a general appropriation bill, because it contains general matters.

What does the Senator from Kansas now propose to put on? Another and a different matter. How does it come here if this is not a general appropriation bill? How was it that that Senator or other Senators offered amendments to this bill and sent them to the Appropriations Committee within a few days? It appears to me that this can be treated as nothing else than a general appropriation bill. It was treated so by the House and by the Senate, and it has been acted upon as such. The increased amount of work in the mints caused the committee to put on the sundry amendments you find here for that purpose. The Committee on Appropriations probably considered fifty other items to ascertain whether or not they were of such urgent character that they ought to be put upon this bill, and no thought occurred to the committee that it was not a general appropriation bill and that for that reason the amendments could not go on this bill, if they were proper in themselves.

The Senator from Vermont has spoken about general legislation. It is true that there are items here that look something like general legislation; but that Senator knows that we have no jurisdiction over it. The matter referred to came from the House in the bill.

Mr. EDMUNDS. No; I am speaking of what was put in coming from the committee, lines 20 to 24 on page 2.

Mr. DAVIS, of West Virginia. Nothing could be more plain. That is not in the nature of general legislation, in my judgment, by any means. But the Senate, if that be so, has decided over and over in favor of such legislation; and at the very last session we put on wholesale legislation—I believe my friend from Vermont did not vote for it, but a great majority of that side of the Chamber did vote for it—legislation to repeal laws and to re-enact others upon a general appropriation bill. This was done only at the last session. I refer to the provision as to the Eads jetties.

Mr. EDMUNDS. I hope the Senator from West Virginia did not vote to put it on. He thought it was legislation, and so did I. I hope he will stick to his opinion. This, Mr. President, if it is a general appropriation bill, has become so since it got into the Senate. The argument of the Senator from West Virginia is, and I believe that of the Senator from Kentucky is, that it is a general appropriation bill, because it contains so many items. If the Senators will take the trouble to count—and even a moderate amount of education in arithmetic will enable you to count the House part of it—they will find that there are only five items in the House bill for specific objects, the pay of a particular person. It begins with one Boyle and one Olcott, and the next is to pay one Douglass, and the next is to pay the person employed in indexing the Journals of Congress. The next is to pay eight messengers in the post-office of the House from the 1st of April, 1879, until the conclusion of the present Congress. That is the whole of the House bill. I have cited every item now.

That came over here with a title which stated exactly what it was for, "to provide for certain expenses of the present session of Congress." It went to a committee, and it comes out of the committee, they say, a general appropriation bill, having gone there a special appropriation for five particular objects of the present time, not even called a deficiency, but to provide for the present moment, and pay four persons by name and a lump of eight messengers; those make up the whole five items. The Senate committee has added eleven items, making sixteen in all, and thereby the bill has become a general appropriation bill! Mr. President, in the language of an eminent statesman from Ohio, who is now deprived of the privilege of speaking, I submit that that argument won't do. "It won't do at all." [Laughter.]

Now, Mr. President, to come to this amendment put in by the committee, it could not have been put in in the judgment of the Senator from West Virginia, if he is true to his former opinions, as he generally is, had this been a general appropriation bill:

That the employés of the Senate who have served during the present session of Congress shall be paid their respective salaries out of the fund already appropriated for such service from the time they entered upon their duties until the time of their taking the oath.

That is not an amendment which relates to any appropriation contained in the bill, but by name relates to a different appropriation already on the statute-book. Therefore it is not guarding the expenditure of the money that this bill appropriates. It is not directing the expenditure of the money that this bill appropriates at all; but it is a separate, distinct, and general declaration that every employé of this Senate, whether clerk or messenger or Sergeant-at-Arms, or whatever he may be, who happens to need the benefit of this provision of law which changes existing statutes, shall be paid. As I said, the only ground on which it can stand is that this is not a general appropriation bill, for if it be one, this amendment cannot be in order, because it does not relate to any appropriation contained in the bill; it cannot be squeezed in under that head; and it provides universal legislation, lays down a rule of conduct, and is just as much an act of general legislation as any other act that can be passed that from its nature covers only a particular class of persons, like the providing for jurors or whatever it may be.

Mr. WITHERS. In my view of the subject, Mr. President, a deficiency bill is the most general form of appropriation bill that can be presented. The character of the bill is decided, not by the number of specific appropriations which it may embody, but by the general scope and purpose of the bill. The object of a deficiency bill is to provide for any deficiency in existing appropriations, whether they apply to one department of the Government or to all the departments of the Government; and we have been constantly in the habit of regarding the deficiency bills which are annually passed in this body as general appropriation bills. The points of order which have been successfully made in regard to the introduction of amendments have been those applicable to general appropriation bills. The rule has been so administered by the presiding officer of the body and by a majority of the Senate ever since I have been a member of it.

Therefore the bill under consideration is, in my view of the question, clearly a general appropriation bill, and of course, as such, amenable to the rule of order. The argument of the Senator from Vermont it seems to me does not meet the case, because whether there be five items in the original appropriation bill or whether there be five hundred, it makes no difference, provided the object of the bill is general in its character; and that is the purpose of this bill, to supply deficiencies in appropriations applicable to any department of the Government, and that is what this bill purports to do, and therefore in my view it is a general appropriation bill.

The PRESIDENT *pro tempore*. The Chair invites the attention of Senators to this question, as it involves an important interpretation to be given to this rule. The Senator from Kansas moves as an amendment to this bill to add the following:

For mileage of Senators at the extra session, $36,000.
For mileage of members of the House of Representatives and Delegates from Territories at the extra session, $100,000.

It is objected by the Senator from Pennsylvania that the amendment is not in order, that it is forbidden by this clause of Rule 27:

No amendments shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate; or proposed in pursuance of an estimate of the head of some one of the Departments.

And it being admitted that this amendment was not reported by any standing committee or estimated for, the Senator from Pennsylvania says it is out of order, to which it is replied on the other side that this is not a general appropriation bill. If it is a general appropriation bill, the amendment is out of order. If it is not a general appropriation bill within the meaning of the rule, the amendment is in order. The question submitted to the Senate is, Is this amendment in order? Upon that question the yeas and nays have been ordered. Senators, as many as are of the opinion that the amendment is in order, will answer "yea" as your names are called, and as many as are of the contrary opinion will answer "nay."

Mr. BAYARD. I should like to ask from some gentleman in charge of this measure whether any of the appropriations thereby made are under estimates from the Departments in the usual and ordinary method of transacting business. As I understand, the general appropriation bills of the Government are based upon the estimates made by the several Departments that are sent in through the Appropriations Committees of the different Houses, distributed to the proper committees from which appropriations are reported. These form the general appropriation bills of the Government. I have the idea that perhaps a bill containing various appropriations not confined to a special subject might, therefore, be termed a general appropriation bill; but the suggestion of the honorable Senator from Maine [Mr. HAMLIN] strikes me with much force that there are general appropriation bills which are not multifarious; for instance the pension bill. This is recognized as one of the general appropriation bills of the Government, and yet it is but a single subject, and frequently is passed, I believe, in a single item.

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. WALLACE. The Senator from Tennessee, I hope, will allow this matter to be finished.

Mr. HARRIS. I have no objection to the unfinished business being informally laid aside to complete this matter.

The PRESIDENT *pro tempore*. If there be no objection, the unfinished business will be considered laid aside informally, subject to the

call of the Senator from Tennessee. The Senator from Delaware will proceed.

Mr. BAYARD. Upon what distinction, then, are we proceeding in the present case? I do not understand that this bill had its original suggestion in any of the Executive Departments, that this bill was based upon the ordinary and usual estimates for the support of the Government in its different branches, but that it is a supplementary bill, growing out of the exigency of this session to supply which the Appropriations Committee have brought in the present measure. I do not think we have any adequate expression for such bills as contradistinguished from the general appropriation bills; we have no such phrase known to our parliamentary law as special appropriation bills; but for a bill to come within the general character of general appropriations, it strikes me that it must provide for the general, usual expenses of the Government. Upon those general bills amendments may be ingrafted provided those proposing them have complied with the terms of our three rules upon the subject,—the twenty-sixth, twenty-seventh, and twenty-eighth standing rules of the Senate. By compliance with those rules measures may be ingrafted upon the general appropriation bills which are not based upon estimates by the different Departments. In the present case my present inclination of opinion is to believe that this is not one of the general appropriation bills referred to by the rules, but that it is a bill supplementing a defective civil service discovered in the extra session of Congress, that it is not based upon general estimates, and not being based upon general estimates does not come within the category of general appropriation bills.

Mr. HAMLIN. Will the Senator from Delaware allow me to call his attention to a single point in connection with what he has been saying? If the Senator will cast his eye on the bill he will notice that it comes to us from the House, making provision for nothing else, I believe, save that which is connected with the House alone. Therefore the Senator is right; it could have had its origin in none of the estimates or none of the recommendations of any of the Departments; and after it gets into this body and is referred to the Committee on Appropriations there come several amendments which may be regarded as a sort of codicil. They come from the Departments, but they cannot change the character of the bill or make it an appropriation bill within the terms of the rule.

Mr. BAYARD. I apprehend that the bill which we are to consider was embraced in lines 1 to 25 on the first and second pages.

The PRESIDENT *pro tempore*. The Chair will interrupt the Senator to receive a message from the House of Representatives.

DEATH OF REPRESENTATIVE RUSH CLARK.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, communicated to the Senate the intelligence of the death of Mr. RUSH CLARK, late a member of the House from the State of Iowa, and transmitted the resolutions of the House thereon.

Mr. ALLISON. Mr. President, I ask that the message from the House be reported.

The PRESIDENT *pro tempore*. The action of the House will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
April 29, 1879.

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. RUSH CLARK, late a Representative from the State of Iowa.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of seven members and three Senators be appointed to take order for superintending the funeral and to escort the remains of the deceased to his late residence in Iowa, and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

The Speaker announced the appointment of Mr. HIRAM PRICE of Iowa, Mr. JOHN H. REAGAN of Texas, Mr. WILLIAM H. HATCH of Missouri, Mr. HENRY S. NEAL of Ohio, Mr. THOMAS J. HENDERSON of Illinois, Mr. MARK H. DUNNELL of Minnesota, and Mr. PHILIP COOK of Georgia, the said committee on the part of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

Mr. ALLISON. Mr. President, I offer the following:

Resolved, That the Senate agree to the resolution of the House of Representatives providing for the appointment of a joint committee to take order for superintending the funeral and to escort the remains of Hon. RUSH CLARK, late a member of the House of Representatives from the State of Iowa, to his late residence, and that the committee on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The resolution was agreed to unanimously.

The PRESIDENT *pro tempore*. The Chair appoints Mr. KIRKWOOD, Mr. PLATT, and Mr. HEREFORD the committee on the part of the Senate.

Mr. EDMUNDS. Mr. President, as a further mark of respect for the memory of the deceased, I move that the Senate do now adjourn.

The motion was agreed to; and (at one o'clock and nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 29, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, his private secretary.

DEATH OF HON. RUSH CLARK, OF IOWA.

Mr. PRICE. It becomes my mournful and painful duty, Mr. Speaker, to announce this morning to the House of Representatives the death of my colleague, Hon. RUSH CLARK, which occurred at his rooms at the National Hotel in this city yesterday afternoon, after a brief illness of only a few hours.

At some future time I may ask the indulgence of the House to submit some extended remarks in reference to the life and character of my colleague. I think it proper to say at this time that after full consultation with the delegation from the State of Iowa and with the friends of the family, and in view of the time when the train will start, also in view of the fact that when the remains shall arrive at his old home his neighbors, acquaintances, and friends will hold funeral ceremonies, we have concluded to dispense with any funeral ceremonies in this Hall. It is due to the House and it is due to the friends that this explanation should be made.

I now offer the resolutions which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. RUSH CLARK, late a Representative from the State of Iowa.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of seven Members and three Senators be appointed to take order for superintending the funeral and to escort the remains of the deceased to his late residence in Iowa; and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

The SPEAKER. The House has heard the resolutions read by the Clerk. The question is upon the adoption of the resolutions.

Mr. GARFIELD. May it not be necessary to wait until an announcement can be received from the Senate that they have adopted the resolution? If there is no practical difficulty we can adjourn now.

The SPEAKER. The Chair thinks there is no practical difficulty about it.

The resolutions were then adopted.

The SPEAKER, in obedience to the second resolution, announced as the committee on the part of the House the following:

Mr. PRICE of Iowa, Mr. REAGAN of Texas, Mr. HATCH of Missouri, Mr. NEAL of Ohio, Mr. HENDERSON of Illinois, Mr. COOK of Georgia, and Mr. BENNETT of Dakota.

And then, in accordance with the foregoing resolution, (at twelve o'clock and fourteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: Papers relating to the Calcasieu, Louisiana, log seizures—to the Committee on the Judiciary.

By Mr. BUCKNER: The petition of Samuel C. Reid, in behalf of the officers and crew of the late United States private armed brig General Armstrong, for compensation for the destruction of said vessel in the port of Fayal, Azores Islands, during the war with Great Britain in 1814—to the Committee on Foreign Affairs.

By Mr. CHALMERS: The petition of W. H. Andrews & Brothers, for the repeal of section 7 of the revenue law relating to wine and distilled and fermented liquors—to the Committee of Ways and Means.

Also, the petition of certain committee clerks and pages of the House of Representatives, who are paid during the session only, that their pay begin on the 18th of March, 1879—to the Committee of Accounts.

Also, the petition of Samuel Ullman, of Natchez, Mississippi, that Congress take some action relating to the treatment of American Jews in Russia—to the Committee on Foreign Affairs.

By Mr. COX: The petition of S. S. Cox, for an investigation into the affairs of the Ocean National Bank of New York City—to the Committee on Banking and Currency.

Also, the petition of John Ross and others, that article 17 of Cherokee treaty of 1835–'36 shall be adjudicated by commissioners appointed by the President and shall remain in force until the stipulations of the treaty are equitably adjusted—to the Committee on Indian Affairs.

Also, the petition of 1,212 ship-masters, officers, seamen, engineers, firemen, and others, of the United States merchant marine, for the passage of the Cox bill to amend title 53 of the Revised Statutes, relating to merchant seamen—to the Committee on Commerce.

Also, the petition of Samuel M. Shaw, of Cooperstown, New York, for the retirement of the one and two dollar Treasury and bank notes—to the Committee on Banking and Currency.

Also, the petition of Warren L. Fish, for the extension of his patent on lamps—to the Committee on Patents.

By Mr. DEUSTER: Memorial of Charles Louis Fleischmann, relating to the restoration of the exhausted soil by means of a natural fertilizer found in inexhaustible quantities in the United States—to the Committee on Agriculture.

By Mr. LOUNSBERY: The petition of Miss Maggie Freer and 64 others, members of the Women's Christian Temperance Union, not to

make any change in the revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. RUSSELL, of Massachusetts: The petition of Mary J. Eldredge, for a pension—to the Committee on Invalid Pensions.

Also, a paper relating to granting authority to the Light-House Board to test Mann's automatic signal-buoy for seacoast purposes—to the Committee on Commerce.

By Mr. STEVENSON: Resolution of the Legislature of Illinois, relating to swamp and overflowed lands—to the Committee on Public Lands.

By Mr. WHITTHORNE: The petition of J. N. Carpenter, pay inspector United States Navy, for relief—to the Committee on Naval Affairs.

IN SENATE.

WEDNESDAY, *April* 30, 1879.

Prayer by Rev. JOHN CHESTER, D. D., of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

FUNERAL SERVICES OF REPRESENTATIVE CLARK.

The PRESIDENT *pro tempore*. The Chair has been requested by the Senator from Iowa, [Mr. KIRKWOOD,] who was appointed one of the Senators to attend the remains of the late Representative Clark to his home, to announce to Senators that funeral services over the remains of Mr. Clark will take place at the National Hotel to-day at six and a half o'clock p. m., after which the remains will be removed to the depot. Senators are invited to attend.

PETITIONS AND MEMORIALS.

Mr. LOGAN presented a joint resolution of the Legislature of Illinois, in favor of the passage of the bill (S. No. 272) to authorize the Commissioner of the General Land Office to adjust and settle the claim of the State of Illinois for indemnity for swamp lands sold by the United States in accordance with the provisions of section 2482 of the Revised Statutes; which was referred to the Committee on Public Lands.

Mr. INGALLS presented the petition of Mary E. Miller and other women, of McPherson County, Kansas, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 531) to re-establish the office of assistant treasurer of the United States at Charleston, South Carolina; which was read twice by its title, and referred to the Committee on Finance.

Mr. PLUMB (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 532) for the relief of Eliza Howard Powers; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 24) providing for sixty days' pay to officers and employés of the United States Senate removed from office since the 4th day of March, 1879; which was read twice by its title, and referred to the Committee on Appropriations.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. McDONALD submitted an amendment intended to be proposed by him to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

EXPENSES OF EXTRA SESSION, ETC.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions" the Chair lays before the Senate the unfinished business taken up in the morning hour yesterday.

The Senate resumed the consideration of the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes.

The PRESIDENT *pro tempore*. The pending question is whether an amendment offered by the Senator from Kansas [Mr. PLUMB] is in order. Is the Senate ready for the question? The Chair will state the question once more before the vote is taken. The Senator from Kansas moves as an amendment to this bill to add the following:

For mileage of Senators at the extra session, $36,000.

For mileage of members of the House of Representatives and Delegates from Territories at the extra session, $100,000.

It is objected by the Senator from Pennsylvania that the amendment is not in order, that it is forbidden by this clause of Rule 27:

No amendment shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate; or proposed in pursuance of an estimate of the head of some one of the Departments.

And it being admitted that this amendment was not reported by any standing committee or estimated for, the Senator from Pennsylvania says it is out of order, to which it is replied on the other side that this is not a general appropriation bill. If it is a general appropriation bill, the amendment is out of order. If it is not a general appropriation bill within the meaning of the rule, the amendment is in order. The question submitted to the Senate is, Is this amendment in order? Upon that question the yeas and nays have been ordered.

Mr. BAYARD rose.

Mr. ALLISON. Mr. President, before that question is decided, I desire to call the attention of the Senate to a rule of the House of Representatives, which I think bears upon this question. The Senator from Delaware yesterday——

Mr. BAYARD. I did not have an opportunity to conclude my remarks yesterday.

Mr. ALLISON. I only desired to call attention to the rule. I did not know the Senator from Delaware was on the floor. I beg his pardon.

Mr. BAYARD. I merely say to my friend from Iowa that, if he desires to reply to the few remarks I made yesterday, I was not able to conclude my statement by reason of the announcement of the death of the late Representative Clark. I might say one thing further, which will take but a moment, if my honorable friend will yield.

Mr. ALLISON. Certainly; I yield to the honorable Senator.

Mr. BAYARD. I submit to the Senate that the proper test as to whether this bill is or is not a general appropriation bill within the purview and meaning of our three rules which relate to the amendment of appropriation bills, Rules 26, 27, and 28, is this: to take the bill, I do not say merely by its title, because I am aware that recurrence to the title of a bill is not one of the strongest methods of determining its status, but to take the bill as it came to us from the House, in the shape in which we found it for its first consideration, and ask then whether, without the amendments put upon it by the Senate committee, it is or is not a general appropriation bill. Let us test it by that rule.

The title of the bill is "to provide for certain expenses of the present session of Congress, and for other purposes." In the first four lines is an appropriation of money; and on page 2, beginning at line 26 and ending at line 49 on page 3, is the bill, the *corpus* of the bill. The question is whether that is a bill of general appropriation, or whether it is a bill of specific appropriation for certain expenses of Congress extraordinary in their character. Tested by that rule I am unable to describe this bill as a general appropriation bill.

Then the second question would be, can the Senate by adding multifarious expenses to the House bill change its nature and character so as to bring it within the description of our rules; that is, to make it a general appropriation by altering its character, and let the bill therefore draw its name, its description, and its character from the amendments of the Senate and not from its original framing by the House.

Mr. DAVIS, of West Virginia. Will my friend allow me to ask him a question?

Mr. BAYARD. Certainly.

Mr. DAVIS, of West Virginia. Does the Senator deny the right of the Senate to amend the bill?

Mr. BAYARD. Oh, not in the least on earth; I deny nothing of the kind.

Mr. DAVIS, of West Virginia. Then I ask the Senator how is it that he makes a comparison of the bill as it came from the House? Why not consider it as it is now? We are considering the bill as it is now before us by the action of the Senate, not the bill as it came from the House.

Mr. BAYARD. I will answer my friend. I do not know that it is in the power of the Senate to change the character of the bill as it came from the House by amendments put upon it in the Senate. If it is not a general appropriation bill when it comes from the House, it will not be made one by the amendatory action of the Senate.

Mr. DAVIS, of West Virginia. I ask my friend why not?

Mr. BAYARD. My answer is that the bill will take its character from the *corpus* of the bill and not from its amendments. In other words, the principal will not be governed by the incident, but the incident will be governed by the principal. That is the way I understand it.

Mr. EATON. While I agree that this may not amount to a general appropriation bill, let me suggest to my friend from Delaware that if the Senate should attach to this very bill one of the general appropriation bills, it would by that action of the Senate change the original character of the bill.

Mr. BAYARD. And yet would not that be open to the objection that general appropriation bills, revenue bills, or money bills, as they are called, must originate in the other House? I should doubt the power of the Senate to change the character of a bill from a bill of general legislation into an appropriation bill by making amendments to it.

Mr. DAVIS, of West Virginia. But the bill is not before us as it came from the House.

Mr. BAYARD. It came from the House not in the form of a general appropriation bill.

Mr. EDMUNDS. Mr. President, I wish to add a word on the point to which the Senator from Delaware has just been speaking. What

is put on in the Senate does not become a part of the bill until the House has agreed to it; it is merely a proposition from the Senate. All our amendments, even after they are agreed to here, are not part of the bill; they are merely propositions to the House of Representatives inviting them to make them part of the bill and so enact them into law.

Mr. DAVIS, of West Virginia. I ask the Senator whether the bill as it came from the House is not in exactly the same condition? It is not a bill in the proper sense of the word until it has passed both Houses.

Mr. EDMUNDS. I thought it was a bill while pending between the two Houses and became an act after it was passed; and the rule is speaking of bills. An amendment does not become a part of the bill, when the bill is from the other House, until the other House has agreed that it may become a part of it. There is the difficulty. Therefore, if there were no other answer to the idea that this has become a general appropriation bill by some circumstance that has occurred after it entered here and was not a general appropriation bill when the House sent it here, that is a complete answer in my judgment to that.

But to that also may be added that these amendments are not yet, even if this were a Senate bill, a part of the bill, because they are not yet agreed to. It is true they have been agreed to in Committee of the Whole and reported to the Senate; but it remains for the Senate to determine; and the question must be put affirmatively whether the Senate will agree to make these amendments any part of the bill, even if it were a Senate bill, or as it is, whether the Senate will agree even to propose to the House of Representatives to add these things to it and thus enact their bill into a law.

Therefore the Senator from Delaware, in my opinion, is quite right in saying that the question whether this is a general appropriation bill must be tested and tested solely by the nature of the bill as it was when it entered our doors and was laid upon our table.

Mr. ALLISON. Mr. President, I desire to call attention for a moment to the rules upon this question. The proper action here seems to depend upon the meaning of the words "general appropriation bill." As I understand, we have no definition in our Senate rules of what shall constitute a general appropriation bill. I do not think I am mistaken in that. I find in our rules reference made to what are called general appropriation bills, but we have no rule in the Senate defining what a general appropriation bill is. Therefore we are left to ascertain, if we can, what we mean by a general appropriation bill. In the House of Representatives there is a distinct definition of what is understood there to be a general appropriation bill.

Mr. BECK. Will not the Senator from Iowa find some solution of that difficulty in the fact that all general appropriation bills are required to go to the Committee on Appropriations? Could this bill have gone to any other committee? Was it not necessary for it to go to that committee?

Mr. EDMUNDS. That begs the very question.

Mr. ALLISON. It being an appropriation, properly under our rules it would necessarily go to that committee. But in the House there are, I believe, now twelve bills known as general appropriation bills; the legislative, executive, and judicial, and so on.

Mr. BECK. The deficiency bill.

Mr. ALLISON. The deficiency bill is not one, I find; and that is the point to which I desire to call attention. I cannot find in the rules of the House that a general deficiency bill is regarded there as a general appropriation bill. But even if a general deficiency bill should be so regarded, this bill would not then come under the rule of a general appropriation bill. Rule 77 of the House of Representatives provides that—

> It shall also be the duty of the Committee on Appropriations, within thirty days after their appointment, at every session of Congress, commencing on the first Monday of December, to report the general appropriation bills for legislative, executive, and judicial expenses, for sundry civil expenses, &c.

Going on at length and naming distinctly what are regarded there as general appropriation bills. When those bills come to the Senate our rules provide that all general appropriation bills shall be referred to the Committee on Appropriations. Having no definition of our own as to what a general appropriation bill is, it seems to me we can recur for this purpose to the rule of the House.

Mr. HOAR. Will the Senator from Iowa allow me to ask him a question?

Mr. ALLISON. Yes, sir.

Mr. HOAR. I ask the Senator if he does not remember that this very question was ruled upon by the Senate either at the last winter session or the session previous, and in precise accordance with what he is now stating? I was in the chair at the time, and I am sure that either there was a ruling of the Chair acquiesced in by the Senate or, as I think was the case, a vote of the Senate itself on this very question.

Mr. DAVIS, of West Virginia. May I ask the Senator to what bill he refers?

Mr. HOAR. I cannot remember the bill. If the Senator from Iowa will pardon me a moment, I will state that there was before the Senate a bill which was not one of the twelve general appropriation bills as defined in the House rules. The question came up of the right to move a certain amendment to that bill without first referring it to the committee under the rule applicable to general appropriation bills in the Senate. The Chair held that the term "general appropriation bill" was a technical term, a name which had come to be applied to certain bills in our legislative practice, a name which it derived originally from the rule of the House of Representatives which had been established for more than forty years, and accordingly that amendment was held in order. I am very strongly inclined to the belief that that question was submitted to the Senate and that the vote of the Senate was by a large majority in accordance with that suggestion. At any rate of the action of the Senate I am sure.

Mr. ALLISON. I had forgotten the occurrence of which the Senator from Massachusetts speaks, but I am very certain that the words "general appropriation bill" now have a distinct meaning; they certainly have in the House; because all the rules of the House in reference to appropriation bills apply to those general bills. When they come here, our rule says that this character of bills so considered in the House shall not be subject to amendment unless the amendment shall come from a standing committee or be estimated for by a Department. Therefore, it seems to me quite clear that this is not a bill which comes within Rules 26 and 27.

Mr. WITHERS. If I understand the argument of my friend from Iowa, it is that the term "general appropriation bill" is designed to be restricted entirely to the bills so enumerated by the rules of the House, and that no other bill can be regarded as a general appropriation bill except the twelve enumerated in the House rules.

Mr. ALLISON. Not precisely that. I mean to say that we have under our rules no definition of what are general appropriation bills. Therefore we recur to the rules of the House to see what is a general appropriation bill.

Mr. WITHERS. My friend still comes back to the same proposition, that inasmuch as we have no rule by which we can define exactly what constitutes a general appropriation bill we are compelled to resort to the House rule for a definition. The House rule enumerates twelve distinct bills under the definition of general appropriation bills. An amendment which may be offered here to supply any deficiency which might be found to exist with regard to the service of the Army or the Navy, or pensions, or the legislative bill, or any other appropriation act, must of necessity be regarded as a general appropriation bill, because, being an amendment to a general appropriation act, it would partake of the character of the measure to which it was an amendment.

Therefore, assuming that to be true, it seems to me that the position taken by gentlemen who hold that this is not a general appropriation bill at last resolves itself into this, that amendments which may be designed to provide for deficiencies in general appropriation bills, if applied to each bill separately, would be regarded as a general bill; but if applied to all or half of the general appropriation bills, then it is not a general appropriation bill. It seems to me that that position is scarcely tenable. A deficiency bill which is designed to supply a want in the appropriations made by the general appropriation acts, it appears to me, is wider in its scope and bearing and more truly should be regarded as a general appropriation bill than any bill making a specific appropriation for one branch of the service.

Mr. DAWES. It seems to me that the question is not whether the amendment is in the nature of a general appropriation, but the question is whether the bill to which the amendment is proposed is a general appropriation bill. If the bill to which the amendment is proposed is not a general appropriation bill, then the amendment may be in order. The amendment itself does not change the character of the bill to which it is proposed. The bill is the substantive matter upon which the Senate passes, whether that bill, without regard to the character of the amendment, is a general appropriation bill. You may propose an amendment which, when it is adopted and made a part of the bill, might possibly change the bill into one of another character; but the question is whether the bill as it came from the House is a general appropriation bill. If that is a general appropriation bill, I should like to inquire of the Senator from Virginia what is a special appropriation bill? What kind of a bill would be a special appropriation bill?

Mr. WITHERS. There is no such thing known to parliamentary law—at least as controlling this body—as a special appropriation bill.

Mr. DAWES. Then I suppose there is no effect to be given to the word "general" in the term "general appropriation bill." What is the necessity of styling certain bills "general appropriation bills" if it is not for the very purpose of distinguishing them from some other kind of bills which may be called special, or by any other term? What is to distinguish them? I suppose that every bill for the payment of claims or anything of that kind which contains within it an appropriation of money to carry it out would be a special appropriation, and a bill which contains several of those items would still be a special appropriation bill; that is, a bill appropriating money for special purposes, not for general purposes for which there is necessity annually for an appropriation provided by law—the annual appropriations. The character of the bill itself must determine whether we can apply amendments of this character to it, and not the character of the particular amendment itself.

Mr. WITHERS. Guided by the standard which is laid down by the Senator from Massachusetts, this would be, then, a general appropriation bill, because the original bill which came here from the House of Representatives proposes amendments to what would be properly the legislative, executive, and judicial appropriation bill.

That is a general appropriation bill, under the definition of the rules of the House, and therefore this amendment to that bill must be a general appropriation bill.

Mr. DAWES. I understand the bill as it came from the House to make provision for a special case, not a general appropriation, not an ordinary appropriation, not that which comes around every year, provided by law, in the ordinary operations of the Government. That is what I understand by a general appropriation bill; but here are specific special appropriations proposed by the House of Representatives required by an exigency that comes round of itself, that comes round under the proclamation of the President calling a special session. It is not anything provided by law; that could not be the case in the expenses of a special session of Congress. There is nothing provided by law that the extra expenditure consequent upon an extra session of Congress shall be defrayed in any particular manner or shall be measured by any particular sum.

Mr. HAMLIN. Mr. President, in discussing the rules which govern this body, I think you will agree with myself that we find opinions sometimes influenced very much by the vote the respective Senators may desire to give upon the question pending, and very properly minds are so influenced, and we cannot help being so influenced. In this question which is now submitted to us by the Chair, fortunately for myself at least, I do not occupy that position. I stated yesterday that I did not mean to intimate how I would vote upon the amendment itself. I will state now distinctly that I should vote against the amendment if it were before the body. Being against the amendment, my opinion upon the question of order certainly can have no influence upon my mind as to the vote which I shall give on the amendment; and I am led to the conclusions at which I have arrived only and solely because I would have the rules of this body so administered as to best subserve the interests of the public and the rights of every Senator on this floor.

I hold, first, that every rule of this body for the interest of the public service and for the right of every Senator should be, must be, strictly construed. There is no latitude either for the Chair in his decision or for the Senator in his vote, because when you undertake to draw analogies, when you undertake to say that the principle of one rule will apply to another case, you are widening the scope of that rule which was designed and intended to be clear and explicit in its terms as to the power which is to be exercised by the Chair under it and what may be done by the Senate under it.

With that general view of the design of rules, (and I think no Senator will disagree with me that I am right in that,) I say that by the strict language of this rule there cannot by possibility be any reasonable doubt that this is not what comes within the terms of the rule as a general appropriation bill. It cannot be.

It was argued yesterday by my friend from Pennsylvania [Mr. WALLACE] that this was a general appropriation bill, because it provided for a variety of subjects, it covered general topics, it contained general appropriations; thereby it was a general appropriation bill. I think I can satisfy the Senator that he is mistaken in the construction which he thus seeks to place upon the rule. Is it general because it has several items and they are different in their character? By no manner of means; because, if that be the description of a general appropriation bill, your bill for fortifications would drop out; it has but a single section in it; it has got, I think, but a single item. Then it would not be general, because it has only a single item. I think your bill for the Pension Bureau is in one or two sections, and confined to but one distinct subject. I think your bill for the support of the Military Academy at West Point has but a single section, unless you add on some explanatory section by which the moneys are to be disbursed under that additional section. Here are at least three or four of the twelve bills known as general appropriation bills that have but a single section in them. Now, if it takes a generality of subjects to make a general appropriation bill, every one of them fails to come within the category.

But I stated very briefly yesterday, and I repeat it to-day, and it has been stated by others, that we must draw the construction strictly upon the rule and find other reasons why certain bills are general appropriation bills. The Senator from Iowa [Mr. ALLISON] this morning has called our attention to the action of the House, and we learn distinctly by the language of the House rules what they know and understand there to be general appropriation bills, and this is not one of them. But coming to our own rules, what is it that gives to certain bills their general designation of general appropriation bills?

Every bill you pass in this body that makes an appropriation is an appropriation bill to that extent. If it be a general appropriation bill, of course it has a variety of items. The Senator from Massachusetts [Mr. HOAR] has already this morning alluded to a bill that contained for aught I know a hundred items—the Senator from Minnesota can tell me; you may take the bill that comes from the commissioners of southern claims, composed of various items, all different; you will find perhaps not two cases alike in the hundred, if there are a hundred——

Mr. HOAR. More than fifteen hundred.

Mr. HAMLIN. More than fifteen hundred, my friend from Massachusetts suggests. You will find no two of the items alike. That is a general appropriation bill, according to the idea now advanced, and yet it has never been subject to the rules of this body as such, and it cannot be one because it lacks the merit of an appropriation bill, which I wish again to state. General appropriation bills are those named in the House rule which are introduced and passed into laws for the support of the various branches of the Government, and are based upon the estimates that those several branches and bureaus furnish to us.

Now, why should we have such a rule in the Senate? For this very good reason: it is utterly impossible that any member of the House or any Senator shall know what are the proper appropriations to be made for the Army or Navy or the civil service; we must gather that from all the different Departments and they make their estimates with the best knowledge that can be had; and then the Senate have said "upon these bills we will vary our rule and no Senator shall rise in his place and move either to reduce or increase those appropriations." Why? Because we can rely with more certainty upon the bureau and Department officers as possessing better information and evidence than ourselves. But, says the rule, if a Senate committee will investigate that subject and will report upon investigation that the items ought to be reduced or increased and will report to the Senate and they in turn send it to the Appropriations Committee, then it is a matter which comes appropriately before us. That it is in my judgment which marks the distinction between the general appropriation bills and all other bills. We will not allow amendments to be put upon those because we believe we may more safely rely upon the estimates of the proper Departments after they have undergone the investigation of the Appropriations Committee, than we can upon any Senator. If the committee examine and report, then an amendment shall come in there, while as to all other bills, where we have not thus got the estimates, it is well known that any Senator may offer his amendments to increase or to diminish the amount appropriated; not so with the general appropriation bills; and it is that which makes a bill a general appropriation bill as applicable to the support of the Government, it being reported, examined by the committee upon estimates made. It is that, and not the variety of subjects, which decides the question. It seems to me, sir, that is very clear.

Mr. WITHERS. Will the Senator give me information upon one point? I know that his experience is very large on this subject and his authority very high; it stands high with me certainly. I wish to ask him if the general deficiency bills which are passed here every session have not been regarded in the practice of the Senate as general appropriation bills and subject to the rule of order which is now under consideration.

Mr. HAMLIN. I will answer very promptly and very frankly I think they have been so considered. I have no recollection that they have been otherwise considered.

Mr. WITHERS. That is my experience.

Mr. HAMLIN. Nor have I any doubt that if the question were raised and carefully examined, my friend from Virginia and myself would come to the conclusion that they were not general appropriation bills; and yet they verge very near it because they are made upon the estimates of the Departments. That is a distinct appropriation bill from what I call the general appropriation bills that are called such within the rule.

Now, another thing. The Committee on Appropriations have charge of all these various bills, and they have done and will, I have no doubt, do the duties well and to the general acceptance of the Senate; but I can call to my mind no session of Congress since I have had any acquaintance with it when other bills than the general appropriation bills have not been referred to that committee. There is no session when we do not find reported or asked for appropriations for specific subjects, and such matters are referred to the Committee on Appropriations. Why? Such a reference does not make the bill referred a general appropriation bill, but it is so referred because that committee is charged with the appropriations generally, and ought to have better information than any other committee of this body as to the condition of the finances of the Government, and how much or how little we can properly appropriate. This bill might just as well have gone to the Committee on Finance, or the Committee on Commerce, or the Committee on the Contingent Expenses of this body would have been still more appropriate, because it relates more to contingent expenses than anything else. But it went to the Committee on Appropriations. That does not make it a general appropriation bill. The Senator from Pennsylvania said it was read and referred without objection. So it was; but the fact that it was so referred did not change the bill at all or its character in any degree.

Pardon me, sir, a few words further. The love of power is inseparable from the nature of man. Senates and committees are made of men and partake of the desires and dispositions of men. It is the most natural thing (and I illustrate it by the Committee of Ways and Means, and I might just as well illustrate it by any other committee) that each committee should be somewhat tenacious of the field and scope of its own powers. I insist that that may influence minds as well as the opinion a man may hold on the very amendment that is sought to be presented. If we have been occupying a field and if we have been exercising a power with no objection, it is the most natural thing—it will apply to every committee of this body—that that committee should seek to hold and exercise the powers which it had formerly done or which had been conceded, whether they came within the strict rules of parliamentary law or the rules that govern the body or not. I do not care the snap of my finger,

individually, what is the decision of this question so far as the amendment is concerned; but as a general principle applying to what is for the best interests of the Government and the right of every Senator on this floor, I do think it is wise that we adhere to what is the strict letter of the rule. That is my judgment, and for that reason I certainly shall vote to admit the amendment as in order.

I have not a distinct recollection—if it were distinct I could answer the question put by the Senator from Massachusetts, [Mr. HOAR]—as to the bill, but I have a recollection, and it is clear, that while the Senator from Massachusetts was in the chair, (I cannot say whether it was the past winter or a year ago,) this question or another very nearly like it came up, and the Chair promptly ruled that the bill then pending was not a general appropriation bill. I am like the Senator, I cannot remember whether that was acquiesced in generally by the Senate, or whether it was put to the Senate by the Chair and affirmed. My impression rather is that the Chair did submit the opinion he had given to the Senate, and that it was affirmed by the Senate. I think therefore, Mr. President, that it is a right thing to do to define our rules, and to define the powers and duties of the committees that act under them. Some Senator here or there, if he holds a seat on this floor for six years, will find that the claim now made will affect what he may believe an interest of his constituents that he is representing, and he will be excluded from presenting it if this broad latitude is given to the construction of this rule. I hold that the amendment is in order, because the bill is not a general appropriation bill within the meaning of the rule.

Mr. PLUMB. Mr. President, this has been spoken of all the time by members of the Appropriation Committee as a deficiency bill. Inasmuch as deficiency bills have come to be standing regular things in Congress, from that fact it is sought to argue that this is a general appropriation bill within the meaning of the rule. I have in my hand the public acts of the Forty-fifth Congress, 1877–'78. Chapter 3 is a deficiency appropriation bill, and is so entitled: "An act to provide for deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for prior years, and for other purposes." Chapter 191 of the same volume is entitled as follows: "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1878, and prior years, and for those heretofore treated as permanent, for reappropriations, and for other purposes." And following the enacting clause is this:

That the following sums be, and they are hereby, appropriated, to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1878, and for former years, and for other purposes, &c.

That, according to the examination I have given this morning, is the usual method of entitling the acts to supply deficiencies in appropriations. It accords with what I believe to be the fact; that is to say, appropriate deficiencies are for the purpose of simply supplying omissions or oversights in the regular appropriation bills. To some extent they may be considered as tenders to the regular appropriation bills; and probably, to some extent, their character as being regular appropriation bills might be fixed by that fact.

But this bill, I call the attention of the Senate to the fact, is not so entitled, and I think the title may be fairly resorted to for the purpose of determining the opinion which the committee who reported the bill to the House and the House itself in passing the bill had of it. It is entitled a bill "to provide for certain expenses of the present session of Congress, and for other purposes," taking it out of the category of deficiency bills, I think. It is a bill the passage of which has been made necessary by the fact that an unexpected emergency has arisen, to wit, the assembling of Congress in extra session at this time; and as such I do not think it is fairly entitled to be called a deficiency bill, whatever effect might be given if it were entitled a deficiency bill. In that view it seems to me that the amendment which I have offered is entirely germane as being for the purpose expressed in the title of the bill, to wit, an appropriation for expenses made necessary by the present session of Congress.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? Senators, as many of you as are of opinion that the amendment offered by the Senator from Kansas is in order will, as your names are called, answer "yea;" those of the contrary opinion will answer "nay." The Secretary will call the roll.

Mr. HOUSTON. The vote now to be taken, as I understand it, is whether this is really a general appropriation bill or not.

The PRESIDENT *pro tempore*. That is the effect of it.

Mr. CONKLING. Mr. President, I shall vote that this amendment is in order. I wish I could vote otherwise, because I should be glad if the question of order and the merits of the motion tallied with each other. If I understand the purpose and effect of this amendment, I shall vote against it, whenever that vote comes to be taken; but on the question now proposed to the Senate, whether this be one of the general appropriation bills nominated in the rule, or stating it otherwise whether this amendment without a report from a standing committee be in order, I cannot vote as has been argued by Senators who insist that this is one of the regular general customary standing appropriation bills which I understand as being embraced by the rule.

The Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired on all political questions with the Senator from Wisconsin, [Mr. CARPENTER.] I see my political friends are voting on one side of this question and my political opponents on the other, and consequently I shall decline to vote.

Mr. CAMERON, of Wisconsin. My colleague [Mr. CARPENTER] left with me the right of deciding whether a question was political or not, and I being the umpire decide that this is not a political question, so that the Senator from Indiana is at liberty to vote notwithstanding the pair.

The PRESIDENT *pro tempore*. The decision is a very correct one.

Mr. McDONALD. I will state to the Senator from Wisconsin that his colleague before leaving here left the pair entirely with me; but here he is now himself, and I vote "nay."

The roll-call having been concluded, the result was announced—yeas 33, nays 23; as follows:

YEAS—33.

Allison,	Conkling,	Ingalls,	Saunders,
Anthony,	Dawes,	Kellogg,	Slater,
Bell,	Eaton,	Kirkwood,	Teller,
Booth,	Edmunds,	McMillan,	Vance,
Bruce,	Ferry,	Maxey,	Williams,
Burnside,	Hamlin,	Morgan,	Windom.
Cameron of Pa.,	Hill of Georgia,	Morrill,	
Cameron of Wis.,	Hoar,	Plumb,	
Chandler,	Houston,	Rollins,	

NAYS—23.

Bailey,	Garland,	Kernan,	Vest,
Beck,	Hampton,	McDonald,	Voorhees,
Butler,	Harris,	Pendleton,	Walker,
Call,	Hereford,	Ransom,	Wallace,
Coke,	Johnston,	Saulsbury,	Withers.
Davis of W. Va.,	Jonas,	Thurman,	

ABSENT—20.

Bayard,	Farley,	Jones of Florida,	Paddock,
Blaine,	Gordon,	Jones of Nevada,	Platt,
Carpenter,	Groome,	Lamar,	Randolph,
Cockrell,	Grover,	Logan,	Sharon,
Davis of Illinois,	Hill of Colorado,	McPherson,	Whyte.

The PRESIDENT *pro tempore*. The Senate decides that the amendment is in order, and the question is, Shall the amendment be adopted?

Mr. EDMUNDS. I am not in favor of the amendment as it stands; but I rather think I should favor it if it were amended. I move to amend it by inserting in the first line of the amendment, after the word "session," in line 1, these words:

Whose term of office began on the 4th day of March, 1879, and who actually traveled from their respective States to attend the present session of Congress.

So that it will read:

For mileage of Senators at the extra session, whose term of office began on the 4th day of March 1879, and who actually traveled from their respective States to attend the present session of Congress, &c.

That confines it to the new Senators who actually came from their States. Some were re-elected and did not travel, being here. If that amendment is agreed to, of course a similar amendment should be made to the next clause as to members of the other House.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the Senator from Kansas.

Mr. HILL, of Georgia. I ask the Senator from Vermont whether the effect of his amendment, if adopted, will be to give only to the new Senators whose term of service began on the 4th day of March mileage for the present session; and will they also be entitled to mileage for the next regular session?

Mr. EDMUNDS. I think so.

Mr. HILL, of Georgia. Then those Senators whose term commenced on the 4th of March last would get mileage twice during the year and the old Senators only once.

Mr. EDMUNDS. That would be true.

Mr. HILL, of Georgia. With my present opinions I shall vote against this whole amendment, but I shall certainly vote against the amendment to the amendment offered by the Senator from Vermont. I cannot see any reason for that amendment whatever, because it goes upon the idea that the Senators holding over from the Forty-fifth Congress were here already. Quite a number of them were not here. The extra session was called for some time after the 4th of March, and some went home. It was called for the 18th of March; and some went home and did not remain, and those who did remain had to pay their expenses. I can certify that the expense of staying here during those two weeks paying my regular board was twice the sum it would have cost me to go home and come back. I did not go home; I remained here solely because of the extra session. I could have gone home, but I remained here solely because of the extra session, and my board bill was twice as much during the interval as the expense of going home and returning would have been. Now, is there any justice in that? All I want is justice and equality. You are giving the gentlemen whose terms began on the 4th of March double mileage for the year. A Senator gets $5,000 a year and one mileage. That is his regular salary. If a portion of the Senators must attend more than one session of Congress and yet be content with one mileage, there is no reason on earth why the other Senators should not be content with the same salary. That is my judgment. You must make it so much salary for the year, or otherwise there is inequality.

Now, Mr. President, I am inclined to think that for myself I shall vote against this whole proposition. My own judgment is that the salary of a member of Congress is too high anyway. I have always

thought so; and I think, therefore, I shall vote against the whole amendment. That is my present impression and belief; but if a portion of the Senators are to have mileage, then all ought to have it; if all ought not to have it, then none ought to have it.

Mr. KERNAN. Mr. President, the law under which we act is quite plain unless we change it by this amendment. The act of 1866 is:

That the compensation of each Senator, Representative, and Delegate in Congress shall be $5,000 per annum, to be computed from the first day of the present Congress, and in addition thereto mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session.

Therefore, we are, if we adopt this amendment, appropriating these $136,000 as extra pay given by this act, which we are not entitled to by the law as it stands on the statute-book. I do not think that we, who are charged with dealing with others who are constantly wanting more pay, should adopt this amendment. There may be some hardship upon those who came here at this session for the first time, but it is difficult to make a distinction between them and the many continuing Senators who did go home. I think, therefore, that it is both right and wise to vote down the entire amendment. We were elected under this law, which says that if there be an extra session at any time we are not to get mileage for it. If we give it in all cases of extra session, some times some persons may get constructive mileage where the extra session follows immediately the regular session. I think that Congress had better adhere to the law and not be voting anything extra on account of the extra session.

Mr. MORRILL. I shall vote against the original amendment, because it gives constructive mileage to certain members, and I shall vote against all amendments of the proposition, because I believe that if you vote to give extra mileage to one portion of the Senate a claim will be made at the next session to equalize the mileage of Senators, and it will virtually result in a doubling of the amount of mileage now allowed by law. Therefore, I shall vote against the original proposition and against all amendments.

Mr. BURNSIDE. I should like to ask the Senator from Vermont who offered the last amendment, if this amendment will give to the old Senators who were re-elected and qualified on the 4th of March, mileage.

Mr. EDMUNDS. Not unless they went home.

Mr. BURNSIDE. Then why should not every Senator who went home have his mileage?

Mr. EDMUNDS. I do not know that any very good answer can be given to that, but the idea is that the Senators who are in the middle of a term get their general average, while here is an extraordinary occasion which has called new Senators from their respective States; and a man being called from his State as a new Senator came here it looked to me as if perhaps he ought to be paid for that travel. It may be that the amendment as it is is too broad and ought to exclude those who were re-elected whether they went home or not.

Mr. BURNSIDE. I would then move to amend the amendment of the Senator from Vermont by inserting the word "new," so as to apply to "new Senators."

Mr. EDMUNDS. That is not in order now because we have an amendment in the second degree.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Rhode Island that the word "Senators" does not occur in the amendment of the Senator from Vermont; so there is no place for the word "new."

Mr. EDMUNDS. I suggest to the Senator from Rhode Island that the amendment I have offered in order to mitigate the extent of the original amendment is an amendment in the second degree; and therefore if my amendment is not satisfactory it can be voted down and a new one then can be offered, but it is not in order to move to amend my amendment. We have got to the second degree already.

Mr. BURNSIDE. As I propose to vote against the whole proposition, I shall content myself by voting against this amendment to the amendment.

Mr. BECK. I desire to ask the Senator from Vermont if there is any reason why Representatives should not be embraced as well as Senators?

Mr. EDMUNDS. Not the slightest; they should be included if this is agreed to; but as they are in separate clauses in the amendment of the Senator from Kansas, I had to begin with the first one. If the sense of the Senate is that this ought to be agreed to, then I shall move it next on the members of the House, of course.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the Senator from Kansas.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Kansas, [Mr. PLUMB.]

Mr. CONKLING. May we hear that read, Mr. President?

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to insert:

For mileage of Senators at the extra session, $36,000.

For mileage of members of the House of Representatives and Delegates from Territories at the extra session, $100,000.

Mr. BAYARD. If I rightly comprehend the amendment of the honorable Senator from Kansas it is to give two mileages this one year to the entire Senate and House. Is not that the effect?

Mr. PLUMB. The effect of the amendment is to give mileage to every member of the Senate and of the House of Representatives for the extra session of Congress.

Mr. BAYARD. Very well. I am willing that all the gentlemen who came to Congress and took their seats here on the 18th of March should receive the same mileage as if they had been in their seats here on the first Monday of last December; in other words, that the single mileage provided by law should be received by them as it has been by those persons who were here during the last session, but not more. I do not propose to vote in favor of doubling my own mileage; but I am willing to vote in favor of their receiving a single mileage as we have done.

Mr. SAULSBURY. I cannot agree with the view favored by those who sustained the amendment of the Senator from Vermont. The members who came here on the 18th of March will receive during this Congress for the two regular sessions the same mileage that the rest of us get. I am not willing to discriminate and say that Mr. A, a member of the Senate, shall have three mileages and Mr. B, a member of the Senate, shall have only two. I think we had better vote down the whole proposition. We are paid annually for our services, in the estimation of some gentlemen very liberally, in the estimation of others not enough, but the law is that we shall get $5,000 a year and mileage. Perhaps the country thinks it is much more than we earn. In my judgment we had better vote down this whole proposition.

Mr. HILL, of Georgia. I hope the Senate will vote down this whole amendment. I think it is all wrong. Members of Congress get $5,000 a year and mileage for one regular session. I do not propose to accumulate the expenses because of extra sessions. I know that some noise is sometimes made that an extra session of Congress costs the Government so much. I think, when members of Congress are paid by the year, if the interests of the country require that they should attend here a dozen times, they ought to attend upon their regular salary and not be increasing their pay on account of the number of extra sessions. I do not think anybody ought to have anything extra. That is my judgment about it. Half the year we are getting pay without service any way. That ought to be satisfactory. I hope this amendment will be voted down, and that everybody will be content with his regular salary and not ask for extra allowances because of extra sessions.

Mr. PLUMB. I desire simply to say in response to what the Senator from Georgia has stated, that I am in favor of every Senator coming here for the extra session and all extra sessions, present and prospective, that may be called by the President; but if he will study carefully the terms of my amendment he will find that there is nothing in it which prohibits any Senator declining to take mileage if he so desires; but the question as to whether we shall come and keep coming without additional allowance, is the question to be decided on this amendment. That question is distinctly before the Senate, and each Senator will of course decide it according to his own views of the policy and propriety of it.

Mr. WALLACE. The Committee on Appropriations considered this subject, as I have already stated, and rejected the proposition. Heretofore when there were extra sessions of the Senate called, commencing on the 4th or 5th of March, in perhaps three cases there was money voted to pay the mileage of Senators who came in anew to the Senate. That is the only basis upon which this proposition can hang. Here is an entirely different proposition. Here is a proposition now to vote mileage to Senators and members of the past Senate and of the present and past House who are now in the House and Senate for the extra session, when the law provides that mileage shall be given only for one regular session. This proposition gives mileage for two sessions this year, and of course it increases largely the expenditures of the Government, and we think it ought not to prevail.

Mr. PLUMB. Let me ask the Senator from Pennsylvania a question. Is it not really a violation of the law to give two mileages to a man whose term happened to commence on the 4th or 5th of March as to a Senator whose term commenced two years or four years ago?

Mr. WALLACE. Two wrongs never made one right; and if a past Congress gave to Senators under those circumstances mileage it is no reason why those who did not come here should get additional pay, or why we should extend over the wide field of the whole of the House this provision to give them an additional mileage. The law is that we shall have mileage for each regular session. This proposition is to repeal the law and to give mileage for two sessions this year.

Mr. HOAR. Mr. President, I hope it will be my fortune to spend one Congress in public life without having the members of either branch engage in a discussion about their own pay. Congress, from the necessity of the case, is intrusted with the power of fixing its own compensation; no other public officer is intrusted with that power. If it were possible to help it, Congress would not be, I suppose. The discussion is always a disagreeable one. It is disagreeable to the public. It involves the charge upon the members of each branch of being governed by low, personal motives in their action in regard to a public question; and it seems to me the only wise policy is when the matter has once got fixed by a general law, as the Senator from Pennsylvania has so well said this has, to let it pass into ancient history and not to touch it. The public mind is content reasonably with the present compensation which is established by law. If we undertake to disturb it in any particular, it will be disturbed and discussed

in other particulars, and we shall have a repetition of, I will not say the scandals, but the disagreeable and unfortunate public discussion and public excitement which attended the bill known as the back-pay bill a few years ago.

Congress has fixed the rule of one mileage a year and a stated salary. The public has acquiesced in it; and I hope we shall pass from that question, and that it will not be touched again for a hundred years in this country.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

The amendment was rejected.

Mr. CAMERON, of Wisconsin. I offer the following amendment to come in at the end of the bill:

To pay C. W. Brink for compensation and expenses as bearer of dispatches from the United States minister in Mexico in the year 1869, $552.69, or so much thereof as may be necessary.

The payment of this named sum, or of whatever sum may be necessary in order to compensate Dr. Brink for the services rendered at the time mentioned in the amendment, is recommended by the Secretary of State. I will send his communication, addressed to my colleague, to the desk to be read.

The PRESIDENT *pro tempore*. The letter will be read.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, April 22, 1879.

SIR: Your letter of the 9th instant, relative to the claim of Dr. C. W. Brink for compensation and expenses as bearer of dispatches from the United States minister in Mexico, in the year 1869, has been received. In reply, I have the honor to inform you that, agreeably to your request, letters have been addressed to the chairmen of the Appropriation Committees of the Senate and House of Representatives, requesting that the necessary appropriation for the payment of Dr. Brink may be recommended in the deficiency bill, which, it is understood, is to be reported during the present session of Congress.

I have the honor to be, sir, your obedient servant,

WM. M. EVARTS.

Hon. MATT. H. CARPENTER,
United States Senate.

Mr. WALLACE. This amendment the Committee on Appropriations has never heard of before. I suppose it is germane; it is in order under the ruling of the Senate a few minutes ago; and that decision opens the door to the interposition of every special amendment or private claim, and I cannot do anything else at this time except to ask the Senate to vote it down.

Several SENATORS. Move to lay it on the table.

Mr. WALLACE. I cannot move to lay this amendment on the table, for that would carry the bill with it. This is not, under the decision of the Senate, a general appropriation bill, and so the bill would go to the table with the amendment. The proposition is, in effect, a private claim, which is forbidden under Rule 30. I cannot raise the point of order there because this is not a general appropriation bill. I know nothing about the merits of the case; it may be a perfectly just and proper claim; but it has not been considered by the committee, and I can only ask, on behalf of the committee, that it may not be put upon this bill.

Mr. CAMERON, of Wisconsin. It appears from the communication just read by the Clerk from the Secretary of State that he communicated to the Committee on Appropriations the fact that there was this claim, and I understand from that communication that the matter either was or should have been brought before the committee. I know nothing of the facts except from the statement made by the Secretary.

Mr. DAVIS, of West Virginia. I should like to ask the Senator a question. When did this claim arise?

Mr. CAMERON, of Wisconsin. In 1869.

Mr. DAVIS, of West Virginia. Ten years ago?

Mr. CAMERON, of Wisconsin. Yes, sir.

Mr. DAVIS, of West Virginia. What is the amount?

Mr. CAMERON, of Wisconsin. A little over $500. It is brought up by a very recent letter from the State Department. I understand that Dr. Brink performed this service at the request of the then minister in Mexico, and that he has not been paid. It appears that he has not been paid, from the communication which has been read. I know nothing further in regard to the merits of the claim. He performing the service at the request of the minister, the Government had the benefit of the service, and he has not been paid for that service. Why the matter has not been presented to Congress before this, or whether it has or has not been presented, I do not know.

The PRESIDENT, *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

The amendment was rejected.

Mr. FARLEY. I offer the following amendment to be added to the bill:

PUBLIC LANDS.

Office surveyor-general of California:

1. For furnishing township plats, maps, and descriptive notes of lands surveyed in former years but not furnished to local land offices, $8,000.
2. For representing one thousand mineral surveys on official township plats, $5,000.
3. For making maps, &c., in arrears under act of 1866, swamp and school lands, $6,000.
4. For bringing up arrears in drafting and other work in relation to private land claims, $3,000.
5. To enable the Secretary of the Interior to pay William L. McKim the balance due on his surveying contract, approved September 15, 1873, $2,065.14.

Total of deficiency, $24,065.14.

Mr. WALLACE. I am compelled to interpose the same objection to this amendment that I did to that of the Senator from Wisconsin. I must treat both Senators alike. This was not considered by the committee. The claim may be entirely just and proper, but I think it ought not to be placed on this bill. I shall have to ask the Senator to defer it to some other occasion.

Mr. FARLEY. I will only say that these deficiencies appear from recommendations made by the Treasury Department and also by the Commissioner of the General Land Office. A large amount of labor has been performed by the surveyor-general of California, for which he has received no compensation. He had a number of clerks in his office preparing these maps and doing actual necessary labor that has been entirely unprovided for. The result will be to stop the business of that office unless some appropriation is made by which the surveyor-general will be enabled to carry on the business of the office.

I confess that I did not receive this information until it was too late to present the matter to the committee. I received a communication on the subject from the surveyor-general of California a day or two ago and referred it to the Treasury Department and also to the Secretary of the Interior. These appropriations are important to the interests involved in the public lands of that State. My judgment is that unless some appropriations are made such as I ask for in the amendment I have offered the business of the surveyor-general's office in the State of California will entirely cease for the time being, and parties who have rendered service to the Government will be deprived of their pay entirely for three or four years.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California.

The amendment was rejected.

Mr. WALLACE. I ask leave to make a verbal amendment restoring the word "fourth" in line 4, page 3, and also inserting after the word "House," in line 45 "two of them from and including April 1, and the remaining six;" and in line 48, after the word "Congress," inserting "during the present fiscal year;" so as to make the clause read:

To pay eight messengers in the post-office of the House, two of them from and including April 1, and the remaining six from and including April 4, 1879, until the conclusion of the present session of Congress during the present fiscal year, at the rate of $800 each for seven months.

Mr. EDMUNDS. Will the Senator explain that?

Mr. WALLACE. It lessens the amount of appropriation made, and is brought here by the committee of the House to correct the bill.

Mr. EDMUNDS. It seems to be all right.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Pennsylvania.

The amendment was agreed to.

Mr. BAYARD. I offer the following amendment:

For mileage of Senators and Members of the House of Representatives and Delegates from Territories, whose term of office began on the 4th day of March, 1879, and who actually traveled from their respective States and Territories to attend the present session of Congress, $100,000, or so much thereof as may be necessary.

I desire to say, Mr. President, one word in explanation of the amendment. Either my friends on this side of the Chamber who have spoken on the subject misapprehend the facts, or I do. It is my desire that the gentlemen who took their seats here on the 18th of March and who have not received mileage this year shall receive the same mileage as I and the others of us who took our seats on the first Monday of December previous. I cannot understand how that will make the mileage unequal. We received mileage on the first Monday of December and were entitled to it. They took their seats on the 18th of March. They will receive but one mileage for this year. We were paid in December; they are to be paid in March. They are not to be paid oftener than we, or more in proportion than we. Suppose the present session of Congress ends, and on the 1st day of next December it reconvenes in regular session; what happens then? They will receive mileage the same as the rest of us. But my idea is that gentlemen who have lately come into the Senate or into the House should receive the same mileage that they would have received had their terms of service commenced in December. I believe that this amendment accomplishes that; and if I am right in my theory, then it is just that this amendment should be adopted.

Mr. MCDONALD. I would suggest to the Senator from Delaware that there ought to be this added, that it shall not be construed as repealing the present law in regard to the mileage of Senators and Representatives.

Mr. BAYARD. If that cautionary amendment will protect against a second payment of mileage to anybody, I assent to it. Will the Senator put his words in form, as "*Provided*, That nothing herein contained shall repeal the present law on the subject of mileage?"

Mr. KERNAN. Necessarily it must change the present law. That only provides for paying mileage for coming to and going from regular sessions. That is the very language of the law.

Mr. WALLACE. I must interpose my objection to this as I did to the former amendment. This proposition is in effect to pay mileage to every member of the House who was at home between the 4th of March and the 18th of March, whether he was of the last Congress or of the present Congress. That is the inevitable effect of it. Or if he came in on the 4th of March, as all members came in on the 4th of March, and actually traveled, then every member of the House who went home who was a member of the last Congress is entitled to

mileage. That is the inevitable result. So, practically, double mileage goes to the gentlemen who were in the former House and who went home after the 4th of March and returned on the 18th of March if they are members of this Congress and were of the past Congress.

It seems to me that the only safety is to stand by the law, and pay Senators and Representatives mileage for each regular session. That is the law, and this being an extra session we ought not to change the law.

Mr. HOAR. There have been three or four amendments moved to this bill, to which the Senator from Pennsylvania replied when they were offered that they had not been submitted to the committee, and he thought very likely they were perfectly just in themselves, and if they came up at a proper time might be adopted; but he appealed to the Senate to stand by him in not putting anything on to this bill, however just, which had not been submitted to the committee, as it would have been if this had been a general appropriation bill. The Senate concurred in that view, and without a division, with substantial unanimity voted down propositions for the benefit of persons not members of the Senate, which had the authority in one case of the Department of State and one of the Senators on this floor for their justice. Now, how, with what face can any Senator who voted down those amendments without even inquiring into their justice, vote to put on an amendment which has not been submitted to the committee because it is for the interest of members of Congress?

Mr. THURMAN, (Mr. EDMUNDS in the chair.) I hope my friend from Delaware will withdraw this amendment. If I am not entirely mistaken the inevitable effect of it, although I do not think he intends it, is to double the mileage of every Senator and Representative except those few Senators and Representatives who did not leave Washington City between the end of last session and the beginning of this.

I think if there ever was anything that was obnoxious to the people of the United States it was the increase that was made in the pay of members of Congress several years ago, and which very soon passed from the statute-book. Now, to begin this Congress by doubling the mileage (which in the case of some Senators would put three or four or five thousand dollars in their pockets) of all Senators and Representatives, except a few who happened to stay here in Washington instead of going home, it does seem to me would be extremely obnoxious.

It is said that Senators who have just come in and did not belong to the last Congress stand on a somewhat different footing from others. That is a mistake. They all get their mileage at the same time we get our mileage; that is, at the first regular session. The law is precisely the same in respect to them as it is with respect to us. They get their mileage at the first regular session, and, although it may have been some inconvenience to them to be at the expense of traveling here to this extra session, that is an expense to which we are all subjected when an extra session is called. The language of the statute is expressly that mileage for extra sessions shall not be paid, but only one mileage in a year for the regular session. I hope, Mr. President, that that will not be changed, and I am quite sure that my friend from Delaware cannot mean that there shall be this double mileage, but yet that is the inevitable effect of his amendment if it should be adopted. I hope he will withdraw it.

Mr. HEREFORD. I ask that the amendment be reported.

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) The amendment will be again read.

The Chief Clerk read the amendment of Mr. BAYARD.

Mr. BAYARD. Mr. President, the Senator from Ohio is very just in supposing that I have no idea of double mileage as to any one. The only object of my amendment is that gentlemen who were absent at their homes and were summoned to and came to this session of Congress should be put on an equal footing with those of us who were in the Senate and equally summoned last December, and that there should not be a double mileage to any one. If my friend will consider for a moment, I think he will admit that this is not a case of double mileage to the new Senators. It by its terms excluded those who took their seats here before the 4th of March. There can be no double mileage, therefore, to those who may be termed old Senators; they are expressly excluded. Then the question is simply whether this extra session which called them from their homes to attend here on the 18th of March should entitle them to mileage for that actual service or not. I did not design that any benefit of one dollar should accrue to the old Senators, if I may describe them as such, those who were in Congress prior to the 4th of March last, but only those who came to Congress on the call of the Executive on the 18th of March. I have no desire whatever that there should be anything like a double mileage or extra gain by any one; but I hold that a man who came here originally from his home on the 18th of March ought to be paid as much mileage as one who came here on the 1st of December last. If I had been unable to attend here in my place on the 1st of last December, but had come here on the 18th of March, I would have received my mileage in March just as I would have received it in December if here; one mileage and no more. There is no double mileage about it. This amendment expressly excludes members who took their seats prior to the 4th of March, 1879.

Mr. HAMLIN. I wish to ask the Senator from Delaware a question. Suppose that this amendment is adopted, and members are all paid in pursuance of its provisions, what is there to prevent their getting another mileage next December under the general law? There is no limitation, if I can read it or understand it when it is read. That is the trouble.

Mr. BAYARD. A proviso was suggested by the honorable Senator from Indiana, that the law prescribing but a single mileage in each year should not be altered by this amendment.

Mr. HAMLIN. But if this amendment should be adopted, and Senators and Representatives should be paid under it, if I understand the force of language at all, the existing statute will apply to us all alike next December; therefore the new members elected for this Congress get three mileages, while the old ones get but two.

Mr. MCDONALD. I did suggest such an amendment, but my present impression is that it is better to let the new members wait until the first Monday in December to draw their mileage like the rest of us.

Mr. HEREFORD. I am opposed to the amendment of the Senator from Delaware for this reason: if the amendment shall prevail Senators of the United States and members of the House of Representatives get pay which they do not get as the law now stands. That is very clear. If it were not so there would be no use in offering the amendment at all.

The argument of the Senator from Delaware seems to be that if this amendment should not prevail those whom he terms the new Senators would be dealt by unjustly. In what way? Congress adjourned on the 4th of March. The Executive called us here for the 18th. Those Senators knew when they were elected that if there should be an extra session they would have to come to it at their own expense. We all knew when we were elected that if there should be any extra sessions we should receive no mileage for them. Now, why change the law?

Again, if this amendment of the Senator from Delaware shall prevail, what will be the result? It will be that those whom he terms the new Senators will get mileage for the extra session; they will get mileage again when they come in December next, and they will get mileage the third time when they come in the December following; so that the members of the House of Representatives and the new Senators will get three mileages during this Congress, while under the law as it stands they can only get two. That is the length and breadth of this amendment, that the new Senators will receive mileage three times during one Congress, and the other Senators will not, and the members of the House of Representatives will receive three mileages during one Congress, while as the law now stands they can only receive two.

For these reasons, Mr. President, I am opposed to this amendment and all amendments of any nature or kind that shall in any way tend to pay the Senators or members of the House of Representatives more than that which they were entitled to receive at the time they were elected.

Mr. BAYARD. Mr. President, this amendment seems open to very different interpretations. My design is that no one shall receive double mileage; but I am satisfied that at this session injustice has been done. Under the circumstances, however, I desire to withdraw the amendment I offered

The PRESIDING OFFICER. The amendment proposed by the Senator from Delaware is withdrawn.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm;

A bill (H. R. No. 609) to prescribe the times for holding the circuit and district courts of the United States in the district of Kentucky;

A bill (H. R. No. 1152) to extend the time for the payment of preemptors on certain public lands in the State of Minnesota and Territory of Dakota;

A bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River; and

A bill (H. R. No. 1377) to amend section 5440 of the Revised Statutes.

REFERENCE OF A DOCUMENT.

Mr. TELLER. I move that Senate Executive Document No. 18, of this session, being a letter from the Secretary of the Treasury, transmitting, in answer to a Senate resolution of April 23, 1879, information in relation to balances audited and due for the transportation of mails prior to July 1, 1878, unprovided for by existing appropriations, be referred to the Committee on Appropriations.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1152) to extend the time for the payment of preemptors on certain public lands in the State of Minnesota and Territory of Dakota—to the Committee on Public Lands.

A bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm—to the Committee on Naval Affairs.

A bill (H. R. No. 609) to prescribe the times for holding the circuit and districts courts of the United States in the district of Kentucky—to the Committee on the Judiciary.

A bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River—to the Committee on Transportation Routes to the Seaboard.

A bill (H. R. No. 1377) to amend section 5440 of the Revised Statutes—to the Committee on the Judiciary.

PREVENTION OF EPIDEMIC DISEASES.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, being the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States. The bill will now be read at lenth, it being before the Senate as in Committee of the Whole. The Chair will ask the Senator from Tennessee [Mr. HARRIS] whether he desires the original bill read or only the substitute.

Mr. HARRIS. The substitute for the bill need only be read. It is not necessary to read the original bill at all.

The PRESIDING OFFICER. If there be no objection the substitute reported by the committee will be treated as the original bill for the purposes of reading and amendments. Is there objection? The Chair hears none and the substitute will be read.

The Chief Clerk read the amendment reported by Mr. HARRIS, from the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, namely:

Strike out all after the enacting clause and insert the following:

That it shall be unlawful for any vessel engaged in the transportation of goods or persons from any foreign port to enter any port of the United States, except in accordance with the provisions of this act and all rules and regulations made in pursuance thereof; and any such vessel which shall enter or attempt to enter a port of the United States in violation thereof shall forfeit to the United States a sum, to be awarded in the discretion of the court, not exceeding $5,000, which shall be a lien upon said vessel, to be recovered by proceedings in admiralty in the proper district court of the United States. And in all such proceedings the United States district attorney for such district shall appear on behalf of the United States, and all such proceedings shall be conducted in accordance with the rules and laws governing similar cases in admiralty.

SEC. 2. All such vessels shall be required to obtain from the consul, vice-consul, or other consular officer of the United States at the port of departure or from the medical officer, where such officer has been detailed by the President for that purpose, a certificate in duplicate setting forth the sanitary history of said vessel, and that it has in all respects complied with the rules and regulations in such cases prescribed and herein authorized for securing the best possible sanitary condition of the said vessel, its cargo, passengers, and crew; and said consular or medical officer is required, before granting such certificate, to be satisfied the matters and things therein stated are true; and for his services in that behalf he shall be entitled to demand and receive such fees as shall by lawful regulation be allowed, to be accounted for as is required in other cases.

That upon the request of the National Board of Health the President is authorized to detail a medical officer to serve in the office of the consul at any foreign port for the purpose of making the inspection and giving the certificates hereinbefore mentioned: *Provided*, That the number of officers so detailed shall not exceed at any one time six: *Provided further*, That any vessel sailing from any such port without such certificate of said medical officer entering any port of the United States shall forfeit to the United States the sum of $500, which shall be a lien on the same to be recovered by proceedings in admiralty in the proper district court of the United States. And in all such proceedings the United States district attorney for such district shall appear on behalf of the United States, and all such proceedings shall be conducted in accordance with the rules and laws governing similar cases in admiralty.

SEC. 3. The National Board of Health shall make all needful rules and regulations authorized by the laws of the United States for the prevention of the introduction into, and spread within, the United States of contagious or infectious diseases, which shall be uniform, and subject to approval by the President, and shall be charged with the execution of the same, and of the provisions of this act and all other laws of the United States for the prevention of the introduction and spread of contagious or infectious diseases, and all quarantine regulations established under the authority of said laws in respect to all vessels and vehicles engaged in commerce with foreign nations and among the several States, whether by land or water.

SEC. 4. It shall be the duty of the National Board of Health to obtain information of the sanitary condition of foreign ports and places from which contagious and infectious diseases are or may be imported into the United States, and to this end the consular officers of the United States at such ports and places as shall be designated by the National Board of Health shall make to said Board of Health weekly reports of the sanitary condition of the ports and places at which they are respectively stationed, according to such forms as said Board of Health may prescribe; and the Board of Health shall also obtain, through all sources accessible, including State and municipal sanitary authorities throughout the United States, weekly reports of the sanitary condition of ports and places within the United States; and shall prepare, publish, and transmit to the medical officers of the Marine Hospital Service, to collectors of customs, and to State and municipal health officers and authorities weekly abstracts of the consular sanitary reports and other pertinent information received by said board; and shall also, as far as it may be able, by means of the voluntary co-operation of State and municipal authorities, of public associations and private persons, procure information relating to the climatic and other conditions affecting the public health; and shall make to the Secretary of the Treasury an annual report of its operations, for transmission to Congress, with such recommendations as it may deem important to the public interests; and said report, if ordered to be printed by Congress, shall be done under the direction of the board.

SEC. 5. That the National Board of Health shall from time to time issue to the consular officers of the United States and to the medical officers serving at any foreign port, and otherwise make publicly known, the rules and regulations made by it and approved by the President, to be used and complied with by vessels in foreign ports for securing the best possible sanitary condition of such vessels, their cargoes, passengers, and crews, before their departure for any port in the United States, and in the course of the voyage; and all such other rules and regulations as shall be observed in the inspection of the same on the arrival thereof at any quarantine station at the port of destination, and for the disinfection and isolation of the same, and the treatment of cargo and persons on board, so as to prevent the spread of cholera, yellow fever, or other contagious or infectious diseases; and it shall not be lawful for any vessel to enter said port to discharge its cargo or land its passengers except upon a certificate of the health officer at such quarantine station, certifying that said rules and regulations have in all respects been observed and complied with, as well on his part as on the part of the said vessel and its master, in respect to the same and to its cargo, passengers, and crew; and the master of every such vessel shall produce and deliver to the collector of customs at said port of entry, together with the other papers of the vessel, the said certificates required to be obtained at the port of departure, and the certificate herein required to be obtained from the health officer at the port of entry.

SEC. 6. That the rules and regulations made and approved as herein authorized shall be promulgated, so that when cholera, yellow fever, or other contagious or infectious disease shall be ascertained by the Board of Health to exist in any port or place within the United States, in such form as threatens its spread, the communication of the same to other ports and places within other States, by means of vessels and vehicles engaged in the transportation of goods or passengers between two or more States, shall, as far as practicable, be prevented; and in that case the Board of Health shall select suitable localities for establishing stations on the rivers and other lines of interstate commerce and travel, and may cause to be erected necessary temporary buildings for the disinfection of passengers, baggage, cargoes, vessels, and vehicles, and may enforce such rules and regulations relating thereto as may have been prescribed therefor.

SEC. 7. That it shall be the duty of the National Board of Health, so far as it may, in the execution of the powers conferred upon it by law, to invite the co-operation of, and to correspond and co-operate with, local sanitary officers, boards, and authorities, acting under the laws of the States, in sanitary measures, to prevent the introduction and spread of contagious and infectious diseases from foreign countries into the United States, and from one State into any other State, by means of commercial intercourse upon and along the lines of interstate trade and travel; and to that end it shall be lawful for said Board of Health to confer upon any such local officer or board within or near the locality where his or its authority is exercised, power also to enforce the provisions of this act, and all rules and regulations made in pursuance thereof. And in case such local officer or board shall refuse to execute and enforce the laws of the United States, and the rules and regulations of the National Board of Health made in pursuance thereof, for the inspection, disinfection, and treatment of vehicles and vessels, their cargoes, passengers, and crews, or, in the opinion of the National Board of Health, shall neglect or fail to do so, it shall be the duty of the President, upon the application of the National Board of Health, to detail from the medical staff of the Army or Navy, or the Marine Hospital Service, a suitable officer to execute and enforce said laws, rules, and regulations, or to appoint some suitable person for that purpose. And it shall be the duty of the National Board of Health to report the facts to the governor of such State, with such sanitary advice as the board may think proper in the premises.

SEC. 8. That to pay the necessary expenses of placing vessels in proper sanitary condition, to be incurred under the provisions of this act, the Secretary of the Treasury be, and he hereby is, authorized and required to make the necessary rules and regulations fixing the amount of fees to be paid by vessels for such service, and the manner of collecting the same.

SEC. 9. That the National Board of Health is hereby directed to make, or cause to be made, an investigation into the contagious or infectious diseases of domestic animals in the United States intended for interstate transportation, and especially such as tend to interfere with the supply of wholesome animal food, and into the best means of controlling or preventing such diseases, and to report the result of its investigations to the Secretary of the Treasury, to be by him transmitted to Congress at its next session.

SEC. 10. That the National Board of Health is also directed to cause a thorough inspection to be made of all animals arriving at, or expected from the different shipping ports of the United States, and to cause the owners or shippers of such cattle to be promptly notified of the results of such inspection, with such recommendations as may be proper in each case. It shall also notify State and local sanitary authorities of the existence of such diseases of domestic animals as it deems proper to bring to their notice, with such recommendations as may be deemed expedient in each case.

SEC. 11. That the President is authorized, when requested by the National Board of Health and when the same can be done without prejudice to the public service, to detail officers from the several departments of the Government, for temporary duty, to act under the direction of said board, to carry out the provisions of this act; and such officers shall receive no additional compensation except for actual and necessary expenses incurred in the performance of such duties.

SEC. 12. That to meet the expenses to be incurred in carrying out the provisions of this act, the sum of $650,000, or so much thereof as may be necessary, is hereby appropriated, to be disbursed under the direction of the National Board of Health, which shall make to the Secretary of the Treasury a full and accurate report of its operations under this act, and of all expenditures connected therewith, to be by him reported to Congress.

SEC. 13. That all acts and parts of acts inconsistent with the provisions of this act be, and they are hereby, repealed.

Amend the title so that it shall read: "A bill to increase the efficiency of the National Board of Health, and to prevent the introduction into, or spread within, the United States of contagious and infectious diseases."

Mr. HARRIS. Mr. President, anxious as I am to secure the earliest action which may be convenient or possible, and believing that nothing in the form of a general explanation of the pending bill will probably lessen or diminish the amount of debate that will arise upon it, I am inclined to proceed with its consideration without even attempting a general explanation. The committee will be glad to give at any moment such explanations as they may be able to give of whatever questions may arise or be suggested by Senators while the bill is under consideration.

While up I will propose an amendment suggested to me by the honorable Senator from Vermont [Mr. EDMUNDS] that I think proper to be adopted. In line 12 of section 1, I move to strike out the words "in admiralty;" so as to read:

Which shall be a lien upon said vessel, to be recovered by proceedings in the proper district court of the United States.

The amendment was agreed to.

Mr. HOAR. I rise merely to ask a question of the Senator from Tennessee, and that is, What other contagious or infectious diseases mentioned in the third line of the sixth section are within the contemplation of the committee as giving rise to this power? The section gives this great power over the commerce of the whole country to this Board of Health when they ascertain "cholera, yellow fever, or other contagious or infectious disease" to exist in any place in the country. What are the "other contagious or infectious diseases" which the committee had in mind?

Mr. HARRIS. I can mention small-pox as one of the diseases that

the committee had in mind. Yellow fever, cholera, and small-pox were the diseases that were chiefly considered as perhaps the most important and dangerous to the public health of the country. I suggest to the Senator from Massachusetts and to the Senate that perhaps the better mode of proceeding would be to take the bill section by section, and let us dispose of the various sections and whatever amendments may be offered to those sections as we proceed.

In line 17 of section 1, I move to strike out the words "similar cases in admiralty" and insert "the seizure of vessels for violation of the revenue laws of the United States;" so as to read:

And all such proceedings shall be conducted in accordance with the rules and laws governing the seizure of vessels for violation of the revenue laws of the United States.

The amendment was agreed to.

Mr. HAMLIN. Mr. President, I trust I feel the importance of doing, or attempting to do, something to prevent contagious diseases of an aggravated character from being brought here from foreign countries as much as any Senator in this body; but I want it done in the proper way. It seems to me that the provisions of this bill are unnecessarily harsh and severe, and are altogether too broad for the just rights of the commerce of the country, taking into account everything that should be done to prevent the spread of contagious diseases.

The first section of the bill imposes a fine not exceeding $5,000, to be a lien upon the vessel, against every vessel which shall enter or attempt to enter a port of the United States in violation of "the provisions of this act." The "act" is to go into effect immediately on its passage and approval. What notice is to be given to the flag that floats in the Mediterranean or the Indian Sea? How are the masters of those vessels to know that this is to be the law to-morrow, if the President should approve the bill to-morrow; and how are they to avoid the penalties of this measure if they should honestly and innocently enter one of our ports before actual knowledge shall reach them? Yet by the terms of the bill they would be subject to these penalties.

Again, turning to the third section of the bill we find that this Board of Health is made a legislative body co-ordinate with Congress. They are to make rules and regulations *ad libitum;* there are no restrictions, except that their measures are to be based upon the laws of the United States. I insist that in a wise and well-prepared scheme or bill designed to affect and remedy the evils complained of, we ought to know a little ourselves what are to be the rules and regulations which are to apply to all the vast commerce and navigation of this country. It is not too much to say to the commercial and navigating interest "we want to put restrictions upon your commerce and your navigation which shall prevent the spread of these diseases," but it is too much to say "we wish to delegate the power to a body of men who, while they are eminent for their medical knowledge and science, know no more of commerce than the remotest man on earth." There are two great interests to be harmonized. I insist that when we have such a bill before us we ought to know precisely ourselves what are the rules and regulations which are to be imposed and what are the restrictions which are to be placed upon our commerce. I say nothing about the general exercise of a power in derogation of State rights, because I believe we have the power, and I am for exercising it to the full extent that it shall be proper, taking into regard the just interests of all.

I think the committee that have reported this bill have omitted one duty. Instead of giving this full power to a board of men eminent, I repeat, for their skill and science in medicine, I think the committee should have given to us, that we may examine and look and judge for ourselves, the rules by which the commerce of the country is to be governed. Perhaps it may be said that that cannot be done in full, ample, and entire detail; but most assuredly the great and the leading rules that shall be necessary may easily be drawn, and they should be drawn, in my judgment, on consultation not only with medical men but with men of high commercial integrity and experience.

This bill is the reflex, I take it, of this medical board. They speak well undoubtedly from their stand-point, but there are at least two aspects in which this subject is to be viewed, two in which we are to consider it; first, to prevent as far as is practicable the spread of these contagious diseases, and to prevent their being brought here by our vessels; and next, that should be done in accordance with all the rights and with all the facilities that can be appropriately conceded to the commerce of the country. The two are together. Your bill has sought to treat the subject only from a single stand-point and on a single side.

It is too grave a power, I submit, to place in the hands of a few men, however eminent—too grave when it is known that interests great and important are to be considered, of which we may affirm that they are not experts and do not understand as well as other men in the community.

In placing restrictions like these upon our commerce, and in passing a law for a national system of quarantine like this, I ask the Senate if it is not simple, even-handed justice to let the mighty commerce of our country be consulted. When I speak of the commerce of the country I speak of the commerce of the prairies of the West; I speak of the commerce of the savannas of the South; I speak of the commerce that comes from the manufacturing interests of the North; I speak for all, and for no locality; because all which is the production of this country, whether it be raised upon the prairies of the West, or upon the savannas of the South, or in the shops of the North, all that finds a market in a foreign land, the owner has just the same interest in the navigation and commerce of the country as the man who owns or the man who sails the ship.

My attention has been only hastily called to this bill, and I have submitted these very brief remarks on what presents itself as important in my judgment. I ask the attention of the Senate to the consideration of the bill, and I trust that it will not be hastily passed.

I am beginning to doubt a little in the infallibility of the eminent men who constitute this Board of Health. They told us the other day that they were going to have a system that would expel all that was contagious from the holds and around vessels by forcing with proper machinery air that had been chilled by manufactured ice. I said then that we had to take very much of the plan by way of experiment, and I am for it now; but since the case of the Plymouth, which had been frozen up among the icebergs of New England during the last winter, the contagion of yellow fever having appeared upon it immediately on her going to sea, and before she had reached even a mild latitude, my faith in freezing yellow fever out of a vessel is very much shaken.

Still it is a most dreadful calamity; it appeals to us all; and I am one who is willing to try every reasonable experiment and to go every appropriate length. I do not feel that I am called upon to support a bill which shall put the whole navigation of this country in the hands of a class of men who are to frame the rules and regulations by which it is to be governed with no word of advice or counsel from the eminent mercantile and commercial men of the country.

Mr. HOAR. And the railroads as well.

Mr. HAMLIN. My friend suggests "and the railroads as well." Yes, the railroads as well; and I will go further; not only the railroads, but all that traffic which will necessarily come from the adjacent provinces by means other than railroads or sailing-vessels.

Mr. SAULSBURY. I should like to inquire of the Senator from Maine whether he has examined this bill sufficiently to answer the question whether there are not some provisions in the bill that might possibly conflict with the rights of other nations to carry on commerce with this country under commercial treaty stipulations?

Mr. HAMLIN. I was coming to that very point, if the Senator had listened but a single moment, although I cannot answer the Senator's question satisfactorily. I have not had time to examine our treaties, and I cannot therefore give an opinion as to how this measure may conflict with the stipulations in our treaties where we have guaranteed certain rights and accommodations to foreign powers. I am not able to state that, but it was a query which I had in my mind and which I was about to submit to the Senate, whether this broad, unqualified exercise of power over our own navigation and over our own commerce will not be found to be in contravention of stipulations which we have entered into with some of the foreign powers. I have not looked into that question; and I was myself going to put the inquiry as the Senator from Delaware has put it to me. This is a matter which ought to be a little more carefully examined than I have had the time to examine it, and I shall be very glad to hear from the distinguished Senators who have had charge of the bill, and with whom I am in entire sympathy, in trying to do what they themselves I think will say should be done. It is an important question; it is one which invokes the attention of the Senate and ought to receive it. Before we shall pass the bill, it certainly ought to be very wisely, very carefully, and very fully considered.

Mr. KERNAN. Mr. President, I can say for myself with entire sincerity, as was said by the Senator from Maine of himself, that I sympathize with any effort to protect the community, where they are not already protected by proper regulations, from these infectious diseases; but I think that every gentleman who has a constituency where there is a seaport town or city and a large commerce must have heard his constituents express a good deal of solicitude lest we needlessly under this measure embarrass commerce.

I wish to make one or two suggestions about the proposed law. It does not prescribe regulations as we do in revenue cases, but the third section provides that—

The National Board of Health shall make all needful rules and regulations authorized by the laws of the United States for the prevention of the introduction into, and spread within, the United States of contagious or infectious diseases, which shall be uniform, and subject to approval by the President.

By looking at this measure and other laws it will be seen that what is needful is really submitted to this Board of Health at Washington, who are far away from the experience of our ports. Then the bill provides that any vessel which does not observe the rules and regulations made by the board shall be subjected to very severe penalties. Then when you come to the seventh section, it provides that this board shall co-operate with the local sanitary officers. But the same section provides:

And in case such local officer or board shall refuse to execute and enforce the laws of the United States, and the rules and regulations of the National Board of Health made in pursuance thereof, for the inspection, disinfection, and treatment of vehicles and vessels, their cargoes, passengers, and crews, or, in the opinion of the National Board of Health, shall neglect or fail to do so, it shall be the duty of the President, upon the application of the National Board of Health, to detail from the medical staff of the Army or Navy, or the Marine Hospital Service, a suitable officer to execute and enforce said laws, rules, and regulations, or to appoint some suitable person for that purpose.

Therefore, if this board, with the best intention, shall make rules

and regulations which are at war with the rules and regulations which have been found by long experience in a port like New York to be best and entirely effective, the local officer, with all the experience of his office of fifty years, is to be swept aside and some other person put there to place other rules and regulations in force.

I am speaking now as to the local officer being most qualified to decide what is best to keep out disease from the community living around the port; but take another view of the case. The board here, in making general rules and regulations for vessels engaged in the merchant marine, may subject them needlessly to restrictions that will embarrass and be very detrimental to commerce. I have received letters from merchants expressing apprehension on the subject. I have in my hand an article which I cut from the New York Journal of Commerce of the 24th of March, 1879, by the editor, prefacing a letter from Dr. Vander Poel addressed to that journal in reference to the workings of an order which had recently been issued.

I beg gentlemen to realize the fact that the Journal of Commerce is as intelligent, as reliable, and as much devoted to the health and the commerce and the prosperity of the mercantile marine and the mercantile community of New York as any other paper in the country. I beg the Senate to hear what the editor says prefacing the letter, and then the letter itself, with a view to directing attention to the danger there is of doing needless injury to the commerce of the country. I ask the Clerk to read it, beginning with what the editor says, and then to read the letter which follows. It is an open letter from Dr. Vander Poel.

The Chief Clerk read as follows:

There is danger that the well-meant efforts of the Treasury Department to prevent the introduction of the plague at this port will prove a serious embarrassment to our foreign commerce. We presume that "the power behind the throne" which has moved the Secretary to this effort *has less in view the public safety than the strong desire of certain officials and political partisans to transfer this whole quarantine establishment to government control.* There is no occasion for any such interference. Our health officer has as high regard for the safety of our city as prevails at Washington, and what is of far more importance, an experience and skill that cannot be matched by any one in the service of the General Government. When Dr. Vander Poel sends a vessel up to the city to discharge, the Secretary of the Treasury need not interfere in behalf of the public safety. The following from the head of our State establishment will be heartily indorsed by our citizens:

QUARANTINE, *March* 22, 1879.

Editor of the Journal of Commerce:

DEAR SIR: The recent order from the Treasury Department, marked "Marine Hospital Service No. 1, series 1879," is so remarkable in character, and affects so vitally large commercial interests at this port, that I desire to call your attention to what I regard its defects.

The paragraph in question is as follows: "Until further orders, no vessel from any port in the Black Sea or the Sea of Azof, conveying any rags, furs, skins, hair, feathers, boxed or baled clothing or bedding, or any similar articles liable to convey infection, nor any vessel from any port of the Mediterranean or Red Sea having on board such articles coming from Southern Russia, shall enter any port of the United States," &c.

The above quotation contains the essential part subject to criticism.

First. If the intent of the order is to prevent the access of plague, it betrays such an ignorance of the channels of trade by which Russian rags would reach this country that it is perfectly useless. I am safe in asserting that not a Russian rag has been imported into this country by way of the Black Sea or the Sea of Azof for ten years past. The last were from Taganrog, on the Sea of Azof, about that length of time ago.

Russian rags reach here by entirely different routes than those specified in the circular.

Second. Admitting, however, that rags came from Black Sea ports, they would not reach them from the infected district. Taganrog, on the Sea of Azof, is the nearest seaport to the seat of the plague, and is distant over four hundred miles, with no large route of travel and no regular line of communication.

Third. All ports on the Mediterranean have quite as vital an interest in protecting themselves from the incursions of the dread scourge as the people of this country. It is known also that the quarantine restrictions are rigid, and oftentimes superstitious in the extreme. Is it to be supposed for a moment they would permit the entry of infected rags or rags coming from suspected localities, to be reexported, particularly when we state the manner those rags are gathered for export. Now, when the Mediterranean ports all established quarantine against the ports of the Black Sea and Sea of Azof, these quarantines have in every instance been raised. Are we more endangered than the nearer and denser populations?

Fourth. A statement of the methods by which rags are gathered is legitimate in this discussion. Without exception, in all ports of Europe from which rags are sent they are gathered as follows: The coasting vessels in the Mediterranean pick them up in small quantities at the different places of trade. They are brought loosely packed to the place of export. Here they are all sorted, washed, and then baled in solid bales, seldom reaching this country in less than three years from the time of gathering.

Fifth. No case of sickness has ever occurred in this country traceable to imported rags. Sporadic cases of small-pox occur among persons assorting, but in every instance it has been traced to rags gathered in the vicinity or from some part of this country. This statement derives importance when it is considered there are nine hundred and forty-eight paper mills in the United States, and that there was imported in New York alone in 1878 121,348 bales of rags and paper stock. Shall this immense interest be jeopardized by the enforcement of an order based on wrong premises?

The practical workings of this order are now to be enforced at this port.

First. In a vessel which on her arrival some ten days since was one hundred and twelve days from Trieste, having left there before the plague appeared on the Volga. After a careful consideration of all the facts of the voyage and those specified I gave the vessel "pratique."

Second. A vessel from Leghorn, ninety days on passage. On the smallest estimate of time over a year has elapsed since the rags were gathered, and pratique was also granted.

The order from Washington is, I understand, mandatory that the cargo of both vessels shall be discharged at a distance from the city, and either destroyed or the bales broken open and the rags aired, disinfected, &c.

If my statements are correct would such a course be considered a "rational quarantine," or just to the commercial interest of the port?

Very respectfully,

S. OAKLEY VANDER POEL,
Health Officer of the Port.

Mr. KERNAN. I desired that article to be read in order to call attention to what an intelligent commercial paper and a very experienced quarantine officer say in reference to these orders thus made.

You will observe that there has never been, as Dr. Vander Poel says, any disease brought to the country in any such cargoes, and he gives the reason why. He authorizes the vessel to come up and discharge its cargo, and yet under the order of the Treasury, well meant, all its cargo substantially must be destroyed.

What I fear under this bill is that without any necessity, acting from Washington here, by general orders on commerce, our commerce will be greatly injured and some of our merchants, as they think, almost ruined. This should not be the case. If we attempt to prescribe regulations here, we should prescribe them in the statute and get all the information we can to show that we do nothing needlessly detrimental to commerce; or we should have a law by which we confer authority on the State officers, the local quarantine officers, so that they may exercise their judgment when these regulations are to be enforced and when not.

As I said once before, no people are so solicitous in regard to this matter as the local officers. Nearly a million and a half of people live right around the harbor of New York. They are to be scourged if any infectious disease of a virulent character comes in; and they have for seventy-five years been guarding themselves so carefully that for forty or fifty years nearly we have kept everything of the kind out that was seriously dangerous to the community. Now, it is proposed to have all that overridden by well-meaning men who are not familiar with the system in operation there, and who have not had the experience which has been had there. First we run the risk that they will not protect our community from infectious diseases as well as they have been protected by the local officers and by the Legislature making regulations upon the subject, with changes made from time to time to perfect the system; and, secondly, from a well-meant zeal to protect health, I fear there will be needless serious detriment and injury to the commerce of that great port and to the people who are engaged in that commerce.

Mr. MORGAN. If the Senator will allow me, I desire to say that I propose to offer an amendment, to come in at the end of the thirteenth section of the bill, which possibly may modify if not remove some of the objections which he urges.

Mr. KERNAN. I will wait and see when that is proposed.

Mr. CONKLING. Let the Senator from Alabama read his amendment now.

Mr. KERNAN. Certainly.

Mr. MORGAN. I propose to add the following proviso:

Provided, That nothing in this act contained shall be so construed as to supersede or impair any sanitary or quarantine law of any State.

Mr. KERNAN. That would improve the bill very much. I desire now not to discuss the measure at any length, but to call attention to the danger of a general bill like this, giving this board authority to make regulations which shall bind anybody under penalties as to ports like New York, Boston, Baltimore, and other places.

Mr. CONKLING. Mr. President, not meaning at this moment to make any comments upon this bill, I rise to beg the Senator from Alabama, who has read for information an amendment which he proposes, to state, if he will, what in his judgment will be the legal effect of sections like these which do transplant from the State authorities to the national authorities here named absolute power, which do repeal all sections conflicting with these sections, and which do thus deposit powers such as my colleague has referred to with the authorities here proposed, supplemented by a provision like his, that nothing therein shall be construed to interfere with the quarantine laws of States or their execution?

Mr. MORGAN. If I understand the question of the Senator from New York, I will say in answer that I think the bill as reported by the committee would virtually repeal all the sanitary laws and regulations of the States. The bill, as I understand it, must be based upon the idea that Congress has the right to legislate over the entire subject included in this bill, and having this right of legislation over the subject, as is conceded in the bill, it has the supreme power to legislate in a plenary way on the subject. The necessary result will be that any enactment of Congress coming in conflict with the sanitary laws and regulations of the States would abrogate those laws.

My purpose is, as far as possible, to restrain or remove such an effect as that from this proposed statute. I do not know that my amendment fully accomplishes that purpose; but it does, so far as I can now see my way, restrain this act or limit its operation so as not to come in conflict with the sanitary and quarantine regulations of the States.

The legislation of Congress heretofore upon this subject since the first organization of the Government has been directly upon a reverse principle than that which is embodied in this bill. Congress by express enactment heretofore has required all its sanitary officers, and indeed all its revenue officers and all its officers who may be connected in any way with quarantine or sanitary regulations, to yield support and assistance to the authorities of the States. That is the express nature of the legislation now existing upon the statute-book. Up to this time Congress has never assumed jurisdiction to exercise the powers of quarantine even upon the coast, unless it might be in special instances where it has an exclusive right of possession, such as at the ports and dock-yards and places of that description. I do

not remember now that Congress has passed any special law even upon that subject; but surely the general legislation up to this time has been just the reverse of what is now proposed, as I will proceed to show very briefly by calling attention to some of the statutes. The first act was that of the 23d of February, 1799, which provides that—

The quarantines and other restraints established by the health laws of any State, respecting any vessels arriving in, or bound to, any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several revenue-cutters, and by the military officers commanding in any fort or station upon the sea-coast; and all such officers of the United States shall faithfully aid in the execution of such quarantines and health laws, according to their respective powers and within their respective precincts, and as they shall be directed, from time to time, by the Secretary of the Treasury. But nothing in this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

This is followed by other provisions in the same statute and by some provisions also in the amendatory statutes, all in the very same line of procedure, enjoining upon the officers of the United States Government of every description who may have any connection whatever with the import or export trade or commerce of the country to aid the States and the sanitary officers of the States in the enforcement of their rules and regulations for the preservation of the public health.

It has always seemed to me that under that species of legislation Congress might well go further and make certain contributions of money, wherever it might be considered necessary for the purpose of giving still further assistance to the local authorities in the enforcement of their quarantine regulations. But surely the bill as it is now presented totally reverses this line of action, and takes from the States that power and authority which Congress has hitherto been very careful to protect. It breaks down, as I understand, all the quarantine laws and sanitary laws of every description in the States which perchance may come in conflict with the provisions of this proposed act of Congress.

These are my impressions of the general nature of this proposed enactment. I may be mistaken in regard to it; and the Senators in charge of this subject may have it in their power to easily explain the difficulties which have presented themselves to my mind. I of course from the situation that I occupy in the country, living in a Southern State, an exposed State, most heartily sympathize in every measure that may be supposed in any way well adapted to the preservation of the health of that State and of all other States against the introduction of the yellow fever or any other epidemic. I would with great reluctance vote against any proposition which had that purpose for its object. I trust that the committee will cheerfully adopt the suggestion which I propose in this amendment, which is not now in order exactly, when it shall be reached, for the purpose as far as possible of limiting the effect of this legislation.

Mr. GARLAND. I do not know whether I understood the Senator from Maine [Mr. HAMLIN] to offer any amendment to the bill yet or not?

The PRESIDING OFFICER, (Mr. FERRY in the chair.) There is no pending amendment.

Mr. GARLAND. Then the Senator from Maine did not offer any amendment.

Mr. HAMLIN. If the Senator will allow me I will submit a motion; I will say nothing. I move that the bill be recommitted with instructions for the committee to report a code of rules and regulations by which the provisions of the bill are to be enforced.

Mr. KERNAN. Will the Senator from Maine yield to me a moment?

Mr. HAMLIN. Certainly.

Mr. KERNAN. I desire to call the attention of the committee and of the Senator from Alabama, who has taken an interest in the subject, to the law passed on the 29th of April, 1878. It is "an act to prevent the introduction of contagious or infectious diseases into the United States." There is to be found in that act a provision much similar to one in the bill before us. And I will read it:

And the said Surgeon-General of the Marine-Hospital Service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations shall be subject to the approval of the President.

That is much the language of this bill. Then follows this clause:

But such rules and regulations shall not conflict with or impair any sanitary or quarantine laws or regulations of any State or municipal authorities now existing or which may hereafter be enacted.

And then at the close of the fifth section the following proviso was put on in the House:

Provided, That there shall be no interference in any manner with any quarantine laws or regulations as they now exist or may hereafter be adopted under the State laws.

I call attention to this in order that the committee, if the bill should be recommitted, may look at this law. I think they will find also a provision as to railroads and persons passing from State to State, requiring them to comply with State laws on the subject of health. I merely wanted the committee to have the benefit of this law if the bill should be referred back to them.

Mr. GARLAND. The question now is upon the motion of the Senator from Maine to recommit the bill.

The PRESIDING OFFICER. To recommit the bill with instructions.

Mr. GARLAND. With instructions that the committee report back a code of rules and regulations to carry this proposed measure into effect. This motion has grown out of an objection suggested by the Senator from Maine himself in reference to the first and the third sections, the third section particularly, applying to the machinery of the bill. From that objection of the Senator from Maine the further suggestion of the Senator from New York, enlarging it, goes a little further than the mere machinery of the bill, and goes to its substance. That suggestion still enlarging, the Senator from Alabama has read for information an amendment which he proposes to offer which goes still further, to the very substance of the bill; in fact it goes to the whole merits of the measure as presented by the committee.

As one member of the committee, I should dislike very much to have the bill recommitted, for after a very painful and a very long examination of this subject the committee have done the very best they can with the proposition, and I think the Senate is competent to take the measure up and either pass it or pass some one that is better, or at least that will be more acceptable to them.

The National Board of Health—

Says section 3, from which all this trouble starts—

shall make all needful rules and regulations authorized by the laws of the United States for the prevention of the introduction into, and spread within, the United States of contagious or infectious diseases, which shall be uniform, and subject to approval by the President.

It will be seen from that, Mr. President, that this Board of Health has not the plenary powers over this subject that is claimed by the Senator from Maine. These rules and regulations must be submitted to the President of the United States for his approbation, and besides that, running through several sections of the bill, as will be seen by an examination of it, the Secretary of the Treasury, as the financial officer of the Government, has supervision over all this matter himself. Therefore these rules and regulations are doubly guarded, much more so than the rules and regulations put in force every day, with which the Senator from Maine is more familiar than I am, in the different parts of the United States in collecting and disbursing its revenue.

More than that: as was read by the Senator from Alabama, the statute of 1799, so far as it is a health statute at all, subjects your health officers now to thirty-eight different sets of rules and regulations, if all the different States have what are called quarantine laws and rules and regulations prescribed under them. We preferred in the committee to make this uniform, to make it certain, and to place it beyond all dispute.

If the National Health Board are not the proper parties to do this duty, if that fact has been discovered by the Senator from Maine, he owes it to himself, to the Senate, to the committee, and to the great measure that we have here, to propose some set of persons who are better qualified for the duty.

But the objection does not hold for another reason. The Senator from Maine says that there is no notice to these vessels. Section 6 provides for the publication of the rules and regulations; that they shall be published and promulgated; and nobody is taken unaware. No vessel can be accused of being seized innocently so far as the vessel is concerned; and every proper opportunity is afforded that the owners and masters of vessels shall know these rules and regulations.

In the commercial regulations of the country we know that the President has vast powers. We know that the Secretary of the Treasury has vast powers as to approving and putting in force those rules and regulations. I say to the Senator from Maine, and to any other Senator agreeing with him, that this is not the proper place to frame what he calls a code of rules and regulations to enforce this measure. The committee for a purpose fixed the duty upon the Board of Health, subject to these two approvals, in order to have some certain and some essential power to do this work, and not have them itinerating all over the country to see every corps of State officers that might be established here and there in order to set up the necessary rules and regulations.

Mr. MORGAN. Would it disturb the Senator if I should interrupt him?

Mr. GARLAND. Certainly not.

Mr. MORGAN. I ask the Senator whether, in his opinion, after this bill has become a law the adoption of the rules and regulations provided for in the section from which he has just read would repeal the State laws on the subject of health quarantine where they came in conflict?

Mr. GARLAND. I can answer the question without any difficulty so far as my own judgment goes. The bill was framed by the committee for a purpose—to have one general system of quarantine in this country, to prevent if possible the terrible scourges from which the country has so recently suffered. The inquiry propounded by the Senator from Alabama goes to the very center of the whole question. The committee claim that in establishing this system of national quarantine, except as affecting the health of the State proper, the State health laws must give way under the system; and that raises the very question at the foundation of the whole matter, which I suppose the Senate is not ready to go into a discussion of to-day; but

of course the committee expected to meet it before the Senate shall have finished the consideration of the bill.

That I may not be misunderstood, let me say that if Congress will legislate upon the subject at all it can legislate upon it entirely; it can take charge of it, except so far as the health regulations of the State affect the people of the State within the territory of that State. If the Senate determine that the committee is wrong as to this proposition, the amendment of the Senator from Alabama of course will meet with my approbation, for I want to do, as the committee wants to do, the best thing that can be done now, and if we cannot do just what we desire we are willing to do the next best thing. But if the Senate sustains the committee in its view of the proposition lying at the bottom of this question, the amendment of the Senator from Alabama, as I think he will see at once, will be unnecessary and of course will be in conflict with the bill, for the question must be met; if you are to have a national quarantine it must be a national one, and the State health laws conflicting with that, except so far as its own territory is concerned, must give way. That is the theory upon which we proceed.

The Senator from New York read from the statute of 1878 the last little health act which we passed in the last days of a session; the Senator from Alabama read the act of 1799, and we are living under twenty or more different rules and regulations in the country in reference to this matter.

To go back to the proposition upon which I was commenting when the Senator from Alabama asked me a question, section 7 of the bill provides:

> That it shall be the duty of the National Board of Health, so far as it may, in the execution of the powers conferred upon it by law, to invite the co-operation of, and to correspond and co-operate with, local sanitary officers, boards, and authorities, acting under the laws of the States, in sanitary measures, to prevent the introduction and spread of contagious and infectious diseases from foreign countries into the United States, &c.

That is a recognition of the local boards, of the State laws, and of the State rules and regulations as far as they may be consistent with the general regulations which we propose to make under the action of this Board of Health; but where they conflict with them, if they affect merely the State in which they operate, of course the Board of Health will have nothing to say.

The measure is based—and there is where it must stand if it stands at all—upon the right of Congress to regulate commerce with foreign countries and among the different States. If the measure cannot stand upon that proposition, it has no standing at all before the Senate and before the country. That is my answer to the question propounded by the Senator from Alabama, and that goes to the very center of this whole subject.

I would prefer as one of the committee, if such a course would suit the Senate, that we go forward with this bill and perfect it as far as possible now, and consider all these far-reaching questions as to the constitutionality of the measure and as to its widespread operation when we reach the question on the passage of the bill. Prior to that, however, on an amendment which may be offered by the Senator from Alabama, that discussion may be forced on us. But until some question shall be presented to raise these issues, I hope we shall not anticipate them. The committee do not desire to have the bill recommitted. I believe I can speak for the committee when I say that we have done all in reference to the measure that we are capable of doing, with the best lights that we had before us.

Mr. MORGAN. The Senator from Arkansas has somewhat elaborately presented his views and those of the committee on this bill, and I ought to say to him that I have intended to offer an additional amendment limiting the operation of this bill to a period of four years, trying this as an experiment and confining it at all events to that period of time.

Mr. HOAR. Mr. President, it seems to me that the Senate must determine the general principle upon which this bill is to go before undertaking to perfect its mechanism, because a bill to accomplish one object will require a very different local arrangement and very different machinery from that to accomplish another object. Now, what I suppose the country wants, what I suppose the committee principally want, is some measure that will prevent the spread of a single scourge, which has in the past, during the last year especially, afflicted one section of the country, to wit, the yellow fever. It is desirable to prevent the introduction of yellow fever from abroad, so far as it can be prevented by sanitary measures, and its spread, if introduced from abroad, from one State into another; and it will undoubtedly be found convenient in any mechanism provided for that purpose to include other disorders, like the cholera, which pass rapidly at stated periods over the surface of the globe and then disappear and go from country to country to spread and to be traced and measured. But this bill goes very much further than that. It puts into the power of a board of doctors, a board not containing a single lawyer, a board not containing a single merchant——

Mr. HARRIS. Will the Senator allow me to suggest to him a fact he has overlooked?

Mr. HOAR. I am told there is one lawyer.

Mr. HARRIS. The Department of Justice is represented upon the Board of Health.

Mr. HOAR. One lawyer; but a board, the large preponderance of which, the only persons whose sole official duties are to deal with the subjects named in this bill, are doctors; and everybody knows that physicians clothed with quarantine powers will expand those powers to the utmost. I do not believe I am uttering anything which is opposed to the common experience and information of observing men, when I say that more discomfort, more injury, more sickness even has been occasioned in the course of the last century to mankind by quarantine regulations than would have been by any disease which these quarantine regulations would have stopped.

That being the case, what do this committee undertake to do by this bill? They undertake to deal with the whole country, not merely those parts of the country where such diseases spread usually; they undertake to extend the power of this quarantine board to every kind of contagious disorder whatever—diphtheria, scarlet fever, any disease of infants or grown persons, of men or women, which may be communicated by contagion. These doctors are to have these vast national powers put in their hands to deal with.

The Senator from Maine [Mr. HAMLIN] and the Senator from New York on the other side of the Chamber [Mr. KERNAN] spoke of the power over foreign commerce which the bill gives; but the bill does not stop with putting foreign commerce into the power of this tribunal. All communication between New York and Jersey City, all communication between the two parts of the city of Fall River that lie on different sides of State lines, all communication between Boston and Providence, Philadelphia and Trenton, Boston and Portland, every communication by stage, omnibus, ferry-boat, or of any other kind, between the most compact portion of the settlements in this country is to be removed, so far as is necessary in the opinion of this board to prevent contagious diseases, from the local authority and exercised hereafter by a board of physicians sitting at Washington; and that proposition comes from the quarter where State rights and local self-government are supposed to be chiefly and principally cherished. Now, it seems to me the Senate must settle, before it provides its machinery, whether it proposes to do that thing or not.

Mr. CONKLING. Mr. President, whoever objects to this bill or to a bill on this subject must feel himself awkward and constrained if he also feels, as I am sure every Senator does, earnestly inclined to vote for anything likely to prevent or mitigate the scourge against which this measure is aimed; and therefore I feel—no doubt other Senators have felt—the ungraciousness of seeming to resist a measure so well intended. And yet, regarding the sanitary purpose alone, discarding entirely the consequences to commerce, and confining the view to the effect to be produced in the present season alone, I should speak uncandidly did I not say that I should hesitate then to vote for this bill.

I know, Mr. President, the great difficulty under which the committee has labored, a difficulty which illustrates the features and as I think the wisdom of the Constitution of the United States. The committee has invoked, has been compelled to invoke the vagrant clause of the Constitution, as it is called, the right of Congress to regulate commerce, commerce—it is material to exercise and emphasize that word for my meaning—with foreign nations and among the several States. They have no provision of the Constitution under which to proceed aimed at sanitary regulations, but regulations of commerce are those to which they were compelled to resort. I observed that some Senator mentioned that the committee had dealt not with a part of the country, but with the whole country. Yes, and because proceeding under this provision they were so compelled to embrace the whole country:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

When you consider commerce alone, the aptitude and reasonableness of that ordinance is very manifest; but when, under the commercial clause, you attempt to deal with diseases endemic, depending largely upon latitude and location, you have invoked an inconvenient, a rigorous, I will not say an impossible in the sense of convenience, provision of the Constitution. Very early and in a very famous case which grew out of the attempt of the pioneers in steam navigation to navigate the Hudson River and out of regulations which Connecticut and New York attempted to establish, a judgment was given by the Supreme Court, Chief-Justice Marshall being the organ of the court, which dealt with and distinguished between the faculty of this provision of the Constitution when exerting itself upon commerce and commercial regulations and when applied or an attempt was made to apply it to kindred considerations, pilot laws, health laws, inspection laws, and other instances of like kind. The court held, (and in a much more recent case, that of Cooley *vs.* The Port Wardens of the port of Philadelphia, the decision was followed,) that although the commercial clause of the Constitution did take from the States the power of commercial regulation, although it does occupy the ground and draw to itself and repose in Congress all the power which it speaks for, yet a vast residuum of power occupying the same domain covered by this bill had been left, and appropriately left, to the several States. Judge Marshall called them "police powers," the power to establish ferries, the power to build bridges. He did not say in so many words the power to build bridges, but his successors have inferred that he included that power; but he did speak of pilot laws, of health laws, of inspection laws, and so on, and termed them "police powers" properly left to the States to be exercised by the States, certainly in the absence of congressional interference.

Proceeding under this view, in the State of New York for one—I

speak of that State not because in reference to a topic like this I would speak for one State more than another, but only because I am better acquainted with the facts to which I mean to refer—in the State of New York, among other police regulations to facilitate commerce, to protect health, to guard all the included interests concerned in the port of New York, a quarantine establishment has been founded and perfected. More than a million and a half dollars have been expended upon it. I am told that it is regarded not only by scientific but by sea-going men as the model establishment of its kind on the globe. There has been no year in recent years when yellow fever has been absent always from the harbor and the bay of New York. It is always there; but so thorough, so perfect are the modes and the instrumentalities of dealing with it that I am told that never in a single case has it advanced beyond the shores or reached the shores, coming from the sea. The honorable Senator from Tennessee [Mr. HARRIS] cannot wish, I know he does not wish anything more effectual there in this regard than already exists. But proceeding under the commercial clause of the Constitution, commanded and compelled to deal with all parts of the country share and share alike when establishing regulations of commerce, that port as much as New Orleans or Mobile falls within the reach and disposition of this bill.

I said, Mr. President, that I should hesitate, looking at sanitary results alone, without further instruction, to vote for the pending measure; and I recur to it again to explain. It is now the first of May. The hot season is here. Everywhere, from the Saint Lawrence to the Gulf, in a very few weeks it will be as hot as it will be at any time during the summer. We are, therefore, in the immediate presence of the threatened calamity. The small-pox is raging in South America and in the West Indies; the plague ravages Russia; and the yellow fever is hovering about still nearer. What is the proposition? That not for next year, not for some future time, not after an interval of preparation and adjustment, but forthwith, instantly, an abrupt and radical change shall be made, a change of responsibility, a change of accountability, a change of methods, a change of the blanks and forms by which this business is to be carried on, new requisitions, unaccustomed conditions. And that to apply not only to all sea-going vessels, not only to all coastwise vessels, but, as has been said, I think truly, under this bill, to all vehicles whatsoever, however trivial or exceptional, by which merchandise, traffic, commerce is carried or may be carried across State lines. The Erie Canal which traverses the State of New York from Lake Erie to the Hudson is a continuous channel, receptive of other channels both by land and by sea, and the continuous artery of which that canal is a part overpasses many State lines; so that it, the railways, the ferries, the innumerable instances of carriage and transportation all over the country are to be immediately subjected to national scrutiny and that by modes untried and unknown.

Dealing still for a moment only with the sanitary quality of the measure, are Senators sure it is wise? Suppose it should occur at the single port of which I know most that the existing regulations, ample and sufficient because proved to be so over and over again, being superseded by novel modes, yellow fever should find its way into that port where the ships of all nationalities come to ride at anchor; suppose a plague, more cogently I might inquire suppose the small-pox, prevalent now in the West Indies (from which flotillas come all the time bringing fruit and other merchandise) should be brought in, not in an exceptional case, but in many cases, and the other infectious or contagious disorders to which reference is made, what then?

Mr. President, that is one aspect of this case. Another is that to which the Senator from Maine spoke with so much force, and to which other Senators have addressed themselves. I should be sorry to give a political turn, even in the largest and highest sense of the term "political," to a debate upon such a measure. I trust I shall not be misunderstood, however, if I say this much: Centralization and the tendency to centralization of power in Congress and in the National Government finds few theaters in the Constitution for illustration and for possibility so good as the commercial clause now in question. I venture to ask Senators who do not hold the political faith which I hold, who regard as more limited than I have been taught to regard them the attributes and powers of the National Government, whether it is safe, more especially whether it is wise, until we are satisfied that the necessity is absolute, to establish a precedent a cannon-shot beyond the frontiers of any actually exerted power under this provision?

This is an emergency; it appeals to all; but emergencies do not measure power; at least they do not measure representative and constitutional power. No court would ever hold null an act of Congress because the Congress which enacted it mismeasured, overrated, or underrated the inducements for enacting it. The Constitution, the charter, the source of legislative power, remains the same all the time. It neither contracts by cold nor expands by heat. If now we hold that, for the purpose of fighting a dread disease national authority may pragmatically investigate, grasp, legally dispose of all the topics embraced in this bill and all identical topics, I ask Senators whether we do not put our fingers between the belt and the wheel, and whether in progress of time we shall not be wholly drawn in? Where is the frontier of power discoverable in this bill? This is to be done:

In respect to all vessels and vehicles engaged in commerce with foreign nations and among the several States, whether by land or water.

That is very capacious language, and if it be competent, if we are authorized, without even being able to plead commercial reasons, but upon allegations of sanitary reasons or any other reasons *dehors* the very gravamen of the section of the Constitution itself, to wit, commerce, if we can go beyond commercial inducements and exert powers like these, I hope the honorable Senator from Arkansas [Mr. GARLAND] whose attainments as a lawyer I respect, or the honorable Senator from Tennessee, [Mr. HARRIS,] who is equally competent, or some other Senator will at some time do me the favor to denote and point out distinctions, demarcations, landmarks, for I confess on reading this bill I have great difficulty in discovering them.

Now, Mr. President, my fear is, as I have perhaps quite sufficiently indicated already, first that somewhat in haste should this bill pass we are to try a rash experiment, and more upon conjecture and hope and expectation than upon any solid ground of forecast; second, that we are to do that which may inflict very large injury upon the commerce of the country, not in one quarter of the country more than in another, except so far as one section of the country may be more largely than another engaged in it; and further that we are to put upon the statute-book an affirmation of power in respect of subjects like these which will require hereafter to be denied and disowned or which will be an authority drawing to Congress almost any conceivable scheme of legislation which is connected with commerce on the land or on the sea between ourselves and foreign powers or between the States of the Union.

I shall vote for the motion made by the Senator from Maine, [Mr. HAMLIN,] because I cannot doubt that a committee of Senators so able as this, after hearing such suggestions, (not very accurate, I suppose I may say without impropriety,) as have been made on the spur of the moment, can produce something which will avoid, measurably at least, the more conspicuous objections to be found to this bill.

Mr. GARLAND. Mr. President, I wish to ask the Senator from New York before he takes his seat where the decision of Chief-Justice Marshall to which he refers is. Is it in 9 Wheaton, the case of Gibbons *vs.* Ogden?

Mr. CONKLING. Yes, sir, that is the case.

Mr. GARLAND. The Senator from New York suggests that he will vote for the motion to recommit. The motion to recommit, as submitted to the Senate now, is with instructions to the committee to report a code of rules and regulations. That does not raise, if I understand the purport of the motion, the constitutional question presented by the Senator from New York.

Mr. CONKLING. If my honorable friend will pardon me, that depends entirely upon what those instructions shall be. If they are instructions to eradicate, to tear up by the roots the establishments of the States, they will no doubt leave the whole question of the power and the expediency of its exercise which I have ventured to suggest; but if on the contrary they be instructions prepared in the spirit of the amendment indicated by the honorable Senator from Alabama they will certainly avoid partly, if they do not wholly, the objections that I have suggested.

Mr. GARLAND. The Senator from New York now makes two different questions. As I stated before, the amendment offered by the Senator from Alabama or which he intends to offer goes to the very center of this whole question; and of course if the Senate favors that this bill, so to speak, is eviscerated; there is nothing left of it. But the motion to recommit by the Senator from Maine, with instructions, arose under his view of section 3 of the bill as to the mere regulations to be prepared and submitted by the Board of Health to the President for his approval, and to be enforced if he does approve. So there are two distinct questions. We wish, of course, the Senate to determine before the bill goes back to the committee whether the general aspect of this bill is going to be received favorably by the Senate.

Mr. CONKLING. I dislike to interrupt the Senator again.

Mr. GARLAND. It is no interruption.

Mr. CONKLING. The Senator does not understand section 3 as I understand it, which certainly raises a reasonable inference that I am wrong——

Mr. GARLAND. Oh, no.

Mr. CONKLING. Therefore I will, by permission of the Senator, read it:

The National Board of Health shall make all needful rules and regulations authorized by the laws of the United States for the prevention of the introduction into, and spread within, the United States of contagious or infectious diseases, which—

That is which regulations and rules—

shall be uniform, and subject to approval by the President,—

Now—

and shall be charged—

Not the rules shall be charged, but the board shall be charged—

with the execution of the same, and of the provisions of this act and all other laws of the United States for the prevention of the introduction and spread of contagious or infectious diseases, and all quarantine regulations established under the authority of said laws in respect to all vessels and vehicles engaged in commerce with foreign nations and among the several States, whether by land or water.

I need not remind the Senator from Arkansas that should this act be passed and be a competent act—I mean thereby in the language of the Constitution, an act passed in pursuance of this Constitution.—

it is the supreme law of the land, anything in the statutes of the States to the contrary notwithstanding, and, therefore, I submit to him that under this section this is very overriding and all-occupying power.

Mr. GARLAND. The speech the Senator from New York has just made enlarges upon the motion as well as the suggestions made by the Senator from Maine. If he laps over the suggestion made by the Senator from Maine and runs into the question of the constitutionality of the act as distinguished from mere rules and regulations by which the act is to be enforced, as a matter of course that is submitting a different proposition, a different question for the consideration of the Senate. But I see, from the various statements made, and especially from the suggestions of the Senator from New York, that the question on which this whole measure is based as to the power of Congress to make laws, as this bill purports to do, regulating the quarantine, the health of the country, as between the States, has to be met, and must be met in advance. To be a little more specific, if the Senate rules against the idea of the committee in its instructions, when this measure goes back the bill will have to be recast entirely.

In response to the question of the Senator from New York as to showing him the dividing line in this measure, or where the frontier of power is, as he expressed it, I believe that can be done; and if I had not thought so, not only to the satisfaction of the Senator from New York, but of a majority of the Senators, I would not have agreed to report this measure. I think we can show that from the case to which he referred, from the very language of that decision, to say nothing of the many cases that have been decided since in which this question has probably come before the Supreme Court more directly than it did in that case. But we do not propose to enter into that question now. I wish the Senate would dispose of this great leading question first, that it may be debated properly and the Senate pass upon it before any action is had on the motion to recommit.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at four o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 30, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

Mr. ACKLEN. I call for the regular order.

VETO OF ARMY APPROPRIATION BILL.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

I have maturely considered the important questions presented by the bill entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes," and I now return it to the House of Representatives, in which it originated, with my objections to its approval.

The bill provides in the usual form for the appropriations required for the support of the Army during the next fiscal year. If it contained no other provisions, it would receive my prompt approval. It includes, however, further legislation, which, attached as it is to appropriations which are requisite for the efficient performance of some of the most necessary duties of the Government, involves questions of the gravest character. The sixth section of the bill is amendatory of the statute now in force in regard to the authority of persons in the civil, military, and naval service of the United States "at the place where any general or special election is held in any State." This *statute* was adopted February 25, 1865, after a protracted debate in the Senate, and almost without opposition in the House of Representatives, by the concurrent votes of both of the leading political parties of the country, and became a law by the approval of President Lincoln. It was re-enacted in 1874 in the Revised Statutes of the United States, sections 2002 and 5528, which are as follows:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

SEC. 5528. Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

The amendment proposed to this statute, in the bill before me, omits from both of the foregoing sections the words "or to keep the peace at the polls." The effect of the adoption of this amendment may be considered—

First. Upon the right of the United States Government to use military force to keep the peace at the elections for members of Congress; and—

Second. Upon the right of the Government, by civil authority, to protect these elections from violence and fraud.

In addition to the sections of the statutes above quoted, the following provisions of law relating to the use of the military power at the elections are now in force:

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

SEC. 5529. Every officer or other person in the military or naval service who, by force, threat, intimidation, order, advice, or otherwise, prevents, or attempts to prevent, any qualified voter of any State from freely exercising the right of suffrage at any general or special election in such State, shall be fined not more than $5,000, and imprisoned at hard labor not more than five years.

SEC. 5530. Every officer of the Army or Navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order, or otherwise, the qualifications of voters at any election in any State, shall be punished as provided in the preceding section.

SEC. 5531. Every officer or other person in the military or naval service who, by force, threat, intimidation, order, or otherwise, compels, or attempts to compel, any officer holding an election in any State to receive a vote from a person not legally qualified to vote, or who imposes, or attempts to impose, any regulations for conducting any general or special election in a State different from those prescribed by law, or who interferes in any manner with any officer of an election in the discharge of his duty, shall be punished as provided in section 5529.

SEC. 5532. Every person convicted of any of the offenses specified in the five preceding sections, shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States; but nothing in those sections shall be construed to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

The foregoing enactments would seem to be sufficient to prevent military interference with the elections. But the last Congress, to remove all apprehension of such interference, added to this body of law section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, which is as follows:

SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus* or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment.

This act passed the Senate, after full consideration, without a single vote recorded against it on its final passage, and, by a majority of more than two-thirds, it was concurred in by the House of Representatives.

The purpose of the section quoted was stated in the Senate by one of its supporters, as follows:

Therefore I hope, without getting into any controversy about the past, but acting wisely for the future, that we shall take away the idea that the Army can be used by a general or special deputy marshal, or any marshal, merely for election purposes as a *posse*, ordering them about the polls or ordering them anywhere else, when there is no election going on to prevent disorders or to suppress disturbances that should be suppressed by the peace officers of the State, or if they must bring others to their aid they should summon the unorganized citizens and not summon the officers and men of the Army as a *posse comitatus* to quell disorders and thus get up a feeling which will be disastrous to peace among the people of the country.

In the House of Representatives the object of the act of 1878 was stated by the gentleman who had it in charge in similar terms. He said:

But these are all minor points and insignificant questions compared with the great principle which was incorporated by the House in the bill in reference to the use of the Army in time of peace. The Senate had already conceded what they called, and what we might accept, as the principle, but they had stricken out the penalty, and had stricken out the word "expressly," so that the Army might be used in all cases where implied authority might be inferred. The House committee planted themselves firmly upon the doctrine that rather than yield this fundamental principle, for which for three years this House had struggled, they would allow the bill to fail, notwithstanding the reforms which we had secured, regarding these reforms as of but little consequence alongside the great principle that the Army of the United States, in time of peace, should be under the control of Congress and obedient to its laws. After a long and protracted negotiation, the Senate committee have conceded that principle in all its length and breadth, including the penalty, which the Senate had stricken out. We bring you back, therefore, a report with the alteration of a single word, which the lawyers assure me is proper to be made, restoring to this bill the principle for which we have contended so long and which is so vital to secure the rights and liberties of the people.

* * * * * * *

Thus have we this day secured to the people of this country the same great protection against a standing army which cost a struggle of two hundred years for the Commons of England to secure for the British people.

From this brief review of the subject it sufficiently appears that under existing laws there can be no military interference with the elections. No case of such interference has, in fact, occurred since the passage of the act last referred to. No soldier of the United States has appeared under orders at any place of election in any State. No complaint even of the presence of United States troops has been made in any quarter. It may therefore be confidently stated that there is no necessity for the enactment of section 6 of the bill before me to prevent military interference with the elections. The laws already in force are all that is required for that end.

But that part of section 6 of this bill which is significant and vitally important is the clause which, if adopted, will deprive the civil authorities of the United States of all power to keep the peace at the congressional elections. The congressional elections in every district, in a very important sense, are justly a matter of political interest and concern throughout the whole country. Each State, every political party, is entitled to the share of power which is conferred by the legal and constitutional suffrage. It is the right of every citizen possessing the qualifications prescribed by law to cast one unintimidated ballot and to have his ballot honestly counted. So long as the exercise of this power and the enjoyment of this right are common and equal, practically as well as formally, submission to the results of the suffrage will be accorded loyally and cheerfully, and all the departments of Government will feel the true vigor of the popular will thus expressed.

Two provisions of the Constitution authorize legislation by Congress for the regulation of the congressional elections.

Section 4 of article 1 of the Constitution declares:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The fifteenth amendment of the Constitution is as follows:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The Supreme Court has held that this amendment invests the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right the court declares to be exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. The power of Congress to protect this right by appropriate legislation is expressly affirmed by the court.

National legislation to provide safeguards for free and honest elections is necessary, as experience has shown, not only to secure the right to vote to the enfranchised race at the South, but also to prevent fraudulent voting in the large cities of the North. Congress has, therefore, exercised the power conferred by the Constitution, and has enacted certain laws to prevent discriminations on account of race, color, or previous condition of servitude, and to punish fraud, violence, and intimidation at Federal elections. Attention is called to the following sections of the Revised Statutes of the United States, namely:

Section 2004, which guarantees to all citizens the right to vote without distinction on account of race, color, or previous condition of servitude.

Sections 2005 and 2006, which guarantee to all citizens equal opportunity, without discrimination, to perform all the acts required by law as a prerequisite or qualification for voting.

Section 2022, which authorizes the United States marshal and his deputies to keep the peace and preserve order at the Federal elections.

Section 2024, which expressly authorizes the United States marshal and his deputies to summon a *posse comitatus* whenever they or any of them are forcibly resisted in the execution of their duties under the law, or are prevented from executing such duties by violence.

Section 5522, which provides for the punishment of the crime of interfering with the supervisors of elections and deputy marshals in the discharge of their duties at the elections of Representatives in Congress.

These are some of the laws on this subject which it is the duty of the executive department of the Government to enforce. The intent and effect of the sixth section of this bill is to prohibit all the civil officers of the United States, under penalty of fine and imprisonment, from employing any adequate civil force for this purpose at the place where their enforcement is most necessary, namely, at the places where the congressional elections are held. Among the most valuable enactments to which I have referred are those which protect the supervisors of Federal elections in the discharge of their duties at the polls. If the proposed legislation should become the law there will be no power vested in any officer of the Government to protect from violence the officers of the United States engaged in the discharge of their duties. Their rights and duties under the law will remain, but the National Government will be powerless to enforce its own statutes. The States may employ both military and civil power to keep the peace, and to enforce the laws at State elections. It is now proposed to deny to the United States even the necessary civil authority to protect the national elections. No sufficient reason has been given for this discrimination in favor of the State and against the national authority. If well-founded objections exist against the present national election laws, all good citizens should unite in their amendment. The laws providing the safeguards of the elections should be impartial, just, and efficient. They should, if possible, be so nonpartisan and fair in their operation that the minority—the party out of power—will have no just grounds to complain. The present laws have, in practice, unquestionably conduced to the prevention of fraud and violence at the elections. In several of the States members of different political parties have applied for the safeguards which they furnish. It is the right and duty of the National Government to enact and enforce laws which will secure free and fair congressional elections. The laws now in force should not be repealed, except in connection with the enactment of measures which will better accomplish that important end. Believing that section 6 of the bill before me will weaken, if it does not altogether take away, the power of the National Government to protect the Federal elections by the civil authorities, I am forced to the conclusion that it ought not to receive my approval.

This section is, however, not presented to me as a separate and independent measure, but is, as has been stated, attached to the bill making the usual annual appropriations for the support of the Army. It makes a vital change in the election laws of the country, which is in no way connected with the use of the Army. It prohibits, under heavy penalties, any person engaged in the civil service of the United States from having any force at the place of any election prepared to preserve order, to make arrests, to keep the peace, or in any manner to enforce the laws. This is altogether foreign to the purpose of an Army appropriation bill. The practice of tacking to appropriation bills measures not pertinent to such bills did not prevail until more than forty years after the adoption of the Constitution. It has become a common practice. All parties when in power have adopted it. Many abuses and great waste of public money have in this way crept into appropriation bills. The public opinion of the country is against it. The States which have recently adopted constitutions have generally provided a remedy for the evil by enacting that no law shall contain more than one subject, which shall be plainly expressed in its title. The constitutions of more than half of the States contain substantially this provision. The public welfare will be promoted in many ways by a return to the early practice of the Government, and to the true principle of legislation, which requires that every measure shall stand or fall according to its own merits. If it were understood that to attach to an appropriation bill a measure irrelevant to the general object of the bill would imperil and probably prevent its final passage and approval, a valuable reform in the parliamentary practice of Congress would be accomplished. The best justification that has been offered for attaching irrelevant riders to appropriation bills is that it is done for convenience' sake, to facilitate the passage of measures which are deemed expedient by all the branches of government which participate in legislation. It cannot be claimed that there is any such reason for attaching this amendment of the election laws to the Army appropriation bill. The history of the measure contradicts this assumption. A majority of the House of Representatives in the last Congress was in favor of section 6 of this bill. It was known that a majority of the Senate was opposed to it, and that as a separate measure it could not be adopted. It was attached to the Army appropriation bill to compel the Senate to assent to it. It was plainly announced to the Senate that the Army appropriation bill would not be allowed to pass unless the proposed amendments of the election laws were adopted with it. The Senate refused to assent to the bill on account of this irrelevant section. Congress thereupon adjourned without passing an appropriation bill for the Army, and the present extra session of the Forty-sixth Congress became necessary to furnish the means to carry on the Government.

The ground upon which the action of the House of Representatives is defended has been distinctly stated by many of its advocates. A week before the close of the last session of Congress the doctrine in question was stated by one of its ablest defenders, as follows:

> It is our duty to repeal these laws. It is not worth while to attempt the repeal except upon an appropriation bill. The republican Senate would not agree to, nor the republican President sign, a bill for such a repeal. Whatever objection to legislation upon appropriation bills may be made in ordinary cases does not apply where free elections and the liberty of the citizens are concerned. * * * We have the power to vote money; let us annex conditions to it, and insist upon the redress of grievances.

By another distinguished member of the House it was said:

> The right of the Representatives of the people to withhold supplies is as old as English liberty. History records numerous instances where the Commons, feeling that the people were oppressed by laws that the Lords would not consent to repeal by the ordinary methods of legislation, obtained redress at last by refusing appropriations unless accompanied by relief measures.

That a question of the gravest magnitude, and new in this country, was raised by this course of proceeding, was fully recognized also by its defenders in the Senate. It was said by a distinguished Senator:

> Perhaps no greater question, in the form we are brought to consider it, was ever considered by the American Congress in time of peace; for it involves not merely the merits or demerits of the laws which the House bill proposes to repeal, but involves the rights, the privileges, the powers, the duties of the two branches of Congress and of the President of the United States. It is a vast question; it is a question whose importance can scarcely be estimated; it is a question that never yet has been brought so sharply before the American Congress and the American people as it may be now. It is a question which, sooner or later, must be decided, and the decision must determine what are the powers of the House of Representatives under the Constitution, and what is the duty of that House in the view of the framers of that Constitution according to its letter and its spirit.
>
> Mr. President, I should approach this question, if I were in the best possible condition to speak and to argue it, with very grave diffidence, and certainly with the utmost anxiety, for no one can think of it as long and as carefully as I have thought of it without seeing that we are at the beginning, perhaps of a struggle that may last as long in this country as a similar struggle lasted in what we are accustomed to call the mother land. There the struggle lasted for two centuries before it was ultimately decided. It is not likely to last so long here, but it may last until every man in this Chamber is in his grave. It is the question whether or no the House of Representatives has a right to say, "We will grant supplies only upon condition that grievances are redressed. We are the representatives of the tax-payers of the

Republic; we, the House of Representatives, alone have the right to originate money bills; we the House of Representatives have alone the right to originate bills which grant the money of the people; the Senate represents States: we represent the tax-payers of the Republic; we, therefore, by the very terms of the Constitution, are charged with the duty of originating the bills which grant the money of the people. We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances."

Upon the assembling of this Congress, in pursuance of a call for an extra session, which was made necessary by the failure of the Forty-fifth Congress to make the needful appropriations for the support of the Government, the question was presented whether the attempt made in the last Congress to ingraft, by construction, a new principle upon the Constitution should be persisted in or not. This Congress has ample opportunity and time to pass the appropriation bills, and also to enact any political measures which may be determined upon in separate bills by the usual and orderly methods of proceeding. But the majority of both Houses have deemed it wise to adhere to the principles asserted and maintained in the last Congress by the majority of the House of Representatives. That principle is that the House of Representatives has the sole right to originate bills for raising revenue, and therefore has the right to withhold appropriations upon which the existence of the Government may depend, unless the Senate and the President shall give their assent to any legislation which the House may see fit to attach to appropriation bills. To establish this principle is to make a radical, dangerous, and unconstitutional change in the character of our institutions. The various Departments of the Government, and the Army and the Navy, are established by the Constitution, or by laws passed in pursuance thereof. Their duties are clearly defined, and their support is carefully provided for by law. The money required for this purpose has been collected from the people, and is now in the Treasury ready to be paid out as soon as the appropriation bills are passed. Whether appropriations are made or not, the collection of the taxes will go on. The public money will accumulate in the Treasury. It was not the intention of the framers of the Constitution that any single branch of the Government should have the power to dictate conditions upon which this treasure should be applied to the purposes for which it was collected. Any such intention, if it had been entertained, would have been plainly expressed in the Constitution.

That a majority of the Senate now concurs in the claim of the House adds to the gravity of the situation, but does not alter the question at issue. The new doctrine, if maintained, will result in a consolidation of unchecked and despotic power in the House of Representatives. A bare majority of the House will become the Government. The Executive will no longer be what the framers of the Constitution intended, an equal and independent branch of the Government. It is clearly the constitutional duty of the President to exercise his discretion and judgment upon all bills presented to him without constraint or duress from any other branch of the Government. To say that a majority of either or both of the Houses of Congress may insist upon the approval of a bill under the penalty of stopping all of the operations of the Government for want of the necessary supplies, is to deny to the Executive that share of the legislative power which is plainly conferred by the second section of the seventh article of the Constitution. It strikes from the Constitution the qualified negative of the President. It is said that this should be done because it is the peculiar function of the House of Representatives to represent the will of the people. But no single branch or department of the Government has exclusive authority to speak for the American people. The most authentic and solemn expression of their will is contained in the Constitution of the United States. By that Constitution they have ordained and established a government whose powers are distributed among co-ordinate branches, which, as far as possible, consistently with a harmonious co-operation, are absolutely independent of each other. The people of this country are unwilling to see the supremacy of the Constitution replaced by the omnipotence of any one department of the Government.

The enactment of this bill into a law will establish a precedent which will tend to destroy the equal independence of the several branches of the Government. Its principle places not merely the Senate and the Executive, but the judiciary also, under the coercive dictation of the House. The House alone will be the judge of what constitutes a grievance, and also of the means and measure of redress. An act of Congress to protect elections is now the grievance complained of. But the House may, on the same principle, determine that any other act of Congress, a treaty made by the President with the advice and consent of the Senate, a nomination or appointment to office, or that a decision or opinion of the Supreme Court is a grievance, and that the measure of redress is to withhold the appropriations required for the support of the offending branch of the Government.

Believing that this bill is a dangerous violation of the spirit and meaning of the Constitution, I am compelled to return it to the House in which it originated without my approval. The qualified negative with which the Constitution invests the President is a trust that involves a duty which he cannot decline to perform. With a firm and conscientious purpose to do what I can to preserve, unimpaired, the constitutional powers and equal independence, not merely of the Executive, but of every branch of the Government, which will be imperiled by the adoption of the principle of this bill, I desire earnestly to urge upon the House of Representatives a return to the wise and wholesome usage of the earlier days of the Republic, which excluded from appropriation bills all irrelevant legislation. By this course you will inaugurate an important reform in the method of congressional legislation; your action will be in harmony with the fundamental principles of the Constitution and the patriotic sentiment of nationality which is their firm support; and you will restore to the country that feeling of confidence and security and the repose which are so essential to the prosperity of all of our fellow-citizens.

RUTHERFORD B. HAYES.

EXECUTIVE MANSION, *April* 29, 1879.

Mr. SPARKS. I offer the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the message of the President just read be entered at large on the Journal as required by the Constitution of the United States; and that the House will to-morrow proceed to consider the said message and to reconsider the bill entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes," and that said message be printed.

Mr. SPARKS. I call the previous question.

Mr. GARFIELD. I ask the gentleman to fix in his resolution the hour when the House will proceed to consider the message; for instance, after the reading of the Journal.

Mr. SPARKS. I do not think that necessary. I apprehend it will be taken up immediately after the reading of the Journal.

Mr. ACKLEN. Or after the morning hour.

Mr. SPARKS. Or perhaps after the morning hour. I insist upon the previous question.

Mr. CONGER. I desire to ask whether the word "reconsider" is the proper constitutional term to be used in reference to a bill returned by the President without his approval?

The SPEAKER. That is the very word used in the Constitution with regard to this matter.

Mr. SPARKS. It is precisely the constitutional expression.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SPARKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXPLANATION IN REGARD TO A VOTE.

Mr. CLARK, of Missouri. On last Saturday, when the vote was taken on the legislative, executive, and judicial appropriation bill, I omitted to announce that my colleague, Mr. LAY, was paired with the gentleman from Pennsylvania, Mr. DICK; that Mr. LAY, if present, would have voted "ay," and Mr. DICK, I presume, "no."

ORDER OF BUSINESS.

Mr. CLARK, of Missouri. I ask unanimous consent to introduce a bill for reference, by request of my colleague, Mr. LAY, who is absent, sick.

Mr. KELLEY. I object. If the bill has any merit, it will not spoil before Monday.

Mr. CLARK, of Missouri. I hope the gentleman will withdraw his objection. My colleague is absent, sick, and is likely to be absent for the remainder of the session.

Mr. KELLEY. If there be any merit in the bill it will keep until Monday next, when it can come in under the rules of the House.

FUNERAL OF HON. RUSH CLARK.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had concurred in the resolution of the House providing for the appointment of a joint committee to take order for superintending the funeral and to escort the remains of Hon. Rush Clark, late a member of the House of Representatives from the State of Iowa, to his late residence; and that the President *pro tempore* had appointed Mr. KIRKWOOD, Mr. PLATT, and Mr. HEREFORD as the committee on the part of the Senate.

The SPEAKER. The Chair desires, in this connection, to announce that the funeral services of Hon. Rush Clark will take place at half past six o'clock this evening, at the National Hotel, and the remains will be removed to the cars at seven o'clock. Members of this House are respectfully invited to attend and to accompany the remains to the depot.

Mr. COX. I move that the House adjourn.

ELECTION CONTEST—CURTIN VS. YOCUM.

The SPEAKER. The Chair desires to state that the Clerk of the House has received certain additional testimony in relation to the contested-election case of Curtin *vs.* Yocum, from the twentieth district of Pennsylvania, which, if there be no objection, will be referred to the Committee of Elections.

There was no objection, and it was ordered accordingly.

BUSINESS OF DISTRICT OF COLUMBIA.

Mr. HENKLE. In the absence of the chairman of the Committee for the District of Columbia, [Mr. HUNTON,] I am directed to ask unanimous consent that next Tuesday, after two o'clock, be set apart for the reception and consideration of reports from that committee.

The SPEAKER. The Chair will state that yesterday, by the consent of the House, was fixed for the consideration of business from

this committee, but the order was necessarily interrupted. Is there objection to the request of the gentleman from Maryland?

Mr. KELLEY. I object.

Mr. GARFIELD. I hope the gentleman from Maryland will name Monday next after two o'clock, which will allow time for the introduction of bills; and after that I presume the consideration of District business is about the best disposition we can make of the day.

Mr. HENKLE. I shall be satisfied to accept the first day that the House shall be in session next week. We have named Tuesday, fearing that the House may not be in session on Monday.

Mr. KELLEY. And I object just for that reason. I want the House to be in session on Monday.

Mr. GARFIELD. I suggest that the gentleman from Maryland name Monday. I presume the House will sit on that day for the purpose of considering this business.

Mr. HENKLE. I modify my motion then by substituting "Monday" for "Tuesday."

The SPEAKER. The gentleman from Maryland asks unanimous consent that Monday next at two o'clock be assigned for the consideration of reports from the Committee for the District of Columbia, such business to have the privileges given to it under the rules.

Mr. GARFIELD. That is fair.

The SPEAKER. The Chair hears no objection, and the order is accordingly made.

EXPENSES OF AN ELECTION CONTEST.

Mr. CALKINS presented the petition of R. H. Cain, of South Carolina, for expenses of contest as Representative of second congressional district of that State; which was referred to the Committee of Elections.

ORDER OF BUSINESS.

Mr. COX. I made a motion to adjourn. I will withdraw that motion if I be permitted to offer a resolution for reference to the Committee of Accounts.

The SPEAKER. The Chair cannot take a conditional withdrawal of a motion to adjourn. If the gentleman withdraws the motion, the Chair announces the morning hour, which begins at a quarter before one o'clock. The call rests with the Committee on Appropriations.

Mr. WARNER. I have a report from the Committee on Coinage, Weights, and Measures.

The SPEAKER. The morning hour has commenced. The Chair will recognize the gentleman immediately after the morning hour, or in all probability the gentleman's committee will be called during the morning hour.

JETTIES, ETC., AT SOUTH PASS, MISSISSIPPI RIVER.

Mr. CLYMER, from the Committee on Appropriations, reported a bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River; which was read a first and second time.

The bill appropriates, out of any money in the Treasury not otherwise appropriated, the requisite amount to pay all money that may become due and owing to James B. Eads and his associates, or that may become payable to said Eads, his assigns or legal representatives, in accordance with the provisions of the act approved March 3, 1875, and the acts amendatory thereof, and to continue the monthly payments in the manner and to the full extent of the amount specified in the act approved June 19, 1878, chapter 313, Statutes at Large; provided that nothing herein contained shall be held or construed as waiving or impairing any right which the United States may have under the original act hereinbefore referred to, or the several acts amendatory thereof; and provided further that nothing in this act shall be construed as making an appropriation for the payment of the $1,000,000 which, by the provisions of the act of March 3, 1875, are to remain as security in the possession of the United States, and only to become payable one-half at the end of ten years and the residue at the end of twenty years after the completion of the work provided for in said acts as ascertained and determined by the Secretary of War.

Mr. CLYMER. The bill makes an appropriation of money out of the Treasury, and no doubt is liable to the point of order that it must have its first consideration in the Committee of the Whole on the state of the Union; and therefore I ask by unanimous consent that it be now considered in the House.

There was no objection, and it was ordered accordingly.

Mr. CLYMER. Mr. Speaker, in explanation of the pending proposition I desire to state what perhaps is already well known to a majority of the members of the House, that the act approved March 3, A. D. 1875, (original jetty act,) provided for the following payments to Mr. Eads when a channel was obtained:

20 feet deep, 200 feet wide,	$500,000 cash.		
22 feet deep, 200 feet wide,	500,000 cash.		
24 feet deep, 250 feet wide,	500,000 cash, and for maintaining same 1 year,	$250,000	
26 feet deep, 300 feet wide,	500,000 cash, and for maintaining same 1 year,	250,000	
28 feet deep, 350 feet wide,	500,000 cash, and for maintaining same 1 year,	250,000	
30 feet deep, 350 feet wide,	500,000 cash, and for maintaining same 1 year,	500,000	
Cash	3,000,000	Deferred	1,250,000
	1,250,000		
Total	4,250,000		

The act also provided for the payment of the further sum of $1,000,000 when the maximum channel had been maintained ten and twenty years respectively. This made the total compensation for the work amount to $5,250,000.

The amendatory act of June 19, A. D. 1878, in no wise increased the total compensation to be paid for the work. It simply gave an advance to Mr. Eads of $500,000 cash, and set apart a further fund of $500,000 to be drawn by Mr. Eads in monthly installments to "pay for labor done, materials furnished, and expenditures incurred in the construction of the work." All of these monthly payments were provided to be drawn upon the requisitions of Captain Eads, duly certified by the Government officer in charge of the work and approved afterward by the Secretary of War. Mr. Eads was required by the act, as these monthly sums were drawn, to relinquish to the United States similar amounts of the payments provided by the act of 1875 to be paid to him.

The amendatory act of March 3, A. D. 1879, did not in any wise increase the total compensation to be paid to Mr. Eads for the work. It provided as follows:

Money advanced in cash	$750,000
For obtaining a channel 25 feet deep, 200 feet wide	500,000
For obtaining a channel 26 feet deep, 200 feet wide	500,000
For obtaining a channel 30 feet deep, without regard to width	500,000
	2,250,000

The $1,000,000 provided to be paid in ten and twenty years and all sums for maintaining the work were left to be paid at the times and in the manner provided by act of A. D. 1875.

The account between the Government and Mr. Eads now stands as follows. Mr. Eads has received—

Twenty-foot payment under act of A. D. 1875	$500,000
Twenty-two-foot payment under act of A. D. 1875	500,000
Cash advanced under act of A. D. 1878	500,000
Moneys received and to be received monthly by act 1878	500,000
Cash advanced under act of A. D. 1879	750,000
	2,750,000
Payments yet to be made for channel 25 × 200, (act 1879)	500,000
Payments yet to be made for channel 26 × 200, (act 1879)	500,000
Payments yet to be made for channel 30 feet deep, (act of 1879)	500,000
	4,250,000

It will be seen by the above figures that the ultimate compensation to be paid to Mr. Eads has been in no way increased. The Secretary of War in his recent official communication called attention of Congress to the fact that there was a payment about to become due to Mr. Eads and that other payments might soon follow. Since that communication the certificate of the inspecting United States officer has reached the Secretary, setting forth that the twenty-five by two hundred foot channel has been obtained. The Secretary of War recommended that Congress should make an appropriation to cover all moneys which might under existing law fall due and become payable to Mr. Eads. The importance of complying without delay with this request becomes apparent when reference is had to one of the provisions of the act A. D. 1875. The provision referred to is as follows:

> The Secretary of the Treasury is hereby directed to issue the bonds of the United States bearing 5 per cent. interest, of the character and description set out in the act entitled "An act to authorize the refunding of the public debt," approved July 14, 1870, to said Eads, or his legal representatives, in payment at par of the aforesaid warrants of the Secretary of War, unless the Congress of the United States shall have previously provided for the payment of the same by the necessary appropriations of money.

The bonds thus required to be issued, unless there is an appropriation made, are now much above par; but Mr. Eads has no desire to demand the same if Congress will promptly appropriate the necessary money. The amounts to be covered by the present appropriation are the three payments provided to be made by the act of March 3, A. D. 1879, aggregating the sum of $1,500,000, and such remaining gross sum as Mr. Eads may be entitled to draw upon monthly under the provisions of the act of June 19, A. D. 1878.

The act of A. D. 1875 makes provision for the obtaining and maintaining of a channel between the South Pass of the Mississippi River and Gulf of Mexico, and also of a channel through the South Pass, including the shoal at its head. Before the twenty-foot payment was made to Mr. Eads, the Secretary of War (Mr. CAMERON) obtained from a board of United States engineers (appointed by the President and sent down to examine the work and make report) an opinion as to the true construction of the provisions of the act relating to the depths and widths of channel to be secured. The opinion of this board, when given, was submitted to the Attorney-General, who also submitted an opinion thereon.

The substance of these opinions was that, while the act required an ultimate channel to be secured and maintained between the South Pass and the Gulf, 30 feet deep by 350 feet wide, (the width, however, was modified by act of 1879,) the maximum channel required through the shoal at the head of the pass was only 26 feet. Although no specific width was mentioned to accompany this twenty-six-foot depth, it was held that the intent of the act was that a navigable width should be secured. The language of the board in reference to the channel through the shoal is as follows:

> The second proviso to section 4 of the act demands a navigable depth "through said pass," and of course through this shoal, of "twenty feet," within thirty months, and "an additional depth of not less than two feet during each succeeding year thereafter, until twenty-six feet shall have been secured." We deem these depths to be satisfactory; and, considering that an inland channel requires less depth for equal facility of navigation than a sea-exposed bar, that they are fairly equivalent to the

greater depths demanded by the act in its fifth section for the "wide and deep channel connecting the pass with the Gulf of Mexico."

In this opinion the Attorney-General concurred, and the decision is further fortified by a recent opinion of the present Attorney-General in the premises.

I can only say to the House that this bill has been fully considered by the Committee on Appropriations, and I believe I have the right to say that it has received the unanimous recommendation of that committee. If there be any question any gentleman of the House desires to ask for further information on the subject, I will be happy to yield for that purpose.

Mr. MONROE. I would suggest to the gentleman from Pennsylvania it might be well to remind the House that we have already had one experience of failure to make appropriation in time to meet one of these payments, and that, as a consequence, we lost forty or fifty thousand dollars.

Mr. CLYMER. I can only say, in reply to the suggestion of the gentleman from Ohio, that, the Forty-fifth Congress having failed to make appropriation for payment when a depth of twenty-two feet was reached, Captain Eads claimed payment in 5 per cent. bonds, which bonds at that time were worth a premium of between 11 and 12 per cent., so that failure to make appropriation to meet the payment under the contract in that instance caused the Government a loss of some $55,000. I now demand the previous question.

Mr. ROBINSON. I should like to hear the bill again read.

The bill was again read.

Mr. WHITTHORNE. I should like to ask my friend from Pennsylvania whether in the progress of his investigation in regard to this matter any suggestion has been made as to the durability or permanency of the work; whether there is any probability the work done is of such a character that in a short time it will be so impaired as to be utterly worthless?

Mr. CLYMER. Mr. Speaker, the Committee on Appropriations had no right to deal with that question. But there was no intimation, no suggestion, no hint that a condition of affairs such as that exists. On the contrary, from all they could gather from official sources—that is, from the engineers of the Army who have had this matter in charge—there seems to be no doubt of the success or final permanency of the work. But of that we are not the judges. We merely authorize the Secretary of War to make payments where they become due under the law; and that depends upon the certification of a member of the Engineer Corps, who certifies as to the depth and width of the channel. The payment then becomes absolutely due; under that certificate we must either provide for the payment in money or Captain Eads has the right to demand five per cent bonds. Hence it is that the Committee on Appropriations deemed it necessary to present the bill in the shape it is.

Mr. BUCKNER. If the gentleman will permit me, I will state that some time last year a commission of engineers appointed by the President examined this work and reported that it was thoroughly and successfully done, and that it would in all probability answer for years and years to come.

Mr. CLYMER. The board of engineers referred to by the gentleman from Missouri consisted of General Barnard, General Wright, General Tower, General Macomb, and Colonel Merrill. General Barnard was at the head of the commission and made the report.

Mr. GARFIELD. I ask the gentleman from Pennsylvania to yield to me for a moment.

Mr. CLYMER. I yield to the gentleman.

Mr. GARFIELD. I am in favor of paying all our debts and obligations, whether the matter for which we have incurred them be a failure or not. But I would be glad to know for my own information something as to the probable success of the Eads jetty plan. Of course the gentleman from Pennsylvania knows there was a great controversy on the subject, some saying the work must be a failure. I think the House would like to know what is the probability of the work succeeding.

Mr. CLYMER. As I have stated, the Committee on Appropriations did not deem that inquiry to be within their province or their duty. I will repeat, however, what I said a moment ago, that there was no intimation or suggestion before us tending to lead to any suspicion that the work would not be permanently a success.

Mr. REAGAN. If the gentleman from Pennsylvania will permit me, I will say a word in answer to the gentleman from Ohio.

Mr. CLYMER. I yield to the gentleman from Texas.

Mr. REAGAN. Under the act of 1878 a commission of five engineers of the highest rank of the United States were charged with the duty of examining this work and answering, among other things, the very questions which the gentleman from Ohio puts; and they report that in the ordinary sense of the term the work is permanent.

Mr. CLYMER. If the gentleman will permit me, I will read from the report a statement of the conclusion arrived at by that commission:

The works at the South Pass are declared by the board to be of substantial and permanent character, free from danger of injury by wave action or destruction by the teredo.

Mr. WHITE. I appreciate the answer of my colleague as to the difficulty of knowing whether this work is to be permanent or not. Of course that is a mere matter of speculation. I understand, however, that the bill before us merely relieves the Government from the requirements of the contingency of issuing 5 per cent. bonds, and provides for paying what may be due under the terms of the contract in 1875 out of the money in the Treasury.

Mr. CLYMER. That is precisely the effect of the bill; nothing more nor less; and I will add this at the suggestion of the chairman of the Committee on Appropriations, that the bill changes no rights, affects nothing in which the United States is interested, and allows all remedies the United States may have now to enforce its rights to the fullest extent.

Mr. GIBSON. I desire to say a word on this subject. When this great public work at the mouth of the Mississippi River was undertaken by Captain Eads the chief objection made to it by the engineers of the Army was that the deposit would be transferred by the current just beyond the jetties and dumped into the Gulf of Mexico; in other words, that the location of the bar would be changed. This was the only objection made to this great undertaking. Now, last spring a number of engineers of the United States Army under instructions from the War Department made a critical examination of these works at the mouth of the Mississippi River, and they report in the language which I shall quote:

The question of the formation of a bar at the sea-ends of the jetties is most satisfactorily settled by the board. In reference to this it uses the following language:

"The actual results, therefore, so far as we know them, do not justify the predictions of accelerated bar advance. On the contrary, they show a disappearance of bar material from the front of the jetties."

Therefore, if we avail ourselves of the only means by which this House can possess itself of official and exact information, we learn from the board of engineers of the United States Army that there is no appearance whatever of the bar advancing at the mouth of the Mississippi River, but that the jetties have given to the valley of the Mississippi River a deep and unimpeded outlet to the Gulf of Mexico. I reside in the vicinity of these jetties, and I say that no objection has been urged by any of the eminent engineers who have been consulted with reference to this work, or by any of the eminent engineers from any part of the world who have visited these works, against the permanency of the works themselves. A great rampart is formed in rear of the jetties and they are as immovable as if put there by nature itself and made of granite. There is now reported a minimum depth in the jetties themselves of twenty-seven feet of water where in the year 1861 I made the survey myself of the mouth of the river and ascertained there were only seven, eight, and nine feet of water, and to-day in the same places there are twenty-seven, twenty-nine, thirty, forty, and fifty feet of water. I say there never was presented to this House a public work that commended itself more to its judgment and its favor.

Mr. CLYMER. I must insist on my demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLYMER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF PRE-EMPTORS.

Mr. WASHBURN, from the Committee on Public Lands, reported back with an amendment the bill (H. R. No. 1152) to extend the time for the payment of pre-emptors on certain public lands in the State of Minnesota and Territory of Dakota.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time at which pre-emptors on the public lands in the State of Minnesota, including the lands within the Fort Ridgely and Sioux Indian reservations, are now required to make final proof and payment be, and the same is hereby, extended two years from October 1, 1878.

The amendment was read, as follows:

Insert after the word "reservations" in line 5 the words:

"And the old Sioux Indian reservation in the county of Grant, Territory of Dakota."

Mr. BLOUNT. Is that reported from the Committee on Public Lands?

Mr. WASHBURN. It is; and I would like to have it considered at the present time. It is a bill for the relief of settlers whose crops have been destroyed by grasshoppers. The last House passed a similar bill.

Mr. HUMPHREY. What is the purport of the amendment?

Mr. WASHBURN. To extend the provisions of the bill to one county in Dakota where the crops were destroyed under similar circumstances.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN. I move to amend the title of the bill by adding the words "and Territory of Dakota."

The amendment was agreed to.

UNITED STATES COURTS IN KENTUCKY.

Mr. KNOTT, from the Committee on the Judiciary, reported back the bill (H. R. No. 609) to prescribe the times for holding the circuit and district courts of the United States in the district of Kentucky, with the recommendation that it do pass.

The bill was read, as follows:

Be it enacted, &c., That the regular terms of the circuit and district courts of the United States in the district of Kentucky shall be held at the times and places following, to wit: At Covington, on the second Monday in May and the first Monday in December; at Louisville, on the third Monday in February and the first Monday in October; at Frankfort, on the first Monday in January and the second Monday in June; and at Paducah, on the first Monday in April and the third Monday in November.

SEC. 2. Either of said courts may be adjourned from time to time to meet the necessities and convenience of business.

SEC. 3. The terms of said courts shall not be limited to any particular number of days, nor shall it be necessary to adjourn by reason of the intervention of term elsewhere; but the court intervening may be adjourned till the business of the court in session is concluded.

SEC. 4. By consent of all parties interested, either of said courts may be held at any time or place for the trial of civil suits at law or in equity.

SEC. 5. Nothing herein contained shall be construed to repeal section 578 of the Revised Statutes.

Mr. OSCAR TURNER. I would like to ask my colleague if that change is in accordance with the petition of the members of the bar from Paducah, Kentucky?

Mr. KNOTT. I do not know.

Mr. CARLISLE. I will state for the information of my colleague [Mr. OSCAR TURNER] that this bill was prepared at the last session of the Forty-fifth Congress in accordance with the suggestions of his predecessor and the wishes of the members of the bar asking that the time fixed in the bill be so fixed.

Mr. CONGER. I would ask whether this bill provides that the courts may be held at any place for the trial of any particular case?

Mr. KNOTT. No, sir.

Mr. CONGER. I understood, from hearing the bill read, that the court might be held at any place for the trial of particular issues.

Mr. KNOTT. The gentleman misunderstood the bill.

Mr. CONGER. I would like to have that part of the bill again read.

The Clerk again read section 4 of the bill, as follows:

SEC. 4. By consent of all parties interested, either of said courts may be held at any time or place for the trial of civil suits at law or in equity.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed a joint resolution of the following title; in which the concurrence of the House was requested:

A joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes.

The message further announced that the Senate had passed, with amendment, the joint resolution (H. R. No. 1) to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879; in which he was directed to ask the concurrence of the House.

AMENDMENT OF THE REVISED STATUTES.

Mr. HERBERT, from the Committee on the Judiciary, reported as a substitute for House bill No. 423 a bill (H. R. No. 1377) to amend section 5440 of the Revised Statutes; which was read a first and second time.

The bill was read. It provides that section 5440 of the Revised Statutes of the United States of America be amended so as to read as follows:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty of not more than $10,000, or to imprisonment for not more than two years, or to both fine and imprisonment, in the discretion of the court.

Mr. HERBERT. This is the unanimous report of the Committee on the Judiciary. The committee have instructed me to ask the consideration and passage at this time of this bill, and I now call the previous question upon it.

Mr. CONGER. Let the section of the Revised Statutes be read which this bill proposes to amend.

Mr. HERBERT. I have sent for the Revised Statutes, and I will explain the only change made in the section. The section now provides that—

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty—

Up to that point the section of the Revised Statutes is not changed at all; the definition of the offense is left precisely as it now stands. The punishment now provided in this section of the Revised Statutes is a fine of not less than $1,000 and not more than $10,000, and imprisonment. The amendment proposed by this bill is to strike out the limitation of $1,000. That leaves the punishment so that it may still be as great as now provided by law. But the statute as it now stands provides that the punishment shall not be less than $1,000 fine in any case, however trivial. There are many offenses against the United States which in themselves are very trivial, such as the cutting of a stick of timber from the public lands.

The punishment now provided for the cutting of timber from the public lands is a fine of not less than three times the value of the timber cut. If the district attorney sees proper, as he sometimes does, to indict not for the cutting of the timber but for the conspiracy to cut timber from the public lands, if two or more persons are engaged, one in cutting the timber and the other in hauling it from the public lands, the indictment or information under the statute as it now stands would make them liable to a penalty of not less than $1,000 fine. By striking out the words "not less than $1,000" the punishment is left so that it shall not exceed $10,000 fine, in the discretion of the court.

One other change is proposed to be made, and that also ought to be explained. The punishment now provided by the section is not only fine but also imprisonment, connected by the copulative conjunction "and;" necessitating both fine and imprisonment. This bill proposes to amend the statute so as to leave it in the alternative, so that the court may impose imprisonment if it sees proper without fine, or fine without imprisonment, or in a proper case it may impose both fine and imprisonment.

This is the unanimous report of the Committee on the Judiciary, and I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HERBERT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CATTLE DISEASE.

Mr. HATCH, from the Committee on Agriculture, reported a bill (H. R. No. 1378) to prevent the exportation of diseased cattle and the spread of infectious or contagious diseases among domestic animals; which was read a first and second time.

Mr. COVERT. I ask leave to present on behalf of the minority of the Committee on Agriculture their views upon the subject embraced in the bill just reported, with a proposed substitute therefor.

The SPEAKER. Is there any report from the majority of the committee?

Mr. HATCH. There is not; but I am instructed by the committee to move that the bill be printed and recommitted.

Mr. COVERT. I ask that the views of the minority, with their proposed substitute, be also printed and recommitted.

There being no objection, the bill, with the views of the minority and the proposed substitute, was recommitted to the Committee on Agriculture, and ordered to be printed.

ENLISTMENT IN THE NAVY.

Mr. WHITTHORNE, from the Committee on Naval Affairs, reported back with amendments the bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States relating to the Navy.

The bill was read, as follows:

Be it enacted, &c., That section 1417 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 1417. The number of persons who may at one time be enlisted into the Navy of the United States, including seamen, ordinary seamen, landsmen, mechanics, firemen, and coal-heavers, and including seven hundred and fifty apprentices and boys, hereby authorized to be enlisted annually, shall not exceed eight thousand two hundred and fifty: *Provided*, That in the appointment of warrant officers in the naval service of the United States, preference shall be given to men who have been honorably discharged upon the expiration of an enlistment as an apprentice or boy, to serve during minority, and re-enlisted within three months after such discharge, to serve during a term of three or more years: *Provided further*, That nothing in this act shall be held to abrogate the provisions of section 1407 of the Revised Statutes of the United States."

That section 1418 be amended so as to read as follows:

"SEC. 1418. Boys between the ages of fourteen and eighteen years may be enlisted to serve in the Navy until they shall arrive at the age of twenty-one years; other persons may be enlisted to serve for a period not exceeding five years, unless sooner discharged by direction of the President."

That section 1419 be amended so as to read as follows:

"SEC. 1419. Minors between the ages of fourteen and eighteen years shall not be enlisted for the naval service without the consent of their parents or guardians."

That section 1420 be amended so as to read as follows:

"SEC. 1420. No minor under the age of fourteen years, no insane or intoxicated person, and no deserter from the naval or military service of the United States, shall be enlisted in the naval service."

That article 19 of section 1624 be amended so as to read as follows:

"SEC. 1624. ARTICLE 19. Any officer who knowingly enlists into the naval service any deserter from the naval or military service of the United States, or any insane or intoxicated person, or any minor between the ages of fourteen and eighteen years, without the consent of his parents or guardian, or any minor under the age of fourteen years, shall be punished as a court-martial may direct."

The amendments reported from the committee were to strike out the word "fourteen" and insert the word "fifteen" as the age of the boys to be enlisted in the Navy, wherever that word occurs in the bill.

Mr. BLOUNT. It seems to me that this bill involves a large increase of expenditures. It increases the number of enlisted men in the Navy, and I think it should receive its first consideration in Committee of the Whole.

Mr. WHITTHORNE. One word as to that. Nominally it is an increase of the number of men, the number of apprentices and boys in the Navy. Practically, however, in the administration of the Navy it will reduce rather than increase expenditures.

For instance, a class of men called landsmen are now employed, who are paid at the rate of $15.50 per month. Apprentices are paid at the rate of $10.50 per month Recent experience in the naval service has demonstrated the fact that these boys perform, and more intelligently and better, the service of landsmen than do the landsmen themselves; and these boys are being used for that purpose. In that way, in the opinion of the officers of the Navy, a very large amount will be saved to the Government of the United States, estimated by some officers as high as $45,000 per annum. Practically, therefore, the bill does not involve any increase of expenditures or any additional appropriation.

Besides, I am assured by the Secretary of the Navy that if the bill passes—and he is very urgent in his request that it shall pass, stating that the needs of the service demand it—he will not ask a single dollar of additional appropriation. In view of these facts, I trust my friend from Georgia will withdraw his point of order, which in fact, I think, is not well taken.

The SPEAKER. Does the gentleman from Georgia insist on the point of order?

Mr. BLOUNT. No, sir. The bill seems to be a unanimous report, and from the statement of the gentleman I do not think it involves a great deal of expense. Therefore I will not obstruct the wishes of the committee.

The SPEAKER. The point of order is withdrawn.

Mr. WHITTHORNE. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments reported by the committee were adopted.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHITTHORNE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROPELLER FOR THE UNITED STATES SHIP ALARM.

Mr. WHITTHORNE, from the Committee on Naval Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 67) providing a new propeller for the United States ship Alarm.

The bill was read. It provides that, in order to enable the Secretary of the Navy to fit a new propeller to the United States torpedo-boat Alarm and to conduct experiments as to the best mode of propelling and steering said vessel, $20,000, or so much thereof as may be necessary, is appropriated out of any money in the Treasury not otherwise appropriated; the same to be available immediately on the passage thereof.

Mr. BLOUNT. This bill involves an appropriation, and I raise a point of order upon it.

Mr. WHITTHORNE. If my friend will reserve the point of order for a moment I will state to the House the reasons on which this bill is founded. This torpedo-boat Alarm is deficient, according to the general estimation, in only one regard—she lacks speed. She now lies in an inefficient condition. Heretofore the Navy Department has asked of Congress an appropriation for new engines, amounting to hundreds of thousands of dollars. The Secretary of the Navy now comes to Congress and says that, in his judgment, if new propellers are provided for this vessel the only substantial defect existing will be removed. If there is given to this vessel speed—such speed as has been given to vessels recently built within the United States—she will then become the most formidable war vessel in any navy of the world.

This is an experiment (I will deal honestly with the House)—an experiment to be made with this new propeller. If the experiment should prove a success it will result largely in economy. The people of the country will save a large expenditure of money; otherwise heavy and expensive machinery must be put into the vessel to make her efficient, or she must be abandoned as useless. These are the propositions before the House. Inasmuch as the people are now taxed for the support of officers and watchmen on board this vessel, it behooves us either to make this experiment, or to provide at once large and efficient machinery, or to abandon the vessel. I trust my friend will withdraw his point of order.

Mr. BLOUNT. I withdraw the point of order.

Mr. BRAGG. I renew it.

Mr. HAWLEY. I would like to say a word.

The SPEAKER. If there be no objection the point of order will be reserved to give the gentleman from Connecticut [Mr. HAWLEY] an opportunity to speak on the subject.

Mr. HAWLEY. Mr. Speaker, I happen to be familiar with both the propellers in question—the one now in the gunboat Alarm and the one it is proposed to put in her. There is a most extraordinary effect obtained by either of them, something that engineers have been searching after for a generation. It is possible with the wheel now in the Alarm to turn the vessel in a moment in any direction—to exert the whole power of the engine by a simple movement of the hand, so as to send her forward or backward or at any angle. The vessel can be made to whirl around upon her own center. She can be driven ahead at full speed until she comes near the vessel to be attacked, and then at a signal the whole power of the enginery can be reversed so as to draw the vessel back. Thus there is obtained a marvelous command of the vessel, of very great value in a torpedo-boat or a ram, as any engineer must see in a moment.

Now, the wheel at present in the Alarm has certain defects, partly of construction, and partly, I am afraid, inherent in the character of the wheel itself, so that there is waste of power and a loss of perhaps 10 or 15 per cent. in speed—I do not know the precise loss. It is proposed to substitute for that another wheel which secures precisely the same effect with increased speed. This is a new invention, it is true; but it has been tried. It has been applied to the running of a vessel five thousand miles, a vessel over ninety feet long; and it has also been tried for a year in a launch thirty-seven feet long. The British government, upon two hours' examination, asked proposals for the construction of three vessels with this wheel; and one is to be completed for that government in about six weeks. Reports very favorable to the invention have also been made by engineers of our own Navy.

Now, if they will permit this substitution to be made as the gentleman from Tennessee proposes, the Alarm will perhaps be the most formidable fighting ship in the world. She is now crippled by the imperfect character of the old wheel, and as to the character of the proposed new wheel we have the testimony of Mr. Isherwood and other naval engineers in favor of it. If there be delay at this time this will go over to the next session, and one year of experiment will be lost. I do not, however, regard it as a risky experiment. That I do not pretend to speak positively about, but if the delay should take place a year will be lost, and this vessel will be comparatively useless. If this bill be passed the experiment can be made this autumn, before the winter season comes on. I do not think there is anything in the nature of a job in the whole affair; I know the history of it.

Mr. BRAGG. If $20,000 is going to make our Navy formidable to anybody, I will withdraw the point of order. [Laughter.]

Mr. WHITTHORNE. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHITTHORNE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONETARY CONVENTION, ETC.

Mr. WARNER, from the Committee on Coinage, Weights, and Measures, submitted notes of a conference with Mr. Sherman, Secretary of the Treasury, and Mr. Burchard, Director of the Mint, together with the translation of a monetary convention concluded December 23, 1865, between France, Belgium, Italy, and Switzerland, ratified at Paris, July 23, 1866; which were ordered to be printed, and recommitted.

Mr. CONGER. I reserve all points of order on reports from the Committee on Coinage, Weights, and Measures.

COIN AND BULLION CERTIFICATES.

Mr. WARNER also, from the same committee, reported back, with amendments, a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes; which were ordered to be printed, and recommitted.

Mr. WARNER. I now report from the Committee on Coinage, Weights, and Measures, under the privilege granted to that committee, the following resolution, on which I demand the previous question.

The Clerk read as follows:

Resolved, That House bill No. 564, and the amendments thereto, reported from the Committee on Coinage, Weights, and Measures, be made the special order for consideration in the House on Saturday next after the morning hour, and from day to day thereafter until disposed of.

Mr. GARFIELD. I suggest to my colleague to add to that resolution the proviso "not to interfere with appropriation bills." That has always been done in such cases, and is only a fair proposition.

Mr. WARNER. I do not yield for any amendment, but insist on my demand for the previous question.

Mr. GARFIELD. I wish to move, as an amendment, that this bill shall not interfere with appropriation bills.

The SPEAKER. The previous question has been demanded.

Mr. CONGER. I ask for the reading of the bill and amendments.

The SPEAKER. The bill and amendments will be read.

Mr. YOUNG, of Tennessee. The bill is not pending, but only a resolution on which the gentleman from Ohio has demanded the previous question.

The SPEAKER. Under the rules any gentleman has a right to

have read a bill on which action is demanded, such as is proposed by the pending resolution.

Mr. COX. Has not the morning hour expired?

The SPEAKER. This is not in the morning hour, but is under the right given to the Committee on Coinage, Weights, and Measures by the new rule, which the Clerk will read.

Mr. COX. I thought it was in the morning hour.

The Clerk read as follows:

That the Committees of Ways and Means, Banking and Currency, and Coinage, Weights, and Measures shall have leave to report at any time; and on motion of any member a majority of the House may fix a day for the consideration of any public bill reported by either of said committees, and the House may continue the consideration of such bill from day to day until disposed of.

The SPEAKER. From this it is right that the House should know what is contained in the bill before they are asked to consider it.

Mr. YOUNG, of Tennessee. The only point I wished settled is this: whether or not it is proper to call for the reading of a bill when the bill is not under consideration, but merely a resolution fixing the time for its consideration.

The SPEAKER. The Chair thinks it might control the vote of a member to know the provisions of the bill the consideration of which was proposed to be fixed for a certain day.

The bill and amendments were read.

Mr. FORT. Is it proposed to open the bill to discussion and amendment when it comes up for consideration?

Mr. WARNER. The bill will be open to debate and amendment.

Mr. STEPHENS. Such is the intention of the committee.

The SPEAKER. The whole subject will be under the control of a majority of the House at the time it comes up for consideration. The pending question is on seconding the demand for the previous question.

The House divided; and there were—ayes 97, noes 92.

Mr. GARFIELD demanded tellers.

Tellers were ordered; and Mr. GARFIELD and Mr. WARNER were appointed.

The House again divided; and the tellers reported—ayes 102, noes 102.

The SPEAKER. The tellers report ayes 102, noes 102. The Chair votes in the affirmative, and the previous question is seconded. [Applause.]

Mr. GARFIELD. I demand the yeas and nays on ordering the main question to be now put.

The yeas and nays were ordered.

Mr. ATKINS. Has the morning hour expired?

The SPEAKER. This is not being considered in the morning hour.

Mr. ATKINS. Is a motion to adjourn in order?

The SPEAKER. It is.

Mr. HOUSE. I move the House do now adjourn.

The motion was agreed to.

LEAVE OF ABSENCE.

Before announcing the adjournment leave of absence by unanimous consent was granted in the following cases:

To Mr. PHELPS, till the end of next week, on account of sickness in his family.

To Mr. CLARDY, for eight days, on account of important business.

To Mr. HULL, indefinitely, on account of important business.

PETER M. WARD.

On motion of Mr. GARFIELD, by unanimous consent, leave was granted for the withdrawal from the files of the House of papers in the case of Peter M. Ward, no adverse report having been made.

ADMISSION TO THE FLOOR.

Mr. VAN VOORHIS asked by unanimous consent that Hon. George F. Danford, one of the judges of the court of appeals of the State of New York, be granted the privilege of the floor for the few days of his stay in the city.

Mr. MCKENZIE objected.

The House (at two o'clock and fourteen minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: A letter from the Secretary of the Interior relative to the Calcasieu log seizures—to the Committee on the Judiciary.

By Mr. AIKEN: The petition of citizens of Oregon, for the passage of the Reagan interstate commerce bill—to the Committee on Commerce.

By Mr. BARBER: A paper relating to the pension claim of Hiram Graves—to the Committee on Invalid Pensions.

By Mr. BENNETT: The petition of F. F. Gerard, Elijah Boley, and 24 others, to have annulled an act of the Dakota Legislature annexing a portion of Morton to Burleigh County, in said Territory—to the Committee on the Territories.

By Mr. BRIGGS: The petitions of Lewis Page and 15 others, members of Stark Grange, Merrimack County, and of Kimball Webster and 11 others, members of Hudson Grange, Hillsborough County, and of 24 members of Wyoming Grange, Hillsborough County, New Hampshire, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. COFFROTH: Papers relating to the pension claim of Dr. Mary E. Walker—to the Committee on Invalid Pensions.

By Mr. FARR: The petition of George E. Street and 69 others, of the Women's National Temperance Union, against any amendment of the internal-revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. FORNEY: The petition of John Pratt, of Cherokee County, Alabama, to be relieved from the forfeiture of a patent issued to him August 11, 1868, for improvements in type-writing—to the Committee on Patents.

By Mr. GARFIELD: The petition of J. C. W. Stetson and 63 others, citizens of Harpersfield, Ohio, against the extension of the Birdsell clover-huller patent—to the same committee.

By Mr. HARRIS, of Virginia: The petition of John A. Parker, for the passage of a bill to readjust the claims of certain States for interest on advances of moneys made for the United States during the war of 1812—to the Committee on the Revision of the Laws.

By Mr. HAWK: Papers relating to the claim of Edward T. Brownell, for payment of two lost drafts, issued by a pension agent—to the Committee on Invalid Pensions.

By Mr. HOUK: The petition of Edwin N. Parham, for compensation for quartermaster stores taken by the United States Army—to the Committee on War Claims.

By Mr. LAPHAM: The petition of J. M. Bull, Mary F. Harris, and 176 others, citizens of Ontario County, New York, against any change in the revenue law that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. MILLER: Papers relating to the war claim of William S. Stevens—to the Committee on War Claims.

By Mr. MURCH: The petitions of J. B. Danforth, William Wells, and 172 others, of the United States arsenal, Rock Island, Illinois; of Nicholas McKeone and 80 others, of Cape Ann, Massachusetts; of H. Richards and 72 others, of Dix Island, Maine; and of M. A. Magriel, Charles McLeod, and 40 others, of Spruce Head, Maine, for the passage of the bill to enforce the eight-hour law—to the Committee on Education and Labor.

Also, the petition of Horace Budwell and 65 others, of Athens, Maine, that Congress prohibit the issue of money by corporations, and that a further issue of United States legal-tender paper money be made, and to instruct the Secretary of the Treasury to buy and cancel bonds with the same—to the Committee on Banking and Currency.

By Mr. OVERTON: The petition of Charles N. Warner (accompanied by draught of bill) to be restored to his former relative rank and position in the Army—to the Committee on Military Affairs.

By Mr. PIERCE: The petition of Mary Cane, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. ROSS: The petition of women of Roselle, New Jersey, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SPRINGER: The petition of women of Christian County, Illinois, against any change in the revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

Also, resolution of the Legislature of Illinois, relative to the swamp lands in that State—to the Committee on Public Lands.

By Mr. STEPHENS: The petition of the administrator of William H. De Groot, deceased, for compensation for work and labor done by said decedent under a contract with the Government—to the Committee of Claims.

Also, the petition of G. E. W. Sharretts, of similar import—to the same committee.

Also, papers relating to the war claim of Samuel I. Gustin—to the Committee on War Claims.

By Mr. TUCKER: Papers relating to the claim of Edwin De Leon, for a balance due him on adjustment of his accounts as consul-general of the United States in Egypt—to the Committee of Claims.

Also, papers relating to the war claim of R. M. Miller—to the Committee on War Claims.

By Mr. OSCAR TURNER: The petition of Mrs. Belle M. Baker, for a pension—to the Committee on Invalid Pensions.

By Mr. WHITEAKER: The petition of Martha F. Woodrum, for a pension—to the same committee.

By Mr. WILLITS: The petitions of A. Bennett and 35 others, and of C. A. Stacey and 22 others, citizens of Michigan, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. FERNANDO WOOD: Papers relating to the pension claim of Margaret Brewster—to the Committee on Invalid Pensions.

IN SENATE.

THURSDAY, *May* 1, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. T. KING, one of its clerks, announced that the House had passed a bill (H. R.

No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy; in which the concurrence of the Senate was asked.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting for the information of the Senate copies of reports from Captain M. R. Brown, Corps of Engineers, showing the progress of the work of improving the South Pass of the Mississippi River; which, on motion of Mr. BECK, was referred to the Committee on Transportation Routes to the Seaboard.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the petition of Mrs. G. W. Green and 79 other women of Michigan, praying for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia; which was referred to the Committee on Finance.

Mr. COCKRELL presented a joint and concurrent resolution of the Legislature of Missouri, in favor of an appropriation by Congress for the improvement of White River in that State; which was referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

He also presented a concurrent resolution of the Legislature of Missouri, in favor of the passage of a law by Congress repealing certain statutes and modifying the existing laws relating to the removal of causes from the State courts to the circuit courts of the United States; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. MAXEY. I am instructed by the Committee on Post-Offices and Post-Roads, to which was referred the bill (S. No. 516) to extend the time of special postal service until service can be obtained by advertisement, to report it without amendment and to submit a favorable report thereon. I desire to state in this connection that a communication from the Postmaster-General accompanying the report of the committee shows an exigency that should be met at once. For that reason the committee have instructed me to report the bill to the Senate for consideration. I ask that the accompanying report be printed, and I give notice that so soon as the report shall be printed I will at the earliest moment call the bill up and ask for final action upon it.

The PRESIDENT *pro tempore*. The report will be printed and the bill will be placed on the Calendar.

REPORT OF THE NATIONAL ACADEMY OF SCIENCES.

Mr. ANTHONY. The Committee on Printing, to which was referred a resolution to print 750 additional copies of the report of the National Academy of Sciences, has instructed me to report it without amendment and recommend its passage. I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That 750 additional copies of the report of the National Academy of Sciences be printed for the use of the National Academy of Sciences.

BILLS INTRODUCED.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 533) for the relief of Charles W. Abbott, a pay-director, and W. W. Barry, a passed assistant paymaster in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 534) granting a pension to Caroline Treckell; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 535) granting a pension to William H. Miller; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 536) placing the name of Walter F. Halleck upon the retired list of the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 537) to refer the claim of Alice E. De Groot and Theodore R. B. De Groot, administrators of William H. De Groot, deceased, to the United States Court of Claims; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 538) to authorize the payment of certain claims for arrears of pay and bounty; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WITHERS, it was

Ordered, That the papers in the case of Virginia Gardner, widow of the late Commodore W. H. Gardner, United States Navy, be taken from the files of the Senate and referred to the Committee on Pensions.

Ordered, That the papers in the following cases be taken from the files of the Senate and referred to the Committee on Claims: George D. Harwood, D. T. Madigan, A. S. Lee, and Garret F. Watson.

On motion of Mr. INGALLS, it was

Ordered, That the petition of George J. Webb, of Company C, One hundredth Regiment New York Volunteers, be taken from the files of the Senate and referred to the Committee on Pensions.

On motion of Mr. BUTLER, it was

Ordered, That the papers in the case of Abram Vansant, petitioner for pension, be taken from the files of the Senate and referred to the Committee on Pensions.

SITE FOR WASHINGTON CITY POST-OFFICE.

Mr. DAWES submitted the following resolution:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of purchasing, for the purposes of a city post-office, square No. 406 in the city of Washington.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts ask for the present consideration of the resolution?

Mr. DAWES. I desire simply that it be adopted, to give the committee an opportunity to inquire as to this site among others.

Mr. COCKRELL. Why should the inquiry be confined to one site alone?

Mr. DAWES. There are two or three that have been submitted to the committee. This is one among them, and this resolution gives them an opportunity simply to inquire about this one.

Mr. COCKRELL. Why not, then, give authority to inquire as to other sites that may be offered?

Mr. DAWES. Most certainly. I have no desire to confine the inquiry.

Mr. COCKRELL. Let the resolution be amended, then, so as to include other sites which may be offered or proposed.

Mr. DAWES. I have no objection to such an amendment.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of the resolution? Is there objection? The Chair hears none, and the resolution is before the Senate.

Mr. COCKRELL. I suggest an amendment to the Senator from Massachusetts.

Mr. DAWES. To any amendment of that kind I have no objection.

Mr. COCKRELL. After naming the place indicated in the resolution, say "or any other place or places which may be offered."

Mr. EDMUNDS. "Or otherwise."

Mr. MORRILL. "Or any other lots owned by the United States."

Mr. DAWES. We do not want to purchase any lot that is owned by the United States.

The PRESIDENT *pro tempore*. The resolution will be reported as modified.

The Secretary read the resolution as modified, as follows:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of purchasing, for the purposes of a city post-office, square No. 406, in the city of Washington, as well as other sites which may be proposed.

Mr. DAVIS, of Illinois. Where is square 406?

Mr. DAWES. It is opposite the Patent Office, on which the Le Droit building is.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as modified.

The resolution, as modified, was agreed to.

COLLECTION OF DIRECT TAXES.

Mr. BELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the Senate of the amounts due and uncollected, if any, under section 8, act of August 5, 1861, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and to state reasons, if any exist, why the same have not been collected or should not now be collected, agreeably to the provisions of said act.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. BAYARD. I move that when the Senate adjourns to-day, it adjourn to meet on Monday next.

Mr. EDMUNDS and others. No, no.

Mr. HARRIS. I desire to appeal to the honorable Senator from Delaware to withdraw the motion for the present at least. I should like very much as early as the Senate can do so with convenience to itself to finish the consideration of the bill now pending. Whatever its fate may be, I desire to reach it just as soon as the Senate can conveniently reach it; and I hope the Senate will not adjourn over.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? The Senator from Delaware moves that when the Senate adjourns to-day, it be to meet on Monday next.

The question being put, there were on a division—ayes 22, noes 17.

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 26; as follows:

YEAS—23.

Allison,	Cameron of Wis.,	Grover,	Plumb,
Anthony,	Chandler,	Hamlin,	Randolph,
Bayard,	Cockrell,	Hampton,	Thurman,
Beck,	Coke,	Ingalls,	Williams,
Burnside,	Davis of W. Va.,	Kernan,	Withers.
Butler,	Groome,	Morrill,	

NAYS—26.

Bailey,	Ferry,	Maxey,	Vance,
Bell,	Garland,	Morgan,	Voorhees,
Call,	Harris,	Ransom,	Walker,
Davis of Illinois,	Houston,	Rollins,	Wallace,
Dawes,	Kellogg,	Saunders,	Windom.
Eaton,	Logan,	Slater,	
Edmunds,	McMillan,	Teller,	

ABSENT—27.

Blaine,	Gordon,	Jones of Florida,	Pendleton,
Booth,	Hereford,	Jones of Nevada,	Platt,
Bruce,	Hill of Colorado,	Kirkwood,	Saulsbury,
Cameron of Pa.,	Hill of Georgia,	Lamar,	Sharon,
Carpenter,	Hoar,	McDonald,	Vest,
Conkling,	Johnston,	McPherson,	Whyte,
Farley,	Jonas,	Paddock,	

So the motion was not agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States relating to the Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

PREVENTION OF EPIDEMIC DISEASES.

The PRESIDENT *pro tempore*. If there is no further morning business the morning hour is at an end and the unfinished business is next in order.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) to prevent the introduction and spread of contagious or infectious diseases into the United States.

The PRESIDENT *pro tempore*. The pending question is on the motion made by the Senator from Maine [Mr. HAMLIN] to recommit the bill with instructions.

Mr. HARRIS. Mr. President, from the course of debate——

Mr. EDMUNDS. Before the Senator addresses the Senate, would he have any objection to having the instructions read, so that we can understand what the motion is precisely?

Mr. HARRIS. Certainly not.

The PRESIDENT *pro tempore*. The instructions will be read.

The Chief Clerk read from the Journal of yesterday's proceedings as follows:

That the bill be recommitted to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, with instructions to report a code of rules and regulations by which the provisions of the bill are to be enforced.

Mr. LOGAN. I desire to offer an amendment to the bill, so that it may be printed and referred to the select committee, if the bill should be recommitted. It is an amendment to the law of 1878, striking out a portion of the second section and inserting a part of the present substitute reported by the Senator from Tennessee [Mr. HARRIS] from the select committee.

The PRESIDENT *pro tempore*. The amendment will lie on the table for the present.

Mr. LOGAN. I propose to offer it, and I present it now that it may be printed.

The PRESIDENT *pro tempore*. The order to print will be made.

Mr. HARRIS. Mr. President, from the course of the debate on yesterday upon the bill under consideration, I am inclined to think there is some misapprehension as to the scope of the bill. The object and purpose of this bill is to so regulate commerce with foreign nations as to prevent the importation into the United States of contagious or infectious diseases, and to so regulate the commerce among the several States as to prevent the importation of contagious diseases into one State from another State. These are the precise objects and the only objects that the committee propose to accomplish by the bill that it framed and reported to the Senate.

But at the threshold we are met with at least the suggestion if not the assertion that there is no constitutional power to enact such a law as this bill proposes. No Senator doubts the power of Congress to regulate commerce with foreign nations and among the several States; but if it be true that the regulations prescribed by this bill are not commercial regulations in the sense of the Constitution, then I grant that there is no constitutional power in Congress to pass this bill or any bill accomplishing the objects proposed to be accomplished by the bill under consideration.

But, Mr. President, is it true that this is not a legitimate commercial regulation in the sense of the Constitution? For what purpose was the power delegated to Congress to regulate commerce with foreign nations and among the several States? Was it not in order that the regulation should be uniform and should be such as would not only promote the best interests of the whole people of the United States, but would be such as would render commerce harmless and safe to the American people?

I beg Senators to remember that the evil that is apprehended, the evil that is proposed to be remedied by this bill, is one which is connected with commerce. It is one which springs directly from commerce, and one that would not exist but for commerce. The evil is purely commercial. It exists in commerce, and exists not elsewhere, because it is commerce alone that endangers the importation of contagion from foreign countries. It is commerce alone that endangers the transportation of contagion from one State to another State.

Mr. WITHERS. Not alone.

Mr. HARRIS. My friend shakes his head and says not commerce alone. I beg to assure my honorable friend from Virginia that commerce is defined to mean not only traffic, buying, selling and interchange of commodities, but it means also intercourse, navigation and transportation. Transportation and intercourse are commerce. Hence I repeat that the evil complained of here is one which has its origin in commerce. It is connected with commerce, and it is impossible to deal with it at all except by the regulation of commerce.

The board of scientific experts recently organized under the authority of Congress have reported to Congress that seventy-seven out of eighty-eight yellow-fever epidemics with which this country has been afflicted were the result of imported contagion, and with regard to the remaining eleven there is proof, more or less conclusive, which tends to show that they too, originated in the same manner. Those epidemics which result from importation, it will not be denied are directly chargeable to commerce, having been brought to the country through the channels of commerce.

The epidemic of 1878, it is shown satisfactorily, if not conclusively, was the result of imported contagion, and is therefore directly chargeable to commerce, with its appalling catalogue of fearful consequences, which may be approximately summed up in the death of over twenty thousand people, in the impaired health of more than two hundred thousand people, in the expenditure and loss of material wealth amounting to hundreds of millions of dollars. Yet it is argued that you cannot subject commerce to such inconvenience and delay as may be necessary to strip it of this alarming liability to inflict these great evils upon the whole people.

The honorable Senator from New York [Mr. CONKLING] yesterday appealed to the committee to fix the outside limit of this power of Congress to regulate commerce with foreign nations and among the States. With my view of this power and of the objects and purposes of this bill, it is wholly unnecessary to enter upon any such inquiry, or to undertake to settle the somewhat vexed and unsettled question as to exactly where the power of Congress to regulate commerce ends, and the police powers of the States begin, because in my opinion the power to so regulate commerce as to make it harmless, and render it powerless for evil, stands at the very threshold and in the foreground. Hence, we need seek for no outside limit of power to justify the passage of this bill.

But upon the question suggested by the honorable Senator from New York [Mr. CONKLING] I have taken the trouble to look at a large number of cases decided by the Supreme Court of the United States discussing the power to regulate commerce, and what are termed the police powers of the States. I will briefly refer to three of the more recent, in which the former cases are reviewed with the hope of deducing from them support to the view I take of the constitutional power of Congress to legislate upon the question presented in this bill.

First, I refer to the case of Henderson *vs.* The Mayor of New York. The Legislature of New York passed a bill providing that the master of every vessel which brought to the port of New York passengers not citizens of the United States, should make a report under oath in writing to the mayor of the city, of the name, the age, the occupation, and the last place of residence of every passenger of that character; the mayor was required to indorse upon that report the requirement that the master, owner, or consignee of the vessel shall, within twenty-four hours from the time such passengers are landed, give a bond with two or more good and sufficient sureties in the penal sum of $300 conditioned to save harmless every county, city, town, and village of the State of New York from such passenger becoming a public charge. It provided further that the mayor should be authorized to commute these three-hundred-dollar bonds by the payment by the master, the owner, or consignee of the vessel of a tax of $1.50 for each passenger; and it was provided further that if the bond was not given or the commutation tax paid within twenty-four hours from the time the passenger was landed, the vessel should forfeit $500 in the case of each passenger, which was declared a lien upon the vessel. The owner of an English ship contested the right of the mayor of New York to demand such bond or such tax. The Supreme Court of the United States decided that the act was a regulation of commerce, and therefore void, because repugnant to the eighth section of article 1 of the Constitution, which delegates to Congress the power to regulate commerce with foreign nations and among the several States, and no such power existed in the States; that Congress had the power——

Mr. KERNAN. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Tennessee yield to the Senator from New York?

Mr. HARRIS. Yes, sir.

Mr. KERNAN. As my friend is looking at that case, and I speak from memory alone, I will state my recollection. It is that the court put the decision upon the ground that carrying passengers was commerce; that although it was put in the manner it was, it was in substance and effect a tax on commerce so much a head, and therefore void. They say very much on a point that was not in judgment, that a State could do what was sought to be done by that act in another way, that they could protect themselves against paupers, but that they could not do it by exacting from everybody, rich and poor, a dollar and a half tax, for that was a tax on commerce.

My impression is that in the Passenger case and in this case, which is referred to, and in other cases, the Supreme Court do recognize the rights of the States to protect themselves against sickness, pestilence, paupers, criminals, and all that class as a part of the police powers

which the States have. I only call my friend's attention to the opinion; I have not looked at the case recently.

Mr. HARRIS. The honorable Senator is quite right in his statement that the Supreme Court put the decision upon the ground that in effect the act of the New York Legislature imposed a tax upon the importation of persons when the State had no power to impose it. The court puts it upon the ground that the requirement of this bond of $300 for each passenger, with two good and sufficient sureties, the cost of making, acknowledging, and executing which would be greater than the dollar and a half which was demanded, was a mere device in order to make it appear that the payment of the dollar and fifty cents on each passenger was voluntary, when in fact it was extorted by the method stated. But as to the other point suggested by the honorable Senator from New York, so far from the court in that case declaring that in the exercise of the police powers of the State a State may protect herself against vagrants, paupers, criminals, and diseased persons, the language of the court, as I remember it from a very recent examination of the case, is that whether the State can protect herself against criminals, paupers, vagrants, and diseased persons, or how far she can where Congress has wholly failed to legislate upon the subject, leaving the field unoccupied so far as legislation is concerned, the court expressly declined to express an opinion. But certain it is that the Supreme Court held in that case that the State of New York had no power to impose such restrictions upon the importation of persons from foreign countries, because of the fact that the power to regulate commerce was by the Constitution confided to Congress. Here is an adjudication of the principle that Congress alone has constitutional power to impose the terms, restrictions, and conditions upon which persons from foreign countries may be permitted to enter the United States. The act of the State of New York applied to persons generally; it included all classes, and was not by its terms made applicable to that objectionable class known as paupers, criminals, &c., but included every passenger who was not a citizen of the United States.

In the same volume, 2 Otto, is the recent case of Chy-Lung *vs.* Freeman. In that case the Legislature of the State of California passed an act requiring the commissioner of emigration to board every vessel that landed at San Francisco with passengers and ascertain and determine as to whether or not passengers so arriving were idiots, lunatics, paupers, criminals, lewd or debauched women, specifying various objectionable classes, but the statute of California applied to none other than objectionable classes. It specified the various classes of persons, such as my honorable friend from New York [Mr. KERNAN] referred to a few moments ago as persons that the State had a right to exclude from her boundaries in the exercise of those powers generally characterized and known as the police powers of the State. It was these classes, and these classes alone, that the act of California referred to and proposed to fix the terms upon which they should be admitted to the State, if admitted at all.

The act proceeded to provide that when this commissioner of emigration had determined how many paupers, how many idiots, how many lunatics, how many lewd or debauched women were upon the vessel, he was required to demand that the master, owners, or consignees of the vessel give a bond with two or more sureties, and no two sureties to go upon more than one bond, the bond to be in the penal sum of $500 for each passenger, conditioned that the passenger should never become a charge upon any city, town, or county of the State. But it provided further that the commissioner of emigration after he had required these bonds of $500, with two sureties on each bond, and no two allowed to go on more than one bond, and who were required to be freeholders and citizens of the State of California, and fixing the fee for the execution and acknowledgment of these bonds, amounting in each case to about $5, the act provided that the commissioner might commute these bonds with the master of the vessel by the master paying to the commissioner such sum of money in each case as the commissioner thought proper to exact.

The constitutionality of this act was tested, and the court held that the State of California had no power to pass such act because it was a regulation of commerce, and the power to regulate commerce having been delegated to Congress, the State did not possess and could not exercise it, and therefore the act was void—the power to determine the rules, regulations, and restrictions upon which even this, the most objectionable class of persons that can be imported should be admitted within the limits of the United States being vested in Congress alone.

There is one other case to which I will briefly refer, the case of the Railroad Company *vs.* Husen, in 5 Otto. The State of Missouri passed an act making it unlawful for any person to bring within the limits of the State of Missouri any Texan, Mexican, or Indian cattle from the 1st of March to the 1st of November in each year, provided that cattle loaded on a railroad car or on a steamboat may be passed through the State without unloading; provided further, however, that the owner of the steamboat or the railroad company transporting such cattle shall be liable for any injury resulting from disease that may be contracted by the cattle of the citizens of Missouri from the cattle so passing through.

The constitutionality of that act was tested, and the Supreme Court held in that case, as in the other cases, that it was a regulation of commerce, that the power to regulate commerce among the several States was delegated to Congress, that Congress possessed the power to regulate, determine the rules, the restrictions, and conditions upon which cattle from Texas or elsewhere may be introduced or may be passed through on the lines of railroad or of water communication of the several States of the Union; that Congress had the power to determine what class of cattle, what character of merchandise might be admitted into the United States, and the terms upon which such merchandise should be admitted within the boundaries of the United States.

Now, Mr. President, if Congress may by commercial regulation determine what classes of persons may be admitted within the United States or rejected, what characters of merchandise may be admitted and what forbidden admission into the United States, it cannot be denied that in the exercise of the same power Congress may prohibit the importation of contagion, and that is what this bill proposes to do.

Mr. President, I beg to inquire of Senators who question this power, under what power is it that Congress passed that volume of navigation laws with which your statute-book is teeming? Under what clause of the Constitution is it that Congress prescribes rules for every sea-going vessel or every vessel that plies the waters of your rivers? Under what clause of the Constitution is it that Congress prescribes one set of rules for those vessels that carry passengers, and a different set of rules for those that are known as purely freight vessels? Most clearly the authority to pass all of these laws is found in that clause of the Constitution that delegates to Congress the power to regulate commerce. If in the exercise of this power Congress can require, under heavy penalties, the inspection of the hull, boilers, and machinery of every steam-vessel which floats upon your waters, and forbid the use of such vessels and machinery as are found unseaworthy; can require one set of rules to be observed by vessels carrying passengers and another set less stringent for freight vessels; can say to the ocean or river steamer that carries passengers, "You shall not endanger the lives of your passengers by carrying gun-powder, camphene, nitro-glycerine, or other explosive fluids or articles, or by carrying loose hay, loose cotton, or loose hemp, which may cause a conflagration," and yet cannot say, in the exercise of the same power, "You shall not endanger the health and lives, not only of your passengers but of millions of other people by carrying contagion more dangerous than all combustibles and explosives that your vessels will contain." If Congress has the power to so regulate commerce as to promote the safety of the passenger upon the vessel from the dangers of fire or the dangers of explosion or the dangers of defective machinery, can it be denied, can it be doubted, that it has the power under the same clause of the Constitution to so regulate commerce as to strip it of that contagion which so seriously threatens human life and health and the prosperity of the country?

To my mind, Mr. President, the proposition is too clear to admit of argument. I regret that it is not so to the minds of other gentlemen. But how Congress can constitutionally pass the navigation laws which are found in our statutes, how Congress can legislate with an eye single to the safety of the lives and property of passengers on board of vessels from the dangers of explosion, the dangers of fire, and all that class of dangers incident to a voyage, and not possess the power to ascertain, if it can, whether upon that vessel contagion lurks with all of its dangers to human health and human life and human prosperity, I may say, is what I cannot understand.

The pending question, Mr. President, is the motion of the honorable Senator from Maine [Mr. HAMLIN] to recommit this bill with instructions to report a code of rules and regulations. I shall oppose the motion of the Senator, first, for the reason that in my opinion the National Board of Health, a board of scientists, familiar with the questions with which its members have to deal, is better qualified, in my opinion much better qualified than any member of the committee, perhaps than any Senator, to prescribe the rules and regulations for the accomplishment of the objects sought by this bill. But, however that may be, I am sure that the committee should not undertake to prescribe the rules and regulations that are to be observed in the enforcement of this act. I think the dangers apprehended by the Senator from Maine are greatly overrated. He fails to observe, I think, the limitations upon the power of the board in making rules and regulations for the enforcement of this act. The first limitation is found in the fact that the board can make only such rules and regulations as are authorized by the laws of the United States; they can make none other. The next limitation is found in the fact that they are authorized to make all needful rules and regulations for the accomplishment of a specific object, the prevention of the importation of contagious diseases from foreign countries into the United States and the prevention of the importation of contagious diseases from one State into another State. The power is limited to the precise object they have in view; the board can make rules and regulations necessary to that end, and can make no others.

Mr. TELLER. I should like to ask the Senator a question with his permission.

Mr. HARRIS. Certainly.

Mr. TELLER. I suppose, then, if they are to make all needful regulations, they are to be the judges of the regulations?

Mr. HARRIS. Of course they are to be the judges of the regulations they will make; that is, they are to be judges so far as the making of them is concerned, but the President is to sit in judgment on them afterward, because the rules and regulations are void until they are approved by the President of the United States. But sup-

pose they are made and suppose they are approved, and suppose they should transcend the limits of the power that is delegated to the Board of Health in respect to their making, the rules and regulations made in excess of the power of the board would occupy no higher position and have no higher authority or validity than an unconstitutional act passed by Congress or an unconstitutional act passed by the Legislature of a State.

Mr. TELLER. I should like to inquire if there is any restriction put upon them at all. If the President approves their regulations, does not everything that they do become the law of the land?

Mr. HARRIS. Everything that they do within the scope of their power does become authoritative and binding; but any act of theirs beyond the limit of their power would be a regulation or rule in violation of the act of Congress, and therefore void.

Mr. TELLER. Where is the limit? I do not see any limit in the bill.

Mr. HARRIS. The limits are that the board can make no rule or regulation except such as is authorized by the laws of the United States; that is one limit, and they must confine themselves strictly within it. Another limit is that they can make no rules or regulations except such as are needful to the accomplishment of a precise and specific object; that is, a rule and regulation that is necessary for the purpose of preventing the importation of disease from foreign countries or preventing the importation of disease from one State into another State. That is another limit.

Mr. DAWES. Mr. President——

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) Does the Senator from Tennessee yield to the Senator from Massachusetts?

Mr. HARRIS. For a question? Yes; but not for a speech.

Mr. DAWES. I observe upon the point which the Senator from Tennessee is discussing that these "needful rules and regulations" must be such as are "authorized by the laws of the United States." Does the bill mean by that such as find express authority in the laws? Who shall define what is "authorized by the laws of the United States?" Shall this board, that make the regulations, themselves pass upon the question whether those regulations are authorized by the laws of the United States? Shall they look for express authority to pass those laws? If so, the rules and regulations will be found in the law itself. If they make rules and regulations which go further than is found in the statutes, then they must look for some implied authority, and they are the judges of that implied authority, so far as I can derive it from the bill, and there is no other appeal from them than such redress of grievances as an action of tort, or something of that kind, will give a party claiming to have suffered under their administration. It is setting these commissioners up with some sort of absolute authority. They can adopt any regulations they please. I hope I do not interrupt the Senator too much.

Mr. HARRIS. Not at all.

Mr. DAWES. They can adopt any regulations they deem needful and authorized by the general laws of the United States, and they can impose any penalty that they may deem necessary. Now, the first thing that a national board of health would be likely to do would be to declare something a nuisance to the public health. All boards of health do that. A board of health that is worth anything, that has any efficiency must have that power. That is a needful power in a board of health. Now, they do not seem to have any limit except their own discretion, their own judgment.

Mr. HARRIS. Will the Senator from Massachusetts allow me to interrupt him, not to take him off the floor, but to call his attention to this fact while he is arguing the question? The whole structure of this bill looks to the accomplishment of one single object, the prevention of the importation of contagion into this country and the prevention of the importation of contagion from one State into another. That is the whole case.

Mr. DAWES. Now if the Senator will allow me to occupy the floor——

Mr. HARRIS. Of course I shall allow you; but I want to say that under the authority given by this bill, under the authority given by any and all other acts so far as I know, there would be no pretense of authority in the National Board of Health to undertake to abate a nuisance. The scope of its operations is confined to the one single object.

Mr. DAWES. I see the difficulty in this committee reporting a code of rules and regulations. The rules and regulations must arise out of the exigency, and must be suited to it. And I see a great deal of propriety in having a board of general application to the different States, but the difficulty in the bill with which I labor is that it is proposed to make a legislature, if I may so call it, of this Board of Health, to give them the power to decide both what is needful and what is authorized. I have the utmost confidence in the men who constitute this board, and I have every desire to co-operate with the purpose of the committee; but it does seem to me that we are clothing them with an absolute power, a power that has no restriction upon it whatever, except that the judgment of the President of the United States may differ with that of the board, and the only redress a man can obtain is by some sort of action in which he claims that his rights have been infringed upon, and he must reach the Supreme Court of the United States before he ascertains that fact.

Mr. HAMLIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maine?

Mr. HAMLIN. Only for one minute.

Mr. HARRIS. Certainly.

Mr. HAMLIN. I dislike to interrupt any Senator when speaking; it is my rule not to do so; but I do it only for the purpose of saying to the Senator from Tennessee that when I submitted this motion I presumed the committee would avail itself of the information and of the services of this very Board of Health and that this Board of Health would prepare its rules and regulations so far as they can be applicable to the law when it starts, and we should gather something from that of what would be the scope which they would seek to exercise, answering to a certain extent the suggestion of my friend from Massachusetts. I did not suppose the committee themselves could adopt the rules, nor did I deem it proper; neither did I think it appropriate to call upon the board; it would be the work of the committee and the committee would avail themselves of the board and the board would tell us just what they propose to do in starting this law in its operation.

Mr. HARRIS. I can tell the Senator from Maine now that the board will only undertake to form such rules and regulations as in its opinion are necessary to prevent the importation of contagious diseases.

Mr. HAMLIN. Let us have its opinion.

Mr. HARRIS. That is the whole matter. I am obliged to the Senator from Massachusetts [Mr. DAWES] for his interruption, because I am satisfied he can discuss this question much more interestingly and with much more ability than I can; but I am not sure that I remember the precise question he asked me, at the beginning of a question which ripened into an interesting speech of some length. But, so far as I remember the question, it was whether the board and the President, who are the only parties this bill requires to make these rules and regulations, shall judge for themselves as to the character of rules and regulations and the extent to which those rules and regulations shall go. I answer unquestionably yes, just as the Senator from Massachusetts is the judge of how far his power as a Senator upon this floor extends in the framing of any statute, any law, any rule or regulation that it may become his duty as a Senator to act upon.

Mr. DAWES. Then I am to understand the Senator to state that *quoad hoc* this is a Legislature, and its rules and regulations are to have the force of law, and there is the same redress and no other redress than lies against a statute of the United States which may infringe upon a constitutional right.

Mr. HARRIS. Just such a Legislature as is the Secretary of the Treasury. Your statute-book is groaning under the authorities given to that officer to make rules and regulations affecting some of the most important interests of the whole people of the country, and, as I think, wisely delegating the power to him to frame those rules and regulations and to enforce them. But if the Board of Health, with the approval of the President of the United States, shall transcend the limits of its power, and shall make rules and regulations not authorized by the laws of the United States—rules and regulations not needful to the accomplishment of the precise object that the act of Congress had in view—every citizen has the same remedy against the enforcement of such rules and regulations that he has against the enforcement of an unconstitutional act of Congress or an unconstitutional act of a State Legislature.

Mr. KERNAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from New York?

Mr. HARRIS. Yes, sir.

Mr. KERNAN. Under the language of this bill, is there not the discretion given to them, so that if they exercise it, no matter how erroneously, they are not liable?

> The National Board of Health shall make all needful rules and regulations authorized by the laws of the United States for the prevention of the introduction into, and spread within, the United States of contagious or infectious diseases, which shall be uniform.

When you clothe a board with power to make such regulations and rules as they shall deem necessary, if they honestly exercise their judgment, surely they will not be liable; and therefore I think it is dangerous.

Mr. HARRIS. Oh, Mr. President, I do not think there can be any construction that can be broader than I have given. The rules must be such as are authorized by the laws of the United States; they must be such as are necessary to the accomplishment of the specific object.

Mr. TELLER rose.

Mr. HARRIS. I will hear the Senator from Colorado.

Mr. TELLER. I ask now what laws are referred to? Is not this bill, if it becomes a law, their authority? Is not this the law under which they will act; and if they keep within this act which says they shall make all regulations that in their judgment are necessary, are they not justified?

Mr. HARRIS. Necessary for what purpose? Does not the bill specify?

Mr. TELLER. The purpose of carrying out the provisions of this act.

Mr. HARRIS. They must be needful rules, rules necessary to the accomplishment of the specific object named. But what I had intended to say on the amendment of the Senator from Maine is that

I think the National Board of Health the safest tribunal in America with which to lodge the power to make the rules and regulations necessary for the enforcement of this law. If, however, it is not sufficiently guarded, if there be danger of great wrong being done by the Board of Health transcending the limits of its power, danger of great interests being prejudiced or prostrated by reason of the unauthorized use of power, I have not the slightest objection, speaking for myself, to make the approval of the Secretary of the Treasury necessary to the validity of the rules, and if deemed necessary the approval of the Attorney-General of the United States may be required also. I have no objection to the adoption of any reasonable suggestion that any Senator may think it necessary to make in this respect. I want rules and regulations that will accomplish the object, and in accomplishing it, that will embarrass commerce just as little as it is possible to embarrass it, consistent with the object that I think paramount in importance to all other considerations, that of preventing the importation of contagion.

Mr. DAWES. May I make another inquiry of the Senator from Tennessee?

Mr. HARRIS. Certainly.

Mr. DAWES. I should like to inquire what would be the remedy for any violation of the rights of individuals by these regulations? Would it be a remedy against the commissioners, against this Board of Health, against them individually, against them and the President, against them and the President and the Attorney-General if he be made a party, or would it be a remedy against the United States? They are officials, they discharge a duty, they act in good faith; and acting in good faith they cannot be personally liable. Will the United States assume to redress a grievance under these circumstances?

I was supposing they would act in the capacity of abating a nuisance. Suppose they order a man's house to be torn down because they think it is infected with small-pox, and it turns out that the rules and regulations were not authorized by the laws of the United States, where is the remedy? This is a complex subject, full of difficulties, and I ask these questions in all good faith.

Mr. HARRIS. The party might enjoin any one who proposed to enforce a rule and regulation that was inconsistent with the laws of the United States, and thus save his house from being torn down under it. There may, perhaps, be other remedies; perhaps there are abundant remedies in the form of actions for damages against the party who executes a void ordinance; but I do not propose to waste my own time or that of the Senate in rambling out into a wild field of speculative inquiry as to every possible remedy that might be resorted to in the event you authorize the Board of Health to make rules and regulations and in making them it goes far beyond the power and authority delegated to it, and then undertake to enforce them to the great injury and prejudice of the rights of citizens. I do not presume that there is any probability of any such case arising; but if there be such probability, it will be time enough to inquire into the remedy when a remedy has become necessary.

Now, Mr. President, the honorable Senator from Maine admits that this Board of Health should be consulted as to the framing of these rules and regulations. Why not allow them to make the rules and regulations? And if the honorable Senator thinks it is wise and proper to require the approval of other officers of the Government than the President, I have no objection to such addition; I have no objection to any amendment reasonable in itself and practical, that will not defeat or materially impair the object and purpose of the measure. I desire to make it as perfect as it is possible to make it, to confine as accurately and as nearly as it is possible to confine these rules and regulations to the accomplishment of the one object, which is to me and a large proportion of the people of this country so desirable and so important, the object of preventing the importation of contagion. Confine it as strictly to that as you please; but whatever power is necessary, whatever rules and regulations may become necessary, whatever inconvenience and burdens may be imposed upon commerce, important as that great interest is to the country, for myself I can say that I am ready to subject commerce to such delays, to such inconveniences, to such burdens as may be absolutely necessary to render commerce safe to the health and to the lives of the American people.

I hope the Senate will not recommit the bill. Let the Senate perfect it, throw additional restrictions upon the making of rules and regulations such as are reasonable and will not defeat the main object, and I will not object; but that the power to make rules and regulations should be lodged in the Board of Health is absolutely necessary in my opinion, if for no other reason, for the reason that rules and regulations may become necessary from time to time when Congress is not in session and when Congress cannot sit in judgment upon the question of the propriety or impropriety of the rules and regulations that may be so necessary under the emergencies and exigencies of the hour.

Mr. President, in regard to the amendment read for information by my friend the Senator from Alabama, [Mr. MORGAN,] I desire to say that for myself I have never yet been able to see the probability or even the possibility of any serious conflict between this bill and the sanitary laws of any State; and believing as I have believed and as I do believe that there is not only no probability but I scarcely see how there is a possibility of serious conflict between those authorities, I was willing at the last session of Congress, when a bill very similar to this was under consideration, to incorporate as an amendment upon it the precise language that the Senator from Alabama has presented.

Where can there be a conflict between the State authorities and the authorities of the Federal Government acting under the authority of this act?

This bill deals with commerce with foreign nations and among the several States. With these States cannot deal. It does not pretend to enter upon the broad and general duties of sanitary measures. It is not pretended that Congress has the power to enter upon that large and important field of sanitary work so necessary in every city, town, and village, such as the abatement of nuisances and general cleansing, purifying, and disinfecting, a work over which Congress has no power, but clearly within the powers and duties of States and municipalities.

In connection with his amendment my friend from Alabama refers to the fact that in the whole legislative history of this country there has been no such proposition as the one now pending before the Senate, that in all other acts on the subject of quarantine Congress has deferred to the States Congress has contented itself with relying upon the State regulations of quarantine for the protection of the lives and the health of the American people. I admit it. It is a sad and a melancholy fact that Congress has so relied, and the results that have followed that reliance are more eloquently announced by the appalling death-roll of the yellow-fever epidemics of 1867, 1873, and 1878—a system, if it can be called a system, which is utterly inefficient, and without uniformity or reliability. There are in a few given localities State or city quarantine regulations as perfect, I imagine, as any quarantine regulations can be made.

They have in the city of New York a system as perfect, as efficient, as safe as any system that the ingenuity of the human brain can devise; but New York happens to be the exception. There are only, I believe, seventeen States in the Union that pretend to quarantine regulations at all. The enforcement of State quarantine regulations is always embarrassed and rendered more or less uncertain by commercial rivalry and commercial jealousy. Each city and town will be reluctant to shut out its commerce until its rival has done the same, and in this way risks will be incurred fatal to safety.

Quarantine necessarily imposes restraints upon commerce, with which commerce is rarely if ever patient. I would not willingly impose a single burden or a single restraint upon that great interest that deserves to be fostered and cherished to the fullest extent that we legitimately can foster and cherish it. No restraint or burden would I impose upon it, except so far as absolutely necessary to protect the health and the lives of the people of the country; but to that extent, however great the burden or restraint may be, the protection of the lives and the health of the people is a consideration so immeasurably above all considerations of mere pecuniary interest that I am ready to go as far in that direction as may be necessary.

If this bill passes you will have a uniform quarantine system not interfering with the sanitary laws or the administration of the sanitary laws of the various States. The boards of health and health organizations from one end of the Union to the other are left unharmed and untouched to go on with all the sanitary work which in their judgment their various localities make necessary. We do not propose to enter upon that field of labor. We have no power to enter upon it; I mean that class of sanitary work that is found in abating nuisances, in general cleansing, purifying, and disinfecting cities, towns, villages, and crowded localities. That field of labor is occupied by and belongs legitimately to the States. We do not propose to interfere, nor do I think this bill if it passes will interfere with the sanitary regulations of any State. My theory of this bill is that it establishes a national quarantine as an outpost.

When a vessel from Liverpool comes to the national quarantine station, which is the frontier line, and before the vessel has reached the jurisdiction of the State of New York, the Federal Government says "Round to; let us see your papers; let us inspect your sanitary condition; let us see whether it is safe to allow you to enter an American port." If, upon inspection, the vessel, her cargo, her passengers, and her crew are found to be in such sanitary condition as to render it safe to admit it to an American port, she receives a certificate from the quarantine officer at that station and is permitted to go forward. She goes on to the New York quarantine station. There is nothing in this bill that forbids or attempts to forbid the State of New York or the State of Massachusetts from saying to that vessel when she reaches the State quarantine station "Stop here; show us your papers; let us inspect you." Let the State determine for itself whether her sanitary condition is such that she will admit the vessel to the port. There is nothing in this bill inconsistent with that. It leaves the whole machinery of the State quarantine intact, in full operation, and with all the rights that it possessed before, in my opinion.

But so far from conflicting, this bill requires the National Board of Health to co-operate with sanitary associations and State and municipal boards of health throughout the whole country, and to invite the co-operation of every State and municipal board of health in the land to co-operate with it. It not only proposes to co-operate and invites co-operation, but it authorizes the quarantine or health officers of the various States and municipalities to act as the agents of this Government to enforce the provisions of the laws of the United States and the rules and regulations made in pursuance thereof. They are invited as agents of the Federal Government to take charge

of this law with its rules and regulations, and to enforce them, while it enforces the sanitary rules, regulations, and laws of the State so far as the State may require her laws in this respect to be enforced.

Practically, I have no doubt that if this bill becomes a law the result will be in less than eighteen months from to-day this act, with all the rules and regulations that may be made for its execution and enforcement, will be in the hands of the health officers of the States, acting as agents of the Federal Government, enforcing our regulations and laws, while they are also enforcing such of their own regulations as their local necessities may require. There will be perfect harmony between these associations and organizations. In my judgment there is nothing to be apprehended from conflict between them, but most perfect harmony may be expected to exist between them.

Mr. President, all that I desire is that the Senate shall give the bill and its various provisions a fair and full consideration. The object proposed to be accomplished is second in importance to no question that presents itself to the consideration of this Congress. The committee may have been unfortunate in shaping their bill. They may not have done the wisest and best thing. All that the committee can say is that it did the best it could; we have given the bill just such shape as in our judgment was the best thing to do under all the circumstances. It meets the unanimous approval of the committee; it meets the unanimous approval of the National Board of Health. The committee of the Senate unanimously present it to the Senate and ask for a fair and full consideration. If it be defective let us remedy the defects as far as it is possible to remedy them, and then let it be passed or defeated upon its merits; and I hope that that result may be reached at the earliest moment that it can be accomplished with convenience to the Senate. Of course I do not desire the Senate to subject itself to unreasonable hours or any personal inconvenience in order to hasten the consideration of the bill, but I do desire that it shall be disposed of just so soon, and it is important that it should be disposed of just so soon, as the Senate can conveniently dispose of it.

Mr. MORGAN. Mr. President——

Mr. VOORHEES. Will the Senator from Alabama yield to me for a personal explanation?

Mr. MORGAN. Certainly.

PERSONAL EXPLANATION.

Mr. VOORHEES. Mr. President, I rise for the purpose of noticing a little fictitious newspaper literature—a thing I seldom do. Writers of fiction have entertained and amused the world a great deal. In a paper known as the National Republican, this morning, there is a very prominent and quite a long article headed "A Day of Democratic Demoralization," wherein a description of what is said to be a caucus of democratic Senators is given, and in that description a speech is made for me and put in my mouth. Several other Senators are noticed as speaking, and then the article proceeds to say:

> Of these speeches, all of which were very short, that of Senator VOORHEES is described as the most violent and plain-spoken, as well as unguarded, harangue ever uttered in such an assemblage. He said, in effect, that there would be no use in trying to carry Ohio, Pennsylvania, and New York (especially New York) for the democrats next year unless the political riders in the Army bill are enacted into law in some way or another. This admission was made in such plain-spoken words as to convey the intimation that an honest count under the existing national election laws would prove disastrous to the democrats, and that a dishonest count under the repeal of those laws was an absolute prerequisite to democratic success. The murmurs of disapproval of this style of argument were not so loud nor so emphatic as to show that the practical politics of the Tall Sycamore of the Wabash was wholly unpopular among his hearers, and even the great presidential aspirant [THURMAN] himself, the "President *de jure*," is reported to have yielded an assent to VOORHEES's logic.

Inasmuch, Mr. President, as I was not there at all, was not in the caucus, and did not know of it until after it was over, not having received my notice, the accuracy and truthfulness of this writer will be appreciated by all the Senators present.

As a matter of course we are all at the mercy of persons of this kind, and it is hard to overtake a lie when the word "go" has been given to it; but I thought I would take as even a start as I could and have a race on this subject. That is all I have to say about it.

PREVENTION OF EPIDEMIC DISEASES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, the pending question being on the motion of Mr. HAMLIN to recommit the bill with instructions.

Mr. MORGAN. Mr. President, I have desired, as I have already indicated by the suggestion that I would offer some amendments to this bill, to follow the wish of the Senator from Tennessee [Mr. HARRIS] and other members of the committee to try to perfect the bill here as far as possible; and yet I confess that I was very much impressed yesterday with the remarks of the Senator from New York [Mr. CONKLING] in reference to the lateness of the season and the probable hazard of venturing upon such a course of legislation at this time of the year—a course of legislation which, if it is understood by some of the members of the committee, as I have no doubt it is understood by them all, to be one that would abrogate to some extent, if not to every extent, the laws of the States on the subject of quarantine and other sanitary regulations, would be extremely hazardous at this time.

It has been said here that there are thirty-eight States all of which have been dealing with this subject, and for a good many years too, and it has been urged as one of the reasons why the National Government should take hold of this subject that these States in their dealings with this matter have got the subject into great confusion, each adopting for itself its own quarantine and sanitary regulations. These States have been going on, some of them for a hundred years, some of them for largely the greater period of a hundred years, in building up of quarantine and sanitary systems for their own regulation and the protection of the health of their own people. I think it must be conceded that in that space of time there has been a great accumulation of practical experience, and there has been the application of the wisdom of a great many very able men, both physicians and laity, upon this subject. For one, I would not rudely dispose of all this mass of collected wisdom and collected information on this very important subject; and certainly if I were to do so I would not venture at this time of the year to do it. I would not venture now to deprive any part of the United States and especially the endangered parts of the United States of those quarantine systems which for so many years have been considered sufficient in the protection of the health of the people.

Unless this extra session of Congress had been called the people would have been compelled to go on with their local regulations and to use them as far as they were available for the purpose of protecting the health of the different localities in the United States. We did not know at the time of the adjournment on the 4th day of March that this extra session of Congress would be called; and yet I heard no great clamor, no great outcry in the country because Congress had adjourned without having provided a national system of quarantine and sanitary regulations. While we all appreciate very fully the danger through which we passed during the last calamitous season, and while we apprehend of course with some keenness of expectation that these dangers may be renewed and increased during the present season, or some future season, yet it seemed to me that the people were at least satisfied with what Congress had done, or rather with what it had omitted to do, because I did not hear any clamor, as I have remarked, in favor of enacting a system of general sanitary regulation by Congress.

We are approaching the hot season, the epidemic season, and it seems to me to be a very dangerous experiment indeed now to venture upon any course which might strike down or paralyze the local institutions of this country ordained by law for the purpose of taking in charge this very subject of the public health. I think we can afford now to take time to mature a measure in Congress which will meet fully and completely all the requirements of the situation, and I do not believe that there is that urgency for action now which the gentlemen of the committee seem to think exists. The truth is that the very starting point of this legislation is a matter which is involved as yet in doubt throughout the whole medical profession of this country, and throughout the whole scientific corps of this country, and I may say of other civilized countries. The proposition whether or not the yellow fever is an importable disease has not been established to the satisfaction of the medical fraternity, either here or elsewhere. On the contrary it is a severely debated question, and there is as much opinion perhaps on the one side as there is on the other of the question. The whole of this legislation is based upon the idea that unless Congress takes hold of the subject and by some regulation through a board of health at Washington City undertakes to control the importation of yellow fever, there will be yellow fever imported here and it will spread throughout the country. That is the proposition. Of course I could not deny that proposition upon my own judgment or upon my own information, for I have no such knowledge of science or of medicine as would entitle me to speak at all upon a question of that kind, but I can say that many of the very highest authorities in this country and in England differ very widely upon this question. I think that the great mass of opinion in the medical fraternity is that this disease is not importable.

The honorable Senator from New York [Mr. CONKLING] remarked yesterday that he believed there was not a season when there was not to be found yellow fever in the harbor of New York. I dare say that that remark is entirely correct, and I believe it also to be entirely correct in reference to New Orleans and even in reference to Mobile, which is a healthier place, being in a healthier location, than New Orleans. Certainly no season passes when yellow fever is not at Havana, and very few, if any, pass when it is not found at Vera Cruz and perhaps at Tampico. We are legislating here upon the idea that the yellow fever never had its origin in this country. I fear that some of these days the scientists will have to acknowledge that in battling against this enemy they have to battle against an enemy that is born upon our own soil almost to as great a degree as they will have to battle against the same enemy born upon foreign soil and imported into this country.

In 1852 the Parliament of Great Britain organized a committee for the purpose of investigating this very question of the importable or transportable quality of the disease of yellow fever. That was a great committee, and it went to work not only in a diligent but in a most systematic way for the purpose of ascertaining through the best sources of information the whole truth upon this subject. The report was made on the 7th of April, 1852, by Lord Shaftesbury, Mr. Edwin Chadwick, and Mr. T. Southwood Smith. That report embodies a mass of information gathered through surgeons of the British

army and surgeons of the British navy, and through scientific physicians sent abroad by the British government, who traversed every coast not only where yellow fever had its origin, but where its ravages had ever been spread. This information was collected from the very highest of all scientific sources. It was embodied in a solemn report to the British Parliament. There was never a subject that was more interesting to the British people than this, because their empire reached around the globe. In all the parts of the earth, in all the latitudes of the earth, the British colonies and the British people were to be found. Their armies and their navies visited almost every shore of civilization and every port in the world. They were subjected, therefore, to greater losses from the ravages of yellow fever than any other country, and they exhibited their interest in the subject by taking more pains to have it fully investigated than any other country has ever done. Now I will read some extracts from that report:

Yellow fever, like cholera, breaks out where there is not the slightest ground for supposing that it is derived from a foreign origin, where the strictest inquiry fails to trace it to an infected source, and often where communication with infected persons or articles is impossible. Take, for example, one of the most recent instances, the outbreak of yellow fever in Brazil in the autumn of 1849, a country in which it is supposed rarely to have occurred; and yet, if the disease be capable of importation as an epidemic, it must have been constantly carried from the west coast of Africa to Brazil by the numerous cargoes of slaves which, it is notorious, were smuggled into the latter country, closely packed together in slave-ships, under circumstances most favorable for preserving the virus of a contagious disease. It is stated by masters of ships that, during the prevalence of the late epidemic, though they came direct from Europe and held communication with no vessel of any kind on their passage, yellow fever made its appearance on board their ships as soon as they approached the coast of Brazil and came within the influence of the land breezes. Here communication with infected persons or articles was impossible, just as in the epidemic cholera of 1848, communication between the first persons attacked in London was proved to have been impossible.

The committee proceed to discuss the subject based upon this testimony, drawn from almost all the different localities of the civilized world, including the coasts of the United States, and after a very elaborate and full consideration they report the following propositions as being ascertained by them, and ascertained with sufficient certainty to enable them to report them to the British Parliament as a basis of action for the British government in reference to all of its possessions in every part of the earth:

From a consideration of the whole or the preceding evidence respecting yellow fever we have arrived at the following conclusions:

1. That yellow-fever epidemics break out simultaneously in different and distant towns, and in different and distant parts of the same town, often under circumstances in which communication with infected persons is impossible.

2. That yellow-fever epidemics are usually preceded by the occurrence of individual or sporadic cases of the disease, which sporadic cases are likewise common in seasons when no epidemic prevails.

3. That yellow-fever epidemics, though occasionally extending over large tracts of country, are more frequently limited as to the space over which they spread, often not involving the whole of a town, and sometimes not even any considerable district of it.

4. That yellow-fever epidemics do not spread from district to district by any rule of gradual progression, but often ravage certain localities, while they spare entirely or visit very lightly others in the immediate neighborhood with which the inhabitants are in constant intercommunication.

5. That yellow-fever epidemics, when they invade a district, do not spread from the houses first infected to the next, and thence to the adjoining, and thus extend as from a center; but, on the contrary, are often strictly confined to particular houses in a street, to particular houses on one side of a street, to particular rooms in the same house, and often even to particular rooms on the same story.

6. That in general, when yellow fever breaks out in a family, only one or two individuals are attacked; commonly the attendants on the sick escape; and when several members of a family are successively attacked, or the attendants on the sick suffer, either the epidemic was general in the locality, or the individuals attacked had gone into an infected district.

7. That when yellow fever is provalent in a locality, the most rigid seclusion in that locality affords no protection from the disease.

8. That, on the other hand, so great is the success attending the removal from an infected locality and the dispersion of the sick in a healthy district, that by this measure alone the further progress of an epidemic is often arrested at once.

9. That such dispersion of the sick is followed by no transmission of the disease, not even when the sick are placed in the wards of a hospital among patients laboring under other maladies.

10. That no one of the preceding facts can be reconciled with any other conclusion than that, whatever may be the exciting cause of yellow fever, it is local or epidemic in its origin; and the evidence of this conclusion is therefore cumulative.

11. That the conditions which influence the localization of yellow fever are known, definite, and, to a great extent, removable; and are substantially the same as the localizing causes of cholera and of all other epidemic diseases.

12. That, as in the case of all other epidemic diseases, in proportion as these localizing causes are removed or diminished yellow fever ceases to appear, or recurs at more distant intervals and in milder forms.

13. That besides the common external localizing causes there is one constitutional predisposing cause of paramount importance, namely, non-acclimatization—that is, the state of the system produced by residence in a cold climate; in other words, European blood exposed to the action of tropical heat; the practical lesson being that the utmost care should be taken to prevent individuals or bodies of men recently arrived within the yellow-fever zone from going into a district in which the disease actually exists or has recently been present.

14. That there is no evidence to prove that yellow fever has ever been imported.

15. That consequently the means of protection from yellow fever are not quarantine restrictions and sanitary cordons, but sanitary works and operations, having for their object the removal and prevention of the several localizing conditions; and, when such permanent works are impracticable, the temporary removal, as far as may be possible, of the population from the infected localities.

We deem it our duty to state, in conclusion, that from the most careful examination which we have been able to make of the mass of evidence submitted to us from which the foregoing conclusions have been deduced, we have not found a single fact or observation clearly ascertained and authentically recorded opposed to the general tenor of such evidence. We have met with no exceptional cases. We have indeed found the opinions of some authorities, for whom we entertain great respect, not in accordance on some points, but these have reference for the most part to matters of a purely professional and scientific nature. On the great practical question, whether, whatever be the nature and mode of propagation of yellow fever, quarantine and sanitary cordons can afford any real protection against its introduction and spread, we believe there is now a very general unanimity of opinion, in accordance with the evidence we have submitted, that they cannot. We believe there is the like general agreement in this further practical conclusion that the substitution of sanitary or hygienic measures for quarantine isolation and restriction would afford more certain and effectual protection.

I have perhaps wearied the Senate by reading so long a report as that, and it may appear to be entirely unnecessary that I should have referred to the report at all or that I should undertake to discuss this great question; but as I have stated before, the bill which is now so urgently pressed upon the attention of Congress is based upon the assumption that by quarantine regulations we can shut out the yellow fever from access to this continent, and that if it is shut out from access to this continent in that way we shall never have any yellow fever, because there is none of it indigenous to this climate and soil.

It will be seen that both these propositions are extremely debatable and that the very highest authority that can be quoted levels its opinion directly against the assumption that by quarantine restrictions we can shut out the importation of yellow fever from this continent. Therefore I argue in harmony with the proposition which was submitted by the Senator from New York yesterday, that there is perhaps no necessity for passing these laws in any haste; at all events we are not quite sure that after we have adopted the system which is presented to our consideration to-day we shall have taken a single step in the direction of shutting out the yellow fever; and yet, on the other hand, we have very lively apprehensions that if by doing this we shall restrain any local authority or interfere with any authority of the different States and ports of the country in the exercise of their full powers of sanitary and quarantine regulations, we may inflict very serious harm upon this country. When we come to balance these considerations, the one against the other, it seems to me that we shall be entirely justified in making some pause about this matter and in taking it into very serious and into very deliberate consideration.

The committee, no more than myself, have been under the impression that there was such a demand in public opinion for some action to be taken by Congress that we should find ourselves required by a prevailing public sentiment to do at least something in this direction. No one perhaps is more impressed with the necessity and urgency of this matter than myself. The board of health of my State, which had a recent session, has this morning communicated to me a most urgent appeal that I should assist in the passage of this bill, referring to the particular measure which has been prepared by the committee in conference with the National Board of Health. I therefore feel the greatest reluctance possible and the greatest amount of responsibility in venturing to make any question about the provisions of this bill or the general laws or principles upon which it is founded, yet I cannot believe, in the face of such evidence as I have just presented to the Senate, that the board of health of my State, which I acknowledge to be a set of gentlemen of ability and great probity, have arrived at conclusions which are more satisfactory or which more command my belief than those that I have just read from the report of this great committee to the houses of Parliament. In the reading which I have done in reference to this subject, as every man has read about it, of course I have continually come in view of statements made exactly in harmony with this British committee by the most eminent of American surgeons and physicians, among others Dr. Chapin, of New Orleans, who addressed a letter to the Senator from Georgia [Mr. GORDON] during the last session of Congress, in which the doctor very urgently declaimed against the passage of such laws by Congress, and said that whatever can be done with the view of controlling yellow fever or of shutting it out can be done and ought to be done by local authority.

The honorable Senator from Maine [Mr. HAMLIN] has made a motion to recommit this bill. Two members of the committee, the Senator from Tennessee [Mr. HARRIS] and the Senator from Arkansas, [Mr. GARLAND,] have intimated or very decidedly stated an opinion that the recommittal of the bill would answer no good purpose; that the committee have gone as far as they could go in the maturing of a bill. I believe they have gone as far as they can go in the maturing of that bill which is presented to us here now; but I must beg to say that I think they have proceeded upon a wrong principle. I believe that that committee could quite easily frame a bill which would be acceptable to Congress in the event that we could agree in advance about the principle upon which the bill was to be based.

The question that lies at the bottom of all this—the law question, and also the question of the sanitary power—is whether or not the quarantine power is one that ought to be exercised primarily and rightfully by the States, or whether it is one that primarily and rightfully belongs to Congress. It is attempted to deduce the power of Congress to regulate sanitary measures, as well as quarantine measures, from that provision of the Constitution which authorizes Congress to regulate commerce among the States. It is very clear that unless the power can be deraigned from that provision of the Constitution it is not to be found anywhere in the Constitution; but it has not been clear to my mind, I have not been able to see it, that because Congress may regulate commerce between the States and with foreign countries, it has the power to proceed further than is necessary for the regulation of commerce, that is to say, trade, traffic, merchandise, commercial intercourse between the States and between the people of the United States and foreign countries.

I admit, of course, that the line of demarkation is one that is very difficult to be drawn, and we shall never get rid of this difficulty; I believe it cannot be cured by legislation. It certainly has not as yet been cured or settled by legal definition, for the Supreme Court has frequently had this subject under consideration, and it admits its inability to define in decision the line of distinction between the powers of the States and the powers of Congress touching this subject or subjects that are cognate to it.

But there is in this case, as in every other, great virtue in a proper start. If in framing our laws on this subject we start upon the proper basis, we shall find that more harmony will enter into the management of all these different apparently conflicting interests than if we undertake to start from an improper basis. The power of Congress to regulate commerce between the States is not yet a hundred years old. The power of Congress to regulate commerce between the States was derived from the people of this country. At the time that power was thus derived and thus conferred upon Congress, the authority to regulate commerce between the States resided in the States themselves. That power which resided in the States themselves was taken up and transferred wholly and entirely to Congress. I say wholly and entirely. Perhaps that is too broad a remark; because there are some decisions of the Supreme Court of the United States which have affirmed that the States, notwithstanding this conferring of power upon the Congress of the United States, still have the power to regulate some matters that are quite essential to commerce. The Supreme Court of the United States have denied that the States, in the granting of what was apparently an exclusive power on the part of Congress, have indeed given up all power over the subject; but there are some remnants of power yet remaining in the hands of the States which have been recognized by the Supreme Court of the United States as being essential to the regulation of commerce and at the same time essential to the regulation of local affairs. They have been preserved in the hands of the States and within their local jurisdiction, because it appeared that the regulation of local affairs under such provisions was of more importance to the States than to the United States. But I concede, for the sake of the argument, that plenary and exclusive power to regulate commerce has been conferred upon Congress in the Constitution of the United States. Was it the understanding, when that power was thus transferred to Congress, that the different States of this country then existing and hereafter to exist transferred at the same time to Congress in this hidden way, this way which certainly was not plain and openly marked and defined and proclaimed, the power to regulate the sanitary condition of the States or ports thereof, the power to regulate the health of the people of a State, the power to protect those people according to the laws of the State against the introduction of disease and immorality and vice and villainy of every kind?

I think that the argument cannot be at all sustained, that the people of the different States in conferring the authority upon Congress to regulate commerce in or between the States and with the Indian tribes ever designed to yield up the power of protecting their own people against the encroachments of disease or vice either from abroad or from a neighboring State.

The two propositions stand together entirely reconcilable with each other, completely in harmony with each other. There is no danger that the Government of the United States can ever be injured by leaving the exercise of this power in the hands of the States themselves, because the very moment that the law of a State trenches in the slightest degree upon the power of Congress to regulate commerce between the States or with foreign countries, we have nothing to do but to test it in the courts; the Supreme Court or whatever other court comes along passes its decision, the State law falls, the purpose of it is lost and gone, it disappears, so that there can be no difficulty and no danger of a State, in virtue of its power to regulate the sanitary condition of its own people and protect them against disease, ever making any encroachment upon the power of Congress.

But transfer the subject, if you please, to the other side, and view it in that light. See what may be done; see what is done here to-day; see what this honorable and wise committee have found themselves compelled to do in order to exercise this new power, and through their ingenuity and under the pressure of this great weight of public opinion which is driving us into hasty legislation to find now that the Government has been mistaken from 1799 down to the present time in the construction of these respective powers of the States and of the Federal Government.

The act to which I referred yesterday was enacted on the 28th day of February, 1799, within about ten years after the adoption of the Federal Constitution. Then it was understood by the framers of that instrument, many of whom were in that very Congress, whose opinions were then fresh before the country; I suppose it was then quite as well understood as it is now what they conceived to be the true boundaries of power between the Federal Government and the States, and so they enacted in effect that all the officers of the Government of the United States who might have any opportunity should lend their assistance to the execution of the laws of any State respecting the subject of quarantine and sanitary regulations. That was the interpretation which was then put upon the Constitution, and it has been held from that day to this, and as I stated the other day, and the statement has not been contradicted at all, it has never been attempted to be reversed by the Congress of the United States. That principle thus established is the one I would invoke as the basis of whatever is to be done in the way of congressional legislation upon this subject.

I have been pleased, indeed, sir, I have been touched, with the free magnanimity of Senators on this floor who happen not to reside in the district which has been afflicted with this great calamity in coming forward here to express their entire willingness to do whatever can be done lawfully and constitutionally and with propriety to shut out and prevent hereafter this disease from getting into the country or from spreading over the country; but I do respect their scruples in regard to the exercise of a power which they do not feel that we possess, and which I cannot feel that we possess, although in the exercise of that power there might come great salvation, I may call it, to the people of the Southern States. I do not feel that we have the power to repeal the legislation of the States upon this subject. Thirty-eight States have legislated upon it, a large number of different municipalities under the authority of those States have further legislated upon it, until I dare say there is not now upon any one subject of public legislation so large a collection of laws to be found anywhere in the United States as there is with reference to this very subject of sanitary regulations and health and quarantine.

More than that, we are met here with the argument that there is a necessity for having uniform all legislation upon sanitary measures and quarantine. I grant that if you derive your power to legislate on this subject from the Constitution of the United States and from that part of it which relates to the regulation of commerce, you must make it uniform. You are compelled to make it absolutely uniform in order to comply with that feature of the Constitution which forbids that there shall be any discrimination in favor of one port or place against another; then we come to the uniformity of the measure. I should like to inquire as a matter of practical common sense whether the quarantine and sanitary regulations that apply to the port of Boston, or to any port upon the New England coast, are the same and ought to be entirely uniform with those that apply to Mobile, to Pensacola, to New Orleans, and to Galveston? Shall we undertake here to establish a uniform system of rules and regulations that shall operate perforce equally and exactly alike in all the different harbors and ports and places of the United States which are liable to the access of infectious or contagious diseases?

If one were to come forward as a member of a board of health and to tell me that he believed he could fix up a set of laws and regulations which would perfectly regulate the health of all these different ports and shores and all these different latitudes I would say to him, "Will you permit me and the rest of my colleagues in Congress, the President, and all the people of this country, to yield into your omniscient hands the whole regulation of all the affairs of this country, for if you can do that there is nothing that you cannot do." I should think that that was one of the most impossible of all the enterprises the human mind could enter upon. A man or any five or ten men who could promise the success in sitting down in Washington City to regulate the health of this entire country by rules and regulations to be adopted here and promulgated from hence, I should think would do more than any set of men that the mercy of God has ever yet permitted to be incorporated into the body of society.

I think, on the contrary, the very requirement that these rules and regulations shall be uniform is one of the strongest arguments why we should not undertake to adopt them, for the reason that in doing so we should dispense with all practical wisdom and all practical experience gathered on the spot at all the different places in the United States. I am not willing to throw that away. I would rather utilize it, and I would rather utilize it in the hands of the men who have had long experience and knowledge in reference to the subject. I do not know anything that I would more deplore than to see what I conceive to be a wonderful system of scientific regulation that prevails in the harbor of New York through its health boards dissipated and driven out by a set of rules and regulations that might be attempted to be adopted in Washington City by a national board of health. That is, therefore, an argument to my mind directly against the propriety of this legislation. I do not want to localize the power over the health and sanitary condition of this country in the hands of a board in Washington City or anywhere else, no matter how distinguished the gentlemen may be and no matter where they may have come from. I think it is a dangerous experiment and ought not to be indulged.

It has been suggested, and I think with great force too, that the third section of the bill, in conferring jurisdiction or power upon this board, substitutes the board for the law-making power of the United States. The justification of this part of the proceeding is twofold: first, that without such regulations the board can do no good. If this board can do no good without having transferred to it the law-making power of the United States we had better not have it, for it may do more harm in the enactment of laws than it will ever do good in the restraint upon disease. The second proposition is that the Board of Health, in legislating upon this subject and in providing rules and regulations attended with penal if not criminal consequences, finds a precedent in some of the laws which give to the Secretary of the Treasury the power to make some regulations of commerce or regulations in regard to the sailing, or the unloading, or the anchorage perhaps, of ships. There is no analogy between the two cases at all; but granting, for the sake of the argument, that there might be one supposed, I do not understand that the Secretary of the Treasury or

any other Secretary of the United States has the right to prescribe penal regulations and compel a court of the United States to recognize those regulations and convict a man of crime denounced against him simply by a rule of one man in this country.

If we had a regulation which imposed upon a citizen of this country or any individual in it criminal penalties and criminal punishment for its violation, and that regulation is to be enforced through a court of justice, I should say that that regulation was necessarily unconstitutional, for I think that no man can be deprived of his life, liberty, or property in this country without due course of law, as well as due process of law. It must be done in obedience to law; and law in this country, when enforced by a court or by anybody else, is that which is enacted, so far as Congress is concerned, by the tribunals named in the Constitution and in the manner prescribed to those tribunals to regulate and control their action.

Unquestionably the third section of the bill does confer, if it confers anything at all upon the Board of Health to be assembled in Washington City, full power to enact laws. In all the States of this Union I suppose (I know it is true in my own State, and I think it is true in many others) criminal laws have been enacted for the purpose of enforcing the quarantine and sanitary regulations. These laws of the States are not only to be repealed by this Board of Health, but it is insisted here that this board has the power to substitute those laws by others which will repeal them. Is it possible that the power of punishing people for the violation of quarantine and sanitary regulations, which has existed always in the States and has been exercised by them, shall be broken down, I will not say by an act of Congress, but by an act of a board of health, and substituted by new laws having new and different penalties, and that the courts of this country can be required to enforce those laws? I think not.

The honorable Senator from Maine, in his motion to recommit this bill, has accompanied it with certain features in the nature of instructions to the committee to report a system of rules and regulations such as the committee may prescribe in the bill they are to report, and which the Board of Health may adopt and enforce. If we have time to pass such a bill, or if the Board of Health have time to pass regulations, before the time that the disease is to attack us, and if this matter is of the consequence that Senators seem to think it is, why could it not be provided that the Board of Health shall submit to Congress these regulations, and let us pass upon them *seriatim*, to see whether or not they suit us and whether or not we shall omit to give the sanction of the law-making power of this country to them?

Mr. President, you can never satisfy the people of this country when you abdicate the duties of legislation and transfer them to a board of health; and nobody is going to be content with such laws. They will positively have no effect in the United States, because they will have no acceptance in popular opinion. The whole judgment of the country would be against such legislation, and we should be considered as having gone away from our duty in not having given the sanction of Congress to the laws and regulations of a penal and criminal character to which we required the obedience of the people of this country. There is no occasion, I think, for this new departure from the ordinary methods of legislation, and no occasion to tear up, root and branch, the whole of this vast, intricate, and wise system which has been adopted in the different States, suited to different localities and peculiarly adapted to the diseases which enter there and which may have their spread from those places.

I desire, in concluding my remarks, to read from the case of the Railroad Company *vs.* Husen, in 5 Otto, what I conceive to be about as fair a definition of the powers of the States and Congress on this subject as has been given at all:

> We admit—
>
> Say the Supreme Court—
>
> that the deposit in Congress of the power to regulate foreign commerce and commerce among the States was not a surrender of that which may properly be denominated police power.

That is my position. It is not a surrender; it was never a surrender of that which may be denominated as the police power.

> What that power is it is difficult to define with sharp precision. It is generally said to extend to making regulations promotive of domestic order, morals, health, and safety. As was said in Thorp *vs.* The Rutland and Burlington Railroad Company, 27 Vermont, 149, "it extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the State. According to the maxim, *sic utere tuo ut alienum non lædas*, which, being of universal application, it must of course be within the range of legislative action to define the mode and manner in which every one may so use his own as not to injure others." It was further said that by the general police power of a State "persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the State, of the perfect right of the Legislature to do which no question ever was, or upon acknowledged general principles ever can be, made, so far as natural persons are concerned." It may also be admitted that the police powers of a State justify the adoption of precautionary measures against social evils. Under it a State may legislate to prevent the spread of crime, or pauperism, or disturbance of the peace. It may exclude from its limits convicts, paupers, idiots, and lunatics, and persons likely to become a public charge, as well as persons afflicted by contagious or infectious diseases, a right founded, as intimated in the Passenger cases, 7 Howard, 283, by Mr. Justice Grier, in the sacred law of self-defense. (*Vide* 3 Sawyer, 283.) The same principle, it may also be conceded, would justify the exclusion of property dangerous to the property of citizens of the State; for example, animals having contagious or infectious diseases. All these exertions of power are in immediate connection with the protection of persons and property against noxious acts of other persons, or such a use of property as is injurious to the property of others. They are self-defensive.

I claim that that power of self-defense, as it is called by the Supreme Court, on the part of communities in the different States was never surrendered when we yielded to Congress the power to regulate commerce; and, as I have observed, the two can stand together without any difficulty.

Mr. President, I regret very much indeed that other Senators than those who are upon this committee had not thought proper sooner to present their views in the form of bills or resolutions, to draw the attention of Senators on the committee to the diversity of opinion which might exist here, and also to what I have conceived the better methods of arriving at these conclusions that seem so very desirable, if not so very necessary. I think that a bill framed upon an idea like this in the first section would be a bill that would meet with general acceptance on the part of Congress and be exactly in harmony with the whole course of our legislation since 1799:

> That the sum of $650,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended as hereinafter provided, to aid in the execution of such quarantine and health laws of any State respecting any vessel arriving in, or bound to, any port or district thereof, or respecting any person or thing bound to, or arriving in, any place in the United States from any foreign state or country.

I have no doubt at all that whenever a great calamity like this visits any part of the United States, whether it visits its people, or whether it visits its property, or animals useful for human food or human service, it is entirely within the purview of Congress to render assistance to the local laws and the local agencies for the purpose of resisting such a calamity. We would do so to prevent the destruction of property by the grasshopper; we would do so to prevent the destruction of property by the cotton-worm. Many examples exist in our legislation of this character; and I have no hesitancy in committing myself thoroughly to the principle that whenever a great national emergency of this sort arises it is the duty of Congress to give such assistance to the local authorities as it may deem wise and just in the resisting or dispelling of the infection and the invasion, of whatever kind it may be. So I should have no difficulty at all now in appropriating money to any part of the United States where it might be expected either that the disease called yellow fever would be imported or where it might be expected to spring up from natural causes, either to prevent its coming or to prevent its spreading after it did come, or to assist in the cure of it after it had made its terrible invasion; and I hope that Congress will always feel willing to give its assistance to the local authorities in carrying such measures into effect.

Are we to suppose that any set of people in the world who have the means are going to sit still and allow diseases to invade their communities in the way the yellow fever came into the Southern States last year, without making any effort, or without making whatever efforts their means will allow? I have no doubt that if there be a city in the United States whose community is unable, from poverty or from other cause, to resort to proper preventive and precautionary measures to keep out the disease, we should assist those people with money, and they would readily go forward and make every possible preparation in advance against the appearance of such a disease; they would do it upon the principle of self-preservation; and Congress and all other parts of the United States can rely with absolute confidence not only upon the disposition of those people to protect themselves, but also, I think, upon their intelligence in doing so.

I will vote for the motion to recommit the bill in the hope that the honorable committee will find in the expression of opinions here some way of arriving at a conclusion in the report they next make satisfactory to Congress. If the bill is not recommitted, I shall try to amend it; if it is not amended, I cannot vote for it unless the difference between the honorable Senator from Tennessee and the honorable Senator from Arkansas can be reconciled; for the Senator from Tennessee tells us that he does not believe that it is at all necessary to put any restriction in this bill or any qualification upon its operation and effect, so as to prevent it from coming into direct hostile collision with the laws of the States; but I understood the honorable Senator from Arkansas to say that the amendment which I proposed to offer went to the core of the whole subject, and that if that amendment was adopted it was useless for the committee to undertake to further perfect this bill upon the theory contained in the amendment. Therefore it seems clear that there is a radical difference of opinion in the outset of this businesss, and I should like to see that difference of opinion reconciled and harmonized, and I should be glad to know that the gentlemen would give their assistance to the very same line that Congress has so long pursued of aiding the local authorities rather than tearing them up, throwing them aside, and substituting in place of them a new authority, an untried authority, and, as I think, a very dangerous authority.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question is on the motion of the Senator from Maine [Mr. HAMLIN] to recommit the bill with instructions to the committee.

Mr. JONAS. Mr. President, I had not intended to take any part in this debate; but being a member of the committee which prepared the bill, I perhaps am expected to say something in answer to the honorable Senator who has just taken his seat.

The honorable Senator, in order to show that it is the opinion of scientists that the yellow fever is not imported into this country but originates here, read from the report of a committee appointed in Great Britain in 1852, just twenty-seven years ago. Why, Mr. President, at that time yellow fever and its treatment was hardly known

either by the British people or by the people of this country. The most terrible epidemic which has ever devastated those portions of the country where yellow fever goes, and particularly that city where I reside, occurred in 1853. It was followed by an epidemic in 1854 and by another in 1855, these being the only exceptions in modern times when epidemics have followed each other in succeeding years. Then there was no epidemic until 1858, and again until 1867, and again until last year, 1878.

I may say that in every one of those epidemics the medical profession and scientists of this country have been enlightened or have learned something or have changed their views in relation to the treatment of yellow fever; and I may state it as a fact which cannot be contradicted that in the city where I reside, where the epidemics of yellow fever have been more frequent than in the other cities of the Union, and where more attention has been paid to its treatment and where its cure has been more successful than anywhere else, the opinion of nine-tenths of the medical profession and the gentlemen entitled to be leaders in that profession is that the disease is an imported disease which does not originate either in that city or in any city of the United States, and that it can be kept out by a careful and rigid system of quarantine. That is the opinion of the board of health of my city, presided over by one of the most eminent physicians and surgeons in this country, Dr. Chopin, and it is moreover his opinion, and the opinion of his board, that State quarantine associations, with the limited aid which States are able to afford to those quarantine associations either in respect of money or in respect of adequate power to carry out those regulations which are necessary to make them effective, cannot be efficient enough for the purpose, and that national quarantine laws should be passed; and they are willing, if necessary, to abdicate some portion of that power, which the honorable Senator says should be so carefully guarded, to the National Government if the National Government is prepared through a proper quarantine board and proper quarantine laws and regulations to take charge of this important duty of preserving the health of the country from the importation of epidemic diseases.

Mr. President, I say that a State organization cannot be thoroughly effective for this purpose, and it is plainly enough demonstrated by the fact that *no* State quarantine can have control and no State can give control to its quarantine or health authorities beyond the lines and limits of the State. Although there was a terrible epidemic last year there was also a terrible panic, a panic unexampled in the history of epidemics. Though I and every other Senator, probably, representing a State where there have been epidemics of yellow fever, remember many epidemics, most of them equally fatal and equally general with the one of last year, it is generally admitted that the epidemic of last year was imported into this country. That is the opinion of a large majority of the medical profession and scientists of the South—imported through imperfect quarantine regulations.

Mr. MORGAN. I wish to ask the Senator this question: Has he ever known a year in Louisiana when there was not some yellow fever in New Orleans?

Mr. JONAS. I will answer that. I have known many years when there was not a single case of yellow fever in New Orleans, and many more years when there was no epidemic in New Orleans. There was no yellow fever in New Orleans from 1858 to 1866. There were a few sporadic cases in 1866, and there was an epidemic in 1867. There was no yellow fever from 1867 to 1878, except a few sporadic cases in 1873, 1874, and 1875. There was none in 1868; there was none in 1869; there was none in 1870.

Mr. MORGAN. What were the sporadic cases?

Mr. JONAS. They were cases of disease which could be treated and restrained. If it was yellow fever at all it was that character of yellow fever which did not spread and which was easily treated. The climatic conditions were the same, the condition of the city was the same, the city was in no different condition last year than in previous years. If it was not drained, if its sanitary condition was not good, if it was dirty, it has been so unfortunately from the lack of means to make it otherwise, for many years, and there was no difference and no more reason why there should be a terrible epidemic last year than there has been in the ten or fifteen years last past. The disease was imported, it is believed on the best authority. It passed the guard of the State quarantine because that State quarantine was not sufficiently rigid; and the terrible consequences are realized by everybody.

Mr. MAXEY. I can furnish the Senator from Louisiana with the fact that the exclusion of yellow fever from Texas was the result of the most rigid quarantine.

Mr. JONAS. And other places in the State of Louisiana, in Mississippi, in Arkansas, in Texas, and in the Senator's own State, Alabama, were similarly protected and kept free from the disease by a thorough and effective quarantine.

Mr. President, I say that this quarantine to be effective must be general, and to be general and thoroughly effective it must be protected by a power that can pass the boundaries of State lines. I say, moreover, that not only must the quarantine thus be protected to be effective, but the great interests of commerce must be protected also from causeless panics which may ensue unless there is such a quarantine as to give satisfaction to the people.

Now we will suppose, for instance, that the quarantine at the mouth of the Mississippi River is thoroughly effective; we will suppose that that quarantine is such that, although vessels may arrive at the mouth of the river with yellow fever on board, it may be kept from getting to New Orleans and from passing up the river. But suppose the quarantine is not national; suppose the quarantine board of Louisiana has not sufficient credit or sufficient authority to make the fact believed throughout the length and breadth of the land that no yellow fever exists; suppose that there is not a single case of yellow fever in Louisiana, but that the citizens on the Gulf coast in the towns of Pass Christian, Pascagoula, and Mississippi City, all on the route between New Orleans and Mobile, forming the great route by which the mails are carried and almost all the commerce transacted between New Orleans and the North, think it does exist; suppose, through a causeless panic and the belief the citizens of any one of these villages should entertain that yellow fever may exist in the city of New Orleans, the village of Pascagoula establishes a quarantine against the city of New Orleans, a quarantine established by ordinance and maintained by an armed force with shot-guns, the result is that the commerce of that entire city and the commerce of the State of Texas is entirely suspended by this village quarantine, which may result from a panic and be without any proper authority or justification whatever. Over that route go the United States mails, and over that route go all the passengers from Louisiana and Texas, through the States of Alabama, Georgia, Tennessee, and Virginia, on their way to the North; and all this commerce, and all this traffic, and all these passengers may be stopped by a quarantine causeless in its nature and unjustifiably enacted by a village in the State of Mississippi or the State of Alabama, or any village in the State of Georgia.

Mr. MORGAN. I wish to say that the suggestion of the Senator from Louisiana indicates that he expects to rely on this law for the purpose of preventing interior municipalities from quarantining against New Orleans. Now, I ask if that is not one of the distinct purposes of this bill in putting the power into the hands of the national board, to prevent the localities and municipalities up the river from New Orleans and on the railroads from preventing the access of people and merchandise to their places and thereby the carrying of yellow fever to their communities? Is not that the very purpose of this bill?

Mr. JONAS. The purpose of this bill is to put this whole matter under the charge of the Federal Government; it is to make it a general and national matter.

Mr. MORGAN. And with it, as I understand the honorable Senator, to confer power on the national board to prohibit the local municipalities in the different States quarantining against New Orleans, or against Mobile, or against Galveston, or Pensacola, or any other place to which the yellow fever may come from abroad.

Mr. JONAS. To prevent their quarantining against any of those ports when no yellow fever exists in those ports, and to permit the national board to judge of the proper mode and manner of quarantining against those cities when yellow fever exists there. It is to place the power in one board and in a board which is capable of enforcing it, so that if there is a necessity for a quarantine to protect the citizens of Mississippi against New Orleans the National Board of Health can enforce that quarantine, so that if there is any necessity to protect the citizens of Mobile and Alabama against New Orleans those ports can be quarantined and protected against New Orleans, and so that the quarantine shall not be in the charge of every irresponsible village community or corporation that shall think proper for purposes of their own, or perhaps from rival trade interests, to quarantine a great metropolis and to interfere with commerce and carrying the mails of the United States.

Mr. President, the honorable Senator says that it is a proper object for Congress to devote money for the purpose of relieving these stricken communities when they are attacked by this pestilence, and that he will vote money for that purpose and will justify its employment for that purpose. We think that an ounce of prevention is better than a pound of cure. We do not want again to rely on the generous communities of the North and the West for assistance in our hour of extremity and need. We wish to guard against this pestilence; we wish to prevent its introduction into the country; we wish to give the quarantine system at least a fair and perfect trial. We wish to have a quarantine at the gates of the country, at the ports of the country, which shall make it impossible that this disease can ever penetrate if imported; and we wish to spend the money of the Government in order to prevent the southern section of the Union being again compelled to depend upon the charities of the people of the country for assistance.

I think that the system of State quarantine which the gentleman praises so highly has proved wholly ineffectual. I admit the splendid character of the quarantine at the city of New York; I admit that there may be effective quarantine in other ports; but I say the experience of the past has demonstrated that it is not generally well managed or effective and that it all requires some general control and some general legislation by the National Government. I think there is nothing in this bill which will interfere needlessly or causelessly with any State regulation. There is nothing in this bill which threatens the efficiency of the quarantine in New Orleans, in Boston, or in New York as managed by the State authorities; but there is this in the bill: it provides that if the State shall be deficient or ineffi-

cient in enforcing proper quarantine regulations to keep disease out of the country, the duty shall be performed by the National Government and shall be put in the hands of a board that shall be able to perform it and compel its performance without any difficulty imposed by a conflict between State lines and State authorities.

I sincerely trust, Mr. President, that the bill will not be recommitted and will not longer linger in the hands of a committee when the disease, if it is to appear at all this year, is imminent, and when the State authorities in every State threatened with the importation of this disease will gladly welcome the assistance of the Federal Government in order to enable them to keep it out and keep it from ravaging their country, and, perhaps, the whole Union this year.

SENATOR FROM LOUISIANA.

Mr. SAULSBURY. Mr. President, I ask leave to make a report at this time. I am instructed by the Committee on Privileges and Elections to report the following resolution:

Resolved, That the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, praying permission to produce evidence relating to the right of Hon. WILLIAM PITT KELLOGG to the seat in the Senate held by him from the State of Louisiana, and in support of the claim of said petitioner thereto, be, and said committee is hereby, instructed to inquire into the matters alleged in said petition, and for that purpose said committee is authorized and empowered to send for persons and papers, administer oaths, and do all such other acts as are necessary and proper for a full and fair investigation in the premises. Said committee may, in its discretion, appoint a subcommittee of its own members to make such investigation in whole or in part; which subcommittee shall have authority to employ a clerk, stenographer, and sergeant-at-arms, and shall have all the powers of the general committee to administer oaths and send for persons and papers, and may make such investigation either in Washington or in the State of Louisiana; and said committee or its subcommittee may sit in vacation.

Mr. CAMERON, of Wisconsin. I object to the present consideration of the resolution.

Mr. CONKLING. That brings up the whole question of reviewing the case, I take it.

Mr. CAMERON, of Wisconsin. Undoubtedly.

Mr. EDMUNDS. Let the resolution be printed. We can consider it to-morrow.

The PRESIDING OFFICER, (Mr. COCKRELL.) The resolution is objected to and it goes over under the rules, and will be printed.

Mr. HOUSTON. I ask in reference to the resolution reported by the Committee on Privileges and Elections if it is not a privileged question?

The PRESIDING OFFICER. Is the Senator's point that it does not come under the rule which requires all motions to lie over one day when objected to?

Mr. HOUSTON. I understand that a question before the Senate in relation to seating or unseating one of its members is a privileged question, and of course if the direct question is a privileged one, all questions pertinently growing out of it and pertaining to it, in a way that it cannot be progressed with without their adoption by the Senate, are also privileged questions and are not to be postponed because of a single objection.

The PRESIDING OFFICER. The Chair decides that under the rules of the Senate the motion goes over upon one objection.

Mr. HOUSTON. I should like to hear the rule read, Mr. President.

The PRESIDING OFFICER. Rule 33:

All resolutions shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

Mr. HOUSTON. I noticed at the last session of this body that in a contest growing out of a contested election the then presiding officer, who is not now here, decided that a report from a committee proposing to seat a certain gentleman was a privileged question and took precedence of a question which was then under discussion and which was unfinished business.

Mr. CONKLING. Under what rule was that decision made, will the Senator state?

Mr. HOUSTON. My recollection is that the Chair did not state anything about a rule except that it was a privileged question, and it took its place because it was privileged; and the privilege grew out of the fact, as I think in this case, that it concerned the seating or unseating of one of the members of this body. I shall not appeal from the decision of the Chair.

The PRESIDING OFFICER. The present occupant does not recollect the decision referred to. The Chair has decided the question as he thinks the rule requires.

Mr. HOUSTON. I shall not appeal.

Mr. HOAR. The Chair will permit me to state that when the judgment in this very case which it is now sought to reverse——

Mr. HOUSTON. I have not appealed from the decision of the Chair.

Mr. HOAR. Have I not the same right to be heard as the honorable Senator from Alabama had?

Mr. HOUSTON. I was presenting a question of order, and then I had a right to be heard. I have no question of order now before the Senate, having withdrawn it.

Mr. HOAR. The Senator from Alabama addressed the Senate after the decision of the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. HOUSTON. I addressed the Chair because I was presenting the point of order to get the Chair to change his opinion if I could.

Mr. HOAR. Does the Senator from Alabama object to my proceeding?

Mr. HOUSTON. I do not.

Mr. HOAR. Then I have the floor.

The PRESIDING OFFICER. The Chair has decided that the Senator from Massachusetts has the floor, and he can proceed if he desires.

Mr. HOAR. I was about to state that in the case to which the honorable Senator from Alabama has referred, to wit, the Kellogg case, at the time it was decided by the Senate, a decision precisely the reverse of what the honorable Senator supposes was made by the Chair. On a motion to proceed with that case, made by the honorable Senator from Ohio, [Mr. THURMAN,] the Senator from Vermont [Mr. EDMUNDS] demanded that the motion be reduced to writing. On its being reduced to writing by that Senator and read at the table the Senator from Vermont objected, and it went over one day under the rule.

Mr. EDMUNDS. That is so.

Mr. CONKLING. Went over under the fiftieth rule and not under this.

ADJOURNMENT.

Mr. GARLAND. I understand the health bill is before the Senate?

The PRESIDING OFFICER. It is.

Mr. GARLAND. I wish to take the floor on the pending bill before the Senate unless some Senator who opposes the bill desires to speak upon it.

Mr. WALLACE. Now, with the Senator's permission, I move that the Senate adjourn.

The PRESIDING OFFICER. The Senator from Pennsylvania moves that the Senate do now adjourn.

Mr. EDMUNDS. I hope the Senator will withdraw that motion for a moment.

Mr. WALLACE. Certainly.

Mr. EDMUNDS. I should like to know why we cannot get on with the public business. It is now only three o'clock, and there is an appropriation bill that ought to be reported, and I should like to ask the chairman of the Committee on Appropriations at what time we may expect a report on the legislative, executive, and judicial appropriation bill? Congress has been called here for that special purpose, and that committee which is usually so very prompt and diligent in the performance of its duties has had this bill for some days. I should like to know why it is that we cannot have it reported and proceed to act upon it?

Mr. DAVIS, of West Virginia. I believe that bill came here day before yesterday morning, two days ago. It had to be printed afterward. It is a long bill, perhaps seventy or eighty pages; I do not recollect the number of pages. A subcommittee has been at work on it, and it is probable the main committee may get hold of it to-morrow. When it will get out we cannot tell the Senator, but we are working on it as diligently as we think the public interest requires.

Mr. EDMUNDS. May I not ask the Senator whether it is not the same bill that the two Houses agreed upon at the last session excepting the matters that are extraneous to the appropriations?

Mr. DAVIS, of West Virginia. It is practically the same bill, but the Senator knows that there are a number of members of the Appropriations Committee who were not in the previous Congress, and the bill requires, as the committee thought, the same care as if it had not been before a previous Congress. I will say to the Senator, however, that there has been but one day for work upon a bill of sixty or seventy pages.

Mr. EDMUNDS. The bill came here on Monday, I understand.

Mr. WALLACE. I renew my motion that the Senate adjourn.

Mr. CONKLING. I rise to ask a question of the Chair. Has the Senate adopted an order adjourning over to-morrow, or is this a motion to adjourn until to-morrow?

Mr. WALLACE. Until to-morrow.

The PRESIDING OFFICER. The Senate declined this morning to adopt a motion for an adjournment until Monday. If this motion prevails the adjournment will be to twelve o'clock to-morrow. The question is on the motion to adjourn.

The question being put, there were on a division—ayes 27, noes 18.

Mr. EDMUNDS. I call for the yeas and nays. ["No! no!"] Senators say "No! no!" We are beaten; we may as well give it up.

The PRESIDING OFFICER. Does the Senator withdraw the call?

Mr. EDMUNDS. Yes, sir.

The PRESIDING OFFICER, (at three o'clock and nine minutes p. m.) The motion is agreed to, and the Senate stands adjourned until twelve o'clock to-morrow.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 1, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

VOTE ON LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HARRIS, of Virginia. I rise to make a request of the House

which I have not made before during a service of ten years. On last Saturday when the vote was taken on the passage of the legislative appropriation bill I was absent, regarding myself as paired with my friend from Connecticut, [Mr. WAIT.] He regarded the pair as having expired and voted on the passage of the bill. I now desire unanimous consent to record my vote in the affirmative on the passage of that bill.

The SPEAKER. The gentleman from Virginia asks unanimous consent to record his vote in the affirmative on the passage of the legislative appropriation bill. Is there objection?

Mr. GARFIELD. The case having been one of misunderstanding, I think the request ought to be granted.

The SPEAKER. If there be no objection, the rule will be vacated, and by unanimous consent the gentleman is allowed to record his vote.

Mr. WHITE. I have no objection, but I know a similar request was refused last session.

The SPEAKER. The rule is against it; it can only be done by unanimous consent.

Mr. WAIT. The statement which my friend from Virginia [Mr. HARRIS] has just made is correct. There was a misunderstanding between us with regard to the limit of the pair. According to my recollection it terminated on the Tuesday before the vote was taken on the legislative bill. He supposed that the pair covered the time of voting on that bill whenever it should occur. Laboring under that misunderstanding Judge HARRIS did not return here to vote on the bill. I sincerely trust that his request to have his vote recorded at the present time will be granted, as I know he acted with entire integrity.

The SPEAKER. This case is different from the case to which the gentleman from Pennsylvania [Mr. WHITE] perhaps alludes. This is a case where a member supposed he was paired and there was a misunderstanding, there being no want of good faith in any respect.

Mr. CONGER. This of course we all understand is a case where the recording of a vote would not alter the result at all. If it was such a case as that it would be different.

The SPEAKER. No vote could be received that would alter the result. But the rule is against even this, and unanimous consent is necessary to enable the gentleman to record his vote. The Chair will submit it in that way, that the rule be vacated and that by unanimous consent the House allows the gentleman from Virginia to record his vote. The Chair hears no objection.

Mr. CHITTENDEN. I desire to state that I was absent on Saturday by permission of the House, and I supposed I had a pair, but I find no mention of it in the RECORD. I ask the same permission to record my vote as has been granted to the gentleman from Virginia.

The SPEAKER. The gentleman from New York asks the same permission under the same circumstances to record his vote on the same bill.

Mr. CONGER. I would be very sorry to have a vote received that would change, for example, the vote of yesterday, where there was a tie.

Mr. WHITE. In this case the two gentlemen may be considered as paired.

The names of Mr. HARRIS, of Virginia, and Mr. CHITTENDEN were then called by the Clerk, and Mr. HARRIS, of Virginia, voted "ay" and Mr. CHITTENDEN "no" on the passage of the legislative appropriation bill.

COIN AND BULLION CERTIFICATES.

The SPEAKER. The unfinished business coming over from yesterday is the resolution of the gentleman from Ohio [Mr. WARNER] that on Saturday next the House will proceed to consider the bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States, relating to coinage and coin and bullion certificates, and for other purposes.

Mr. COX. I ask unanimous consent——

The SPEAKER. The Chair thinks that consent ought not to be asked in reference to matters extraneous to the business now before the House. The question had been put on ordering the main question, and the gentleman from Ohio [Mr. GARFIELD] demanded the yeas and nays, and the yeas and nays were ordered.

Mr. TOWNSEND, of Ohio. I would like to have the resolution read.

The Clerk read as follows:

Resolved, That House bill No. 564, and the amendments thereto, reported from the Committee on Coinage, Weights, and Measures, be made the special order for consideration in the House on Saturday next after the morning hour, and from day to day thereafter until disposed of.

Mr. STEPHENS. I desire to make a parliamentary inquiry. Suppose this resolution is voted down, will not the bill be immediately before the House for consideration?

The SPEAKER. Unless the gentleman from Ohio [Mr. WARNER] has a different instruction the bill, if this resolution is voted down, will come immediately before the House because it has been reported.

Mr. ATKINS. The gentleman from Ohio can state whether he has any further instruction from his committee.

Mr. WARNER. I have no other instruction.

Mr. STEPHENS. Well, Mr. Speaker, I am prepared to take the bill up for consideration to-day. If the opposition disagree to postpone the consideration until Saturday I hope the resolution will be voted down.

Mr. GARFIELD. I would remind the gentleman that there is a privileged order set for to-day in regard to the veto message.

The SPEAKER. This comes over as unfinished business and the previous question was seconded.

Mr. GARFIELD. Not on the bill.

The SPEAKER. The previous question was seconded on the resolution.

Mr. GARFIELD. There is nothing before the House but the resolution.

The SPEAKER. The yeas and nays have been ordered on ordering the main question.

Mr. GARFIELD. That is merely on the resolution as to the time when we will consider the bill.

The SPEAKER. It comes over as unfinished business.

Mr. GARFIELD. The resolution is unfinished business, but the bill is not unfinished business.

The SPEAKER. That is all the Chair is stating at present. The Chair, however, will state that in the absence of any other instruction or any other course being suggested to the Chair by the gentleman who reports the bill, the bill having been reported, comes up for consideration under the recent rules. But it may be interfered with by a question of higher privilege, such as the gentleman from Ohio [Mr. GARFIELD] has alluded to; but after the disposition of that question of higher privilege it would come up again, because the rule reads in that way.

Mr. CONGER. But, Mr. Speaker, the report of that committee was a resolution.

The SPEAKER. Oh, no! The gentleman is mistaken. The report of the committee was a bill, and then they submitted a further report in the form of a resolution that Saturday next should be fixed for the consideration of the bill. If the House refuses to vote down that resolution, why, then the bill is before the House for consideration.

Mr. CONGER. That would be in the morning hour.

The SPEAKER. Not at all. It would be after the morning hour.

Mr. CONGER. Is not the only matter now before the House the consideration of the resolution?

The SPEAKER. Yes, sir.

Mr. CONGER. But the bill has no standing before the House.

The SPEAKER. It has. The bill is reported from a committee.

Mr. CONGER. But with a resolution to fix a time for its consideration.

The SPEAKER. Yes; but if that resolution fixing the time is voted down, then, unless the committee has taken some different action, the bill will be immediately brought up for consideration, the same as any other report.

Mr. CONGER. It seems to me that is giving to the committee the power to make alternative reports, so as to occupy the time of the House to the exclusion of every other committee.

The SPEAKER. The House has made this rule, and the Chair is bound to conform to it. The House has bound itself by its own action.

Mr. CONGER. But the committee has chosen to rest upon the resolution fixing a day for the consideration of the bill.

The SPEAKER. Well, the resolution goes to this extent: the bill having been reported for consideration, the committee from which the bill is reported, for the convenience of the House and to apprise members, give notice that they would like to have the bill taken up on Saturday. If, however, the House refuses to agree to that, then the bill having been reported from the committee is before the House, and comes up for consideration under the rule.

Mr. CLAFLIN. I desire to state that there was no motion made in the committee to fix Saturday for the consideration of this bill. There was a motion made and agreed to to report the bill to the House, but there was no motion made in committee to fix Saturday as the particular time for considering the bill.

The SPEAKER. Then the gentleman from Ohio [Mr. WARNER] is acting without the instructions of his committee, and should withdraw the resolution.

Mr. WARNER. I beg pardon; I was instructed to fix that day.

Mr. CLAFLIN. I have consulted the record of the committee, and no such motion was made, according to that record.

Mr. WARNER. The order was to fix "an early day."

The SPEAKER. That rather confirms the attitude of the Chair, that the bill was reported as the regular order.

The question was taken; and there were—yeas 116, nays 108, not voting 61; as follows:

YEAS—116.

Acklen,	Cabell,	Culberson,	Ford,
Aiken,	Caldwell,	Davidson,	Forney,
Armfield,	Carlisle,	Davis, Lowndes H.	Forsythe,
Atherton,	Chalmers,	De La Matyr,	Fort,
Atkins,	Clark, John B., jr.	Dibrell,	Frost,
Beale,	Clymer,	Dickey,	Geddes,
Belford,	Cobb,	Dunn,	Gillette,
Bicknell,	Coffroth,	Elam,	Gunter,
Blackburn,	Colerick,	Ellis,	Hammond, N. J.
Bliss,	Converse,	Evins,	Harris, John T.
Bragg,	Cox,	Ewing,	Henkle,
Bright,	Cravens,	Felton,	Henry,

Herbert,	Martin, Benj. F.	Sawyer,	Tillman,
Herndon,	McKenzie,	Scales,	Townshend, R. W.
Hill,	McMillin,	Shelley,	Turner, Oscar
Hooker,	Mills,	Simonton,	Turner, Thomas
Hostetler,	Muldrow,	Singleton, J. W.	Vance,
House,	Murch,	Singleton, O. R.	Waddill,
Kelley,	Myers,	Slemons,	Warner,
Kimmel,	New,	Smith Hezekiah B.	Weaver,
King,	O'Connor,	Smith, William E.	Wellborn,
Kitchin,	Orth,	Sparks,	Whiteaker,
Klotz,	Persons,	Speer,	Whitthorne,
Knott,	Phister,	Springer,	Williams, Thomas
Ladd,	Richardson, J. S.	Steele,	Willis,
Le Fevre,	Richmond,	Stephens,	Wise,
Lewis,	Robertson,	Stevenson,	Wright,
Lowe,	Rothwell,	Taylor,	Yocum,
Manning,	Samford,	Thompson,	Young, Casey.

NAYS—108.

Aldrich, Nelson W.	Deuster,	Joyce,	Robeson,
Aldrich, William	Dunnell,	Keifer,	Robinson,
Anderson,	Einstein.	Lindsey,	Ross,
Baker,	Errett,	Marsh,	Russell, William A.
Bayne,	Farr,	Mason,	Ryan, Thomas
Beltzhoover,	Ferdon,	McCoid,	Shallenberger,
Bingham,	Field,	McGowan,	Sherwin,
Blake,	Fisher,	McKinley,	Smith, A. Herr
Bowman,	Frye,	McLane,	Talbot,
Boyd,	Garfield,	Miles,	Thomas,
Brewer,	Gibson,	Mitchell,	Townsend, Amos
Briggs,	Hall,	Monroe,	Tyler,
Brigham,	Hammond, John	Morrison,	Updegraff, J. T.
Browne,	Harmer,	Morton,	Updegraff, Thomas
Burrows,	Harris, Benj. W.	Newberry,	Valentine,
Cannon,	Hawk,	Norcross,	Van Aernam,
Carpenter,	Hawley,	O'Brien,	Van Voorhis,
Caswell,	Hazelton,	O'Neill,	Voorhis,
Chittenden,	Heilman,	O'Reilly,	Wait,
Claflin,	Horr,	Overton,	Ward,
Clark, Alvah A.	Houk,	Pierce,	Washburn,
Conger,	Hubbell,	Poehler,	White,
Covert,	Humphrey,	Pound,	Wilber,
Cowgill,	Hurd,	Prescott,	Williams, C. G.
Daggett,	James,	Reed,	Willits,
Davis, George R.	Jones,	Rice,	Wood, Walter A.
Deering,	Jorgensen,	Richardson, D P.	Young, Thomas L.

NOT VOTING—61.

Bachman,	Davis, Joseph J.	Killinger,	Phelps,
Bailey,	Dick,	Lapham,	Price,
Ballou,	Dwight,	Lay,	Reagan,
Barber,	Finley,	Loring,	Russell, Daniel L.
Barlow,	Godshalk,	Lounsbery,	Ryon, John W.
Bland,	Goode,	Martin, Edward L.	Sapp,
Blount,	Haskell,	Martin, Joseph J.	Starin,
Bouck,	Hatch,	McCook,	Stone,
Buckner,	Hayes,	McMahon,	Tucker,
Butterworth,	Henderson,	Miller,	Urner,
Calkins,	Hiscock,	Money,	Wells,
Camp,	Hull,	Morse,	Wilson,
Clardy,	Hunton,	Muller,	Wood, Fernando.
Cook,	Johnston,	Neal,	
Crapo,	Kenna,	Nicholls,	
Crowley,	Ketcham,	Osmer,	

So the main question was ordered.

During the roll-call the following announcements were made:

Mr. SMITH, of Georgia. My colleague, Mr. NICHOLLS, is absent by reason of illness. If present, he would vote "ay."

Mr. YOUNG, of Tennessee. The gentleman from Mississippi, Mr. MONEY, is confined to his room by sickness.

Mr. SCALES. My colleague from North Carolina, Mr. DAVIS, is absent by leave of the House, and is paired with my colleague, Mr. MARTIN.

Mr. BRAGG. My colleague, Mr. BOUCK, is paired with the gentleman from Michigan, Mr. STONE. My colleague, if present, would vote "ay."

Mr. COFFROTH. My colleague, Mr. BACHMAN, who is paired with the gentleman from New York, Mr. DWIGHT, would, if present, vote "ay," and Mr. DWIGHT would vote "no." My colleague, Mr. RYON, of Pennsylvania, is paired with my colleague, Mr. KILLINGER. If present, Mr. RYON would vote "ay" and Mr. KILLINGER "no."

Mr. CABELL. My colleague, Mr. HUNTON, is paired with the gentleman from New York, Mr. HISCOCK, and my colleague, Mr. TUCKER, with the gentleman from New York, Mr. LAPHAM.

Mr. COVERT. My colleague, Mr. FERNANDO WOOD, is unavoidably absent.

Mr. KENNA. I am paired with the gentleman from New York, Mr. CAMP. If he were present, I should vote in the affirmative. My colleague, Mr. WILSON, is still absent on account of serious illness in his family, and is paired.

Mr. REAGAN. I am paired with the gentleman from Ohio, Mr. NEAL. If he were present, I should vote "ay."

Mr. DAVIDSON. My colleague, Mr. HULL, is paired with the gentleman from Iowa, Mr. PRICE.

Mr. LOUNSBERY. I am paired with my colleague, Mr. BAILEY. If he were here, I should vote in the affirmative.

Mr. BLOUNT. I am paired with the gentleman from New York, Mr. MCCOOK. If he were here, I should vote "ay."

Mr. GOODE. I am paired with the gentleman from Massachusetts, Mr. LORING. If he were present, I should vote in the affirmative.

Mr. WAIT. My colleague, Mr. PHELPS, is absent by leave of the House on account of illness in his family.

Mr. LAPHAM. On all political questions I am paired with the gentleman from Virginia, Mr. TUCKER. If he were here, I should vote "no."

Mr. HISCOCK. I am paired with the gentleman from Virginia, Mr. HUNTON. If he were present, he would vote "ay" and I should vote "no." My colleague, Mr. MILLER, is paired with the gentleman from Delaware, Mr. MARTIN.

Mr. HAWK. My colleague, Mr. HAYES, is paired with the gentleman from Connecticut, Mr. PHELPS. Mr. HAYES, if present, would vote "no." I do not know how Mr. PHELPS would vote.

Mr. CRAPO. I am paired with the gentleman from Missouri, Mr. BUCKNER. If he were present, he would vote "ay" and I should vote "no."

Mr. DAVIS, of Illinois. My colleague, Mr. BARBER, is paired with the gentleman from Missouri, Mr. HATCH. Mr. BARBER, if present, would vote "no." My colleague, Mr. HENDERSON, is paired with the gentleman from Georgia, Mr. COOK. Mr. HENDERSON, if present, would vote "no."

Mr. CALKINS. I am paired with the gentleman from Ohio, Mr. FINLEY. If he were present, I should vote "no."

Mr. UPDEGRAFF, of Iowa. My colleague, Mr. PRICE, who is absent by order of the House, is paired with the gentleman from Florida, Mr. HULL.

Mr. MARTIN, of North Carolina. I am paired with my colleague, Mr. DAVIS.

Mr. MASON. My colleague, Mr. DWIGHT, is paired with the gentleman from Pennsylvania, Mr. BACHMAN. My colleague, if present, would vote "no."

Mr. FISHER. The gentleman from Iowa, Mr. SAPP, is paired with the gentleman from Missouri, Mr. CLARDY. Mr. SAPP, if present, would vote "no;" Mr. CLARDY, "ay."

Mr. KETCHAM. I am paired with my colleague, Mr. FERNANDO WOOD. If he were present, I should vote "no."

Mr. JOYCE. My colleague, Mr. BARLOW, is paired with the gentleman from Massachusetts, Mr. MORSE.

Mr. WHITE. My colleague, Mr. DICK, is absent on account of sickness, and is paired with the gentleman from Missouri, Mr. LAY. I am not prepared to say how my colleague would vote on this question, because I do not regard it as a political question.

Mr. WHITEAKER. The gentleman from New York, Mr. MILLER, is paired with the gentleman from Delaware, Mr. MARTIN, on all political questions until Tuesday the 6th instant.

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with the gentleman from Ohio, Mr. MCMAHON.

Mr. HARRIS, of Massachusetts. My colleague, Mr. MORSE, is paired with the gentleman from Vermont, Mr. BARLOW. Mr. MORSE would vote "no" and Mr. BARLOW "ay."

Mr. SAWYER. My colleague, Mr. CLARDY, who is paired with the gentleman from Iowa, Mr. SAPP, would, if present, vote "ay."

The result of the vote was announced as above stated.

Mr. WARNER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question now recurs on the adoption of the resolution.

Mr. STEPHENS. If this resolution be voted down the bill, as I understand, will be before the House for action to-day.

The SPEAKER. If the resolution be voted down, the measure reported from the committee would be before the House.

Mr. STEPHENS. To-day.

The SPEAKER. But it would be liable to interruption by other questions, and it is within the knowledge of the Chair and the House that a question of higher privilege is to be brought up.

Mr. STEPHENS. But would it not take precedence immediately after the question of higher privilege is disposed of?

The SPEAKER. It would come up again, of course.

Mr. CONGER. But the bill has been recommitted.

The SPEAKER. Not at all.

Mr. CONGER. The RECORD says so.

The SPEAKER. The Chair is not advised as to that, but the Journal does not show that that was the case.

Mr. CONGER. It is so printed in the RECORD.

The SPEAKER. The gentleman will please read from the RECORD.

Mr. CONGER. It is as follows:

Mr. WARNER also, from the same committee, reported back, with amendments, a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes; which were ordered to be printed, and recommitted.

Mr. STEPHENS. There is a further report.

The Clerk read as follows:

Mr. WARNER. I now report from the Committee on Coinage, Weights, and Measures, under the privilege granted to that committee, the following resolution, on which I demand the previous question.

The Clerk read as follows:

"*Resolved*, That House bill No. 564, and the amendments thereto, reported from the Committee on Coinage, Weights, and Measures, be made the special order for consideration in the House on Saturday next after the morning hour, and from day to day thereafter until disposed of."

The SPEAKER. The Chair will now cause the Journal to be read.

The Clerk read as follows:

Mr. WARNER, from the same committee, to which was referred the bill (H. R.

No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage, coin and bullion certificates, and for other purposes, reported the same with amendments, accompanied by the following resolution, to wit:

"*Resolved*, That House bill No. 564, and the amendments thereto, reported from the Committee on Coinage, Weights, and Measures, be made the special order for consideration in the House on Saturday next after the morning hour, and from day to day thereafter until disposed of."

The House having proceeded to their consideration, when Mr. WARNER demanded the previous question on the said resolution, which was seconded.

The question then being on ordering the main question, when—

Mr. GARFIELD demanded the yeas and nays thereon, and the same were ordered.

Mr. CONGER. It is within my recollection distinctly that the bill was ordered to be printed and recommitted. I assumed, of course, that the bill and report were both ordered to be printed.

The SPEAKER. That was a natural assumption, but the Chair understands that the report only was ordered to be printed.

Mr. CONGER. If I have made any mistake it is the fault of the RECORD.

Mr. GARFIELD. Was the report ordered to be printed and not the bill?

The SPEAKER. Yes.

Mr. STEPHENS. I wish to say a word in answer to the gentleman from Michigan, [Mr. CONGER.] The bill was first introduced by the gentleman from Ohio, [Mr. WARNER,] and was reported back with amendments and ordered to be printed and recommitted. The amendments were considered, and then the bill was reported back to the House.

The SPEAKER. The Chair thinks the bill is properly before the House as a report from a committee.

Mr. CONGER. Then the RECORD ought to be corrected.

The SPEAKER. This debate will go into the RECORD and will show that the original report in the RECORD was wrong.

Mr. CONGER. I ask that the bill may be printed.

Mr. WHITE. Where is the report? Is it not to be printed?

The SPEAKER. The report has been sent to be printed. The bill is here and will be read if the gentleman wishes it.

Mr. WHITE. I have a copy of the bill. This is an important bill, and I will ask how many copies of it have been printed?

The SPEAKER. The Chair is not advised on that subject. The proposition is to consider the bill on Saturday, and everything relating to the subject can be printed by that time.

Mr. WHITE. By unanimous consent could not the bill be printed with all the amendments?

The SPEAKER. There is nothing unusual in this request.

Mr. WHITE. I do not say there is anything unusual, but I would like to have a supply of copies of the bill.

The SPEAKER. The gentleman will have that before the bill comes up for action.

Mr. KENNA. Has not the main question been ordered?

The SPEAKER. It has, and the question is upon the adoption of the resolution.

Mr. STEPHENS. Owing to the intimation of the Chair that a question of superior privilege may intervene, I shall vote for the consideration of this bill on Saturday, and I shall now vote for the resolution.

The question was taken on Mr. WARNER'S resolution; and it was agreed to.

Mr. WARNER moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. As the gentleman from Pennsylvania [Mr. WHITE] desires the bill as perfected printed, the Chair suggests that double the usual number of copies of the bill as amended by the committee be printed.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. ACKLEN. I call for the regular order.

The SPEAKER. The regular order is the morning hour.

Mr. COX. Can I call up the privileged question?

Mr. STEPHENS. I desire to present a report from the Committee on Rules.

VETO OF ARMY APPROPRIATION BILL.

Mr. SPARKS. I move, in accordance with the order of yesterday, that the House proceed to take up the message of the President vetoing the bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and to reconsider the said bill.

Mr. CONGER. I desire to ask the gentleman from Illinois if he proposes to have discussion on this?

Mr. SPARKS. I do not. I demand the previous question.

Mr. CONGER. The House voted yesterday that we would consider the message. The resolution of the House declared we should to-day proceed to consider the message and reconsider the bill.

The SPEAKER. The message can be considered. The message would naturally lie on the table, and the question would be on reconsidering the bill.

Mr. CONGER. I ask the question because I have seen it stated there would be no discussion; and I submit that would be contrary to the resolution adopted yesterday.

Mr. SPARKS. The motion is that the bill be passed notwithstanding the objections of the President. That motion I now make, and on that I move the previous question.

Mr. KENNA. I demand the regular order.

Mr. CONGER. I ask if there was not an order of the House——[Cries of "Regular order!"]

The SPEAKER. The Chair will hear the gentleman.

Mr. CONGER. I desire to make a parliamentary inquiry.

Mr. SPARKS. The gentleman from Tennessee [Mr. ATKINS] desires to make a request.

Mr. ATKINS. I ask the privilege of printing some remarks on this bill.

Mr. CONGER objected.

The SPEAKER. The gentleman from Michigan will ask his parliamentary question.

Mr. CONGER. I desire to ask——[Cries of "Regular order!"]

The SPEAKER. The regular order is being proceeded with. The gentleman will ask his question.

Mr. CONGER. I will ask the question as soon as these gentlemen are quiet enough. The moment I commence they are vociferous.

The SPEAKER. The gentleman will ask the question of the Chair, and the Chair will certainly not interrupt him.

Mr. CONGER. The resolution which was adopted yesterday ordered the consideration to-day of the message and the reconsideration of the bill. I ask if the House, having ordered that the message be considered to-day, has not in effect ordered that it shall be the subject of discussion?

The SPEAKER. The message would lie upon the table; and the question that the gentleman from Illinois [Mr. SPARKS] now presents is what is provided by the Constitution: Will the House upon reconsideration pass the bill? and on that he demands the previous question.

Mr. CONGER. Then I desire to say if gentlemen are all so satisfied ——

The SPEAKER. The gentleman has no right to say anything. He has a right to ask a parliamentary question, but not to say anything pending a demand for the previous question.

Mr. CONGER. I think the Chair is unnecessarily excited.

The SPEAKER. The Chair is as calm as a May morning. [Laughter.]

Mr. CONGER. The 1st of May morning.

The previous question was seconded and the main question ordered.

Mr. SPARKS moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question is, Will the House on reconsideration agree to pass the bill? Under the Constitution it is required that this vote shall be taken by yeas and nays.

The question was taken; and there were—yeas 120, nays 110, not voting 55; as follows:

YEAS—120.

Acklen,	Deuster,	Ladd,	Singleton, O. R.
Aiken,	Dibrell,	Le Fevre,	Slemons,
Armfield,	Dickey,	Lewis,	Smith, Hezekiah B.
Atherton,	Dunn,	Manning,	Smith, William E.
Atkins,	Elam,	Martin, Benj. F.	Sparks,
Beale,	Ellis,	McKenzie,	Speer,
Beltzhoover,	Evins,	McLane,	Springer,
Bicknell,	Ewing,	McMillin,	Steele,
Blackburn,	Felton,	Mills,	Stephens,
Bliss,	Forney,	Morrison,	Stevenson,
Bragg,	Frost,	Muldrow,	Talbott,
Bright,	Geddes,	Myers,	Taylor,
Buckner,	Gibson,	New,	Thompson,
Cabell,	Gunter,	O'Brien,	Tillman,
Caldwell,	Hammond, N. J.	O'Connor,	Townshend, R. W.
Carlisle,	Harris, John T.	O'Reilly,	Turner, Oscar
Chalmers,	Henkle,	Persons,	Turner, Thomas
Clark, Alvah A.	Henry,	Phister,	Vance,
Clark, John B., jr.	Herbert,	Poehler,	Waddill,
Clymer,	Herndon,	Reagan,	Warner,
Cobb,	Hill,	Richardson, J. S.	Wellborn,
Coffroth,	Hooker,	Richmond,	Whiteaker,
Colerick,	Hostetler,	Robertson,	Whitthorne,
Converse,	House,	Ross,	Williams, Thomas
Covert,	Hurd,	Rothwell,	Willis,
Cox,	Johnston,	Samford,	Wise,
Cravens,	Kimmel,	Sawyer,	Wright,
Culberson,	King,	Scales,	Young, Casey.
Davidson,	Kitchin,	Shelley,	
Davis, Lowndes H.	Klotz,	Simonton,	
De La Matyr,	Knott,	Singleton, J. W.	

NAYS—110.

Aldrich, Nelson W.	Cannon,	Field,	Heilman,
Aldrich, William	Carpenter,	Fisher,	Hiscock,
Anderson,	Caswell,	Ford,	Horr,
Baker,	Chittenden,	Forsythe,	Houk,
Bayne,	Claflin,	Fort,	Hubbell,
Belford,	Conger,	Frye,	Humphrey,
Bingham,	Cowgill,	Garfield,	James,
Blake,	Crapo,	Gillette,	Jones,
Bowman,	Daggett,	Hall,	Jorgensen,
Boyd,	Davis, George R.	Hammond, John	Joyce,
Brewer,	Deering,	Harmer,	Keifer,
Briggs,	Dunnell,	Harris, Benj. W.	Kelley,
Brigham,	Einstein,	Haskell,	Lindsey,
Browne,	Errett,	Hawk,	Lowe,
Burrows,	Farr,	Hawley,	Marsh,
Butterworth,	Ferdon,	Hazelton,	Mason,

McCoid,	Pierce,	Smith, A. Herr	Ward,
McGowan,	Pound,	Thomas,	Washburn,
McKinley,	Prescott,	Townsend, Amos	Weaver,
Miles,	Reed,	Tyler,	White,
Mitchell,	Rice,	Updegraff, J. T.	Wilber,
Monroe,	Richardson, D. P.	Updegraff, Thomas	Williams, C. G.
Morton,	Robeson,	Urner,	Willits,
Murch,	Robinson,	Valentine,	Wood, Walter A.
Newberry,	Russell, William A.	Van Aernam,	Yocum,
Norcross,	Ryan, Thomas	Van Voorhis.	Young, Thomas L.
O'Neill,	Shallenberger,	Voorhis,	
Overton,	Sherwin,	Wait,	

NOT VOTING—55.

Bachman,	Dick,	Lay,	Osmer,
Bailey,	Dwight,	Loring,	Phelps,
Ballou,	Finley,	Lounsbery,	Price,
Barber,	Godshalk,	Martin, Edward L.	Russell, Daniel L.
Barlow,	Goode,	Martin, Joseph J.	Ryon, John W.
Bland,	Hatch,	McCook,	Sapp,
Blount,	Hayes.	McMahon,	Starin,
Bouck,	Henderson,	Miller,	Stone,
Calkins,	Hull,	Money,	Tucker,
Camp,	Hunton,	Morse,	Wells,
Clardy,	Kenna,	Muller,	Wilson,
Cook,	Ketcham,	Neal,	Wood, Fernando.
Crowley,	Killinger,	Nicholls,	
Davis, Joseph J.	Lapham,	Orth,	

So (two-thirds not voting in favor thereof) the House on reconsideration refused to pass the bill.

During the roll-call the following announcements were made:

Mr. BRAGG. My colleague, Mr. BOUCK, is paired with Mr. STONE. If present, Mr. BOUCK would vote "ay."

Mr. HAWK. Mr. HAYES is paired with Mr. PHELPS. If present, Mr. HAYES would vote "no." I do not know how Mr. PHELPS would vote.

Mr. SCALES. My colleague, Mr. DAVIS, is absent by leave of the House, and is paired with my colleague, Mr. MARTIN. If present, Mr. DAVIS would vote "ay."

Mr. MARTIN, of West Virginia. My colleague, Mr. WILSON, is detained at home by serious illness in his family. If he were present, he would vote "ay."

Mr. COVERT. My colleague, Mr. FERNANDO WOOD, is paired with Mr. KETCHAM. Mr. COOK, of Georgia, is paired with Mr. HENDERSON.

Mr. COFFROTH. My colleague, Mr. RYON, is paired with Mr. KILLINGER. If present, Mr. RYON would vote "ay" and Mr. KILLINGER "no."

Mr. CABELL. My colleague, Mr. TUCKER, is paired with Judge LAPHAM. If present, he would vote "ay."

Mr. KENNA. On this question I am paired with Mr. CAMP. If Mr. CAMP were present, he would vote "no" and I should vote "ay."

Mr. REAGAN. I was paired with Mr. NEAL, of Ohio. By an understanding with members on both sides of the House, it is agreed that Mr. MONEY, of Mississippi, instead of myself, shall be paired with Mr. NEAL.

Mr. DAVIDSON. My colleague, Mr. HULL, is paired with Mr. PRICE, of Iowa. If present, Mr. HULL would vote "ay."

Mr. DICKEY. My colleague, Mr. FINLEY, is paired with Mr. CALKINS.

Mr. BLOUNT. On this question I am paired with Mr. MCCOOK. If Mr. MCCOOK were present, I should vote "ay."

Mr. LOUNSBERY. I am paired with my colleague, Mr. BAILEY.

Mr. GOODE. I am paired with Mr. LORING, of Massachusetts.

Mr. WAITE. My colleague, Mr. PHELPS, is absent by leave of the House, on account of serious illness in his family, and is paired.

Mr. HISCOCK. Mr. MILLER, of New York, is paired with Mr. MARTIN, of Delaware. If present, Mr. MILLER would vote "no" and Mr. MARTIN "ay." Mr. CROWLEY is paired with Mr. HUNTON. If present, Mr. CROWLEY would vote "no" and Mr. HUNTON "ay."

Mr. LAPHAM. Upon all political questions I am paired with the gentleman from Virginia, Mr. TUCKER. If he were present, I should vote "no."

Mr. TYLER. My colleague, Mr. BARLOW, is paired with Mr. MORSE, of Massachusetts.

Mr. DAVIS, of Illinois. Mr. BARBER is paired with Mr. HATCH, of Missouri. Mr. HENDERSON is paired with Mr. COOK, of Georgia.

Mr. CALKINS. I am paired on all political questions with Mr. FINLEY. If he were present, I should vote "no."

Mr. WHITE. Mr. OSMER is paired with Mr. NICHOLLS.

Mr. MCGOWAN. Mr. STONE is paired with Mr. BOUCK.

Mr. ORTH. I am paired with Mr. WILSON, of West Virginia. If he were present, I should vote "no."

Mr. BROWNE. I am requested to announce that Mr. SAPP, of Iowa, is paired with Mr. CLARDY, of Missouri. If present, Mr. SAPP would vote "no" and Mr. CLARDY "ay."

Mr. UPDEGRAFF, of Iowa. Mr. PRICE is absent by order of the House, and is paired with Mr. HULL. If present, Mr. PRICE would vote "no" and Mr. HULL "ay."

Mr. MARTIN, of North Carolina. I am paired with my colleague, Mr. DAVIS. Upon this question, Mr. DAVIS would vote "ay" and I should vote "no."

Mr. RUSSELL, of Massachusetts. My colleague, Mr. MORSE, is paired with Mr. BARLOW, of Vermont. If present, Mr. MORSE would vote "ay."

Mr. KETCHAM. I am paired with Mr. FERNANDO WOOD. If he were present, I should vote "no."

Mr. FORD. Mr. RUSSELL, of North Carolina, is paired with Mr. BLAND, of Missouri.

Mr. ALDRICH, of Rhode Island. Mr. BALLOU is paired with Mr. MCMAHON. If present, Mr. BALLOU would vote "no" and Mr. MCMAHON "ay."

Mr. MASON. My colleague, Mr. DWIGHT, of New York, is paired with Mr. BACHMAN, of Pennsylvania. My colleague, if present, would vote "no."

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed with amendments the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress and for other purposes; in which he was directed to ask the concurrence of the House.

LEAVE TO PRINT.

Mr. CONGER. I desire to withdraw the objection I made to allowing members to print remarks.

Mr. ATKINS. Then I ask unanimous consent that gentlemen be allowed to print such remarks as they may see fit upon the veto message of the President.

Mr. HAWLEY. Unless there is to be something like a general debate on the subject, I must object.

The SPEAKER. The proposition is to allow gentlemen to print their remarks.

Mr. MCLANE. I object.

Some time subsequently Mr. MCLANE withdrew his objection.

Mr. HUMPHREY renewed the objection and subsequently withdrew it.

Mr. HAWLEY. I renew the objection.

PERSONAL EXPLANATION.

Mr. KITCHIN. I rise to a matter of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. KITCHIN. I find in the RECORD of the 26th of April a speech purporting to have been delivered by my colleague [Mr. RUSSELL] from the third congressional district of North Carolina, in which he prejudges a case now pending before the House. That speech was not brought to my attention, and I did not know that there had been any such speech made or printed until after the debate upon the then pending bill had been closed. He says in that speech:

> It is well known that two democrats, one from Florida and the other from North Carolina, hold seats on this floor, not by the vote of the people, but by the fraudulent mandates of returning boards, some of whom, strange to say, are in the penitentiary.

Now, sir, what I have to say in reply to that is simply this: if the gentleman intended to refer to any district in North Carolina as to the returning board being in the penitentiary, it is simply false and slanderous.

Mr. GARFIELD. I desire to interrupt the gentleman to say that the member of the House to whom he is referring is not now in his seat, and it seems to me that he ought to defer any remarks——

The SPEAKER. The speech was printed by consent of the House.

Mr. GARFIELD. The gentleman who made the speech ought to be here.

Mr. KITCHIN. I am sorry the gentleman is not in his seat, and I will say nothing personal.

Mr. GARFIELD. I simply suggest to the gentleman the propriety of postponing what he wishes to say until his colleague is in his seat.

Mr. WHITE. That is but fair.

Mr. KITCHIN. I am sorry that he is not here; I wish he were here; I would say a great deal more if he were in his seat. But I must say something now, because this statement has gone to my district. Before I knew the speech had been delivered in the House—I was in the House all the time, and have never been absent from my seat during the debate—before I knew that this speech had been delivered or published I received letters from my district condemning me for allowing such a slander to be made upon the people of my district.

I therefore denounce it as infamously slanderous, if intended to refer to my district. No one better than the gentleman himself knew the circumstances under which I was elected. He knew that my seat was contested, and this remark was intended directly for me. I am not surprised that the gentleman should have violated every parliamentary rule and every rule of decency and propriety. Having been a republican judge for six years in the State of North Carolina, and having obtained his seat in this House——

Mr. GARFIELD. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. GARFIELD. My point of order is that the remark by the gentleman now upon the floor from North Carolina, that a member of this House has "violated every rule of decency," is not parliamentary language, and I object to it on that score.

The SPEAKER. The Chair understands that this speech referred to was never delivered in this House, but was printed without being delivered. The Chair does not know how he is to hunt up the improprieties of the two speeches. It seems to the Chair that it is nothing but reasonable that a gentleman who is assailed in a speech printed

under a unanimous consent given by the House, ought to have the most immediate time to reply.

Mr. GARFIELD. I make no question about the speech referred to, for I know nothing about the language of the speech which was delivered. What I am speaking of now is the use of unparliamentary language upon the floor at this time.

Mr. KITCHIN. I know very well that the gentleman——

Mr. GARFIELD. I call the gentleman to order, and ask that the words I have objected to be taken down.

The SPEAKER. The rule requires the words to be taken down.

Mr. KITCHIN. I ask the gentleman from Ohio [Mr. GARFIELD] if he did not himself make the point that no personal language or remarks should be employed in a speech printed by leave of the House and not delivered in the House?

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] in raising this point will proceed in accordance with the rule which the Chair will cause to be read.

The Clerk read as follows:

RULE 62. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken.

The SPEAKER. The gentleman from Ohio will be kind enough to repeat the words to which he takes exception; and the Chair will cause them to be taken down.

Mr. GARFIELD. The words which I wish taken down are those that referred to the conduct of a gentleman who is absent as violating every rule of decency. I do not remember the exact language; but I have indicated it sufficiently. I ask that the words referred to be read at the Clerk's desk.

Mr. HUMPHREY. I believe the language was "infamously slanderous."

The SPEAKER. The Chair will cause the words to be read.

Mr. McLANE. I ask that they may be read by the stenographer.

The SPEAKER. They will be read by the Clerk from the notes of the stenographer.

The Clerk read as follows:

I am not surprised that the gentleman should have violated every parliamentary rule and every rule of decency and propriety.

Mr. WEAVER. I understood the gentleman to say that the remarks of his colleague were "infamously slanderous." I want those words also taken down.

Mr. GARFIELD. Those words occur very near the language I have already indicated.

The SPEAKER. The Clerk will read Rule 61.

The Clerk read as follows:

If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it, he shall be liable to the censure of the House.

The SPEAKER. The Clerk will also read Rule 57.

The Clerk read as follows:

When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat and respectfully address himself to "Mr. Speaker;" and shall confine himself to the question under debate, and avoid personality.

Mr. BAKER. Now let the other words be read.

The SPEAKER. The words of which the gentleman from Ohio complains will be read.

The Clerk read as follows:

If the gentleman intended to refer to any district in North Carolina as to the returning board being in the penitentiary, it is simply false and slanderous.

* * * * * * *

I am not surprised that the gentleman should have violated every parliamentary rule, and every rule of decency and propriety.

The SPEAKER. The gentleman from North Carolina [Mr. KITCHIN] will proceed in order.

Mr. GARFIELD. Has the Chair ruled on the language as to whether it is parliamentary or not. I have asked the ruling of the Chair.

Mr. COX. I suppose a motion is necessary, that the gentleman from North Carolina proceed in order. I make that motion.

Mr. REED. How can that motion be made until the Chair has decided whether the language used was in order.

The SPEAKER. The Chair thinks that the gentleman from North Carolina has not gone beyond the bounds of parliamentary propriety, having previously stated that he meant nothing personal. [Laughter.]

Mr. KITCHIN. I now ask the gentleman from Ohio [Mr. GARFIELD] whether he was not the member who, when a general leave to print was granted, made the suggestion to the Chair that no gentleman should print anything offensive to any other member.

Mr. GARFIELD. Certainly I said that, and I think it should apply to what is spoken as well as what is written and printed.

Mr. REED. That is, unless the member speaking says that he does not intend the language to be personal. [Laughter.]

Mr. KITCHIN. I ask the gentleman whether there is no difference between slipping in insinuations in a speech which is printed without being delivered, and speaking out the language upon the floor?

Mr. GARFIELD. I will say to the gentleman that I do not know whether the speech that he comments upon is personal to him or refers to his district.

The SPEAKER. If the gentleman from Ohio is dissatisfied with the ruling of the Chair as to the language of the gentleman from North Carolina, he has his remedy by an appeal to the House.

Mr. GARFIELD. I can stand it, if the Chair can.

Mr. KITCHIN. I will not at present refer to the remainder of my colleague's speech, but will simply say that it is reserved to a native son of North Carolina, adder-like, to bite the bosom that warmed him into life. In refutation and condemnation of the statement of the gentleman (who is one of the judges in the case now pending before this House, and to this I referred when I spoke of his violating decency) I send to the desk to be read an affidavit of my competitor, James E. O'Hara, which affidavit has never been followed up.

The Clerk read as follows:

STATE OF NORTH CAROLINA:

At a court of pleas and quarter sessions begun and held for the county of Wayne, at the court-house in Goldsborough, on the third Monday of November, 1867, before W. K. Lane, chairman, and John C. Slocumb, George W. Collier, justices, James E. O'Hara, a native of Frederickstand, St. Croix, Danish West Indies, at the present time a resident of the county aforesaid, appears before the said court, being a court of record having common-law jurisdiction and a seal and clerk; and the said James E. O'Hara being duly sworn, declares upon oath that it is *bona fide* his intention to become a citizen of the United States, and to remove forever all allegiance and fidelity to every foreign prince, potentate, or sovereignty, and particularly all allegiance and fidelity to Frederick VII, reigning King of Denmark, of whom he is now a subject. Whereupon it is ordered that the said declaration of the said James E. O'Hara be duly recorded by the clerk of this court.

NORTH CAROLINA, *Wayne County:*

I, W. T. Yelverton, clerk of the superior court of said county, do hereby certify that the foregoing is a true copy of the record in my office of the declaration of James E. O'Hara.

Given under my hand and official seal the 26th March, 1879.

[SEAL.] W. T. YELVERTON,
Clerk Superior Court.

Mr. KITCHIN. I also send to the desk to be read a circular of the republican executive committee of my district.

The Clerk read as follows:

To the republicans of the second congressional district:

The committee for the above-named district, in order to place their recent action before the people, deem it proper to make a statement in regard to the cause which led them to take such action.

After the convention which was held in Goldsborough, it was brought to the attention of the committee that there was cause existing that rendered Hon. James E. O'Hara ineligible to a seat in Congress, and urgent appeals were made by leading republicans, in all parts of the district, requesting the committee to investigate the charges, &c.

After deliberation the committee was convened and Mr. O'Hara was requested to appear before them, which request was complied with. After the matter had been discussed and Mr. O'Hara's statement received the committee adjourned to meet one week thereafter, requesting him to procure evidence that would remove all doubt as to his being eligible. The committee met pursuant to adjournment, and Mr. O'Hara came before them but refused to furnish the evidence which he said he had; nor were the committee able to procure evidence after due search was made in the records of the court where he positively stated the evidence existed.

The committee being actuated by an earnest desire to place a republican before the people of the district who was eligible to his seat, and not being willing to make a nomination themselves, issued a call in the usual form, giving due notice to the county committees for a district convention to assemble in Kinston, on the 15th day of October, 1878, at which time the convention met and organized in due form, investigated the alleged cause, and decided that they would drop Mr. O'Hara from the ticket, he having failed to appear before the convention.

The convention then proceeded to make a nomination for Congressman, which resulted in the choice of Hon. James H. Harris, which nomination was then made unanimous, and he stands before the republicans of this district as the nominee of the republican party.

We feel it due the people to issue this address, and trust that they will stand by the nomination of Hon. James H. Harris, and thus secure the election of a republican from this district who will be seated, and defeat the democratic candidate whom that party are working hard to elect.

Let every republican remember that a vote given for Mr. O'Hara is in effect a vote for Mr. Kitchin, the democratic candidate.

By order of the committee:

O. HUBBS, *Chairman.*
E. E. SMITH, *Secretary.*

Mr. KITCHIN. Mr. Speaker, that explains in a measure why I was elected. I will reserve further remarks on this subject until the honorable gentleman from the third congressional district of North Craolina shall be in his seat.

ADMISSION TO THE FLOOR.

Mr. VAN VOORHIS. I ask by unanimous consent to submit the following resolution:

Resolved, That Hon. George F. Danforth, one of the judges of the court of appeals of the State of New York, be permitted to come upon the floor of the House during the remainder of this week.

The SPEAKER. The gentleman from New York asks that George F. Danforth, a member of the court of appeals of the State of New York, be allowed during his brief stay in this city to have the privilege of the floor. Yesterday when the request was made it was objected to. The Chair is now informed that the gentleman who then objected withdraws it. Is there further objection?

There was no objection, and it was ordered accordingly.

LEAVE TO PRINT.

Mr. HOOKER. Mr. Speaker, I desire to ask unanimous consent to have read, for the purpose of being printed as a part of the speech which I made in the House a few days ago, a circular which I send

to the Clerk's desk. If there be no objection I will embody the circular in my remarks without asking for its reading.

The SPEAKER. Is there objection?

Mr. WHITE. What is it? Let us hear it.

Mr. HOOKER. Very well; let it be read. I did refer to it in my speech, but did not have it in my possession at the time. I desire now to embody it in the speech, but do not wish to do so without having the subject brought to the attention of the House.

Mr. KEIFER. Has the gentleman's speech been printed in the RECORD?

Mr. HOOKER. It has.

Mr. KEIFER. Then I object.

Mr. HOOKER. Then I ask that it be read for the information of the House.

Mr. KEIFER. I object to that.

Mr. HOOKER. The gentleman is very sensitive on the subject, it seems.

AMENDMENT OF RULES.

Mr. GARFIELD, by unanimous consent, submitted the following report from the Committee on Rules:

Resolved, That in calling the roll of the House the Clerk shall call only the surname of members, with the prefix of "Mr.," except where there are two or more of the same surname, in which case the full names of the members shall be called.

The SPEAKER. This resolution was referred to the Committee on Rules, and is reported back favorably. The question is on the adoption of the resolution.

Mr. CONGER. I demand a division of the House. [Cries of "Oh, no!"] That very process, Mr. Speaker——

Mr. FORT. Is debate in order?

Mr. CONGER. Yes; debate is in order.

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Michigan?

Mr. GARFIELD. I yield to the gentleman for five minutes.

Mr. CONGER. Mr. Speaker, this subject has been before Congress on several different occasions, and, however much it may tend to facilitate the calling of the roll or otherwise, yet every one knows, each one for himself, that it is the only weapon which a minority has for delay, no matter whether it is a minority political or otherwise; that it is the only weapon which the minority has for making delays necessary for the purpose of securing further consideration of a question. If the House wishes to have it I have no objection; but this is an innovation upon the practice from the beginning to the present time; and the purpose for which it is used is not merely for political minorities, but for all questions which arise here; and the adoption of this amendment to the rules will take away the only object of calling the roll—that is, to gain time. I do not speak of it as anything of a political character at all, but it is the only weapon which any minority on any question has under the rules for gaining time—that is, the time gained in calling the roll. It is the only way in which the majority here can gain time to get absent members present if they find they have not a majority present. I wish it may be understood what will be the effect of the adoption of such an amendment to the rules. While it will facilitate the calling of the roll, that it will facilitate the general legislation of the House I am yet to be informed.

This practice has been observed from the commencement of the Government until now. I think I have known some seven or eight efforts to change it since I have been a member of Congress. It was resisted by the minority, when our friends on the other side were in the minority, strenuously and continuously. Of course some other measure less objectionable will be resorted to.

Mr. GARFIELD. Mr. Speaker, I wish to say only a word on this subject. There is no possible advantage which can be taken of a minority by this change of the rule. This is the way it is done in the Senate, a smaller body, which can always be called much quicker than this, under the most expeditious manner that can be adopted. This was formerly, I am quite sure, the rule of the House; and now, with a House as full as that we have, however hurried we may be for time, it takes a good forty minutes to call the roll, giving the initials, with the recall after the last name on the roll has been called; and there are hundreds of times that we feel the burden of loss of time in the mere manipulation of calling the roll. Furthermore, it is a hardship upon our clerks to compel them on all ordinary occasions to put their vocal organs through all the polysyllabic names and initials we have on our list. I think it is a saving in every way. If the minority want to filibuster, they can always make the ordinary motions to call the yeas and nays, and they can delay just as much in this way as the other; but if we want to expedite business, this is a way to do it.

Mr. HOOKER. I rise to make a parliamentary inquiry. Can this report be considered against an objection?

The SPEAKER. It is too late to make the objection.

Mr. HOOKER. Did the Chair ask for objections?

The SPEAKER. He did.

Mr. COX. I ask the gentleman from Ohio to yield me three minutes.

Mr. GARFIELD. I yield to the gentleman.

Mr. COX. In calling the yeas and nays in most of our State Legislatures only the surnames are called. That is the case in New York, Ohio, Pennsylvania, and in other States, as gentlemen around me say. There is nothing to be gained by filibustering by the tedious and useless calling of the roll in the present way, as claimed by the gentleman from Michigan, [Mr. CONGER.] Why should we not shorten this process? We came near shortening it a few years ago. The House came within a vote or so of doing it. There was a refined piece of machinery for instantaneously taking the votes of members. How? From their desks, by electricity; by the touching of a button! Then by the process the record was made at once for all the House at the Clerk's desk! The sense of the House by yeas and nays appears at once! That is the plan now in the German Parliament. I forgot to say that it was my ingenious friend from Illinois [Mr. SPRINGER] who invented the machine presented here which I attempted to have accepted. He came here several years ago, and perhaps then began that towering ambition which has left his invention to the rear. He tells me that a piece of mechanism similar to his in some respects has been adopted in the French Chamber. Is there any reason in these practical days, when mechanism so utilizes and economizes human thought and action, why an inventive nation like ours should not in this matter save the time of the House and the expense which the waste of time so increases by the adoption of such machinery. Therefore I shall vote for the amendment of the rule as reported by the gentleman from Ohio, because, though it does not shorten our processes of voting so much as machinery, yet tends in the same useful direction.

Mr. GARFIELD. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

The SPEAKER. The resolution having been adopted, the clerks will hereafter govern themselves accordingly.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON MISSISSIPPI LEVEES.

The SPEAKER. The next resolution will be read.

Mr. HOOKER. I reserve the right to object.

The SPEAKER. The request for unanimous consent was made as to both resolutions. The Clerk had at the time possession of the report which embraces the two resolutions.

Mr. MILLS. Have not the Committee on Rules the right to report at any time?

The SPEAKER. That has been the practice, but it is not by any rule of the House.

Mr. HOUSE. Let the resolution be read.

The Clerk read as follows:

Resolved, That the Committee on Levees and Improvement of the Mississippi River shall be increased from eleven members to thirteen members.

Mr. GARFIELD. The gentleman from Mississippi can object if he pleases. [Laughter.] I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON MILITARY AFFAIRS.

Mr. STEPHENS. I ask unanimous consent to report from the Committee on Rules the resolution which I send to the desk.

The SPEAKER. Is there objection?

Mr. CONGER. Let the resolution be read.

The SPEAKER. The resolution will be read for information, the right to object being reserved.

The Clerk read as follows:

Resolved, That the Speaker shall appoint from among the Delegates from the Territories one additional member on the Committee on Military Affairs, which Delegate shall have the same privileges on that committee as in the House.

Mr. WRIGHT. I wish to understand how that is to be construed—whether a member of a committee who is a Delegate can vote upon all questions that come before the committee.

The SPEAKER. The Chair will, in answer to the gentleman from Pennsylvania, state that this resolution was sent to the Committee on Rules at the instance of the Delegates, who, as the Chair is informed, believe that their Territories are vitally interested in the military matters of the country, as oftentimes the frontier requires to be protected; and they consider, therefore, they ought to have the privilege of a representative in the Committee on Military Affairs as a witness, who will have no vote, but will be a witness to its proceedings, sitting there with the right to listen and make suggestions.

Mr. WRIGHT. So far as the resolution goes I think it is right.

The SPEAKER. There are Delegates upon other committees.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. STEPHENS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RESOLUTIONS OF INQUIRY.

Mr. MILLS. I desire to ask of the Committee on Rules what has

become of the resolution I offered, and which was referred to that committee, in reference to calling for information from an Executive Department?

The SPEAKER. The committee have agreed to report by unanimous vote in favor of a change in the existing rules.

Mr. MILLS. When will that report come before the House for action?

The SPEAKER. The Chair thinks it is now in the hands of one of the members of the committee.

Mr. MILLS. I hope it will be reported.

The SPEAKER. The Chair does not see now present the member of the committee who has charge of it. The Chair thinks that the action of the committee was that on Monday, during the morning hour for the call of States for bills, resolutions calling for information might be introduced and submitted for reference to appropriate committees respectively, and that the committee to which such resolutions were referred should have the right to report it if they approved the inquiry at any time.

Mr. GARFIELD. That was agreed to and I think the Speaker was himself requested to put it in form perhaps. The form in which it will stand can be as well gathered from what has fallen from the Speaker as in any other way.

Mr. MILLS. What is the necessity for having a resolution calling for information from one of the Executive Departments referred to a committee? What is the use of my offering a resolution of that kind and having it referred to a committee and there buried? If I or my constituents want information and I offer a resolution for that purpose, it is useless to ask it if it has to go to a committee.

Mr. GARFIELD. There are two reasons why the reference should be made. In the first place, there is constant danger of gentlemen upon this floor duplicating calls for information. Some one may want some information and offer a resolution calling for it and it passes by unanimous consent, and the same thing may have been asked already by somebody else and nobody has paid any attention to the fact that the same thing has already been called for, and in that way you duplicate and reduplicate a request for information already furnished. It is thought better, therefore, to say that on Monday morning during the call of the States there may be also admitted and referred to committees requests for executive information and that the committees shall have leave to report at any time. That will give everybody a fair chance to get his call for executive information once a week and also give us some order about the matter, so that we shall not be duplicating our requests but shall put them in proper shape.

It is much better that these requests for information should be referred to the committees, in order that they may not be duplicated so as to put the Departments to the necessity of employing a large number of clerks for a useless purpose.

I would state further that this is the unanimous report of the Committee on Rules.

Mr. MILLS. I have been a member of this House only six or seven years, not as long as the gentleman from Ohio, and I have never yet witnessed any abuse of this privilege of calling for information from the Executive Departments. I have noticed on many occasions that a gentleman will offer a resolution calling for information affecting his district, and one gentleman sitting upon the floor, perhaps a little dyspeptic, has deprived him of the right to call for that information. It is very rare that a member offers a resolution calling for information which is not of local importance to his constituents. I saw a gentleman upon this side offer a resolution calling for information as to the invasion of his district by the Sioux Indians, a thing very pertinent and very important to him and his constituents, and yet one gentleman objected.

I have myself asked for information of the same kind relating to the invasion of the Kiowas and Comanches into my district, and somebody has objected, and therefore I could not get it. I have seen the same thing time and again in this House. I think that ninety-nine times out of a hundred these resolutions are of a local character, and they have been referred to committees, and when such a resolution goes to a committee it is docketed; it may be one hundred on the list and it may be the end of the term before the information is given, when it is too late to serve the purpose for which the party called for it.

Mr. CLYMER took the chair as Speaker *pro tempore*.

Mr. RANDALL, (the Speaker.) On the part of the Committee on Rules I desire to report that Rule 130 be amended as follows, the words to come in after the first clause of said rule:

> Under this call resolutions for information from the Executive Departments of the Government may be offered for reference to the appropriate committees, such committees to have the right to report at any time.

In explanation of this report from the Committee on Rules, I desire to say that the committee had in view every purpose of facilitating the obtaining of information from the Executive Departments of the Government that might be desired by any member of the House. The object was not to obstruct, but rather to facilitate the obtaining of that information. The committee, however, saw that if each and every member of the House possessed the right to introduce at any time a resolution calling for executive information it might lead to abuse; it might lead really to an obstruction of the public business. A skillful minority might use such a power so as to prevent the views of the majority from being shaped into legislation. It was therefore thought that by amending the rule so as to allow resolutions calling for executive information to be introduced during the morning hour of every Monday, and directing those resolutions to be referred to their appropriate committees, and authorizing such committees to report upon them at any time, every possible item of knowledge or information which the Government possessed and which was needed by the House could thus be obtained.

I hope, therefore, that with this explanation the gentleman from Texas [Mr. MILLS] will be fully satisfied, first, as to the disposition of the Committee on Rules in the direction I have stated; and, second, as to the safe way suggested by that committee, in which the desired information could from time to time be obtained for the use of the House.

Mr. MILLS. I have this further statement to make, this further objection to the report of the Committee on Rules: suppose that the resolution calling for information is of a partisan character; suppose that a member of the minority desires to call for some information in possession of some officer who belongs to the party of the majority of the House, does any gentleman believe that such a resolution would get out of any committee against the vote of a majority of its members, when the design of the resolution was, perhaps, to expose the malfeasance of some officer belonging to the party of the majority? If he does, then he has an amount of credulity that surpasses anything that I have ever witnessed in this House during my seven years' experience here.

Now, I do not want any of these obstructions in the way of obtaining information. I have no fears of any abuse of the right to call for such information. I have never seen anything of the kind here. We simply desire to obtain from the Departments or from the President such information as is needed to enable the House to properly act upon the subject to which that information may relate.

I would ask that the resolution which I offered in the first instance be reported back to the House, in order that the House may vote upon it. My resolution was that the rules should be so amended as to make it in order every morning immediately after the reading of the Journal to submit a call for information to be voted upon without debate.

Mr. CALKINS. A full answer to the suggestion of the gentleman from Ohio, [Mr. GARFIELD,] that sometimes these resolutions were duplicated, is to be found in this statement: in case any of the Departments have already furnished the information called for to a committee of the House, it would be a full answer to the resolution for such Department to reply that the information had already been given, and the Department would not be required to go over it again. It does seem to me that to place in the hands of a committee of this House the power to pass upon any resolution calling for information, whether local or general in its character, would simply be an obstruction in the way of obtaining the information which the House ought always to have at its command.

Mr. RANDALL, (the Speaker.) It is very seldom that it is in order for a member to offer a resolution calling for information; that is the difficulty. Any one member at any time may prevent a call for information.

By this report from the Committee on Rules we propose to make it in order during the morning hour of Monday to introduce resolutions calling for executive information, such resolutions to be referred to appropriate committees, and those committees to be authorized to report upon them at any time. The same majority of that committee which would prevent the reporting back of such a resolution, because of any political or other purpose embodied in it, would prevent the resolution being considered in the House, for a single member of that majority could object to it, or if no individual member was disposed to exercise that right, the majority of the House could reject it.

Mr. MILLS. But there would be a record.

Mr. RANDALL, (the Speaker.) So that it would come right back at any rate to the majority of the House controlling the business of the House.

Mr. BAKER. I would inquire whether or not the proposition reported from the Committee on Rules ought not to be so changed as to require and make it imperative for the committee to report either for or against the resolution, so as to allow the question to come before the House for its determination?

Mr. RANDALL, (the Speaker.) I think that is a very good suggestion. It did not occur to the committee. I am myself quite willing that the amendment should be submitted. I have not power to accept it; but it can be voted upon by the House.

Mr. BAKER. I move to amend the proposition reported from the Committee on Rules so as to provide that the committee to which a resolution for executive information may be referred shall report thereon at the earliest practicable time.

Mr. RANDALL, (the Speaker.) I have not the power to accept that amendment; but I have no objection to its adoption.

Mr. BAKER. I trust it will be adopted, and then it will obviate all difficulties.

Mr. WHITE. That amendment would not amount to anything. I move to amend the amendment by inserting the words "within one week."

Mr. RANDALL, (the Speaker.) It is always sufficient instruction to a committee to direct it to report at the earliest practicable time

Mr. BAKER. I have no objection to inserting the words "within one week."

Mr. RANDALL, (the Speaker.) I think the Committee on Rules would have no objection to that suggestion, though I am not authorized to accept it.

The SPEAKER *pro tempore*, (Mr. CLYMER.) The amendment, as modified, will be read.

The Clerk read as follows:

And such committees shall report thereon within one week thereafter.

Mr. STEPHENS. One word. As it is proposed now to modify the rule of the House, I think there can be no objection to it, not even by the gentleman from Texas, [Mr. MILLS.] I will state this: when I came into Congress, in 1843, it was just as common every morning to introduce resolutions calling for this kind of information as it was to ask leave to introduce a bill. It was found, however, that in several instances, when such calls had been made upon the Executive Departments for information, it would require nearly six months to comply with the call. Now, it is proper that these calls, which may relate to the tariff, currency, or anything of that kind, should go to some appropriate committee that may examine as to their nature and necessity. I think the resolution, as now proposed to be amended, is exactly right, and that the rule should stand as proposed.

The question being taken on the amendment of Mr. BAKER, as modified, it was agreed to.

The proposed amendment to the rules, as amended, was then adopted.

Mr. RANDALL (the Speaker) moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON MINES AND MINING.

Mr. BELFORD, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That the Committee on Mines and Mining be increased from eleven to thirteen members.

ADJOURNMENT OVER.

Mr. HOOKER. I move that the House now adjourn.

Mr. ACKLEN. Pending that motion, I move that when the House adjourns to-day it be to meet on Saturday next. [Cries of "Oh, no!"]

The question being taken on the motion of Mr. ACKLEN, it was not agreed to; there being ayes 15, noes not counted.

Mr. WHITE. I desire to offer a resolution.

Mr. HOOKER. I renew my motion to adjourn.

COMMITTEE APPOINTMENTS.

The SPEAKER. The Chair desires to announce that the gentleman from Montana, Mr. MAGINNIS, is by consent transferred from the Committee on the Territories to the Committee on Military Affairs; and the gentleman from Utah, Mr. CANNON, is appointed to fill the vacancy on the former committee. The Chair also announces the appointment of Mr. RANDALL L. GIBSON, of Louisiana, and Mr. BENJAMIN W. HARRIS, of Massachusetts, as additional members of the Committee on Mississippi Levees, appointed in pursuance of the action of the House to-day.

ORDER OF BUSINESS.

Mr. HOOKER. Before renewing my motion to adjourn, I ask leave to present from the Committee on Epidemic Diseases a bill to be printed and recommitted.

Mr. WHITE. Before deciding whether I shall object, I wish to know if the gentleman is going to object to my resolution?

Mr. SPARKS. I am.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MARTIN, of North Carolina, until Wednesday next;

To Mr. GARFIELD, until Tuesday next;

To Mr. KENNA, until Tuesday next;

To Mr. BRIGHAM, until Monday next;

To Mr. UPDEGRAFF, of Ohio, until Tuesday next, on account of important business;

To Mr. BOYD, until Tuesday next;

To Mr. SIMONTON, for ten days; and

To Mr. CLARK, of New Jersey, until Wednesday next.

FLORIDA CENTRAL RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the detention of certain goods of the United States by the Florida Central Railroad Company; which was referred to the Committee on the Judiciary.

VINEGAR FACTORIES.

The SPEAKER also laid before the House a letter from the acting Secretary of the Treasury, recommending that the internal-revenue laws relative to the establishment of vinegar factories in connection with distilleries be amended as suggested by the Commissioner of Internal Revenue; which was referred to the Committee of Ways and Means.

WORK AT SOUTH PASS, MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of progress of work at South Pass, Mississippi River; which was referred to the Committee on Commerce.

Mr. HOOKER. I withdraw the motion to adjourn.

Mr. BRAGG. I renew it.

ADJOURNMENT OVER.

Mr. McLANE. Is it not in order for me to move that when the House adjourns to-day it adjourn to meet on Saturday next?

The SPEAKER. That motion has been voted down; but as there has been intervening business it is in order for the gentleman to renew the motion.

Mr. McLANE. I make that motion.

Mr. STEPHENS. Is not to-morrow private bill day?

The SPEAKER. It is.

Mr. STEPHENS. I trust that the motion will not be agreed to.

The question being taken, there were—ayes 107, noes 38.

Mr. LOWE and Mr. JONES called for the yeas and nays.

The yeas and nays were not ordered, only 14 voting therefor.

So the motion of Mr. McLANE was agreed to.

Mr. McLANE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The motion of Mr. BRAGG, that the House adjourn, was then agreed to; and accordingly (at two o'clock and forty minutes p. m.) the House adjourned until Saturday next.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: Papers relating to the claim of Alphonse Desmare, of Louisiana, for the recovery of the proceeds of three hundred and seventy-five bales of cotton, which he alleges were seized and sold by the United States—to the Committee of Claims.

By Mr. ANDERSON: The petition for the establishment of a mail-route from Bow Creek, Kansas, to Huston, Kansas—to the Committee on the Post-Office and Post-Roads.

By Mr. BAKER: The petition of S. K. Randall and 50 others, citizens of Indiana, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. BRIGGS: The memorial of 343 citizens of Manchester, New Hampshire, officers and members of the Woman's Christian Temperance Union, and others, against any change in the law that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. CALKINS: The petition of R. H. Cain, for expenses of contesting election in the second congressional district of South Carolina—to the Committee of Elections.

By Mr. CASWELL: The petition of D. Buchanan and 36 others, citizens of Columbia County, Wisconsin, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. COX: Papers relating to tonnage dues paid by certain steamship companies—to the Committee on Foreign Affairs.

Also, a memorial of citizens of the seventh congressional district of New York, asking that Hon. EDWIN EINSTEIN may be declared not entitled to a seat in Congress from that district—to the Committee of Elections.

By Mr. DEUSTER: The petition of E. J. & W. Lindsey, H. M. Olin, and 5 others, citizens of Milwaukee, Wisconsin, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. DICKEY: The petition of Franklin Grange, No. 446, of Brown County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. GARFIELD: The memorial of Mrs. J. C. Batcham and 110 others, citizens of Painsville, Ohio, against any change in the revenue law that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. GUNTER: Papers relating to the correction of boundaries of certain lands in San Mateo County, California—to the Committee on Private Land Claims.

Also, a paper relating to the claim of the trustees of Cave Hill College, Arkansas, for compensation for buildings destroyed by United States troops—to the Committee on War Claims.

Also, papers relating to the claim of Pryor N. Lea, of Washington County, Arkansas, for rescuing United States soldiers from a sand bar in the Mississippi River in 1864—to the same committee.

Also, papers relating to the claim of Elias B. Moore, ex-postmaster at Fayetteville, Arkansas, for postage-stamps taken by United States forces in 1862—to the same committee.

Also, a paper relating to the claim of William H. Engles for losses sustained during the late war—to the same committee.

Also, papers relating to the claim of Jacob L. Shinn for cotton, horses, and forage taken by United States forces in 1864—to the same committee.

Also, papers relating to the claim for pay and emoluments of G. W. Jobe, late second lieutenant of Company F, Forty-sixth Missouri Infantry Volunteers—to the Committee on Military Affairs.

By Mr. HERNDON: Petition of the Medical Association of the State of Alabama, favoring the passage of the bill to increase the efficiency of the National Board of Health, and to prevent the intro-

duction and spread of contagious and infectious diseases—to the Committee on the Origin, Introduction and Prevention of Epidemic Diseases in the United States.

By Mr. MARTIN, of West Virginia: Papers relating to the claim of A. H. Herr for compensation and use of property by United States forces—to the Committee on War Claims.

By Mr. McKINLEY: The petition of 34 persons of Portage County, Ohio, against any change in the revenue law that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. MITCHELL: The petition of D. B. Lane and L. B. Sheive and others, citizens of Pennsylvania, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of G. W. Ferguson and others, citizens of Pennsylvania, against the extension of the Birdsell clover-huller patent—to the same committee.

By Mr. MULDROW: Papers relating to the claim of Captain J. H. Estes for mail service—to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEILL: A paper relating to the claim of William S. Hansell & Sons, of Philadelphia, Pennsylvania, for royalty alleged to have been improperly collected from them—to the Committee on Military Affairs.

By Mr. RICHARDSON, of New York: The petition of A. W. Miner and 46 others, citizens of Allegany County, New York, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. SPARKS: A joint resolution of the Legislature of Illinois, in relation to swamp-land indemnity—to the Committee on the Public Lands.

By Mr. WEAVER: The petition of Blair Stevenson and 39 others, citizens of Appanoose County, Iowa, and William Sayres and 37 others, citizens of the same county and State, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. WILLITS: The petition of George Marritt and 42 others, citizens of Hillsdale County, Michigan, against the extension of the Birdsell clover-huller patent—to the same committee.

By Mr. YOCUM: Petition of citizens of Clinton County, Pennsylvania, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

IN SENATE.

FRIDAY, *May* 2, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. HOAR. I desire to inquire whether in making up the Journal it is not the custom to have the business of the Senate recorded in the order in which it was actually transacted. I notice that the resolution offered by the Senator from Delaware, [Mr. SAULSBURY,] which was the last business, I think, in order yesterday in the Senate, is recorded on the Journal as having been offered early in the day.

The PRESIDENT *pro tempore*. Is the inquiry of the Senator touching a resolution to adjourn over until Monday submitted by the Senator from Delaware, [Mr. BAYARD?]

Mr. HOAR. No, sir; touching the resolution to authorize the Committee on Privileges and Elections to make a certain investigation.

The PRESIDENT *pro tempore*. That came in as the report of a committee, and the Secretary informs the Chair that it has been usual to put all reports of committees in their proper place in the Journal.

Mr. HOAR. I understand that, in regard to mere petitions, that has been the custom, and it is a very proper one; but when a matter comes up of business actually transacted or proposed, it is exceedingly important that the Journal should show at what time and should show the order in which that business came in. The question whether a particular Senator was present may be very important, whether he appears to have been present at the next preceding vote, and I certainly should object for one to a method of making up the Journal, which does not show the exact truth in that particular.

The PRESIDENT *pro tempore*. The Chair would observe to the Senator from Massachusetts that nothing is more common than to introduce bills, for instance, sometimes fifteen or twenty, after the morning hour has expired, and they have always been, as the Chair is informed by the Secretary, placed under the execution of the rule that the introduction of bills and joint resolutions shall be in order after reports of committees. The Chair can see the difficulty of the objection the Senator states. If the Senator moves to amend the Journal, the Chair will of course entertain the motion.

Mr. HOAR. I move to amend the Journal in that particular. The resolution was not introduced under the morning call, but was introduced by special leave after the bill pending in Committee of the Whole had been laid aside, and it was the last act of the Senate during the day.

Mr. DAVIS, of West Virginia. Does the Senator make a motion?

Mr. HOAR. Yes.

Mr. DAVIS, of West Virginia. I should be glad to hear what the motion is.

Mr. HOAR. I move that the Journal be amended according to the truth. The Journal as read shows, I repeat, that the Senator from Delaware [Mr. SAULSBURY] offered from the Committee on Privileges and Elections the order which he proposed as among the first business of yesterday, but it was in fact the last business of yesterday.

Mr. DAVIS, of West Virginia. I believe not only in this body but in the other end of the Capitol and in all other legislative bodies the different orders are ranged together and do not appear as they may have been presented. If the latter course should be pursued there would be great confusion and constant confusion in the Journal. I take it the RECORD will note and show exactly what was done and the time when it was done. If the Senator desires it he can refer to that. But as to making up the Journal, as I understand it, it has been the usage not only here but everywhere to put the business in its proper order. As the Chair well said, a dozen bills sometimes are presented just at the adjournment, but they are all placed together in the Journal in proper order.

Mr. HOAR. This is not an ordinary bill; it is a grave question affecting a seat in the Senate; and although it is a motion made by authority of the committee, it is not a report of the committee. It is an important order introduced by a particular Senator.

Mr. SAULSBURY. I took especial care to state when I introduced the resolution that I was instructed by the Committee on Privileges and Elections to offer it.

Mr. HOAR. Certainly.

Mr. SAULSBURY. It is, therefore, a report from the Committee on Privileges and Elections, and not my report. Matters of that kind, as I understand, are usually placed among the morning business, because they are a part of the morning business. Although I did not actually present the resolution within the morning hour, it is well known that a great deal of morning business is presented out of order and is placed in the RECORD and in the Journal in the order of morning business.

Mr. HOUSTON. Mr. President——

The PRESIDENT *pro tempore*. Before the Senator from Alabama proceeds, the Chair will call the attention of the Senator from Massachusetts to the fact that this resolution on its face purports to be from the Committee on Privileges and Elections.

Mr. HOAR. There is no doubt of that, Mr. President; I so stated.

Mr. HOUSTON. I suppose this report from the Committee on Privileges and Elections presents a question of privilege that overrides all the other rules of the Senate. If it does not, then it is not a privileged question. The fact that it is called a privileged question, as I remarked yesterday, grows out of the effort to seat or unseat a member; it grows out of an effort to complete the organization of the legislative body. As I ventured to say yesterday, and I repeat to-day, although Rule 33, which was read, provides that "all resolutions" shall go over, if objected to, upon one objection, I have no idea that the proper construction of that rule is that it applies to privileged questions, because a privileged question, if it is in truth one of privilege, overrides those rules that apply to the ordinary resolutions of a legislative body. If I understand the question now before the Senate it is whether this report of the committee, this resolution, can be considered in the morning hour——

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Massachusetts to amend the Journal.

Mr. HOUSTON. In what particular? We cannot hear what is going on in this part of the Chamber.

The PRESIDENT *pro tempore*. The Chair will state that the motion is to amend the Journal by transposing from the place in which it now occurs the statement of the report of the Committee on Privileges and Elections and placing it in another portion of the Journal. The Senator from Massachusetts has not yet designated where he proposes to put it, but evidently at some later period of the proceedings of the day.

Mr. HOUSTON. I think it came in pretty late in the day. I could not hear across the Chamber, but I thought the Senator from Massachusetts was making a point as to the power of the resolution from the Committee on Privileges and Elections to bring itself up in spite of other matters before the Senate. I was speaking from that point of view, and I ask pardon if I misunderstood the question.

The PRESIDENT *pro tempore*. To what portion of the Journal does the Senator from Massachusetts move to transpose the resolution?

Mr. HOAR. To the last place before the adjournment.

Mr. WHYTE. Mr. President, if the proposition of the Senator from Massachusetts prevails, it will establish a precedent which in my judgment will produce endless confusion hereafter in making up the Journal. The Journal and the RECORD are entirely different, and nearly every morning present in the order of procedure a different condition of things. The Senator from Massachusetts will find in the RECORD that this resolution was introduced toward the close of the day yesterday, and some debate proceeded thereon; but in making up the Journal the rules of the Senate provide that the Journal shall be made up in brief, collecting the different orders of business together, and putting them so that in looking at the Journal you can be directed at once to that branch of business for which you are making inquiry.

Mr. EDMUNDS. To which rule does the Senator refer?

Mr. WHYTE. To Rule 5 I refer first, and then to Rule 8 to show the order of business. Rule 5 is in these words:

> The proceedings of the Senate shall, briefly and accurately, be stated on the Journal. Messages of the President, in full; titles of bills and joint resolutions, and such parts as shall be affected by proposed amendments; every vote, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall be entered.

That is the direction to the Secretary of the Senate. He is to make a brief, accurate statement of each paper that is presented, of the title of a report, the title of a bill, the title of a joint resolution; and no more. The RECORD contains all the other information requisite. The Secretary shall state that, of course, in such order as to make it convenient to be found whenever inquiry is made for it. Then the order of business to which his attention is directed is comprised in the eighth rule, and that says distinctly that the order of business shall be in this wise: "The presentation of petitions and memorials" first. Therefore all petitions and memorials should be succinctly stated together, so that when you look in the Journal for the character of memorials or petitions presented the day before, you may find them together one after the other, and you have no difficulty, instead of running through the whole Journal and probably making some mistake in your investigation. Next come reports of the standing committees, and then of select committees; then "the introduction of bills and joint resolutions;" then "concurrent and other resolutions."

If the rules were strictly applied there could possibly be no difficulty whatever in making up the Journal and putting every bill or resolution or petition or memorial in the exact position to which it is entitled in the proceedings of the day; but by unanimous consent we constantly, almost daily, give a Senator who may be out of the Chamber at the proper moment when the petition or memorial that he is about to present or the report he is about to make would be strictly in order, the opportunity at any hour of the day of presenting the paper that he wishes to present to the Senate. But the Secretary is bound to deal with a case where the unanimous consent is given precisely in the same manner as if it came in its regular order. Therefore, when we take the Journal up in the morning and hear it read, we find that the petitions are together, the memorials are together, the resolutions are together, the bills are together, the reports of committees are together; and it is the proper and orderly procedure for a legislative body.

If you do not do that, Mr. President, if you change this rule of practice which has guided the Secretary of the Senate heretofore, you will find your Journal a perfect harlequin, with all sorts of heterogeneous measures scattered all over it, instead of finding it when you take it up in the morning orderly and regularly arranged so that any Senator by looking at that part of it or listening to the reading of that part of it which contains the resolutions, or the memorials, or the petitions can ascertain whether a certain paper was properly presented and properly referred. I hope that the motion of the Senator from Massachusetts will not prevail.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. HOAR. I withdraw the motion. I think the time when the report appeared is sufficiently indicated now.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the Journal is approved.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of John Walter Sheriff and others, citizens of Gillespie County, Texas, praying for the establishment of a post-route from Fredericksburgh to Junction City, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. RANDOLPH presented the petition of D. S. Williams and others, citizens of Egg Harbor, New Jersey; the petition of Peter Fisher, jr., and others, citizens of Red Bank and Long Branch, New Jersey; and the petition of Thomas R. Woolley and others, citizens of Red Bank and Long Branch, New Jersey, praying for an amendment of the statutes in relation to the registration of vessels so as to authorize the owners or managing owners of vessels to hail them from the place nearest their residence and the customs district in which such vessels may be owned by having the same painted on the stern *in two lines*; which were referred to the Committee on Commerce.

Mr. HOUSTON presented the petition of Samuel Elliot and others, citizens of Alabama, praying for the passage of a law authorizing a change of the military record of William B. Guthrey, late private Company I, First Regiment Alabama Volunteers, and the granting of an honorable discharge to him; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. BAYARD, from the Committee on Finance, to whom was referred the petition of Mrs. G. W. Green and 79 other women of the State of Michigan for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

AMENDMENT TO APPROPRIATION BILL.

Mr. ANTHONY. I offer an amendment intended to be proposed to the legislative, executive, and judicial appropriation bill. I move that it be referred first to the Committee on Public Buildings and Grounds.

The motion was agreed to.

BILLS INTRODUCED.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 539) in relation to gifts, devises, and bequests to the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 540) granting a pension to John S. Corlett; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BAILEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 541) for the relief of Perez Dickinson, the surviving partner of James Cowan, deceased, heretofore trading and doing business under the firm name and style of Cowan & Dickinson, of Knoxville, East Tennessee; which was read twice by its title, and referred to the Committee on Claims.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 542) for the relief of Benjamin C. Bampton; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 543) for the relief of Jabez Burchard; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HAMLIN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 545) granting a pension to Elizabeth H. Pierce; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 546) for the relief of John C. Birdsell; which was read twice by its title, and referred to the Committee on Patents.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 547) for the better protection of life during marine disasters; which was read twice by its title, and referred to the Committee on Commerce.

TEXAS PACIFIC RAILROAD.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 544) to provide for the construction of a railway from the Mississippi waters to the Pacific Ocean, and amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railway Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto; which was read the first time by its title.

Mr. EDMUNDS. I should like to hear the bill read, Mr. President.

The PRESIDENT *pro tempore*. In full?

Mr. EDMUNDS. Yes, sir, the second reading. I do not want anything about the Pacific railroads to be done that I do not know what is going on in the time of it.

The PRESIDENT *pro tempore*. The bill will be read the second time in full.

The bill was read the second time at length.

Mr. EDMUNDS. I suppose the question is on the reference of the bill to the Committee on Railroads?

The PRESIDENT *pro tempore*. That is the question.

Mr. EDMUNDS. I think public attention in some way ought to be drawn, as well as the attention of the committee, to the gravity of the propositions contained in this bill. It appears, as Senators who have listened to it will have noticed, to be not only a general grant of power to the Texas Pacific Railroad Company by name to build a railway from some place in Texas westward, and I do not know but eastward, but it also appears to contain several (I do not know but four or five) separate grants of power to State corporations in the States of Texas and Louisiana and, perhaps, Arkansas, to build lines of railway within those respective States entirely from one point in a State to another point in the same State, and to a State corporation describing it as the creature and creation of the State.

That of course involves a very serious constitutional question. It may perhaps be thought to go even a little further than the questions about the public health that are now occupying the attention of the Senate. It seems to be supposed by some, and perhaps correctly, (I am not now up to discuss that point,) that it is within the competence of Congress to provide for the public health of all the citizens of the United States and of the several States, in whichever capacity the citizen happens to appear, if he is in danger of a contagious disease, by restraining him of his personal liberty and otherwise regulating his conduct, his movement, &c.

But now this proposition appears to extend that a good deal. You are not only to interfere with the rights of the States in respect of the national welfare of health, but you are to actually take possession of State corporations, railway corporations, and by your national authority authorize them not to build a line of railway over several States on the theory of regulating commerce, but to build several separate lines of railway within several States respectively each for itself.

I hope the committee will very carefully consider any such proposition before they give the weight of their influence to a favorable report upon such a bill.

Then I should like to call attention, as far as I may, to the fact that

the bill appears to contain a very large subsidy, not merely of lands but of money, bonds upon bonds, $15,000 a mile, I believe, to all the various railway companies and railways that are contemplated in this proposed act, running up I do not know to how many millions and scores of millions of dollars, for which the faith and credit of the United States and the toil of the tax-payer are to be called upon to respond.

I had the impression that all men, of all parties, without respect to what their political opinions were, but in support of what they say their political opinions are, had decided over and over again by protestation, by appealing to public confidence, by promises of good behavior in that respect, that there should be no more subsidies granted to railway corporations or any other corporations within the United States. Yet there appears here in this time of what is said to be public distress, certainly in this time of a called session of Congress for a particular purpose, a scheme (supported evidently by the honorable Senator from Virginia who gives the weight of his commanding influence to this bill) to saddle upon the Treasury of the United States untold and I do not know but unmeasured liabilities.

Well, sir, if this Government is in a condition and is instituted for such purposes, I am far from saying that the particular region of country over which this net-work of railways is to be laid is not as deserving of it as any, and that it cannot furnish as much freight; I dare say that is all true. It is not to the benefit of the people of Texas and Arkansas and Louisiana and the Territories that I object; it is to the national interference with State affairs, in the first place, and to the call upon the Treasury of the United States, in the second place, for large grants of aid for such purposes in whatever section of the country that may be.

Mr. ANTHONY. The subsidy would more than build the road.

Mr. EDMUNDS. And my honorable friend from Rhode Island suggests that the subsidy would more than build the road in those regions. How that is, I do not know. But I felt it to be a duty, Mr. President, in the outset of this bill, just as in old times the merit of a bill always used to be discussed at its outset, and I think it is a pretty good way, to call attention to the great importance of the principles involved in this bill, and to the great practical draught that it proposes to make upon the Treasury of the United States.

The PRESIDENT *pro tempore*. If there is no objection the bill will be referred to the Committee on Railroads.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. DAWES. I ask leave to report from the Committee on Public Buildings and Grounds an amendment to the legislative, executive, and judicial appropriation bill proposed by the Senator from Rhode Island, [Mr. ANTHONY.] It is in relation to the statue of General Greene. I move that it be referred to the Committee on Appropriations, and printed.

The motion was agreed to.

ACCOUNTS OF THOMAS WORTHINGTON.

Mr. PENDLETON (by request) submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to inform the Senate upon what evidence two items in the account of Colonel Thomas Worthington for Army supplies in 1861 were reported on the 20th of March, 1876, as having been paid in full by the Third Auditor, which same items had been previously by the same officer, to wit, on Februrary 21, 1876, reported as not considered for want of jurisdiction.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 29th of April approved and signed the act (S. No. 218) changing the name of the National Bank of Commerce of Cincinnati, Ohio, to the National La Fayette and Bank of Commerce of Cincinnati, Ohio.

SENATOR FROM LOUISIANA.

The PRESIDENT *pro tempore*. The business before the Senate is the resolution from the Committee on Privileges and Elections reported yesterday by its chairman.

Mr. HOAR. Let it be read.

The PRESIDENT *pro tempore*. The resolution will be read.

The Secretary read the resolution reported yesterday by Mr. SAULSBURY, as follows:

Resolved, That the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, praying permission to produce evidence relating to the right of Hon. William Pitt Kellogg to the seat in the Senate held by him from the State of Louisiana and in support of the claim of said petitioner thereto, be, and said committee is hereby, instructed to inquire into the matters alleged in said petition; and for that purpose said committee is authorized and empowered to send for persons and papers, administer oaths, and do all such other acts as are necessary and proper for a full and fair investigation in the premises. Said committee may, in its discretion, appoint a subcommittee of its own members to make such investigation in whole or in part; which subcommittee shall have authority to employ a clerk, stenographer, and sergeant-at-arms, and shall have all the powers of the general committee to administer oaths and send for persons and papers, and may make such investigation either in Washington or in the State of Louisiana, and said committee or its subcommittee may sit in vacation.

The PRESIDENT *pro tempore*. The question is on the adoption of this resolution.

Mr. HOAR. I move the following substitute for the resolution:

Whereas, on the 25th day of October, 1877, the Senate unanimously adopted the following resolution:

"*Resolved*, That the Committee on Privileges and Elections on the contested cases of William Pitt Kellogg and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers, and administer oaths, with a view of enabling said committee to determine and report upon the title, respectively, on the merits, of each of said contestants to a seat in the Senate."

And whereas, on the 26th day of November, 1877, said committee reported the following resolutions:

"*Resolved*, That William Pitt Kellogg is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years commencing on the 4th day of March, 1877, and that he be admitted thereto upon taking the proper oath.

"*Resolved*, That Henry M. Spofford is not entitled to a seat in the Senate of the United States."

And on the 30th day of November, 1877, the Senate adopted said resolution, and thereafter on the same day said Kellogg was duly admitted to take the oath and took his seat as a Senator from said State for said term:

Resolved, That said proceedings are final and conclusive upon the right of said Kellogg and the claim of such Spofford to said seat for said term.

Mr. McDONALD. I ask for the yeas and nays on the substitute.

Mr. CAMERON, of Wisconsin. Mr. President, the matters involved in this resolution and in the substitute are matters of great public importance. The effect of the adoption of the resolution will be to reopen the Kellogg-Spofford case in all its length and breadth. Quite a number of Senators on this side of the Chamber desire to be heard upon the resolution before it is finally acted upon.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Chair lays before the Senate the unfinished business of yesterday, unless this is pressed as a matter of privilege. If it is, it overrides everything——

Mr. EDMUNDS. Not under the rules.

Mr. HOAR. I should like to have the substitute printed at the suggestion of the Senator from Delaware, [Mr. BAYARD,] before the matter passes away.

Mr. EDMUNDS. I submit to the Chair (although I do not care which way it is only that we should do the same thing twice) that it was determined when this matter was up before that the unfinished business of the preceding day, under our rules, takes its place. It is within the pleasure of the Senate of course to lay that aside and go on with this if it wants to do so; but this being in the morning hour, under the express provision of the rule it is displaced when the unfinished business comes up, although it is a question of privilege.

The PRESIDENT *pro tempore*. The rule to which the Chair would call the attention of Senators is Rule 7:

The presentation of the credentials of Senators-elect and other questions of privilege shall always be in order, except during the reading and correction of the Journal, while a question of order or a motion to adjourn is pending, or while the Senate is dividing; and all questions and motions arising or made upon the presentation of such credentials shall be proceeded with until disposed of by the Senate.

Mr. EDMUNDS. Yes, sir, that being the state of the law, it was held by the Vice-President at the session when we had the difficulty in agreeing about the Louisiana and the South Carolina cases, that this provision of privilege related to the presentation of the credentials and to the presentation of any other question of privilege; that any Senator had a right to rise to it at any time with the exceptions named and present it, and then the Senate would dispose of it. In this instance this question of privilege was the petition of Mr. Spofford which was considered by the Senate and referred to the Committee on Privileges and Elections. They have made a report upon the subject, asking for instructions as to how to proceed. That report was presented yesterday and laid over until to-day, and was taken up under the resolution clause of our proceedings and proceeded with until we reached the unfinished business; so that according to the decision of the Senate on the previous occasion and according to the rule which gives a privilege in relation to the presentation of the question and not in respect of its being perpetually before the body in the sense of a right to have it now before the body, has been exhausted, and the unfinished business in my judgment is legally before the Senate. Of course it is perfectly competent for the Senate to postpone the unfinished business and take this up this morning.

Mr. HOAR. Mr. President, I desire before passing from the matter to have an order, of which I have been reminded by the honorable Senator from Delaware, to print the substitute which I have offered.

The PRESIDENT *pro tempore*. That order will be entered. If the point is not pressed now, the Chair will lay before the Senate——

Mr. HILL, of Georgia. What has become of the resolution?

The PRESIDENT *pro tempore*. It is not pressed. The Chair inquired whether the Senator from Delaware insisted that this was a question of privilege which must be continued. The Chair heard no response.

Mr. SAULSBURY. I will say to the Chair that I did not hear his remark. I am inclined to think that this is a privileged question, and such is the view of some of the members of the committee that reported this resolution. But I will say that inasmuch as there is now a bill pending before the Senate undisposed of, and I shall have to leave here myself for my home in the course of ten minutes, I will, with the consent of the Senators associated with me on the committee, agree that this matter shall go over until Tuesday morning, when I shall be back.

Mr. HOUSTON. I do not desire as far as I am concerned to press this report of the committee this morning if the chairman does not propose to do so. I am willing to defer to his wishes. I do not, however, want to seem to acquiesce in that which I do not believe to be a proper construction of the rules. I did not so well understand, for I could not hear very well the honorable Senator from Vermont, but

I understood him to say that the question of privilege related or attached simply to the presentation of the petition which was referred to the Committee on Privileges and Elections, and that now it is not a privileged question before the Senate. Did I understand the Senator correctly?

Mr. EDMUNDS. There is so much confusion that, although I was paying attention until a moment ago, I was not able to understand the Senator from Alabama.

Mr. HOUSTON. I regret that we cannot hear across the Chamber. Where I sit we cannot hear several gentlemen on the other side, especially when they speak low. I understood the Senator from Vermont that the question of privilege attached to the presentation of this case for instance, and that now having been before a committee, and the report of the committee being before the Senate, its privileges were not as when it was presented.

Mr. EDMUNDS. I did not intend to say that, and I think I did not say it. The point I was addressing myself to was that even in the case of a privileged question—about which in respect to this point I express no opinion—the letter and the spirit of the rule as it has been heretofore interpreted and acted upon is that the over-riding nature of the question relates to its first presentation,—the presentation of credentials and other questions of privilege. That is, any Senator has a right to get up at any time, with the exceptions named in the rule, as when the Senate is dividing, and present the credentials of a Senator-elect, or to present any question of privilege, such as the misconduct of some brother Senator, or some libel upon the Senate, some breach of its rights, or whatever it may be. That is his right, although something else is before the Senate; he has a right to bring it in for consideration; but it having been brought in for consideration and gone over, then I say that on the true interpretation of the rule, both literally and in its spirit and in the practice under it, when it comes up in the morning hour of the next day and there is unfinished business of whatever character, when one o'clock comes it does not set aside the unfinished business by its own force, but it requires a vote of the Senate to do it. That was my point and all my point.

Mr. HOUSTON. Substantially I understood the Senator from Vermont then, and I would like to know of the honorable Senator of what value is privilege in behalf of a question unless it pertains to and secures its consideration? The privilege that belongs to a question, as he admits does to this merely for its presentation, it seems to me would be of very little value if after its introduction it is to be overridden by any other question at all. It would give the other question a higher privilege, if a higher privilege there could be. It is true that unfinished business is the first business in order when the Senate arrives at that stage of its proceedings, unless there is a question of privilege that overrides that and every other thing that stands in its way for consideration.

Now, the reason of the law sustains the view I have presented. Why is this a privileged question? Because it pertains to the seat of a member; it relates to the organization of the body, and therefore, relating to its organization, it is the first thing that has to be done or can be done if the friends of the proposition do not agree to its postponement.

I have no doubt about this being a privileged question; and I am now going to make a remark in opposition to a ruling made yesterday, when I say I have no idea that that rule of the Senate which speaks of "all resolutions" was intended to include a proposition of this sort, for if a question is one of privilege it must have its privilege from beginning to ending, and the purpose and object of privilege is that it shall come in whenever a Senator proposes it, and that it shall be considered whenever a Senator insists upon its consideration.

Mr. EDMUNDS. May I ask the Senator if he means in that connection to maintain that it would not be competent now, if this question were before the Senate, for a majority of the Senate to vote to postpone it until to-morrow or until next December?

Mr. HOUSTON. No, sir; if it is insisted on, the question is one of privilege that cannot be got away as long as the friends of it insist upon its consideration.

Mr. FERRY. I should like to ask the Senator whether it would not be competent, if the case were now pending, for a majority of the Senate to adjourn?

Mr. HOUSTON. An adjournment is always in order. If the gentleman refers to the rules he will find that expressly stated. That is an answer.

Mr. FERRY. So the rule says that a question of privilege is always in order with the exceptions named in the rule.

Mr. HOUSTON. Yes, a motion to adjourn is a question of higher privilege, and overrules and overrides everything. I have no desire to insist upon the consideration of this resolution now. I leave it in the hands of the chairman of the committee, and whatever course he takes I have no objection to.

Mr. FERRY. Yet the Senator from Alabama places the Senate in the attitude of being compelled to remain here until the question of privilege is disposed of. In answer to the question made by the Senator from Vermont, whether if the question was pending it would not be in order to postpone it to a future day, the Senator from Alabama replied that that was not in order, that the question of privilege should be finally disposed of. If that be the case it covers every other question.

Mr. SAULSBURY. I desire to state that after conference with members of the committee I will consent that the question may go over until Tuesday next.

The PRESIDENT *pro tempore*. The Chair does not hear the Senator.

Mr. SAULSBURY. I say that with the concurrence of my brethren of the committee I consent that this question may go over until Tuesday next. I desire, however, to state now that it is not the purpose of the committee in proposing this resolution to the Senate to commit any member of this body to any question involved in the investigation before the commitee or any member of the committee. We do not wish to be understood as expressing any opinion upon any question that may be involved in the inquiry we propose to make. The committee has simply found itself in the possession of a memorial by the direction of the Senate that upon consideration it believes demands some investigation, and it has come here to ask authority for that investigation, without intending by that resolution either to express any opinion on behalf of the committee or to seek any expression of opinion on the part of any Senator in reference to any question which may be involved in the inquiry. We simply desire that authority to enable us to present the case intelligently to the Senate, so that the Senate when they pass upon any question involved in it, may have the whole case properly before it. That was the only reason of this resolution, and it was not for the purpose of committing either the members of the committee or any member of the Senate to an expression of opinion on any question which may be supposed to be involved in the inquiry that is proposed.

Mr. CAMERON, of Wisconsin. Mr. President——

The PRESIDENT *pro tempore*. The resolution is not pressed now.

Mr. SAULSBURY. I desire to say further that the committee——

Mr. CAMERON, of Wisconsin. I will not occupy half a minute.

The PRESIDENT *pro tempore*. Further debate is perhaps hardly in order, as the consideration of the resolution is not pressed.

Mr. EDMUNDS. I rise to a question of order. I want to know whether under the decision of the Chair this resolution is before the Senate or not?

The PRESIDENT *pro tempore*. The Chair has not decided that question at all. The Chair stated at one o'clock that the unfinished business of yesterday, the yellow-fever bill as it is familiarly called, would be laid before the Senate unless it were insisted that the pending resolution was a matter of privilege, and before the Chair could make any decision upon that, the learned Senators who are acquainted with the rules and decisions took the floor, and the Chair was quiescent, and the debate has run on ever since.

Mr. CONKLING. May I inquire as to what question the honorable Senator from Delaware was speaking to?

The PRESIDENT *pro tempore*. The Chair cannot inform the Senator.

Mr. CONKLING. Then may I change the question, and inquire how it was in order for the honorable Senator from Delaware to address the Senate, and is yet not in order when he sits down for the Senator from Wisconsin to address the Senate on the same topic?

The PRESIDENT *pro tempore*. The Chair does not decide that any of the Senators were in order after one o'clock, or that they were not in order; but the resolution not being pressed any longer as a matter of privilege, the Chair supposes it is the duty of the Chair to lay before the Senate the regular order, which is the unfinished business, the yellow-fever bill; but undoubtedly the Chair will hear with pleasure the Senator from Wisconsin if he desires to speak.

Mr. CAMERON, of Wisconsin. Mr. President, I shall occupy but a moment. The Senator from Delaware stated what the intention of the Committee on Privileges and Elections was in introducing the resolution which he presented yesterday afternoon, or rather he stated what their intention was not. All I have to say is that if the intention of the Committee on Privileges and Elections was what the Senator from Delaware says it was, he was very unfortunate in drawing the resolution, because the resolution expresses a very different intention.

Mr. HILL, of Georgia. Mr. President, I desire to say emphatically that I think any discussion of the merits of the controversy is unnecessary now to take place under the resolution as proposed by the committee. It is utterly premature, and cannot be even relevant unless it be made so by the substitute that is offered by the Senator from Massachusetts. The only object in this world of the Committee on Privileges and Elections was to take testimony relevant to this case and relevant to any issue that may be presented, and without which the Senate cannot even intelligently determine the question of *res adjudicata* itself and whether that is applicable in this case. We do not have any desire to precipitate this discussion. If the gentlemen on the other side intend to precipitate it, they of course can do so by the substitute which they have offered. That will perhaps bring up one partial view of this question; but I say now that the proposition of this resolution to take testimony as presented by the committee settles nothing except that it authorizes the committee to take testimony; and when the testimony is taken, in the light of that testimony and the record in the case the Senate will then be enabled to determine, and determine intelligently, whether this case has been passed upon or not in the manner suggested by the substitute offered by the Senator from Massachusetts.

We have no desire to precipitate this discussion nor to prejudge the case nor commit any gentleman. All we ask is this: after looking at

the case the Committee on Privileges and Elections believe that in any view which can be taken it is indispensable to take testimony; of course, legal testimony; and of course the committee must be the judge of competent testimony and legal testimony. But we say that in any view that can be taken of this question it is important that under certain allegations in this memorial testimony shall be taken, and we think of all men in the Senate the sitting member is the one who ought to demand that that testimony be taken. All we ask is the authority to take testimony, committing no gentleman to any question on the merits in any view of the case. We wish that distinctly understood. We do not expect any gentleman to be committed upon the merits until the question shall be fully discussed; but we do say that in our judgment it is impossible for any intelligent discussion or any intelligent decision of any question to be made in this case until the testimony is taken, and all we ask is authority to take *that* testimony.

Mr. McDONALD. I call for the regular order.

The PRESIDENT *pro tempore*. This debate is going on by unanimous consent.

Mr. HOAR. I appeal to the Senator from Indiana to allow me to utter one sentence in reply to the long speech which he has listened to without objection on his side of the Chamber.

Mr. McDONALD. If it is not long I will listen.

Mr. HOAR. I simply desire to say that on the question whether by a resolution declaring the Senator from Louisiana entitled to his seat on the merits, that question is or is not finally determined by the Senate, the majority of the committee propose to take testimony of witnesses in Louisiana. The minority of the committee propose to look at the Senate journals and records. That is the difference between them.

Mr. McDONALD. Now, I ask for the regular order.

PREVENTION OF EPIDEMIC DISEASES.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business of yesterday, being the bill (S. No. 108) to prevent the introduction and spread of contagious or infectious diseases into the United States, the pending question being on the motion of the Senator from Maine [Mr. HAMLIN] to recommit the bill with instructions. Upon this question the Senator from Arkansas [Mr. GARLAND] is entitled to the floor.

Mr. GARLAND. Mr. President——

Mr. MORGAN. Will the Senator from Arkansas allow me a moment?

Mr. GARLAND. Certainly.

Mr. MORGAN. In the discussion which occurred upon this bill yesterday a statement was made by the Senator from Louisiana [Mr. JONAS] as well as by myself in relation to the opinions of Dr. Choppin, a very eminent physician at the city of New Orleans. I stated this:

> In the reading which I have done in reference to this subject, as every man has read about it, of course I have continually come in view of statements made exactly in harmony with this British committee by the most eminent of American surgeons and physicians, among others Dr. Choppin, of New Orleans, who addressed a letter to the Senator from Georgia [Mr. GORDON] during the last session of Congress, in which the doctor very urgently declaimed against the passage of such laws by Congress, and said that whatever can be done with the view of controlling yellow fever or of shutting it out can be done and ought to be done by local authority.

The Senator from Louisiana, [Mr. JONAS,] in speaking of the same eminent physician, said this:

> That is the opinion of the board of health of my city, presided over by one of the most eminent physicians and surgeons in this country, Dr. Choppin, and it is moreover his opinion, and the opinion of his board, that State quarantine associations, with the limited aid which States are able to afford to those quarantine associations either in respect of money or in respect of adequate power to carry out those regulations which are necessary to make them effective, cannot be efficient enough for the purpose, and that national quarantine laws should be passed; and they are willing, if necessary, to abdicate some portion of that power, which the honorable Senator says should be so carefully guarded, to the National Government if the National Government is prepared through a proper quarantine board and proper quarantine laws and regulations to take charge of this important duty of preserving the health of the country from the importation of epidemic diseases.

There appears to be some conflict in reference to the presentation of the opinions of Dr. Choppin between the Senator from Louisiana and myself. It is, however, more apparent than real. I beg leave now to state the authority on which I made the statement I did make yesterday. On the 9th of April, 1878, Dr. Choppin addressed Hon. James T. Jones, Member of Congress from Alabama, inclosing to him, in answer to some questions, a copy of a letter dated 27th March, 1878, addressed to Senator GORDON, of Georgia, which I will read as the authority upon which I made my statement:

> NEW ORLEANS, *March* 27, 1878.
>
> DEAR SIR: I observe that a bill has quite recently been introduced into the House of Representatives by Hon. Mr. Hartridge, and into the Senate by yourself, "to prevent the introduction of contagious or infectious diseases into the United States." On this subject I would take the liberty to offer some observations and suggestions.
>
> The bill aims to establish a national system of quarantine, and subjects all State and local quarantine authorities to the control of the Surgeon-General of the Marine Hospital Service, who is authorized to "frame all needful rules and regulations, which rules and regulations, with the approval of the President, shall have the force and effect of law." Now, it is apparent that rules and regulations which would be appropriate to a given locality might be found very ill adapted to the conditions of a different locality, and it would be probably impracticable to carry out a uniform plan along the whole extent of our exposed coast line. I am therefore strongly impressed with the belief that the established authorities at all exposed points should not be governed nor trammeled by any higher authority at a distant point. Aside from the probability that the local authorities would best understand the needs of their people, it is evident that emergencies might arise requiring summary action in a manner not provided for in the general regulations, or even in contravention thereto, so that conflict of authority and subsequent trouble would surely result.
>
> One feature in this bill meets my hearty approval, that providing for weekly reports from our consular agents at foreign ports of the public health there, and requiring immediate notice to be forwarded of the existence of infectious diseases at such ports and of the departure of vessels therefrom for any ports in our country. I would suggest, as an improvement, that this intelligence should be transmitted directly from the foreign ports to the quarantine authorities at our ports, in order to save time.
>
> You are probably aware of a bill recently introduced by Senator Eustis, of this State, empowering State Legislatures to impose a tax on tonnage for the purpose of maintaining a quarantine system. In this connection I would suggest that his bill, amended by the addition of the intelligence feature just mentioned, might very properly be offered as a substitute for the one offered by yourself and Mr. Hartridge. Such a law would supply a great desideratum at this port, where the collection of quarantine fees cannot be enforced, and would greatly facilitate our gaining speedy and correct information about the existence of yellow fever at tropical ports.
>
> Hoping that the above views will meet your approbation, and that you will support Senator Eustis's bill, with the suggested amendment,
>
> I remain, very truly and respectfully, yours,
>
> SAM. CHOPPIN, M. D.,
> *President Board of Health.*
>
> Hon. J. B. GORDON,
> *Senator in Congress, Washington, D. C.*
>
> P. S. I have the honor to transmit to you a copy of our last annual report, and also of the quarantine acts under which we are now working.

The bill of Mr. Eustis which I hold in my hand is entitled "A bill to authorize the States to impose a tonnage tax on vessels to maintain quarantine." I think the statement made by the Senator from Louisiana is not at all in conflict with what Dr. Choppin has stated here. His statement, as I understand it, is to the effect that quarantine regulations are very serviceable if not absolutely necessary for the purpose of controlling the importation of yellow fever from abroad. I dare say that he is correct about that; for whether yellow fever is epidemic or whether it is not, whether it is local or whether it is not, or whether it is transportable or whether it is not, I think there is no doubt that there is a public apprehension on this subject—I might call it an alarm, or even a panic—which would require us to take some sanitary and active measures in the right direction for the purpose of satisfying the public mind, if nothing else, that we have done all that is within the reach of human agencies to prevent the importation of this disease.

I desired to make this correction in order that there might be no conflict between the Senator from Louisiana and myself.

Mr. JONAS. After listening to what my friend from Alabama has said I have only to say that the letter of Dr. Choppin was written last spring, before the last epidemic, and before the establishment of the National Board of Health. Since the act establishing the National Board of Health many of the statements made by Dr. Choppin would not, in my opinion, be applicable to the bill now under consideration; and I am satisfied the board of health of New Orleans concur in the statement I made yesterday.

Mr. GARLAND. Mr. President, the motion of the Senator from Maine [Mr. HAMLIN] to recommit the bill with instructions brings up the whole question of the merits of the bill, and I suppose the motion was made in part with that view. The question presented is one of very great importance in itself, and as it affects the country directly or indirectly, it is one of the utmost gravity arising under the Constitution of the United States. There are reasons for this measure which, to my own mind, are very clear and very emphatic; but I am free to say that the question involved is not entirely clear of doubt, and it is that kind of question upon which gentlemen may very well differ. I have arrived at the conclusion I have reached by an analysis of all the cases, as far as there are any cases decided in the Supreme Court of the United States on the sections of the Constitution which have a bearing on this matter; and I believe that when those cases are properly examined and compared, according to the fair and legitimate construction of the Constitution, the power invoked in this bill is competent and legitimate under the Constitution.

The question presented comes into the Senate in the most favorable light possible, because even the Senators who oppose the measure express as strong a desire as myself and my colleagues on the committee to do something in this direction to meet the exigencies of the occasion when it shall come; and it is fortunate for the country that the legal aspect of the case can be presented free of all feeling except one to accomplish, if it be possible, the end to which this measure is directed.

Two points, then, present themselves for argument before the Senate; first, is this measure in its length and breadth constitutional? second, if it is constitutional is it politic or expedient that the power invoked should be exercised? Those are the questions, in discussing which I shall give the reasons for the conclusions I have reached.

As far back as 1799 an act of Congress, passed on the 27th of February of that year, in reference to vessels collecting the revenue of the United States, made it obligatory on them to obey and comply with the quarantine laws of the different States, the ports of which they should enter. The question naturally suggests itself right there, if Congress has nothing to do with this subject, as it is termed here, of police regulation in the different States, why did Congress ever pass that act? If the States have plenary power over this whole

matter and can do all that is necessary to be done or should be done, exclusive of the United States, why should the United States have said anything about sanitary regulations? If the States are omnipotent in this sphere, the statute of the United States was a piece of supererogation when it said these vessels should comply with the State quarantine regulations.

In 1878 another law was passed a little broader than this, both of them for the purpose of promoting and preserving the public health. In fact the statute of 1799 is headed in the book of statutes as on the subject of the public health. What has Congress to do with the subject of the public health if the States can control that matter entirely?

Under the Constitution Congress can provide for punishing the crime of counterfeiting the public securities; the States can do that also. If instead of adopting any rules on this subject Congress should say, "We will subject every man that counterfeits the public securities to the punishment inflicted by the State statutes," that would simply be saying by Congress, "Although we have this constitutional power we do not see proper to exercise it, but we leave it to the States to exercise." Congress under the Constitution has the authority to pass a uniform bankrupt act. Suppose Congress says instead of passing the act which it did pass a few years since, "We will pass no act of this sort, but we will adopt the State insolvent laws?" Very well, there is a constitutional power which Congress can exercise or not. So there is nothing gained in the argument by saying that Congress heretofore has adopted or sanctioned the State sanitary regulations. It did that simply because it did not see proper to exercise the power itself, and for reasons in the past which do not now exist and cannot exist any more in this country.

It is not worth while now to speak about the statute of 1799, made about the time Mr. Jefferson forded rivers and creeks on horseback to get here to be inaugurated, and crossed on a log over Tiber Creek when he came to be sworn in in this Capitol or some other, as applying to the commerce of this day and time and to the intercourse between the States as contemplated by the Constitution. It would be as well to talk about clothing a man of thirty-five or forty years of age with a suit of clothes that were made for him when he was but fifteen. The changes from time to time, the exigencies of this day which did not exist then, bring into requisition this power under the Constitution if it is as broad as I shall be able to show before I conclude, and the exercise of many other powers which in the Constitution have hitherto lain dormant.

Then, instead of its being an answer to this proposition that Congress has heretofore taken the State laws, meager and unsatisfactory as they are, and conformed to them down to this day and time, it is an argument that Congress has the power but has not seen proper to put it in exercise in the States heretofore. I have referred to the acts of 1799 and 1878. Then, there is the last act, the act passed at the conclusion of the last session, "An act to prevent the introduction of infectious or contagious diseases into the United States, and to establish a National Board of Health." If this act had not mentioned in its title "to prevent the introduction of infectious or contagious diseases," no living man could have found out from reading it that it had any pertinence to that subject, because it simply organizes a National Board of Health to sit here and discuss these questions and correspond with other organizations over the country, possibly to learn the fact whether it is best to throw a man into fits when he has the yellow fever, or whether it is best to bleed him to death, or what else should be done. But as for any measures contemplated by this act to be taken to prevent infectious or contagious diseases being imported into the country, there is not a word.

Now we have the three different acts; two relating by their title to the public health, and the third an act to prevent the introduction of contagious or infectious diseases, but really in the body of the last act there is nothing whatever in reference to actual service in that direction. That is the legislation on this subject by the Congress of the United States. Now where does Congress get its power? What right had the wise men of that day or the wise men of this day to legislate about it at all, unless under the Constitution? As I stated incidentally the other day, and as it has been stated since by the chairman of the committee, the power is derived from the clause in the Constitution giving authority to Congress to regulate commerce with foreign nations and between the States. When Senators are told of the sanitary laws and the quarantine laws of the States, it may be a matter of curiosity with them to inquire how many of these laws exist upon the statute-books of the States. There are only seventeen of them in the United States, and several of them have been completely broken down by the Supreme Court of the United States, because they are in conflict with the very provision of the Constitution to which we refer. This is a point for Senators to reflect upon. We are asked to turn the public health over to the States, only seventeen of which have these regulations.

Mr. MORGAN. I suppose the honorable Senator refers to quarantine regulations proper, not to sanitary laws.

Mr. GARLAND. That is what I have reference to.

Mr. MORGAN. Both sanitary laws and quarantine regulations are provided for in this bill.

Mr. GARLAND. I spoke or intended to speak of quarantine regulations and sanitary regulations connected with quarantine.

Let us begin with the State of Alabama. She has a quarantine law. The State of Arkansas has none. California has quite a complex one, the main feature of which was taken from it by the Supreme Court of the United States in the Chi-Lung case. That was read yesterday by the Senator from Tennessee, [Mr. HARRIS,] and I shall not read that decision again. Delaware has quite an extensive code. Let me call the attention of the Senate to some of its provisions, and it would not take forty-five of the best Philadelphia lawyers to show that they could not stand the test before the Supreme Court of the United States. Section 5 of the Delaware law imposes a penalty for boarding a vessel without license; and by section 6 vessels are not permitted to bring in more than one passenger for each two tons and are required to be well supplied with stores under a penalty of $600. If that is not a clear interference with the commerce of the country, there never has been any yet.

So you may take all these acts, and on account of that very difficulty in framing a law in the States we say the power does exist somewhere to steer clear of these objections and protect the health of the country, if in the opinion of the law-makers it is worth protection.

Texas has a quarantine law, and the very provision for enforcing that law and keeping up its expenses was tested by a gentleman by the name of Morgan who had vessels, and when it came to the Supreme Court they decided that it was not constitutional and must fall. Here is the case of Peete *vs.* Morgan, 19 Wallace, where the opinion was delivered by Judge DAVIS:

> It is evident that the power to establish quarantine regulations cannot be executed without the State possesses the means to raise a revenue for their enforcement, but it is equally evident that the means used for this purpose must be of such a character as the restrictions imposed by the Federal Constitution upon the taxing power of the States authorize. We are not called upon in this case to go into the general subject of the limitations imposed by these restrictions, because the tax in question is manifestly outside the jurisdiction of the State to impose, as it is a "duty of tonnage," within the meaning of the Constitution.
>
> This duty was doubtless imposed to raise revenue, but Chief-Justice Marshall, in commenting on this subject in Gibbons *vs.* Ogden, says: "It is true that duties may often be, and in fact often are, imposed or tonnage, with a view to the regulation of commerce; but they may be also imposed with a view to revenue; and it was, therefore, a prudent precaution to prohibit the States from exercising this power."
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> It is, however, not necessary to discuss this subject, as it has been recently fully considered by this court in the State tonnage-tax cases, reported in 12 Wallace. In these cases the law of Alabama levied a tax at so much per ton on all steamboats. The boats on which the tax was levied were owned by citizens of the State, and were employed exclusively in the internal commerce of the State, over which Congress has no control. This court, while conceding the full power of the State to tax the property of its citizens, held that the inhibition in the Federal Constitution prevented the State from taxing in this mode. Much more does this inhibition apply when the vessels are owned by citizens of another State, and are engaged in commerce between the States, over which Congress has control.

Now, I state not what I know personally but what I learn from information, that the State of Texas, in order to have a quarantine law after this decision by which this act was completely struck down by the Supreme Court of the United States, so as to be perfectly safe, committed the power to the hands of the governor to make proclamation and prescribe rules whenever he saw proper. That several of the States on the list I have here have done. That was the result of that experiment by one State; we have seen also what it was in the case of California. New York enacted a very intricate and complex system and it met the same fate in the case of Henderson *vs.* the Mayor, a case referred to yesterday by the Senator from Tennessee, [Mr. HARRIS.]

If the States have this difficulty in enacting these acts, where does the difficulty arise? The court says every time it is infringing upon the regulation of commerce, which belongs to the Congress of the United States to regulate.

Now understand me, I would be among the last men in the world to claim that because the States do not do this, therefore Congress has a right to do it. I say in the first place Congress has the right to do it, and for the best reason in the world it should do it when the States fail, and necessarily fail to make laws that can stand the test of the highest tribunal in the United States under the Constitution. But why was the matter left in 1799 to the States? There was the best reason in the world for that legislation. When the act of 1799 was passed we had but few ports. Our commerce at that time amounted, comparatively speaking, to nothing. When one spoke of commerce at that day and time he meant almost exclusively commerce that came in through the different ports from foreign countries; but as time went on and the Government enlarged and the country increased, intercommunication came up between the different States; and at this time, when nearly every State is checkered with railroads, the interstate commerce has become as important if not more important than the foreign commerce. Hence a mere quarantine on your ocean ports contemplated by the statute of 1799 has now in most instances no application. The statute on the writ of *habeas corpus* would have as much application in most cases when you come to speak of the commerce between the States.

Further, if but seventeen States have quarantine regulations, it is a little too late at least for this coming season for us to expect that the other States will have quarantine regulations in time to do any good between this and next winter. So, whether on the law or on the facts of the case, in view of the exigencies of the time and the occasion, that argument amounts to nothing.

A case was not long since decided in the Supreme Court of the United States in regard to which a number of distinguished gentle-

men believed that the Supreme Court traveled a little fast, to use the ordinary expression; I refer to the case of the Pensacola Telegraph Company *vs.* The Western Union Telegraph Company. I wish to call the attention of the Senate now to the language of the court in that case. This went off on the question of commerce mainly, but also on the power to establish post-offices and post-roads. The court said:

The powers thus granted are not confined to the instrumentalities of commerce or the postal service known or in use when the Constitution was adopted, but they keep pace with the progress of the country, and adapt themselves to the new developments of time and circumstances. They extend from the horse with its rider to the stage-coach, from the sailing-vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph, as these new agencies are successively brought into use to meet the demands of increasing population and wealth. They were intended for the government of the business to which they relate, at all times and under all circumstances. As they were intrusted to the General Government for the good of the nation, it is not only the right, but the duty, of Congress to see to it that intercourse among the States and the transmission of intelligence are not obstructed or unnecessarily encumbered by State legislation.—6 *Otto*, page 9.

Mr. President, under this decision and some that go before it every railroad in the United States is a part of the postal arrangement of the country. When your quarantine is established at Indianapolis or Little Rock, and it reaches out its hand to stop the train that carries the mails on to Texas, does it not interfere with the postal instrumentalities of the nation over which the nation has exclusive, direct, and positive control? So turn this question in any direction you please and you cannot escape the fact that when you cross State lines you are in a different jurisdiction.

But I wish to call the attention of the Senate to the dissenting opinion in this case by Judge Field, and we all know who read the Supreme Court reports that what Judge Field will not save and hoard up for the rights of the States would not make a very large legal almanac. On page 22 of the same volume he says:

The power vested in Congress to regulate commerce "among the several States" does not authorize any interference with the commerce which is carried on entirely within a State. "Comprehensive as the word 'among' is," says Chief-Justice Marshall, "it may very properly be restricted to that commerce which concerns more States than one;" and "the completely internal commerce of a State, then, may be considered as reserved for the State itself."

That is taken from Gibbons *vs.* Ogden. That is the doctrine this bill maintains, that as to the internal commerce of a State the State has perfect, entire, and exclusive control of that, but she has not any more than that. The State of Illinois is content with that for Illinois, but she cannot cross the Wabash and attend to it in Indiana; and when we give a State rights we must not give any more than the rights of that particular State. That is the distinction of Mr. Justice Field, quoting from Gibbons *vs.* Ogden. All religions nowadays go back to the Bible and profess to stand upon it. All these theories of the State power in this respect go back to Gibbons *vs.* Ogden, 9 Wheaton, 194–5. We have got that far along in the progress. See now what the court did say in that case in 9 Wheaton:

The enumeration presupposes something not enumerated;—

Referring to the section of the Constitution giving power to regulate commerce among the several States—

and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State. The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the nation and to those internal concerns which affect the States generally;—

That is all we claim in this bill—

but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself.

Unquestionably, and nobody does dispute or ever has disputed it; nor does this bill. That now is the groundwork of this bill. We have said from the beginning that when the State of Arkansas or the State of Illinois or any other State prescribes a quarantine law, it does control as to the people and goods within that State; but when it interferes with those not strictly within that territory (as we have opinion upon opinion of the Supreme Court on this subject) it is a different question, and must belong to some other interest.

I will not read the two cases read yesterday by the Senator from Tennessee, but I wish to refer especially to the cattle quarantine that was established in Missouri, the case of The Railroad Company *vs.* Husen, in 5 Otto, where the court say:

We are thus brought to the question whether the Missouri statute is a lawful exercise of the police power of the State. We admit that the deposit in Congress of the power to regulate foreign commerce and commerce among the States was not a surrender of that which may properly be denominated police power. What that power is it is difficult to define with sharp precision.

Yes, Mr. President, I confess the line is a dim and shadowy one, but the difficulty of ascertaining it and pursuing it must not stop us from making the effort.

It is generally said to extend to making regulations promotive of domestic order, morals, health, and safety.

That is the order, health, morals, and safety pertaining to and upon the territory of that particular State, and no other, and to that extent the State quarantine regulations are absolutely binding; no power of the United States can interfere with them.

As was said in Thorp *vs.* The Rutland and Burlington Railroad Company, 27 Vermont, 149, "it extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the State."

No person disputes that; no one can successfully dispute it. Then the court refer to the Passenger cases and to Henderson *et al. vs.* The Mayor of the city of New York, and go back then to review the case of Gibbons *vs.* Ogden, and the Chi-Lung *vs.* Freeman case, and add:

While we unhesitatingly admit that a State may pass sanitary laws, and laws for the protection of life, liberty, health, or property within its borders; while it may prevent persons and animals suffering under contagious or infectious diseases, or convicts, &c., from entering the State; while for the purpose of self-protection it may establish quarantine and reasonable inspection laws, it may not interfere with transportation into or through the State, beyond what is absolutely necessary for its self-protection.

I wish the Senate to bear in mind this language as to inspection laws, on which I shall have something to say after a while, so that I shall not have to refer back to it; they must be "reasonable inspection laws." In the same volume, in the very next case which came from Louisiana, Hall *vs.* De Cuir, the Chief-Justice delivered the opinion, and said:

But we think it may safely be said that State legislation which seeks to impose a direct burden upon interstate commerce, or to interfere directly with its freedom, does encroach upon the exclusive power of Congress. The statute now under consideration, in our opinion, occupies that position. It does not act upon the business through the local instruments to be employed after coming within the State, but directly upon the business as it comes into the State from without or goes out from within. While it purports only to control the carrier when engaged within the State, it must necessarily influence his conduct to some extent in the management of his business throughout his entire voyage. His disposition of passengers taken up and put down within the State, or taken up within to be carried without, cannot but affect in a greater or less degree those taken up without and brought within and sometimes those taken up and put down without.

That is this very question. If the court had been attempting to decide something in anticipation of human events it could not have more completely settled this proposition than it has in this case.

A passenger in the cabin set apart for the use of whites without the State must, when the boat comes within, share the accommodations of that cabin with such colored persons as may come on board afterward if the law is enforced.

It was to meet just such a case that the commercial clause in the Constitution was adopted. The river Mississippi passes through or along the borders of ten different States, and its tributaries reach many more. The commerce upon these waters is immense, and its regulation clearly a matter of national concern. If each State was at liberty to regulate the conduct of carriers while within its jurisdiction the confusion likely to follow could not but be productive of great inconvenience and unnecessary hardship. Each State could provide for its own passengers and regulate the transportation of its own freight, regardless of the interests of others. Nay, more, it could prescribe rules by which the carrier must be governed within the State in respect to passengers and property brought from without. On one side of the river or its tributaries he might be required to observe one set of rules, and on the other another. Commerce cannot flourish in the midst of such embarrassments.

There is a great deal more in this opinion which it is unnecessary to read. Mr. Justice Clifford concurred in the judgment, and delivered a much more lengthy opinion than the Chief-Justice, but not varying the breadth of a hair from what the Chief-Justice said, but simply enlarging upon the ideas and the authorities that he had quoted.

I do not see, Mr. President, that there is anything left of this question. I cannot see that from the decisions of the highest courts there is anything left to dispute about. The point comes back every time to the proposition—it may be stated again and again so that it shall not be forgotten—that within the lines of a State the State can do these things, but when you go beyond the lines of the State the national power commences. We have it as to passengers in two cases, one from New York and the other from California. We have it as to animals for trade and traffic in the case that came from Missouri. What other species do we now propose to reach by this legislation?

In the case of Gibbons *vs.* Ogden the argument was pressed upon the court that "commerce" in the Constitution meant "traffic," and nothing else. The Chief-Justice, after dissecting that word and holding it up in many lights, said it would not answer the purpose; commerce meant intercourse between the States as well as mere trade or mere traffic. There is not a train of cars that goes from this city or from the city of New York north or south or west that is not filled with hundreds and hundreds of human beings crossing State lines here, there, and everywhere, some upon business, some upon pleasure, some for one thing, some for another; but you cannot by any, the most ultra, construction say that the States can pass regulations to take care of them or to run them off from their confines, with this construction of the Constitution before you as repeatedly announced by the Supreme Court.

In the latest edition of Judge Cooley's work on Constitutional Limitations, *vide* page 586, the proposition is thus summarized:

The line of distinction between that which constitutes an interference with commerce and that which is a mere police regulation is sometimes exceedingly dim and shadowy, and it is not to be wondered at that learned jurists differ when endeavoring to classify the cases which arise. It is not doubted that Congress has the power to go beyond the general regulations of commerce which it is accustomed to establish, and to descend to the most minute directions, if it shall be deemed advisable, and that to whatever extent ground shall be covered by those directions, the exercise of State power is excluded. Congress may establish police regulations, as well as the States, confining their operation to the subjects over which it is given control by the Constitution.

What other subject is it given as complete or more entire authority over than the regulation of foreign and interstate commerce? None.

But as the general police power can better be exercised under the supervision of the local authority, and mischiefs are not likely to spring therefrom so long as the power to arrest collision resides in the national courts, the regulations which are made by Congress do not often exclude the establishment of others by the State covering very many particulars.

Most indisputablyit does not often do that, but that is a confession that it can do it when the exigency arises. There are a number of things, as I believe I stated before, that the States may do. They may have certain laws regulating the navigation of their rivers, but they must be confined strictly to subjects-matter within their control, and even they are permissive by Congress. They may to a certain extent have commercial regulations, but that is permissive by Congress not excluding them by other legislation. Ever since the decision in the case of the Genesee Chief, where it was determined by the Supreme Court that its admiralty jurisdiction ran into all the rivers and lakes where there was any commerce between the States, there has never been any question on this proposition. It is true it was held in that case, and followed repeatedly since, that this was not by virtue of the commercial clause, but by virtue of the admiralty jurisdiction; and yet look at the anomaly! The United States has jurisdiction to libel boats in these little rivers and lakes in the States; and if so, has it not the unlimited control of their commerce? Unquestionably it has. In the Trevor case from Louisiana, which I believe is in 4 Wallace, the court followed that doctrine up, and now the United States has the control to this extent of the rivers and harbors, the small rivers, the lakes on which any commerce between the States is borne; and yet do you say it cannot establish quarantine regulations to protect passengers, to protect seamen, or to protect the people that go there for trade and for intercourse? I read further from Judge Cooley's work:

Moreover, the regulations of commerce are usually, and in some cases must be—

Mark this—

general and uniform for the whole country; while in some localities State and local policy will demand peculiar regulations with reference to special and peculiar circumstances.

That is, as we say in this bill, these regulations must be general, must be fixed, and must be certain to reach the whole country; but as for mere local matters, the States know their wants and shall not be deprived of the power of making them.

Mr. MORGAN. I ask the honorable Senator from Arkansas whether it is not his construction of this bill if it shall pass and become a law that it would authorize the Board of Health to prohibit all States, all counties, all cities, all municipalities in the interior of the country from making quarantine laws to prevent the access of epidemic diseases from places like New Orleans, Galveston, Mobile, Pensacola, Charleston, and so on?

Mr. GARLAND. I will answer that question in another part of my remarks if the Senators will bear with me until I get to that point. It comes in in another place, I think, more properly than just here.

A case from Illinois was decided not long since in the Supreme Court, in 4 Otto's Reports, the Munn case, about which the country was in alarm at the time, and I think there was a dissenting opinion in that. I shall not read the case, but that permitted the State of Illinois to prescribe rules and regulations as to the use of certain warehouse property that was there to be used. The court held that that could be done, but at the same time it did that it said if Congress chose to interfere with this by other regulations it could do so, but you have permissive authority, if I may use that expression, to do this until Congress does otherwise. So that State law was upheld purely upon that ground.

So, Mr. President, take it and turn it as you please, you cannot escape from it, there is no power in earthly man to do these things legitimately, if these decisions mean anything, unless by authority of Congress; and all the power on this subject heretofore exercised by the States has been by the permission of Congress on account of its non-action, on account of Congress not acting upon the same subject-matter.

I wish now to call the attention of the Senate to another provision in article 1 of the Constitution, section 10, paragraph 2:

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

The last case that I read from the decisions of the Supreme Court and also Judge Cooley say that the States may pass "reasonable inspection laws;" yet in all the cases from that in 9 Wheaton in which the language is used at all, or reference is made to it, the court speak of inspection laws and police laws as being within the authority of the States; but here this section says: "All such laws"—what laws? as a matter of course none other than the "inspection laws," for those are all that are referred to in the previous part of the paragraph—"shall be subject to the revision and control of the Congress." That is the fair, legitimate, interpretation, and when the court say the States can pass reasonable inspection laws, who is to judge of their reasonableness but Congress? The twenty-second number of the Federalist says that these inspection laws of the States are subject to the revision of Congress. Judge Story in his comments on this section of the Constitution says the same thing.

So whether you take it upon the matter of the inspection laws, the jurisdiction is in Congress; whether you take it upon the matter of controlling and regulating commerce, the jurisdiction is in Congress, and we are remitted back to the question, is it expedient? I confess with my colleagues of the committee that this is a strong exertion of authority, but is it not expedient under existing circumstances that a measure like this should be enacted by Congress? This question I propose now briefly to discuss. This to some extent has been argued with the constitutional question.

In the first place its expediency is shown because of the lack of the proper authority in the States to do this thing as it should be done. Three of the largest States have attempted it and failed on the most important items of the measures they adopted for the purpose of protecting themselves by quarantine regulations; other States have none at all.

Mr. MAXEY. Will the Senator allow me to ask him a question? The exertion of this power is put under that clause of the Constitution which gives Congress power to regulate commerce with foreign nations and among the several States. Now, suppose the thing claimed is not that but a police regulation, have the States surrendered their police powers to the Government of the United States?

Mr. GARLAND. They have not, and the Supreme Court has said that they cannot do it. I will go further in answer to the question and say that if the Senator by any kind of logic or any kind of law can resolve this question into its original elements and show that this is a mere police regulation in the face of what Judge Cooley has laid down as taken from an analysis of the authorities, of course his objection would weigh something, but it is a long and a tedious and a crooked road to do that. That I can assure any Senator who undertakes it. The Senator from Tennessee yesterday said that we make no war on the local sanitary regulations adopted for the health and comfort of the citizens within the State. We have nothing to do with them and do not seek to have anything to do with them. But when Missouri attempted to quarantine Texas cattle the Supreme Court said she could not do it. So when California attempted to quarantine the Chinese the Supreme Court said she could not do it. So in New York in the case of Henderson *vs.* the Mayor, she could not do what was attempted. Why? Because the power belongs to the Congress of the United States.

Mr. President, during the terrible epidemic of last season the steamer Porter traveled thousands of miles, and traveled until, as we would say of an individual, she ran out of breath and could not travel any further, turning from one side of the Mississippi to the other, a tramp on one of the nation's highways. We witnessed the spectacle of that vessel with the great suffering on her compelled to keep up the river, men standing on the banks on both sides with shot-guns to make her keep in the center of the river until she could not go any further, and she finally landed at Gallipolis, on the Ohio. That is the kind of quarantine we are asked to lay our bill aside to and submit our country and our people to. The little town of Gallipolis was absolutely more than decimated, and the State of Ohio has no quarantine laws according to the list to which I have referred.

Twenty-odd years ago the man who said there would ever be a case of yellow fever at Gallipolis or in the little town of Hickman, Kentucky, which was also scourged last year, would be considered an apt scholar for a lunatic asylum. I remember myself the first case I ever heard of when I was quite a small boy. We consoled ourselves then that it could not possibly get above Vicksburgh; and learned men in the science as some call it, but as some moderns say, the art, of medicine said the same thing. We were consoled by another reflection—I was at least—that children did not have it. There was also an idea that colored people could not die with it.

In the last scourge the children and the colored people died all over the country, and in Missssippi and certain other portions of the country the plantations were absolutely deserted, with as fine crops growing on them as ever grew under the sun. Who would ever have thought the little town of Grenada would have been afflicted as she was?

So it comes back at last, turn it as you will, that the internal interstate commerce is now the overriding idea in this country. It is not limited to the great ports of New York, Mobile, and New Orleans. When those celebrated gentlemen in 1852 made the report to the British Parliament which the Senator from Alabama read yesterday, the Senator from Louisiana said very aptly that everything that is known of the yellow fever has been discovered since that time. The changes in living, the changes of climate, the changes of food, all enter into these calculations that have left those gentlemen away behind in the dim vista upon this subject. Whether the theory be correct or not that yellow fever was not imported as they said, we have the overwhelming weight of testimony here printed that it is an imported disease. It is true there is some testimony that it is not, but that it originates in this country.

Now, admit both to be true, that we have it imported and that it also originates here, let us prevent it as far as we can. If the flames originate in your own house you may be able to subdue them; but if your neighbor comes across the street with a torch in his hand and puts fire to the rear of your house while you are fighting it in front, there is no hope for you. Let us see if we cannot keep off the neighbor with the torch in his hand; and if we are to be subjected to the calamity within our borders we must try to do the best we can with it. Try this plan of quarantine. I admit it is an experiment; but it is a grand experiment, and it is an experiment that is worthy the consideration of the Senate and the country, and worthy the expenditure we seek to put upon it.

I say it is expedient, then, because there is no other protection; the country is hopeless without it; and meaning no disrespect, it is idle, it is talking to the winds to speak of the States protecting us in this

respect. We had in Little Rock what we called a shot-gun quarantine last season; it was effectual. The judge of the United States court there—and a very excellent judge he is—stood guard with a shot-gun in his hand night after night, and he turned back men, women, and children, and would have turned back anybody else that came. But we do not wish to be subjected to that any more. We believe that there is a reasonable and legal and fair and proper way out of it, and in the clashing of State authorities something as bad—I will not say worse than bad—might be brought about if there is not some central authority that may point out the true road.

Now, Mr. President, I come to the question propounded just now by the Senator from Alabama. I say the bill we are now discussing gives the board power, if they see proper, to supplant the quarantine laws of the States as affecting passengers and traffic as between the States, but not to supplant them as affecting people and property strictly within the territory of a State. But there is an erroneous idea out as to this board. Both the Senators from New York spoke of the complete health organization they had in the city of New York. We do not tell this board of commissioners in this bill to do away with that organization. Suppose they say "that is good; we approve it; let it stand." They are not commanded to supplant that system; and we must presume that whoever they may be they will be reasonable persons and they will be disposed to let well enough alone. They would have the authority to do it, but they are not told to do it; and we must presume they will exercise their authority properly and legitimately.

As to the power being given to this particular board, it must be given somewhere. What better place can be fixed than at the capital of the country? This place is as accessible as any; there are as many avenues of information accessible here as elsewhere, and probably more than at any other place. It is not to be presumed, however, that these gentlemen are going to act purely on their information received here. Either they will go in person or they will send some one to look into this matter for them at the different portions of the country.

Let me ask Senators older here than I am, older in all that pertains to the science and theory of government, how many measures are there upon the statute-books that give authority equal to this in respect to other matters? There is a statute upon our books that allows the Secretary of the Treasury to make his own rules and regulations to identify adulterated drugs. Nobody has ever yet asked the question, "Suppose he does that wrongfully, what is the remedy of the party?" There is no man who can go in any land office now in this country and enter forty acres of land who does not have to comply with certain rules and regulations affecting his very right, that have been prescribed by the Secretary of the Interior or some officer under him. There is no Department of the Government that can be carried on without such rules and regulations, and they become, as has often been decided by the highest courts of the States and by the Supreme Court of the United States, the law of the case, and the parties transacting business with those Departments must take notice of them as well as of the law itself.

Therefore, there is nothing novel in what is proposed in this regard. I repeat what I stated the other day, that Congress is not competent to enter into the details of this matter. When you passed the great bankrupt law a few years ago, did you not tell the Supreme Court to make its rules and regulations? Congress did not sit here and prescribe rules and regulations for carrying that law into effect, and the Supreme Court delegated that authority again to a sub-committee of its own members, three in number, and they made the rules and regulations, which became as much a part of the bankrupt law as if they had been enacted by Congress.

This complaint has no foundation. Here is an authority that must go to some person. I am perfectly willing to guard it three times over; to submit the rules and regulations to the Chief-Justice of the Supreme Court, to submit them to the Attorney-General, to submit them to the Secretary of the Treasury and the President besides, for their approval. In that respect the bill is not singular; in that regard it is not a novelty. That the power is great I cannot doubt; I have no disposition to doubt it. That it should be great everybody must know. Unless it be great it amounts to nothing.

If this be a proper exercise of a constitutional power, and if it be expedient that it should be done, it is not to be compared with the little commerce that we had seventy, eighty, and a hundred years ago. It is not to be compared with that day when we traveled, as the Chief-Justice of the Supreme Court said, upon trucks, and wagons, and coaches, and all that. But you must have an active law, a powerful machine, to control this matter and to afford remedies to the citizen and to the property of the country as it passes through the States and from State to State.

I am thus earnest on this question, because I have been at great labor upon this proposition. I have packages of letters and papers here calling for something to be done. I have the testimony of the experts; I have analyzed as far as I am able all the quarantine laws of the different States, and I have shown I think tolerably well how incomplete and unsatisfactory they are for this purpose. But if the Senate thinks this bill will not do, let it perfect it. Let us do something, let us do the best we can; but do not remit the bill back to the committee, for we have done all that we know how to do.

I say to the Senate that something strong and something great must be done. It is no ordinary calamity with which you have to deal. I tell the Senate that while in the portion of the country that was stricken last season with this calamity there is nothing said particularly now about it, and no evidence is adduced showing it, yet it will be twenty years before that country rallies from the stroke it then received, and another such will prostrate it for the rest of the lives of all who have the honor to be here now. Let us do something that is worth while; let us do a big work, and do not let us indulge ourselves in swapping a shoe-string against a tan-yard.

Mr. MORGAN. I desire to call the attention of the Senator from Arkansas to the fact that he has not yet answered the question I asked him.

Mr. GARLAND. Yes, I did.

Mr. MORGAN. I did not understand the Senator to do so.

Mr. GARLAND. I will answer it again. I say that the authority conferred upon this board does empower them to set aside and supplant the State quarantine laws, if they see proper to do so, so far as they apply to persons outside and property outside, but not as affecting the strictly internal commerce of a State.

Mr. MORGAN. I will state what I mean by the question. My question perhaps is not as distinct as it ought to be. Take the city of Vicksburgh, or Baton Rouge, or Memphis, or Cincinnati, or any other city up the Ohio River, and I ask the question whether or not either of those cities after this proposed law has gone into operation would, against the consent of this board, have the power to quarantine the city against the access of persons and property coming from New Orleans when that city might be infected with epidemic yellow fever?

Mr. GARLAND. I have no difficulty in making an answer to that question. They would have the authority to do it until this board did, to use the language I used before, supplant what they had done.

Mr. PLUMB. Is an amendment to the bill now in order?

Mr. CONKLING. Oh, no; a motion is pending to recommit.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The motion pending is one to recommit the bill to the select committee with instructions. Is the Senate ready for the question?

Mr. CONKLING. We had better have the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. Mr. President, I rise not to make a remark about the merits of the bill, but rather upon the fitness of taking a decisive vote upon it now. It is an important matter. As the Chair sees, and as Senators see, the Senate is very thin. There may be a quorum here, perhaps there is; but scarcely more than half the Senate. I suggest to the Senator from Tennessee, for the convenience of all, that it might be well to fix a time to take the vote upon this motion or to give notice that at some later hour to-day or when he will, he will have a vote upon it. I suppose that it can hardly be that Senators could have indulged themselves in being absent, as many Senators as are absent, had they anticipated a vote now, and especially a vote upon the pending question, the motion to recommit, which as it has been treated by the Senator from Tennessee himself, and by the Senator from Arkansas, and I think very properly, involves in a large degree the chief question presented by the bill.

Mr. HARRIS. I certainly have no desire to force a vote when the Senate is so thin as now. I greatly prefer a full Senate in order to obtain the judgment of the entire body upon the merits of the proposition; but I doubt whether we shall have more Senators present at any time to day than are now present.

Mr. CONKLING. So do I.

Mr. HARRIS. If it be agreeable to other Senators I would be perfectly willing to agree that the vote shall be taken at any hour that may be named to-morrow which may suit Senators. I do not desire to press it to a vote now.

Mr. CONKLING. Is it the purpose of the Senate, as far as the Senator can declare it, to hold a session to-morrow, to-morrow being Saturday?

Mr. HARRIS. It is not my purpose to ask the Senate to subject itself to any inconvenience, personally. I should like exceedingly to get through with the consideration of this bill as early as is possible and convenient, but I would not ask any Senator to subject himself to personal inconvenience to gratify that wish of mine.

Mr. RANSOM. Is it in order to move that when the Senate adjourn it adjourns to meet on Monday?

Mr. CONKLING. Not only that is in order, but it is in order to move that the Senate do now adjourn until Monday.

Mr. RANSOM. I move, with the consent of the Senator from Tennessee, that the Senate now adjourn until Monday.

Mr. GARLAND. Let us fix a time to vote.

Mr. HARRIS. Will the Senator from North Carolina withdraw the motion for one moment?

Mr. RANSOM. Certainly I will. I said I would make the motion with the consent of the Senator from Tennessee.

Mr. HARRIS. If it meets the approbation of the Senate I should like to have it understood that at some hour, and the earliest that may meet the approbation of the Senate on Monday, we proceed to take the vote upon the pending question.

Mr. CONKLING. That is right.

Mr. HARRIS. Then I will say that I desire to have a vote immediately at the expiration of the morning hour on Monday, unless

there is some Senator who desires to be heard upon the merits of the proposition.

The PRESIDING OFFICER. The Senator from Tennessee asks unanimous consent that the vote be taken on Monday at one o'clock.

Mr. CONKLING. The Senator from Tennessee, if the Chair will indulge me, does not ask that particularly. He says he will expect a vote at that time unless there be some Senator ready to make a suggestion. I know of none, but on a measure of this sort I think the Senator is quite right to leave it that way.

Mr. HARRIS. If I should have the unanimous consent of the Senate to take the vote at that time, and any Senator then desired to be heard on the merits of the proposition, he should certainly be heard so far as I was concerned.

Mr. CONKLING. That is understanding enough.

Mr. MORGAN and Mr. PLUMB submitted amendments intended to be proposed by them, respectively, to the bill; which were ordered to lie on the table, and be printed.

ADJOURNMENT TO MONDAY.

Mr. RANSOM. I renew my motion that the Senate adjourn until Monday.

Mr. ANTHONY. Will the Senator from North Carolina change his motion to a motion to proceed to the consideration of executive business?

Mr. RANSOM. Certainly; but I move first that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. RANSOM. Now the Senator from Rhode Island may submit the motion he desires.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session, the doors were reopened, and (at two o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 3, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

CORRECTION OF THE JOURNAL.

Mr. DIBRELL. I rise to a correction of the Journal. The Journal as read does not show my colleague, Mr. SIMONTON, as voting on the passage of the Army appropriation bill, notwithstanding the objections of the President. He was present and did vote.

The SPEAKER. He is recorded as voting in the affirmative on the demand for the previous question.

Mr. DIBRELL. The RECORD shows that he did not vote on the passage of the Army bill, notwithstanding the objections of the President.

The SPEAKER. The name of Mr. SIMONTON is not recorded upon that vote in the Journal.

Mr. DIBRELL. He voted in the affirmative. I know that he voted, and the Journal should be corrected.

Mr. WHITTHORNE. My colleague, Mr. SIMONTON, did vote, because it was a matter of discussion whether at that moment of time a pair should commence or not. I know he decided it and determined to vote.

Mr. TOWNSHEND, of Illinois. He was here, and had no pair at that time.

The SPEAKER. The Journal will be corrected accordingly.

ADMISSION TO THE FLOOR.

Mr. BROWNE moved, by unanimous consent, that General Ben. Harrison, of Indiana, be allowed the privilege of the floor during the day.

There was no objection, and it was ordered accordingly.

Mr. THOMAS, by unanimous consent, asked that during the next three days D. W. Lusk, a citizen of Illinois, be allowed the privilege of the floor.

There was no objection, and it was ordered accordingly.

PERSONAL EXPLANATION.

Mr. DAVIDSON. Mr. Speaker, I rise to a question of personal privilege. In the wonderful speech of the gentleman from North Carolina, [Mr. RUSSELL,] which was not delivered in this House, but which was printed in the RECORD of the 26th of April—wonderful, I say, because of its many errors and because of the hate and venom which it manifests toward democrats, and particularly southern democrats—there appears the following language:

> It is well known that two democrats, one from Florida and the other from North Carolina, hold seats on this floor not by the votes of the people but by the fraudulent mandates of returning boards, some of whom, strange to say, are in the penitentiary.

Mr. Speaker, I presume this language was intended to apply to my colleague who represents the second district of Florida, and who for several days past has been absent from this House, and will probably be absent two or three weeks longer; and I also presume that it was further intended to apply to the gentlemen who compose the State board of canvassers of the State of Florida. In justice to those gentlemen, in justice to my absent colleague, and in justice to the good name of my State, I here assert that though I do not know upon what authority the gentleman from North Carolina made his offensive statement, yet I do know that it is, and I pronounce it to be, wholly and absolutely untrue.

It is not known, sir, that a democrat from Florida holds his seat on this floor by the fraudulent mandate of the returning board of that State; and it is not known that a member of that board is in the penitentiary. The members of the board of State canvassers of Florida are gentlemen of undoubted ability and of unquestioned honor and integrity; and the statement of the gentleman from North Carolina, whether purposely made or not, slanders not only those gentlemen but also the people of the State which I have the honor in part to represent. Feeling thus, sir, I have conceived it to be my duty to make these remarks on this floor, and to add that in my judgment the flippant manner in which some members in this House charge fraud upon others is altogether unbecoming the station which they occupy.

Mr. REED, (in his seat.) That's so!

Mr. FRYE. Will the gentleman from Florida allow me to state that the gentleman from North Carolina to whom he has alluded is not present?

Mr. DAVIDSON. I regret it, and for that reason postponed saying anything on this subject two days since, when it was alluded to by the gentleman from North Carolina, [Mr. KITCHIN,] hoping that on to-day the gentleman from North Carolina [Mr. RUSSELL] would be in his seat.

LAFAYETTE H. FITZHUGH.

Mr. COX, by unanimous consent, offered the following resolution; which was read, and referred to the Committee of Accounts:

> *Resolved*, That the Clerk of the House be authorized and required to pay to Lafayette H. Fitzhugh, late Doorkeeper of this House, out of the contingent fund of the House, his salary as such officer from the date of his discharge to the day of adjournment of the second session of the Forty-fourth Congress, the 4th day of March, 1877.

REPORT ON PRISONS.

Mr. COX. I offer the resolution which I send to the desk asking for information about the prisons in the different States and move its adoption.

The Clerk read as follows:

> *Resolved*, That the Secretary of the Navy be directed to transmit to this House the report of Colonel J. L. Browne, United States Marine Corps, in reference to the prisons of the several States.

The SPEAKER. Under the new rule that resolution could be offered on Monday for reference to a committee.

Mr. COX. I ask unanimous consent that it may be considered at this time.

The SPEAKER. Is there objection?

There was no objection, and the resolution was agreed to.

ADMISSION TO THE FLOOR.

Mr. BELFORD. I ask unanimous consent that General Hughes, of the State of Colorado, be permitted to come upon the floor of the House for the next two or three days.

Mr. STEELE. Is this gentleman the governor of the State, or does he occupy some other high official position?

The SPEAKER. The governor of a State is permitted by the rule to come upon the floor. For those not embraced within the rule there is no way by which members can secure this privilege for distinguished citizens of their States except by unanimous vote of the House.

Mr. STEELE. I shall not object.

Mr. KELLEY. I rise to object, on the ground that we have either to admit everybody or act most invidiously, and when we have already excluded judges of the courts and members of the Legislatures I think we should adhere strictly to the rule.

Mr. ATKINS. Why did the gentleman not object to the request made by the gentleman from Indiana [Mr. BROWNE] a moment ago?

Mr. KELLEY. I did not know that that was to be a precedent for agreeing to every request that should be made. That was the case of a distinguished son of a late President of the United States.

Mr. ATKINS. And this is a distinguished citizen of Colorado.

Mr. SPARKS. I suggest to the gentleman from Pennsylvania to let this day pass without making objection to requests of this character.

Mr. KELLEY. Very well, I will do so.

The SPEAKER. Then the Chair will understand that this is an instruction to him not to recognize after to-day any member to make a request of this kind.

Mr. KELLEY. I withdraw the objection for to-day.

The SPEAKER. The Chair hears no further objection, and the request is allowed.

The Chair will state that when any member desires for a citizen of his district or State a comfortable and eligible seat, if he will apply to him personally the Chair will see that he gets a seat on the bench in the gallery which the House has been kind enough to allow to the Speaker.

THE NATCHITOCHES VINDICATOR.

Mr. ELAM. I desire to have read a letter which I send to the desk. It is in relation to some remarks which were understood by the editor

of the Natchitoches Vindicator to have been made as to his paper; that his paper had sustained the course indicated by the Okolona States. And he wrote me a letter and asked me to bring the matter before the House.

The SPEAKER. This is not in the nature of a personal explanation. The gentleman from Louisiana asks unanimous consent that the letter which he has sent to the desk be read.

Mr. YOUNG, of Tennessee. I object to the Okolona States being again brought before the House for discussion.

The SPEAKER. The gentleman from Louisiana asks unanimous consent that the letter be read.

Mr. YOUNG, of Tennessee. I object.

SUNDRY CIVIL APPROPRIATIONS.

Mr. ATKINS. I ask unanimous consent that the joint resolution of the House, No. 1, returned from the Senate with amendments, to repeal certain clauses in the sundry civil appropriation act approved March 3, 1879, be taken from the Speaker's table and referred to the Committee on Appropriations.

There was no objection, and it was so ordered.

EXPENSES OF CONGRESS.

Mr. ATKINS. I also ask that House bill No. 1343, returned from the Senate with amendments, to provide for certain expenses of the present session of Congress, and for other purposes, be taken from the Speaker's table and referred to the Committee on Appropriations.

There was no objection, and it was so ordered.

INTEREST DUE OSAGE INDIANS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, inclosing estimate of an appropriation for interest due to the Osage Indians; which was referred to the Committee on Appropriations.

SEATON HOUSE, WASHINGTON.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the lease of the property known as the Seaton House for that Department in 1871; which was referred to the Committee on Appropriations.

ORDER OF BUSINESS.

The SPEAKER. The morning hour now begins at twenty-eight minutes past twelve o'clock. The first business in order during the morning hour of to-day is the call of committees for reports of a public nature.

DOCUMENTS FOR COMMITTEE ON MINES AND MINING.

Mr. WARNER, from the Committee on Mines and Mining, reported the following resolution; which was read, and referred to the Committee on the Library:

Resolved, That the Librarian, under instructions of the Committee on the Library, be directed to furnish for the library of the Committee on Mines and Mining a copy of all reports relating to mines and mining, also of all geological surveys, maps, &c., published by authority of Congress.

METRIC WEIGHTS AND MEASURES.

Mr. STEPHENS, from the Committee on Coinage, Weights, and Measures, reported back, with a favorable recommendation, the bill (H. R. No. 409) to enable importers to use the metric weights and measures.

The bill was read, as follows:

Be it enacted, &c., That the *ad quantum* duties upon all articles imported from foreign countries which are invoiced according to the weights and measures of the metric system shall be levied, collected, and paid at rates appropriate to the weights and measures of said system, that is to say:

The rate per gram shall be 3.5 per cent. of the rate per ounce avoirdupois, or 3.2 per cent. of the rate per ounce troy.

The rate per kilogram shall be two and two-tenths times the rate per pound.

The rate per metric ton shall be twenty-two times the rate per hundred pounds, or nineteen and six-tenths times the rate per hundred and twelve pounds, or 98 per cent. of the rate per two thousand two hundred and forty pounds.

The rate per lineal meter shall be 109 per cent. of the rate per lineal yard.

The rate per square meter shall be 119 per cent. of the rate per square yard, or ten and seven-tenths times the rate per square foot.

The rate per hundred square meters shall be 107 per cent. of the rate per thousand square feet.

The rate per liter shall be 26 per cent. of the rate per gallon.

The rate per hectoliter shall be two and eight-tenths times the rate per bushel.

The rate per cubic meter shall be one and three-tenth times the rate per cubic yard, or thirty-five times the rate per cubic foot: *Provided*, That when by any provision of law the duties which are to be levied, collected, and paid shall be more or less than the duties and rates imposed in the statutory schedule, such provision of law shall be applied in the calculation of the rate to be imposed on the metric denomination: *And provided further*, That when the calculated rate exceeds $1, the fraction of a cent, if any, shall be rejected; when it exceeds ten cents, the fraction of a mill, if any, shall be rejected; and in all cases a fraction of less than one-tenth of a mill shall be rejected.

SEC. 2. That the quantity of weight, gauge, or measure stated in the return of any weigher, gauger, or measurer employed in the service of the customs revenue may be stated in metric denominations; and, if not so stated, shall be reducible to such denominations according to the equivalents set forth in section 3570 of the Revised Statutes.

Mr. STEPHENS. I would like to have this bill put upon its passage at this time, if no gentleman wishes to discuss it.

Mr. CONGER. Before the gentleman calls the previous question, I desire to make an inquiry of him.

Mr. STEPHENS. Very well.

Mr. CONGER. It is whether this bill ought not to go to the Committee of Ways and Means, being connected entirely with the question of duties and of percentages, and proposing to change the system now in use.

Mr. STEPHENS. I think not. It affects in a slight degree the question of duties, but it is only incidentally connected with that subject.

Mr. CONGER. I think it should go to the Committee of Ways and Means, in order that they may ascertain, as a matter of economy or propriety, whether it would be enforced in all our collection districts and by all our appraisers. I would ask the gentleman to let it go to the Committee of Ways and Means, so that they might examine it. I cannot myself say whether there is any objection to it or not.

Mr. FRYE. Does the gentleman from Georgia [Mr. STEPHENS] propose to press the bill to a vote this morning? It has not been printed, has it?

The SPEAKER. It is House bill No. 409, and members can obtain it by sending for it to the document-room.

Mr. FRYE. I confess I do not understand it all.

Mr. STEPHENS. I intended to make a few remarks in explanation of the bill, and then leave it to the House. I do not intend to call the previous question. I have no objection to its going to the Ways and Means if it is desired by that committee that it should take that direction; it may slightly affect the receipts of revenue.

Mr. CONGER. I supposed the gentleman intended to call the previous question, and I desired to make a suggestion before that was done.

Mr. STEPHENS. I only wanted to make a statement to the House about the bill. I believe it has not been printed this session. It was printed during the last Congress, and was unanimously reported from the Committee on Coinage, Weights, and Measures.

The SPEAKER. The gentleman from Georgia [Mr. STEPHENS] is mistaken; this bill was ordered to be printed this session, April 21, 1879.

Mr. FRYE. And it has been reported back from the committee.

The SPEAKER. It has; and the Chair is advised that it is reported in the exact shape in which it was introduced.

Mr. STEPHENS. During the last session of Congress the bill was reported unanimously from the Committee on Coinage, Weights, and Measures, and it has likewise passed that committee unanimously at this session. I did not know that it had been printed again this session.

One word in reply to the gentleman from Michigan, [Mr. CONGER.] This subject-matter certainly belongs exclusively to the Committee on Coinage, Weights, and Measures so far as it embraces the establishment of a new system of invoice. That committee has a right to report on any matters relating to these subjects. The establishment of the metric system in our commercial relations and invoices is a very important subject. In the Revised Statutes the metric system has been legalized, and three or four tables established in relation to linear measure, superficial measure, and weights. The system, therefore, is now legalized, to be used at the option of the importer. This bill was prepared by a business man, and I believe has undergone the revision of the most intelligent commercial men in the country and has received their sanction. I ask the Clerk to read the letter of the one who prepared the bill.

The Clerk read as follows:

68 WILLIAM STREET, NEW YORK,
January 28, 1878.

DEAR SIR: I have been informed that you favor the use of the metric weights and measures, and therefore I take the liberty of inclosing to you the draught of a bill to enable importers to use them.

I suppose it would be next to impossible to get rates appropriate to metric denominations inserted in the tariff bill. The next best thing is to have some general provision for the calculation of such rates, so as to avoid the unwieldy fractions which would result from using the table of equivalents set forth in the Revised Statutes.

The inclosed bill keeps as close to the exact equivalents as avoidance of awkward fractions will permit, the slight difference being in favor of the importer—this being necessary, as you will readily perceive.

Of course, if still greater differences could be made in favor of the importer, the inducement to have goods invoiced metrically would be all the greater; and such figures could be used as to make the proviso at the end of the first section unnecessary. The first proviso concerns such enactments as section 2503 of the Revised Statutes.

The following table shows the true equivalents, carried to three or four decimals, side by side with the approximate equivalents of the bill.

I am, dear sir, yours, very respectfully,

JAMES M. McKINLAY.

Hon. ALEX. H. STEPHENS,
Chairman of Committee on Coinage, Weights, and Measures.

Metric denomination.		Approximate equivalent.	True equivalent.
Gram	ounce avordupois	.035	.03527
Do	ounce troy	.032	.03215
Kilogram	pounds	2.2	2.2046
Metric ton	times 100 pounds	22	22.046
Do	times 112 pounds	19.6	19.684
Do	times 2,240 pounds	.98	.9842
Meter	yard	1.09	1.0936
Square meter	square yard	1.19	1.196
Do	square feet	10.7	10.764
100 square meters	M square feet	1.07	1.0764
Liter	gallon	.26	.26417
Hectoliter	bushels	2.8	2.8375
Cubic meter	cubic yard	1.3	1.308
Do	cubic feet	35	35.316

Mr. STEPHENS. The House will perceive that there is nothing compulsory at all in this bill. It simply leaves importers to adopt or not, as they please, the system proposed. In the rates named in the bill the fractions existing in the legally established metric system are left out, thus giving a slight advantage and inducement to importers, so that this system may gradually come into use voluntarily in this country. The inducement held out is a very small one; but in large importations merchants will avail themselves of a very small percentage of profit. I do not see that there can be any serious objection to the bill, and if not, I would like to have it disposed of at once.

Mr. KELLEY. Mr. Speaker, the statement just made by the gentleman from Georgia [Mr. STEPHENS] brings me to the conclusion that the suggestion of the gentleman from Michigan [Mr. CONGER] was a proper one—that this bill had better go to the Committee of Ways and Means so that it may be ascertained how important those fractions proposed to be omitted may be. Oftentimes the quarter, the eighth, or the sixteenth of a cent on the unit of weight or measurement—say pounds in the matter of sugar or yards in the matter of certain grades of cotton or woolen cloth—determines the question between profit and loss on a year's business. Hence what may on its face appear a very small inducement to importers might have a very important effect upon some of our own industries.

Again, I am thoroughly in favor of making the acceptance of the metric system voluntary. I can see that its adoption would conduce greatly to the convenience of those of our merchants or citizens who deal with nations using no other system of weights and measures. But there are difficulties connected with that system. It is not in harmony with our unit of value. You cannot adjust any of our coins to it without leaving an interminable fraction.

When I had the honor to be chairman of the Committee on Coinage, Weights, and Measures I endeavored to induce the adoption of preliminary measures to make our dollar and the French five-franc piece absolutely alike in weight and value. The French were the first to adopt the metric system; and it enters into all their business. But it does not enter into their coinage; and it was found that while a change of $\frac{2}{10}$ of 1 per cent. would make our gold dollar absolutely metric and in harmony with the French system of weights, it would require a change of $3\frac{1}{10}$ per cent. to bring the French coin into harmony with the metric system. The new German gold coin is almost metric. But the British government will not entertain the idea of a change of the existing system. Hence I think it would be well to consider the confusion that might result from the adoption of this system to a great extent, even voluntarily, so that a citizen could make it the law of the customs division of the Treasury Department. I repeat the point with which I began, that the concession of the fractions to the importer might have a very essential effect upon duties, and hence upon the income of the Government. Therefore, I think, the bill should go to the Committee of Ways and Means.

Mr. STEPHENS. The view presented by the gentleman from Pennsylvania, [Mr. KELLEY,] as well as what I have stated, shows that perhaps this bill ought properly go to the Committee of Ways and Means, as it might interfere with the amount of duties collected. I can, however, assure the gentleman that, in my opinion, when that committee shall look into the bill they will find it will not make such a change as ought to impede the speedy passage of the measure. It does make a slight change in the rates of duty, barely enough to be an inducement to the merchant to resort to this system.

Mr. KELLEY. The gentleman will allow me to suggest that I do not desire the bill to go to the Committee of Ways and Means for the purpose of delay or embarrassment, but simply that it may be ascertained through the Treasury Department what its effect upon the revenues may be.

Mr. STEPHENS. That is what I supposed; and I was about to say that I shall not oppose the reference if it be understood that the committee will speedily report upon the subject, for I am very anxious, and I think that the importers of the country are generally desirous, that the metric system shall be voluntarily introduced.

One other remark I intended to make about our having no metric coins. It is true the metric system has never been authorized by law with reference to our coinage, because of the difficulty in this country as well as in France and other countries in solving a very vexed problem. But the great principle heretofore unsolved with reference to this question has recently been solved. We have now before our committee a bill (which I hope will be reported at an early day) providing for the coinage of the goloid dollar, which is perfectly metric; nay, more, a bill for the coinage of the metric gold double eagle, eagle, half eagle, and quarter eagle. This problem, heretofore unsolved in our coinage, like the squaring of the circle in mathematics, has been recently solved and reduced to a perfect system; I mean the problem as to metric coinage. The essential principle and ratio by which the matter is to be regulated has been established. A bill such as I have indicated has been referred to our committee, and although not yet acted on, I trust it will be speedily reported. That bill authorizes an American coinage perfectly metric with a preservation of the standard values of our metals. The honor of the solution of this heretofore unsolved problem belongs to American genius. It will be for the House hereafter to decide whether it will adopt this new system of metric coinage. I trust that it will. If Congress shall pass the bills now before the committee we shall have two coins perfectly in accordance with the French metric system, a matter so long desired by all the nations and countries which have adopted this system of weights and measures.

In conclusion I will say that I am willing for the reason stated by the gentleman from Michigan [Mr. CONGER] and the gentleman from Maine, [Mr. FRYE,] as well as the gentleman from Pennsylvania, [Mr. KELLEY,] that the bill shall be referred to the Committee of Ways and Means, who I trust will at an early day report for or against it.

Mr. KELLEY. Mr. Speaker, thanking the gentleman for his concession in this matter, I desire to say that the metric system has been applied to one of our coins—a very minor coin it is true——

Mr. STEPHENS. All our fractional silver is now metric.

Mr. KELLEY. It was first introduced into our system in the five-cent nickel piece while the Committee on Coinage, Weights, and Measures was presided over by the honorable gentleman from Iowa, Mr. Kasson, and before I became chairman of that committee. So the subject has been under the consideration of that committee for ten or perhaps twelve years.

Mr. STEPHENS. Yes, sir; and all our present fractional silver currency is on the metric system. I have no objection, as stated, to the reference of the bill as proposed.

Mr. CONGER. Do I understand the gentleman from Georgia is willing to have the bill referred to the Committee of Ways and Means?

Mr. STEPHENS. Perfectly willing; and I hope that committee will at once investigate what influence it will have upon the revenues and will report back at the earliest possible day. I have looked into the subject myself and I do not think it will materially affect the amount of revenues to be collected.

Mr. CONGER. Then I move that the bill be referred to the Committee of Ways and Means.

Mr. STEPHENS. I have no objection.

The bill was referred to the Committee of Ways and Means.

Mr. CONGER. I move to reconsider the vote just taken, and also that the motion to reconsider be laid on the table.

The SPEAKER. The Committee of Ways and Means has the right to report back at any time.

The motion to reconsider was laid on the table.

WILLIAM WHEELER HUBBELL.

Mr. HENRY. I am directed by the Committee of Accounts to move that committee be discharged from the further consideration of the petition of William Wheeler Hubbell, for compensation, and that it be referred to the Committee on Appropriations.

Mr. BLOUNT. Does the Committee of Accounts make any recommendation in regard to it?

Mr. HENRY. They recommend that it be referred to the Committee on Appropriations.

Mr. BLOUNT. But nothing as to the merits of the petition?

Mr. HENRY. Nothing.

Mr. BLOUNT. Then it should be referred to some other committee, say the Committee of Claims. As a claim, has it been examined by the Committee of Accounts?

Mr. HENRY. It has not.

Mr. BLOUNT. Has it been audited anywhere?

Mr. HENRY. Not that I am aware of.

Mr. BLOUNT. Then I submit it is not a proper reference to send it to the Committee on Appropriations, for that committee has nothing to do with claims. I hope the gentleman will let it go to the Committee of Claims.

Mr. HENRY. I have no objection.

The Committee of Accounts was discharged from the further consideration of the petition and it was referred to the Committee of Claims.

CONTESTED ELECTIONS.

Mr. SPRINGER. Mr. Speaker, I am directed by the Committee of Elections to make the following report:

The Committee of Elections, to whom was referred House bill No. 879 relating to contested elections, having had the same under consideration, have directed me to report the same back with sundry amendments and recommend the passage of the bill as amended. The proposed amendments are as follows.

The SPEAKER. Is it in the nature of a substitute?

Mr. SPRINGER. No, sir.

The SPEAKER. The bill will be read and then the substitute.

Mr. SPRINGER. No, the amendments to the bill had better be read first.

Mr. CONGER. Let all points of order be reserved on that bill.

The Clerk read the bill, as follows:

Be it enacted, &c., That section 127 of the Revised Statutes of the United States be so amended as to read as follows:

All officers taking testimony, to be used in a contested-election case, whether by deposition or otherwise, shall, when the taking of the same is completed, and without unnecessary delay, certify and carefully seal, and immediately forward the same, by mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

The Clerk of the House of Representatives, upon the receipt of such deposition or testimony, shall file the same with the clerk of the Committee of Elections. As soon as all the testimony relating to any case is received by the clerk of the Committee of Elections, he shall notify the contestant and contestee, by registered letter through the mails, to appear at the committee-room at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding thirty days from

the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony, and of agreeing upon the parts thereof to be printed. Upon the day appointed for such meeting, the clerk of the committee shall proceed to open all the packages of testimony in the case, in the presence of the parties or their attorneys, and such portions of the testimony as either party may require to have printed shall be printed by the Public Printer, under the direction of the clerk of the committee; and the said clerk shall prepare a suitable index to be printed with the record.

Should either party to the contest forward a written authority to the clerk of the Committee of Elections to open the packages in his absence, and indicate the portions of his testimony which he requires to be printed, or should either party, after having been duly notified, fail to attend by himself or by an attorney or fail to send any authority to the clerk to open the packages in his absence, the clerk of the committee shall proceed to open the packages, and shall cause such portions of the testimony as he shall be of opinion are material to the issue to be printed.

He shall carefully seal up and preserve the portions of the testimony not printed, as well as the printed portions when returned from the Public Printer, and lay the same before the Committee of Elections when appointed or at their next meeting. As soon as the testimony in any case is printed, the clerk of the Committee of Elections shall forward by mail, if desired, two copies thereof to the contestant and the same number to the contestee, and shall notify the contestant to file with the clerk of the committee within sixty days a brief of the facts and the authorities relied on to establish his case, with references to the pages of the record for all facts deemed material. The clerk of the committee shall forward by mail two copies of the contestant's brief to the contestee with like notice.

Upon receipt of contestee's brief, the clerk shall forward two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs shall be printed at the expense of the parties respectively, and shall be of like folio as the printed record, and sixty copies thereof shall be filed with the clerk of the committee.

The clerk shall, as soon as possible, cause fifty copies of the briefs and records in each case to be bound together in one volume for the use of the Committee of Elections.

SEC. 2. The clerk of the Committee of Elections shall be appointed by the committee, and he shall hold his office until his successor is appointed and qualified. He shall receive for his services $2,500 per annum; and he shall prepare, when directed by the committee, for publication, a digest of election cases, but shall not be entitled to additional compensation therefor. The Committee of Elections may appoint an assistant clerk, who shall also act as messenger, and shall receive a compensation of $1,200 per annum.

The SPEAKER. The amendments proposed by the Committee of Elections will now be read.

The Clerk read as follows:

The proposed amendments are as follows:

In section 1, line 12, after the word "envelope," insert the words "or package."

In line 33, after the word "committee," insert the words "unless the committee shall otherwise direct."

Strike out all of section 1, from the beginning of line 36 to the end of line 39, and insert the following:

Should either party to the contest forward a written authority to the clerk of the Committee of Elections to open the packages in his absence, and indicate the portions of the testimony which he requires to be printed, the clerk shall cause such portions to be printed; and should either party, after having been duly notified, fail to attend by himself or by an attorney and fail to indicate as aforesaid the portions of the testimony which he requires to be printed, the clerk of the committee shall proceed to open the packages and shall cause the depositions and such portions of the other evidence as he shall be of opinion are material to the issue to be printed, and the clerk shall in all cases make a minute of his action on the journal of the committee.

He shall carefully seal up and preserve the portions of the evidence not printed, as well as the printed portions, when returned from the Public Printer, and lay the same before the Committee of Elections at their next meeting, but the committee in all cases may order to be printed any evidence not printed as aforesaid. As soon as the evidence in any case is printed the clerk of the Committee of Elections shall forward by mail or deliver two copies thereof to the contestant and the same number to the contestee, and shall notify the contestant to file with the clerk of the committee within sixty days a brief of the facts and authorities relied on to establish his case, with reference to the pages of the record for all facts deemed material. The clerk of the committee shall forward by mail or deliver two copies of the contestant's brief to the contestee with like notice.

In line 60, after the word "forward," insert the words "or deliver."

In line 67, strike out the word "fifty" and insert the words "one hundred."

In line 68, strike out the word "records" and insert the word "record."

In lines 68 and 69 strike out the words "together in one volume."

At the end of section 1 insert the following: "When a committee of elections has been appointed, the time for filing briefs and printing records and the hearing of cases shall be under its control."

In section 2, line 5, after the word "prepare," strike out the words "when directed by" and insert in lieu thereof the words "under the direction of."

At the end of section 2 add the words "or at that rate for the time he shall be ployed by order of the committee."

Mr. SPRINGER. I desire to explain briefly the provisions of this bill.

Mr. FRYE. The point of order was reserved by the gentleman from Michigan, [Mr. CONGER.]

Mr. SPRINGER. I hope the gentleman will not make the point of order. This bill has been considered by the Committee of Elections and unanimously agreed to; and I hope members of the House who are not members of the committee will allow the committee the opportunity of having it considered by the House.

Mr. FRYE. I withhold the point of order for the present.

The SPEAKER. If the discussion of the bill is entered upon the point of order must be considered as waived.

Mr. FRYE. I will withhold the point of order merely while I ask the gentleman from Illinois a question. This bill has not been printed at all, as I understand.

Mr. SPRINGER. Oh, yes; it has been printed.

Mr. KEIFER. The bill has been printed, but the amendments have not been printed.

Mr. SPRINGER. I can explain the amendments in one moment.

Mr. FRYE. And this has been unanimously agreed upon by the committee?

Mr. SPRINGER. Yes, sir.

Mr. FRYE. Then I do not make the point of order.

The SPEAKER. The gentleman from Michigan who reserved the point of order is not now in his seat. The Chair will consider that no point of order is made.

Mr. SPRINGER. I will explain, then, that the only object of this bill is to enable the clerk of the Committee of Elections, if Congress does not meet until December for its regular session, to prepare in the mean time the records and cause the briefs of attorneys to be filed and have them bound and ready to be presented to the committee when the committee is organized at the opening of the session of Congress. The object is to facilitate the hearing of contested-election cases, and instead of waiting hereafter at the session beginning in December for all these voluminous records to be printed and briefs to be prepared and printed with reference to the printed pages of the record, all that will be accomplished in the vacation, so that when Congress meets in December and the committee is appointed everything will be in readiness for the committee to take hold of the cases and dispose of them at once.

The bill has been carefully prepared by the Committee of Elections, and I have been instructed unanimously by them to report it in the shape in which it now is. I therefore move the previous question, unless some gentleman desires to make any remarks upon the bill.

Mr. BUCKNER. Does this increase the number of clerks of the Committee of Elections?

Mr. SPRINGER. The bill allows the committee to employ an assistant clerk for such time as the committee may deem necessary, at the rate of $100 a month for such time as he may be employed.

I will state it is the duty of the clerk of this committee under this bill to have in the vacation all these records printed and indexed, and the printing is done under his supervision. It is also the duty of the clerk to prepare a digest of cases for publication and for the use of the committee; and while that is being done and the cases are being heard before the committee it is impossible for the committee to transact the business properly with only one person acting as clerk.

Mr. SPARKS. What difference is made in the standing of the clerk?

Mr. SPRINGER. He is made an annual clerk instead of a sessional clerk as heretofore, for the reason that he is required to perform these duties before Congress meets in December.

Mr. SPARKS. What is to be the amount of his salary?

Mr. SPRINGER. The salary is not materially changed from what the clerk had heretofore, from the fact that under this bill he will not be allowed to receive anything for making a digest of the cases, for which purpose an allowance was heretofore made.

Mr. SPARKS. What is he to receive under the bill?

Mr. SPRINGER. Two thousand five hundred dollars a year.

Mr. SPARKS. And there is to be an assistant clerk at $1,200?

Mr. SPRINGER. Yes, sir.

Mr. SPARKS. That makes $3,700 for clerks.

Mr. SPRINGER. The assistant clerk will receive $100 a month only for such time as he is employed.

Mr. FRYE. I desire to ask the gentleman from Illinois a question. The bill was quite long and I did not understand it exactly as it was read. Does it affect in any way any of the provisions of title 2 of the Revised Statutes except section 127?

Mr. SPRINGER. That is all.

Mr. FRYE. And the amendments which were read were not amendments to sections of the Revised Statutes, but amendments to the bill itself which was referred to the committee?

Mr. SPRINGER. The amendments are only to the section the gentleman has mentioned. I will state that the number of contested-election cases, as every gentleman knows, has vastly increased of late years, and so great was their number during the last Congress that it was impossible for the committee to report on them during that Congress.

If this bill shall be passed I think the Committee of Elections will be enabled to have all the contested-election cases before them disposed of within a reasonable time; at least be relieved from the implication of neglecting that important branch of our business.

Mr. HARRIS, of Virginia. I would like to have the bill read again.

Mr. KEIFER. Let the bill be read with the amendments.

Mr. FRYE. It is quite a lengthy bill, and I did not understand it.

The SPEAKER. It is rather difficult to read the bill as proposed to be amended; but so far as the Clerk can do so he will read it, as recommended by the committee.

Mr. KEIFER. The gentleman from Illinois [Mr. SPRINGER] can assist the Clerk in reading the bill as agreed upon in the committee.

The SPEAKER. It is not indicated on the printed bill where the proposed amendments are to come in.

Mr. KEIFER It is very difficult for members around me to understand the bill. I am myself satisfied with it, but I think it is important that it should be read as proposed to be passed by the committee.

The SPEAKER. The Chair thinks so too.

The bill as proposed to be amended was then read, as follows:

Be it enacted, &c., That section 127 of the Revised Statutes of the United States be so amended as to read as follows:

All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, when the taking of the same is completed and without unnecessary delay, certify and carefully seal and immediately forward the same by mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia; and shall also indorse upon the envelope or packages containing such deposition or testimony the name of the case

in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

The Clerk of the House of Representatives upon the receipt of such deposition or testimony shall file the same with the clerk of the Committee of Elections. As soon as all the testimony relating to any case is received by the clerk of the Committee of Elections he shall notify the contestant and contestee, by registered letter through the mails, to appear at the committee-room at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding thirty days from the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony, and of agreeing upon the parts thereof to be printed. Upon the day appointed for such meeting, the clerk of the committee shall proceed to open all the packages of testimony in the case, in the presence of the parties or their attorneys, and such portions of the testimony as either party may require to have printed shall be printed by the Public Printer, under the direction of the clerk of the committee, unless the committee shall otherwise direct; and the said clerk shall prepare a suitable index to be printed with the record.

Should either party to the contest forward a written authority to the clerk of the Committee of Elections to open the packages in his absence, and indicate the portions of his testimony which he requires to be printed, the clerk shall cause such portions to be printed, and should either party, after having been duly notified, fail to attend by himself or by an attorney and fail to indicate as aforesaid the portions of the testimony which he requires to be printed, the clerk of the committee shall proceed to open the packages, and shall cause the depositions and such portions of the testimony as he shall be of opinion are material to the issue to be printed. And the clerk shall in all cases make a minute of his action upon the Journal of the committee He shall carefully seal up and preserve the portions of the evidence not printed, as well as the printed portions when returned from the Public Printer, and lay the same before the Committee of Elections when appointed or at their next meeting. But the committee in all cases may order to be printed any evidence not printed as aforesaid. As soon as the evidence in any case is printed, the clerk of the Committee of Elections shall forward by mail or deliver two copies thereof to the contestant and the same number to the contestee, and shall notify the contestant to file with the clerk of the committee within sixty days a brief of the facts and the authorities relied on to establish his case, with references to the pages of the record for all facts deemed material. The clerk of the committee shall forward by mail or deliver two copies of the contestant's brief to the contestee with like notice.

Upon receipt of contestee's brief, the clerk shall forward or deliver two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs shall be printed at the expense of the parties respectively, and shall be of like folio as the printed record, and one hundred copies thereof shall be filed with the clerk of the committee.

The clerk shall, as soon as possible, cause one hundred copies of the briefs and record in each case to be bound for the use of the Committee of Elections. When a Committee of Elections has been appointed the time for filing briefs, and printing records, and the hearing of cases shall be under its control.

SEC. 2. The clerk of the Committee of Elections shall be appointed by the committee, and he shall hold his office until his successor is appointed and qualified. He shall receive for his services $2,500 per annum; and he shall prepare, under the direction of the committee, for publication, a digest of election cases, but shall not be entitled to additional compensation therefor. The Committee of Elections may appoint an assistant clerk, who shall also act as messenger, and shall receive a compensation of $1,200 per annum, or at that rate for the time he shall be employed by order of the committee.

Mr. HARRIS, of Virginia. If in order, I would like to be heard upon this bill, for I think it ought not to pass. One great objection to it is that it gives power to a ministerial officer of this House to break the seals of envelopes of records touching the rights of members here to their seats, the most sacred right known to the House itself. It is proposed that in the absence of the Committee of Elections the clerk of that committee shall be engaged in breaking the seals of these important papers and preparing portions of them for publication.

Now, we all know how liable such papers as these are to be tampered with under any circumstances. While I had the honor of presiding over that committee there were various misunderstandings for the time being in regard to what had become of the records after they had come into the possession of our committee, whether they had been tampered with or not by interested parties.

Let the bill become a law, and you will find this to be the case: the sitting member will never attend if he can avoid it; and the consequence will be that the clerk with the contestant by his side will be engaged in an *ex parte* examination of the testimony, and there will be no one present to represent the other side. The effect will be to produce interminable confusion, and to advance no case whatever. This bill provides that after the Committee of Elections shall have met they may publish such additional testimony as they may deem proper. Therefore the cases will not be ready for a hearing when Congress meets, even in the theory of this bill. Moreover, it is well known, from an examination of the cases heretofore brought to our notice, that if the committee had left it to the interested parties they would have had printed more trash, if I may be allowed to so term it, than could have been read by the committee in one entire session of Congress.

In the contested-election cases from Missouri and California the parties wanted to have printed all the proceedings of the various courts touching their cases before they came here, which would have made scores of volumes. By this bill the Government is to be subjected to the cost of publishing all this irrelevant matter, wholly immaterial and without the oversight and inspection of the committee whose duty it is to examine and determine whether or not it shall be published.

Now it is wrong in principle that any committee clerk of this House shall be authorized to break the seal of any paper or document which ought to pass through the House. As it is now, the Committee of Elections cannot itself cut open a paper unless it has been referred to them by the House of Representatives. By this bill it is proposed to take away from the House the right to determine the question of referring papers to the committee, and they are to be referred by the Clerk of the House to the clerk of the Committee of Elections, and that committee clerk is to open the packages, and with the aid of the contestant, an interested party, determine what shall be printed.

Mr. BLOUNT. Is there any great loss of time in waiting until Congress assembles and the Committee of Elections determine what shall be printed?

Mr. HARRIS, of Virginia. None at all. Indeed, it would be economy of time for the committee to be left in charge of this matter. One reason why I advocated the increase of the number of the Committee of Elections was that promptly on the assembling of Congress all the cases could be "subbed," as it is termed, and the various sub-committees could then proceed to act upon the cases and report them back to the general committee. I was in favor of giving the clerk of the Committee of Elections an annual salary, because I thought the dignity of that committee was equal to that of other committees which had annual salary clerks and his labors were as arduous. The last Committee of Elections instructed me to report a resolution asking that the clerk of that committee be made an annual clerk and allowed an annual salary of $2,000, and to prepare a digest of election cases on the plan of Bartlett & Smith, as contemplated by this bill.

I thought then and I think now that the employment of an assistant for thirty days, as was done in the last Congress, while the cases were being prepared for publication, would be important. But after the first thirty or sixty days an assistant to that committee would be of no more service than a fifth wheel to a wagon. After the cases are printed and brought before the committee he has little or nothing to do. But we know, Mr. Speaker, that when we leave it discretionary with a committee to employ a clerk, that means the employment of a clerk during the whole Congress. I think that this bill is wrong in principle; that it will entail increased expense on the Government; that it will retard the progress of election cases. Hence, I think it ought not to pass.

Mr. KEIFER. Mr. Speaker, I would have been very much pleased if the gentleman from Virginia [Mr. HARRIS] had told us how the work of the Committee of Elections progressed during the Forty-fifth Congress, when he was chairman of that committee. My recollection is that when the Congress closed a large number of cases before the committee had never been even reported to the House.

Now, this bill is in the nature of a practice act, the central idea of which is to forward all these election cases in the interest not alone of the contestant but also of the contestee. The design is to have these records printed not alone under the eye of the Clerk but under the eye of the parties; and who better than the parties are able to judge what is material to be printed?

My recollection is that the committee in the last Congress printed substantially everything that came in, excepting perhaps the ballots. I think the guards embraced in this bill are such as to obviate the necessity of printing a very large quantity of matter coming here in connection with these cases. We have now in the committee-room almost a cart load of documents relating to a single case; and if we wait until the committee can in the ordinary course of business go over these documents, consider them, and decide what shall be printed, the probability is that this will not be done before the close of the Congress. In the great majority of cases, however—nearly all—everything is printed; and properly. The object is to have the papers material to the decision of the cases laid early before the committee and the House, so as to keep contestants from thronging around us here in the lobbies. It is very unjust to them to delay their cases unnecessarily. I saw contestants here on the first day of the Forty-fifth Congress; and I also saw the same men walking up and down outside of the bar, in the last hours of that Congress, their cases never having been reported upon by the committee.

If this bill will operate so as to get cases in print——

Mr. HARRIS, of Virginia. Will the gentleman allow me a question?

Mr. KEIFER. Certainly.

Mr. HARRIS, of Virginia. When the Committee of Elections reported the South Carolina cases and others in the last Congress, did not the gentleman vote against taking them up and considering them?

Mr. KEIFER. I voted against taking up one case, I believe——

Mr. HARRIS, of Virginia. You voted against taking up two; and you have no right to complain of cases not being disposed of.

Mr. KEIFER. My negative vote was, I believe, on a motion made by the gentleman about two days and a half before the close of the Forty-fifth Congress. I thought it rather late at that time to take up so important a case and undertake to consider it with the solemnity with which it ought to be considered.

Mr. WARNER. Mr. Speaker, when does the morning hour expire?

The SPEAKER. The morning hour has expired. This bill will go over till next Tuesday.

Mr. SPRINGER. I ask unanimous consent that the bill as proposed to be amended be printed.

There being no objection, it was ordered accordingly.

CLAIMS AGAINST NICARAGUA.

Mr. ACKLEN. I ask unanimous consent that a resolution which was left pending in the morning hour may be considered at present. It is a matter which in the last Congress received the unanimous approval of the Committee on Foreign Affairs, and is a subject with which a great many gentlemen of the House are thoroughly acquainted. I ask that the resolution be considered at present, as there is half an hour remaining before the time fixed for taking up the silver bill.

The SPEAKER. The gentleman from Louisiana [Mr. ACKLEN] asks unanimous consent that a resolution pending as unfinished busi-

ness in the morning hour, and which can only be reached again in the morning hour when all the committees shall have been called through, may be taken up at this time out of the morning hour for consideration.

Mr. WAIT. We would like to understand the subject of the resolution which the gentleman proposes to bring up.

Mr. ACKLEN. The resolution, Mr. Speaker, was unanimously authorized to be reported by the Committee on Foreign Affairs of the Forty-fifth Congress just before the final adjournment. I was authorized to make the report, but unfortunately fell sick and was unable to do so. A similar resolution has been unanimously reported by the Committee on Foreign Relations of the Senate. I will ask in a moment that the resolution be read.

Mr. BLOUNT. I do not wish to be understood as assenting to bringing up the resolution, but simply that the gentleman may state the nature of the proposition.

Mr. ACKLEN. The resolution relates to the claims of citizens of the United States against the government of Nicaragua. These claims have been pending in the Department of State for fifteen or eighteen years.

Mr. WARNER. I must object to the consideration of these claims now.

Mr. ACKLEN. I object to being interrupted.

The SPEAKER. The gentleman is only on the floor by consent of every member of this House.

Mr. ACKLEN. I am aware that the gentleman can shut me off by objecting to the resolution.

The SPEAKER. The gentleman from Ohio states that he does object.

Mr. ACKLEN. Your case does not come up till two o'clock. This will not take ten minutes, if you will allow me to get through.

Mr. BLOUNT. I object. I do not see why these claims should have preference over other claims.

Mr. ACKLEN. If the gentleman will permit me to finish my statement he will not insist on his objection. Unless this is considered at the present time it will not be considered during the extra session. The Senate have appointed their committee and are waiting to have the House appoint a like committee to take into consideration the papers now on file in the State Department.

The SPEAKER. Is there objection?

Mr. BLOUNT. Yes; I object.

DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Rhode Island. Mr. Speaker, I ask by unanimous consent to submit at this time three reports from the Committee for the District of Columbia, in order that the bills may be printed and recommitted.

The SPEAKER. Is there objection to the printing and recommitment of the bills, not to be brought back by a motion to reconsider?

There was no objection.

ARREARAGES OF GENERAL TAXES.

Mr. ALDRICH, of Rhode Island, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 1160, a bill (H. R. No. 1379) fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements; which was read a first and second time, ordered to be printed, and recommitted.

DISTRICT OF COLUMBIA BONDS.

Mr. ALDRICH, of Rhode Island, also, from the same committee, reported a bill (H. R. No. 1380) authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of said District; which was read a first and second time, ordered to be printed, and recommitted.

BRIDGE ACROSS POTOMAC RIVER.

Mr. ALDRICH, of Rhode Island, also, from the same committee, reported, as a substitute for House bill No. 320, a bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

COINAGE CERTIFICATES, ETC.

Mr. WARNER. I now call up the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes; reported from the Committee on Coinage, Weights, and Measures, with amendments.

Mr. WARNER. I send to the Clerk's desk to be read an amendment to section 9.

The Clerk read as follows:

In line 21, page 6, after the word "banks," insert the following:

Provided that gold or silver bullion which shall become the property of the Government by the return of certificates to the Treasury in payment of dues thereto shall be coined and paid out the same as other money.

Mr. WARNER. Mr. Speaker, I wish first to call the attention of the House to the changes which it is proposed to make in the several sections of the Revised Statutes designated in this bill.

Section 1 proposes to strike out from section 3511 of the Revised Statutes the words "which at the standard weight of 25.8 grains shall be the unit of value," and in lieu thereof to insert "or unit." That is the only change which is made by the bill in this section.

Section 2 proposes to strike out the word "trade-dollar" where it occurs in section 3513, and the words "four hundred and twenty grains," thus dropping this coin altogether, and to substitute the words "dollar or unit" and "four hundred and twelve and one-half grains." Also, to add to this section the provisions of section 3512 relating to the abrasion of coins, changing the words only to make the provision applicable to silver, and making the limit 1 per cent. instead of $\frac{1}{2}$ per cent., which is the limit of abrasion for gold pieces.

Section 3 proposes to strike out of section 3520 of the Revised Statutes the word "twenty" before "grains," which refers to the trade-dollar, and the words "designated in this title as trade-dollars," and to substitute the word "standard" before "dollars," and "12½" instead of "20" before the word "grains;" and to add the words "for his benefit," which is the language of the act of 1837, and the language of section 3519 of the Revised Statutes, as applied to gold. Also to strike out the part of the section which, when the change in the first part is made, will be unnecessary, and to re-enact the provision of the law of 1837 providing "that it shall be lawful to refuse at the Mint any deposit of bullion of less value than $100, or any bullion so base as to be unsuitable for the operations of the Mint."

By section 4 it is proposed to strike out of section 3524 the part relating to trade-dollars. The provision in this section making the charge for converting standard gold bullion into coin $\frac{1}{2}$ of 1 per cent. was repealed by the act of January 14, 1875, and is no longer a part of the law and is accordingly stricken out in this bill. Gold is now admitted to free as well as unlimited coinage. No other change is proposed in that section of the law.

By section 5 it is proposed to strike out from section 3527 of the Revised Statutes the words "other than the trade-dollar;" and to provide that fractional silver coins may be paid out to the extent they may be required in exchange for either gold coins or standard silver dollars or United States notes at par, in sums not less than $50.

This section also provides that—

Silver coins of less denominations than $1, when presented at the Treasury or any sub-treasury or depository of the United States, in sums not less than $20, shall be received in exchange for money of full legal tender;

which corresponds with the provisions of the bill which passed this House a few days ago. A part of section 3527 has already expired by limitation, and the bill simply drops it from the statutes.

By section 6 it is proposed to amend section 3585 by adding the words "and standard silver dollars;" so that it will read:

The gold coins of the United States and standard silver dollars shall be a legal tender, &c.

By section 7 it is proposed to amend section 3586 so as to correspond with the act which has already passed the House.

It is also proposed to amend section 254 of the Revised Statutes by inserting the words "and required" after the word "authorized," and adding the words "or silver" before the word "coin" and the words "gold or silver" before the word "bullion;" so as to place silver upon the same basis exactly with gold; and also to make the certificates receivable for all dues to the United States, including duties on imports. These are the only changes that are proposed to be made in that section of the statutes.

The provision contained in section 9 of the bill, "that from and after the passage of this act only coins of smaller denominations than $1 shall be fabricated on Government account," becomes necessary if this bill becomes a law; that is, if silver is admitted to unlimited coinage, then, of course, the Government should cease to coin dollars on its own account. It then opens the mints to the public for the coinage of silver the same as gold, as they always were in this country until the act of 1873 closed them against silver. The closing of the mints of this and other countries against silver was a new departure that is fast subverting proprietary rights throughout the world.

Until the act of February 28, 1878, was passed our Government never purchased bullion of either gold or silver for the purpose of making money of full legal tender on Government account. The amendment I have just offered proposes that when certificates issued under section 254, as here amended, shall be returned to the Treasury in payment of dues, so that the Government becomes the owner of any gold or silver bullion, then such bullion shall be coined and paid out as other money is paid out of the Treasury. In brief, Mr. Speaker, no changes are made by this bill in any of the sections except to replace silver by the side of gold in respect to coinage exactly as it was under the law of 1792 and all subsequent coinage laws down to the act of 1873; and in respect to certificates to put silver on the same basis with gold under section 254 of the Revised Statutes.

I propose next, Mr. Speaker, to call attention to the change made in the monetary law of the United States by the insertion in the act of 1873 of the provision withdrawing the unit of value from silver and placing it upon gold alone. This is the provision:

Which at the standard weight of 25.8 grains shall be the unit of value.

The words "or unit" which it is proposed to restore to this section of the statutes is the language of the law of 1792, and the language of every act providing for or regulating the coinage of dollars of either metal from that date to 1873, when the ill-considered change in the money unit was made.

When the question of the establishment of a mint was under consideration by the founders of the Government, Mr. Hamilton, in his communication to the House of Representatives, January 28, 1791, said:

Upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals, because this cannot be done effectually without destroying the office and character of one of them as money and reducing it to the situation of a mere merchandise.

* * * * * * *

To annul the use of either of the metals as money is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full with the evils of a scanty circulation.

Jefferson, in his letter to Hamilton returning the report, said:

I return you the report on the mint. I concur with you that the unit must stand on both metals.

Mr. Webster, referring to the constitutional power of the Government over money, said:

I am certainly of the opinion, then, that gold and silver, at rates fixed by Congress, constitute the legal standard of value in this country, and that neither Congress nor any State has authority to establish any other standard or to displace this.

* * * * * * *

The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. To overthrow it would shake the whole system.

As a constitutional proposition I think it must go unquestioned that if Congress may demonetize silver, it may gold; and if it may demonetize either of the metals it may both of them, and if it may demonetize both gold and silver, then it may monetize any other metal, or make money of anything else. I think no one will dispute the fact either, that in the opinion of the founders of the Constitution there was no right vested in Congress to demonetize either of the metals. Congress may fix the ratio between them; it may "regulate" the value of our own and of foreign coins. By the word "value," however, as used in the Constitution, is meant only the ratio between the two metals, and the relative value of foreign coins as compared with or expressed in our own standard coins.

Mr. Speaker, by the provisions of the act of 1873, striking silver from its place as a money metal and restricting the unit of value to gold alone, a monetary revolution was inaugurated which has and will, if allowed to stand, cost this country more than all its wars have cost it. This sweeping change is contained in eighteen words, now a part of section 3511 of the Revised Statutes. This is the root of the evil. These words must be repealed before bi-metalism can be re-established. The unit must be restored to both metals; without this the coinage of silver is but a make-shift and a delusion.

I wish, however, before proceeding further in this line, to refer to the origin of this innovation and the way it got into the statutes. It is manifestly a foreign importation. I do not believe it had its origin on this side of the Atlantic. It was doubtless partly the product of that ill-advised convention which assembled in Paris in 1867, and which had for its principal object the unification of the coins of the world, and partly a deep-laid scheme to increase the value of money.

Apparently inspired by the action of this convention, Mr. Sherman, in January, 1868, being then chairman of the Committee on Finance in the Senate, introduced a bill to change the gold coins of the United States so as to make them correspond with the French twenty-five-franc piece, and to make the silver half dollar correspond in weight to two and a half silver francs, and dropping the dollar entirely.

The bill introduced in the House by Mr. Hooper, of Massachusetts, by which the change in our law was effected, however, originally contained a dollar piece, but changed in weight to correspond to five silver francs.

This piece, however, was afterward dropped and the trade-dollar substituted. The words now incorporated in section 3511 making the gold dollar the sole unit of value were embraced in the bill as introduced by Mr. Hooper. Who suggested this provision, or whose hand framed it, does not appear, and no one has had the courage to own it. Suffice it to say no heavier hand was ever lifted against this country.

While the bill was under consideration in the House, except a mere allusion by Mr. Hooper and Mr. Potter, there is not one single word in the discussion that took place, then or afterward, in the House or in the Senate, indicating that anybody understood that a change was to be made in the standard of value in the United States, or that this was part of a concerted movement to drop silver from the money of the world. From the discussion that took place, which pertained altogether to other matters, such as minor coins and whether the eagle should be retained on certain fractional silver pieces or not, it was evident that nobody contemplated any such thing or knew that a provision was in the bill making such a change in our monetary standard.

If further evidence of these facts were needed we have it in the vote taken in this House in April, 1874—more than a year after the passage of Mr. Hooper's bill—on a resolution by a distinguished member from Massachusetts, (Mr. Hoar,) which resolution was as follows:

That from and after the 1st day of September, 1874, nothing but gold and silver coin of the United States shall be a legal tender in the payment of any debt thereafter contracted.

This resolution was concurred in by nearly all the republicans in the House. Even Mr. Hooper voted for it.

In the Senate, April 25, 1876, the present Secretary of the Treasury declared:

The act of 1873 did not in the slightest degree demonetize silver. * * * The right to coin the silver dollar, which is now proposed to be authorized again, has always existed in this country; has never been taken away.

Not an intimation was given to the country by the public press anywhere that such a change was contemplated. You will search in vain the journals of the country to find anywhere a hint of such a thing. Doubtless there were those who understood it. The money-dealers of Wall street, of Lombard street, of the Bourse of Paris, and of Hamburg understood it. They know Ricardo by heart; they know the history of such changes in other times, and they know the history of resumption in England, and they knew very well what would be the effect of such an alteration in the standard with national debts aggregating $25,000,000,000. The cunning knavery concealed under the impenetrable disguise thrown around the bill at the time of its passage has come finally to be the most marked feature of the whole measure. I repeat that the bill passed through the Senate without even being read through and without one single word in the debate upon it there to indicate any change in the metallic standard. But we have evidence from another source that no such thing was in the minds of the chief officers of the Government. The President who signed the bill evidently was not aware of the effect of the provisions it contained.

Mr. KELLEY. Will the gentleman yield to me for a minute for the statement of a pertinent fact?

Mr. WARNER. Certainly.

Mr. KELLEY. So little was this matter understood that I for years pleaded guilty to having presented, as its chairman and organ, from the Committee on Coinage the bill which demonetized the standard dollar. I did not know that I had not done so until the gentleman from Illinois [Mr. FORT] investigated the matter and found that the bill of the committee which I had reported did not demonetize the standard dollar, and that a section had been stricken out and one demonetizing that dollar inserted in the Senate.

Mr. WARNER. That was done in the committee of conference, I think. The provision which dropped entirely the dollar piece, leaving the trade-dollar in its place, was adopted upon the report of a committee of conference, and was not read in either House.

I say that the President of the United States who signed the bill was evidently not aware of its scope or the change that was made by it. In proof of this we have his letter to Mr. Cowdrey, written in October of the same year, in which he recommended an increased coinage of silver, and wondered why silver dollars did not come into circulation.

Mr. CLAFLIN. I do not desire to interrupt the gentleman in making his speech——

The SPEAKER. Does the gentleman from Ohio yield?

Mr. WARNER. I will yield for a moment.

Mr. CLAFLIN. I simply wish to say that I deny some of the statements in regard to the passage of the bill, especially as to the action taken in the Senate.

Mr. WARNER. I have the record before me, and speak from it.

Mr. CLAFLIN. I simply wish to call attention to the matter at this time. I do not wish the gentleman's statements to go without correction.

The SPEAKER. The gentleman from Massachusetts [Mr. CLAFLIN] will be recognized in due time.

Mr. WARNER. I incorporate in my remarks the letter of the President to which I have just referred, dated October 6, 1873, and which reads as follows:

I wonder that silver is not already coming into the market to supply the deficiency in the circulating medium. * * * Experience has proved that it takes about $40,000,000 of fractional currency to make the small change necessary for the transaction of the business of the country. Silver will gradually take the place of this currency, and, further, will become the standard of values, which will be hoarded in a small way. I estimate that this will consume from $200,000,000 to $300,000,000 in time of this species of our circulating medium. * * * I confess to a desire to see a limited hoarding of money. It insures a firm foundation in time of need. But I want to see the hoarding of something that has a standard value the world over. Silver has this.

Not only was the President of the United States not aware of the change the bill which he had signed made in the unit of value, but it is fair to presume that his Cabinet also were unadvised that silver had been dropped from our monetary system two years after the bill had become a law. This is evidenced by the special message which the President sent to the Senate January 14, 1875, approving the resumption act, in which he used this language:

With the present facilities for coinage, it would take a period probably beyond that fixed by law for final specie resumption to coin the silver necessary to transact the business of the country.

The suggestion of Mr. Groesbeck at the recent conference at Paris, that silver was inadvertently dropped from the coinage of the United States, was a clever way of putting it, but still we can hardly wonder that other countries should express surprise at such an admission. It is a fact, however, that this change affected the country very little then, which sufficiently accounts for the absence of public concern, but when the specie-resumption act which followed began to take effect, changing all prices from a paper to a metallic valuation, then the country awoke to find that the metallic level of prices had also been changed; that the metallic measure itself had been changed from $8,000,000,000 of both gold and silver for the world to $4,000,000,000 or $4,500,000,000 of the one metal, gold, or that it was finally to come to this. Then the fact was brought to light that a law had been passed which coming into force changed the terms of every contract and every obligation then existing in the United States.

It changed the relation of every bushel of wheat, of every acre of land, of every piece of property, and of every day's labor in the

United States to debts and obligations theretofore contracted. It set up a new standard, an enlarged one, a standard of one metal of forty-five hundred millions of money for the world, instead of a valuation based upon eight thousand millions.

Mr. Speaker, the old way of changing the value of money was to increase the metal in the coins. In every capital of the world time and again that has been tried. It was tried in England in the reign of Edward VI, when the metal in coins was increased threefold. It was renewed by Queen Elizabeth, and entailed the poor laws upon that country. It was tried in France under Philippe le Bel, when at the instance of the clergy and the barons coins were doubled in weight, but an insurrection among the peasantry compelled the King to abandon his unjust demands. It was tried two thousand years ago in ancient Rome, when Heliogabalus, to increase his revenues, by an underhand trick increased the gold in the aureus. No country, perhaps, has escaped such attempts at robbing the tax-paying people for the benefit of a receiving class. And it is really the "honest" way of changing the value of money. (I use the word "honest" in this connection as I take it to be used by our "honest-money" friends.) It has the merit of being a fraud clear and above-board, a fraud that all can understand.

Double the quantity of metal in the coins and require the same number of pieces to be given in discharge of an obligation, and of course the debt is doubled.

Now, I submit this plain proposition: If there is metal enough in the world applicable to monetary uses to make eight thousand millions of units of valuation in the proportion of 25.8 grains of gold and 412½ grains of silver to a dollar or unit, and you double the quantity of metal in coins, then only half that number of coins can be made, and you have doubled the value of the coins and doubled the measure or standard. Now there can be no difference in effect between doubling the metal in coins and by that means doubling their value, and that of reducing the quantity of the metal from which coins can be made one-half. If you have a given number of tons of metal applicable to use as money, enough say to make $8,000,000,000, and you destroy half of it, you have changed the value of money, you have changed the measure, precisely the same and to the same extent as though you had doubled the quantity of metal in the coins. But this is the way in these times that "honest" money is made. No doubt there was prating in the streets of Rome two thousand years ago of "honest" money, and no doubt there were men then who thanked the gods that they were enabled by such means—by an increase in the standard by which debts were measured and paid—to appropriate to themselves property that rightfully belonged to others.

The same thing, Mr. Speaker has been undertaken and in part accomplished in this country. This is not communism asking for a division of the accumulated wealth of the world; it is not socialism asking to be secured the poor privilege of earning bread. It is another class, the bond-holding, the tax-receiving class, coming into the halls of this Capitol and asking and receiving the aid of the state to enable them, by an increase in the value of money, to lay avaricious, ay, felonious, hands, not only upon portions of wealth representing past accumulations, to which they have no just right, but to reach forward into the future, how far no one can foresee, and to appropriate the earnings of future years—wealth yet uncreated—beyond the share to which they can lay rightful claim. That is exactly the effect of the change made in our monetary unit by the provisions of the law of 1873 which it is now proposed to repeal.

CHANGE FROM A PAPER VALUATION TO THE METALLIC VALUATION.

It was supposed by the people when the resumption act was passed that it was proposed to return to the old standard, to restore values to the old level of bi-metallic money—silver and gold conjointly. But instead of that we find a new standard set up, that of gold alone—a very different level, indeed, from which we departed in the issue of paper money during the war.

I wish to take this occasion, however, Mr. Speaker, to condemn all changes by legislation in the value of money, whether to increase it or to decrease it. There can be no real gain to any country by such measures. I do not believe there was a necessity for departing from existing valuations, even in the darkest hours of the war. We really gained nothing by it; but on the other hand the war debt was greatly augmented in consequence of it. When prices were doubled it took $2 to do the work $1 did before. But having departed from the metallic valuation and established a paper valuation, I contend that it was wrong, that it was unjust to return to the former standard without adequate compensation. But when it was proposed not to stop at the old metallic level of both the precious metals, but to establish a new level, to set up a new and higher standard, and undertake to bring all values in the country to that, it became more than a blunder—it became a crime, a crime that this Congress should not adjourn without wiping from the statute-books. [Applause.]

Mr. FORT. I understand the gentleman to say that he proposes, and I suppose this bill proposes, to set up a new standard.

Mr. WARNER. No; I say that a new standard has been set up by the demonetization of silver and placing the unit of value on gold alone; and of that I propose to give the proof very soon.

Mr. FORT. The gentleman will bear in mind that silver was remonetized two years ago.

Mr. WARNER. Oh, no; silver has not been remonetized, although we do make some money out of silver, and I say that the law which I have been discussing set up a new and a different standard—a higher one.

Mr. FORT. But we have traveled over all that road and have remonetized silver a long time ago. I wish to know what the gentleman refers to when he proposes to set up a new standard.

Mr. WARNER. It is not proposed to set up a new standard by this bill, but to rest upon the old one of both gold and silver. I say that the provision in the section of the Revised Statutes it is proposed to amend set up a new standard. The Bland bill, which restored to silver dollars the legal-tender quality, did not, as finally passed, provide for its unlimited coinage. It did not therefore restore the bi-metallic standard—far from it—it simply supplemented the gold standard by as much silver as may be coined from month to month, in the same way precisely as the greenback and the national-bank notes supplement gold. I grant that. But I wish to show that we have made a double change in this country, first a change from a paper valuation to a valuation of both gold and silver, and a second change from a valuation of both metals to gold alone. The fall in prices as the consequence of the first change, taking the general run of property, including real estate, mines, factories, &c., as well as commodities and labor, has been from 35 to 40 per cent. The change from the bi-metallic valuation to gold, so far as it has already gone, adds from 18 to 20 per cent. to this. This change began and has continued from the time our paper currency was at par with silver.

Now, as to the proof of this change and the consequences both in this country and in Europe. I hope I have succeeded in making clear my point that the value of gold—the value of a gold dollar, or a gold sovereign, or an ounce of gold, if you please—is one thing under the law as it stood before the act of 1873, and before the German law of 1872 and 1873 was passed, and a very different thing now under those laws. The gold dollar, which gentlemen seem to consider as fixed in value like a yard-stick or a pound weight, has, in fact, become a very different measure under these laws from what it was before they were passed.

On this point I desire to give the opinions of a few men of acknowledged weight as authorities. No one, I will say, who considered the subject at all eight years ago seemed to look for any other result from the partial demonetization of silver even, than a fall in prices or a rise in the value of gold.

Mr. Ernest Seyd, an authority too well known to require comment from me, said in 1872:

> The demonetization of silver, abstracting say 40 per cent. from mediums of exchange, or rather the violation of the contract basis upon which these relations now rest, will be tantamount to a gratuitous addition to the power of invested capital and fixed incomes, while labor and property will fall in value. Whether this result takes place suddenly, or gradually, (as the advocates of the gold valuation put in for an excuse,) the principle involved remains the same, the wrong remains paramount. Thus the value of all state debts (in themselves immoral) would increase greatly, the burden of taxation would become the heavier in proportion, and labor would become more enslaved than ever. There are persons who allege that the additional supply of gold might soon make up the difference. The folly of this assertion equals that of a man who wantonly scuttles his ship in the hope and expectation that he might get another to replace it.

Again, he says:

> The definite adoption of the gold valuation by the majority of the civilized states must involve its extension over all the other nations with which they stand in commercial intercourse.

This is the opinion of an English economist, mindful that the debts of the world have increased in ten or fifteen years to $25,000,000,000; and it is indeed worthy of remark that at this time, when national indebtedness has so increased, it should be proposed to change the standard by which that indebtedness must some time in the future be liquidated.

Wolowski, the distinguished French economist, said:

> The suppression of silver would bring on a veritable revolution. Gold would augment in value with a rapid and constant progress, which would break the faith of contracts, and aggravate the situation of all debtors, including the nation. It would add at one stroke of the pen at least three milliards to the twelve milliards of the public debt.

And further:

> To adopt one metal, gold, to the exclusion of the other, it is not merely as if they closed all existing mines of silver, but as if they suppressed in this regard the labor of all past ages. If by a stroke of the pen they suppress one of these metals in the monetary service, they double the demand for the other metal to the ruin of all debtors.

Disraeli said in a speech at Glasgow in 1873:

> I attribute the great monetary disturbance that has occurred to the great changes which the governments in Europe are making with reference to their standard of value.

Now, has there been such a change in the value of gold and in prices as was predicted? Let us see. First let us examine the transition from the paper valuation to the bi-metallic level, and then from the bi-metallic to the mono-metallic level as far as it has already gone. Take if you please the productions of the United States. The value of our wheat crop in 1869, which was only 300,000,000 of bushels, was $375,000,000. The crop of 1877, 365,000,000 bushels, was worth $394,000,000, while the value of the crop in 1878, of 422,000,000 bushels, was only $329,000,000. The value of our corn crop in 1869, 900,000,000 bushels, was $450,000,000, while the value of 1,371,000,000 bushels, the production last year, was only $433,000,000. The value of the cotton crop of 1869, 2,700,000 bales, was $303,000,000. The crop of 1877, 4,750,000 bales, was worth $240,000,000, while the value of the entire

crop of 1878, 5,200,000 bales, was only $194,000,000. Taking the population of the States engaged in the raising of cotton at ten millions, and the entire cotton crop will afford but about $20 *per capita*.

I have heard complaint here and elsewhere that the colored population of the South was not duly rewarded. Why, if $20 *per capita* is the value of their whole product, that is all there is to divide; if one gets more than $20 another must take less; and if the value of all the other products of these States be taken at one-half that of the cotton crop, then all there is to be divided does not amount to $30 apiece, and out of that the people must be supported and the taxes and interest and all other dues paid. Tennessee has been assailed on the floor of this House as trying to repudiate a part of her debt. Let me say on behalf of that State—while I am the apologist of no man or State that proposes repudiation or seeks to escape any just obligation—yet the State of Tennessee could not have foreseen when she contracted her debt of $20,000,000 that the dollar was to be increased in value by the demonetization of silver, so that while at the price of cotton in 1869, 175,000 bales would have paid it, and in 1873, 285,000 bales, it now takes 536,000 to balance it. I do not mean that the change in the price of cotton is due entirely to a change in money. But I do mean that the change in the value of money is a principal element. I mean that the gold dollar now is a different dollar, with silver demonetized, from the dollar of gold before the demonetization.

Mr. FISHER. Is the gentleman's valuation of cotton in 1869 based on currency or on gold?

Mr. WARNER. The value I have given is based on Liverpool prices. But let us pass to other products. The value of the potato crop of 1869, 150,000,000 bushels, was $90,000,000. In 1878 the crop was 125,000,000 bushels, being 25,000,000 less than in 1869; but the value was but $73,000,000. The tobacco crop of 1869, 225,000,000 pounds, was $37,125,000. The crop of 1878 was 393,000,000 pounds, but its value was only $22,000,000.

Take pig-iron. The value of the pig-iron produced in 1869 was $62,000,000, the product being 1,725,000 tons. In 1873 the production was 2,868,000 tons, and the value was $120,000,000. Its value in silver bullion was then very much greater than its value now; but I will revert again to that point if I have time. In 1877 the production of pig-iron was 2,314,000 tons, a less quantity, therefore, than in 1873; so that it was not the quantity that affected the price, but the value of the total product of that year (1877) was only $41,000,000.

But we have a better test than that. The expenses of the Government of the United States in 1873 were $293,000,000. What do you suppose was the equivalent of that expenditure in labor—in days' labor—in this country? Why, the equivalent of it in days' labor was about one hundred and ninety-five million days, or the product of so many days' labor. In 1878 the expenditures had been reduced so that they were but $236,000,000. But to pay the $236,000,000 of expenses in 1878 required two hundred and sixty-two millions of days' labor, or the product of so many millions of days' labor. There was, then, no decrease in the expenditures when measured by that which measures all values, human sacrifices, but on the other hand a decided increase.

The total taxes collected in the United States, according to the statistics of Mr. David A. Wells, given in his report as special commissioner of the revenue in 1869, was $750,000,000. The labor equivalent of these taxes in that year (1869) was five hundred millions of days' labor. In that year I say that five hundred million days' labor was the equivalent of all the taxes raised in the United States. What is the equivalent of the same taxes now in labor, for, remember, the number of dollars required in taxes is not less than in 1869? It is not less than eight hundred and thirty million days' labor, or three hundred and thirty million days more than was required to make up the equivalent in 1869 and 1870!

Take the interest on the public debt. We are told over and over again—it has been a thousand times repeated—that the Government has reduced the interest. True, the interest has been reduced in the number of dollars paid, but as a burden I affirm, and I think statistics amply bear me out in the assertion, that the interest on the public debt, as a burden to be borne and discharged by sacrifices through labor or its products, has been increased every month and every year from the close of the war down to this day. In 1873 the interest was $104,000,000, the labor equivalent of which was sixty-nine million three hundred thousand days. In 1878 the interest was $95,000,000, in round numbers; the equivalent of that in days' labor was about one hundred and five millions of days. I take for the basis of my calculations the most reliable labor statistics available in the different States. The interest paid in 1878, therefore, as measured in days' labor, was thirty-six million more days' labor than in 1873. It required so much more sacrifice, so many more of the products of every kind on the average, than was required at the time the interest was highest. To pay, then, a hundred millions of debt, how much more cotton, tobacco, petroleum, everything exported, is required than five years ago? The London Economist of January 18, 1879, in summing up the results of British trade for 1878, says:

> Altogether we have received rather more in quantity than in 1877, and have paid some 8½ per cent. less money;

which shows that the fall in prices of imports into England is still going on, and that in the payment of interest and debt to England we pay every year more commodities.

So far as this is a result of general causes, and especially so far as it is caused from cheapened processes of manufacture, there can be no ground of complaint; but in so far as it is due to a direct alteration in the value of money we have a right to complain, and to make emphatic our demand that the alteration in the just measure shall go no further, but, on the other hand, that the rightful standard shall be restored. We have heard often, and gentlemen here will doubtless say the change is in the property, that property hass hrunk; shorter have shrunk. But I ask, have acres grown smaller or miles shorter? Have houses shrunk? Do bushels contain less or are pounds not as heavy? Are there not as many acres of land, as many houses, as many mills, factories, furnaces, as much property of all kinds, in quantity, in the United States now as there was five or ten years ago? No; the change is not in the commodities, but in the measure, in the valuator—money.

John Locke, two hundred years ago, gave the true philosophy. He said:

> Money, while the same quantity of it is passing up and down the kingdom in trade, is really a standing measure of the falling and rising value of other things, in reference to one another, and the alteration of price is truly in them only. But if you increase or lessen the quantity of money current in traffic in any place, then the alteration of value is in the money; and if at the same time wheat keep its proportion of vent to quantity, money, to speak truly, alters its worth, and wheat does not, though it sell for a greater or less price than it did before.

No one would claim, if he found a given piece of cloth showing at one time a given number of yards and the same quantity of cloth to measure at another time a less number of yards, that the cloth had shrunk. He would conclude that the change was not in the goods, but in the measure; and that is exactly the case with the property and all the wealth of the United States. Five or six or eight years ago a man on the western prairies bought a farm, agreeing to pay $5,000 for it. He paid $2,500 down. The yearly products of his farm were worth, we will say, $500. He counted upon being able, out of his own industry and the product of his farm, to pay the balance in a given time, and obligated himself to do it and mortgaged his property. In the mean time this great Government, that should look to the equal protection of the rights of all the people, changes the measure, changes the value of the money he agreed to pay. It tells him, in the first place, that the commodities which he produces shall be worth only $250 instead of $500, or, in other words, that he shall give twice as much of what he produces for a dollar; and in the second place, tells him that, notwithstanding, he shall pay the same number of dollars in the discharge of his mortgage. The plain effect of this is that the Government steps in after a fair contract has been made and breaks it; alters entirely its terms; permits, on the one side, and compels on the other, the violation of the faith pledged between man and man, and takes the property from one—takes from him at least what he had paid—which may represent his life earnings and savings; takes it under this robbing act changing the value of money, for robbing in effect it is, and, so far as concerns the loser, it leaves him no better off than if pirates had come from some foreign coast and dispossessed him of what was his.

This is not an exceptional case. The country is filled with men dispossessed of their property, their earnings and their savings, under the monetary legislation of the last ten years. But continue the increase of the money standard, and it must result in the dispossession of the great body of the people of their property and bar them from any share in future accumulations. It in effect decrees pauperism to half and more than half the people of this country. Mr. Speaker, these views may be thought extreme, but they are the facts of economic science as I understand that science. They are, I believe, in accordance with the teachings of the ablest thinkers and writers on this subject, from Locke and Hume down. The effect of a shrinking value of money on prices and on production has been often told. In the language of Sir Robert Peel—

> There is no contract, public or private, no engagement, national or individual, which is unaffected by it; the enterprises of commerce, the profits of trade, the arrangements made in all the domestic relations of society, are all affected by it.

No, the sweeping change which has taken place in this country in the relation between property and commodities is a change mainly in the money itself. Of course, I do not ignore changes which come from natural causes under the laws of supply and demand, nor has anybody the right to complain of changes that take place through improved methods of production. Such changes do not involve sacrifices by any class. But there cannot be a general fall or a general rise in prices except it come by a change in the value of money, that is in the measure or valuator. I repeat, the old way to swindle was to increase the metal in the coins, the new way is to reduce the quantity of metal out of which money can be made. I submit to the consciences of the apologists of this method whether the one process is any more honest than the other.

Mr. CHITTENDEN. Will the gentleman allow me to ask him a question?

Mr. WARNER. I will.

Mr. CHITTENDEN. I would like to ask the gentleman what would become of his argument and what would become of the quotations he has made from the writings of distinguished men, if he admits that the legal-tender debt of the United States was a forced loan and that it was never money?

Mr. WARNER. I do not admit any such thing. It was money as absolutely as though made of coin; but that I am not now arguing.

Mr. CHITTENDEN. I have got my answer. [Laughter.]

Mr. WARNER. I pass now to the consideration of the question whether or not as a fact (which, if true, is a vital element in this problem) gold has increased in value in the last five years and is likely still further to increase. Do statistics show it? Is it an admitted fact by statisticians? The coinage of silver has been suspended in every state in Europe; in Germany and in the Scandinavian states silver has been demonetized and gold called for to take its place; in the United States silver coinage is under restriction.

The only conclusion that can be logically drawn from this state of facts is that, unless there is an increase in the production of gold to correspond to the increased demand, gold must continue to appreciate in value.

Now what is the annual production of gold? Somewhere from eighty to ninety millions of dollars for the whole world. That is from seven to eight cents *per capita* for the entire population of the globe. That is scarcely more, one would think, than is required in these times for teeth-filling. Is this eighty or ninety millions of gold enough to make up for the abrasion and loss of this metal, and the requirements of it for the arts, and its use for plate ornaments, &c., and, besides, to take the place of silver for money in Europe and this country.

Here is what Mr. Newmarch, a high authority on this subject, said in an address before the London Statistical Society in May, 1878:

There is now no question that for about twenty years prior to 1848 the annual supplies of gold had been insufficient to meet the wear and tear of the coins in use, the requirements of the arts, and the needs of enlarging industry, commerce, and population. There had been a slow but steady and progressive tendency toward lower prices, and therefore toward a discouragement of enterprise.

W. L. Fawcett, in his letter to the monetary commission, dated November 24, 1876, says:

The stock of gold in the commercial world in the shape of coin and bullion has, in my opinion, been greatly overestimated, because the consumption of gold in the arts has been greatly underestimated. I have reason to believe, as I propose to show in my forthcoming volume now in the printers' hands, that the annual consumption of gold in the arts, together with the losses by casualties and the additions to the stock of jewelry and ornaments, reaches $100,000,000 per annum, being more than the annual production at the present time; and that the world's stock of gold coin and bullion used as money is diminishing.

As a more definite statement of the gold production, I give the following estimate of the production of gold for periods of five years from 1852, as taken from Mr. Giffen's address before the London Statistical Society in January last, and reduced to dollars at the rate of $5 to the pound sterling:

GOLD PRODUCTION.

From 1852 to 1856, $750,000,000, or $150,000,000 a year.

From 1857 to 1861, $615,000,000, or $123,000,000 per annum.

From 1862 to 1866, $615,000,000, or $123,000,000 a year, or about the same as from 1857 to 1861.

From 1867 to 1871, $540,000,000, or $108,000,000 per annum.

From 1871 to 1875 the production was $380,000,000, or $95,000,000 a year.

Thus in the twenty years from 1852 to 1871 the annual production had fallen off over $40,000,000, and is now $60,000,000 less per annum than from 1852 to 1856.

Mr. Giffen estimates that Germany and the United States alone, in seven years, as the result of changes in their monetary systems, have absorbed $350,000,000.

The Financial Chronicle estimates that the production of both gold and silver in the United States last year fell $17,000,000 below the production of the year before, and it is estimated by Wells, Fargo & Co. that it will fall off $10,000,000 more this year. This would leave the production of gold for the world at from $80,000,000 to $90,000,000 and the production of silver at about $65,000,000. As to the consequences of this decrease in the production of the precious metals, the Banker's Magazine for April, 1879, says:

The falling off in the production of gold and silver in the United States in 1878, as compared with 1877, and the opinion of Wells, Fargo & Co., that an additional falling off, equal to $10,000,000, is probable in 1879, are attracting great attention. While the volume of metallic money is not the sole factor in determining the metallic prices of commodities, it is certainly true that such prices depend wholly upon the volume of metallic money, when other things are equal. Of course, the stock of the precious metals is a very different thing from the annual supply of them by new production, and is so large as compared with the annual supply that it is only slowly effected by changes in the yield of the mines. Still, in the present depressed condition of metallic prices throughout the world it is not wonderful that any circumstances tending still further to depress them is viewed with apprehension and anxiety.

Mr. Giffen, in the address already referred to, says:

There can be no doubt whatever that a serious influence on prices has been exerted of late years by the appreciation in the value of gold. While the gold supply has been falling off from year to year, the demand for that metal has increased, not only with the volume of the trade of the world, but because countries which had previously required little now base their entire coinage on gold.

And again:

A sovereign will be more and more valuable as time goes on.

Yes; the gold dollar is to become more and more valuable as time goes on. A fine prospect indeed for a nation so weighted with debt as we are, for a people so overwhelmed with debts and burdened with taxes as our people are, to know that the standard of payment is to be increased against them "as time goes on."

The London Economist of December 28 last says:

It is a fact which will scarcely be disputed that the purchasing power of gold is now considerably greater than it was in the three years 1872, 1873, 1874. This assertion may readily be corroborated by an appeal to the market prices of commodities then and now; and the result, which yields an average fall probably exceeding 20 per cent.

In the same number of the Economist is given a table of prices, taken from the Commercial History and Review, showing that on twenty-two leading articles the prices had fallen 38 per cent. below the prices of 1866, and over 22 per cent. below the prices of 1873, and to within 4 per cent. of the prices of 1845, or before the gold discoveries of California and Australia.

The Bankers' Magazine for April, 1879, in this connection says:

Nothing is more certain than that the general tendency of metallic prices has been downward since about 1865, since which date the aggregate production of the precious metals has been stationary, while the needs for them have been increasing.

The same journal adds:

The British journalists and financial writers seem now to be well agreed that there has been an important rise throughout the commercial world in the value of gold, indicated and measured by an important fall in the general range of the gold prices of commodities.

Comparing the prices of British exports for different years, Mr. Giffen finds that a fall of 27 per cent. took place from 1873 to 1878, and a fall in 1878 alone of 22 per cent. On this point the London Times, as quoted in the Bankers' Magazine for May, 1879, says:

On the export side every important article of home manufacture shows a serious reduction in both quantity and price. Cotton piece-goods have shrunk 11½ per cent. in quantity and 15½ in price, iron and steel 12½ per cent. in quantity and 22 per cent. in price, and woolen and worsted cloths 10½ per cent. in quantity and 12½ per cent. in price. So it is, more or less, throughout the list. Making all allowances for the unfavorable character of the season, everything indicates intensification of business stagnation and an increase in trade losses. In some articles and on both sides of the account these losses continue to be gigantic, and must cause further serious embarrassments if the tide does not soon begin to turn.

In order to call attention further, Mr. Speaker, to the double change in this country, first from a paper valuation to a bi-metallic valuation of gold and silver, and then from this level to mono-metalism, I wish to present some facts showing the relative value of silver metal to certain commodities six years ago and now.

SILVER BULLION COMPARED WITH COTTON.

In 1873, 685 pounds of cotton was equal to 100 ounces of silver. In 1879 100 ounces of silver will buy 1,087 pounds of cotton, nearly 60 per cent. more.

The cotton crop of the United States of 1878 was equivalent to about 200,000,000 ounces of silver. But the same crop at the prices of cotton in 1873 would be worth $366,000,000 or 314,000,000 ounces of silver by weight, being 114,000,000 ounces more than at present.

SILVER BULLION COMPARED WITH WHEAT.

In 1873, one bushel of wheat was equal to 1.20 ounce of silver.

In 1879, .80 of an ounce of silver will buy one bushel of wheat.

The value of the total wheat crop of the United States in 1878, $329,000,000, was equivalent to 336,400,000 ounces of silver. At the price of wheat in 1873 the same crop would be worth $590,000,000, which is equivalent to 506,000,000 ounces of silver, or 170,000,000 ounces more than its present equivalent.

SILVER BULLION COMPARED WITH CORN.

In 1873 one bushel of corn was equal to .44 of an ounce of silver. In 1879 .33 of an ounce of silver will buy one bushel of corn.

The value of the total corn crop of 1878 ($436,000,000) was equivalent to 445,000,000 ounces of silver. The same crop at the price of corn in 1873 would be worth $685,000,000, which is equivalent to 590,000,000 ounces of silver, or 145,000,000 ounces more than the silver equivalent of the crop now.

SILVER BULLION COMPARED WITH ANTHRACITE COAL.

In 1873, 23 tons of anthracite coal was equal to 100 ounces of silver. In 1879, 100 ounces of silver will buy 32.6 tons of anthracite coal, or nearly one-third more.

SILVER BULLION COMPARED WITH BAR-IRON.

In 1873, 1.45 tons of bar-iron were equal to 100 ounces of silver. In 1879, 100 ounces of silver will buy 2½ tons of bar-iron, or over 70 per cent. more.

SILVER BULLION COMPARED WITH IRON RAILS.

In 1873, 1.66 tons of iron rails were equal to 100 ounces of silver. In 1879, 100 ounces of silver will buy 3 tons of iron rails.

SILVER BULLION COMPARED WITH PIG-IRON.

In 1873, 2.77 tons of pig-iron were equal to 100 ounces of silver. In 1879, 100 ounces of silver will buy 5.48 tons of pig-iron, nearly 100 per cent. more.

The equivalent of the total product of pig-iron in 1873 (2,868,278 tons) in silver was 102,600,000 ounces. The value of the same product at the price in 1878 would be but 53,000,000 ounces. The value of the product of pig-iron in 1878 (2,314,585 tons) in silver is 41,000,000 ounces.

SILVER BULLION COMPARED WITH LABOR.

Taking common labor at $1.60 currency, or $1.40 gold per day, in 1873, we find one day's labor equaled 1.20 ounces of silver; in 1879, one day's labor equals .91 of an ounce of silver. Taking the gold price of common labor now at ninety cents, we have a difference of more than 31 per cent.

On the supposition, then, that from this time on the expenditures of the Government, interest on the public debt, all taxes, were to be paid in silver, it would require from 25 to 30 per cent. (and when all kinds of property are taken into account the difference would proba-

bly be greater still) more labor or more of the products of labor to procure the silver to pay taxes, interest, and debts with now than was required in 1873. This may be shown in another way.

Taking the value of the total products of the United States in 1873 at $6,000,000,000, the same products would be worth now less than $4,000,000,000, measured by our present money; or, giving equivalents in silver, the products of 1873 were equivalent to 5,152,000,000 ounces, while the same products now would purchase not more than 4,000,000,000 ounces. So that more commodities and more property of all kinds must go to buy the silver that would now be required to discharge obligations in silver at 412½ grains to the dollar than would have been required in 1873.

(In these calculations silver is taken at its bullion value on the 1st day of May for this year, and at its par value in gold in 1873.)

Or, stated briefly, an ounce of silver will buy in western markets three and a half to four bushels of corn, one and a half bushels of wheat, thirty to thirty-five pounds of pork, thirty-five to forty pounds of beef. In the South it will buy fourteen pounds of cotton or twenty pounds of tobacco. In the East it will buy twenty yards of calico or sixteen to eighteen yards of sheetings; and everywhere it will pay more rents and buy more real estate, and everywhere pay for more labor and more of the products of labor on the average by 30 per cent. than it would in 1873. This is due mainly to the change from the paper valuation to the bi-metallic level; and it would be greater but for the movement of silver toward paper, in consequence of its demonetization.

On the other hand, while the silver production of the United States for 1878 was about $39,000,000, this year it will probably not exceed $28,000,000 or $30,000,000.

In the early part of the century the proportion of silver to gold in production was 3 of silver to 1 of gold. Now the production of gold is one-third more than that of silver, while the use of silver in the arts alone takes—

For Europe	$10,000,000
The United States	4,000,000
For the rest of the world, at least	10,000,000
Total	24,000,000

The question, then, for us is, shall this country adhere to a standard that is certain to increase from year to year as silver demonetization goes on?

And, in this connection let me say for the benefit of gentlemen on the other side, that there is one way, and one way only, by which gold resumption can be maintained in the United States. Restrict all other currency, and if gold continues to appreciate, as it is shown it must under existing monetary laws in Europe and the United States, then you can maintain the gold standard only by *reducing* the volume of our other currency. You must stop issuing silver as now issued under the present law, or hoard it in the Treasury as fast as coined, as the Secretary of the Treasury is now doing, and you must also stop national banks from issuing more paper. You cannot increase the volume of paper and silver as now issued—which in so far as it operates on gold acts as so much additional paper would—and keep it all at the gold level and retain the gold also. When our currency becomes excessive as compared with the gold currency of other countries, if it is convertible into gold or any part of it convertible, then the gold will leave us. Hence if gold undergoes appreciation from any cause, to keep our currency anchored to it the volume must be reduced absolutely by contraction or by locking it up, as is now being done. The result of such a policy must be, of course, lower prices.

"But," say my friends, "we must wait until other countries return to bi-metalism."

On this point I offer the opinion of Mr. Hamilton, who said in his mint report:

> Nor can it require argument to prove that a nation ought not to suffer the value of the property of its citizens to fluctuate with the fluctuations of a foreign mint, and to change with the changes in the regulations of a foreign sovereign.

The following expressive language on this point is used by Mr. George M. Weston in his valuable book entitled "The Silver Question:"

> Reckless beyond all power of language would be that folly which would cut us loose from the moorings of our fathers, and turn over the money price of every man's possessions, and the real effect of every man's contracts in America, to the arbitrament of each successive prime minister of England.

The author of "Common Sense," written in 1775, used these words:

> A greater absurdity cannot be conceived of than three millions of people running to their sea-coast every time a ship arrived from London to know what portion of liberty they should enjoy.

Much more absurd, I imagine, he would think it to see the fifty millions of people now in the United States waiting on the pleasure of Bismarck or Disraeli to know whether there should be further reduction in the value of their property, whether the countries these ministers represent should be permitted to exact by a further change in the measure—a change inaugurated by themselves—more of our wealth in the discharge of our debts to them. No, it is not possible to conceive a greater absurdity than the proposition to make our currency subject to the legislation of foreign states, to put into the hands of foreign potentates or legislative bodies the value of every man's property in this country.

Then, is it true, Mr. Speaker, that we have reached here the limit of hard times? Are we at the end of this trouble, or are there yet before us years of struggle, of darkness, of depreciation of property, of unemployed labor, of falling prices, if we continue the present policy? Are we to begin a new course of prosperity, or, like Italy, in the language of Garabaldi, become more "wretched and despondent?"

In the April number of the Contemporary Review, an English writer, well known as the author of a number of able essays on economic subjects, says:

> England has entered upon the sixth year of commercial and manufacturing distress and decadence. There is as yet not a single ray of light shooting up through the dark mercantile horizon. A crisis without parallel in the experience of the present generation not only rests upon us but intensifies as time rolls on.
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> The practical cutting off of silver from the world's money has been at the root of much of our distress during late years, and is now one of the chief hinderances to the return of prosperity.
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> * * * * * * *
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> The world, acting under the legal injunctions of the leading monetary powers, has divorced from its monetary system that silver which from time immemorial has conjointly with gold formed its money. Widespread suffering has been the inevitable result of its folly.

Mr. COX. Who is the author?

Mr. WARNER. This is the language of Mr. Williamson. Another writer in the same journal, and who takes a similar view, is Mr. R. H. Patterson, author of the "Science of Finance" and the "Economy of Capital."

Now, is it possible that there can be a permanent improvement in the trade and business of the country, if the value of our money is to continue to increase, or, which is the same thing, prices continue to go down? Every manufacturer in the country knows that this is impossible. Physically commodities are transferred by means of railways and water-ways, by steam-power; but proprietarily wealth is transferred through the agency of money; and if the value of money is constantly being increased, then it is easy to see that all relations between property, between commodities, labor, and money must continue unsettled and industry suffer further paralysis. Money is the wheel of commerce.

We cannot do without it, nor make its procurement difficult without suffering loss. We might as well propose to take away railways, to dispense with steamships, to stop the locomotive, and then expect the exchange of commodities to go on all the same, as to take money away from the channels of trade and then expect business to prosper. Money is the vital air of commerce. It is to production, trade, and business what oxygen is to the air we breathe. It is at once the most subtle and the most potent of all human agencies; to lessen it is to stifle all industry; to change its value is to inflict endless and incurable wrongs upon society. The gold discoveries of California and Australia put new life into the commerce of the world. The industries of all civilized nations became, under this new influence, what they never were before. Production, commerce, wealth, all increased in a quarter of a century as never before. Now we have set out upon a policy which looks to the reversal of all this. In whose interest, I ask, is it done? In the interest of the whole people? No; only a small receiving class; they who hold money and funds that necessarily partake of the enhancement of money. The great mass of the capital of the country is depreciated and much of it is ruined. Capital applied to production; capital necessary for the employment of labor; that capital which must bear all the burdens of government and upon which our whole population depends for support, capital represented in cultivated fields, in workshops, factories, machinery, and labor itself, shares no part of money's gains; but on the other hand must, in the end, contribute that which others gain.

In this connection I wish to submit another thought, in which possibly I may differ with most gentlemen on this floor, though I trust not. We have all read and heard much about the wonderful achievement of the Secretary of the Treasury in placing the 4 per cent. loan; we have heard the boast of a subscription of $150,000,000 in a single day. But, Mr. Speaker, that to me is the saddest commentary that could possibly be made upon the condition of our country. What does it prove? It proves one thing, and one thing only. It proves that there is little or no profit in all this country on capital used productively; that our industries no more than sustain our population; that the American people, with their skilled hands and educated brain, with all their industrial equipment, are making no profits, are saving nothing, are making little or no additions to their wealth. In 1869, according to Mr. David A. Wells, the net earnings of the United States, that is, the profits on its industrial capital, were about $550,000,000, while the total annual increase of wealth was $920,000,000, and had been at about that rate from the close of the war, and continued up to 1873.

Now, in every country interest in the run of years is determined by one thing, and that is profits on capital productively employed. There is no other fund out of which interest can anywhere long be paid. If you go beyond this, you must draw from past accumulations; you then take what was produced last year to pay interest on what you owe this year. The rate of interest, I say, is governed by profit on capital; and the fact that $150,000,000 were offered in a single day for investment in Government securities, and that all over the country crowds jostle one another to get 4 per cent. certificates, is proof that in this great country with its boundless resources there is no profit, at least not 4 per cent. profit, on capital used in production.

The net earnings on capital given by Mr. Wells for 1869 of $550,000,000 would be 8 per cent. interest on nearly seven thousand millions of productive capital. In other words, $7,000,000,000 of capital, if that sum was actually so employed, yielded a profit of $550,000,000. This sum was an actual addition to national wealth, and constituted the fund out of which interest was paid.

There was no other fund. Suppose two thousand millions out of the seven thousand millions was borrowed capital, then the country earned 8 per cent. on it, and if the borrower obtained it for less he made the difference. But now, when capital abounds that may be had at 4 per cent., why it is proof that profits do not warrant a higher rate. It is proof that there are no net earnings of $500,000,000 or $600,000,000, as in 1869 and 1870, for interest. You could not have borrowed, this Government could not have borrowed, no one and no government could have borrowed in 1869 or 1870 in our market capital at 4 per cent. interest. It could not have been borrowed at that rate if every dollar borrowed had been backed up with a dollar in gold with the stipulation that it should be put under lock and key to be held until the principal was paid. Why? Because the owner could easily, safely, and surely have derived a greater profit. The earnings of the country permitted it. The credit of the Government is not a whit better now than in 1870. That is not what has controlled the interest it has to pay. I do not see why it pays as much even as 4 per cent., and doubtless it could borrow on short time for less, probably 2 per cent.; for 2 per cent. I believe to be more than capital productively employed in this country now makes. This great feat of our Secretary of which we hear so much boasting may be summed up in this way:

First, legislate so as to increase the value of money and depress everything else, making it unprofitable to use money or capital productively, and then give 4 per cent. for it and exempt it from taxation. Shades of Hamilton and Gallatin, is this statesmanship to boast of? Only the one who holds money or bonds is making money under this new order of things. If a million dollars had been buried in the earth five years ago and now dug up, what would the owner find? He may have drawn no interest, yet when compared with other property will it not exchange for twice as much? Or if a million of dollars in Government bonds had been buried in some vault five years ago and were now taken out, not only would there be the interest upon them, but it would be found that the principal sum of the bonds had been doubled in value as compared with real estate or other property.

This is the operation, sir, of these wicked, if not wickedly devised, measures. And, Mr. Speaker, if I could have my way, the light of another day should not fade from the sky until every vestige of this vicious monetary law was stricken from the statute-book. [Long-continued applause.]

Mr. CLAFLIN rose.

Mr. COX. I hope, Mr. Speaker, by unanimous consent the time of the gentleman from Ohio will be extended.

Mr. KELLEY. Yes, I hope that will be done.

Mr. BELFORD. I wish to ask the gentleman a question.

Mr. KELLEY. Let the time of the gentleman from Ohio be extended and then the gentleman from Colorado can ask his question.

The SPEAKER. Is there objection to the extension of the time of the gentleman from Ohio?

There was no objection and the time was extended.

Mr. BELFORD. I see there is some misapprehension on the other side of the House as to the meaning of the ninth section of the bill.

Mr. WARNER. I should like to explain it.

Mr. BELFORD. I am going to vote for the bill and I hope the gentleman will explain it. Section 9 provides that from and after the passage of this act only coins of the smaller denominations shall be fabricated on Government account.

Mr. WARNER. I will explain that. The word "only" of course modifies "dollars," not fabricate. That is as it should be. The money that the Government coins on its own account should be only the subsidiary silver pieces. The Government would have no reason for coining full legal-tender dollars on its own account after the passage of this bill.

Mr. BELFORD. I should like to have the section fully explained.

Mr. WARNER. I will explain it fully to the gentleman from Colorado and to the House. This bill does not change the coinage of subsidiary or fractional coins at all. It leaves them right where they are now.

The fractional coins, as all know, are not of full weight as compared with the dollar piece. Hence, to open the mints to the public and permit everybody to have silver coined into fractional pieces would result in bringing the silver standard at once down to 385 grains instead of 412½. The reason for making fractional coins under weight is to prevent their exportation. In the first place, it costs more to coin dimes and quarters than larger pieces, but if these pieces are of full weight it is as profitable to export dimes as it is bullion in bars. Now, it is very desirable to prevent that part of the currency which circulates among the people, and especially in retail trade, from being drawn upon for export. Hence these coins have been reduced in weight. This is a question that has been much discussed, and was made the subject of a convention called at Paris by Napoleon III, which led to the adoption of this plan in France and afterward by the Latin union.

The committee thought it best to leave the law relating to subsidiary coins as it is. I certainly think it best; and of course if the Government opens the mints to the public for the unlimited coinage of silver dollars, then it should not continue to buy bullion on its own account to convert into coins. There would be no occasion for doing so. With the mints opened to the public the control over the whole question of metallic money is in their hands. The Government never coined a dollar either of gold or silver of full legal tender on its own account until the act of February, 1878, was passed. The Government coined simply what gold and silver was brought to it and no more. The ninth section of this bill simply returns to this practice—to the practice of the Government from its foundation to 1873, when this departure was made—and puts gold and silver on the same basis. And in this connection I would like to say a few words with reference to the section of the bill which opens the mints to unlimited coinage. I have been met on every side with this objection: why you are giving a profit to the bullion dealer. Not at all. There is no profit to any bullion dealer under this bill not shared in by everybody. An ounce of silver, as Locke said, is equal to any other ounce. An ounce of silver in the form of coin, when it costs nothing to give it the form of coin will be worth no more than in the form of bullion. One hundred ounces of silver bullion will make one hundred and sixteen dollar pieces. Now, if it costs nothing to change a bar of one hundred ounces into the form of coins, and there is no restriction on the amount that may be coined, then there is no change of value. Any one may take a hundred ounces or any other quantity of silver to the mints of the United States and obtain for it one hundred and sixteen dollars and a fraction. And if all can do that no one will give more of anything for one hundred ounces of silver in the shape of coins than as bullion. Hence no profit is given to any bullion dealer. If a hundred bushels of wheat are worth a hundred ounces of silver bullion it will still be worth the same weight of silver in the form of coins and no more.

There is therefore no benefit which is not shared in by every one. To the extent that coining silver and making it money increases the use of silver to that extent it increases its value, and tends to raise silver up and bring the other metal (gold) down. Thus is restored a principle of compensation which lies at the base of the bi-metallic system, and operating always to maintain the equivalency of the two metals. In other words, Mr. Speaker, in the contemplation of this bill silver is again made a money metal—the metal is monetized. Take a hundred ounces of gold, put it into any shape, it is still equal in value to eighteen hundred and sixty gold dollar pieces, because at the mints everywhere the owner has the right to have it coined, free of cost, into eighteen hundred and sixty pieces of a dollar each. For the same reason, if you take eighteen hundred and sixty one-dollar gold coins and cut them up or melt them into any shape, if only all the gold is saved, it is still worth as much as the same weight in coins, because it may be given the form of coins without restriction and free of cost. The gold miner digs money. Restore silver to its old place as a money metal and the same will be true of silver. The metal itself becomes potentially money. This is as it should be. Silver must be put back upon this ground or we must give up metallic money. The metal itself must be given the power to become money. Then the stamp of the Government is merely a certification by the Government of weight and fineness. Locke says:

> That money differs from uncoined silver only in this, that the quantity of silver in each piece of money is ascertained by the stamp it bears, which is set there to be a public voucher of its weight and fineness.

Now, sir, the proposition that has been made to simply increase the coinage of silver instead of opening the mints to the public for unlimited coinage is no cure. Until 1872 or 1873 we never heard of such a thing in this country as the Government limiting the quantity of gold or silver money, or buying silver to make money of, taking to-day a little and to-morrow a little more. That was a new departure. The world never heard of that way of providing money until 1872-'73.

Mr. HASKELL. Will the gentleman allow me to make a suggestion?

Mr. WARNER. Certainly.

Mr. HASKELL. If the gentleman wants a reason why the Government never bought silver to coin until the time he speaks of, I will tell him. Prior to the war for twenty-five years the bullion necessary to make a silver dollar of the United States was worth one hundred and three cents in gold; and if the Government had bought it to put into coin it would have paid one hundred and three cents gold for what would be worth one hundred cents as coin. That was a very good reason why the Government did not buy silver to make money of.

Mr. WARNER. Do you say that was the reason?

Mr. HASKELL. That is a sufficient reason to my mind.

Mr. WARNER. Was it lawful for the Government to buy silver and coin money out of it on Government account? Was it ever lawful to do that until 1873?

Mr. HASKELL. I have not claimed that it was. I simply wanted to show the reason why it was not wise then for the Government to do this.

Mr. WARNER. I wish to advert to another point. As the gentleman from Kansas the other day spoke of the trade-dollar, I desire to say a word or two on that subject. The trade-dollar has been happily designated, I think, the "trick" dollar, for it manifestly was a trick dollar.

Mr. KELLEY. Before my friend proceeds to speak of the trade-dollar will he permit me to make a suggestion to the gentleman from Kansas? I wish to ask him whether the Government bought gold for coining when a gold dollar was worth three cents less than a silver one?

Mr. WARNER. A very pertinent question.

Mr. KELLEY. Or did it buy silver prior to 1834 when the silver dollar was of less value than the gold one?

Mr. HASKELL. I am not making any fight on the repeal of the law for the purchase of bullion by the Government. I care nothing about that. But now you come with a proposition that allows every holder of a greenback in the United States to take it to the Treasury and get gold for it, and then to go out and buy what will produce the silver dollar at eighty cents in the dollar.

The SPEAKER. The gentleman from Ohio is entitled to the floor.

Mr. KELLEY. I understood the gentleman from Ohio to yield to me for a moment on this point. Why, sir, until after 1834 you never saw, nor did any other gentleman now here, American gold coin in circulation. Subsequently thereto you did not see standard silver money in circulation. Why? Because before the change in the ratio between the metals was made the gold dollar was worth 3 per cent. more than the silver one, and after the change had been made, it having been made on a false and arbitrary basis, that of 16 to 1, the silver dollar was withdrawn. Had the prevalent ratio of 15½ to 1 been adopted the metals would have circulated concurrently and the silver one remained at home with gold ones.

Mr. WARNER. The bill demonetizing silver or stopping the coinage of silver, as it finally passed the Senate, dropped out somewhere in the conference committees the old dollar and left in the trade-dollar. Now the object of adopting the trade or "trick" dollar, which I have said is a fit description of it, is thus stated by the Director of the Mint. I regret to refer now to acts of the late Director of the Mint, but the acts were public and concerned the public. Here is the language he used in his report in 1872:

> The silver dollar being a useless coin, both as respects circulation and commerce, should be abolished, and we should inquire whether some new medium may not be substituted, approximating in general character and value, which will meet certain commercial requirements, becoming daily more pressing, without giving rise to any of those perplexing questions or complications resulting from the varying values of the precious metals under a double standard, and at the same time afford some relief to our mining industries from the serious decline and further apparent depreciation in the value of silver.

That same year, during the two or three months before the coinage of the silver dollar was suspended, there were 997,000 of the old dollars minted; and the year before that there were over a million coined for the public. But I wish to call attention to the language and the reasons offered by the Director of the Mint for substituting the trade-dollar. He says, in the report referred to, that there was no longer any use in trade for the old standard dollar, a dollar longer known and more widely used than any other coin in the world. Its prototype was the first coin to go around the world—the old Spanish dollar, which had been from the time of Charles V a commercial unit of value on the other side of the Atlantic, and which was adopted by Hamilton as our unit. Nor has the weight of pure metal in this unit ever been changed. There was no longer any use for that dollar in commerce, we were told; but there was for a new piece—a piece unlike any other coin in the world, being a little more valuable than the Mexican dollar, and a little more valuable, too, than the Japanese yen!

The theory upon which this new coin was put out is that if you divide one hundred ounces of silver into one hundred and fourteen pieces instead of one hundred and sixteen pieces you can get more per ounce for the silver. That is, the miner would get more per ounce for the silver which he digs if it were divided into pieces of 420 grains than if it were divided into pieces of 412½ grains. On that principle a farmer who should send his wheat to market in sacks of two and one-half bushels each instead of two bushels ought to get more per bushel for his wheat; or if the planter should increase the bale of cotton to four hundred and sixty pounds instead of four hundred and fifty pounds he would get more per pound for his cotton. Now, I cannot believe that the Director of the Mint thought that. The Secretary of the Treasury says that there is no longer any advantage in making coins weigh 420 grains instead of 412½ grains, and advises that the coinage of these pieces be stopped. What, then, was the necessity or the excuse for the trade-dollar? This and this only: there was a movement on foot to get rid of the double standard, as it was called, but we could not get along in our trade with the world very well without a silver coin of some kind. It was therefore proposed to make such a coin, but to make it unlike any other coin in the world, and to increase the weight, so that the ratio to gold would be neither 15½ nor 16. But pass this bill, and all the trade-dollars in circulation in this country will go to the mints for recoinage, as they should.

I say from the earliest accounts of the use of silver as money down to these recent acts of our own and other countries, the only limitation to either silver or gold money was the natural limitation of the material of which it was made; its control was beyond the reach of legislatures and congresses. Its value depended not upon any one man or any one body of legislators; it was beyond their reach. It rested upon the metal itself and was automatic in its regulation. And when you remove metallic money from that basis, and instead of automatic regulation submit it to the will of legislators or of a Secretary of the Treasury to control, you reduce it at once to the grade of inconvertible paper money. The character of the silver dollar in this country now is that of inconvertible paper. Silver dollars now are but silver greenbacks, as greenbacks were before they were redeemable in gold, if they are so redeemed. We have taken a costly metal to make money of and then regulated its value upon the same principle exactly and in the same way that inconvertible paper money is regulated. The Secretary of the Treasury has it in his power to make our money two millions per month more or two millions per month less; a power that no other finance minister in the world possesses or would be allowed to possess in any other country in the world; a power, I insist, which should not be left to the discretion of any man.

It is placing in his hands to an unsafe degree a control over the value of every man's property. It is placing it in his power to change the terms of every contract in the land by varying the value of money as it would not vary if left to automatic regulation through the metal itself. Unless, therefore, we restore silver to its old status of unlimited coinage, leaving the value of coins to rest upon the metal to be automatically regulated, then we should get rid of it altogether and substitute paper in its place.

Cernuschi, in his pamphlet entitled "Monetary Diplomacy in 1878," says:

> Yes; and here is the capital fact, if French interests are considered, the five-franc silver pieces have the metallic ring, but they are more of the nature of paper money than of sound, just, and real money.

Upon what principle can superiority be claimed for metallic money over inconvertible paper money, except that of automatic regulation? A greater value is now given to silver coin than warranted by the metal, by limiting the quantity of the coins. But on the same principle equal value could be given to coins of half the weight or made of any other metal or to paper. Can you not limit the quantity of paper, or ivory, or any other kind of money quite as well as you can silver money? Mr. Jevons even admits that an inconvertible paper can be maintained at the level of gold by simply limiting its quantity. We are not wise if we continue to make dollars of so costly a material as silver and then regulate their value by putting a limit on the number of pieces as we do with inconvertible paper. If the object be to make a profit, then it will be wiser to take paper or something cheap, for, as I have said, the quantity of one kind can be limited as well as another. Instead of saving 85 per cent., therefore, in all conscience let us save 99½ per cent. If a profit is what we are after, let the Government go into the manufacturing business in some other way; in some way that will not be playing fast and loose with values in the manner we have been doing.

No, gentlemen, the question is between unlimited coinage, with automatic regulation through the natural limitation of the metals themselves, or no metallic money. There is no middle ground. There is no science, no common sense in any other theory of metallic money. The abridgment of hard money is a new thing in the world. It was never heard of in this country, I repeat, until 1873.

Let us go back to the sound doctrine of the founders of the Government; will not our New York friends go back to the teachings of Alexander Hamilton and Silas Wright; will not our Pennsylvania friends learn from Albert Gallatin—the only peer and rival of Hamilton in his time—of Robert Morris and Coody Raguet?

Was there ever a democrat from the beginning of the Government till 1873 who proposed to limit the quantity of metallic money? No, it never was heard of. This doctrine of the abridgment of metallic money is a dangerous innovation, menacing to the rights of property and changing the distribution not only of present, but of all future wealth. It was inaugurated in the interest of a bondholding class and against the interests of the great producing classes of our people. Every consideration of duty and right demands that we shall stand by the standard of both metals. The tenure of property with thousands of people depends upon it. Give back to the people their just rights. Let them gather up again the threads of prosperity they have lost. The greatest wealth of a civilized people, after all, lies in their power to create, in their enterprise, their skill, in the range and extent of their industries. Sweep clean the earth of all past accumulations, but save the educated brain, the acquired skill, and the equipment these have created, and permit unrestrained activity, and in a generation all would be re-created.

But of all the instrumentalities for the creation and distribution of wealth, the "great instrument of exchange"—money—is at once the most delicate and important. It is the spring that moves and regulates all the machinery of production and trade. Stability, unchangeability, to the fullest extent possible in money is the thing of all others most to be desired; and only by standing to both the metals, with unlimited coinage for both, can that be secured to a metal currency. [Applause.]

Mr. CLAFLIN obtained the floor.

Mr. STEPHENS. Will the gentleman from Massachusetts [Mr. CLAFLIN] yield for a motion to adjourn?

Mr. CLAFLIN. At the suggestion of gentlemen on both sides who desire to hear this question discussed at an earlier period of the day, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at three o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: Papers relating to the war claim of Lizzie Rogers, of Saint Mary's Parish, Louisiana—to the Committee on War Claims.

By Mr. CARLISLE: The petition of Eliza A. Scott, widow of Captain Joseph Scott, deceased, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Calvin Bronson, of Toledo, Ohio, for the refunding of internal-revenue taxes alleged to have been illegally collected from him—to the Committee of Ways and Means.

By Mr. CLARK, of Missouri: The memorial of the Legislature of Missouri, for the repeal of certain statutes and the modification of existing laws relating to the "removal of causes" from the State courts to the circuit courts of the United States—to the Committee on the Revision of the Laws.

By Mr. GOODE: Papers relating to the war claim of Anna Perry—to the Committee on War Claims.

By Mr. HENRY: The petition of citizens of Queen Anne, Talbot, and Caroline Counties, Maryland, for an appropriation for the improvement of Tuckahoe Creek—to the Committee on Commerce.

Also, the petition of citizens of Caroline County, Maryland, for an appropriation for the improvement of the Great Choptank River near Greensborough—to the same committee.

By Mr. MANNING: The petition of Frank L. Donnelly, for additional compensation for services as a page of the House of Representatives—to the Committee on Reform in the Civil Service.

By Mr. MURCH: The petition of 178 workingmen, of Quincy, Massachusetts, for the enforcement and observance of the eight-hour law—to the Committee on Education and Labor.

Also, the petition of 90 workingmen of Salem, Massachusetts, of similar import—to the same committee.

Also, the petition of 38 workingmen of New York and New Jersey, of similar import—to the same committee.

Also, the petition of 43 workingmen of Clark's Island, Maine, of similar import—to the same committee.

Also, the petition of 81 workingmen of Westerby, Rhode Island, of similar import—to the same committee.

Also, a petition of the inhabitants of Saco, Maine, for the enactment of a law authorizing a new issue of full legal-tender paper money, and instructing the Secretary of the Treasury to buy and cancel United States bonds with the same—to the Committee on Banking and Currency.

Also, the petition of the Greenback Club, of Newark, New Jersey, for the enactment of a law expanding the currency—to the same committee.

By Mr. O'NEILL: Papers relating to the pension claim of Annie Gibson Yates—to the Committee on Invalid Pensions.

Also, the petition of Margaret Dickson, for a pension—to the same committee.

Also, the petition and affidavit of Thomas Toomey, formerly a private of Company A, Sixty-Ninth Regiment Tennessee Volunteers, for a removal of the record of desertion—to the Committee on Military Affairs.

Also, papers relating to the claim for bounty of Robert M. Barr, father of William B. Barr, deceased, late a private of Company E, Seventy-Third Regiment Pennsylvania Volunteers—to the same committee.

By Mr. RANDALL: The petition of J. C. Pemberton, of Philadelphia, Pennsylvania, (accompanied by draught of bill,) for the removal of his political disabilities—to the Committee on the Judiciary.

By Mr. RYAN, of Kansas: The petition of citizens of Kansas, for a mail-route from Hill Grove to Dodge City, in that State—to the Committee on the Post-Office and Post-Roads.

By Mr. SPRINGER: The petition of T. E. Chambliss, for expenses of contesting a seat in Congress from the fourth congressional district of Virginia—to the Committee of Elections.

By Mr. WRIGHT: The petition of Adelaide Koons and 81 other women of the twelfth congressional district of Pennsylvania, of the Woman's National Christian Temperance Union, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee on the Judiciary.

IN SENATE.

MONDAY, *May* 5, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

THE JOURNAL.

The Journal of the proceedings of Friday last was read.

Mr. EDMUNDS. Mr. President, I should like to hear that part of the Journal read again, which refers to the resolution about the Spofford case, as to the action on the resolution, not the resolution and the amendment, but what the order of the Senate was; I did not hear it.

The PRESIDENT *pro tempore*. That portion of the Journal will be again read.

The Chief Clerk read as follows:

The Senate proceeded to consider the resolution reported yesterday by Mr. SAULSBURY, from the Committee on Privileges and Elections, instructing said committee to inquire into the matter alleged in the petition of Henry M. Spofford, relating to the right of Hon. WILLIAM PITT KELLOGG to a seat in the Senate; and,

On motion by Mr. HOAR, to amend the resolution by striking out all of said resolution——

Mr. EDMUNDS. Pass that and come down to what the Senate finally ordered.

The Chief Clerk read as follows:

Pending debate.

The PRESIDENT *pro tempore* announced that the morning hour had expired, and called up the unfinished business of the Senate at its adjournment yesterday, viz: The bill (S. No. 108) to prevent the introduction of contagious and infectious diseases into the United States; and the Senate resumed, as in Committee of the Whole, the consideration of the said bill.

Mr. EDMUNDS. That is right, Mr. President; I thought I heard it read that the resolution was made a special order.

The PRESIDENT *pro tempore*. The Journal is approved. Petitions and memorials are now in order.

Mr. HOUSTON. I was endeavoring to get the attention of the Chair in relation to the amendment of the Journal.

The PRESIDENT *pro tempore*. No amendment has been moved to the Journal.

Mr. HOUSTON. I should like, then, to hear that part of it read again, if the Chair will gratify me.

The PRESIDENT *pro tempore*. The portion of the Journal just read will be again reported.

The Chief Clerk again read the extract from the Journal.

Mr. HOUSTON. Mr. President, of the facts as they occurred a very important one is not stated in the Journal—that the report of the Committee on Privileges and Elections was postponed by unanimous consent. The way the Journal reads now it would indicate that the Chair ruled that the unfinished business came up because it was in order in advance of the privileged question. Now, the truth is, and I think it ought to appear upon the Journal, that upon the motion of the chairman of the Committee on Privileges and Elections, [Mr. SAULSBURY,] the report from that committee upon that subject was by unanimous consent postponed till Tuesday.

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Alabama that the Journal is made up in strict pursuance of the facts as the Chair understands them. Of course, if a motion is made to correct the Journal it must be submitted to the Senate. The Chair did not decide that the resolution reported from the Committee on Privileges and Elections took precedence of the business that would come up at the expiration of the morning hour. That was a question upon which the Chair made no ruling at all one way or the other; but after considerable discussion as to whether it was a question of privilege that took precedence, the Senator from Delaware, the chairman of the committee, suggested that he did not wish the resolution pressed until next Tuesday and nothing further was said about it, and the Chair laid before the Senate the unfinished business. The Chair would state to the Senator from Alabama that the resolution is the first business in order after the routine morning business, and by unanimous consent can be laid over until to-morrow, in accordance with the suggestion made by the Senator from Delaware on Friday.

Mr HOUSTON. No sir I do not ask that th resolution be taken up to-day; I do not want to violate the arrangement made by the chairman of the committee with the unanimous consent of the Senate. But the reading of the Journal as it now stands would seem to indicate that that particular course was taken with the business because of the superiority over the privileged question of the unfinished business at the expiration of the morning hour. I make no motion to amend the Journal, but I suggest to the Chair whether it is not the province of the Journal to record the motion of the chairman of the Committee on Privileges and Elections, the Senator from Delaware, to postpone the resolution until Tuesday, and to state that by unanimous consent it was so postponed?

The PRESIDENT *pro tempore*. The Chair is not aware that any such motion was made. The Chair, as he has said, made no ruling upon the subject. If the Chair had been compelled to rule, he would have felt constrained to rule in accordance with the previous decision of the Vice-President, which he would not assume to overrule unless the Senate so ordered, that precedence was given to the yellow fever bill.

Mr. HOUSTON. The report of the Committee on Privileges and Elections was postponed until Tuesday, to-morrow. There is no doubt about that. Having been postponed until to-morrow, it now stands for to-morrow to be taken up then. The Journal ought to show that.

The PRESIDENT *pro tempore*. The Chair is not aware of any such vote.

Mr. HOUSTON. There was no particular vote, but it was done by unanimous consent.

Mr. CONKLING. Not at all.

Mr. HOUSTON. The chairman of the committee rose and said he was willing the resolution should be postponed until that time, and it was so postponed. There was no vote upon the question, but it was done by unanimous consent.

Mr. HILL, of Georgia. I think there is no practical difference in

regard to the matter. There was no vote; there was simply a general understanding. I do not think as my friend from Alabama does, that it is necessary the action of the Senate should go on the Journal at all; it was simply a sort of acquiescence in the suggestion made by the Chair, that if the resolution was not pressed the unfinished business would be taken up; and there was also an acquiescence in the response of the chairman of the Committee on Privileges and Elections, that he had no objection to the resolution going over until Tuesday. There was a general understanding that the matter should go over until Tuesday; that was all; no vote was taken.

Mr. KERNAN. If the Senator will allow me, I think he will remember that the chairman of the Committee on Privileges and Elections said he had to be away until this evening, and, therefore, there was, as I supposed, unanimous consent, without any motion, that the resolution should not be taken up until to-morrow.

Mr. HILL, of Georgia. Is there any wish to bring it up this morning?

The PRESIDENT *pro tempore*. Not as the Chair understands, and there is nothing before the Senate unless a motion be made to amend the Journal. No such motion has been made.

Mr. HOAR. I ask the Senator from Georgia if he will yield to me a moment?

Mr. HILL, of Georgia. Certainly.

Mr. HOAR. I desire to make a statement in connection with this matter. I have seen very extensively the statement made in some of the northern newspapers that the majority of the Committee on Privileges and Elections had a meeting in the absence of the republican members and passed upon this question and ordered the resolution to be reported to the Senate. I think it is proper I should state that, so far from that being true, the chairman of the committee, the honorable Senator from Delaware, delayed a meeting on this subject for ten days in consequence of an absence of mine which was rendered necessary by some professional engagements, and that after my return the Senator called on me and consulted me as to the time when it would be convenient to the minority to have a meeting of the committee on this subject; and when the committee acted on it all the members of the committee were present. I think it is just to the honorable chairman to make that statement.

Mr. HILL, of Georgia. I do not propose to amend the Journal. I will state that I had not seen the statement to which the Senator from Massachusetts refers, but the statement he himself makes is correct, and I am glad that he has made it. The entire committee was present when this matter was passed upon and the resolution was ordered to be reported.

Mr. CONKLING. Mr. President——

The PRESIDENT *pro tempore*. This discussion proceeds by unanimous consent.

Mr. CONKLING. I rise to present a memorial.

The PRESIDENT *pro tempore*. Petitions and memorials are in order.

PETITIONS AND MEMORIALS.

Mr. CONKLING. I present a memorial of the Chamber of Commerce of the State of New York calling attention to the fact that since 1875 a naval training school for boys has been maintained on the frigate Minnesota at the port of New York; that there is danger of the training-school system languishing or perishing for lack of legislation; that a bill adequate to the end indicated passed the last House of Representatives, came to the Senate and failed in the Senate; that the bill is here now; and the Chamber of Commerce indicates a strong judgment that that bill should receive early action. I move the reference of the memorial to the Committee on Naval Affairs.

The motion was agreed to.

Mr. CONKLING. I present also a memorial of the Chamber of Commerce of the State of New York, calling attention to an obstruction, being a bank of sand, located midway between Governor's Island and Brooklyn, in the harbor of New York, and further attention to the fact that considerable disasters have occurred in consequence of this obstruction, and directing the attention of Congress to the necessity of its removal. I move that the memorial be referred to the Committee on Commerce.

The motion was agreed to.

Mr. FERRY presented the memorial of Mrs. O. R. Hatch and other members of the Woman's Christian Temperance Union, remonstrating against the repeal of the amended internal-revenue act relating to spirituous liquors, approved March 1, 1879; which was referred to the Committee on Finance.

Mr. INGALLS presented the memorial of W. H. Vandewalker and a large number of other citizens of the county of Cowley, Kansas, remonstrating against the passage of any act extending the patent of John C. Birdsell for a combined clover hulling and threshing machine; which was referred to the Committee on Patents.

Mr. KERNAN presented the memorial of George A. Ketchum and between three and four hundred other citizens of New York, remonstrating against the passage of any act extending the patent of John C. Birdsell for a combined clover hulling and threshing machine; which was referred to the Committee on Patents.

He also presented the petition of Martin J. Deponai, late private Company E, Eightieth Regiment New York Volunteers, praying for the passage of a law granting him an increase of pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. McDONALD. The Committee on the Judiciary have directed me to report the bill (S. No. 141) for the removal of the political disabilities of John S. Saunders, of Baltimore, Maryland, and recommend that it pass.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. McDONALD. If there is no objection, as it is simply a bill to remove disabilities, I ask that it be put on its passage.

Mr. EDMUNDS. Let it stay on the Calendar, Mr. President.

The PRESIDENT *pro tempore*. Objection is made.

BILLS INTRODUCED.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 548) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes; which was read twice by its title, and referred to the Committee on Finance.

Mr. HILL, of Georgia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 549) for the relief of Samuel I. Gustin; which was read twice by its title, and referred to the Committee on Claims.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 550) to extend the northern boundary of the State of Nebraska; which was read twice by its title, and referred to the Committee on Territories.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 551) granting a pension to James O'Connor; which was read twice by its title, and referred to the Committee on Pensions.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 552) granting a pension to Marshall D. Ellis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TELLER asked, and by unanimous consented obtained, leave to introduce a bill (S. No. 553) for the relief of Elisha Bass; which was read twice by its title, and referred to the Committee on Claims.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 25) authorizing the Public Printer to bind in cloth two volumes of Sailing Directions for the United States Hydrographic Office; which was read twice by its title, and referred to the Committee on Printing.

MILITARY INTERFERENCE AT ELECTIONS.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 554) to prohibit military interference at elections; which was read the first time by its title.

Mr. EATON. Let the bill be read at length.

The bill was read the second time at length, as follows:

Whereas the presence of troops at the polls is contrary to the spirit of our institutions and the traditions of our people, and tends to destroy the freedom of elections: Therefore,

Be it enacted, &c., That it shall not be lawful to bring to or employ at any place where a general or special election is being held in a State, any part of the Army or Navy of the United States, unless such force be necessary to repel the armed enemies of the United States, or to enforce section 4, article 4, of the Constitution of the United States, and the laws made in pursuance thereof, upon the application of the Legislature or the executive of the State where such force is to be used; and so much of all laws as is inconsistent herewith is hereby repealed.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) To what committee does the Senator desire the bill to be referred?

Mr. EATON. The measure is so manifestly just that I was in hopes there would be no objection to the bill being immediately considered, although I agree that that is not the ordinary course pursued. I ask, if there be no objection, that we now take the bill up.

Mr. CONKLING. "Manifestly" what, may I ask the Senator to repeat?

Mr. EATON. "Manifestly just."

Mr. CONKLING. I never supposed that could be the word the Senator employed, and, therefore, I wished him to repeat what he said.

Mr. EATON. If the bill must go to a committee, I move that it go to the Committee on the Judiciary. I would rather have it considered now. ["No!"]

The bill was referred to the Committee on the Judiciary.

PREVENTION OF EPIDEMIC DISEASES.

The PRESIDENT *pro tempore*. If there are no "concurrent and other resolutions," the next business in order on the Calendar is the resolution reported by Mr. SAULSBURY from the Committee on Privileges and Elections, authorizing an investigation into the matters alleged in the petition of H. M. Spofford, &c.; which the Chair understands by unanimous consent is to go over until to-morrow. Is there objection? The Chair hears none. The morning hour will be considered as having expired, and the Senate resumes the consideration of its unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, the pending question being on the motion of the Senator from Maine, [Mr. HAMLIN,] to recommit the bill to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, with instructions to report a code of regulations.

Mr. PLUMB. Mr. President, before the question is taken on the motion of the Senator from Maine, and without anticipating what the fate of the bill may be, I desire to say something on the proposition that I submitted on Friday in the form of an amendment for the purpose of having it printed. This matter bearing on an essential part of this bill in my view, I should like to present a few considerations before the motion to recommit is submitted.

Sections 9 and 10 of the bill are designed to cover a subject which is of very great interest to the people of the Western States and I think to the people of the entire country, to wit, what may be called practically a quarantine concerning diseases of cattle, or rather, diseases of all animals. If that subject had not made its appearance in the bill in this shape, I should not have suggested an amendment to give the National Board of Health jurisdiction of that subject, believing as I do that it would be much better to have it made the subject of a separate bill or to give some other department jurisdiction of the question, but it has been inserted here, and as I understand by request of the Committee on Agriculture. The objection that I make, however, is not so much to the fact that the bill embraces any provision upon this subject, as that the provision which it does embrace is absolutely and wholly without any effect; that is to say, it would have no effect upon what I consider to be the real merits of the matter which it is supposed to touch.

The country has been aroused during the past year considerably by investigations which have disclosed the fact that pleuro-pneumonia has existed among the domestic cattle of this country and to a degree which has created very grave and I think well-founded alarm among all producers of cattle and all persons interested in that very large, extensive, and profitable branch of business or interest. The cattle of this country are estimated to be of the value of about $28,000,000; and yet among all the legislation which has been passed and which has been proposed there has been nothing practically which has had the effect to keep out these much-dreaded diseases.

It is a fact well attested in the experience not merely of scientific persons but in the observation of all persons connected with the cattle business, veterinary surgeons and others, that the two diseases which have occasioned very great loss heretofore and which are a subject of a great deal of consideration now all over the country are the result of importation practically; that is to say, the diseases do not originate in this country but come with cattle brought from abroad. The Revised Statutes prohibit the introduction of foreign cattle, but permit the President to afford relief against that prohibition. The only barrier to-day against the introduction of diseased cattle is a consular certificate given by the consul of the United States at the point where the cattle are embarked. That covers, as it necessarily can only cover practically, the condition of the cattle at the time of shipment. Admitting that the consul might be a proper person to give such a certificate, that he might be qualified to determine the question of the existence of disease at that time, it still fails wholly to meet the point, because the period of incubation of a disease of this kind is usually about sixty days, so that the disease may not have developed itself for that period of time after the cattle had left the foreign port and long after they had been deposited on our shores. There is, therefore, absolutely no protection against the introduction of cattle diseases. While the Legislatures of various States and Congress have been seemingly quite diligent in devising measures to stamp out the cattle disease there has been absolutely nothing done to prevent its introduction.

The amendment which I offered on Friday was designed to cover this point. As I said before, I should not have thought of introducing it in this connection if I had not found in the bill a cognate provision, so to speak. Assuming that the National Board of Health is to be clothed with the large powers mentioned in the preceding sections of the bill in regard to matters that concern the public health, and are to have any power whatever in regard to the spread of disease among domestic animals, they ought to have the power conferred by the amendment which I have offered. I do not say that this is the best that can be done, but I do think it would be a step at least in the right direction. When I mentioned the matter to the Senator from Tennessee [Mr. HARRIS] who has the bill in charge, and he told me that the two sections of the bill to which I referred came from the Committee on Agriculture of this body, I was very much surprised that they had so far overlooked the origin of these diseases, and therefore the source of the greatest trouble and danger. It would be of no avail whatever to expend money to stamp out the diseases existing now among the cattle in the country if at the same time every port of the United States is open to the introduction of these diseases without any restriction of any kind or description whatever; and it is to prevent the introduction of these diseases, to give the National Board of Health the jurisdiction which it ought to have for the purpose, that my amendment has been offered.

The organization of this board is not, perhaps, what it had better be for the purpose of taking jurisdiction of the question of cattle diseases. It ought to be so constituted as to include not only the physicians who are already members of the board, but some person who by reason of his qualifications and experience might be supposed to be specially qualified to treat of or to discover and eradicate the imported diseases of cattle. At the proper time, if this question should come again before the Senate, I should be inclined to move a reconstruction of the National Board of Health for that purpose.

I had supposed that as the matter had received some attention elsewhere, in the other branch of Congress, the result would perhaps be a bill which would cover this plan; but I discover that it has not been done, and that following the suggestions that have been made here, the legislation is to be directed solely toward the stamping out of the diseases within the United States and not to the prevention of their introduction. I hope that if the bill shall be recommitted and go again into the hands of the committee, the committee will consider whether or not an amendment similar to the one which I have offered may properly be added to the bill for the purpose of giving to this National Board of Health, the only board now constituted for any such purpose, the authority which will be necessary to prevent the introduction of cattle diseases; and if not, that they may consider the question whether this may not be made the subject of a separate bill embracing the same general purpose and giving either to the Commissioner of Agriculture, or the Secretary of the Treasury, or to some other official the power which now seems to be lacking, or if not lacking has been so far very improperly and improvidently exercised.

I do not mean to anticipate what the fate of the bill will be upon the motion to recommit, but accepting the urgency as expressed by Senators who are within the range of the yellow fever, I should be very much inclined to give to the National Board of Health at this time extraordinary power, trusting to the future to determine what modification, if any, might be necessary; but if they are to have this all-pervading jurisdiction, covering not merely southern ports but northern ports, then I imagine that that jurisdiction may properly be, as it ought to be, exercised for the purpose of preventing the introduction of diseases among cattle which imperil that very large and important interest in this country.

Mr. MAXEY. Mr. President, the bill pending before the Senate is the result of an investigation made by a committee appointed by Congress to consider the best means of preventing the introduction of contagious and infectious diseases into the United States. The report of that committee shows that their entire attention was directed toward that subject, the prevention of the introduction of infectious or contagious diseases among human beings into the United States, and not at all to "an investigation of the contagious or infectious diseases of domestic animals in the United States intended for interstate transportation."

Sections 9 and 10 of the bill relate to diseases of cattle, &c., and have no sort of connection, so far as I am able to perceive, with the subject of prevention of the introduction into or spread within the United States of contagious and infectious diseases among human beings. They relate to diseases among cattle, and direct the National Board of Health to investigate them. That is wholly a separate and distinct subject, in no wise connected with the introduction of yellow fever and cholera into the United States. It would be an extremely remote thing to say that as cattle are food for man an investigation of the diseases of cattle would be germane to the bill now pending before the Senate. The rearing and shipment of cattle are matters of great importance to many States of this Union. The State which I in part represent is the largest cattle growing and shipping State in the Union, raises more and sends more to market than any other State in the Union, and I cannot see that the National Board of Health has anything in the world to do with this great cattle trade. They may be experts on the subjects of yellow fever and of cholera; and if they have been faithful in acquiring the information necessary to become experts in yellow fever and cholera they have had no time to know anything about the diseases of cattle. My judgment is that the testimony of a board of cow doctors, or, perhaps more elegantly, veterinary surgeons, would be far more important in throwing light on this subject than the testimony of the gentlemen organized as a National Board of Health.

I shall, if it be proper at this time, move to strike out sections 9 and 10 of the pending bill as having nothing whatever to do with the subject-matter of the bill and as being more appropriate to come in, if at all, as a separate matter, because when that subject comes up it is of such great importance that it will necessarily be very much discussed, and it ought to be; and those interested in protecting this great cattle interest have a right to know by thorough investigation that there is a necessity for any legislation on that subject. I do not believe any such necessity exists.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Chair holds that a motion to commit takes precedence of a motion to amend.

Mr. HARRIS. Mr. President, in order to define a little more sharply the scope, objects, and purpose of the bill under consideration, I send to the desk an amendment as an additional section, which I shall offer at the proper time, and ask that it be read for information.

The PRESIDING OFFICER. The proposed amendment will be read.

The Secretary read as follows:

SEC. 13. That nothing in this act shall be so construed as to supersede or impair the operations of the sanitary or quarantine laws of any State within the territorial limits of such State, the object of this act being to so regulate commerce as to prevent the introduction of contagious or infectious diseases from foreign countries into the United States and from one State into another.

Mr. HARRIS. I give notice that at the proper time if this bill shall not be recommitted I shall offer that as an additional section to the

bill. And while I am upon my feet I desire to say that on Friday last what is known as the Sanitary Council of the Valley of the Mississippi, in which were represented the State health associations of Minnesota, Michigan, Illinois, Kentucky, Arkansas, Tennessee, Louisiana, Texas, Mississippi, Wisconsin, and Colorado, adopted just before its adjournment the resolutions which I send to the Clerk's desk and ask to have read.

The PRESIDING OFFICER. The resolutions referred to will be read.

The Chief Clerk read as follows:

Resolved, That the Sanitary Council of Mississippi Valley heartily indorses the bill now pending before Congress "to increase the efficiency of the National Board of Health, and to prevent the introduction into or spread within the United States of contagious diseases," and would respectfully recommend its speedy passage by Congress, so as to clothe the board with executive as well as advisory powers.

Resolved, That this council is in hearty sympathy with the National Board of Health in its object of securing the restraint of pestilential epidemics in the whole country, and pledges itself to hearty co-operation with the National Board of Health in this noble work.

Resolved, That a copy of these resolutions be sent to the State delegations in Congress of each of the States represented in this sanitary council, respectfully requesting their assistance in securing legislation which shall protect our people from foreign pestilence and domestic danger.

Mr. HARRIS. I simply desire to say in reference to the matter discussed by the Senators from Kansas and Texas a few moments since, that the two sections in the bill, 9 and 10, which provide for an investigation and report of cattle diseases, were suggested by a member of the Committee on Agriculture as proper to be incorporated into this bill, the Committee on Epidemic Diseases being satisfied that if the investigation of that subject be necessary and proper to be made the National Board of Health was perhaps as well qualified if not better qualified to conduct that investigation and to make a report of whatever recommendation may be necessary as any other board or any other physicians to whom that power could be delegated; and the National Board of Health being organized and in the work of conducting investigations of a kindred character, can certainly investigate and make its report at very much less expense than a new commission can do.

That much only I desire to say on the subject, and I shall be perfectly content for the Senate to keep those sections in or vote them out of the bill, as they do not affect in one way or the other the main object this bill has in view.

Mr. MAXEY. The main body of this bill is sent here upon evidence taken at large expense to the people of the United States in order to ascertain whether or not a bill ought to pass Congress and whether a bill can be constitutionally passed with a view to prevent the introduction of contagious and infectious diseases into the United States. So far as these sections 9 and 10 are concerned, they assume that a necessity exists for legislation in respect to diseases of cattle, &c., intended for shipment; and that assumption is absolutely without proof, because no proof whatever has been taken by the committee to sustain sections 9 and 10, and I deny the right to assume without investigation and without proof the necessity of such legislation.

Mr. HOAR. Mr. President, I stated the other day very briefly one objection to this bill, which the chairman of the committee who introduced it has not dealt with, which is a very strong one in my mind, and that is, in addition to the general powers over foreign commerce, commerce by vessel and steamboat, the powers which are lodged in this board, if they choose to exercise them, over the communication between places compactly settled which happen to lie upon the boundary line of different States and the power to interfere with and overthrow the existing health regulations at such points.

There is, undoubtedly, a desire on the part of the people and on the part of Congress to do anything which may, within the bounds of a reasonable possibility, tend to prevent a repetition of the scourge from which a portion of our country suffered last year. But I am not in favor of giving these vast powers to this board, constituted as it is, over all contagious or infectious diseases. I think the bill ought to limit the powers of the board at present to cases of yellow fever and cholera, and I think that all that has been stated by the friends of this bill as desirable may be accomplished by a simple bill contained in a single section which I have drawn up and will read:

Whenever in the opinion of the President of the United States there is danger that cholera or yellow fever may be introduced from abroad into any port or place within the United States, or spread from State to State within the same, and in his judgment the existing quarantine or health regulations at such exposed places are insufficient, he may authorize the Board of Health to make further rules and regulations in the premises, which being submitted to and approved by him shall be valid and in force.

That bill, with the addition of the penalties contained in the existing bill on vessels that violate the rules, will in my judgment accomplish all that is necessary. I desire to send that to the Chair and have it printed and go to the committee if the bill shall be committed to them again.

The PRESIDING OFFICER. That order will be made. The question recurs on the motion to recommit.

Mr. KERNAN. Before the motion is put I desire to call the attention of the Senate, rather in aid of the motion, to the legislation had at an early day on this subject. I have expressed before my apprehension that, with the best intentions, there will be a serious interference by the proposed law, and a needless interference, with commerce to the great detriment of that interest, and I fear there will not be, certainly in the sea-ports of the North, as much safety against infectious and epidemic diseases as there is now. One feature of the bill seems to supersede and will destroy the regulations established for years in the ports of New York, Boston, and Philadelphia. My wish is to aid in the direction the friends of this bill desire to go. I am solicitous that the Federal Government shall aid in excluding contagious and epidemic diseases; and where there is no quarantine established by a State by law, of course the Federal law should take effect, and there it will not be injurious probably to the State; but to apply this to States where we have tried systems of quarantine which do not needlessly interfere with commerce, but do interfere wherever there is danger of disease, I think will be very injurious.

In 1799 there was an act passed which the committee should examine, and I think they should legislate in accordance with this statute, which is "an act respecting quarantine and health laws," and it is now in the Revised Statutes at page 931. I wish to call attention to it that the Senate may see how wisely the men of that day supplemented the national authority to the State systems and the State authority. The first section provides:

The quarantines and other restraints established by the health laws of any State, respecting any vessels arriving in, or bound to, any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several revenue-cutters, and by the military officers commanding in any fort or station upon the sea-coast; and all such officers of the United States shall faithfully aid in the execution of such quarantines and health laws, according to their respective powers and within their respective precincts, and as they shall be directed, from time to time, by the Secretary of the Treasury But nothing in this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

The second section is in this language:

Whenever, by the health laws of any State, or by the regulations made pursuant thereto, any vessel arriving within a collection district of such State is prohibited from coming to the port of entry or delivery by law established for such district, and such health laws require or permit the cargo of the vessel to be unladen at some other place within or near to such district, the collector, after due report to him of the whole of such cargo, may grant his warrant or permit for the unlading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, deem expedient for the security of the public revenue.

The third section of the act is:

There shall be purchased or erected, under the orders of the President, suitable warehouses, with wharves and inclosures, where merchandise may be unladen and deposited from any vessel which shall be subjected to a quarantine or other restraint, pursuant to the health laws of any State, at such convenient places therein as the safety of the public revenue and the observance of such health laws may require.

It will be observed that the Federal Government here comes in in aid of the local quarantine laws, so that the interest of the Government and the laws of the State shall be carried out without detriment to either. There are other sections of the act guarding the Government from the danger of loss and enforcing the idea which I think is the true one, that the people of a State having established a quarantine, their own lives being dependent on its sufficiency, are not to have those local regulations swept away by any board established by the Federal Government.

These laws, I observe, have remained unchanged and unaltered with a single exception, down to this time. I have never heard complaint that the Federal Government suffered or that the people of the localities where they were subject to epidemics suffered because they had taken the matter in hand and established quarantine laws. I have never heard any complaint on either side, and my apprehension is, and I believe it is what should be done, that the present bill should be framed in the spirit of this law of 1799, which has worked so well and which experience has not led the National Legislature to change. The new bill should be in the same spirit, not superseding and wiping out the State regulations under certain contingencies, but it should be a bill in aid of that which is so important and is likely to be looked to so well by localities like New York, Boston, and other sea-ports that have had long experience of danger and have had great immunity from epidemic diseases by means of the efficiency of their own systems.

It is, therefore, in a spirit wishing to aid in passing a bill particularly to benefit the people in localities where they have not established these regulations that I hope the bill will be recommitted, and that the committee may examine the spirit of the old law, may consult together, and frame a law that shall get rid of all questions of either the State laws being unconstitutional or of their being in antagonism to the national laws, and that we shall in that way get a bill that we can all unite in passing, which shall aid in protecting the public health by the Federal Government, but shall not attempt to do that by sweeping away the quarantine and health laws and regulations which have existed for fifty or seventy-five years, and have been perfected by experience, and have protected wonderfully the cities around our great sea-ports upon the Atlantic in the North. Therefore I shall vote for this motion in a spirit of friendliness to the bill, in a desire to aid the quarantines that are now in existence, and not to destroy them, but to supplement this board's duties to theirs, so that it can act in harmony with them, and leaving it where the States do not act to arrange as it shall believe is best. There is fear that a board sitting here will be likely to needlessly interfere with commerce. While I will protect life against commerce, yet I desire that there shall be no needless interference with the business of the country by an experiment, when it gets along now without complaint

and without danger of disease, as experience proves, in ports like New York, under the State systems.

I do not want to discuss the question of how far the State can go to protect its own people from disease and have its action constitutional. I believe the best interest of all is that the Federal Government shall supplement and aid in carrying out the local regulations. It can make even many of its revenue laws bend to that, as it did in the act of 1799, and as the laws have existed ever since. Believing that such a bill can be framed more perfect than this for even the section the committee mainly had in their minds, where none of these regulations have been established, or if any not of any very long continuance; believing that it is as well for them and but just and wise toward the commerce of the North and toward the health of the North, to allow the State systems to continue, I shall vote for the motion to recommit. I do not want any board, I care not how learned or how skillful, to come to New York Harbor, where we have more than a million people subject to infectious disease, and say, "We are wiser than all your regulations which you have matured during years, by experience, which have protected you so well; and we will start a new experiment," which may be a very disastrous experiment not only to our commerce but to the health of our people. Therefore I hope, in friendliness to this effort, the bill will be recommitted, for we cannot perfect very well in the Senate a bill on a subject like this, and that the committee will revise it and see if they cannot make it in harmony with the quarantine and health laws of the States where they exist, in the spirit of the act of 1799 which has stood substantially unchanged to this time, making this legislation auxiliary to the States, under further guards for the protection of the revenue.

Mr. HARRIS. I wish to ask the Senator from New York if the very system he now recommends has not been in force for years, and if the epidemics that have so fearfully scourged the country so recently have not occurred under the operations of the system he asks us now to continue and make the power of the Federal Government auxiliary to a system that has so signally failed in accomplishing the object this bill seeks to accomplish?

Mr. KERNAN. I answer with entire sincerity that I do understand that in certain localities the people have failed to have health laws and quarantine properly established. What I said was that where that was the case, where there had not been local action, we should act, and in other cases supplement what little the localities had done. But this system has not failed in the great port which is in the State where I live. As my colleague said the other day, year after year, without alarm or danger or clamor, yellow fever is in our harbor. As our people go up and down to resorts of recreation and health, they see the flag flying; but it has never spread to the community, and therefore the system has not been a failure in New York. The people I represent write me and urge me to aid in helping those who have no system, but to try to preserve what has been established as an auxiliary to ours, and not as by the seventh section putting in this board the power to wipe it all out, and then if the new system which we have not had experience of shall prove to be less beneficial we shall suffer and they will regret it.

Let us move slowly in this month of May approaching the hot weather, and in New York and places like it where the experiment has never failed in the last forty years, we have changed it and legislated upon it and had health officers of experience there until those whose lives are at stake feel that it is as perfect as it can be, except so far as the Federal Government may further make its laws auxiliary to it and not destructive of it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine, [Mr. HAMLIN.]

Mr. HARRIS. Before the vote is taken I desire to say a single word. The motion of the Senator from Maine is to recommit with instructions to the committee to report a code of rules and regulations for the execution and enforcement of this act.

The PRESIDING OFFICER. The Chair would state to the Senator from Tennessee that the only motion under the rules to be entertained is the motion to commit.

Mr. KERNAN. I think a simple motion to recommit is sufficient.

Mr. HARRIS. The motion of the Senator from Maine was exactly as I have stated it. It may not be in order to put the two questions together. I was simply going to say that, in my judgment, the recommittal with these instructions is the defeat of the bill. It will be impossible for the committee to shape rules and regulations such as may from time to time become necessary. It would at this time be impossible for the committee to confer with the National Board of Health so as to obtain its opinion as to the rules and regulations that may be necessary, because of the fact that the National Board of Health is to-day in session at the city of Atlanta, in Georgia, and will remain there in session I do not know how long; but certainly it will be many days, and perhaps weeks, before the committee can avail itself of the means of consulting with the Board of Health.

Mr. KERNAN. I think there is force in the suggestion. I would, if it be necessary, move to strike out the part instructing the committee to report rules and regulations; but the Chair holds the question is on recommittal. I propose to leave it to the committee generally.

Mr. HARRIS. The committee has considered the whole matter just as fully as it is within its power to consider it, and if the bill is recommitted I do not see that it is possible for the committee to make a single change on the facts and considerations that have heretofore controlled the action of the committee. I hope the Senate will not recommit the bill; and if the bill should be defeated, defeat it outright by a direct vote, and not by undertaking to bury it again in committee.

Mr. MORGAN. In some remarks that I made the other day on this bill I indicated that I would vote to recommit it. The Senator from Tennessee this morning has suggested an amendment which removes many of my objections. I wish to say that, not having an opportunity now to vote for any amendment, I shall vote against the motion to recommit, because I am not disposed to criticize the details of the bill captiously.

The PRESIDING OFFICER. The question is on the motion to recommit the bill.

Mr. ALLISON. With instructions?

Mr. TELLER. Without instructions.

The PRESIDING OFFICER. The Chair by unanimous consent has hitherto entertained the motion to recommit with instructions. The Chair holds that under the rules the only motion which can be made is a motion to commit.

Mr. ALLISON. That is, that it is not in order to instruct a committee?

The PRESIDING OFFICER. The Chair will read Rule 43.

When a question is pending, no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged.

Mr. ALLISON. I always supposed it was in order to instruct.

Mr. CONKLING. If my honorable friend from Iowa will yield to me for a moment, the ruling of the Chair (which I concede to be a correct one) will not, I suggest to him, interfere with his purpose at all. It has not been, as the Senator remembers, the custom of the Senate to instruct committees. It has been done on occasions; but it is not the custom, as it is in the other House. The view, however, with which a recommittal takes place being indicated, as it has been here by the debate which precedes the recommittal, is always virtually the opinion, or if I may so say, instruction of the Senate to the committee, so that it results in the same thing, being rather a technical difference in the mode of procedure here and elsewhere than any substantial difference.

Mr. BUTLER. May I ask to have the amendment of the Senator from Tennessee reported again?

The PRESIDING OFFICER. The Clerk will report the proposed amendment of the Senator from Tennessee, [Mr. HARRIS.]

The Chief Clerk read as follows:

SEC. 13. That nothing in this act shall be so construed as to supersede or impair the operations of the sanitary or quarantine laws of any State within the territorial limits of such State, the object of this act being to so regulate commerce as to prevent the introduction of contagious or infectious diseases from foreign countries into the United States and from one State into another.

Mr. MORRILL. May I ask the Senator from Tennessee whether this would not practically leave the law as it stands in every State where they have any State laws or regulations touching this subject, and whether it would not merely leave the bill operative only upon those States that have no quarantine laws whatever?

Mr. HARRIS. Just so far as the States have sanitary and quarantine laws it would leave them in full operation within the limits of such States. This bill asserts and seeks to exercise the power to so regulate commerce that affects more States than one, interstate commerce, as to prevent the importation of these diseases from one State into another State. It seeks to go no further, while it does leave the sanitary laws of each State in full operation within the territorial limits of such State.

Mr. EATON. It strikes me that that amendment does not cover what I regard as something that is very important to be considered. It would give power at once to this board at Washington to interfere between New Jersey and New York. There are two hundred thousand men doing business in New York that live in New Jersey. They may be called one State, if you please. For all practical purposes, for all commercial purposes, I say New Jersey and New York are to be regarded as one State; but under this amendment this Board of Health here would have entire and perfect control over the sanitary regulations of New York. I am opposed to that. I am in favor of the amendment to a certain extent; but it does not cover the ground, and therefore the necessity of a recommittal of this bill, so that it may be properly considered and properly guarded, and then I shall be ready to support it; but I am not ready now. I never will agree that a board of men sitting here in Washington shall undertake to control the commerce of the North entirely.

Mr. CONKLING. Mr. President, I must think the committee means the Senate to think that the purpose of this measure is to provide sanitary regulations and establishments where they are needed, and to aid such establishments where they exist. I am not sure that,

thus briefly, I have not given a just statement of all the defensible purpose, and probably the whole purpose, of this bill. If I have, meaning certainly no discourtesy to the committee and claiming certainly no special instruction in this regard myself, I cannot see the difficulty of such a measure, not complex but simply and readily drawn, as will authorize the national authority to act as auxiliary to the State authorities where such establishments exist, and to take in whole, where the ground has not been occupied, measures necessary to baffle the approach of cholera, yellow fever, and plague.

The amendment proposed to be offered by the Senator from Tennessee is in the direction in which I now speak; and yet I submit, and I submit with some confidence to that Senator knowing his legal attainments, that it is not the mode to answer objections made to the bill as it stands now. The section would be repugnant to the foregoing sections of the bill. The whole bill, consisting of this section and those now in it, would be a confused piece of legislation. What is it to mean? Twelve sections proceeding upon the theory of paramount national authority and paramount national administration, and then culminating in a thirteenth section which says that nothing herein shall be understood to override State quarantine regulations or to prostrate State quarantine establishments.

Mr. HARRIS. The Senator will allow me to say that the paramount authority that the twelve preceding sections claim is paramount only as to foreign and interstate commerce, one single question, and seeks to be paramount as to nothing else.

Mr. CONKLING. That, Mr. President, makes it necessary to turn to the text of the bill, and turning to the text of the bill compels me to confess that I cannot understand it as it is understood by the honorable Senator from Tennessee. And just here I wish to say that I listened with great pleasure and with great instruction the other day to the remarks on this point which fell from the honorable Senator from Alabama, [Mr. MORGAN.] I did not listen to him without remembering that the port of Mobile is in the State which he represents; and remembering that, I could not forget that it required some independence, perhaps I should not say some courage, for a Senator from Alabama to vindicate, as I thought he did with ability and with clearness, the distinctions which it has been deemed so far in our history important to preserve between national and State authority.

I can adopt in large part the observations of that Senator as expressing my own view in this regard. I will not willingly, I will not knowingly allow any Senator to go further than I will go in voting for any measure whatsoever, discreet and warranted, aimed at the enemy which last year assailed and this year threatens one portion of the country. But nothing is more dangerous than a sentiment. You can argue against a conviction; you can overthrow a statement; but a sentiment is always an awkward force to contend with. We are all apt to be carried away by considerations appealing so strongly to our sympathies and feelings as those belonging to a measure like this; and therefore we are to look and to endeavor at least to see that, in the name of a laudable and humane and most urgent object, we do not overpass and needlessly overpass the barriers of law and the barriers of fact which enround and protect great and enduring interests.

I come back now to the point suggested a moment ago by the honorable Senator from Tennessee. He says this bill, as he understands it, asserts paramount authority in no regard save only touching commerce with foreign nations, and he means I suppose of course touching the vehicles which carry the commerce.

Mr. HARRIS. Foreign and interstate commerce.

Mr. CONKLING. I did not so understand him.

Mr. HARRIS. That is exactly what I did say.

Mr. CONKLING. Then I beg the Senator's pardon; I misapprehended him. I do not deny that he said so. I only confess my own fault in falling short in apprehension. I understood the Senator to say that the paramount authority asserted here was only in respect of foreign commerce. Now the Senator informs me of my error, and I owe him an apology for misunderstanding him.

I was about to read these words in the bill, and I might read many others:

> In respect to all vessels and vehicles engaged in commerce with foreign nations and among the several States, whether by land or water.

That is a drag-net. It covers everything which it would be possible for the invention of man to cover, save and except only such vehicles of commerce and traffic as ply on routes both termini of which are in one and the same State. That exception is too broad; it is untruly broad. Why? Because nearly every such route as I have excepted is operated in connection at either end with extensions which do overpass State lines. The Senator can scarcely show me one of which the remark I now make is not true. Here is a railway in the State of Connecticut; it begins, if you please for illustration, in Connecticut and it ends in Connecticut; but going right on to the North are the same rails on which proceed the same cars, and at an invisible line the track overpasses the boundary of the State of Connecticut. On the South the same thing is true. So in the State of New York. The Erie canal which floats a mighty commerce is not engaged mainly in way business, but in through business. It is the artery through which is poured the product of the wheat-fields of the West. It receives its freight everywhere between the two water-sheds of the continent, the Alleghanies and the Rocky Mountains. Therefore when you come to a practical application of this language it is untrue that it is confined anywhere in a considerable number of instances.

Mr. HARRIS. Will my honorable friend allow me to call his attention to the fact that the language he reads from the bill is verbatim the language of the Federal Constitution that delegates to Congress the power to regulate commerce with foreign nations and among the several States? The language of the bill and the language of the Constitution appears to be word for word the same. The Supreme Court of the United States in a number of decisions, that I will not now undertake to count, has held that that language referred to commerce affecting more States than one.

Mr. CONKLING. Mr. President, it is quite likely that I should have made the remark now made by the honorable Senator from Tennessee but for the fact that only a day or two ago I dwelt upon it in the hearing of the Senate. It was then that I ventured to call attention to the fact that, proceeding under the commercial clause of the Constitution which the Senator has read, the committee found itself managing an inappropriate power, a power extending everywhere for its purpose, a power by another provision of the Constitution required to be applied share and share alike to all ports when exerted at all, and therefore a power cumbrous, inapplicable, inconvenient for sanitary purposes, exacting as they do provisions depending upon zone, climate, temperature, locality. Now my honorable friend rises, as if I had forgotten that he and his committee have invoked, and invoked in the very broad language of the Constitution designed for commerce, and that alone, the clause of the Constitution pertaining to that subject. I know they have, and the answer I make is that, proceeding under a provision of the Constitution designed for no such purpose but intended to apply to a subject in respect of which regulations should be uniform everywhere, they have undertaken, if I may so say, to square the circle; they have undertaken to do that which it may be questioned, to say the least, whether the Constitution ever intended at all.

When this question was first presented, in a case which has been several times referred to, reported in 9 Wheaton, the case of Gibbons *vs.* Ogden, the Supreme Court said the commercial clause was designed for commerce, and it was not designed to cover quarantine laws, health laws, inspection laws, laws falling within the domain of the police powers of the States. But I did not mean to get again into that wilderness of argument. I intended to say, and should have concluded saying it, I trust, some moments ago but for these diversions, that the amendment offered or proposed to be offered by the Senator from Tennessee would, it seems to me, make this a bill of checkered and repugnant provisions, the first twelve of the sections proceeding under the commercial clause of the Constitution to assert the primacy and supremacy of national authority, and the thirteenth section, should it be added, resulting in a statement that nothing herein contained is intended to interfere with or impair, if I caught the reading of the amendment aright, the power, the duty, the administration of the States in this regard.

I should like the honorable Senator from Tennessee to put himself for a single moment in the place of some judge called on a month hence, should this measure as he proposes it become a law, to interpret it all together. Here comes a case from the port of New York. The Senator from Connecticut has reminded us how very close and inwrought, how confused together is the commercial and business connection between New Jersey and New York; and he might also have included his own State in the observation. Here comes a question relating to ferry-boats plying between New York and Staten Island on the Jersey shore and taking on freight coming from New Jersey across the narrow strait which runs between Staten Island and the Jersey shore, that freight to go to New York, and from New York to Connecticut, to confine the illustration to this little group of States which lie together, and the quarantine officer, the health officer, and the other police officers (as I may call them legally speaking) of the State of New York have one theory in respect of this and the National Board of Health have another and have made a regulation dissimilar to that made by the State officers of the State of New York. A collision arises between them—I do not mean a violent collision, but I mean a collision of opinion and jurisdiction; and some court is called upon to define and establish the rights of these respective parties, representatives of different jurisdictions under this bill as it would be, how is it to be interpreted by the court? Here it is padded with authority for the national officials to do what they have done; but then it culminates, if I may so say, in a section which says that nothing herein shall be construed to authorize interference with what the State of New York and the State of New Jersey and the State of Connecticut choose to do. Very well, they have interfered with it; here is the express warrant to do it; they have adjudged it was necessary; they have done it elsewhere, made the same regulation where there was no conflicting State authority in operation, and the court is called upon to say whether it is lawful or not, whether a thing is unlawful in one place under the bill which is lawful in another.

I know it has been said in construing a will that the after-coming clauses of the will sometimes govern the opening devises or legacies, and I know that there are other canons of construction which might be invoked to meet a case so peculiar as this; but it seems to me it would leave in great obscurity the question to be presented to the court.

> SEC. 13. That nothing in this act shall be so construed as to supersede or impair the operations of the sanitary or quarantine laws of any State within the territorial limits of such State.

Broad enough in all conscience; not only it shall not impair the laws of the State, but it shall not impair their operations, it shall be neither let nor hinderance, but they shall proceed just as if this statute had not been enacted. That is what it means. How can that be, I ask the Senator, if any validity and force whatever is to be given to these preceding sections and their execution in the State where the question may arise. Now I read the residue of the proposed amendment:

The object of this act being to so regulate commerce as to prevent the introduction of contagious or infectious diseases from foreign countries into the United States and from one State into another.

That is it, that is the gravamen of the act; that is its purpose and genius, to lay the national hand upon these vehicles and prevent the carrying of disease across State lines. That is what it is for. It says so in the title; it says so throughout the bill; it says so in the concluding lines of this amendment; and sandwiched between these concluding lines and the twelfth section is to be a statement that "nothing in this act shall be so construed as to supersede or impair the operations of the sanitary or quarantine laws of any State within the territorial limits of such States." The more I think of that, the more it seems to me it would require great discernment to see in a hundred cases which might be put as all likely to arise under it what it would be the duty of a court to do.

I believe the true way is for the committee availing itself of the suggestions which have been elicited by this bill, some of them I think of some value, none of them likely to darken or becloud the committee, to take this bill and reduce it, simplify it, and make it like the laws now on the statute-book mere auxiliary legislation, clothing, if it be necessary to clothe, the Executive Department or the Board of Health, or both, to proceed where they find unoccupied ground and to give such assistance as they can where they find the ground already occupied, in the attempt to baffle the approach of plague or pestilence. For such a bill we can all vote. For this bill as it stands I cannot vote. As I said the other day, I cannot vote for it looking at the sanitary view of the subject alone, saying nothing about commerce. We appropriated some time ago $250,000 to hire or build a ship and put into it apparatus with which, dealing with gases, to produce ice chemically in a very high temperature. It was said to be an experiment. It was indeed an experiment. Whoever sets up and attempts to adjust so nicely as to make it a success on the firmest ground he can find any apparatus yet known for producing ice in high temperature by chemical means, essays a very difficult and very nice feat of mechanics and of science. He who puts this machinery afloat in any vessel where it is subject to the oscillation and motion of water and produces the effect, will be indeed the hero of a remarkable experiment. However, we voted $250,000 for that. Now this bill proposes to vote $650,000 more for purposes not experimental in the same sense but still experimental. I say nothing grudging of the money, but I do say that it seems to me we ought to go sure-footed, not to tread on the lines of the Constitution, and not needlessly to imperil the commerce of the country, and above all not to overlook ready and palpable modes of giving early and efficient succor during this almost already mid-season, for the sake of contriving a complex, and as I have ventured to say before confused set of provisions which I believe will not work well, which I believe will not be in season for the emergency, and which I think as precedents may be dangerous, to say the least, if they find their way on the statute-book.

The PRESIDING OFFICER. On the motion to commit the yeas and nays have been ordered.

Mr. BAYARD. Mr. President, without detaining the Senate I desire simply to give my reason for voting in favor of the recommittal of this bill.

It is, I am sure, the unanimous feeling of the Senate that every step that judiciously can be taken to avert the progress of pestilence in any quarter of this country shall not fail to be taken by those in charge of the National Government; but it is evident that this is for the first time an embarkation upon a sphere of action heretofore occupied wholly by State power. I do not propose to discuss the borderline between the State and the Federal power over this subject of local health or of national health. Suffice it to say that heretofore the ground has been wholly occupied by the agents of the States in preventing the spread of disease. The experiment of framing a law which shall not dislodge all the benefits of experience which local self-government has so far furnished, is very difficult.

Being therefore in favor of doing anything that practically and justly can be done in the line of fending off the very approach of disease from our country, and desiring to see a bill so framed in this body that it shall challenge the acceptance of the other House of Congress as well as a majority of the Senate, I shall vote that this bill in the light of the very intelligent, able, and earnest discussion to which it has been subjected, shall go back to the same committee in order that they may simplify in their expression and in the frame-work of the proposed law the objects and intents which the measure is to accomplish. I merely say this much that my vote may not be misapprehended or misunderstood by those gentlemen who have given so much of earnest attention and ability to the preparation of this measure. I believe they can and will frame this bill more efficiently than it now stands without the probability of collision with the judgment and with the experience of a great many of those who, anxious to further the general principle of the bill, are compelled to object to many of its features.

The Secretary proceeded to call the roll.

Mr. DAVIS, of Illinois, (when his name was called.) On this question I am paired with the Senator from Iowa, [Mr. ALLISON.] He would vote "yea," if he were, and I should vote "nay."

Mr. VANCE, (when Mr. RANSOM'S name was called.) I desire to say that my colleague [Mr. RANSOM] is necessarily absent and is paired on this question.

The roll-call was concluded.

Mr. TELLER. The Senator from Iowa [Mr. KIRKWOOD] is paired with the Senator from Maine, [Mr. HAMLIN.]

The result was announced—yeas 30, nays 19; as follows:

YEAS—30.

Anthony,	Chandler,	Grover,	Morrill,
Bayard,	Coke,	Hampton,	Pendleton,
Bell,	Conkling,	Hoar,	Rollins,
Booth,	Davis of W. Va.,	Ingalls,	Saunders,
Burnside,	Dawes,	Kernan,	Slater,
Butler,	Eaton,	Logan,	Teller.
Cameron of Wis.,	Farley,	McDonald,	
Carpenter,	Ferry,	Maxey,	

NAYS—19.

Bailey,	Garland,	Jonas,	Vance,
Beck,	Groome,	Kellogg,	Voorhees,
Bruce,	Harris,	Lamar,	Walker,
Call,	Hill of Georgia,	Morgan,	Williams.
Cameron of Pa.,	Houston,	Plumb,	

ABSENT—27.

Allison,	Hereford,	McPherson,	Thurman,
Blaine,	Hill of Colorado,	Paddock,	Vest,
Cockrell,	Johnston,	Platt,	Wallace,
Davis of Illinois,	Jones of Florida,	Randolph,	Whyte,
Edmunds,	Jones of Nevada,	Ransom,	Windom,
Gordon,	Kirkwood,	Saulsbury,	Withers.
Hamlin,	McMillan,	Sharon,	

So the motion to recommit was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ROLLINS, it was

Ordered, That the papers in the case of Sidney P. Luther be taken from the files and referred to the Committee on Finance.

On motion of Mr. BUTLER, it was

Ordered, That the petition of Samuel Lord, jr., be taken from the files and referred to the Committee on Finance.

SPECIAL POSTAL SERVICE.

Mr. MAXEY. I ask consent to take up and put on its passage Senate bill No. 516. The reasons for it are fully set forth in the report.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. WHYTE. Let the bill be read for information.

Mr. MAXEY. The report of the Committee on Post-Offices and Post-Roads is unanimous.

The Chief Clerk read the bill (S. No. 516) to extend the time of special postal service until service can be obtained by advertisement, as follows:

Be it enacted, &c., That in cases where special service has already been placed on new routes, the Postmaster-General may, in his discretion, extend such service until the time when service can be obtained by advertisement. And whenever an accepted bidder shall fail to enter into contract, or a contractor on any mail-route shall fail or refuse to perform the service on said route according to his contract, or when a new route shall be established or new service required, or when, from any other cause, there shall not be a contractor legally bound or required to perform such service, the Postmaster-General may make a temporary contract for carrying the mail on such route, without advertisement, for such period as may be necessary, not in any case exceeding one year, until the service shall have commenced under a contract made according to law. And any provision of statute in conflict with this provision is hereby repealed.

Mr. MAXEY. This bill simply brings the law back to what it is in the Revised Statutes, and the exigency is fully set forth in the report which is there, and I ask that it be read.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? The Chair hears none. The bill is before the Senate as in Committee of the Whole and the report will be read.

The Chief Clerk read the following report, submitted by Mr. MAXEY May 1:

The Committee on Post-Offices and Post-Roads, to whom was referred S. No. 516 present session, respectfully submit the following report:

The act approved August 11, 1876, volume 19, on page 130, contains the following provision:

"Whenever an accepted bidder shall fail to enter into contract, or a contractor on any mail-route shall fail or refuse to perform the service on said route according to his contract, or when a new route shall be established or new service required, or when, from any other cause, there shall not be a contractor legally bound or required to perform such service, the Postmaster-General may make a temporary contract for carrying the mail on such route without advertisement for such period as may be necessary, not in any case exceeding six months, until the service shall have commenced under a contract made according to law."

The Revised Statutes, section 3951, provides that the Postmaster-General may contract without advertisement for a period not exceeding twelve months in such cases.

The inconvenience resulting from the reduction from twelve to six months was before the Committee on Post-Offices and Post-Roads at the last session, and a section was added to the post-route bill precisely of the import of the bill now reported, but was not considered for want of time.

The committee subjoins the following communication from the Postmaster-General on the subject, showing the necessity for prompt action, namely:

POST-OFFICE DEPARTMENT,
Washington, D. C., April 29, 1879.

SIR: I beg to call the attention of your committee to a paragraph in my last an-

nua' report, page 11, relative to "temporary contracts" for carrying the mails, as follows:

"The present law limiting the period for which temporary contracts may be made without advertisement to six months has occasioned much embarrassment to the Department, and rendered it necessary to issue two miscellaneous advertisements each year instead of one as formerly. The expense of establishing service is thereby considerably increased, and much additional labor is imposed upon the Department, with no advantage to the Government or the public. If temporary contracts could be made for one year, as formerly, the service would be benefitted."

The practical workings of this law have been specially inconvenient and expensive during the current year and since the above recommendation. Service of great importance became necessary on the frontier and in the mining districts of the West which could not wait the delay of an advertisement. The short limit of a temporary contract made the service more expensive than it would have been otherwise, and, owing to a delay in the passage of the last post-route bill, the limit of a temporary contract (six months) was reached before service could be obtained under advertisement. As the result the service on several very important routes had to be suspended and to remain so for from three to six months, to the great inconvenience and loss of large communities.

I therefore beg to renew my recommendation that the law of August 11, 1876, be so amended as to permit the making of a temporary contract in the emergencies therein specified for the period of one year or until a contract can be secured by the succeeding advertisement.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. S. B. MAXEY,
Chairman Committee on Post-Offices and Post-Roads,
United States Senate.

The inconvenience proposed to be remedied by the bill needs, in the estimation of the committee, prompt action; wherefore the committee report the bill back without amendment and recommend its passage at the present session.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HOAR. I desire that the amendment to the bill of which I gave notice be referred to the committee with the bill itself.

The PRESIDING OFFICER. That order will be made.

THE GREENE STATUE.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 555) to secure the equestrian statue of General Nathaniel Greene upon the pedestal and to improve the square in which it is situated; which was read twice by its title.

Mr. ANTHONY. As a similar bill has passed the Senate once, and as this bill has the unanimous assent of the Committee on Appropriations, and is also reported from the Committee on Public Buildings and Grounds, I take the liberty to ask for its present consideration.

Mr. COCKRELL. I understand that a similar bill was reported from the committee at a former Congress favorably?

Mr. ANTHONY. It was.

Mr. COCKRELL. I think it is a very bad precedent to set, because a bill shall have been reported favorably, therefore the Senate shall take it up and consider it at a subsequent Congress without further investigation. There have been a great many bills reported from various other committees favorably, and a number of them which passed the Senate at a former Congress have been reintroduced, and the rule has been to refer them. I presume there will be no delay by a reference in this case.

Mr. ANTHONY. This bill was referred as an amendment to the legislative appropriation bill to the Committee on Public Buildings and Grounds, and was reported by them and referred to the Committee on Appropriations, and I have the authority of the Senator from Kentucky [Mr. BECK] to state that the Committee on Appropriations are unanimously in favor of it. It is merely to secure upon the pedestal the equestrian statue of Major-General Greene, which was erected in accordance with a decree of the continental congress. It is put upon a barren spot which is entirely unimproved, and it is so insecure upon its pedestal that it is in danger of being blown off by every gale. I think the Senator from Kentucky will testify to the fact that the bill has received the unanimous approval of the Committee on Appropriations.

Mr. BECK. I have only this to say: the matter was sent to the Committee on Appropriations, and we, feeling that we had not perhaps entire jurisdiction over it, after hearing the facts in regard to it, were unanimously of the opinion that this bill ought to pass, but that it ought to come from the Committee on Public Buildings and Grounds, and therefore I was instructed to refer the matter back to that committee, which I did. Everything seemed to indicate that unless something was done the statue was in great danger of being destroyed, and that it ought to be made secure at once or that perhaps great loss might be sustained; and, therefore, there was no time for delay. Under these circumstances the committee thought such a bill ought to pass at once, but it ought to come from the Committee on Public Buildings and Grounds, with our recommendation, for what it was worth.

Mr. ANTHONY. It was reported from the Committee on Public Buildings and Grounds and referred to the Committee on Appropriations, and has received the approbation of both committees.

Mr. BECK. It came from that committee to us, and so far had the approbation of both committees.

Mr. COCKRELL. I understand the Committee on Appropriations referred it back to the Committee on Public Buildings and Grounds.

Mr. ANTHONY. No, the Committee on Public Buildings and Grounds referred it to the Committee on Appropriations, and the Committee on Appropriations unanimously recommend its passage.

Mr. DAVIS, of West Virginia. Not quite. There is no difference between myself and the Senator from Kentucky; but as I understand the case it was sent as an amendment to the Committee on Appropriations, and when it came up for discussion there they thought it ought to come properly from the Committee on Public Buildings and Grounds, and therefore the Senator from Kentucky was asked to send it back to that committee for their action and not for the action of the Committee on Appropriations.

Mr. ANTHONY. But the Committee on Public Buildings and Grounds have approved it.

Mr. DAVIS, of West Virginia. That I have nothing to say about.

Mr. ANTHONY. That appears on the records of the Senate. The Committee on Public Buildings and Grounds approved it and recommended the amendment and had it referred to the Committee on Appropriations. It has already the approbation of both committees.

Mr. COCKRELL. This matter has been slumbering for ninety-odd years and it will not be hurt by a little delay. I object to its present consideration and move its reference to the Committee on Public Buildings and Grounds.

The bill was referred to the Committee on Public Buildings and Grounds.

EXECUTIVE SESSION.

Mr. VOORHEES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at two o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 5, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at nine minutes past twelve o'clock. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials of State and territorial Legislatures are in order. Under this call, also, in accordance with the recent amendment of the rules, resolutions calling upon the Executive Departments for information will be in order for reference to appropriate committees.

Mr. KELLEY. I ask unanimous consent that this call may be continued, without reference to the expiration of the morning hour, until all the States and Territories have been called.

There being no objection, it was ordered accordingly.

MILITARY INTERFERENCE AT ELECTIONS.

Mr. LADD introduced a bill (H. R. No. 1382) to prohibit military interfence at elections; which was read a first and second time.

Mr. COX. I call for the reading of the bill in full.

The bill, having been read, was referred to the Committee on the Judiciary, and ordered to be printed.

BUREAU OF LABOR STATISTICS.

Mr. MURCH introduced a bill (H. R. No. 1383) to establish a bureau of labor statistics; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

BREAKWATER ON COAST OF MAINE.

Mr. MURCH also introduced a bill (H. R. No. 1384) to provide for the construction of a breakwater at Rockland Harbor, in the State of Maine; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LIGHT-HOUSES ON COAST OF MAINE.

Mr. MURCH also introduced a bill (H. R. No. 1385) to provide for the construction of a light-house on Two Bush Island near Muscle Ridge plantation, on the coast of Maine; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. MURCH also introduced a bill (H. R. No. 1386) to provide for the construction of a light-house on Widow's Island, at the eastern entrance of Fox Island Thoroughfare, on the coast of Maine; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DUTY ON CRUDE INDIA-RUBBER.

Mr. MURCH also (by request) introduced a bill (H. R. No. 1387) fixing a duty on crude India-rubber; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

GRANITE CONTRACTS.

Mr. MURCH also submitted a resolution requesting information from

the Secretary of the Treasury in relation to granite contracts; which was referred to the Committee on Public Buildings and Grounds.

WASHINGTON MONUMENT.

Mr. MURCH also (by request) introduced a joint resolution (H. R. No. 32) authorizing the completion of the foundation of the Washington Monument; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

WILLIAM W. THOMAS.

Mr. REED introduced a bill (H. R. No. 1388) for the relief of William W. Thomas; which was read a first and second time, and referred to the Committee of Claims.

JAPANESE INDEMNITY FUND.

Mr. BRIGGS introduced a bill (H. R. No. 1389) in relation to the Japanese indemnity fund; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

LOUISA G. CHANDLER.

Mr. JOYCE introduced a bill (H. R. No. 1390) for the relief of Louisa G. Chandler; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS H. HALSEY.

Mr. JOYCE also introduced a bill (H. R. No. 1391) for the relief of Thomas H. Halsey, late paymaster United States Army; which was read a first and second time, and referred to the Committee of Claims.

LABOR BUREAU.

Mr. RICE presented a resolution of the Legislature of Massachusetts, concerning the establishment of a national bureau of labor; which was referred to the Committee on Education and Labor, and ordered to be printed.

HENRY THRESHER.

Mr. CRAPO introduced a bill (H. R. No. 1392) granting a pension to Henry Thresher; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

LIEUTENANT FRANK BAKER.

Mr. CRAPO also introduced a bill (H. R. No. 1393) for the relief of Lieutenant Frank Baker; which was read a first and second time, and referred to the Committee on Military Affairs.

SHIP-BUILDING MATERIALS.

Mr. CRAPO also introduced a bill (H. R. No. 1394) regulating the importation of raw materials to be manufactured in the United States and used in the construction and repairs of vessels employed in the foreign trade; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

FANNY DIMMICK.

Mr. CRAPO also introduced a bill (H. R. No. 1395) granting a pension to Fanny Dimmick; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

OPHELIA E. SIMMONS.

Mr. CRAPO also introduced a bill (H. R. No. 1396) granting a pension to Ophelia E. Simmons; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SOLDIERS AND SAILORS TOTALLY DISABLED.

Mr. CRAPO also introduced a bill (H. R. No. 1397) extending the provisions of the act approved June 18, 1874, increasing the pensions of soldiers and sailors totally disabled; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COMPULSORY PILOT FEES.

Mr. CRAPO also introduced a bill (H. R. No. 1398) to relieve certain ships and vessels from compulsory pilot fees; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TREATY OF WASHINGTON.

Mr. CRAPO also presented resolves of the Commonwealth of Massachusetts concerning the fishery clauses of the treaty of Washington; which were referred to the Committee on Foreign Affairs.

SHIPMENT AND DISCHARGE OF SEAMEN.

Mr. CLAFLIN introduced a bill (H. R. No. 1399) to repeal and amend certain acts pertaining to the shipment and discharge of seamen; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DONATION OF CONDEMNED CANNON.

Mr. CLAFLIN also introduced a bill (H. R. No. 1400) donating condemned cannon to each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES GLANIGAN.

Mr. CLAFLIN also introduced a bill (H. R. No. 1401) granting a pension to James Glanigan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY L. JAMES.

Mr. NORCROSS introduced a bill (H. R. No. 1402) for the relief of Henry L. James, of Williamsburgh, Massachusetts; which was read a first and second time, and referred to the Committee of Claims.

CAPTAIN JOSEPH IRISH.

Mr. ALDRICH, of Rhode Island, introduced a bill (H. R. No. 1403) authorizing Captain Joseph Irish, of the United States marine service, to accept a grand cross of naval merit of the second class from the Spanish government; which was read a first and second time, and referred to the Committee on Foreign Affairs.

DISTRICT COURT IN CONNECTICUT.

Mr. WAIT introduced a bill (H. R. No. 1404) changing the time of holding the district court in Connecticut; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PERRY P. WILSON.

Mr. WAIT also introduced a bill (H. R. No. 1405) for the relief of Perry P. Wilson, postmaster at Putnam, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

NORWICH AND NEW YORK TRANSPORTATION COMPANY.

Mr. WAIT also introduced a bill (H. R. No. 1406) for the relief of the Norwich and New York Transportation Company; which was read a first and second time, and referred to the Committee of Claims.

PROMOTION IN THE ARMY.

Mr. WAIT also introduced a bill (H. R. No. 1407) to equalize promotion in the grade of lieutenant in the line of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM CARRUTHERS.

Mr. WAIT also introduced a bill (H. R. No. 1408) for the relief of William Carruthers; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES A. BATES.

Mr. WAIT also introduced a bill (H. R. No. 1409) for the relief of James A. Bates; which was read a first and second time, and referred to the Committee on Military Affairs.

RICHARD F. LOPER.

Mr. WAIT also introduced a bill (H. R. No. 1410) for the relief of Richard F. Loper; which was read a first and second time, and referred to the Committee on Patents.

MARY SHAY.

Mr. WAIT also introduced a bill (H. R. No. 1411) granting a pension to Mrs. Mary Shay, mother of Miles Shay, late a private in Company H, Seventh Regiment Connecticut Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NEW LONDON NAVY-YARD.

Mr. WAIT also introduced a bill (H. R. No. 1412) making an appropriation for continuing the work on the New London navy-yard, in the State of Connecticut; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

EDWARD EUGENE WILCOX.

Mr. WAIT also introduced a bill (H. R. No. 1413) authorizing and directing the Secretary of the Interior to restore to the pension-roll the name of Edward Eugene Wilcox, a demented child of Leonard Wilcox, late a private in Company E, Twenty-first Regiment Connecticut Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. HUBBARD AND WILLIAM E. CONANT.

Mr. WAIT also introduced a bill (H. R. No. 1414) for the relief of George W. Hubbard and William E. Conant; which was read a first and second time, and referred to the Committee on Patents.

EDWARD K. WINSHIP.

Mr. WAIT also introduced a bill (H. R. No. 1415) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

GEORGE T. MARSHALL.

Mr. WAIT also introduced a bill (H. R. No. 1416) for the relief of George T. Marshall, late collector of customs at Stonington, Connecticut; which was read a first and second time, and referred to the Committee on Commerce.

SOLDIERS' MONUMENT AT KILLINGLY, CONNECTICUT.

Mr. WAIT also introduced a bill (H. R. No. 1417) donating cannon and cannon-balls for the construction of a suitable fence around the soldiers' monument at Killingly, Connecticut; which was read a first and second time, and referred to the Committee on Military Affairs.

PUBLIC BUILDING, NORWICH, CONNECTICUT.

Mr. WAIT also introduced a bill (H. R. No. 1418) for the erection of a public building at Norwich, Connecticut; which was read a first

and second time, and referred to the Committee on Public Buildings and Grounds.

YERBA BUENA ISLAND.

Mr. WAIT also introduced a bill (H. R. No. 1419) to quiet the title to the island of Yerba Buena; which was read a first and second time, and referred to the Committee on the Judiciary.

CENTRAL FREE DISPENSARY, DISTRICT OF COLUMBIA.

Mr. WAIT also introduced a joint resolution (H. R. No. 33) appropriating money to the Central Free Dispensary of the District of Columbia; which was read a first and second time, and referred to the Committee on Appropriations.

SARAH RIPLEY.

Mr. HAWLEY introduced a bill (H. R. No. 1420) granting a pension to Sarah Ripley, widow of James W. Ripley, late brigadier-general and Chief of Ordnance United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HARRIET E. EDWARDS.

Mr. HAWLEY also introduced a bill (H. R. No. 1421) granting a pension to Harriet E. Edwards, widow of David S. Edwards, late surgeon in the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REPORT OF UNITED STATES CENTENNIAL COMMISSION.

Mr. HAWLEY also introduced a joint resolution (H. R. No. 34) to print 5,000 copies of the final report of the United States centennial commisssion upon the international exhibition and centennial celebration of 1876; which was read a first and second time, and referred to the Committee on Printing.

ELECTORAL COUNT.

Mr. LOUNSBERY introduced a bill (H. R. No. 1422) to regulate the counting of the votes for President and Vice-President and to prescribe the manner of declaring the result; which was read a first and second time, referred to the Committee on the state of the Law respecting Ascertainment and Declaration of Result of Election of President and Vice-President, and ordered to be printed.

AMENDMENT OF THE REVISED STATUTES.

Mr. LOUNSBERY also introduced a bill (H. R. No. 1423) to repeal sections 3588, 3589, and 3590 of the Revised Statutes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SCHOONER ISLE OF PINES.

Mr. LOUNSBERY also introduced a joint resolution (H. R. No. 35) authorizing the name of the schooner Isle of Pines to be changed to George S. Sleight; which was read a first and second time, and referred to the Committee on Commerce.

AMENDMENT OF REVISED STATUTES.

Mr. FERNANDO WOOD introduced a bill (H. R. No. 1424) to amend section 2874 of the Revised Statutes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

NATIONAL ACADEMY OF SCIENCES.

Mr. COX introduced a bill (H. R. No. 1425) to authorize the National Academy of Sciences to receive and hold trust funds for the promotion of science, and for other purposes; which was read a first and second time, and referred to the Committee on the Library.

REMOVAL OF POLITICAL DISABILITIES.

Mr. COX also introduced a bill (H. R. No. 1426) to remove the disabilities imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TREATY WITH NORTH GERMAN CONFEDERATION.

Mr. COX also introduced a joint resolution (H. R. No. 36) as to giving notice to the North German Confederation to terminate the treaty of February 22, 1868; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

TRANSPORTATION OF ANIMALS.

Mr. COVERT introduced a bill (H. R. No. 1427) relative to the transportation of animals; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

STORM AND FLOOD SIGNALS.

Mr. COVERT also introduced a bill (H. R. No. 1428) to test a plan of storm and flood signals by the telegraph and cannon for the benefit of commerce and agriculture and to give warning of sudden floods in rapid rivers; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

BENJAMIN WALKER ATKINSON.

Mr. COVERT also introduced a bill (H. R. No. 1429) to authorize the President of the United States to appoint Benjamin Walker Atkinson to a cadetship at large in the United States Military Academy; which was read a first and second time, and referred to the Committee on Military Affairs.

SCHOONER-YACHT SEA DRIFT.

Mr. COVERT also introduced a bill (H. R. No. 1430) to change the name of the schooner yacht Sea Drift; which was read a first and second time, and referred to the Committee on Commerce.

STEAM-VESSELS.

Mr. BLISS introduced a bill (H. R. No. 1431) to amend section 4400 of title 52 of the Revised Statutes of the United States concerning the regulation of steam-vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CAPTAIN E. M. REYNOLDS.

Mr. BLISS also introduced a bill (H. R. No. 1432) to restore Edward McDonald Reynolds to the Marine Corps; which was read a first and second time, and referred to the Committee on Naval Affairs.

EXTENSION OF WINDER'S BUILDING.

Mr. BLISS also introduced a bill (H. R. No. 1433) to extend Winder's building, for the use of the War Department; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CLAIM OF JAMES E. KELSEY AND OTHERS.

Mr. BLISS also introduced a joint resolution (H. R. No. 37) referring to the Court of Claims the claim of James E. Kelsey, John Loughlin, Theron Kelsey, and others, against the United States for damages done to the schooner C. & C. Brooks; which was read a first and second time, and referred to the Committee on Naval Affairs.

CHARLES SLAWSON.

Mr. MASON introduced a bill (H. R. No. 1434) to amend an act granting a pension to Charles Slawson; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

BENTON C. BARNES.

Mr. MASON also introduced a bill (H. R. No. 1435) granting an increase of pension to Benton C. Barnes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE HUGURIN.

Mr. MASON also introduced a bill (H. R. No. 1436) granting an increase of pension to George Huguriu; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEGISLATION ON APPROPRIATION BILLS.

Mr. VAN AERNAM presented a joint resolution of the Legislature of the State of New York declaring that "the refusal by a partisan majority in Congress to appropriate for the support of the National Government the moneys raised by the people for that purpose except upon condition of the repeal or amendment of existing laws is a dangerous violation of the Constitution, amounting practically to revolution," &c.; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. VAN AERNAM called for the reading of the joint resolution; and it was read.

RECORDS OF SIR JOHN FRANKLIN'S EXPEDITION.

Mr. MORTON (by request of the American Geographical Society) introduced a bill (H. R. No. 1437) authorizing the Secretary of War to detail an officer of the Army to take command of the expedition fitted out by Messrs. Morison & Brown, citizens of New York, to search for the records of Sir John Franklin's expedition, and to issue to such officer Army equipments; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CANCELING INK FOR POST-OFFICE DEPARTMENT.

Mr. MORTON also introduced a bill (H. R. No. 1438) to amend a certain section of an act approved June 20, 1878, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes;" which was read a first and second time, referred to the Committee on the Post-Office andPost-Roads, and ordered to be printed.

ENGINEER OFFICERS IN THE NAVY.

Mr. MORTON also introduced a bill (H. R. No. 1439) to amend section 1484, Revised Statutes, in order to preserve the meaning of the original law from which it was taken with reference to the rank of engineer officers, graduates of the Naval Academy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

RICHARD CARPENTER.

Mr. FERDON introduced a bill (H. R. No. 1440) granting a pension to Richard Carpenter; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN HOPPER.

Mr. FERDON introduced a bill (H. R. No. 1441) granting a pension to John Hopper; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN COUDLIN.

Mr. VOORHIS introduced a bill (H. R. No. 1442) granting arrears of pension to John Coudlin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN ROSE.

Mr. SMITH, of New Jersey, introduced a bill (H. R. No. 1443) granting a pension to John Rose, of Budd Town, Burlington County, New Jersey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM HUGHES.

Mr. SMITH, of New Jersey, also introduced a bill (H. R. No. 1444) for the relief of William Hughes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AGNES FAIRLY.

Mr. ROBESON introduced a bill (H. R. No. 1445) granting a pension to Agnes Fairly, widow of David Fairly; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GIFTS, DEVISES, AND BEQUESTS TO UNITED STATES.

Mr. CLYMER introduced a bill (H. R. No. 1446) in relation to gifts, devises, and bequests to the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM L. CURRY POST.

Mr. O'NEILL introduced a bill (H. R. No. 1447) donating condemned cannon and cannon balls or field-pieces to the William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE EYSTER.

Mr. O'NEILL also introduced a bill (H. R. No. 1448) for the relief of George Eyster, assistant treasurer of the United States at Philadelphia, Pennsylvania; which was read a first and second time, and referred to the Committee of Ways and Means.

COLUMBIA SANITARY COMPANY.

Mr. O'NEILL also (by request) introduced a bill (H. R. No. 1449) to incorporate the Columbia Sanitary Company; which was read a first and second time, referred to the Committee on Epidemic Diseases, and ordered to be printed.

STEPHEN W. ALVORD.

Mr. OVERTON introduced a bill (H. R. No. 1450) for the relief of Stephen W. Alvord, late postmaster at Towanda, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

RAILWAY CHAIRS.

Mr. OVERTON also introduced a bill (H. R. No. 1451) empowering the Commissioner of Patents to extend the letters-patent granted to D. W. Crocker, of Deposit, New York, for railway chairs; which was read a first and second time, and referred to the Committee on Patents.

JAMES B. FURMAN.

Mr. OVERTON also introduced a bill (H. R. No. 1452) for the relief of James B. Furman, of Austinville, Bradford County, Pennsylvania; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES R. GORDON.

Mr. OVERTON also introduced a bill (H. R. No. 1453) for the relief of James R. Gordon, of Columbia Cross Roads, Bradford County, Pennsylvania; which was read a first and second time, and referred to the Committee on Invalid Pensions.

J. CLINTON DE WITT.

Mr. OVERTON also introduced a bill (H. R. No. 1454) for the relief of J. Clinton De Witt, of Canton, Bradford County, Pennsylvania; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ALBERT O. MILLER.

Mr. OVERTON also introduced a bill (H. R. No. 1455) granting a pension to Albert O. Miller, late seaman in the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW J. HORTON.

Mr. OVERTON also introduced a bill (H. R. No. 1456) granting a pension to Andrew J. Horton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANCIS O'CLEARY.

Mr. OVERTON also introduced a bill (H. R. No. 1457) granting a pension to Francis O'Cleary; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RETIRING TRADE-DOLLAR.

Mr. KELLEY introduced a bill (H. R. No. 1458) to provide for retiring the trade-dollar and for its recoinage into the standard silver dollar; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

HEIRS OF WILLIAM A. GRAHAM.

Mr. KELLEY also introduced a bill (H. R. No. 1459) to repeal an act for the relief of the heirs of William A. Graham; which was read a first and second time, and referred to the Committee on Patents.

JAMES P. SAYER.

Mr. SHALLENBERGER introduced a bill (H. R. No. 1460) granting an increase of pension to James P. Sayer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARIAN F. HAYNIE.

Mr. SHALLENBERGER also (by request) introduced a bill (H. R. No. 1461) for the relief of Marian F. Haynie; which was read a first and second time, and referred to the Committee on Naval Affairs.

SPANISH-AMERICAN COMMERCIAL COMPANY.

Mr. SHALLENBERGER also (by request) introduced a bill (H. R. No. 1462) to incorporate the Spanish-American Commercial Company; which was read a first and second time, and referred to the Committee on Commerce.

EDWARD H. LEIB.

Mr. COFFROTH introduced a bill (H. R. No. 1463) granting a pension to Edward H. Leib; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDMUND EASTMAN.

Mr. COFFROTH also introduced a bill (H. R. No. 1464) granting a pension to Edmund Eastman, Two hundred and second Regiment of Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEVI LEIDAM.

Mr. COFFROTH also introduced a bill (H. R. No. 1465) granting a pension to Levi Leidam, Company E, One hundred and twenty-fifth Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. MARY KENNEDY.

Mr. COFFROTH also introduced a bill (H. R. No. 1466) granting a pension to Mrs. Mary Kennedy, reinstating her name on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY A. CASTERWELLER.

Mr. WISE introduced a bill (H. R. No. 1467) granting a pension to Mary A. Casterweller, widow of John Casterweller, a soldier of the late war; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. GEORGE LOSE.

Mr. WISE also introduced a bill (H. R. No. 1468) granting a pension to Mrs. George Lose; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY ANN M'CARROL.

Mr. BAYNE introduced a bill (H. R. No. 1469) granting a pension to Mary Ann McCarrol; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANCIS H. BIRD.

Mr. BAYNE also introduced a bill (H. R. No. 1470) granting a pension to Francis H. Bird; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FABRICATION OF GUNS, ETC.

Mr. BAYNE also introduced a resolution requesting the Secretary of War to furnish information regarding the fabrication, conversion, &c., of guns, &c.; which was referred to the Committee on Military Affairs.

H. K. RANDALL AND OTHERS.

Mr. HENKLE (by request) introduced a bill (H. R. No. 1471) for the relief of the estate of H. K. Randall and others; which was read a first and second time, and referred to the Committee for the District of Columbia.

LABORERS OF THE DISTRICT OF COLUMBIA.

Mr. HENKLE also introduced a bill (H. R. No. 1472) amendatory of the act of June 20, 1878, to pay the laboring-men of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

PUBLIC BUILDINGS, ETC.

Mr. HENKLE also (by request) introduced a bill (H. R. No. 1473) for more effectually protecting the public buildings, property, and records from destruction by fire; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CAPTAIN ROBERT C. BAMFORD.

Mr. URNER introduced a bill (H. R. No. 1474) granting a pension to Captain Robert C. Bamford; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LOUIS ERNDE.

Mr. URNER also introduced a bill (H. R. No. 1475) for the relief of Louis Ernde, of Washington County, Maryland; which was read a first and second time, and referred to the Committee on War Claims.

TRANSCONTINENTAL RAILROADS.

Mr. URNER also introduced a bill (H. R. No. 1476) to provide for the construction and completion of certain transcontinental lines of

railways, and for other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

HOT SPRINGS, ARKANSAS.

Mr. URNER also introduced a bill (H. R. No. 1477) for the erection of a national hospital at Hot Springs, Arkansas, and for other purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

POST-OFFICE AT BALTIMORE, MARYLAND.

Mr. KIMMEL introduced a bill (H. R. No. 1478) to authorize the Secretary of the Treasury to negotiate for the purchase at private sale, or if necessary to procure by condemnation, a site for a post-office in the city of Baltimore and State of Maryland; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JOSEPH HUMPHRIES.

Mr. HENRY introduced a bill (H. R. No. 1479) for the relief of Joseph Humphries; which was read a first and second time, and referred to the Committee on Naval Affairs.

JOSEPH BRADSHAW.

Mr. HENRY also introduced a bill (H. R. No. 1480) for the relief of Joseph Bradshaw; which was read a first and second time, and referred to the Committee of Claims.

RICHARD T. BRYAN.

Mr. HENRY also introduced a bill (H. R. No. 1481) granting $2,000 to Richard T. Bryan as compensation; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM H. COMEGYS.

Mr. HENRY also introduced a bill (H. R. No. 1482) granting a pension to William H. Comegys; which was read a first and second time, and referred to the Committee on Pensions.

JACOB J. FLEISCHELL.

Mr. HENRY also introduced a bill (H. R. No. 1483) for the relief of Jacob J. Fleischell, of Washington City; which was read a first and second time, and referred to the Committee of Claims.

SOPHIA A. MEELSON.

Mr. HENRY also introduced a bill (H. R. No. 1484) granting a pension to Sophia A. Meelson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM C. SPENCER.

Mr. HENRY also introduced a bill (H. R. No. 1485) for the relief of William C. Spencer, late captain in the Army of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

SCHOONER ADDIE B. BACON.

Mr. HENRY also introduced a bill (H. R. No. 1486) referring the claim of the owners of the schooner Addie B. Bacon to the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

P. P. POWELL.

Mr. HUNTON introduced a bill (H. R. No. 1487) authorizing the appointment of P. P. Powell an officer of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

TOBACCO EXPORT BONDS.

Mr. JORGENSEN introduced a bill (H. R. No. 1488) to provide for the cancellation of export bonds of tobacco manufactured at ports of clearance, &c.; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

QUARANTINE HOSPITAL IN HAMPTON ROADS, VIRGINIA.

Mr. GOODE introduced a bill (H. R. No. 1489) to provide for the establishment of a quarantine hospital in Hampton Roads, Virginia; which was read a first and second time, referred to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, and ordered to be printed.

WALTER M. HALLECK.

Mr. JOHNSTON introduced a bill (H. R. No. 1490) placing the name of Walter M. Halleck upon the retired list of the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES F. HARRISON.

Mr. HARRIS, of Virginia, introduced a bill (H. R. No. 1491) to remove the political disabilities of James F. Harrison, of Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

AMENDMENT OF REVISED STATUTES.

Mr. HARRIS, of Virginia, also introduced a bill (H. R. No. 1492) to amend section 688 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

SUPREME COURT OF THE UNITED STATES.

Mr. HARRIS, of Virginia, also introduced a bill (H. R. No. 1493) defining the duties of the reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distribution of said reports; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

BOUNTY LAND FOR WAR OF 1812.

Mr. HARRIS, of Virginia, also introduced a joint resolution (H. R. No. 38) repealing so much of joint resolution No. 46, approved March 2, 1867, as requires proof of loyalty before soldiers of the war of 1812 or their widows can obtain bounty land under the act of March 3, 1855; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

PENSIONS—WAR OF 1812.

Mr. HARRIS, of Virginia, also introduced a joint resolution (H. R. No. 39) construing act of Congress approved March 9, 1878, so as to entitle widows of the soldiers of the war of 1812 to a pension notwithstanding a second marriage, provided they were widows before the said act or at the time of application; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

Mr. VANCE introduced a joint resolution (H. R. No. 40) to construe the act of March 9, 1878, to include soldiers who served fourteen days in the war of 1812, although a portion of the time occurred after the proclamation of the treaty of peace with Great Britain; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

DANIEL A. GIBBEY.

Mr. VANCE also introduced a bill (H. R. No. 1494) granting a pension to Daniel A. Gibbey, a soldier of the Florida war; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

HEIRS OF JOHN DEVLIN.

Mr. VANCE also introduced a bill (H. R. No. 1495) for the relief of the heirs of John Devlin, of the District of Columbia; which was read a first and second time, and referred to the Committee of Claims.

JOHN D. STREET.

Mr. VANCE also introduced a bill (H. R. No. 1496) granting a pension to John D. Street; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM BUCHANAN.

Mr. VANCE also introduced a bill (H. R. No. 1497) granting a pension to William Buchanan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HARVEY P. BUCKNER.

Mr. VANCE also introduced a bill (H. R. No. 1498) to restore Harvey P. Buckner to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

S. D. PLEMMONS.

Mr. VANCE also introduced a bill (H. R. No. 1499) for the relief of S. D. Plemmons, of North Carolina; which was read a first and second time, and referred to the Committee of Ways and Means.

DANIEL LUCAS.

Mr. VANCE also introduced a bill (H. R. No. 1500) granting an increase of pension to Daniel Lucas, Company E, Third United States Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

R. L. M'CONNAUGHEY.

Mr. VANCE also introduced a bill (H. R. No. 1501) for the relief of R. L. McConnaughey, of North Carolina; which was read a first and second time, and referred to the Committee of Claims.

OFFENSES AGAINST REVENUE LAWS.

Mr. ARMFIELD introduced a bill (H. R. No. 1502) to amend and repeal certain sections of the Revised Statutes of the United States and to require all prosecutions for offenses against the revenue laws of the United States to be upon indictment; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CONSTRUCTION OF AN ARMY APPROPRIATION ACT.

Mr. SCALES introduced a joint resolution (H. R. No. 41) declaring the construction to be placed upon the fifteenth section of the act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES Y. WHITTY.

Mr. SCALES also (for Mr. DAVIS, of North Carolina) introduced a bill (H. R. No. 1503) for the relief of James Y. Whitty, of North Carolina; which was read a first and second time, and referred to the Committee of Claims.

W. & D. C. HALLIBURTON.

Mr. SCALES also (for Mr. DAVIS, of North Carolina) introduced a bill (H. R. No. 1504) for the relief of W. & D. C. Halliburton, of North

Carolina; which was read a first and second time, and referred to the Committee of Claims.

PAYMENT OF EMPLOYÉS IN TOBACCO OR CIGARS.

Mr. KITCHIN introduced a bill (H. R. No. 1505) to allow employers to pay their employés in tobacco or cigars without being subject to a license tax as wholesale or retail dealers; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

EMILE LEPAGE.

Mr. MARTIN, of North Carolina, introduced a bill (H. R. No. 1506) for the relief of Emile Lepage, of Virginia; which was read a first and second time, and referred to the Committee on War Claims.

THOMAS W. KNIGHT.

Mr. MARTIN, of North Carolina, also introduced a bill (H. R. No. 1507) for the relief of Thomas W. Knight, administrator of R. B. Knight, of North Carolina; which was read a first and second time, and referred to the Committee of Claims.

JAMES RUFFIN WOOD.

Mr. MARTIN, of North Carolina, also introduced a bill (H. R. No. 1508) granting a pension to James Ruffin Wood; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS K. FEOGAN.

Mr. MARTIN, of North Carolina, also introduced a bill (H. R. No. 1509) for the relief of Thomas K. Feogan, of North Carolina; which was read a first and second time, and referred to the Committee on War Claims.

ASSISTANT TREASURER OF THE UNITED STATES, CHARLESTON.

Mr. O'CONNOR introduced a bill (H. R. No. 1510) to re-establish the office of assistant treasurer of the United States, at Charleston, South Carolina; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

MARION ARTILLERY, CHARLESTON, SOUTH CAROLINA.

Mr. O'CONNOR also introduced a bill (H. R. No. 1511) to authorize the Secretary of War to deliver to A. B. Rhett, T. Pinckney Lowndes, and others, four Napoleon guns, with caissons and harness, now at Greensborough, North Carolina, for the use of the Marion Artillery, Charleston, South Carolina; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FOURTH JUDICIAL CIRCUIT.

Mr. O'CONNOR also introduced a bill (H. R. No. 1512) to alter and appoint the times for holding the circuit court of the United States for the fourth judicial circuit, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CLAIMS AGAINST THE UNITED STATES.

Mr. O'CONNOR also introduced a bill (H. R. No. 1513) providing for the judicial ascertainment of claims against the United States; which was read a first and second time, referred to the Committee on Reform in the Civil Service, and ordered to be printed.

SAMUEL LORD, JR.

Mr. EVINS introduced a bill (H. R. No. 1514) for the delivery to Samuel Lord, jr., receiver, of certain bonds now in the Treasury of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

EDUCATIONAL FUND.

Mr. RICHARDSON, of South Carolina, introduced a bill (H. R. No. 1515) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

MACON, GEORGIA.

Mr. BLOUNT introduced a bill (H. R. No. 1516) for the relief of Macon, Georgia; which was read a first and second time, and referred to the Committee of Claims.

SECOND GEORGIA BATTALION.

Mr. BLOUNT also introduced a bill (H. R. No. 1517) authorizing the Secretary of War to furnish to the Second Georgia Battalion tents, &c.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ADDITIONAL JUDICIAL DISTRICT, GEORGIA.

Mr. BLOUNT also introduced a bill (H. R. No. 1518) to create an additional judicial district of the State of Georgia, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

INGOTS OF GOLD AND SILVER, ETC.

Mr. STEPHENS introduced a bill (H. R. No. 1519) to authorize the making of ingots of fine gold and ingots of fine silver of the value of $100 each for exportation, manufactures, and for other purposes; which was read a first and second time, referred to the Committee of on Coinage, Weights and Measures, and ordered to be printed.

SAMUEL I. GUSTIN.

Mr. STEPHENS also introduced a bill (H. R. No. 1520) for the relief of Samuel I. Gustin; which was read a first and second time, and referred to the Committee of Claims.

JAMES BUCHANAN.

Mr. SMITH, of Georgia, introduced a bill (H. R. No. 1521) for the relief of James Buchanan, of Georgia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SULPHATE OF QUININE.

Mr. SPEER introduced a bill (H. R. No. 1522) to repeal the duty on importation of sulphate of quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

EMILY W. OGDEN.

Mr. HERNDON introduced a bill (H. R. No. 1523) granting a pension to Emily W. Ogden; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. HERNDON also introduced a bill (H. R. No. 1524) to authorize the Secretary of the Treasury to refund certain internal-revenue taxes erroneously collected from the Mobile and Ohio Railroad Company; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CHOCTAWHATCHEE AND PEA RIVERS.

Mr. SAMFORD introduced a bill (H. R. No. 1525) for the improvement of the Choctawhatchie and Pea Rivers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES TIMBER LANDS.

Mr. HERBERT introduced a bill (H. R. No. 1526) to put into market certain timbered lands of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. HERBERT also introduced a bill (H. R. No. 1527) for the relief of homestead settlers; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JULIA A. NUTT.

Mr. SINGLETON, of Mississippi, introduced a bill (H. R. No. 1528) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased; which was read a first and second time, and referred to the Committee on War Claims.

A. KARPE.

Mr. SINGLETON, of Mississippi, also introduced a bill (H R. No. 1529) for the relief of A. Karpe; which was read a first and second time, and referred to the Committee on War Claims.

W. W. WELSH.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1530) for the relief of W. W. Welsh; which was read a first and second time, and referred to the Committee on War Claims.

DRURY BYNUM.

Mr. SINGLETON, of Mississippi, also introduced a bill (H. R. No. 1531) for the relief of Drury Bynum; which was read a first and second time, and referred to the Committee on Public Lands.

LOYAL CLAIMANTS.

Mr. MANNING (by request) introduced a bill (H. R. No. 1532) for the relief of certain citizens claiming to be loyal, and whose claims are now pending before Congress; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DELIVERY AND RETURN OF LETTERS.

Mr. MONEY introduced a bill (H. R. No. 1533) to facilitate the delivery of letters, and the speedy return to the writers thereof of such as are refused or cannot be delivered; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

POSTAL EMPLOYÉS.

Mr. MONEY also introduced a bill (H. R. No. 1534) to exempt postal employés from serving upon juries; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

TOMBIGBEE RIVER.

Mr. MULDROW introduced a bill (H. R. No. 1535) making an appropriation for the improvement of the Tombigbee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CORA A. SLOCUMB AND OTHERS.

Mr. ELLIS introduced a bill (H. R. No. 1536) for the relief of Cora A. Slocumb, Ida A. Richardson, and Caroline A. Urquhart; which was

read a first and second time, and referred to the Committee on War Claims.

GREAT SOUTHERN RAILROAD COMPANY.

Mr. ELLIS also introduced a bill (H. R. No. 1537) to aid the Great Southern Railway Company (consolidated) to construct a line of railway in the States of Georgia and Florida; which was read a first and second time, referred to the Committee on the Pacific Railroads, and ordered to be printed.

MAIL STEAMSHIP SERVICE.

Mr. ROBERTSON (by request) introduced a bill (H. R. No. 1538) to authorize the establishment of mail-steamship service between the United States and Central America; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. GIBSON introduced a bill (H. R. No. 1539) to provide for the appointment of a Mississippi River commission for the improvement of said river from the head of the passes near its mouth to its headwaters; which was read a first and second time, referred to the Committee on Levees and Improvement of the Mississippi River, and ordered to be printed.

PUBLIC MARINE SCHOOLS.

Mr. GIBSON also introduced a bill (H. R. No. 1540) to amend an act entitled "An act to encourage the establishment of public marine schools," approved June 20, 1874, so as to extend it to the ports of Wilmington, Charleston, Savannah, Mobile, New Orleans, and Galveston; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PORTS FOR UNAPPRAISED MERCHANDISE.

Mr. GIBSON also introduced a bill (H. R. No. 1541) to make the ports of Brownsville, Galveston, and Houston, Texas, ports to which unappraised merchandise may be transported; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CHARLES CLINTON.

Mr. GIBSON also introduced a bill (H. R. No. 1542) for the relief of Charles Clinton, of New Orleans, late assistant treasurer at New Orleans; which was read a first and second time, and referred to the Committee of Ways and Means.

TREATY OF COMMERCE WITH FRANCE.

Mr. GIBSON also introduced a joint resolution (H. R. No. 42) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with France can be arranged; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

COMMERCIAL TREATY WITH MEXICO.

Mr. GIBSON also introduced a joint resolution (H. R. No. 43) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with Mexico can be arranged; which was read a first and second time.

Mr. GIBSON. I move that this joint resolution be referred to the Committee of Ways and Means.

Mr. COX. I think it should go to the Committee on Foreign Affairs.

The SPEAKER. The Chair would suggest that it might be referred to the Committee on Commerce; but the Chair has no wish about it.

Mr. GIBSON. Inasmuch as it relates to duties to be levied upon commodities exported and imported, I think it should go to the Committee of Ways and Means.

Mr. REAGAN. Let the joint resolution be read.

The joint resolution was read at length.

Mr. REAGAN. Bills in relation to treaties of reciprocity with Canada, and also in relation to the improvement of the commerce of this country with Mexico and the Central American States, have heretofore been referred to the Committee on Commerce. It seems to me that committee should have the control of these subjects.

Mr. COX. I will read the rule in relation to the Committee on Foreign Affairs:

It shall be the duty of the Committee on Foreign Affairs to take into consideration all matters which concern the relations of the United States with foreign nations, and which shall be referred to them by the House, and to report their opinion on the same.

Now, it is rather strange that because a duty is levied under a tariff or a reciprocity treaty, therefore the subject should go to the Committee of Ways and Means. That would be giving the treaty-making power to the Committee of Ways and Means. All domestic matters relating to the imposing of duties or taxes properly go to the Committee of Ways and Means; but there may be hundreds of conditions additional to that of the revenue and relating to foreign affairs which should go to the Committee on Foreign Affairs.

Mr. REAGAN. Let me read Rule 79:

It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters or things touching the commerce of the United States as shall be presented, or shall or may come in question, and be referred to them by the House, and to report from time to time their opinion thereon.

Mr. GIBSON. I wish merely to say that this joint resolution does not propose to authorize the President to appoint commmissioners for the establishment of a treaty in the ordinary sense of the word. It proposes to authorize the appointment of commissioners on behalf of Congress, who may recommend a revision of the tariff policy between the government of Mexico and that of the United States. Inasmuch as, therefore, the scope of this joint resolution relates entirely to the question of taxation, I think it should be referred to the committee having charge of that subject.

Mr. REAGAN. Allow me to say one word.

The SPEAKER. The Chair really cannot allow debate, that not being strictly in order. The Chair has allowed the three gentlemen who have manifested an interest in this matter to make a statement.

Mr. REAGAN. Only a single word. The object of this joint resolution is to promote commercial relations and intercourse between Mexico and the United States. It relates entirely to commerce. Because something about the machinery of that commerce is put into the joint resolution, it is proposed to refer it to the Committee of Ways and Means.

The SPEAKER. The gentleman from Louisiana [Mr. GIBSON] moves to refer the joint resolution to the Committee of Ways and Means. The gentleman from New York [Mr. COX] moves to amend that motion so as to refer it to the Committee on Foreign Affairs; and the gentleman from Texas [Mr. REAGAN] moves to further amend so as to refer it to the Committee on Commerce.

Mr. COX. The Committee on Foreign Affairs already have bills of a similar nature before them.

The question was taken upon the motion of Mr. REAGAN; and it was not agreed to.

The question was then taken upon the motion of Mr. COX; and upon a division there were—ayes 63, noes 23.

No further count being called for, the joint resolution was accordingly referred to the Committee on Foreign Affairs, and ordered to be printed.

COMMERCIAL TREATY WITH BRAZIL.

Mr. GIBSON also introduced a joint resolution (H. R. No. 44) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with Brazil can be arranged; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

COMMERCIAL TREATY WITH CANADA.

Mr. GIBSON also introduced a joint resolution (H. R. No. 45) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with Canada can be arranged; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

COMMERCIAL TREATY WITH MEXICO.

Mr. GIBSON also introduced a joint resolution (H. R. No. 46) authorizing the appointment of commissioners to ascertain on what terms a mutually beneficial treaty of commerce with Mexico can be arranged; which was read a first and second time.

The SPEAKER. The House has just voted to send a similar resolution to the Committee on Foreign Affairs.

Mr. COX. I think they ought all go to one committee.

The SPEAKER. To be consistent with the action of the House a moment ago, this resolution in reference to a commercial treaty with Mexico should go to the Committee on Foreign Affairs.

Mr. GIBSON. I have no objection.

The joint resolution was accordingly referred to the Committee on Foreign Affairs, and ordered to be printed.

CONVENTION WITH THE HAWAIIAN ISLANDS.

Mr. GIBSON also introduced a joint resolution (H. R. No. 47) as to giving notice to terminate the convention of June 3, 1875, with his majesty the King of the Hawaiian Islands; which was read a first and second time.

Mr. GIBSON. I move that that resolution be referred to the Committee of Ways and Means.

Mr. REAGAN. That should go to the Committee on Foreign Affairs.

The SPEAKER. The bill authorizing the convention with the King of the Hawaiian Islands came from the Committee of Ways and Means.

Mr. REAGAN. I know it did; but I think this had better go to the other committee.

Mr. GIBSON. Bills and joint resolutions involving revenue matter have been invariably referred to the Committee of Ways and Means. And the one to which this relates came from that committee.

The question was taken upon the motion of Mr. REAGAN; and it was not agreed to.

The joint resolution was then referred to the Committee of Ways and Means, and ordered to be printed.

GEORGE E. PAYNE.

Mr. GIBSON also introduced a bill (H. R. No. 1543) to authorize George E. Payne to bring suit in the Court of Claims; which was read a first and second time, and referred to the Committee on the Judiciary.

INTERNATIONAL EXPOSITION AT CITY OF MEXICO.

Mr. KING introduced a joint resolution (H. R. No. 48) in relation to the international exposition to be held in the City of Mexico in the year 1880; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

PACIFIC RAILROADS.

Mr. ACKLEN introduced a bill (H. R. No. 1544) in relation to the Union Pacific, Central Pacific, and Kansas Pacific Railroads, and to alter and amend certain acts entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and an act approved July 2, 1864, amendatory of said act; and finally an act approved May 7, 1878, in amendment of said above-mentioned acts respectively, and to secure the Government of the United States against the results of the frauds perpetrated by the Credit Mobilier; which was read a first and second time.

Mr. ACKLEN. I move the reference of this bill to the Committee on the Judiciary.

Mr. CLARK, of Missouri. I think this bill ought to go to the Committee on the Pacific Railroad. I move to amend so as to refer it in that way.

Mr. ACKLEN. This bill is very nearly the same as one which was reported from the Committee on the Judiciary in the last Congress, that committee having the subject then under consideration. I think that it should be considered by the same committee in this Congress.

The question being taken on the motion of Mr. CLARK, of Missouri, there were—ayes 39, noes 25; no quorum voting.

Tellers were ordered; and Mr. ACKLEN, and Mr. CLARK of Missouri, were appointed.

Mr. CLARK, of Missouri. I withdraw the motion to refer the bill to the Committee on the Pacific Railroad.

Mr. CHALMERS. I renew the motion. The bill ought to go to the Committee on the Pacific Railroad. The subject went to that committee in the last Congress.

Mr. ACKLEN. In the last Congress the Committee on the Judiciary of this House reported a bill almost exactly the same as this, and the Committee on the Judiciary of the Senate did the same thing. Why this bill should now be sent to the Committee on the Pacific Railroad to be killed, I do not know.

Mr. CHALMERS. The gentleman is mistaken. The subject went to the Committee on the Pacific Railroad, not to the Committee on the Judiciary, in the last Congress.

Mr. McLANE. This subject is already before the Committee on the Pacific Railroad.

Mr. ACKLEN. It does not properly belong to that committee.

The SPEAKER. The question is upon the motion of the gentleman from Mississippi [Mr. CHALMERS] to refer the bill to the Committee on the Pacific Railroad instead of the Committee on the Judiciary as proposed by the gentleman who introduces the bill.

The House divided; and the tellers reported—ayes 88, noes 37.

So the motion of Mr. CHALMERS was agreed to.

The bill was accordingly referred to the Committee on the Pacific Railroad, and was ordered to be printed.

SURVEY OF MIAMI AND ERIE CANAL IN OHIO.

Mr. HILL introduced a joint resolution (H. R. No. 49) providing for a survey of the Miami and Erie Canal in the State of Ohio, with a view to enlarging the same to the capacity of a ship-canal; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

REMOVAL OF REMAINS OF LIEUTENANT JAMES H. BRADLEY.

Mr. HILL also introduced a bill (H. R. No. 1545) authorizing the Secretary of War to remove the remains of Lieutenant James H. Bradley from Big Hole Pass, Montana Territory, to Stryker, Williams County, Ohio; which was read a first and second time, and referred to the Committee on Military Affairs.

ACCOUNTS OF POTTAWATOMIE INDIANS.

Mr. HILL also (by request) introduced a bill (H. R. No. 1546) to authorize the Secretary of the Interior to adjust the accounts of certain bands of Pottawatomie Indians in the States of Michigan and Indiana, and to pay any arrears of annuities due to them under treaties of the United States; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

REPORTS OF CLARENCE KING.

Mr. BUTTERWORTH (for Mr. NEAL) introduced a joint resolution (H. R. No. 50) providing for the printing of 1,200 copies of the reports of Clarence King; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

PURITY OF ELECTIONS.

Mr. BUTTERWORTH also (for Mr. NEAL) introduced a bill (H. R. No. 1547) to punish bribery and treating at elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BUTTERWORTH also (for Mr. NEAL) introduced a bill (H. R. No. 1548) to further preserve the purity of elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

E. L. HUSTED.

Mr. MONROE introduced a bill (H. R. No. 1549) granting a pension to E. L. Husted; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ALCOHOLIC LIQUOR TRAFFIC.

Mr. MONROE also introduced a bill (H. R. No. 1550) to provide a commission on the subject of the alcoholic liquor traffic; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SOLDIERS AND SAILORS' HOMESTEAD LAW.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 1551) to amend the soldiers and sailors' homestead law; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MEDICAL ADVICE FOR DISCHARGED SOLDIERS, ETC.

Mr. YOUNG, of Ohio, also introduced a bill (H. R. No. 1552) to entitle honorably discharged officers, soldiers, and sailors of the Army and Navy of the United States to medical advice and relief from any post station or medical officer of a naval hospital or depot; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SARAH E. HERRELL.

Mr. YOUNG, of Ohio, also introduced a bill (H. R. No. 1553) for the relief of Sarah E. Herrell, widow of the late John Herrell, late captain of Company H, Second Regiment Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on War Claims.

CUSTOM-HOUSE AT TOLEDO, OHIO.

Mr. HURD introduced a bill (H. R. No. 1554) authorizing the appropriation of additional land for custom-house at Toledo, Ohio; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

UNITED STATES COURTS, TOLEDO, OHIO.

Mr. HURD also introduced a bill (H. R. No. 1555) to amend an act amendatory of an act entitled "An act to provide for circuit and district courts of the United States at Toledo, Ohio;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM M'MONDAY.

Mr. LE FEVRE introduced a bill (H. R. No. 1556) granting a pension to William McMonday; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BENJAMIN FRANKLIN AMOS.

Mr. LE FEVRE also introduced a bill (H. R. No. 1557) granting a pension to Benjamin Franklin Amos; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN B. BROWN.

Mr. ATHERTON introduced a bill (H. R. No. 1558) for the relief of John B. Brown, for bounty and allowances; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM T. MOREHEAD.

Mr. ATHERTON also introduced a bill (H. R. No. 1559) for the relief of William T. Morehead, Eighth Iowa Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES B. WHITE.

Mr. ATHERTON also introduced a bill (H. R. No. 1560) granting a pension to James B. White, of Zanesville, Muskingum County, Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THEODORE W. TALLMADGE.

Mr. EWING introduced a bill (H. R. No. 1561) for the relief of Theodore W. Tallmadge; which was read a first and second time, and referred to the Committee on Private Land Claims.

JOHN DWYER.

Mr. EWING also introduced a bill (H. R. No. 1562) for the relief of John Dwyer, of the city of Washington, District of Columbia; which was read a first and second time, and referred to the Committee on War Claims.

ACT INDEMNIFYING STATES.

Mr. THOMPSON introduced a bill (H. R. No. 1563) to declare the intent and meaning of an act approved July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States;" which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

R. H. MARTIN.

Mr. THOMPSON also introduced a bill (H. R. No. 1564) for the benefit of R. H. Martin, of Campbellsville, Kentucky; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

JOHN C. HERNDON.

Mr. PHISTER introduced a bill (H. R. No. 1565) for the benefit of John C. Herndon, formerly of Mason County, Kentucky; which was

read a first and second time, and referred to the Committee on War Claims.

SALE OF LEAF-TOBACCO.

Mr. KNOTT introduced a bill (H. R. No. 1566) to repeal so much of the sixth clause of section 3244 of the Revised Statutes of the United States as prohibits farmers and planters from selling leaf-tobacco at retail directly to consumers without the payment of a special tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PIUS A. COOMES.

Mr. KNOTT also introduced a bill (H. R. No. 1567) granting a pension to Pius A. Coomes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONGRESSIONAL PRINTER.

Mr. KNOTT also introduced a bill (H. R. No. 1568) to provide for the election of a Congressional Printer, and for other purposes; which was read a first and second time, referred to the Committee on Printing and ordered to be printed.

WILLIAM H. WALKER.

Mr. CALDWELL introduced a bill (H. R. No. 1569) granting a pension to William H. Walker, of Fentress County, Tennessee, late of Company C, First Regiment Kentucky Volunteer Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SALE OF TOBACCO.

Mr. OSCAR TURNER introduced a bill (H. R. No. 1570) to permit farmers and planters to sell tobacco of their own production without special tax, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON BRANDY.

Mr. OSCAR TURNER also introduced a bill (H. R. No. 1571) to abolish all taxes on brandy made of apples and peaches in the United States; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM GREGORY.

Mr. McKENZIE introduced a bill (H. R. No. 1572) restoring the name of William Gregory, of Muhlenburgh County, Kentucky, to the pension roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN GAULT, JR.

Mr. WILLIS introduced a bill (H. R. No. 1573) for the relief of John Gault, jr., late a major of the Twenty-eighth Regiment of Kentucky Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

KATE WILHARLITZ.

Mr. WILLIS also introduced a bill (H. R. No. 1574) granting a pension to Kate Wilharlitz; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES HOPWOOD.

Mr. WILLIS also introduced a bill (H. R. No. 1575) for the relief of James Hopwood; which was read a first and second time, and referred to the Committee of Claims

HEIRS OF EDWARD B. CLARK.

Mr. WILLIS also introduced a bill (H. R. No. 1576) for the relief of the heirs of Edward B. Clark; which was read a first and second time, and referred to the Committee on the District of Columbia.

F. STITZEL & BROTHER.

Mr. WILLIS also introduced a bill (H. R. No. 1577) for the relief of F. Stitzel & Brother; which was read a first and second time, and referred to the Committee of Ways and Means.

GILBERT A. PHILLIPS.

Mr. WILLIS also introduced a bill (H. R. No. 1578) granting a pension to Gilbert A. Phillips; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. SALLIE T. WARD.

Mr. WILLIS also introduced a bill (H. R. No. 1579) granting a pension to Mrs. Sallie T. Ward; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. ANN SHEFFIELD.

Mr. WILLIS also introduced a bill (H. R. No. 1580) granting a pension to Mrs. Ann Sheffield; which was read a first and second time, and referred to the Committee on Invalid Pensions.

KETURAH A. COLLINS.

Mr. WILLIS also introduced a bill (H. R. No. 1581) granting a pension to Keturah A. Collins; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN B. MARTIN.

Mr. WILLIS also introduced a bill (H. R. No. 1582) granting a pension to John B. Martin, of Louisville, Kentucky; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FANNY S. CONWAY.

Mr. WILLIS also introduced a bill (H. R. No. 1583) for the relief of Mrs. Fanny S. Conway, of Louisville, Kentucky; which was read a first and second time, and referred to the Committee on Naval Affairs.

J. R. MIDDLETON.

Mr. WILLIS also introduced a bill (H. R. No. 1584) for the relief of J. R. Middleton, of Louisville, of the State of Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM GEISSEL.

Mr. WILLIS also introduced a bill (H. R. No. 1585) for the relief of William Geissel, late a second lieutenant of the Sixth Regiment of Kentucky Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

RIVERS AND HARBORS.

Mr. THOMAS TURNER introduced a bill (H. R. No. 1586) to amend an act entitled "An act making appropriations for the construction, repair, preservation, and completion of certain works on rivers and harbors, and for other purposes," approved March 4, 1879; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MASONIC LODGE, CYNTHIANA, KENTUCKY.

Mr. CARLISLE introduced a bill (H. R. No. 1587) for the relief of Saint Andrew's Lodge, No. 18, Free and Accepted Masons, Cynthiana, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

ESTATE OF THOMAS V. STIRMAN.

Mr. CARLISLE also introduced a bill (H. R. No. 1588) for the relief of the estate of Thomas V. Stirman, deceased, late of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

ISAAC N. WEBB.

Mr. CARLISLE also introduced a bill (H. R. No. 1589) for the relief of Isaac N. Webb, of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

THOMAS C. ISGRIG.

Mr. CARLISLE also introduced a bill (H. R. No. 1590) for the relief of Thomas C. Isgrig, of Pike County, Missouri; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM W. ANDERSON.

Mr. CARLISLE also introduced a bill (H. R. No. 1591) for the relief of William W. Anderson, of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

JAMES S. FRIZELL.

Mr. CARLISLE also introduced a bill (H. R. No. 1592) for the relief of James S. Frizell, of Dayton, Ohio, and late of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

MARCUS L. BROADWELL.

Mr. CARLISLE also introduced a bill (H. R. No. 1593) for the relief of the estate of Marcus L. Broadwell, deceased, late of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

JOSEPH B. M'CLINTOCK.

Mr. CARLISLE also introduced a bill (H. R. No. 1594) for the relief of Joseph B. McClintock, of Harrison County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

MRS. ANNA J. GUEST.

Mr. WHITTHORNE introduced a bill (H. R. No. 1595) granting a pension to Mrs. Anna J. Guest, widow of Commodore John Guest, late of the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BERRY H. VAUGHN.

Mr. TAYLOR introduced a bill (H. R. No. 1596) granting a pension to Berry H. Vaughn; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PATSY DAVENPORT.

Mr. TAYLOR also introduced a bill (H. R. No. 1597) granting a pension to Patsy Davenport; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ASSISTANT UNITED STATES DISTRICT ATTORNEYS.

Mr. TAYLOR also introduced a bill (H. R. No. 1598) to abolish the office of assistant United States district attorney for the various districts and circuits in the United States; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. DIBRELL introduced a bill (H. R. No. 1599) to repeal part of section 643 of the Revised Statutes; also a bill (H. R. No. 1600) to repeal section 3412 of the Revised Statutes; which were read a first

and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

COLLECTION OF CUSTOMS.

Mr. DIBRELL also introduced a bill (H. R. No. 1601) to reduce the expenses of collecting customs; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SMALL DISTILLERS.

Mr. DIBRELL also introduced a bill (H. R. No. 1602) for the relief of distillers of small capacity; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PENSION FOR WAR OF 1812.

Mr. DIBRELL also submitted a resolution calling on the Secretary of the Interior for information in relation to pensions withheld from soldiers of the war of 1812; which was referred to the Committee on Revolutionary Pensions.

NATIONAL MEMORIAL ORPHAN ASSOCIATION.

Mr. YOUNG, of Tennessee, introduced a bill (H. R. No. 1603) establishing a national memorial orphan association; which was read a first and second time, referred to the Committee on Epidemic Diseases, and ordered to be printed.

NATIONAL BOARD OF HEALTH.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1604) to increase the efficiency of the National Board of Health and to prevent the introduction into or spread within the United States of contagious and infectious diseases; which was read a first and second time, referred to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, and ordered to be printed.

GEORGE N. BARBER.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1605) for the relief of the widow and children of George N. Barber, late a pensioner of the United States; which was read a first and second time, and referred to the Committee on Invalid Pensions.

TEXAS PACIFIC RAILWAY.

Mr. YOUNG, of Tennessee, (by request,) also introduced a bill (H. R. No. 1606) to provide for the construction of a railway from the Mississippi waters to the Pacific Ocean, and amendatory of and supplemental to an act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplemental thereto; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

MARINE HOSPITAL, MEMPHIS, TENNESSEE.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1607) to provide for the construction of a marine hospital in the city of Memphis, Tennessee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. MARGARET WOODWORTH.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1608) for the relief of Mrs. Margaret Woodworth, widow of the late John M. Woodworth, Surgeon-General of the Marine Hospital Service; which was read a first and second time, and referred to the Committee of Claims.

MOLLIE B. WALDO.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1609) for the relief of Mollie B. Waldo, widow of the late Assistant Surgeon Roswell Waldo, of the Marine Hospital Service; which was read a first and second time, and referred to the Committee of Claims.

GENERAL QUARANTINE LAW.

Mr. YOUNG, of Tennessee, also presented a joint resolution of the General Assembly of the State of Tennessee, requesting the enactment of a general quarantine law; which was referred to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States, and ordered to be printed.

DUTY ON QUININE.

Mr. YOUNG, of Tennessee, also presented a joint resolution of the General Assembly of the State of Tennessee, asking the reduction of the duty on quinine; which was referred to the Committee of Ways and Means, and ordered to be printed.

MRS. MARY SPEED.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1610) for the relief of Mrs. Mary Speed, of Memphis, Shelby County, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

LUCINDA M'GUIRE.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1611) for the relief of Lucinda McGuire, of Memphis, Tennessee; which was read a first and second time, and referred to the Committee on War Claims

MRS. SALLIE JARRATT.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1612) for the relief of Mrs. Sallie Jarratt, executrix of Gregory Jarratt, deceased, late of Hardeman County, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

MARY DONELLON.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1613) granting a pension to Mary Donellon; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CESSION OF LAND TO MEMPHIS, TENNESSEE.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1614) to cede to the city of Memphis, in the State of Tennessee, a certain lot of land situated in said city; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JOHN ALLEN.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 1615) for the relief of John Allen, of Hardeman County, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

J. D. BOND & BROTHER.

Mr. McMILLIN introduced a bill (H. R. No. 1616) for the relief of J. D. Bond & Brother, of Wilson County, Tennessee; which was read a first and second time, and referred to the Committee of Ways and Means.

NATHANIEL HALBERT.

Mr. McMILLIN also introduced a bill (H. R. No. 1617) granting a pension to Nathaniel Halbert; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IMPROVEMENT OF CANEY FORK RIVER.

Mr. McMILLIN also introduced a bill (H. R. No. 1618) making appropriations to improve the Caney Fork River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN B. PEYTON.

Mr. McMILLIN also introduced a bill (H. R. No. 1619) authorizing the appointment of John B. Peyton to the office of paymaster in the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

IMPROVEMENT OF OBEDS RIVER.

Mr. McMILLIN also introduced a bill (H. R. No. 1620) making an appropriation to improve the Obeds River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TRIBUTARY STREAMS OF TENNESSEE RIVER.

Mr. HOUK introduced a bill (H. R. No. 1621) making appropriations to improve the navigation of tributary streams of the Tennessee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

THOMAS L. DUNCAN.

Mr. HOUK also introduced a bill (H. R. No. 1622) for the relief of Thomas L. Duncan, of Anderson County, Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN HENRY.

Mr. HOUK also introduced a bill (H. R. No. 1623) for the relief of John Henry, of Jefferson County, Tennessee; which was read a first and second time, and referred to the Committee on War Claims.

HARDIE R. BROWN.

Mr. HOUK also introduced a bill (H. R. No. 1624) for the relief of Hardie R. Brown, late a second lieutenant of Company G, Sixth Tennessee Volunteer Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

DISTRICT OF COLUMBIA BUSINESS.

Mr. HUNTON. Mr. Speaker, the hour of two o'clock has arrived, at which time we are entitled to take the floor for the District of Columbia business.

Mr. CLARK, of Missouri. Mr. Speaker, was not unanimous consent given to complete the call of States for introduction of bills?

The SPEAKER. The Chair will state the present situation. The Committee for the District of Columbia was given to-day at two o'clock, with all the privileges granted by Rules 74 and 82. Among those privileges to-day after two o'clock was to be devoted exclusively to the business reported from that committee. At a subsequent period unanimous consent was given that the call of the States should be gone through with to-day under the call provided for in Rule 130. Under such circumstances the Chair thinks that the condition made in favor of the District of Columbia would be operative at two o'clock. He is willing, however, to submit the question to the House so the House may determine which order it shall proceed with at this time.

Mr. COX. Does the District Committee claim it?

The SPEAKER. The chairman of that committee is on the floor claiming it.

Mr. COX. It has been always ruled when the District Committee claimed it nothing could stand in the way of that committee.

The SPEAKER. This is not the regular District of Columbia day—not the regular day granted to that committee under the rule.

Mr. COX. I do not know how it is about such an exceptional case.

Mr. SPARKS. Let the call be proceeded with if there be no objection.

The SPEAKER. The Chair thinks under strict construction the Committee for the District of Columbia would be entitled to this day after two o'clock.

Mr. HUNTON. I do not wish to be obstinate about this. What is the opinion of the Chair?

The SPEAKER. The Chair thinks it would take half an hour yet to complete the call of States.

Mr. HUNTON. Will it not take more than half an hour?

The SPEAKER. The Chair thinks that it will not take more than a half hour.

Mr. HUNTON. I am perfectly willing to accommodate members around me, and will yield for a half hour with the distinct understanding, however, that at the expiration of that time we shall have the floor for the District business.

GEORGE L. KEY.

Mr. BICKNELL introduced a bill (H. R. No. 1625) for the relief of George L. Key, late first lieutenant of the Twenty-fifth Battery Indiana Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ALABAMA CLAIMS.

Mr. COBB introduced a bill (H. R. No. 1626) for reviving and continuing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BRIDGE ACROSS WABASH RIVER.

Mr. COBB also introduced a bill (H. R. No. 1627) to authorize the construction of a railroad bridge across the Wabash River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DALTON HINCHMAN.

Mr. NEW introduced a bill (H. R. No. 1628) granting a pension to Dalton Hinchman, late a private in Company G, Second Michigan Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. DE LA MATYR (by request) introduced a bill (H. R. No. 1629) for the improvement of the Mississippi and Ohio Rivers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FUNDING MUNICIPAL INDEBTEDNESS.

Mr. DE LA MATYR also (by request) introduced a bill (H. R. No. 1630) to provide for funding municipal indebtedness with United States paper money; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

RELIEF OF FINANCIAL DISTRESS.

Mr. DE LA MATYR also introduced a bill (H. R. No. 1631) to provide for a greenback currency and to relieve financial distress by granting aid to certain companies incorporated by State authority for works of internal improvements; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

UNITED STATES DEBT.

Mr. DE LA MATYR also introduced a bill (H. R. No. 1632) to provide for the payment of the interest on the debt of the United States and for funding said debt in United States paper money; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WALTER D. PLOWDEN.

Mr. DE LA MATYR also introduced a bill (H. R. No. 1633) for the relief of Walter D. Plowden; which was read a first and second time, and referred to the Committee on War Claims.

LAW CONCERNING NATIONAL BANKS.

Mr. DE LA MATYR also presented a concurrent resolution of the Legislature of Indiana, asking a change in a law concerning national banks; which was referred to the Committee on Banking and Currency, and ordered to be printed.

ARREARAGES OF PENSIONS.

Mr. HOSTETLER introduced a resolution requesting the Secretary of the Treasury to report what further action of Congress is needed to enable him to meet with more promptness than $1,500,000 per month arrearages of pensions; which was referred to the Committee on the Judiciary.

CAPTAIN LEWIS STODDARD.

Mr. BROWNE (for Mr. CALKINS) introduced a bill (H. R. No. 1634) for the relief of Captain Lewis Stoddard; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE W. LOWE.

Mr. BROWNE also introduced a bill (H. R. No. 1635) granting a pension to George W. Lowe, late captain Eighty-third Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANCIS M. MAY.

Mr. BROWNE also introduced a bill (H. R. No. 1636) for the relief of Francis M. May, postmaster at Winchester, Indiana; which was read a first and second time, and referred to the Committee of Claims.

JOHN W. STEVENS.

Mr. BROWNE also introduced a bill (H. R. No. 1637) restoring the name of John W. Stevens, a soldier of the Mexican war, to the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WASHINGTON L. COLGROVE.

Mr. BROWNE also introduced a bill (H. R. No. 1638) for the relief of Washington L. Colgrove, of Winchester, Indiana; which was read a first and second time, and referred to the Committee of Claims.

FREDERICK VOGEL.

Mr. BROWNE also introduced a bill (H. R. No. 1639) for the relief of Frederick Vogel, of Franklin County, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES S. HAYES.

Mr. BROWNE also introduced a bill (H. R. No. 1640) for the relief of Charles S. Hayes, of Lawrenceburgh, Indiana; which was read a first and second time, and referred to the Committee on War Claims.

JAMES L. PEARCE.

Mr. BROWNE also introduced a bill (H. R. No. 1641) for the relief of James L. Pearce, postmaster at Williamsburgh, Indiana; which was read a first and second time, and referred to the Committee of Claims.

JAMES L. RIGOR.

Mr. BROWNE also introduced a bill (H. R. No. 1642) granting a pension to James L. Rigor, late a private in Company G, Sixty-Ninth Indiana Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRANCIS C. BUFFINGTON.

Mr. BROWNE also introduced a bill (H. R. No. 1643) for the relief of Francis C. Buffington; which was read a first and second time, and referred to the Committee on War Claims.

MAJOR JACOB E. BURBANK.

Mr. BROWNE also introduced a bill (H. R. No. 1644) for the relief of Major Jacob E. Burbank; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES CUNNINGHAM.

Mr. SPARKS introduced a bill (H. R. No. 1645) for the relief of James Cunningham, of Centralia, Illinois; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

HATTIE BOWMAN.

Mr. STEVENSON introduced a bill (H. R. No. 1646) granting a pension to Mrs. Hattie Bowman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SWAMP AND OVERFLOWED LANDS.

Mr. ALDRICH, of Illinois, presented a joint resolution of the Legislature of Illinois, in favor of a bill to provide for indemnity due the several States under acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands; also, in favor of a bill to authorize the Commissioner of the General Land Office to adjust and settle the claims of the State of Illinois and other States for indemnity for swamp lands sold by the United States; which was referred to the Committee on Public Lands.

MRS. MARY WHITTINGTON.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 1647) granting a pension to Mrs. Mary Whittington; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PENSIONS FOR MEXICAN WAR.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 1648) granting pensions to the surviving officers and enlisted men, including militia and the volunteers in the military and naval services of the United States, who served in the Mexican and other wars therein named; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. CHURCH.

Mr. HAWK introduced a bill (H. R. No. 1649) granting a pension to George W. Church; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD T. BROWNELL.

Mr. HAWK also introduced a bill (H. R. No. 1650) for the relief of Edward T. Brownell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CAPTAIN JOHN SLAUGHTER.

Mr. HAWK also introduced a bill (H. R. No. 1651) granting a pension to the children (heirs at law) of Captain John Slaughter, late of Company F, Thirty-fourth Illinois Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AARON MILEY.

Mr. FORSYTHE introduced a bill (H. R. No. 1652) for the relief of Aaron Miley; which was read a first and second time, and referred to the Committee on the Post-Office and Post-Roads.

FREDERICK WITHNER.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 1653) granting a pension to Frederick Withner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. WATSON.

Mr. HAYES introduced a bill (H. R. No. 1654) granting a pension to George W. Watson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES T. CHRISTIAN.

Mr. THOMAS introduced a bill (H. R. No. 1655) granting a pension to James T. Christian; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HUGH WORTHINGTON.

Mr. THOMAS introduced a bill (H. R. No. 1656) for the relief of the legal heirs of Hugh Worthington, of Metropolis, Illinois, owners of the steamer Eastport; which was read a first and second time, and referred to the Committee on War Claims.

KANKAKEE RIVER.

Mr. FORT introduced a bill (H. R. No. 1657) for an appropriation for the improvement of the navigation of the Kankakee River, in the States of Illinois and Indiana; which was read a first and second time, and referred to the Committee on Commerce.

CYRUS THOMAS.

Mr. FORT also introduced a bill (H. R. No. 1658) authorizing the Treasury Department to pass the accounts of Cyrus Thomas; which was read a first and second time, and referred to the Committee of Claims.

ALLEN HARPER.

Mr. FORT also introduced a bill (H. R. No. 1659) for the relief of Allen Harper, of Illinois; which was read a first and second time, and referred to the Committee on War Claims.

STATUE OF CHIEF-JUSTICE MARSHALL.

Mr. FORT also introduced a bill (H. R. No. 1660) to authorize the erection of a statue in honor of Chief-Justice Marshall, late of the Supreme Court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

W. L. PARVIN AND H. H. GREENE.

Mr. FORT also introduced a bill (H. R. No. 1661) for the relief of Washington L. Parvin and Henry H. Greene, late California volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES H. FOX.

Mr. SPRINGER introduced a bill (H. R. No. 1662) granting a pension to Charles H. Fox; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ALEXANDER WHITLOCK.

Mr. SPRINGER also introduced a bill (H. R. No. 1663) granting a pension to Alexander Whitlock; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY CLINE.

Mr. SPRINGER also introduced a bill (H. R. No. 1664) granting a pension to Henry Cline; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM M. J. PATTERSON.

Mr. SPRINGER also introduced a bill (H. R. No. 1665) granting a pension to William M. J. Patterson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWIN S. BURBANK.

Mr. SPRINGER also introduced a bill (H. R. No. 1666) granting a pension to Edwin S. Burbank; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM T. M'GOWEN.

Mr. SPRINGER also introduced a bill (H. R. No. 1667) granting a pension to William T. McGowen, private Company D, Twenty-sixth Regiment Illinois Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM HEYWOOD.

Mr. SPRINGER also introduced a bill (H. R. No. 1668) granting a pension to William Heywood; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM D. COWAN.

Mr. SPRINGER also introduced a bill (H. R. No. 1669) granting a pension to William D. Cowan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MORRIS C. SEAMAN.

Mr. SPRINGER also introduced a bill (H. R. No. 1670) for the relief of Morris C. Seaman, late a private in Company E, Eighty-fifth Illinois Infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

CONSTITUTIONAL PROHIBITION OF SPECIAL LEGISLATION.

Mr. SPRINGER also introduced a joint resolution (H. R. No. 51) proposing an amendment to the Constitution of the United States prohibiting special legislation; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DEPOSIT OF UNITED STATES FUNDS.

Mr. SPRINGER also submitted a resolution calling on the Secretary of the Treasury for information as to places of deposit of $448,467,156.81 reported in the Treasury April 30, 1879; which was referred to the Committee on Banking and Currency.

EXTENSION OF PATENT OF HENRY VOELTER.

Mr. SPRINGER also submitted a resolution calling upon the Secretary of the Interior for information relative to the extension of the patent of Henry Voelter for making wood paper pulp; which was referred to the Committee on Patents.

EXTRA PAY TO OFFICERS OF ARMY AND NAVY.

Mr. SINGLETON, of Illinois, (for Mr. HOOKER,) introduced a bill (H. R. No. 1671) supplemental to an act approved February 19, 1879, granting three months' extra pay to officers and soldiers of the Army, and officers and petty officers, seamen, and marines of the United States Navy and United States revenue marine; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RALPH P. FORD.

Mr. DAVIS, of Missouri, (by request,) introduced a bill (H. R. No. 1672) for the relief of Ralph P. Ford, late private Companies K and B Third Regiment Missouri State Militia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

IRON MOUNTAIN RAILROAD.

Mr. DAVIS, of Missouri, also introduced a bill (H. R. No. 1673) to declare forfeited to the United States lands granted to the State of Missouri in aid of the construction and extension of the Iron Mountain Railroad from Pilot Knob, by act of Congress approved July 4, 1866; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

TAX ON MEDICINES, ETC.

Mr. FROST introduced a bill (H. R. No. 1674) to repeal so much of section 3437 of the Revised Statutes as imposes a tax on medicines or medicinal preparations; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JACOB D. FELTHOUSEN AND HEIRS OF WILLIAM H. AKINS.

Mr. FROST also introduced a bill (H. R. No. 1675) for the relief of Jacob D. Felthousen and the heirs of William H. Akins, deceased; which was read a first and second time, and referred to the Committee of Claims.

JANE CONLIN.

Mr. FROST also introduced a bill (H. R. No. 1676) granting a pension to Jane Conlin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONRAD BLATTNER.

Mr. FROST also introduced a bill (H. R. No. 1677) granting a pension to Conrad Blattner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN RUST.

Mr. FROST also introduced a bill (H. R. No. 1678) granting a pension to John Rust; which was read a first and second time, and referred to the Committee on Invalid Pensions.

W. H. MANSFIELD AND OTHERS.

Mr. FROST also (by request) introduced a joint resolution (H. R. No. 52) authorizing the Secretary of the Treasury to pay W. H. Mansfield and others the amounts found due them under the internal-revenue laws; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

LANDS IN THE INDIAN TERRITORY.

Mr. FROST also submitted a resolution requesting information from the President concerning lands in the Indian Territory; which was referred to the Committee on Indian Affairs.

JASON ASHWORTH.

Mr. CLARK, of Missouri. I introduce several bills at the request of my colleague [Mr. LAY] who is absent by leave of the House.

Mr. CLARK, of Missouri, introduced a bill (H. R. No. 1679) for the relief of Jason Ashworth; which was read a first and second time, and referred to the Committee on War Claims.

MARY A. SILVEY.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1680) for the relief of Mary A. Silvey; which was read a first and second time, and referred to the Committee on Military Affairs.

LEGAL REPRESENTATIVES OF ALEXANDER BARCLAY.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1681) for the relief of the legal representatives of Alexander Barclay, deceased; which was read a first and second time, and referred to the Committee on Military Affairs.

REINHART BREINNEISS AND OTHERS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1682) for the relief of Reinhart Breinneiss, John H. Moas, Henry W. Kolkmeyer, Frank Breinness, and Louis Tompkins, of Missouri, for services rendered to the United States during the war; which was read a first and second time, and referred to the Committee on War Claims.

JOSEPH DIEHL.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1683) for the relief of Joseph Diehl; which was read a first and second time, nd referred to the Committee on War Claims.

R. M. WYRICK AND OTHERS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1684) for the relief of R. M. Wyrick, and others, loyal citizens of Missouri; which was read a first and second time, and referred to the Committee on War Claims.

GEORGE M. D. TOURS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1685) for the relief of George M. D. Tours; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BUILDING AT JEFFERSON CITY, MISSOURI.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1686) providing for the erection of a building at Jefferson City, Missouri, for the use and accommodation of United States courts and other Government offices; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

H. H. HOFFMAN.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1687) for the relief of H. H. Hoffman; which was read a first and second time, and referred to the Committee on War Claims.

LUCY C. FIELD.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1688) for the relief of Lucy C. Field; which was read a first and second time, and referred to the Committee on War Claims.

JOHN F. ENNEBERG.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1689) for the relief of John F. Enneberg; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM S. GIBBS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1690) granting a pension to William S. Gibbs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN F. FELDMAN.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1691) to grant a pension to John F. Feldman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EIGHTH MISSOURI CAVALRY.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1692) for the relief of certain soldiers of the Eighth Cavalry, Missouri State Militia; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS PLANT.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1693) for the relief of Thomas Plant; which was read a first and second time, and referred to the Committee of Claims.

ELIZA DUNCAN.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1694) granting a pension to Eliza Duncan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH POTTS.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1695) to place the name of Joseph Potts on the pension list; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EMMA A. PORCH.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1696) to place the name of Emma A. Porch on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SARAH E. STARLING.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 1697) granting a pension to Sarah E. Starling; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN P. PLATT.

Mr. FORD introduced a bill (H. R. No. 1698) granting a pension to John P. Platt; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD D. JOHNSON.

Mr. FORD also introduced a bill (H. R. No. 1699) granting a pension to Edward D. Johnson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AMENDMENT OF PENSION LAWS.

Mr. FORD also introduced a bill (H. R. No. 1700) to amend an act entitled "An act granting pensions to the widows, children, dependent mothers and fathers or orphan brothers and sisters of those soldiers who were killed by guerrillas at Centralia, Missouri, in 1864; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANDREW J. BOWZER.

Mr. FORD also introduced a bill (H. R. No. 1701) to authorize the Secretary of the Interior to remove the charge of desertion from Andrew J. Bowzer, late a private in Company G, Twelfth Regiment of Missouri Cavalry Volunteers, and to grant him an honorable discharge; which was read a first and second time, and referred to the Committee on Military Affairs.

NAPOLEON B. GIDDINGS.

Mr. FORD also introduced a bill (H. R. No. 1702) for the relief of Napoleon B. Giddings, of Savannah, Missouri; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM LETT.

Mr. FORD also introduced a bill (H. R. No. 1703) granting a pension to William Lett, late a private in Company C, First Regiment Tennessee Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN W. DELAY.

Mr. FORD also introduced a bill (H. R. No. 1704) granting a pension to John W. Delay, late a private in Company A, Forty-third Regiment Missouri Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

THOMAS DOAK

Mr. FORD also introduced a bill (H. R. No. 1705) for the relief of Thomas Doak, of Clinton County, Missouri; which was read a first and second time, and referred to the Committee of Claims.

WINGATE K. WATCHEL AND OTHERS.

Mr. FORD also introduced a bill (H. R. No. 1706) for the relief of Wingate K. Watchel, Thomas M. Pitman, David W. Terhune, Valentine Graff, Colman S. Carter, and Sanford Stoner; which was read a first and second time, and referred to the Committee on Military Affairs.

TEXAS AND PACIFIC RAILROAD COMPANY.

Mr. McMILLIN (by request) introduced a bill (H. R. No. 1707) to provide for the construction of a railway from the Missouri waters to the Pacific Ocean, and amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

PUBLIC LANDS IN INDIAN TERRITORY.

Mr. WADDILL introduced a joint resolution (H. R. No. 53) directing the Secretary of the Interior to offer unappropriated public lands in the Indian Territory for settlement under the homestead and preemption laws; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

NATIONAL FINANCES.

Mr. BUCKNER (by request) introduced a bill (H. R. No. 1708) for the better regulation of the national finances; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SOLOMON T. KAUBLE.

Mr. BUCKNER also introduced a bill (H. R. No. 1709) granting a pension to Solomon T. Kauble, Indiana Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

A. L. H. CRENSHAW.

Mr. SAWYER introduced a bill (H. R. No. 1710) for the relief of A. L. H. Crenshaw, of Jackson County, Missouri; which was read a first and second time, and referred to the Committee on War Claims.

EUGENE WELLS.

Mr. ROTHWELL introduced a bill (H. R. No. 1711) for the relief of Eugene Wells; which was read a first and second time, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. SPRINGER. When my name was called I had a bill upon my desk.

The SPEAKER. The Chair does not think he can interrupt the call of States now.

Mr. SPRINGER. I had a bill upon my desk, which was not quite completed.

The SPEAKER. That is not the fault of the Chair.

Mr. SPRINGER. I ask leave to offer it now.

The SPEAKER. The Chair will recognize the gentleman after the call of States has been completed.

ELLEN S. HARDING AND MARY LONG.

Mr. GUNTER introduced a bill (H. R. No. 1712) for the relief of Ellen S. Harding and Mary Long; which was read a first and second time, and referred to the Committee on the Judiciary.

MONROE DONOHO.

Mr. GUNTER also introduced a bill (H. R. No. 1713) for the relief of Monroe Donoho; which was read a first and second time, and referred to the Committee on Public Lands.

ARGENTINE BATES.

Mr. CRAVENS introduced a bill (H. R. No. 1714) for the relief of Argentine Bates; which was read a first and second time, and referred to the Committee on War Claims.

ORDER OF BUSINESS.

Mr. HUNTON. I think I shall have to interrupt the call of States now.

The SPEAKER. The Chair would suggest that if those gentlemen whose States and Territories have not yet been called will remain here to-day until the business from the Committee for the District of Columbia has been disposed of, the Chair will then resume the call where it now leaves off and proceed with it till it is concluded.

Mr. CONGER. It was agreed by unanimous consent that all the States should be now called.

The SPEAKER. The Chair is aware of that. But it was also agreed by unanimous consent that the Committee for the District of Columbia should have the right at two o'clock to-day to take the floor for the consideration of its business, with all the rights which that committee has under the rule.

The chairman of the Committee for the District of Columbia, the gentleman from Virginia, [Mr. HUNTON,] has given way for half an hour in order to allow the call of States to be carried on. The Chair now proposes that after the business from the District of Columbia Committee shall have been concluded to-day the call of States shall then proceed, so that all members may have an opportunity to present their bills to-day.

Mr. CONGER. There are but three or four States yet to be called, and I presume that we can get through with the call in a few minutes.

The SPEAKER. That is a matter for the members of the District of Columbia Committee to determine.

Mr. HUNTON. I would be very glad to yield, and I have yielded for half an hour. If I should yield any further I am afraid that the business of the District Committee would be cut out for to-day.

The SPEAKER. The Chair would suggest that the House do not adjourn to-night until all the States have been called. After all the business of the District Committee is through with (which the Chair is advised will take but little more than an hour) the call of States can be resumed.

Mr. CONGER. If that is so, then the Committee for the District of Columbia will have time enough for its business should the call of States be now concluded.

The SPEAKER. That may be so; but the committee have a right to the floor at this time under the rule.

Mr. BREWER. Would not the later unanimous consent supersede and do away with the former?

The SPEAKER. The Chair has thought of that. The Chair thinks that the right given to the Committee for the District of Columbia to report at two o'clock to-day is a right under the provisions of the rule, which states that it shall be to the exclusion of all other business.

Mr. BREWER. That is true; but that right for to-day was given by unanimous consent.

The SPEAKER. The Chair supposes that when the House gave unanimous consent for to-day members did not think that the call of States for bills would go beyond two o'clock. At two o'clock the Chair submitted the question to the House, and the House came to an understanding with the Committee for the District of Columbia that half an hour longer time should be granted. That time has been occupied in the introduction of bills; and the business from the Committee for the District of Columbia will now be proceeded with.

Mr. HUNTON. I think I showed a decided spirit of liberality in giving an additional half-hour for the introduction of bills.

The SPEAKER. The Chair suggests that after the business of the Committee for the District of Columbia is concluded the call of States for the introduction of bills, &c., shall be resumed. He is willing to stay here himself as long as may be necessary to conclude the business, as he did on a former Monday when the introduction of bills occupied more than six hours.

Mr. BREWER. I ask unanimous consent that the call of States and Territories for the introduction of bills, &c., may be resumed and concluded to-morrow morning, immediately after the reading of the Journal.

There being no objection, the motion of Mr. BREWER was agreed to.

BRIDGE ACROSS THE POTOMAC NEAR GEORGETOWN.

Mr. HUNTON. I am instructed by the Committee for the District of Columbia to report back with amendments the bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes. As this bill is subject to a point of order, I shall, after the bill has been read, ask that it may be considered in the House as in Committee of the Whole.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed to cause to be constructed across the Potomac River at or near Georgetown in the District of Columbia, at such point as he may select, a substantial iron and masonry bridge, with approaches; and the sum of $140,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction of said bridge and approaches, the same to be maintained as a free bridge for travel: *Provided*, That the said Secretary of War shall construct a bridge upon such plan as shall cost no more than the amount herein appropriated, and which cost shall include the construction of a substantial bridge over the canal, and any and all approaches to the said iron bridge; and no part of this appropriation shall be paid out of the Treasury until contracts shall have been entered into with responsible parties, and with good and sufficient sureties to be approved by the Secretary of War, for the construction and completion of said bridge, including the masonry, iron-work, and approaches, at a cost not to exceed $140,000: *And provided also*, That a draw of sufficient width to permit the free passage of vessels navigating that part of the Potomac River shall be constructed in said bridge, unless said bridge shall be constructed by the side of, or up the river from, the present aqueduct and at the same or greater elevation above the water: *And provided also*, That the sum which may be expended under this act shall be treated and regarded as a part of the general expenses of the District of Columbia, and the United States shall be credited with the amount which it may pay under this act for the erection of said bridge upon its 50 per cent. of the expenses of the District of Columbia, as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia:" *Provided further*, That the Secretary of War shall, as soon as may be, fix and determine the location of said bridge, and cause a survey of the river to be made at such place of location, determine the length, width, and height of said bridge, and the length of draw, if one is required, and thereupon advertise for plans and price for the construction of such bridge; such advertisement to be inserted in one or more daily newspapers published in Washington, District of Columbia, New York, and Cleveland, Ohio, for the space of one week.

SEC. 2. That if the Alexandria Canal Railroad and Bridge Company will lease to the United States their bridge over the Potomac River at Georgetown for so long as said bridge shall be maintained upon the terms, conditions, and price as hereinafter specified, the Secretary of War is hereby authorized and directed to enter into such lease in behalf of the United States, and refrain from erecting a bridge as in the first section of this act provided. Said lease must contain the following provisions and conditions: The rent as specified at —— thousand dollars per annum, payable quarterly by the United States, less any deductions for not complying with the terms of said lease as therein provided; that said lease shall continue as long as said bridge shall be kept up for use, but the lessee may at its option declare said lease forfeited in case the lessor fails for a period of thirty days after notice to keep said bridge in a safe and proper condition for public travel; that if said bridge at any time becomes unsafe for public travel, on notice from the commissioners of the District of Columbia, the rent under said lease shall cease, and not recommence until said bridge shall be made safe for public travel, and notice thereof given to said commissioners, and the amount from any suspension of rent to be deducted from the rent thereafter to become due; that said bridge company shall not, during the continuance of said lease, use upon said bridge structure any locomotive or steam-propelling power; that during the continuance of said lease the use of said bridge shall be free to the public and the Government.

SEC. 3. That to enable the United States to fulfill such lease, if made, the sum of —— dollars is hereby appropriated yearly, out of any moneys in the Treasury not otherwise appropriated, for paying such of said rent as may become due, and the Secretary of the Treasury is hereby authorized and directed to pay the same; and the sums thus paid shall be treated and held as a part of the general expenses of the District of Columbia, and the United States shall be credited with the amount which it shall pay under this act upon its 50 per cent. of the expenses of said District of Columbia as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia."

The amendments reported by the committee were read, as follows:

On page 3 strike out section 2.

On page 4 strike out section 3.

Mr. HUNTON. Mr. Speaker, the bill just read is subject to a point of order if any gentleman on the floor wishes to raise such a point. I hope, however, that in order to avoid any difficulty on that score it will be the pleasure of the House to consider this bill in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Virginia asks unanimous consent that this bill be considered in the House as in Committee of the Whole. The Chair hears no objection.

Mr. HUNTON. This bill as amended by the committee and now reported is substantially, if not entirely, the bill which was passed by this House in the last Congress without a division. The only objection then arising in this House resulted from a desire on the part of members to get in proper shape two portions of the bill. One was in regard to dividing between the District of Columbia and the Federal Government the expense of erecting this free bridge, so as to bring the expenditure within the operation of the act known as the act creating a permanent government for the District of Columbia. The provision of the present bill on that subject is in these words:

That the sum which may be expended under this act shall be treated and regarded as a part of the general expenses of the District of Columbia, and the United States shall be credited with the amount which it may pay under this act for the erection of said bridge upon its 50 per cent. of the expenses of the District of Columbia, as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia."

This was the amendment finally agreed upon in the last House, and it was entirely satisfactory to members on both sides.

The other matter in regard to which some difficulty arose was as to obtaining the consent of the State of Virginia to the building of

an abutment on the other side of the river, which would be within the territory of that State. The House is aware that the General Government has jurisdiction over the entire river Potomac along the borders of the District of Columbia, and the jurisdiction of the State of Virginia extends only to low-water mark on the other side. But one of the abutments of this bridge would of necessity be upon the soil of Virginia. Consequently, in the bill passed by the House at the last session a provision was inserted that the act should not go into operation until the consent of Virginia had been given to the erection of that abutment on her soil. After the passage of the bill by the House the State of Virginia, whose Legislature was then in session, passed an act giving consent to the erection of this bridge, authorizing the Government of the United States to acquire ten acres of land for the purpose, and giving concurrent jurisdiction to the United States over the land thus acquired. Hence, the provision with reference to obtaining the consent of Virginia has been omitted in this bill because such consent has already been granted.

In regard to the necessity for a bridge across the Potomac at the point contemplated by this bill I desire to state that at or near this point there is now a toll-bridge erected over the aqueduct which conducts the canal across the Potomac. That is the only toll-bridge leading into the District of Columbia. All the bridges leading into the District from the State of Maryland are free, and all the bridges from the State of Virginia are free except the one to which I have just referred. The object of this bill is to afford to the people who now have to use that toll-bridge the same facilities enjoyed by people coming into the District by other bridges. The expense of constructing this bridge, $140,000, is to be divided equally between the Federal Government and the District of Columbia, in accordance with the provision which I have read.

I will add a word in regard to the two sections which the committee have instructed me to move to strike out. It was supposed that possibly it might be best for the Federal Government to lease the present Aqueduct Bridge, paying for its use such sums as the company now receive in tolls; and when this bill was reported to the House and recommitted, two sections looking to that end were embraced in the bill. Upon consideration this morning, the Committee for the District of Columbia, I believe unanimously, instructed me to offer an amendment striking out these two sections, leaving the free-bridge bill pure and simple as this House passed it at the last session of Congress. So, if the amendments of the committee are adopted and the bill is passed, there will be a free bridge erected, under the direction of the Secretary of War, at or near Georgetown, at a price not to exceed $140,000. And the only difference between the bill passed by this House at the last session of Congress and the present one is that this provides for specifications, advertisements, &c.

If there is any objection to the bill it will give me great pleasure if I can to explain it still further to gentlemen.

Mr. WRIGHT. I observe that it appropriates $140,000. Now, why is it necessary, if the District of Columbia is to pay half the cost, that the whole amount should be appropriated out of the Treasury of the United States?

Mr. HUNTON. That is done in every such case. The Federal Government pays the money and when the settlement takes place between the Federal Government and the District of Columbia under the permanent form of government bill, then the Federal Government is credited with this amount.

Mr. REAGAN. Mr. Speaker, I am at a loss to understand why it is that the people of the United States should be taxed to build a bridge for the local convenience of the people of Georgetown and its neighborhood. I am at a loss to understand why any reason which could be urged for the passage of such a bill could not as well be used for bridging at the Government expense any other river in any other part of the United States for the benefit of the local community interested in any such bridge.

I am aware, sir, that generally when it is proposed to do anything in the way of expending money in the District of Columbia it is hardly considered in order to raise objections to it. We passed a bill here in June, 1878, for a permanent government of the District, and one, I venture to say, most marvelous in its effect and character in taxing the people of the United States in large degree for local expenses of the people here; and beyond, it seems to me, all necessity. But I do not propose to rediscuss that subject now.

Here we are now asked to build a free bridge across the Potomac River, not within the District of Columbia, but across the river connecting the District of Columbia with the State of Virginia.

Mr. BRAGG. Let me ask the gentleman from Texas whether the Government does not own a bridge now known as the Chain Bridge, about two miles above this?

Mr. REAGAN. I understand there is a free bridge, but I have never investigated it—what is called the Chain Bridge; and that the Government owns another bridge below this at Georgetown. How many bridges there are I do not know. Experience has taught me, Mr. Speaker, the difficulty of preventing the passage of any of these appropriations for purposes in and about the District of Columbia, and I do not hope to succeed in defeating this unnecessary proposition; but I do rise to protest that we have no more right to appropriate this money out of the Federal Treasury to build a free bridge across the Potomac River than we have to build a free bridge across the Delaware, or the Schuylkill, or the James, or any other river. If there is any reason why this local bridge, for the benefit of a neighborhood and local convenience only, should be paid for by the Government of the United States, which would not apply to the rivers I have named, or any other rivers in the United States, I should like to hear it.

Mr. SAMFORD. Mr. Speaker, there is another objection, it seems to me, to this bill which comes in by virtue of the law referred to by the gentleman from Texas, and that is this: in that law it was provided that all matters, not only of this character, but all expenses of the District of Columbia, should be first suggested by the District commissioners, and by them submitted to the Secretary of the Treasury, and by him transmitted to Congress, after he had scrutinized the proposition of the District commissioners. I find, in looking at that law passed barely a year ago—not quite a year ago—"that such commissioners shall submit to the Secretary of the Treasury, for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing and the estimated cost thereof; also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all streams in said District."

There is a provision in that law which seems to me to be a salutary one, requiring the District commissioners first to make the proposition. They are then to be submitted to the Secretary of the Treasury and to come under his scrutiny. It is required by that law first to be submitted by the commissioners, for the reason, I apprehend, that the commissioners know best the state of the revenues and assets of the District and can say whether the finances of the District will or not permit the work to be undertaken. But in the face of that this proposition, without having been suggested by the commissioners of the District and without being submitted to the Secretary of the Treasury, asks us to appropriate $140,000 by Congress in the first instance, without ever having a single estimate made in any legal form.

Therefore I think it is contrary to the law as it is now established for the government of this District. The Secretary of the Treasury is required to—

> Carefully consider all estimates submitted to him as above provided, and shall approve, disapprove, or suggest such changes in the same, or any item thereof, as he may think the public interest demands; and after he shall have considered and passed upon such estimates submitted to him he shall cause to be made a statement of the amount approved by him and the fund or purpose to which each item belongs, which statement shall be certified by him and delivered, together with the estimates as orignally submitted, to the commissioners of the District of Columbia, who shall transmit the same to Congress.

Now, my objection to this mainly is that we cannot at this time act advisedly on this subject. I do not desire to be understood as combating the idea of a free bridge for Georgetown. Notwithstanding there is force in the utterances of the gentleman from Texas, [Mr. REAGAN,] I do not propose to commit myself on that proposition at all. But what I am contending against now is that we should consider a bill that comes here in this shape without having run the gauntlet which is required by law.

At this very time the citizens of Georgetown are beseeching and besieging the District Committee, and through them Congress, in order to have certain taxes remitted. The commissioners themselves are asking for a loan of $25,000 to enable them to complete or perfect the water-works here. And yet without consulting the commissioners at all, Congress, it is proposed, shall require them to assume an additional indebtedness of $70,000 or one-half of the $140,000 to be appropriated for this bridge.

I say that the law which took effect July 1, 1878, was passed for the special purpose of having the commissioners report to Congress what improvements the state of the finances of the District of Columbia would permit to be undertaken. And, in addition, I say that I see no necessity for any undue haste. It is contended that if we put this off it goes over to another year. That is true; it does go over for another year for the estimates to be made by these authorities who are authorized by the law to make them. There is a provision in this very law which says that the taxes of the District shall not be anticipated, and yet we anticipate them by this bill without ever asking the commissioners one single question in reference to it.

These are my objections to this bill as it stands now without any reference to what my position may be when the question comes up of a free bridge in the right way.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed a bill (S. No. 516) to extend the time of special postal service until service can be obtained by advertisement; in which the concurrence of the House was requested.

BRIDGE ACROSS THE POTOMAC.

Mr. HUNTON. I do not understand my friend from Alabama [Mr. SAMFORD] as opposing a free bridge.

Mr. SAMFORD. Not at this time.

Mr. HUNTON. No; you only oppose an appropriation because you maintain the necessary preliminaries have not been gone through.

Mr. SAMFORD. Yes; I do not think the matter is in a proper shape to vote upon at this time.

Mr. HUNTON. But I understood the gentleman to say, and I have understood him heretofore to say, that if these necessary prelimina-

ries, according to his opinion, be complied with, he favors a free bridge as provided for by the bill.

Mr. SAMFORD. Allow me to say that I do not commit myself on that question at all.

Mr. HUNTON. Very well; the gentleman does not commit himself against it.

Now I say my friend from Alabama is entirely mistaken about the necessity of a report from the commissioners of the District of Columbia to the Secretary of the Treasury and of a report from the Secretary of the Treasury to this House. I am aware, sir, that the bill to which he alludes, called a bill providing a permanent form of government for the District of Columbia, does provide that certain matters shall be estimated for by the District commissioners, reported to the Secretary of the Treasury, and by him transmitted to the House, and so far as approved by the Appropriations Committee the appropriation shall be made, and not otherwise. But this is not an improvement belonging to that class of matters. The same question was raised when this bridge bill passed the House at the last session, and upon reading the act, as I understood, the gentleman who raised the objection to the bill now raised by the gentleman from Alabama abandoned it. I desire to call the attention of the House to the provision upon that subject, and they will see upon the reading of the law that this is not one of those appropriations that have to pass through the commissioners to the Secretary of the Treasury before they can be granted by this House.

Mr. BRAGG. I desire to ask the gentleman whether this is not within the spirit of the law in order that the party who is to pay the tax may know that the amount levied is within the means of payment?

Mr. HUNTON. It is not within either the letter or the spirit of the law.

Mr. BRAGG. May not the effect of this bill be to levy a tax on the people here, who it is said are already taxed more than they are able to bear?

Mr. HUNTON. That is for the people of the District to complain of rather than for the gentleman from Wisconsin. I wish now to call the attention of the House to the language of the law referred to by the gentleman from Alabama to show that it has no reference to this bill:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; also, the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District.

Now, this is a provision that the statement shall include the cost of all bridges authorized by law; and the commissioners of the District of Columbia had no more right, no more authority under that provision of law establishing a permanent form of government to estimate the cost of this bridge than they had to estimate the cost of anything else that the wit of man can conceive of.

Mr. SAMFORD. Then I understand this is not a bridge authorized by law?

Mr. HUNTON. Certainly not.

Mr. SAMFORD. Let me ask the gentleman one other question. Then the object of this bill is to authorize it by law and provide for its building in the same bill?

Mr. HUNTON. Unquestionably; and I presume nobody understood it otherwise. This bridge is not now authorized by law; this bill is to authorize its construction. That being the object of this bill the District commissioners could not have estimated its cost. They would not have known, of course, where this bridge was to be located. They could not tell whether this Congress meant to pass a bill authorizing the construction of an expensive or an economical bridge. They did not know the width of the river where the bridge was to be located. And in the name of common sense how could the District commissioners have estimated for its cost?

Mr. BLOUNT. I wish to inquire of the gentleman from Virginia [Mr. HUNTON] if I understood him correctly as stating that this bill was passed by the House in the last Congress?

Mr. HUNTON. Yes, and without a division. The only controversy was in regard to the amendments to which I called the attention of the House a moment ago. Those amendments were made and they satisfied the entire House, so that the bill was passed without an objection.

Mr. MCMILLAN. Does the committee reporting this bill take into calculation the fact that there are already two bridges across the Potomac?

Mr. HUNTON. There are two bridges across the Potomac leading into Virginia. One is known as the Long Bridge, four miles below where it is proposed to build this bridge. The constant passing of railroad trains across the Long Bridge renders it almost useless for the purposes of the farmers who desire to bring their products to the markets in this city. The other bridge is four miles above where it is proposed to locate this one, not two miles as my friend from Alabama [Mr. SAMFORD] has stated. The people who will use this bridge, if it is constructed, cannot without great inconvenience go to the bridge four miles above. Now, in regard to the very remarkable protest of my friend from Texas [Mr. REAGAN] I desire to say a word.

Mr. MCMILLIN. One other question.

Mr. HUNTON. Very well.

Mr. MCMILLIN. What is the object of providing that the Government shall build this bridge? Why not let the parties interested in it build it?

Mr. HUNTON. Who are the parties interested in it?

Mr. BRAGG. The State of Virginia for one.

Mr. MCMILLIN. I cannot see that the Government is sufficiently interested in this bridge to justify its building it.

Mr. HUNTON. I will endeavor to show that very clearly; and I propose along with that to address myself to the remarkable protest of my friend from Texas, [Mr. REAGAN.] He says he does not see why the people of the United States should be taxed to make a free bridge for the purpose of ingress into and egress from the city of Washington. It has not been very long since my friend who makes this protest brought into this House a bill making much larger appropriations for his own State, which the people of the United States had to pay. I have that bill before me, and it appropriates about $200,000 for the State of Texas mainly.

Mr. REAGAN. Allow me to say that those appropriations relate to the general improvement of the commerce of the United States.

Mr. HUNTON. Yes, and this bridge is for the general good of the people of the District of Columbia. One-half of the property of this District is owned by the United States. Now, sir, if the people of the United States can pay $200,000 for the benefit of the State of Texas, I think my friend ought not to complain when a bill is brought in here to improve the capital of the country, the people of which are called upon to pay $200,000 for the improvement of little rivers and harbors in the State of Texas, some of which I have no doubt are down upon the map. [Laughter.]

Mr. HARRIS, of Virginia. Read them over.

Mr. HUNTON. I will do so. "For deepening the channel of Sabine Pass at Blue Buck Bar, Texas, $25,000." Now, I have my doubts whether there is any such place in Texas. [Laughter.] "For improving entrance to Galveston Harbor, Texas, $100,000." "For improving Narrows of Sabine River above Orange, Texas, and to deepen the channel at the mouth of the Sabine River, $6,000." "For improving mouth of Trinity River, Texas, $2,500." "For improving mouth of"—some name I cannot pronounce.

Mr. REAGAN. Neches River.

Mr. HUNTON. There is no such river as that in Texas, is there? [Laughter.] For that is appropriated $5,000. "For improving Passo Cavallo Inlet into Matagorda Bay, Texas, $25,000."

Nearly $200,000 was appropriated by the last Congress, upon the report of my friend himself as the chairman of the committee that brought in the bill, for the improvement of these little rivers in Texas. The people of the United States are obliged to pay that sum; yet the very moment that an appropriation is asked to improve the capital of the country my friend raises his voice in earnest protest against it.

Now let me tell you why the bill which he says was the most monstrous which ever passed the House—I take issue with him on that. The point of monstrosity in that bill, in his opinion, was that the Federal Government was to pay one-half of the expenses of the District of Columbia in these six miles square under the exclusive control of the United States Government. Why? Because the evidence before the Congress of the United States was that the Government of the United States owned half the property here, and every dollar spent in the city of Washington was spent one-half for the Government of the United States and one-half for the people of the District.

Mr. BLOUNT. All the streets and avenues are included in that calculation of the property owned by the United States in this District.

Mr. HUNTON. Yes, and the Government owns all the streets and avenues in this District, every square yard of them. I do not think, I never did think, and the majority of both Houses of Congress do not think, that that provision in the bill was a monstrosity. The gentleman asks why the people of the United States should be taxed to help build a bridge across the Potomac for the benefit of the people of the State of Virginia. I will tell you why in my opinion they ought, and why in the opinion of the last House, without a division, it was thought proper. The Federal Government owns half the property in this District and has exclusive jurisdiction over the District of Columbia. More than that, it has exclusive jurisdiction over the Potomac River clear to the Virginia shore; and when the Federal Government undertakes to bridge the Potomac in the direction of the State of Virginia it bridges its own stream and not a stream belonging to the State of Virginia. If Virginia were able and desirous to undertake this work she could not put a single pier in that stream without the consent of the United States.

But, asks the gentleman, why should the Federal Government build this bridge? I ask him, why should the Federal Government have built and made free every bridge leading into the District of Columbia except one? Is there to be one rule adopted for Maryland and another rule for Virginia? I trust not. The same rule which has governed our legislation in regard to bridges leading from the District of Columbia toward the State of Maryland should be administered as to those leading into the State of Virginia.

Mr. CONGER. Is not the bridge across the Eastern Branch, near the navy-yard, entirely within the District of Columbia?

Mr. HUNTON. Possibly it may be. But I was going to call the attention of the House to some expenditures made by the Federal

Government in order to provide free bridges for the District of Columbia. The Little-Falls bridge was made free by an act of Congress, March 3, 1853, and $30,000 was appropriated for that purpose. July 20, 1868, $26,000 was appropriated for repairs of that bridge. An act was passed June 30, 1872, appropriating $100,000 to erect an iron bridge upon the piers of the Chain Bridge, so called. An appropriation of $147,000 for the repair of the Navy-Yard Bridge was made June 22, 1874. Every bridge leading into this District, whether from the State of Maryland or the State of Virginia, with the one exception already mentioned, has been erected or made free by appropriations from the Federal Treasury.

I am aware that there are already bridges leading into the State of Virginia. But, as I said awhile ago, one is useless for general purposes on account of the passage of railroad trains, three different companies I believe using that bridge. The other is so far up the river that it does not accommodate the people who would use the bridge provided for in this bill.

I cannot for my life see why, when an appropriation of this sort is asked, my friend from Texas [Mr. REAGAN] should rise in his seat and say that it is impossible to oppose successfully any appropriation proposed for the District of Columbia. My experience is just the reverse. The hardship is that we do not make such appropriations for the District of Columbia as a Government ought to bestow upon its own capital for the convenience of citizens and the embellishment of the seat of government. I think that this bridge is not only important to the Government and to the people, but is demanded by every consideration at the hands of this House.

I desire to state further that the toll-bridge which now accommodates the same class of people who would be accommodated by the free bridge proposed in this bill, is now used by the Government in the transportation of troops and supplies across the river. Several hundred dollars per annum are expended by the Government of the United States in order to transport troops and supplies to Arlington and to Fort Whipple on the other side of the river. More than this, at Arlington, as the House is very well aware, is one of the largest Federal cemeteries in the United States; and annually, on Decoration Day, immense numbers of people repair there from the District of Columbia to decorate the graves in that cemetery. Every person who passes over the Aqueduct Bridge for such purposes has to pay the enormous toll charged by the present bridge company.

For these reasons I think it is imperatively demanded at the hands of Congress that the people who will be accommodated by this free bridge should be placed upon the same footing with other communities who have the use of free bridges and can come into the District of Columbia or go from the District into the adjacent country, without paying toll.

Mr. REAGAN. Mr. Speaker, I wish to say a few words in reply to the observations of my friend from Virginia, [Mr. HUNTON.] He raises an analogy between appropriations made for the improvement of navigation for the benefit of the commerce of the United States and a bridge erected to accommodate a neighborhood, no general commerce being concerned. The gentleman exercises his wit by calling attention to the fact that appropriations have been made out of the public Treasury to make improvements at places in the State of Texas that he knows nothing about; places as to which he does not know whether they are on the map or not. I can only say I am sorry for the meagerness of the gentleman's geographical knowledge. He is anxious to know where Sabine Pass and Blue Buck Bar are. If he had been a very earnest inquirer for information he would have found that Sabine City, where this pass is located, is one of the ports of the Gulf of Mexico, and that Blue Buck Bar lies between that port and the outer waters of the gulf, in tide water. He was also perplexed to know where Neches River is, and he does not know whether that is on the map. I am again sorry for the gentleman's deficiency in geographical information. I can only say that this is a river which has been navigated for two hundred and fifty miles by steamboats for thirty years, and not a dollar was expended by the Federal Government upon it until within a year or two we made an appropriation to improve its mouth in tide water. Every dollar that has ever been appropriated for improving the commercial facilities of that region has been spent in improving its tide water or its coast, except two or three small appropriations for a stream extending from the city of Jefferson to the Red River. With this exception, all the appropriations for that portion of the country have been appropriations to deepen the entrances of sea-port towns and to improve tide-water navigation of rivers which have been navigated far up by steamboats for thirty years.

I do not care to go further into this question. I would not have referred to the subject at all but for the fact that it is very common for the gentleman from Virginia and a few others who have no sympathy with the commercial prosperity of this country to be throwing out insinuations about appropriations for streams upon which there is no commerce. And, Mr. Speaker, I desire here to call attention to a distinction which arises upon the remarks of the gentleman from Virginia, who is the constant, inveterate opponent of every bill to improve the commercial facilities of this great country.

Mr. HUNTON. I beg the gentleman's pardon.

Mr. REAGAN. I say that the gentleman has voted against every bill brought in here to improve our rivers and harbors.

Mr. HUNTON. I beg the gentleman's pardon; I opposed his bill because he moved to pass it, including appropriations for $8,000,000, and including also what I have referred to, under the suspension of the rules, and it was the suspension of the rules to pass an appropriation bill of $8,000,000 which I opposed, because I wanted it discussed, so that if any of these appropriations needed for the benefit of the gentleman's own State were improper they could be stricken out. I wished to have opportunity to debate the bill, and not to have it passed without debate and without amendment under a suspension of the rules.

Mr. REAGAN. Perhaps that is the motive which controlled the gentleman's vote, but in the remark which I made I was influenced by the fact that the gentleman always has voted against bills for the improvement of rivers and harbors, and always speaks against them.

Mr. HUNTON. I voted against the suspension of the rules.

Mr. REAGAN. Gentlemen who desire the improvement of our commerce manage to vote and speak for these bills. But that is aside from what I wish to say. I wish to call the attention of the House to the gentleman's opposition and vote against these bills for the improvement of the commerce of the country, improvements under the authority of the Constitution and in pursuance of a well-settled policy, and yet, while he votes against those bills which are based upon and propounded by the Constitution, scruples not to advocate the appropriation of money out of the Treasury of the United States for the purpose of building a bridge for a neighborhood—to appropriate the money of the people of the United States to pay the ferriage or toll of the people of a neighborhood—for a purpose that has no higher and no better virtue, and for a bridge not within the District of Columbia, unless you call the waters of the Potomac River within the District of Columbia. And while this bridge across the Potomac may facilitate people in getting to and from the District of Columbia, upon the very same ground a like appropriation could be advocated for a bridge across the Delaware River, or the Susquehana River, or the Ohio River, or the Mississippi River, as the construction of such bridges would save the people of those neighborhoods the cost of paying like annual tolls. That is what I have to say about that.

Now, I made the distinction about appropriating money for the benefit of a neighborhood—for local benefit, a gift for no consideration, under the authority of no provision of the Constitution, pursuant to a policy which finds its warrant nowhere in the Constitution, and only sustained, if sustained at all, by a very bad set of precedents and appropriations made for the general benefit of the whole people.

I do not propose to exercise any wit about it; I do not propose what does not exist, but I do propose to go to the fact itself; and if the gentleman answers me by saying that I have recommended appropriations for five or six or seven millions of dollars for the improvement of the commercial facilities of this country, deepening the navigable waters, removing obstructions, cheapening freights, reducing insurance, and accommodating nearly thirty billions of the United States for the benefit of the producers and all who consume the products of the country, in pursuance of an enlarged and necessary policy, I am content with having made such a record; but that is no sort of answer upon a proposition to make a large appropriation out of the Treasury of the United States to build a bridge for the benefit of a neighborhood, simply to give a gratuity to a neighborhood, to accommodate May parties and other excursions, as the gentleman has gravely told us that Decoration Day happens once a year, and if this bridge were built the people could go over it to attend the decoration of the graves of the dead. That, of course, is a praiseworthy purpose, proper in itself, but I have never found in the Constitution any provision or any precedent which will warrant for any such purpose an expenditure of $140,000 of the people's money. I have never yet found a principle upon which such a thing could rest. I certainly do not think we have any right to indulge in any such luxuries when two bridges are already established there that may well accommodate the people of the neighborhood. If they want more, they can do like people in the other parts of the country, they can build them and pay the expense themselves.

The gentleman need not have gone to Texas to find appropriations for improvement of navigable rivers, for if he turned his attention to the State of Virginia, his own State, he would find the same appropriation for Aquia Creek, and made on his recommendation, where a canoe would have been wrecked.

Mr. ALDRICH, of Rhode Island. Does the gentleman intend to say that Congress has no right to improve a highway in the District of Columbia?

Mr. REAGAN. That is not the question before the House.

Mr. ALDRICH, of Rhode Island. Does the gentleman mean to say the whole of this bridge is not built within the limits of the District of Columbia?

Mr. REAGAN. I mean to say it is not called for by the public interest.

Mr. ALDRICH, of Rhode Island. That is a different question.

Mr. REAGAN. It is simply for local benefit. A highway in the sense of a commercial or military highway of the United States is the only sort of a highway we have the authority to appropriate for.

I accept the correction of the gentleman from Virginia that the appropriation I referred to was not made at his instance. I will say, however, several of the appropriations were for waters of nothing like the consequence of the streams appropriated for in Texas; and what I wanted to say was that the gentleman from Virginia need not

go to Texas for his illustration. He might have taken Virginia on one side of the District, for his illustration, and Maryland on the other. He could have found there ample appropriations and charged them to those two States if he chose, instead of charging them to the general commerce of the United States.

Mr. COX. Will the gentleman allow me to ask him a question?

Mr. REAGAN. Yes, sir.

Mr. COX. I have not been in the House during this debate. Does this bridge run from the shore of the District of Columbia to the Virginia shore?

Mr. REAGAN. Yes, sir.

Mr. COX. Is it proposed that the United States shall pay half and Virginia half?

Mr. REAGAN. No, sir; the District of Columbia is to pay half.

Mr. COX. And the United States the other half?

Mr. REAGAN. Yes, sir.

Mr. COX. And Virginia pays nothing?

Mr. REAGAN. Nothing.

Mr. COX. Bless my soul! [Laughter.]

Mr. REAGAN. It has been stated here that the Government is owner of one-half the property in this city. It is true that the bill for the permanent government of the District of Columbia was based upon that idea. In order to reach this the whole of the personal property, merchandise, public securities, and everything else in the city was thrown out of the calculation and the real estate only was valued; and the Government was charged with the public grounds of the city and the public buildings of the city and the streets and avenues and alleys of the city, so as to make out that the property owned by the Government was equal to the property owned by the citizens of the District of Columbia.

Why, sir, from the beginning the Government has improved its own property exclusively at its own expense. It did so before that law was passed and it does so since that law passed. But it is to be further charged with the streets and avenues and alleys as its property as contradistinguished from the property of private owners. That was the basis on which that bill was passed; and hence I said it was a monstrous bill. No fair man can say that the portion set apart for the use of the Government is anything like one-half or one-third of the property of the city. Leaving out the public grounds and the streets, the avenues and alleys, the Government's proportion of the property of this city resting upon the realty alone is so small that the arrangement is calculated to make any one feel the astonishment I expressed at the passage of the bill.

But besides that the personal, worth infinitely more than the real property in this city, was all left out to be untaxed so far as this apportionment of indebtedness was concerned in order to make the people of the United States pay the local taxes of the people of the District. That was the reason I had for expressing astonishment. I repeat it again, that my friend may not forget it, that was the reason I had for expressing astonishment. And the reason I had for saying we could only protest and could not hope for success in defeating the bill was that when that monstrous bill was before the House I could not get even the yeas and nays to arrest its passage or to put gentlemen on the record as voting yea or nay.

A MEMBER. Was it not the same with the river and harbor bill?

Mr. REAGAN. In answer to that suggestion, I will say that that bill was to provide facilities for the commerce of the United States under authority of the Constitution and in pursuance of a great public policy, while this is for a purely local benefit—a gift that is to a neighborhood at the expense of the whole United States. And when the country is in the distressed condition it now is, it seems to me we should put our hands lightly into the public Treasury, when the people are unable to pay the taxes, when marshals' sales, sheriffs' sales, tax sales, and trustees' sales are so frequent, and the advertisements of them fill the newspapers all over the land. Half the people are unable to pay their taxes and their debts; and it seems to me we had better hold our hands in making appropriations wherever we can, and especially where they are not warranted by the Constitution or any just or proper public policy.

Mr. HENKLE. This debate has already traveled far beyond its legitimate sphere. In that respect it is in accord with the debates that generally take place in the consideration of District business. On such occasions a great deal of time is consumed in irrelevant argument and illustration. In this debate we have traveled to Texas. We have had the merits of the river and harbor bill discussed and we have had the merits of the bill authorizing the permanent form of government for the District of Columbia discussed. Now, all these matters are irrelevant to the bill at present pending before the House. I propose to make a few practical remarks, and will attempt to confine myself to the precise question before us.

The gentleman from Texas has asked us why should the people of the United States be taxed and why should the people of the District be taxed to build a bridge to accommodate one particular neighborhood? In answer to that question I would state that it is for the very same reason that the United States is taxed equally with the District of Columbia to maintain all the highways and all the bridges and all the thoroughfares of public travel within the limits of this District, and the people of the District are also taxed for the same purpose. The citizens of Georgetown pay taxes for the support of all these other thoroughfares and bridges, and is it fair that they should be compelled to pay taxes to support free highways and bridges that are leading into the city from every other direction while they themselves are compelled to pay toll?

This bill is based upon the principles of equity. The Government has gone thus far in this direction. Every bridge, every avenue leading into the District, no matter whether it is entirely in the District or whether one end be in the District and the other end in Maryland or Virginia, has been paid for entirely by the District government and the General Government conjointly.

The Long Bridge is entirely within the District of Columbia; but the other end of it abuts upon the soil of Virginia. One end of Chain Bridge is in the District of Columbia and the other end in Virginia. Now, there is no more reason why Virginia should be required to pay for constructing this bridge than for constructing either of the others.

I say, then, that this bill is based upon a general principle established for years in the District of Columbia, the broad principle laid down in the bill for the formation of a government for the District of Columbia passed by the last Congress. The principle is that the General Government should pay 50 per cent. of the general expenditures of this District and the people of the District should pay the other 50 per cent.

Now, if the people who will be taxed for the support of this improvement are willing to have it made, I see no good reason why Congress should object to it. In one form or another this subject has been pending before our committee for the last three or four years. Never yet has a single citizen of Washington, or of Georgetown, or of any part of the District of Columbia appeared before our committee and protested against the people of the District being taxed for this bridge, or made any objection of any kind to the establishment of a free bridge at this point.

These embarrassments and these hinderances to public travel are far behind the civilization of the age. The progress of the nineteenth century and the advances that we hope we are making all over the country demand that there shall be no longer such obstruction; demand that we shall have free highways, free bridges, and untrammeled travel, and that the gates of our city shall be thrown open to the people from every direction who may choose to come here.

Besides, the Government has a direct interest in the construction of this bridge. The Government owns property outside of this District. The gentleman from Texas [Mr. REAGAN] has ridiculed the illustration made by my friend from Virginia [Mr. HUNTON] who referred to Decoration Day. There are extensive property interests over there which belong to the Government and which are resorted to every day by the employés and attaches of the Government. The Government to-day pays $400 or $500 a year toll for travel which would be free across this bridge if it was constructed.

Mr. BLOUNT. Would there be any saving if the Government should pay $150,000 to construct this bridge?

Mr. HENKLE. Of course the interest on $150,000 would exceed that amount. But I say that the General Government has an interest there beyond the general equities of the case. The Government has a material interest in the matter, and every day citizens here are taxed for the toll which is charged for crossing the bridge now there.

These are the general reasons upon which we have based this bill. We think it is fair and equitable; we think it is absolutely necessary, in order to do justice to the citizens of those portions of the District who have contributed by their taxes toward the maintenance of free bridges and highways in other sections of the District, that they should now have the assistance of the Government in affording relief to their portions of the District.

Mr. SPARKS. I understand the argument of the gentleman from Maryland [Mr. HENKLE] to be about this: that because the people of Georgetown pay taxes for improvements in the District of Columbia elsewhere than at Georgetown, therefore a free bridge at or about the neighborhood of the Aqueduct Bridge should be constructed for their benefit. Now, it is a correct principle doubtless that the people of this District should all of them be taxed to pay for improvements made anywhere in the District. But what is this bridge across the Potomac? That bridge if built will certainly be as beneficial to the State of Virginia as it is to the District of Columbia. Then, looking at it as a matter of right and common honesty, the question arises, should this District be called upon to pay for the whole of that improvement, one-half of the benefits of which accrue to the people of Virginia? That is the question, the answer to which must necessarily be in the negative.

Of course, under the law passed in the last Congress and referred to by the gentleman from Texas, [Mr. REAGAN,] whatever amount is expended for improvements in this District is, under the law, to be shared equally between the tax-payers of the District and the Government of the United States. That objectionable law is strongly condemned by my friend from Texas, [Mr. REAGAN.] That, however, I understand, is not pertinent to this discussion. It is so fixed, it is "so nominated in the bond" if you please; wrongfully of course, and yet it is done; it is the law. My friend from Texas justly complains that when it was passed he was unable to get a "yea-and-nay" vote on it, so persistent and well fortified were the friends of the measure. I remember that I heartily concurred with my friend in his efforts to arrest its passage; but we were unsuccessful. That the people of this whole country should be paying one-half of the expenses of this

city and of this District is, in my judgment, an outrage upon the taxpayers of the country. I have protested against it as well as I could ever since it was broached in this House. But this bill goes further, and demands that we should add to that burden the expense of building a free bridge which will cost $140,000, reaching into Virginia, and in which that State is as much interested as the people of this District; and that we should tax the tax-payers all over the country to pay for one-half of the whole cost of it is, in my judgment, intensifying a great wrong.

I am glad, however, that my friend from Virginia, [Mr. HUNTON,] to use a common expression, "went for" the gentleman from Texas [Mr. REAGAN] on his weak point; for this bill, bad as I conceive it to be, is no greater outrage than, in fact not a quarter so bad as, the river and harbor bill, which was got up and put through under suspension of the rules, without amendment or the power of amendment, and by which, in my judgment, the tax-payers of this country were absolutely robbed of many millions of dollars. The gentleman from Texas is now, and was then, chairman of the Committee on Commerce that reported that bill, and was its manager in the House when it passed.

I am also glad that my friend from Virginia directed the attention of the gentleman from Texas to the appropriations made in that bill for the "Sabine Pass" and "Blue Buck Bar" and various other useless improvements in Texas; but I am also equally pleased that my friend from Texas comes back at him about the appropriation for "Aquia Creek," in Virginia, which he says contains hardly water enough to "wreck a canoe on." Yet for that kind of so-called improvements a bill is brought in here and put through without opportunity for amendment or discussion. It is that sort of legislation, Mr. Speaker, that is arousing the indignation of the people of this country, and ought to arouse it.

Mr. BLOUNT. Does the gentleman desire to stir up strife between the gentleman from Texas [Mr. REAGAN] and the gentleman from Virginia, [Mr. HUNTON?]

Mr. SPARKS. Yes; a wordy strife, for by that means we expose the wrong of both bills.

Mr. REAGAN. In case of any difficulty, the gentleman from Illinois [Mr. SPARKS] may do all the fighting himself.

Mr. HUNTON. The gentleman from Illinois [Mr. SPARKS] will not succeed in "stirring up strife" between the gentleman from Texas and myself.

Mr. SPARKS. The gentleman from Texas and the gentleman from Virginia mutually attack the bills of each, and are both right in their attacks. The gentleman from Texas, in addition to his just opposition to the bill now before us, also hits the "Aquia Creek" appropriation because it is in Virginia. Of course he is right in that, for there ought to have been no appropriation for that little creek; and if the proposition had been submitted separately to the House whether the people's money should be voted for that improvement, of course it would not have been done. But that and other items of the same kind were put all together in an omnibus bill which could not be amended, and by that system of vicious legislation it was adopted. The gentleman from Virginia was quite right in arraigning the gentleman from Texas for taking money out of the Treasury for the improvement of the "Sabine Pass," "Buck Bar," and other little things of that kind in Texas.

Mr. REAGAN. I have already stated that the Sabine Pass, as well as every river in that locality for the improvement of which we have made appropriations, has been extensively navigated by steamers for years.

Mr. SPARKS. I take it from the argument of the gentleman from Virginia that those appropriations ought not to have been made; that they were extravagant and needless; and I think he is right about it. Mr. Speaker, this whole business is wrong. By this system money is taken out of the Treasury of the United States belonging to the whole people and appropriated for needless improvements which are not national and are never intended to be so. This kind of legislation, so palpably vicious in its character, ought to be stopped; though I do confess that the prospect of arresting it now is by no means flattering, yet it shall receive my earnest efforts to do so.

Mr. McMILLAN. Mr. Speaker, I have been surprised at the readiness with which it is assumed that this measure ought to pass, and with the tone of complaint that meets the objections made to its passage. We are told that the Government is not expending enough money in the District of Columbia. Now let any man go into any city of the United States where the citizens appropriate directly to the improvement of their city and observe how the streets of such cities are improved, and he will, I think, conclude that this is at least an average city in respect to such improvements. So much have the streets of this city been improved that when the least shower falls, when there is the least dampening of these beautiful streets, you see horses falling as if they trod on ice. Pedestrianism would be vastly more in vogue if the streets were a little more improved in the same way. They have been improved all over the city at an expense of from $1.45 per square yard to $3.50 per square yard. Yet we are told that the march of improvement does not go on with sufficient rapidity. What more? Not content with improving the land of the District, we are proposing to span the waters adjacent to the District. I was struck with the interrogatory of my friend from New York [Mr. COX] when he asked whether the State of Virginia was to get any benefit from this bridge, to which an affirmative answer was given, and when the further inquiry, "Does she propose to contribute anything to the building?" was answered in the negative, he was naturally very much surprised.

Now, Mr. Speaker, this is not a question of the power of the General Government. Just for argument's sake admit that the Government has power to build as many bridges as it may be disposed to build across the Potomac. The practical question at last is, ought we to build this bridge? With two free bridges within sight of this Capitol, with two means of exit from this capital toward the State of Virginia, is it expedient to go still further and expend $140,000 in the construction of another highway across the Potomac? I say that it is not. One argument used in favor of the proposition is that the Government now expends money directly or indirectly in paying tolls for the transportation of troops and supplies. My friend from Maryland [Mr. HENKLE] has just given us an insight as to how much the Government expends in this manner. He says that we expend $400 or $500 a year in that way. Now, let us see what the Government will have to pay for this bridge. Its first cost to the Government will be $70,000, the other portion of the expense being paid by the District. Six per cent. on this expenditure would be how much? Between $4,000 and $5,000. According to my calculation, we can better afford to go on as we have been doing, and pay tolls for Government transportation, than build this bridge.

It is further insisted that across the Potomac there is a cemetery, to which annually are made those patriotic pilgrimages which are an honor to our people. It is argued that we ought to have a free bridge in order to give greater facilities for crossing the river for such purposes. I happen to remember, Mr. Speaker, that six miles beyond the capital of my own State and across a river there is a national cemetery where many of the dead of the nation sleep. It is proposed to go there and build a bridge which shall be free to the flower-bearers who may visit that cemetery. Why not appropriate for a bridge there as well as here if the cemetery argument is to be conclusive?

I say that in the first place the Government ought not to be required to keep up the various improvements in this city, as it seems to be expected to do; and in the second place if we have shouldered that responsibility we at least ought to show a due regard to the rights of the people. How are the people of the United States concerned in this matter? In what way are the masses of the people interested in this bridge to the extent of $70,000? I admit that the people at the end of the bridge and those within sight of it on the other side would be greatly benefited. If the bridge should be erected, probably an occasional visit from the District that is not now made would be made. But I do insist that there is no public exigency demanding an expenditure from the National Treasury for this bridge. It is not the duty of the Government to build bridges across rivers, although they be within sight of the Capitol. Proximity signifies nothing. The people are interested in the matter. It is their money which is to be expended, and their servants will not be justified, or justifiable, if they make the expenditure demanded here. I do hope the bill will not pass.

Mr. WRIGHT. I remember, Mr. Speaker, when the first bridge, called the Long Bridge, was built over the Potomac, during the time of General Jackson's administration. A member of this House, Philander Stephens, who represented the Susquehanna district, who had been a member of the House, received the contract under the Government to build that bridge. It set the nation crazy, the idea that a member of Congress who had assisted in passing the bill should afterward become the contractor to put up the bridge. And it somewhat alarmed General Jackson, and he was not alarmed at ordinary circumstances. I know it ran along for a year or two before the bridge was built.

But what I wish to inquire about now, and what I regard as very material, is that that bridge, built at the cost of the Government, should now be occupied by railroad companies to the exclusion of ordinary travel and the commerce between both sides of this river. I have heard in debate here that that bridge, the Long Bridge as it is called, could not be occupied in consequence of the railroad tracks which are laid upon it and which exclude ordinary travel. By what authority do railroads occupy a bridge built at the cost of the Government for the accommodation of the people of the city of Washington and the parts adjacent thereto? Are those railroad companies the owners of that bridge? Are they the proprietors? If those railroad companies are the proprietors of that bridge their title has not been obtained by payment of money, has it?

A MEMBER. How has it been obtained?

Mr. WRIGHT. That is the inquiry I make, and I should like to have an answer.

A MEMBER. By act of Congress, of course.

Mr. WRIGHT. But how?

Mr. HUNTON. Congress authorized these railroad companies to build that bridge and required them to build a wagon-way on one side of it.

Mr. WRIGHT. The railroad companies may have made additions to it, but the original bridge was constructed at the time I have stated.

Mr. HUNTON. I beg leave to state to the gentleman from Pennsylvania that the original bridge is not now there. As he has said, it was built at a period so long ago it must have rotted away. The present bridge has been built by the railroad companies, and the

wagon-way alongside of it is so interrupted by the passage of trains over the bridge, as it is occupied by three railroad companies, that it is comparatively useless as a highway.

Mr. WRIGHT. If it is true these railroad companies have constructed the bridge upon which they have laid their tracks, and built it in the vicinity of the old bridge built by the Government, then there is no complaint to be made unless it may be that it was an oversight to permit them to get into such close proximity to the highway of ordinary travel.

Mr. HUNTON. You and I were not here.

Mr. WRIGHT. Why, how old are you? [Laughter.] The gentleman says he is thirty years of age. Now I appeal in all sober earnestness to the House to know whether a gentleman of his age is qualified to have such authority as would warrant the passing such legislation as we ask for. [Laughter.]

But to come down to the plain matter of fact. If it be true that these railroad companies have built the bridge they are now occupying that will relieve me from any difficulty I may have had in voting for the bill now pending for the construction of this bridge across the Potomac River.

Now, in regard to the policy of doing this, this is a great city, the capital of a great country, and I think that the people ought to have the means and facilities of reaching it from all quarters. I would not stand in the way of the erection of a bridge over the Potomac, but I would make it a grand affair, for some laboring-men must be employed to do the work, I suppose. [Laughter.] That is one reason which would induce me to vote for it. But it is due to the Government we represent that this city should be provided with proper facilities of communication with all parts of the country. I do not mean that it should be adorned by the erection of large structures simply to be looked at as matters of ornament, but I do maintain the Government should provide facilities of communication at its own cost from and to the city in all directions. Nor am I so narrow-minded in my prejudices as to say because one end of this bridge rests in Virginia, therefore Virginia should be compelled to pay the cost of constructing that part of it, or it ought not to be put up. It is not a matter in which the State of Virginia is interested, but it is a matter in which this Government is interested, as it concerns this capital.

I know it is said we own one-half of the city, and I suppose in process of time we will own the whole of it, so far as regards the assessment of taxes. But take it all in all it is our capital, and it is a city to which we ought to have access—to which the people ought to have access, to come and go freely.

And as regards the State of Virginia, I do not think we ought to levy a contribution on it, as it owes more money now than it is able to pay.

Mr. CONGER. May I ask the gentleman a question?

Mr. WRIGHT. Certainly.

Mr. CONGER. Has the gentleman become the advocate of capital so soon? He says, "our capital."

Mr. WRIGHT. I mean the capital that is designated by the big dome upon this building, and the Goddess of Liberty upon the top, put there by Jefferson Davis when he was Secretary of War. The device was his, and he did a good day's work when he made that device.

Mr. McMILLIN. Will the gentleman permit me to ask him one question?

Mr. WRIGHT. Yes, sir.

Mr. McMILLIN. It has been asserted that the Government owns one-half the property in the city. Will the gentleman state if it is not the fact that the Government is a renter in this city to the amount of many thousands of dollars a year for places to keep its records?

Mr. WRIGHT. As has been suggested, the Government does not own enough of the city. We have got to own more of it. We have got to run the establishment; and it has been the system for the last thirty years to make annual appropriations with this object in view. And we have become used to it like an eel to being skinned, and I suppose we may as well go on with it. [Laughter.] I say it is our capital, although the gentleman from Michigan who addressed the question to me just now seems to doubt whether it is our capital or not. And it is a grand capital and the capital of a grand country, notwithstanding what the gentleman from Michigan may say to the contrary.

Mr. BRAGG. I am opposed to the passage of this bill. There are now three bridges which cross the Potomac in this District, two of which the Government maintains, both of which are free, and one is a toll bridge belonging to a private corporation. One of these Government bridges is used by certain railroad companies. And in that connection I am obliged to say that I suspect the paternity of this bridge originated with a certain other railroad company that desire to use it. My suspicions grow out of this fact that when this bridge bill first saw the light in the last Congress, it had a section in it providing for the use of its piers by a narrow-gauge railroad in order to take its track across the river. Taking a ride in that neighborhood recently I discovered a grade coming down opposite the Three Sisters Islands, where it was originally proposed to locate this bridge. That, I believe, explains the paternity of this bill.

I am opposed to this bill, first, because I do not think it is necessary or requisite for the Government to invest this money in another bridge on this river by reason of any public use that is required of it. The use that is required of that bridge, if it be required at all, is for the people of the District and the people of the State of Virginia; and it is as much for the benefit of the people of the State of Virginia in that locality as it is for the benefit of the people of the District of Columbia; and therefore if the burdens are to be borne by the people who are to be benefited by it the burden should be distributed among those who are to receive the benefit. And if the people of the District of Columbia receive a certain proportion of the benefit and the people of the State of Virginia receive a portion of the benefit, those across the river ought to participate in the expense which is to result in a benefit to them.

I am opposed to the bill also in another point of view, and that is a practical one. We have now the measure of the wants of the people of the District represented through this committee. We have not yet seen the measure of their capacity to pay for their wants. The people of the District already are complaining that they are overburdened with taxation; that it is impossible for them to pay their taxes; that their property is non-productive. They have been assessed for taxes which are yet unpaid, and we have bills before this Congress, there were bills before the last Congress, and there will be bills before every Congress to relieve these people from taxation. Now that is to be considered when we are met with the argument that if the people are willing to tax themselves for this or similar purposes why should we find fault? The people perhaps asked the committee to levy taxes for this object; but the people do not pay their taxes. What becomes of it then? The United States advances the money from the funds of the Government and the contractor is paid. When you charge it upon the property of the people of the District they fail to pay their taxes; so that the loss arising from the deficit of payments falls on the Treasury. It is true that the Treasurer of the United States keeps a debit and credit account with the District. But if we keep on increasing the taxation of the District so that that debit account becomes so large that the people of the District are unable to pay it, then what must be the result? Repudiation. That is what I foresee as the result of this system of voting money to be paid out of the Treasury for every species of improvement that may be sought, or asked, or required by the District Committee. We are assuming first the payment of the debt and then taking the District to be our debtor for one-half of it. Repudiation has not yet come; but in the first place we are asked for legislation to permit the funding of the District debt, and we fund the District debt and issue bonds for the payment of that debt. We have already a law and we are asked to pass another one by which the Government of the United States assumes to pay the interest on the bonds of that debt, charging the District one-half.

Now, it seems to me that that is but a stepping-stone to what is to come; that after we have voted money under the pretense of paying one-half of all the improvements that the District of Columbia asks through this committee, there must be repudiation by the District; and in the end the Government of the United States will have to assume the payment of all this debt and of all these improvements. It is for that reason that I object to going any further in making provision for levying additional taxes upon the people of this District until we know whether their capacity to pay is equal to the taxation we impose. If not, then it is all nonsense to tell us that they are to pay their half.

Mr. FORT. I notice, in line 41 of this bill, that there is a hint of a draw in this bridge. I hardly can see why the gentleman from Virginia [Mr. HUNTON] should suggest a draw. I do not understand that the Potomac is navigable for many feet above this bridge.

Mr. HUNTON. That draw only applies to the bridge if it shall be located below the present Aqueduct Bridge.

Mr. FORT. Even then, I can hardly see why a draw would be necessary.

Mr. HUNTON. Because below the present Aqueduct Bridge the river is navigable.

Mr. FORT. We considered this bill once before in this House; and, if I do not forget, the gentleman from Virginia [Mr. HUNTON] consented that some provisions might be placed in it that would suspend its operations until the State of Virginia did certain things. Those provisions are not in this bill.

Mr. HUNTON. I explained that in the commencement of my remarks, if the gentleman had listened to what I said. I said that since that time the Legislature of Virginia has passed an act giving its consent to and authorizing the Government of the United States to acquire ten acres of land on the Virginia shore, and giving it exclusive jurisdiction over that territory.

Mr. FORT. If the gentleman had waited only a moment to hear what I had to say. It seems to be very distasteful to him for any one to make mention of the State of Virginia, and if so, I will pass over that. I suppose that this bridge if built will extend into Virginia to some extent; and if built it will be for the use and benefit of the people of his district especially.

Now if it is necessary to have a free bridge—and I will say that I am in favor of free bridges generally, yet I know at least one very flourishing city in this country, the city of Louisville, which I believe is surrounded by toll-gates so that it is impossible to get out of that city in any direction without paying toll; still the city of Louisville prospers to a greater extent than this city ever would, if it were not for the appropriations made by the General Government for

its benefit—now if it is necessary to have a free bridge here, why does not the gentleman propose either to lease the Aqueduct Bridge, or to purchase it, or to condemn it and make it a free bridge? He has stricken out of this bill the only section which really in my judgment ought to be passed. I believe he stated that that bridge was dangerous and unfit for public use. Why is it dangerous?

Mr. McLANE. If the gentleman will yield to me, I will move that the House now adjourn.

Mr. FORT. I will yield for that purpose.

Mr. McLANE. Then I move that the House now adjourn.

LEAVE OF ABSENCE.

Pending the motion to adjourn, leave of absence was granted, by unanimous consent, as follows:

To Mr. BAKER, for two weeks from the 5th instant, in consequence of the serious illness of his wife;

To Mr. TOWNSEND, of Ohio, for one week, on account of important business; and

To Mr. TALBOTT, until Friday next.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave to withdraw papers was granted as follows:

To Mr. NEWBERRY, the papers in the case of Walter F. Halleck; no adverse report; and

To Mr. AINSLIE, the papers relating to certain land titles in Idaho; no adverse report.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. TOWNSHEND, of Illinois, by unanimous consent, from the Committee on the Revision of the Laws, reported, as a substitute for House bill No. 815, to repeal certain sections of the Revised Statutes and to amend certain sections of the Statutes at Large relating to the removal of causes from State courts, a bill (H. R. No. 1715) to repeal certain sections of the Revised Statutes and to amend certain sections of the Revised Statutes and of the Statutes at Large relating to the removal of causes from State courts; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed, not to be brought back on a motion to reconsider.

ORDER OF BUSINESS.

Mr. HUNTON. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUNTON. If the House shall now adjourn will the bill now under consideration come up to-morrow as unfinished business?

The SPEAKER. It will not; it will come up when the class of business to which it belongs is next in order; that is, when business from the Committee for the District of Columbia is next in order, which will be on the third Monday of the month, the 19th instant.

Mr. HUNTON. Then I hope the House will not adjourn until some disposition is made of the bill.

Mr. SPRINGER. I desire to introduce a joint resolution for reference, with the accompanying petition.

Mr. CONGER. If all the States are now to be called which have not yet been called, I do not know that I will object.

The SPEAKER. An arrangement was made to-day by which those States and Territories not yet called shall be called to-morrow morning, immediately after the Journal is read.

Mr. CONGER. I call for the regular order.

The SPEAKER. To-morrow, after the call of States is concluded, the Chair will ask that opportunity be given for the introduction of bills by gentlemen who were not in their seats when their States were called.

The question being taken on the motion of Mr. McLANE that the House adjourn, it was agreed to; and accordingly (at four o'clock and twelve minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ACKLEN: The petition of J. D. Pickett, administrator of James C. Pickett, deceased, for a law authorizing the proper accounting officers of the Treasury to revise and adjust the accounts of the latter as chargé d'affaires to Peru, so as to compensate him for a loss sustained in the sale of certain bills of exchange—to the Committee on Foreign Affairs.

Also, papers relating to the offer of the King of Spain to confer the decoration of the Grand Cross of Naval Merit on Captain Joseph Irish, United States Revenue Marine Service, for assistance rendered to wrecked Spanish seamen—to the same committee.

Also, papers relating to the claims against the government of Nicaragua of Eliza Livingston and Woolsey Teller—to the same committee.

By Mr. BELFORD: The petition of Wolf & Brown, for compensation for horses taken by United States forces in 1865—to the Committee of Claims.

By Mr. BLISS: The petition of John Swan and others, for amending title 53 of the Revised Statutes relating to merchant seamen—to the Committee on Commerce.

By Mr. BREWER: The petition of John Algoe, for an increase of pension—to the Committee on Invalid Pensions.

Also, papers relating to the war claim of Mrs. Ann M. Elliott—to the Committee on War Claims.

By Mr. CALKINS: Papers relating to the claim of James Timmons, for bounty and back pay—to the Committee on Military Affairs.

By Mr. CARPENTER: Papers relating to the pension claim of Eliza Meekins—to the Committee on Invalid Pensions.

Also, a paper relating to the pension claim of Cornelius Wessels—to the same committee.

By Mr. CHITTENDEN: The petition of Isabella J. Ramsdell, for a pension—to the same committee.

Also, the petition of Mary A. Prescott, for a pension—to the same committee.

By Mr. COX: The petition of John L. Shaw, for compensation for information furnished and services rendered to a committee of Congress during the investigation of the whisky frauds—to the Committee of Accounts.

By Mr. CRAVENS: The petition of Angeline Bates, for compensation for services as a laundress to United States forces in 1864—to the Committee on War Claims.

By Mr. FERDON: The petition of the officers and members of the Woman's National Christian Temperance Union and others, against any change in the internal-revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

Also, the petition of women of Rockland County, New York, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. FIELD: The petition of Benjamin Hawkes, for a pension—to the Committee on Revolutionary Pensions.

By Mr. FORD: The petition of Samuel Westhimer and 5 others, for the repeal of section 7 of the law relating to wine, distilled and fermented liquors—to the Committee on the Revision of the Laws.

By Mr. FRYE: The petition of William P. Frye, for the appointment of a special committee to whom shall be referred all petitions, &c., concerning the alcoholic traffic; and for a committee to consider all petitions, &c., touching the rights of female citizens—to the Committee on Rules.

By Mr. GUNTER: The memorial of Elias C. Boudinot, a Cherokee Indian, for indemnity for the condemnation and seizure under the internal-revenue laws of certain property belonging to him—to the Committee on the Judiciary.

By Mr. HAZELTON: The petition of Mary J. Francis and 261 other women, of the third congessional district of New York, for the enforcement of the anti-polygamy laws of 1862—to the same committee.

By Mr. HILL: The petition of Amos Hill and others, in support of the pension claim of Wilson Pontious—to the Committee on Invalid Pensions.

By Mr. HOUK: The petition of John A. Brown, of Union County, Tennessee, for a pension—to the same committee.

By Mr. HUNTON: The petition of Theodore Teed, for indemnity for the loss of certain real estate purchased by him from the United States as confiscated property during the late war, and of which he has since been deprived by a decree of the Supreme Court—to the Committee on the Judiciary.

By Mr. JONES: Papers relating to the claim of S. P. Gambia, late postmaster at San Antonio, Texas, for reimbursement for clerk hire paid by him—to the Committee on the Post-Office and Post-Roads.

By Mr. KELLEY: The petition of officers and members of the Woman's National Temperance Union and others, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. LAPHAM: The petition of Annie Wittenmyer and 193 others, citizens of East Bloomfield, New York, of similar import—to the same committee.

By Mr. MASON: The petition of Benton C. Barnes, for a pension—to the Committee on Invalid Pensions.

Also, the petition of George Hugunin, of similar import—to the same committee.

By Mr. MONROE: The petition of the Woman's Temperance Union, against the sale of intoxicating liquors in the District of Columbia except for medicinal, mechanical, and scientific purposes—to the Committee for the District of Columbia.

By Mr. MORRISON: Resolutions of the General Assembly of the State of Illinois, favoring the granting of indemnity under the swamp-land acts—to the Committee on the Judiciary.

By Mr. MORTON: Papers relating to the war claim of Richard Oulahan—to the Committee on War Claims.

Also, a resolution of the Chamber of Commerce of the State of New York, in relation to the removal of obstructions to navigation in New York Harbor—to the Committee on Commerce.

Also, a memorial of the same, in relation to the naval training-school system—to the Committee on Naval Affairs.

By Mr. O'NEILL: Papers relating to the war claim of Thomas McBride, of Philadelphia—to the Committee on War Claims.

By Mr. SHALLENBERGER: The petition of James P. Sayer, for an increase of pension—to the Committee on Invalid Pensions.

Also, the petition of Marian F. Haynie, for pay due her late husband—to the Committee on Naval Affairs.

By Mr. SPEER: A petition for establishing a mail-route from Car-

tecay to Blairsville, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. SPRINGER: The petition of Mrs. Eliza Dunne, of Chicago, Illinois, for pro rata of the Virginia indemnity fund—to the Committee on Foreign Affairs.

By Mr. STEPHENS: The memorial of the Young Men's Christian Association of Savannah, Georgia, for permission to occupy temporarily the military barracks in that city—to the Committee on Military Affairs.

By Mr. STONE: A joint resolution of the Legislature of Michigan, for the due protection of settlers under the general homestead law in the counties of Oceana, Mason, Charlevoix, and Emmet in that State—to the Committee on Public Lands.

Also, the memorial of M. E. Pengelly and 80 others, citizens of Plainwell, Michigan, against any change in the internal-revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

Also, a concurrent resolution of the Legislature of Michigan, asking Congress to authorize the building of a bridge across Detroit River at or near the city of Detroit—to the Committee on Commerce.

By Mr. TAYLOR: Papers relating to the claim of T. A. Middleton, for services as a recruiting officer—to the Committee on Military Affairs.

By Mr. THOMPSON: Papers relating to the war claim of Wm. D. Wolford, of Kentucky—to the Committee on War Claims.

Also, papers relating to the pension claim of the minor heirs of Benjamin F. McGuire, deceased—to the Committee on Invalid Pensions.

By Mr. VANCE: The petition of Albert Fuller, for extension of letters-patent—to the Committee on Patents.

Also, the petition of John Develin, for compensation for clerical services rendered in the office of the Fifth Auditor in 1837—to the Committee of Claims.

Also, the petition of Moses Marshall, for an extension of patent—to the Committee on Patents.

Also, the petition of William C. Dodge, of similar import—to the same committee.

By Mr. WAIT: The petition of Mrs. L. Goodwill and 45 others, citizens of Connecticut and members of the Woman's National Christian Temperance Union, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. WASHBURN: Memorial of citizens of Dakota Territory, for the opening of certain reservations, and that the same be subjected to homestead and pre-emption—to the Committee on Public Lands.

By Mr. WHITTHORNE: Memorial of Henry S. Chubb, of Philadelphia, Pennsylvania, for change in naval regulations as to the examination of carpenters, &c.—to the Committee on Naval Affairs.

Also, the memorial of Thomas S. Brandon, for compensation for supplies furnished troops in Oregon during Indian hostilities—to the Committee of Claims.

By Mr. YOUNG, of Tennessee: The petition of Mrs. Mary Speed, of Memphis, Tennessee, for payment of war claim—to the Committee on War Claims.

Also, the petition of Earl D. Bardon, of Providence, Rhode Island, of similar import—to the same committee.

Also, the petition of Melrose Grange, No. 80, of Shelby County, Tennessee, favoring the Reagan interstate-commerce bill—to the Committee on Commerce.

IN SENATE.

TUESDAY, *May* 6, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Superintendent of the Census, calling attention to the necessity of an appropriation for the payment of certain claims for services in taking the eighth and ninth censuses of the United States.

The PRESIDENT *pro tempore*. The communication and accompanying letter will be referred to the Committee on Appropriations.

Mr. DAVIS, of West Virginia. I suggest that the communication should go to the Committee to make provision for taking the Tenth Census for examination.

Mr. EDMUNDS. I think that is right.

Mr. DAVIS, of West Virginia. As it is a question solely whether the amount claimed is due I hope it may go to that committee, so that they may examine it and report upon it.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee to make provision for taking the Tenth Census if there be no objection.

PETITIONS AND MEMORIALS.

Mr. CARPENTER. I present the petition of Captain Thornton Smith, late a quartermaster in the Army of the Potomac, praying for an increase of pension. It is accompanied by twelve exhibits in the form of affidavits sustaining the allegations of the petition. I move the reference of the petition to the Committee on Pensions.

The motion was agreed to.

Mr. WITHERS presented a memorial of the mayor and common council of West Point, Virginia, in favor of the passage of a law by Congress detaching that town from the Yorktown collection district and attaching it to the Richmond district; which was referred to the Committee on Commerce.

MILITARY INTERFERENCE AT ELECTIONS.

Mr. McDONALD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 554) to prohibit military interference at elections, reported it with amendments.

The PRESIDENT *pro tempore*. The bill will go on the Calendar.

Mr. EATON. Let the bill be reported with the amendments.

The PRESIDENT *pro tempore*. The report of the committee will be read.

The Secretary read as follows:

The Judiciary Committee, to whom was referred the bill (S. No. 554) entitled "A bill to prohibit military interference at elections," report said bill to the Senate and recommend the following amendments thereto, to wit:

Between the word "or" and the words "to enforce," in line 7 in the printed copy, insert "to protect a State against invasion or."

Strike out the words "where such force is to be used," line 10, printed copy, and in lieu thereof insert "when the Legislature cannot be convened."

Thus amended, the committee recommend the passage of the bill.

Mr. EATON. I desire to give notice to the Senate that at the conclusion of the morning hour to-morrow I shall ask that this bill be taken up and be considered, and that all other business be laid aside so that this bill may receive the attention of the Senate.

Mr. EDMUNDS. I hope the Senator does not mean to give that notice against appropriation bills.

Mr. EATON. I mean to give just that notice without making any exception whatever, that I shall ask to take up this bill at that time.

Mr. EDMUNDS. I regret that extremely, if we cannot go on with the appropriation bills; but we shall see.

Mr. EATON. I do not know that there are any appropriation bills here.

Mr. EDMUNDS. There are some here or hereabouts, as the saying is.

Mr. EATON. This bill is more than hereabouts.

Mr. EDMUNDS. I should think this was thereabouts.

Mr. FERRY. Will the Senator from Connecticut state the hour to-morrow at which he proposes to call up the bill?

Mr. EATON. I said immediately after the conclusion of the morning hour.

Mr. DAVIS, of West Virginia. Say "after the morning business."

Mr. EATON. Very well; I will say at the conclusion of the morning business.

Mr. LOGAN. Let the Clerk read the amendments again.

Mr. CARPENTER. Let the bill be reported as it would read if amended.

The PRESIDENT *pro tempore*. The bill is not now before the Senate; the bill has gone upon the Calendar.

Mr. WITHERS. Is there anything before the Senate?

The PRESIDENT *pro tempore*. Reports of committees are still in order.

Mr. LOGAN. I desire to know how I can get at the amendments, if they cannot be read at the Clerk's desk?

Mr. CARPENTER. I presume there is no objection to the reading of the bill as it is proposed to be amended. It has not been printed yet as reported from the committee; we are not informed of it. Let it be read as proposed to be amended by the Judiciary Committee.

The PRESIDENT *pro tempore*. If there is no objection, the bill will be read as proposed to be amended.

The Secretary read the bill as proposed to be amended by the Committee on the Judiciary, as follows:

That it shall not be lawful to bring to or employ at any place where a general or special election is being held in a State any part of the Army or Navy of the United States, unless such force be necessary to repel the armed enemies of the United States, or to protect a State against invasion, or to enforce section 4, article 4 of the Constitution of the United States and the laws made in pursuance thereof, upon the application of the Legislature, or the executive of the State when the Legislature cannot be convened; and so much of all laws as is inconsistent herewith is hereby repealed.

The PRESIDENT *pro tempore*. Does the Senator from Indiana wish this bill printed as proposed to be amended?

Mr. McDONALD. Yes, sir.

Mr. EDMUNDS. Let it be printed with the amendments in the regular way.

The PRESIDENT *pro tempore*. Yes, in the regular way. That is what is proposed.

Mr. EDMUNDS. I understood the Chair to mean to have it printed in sequence as a new bill. To that I object.

The PRESIDENT *pro tempore*. It will be printed in the usual way.

Mr. McDONALD. With the amendments suggested by the Judiciary Committee.

The PRESIDENT *pro tempore*. Certainly.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BECK. I am directed by the Committee on Appropriations,

to whom was referred the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, to report it with divers amendments. I ask that the bill be printed and placed upon the Calendar.

The PRESIDENT *pro tempore*. That order will be made.

Mr. BECK. I only desire to say that I shall call the bill up for early consideration, to-morrow or next day.

Mr. HILL, of Georgia. I do not know the custom of the Senate. Some Senators are out of their seats whom I should like to see here. Some gentlemen expect to address the Senate on the bill just reported by the Committee on Appropriations. I propose to leave the city the latter part of the week, and I should like to submit some observations on the bill before I go away. If it can be understood that I shall have the floor to-morrow or next day I shall be grateful.

Mr. EDMUNDS. On the appropriation bill?

Mr. HILL, of Georgia. Yes, sir.

Mr. EDMUNDS. I hope the bill will be taken up to-morrow morning, and then the Senator can address the Senate and we can dispose of the bill.

Mr. BECK. The bill is not yet printed with the amendments, and when it will be ready to be called up I do not know. There will be no time lost, however, in getting it up when it is once printed. There are a number of amendments, and it will have to go to the Printer now.

Mr. HILL, of Georgia. If there is no objection, then, I shall take the floor to-morrow after the morning hour.

Mr. BECK. I cannot make that agreement.

Mr. HILL, of Georgia. I say, "if there is no objection."

Mr. EDMUNDS. I shall have no objection, and I shall be glad to hear the Senator from Georgia on the appropriation bill when the appropriation bill is regularly taken up, as it ought to be to-morrow morning; and I shall be glad to hear everybody else; I want to be heard myself; but to every other species of dealing with the appropriation bill I do object, as a matter of duty, under existing circumstances.

Mr. HILL, of Georgia. I understand there has been already notice given that another bill will be called up to-morrow. I was not aware of that. I do not want to interfere with any arrangement.

Mr. SAULSBURY. I do not want any arrangement made with reference to any bill that will antagonize or interfere with the privileged question that will come up to-day and may occupy to-morrow.

Mr. WITHERS. The Senate can decide when the time comes.

Mr. EATON. Cannot the privileged question come up to-day as well as to-morrow?

Mr. SAULSBURY. Yes, sir; it comes up to-day.

Mr. EATON. Let us dispose of it to-day, then.

BINDING OF SAILING DIRECTIONS.

Mr. WHYTE. I am instructed by the Committee on Printing, to which was referred the joint resolution (S. R. No. 25) authorizing the Public Printer to bind in cloth two volumes of Sailing Directions for the United States Hydrographic Office, to report it favorably without amendment, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 556) to authorize the President to appoint Sergeant John Dolan, of the Fifth Cavalry, United States Army, a second lieutenant, and place him on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 557) to authorize the payment of prize-money to the captors of the steamboat New Era No. 5, and cargo; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 558) for the relief of the heirs of Henry E. Muhlenberg; which was read twice by its title, and, with the papers on file relating to the case, referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 559) donating condemned cannon and cannon-balls, or field-pieces, to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BOOTH (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 560) for the relief of Eva Vansant, Henry Carleton, and Maud Carleton, children of General James H. Carleton; which was read twice by its title, and referred to the Committee on Claims.

Mr. CARPENTER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 561) to authorize the payment of a debt of the Osage Nation of Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 562) granting an increase of pension to Thornton Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 563) for the relief of Mary B. Kirby; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 564) to enable the centennial board of finance, incorporated by an act approved June 1, 1872, to close its affairs and to dissolve said corporation; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 26) to transfer the arsenal property in the city of Charleston, South Carolina, to the trustees of the Holy Communion Church Institute, for the use and accommodation of said school; which was read the first time by its title.

Mr. BUTLER. As the joint resolution is very short, I ask that it be read at length.

The joint resolution was read the second time at length, as follows:

Be it resolved, &c., That the Secretary of War be, and is hereby, authorized and directed to transfer to the trustees of the Holy Communion Church Institute the property known as the arsenal, situated in the city of Charleston, State of South Carolina, together with all the buildings, rights, and appurtenances thereto belonging, to be had and held by said trustees for the use and accommodation of said school for such time as said arsenal may not be required by the Government for its own purposes.

2. That the Secretary of War be, and he is hereby, authorized to make such terms and arrangements with said trustees for the care and protection of said property during its occupancy by said school and for the delivery to the Government when thereto required as will best subserve the interests of the Government.

Mr. BUTLER. I ask that the joint resolution, with the accompanying papers I now present, be referred to the Committee on Military Affairs.

Mr. MORRILL. I suggest to the Senator from South Carolina that it should be referred to the Committee on Public Buildings and Grounds.

Mr. BUTLER. I think not, Mr. President. There are letters here from General Sherman, General Augur, and General Hunt, and a recommendation from the Secretary of War. It is peculiarly under the jurisdiction and charge of the War Department.

Mr. MORRILL. I can only say that it has been the practice of the Senate to refer all such matters to the Committee on Public Buildings and Grounds.

Mr. BUTLER. If the Committee on Military Affairs find they cannot take jurisdiction of the subject I am sure they will ask to be discharged from its further consideration and have it referred to the Committee on Public Buildings and Grounds. I prefer that it should go to the Committee on Military Affairs for the present.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Military Affairs if there be no objection.

PRINTING OF REPORTS.

Mr. BURNSIDE. I offer the following order:

Ordered, That the report of the subcommittee to the Committee on Military Affairs on bill (S. No. 98) to provide for the settlement of accounts with certain railway companies be printed for the use of the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Chair thinks the order ought to be in the shape of a resolution, and if it involves more than $500 expense it must go to the Committee on Printing. There is no number of copies specified in the resolution.

Mr. BURNSIDE. It does not call for any specified number, but it is just to print the report for the use of the committee.

The PRESIDENT *pro tempore*. It will be changed to the form of a resolution. Is there objection to agreeing to the resolution? The Chair hears none, and it is adopted.

Mr. BURNSIDE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the report of the subcommittee to the Committee on Military Affairs on the joint resolution (S. R. No. 15) requiring the assembling of a court of inquiry in the case of Thomas Worthington be printed for the use of the Committee on Military Affairs.

THORNTON SMITH.

Mr. CARPENTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate copies of all affidavits, reports, and other papers, and state all proceedings upon and by which a pension certificate was issued to Thornton Smith on the 18th day of April, A. D. 1879.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes.

SENATOR FROM LOUISIANA.

The PRESIDENT *pro tempore*. If there are no further resolutions, the business before the Senate is the resolution reported from the Committee on Privileges and Elections authorizing an investigation into the matters alleged in the petition of Henry M. Spofford, praying permission to produce evidence relating to the right of WILLIAM PITT

KELLOGG to a seat in the Senate, the pending question on which is the motion of the Senator from Massachusetts [Mr. HOAR] to adopt a substitute therefor. Is the Senate ready for the question?

Mr. HOAR. Let the resolution and the substitute be reported.

The PRESIDENT *pro tempore*. They will be read.

The Chief Clerk read the resolution reported from the Committee on Privileges and Elections by Mr. SAULSBURY, as follows:

Resolved, That the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, praying permission to produce evidence relating to the right of Hon. WILLIAM PITT KELLOGG to the seat in the Senate held by him from the State of Louisiana, and in support of the claim of said petitioner thereto, be, and said committee is hereby, instructed to inquire into the matters alleged in said petition; and for that purpose said committee is authorized and empowered to send for persons and papers, administer oaths, and do all such other acts as are necessary and proper for a full and fair investigation in the premises. Said committee may in its discretion appoint a sub-committee of its own members to make such investigation in whole or in part, which sub-committee shall have authority to employ a clerk, stenographer, and sergeant-at-arms, and shall have all the powers of the general committee to administer oaths and send for persons and papers, and may make such investigation either in Washington or in the State of Louisiana, and said committee or its sub-committee may sit in vacation.

The CHIEF CLERK. It is proposed to strike out all of said resolution and insert the following:

Whereas, on the 25th day of October, 1877, the Senate unanimously adopted the following resolution:

"*Resolved*, That the Committee on Privileges and Elections on the contested cases of WILLIAM PITT KELLOGG and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers and administer oaths, with a view of enabling said committee to determine and report upon the title respectively on the merits of each of said contestants to a seat in the Senate."

And whereas, on the 26th day of November, 1877, said committee reported the following resolutions:

"*Resolved*, That WILLIAM PITT KELLOGG is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th of March, 1877, and that he be admitted thereto upon taking the proper oath.

"*Resolved*, That Henry M. Spofford is not entitled to a seat in the Senate of the United States."

And on the 30th day of November, 1877, the Senate adopted said resolutions; and thereafter, on the same day, said KELLOGG was duly admitted to take the oath, and took his seat as a Senator from said State for said term: Therefore,

Resolved, That said proceedings are final and conclusive upon the right of said KELLOGG and the claim of said Spofford to such seat for said term.

Mr. CAMERON, of Wisconsin. Mr. President, I desire to state that quite a number of Senators who sit on this side of the Chamber are absent this morning and I am informed cannot be here to-day. If it would be agreeable to the chairman of the Committee on Privileges and Elections, I should like very much (and I speak for the minority of the Committee on Privileges and Elections) that this whole question be allowed to go over until to-morrow.

Mr. SAULSBURY. I will say to the Senator from Wisconsin that the Senate has had full notice that this morning this matter would be pressed. On Friday last I waived a vote on the question at that time, distinctly announcing that I would call it up this morning. I see by the RECORD of yesterday's proceedings that the same suggestion was made yesterday that the matter would come up this morning. I am sorry any one is absent; but nevertheless I must insist on a vote to-day on the resolution.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) The question is on the adoption of the substitute.

Mr. ALLISON. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CAMERON, of Wisconsin. Mr. President, when the resolution was up the other day I stated that the minority of the Committee on Privileges and Elections understand this resolution to open the whole case. It was stated by the Senator from Georgia, [Mr. HILL,] and I think by the Senator from Delaware, [Mr. SAULSBURY,] the chairman of the committee, that it was not the intention of the majority of the committee to commit any member of this body to any particular question involved in the case. One question involved is whether this Kellogg-Spofford case was finally settled by the Senate in November, 1877, when a resolution was adopted by the Senate declaring that Mr. KELLOGG was entitled to a seat in this body upon the merits of his case, and that Mr. Spofford was not entitled to a seat as a Senator. I think the chairman of the committee and those who constitute the majority of the committee will concede that this resolution does dispose of the question of *res adjudicata* at least. I suppose the chairman of the committee never in his experience as a lawyer knew a court to order testimony to be taken in a case for the purpose of determining whether the case was *res adjudicata* or not. That I understand is what is proposed in this case.

Now, I will very briefly go over the history of this case and make a brief statement of the action the Senate has taken upon it. Mr. KELLOGG, as we all know, was elected Senator for the term of six years, to commence on the 4th day of March, 1877, by what was called the Packard legislature. He was elected in the month of January, 1877. He appeared here at the executive session called in March of that year, and was ready to take the oath of office. Objection was made, however, to his being sworn at that time; he stood aside, and his credentials, which were regular in form, were referred to the Committee on Privileges and Elections. No action was taken upon his credentials during that session. In April, 1877, Mr. Spofford was elected by the so-called Nicholls legislature. He appeared here at the extra session called by the President to meet on the 15th day of October, 1877; his credentials were presented and were referred to the Committee on Privileges and Elections.

Thus the whole case, the claim of Spofford and the claim of KELLOGG, was before the committee. The committee at once proceeded to the hearing of the case. Mr. Spofford appeared before the committee and conducted his case in person; Mr. KELLOGG appeared before the committee by his counsel, Mr. Shellabarger. Each was heard before the committee at great length. Before they had been heard the Senate adopted a resolution, which may be found in the Journal of the Senate—I thought I had the Journal here, but I find I have not—which resolution, in substance, directed the committee to proceed to examine the subject, and to ascertain upon the merits of the case which was entitled to the seat, and the Senate particularly and specially directed the committee to inquire which of the two legislatures that I have mentioned was the Legislature of the State, or whether either of them was. The resolution also authorized the committee to take testimony, to send for persons and papers, to administer oaths, &c. Under this resolution the committee again proceeded with the consideration and examination of the case. The committee appointed a sub-committee, consisting of the then chairman of the committee, the Senator from New Hampshire, (Mr. Wadleigh,) and Mr. Merrimon, then a member of the committee and a Senator from the State of North Carolina, for the purpose of having an interview with the two claimants, and ascertaining what facts, if any, the claimants would agree upon. This sub-committee had a meeting with the claimants, and they did agree upon certain facts. Each claimant filed with the committee a paper, in the nature of a pleading in an action at law, in which were stated the facts relating to his election. It was further agreed by the claimants, and it was also agreed by the committee, that all the testimony pertinent to the case contained in the evidence taken before the so-called Sherman committee, the Howe committee, the Morrison committee, and the Field committee of the House, might be referred to as evidence in the case; that, in fact, so far as any testimony taken before any one of those committees was pertinent to the issues in this case, the same was made evidence. It was also agreed that the public acts of the State of Louisiana, also the journals of the two houses of both legislatures, might be referred to as evidence, and should, so far as the same had any relation to this case, be considered as evidence.

I hold in my hand the journal of the proceedings of the committee. Each of the claimants in the paper which he filed before the committee claimed that it was not necessary to take any evidence in the case; that the proceedings of the Legislature and the facts of which the Senate would take notice historically were all that were necessary in order to establish his claim to his seat. Mr. Spofford was specially emphatic in claiming that it was not necessary to take any evidence outside of the proceedings of the Legislature and those historical facts which the Senate would take, as it were, judicial notice of.

These papers in the nature of pleadings were laid before the committee. Each of the claimants was heard, Mr. Spofford in person and Mr. KELLOGG by counsel, and the hearing was continued from some time in October until the latter part of November; during a considerable portion of the time the committee met daily, held daily sessions, for the purpose of considering the case. Finally, on the 21st of November, the Senator from Massachusetts, [Mr. HOAR,] who was then as he is now a member of the committee,—

Moved that the evidence in the case of Messrs. Spofford and KELLOGG be now closed. Upon this motion Mr. HILL said that he assented to it—with the understanding that Mr. Spofford should be permitted to bring to the attention of the committee in the morning some further points upon which he desired to take testimony; to which suggestion the committee assented, and the motion was then agreed to.

Mr. HILL, of Georgia. What page is that?

Mr. CAMERON, of Wisconsin. Page 78. On the next morning, that is the morning of the 22d of November, Mr. Spofford appeared before the committee and desired to take testimony upon five points which he submitted in writing. Those five points may be found in the report of the minority of the committee on page 9. I will read those five points:

1. That the facts relative to the election of Tremoulet, Cressy, and Rolle, from the seventh representative district of New Orleans, were substantially as set forth in the statement read by H. M. Spofford in his argument before this committee on the 24th October, 1877.

2. That the composition, votes for Senator, and political proclivities of the Legislature on the 24th of April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the aforesaid argument.

3. That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees, the commissioners of election, and sent, one set to the clerk of the district court of each parish in the county and to the secretary of state in the city, and the other set to the returning board, (so called,) showed a majority of votes actually cast throughout the State of about eight thousand votes for Nicholls and Wiltz over Packard and Antoine for the offices of governor and lieutenant-governor in the election that took place in Louisiana November 7, 1876.

4. Besides these specific violations of the constitution and of the law under which they pretended to act, I charge that the conduct of the returning officers in suppressing polls and changing the result of the constitutional returns was clandestine, collusive, tyrannical, and unjust; that the real work of conducting an election under pretext of compiling votes was proceeded with in a secret chamber by a corps of partisan clerks, while the occasional open sessions of the board were side-shows, devised to screen what was going on within; that arbitrary rules of evidence were established for pretended contests, and changed so often and abruptly that no fair trial could be had or was had before the board; that illegal complaints were constantly received and illegal evidence admitted for the purpose of setting aside polls that were in the way of such candidates as the board desired to elect; and that Mr.

KELLOGG himself, then governor, joined in making illegal complaints and inducing the board to consider them.

5. I am informed and so charge that the returns from Vernon Parish, after they came into possession of the returning officers, and while they were under their control, were fraudulently altered by a change of figures, tantamount to a forgery of a public record; that the board knew what the figures upon those returns were before their alteration, and yet after the alteration promulgated the results of said forgery as the true returns; that by such fraudulent alteration E. E. Smart, candidate for representative in the State Assembly, who had in fact and according to the returns as they first came to the board defeated his competitor, Brown, was left behind, and Brown, the defeated candidate, falsely declared elected; and that said Brown took his seat in the Packard house, and figures on the journal as present on the 2d of January, 1877, when there was a pretended count of votes for governor and lieutenant-governor in joint assembly, and perhaps on one or two other occasions, but that he afterward abandoned that body and went home, acknowledging that he never had been elected.

After these points were presented to the committee on the 22d of November, 1877, it was moved by the Senator from Delaware [Mr. SAULSBURY] that the committee proceed to the consideration of these points in their order. The Senator from Massachusetts [Mr. HOAR] moved as an amendment—

That it is the sense of the committee that the matters proposed by Judge Spofford, so far as material, have been fully already considered by them in their previous action, and are fully covered either by the admissions of Mr. KELLOGG or the evidence already before the committee.

It will be seen from what I have read from the journal of the committee what the action of the committee was. Mr. Spofford presented these five points, and desired to sustain each of the points by testimony. A majority of the committee were of the opinion that the evidence had already been presented upon each of those points. It will be recollected that all the testimony pertinent to this contested-election case contained in the five reports which I have named was made evidence by the agreement of the contestants, the committee concurring in that agreement. It was further agreed by the contestants themselves, as appears from the papers which they filed with the committee in the nature of pleadings, that they agreed upon certain facts. Then a majority of the committee were of the opinion that sufficient testimony had already been received by the committee under these several points, and for that reason the committee voted that the testimony then be closed.

The committee reported a resolution to the Senate stating in substance that Mr. KELLOGG upon the merits of the case was entitled to his seat in the Senate and that Mr. Spofford was not entitled to a seat in the Senate. That resolution, as all will remember who were present at that time, was discussed at great length and finally was adopted by the Senate. Thereupon the oath of office was administered to Mr. KELLOGG, and he has since occupied a seat in this body.

Mr. Spofford does not seem to be satisfied with the action of the committee. During the present session the Senator from Louisiana who sits on the opposite side of the Chamber [Mr. JONAS] presented a memorial, an unverified memorial signed by Mr. Spofford, in which he alleges certain reasons why the case should again be opened and why he should be permitted again to present evidence to sustain his claim to a seat in this body.

A minority of the committee as now constituted is of the opinion that the case was finally closed and determined when the Senate in November, 1877, adopted the affirmative resolution asserting that Mr. KELLOGG upon the merits of his case was entitled to a seat in this body, and the negative resolution that Mr. Spofford was not entitled to a seat in this body. Upon these facts a minority of the present Committee on Privileges and Elections are of opinion that the case is *res adjudicata*, and that it is not competent for the Senate now to open the case for a new trial. This view of the case is sustained by the ablest writers on the law of legislative assemblies. I refer to Cooley on Constitutional Limitations, side-page 133:

There are certain matters which each house determines for itself, and in respect to which its decision is conclusive. It chooses its own officers except where, by constitution or statute, other provision is made; it determines its own rules of proceeding; it decides upon the election and qualification of its own members. These powers it is obviously proper should rest with the body immediately interested, as essential to enable it to enter upon and proceed with its legislative functions, without liability to interruption and confusion. In determining questions—

And it is to this that I particularly desire to call the attention of the Senate—

In determining questions concerning contested seats, the house will exercise judicial power, but generally in accordance with a course of practice which has sprung from precedents in similar cases, and no other authority is at liberty to interfere.

In this case I claim that when the Senate adopted the resolution seating Mr. KELLOGG and excluding Mr. Spofford from a seat in this body, it did exercise judicial power, and having exercised that power it is not competent for the Senate at this time to open it and set aside the judgment then made or in any way whatever to interfere with it. The same doctrine is laid down by Cushing in his work on the Law and Practice of Legislative Assemblies, section 642; in Professor Farrar's Manual of the Constitution, section 143; in 1 Kent's Commentaries, page 235. Many other authorities might be quoted, especially a case in 13 Michigan Reports—The People *vs.* Mahaney, page 481. It was held in that case by the supreme court of Michigan "that when the house determines and decides a contested-election case it acts judicially, not merely in its legislative capacity but in its judicial capacity." And here the Senate having acted in its judicial capacity, the case is I submit *res adjudicata*; and it is not proper, it is not competent for the Senate at a subsequent session to disturb the judgment then made by the Senate.

The PRESIDING OFFICER, (Mr. WITHERS.) The Chair calls attention to the fact that the morning hour has expired. What is the pleasure of the Senate?

Mr. SAULSBURY. This is a privileged question, and I suppose will continue.

Mr. HOAR. Mr. President, I suppose it is in the power of the majority of the Senate to lay aside the pending business and take up this resolution. I do not suppose it would be probably according to the inclination of any member of the minority to oppose that proposition.

The PRESIDING OFFICER. That the Chair understands to be the proposition of the chairman of the committee.

Mr. HOAR. I thought the Senator said it was a privileged question, and would therefore go on.

The PRESIDING OFFICER. The Chair so understood the Senator from Delaware that as it was a privileged question he proposed that the consideration of it should continue; and unless there shall be objection made the Chair will so rule.

Mr. HOAR. I understand that the Vice-President in this very case ruled that it having come up in the morning hour it was not privileged as against the ordinary business of the Senate, and that yesterday the President *pro tempore* of the Senate announced that he should feel himself constrained in regard to this case to follow the precedents of the Senate and make the same ruling. Now I desire to inquire if, for the mere sake of accomplising an object which can be so easily accomplished by a vote, it is desirable to overturn the established practice of the Senate because the President *pro tempore* happens to be out of the chair for ten minutes.

The PRESIDING OFFICER. The Senator from Massachusetts misunderstood the Chair. The Chair stated that the Chair would decide unless there was objection that the motion made by the Senator from Delaware would prevail.

Mr. CONKLING. What is the motion made by the Senator from Delaware?

The PRESIDING OFFICER. To continue the consideration of the question now before the Senate.

Mr. CONKLING. I did not hear any such motion.

Mr. HOUSTON. Mr. President, I will read a very few lines showing the decision of the Vice-President on the very point before the Senate——

Mr. HOAR. I do not object to the Senator's proceeding except that I desire to know what is the question before the Senate, in order that we may understand what is the question before the Senate in order that we may know to what he is addressing himself.

The PRESIDING OFFICER. The question now is the decision on the point made by the Senator from Massachusetts upon which the Senator from Alabama proposes to read the decision referred to by the Senator.

Mr. HOAR. I desire to inquire of the Chair has there been any motion made, and if so may it be stated from the Chair or the Clerk's desk?

Mr. SAULSBURY. I did not put it in the form of a motion, but I suggested that we go on with this matter.

The PRESIDING OFFICER. The Chair has stated that he understood the Senator from Delaware to submit a proposition to the Senate to continue the consideration of the subject now before the Senate. The Chair announced that such would be his ruling unless objection were made. The Chair understood that the Senator from Massachusetts did object, and stated the reason for his objection. The Senator from Alabama then proposed to read the decision referred to by the Senator from Massachusetts in support of the objection raised; and the Chair rules that the Senator from Alabama is entitled to the floor for that purpose.

Mr. HOAR. Will the Chair be kind enough to state the question? I do not now understand what is the pending question. There must be some question pending before the Senate.

Mr. HOUSTON. I am on the floor to a point of order, and I propose not to be interrupted.

Mr. CONKLING. What is the point of order?

Mr. HOUSTON. The point of order is that this is a privileged question and takes its own course without any motion on the part of the chairman of the committee; and I propose now to read the decision of the Vice-President sustaining that view most amply.

The PRESIDING OFFICER. The Senator from Alabama will proceed.

Mr. HOUSTON. This occurred on the 29th of November, 1877:

Mr. DORSEY. Mr. President, I should like to make a parliamentary inquiry. We have gone on now for several mornings without any call for morning business, considering these resolutions, first as to the Butler case, and next as to the case of Kellogg. I wish to inquire whether the Kellogg resolution is in order until the conclusion of the morning business?

Mr. EDMUNDS. It certainly is.

The VICE-PRESIDENT. It is a question of privilege, which can be dispensed with only by unanimous consent.

That was the decision of the Vice-President, and this question now depends upon no motion——

Mr. CONKLING. Mr. President, I rise to a question of order. The Senator from Alabama insists that he is proceeding upon a point of order. I demand the reading of Rule 40. I think we had better preserve some show of system in our proceedings here.

Mr. HOUSTON. I am very thankful to the gentleman for seeking or seeming to seek to preserve some show of order.

The PRESIDING OFFICER. The Secretary will read the rule referred to by the Senator from New York.

The Secretary read as follows:

40. A question of order may be raised at any state of the business, except when the Senate is dividing, and, when raised, shall be decided by the presiding officer, without debate, subject to an appeal to the Senate; or he may submit any question of order for the decision of the Senate.

Mr. CONKLING. Now my point of order is that the Chair having submitted no question of order to the Senate, and there having been no ruling from which an appeal has been taken, the Senator from Alabama is out of order.

The PRESIDING OFFICER. The Chair rules against the point of order raised by the Senator from New York.

Mr. HOUSTON. Mr. President——

Mr. CARPENTER. I appeal from that ruling of the Chair.

The PRESIDING OFFICER. An appeal is taken.

Mr. HOUSTON. The point of order I make is my own, and I present it.

Mr. CARPENTER. I have appealed from the ruling of the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has appealed from the decision of the Chair.

Mr. CONKLING. Now will the Chair state his decision?

The PRESIDING OFFICER. The question now before the Senate is, Shall the decision of the Chair stand as the sense of the Senate?

Mr. CONKLING. May we hear the decision of the Chair stated?

The PRESIDING OFFICER. The decision of the Chair was that the point of order made by the Senator from New York was not sustained by the Chair, which was that in view of the provisions of the fortieth rule of the Senate the Senator from Alabama was not entitled to proceed.

Mr. CONKLING. That is the decision of the Chair?

The PRESIDING OFFICER. That is the decision of the Chair, from which there is an appeal taken. Shall the decision of the Chair stand as the sense of the Senate?

Mr. CARPENTER. Now, Mr. President, in support of that appeal, I wish to say a very few words.

The rule that has just been read is clear, positive, and conclusive on this subject. A point of order in this Chamber can not be debated until, first, the Chair has decided it and an appeal been taken; or, second, the Chair has submitted the question to the Senate. Neither of those things has been done, and the debate of the Senator on the left is clearly out of order, because there was no appeal pending and no question of order submitted to the Senate upon which he was at liberty to speak. If the Chair had first decided upon the point of order in case one had been made—and I think it would puzzle a lawyer to tell what was the point of order made; I could not hear it or understand it—an appeal might have been taken which would be debatable. A Senator, my colleague, was on the floor discussing a resolution. The Senator from Massachusetts interrupted and asked a question in regard to the proceeding being in order. Thereupon it was said on the other side of the Chamber that this being a privileged question would go on of its own force, and nothing could stop it. Then, without anything further being said, without the Chair making any ruling that I could understand or hear, the Senator on the left jumps up and proposes to debate a point of order which had not been raised and which no man had heard, and while the Senator from Wisconsin was still on the floor. If the point of order that the Senator says he is discussing is a good one, the Senator from Wisconsin has a right to complain of all of us that we are wasting his time. He has the floor; no point of order has been stated; none has been made with any such degree of definiteness or certainty that it could be ruled upon by the Chair. The Chair would not sit there and allow a discussion to run on without some ruling upon it if there had been a point of order that could be ruled upon. There was none; no ruling was made, and no debate was in order upon it.

The first point of order that has been raised here and stated so that anybody could understand it, so that the Chair could understand it, because that is the only one the Chair has ruled upon, was the point of order made by the Senator from New York, that a point of order was not debatable, especially if it had not been made as the Senator should have added as it had not been in this case. Now the Chair rules that the point of order here is debatable. If that be so, this democratic majority never will pass another bill while we live,—never. It is impossible to stop points of order under that ruling. The ruling of the Chair is that it is impossible to stop debate.

Mr. EATON. Call in the Army. [Laughter.]

Mr. CARPENTER. We should need the Army, for we should never see our homes again. [Laughter.]

Seriously the Chair will, I think, on reflection, see that the ruling under that rule is incorrect; and if the Chair himself does not recall it I hope the Senate will make a correct decision upon that question of order, for it is an important one. We shall never end this session; we shall never pass these democratic measures which are to relieve the country and give such satisfaction to all mankind if this ruling is to stand. So, in the interest of the majority here, I ask that the ruling of the Chair shall not be sustained by the Senate.

Mr. HOUSTON. Mr. President, the mistake that was made by the Senator from New York was by interfering with my statement of a point of order. I made the point of order, or was making it, and all these speeches have been made on the hypothesis that I was arguing a point of order made by some one else. I was making the point of order, which I now present to the Chair, that this is a privileged question, and that it forces itself upon the consideration of the Senate without respect to the wishes of a majority; and it does not require a motion of the Senator from Delaware to have a vote upon it that it may have consideration.

I make that point of order, that it is a privileged question, and it is in order and goes along unless unanimous consent is obtained to set it aside. That is the point I present.

Mr. CONKLING. Mr. President, I ask for the yeas and nays on the appeal from what has been called the ruling of the Chair.

Mr. HILL, of Georgia. I think we ought to understand the question.

The PRESIDING OFFICER. The yeas and nays have been called for by the Senator from New York. Is the call sustained?

The yeas and nays were ordered..

Mr. HILL, of Georgia. I say I think the Senate ought to understand the question upon which we are about to vote before we vote. It seems to me it is difficult to understand it. The Senator from Alabama, as I understood the facts, raised a point of order, which he was stating, not debating; he was simply, as I understood him, stating his point of order, so that the Chair could understand it. The Senator from New York, as I understand, regarded the Senator from Alabama as debating a point of order.

Mr. CONKLING. May I make an inquiry of the Senator? Shall I understand him to say that he understood that the Senator from Alabama himself originated a point of order?

Mr. HILL, of Georgia. I did understand the Senator to say so.

Mr. CONKLING. Then I suggest to the Senator that his ears must have been averted, because the Senator from Massachusetts had made a statement, and then the Senator from Alabama declaring that he rose to reply to him proceeded to read an authority, to which I did not object. But when, at the conclusion of that reading he proceeded to debate, knowing as I did if the matter were in order at all the floor belonged to the Senator from Wisconsin who had been interrupted, I then called for the reading of the fortieth rule, to the effect that debate on a point of order was not proper.

Mr. HILL, of Georgia. That is all very true, with some little misunderstanding between Senators. In the first place, it was understood that the Senator from Delaware proposed that this debate should go on as a privileged question, and he made a motion to that effect—not only a motion, but a proposition. That is where it started. Very well; the Senator from Massachusetts was arguing that question, making an inquiry in relation to the proposition of the Senator from Delaware——

Mr. CONKLING. The Senator from Georgia thinks that one point of order being pending, the Senator from Alabama rose and ingrafted another point of order and proceeded to state that.

Mr. HILL, of Georgia. I think no such thing. If the Senator will be quiet he will understand me. I did not understand that the Senator from Massachusetts was making a point of order. Whether he was or not I do not know.

Mr. HOUSTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Alabama?

Mr. HILL, of Georgia. Certainly.

Mr. HOUSTON. I desire to get clear of this difficulty. If the Senator from Massachusetts made a point of order, I for the present withdraw mine until his is disposed of. I did not understand him as making a point of order.

Mr. HILL, of Georgia. That is the way I understood.

Mr. CARPENTER. That is quite unnecessary, for another point of order has superseded it and an appeal been taken from the decision of the Chair upon it.

Mr. COCKRELL. Mr. President, I rise to a question of order, and I will state it distinctly.

Mr. CONKLING. Let us all raise a question of order.

Mr. CARPENTER. I appealed from the ruling of the Chair. That is debatable.

The PRESIDING OFFICER. The Senator from Georgia has the floor on the point of order.

Mr. COCKRELL. I rise to the point that he is out of order under Rule 41.

The PRESIDING OFFICER. The Senator from Missouri makes a point of order.

Mr. HILL, of Georgia. I am simply getting at what we are voting upon. That is all.

Mr. CONKLING. Is it in order to inquire how many Senators are now recognized by the Chair?

The PRESIDING OFFICER. Senators will please take their seats.

Mr. CONKLING. I only want to know how many others are entitled to the floor.

The PRESIDING OFFICER. The Senator from Georgia has the floor, and no one else can be entitled to it while he is.

Mr. CONKLING. I congratulate the Senator from Georgia. I supposed it was being divided all around.

The PRESIDING OFFICER. A point of order has been made by the Senator from Missouri [Mr. COCKRELL] under the forty-first rule, which is as follows:

When an appeal is taken from the decision of the Chair, any subsequent questions of order which may arise before that appeal shall be determined, likewise any appeal therefrom, shall be decided without debate. All appeals taken when

a proposition not debatable is pending shall also be decided without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the Chair.

The point, therefore, made by the Senator from Missouri is that this is a discussion upon an appeal on a question of order arising before the determination of the original appeal. But the opinion of the Chair would be that the point of order being debated now by the Senator from Georgia and others is not a point arising subsequently to the appeal, but upon the appeal itself.

Mr. BUTLER. I move to lay the appeal on the table.

Mr. CARPENTER. On that I ask for the yeas and nays.

Mr. HILL, of Georgia. I have not given way for such a motion. I have the floor.

Mr. BUTLER. I beg pardon.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. CONKLING. I hope there will be no difficulty among Senators on that side.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. CONKLING. I very much regret to see any want of unity on that side.

Mr. HILL, of Georgia. I am simply trying to get the facts right. I will state the case again. On the expiration of the morning hour, the Chair stated that the morning hour had expired and asked what would the Senate do. The Senator from Wisconsin, [Mr. CAMERON,] then having the floor and being in the midst of a speech, the Senator from Delaware [Mr. SAULSBURY] suggested that this was a question of privilege, and that the debate go on.

Mr. CARPENTER. Will my friend allow me to interrupt him?

Mr. HILL, of Georgia, No; I will not allow anybody to interrupt me.

The PRESIDING OFFICER. The Senator from Georgia declines to yield.

Mr. CARPENTER. He does?

Mr. HILL, of Georgia. Yes.

Mr. CARPENTER. All right.

Mr. HILL, of Georgia. I am so grateful to my friend for being anxious to take care of the democratic party that I am very much tempted to give way to him, but I prefer not to do so just now.

The Senator from Massachusetts was replying to that proposition of the Senator from Delaware. The Senator from Alabama then rose to a point of order that it did not require the motion made by the Senator from Delaware to go on with the debate; that this being a question of privilege it went on of its own force without a motion; and he was stating that that had been already once decided. He was simply stating the point of order, and reading the decision made by the Vice-President accordingly, as he understood it. At that point the Senator from New York, understanding a statement of the point of order by the Senator from Alabama to be a debate of the point of order, made the question that the point of order was not debatable. The Chair ruled that that point was not correctly taken. The Chair has not given its reason for that decision. I really do not profess to know much about rules myself; I only want to get the facts right. I want it distinctly understood that I am not giving a judgment on rules——

Mr. CONKLING. You are not speaking to the law.

Mr. HILL, of Georgia. No, I am speaking to the facts now. The Chair overruled the point of order made by the Senator from New York, I think, correctly, because the point of order made by the Senator from New York was upon the assumption that the Senator from Alabama was debating a point of order, when the Senator from Alabama, by his own statement, was only stating a point of order. I do not see any ruin to the democratic party in that. [Laughter.]

The Senator from Wisconsin [Mr. CARPENTER] takes an appeal, as I understand, from that decision of the Chair, and the yeas and nays are ordered, and we are required to vote upon that question. What question? Whether the point of order made by the Senator from New York is a good point of order. That is what? Whether a gentleman in stating a point of order is debating a point of order? That is the question. If the Senate believes that the Senator from Alabama was simply stating a point of order and not debating a point of order, the Senator from New York was out of order. That is all. And I submit to my friend from Wisconsin, therefore, that there is no peril to the democratic party in this matter at all.

Mr. CARPENTER. I do not know that anything can hurt them. [Laughter.]

Mr. HILL, of Georgia. Now I propose to settle this question by moving to lay the appeal on the table.

The PRESIDING OFFICER. It is moved to lay the appeal of the Senator from Wisconsin on the table.

Mr. CONKLING. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOAR. Let the question be stated before the roll is called.

The PRESIDING OFFICER. The Chair was about to state the question. As many as favor the motion to lay on the table the appeal from the decision of the Chair will, as their names are called, vote "yea;" those opposed will vote "nay."

Mr. EDMUNDS. May I ask what the decision of the Chair is? I have just come in.

The PRESIDING OFFICER. The decision of the Chair was that the point of order made by the Senator from New York under Rule 40 was not well taken. The Secretary will proceed to call the roll.

Mr. EDMUNDS. May I ask——

The PRESIDING OFFICER. It is not a debatable proposition.

Mr. EDMUNDS. May I ask a parliamentary question of the Chair?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. EDMUNDS. I beg to ask the Chair, with great respect, if the Chair will state, as I have just come in, what the point is which is to be decided. The Chair stated what the technical point was, but I do not understand the substance of it. If the Chair will gratify me that far, I shall feel under obligations.

The PRESIDING OFFICER. The Senator from Alabama being in possession of the floor was proceeding to read a decision made by the Vice-President and which had been quoted by the Senator from Massachusetts as authority in the question pending before the Senate as to the further consideration of the privileged question arising under the report of the Committee on Privileges and Elections. Upon that the Senator from New York raised a point of order, claiming that the remarks of the Senator from Alabama were in violation of Rule 40. The Chair ruled that the point of order was not well taken. From that ruling the Senator from Wisconsin appealed, and the Senator from Georgia moves to lay that appeal upon the table, on which the yeas and nays have been ordered. The Secretary will call the roll upon the motion to lay the appeal on the table.

The Secretary proceeded to call the roll.

Mr. DAVIS, of West Virginia, (when his name was called.) The Senator from Minnesota [Mr. WINDOM] not now in the Chamber asked me this morning to pair on all political questions. Though this may not be one, I decline to vote.

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "yea."

Mr. INGALLS, (when his name was called.) The Senator from Texas [Mr. MAXEY] desired me to pair with his colleague, [Mr. COKE,] who is temporarily absent from the Chamber, which I agreed to do upon political questions. If he so considers this, I shall withhold my vote.

Mr. MAXEY. It appears very much indeed to take a political turn.

Mr. INGALLS. On that statement I shall withhold my vote. I should otherwise vote "nay."

Mr. VOORHEES, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. BLAINE,] who is necessarily absent. Were he here, I should vote "yea."

Mr. WALLACE, (when his name was called.) I am paired with the Senator from Maine [Mr. HAMLIN] on all political questions, and as the Senate seems to divide politically on this matter I decline to vote.

The roll-call was concluded.

Mr. DAVIS, of West Virginia. My colleague [Mr. HEREFORD] is absent, paired with the Senator from Iowa, [Mr. KIRKWOOD.] They have gone to attend the funeral ceremonies of a member of the House, and are necessarily absent.

Mr. VANCE. I desire to announce that my colleague [Mr. RANSOM] is paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. CAMERON, of Wisconsin. Is this a political question—a question of order?

Mr. HILL, of Georgia. My colleague [Mr. GORDON] is paired with a Senator from Rhode Island, I believe.

Mr. BURNSIDE. He is not paired with me.

Mr. HILL, of Georgia. He left his pair with somebody.

Mr. ANTHONY. The Senator from Georgia [Mr. GORDON] is not paired with me. He was paired with me some time ago, but he has returned and voted since.

Mr. HILL, of Georgia. Then I can only state that my colleague left a statement of his pair with me. I thought it was with a Senator from Rhode Island, but I have really forgotten the correct person.

Mr. ANTHONY. The Senator was paired with me some time ago, but he has returned since and voted.

Mr. BURNSIDE. I remember now that the Senator from Georgia [Mr. GORDON] came to me to ask for a pair, and I declined because I was already paired, and then he paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. HILL, of Georgia. Ah, I beg pardon; he is paired with the Senator from Nebraska.

The result was announced—yeas 24, nays 22, as follows:

YEAS—24.

Bailey,	Groome,	Kernan,	Saulsbury,
Bayard,	Harris,	McDonald,	Slater,
Beck,	Hill of Georgia,	Maxey,	Vance,
Butler,	Houston,	Morgan,	Walker,
Call,	Johnston,	Pendleton,	Whyte,
Garland,	Jonas,	Randolph,	Williams.

NAYS—22.

Allison,	Carpenter,	Hampton,	Plumb,
Anthony,	Chandler,	Hill of Colorado,	Rollins,
Bell,	Conkling,	Hoar,	Saunders,
Bruce,	Dawes,	Logan,	Teller.
Burnside,	Edmunds,	McMillan,	
Cameron of Wis.,	Ferry,	Merrill,	

NOT VOTING—30.

Blaine,	Cameron of Pa.,	Coke,	Davis of W. Va.,
Booth,	Cockrell,	Davis of Illinois,	Eaton,

Farley,	Jones of Florida,	Paddock,	Voorhees,
Gordon,	Jones of Nevada,	Platt,	Wallace,
Grover,	Kellogg,	Ransom,	Windom
Hamlin,	Kirkwood,	Sharon,	Withers.
Hereford,	Lamar,	Thurman,	
Ingalls,	McPherson,	Vest,	

So the appeal was laid on the table.

Mr. SAULSBURY. I now insist that the resolution reported from the Committee on Privileges and Elections be continued.

The PRESIDING OFFICER. The Senator from Delaware moves——

Mr. CONKLING. I rise to a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his question.

Mr. CONKLING. I rise to inquire what has become of the point of order which the Senate has ruled that the Senator from Alabama was in order in debating?

The PRESIDING OFFICER. The effect of the vote which has just been taken, to lay the appeal from the decision of the Chair on the table, sustains the decision of the Chair.

Mr. CONKLING. But, if the Chair will pardon me, the ruling of the Chair was that under the fortieth rule, it was not out of order for the Senator from Alabama to proceed on this point of order to which the Senator from Massachusetts had spoken. Now the way is clear for the Senator from Alabama to debate the point of order, and I inquire of the Chair what has become of that original point of order?

The PRESIDING OFFICER. If the Senator from Alabama had claimed the floor to proceed he would have been recognized.

Mr. CONKLING. But whether claiming the floor or not, what becomes of the point of order?

The PRESIDING OFFICER. The point of order was withdrawn by the Senator from Alabama when he was last on the floor.

Mr. CONKLING. The Senator from Alabama did not make the point of order, and therefore could not withdraw it. The Senator from Massachusetts made the point of order that this was not a privileged motion which overrode everything else at the expiration of the morning hour, and I inquire what has become of that point?

The PRESIDING OFFICER. The Chair did not understand the Senator from Massachusetts as making a point of order, and has not so ruled.

Mr. CONKLING. The Chair then suggested that he would rule, if there was no objection, upon a point of order which had not been made.

The PRESIDING OFFICER. The Senator is mistaken; the Chair made no such suggestion.

Mr. CONKLING. The Senator greatly misapprehended the Chair if he did not.

The PRESIDING OFFICER. Then the Senator did misapprehend the Chair.

Mr. CONKLING. The Senator understood the Chair to remark that unless objection was made he would hold that this matter in its nature did transcend other matters. Thereupon the Senator from Massachusetts did make objection, and I inquire what becomes of the issue thus joined by the Senator from Massachusetts by that objection, which was a point of order?

The PRESIDING OFFICER. The Chair has stated previously that the Senator from Massachusetts misapprehended him in supposing that the Chair ruled that it was a privileged question; but the ruling of the Chair was that the Senator from Delaware having made the motion to proceed with the consideration of this question, the Chair would regard that as the sense of the Senate unless objection was made. Objection was made thereupon by the Senator from Massachusetts, and that prevented the unanimous assent of the Senate, under which the motion would have been accepted. Therefore it is now a question of motion, upon which the sense of the Senate will have to be taken, as to whether they will proceed or not with the consideration of the resolution.

Mr. CONKLING. If I may be allowed then to understand one step further, the point of order which the Chair holds now was originated by the Senator from Alabama must have been a point aimed at the right of the Senator from Delaware to make that motion. Is that it? The Chair says the Senator from Delaware had submitted a motion. That being before the Senate, the point of order made by the Senator from Alabama must have been that that motion was out of order.

The PRESIDING OFFICER. The point of order made originally by the Senator from Alabama was that it did not require a motion, it being a privileged question.

Mr. CONKLING. Very well.

The PRESIDING OFFICER. He subsequently withdrew that point of order, however, which leaves no question of order before the Senate. The question now before the Senate is, upon the motion of the Senator from Delaware, whether it will proceed with the consideration of the resolution reported from the Committee on Privileges and Elections.

Mr. WHYTE. Mr. President, I submit to the Senate that no motion is necessary at all to proceed with the consideration of this question——

Mr. SAULSBURY. The Senator will permit me to say that I did not put it in the form of a motion, but I said I insisted that we proceed with it as a privileged question.

Mr. WHYTE. It is not necessary to insist upon it as a privileged question. It comes up as the regular order. At the expiration of the morning hour the Chair announced that the morning hour had expired. That, of course, suspended the remarks of the Senator from Wisconsin, and the inquiry then was whether there was any unfinished business or whether there was any special order. There is neither special order nor unfinished business to proceed with. The consequence is that under Rule 13 the Senate proceeds with the general orders, and this is the first business on the Calendar of general orders.

Mr. CONKLING. Then the motion to take it up is out of order.

Mr. HOAR. The Senator from Maryland will permit me to set myself right. That is precisely the view which I take of it. I entirely concur with the Senator from Maryland. My objection was directed simply at having it established that a case in regard to a title to a seat pending in the morning hour went on as a privileged matter when the morning hour expired, that being in violation not only of a ruling made by the Vice-President last year but of the statement of the President *pro tempore* of the Senate made yesterday as to how he would be constrained to rule if the question arose. I entirely concur with the honorable Senator.

Mr. WHYTE. I agree entirely with the Senator from Massachusetts; it did not continue as a privileged question; it goes on now simply because it is at the head of the Calendar of general orders.

Mr. EDMUNDS. As there is nothing to displace it.

Mr. WHYTE. Nothing to displace it.

Mr. EDMUNDS. Then the Senator from Wisconsin is entitled to the floor to go on.

Mr. WHYTE. Clearly, beyond all question. I want to make it clearer by merely reading the rule:

> 13. At the expiration of the morning hour, if there shall be neither unfinished business nor special order, the Senate shall proceed with the Calendar of general orders, unless it shall otherwise determine.

Consequently we go on precisely with this resolution as the first of the general orders, and the Senator from Wisconsin is entitled to the floor.

Mr. EDMUNDS. Mr. President, I should like to add to what has been said by the Senator from Maryland, with whom I perfectly agree, that it has always been the practice of the Senate in the thirteen years that I have been here, where there was no unfinished business or special order and any matter was taken up in the morning hour, to go straight on with it, and as he says no motion or anything else is necessary; it is before the Senate and continues to be before the Senate although one o'clock arrives, when there is no unfinished business or a special order to displace it. Consequently the matter is before the Senate and the Senator from Wisconsin is entitled to the floor.

The PRESIDING OFFICER. The Chair fully concurs in the statement made by the two Senators.

Mr. SAULSBURY. I desire to state now that I do not agree entirely with what has been said by the Senator from Maryland and other Senators who take the view he has taken of this matter. I insist that this being a privileged question and coming up in the morning hour and being before the Senate, it cannot be displaced by the expiration of the morning hour, it being a question of high privilege. I put this upon the broad ground that it is a privileged question, and being before the Senate it does not lose its place at the expiration of the morning hour, but continues before the Senate as a privileged question.

Mr. EDMUNDS. I think the Senator from Delaware will change his opinion if he will look into the constant practice and judgment of the Senate as establishing the law in such respects, not merely the decision of a session or two ago but for many, many years; and I think if he will attend to the distinction between a privileged question and a question of privilege also, he will get some practical light that will fortify him in what I think will be his change of view if he will look into the history of the subject.

The PRESIDING OFFICER. As it seems to be the general opinion of the Senate that the Senate do proceed now in order with the consideration of this subject, although they arrive at that conclusion by different processes of reasoning, the Chair will so rule and assign the floor to the Senator from Wisconsin [Mr. CAMERON] upon the resolution reported from the Committee on Privileges and Elections.

Mr. CONKLING. I ask the Senator from Wisconsin to yield to me to make a remark as I have had something to do with questions of order, they being questions which I am not partial to. The point I endeavored to enforce originally, and which I wish to insist upon now, is that the only right after one o'clock which this resolution had grew out of the absence of a special order and the absence of unfinished business; but what is more essential to my purpose is this, that in any view in which this resolution could maintain its place and continue to be considered, no Senator whatever was entitled to the floor save only the Senator from Wisconsin who was interrupted by the expiration of the morning hour. To him and to him alone pertained the right at that moment to debate this matter if in truth it could be regularly before the Senate, which of necessity it could be only as the Senator from Maryland has suggested because the absence of unfinished business and the absence of a special order left it to proceed.

Mr. FERRY. I would call the attention of the Senator from New York to the fact that under the rule read by the Senator from Maryland the Senate should then proceed, in the absence of a special order,

to the general orders, and that brings up the question upon which the Senator from Wisconsin has the floor.

The PRESIDING OFFICER. The Senator from Wisconsin will proceed.

Mr. CAMERON, of Wisconsin. If this point of order has been disposed of—I do not know whether it is settled or not, in fact I do not know whether anything is settled or not—but it having been got out of the way I will proceed and conclude the little I have to say upon this resolution.

When the hour of one o'clock arrived I had stated briefly the history of the Kellogg-Spofford case before the Committee on Privileges and Elections and before the Senate. I had also referred to some authorities for the purpose of showing that when the Senate adopted a resolution seating Mr. KELLOGG upon the merits of the case it acted judicially, and having acted judicially it thereby entered a judgment in favor of the right of Mr. KELLOGG to a seat as a Senator from the State of Louisiana. I was claiming that the case was disposed of, that it is *res adjudicata*. The parties to the contest at that time were Mr. Spofford and Mr. KELLOGG. The parties to this contest at this time are Mr. Spofford and Mr. KELLOGG, the same parties. The contest was made before the Senate, a tribunal having authority to hear and dispose of the case, and the only tribunal having such authority. The case was heard upon its merits, as is recited in the resolution to which I have referred, and was fully heard, as the history of the case shows.

I say, then, that the case is *res adjudicata*, because the parties to the contest are the same; it was made before a tribunal having authority; it was made and decided upon the merits.

Now, Mr. President, I will refer briefly to some legislative precedents to show how this body has regarded judgments similar to the judgment which has been entered in this case. The first case to which I shall refer is the celebrated Fitch and Bright case. All are familiar with the facts in regard to that case. Fitch and Bright were elected Senators from the State of Indiana. When their credentials were presented, at the same time a memorial was presented from a minority of the Legislature alleging irregularities, alleging in fact that they were not elected, and protesting against their admission. They were admitted, however, upon the *prima facie* case made by their credentials. The remonstrance was referred to the Committee on the Judiciary. It was examined very fully by that committee, and a report was made, which may be found in Bartlett's Contested Election Cases, on page 629. On a subsequent contest, the Senate adopted the following resolution:

Resolved, That Graham N. Fitch and Jesse D. Bright, Senators returned and admitted from the State of Indiana, are entitled to the seats which they now hold in the Senate, as such Senators aforesaid, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863, according to the tenor of their respective credentials.

The report proceeds:

This resolution and the accompanying documents were on the same day ordered to be printed.

The resolution was under consideration in the Senate, and fully debated at several subsequent times, and was finally, after the rejection of several proposed amendments, passed by the Senate without amendment or alteration.

A subsequent Legislature of the State of Indiana, that is a Legislature subsequent to the Legislature which elected Fitch and Bright, treated their election as void and elected Mr. Lane and Mr. McCarty as Senators for the same terms. Lane and McCarty at the succeeding session of the Senate presented their credentials, and at the same time presented a paper setting forth the grounds upon which they claimed that they were legally elected Senators and were entitled to seats. Their credentials and the memorial to which I have referred were sent to the Committee on the Judiciary. I now read from the report made by the committee thereon:

In the opinion of the committee this resolution (no motion having been made to reconsider it) finally disposed of all questions presented to the Senate involving the respective rights of Hon. Graham N. Fitch and Hon. Jesse D. Bright to their seats in the Senate as Senators from the State of Indiana for the terms stated in the resolution. It appears by the memorial that the Legislature of Indiana, at its recent session in December last, assumed the power of revising the final decision thus made by the Senate of the United States, under its unquestioned and undoubted constitutional authority to "be the judge of the qualifications of its own members." Under this assumption, it also appears by the journals of the senate and house of representatives of the State of Indiana, the Legislature of Indiana, treating the seats of the Senators from that State as vacant, proceeded subsequently, by a concurrent vote of the senate and house of representatives of the State, to elect Hon. Henry S. Lane as a Senator of the United States for the State of Indiana, to serve as such until the 4th of March, 1863, and Hon. William Monroe McCarty as a Senator for the same State, to serve as such until the 4th of March, A. D. 1861. Under this action of the Legislature of Indiana those gentlemen now claim their seats in the Senate of the United States.

It may be conceded that the election would have been valid, and the claimants entitled to their seats, had the Legislature of Indiana possessed the authority to revise the decision of the Senate of the United States that Messrs. Fitch and Bright had been duly elected Senators from Indiana, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863.

In the opinion of the committee, however, no such authority existed in the Legislature of Indiana. There was no vacancy in the representation of that State in the Senate; and the decision of the Senate, made on the 12th of June, 1858, established finally and (in the absence of a motion to reconsider) irreversibly the right of Hon. Graham N. Fitch as a Senator of the State of Indiana until the 4th of March, 1861, and the right of Hon. Jesse D. Bright as a Senator from the same State until the 4th of March, A. D. 1863.

The decision was made by an authority having exclusive jurisdiction of the subject; was judicial in its nature; and, being made on a contest in which all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright, and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana, the judgment of the Senate then rendered is final, and precludes further inquiry into the subject to which it relates.

It will be observed that the Senate there distinctly held that having once determined that Bright and Fitch were elected upon the merits of the case, the Senate at a subsequent session had no right to reopen the case, had no right to determine whether the case had been properly decided at the prior session of the Senate or not, that it was finally determined by the Senate in 1858, and that two years after the Senate could not set aside the judgment which the Senate had rendered in 1858.

Mr. EATON. Will my friend pardon me one moment?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. EATON. Is that the decision, or is it that a subsequent Legislature of Indiana could not undertake to interfere with the judgment of the Senate?

Mr. CAMERON, of Wisconsin. They decided that also, but they decided distinctly the point that I have stated.

Mr. CONKLING. Perhaps the Senator had better read the decision on that point again.

Mr. EATON. The whole thing must be taken together and read.

Mr. CAMERON, of Wisconsin. Certainly, the whole thing must be taken together:

The decision was made by an authority having exclusive jurisdiction of the subject; was judicial in its nature; and, being made on a contest in which all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright, and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana, the judgment of the Senate then rendered is final, and precludes further inquiry into the subject to which it relates.

What subject did it relate to? It related to the right of Bright and Fitch to their seats upon this floor.

Mr. EATON. Connected with the action of the previous contestants, that is all; not of a future Legislature. That is not this case at all. The case here is, has the Senate decided accurately with regard to the action of a given Legislature, the Legislature of 1875, if you please, not the Legislature of 1876, a year after. I submit to my honorable friend from Wisconsin that this must be taken into consideration, that nobody could come here with the action of a subsequent Legislature. That was the judgment of the Senate in the case he refers to. That is not the case here; and I desire to say, and I ought to say very frankly, that in whatever vote I may give I by no means mean it to be understood that I shall unseat one man and seat another. That is another matter entirely.

Mr. HOAR. Will the Senator from Connecticut allow me before he sits down, with the leave of the Senator from Wisconsin, to ask him if by the phrase which he just used, "Has the Senate decided accurately?" he means to imply that the Senate has any different power to-day, whether it decided accurately or inaccurately on this question last year, than it had then?

Mr. EATON. I mean to say this, not that it will have the slightest application to the case before us, but simply as an illustration, that if it should turn out that my friend from Massachusetts or my friend from New York, or rather than to have any feeling with either of those gentlemen I will say myself—if it should turn out that evidence could be introduced that my election four years ago was obtained in an improper and fraudulent manner, I apprehend that the Senate would have the right to look into that.

Mr. CONKLING. Is there any fear of that?

Mr. EATON. No. There would be some fear, perhaps, with regard to the other gentlemen of whom I spoke, but none in regard to myself. [Laughter.]

Mr. CAMERON, of Wisconsin. Mr. President, the question in the Bright and Fitch case was this: were Bright and Fitch legally elected Senators in 1858? The question so far as Mr. KELLOGG is concerned in this case is, was Mr. KELLOGG legally elected Senator in January, 1877? It is true that the Senate in the Bright and Fitch case decided that a subsequent Legislature could not undo what a previous Legislature had done, although if Senators will look at the memorial presented by Mr. Spofford in this case they will see that he claims as one of the grounds on which this case should be opened and retried that a subsequent Legislature in Louisiana protested against the seating of KELLOGG and against his exclusion from a seat in this body. So that in his memorial he makes the very point which the Senator from Connecticut says there is nothing to, because a subsequent Legislature cannot in any way affect the action of a preceding Legislature.

Mr. CONKLING. Would it incommode the Senator to state the names of the members of the committee by whom that report was made in the Bright case?

Mr. CAMERON, of Wisconsin. I think the names are given here.

Mr. CONKLING. I supposed they were before the Senator.

Mr. CAMERON, of Wisconsin. The chairman of the committee was Mr. Bayard, of Delaware. Mr. Pugh, of Ohio, was on the committee. Mr. Trumbull, of Illinois, was a member of it. Those three at least were on the committee. The names of the others do not appear to be in the report which I have before me.

Mr. SAULSBURY. If it will not interrupt the Senator from Wisconsin——

Mr. CAMERON, of Wisconsin. Nothing will interrupt me, because I am not making a set speech.

Mr. SAULSBURY. I wish to ask him if it was not stated in that report that all the facts were as distinctly known at the time Fitch

and Bright were elected as they were at the time the contest was made? I understand that to be the statement of the report, and I desire to call the Senator's attention to the fact, as he refers to the memorial of Mr. Spofford in this connection, that Mr. Spofford specifically alleges that he was denied the privilege of presenting before the committee the facts which he now desires to have investigated and that is one of the strong points which he makes in his memorial. So his case is distinguished from that case by the fact that in the one case all the facts were before the Senate, and in the other case it is alleged by the memorial that the party contestant was denied the privilege of bringing those facts before the Senate.

Mr. CAMERON, of Wisconsin. I submit, Mr. President, even if that were so, which I do not admit to be so, it would not in any way affect the question of jurisdiction.

Mr. SAULSBURY. I desire to say, if the Senator will allow me, that I do not express any opinion on the truth of the allegation. I simply call his attention to the allegation. I do not desire as a member of the committee to prejudge the case or express any opinion upon anything contained in the memorial.

Mr. CONKLING. Will the Senator allow me a moment?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. CONKLING. If he will, I wish to suggest that so far from affecting the question of jurisdiction so as to impair the conclusiveness of the prior judgment, it would overthrow, as I conceive, the only ground on which that jurisdiction could be assailed, namely, the ground of newly discovered evidence. If Mr. Spofford came with a memorial saying that neither the committee nor he nor anybody else was then aware of influential facts discovered since, possibly we should have an exceptional case, possibly a case which would break the force of the argument made and the precedents cited by the Senator from Wisconsin now on the floor. But when he comes with a memorial confessing and alleging that, at the time when this adjudication was made, at the time when the committee examined, at the time when he made profert before the committee of the case on which he stood, he was aware of the fact which he now alleges, and then in the customary way of defeated parties criticises the court by saying that the court did not hear sufficiently or the court did not apprehend sufficiently or the court did not give weight sufficiently to facts then presented, I humbly submit that he brings himself most fully, most conclusively, within the rule relating to previous adjudications, whether we liken this to a proceeding in a court of law or whether we consider it as it is, one held here in a legislative forum and on a day when according to the Constitution the members of that forum were judges, when in the language of the Constitution they proceeded to judge of the elections, qualifications, and returns of their members. I say, then, whether we consider it as we would a case pending in a judicial tribunal, or as one pending in this tribunal at the moment sitting judicially, in either event Mr. Spofford makes an allegation fatal to the only ground on which he could successfully attempt to wrest this case from the general rule and plant it on exceptional ground. Newly discovered evidence is a potent lever with which to unsettle and upset previous adjudications. Without newly discovered evidence, with evidence merely cumulative, more especially with evidence all known at the time, nothing I humbly conceive can be more inadmissible, nothing more futile than an attempt to overthrow a conclusive prior adjudication.

Mr. SAULSBURY. If the Senator from Wisconsin will pardon me, I desire to say now what I have heretofore stated, that I do not intend to express any opinion at the present stage of the case upon the question which is raised by the Senator from Wisconsin that this is a question of *res adjudicata*. I do not mean to express any opinion as to whether that plea is a proper plea in a case pending in the Senate at all; but I desire now to say that one of the very grounds admitted by the Senator from New York to be a good ground of opening a question of this kind, or one at least that might have some weight, namely, that there was newly-discovered testimony, is alleged, according to my understanding, in the petition of Mr. Spofford. I do not intend on any of these questions to express any opinion. All we desire to ask is the authority to investigate the whole question and lay the facts before the Senate, so that the Senate, with the full knowledge of the facts that are brought out in the investigation, may be able to judge and pass upon the question.

Mr. CAMERON, of Wisconsin. We say that the whole question was once laid before the Senate, and the Senate decided upon the case after the whole question was laid before it.

The next case I will refer to is the Spencer-Sykes case. In that case the question that was presented was whether the Legislature by which Mr. Spencer claimed to have been elected was the Legislature of the State of Alabama or whether the Legislature by which Mr. Sykes claimed to have been elected was the Legislature of the State. It appeared that some of the members of the so-called Spencer legislature did not have the regular certificates of election; that certain members of the Sykes legislature, so called, did have regular certificates of election; but the two legislatures afterward compromised and came together, and it was agreed, as I understand the facts, that, although certain members of the Spencer legislature did not have regular certificates of election, they were in truth and in fact legally elected; and although certain members of the Sykes legislature did have regular certificates of election, they were not in truth and in fact elected.

The Senate ascertaining that these facts had been agreed upon by the respective legislatures, if I may so call them, of the State of Alabama, recognized the agreement; and that is as far as the Senate went at that time. Recognizing that agreement, it appeared that Mr. Spencer was duly and legally elected Senator, and he was thereupon seated. Subsequently, a memorial was presented to the Senate, asking that the case be again opened, not only upon the question as to which was the Legislature but also upon the question as to whether Mr. Spencer or his friends used corrupt means to secure the election of Mr. Spencer. In the former contest, as I have stated, the only question which was passed upon by the Senate was which of the two legislatures was the Legislature of the State. The Senate distinctly and definitely passed upon that question. No other question was presented to it; it passed upon no other question. When the memorial was presented some years afterward, asking that the case be again opened, not only upon the question as to which was the true Legislature but upon the other question to which I have referred, the Committee on Privileges and Elections, of which the then Senator from Indiana, Mr. Morton, was chairman, made a report, in which this language is used:

> The question whether Mr. Spencer was elected by the lawful Legislature of Alabama, raised in the memorial referred to, and in the specifications filed before the committee by the counsel, Mr. MORGAN, who represented the State of Alabama, was considered by a majority of the committee to have been fully settled in the contest for the seat occupied by Mr. Spencer, before made, in the Senate, by Mr. Sykes.
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> The question in that contest was whether what was known as the court-house legislature, by which Mr. Spencer was elected, or the capitol legislature, by which Mr. Sykes was elected, was the lawful Legislature of Alabama. After full consideration and argument of counsel, it was determined by the committee and afterward by the Senate that the court-house legislature was the lawful one, and that Mr. Spencer and not Mr. Sykes was entitled to the seat.
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> The question having been definitely settled it was considered by the committee that it was not competent for the committee or the Senate to reopen it, and that it must be treated as *res adjudicata*.

In this case, too, this question having been distinctly passed upon by the Senate, the Senate at a subsequent session, when it was asked to reopen the case, decided that that question having been determined by the Senate it was not competent for the Senate to open it.

I will also call the attention of the Senate to the Butler-Corbin case. The Senator from Delaware, the chairman of the committee, united in the minority report; in fact, I believe he drew it. The minority of the committee held in that case that the question as to who was the Senator from the State of South Carolina, whether Mr. BUTLER or Mr. Corbin, had been passed upon, finally and conclusively passed upon, by the Senate when it adopted a resolution seating Mr. BUTLER. In that instance, Mr. Corbin's case, as I claim, never was before the Senate. His credentials were referred to the Committee on Privileges and Elections. Mr. BUTLER'S credentials were presented to the Senate and referred to that committee. Subsequently a motion was made to discharge the committee from the further consideration of Mr. BUTLER'S credentials. Upon that motion a discussion sprang up in the Senate which lasted for several days, Mr. Corbin's credentials remaining during all that time in the hands of the committee, never having been before the Senate at all; and yet the minority of the committee were of the opinion that the case had been finally and conclusively passed upon, and consequently that it was not competent for the Senate again to consider it. The Senate agreed with the minority of the committee, because, when a motion was made to take up the case of Mr. Corbin, a decided majority of the Senate voted in the negative, and it was never taken up, and his credentials remain in the hands of the committee to this day.

Mr. SAULSBURY. The Senator from Wisconsin, I am sure, does not desire to misrepresent the view of the minority in that case. He will remember that in the minority view it is expressly stated that the reason on which they said the case of Mr. BUTLER had been finally settled was that all the questions of law and of fact had been before the Senate, and that there was no dispute about any question either of law or fact; there was perfect agreement between the contestants themselves. The minority distinctly stated in their report that if the facts were not all agreed upon or known, or if the facts were not present before the committee and before the Senate, that would make a very different case than that which was presented in the case of Mr. BUTLER and Mr. Corbin when Mr. BUTLER was seated. That was the statement in the report of the minority. I desire to remind the Senator from Wisconsin that, whatever might have been the view of the minority, there were some twenty-five members of the Senate on the other side of the Chamber who did not consider the case of Mr. BUTLER and Mr. Corbin settled at all by the previous action of the Senate.

Mr. CAMERON, of Wisconsin. I was one of those who did not think it was settled by the previous action of the Senate; and the reason why I did not think it was settled was that Mr. Corbin's case never was before the Senate. The facts in relation to his case never were before the Senate, because his credentials remained in the hands of the committee and never were under consideration by the Senate at all. It is true that they were talked about, but they were talked about upon a motion to discharge the committee from the further consideration of the credentials of Mr. BUTLER; they were talked about as outside matters, not as matters then before the Senate. That is the reason.

Mr. SAULSBURY. The Senator will remember that the briefs,

both of Mr. BUTLER and Mr. Corbin, were on the tables of Senators themselves, and all the facts relating to the question. There was no dispute between the parties as to any question of fact. The whole matter was before the Senate, and the briefs of the parties were upon the tables of Senators.

Mr. CAMERON, of Wisconsin. The credentials of Mr. Corbin were in the hands of the committee and not before the Senate. Then I submit that while the credentials of Mr. Corbin were in the hands of the committee and not before the Senate the Senate had no jurisdiction to either consider or pass upon his case. Suppose a bill is introduced here and referred to a committee, and without any further action upon the bill I move to take it up in the Senate for consideration? The Senator from Delaware, who is tenacious about questions of order, would get up at once and claim that, the bill being in the hands of the committee and not before the Senate, the Senate had no jurisdiction, and that my motion was out of order; which would be correct. Just so with the Corbin case. His case never was before the Senate, but notwithstanding the fact that the case never was before the Senate, a majority of the Senate uniting with the minority of the committee at that time decided that it was finally determined by the Senate, that it was *res adjudicata*, and consequently could not be further considered.

I refer to that case not because I agreed with the minority of the committee, not because I agreed with the final action of the Senate upon it, but because the Senate by a decided majority did decide that the case was *res adjudicata*.

The Senator from Delaware claims that all the facts of the present case were not before the committee and were not before the Senate when this question was passed upon by the Senate in 1877. I have already stated that the committee determined at a certain time to close the testimony in the case, that it was agreed to by the minority of the committee, with the exception that Mr. Spofford, the contestant, might afterward call to the attention of the committee certain points on which he desired to take testimony. Subsequently he did present five points to the committee and asked that he might be permitted to take testimony upon those points. The committee came to the conclusion that those points were fully covered by the testimony then already before the committee. I do not hesitate to express the opinion that all the facts in this case were at that time before the committee and before the Senate.

It is now claimed by the contestant, Mr. Spofford, that Mr. KELLOGG, the sitting member, used corrupt means, without defining distinctly what those corrupt means were, for the purpose of securing his election to the Senate. That same charge was made before the committee by Mr. Spofford in 1877. It is not a new charge at all. It appears that soon after Mr. KELLOGG was elected, a distinguished citizen of Louisiana, in a democratic meeting or caucus, a public meeting I think it was, declared that Mr. KELLOGG had secured his election by corrupt practices; that a certain member of the house of representatives of the State, naming him, was the head of a ring in the Legislature of the State, and that this certain member had paid each member of the Legislature who voted for Mr. KELLOGG the sum of $250 for his vote. When the matter was brought to the attention of the member implicated he at once declared the charge false and slanderous, and called upon the Legislature, the Packard legislature, for an investigation. Thereupon Mr. McMillen, at that time a member of the Legislature, now the postmaster at New Orleans, (a gentleman with whom I have the honor of a personal acquaintance and who is recognized by all the citizens of the State as a man of ability and character,) on the 16th day of January, 1877, introduced a resolution providing that a committee of five members of the house of representatives of the State should be appointed for the purpose of investigating the charges of corruption against Mr. KELLOGG and his friends. That resolution was adopted, and under it a committee of five was appointed. On the 27th day of January, 1877, that committee reported to the house of representatives of the State and declared that there was no foundation whatever for the charge. The committee reported the testimony that they had taken. My recollection is that the committee reported that they had examined, and the record of the testimony shows that the committee had examined every member of the Packard legislature, and that every one thus examined by the committee pronounced the charge false. Then the very Legislature by which Mr. KELLOGG was elected has investigated the distinct charge which is now made against him in the petition of Mr. Spofford, the charge of bribery and corruption.

How has the Senate heretofore treated the investigations made by State Legislatures? Mr. Bogy, of Missouri, was elected a Senator in 1873. I am informed that the contest preceding his election was a very spirited one, that it was perhaps an acrimonious one. After he was elected the minority at once raised the cry that he had secured his election by bribery and corruption. A committee of the Legislature was appointed for the purpose of investigating the charge. That committee made an examination and reported to the Legislature that the charge was unfounded. Mr. Bogy came on here and was admitted upon the *prima facie* case made by his credentials; but the minority of the Legislature caused a memorial to be presented to the Senate in which they recapitulated the charges which had been made against Mr. Bogy before the Legislature of Missouri. That memorial was referred to the Committee on Privileges and Elections of this body. The report upon the case was made by Mr. Morton on the 25th of March, 1873. It is very brief; I will read it:

> The memorial sets forth that the recent examination by a committee appointed by the house of representatives of the Legislature of Missouri touching the corrupt use of money in the election of Mr. Bogy was imperfect; that it was not full and fair, and in the opinion of the memorialists, if the investigation had been conducted with more vigor and with a purpose of revealing the real facts of the case other and more important evidence would have been produced showing that there was corruption in Mr. Bogy's election.
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> The memorial, however, does not state what additional facts can be proven, nor indicate with any certainty the character of the new evidence that may be produced.

The same criticism might properly be made upon Mr. Spofford's petition. It does not state very distinctly what additional facts can be proven, nor does it indicate with any certainty what was "the character of the new evidence that may be produced." The report proceeds:

> The committee understand that the only duty which they have upon this reference is to report to the Senate whether the memorial presents such facts as would justify the Senate in instituting an examination in regard to the election of Mr. Bogy, and are of the opinion that it does not. Such a proceeding is of a grave character, and should not be set on foot without such a statement of the evidence that could probably be produced as would appear to make it the duty of the Senate to proceed to an investigation.
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> The evidence taken by the committee of the Legislature of Missouri also accompanies the memorial, and has been examined by the committee. It is not the province of the committee, upon this reference, to inquire whether the judgment pronounced by the house of representatives of the Missouri Legislature upon this evidence was correct; but they express the opinion that the evidence is not of a character to require of the Senate an investigation.
>
> The committee, therefore, ask to be discharged from the further consideration of the memorial and the evidence touching the election of Lewis V. Bogy to the Senate of the United States.

Here it is put upon the ground that the same charges of bribery and corruption which were contained in the memorial presented to the Senate of the United States in regard to the election of Mr. Bogy had been investigated by the Legislature of his own State, and that the Legislature had acquitted him of the charges. In Mr. KELLOGG's case these same charges of bribery and corruption were made to the Legislature of Louisiana, a committee of five was appointed to investigate them; the committee did investigate them and fully acquitted Mr. KELLOGG.

There is another case upon this point to which I will call the attention of the Senate—the Cameron case from Pennsylvania. Mr. Cameron was elected Senator from Pennsylvania in 1857. It was alleged that he secured his election by improper means. He came on with his credentials. A minority of the Legislature caused a memorial to be presented to the Senate setting forth that he had obtained his election by improper means. That memorial was referred to the Committee on the Judiciary, from which Mr. Benjamin, of Louisiana, made a report. The prayer of the memorial was that the case might be investigated by the Senate. The report proceeds to say:

> The committee cannot recommend that this prayer be granted. The allegation is entirely too vague and indefinite to justify such a recommendation. Not a single fact or circumstance is detailed as a basis for the general charge. Neither the nature of the means alleged to be corrupt and unlawful, nor the time, place, or manner of using them, is set forth, nor is it even alleged that the sitting member participated in the use of such corrupt means, or, indeed, had any knowledge of their existence. Under no state of facts could your committee deem it consistent with propriety, or with the dignity of this body, to send out a roving commission in search of proofs of fraud in order to deprive one of its members of a seat to which he is *prima facie* entitled; still less can they recommend such a course when the parties alleging the fraud and corruption are themselves armed with ample powers for investigation. If it be, indeed, true that members of the house of representatives of Pennsylvania have been influenced by corrupt considerations or unlawful appliances, the means of investigation and redress are in the power of the very parties who seek the aid of the Senate of the United States. Let their complaint be made to the house of which they are members, and which is the tribunal peculiarly appropriate for conducting the desired investigation. That their complaint will meet the respectful consideration of that house your committee are not permitted to doubt. If upon such investigation the facts charged are proven, and if they, in any manner, involve the character of the recently elected member of this body from the State of Pennsylvania, the Constitution of the United States has not left the Senate without ample means for protecting itself against the presence of unworthy members in its midst.

It appears from the report of the committee in that case that the committee were of the opinion that the Legislature of Pennsylvania ought to have investigated those charges, and if they had investigated the charges and had found that they were sustained, the implication in the report is that the Senate of the United States would consider that finding perhaps conclusive in the case.

These charges of corruption against Mr. KELLOGG and his friends were not only investigated by the Packard legislature by which he was elected, but a committee was appointed for the purpose of investigating them by the Nicholls legislature some time afterward. Colonel Zacharie was a member of that committee. The committee consisted, I believe, of three members, two democrats and one republican. The committee, as I am informed, has never reported.

Thus it is clear that the charges of corruption now made in the petition of Mr. Spofford against Mr. KELLOGG were investigated by the Packard legislature, the Legislature by which Mr. KELLOGG was elected, and it will not do to say that the Packard legislature was not the lawful Legislature of the State, because this body has passed upon that question already, and it is not now open for discussion. The Packard legislature having authority in this matter appointed a committee; the committee made a full investigation of the charges and pronounced them not sustained. The Nicholls legislature subsequently appointed a committee for the purpose of investigating the

same charges. Whether the committee made any investigation or not I am not advised; but it is certain that it has never reported. In the Bogy case the Legislature of Missouri having acquitted Mr. Bogy of the charges the Senate of the United States considered that acquittal sufficient and refused to order an investigation. In the Cameron case the Senate of the United States said to the Legislature of Pennsylvania, "If the members of the Legislature of Pennsylvania have been guilty of the charges that you make against them, you have the means in your own hands for investigating them; appoint a committee of your own Legislature and investigate them."

I submit, then, that when the Senate of the United States adopted a resolution declaring that Mr. KELLOGG was entitled to his seat as a Senator in this body from the 4th of March, 1877, for six years thereafter, the Senate passed judicially upon the question. I submit further that the charge of corruption now made against Mr. KELLOGG has been fully investigated by the Legislature of Louisiana, and he has been acquitted of the charge. I submit that the Senate in the Bogy case decided that when the Legislature of a State had investigated a charge similar to the one now made against Mr. KELLOGG, the Senate would not order a re-examination.

If the resolution offered by the Senator from Delaware be adopted it opens the whole case. It authorizes the committee to take testimony upon every possible phase of the case. It will not do to say that it is not the intention of the committee to commit any member of the Senate upon any question that may arise in this case, because the very first question which presents itself is, has the case been finally disposed of by the Senate? It certainly commits every Senator who votes for the resolution upon that question. The Senator from Georgia [Mr. HILL] remarked the other day that in his opinion it was necessary to take testimony in order that the Senate might intelligently come to a conclusion whether the case was *res adjudicata* or not. That is a very singular position for a lawyer to take. I think he never knew, as I have already remarked, a court to order testimony to be taken in a case for the purpose of determining the question of *res adjudicata*.

Mr. CONKLING. For the purpose of examining whether they had a right to take testimony or not.

Mr. CAMERON, of Wisconsin. Yes, for the purpose of determining whether they had a right to take testimony or not.

I submit that in any view of the case this resolution ought not to pass. The minority of the committee insist that the whole question has been disposed of. The case is *res adjudicata*. The charges made against Mr. KELLOGG have been fully examined by the Legislature of Louisiana, he has been acquitted of those charges, and in similar cases where a State Legislature has investigated charges similar to these the Senate has held that it would not order a re-examination.

One of the points made by the contestant is that he was not permitted to introduce testimony upon the five points that he presented to the committee. The arguments made during the present session before the committee have been printed and laid upon the desks of all the Senators. Senators will find that this question has been fully discussed by Mr. Shellabarger, the counsel for Mr. KELLOGG, and I think he shows conclusively that all the five points are fully covered by the testimony which was before the committee when the case was under investigation in 1877. I have verified the citations made by Mr. Shellabarger in his argument, and I find that they are sustained by a reference to the reports referred to. There is, then, I think, really no ground whatever upon which this case can properly be opened for a re-examination and a retrial and another judgment.

Mr. CARPENTER, (at two o'clock and forty minutes p. m.) This is a very important question, and several Senators who are not in their seats desire to be heard upon it. I presume there will be no objection to an adjournment, and I therefore move that the Senate adjourn.

Mr. SAULSBURY. I hope that it will not be done.

The PRESIDING OFFICER. The question is not debatable.

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "nay."

Mr. PADDOCK, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. GORDON.] If he were here, I should vote "yea."

Mr. WILLIAMS, (when his name was called.) There seems to be a political question involved in this motion, and I am paired on political questions with the Senator from Nebraska, [Mr. SAUNDERS.]

Mr. MCMILLAN, (when Mr. WINDOM's name was called.) My colleague [Mr. WINDOM] is absent from the Senate and is paired with the Senator from West Virginia [Mr. DAVIS] on this question. My colleague would vote "yea" and the Senator from West Virginia would vote "nay."

The roll-call was concluded.

Mr. MAXEY. My colleague [Mr. COKE] is compelled by an important engagement to be absent to-day, and is paired with the Senator from Kansas, [Mr. INGALLS.]

The result was announced—yeas 21, nays 30; as follows:

YEAS—21.

Allison,	Bell,	Bruce,	Cameron of Pa.,
Anthony,	Booth,	Burnside,	Cameron of Wis.,
Carpenter,	Edmunds,	McMillan,	Teller.
Chandler,	Hill of Colorado,	Morrill,	
Conkling,	Hoar,	Platt,	
Dawes,	Logan,	Rollins.	

NAYS—30.

Bailey,	Groome,	Kernan,	Thurman.
Bayard,	Hampton,	Maxey,	Vance,
Beck,	Harris,	McDonald,	Voorhees,
Butler,	Hill of Georgia,	Morgan,	Walker,
Call,	Houston,	Pendleton,	Whyte,
Cockrell,	Johnston,	Randolph,	Withers.
Eaton,	Jonas,	Saulsbury,	
Garland,	Jones of Florida,	Slater,	

ABSENT—25.

Blaine,	Grover,	Lamar,	Vest,
Coke,	Hamlin,	McPherson,	Wallace,
Davis of Illinois,	Hereford,	Paddock,	Williams,
Davis of W. Va.,	Ingalls,	Plumb,	Windom.
Farley,	Jones of Nevada,	Ransom,	
Ferry,	Kellogg,	Saunders,	
Gordon,	Kirkwood,	Sharon,	

So the Senate refused to adjourn.

Mr. HOAR. I desire to inquire of the Senator from Delaware in his purpose is to force a vote on this question to-day. There are several Senators who desire to speak upon it and who regard it as an extremely important question.

Mr. SAULSBURY. I will say to the Senator from Massachusetts that I do not desire to be discourteous to any member of the Senate——

Mr. HOAR. I am sure of that.

Mr. SAULSBURY. I desire, however, to reach a vote upon this resolution at as early an hour as possible. I have no desire to act oppressively toward those with whom I differ upon the adoption of the resolution, but I at the same time desire that we shall continue the discussion, if discussion is desired upon the question, until a reasonable hour this evening; and I give notice that I shall press for a vote upon it to-morrow, if we do not obtain a vote to day.

Mr. HOAR. Mr. President, I do not propose to enter into an argument of this question to-day. The difficulty arises from the very simplicity and clearness of the proposition. No gentleman upon the other side of the Chamber seems disposed to risk a vindication of the principle which is involved in the resolution. No gentleman upon the other side of the Chamber seems, from present appearances, prepared to put into words a statement of the grounds upon which he bases the support of this resolution. The principle affirmed, and to which it seems to me it is sought to commit the Senate, is this: that whenever upon full debate, upon full consideration by a committee, upon careful and anxious examination in the Senate, the Senate has affirmed the title of a Senator to a seat upon the merits, and the party majority changes, it is competent to review and reverse that judgment, and unseat the Senator so declared seated. That is a doctrine which, in my judgment, will surprise and will alarm the American people, and it should surprise and alarm the American people.

Mr. HILL, of Georgia. Do I understand the Senator to intimate that that is the issue? Do I understand him to say that anybody on this side believes that this case ever did receive full consideration? Does not the Senator know that the facts of this case never received any consideration at all?

Mr. HOAR. It is easy to state a pretext for anything.

Mr. HILL, of Georgia. The gentleman may call it a pretext, but I have the RECORD here showing that it was stated at the time that there was no consideration of the facts in the case, and gentlemen on that side themselves admitted that there would be no legal obstruction to a consideration of this case in the future upon the allegations now made, and which are before the Senate.

Mr. HOAR. It is easy to state a pretext for anything.

Mr. HILL, of Georgia. Yes, and the Senator is about as familiar with that as any man I ever knew.

Mr. HOAR. I think the Senator is departing from the due order of the Senate as much as he is departing from the sound constitutional principle which is involved in the discussion. Of course it is easy to cast a veil over this transaction, but it seems to me it is impossible upon consideration to escape the conclusion that the doctrine affirmed and asserted by the majority of the committee is the doctrine that I have stated, and nothing else, to-wit: that whenever a party majority changes, the solemn judgments of the Senate upon the merits of the title to their seats of the members of this body may be reversed at will. What was the authority? I obtained leave from the Committee on Privileges and Elections to read to the Senate the vote which authorized the chairman to present this resolution, and it is as follows:

Resolved, That the chairman of the committee be instructed to apply to the Senate for authority to take testimony in the matter of the petition of Henry M. Spofford, praying to be permitted to produce evidence relating to the right of WILLIAM PITT KELLOGG to the seat in the Senate held by him from the State of Louisiana, and in support of his own claim thereto, and to send for persons and papers, administer oaths, appoint sub-committees, and do whatever else is necessary and usual in such cases.

The resolution offered by the chairman of the committee and pending in the Senate is:

That the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, praying permission to produce evidence relating to the right of Hon. WILLIAM PITT KELLOGG to the seat in the Senate held by him from the State of Louisiana and in support of the claim of said petitioner thereto,

be, and said committee is hereby, instructed to inquire into the matters alleged in said petition; and for that purpose said committee is authorized and empowered, &c.

Therefore the passage of this resolution is and must be an affirmance of the right of the Senate at this time to inquire into the title of Mr. KELLOGG to the seat which he now occupies and the claim of the petitioner, Mr. Spofford, thereto; and everything else is in aid of that inquiry.

Now, Mr. President, what has happened? Two years ago, or thereabouts, the Senate referred the credentials of Mr. KELLOGG to a committee, and the Senate thereafter passed a resolution directing the committee to whom had been referred those credentials to proceed to inquire into the merits of the title to the seat. Mr. Spofford presented a memorial in which he alleged, first, that Mr. KELLOGG had not been duly elected; second, that the body electing him was not the rightful and authorized Legislature; and third, that Mr. KELLOGG had been guilty of bribery or other improper practices in obtaining the seat. Mr. Spofford filed specifications, and there were introduced on one side and the other more than ten thousand pages of evidence relating to those very transactions. The matter was before the committee for weeks, and then the committee reported a resolution to the effect that Mr. KELLOGG was entitled to this seat on the merits. Thereupon it was claimed that the committee had erred in rejecting certain evidence tending to show the impropriety of Mr. KELLOGG'S dealing in the matter, and in not giving time and authorizing the claimant, the contestant Spofford, to produce other evidence, and the Senator from Georgia, I think, moved that the case be sent back to the committee with instructions to proceed to examine into these additional matters.

Mr. HILL, of Georgia. It was the Senator from Delaware, I believe, who made the motion.

Mr. HOAR. The Senator from Delaware, then, made that motion, and on debate the Senate overruled the motion and proceeded to vote, first, that WILLIAM PITT KELLOGG was on the merits entitled to the seat, and that Mr. Spofford, the contestant, was not entitled to the seat. This petitioner now simply comes in and says that the Senate erred because certain testimony which he proposed to add to the ten thousand pages already before the committee was at that time rejected. That is the whole substance of this allegation.

Is there any doubt that the final judgment of a court affirms? If it is a final judgment, it finally affirms the propriety of every ruling in regard to the rejection of evidence, in regard to the admission of evidence, in regard to the materiality, competency, or propriety of other evidence proposed, not adduced but alleged to be in the power of one party or the other. Are not those points as much settled by a final judgment as is the ultimate question in a case?

Mr. KELLOGG'S title is the strongest title to his seat which exists in regard to a single member of the Senate of the United States to-day. Most of us were admitted to a seat upon the certificate of the governor or other State officer of the States which we represent. One of us, the honorable Senator from South Carolina, [Mr. BUTLER,] was admitted to his seat after an examination from a committee, but without any express affirmance by the Senate that the judgment was upon the merits, the claim of his contestant being still pending and undisposed of before the committee. But this gentleman, Mr. KELLOGG, stands with the solemn judgment of the Senate, after examination, after discussion, after a debate lasting till the morning sun shone into this Chamber, that he is entitled upon the merits of the case, and that the gentleman who now seeks to contest the seat has no claim whatever, and is not entitled to it.

I say again that almost any act which men seek to bring themselves to do may have pretexts or veils of plausible sophistry spread over; but the veil I desire to strip from this proposition, and it is nothing less than a declaration that no Senator's seat is safe, that no judgment of the Senate is final, that no constitutional right is sacred against the will or the demands of a partisan majority. For Senators to say that they express no opinion upon the question whether this matter has been adjudged and at the same time proceed to declare that it is proper to send abroad into the country and to examine witnesses upon the merits of the case, is a proposition which it is difficult for me to reconcile with the existing facts of the case. Suppose that proposition were to be put into words and made a preamble to this resolution:

Whereas the Senate of the United States declared that Mr. KELLOGG had full title to his seat upon the merits, for the term of six years, and further declared that Henry M. Spofford is not entitled to a seat:

Be it resolved, That the committee be authorized to send for persons and papers and permit Mr. Spofford to prove that he is entitled to the seat, and that Mr. KELLOGG is not.

If the Senator from Delaware and the Senator from Georgia have not determined whether that solemn judgment of the Senate settles the title of Mr. KELLOGG to the seat and ends the claim of Mr. Spofford, now is the time for them to make up their minds, it would seem to me.

Mr. SAULSBURY. I did not desire to interrupt the Senator from Massachusetts in the course of his remarks. If I understood his remarks a few moments ago, he meant to convey the idea that the majority of the committee in asking for the passage of this resolution were governed entirely by partisan feelings and motives.

Mr. HOAR. I did not say so.

Mr. SAULSBURY. The Senator undertook at least to make the impression that the motive in this case was a matter which was determined upon because there was a democratic majority at present in the Senate.

Mr. HOAR. I did not say so.

Mr. SAULSBURY. I desire to call the attention of the Senator to his own vote so late as the 25th of February last in reference to another question. I find that he was one of the number of twenty-five Senators who voted upon a solemn resolution in reference to the seating of Mr. BUTLER who has been seated here, declaring:

That David T. Corbin was on the 12th day of December, A. D. 1876, duly elected by the Legislature of the State of South Carolina a Senator from that State in the Congress of the United States for the term of six years, commencing on the 4th day of March, A. D. 1877, and that as such he is entitled to have the oath of office administered to him.

I do not say that the Senator was governed by partisan motives, because I have long since learned that those who are most ready to impute such motives to others are those generally who are apt to be governed by them. But in defense of the committee of which I have the honor to be chairman——

Mr. HOAR. Mr. President, as I have disclaimed the statement which the Senator makes——

Mr. SAULSBURY. The Senator's language, if he will examine it, will convey that impression.

Mr. HOAR. I have the floor, I believe. As I have disclaimed the statement which the honorable Senator takes for his text, I do not think I ought to be compelled to yield further to the sermon.

Mr. SAULSBURY. With the indulgence of the Senator, I should like to say to him that his declining reminds me a good deal of a little——

Mr. HOAR. I do not yield, Mr. President, for such a purpose, but I will repeat what I said. I say that the principle which this resolution establishes, if it is adopted, is that every Senator's seat, however solemn or formal may be the judgment of the Senate as to his title to it upon the merits, shall be held hereafter at the will of a partisan majority. Possibly the honorable Senator from Delaware may think it proper to hear my restatement of what I said. He seems to have misunderstood me. I say again that the principle, if adopted, which this resolution will establish, is that however solemn the judgment of the Senate upon the title of a Senator to his seat upon the merits, it will be hereafter held at the discretion of a partisan majority. I enter into no gentleman's mind to impute motives to him. I do not know how far Senators may or may not deceive themselves in regard to the motives on which they act. I certainly should accept from no man more fully than from the honorable Senator from Delaware his own statement of what he conceives and believes to be the governing motives for his own conduct; but the country is interested, the people who have established this Constitution with so much care and thought, and at so much cost, are interested, not in the question of the self-deception of individual gentlemen, not in the question of the motives which may govern individual conduct, not in the question of the personal worth even of gentlemen who may go wrong, but in the act which is sought to be done. If it be true that there are certain cases in which newly discovered evidence might warrant a new inquiry into a matter once adjudged, which I deny as a matter of sound political principle, the committee have not planted themselves upon that ground; they have not limited their resolution to newly discovered evidence. It is not pretended that there is any newly discovered evidence tending to establish the title of Mr. Spofford to this seat; and yet the committee come in and demand of the Senate authority to send for persons and papers and to go into evidence as to the question of the title of Mr. Spofford to the seat.

Mr. CARPENTER. Upon the ground, as I understand it, that the Senate before excluded it!

Mr. HOAR. Upon the ground that the Senate once excluded it on debate and on full discussion. It may be true—though I am disposed to deny that after the precedents of the Bogy case and the Cameron case—that even where a Senator has been solemnly adjudged entitled to his seat on the merits, an inquiry into personal and individual misconduct, as bribery or corruption, might be, in the high discretion of the Senate, permitted in some cases.

Mr. EDMUNDS. With a view to expulsion.

Mr. HOAR. With a view to expulsion; but is such an inquiry given over to a contestant? The resolution of the committee has not sought to recognize or to establish itself upon that distinction. The committee would at least in such a case require, and the Senate with a view to its own dignity and in tenderness to the reputation of its own members, would at least require specifications, names of witnesses, affidavits, indications of fact tending to show reasonable ground of truth or importance in the charge; but this resolution is based upon a petition for a seat, and nothing else, without specification, without affidavit, without suggestion for the purpose of discipline or punishment, and asks the Senate to enter upon an inquiry into the two broad questions of the right of the sitting member and the claim of the contestant.

As I said when I got up, I did not rise to argue or debate this question at length. It may possibly be desirable to do that hereafter. I rose to state the question and to charge not any motive whatever upon the gentlemen who have introduced this resolution, but to charge upon the act, upon the proposition, upon the principle involved in this resolution, that it is one of the most dangerous, the most ab-

solutely unprecedented, the most utterly unheard-of, either in the action of the Senate or in anything ever asked by way of action of the Senate in the past, of any proposition which could be made; and if it shall be adopted, for the first time after eighty years of angry party strife, when the judgments of the best men in election cases, unconsciously to themselves, have been colored and warped and biased, it is proposed to place the most valuable political right and the highest political dignity upon the face of the earth, the right and title to a seat in the Senate of the United States as representing the sovereignties which make up this nation, to the temptation and the passion and the anger and the sophistry and the prejudice of changing partisan majorities.

Mr. GARLAND. I wish to ask the Senator from Massachusetts a question, which I do in the utmost good faith. I did not care to interrupt him in the course of his remarks. He is a member of the Committee on Privileges and Elections, and he has examined all the pleadings and all the proceedings that have been had in this case. I wish to have his opinion whether, under the issues formed in this case, there might not legitimately be a verdict of expulsion of the sitting member without giving the seat to the contestant, Mr. Spofford?

Mr. HOAR. I will answer that question very frankly, no. It would be the most flagrant injustice to any member of this Senate to report a resolution of expulsion against him upon a petition which does not make investigation into his conduct as a matter of personal conduct its principal end, but merely as an incidental result to the trial of the title to the seat. It is a different question altogether. The party has put in issue the title to the seat, the title to a thing, not the liability of this Senator to punishment for personal misconduct; and if Mr. KELLOGG should be of opinion, when this investigation is opened, that nothing in the facts offered to be proved tends to affect his title to the seat by reason of the previous judgment of the Senate, he would be utterly justified in disregarding and never seeking to meet or encounter before the committee these personal matters in regard to his conduct. He could say very properly, "I will meet them when a proper issue is made up by the direction of the Senate in regard to them."

The Senator from Arkansas, who is so candid and so able a lawyer, I think will see how unjust it would be to put him or me upon trial for expulsion on an issue which was made up for the purpose of trying our title to the seat as an original question. The Senate in such a case would examine very carefully the charge. Suppose a charge of personal misconduct were brought in against any Senator, against myself, or against the honorable Senator who occupies the chair, [Mr. EATON in the chair,] if that could be possible, which every man knows it is not, or suppose the plaintiff failed in ejectment because he had forged a deed, as is suggested, it would be rather strange if he could not be sent to the penitentiary for forgery on the evidence in that trial. But suppose it were sought to compass the expulsion of a Senator for personal misconduct, the Senate before even sending such a question to a committee, the Senator in demanding an investigation himself, would first see whether the charge were supported by affidavit. They would next see whether the specification of time, place, and circumstance was such as was fitting in the case of a charge like that. They would then see whether the transaction occurred at a time, was of a kind, whether there was a probability in the statement which warranted an investigation; and all those questions would be put in issue here before even a committee was raised. The question would not go to the Committee on Privileges and Elections according to the ordinary practice of the Senate, but would go to a special committee, as happened in the case of the honorable Senator from Ohio, Mr. Matthews, at the last Congress, as the Senate well recollects.

Now, is the Senate to establish the practice of mixing up these two things and of allowing any hostile party in the country to put any member of this body on his trial at the close of one of our heated political State campaigns for personal misconduct under guise of a claim to put in issue the title to the seat? I submit that this is a question in which the dignity and honor and safety of every member of this body, no matter how exalted may be the position which he occupies in the respect of his constituents and the whole people, is at stake in the view of it which is suggested by the honorable Senator from Arkansas.

I ought perhaps before I sat down to have adverted to the suggestion which was put to me by the honorable Senator from Delaware in regard to my own vote in the Butler case. The Butler case differed from this case in this, that Mr. BUTLER'S credentials only were referred to the committee; the committee made no report, but were discharged, and the Senate passed a vote permitting Mr. BUTLER to take the oath without declaring in terms, as the Kellogg vote did, whether the vote was upon the merits, and Mr. Corbin's credentials were left in the possession of the committee. But that case, as my friend from Wisconsin very well knows, with all those peculiar differences, led me to hesitate very much before giving my assent to the report, which was the report of a bare majority of the committee, and the case went over from one session to the next session in the committee in consequence of my refusal to give my assent, and I finally joined in the report in order that there might be a majority, so that the matter might come before the Senate, reserving expressly with my associates my right to exercise my individual judgment upon the merits of the case after debate. So that, so far as the suggestion of the Senator from Delaware is an *argumentum ad hominem* to me, it becomes unimportant.

Mr. CAMERON, of Wisconsin. Will the Senator from Massachusetts allow me——

Mr. HOAR. My friend from Wisconsin knows very well the fact which I state.

Mr. CAMERON, of Wisconsin. I desire to call the attention of the Senator from Massachusetts to this: the Senate has never held that the swearing in of a Senator upon his credentials merely, upon the *prima facie* case made by his credentials, prevented an investigation into his title. The view that the majority of the committee took of Mr. BUTLER'S case was that he was merely sworn in upon the *prima facie* case made by his credentials; and having been sworn in upon his *prima facie* case, it was perfectly competent for the Senate, in accordance with all the precedents, to enter into an investigation of his right to the seat; but, as has been stated, in the Kellogg case the case was, as we claim, fully investigated, the Senate decided that it was fully investigated, and he was admitted after such investigation, the resolution declaring that he was admitted upon the merits of the case, not merely upon the *prima facie* case made by his credentials.

Mr. GARLAND. Mr. President, I did not ask the question I propounded to the Senator from Massachusetts with any view of engaging him in an argument on his view of this case, nor in fact with any positive conviction in my own mind as to what answer should be given. I have had a sort of rough idea in my head about this matter, that there are three parties possibly to the contest, two persons claiming the seat, and the third party the State of Louisiana, which has a right to be properly and legally represented. In reading the proceedings before the committee, as far as they have been printed, I find that Mr. Spofford makes certain charges against Mr. KELLOGG and Mr. KELLOGG makes certain charges against Mr. Spofford; and if in the course of this investigation the committee shall find that really—and when I say really I mean legally—neither one of these gentlemen was elected, they might possibly introduce a resolution declaring the seat vacant, and then let the State of Louisiana elect a Senator. This idea I gathered from the proceedings; and therefore I asked the Senator with perfect good faith the question whether in his judgment, according to the pleadings and the issue made here, there could be under any state of the case a judgment rendered that the seat was vacant; and when I used the word "expulsion" toward Mr. KELLOGG I did not mean it in any improper or harsh sense.

From the little debate we have had here, this resolution presents some very interesting questions. In all the contested cases that have come before the Senate and the House of which I have had any knowledge there is none that presents more delicate questions than this, and for one I believe the committee and the gentlemen on this side wish to deal with it fairly and legally. I propose, then, to offer as a proviso, after the word "vacation," in the original resolution, if the substitute offered by the Senator from Massachusetts is not adopted, something to this effect:

Provided, That this resolution shall not be construed as determining in any way the question whether KELLOGG'S right to such seat is adjudicated.

The question of adjudication, of former judgment, is generally settled by the record. There is a difference of opinion here in the Senate as to what this record says. It may be necessary, and the committee have so said, to take testimony as to the issues in this cause, but in taking this testimony the committee do not commit themselves nor the Senate to the fact that the right of KELLOGG to this seat is an open question. At the proper time, if the amendment of the Senator from Massachusetts is not adopted, I will offer such an amendment as I have indicated or one substantially like it, and give my reasons for it.

Mr. CONKLING. Mr. President, when the honorable Senator from Arkansas comes to offer his amendment, he will remind me then, as he does now, of a man who should sue another by summons and complaint with a view that if he could not recover on the money counts or for goods, he might have him hung for murder as an incident of the proceeding! The fatal difficulty with all attempts of that kind in this case, will, I think, turn out to be that this is not in its nature an indictment, a public prosecution, or an allegation against a Senator; it is, to preserve the analogies with which the Senator from Arkansas is so familiar, a civil action, an action started in behalf of one man against another to recover from him something, to wit, the title to a seat in this body. All attempts to wink that out of sight, to cover it up, to put off upon the public another idea, to strive to make the country believe that, in place of an effort by one party to possess itself of a seat in this Chamber which beyond all question belongs to a man of another party, it is a conscientious, open, meritorious proceeding to ascertain whether WILLIAM PITT KELLOGG did not at some time during his natural or official life do something offensive either to the Constitution of the United States or the code of democratic morals,—all attempts to turn it into that will, I think, fail for the same reason that an attempt is said long, long ago to have failed to make a silk purse out of a sow's ear.

Mr. GARLAND. Will the Senator allow me?

Mr. CONKLING. Certainly.

Mr. GARLAND. The analogy that the Senator from New York uses throws the question back to the very one that I propounded to the Senator from Massachusetts, and in propounding it I did so without any examination of the precedents or authorities of law on this par-

ticular subject. Now, I wish to ask the Senator from New York a question. The Senator from Massachusetts admits that the section of the Constitution which says that each House shall be the judge of the elections, qualifications, and returns of its own members is an ever-recurring power; in other words, it is never absent from either House. Now, if it be true that neither of these gentlemen is entitled to this seat, let me ask the Senator from New York who can bring a petition to make that issue before the Senate? Must the attorney-general of the State of Louisiana, must the governor, or can any citizen of the State bring it? If any citizen can bring it, will it grow out naturally of the application that is made here if it is discovered in the proof that neither of these gentlemen is entitled to the seat? That is the question I wish the Senator to answer; and I shall leave it with this further remark, that he must excuse me from accepting his idea that I am winking at the one thing or the other. I do not wink; I do not know how to wink. I will meet this question fairly and squarely; and when I put an inquiry in the utmost good faith, one that I consider a strong one, I do not want it winked out in that way.

Mr. CONKLING. Mr. President, whatever doubt is left on my mind by the question of the Senator from Arkansas, I am convinced of one thing past misunderstanding, and that is that the honorable Senator puts it wholly for his own information. Undoubtedly that honorable Senator needs my aid when he attempts to ascertain how the Senate could be moved, by what agency it could effectually find out if some man were sitting here as an interloper or if some other man were sitting here who had defiled himself by breaches of the Senate's privilege; and convinced, as I have already said I am, that the Senator asks that question merely for information I will try to answer it.

There is somewhere hidden away in the folds of the Constitution a provision, in substance like this, that each House of Congress may make rules of order, may enforce rules of order, and then the clause culminates in these words "and with the concurrence of two-thirds expel a member." Under that provision of the Constitution, should the Senate come to know in any of the innumerable ways in which information comes to parliamentary bodies that the Senator from Arkansas (if he will take no umbrage at my making illustration of him) had by the employment of force, of fraud, of wrong, of forbidden means, achieved the seat which he adorns, no matter whether from the attorney-general of Louisiana or of Arkansas or whether from some nameless man elsewhere, whether by a newspaper paragraph or an intangible public rumor, the Senate had first been led to suspect the existence of these facts, on inquiry and ascertainment the Senate might proceed to execute the words of the Constitution, to avail itself of the permission of the Constitution when the Constitution says "and with the concurrence of two-thirds expel a member."

Now I think I have answered the question of the Senator as I understand it. What is this proceeding? Mr. Spofford comes here with a memorial. Who is Mr. Spofford? A citizen of Louisiana. Who else? A some time claimant of a seat in the Senate. When? When WILLIAM PITT KELLOGG presented his credentials, and the claim of Mr. Spofford and the credentials of Mr. KELLOGG were sent to a committee by the instruction of the Senate. That committee, proceeding in the modes of the Senate, heard all the testimony which it thought it should hear. It excluded no testimony save that which it thought it should not hear; and having so done, the product of this examination came into the Senate and, on the merits and on all of them, the Senate decided, and in the language of lawyers the verdict cured all defects—all such defects as an attempt is made now to allege. If the committee excluded evidence which Spofford thought ought to have been admitted, those exceptions were obliterated, annihilated for all practical future effect when the Senate adjudged, not one or some, but all of the questions and all of the possibilities of issue to be found in the contest which it adjudged.

Now comes this same claimant with these same allegations—good, bad, and indifferent—with those which the committee thought it was worth while to listen to, and also with those which the committee thought it was not worth while to spend a moment upon, being immaterial, as my friend from Wisconsin [Mr. CARPENTER] suggests, or being trivial, being inconsequential, being what you please, being in the judgment of the committee impertinent, unnecessary, ineffectual. The honorable Senator from Arkansas encourages and relieves the Senate by the prospect that some time or other in the future he will offer as a neat and appropriate ornament of this discourse a few additional words, to the effect that the Senate does not intend now to intimate any impression whatever on the point whether, after the Senate has decided such questions as this, anybody is bound to respect the decision. Oh no, not the least intimation of that sort! A cause has been tried; a final judgment has been rendered; everybody is bound by it and estopped; but some one comes in and proposes that the court shall send for the witnesses again and for other witnesses, and retry it; and the court sends out its mandate and summons the witnesses, not with a view to intimate that it is going to retry the cause at all; but it is going to send out and have the witnesses in and take testimony to find out whether it will retry it or not!

Mr. President, this is the Senate of the United States. Does it proceed by such stultifying and insincere steps in a matter like this? I respectfully submit it would attract attention were a justice of the peace to assume such an attitude. What is the testimony to be taken for? For something or nothing. When does the question of jurisdiction arise? What is the time in law, in logic, and in sense when a tribunal appealed to to do an act is to decide whether it has a right to do it or not? Before it does it, or afterwards? To ask the question is to answer it. And yet we are gravely told here by ceremoniously proposed amendments, by a disclaimer intended to be ingenious made by the Senator from Georgia, and by all sorts of devices to amuse and divert the listeners, that this means nothing; a majority is only to vote for a resolution not merely asserting the power but directing the exertion of the power to re-examine this question, and yet there is not the smallest intimation that anybody proposes to re-examine or insist that there is a right to re-examine!

Mr. President, I did not intend, certainly at this time, to say anything about this case, and yet I should be untruthful if I denied, wanting in frankness if I failed to admit, that I feel moved to say a number of things about it. Some days ago a draft was made upon my credulity—it was I think a fortnight since—it was made by two persons coming separately, each one of whom asked me to believe that the majority now existing in this Chamber intended to do this thing. I said to these friends, disposed to be obliging, willing as I was to believe all I could at the instance of a friend, that they must excuse me, that the statement was one which required the verification of experience in order to be accepted. I confess in humility how utterly untaught I was both in the possibilities of this occasion and in the exigencies of party politics.

Here sits a Senator whose claim to his seat has been put under the microscope of the most searching examination; every test has been applied to it known to the methods of the Senate; it has been adjudged and adjudged conclusively, if any claim to any seat can ever be finally established; and now instantly when the scepter of power passes from this side of the Chamber to that, instantly when by main force, by force of numbers, the power without reference to the right resides in the hands of an opposed majority, steps are taken, hidden away for the time but which have come now into the broad glare of the public eye, to clutch that seat, because it is a need and not only a need but in a probably not distant contingency a necessity, because it is the pivot, plainly speaking, on which at no distant day the power of the democratic party in this Chamber may turn. That is the honest truth about it. Whoever will take the trouble to count carefully the members of the Senate, assigning each his party position, and who along with it will consider what may be safely forecast of the attitude of States in the next election to occur, will see that the seat of the Senator from Louisiana may be, and is likely to be, the hinge on which the power in this Chamber will turn. Without saying more, I venture to declare that it is at least an unfortunate coincidence that a retention of power in the hands of the present majority of this body may depend and is likely to depend upon the success of this experiment. It would be ugly enough without that. Putting the two things together, I say the coincidence is unfortunate.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The Chair will ask the Senator from New York to give way that a message may be received from the House of Representatives.

Mr. CONKLING. I must give way to that.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 1382) to prohibit military interference at elections; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes; and it was thereupon signed by the President *pro tempore*.

SENATOR FROM LOUISIANA.

The PRESIDING OFFICER, (Mr. EATON.) The Senator from New York will proceed.

Mr. CONKLING. I suppose, Mr. President, this matter still retains its place for the moment?

The PRESIDING OFFICER. It does. The Senator from New York has the floor on the resolution reported by the Committee on Privileges and Elections.

Mr. CONKLING. After the discussion which I heard this morning of matters of privilege, I did not know but that a great measure like that such as I heard the present occupant of the chair denominate only yesterday as "just," might possibly sweep all before it; in which event I should consent, of course, to vanish with the rest.

I did not intend, nor do I intend now, to be led into a general discussion of this resolution. I wish, however, to signify, if I can, that it does not, nor can any Senator who is its champion, mislead or blindfold me for one moment in respect of its purpose. It is a method resorted to in order to vacate a seat in the Senate, to vacate a seat the title of which has been conclusively and with particularity overmuch settled and adjudged, so that that seat may be transferred from where it is by the Constitution, by truth, and by right, to where it is not by either, but where it is required for partisan interest. I mean to say that fully, and I mean to say it offering no offense and meaning no harm to anybody within or without this Chamber who was

the inventor of this scheme. I do not know, nor do I care, who was its author, who is its promoter; I speak of it and I denounce it as a violation of the rights and the privileges of this body and of the constituency behind the members of this body.

To say that such a resolution as this can be adopted, committing no one upon the question of the Senate's right to do this thing, is to affirm that a Senator may vote to order this inquiry and then without stultifying himself vote afterwards that, no matter what it results in, no matter what report may be made, it will still be true that the whole proceeding is *ultra vires*, and that an adjudication already made was the be-all and end-all of the whole affair. That is not true, Mr. President. I venture to say that is as unsound in common sense as it is in law. When any one shall come here with an allegation that Mr. KELLOGG or any other member of the Senate has been guilty of personal corruption, that he has attainted himself either in the act which made him a Senator or since, there will be footing for an inquiry whether he should be dealt with as the Senate has power to deal with its members; but when a claimant comes asking to get his seat away from him on a state of case existing when the Senate decided and which was passed upon by the Senate and by the committee excluding portions of the evidence and admitting the rest, whoever votes for it in the fountain cannot logically struggle against it in the stream. The objection to it is jurisdictional; it is that the cause has been tried and decided and the judgment is final, and the Senate has no right to reopen and retry it, and no more right because the force of numbers has in the mean time changed from one side of the Chamber to the other.

Mr. THURMAN, (Mr. BURNSIDE in the chair.) Mr. President, to say to a gentleman, "you are a villain," and in the same breath to say to him "I mean no offense," is a contradiction in terms, and it is not the mode in which I think a gentleman should be addressed. The Senator from New York, if I understood him aright, charges that this resolution reported by one of your committees is an attempt to turn a Senator out of his seat for the purpose of preserving a party majority in this body. If I understood him correctly, that is his allegation; and if it is, I for one must say that if I had united in reporting this resolution I should consider the allegation as personally offensive to me. I know of no right that the Senator from New York or any other Senator has to impugn the motives of his fellow-Senators by any such allegation as that. I might retort on the Senator, I might say that Mr. KELLOGG was seated in order to preserve a party majority; but I do not say so now, I did not say so when he was seated.

It is very true that there was then pending a motion to admit the Senator from South Carolina [Mr. BUTLER] to his seat. It is very true that that motion was supplanted by a very extraordinary and hasty proceeding. It is very true that there were before the then Committee on Privileges and Elections three cases, or had been, of contested seats, one from the State of Louisiana, that of Mr. Eustis, which had been here for twenty-one months; another, the seat from South Carolina, and the third and the youngest of them all, the claim of the Senator from Louisiana, who now sits on the right of the Chamber. And, sir, strangely enough, it did so happen that it was only by a vote of the Senate discharging the committee from the consideration of the South Carolina case that it got before the Senate at all; and strangely enough, that other Louisiana case, which had been here for twenty-one months, was allowed to sleep until the next session of Congress, if my memory is correct, before that man was sworn in; and strangely enough, this case of Mr. KELLOGG was suddenly decided by refusing to hear the testimony offered by the contestant in the case, and bringing in a report suddenly and which no one expected, and which supplanted and took precedence over the discussion of the right of the Senator from South Carolina to his seat.

And, sir, it will be recollected that the Senate was so equally divided that there was tie vote after tie vote, which had to be decided by the casting vote of the Vice-President; it will be recollected that the Senate was so equally divided that there was but one or at most two majority in favor of seating the Senator from South Carolina and about the same majority in favor of seating the Senator from Louisiana.

If I were disposed to indulge in imputations of the motives of Senators, I might say that the sudden decision in KELLOGG'S case, which could only be made by refusing to investigate it, by refusing to hear the testimony that was offered, by cutting off all examination whatsoever, and bringing it hurriedly into this Senate to supplant or having the effect to supplant the matter which was before the Senate, the right of the Senator from South Carolina to his seat, was to preserve a party majority in this body. I repeat I do not say any such thing, and I did not say any such thing even in the debate which was extremely heated and went on steadily here for nearly one week and the greater part of the time night as well as day, when one of our sessions lasted, if I am not mistaken, for more than two days. I may be mistaken as to that, but it was a long time I know, a very long time, the longest perhaps of any continuous session that ever took place in this body. In all that heat I made no such accusation against my political opponents, and I do not rest easy under such accusations made against my political friends.

Mr. President, I wish to consider this question in the coolest possible temper of mind. I am not going this afternoon to make a speech upon the merits of the question at all. If I ever do make any such speech, it will be after the report of your committee upon the subject. But I will say while I am up that I am a little surprised at the offering of this substitute and asking the Senate, without any investigation on the part of the committee, without any inquiry by them of the matters referred to them, without any inquiry whether there is not newly discovered testimony that could not be obtained before by the use of reasonable diligence and which ought to affect our judgments, without any inquiry whatever as to the grounds on which the decision of the former committee was arrived at, to say "the record here presents an insuperable technical bar of *res adjudicata*." I did not suppose that any one in the Senate would undertake to sustain a legal proposition of that sort.

Sir, it is certain, and very certain, that the Senate would disgrace itself, it is very certain that the Senate would do manifest injustice, were it to hastily, or without the most plain, the most manifest reason, reverse a decision that had been made seating a Senator on this floor. The case must be extremely strong that would justify such a proceeding as that. All that I am free to admit; but to say that the technical rule of *res adjudicata* that applies in courts of justice applies in this Chamber on a question of this kind, is to confound all distinctions and to disregard all the laws of this body.

Is there anything more fundamental than that, in deciding a question as to the right of a Senator to a seat on this floor, the Senate is a law to itself? Is there a single book, a single authority that anywhere asserts that this Senate would be bound by a decision even of the Supreme Court of the United States upon a question of this kind? Not one, but they all state the reverse. The Senate would not be bound in deciding this, of which it is the sole judge, by even the views of the Supreme Court of the United States upon the Constitution of the United States. This is well-known law. I could cite a case from my own State in which the supreme court of the State had construed the constitution, and in which upon the question of seating a member of the senate the senate of the State took a different view of the constitution and decided according to their view and not the view of the supreme court of the State. This necessarily results from the fact that we are the sole judges of the elections, returns, and qualifications of the members of this body, and, therefore, we have our own course of proceeding, we have our own judgment, and no judgment that we can make can be reversed. All this was very fully admitted by my friend whom I see sitting before me [Mr. CARPENTER] in the very notable case of Abbott; but although he and I differed very much indeed as to what the Senate ought to do in that case, upon this fundamental principle we went arm in arm. That, then, is the first proposition.

Now, how does the rule of *res adjudicata* as administered in the courts of common law apply to a case of this kind? Is it not fundamental in respect to the plea of *res adjudicata* that not only must the same question have been in issue before, but it must have been between the same parties in the same character. So strict is that rule that if A sue B and a question is decided in a suit between A as executor of an estate against B a previous decision made between A as an individual in his own right against B cannot be pleaded as *res adjudicata* against the suit brought by him in his representative capacity.

The parties must be the same; the question must be the same. How can you apply that to a case of a contest of the right of a Senator to a seat on this floor? Mr. KELLOGG presented his credentials; Mr. Spofford presented his credentials. It was not a case of litigation between A and B; it was a case of two persons claiming the same seat; but if they could be considered as litigant parties the one against the other, if you were to apply the rule of *res adjudicata* to this case, any citizen of Louisiana, not Mr. Spofford but any citizen of Louisiana, might come here and petition that Mr. KELLOGG be ousted from his seat, and upon the doctrine of *res adjudicata*, the parties then being different, the decision of the Senate would go for nothing at all. Is that the law of this body? No, sir; it is not the law of this body at all.

On the contrary, would we not say "if the right of a Senator to a seat in this body has been fully investigated and has been decided upon on a full investigation on the merits, we will never open that investigation, no matter who asks it?" You could not say that in a court of law; it would be sufficient that there were different parties before the court and that the case arose between different parties; but in this body would we not say it? In this body if the case has been fully and thoroughly investigated so that no good purpose of justice either to the State or to individuals could result from another investigation, would we turn to the doctrine of *res adjudicata* and say because some third person has come in here, of whom we never heard before, and has invoked our action in this case, therefore we will consider it as *res nova* and try it over and over again without reference to the decision we formerly made? No, sir, we would not listen for a moment to such an argument as that; and why not? Because the doctrine of *res adjudicata* does not apply. That is the reason.

Now, Mr. President, that being the case there are one or two other things on which I wish to observe——

Mr. CARPENTER. Will the Senator allow me to interrupt him?

Mr. THURMAN. Certainly.

Mr. CARPENTER. Will he not, while on his feet, point out why the rule of *res adjudicata* does not apply?

Mr. THURMAN. I thought I was doing all that. I thought I was doing it to the entire satisfaction of my friend from Wisconsin, he looked so well pleased.

Mr. CARPENTER. The Senator has not yet satisfied me on that point.

Mr. THURMAN. I thought I had already shown that the doctrine of *res adjudicata* could not apply. The Senator certainly would not pretend that the doctrine that it must be between the same parties applies here, and that if this was like a contest in court, and Mr. Spofford and Mr. KELLOGG were to be considered the parties, the whole thing could be opened up whenever John Jones or Peter Smith came in and filed a petition. He would not do that, even if the whole Legislature of Louisiana were to ask an investigation; he would not say that the doctrine of *res adjudicata* must be applied to this case, and inasmuch as here are new parties who are contesting the right of the Senator, therefore the whole subject is open.

Mr. HOAR. Will the Senator from Ohio allow me to ask him if he understands that in court, even supposing that were to be taken as an analogy, questions of public right are governed by the law that he suggests? Is it not true that, as to questions of public right, where once a party has put the question in issue before the courts, the issue having been presented fairly, the judgment is regarded as final, and cannot be opened by other parties?

Mr. THURMAN. I have been arguing to very little purpose, it seems to me, to the apprehension of Senators if what I have said does not show that there are cases in which the doctrine of *res adjudicata* does not apply.

Mr. HOAR. The Senator will pardon me. I understood him to say that the doctrine of *res adjudicata*, as applied in courts of justice, was not applicable here, for if it were, whenever a new party came in the case might be heard anew. Now, my question to the Senator is, whether in cases of public right the doctrine of *res adjudicata* as applied and enforced in courts of justice is not that whenever any one person interested in a question has put it in issue and it has been decided, the decision cannot be reopened again on the application of any other person in interest, so that the doctrine of *res adjudicata* as applied in courts would cover this case?

Mr. THURMAN. If the Senator will look into the cases to which he refers, he will find that they are all cases of this sort, or cases which stand upon the same principle: either cases in which there is a statute which provides for the proceedings, or cases in which the proceedings are according to the common law of England upon the relation of the attorney-general or at the instance of the Crown, as, for instance, where a man is inducted into an office and his election is to be contested, and when a statute provides the mode of contesting that election, that any citizen of the county may contest it, and prescribes the mode of contest by *quo warranto*, or the like. There, of course, that being the only proceeding authorized by the statute, that decision is final; the power is exhausted by the exercise of it. And so, too, when the attorney-general of England files an information to oust any man from an office, or a corporation from the exercise of its franchise, that, of course, is a conclusive decision, and that is an end of it.

But, Mr. President, it is not necessary for me to go into that. I do not propose to go into this argument. I say that this is a question which belongs to the Senate, and the Senate has it now brought up for the first time. I do not say this is the first time that it has been proposed to oust a Senator from the seat that he occupied here. And that leads me to remark that the mere swearing in of a Senator is not a *res adjudicata* that concludes all the world as to his right to a seat. Albert Gallatin was sworn into the Senate and sat for a good while, and was finally ousted. James Shields was sworn in as Senator from Illinois and sat for some time, but was finally ousted. John P. Stockton is another case. He was sworn in; and, if I were disposed to talk about motives, if I were disposed to talk about a necessity that then existed to turn Stockton out and put a republican in his place in order to get two-thirds of this Senate to override the vetoes of Andrew Johnson, I might impute motives to Senators too.

Now, Mr. President, I say here is a question that arises, I rather think for the first time, and the question is whether or not a case can be made upon which it would be the duty of the Senate to oust a Senator from his seat who had been seated. I am very frank to confess that my first impression is that we cannot do it by saying that the Senators who admitted him committed some error in law. I hardly think we sit as a court of errors *coram nobis* to decide whether the Senate did or did not commit some error in law. But that does not determine this thing at all. The question here is, may there not be facts which were not before the Senate then, may there not be facts brought to light which are newly discovered and which the use of due diligence could not have discovered then, which would make it our duty to retry this case? That is the question.

Is it to be said that while in every other tribunal a new trial may be had upon newly discovered testimony, in the Senate of the United States alone there can be no such new trial? If we are so to decide, let it be so; but it is certainly worthy of consideration. We ought to reflect upon it before we so decide, and so perhaps we ought to reflect upon another thing; we ought to reflect upon the question what is our power to reconsider a question of law. It may be that our first decision is final and not reversible at all, and if it is so let it be understood. I want to study that question, I want the benefit of the report of this committee upon it, I want to give it a fair and honest judgment.

Mr. CARPENTER. Allow me to ask a question.

Mr. THURMAN. Certainly.

Mr. CARPENTER. Does the Senator think he will get any aid on a question of law by an examination of witnesses costing the Government an immense sum of money?

Mr. THURMAN. Not upon that question; and yet it may be, too. No, I will not say that. I take that answer back, for it may be that the testimony which will be given will show that in point of law, if the whole facts had been before the Senate, the decision would have been otherwise. That may be; but I am not going to prejudge anything about this case; I am willing to go slowly and carefully, and I want to go slowly and carefully; but I do say that the Senate has a right to have all the facts upon which we are invoked to render a decision, and that there is no such thing as a conclusive, arbitrary estoppel by matter of record, as the substitute of the Senator from Massachusetts supposes. That the Senate should hesitate a long time before it would oust a Senator from his seat who had been seated, even if the Senate thought that the previous decision was wrong, is certainly true; but that the Senate should say that under no conceivable circumstances whatever such a decision could be reversed is what I am not prepared to say; and upon that I want the aid of the able committee that sits upon this case. I want the aid of the investigations which they may make; I want the aid of the arguments that may be made upon both sides. I am not going to forestall the decision now or commit myself one way or another, and I certainly am not going to say that there is here by the mere record of this case that kind of conclusive, arbitrary estoppel that admits of nothing to be said on the other side.

Mr. CARPENTER. Mr. President——

Mr. MORRILL. Does the Senator from Wisconsin desire to go on this evening?

Mr. CARPENTER. No, sir; I would rather adjourn if the Senate will.

Mr. MORRILL. I move, then, that the Senate——

Mr. SAULSBURY. I desire the session to go on to a later hour. There are measures to be before the Senate to-morrow that it will be insisted ought to be passed upon. I desire, therefore, that the discussion of this question may go on until we reach a vote to-night, if we can without sitting too late.

Mr. MORRILL. It is now half past four, or nearly that. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER, (Mr. BURNSIDE in the chair.) The Senator from Vermont moves that the Senate now proceed to the consideration of executive business.

Mr. MORRILL. I hope the Senator from Delaware will allow this motion to prevail.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont.

A division was called for.

Mr. MORRILL. I move that the Senate adjourn. We may as well take the vote on that question.

The PRESIDING OFFICER. The Senator from Vermont moves that the Senate adjourn.

The question being put, there were on a division—ayes 26, noes 26.

Mr. ALLISON called for the yeas and nays, and they were ordered.

MILITARY INTERFERENCE IN ELECTIONS.

The PRESIDENT *pro tempore*. Before the question is put on the motion to adjourn, the Chair will lay before the Senate a bill from the House of Representatives.

The bill (H. R. No. 1382) to prohibit military interference at elections was read the first time by its title.

Mr. EDMUNDS. The Chair laid before the Senate a bill from the House of Representatives which was read by its title. As I infer from the title, the bill is of too great importance to the liberties of the people to be read more than once a day, I think it had better go over until to-morrow to be read again.

Mr. DAVIS, of West Virginia. Does the Senator object to the reference of the bill?

Mr. EDMUNDS. I object to the second reading. It is a bill too pregnant with the liberties of the people to be read more than once a day.

Mr. DAVIS, of West Virginia. We did not understand on this side.

The PRESIDENT *pro tempore*. The Senator from Vermont objected to the second reading of the bill, and it cannot be referred without a second reading.

Mr. DAVIS, of West Virginia. I understand that the Senator does object, but we on this side of the Chamber did not understand what the Senator was saying.

Mr. EDMUNDS. I hope my honorable friend understands it now.

Mr. DAVIS, of West Virginia. I understand it very well now, but I hope my honorable friend the next time will talk a little louder so that we may understand him.

Mr. EDMUNDS. I will.

Mr. CONKLING. If the Chair will indulge me a moment, I wish to remind the Senate, and especially the Senator from Vermont, that although he did object to the second reading, he did not object, as he might have done, to the bill being laid before the Senate to-day at all.

Mr. DAVIS, of West Virginia. That is too late.

Mr. CONKLING. Under the rule it would have gone over to be laid before the Senate in the morning hour to-morrow, not in the dying hour of to-day's session.

SENATOR FROM LOUISIANA.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn, upon which question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BOOTH, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "nay."

Mr. PLUMB, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. WALLACE, (when his name was called.) I am paired with the Senator from Maine, [Mr. HAMLIN,] but a pair having been arranged between him and the Senator from Mississippi, [Mr. LAMAR,] I vote "nay."

The roll-call was concluded.

Mr. PADDOCK. Through an inadvertence I voted upon this question. I desire to state that I am paired with the Senator from Georgia, [Mr. GORDON.] Therefore I withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. ALLISON. I voted on this question, which seems to be political. I agreed to pair with the Senator from Maryland [Mr. WHYTE] on political questions. I therefore withdraw my vote. I desire also to state that the Senator from Maine [Mr. BLAINE] is paired with the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. DAVIS, of West Virginia. I am paired with the Senator from Minnesota, [Mr. WINDOM.] My colleague [Mr. HEREFORD] is paired with the Senator from Iowa, [Mr. KIRKWOOD.]

The result was announced—yeas 22, nays 26; as follows:

YEAS—22.

Anthony,	Carpenter,	Hill of Colorado,	Platt,
Bell,	Chandler,	Hoar,	Rollins,
Bruce,	Conkling,	Ingalls,	Saunders,
Burnside,	Dawes,	Logan,	Teller.
Cameron of Pa.,	Edmunds,	McMillan,	
Cameron of Wis.,	Ferry,	Morrill,	

NAYS—26.

Bailey,	Groome,	Kernan,	Thurman,
Bayard,	Hampton,	Maxey,	Vance,
Beck,	Harris,	McDonald,	Walker,
Call,	Hill of Georgia,	Morgan,	Wallace,
Coke,	Houston,	Randolph,	Williams.
Eaton,	Jonas,	Saulsbury,	
Garland,	Jones of Florida,	Slater,	

ABSENT—28.

Allison,	Farley,	Kellogg,	Ransom,
Blaine,	Gordon,	Kirkwood,	Sharon,
Booth,	Grover,	Lamar,	Vest.
Butler,	Hamlin,	Paddock,	Voorhees.
Cockrell,	Hereford,	McPherson,	Whyte,
Davis of Illinois,	Johnston,	Pendleton,	Windom,
Davis of W. Va.,	Jones of Nevada,	Plumb,	Withers.

So the Senate refused to adjourn.

Mr. CARPENTER. Mr. President, if my memory serves me, from the time the Committee on Privileges and Elections was raised in this body until the expiration of my term in the Senate I was a member of that committee. During those years we had many exciting contests before the committee and some warm scenes in the Senate, but so far as I recollect the minority of that committee never pressed to a hearing any measure reported by them so as to inconvenience any Senator who wished to discuss it. We always regarded the questions submitted to that committee as questions of law rather than of politics and considered them questions to be settled coolly and deliberately in accordance with fixed principles of law, and not according to the interests of party, and we never allowed the haste or heat of a campaign to precipitate our action. I hope we are not to infer from the present proceedings that questions touching the right of a Senator to his seat are no longer to be considered as legal questions.

During the last few days we have heard a good deal about the revolutionary character of certain proceedings determined upon by the majority of this body. I am not easily frightened and always enjoy a row; and during the late discussion upon the bill which the President vetoed I did not become at all alarmed because the majority proposed to ingraft general legislation upon an appropriation bill. I did not rend my garments nor allow my emotions to become at all excited, for I thought I knew enough of the democratic party to know that when it had played its game, made its boast, tried its endeavor, and should find that a veto had set it back upon its haunches, it had not only enough of good taste but of political prudence and policy to retire in good order and to go before the people saying that they had done what they could and had been overcome by the power of a republican President.

When it was first suggested to me that the majority were determined to besiege the seat of the Senator from Louisiana I laughed at the proposition. I was requested by some friends to examine the question and be ready to discuss it when the committee should make their report, but I could not believe that the democratic party as represented in this body would undertake a thing so utterly revolutionary and so entirely unparalleled in the history of partisan atrocity. I, therefore, determined to waste no time in preparing to discuss it, and have not devoted a minute to the subject, but to my astonishment this morning I heard my friend the chairman of the Committee on Privileges and Elections, declare the fact to be that the democrats were in earnest about this matter and this proposition would be pressed to a vote.

Well, we shall have a vote upon it and we shall see what we shall see. We shall see what the Senate will say to a proposition which outrages, as I shall attempt to show, every well-settled principle of law, of justice, of reason, and of parliamentary proceedings, and if it shall be done or if this body shall commit itself to the doing of it we shall then see what the people of this country think about a proposition which goes the length of declaring that every republican Senator in this Chamber holds his seat subject to the will of the democratic majority.

It is said that this resolution is a perfectly innocent experiment which may not do any good; but it can do no harm. "Let us pass it," they say, "and by voting for it we do not commit ourselves to the revolutionary doctrine that the Senate can enter upon the re-examination of a case finally decided on its merits in regard to the seat of a Senator."

I congratulate my democratic friends that now that this proceeding is beginning to look serious, when it really looks as though the democratic party did mean to pass this resolution, their eminent leader, my esteemed friend, the Senator from Ohio [Mr. THURMAN] has come to their rescue and has hedged for them as well as a great man can.

But let us see whether voting for this resolution does not commit us to the proposition that the Senate can reinvestigate and redecide this case. Suppose a resolution had been introduced here calling upon the Committee on Privileges and Elections to take testimony and to send for persons and papers to examine whether Governor McClellan was legally elected governor of New Jersey? I think our strict-construction democratic friends would be likely to suggest that we had no jurisdiction to inquire into the case and that it would be absurd to take testimony in a case that we had no jurisdiction to determine. And suppose some republican had said by way of soothing their fears, as my friend from Arkansas said yesterday, "Let us pass it with an amendment declaring that the resolution does not commit us to the proposition that we have any right either to pass the resolution or to decide the case:" would not such a proceeding have been laughed at by every Senator of this body? And yet what is the difference between that and the resolution before the Senate provided the former adjudication of the Senate in regard to the right of the Senator from Louisiana to his seat is a final and conclusive determination upon that question?

If the doctrine of *res adjudicata* applies here then the resolution directing the committee to take testimony upon the merits of the case is as absurd as it would be to direct the committee to take testimony touching the title of Governor McClellan to his office. If the Senate has the power to take this testimony and expend the public money for that purpose it must be because it has the jurisdiction to act upon it after it shall be taken and render the appropriate judgment upon the case as shown. Therefore I maintain that every Senator who today votes for this resolution commits himself to this monstrous doctrine,—and supported by the authorities of the law for three hundred years I do not hesitate to declare that it is monstrous and subversive of every legal principle, destructive of private right and revolutionary to an extent never before attempted in this Senate.

The Constitution declares that the Senate shall be the exclusive judge of the elections, qvalifications, and returns of its own members The word "judge" as we find in the Constitution, placed there hy those who framed that instrument in careful and well-guarded language, suggests that when the Senate is acting upon the title of a Senator to his seat it is acting as a court, acting judicially. And the doctrine of this resolution is that the Senate of the United States which is by the Constitution the sole judge of this question, the only tribunal that can determine it, can never settle it so as to put it at rest. Suppose this resolution shall pass, and suppose your committee shall take three thousand pages of testimony and report it to the Senate, and the Senate thereafter enters upon a careful examination of the testimony and that it should determine, as it did before, that the Senator from Louisiana [Mr. KELLOGG] was entitled to his seat and attempt to declare that determination in a form to be absolutely final and conclusive, I ask what language could it employ for that purpose, stronger than the language we find in the resolution which the Senate did pass after a full discussion of this case? The Senate then declared that Mr. KELLOGG was entitled to his seat upon the merits of the case and that Mr. Spofford was not entitled to a seat in this body. That resolution gave Mr. KELLOGG his seat not on a *prima facie* case, not because he came certified by the authorities of the State, but because the Senate had examined all the testimony touching the case, or all that it deemed material and pertinent to the question, and upon that testimony had determined that Mr. KELLOGG had the title to the seat and Mr. Spofford had no title thereto. And I understand that every charge now made by Mr. Spofford against Mr. KELLOGG with the single exception of the charge that he obtained his office by menace and bribery was made, considered and determined by the Senate and decided by passing the resolution declaring that Kellogg was entitled to his seat. And I submit that if that resolution does not settle and finally determine that question it is not in the power of this Senate ever to settle it finally and conclusively.

Mr. HILL, of Georgia. If the Senator will allow me, I simply wish

to say that if he has information that the charge made by Mr. Spofford now was made then, it is exceedingly incorrect.

Mr. EDMUNDS. What are the respects in which the charge is new?

Mr. HILL, of Georgia. The wording of the memorial specifically states that Mr. Spofford has not only discovered new testimony, but upon new points which were never presented.

Mr. EDMUNDS. Does he state what the new testimony is?

Mr. HILL, of Georgia. No, sir; but he states what he will prove by it. He states distinctly the charge never made before, that Mr. KELLOGG procured his election by bribery.

Mr. HOAR. That was before the committee on the original hearing.

Mr. CAMERON, of Wisconsin. That was before the committee.

Mr. HILL, of Georgia. I beg pardon; the only question before the committee formerly was the one which the then Senator from New Hampshire met with a great deal of adroitness and a great deal of force, as to which was the legal Legislature in Louisiana, whether the Packard legislature or the Nicholls legislature was the legal Legislature; and as one element to prove that the Packard legislature was not the legal Legislature, Spofford charged that certain members got their certificates fraudulently. That was the particular charge upon Mr. KELLOGG in the first case; but this charge, assuming the Packard legislature to be a Legislature, that KELLOGG got his election by bribery of the members, makes a proper point of proof that is not in the original charge.

Mr. CAMERON, of Wisconsin. Will my colleague allow me a moment?

Mr. CARPENTER. Certainly.

Mr. HILL, of Georgia. I did not intend to interrupt the Senator from Wisconsin, but I simply state that he is putting the case upon incorrect information.

Mr. CAMERON, of Wisconsin. The charge that Mr. KELLOGG obtained his election by fraud and bribery was distinctly made by Spofford before the committee, and testimony is included in the various reports which were in evidence, upon that point. Just what Mr. KELLOGG did before the returning board was in evidence before the committee; but, in addition to that, perhaps my colleague has not observed that Spofford charges that KELLOGG obtained the office of governor by fraud and that he obtained it for the purpose of enabling him to have a General Assembly elected which would favor the election of him, KELLOGG, to the Senate. He goes back to that.

Mr. CARPENTER. Mr. President——

Mr. HILL, of Georgia. Do I understand the Senator from Wisconsin to say that the charge of the bribery by KELLOGG of the members of the Packard legislature was made in the former trial?

Mr. CAMERON, of Wisconsin. I do distinctly say that.

Mr. HILL, of Georgia. I say you cannot show it.

Mr. CAMERON, of Wisconsin. I say I can show it.

Mr. HILL, of Georgia. I make that issue right now.

The PRESIDENT *pro tempore*. The Senator from Wisconsin [Mr. CARPENTER] is entitled to the floor.

Mr. CHANDLER. Will the Senator from Wisconsin give way that I may make a motion to adjourn?

Mr. CARPENTER. I cannot refuse anything to the Senator from Michigan.

Mr. CHANDLER. I make that motion if the Senator will permit me.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, that the Senate adjourn.

The question being put, there were on a division—ayes 21, noes 21.

Mr. SAULSBURY. We had better have the yeas and nays.

The PRESIDENT *pro tempore*. The Senate refuses to adjourn.

Mr. CHANDLER. I ask for the yeas and nays.

Mr. SAULSBURY. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The call has been renewed on the other side. Is there a second?

Mr. SAULSBURY. I will say to the Senator from Wisconsin who has the floor, that if we agree to fix some reasonable hour for taking the vote to-morrow I shall not insist on going on longer now. We shall have to end the controversy about a question of this kind at some time and I am willing to fix a reasonable hour to-morrow to take a vote, without requiring the Senator from Wisconsin to go on now.

Mr. CARPENTER. I am willing to travel along steadily toward that hour. I am good for a while yet.

The PRESIDENT *pro tempore*. All this debate is out of order pending a motion to adjourn, but if Senators wish to come to some understanding the colloquy can proceed by unanimous consent.

Mr. EDMUNDS. I ask unanimous consent to make a very short speech.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent to make some observations. ["Go on."] The Chair hears no objection.

Mr. EDMUNDS. I wish to suggest to the honorable Senator from Delaware as he himself I believe has stated, that this is a question of real importance, a question that ought not to divide us upon party lines, and a question important not merely for to-day but for all the future, in respect of the organization of this body. Therefore I submit to him with all earnestness whether it is right to force on a disposition of this matter to-day, or even to demand that a particular hour to-morrow shall be fixed for taking the vote. The Senator can see that nobody is talking against time, but it is only for the purpose of fair discussion in order to convince each other of whatever may be the ultimate truth about the matter. I suggest to him, therefore, to allow the Senator from Wisconsin to have until to-morrow to condense his remarks, as I suppose he will, and we shall come to a vote very early to-morrow unquestionably, and not to fix a definite hour to take the vote to-morrow. No Senator is talking against time, and I appeal to his good sense, considering that this is a matter of so great importance, whether that is not the fair thing to do.

My speech is done, Mr. President, with thanks.

Mr. SAULSBURY. I certainly do not desire to force the Senator from Wisconsin to speak at a late hour of the day, but I am informed that the Senator himself has said that he would as lief go on this evening as any other time. I certainly would not be discourteous to any member of the Senate who had the floor, but I am informed that the Senator from Wisconsin expressed himself as ready to proceed this evening as at any other time. He had the floor and was in the midst of his speech when he was interrupted by the Senator from Michigan with a motion to adjourn. If the desire to adjourn had come from the Senator from Wisconsin I should have yielded to his wish at once.

Mr. CARPENTER. If the Senator will yield a moment, I put that desire right at him.

Mr. SAULSBURY. Very well; I will consent to an adjournment, but I would rather that we should fix an hour to-morrow at which the vote shall be taken. I certainly do not want the question whether the committee shall have the privilege of taking testimony to consume so much of the valuable time of the Senate, and I think we ought to-morrow at any rate at an early hour to reach a vote.

Mr. EDMUNDS. I agree to that.

The PRESIDENT *pro tempore*. The question is on the demand for the yeas and nays on the motion of the Senator from Michigan [Mr. CHANDLER] that the Senate adjourn.

Mr. MORRILL. I hope that the demand will be withdrawn by general consent.

Mr. CHANDLER. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. Then the question recurs on the adoption of the substitute moved by the Senator from Massachusetts, [Mr. HOAR.]

Mr. ALLISON. I move that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 6, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

THE JOURNAL.

The SPEAKER. The Journal of yesterday will be read.

Mr. SPRINGER. I ask unanimous consent that the reading of the Journal be dispensed with. It is very long; and I suppose it is not necessary to have it read.

There being no objection, the reading of the Journal was dispensed with.

ORDER OF BUSINESS.

Mr. SPRINGER. I believe an order was made that this morning, immediately after the reading of the Journal, the call of States and Territories for the introduction of bills, &c., should be continued.

The SPEAKER. That is the order. The call rests with the State of Arkansas.

PENSIONS.

Mr. BREWER introduced a bill (H. R. No. 1716) to increase the pension of certain soldiers and sailors who lost their lower jaw while in the military or naval service of the United States; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ANN M. ELLIOTT.

Mr. BREWER also introduced a bill (H. R. No. 1717) for the relief of Mrs. Ann M. Elliott, of the city of Detroit, Michigan; which was read a first and second time, and referred to the Committee on War Claims.

SURETIES OF GEORGE C. HOUGH.

Mr. STONE introduced a bill (H. R. No. 1718) for the relief of the sureties of George C. Hough; which was read a first and second time, and referred to the Committee on Indian Affairs.

BRIDGE ACROSS DETROIT RIVER.

Mr. NEWBERRY presented a joint resolution of the Legislature of the State of Michigan, requesting the Congress of the United States, in concurrence with the Parliament of the Dominion of Canada, to authorize the building of a bridge across the Detroit River; which was referred to the Committee on Commerce.

LIGHT-HOUSE AT ANCLOTE KEY, FLORIDA.

Mr. DAVIDSON presented a joint resolution of the Legislature of the State of Florida, asking Congress for an appropriation to erect a light-house at Anclote Key, in said State; which was referred to the Committee on Commerce.

LIFE-SAVING STATION AT CAPE SAN BLAS, FLORIDA.

Mr. DAVIDSON also presented a joint resolution of the Legislature of the State of Florida, asking that a life-saving station be established at Cape San Blas, Calhoun County, Florida; which was referred to the Committee on Commerce.

PUBLIC BUILDING AT KEY WEST, FLORIDA.

Mr. DAVIDSON also presented a memorial of the Legislature of the State of Florida, for the erection of a court-house and post-office at Key West, in said State; which was referred to the Committee on Public Buildings and Grounds.

PUBLIC BUILDING AT TYLER, TEXAS.

Mr. REAGAN introduced a bill (H. R. No. 1719) to provide a suitable building for the United States courts, post-office, and internal-revenue officers in the city of Tyler, State of Texas; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

HEIRS OF SAMUEL QUORLES.

Mr. REAGAN also introduced a bill (H. R. No. 1720) for the relief of the heirs of Samuel Quorles, deceased; which was read a first and second time, and referred to the Committee on Indian Affairs.

HEIRS OF MOSES COX.

Mr. REAGAN also introduced a bill (H. R. No. 1721) for the relief of the heirs of Moses Cox, deceased; which was read a first and second time, and referred to the Committee on Indian Affairs.

PLACES OF DEPOSIT OF PUBLIC MONEYS.

Mr. REAGAN also submitted a resolution, requesting from the Secretary of the Treasury information as to the number and places of sub-treasuries or other places of deposit of public moneys; which was referred to the Committee on Banking and Currency.

NORTHERN JUDICIAL DISTRICT, TEXAS.

Mr. CULBERSON introduced a bill (H. R. No. 1722) to extend the jurisdiction of the northern district of Texas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CHARLES T. MARTIN.

Mr. CARPENTER introduced a bill (H. R. No. 1723) for the relief of Charles T. Martin, of Baltimore, Maryland; which was read a first and second time, and referred to the Committee of Claims.

JOHN W. DAVIS.

Mr. CARPENTER also introduced a bill (H. R. No. 1724) increasing the pension of John W. Davis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIAS D. BRUNER.

Mr. CARPENTER also introduced a bill (H. R. No. 1725) for the relief of Elias D. Bruner; which was read a first and second time, and referred to the Committee on Naval Affairs.

JUDGMENTS OF UNITED STATES COURTS.

Mr. CARPENTER also introduced a bill (H. R. No. 1726) in relation to liens of judgments of the United States courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LIENS OF JUDGMENTS.

Mr. GILLETTE introduced a bill (H. R. No. 1727) in relation to the liens of judgments of the courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REVISION OF CURRENCY LAWS.

Mr. GILLETTE also introduced a bill (H. R. No. 1728) to revise certain laws of the United States relating to the currency; which was read a first and second time, referred to the Committee on the Revision of the Laws, and ordered to be printed.

CALIFORNIA INDIAN WAR BONDS.

Mr. DEERING (by request) introduced a bill (H. R. No. 1729) for the payment of certain Indian war bonds of the State of California; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MARTIN V. NICHOLS.

Mr. DEERING also introduced a bill (H. R. No. 1730) to authorize Martin V. Nichols to establish and maintain a ferry across the Missouri River at Brule City in Dakota Territory; which was read a first and second time, and referred to the Committee on Railways and Canals.

ANGELINE STARKWEATHER.

Mr. WEAVER introduced a bill (H. R. No. 1731) granting a pension to Angeline Starkweather; which was read a first and second time, and referred to the Committee on Invalid Pensions.

F. C. CORNELL.

Mr. WEAVER also introduced a bill (H. R. No. 1732) granting a pension to F. C. Cornell, late surgeon Montana territorial militia serving in the late Indian wars; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PATRICK M'GINNIS.

Mr. CASWELL introduced a bill (H. R. No. 1733) granting a pension to Patrick McGinnis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHIPPEWA RIVER.

Mr. POUND introduced a bill (H. R. No. 1734) to authorize the Secretary of War to use certain moneys, appropriated by act of Congress approved March 4, 1879, for the protection of the high sand banks on the Chippewa River, in the completion and protection of improvements in and near the mouth of said Chippewa River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EDUCATION OF INDIANS.

Mr. POUND also introduced a bill (H. R. No. 1735) to increase educational privileges and establish additional industrial training schools for the benefit of youth belonging to such Indian tribes as have educational treaty claims upon the United States; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

THANKS TO MEXICAN GOVERNMENT.

Mr. DEUSTER introduced a joint resolution (H. R. No. 54) thanking the Mexican government and people for contributing so heartily to the success of the industrial mission of the American merchants and manufacturers; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

TAX ON DEPOSITS.

Mr. DEUSTER also (by request) introduced a bill (H. R. No. 1736) to amend so much of sections 3408 and 5214 of the Revised Statutes of the United States as relates to the tax upon deposits of money with State and national banks, savings-banks, trust companies, or other persons engaged in the business of banking; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

MINNESOTA SWAMP LANDS.

Mr. WASHBURN introduced a bill (H. R. No. 1737) confirming grants of swamp lands made by the State of Minnesota in aid of the construction of railroads and other internal improvements; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

POST-OFFICE BUILDING, MINNEAPOLIS.

Mr. WASHBURN also introduced a bill (H. R. No. 1738) appropriating money for the purchase of a site and the erection of a post-office and other Government offices in the city of Minneapolis, State of Minnesota; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ANNA W. OSBORNE.

Mr. DUNNELL introduced a bill (H. R. No. 1739) for the relief of Anna W. Osborne; which was read a first and second time, and referred to the Committee on Military Affairs.

SOLDIERS AND SAILORS' HOMESTEADS.

Mr. POEHLER introduced a bill (H. R. No. 1740) to amend section 2305 of the Revised Statutes, relating to soldiers and sailors' homesteads; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JOHN R. TAGGERT.

Mr. POEHLER also introduced a bill (H. R. No. 1741) for the relief of John R. Taggert; which was read a first and second time, and referred to the Committee on Public Lands.

HENRIETTE BRIGGERT.

Mr. POEHLER also introduced a bill (H. R. No. 1742) for the relief of Henriette Briggert; which was read a first and second time, and referred to the Committee of Claims.

GEORGE M. ROBBINS.

Mr. POEHLER also introduced a bill (H. R. No. 1743) for the relief of George M. Robbins; which was read a first and second time, and referred to the Committee on Military Affairs.

ISABELLA FAGNAND.

Mr. POEHLER also introduced a bill (H. R. No. 1744) for the relief of Isabella Fagnand; which was read a first and second time, and referred to the Committee on Public Lands.

CAPTAIN HOWARD E. STANSBURY.

Mr. POEHLER also introduced a bill (H. R. No. 1745) for the relief of Captain Howard E. Stansbury; which was read a first and second time, and referred to the Committee on Military Affairs.

REMOVAL OF INDIAN TRIBES.

Mr. WHITEAKER introduced a bill (H. R. No. 1746) directing and

authorizing the Secretary of the Interior to negotiate with the Umatilla, Warm Spring, and certain other tribes of Indians occupying reservations within the State of Oregon, for the extinguishment of their title to the lands now occupied by them, and for their removal to other lands or reservations without the limits of said State; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

M. P. JONES.

Mr. WHITEAKER also introduced a bill (H. R. No. 1747) for the relief of M. P. Jones; which was read a first and second time, and referred to the Committee on Public Lands.

ALONZO GESNER.

Mr. WHITEAKER also introduced a bill (H. R. No. 1748) for the relief of Alonzo Gesner; which was read a first and second time, and referred to the Committee on Public Lands.

SETTLERS ON LANDS IN KANSAS AND NEBRASKA.

Mr. VALENTINE introduced a bill (H. R. No. 1749) for the relief of settlers on the public lands in the States of Kansas and Nebraska; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SETTLERS UNDER PRE-EMPTION LAWS.

Mr. VALENTINE also introduced a bill (H. R. No. 1750) for the relief of settlers on the public lands under the pre-emption laws; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

TEMPORARY MAIL SERVICE.

Mr. BELFORD introduced a bill (H. R. No. 1751) providing for temporary mail service; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ELISHA BASS.

Mr. BELFORD also introduced a bill (H. R. No. 1752) for the relief of Elisha Bass; which was read a first and second time, and referred to the Committee on War Claims.

LOUIS N. M'LANE.

Mr. BELFORD also introduced a bill (H. R. No. 1753) for the relief of Louis N. McLane; which was read a first and second time, and referred to the Committee on Indian Affairs.

EVA VANSANT AND OTHERS.

Mr. BELFORD also (by request) introduced a bill (H. R. No. 1754) for the relief of Eva Vansant, Henry Carleton, and Maud Carleton, children of General James H. Carleton; which was read a first and second time, and referred to the Committee on War Claims.

JOHN R. HOLLAND.

Mr. BELFORD also (by request) introduced a bill (H. R. No. 1755) for the relief of John R. Holland; which was read a first and second time, and referred to the Committee of Claims.

RUSH VALLEY MILITARY RESERVATION.

Mr. CANNON, of Utah, introduced a bill (H. R. No. 1756) to restore the Rush Valley military reservation, Utah Territory, to be disposed of, under the direction of the Secretary of the Interior, as other public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

STATE GOVERNMENT FOR UTAH.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1757) to enable the people of Utah to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

WILLIAM BARTON.

Mr. CANNON, of Utah, also introduced a bill (H. R. No. 1758) to provide for the payment to William Barton for certain improvements on lands now embraced in the military reservation of Fort Cameron, in the Territory of Utah; which was read a first and second time, and referred to the Committee on Military Affairs.

NORTHERN PACIFIC RAILROAD LANDS.

Mr. BRENTS introduced a bill (H. R. No. 1759) restoring to the public domain certain lands in Washington Territory withdrawn in favor of the Northern Pacific Railroad and protecting certain settlers affected thereby; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. BRENTS also introduced a bill (H. R. No. 1760) to amend section 1852 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

SCHOOL LANDS IN WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1761) validating an act of the Legislative Assembly of Washington Territory authorizing the leasing of school lands and confirming leases made in pursuance thereof; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PUBLIC BUILDING AT PORT TOWNSEND, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1762) for the purchase of a site and the erection of a custom-house and bonded warehouse at Port Townsend, the port of entry for Puget Sound district, in Washington Territory; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

FOG-SIGNAL, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1763) for the purchase of a site and the erection of a fog-signal on Foulweather Bluff, at the entrance of Hood's Canal; which was read a first and second time, and referred to the Committee on Commerce.

SKAGIT AND STILLAQUAMISH RIVERS, WASHINGTON TERRITORY.

Mr. BRENTS also introduced a bill (H. R. No. 1764) for the improvement of Skagit and Stillaguamish Rivers, in Washington Territory; which was read a first and second time, and referred to the Committee on Commerce.

JOHN KIRKWOOD.

Mr. BRENTS also introduced a bill (H. R. No. 1765) for the relief of John Kirkwood; which was read a first and second time, and referred to the Committee on Military Affairs.

HENRY MAHLER.

Mr. BRENTS also introduced a bill (H. R. No. 1766) granting a pension to Henry Mahler; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE COGGAN.

Mr. BRENTS also introduced a bill (H. R. No. 1767) for the relief of the legal representatives of George Coggan; which was read a first and second time, and referred to the Committee on Indian Affairs.

BOWERS & RICHARDS.

Mr. CAMPBELL introduced a bill (H. R. No. 1768) for the relief of Bowers & Richards and their assigns; which was read a first and second time, and referred to the Committee on Indian Affairs.

MILITARY POST, IDAHO TERRITORY.

Mr. AINSLIE introduced a bill (H. R. No. 1769) providing for a military post in Lemhi Valley, Idaho Territory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY ROADS, IDAHO TERRITORY.

Mr. AINSLIE also introduced a bill (H. R. No. 1770) making appropriations for military roads in the Territory of Idaho; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. AINSLIE also introduced a bill (H. R. No. 1771) to amend section 2262 of the Revised Statutes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

EXPENSES OF INDIAN WARS.

Mr. AINSLIE also introduced a bill (H. R. No. 1772) creating a commission to examine and report the expenses of the State of Oregon and the Territories of Idaho and Washington, and the citizens thereof, necessarily incurred in the suppression of Indian hostilities in the year 1878; and a bill (H. R. No. 1773) to provide for ascertaining and reporting the expenses incurred by the Territory of Idaho and the people thereof in defending themselves from attacks and hostilities of the Nez Perce Indians in the year 1877, and for other purposes; which were severally read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

L. F. CARTEE.

Mr. AINSLIE also introduced a bill (H. R. No. 1774) for the relief of L. F. Cartee; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC BUILDING AT BOISE CITY, IDAHO.

Mr. AINSLIE also introduced a bill (H. R. No. 1775) providing for the erection of public buildings at Boise City, Idaho Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CHEYENNE AND BLACK HILLS RAILROAD AND TELEGRAPH.

Mr. DOWNEY introduced a bill (H. R. No. 1776) granting the right of way through the public lands to the Cheyenne, Black Hills and Montana Railroad and Telegraph Company; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

GEORGE W. MOORE.

Mr. DOWNEY also introduced a bill (H. R. No. 1777) for the relief of George W. Moore; which was read a first and second time, and referred to the Committee on Public Lands.

THOMAS F TALBOT.

Mr. DOWNEY also introduced a bill (H. R. No. 1778) for the relief of Thomas F. Talbot; which was read a first and second time, and referred to the Committee on Public Lands.

SETTLERS IN WIND RIVER VALLEY, WYOMING.

Mr. DOWNEY also introduced a bill (H. R. No. 1779) for the relief of certain settlers in the Wind River Valley, Wyoming Territory; which was read a first and second time, and referred to the Committee on Indian Affairs.

The SPEAKER. The States and Territories having been called through, the Chair will now recognize gentlemen who were not in their seats when their States were called.

GEORGE H. PLANT.

Mr. MARTIN, of West Virginia, introduced a bill (H. R. No. 1780) for the relief of George H. Plant; which was read a first and second time, and referred to the Committee on Commerce.

SAVILLA ATHEY.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1781) for the relief of Savilla Athey, of West Virginia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FOREIGN COMMERCIAL COMPANY.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1782) to incorporate the Foreign Commercial Company; which was read a first and second time, and referred to the Committee on Commerce.

METHODIST EPISCOPAL CHURCH, MILL CREEK, WEST VIRGINIA.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1783) for the relief of the Methodist Episcopal church at Mill Creek, Berkeley County, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

SAMUEL KELLY.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1784) for the relief of Samuel Kelly, of Harper's Ferry, West Virginia; which was read a first and second time, and referred to the Committee on Military Affairs.

RANDOLPH COUNTY, WEST VIRGINIA.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1785) for the relief of the county of Randolph, State of West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

METHODIST EPISCOPAL CHURCH, HARPER'S FERRY.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1786) for the relief of the trustees of the Methodist Episcopal church at Harper's Ferry, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

WILDEY LODGE, NO. 27, I. O. O. F.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1787) for the relief of the trustees of Wildey Lodge, No. 27, of Independent Order of Odd Fellows, at Charlestown, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

METHODIST EPISCOPAL CHURCH, WEBSTER, WEST VIRGINIA.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1788) for the relief of the trustees of the Methodist Episcopal church at Webster, Taylor County, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

PRESBYTERIAN CHURCH, BEVERLY, WEST VIRGINIA.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1789) for the relief of the trustees of the Presbyterian church at Beverley, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

ESTATE OF WILLIAM LUCAS, DECEASED.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1790) for the relief of the estate and heirs of William Lucas, deceased, of Jefferson County, West Virginia; which was read a first and second time, and referred to the Committee on War Claims.

CHILDREN OF BENJAMIN MOORE.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1791) for the relief of the surviving children of Benjamin Moore, late of Harper's Ferry, West Virginia; which was read a first and second time, and referred to the Committee on Military Affairs.

PHILIP PENDLETON.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1792) for the relief of Philip Pendleton, late paymaster United States Army; which was read a first and second time, and referred to the Committee on War Claims.

JOHN HUMPHREYS.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1793) for the relief of John Humphreys; which was read a first and second time, and referred to the Committee on War Claims.

IMPROVEMENT OF MONONGAHELA RIVER.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1794) to authorize a further appropriation to continue the improvement of the Monongahela River, in the State of West Virginia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SWEENY, RITTENHOUSE, FANT & CO.

Mr. MARTIN, of West Virginia, also (by request) introduced a bill (H. R. No. 1795) for the relief of Sweeny, Rittenhouse, Fant & Co.; which was read a first and second time, and referred to the Committee of Claims.

MARIA SHULER.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No. 1796) for the relief of Maria Shuler, administratrix of Dr. John S. Shuler, deceased; which was read a first and second time, and referred to the Committee of Claims.

AMMONIATED FERTILIZER COMPANY.

Mr. MARTIN, of West Virginia, also (by request) introduced a bill (H. R. No. 1797) for the relief of the Ammoniated Fertilizer Company, of Washington, District of Columbia; which was read a first and second time, and referred to the Committee of Claims.

WILLIAM MORRISON.

Mr. CLARK, of Missouri, introduced a bill (H. R. No. 1798) appropriating $30,000 to William Morrison, of Lexington, Missouri, for destruction of foundery by military order; which was read a first and second time, and referred to the Committee on War Claims.

ARMY OFFICERS DROPPED FROM THE ROLLS.

Mr. BRAGG introduced a bill (H. R. No. 1799) to amend section 1229 of the Revised Statutes and authorizing the President of the United States to drop officers of the Army from the rolls in certain cases; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOSEPH B. CAMPBELL.

Mr. BRAGG also introduced a bill (H. R. No. 1800) for the relief of Joseph B. Campbell, captain of the Fourth Artillery, United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

PRACTICE IN SUPREME COURT.

Mr. BRAGG also (by request) introduced a bill (H. R. No. 1801) to amend the practice in Supreme Court of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BONNET CARRÉ CREVASSE.

Mr. ROBERTSON introduced a bill (H. R. No. 1802) to stop the Bonnet Carré Crevasse in the Mississippi River above the city of New Orleans, in the State of Louisiana; which was read a first and second time, referred to the Committee on Levees and Improvement of the Mississippi River, and ordered to be printed.

SETTLERS ON CERTAIN LANDS.

Mr. WRIGHT introduced a bill (H. R. No. 1803) for the relief of settlers on certain lands in the State of California; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

BRANDY FROM APPLES OR PEACHES.

Mr. KITCHIN introduced a bill (H. R. No. 1804) to exempt all persons making less than sixty gallons of brandy from apples or peaches from taxation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

GROWTH OF TIMBER ON PRAIRIES.

Mr. CONVERSE introduced a bill (H. R. No. 1805) supplementary to the act entitled "An act to amend an act entitled an act to encourage the growth of timber on the western prairies," approved June 14, 1878; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

VIRGINIUS INDEMNITY FUND.

Mr. SPRINGER introduced a joint resolution (H. R. No. 55) authorizing the payment of a portion of the Virginius indemnity fund to the mother of General W. A. C. Ryan; which was read a first and second time, and referred to the Committee on Foreign Affairs.

MICHAEL LINGENFELTER.

Mr. COFFROTH introduced a bill (H. R. No. 1806) granting a pension to Michael Lingenfelter, Company I, Sixteenth Regiment of Pennsylvania Veteran Reserves; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INCOME TAX.

Mr. GIBSON introduced a bill (H. R. No. 1807) providing an income tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PROTECTION OF RIGHT OF SUFFRAGE.

Mr. LAPHAM presented joint resolution of the Legislature of New York, against the repeal of the statutes for the protection of the right of suffrage and the freedom and purity of the elective franchise; which was read a first and second time, and referred to the Committee on the Judiciary.

UNITED STATES COURTS OF REVIEW.

Mr. LAPHAM also introduced a bill (H. R. No. 1808) to provide for courts of review in the various circuits of the United States, and to regulate the practice in civil and criminal cases in the courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GENEVA AWARD.

Mr. LAPHAM also introduced a bill (H. R. No. 1809) re-establishing the court of commissioners of Alabama claims and for the distribution of the unappropriated moneys of the Geneva award; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUSAN A. HEAZLIT.

Mr. LAPHAM also introduced a bill (H. R. No. 1810) granting a pension to Susan A. Heazlit, aunt of George W. Heazlit, a deceased soldier; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATHAN DICKERSON.

Mr. LAPHAM also introduced a bill (H. R. No. 1811) granting a pension to Nathan Dickerson, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

ALONZO SNYDER.

Mr. LAPHAM also introduced a bill (H. R. No. 1812) for the relief of Alonzo Snyder, of Livingston County, New York; which was read a first and second time, and referred to the Committee of Claims.

LIEUTENANT J. A. YECKLEY.

Mr. LAPHAM also introduced a bill (H. R. No. 1813) for the relief of First Lieutenant J. A. Yeckley, Twentieth United States Infantry; which was read a first and second time, and referred to the Committee of Claims.

ELLEN O'LAHEY.

Mr. LAPHAM also introduced a bill (H. R. No. 1814) granting a pension to Ellen O'Lahey, widow of John O'Lahey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

TIME OF MEETING OF CONGRESS.

Mr. LAPHAM also introduced a bill (H. R. No. 1815) designating the time for the annual meeting of the Congress of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARK J. BUNNELL.

Mr. LAPHAM also introduced a bill (H. R. No. 1816) granting an increase of pension to Mark J. Bunnell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HOWLAND HEMPHILL.

Mr. LAPHAM also introduced a bill (H. R. No. 1817) for the relief of Howland Hemphill; which was read a first and second time, and referred to the Committee of Claims.

OLIVE STEPHENSON.

Mr. LAPHAM also introduced a bill (H. R. No. 1818) granting a pension to Olive Stephenson; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

ANN EASTO.

Mr. LAPHAM also introduced a bill (H. R. No. 1819) granting a pension to Ann Easto, mother of Charles Easto, late a private in Company E of the Veteran New York Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DONATION OF CANNON.

Mr. LAPHAM also introduced a joint resolution (H. R. No. 56) authorizing the Secretary of War to deliver to the town of Avon, Livingston County, New York, four cannon for the soldiers' monument in said town; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMENDMENTS TO THE CONSTITUTION.

Mr. LAPHAM also introduced a joint resolution (H. R. No. 57) providing for an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

He also introduced a joint resolution (H. R. No. 58) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TARIFF ON SUGAR.

Mr. ACKLEN introduced a bill (H. R. No. 1820) to regulate the tariff on sugar; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

AGNES W. HILLS.

Mr. DUNNELL introduced a bill (H. R. No. 1821) for the relief of Agnes W. Hills; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LIABILITY OF VESSELS.

Mr. O'NEILL introduced a bill (H. R. No. 1822) extending the limitation of the liability of vessels in cases of collision to foreign vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EXPEDITION TO THE ARCTIC SEAS.

Mr. CONGER (by request) introduced a bill (H. R. No. 1823) to authorize and equip an expedition to the arctic seas; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CLAIMS AGAINST THE UNITED STATES.

Mr. WHITE introduced a joint resolution (H. R. No. 59) proposing an amendment to the Constitution in relation to claims against the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN A. DALE.

Mr. WHITE also introduced a bill (H. R. No. 1824) for the relief of the heirs of John A. Dale, deceased; which was read a first and second time, and referred to the Committee of Claims.

HOMESTEADS.

Mr. WHITE also introduced a bill (H. R. No. 1825) to amend section 2305 of the Revised Statutes, which allows service in the Army, Navy, and Marine Corps to be deducted from the time required to perfect title to a homestead; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SYSTEM OF BANKRUPTCY.

Mr. WHITE also introduced a bill (H. R. No. 1826) to establish a system of bankruptcy proceedings; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

J. MONTGOMERY AND T. E. WILLIAMS.

Mr. WHITE also introduced a bill (H. R. No. 1827) for the relief of John Montgomery and Thomas E. Williams; which was read a first and second time, and referred to the Committee on Military Affairs.

WRITS OF MANDAMUS.

Mr. WHITE also introduced a bill (H. R. No. 1828) conferring additional powers on the circuit courts of the United States or the judges in vacation, relating to writs of mandamus; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BENJAMIN FELLOWS.

Mr. FARR introduced a bill (H. R. No. 1829) for the relief of Benjamin Fellows; which was read a first and second time, and referred to the Committee on Military Affairs.

PETER GRATTAN.

Mr. FARR also introduced a bill (H. R. No. 1830) granting a pension to Peter Grattan, father of John L. Grattan, late second lieutenant Company G, Sixth Regiment United States Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN H. LONGBOTTOM.

Mr. McKINLEY introduced a bill (H. R. No. 1831) granting a pension to John H. Longbottom, late of Company D, One hundred and twenty-sixth Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES THOMPSON.

Mr. McGOWAN introduced a bill (H. R. No. 1832) for the relief of James Thompson; which was read a first and second time, and referred to the Committee on Pensions.

PERNETTA HENDLEY.

Mr. FORD introduced a bill (H. R. No. 1833) for the relief of Pernetta Hendley; which was read a first and second time, and referred to the Committee on Pensions.

WILLIAN J. POLLOCK.

Mr. BINGHAM introduced a bill (H. R. No. 1834) for the relief of William J. Pollock, late collector of internal revenue, second district of Pennsylvania; which was read a first and second time, and referred to the Committee of Ways and Means.

ESTHER MACHENER.

Mr. KILLINGER introduced a bill (H. R. No. 1835) granting a pension to Esther Machener; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES D. LONGAN.

Mr. KILLINGER also introduced a bill (H. R. No. 1836) granting a pension to James D. Longan; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CAPTAIN G. L. TANNER.

Mr. COX introduced a joint resolution (H. R. No. 60) authorizing Captain G. L. Tanner, United States Navy, to accept a pair of flower vases and a lacquered box from the Japanese government; which was read a first and second time, and referred to the Committee on Foreign Affairs.

SLAVERY IN CUBA.

Mr. COX also introduced a joint resolution (H. R. No. 61) in relation to slavery in Cuba; which was read a first and second time.

Mr. YOUNG, of Tennessee. I ask that that joint resolution be read.

The joint resolution was read at length, referred to the Committee on Foreign Affairs, and ordered to be printed.

CONTESTED ELECTIONS.

The SPEAKER. The morning hour begins at eleven minutes before one o'clock. The bill pending in the morning hour is one reported on Saturday last by the gentleman from Illinois [Mr. SPRINGER] from the Committee of Elections—a bill (H. R. No. 879) relating to contested elections.

Mr. SPRINGER. As there are some amendments pending to this bill which may provoke discussion, I move that the bill and amendments be recommitted.

The motion was agreed to.

EXPENSES OF EXTRA SESSION.

Mr. ATKINS. The Committee on Appropriations, to whom were referred the amendments of the Senate to the bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes, have directed me to report back the same and move concurrence therein.

The amendments of the Senate were read and concurred in.

Mr. ATKINS moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROOM OF COMMITTEE ON APPROPRIATIONS.

Mr. ATKINS. The Committee on Appropriations have also directed me to report the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Speaker is hereby authorized to have the eastern lobby on the floor of the House furnished and fitted for the reception of visitors, and that the small room now occupied for that purpose be assigned to the use of the Committee on Appropriations, which by its increase in members requires additional accommodations, and that he be authorized to order and have made such alterations in the building as will conveniently connect said small room with the present Appropriations Committee room.

Mr. BUCKNER. I rise to a parliamentary inquiry. Is this resolution in order at the present time?

The SPEAKER. The Chair thinks the resolution had better be printed so as to give members an opportunity to see what is proposed.

Mr. ATKINS. I have no objection to that course. I move that the resolution be printed and recommitted.

The motion was agreed to.

MILITARY INTERFERENCE AT ELECTIONS.

Mr. KNOTT, from the Committee on the Judiciary, reported back, without amendment and with a favorable recommendation, the bill (H. R. No. 1382) to prohibit military interference at elections.

The bill was read, as follows:

Whereas the presence of troops at the polls is contrary to the spirit of our institutions and the traditions of our people, and tends to destroy the freedom of elections: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful to bring to, or employ at, any place where a general or special election is being held in a State any part of the Army or Navy of the United States, unless such force be necessary to repel the armed enemies of the United States or to enforce section 4, article 4 of the Constitution of the United States and the laws made in pursuance thereof upon the application of the Legislature or the executive of the State where such force is to be used; and so much of all laws as is inconsistent herewith is hereby repealed.

Mr. KNOTT. I have been informed by gentlemen representing the minority of the committee that it is desired to offer a substitute for the bill just reported. When that substitute has been offered, I propose that the previous question be immediately ordered upon the bill and substitute.

Mr. ROBESON. I offer, as a substitute, what I send to the desk.

The Clerk read as follows:

A bill to further protect the freedom of elections.

Whereas the unnecessary presence of troops at the polls is contrary to the spirit of our institutions and the traditions of our people and would tend to destroy the freedom of elections; and

Whereas the presence of troops at the polls has heretofore been and may hereafter be necessary and proper for the suppression of illegal and powerful combinations of armed men in military array engaged in obstructing by force the due execution of the laws of the United States and in destroying the freedom and peace of elections; and

Whereas experience has shown that the existence of the Republic, the supremacy of its laws, and the liberties of its people can only be maintained against the military and other powerful combinations of their enemies by the exertion of the military power of the Government in subordination to the civil power in the support of the laws; and

Whereas the injunction of the Constitution that the President "shall take care that the laws be faithfully executed" is equally binding in respect to the laws relating to elections, the course of justice, and all other laws of the United States without distinction of days, places, or occasions: Therefore,

Be it enacted, &c., That it shall not be lawful to bring to, or employ at, any place where a general or special election is being held in a State, any part of the Army or Navy of the United States, unless such employment be necessary to carry out the provisions of the Constitution of the United States, or to overcome forcible obstruction to the execution of laws made in pursuance thereof.

SEC. 2. Every person who violates the provisions of this act shall be subject to the penalties named in section 5528 of the Revised Statutes of the United States.

Mr. KNOTT. I demand the previous question on the bill and the substitute.

Mr. CONGER. I desire to offer an amendment to the original bill.

Mr. KNOTT. That is contrary to the understanding. I demand the previous question.

Mr. GARFIELD. I hope the gentleman will allow one other amendment which would be in order under the rules.

Mr. KNOTT. I have fulfilled the agreement.

Mr. CONGER. I know of no agreement by which members of the House are deprived of the right to offer amendments.

The SPEAKER. Whether amendments shall be cut off depends upon the House. The gentleman having charge of the bill has merely the right, which the Chair recognizes, to demand the previous question. It is for the House to decide whether by ordering the previous question amendments shall be cut off. The Chair must be governed by the action of the House.

Mr. CONGER. I ask the Chair whether an amendment to the original bill would be in order under the rules.

The SPEAKER. It would be if the gentleman having charge of the bill had not demanded the previous question; and such an amendment will be in order if the House should vote down that demand.

Mr. LAPHAM. I desire to make a suggestion to the chairman of the Committee on the Judiciary, [Mr. KNOTT.] I mentioned to him—he will perhaps remember it—that possibly it would be desired on this side to offer one amendment to the bill in addition to the substitute.

The SPEAKER. The substitute is in the nature of an amendment.

Mr. LAPHAM. But it is desired to offer one amendment to the bill itself.

Mr. GARFIELD. I hope the gentleman will allow this single amendment. I do not think there will be further amendment. Both would be in order under the rules, but further amendment would not be in order. It is in the proper degree and no more, and I hope the gentleman will allow that to be offered before he demands the previous question.

Mr. CONGER. Will the gentleman refuse to permit this amendment?

The SPEAKER. The gentleman demands the previous question on the bill and substitute.

Mr. GARFIELD. But let the amendment be read for information.

Mr. CONGER. I shall resort to such means as we may to prevent it.

The SPEAKER. The Chair has nothing to do with that. [Cries of "Order!"] The Chair must obey the rules.

Mr. CONGER. I ask that the amendment be read.

The SPEAKER. Is there objection?

Several members objected.

The question recurred on the demand for the previous question.

The House divided; and there were—ayes 113, noes 65.

So the previous question was seconded.

The main question was ordered to be now put.

Mr. ROBESON. The main question is on the bill and substitute?

The SPEAKER. It is.

Mr. KNOTT moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question first recurred on Mr. ROBESON'S substitute.

Mr. ROBESON. To save time I will now ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 93, nays 120, not voting 72; as follows:

YEAS—93.

Aldrich, Nelson W.	Deering,	Kelley,	Robeson,
Aldrich, William	Dunnell,	Killinger,	Russell, William A.
Anderson,	Farr,	Lindsey,	Ryan, Thomas
Bayne,	Ferdon,	Loring,	Shallenberger,
Belford,	Field,	Marsh,	Sherwin,
Bingham,	Fisher,	Mason,	Smith, A. Herr
Blake,	Fort,	McCoid,	Stone,
Bowman,	Frye,	McCook,	Tyler,
Boyd,	Garfield,	McGowan,	Updegraff, J. T.
Brewer,	Godshalk,	McKinley,	Updegraff, Thomas
Briggs,	Hall,	Mitchell,	Valentine,
Brigham,	Harmer,	Monroe,	Van Aernam,
Browne,	Harris, Benj. W.	Morton,	Van Voorhis,
Burrows,	Haskell,	Neal,	Voorhis,
Cannon,	Hawk,	Newberry,	Wait,
Carpenter,	Hawley,	Norcross,	Ward,
Caswell,	Hayes,	O'Neill,	Washburn,
Chittenden,	Hellman,	Overton,	White,
Claflin,	Horr,	Pierce,	Wilber,
Conger,	Houk,	Pound,	Wood, Walter A.
Cowgill,	Hubbell,	Prescott,	Young, Thomas L.
Crapo,	Humphrey,	Reed,	
Daggett,	Joyce,	Rice,	
Davis, George R.	Keifer,	Richardson, D. P.	

NAYS—120.

Acklen,	Beltzhoover,	Bliss,	Bright,
Aiken,	Bicknell,	Blount,	Buckner,
Armfield,	Blackburn,	Bouck,	Caldwell,

Carlisle,	Geddes,	Martin, Edward L.	Smith, William E.
Chalmers,	Gibson,	McKenzie,	Sparks,
Clark, John B., jr.	Goode,	McLane,	Speer,
Clymer,	Gunter,	McMillan,	Springer,
Cobb,	Hammond, N. J.	Mills,	Steele,
Coffroth.	Harris, John T.	Morrison,	Stephens,
Colerick,	Henkle,	Muldrow,	Stevenson,
Converse,	Henry,	Murch,	Taylor,
Covert,	Herbert,	Myers,	Thompson,
Cox,	Herndon,	New,	Tillman,
Cravens,	Hill,	O'Reilly,	Townshend, R. W.
Culberson,	Hooker,	Persons,	Turner, Oscar
Davidson,	Hostetler,	Phister,	Turner, Thomas
Davis, Lowndes H.	House,	Poehler,	Vance,
De La Matyr,	Hurd,	Reagan,	Waddill,
Deuster,	Johnston,	Richardson, J. S.	Warner,
Dibrell,	Jones,	Richmond,	Weaver,
Dickey,	Kimmel,	Robertson,	Wellborn,
Dunn,	King,	Ross,	Wells,
Elam,	Kitchin,	Rothwell,	Whiteaker,
Ellis,	Knott,	Ryon, John W.	Whitthorne,
Evins,	Ladd,	Samford,	Williams, Thomas
Ewing,	Le Fevre,	Sawyer,	Willis,
Felton,	Lewis,	Scales,	Wise,
Ford,	Lowe,	Singleton, O. R.	Wood, Fernando
Forney,	Manning,	Slemons,	Wright,
Frost,	Martin, Benj. F.	Smith, Hezekiah B.	Yocum.

NOT VOTING—72.

Atherton,	Crowley,	Kenna,	Phelps,
Atkins,	Davis, Joseph J.	Ketcham,	Price,
Bachman,	Dick,	Klotz,	Robinson,
Bailey,	Dwight,	Lapham,	Russell, Daniel L.
Baker,	Einstein,	Lay,	Sapp,
Ballou,	Errett,	Lounsbery,	Shelley,
Barber,	Finley,	Martin, Joseph J.	Simonton,
Barlow,	Forsythe,	McMahon,	Singleton, J. W.
Beale,	Gillette,	Miles,	Starin,
Bland,	Hammond, John	Miller,	Talbott,
Bragg,	Hatch,	Money,	Thomas,
Butterworth,	Hazelton,	Morse,	Townsend, Amos
Cabell,	Henderson,	Muller,	Tucker,
Calkins,	Hiscock,	Nicholls,	Urner,
Camp,	Hull,	O'Brien,	Williams, C. G.
Clardy,	Hunton,	O'Connor,	Willits,
Clark, Alvah A.	James,	Orth,	Wilson,
Cook,	Jorgensen,	Osmer,	Young, Casey.

So the substitute was not agreed to.

During the roll-call the following announcements were made:

Mr. SINGLETON, of Illinois. I am paired with Mr. MILES, of Connecticut.

Mr. KENNA. I am paired with Mr. CAMP, of New York, with the understanding that either of us if present should vote if necessary to make a quorum. As a quorum has voted, I announce the pair. If not paired, I would vote "no."

Mr. YOUNG, of Tennessee. I am paired with Mr. WILLITS, of Michigan. If he were present, I should vote "no."

Mr. SAWYER. My colleague from Missouri, Mr. CLARDY, is paired with Mr. SAPP, of Iowa. Mr. CLARDY, if present, would vote "no" and Mr. SAPP would vote "ay."

Mr. BACHMAN. I am paired with Mr. DWIGHT, of New York, on all political questions; otherwise I should vote "no."

Mr. HARRIS, of Virginia. My colleague, Mr. BEALE, is paired with my colleague, Mr. JORGENSEN. If present, Mr. BEALE would vote "no" and Mr. JORGENSEN would vote "ay."

Mr. CLARK, of Missouri. My colleague, Mr. LAY, is paired with Mr. DICK, of Pennsylvania. If present, Mr. LAY would vote "no" and Mr. DICK would vote "ay."

Mr. BRAGG. I am paired with Mr. JAMES, of New York. If he were present, I should vote "no" and Mr. JAMES would vote "ay."

Mr. JORGENSEN. I am paired with my colleague from Virginia, Mr. BEALE. If he were present, I should vote "ay."

Mr. HILL. My colleague from Ohio, Mr. ATHERTON, is paired with my colleague, Mr. BUTTERWORTH. If present, Mr. ATHERTON would vote "no" and Mr. BUTTERWORTH would vote "ay."

Mr. SHELLEY. I am paired with Mr. ERRETT, of Pennsylvania. If he were present, he would vote "ay" and I should vote "no."

Mr. DICKEY. My colleague from Ohio, Mr. FINLEY, is paired with Mr. CALKINS, of Indiana. Mr. FINLEY, if present, would vote "no."

Mr. ATKINS. I am paired with Mr. BAKER, of Indiana. If he were present, I should vote "no."

Mr. HUNTON. My colleague from Virginia, Mr. TUCKER, is paired with Mr. LAPHAM, of New York, on this question. If Mr. TUCKER were present, he would vote "no." I am paired with Mr. HISCOCK, of New York. If he were here, I should vote "no."

Mr. ARMFIELD. My colleague from North Carolina, Mr. DAVIS, is paired with Mr. MARTIN. Mr. DAVIS, if present, would vote "no."

Mr. BLISS. My colleague from New York, Mr. O'BRIEN, is paired with my colleague, Mr. EINSTEIN. Mr. O'BRIEN, if present, would vote "no" and Mr. EINSTEIN would vote "ay." My colleague, Mr. MULLER, is paired with my colleague, Mr. HAMMOND. Mr. MULLER would vote "no" and Mr. HAMMOND would vote "ay."

Mr. DAVIDSON. My colleague from Florida, Mr. HULL, is paired with Mr. PRICE, of Iowa. Mr. HULL, if present, would vote "no."

Mr. LOUNSBERY. I am paired with my colleague from New York, Mr. BAILEY. If Mr. BAILEY were present, I should vote "no."

Mr. O'CONNOR. I am paired with Mr. KETCHAM, of New York. If he were present, I should vote "no."

Mr. SPEER. My colleague from Georgia, Mr. NICHOLLS, is paired with Mr. HAZELTON, of Wisconsin. If present, Mr. NICHOLLS would vote "no" and Mr. HAZELTON would vote "ay."

Mr. COOK. I am paired with Mr. HENDERSON, of Illinois. If he were present, I should vote "no."

Mr. ACKLEN. I was paired with the gentleman from New York, Mr. EINSTEIN, but as it has been announced that that gentleman is paired with his colleague, Mr. O'BRIEN, I feel myself at liberty to vote, and vote "no."

Mr. COX. My colleague from New York, Mr. STARIN, is paired with Mr. CLARK, of New Jersey. If present, Mr. CLARK would vote "no."

Mr. HAYES. My colleague from Illinois, Mr. THOMAS, is confined to his room by sickness.

Mr. WAIT. My colleague from Connecticut, Mr. PHELPS, is absent by leave of the House on account of sickness in his family. My colleague, Mr. MILES, who is absent by leave of the House on important business, is paired with Mr. SINGLETON, of Illinois. Mr. MILES, if present, would vote "ay."

Mr. MCMILLIN. My colleague from Tennessee, Mr. SIMONTON, who is absent by leave of the House, is paired with Mr. TOWNSEND, of Ohio. Mr. SIMONTON, if present, would vote "no."

Mr. ROBINSON. On all political questions I am paired with Mr. MONEY, of Mississippi.

Mr. LAPHAM. I am paired with Mr. TUCKER, of Virginia. If he were present, I should vote "ay."

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with Mr. MCMAHON, of Ohio. If present, Mr. BALLOU would vote "ay" and Mr. MCMAHON "no."

Mr. CALKINS. I am paired with Mr. FINLEY, of Ohio. If he were present, I should vote "ay."

Mr. DAVIS, of Illinois. My colleague, Mr. BARBER, is paired with Mr. HATCH, of Missouri. On this question, Mr. BARBER would vote "ay" and Mr. HATCH "no."

Mr. WHITE. My colleague from Pennsylvania, Mr. DICK, is paired with Mr. LAY, of Missouri. On this question, Mr. DICK would vote "ay" and I presume Mr. LAY would vote "no."

Mr. CONGER. My colleague from Michigan, Mr. WILLITS, was paired with Mr. VANCE, of North Carolina, but I think the pair has been changed by consent.

Mr. ORTH. I am paired with Mr. WILSON, of West Virginia. If he were present, I should vote "ay." My colleague from Indiana, Mr. BAKER, is paired with Mr. ATKINS, of Tennessee. If present, Mr. BAKER would vote "ay."

Mr. UPDEGRAFF, of Iowa. My colleague, Mr. PRICE, is absent by order of the House. He is paired with Mr. HULL, of Florida. Mr. PRICE, if present, would vote "ay" and I presume Mr. HULL would vote "no."

Mr. MCKINLEY. My colleague from Ohio, Mr. TOWNSEND, is paired with Mr. SIMONTON, of Tennessee. Mr. TOWNSEND, if present, would vote "ay."

Mr. BROWNE. Mr. SAPP, of Iowa, is paired with Mr. CLARDY, of Missouri. Mr. SAPP, if present, would vote "ay."

Mr. MARTIN, of North Carolina. I am paired with my colleague, Mr. DAVIS.

Mr. MASON. My colleague from New York, Mr. DWIGHT, is paired with Mr. BACHMAN, of Pennsylvania. If present, my colleague would vote "ay" and Mr. BACHMAN would vote "no."

Mr. RUSSELL, of Massachusetts. My colleague, Mr. MORSE, is paired with Mr. BARLOW, of Vermont. If present, Mr. BARLOW would vote "ay" and Mr. MORSE would vote "no."

Mr. URNER. I am paired with my colleague from Maryland, Mr. TALBOTT. If he were present, I should vote "ay" and he would vote "no."

The result of the vote was then announced as above recorded.

The SPEAKER. The question recurs on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question recurs on the passage of the bill, on which the gentleman from Kentucky [Mr. KNOTT] demands the previous question.

Mr. CONGER. Does the ordering of the previous question affect the vote on the passage of the bill? I desire to offer an amendment.

The SPEAKER. It does not; but the gentleman from Kentucky renews the demand for the previous question on the passage of the bill, and is entitled to be recognized for that purpose.

Mr. CONGER. I had the floor.

The SPEAKER. The gentleman from Michigan had not the floor. The gentleman from Kentucky demands the previous question on the passage of the bill.

Mr. CONGER. I call for a division on that. I have the floor now for that purpose.

The SPEAKER. The gentleman from Michigan always gets the floor when he is entitled to it and in order.

The question being put on seconding the previous question, there were ayes 103, noes none.

Mr. CONGER. A quorum has not voted.

Mr. SPRINGER. Let the vote be taken by tellers.

The SPEAKER. The Chair will order tellers and appoints the gentleman from Kentucky [Mr. KNOTT] and the gentleman from Michigan, [Mr. CONGER.]

The House again divided; and the tellers reported—ayes 121, no 1.

Mr. CONGER, (one of the tellers.) No quorum has voted.

The SPEAKER. The Chair understood the gentleman from Michigan [Mr. CONGER] to say that he desired to move to amend. His amendment would not now be in order.

Mr. CONGER. That is a question we can determine hereafter.

The SPEAKER. Should the Chair recognize the gentleman at this time to move an amendment it would not be in order at this stage of the proceedings upon the pending bill. The bill has been ordered to be engrossed and has been read the third time. After that no amendment is in order, and is admissible only by another proceeding under the rule.

Mr. CONGER. It is not our fault that gentlemen have placed themselves in this uncomfortable position.

Mr. COX. There is nobody uncomfortable on this side of the House.

Mr. KNOTT. I move a call of the House.

The motion was agreed to.

The roll was called, and the following members failed to answer to their names:

Aldrich, N. W.	Crowley,	Jorgensen,	Phelps,
Atherton,	Davis, Joseph J.	Ketcham,	Price,
Bailey,	Dick,	Lapham,	Russell, Daniel L.
Baker,	Dwight,	Lay,	Sapp,
Ballou,	Einstein,	Loring,	Simonton,
Barber,	Errett,	McMahon,	Starin,
Barlow,	Finley,	Miles,	Talbott,
Beale,	Garfield,	Miller,	Thomas,
Belford,	Hammond, John	Money,	Townsend, Amos
Bland,	Hatch,	Morse,	Tucker,
Cabell,	Hazelton,	Muller,	Tyler,
Camp,	Henderson,	Nicholls,	Willits,
Clardy,	Hiscock,	O'Brien,	Wilson,
Clark, Alvah A.	Hull,	Osmer,	Wood, Walter A.

The SPEAKER. Two hundred and thirty members have answered to their names; there is a quorum present.

Mr. KNOTT. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The tellers will resume their places, and the question will be again taken upon seconding the demand for the previous question.

The House again divided; and the tellers reported ayes 122, noes none; no quorum voting.

Mr. McLANE. I move that the House now adjourn. There is no use in our remaining here to amuse gentlemen on the other side. And on that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

Mr. CONGER. I move to recommit this bill to the Committee on the Judiciary, with the following instructions——

Mr. SPRINGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. It is not in order to move to recommit this bill pending the demand for the previous question.

Mr. CONGER. I submit that Rule 124 covers this case.

Mr. COX. And besides, no quorum voted on the last vote.

The SPEAKER. Rule 124 will be read.

The Clerk read as follows:

After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted, but not after the main question is ordered to be put. Nor according to the practice even pending the demand for the previous question.

The SPEAKER. There is now pending a demand for the previous question; and the motion to recommit is therefore not in order.

Mr. CONGER. That which has been read by direction of the Chair is in the Digest, and forms a note to Rule 124.

The SPEAKER. It is a decision which governs the Chair.

Mr. KNOTT. I move a call of the House.

Mr. CONGER. I will refer to Rule 124 now and read it:

After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted; and should such recommitment take place after its engrossment, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill.

Then there is a note to the rule which says:

According to the practice if the previous question on its passage be pending or ordered—

The previous question is not now pending, nor is it ordered. I therefore demand the right to make the motion to recommit.

The SPEAKER. The Chair overrules the demand of the gentleman. The note which is appended to the rule is a statement of the past action of the House which governs the Chair.

Mr. CONGER. Does the Chair state that the previous question is pending or ordered?

The SPEAKER. The Chair states that the gentleman from Kentucky [Mr. KNOTT] demands the previous question. That is pending, and it has been voted on.

Mr. CONGER. The demand is pending, but the previous question is not pending.

The SPEAKER. What is the distinction?

Mr. CONGER. The previous question has not been ordered, and it is not pending.

The SPEAKER. The House is now in process of dividing on seconding the demand for the previous question.

Mr. KNOTT. I renew my motion for a call of the House.

The motion was agreed to.

The roll was called; and the following-named members failed to answer:

Acklen,	Dick,	Ketcham,	Robertson,
Atherton,	Dwight,	Lapham,	Russell, Daniel L.
Bailey,	Einstein,	Lay,	Sapp,
Baker,	Errett,	Loring,	Simonton,
Ballou,	Finley,	McMahon,	Starin,
Barber,	Forsythe,	Miles,	Talbott,
Barlow,	Frost,	Miller,	Thomas,
Beale,	Hammond, John	Money,	Townsend, Amos
Bingham,	Hatch,	Morse,	Tucker,
Bland,	Hazelton,	Morton,	Washburn,
Butterworth,	Henderson,	Muller,	White,
Camp,	Hiscock,	Nicholls,	Willits,
Clardy,	Horr,	O'Brien,	Wilson.
Clark, Alvah A.	Hull,	Osmer,	
Crowley,	James,	Phelps,	
Davis, Joseph J.	Jorgensen,	Price,	

The SPEAKER. By the roll-call it appears that 228 members—more than a quorum—are present.

Mr. KNOTT. I move that further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The gentleman from Kentucky and the gentleman from Michigan will resume their places as tellers.

Mr. CONGER. When I made my point of order that there was no quorum, I did so in order that I might get an opportunity to offer an amendment which I had hoped would be admitted. But that seems to be refused continuously by the other side; and so far as I am concerned, having shown strongly enough my desire to offer the amendment, and the opportunity having been refused, I leave the responsibility with gentlemen on the other side, and withdraw the point of order.

The SPEAKER. The point of order that a quorum did not vote has been withdrawn, and the previous question will be regarded as seconded.

The main question was ordered.

Mr. KNOTT moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. I ask permission to have my amendment printed in the RECORD.

Several members objected.

The SPEAKER. Objection is made.

Mr. CONGER. I desire to know who objects.

Mr. BRAGG. I do.

The SPEAKER. The gentleman from Wisconsin objects.

Mr. CONGER. Which gentleman from Wisconsin?

The SPEAKER. The gentleman standing in the aisle, Mr. BRAGG.

Mr. CONGER. I wish to identify that gentleman as distinctly as it is possible to do.

Mr. BRAGG. Is debate in order?

The SPEAKER. It is not; but the Chair is always permissive in these cases.

Mr. BRAGG. To the gentleman from Michigan. [Laughter.]

The SPEAKER. The question is now on the passage of the bill.

Mr. McKENZIE and others called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 90, not voting 70; as follows:

YEAS—125.

Acklen,	Elam,	Ladd,	Slemons,
Aiken,	Ellis,	Le Fevre,	Smith, Hezekiah B.
Armfield,	Evins,	Lewis,	Smith, William E.
Beltzhoover,	Ewing,	Lowe,	Sparks,
Bicknell,	Felton,	Manning,	Speer,
Blackburn,	Ford,	Martin, Benj. F.	Springer,
Bliss,	Forney,	Martin, Edward L.	Steele,
Blount,	Forsythe,	Martin, Joseph J.	Stephens,
Bouck,	Frost,	McKenzie,	Stevenson,
Bright,	Geddes,	McLane,	Taylor,
Buckner,	Gibson,	McMillan,	Thompson,
Cabell,	Gillette,	Mills,	Tillman,
Caldwell,	Goode,	Morrison,	Townshend, R. W.
Carlisle,	Gunter,	Muldrow,	Turner, Oscar
Chalmers,	Hammond, N. J.	Murch,	Turner, Thomas
Clark, John B., jr.	Harris, John T.	Myers,	Vance,
Clymer,	Henkle,	New,	Waddill,
Cobb,	Henry,	O'Reilly,	Warner,
Coffroth,	Herbert,	Persons,	Weaver,
Colerick,	Herndon,	Phister,	Wellborn,
Converse,	Hill,	Poehler,	Wells,
Covert,	Hooker,	Reagan,	Whiteaker,
Cox,	Hostetler,	Richardson, J. S.	Whitthorne,
Cravens,	House,	Richmond,	Williams, Thomas
Culberson,	Hurd,	Robertson,	Willis,
Davidson,	Johnston,	Ross,	Wise,
Davis, Lowndes H.	Jones,	Rothwell,	Wood, Fernando
De La Matyr,	Kimmel,	Ryon, John W.	Wright,
Deuster,	King,	Samford,	Yocum.
Dibrell,	Kitchin,	Sawyer,	
Dickey,	Klotz,	Scales,	
Dunn,	Knott,	Singleton, O. R.	

NAYS—90.

Aldrich, N. W.	Davis, George R.	Keifer,	Robeson,
Aldrich, William	Deering,	Killinger,	Russell, William A.
Anderson,	Dunnell,	Lindsey,	Ryan, Thomas
Bayne,	Farr,	Marsh,	Shallenberger,
Belford,	Ferdon,	Mason,	Sherwin,
Bingham,	Field,	McCoid,	Smith, A. Herr
Blake,	Fisher,	McCook,	Stone,
Bowman,	Fort,	McGowan,	Tyler,
Boyd,	Frye,	McKinley,	Updegraff, J. T.
Brewer,	Garfield,	Mitchell,	Updegraff, Thomas
Briggs,	Godshalk,	Monroe,	Valentine,
Brigham,	Harmer,	Morton,	Van Aernam,
Browne,	Harris, Benj. W.	Neal,	Van Voorhis,
Burrows,	Haskell,	Newberry	Voorhis,
Cannon	Hawk,	Norcross,	Wait,
Carpenter,	Hawley,	O'Neill,	Ward,
Caswell,	Hayes,	Overton,	Washburn,
Chittenden,	Heilman,	Pierce,	White,
Claflin,	Horr,	Pound,	Williams, C. G.
Conger,	Houk,	Prescott,	Wood, Walter A.
Cowgill,	Hubbell,	Reed,	Young, Thomas L.
Crapo,	Humphrey,	Rice,	
Daggett,	Joyce,	Richardson, D. P.	

NOT VOTING—70.

Atherton,	Davis, Joseph J.	Ketcham,	Robinson,
Atkins,	Dick,	Lapham,	Russell, Daniel L.
Bachman,	Dwight,	Lay,	Sapp,
Bailey,	Einstein,	Loring,	Shelley,
Baker,	Errett,	Lounsbery,	Simonton,
Ballou,	Finley,	McMahon,	Singleton, J. W.
Barber,	Hall,	Miles,	Starin,
Barlow,	Hammond, John	Miller,	Talbott,
Beale,	Hatch,	Money,	Thomas,
Bland,	Hazelton,	Morse,	Townsend, Amos
Bragg,	Henderson,	Muller,	Tucker,
Butterworth,	Hiscock,	Nicholls,	Urner,
Calkins,	Hull,	O'Brien,	Wilber,
Camp,	Hunton,	O'Connor,	Willits,
Clardy,	James,	Orth,	Wilson,
Clark, Alvah A.	Jorgensen,	Osmer,	Young, Casey.
Cook,	Kelley,	Phelps,	
Crowley,	Kenna,	Price,	

So the bill was passed.

During the roll-call the following announcements were made:

Mr. YOUNG, of Tennessee. I am paired with Mr. WILLITS. If he were present, I would vote in the affirmative.

Mr. SPEER. My colleague, Mr. NICHOLLS, is paired with Mr. HAZELTON. If present, Mr. NICHOLLS would vote in the affirmative.

Mr. SAWYER. My colleague, Mr. CLARDY, is paired with Mr. SAPP. If present, Mr. CLARDY would vote in the affirmative.

Mr. BACHMAN. I am paired with Mr. DWIGHT. If he were present, I would vote in the affirmative.

Mr. BRAGG. On this question I am paired with Mr. JAMES.

Mr. SHELLEY. I am paired with Mr. ERRETT. If he were present, I would vote in the affirmative.

Mr. ATKINS. I am paired with Mr. BAKER, of Indiana. If he were present, I would vote in the affirmative.

Mr. SINGLETON, of Illinois. I am paired with Mr. MILES. Otherwise I should vote "ay."

Mr. HUNTON. I am paired with Mr. HISCOCK. If he were here, I would vote in the affirmative. My colleague, Mr. TUCKER, is paired with Mr. LAPHAM. If present, my colleague would vote in the affirmative.

Mr. DAVIDSON. My colleague, Mr. HULL, is paired with Mr. PRICE. If present, Mr. HULL would vote in the affirmative.

Mr. HARRIS, of Virginia. My colleagues, Mr. BEALE and Mr. JORGENSEN, are paired. If present, Mr. BEALE would vote in the affirmative.

Mr. LOUNSBERY. I am paired with my colleague, Mr. BAILEY.

Mr. O'CONNOR. I am paired with Mr. KETCHAM. If he were present, he would vote "no" and I would vote "ay."

Mr. COOK. I am paired with Mr. HENDERSON. If he were present, I would vote "ay." My colleague, Mr. NICHOLLS, is detained at home by severe sickness.

Mr. WAIT. My colleague, Mr. PHELPS, is absent by leave of the House, on account of illness in his family. My other colleague, Mr. MILES, who is absent on account of important business, is paired with Mr. SINGLETON, of Illinois.

Mr. ROBINSON. I am paired with Mr. MONEY.

Mr. LAPHAM. On all political questions I am paired with Mr. TUCKER. If he were here, I would vote "no."

Mr. BUTTERWORTH. I am paired with my colleague, Mr. ATHERTON. He would vote "ay" and I would vote "no."

Mr. MCKINLEY. My colleague, Mr. TOWNSEND, is paired with Mr. SIMONTON. If present, he would vote in the negative.

Mr. CLAFLIN. I have been requested to announce that Mr. JORGENSEN is paired with Mr. BEALE. If present, he would vote in the negative.

Mr. DAVIS, of Illinois. My colleague, Mr. BARBER, is paired with Mr. HATCH. If present, Mr. BARBER would vote "no" and Mr. HATCH would vote "ay."

Mr. CALKINS. I desire to say that I am paired with Mr. FINLEY. If he were present, I would vote in the negative.

Mr. WHITE. My colleague, Mr. DICK, is paired on all political questions with Mr. LAY. If present, I suppose my colleague would vote in the negative.

Mr. VAN AERNAM. My colleague, Mr. WILBER, who was called away a short while ago by illness, if present, would vote in the negative.

Mr. ORTH. My colleague, Mr. BAKER, is paired with Mr. ATKINS, and I am paired with Mr. WILSON, of West Virginia; otherwise my colleague and myself would vote in the negative.

Mr. RUSSELL, of Massachusetts. My colleague, Mr. MORSE, is paired with Mr. BARLOW.

Mr. MASON. My colleague, Mr. DWIGHT, is paired with Mr. BACHMAN. If present, Mr. DWIGHT would vote in the negative.

Mr. BROWNE. My colleague, Mr. SAPP, is paired with Mr. CLARDY. If present, Mr. SAPP would vote in the negative.

Mr. UPDEGRAFF, of Iowa. My colleague, Mr. PRICE, who is absent from the House in pursuance of its order, is paired with Mr. HULL. If present, my colleague would vote "no."

Mr. URNER. I am paired with my colleague, Mr. TALBOTT.

Mr. HAYES. My colleague, Mr. THOMAS, is absent on account of sickness.

Mr. ARMFIELD. My colleagues, Mr. DAVIS and Mr. MARTIN, are paired. If present, Mr. DAVIS would vote in the affirmative.

Mr. KENNA. I am paired with Mr. CAMP, of New York. If he were present, I would vote in the affirmative.

Mr. MCMILLIN. My colleague, Mr. SIMONTON, is paired with Mr. TOWNSEND, of Ohio. If he were present, he would vote in the affirmative.

Mr. BLISS. My colleagues, Mr. O'BRIEN and Mr. EINSTEIN, are paired. If present, Mr. O'BRIEN would vote in the affirmative and Mr. EINSTEIN in the negative. My colleagues, Mr. MULLER and Mr. HAMMOND, also are paired. If present, Mr. MULLER would vote in the affirmative and Mr. HAMMOND in the negative.

The vote was then announced as above recorded.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 1343) to provide for certain expenses of the present session of Congress, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed and requested the concurrence of the House in a joint resolution of the following title:

A joint resolution (S. R. No. 25) authorizing the Public Printer to bind in cloth two volumes of Sailing Directions for the United States Hydrographic Office.

ORDER OF BUSINESS.

The SPEAKER. The unfinished business coming over is the consideration of the bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes, reported from the Committee on Coinage, Weights, and Measures with amendments.

Mr. CHALMERS. I desire at this time to call up a privileged question which was laid over some time ago, subject to my call. I have delayed from time to time, to accommodate other gentlemen, and I desire now to call up the question.

Mr. GARFIELD. I desire to reserve whatever points of order were reserved before.

Mr. ATKINS. I move that the House do now adjourn.

Mr. CHALMERS. I hope that the gentleman from Tennessee will not insist on that motion.

Mr. ATKINS. I do not make the motion to adjourn from any disrespect to my friend from Mississippi; but I will say that I am opposed to that investigation, for I do not think there is anything to investigate.

Mr. CHALMERS. I ask the gentleman from Tennessee to hear my statement first.

The SPEAKER. The Chair is bound to recognize the motion to adjourn.

Mr. ATKINS. I do not insist on the motion, as I do not wish the gentleman from Mississippi to consider that I am discourteous to him. But as I have said, so far as I am concerned I am opposed to the investigation. I do not think the gentleman needs to have the investigation. I do not think his reputation is dependent on it at all. I do not think it will do any good either to him or the country.

Mr. GIBSON. I concur entirely with the gentleman from Tennessee; and I reserve all points of order.

Mr. WHITE. I am heartily opposed to this investigation, and will feel it my duty to resist it to the utmost as establishing a dangerous precedent. I think the House should now adjourn, and as the gentleman from Tennessee has withdrawn the motion to adjourn I renew it.

The question being taken on the motion to adjourn, it was agreed to.

EXPENSES OF EIGHTH AND NINTH CENSUSES.

Pending the announcement of the vote,

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, asking an appropriation to

defray certain expenses of the eighth and ninth censuses; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HENRY, for eight days, on account of important business;

To Mr. PIERCE, for ten days, on account of important business;

To Mr. VAN AERNAM, to and including Thursday of next week; and

To Mr. BRAGG, for two weeks, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. SMITH, of Pennsylvania, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Abraham Alstead; there being no adverse report thereon.

PRINTING OF REPORT.

The SPEAKER. The gentleman from Virginia [Mr. HUNTON] asks unanimous consent to have printed for the use of the House report of Committee of Claims, Forty-fifth Congress, accompanying House bill No. 5078, relating to the claim of the States of Virginia and Maryland for money advanced for the purpose of erecting public buildings at the seat of Government.

Mr. WHITE. I object.

LAWS OF MONTANA.

The SPEAKER. The Chair lays before the House laws, resolutions, and memorials of the Territory of Montana passed at the eleventh regular session of the Legislative Assembly held at Helena, the seat of government of the said Territory, commencing January 13, A. D. 1879, and ending February 21, A. D. 1879, to which are prefixed the sections of the Revised Statutes and subsequent acts of Congress relating to government in the Territory of Montana. They will be laid upon the table.

Mr. CONGER. I think they should be referred to the Committee on the Judiciary.

The SPEAKER. They are sent here in obedience to the law organizing the Territory. They come into possession of the House, go upon the table, and then into the House Library.

Mr. CONGER. Those laws, by the law of the United States, are subject to be revised by Congress, and I think should be referred to the Committee on the Judiciary.

The SPEAKER. The Chair has no objection to that. They will be so referred.

J. C. JENKS.

Mr. McCOOK, by unanimous consent, introduced a bill (H. R. No. 1837) for the relief of J. C. Jenks, of New York; which was read a first and second time, and referred to the Committee of Claims.

MANUFACTURE OF STILLS.

Mr. BRIGHT, by unanimous consent, introduced a bill (H. R. No. 1838) to amend section 3244 of the Revised Statutes of the United States, in relation to the manufacture of stills; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

The result of the vote on the motion to adjourn was then announced; and accordingly (at three o'clock and seventeen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: Memorial of the centennial board of finance, for the passage of an act closing its affairs and dissolving said corporation—to the Committee on the Judiciary.

By Mr. BREWER: The petition of Hon. A. C. Baldwin and 104 others, citizens of Pontiac, Michigan, for the building of a bridge across the Detroit River at Detroit—to the Committee on Commerce.

Also, the petition of B. O. Williams and 111 others, citizens of Owosso, Michigan, of similar import—to the same committee.

By Mr. BURROWS: The petition of Hon. Allen Potter and 43 others, citizens of Kalamazoo, Michigan, of similar import—to the same committee.

By Mr. BRENTS: A paper favoring the establishment of additional post-routes in Washington Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. CRAPO: Papers relating to the claims of William T. Smith and Nathan Browne, jr., of New Bedford, Massachusetts, and Samuel Osborn, jr., of Edgartown, Massachusetts—to the Committee of Claims.

By Mr. DEUSTER: A resolution amending Rule 134, so as to allow clerks to House committees admission to the floor—to the Committee on Rules.

By Mr. HOSTETLER: The petition of M. M. Gordon and others, citizens of Indiana, for an increase of the pension of Henry C. Groomes—to the Committee on Invalid Pensions.

By Mr. KILLINGER: The petition of Seth Driggs, for permission to reproduce documentary evidence in support of a certain memorial—to the Committee on Foreign Affairs.

By Mr. KLOTZ: The petition of officers and members of the National Christian Temperance Union, and others, against any change in the internal-revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. LADD: Papers relating to the bounty claim of John B. Slack, late an acting third assistant engineer of the United States Navy—to the Committee of Claims.

By Mr. McKINLEY: The petition of J. H. Jones and 351 others, citizens of Mount Union, Ohio, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

Also, the petition of Captain A. S. McClure and 17 others, citizens of Wooster, Ohio, that John J. Hollinger be placed on the pension-rolls—to the Committee on Invalid Pensions.

By Mr. MORTON: The petition of Major Alvin Walker, for a pension—to the same committee.

By Mr. NEW: The petition of Gallus Kirchner, for payment for stone furnished the Government—to the Committee of Claims.

By Mr. PIERCE: Papers relating to the claim of Franklin Lee and Charles F. Dunbar for work done in the harbor of Ashtabula, Ohio—to the same committee.

By Mr. STEPHENS: The petition of Alfred Syles, for compensation for labor performed under the Doorkeeper of the House—to the Committee of Accounts.

By Mr. WASHBURN: A paper favoring the establishment of a post-route from Breckinridge, Minnesota, to Fort Pierre, Dakota Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. WHITEAKER: The petition of M. P. Jones, for the refunding of certain moneys deposited with the United States depository at Portland, Oregon, for the survey and purchase of lands—to the Committee on Public Lands.

Also, the petition of B. F. Fuller and others, citizens of Yamhill, Oregon, favoring the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, a paper relating to the claim of William L. Adams, late collector of customs at Astoria, Oregon, for the crediting of his accounts with public moneys stolen from him—to the Committee of Claims.

Also, the petition of Alonzo Gesner, for compensation for surveying certain public lands—to the Committee on Public Lands.

IN SENATE.

WEDNESDAY, *May* 7, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

THE JOURNAL.

The Journal of yesterday's proceedings was read.

Mr. HOUSTON. I should like to hear that part of the Journal read again relating to the point of order raised yesterday.

The PRESIDENT *pro tempore*. It will be again read.

The Chief Clerk read as follows:

The PRESIDING OFFICER (Mr. WITHERS in the chair) announced that the morning hour had expired.

Mr. HOUSTON raised a question of order that, as the resolution was a privileged question, it must be proceeded with without motion and to the exclusion of other business.

Mr. HOUSTON having proceeded to read a decision of the Vice-President made November 29, 1877,

Mr. CONKLING raised a question of order that the Chair having submitted no question of order to the Senate and there having been no ruling from which an appeal had been taken, under the fortieth rule Mr. HOUSTON was not in order.

The PRESIDING OFFICER (Mr. WITHERS in the chair) overruled the question of order raised by Mr. CONKLING, and decided that Mr. HOUSTON was proceeding in order.

From the decision of the Chair Mr. CARPENTER appealed to the Senate, and on the question, Shall the decision of the Chair stand as the judgment of the Senate?

On motion, by Mr. HILL, of Georgia,

That the appeal lie upon the table,

It was determined in the affirmative.

Mr. HOUSTON. How did we proceed then? What was the next point?

The Chief Clerk continued to read from the Journal of yesterday's proceedings, as follows:

It was determined in the affirmative—yeas 24, nays 23.

* * * * * * *

So the appeal was laid on the table.

Mr. HOUSTON withdrew his point of order; and

The PRESIDING OFFICER (Mr. WITHERS in the chair) announced that there being neither unfinished business nor special order on the Calendar, under the thirteenth rule the Senate would proceed with the consideration of the resolution.

The Journal of yesterday's proceedings was approved.

PETITIONS AND MEMORIALS.

Mr. WITHERS presented the petition of Squire Moon, first lieutenant Company G, Second Regiment United States Dragoons, praying for the passage of a law granting him a pension; which was referred to the Committee on Pensions.

UNITED STATES SHIP ALARM.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs, to which was referred the bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm, to report it without amendment and recommend its passage. There is urgent necessity for the immediate passage of this bill. The ship Alarm was built at an expense of a quarter of a million of dollars, and is entirely useless on account of the inefficiency of the propeller. The season has arrived

now for experiments, and if the bill is not passed presently the season will go by and we shall lose a year. I ask for the present consideration of the bill.

Mr. EDMUNDS. Can you not wait until to-morrow?

Mr. ANTHONY. I may not be able to get it up then.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $20,000 to enable the Secretary of the Navy to fit a new propeller to the United States torpedo-boat Alarm and to conduct experiments as to the best mode of propelling and steering the vessel.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ENLISTMENTS IN THE NAVY.

Mr. JONES, of Florida. I am authorized by the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy, to report it without amendment. The effect of it is to enable the Secretary of the Navy to increase the number of apprentices in the naval service annually. The bill has passed the House without objection, and I think every Senator who is acquainted with the subject will say that it is a very meritorious and necessary measure. It has been recommended highly by the Secretary of the Navy, and I am authorized to state that it will not involve any additional expenditure of public money. It authorizes an annual enlistment of seven hundred and fifty boys. I ask for its present consideration.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Secretary read the bill.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. WITHERS. I would rather the bill should go over. I dislike to object to it, but it is a long bill, involving many changes in existing laws, and I should like to know more about it.

The PRESIDENT *pro tempore*. The bill being objected to will go on the Calendar.

ASSISTANTS IN THE LIBRARY.

Mr. VOORHEES. At a meeting of the joint committee of the two Houses of Congress on the Library, this morning, I was unanimously instructed to report a bill which I send to the desk.

The bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress was read the first time by its title.

Mr. VOORHEES. I ask for the present consideration of the bill.

Mr. COCKRELL. Let it be reported for information.

The PRESIDENT *pro tempore*. The bill will be read the second time in full.

The bill was read the second time, as follows:

Be it enacted, &c., That the Librarian of Congress be authorized to employ three additional assistants at a yearly compensation of $1,200 each; and the sum necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of this bill?

Mr. DAVIS, of West Virginia. I do not object to the bill, but I should like to know the necessity for it. It proposes to increase the force of the Senate, as I understand it. I dislike to have that done.

Mr. WALLACE. It increases the force in the Library.

Mr. DAVIS, of West Virginia. Well, it is the same thing. It comes under the expenses of the Senate, as I understand.

Mr. VOORHEES. I will explain to my friend.

The PRESIDENT *pro tempore*. The bill is not yet before the Senate. Is there objection to its present consideration?

Mr. DAVIS, of West Virginia. For the present I will not object, but I should like to hear an explanation of it.

Mr. VOORHEES. I will state to the Senator from West Virginia, with the permission of the Senate, that at a meeting this morning of both Committees on the Library a statement was made to the joint committee by the Librarian, Mr. Spofford, of such a character relating to the condition and the inadequacy of his force that the committee unanimously instructed me to report this bill and ask for its present consideration. Surely the Senator from West Virginia will be satisfied when I inform him that the Senator from Vermont, [Mr. EDMUNDS,] who is a member of that committee, consented to its consideration at this time. I would state that so strong was the case made by the Librarian that it called, as we thought, for immediate action.

Of course, the Senator from West Virginia does not expect me to go into the details that were laid before us in such a strong manner by the Librarian. I am not prepared to do so; but upon his statement, made to us in writing, we thought it proper and right for the preservation of the property of the Government that he should have this increased force under him and at once without delay. I trust that will be satisfactory.

Mr. DAVIS, of West Virginia. I do not object to the present consideration of the bill.

The PRESIDENT *pro tempore*. The bill will then be considered as before the Senate as in Committee of the Whole and open to amendment.

Mr. DAVIS, of West Virginia. The Senate a few days ago instructed a committee to examine and report generally on the employés engaged on the part of the Senate, and the subject is under investigation by that committee. I thought when I heard the bill read that it was hardly necessary and hardly proper to increase the force by three or four persons in a particular division without some very special cause for it. The committee that has had the legislative, executive, and judicial appropriation bill under consideration has heard nothing of an increased force being desired in the Library, and I thought it strange that when a bill now pending before the Senate which provides for that force and all other forces of the kind nothing whatever had been said about the necessity of an increased force in the Library. The Joint Committee on the Library, I understand from my friend from Indiana, has acted upon this measure and thinks there is an immediate necessity for it.

I, of course, shall not object to the passage of the bill; but I believe now as I have previously thought that it would be better to wait and go slowly before we increase the force about the Capitol. It has been said recently and for years back that the force was annually being increased. I think I am justified in stating that there is double the force now engaged about the Capitol than there was in 1860, and perhaps one-third more than there was in 1870. I think we should go slowly, very slowly indeed, in making changes, especially where they propose an increase of the force by three or four persons in a single room in the building.

Mr. VOORHEES. Mr. President, these are not Senate employés. They are employed by the authority of Congress, both branches of Congress participating in their authorization. I agree with the Senator from West Virginia that we ought to go slowly about increasing the expenses of the Government; but it is due that I should say that the present Librarian of Congress has managed the largest library in the United States with a force not more than one-fourth as large as is employed in other libraries in the United States of a less number of volumes. His economy has been extraordinary. He has managed this Library of nearly four hundred thousand volumes with only eighteen men—with only fifteen up to a short time ago—whereas in the case of the Boston and other libraries of magnitude, but not of equal magnitude to the Congressional Library, there has been a force of from seventy-five to one hundred men in their management. Instead of there being any danger of extravagance under our present Librarian, if I were disposed to chide him at all, (which I am not, for he is a most competent and excellent officer in every respect,) it would be for too much economy, and for not having asked for a sufficient force, not merely to keep the Library in proper shape, but to relieve those who are there employed from overwork. I am satisfied that this bill is in the interest of real genuine economy and of the public service, and I hope that it may be passed at once.

Mr. EDMUNDS. Mr. President, I am very much in favor of the proposition of the Senator from Indiana, though I did not happen to be present at the exact moment when he asked for the present consideration of the bill, which I think as a rule is a very bad plan. But on looking into the law a little further, I will suggest to the Senator from Indiana that I think perhaps it may be well to let the bill lie over until to-morrow so that we can make a little comparison with the provisions of this bill and those that are already incorporated by the House in the legislative bill. It might possibly produce a little confusion; and I think if he is willing that we can take it up to-morrow and dispose of it; there is time enough.

Mr. VOORHEES. In accordance with the suggestion of the Senator from Vermont I shall take that course, and let the bill lie over until to-morrow and be printed.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, printed, and go over until to-morrow.

PERSONAL EXPLANATION.

Mr. CONKLING. Mr. President, I rise to a privileged question.

The PRESIDENT *pro tempore*. The Senator from New York rises to a privileged question which he will please state.

Mr. CONKLING. My purpose is to call attention to an inaccuracy in the Journal. I do it because of the custom of Senators to read from the Journal in past times and treat entries in the Journals as precedents to govern the body accordingly or somewhat accordingly. The Journal, I observe, recites that—

The PRESIDING OFFICER (Mr. WITHERS in the chair) announced that the morning hour had expired.

Mr. HOUSTON raised a question of order that, as the resolution was a privileged question, it must be proceeded with without motion and to the exclusion of other business.

Mr. HOUSTON having proceeded to read a decision of the Vice-President made November 29, 1877,

Mr. CONKLING raised a question of order that the Chair having submitted no question of order to the Senate, and there having been no ruling from which an appeal had been taken, under the fortieth rule Mr. HOUSTON was not in order.

The PRESIDING OFFICER (Mr. WITHERS in the chair) overruled the question of order raised by Mr. CONKLING, and decided that Mr. HOUSTON was proceeding in order.

From the decision of the Chair Mr. CARPENTER appealed to the Senate, and on the question, Shall the decision of the Chair stand as the judgment of the Senate,

On motion by Mr. HILL, of Georgia,

That the appeal lie upon the table,

It was determined in the affirmative—

Giving the vote by which that determination was made.

I read from the RECORD to test, as far as the RECORD does test, the accuracy of that narrative:

The PRESIDING OFFICER, (Mr. WITHERS.) The Chair calls attention to the fact that the morning hour has expired. What is the pleasure of the Senate?

Mr. SAULSBURY. This is a privileged question, and I suppose will continue.

Mr. HOAR. Mr. President, I suppose it is in the power of the majority of the Senate to lay aside the pending business and take up this resolution. I do not suppose it would be probably according to the inclination of any member of the minority to oppose that proposition—

That is, a motion to take it up or continue it.

The PRESIDING OFFICER. That the Chair understands to be the proposition of the chairman of the committee.

Passing on a little further:

Mr. HOAR. I understand that the Vice President in this very case ruled that it having come up in the morning hour it was not privileged as against the ordinary business of the Senate, and that yesterday the President *pro tempore* of the Senate announced that he should feel himself constrained in regard to this case to follow the precedents of the Senate and make the same ruling.

Passing on a little further:

Mr. HOUSTON—

And this is the first time that the Senator from Alabama appears from this record to have addressed the Senate.

Mr. HOUSTON. Mr. President, I will read a very few lines showing the decision of the Vice-President on the very point before the Senate.

* * * * * * *

The PRESIDING OFFICER. The question now is the decision on the point made by the Senator from Massachusetts upon which the Senator from Alabama proposes to read the decision referred to by the Senator.

The Presiding Officer again says:

The Chair understood that the Senator from Massachusetts did object, and stated the reason for his objection. The Senator from Alabama then proposed to read the decision referred to by the Senator from Massachusetts in support of the objection raised; and the Chair rules that the Senator from Alabama is entitled to the floor for that purpose.

That is, to argue the point of order which had been raised by the Senator from Massachusetts. Thereupon the Senator from Alabama proceeded to read and concluded his reading, and having concluded it, was entering upon an argument of his own upon the validity of this point of order, whereupon this record says:

Mr. CONKLING. Mr. President, I rise to a question of order. The Senator from Alabama insists that he is proceeding upon a point of order. I demand the reading of Rule 40. I think we had better preserve some show of system in our proceedings here.

Thereupon Rule 40 was read, which declares that a point of order shall be decided without debate, subject to an appeal to the Senate.

Mr. CONKLING. Now my point of order is that the Chair having submitted no question of order to the Senate, and there having been no ruling from which an appeal has been taken, the Senator from Alabama is out of order.

The PRESIDING OFFICER. The Chair rules against the point of order raised by the Senator from New York.

My purpose is, Mr. President, fully appreciating the entire want of value practically now in what occurred yesterday so far as regards the pending proceedings, to make on the record an entry which will prevent the future students of the precedents of the Senate from supposing that any such proceeding took place as is here set down in the Journal.

I made no point of order that the Senator from Alabama had not a right to state any point of order which he chose to advance. I did not object to his reading (although I might have done so) a ruling made by a former occupant of the chair. On the contrary, the whole point of my objection was that the Senator from Alabama, in the absence of an appeal, no question being submitted to the Senate, had no right to argue a pending point of order which had been submitted by the honorable Senator from Massachusetts.

I suppose that I sufficiently accomplish my purpose, which is to guard as far as I may guard, against the misreading of this precedent in the future, without making any formal motion to correct the Journal; and unless some other Senator deems it important I will not submit that motion, but will content myself with such *caveat* as I have been able to file in the RECORD against the verity of the entry.

REPORTS OF COMMITTEES.

Mr. WHYTE. I am directed by the Committee on Naval Affairs, to whom was referred the bill (S. No. 125) to appoint Spruille Braden an ensign in the United States Navy, to report it favorably. There is no written report accompanying the bill, but the committee, having reported it at the last session of Congress with a written report, rely upon the report as made by the Committee on Naval Affairs at the last session of Congress.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. MCMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 566) to restore to certain scouts and soldiers of the United States Army of the Sioux Nation of Indians the money and annuities belonging to them, confiscated and forfeited to the United States under an act for the relief of persons for damages sustained by reason of depredation and injuries by certain bands of Sioux Indians, approved February 16, 1863; which was read twice by its title, and referred to the Committee on Claims.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 567) for the relief of William S. Mackay; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 568) to provide for the purchase of two hundred acres of land in the State of Florida and to establish thereon an experimental farm for the cultivation and improvement of plants adapted to the climate of that part of the United States; which was read twice by its title, and referred to the Committee on Agriculture.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 569) to provide for the purchase of suitable sites and the erection thereon of public buildings and the improvement and repairs of the buildings now belonging to the United States in the cities of Jacksonville, Pensacola, and Key West, in the State of Florida; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 570) to repeal a portion of sections 5 and 6 of an act in relation to pensions, approved March 9, 1878; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WITHERS, it was

Ordered, That the papers filed with the application of Charles W. Rogers for relief be withdrawn from the files of the Senate and referred to the Committee on Post-Offices and Post-Roads.

On motion of Mr. MORGAN, it was

Ordered, That the papers in the case of the Deposits Savings Association of Mobile, Alabama, be withdrawn from the files of the Senate.

OCCUPATION OF THE INDIAN TERRITORY.

Mr. INGALLS. I ask for the present consideration of the following resolution:

Resolved, That the President be requested, if not incompatible with public interest, to report to the Senate what information he has in reference to an alleged occupation of a portion of the Indian Territory by white settlers, and what action has been taken to prevent the same.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution. The Chair hears none.

Mr. EDMUNDS. I wish to suggest that the word "report," where it occurs in the application to the President, should be changed to "communicate" which is the usual phrase and is a little more in style.

The PRESIDENT *pro tempore*. The resolution will be so modified if there be no objection.

The resolution, as modified, was agreed to.

ADMENDMENTS TO AN APPROPRIATION BILL.

Mr. PENDLETON. I ask leave to submit an amendment which I shall at the proper time propose to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes. I ask that it be printed and lie on the table.

Mr. EDMUNDS. I suggest to the Senator from Ohio that perhaps his amendment ought to go to the Committee on Appropriations. There is a rule which requires that course to be taken.

Mr. PENDLETON. The bill has been already reported.

Mr. EDMUNDS. That does not make any difference under the rule, which says all amendments are to be referred. I merely make the suggestion in a friendly spirit.

Mr. PENDLETON. Certainly, and in that spirit I accept it.

The PRESIDENT *pro tempore*. The amendment will be referred to the Committee on Appropriations and printed.

Mr. CALL submitted an amendment intended to be proposed by him to the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, and ordered to be printed.

MILITARY INTERFERENCE AT ELECTIONS.

The PRESIDENT *pro tempore*. If there are no more "concurrent or other resolutions" the Senate will proceed to the consideration of the unfinished business, which is the resolution reported from the Committee on Privileges and Elections.

Mr. EATON. I move that the bill (H. R. No. 1382) to prohibit military interference at elections be taken up for its second reading. The bill was received yesterday from the House and read the first time.

The PRESIDENT *pro tempore*. The unfinished business is the resolution reported from the Committee on Privileges and Elections. The Senator from Connecticut moves to postpone that resolution for the purpose of taking up House bill No. 1382.

Mr. EDMUNDS. I will suggest, with great respect to the Chair, that inasmuch as it is not yet one o'clock the unfinished business is not yet before the Senate, except as we usually treat it to be one o'clock for the purpose of convenience when Senators are ready to go on. Therefore I think the honorable Senator from Connecticut is entitled to make the motion that he does make, without displacing the unfinished business before one o'clock, to take the House bill that he refers to from the table for its second reading.

The PRESIDENT *pro tempore*. The Chair will put the question, then, in that way, that the Senate proceed to the consideration of this bill without displacing anything. Is there objection? The Chair hears none. The bill will be read the second time.

Mr. EDMUNDS. The question is, shall it be read the second time?

The PRESIDENT *pro tempore*. If there is no objection the bill will be considered as read the second time.

Mr. EDMUNDS. I should like to hear it read, Mr. President.

The PRESIDENT *pro tempore*. The bill will be read in full. The second reading of the bill.

The bill was read at length.

Mr. EDMUNDS. What has become of that most important part of the bill, the preamble? I want to hear that. Has not the bill a preamble? We ought to have the preamble by all means.

The PRESIDENT *pro tempore*. The preamble will be read.

The Secretary read the preamble.

The PRESIDENT *pro tempore*. The bill having been read twice is before the Senate as in Committee of the Whole, and open to amendment.

Mr. EDMUNDS. I move that the bill be referred to the Committee on the Judiciary, which I believe is familiar with that subject.

Mr. EATON. If the Senator from Vermont will withdraw the motion, as I was about to make one, having taken charge of the bill, I should be obliged to him.

Mr. EDMUNDS. I did not understand the Senator from Connecticut.

Mr. EATON. I say that as I called the bill up and was about to make another motion regarding its disposition, I should be obliged to the Senator from Vermont if he would withdraw the motion for reference.

Mr. EDMUNDS. Will the Senator kindly inform me what his motion is?

Mr. EATON. I will. I propose that the bill lie on the table; that is all.

Mr. EDMUNDS. I think it ought to be referred, Mr. President.

Mr. EATON. Very well; I object to its reference. Let us have a vote on it.

The PRESIDENT *pro tempore*. It is moved that the bill be referred to the Committee on the Judiciary. Is the Senate ready for the question? [Putting the question.] In the opinion of the Chair the noes have it.

Mr. CONKLING. I ask for the yeas and nays.

Mr. EDMUNDS. Let us have the ayes on the yea-and-nay list.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) On this bill and to-day I am paired with the Senator from Illinois, [Mr. DAVIS,] who is detained at his rooms by sickness. If he were here, I should vote "yea."

Mr. EDMUNDS. How would he vote?

Mr. CARPENTER. I do not know how he would vote.

The roll-call was concluded.

Mr. ALLISON. I desire to state that my colleague [Mr. KIRKWOOD] is paired with the Senator from West Virginia, [Mr. HEREFORD,] both being absent; that the Senator from Maine [Mr. HAMLIN] is paired with the Senator from Mississippi, [Mr. LAMAR;] and that the Senator from Maine [Mr. BLAINE] is paired with the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. DAVIS, of West Virginia. The Senator from Minnesota [Mr. WINDOM] and myself are paired.

Mr. PADDOCK. I am paired with the Senator from Georgia, [Mr. GORDON.] If he were here, I should vote "yea."

Mr. FARLEY. I am paired with the Senator from Nevada [Mr. JONES] upon political questions, which I suppose will prevent my voting on the matter now under consideration. If he were here, I should vote "nay." As he is not here, I decline to vote.

The result was announced—yeas 24, nays 31; as follows:

YEAS—24.

Allison,	Cameron of Wis.,	Hill of Colorado,	Morrill,
Anthony,	Chandler,	Hoar,	Platt,
Bell,	Conkling,	Ingalls,	Plumb,
Booth,	Dawes,	Kellogg,	Rollins,
Burnside,	Edmunds,	Logan,	Saunders,
Cameron of Pa.,	Ferry,	McMillan,	Teller.

NAYS—31.

Bailey,	Hill of Georgia,	Morgan,	Vest,
Bayard,	Houston,	Pendleton,	Voorhees,
Beck,	Johnston,	Randolph,	Walker,
Call,	Jonas,	Ransom,	Wallace,
Cockrell,	Jones of Florida,	Saulsbury,	Whyte,
Eaton,	Kernan,	Slater,	Williams,
Garland,	McDonald,	Thurman,	Withers.
Harris,	Maxey,	Vance,	

ABSENT—21.

Blaine,	Davis of W. Va.,	Hampton,	Paddock,
Bruce,	Farley,	Hereford,	Sharon,
Butler,	Gordon,	Jones of Nevada,	Windom.
Carpenter,	Groome,	Kirkwood,	
Coke,	Grover,	Lamar,	
Davis of Illinois,	Hamlin,	McPherson,	

So the motion to refer was not agreed to.

Mr. EATON. I move that the bill lie on the table.

The motion was agreed to.

SENATOR FROM LOUISIANA.

The PRESIDENT *pro tempore*. If there is no other morning business the morning hour is at an end, and the unfinished business is the resolution reported by the Committee on Privileges and Elections relative to the seat of the Senator from Louisiana, upon which the Senator from Wisconsin [Mr. CARPENTER] is entitled to the floor.

Mr. HILL, of Georgia. Before the Senator from Wisconsin proceeds I should like, by his permission, to get a fact right which was in issue yesterday between myself and other Senators.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin yield?

Mr. CARPENTER. Certainly.

Mr. HILL, of Georgia. It is important to the Senator's argument that it should be set right. Yesterday the following occurred:

Mr. HILL, of Georgia. Do I understand the Senator from Wisconsin to say that the charge of the bribery by Kellogg of the members of the Packard legislature was made in the former trial?

Mr. CAMERON, of Wisconsin. I do distinctly say that.

Mr. HILL, of Georgia. I say you cannot show it.

Mr. CAMERON, of Wisconsin. I say I can show it.

Mr. HILL, of Georgia. I make that issue right now.

Mr. President, I have examined the proceedings before the committee and the Senate as far as I could and certainly all the charges, and I have been able to find no such charge as the charge of bribery by Mr. KELLOGG of the members of the Packard legislature in the former trial; and while it is not necessary to take upon myself the proof of a negative as there is no such charge in the proceedings, I will now furnish the proof of a negative. When this case was before the committee at this session, the other day, Mr. Spofford, in his statement before the committee, used the following language:

Where in the whole course of the former discussion, in the whole course of the former hearing, was any charge made at all approaching to that made in this petition, that only by reason of bought votes, bought by the personal interposition of the sitting member himself, did he get any pretended election at all to the Senate? Where was that ever passed upon anywhere? Where was it ever alleged before I filed this petition here the other day, or rather before the petition was offered in the Senate by Mr. JONAS, Senator from Louisiana, and referred by the Senate to this committee? The petition alleges votes enough bought by his personal interposition to give him the seat, but for which he would not have the seat to-day. Is that barred by the plea of *res adjudicata* because I contested his seat upon the ground that my legislature was the legal legislature, and his pretended legislature was not the legal legislature? The *onus* of proof is upon him, according to the authority I have just read, to show that every precise point in dispute made by this petition has been weighed, considered, passed upon, and adjudged by the Senate of the United States heretofore. And he answers my motion for authority to take testimony by this plea of *res adjudicata* to such a petition as that!

Again Mr. Spofford said in the presence of the committee:

Still this petition is made by me, not only in my character as a member-elect holding credentials to a seat in the Senate, but it is made in my separate character as a citizen of Louisiana; and one citizen of Louisiana has as much power as all the citizens of Louisiana, or as the Legislature of Louisiana itself, to come in before the Senate and say, "here is a man representing my State sitting in your body who has no right to sit there; because, without having bought the number of votes he did buy, the unbought votes would not have seated him; therefore he does not sit here supported by a legal quorum of uninfluenced, free votes which he must have in order to sit." It is a question that has never been raised before in any proceeding whatever; but I have raised it here.

Now I state distinctly that the charge of bribery by Kellogg of the members of the Packard legislature was never raised at all, either before the committee or before this body, and was never passed upon by either until the present petition was filed before the committee.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. HILL, of Georgia. Yes, sir.

Mr. CARPENTER. Does the Senator concede that it might have been raised by Mr. Spofford at that time?

Mr. HILL, of Georgia. I do not think it would have been proper or ought to have been raised, because the issue was different; and I will state to the Senator from Wisconsin why.

Mr. CARPENTER. Do I understand the Senator to say that it would not have been competent, when the very question was whether Mr. KELLOGG should be seated or not, to show that he had obtained his election by bribery?

Mr. HILL, of Georgia. I will state why the question could not have been raised. Ordinarily it could; but in that case, when the credentials had been referred, the only contest between Kellogg and Spofford was as to which was the Legislature of Louisiana. They each claimed an election by a different body of men, each body claiming to be the true Legislature. It was out of place for Mr. Spofford to charge that Mr. KELLOGG had bribed the members of a body which he said was not the Legislature. You could not bribe a man who was not a member. Now, however, you have assumed by your previous decision that this was the Legislature; and "Now, if you insist that it was the Legislature," he says, "then I charge that being the Legislature it was bribed." That is the difference; that is why the point was not made before, and I say I do not think that therefore it is concluded, because it cannot be said, in the ordinary legal sense of the rule to which I know the Senator refers, that it could have been properly made in the then state of the proceedings. It would have been irrelevant.

Mr. CAMERON, of Wisconsin. Mr. President, when this matter came up yesterday afternoon my recollection was that there was a good deal said before the committee two years ago in regard to this charge of bribery and corruption. I found that the Senator from Minnesota who sits on my left [Mr. MCMILLAN] had the same recollection in regard to what was said and done before the committee at that time. Since yesterday I have not had access to the journal of the committee. I will examine it, and if I find that the Senator from Georgia is correct, I will take early occasion to state that to the Senate.

Mr. HILL, of Georgia. I wish to call the attention of the Senator from Wisconsin to another statement. Here is what Mr. KELLOGG

said himself after he had heard the statement of Mr. Spofford to which I have referred. Mr. KELLOGG, before the committee, said:

So far as that is concerned, the case was closed; it was disposed of. All these points, as I insist, were covered by the evidence. Now he comes up and asks upon cumulative evidence or for other reasons, as he has alleged, that the case be re-opened—for what purpose? To take evidence upon the point (assuming mine to have been a legal Legislature) that I was guilty of bribery—another question entirely.

He admits that it is another question. "Now," he says, "you come up and, having settled that mine was the legal Legislature, charge that I was guilty of bribery of my Legislature; that is another point entirely." That is conclusive that this point never was before the Senate, never was before the committee, never was charged or considered, no evidence was ever taken upon it, and we say that it must be considered.

Mr. KELLOGG. If the Senator from Georgia will permit me, I will state that I said that was another point entirely differing from the five points made by Mr. Spofford in his memorial. I was dwelling upon the five points and had asserted that those five points were covered by the evidence, point by point, amply and fully, as I say now, and as the record will show. Then I say, assuming this to be true, he comes here upon still another point. And upon that point I ought to say, in support of the statement of my friend from Wisconsin, [Mr. CAMERON,] that there was evidence full and complete regarding the question of bribery in the journals of the Packard legislature, which, by express stipulation between Mr. Spofford and myself, were made a part of the record and evidence in the case and were before the committee and considered by them.

Mr. HILL, of Georgia. Of course there was evidence before the committee before, as assumed by them, upon all the points made in the record of the former hearing, which we deny; but all the points made on the record then went to the validity of the Packard legislature. Now, as the gentleman correctly says—in that we concur—assuming that Legislature to be the legitimate Legislature, a new and entirely different point is made that he bribed that Legislature. That is the point, and all I have to say is that it is a new point and the record shows it is a new point. I say here to the Senator from Wisconsin that there is not one particle of evidence or charge in the former proceedings anywhere that Mr. KELLOGG bribed the Packard legislature upon the assumption that it was a Legislature.

Mr. CARPENTER. Mr. President, I endeavored yesterday to show that the passage of this resolution would commit the Senate to the doctrine that it could reinvestigate and redetermine the right of Mr. KELLOGG to his seat, because no Senator could vote an investigation to be conducted at the expense of the Treasury of the United States concerning a matter over which the Senate had no jurisdiction. Therefore if it can be shown that the Senate has no power to retry this case, then this resolution should be defeated. I also maintained that if the Senate could now unseat Mr. KELLOGG it was impossible for it to make a decision which should be final and conclusive upon the subject; that if you should retry the case and come to the same conclusion as before and express your determination in the most apt and appropriate language, it would still be in the power of the Senate the next week or session or five years afterward to reopen the case and enter upon another trial, or if upon such examination you should come to the conclusion that Kellogg was not entitled to his seat, he might come back the next day and ask you to reconsider the question and it would still be in your power to do so. In other words this absurd result follows: the Senate which under the Constitution has the right to settle this question never could settle it. It requires no argument to show, because it is apparent, that such a doctrine would Mexicanize this Senate at once. There is not a seat held here that could not be taken away upon such a principle, and I undertake to say that Mr. KELLOGG has a clearer and a stronger title to his seat to-day than any one in this body. The Senator from New York, [Mr. CONKLING,] the Senator from Vermont, [Mr. EDMUNDS,] and myself were seated here upon a mere *prima facie* showing of our right, without question, without examination, without determination, beyond what is involved in the acquiescence of the Senate in our being sworn in as Senators. I do not propose to discuss here and now whether or not the Senate after the expiration and adjournment of the session at which we were admitted to seats on a *prima facie* case could enter into an investigation and unseat us. My impression is that it could not. But it is unnecessary to consider this question now, because the Senator from Louisiana [Mr. KELLOGG] was not so seated but was seated after a full hearing and a determination of his title upon the merits of his case.

It is my purpose to-day, regarding this as a mere legal question, to make my remarks as little of a speech and as much of an argument as possible. Upon this question we ought not to invoke partisan feeling or prejudice. This is a question outside of mere party politics and should be determined without regard to the interests of any party. The question is, whether, when the Senate of the United States has examined a case and passed its judgment, sitting under the Constitution as a court for that purpose and exercising judicial authority, that settles the question, or whether a subsequent Senate composed of different members and with a changed political majority can re-enter upon the examination of that case and decide it anew. It would hardly be claimed, I presume, that if the Senate sitting as a court to try an impeachment had either acquitted or convicted the respondent it could at a subsequent session retry the case and either reverse or affirm its judgment. And yet the Senate to-day, touching this question, is exercising judicial power as completely as it would be in the trial of a case of an impeachment.

What are the facts in this case? I do not care to descend into the details of facts about which there is some disagreement among Senators. I do not care who is right in that dispute. The controlling facts of this case, however, are apparent and conceded. Mr. KELLOGG and Mr. Spofford were both claiming a seat in this body from the State of Louisiana. The Senate referred their credentials to a committee for the purpose of having an examination and report upon the facts of the case to aid the Senate in determining the question in dispute between these rival claimants. The Senator from Georgia [Mr. HILL] claims that nothing was involved in that determination by the Senate except the question which was the rightful Legislature of the State, because, he says, that was the great question in dispute between the claimants. But it is manifest that such proceedings in this body cannot be conducted like an ordinary action as to matters of practice. It is not possible to make up an issue and try it outside the merits of the case as you can in an action of law, make an issue of fact upon a plea of abatement which might be tried by a jury and after that the case might come to issue and trial upon the merits. I submit to that learned Senator that no such proceeding is known to the Senate in determining the right of a claimant to a seat, and in the nature of things no such practice could be indulged in.

We have no rules authorizing special pleading in such cases nor contemplating the singling out of one issue to be tried and disposed of by the Senate before a final determination of the case. If such had been the understanding the committee, instead of reporting that Kellogg was entitled to his seat, would simply have reported which was in their opinion the rightful Legislature of the State, after which the Senate would simply have approved or rejected their report, leaving the case otherwise undisposed of. But the committee according to all the precedents passed upon the whole case and reported that Kellogg was entitled to his seat on the merits of the case.

The only question before the Senate from the first day when these rival claimants presented their claims to the Senate to the day of its final determination was, whether Kellogg or Spofford was entitled to the seat. It was admitted that if Kellogg was not elected and entitled to the seat then Spofford was, so that the question first to be considered was whether or not Kellogg had been duly elected. If he had been then there was no vacancy at the time Spofford was elected and his election was void. In considering the question whether Kellogg was entitled to his seat or not every fact or circumstance tending to show that he was not duly elected was a material and pertinent fact in that inquiry.

Does any one suppose that if a Senator had risen in his place during the debate on that subject and stated that he had testimony showing that Mr. KELLOGG had been guilty of bribery or other unlawful or corrupt means to obtain his election any republican Senator would have declared that that was an immaterial or irrelevant fact? Suppose the Senator from Georgia, [Mr. HILL,] while this debate was progressing and when the question before the Senate was whether Kellogg was entitled to his seat, had risen and stated that he had evidence to prove that Kellogg had obtained his election by bribery, does any one suppose that it would have been claimed that such evidence was irrelevant and immaterial and must be made the subject of a subsequent issue to be tried independent of the question then before the Senate? I submit to the Senator from Georgia [Mr. HILL] that to claim any such thing is trifling with this question. The question then was whether Kellogg was entitled to his seat and beyond all doubt or question any fact or circumstance tending to show that he had obtained his election by bribery or corruption was a material and pertinent circumstance in the case then under consideration. And if any such testimony existed, if any such fact existed, that was the time to present it and I shall endeavor to show that if Mr. Spofford then omitted to establish such material and pertinent fact and allowed the Senate to make a final decision upon the merits of the case seating Mr. KELLOGG, he waived all right to prove it and the judgment of the Senate is as conclusive as though the testimony upon that point had been considered and passed upon by the Senate in the determination of that case.

There is in the memorial now before the Senate but one statement or fact not urged against Mr. KELLOGG in the former trial, that is that he obtained his election by menace and bribery. But if I am right in supposing that that question might have been submitted to the Senate in the former trial and that it was material and pertinent to the question before the Senate, then the Senate's decision is as conclusive upon this point as upon any question actually examined and considered by the Senate. Now what are the facts? I understand that the parties, Kellogg and Spofford, before the committee in the former trial, stipulated that the journals of the Nicholls legislature and the newspaper reports of the journals of the Packard legislature might be read as evidence before the committee. The journal of the Packard legislature shows that the charge of bribery was made against Kellogg in that legislature and that on the 16th of January, 1877, a committee was raised to investigate the matter, which made its report exonorating Kellogg on the 27th of January, 1877.

Mr. HILL, of Georgia. I should like to inquire of the Senator where does he get evidence that such a charge was made and investigation had?

Mr. CARPENTER. I will state frankly to the Senator that I get that at second-hand. My colleague tells me that is the fact. Mr. KELLOGG says it is the fact. I have not examined that journal, but I understand the fact to be as I have stated.

Mr. CAMERON, of Wisconsin. I have the journal here.

Mr. HILL, of Georgia. I have never seen the journal; I do not know what is in it; but I never heard of such a statement until it was made by the Senator from Wisconsin [Mr. CAMERON] at the last meeting of the Committee on Privileges and Elections. It never was referred to before.

Mr. CARPENTER. I have in my hand the stipulation.

Mr. CAMERON, of Wisconsin. I have the journal.

Mr. HILL, of Georgia. I understand this Packard legislature never did anything in the world but elect Kellogg to the Senate.

Mr. CARPENTER. Will my colleague read the journal and have that question of fact settled?

Mr. SAULSBURY. I ask the Senator what journal he reads from—whether he does not read from a newspaper?

Mr. CARPENTER. I have the stipulation here that that may be done.

Mr. CAMERON, of Wisconsin. I read from the New Orleans Republican. The contestants agreed that this paper was the journal of the Packard legislature.

Mr. HILL, of Georgia. Who agreed to that?

Mr. CAMERON, of Wisconsin. The contestants and the committee.

Mr. HILL, of Georgia. I want to see that agreement. I never heard of such an agreement.

Mr. CARPENTER. I have the agreement here. Let me read it.

Mr. CAMERON, of Wisconsin. I think the law had been changed so that a separate journal was not required at that time to be kept.

Mr. KELLOGG. The New Orleans Republican was the official journal by the then existing law of the State and on page 61 of the committee's record will be found the agreement signed by Mr. Spofford that this journal should be considered as evidence.

Mr. CARPENTER. I read from the stipulation:

> Of course the journals and acts of assembly of the Nicholls legislature, as printed in volumes, by authority, can be referred to; and the undersigned, in return, agrees that the newspaper reports of journals of the Packard legislature may be referred to by either party.

This is signed "H. M. Spofford."

Mr. HILL, of Georgia. Simply "can be referred to," not agreed that they were correct. I will state this, that the truth as we understood it was that the Packard legislature had no journal; it had no official record; it had no existence except to elect Kellogg, it had published no laws, it had no published journals. We simply agreed that they should refer to the newspapers as the only evidence in the world that such a thing had ever existed.

Mr. CARPENTER. I want to ask the learned Senator from Georgia what benefit it was to us to refer to these newspaper reports if they were not to be used as evidence? Did the contestant mean for our personal satisfaction or did he mean that it was evidence in the case?

Mr. KELLOGG. The Senator will allow me. If the Senator will examine the proceedings had before the committee and the discussion there, he will see that the same language was used in reference to the Morrison, the Field, the Howe, and the Sherman reports, and it was agreed that they should be considered in the same category and regarded as evidence. The question arose in the discussion, shall they be considered as evidence, and I think the Senator from Georgia said "it is so understood."

Mr. HILL, of Georgia. I will say to the Senator the difference is just this, that in regard to the Morrison, the Field, the Sherman, and the Howe reports the agreement was that they should be referred to and considered as evidence as far as pertinent. There the condition is that they shall be considered as evidence as far as pertinent to avoid the necessity of taking the testimony over again, but you cannot find any agreement ever made by that committee or before that committee, according to my recollection, to which we ever assented that a newspaper report of a legislative journal was correct. You might refer to it for any legal purpose you could imagine it was said; and as my friend from Wisconsin says for satisfaction, if there is any satisfaction in it.

Mr. CONKLING. Merely to amuse and divert the committee?

Mr. HILL, of Georgia. There was a good deal of amusement and diversion before the committee, and there is a good deal of amusement and diversion here. But I say that I never heard of that examination before the Packard legislature until a few days ago. It never was referred to before us; and, of course, as there was no evidence that the Packard legislature had an existence except that it was in the newspaper, we agreed you might refer to it; but I do not think we ever agreed that that which was in the newspaper was true, was correct. If so, I should like to have that evidence.

Mr. KELLOGG. In this same stipulation that I read from, signed by Mr. Spofford, he said:

> It would not be proper to limit quotations to the testimony taken by the "Howe committee," but that the testimony taken by the "Morrison committee" of the House should, in common fairness to the other side, be allowed consideration.
>
> Of course the journals and acts of assembly of the Nicholls legislature, as printed in volumes, by authority, can be referred to.

This is the point.

> And the undersigned, in return, agrees that the newspaper reports of journals of the Packard legislature may be referred to by either party.

At that time there was no journal of either legislature, either of the so-called Nicholls legislature or assemblage or the Packard legislature; because by the then existing law the New Orleans Republican was the official journal of the State, and it was necessary that all the journals and all laws and all legal proceedings should be published in that official journal—laws or acts after approval by the governor, and journals after being ratified and approved by the two houses respectively. If the Senator will turn to the consideration of this matter before the committee he will see that that was discussed, certainly to some extent; and it was inquired, "Now, is it understood that the Morrison committee's report shall be considered in connection with the Sherman report?" "Yes," was the answer; and it was expressly stipulated that the journal of both houses should be received, for the reason that it was the journal that I depended upon to show that I had a majority of all the members of both houses present and a quorum under the law of 1866. It was necessary to the election of Mr. Spofford that there should be proof forthcoming, (and he admitted that,) shown in the journals referred to published in the New Orleans Republican, as well as the journals of the Nicholls house published in the Picayune and other papers not official, showing what the vote was as claimed by the democrats for Nicholls, and what the vote was as claimed by the republicans predicated upon the return of the returning board for Packard. So it is impossible that the case should have been considered precluding those two journals. It was the basis of one of the principal specifications made by Mr. Spofford, met by me, controverted by us distinctively and individually, and finally agreed to after the issue was made. This was the evidence.

Mr. HILL, of Georgia. Now, one moment further. We agreed that the testimony taken before other committees under oath should be evidence as far as pertinent. That is in the agreement; that is in the record; and the gentleman now makes an argument to show that by inference, because we agreed that he might refer to editorials or communications or statements in a paper for his own purposes, as he chose, I do not know what, we thereby agreed that that statement in the paper was the real journal, and that it was a true journal, and that what there was stated to have occurred did occur. I have no recollection of any such thing as that.

Mr. EDMUNDS. How about the reference to the Nicholls journal which is in the same way?

Mr. HILL, of Georgia. No. If the Senator from Vermont will allow me, the acts of the Nicholls legislature were proven by transcripts from the journal itself.

Mr. EDMUNDS. But you are talking about a stipulation. I never heard of a transcript proving itself.

Mr. HILL, of Georgia. You have, I reckon, with the proper certificates to it.

Mr. EDMUNDS. That is another thing.

Mr. HILL, of Georgia. When a lawyer speaks of a transcript being introduced he means with evidence that the true transcript is there required by law. A certificate was there that the journal of the Nicholls legislature was regular and legitimate. There was no evidence of a journal of the Packard legislature.

Mr. KELLOGG. The journal of the Nicholls legislature was not even under the great seal of the State; the journal of the Packard legislature was.

The PRESIDING OFFICER, (Mr. PENDLETON in the chair.) The Senator from Wisconsin is on the floor, and can be interrupted only by his consent.

Mr. CARPENTER. I am inclined to think that the jury are getting more of this case than the court. [Laughter.] The Senators are discussing facts, and I wish to discuss the law. If my colleague will read the journal I will yield for that purpose—the newspaper report of the journal under this stipulation.

Mr. CAMERON, of Wisconsin. The New Orleans Republican is headed "Official journal of the State of Louisiana," dated January 16, 1877:

> Mr. Souer rose to a privileged question. He perceived from the newspapers that Mr. Pinchback had made a speech in the democratic caucus at Odd Fellows' Hall, in which, among other mendacious statements, he made use of the following language:
>
> "I charge that in the Saint Louis Hotel a ring exists, presided over by Louis J. Souer, who distributed to the members of that Legislature the sum of $250 each for their votes for WILLIAM PITT KELLOGG for United States Senator for the long term."

Mr. Souer proceeds to denounce that statement as false, and asks that a committee be appointed to investigate it.

> Mr. McMillen offered a resolution citing the points made by Mr. Souer and the remarks of Mr. Pinchback, and calling for a committee of five.
>
> Mr. McMillen said he offered the resolution, as he thought the house should at once proceed to investigate the subject, because the remarks, coming from the source they did at Odd-Fellows' Hall, affect the character of every member. If the resolution was not broad enough, he would accept the suggestion of every member, but he did not wish to be on the committee, not having time to attend to it.
>
> The resolution was unanimously received and adopted.

The same day—

> Messrs. Lane, Dinkgrave, Snaer, Moore, and Magloire were appointed a committee to investigate the changes of bribery under the resolution of Mr. McMillen.

In the same paper, on the 27th:

> Mr. Lane, chairman of the special committee appointed to investigate charges publicly made that members of the house had been bribed to vote for Hon. WILLIAM

PITT KELLOGG as United States Senator for the full term, submitted the following report; which was read, and adopted under a suspension of the rules:

NEW ORLEANS, *January* 23, 1877.

To the honorable Speaker and members of the House of Representatives:

The undersigned, members of the special committee appointed under the following resolution—

Then the resolution is recited which I have just read—

respectfully report that they have examined, under oath, every member of the house of representatives who recognized and responded to their subpœnas. Every member so examined—sixty-two in number—testified distinctly and unequivocally that he had not received the sum of $250, or any other sum, from Hon. L. J. Souer for his vote in favor of Hon. WILLIAM P. KELLOGG for the United States Senate. And each and every witness swore that he had no knowledge of any offer of money or patronage on the part of L. J. Souer, or any one else, to bribe or induce by unlawful or corrupt means the vote of any member for W. P. KELLOGG as United States Senator.

P. B. S. Pinchback refused to appear before the committee.

The testimony taken, which has been reduced to writing, and is at the disposal of the House, disclosed that some efforts had been made by improper means to influence the action of members in their vote for United States Senator, but that these efforts were not made by Hon. L. J. Souer, and were not made in the interest of Hon. W. P. KELLOGG. Your committee therefore report that the statement made by P. B. S. Pinchback referred to in the foregoing resolution was erroneous in every particular.

W. G. LANE, *Chairman*.
W. H. DINKGRAVE.
W. J. MOORE.
L. A. SNAER.
PIERRE MAGLOIRE.

We have also submitted the evidence taken by said committee, which was ordered to be printed and referred to the committee on judiciary when appointed.

Mr. CARPENTER. Now, Mr. President, let me read the language of this stipulation again:

Of course the journals and acts of assembly of the Nicholls legislature, as printed in volumes, by authority, can be referred to; and the undersigned, in return, agrees that the newspaper reports of journals of the Packard legislature may be referred to by either party.

That is signed by Spofford. If I had been trying a case before a jury in a court of law and had a stipulation in regard to the testimony which authorized me to refer to a printed copy or a newspaper print of any document of public importance in connection with the trial of the case, and when I did so and referred to it or read it, the counsel who had signed the stipulation should then make the objection that although in the arrangement made he having secured certain things on his part as evidence and in return for that agreed that certain newspaper documents should be referred to, but that he could still insist they were not evidence, I should have been profoundly astonished. But in this case, after a bold assault is made upon the solemnly recorded judgment of the Senate, it seems a very small matter to try to fritter away a stipulation. This stipulation is signed by Mr. Spofford, but it lacks the authentieity and the sanction of the records of the Senate; and if they can be overcome, why not the stipulation? So I will make no further comment upon that.

But proceeding, upon this stipulation it was agreed—because that is the substance of it and the meaning of it and the purpose of it; it was made between these parties for the purpose of settling between themselves what might be used as evidence before the committee, and it authorized these newspaper journals of the Legislature to be referred to,—referring to those, as has already been done by my colleague, the Senate will observe that the charge of bribery had been distinctly made and was disposed of by a committee of that Legislature on the 27th of January, 1877. That was long before the hearing in the Senate here in regard to the seat of Mr. KELLOGG. Mr. Spofford was in New Orleans when all these proceedings took place in the Legislature. He must be presumed to have had notice of them, and they were facts which might have been shown before the committee or in the Senate during debate on the trial of this case.

Mr. EDMUNDS. He must certainly have had notice of the papers that he stipulated might be referred to and is bound by a knowledge of what they contained.

Mr. CARPENTER. Yes. My colleague has quoted from the proceedings of the Committee on Privileges and Elections dated October 17, 1877. On page 27 I find the following:

Mr. SPOFFORD. From the journal of the sixth General Assembly of the State of Louisiana, found in the New Orleans Republican. There is no dispute about the holding-over senators.

Showing that in that very hearing before that committee Mr. Spofford himself referred to the Republican newspaper as evidence of the proceedings of that Legislature. It is idle to talk any more about that.

Mr. President, what do we mean when we say certain questions are *res adjudicata*? The doctrine of *res adjudicata* is not exactly the same as the doctrine of estoppel. A party may by false representations, or by a certain line of conduct, induce another to act so that it would be unjust toward that other to permit the party to prove the truth. He is therefore forbidden or estopped to prove the truth. The doctrine of *res adjudicata* rests not upon this ground, but upon the presumption that the judgment of a court or tribunal having jurisdiction to hear and determine any litigated question, is the truth, and therefore it stands as conclusive evidence of the fact adjudged.

This doctrine is not founded upon a statute. It is one of the jewels of the common law, one of the maxims that have resulted from centuries of experience in the administration of justice, in the ascertainment of truth and the protection of private rights by the best judges and jurists of England and America for centuries, all experts in the art. There must be an end of strife; otherwise society could not exist; and hence it has been found necessary to hold that when any question litigated between parties has been heard and considered by the tribunal empowered to decide it and its decision has been solemnly rendered that ends the dispute, or as lawyers say it is *res adjudicata*. True that judgment may sometimes be erroneous, but it is better that it should stand than that the doctrine should be recognized and proclaimed that it is impossible to end a controversy. In other words it is better that a particular decision should be settled erroneously than that there should be no power to end disputes. The interests of the public require this, society could not exist without a power lodged somewhere finally to determine and settle every controversy that may arise among its members, and out of that necessity this maxim has arisen.

Now I ask what distinction is there between the decision rendered by a court of law in regard to the title of Mr. KELLOGG'S farm and a decision rendered by this Senate in regard to his title to his seat, which should render one final and conclusive and leave the other open to everlasting doubt? Does public policy require that the title of a Senator's seat shall never be settled? Would not the inconvenience to the public from such a doctrine be far greater than in case of a mere private right? The Constitution declares that the Senate shall be the exclusive tribunal for trying the title of a Senator to his seat, and after it has entered upon an examination of the case and fully considered it, receiving certain evidence and excluding certain other which was deemed immaterial or irrelevant, and pronounced its final judgment upon the merits of the case, what reason can be given for holding such judgment not conclusive that does not apply with equal force to every judgment rendered by a court of law? The burden of showing why a distinction should be drawn between a judgment of the Senate and a judgment of any judicial tribunal passing ultimately upon the question of right, rests upon those who deny such an effect to the judgment of the Senate. No Senator has given any reason for such a distinction and none can be given.

Assuming, therefore, that the doctrine of *res adjudicata*, as it has grown up in the judicial courts, applies with equal force to decisions made by the Senate in regard to the right of a Senator to his seat, let me proceed to show a little more fully than has been shown what that doctrine is, and I propose to show that when a case has been heard and decided, it is the judgment itself that is *res adjudicata*, and that not only the points and facts urged against it on the trial but also those which might have been but were not presented are equally precluded. It is not permitted to a party to present a part of his proof in support of a claim and try the experiment of a judgment upon it, and if unsuccessful sue again, and present more proof, and if again unsuccessful present yet more and so on forever. Every party is entitled to his day in court, and when he has had that if he has not presented his full case it is his fault, and he must abide the consequences. Therefore if the fact that Mr. KELLOGG had obtained his election by force or fraud could have been shown it was material and pertinent on the former trial of his case in the Senate, and whether it was presented or not it is as completely foreclosed as any of the questions which were in fact urged against the judgment that was rendered. It is fair to presume that Mr. Spofford did not urge this question of menace and bribery in that hearing because he knew that it could not be sustained. He knew that the charge had been made, investigated and rejected by a committee in the Legislature of that State, and he had no reason to suppose that he could establish the charge if made, and we are bound to suppose that that was the reason he did not make it. A repetition of that charge would have appeared malicious after the investigation in Louisiana and probably would not have helped Mr. Spofford's chances for a favorable determination of his claim.

But whatever may have been the reason why he omitted that charge which he now makes the law says to him, "You have had your day in court, you have presented your case as you saw fit, it has been decided against you on the merits as you presented them and the decision is binding and conclusive upon you."

There was no question, as I understand, in regard to the validity of Spofford's election except that Kellogg had been duly elected before. Therefore if Spofford could have shown that Kellogg's election was not legal, that it was obtained by force, fraud or corruption, the decision would have been in Spofford's favor. In other words he has had his day in court upon that question, because he then had an opportunity to present the matter in that hearing.

I shall refer to the legal authorities upon this question because, as I said before I am anxious not to make a speech, but an argument, and I wish it to be a sound one. This is not putting on the air of virtue for this particular case. I have always regarded myself when such a question was before the Senate as acting judicially and that my conscience was as much bound to an impartial decision as it would be if I was passing judgment from the bench of a court of law. Therefore a few days since when the case of Mr. BELL was before the Senate after I had examined it as a matter of law, I voted against the great body of my own party and against seating Mr. BELL who was of my party because I thought as a matter of law he was not entitled to his seat. I voted upon my convictions then and I shall do so now,

and I wish to show to Senators who will listen to me that the ground upon which I justify my vote at present is solid in the law.

I will read an extract from the opinion of the court in Bridge Company *vs.* Sergeant, 27 Ohio State Reports, page 237:

When the facts which constitute the cause of action or defense have been, between the same parties, submitted to the consideration of the court, and passed upon by the court, they cannot again be the proper subjects for an action or defense, unless the finding and judgment of the court is opened up or set aside by proper authority. This principle of law extends still further in quieting litigation. A party cannot relitigate matters which he might have interposed, but failed to do in a prior action between the same parties or their privies, in reference to the same subject-matter. And if one of the parties failed to introduce matters for the consideration of the court that he might have done, he will be presumed to have waived his right to do so. (30 Iowa, 433; 13 Ohio St., 283; 1 Johns. Cas., 436; 25 Cal., 266.)

If a party fails to plead a fact he might have plead, or makes a mistake in the progress of an action, or fails to prove a fact he might have proven, the law can afford him no relief. When a party passes by his opportunity the law will not aid him. In *Ewing vs. McNairy & Claflin*, 20 Ohio St., 322, the judge says: "By refusing to relieve parties against the consequences of their own neglect it seeks to make them vigilant and careful. On any other principle there would be no end to an action, and there would be an end to all vigilance and care in its *preparation and trial*." The same principle is well settled in numerous authorities. (See 3 Comst., 511; 9 Wis., 23; 5 Sanf., 135.)

Then the opinion proceeds two pages further to consider the same subject and cite some other cases. But perhaps the strongest and the highest authority on this subject is the case of Beloit *vs.* Morgan, in 7 Wallace, page 621. That was an action brought upon certain town bonds. A former action had been brought upon the coupons of the same issue of bonds; and in the former action the town made default because the amount was small, and did not employ a lawyer to defend the case. When they were sued, however, for a larger amount they did employ counsel and put in a full defense; but the court held that having had their day in court upon the question of the validity of those bonds, as they did have when the first suit was commenced against them, and which they allowed to go by default, they were precluded from putting in their defense in this action, that the whole matter of the validity of the bonds was *res adjudicata*, because the party had had his day in court and had his opportunity to prove their invalidity if they were invalid.

This doctrine is also sustained by the case of Cromwell *vs.* The County of Sac, 4 Otto, 351, a recent decision and a very able opinion delivered by Mr. Justice Field, reviewing all the authorities and showing that the doctrine of *res adjudicata* extends not only to the things actually litigated, that is, upon which pleadings were framed or proof taken, but to every point that might have been insisted upon in that litigation.

Therefore I say that unless it can be shown that when this case was first before the Senate for seating Mr. KELLOGG, and in which the Senate decided that he was entitled to his seat, the fact of bribery in obtaining his election was an irrelevant and immaterial fact, it is now precluded, and the fact that it was not presented by Mr. Spofford makes no difference whatever. He has had his opportunity to present it, and it is fair to presume that if he did not do so it was because he thought he could not. At all events the law precludes any further discussion upon that subject.

This doctrine of *res adjudicata* is not confined at all to the judicial courts or confined to their judgments; it is a universal principle resting upon the necessities of the public that when a question has been once settled by competent authority it shall remain settled, and that determination shall be regarded as conclusive.

In the case of Van Wormer *vs.* the Mayor of Albany, 15 Wendell, 262, the principle was applied to a determination of a board of health declaring certain premises to be a nuisance, and the court in the decision say that that board having authority to make provision for the removal of any nuisance had authority to determine whether a nuisance existed in the particular case and that their decision was final and conclusive; the matter was *res adjudicata*.

In Abbott *vs.* Bahr, 3 Chandler, 210, the doctrine was applied to the decision of land officers of the United States in regard to conflicting claims to land.

A great case upon this subject is the famous one of Martin *vs.* Mott, 12th Wheaton, 19, where the Supreme Court of the United States held that inasmuch as the President was authorized in case invasion was imminent to call out the militia, he was authorized to determine whether invasion was imminent or not, and when he had called out the militia that was his decision that it was imminent, and his decision was conclusive upon everybody, that no court, no tribunal could examine into the correctness of his decision, it was conclusive, the matter was *res adjudicata*.

In the case of Luther *vs.* Borden, 7 Howard, page 1, growing out of the Rhode Island trouble, the mere decision of the President that a certain government was the legitimate government of the State and would be supported by the Federal authority if necessary, was held by the Supreme Court of the United States to preclude them from inquiring into the subject, because under the law which authorized the President to exercise the power of the Government in suppressing insurrection and disturbance in that State, the President had the power to decide which was the lawful government, and when he had decided it that was conclusive upon everybody.

So it has been held that the Secretary of the Treasury under the ninth section of the Spanish treaty of 1819 in regard to the allowance of certain claims, was the ultimate and conclusive tribunal or officer for settling that question; and that when he decided that a claim ought not to be allowed, that precluded it forever, and had the same binding effect upon the claim that the judgment of a court would have.

The Supreme Court of the United States has over and again decided that the decisions of registers and receivers of the land offices in the West in regard to the rival claims of pre-emptors are absolutely conclusive and as binding as the decision of a court.

And so generally, without going further into detail or specification, it may be safely laid down as a principle of law that where any officer or any tribunal is clothed with the authority of determining a certain question and does examine it and make its determination, that is the end of that question. It makes no difference that the party might have proved more than he did. Every party relies upon such proof as he chooses to put in. If he could at one term put in part of his proof and try the experiment of succeeding and if he failed sue again and put in some more proof and if he failed a second time sue a third time and put in more proof still, there would be no end to any litigation. That is the reason why this thing cannot be done.

But the Senator from Ohio [Mr. THURMAN] said yesterday that the Senate was a law unto itself. Understood in a proper sense, I assent to the proposition, that is, that no tribunal can review its decisions. Be they right or be they wrong they cannot be reviewed by any other tribunal. But if it be maintained that the Senate is a law unto itself in any other sense than the Supreme Court is a law unto itself, that the Senate can do what it pleases, that it can seat or unseat members from choice, or in the interests of party without regard to the legal right of a Senator or the one claiming a seat, then I totally dissent from the proposition. The duty imposed upon us by the Constitution is judicial in its character, and when we are exercising it we are acting as a court. And we can no more make new law for particular cases because it may suit our convenience to do so or to gratify some partisan wish or ambition than the Supreme Court can depart from the law to decide a case for a favorite or against one who is under the frown of the court. In a proper sense the Supreme Court is a law unto itself. Its decisions, whether right or wrong, are irreversible. If it decides a case wrongly that is the law forever touching that subject between those parties. No other tribunal can correct it nor can the court itself correct it after the end of the term at which the judgment was pronounced.

In the case of the Washington Bridge Company *vs.* Stewart, 3 Howard, will be found a very clear discussion of this subject. There an appeal had been taken in an equity case from a mere interlocutory order. It came up to the Supreme Court and that fact was not noticed, and the court decided the question at issue between the parties, so far as it was involved in the order appealed from, by affirming the decision by an equally divided court. The case went back to the court below, and it was then for the first time ascertained that the decree which had been appealed from was not a final decree, and that the Supreme Court had no jurisdiction whatever when it pronounced its decision. After further proceedings a second appeal was taken, and the Supreme Court were asked to review the decision which had been made upon the former appeal, because the court had no jurisdiction of the appeal at that time. In the unanimous opinion of the court, delivered by Mr. Justice Wayne, page 434, 3 Howard Reports, the Supreme Court held that they could not review their own determination on a former appeal, that there was no power in the Supreme Court after the expiration of the term at which one of its judgments had been rendered to review or set aside such judgment upon any ground whatever. The court said:

The Supreme Court certainly has only appellate jurisdiction, where the judgment or decree of the inferior court is final. But it does not follow, when it renders a decree, upon an interlocutory and not a final decree, that it can, or ought, on an appeal from a decree in the same cause, which is final, examine into its jurisdiction upon the former occasion. The cause is not brought here in such a case for any such purpose. It was an exception, of which advantage might have been taken by motion on the first appeal. The appeal would then have been dismissed for the want of jurisdiction, and the cause would have been sent back to the circuit court for further proceedings. But the exception not having been then made of the alleged want of jurisdiction, the cause was argued upon its merits, and the decree appealed from was affirmed by this court. Its having been affirmed by a divided court, can make no difference as to the conclusiveness of the affirmance upon the rights of the parties. It is settled, that when this court is equally divided upon a writ of error or appeal, the judgment of the court below stands affirmed. Etting *vs.* Bank of the United States, 11 Wheat., 59; the case of the Antelope, 10 Wheat., 66. Having passed upon the merits of the decree this court has now nothing before it but the proceedings subsequent to its mandate. So this court said in Himely and Rose, and in the case of the Santa Maria, 5 Cranch, 314, 10 Wheat., 431. Its decree became a matter of record in the highest court in which the cause could be finally tried. To permit afterward, upon an appeal from proceedings upon its mandate, a suggestion of the want of jurisdiction in this court, upon the first appeal, as a sufficient cause for re-examining the judgment then given, would certainly be a novelty in the practice of a court of equity. The want of jurisdiction is a matter of abatement, and that is not capable of being shown for error to reverse a decree upon a bill of review. Shall the appellant be allowed to do more now than would be permitted on a bill of review, if this court had the power to grant him such a remedy? If he was, we should then have a mode for the review of the decrees of this court, which have become matters of record, which could not be allowed as an assignment of error for a bill of review, in any of those courts of the United States in which that proceeding is the ordinary and appropriate remedy.

The application has been treated in this way, to show how much at variance it is with the established practice of courts of equity. It might, however, have been dismissed, upon the authority of a case in this court, directly in point, Skillern's executors *vs.* May's executors, 6 Cranch, 267, and upon the footing that there is no mode pointed out by law, in which an erroneous judgment by this court can be reviewed in this or any other court. In Skillern's case, the question certified by the court below to this court, for its decision, was, whether the cause could be dismissed

from the circuit court, for want of jurisdiction, after the cause had been removed to the Supreme Court, and this court had acted upon and remanded the cause to the circuit court, for further proceedings. This court said: "It appearing that the merits of the cause had been finally decided in this court, and that its mandate required only the execution of its decree, it is the opinion of this court that the circuit court is bound to carry that decree into execution, although the jurisdiction of that court is not alleged in the pleadings." The jurisdiction of this court, in that case, was as defective as it is said to have been in this. When that cause was before this court, though the judgment of the court below on it would have been reversed, upon motion, for the want of jurisdiction on the face of the record, the defect having escaped the notice of the court and of counsel, and the court having acted upon its merits, it determined that its decree should be executed. The reason for its judgment no doubt was, that the motion to dismiss the case, in the court below, for the want of jurisdiction, after it had been before the Supreme Court by writ of error, and had been acted upon, would have been equivalent, had it been allowed, to a decision that the judgment of this court might be reviewed, when the law points out no mode in which that can be done, either by this or any other court. The want of power in this court to review its judgments or decrees, has been so frequently determined by it, that it is not now an open question. Such is the result of what the court said in Himely and Rose, 5 Cranch, 314.

The court says, in Martin *vs.* Hunter's Lessee, 1 Wheat., 304, in reply to the allegation that its judgment had been rendered when it had not jurisdiction, "To this argument several answers may be given. In the first place, it is not admitted that upon this writ of error the former record is before us. In the next place, in ordinary cases, a second writ of error has never been supposed to draw in question the propriety of the first judgment, and it is difficult to perceive how such a proceeding could be sustained on principle. A final judgment of this court is supposed to be conclusive upon the rights it decides, and no statute has provided any process by which this court can reverse its judgment. In several cases formerly adjudged in this court, the same point was argued, and expressly overruled. It was solemnly held, that a final judgment of this court was conclusive upon the parties, and could not be re-examined." In Browder *vs.* McArthur, 7 Wheat., 58, counsel applied for a rehearing; the court refused it, saying a subsequent appeal brought up only the proceedings subsequent to the mandate, and did not authorize an inquiry into the merits of the original decree. The same is said with equal positiveness in the case of the Santa Maria, 10 Wheat., 442. To these cases we add an extract from the opinion of the court, given by the late Mr. Justice Baldwin, in *Ex parte* Sibbald, 12 Peters, 492. That case called for the most careful consideration of the court. "Before we proceed to consider the matter presented by these petitions, we think it proper to state our settled opinion of the course which is prescribed by the law for this court to take, after the final action upon a case, brought within its appellate jurisdiction, as well as that which the court, whose final decree or judgment has been thus verified, ought to take. Appellate power is exercised over the proceedings of inferior courts, not on those of the appellate court. The Supreme Court has no power to review its decisions, whether in a case at law or in equity. A final decree in chancery is as conclusive as a judgment at law. 1 Wheat., 355; 6 Wheat., 113, 116. Both are conclusive of the rights of the parties thereby adjudicated."

A stronger case than this can hardly be imagined. A decision had been rendered by the Supreme Court without jurisdiction, had been made by an equal division of the judges, and yet the court held that it was precluded from an investigation into the merits of the case so far as they were disposed of in the former decision of the court. If it be said that the Senate after it has rendered a decision ought, at a subsequent session, if satisfied that it was erroneous, to reverse such decision because there is no appeal or writ of error to any revising tribunal, the case last read answers the suggestion fully. Mr. President, assuming the decision last quoted to be a correct exposition of the law applicable to the Supreme Court it would seem to follow by analogy that the power of the Senate to reconsider any of its determinations would be confined to the session. I think no one will question that its power of reconsidering *legislative* measures ends with the session. We have a rule which limits motions to reconsider to a certain number of days in the session, but without such rule and upon general principles no one would claim that the Senate could reconsider an act passed at a former session. It may be said that the reason for this is that after a bill has been signed by the President, it has passed beyond the control of the Senate, but suppose the case of a bill vetoed by the President and passed over his veto by two-thirds of both Houses, could the Senate on such a bill reconsider its vote at a subsequent session if we had no rule upon the subject? I take it no one will claim such a thing. In the absence of a rule no doubt the Senate could reconsider any vote or decision during the session at which it was made. It is well settled by repeated decisions of the Supreme Court that the circuit and district courts of the United States have no control whatever over their records to change or alter a determination or judgment after the term of the court has adjourned.

But it is said that "fraud vitiates everything, the judgment of a court as well as a contract between parties." Upon this subject this is the law. The fraud which will vitiate a judgment must be a fraud *upon the court* which rendered the judgment or upon the party which prevented him from having his case fully considered by the court. If it could be shown that Mr. KELLOGG had obtained the decision in his favor by some fraud practiced by him upon the Senate or by some fraudulent *conduct* of his which prevented Spofford from presenting his case and having his opportunity and day in court, then the motion to retry the case would fall within the principle upon which courts of equity grant relief against fradulent judgments, and perhaps would justify the Senate in expelling Mr. KELLOGG. But no such thing is pretended. It is not claimed that Mr. KELLOGG did or said anything to mislead the Senate in its judgment nor that he did anything to prevent Mr. Spofford from making a full presentation of his case to the Senate. The complaint is against the Senate itself. It is said that the Senate rejected testimony, or its committee did, which ought to have been received. But this will not do. To repeat what I have already said, the fraud which will induce a court to set aside a former judgment must be a fraud upon the court which rendered the judgment or a fraud which prevented the opposite party from presenting his case. A judgment could not be set aside upon the ground that the judge who rendered it was bribed by the successful party. And for the reason that if a former judgment could be set aside because the judge who rendered it had been bribed, a subsequent suit might be brought to set aside the second judgment and reaffirm the first on the ground that the second judge was bribed and there never could be an end to the litigation. Therefore this proceeding cannot be sustained upon the ground that the Senate did not do its full duty when it was considering and deciding the case.

One court will never listen to the charge that another court has acted corruptly and the Senate cannot reverse the adjudication of the Senate at a former session upon the ground that such former Senate was negligent or corrupt.

In Fletcher *vs.* Peek, 6 Cranch, 37, in an opinion delivered by Chief-Justice Marshall it was held that no judicial tribunal could inquire into the motives which induced a Legislature to pass a particular law. So it was a well-settled principle that no judgment can be set aside or decree reversed in a subsequent suit for any misconduct ot the court.

A very important and a conclusive authority upon this subject is a decision recently rendered by the Supreme Court of the United States and not yet reported; I have the opinion from the clerk of the court as it has been printed and filed in the court. Let me state the case. This is the case of the United States, appellant, *vs.* Throckmorton, Howard, Goold, and Haggin. The case, in short, was this. A bill in chancery was filed to set aside a decision of the United States court affirming a certain Mexican land grant, and the facts shown in the case were these: The claimant fearing that he could not make out his case before the court, went to Mexico and found a former governor of the Territory of California and induced him to issue a new grant antedating it at a time when he was governor, so that the paper upon which the decree was obtained was a flat forgery; and that fact was not known until after that case was decided, and the title confirmed upon the forged grant. Discovering the fact subsequently, however, that that judgment had been obtained upon a forged grant, the United States brought its bill to set aside the title of this claimant and his assigns under that grant; and the court disposed of the case, Mr. Justice Miller delivering one of his vigorous and conclusive opinions. I will read two or three extracts from it. The court say—and this is the unanimous opinion of the court as I understand—

> There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments. There is also no question that many rights originally founded in fraud become—by lapse of time, by the difficulty of proving the fraud, and by the protection which the law throws around rights once established by formal judicial proceedings in tribunals established by law, according to the methods of the law—no longer open to inquiry in the usual and ordinary methods. Of this class are judgments and decrees of a court deciding between parties before the court and subject to its jurisdiction, in a trial which has presented the claims of the parties, and where they have received the consideration of the court.

And after considering the instances of fraud which will vitiate a judgment—that is, fraud upon the court or unsuccessful party—the court say:

> On the other hand, the doctrine is equally well settled that the court will not set aside a judgment because it was founded on a fraudulent instrument, or perjured evidence, or for any matter which was actually presented and considered in the judgment assailed. Mr. Wells, in his very useful work on Res Adjudicata, says, section 499: "Fraud vitiates everything, and a judgment equally with a contract; that is, a judgment obtained directly by fraud, and not merely a judgment founded on a fraudulent instrument, for in general the court will not go again into the merits of an action for the purpose of detecting and annulling the fraud. * * * Likewise, there are few exceptions to the rule that equity will not go behind the judgment to interpose in the cause itself, but only when there was some hinderance besides the negligence of the defendant in presenting the defense in the legal action. There is an old case in South Carolina to the effect that fraud in obtaining a bill of sale would justify equitable interference as to the judgment obtained thereon. But I judge it stands almost or quite alone, and has no weight as a precedent." The case he refers to is Crauford *vs.* Crauford, 4 Desausure Eq. R., 176. See also Bigelow on Fraud, 170-2.
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> The principle and the distinction here taken was laid down as long ago as the year 1702 by the lord keeper in the high court of chancery, in the case of Tovey *vs.* Young. (Precedents in Chancery, page 193.)
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> This was a bill in chancery brought by an unsuccessful party to a suit at law, for a new trial, which was at that time a very common mode of obtaining a new trial. One of the grounds of the bill was that complainant had discovered since the trial was had that the principal witness against him was a partner in interest with the other side. The lord keeper said: "New matter may in some cases be ground for relief; but it must not be what was tried before: nor when it consists in swearing only, will I ever grant a new trial, unless it appears by deeds, or writing, or that a witness, on whose testimony the verdict was given, was convicted of perjury, or the jury attainted." The case seems to have been well considered, for the decree was a confirmation of one made by the master of the rolls.
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> The case of Smith *vs.* Lowry, 1 Johnson Chy., 321, was also a bill for a new trial on the ground that the witness on whose testimony the amount of damages was fixed was suborned by the plaintiff, and that complainant had learned since the trial that a fictitious sale of salt had been made for the purpose of enabling this witness to testify to the market price. Chancellor Kent said that complainant must have known, or he was bound to know, that the price of salt at the place of delivery would be a matter of inquiry at the trial, and he dismissed the bill for want of equity, citing the case of Tovey *vs.* Young with approval. And he cites a number of cases to show that chancery will not interfere though new evidence has been discovered since the trial, which, if the party could have introduced it, would have changed the result.
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> In Bateman *vs.* Willoe, 1 Schoales & Lefroy, Lord Redesdale said: "I do not know that equity ever does interfere to grant a trial of a matter which has already been discussed in a court of law, a matter capable of being discussed there, and over which the court of law had full jurisdiction." The rule must apply with equal force to a bill to set aside a decree in equity after it has become final, where the object is to retry a matter which was in issue in the first case and was matter of actual contest.
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> The same doctrine is asserted in Dixon *vs.* Graham, 16 Iowa R., 310; Cottle *vs.* Cole, 20 Iowa R., 484; Borland *vs.* Thornton, 12 California R., 440; Riddle *vs.* Barker, 13 California R., 295; Railroad Company *vs.* Neal, 1 Wood. R., 353.

But perhaps the best discussion of the whole subject is to be found in 2 Gray, 361, by Chief-Justice Shaw, in the case of Greene *vs.* Greene. That was a bill filed by a woman against her husband for a divorce. The husband had five years before obtained a decree of divorce against the wife, and in her bill she now alleges that the former decree was obtained by fraud and collusion and false testimony, and she prays that this may be inquired into and that decree set aside. The court was of opinion that this allegation meant that the husband colluded or combined with other persons than complainant to obtain false testimony or otherwise to aid him in fraudulently obtaining the decree. The chief-justice says that the court thinks the point settled against the complainant by authority, not specifically in regard to divorce, but generally as to the conclusiveness of judgments and decrees between the same parties. He then examines the authorities, English and American, and adds: "The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible. But where the same matter has been actually tried, *or so in issue that it might have been tried*, it is not again admissible; the party is estopped to set up such fraud because the judgment is the highest evidence and cannot be contradicted." We think these decisions establish the doctrine on which we decide the present case, namely, that the acts for which a court of equity will on account of fraud set aside or annul a judgment or decree, between the same parties, rendered by a court of competent jurisdiction, have relation to frauds, intrinsic or collateral, to the matter tried by the first court, and not to a fraud in the matter on which the decree was rendered.

That the mischief of retrying every case in which the judgment or decree rendered on false testimony, given by perjured witnesses, or on contracts or documents whose genuineness or validity was in issue, and which are afterward ascertained to be forged or fraudulent, would be greater, by reason of the endless nature of the strife, than any compensation arising from doing justice in individual cases.

The case before us comes within this principle. The genuineness and validity of the concession from Micheltorena produced by complainant was the single question pending before the board of commissioners and the district court for four years. It was the thing and the only thing that was controverted, and it was essential to the decree. To overrule the demurrer to this bill would be to retry twenty years after the decision of these tribunals the very matter which they tried, on the ground of fraud in the document on which the decree was made. If we can do this now, some other court may be called on twenty years hence to retry the same matter on another allegation of fraudulent combination in this suit to defeat the ends of justice, and so the number of suits would be without limit and the litigation endless about the single question of the validity of this document.

This decision is the highest authority that could be quoted because applicable to and entirely conclusive of the ground I am trying to maintain, unless a distinction can be established in reason and on principle between the decisions of this body when sitting as a court and the decisions of any other tribunal charged with the determination of any particular question. And if the doctrine laid down here, and in the other cases to which I have referred, is to be adopted or at all respected, it is certain that this Senate has no jurisdiction to inquire into, examine, affirm or reverse one of its decisions made at a former session in regard to the right of Mr. KELLOGG to his seat. Mr. KELLOGG had a case pending here. He claimed a seat and was opposed by Mr. Spofford, who claimed the same seat. The Senate was compelled to decide between them. The Constitution compels it to make that decision. It took up the case, examined it through the instrumentality of one of its committees and then in the Senate itself the whole matter was considered, and the Senate after days of debate determined and placed upon its record its judgment that Mr. KELLOGG, upon the merits of the case—regardless of all technicalities, but upon the merit—was entitled to his seat and that Mr. Spofford was not so entitled. But Mr. Spofford, not satisfied with the decision, applies again, asking to have the same question decided over again. If we are to dispose of the present application like lawyers and judges, regardless of political influence and party advantage, then the adjudications I have read declare our duty and point out the path we should follow. I trust this course will be pursued. I trust that the democratic party are not so maddened by their recent and I trust accidental success as to pursue a line of conduct condemned by all sound authority, repugnant to every principle of justice, and revolutionary in the highest degree.

Mr. MORGAN. Mr. President, it is argued before the Senate that it will be impossible to vote for this resolution without committing ourselves to the doctrine that there is no stability and no permanency in the judgment of the Senate on the right of a person claiming to be a member, and the Senate has been appealed to as a body of judges for the purpose of giving an answer to the question whether they will set aside a solemn adjudication heretofore made by the Senate for the purpose of instituting a new inquiry on the same subject-matter that was once discussed, adjudicated, and settled. This appeal has been urged in various views. Some of the Senators who have spoken against the adoption of this resolution have seemed to be impressed with the idea that the Senate or a portion of it might be driven from the consideration of this question by having presented to its view some political consequences which might result from its proposed action. Others, however, and particularly the Senator who has just taken his seat, have argued the question as a pure question of law in a very fair, and very candid, and a very dispassionate way. I must express my admiration of the honorable Senator who has just taken his seat for the excellent manner in which he has presented this question, and for the good taste which he exhibited when bringing to the attention of the Senate a great question that touches its own powers of jurisdiction over a subject of this character; for I think that I may flatter myself that I have still enough independence of thought and of action to be able to follow my own convictions against what might be supposed to be the advantages of the party to which I belong upon a subject so solemn and so interesting as this if those convictions should lead me against the conclusions that my party seemed willing to adopt and to advance before the Senate.

Now, what is the precise case presented here? It is that at an early day of this session Mr. Spofford presented to the Senate of the United States a memorial, and in that memorial he set forth certain reasons, first, why Mr. KELLOGG was not entitled to the seat he holds in the Senate; and, second, certain reasons why he himself had the better right to that seat. The Senate of the United States, under its rule of course, heard a brief statement of what the memorial was, and very well understood the proposition that this memorial related to a subject which had in some sort been under consideration in the Senate at its last session and had in some way been decided by the Senate. The Senate referred the memorial to a committee.

If there ever was a period of time when the question of *res adjudicata* or the question of estoppel—for it is nothing else—could properly have been urged, it would have been upon the reference of the memorial, for it does not follow that because a man has the right under the Constitution to petition the Houses of Congress, it is the duty of either House to refer to one of its committees that petition for its consideration, when it appears on the face of the petition in connection with the records of this body that we have no jurisdiction of the subject, that we are estopped and debarred from all consideration of it whatsoever. But the objection was not made. On the contrary, the petition was referred, and this able, leading committee of the Senate have had it under consideration now for weeks, and have made a written report of their proceedings in that matter. It appears that no objection has been made to the consideration of that petition even before that committee, and the parties have gone on for the purpose of ascertaining what they should consult in the nature of evidence for the purpose of determining the merits of that petition, and what report should be made thereon. The committee have arrived at the conclusion, after a long debate on both sides and after a full investigation of all that has occurred in this case heretofore, that it is their duty to come back to the Senate and ask the passage of a resolution which will enable them to take evidence, that evidence having for its purpose first the ascertainment, as they aver, of the point of fact whether or not there has been such an adjudication by the Senate of the question presented in this memorial as will hereafter forever bar its further investigation; secondly, if there is no such adjudication, whether evidence may be taken, and to what extent, to prove the averments set forth in the memorial of the claimant from Louisiana, Mr. Spofford.

Senators who stand upon nice, sharp, keen, shrewd technicalities for the purpose of estopping an inquiry of a character like this and who feel that the welfare of the country and the honor and dignity of the Senate depend upon its abstaining from the exercise of a doubtful power, ought to have been ready, and doubtless were ready always, to have made the objection *in limine* and to have interposed at the time of the reference of this memorial that objection which now stands out so boldly and so prominently in their imaginations, if not in fact, against all inquiry into every subject touching in any respect whatsoever the credentials of Mr. KELLOGG and his right to a seat on the floor of the Senate. Then would have been the time to have made the objection; then would have been the time to have arrested this improper exercise of power which the Senate, it seems, was then exerting, according to their view of the subject, in the reference of the memorial to the committee. But the very absurd position which Senators would have been compelled to take on that occasion I dare say deterred them from making that objection. They were not willing that there should be a door closed to inquiry in this case until the cause had progressed to that extent that the keeping the door open or closing it might have connected with it some possible political advantage. Then it was that it became, I suppose in the estimate of Senators, their duty to charge upon us that it was our purpose in the Senate, not to do justice, not to have honesty and truth prevail in the adjudications of the Senate, but that it was our purpose to provide against some future contingency when we might need a Senator's vote in order to retain a majority in this body.

Mr. President, this question has been argued so far entirely by analogies. There is nothing in the Constitution of the United States that I know of, certainly nothing that has been as yet quoted or referred to, which will prevent the Senate from instituting an inquiry into the title of its membership upon this floor at any time. I do not know of any constitutional rule that prohibits this high tribunal from investigating at any time the merits of the claim of any person to a seat on this floor; and in the absence of any constitutional requirement or direction on this subject Senators have been compelled to resort to cases that they conceive to be analogous to the one that is now presented before the attention of the country and the Senate, and that analogy is drawn from the conduct of courts of justice, and in some instances we are referred to the conduct of appellate courts, and in others we are referred to the conduct of original jurisdiction.

It is true the Constitution says that the Senate is the judge of the elections, qualifications, and returns of its members. The Constitution does not say that these judges, when they are deciding upon a question of this kind, constitute a court; the Constitution does not say that they are either a court of original or of appellate jurisdiction; the Constitution does not provide in this instance, as it does in the case of impeachments, for the manner of the organization of the court; neither does it provide that these judges shall take a separate oath of office which devolves upon them or imposes upon them a new duty contradistinguished from that duty under which they are en-

gaged daily in legislation. The same oath of office under which we judge in reference to the right of our membership to seats on this floor is the oath of office under which we continually exercise the legislative powers which belong to us under the Constitution. So, then, if we are a court and if such was the meaning of the framers of the Constitution when they gave to us these powers, I think the framers of that instrument were somewhat derelict in duty in not having provided some means for the organization of this body as a court, in not having provided also that we should take upon ourselves an oath to render judgment according to justice and impartiality, as we have to do in cases of impeachment.

I think the analogy rather fails. It is a very good thing, indeed, to argue from; it is a handsome thing for illustration, but when you come to sift it down to its elementary qualities and undertake to ascertain from the Constitution of the United States that the Senate, though judges of elections, sit here as a court, I think you will find the argument is out before the subject is exhausted. It is mere analogy, and no more.

The Senate being the judges of the elections, returns, and qualifications of membership, I should rather think that their judgment stood upon a higher plane even than that of a court under ordinary circumstances, because there is nobody to correct it, there is no appeal that lies from it, there is nobody to reverse it except the Senate itself; and when an error creeps in or a wrong is done or a fraud has been perpetrated, the Senate is left without any power of having its own errors corrected by any different tribunal, and must naturally and necessarily resort to its own original powers for the purpose of doing that which is right. If the Senate of the United States can bind itself by a fault or by a neglect or by an accidental omission of duty or by a corrupt connivance at a wrong, so that it cannot afterward undo that wrong and that injustice, it is the only tribunal I know of in the United States which is thus hampered and thus handcuffed by law or by construction.

Inasmuch, therefore, as it is not a court having some superior power to control it, inasmuch as there is no appeal to be taken from the Senate except to the Senate in a case of this kind, we must either deny that there are any circumstances under which an appeal will lie at all, or we must admit that the Senate under some circumstances has authority to hear it. I cannot admit the proposition that under no state of circumstances will an appeal lie from a judgment of the Senate at the last session to the further judgment of the Senate at this session. I cannot think that this great body of lawyers and law-makers and judges, Senators, whatever you please to term them, are so meager in their authority, so constrained in the powers which are conferred upon them, as that when once they plant their feet they must stand there forever and there can be no revocation.

I admit the high policy, and the policy becomes higher and grander when you come to consider the purposes and the organization of this great body, the proper influence in adhering to our opinions upon any given question which has been heard and tried before the Senate until there has come up some substantial and overwhelming and overpowering reason why it should be departed from. But when these overwhelming and overpowering reasons do come, and when the whole conscience of the country as well as the conscience of the Senate demands that the truth shall have a hearing at the bar of the Senate, then I think that I discover no want of power on the part of the Senate by any action of its own to estop itself from hearing that complaint and adjusting that wrong, that outrage.

Senators who quote the doctrine of the courts as being conclusive by way of illustration upon us here, quote nothing else but the doctrine of estoppel. There is nothing at all in what is termed *res adjudicata* but the doctrine of estoppel. The doctrine of estoppel is a very good doctrine to stop men from quarreling with each other, to keep down strife between citizens, because it is founded upon a maxim which says that there ought to be an end of litigation, an end of strife and controversy between men; and that is the whole of it; but it is the doctrine of estoppel and nothing else. What is the doctrine of estoppel? Plainly and simply only this, that the truth shall not be heard because it is better that it should not be. That is all of it. But coupled with this doctrine of estoppel, in its origin and throughout all of its existence in this country and in England, there is a qualification. In England that qualification is expressed in this way, that no estoppel runs against the King. Here we very often have heard it decided that no estoppel runs against the Government of the United States, that an officer of the Government of the United States, acting *ultra vires*, though he may be clothed with authority to represent the Government, cannot estop the Government from inquiring into the truth; and many is the poor fellow who has been compelled to bow his neck to the yoke under the application of that very doctrine on the part of the Government of the United States. The statute of limitations does not run against the Government; estoppel does not run against the Government. What, then, does? Nothing.

Mr. CARPENTER. Will the Senator allow me to interrupt him?

Mr. MORGAN. Yes.

Mr. CARPENTER. The last decision I read in the case of the United States *vs.* Throckmorton *et al.* was a case where the Supreme Court enforced that doctrine against the United States.

Mr. MORGAN. The doctrine of estoppel?

Mr. CARPENTER. No. There is a difference between the doctrine of estoppel and the principle of *res adjudicata* which I have not the strength now to discuss; but the Supreme Court certainly held the United States bound and precluded as *res adjudicata* in that case.

Mr. MORGAN. Because the opinion in the case said the case had been fully considered?

Mr. CARPENTER. Because the matter had once been disposed of.

Mr. MORGAN. Not because the matter was offered as evidence, but because the same precise question had arisen between the same parties and been decided. The Senator from Wisconsin touched but very lightly, indeed, as I thought was becoming in him, on the question whether or not the adjournment of the Senate would have the same effect on our adjudications that an adjournment of a court would have. I am not prepared to answer that. I think the doctrine ought to be that the adjournment of the Senate ought to have the same effect upon our adjudications as the adjournment of a court, precisely, with this reservation, that the Senate must be a court considered as being always open, and as long as a man holds his seat in this body the subject is *sub judice*, it is *in fieri* in reference to him.

I take, for the purpose of illustrating that proposition, the question of the qualifications of a Senator. What are the qualifications of a Senator? He shall be a man of a certain age and reside in the State for which he is elected. Is that all? Suppose it is disclosed that a Senator here to-day has been guilty before he came into the Senate of some crime which was unknown when he was sworn in, which his election to the Senate has never condoned, and which proves that he is an unworthy man to hold a place here. Is not that a qualification to be judged of by the Senate? Suppose a man in the obtaining of his election, as is charged in this case, bribes and corrupts members of the Legislature, and that subject is hid away and not known? When you come to consider the question of that man's right to a seat here, what question do you take into consideration? Not merely whether he has bribed somebody, for he might have given a mere pittance; indeed, the man might not have accepted the bribe; he might merely have offered the bribe to obtain his seat and failed in the obtaining of the man's vote. Under these circumstances he might not have gained anything in the way of votes toward his election. But when you prove the fact upon that man that he offered a bribe corruptly to a member of the Legislature to get a seat here, you then say that he is disqualified to hold a seat on this floor, and that is a subject for the Senate to consider. Must some citizen come forward and present that as an issue? Must he come forward with a controversy and claim the seat before the Senate can consider a disqualification of that kind? We are the judges of the elections, first; then of the qualifications of Senators, as well as of the returns by which the elections are certified here.

If the proposition which Mr. Spofford has put in his memorial, which I will now read, is true, then it follows that the question of the disqualification of Mr. KELLOGG, which has never been passed upon, must be passed upon by the Senate, or else we must say that we will willingly sit here and turn the cover down over a man to conceal his frauds and hide them from the world because he gets up and says, "you are estopped and cannot go into the investigation." The memorialist says:

> Petitioner further represents that since the contest aforesaid and very recently he has discovered new and material evidence to prove that the election of said Kellogg was null and void, by reason of improper, illegal, and corrupt influences exerted by him in person to bring about his own election as Senator; to prove that he obtained and held the title of governor by corrupt bargain, not by election, and then used the power, patronage, and resources of the governor's office to procure the return and organization of a General Assembly for the purpose of electing him Senator, and afterward employed both menace and bribery among those whom he had assisted to have returned as members to induce them to vote for him as Senator; and that but for such illegal and corrupt interference personally exerted by the said Kellogg, he would not have secured the nominal election under which he claims his seat.

If that be true of the Senator from Louisiana who now sits in this body, it cannot be said that he ever possessed the qualifications of a Senator within the meaning and spirit of the Constitution of the United States, for a man who obtains his place in this body by bribery and corruption cannot be said, either in the English or American idea of the subject, to have those qualifications which entitle him to a seat in this body. The election is null because it is applied to a man who is unfit for a Senator. You might as well have elected an eighteen-year-old boy and sent him here.

This subject is *in fieri* always, always *sub judice*, at least until the very particular issue made has been called up and decided. I submit to the Senate whether or not this matter has been decided; whether the Senate, when it considered the question of the legality of the two governments in Louisiana, or, if you please, as connected with that, some other questions which were incidentally related to or connected with it, in making a decision of that sort, passed upon the question of the qualifications of a man from that State who is charged by a respectable and honorable citizen with having obtained his election by fraud and corruption personally exercised upon particular individuals? That is one view of the case that is not *res adjudicata*. That is one view of the case that will not be *res adjudicata* until the Senate has authorized an investigation to be had for the purpose of going into that matter and bringing the evidence to the attention of the Senate and of the country.

I regret very much that this accusation has been brought here; but it is either true or it is false. The Senate has so far affirmed its verity, or its faith in its verity, as to have referred this matter to the committee, and the committee have been for some time investigating

it. They come back now for authority to look deeper into it. It does not follow at all if Mr. KELLOGG is found to be disqualified under this view of the subject and upon the evidence that may be taken in support of it, that Mr. Spofford would be entitled to the seat. That by no means follows. That is not a question for the Senate to settle now, and perhaps it is a question that the Senate should not undertake to forecast at this moment; but it does follow that if these allegations are sustained by proof which the Senate believes to be true, then Mr. KELLOGG has no right to a seat in this body because he is disqualified.

Mr. President, there is a great deal to be said also upon the proposition of law which the Senator from Wisconsin [Mr. CARPENTER] so ably argued before the Senate. I take issue with the Senator from Wisconsin in reference to one proposition which he advanced before the Senate to-day, and that is that when a case comes up in the form in which this case is presented, (not in the form of pleadings between the parties but in reference to the effect of evidence which has been taken on a former investigation,) then the doctrine applies which he has quoted here to-day, that a party having had an opportunity of proving a fact or of disproving a fact in an issue between him and some other party on a former trial, it must be held that the court passed on the whole subject, and that everybody is estopped from bringing it forward again. Just in that case there are distinctions taken in the law, and in the very authorities which the honorable Senator read, which he omitted to quote, I dare say because his mind was so bent upon a particular view of this case that he found himself incapable for the moment of taking any other view of it. Now I read from the decision in Cromwell *vs.* County of Sac, which the honorable Senator quoted. First I will state the question presented to the Supreme Court:

The questions presented for our determination relate to the operation of this judgment as an estoppel against the prosecution of the present action, and the admissibility of the evidence to connect the present plaintiff with the former action as a real party in interest.

In considering the operation of this judgment, it should be borne in mind, as stated by counsel, that there is a difference between the effect of a judgment as a bar or estoppel against the prosecution of a second action upon the same claim or demand, and its effect as an estoppel in another action between the same parties upon a different claim or cause of action. In the former case, the judgment, if rendered upon the merits, constitutes an absolute bar to a subsequent action. It is a finality as to the claim or demand in controversy, concluding parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. Thus, for example, a judgment rendered upon a promissory note is conclusive as to the validity of the instrument and the amount due upon it, although it be subsequently alleged that perfect defenses actually existed, of which no proof was offered, such as forgery, want of consideration, or payment. If such defenses were not presented in the action, and established by competent evidence, the subsequent allegation of their existence is of no legal consequence. The judgment is as conclusive, so far as future proceedings at law are concerned, as though the defenses never existed. The language, therefore, which is so often used, that a judgment estops not only as to every ground of recovery or defense actually presented in the action, but also as to every ground which might have been presented, is strictly accurate, when applied to the demand or claim in controversy. Such demand or claim, having passed into judgment, cannot again be brought into litigation between the parties in proceedings at law upon any ground whatever.

But where the second action between the same parties is upon a different claim or demand the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered. In all cases, therefore, where it is sought to apply the estoppel of a judgment rendered upon one cause of action to matters arising in a suit upon a different cause of action the inquiry must always be as to the point or question actually litigated and determined in the original action, not what might have been thus litigated and determined. Only upon such matters is the judgment conclusive in another action. (4 Otto, Supreme Court Reports, 352, 353.)

Where the record shows in both cases that the same matter was litigated and determined between the same parties, then the record itself makes up the complete evidence of the identity and of the estoppel; but where a trial has occurred between two parties in reference to a subject-matter of the same general nature, or in reference to a subject-matter where the matter of subsequent litigation might have been introduced, and you offer the record of the judgment obtained in the first trial as evidence in the second trial, then you have got to go on, as I shall show by another authority, and by parol proof or by some proof establish the absolute identity of the two causes of action, and failing in that you fail in your proposition. Now I read from a case in 24 Howard, the case of the Washington, Alexandria and Georgetown Packet Company *vs.* Frederick E. Sickles and Trueman Cook. This was also the unanimous opinion of the Supreme Court delivered by Mr. Justice Campbell, than whom I believe there is not now nor has there heretofore been an abler judge upon that bench, unless it might be Chief-Justice Marshall.

The circuit court adopted these conclusions of the plaintiffs, and excluded the testimony offered by the defendants to prove those facts.

I will not cite the facts. I will not detain the Senate for the purpose of presenting the whole case before the court.

The authority of the *res adjudicata*, with the limitations under which it is admitted, is derived by us from the Roman law and the canonists.

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The essential conditions under which the exception of the *res adjudicata* becomes applicable are the identity of the thing demanded, the identity of the cause of the demand, and of the parties in the character in which they are litigants. This court described the rule, in Apsden *vs.* Nixon, (4 How. S. C. R., 467,) in such cases to be, that a judgment or decree set up as a bar by plea, or relied on as evidence by way of estoppel, must have been made by a court of competent jurisdiction upon the same subject-matter, between the same parties for the same purpose.

The court then proceed with quite an extended review of the authorities upon which the doctrines that I have already quoted are stated, and further statements are made:

In the case before the court the verdict was rendered upon two special counts, and the general counts in assumpsit, but the verdict in the subsequent stage of the proceedings was applied by the court only to the first count. The record produced by the plaintiffs showed that the first suit was brought apparently upon the same contract as the second, and that the existence and validity of that contract might have been litigated. But the verdict might have been rendered upon the entire declaration, and without special reference to the first count. It was competent to the defendants to show the state of facts that existed at the trial, with a view to ascertain what was the matter decided upon by the verdict of the jury. It may have been that there was no contest in reference to the fairness of the experiment, or to its sufficiency to ascertain the premium to be paid for the use of the machine at the first trial, or it may have been that the plaintiffs abandoned their special counts and recovered their verdict upon the general counts. The judgment rendered in that suit, while it remains in force, and for the purpose of maintaining its validity, is conclusive of all the facts properly pleaded by the plaintiffs. But when it is presented as testimony in another suit, the inquiry is competent whether the same issue has been tried and settled by it. (Merriam *vs.* Whittemore, 5 Gray, 316; Hughes *vs.* Alexander, 5 Duer R., 488.) The defendants in error contend the jury, by their verdict, necessarily found the statements of fact in all the counts of the declaration to be true; and the effect of a verdict and judgment on the whole declaration and a verdict and judgment on the first count is precisely the same, in producing an estoppel, as respects the matters contained in that special count. But this is not true. If the verdict had been rendered on the special count in exclusion of the others, the record itself would have shown that the existence and validity of the contract were in question. There would have been no ground for the inquiry whether any other issue was represented to the jury. But where a number of issues are presented, the finding on any one of which will warrant the verdict and judgment, it is competent to show that the finding was upon one rather than on another of these different issues.

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It is the opinion of the court that the circuit court erred in holding that the plaintiffs in error were estopped by the proceedings in the former suit, for any inquiry in respect to the matters in issue, and actually tried in that cause; and its judgment is reversed, and the cause is remanded for further proceedings, in conformity with this opinion.—*Supreme Court Reports*, 24 Howard, 341-346.

I dare say that this committee had a case of that kind, if not the very case, in mind when they came before the Senate with the resolution asking to be permitted to take testimony for the purpose of identifying the issues that were before tried and the issues that are now presented, as well as to go further and take evidence upon those issues. So now, if we were in a court of justice and bound by all the narrow rules of practice which are found necessary in order to keep the judgments of the court in harmony with each other and to protect all the rights of citizens and to prevent unnecessary and frequently repeated litigations, we should find in the very particular case which is presented here ample authority in the decisions which I have read why this committee, acting as a court, if you please, ought to have the power to make inquiry, to take evidence, for the purpose of determining the very question whether or not there is a perfect identity in the issue presented now and presented then. Here is authority for it in the decisions of the Supreme Court of the United States.

I need argue no further. These authorities are ample. They draw the distinctions which the honorable Senator from Wisconsin omitted to state. They show that we have the right now, even if we were trammeled by the proceedings of a court of justice, to enter upon an inquiry as to what was the particular question that was tried before, and whether or not the judgment of the Senate has ever been taken upon the issue now presented.

Mr. President, looking at the record alone made by the Senate heretofore in the resolution adopted in reference to Mr. KELLOGG, it must be confessed that there is something in it which is a little peculiar. That resolution declares that the judgment of the Senate taken upon the adoption of the resolution was that the case was decided upon the merits. You will look in vain in the proceedings of the Senate before that time, and also, I think, of the committee, to ascertain precisely by that record what "the merits" were. "The merits" is a broad, comprehensive, and universal sort of term. It looks now as if the word "merits" was put in there simply for a purpose, as a sort of *omnium gatherum*, as a word that would cover every possible future defect, as a word that would stop the mouths of all men thereafter from asserting the truth against that finding or against that report.

I will not go back into what the committee did. I was here listening in the Senate of the United States to the controversies of members of the committee which amounted almost to a wrangle in reference to their action in the committee-room, how far they did investigate and how far they refused to investigate; and the impression left upon my mind, as the records of the Senate will now show, was that one party was accusing the other very assiduously of having taken a snap judgment upon it. Thereupon it became my duty to rise in the Senate and bring to the attention of the Senate the fact that at some future time, when the Senate would be better prepared to listen, and when the subject could be brought fully to its attention, there would be a demand for an investigation upon this subject. I entered a motion for a reconsideration or a new trial then and there, and that has been pending ever since. Neither the Senator from Louisiana nor any other Senator on that side of the Chamber who has taken occasion to read the records of the Senate at that time can say that he has had no notice and that this matter is sprung fresh upon him. They have had notice of this whole business; they have known from that day to this that whenever the democratic party had the power they would run a probe into this fraud, if it be a fraud, and they would open it to the core. They have known that we would always deny, as we denied then by way of precaution, that there was any doctrine of *res adjudicata*, any estoppel, any cloak or any cover

that should hide the investigation of these wrongs and these frauds from the attention of the people of the United States. All the "if-anys" and all the *aliundes* were considered and discussed at that time. It was perfectly understood by all concerned that we at that time reserved the right, and gave notice of it to the world, to challenge that judgment which, professing to be upon the merits, never undertook to state one particle of what the merits were. The merits might have been anything. The leading question of the merits was whether the Packard or the Nicholls government was the true government of Louisiana. That was the greatest part of the merits of the controversy; because if it turned out that the Packard government was the true government in Louisiana then it followed as a matter of necessary consequence that Mr. Spofford had no standing in this tribunal, no right to a seat here, because he was elected by a body that was not the Legislature. I would submit it to any man of fair common sense in the world if in searching around through this covered and hidden expression attached to the words "the merits" for the true thing which ought to have controlled the Senate in giving a judgment upon that resolution, he would not find that the main question in the whole case was whether the Packard government or the Nicholls government was the true government of Louisiana; did the Packard legislature have the right to elect or did the Nicholls legislature have the right to elect? That was "the merits," and it was the point in "the merits" that you could not pass beyond. Mr. Spofford could not get the Senate beyond that point, nor could anybody else get the Senate beyond that point; because if the Packard legislature and Governor Kellogg were the true government of the State of Louisiana, Mr. KELLOGG came here with credentials regular upon their face from that government, under the seal of that State, attested by the governor and the secretary of state, and he had a right to his seat here until somebody showed that he had obtained it by fraud, and that therefore he was disqualified for that reason.

These were "the merits," and this was understood by the people of the United States at the time as being "the merits" that were settled by the Senate on that resolution. The people understood perfectly well that the question of fraud, especially in reference to the bribery of members of the Legislature, was not the question that the Senate settled.

Now it is said that we are in court. What sort of a court is this? It is a court of original jurisdiction. Is it a court of law or a court of equity? Is it one or the other, or is it both? Suppose it be both, and I dare say that whosoever claims for this court the powers and jurisdiction of any court of the United States would be obliged to concede that it had equity powers as well as law powers. How often have we witnessed judgments in courts of law obtained according to the strictest rules of legal procedure, enjoined, reversed, annulled, and set aside when a bill was filed on the equity side of the same court! How often have we seen a question settled in favor of the plaintiff in his action at law and in the same court for fraud in the procurement of the judgment, fraud in the issue of it, perjury in its procurement, or because the judgment was obtained in favor of the wrong man or obtained by one who was a pretender to the title and had no lawful right to it, when you turn to the other docket and get on the equity side of the court, the court enjoin, reverse, annul, and destroy the former judgment? If this be a court, how much less power has it got than any other or every other court, I should like to know. If we are to be trammeled here by the rules of law which belong to courts, let us have the power at least of all the rules by which courts administer justice, because if there be any one thing above another that a court is ordained to establish and to administer, it is justice. A court that has no power to do anything but injustice, no power to do anything but wrong, no power to protect anything but fraud, is a court that ought never to exist. I must therefore claim for the Senate, if it is a court, that it has got some of the powers of a court.

There was a case decided in 1833, the case of Sampeyreac and Stewart *vs.* The United States, which I desire to call to the attention of the Senate. The opinion of the court was delivered by Mr. Justice Thompson, and enough appears in the opinion of the court to show the application of it and the principle decided there to the matter in hand:

This case comes up on appeal from the superior court in the Territory of Arkansas.

The decree of the court was founded upon proceedings instituted under an act of Congress entitled "An act for further extending the powers of the judges of the superior court of the Territory of Arkansas, under the act of the 26th of May, 1824, and for other purposes," passed the 8th of May, 1830.

I will here observe that this suit, which was permitted by this act of Congress, was pending at the time of the passage of this law, and that the law was passed for the express purpose of giving the superior court of Arkansas an opportunity, by conferring upon it a jurisdiction which it had not before possessed, of doing justice between parties in the reversal of one of its own judgments rendered on the law side of that same court. Congress came in and passed a law to increase the jurisdiction of that court, which law had reference back by relation to a period anterior to its enactment. It was retroactive in its character. Congress was so anxious that justice should be done that it passed a law expressly retroactive in its character in order that by conferring the jurisdiction here prescribed upon the court it might enable that court to do justice. There is a broad and fair example of what Congress may do to reach justice. The truth is that the hands of Congress are very little trammeled when we are reaching for justice. It takes plain provisions and strong provisions to restrain the power of Congress to administer justice not only between man and man but between State and State, the whole country and the Senate itself. The act declares certain provisions which I will read:

Upon the proceedings on the bill of review instituted under this act, the court pronounced the following decree: "It is therefore adjudged, ordered, and decreed that the former decree of this court, in favor of the defendant Bernardo Sampeyreac against the United States, for four hundred acres of land, pronounced and recorded at the December term of this court in the year 1827, be, and the same is hereby, reversed, annulled, and held for naught." From this decree the present appeal was taken.

To a right understanding of the questions which have been made at the bar, it will be necessary briefly to state the proceedings which took place under the original bill.

There was an original bill filed in that same court.

That bill or petition was filed on the 21st of November, 1827, under the provisions of the act of the 26th of May, 1824, (7 Laws United States, 300,) setting forth that the complainant, Bernardo Sampeyreac, on the 6th of October, 1789, he then being an inhabitant of Louisiana, presented a petition to the then governor of the province asking a grant for a tract of land in full property, containing ten arpents in front, by the usual depth, on Strawberry River, &c. That afterward, on the 11th of October, 1789, the governor granted the petition. That at the time the grant was so made an order of survey was issued to the surveyor-general of the province. That by virtue of such grant and order of survey the petitioner acquired a claim to the land, which claim is secured to him by the treaty between the United States and the French republic of the 30th of April, 1803. The district attorney put in an answer, denying the several facts and allegations in the bill, and alleging that grants could only be made, legally, to persons in existence and actually residing in Louisiana.

I desire to call the attention of the Senate to what the answer was of the district attorney of the United States to that bill filed in that court. The action was brought in that court for the purpose of having the confirmation of this grant, and also of having the possession of this land delivered into the hands of the plaintiff in the action. He alleged first, you see, that "grants could only be made, legally, to persons in existence and actually residing in Louisiana."

That Sampeyreac, in whose name the bill is filed, is a fictitious person, never having had any actual existence; or if such person ever had any existence he was a foreigner, or is now dead, and made no transfer or assignment of the claim in his life-time. That he has no legal representative in existence; nor is there any one now living who is authorized to file this bill or prosecute this suit, and prayed that the bill might be dismissed.

There the district attorney of the United States for the Territory of Arkansas distinctly in his answer announced the fact as an issue in the cause that this man Bernardo Sampeyreac had no existence; that he was a mere fictitious person.

A witness by the name of John Heberard was examined and sworn to all the material facts necessary to establish the claim; and the court thereupon ordered, adjudged, and decreed that the said Bernardo Sampeyreac recover of the United States the said four hundred arpents of land.

After that decree had been rendered, after the court had adjourned, after their adjudication had become final in every possible respect, several years after, Congress passed a law authorizing that court to take jurisdiction of a case in the nature of a bill of review for the purpose of deciding any case, no matter when it occurred, or reviewing any judgment, it made no difference how long it had been rendered before that time, where there might be fraud or where injustice might have been done.

The bill of review is founded upon the allegation that the original decree was obtained by fraud and surprise; that the original petition and order of survey exhibited in the case are forged; that Heberard and the other witnesses in the cause committed the crime of perjury; that the order of survey was never signed by Mero, governor of Louisiana, as the same purports to have been; and that this fact has come to the knowledge of the district attorney since the decree was entered.

There was the condition; there was the point in the matter. When this false swearing and this fraud came to the knowledge of those who desired to protect the Government against the wrong, says the bill of review in this case, since the decree was rendered; says the memorial of Mr. Spofford, since the judgment was rendered in this case by the Senate of the United States upon the merits—

And the bill further charges that the said Sampeyreac is a fictitious person.

That is precisely the same allegation that was in the answer of the district attorney filed in the original suit. In both instances the plea was distinctly made that he was a fictitious person.

At the October term, 1830, this bill was taken, *pro confesso*, against Sampeyreac; at which term the appellant, Joseph Stewart, appeared in court and prayed to be made a defendant, and have leave to file an answer to the bill.

He was admitted, and then he went on to set up that he was an innocent purchaser without notice of this fraud or this wrong, committed by a man by the name of Bowie, who got up the fictitious name of Bernardo Sampeyreac and presented the bill in that court.

The answer of Stewart denies the frauds and forgeries alleged in the bill, but avers that if there was any fraud, corruption, or forgery, he is ignorant of it; and that he was a *bona fide* purchaser of the claim for a valuable consideration from one John J. Bowie, who conveyed to him the claim of the said Bernardo Sampeyreac, by deed bearing date about the 22d of October, 1828. Upon the final hearing the court reversed the original decree, as has been already stated.

The court then go on with an extensive argument. It is not necessary to detain the Senate by reading the argument of the court, but I shall simply announce the judgment which the court passed in the case, which was that—

The decree of the court below is accordingly affirmed, with costs. (7 Peters, Supreme Court Reports, 235-242.)

What was that decree? The decree was that the bill of review should be sustained, that the judgment which had been obtained in the name of Sampeyreac before that time in that same court should be reversed and held for naught; and that because it appeared, and it only appeared inferentially really in the case, but it appeared sufficiently to satisfy the court, that the witness who had been sworn committed perjury, and that Sampeyreac was a fictitious person.

If a court of justice can do that in the exercise of its high powers of equity for the purpose of getting back to the real truth of the matter, for the purpose of doing justice between the Government of the United States and the claimants of this property, can any just reason be asserted why the Senate of the United States that has under its care and under its consideration at all times the qualifications of its membership should not indulge a citizen, who is respectable and who is honest and who comes by constitutional petition, in having the subject investigated in which we are all so deeply concerned as to whether fraud was committed, as to whether bribery was perpetrated in obtaining the seat now held by the Senator from Louisiana?

Mr. President, I have said this much, more than I would have said, indeed I should not have uttered a word on this subject but for the strong and earnest challenge which came from the other side, and which addressed itself not simply to the judgment but to the conscience of Senators, that if we should not vote for this resolution to carry on this inquiry and to bring these facts to the attention of the Senate we should thereby commit ourselves to a doctrine that the judgments of the Senate were mere wisps of straw, mere breaths from the nostrils of men, to be reversed and set aside and dispensed with at our will and pleasure. It is very true that I do not know of any power that can prevent the Senate of the United States from doing its will in reference to its membership. I know of no outside or constraining power that can hold it to its duty. I understand that the Senate of the United States is the judge of its own duty in matters of this kind. If the body shall ever become so weak or so corrupt that it has not sufficient strength or moral force or virtue to make honest and correct decisions, then it will cease to represent the people of the United States and ought to be dispensed with. But, sir, we have trusted the Senate for nearly a hundred years now, and I trust that we may be willing to confide to it for many centuries to come, that it will, in the execution of its own high powers of jurisdiction in deciding upon the qualifications of its own membership and the right of claimants to seats here, be influenced always by wisdom and by good conscience.

We cannot lay precedents down for ourselves which will bind even ourselves, or at all events our successors. The laws that we pass here are repealable. We cannot by the concurrence of the other House of Congress and the President fix upon the statute-book's a law that cannot be repealed. Our judgment rendered to-day may be set aside to-morrow, or during the next session of Congress; and so we can set aside the judgment of those who preceded us. No man has a right to ask a question on that subject except to his own heart, Have I acted honestly, have I acted faithfully, in my judgment?

I submit, Mr. President, that it is not only the right but it is the duty of every Senator to decide for himself all these questions without reference to what any man may say to him in regard to the effect of the precedent which he establishes. Do justice and do right now. Do justice and right while the subject is in hand. Satisfy our consciences by inquiry and by sound judgment, if we possess it, that what we do is right, and then the country will applaud what we do; but if we should do right even from a mean spirit, the country would have a right to scout us.

Mr. SAULSBURY. Mr. President, I do not intend to go into any discussion of this resolution, but I deem it proper that the question should be presented fairly before the Senate and before the country.

The resolution is a very simple one. It comes from a committee of which I have the honor to be a member. As I have before stated, that committee has been charged with the investigation and examination of a memorial presented by Mr. Spofford, in which he claims that he is entitled to the seat now held by WILLIAM PITT KELLOGG, and in which he also claims that if he is not entitled to the seat there are facts connected with the election of Mr. KELLOGG which disqualify him from holding the position of a Senator on this floor.

The committee gave the memorial referred to them careful consideration, and they believed that there was matter contained in the memorial which demanded an investigation. Not being able to make that investigation without the special authority of the Senate, they instructed the chairman of the committee to bring in a resolution asking the authority of the Senate to make the investigation, in order that they might ascertain the truth of the allegations contained in the memorial. That resolution was presented, as I once before remarked, not with a view of expressing the opinion of any member of the committee upon any matter which might be involved in the controversy nor with the design of committing any member of the Senate upon any question that might be embraced in the main question involved in the resolution. Our task was a simple, plain one in the discharge of the duty which had been devolved upon us by the Senate. But when we come here with that resolution we are antagonized and opposed by a proposition that this whole question has been already closed, and that further action on the part of the committee and the Senate is very improper. The committee have been charged in fact with coming here with a pretense, to use the language of the Senator from Massachusetts, [Mr. HOAR.] We have been charged with coming here with a scheme, to use the language of the Senator from New York, [Mr. CONKLING.] We have been charged with coming here in the spirit of revolution, to use the language of the Senator from Wisconsin, [Mr. CARPENTER.] I cannot suffer these allegations against a committee with which I am connected to be made without at least repelling all such charges and all such insinuations. We have come here to further no scheme; we have come here with no pretense; we have come here in no spirit of revolution, but simply to ask the Senate for authority to discharge a duty incumbent upon us by the action of the Senate itself, to obtain the facts that we might lay them before the Senate, so that it might dispassionately and intelligently judge whether the charges and allegations contained in this memorial are true or are not true.

I shall not enter into any discussion of the questions which have been raised. I listened attentively this morning to the rule of *res adjudicata* as presented by the Senator from Wisconsin. The argument was made this morning fairly and dispassionately, and I have no fault to find with the law which the Senator from Wisconsin presented. It may have been a very proper argument to present, as I have no doubt it has been presented, from the very brief that was read here, in the Supreme Court of the United States, and it may have had the effect there to determine the judgment of that court in the case pending before it, if I am correct in my supposition, that it was an argument presented to the Supreme Court; but I submit that it has no application whatever to this body. I shall not enter into that discussion, which has been so ably presented by the Senator from Alabama, [Mr. MORGAN.]

But I only rose to say to you, sir, and to the Senate, that we simply desire the authority which we have asked that we may eliminate the truth, and that we may present this question fairly and candidly to the Senate that they may determine this whole controversy intelligently and fairly between the claimant and the party holding the seat, between the people of Louisiana and the people of the country and the Senator from Louisiana now holding the seat.

If I felt disposed to retort upon gentlemen who have made charges against the action of the committee and against the action of the party to which I belong, I might remind them of some things in the past, but I will not do it. I ask what is the aspect of the whole question presented to-day to the Senate by this case? One party is seeking to ascertain the truth; the other party is interposing technicalities to prevent the elimination of the truth so that the Senate may judge properly in the whole matter. When gentlemen undertake to charge schemes and pretenses and revolution against the committee of which I am a member, and against the party of which I am a member, I feel disposed to give them a Roland for their Oliver, for that committee and the democratic party can give as well as receive blows. But I remember the high place in which I am, and I will not enter into the impugning of the motives of gentlemen as honorable as the men who charge them. I wish to place the matter fairly and squarely before the Senate. We simply ask authority. We do not ask any member of the Senate to commit himself to any question whatever involved in the investigation. If the facts elicited shall show that the party holding the seat ought not to hold it, that will be a question for the Senate to determine at the proper time, after it is in possession of the facts. If the facts shall show that he is properly entitled to this seat and ought to retain it, that will be a matter which the Senate at the proper time can and will determine. What I desire to say is that we have entered upon no scheme, that we are not here under any pretense, but we are here to ascertain the truth so that the Senate may have the truth before them when they come to the final determination of this question.

The PRESIDING OFFICER, (Mr. PENDLETON in the chair.) The question is on the adoption of the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. EDMUNDS. Before the vote is taken on the amendment proposed by the Senator from Massachusetts, which is to strike out the whole of the resolution and insert a different proposition, I wish to offer an amendment to the text of the resolution, which I believe is in order under the rule, by adding after the word "petition," in line 6 of the printed resolution, these words:

So far only as relates to any charge in said petition of personal misconduct on the part of said Kellogg, which may render him liable to expulsion or censure.

So that the instruction part of the resolution shall read:

And said committee is hereby instructed to inquire into the matters alleged in said petition so far only as relates to any charge in said petition of personal misconduct on the part of said Kellogg which may render him liable to expulsion or censure, &c.

The object of my moving that amendment is to confine the inquiry to the personal misconduct, if any such there shall turn out to be, to charges of misconduct on the part of the present Senator from Louisiana. It does appear to me that the Senate did decide and decide understandingly—I do not mean by that that it decided right; there is a difference of opinion about that, but that it decided the question—which was the lawful Legislature of the State of Louisiana on the occasion of the election of a Senator, and that that lawful Legislature in the methods and by the ways provided by law and in conformity with it had elected this gentleman, Mr. KELLOGG, to that place. So I understand it. I know there is a difference of opinion about that; but from looking into the case, it appears so to me, with great deference to gentlemen who think otherwise. There was by

reference, before the committee, and so on their report, with all the papers before the Senate, the evidence that there had been and was complaint as to the conduct of Mr. KELLOGG in securing his election, assuming the Legislature to have been the Legislature of Louisiana; but that was incidental to the main question. It is true the committee had jurisdiction of it. The charge was known if they looked at the papers. The petitioner by referring to the papers knew that there was an imputation of that kind, and that would have been the time properly perhaps to have made that inquiry also. But in substance the case proceeded upon the fundamental question of whether the body which elected Mr. KELLOGG was the body that had authority to do it, and whether that body did it in the forms and at the times prescribed by law. All that plainly was directly in issue, and it was decided.

Mr. President, I do not deny the power (and I use the word "power" reflectively) of this body to reverse that decision. I do not deny the power of this body by a resolution offered to-day and passed to-morrow to say that the State of Vermont has not elected me; and having said so I do not deny the power of the Senate on the next day, if you could change the majority, to adopt another resolution which should say that the Legislature of Vermont had elected me, and put me back into my seat again, and so on, to-day a member of the Senate and to-morrow not a member of the Senate. It has the power to do it because the Constitution has confided to this body, without any other restraint than that which is imposed upon us—there is no tribunal that can review our action—the power of doing as we like, just as the Constitution of the United States has reposed in the Supreme Court certain original jurisdiction, and when you have created the Supreme Court, which cannot create itself it is true, that original jurisdiction attaches. When a case of original jurisdiction comes before it, it may to-day decide for the plaintiff; it may to-morrow, in spite of any power that the Constitution can bring to bear upon it to restrain it, reverse that decision and decide for the other party. In an ejectment case, for instance, if you can imagine that a matter of original jurisdiction; in a boundary case between two States which plainly is one of original jurisdiction, the Supreme Court may decide to-day that the boundary of Rhode Island (because that is a case that once occurred) was in a certain place between that State and Massachusetts, and that that embraced people who had before yielded their allegiance to the State of Massachusetts; the day after it may reverse that decision and turn over that people again to the jurisdiction of Massachusetts, and so on. The Supreme Court has the power to do it, but we all agree that it would be a monstrous and flagrant violation of its duty to exercise the power in that way. So it appears to me to be here. When the Senate has once decided upon such a question, the rules of the Senate, the principles of justice, everything that enters into the orderly administration of government, by which alone freedom is secure at last, must come to the test, and having a decision once made it must stand, unless, as is provided by the rules of the Senate, a reconsideration of the question is moved within the time and in the way that the rules provide.

The resolution which declared that Mr. KELLOGG was entitled to a seat from the State of Louisiana upon the merits of the controversy that had been presented, might that day or the next day after, under the rules of the Senate, on a motion made by a Senator who voted in the majority, have been reconsidered; but the rules of the Senate, which embrace that question as well as every other, say that if the Senate means to retry a question that it has once decided, it must do it within a certain statute of limitations, using the word "statute" of course in a sense which here is merely another way of saying the law, which is the law of this body. It is a law founded, as I say, upon the principles of the orderly administration of government, and any body of men, as it appears to me (for this ought not to be a party question and I speak to myself and my associates as much as to others) which violates that fundamental theory of having the decisions of this Senate upon a question presented to them reversed and changed otherwise than by the fixed and preordained laws that the body itself has made for its own government, is taking a step most dangerous to justice, to liberty, to good government. You may gain a temporary advantage, we may gain it, I will say, supposing we were all convinced now that we had committed an error, by rectifying a temporary and occasional wrong; but upon what principle do we do it? We do it upon the principle that there is no decision of the Senate that the changing opinions of gentlemen may not reverse from day to day, from year to year, from Congress to Congress. When you have stood upon a principle of that kind, this body, the most conservative, the most dignified, the most regular, it may be, of any in the world, has committed itself to the principle that the changing opinions of its members, as its majorities do change from day to day upon various questions, (independent of the broad ones of political management and administration that divide us usually,) may allow it to declare that every member of this body, applying it to this case merely, holds his seat at the pleasure of the majority of his fellow-members who happen to be present on that day or the next.

Sir, it does appear to me that when you look to the long future, when you look over the long past that has gone over the Senate without any experiment of this kind having been tried so far as it affects the point that was decided by the Senate of the regularity of this election, be the point decided right or wrong—that is not the question I am now talking about at all,—you are taking a step that many of you and many of us will live to be sorry for, if we establish such a precedent. But when you come to the other question which affects the personal conduct of a Senator, and which it is said was not then fairly understood or drawn into question but only appeared as a distant incident, and which if it had been proved would not have upset the election, as to the regularity of it, or the title of this gentleman to his seat, unless the bribery went so far as to show that it would have changed the majority, then it may be that it is a different question. Theoretically everybody can see that it is.

Therefore, inasmuch as there appears to be a misunderstanding as to whether the question of the personal conduct of the sitting Senator was drawn into question and was decided, as every other question confessedly was, I wish to limit this inquiry to that point and to that point alone, because it is impossible, in my view, to say that we open the whole of this inquiry now without having decided that the inquiry is proper, and that if the facts turn out to be that we made a mistake in deciding that one Legislature was regular rather than another, that mistake is to be reversed. Every court of justice, when it is applied to to grant a new trial, not only requires that the application for a new trial shall be supported by evidence showing exactly the point upon which it is to proceed, but it never grants an application for a new trial or takes any step toward it except to hear the application, as we are now hearing this, until it can clearly see that if what is alleged is made out in proof, it will change the result.

I feel, then, that if I vote for this resolution as it now stands I am voting for a declaration that if it shall appear on a rehearing and a retrial of this question that the so-called Packard legislature was not the true one of that State, and that the so-called Nicholls legislature was, then I am bound, if I have reopened this case for a new trial, to decide upon the case as it is presented anew, upon the new evidence, and so to reverse the judgment, override it, or set it aside.

Although it is a small matter when applied to any one man or one State, I think in the long run it is a step that for the ultimate safety of this Union every Senator ought to refuse to take. It is far better that you should bear the incumbrance and the grievance and the wrong of having a State misrepresented for six years, than it is to say that party heats, party animosities, private combinations in parties as well as between them, on both sides of the Chamber, (because I am not speaking of parties here in the political sense at all,) will lead you to be retrying questions in close times when the Senate is evenly balanced and sometimes when it is not, because our terms are so long, that when there may be, as hitherto, a republican majority heavy in this body, we shall be strongly tempted to reject and to turn out some Senator who does not agree with us in opinion, not because it would not make any difference then, but in three or four or six or ten years, when the thing comes around again, it may make a great difference. The temptation is too great, sir. I therefore think that public safety, public justice, right, prudence, policy, and the true theory of the Constitution require us to resist all temptations to try over again, except in the time of it and under the rule for a reconsideration, any question of this kind that we have once decided.

So I hope, Mr. President, that the amendment which I have offered to the text may be agreed to.

Mr. KERNAN. Mr. President, as a member of the committee consenting to the reporting of this resolution, I wish to say that I voted for it in committee, and shall vote for it here, feeling and intending that I do not commit myself in the slightest degree to the decision which I shall give or try to give when the case comes before the Senate after the proposed inquiry shall have been made. I had no idea then, and have none now, that by authorizing this committee to take proof, where it is asked on a case like this, I am in the slightest degree committing myself not to give full force, when the evidence is produced, to the rule that has been discussed in reference to *res adjudicata*. I do not commit myself at all. I have never thought of the question, the committee has never consulted about it, for it was said there, as I say here, that we do this not intending to be committed ourselves, not expecting any one else to be committed, on the question, but in order to take the proof and then having whatever proof is competent and proper before us to report upon it and ask for a decision.

That is the reason why members of the committee felt that they ought not to, and would not at this stage of the proceedings enter at all into the debate on the subject of what would fall within the rule of *res adjudicata* and what would not. When the case comes up, I certainly shall vote for a rule that I shall expect, so far as we can make a precedent, will be for all parties, majorities and minorities, and I will vote for no rule that would unsettle what had been settled on an issue joined and tried.

Mr. HILL, of Georgia. I suppose it is hardly necessary to remind the Senate that the effect, if not the purpose, of the amendment now proposed by the Senator from Vermont is simply to limit the effect which the Senate shall give to the testimony, in advance of the testimony being taken. Inasmuch as the Senate cannot undertake to say what the testimony will be, what will be the effect of the testimony, or what vote will be required of the Senate in relation to the seat occupied by the Senator from Louisiana, whether to vacate that seat, whether to expel the member, or whether to censure him, all of which is to be left to be determined by the testimony when taken, and

which cannot be determined in advance, I hope the Senate will have no trouble in voting down the amendment of the Senator from Vermont.

Mr. EDMUNDS. The Senator from Georgia is partly right. The amendment that I have offered does limit, in respect of the effect of the testimony, the inquiry and the action of the Senate to two points, and those are all the points that the Constitution allows us to exert our powers upon as it respects a Senator of this body. The Senate has already decided that this gentleman is a Senator of this body. Therefore, if you do not limit the testimony, but say that you will retry this case, the very act of retrial, notwithstanding individual disclaimers asserts the jurisdiction to decide it according to the evidence that may be produced on the new trial. You grant a new trial by this resolution as it now stands, not upon the question merely of the conduct of this man, but upon the question that the Senate confessedly did decide, that there was a lawful Legislature which by lawful methods so far as conformity to the statute as to time and place and mode of procedure went, did elect this gentleman a Senator. There is therefore nothing left undecided in any point of view, except the question of the conduct of a member of this body. The Constitution points out to us what we may do and only what we may do in respect of the conduct of a member of this body, and that is that we may expel him, and included in that power, as it has been settled by precedent and practice, as a less and smaller mitigated exertion of that power, you may censure him instead of expelling him; that is, you may subject him to discipline. That is one thing.

Therefore, in reply to my honorable friend from New York, [Mr. KERNAN,] who I felt assured would agree with me in respect of the principles I laid down, I submit to his consideration that no matter if every single Senator in this body should rise, as he has done, and say "I am not committed," the act of passing this resolution is reopening for trial upon its merits the very question that we have decided. When you have got the evidence you may say, to be sure, "we have taken a misstep; this evidence all goes for nothing; it proves, to be sure, that the Nicholls legislature was the true legislature; but we do not feel at liberty so to hold now." When we grant the order to take the testimony to prove it we must grant it for some purpose. The Senate does not mean to stultify itself, to send a committee merely wool-gathering. We have made a mistake. Senators cannot then say "we will correct that mistake by making another, an illogical other; but in the direction of justice we will not do anything about it." Of course it is in our power to right one wrong by doing another wrong. The other wrong would be only a wrong in a technical sense in that case; but there is implied necessarily in the very act, as it appears to me, and with all deference to my honorable friend, without regard to the opinions of persons, Senators or Representatives,—there is implied in the very act of saying that we will reopen this case for testimony, the exertion of the power, the rightful exertion of the power, to determine the very question that has been decided.

There is the difficulty that troubles me, and no amount of disclaimer as I say, if it were absolutely unanimous, can affect the consequence that lives in, and resides in, and springs up from this resolution that we are undertaking to reconsider and retry by proceeding to inquire into the regularity of that Legislature, because this committee is our committee; it is our retrial. If it were right here present now and the testimony were to be taken by the Senate, and if this resolution depended only, as for this purpose I will treat it as doing now, upon the question of a definite proposition to retry the case as to the lawfulness of the Legislature that elected Mr. KELLOGG, what would the Senator do? Would my honorable friend from New York say, "I will proceed to retry this question; I will take all the evidence, public and private, and from witnesses, &c., which bears upon the question of those two Legislatures, and will reserve to myself the right after I have taken this evidence of deciding that I have no jurisdiction to determine the case according to the evidence as it actually appears?"

It is an assertion and a necessary and an inseparable assertion of jurisdiction to retry, by the very fact that you proceed to retry; and the act of the committee is the act of the Senate. It is precisely the same as if we did it right here and did it now. So I say to the Senator, leaving entirely aside all this question of corruption, bribery, &c., which is another thing, take his case or mine, where it has not been said, New York being very strongly democratic when he was appointed and Vermont rather strongly republican when I was, and so there was no temptation to bribery because everybody would know that he and I would get all the votes of our party of course; and it is proposed to try whether the Legislature of the State of New York that elected my friend was a regular Legislature, and it appeared that the Senate had once solemnly considered and decided that question. Now the Senator says, "to be sure we have done that but when I exercise this jurisdiction of going into a new trial I reserve to myself the right to say in the end that I have not got any right to go into a new trial." Would it not be more consonant to the principles of justice and procedure to decide on the application for a new trial, whether it is right to grant one or not, before allowing the party to proceed? Most certainly it would, it appears to me. Therefore in respect of this branch of the question that I am now speaking of, in taking this step we cannot escape from the responsibility of claiming by our votes the rightful power of asserting the jurisdiction to retry this case upon that branch of it that I am now speaking of; and asserting that jurisdiction to retry, then, if we are logical, we must follow the conseqences and upon the new evidence and the old evidence all brought together, redecide the case *de novo*.

Mr. HOAR. Mr. President, I do not propose to enter into the argument again, but I do not think it ought to close without the attention of the Senate and of the country being called to the very remarkable statement of the Senator from Alabama, [Mr. MORGAN.] Some uneasiness was manifested when some Senators of the minority claimed that the real purpose was to retry and get a different decision of the question decided by the Senate at the time this Senator was admitted to his seat, and it was claimed that such a suggestion was not only unfounded, but was almost an imputation on the personal good faith of members of the Senate. And yet the Senator from Alabama informs the Senate to-day that we ought to have known what was coming, for that, when certain evidence having been rejected, or a proposition to take further evidence on certain points submitted by Mr. Spofford not having been acceded to by the committee, it was brought into the Senate and the Senate determined that no further evidence upon those questions was proper to be taken, and having decided that question and then the main question, he rose and gave notice, to use the language which he just uttered, if I understood him, that the democratic party thereafter would put its probe into this matter, and that this matter should thereafter, when the majority in the Senate changed—I do not mean that he used those words about the change of the majority, but that the matter should thereafter be tried and investigated and decided by the democratic party.

Now, what gentleman has a right to manifest uneasiness, what gentleman has a right to be indignant, when a suggestion of that kind is made on this side of the Chamber, when a gentleman so high in the consideration of his own party informs us not only that that is the purpose so far as he understands it and has a right to utter it, but that we ought not to be surprised at it from the fact that we have had due notice for two years?

Mr. MORGAN. I have not a very exact remembrance of the language I used on the occasion, but I have no doubt that the Senator from Massachusetts has a perfect photograph of it.

Mr. HOAR. I spoke of the language the Senator just used in the Senate to-day in which he referred to the notice he had given two years ago.

Mr. MORGAN. I gave the notice (it is here in the RECORD) to which I referred. I did not give that notice in the name of the democratic party. I gave it in the name of those Senators who believed, as I believed, that the device of the Senator from Massachusetts to prevent an investigation and examination of the truth by a report which he made upon the merits could not prevail against the truth whenever we had a chance to bring it out.

The Senator from Massachusetts was on that committee and was a party to that device. He made a report "on the merits," what he chose at that time to impute to those words, without disclosing at the time what was the real meaning of them. I attempted at that time by an amendment which I offered to the resolution to reserve to the Senate the right thereafter to investigate these points in a fit substitute offered by the Senator from Delaware, and after some debate between the honorable Senator from New York [Mr. CONKLING] and myself, in which I understood that it was conceded that the Senate would have as much right afterward as it had then to limit and control the subject, I withdrew my amendment, giving notice at the same time that in the withdrawal of my amendment I did not concede the position of the Senator from New York. It was with that view that I said that the Senate had notice from that time forward that there were Senators, or at least one, who would always insist that this subject was not *res adjudicata*, that the words "the merits" did not cover the whole field of inquiry which was open to the Senate and to the world, and that thereafter we should contend that the attempt which had been made had failed to shut off and blockade inquiry into the truth by the introduction into the resolution of those technical words, "the merits," which might mean more or less just as they might be thereafter interpreted.

Mr. HOAR. Mr. President, whether the Senator gave his notice in the name of the democratic party I do not undertake to say. I understood him himself to say this morning in his speech that he gave notice what the democratic party would do, which comes pretty near being the same thing.

Now, in regard to the introduction in the resolution under which Mr. KELLOGG was admitted to take the oath of the words "on the merits," declaring him entitled to the seat on the merits, which the honorable Senator characterizes as a device, he has probably forgotten or does not know that that resolution follows precisely in that particular the language of the resolution referring the case to the committee, which came, if I am not mistaken, from a Senator on the other side of the Chamber. Mr. KELLOGG presented himself to take the oath on his certificate with the rest of the Senators at the session which began on the 4th of March, 1877, and several republican Senators uniting with nearly or quite all the democratic Senators on the floor, Mr. KELLOGG'S certificate was sent, without admitting him to the oath, to the Committee on Privileges and Elections. The committee, however, having under that resolution nothing referred to them but his certificate, it was supplemented shortly after by the resolution that the committee proceed to inquire and determine into the right of Mr. KELLOGG to a seat "on the merits," and when the

committee came to make a report they followed the language of the order under which they were acting, and reported that WILLIAM PITT KELLOGG was entitled to the seat on the merits, and their reasons were stated at length. Now, it is that transaction which the Senator from Alabama speaks of as a device!

Mr. MORGAN. I was not aware at all who coined the expression "the merits," or where it originated. I have no doubt at all of the power of the Senator to cover his position at any time on that point.

Mr. HOAR. I am informed—I do not myself vouch for this of my own recollection, but it is suggested to me by a Senator near me—that the author of that resolve was the honorable Senator from North Carolina, Mr. Merrimon, a democratic member of the committee. As I said, I cannot answer for that of my own recollection.

Mr. HILL, of Georgia. In the committee I heard no reason why the word "merits" should be inserted in the resolution by any gentleman who favored it.

Mr. HOAR. I said of my own knowledge, of my own examination, that the Senate resolution sending the case to the committee after the *prima facie* case had been settled directed the committee to consider and report in regard to the title "on the merits." That is where the phrase came from. My recollection is that it was a democratic motion. I am told, but of which I have no recollection, that the motion came from the then Senator from North Carolina, Mr. Merrimon, and that was the motion of reference. When the committee made their report they made their report of the execution of the authority in the language of the authority.

Mr. HILL, of Georgia. I am not talking about those facts. I say when the resolution was reported to this body and was drafted and presented to the committee and adopted by the majority, I could see no reason for inserting the word "merits" in it, because, as I stated at the time and as appears on record, we had not considered the case on the merits; we had not examined it; we had not taken the testimony; on the contrary, we had refused to take the testimony, and I could not see any reason why the word "merits" should be inserted in the resolution unless it was because there was no merit in the case.

Mr. HOAR. Will the Senator pardon me one moment? I have now the record of the committee, the printed proceedings of the committee, from which it appears that this resolution was offered by Mr. Merrimon:

Resolved, That the committee proceed to examine and ascertain the substantial merits of the respective claims of Hon. W. P. KELLOGG and Hon. H. M. Spofford to a seat in the Senate as a Senator from the State of Louisiana, and to this end to inquire particularly which, or whether either, of the two rival bodies claiming to be the Legislature of said State, in January and April last, was the true and lawful Legislature of said State.

This resolution was agreed to unanimously; so that not only the previous order of the Senate but the resolution of the committee to proceed to take up that case used this phrase.

Mr. HILL, of Georgia. But they did never do anything but take it up. They never did consider it.

Mr. MORGAN. It is very clear that if this was a democratic baby it was nursed to death by the republican nurses on that committee. The "merits" have been very little considered. I then offered a proviso to the resolution reported by the committee, as follows:

Provided, That nothing in this resolution shall be so construed as to preclude the Senate from its right to demand an investigation of the charges presented in the amendment offered by the Senator from Delaware and upon which a vote of the Senate has just been taken, as affecting the right of WILLIAM P. KELLOGG to a seat in the Senate.

Mr. CONKLING. We cannot hear the Senator on this side.

Mr. TELLER. We cannot hear a word.

Mr. CONKLING. The rest make too much noise and the Senator himself too little.

Mr. MORGAN. This was my amendment:

Provided, That nothing in this resolution shall be so construed as to preclude the Senate from its right to demand an investigation of the charges presented in the amendment offered by the Senator from Delaware and upon which a vote of the Senate has just been taken, as affecting the right of WILLIAM P. KELLOGG to a seat in the Senate.

That was the amendment I offered, and upon that the Senator from New York [Mr. CONKLING] and myself had some debate. I then concluded the remarks, to which I referred to-day, as follows:

What the rights of myself or any other Senator may hereafter be must be judged by the Senate when the question is presented. Of course they must be judged under the law and according to the Constitution; but I must say that it is my duty now to inform the Senate that upon some proper occasion, if this resolution shall pass, an opportunity will be demanded to bring the subject of the fraud of Kellogg in obtaining his credentials to the attention of the Senate and the country.

That was the notice to which I referred.

Mr. EDMUNDS. Mr. President, I am not able to see, and I ask Senators on all sides of the Chamber to consider whether they can see, that it makes any difference to the present question whether the Senator from Georgia, then a member of that committee, thought that the case had been duly examined or not, because that implies the very thing that gentlemen are so much hesitating to say that they wish to imply, a right to retry the case. You may say when we have decided this question to-day, that Senators did not sufficiently attend to the reasons that were given, which enter into the merits of every controversy. There are not only facts, but there are reasons, and facts are of no consequence unless they are rightly applied to the solution of the question in hand. Therefore the argument of the Senator from Georgia when he says that the case was not sufficiently considered, that one part of the committee, the majority, were blind to what was obvious to him, and I suppose the other part of the committee thought he was blind to what was obvious to them, and then when it came to the Senate one part of the Senate did not sufficiently consider the facts and reasons that would follow from them and their application, and, therefore a mistake was made,—all that comes back to the original proposition of undertaking to reopen and redispose of a question respecting the right of a member of this body to his seat upon the very question, the fundamental question, involved in the whole affair, upon the ground, which can always be found whether the vote of the Senate was unanimous or only by a majority, that Senators had not sufficiently considered and learned the facts, or had not sufficiently considered the application of those facts to the point which those facts were destined to control in one way or another, or the principles of law which should guide their application. It comes right back to the fundamental proposition, and that fundamental proposition, as far as I can see it, this Senate is deciding in respect of its rightful exercise of a power which I admit it has. It has the power to dismiss you to-day, except on an objection of one day's notice, and if you were to rule that it required a day's notice of a resolution to turn you out at this moment, all the majority would have to do would be to appeal and overrule you, and out you would have to go; and so would I or anybody else. Of course I only address the Chair as the conspicuous person whom we all address.

That is the thing we are now called upon to say we have the rightful jurisdiction to do, independent of the question of our power to turn anybody out or bring anybody in, which undoubtedly resides with us, but it would be such an abuse of power as would really disorganize the Government. We should be, as the Senator from Wisconsin has said, worse than Mexicanized; we should be hanging and playing with the titles of Senators and the rights of States to have their Senators here upon the plausible and sufficient ground to our own conscience in each particular case "we will say this is right; our fellow ought to have got in; if he did not get votes enough it was because there was some trouble at the primaries, or he did not have a fair chance in respect to the election of the representatives who composed the Legislature." And so you make this the mere football not merely of party politics but of everything evil that enters into the composition of society. Can we afford to do it? Can we afford to do it for the sake of doing a personal and temporary act of justice even, speaking to it from the point of view of my honorable friend from Alabama and others who think this case was decided wrong? That is what I wish to put in all seriousness to my honorable friends who did not think as I did about this case.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Vermont, [Mr. EDMUNDS,] perfecting the matter which is sought to be stricken out by the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. CONKLING. May we hear it read, Mr. President?

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. In line 6, after the word "petition," it is proposed to insert:

So far only as relates to any charge in said petition of personal misconduct on the part of said Kellogg which may render him liable to expulsion or censure.

Mr. SAULSBURY. I ask for the yeas and nays on that amendment. I hope it will not be adopted.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. WHYTE, (when Mr. ANTHONY'S name was called.) I desire to state that I am paired with the Senator from Rhode Island, [Mr. ANTHONY.] If he were present, it is likely he would vote "yea;" I should vote "nay."

Mr. SAULSBURY, (when Mr. BAYARD'S name was called.) My colleague [Mr. BAYARD] is paired with the Senator from Michigan, [Mr. CHANDLER.] My colleague, if he were here, would vote "nay."

Mr. EATON, (when Mr. CARPENTER'S name was called.) On this question the Senator from Wisconsin [Mr. CARPENTER] is paired with me. Were he here, I suppose he would vote for the amendment; I should vote against it.

Mr. CHANDLER, (when his name was called.) I am paired with the Senator from Delaware [Mr. BAYARD] temporarily.

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "nay."

Mr. PLUMB, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON.] If he were present, I should vote "yea."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. DAWES.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call was concluded.

Mr. BURNSIDE. The Senator from Pennsylvania [Mr. CAMERON] is paired with the Senator from Ohio, [Mr. THURMAN.] If the Senator from Pennsylvania were here, he would vote "yea."

Mr. PADDOCK. I am paired with the Senator from Georgia, [Mr. GORDON.] If he were here, I should vote "yea."

Mr. ALLISON. My colleague [Mr. KIRKWOOD] is paired with the Senator from West Virginia, [Mr. HEREFORD;] and the Senator from Maine [Mr. BLAINE] is paired with the Senator from New Jersey,

[Mr. McPHERSON,] and the other Senator from Maine [Mr. HAMLIN] is paired with the Senator from Pennsylvania, [Mr. WALLACE.]

The result was announced—yeas 20, nays 27; as follows:

YEAS—20.

Allison,	Cameron of Wis.,	Hoar,	Platt,
Bell,	Conkling,	Ingalls,	Rollins,
Booth,	Edmunds,	Logan,	Saunders,
Bruce,	Ferry,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.

NAYS—27.

Bailey,	Harris,	Maxey,	Slater,
Beck,	Hill of Georgia,	McDonald,	Vance,
Call,	Houston,	Morgan,	Vest,
Coke,	Jonas,	Pendleton,	Voorhees,
Davis of W. Va.,	Jones of Florida,	Randolph,	Walker,
Garland,	Kernan,	Ransom,	Withers.
Hampton,	Lamar,	Saulsbury,	

ABSENT—29.

Anthony,	Davis of Illinois,	Hereford,	Sharon,
Bayard,	Dawes,	Johnston,	Thurman,
Blaine,	Eaton,	Jones of Nevada,	Wallace,
Butler,	Farley,	Kellogg,	Whyte,
Cameron of Pa.,	Gordon,	Kirkwood,	Williams.
Carpenter,	Groome,	McPherson,	
Chandler,	Grover,	Paddock,	
Cockrell,	Hamlin,	Plumb,	

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Massachusetts, [Mr. HOAR.]

Mr. CONKLING. I wish to offer an amendment to perfect the text of the resolution. I move to amend by adding at the conclusion of the resolution these words:

Provided, That the inquiry hereby authorized shall be confined to the matters alleged in the memorial of Mr. Spofford to be new and different from those covered by the previous inquiry.

Mr. SAULSBURY. I hope that amendment will not prevail, and I ask for the yeas and nays upon it.

Mr. EDMUNDS. I second the demand.

Mr. CONKLING. Let us have the yeas and nays by all means.

The yeas and nays were ordered.

Mr. CONKLING. I wish to make one remark. I do not believe, I will not profess to believe that there is any sound distinction in law or in reason between a question which was, and a question which might have been, inquired into before, when this contest was pending. Discovering, however, that there are members of the Senate who see or think they see a difference between the points at which actual inquiry was aimed and points at which no inquiry was actually aimed although inquiry was competent, I offer this amendment to accommodate them and to distinguish in favor of what for brevity I will call newly discovered evidence, so that Mr. Spofford may be allowed now to allege not only what he did not in truth allege, but to allege what he might have alleged and did not; in other words that he may avail himself of all the knowledge which came to him afterward, and shall be concluded only in respect of those things which were settled and which he himself says were settled by the committee and by the Senate. I seek by this amendment to segregate newly discovered matter and all of it from that confessedly embraced not only in law but in fact within the prior adjudication.

Mr. SAULSBURY. The amendment of the Senator from New York carries with it an implication that the committee may investigate, may take jurisdiction of that which they are not entitled by the memorial to take jurisdiction of. As a member of that committee I desire to say that that committee fully understands the authority which is conferred upon it, and will not trespass beyond or take jurisdiction of that which is not committed to it; and I am not, as a member of that committee, willing to rest under the implied imputation embraced in the amendment of the Senator from New York that the committee with which I have the honor to be connected will transcend its authority and make inquiry upon subjects that it is not authorized by the Senate to inquire into. The amendment of the Senator is a distrust, a manifest distrust, of the discretion of the committee, and as a member of the committee I can do nothing else than protest against any such imputation upon a committee to which I have the honor to belong. The amendment of the Senator is wholly unnecessary. That committee will have charge of the matters conferred upon it by the Senate, and will not trangress and transcend the authority given to it. There is, therefore, no necessity for the amendment of the Senator from New York.

Mr. CONKLING. Mr. President, it was a quaint remark of a celebrated judge, "the court is not hungry after jurisdiction." Had I supposed that "as the hart panteth after the water brooks" so the Committee on Privileges and Elections was panting for jurisdiction and for large opportunities, I should have been able to understand that there was some offense, some disagreeable check in the amendment I offered; but without the declaration of the Senator from Delaware, I could never have conceived that a committee of the Senate about to be instructed by the Senate to perform a certain duty would take offense because the Senate did not lay upon it more of duty and confer upon it more of power and prerogative than might be proposed.

This amendment of mine is not a criticism of the committee. Far from it; it is like an order which the court of chancery sends to a master assigning duties to him, pointing out, particularizing inquiry to be made; and the same reason which invokes the action of the Senate, the same power on which that action rests should the original resolution prevail, explains, excuses, and renders inoffensive any limitation or curtailment of that power which a majority of the Senate shall affix. If the Senate orders the Committee on Privileges and Elections to inquire at large without any denoted discrimination between one domain of inquiry and another, then that committee is irksomely burdened with the duty of making general and indiscriminate inquiry, and is so burdened so far as regards the commission of the Senate under which it proceeds to act. On the contrary, if the Senate in laying duties upon the committee distinguishes between what it would deem an unreasonable and unnecessary exaction of the committee and that which it deems necessary, surely a committee so well conducted as the Committee on Privileges and Elections could never be carried off into the wild fancy that disrespect or want of consideration was involved in the direction which the Senator has indicated.

So far from intending any unkindness to that committee, my regard for it is such that I would not see it overworked by exploring that ground in respect of which more than ten thousand octavo pages, we are told, of testimony have already been taken. Who capable of admiring, as it deserves to be admired, the Committee on Privileges and Elections, would have the heart to require that committee to retraverse all that ground or to do anything which the committee could providently be spared. No, Mr. President, that will not do. This is the Senate acting now. The Senate is marking the boundaries of jurisdiction; the Senate is to say whether it will hold that in a case adjudicated and certificated as far as any case can be, it will proceed to unsettle and retry all and all manner of questions, or whether if it insist upon proceeding at all, it will proceed only so far as somebody has been found with courage enough to allege that the matter was new or newly discovered. That is the Senate's act, and it can never escape upon any question of etiquette or consideration for a committee because the chairman of a committee rises and affects to take umbrage at the idea of putting a bridle or check upon the power of the committee.

The Secretary proceeded to call the roll.

Mr. BURNSIDE, (when Mr. ANTHONY's name was called.) My colleague [Mr. ANTHONY] is paired with the Senator from Maryland, [Mr. WHYTE.] If my colleague were here, he would vote "yea."

Mr. BLAINE, (when his name was called.) I am paired on this question with the Senator from New Jersey, [Mr. McPHERSON.] If he were present, I should vote "yea." I desire further to state that my colleague [Mr. HAMLIN] is paired on this question with the Senator from Pennsylvania, [Mr. WALLACE.] If he were present, my colleague would vote "yea."

Mr. CHANDLER, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. BAYARD.] If he were present, I should vote "yea."

Mr. EATON, (when his name was called.) On all questions connected with this matter I am paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. FARLEY, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "nay."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. JOHNSTON.] If he were present, I should vote "yea."

Mr. HILL, of Georgia, (when Mr. PADDOCK's name was called.) I see that the Senator from Nebraska [Mr. PADDOCK] is not here. The Senator from Nebraska is paired with my colleague, [Mr. GORDON.]

Mr. WILLIAMS. I am paired with the Senator from Massachusetts, [Mr. DAWES.] If he were here, I should vote "nay," and I believe he would vote "yea."

The Secretary concluded the roll-call.

Mr. BURNSIDE. The Senator from Pennsylvania [Mr. CAMERON] is paired with the Senator from Ohio [Mr. THURMAN] on this question. The Senator from Pennsylvania, if here, would vote "yea."

Mr. PADDOCK. On this question I am paired with the Senator from Georgia, [Mr. GORDON.] If he were here, I should vote "yea."

Mr. SAULSBURY. The Senator from Pennsylvania [Mr. WALLACE] is paired with the Senator from Maine, [Mr. HAMLIN.]

The result was announced—yeas 20, nays 27; as follows:

YEAS—20.

Allison,	Cameron of Wis.,	Hoar,	Platt,
Bell,	Conkling,	Ingalls,	Rollins,
Booth,	Edmunds,	Logan,	Saunders,
Bruce,	Ferry,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.

NAYS—27.

Bailey,	Harris,	Maxey,	Slater,
Beck,	Hill of Georgia,	McDonald,	Vance,
Call,	Houston,	Morgan,	Vest,
Coke,	Jonas,	Pendleton,	Voorhees,
Davis of W. Va.,	Jones of Florida,	Randolph,	Walker,
Garland,	Kernan,	Ransom,	Withers.
Hampton,	Lamar,	Saulsbury,	

ABSENT—29.

Anthony,	Cameron of Pa.,	Davis of Illinois,	Gordon,
Bayard,	Carpenter,	Dawes,	Groome,
Blaine,	Chandler,	Eaton,	Grover,
Butler,	Cockrell,	Farley,	Hamlin,

Hereford,	Kirkwood,	Sharon,	Williams.
Johnston,	McPherson,	Thurman,	
Jones of Nevada,	Paddock,	Wallace,	
Kellogg,	Plumb,	Whyte,	

So the amendment was rejected.

Mr. HOAR. I move to amend the original resolution by adding thereto the following:

And said committee are further instructed to inquire and report whether bribery or other corrupt or unlawful means were resorted to to secure the alleged election of the memorialist.

Mr. SAULSBURY. We will accept that amendment.

Several SENATORS. Let it be reported again.

The Secretary read the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR,] just read.

Mr. SAULSBURY. I am instructed by the committee to say they will accept that amendment.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Massachusetts [Mr. HOAR] as a substitute for the resolution.

Mr. EDMUNDS. I move to amend the text of the resolution by inserting after the word "that" in the first line where it occurs after the word "resolved," the words:

Recognizing the validity and finality of the previous action of the Senate in the premises.

So as to read:

Resolved, That, recognizing the validity and finality of the previous action of the Senate in the premises, the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, &c.

Mr. President, the amendment I have now had the honor to offer is in order to save any committal of the Senate (which I think is clearly involved in the resolution as it stands) to the doctrine that we are to reopen and retry what has once been opened and tried and decided. To save that, I propose this amendment, and on it I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. I hope the amendment will be voted down.

The Secretary proceeded to call the roll.

Mr. CHANDLER, (when his name was called.) I am paired on this question with the Senator from Delaware, [Mr. BAYARD.] If he were here, I should vote "yea."

Mr. PADDOCK, (when his name was called.) I am paired with the Senator from Georgia, [Mr. GORDON.] Otherwise, I should vote "yea."

Mr. PLUMB, (when his name was called.) I am paired on this question with the Senator from Virginia, [Mr. JOHNSTON.] If he were present, I should vote "yea."

Mr. THURMAN, (when his name was called.) On this question I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

The Secretary concluded the roll-call.

Mr. BURNSIDE. On this question my colleague [Mr. ANTHONY] is paired with the Senator from Maryland, [Mr. WHYTE.] My colleague, if he were here, would vote "yea."

The result was announced—yeas 20, nays 27; as follows:

YEAS—20.

Allison,	Cameron of Wis.,	Hoar,	Platt,
Bell,	Conkling,	Ingalls,	Rollins,
Booth,	Edmunds,	Logan,	Saunders,
Bruce,	Ferry,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.

NAYS—27.

Bailey,	Harris,	McDonald,	Slater,
Beck,	Hill of Georgia,	Maxey,	Vance,
Call,	Houston,	Morgan,	Vest,
Coke,	Jonas,	Pendleton,	Voorhees,
Davis of W. Va.,	Jones of Florida,	Randolph,	Walker,
Garland,	Kernan,	Ransom,	Withers.
Hampton,	Lamar,	Saulsbury,	

ABSENT—29.

Anthony,	Davis of Illinois,	Hereford,	Sharon,
Bayard,	Dawes,	Johnston,	Thurman,
Blaine,	Eaton,	Jones of Nevada,	Wallace,
Butler,	Farley,	Kellogg,	Whyte,
Cameron of Pa.,	Gordon,	Kirkwood,	Williams.
Carpenter,	Groome,	McPherson,	
Chandler,	Grover,	Paddock,	
Cockrell,	Hamlin,	Plumb,	

So the amendment was rejected.

Mr. CONKLING. I offer the following amendment to come in at the end of the resolution, and I ask for the yeas and nays upon it:

Provided, That such questions in said case as were fully considered and adjudged in the former investigation shall not be reopened under this resolution.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHANDLER, (when his name was called.) I am paired as before stated.

Mr. THURMAN, (when his name was called.) I am paired on all questions connected with this resolution with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. WILLIAMS. I am paired as already stated.

The roll-call was concluded.

Mr. PADDOCK. On this question I am paired with the Senator from Georgia, [Mr. GORDON.] If he were present, I should vote "yea."

Mr. BURNSIDE. On this question my colleague [Mr. ANTHONY] is paired with the Senator from Maryland, [Mr. WHYTE.] If my colleague were here, he would vote "yea."

The result was announced—yeas 20, nays 28; as follows:

YEAS—20.

Allison,	Cameron of Wis.,	Hoar,	Platt,
Bell,	Conkling,	Ingalls,	Rollins,
Booth,	Edmunds,	Logan,	Saunders,
Bruce,	Ferry,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.

NAYS—28.

Bailey,	Hampton,	Lamar,	Saulsbury,
Beck,	Harris,	McDonald,	Slater,
Call,	Hill of Georgia,	Maxey,	Vance,
Cockrell,	Houston,	Morgan,	Vest,
Coke,	Jonas,	Pendleton,	Voorhees,
Davis of W. Va.,	Jones of Florida,	Randolph,	Walker,
Garland,	Kernan,	Ransom,	Withers.

ABSENT—28.

Anthony,	Davis of Illinois,	Hamlin,	Paddock,
Bayard,	Dawes,	Hereford,	Plumb,
Blaine,	Eaton,	Johnston,	Sharon,
Butler,	Farley,	Jones of Nevada,	Thurman,
Cameron of Pa.,	Gordon,	Kellogg,	Wallace,
Carpenter,	Groome,	Kirkwood,	Whyte,
Chandler,	Grover,	McPherson,	Williams.

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Massachusetts [Mr. HOAR] as a substitute for the resolution upon which the yeas and nays have been ordered.

Mr. CONKLING. Let that be reported.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read Mr. HOAR'S amendment, as follows:

Strike out all of the resolution and insert the following:

Whereas on the 25th day of October, 1877, the Senate unanimously adopted the following resolution:

"*Resolved*, That the Committee on Privileges and Elections on the contested cases of WILLIAM PITT KELLOGG and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers and administer oaths, with a view of enabling said committee to determine and report upon the title respectively on the merits of each of said contestants to a seat in the Senate."

And whereas on the 26th day of November, 1877, said committee reported the following resolutions:

"*Resolved*, That WILLIAM PITT KELLOGG is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th of March, 1877, and that he be admitted thereto upon taking the proper oath.

"*Resolved*, That Henry M. Spofford is not entitled to a seat in the Senate of the United States;"

And on the 30th day of November, 1877, the Senate adopted said resolutions; and thereafter, on the same day, said KELLOGG was duly admitted to take the oath, and took his seat as a Senator from said State for said term: Therefore,

Resolved, That said proceedings are final and conclusive upon the right of said KELLOGG and the claim of said Spofford to such seat for said term.

Mr. LOGAN. I presume the desire is to get fully the facts in reference to this election on those points which have not been examined; and, therefore, I offer this amendment to perfect the text of the original resolution:

Provided, That said committee be further empowered and directed to make inquiry and take testimony upon the matter as to whether any unlawful or corrupt means were employed to disorganize the body by which WILLIAM PITT KELLOGG claims to have been elected to the Senate, or to organize that by which the memorialist claims to have been elected or to secure the alleged election of the memorialist.

Mr. CONKLING. No objection to that.

Mr. SAULSBURY. I hope that amendment will be voted down. It has no connection whatever with the subject.

Mr. CONKLING. Why should that be voted down?

Mr. EDMUNDS. Because it seeks for the truth, as they stated a little while before.

Mr. CONKLING. It seems to me there must be some misapprehension about this. This, if I understand it, is a direction to the committee to inquire whether this memorialist and others employed bribery and corrupt means to disorganize the Legislature which chose Kellogg and to assemble and influence the Legislature which chose Spofford. Is the majority going to refuse to let us know how that is?

Mr. VOORHEES. Might not that reach the President of the United States?

Mr. CONKLING. Possibly it might reach the Senator from Indiana or me.

Mr. VOORHEES. No; not possibly the Senator from Indiana.

Mr. CONKLING. Then I will omit the Senator from Indiana and suppose it might possibly reach me. But, Mr. President, the law does not respect persons. The truth is not sought as a matter of favoritism. No matter who may be seated in the saddles or on the cushions of power, the truth all the same, I submit to the Senator from Indiana, ought to appear. Knowing how clannish he is and appreciating, as I do, that sectional pride and partiality which led him no doubt to put the question he did to me, nevertheless I say to him nobody, be he in the East or in the West, ought to be favored at the expense of the truth; and I am sorry that the honorable Senator from Indiana, who has so often flashed his cimeter of late in behalf of truth and

justice, should shrink from allowing an inquiry to be addressed to a fact for fear that that fact might be unpleasant to any statesman of the West, however distinguished or eminent.

Mr. VOORHEES. Mr. President, in voting upon this question I am not voting upon the merits as they will appear to me at a later period. I disclaim any intention whatever of concluding this case, so far as my vote is concerned. At the same time I undertake to say that the Committee on Privileges and Elections will do justice without the coercive measures that are proposed by these amendments. Consequently, while these amendments, many of them, in the main are right and such as I would vote for under different circumstances, I vote against them because I believe that the Committee on Privileges and Elections will carry out their scope and purpose without these instructions. I say further that I vote against them because I have never yet known the majority of a legislative body, charged with the responsibility of legislation, to allow the minority to instruct its committees, as if they were not to be trusted to do what was fair and right.

I undertake to say that the Committee on Privileges and Elections will investigate these questions, and if there has been fraud perpetrated by the claimant to this seat, I hope it will be sifted to the bottom; but I do not intend to vote a want of confidence in a committee belonging to my own side of this Chamber at the dictation of those on the other side.

That is all I have to say in explanation of the course I pursue on this question.

Mr. LOGAN. Mr. President, I am sure in offering this amendment I had no desire in the world except that we should develop the facts in reference to corrupt means that may have been employed. The assertion had been made of a desire on the part of the Committee on Privileges and Elections to ascertain certain facts, namely, whether or not the sitting member had employed corrupt means to secure his election. It has also been charged that a different Legislature, made up partly of those that elected him and partly of other persons that elected another person claiming this seat, was made up by means of improper influences. Inasmuch as the gentlemen who have the honor and welfare of this nation now in their hands have expressed a desire to preserve the purity of this country, and wish, at least seemingly, so to demonstrate their honesty and honest intentions to the people of this great country of ours, I thought I would merely make a suggestion to them that probably they had left out of the resolution a part of this case that perhaps the caucus had not considered, to wit, what action had been taken on the part of some gentlemen to disintegrate the Legislature that had elected Mr. KELLOGG, the Senator now sitting in the Senate, for the purpose of electing by another body a gentleman differing with him in political sentiment. I thought inasmuch as they had forgotten this, I would bring it to their notice, for certainly it was overlooked on their part. Of course they had no design in the world to cover up any fraud that may have been perpetrated by any of their friends. I should not accuse them of that for a moment. But inasmuch as I presumed they had forgotten this matter, I thought I would make the suggestion to them so that we might have the examination complete, and ascertain whether or not bribery and corruption had been used on the part of any of their friends to break up the Legislature that elected the sitting member for the purpose of electing one of their own friends by another Legislature.

If that is a fact, it does seem to me that the just, proper, and honest examination of this question for the purpose of showing fairness all around would require that this proposition of mine be entertained and agreed to. The honorable Senator from Indiana seemed to be alarmed when this was introduced for fear it might touch the President of the United States; he allowed that unguarded remark here before the Senate to go out to the country. I know it was an unguarded remark; I am sure he intended no such thing because there is nothing pointing in that direction in this amendment. The only direction given to it is in reference to the memorialist and the sitting member and their conduct in regard to their own elections.

It does seem to me when Senators are determined to have everything proceed in an orderly and proper manner before committees and before the Senate and that every man sitting here shall obtain his seat honestly, that it would be equally as just and certainly as fair, apparently so at least to the country, if they would at the same time be willing to develop the dishonest acts on the part of the person who claims the seat provided there were dishonest acts on his part. I do not say that there were, but this accusation has been made, it has been publicly presented in the public prints; it has been charged that a certain amount of money was used for the purpose of breaking up the Packard legislature and to reorganize the other for the purpose of electing this memorialist to the United States Senate. It has been publicly charged before the country, and on that basis I offered this amendment.

Mr. VOORHEES. Will the Secretary read the amendment offered by the Senator from Massachusetts [Mr. HOAR] and unanimously adopted a few moments ago?

The PRESIDING OFFICER. The amendment referred to will be read.

The Secretary read as follows:

> And said committee are further instructed to inquire and report whether bribery or other corrupt or unlawful means were resorted to to secure the alleged election of the memorialist.

Mr. VOORHEES. That is all the answer I have to make.

Mr. BLAINE. But that does not cover the point.

Mr. LOGAN. Not at all.

Mr. VOORHEES. What point does it not cover?

Mr. BLAINE. I have not had the pleasure of hearing this debate, but it seems to me incomprehensible that the Senators on the opposite side of the Chamber who desire a fair investigation of this case should vote down the amendment of the Senator from Illinois.

Mr. VOORHEES. Will the Senator from Maine tell me what point it does not cover?

Mr. BLAINE. I will tell the Senator in a moment what point it does not cover. This is an investigation set on foot to throw a doubt upon the title of WILLIAM PITT KELLOGG and to establish the title of Henry M. Spofford. Every child understands that.

The regularity of the Louisiana Legislature that counted in a governor is not directly assailed there; probably it may not be; probably they will bring in some question of bribery here upon Mr. KELLOGG, or try to do it. They do not bring in a question of bribery upon Mr. Spofford as to his election because if there had been bribery it antedated that. The bribery in his case was in breaking up the Legislature. I am not accusing Mr. Spofford of bribery; I do not understand that the honorable Senator from Illinois accuses Mr. Spofford of bribery; but he accused somebody of having used corrupt means to break up one Legislature and produce another Legislature that elected Mr. Spofford. That goes to the very root of the matter. Here Mr. KELLOGG says before the committee:

> It is a matter talked of on the streets, and is not denied, that money was used to disintegrate the Packard legislature and secure votes for Mr. Spofford. He is not on trial, but when I am called upon, if ever, to sustain this statement, I will endeavor to prove it.

This was said before the Committee on Privileges and Elections by the actual sitting member, who was put in here on his *prima facie* case and afterward upon an investigation going to the whole root of the matter. The honorable Senator from Indiana says that is irrelevant. Why, sir, it is the only thing relevant here. If you open the question at all, it is the only relevant point to be urged. All the rest is trampling under foot the precedents of the Senate for seventy-five years. There is no other point before the Senate worthy of investigation; and if you shirk that, you shirk the whole case.

Mr. EATON. We do not shirk it; we vote it down. [Laughter.]

Mr. BLAINE. Of course my friend from Connecticut always has a mode of shirking cases that way; but he will not convince the country that voting it down and refusing an investigation and sitting simply with a numerical majority on a bare proposition of that kind is not shirking it; and according to the prospect of this investigation now with the majority of the Senate voting as they seem disposed to do, there never will be an opportunity to investigate that question in regard to Mr. Spofford and the Legislature that elected him. Why you take one side of this question and not the other side, is what the country wants to know. Why does my fair-minded friend from Indiana desire to have this side of the question investigated while the other and the larger and the more portentous side shall be shuffled aside and shirked by the vote of the honorable Senator from Connecticut as well as others—"shirked" is the word.

Mr. VOORHEES. Now, Mr. President, I desire to say a word or two to the Senator from Maine. He says "'shirked' is the word."

Mr. BLAINE. Precisely.

Mr. VOORHEES. I say to the Senator from Maine that he has a set of pet phrases, and among them are those words that imply cowardice and a sense of fleeing away from his presence or something that is terrible on that side of the Chamber. Let him dismiss that now, once for all and forever. There is nobody on this side of the Chamber who will shirk any sooner than the Senator from Maine will; and I say that in no spirit of menace at all, but as trying to correct those "plantation manners" that obtain up among the dark pines of Maine.

Mr. BLAINE. The plantations of Maine!

Mr. VOORHEES. Yes; the plantations of Maine, where it seems it is allowable for a man to use terms that imply inferiority, want of courage, want of manliness, and which imply a boastfulness of superiority on the other side. I say to the Senator from Maine, with an abiding personal regard for him of long years, that the sooner he dismisses those phrases from his vocabulary the sooner we shall get along in quiet and harmony in this body.

Now, further, Mr. President, on the question of the lecture which the Senator from Maine has delivered to us as to what we ought to do with the amendment offered by the Senator from Illinois, I am in favor of the most thorough investigation, if investigation takes place at all. I did not intend to be drawn into this debate; I did not desire to be. I had some trouble in my own mind as to what was the proper course to be taken on this question, and I have that sort of courage which enables me to say that. I believe, however, and I think I can demonstrate to the Senate, that we have adopted an amendment which goes as far as that which the Senator from Illinois has offered, and I speak of the Senator from Illinois and his amendment with entire respect. The Senator from Maine, with that high, dashing spirit of his, comes in here with little knowledge on this point and arraigns this side of the Chamber because we are opposing what we think has already been enacted by our votes. I read now what was adopted, and not merely adopted but accepted on this side of the Chamber, accepted by the Committee on Privileges and Elections, offered by

the Senator from Massachusetts. Let us see how broad or how narrow it is; let us see whether it needs emendation and enlargement, as the Senator from Maine insists; let us see whether it does not demonstrate that the Senator from Maine did not know what the Senate had already done when he arraigned this side of the Chamber as shirking from an investigation of all that belongs to this case. We have already said by a unanimous vote of this body:

And said committee are further instructed to inquire and report whether bribery or other corrupt or unlawful means were resorted to to secure the alleged election of the memorialist.

Can you tell me what that does not embrace—whether bribery or other corrupt means or other unlawful means (all those words used) were resorted to to secure the election of the memorialist. Does that not embrace the disintegration of the Louisiana Legislature if such a thing took place? Does it not embrace the wide and open secret of whether your President of the United States connived at the disbandment of the Louisiana Legislature? Is there anything left unsaid, unasserted, in the way of improper practices when we say here by the unanimous vote of the Senate that this committee shall inquire whether bribery or other corrupt or unlawful means were practiced to secure the election of this memorialist. What else is there? Not by Spofford alone, but by anybody and by everybody; by him and by everybody else; by the sitting member, by the claimant, and by everybody else. Will the Senator from Maine rise and tell me what is left unasserted?

Mr. BLAINE. I will right now.

Mr. VOORHEES. I will yield to you to do so.

Mr. BLAINE. If the Senator will send me that amendment I will show him exactly what is left out. I do it on the Senator's invitation, but I was not ignorant of this, for I sat in my seat and heard the Senator offer it and would have voted on it had I not been paired:

And said committee are further instructed to inquire and report whether bribery or other corrupt or unlawful means were resorted to to secure the alleged election of the memorialist.

This, now, is what is left out: "or to disintegrate the Legislature that elected the sitting member."

Mr. VOORHEES. Is that a part of it?

Mr. BLAINE. No, sir, it is not a part of it. It does not reflect on Mr. Spofford whether he bribed or not; there may have been corrupt means used in the constitution of the Legislature which do not go to corruption by a man elected by them. God forbid that should be so. Many of the most honorable men who have ever sat in this body may have been sent here by legislatures that were corruptly organized. The question is not whether Mr. Spofford bribed or whether the members were bribed by him; the question is whether unlawful means were used to constitute that Legislature. If it means the same thing, why does not the honorable Senator from Indiana consent to put it in? If it means a different thing, there may be a reason for keeping it out.

Mr. VOORHEES. If the question of disintegrating and disorganizing the Louisiana Legislature has any bearing on the question before the Senate as to who shall sit in this body, then it is covered by the amendment already adopted. I repeat the whole question before this body is who shall sit here. If the question of disorganizing and disbanding the Legislature does not bear upon this question, it is not a proper subject of inquiry; but if it does, it is embraced in that amendment which instructs the committee on this point of who is to sit here, to inquire whether bribery or corrupt or other unlawful means were employed; and if touching the seat here the disbandment or disorganization of the Legislature is involved, then that amendment which we have adopted reaches the case and instructs this committee to inquire into that as well as into every other species of corruption or unlawful practice or bribery. There is not a Senator on this floor who does not comprehend that; and with perfect respect for the Senator from Maine, I say to him that his point is pure pettifogging, because if the question of disbanding the Louisiana Legislature bears upon the question who shall have a seat here, the amendment instructs this committee to inquire into the disbandment of the Louisiana Legislature as well as into every other feature of this case.

I did not intend to be drawn into this debate at this time, but I hold that the ground that is under my feet on this question is sound and solid and cannot be shaken by the Senator from Maine.

Mr. BLAINE. After the lecture which my friend from Indiana delivered to me upon my use of words and upon the impetuous manner which I sometimes have in contrast with his mild and placid way of speech, he wound up by telling me that my case was mere pettifogging. Now, down in Maine, in the way we speak the English language, "shirk" means "to depart from; to quit; to shift off." That is what Noah Webster and Worcester say it is. I do not know whether "pettifogging" is considered a mode of showing your respect for a man out in Indiana, the way the tongue is spoken there.

Mr. VOORHEES. "Pettifogging"—and I only mean it in that sense, for I am utterly incapable of meaning personal offense to the Senator from Maine—"pettifogging" means taking up a small point in a case, that does not govern the whole case, and insisting that it has an importance which it has not.

Mr. BLAINE. And "shirk" means to avoid a large point.

Mr. VOORHEES. "Shirk" in the western sense means to run away and skulk and hide like a coward.

Mr. BLAINE. Oh, no. The Senator's criticism, I know, was in good part and I take it so; but he has a large vocabulary and I have a small one, and I must be permitted to use mine and select mine. I do not know that any Senator on this floor speaks with less intention of giving offense than myself; but at the same time I refer him to the solid meat of this question, and I say that the real point of the whole matter is whether there was a lawful Legislature lawfully constituted to elect Mr. Spofford. You do not propose to investigate that at all. You propose to go by that. How shall I characterize that in such manner as shall be agreeable to the ears of my friend from Indiana?

Mr. EDMUNDS. Call it "pettifogging."

Mr. BLAINE. Will it be permissible to say that it is perhaps a pettifogging point?

Mr. VOORHEES. Say it in any way.

Mr. BLAINE. In any sense you intend to get rid of it. You do not intend that an investigation of the central fact of the whole thing shall be brought within the scope of this committee; and I intend to charge that in plain Anglo-Saxon, not intending personal offense to any one, but intending to speak here so that it shall be understood precisely what I mean, and the votes will show whether I am right or not.

Mr. LOGAN. Mr. President, I do not think I shall get very much excited on this question. I do not know whether the honorable Senator from Indiana will apply the word "pettifogging" where a gentleman takes a different view of this question from himself or not.

Mr. VOORHEES. By no means.

Mr. LOGAN. But I will try at least to show the distinction between the amendment offered by the Senator from Massachusetts and the one that I have offered. The resolution of the committee that is now before the Senate goes to what? It goes to investigating the right of the Senator from Louisiana to his seat in the Senate, and no further. The resolution reported by the committee goes, I say, to the question of the right of the Senator from Louisiana to his seat, and no further; in other words, the question of bribery, for that is the only one that has not been examined. The question, then, that is brought before the Senate by the amendment offered by the Senator from Massachusetts is that if the memorialist who claims the seat shall be held entitled to that seat by reason of the judgment of the Senate that he was lawfully elected, the committee may investigate the fact whether the memorialist was elected by bribery or corruption. Thus far that amendment and the resolution go, and no further.

Then what is the amendment that I have offered? The amendment that I have offered goes much further than this. When you investigate the question as to the right of a member to hold his seat in the Senate on account of bribery, it applies to the use corruptly of money or other means to obtain votes for the purpose of electing him to that office. My amendment goes to the point whether any unlawful or corrupt means were employed to do what? To disorganize the Legislature that elected the present sitting member first; that is one proposition; second, whether corrupt means were employed to organize another Legislature, the one that elected the memorialist. There are two propositions in this amendment of mine, the first going to the question of the disintegration or disorganization of the first Legislature, and the second to the organization of the second Legislature. These are the two propositions, entirely separate and distinct propositions from the question as to whether the member was elected by bribery, for that applies to the election and not to the organization of the Legislature. There is the distinction.

Now, I say to the Senate, and I say it with all due deference to the opinions of other Senators, that in my judgment there has not been since this Government was organized such an attempt made to disorganize a body or to take from a man the right to occupy a seat in the Senate as the attempt that is made in reference to the sitting member from the State of Louisiana. It violates every precedent, every principle of law, parliamentary or otherwise; and after violating every principle and every precedent for the purpose of grasping a seat in this body in order to give it to another, you claim that you desire to do it because corrupt means were employed, and then when we ask you to go further and investigate the corruptions of your own side, you say to that amendment "the committee of course is honest; the committee of course will do this." "Of course they will do this," says the Senator from Indiana, "without being instructed to do it." I have not so much confidence in what they will do as to allow it to go this way.

Hence, I have offered this amendment in good faith, asking that they shall investigate this question. Inasmuch as the Senate intends to vote that they shall investigate the mode and manner of securing the seat by the sitting member, I propose that they shall investigate the mode and manner of the disorganization of that Legislature and the reorganization of the other for the purpose of depriving him of a seat in the Senate and giving that seat to somebody else. It is to that point that my amendment goes and to none other. It is to the question of the disorganization of one Legislature and the reorganization of another for a purpose. What purpose? To deprive the sitting member of the seat and give it to another. It goes to that, no matter who may have acted corruptly. It is a question as to whether or not the new Legislature was corruptly organized and the other Legislature corruptly disorganized, and that is the proposition. If gentlemen really wish to have honesty and fairness, and desire to have the country understand all that there is connected with this whole affair, if corrupt, let it be developed and demonstrated before the country; if not, let it

be so understood by the country. That is what I desire, and it ought to be all that any other Senator would desire. Gentlemen who prate about their honesty, gentlemen who prate about their disinterestedness, Senators who prate about the desire of the democracy in this country to so shape legislation and everything else as to protect the rights of all and develop the corruption of every one, should not hesitate to accept an amendment of this kind, so that, inasmuch as they are going to investigate the matter, they may investigate the whole matter and let it all be understood.

Mr. HILL, of Georgia, obtained the floor.

Mr. SAULSBURY. All I desire to say, Mr. President, in reply to the Senator from Illinois, is that inasmuch as the Committee on Privileges and Elections will not be complimented by any expression of confidence on his part in the committee, so they do not feel injured by any expression of want of confidence.

Mr. HILL, of Georgia. Mr. President——

Mr. LOGAN. I desire merely to say in reference to the mild manner of the Senator from Delaware, a State whose eyes gaze on the mighty revolving world as it goes on, that I was once a member of that committee, and I presume I did not have the respect of the Senator then from the kindly remark he has made about not caring whether I had confidence in it or not. I said nothing about a want of confidence.

Mr. SAULSBURY. The Senator had expressed a want of confidence in the committee.

Mr. LOGAN. I said no such thing, sir——

Mr. SAULSBURY. The RECORD will show.

Mr. HILL, of Georgia. I believe I have the floor, and I have not yielded.

The PRESIDING OFFICER. The Senator from Georgia is entitled to the floor and must not be interrupted without his consent.

Mr. LOGAN. I hope the Senator will allow me to finish my sentence; that is all I desire.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. LOGAN. Certainly he has.

Mr. HILL, of Georgia. The Senator can explain after I get through.

Mr. LOGAN. I merely wanted to finish the sentence I commenced about what I said in regard to a want of confidence.

Mr. HILL, of Georgia. I do not yield.

Mr. LOGAN. Very well, sir.

Mr. HILL, of Georgia. Mr. President, I have very little to say on this question. Everything that tends to show the corrupt election of Mr. KELLOGG or the corrupt election of Mr. Spofford, whether employed by the one or by the other or by their agents, this committee under the present resolution are authorized to investigate. If the disorganization or the disintegration of the Packard legislature and the organization of the Nicholls legislature were things done for the purpose and with a view of corruptly electing Mr. Spofford or of corruptly electing Mr. KELLOGG, the committee are authorized to investigate them. That is the whole question in the case.

The Senator from Illinois says that he goes further and that his amendment goes further. Now, I wish that we should understand each other. There seems to be a good deal of feeling shown over there, and they say the Packard legislature was corruptly disorganized by our side, and that we are afraid to investigate what our side has done. What do you mean by "our side?" Did Mr. Spofford disorganize the Packard legislature? Did Mr. Spofford's agents disorganize the Packard legislature? If so, we are authorized to investigate it by the amendment offered by the Senator from Massachusetts and accepted by us. If somebody else disorganized the Packard legislature, not in the interest of Mr. Spofford nor for the purpose of securing the election of Mr. Spofford, what has Mr. Spofford or his election to do with it? Nothing. What do gentlemen mean when they talk in that kind of style?

The President of the United States, as we all know, sent or authorized a commission to go to New Orleans. That commission was composed of distinguished gentlemen, most of whom I believe were members of the republican party. According to my recollection they were. The President was a distinguished republican President. He sent that commission; and while that commission was there, and it is charged under their amendment, the Packard legislature dissolved and most of its members went into the Nicholls legislature. Now, if you will charge that Mr. Spofford did that, or that his agents did that, we are authorized to investigate it. If you will charge that any democrat did it, we are authorized to investigate it, if it was done for the purpose of affecting the senatorial election. If it was not done for the purpose of affecting the senatorial election, what do you mean by wanting to mix it with the senatorial election? Whom do you want to investigate? Do you want to investigate the distinguished commission which the President sent down there? Do you wish to investigate the President's motives for sending that commission down there? And when you investigate that distinguished commission and the distinguished gentleman who sent them, do you investigate our side? What is "our side?" What does this mean?

I have no passion or feeling in this matter, none whatever. I do not believe the President was guilty of anything wrong or corrupt in sending that commission to Louisiana. I do not believe that commission was guilty of anything corrupt or wrong there in dissolving the Packard legislature. I do not believe anybody was. If anybody was, he acted under the auspices certainly of the President and the commission; but I do not believe anything of the sort. I say that much for the commission and for the President. That is my judgment, though I know nothing about it.

But I say this—and I wish to be distinctly understood—I have said from the beginning of the controversy in answer to intimations made to me by distinguished republicans that they had an impression that the purpose originally perhaps of the Committee on Privileges and Elections was to reopen the investigation touching Louisiana affairs as they existed at the time of the electoral commission and the settlement of the Presidency—I have said from the beginning that as one member of the committee we had no such purpose. We have simply desired to investigate the question in relation to this senatorial election, and confine it to them. Whatever relates to that and affects that we shall feel it our duty to investigate; nothing further and nothing beyond.

Therefore, the objection to the amendment is simply this: you have no right to tack on an investigation of the President and his commission to an investigation of this senatorial election. If you desire, however, to have that thing investigated; if you desire to have the whole history of that commission investigated; if you will introduce an independent and separate resolution upon the subject I should not be surprised if you could get votes on this side of the House for it. I do not know, but I should not be surprised if that were so. If the gentlemen on the other side are anxious to move in that matter let them indicate it; let them say so. We shall offer no such resolution; we shall make no such motion; but I repeat that if the disorganization of the Packard legislature or the organization of the Nicholls legislature had in view the corrupt election of Mr. Spofford, then we are authorized to investigate it, and investigate it fully with that view. If the disorganization of the one or the organization of the other was for other purposes, by other men, and in other interests, the senatorial question has nothing to do with it.

Now, I wish to say distinctly to the country, as far as I am concerned, that I am in favor of investigating the senatorial question, and that only. I scout the idea that I will, under the cover of this or any other resolution, inaugurate a war against any distinguished citizen or citizens of this Republic. All I want is to investigate this senatorial question; that and nothing more. Whatever relates to that, whatever affects that, whatever shows corruption in that election, let us investigate, and let us understand. Beyond that let us draw the veil of oblivion, and let it pass away with those things in relation to which human minds can crave but one earthly blessing, and that is that they be forgotten.

Mr. LOGAN. I rise, Mr. President, to make a single remark, and I want to return my thanks to the Senator from Georgia for his kindly manner of treatment toward me in not allowing me to finish the sentence that I was trying to complete at the time when he declined to yield me the floor.

I desire to say a word to the honorable Senator from the State of Delaware who becomes so indignant because I presumed to offer an amendment to a resolution emanating from his committee, the one over which he presides, that he considers it no compliment to his committee to be commended by me. All I have to say in reference to that is that such language from myself toward that Senator has never been heard in this Chamber. Of course, his greatness, his towering superiority over others gives him that privilege that other lesser lights have not in this honorable body. A man of gigantic intellect, soaring above the great men and great lights of this nation, comprehending all subjects without their being elucidated by any save his own gigantic mind, he is not complimented by anybody! I beg the Senator's pardon if I have attempted to compliment him. I certainly shall not offend in that line again. The great State of Delaware should not be complimented!

Mr. President, in response to what was said by the Senator from Georgia, I have but this to say: the Senator cannot, nor can any Senator on that side of the Chamber, by any attempt on his part insinuate that I introduced this amendment for the purpose of a stab at this Administration. I will not use the term "hiding behind that," but I will say it is very easy for Senators when they do not wish to meet squarely a proposition, to intimate that it has a bearing which it has not. The amendment I offered has no such bearing, and can have no such construction; and Senators who insinuate that they do not desire to investigate the Administration or the statesmen who went to Louisiana, but only wish on their side of this question to settle the election, and therefore feel justified in voting against this amendment, will permit me to say that that is covering themselves with a fig-leaf, for there is nothing of the kind in this amendment, no such direction, no such intimation. It is a plain, simple proposition to investigate the question as to whether this Legislature was broken up for the purpose of electing a different member to the United States Senate. That is what it means, and that is what it was intended for, and it can have no other construction given to it by any fair means.

The honorable Senator from Georgia, by a wave of his hand, intimated to myself that I was not worthy to take his eye at the time, but he desires to cover all that is past, and only to speak of the pres-

ent. Sir, I do not doubt that fact. I do not doubt the proposition that there are many who would like to let sleep forever in the tomb of oblivion that which is past.

Now, sir, I did not intend to allude to anything of the kind, but intended to discuss fairly this proposition; but I wish to say to Senators on this floor that I shall insist at least on being treated with the same courtesy that I accord to other Senators. This is all, Mr. President, that I desire to say in reference to this proposition.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Illinois, [Mr. LOGAN.]

Mr. BLAINE. I do not intend to prolong the debate, but if I heard the honorable Senator from Georgia aright he took directly the opposite ground from the honorable Senator from Indiana. The honorable Senator from Indiana endeavored to convince my humble self and the Senate that power was already in the resolution to investigate all that the Senator from Illinois proposed to investigate. Now the Senator from Georgia says that must be buried in the bosom of the deep ocean of forgetfulness, and not a single allusion must be made to it. Here is a flat contradiction between the two Senators. One says there is authority to investigate it; the other says it is a subject that must not be investigated at all. I do not know which to follow. I should be happy with either if I could get the other to agree with him. And I would like to ask the honorable Senator from Georgia a question, if he will pardon me. If I understood his argument aright, it went to this, that, inquiring into a seat in the Senate, it was not pertinent to inquire into the means by which the Legislature that chose the Senator was constituted. Did I understand him aright?

Mr. HILL, of Georgia. I did not say precisely that.

Mr. BLAINE. I understood the Senator to say what was tantamount to that, that it was no business of this body to inquire whether a Legislature had been corruptly or otherwise constituted; the only question was whether the man elected had himself used corrupt means to get votes.

Mr. HILL, of Georgia. I will say to the Senator very frankly that where there is no dispute in the State itself as to what is the Legislature, this body has no power, in my judgment, to go behind the constitution of that Legislature and inquire into the election of the members or the constitution of the Legislature.

Mr. BLAINE. There was a very large dispute in the State itself in this case.

Mr. HILL, of Georgia. You have no right, for instance, to inquire whether that Legislature adjudged that members were properly entitled to their seats. You have no right to inquire whether they acted properly in electing their officials. But I will say this, wherever there is any corrupt means used for the purpose of affecting the senatorial election, then you have a right to inquire into that. Wherever means were employed which did affect and result in that election, you have a right to inquire into that. But wherever there were means used, without any reference to that, having no connection with it at all, not having it in view, you cannot go into that for that is not a field under the jurisdiction of investigating the senatorial election. That field does not cover investigating everything connected with the organization of the Legislature.

Mr. BLAINE. The honorable Senator from Georgia, I think, evades the point. Where there is a single Legislature, no dispute within the State at all as to the legality and proper constitutional organization of that Legislature, it is not right for the Senate to interfere; but the Senator knows that here were two legislatures. That is the exact case. Here was a Legislature that was the only Legislature in the State when Kellogg was elected, and afterward, by some sort of hocus-pocus—if that is not an offensive word to use, for I am limited, sir——

Mr. HILL, of Georgia. As I had nothing to do with it, and the President and his commission had to do with it, you may speak of them as you please; you may say "hocus-pocus," or anything else.

Mr. BLAINE. I do not say who had to do with it; but another legislature springs up that may have been or may not have been brought together by corrupt means. The Senator from Georgia says in examining the election of the Senator who was the product of that Legislature you have no right to inquire into its constitution. All I have to say is that that is new in this body. We are learning something every day here. It is a new thing that where there are two legislatures in a State, each claiming to be the simon pure, each claiming to have been honestly and purely and constitutionally organized and a Senator is elected by each, the Senate of the United States has not the right to inquire into the constitution of each. If that is the view of that side of the Chamber, it is a new thing.

Mr. HILL, of Georgia. No one said that.

Several SENATORS. Let us vote.

Mr. JONAS. Mr. President, I am at a loss to imagine what this matter of the disintegration of the Packard legislature, so called, can have to do with the question before the Senate. If Mr. KELLOGG was elected a Senator at all, if the body that elected him and sent him here had any right to elect a Senator, they elected him within about a week after the organization of that Legislature, in the early part of January. That Legislature was not disintegrated, and it did not go to pieces, if you call it a Legislature, until some time in the month of March. If Mr. KELLOGG was legally elected, what consequence can it make whether the Legislature which elected him, afterward disintegrated and went to pieces? What can it have to do with the question of the legality of Mr. KELLOGG's election? If Mr. KELLOGG, as it is charged in this memorial, procured his election from the body that elected him by the use of any unfair means or by the use of bribery, what odds does it make whether that legislature six weeks or two months afterward went to pieces or went to their homes? The question is whether it was a Legislature at the time when it professed to have elected Mr. KELLOGG, and whether Mr. KELLOGG was or was not elected by that body by fair means.

The honorable Senator from Maine seems to have a strange idea of the history of Louisiana at that period, when he says that that was the only Legislature existing in Louisiana, but afterward a new legislature was organized, which legislature elected Mr. Spofford. Why, Mr. President, it is the history of the time that there was a legally elected Legislature with a quorum in each body, sitting from the day appointed by the constitution for that Legislature to assemble, in the city of New Orleans, a Legislature which proceeded to pass laws, to enact statutes which are in force to this day; a Legislature which exercised the powers of legislation through the length and breadth of that State; a Legislature which went on calmly in pursuance of the duties confided to it by the constitution for nearly one hundred and twenty days before it fulfilled its legal and constitutional obligation of electing a Senator, and which enacted laws that to this day are obeyed and recognized by the people of Louisiana and by the courts of the land, the Federal courts as well as the State courts, and by the Executive of the nation. And, Mr. President, that Legislature had a quorum in both branches before a single member of the crowd that elected Mr. KELLOGG came in to take a seat on its floor.

Mr. BLAINE. May I ask the Senator, if it will not interrupt his argument, a question just there?

Mr. JONAS. Yes, sir.

Mr. BLAINE. If this Legislature of which he is speaking was thus early organized, on the 1st of January, why did it not elect a Senator on the day appointed by law?

Mr. JONAS. Because it preferred not to elect a Senator while the State of Louisiana was in the possession of a military government—while the United States troops were upon its soil.

Mr. BLAINE. But the Senator has just said that it went on and enacted laws, and have been obeyed and performed all the functions of a Legislature. Then, why did it not elect a Senator?

Mr. JONAS. It enacted laws with the bayonets suspended in the air; it enacted laws subject to the approval of the President of the United States and the commander of the Army. They preferred not to elect a Senator until the troops were removed from the military occupation of Louisiana. The moment that was done they elected their Senator. In the mean time they fulfilled their obligation under the law of balloting once every day for a Senator.

Mr. BECK. Will the Senator from Louisiana allow me to ask him a question?

Mr. JONAS. Certainly.

Mr. BECK. What other act except the pretended election of Kellogg was ever performed by the legislature of Louisiana that elected him or by the governor who signed his credentials—what other act except the single act of pretending to elect him and the signing of his credentials?

Mr. JONAS. Mr. President, there is not an act on the statute-book, there is not a journal of that legislature, there is not a record made in Louisiana of the existence of that legislature except the election of Mr. KELLOGG who sits here to-day.

Mr. BECK. How about the governor?

Mr. JONAS. The governor is now consul at Liverpool, appointed by the President, and he was never recognized for a single day as the governor of that State, and never exercised power as such. He may have signed the credentials of Mr. KELLOGG, but that is all. He never resigned. That government was installed in the state-house of Louisiana. It surrounded itself with the metropolitan police, with the armed janizaries of that government, and it held itself installed in that state-house for ninety or one hundred days without performing any other act of legislation except electing Mr. KELLOGG to the United States Senate. It has left no history; it has left no record. Its power was never recognized for a day or an hour in the State of Louisiana. In the place of journals there are brought here to-day extracts from a newspaper published at the time, which is the only record that legislature has left, except such history as it has made in the reports of various investigating committees of Congress.

But the other Legislature, which has been recognized, which has enacted laws, which has maintained authority, which is recognized to-day, had a full quorum of both branches before a single member of the Packard legislature took his seat in it. In the roll-call the names of members of the Packard legislature who were entitled to seats on that floor were always called, and when they thought proper to come in pursuance of their constitutional obligation and take their seats they were admitted to their seats. A large majority, nearly all of them, came in and took their seats before the legal Legislature adjourned, and at the time of the election of Mr. Spofford there was nearly a complete Legislature upon the floor. Mr. Spofford could have been elected, he would have been elected, by the Legislature as constituted, with a legal quorum, without a member of the Packard legislature being present. Mr. Spofford was elected as a democratic candidate. Mr. Spofford was nominated by a democratic caucus. Mr.

Spofford received every democratic vote, and the democratic votes were sufficient to elect him as a Senator without his receiving the vote of a single republican and without its being necessary for him to bribe or induce any man of the republican party to cast his vote for him.

Therefore I say that these things are altogether out of the subject of consideration. The subject presented by the resolution is a proper subject for consideration I think, and it is one that is not adjudicated. It is one upon which the State of Louisiana has not been properly heard. It is a question as to which of these two legislatures represented the sovereignty of the people of Louisiana and was entitled to send a Senator here. But it is no question and does not affect this contest as to what were the causes which induced the Packard legislature to go to pieces, or what were the causes which induced the members of that body who had a right to do so to take seats on the floor of the Legislature.

Mr. BLAINE. I can hardly let one statement of the honorable Senator go without some comment, that the postponement of the election of Senator in Louisana was due to some sentimental feeling that they would not choose a Senator until the bayonets had been withdrawn. I make no assertion about it, but I think if the committee should choose to go into that subject when they are authorized they will find by a very small drag-net that that Senatorship was held off to trade on, and that it was hawked about in Washington to be bid off to a republican if certain things could be done in the way of recognizing Nicholls. Any time prior to the time that settlement was made, during the months of January and February, I think it will be found that an agreement to recognize Governor Nicholls from here by the Administration that was then expiring would have been followed by the election of somebody that the republicans might have indicated, whether Kellogg or some other man.

Therefore I think the honorable Senator from Louisiana will find that it was not purely a matter of sentimentalism about the suspended bayonet and the pointed musket that kept them from electing a Senator. There were a good many other considerations that were lying around loose at that time. The Senator from Louisiana said that the Nicholls legislature were balloting for Senator every day. Why was it derogatory to the dignity of Louisiana to elect, and yet entirely in accordance with the dignity of Louisiana to keep on voting and pretending to try to elect?

As to the point, if the honorable Senator chooses to make the point, that the state-house of Louisiana had to be surrounded by bayonets and therefore that there was no government, I can tell the honorable Senator that I saw this Capitol surrounded with artillery batteries to install a President of the United States. I hope it will never be seen again. If it be an impeachment of Mr. Packard that he had no title because there were bayonets surrounding the state-house, which was assailed by an unlawful mob, it was an impeachment of Abraham Lincoln that the then eminent and venerable Lieutenant-General of the Army, now deceased, stood himself in front of the Capitol in command of the United States troops, that rebellion might not assail the regularly elected President in the very seat of his power.

Mr. JONAS. It would seem that no question can be discussed in the Senate without the old ghost of the rebellion being immediately raised. We are now carried back to the days of Mr. Lincoln and the days of the rebellion. The scenes of which I speak occurred some eleven years after the rebellion. They occurred in 1877, long after reconstruction and long after Louisiana had been represented on this floor. I say to the gentleman that there is no truth in the charge, by whomever made, that the position of Senator in Louisiana was ever hawked off or offered in the market. I say that there never was a day when the representative people of Louisiana who had a right to elect a Senator in their Legislature were not determined and prepared to execute and perform that duty and to elect one of their own representatives and send him here.

The Senator asks why we balloted every day if we were not prepared to elect. The Senator is aware that under the act of Congress we were compelled to ballot at least once every day. That is the law.

Mr. EDMUNDS. If you elected, you were not.

Mr. JONAS. I gave the reason why we did not elect. We could not elect until our government was thoroughly established and recognized and free; and we elected a Senator on that day. I say that the charge that the Senatorship was either to be hawked off or traded or swapped is not true, and no one knows that it is not true better than myself. I was a member of that Legislature, and I was a candidate for United States Senator, and was beaten in the caucus of my party by a very small vote. I know it was an honest contest between representative democrats, members of the majority party, as to who should be selected and sent here to represent the people of Louisiana, and Mr. Spofford was selected. If there ever was a proposition made to trade—I will not say a proposition, but if there ever was an inducement held out to trade—it was not by the last Administration, but it was when the present Administration sent a commission down to that State to know whether something could not be obtained from its people in the way of concession or compromise before granting them the boon of withdrawing the troops from the control of the State. I say that if there was any such suggestion or any such proposition it came from that quarter and met with no response from the people of Louisiana.

Mr. BLAINE. I had stated that it came from the Louisiana side. I had not stated with any personal knowledge, but I had stated that it was currently reported here, and it certainly was rejected by the Grant administration. Now do I understand the honorable Senator from Louisiana to state that the commission that went down under the Hayes administration took up the trade on the other side and offered it? Is that what we are to understand the Senator to mean?

Mr. JONAS. I do not say that they went down to trade; but I do not know for what other purpose they went, and I have never been able to discover. Who did the Senator say traded or offered to trade with the people of Louisiana?

Mr. BLAINE. I do not know. I had nothing to do with them.

Mr. JONAS. Who offered to represent them?

Mr. BLAINE. I do not know. I had nothing to do with it; but the commission that went down, the honorable Senator states, went there to make a proposition. I said it was freely circulated here during the month of February that if the republicans would acknowledge Nicholls as governor they could have a republican elected Senator. That is what I said; that it was one of those things in the air. I do not say that I can state the man who did it, or the commissioner who did it; but it was in the air here all winter.

Mr. JONAS. I assure the honorable Senator that I do not know what was in the air of Washington; but in the air of New Orleans, which was much more pure and healthy, there was but one idea and one object, and that was to elect a representative democrat to the United States Senate.

Mr. KELLOGG. Mr. President, I had intended to take no part in this discussion, but I feel compelled to correct two or three statements made by my colleague. When my colleague speaks of the legislature in Odd Fellows' Hall as the legislature of Louisiana he should explain that it was composed of a quorum of persons not elected but returned as elected by the democratic State central committee. During the whole session of sixty days, the constitutional term of the Legislature of Louisiana, there was not a day when the so-called Nicholl's legislature or assemblage at Odd Fellows' Hall had a quorum in the lower house. The roll was called day by day and they fell short of a quorum except of members returned by the democratic State central committee from parishes where the colored registered vote was three and four to one over the whites, and where the evidence was overwhelming that there were acts of violence perpetrated in order to reduce the republican majority and secure the nominal election of democratic representatives.

Day by day they balloted, and it was said openly that they would not elect a Senator until they had secured a quorum of returning-board members. Why did they do that? It was not until April, I think, and after the full sixty days of the constitutional term had elapsed, and after the MacVeagh commission had gone down there, and influences had been brought to bear, it is asserted improperly, upon members of the republican Legislature, (and that is the question now involved in this amendment,) that enough of the Packard legislature sitting at the State-house were induced to go over and unite with the democrats to make a quorum of returning-board members—it was not till this was achieved that they would go into an election of a United States Senator.

Now let us look at the organization of the Legislature. When that body was organized, on the first Monday of January, as required by the constitution, the Nicholls assemblage had no quorum in either house. They had no lieutenant-governor to preside over their senate, and they sent a joint committee of their two houses to the State-house, the senate and the house meeting in one hall promiscuously, and asked in writing for recognition from me as governor. During the whole sixty days and for weeks after, as I have said, they had no quorum in the lower house. They never had a legal quorum for weeks afterward, except as they in calling their roll included the names of three men from the Seventh ward of the city of New Orleans, (an overwhelmingly republican ward,) who they themselves admitted had been defeated. The chairman of the democratic parish committee acknowledged this, and every paper in the city of New Orleans, including the democratic organ, recognized the fact; yet they included those three men in every roll-call, in order to make a quorum, and but for those three men they would not have had a quorum for at least ninety days after the first Monday of January.

It should be remembered that a democratic house with a republican senate had previously recognized me as governor by joint resolution passed in April, 1875. The President of the United States and the two Houses of Congress had accorded me full recognition, and the courts of the State, all the officials of the State, and the people of the State, had recognized my authority. During the first week of January, over which my term of office extended, there was no question as to any State officer in the State. The Legislature, both houses being in session, passed bills which I approved, and which were promulgated according to law in the official journal of the State.

There never was a question among the democrats in New Orleans that a returning-board quorum was necessary before going into an election for United States Senator. There never was a doubt among republicans that the democrats, before pretending to go into such an election, would endeavor to secure a returning-board legislature as they called it—that is to say, a quorum in both houses returned elected by the returning board. This was their point.

I think it can be proven, if necessary, that their leading representative men proposed that they would elect whoever the republicans

would agree upon as United States Senator, provided by so doing they could secure a quorum of returning-board members. They were anxious to have a legal quorum in the two houses, and then to pass a joint resolution recognizing Nicholls, and that was their way out of the difficulty in which they found themselves and their plan of obtaining a recognition of their government by the President. I regret that I have been drawn into this discussion, but I could not sit by and hear what fell from the lips of my colleague without replying to him, because I think that he perhaps not intending to misstate the case failed to state the whole case.

Mr. MORGAN. Without interrupting the Senator, I desire to ask the Senator from Louisiana whether he has any objection to the Committee on Privileges and Elections going fully into the investigation of the question of the alleged bribery of the members of the Legislature of Louisiana either as to himself or as to Mr. Spofford?

Mr. KELLOGG. I have not made any objection. I want to say to the Senator that had the resolution of the committee been voted down I should myself have risen in my seat to offer a resolution to go into that question.

Mr. MORGAN. Then I understand that the Senator has no objection to this inquiry?

Mr. KELLOGG. That is what I should have done. At the same time I should have said that this case, at Mr. Spofford's instance, had already been tried before the Legislature of Louisiana, that he had caused a resolution to be passed by the senate of Louisiana in the spring of 1878 reciting almost precisely the allegations contained in his present memorial; and a committee was appointed of two democrats and one republican, who were authorized to sit during the whole summer and report to the next General Assembly, and they failed to find anything against me.

Mr. MORGAN. My inquiry the Senator does not answer.

Mr. KELLOGG. Wait one moment, if the gentleman will allow me. Let me say as regards the other allegations of the memorial, that as soon as or very soon after the Packard government fell the Nicholls legislature by joint resolution raised committees to investigate every department of my government, covering my whole administration of four years. One committee especially was raised and directed to investigate into all matters pertaining to the executive department, and upon that committee was my colleague, [Mr. JONAS.] This committee appointed an expert. That expert pretended that he had found something, and telegraphed up here on the 29th of January, 1877, when my case was pending, that he had found documents showing that I had used improper influence with the returning board and upon that telegram the Senator from Georgia [Mr. HILL] moved a recommittal of the case; but from that day to this there has been nothing more heard of it, and Hy. L. Smith, the sender of this dispatch, subsequently admitted that he sent that dispatch for a consideration and for a purpose, which was to secure the recommittal of my case and the taking up of the Butler case which was next on the Calendar.

Mr. MORGAN. If I understand the Senator from Louisiana, he has no objection to this investigation.

The PRESIDENT *pro tempore*. The Senator from Louisiana declines to yield.

Mr. KELLOGG. My colleague was on the committee which appointed this expert—not that I find any fault with his action. They took a zealous man and a man of tact and ability. I left all my documents, even my private letter-books and private telegrams. I did not take anything when I came away. Yet with all this they failed to find anything against me and never made a report against me. Of the five or six committees directed to investigate all the different departments of my government not one ever found anything reflecting upon my official integrity. They raked the highways and the by-ways and the lanes and the gutters with muck-rakes and candles and drag-nets and they never have found anything against me. I am a "carpet-bagger," as the gentleman from Georgia says, but one who fears no indictment. It was threatened when my case was pending that I would be indicted, and I sat here menaced constantly. It was attempted to indict me before the grand jury, but, sir, they never indicted me, and I can go back to Louisiana without fear or favor now and hereafter; nor is there a record anywhere that impugns me or in any manner affects me personally. I defied them while I was governor, I have defied them since, and I defy them now to bring forward one official act of mine that will not bear the fullest and closest scrutiny.

Mr. MORGAN. After the Senator from Louisiana is so thoroughly protected, as he has been apparently, under all the different investigations, and after he has come off as he alleges innocently after all the persecutions that have been visited upon him, he surely can have no difficulty in coming forward now and answering the question that I put to him. Has he any objection that the Senate Committee on Privileges and Elections shall investigate the question which is alleged and charged against him of the bribery of the members of the Legislature which elected him in providing for or securing his election?

Mr. BLAINE. If the Legislature is investigated at the same time.

Mr. MORGAN. Do not prompt the Senator. Let him answer himself without any prompting. I should like to have an answer from the gentleman on the floor.

Mr. KELLOGG. I do not know what the object of the Senator is. I started out by saying that I did not intend to participate in this debate. I sat here and heard this discussion yesterday and to-day patiently, and abstained from voting. I have not committed myself in any manner.

Mr. MORGAN. Mr. President, I have asked the Senator a question——

Mr. KELLOGG. If I have not the floor I will wait until the gentleman is through.

Mr. MORGAN. If the gentleman will answer the question, that is all right.

Mr. KELLOGG. I will answer the question in my own way, if the gentleman pleases.

Mr. MORGAN. Do not answer it by a speech that runs over the whole history of Louisiana.

Mr. KELLOGG. I will wait until the gentleman has concluded. I may have something to say upon that.

Mr. MORGAN. I will put the question again to the Senator. Has he any objection to the Committee on Privileges and Elections of the Senate investigating the question whether or not he bribed the members of the Legislature that elected him?

Mr. KELLOGG. Has the gentleman any objection to having the constitution of the body which Mr. Spofford claims elected him looked into and investigated?

Mr. MORGAN. Not a bit; not a particle. We have already put that into the resolution.

Mr. KELLOGG. Has the gentleman any objection to proof being taken by the Committee on Privileges and Elections showing that that Legislature was disintegrated and enough returning-board members detached from it and secured to the Nicholls legislature so as to secure to that body the semblance of a quorum with which to elect a Senator?

Mr. HILL, of Georgia. None, whatever.

Mr. KELLOGG. Then why do you not agree to the amendment that has been offered? Why do you not vote for the amendment offered by the Senator from Illinois?

Mr. MORGAN. I am putting the question in good faith to the Senator from Louisiana and he cannot escape it in that way.

Mr. KELLOGG. I will wait until the gentleman gets through.

Mr. EDMUNDS. I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from Vermont will state his point of order.

Mr. EDMUNDS. I submit that it is out of order for any Senator on this floor, where another Senator is personally concerned and a resolution is offered affecting his character, to propound any such question to him as the Senator from Alabama has done.

Mr. MORGAN. Inasmuch as the Senator from Vermont has made the proposition that the Senator from Louisiana is not bound to incriminate himself, I withdraw the question.

Mr. EDMUNDS. That is not the proposition, Mr. President. My point of order is that no Senator on this floor has a right to put a question of that character, which in its nature is an insult to a brother Senator on this floor, who stands now just as free in his character as any other Senator until he is tried.

Mr. MORGAN. I beg leave to say to the honorable Senator that I mean no insult to any gentleman on this floor.

Mr. EDMUNDS. I know the gentleman did not mean it.

Mr. MORGAN. The Senator from Vermont need not take this matter up in that spirit. I have asked him no question. It will be time enough when I put obnoxious questions to him. I asked the gentleman on the floor whether he was willing to have this investigation. I made no charge. Still the charge has been made; and the Senator from Vermont is now trying to shield the Senator from Louisiana from an answer to that. The question I propounded to him did not imply an insult by the slightest intimation. I merely asked him if he now had any objection to this committee investigating that question, because it has been urged here that this committee have no right; it has been urged here that this is forced upon the Senator from Louisiana against his will and against his consent; and I had supposed from what I had heard uttered on the other side of this Chamber that there was a perfect willingness on that side that that Senator should come up and answer, and that he was entirely willing that the committee should investigate the whole question of the allegations of guilt made against him.

Mr. EDMUNDS. First I will say to the Senator from Alabama that I am not trying to shield the Senator from Louisiana from anything, which he imputes to me. I am trying to preserve the honor and the decorum and the integrity of the Senate, and in doing that I neither intend to shield the Senator from Alabama nor the Senator from Louisiana nor myself. My honorable friend from Alabama, whom I respect, has no right to say to me that I am trying to shield a Senator here because I stand up for the order and decorum and decency of the power of this body.

Mr. MORGAN. I must be allowed to say to the Senator, if I may interrupt him, as he charges me with having offended against the decency of the Senate, that allegations have been brought forward here and referred by the Senate to a committee to inquire with respect to a particular question, whether or not the Senator from Louisiana bribed the Legislature. If that reference was an indecency, then it is an indecency indeed to refer to it. I have referred to noth-

ing else. That reference has been made. I asked the Senator from Louisiana whether he had any objection to this committee going into the examination of the question thus referred.

The PRESIDENT *pro tempore*. The Senator from Alabama will please suspend his remarks. The Senator from Vermont has made a point of order that the Chair must decide without debate, and then an appeal can be taken. As the Chair understands the point of order made by the Senator from Vermont it is that the question put by the Senator from Alabama to the Senator from Louisiana was out of order. If the Chair understood the observation of the Senator from Vermont, he claims that it was out of order upon the ground that it was insulting to the Senator from Louisiana. The Chair is unable to see anything of insult in the question. It is proposed that a certain charge against the Senator from Louisiana shall be referred to a committee for investigation. The Senator from Alabama simply asked the Senator from Louisiana whether he was willing that that charge should be investigated. The Chair can see nothing insulting, nothing criminating, nothing asking the Senator from Louisiana to criminate himself, in that question, and, therefore, rules that the point of order is not well taken.

Mr. MORGAN. Now, I beg leave, for fear I may have in some way in my manner of stating the question violated the proprieties of the Senate on this occasion, to withdraw the question.

Mr. KELLOGG. Mr. President, I object to this proceeding, although I have not participated either by discussing or voting upon the question. I object to this proceeding because the case was disposed of after a month's investigation by a committee of this body to whom it was referred by a resolution of the Senate adopted unanimously directing them to inquire into the merits of the respective titles of myself and Mr. Spofford to a seat in the Senate, and because that committee upon the threshold of their investigation adopted a resolution offered by a democratic member, Senator Merrimon, of North Carolina, that they would proceed in accordance with the instruction of the Senate to investigate the substantial merits of the two contestants upon their respective titles, and to that end would determine which was the legal Legislature. For one month they proceeded to investigate and hear arguments, to consider thousands of pages of evidence, and finally they made an elaborate report to the Senate accompanied by a resolution declaring that I was entitled to my seat upon the merits of the case, and that the contestant was not. That resolution was adopted by a majority vote of the Senate.

I object because it is an unprecedented proceeding that the memorialist should come here with a petition, not verified by even his own affidavit, not supported by any exhibit, not sustained by any corroborating circumstances or facts, or by the oath of any person whatever. Such a memorial, however, has been presented to this body and sent to the Committee on Privileges and Elections, and the committee now report back a resolution upon that memorial proposing to go into an investigation, though the substantial facts alleged have been investigated by both the Packard and the Nicholls legislatures, and though, as affidavits I hold in my hand show, the memorialist has not even yet obtained possession of the evidence he desires, but within the last fifteen days, through men who claimed to be his accredited agents, has approached members of the Legislature who voted for me and offered them inducements if they would make a statement reflecting upon me in order that they might be used before the committee to support the charge made in his memorial.

I object further, because two years ago this same memorialist charged and put it in the mouth of the Senator from Georgia, [Mr. HILL,] that I went through a side door into the session of the returning board with affidavits to improperly influence the returning board, and because he then said to the Senator from Georgia, sitting by his side, "that he would prove that and a good deal more." And neither that nor anything else has been proved, though eighteen months have elapsed. The other day, before the Committee on Privileges and Elections, when I referred to this matter, Mr. Spofford stated it was only on hearsay that he told the Senator from Georgia that I had thus improperly influenced the returning board. The only evidence, hearsay or otherwise, which has been produced in support of this statement is the telegram of Smith, dated the 29th of October, when, as a matter of fact, the proceedings of the committee show it, the Senator from Georgia asserted the same thing seven days before in the Committee on Privileges and Elections.

Here is a mere memorial signed by a man who has no standing other than as a citizen, whose case has been adjudicated, whose title has been determined, who has once made allegations that are disproved, who has been before the Louisiana Legislature, his own Legislature, and had a committee appointed to investigate the same charges, and they found nothing; who has been assiduously working through his agents for the last two years, and has been able to find nothing against me. There is not an allegation in that memorial for which I am not indictable under the laws of Louisiana. Why did they not indict me for bribery if they had any proof? Why did they not indict me for procuring the office of governor corruptly as they allege? See what a frivolous charge that is when both Houses of Congress recognized me, and the democratic Legislature recognized me by joint resolution eighteen months before I was elected to the Senate.

Upon that meager, one-sided, flimsy showing, the memorialist simply signing a petition without oath, the Committee on Privileges and Elections bring in a proposition to investigate, and send for persons and papers. If they do not mean to attack the title to my seat why did they not limit the investigation to an inquiry as to my having been guilty of bribery in securing my seat? I would then have been one of the first to have gotten up here and asked that the resolution be adopted.

In answer to the Senator from Alabama my reply is, nothing shall go upon the record showing consent on my part to this proceeding, for the reason that it is illegal and revolutionary because the memorialist has not of himself a standing that would entitle him to the degree of consideration awarded by this committee. I undertake to say that if it had not been that I occupy the peculiar relation that I do, no man would have thought for one moment of bringing in a resolution of that kind predicated upon so flimsy a showing.

Why, sir, for four years I have had men surround me on every side and threaten me with perjury. After my administration I have seen the courts pass into the hands of my opponents. While they were riding on the crest of the wave and in the full flush of their victory, after the Packard government had been overthrown and when the Nicholls government was established, for seven or eight months my case was pending, and it was their interest as it was their intent to find something against me upon which to predicate an indictment, to handicap me in the door of the Senate and make it more difficult for republican Senators to vote for my admission.

I had, during my administration, revised the whole financial system of the State. I had funded between ten and eleven millions of State bonds, and had never directly or indirectly held a bond on my own account. Not a single dollar had been added to the State debt by any act passed during my term of office. Under my administration the rate of taxation, State and municipal, had been reduced over one-third; the taxes had been collected, the interest on the public debt promptly paid, and a large balance left in the treasury to the credit of the interest fund.

Even my political opponents have accepted my financial policy with commendation. Nine-tenths of the bankers and business men of the city of New Orleans will tell you that they earnestly wish the present administration had carried out faithfully in the interest of the people the financial policy that I inaugurated. Under my administration the sanitary regulations were rigidly enforced, and the yellow fever was kept out of New Orleans. Sir, it is not thirty days since, driven to the expedient by the force of circumstances, by the unfortunate and calamitous result of the laxity of sanitary regulations of the last year, a citizens' committee has sprung forth from among the commercial community of New Orleans, prompted into existence for the purpose of enforcing the sanitary regulations outside of and without the aid of the local authorities, and they have made the gentleman who served as president of the board of health under my administration their director.

I ought not, perhaps, to have said as much as I have. Some things are best answered by silence and by withholding the words that leap impulsively to the lips. But I contend that I have had somewhat of provocation, somewhat of justification.

I know very well that I have incurred the political animosity, not personal I think, of very many gentlemen whose personal relations with me have been friendly. I know that my character and my official conduct have been criticized very severely on the floor of the Senate, and for that matter in times past and before I became a member of this body in both Houses of Congress. I have had little opportunity to defend myself while warding off blows in Louisiana, and he who heard much against me simply verified the old French maxim that "he who hears but one bell hears but one sound."

It ought to be a sufficient reply, I say to my friends on the other side, when I can point to the fact that committee after committee was organized to convict me, that grand juries have been packed to indict me, that witnesses have been approached and great inducements have been held out to them to furnish evidence that would justify upon a *prima facie* showing the finding of an indictment against me even by a partisan court, and it never has been done, sir, and it never will be done. I have interests in Louisiana that are abiding. I should like to see the material resources of that State developed; but it can never be done by the policy pursued by the democratic party now in power. I will not go into that to-day. By and by, when this investigation shall have come to an end, I may tell the Senate and the country much that I have hitherto abstained from saying on the floor of the Senate, and which some of my friends think I ought to have said long since. I will endeavor to show by what means the republican party has been crippled and in a great measure overthrown in Louisiana. I will try to show what part and parcel in alleged frauds the democratic party have taken, how far they are *particeps criminis*.

Nay, more, I will endeavor to show by what means the Nicholls government was installed in power, and how it is that to-day and last winter legislature parishes were represented by democratic representatives and senators where there are in some instances four republican voters to one democratic voter; while at an election recently held for members of the constitutional convention the same parishes have by overwhelming majorities sent republican members to the convention, because there being no general ticket run and no members of the Legislature to be elected and no United States Senator to be chosen there was not sufficient inducement to resort to violence to affect the result.

In his last annual message even Governor Nicholls admitted that

the men who precipitated that unfortunate massacre in Tensas Parish at the last election did so in the interest of the democratic party and for political purposes. Ten or twelve men at least we know to have been killed in that one parish where under my administration we never had anything but peace and good order. It was the model, the banner parish of the State. There are only three or four hundred white voters in that parish to four thousand colored voters, but in some strange and inexplicable manner the democratic candidates were returned elected and sat in the democratic Legislature and voted for my colleague. Mr. President, I am comparatively a young man, and if the apparent object of this resolution should prevail I will doubtless be able to survive it, but I may live to see the day, perchance, when this chalice will be commended to other lips, and when the precedent which the Senate thus establishes may come back to plague its inventors.

And the inquiry may then arise how it happens that in four or five States including Louisiana the voice of the majority of the legally qualified voters is suppressed by violence or fraud and in districts where there are three colored voters to one white voter only the white votes are allowed to count.

In conclusion, Mr. President, I want it understood that my relations personally with many of my political opponents in Louisiana are kind, and all through my difficulties in the South I had very many friends for whom I entertain a warm regard.

I conclude by saying as I began, that I protest against this proceeding; and I can only answer the honorable Senator from Alabama that thus protesting and admitting nothing I await the investigation, and I will stand or fall by it. And I defy any investigation that may be set on foot to injure me personally or otherwise.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois, [Mr. LOGAN.]

Mr. LOGAN called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "yea."

Mr. BLAINE, (when his name was called.) I repeat that as to all questions on this resolution I am paired with the Senator from New Jersey [Mr. MCPHERSON] and that my colleague [Mr. HAMLIN] is paired with the Senator from Pennsylvania, [Mr. WALLACE.] I would vote "yea" if I were at liberty to do so.

Mr. EATON, (when his name was called.) I am paired with the Senator from Wisconsin [Mr. CARPENTER] on all questions arising upon this resolution.

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada [Mr. JONES] on questions connected with this case.

Mr. MCDONALD, (when his name was called.) I am paired on this question with the Senator from New York, [Mr. CONKLING.] If he were present, I should vote "nay."

Mr. INGALLS, (when Mr. PLUMB's name was called.) My colleague [Mr. PLUMB] was obliged to leave the Chamber a short time since, and requested me to say that he was paired on this question with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Missouri, [Mr. COCKRELL.]

Mr. THURMAN, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

The Secretary concluded the roll-call.

Mr. FERRY. I desire to state that my colleague [Mr. CHANDLER] is paired with the Senator from Delaware, [Mr. BAYARD.] Were he here, my colleague would vote "yea."

Mr. DAVIS, of West Virginia. My colleague [Mr. HEREFORD] is paired with the Senator from Iowa, [Mr. KIRKWOOD.] They are both absent in obedience to an order of the Senate.

Mr. PADDOCK. On this question I am paired with the Senator from Georgia, [Mr. GORDON.]

The result was announced—yeas 19, nays 28; as follows:

YEAS—19.

Allison,	Cameron of Wis.,	Hoar,	Platt,
Bell,	Dawes,	Ingalls,	Rollins,
Booth,	Edmunds,	Logan,	Saunders,
Bruce,	Ferry,	McMillan,	Windom.
Burnside,	Hill of Colorado,	Morrill,	

NAYS—28.

Bailey,	Hampton,	Lamar,	Slater,
Beck,	Harris,	Maxey,	Vance,
Call,	Hill of Georgia,	Morgan,	Vest,
Coke,	Houston,	Pendleton,	Voorhees,
Davis of W. Va.,	Jonas,	Randolph,	Walker,
Garland,	Jones of Florida,	Ransom,	Williams,
Groome,	Kernan,	Saulsbury,	Withers.

ABSENT—29.

Anthony,	Conkling,	Johnston,	Sharon,
Bayard,	Davis of Illinois,	Jones of Nevada,	Teller,
Blaine,	Eaton,	Kellogg,	Thurman,
Butler,	Farley,	Kirkwood,	Wallace,
Cameron of Pa.,	Gordon,	McDonald,	Whyte.
Carpenter,	Grover,	McPherson,	
Chandler,	Hamlin,	Paddock,	
Cockrell,	Hereford,	Plumb,	

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the substitute offered by the Senator from Massachusetts [Mr. HOAR] for the original resolution.

Mr. HOAR. The yeas and nays have been ordered.

The PRESIDENT *pro tempore*. The Chair was not aware that the yeas and nays had been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired with the Senator from Maryland [Mr. WHYTE] on this question.

Mr. COKE, (when Mr. BECK's name was called.) I was requested by the Senator from Kentucky [Mr. BECK] to state that he was paired with the Senator from California, [Mr. BOOTH.]

Mr. BOOTH, (when his name was called.) On this question I am paired with the Senator from Kentucky, [Mr. BECK.] If he were present, I should vote "yea."

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.] If he were present, I should vote "yea."

Mr. THURMAN, (when the name of Mr. CAMERON, of Pennsylvania, was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. FERRY, (when Mr. CHANDLER'S name was called.) On this question my colleague [Mr. CHANDLER] is paired with the Senator from Delaware, [Mr. BAYARD.] If he were here, my colleague would vote "yea."

Mr. MCDONALD, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. PADDOCK, (when his name was called.) I am paired with the Senator from Georgia, [Mr. GORDON.]

Mr. TELLER, (when his name was called.) On these questions I am paired with the Senator from Missouri, [Mr. COCKRELL.] If he were present, I should vote "yea" and he would vote "nay."

The roll-call having been concluded, the result was announced—yeas 16, nays 26; as follows:

YEAS—16.

Allison,	Edmunds,	Ingalls,	Platt,
Bell,	Ferry,	Logan.	Rollins,
Bruce,	Hill of Colorado,	McMillan,	Saunders
Cameron of Wis.,	Hoar,	Morrill,	Windom.

NAYS—26.

Bailey,	Harris,	Maxey,	Vance,
Call,	Hill of Georgia,	Morgan,	Vest,
Coke,	Houston,	Pendleton,	Voorhees,
Davis of W. Va.,	Jonas,	Randolph,	Walker,
Garland,	Jones of Florida,	Ransom,	Williams.
Groome,	Kernan,	Saulsbury,	
Hampton.	Lamar,	Slater,	

ABSENT—34.

Anthony,	Chandler,	Hamlin,	Plumb
Bayard,	Cockrell,	Hereford,	Sharon,
Beck	Conkling,	Johnston,	Teller,
Blaine,	Davis of Illinois,	Jones of Nevada,	Thurman,
Booth,	Dawes,	Kellogg,	Wallace,
Burnside,	Eaton,	Kirkwood,	Whyte,
Butler,	Farley,	McDonald,	Withers.
Cameron of Pa.,	Gordon,	McPherson,	
Carpenter,	Grover,	Paddock,	

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the passage of the orignal resolution as amended.

Mr. EDMUNDS called for the yeas and nays and they were ordered.

Mr. DAWES. Was my name called on the last roll-call? I intended to vote and I ask unanimous consent to record my name.

The PRESIDENT *pro tempore*. The Senator's name was called but the Clerk did not hear any response.

Mr. DAWES. I intended to vote.

The PRESIDENT *pro tempore*. It requires unanimous consent, the vote having been announced.

Mr. DAVIS, of West Virginia. A vote cannot be recorded by unanimous consent.

Mr. DAWES. I intended to vote.

The PRESIDENT *pro tempore*. The Chair believes that this rule cannot be suspended at all.

Mr. DAVIS, of West Virginia. A vote cannot be recorded after the result has been announced.

Mr. DAWES. I intended to vote "yea."

Mr. DAVIS, of West Virginia. It cannot be done.

Mr. DAWES. I will state that I intended to vote.

Mr. ANTHONY. If the Senator voted "yea" and his response was not heard, the Journal can be corrected.

Mr. DAVIS, of West Virginia. That can be done.

Mr. DAWES. I would not say positively that I did vote, but I think I did.

Mr. EATON. I think the Senator did, for I said to my friend from Kentucky [Mr. WILLIAMS] here, that he had voted and the pair was at an end.

Mr. DAWES. It was my impression that I had voted, but I was a little uncertain about it, and I would not state it positively for the sake of getting my name on the record, but I should like to have it there, and I believe I did vote.

Mr. WILLIAMS. I am satisfied the Senator from Massachusetts voted, because I had been paired with him and voted because I understood the pair was at an end.

Mr. DAWES. The Senator from Kentucky was kind enough to pair with me for a couple of hours.

Mr. VOORHEES. Whether the Senator voted or not, this body is master of its own rules and can suspend the rule and allow him to vote.

The PRESIDENT *pro tempore*. There is one rule that cannot be suspended.

Mr. VOORHEES. Why? What rule has a higher power than this body?

The PRESIDENT *pro tempore*. Rule 18.

Mr. FERRY. I desire to suggest to the Senator from Indiana that inasmuch as several Senators state that the Senator from Massachusetts did vote, the record can be corrected according to the fact.

Mr. VOORHEES. That is certainly sufficient.

Mr. FERRY. I make that motion if a motion is needed, though I think one is not.

The PRESIDENT *pro tempore*. The eighteenth rule reads as follows:

> When the yeas and nays shall be taken upon any question, no Senator shall, under any circumstances whatever, be permitted to vote after the decision shall have been announced from the chair; but a Senator may, for special reasons assigned by him, with the unanimous consent of the Senate, change or withdraw his vote after such announcement. No motion to suspend this rule shall be in order.

This relates to a Senator voting after the announcement of the result is made; but here the Senator informs the Senate that he did vote and the Chair sees no reason why the record may not be corrected on motion.

Mr. DAWES. All I can say is that I am confident I voted, but I am not absolutely certain.

The PRESIDENT *pro tempore*. That is enough. Shall the record be amended by inserting the vote of the Senator from Massachusetts on the last roll-call?

Mr. EATON. I assert that the Senator voted whether he remembers it or not, for I immediately went into the cloak-room and said to my friend from Kentucky that Mr. DAWES had returned and voted and therefore the pair was broken.

The PRESIDENT *pro tempore*. The Chair hears no objection to the record being corrected, and it will be so ordered. The question is on the resolution, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were here, I should vote "nay."

Mr. BOOTH, (when his name was called.) On this question I am paired with the Senator from Kentucky, [Mr. BECK.] If he were present, I should vote "nay."

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.] If he were here, I should vote "nay."

Mr. THURMAN, (when the name of Mr. CAMERON, of Pennsylvania, was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. FERRY, (when Mr. CHANDLER'S name was called.) My colleague [Mr. CHANDLER] is paired with the Senator from Delaware, [Mr. BAYARD.] Were he here, my colleague would vote "nay."

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "yea."

Mr. PADDOCK, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. GORDON.] If he were here, I should vote "nay."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Missouri, [Mr. COCKRELL.] If he were present, I should vote "nay."

The roll-call was concluded.

Mr. ALLISON. I desire to announce that my colleague [Mr. KIRKWOOD] is paired with the Senator from West Virginia, [Mr. HEREFORD.] On this question my colleague would vote "nay."

Mr. SAULSBURY. I desire to state that the Senator from Pennsylvania [Mr. WALLACE] is paired with the Senator from Maine, [Mr. HAMLIN.]

Mr. WILLIAMS. I desire to state that my colleague [Mr. BECK] is paired with the Senator from California, [Mr. BOOTH.] My colleague, if here, would vote "yea."

Mr. BLAINE. I desire to state again that I am paired with the Senator from New Jersey, [Mr. MCPHERSON.] If he were here, I should vote "nay."

Mr. EATON. The Senator from Wisconsin [Mr. CARPENTER] and myself are paired.

Mr. MCDONALD. If I were not paired, I should vote "yea."

Mr. INGALLS. If it has not been already stated, I will say that my colleague [Mr. PLUMB] when he left the Chamber requested me to say that he was paired with the Senator from Virginia, [Mr. JOHNSTON.] My colleague would vote "nay" on this resolution if he were at liberty to do so.

The result was announced—yeas 26, nays 17; as follows:

YEAS—26.

Bailey,	Coke,	Garland,	Hampton,
Call,	Davis of W. Va.,	Groome,	Harris,
Hill of Georgia,	Lamar,	Ransom,	Voorhees,
Houston,	Maxey,	Saulsbury,	Walker,
Jonas,	Morgan,	Slater,	Williams.
Jones of Florida,	Pendleton,	Vance,	
Kernan,	Randolph,	Vest,	

NAYS—17.

Allison,	Edmunds,	Logan,	Saunders,
Bell,	Ferry,	McMillan,	Windom.
Bruce,	Hill of Colorado,	Morrill,	
Cameron of Wis.,	Hoar,	Platt,	
Dawes,	Ingalls,	Rollins,	

ABSENT—33.

Anthony,	Chandler,	Hereford,	Sharon,
Bayard,	Cockrell,	Johnston,	Teller,
Beck,	Conkling,	Jones of Nevada,	Thurman,
Blaine,	Davis of Illinois,	Kellogg,	Wallace,
Booth,	Eaton,	Kirkwood,	Whyte,
Burnside,	Farley,	McDonald,	Withers.
Butler,	Gordon,	McPherson,	
Cameron of Pa.,	Grover,	Paddock,	
Carpenter,	Hamlin,	Plumb,	

So the resolution was agreed to.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. JONES, of Florida, submitted an amendment intended to be proposed by him to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY INTERFERENCE IN ELECTIONS.

Mr. EATON. Mr. President, I move to take from the table House bill number——

Mr. WINDOM. If the Senator is looking for the appropriation bill, it is No. 2.

Mr. EATON. My friend knows I was not looking for that.

Mr. WINDOM. I supposed the Senator was looking for that.

Mr. EATON. It is a very different bill, a bill to prohibit military interference at elections.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves that the Senate proceed to the consideration of the bill (H. R. No. 1382) to prohibit military interference at elections.

Mr. ALLISON. I raise the point of order that that is not in order; it was only read the second time this morning.

Mr. EATON. I have not asked to have it read, but simply taken up.

Mr. EDMUNDS. When taken up, the question will be, Shall it be read the third time, which the Chair will be bound to put.

The PRESIDENT *pro tempore*. The Chair sees no reason why the bill may not be taken up to-day, though it cannot be read the third time to-day if objection be made. It is subject to be debated now.

Mr. BLAINE. I desire whenever the bill may be taken up to give notice of an amendment, which I shall ask to have printed.

The PRESIDENT *pro tempore*. The question now is on taking up the bill.

Mr. ALLISON. Before that is done I ask the Senator from Connecticut to give way for a motion to adjourn. The Senator from Kentucky [Mr. BECK] is absent and has charge of the legislative appropriation bill.

Mr. EATON. I can inform my friend that I do this with the concurrence of the Senator from Kentucky.

Mr. ALLISON. I regret exceedingly to hear that, Mr. President.

The PRESIDENT *pro tempore*. The question is, will the Senate proceed to the consideration of the bill (H. R. No. 1382) to prohibit military interference at elections?

Mr. EDMUNDS. Mr. President, I should like to make a short speech on that subject. It has got to be about the right time now.

Mr. President, this bill has no proper place to be taken up to-night for consideration, because when it is taken up, unless some motion intervenes the Chair would be bound to put the question shall the bill be read the third time. It has been read once to-day already. But I do not address myself——

Mr. HOUSTON. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. HOUSTON. I desire to present a question of order to the Senate.

The PRESIDENT *pro tempore*. The Senator from Alabama will state his question of order.

Mr. EDMUNDS. In obedience to the rules I will take my seat.

Mr. HOUSTON. It is that a motion to take up a bill is not debatable.

The PRESIDENT *pro tempore*. A motion to proceed to the consideration of a bill is subject to debate, but not upon the merits of the bill itself.

Mr. EDMUNDS. Am I in order?

The PRESIDENT *pro tempore*. The Senator from Vermont is entitled to the floor.

Mr. ALLISON. I ask the Senator to yield to me to move an adjournment.

Mr. EDMUNDS. If I do, I shall lose my chance. Mr. President, if we have discovered that it is in order to debate a question that is pending before the Senate, I will proceed to debate it.

There has been reported from the Committee on the Judiciary a

bill very like this one, exactly like this one excepting the amendments recommended by the Committee on the Judiciary; which is on the Calendar. There has been reported from the Committee on Appropriations the legislative, executive, and judicial appropriation bill two days ago after that bill had been here for more than a week, substantially the same as the one that was passed through the Senate at the last session, and that bill is on the Calendar. Now my opposition to the taking up of this bill is that it is due to the state of the business of this body, it is due to public considerations, it is due to the President of the United States who has called this special session on account of the failure of two appropriation bills, mentioning no other subject in his message needing present legislative consideration, that this appropriation bill should be first taken up and disposed of, and then this other measure can receive attention.

I think it is due to another thing, Mr. President, that the appropriation bill should precede this. In the attitude of events which have occurred at the last session and this, and in the light of the declarations that have been made on the floor of the Senate, and from the very nature of the case as it now stands, no matter what people may say about it, the compulsory precedence given to this bill over the appropriation bill is a declaration, no matter who may deny it, it is an effective declaration, which has so often in unguarded moments already been made on this floor, that there shall be no appropriations until satisfactory legislation, be it much or little, on some kindred or other subjects, shall take place.

Now, for one, as a Senator I do not wish to occupy that attitude, because I believe it to be unconstitutional and destructive of the balance and the framework and the essence, and so finally of the liberty of this Government. I am not speaking of what some other department of the Government may think or feel about it, but I am speaking of what I think and feel about it myself, that I do not wish to be a party to occupying any such attitude. This is not the ordinary case of going on at the beginning of the session with a variety of legislation upon a variety of topics in advance of the appropriation bills; but the test was applied at the last session by an attempt in one House to persuade the other—I will not say coerce—into agreeing to legislation it did not like as the only and the necessary price that must be paid for obtaining appropriations to carry out existing laws.

We have already had—which I suppose we may refer to—in a message of the President of the United States to another branch of Congress, where the Constitution required him to send it, (that is a public event,) attention called to that very subject; and now it is proposed, whatever may be said about it, the very act of doing it is the thing, that before we shall take any further steps about appropriations some legislation of this same character, which has been attached to those subjects of contest and is a part of them, must go ahead of the appropriation bill instead of going after it.

Mr. VOORHEES. Will the Senator from Vermont allow me to ask him a question?

Mr. EDMUNDS. With pleasure.

Mr. VOORHEES. Is the Senator from Vermont opposed to the legislation now proposed to relieve the polls of the troops or whatever may be embraced in this proposed bill?

Mr. EDMUNDS. Mr. President, the rules of this body absolutely forbid my stating how I feel about that.

Mr. VOORHEES. I suppose so. Then next——

Mr. EDMUNDS. I shall be called to order by some Senator on the other side for getting over the line if I say anything about that.

Mr. VOORHEES. Then next, allow me to say to the Senator from Vermont that he has no divining-rod, he has no power of prophecy to tell what this side of the Chamber, after this proposed and most just and righteous measure may be adopted or rejected, will do.

Mr. EDMUNDS. Mr. President, if my friend's question is through, I will go on——

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. VOORHEES. I am not quite through, but still I will yield.

Mr. EDMUNDS. I am very much obliged for my friend giving me back my own property, that is the floor at this time. I am glad to get something back.

My honorable friend from Indiana is perfectly correct when he says that I have no divining-rod which shall point out to me what that side of the Chamber will do after they have done this. I am willing to agree that no human foresight—I do not claim to have much—whether there is any divine foresight that will point out either in this world or in any other precisely what my honorable friends over there will do next, I do not know. I have great faith in Providence, but it would be a pretty strong strain to go even that far. I dare say that the honorable gentlemen over there will do what they believe to be right and for the best interest of the country, by which they understand their own particular party. So much I believe.

Now, Mr. President, to come back to the substance of this thing and leave off the part of it referred to by the Senator from Indiana——

Mr. VOORHEES. That was the substance.

Mr. EDMUNDS. I did not see it in that light.

Mr. VOORHEES. No.

Mr. EDMUNDS. The case stands thus, I repeat: here, although there is an appropriation bill on your table and ready, and although there are involved in this bill the very controversies which have been the subject of dispute before, it is proposed that this bill shall go ahead of the appropriation bill. It will make no difference to the actual attitude of it in going ahead of it, whatever palliations or excuses or disclaimers gentlemen may allege. Gentlemen may say that they are opposed to a bill and vote for it; I have seen that done very often. Gentlemen may say that this is no menace, this does not put Senators who are opposed to this sort of thing in the attitude of holding an unconstitutional and revolutionary relation to some other department of the Government at all. They may say that it does not do it; but there is the fact, the event, that the body that talks so fairly, at the same time says "we will not go on with an appropriation bill, although our usage and the practice of the Senate requires it, but we will go on with the other before the appropriation bill shall go on." Without speaking of any other department of the Government, I say as one Senator that I will not consent to any such thing, and by my vote will endeavor to resist it.

Mr. VOORHEES. The position of the Senator from Vermont as a great leader of his party seems to be this, that he is unwilling to say whether he is for or against this most ordinary and proper, as it seems to us, measure of legislation.

Mr. EDMUNDS. As I am not at liberty to debate the merits of this bill on this motion, I must appeal to the Chair and my honorable friend to keep within the line.

Mr. VOORHEES. When the Senator from Vermont a moment ago was complaining that this measure was put before the appropriation bill, and saying that it was a menace and a threat to the appropriation bill, I asked him whether he was for this measure. I was ready to respond to the corresponding question which he might have put to me. I am for this bill and for the appropriation bill too. But I had him at this disadvantage, that he was not for this bill; at least, if he was, he was not ready to say so.

Mr. EDMUNDS. I have not any right to say so.

Mr. VOORHEES. You said you would be called to order. I am not called to order. I say I am for it; I am a Senator on this floor.

Mr. EDMUNDS. I know it; but my point was, and why I did not say it, was (because the Senator knows perfectly, I suppose, my real opinion) that the rule says that the merits of the measure proposed to be taken up shall not be discussed.

The PRESIDENT *pro tempore*. On its merits.

Mr. EDMUNDS. On its merits; and if it is not speaking on the merits of the bill for the Senator to say he is for or against it, I do not know what is.

Mr. VOORHEES. I have admired the Senator from Vermont for a great many years, and I never knew a cover that he took to with such skill as he does this. The merits of this bill are not much in controversy when I ask him, especially when he is menacing this side with saying that we have put it in as a threat, whether he is for this bill or against it, and he says he declines to answer. I do not decline to answer, and I am not called to order. I am for this measure, and I am for the next one that comes after it, and there is no trouble about this at all. If this legislation is right, let us pass it. There is no necessity whatever of linking the two matters together at this time. I am for the appropriation bill. That comes after this. This is not the first bill that has interposed before an appropriation bill. There have been many bills before appropriation bills heretofore. I see no trouble about taking this bill up and passing it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Connecticut, that the Senate proceed to the consideration of the bill indicated.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) I should vote "nay" if I were not paired with the Senator from New Jersey, [Mr. McPHERSON.]

Mr. BOOTH, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. BECK.] Otherwise I should vote "nay."

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.] If he were here, I should vote "nay."

Mr. FERRY, (when Mr. CHANDLER'S name was called.) My colleague [Mr. CHANDLER] is paired with the Senator from Delaware, [Mr. BAYARD.] Were he here, my colleague would vote "nay."

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] Were he here, I should vote "yea."

Mr. McDONALD, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.] If he were present, I should vote "yea."

Mr. PADDOCK, (when his name was called.) I am paired with the Senator from Georgia, [Mr. GORDON.]

Mr. INGALLS, (when Mr. PLUMB'S name was called.) My colleague [Mr. PLUMB] is paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Missouri, [Mr. COCKRELL.] If he were present, I should vote "nay."

Mr. THURMAN, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. DAVIS, of West Virginia. My colleague [Mr. HEREFORD] is paired with the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. ANTHONY. I am paired on this question with the Senator from Maryland, [Mr. WHYTE.]

The result was announced—yeas 27, nays 15; as follows:

YEAS—27.

Bailey,	Hampton,	Lamar,	Slater,
Call,	Harris,	Maxey,	Vance,
Coke,	Hill of Georgia,	Morgan,	Vest,
Davis of W. Va.,	Houston,	Pendleton,	Voorhees,
Eaton,	Jonas,	Randolph,	Walker,
Garland,	Jones of Florida,	Ransom,	Williams.
Groome,	Kernan,	Saulsbury,	

NAYS—15.

Allison,	Edmunds,	Ingalls,	Platt,
Bell,	Ferry,	Logan,	Rollins,
Cameron of Wis.,	Hill of Colorado,	McMillan,	Windom.
Dawes,	Hoar,	Morrill,	

ABSENT—34.

Anthony,	Carpenter,	Hereford,	Saunders,
Bayard,	Chandler,	Johnston,	Sharon,
Beck,	Cockrell,	Jones of Nevada,	Teller,
Blaine,	Conkling,	Kellogg,	Thurman,
Booth,	Davis of Illinois,	Kirkwood,	Wallace,
Bruce,	Farley,	McDonald,	Whyte,
Burnside,	Gordon,	McPherson,	Withers.
Butler,	Grover,	Paddock,	
Cameron of Pa.,	Hamlin,	Plumb,	

So the motion was agreed to.

Mr. BLAINE. I gave notice of an amendment to this bill, which I should be glad to have read and ordered to be printed.

Mr. DAVIS, of West Virginia. It can be printed without being read.

The PRESIDENT *pro tempore*. It can be read if desired. ["Read it."] The amendment of the Senator from Maine will be read.

The Chief Clerk read as follows:

SEC. 2. Any person who shall carry a concealed deadly weapon at any place, or within a mile of any place where a general or special election for Representative to Congress is being held, shall, on conviction thereof, be punished with a fine not less than five hundred nor more than five thousand dollars, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

Mr. BLAINE. I limit that amendment to "concealed" weapons.

Mr. MORGAN. I ask for the reading of the bill.

Mr. BLAINE. I ask that my amendment be printed.

The PRESIDENT *pro tempore*. The Senator from Alabama asks for the reading of the bill. It will be read for information.

Mr. EATON. I hope my friend will not ask for the reading of the bill to-night.

The PRESIDENT *pro tempore*. It cannot be read the third time to-day except by unanimous consent.

Mr. VOORHEES. The Senator from Alabama [Mr. MORGAN] has the floor now, and to leave him on the floor I move that the Senate adjourn.

Mr. MORGAN. I yield for that motion.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

The motion was agreed to; and (at seven o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 7, 1879.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

Mr. STEPHENS. I move to dispense with the reading of that portion of the Journal relating to the introduction and reference of bills.

The SPEAKER. That requires unanimous consent.

There was no objection, and it was so ordered.

The remainder of the Journal was then read and approved.

CORRECTIONS.

Mr. THOMAS. Mr. Speaker, yesterday I was necessarily absent on account of sickness.

The SPEAKER. It was so announced.

Mr. THOMAS. I desire to be excused for that absence, and to announce that had I been present at the time the bill in relation to elections was passed, I would have voted in the negative.

Mr. WRIGHT. I find in the RECORD of this morning an entry which I think does me injustice, and I feel called upon to request the gentleman from North Carolina [Mr. KITCHIN] to make such an explanation to this House and to me as may be satisfactory. I ask the Clerk to read a paragraph of this morning's RECORD which I have marked.

The Clerk read as follows:

Mr. WRIGHT also introduced a bill (H. R. No. 1800) to exempt all persons making less than sixty gallons of brandy from apples or peaches from taxation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr. WRIGHT. I want it understood that I am not an advocate of cheap whisky. [Laughter.]

The SPEAKER. Will the gentleman state what is wrong?

Mr. WRIGHT. My friend from North Carolina [Mr. KITCHIN] put that bill in my hands and requested me to present it. I had no knowledge whatever of its contents, but as I am inclined to be civil on all occasions, particularly toward him——

Mr. CONGER. We do not hear the gentleman.

Mr. WRIGHT. I do not hear the gentleman.

Mr. CONGER. I said that we could not hear on this side of the Chamber.

Mr. WRIGHT. I will repeat what I said for the benefit of the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. Thank you.

Mr. WRIGHT. Yesterday, during the regular call for the introduction of bills I introduced a bill, and it is credited to me, which purports to take the tax off whisky.

Mr. CONGER. So we notice.

Mr. WRIGHT. The gentleman from North Carolina [Mr. KITCHIN] handed me the bill when it was my turn to introduce bills, and requested me to introduce it, which I did. But his name was marked on the back of the bill; I was merely the agent.

The SPEAKER. Then the RECORD is correct; the gentleman did present the bill.

Mr. WRIGHT. The paragraph from the RECORD which I have had read gives me credit for presenting that bill.

The SPEAKER. And the gentleman himself states that he did present it.

Mr. WRIGHT. This case is governed exactly by the principle of *qui facit per alium, facit per se*. I was the agent merely of the gentleman from North Carolina. I want the RECORD corrected; I want it to appear that the gentleman from North Carolina [Mr. KITCHIN] presented the bill, and I want him to explain to this House that he had no personal motive in getting me to present it, or I will hold him responsible here or elsewhere. [Great laughter.]

Mr. CONGER. Do I understand the gentlemen to ask permission to withdraw the bill?

Mr. WRIGHT. I do not ask to withdraw it. I only ask that it may be put under another flag—the flag of North Carolina. I want an explanation from the gentleman from North Carolina, [Mr. KITCHIN.]

Mr. KITCHIN. I will state that, knowing that the gentleman from Pennsylvania [Mr. WRIGHT] was a greenbacker, and believing that he was fonder of whisky than any other gentleman in this Hall, [laughter,] I handed him the bill, with my name indorsed upon it, and asked him to present it, as I was not entitled to the floor for that purpose at that time. As it seems to be too weighty for him I will take the ponderous weight from the shoulders of that gentleman, which seems to have broken his spinal column, and will place it upon my own shoulders, and "daddy" the bill myself. [Laughter.]

The SPEAKER. The RECORD is correct nevertheless.

Mr. WRIGHT. I shall hold the gentleman responsible. [Laughter.]

Mr. KITCHIN. I did not think that the greenbackers held gentlemen responsible for anything.

ORDER OF BUSINESS.

The SPEAKER. At the time of adjournment yesterday the gentleman from Mississippi [Mr. CHALMERS] was on the floor claiming the right to make a personal explanation. Does the gentleman desire the floor now for that purpose?

Mr. CHALMERS. I do.

Mr. CONGER. Does that cut off the morning hour?

The SPEAKER. It does not.

PERSONAL EXPLANATION—FORT PILLOW.

Mr. CHALMERS. I desire to say that many gentlemen on both sides in this House, I hope I may say my friends on both sides of the Chamber, have pointed out to me the difficulties that stand in the way of the passage of the resolution which I have offered. I recognize the great necessity of being careful in the precedents we establish. I recognize also the delicate position in which gentlemen of the republican party might be placed at my request if called upon to review a report made years since by a distinguished republican Senator now dead. I recognize further the possibility that this investigation might rekindle the flames of passion and prejudice which all good men certainly desire to see covered in their own ashes. But, Mr. Speaker, it is a very hard thing to ask soldiers who have lost all save honor in the war to permit that to be taken from them by the constant repetition of accusations which are utterly untrue, and which in my own case I most emphatically deny.

During the last three weeks Mr. Leming, who was at Fort Pillow as adjutant of the Thirteenth Tennessee Regiment, was here in Washington and sought an introduction to me for the purpose of returning his thanks for kindness I had shown him while a wounded prisoner at Fort Pillow. Captain Young, of the Twenty-fourth Missouri Regiment, who was a provost marshal at the post, was with me almost continuously after I entered the fort and remained with me several days afterward as a prisoner of war. I would be glad, therefore, to put on record the testimony of these gentlemen and the testimony of many others on my own side for the purpose of showing my personal conduct upon that occasion. I desire especially to show that some hours after all the firing had ceased a soldier infuriated

with whisky, taken from the sutler's stores, attempted to fire upon the prisoners, and I prevented it at the risk of my own life.

But I would much prefer that sworn witnesses should speak for me in this matter, and therefore it was I asked an investigation. But the action of the House yesterday satisfies me that gentlemen are not willing now to go into such an investigation. Therefore I have concluded to accept the advice of my friends and make my own statement, which I shall do very briefly, asking at the same time to publish as part of my remarks extracts from the history of Forrest and his cavalry, and also extracts from the testimony taken by the congressional committee.

Mr. DUNNELL. Are we to understand that the gentleman does not propose to press action upon his resolution now pending?

Mr. CHALMERS. I propose to leave that matter to the House. While I would like to have that resolution adopted, I do not desire to be in the attitude of demanding anything that is disagreeable to the House, especially when it is a personal matter and when it may involve expenditure to the Government. I will leave that question entirely to the House.

Mr. WILBER. Suppose the gentleman should try to have a vote of the House on the resolution.

Mr. CHALMERS. I am perfectly willing and indeed anxious that the action proposed in the resolution should be adopted. When I finish my statement I will endeavor to bring up that question.

Now the most outrageous and inexcusable conduct charged against the confederate troops on that occasion is said to have occurred on the morning after the battle. In regard to this I have no personal knowledge. I can only say that I never heard of those charges until after the war was over and I saw them published in the report of the congressional committee. No gentlemen of my command with whom I have conversed on this subject ever heard of them until after the war when they saw them printed in the CONGRESSIONAL RECORD. I call attention to the fact that in this very testimony a number of witnesses who were examined state that they did not see the outrages charged and never heard them until they were at Mound City, Illinois. At that time I was the commander of the first division of Forrest's cavalry, and when the fight commenced I was in command of troops composed of one brigade of my own division and one brigade of Buford's division. About nine o'clock in the day General Forrest arrived and took command in person.

In order to understand this matter it is necessary I should briefly allude to the situation. The ground had been fortified both by the confederates and by the Federals. The fort in which the last stand was made was an earthwork thrown up in the angle formed by Cold Creek emptying into the Mississippi River. Circling in front of that was a line of intrenchments that had been thrown up by the confederates. Between this line of intrenchments (which had been taken possession of by the confederate troops early in the morning) and the fort there was a deep ravine which afforded shelter to an attacking force; for the guns of the fort could not be depressed so as to reach troops that were in that ravine. This ravine could be reached by getting down under the banks of Cold Creek; and troops could come up almost under the fort without being exposed to any fire except from the sharpshooters who were thrown out. Upon the river side the approach was more difficult, because troops coming from that side were subjected to the fire from the gunboats. Upon that side, too, the ravine widened out into a platean, upon which there were three rows of houses. These houses were taken possession of by the confederate forces before any demand for surrender was made, as is shown by the testimony of several witnesses before the congressional committee. In truth, the place had been thoroughly invested in front, and troops had been sent down below; for I should say this fortification was at that time about forty or fifty feet above the level of the water so as to cut off any retreat in case the garrison should attempt it. The fort was untenable; and this was so plain that the commander of the fort in the morning had made an agreement with the commander of the gunboat that in case it could not be held a signal to that effect was to be given, and when the retreat began the gunboat was to open with canister upon the confederate troops. The testimony taken before the congressional committee shows that this signal was given before the fort was taken.

I say here, too, that in my judgment that fort would have been surrendered had it not been that Major Bradford, who was then in command, feared violence at the hands of the Tennessee confederates, who were bitterly hostile to him and his command, growing out of charges, whether true or false I do not know, of bad conduct on the part of Bradford and his command toward the wives and families of the confederate Tennesseeans.

When the demand for surrender was made and refused the bugle was sounded and the works were taken by assault. As we went in a large number of the garrison ran out and down this steep hill toward the water's edge with their guns in their hands. That a number of them were killed is unfortunately true; but if any were killed in violation of the usages of war the most searching examination on the part of this committee has failed to fix any responsibility for it, at least upon the general officers in command.

The witness Ledbetter was asked the question, "Did you see any confederate officers there when the shooting was going on?" His answer was, "No; I did not see them until they carried me up upon the hill."

Three different witnesses undertook to criminate me in regard to this matter. The first is the witness Ray, to whom I alluded before. Ray described the killing of a child on that occasion. I call the attention of gentlemen to the testimony taken by the congressional committee, and they will there find the captain of the gunboat testifies that he carried off all of the women and children from that fort when the fight opened and that he put them above Cold Creek on the bank of the river. I furthermore say to gentlemen that there is now in the city of Washington a gentleman, a practicing lawyer, J. B. Archer, who was at that time in charge of the steamboat Liberty No. 2, and by him it can be proved that he came with his boat during the fight and carried off all of those women and children to the city of Memphis, and they did not return till after the confederates had left Fort Pillow. Therefore it is manifest to any man this story of the killing of a child was fabricated from beginning to end.

I have already called attention to the statement of the witness Ray. He knew that a star upon the coat was the insignia of a Federal general, and, he said, he supposed it was General CHALMERS because the man had a star upon his coat. I have already said to you that a star on the coat was the insignia of a major and not of a general officer in the confederate service.

The next witness, Mr. Purdom, who connected me with this matter, said that he had a conversation with a captain of the Second Missouri Cavalry, who said he was a staff officer of mine, and this staff officer said to him we did not regard negroes as soldiers; that we would show no quarter either to the negro troops or their officers. Now, if I am permitted, I will show that no officer of the Second Missouri Cavalry was ever on my staff at any time during the war.

Another witness, Dr. Underwood, testifies to having seen me on the steamer Platte Valley, and to have heard me say to a Federal captain that I would treat him as a prisoner of war, but that I would not treat as prisoners of war the "home-made Yankees," meaning loyal Tennesseeans. Now, Mr. Speaker, inasmuch as I was at that time delivering prisoners—wounded loyal Tennesseeans—to the gunboat, it seems to me gentlemen should know that this statement could not have been made by me. As I was then delivering wounded negroes to the gunboat, it ought to satisfy any man that the pretended staff officer did not express my sentiments on that occasion.

Another statement is made that several officers of the Federal Army, whose names could not be found out, had treated me to drinks on that occasion, and they were severely censured for it. Now, it is well known by every member of my command during the war, and I believe it is well known to all of my associates in Congress, that I never drink spirituous liquors of any kind. So on every single point which has been made and every insinuation made against me I think I can show conclusively they are utterly untrue.

In the evening after the battle I withdrew with my command about two miles from the river, leaving an officer with a detachment to bury the dead and gather up the arms. I call the attention of gentlemen to the fact shown by that officer in his report that a large number of the guns were picked up on the very water's edge, showing that the garrison did not surrender, but ran out with their arms in their hands.

Upon the next morning, the gunboat No. 28 came up the river and commenced to shell the fort while this detachment was burying the dead; and the officers upon that gunboat testify that then, and not till then, the confederates set fire to the town. I call attention to this for the purpose of showing that there was no deliberate purpose on the part of any man to burn up men who were wounded and not dead. I have always believed, since I have heard that anybody was burned, that when the houses and tents were set fire to, if any were burned they were bodies of men who were dead that were lying in the tents and houses set fire to. And upon that point I call attention to the evidence of two witnesses already published by the congressional committee. Mr. Alexander is one. He testifies he heard the rebels say they would not fire the building until the wounded were taken out of it. Mr. Shelton testifies distinctly that the house he was in was not set fire to till he was taken out of it. When I heard the firing on the next morning, believing that an effort would be made to retake the place, I moved back with my command to the scene of action; but before any fighting commenced Major Anderson, of General Forrest's staff, arrived with a flag of truce, and proposed that all the prisoners should be turned over to the gunboat under parole, if their parole would be respected. That proposition was accepted, and it was carried out by Major Anderson and myself.

Human testimony in regard to a battle, and even in regard to a single conflict, is seldom consistent; and while I have been examining the printed testimony on both sides in regard to this matter I have been greatly astonished to find that there is but one single witness who seems to recollect the matter as I recollect it. Most of the witnesses say that shortly after or when the confederates ran into the fort the whole of the Union troops ran out; and General Jerdan, who wrote the life of Forrest, has adopted that as a true statement in his book. Now, I call attention to this fact: that if that had been true when about twenty-five hundred men were firing, some from above and some firing from below, it would have been almost impossible that 40 per cent. of that garrison could have been saved unhurt; and yet 40 per cent. were saved wholly untouched.

There is one witness, however, whose statement agrees with my recollection. That witness states that only a portion of the troops ran out and that nearly all who did run out were either killed or

wounded. Now, my recollection is very distinct that a large number of the garrison remained in the fort, mostly white men, and they gathered around General Forrest and myself for protection, and they were protected.

As to the charge that is made that we took advantage of the flag of truce in order to obtain a better position for making the final assault, as I was not in command of the forces on that occasion this could not properly be made as a charge against me. But knowing as I do that it was not true, knowing that brave men never stoop to acts of cowardice, and in defense of my dead commander whose reckless courage shown upon a hundred battle-fields would have scorned such a mean advantage, I have selected certain portions from his book which I propose to publish in vindication of himself and his troops.

Mr. Speaker, this is all the statement I desire to make upon this subject now. So far as I am concerned I think I have said enough to satisfy any reasonable man that the charges made against me personally are untrue. Now, I am perfectly willing to leave this matter with the House of Representatives. I say distinctly whether they give me the committee or not I have no fears that injustice will be done me by men who were brave enough to fight for their principles. I am willing to risk my defense in the hands of gallant Union soldiers of any party.

This is no party matter. It will not add to the glory of the Union victory to detract from the heroism of the confederate soldiers; and I do not suppose there is a soldier upon either side who for mere party purposes would for one moment tolerate the idea of blackening the character of a soldier upon the other side.

Glory is the sodger's prize:
The sodger's wealth is honor.

Mr. HAWLEY. I would like to ask the gentleman from Mississippi a question or two for information.

Mr. CHALMERS. Yes, sir.

Mr. HAWLEY. I also say that I do not regard this as a party matter at all. I coincide with the gentleman entirely in that, and I should be very glad if any inquiry should show to the American people that no such scenes took place at Fort Pillow as were described in the journals all over the country, and as were believed to have taken place by the vast majority of the people of the North. I should be glad to believe that history is mistaken in that for the credit of the American name, and I cannot but sympathize with any gentleman who desires to be personally relieved from any of the opprobrium supposed to rest upon Fort Pillow. But I want to ask the gentleman how many Federal soldiers does he suppose were killed on that day?

Mr. CHALMERS. There were five hundred and seventy-seven altogether, if I recollect aright.

Mr. HAWLEY. Killed?

Mr. CHALMERS. No, sir, the whole garrison; of which about 40 per cent. were saved unharmed. I do not recollect the exact number now.

Mr. HAWLEY. Perhaps some three hundred killed and wounded?

Mr. CHALMERS. Yes, sir.

Mr. HAWLEY. How many on the confederate side?

Mr. CHALMERS. In my own brigade there were one hundred and ten, and I presume the same proportion in Beaufort's, though I am not certain about that.

Mr. HAWLEY. Killed and wounded?

Mr. CHALMERS. Yes, sir.

Mr. HAWLEY. On the confederate side three hundred in all killed and wounded?

Mr. CHALMERS. About two hundred and twenty, I should think.

Mr. HAWLEY. That is all I care to ask.

Mr. CALKINS. I desire to ask the gentleman a question before he takes his seat. I desire to ask him whether his brigade had charge of the prisoners who were surrendered there after the surrender took place, or whether they were turned over to Beaufort's command?

Mr. CHALMERS. The prisoners taken to Mobile?

Mr. CALKINS. Yes, sir.

Mr. CHALMERS. I forget about that. I think a special detachment was immediately sent with them on to Mobile. If I remember aright there were about sixty negroes among them.

Mr. CALKINS. From whose commands?

Mr. CHALMERS. That I do not remember.

Mr. CALKINS. I desire to ask another question. Major Bradford was in command at Fort Pillow?

Mr. CHALMERS. Yes, sir.

Mr. CALKINS. What is the recollection of the gentleman as to whether Bradford was killed or wounded?

Mr. CHALMERS. I will state that Major Bradford was the commanding officer at Fort Pillow, and was neither killed nor wounded in the fight. After the surrender was over he was being pursued by a Tennessee soldier, and came to me and asked me not to permit him to be guarded by the Tennessee troops, because if he was so guarded he would be killed. At his own request I took him and put him in charge of Colonel Bob McCulloch, who commanded a brigade of my division. McCullock, in my presence, said to him: "Major, I put you on your parole of honor; remain with me and my staff." During that night Major Bradford disappeared. I had sent the Seventh Tennessee Cavalry about seven miles below in order to prevent any reinforcements coming from Memphis without my knowledge. They were picketed all along the roads and scattered through the woods. The next morning Major Bradford was caught by this Tennessee regiment attempting to get to Memphis. He was then taken in charge by the regiment and started for Jackson, where General Forrest had gone, for the purpose of turning him over to General Forrest with a view to his trial for a violation of his parole.

On the road to Jackson Major Bradford was shot. It was said by the men having him in charge that he again attempted to escape and they shot him. That is all I know about it.

Mr. CALKINS. One other question. Captain Leming was in command of the Tennessee regiment?

Mr. CHALMERS. He was the adjutant of the regiment, and he is the man who came to me the other day here to thank me for my kindness to him while he was a prisoner. He acted as adjutant during the fight and afterward. He is the gentleman whose testimony I am particularly anxious to obtain.

Mr. HAWLEY. There is one question I would like to ask the gentleman. Did he make an official report of his share in the battle?

Mr. CHALMERS. I do not remember; I presume so. I will state this on that subject, however: while in Forrest's command we were so much without books and papers that we very seldom made the same kind of official reports which were made in the infantry service. I served in both arms of the service. I do not remember now whether I made a formal report or not.

Mr. McMILLIN. Did you say that the officer of the Tennessee regiment was here the other day to thank you?

Mr. CHALMERS. I did say so; it was at that very door, [pointing to the north door of the Hall.]

The following is the paper referred to by Mr. CHALMERS in the foregoing remarks:

[From The Campaigns of General Forrest, pages 426 and 427.]

The Federal works were constructed with the *trace* and in the position exhibited in the map opposite; that is, upon the highest part of the bluff chosen for occupation, and inclosing the northwest angle formed by the river and Cold Creek, upon the last of which it jutted abruptly, while a bench of some forty feet lay between it and the immediate river bank at that stage of the water. Eastward there was a gradual slope from the crown next the river for from twenty to sixty yards, when the descent became sudden into a narrow gorge that separated it from a labyrinth of hills and ridges divided from each other by a network of interlacing and deep gullies, affording well-covered approaches for an enemy to within thirty to one hundred yards of the interior intrenchments. Southward this eminence also fell off gently for about two hundred yards and then rapidly into a narrow valley, the course of which was perpendicular to the river, and in which were a number of trading-houses and other buildings known as "the town." This slope, as will be seen in the diagram annexed, was seamed by a ravine which gave hostile access to within one hundred and fifty yards of the southern face of the works. Immediately exterior and parallel with the face of the works commanding this part of the ground were four rows of cabins and tents, the outer line of which (cabins) was not more than sixty yards distant from the ditch, and rightward from these stretched around to the north for some two hundred yards a rifle-pit along the eastern verge of the acclivity.

Same, pages 429 and 430:

It was about nine o'clock as General Forrest reached the ground, and about the same hour Major Booth, the Federal commander, and his adjutant by his side were killed.

* * * * * * *

Orders were therefore given immediately to "move up." Bell threw his brigade forward until he gained a position in which his men were well sheltered by the conformation of the ground. At the same time McCulloch advanced and gallantly carried the intrenchments on the highest part of the ridge immediately in front of the southeastern face of the work. The Federals fell back without further stand to their main work, and the rifle-pit in its front, closely pressed by McCulloch, who seized and occupied the cluster of cabins on the southern face of the work which, as we have said before, were about sixty yards from it, foiling an attempt on the part of the enemy to burn the buildings. He also carried and occupied the rifle-pits. The positions thus secured were fatal to the defense, for the confederates were now so placed that artillery could not be brought to bear on them with much effect except at a mortal exposure of the gunners. Moreover, the line of investment was now short and complete, extending from the river bank south of the fort to Cold Creek on the north, so swollen at the moment by backwater as to be impassable, while rearward of the advanced line were numerous sharp-shooters favorably posted on several commanding ridges ready to pick off any of the garrison showing their heads above or, indeed, any men moving about within the circuit of the parapets. Fully satisfied of his ability to carry the position without difficulty or delay, but desiring to avoid the loss of life that must occur in storming the works, Forrest determined to demand the surrender of the place.

THE CHARGE OF VIOLATING THE TRUCE.

Same, pages 432 and 433:

Pending the delivery and consideration of this communication, and during the period of the truce, the smoke of several steamers was discovered ascending the river, and speedily one, crowded with troops and her lower guards filled with artillery, was distinctly seen approaching near at hand, and manifestly bearing directly for the beleaguered fortress. Apprehensive that an attempt would be made to land re-enforcements from these steamers, Forrest promptly dispatched his aid-de-camp, Captain Charles W. Anderson, with a squadron of McCulloch's brigade, down the ravine through the "town" to occupy the old trenches constructed by the confederates in 1862, under the bluff at the river, about the mouth of that ravine, and just below the southern face of the invested work. That able, zealous staff officer, promptly moving his detachment in full view of the fort, swiftly took up the designated position directly in sight also of the gunboat New Era. And the Olive Branch in her course soon came so near that by opening with a volley on the mass of men with whom she was laden a heavy loss of life must have been inflicted; but Captain Anderson, limiting himself strictly to preventing the landing of any re-enforcements during the truce, caused two or three admonitory shots to be fired at the pilot-house, with the immediate effect of making her sheer off to the opposite shore and pass on up the river.

This clearly legitimate movement constitutes in large part the gravamen of the charge made with so many weighty epithets, and so widely believed at the North, that Forrest acted in bad faith and violated the flag of truce. Assuredly no allegation could be more unfounded in this connection. The movement was made under the eyes both of Major Bradford and Captain Marshall, who expressed no objections and took no steps to resist or check it. It was the necessary consequence of the menacing approach while the truce existed of these steamers, at a

time when the river was full of transports bearing troops, and when the commander of the fort was manifestly seeking to gain time by negotiations with the hope of receiving succor. The Federal commanders made no signal, says General Shepley, (Reb. Rec. 8, Doc. 1, pp. 78-79 any kind to the Olive Branch, but permitted it to approach to the immediate vicinity of the New Era (that is, past the fort, it may be noted) before it was boarded from that gunboat and told "to proceed immediately to Cairo, and send four or five hundred rounds of ammunition, and stop all boats coming down." (*Vide* evidence of General Shepley and Captain Thornton, Reb. Rec. 8, Doc. 1, pp. 78-79.) It is to be noted as somewhat singular that while these Federal commissioners are lavish with their harsh comments upon this movement as a violation of the flag of truce, their official reports exhibit clearly the fact that they examined closely into the conduct of General Shepley in not carrying succor at that very juncture to the fort; or, in other words, for not attempting to do precisely what General Forrest justly apprehended would be undertaken, and therefore took the warranted precaution to foil. They accepted as his excuse only his inability, not that there was a truce.

[From congressional report, pages 37 and 38.]

Testimony of Lieutenant McJ. Leming.

Question. Were you in the fight at Fort Pillow?

Answer. Yes, sir.

Q. What is your rank and position?

A. I am a first lieutenant and adjutant of the Thirteenth Tennessee Cavalry. A short time previous to the fight I was post-adjutant at Fort Pillow, and during most of the engagement I was acting as post-adjutant. After Major Booth was killed, Major Bradford was in command. The pickets were driven in just before sunrise, which was the first intimation we had that the enemy were approaching. I repaired to the fort, and found that Major Booth was shelling the rebels as they came up toward the outer intrenchments. They kept up a steady fire by sharpshooters behind trees and logs and high knolls. The major thought at one time they were planting some artillery or looking for places to plant it. They began to draw nearer and nearer, up to the time our men were all drawn into the fort. Two companies of the Thirteenth Tennessee Cavalry were ordered out as sharpshooters, but were finally ordered in. We were pressed on all sides.

I think Major Booth fell not later than nine o'clock. His adjutant, who was then acting post-adjutant, fell near the same time. Major Bradford then took the command and I acted as post-adjutant. Previous to this, Major Booth had ordered some buildings in front of the fort to be destroyed, as the enemy's sharpshooters were endeavoring to get possession of them. There were four rows of buildings, but only the row nearest the fort was destroyed; the sharpshooters gained possession of the others before they could be destroyed.

Thomas Adison, Company C, United States Heavy Artillery, says, page 21, congressional report:

The rebels never would have got the advantage of us if it had not been for the houses built there, and which made better breastworks for them than we had. The major would not let us burn the houses in the morning. If they had let us burn the houses in the morning, I do not believe they would ever have whipped us out of that place.

THE FINAL ASSAULT.

Same, pages 436 and 437:

At this time the main part of Bell's brigade present, with the Second Tennessee on the right, were in position within from thirty to one hundred feet of the ditch, on the eastern face of the work, and McCulloch's men occupied the cabins, as will be remembered, within sixty yards of the southern face and the rifle-pits on their right. At the same time, the commanding ridges eastward and northeastward of the work were studded with sharpshooters, and from one of which, as may be seen from the diagram prefixed, they completely enfiladed the southern face of the Federal works; that is, the face most strongly garnished with artillery. It is injuriously charged against General Forrest that these positions were mainly secured by a perfidious breach of the flag of truce. That this allegation, however, is utterly unfounded ought to be apparent even from the evidence cited of Lieutenant Leming, the witness chiefly relied on to establish it. The fact is, the position selected by the Federals was so unfavorable that while commanded from several surrounding points within easy range of musketry, it could also be approached with impunity by an investing force, properly handled, to within a few yards of its ditch, as was done by the confederates before the flag of truce, which, be it remembered, did not actually advance beyond McCulloch's line.

On reaching the position we have mentioned, Forrest, scanning the field and observing that all was ready, caused the signal to be given for the resumption of hostilities; and at the first blare of the bugle the confederate sharpshooters at all points opened a galling fire upon the hostile parapet, to which the garrison replied for a few moments with great spirit. But so deadly was the aim of the confederates from their enfilading positions that their enemies could not rise high enough from their scanty cover to fire over at their foes, nor use their artillery on the southern face without being shot down. Consequently there was practically little resistance; when, a few moments later, the bugle still sounding the charge, the main confederate force, as with a single impulse, surged onward like a tawny wave, and crowning the parapet poured over on all sides into the work. Leaping headlong into the ditch, these agile, hardy young men found it a feeble barrier, and helping each other they clambered nimbly and swiftly and simultaneously over the breastworks beyond, opening from its crest a fearful, converging fire from all its faces upon the garrison within. In anticipation of this contingency, Major Bradford, it appears, had arranged with the captain of the gunboat that if beaten at the breastworks the garrison would drop down under the bank, and the gunboat would come to their succor and shelter them with cannon. The evidence of Captain Marshall, of the gunboat New Era, conclusive upon this point, is as follows: "Major Bradford signaled to me that we were whipped. We had agreed on a signal that if they had to leave the fort they would drop down under the bank, and I was to give the rebels canister." (Reb. Rec. 8, doc. 1, p. 55.)

The prearranged signal was now given, and the garrison *en masse*, white and black, for the most part with arms in their hands, broke for the place of refuge and naval aid there expected, leaving the Federal flag still afloat on its staff, and turning repeatedly as they sped down the precipitous bank to return the fire opened upon them.

THERE WAS NO SURRENDER.

The following testimony is introduced to show there was no surrender and that the garrison attempted to escape by way of the barges in the river, under cover of the gunboat, and that they were prevented by troops who had been sent down Cold Creek and the Mississippi River to prevent any escape.

Lieutenant Leming, (page 39, Congressional Report,) says:

It was not long after the flag of truce had retired that they made their grand charge. We kept them back for several minutes. What was called —— brigade or battalion attacked the center of the fort where several companies of colored troops were stationed. They finally gave way, and before we could fill up the breach the enemy got inside the fort, and then they came in on the other two sides and had complete possession of the fort. In the mean time nearly all the officers had been killed, especially of the colored troops, and there was no one hardly to guide the men. They fought bravely, indeed, until that time. I do not think the men who broke had a commissioned officer over them. They fought with the most determined bravery until the enemy gained possession of the fort. They kept shooting all the time. The negroes ran down the hill toward the river, but the rebels kept shooting them as they were running.

Nathan G. Fulks, Company D, Thirteenth Tennessee Cavalry, (Congressional Report, page 42,) says:

I was at the corner of the fort when they fetched in a flag for a surrender Some of them said the major stood awhile and then said he would not surrender. They continued to fight for awhile, and after a time the major started and told us to take care of ourselves, and I and twenty more men broke for the hollow.

Sergeant Henry F. Weaver, Company C, Sixth United States Heavy Artillery, (Congressional Report, page 92,) says:

The rebels charged after the flag of truce; the Tennessee cavalry broke and was followed down the hill by the colored soldiers. They all appeared to go about the same time, as near as I could tell in the excitement of the battle. I came down the hill to the river and jumped into the water, and hid myself between the bank and the coal-barge. They were shooting the negroes over my head all the time, and they were falling off into the water.

Same, pages 445, 446, and 447:

"Valor as well as other virtues, has its bounds, which once transgressed, the next step is into the territories of vice; so that by having too large a portion of this heroic virtue, unless a man be very perfect in its limits, which upon the confines are very hard to discover, he may very easily unawares run into temerity, obstinacy and folly. From this consideration it is, that we have derived the custom in time of war to punish even with death those who are obstinate to defend a place that is not tenable by the rules of war. Otherwise, if there were not some examples made, men would be so confident upon the hopes of impunity that not a hen-roost but would resist and stop a royal army." So wrote old Michael Montaigne, who then proceeded to illustrate the practice in civilized warfare by these historical examples:

"Monsieur the Constable de Montmorency, having at the siege of Pavia been ordered to pass the Tesino, and to take up his quarters in the Faubourg St. Antonio, being hindered from doing so by a tower that was at the end of the bridge, which was so independent as to stand a battering, hanged every man he found within it for their labor. And again, since accompanying the Dauphin in his expedition beyond the Alps, and taking the Castle of Villane by assault, and all within having been put to the sword, the governor and his ensign only excepted, he caused them to be trussed up for the same reason; as also did Captain Martin du Bellay, then governor of Turin, the governor of St. Bony, in the same country, all his people being cut to pieces at the taking of the place."

Any one who has read our narrative attentively must be satisfied that Fort Pillow, at least after the confederates secured possession of the rifle-pits and huts near the parapet, was untenable, and consequently its defense unjustifiable. Indeed, we know of no instance of such manifest indefensibility. It was not so, however, be it noted, merely because of the numerical superiority of the confederates, but for the reason of the situation of the Federal work at the moment, even had the confederates not been able to get so close as they did to its parapets. Every foot of it was completely enfiladed and swept, as may be seen from the map, by confederate sharpshooters. Furthermore, so small was the scope of the place that, when the whole garrison was driven back within it, the work was so densely crowded that a sharpshooter's bullet could scarcely miss an object, and the jeopardy of the men was the more fearfully augmented. In fact, Forrest could have established his men under cover at good rifle-range and made the work untenable without attempting to storm it.

Compare what actually happened at Fort Pillow with the hideous scenes of slaughter, lust, and rapine that followed the storming of places in Spain or Portugal either by the French or English, as Oporto for example. How trivial and insignificant in comparison were even the worst alleged at Fort Pillow to what it is not denied actually happened at Oporto as related by Napier. Yet Marshal Soult was never overwhelmed with obloquy in prose and verse, nor besmirched with foul epithets for what occurred there. At the storming of Palamos, after the third demand for the capitulation of the place, the Spaniards, flying to the sea-shore with the purpose of finding refuge aboard some vessels—just as the garrison at Fort Pillow expected to be rescued by the gunboat—were intercepted by the French troops and put to the sword. We might readily fill as large a volume as this with like instances. The fact is, as was said by a recent writer in Blackwood's Magazine, in connection with a late affair in China, "Every military man knows that whenever a place is taken by assault under the flag of any nation, many of the defenders are put to death though they throw down their arms and cry for quarter."

Same, pages 439 and 440:

It should be remembered that the entrance of the confederates into the work had been achieved by an impetuous rush over the parapet by each individual, and therefore, for some moments afterward, there was necessarily a general confusion and tumult, in fact a dissolution of all organizations. Accordingly, as always happens in places taken by storm, unquestionably some whites, as well as negroes, who had thrown down their arms and besought quarter, were shot under that *insania belli* which invariably rages on such occasions. Nor must it be forgotten that there was no surrender of the place at all. When the confederates swarmed over the trenches that had been held defiantly for some eight hours in the face of numbers so manifestly superior the garrison did not yield, did not lay down their arms, nor draw down their flag; but with a lamentable fatuity, the mass of them, with arms still in their hands, fled toward another position in which they were promised relief, and while on the way thither returned the fire of their pursuers, it is true, not as a mass, but in instances so numerous as to render inevitable a fire upon their whole body, even had it not been the necessary consequence of their efforts to escape capture, whether with arms in their hands or not. In the mean time, or as soon as he could reach the scene, Forrest, riding into the work, assisted by Captain John Overton, lowered the flag; and immediately both he, General CHALMERS, and other officers interfered so energetically to stop the firing that it ceased speedily, ceased within fifteen minutes from the time that the signal for the termination of the truce was given.

Same, page 444:

During the day several transports came to the landing, and before the hour when the truce was to expire the prisoners had all been transferred to the cabin of the steamer Platte Valley, numbering at least seventy officers and men. It remains to be added that seven officers and two hundred and nineteen enlisted men, (fifty-six negroes and one hundred and sixty-three whites,) unwounded, were carried off as prisoners of war, which, with the wounded, make an aggregate of those who survived, exclusive of all who may have escaped, quite three hundred souls, and fully 55 per cent. of the garrison, while those who survived unhurt constituted 40 per cent.

Captain Marshall, of gunboat New Era, says:

I came along up, and the women and children, some sick negroes and boys, were standing around a great barge. I told them to get into the barge if they wanted to save themselves, and when I came down again I would take them out of danger.

They went in and I towed them up and landed them above Cold Creek. (See congressional report, page 86.)

In conclusion I ask attention to the testimony of Lieutenant William Clary, Company B, Thirteenth Tennessee Cavalry:

Question. Were you at Fort Pillow when it was attacked?

Answer. No, sir; I was sent to Memphis the day before, and returned to Fort Pillow the morning after the fight. I came up on gunboat No. 28. The rebels were at Fulton, about two miles and a half below Fort Pillow. We fired at them, and the rebels at Fort Pillow heard it, and thought we were bringing up re-enforcements, and *then they set the town on fire.*

This shows there was no deliberate intention to burn either the living or the dead. The charge that a man was nailed to boards and then burned, and yet when found neither the boards nor his clothing through which the nails were driven were burned, is so manifestly false that it needs no refutation.

Mr. GARFIELD. When this subject was up before I reserved all points of order upon it. I also suggested that it was a question of very great doubt as a matter of propriety whether we should undertake by a committee of Congress to rewrite any considerable portion of the history of our war; and that if we did undertake it in that way, perhaps there was no chapter that would be so difficult and so painful to attempt to reconstruct as the chapter that contained the history of the Fort Pillow massacre.

Now, while saying that I repeat what I said then, that I would be sincerely glad to have any person, officer or private, over whose name a cloud has fallen in regard to the atrocities of that massacre, do anything in his power to disconnect his name with the horrible facts of that affair. While I have not heard all that the gentleman from Mississippi [Mr. CHALMERS] has said, I shall give him my congratulations in so far as he may have succeeded in removing from the public mind the belief that he was responsible for the events referred to.

On the question of going into an investigation by the House, I want to say generally that there are several special reasons why it would be an unjust and unwise thing to do in this case. In the first place, the man who conducted the investigation and made this report which I hold in my hand—the official report concerning the massacre at Fort Pillow—and who was during nearly all his life a resident of my district—I refer of course to the late distinguished Senator Wade—is now dead. To undertake now to go over the ground of his report and controvert his conclusions by a new committee would be an injustice to the dead statesman, whose probity was never questioned. In the next place, many of the witnesses whose testimony is embraced in this report are dead; and to traverse their testimony for the purpose of disproving it, when they can no longer be heard, and when possibly no one without power on their part can speak for them, would be an injustice to them which we ought not to permit at a time so long after the facts occurred.

The main facts of that transaction, marking one of the most terrible episodes of the war, have become so fixed in the American mind that the attempt to uproot them will not only prove a failure but will reawaken passions which can do much harm and no good. I do not now speak of the relation of any one person to those facts. I am ready to believe that the massacre was partly the result of a frenzy which officers could not wholly control. Indeed, I have heard that some years after this report was made there was a conversation between Senator Wade himself and General Forrest on the subject of the massacre, and that the result of that interview was that Senator Wade expressed himself as gratified to find that General Forrest was not himself so far personally responsible for the massacre as he, Mr. Wade, had supposed. I understand that one of the statements in the explanation made by Forrest was that a considerable number of the assailing force had not long before captured a sutler's wagon containing spirits and had become so infuriated by drink that to a great extent their officers lost control of them. In so far as this was the fact, it lessens the responsibility of the officers in command. But the impression that sunk deepest in the public mind about this whole matter was created by two facts. The first was an order of General Forrest issued some three weeks before the Fort Pillow massacre in regard to the surrender of Paducah, an order whose authenticity and genuineness, I believe, have never been questioned and which is recorded on page 116 of the evidence taken in the Fort Pillow case. I quote it:

HEADQUARTERS FORREST CAVALRY CORPS,
Paducah, Kentucky, March 25, 1864.

COLONEL—

This was addressed to Colonel Hicks, commanding the Federal forces at Paducah—

Having a force amply sufficient to carry your works and reduce the place, and in order to avoid the unnecessary effusion of blood, I demand the surrender of the fort and troops, with all public property. If you surrender you shall be treated as prisoners of war, but if I storm your works you may expect no quarter.

N. B. FORREST,
Major-General, Commanding Confederate forces.

This order, or letter—undenied so far as I know—having been issued about three weeks before the Fort Pillow affair, gave the impression of a policy in advance, which the facts connected with the capture of Fort Pillow seemed to carry out in the most horrible reality.

Mr. GIBSON. The gentleman will allow me to ask whether that is an order of General Forrest to his men or a demand upon the Federal commander?

Mr. GARFIELD. It is of course a demand upon the Federal commander, but it was understood throughout the United States to be the declaration of a policy on the part of General Forrest and his troops——

Mr. SPEER. The gentleman from Ohio will allow me to ask whether that is not the usual form of a demand for surrender preceding an assault?

Several MEMBERS. Oh, no!

Mr. GARFIELD. Not under the laws of war as recognized among civilized nations anywhere, since the days of the Duke of Alva.

Mr. HASKELL. I would ask whether the demand for surrender made by General Grant at Appomattox was in any such terms?

Mr. GARFIELD. Of course not. The second fact I wish to mention is this, that it was understood at the time of the massacre to be the declared policy of those who commanded the confederate forces that they would not treat negro soldiers as prisoners of war. It is true they did afterward treat them as such; perhaps in this very case a few of the negro troops who survived were so treated. But the policy was understood to be proclaimed about that time that negroes were regarded as property, and not men in the sense in which we recognized them, and would not be treated as prisoners of war; and the Fort Pillow garrison was, I believe, the first garrison largely composed of negro troops that was taken by assault. These two facts, the previous letter of Forrest in regard to Paducah, and the understood declaration that negroes, then for the first time serving as soldiers, in a place carried by assault would not be treated as prisoners of war, gave to the mind of the American people the impression which, followed up by the shocking details of this report, became deep and lasting, that the massacre of Fort Pillow was deliberately executed for the purpose of preventing the further employment of negro troops for the defense of the Union.

I have said these things, Mr. Speaker, to show the grounds upon which public opinion was formed in reference to the massacre at Fort Pillow. And I am quite sure that the general facts set forth in Senator Wade's report will remain as a veritable part of public history, which no subsequent investigation can overthrow; and no attempt to do so ought to be made by this House. At the same time, I am glad to hear anything that the gentleman from Mississippi [Mr. CHALMERS] has said or may say which tends to relieve him from the responsibility of the massacre. And I am bound to say that in the portion of his remarks which I have heard he has done much that tends to disconnect his name from that responsibility; but how fully he has succeeded those who heard the whole of his explanation can judge better than I can.

I now yield to my friend from Michigan, [Mr. BURROWS.]

Mr. REAGAN. Mr. Speaker, is this discussion in order while the point of order is pending?

The SPEAKER. The point of order was reserved by the gentleman from Ohio as to whether it was a question of privilege or not, and as such entitled to come before the House. That point, however, has not been insisted upon by the gentleman from Ohio.

Mr. REAGAN. It has been in my mind to insist upon that point of order.

Mr. GARFIELD. I ask that the gentleman from Michigan may have the opportunity to be heard.

Mr. REAGAN. I do not wish to interrupt anybody from saying anything, but I do wish the point of order reserved that there is no authority in this House for any such investigation. That is the point I have in my mind.

A MEMBER. Well, make it now.

Mr. REAGAN. I do make the point of order now, Mr. Speaker. I call the attention of the House to the precedents and the explanation of the rule about questions of privilege on pages 291 and 292 of the Manual. This is a matter which does not relate——

The SPEAKER. The Chair thinks this is hardly a question of privilege. It is in the nature of a personal explanation. The Chair is inclined to believe the point of order which was intended to be made by the gentleman from Ohio is a correct one; that this does not embrace a question of privilege; that it does not relate to any strictture upon the gentleman from Mississippi in reference to anything done by him during his occupancy of a seat upon this floor. The Chair has listened to it as a personal explanation with the apparent consent of the House.

Mr. MCMILLIN. Now, Mr. Speaker, as this is held to be a personal explanation, is it necessary we shall go into any further debate on the subject?

The SPEAKER. The Chair did not hear the gentleman from Tennessee.

Mr. MCMILLIN. As this is held to be a personal explanation, of course it applies alone to the gentleman from Mississippi.

The SPEAKER. And that gentleman has had the benefit of having his personal explanation made upon the floor go into the RECORD.

Mr. MCMILLIN. But the point I make, Mr. Speaker, is that that personal explanation having been made, further discussion is not in order.

The SPEAKER. The discussion is going on in elucidation of the facts.

Mr. CHALMERS. And I hope the gentleman from Michigan will be allowed to proceed.

Mr. REAGAN. I do not like to object to any further proceeding of the debate, but I do not see that a personal explanation makes it necessary we should enter into a general discussion of this whole subject.

That is the mischief I am trying to prevent by insisting on my point of order.

The SPEAKER. The House has allowed it to go on by unanimous consent. What point does the gentleman from Texas make?

Mr. REAGAN. The point I make is that the matter of this personal explanation is not such as relates to the action of the gentleman from Mississippi as a member of Congress, or in any way relating to his duties as a member of this House, or to anything of which he can claim as a privilege of the House.

The SPEAKER. The gentleman from Texas will observe that this is the first time this point of order has been made.

Mr. GARFIELD. I do not wish to cut off the remarks of my friend from Michigan, and therefore I withdraw my point of order.

The SPEAKER. The Chair will endeavor to see that no injustice is done to anybody.

Mr. REAGAN. I insist on the point of order, and especially because of the fact that on a former occasion, in reference to another member of this House, I felt compelled to make the same point so as to prevent the consumption of the time of the House in going into the discussion of questions merely personal, and which had no relation whatever to the official position of a member of this House or calling for any vindication which this House had the power to afford. It will be seen that among the various questions of privilege, so far as the rulings of the House are concerned, there is not a single ruling to be found which sustains any question of this character as being in order, that is, where a member complains of an outside injury done to him, not by this House, not by any member of this House, not by any officer of this House so as to give jurisdiction and remedy over the subject. The House has no jurisdiction of it, and can give no remedy. And besides, while I would not restrain any one from making any personal explanation, I feel it is a service to stop this kind of debate as soon as we can.

The SPEAKER. The Chair concurs in the propriety of the purpose of the gentleman from Texas, but the Chair desires to state in ustice of his recognition of to-day that when this subject was formerly before the House, the gentleman from Mississippi rose and offered a resolution, and it was upon the motion of the gentleman from Ohio [Mr. GARFIELD] that the resolution was postponed for the present to be called up by the gentleman from Mississippi at his pleasure.

Mr. REAGAN. But at the same time both the gentleman from Louisiana [Mr. GIBSON] and the gentleman from Ohio [Mr. GARFIELD] made and reserved the point of order. I did not do so because both of those gentlemen reserved the point of order at the time.

The SPEAKER. Still it appears of record that the House postponed the consideration of this resolution for the present, to be called up at the pleasure of the gentleman from Mississippi; and that clearly would bind the Chair to recognize the gentleman from Mississippi.

Mr. HARRIS, of Virginia. The gentleman from Mississippi has been recognized. The point of order made by the gentleman from Ohio, [Mr. GARFIELD,] that this is not a privileged question, was sustained and the resolution is not before the House. Then, I ask what is before the House? The gentleman has made his personal explanation and I submit that there is now nothing before the House.

The SPEAKER. The only difficulty about the suggestion of the gentleman from Virginia is that no such point of order was sustained. No such point of order was made. The point of order simply was reserved. It never was made nor ruled on. But the Chair has no doubt in his own mind that if the point of order had been pressed he would either have decided that the provisions of the rule did not cover this resolution or else he would have submitted the question to the House to allow the House to determine, as he did in a former instance. And the Chair desires to say it is altogether the most proper and most satisfactory way for the occupant of the chair in a case of this sort where a gentleman brings up a matter claiming it to be a question of personal privilege, or where he proposes even to make a personal explanation, to permit the House to determine rather than for the Chair arbitrarily to rule the matter out of order.

Mr. REAGAN. Then I hope the question will be submitted to the House whether there is a question of privilege here presented by the gentleman from Mississippi.

The SPEAKER. The Chair thinks, as the consideration of this resolution was postponed, and the gentleman from Mississippi having made his statement, it is but just and fair that any gentleman who wishes to discuss a particular point of his statement should have that privilege.

Mr. REAGAN. I do not want to be understood as desiring to interpose against any suggestion any gentleman wants to make. But I want to arrest general debate, and I do not wish to waive the point of order made upon the question of privilege.

Mr. GARFIELD. The gentleman certainly can reserve the point of order.

Mr. REAGAN. I do not wish that the point of order shall be considered as waived.

Mr. GARFIELD. The gentleman from Texas reserves the point of order. I yielded to him for that purpose.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] was the gentleman who reserved the point of order.

Mr. GARFIELD. And I yielded to the gentleman from Texas upon the point of order. I have yielded also to the gentleman from Michigan [Mr. BURROWS] knowing that he seeks to make some statement about this matter.

The SPEAKER. How much time does the gentleman from Michigan desire?

Mr. BURROWS. Only a few moments.

No one can regret more than I do——

Mr. McLANE. I rise to a question of order. There is so much dissatisfaction with the condition of this question that I wish it to be understood by the House before the gentleman from Michigan proceeds whether we are to go on with this debate by general consent. I submit to the Chair there is no other mode by which this debate can be continued but by general consent. It is altogether out of the power of the gentleman from Ohio, having reserved his point of order, to give the floor to the gentleman from Michigan.

Now, for one, I have no objection at all that this debate should go on.

Several MEMBERS. Well, let it go on.

Mr. McLANE. But I concur entirely in the remark made by the gentleman from Ohio, that this subject is not one which ought to be inquired into here or which ought to be debated here, and I think the gentleman ought to be consistent with himself, and having heard the explanation of the gentleman from Mississippi, and having said what it was proper for him to say in explanation, that he should now insist on his point of order, or else have it understood by the House that by general consent we go on with the debate.

Mr. GARFIELD. If the gentleman will allow me——

Mr. McLANE I wish the gentleman from Ohio to understand that I take no exception to this debate at all.

Mr. CONGER. Well, let it go on.

Mr. McLANE. But I do not think that it is reasonable or proper that it should go on without the consent of the House; and I submit that the gentleman from Texas or any other gentleman on this floor is at liberty to stop it by making the point of order.

The SPEAKER. The Chair desires to state that the House was in possession of this resolution, and actually did, by a vote of the House, act upon it; and in order to show that he will cause the RECORD to be read.

Mr. REAGAN. Before that is read let me make this suggestion. The resolution was before the House, but by the interposition of other business it was put over. It did not go over by design, but it was an enforced postponement.

The SPEAKER. The RECORD will be read.

The Clerk read as follows:

The SPEAKER. It is competent for the House to postpone this subject to a day certain. Does the gentleman from Ohio [Mr. GARFIELD] make that motion?

Mr. GARFIELD. I move that it be postponed for the present, to be called up by the gentleman from Mississippi [Mr. CHALMERS] at his pleasure.

Mr. CLYMER. It is a privileged matter.

Mr. GARFIELD. It can be called up as a privileged matter.

Mr. SPRINGER. I think we may as well dispose of it now.

The SPEAKER. The question is upon the motion to postpone this subject for the present, to be called up when the gentleman from Mississippi [Mr. CHALMERS] may choose to do so.

The motion to postpone was agreed to, upon a division—ayes 85, noes 69.

The SPEAKER. Now, there was a vote of the House upon postponement. It is true that the point of order was reserved, but it never was pressed, and in fact no decision was ever asked from the Chair.

Mr. WARNER. If in order I move to lay this whole subject on the table.

The SPEAKER. That motion is in order.

Mr. WARNER. And upon that I call for a vote.

Mr. BLOUNT. Mr. Speaker——

Mr. WARNER. I do not yield; I insist upon my motion.

Mr. BURROWS. The Speaker recognized me, and I have not yielded for any such motion.

Mr. BLOUNT. I desire to call the attention of the Chair to what has occurred since the facts recited from the RECORD.

Mr. TOWNSHEND, of Illinois. Is debate in order?

Mr. BLOUNT. It was understood at the time that the gentleman from Ohio [Mr. GARFIELD] agreed that this matter was to be called up whenever the gentleman from Mississippi [Mr. CHALMERS] saw fit to do so. Since that time there have been on both sides of the House indications of disfavor toward the proposition. The gentleman from Mississippi [Mr. CHALMERS] so stated in his remarks, and said that in lieu of pressing the resolution he would simply rise to a personal explanation.

Mr. WARNER. I insist upon my motion to lay this subject on the table.

Mr. WILBER. Who is entitled to the floor?

The SPEAKER. The gentleman from Mississippi, [Mr. CHALMERS.]

Mr. CHALMERS. And I yield to the gentleman from Michigan.

Mr. TOWNSHEND, of Illinois. Is not the time out?

Mr. BURROWS. I thank the gentleman from Mississippi for his courtesy.

Mr. BUCKNER. I move that the House now adjourn.

The SPEAKER. That would not get rid of the difficulty; it would come up again to-morrow.

Mr. BUCKNER. Very well, let it come up then; we then may be better able to dispose of it.

Many MEMBERS. Regular order!

Mr. YOUNG, of Tennessee. There are a few gentlemen who desire to be heard upon this subject; and if members will remain quiet we can soon dispose of the matter—dispose of it in less time than will be taken up if points of order are insisted upon.

The SPEAKER. The gentleman from Mississippi yields to the gentleman from Michigan.

Mr. WARNER. How much time?

The SPEAKER. For five minutes, the Chair understands.

Mr. WARNER. I give notice that at the end of that time I will move to lay the whole subject upon the table.

Mr. BUCKNER. I insist upon my motion to adjourn.

The SPEAKER. The gentleman has not the floor for that purpose.

Mr. BURROWS. Do I understand the gentleman from Mississippi to limit me to five minutes?

Mr. CHALMERS. I do not; I yield to the gentleman. How much time does the gentleman desire?

Mr. BURROWS. Only a few minutes; perhaps ten or fifteen; not so much as the gentleman occupied.

Mr. CHALMERS. I will yield to the gentleman.

Mr. BURROWS. I first owe an acknowledgment to the distinguished gentleman from Mississippi [Mr. CHALMERS] for his courtesy in yielding to me. And I would say to gentlemen on the other side that there was no occasion at all for uneasiness. The gentleman from Mississippi was permitted to make his statement in relation to the affair at Fort Pillow, and, as the Speaker suggested, it is no more than fair that an opportunity should be given to gentlemen on this side of the Chamber to present a few facts from official reports touching that same terrible tragedy.

Mr. TOWNSHEND, of Illinois. There have been three statements on that side already.

Mr. BURROWS. It seems that it is yet uncertain whether the gentleman from Mississippi will insist upon his motion and demand an investigation in this matter, or whether he will be content to rest his vindication upon the statement which he has just submitted. If the latter course is to be pursued, then it is due to history that the sworn testimony of a cloud of witnesses should accompany that statement, that both sides of the question may pass under public examination.

I hold in my hand the volume containing the evidence of the outrages perpetrated at Fort Pillow; outrages so dark and damning, so wicked and wanton that a savage might sit at the feet of the men who perpetrated them and learn new lessons of cruelty. Without pausing to read this testimony or any portion of it, I desire simply to call the attention of the House and the country to what seems to be established by this evidence, and which up to this moment has gone unquestioned.

If you will examine this evidence you will find that no less than fifty witnesses testify to the fact that after our troops had surrendered and laid down their arms, and while many of them were upon their knees pleading for their lives, they were shot dead.

Will you pardon me if I call attention to one or two instances. One witness testifies to this:

Question. How did you lose your eye?
Answer. They knocked me down with a carbine, and then they jabbed it out.
Q. Was that before you were shot?
A. Yes, sir.
Q. After you had surrendered?
A. Yes, sir; I was going up the hill; a man came down and met me; he had his gun in his hand, and whirled it around and knocked me down, and then took the end of his carbine and jabbed it in my eye, and shot me.

As I said before, I do not care to go into the details of the testimony. It also appears from the testimony of fourteen witnesses that on the next morning after the battle a large number of wounded Federal soldiers were killed by the confederates in cold blood. Twenty-two witnesses testify that there were found no less than five bodies of Federal soldiers whose charred remains told the terrible story of their death. The gentleman from Mississippi states that if this was so they must have been burned in their tents, and that there was no evidence that they were burned alive. But unfortunately the evidence discloses that many of the bodies found burned were nailed to boards, the nails being driven through their clothing and cartridge-boxes into the planks on which they were lying, so that when the remains were removed the boards were still attached to them. The evidence shows conclusively that these men were nailed to the boards while living and in that condition burned. Four witnesses testify that confederate officers were present while these outrages were being perpetrated. Fourteen witnesses testify that among confederate officers and soldiers the common cry was "No quarter!" and, to use their common expression, "Kill every damned one of them!" Fifteen witnesses testify to the general robbery of the dead and the dying. Four witnesses testify that the wounded, still living, were kicked into the river. Six witnesses testify that a large number of wounded soldiers were buried alive, and witnesses testify that they themselves crawled out of graves in which they had been partially buried while wounded. Sixteen witnesses testify that the confederates did take advantage of the flag of truce, and that while there was a cessation of hostilities moved their forces and gained a position that could not otherwise have been acquired except by the severest loss.

Now I have simply glanced at the testimony; and it is all I desire to do. I thought that the statement of the gentleman from Mississippi ought not to go before the country unchallenged and this mass of sworn evidence be wiped out at one breath. I want to call the attention of the gentleman, the House, and the country to another fact in conclusion; for I have endeavored without the slightest warmth to state the simple facts as shown by the testimony. Does not the gentleman know (I desire him to answer) whether he made a report of that transaction or not?

Mr. CHALMERS. I have answered that I am not distinct in my recollection about it.

Mr. BURROWS. Then I desire to state that the commanding officer, General Forrest, as we all know, did make a report of that bloody affair at Fort Pillow. That is a matter of history. I charge it as a matter of public notoriety, about which there is no question—a fact that cannot be denied—that General Forrest did make an official report. In that report General Forrest sustains the gentleman from Mississippi as to the officers and forces engaged. By that report it appears that the gentleman from Mississippi was in command till nine or ten o'clock in the morning when the pickets were driven inside of the fort; that he himself was in immediate command of the assaulting forces. And it is a matter of notoriety that General Forrest in his report estimates our force inside the works at about seven hundred men; and the evidence as taken by the committee shows that the force was between six and seven hundred. I charge it as a fact that in that report General Forrest places his own force at fifteen hundred men. I charge it as a fact, sustained by that report, that when the assault was made upon the works, to use the language of the report, "within twenty minutes after the bugle sounded the charge the fort was captured and firing ceased."

Mr. WARNER. I rise to a parliamentary inquiry. I want to know how much time the gentleman has. The silver bill is entitled to consideration to-day.

The SPEAKER. The silver bill does not come next. The business of the morning hour is next in order.

Mr. BURROWS. The gentleman from Mississippi has stated the loss on the confederate side to be something over one hundred. I say that it is a fact that General Forrest's official report shows the loss upon the side of the confederates to be twenty killed and sixty wounded.

Mr. CHALMERS. Does the gentleman state that to be General Forrest's report as given in his history?

Mr. BURROWS. I have not seen his history.

Mr. CHALMERS. The loss in McCulloch's brigade was one hundred and ten.

Mr. BURROWS. I state it as a fact that General Forrest in his official report gives the loss on his side at twenty killed and sixty wounded. The evidence in this book shows that our loss inside the fortification did not exceed thirty before the confederates gained complete possession. The report of General Forrest also shows that the fort was taken without a charge with fixed bayonets, and the gentleman from Mississippi was complimented by General Forrest for his gallantry and bravery in that charge and the faithful execution of all the movements necessary to success. The gentleman from Mississippi says he knew nothing of the outrages perpetrated there until the war was over. I say that the official report and the papers connected with it show that Jefferson Davis in the same year, in August, 1864, (and this massacre was in April, 1864,) commended the conduct of General Forrest on that occasion, saying that he exhibited forbearance and clemency far exceeding what the usages of war under the circumstances required.

Mr. WARNER. Has not the time of the gentleman from Michigan expired?

The SPEAKER. It has not.

Mr. WARNER. If this discussion is allowed to go on it will take up the rest of the day to the exclusion of the regular order, which is the silver bill.

Mr. REED. Oh, the silver bill can wait. [Laughter.]

Mr. BURROWS. It is a notorious fact, Mr. Speaker, that at that charge inside the fortification, after the men had surrendered, with but a loss of twenty on the side of the confederates as appears by the official report of General Forrest, there were between four hundred and five hundred Federal soldiers, black and white, murdered in cold blood after they had surrendered. The report of General Forrest will show that his loss, as I have already stated, was twenty killed and sixty wounded; and in his report he stated that the loss of the enemy "will never be known"—that the enemy's loss was at least five hundred, and, to use his own language, which is exceedingly expressive, that "the river was dyed with blood for two hundred yards."

I remember well that General Forrest said, in relation to the massacre, "I regard captured negroes as I do other captured property, and not as prisoners of war."

The SPEAKER. The gentleman's time has expired.

Mr. CHALMERS. One word in reply.

Mr. WARNER. I insist on the regular order of business, which is the silver bill.

Mr. REED. The silver bill can wait.

Mr. GARFIELD. Permission ought to be granted to the gentleman from Mississippi to reply.

Mr. ELLIS. I object.

Mr. CHALMERS. I ask the gentleman from Louisiana not to do it.

Mr. ELLIS. Yes; I object.

Mr. HAWLEY. I hope there will be no objection, as no harm can come from this discussion. Let the gentleman be heard.

Mr. ELLIS. Never with my consent shall a debate of this character go on in this House, and I insist on my objection.

Mr. WHITE. I trust no soldier on that side will object. It is nothing but fair play. The gentleman from Mississippi is entitled to make reply.

A MEMBER. And the silver bill can wait.

The SPEAKER. It can only be done by unanimous consent.

Mr. CHALMERS. I wish to say this, Mr. Speaker. [Cries of "Regular order!"] I wish to say that I think the gentleman from Michigan is the last man in this House who should undertake to rake up charges against another, for, while I make no charges against him, he will remember that charges have been made against him that his own conduct in the war was not that which characterized the gallant soldier in battle. I do not believe it, I do not charge it upon him, but yet as that charge has been made the gentleman ought not to make charges against me. [Cries of "Regular order!" on the democratic side.]

Mr. WARNER. I demand the regular order, and I do not want the entire session consumed in this sort of talk.

Mr. BURROWS. Mr. Speaker——[Cries of "Regular order!"]

The SPEAKER. The regular order is the motion of the gentleman from Ohio that the resolution be laid upon the table.

Mr. BURROWS. But I rise to a personal explanation.

The SPEAKER. The gentleman will state it.

Mr. BURROWS. With that courtesy which has always marked the gentleman from Mississippi, I desire to ask him to state what he means. [Cries of "Regular order!"]

Mr. CHALMERS. I mean to say, sir, I was informed that charges had been made against you in your canvass that you had not been—— [Cries of "Regular order!"]

Mr. BURROWS. Let us hear it.

The SPEAKER. These statements had better be made, as they will save time.

Mr. CHALMERS. I said I did not make the charge and that I did not believe it, but as such a charge was made against the gentleman I said he was the last man to rake up charges against me.

Mr. WHITE. Then the gentleman withdraws it.

Mr. CHALMERS. I said that I did not know anything about it.

Mr. BURROWS. When a charge is made against me by a gentleman I have the right to know what it is.

Mr. CHALMERS. I made none further than what I said.

Mr. BURROWS. I understand the gentleman to say that he does not believe it. But what is it?

Mr. CHALMERS. The charge is that you resigned your office because your command did not think you were fit to have it. [Laughter.]

Mr. BURROWS. Who made it?

Mr. CHALMERS. It was made by a newspaper reporter in this city.

Mr. BURROWS. When?

Mr. CHALMERS. During a political canvass. I wish to say to the gentleman I made no charge against him; I simply repeat the statement made to me.

Mr. BURROWS. It is the first time I ever heard of the charge suggested against me, the first time in my life.

Mr. CHALMERS. I simply state it; I do not make it.

Mr. BURROWS. Whoever made it told you that which was absolutely untrue.

Mr. CHALMERS. I am glad to hear it.

Mr. BURROWS. I am glad to know the gentleman does not believe it.

The SPEAKER. The regular order being called, the question is on the motion to lay the resolution on the table.

Mr. CONGER. Before that question is put——[Cries of "Regular order!"]

The SPEAKER. Does the gentleman rise to a parliamentary inquiry?

Mr. CONGER. I rise to a proposition which affects the order of business. Inasmuch as the gentleman from Mississippi proposes to publish what he has not spoken——

Mr. COX. Is that a question of order?

The SPEAKER. The Chair is listening to the gentleman from Michigan to ascertain what point he makes.

Mr. CONGER. My point is that the gentleman from Mississippi has asked and obtained permission to publish much more than he has spoken to the House.

Mr. CLARK, of Missouri. Is that a point of order?

The SPEAKER. The Chair is trying to find out.

Mr. CONGER. Before we determine to lay this motion on the table I submit we have the right to wait until all the documents he proposes to present are published.

The SPEAKER. That is not a parliamentary inquiry.

Mr. CONGER. I thought it right to present that question to the House. [Cries of "Regular order!"]

The question being put on Mr. WARNER'S motion to lay the resolution on the table, there were—ayes 98, noes 70.

Mr. WHITE. I call for the yeas and nays.

The yeas and nays were not ordered, only sixteen members voting therefor.

So the resolution was laid on the table.

Mr. WARNER moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. YOUNG, of Tennessee. Having been deprived of the opportunity of saying anything on this subject, I ask unanimous consent that I may be allowed to print in the RECORD the remarks I intended to make. I give my personal assurance that there will be nothing personal or offensive in the remarks I shall publish.

Mr. WHITE. I object; I do so because debate has not been allowed.

Mr. YOUNG, of Tennessee. Then I will see that the gentleman never speaks again during his service in Congress if I can prevent it. I have never in my life made an objection to any man either speaking or printing.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at thirty-two minutes past one o'clock, and reports from committees are in order. The call rests with the Committee on the Judiciary.

There were no further reports from the Committee on the Judiciary.

ENFORCEMENT OF THE EIGHT-HOUR LAW.

Mr. GOODE, from the Committee on Education and Labor, reported back, with a favorable recommendation, the joint resolution (H. R. No. 9) to provide for the enforcement of the eight-hour law.

The joint resolution was read. It declares that according to the true intent and meaning of the act of Congress approved June 25, 1868, entitled "An act constituting eight hours a legal day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States," eight hours constitute a day's work for all such laborers, workmen, and mechanics; and while said act remains upon the statute-book no reduction shall be made in the wages paid by the Government, by the day, to such laborers, workmen, and mechanics, on account of the reduction of the hours of labor; and the joint resolution directs all heads of Departments, officers, and agents of the Government to enforce said law as long as the same is unrepealed.

Mr. DUNNELL. I would like to ask the gentleman from Virginia if a resolution very like the one which has just been read was not passed by the last Congress?

Mr. GOODE. This identical resolution was passed by the last House by a vote of 120 to 27. It was sent to the Senate, but for some reason no action was taken on it by that body. It has accordingly been reintroduced this session.

I do not desire to discuss the joint resolution, but will simply say that upon the 25th day of June, 1868, Congress passed an act providing that from and after that date eight hours should constitute a day's labor for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States. During the official term of President Grant he found it necessary to issue two proclamations calling upon the officers of the Government and the heads of Departments to observe and enforce this law; and in May, 1872, the Congress of the United States interpreted this law by providing that the officers of the Government and heads of Departments, notwithstanding the reduction of the hours of labor, should pay the employés a full day's pay.

I will say to the gentleman from Minnesota and to the House that notwithstanding the plain and explicit terms of this law, notwithstanding these two presidential proclamations, notwithstanding the legislative interpretation which has been placed upon the act, some of the heads of Departments have disregarded the act entirely. The workingmen come and ask that Congress shall require its enforcement. And it seems to me that, however much gentlemen may differ about the wisdom and policy of the law in the beginning, these men have a right to claim that while it remains upon the statute-book unrepealed it shall be observed and enforced.

If any gentleman upon the floor will examine the debate which took place in Congress in June, 1868, when this law was passed, he will be satisfied as to what the intention of Congress was. That debate makes it clear that Congress intended that from and after that time eight hours should constitute a day's labor, and that there should be no reduction of pay on account of a reduction of the hours of labor. In November, 1868, Mr. William M. Evarts, who was then Attorney-General, gave an opinion, of which I desire to read an extract. He says:

It may be collected from the papers referred to this office that the question on which the Attorney-General's opinion is desired is, whether the act of June 25, 1868, reducing the number of hours constituting a day's work, was intended to work a corresponding reduction in the compensation for a day's work?

There is nothing in the language of the act to indicate such intention, nor does this construction seem at all consistent with the aim and purpose of the law, which were reformatory in their character, having in view the promotion of the physical, intellectual, and moral welfare of those who are engaged in manual labor, and of the general interests of society. The theory appears to have been that the laboring-man or mechanic, by means of the increased physical strength and vigor acquired through a reduction in his hours of toil, would be enabled to accomplish daily as much upon an average in eight hours' constant labor as he formerly did in ten or even a longer period, while at the same time he would enjoy a longer season for

mental and moral improvement. Whether this is sound in principle is not here the question. That it constituted the main ground upon which the act proceeded, a reference to the debates in Congress on its passage will clearly show.

That is all I desire to say in explanation of this bill. It is plain and simple, and I hope it will pass. I now yield to the gentleman from New York [Mr. COX] for five minutes.

Mr. COX. I feel a great interest in this matter. For years we have labored to pass a bill to re-enforce the law upon this subject which we had passed, not so much because the laborers employed by the Government need the extra pay as because when the Government sets an example other employers are sure to follow it in the interest of honest skilled labor. The law in section 3738 is very short and very explicit:

Eight hours shall constitute a day's work for all laborers, workmen, and mechanics who may be employed by or on behalf of the Government of the United States.

The interpretation of that law has been given in another section of the Revised Statutes, to be found on page 727 of the second edition, and is as follows:

Allowance for reduction of wages under eight-hour law:
Of such sum as may be required in the settlement of all accounts for the services of laborers, workmen, and mechanics employed by or on behalf of the Government, between the 25th day of June, 1868, the date of the act constituting eight hours a day's work for all such laborers, workmen, and mechanics, and the 19th day of May, 1869, the date of the proclamation of the President concerning such pay, to settle and pay for the same without reduction on account of reduction of hours of labor by said act, when it shall be made to appear that such was the sole cause of the reduction of wages.

I hope that this bill, which is intended to enforce the law, will be passed by this House unanimously, so that it may go to the Senate with some emphasis of our opinion. The Senate has not been very forward in taking notice of the laboring-men of this country, if I may be allowed to speak at all of what the Senate has done or should do. We passed in the last Congress a bill of this kind; but it did not pass the Senate, as it should have done.

I would like, if possible, to have an elaborate discussion of this matter; but I will not undertake it to-day. It was proved in the last Congress by examples cited from England and from Massachusetts, by statistics which were gathered, that there was more work done in a day's labor of eight hours than in a day of ten hours; that there was really more energy in the workingman who had an opportunity for mental, moral, and physical recreation by the shortening of the hours of labor to eight instead of the old rate of ten hours a day.

There are many reasons why the people of this country who are laboring-men should have the good-will of this Congress on both sides of this House. They have not asked much from Congress; they have no lawyers or lobbyists here to assist them. But they have spoken almost all over the country for a law of this kind to give them that recreation to which they are entitled, and which God intended they should have for the benefit of themselves and their families. I hope the House will at once pass this bill, and with such unanimity that the Senate will take notice of it.

Mr. RICE. I trust that I shall be found second to no other member of this House in favoring anything really intended to promote the interests of the workingmen. But this is not for the interest of the great laboring classes of the country. It is only in the interest of those who by good fortune and by favor find themselves in the employ of the National Government. I am unable for one to see why they should be exempted from the rules which obtain in regard to other laboring classes.

It was undoubtedly the intent of this law to set an example by the Federal Government of limitation of the hours of labor which might be followed by the State governments. That example has failed; so far as I am aware it has not been followed by a single State government. It has failed, as I believe all legislation is destined to fail which attempts to limit the hours of labor. Those hours are limited by other causes than by legislation, by influences which are not controlled by legislation but which control legislation, and which have reduced the hours of labor from fifteen or sixteen, as they were less than fifty years ago, to twelve and ten hours as they are now. That influence will continue to be felt until the hours of all laborers are reduced, as the gentleman from New York [Mr. COX] desires to have them, and in which desire I most heartily concur. This legislation attempted by Congress has had and will have no effect in that direction. It only tends to exempt a certain privileged class of laborers from the burdens which rest upon all the others.

Mr. COX. Will the gentleman allow me to ask him a question?

Mr. RICE. Certainly.

Mr. COX. The law exists now as I have read it. Is my friend in favor of repealing or enforcing that law?

Mr. RICE. I should be in favor of repealing the law.

Mr. COX. You have never brought in a bill for that purpose. Why not enforce the law so long as it stands?

Mr. RICE. I should be in favor of repealing the law, because I believe it has failed to accomplish the end for which it was intended. If it would accomplish that end, I would most heartily concur in its support.

It has been said by the gentleman who reported this resolution that there is nothing in the law (and he quotes high authority to support him) which indicates it was the intention of Congress that those who work for the Government and come within the operation of this law should work for less than a full day's wages. I say, Mr. Speaker, that I see nothing in the law to justify the supposition or the argument that it was the intention that Government employés should receive larger wages for a given amount of work than those who work by their side but not in Federal employ. Believing that the law has failed to accomplish its end, and believing also that there is no great hardship in the lot of those who work for the Government as distinguished from those who work in similar employment for other masters, I see no reason why Government employés should receive as much for eight hours' labor as others receive for ten. I see no reason why those who work in the granite-yards of the Government should be paid $1.50 or $2 for eight hours' labor while those who work in the granite-yards of private employers receive only the same amount for ten hours' labor. I see no reason why the employés in the navy-yard in the district of my friend on my right should be paid the same for working eight hours a day (and not very laborious work either) as the hard-handed laborer who is obliged to find employment with some other master receives for working ten hours. Because I believe that this resolution if adopted would establish an unfair and unjust discrimination between those who work for the Government and those who do not, I am opposed to it.

Mr. WARNER. Mr. Speaker, I regret to feel constrained to oppose this joint resolution. Were it possible to extend the provisions of the law to all the workmen of the country, it would be a different proposition; but to declare that those who work for the Government shall be paid more than others or shall be required to work fewer hours for the same pay, will accomplish no good. If we produce in the United States five billion dollars' worth of commodities in a year (and that is all we do produce, and probably more than we are producing now) then that $5,000,000,000 is all that there is to divide among the people of the whole country. That is not more than about $100 *per capita*. Now, it is a plain proposition to me that if we vote to give the workingmen who are employed by the Government more, we vote at the same time that the rest of the workingmen and producers of the country shall have less. If we produce but five billion dollars' worth of commodities, and if one receives more than $100, somebody else must take less, for an average of $100 for each person is all there is to divide, which gives but five or six hundred dollars to a family. The only effect of this resolution is to so distribute what we produce as to give to a small class who are fortunate enough to receive Government patronage a larger proportion of the whole than they would otherwise receive or than their fellow-laborers elsewhere receive, and the increased pay which in this way is voted to Government employés they who labor in other fields must make up in some way.

I can see no justice, therefore, in this measure. This is not the way to take up the great labor question. We must go further than this resolution proposes. The labor question is one that extends to the distribution of the whole production of a country. I think it a mistake, therefore, to attempt to give to the already favored class of Government employés a greater proportion of the rewards of labor when by such an act we of necessity decree that laborers elsewhere shall make it up. I wish it were possible to support the world on even less than eight hours' labor a day, but in such benefits all should be permitted to share.

Mr. FROST. Mr. Speaker, I desire to say but a very few words on this subject. It seems to me that the discussion so far has traveled away from the true issue. The question is not upon the merits of the existing law—not whether that law should ever have been enacted, but now that it is upon the statute-book whether it shall be carried into execution.

Mr. RICE. Will the gentleman allow me a question?

Mr. FROST. Certainly.

Mr. RICE. Does the gentleman understand that there is now anything in the law requiring that employés of the Government should receive any fixed price, or that they should receive the wages of a full day's labor when working only eight hours?

Mr. FROST. As I understand the law, while no specific price for labor is established in the statute the intent of the law at the time of its passage was that the employés of the Government should be required to labor but eight hours daily and that for working these eight hours they should receive the rate of wages prevailing in the neighborhood for a full day's labor, no matter how many hours were employed in that labor.

Sir, the gentleman from Massachusetts [Mr. RICE] says that this law, if intended as an example to private employers of labor, has failed to accomplish that purpose. I reply that if it has failed it is because it never has been executed. It never has been held before the people as an example.

When interrupted I was about to remark that gentlemen on the other side of the Chamber have reproved us on this side very severely upon the ground that we have attempted to interfere with the Executive of this country by preventing him from executing the laws upon the statute-book. I hope they will show the sincerity of their desire to see the laws executed by coming to our assistance now when we are maintaining the right of the people of this country to have the laws enacted by us carried into execution.

This is no time to discuss the merits of this law. I do not desire to enter upon that question. But, I maintain, sir, so long as a law is upon our statute-books the people of this country have the right to demand that the Executive shall perform his constitutional duty of executing it.

Mr. McMILLIN. Will the gentleman permit me to ask him one question?

Mr. FROST. Yes, sir.

Mr. McMILLIN. Is there any penalty provided in this act for non-compliance with this law?

Mr. FROST. I understand not.

Mr. CANNON, of Illinois. Mr. Speaker, I desire to say a word about this proposed joint resolution. Turning to the section of the Revised Statutes I find it reads as follows:

> Eight hours shall constitute a day's work for all laborers, workmen, and mechanics who may be employed by or on behalf of the Government of the United States.

Now, sir, I understand that law has been enforced. Eight hours is a legal day's work; but the law does not say the laborer shall receive ten hours' pay for eight hours' work.

Mr. MURCH. Will the gentleman allow me?

Mr. CANNON, of Illinois. I wish to finish my statement; I will allow the gentleman to interrupt me before I get through.

Now, Mr. Speaker, it does not say that ten hours' pay shall be given for eight hours' work. I understand for eight or ten years past in the navy-yards of this country, and in the cities or elsewhere where the Government does employ laborers, they have been doing eight hours' work and getting eight hours' pay for it; but if this resolution passes I apprehend that for those eight or ten years past those persons will be claiming arrearages for two hours' extra pay each day. I have been here for some years, sir, and I can nearly always tell when a man has a navy-yard in his district, for he is generally anxious about the enforcement of this law so as to give ten hours' pay for eight hours' work. [Laughter.]

Now, then, every dollar that is paid to this proposed favored class of laborers has to be raised by taxation. Who pays the taxes? The nine hundred and ninety-nine men in the country who are not employed as Government laborers. They have to pay that taxation; your constituents, Mr. Speaker, and mine. There is not one of these Government laborers in my district, and I doubt whether there is one in fifteen out of the nineteen districts in my State. What is true of my district is true of other gentlemen's districts. The laborers who pay taxes in order to pay enhanced wages to this favored class, themselves work from twelve to fifteen hours a day. Is it fair or is it just, then, that the masses of the people who work twelve to fifteen hours a day should work a half hour longer each day in order to pay navy-yard and other Government employés ten hours' pay for eight hours' work? I think not; and with all due respect to gentlemen I think it comes with ill-grace from them to urge any such proposition. I will not, for the reason I have stated, vote to impose this additional burden upon the masses of laboring-men who now work as stated to give favored laborers in Government navy-yards and elsewhere wages which they do not earn.

Mr. MURCH. Will the gentleman allow me to ask him a question?

Mr. CANNON, of Illinois. Certainly.

Mr. MURCH. Did not the proclamation of President Grant, made on the 19th of May, 1872, declare that no reduction should be made in the wages of workmen employed by the Government of the United States on account of the reduction in the hours of labor?

Mr. CANNON, of Illinois. I do not now recollect, but it is not material; the fact is the law as now executed is this: if they work ten hours they get ten hours' pay, and if they only work eight hours they only get eight hours' pay. In other words they only get pay for what they earn. That is the way the law is now being executed and so far as I am concerned it will go on in that way, proclamation or no proclamation.

Mr. GOODE. I now yield to the gentleman from Maine, [Mr. MURCH.]

Mr. MURCH. Mr. Speaker, I had intended when this resolution came up to make some extended remarks in favor of its passage, but the committee having it in charge having made such an unexpectedly early report of the measure I have not had time to make the research and prepare an argument such as I deem the importance of the subject demands. I think, Mr. Speaker, that the committee having this matter in charge are entitled to great praise for the prompt attention they have given to the desire of the workingmen who have so frequently petitioned this House for the passage of a bill settling the status of the act of June 25, 1868. Nearly eleven years have passed since the eight-hour law was enacted, with provisions so plain that it seems as if no one having the least desire to do justice to the people in whose favor it was enacted could presume to evade its provisions. Yet it has been continually evaded, and by the very men who were sworn to see the laws of this country enforced.

The eight-hour law was passed just before the presidential campaign of 1868 was opened, no doubt with the intention of making a bid for the workingmen's vote for General Grant, and the present President of the United States is on record as voting for its passage, he being then a member of this House.

Mr. Speaker, the provisions of this law were disregarded and set at defiance from the time of its passage. True, the heads of Departments reduced the hours of labor to eight, but they also made a corresponding reduction of wages. The attention of President Grant having been called to this fact, on the 19th of May, 1869, he issued a proclamation directing that no reduction should be made in the wages of laborers, workmen, or mechanics employed by or on behalf of the Government of the United States on account of the reduction of the hours of labor. Again, on the 11th of May, 1872, President Grant issued another proclamation of similar import.

On the 18th of May, 1872, an act was passed which provided that all laborers, workmen, and mechanics in the employment of the United States whose wages had been decreased under the idea that such decrease was warranted by the aforesaid act of June 25, 1868, should, notwithstanding, be paid without any such decrease.

It does not seem, Mr. Speaker, that in the face of all this legislation and the proclamations of the President of the United States, the parties having in charge the execution of the laws of this Government would or could find any pretext for its evasion and create a necessity of further legislation; but such is the fact, and to-day this House is called upon to declare in unmistakable words that the rights of workingmen shall no longer be infringed upon, and laws enacted for their protection shall no longer be trampled under foot. Let us consider for a moment the relative position of the workingmen and the gentlemen who are honored by their votes to a seat on this floor, and who think it a hardship to sit here three or four hours a day for four or five months out of a year and draw a per diem wage of about $13 the year round. Why, they thought it such a hardship a few years ago that they attempted to help themselves to a little more, while the poor drudges that sent them here are taxed to pay their "salary grabs," and all working ten or twelve hours at from seventy-five cents to $2 per diem.

Mr. Speaker, writers and speakers have told us that a reduction of wages is consequent upon a reduction of the hours of labor. I defy them to name a single instance where such has been the fact. On the contrary, a reduction of the hours of labor from ten to eight will create a demand for one-fifth more men to produce the same amount per diem. That will set some of our idle, starving men to work who are seeking charity in our broad land and finding it not, but instead find laws enacted by State Legislatures to make criminals of them for the crime of being out of employment. I say a part of these poor outcasts would become producers and enlarged consumers, and the very fact of their finding employment by a reduction of the hours of labor will stimulate all business, and the agricultural portion of our people will be especially benefited by a new demand for their products. The workingmen of this country are studying this question deeply, for their future depends upon it. They see machinery superseding manual labor day by day, and they are being thrown out of employment by its introduction. Look at our Government Printing Office here in this city. The introduction of every sewing-machine in that institution, I am told, throws seven girls out of employment. That one fact is enough to illustrate what the thousands of machines are doing in our large manufacturing centers.

Mr. Speaker, I have said that the workingmen are thinking deeply on this problem. Forty-eight witnesses before the Hewitt committee, of which the gentleman from Massachusetts [Mr. RICE] was a member, in New York and elsewhere, out of a little over a hundred that were examined, testified to their belief that the reduction of the hours of labor was the only thing that would bring relief.

Mr. RICE. Will the gentleman allow me to ask him a question?

Mr. MURCH. Yes, sir.

Mr. RICE. Was there anybody who stated that it was possible for any State government to limit practically by legislation the hours of labor, when other State governments surrounding it did not limit them, and in the same way? While there was a desire the hours of labor should be limited, yet is there among all those witnesses one who expresses the opinion that they can be limited by the States, part of them limiting and part of them not?

Mr. MURCH. I do not know that there is; but I believe there is no question but the General Government has the power to regulate that matter.

Mr. RICE. Does the gentleman claim that the General Government has power to regulate that matter except as to its own employés?

Mr. MURCH. I do not.

Mr. RICE. And if the Government regulates it as to its own employés while others do not receive the advantages of that legislation, I ask is it fair, or is it in favor of the laboring classes whom the gentleman represents, and whose interests I also and other members of this House desire to see promoted?

Mr. MURCH. I may say to the gentleman that immediately after the proclamation of President Van Buren, making ten hours a legal day's work, that system was adopted all over the country. I know the law has been violated by the Government. If the Government at any time had enforced this law it would to-day have been the standard all over this country.

Yes, Mr. Speaker, the workingmen are thinking, and on the 4th day of July, 1879, they will declare from one end of this land to the other that eight hours shall constitute a day's work, as they declared for ten hours when President Van Buren issued his proclamation making ten hours a legal day's work. Gentlemen need feel no alarm; it will be a peaceful, law-abiding demonstration, but it will show with what unanimity they think on this question.

One more view of this question and I am done. The whole history of the short-hour movement in England proves conclusively that the question of wages has no connection with the justice of this claim. In fact, every reduction in the hours of labor there has invariably been followed by an increase in the standard of wages. Short hours

means long pay; for whatever gives the workingman more leisure gives him more opportunity for culture, brings higher wants, and it is these wants which determine the standard of wages. The more hours the poor drudge is employed the lower are his wants, and consequently the smaller the sum required to sustain him.

Give the workingman increased leisure. Rest cultivates. Raise his wants; increase his desires for the comforts of life, and wages will take care of themselves. Our business is to perform a public duty, to declare the intent and purpose of a law. The changed relations of productive industry, rendered necessary by the rapid increase of machinery, forces this question on us as one of the greatest importance. Sir, this is not buncombe legislation. We propose no new legislation. The workingmen ask no favor at our hands. They demand simple justice. Shall this be accorded? Shall we by our action to-day indorse our own action in the past? Public policy demands it, political economy demands it, enlightened statesmanship demands it, Christianity demands it. The social future of our workingmen is largely at issue and our own honor is at stake. Let us declare by our action to-day that the prosperity of the workingmen is worth our consideration.

Mr. GOODE. I yield to the gentleman from Kentucky [Mr. WILLIS] for five minutes.

Mr. WILLIS. I had not intended to speak on this question, and I will say but one word now.

There is evidently a misapprehension as to what is pending before this House. We are not called upon, I take it, under the resolution reported by the Committee on Education and Labor, to vote on the merits of this bill. That is not a question which addresses itself to us at present. The only matter we are called upon to decide is, first, whether there is such a law as this upon the statute-book, and, if so, shall it be enforced? That is the purport of the resolution which has been offered by this committee. It simply places a construction and requires the enforcement of a law that is already upon the statute-book. It does not propose to place a new law there. Gentlemen therefore will vote unadvisedly if they vote with the expectation that they can change this law. The fact is, as appeared in evidence before the committee, that this law is enforced at some of the arsenals and not enforced at others. Certainly no gentleman desires such an unequal enforcement or execution of the law as that. We simply desire to say by this resolution and by this action of the House what we said last year, without, I believe, twenty dissenting votes upon this floor: that here is the plain law, and it shall be the same law in Maine as in Virginia; the same law in Kentucky as in Massachusetts.

There is no arsenal, no fort, no public building in my district that is affected by the enforcement of this law. I simply find as a member of this committee that years ago, in 1868, whether wisely or unwisely, this House placed such a law upon the statute-book, and when called upon as a lawyer to say what the meaning of that law is I declare and I say the House is called upon to declare that it means that eight hours shall, in all works of which the Government has control, constitute a full day's labor and that for a day's labor full pay shall be received.

Mr. MURCH. I wish to say one word. During the investigation in New York Mr. Hewitt stated to a witness that he believed this law was intended to deceive the workingmen.

Mr. WILLIS. It was in evidence before the committee that in this very city in the removal of *débris* from the War Department two of the contractors differed in their view of this law, one of them declaring and acting upon his construction that eight hours constituted a full day and paying his workmen according to his construction of the law, and the other believing that ten hours was a proper day's labor and paying his men the same price for the ten hours. Certainly we do not wish that. We desire the law to be enforced in the same way and to the same extent all over the country.

If gentlemen desire to vote upon the merits of the law they will have the opportunity in another bill that will be offered by this committee in a few weeks. But at present we are only called upon to say what the law is and I do not think any two gentlemen who read it can differ as to its meaning, and the debates at the time show clearly that this was an experiment to be made by the Government extending over all its employés fixing eight hours as a day's labor, the gentlemen who made the experiment believing that within that time as much work would be done as was done in ten hours. Whether that be true or not is not the question. The only question we have to decide is, is this a law on the statute-book, and, if so, what is its meaning and shall it be enforced uniformly throughout the country?

Mr. GOODE. I call the previous question.

The SPEAKER. The Chair will advise the gentleman from Virginia that he will not have an hour after the previous question is seconded as he has occupied his time before calling the previous question, and there has been no intervening debate.

Mr. GOODE. I understood that as having reported the bill I would have an hour after the previous question was ordered.

The SPEAKER. The interpretation of the rule has been that where a gentleman occupies an hour before calling the previous question and then demands the previous question he is not entitled to another hour after the previous question is seconded.

Mr. GOODE. Then I yield to the gentleman from Pennsylvania, [Mr. WRIGHT.]

Mr. COX. How much time remains of the hour?

The SPEAKER. Eleven minutes.

Mr. WRIGHT. Ten years ago the Congress of the United States enacted a law making eight hours a legal day's work in all the manufacturing establishments and depots and places of business under the control of the Government. For ten years that law has run uninterruptedly with a construction upon it that a day's labor should be ten hours instead of eight hours. A strange construction to be placed upon a plain law, positive in its terms, easily understood, and almost criminal to be wantonly violated.

Now, I want to know by what authority the men who are at the head of the different Departments of this Government have restricted and restrained the law of 1868, which provided that eight hours shall be a legal day's work, by extending it to ten hours? It is unjust, it is wrong, upon every principle of justice or humanity, that honest labor should be prevented from the fruits of its toil. Class would not submit to this; laboring-men must.

I was somewhat surprised at a remark which slipped from the mouth of the gentleman from Massachusetts [Mr. RICE] in speaking of the man and "the master." He made use of the word "master" to represent the man who was the employer. It brings us back to the era of slavery—master and slave. And capital is that master.

Mr. MURCH. That is a term commonly employed by all class-men.

Mr. WRIGHT. I was surprised to hear that word used in the manner in which he used it. One of those men who have been controlled by a master has just taken his seat upon this floor. These things are becoming reversed. The time may come when the master will be in the background and the servant will come to the front. The gentleman from Maine [Mr. MURCH] is the man—the master is at home—and a man, too, who does honor to his high position. More changes in this Chamber like this will be so much better for the country. I do not like such language; it is not applicable to the times in which we live; it is not according to our sense of propriety and the relations which we occupy and enjoy in this free Government of ours. I contend that under our principle of equality the laboring-man in this country has as much right to be heard upon the floor of this House as the most favored citizen of the community in which we live. Class is always responded to favorably when it makes its application here. Labor submits to rebuffs, even in the rejection of its humble petition.

Now, when we pass a law fixing eight hours for a day's work, the men who have the control of employment set that law at defiance. Although that law says that eight hours shall constitute a day's labor, they say that under the brief authority which they hold eight hours shall be ten hours. Strange logic! But so say our masters. When shall men speak out?

As the gentleman from Kentucky [Mr. WILLIS] has well said, this is not a question as to the merits of the original law. The question before the House is whether that law shall be enforced, the law which we have enacted, or whether men who are the agents of the Government shall be permitted to say that they will disregard the law because only the laboring-men are brought into question and who are powerless to do anything against the iron decree which they set up and enforce against every principle of justice. Let the law apply to the high and the low. If the law says that a man shall only work eight hours a day, let that be the law, and do not permit those who are in official place to say that eight hours a day shall be ten hours.

I believe that this enforcement law, as we call it, passed this House in the Forty-fifth Congress with little or no opposition. It went to the Senate, and there it failed; not on account of its merits, but for want of time or for some other reason. Now let us say that so far as our Government is concerned we will set an example to the men whom we employ and that they shall work eight hours for a day's labor. And although we have not the power to regulate the employment of men in the States, we have the power and we ought to set an example that the States may follow. And if this law is passed it will be the establishment of a good example. As we have the power to legislate on this question, let us pass this bill, and thus inform those who are intrusted to carry out its provisions that we are in earnest and that our decrees shall be enforced. We are the "master," they the "man."

Mr. GOODE. I now yield five minutes to the gentleman from Georgia, [Mr. BLOUNT.]

Mr. BLOUNT. Gentlemen have attempted to present an issue to this House and to hold the House to an issue of their own fancy. I imagine that the House will give such scope to this discussion as the public interest may require.

What are the facts? It is alleged that a law has been passed fixing the number of hours to constitute a day's labor, and that it was the intention of that law that laborers should be paid for eight hours the same as they were paid before for ten hours. It is further said that some of the Departments of this Government, exercising a duty devolving upon them, have construed that law differently from what the committee and certain gentlemen here think it should be construed.

Now whether that construction was right or wrong, in my judgment it was in the interest of the people of this country. If it be true that their construction of that law is wrong, may not gentlemen be permitted to consider the question now whether or not it is proper, and to say that we will pass no such resolution enforcing the other construction, but we will turn our attention to what is right in this matter; that we will vote down this resolution and so indicate to the House and to this committee that we are opposed to such legislation?

For one I am prepared to vote for the repeal of the law. In a few districts or a few sections of the country it may be to the interest of labor; but as has been said by the gentleman from Illinois, [Mr. CANNON,] I may say and so may the great body of men on either side of the House, that this law is not in the interest of the laboring people of our country.

When we come to make the appropriations for the support of this Government, if this law is to be carried out in the manner gentlemen contend for, we must necessarily make increased appropriations for paying laborers in Government employ all over the land, thus increasing the burden borne by the American people. This is wrong. The gentleman from New York [Mr. COX] states that the Government will get more and better service by requiring eight hours as a day's labor than by demanding ten; and he quotes from reports of the State of Massachusetts. I am informed by a gentleman from Massachusetts that no such report has been made; that no such experiment has been had there; that the ten-hour law obtains in Massachusetts.

Mr. MURCH. The ten-hour law is violated in Massachusetts.

Mr. BLOUNT. I hope the gentleman will not interrupt me. He has had more time than I have.

Mr. MURCH. I only wanted to make a correction.

Mr. COX. Will the gentleman allow me to make a correction?

Mr. BLOUNT. The gentleman certainly would not take up the little time I have.

The SPEAKER. The gentleman from Georgia [Mr. BLOUNT] has half a minute remaining.

Mr. COX. I certainly would not intrude upon the gentleman in his half minute, but will reserve what I have to say.

Mr. BLOUNT. Gentleman have been debating this question all on one side, and I think I might be allowed to proceed without interruption.

Mr. COX. You will lose your half minute if you do not hurry up.

Mr. BLOUNT. Yes, I have no doubt the gentleman is glad to see every member who does not agree with him lose more than half a minute.

It has been said that the States have not adopted this policy simply because it has not been enforced by the Federal Government. Why, sir, I undertake to say that no State could do it. I am not prepared to admit the right of a government to dictate to me how I shall manage my own business.

Mr. MURCH. Will the gentleman allow me one question?

Mr. BLOUNT. No, sir. I trust that the time is not near at hand when we shall grow so wild upon this subject as to forget all the rules that govern prudent business men.

[Here the hammer fell.]

Mr. COX. I would like to have the gentleman's time extended if possible.

The SPEAKER. To whom does the gentleman from Virginia [Mr. GOODE] yield?

Mr. GOODE. To the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. FRYE. Has the morning hour expired?

The SPEAKER. Half a minute of the hour remains.

Mr. KELLEY. Suppose the morning hour be considered as expired, and I will take the floor when the bill comes up again as unfinished business.

The SPEAKER. It will come up to-morrow morning, in all human probability. The morning hour has expired.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendment the bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm.

ORDER OF BUSINESS.

Mr. ACKLEN. Mr. Speaker, I desire to ask unanimous consent that the resolution now pending as business of the morning hour in relation to claims against Nicaragua shall be fixed for consideration on Saturday next after the morning hour. It is evident that this resolution can never be reached in the ordinary course of business, for reports from committees are constantly increasing. I think it eminently proper that a time should be fixed for its consideration.

Mr. MILLS. I call for the regular order.

The SPEAKER. The gentleman from Texas demands the regular order, which is equivalent to an objection.

Mr. ACKLEN. I trust that the gentleman will withdraw his objection. I do not propose to take up any time now, but simply to have a time fixed for the consideration of the resolution.

Mr. BREWER. I call for the regular order.

COINAGE CERTIFICATES, ETC.

The SPEAKER. The regular order is the further consideration of the bill known as the coinage bill; a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes, reported from the Committee on Coinage, Weights, and Measures, with amendments. The gentleman from Massachusetts [Mr. CLAFLIN] is entitled to the floor for one hour.

Mr. CLAFLIN. Mr. Speaker, I believe it will be conceded by all men who have spent their lives in business that there is nothing more detrimental, directly, to the great business interests of the country than the constant agitation of financial schemes in Congress. When the Forty-fifth Congress assembled the returning tide of prosperity seemed assured to the country. The crops were larger than ever before, there was a heavy demand for all our surplus abroad, there seemed to be nothing in the way of the resumption of specie payments as designated by the act of 1875, and business men and capitalists began to turn their attention, with confidence, to the revival of old and the establishment of new enterprises. In a short period after the assembling of Congress all the high hopes of returning prosperity became suddenly clouded, owing mainly to the agitation of numerous financial schemes and the persistent attempts to repeal the resumption laws.

The stagnation of business and the fall of prices continued until the defeat of all projects which would postpone or delay the return of specie payments was assured. The triumphant return of the country to a sound currency gave promise of future stability in all business and a higher place to the public credit than it had ever attained since the foundation of the Government. The predictions of the failure of the financial measures established by the Forty-fourth Congress made by many distinguished theorists proved false in a most signal manner, and the highest hopes of those who had sustained through good and evil report the policy established are more than realized. The inflationists having lost their hold upon the popular mind by the return to specie payments now turn their attention more earnestly than ever to debasing the standard of value. In hot haste a bill is reported to open the flood-gates of the Treasury and fill it with the discarded metal of other nations.

The gentleman from Ohio, [Mr. WARNER,] who has reported this bill from the Committee on Coinage, Weights, and Measures, explains it in his speech in his blandest and most genial manner. It is a very simple matter to him after he has studied the question so faithfully. He makes five and six count twelve in a way delightful to behold. According to his theory we have nothing to do but to let any one bring to the Treasury all the silver bullion he can lay his hand upon and receive legal-tender dollars therefor. He explained very elaborately and clearly that by the bill there is no charge for coining silver brought to the mints, but there is a charge covering cost only for cleaning, refining, adding copper, &c., so that every encouragement is held out to our people to bring bullion to the Treasury in order that the mints may have plenty of work, at least in appearance if not in reality.

And, Mr. Speaker, lest there should be any delay in filling the Treasury with the coveted silver, and the gold therein no longer be allowed to disturb the dreams of silver inflationists in their examinations of the monthly bulletins, the bill provides that certificates of deposit shall be issued in sums of $5 or more to any one bringing $20 of gold or silver bullion to the Treasury, which certificates shall be received for public dues, including duties on imports, and may be used by the national banks as part of their lawful reserve and also in payment of interest upon the public debt. They are to be issued as a part of the lawful reserve of the national banks, but what part is not stated.

In addition to all these purposes, it is further provided that the coin and bullion received by the Treasury shall be retained for the redemption of these certificates; but here comes in a curious feature, doubtless dear to every inflationist heart. Up to this time, while he has elaborately explained, as I have already stated, the minor details of the proposition, he has entirely omitted the weightier matters, as any one will see who examines the bill for himself. Now the Secretary of the Treasury, if he is short of gold or silver, or for any other reason, may issue additional certificates representing coin in the Treasury; but he shall not exceed 20 per cent. the sum total of coin in the Treasury.

Mr. WARNER. Will the gentleman allow me to interrupt him?

Mr. CLAFLIN. Certainly.

Mr. WARNER. I wish to say, in order that I may not be misrepresented, that the law in this respect is not a change of existing law, but that the existing law is left where it now is. That is the law in reference to gold now.

Mr. CLAFLIN. Does the gentleman say they can now issue certificates representing coin in the Treasury?

Mr. WARNER. Yes; that is the law now, and 20 per cent. more than he has either of coin or bullion in the Treasury. The law in that respect, in other words, is not changed by this bill.

Mr. CLAFLIN. Your amendment does not show that. It is provided that he shall not exceed 20 per cent. beyond the total sum of coin and bullion in the Treasury; that is, that he may issue certificates representing coin of which he has not a dollar. Now, if that is the law why was it put into this bill?

Mr. BUCKNER. If my friend will allow me I will say that this bill is intended to apply the law now applicable to the coinage of gold to the coinage of silver in every respect. This bill merely does apply the principle of gold coinage to silver coinage, and that is the whole of it.

Mr. WARNER. Yes, that is it.

Mr. CLAFLIN. It has the effect of receiving silver bullion, and issuing certificates for it.

Mr. BUCKNER. Yes, sir; just as it is in reference to gold now.

Mr. CLAFLIN. In other words, it says: "Mr. Secretary you may lie a little as to the certificates, but do not lie to exceed 20 per cent." [Laughter.] The Secretary may issue as many coin certificates as he has coin and bullion representing standard dollars and 20 per cent. in addition. For instance, to-day the Treasury holds $171,000,000 in coin, for which, by the bill, five-dollar certificates may be issued. I

should like to ask the gentleman from Missouri whether they have the right to issue five-dollar certificates now?

Mr. BUCKNER. No; only twenty-dollar certificates. That is a change.

Mr. CLAFLIN. Yes; that is just where the essential change comes in. And in addition thereto we have $34,000,000 representing coin, but for which the Treasury holds not a dollar, thus aggregating in amount $205,000,000 which may be issued in five-dollar certificates, the certificates which the Government cannot now issue. This certainly would please our venerable friend from Pennsylvania, [Mr. WRIGHT.] He asked us to issue $400,000,000. It would furnish a pretty fair installment toward the $1,000,000,000 proposed to be issued by the Government to be expended in building railroads, digging canals, reclaiming submerged lands, and constructing public works of all kinds. To be sure, laws must be passed before the money could be appropriated and drawn from the Treasury; but if a majority is found to pass this bill it may be relied upon to pass any bill making the distribution, unless it be the Geneva award.

Now, Mr. Speaker, I cannot see under this section of what use the mints will be, as the Treasury has already more standard dollars than it needs, as is evinced by the small demand for them, although the Secretary has faithfully endeavored to dispose of his surplus, and our silver friends constantly proclaim the virtue of the "dollar of the fathers."

Mr. WARNER. If the gentleman will allow me, I should be glad to say that under this bill all that is taken away from the Secretary of the Treasury. If the people do not want the money they will not take it to the mint to be coined.

Mr. CLAFLIN. They do not wish to have it coined when they can put it into the Treasury and take out certificates therefor. They put in the bullion and get certificates.

Mr. WARNER. If they do not want the money they will not take the bullion to the mints to be coined.

Mr. CLAFLIN. It will be readily seen that no provision whatever is made to keep the Treasury supplied with silver, even to float the greenbacks. It has been supposed by sound financiers and able statesmen that the money in the Treasury was to be used in their redemption; but this bill ignores this duty altogether, as the certificates represent that hitherto so-called reserve. Can there be a greater violation of public faith or a more dangerous experiment than the action proposed by this section of the bill? It presupposes a degree of ignorance of the laws of demand and supply, and demand in the business world and of the common sagacity of men as to their real interest, difficult to measure. How long would there be any confidence in money issued with such evident disregard of the public wants and the manifest inability of payment without laying additional burdensome taxes?

Let us look into this bill a little further and judge of it in the light of modern experience and not in the times of the emperors of Rome or the monarchs of later days. What are the complaints of the advocates of this bill? The gentleman from Ohio alleges that the silver dollar was demonetized by a trick. This story has been used so much that the advocates of the restoration of silver really believe that the far-sighted moneyed men and capitalists, when silver was above par as compared with gold, knew that there was to be a fall, and therefore managed to smuggle into a coinage bill the provision stopping the coining of the silver dollar. I will not stop to detail the whole series of bills, amendments, substitutes, &c., through which the act went before it was finally passed. Suffice it to say that it was considered in two Congresses, was debated many times, printed in thirteen different forms. The feature complained of was known and approved of by the Banking Committee, the committee which had charge of the bill, and the principle assented to by the gentleman from Pennsylvania [Mr. KELLEY] who joins the complainants, as will be seen by the extracts which I send to the Clerk to read.

Mr. KELLEY. The gentleman from Pennsylvania begs leave to say that he never assented to it.

The SPEAKER. Does the gentleman from Massachusetts yield?

Mr. CLAFLIN. I yield for that explanation.

Mr. KELLEY. I have made my explanation.

Mr. CLAFLIN. I ask the Clerk to read the sentences I have marked.

The Clerk read as follows:

Mr. KELLEY also said:

"I wish to ask the gentleman who has just spoken [Mr. Potter] if he knows of any government in the world which makes its subsidiary coinage of full value. The silver coin of England is 10 per cent. below the value of gold coin, and, acting under the advice of the experts of this country and of England and France, Japan has made her silver coinage within the last year 12 per cent. below the value of gold coin, and for this reason: it is impossible to retain the double standard; the values of gold and silver continually fluctuate. You cannot determine this year what will be the relative values of gold and silver next year. They were 15 to 1 a short time ago; they are 16 to 1 now.

"Hence all experience has shown that you must have one standard coin which shall be a legal tender for all others, and then you may promote your domestic convenience by having a subsidiary coinage of silver, which shall circulate in all parts of your country as legal tender for a limited amount, and be redeemable at its face value by your Government. But, sir, I again call the attention of the House to the fact that the gentlemen who oppose this bill insist upon maintaining a silver dollar worth three and one-half cents more than the gold dollar, and worth seven cents more than two half dollars, and that so long as those provisions remain you cannot keep silver coin in the country."

On May 27, 1872, the bill was again called up by Mr. Hooper, for the purpose of offering an amendment in the nature of a substitute, and the bill, as amended, passed that day—yeas 110, nays 13.

Just previous to the passage of the bill Mr. McNeeley, of the Coinage Committee, said:

"As a member of the Committee on Coinage, Weights, and Measures, having carefully examined every section and line of this bill, and generally understanding the subject before us, I am satisfied that the bill ought to pass. (Page 3883, volume 104.)

Mr. KELLEY. I desire to say before the gentleman proceeds that I will not interrupt him now to respond to what he has said. I will simply remark, we were discussing the question of subsidiary coinage and the fact that our dollar was worth more than the equivalent silver coins of the world, and therefore it could not be retained in this country. But that I ever assented to the demonetization of the standard dollar knowingly, I deny.

Mr. WARNER. If the gentleman from Massachusetts will allow me also, as he asked me a question on this very point, I wish now to ask him——

Mr. REED. I suggest that the gentleman from Massachusetts be first allowed to answer the gentleman from Pennsylvania.

Mr. WARNER. I understand the gentleman from Massachusetts yields to me. I wish to ask him if he finds one word in the record of the debates that took place in this House or in the other House upon the bill that passed and is known as the act of 1873, referring to a change in the standard or to the question of the demonetization of silver, except the few words of Mr. Hooper himself in introducing the bill?

Mr. CLAFLIN. It presupposes an amount of ignorance in two committees, which I am not willing to attribute to them, to suppose that they did not know what sort of a bill they were reporting to the House, and I do not think it is very creditable for gentlemen to attempt to take advantage of any such supposition. The gentleman from Pennsylvania was on the committee. He knew what the bill was. The bill passed by a vote of 110 against, I think, some 10 to the contrary.

And here is another expression made use of by the gentleman from Pennsylvania. On the 9th of April, 1872, Mr. KELLEY said:

Every dollar that is not gold is subsidiary. Our dollar, half dollar, and every other coin that is not gold is subsidiary.

He said that.

Mr. KELLEY. Certainly I did.

Mr. CLAFLIN. Then we agree on that. They are now in effect subsidiary coins; that is all that they are.

Mr. KELLEY. But a young pup gets its eyes opened in nine days; and in the intervening years I have learned a great deal.

Mr. REED. Oh! [Laughter.]

Mr. CLAFLIN. And I tell the gentleman that an old dog cannot be cheated. [Continued laughter.] My friend from Pennsylvania has been passing all around the goal and has landed where he now is. I do not think that he should complain that he is very young in this business. [Renewed laughter.]

Mr. KELLEY. I have not said that. I state what is a fact in nature. And it is no disgrace to a man to learn as he lives.

Mr. CLAFLIN. No; but when a gentleman brings up the fact against other gentlemen who are advocating a principle which he advocated at one time, that it is an evidence of an evil design, then I think he will have to take home a little of it to himself.

Mr. KELLEY. I have not charged you with an evil design.

Mr. CLAFLIN. Well, a trick must have an evil design.

Mr. KELLEY. I have not charged it as a trick.

Mr. CLAFLIN. The other day when the gentleman from Ohio [Mr. WARNER] said that it was a trick, I understood you to say, "Yes, it was a trick."

Mr. KELLEY. I said that nobody could explain it; that the bill I introduced contained the provision for the standard silver dollar. I said that I had gone on pleading guilty all the time that as chairman of the committee and as its organ I had introduced the bill which passed; until the gentleman from Illinois [Mr. FORT] brought me the Senate copy of the bill with that section stricken out, and one inserted, in which there was no standard dollar.

Mr. CLAFLIN. I think the gentleman puts it right. He says that he has had some new light, and I am willing to give him credit for it. But let him give credit to other people for honesty of purpose, even if they do not agree with him to-day in his new light.

Now, in answer to the statement that the country did not know of this thing when it was done, allow me to state that resolutions in favor of stopping the coinage of the silver dollar were passed by the New York Chamber of Commerce and by the National Board of Trade, composed of gentlemen from every part of the United States. That policy, too, had the active support of the Treasury officials, including Dr. Linderman, so well known for his information and learning, especially in regard to matters relating to metallic money. All financial men saw then as we see now that a single standard was easily maintained and was free from the constant fluctuations incident to a double standard.

Mr. WARNER. Will the gentleman give the date of that indorsement of the National Board of Trade?

Mr. CLAFLIN. I would like to accommodate the gentleman from Ohio, [Mr. WARNER.] I did not interrupt him, except once to deny a statement. He had a couple of hours, and I am willing he shall have two more. I would like, however, to go on now with my own remarks.

As we were then without coin currency in use, it seemed unwise to allow these constant fluctuations to go on when we came back to a specie basis. It is well known to gentlemen here that we never have had in use two coinages equal in value. At one time the proportion of silver to gold was as 15 to 1, and then all the silver went out and we had nothing but gold. Then we put it up to 16 to 1, and then went out all the gold and we had nothing but silver.

Those men who have studied these questions most elaborately thought the time had arrived when we should dismiss the double standard. Every one knows that England under like circumstances adopted the gold standard, and found it so beneficial to her interests that through all depressions and fluctuations of trade she has continued to retain it. Therefore the change was made.

Now, how is it possible that this change should have affected values in the way so graphically described by the gentleman from Ohio, [Mr. WARNER,] who seems to think that his noble services in the war and his great sacrifices were lost by the act of 1873, when that act had no effect for six years after it had passed.

No act was ever better considered by an intelligent committee than was that act. And when the gentleman from Ohio [Mr. WARNER] stands up here and heaps epithets upon the men who then favored the single standard, he does injustice to them and to his own better nature. I can only account for his harsh words by ascribing to him the infatuation of the inflationist, so prominently displayed for the last five years. Driven as they are from their old complaints regarding the greenbacks by the successful resumption of specie payments, they now ascribe all the real and imagined woes of the country to the act of 1873. They forget the vast rise in property from 1865 to 1873. They ignore the fact that thousands of farms were bought and mortgaged during those years, which increased in value often several times beyond their cost, enabling their owners to accumulate largely, pay off the mortgage, and have abundance left. Did the mortgagee reap any direct benefit from the rise? Gentlemen forget the enormous increase of railroad facilities spread through the country and built with such rapidity that the profits of the great iron interests were beyond all parallel. There must come an end. Furnaces making pig-iron at $20 a ton profit could not always keep up a night and day blast. In 1872 I visited Saint Louis, and there I found the furnaces running night and day, making forty or fifty tons of iron daily, at a profit of $20 a ton. To-day you can buy iron of the same quality on the same ground for eleven or twelve dollars a ton.

The country could not turn all its wealth into railroads, and the end came. The shock was frightful; but the act of 1873 had as much to do with it as the weather-vane on yonder steeple has with the coming storm. The strain upon the wealth of the nation was too great, and the bubble burst. Of course values began to recede, and no device could stay their downward course. Neither will any device of inflation restore their upward tendency. Let the people fully understand that the financial policy of the Government is settled, and they will go to work under the established conditions. Prosperity will surely follow their exertions.

The inevitable effect of this bill will be to demonetize gold. The French bimetallists, Cernuschi and Seyd, agree that the efforts of the United States to restore silver to its former position will certainly fail unless the European nations, especially England, join in remonetizing silver with free coinage. In the face of the admission of these distinguished men, when their worst apprehensions have been realized, we, solitary and alone, are to make the attempt. Look at the condition of the Bank of France, and you can readily understand why Frenchmen desire us to establish unlimited coinage. Here are the figures of the movement of her coin:

In 1873 the Bank of France possessed $119,000,000 in gold and $30,000,000 in silver; in 1874, $197,000,000 gold and $60,000,000 silver; in 1875, $228,000,000 gold and $98,000,000 silver; in 1876, $297,000,000 gold and $124,000,000 silver; in 1877, $229,000,000 gold and $168,000,000 silver; and in 1878, $191,000,000 gold and $205,000,000 silver. Thus in six years the Bank of France has increased its surplus of silver from $30,000,000 to $205,000,000. It has been computed by Mr. Cernuschi and others that there are 2,500,000,000 francs of silver in France. According to this estimate the Bank of France has about one-half of all the circulation of silver in France. But it will be observed that last year while the Bank of France increased its stock of silver nearly $40,000,000, it lost $39,000,000 of gold. The people of France are prudent and careful of their hard-earned wealth.

Since 1876 they have steadily drawn gold from the vaults of the bank, and to-day she probably holds $220,000,000 of silver, which she will be glad to exchange upon almost any terms for our one hundred and thirty-three millions of gold. She sustains gold prices, but the silver on hand aids her very little, if any at all. No silver is coined, yet the bank gains thirty or forty millions yearly and loses nearly that amount of gold. Open our Treasury to bullion certificates, and you will soon find the load taken from France and put upon us. She has no mines. We take forty millions yearly from the earth.

If we take French silver what shall we do with our product? Europe will take none, for her stores in the great centers are filling not only with silver but with gold. Notwithstanding the great demand by Germany, the Bank of England steadily increases her stock of gold in reserve; and so would the Bank of France but for the desire of the French people to rid themselves of their silver. Here is a statement showing that the average amount of gold in the Bank of England for five years, from 1865 to 1870, was £15,200,000 or about $75,000,000. Let us see how her stock of gold has increased since. In 1873 she had £22,600,000; in 1874 the amount ran down a little—it was £21,500,000. In 1875 the amount was £22,000,000; in 1876 £28,400,000. In 1877 the amount ran down to £24,000,000, there being a great demand for gold in order to pay for products of this country. In 1878 it runs up to £28,000,000—£13,000,000 more than the average amount from 1865 to 1870, when the bank carried all the commerce of that country on £15,000,000.

Now, Mr. Speaker, as every man having dealings with the Government will have the opportunity of paying in silver, he will do then as men are doing now under our present laws, bring silver dollars or certificates to the Treasury. All your receipts from customs or internal taxes will be paid in this money, while the Treasury to keep its standard with the commercial nations will have to pay in gold or its equivalent. How long can the Treasury maintain this vaunted bimetallic standard? I think the gentleman from Ohio himself will assent to the proposition as I have stated it, or rather, I will not do him the injustice to question his understanding of it. The whole scope and bearing of the bill is to establish a single standard and that standard the silver dollar of 412½ grains. The day so long looked for, and I may say prayed for, by England and France will have come. Both nations want gold; the latter wishes to sell silver. They covet the hundred and forty millions of gold in our Treasury. Possessing, according to her earnest friend, Mr. Cernuschi, five hundred million five-franc pieces, she cannot afford to demonetize them, as he plainly states, but the people of France are shy of them, and begin to run them into the Bank of France and draw therefrom its gold. They are a provident people, careful individually of their money, and look sharply after that which is likely to be worth the most. In no other way can we account for the steady increase of silver in the Bank of France, and as steady a decline of her gold reserve.

By our present laws we stand exactly in the position of the great commercial states of Europe. We limit the use of silver, in reality making it subsidiary coin; so does Germany and the Latin union. The German thaler is still legal tender, and there is all the subsidiary coin needed in that empire. The coining of gold supplied the vacuum left by stopping the coinage of silver, and consequently a surplus of silver was created. The law establishing a gold coinage was partly political and partly financial, or rather the reasons creating a new standard were partly political and partly commercial. Several kingdoms were brought together, each one possessing a currency of its own. Bismarck saw that nothing of a financial nature would tend to consolidate the empire more certainly than to establish a uniform currency. With him a fixed idea must be carried out and the standard was changed, leaving, as I said before, a surplus of silver which must be sold. Its place has been supplied by gold, yet there is plenty of gold. This arises from the enormous production as stated by Mr. Seyd in the report of the silver commission. Here it is:

Production from 1800 to 1848: of gold, $496,000,000; of silver, $1,277,000,000. Production from 1848 to 1874: of gold, $3,645,000,000; of silver, $1,818,000,000.

Gold being abundant, is much more readily brought into circulation. In forty-eight years we had $496,000,000 of gold, and in twenty-six years, from 1848 to 1874, $3,645,000,000. In the first period $1,277,000,000 of silver were produced, and in the latter period $1,818,000,000. People like better to use gold than silver. Who wants to carry twenty dollars of silver in his pocket when he can get four five-dollar gold pieces, which will better answer his purpose?

The world advances in this as in everything else. Men will use those forces which are most convenient. The cumbersome coach gives way to the rail-car; the elevated railroad succeeds the street-car. The clearing-house drives from the street hundreds of men formerly employed in transporting gold and silver in settling daily balances, and the certificate of the deposit in the Treasury pays the duties formerly received in coin only.

What is true in Germany is equally true in France. If you want gold in France you can go to the bank and ask for it, but they keep the bank-notes at par by doling out gold only as it is needed. This is the experience of every man who visits France and has occasion to pay a bill. The French who have taken silver at a higher value than it is worth for years now find themselves burdened with it. Fifteen and one-half to 1 they find is more than it is worth, and that 19 to 1 is nearer its value. They keep up the circulation of subsidiary silver coin as it is done in this country, by being made redeemable in gold.

England uses a hundred million dollars, perhaps two, no one can tell the amount certainly, of silver which is legal-tender for £2 or $10. We have just passed—that is, through this House—a law for subsidiary silver, legalizing the same amount. It would seem the very height of folly to place ourselves in a doubtful and uncertain position, and I believe the wisdom of the House will announce to the country that there is to be no change in our policy until experience, which is the only safe guide in legislation, demands it. Our financial system as it stands to-day is superior to any and all others in the world. It is one of the great benefits brought to us by the necessities of the war. The genius and wisdom of Secretary Chase, assisted by wise and sagacious men in Congress, established it. Experience has perfected it, and if it can be allowed to stand yet a little longer, no change of parties, no political storm will ever bring its overthrow. The French financial system was wrought out amid the thunders of

the great revolution which awoke the nation to wondrous deeds and a new life. It has survived all changes of dynasty and all revolutions. The commune even, which burned and destroyed the most cherished memorials of France, though starving, dared not touch the nation's great depository, although it contained untold millions of the precious metals, so firmly fixed in the minds of the people is its value to their great commercial and industrial interests. Thus, as the years roll on, will our system be found to yield such benefit to the masses that neither the wildest fanatic nor the boldest iconoclast will dare to raise his hand against it.

The bill I have here is, I think, one of the most extraordinary ever introduced into the House. It will place our Government on the sea of irredeemable currency. Every day men will have to take the quotations of the gold room to find the price of gold. Every bale of cotton, every barrel of pork, every article sent abroad will have to be valued by the Liverpool standard. One day gold will be 16; another day it will be 20 above the standard which we have made. Shall we again open the gold-room in New York? Shall we again place in their former position the men who were the habitues of that gold-room, but who have now grown seedy for the want of business? I would fain believe that this House so understands the real benefit to the nation of maintaining the currency as it now stands that it will refuse to pass this bill.

Mr. Speaker, if I have any further time, I retain it for future use.

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia.) The gentleman has fifteen minutes of his time remaining.

Mr. VANCE. Mr. Speaker, the bill under discussion proposes to restore the double standard; that is, the silver dollar of 412½ grains shall be a unit of value as the gold dollar of 25.8 grains is a unit of value. The bill also proposes free and unlimited coinage of the standard silver dollar, when the silver is presented at the mint, together with the issuing of certificates when the silver, either coined or in bars, is deposited with the Secretary of the Treasury.

The provisions of the bill have been explained at length by the gentleman from Ohio [Mr. WARNER] who reported the bill from the Committee on Coinage, Weights, and Measures. I do not propose, therefore, to occupy the time of the House in going over the provisions of the bill. I propose to talk upon the general question—the general aspect of the silver question, the restoration of silver to its proper place.

In discussing the question of silver the mind is directed, Mr. Speaker, to the beneficence of the Creator. We find that he has wonderfully provided for his creatures. There is nothing wanting. We can find no fault with the works of the great Creator in providing for the beings he has made. When we look abroad upon the earth, our home, we see that it is carpeted with a color that is suited to the eye. The trees of the forest wave with their thousands of leaves and the eye is not injured in gazing upon them. And whether we look into the atmosphere or into the waters upon the face of the earth, or whether we delve into the earth, we find that God Almighty has wonderfully provided for all our wants. This is a subject that should be pleasing to the mind of every reflective man. All our wants are met. The earth is genial and kind in producing its harvests. We have the early and the later rains. We have the clouds to temper the heat. We have the streams of water pouring through the earth, sparkling on the mountain sides and flashing in the valleys; and looking down into the earth we find iron, mica, corundum, agalmatolite, lead, silver, and gold, provided for the wants of man.

Among the precious metals are gold and silver. Gold is perhaps the most beautiful of all metals. Next to that in usefulness, in beauty, and in brilliancy is silver; and undoubtedly the all-wise Creator has placed in the earth the veins here and there of this beautiful metal that it may become a medium of exchange representing values among mankind.

We find, Mr. Speaker, that for thousands of years silver has been "current among the merchants" of the earth. Three thousand seven hundred years ago Abraham bought the field and cave of Macphelah in which to bury Sarah, and the record states that the purchase money was four hundred shekels of silver, "current money with the merchant," which sum was paid to Ephron, and the right to the field was made sure unto Abraham for a possession forever. Two thousand seven hundred years ago, when David numbered the people and offended God, the prophet placed before him three things: that he should have seven years of famine, or be pursued three months by his enemies, or have three days of pestilence. David chose the pestilence. "Let us," he said, "now fall into the hands of the Lord." And when the angel stood with his drawn sword over Jerusalem the prophet directed David to go up and worship, and he bought the threshing-floor and oxen of Araunah for fifty shekels of silver; in value about $25, I believe.

So reaching through the flight of ages for thousands upon thousands of years silver has been a legal tender. And it remained for these latter times, when the wants of men have increased, and when men have multiplied upon the face of the earth until now they number more than a thousand millions—it remained for these latter times for men to destroy the commercial value of this beautiful metal, silver, and to commit a great wrong upon mankind.

What is money after all? It is the representative of value. Sometimes people resorted to barter; that is, they swapped cattle or sheep for some other commodities. But that was inconvenient, and it was necessary to have some representative of value.

I recollect reading in Wheeler's History of the State of Frankland, that is now, I believe, covered by a part of Tennessee, that in those days when the people had to pay their taxes the currency was coonskins. It was said that upon a certain occasion a man came in to pay his taxes and presented a lot of opossum skins with coon tails tied on to them. Governor Swain, president of the University of North Carolina, used to relate with glee a story of a pupil from the mountain section of the State. When the mountain boy was asked what kind of currency he called that, he said that it was a "re-tail" currency. [Laughter.] That shows that there have been different ways of trade in the world. It became necessary that men should have something to represent value. Consequently coin has been made and kept in circulation.

The act demonetizing silver startled the people of this country; such a thing was not contemplated. It has already been stated that the act was unknown to the people, that it was a fraud. I believe some explanation was made over on the other side awhile ago by my friend who preceded me, [Mr. CLAFLIN,] but I could not hear very distinctly, and I do not know what his statement was.

I am under the impression that the provision demonetizing silver was perhaps placed in the statutes when they were revised, and that the act dropping the silver dollar from coinage was passed in 1873. At any rate it was unknown to the country at the time, and when known it had a startling effect.

In 1876, during the canvass for President, in many parts of the country, when it was charged that the silver dollar had been demonetized, and that gold alone was the standard of value in the United States of America, that was denied; it was denounced as a falsehood. Such a thing as that had never occurred to the people, and they did not suppose it ever would occur.

What was the effect of the demonetization of silver? It was to establish a single standard of value and that standard gold. I do not hesitate to say that gold is not the money of the people, and never can be. Gold is royal money; gold is not a money that can be obtained by the laboring masses of this country. Silver is the money of the people; silver is the money they have been accustomed to from time immemorial. The single standard of gold was therefore a contraction measure, fraught with disaster to this great country of ours.

What further effect did it have? It had the effect of diminishing the value of silver in the markets of the world; silver went down in price. What an unwise act that was for statesmen to carry out in the United States, seeing that we are a silver-producing country? My friend from Pennsylvania [Mr. KELLEY] says that the interests of this great people ought to be protected. Now it looks to me that it was a very unwise thing for us to legislate in the interest of those countries that do not produce silver and against our own country which is a silver-producing country.

What further has been the effect of this contraction scheme, this making gold alone the standard of value in the United States of America? My friend from Massachusetts [Mr. CLAFLIN] in his opening remarks spoke of returning prosperity in the United States. I do not know upon what he bases his calculations. Does he base them upon the fact that corn in North Carolina has been selling for twenty-five or thirty cents a bushel? Or is it because bacon was delivered last summer at Raleigh from Chicago at $3.90 a hundred pounds?

What is the sign of returning prosperity in our beloved country? Low prices; failures all over the land. Every day the papers tell us of failures; of operatives thrown out of employment; of large factories closed, the music of their machinery still; bread taken from the mouths of the laborers, and the cries of their children, because of hunger, going up to God.

That is not all. Look at the mournful pictures in the newspapers of men driven to suicide because their poor ones at home could not be fed. I will tell you one of these signs of prosperity. A man is found in the river, having drowned himself; and when his pockets are searched, in them a letter is discovered saying that he had not the heart to go home to his children because he had no bread for them. That is the kind of prosperity to which the gentleman refers. Then there is the shrinkage of values. What becomes of the debtor class?

A man bought a farm on credit at $2,000 when money was plenty. Four thousand bushels of corn at fifty cents per bushel would pay for it. Contraction of the currency and demonetization of silver reduced corn to twenty-five cents. It then takes eight thousand bushels to pay for the place, and it is then only worth $1,000. A hotel in my town cost $18,000, and after contraction sold for $6,000.

It seems to me, Mr. Speaker, that the legislation for years has been in behalf of the money-rings of the country and against the poor. Gentlemen tell us, "You can buy so much more with a dollar." But how are you going to get the dollar? That is a very significant question.

I think it a true position that there ought to be money enough for the wants of the people; and to say that the States shall not bank, that the Government only shall issue money, and then to destroy a large portion of the currency, to demonetize silver and adopt gold alone as the standard, is a crime against labor, a crime against the toiling people of our country. It is class legislation and in the interest of the money-rings and money-sharks of the land.

Now, let us look a little at the benefits of free coinage. Free, unlimited coinage will give us the money that we want. Why should people be afraid of having too much silver? To talk in that way is

an absurdity. Can you have too much of a good thing? There is no reason in saying that we shall ever have too much silver. Objections of that kind might be made against an irredeemable inflated currency. I deny that I ever was an inflationist. What is the meaning of an inflated currency? It means to have as money a great bulk of something for which there is no redemption. Nobody proposes that. But we want enough money for the demands of the people, enough to enable them to pay their taxes, enough to keep the factories going, so that plenty may prevail in every home throughout the length and breadth of the land. Gentlemen need not be scared at the idea of having too much money. Therefore we say let the coinage of the standard silver dollar of 412½ grains be unrestricted. Let the people of the country come in with their silver and have it coined.

Then there is another thing that we ought to do. We ought, as speedily as possible, to provide for recoining such coins as have been discredited by the action of the Secretary of the Treasury. Take the trade-dollar for instance. That has the stamp of the Government on its face—the eagle—and you know we are all in favor of the eagle; it is a great bird. The Government of the United States on the face of the trade-dollar has declared that it is worth a dollar. It contains 420 grains of silver. The other day when the Secretary of the Treasury was before our committee I asked him what the trade-dollar was worth at the Treasury. At first he said that they did not take it at all; then he said that it was worth at the mints about eighty-five cents. Then there is the Mexican dollar, containing 417 grains, which I believe used to pass current. Now, Mr. Speaker, there is such a thing as demonetizing silver without doing it legally; and the action of the bankers, as I think, assisted by the Secretary of the Treasury, has practically demonetized silver. We propose to restore free and unlimited coinage. Let the people bring in their trade-dollars and let them be coined into standard silver dollars of 412½ grains, which shall be a legal-tender. There is now confusion in the country in regard to these coins. To show this, I will send to the Clerk to be read an article which I have clipped from a paper published in my district.

The Clerk read as follows:

HE CHANGED HIS VIEWS.

"Rah for BOB VANCE, for givin' us back our silver money," said a countryman about a year ago, when one of our merchants paid him seventy-five cents in silver.

He came in the post-office yesterday and wanted to send a money order to his uncle; he pulled out of his "breeches" pocket twenty-five trade-dollars, and with the air of a man who is on good terms with himself, flung it down on the desk asking the clerk to count "that thar money." On being informed that this sort of money didn't go at the post-office he vented his astonishment: "What, not take silver money; the dollars of our daddies. Not take that? What the dival do you mean?"

"No, sir; can't take that," quietly replied the clerk.

"Well, that heads anything yit," said he, as he slowly gathered up the coins, wearing a look that better belongs to a man that buys a prize box and draws a blank.

"Plague on BOB VANCE for givin' us sich money. A greenbacker will get my vote next time."

[Laughter.]

Mr. VANCE. So you see there is confusion in the country.

Mr. FISHER. I hope the gentleman will not add to the confusion by bringing the trade-dollar into this discussion. As I understand, this bill does not propose any action in regard to the trade-dollar.

Mr. VANCE. I will explain that matter hereafter.

Now, I wish to say that the effect of this bill, as I understand, will be to enable the holder of a trade-dollar or a Mexican dollar to go to the mint and have it coined into legal-tender dollars. The effect of this, I believe, will be to bring the trade-dollar and the Mexican dollar to par.

Mr. KEIFER. I will ask the gentleman whether he means to say that the trade-dollar was not originally a legal tender in amounts of $5, and whether he did not participate in the legislation of the Forty-fourth Congress (of which I believe he was a member) which totally took away the legal-tender character of the trade-dollar, the democratic House leading off in that movement?

Mr. VANCE. I do not remember how I voted on that question; but I am free to say to my friend that at that time I did not understand or have my attention called to the matter. At any rate I had nothing to do with establishing the trade-dollar. The sum of $5 as a legal tender was of very little value.

Mr. REED. Your constituent seems to have understood it.

Mr. KEIFER. It was a very short bill.

Mr. VANCE. It may be that I did not oppose the bill, supposing the trade-dollar to be in China, where it was intended to go. But suppose I did not oppose the bill referred to at that time, and have since discovered there was a wrong about it, should I not seek to correct it. Now, the trade-dollar ought to be a legal-tender dollar; we ought not to have a discredited coin like this circulating in the country. It leads to confusion. The trade-dollar, not the legal-tender dollar of the Bland bill, was established before I came to Congress, for the avowed purpose of trading with China, and not for circulation at home. It is urged, Mr. Speaker, that the restoration of the double-standard will flood our country with silver; that it will drive out gold. I do not see how that can be if we have the balance of trade with us. I asked my friend from Massachusetts in committee what would carry the gold out instead of the silver. He said the inferior coin would drive out the superior coin. How can silver be inferior to gold when each one of these metals is valuable in its proportion, that is, about 15 or 15½ to 1.

Mr. CLAFLIN. I would ask the gentleman if that is the proportion now?

Mr. VANCE. Then, what is it?

Mr. CLAFLIN. Is silver 15½ now in England or any other country?

Mr. VANCE. I believe that it is not since silver has been demonetized abroad. Not because of the increased quantity, but because the acts demonetizing silver in England, Germany, and elsewhere, have appreciated gold and depreciated silver.

Mr. CLAFLIN. In what place has silver been demonetized abroad?

Mr. VANCE. England, Germany, &c.

Mr. CLAFLIN. No, sir; not in Germany.

Mr. VANCE. I do not understand the gentleman's question exactly. Where does he speak of when he asks concerning the proportion of silver to gold?

Mr. CLAFLIN. The standard was 15½, but on account of the depreciation of silver it is now about 19 to 1.

Mr. VANCE. What caused the depreciation in the price of silver? It was the demonetization of silver that caused it. That is the reason why the gentleman computes the proportion 19 to 1.

Mr. CLAFLIN. But allow me to say to the gentleman from North Carolina that silver has not been demonetized.

Mr. VANCE. Oh, yes, it is demonetized in England and other countries.

Mr. WARNER. Does the gentleman from Massachusetts mean to say that silver has not been demonetized in England?

Mr. CLAFLIN. I do.

Mr. VANCE. I decline to yield any further.

Now, Mr. Speaker, my reading is that silver has been demonetized in Germany, in England, and in other portions of Europe. That has been my understanding, and I think I am correct. I say it was the act demonetizing silver which caused bullion to go down in value in the markets of the world.

We now have the information, Mr. Speaker, that the governments which demonetized silver have discovered their error, and are about to make a change. It becomes the United States Government to lead off in restoring silver to its place as one of the coins in the circulation of all countries.

When the honorable Secretary of the Treasury was before our committee, Mr. Speaker, he was asked whether there was too much silver in the country, and whether the making of silver coinage free and unlimited would be a wise act, to which he replied that silver would come back into the Treasury. Then I asked him why not pay it out to the bondholder; why let the money stay in the Treasury when we have this vast bonded debt crushing out the lives of our people? Why not pay it out to the bondholder? He said if that should be done the money would come back again into the Treasury. If so, let it come back into the Treasury, and let us continue the operation of receiving it and paying it out to the bondholder until we are entirely freed from the enormous bonded debt now oppressing us.

It seems to me the time has come, Mr. Speaker, when there should be some legislation in behalf of the people, for nearly all the legislation has been in behalf of the bondholder. The bondholder bought his bonds at sixty cents on the dollar, greenbacks, and they were to be paid in the currency of the country, but a bill was afterward passed which made them payable in coin, and then the next step was to demonetize silver so the bondholder was left with the right to payment in gold from the Government of the United States for his bond, making the bondholder all the time richer and the people poorer.

So it seems to me there is no difficulty in the case in regard to the country having too much money. I believe the production of gold and silver throughout the world is about equal. I refer to the proportion stated awhile ago. If I remember correctly, there are about $3,500,000,000 of gold in the world and about $3,250,000,000 of silver, and this proportion between the metals has continued for many years, over two hundred, I believe. It is not probable that we will ever discover more gold and silver than we want. It is not at all likely. I think the great Maker of all things has so arranged it that the precious metal will be dug out of the earth in proportion as the people increase in population. Now surely forty-five millions of people in the United States need more money than three millions did at the close of the revolutionary war.

The restoration of the double standard I think will be beneficial to the Government in another respect. If gold is scarce the Government can redeem its paper with silver, and I think that will be an advantage.

I say, sir, in conclusion, that in my judgment the removing of silver from its proper place in circulation, in other words, the demonetization of silver, is a crime against the laboring and toiling millions of mankind. It makes money more difficult to obtain. It makes it scarcer. It enables those who hold money to demand exorbitant rates of interest; and to-day I am told that the national banks are charging as high as 18 per cent. for money. I have a letter now in my possession from a gentleman in Connecticut complaining of the exorbitant rates of interest. Within the past few years I have myself known 5 per cent. a month to be demanded for money by those who held it. Is that prosperity? Is that happiness? Is that peace? Is that plenty in this land of ours? Five per cent. a month! Five times 12 are 60; 60 per cent. a year for the use of money, compounded every month, the man demanding his interest in advance every month!

How long will it take this country of ours to grow into prosperity and be happy with such a rate of interest as that? The Bank of England for two hundred years has never got a higher rate of interest than 10, and sometimes it is as low as 2 per cent., and the consols of Great Britain, I believe, bear 3 per cent. interest, and yet are taxed, holders thereof paying their share of the expenses of the Government.

There ought to be legislation that would cheapen money. Money ought to be plentiful. For whom shall this honorable body legislate, pray tell me? Shall we legislate alone for those who live in palaces, for those who live in banks whose fronts are marble? Shall we legislate for the nabobs who drive their carriages with six horses, and have their servants dressed in livery, aping the royalty of the Old World, smacking of the rotten dynasties of those countries that trample the people into the dust? Is that the class for whom we shall alone legislate?

I say it is the duty of the Government, it is the duty of the National Legislature, to protect the masses, to protect the people. The laws should rest equally on the rich and on the poor. I believe in an equality of law for the humblest and the poorest as well as for the wealthiest. And do not forget that some of the humblest and poorest in our land have been swindled out of their earnings. Do not forget that the earnings of the humble colored washerwoman, as she toiled at the tub, were placed in the Freedman's Savings Bank, and the little amount was taken away from her. I say it becomes this National Legislature now to do something for the people, and I hope that they will do something for them. I hope, sir, that the day is dawning when that will be done. It is said of Frederick the Great that in the midst of his great and wonderful wars, and they were wonderful victories which he gained, that in passing from one point to another in his dominions he would stop by the roadside even to hear the petition of the poorest and humblest citizen, and on one occasion he actually put his judges in prison because they did not redress the wrongs of one of the humblest of his people. That is something we may learn from so great a man as Frederick, though he was a king.

I say it is the duty of this Government to protect its masses and to make the people happy. It is said that a happy home is like heaven; but how can a home be happy where there is a gnawing for the want of bread and where the children are crying from hunger? Therefore I hope that the representatives of the people will take such steps as will relieve the people and give them that money which they want and which they need. The gentleman from Ohio [Mr. GARFIELD] the other day said in his speech on the Army bill, making, as I think, a somewhat unkind allusion—I do not see him in his seat, but I have nothing personal to say; I never do anything of that kind—that the South had first attempted to shoot the Government to death, and that now the proposition was to starve the Government to death. Mr. Speaker, there is much more danger, in my opinion, of destroying this Government by injustice and by class legislation than there is to apprehend from the men of the South starving the Government to death. A friend beside me remarks that there is much more danger of the Government starving the people to death. That puts it just the other way. But it is not the Government that is starving the people to death. It is not the Government; it is those who have the control of the legislation. The Government is good. The Constitution is good. The spirit of liberty that lives in our people, that animates their hearts, the love of country that is developed by the fireside as the mothers of the land take their little ones upon their knees and teach them the great lessons of human liberty—all these are good. The Government is good; thank God for the Government—the Government established by our fathers! It is not the Government that is doing the mischief; it is the laws that have been passed by those in authority that are crushing the life out of the people. The gentleman talks of starving the Government to death. Why, sir, if he would come down to my country and go into my Sunday school the children there would teach him a better philosophy than that. They would teach him that nothing can die. They would teach him, what Bulwer has so sweetly expressed:

There is no death! The stars go down
To rise upon some fairer shore,
And bright in heaven's jeweled crown
They shine forevermore.

There is no death! The dust we tread
Shall change beneath the summer showers
To golden grain or mellow fruit,
Or rainbow-tinted flowers.

There is no death! The leaves may fall,
The flowers may fade and pass away;
They only wait through wintry hours
The coming of the May.

Talk about death to this great country; that is a thing that can not be. No, sir; gentlemen of the North, I stand here to-day with you to proclaim my love for this country and for its institutions. I stand here to-day to say that I love it, that I love its traditions. The talk about this great country being starved to death is a useless waste of time; it cannot be done. Can it, [addressing General HARRY WHITE,] my friend from Kiskiminetas? [Laughter.]

I am happy in that belief, and my faith is in the integrity of the people. I have faith that around the firesides of the humble homes of the poor, and scattered all over our land, the children will be taught the sublime lesson of heroism through which our fathers passed in building up this great and noble Government, the pride of the whole earth.

Men may come up on the surface and do wrong. Laws may be passed that are unjust to the poor; laws may be passed that will wring the sweat and blood out of the children of toil, but this Government cannot be destroyed. Built up in tears and in suffering, cemented with blood and made heroic and glorious by the death of its noble sons, its base is the great granite rocks of the Constitution. Cursed be the arm that tears a single stone from the grand edifice.

No, sir, this country cannot die. We may differ, we do differ, as to the proper means we should pursue. It is manly to differ. Come up and speak your sentiments like men; do not be afraid. Let us all try to do right.

Let us lay aside all sectional prejudices. I wish to God that I never again in this House might hear any allusion to the mournful and sorrowful scenes of our unhappy civil war, at least in a way to arouse sectional hate. I wish from my very heart that I might never again hear an allusion to them, spoken in unkindness or want of charity on either side in our debates.

As I pass through the country I see the cemeteries, the national grave-yards. I see the national flag flying over them; I see the mounds here and there. On the one side are those of the blue, on the other are those of the gray. There they sleep—how peacefully! Let us learn a lesson from these brave men who fought and died, and now together they sleep their last sleep.

What we want to-day is not to look mournfully into the past; that is gone. Let us wisely improve the present; it is ours. This is our opportunity, this is our time to do something for the country. This is the day and this the hour when we should do something for our country.

I have endeavored to do that. I have voted against the adjournment of this session because I believe the country ought to have relief. Gentlemen may differ with me. They can do so, and I will be friendly with them; I will love them. I can beat you to death in that loving business. I say I have steadily voted against the adjournment of this session without doing something for this country. It becomes you and it becomes me to lay aside all party prejudices. After all, gentlemen of the House of Representatives, what is party? There is something grander, nobler, and better than party. There is something that rises higher into the pure atmosphere of man's better nature and calls out, if he has it, that which is good and true and beautiful within him. Surely, we ought all of us to try to cultivate a love for that which calls out those better traits. It is our country, our common country—our country first, our country last, and our country forever. [Applause.]

Mr. FISHER. As it is my purpose to address the House on this bill, and as the hour is now somewhat late, I will move that the House adjourn.

Mr. WARNER. I hope the House will not adjourn; we might consume an hour more on the question.

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia.) The motion to adjourn is not debatable.

PRISON AND PRISON SYSTEMS.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of the Navy transmitting, in reply to a resolution of the 3d instant, a copy of the report of Colonel J. L. Broome, United States Marine Corps, in relation to prisons and prison systems of the United States; which was referred to the Committee on Naval Affairs.

COMPENSATION OF COLLECTORS.

The SPEAKER *pro tempore* also laid before the House a letter from the acting Secretary of the Treasury, suggesting an amendment to section 3045 of the Revised Statutes; which was referred to the Committee on Commerce.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DAVIS, of North Carolina, until Saturday next;

To Mr. YOCUM, until Thursday of next week, on account of important business; and

To Mr. JAMES, indefinitely, on account of sickness.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for the withdrawal of papers as follows:

To Mr. ELLIS, in the case of the heirs of General Twiggs, no adverse report;

To Mr. BLACKBURN, in the case of Peter F. Kendall, no adverse report; and

To Mr. URNER, in the case of Redmond Tully, no adverse report.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The pending question is upon the motion of the gentleman from Pennsylvania, [Mr. FISHER,] that the House now adjourn.

Mr. STEPHENS. I trust the House will adjourn for the accommodation of the gentleman from Pennsylvania.

The motion was agreed to; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: A paper relating to the pension claim of Francis McLaughlin—to the Committee on Invalid Pensions.

Also, papers relating to the pension claim of Mary Byrd Dallas, of Tennessee—to the same committee.

By Mr. BOUCK: Papers relating to the claim of certain laborers employed upon the Government works on Fox River, Wisconsin—to the Committee on Commerce.

Also, papers relating to the claim of C. D. Snydam and others, citizens of Wisconsin, for the construction of certain locks and dams on the Lower Fox River—to the same committee.

By Mr. MANNING: Papers relating to the war claim of Robert D. Fort—to the Committee on War Claims.

By Mr. McCOOK: The petition of George C. Ellison, for compensation for services rendered and expenses incurred while acting as chief engineer of the House of Representatives—to the Committee of Claims.

By Mr. MONROE: Papers authorizing L. L. Rice to locate a land warrant—to the Committee on Public Lands.

By Mr. REAGAN: The petition of Eli Ayres, for quieting land titles growing out of the treaty of May 24, 1834, between the United States and the Chickasaw Indians—to the Committee on the Judiciary.

By Mr. SPRINGER: The memorial of Fred. Wallroth, of New York City, for an investigation of the income-tax case of the United States *vs.* John S. Dickerson—to the Committee on Expenditures in the Department of Justice.

By Mr. STONE: The petition of Thomas D. Gilbert and 43 others, citizens and business firms of Grand Rapids, Michigan, for the building of a bridge across the Detroit River at Detroit—to the Committee on Commerce.

By Mr. THOMPSON: Papers relating to the war claim of Major John A. Morrison, of Russell County, Kentucky—to the Committee on War Claims.

By Mr. WARD: The petition of Edgar Huson, for an extension of patent—to the Committee on Patents.

By Mr. WEAVER: The petition of C. M. Hurless and 57 others, citizens of Keokuk, Iowa, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. WILLITS: The petition of Mrs. G. Root, officers of the Women's National Christian Temperance Union, and 228 others, of similar import—to the same committee.

By Mr. YOUNG, of Ohio: The petition of Philip M. Seigler, of Dayton, Ohio, for a pension—to the Committee on Invalid Pensions

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IN SENATE.

THURSDAY, *May* 8, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, to which was referred the bill (S. No. 343) relating to printing impressions from portraits and vignettes, reported it without amendment.

BILLS INTRODUCED.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 571) extending the limitation of the liability of vessels in cases of collision to foreign vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 572) to amend an act approved February 24, 1879, entitled "An act to create the northern judicial district of the State of Texas and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts;" which was read twice by its title, and referred to the Committee on the Judiciary.

STATISTICAL REPORTS ON INTERNAL COMMERCE.

Mr. COCKRELL submitted the following resolution; which was read:

Whereas by the act of Congress approved March 3, 1875, it is provided that "It shall be the duty of the officer in charge of the Bureau of Statistics to gather, collate, and annually report to the Secretary of the Treasury, for transmission to Congress, statistics and facts relating to commerce with foreign nations and among the several States, the railroad systems of this and other countries, the construction and operation of railroads, the actual cost of such construction and operation of railroads, the actual cost of transporting freights and passengers on railroads, and on canals, rivers, and other navigable waters of the United States, the charges imposed for such transportation of freight and passengers, and the tonnage transported; and the reports now by law required to be prepared and published monthly in the said Bureau of Statistics shall hereafter be prepared and published quarterly, under the direction of the Secretary of the Treasury;" and the said law required that "the statistics and facts relating to commerce with foreign nations and among the several States," &c., should be reported annually to the Secretary, to be transmitted to Congress; and

Whereas, in November, 1876, the first annual report on commerce and navigation made under said law was transmitted to Congress and did not contain the annual report on the domestic or internal commerce of the United States, and the first annual report on internal commerce which should have been made in November, 1876, was not made until June 30, 1877, and the second and third annual reports on internal commerce which should have accompanied the annual reports on commerce and navigation made in November, 1877, and November, 1878, have not yet been made, or if made to the Secretary of the Treasury, have not been transmitted to Congress; and

Whereas the statistics and facts required to be gathered, collated, and annually reported to the Secretary of the Treasury for transmission to Congress are of great value and should be regularly and promptly each year transmitted to Congress: Therefore,

Resolved, That the Secretary of the Treasury be, and hereby is, required and directed to report to the Senate, when said second and third annual reports on internal commerce will be transmitted to Congress, and why they have been delayed, and whether such annual reports on internal commerce can hereafter be transmitted to Congress at the beginning of each regular session in December of each year with the regular annual reports on commerce and navigation, and, if not, then what additional legislation, if any, is necessary to secure the transmission to Congress of such annual reports on internal commerce at the beginning of each regular session.

Mr. ALLISON. Let that lie over, Mr. President.

Mr. EDMUNDS. It should be printed, I think.

The PRESIDENT *pro tempore*. The resolution will go over and be printed.

ENLISTMENTS IN THE NAVY.

Mr. JONES, of Florida. I ask the Senate to proceed to the consideration of House bill No. 286, reported by me yesterday and laid over under objection by the Senator from Virginia, [Mr. WITHERS.] It authorizes the Secretary of the Navy to enlist annually seven hundred and fifty boys in the Navy. The bill passed the House and is now on the Calendar. I should like to get the unanimous consent of the Senate to consider it at this time.

Mr. CONKLING. I have no objection to the bill except the possibility and the fear that when these seven hundred and fifty boys grow up they may be used to intimidate voters at the polls. If the Senator has considered that subject and is willing to risk it, I shall not object.

Mr. JONES, of Florida. I do not think it will be necessary to consider that point.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy.

Mr. DAWES. Perhaps it is not exactly in order at this moment, but I ask the attention of the Senator from Florida to the title of the bill. No mortal man can tell from the title to what the bill relates. I suggest to him some amendment of the title. Although it does not come in just now, I hope he will at the proper time suggest some amendment to the title indicating the matter of the bill.

The PRESIDENT *pro tempore*. That will be in order after the bill is passed, if it should pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. A motion to amend the title is now in order.

Mr. DAWES. I suggest to the Senator from Florida that he put in an addition to the title indicating that it authorizes the appointment of boys in the naval service, or something of that kind.

Mr. JONES, of Florida. It changes the phraseology of the sections relating to enlistments.

Mr. DAWES. I suggest to the Senator that he add "in relation to enlistments in the Navy." I submit that amendment to the title.

Mr. WHYTE. The bill simply changes the sections referred to in that it specifies the number of boys that can be taken as apprentices into the service, and it changes the ages of the boys received now from sixteen to eighteen, and makes it from fifteen to eighteen years of age. That is the difference.

The PRESIDENT *pro tempore*. Will the Senator from Massachusetts please send his amendment to the desk so that it can be stated?

Mr. DAWES. I submit this amendment: After the words "relating to" insert "enlistment of boys in," so as to read: "A bill to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the enlistment of boys in the Navy."

Mr. JONES, of Florida. I suggest to the Senator from Massachusetts that inasmuch as an amendment would make it necessary to send the bill back to the House, I do not think it should be made.

Mr. DAWES. I think it is a bad practice to pass such a bill with simply a reference to sections of the Revised Statutes; but if the Senator thinks there is any apprehension of the fate of the bill on going back I will not offer any amendment. I desire, however, to call attention to the fact that such titles to bills embarrass any one who undertakes to find out what amendments have been made to laws; but I withdraw the amendment at the suggestion of the Senator from Florida.

The PRESIDENT *pro tempore*. The amendment is withdrawn, and if there is no objection the title will stand as reported.

ASSISTANTS IN THE LIBRARY.

Mr. VOORHEES. I desire to call up the bill which I reported yesterday in regard to an increase in the force of the Library, and put it on its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress.

Mr. KERNAN. I simply want to inquire why is it that these assistants are necessary at this particular time? I do not understand the subject at all.

Mr. VOORHEES. I will explain. The Librarian of Congress came before the meeting of the Joint Committee of the two Houses on the Library yesterday, and made such a showing of the total insufficiency of the force there, that the committee unanimously and very promptly authorized me to report a bill giving him three additional assistants, at $1,200 a year each, and desired me to ask its consideration at once without the usual postponement of one day. I did so yesterday morning, but the bill went over until this morning. I can only say to the Senator from New York that the showing was such by the Librarian, who is considered a very careful and very competent man by us all, that the sentiment of the committee was unanimous that he ought to have these three additional clerks. He is managing the greatest library in the United States with about one-fourth of the force which is given to libraries of less magnitude than this, and really he ought to have more assistants than other libraries instead of less.

Mr. ALLISON. May I ask the Senator from Indiana if these three assistant librarians are not already provided for in the legislative appropriation bill?

Mr. VOORHEES. Some two years ago, owing to an emergency in the office, there were three assistants allowed the Librarian, but he says that in addition to that force he is under the necessity of asking for three more.

Mr. ALLISON. He desires three in addition to those that are provided for in the legislative appropriation bill?

Mr. VOORHEES. Yes, sir; and that met the approbation of the committee.

Mr. ALLISON. I have no objection to the bill. I am quite willing to give him the necessary number that he requires.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SPRUILLE BRADEN.

Mr. McDONALD. I ask for the present consideration of the bill (S. No. 125) to appoint Spruille Braden an ensign in the United States Navy. It is a bill that passed the Senate at the last session of Congress, but failed to pass in the House because it was not reached there. It has been introduced again at this session and referred to the Committee on Naval Affairs, and by them reported back, recommending its passage. It will take but a moment, I think.

Mr. COCKRELL. Let the bill be reported for information.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. CHANDLER. I have no objection to the present consideration of the bill, but I shall object seriously to the passage of the bill. When it may be considered is of no consequence to me. The truth is that there are more graduates from our naval school than are required for the naval service. I have no doubt that this is a most deserving young man, but he is not needed as an officer in the Navy. The President now has the right to nominate him if he sees fit.

Mr. McDONALD. Oh, no.

Mr. CHANDLER. No matter; he has the right to nominate him to some other position.

The PRESIDENT *pro tempore*. Does the Senator from Michigan object to the consideration of the bill?

Mr. CHANDLER. I shall not object to its present consideration; but if it comes up for consideration I shall oppose the passage of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 125) to appoint Spruille Braden an ensign in the United States Navy.

Mr. McDONALD. I ask that the report made by the Committee on Naval Affairs at the last session, and which has been adopted by the committee at this session, be read.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report submitted by Mr. Sargent February 12, 1879:

The Committee on Naval Affairs, to whom was referred the bill (S. No. 1638) to appoint Spruille Braden an ensign in the United States Navy, report:

That the facts in the case of Spruille Braden are set forth at length in the accompanying letter from the Secretary of the Navy. It would seem from this state of facts that Mr. Braden would make an excellent officer of the United States Navy, and has the qualifications and characteristics to distinguish himself in the service. We therefore recommend the passage of the bill.

NAVY DEPARTMENT,
Washington, February 6, 1879.

SIR: I have the honor to acknowledge the receipt of the request of the Senate Committee on Naval Affairs, communicated on the 24th ultimo, that the Department would lay before them such information as it may be in its power to furnish in reference to the appointment of Spruille Braden as an ensign in the Navy, with such recommendation as it may think proper to make.

The Department has no official information on the subject, but there is no reason to believe that the following statement of facts is not reliable:

Young Braden was not long since a pupil in a naval college in England, where he passed through a course of professional study; and is supposed to have been the first American youth who was ever admitted to a like privilege. At the close of his term he passed the customary examination, graduated at the head of his class, which, besides himself, was composed entirely of young men of England, and won the annual prize, valued at $500, which is conferred by the Queen upon "the boy who shows the qualities likely to make the finest sailor." He seems to have achieved the triumph not only because in the opinion of officers and professors he had fairly won it, but with the unanimous assent of his classmates, who were magnanimous enough to concede it. Several other prizes were also awarded to him under like circumstances.

After his graduation, young Braden was offered a midshipman's warrant in the royal navy upon the condition that he would renounce allegiance to the Government of the United States and become a citizen of Great Britain. The temptation was great to a young man just entering life, but he declined it upon the express ground that he owed a higher duty to the country of his nativity, from which nothing could release him—not even the prospect of honorable service and promotion in the British navy.

Under these circumstances, it would seem that to place him "at the foot of the list of ensigns on the active list" of the Navy, which is proposed by Senate bill No. 1638, would be an act of generosity on the part of his own Government which throughout his life he would not be likely to forget. He would not, in that position, interfere with the promotion of any of the ensigns now in the Navy; but, taking his place at the foot of the list, would realize that his future official success would depend upon his own personal merit. The Department, therefore, can see no objection to the passage of the bill laid before it by the committee.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Chairman Committee on Naval Affairs,
United States Senate.

Mr. CHANDLER. I have no doubt that this is a very deserving young man; no doubt he made a very fine record; but if our Naval Academy does not produce officers fully qualified to occupy the positions that are at the disposal of the Government, we had better abolish the Naval Academy. As I am informed, we produce yearly more midshipmen, who soon become ensigns, than the requirements of the Navy can absorb. Therefore, I see no reason why we should go outside of our present Naval Academy to put a man in the line of promotion. He is to be, of course, but an ensign, but he may rise until he becomes a rear-admiral, and it is giving not the compensation for to-day or to-morrow, or this year or next year, but a life compensation which may amount to a great many thousands of dollars in the whole. I have no objection to the young man, but I object to the principle of the bill.

Mr. McDONALD. I do not expect to add anything to what is said by the Secretary of the Navy in the letter he addressed to the Committee on Naval Affairs. This young man is a native of my State and of my town. I have known him from his infancy, and I know that he merits everything that is said in regard to him in the letter which has been read. It is an exceptional case, one not likely to be presented again in very many years; and certainly it cannot very seriously disturb the United States Navy to put a young man in that position on account of his personal merit.

Mr. COCKRELL. Will the Senator from Indiana answer me if the effect of the bill is not to place him above all the others of that grade?

Mr. McDONALD. No, sir, it puts him at the foot of the ensigns, the lowest commissioned officers.

Mr. ALLISON. It places him above the midshipmen?

Mr. McDONALD. It puts him above midshipmen.

Mr. COCKRELL. It puts him above all midshipmen?

Mr. McDONALD. Yes, sir.

Mr. COCKRELL. How long have some of those midshipmen been in the service, above whom he will be placed?

Mr. McDONALD. I have no means of stating that. They have, of course, gone through the course of studies at the Academy. How long they must be out of that school before they receive their commissions I am unable to state.

Mr. COCKRELL. Is this young man a graduate of the Naval Academy?

Mr. McDONALD. He is a graduate of a naval school in England, and took the highest prizes.

Mr. COCKRELL. And we are to reward him by an act of Congress for leaving his own country and going to a foreign country and graduating in one of her institutions?

Mr. McDONALD. No, sir; it was altogether a matter of accident so far as going to school there was concerned; and after he got through he had the offer of a commission in the navy of England if he would become a subject of that country. It was of course a matter that he was at liberty to accept or decline, and he preferred to come home and seek to enter our service.

Mr. VOORHEES. A single word in response to the remark made by the Senator from Missouri. The remark was made in a tone of reproach to this young man for having graduated in a naval school of England. With that inflection of voice in its tone which bears a reproach the Senator wanted to know whether we were to reward him for that. Mr. President, whenever an American boy can go into one of the oldest schools of one of the oldest and proudest and most intellectual countries of Europe, and not merely stand in the front of his class and graduate with the highest honors, but take the Queen's special medal for high scholarship and bring it home with him, I feel like rewarding him for having done honor to his country. I feel like

rewarding him for having shown the people of England that boys from this country are not only their equals but their superiors, and I am glad that it happens in this case that it was an Indiana boy who went there and outstripped the youths of the proudest houses of England and brought back to his home at Indianapolis the Queen's medal of gold for high scholarship; and that education did not cost the United States a single dollar. His education shed luster upon the American name, at no expense to this Government at all; and it does seem to me that it is a very small recognition for such an exploit by one as young as he to give him the lowest ensigncy in the Navy. I really hope that there will be no serious objection to the bill.

Mr. ANTHONY. I agree with the Senator from Indiana that no great injury would happen to the American Navy from this instance, but great injury may happen from the precedent. I am opposed to putting officers in the Army and Navy by act of Congress. There is a mode provided for the young men of the country to rise to those posts, and that is to go through the schools at West Point and Annapolis. If we put this man at the foot of the ensigns we put him over all the midshipmen. His promotion is their degradation. In all that is said in the praise of this young man I fully concur. I understand that he graduated at a private school in England; I think it is not a public school. The Senator from Indiana will correct me if I am wrong.

Mr. McDONALD. It is not a government school. In a moment I will present the letter from the commander of the training-ship.

Mr. WHYTE. It is the training-ship Worcester.

Mr. ANTHONY. If a young man had graduated with the highest honors at a private naval school in this country would we put him in the Navy; and shall we render to this person a favor for graduating at a foreign school which we would not render to him if he had graduated at a school in our own country? I am exceedingly reluctant to oppose this bill, but I think in the interest of the Navy and for the good of the service the bill ought not to pass.

Mr. BURNSIDE. Mr. President, I quite agree with my colleague. I think the precedent would be a very bad one indeed. We have proper methods by which the young men of our country may enter the Army and the Navy, and I think the course which we have resorted to at times of legislating officers into the Army and the Navy is a very wrong one. Here is a case in point: I have been trying for two years myself to get a young lad appointed as a midshipman at Annapolis whose father I saw fall in action myself. I put him in action and saw him fall. He is as bright a young man as this young man no doubt. He deserves recognition of that kind at the hands of his country; and yet the law which has stopped the President of the United States from making the ten annual appointments at large prevents the President of the United States making an appointment of this young man; and yet we sit here and legislate one who was educated abroad at a private school right into the places to which such young men as I speak of are entitled. It is unfair in any way you look at it. I will not say anything against this young man, and it is certainly with great reluctance that I oppose this action, but I do oppose it and hope that the bill will not pass.

Mr. CHANDLER. As I understand it, Mr. President, it requires eight years on the part of our naval students at Annapolis to attain the position that it is proposed to give to this young man now. After they graduate from that institution they serve as midshipmen, and it requires eight years' service altogether before they become ensigns. Now, sir, you are degrading all the midshipmen that will soon have passed eight years by the appointment of a man who did not pass through your own Naval Academy. I really hope that such a precedent as this will not be set. His being educated abroad I do not look upon as any special qualification for an appointment in our Navy. I think we produce men of equal ability, of equal learning, of equal merit, to those educated abroad, and I hope our own officers will not thus be prevented from obtaining the positions to which they are entitled. I believe the precedent would be bad in every respect. It is a discrimination against our own students in our own country. As I understand, this rank is equivalent to that of first lieutenant in the Army.

Mr. McDONALD. I send to the Secretary's desk and ask to have read a correspondence relating to this subject.

Mr. TELLER. Before that is read, I should like to inquire of the Senator from Indiana if there is any evidence that this school is a school which exceeds in its scholarship any other private school?

Mr. McDONALD. That is just what I propose to show.

Mr. TELLER. Is there any evidence that this young man has shown ability and scholarship that our own students at the Naval Academy have not attained?

Mr. COCKRELL. Over those of our own school who graduate with the first honors?

Mr. TELLER. It is barely possible that those who graduate away down in the class may be equal in scholarship to this young man.

Mr. McDONALD. I have a copy of a letter addressed to the commandant of the Worcester, the training-ship in which this young man was a student, and also the reply to it.

The PRESIDENT *pro tempore*. The Senator from Indiana asks that the correspondence he sends to the desk be read. It will be read.

The Chief Clerk read as follows:

[Copy—Private.]

DEAR SIR: I am requested by a friend in America to make inquiry regarding a certain Spruille Braden, who has been representing himself as a graduate of the training-ship Worcester. This Braden has interested some persons of political influence in the United States by a story that he was offered on leaving the Worcester an appointment as midshipman in the royal navy, but that he declined on the ground of patriotism, and so on, he being an American. He is now attempting to get an appointment in the United States service.

I believe I am correct in saying no such position is ever open to boys from the Worcester, which, as I understand it, is a training school for the merchant service.

I should be very pleased if you could let me know something of this youth's real status, how long he was in the Worcester, his conduct there, and anything else which might go toward putting him in the proper light.

I hope to call on board later myself, but just now I cannot, and as I am anxious to get this information as soon as possible I am forced to write.

And am, very truly yours,

———— — ————.

To the COMMANDING OFFICER *of H. M. S. Worcester.*

Mr. WHYTE. Who signs the letter?

Mr. McDONALD. That letter has no signature. The answer to that is from the commandant. The letter you will see is an unfriendly one, and I apprehend that the party who sent it was not willing to publish the answer.

The Chief Clerk read as follows:

[Copy—Private.]

H. M. S. WORCESTER, OFF GREENHITHE.

DEAR SIR: In answer to your letter of the 30th of March, I have much pleasure in giving you the information you desire.

Mr. S. Braden joined the Worcester as a cadet on the 25th of January, 1876, and left on the 15th of August, 1878, taking with him the highest honor that could be obtained from the college, namely, the gold medal given by Her Majesty the Queen. I send you by same post one of annual reports, wherein you will see stated the qualities the boy must possess in order to entitle him to be recommended for it. The head master and myself select five boys who we consider the best in every respect. The names of the five boys who we have selected are put up, when all the cadets who have been on board over six months vote for any one of the five boys they think the best. The boy who obtains the highest number of votes takes the gold medal. You will also notice that her majesty grants to Worcester cadets appointments as midshipmen in the royal naval reserve every year. If you consult the navy list you will see the names of over seventy midshipmen who were trained on board the Worcester. I may add that only cadets from Worcester and Conway have this privilege.

Mr. S. Braden could have had an appointment had he become a naturalized Englishman. It affords me great pleasure to bear testimony to his uniform good conduct during the whole of the time he was with me. In my opinion the United States service will possess a first-rate fellow should they be fortunate enough to decide on giving him an appointment.

I may mention that among the cadets I have the sons of English noblemen, some of them titled and very many from the first English families, (indeed all are the sons of gentlemen,) intended for the merchant service.

I am, dear sir, yours, very truly,

J. H. SMITH, *Commander.*

Mr. LOGAN. I rise merely to say that I certainly think this is a very bad precedent to establish, and I will state a case myself similar to the one stated by the Senator from Rhode Island, [Mr. BURNSIDE.]

A few days ago I received a letter from a boy, a very bright one too, in my State, of the name of Ozborn, son of a colonel in the late war who was murdered after returning home, asking to be appointed to the Naval Academy. Of course the same letter was received from the Secretary of the Navy that every one receives, that under the law the appointment could not be made, because recently a law has been passed restricting the power of the President to appoint to the Naval Academy as well as the Military Academy; hence no appointment could be made unless it were made by act of Congress, as is proposed in this bill.

Now, I do protest against this character of appointment in the Naval or Military Academy of the United States. It is not only unfair but it is entirely out of the line of precedents. It is entirely outside of the intention with which persons receive appointments in either of these academies or appointments in the Army or Navy.

Recently a law has been passed—I was very much surprised at it I confess—prohibiting any appointments of officers in the Army of the United States except from persons already in the Army. It prohibits every civilian, no matter what his qualifications may be, from being appointed by the President to the Military or Naval Academy. All civilians are excluded by law from receiving any appointment in the Army at all. This is the law as it stands now—I think a very unjust law, but still it is the law; and as long as that law remains on our statute-book I hope that the Congress of the United States will not by special act place persons that they may select in the Army or Navy. You keep the law as it is in order to prevent the appointments of any persons except those that may be selected by some Senator or Member of Congress to be complimented in this way by special act. The reason that has been given by Congress for prohibiting appointments in the Military and Naval Academy was that there were already too many persons employed in the Army, and too many to fill the lieutenancies necessary in the Army to be appointed; and so of the Navy. Let the law stand until the appointments are made from graduates both of the Military and Naval Academies, until future legislation shall reopen them. But while it so stands I hope we shall not by special act put individuals in the line either of the Army or the Navy.

Mr. COCKRELL. I should like the Senator from Indiana to explain and let us know exactly what will be the effect of this bill. How many persons will this bill place Mr. Braden ahead of on the Navy list?

Mr. McDONALD. I understand from the chairman of the Committee on Naval Affairs that there are eight persons now waiting for vacancies. This authorizes the appointment of Mr. Braden at the foot of the list of ensigns, as an additional ensign.

Mr. ALLISON. Do I understand the chairman of the Naval Com

mittee to say that there are only eight midshipmen graduates of the Naval Academy that are waiting for appointments?

Mr. WHYTE. Waiting to be appointed.

Mr. ALLISON. That, I understand, appears from the last Naval Register; but since that time there have been two whole classes of midshipmen graduates, the class of 1877 and the class of 1878, and another class is just about to graduate. Now, these three classes will all be overriden by this ensign, and he will be placed above each and all of them.

Mr. TELLER. How many in the class?

Mr. ALLISON. I do not know how many, probably one hundred and forty or one hundred and fifty in the three classes.

Mr. BURNSIDE. The Senator from Iowa will allow me to suggest that it affects every midshipman at the Naval Academy.

Mr. ALLISON. Undoubtedly.

Mr. BURNSIDE. All that are there now, and all that have received appointments.

Mr. ALLISON. If we make this young man an ensign at the foot of the list of ensigns it places him above one hundred and fifty at least of our own graduates at the Naval Academy who are now in service in the Navy.

Mr. CHANDLER. I noticed by the reading of the letter sent to the desk that this young man has been at this English private school only two years, whereas it requires eight years of close study and careful supervision for a cadet in our Naval Academy to attain the position that you now propose to give this young man, who has spent only two years abroad. It would be, in my opinion, a gross injustice to the last three classes of students at the Naval Academy at Annapolis.

Mr. WHYTE. I will only call the attention of the Senate to the fact that at the very last session they made a man an ensign who had never been in the Naval Academy at all, but had been on an expedition to the Arctic Sea and had rendered himself particularly efficient to the officers of that expedition. He was put at the foot of the ensigns just as it is proposed to put this man. There are but eight persons who now can be appointed ensigns in the Navy. It will take two years of sea service before these other young gentlemen are entitled to stand in a position to be promoted to be ensigns. There are but eight now who could be put in that position if vacancies occurred. If a vacancy occurs to-morrow, the man at the head of the list will get his opportunity. This does not keep him at all from getting the opportunity which he is now awaiting. It only adds one more to the list of ensigns. Glass was appointed at the last session, and I am satisfied if I took the trouble I could find two or three other instances of men who were taken out of the volunteer service and put in the regular line just as this man is proposed to be. This is an extraordinary case, is an exception to the general rule, and a similar case will probably not occur in the life-time of any Senator here. He has been through all the departments of the English training school. He has had as much education and made as thoroughly competent as any young man who could have gone through the Naval Academy in this country. He has cost the Government nothing for his education; and he comes now a thoroughly educated young man and asks to be put at the foot of the list of ensigns, when he refused the honor of the English service because he was patriotic enough to prefer his own country. I think it is a peculiar case, and I shall esteem it an exception to a general rule and vote for it.

Mr. CHANDLER. Will the honorable chairman of the Naval Committee permit me to ask him the age of this young man? How old is he?

Mr. WHYTE. He is about twenty years of age, the Senator from Indiana says.

Mr. CHANDLER. I am informed that a person cannot enter our naval school until the age of sixteen, and it requires eight years to reach the position here proposed to be given to this young man; that is, at the age of twenty-four a man may become an ensign, which is equivalent to a first lieutenancy in the Army.

I suppose the case cited as a precedent for this was that of one of those men who went on an expedition organized by the Government in search of the North Pole. I think even in that case, although the men came so near death, the precedent was a bad one, and had I been aware of it I should have voted against that as I would against every other. It is a precedent that is bad in every respect; and if we have made one bad precedent under extreme circumstances I hope we shall not follow it and make another under less extreme circumstances.

Mr. COCKRELL. Do I understand the Senator from Michigan to say that it takes eight years' service?

Mr. CHANDLER. Eight years to become an ensign.

Mr. COCKRELL. My impression was that it required only six.

Mr. TELLER. Four years in the Academy and four years in service.

Mr. COCKRELL. I know it takes four years at the Naval Academy, but I did not know it required four years' actual service afterward.

Mr. WHYTE. The Senator from Missouri will allow me to state that the last twenty on the list of officers in the Navy never served but six years.

Mr. ALLISON. As I understand the statement of the Senator from Maryland, there are still eight graduates of 1876 who have not become ensigns.

Mr. WHYTE. Yes.

Mr. ALLISON. So that it requires from six to eight years.

Mr. COCKRELL. Then this young man would be placed ahead of the graduates of 1877 who have served now nearly six years; and he would also go ahead of those who will graduate the coming June, and who have been engaged four years in the Naval Academy at Annapolis.

Mr. McDONALD. I cannot exactly understand why these young gentlemen, who are educated at the public expense and who are all very anxious to get these places, should be regarded as so badly treated if a young man on his own merits and without any expense to the Government is placed in a position where he may distinguish himself.

Mr. ANTHONY. I would ask the Senator from Indiana if this young man has seen any sea service?

Mr. McDONALD. He has just seen that service which the education in this training-ship has given him. I do not know that he has been upon any voyage.

Mr. ANTHONY. The same sea service that the cadets at Annapolis receive?

Mr. CHANDLER. Oh, no; they go to sea.

Mr. ANTHONY. But while they are at the Academy?

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. McDONALD. I should like to have this matter disposed of now while it is up, if it can be. I think it will take but a moment.

The PRESIDENT *pro tempore*. It requires unanimous consent——

Mr. EATON. I think we ought to proceed with the unfinished business.

Mr. WHYTE. We can vote now.

Mr. EATON. If there be any further discussion I shall call for the regular order, but I will yield for a vote.

Mr. TELLER. I do not want to take any time; but——

The PRESIDENT *pro tempore*. Let the Chair understand the matter. Does the Senator from Connecticut agree to lay aside the unfinished business informally?

Mr. EATON. I have no objection that the bill be laid aside informally for five or ten minutes; but if there is much discussion of this matter I shall call for the regular order.

The PRESIDENT *pro tempore*. This bill can only be proceeded with by unanimous consent or by postponing the regular order.

Mr. McDONALD. I do not wish to postpone it.

The PRESIDENT *pro tempore*. If there is no objection the regular order will be considered as laid aside informally, and this bill will be proceeded with subject to a call for the regular order.

Mr. TELLER. There is nothing in the letter which has been read, and there is nothing in any statement made to the Senate which shows that this man in point of scholarship exceeds any man who has graduated at our Naval Academy. Now, why put him away ahead of those? If he is entitled to anything make him a midshipman and let him take his chances with the rest. While you demand of our graduates service of four years before they get this rank you take him and put him right in it. It must be upon the assumption that the English school far exceeds ours in point of fitting men for this position. I think it is an exceedingly unfair thing to the men who have graduated at our own academy to put him in four years ahead of them.

Mr. COCKRELL. We had a letter written by some person whose name was unknown, which elicited an answer. Since this discussion has been proceeding a publication here in Washington City, known as the Army and Navy Gazette, has been sent to me, and I will ask the Clerk to read an article in that which seems to put in issue the facts stated in that letter.

The PRESIDENT *pro tempore*. The paper will be read.

The Chief Clerk read as follows:

A well-known naval officer of high rank in this city, has just received a letter from a lieutenant-commander in the Navy who is now in England, and who has been devoting considerable attention to a careful study of the British system of training-ships.

In this letter referred to he tells at some length of his examinations and inquiries, and the facilities afforded him by the British officers, and incidentally refers to the case of "Spruille Braden, of Indiana," who was heralded throughout the country recently as a fine specimen of an American patriotic youth, who had taken the first honors on board the British training-ship Worcester, and who would have been rewarded with an appointment as midshipman in the royal navy had he not "wrapped the American flag about him" and declined the honor "because he could not take the necessary oath" which severed him from the shelter of the "old flag." It will be remembered, also, that the country was so much thrilled with such an instance of patriotic self-denial that Secretary Thompson immediately provided him with an appointment in the Navy Department, and bills were introduced in Congress to appoint him outright as an ensign in our Navy—a rank which requires eight years of study and sea-service to attain by our own cadets. The bill to appoint Mr. Braden did not pass, which is, perhaps, just as well, viewed in the light of the following information given by Lieutenant-Commander C——:

"I am going down in a few days (London to Plymouth) to look at the Worcester, a training ship, from which, by the way, this young Braden came, who is desirous of an ensign's position. I inquired regarding his case the other day at the admiral's office, (the one who is inspector of the naval reserve,) and was told that three of the, Wooster's, were quarterly selected for appointment to the naval reserve, a purely honorary position, and having about as much to do with the navy as the Pinafore's crew. It was impossible, they impressed upon me, to get an appointment in the navy from the Worcester, which trains boys for the merchant service."

Mr. McDONALD. That article on its face contains an inference which ought not to be found in an article of that kind. It speaks about a communication from Commander C——. Of course Commander C——'s name is not given, but it states, as I heard it, that Commander C—— proposes to go down to Portsmouth to see the Worcester, a place where the Worcester has never been, and he might search around

Portsmouth for a long time before he would find this vessel or anything like it. This article is instigated by that degree of malice and jealousy that you might expect to meet an application of this kind. But as to the documents that I have presented there is no question about their genuineness, none whatever. The letter of the commander of the Worcester speaks for itself, and very clearly sets forth the merits upon which this application is made, and I do not suppose that the Senate will take anonymous communications and ignorant editorials in opposition to it.

Mr. LOGAN. I do not pretend to know much myself about training-ships, but I should like to inquire of the chairman of the Naval Committee whether in our service there is any such thing as a training-ship for officers?

Mr. WHYTE. There are training-ships for boys. The Monongahela is a training-ship; so is the Saratoga.

Mr. LOGAN. But have we any such thing as a training-ship for officers?

Mr. WHYTE. I do not suppose, applying that express language to those vessels that go out every summer, we have; but those vessels are just like the training-ships, precisely the same.

Mr. LOGAN. No, sir. What I want to get at is this: we have a class of training-ships, it is true, but I will not say that I am entirely correct, but I think I am partially so at least, when I assert that if the Senator will examine the rules in reference to training-ships he will find that the phrase "training-ships" applies to the class of vessels that train boys to become sailors, and not officers. I think if the Senator will examine he will find that the same class of English training-ships train boys for sailors and not for officers. I examined this question a little once, but not enough to know all about it, hence I do not pretend to know, and I desire information; but I think if the Senator will examine the question he will find that the training-ships of the naval force of this country are training-ships for boys to make sailors and not to make officers of.

Mr. WHYTE. I will state to the Senator from Illinois that there are two classes of training-ships in this country; both of them are not called training-ships, but there are two or three vessels occupied in training boys for the service, not to be officers but to be sailors; and then there is the Constitution, which every year goes to the Naval Academy and is manned by the young cadets for the express purpose of teaching them and training them in seamanship. Every year this vessel goes to sea and takes these boys and they are trained and made sailors of. They act as sailors while they are on their cruise. So in truth it is a training-ship for the young men who are destined to become officers.

Mr. LOGAN. I am not questioning the fact that they get training on the ship; that is not the point; that is not the question; it is in reference to the description of the vessel. As I understand it the vessel that the Senator mentions is a vessel taking the cadets for the purpose of teaching them something about manning a vessel; but that is termed a cruise, which each cadet has to perform in order to qualify himself for being educated at the Academy, in order to qualify himself in reference to matters connected with the navigation of a vessel. But that is a cruise, a working-ship; a training-ship is a very different thing. A training-ship is a vessel kept for the purpose of training boys, and they are taken in our Navy at a certain age and trained for sailors. That is what a training-ship is in the Navy.

Mr. EATON. I think, in order that I may learn the difference between a training-ship and other ships, I had better call for the regular order.

Mr. LOGAN. If the Senator will allow me, I will state further in connection with this (and I only suggest it because I do not know that I am posted up entirely in this matter) that, in investigating this subject about training-ships very recently, a boy from Illinois enlisted on one of these training-ships and deserted. He enlisted, thinking and believing that he might after performing a certain number of years of service become an officer in the Navy. He wrote to me in reference to it and I stated to him that I thought he was mistaken. I went then, in order to be certainly correct, and consulted the Secretary of the Navy, and from him I got the information that no person on a training-ship ever became an officer or could be anything but a sailor. That is all the training-ships of our Navy qualify boys for. I got this information from the Navy Department. That is all this young man was.

Mr. COCKRELL. I think this matter had better lie over until to-morrow until we can examine all the papers which have been read. No serious injury will be done by that delay.

Mr. EATON. I call for the regular order.

The PRESIDENT *pro tempore*. The Senator from Connecticut calls for the regular order, which is House bill No. 1382.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm; and it was thereupon signed by the President *pro tempore*.

REPORT OF A COMMITTEE.

Mr. BECK, from the Committee on Transportation Routes to the Seaboard, to whom was referred the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River, reported it with an amendment.

MILITARY INTERFERENCE IN ELECTIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1382) to prohibit military interference at elections.

Mr. MORGAN. Mr. President, I ask that the Secretary read the bill before the Senate.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful to bring to, or employ at, any place where a general or special election is being held in a State, any part of the Army or Navy of the United States, unless such force be necessary to repel the armed enemies of the United States, or to enforce section 4, article 4 of the Constitution of the United States, and the laws made in pursuance thereof, upon the application of the Legislature or the executive of the State where such force is to be used; and so much of all laws as is inconsistent herewith is hereby repealed.

Mr. MORGAN. Mr. President, the measure under consideration this morning leads the discussion back to the subject of the constitutional view of a standing army in the United States and the use that may be made of an army. I think it has always been recognized that there is some distinction in the Constitution in reference to the use that may be made of the standing Army and the use that may be made of the militia of the United States, and that distinction rests upon very proper ground. The framers of the Constitution of the United States understood perfectly well, after having investigated this subject in the light of the history of their own affairs as presented at the time of the adoption of the Constitution, that there was a distinction proper to be made between the use of the standing Army of the United States and the use of the militia. That distinction ought not to be lost sight of. The people who framed the Constitution had some acquaintance with the subject of a standing army; they understood that there were reasons why they had a right to fear the use that might be made of mercenary troops, hirelings. The Hessians had been here, the hireling soldiers of the British Crown had been here, and their ravages through this country, not only during the period of the revolutionary war, but before that time, had taught the people of the colonies that that was a dangerous element in government, and something that ought to be controlled by strong and unmistakable provisions of constitutional law. So when they came to form their Government they very carefully and very diligently introduced into their Constitution those provisions which then and still draw a line of demarcation between the use of the militia and the use of the standing Army that we are not permitted to forget or overlook.

In the use of the powers of coercion or powers of redress, if you please to call them such, which we make of the armed forces of the United States, the distinction ought always to be carefully observed, and we ought not to inflict upon the people of the States that sort of coercive military power which has no responsibility whatever to the country. We should not attempt, whenever we have a case of necessity for the use of military power in this country, to enforce the laws of the country, to use hireling troops and men who are not responsible to the great body of society; but we should in that event, as we do in every other event, employ those forces which belong to the body of the people, men who have some sort of social responsibility. They should be not mercenaries or hirelings, but those who belong in the body of society and who acknowledge responsibility to the duties of citizenship.

The question which is presented upon the bill now before the Senate is the same in substance, though not in form, with that which passed the Senate a few days ago. The enactment that was then passed through the House of Representatives and through the Senate was destroyed by the President's veto. I say "destroyed," because the President exercised the power of repression against the legislation of the people of the United States, against the Congress of the United States, which broke down the measure that the people, through their representatives, saw proper to pass.

Mr. President, the measure which is presented to the Senate and which has passed the House of Representatives, is, in its effect upon the condition of this country and upon the power of the Executive to use the Army of the United States, precisely the same that was passed through both Houses of Congress and which has fallen under the disapproval of the President. I believe that it can be demonstrated from the arguments of Senators made on that occasion, and notably the argument of the honorable Senator from New York, [Mr. CONKLING,] that there was no difficulty worthy of attention in the form in which the question was then presented.

The real trouble then, as I suppose, the real trouble now is in the question itself, and not in the form of its presentation, the question being simply and plainly this: Has the President the right to have and provide troops at the polls at the time of election? Has the President of the United States the right beforehand to bring in troops of the standing army or the militia, and assemble them at the polls at the time of election? Shall he marshal them there, shall he assemble them there, shall he by way of anticipation order them to be there? Shall he so provide as that they shall be there? Can he in the exercise of his powers as Commander-in-Chief of the Army of the United States, bring the military force of the country at the polls upon an order made by him beforehand for the purpose, to do any thing, whether it be to keep the peace, whether it be to control elections, or whether it be for any other purpose? That is the question.

Is there no sanctity about this right of American freemen to exercise their suffrage; which is the great motive power of this Govern-

ment, and without which this Government takes no step whatsoever? Is that power in the hands of the people subject to the control of the President of the United States?

All British history is at fault if this is a doctrine that the Government of the United States incorporated into our Constitution by adoption from that of England. There was no such doctrine in the British government after the people of that country once got their minds to acting and their hearts to beating and their arms to work for the purpose of controlling the prerogative of the King in that behalf; for they tore it up, root and branch, and they left not one vestige of it. The King did oftentimes attempt to encroach upon their rights in the exercise of his prerogative, or what he claimed to be his prerogative, but the people of Great Britain tore it down and trampled it in the dust. We surely have lived to very little purpose for more than a century since we declared our independence of that country if now we find ourselves embarrassed with a power in the hands of the President of the United States that more than two hundred years ago was taken out of the hands of the King of England. We are in a most lamentable condition of independence if we are to-day more subjected to the power of the President of the United States than the people of Great Britain are subject to the power of the Crown. We have not gained much by our independence if the President of the United States in command of the Army of the United States has more power than the King of Great Britain.

The President of the United States, in the veto message which he has recently sent to the House of Representatives, stood chiefly, as I understand, on the form in which the question came before him. We are informed in the message of the President that a measure which embodies such legislation as is found in this bill, if it is put as a rider on an appropriation bill, would not be permitted to become a law as it could under the Constitution without his express approval. The President of the United States thus assumes to be a part of the legislative power of the country. I have never been able so to consider his jurisdiction. Laws enacted by the Parliament of Great Britain, from which government we have derived in part our system of legislation, are enacted by and with the advice and consent of the King; and no law is passed in Great Britain that does not contain a petition to the King that he will consent that it shall become a law. All laws are enacted there by and with the advice and consent of the King. We here enact laws under the Constitution of the United States, not by and with the advice and consent of the President, but in the name of the Senate and House of Representatives of the United States of America in Congress assembled; and no law is passed here that either in its preamble or enacting clause, or anywhere else, contains the slightest trace of a petition to the President of the United States. All laws here are enacted under the Constitution by the people through their representatives in these two Houses.

I think it is worthy of attention that in framing the Constitution of the United States, in full view of the prerogative powers of the King of Great Britain, when we were transferring to the President of the United States such powers as our people thought he ought legitimately to exercise, we enabled him to decline to approve laws, we enabled him to say, "I will withhold my consent, not expressing approval or disapproval; I will keep this act under consideration for ten days, and when I have expressed no opinion upon it within that period it becomes a law." Who participates in that sort of legislation? Who can say that in that event the President of the United States is a part of the legislative power of this country? It was never intended that he should be a part of the legislative power of this country. It was intended that he should have a qualified right of prohibition on the passage of a law; but it was never intended that he should be a part of the legislative power of this land.

He sent to the House his veto of the Army bill for a reason to which I have adverted. And now we seek his pleasure! I am willing to advise with him and take his counsel. I do not deny his authority or his power or his right as far as it constitutionally extends, and I am willing to do all that we can do for the purpose of carrying on this Government under the control of the people of the United States, but I am not willing to break down their authority or the authority of their representatives. I acknowledge my responsibility to them, and the President of the United States is just as much responsible to them as I am; and when they in a constitutional way express their views about the proper policy to be observed in this country upon any question, and more especially in reference to the use of the standing Army of the United States, I cannot persuade myself that their judgment ought not to be the law of the land. If their judgment is prevented from becoming the law of the land in the form in which the Congress of the United States has constitutionally expressed it, it becomes the duty of Congress to express it in some other form which will be agreeable to the Chief Executive of this nation. We have no right to destroy the Government upon a mere question of comity between the executive department and the legislative department.

When the President says he cannot go with us in the form in which we present this legislation, it becomes a duty that we owe to ourselves, our constituents—not a duty that we owe to the Executive—that we should carry this Government along in the exercise of its legitimate and constitutional functions and powers.

I will say here now that whenever I get my mind made up that this Government ought to stop, that we ought to resort to a different system, and revolutionize it, I will vote against the appropriation of any money for the purpose of carrying on the Government. There are legitimate objects of government specified in the Constitution—the carrying on of the legislative, executive, and judicial departments. Those are the three great departments of this Government, and there are none others. When you come to the question of keeping a standing army that is a different matter, for in the Constitution there is no standing army provided for. On the contrary, there is a provision that there shall be no standing army unless the Congress of the United States shall at least once in every two years provide for its existence. The power of the Constitution in reference to the standing Army is precisely the reverse of the power in reference to the judiciary, the legislature, and the executive. The judicial, the legislative, and the executive departments are to be carried on, but when you come to consult the Constitution of the United States you find that the Army is not to be sustained, not to be provided for, unless Congress at least once in every two years shall renew its action for the purpose of keeping it alive. That is a position which I think the Senate should consider. It is one entirely in harmony with the purpose of this Government. It is one that entered into the consideration of the framers of the Constitution when they adopted it; one that has never been lost sight of from that moment to this.

I proceed to consider the veto message which has been sent to the House of Representatives. We have not receded from our course on that bill. We have not found occasion to abandon any position we have voluntarily taken on this subject. We felt that we were forced to the position we have recently occupied on this subject of putting this rider, as it is called by the President, on this appropriation bill by the action of the republican party in the Senate of the United States. They had determined and demanded that there should be no legislation for the purpose of relieving elections in the United States from the influence and control of the Army. That was our view of the situation, and it is our view yet. The President has availed himself of an objection for which we think there is no substantial foundation in fact to send the bill back to the House of Representatives, and when there was not power enough in the House to pass the bill notwithstanding his objections, we thought and we yet think that it is our duty to come forward and present to him the clear and distinct and unmistakable proposition that he has no right as President of the United States to use the Army at the polls unless it be under the Constitution of the United States and in obedience to the requirements of that instrument as is therein expressed.

The honorable Senator from New York has conceded our right to pass the bill in the form in which it was prepared without the slightest violation of our constitutional duty.

In his message vetoing the Army bill, the President, speaking of the Federal election laws, says:

> They should, if possible, be so non-partisan and fair in their operation that the minority—the party out of power—will have no just grounds to complain. The present laws have, in practice, unquestionably conduced to the prevention of fraud and violence at the elections. In several of the States, members of different political parties have applied for the safeguards which they furnish. It is the right and duty of the National Government to enact and enforce laws which will secure free and fair congressional elections. The laws now in force should not be repealed except in connection with the enactment of measures which will better accomplish that important end.

This declaration of the President of the United States reaches to the very bottom of this whole subject. First he declares that the laws which are now in existence, including the use of the Army, have been greatly beneficial to the security of free and fair elections in the different States of the Union. I have no personal experience on that subject except that which relates to the State of Alabama, and I say in reference to that State that these laws have been used both by a former President of the United States and by those acting under his authority for the purpose of preventing free, full, and fair elections.

But we in the South have outlived the fear of these laws, we have escaped from them. We have not done it by resisting the Army; we have not done it by attempting to interfere with the powers which have been exercised under the laws as they exist in controlling elections; but we have done it by an appeal to that sentiment in reference to free elections which to-day is the strongest, the most powerful sentiment among the people of the Northern States. We point the people to the Army and say, "Behold the men who control the elections! Observe your masters! See with what power they attempt to execute their will and pleasure upon the elections in this country!" The unification and solidity which is so much deprecated has resulted more from the use of the Army at the polls in the South than from any other cause. We have passed through our day of trial. You have solidified us. You have compelled us by this unconstitutional exercise of power to stand together like a phalanx in opposition to the power of the Army used at the polls.

This question comes now as a question for the North as well as for the South. This matter has not been urged by the democrats of the South. We have stood by and have witnessed the visitation of this wrong upon the people of the North, who now begin to cry out against it, and we say to them, "We will sustain you so far as the Constitution of the United States will sustain us. We will do whatever you think is necessary and proper to be done as far as we can see our way under the Constitution. These same wrongs have been done us, which we had the right to complain of, if indeed we had the right to complain of anything that we now hear you complaining

of; we accept your statements, we acknowledge the justice of your complainings, and we mean to stand by you."

Mr. President, whether this line of executive action taken by the President of the United States in his veto message has been adopted from a new and sudden inspiration of duty on the part of the President or whether he has been driven into it by his party is a matter of not much consequence to the Senate. He declares his opposition to all legislation that deals with anything in the nature of reform of abuses when it is incorporated into appropriation bills. The doctrine has been asserted here that the people have no right in an appropriation bill to complain of abuses or to reform abuses. The doctrine is asserted that if abuses exist, whether in the unauthorized exercise of power by the Executive, or in the passage of unconstitutional laws by Congress, or whether they be in the improper exercise of the powers of command over the Army, these abuses must not be rectified on appropriation bills. You may pass other laws to rectify abuses. You can go into any subject that seems to inflict wrong upon the people of this country, but you must not put enactments relating to them on appropriation bills. If you do, some man will rise in the House or in the Senate and proclaim his opinion, as the honorable Senator from Massachusetts [Mr. HOAR] did, that such matters could not be incorporated in an appropriation bill without an attempt to revolutionize the Government. The honorable Senator from New York [Mr. CONKLING] informed the Senate, very correctly, too, that we had a perfect right, a right that had long been exercised, to put the redress of grievances or the repeal of unjust laws upon appropriation bills. The people of the United States, acting through their representatives in the two Houses, are not limited by the Constitution to a particular method for the redress of abuses. They have just as much right to say that abuses shall be redressed on appropriation bills as on any other kind of bills. After the honorable Senator from New York had conceded the proposition and argued it so ably before the Senate, I wonder the President of the United States should find himself at liberty to take a different ground.

The President puts his veto on the ground also that it is necessary for him to protect the Senate of the United States against the aggressions of the House. That is a new role for a President. He ought to come here and advise us on the floor. He ought to assemble his council in his chamber, which is here close to the Senate, and admonish us in regard to what our rights, duties, and privileges are, and tell us in advance, as he has done not only upon the Army appropriation bill which we passed, but with reference to another which is to come, that it is his duty to protect the Senate against the encroachments of the House. I say that is a new role for a President. I say that that is the dipping of his hand into matters of legislation that the Constitution forbids him to touch, and he should withhold it. The necessity of the protection which he offers to the Senate would have been much more obvious if this body had not voted down all amendments to the House bill and if it had not passed the bill with marked cheerfulness and alacrity.

After the Senate of the United States by a considerable majority concurred with the House in the passage of that measure, and after honorable Senators who have had years of experience here expressed themselves on this floor in favor of the proposition that it was legitimate legislation and in a constitutional form, for the President of the United States to say that he wants to protect the Senate against the House and must do it with his veto looks to me a little presumptuous.

Suppose that we in the Senate should undertake to protect the probity and honor of the presidential office by refusing to consent to nominations sent to us that have been made on the demand of republican leaders as rewards, promised in advance, for the felony that they were designed to procure in the corruption of elections by returning boards in different States. The Senate, perhaps, in that action could do a better service for the Chief Executive than that officer could do to the Senate by the proffered protection of his veto against the encroachments of the House. I do not say that we ought ever to be tempted to do a thing of that kind, but retributive justice would be most splendidly illustrated if we should say to him that you shall not, with our advice and consent, reward the men who have seated you in the presidential chair, when we know that the action of those men was deeply dyed with fraud, and when we are impressed with the conviction that the action of the President in appointing them was at least marked with suspicion.

The President states in his veto message that the practice of tacking to appropriation bills measures not pertinent to such bills did not prevail for more than forty years after the adoption of the Constitution. He further states that it has been a common practice since that time; that all parties when in power have adopted this practice. Not for forty years, the President says, was there any rider put upon an appropriation bill. But there have been a great many years besides forty that this Government has existed, and during the remainder of that time he said that all parties have united in putting these riders upon appropriation bills. He might have added that when he was a member of the House from Ohio he never raised his voice to object when his party desired to put a rider on an appropriation bill which this whole country understood had no other purpose than to advance the interests of a political party. If he ever cast a vote contrary or in opposition to such a bill, I have not been able to find it.

Upon the very bill which he vetoed several new and very important provisions are found. Among others there was a provision entirely novel in its character, the constitutionality of which is questionable and was very seriously debated in the Senate; in reference to the power of Congress to confer upon railroad companies corporate franchises as telegraph companies and, the right to make connections one with another; to have the power of transmitting messages throughout the country; and the power of Congress to impose upon these railroad companies rates of fare for the delivery of messages between private individuals. But this telegraph business and other new features of legislation did not have any immediate connection with the destinies of the republican party. The vigilant President of the United States discovered nothing in the bill that was new or irregular except that which related to the destiny of his party.

On the 18th of June, 1878, he approved an Army appropriation bill which contains the section which I am about to read, and which he boasts of as being a section that removes all difficulty from the entire subject of the use of the Army at elections, and on what ground does he put it? That the House of Representatives and the Senate of the United States unanimously, or almost unanimously, passed the bill. If he found a constitutional objection to this last Army appropriation bill which he vetoed, he ought to have found the same constitutional objection to the Army bill of last year which he approved, and which contained a provision which he now says shuts off the use of the Army as a *posse comitatus*, and denies to the President of the United States the power, except under the express provisions of statutes or under the express provisions of the Constitution of the United States, to use the Army in a manner far less objectionable than he may do under the law that is sought to be repealed.

I read the provision in the Army appropriation bill of last year to which I refer:

SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment.

The President of the United States approved that measure on an Army appropriation bill. I ask any Senator how the President can find a just ground of objection to the limitations against the use of the Army at the election polls, when he has approved a bill which prescribes that he shall not use it as a *posse comitatus* except in cases expressly authorized by law or the Constitution? The use of the Army of the United States at the election polls under the act sought to be repealed in the bill that he vetoed was a discretionary use. The use of the *posse comitatus* was equally under that law a discretionary use. Congress at its last session limited his discretion and confined it to those cases where the statute gave him express authority or where the Constitution gave him express authority to use the Army to keep the peace. Now, when we send him an appropriation bill for this same Army, and we curtail further his power to use the Army in this discretionary manner, he says he cannot find it in his conscience to approve it.

At that time the House of Representatives was democratic; the Senate was republican; both Houses now happen to be democratic; and we passed a bill that in its nature is identical, a bill which puts a restraint upon the power of the President to use the Army of the United States, and now that the two Houses are in accord he says that cannot be done. How are we to account for this? There is but one reason that can be assigned for it. Whereas the two Houses were formerly divided in opinion between the different parties in the country and now they are united, the President feels it incumbent upon himself to represent in the use of his veto not the wishes of the people, not the power of the people or the rights of the people, but to represent the republican party. If there is a man living who can account for it on different ground I would indeed be glad to hear him. There is not one man in the United States who will be able to say that if section 15, which I have just read, is not "altogether foreign to the purposes of an Army appropriation bill," to quote the language of the President, the sixth section of the appropriation bill which he returned to the House is altogether foreign to the purposes of an Army appropriation bill. Mr. President, this will not do. It will not do anywhere that men have got the power of thought and feel the responsibilities of action; for if the power was exercised in the one bill equally it was exercised in the other, and no man can deny it. I regret that the President of the United States ever found it necessary to cover himself with such a small patch of artifice as that.

The President in justice to himself, as a relief from the evident embarrassment in the logic of the situation, should have stated also that the party in power for the last twenty years, which he says has always done such things, is not now in power, and this long-needed reformation has been deferred until it should cease to make profit by this vicious course of legislation. As soon as his party which had used this power *ad libitum* found that it was no longer in power, it demanded and compelled obedience to its behests so as to change a course of practice which they have indulged in according to his own admission for twenty years without objection, for the purpose simply,

as I allege, of obstructing the march of democratic power and influence in this country.

That is the situation. I deplore it, but still it is true. This country is not going to shut its eyes to the truth. There are millions of thinking men in this land outside of the House of Representatives, outside of the Senate, outside of the Executive Mansion who understand questions when they are presented and weigh facts when they are brought to their attention, who will exercise the power and right of passing judgment upon these things; and in their own way and in their own time they will rebuke this pretense.

It would have been in point and most apposite also in the veto message if the President had re-enforced his suggestions by reference to the case of the man who was advised to pluck the beam from his own eye that he might the better see how to remove the mote from his brother's eye. That would have been good authority, a high case in point, but it was overlooked.

If this point of the message means anything more than a blind to conceal the real point on which the veto was based, it is a pretentious assertion that the democratic party in Congress is not to be permitted to employ those methods of legislation that all parties have used for sixty years, and in which the President has participated both as President and at least tacitly as a member of Congress.

Mr. President, there is but one other point remaining in the veto message and that is based upon a misstatement of fact with reference to the purpose and effect of the words "or to keep the peace at the polls," in sections 2002 and 5528 of the Revised Statutes. The misstatement of fact in reference to this repeal is in the following language; that it "will deprive the civil authorities of the United States of all power to keep the peace at the congressional elections." That argument was made by the Senator from New York, as I will presently proceed to show. When I call it a misstatement of fact I refer to it as a misunderstanding of the effect of the statute. I am very sorry that the honorable Senator from New York got himself into an unfortunate position on this subject, and that per consequence the President was also misled. I am sorry that this great motive power of the republican party having switched on the wrong track dragged the Executive and everything else along with him. The misstatement of the purpose of the enactment is in these words:

> The intent and effect of the sixth section of this bill is to prohibit all the civil officers of the United States, under penalty of fine and imprisonment, from employing any adequate civil force for this purpose at the place where their enforcement is most necessary, namely, at the places where the congressional elections are held.

I think that it is impossible that there could be misunderstanding upon this question, but I will not delay at this point of my argument to discuss that; I will discuss it a little further on. But the imputation of improper motives to the members of the House of Representatives and the Senate I must say, with due deference to the President, is extremely indecorous. I do not remember an instance that has ever before occurred where a President of the United States imputed to the Congress of this country a disposition to break down the laws, a disposition to do wrong, a disposition to violate their constitutional obligations. We have come to a perilous pass when a President feels himself called upon to censure these two great bodies in reference to their motives in the passage of laws which they conceive to be essential to the preservation of the liberties of the people of this country. I will not advert to the peculiar position which the President occupies with a view to derogate from his utterances anything of the authority which properly belongs to any man, from Washington to the present day, who has filled the executive chair; and yet, when the people come to weigh the question between their representatives in the House and in the Senate and the President of the United States, probably it will not be possible to prevent them from a consideration of the question whether he is the man to impugn the motives of anybody. That is a matter for the President and the people. The people have a right quadrennially to speak to the President and of the President, to elect a President, and when they come to exercise their lofty powers and sovereignty in this regard perhaps they may find it necessary and convenient also to look deep down into this question and see whether or not this imputation comes from a source that it ought to come from, and whether there is the slightest ground for it in fact. I leave him and his imputations where they belong. He may urge them against the Senate of the United States, but if he were Andrew Jackson, or John Adams, or Thomas Jefferson, or George Washington, he could not get the people of the United States to believe it.

I object, Mr. President, and I think that every Senator on this floor would object, to the right of the President of the United States to say that the House of Representatives by the enactment of this law meant that they would tear down the guarantees which have been erected for the purpose of securing fair elections at the polls. If he believed it, if he could prove it, if he could establish it, it would be the most indecorous thing that a man ever said in the world to charge such motives upon a co-ordinate department of this Government in the enactment of a law.

Inasmuch as he has made this accusation against us, and inasmuch as it is now in our power to vindicate ourselves before the living world and posterity, I propose that we will pass this bill and leave him without the slightest ground to justify these imputations, and then we will see whether he will do the Senate and the House of Representatives the justice to say, "I was mistaken when I imputed to you a base motive in the passage of this law."

I would take from him every pretext for denying the people the right to have free elections, free from the interference of the Army under any circumstances, free from the interference of armed bands of men prepared beforehand and brought to the polls for any purposes whatsoever.

Why does the President demand that this power to use the Army shall be left in his hands? What use is he going to make of it? Why will he not give it up? Why will he hold to it with the tenacity of life? He says it has been several years since there was any necessity for using troops anywhere at elections in the States. He says that the law as it stood, which we are seeking now to repeal, was *brutum fulmen;* that it amounted to nothing; that there was actually no use for it; that it has been a long time since any use was made of it, and that he himself was the leader in the programme of withdrawing troops from all interference with elections and Legislatures in the States. There is no necessity, says the President, for it in actual practice. Then, I ask, why do you hold to it with such tenacity?

What use do you expect to make of it in the future? If there was no necessity for it in the past, if there is no necessity for it in the present, if it appears that the occasions which might once have justified its exercise have passed away, then why do you hold to it? That is a question that the people of the United States will require the President of the United States to answer. He must have a motive, a powerful motive, a motive that is so strong that he cannot resist the influence of it? Holding to the power of keeping the troops at the election polls means this, Mr. President: Troops were used in elections heretofore. Troops have been used advantageously in the decision of questions in the Congress of the United States as well as in different Legislatures of the States. Troops have been marshaled around this Capitol, guns have been placed where they could be trained upon it; and a time will come perhaps when the President may find it necessary to use them in order to seat his successor. He was seated by such influences, by the reversal of the judgment of the people expressed at the ballot-box, by the tearing down of the power of the electoral colleges, by the reversal of the power of two hundred and fifty thousand majority out of eight millions of votes. These troops have been used heretofore for purposes like this, and the President does not know but it may become necessary for him to use them again.

This bill, separated from all else, standing alone, containing every guard the Constitution of the United States has provided on this subject, will give the President of the United States a fair opportunity to say why it is that he intends to command the troops at the polls. Does he say in his veto message, while he is arguing against the power of Congress to pass the measures in the form in which they were presented, "I am willing to give up the use and control of these troops and my command over them at the polls?" No, never. There is not an intimation of that kind. While he admits that there is no necessity for them he never intimates that he intends to give them up. That point is not in the message. On the contrary, all that is in the message is directly to the reverse of that proposition. He intends to hold the troops at the polls, provided always that he can get his friends in his party to stand by him. He wants men who need not be citizens of the United States to be in the Army, men who are not required when they are sworn in under their enlistment even to take an oath that they will obey the Constitution of the United States but whose oath is to obey the commands of their superior officers. That is the oath they take. We take an oath to obey the Constitution of the United States.

The President of the United States holds to this military power to keep the peace at the polls. A most remarkable application of the executive power. In all the history of all the governments we know anything about, except those of thorough despotism, thorough absolutism, we have never yet found a record of the ruling of a court, a precedent of any kind through which the judiciary relied upon the army for the purpose of keeping the peace. Has the army of Great Britain, the standing army, the Queen's guards, the great regiments that have such high historical renown ever been used for such a purpose? If you were to tell an Englishman that a regiment or a soldier or an officer of the army of Great Britain, or of the navy of Great Britain was a peace officer, he would laugh at you. He would wonder what sort of an idea you had of the absolutism of that monarchy. Come to the United States and you find in this Government that boasts of its freedom the commanding-general of the United States Army, or a colonel of a regiment, a captain of a company, a sergeant of a guard, or the corporal of a squad made by law a peace officer! He is endowed, under our splendid system of free government, with the powers of a peace officer to keep the peace at the polls. To keep the peace by force of arms. I suppose there never before was heard such a proposition as that.

Mr. President, this is indeed the sword of Damocles suspended by a hair. In this case the hair is an attenuated suspicion of the President that in some circumstances there may be a possibility of a civil officer of the United States not being able to execute a peace warrant, for which there is no provision of law, at a polling place, if he were denied the use of armed force to be present in case of need. This feature is not in the bill, it is a misconstruction. Here are the American people through their representatives declaring against this,

trying to forbid the use of troops at elections. Their representatives pass the law repealing this authority to use troops; the President of the United States says, "You shall not repeal it; you put the sword in my hands and I intend to use it at my will and pleasure whenever and wherever I consider it necessary to do so." The people of the United States know this truth, they feel it. It is burned into their hearts, and they will never consent that this power shall be retained in the hands of any President, it makes no difference who he may be, while they have the power to vote and by their votes to withdraw the sword from his hand for such purposes.

The President's message is more directed to a review of the democratic party than to the grave questions with which such a paper should deal. It attempts to commit the majority here by utterances extracted in terms from speeches of distinguished Senators in debate The other House is likewise cornered by like quotations. I refer to this as a novelty. It certainly is very curious that the President of the United States in order to justify a veto message should appeal to speeches made by his political opponents in the Senate and in the House, and should quote from those speeches in his message.

I shall expect hereafter that if some one in the House of Representatives or the Senate should sneeze, the presidential mansion and the executive Cabinet will be convulsed. I suppose the first utterance that is made hereafter by these very distinguished gentlemen, (and indeed they are very distinguished and very worthy of their distinction,) which shall have the slightest influence upon the presidential mind, we shall have the Army called in.

The President of the United States found in the great speech of the Senator from New York authority for the following expressions in his veto message:

> The various Departments of the Government, and the Army and Navy, are established by the Constitution, or by laws passed in pursuance thereof. Their duties are clearly defined, and their support is carefully provided for by law. The money required for this purpose has been collected from the people, and is now in the Treasury, ready to be paid out as soon as the appropriation bills are passed. Whether appropriations are made or not the collection of the taxes will go on. The public money will accumulate in the Treasury. It was not the intention of the framers of the Constitution that any single branch of the Government should have the power to dictate conditions upon which this treasure should be applied to the purpose for which it was collected. Any such intention, if it had been entertained, would have been plainly expressed in the Constitution.

The honorable Senator from New York advanced this doctrine in his speech on the Army appropriation bill, and I infer that the President of the United States, by some new inspiration which I think would be to his advantage on many occasions, has chosen to adopt the ideas of the Senator. But it is not correct in point of logic or of constitutional law to say that the moneys of the United States, collected under the laws thereof, were collected with reference to their being expended for any special purpose. There are some permanent appropriations fixed by law; very few indeed, because it has been the policy of our Government from its inauguration that the appropriations should not be made permanent, but that they should recur annually, and that the people should always have in their power the right to express their judgment upon the necessity of the appropriations. Is there a dollar in the Treasury of the United States that the Army can go with its bayonets and lay its hands upon? If the money was collected to support the Army, why cannot the Army get it? Ah, it is a statement that is not borne out by the fact or the law. The fact is the other way. The revenues of this country are collected from the people for the general purposes of government, but when you come to assert the proposition that the Army has an interest in the Treasury for the payment of its soldiery and its officers and the maintenance of its power, you run directly in the face of the Constitution of the United States. Our Constitution most wisely, most emphatically, provided just the reverse rule, that there is no money collected in this country for the purpose of sustaining the Army and no money can be collected to sustain the Army for more than two years at a time. A standing army was a subject upon which the framers of this Constitution had great doubt. They would not consent that there should be a standing army at all until a provision was put in the Constitution which required that the Congress of the United States should renew the Army once at least every two years. Here we are met with the declaration of the President of the United States that the money in the Treasury was collected for the purpose of sustaining the Army. I say that that is an unconstitutional declaration; I say that that is a declaration antagonistical to the whole theory of the Government in reference to a standing army. I say, when the President of the United States ventures on the assertion that the money in the Treasury of the United States was collected to sustain the Army and support the Army, he declares in his own favor, he being the Commander-in-Chief of the Army, a doctrine of absolutism, independent of constitutional restraint and restrictions, and makes himself the absolute arbiter of the destiny of this country. There cannot be anything plainer.

Here comes the pinch of the case; here comes the essence of the whole controversy; here is the great point where we divide; and the democrats stand on the side of the Constitution, the republicans on the other side. We say there is not a dollar of money in the Treasury collected for the purpose of paying a standing army; we announce that no standing army can be maintained in this country unless the people through their representatives once every two years renew its authority and reanimate it with life. The Army dies as certainly as a man does when he comes to the end of his appointed days unless the Congress of the United States shall keep up and revive it. In England it dies at the end of each year; it requires the mutiny act to be re-enacted at every session of Parliament or once every year to keep that army alive. We made an enormous concession when we came to make our Constitution and said it could live two years. But Mr. Madison, Mr. Hamilton, and all the great expounders of the Constitution, who were the contemporaries of the origination of that instrument and who had a hand in its making, claimed as one of the chief and essential virtues of the instrument that it forbade an army to be fastened upon the country unless the people should give it their assent expressly at least once every two years. There is the difference between us. That is very clear. The people of the United States are not going to misunderstand that. They will see in the veto message the claim by the President of the United States that unless the people vote the money to sustain the Army he will find some means to provide for it, he will do with it as he will at the polls, and when we come to offer him money to sustain it upon condition that he shall make no unconstitutional and improper use of it he says, "I will not have it; I will not take it; the money is in the Treasury; the people have put it there for the purpose." What else could he say except that "I may use it?" Ah, sir, there is the real point of that message. It is there; the money has been collected from the people for a prescribed purpose and is in the Treasury. One of the purposes is to sustain a standing army, says the President; one of the uses of the standing Army is to control elections. I mean to control the elections as far as I think in my discretion it is proper to do it by the agency and authority of this Army. The money is there to pay it, the people have paid it for that purpose, and if you do not choose to appropriate it I will see what else can be done. That is it.

I fear that the President of the United States has been greatly misled by the honorable Senator from New York; for his argument was very able and very ingenious, and was calculated to mislead almost any one. I felt very greatly gratified as one member of the Senate at the—shall I say reconciliation, restoration, pacification, it makes no difference what precise word may be used, between the distinguished Senator and the President.

This pleasing spectacle of this newly discovered relationship between the honorable Senator from New York and the President of the United States is touching, while it is instructive. Now, in very truth the Antipholus of Fremont may exclaim as the Dromio of Utica approaches:

> Here comes the almanac of my true date,—
> What now? How chance, thou art return'd so soon?

And Dromio of Utica respond:

> Return'd so soon! rather approach'd too late:
> The capon burns, the pig falls from the spit;
> The clock has strucken twelve upon the bell,
> My mistress made it one upon my cheek:
> She is so hot, because the meat is cold.

The republican party is, indeed, a cruel mistress to exact a service like this from her faithful Dromio of Utica. To bring the figure a little more closely to the fact, this Dromio of Utica knew full well that the true Antipholus, the husband of the house, had been bolted out, and that he of Fremont was a rank stranger to the honors and good cheer he is so ready to embrace; but the mistress was imperious, and in such emergency any Antipholus would answer. Poor Dromio gets all the buffeting:

> Fie, fie! how wayward is this foolish love,
> That, like a testy babe, will scratch the nurse,
> And presently, all humbled, kiss the rod!

The gently blending harmony of opinion and sentiment between the honorable Senator and the President are beautifully conveyed in the recent speech of the Senator and in its echo, the veto message.

To understand the veto message one must study the speech of the honorable Senator from New York. As the veto is the subject I wish chiefly to speak to, I will go to the speech of the Senator from New York and there seek its inspiration, its logic, and its rhetoric, faintly re-echoed in the veto.

I will start the inquiry at its fountain-spring and try to follow it through its dazzling, rushing, vaporous course until it loses all current in the muddy level of the presidential veto message. In the discussion of that bill the Senator from New York held that in its form and the manner of bringing it forth the bill was constitutional. Here is the difference between the President and the Senator. But after the Senator had said it was constitutional the President did not venture to say it was not, and I felt grieved that he had so embarrassed the Executive of the United States as that he did not leave him free to say that, for that is what he tried to say, and exactly what he meant. The Senator said:

> With somewhat of monotonous and ostentatious iteration we have been asked whether incorporating general legislation in appropriation bills is revolution, or revolutionary? No one in my hearing has ever so contended.
>
> Each House is empowered by the Constitution to make rules governing the modes of its own procedure. The rules permitting, I know of nothing except convenience, common sense, and the danger of log-rolling combinations, which forbids putting all the appropriations into one bill, and in the same bill, all the revenue laws, a provision admitting a State into the Union, another paying a pension to a widow, and another changing the name of a steamboat. The votes and the executive approval which would make one of these provisions a law, would make them all a law. The proceeding would be outlandish, but it would not violate the Constitution.

As to its being "outlandish," the criticism of that Senator is hard to answer; because I do not know how the Senate or House of Representatives could do an outlandish thing. I suppose it means out of fashion. That would not do, because it has been the fashion of the republican party, as the President tells us, for many, many years, and of the democratic party also. Well, is it scandalous? Perhaps it might be so treated. Still I think no Senator on the other side would venture to say it was that for fear he might scandalize himself, for they have all voted for just such measures and upon just such bills. Well, it is hardly worth while to spend any time on the question whether the measure be "outlandish" or not; it makes no difference whether it is outlandish or not. If that word has any signification in reference to the criticism of a law or an act of Congress, I do not understand it. Again:

A Senator might vote against such a huddle of incongruities, although separately he would approve each one of them. If, however, they passed both Houses in a bunch, and the Executive found no objection to any feature of the bill on its merits, and the only criticism should be that it would have been better legislative practice to divide it into separate enactments, it is not easy to see on what ground a veto could stand.

I cannot see it, and the honorable Senator from New York cannot see it, and what he cannot see is not visible to mortal eye. Now, this is a very important concession to the people of this country that they have passed a law which in form is constitutional, and that by a decided majority in both Houses they made a demand on the President of the United States that he withhold the sword from the control of elections, and we have the authority of the honorable Senator from New York that in this there is no unconstitutionality, and nothing but a little outlandishness. We are a sort of outlandish people, you know—democrats particularly. They are not particularly well gotten up, nicely arranged, or thoroughly perfumed, and sometimes the democrats in this country do outlandish things, but they do them in the name of the great enacting power of this land as the rightful agents under the Constitution for giving law to all the departments of this Government. Every year, every two years, every four years, and not longer than that, these "outlandish" people who do these "outlandish" things go to their places of voting and there they put in their ballot-box that power which moves this Government as the steam-power does a locomotive, and without which it cannot move at all. There is the exercise of the grand sovereignty of this country; there is where the power to move it starts; there is that which distinguishes it from all governments in the world, making it more sublime in its capacities and powers, more direct in its action, more free in its dealing with the people. The power of government of this country is absolute in the people under the Constitution because they are the sovereign rulers and controllers of the country. He who forgets that forgets what is the true distinguishing fact in reference to this Government that separates it from all others. He who never knew that never was and never can be a democrat.

We were admonished by the honorable Senator from New York that we were influenced by traitorous designs, not to use his exact words, in bringing forward this bill for the purpose of controlling the use of the Army at the polls. I have no objection to the honorable Senator characterizing my action or that of my colleagues on this floor as being treasonable or anything of that sort, because the world will not believe it. He cannot, with all his magnificent powers, persuade mankind to give credence for one moment to the thought that because we want to restrain the power of the Executive in the use of the Army we are plotting against the Government, or that because we put upon a bill, in a form which he himself said was constitutional, a restraint on the power to control the Army, therefore we are using a traitorous, treasonable, or otherwise improper means of coercing the Executive. It has been done so frequently that it would be hardly worth while for a man to argue now that it cannot reasonably be called treasonable, or a plot, or anything partaking of an improper design or purpose in any respect, that we should undertake to pass upon an appropriation bill a measure like this.

The President of the United States, echoing the Senator from New York, (while he does not come out and in the terms that were stated by the honorable Senator put it on the ground that the gentlemen on this side of the Chamber and on the democratic side of the House of Representatives are a set of traitors and plotters against the Government of the United States,) takes the ground that a majority of the people of the United States represented in both Houses by their lawful representatives are about to consent to the overthrow of the Government! Suppose a majority of this country, a majority of the people represented in these Houses intended to break up this Government; suppose that was their purpose, there would be very little in a veto message to stop them from it. Men bent on mischief like that would not stop at the check or chiding that might be put on them by a veto message. To those Senators who have indulged in this line of accusation I may be permitted to say that in my opinion they have extended their remarks very far beyond the fact, and they have undertaken to impute to men on this side, who have an earnest and an honest desire that this Government shall last and be constitutionally administered, motives and purposes unfounded and improper.

The real fact is that they deny the right of the people of the United States to express their opinions through their representatives in this House and in the other unless those opinions happen to coincide with the views of the republican party. They cannot give up their hold on power, they cannot submit to the will of the people, they are not willing to obey the mandates of this great sovereign power, the people of the United States, and they deny to us all right to be properly heard. Continually, hour by hour and day by day, this same idea is thrust into our faces; and though gentlemen do not put it in exact language, and do not acknowledge in their expressions the real fact, who that is on this side, who that is on the democratic side of the House, who that is a democrat in the United States, does not feel that all that is done and all that is said here is a virtual denial of the right of the people to control?

Sir, when we sent that bill to the President of the United States we did not ask him to give up prerogative. He has none. There is no such thing placed in the hands of the President of the United States by the Constitution. To call any power of his a prerogative is a thorough mistake. Prerogative is an outgrowth of the "divine right of kings," descended from on high, handed down through a special agency to a certain line of people. The President of the United States never had it; there is nothing like it in the Constitution of the United States, there is nothing like it in the office of President, but the reverse of that. The power, as I have already argued to some extent, of the President of the United States to veto a measure has no connection with prerogative, while in England the power of the king to withhold his assent from a measure has direct and immediate connection with prerogative. That is not a power derived from the constitution of England, and it is not a power derived from the statutes of England, the acts of Parliament; but it is a power checked and held in restraint by the constitution of England and by the Parliament of England, whereas the powers in the United States given to the President must be looked for in the body of the Constitution.

It was the intention, as I have already observed, of the framers of this instrument to give the President of the United States an opportunity to allow Congress to pass a law without his sanction or his disapprobation. We can pass laws here, and if he does not veto them within ten days but allows the time to pass, it requires neither his approval to make them laws nor his disapproval to unmake them. Here is a clear perfect power of legislation in this country separated from and distinguishable in every respect from any power of the President.

Now, Mr. President, I wish to inquire very briefly—and I feel that I am detaining the Senate very long—when and how and why "the few long-standing laws" got upon the statute-book to which the honorable Senator from New York referred in his recent speech? The Senator assumes that the power of Congress to require troops to be kept at the polls arises from the Constitution, and was exercised by Congress as early as 1795. He denounces the repeal of these statutes as follows:

Shorn of this absurdity, the bill as it now stands, should it become a law, will be the first enactment of its kind that ever found its way into the statutes of the United States. A century, with all its activities and party strifes, with all its passionate discords, with all its expedients for party advantage, with all its wisdom and its folly, with all its patriotism and its treason, has never till now produced a congressional majority which deemed such a statute fit to be enacted.

What statute was that? A statute, the repeal of which would prevent the President of the United States or any officer of the Army or Navy or any person from having armed men at the polls. The honorable Senator says that when that repeal is enacted it will be the first statute of the kind that ever found its way on the statute-book of the United States. Well, suppose he had stated the subject in this way, that after the time of George II in England and during all the colonial history of this country, and during all the history of all the States of this country there had never been a statute upon any law-book of the United States authorizing the President or any other executive power to have troops at the polls of any election, then we should have had the exact fact. The truth is that this would be a new statute, but it would be new only in the sense that it was a reaffirmation of that which had been always considered in this country as the common law of the land. There never has been, I venture to affirm, in any colony, in any State, or in the United States any enactment of any kind whatsoever before this authorizing the use of the Army at the polls. This enactment passed in February, 1865, was the first, and it became an affirmative law, affirmative in its power, affirmative in its action; because, while it sought to restrain the use of the Army at the polls, it gave that which had never before existed in any statute-book or under any view of the common law whatsoever, the power of using the troops at the polls for the purpose of keeping the peace. Therefore the astonishment which the honorable Senator from New York expressed should have been applied to the thought not that we were repealing a law which permitted the use of troops at the polls, but that any such law as that should ever have found its way upon the statute-book.

I meant to here read this statute, and also to read from some of the standard authorities on the English common law for the purpose of showing that the statute of 1865 was entirely novel in its nature, and that nothing of the sort has ever existed in England or in this country, treating it, as I think every man is bound to treat it, as an affirmative authorization on the part of the Government of the United States to keep troops at the polls. I feel that I have trespassed so long on the attention of the Senate that I have no right now to delay it by reading these authorities. I will refer, however, to the act of 1795, first statutes, page 424, and the act of March 3, 1807, second statutes, page 443.

I think the Senator from New York did himself and the Senate both

some injustice in his quotations from those particular statutes, for instead of reading them he came down to a statute that was enacted in 1861, during the war, and found in that statute a direct provision authorizing the President of the United States, without a requirement from a governor or a Legislature, to enter a State for the purpose of enforcing the laws of the United States, a war measure designed for war times and war purposes, and the honorable Senator in the quoting of that statute undertook, as I understood, to make it clear that that law was identical with these statutes of 1795 and 1807 to which I have just referred. There can be nothing wider than that from the real fact, for the acts of 1795 and 1807, the first of them authorizing the use of the militia and the second authorizing the use of the Army and Navy of the United States, are predicated upon the distinct condition in each of these acts that troops shall not be used to enforce the laws within the States except upon the call of the governor or the Legislature as provided in the Constitution.

No, sir, the President of the United States, although he was Washington himself, although he was Adams the elder or the younger, although he was Jefferson, it made no difference how distinguished he was in patriotism and for the conservatism of his views and ideas of government—the President of the United States at that time was looked upon by the Congress of the United States with so much, I will not say of suspicion but of virtuous and honest caution, that they would not permit him to enter a State even with the militia unless it was on the call of the governor or the Legislature.

In 1861, when the time came in which we had war and open secession, the authority was given, by the law that the honorable Senator from New York read, to the President of the United States to enter a State with his Army for the purpose of enforcing the laws. But under that statute also there is a provision that the President shall have the requirement of an obvious necessity to control his action in the particular case, and that he shall first make a proclamation stating that there is such a condition of public affairs as justifies the employment of force; in other words—and here we approach the very point in controversy, here we come to the exact principle upon which we divide—that the President of the United States under the act of 1861 must ascertain by a proclamation first made within the State that there exists in that State such a condition of public affairs as that he may lawfully resort to the martial law to subdue or correct it. There is the difference, and all this argument comes to that. The law of 1865 which this appropriation bill sought to repeal in part, and which will be repealed in part when the bill we are now discussing is passed, is the first and the only law which authorized the President of the United States without proclamation, without the call of the governor or the Legislature, without the issue of civil process, without the necessity of having civil process executed, to go with his Army into a State and there to administer the affairs of that State in the vital matter of conducting elections.

Sir, the law that prevails in this country to-day is the civil law, the law of the Constitution, the enactments of Congress, with all the guards and prohibitions put upon those enactments in the Constitution itself, and in the provisions of the different statutes. Whoever removes that law must do it by military power, martial power. I think I might very well and without reserve challenge every Senator on that side of the Chamber—and surely there are many there who are very able—to find in this country a possible condition of things where the Army can be used at the will and pleasure of the President for any purpose whatsoever, except where invasion or rebellion or domestic violence exists, as defined in the Constitution—you might call it war. The power of the President to march an army into a State for the purpose of controlling the people of that State in the matter of the discharge of any duty is a power which displaces civil law and gives to the authority of the President of the United States the absolute force of military law and enables him to execute his will and purposes without responsibility.

In the case of Milligan that question was settled. I intended to have read from that case, and intended to have read extensive quotations from the decision, and particularly from the argument of the honorable member of the House of Representatives, [Mr. GARFIELD,] whose argument in that case was powerful and just, in which he took the ground that Milligan could not be tried by a court-martial in the State of Indiana although the offense of which he was accused occurred during the war; he could not be tried in the State of Indiana notwithstanding he was charged, and appears to have been justly charged with having attempted to raise companies against the Government, charged with treason against the United States, charged with opposing its armies. That man was condemned to death by a military court, and that case came before the Supreme Court of the United States and the question that arose in the case was: could martial law exist in the State of Indiana, a State that was not one of the belligerent or seceding or rebel States, notwithstanding war prevailed all over the country? Could martial law exist there so as to justify a court-martial in trying a man for treason, in trying a man for an attempt to break up and destroy the Army of the United States. The Supreme Court held that it could not be done. The argument upon that subject made by the honorable gentleman to whose name I have just referred was certainly very powerful and very conclusive, and I think it must be a source of great gratification to him to know that the Supreme Court of the United States in its opinion followed almost literally the course of his argument.

How can you present a stronger case? It would be impossible to do it. Milligan's case decides absolutely that there is under this Constitution of the United States no power to supplant civil law with martial law, except in time of war or in obedience to the requirements of the Constitution.

Now, take the State of Connecticut, which has been always loyal and true to the Government of the United States, (but I am not sure I might not qualify that remark by excepting out a small period of time during the last war with Great Britain,) but I will take Connecticut as a good example, because "by their fruits ye shall know them," and sure am I that there cannot be presented any better fruits than the State of Connecticut has afforded to this country in some respects. Can the President of the United States, without the requirement of the governor of Connecticut or its Legislature, or without the existence of a writ to be executed, and in the absence of all resistance to the laws, in the absence of any overt act of resistance or any threat of resistance, upon his own mere suspicion, his own forecast of what may occur hereafter, take the Army of the United States into the State of Connecticut for the purpose of preventing a disturbance of the peace at the polls? That is the proposition; and when he does it in the absence of all these requirements and all these legal prerequisites, what is he to do with his Army when he gets it there except to establish martial law in place of civil law? Is there any Senator who will say that the President of the United States, thus taking his Army into the State of Connecticut, does not establish martial law? If he does not, what power has he got to command it? He commands it to do a certain thing or not to do a certain thing. Against whom are these things to be done? Against the people of that State, not in their behalf, not for their protection, not to preserve them against invasion, sedition, domestic violence, or insurrection, but whatever is done by that Army must be done under the command of the President of the United States against the people of the State of Connecticut. What, then, is the President doing with his Army in Connecticut? He is commanding his Army there in virtue of his military power as Commander-in-Chief of the Army and Navy of the United States for the purpose of controlling and compelling the people of Connecticut to do his will and pleasure, whatever that may be. You say it is only to preserve the peace. Be it so; I care not what it is to do. It makes no difference what may be the purpose he is to go there for, he must go there in obedience to and in conformity with the Constitution of the United States, and when we say "You shall not use the Army at elections," we mean "You shall not use it unconstitutionally, shall not use it as an instrumentality in the hands of the President as a military commander to execute your own will and purposes without reference to the law, local, or general, or national." That is what we say.

This appropriation bill bestows many thousands of dollars, how many I am not now precisely prepared to state, but a great many thousands of dollars, upon the President of the United States, or rather upon the War Department of the United States for the purpose of providing for the expenses of the transmission of the Army back and forth under the command of the President. Now, I have this question to ask upon that subject: what restraint is there in the laws of the United States to prevent the President of the United States from expending this money or bringing his Secretary of War to do it in the transportation of the Army from the Territories to the State of New York? Who says that the President of the United States cannot, according to law, order all the regiments under his command from the places where they may be to the State of New York at his will and pleasure to meet an expected breach of the peace? Is there any restraint in these laws? Is there any provision in the statutes, either in the fifteenth section of the appropriation act from which I read or any preceding action of Congress, which prevents the President of the United States from taking his Army from its places of cantonment and bivouac wherever they may be in the West and carrying them to the State of New York to influence an election if he wants to do it? I am not aware of any provision of law of that sort. We make ample appropriations to him, or to the War Department, for the transportation of the Army. The President may say to himself, "I expect in the course of the next election that there is going to be a terrible uproar in the State of New York. The honorable Senator from New York [Mr. CONKLING] has risen on the floor of the Senate, and he has presented such a picture of the condition of those people as that one can believe almost anything about them. He presents terrible pictures of the capacity of the people of his own State to do wrong. They are horrible people. I never heard of such people this side of the Fiji Islands as the honorable Senator has described the people of New York to be; they are very wretched." The President would be apt to say, admonished by the remarks of the honorable Senator, which have gone out uncontradicted, and which are taken for true as a matter of course, as everybody must take what he says as being true, "I think at the next election there is going to be a tremendous uproar. I think there is going to be a necessity for having ten thousand men, twenty-five thousand men in the State of New York. I find myself possessed of the authority to carry the Army there under the law. There are ample appropriations for their transportation, and there is no check upon me. There is nobody controlling me about it. I think the best use I can make of this Army is to have it in New York for the purpose of keeping the peace." Ah, but asks some one, "Has the peace been violated in New York at any election?"

"No." "Has somebody threatened to violate it?" "No." "What authority have you got to take those troops into that State? Who has called upon you and asked you to do it? Has the governor done it?" "No." "The Legislature?" "Never." "What authority have you? There is no emergency which has arisen to require or even to justify you in doing that. What authority have you got to take that Army there?" "I have got the authority of my suspicions; I have the authority of the honorable Senator from New York who said they are terrible and bad people and need to be controlled by outside power; that there is nothing that can take care of the liberties of the people of New York but the Army of the United States. They have no power of self-government. So beset with sin and vice, so demoralized are they, so entirely have they become lost to a sense of duty, so lawless are they, that nothing will control them but the Army and Navy." "I want them," the Senator would say; "bring the Army here." So here it comes, and you cannot prevent it. If the honorable Senator from New York should wake up some morning and find the whole Army of the United States in the city of New York under the order of the President, what would he have to say? What objection could he make, particularly if it is just at the juncture when an election is approaching? What plea could he make with his people? Does he not say that they are a desperately bad set of people? Does he not argue that they cannot govern themselves? Does he not show that they are not worthy of the confidence of mankind, that they need an army to keep them in check and control them?

Mr. President, it is for the purpose of preventing the President of the United States, or any civil, military, or naval officer in the United States, from assembling people at the polls, armed people, troops or men, in anticipation of any supposed occurrence of any breach of the peace, that we object. It is a pretext that is too thin almost for serious discussion, that it shall rest in the conjecture of any man, whether he is John Davenport or whether he is President, when troops are necessary to conduct the election in a State. I do not care who it is, it makes no difference. I do not believe that Mr. Hayes, left to himself and without the screws of "stalwart" power being applied to him, would ever use the Army for such a purpose; but when these stalwart screws can coerce him into a veto message like that which he sent to the Congress of the United States, I do not know what he may not be induced to do, and I think we had better be a little cautious.

Mr. President, the honorable Senator from New York set out in his argument the other day with the statement of a proposition which I think did both the people of New York and the people of the South great injustice. We have always had a great respect for New York. To that great metropolitan city our people have always resorted for trade; and I must say also that they have been treated always with hospitality, and kindness, and attention, and they have much permanent, well-founded affection and regard for the people of New York City. The commerce of New York City has so extended through the South that there is not a hamlet in my section of the country, where you do not find a New York merchant either through his drummer or in person, or else you find some man who is in the habit of visiting New York regularly for the purpose of exchanging the productions of his country for goods that are brought there. I must say in spite of all the denunciation that the honorable Senator has been able to bestow upon his great State, and especially that great city, we still have much respect for it. Perhaps it does not help New York that we have such respect for it, but it may help us somewhat that we still have some reverence and some respect for a people who have done for themselves and for this country so much as the people of New York have done.

I think that is a wonderful city, wonderful in its enterprise, powerful in its commercial forces, and beautiful in its example of government. Surely the people of the United States have no contempt of New York City; they have no right to disparage it; but when the Senator gets up and takes the license, the liberty which belongs to him as its representative, in presenting such scenes as he has brought to our attention, we begin to distrust whether we have not made some very improper calculations and come to some very unjust conclusions in regard to that great people. The honorable Senator, after showing that his people are not worthy to be trusted with a keg of powder; or a negro in their midst, lest he might be broiled, (as he represented the other day they were broiled in New York,) and as they have recently been broiled on the borders of Kansas—"Bleeding Kansas"—after showing that a negro had no chance in the world in the enlightened and splendid city of New York, and in fact that no other man had much of a chance there of life, liberty, or property, he went into a statement about the South in reference to which the honorable Senator from Georgia [Mr. HILL] undertook to ask him a question, but he would not give any time or breath for an explanation.

That statement was to the effect that the larger part of the revenue derived from foreign commerce in the United States was collected at the port of New York, and that that revenue thus collected was largely more than all the revenue collected from all the twelve Southern States. The honorable Senator from Georgia immediately rose and tried to ask a question which he was cut off from asking, and so we got no information, and now we are left upon the records of the Senate and of the country as being a people who by contrast with the State of New York pay only about $7,000,000 of revenue to the country, while New York pays, I think, $109,000,000.

Mr. President, the twelve States to which the Senator referred make $200,000,000 of money annually in their cotton crops. I should like for the honorable Senator to point out some industry in the State of New York that makes that amount. Almost all of that we make in one way or another goes to the city of New York. We do not begrudge it, but I wish to God we had changed the current of trade and that our money and produce had gone to Charleston, Baltimore, Galveston, New Orleans, and to the State of my honorable friend, [Mr. EATON,] the State of Connecticut, anywhere except to feast and fatten men who come here after growing rich upon our labor and taunt us with the reproach that we are not paying as much tax as they are, and therefore claim that they have a better right to serve the country.

We have twelve million people in the South, black and white, or thereabouts; and we make annually a profit of $12,000,000, that is the calculation, upon our cotton crops—a dollar annual profit to every human being. That is not much; it takes a whole year to do it. That $12,000,000 is probably spent, most of it if not all, in local improvements. Where does the balance of the $200,000,000 of money go? Who handles it? Who uses it? Who grows fat on it? New York! There is scarcely a bale of cotton produced in the South that does not in some way go to New York. Every dollar almost that is realized from these annual crops is spent in New York. New York has now more than two and one-half billion dollars of property, real and personal, and all of these twelve States have not as much. How did her people get so rich? Is it personal property they own that is so valuable? It is real estate! What made their real estate so valuable? Our traffic and our money. They have grown rich upon our labor and upon our industry. They have waxed fat and they kick. Let them kick. We are not going to return it with blows. But it may be after awhile that we shall get independent enough to handle our own crops, and then your State of New York and your city of New York that have grown so splendidly rich and so powerfully overbearing will want the sustenance upon which they have lived and grown fat; because but for that which has been extracted from us, but for that which we have yielded to New York, but for the contributions we have paid into her treasury, she to-day would be as poor as Alabama, and poorer, because she has no crop which yields money like cotton.

There is not a merchant in the South who would listen to me for a moment in casting a censure upon the city of New York, but there are many there who will feel wounded in spirit and outraged in their sensibilities when they read from the remarks of the honorable Senator from New York that they are a poor beggarly set who do not pay any taxes and therefore have no right to influence in this Government. Sir, if they had their earnings in their pockets that they have paid to New York City, real estate in that city to-day would not be worth any more by the square foot than it is worth in Charleston. Thrift, industry, enterprise, talent, ability, courtesy, magnanimity, the excellence, the exaltation, the splendor of the people of New York have entitled them to this encouragement. But after they have won it through these great and high methods from men who are their peers in all respects, let them not undertake to treat with disdain those who once were rich but now are poor and toiling, or fail to remember that much of your wealth in New York came from our commerce and our labor.

Even women in the South—not black, but white—toil in the cotton-fields from year's end to year's end to supply to the grandees of New York that power which not only gives them the domination of the commerce of this country, its financial arrangement and management, but gives to them that conspicuous condition of assumed authority which justifies their Senator in reproaching the people who toil so hard and work so honestly and so industriously for their country and for New York.

After the honorable Senator got through with berating us he undertook to tell us what we should do in the South. After having disburdened his remarks of all of that apparent condition of I will not say malice, but of harshness, of extreme harshness, by a disclaimer that he meant no harm, he turned graciously to us and he opened to us his great bosom, strutted out with the mother's milk of human kindness, and he bade us cluster around near to his heart and take a little advice. The first thing he told us was to go to work. He gave us a good deal of moral advice besides which I thought was quite out of place coming from a Senator who had accepted a position from a people so degraded as he said the people of New York were. So I will pass over his moral advice as coming not from a source that might properly commend it to notice; but the material advice, "go to work," is something that strikes in upon us.

The Senator from New York would make, I have no doubt, one of the best possible representatives the people of the South could have if he would only go down there and familiarize himself with us, if he could possibly bring his mind to fall in love with us, or even to have due respect for us or compassion upon us; and he could devise, as his party has been attempting for many years, quite a long series of experimental congressional legislative action here through which we would be greatly benefited. We are expected to transfer the power of legislation as well as the moral control of our people into the hands of gentlemen from the Northern States.

"Go to work!" We do not abstain from work. We live by work. We have no machinery to spin for us or weave for us. We have very little outside commerce on which we make profit. We have no great

mines of wealth that turn out from their hidden sources of treasure enormous masses of gold and silver. What we gain down there we gain through agriculture.

The question is asked why we do not work? The answer is that there are more bales of cotton made now than were ever made before in the South, showing that we do work. Who makes it? The poor negro who has now run off up into Kansas? That will not do. Let me say to the Senator that the truth is that in the State of Alabama, which I believe is the second or third cotton-producing State in the American Union, there is more cotton made by white people than is made by the blacks, and a very considerable part of that which is made by the white people is made by the women, white women, who go into the fields and toil with the plough and the hoe, and who will answer the question or the admonition or the advice of the honorable Senator from New York, telling them to go to work, by saying to him, "Come, sir, and see how we labor; do not deceive yourself or your people with the idea that the Southern people are not a working people."

I will venture to make another statement, which I do after mature consideration of the subject, and that is that there are fewer unemployed men and women, white men and white women, in the State of Alabama, and I dare say it is true of other Southern States, than there are in any other given population on this continent. The crops that they make are hard to make. You commence preparations in February and are lucky if you close your crop-gathering the last of December. Through the hot burning suns of the summer and under the malarious influence of the autumn season, these people, men and women, white and black, work; and they work for a living, nothing more.

Where are your tramps in the South? What has occurred in this northern community that is advising other people to work, that squeezes thousands and tens of thousands of honest laboring-men out of house and home, and forces them as vagabonds and vagrants upon the world? What is it that makes it a requisite in the Northern States that we should have armies to quell the population that demands bread as the reward of their labor, and not only requires them to quell the people, but shoots them to death, because in the anguish of their despair they have risen against powerful combinations of men and corporate authorities with a view of trying to get bread for themselves and their starving little ones. Look at your Northern States where there is no road or path or mountain gorge, where there is no place a man can put his foot to travel that you do not find the poor wearied pilgrim called a "tramp," moving about from place to place in search of bread and labor. Cast your eyes to the South and answer me whether that is the case there? Every man, woman, and child in the South has bread, has a shelter, has clothing to wear, and they have nothing to do but to perform according to their own option and under their own contracts of employment such reasonable labor as they are willing to perform.

When they are looking at conditions and giving advice I trust that the honorable Senators on that side of the Chamber who live north of the Ohio River will pardon me if I should say to them that if I were going to give advice I would direct their attention at home, and I would ask them if they could not devise some plan for the relief of their own poor constituents who have to go from home and friends and wander through the world in search of bread, getting a stone when they ask for bread? I should like to know if the honorable Senators cannot find employment for their great intellects and their great powers of statesmanship in the alleviation of the condition of their people rather than to turn their kindly compassionate attention to those who have neither asked advice nor comfort from them.

Mr. President, the Senator from New York has suggested that we have needed a great many things in the South. We have got a great many; and in the getting of these things we have nearly got our destruction. But I return most devout thanks to the Ruler of the world that in His providence—for I do not think it is anything short of that—we have outlived a great many things which have been bestowed upon us. The honorable Senator from New York has given us a number of things, and doubtless with the best intentions. After we had gotten through with the war, that wicked rebellion of which the Senator from New York speaks with so much emphasis, as the bloodiest, most cruel, and most criminal rebellion that ever existed in the world"—after we had got through with all that we then had something else that we were required to accept. But when we were getting through with that war we were suffering terribly; and whatever the honorable Senator from New York may think about it we were suffering for and struggling in what we believed to be a just cause.

The honorable Senator from New York was an abolitionist. Was he? Let the records speak. No; he was no abolitionist. Never was he an abolitionist. What, then? He made us believe that he was? Senators on that side of the Chamber made us believe they were abolitionists, and yet they were not. There was not a Senator—perhaps with one or two exceptions—on that side who would have sacrificed a hundred men to have freed all the negroes in America. But we believed you were abolitionists. You said you were not, but we took it for granted. Notwithstanding that after the battle of Bull Run you passed resolutions in this Chamber in which you disavowed the idea that you were abolitionists, still we believed you were; and it was because we thought you were destroying a property worth to us three or four billions of money that we undertook by going outside of the Union and setting up for ourselves the protection of it. You would fight; you would secede or else you would rebel or do something equally monstrous if we or any other set of people should go to your factories and undertake to stop them, or deny your title to your lands, and try to rob you of any of your property, or even of your political privileges and rights. You would fight too. We did. We fought, and fought because we were trying to save our property and had a right to it. We were, it seems, wrong about it. We were not wise. We were deceived as to your intentions. Providence has adjudged this against us, and the Constitution of the United States has also expressed it in amendments. We were in the wrong, but we suffered. But we did not suffer as criminal men; we did not feel that we deserved to suffer as criminal men. We felt that we were suffering as men who were deprived of what we understood the Constitution of the United States to give us. But it seems we were wrong. The Constitution says so; the country all say so all around; but we got through with the war and we lost more property in the South than every dollar of real and personal property in New York is worth. We lost all.

The honorable Senator from New York says that there was no confiscation about the war. It was not intended confiscation, I grant you, but still it was the same thing. We lost all, and we make no claim for it now, we never will. It is in the Constitution that we cannot do it, and we fully approve that provision of the Constitution. It was a clean loss, a thorough confiscation. Now, it would be very hard indeed to take from the people of New York, or from the people north of the Ohio River, three billions of property of any kind and then expect them to pay as much taxes as an undisturbed section that had retained all of its property, and had got rich by the war. That would be very hard; but this is what we do without a murmur of complaint.

After we had passed through this war; after we had been conquered, after our arms had been surrendered and we had hauled down the banners of rebellion against the Government of the United States, then the honorable Senator from New York came to us and he said to us, "States! Alabama! Mississippi! Florida! Georgia! all of you States, component parts of this grand and splendid Republic, States like New York, States like New Hampshire and Vermont, we submit to you a question which upon your vote and upon your decision is to amend and alter the Constitution of the United States. Will you abolish slavery?" You did submit it. You submitted it to States, States that had governments legal enough to amend the Constitution of the United States, good, honest States, full States, complete States. Before you had submitted it to Alabama she had already abolished slavery; but you did submit it, and Alabama acquiesced, and she amended her constitution according to your demand upon us as States. Thereupon you got slavery abolished, Kentucky not consenting to it. If that was not done by States, by what was it done? How would the honorable Senator from Kentucky answer to his constituents for the loss of their slaves, which they never consented to give up, unless that provision had been put into the Constitution of the United States by States? That was all doing very well indeed, and we were getting along remarkably well, but then we needed something else. It was then affirmed by the honorable Senator from New York in a report which he himself signed that these State governments were not legal State governments. Oh, mark how it shames American statesmanship, that in one hour you should proclaim that these were States enough to alter the Constitution of the United States and in the next you should proclaim by act of Congress that they had no legal governments! There is another thing. It was a magnificent donation when we come to consider the Constitution of the United States and the estoppel, if there be such a thing as that, of conscience or statesmanship, when, after you had submitted the thirteenth amendment to us for our ratification as States, you also gave to us new State constitutions made to hand.

Not only did we in Alabama get a government decreed by Congress, but you made it a military government, military from head to foot, in every respect and in every capacity. We had then been at peace for a year or more—for two years indeed. Each State government was performing its own regular functions in its own regular way, and we had the indorsement of the Congress of the United States that we were States, when you passed an act of Congress by which you confided every department of the government of these States to the hands of the military. You did not even separate us into States, but organized military districts or divisions and crowded as many as three States, Georgia, Alabama, and Florida or Mississippi into one district, under the command of one military governor, who immediately commenced with the governors and removed them from office; then the Legislature and removed all of them; the judges of the supreme court all were expelled from office, the judges of the circuit courts, the chancery courts, the probate courts, the justices of the peace, the sheriffs, and the constables, and all officers in executive authority. All were swept clean by the board, and these military governors had the power there and exercised it completely and fully to substitute these officers with men of their own appointment. The States were broken down, the States were crushed under foot, the States were kicked in the dust, the States were destroyed. My countrymen, to understand it in all its outline we shall have to go over a history of years to see how much was done to destroy all the understanding of what is included in the provisions of this great body of our constitutional law. That was military government enacted by Congress.

But the power that did that is no stronger, no more restrained, no less terrible in its consequences, than that power which the act of Congress of February, 1865, provides that the President of the United States may employ when he uses the Army at the elections. Who cannot perpetuate his power with an army at his back? Sir, suppose that the democratic party of the United States should take this power and use it against you, now that it has authority, when do you think you would be restored to power? But we would not wield it. No; it is ours in principle and ours in duty to discard all military power, to deny ourselves authority to do that which we think the Constitution of the United States does not permit us to do. When you find an honest, sound, and true democrat you will always find a man who denies to himself, his colleagues, and his friends all power that is not found in the Constitution.

Then afterward we got still more of military government. After we had passed through this period of reformation and after a constitution had been voted by Congress for my State which the people had rejected at the ballot-box under your permission that they might reject it, what then?

It was necessary that we should have more of military control. Armies traversed that State after this constitution had been adopted by Congress and after our Senators and Representatives had been admitted here, armies traversed our State from end to end continually at all periods of elections; and the only reason why you were not successful in the use of the Army in converting Alabama from a democratic to a republican State was that the presence of your army there was an admonition to every man who understood the Constitution of the United States that he had better stand by the principles of that instrument rather than give it up, and that made him a democrat, and it made democrats of old whigs, democrats of many republicans. Almost every man who in good faith migrated to Alabama from the Northern States, though he came there a republican, became a democrat. They looked at the Army, they saw the influence that was being brought to bear to control elections, and they became democrats.

But there was another fact. You could not make the Irish and German soldiers mix with the negroes, notwithstanding they were representatives of the Government of the United States and paid by it so much a month and dressed in the uniform and supposed to be thoroughly under the control of its principles and influence in every respect. They would not mix with the negroes. You could not get a German or any other man who was in the regular Army of the United States to admit social equality with the negroes. We could not help that; we could not make the soldiers mix with them. It was very hard to do indeed. It is going to be very hard in Kansas, I will say to the honorable Senators across the way; and I will say another thing in that connection: if instead of sending eight or ten thousand negroes to Kansas from the South, you would send twenty thousand or thirty thousand, we should have a democratic Senator in place of the honorable Senator over there at the next election, and make a democratic State out of that. There is no doubt of it. Well, the Army was in Alabama and I have not complained of the use that was made of it in any State although every use was made of it that could be with a view of trying to deter us; the result was just the reverse. The result was the building up of the democratic party. The unification of all men in the South more depended on the fact of the presence of the Army than on any other fact. It is only since the Army was withdrawn that the people have commenced dividing on greenbacks and other like questions. With the South it was absolutely a one-sided thing beyond all peradventure as long as you kept the troops there.

My argument on this subject is addressed more to the people who reside north of the Ohio River and who, massed and aggregated as they are, have among them some of the most miserable, wretched people in the world living under the very shadows of the most princely and most magnificent mansions on earth. There beggary and enormous wealth are associated in joint control. Those are the people to be affected, and I would say to those poor wandering tramps and to the mechanics and hard-working men of the North and to the ill-fed and ill-clothed men and to the fathers of families whose daily occupation it is, not to labor, but to hunger for the want of it—I would say to them, all of them, if you still believe that you are men, if you still realize that you are American citizens, if you still think this Constitution protects you as well as it does the greatest and most distinguished man in the world, if you still have an abiding faith and hope in the power of this Government to do you justice in all coming time, do not ever by your votes consent that any man shall have power to send a body of armed troops to the polls for the purpose of serving you as the soldiers of the United States served the people of Alabama.

That is what I say, and in doing so I would not incite any man to wrong, to injustice; but I would say to him, rely on the powers of your Government under the Constitution of this country, in the justice of men who know what their rights under the Constitution are; rely on these to do for you all that men can by legislation for the protection of your individual constitutional rights.

The honorable Senator seemed to think that the Army was a matter of not much consequence; but it cannot be denied that in my State we had troops brought there by men in authority, men in authority in this Chamber, who had the powers of Senators, and they are very great powers. There is a man living in my State by the name of Robert Barber, who is chairman of the republican committee of the county of Montgomery to-day, and who has been secretary of the republican committee for the State of Alabama, a man always in authority among the republicans in that State. Mr. Barber was called before a committee of the General Assembly of Alabama for the purpose of giving testimony in a case which was referred to in debate yesterday, the case of Mr. Spencer, the predecessor of my colleague on this floor. I propose to read from his testimony something that will show a little bit of what was done with the Army in Alabama:

Question. Have you any written communication relating to the plans you have mentioned touching the use of troops in Alabama?

Answer. I have some letters, which I do not care to produce, as they are of a private character.

Q. Do you say you have them in your possession?

A. I do; but, wishing to violate nothing like confidence, will not produce them unless required to do so by the committee.

(The witness was permitted to consult with his attorney.)

Q. As it is improper to ask of the contents of the letters when you have them in your possession, we are put to the necessity of requiring you to produce them. Will you do so?

A. I produce the letters; here they are, [handing them to the chairman.] I ask that the committee have copies made, and allow me to retain the originals.

(A copy of these letters is hereto appended, marked Exhibits E and F, and are a part of this testimony.)

Q. Do you know these letters to be genuine?

A. I know Spencer's handwriting; they were written and signed by him, and bear the impress of his seal or motto used by him.

Q. I notice in the letter of October 22, 1872, the expression, "I wish Randolph, deputy United States marshal, would use the company at Opelika in making arrests in Tallapoosa, Randolph, and Cleburne, as —— suggests." Please explain the meaning of this expression?

A. I received a letter from Randolph County before the date of these letters, suggesting that if troops be sent into the counties named that enough voters would be run out of them, through fear of arrest, to secure the election of republican representatives from those counties; and the letter of October 22 was in reply to a letter written to Spencer, conveying to him this information.

Q. Was your connection with the republican party and Spencer of a character to enable you to understand their and his plans?

A. I was familiar with their and his plans all the way through. I was assistant secretary of the republican State executive committee.

Now for the letters:

DECATUR, ALABAMA, *October* 22, 1872.

MY DEAR BARBER: I have just returned from Louisville, where I have been to see General Terry about troops for Alabama.

I have had a company of cavalry sent to Livingston, a detachment to Pickens County, a company of infantry to Eutaw, and a company to Demopolis, and a company to Seal's Station, Russell County. Also, a squadron of cavalry to report to Marshal Thomas, at Huntsville.

I wish Randolph, deputy United States marshal, would use the company at Opelika in making arrests in Tallapoosa, Randolph, and Cleburne as —— —— suggests. I will be in Montgomery Thursday morning to attend the meeting of the State committee. I would go sooner, but cannot, as it is important I should stay here to-morrow. I wish you would go to Talladega and block that game. I must not, however, be known in the matter.

The troops mentioned above will all be in their respective places in two days from now. Some have already arrived.

In haste, truly yours,

GEORGE E. SPENCER.

"Who was George E. Spencer?" I am asked. I will let the Senate of the United States answer that. The record of the Senate of the United States shows who George E. Spencer was.

Mr. President, when this republican party was in power a Senator from Alabama at that time was one of its members and when he wrote a letter like this and got troops there for the purpose of running men out of Randolph and Tallapoosa Counties, and when that letter was proved by a man of his own party to-day in good fellowship and recognition of that party, is it to be asserted on the other side of this Chamber that there is no occasion to be alarmed about the power to use troops at the polls? I have not brought this subject to the attention of the Senate before, because it is in some sense a reflection upon my own State, or a man who represented it, and I have no remark to make about that. The letter itself is its own exponent, and does full justice to the author. But can it be affirmed that when a Senator of the United States of the republican party then occupying a seat on this floor used the power of having the troops at the polls in the way I have read—when these things are shown will the country say that the effort to repeal the authority is a dangerous plot and a traitorous conspiracy?

I feel, Mr. President, that the alarmed apprehensions of the honorable Senator from New York will be much quieted in reference to the repeal of this law when he has seen this letter written by a republican colleague. I dislike to make accusations; I dislike to bring disagreeable subjects to the attention of any one; it is not in my nature to do it; but the sacred right of self-defense is one that I cannot abdicate or abandon; and when the Senators claim here a power of keeping troops at the polls under the pretense of keeping the peace at the polls, then I think it is necessary to take some steps to prevent the exercise of it as this bill does, and does it in a way nobody can object to.

I hope and trust the President of the United States will find it within the purview of his duty to sign the bill. He may not. Perhaps I ought not to express that hope; I think rather I had better not have expressed it. I will not recall it, however, or take it out of the record, inasmuch as I have expressed it; I think that the independence of these different departments of the Government requires that each should act for itself, without advice, without constraint, without admonition, and certainly without compulsion from the other.

I had a number of authorities that I proposed to read, but I find that I have overstepped entirely the indulgence of the Senate, in the length of the argument which I have undertaken to make on this occasion. The subject, however, that is brought to my attention is one

that seemed plainly to myself, as well as to other gentlemen of the South, to demand a sort of answer which would put us upon the proper ground and show that what we are contending for in this case is something that affects ourselves not so much as it does other people in a different part of the United States, but that we are contending above all things for the preservation of the constitutional rights of the people of this country, and being from the South, that country which has been dragged into the debate although we had no agency in bringing forward these laws, that country which seems to be the burden-bearer of every accusation that any man can devise in his imagination or otherwise, that country that must be always burdened, and never relieved—coming from that section of country I thought I might be indulged by the Senate, as I hope other gentlemen from the South will also be, in making some remarks on this occasion to set ourselves in a right attitude before the country.

The people will understand, as did their fathers, the truths that we express in this bill, which are but the echo, as I conceive, of truths expressed by a great British poet during our struggle in the revolutionary war. Then there were rebels in this country led by George Washington; now we are told that there are rebels in this country who were led by General Lee and other men like him. Looking back over the men who have figured in all these scenes, it seems to me that we ought to have, in reference to each other, some indulgence; and when we find that men have acted (even though they may have acted wrong) under the influence and inspiration of very high motives, we ought to be willing, after the occasion has passed and there is no longer anything to excite animosity, to overlook the past in a very kind and liberal spirit.

The honorable Senator from New York the other day, as I understood him, came down from the eminent height which he had occupied as the great ruler and leader of the republican party, the Jupiter Tonans of the republican party in the United States, and on the floor of the Senate nominated General Grant for the Presidency. I do not think that was a condescension, but I think it was a great mistake. I do not think the occasion was fitting. I do not think that when the honorable Senator was arguing for the right to control the Army at the polls and insisting that it should not be given up, he should have named that most distinguished of all the republicans in the United States, I believe, as a military man as the next candidate for the Presidency.

What did that mean? It meant that for the purpose of accomplishing a certain object through the mastership of a great general and the control of the Army, a certain man was needed. The honorable Senator from New York did not deem himself quite competent to accomplish this purpose even though he might be President, and he intended to use all the power he possessed to put the control of this Government in the hands of a man who would ride down the people of this country sword in hand and rule them with the same destructive power through which he once ruled and destroyed States. That was the purpose to which I ascribed this movement, and I believe it to be correct. He spoke of McGregor at the head of the table, and admonished gentlemen from the South that they had better not play McGregor and had better not take seats at the head of the table. The honorable Senator from New York himself does not take the position of McGregor at the head of the table. He seats another man there as McGregor. We are to furnish the wine for that feast prepared in the wine-press of affliction, in the very blood of our people. Will he drink of that potation? Never. He wants a libation poured out; he wants to sprinkle this blood upon his garments and exhibit himself on the forum as one baptized in the blood of rebellion. Who would deny to him this cheap glory? It will be of no account to the honorable Senator in the deep, dark future which is yet unrevealed. The honorable Senator makes a miscalculation if he expects to find that the American people will ever be willing to reward him with the Presidency because he seeks baptism in the blood of men with whom the whole country is at peace.

The great British poet to whom I have alluded, seemed as if he were inspired when he wrote of the people of England, as well as of this country, and put in verse this terse and powerful statement of the true purpose of government:

> Ill fares the land, to hast'ning ills a prey,
> Where wealth accumulates and men decay;
> Princes and lords may flourish, or may fade;
> A breath can make them, as a breath has made:
> But a bold peasantry, their country's pride,
> When once destroy'd can never be supplied.

I commend the philosophy of these lines to the attention of the Senators on the other side and I would have them remember as well as believe that the people of the United States, though poor, many of them,—there are myriads of poor among the people,—are nevertheless "a bold peasantry," a Constitution-loving peasantry, men who believe that their liberties are wrapped up in the Constitution of the United States, and whenever they get a fair chance and an open field they will stand by and sustain those men who are faithful and true to the Constitution of the United States.

Mr. EDMUNDS obtained the floor.

Mr. ALLISON. I ask the Senator from Vermont to yield to me that I may move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. Very well.

Mr. HOAR. I ask the Senator to withdraw that motion for one moment.

Mr. ALLISON. Certainly.

Mr. EATON. With the leave of my friend from Iowa, I desire simply to say that I shall be very glad to get a vote on this bill to-morrow. I do not say, as has sometimes been said, that I will press a vote to-morrow. I simply say that I shall be very glad, if it will be possible, to get a vote on this bill to-morrow.

COMMITTEE SERVICE.

Mr. HOAR. I ask unanimous consent to be excused from further service on the select committee of which Mr. WALLACE, of Pennsylvania, is chairman, to investigate certain alleged frauds in the elections, and further to ask that the Senator from Connecticut [Mr. PLATT] be appointed on the committee in my place.

The PRESIDENT *pro tempore*. The Senator from Massachusetts [Mr. HOAR] asks to be excused from further service upon the special committee named by him, and that the Senator from Connecticut [Mr. PLATT] be substituted. Is there objection? The Chair hears none, and the order will be made.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 8, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ENFORCEMENT OF EIGHT-HOUR LAW.

The SPEAKER. The morning hour begins at five minutes past twelve o'clock. The first business in order is the unfinished business coming over from yesterday, being the joint resolution reported from the Committee on Education and Labor—joint resolution (H. R. No. 9) to provide for the enforcement of the eight-hour law.

Mr. KELLEY. Mr. Speaker, the question involved in the resolution reported by the Committee on Education and Labor appears to me to have been thoroughly adjudicated. When the law was passed I thought it a mean evasion of responsibility by Congress, inasmuch as it fixed eight hours as a day's labor but did not determine the question as to whether the pay should be that for the ordinary day of ten hours, or but eight-tenths thereof. I felt that it was casting upon the executive department a responsibility which Congress ought to have assumed. Soon after its passage I was interrogated by many of my constituents on that point; and having considered the question I answered in an open letter through the papers, saying frankly that I thought Congress had left the matter in such a position that the decision could well be made that eight hours' work would produce but eight hours' pay. On the day on which that letter appeared, in the very papers in which it appeared, was a proclamation from the President of the United States declaring eight hours to be under that law a full day's work, and ordering the officers of the Government employing labor to so compensate it. There was the executive interpretation of the law.

The whole debate on the bill in the Senate, in which the late Senators Morton and Fessenden and their peers participated, went upon the theory that eight hours a day were all that an American citizen ought to be asked to labor, and upon the theory that employers would get as much work in the eight hours as they had been getting in ten or more.

But the act subsequently received a legislative construction. Hon. HENRY L. DAWES, now a Senator from Massachusetts, was then chairman of the Committee on Appropriations, and from that committee reported a bill appropriating a sufficient sum of money to pay the laborers in the Springfield arsenal and all other laborers for the United States from whom the pay for the two hours' reduced time had been withheld; and after ample discussion the bill passed both Houses and became a law. So that the legislative construction was consistent with that given to this law by the executive department. And until that statute is repealed every workingman who is forced by the Government to work ten hours for a day's wages is defrauded of his legal rights.

But, sir, since that time the question has assumed a much graver aspect than it then presented. In 1868 capital was actively employed and seeking ever new productive investments. Labor was in demand and wages rising. The case is very different now. Capital nowhere in Christendom can find safe and profitable investment in productive industry, and labor everywhere is suffering, if not absolutely, by contrast with its past condition. Indeed the condition of the laboring people of the civilized world is in this respect pitiable. Our coun-

try, more favored than any other, is suffering greatly, but less than others. Our broad, open, cheap lands are protecting us against the intense suffering others are enduring.

Mr. HARRIS, of Virginia. I would like my friend to answer a question.

Mr. KELLEY. I will say to the gentleman that I am discussing this joint resolution, and nothing else.

Mr. HARRIS, of Virginia. I would like to ask a question about the interpretation of this resolution. Its sole object seems to be not to enforce the execution of the law making eight hours a day's work in Government employment, but that laborers shall receive as much for eight hours' work as they would otherwise receive for ten. Now how is the rate of payment to be ascertained? Are you to take the amount of wages paid in 1868 at the time the eight-hour law was passed—are you to take the amount paid before that law, under the ten-hour system, for a day's labor, and pay the same amount now for eight hours' work as was then paid for ten?

Mr. KELLEY. I am not in charge of this joint resolution, nor am I a member of the committee that reported it; but if the gentleman from Virginia [Mr. GOODE] will permit me I will give his colleague my answer. There is a law providing how the wages of laborers in Government employ, especially in the cities, shall be determined. It provides that a board of officers shall each month ascertain the prevailing rate of wages in establishments doing the same kind of work that is done in the Government establishment, and that the wages of the laborer for the Government shall be the average of those paid in leading workshops of the city in which the Government establishment is. Thus we have declared by law the means of ascertaining what wages are to be paid. That is an old provision of law, and is not involved in any way in this resolution.

Mr. REED. Does the gentleman understand that the intention of the original law was to make the pay of Government laborers the same as that of other laborers in the same neighborhood?

Mr. KELLEY. I beg leave to say that if I am speaking under a limitation of time, as I think I am not——

The SPEAKER. The gentleman is entitled to ten minutes, the floor having been yielded to him by the gentleman from Virginia, [Mr. GOODE.]

Mr. KELLEY. Then, having a certain view to present, I must first present it, and after that, in whatever time may remain, I will undertake to answer questions of other gentlemen. To-day there is, as I was saying, throughout the world but little employment for labor, either skilled or unskilled, and gentlemen on both sides attribute this enforced idleness and consequent poverty and misery to "overproduction." They assert that the laboring people of the world are homeless because, as I have before said, they have built too many houses and made too much furniture! They are in rags or naked because they have spun and woven too much cloth, and converted it into garments! They tramp the country in pursuit of employment barefoot and foot-sore, because they have made too many boots and shoes! They are hungry and beggars or paupers, because they have raised too much grain and provisions! If this theory be true, which I deny, (but it prevails among doctrinaires and contractionists throughout the country,) I say it is the duty of statesmen and of every man of philanthropic impulses to do all he can to restrict and reduce production. If as the result of productive labor comes want and hunger; if from overproduction at ten hours to the day the laboring people of the world are reduced to want and destitution, is it not the duty alike of statesmanship and philanthropy to restrict production? If this theory be correct it is the duty of the National Government to set the example and to appeal with all the urgency it can to State governments, those of cities and counties and townships, to so apportion their work that every family may by the few hours required to supply the wants of nature enter into the consumption of the world and live as our laboring people once lived, upon their honest earnings in their own homes. Reduce the hours of labor so that every family may have a chance to get its share of work and wages.

I deny the doctrine of overproduction and say that a glut in the market is utterly inconsistent with the want of everything that makes life agreeable, by countless millions of laboring people, citizens of all civilized countries. But the absurd doctrine prevails; it controls the action of nations on currency; it is accepted largely on this floor. Whoever advocates demonetization of silver or the contraction of paper money gives you, in his judgment, a sufficient answer to any suggestion that may be offered when he says this comes from overproduction. The dogma is a horrible one. But if it be true I appeal to gentlemen, in the name of humanity, to do what they can to stop overproduction. If eight hours a day will not do it, bring the hours down to six. Why shall the toiling millions shrink, as they are doing in Berlin and throughout Germany, into damp cellars? Why shall British laborers suffer as they are doing? Why, sir, the people of my city, the working people whose pride it has been to have their families live under their own roof, are many of them huddling together three or four families in one such house and then are probably unable to pay their rent. Now we have a chance to do something to mitigate the curse of overproduction. Let us say that the United States Government, to the extent it can, will prohibit overproduction, and that it will prohibit over eight hours' work by any laborer in its employment, and so cast its influence, the influence of its wise statesmanship before the State governments and those of the cities, counties, and townships, and before humane private employers. Only one other choice remains to us, and that is that we shall fall back on the inhuman doctrine of Malthus, and by applying physical means to a given percentage of the men and women born throughout the world prevent the increase of the laboring population, and thus diminish the productive power of this and other countries. I am opposed to this terrible alternative. When God made man, among the rights He gave him was the right to live; and if two hours' toil will sustain his life, let him have it; if ten hours' toil will reduce him to poverty, want, and death, in the name of humanity diminish his laboring hours and avert the calamity of overproduction.

Mr. McMILLIN. I offer the following amendment which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That this act shall apply to future contracts and future labor only and shall not be held as authority to control past contracts or labor.

Mr. McMILLIN. Availing myself of the notice I gave to the committee from which this joint resolution comes, I offer this amendment, and shall briefly give my reasons for offering it.

There is a bill which has been introduced into this House to settle past wages claimed by Government employés to the extent of a quarter of a million of dollars or more; and while I am opposed to this bill, yet, if it should pass at all, I desire that it shall pass in the least objectionable form. I do not think that it should be passed as a "sapper and miner" of another bill for the payment of large amounts of money out of the Treasury. If this money is due, or if the law is as is claimed by the gentlemen who advocate the bill now before us, the laborer has his remedy by going before the courts of the country as any other man would do and making claim for past wages. If that be the law he can get his money in that way; if it is not the law I do not think we should enact it as a quasi-judicial construction and thereby make it law in an indirect way.

Now, Mr. Speaker, the trouble with this measure is that it is not in the interest of the toiling masses, as stated by the gentleman from Pennsylvania, [Mr. KELLEY.] It is a proposition to tax the toiling and farming millions for the benefit of the few hundreds in the employment of the Government. There are nine hundred and ninety-nine men out of the employment of the Government where there is one in it. These men work by contract ten hours a day, and I state it as my firm conviction that all over this country there are men who are working ten hours a day and more. Lawyers, members of Congress, farmers, and people who pay the taxes have to work ten hours a day at least. Now, the proposition is to give the Government employés as much for eight hours' work as is given in some communities for ten hours' work in private establishments. I think it is all wrong. The Government ought to contract for labor according to the custom and prices prevailing where the labor is performed; and to say that we will give Government employés 25 per cent. more than is given employés in private works is wrong in principle, and is taxing the people in a way that ought not to be done, and that I hope will not be done, in favor of a favored class.

I am not the enemy of the laboring classes, I am their friend; but I am the friend of the masses, and not of the few individuals only who are so fortunate as to labor for the Government.

The proof before the committee was, that if the Government has to have ten hours' work performed a day, which is frequently the case, it has, in order to get those ten hours' work, to pay 25 per cent. more than is paid in private establishments for the same service, or, in other words, has to pay for a day and a quarter.

I ask any candid man if this is right? The law on the statute-book says that the Government shall pay for services rendered the same amount as is paid by private establishments for the same services; and if this act passes, and if we go into this legislative construction of the law which stands upon the statute-book, why the effect would be that when the Government wants to get more labor than eight hours a day, they will have to pay 25 per cent. more than is paid by private individuals.

These are my reasons for being opposed to the bill *in toto* and favoring specially the amendment I offer. Let the laborers all over the land be protected, but do not tax and oppress ninety-nine to bestow peculiar favor upon a few.

Mr. GOODE. I wish to say a word about the amendment, and then will yield to the gentleman from New York, [Mr. COX.]

Mr. DUNNELL. I should like to have the amendment read.

The SPEAKER. The amendment will be again read.

The amendment was again read.

Mr. GOODE. I hope the House will understand that amendment, and if they do, it will not be adopted. Now, what is the effect of it? The effect is to preclude and shut off the workingmen of the country from the assertion of any claim whatever for the extra work which they have been required to do over and above the hours of labor prescribed by law. These men have a valid claim or they have not. If they have not a valid claim the amendment of the gentleman is wholly unnecessary. If they have a valid claim for the extra number of hours which they have been required to work, I submit to the House that it is manifestly unjust to cut them off in this way from the assertion of that claim.

Mr. McMILLIN. Will my friend from Virginia permit me to suggest the amendment does not have that effect. It is designed to ex-

plain this bill and to demonstrate it is not in the way of sapping and mining for the payment of claims under a false color.

Mr. GOODE. The whole effect of the joint resolution reported by the committee is to put an interpretation upon this law, in answer to the memorials of workingmen throughout the country, by which in the future the enforcement of the eight-hour law will be required. The gentleman's amendment is leveled at another bill, which is now under consideration by the Committee on Education and Labor, and it is better to postpone action until that question shall come before the House.

Mr. REED. What is the amount involved in that other bill which the gentleman refers to?

Mr. GOODE. The Committee on Education and Labor have addressed a communication to the Treasury Department asking for that information, asking to be informed how much has been paid under the act of 1872, covering arrearages of pay due from the date of the passage of the law in 1868 down to the President's proclamation in 1869. That much has been paid; but since 1872 other claims have accrued, and we have addressed an inquiry to the proper Department of the Government to know how much money will be required to meet those claims if they should be audited hereafter. That matter is now under consideration by the committee. I understand, however, they will not amount to more than two or three hundred thousand dollars.

Mr. MCMILLIN. Will the gentleman from Virginia permit me to explain?

Mr. GOODE. Certainly.

Mr. MCMILLIN. If the Government owes for past services, does the gentleman say that any law passed now would prevent the settlement of that account?

Mr. GOODE. That is the very point I make, that if the Government owes the money the gentleman's amendment is entirely unnecessary, and it is equally unnecessary if the Government does not owe it. The whole effect of the amendment is to put an interpretation upon the law which will prevent its enforcement in the future.

Another word. I wish the House to understand the question before they are called to vote upon it. We have been told more than once that in 1868 the Congress of the United States passed a law providing from and after that time eight hours should constitute a day's work. It was not the object of the law to control employment by private individuals. Congress did not undertake to prescribe contracts between man and man for labor, or between corporations and individuals. Congress only undertook to do what it had a right to do, which was to say that so far as laborers employed by the Government are concerned the Government would exact only eight hours a day, and that when it came to make compensation the Government would treat eight hours as a full day's labor.

Now, Mr. Speaker, the debate will show you that when this bill was passed in 1868 there was a difference of opinion in regard to it. It was contended by Senator Sherman, and Senator Fessenden, and other distinguished Senators, this matter ought to be left entirely as a matter of contract between the Government and the laborer, while, on the other hand, it was contended strongly by Senator Morton, by Senator Hendricks, by Senator Buckalew, by Senator Wilson, of Massachusetts, and other distinguished Senators, that this experiment ought to be tried; that the experience of mankind showed in the long run man could accomplish as much work by constant labor in eight hours as in ten; that the additional strength imparted by the additional rest and recreation would enable the workman to do as much work in eight hours as he could in ten; that if the Government got as much work in eight hours as in ten, the Government ought to pay the same price; that the improvement in mechanics and material development was such that now when the aggregate steam-power in the world is equal to twenty-five millions of horse-power, the necessities of mankind do not require that a human being should be required to labor as long as he did before these wonderful achievements of science and steam-power which have so distinguished the age in which we live.

That was the argument. The argument prevailed. The law was enacted. These workingmen come now, and they know their rights; they are familiar with the legislation; they know all about it; they have read the debates which occurred at that time, and they know what Congress intended. They come to Congress and in respectful terms present their memorial, and ask Congress to declare what was meant by this law, and to enforce it. It seems to your committee that the demand is a just and reasonable one, and we have reported this joint resolution in answer to memorials which have come from workingmen from one end of the land to the other.

The joint resolution ought to pass. This is a Government of law and of order. We require the workingman to obey the law, and sometimes find it necessary to invoke the strong arm of power to enforce his obedience to the law. Now, I ask Congress to say whether they will set the example, the bad example, of permitting its own officers to disregard a plain law, a law written so clearly, so explicitly, that he who runs may read? Will Congress permit this disregard and violation of a plain statute, or will they say to the highest official in this land, we will have one law for the high and low alike; we require the workingman to obey the law, and we require you to obey this law, because it is so written? That is the whole of it.

Mr. COX rose.

Mr. DUNNELL. I wish to ask the gentleman from Virginia one question: whether these memorialists are not exclusively the employés of the United States Government?

Mr. GOODE. Entirely so, so far as I am informed. The Government in this matter does not control anybody else.

Mr. COX. I have the floor, and will answer the gentleman from Minnesota. I will give the gentleman an abundant answer. There are petitions here for the eight-hour system from workingmen outside of the navy-yards, not Government employés. From a list I have in my hand it appears that more than two thousand workingmen of twenty States and various cities and towns have petitioned for this humane and just object. There are petitions from many thousands more yet to come. They plead that their brother toilers may have this legal contract with the Government thoroughly understood. They ask that it may be enforced; because if it be enforced between them and the Government it will be a cogent example to other employers to do likewise as to the hours of labor.

But I rose, Mr. Speaker, for the purpose of answering what fell from my distinguished friend from Georgia [Mr. BLOUNT] on yesterday. May I ask him to honor me with his attention? He seemed to think that there had been no test of this matter as to the hours of labor; no investigation, no report, no experiment as to the increased value of the work during the year, when eight hours were substituted for ten. I stated there had been such an examination and report. The gentleman sought information from my friend from Massachusetts [Mr. RICE] and not from a more authentic source, to wit, myself.

Mr. BLOUNT. If the gentleman will allow me, I will say that I sought it directly from the gentleman himself, at my desk, after his speech was over, as well as from the gentleman from Massachusetts.

Mr. COX. I do not quite catch the gentleman's statement.

Mr. BLOUNT. I understand the gentleman from New York to say that, instead of resorting to him for the sources of his information, I went to the gentleman from Massachusetts. I desire to say that I approached the gentleman himself at my desk and received his answer.

Mr. COX. But not until after your speech was made. What, then, was the result of the experiment in the State of Massachusetts which I alluded to? To answer this, is most pertinent. That examination was made in the Springfield arsenal for the purpose of testing whether more work could be done during the year at eight or at ten hours per day. The result was a report to the Ordnance department of the War Office. This has been printed. I wish I had it before me. I refer the gentleman from Georgia, if he desires information, to statements made by gentlemen from Massachusetts in the last Congress. General Butler, who is most thoroughly accomplished in this kind of literature and politics, said on the 10th of May, 1878:

> The question was agitated in the country whether eight hours were not as long as men could work tending machinery and keep health and spirit and strength to do the daily task. That experiment had not been tried and it was necessary that it should be tried. It could not be tried by any manufacturer because his rivals working ten hours and forcing the labor would undersell him. The Government having a given class of work in its navy-yards and in its arsenals, having exact accounts kept of all the work that had been done under the ten-hour system, could by working its force eight hours and keeping a like account, find whether it was practicable within any near percentage for a man to do by machinery in eight hours that which he had done in ten.

The result was the report that the same percentage or more work was done in eight hours than ten. This must have been so, for various reasons, into which I will not enter now, but the same reasons will apply to all kinds of labor, as well in arsenals and armories as in navy-yards.

Mr. MCMILLIN. Will the gentleman permit me to ask him——

Mr. COX. My time is limited. I cannot yield to the gentleman at present.

On the same occasion General Banks uttered these words of wisdom, drawn from his large observation:

> But if the eight-hour law which the resolution is intended to enforce shall succeed as other efforts of this kind have succeeded, it will in the end extend its beneficent and happy influence to labor of every class in every part of the country. In 1840 the President of the United States without any law at all, issued an order upon his own authority that the labor in the navy-yards of the United States and their workshops should be limited to ten hours. That was carried out, and the influence of that order was such that in nearly all of the labor establishments of this country wherever it can be applied from the nature of the business the ten-hour system of labor has been adopted, and is applied to men, women, and children. It has been applied to all the corporations and manufacturing and mechanical establishments of Massachusetts, and in most of the other States. No one proposes the re-establishment of the old system of twelve, fourteen hours a day, and even sixteen hours a day, as men, women, and children were worked in England some years since. Now, if the existing eight-hour law when thoroughly tested shall be found to be advantageous to the industries of the Government and the hands engaged therein, the example of the Government will be accepted as it ought to be and applied to the labor of the country generally, wherever it is applicable.

The system in England to which General Banks refers, which was reformed after a great struggle, aptly illustrates the need of this bill. The reasons which such statesmen as Macaulay used in the British Parliament, for the reduction of the hours of labor, there in the mines and factories, apply with more force, now that machinery has added to the number of the unemployed and lessened the hours necessary to produce the same commodities and articles.

Besides, if the hours of labor are lessened from ten to eight, there will be one-fifth more employés, and a better and wider distribution of the wages and benefits of labor.

In further corroboration of my statement, allow me to quote from Senator HOAR, of Massachusetts, on the 13th June, 1878:

That system of legislation was introduced in England, the hours of the day's work in the factory and in the mines and in many other employments being fifteen, sixteen, seventeen, and eighteen hours in some cases, until gradually nearly over the entire Christendom where manufacturing or mechanical labor is employed, the length of the workingman's day's work has been reduced to ten hours, and the remainder of the day has been his for self-improvement, for education, for labor, for comfort. That has been accompanied in the main (I do not speak of the changes which have taken place in hard times as compared with good times) with a steady increase during all the time of the rate of labor and a steady increase also of the amount of production.

The workingmen of this country desire of the Government, not legislation of the same stringency as has been resorted to in England in the case of females and of factory operatives, but simply that the Government will give its aid in trying the experiment. They claim that it can be demonstrated that, as a rule, as much can be accomplished in manufacturing and mechanical labor by a contract of eight hours' work as can be accomplished by requiring ten hours' work to be rendered.

Some experiments were made and some reports required in the Springfield armory, and with great reluctance, after repeated and peremptory calls by the House of Representatives upon the War Department, the very interesting result of those experiments was communicated to Congress and to the public.

So that my statement made upon yesterday is confirmed as to our own experiment; but it receives added strength by the experience of England. Why should we not in dealing with this subject treat it fairly? Why is it that corporations and monopolies can engage our legislative mind and flood our House with their schemes and make their riders at pleasure mount our appropriation and other bills, and this unselfish and benevolent legislation receive so cold a welcome or so harsh a repulse?

That English experiment of reducing the hours of labor has been tried in our country outside of Government employment. It was found to work well. Where the hours had been reduced in the old countries from sixteen to twelve and from twelve to ten there was bodily relief and mental cheer. There was more. There was moral and intellectual growth. Why not at least enforce this law made for this purpose and thus ascertain definitely whether this good result may not be obtained? If it be no more than a mere experiment is it not worth while for the Government to try it? Where else can it be tried so well? Is not the Government in a position to do it? Who else is in so good a position?

But, sir, there is another reason why we should interpret and enforce this law. To execute a law is a test of its merit. Does any one here ask for its repeal? You who oppose this bill dare not ask for its repeal in the face of the voters of this country, yet you ask or permit it to remain on the statute without enforcement. You make it a dead letter. Why not issue your mandamus or prescript to our heads of Departments and to our officers to execute it.

Another reason for this bill is that there is a diverse interpretation and a manifold conduct about this eight-hour law. What we want is uniformity, not variety and collision, in its interpretation and execution. The Navy Department, in October, 1877, at the request of myself and others, issued an order to equalize the work for the year at about eight hours. I insert this order:

NAVY DEPARTMENT,
Washington, D. C., October, 1877.

GENTLEMEN: The working hours in navy-yards will be as follows:

From March 21 to September 21, 7 a. m. to 6 p. m.; from September 22 to March 20, 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

This regulation is not designed to carry with it any present reduction of pay.

R. W. THOMPSON,
Secretary of the Navy.

At present, in the navy-yards, the order is, for six months eight hours a day and for the other six months ten hours, and no reduction of pay. In the Philadelphia arsenal eight hours was the time all the year round, and in all other arsenals ten hours a day. In the fort on Staten Island it is nine hours in winter and eleven in summer. In moving the War Department into the new building the pay was for ten hours, if they worked ten; while, alongside, Colonel Casey paid his employés on another plan.

Where labor is employed in the Mint, Treasury, Printing Office, custom-house, and Post-Office eight hours a day is the time for all, while in other departments of Government labor, the time paid for is different. Why this ridiculous inconsistency in the execution of a law whose intent was clearly expressed at the time of its enactment? Why should there not be uniformity in its execution? Oh, yes; our Department clerks, when not at home voting or canvassing or having their vacations, work from six to seven hours a day only—from nine a. m. to three or four p. m.—and we pay them abundantly, pay them more than they earn, if it were well considered. They do not work more than half the time which they are required to work; at least that is my opinion as to a large number of them. In stating this I make a conspicuous exception of the lower class of clerks and the women.

Let any member go through the corridors of the Departments and look in the open doors; and, except the women who work faithfully, he will find a good many clerks, when not engaged in reading newspapers, talking politics and spitting tobacco-juice. There is no man in all the world like an American clerk for splendid spitting. There never were clerks or persons who could excel them in the flux of their salivary glands! [Laughter.] No country, sir, rejoices in such great prairies, wonderful rivers, large lakes, high mountains, and such a great people as our own beloved land; but in one thing, sir, we surpass the world and ourselves. Our American clerks can spit higher, spit farther, and spit more than any other people on the face of the earth—and get more pay for the performance! I still except the women clerks as to this salivary performance. Gentlemen who favor an increase of clerks' salaries upon appropriation bills, do it while opposing this bill to reduce the hours of fair labor for workingmen.

The gentleman from Ohio [Mr. WARNER] who spoke so eloquently on the greenback question had nothing to say upon this part of this subject. I wish he had brought his analytic ability to bear on it. I find that very few greenback men have joined us in this debate. They love to talk upon the subject of labor, and I should like to have heard from others of them besides the gentleman from Maine, [Mr. MURCH.] Why did not my reverend brother from Indiana [Mr. DE LA MATYR] say something to help us? The gentleman from Ohio [Mr. WARNER] who made a powerful speech for greenbacks made the curious argument yesterday on this bill that we produced five billions of values or commodities in this country per annum and that it ought to be distributed equally among the people. I read what he says:

If we produce in the United States five billion dollars' worth of commodities in a year (and that is all we do produce, and probably more than we are producing now) then that $5,000,000,000 is all that there is to divide among the people of the whole country. That is not more than about $100 *per capita*. Now, it is a plain proposition to me that if we vote to give the workingmen who are employed by the Government more, we vote at the same time that the rest of the workingmen and producers of the country shall have less.

A marvelous argument! The Government employs or pays out about two and a half millions of the five billions referred to by the gentleman from Ohio to the Government employés, and yet to withhold this little two hours' rest and to save some pittance to the Government, and in spite of the law of 1862, which fixes the day's wages at the rate of the vicinage, he is ready to forget the pleadings of labor for this respite and relief. In spite of that law which is as yet unrepealed, in spite of the contracts made with the laborers under the law, in defiance of its interpretation by Congress itself on an appropriation bill, which I quoted yesterday, we find the gentleman from Ohio grudging to the workingmen this little amount of $\frac{1}{10}$ per cent. of his five billions, which is itself the product of honest toil!

My friend from Virginia [Mr. GOODE] well said that the workingmen are required, ay, and he might have added, at the point of the bayonet to observe the law. Let us set them the example. When we enforce the existing law it will be time to present to them the point of the bayonet for their lawlessness. If we would give them excuse for revolt in any direction, let us taunt and mock them by such non-executed laws as this eight-hour law.

Gentlemen forget that the last fifty years have inaugurated a new era of progress in mechanical science. We have improved machinery to such an extent that more work is done now in eight hours than was formerly done in thirteen or fifteen hours. By the machines in our ship-yards we do more work with one man than was done five years ago with ten. Our planing-machines and mill-saws with three men can now do the work of twenty men in the same time in which it used to be done. One machine will side more timber to-day with three men than twenty men formerly could do with the adz. Some advantage should inure to the workingmen, who are the inventors of these labor and time saving machines.

Do gentlemen consider, do they know the effect of improved machinery with which these workingmen compete? Do they remember that these workingmen are the very men that have saved labor and time by the invention of machines which have thrown many of them out of work? Is there no thought that they are the benefactors of our race, and yet suffer at first from their own benefactions; and will not members reflect upon this relation to the hours of labor?

Gentlemen tell us that the same rule as to hours of labor ought to be extended to workingmen outside of the Government employ. This was hinted by the gentleman from Ohio.

How can we make contracts with, or by Federal legislation affect, other than our own employés? Let us set the example of a fair day's work and wages, and as General Banks and General Butler argued last session, the manufacturers and other employers besides the Government will follow in the wake. I know from my own observation in my own district—although it is not a navy-yard district—that a great many of the workingmen live out of town, or in the suburbs; and if they are required to work ten hours a day, they have a tedious and weary walk after the sweat and labor of the day; or they must live in the city. If they have to work only eight hours a day, they have leisure to go to their homes outside of the city; and thus they are removed from the temptations to idle, carouse, and spend their wages. It is the universal experience that wherever the eight-hour rule has been adopted there is more sobriety and frugality, more mental and moral discipline. That is the experience both here and in England. It is the direct result of the reduction of the hours of labor.

It is not for Congressmen who sit here not more than one-half the months of the year and one-half the number of hours proposed in this bill, and who draw some $14 per day—it is not for us to call the workingmen to account because they are anxious to lessen their work from ten hours a day to eight.

It has been demonstrated in the discussion and in our reports that not only is there better and more work done under the eight-hour rule, but that there is more economy, decency, and morality as a consequence among the workingmen in the employ of the Government.

This, if true, should lift this bill above all frivolous discussion and commend it to good men in the interest of our Republic, that all just advantages should be given to the working class.

The amendment proposed by the gentleman from Tennessee [Mr. MCMILLIN] which contemplates cutting off the laborers from their past earnings is unjust to that class. Why should they be cut off from that which they have honestly earned under the existing law? Suppose it has had varied interpretations; should that militate against their vested rights? These rights remain as long as they labor and the law is unrepealed. I made an appeal for this pay and this relief two years ago. I renewed it last year when the House passed our bill. I urged it yesterday with all earnestness for my constituents, who are industrious and skilled and should be beneficiaries of this law. I repeat, why not bring in your bill to repeal the law altogether? If not, why not enforce it?

Mr. MCMILLIN. Will the gentleman allow me to ask him a question?

Mr. COX. How much time have I?

Mr. MCMILLIN. You seem to have unlimited time.

Mr. COX. Then with the permission of the Chair I will hear the gentleman's question.

Mr. MCMILLIN. You say that experience has shown that the Government gets more real service performed in eight hours than in ten hours. Why, then, does the Government pay 25 per cent. more when it has to get extra labor done than it pays to its ordinary employés?

Mr. COX. The Supreme Court in deciding the case often referred to, said that eight hours was a legal day's labor, and we propose to pay for that labor the rates of the neighborhood per diem.

Mr. MCMILLIN. But if the Government can get as much labor as it wants under the eight-hour rule why does it pay 25 per cent. more when it needs extra labor?

Mr. COX. I have before shown that the officers of the Government construe the law differently in different places. I would rather have the pay uniform. It is but fair to the workingman——

[Here the hammer fell.]

Mr. TILLMAN. Mr. Speaker, if it were not that I am a member of the Committee on Education and Labor, which introduced this resolution, I should not open my mouth, but I differ with the majority and must speak out. The legislation of this body has to be under the care of its committees, and each member of a committee is charged with the special duty of getting the facts and merits of a matter submitted to it, so that he can give those facts and reasons for his opinions on the merits which he is in honor bound to present to the House for their action.

Mr. Speaker, I must say in all candor that I cordially indorse the amendment of the gentleman from Tennessee, [Mr. MCMILLIN,] and not only do I indorse that amendment, but I think it ought to go further and provide that whenever a Government superintendent has charge of laborers on public works he shall see to it as soon as the eight hours have expired that those laborers shall be compelled to suspend work.

Now, the purpose of this resolution is to declare the legislative will, in other words what was the intention of Congress when it passed that act authorizing eight hours to be regarded as a day's labor, and entitled to a day's pay? If this resolution pass it will leave the construction of the law to the different departments of the Government and to the Court of Claims, so that they shall pay all these claims against the Government for past services, and, Mr. Speaker, instead of three or four hundred thousand dollars being taken out of the Treasury, the amount is more likely to be three or four millions if the resolution shall pass unamended.

It came out before the committee that at present in all the arsenals and armories and at public buildings now erecting all over the country, court-houses, custom-houses, &c., the rule is to have eight hours regarded as a day's work in winter and ten hours in summer.

It is beyond a question that the ten hundred and one claim agents in this city who have got these claims in their hands will be clamoring at the doors of the Treasury if this body places the construction on the acts of 1868 and 1872 proposed by the resolution as it came from the committee.

Sir, it was one of the reconstruction acts adopted by the republican party to control the presidential election in 1868, which, like some of their other carefully hatched chickens intended to prey on their neighbors, are now coming home to roost. The law was passed in 1868 to insure the votes of many thousand Government employés in order to carry the election, and in 1872 a reaffirmation was made by this House to control President Grant's second election by giving employment to tens of thousands of voters with the privilege on the part of the superintendent at the Government works to make eight hours a day's work for republican partisans and ten hours a day's work for the enemies of the republican party.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. GOODE. I now yield——

Mr. TILLMAN. I wish I had five minutes more.

Mr. GOODE. I yield five minutes to the gentleman from Massachusetts, [Mr. ROBINSON,] and then I will call for a vote.

Mr. ROBINSON. Some allusion has been made in this discussion to the work that has been done in the Springfield armory in Massachusetts, to the amount of labor performed there under the two different systems. As that armory is in my district, I think perhaps I may be able to state some facts that will be pertinent to this discussion.

In 1872 the Senate of the United States called for a report from the officers of the armory at Springfield, Massachusetts, and also from the officers of the arsenal at Rock Island, Illinois, in regard to the operation of this eight-hour law for the three years previous to that time. From the Rock Island arsenal came a report which applied entirely to the services and wages of out-door laborers, and therefore it did not furnish a test of the application of this system to day's work.

By examining Executive Document No. 72 of the second session of the Forty-second Congress gentlemen will find that the commandant at the Springfield armory gave a tabulated statement of the work done in the several shops there. He states in the outset that it will be necessary to remember that the processes of manufacturing in many of the departments have been changed and that it was not possible to make a statement covering the entire work. But he takes the several processes not changed and puts them in tabulated form. In that table he shows that under the ten-hour system men earned by day's work in one case $2.81 per day and under the eight-hour system $2.77. But the price per piece was reduced five mills each. Then, again, take another class of work. Under the ten-hour system $3.09 a day was earned and under the eight-hour system $3.13, with a reduction of four and one-half mills on each piece. Again, in ten hours $3.39 was earned, and in eight hours $3 was earned; but there was a dropping of one mill on each piece. The reduction in price was from the ten-hour time down to the eight-hour time, explaining in part perhaps, though not in whole, the less amount of compensation received. I have given only a few of the facts; there are many more. I will say, also, in fairness that some of the statements are the other way; but the bulk are as I have stated.

Now, the resolution before the House will not apply generally to the workingmen at Springfield, because they are employed by the piece. I think it will be seen that when the eight-hour system was adopted men who were employed under the new system set out to work so as to obtain just as much wages for eight hours as they had earned under the former system. Having earned $3 under the ten-hour system they wanted to keep up to the old rates, and to do so they worked all the harder.

I do not favor the amendment proposed by the gentleman from Tennessee, [Mr. MCMILLIN,] because, as said by the gentleman from Virginia, [Mr. GOODE,] this joint resolution does not apply to past contracts. When we have before us a bill relating to past contracts it will then be time to discuss the merits and to attach to that bill such an amendment as may be desired. But such an amendment would be out of place on this joint resolution.

In the Forty-fourth Congress this question of arrears of pay was referred to the Committee of Claims. It was found by that committee that the Government had paid part of the arrears during a portion of the time in certain portions of the country. It may be fairly claimed that the other workmen are also entitled to arrears of pay; but they did not receive them because the act of Congress did not apply to and cover the whole time. I understand that a bill will be reported from the committee covering the surplus time. It is a fair claim, and will receive the just consideration of the House, I have no doubt.

Something was said yesterday by the gentleman from Maine [Mr. MURCH] about Massachusetts having a ten-hour law which was violated. The gentleman is very much misinformed.

Mr. MURCH. I still say that the ten-hour law is violated in Massachusetts.

Mr. ROBINSON. The gentleman renews his assertion and I renew my denial.

[Here the hammer fell.]

Mr. GOODE. I now ask for the previous question.

The SPEAKER. The gentleman from Massachusetts on the left of the Chair [Mr. RICE] desires a few minutes.

Mr. GOODE. The gentleman was heard yesterday.

The SPEAKER. The gentleman from Virginia desires to test the sense of the House before the expiration of the morning hour upon calling the previous question. By agreement he could yield thereafter to the gentleman from Massachusetts, [Mr. RICE.]

Mr. CANNON, of Illinois. I desire to make a motion which will take precedence of that; it is to lay the joint resolution on the table.

The SPEAKER. That will be in order either before or after the previous question.

Mr. CANNON, of Illinois. I would inquire if the previous question will operate on the amendment offered by the gentleman from Tennessee, [Mr. MCMILLIN?]

The SPEAKER. It will operate on the joint resolution and the amendment.

Mr. CANNON, of Illinois. The previous question would operate on both?

The SPEAKER. It would. There is but one amendment pending, the one presented by the gentleman from Tennessee, [Mr. MCMILLIN.]

Mr. ROBINSON. I ask the gentleman from Virginia [Mr. GOODE] to yield to me for a moment, in order that I may reply to the gentleman from Maine, [Mr. MURCH.]

Mr. GOODE. I will do so.

Mr. ROBINSON. The gentleman from Maine [Mr. MURCH] says that there are violations of the ten-hour law in Massachusetts. I have no doubt there are, as I also have no doubt that there are violations of several other laws. That ten-hour law was passed in Massachusetts in 1874, and applied to minors under eighteen years of age and to women employed in manufacturing establishments. Some of the employers have undertaken to evade and violate the law. But the gentleman ought to know that under a late decision of the supreme court of Massachusetts sustaining the finding of the superior court the Hamilton Manufacturing Company of Lowell has been fined for violating that law. That law is in force in the State of Massachusetts. I know it well because I live in a manufacturing community and have had daily opportunity to observe the working of the law.

Mr. MURCH. The gentleman admits that my assertion is correct.

Mr. ROBINSON. I admit that there may be some violations of the law in Massachusetts. No doubt in Maine the law is sometimes violated.

Mr. MURCH. The Maine liquor law is violated.

Mr. ROBINSON. But in Massachusetts we punish people when they violate the law.

Mr. GOODE. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. CANNON, of Illinois. I move that the joint resolution be laid on the table.

Mr. GOODE. On that motion I call for the yeas and nays.

On ordering the yeas and nays there were—ayes 20, noes 112; less than one-fifth voting in the affirmative.

Mr. GOODE. I call for tellers.

Tellers were not ordered.

So the yeas and nays were not ordered.

The question being taken on the motion of Mr. CANNON, of Illinois, to lay the joint resolution on the table, it was agreed to; there being—ayes 103, noes 52.

Mr. CANNON, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. COX called for the yeas and nays.

The yeas and nays were ordered, there being—ayes 38, noes 126.

Mr. RICE. I would like the Chair to state the question on which we are about to vote.

The SPEAKER. The question is upon laying on the table the motion to reconsider the vote by which the joint resolution and amendment were laid on the table.

Mr. COX. Those in favor of the joint resolution will vote "no."

The SPEAKER. And those who want to kill the proposition will vote "ay."

The question was taken; and there were—yeas 127, nays 90, not voting 68; as follows:

YEAS—127.

Acklen,	Dibrell,	Klotz,	Richardson, D. P.
Aiken,	Dickey,	Lapham,	Richardson, J. S.
Aldrich, Nelson W.	Dunnell,	Lindsey,	Richmond,
Anderson,	Einstein,	Lounsbery,	Rothwell,
Armfield,	Elam,	Manning,	Sapp,
Bayne,	Ellis,	Marsh,	Scales,
Beale,	Evins,	Martin, Edward L.	Sherwin,
Bicknell,	Farr,	Martin, Joseph J.	Singleton, O. R.
Blake,	Felton,	Mason,	Slemons,
Blount,	Ferdon,	McCoid,	Smith, A. Herr
Brewer,	Field,	McGowan,	Smith, William E.
Briggs,	Fisher,	McKenzie,	Sparks,
Browne,	Forney,	McKinley,	Steele,
Burrows,	Fort,	McMillin,	Stone,
Cabell,	Frye,	Miles,	Thompson,
Caldwell,	Garfield,	Mills,	Turner, Oscar
Cannon,	Godshalk,	Monroe,	Tyler,
Carpenter,	Gunter,	Morrison,	Updegraff, J. T.
Chalmers,	Hall,	Morton,	Updegraff, Thomas
Claflin,	Hammond, N. J.	Muldrow,	Vance,
Clark, John B., jr.	Harris, John T.	Neal,	Voorhis,
Conger,	Hawk,	Newberry,	Warner,
Cook,	Hawley,	Norcross,	Washburn,
Covert,	Hayes,	Orth,	Wellborn,
Cowgill,	Hazelton,	Overton,	Wells,
Crapo,	Hiscock,	Persons,	White,
Culberson,	House,	Poehler,	Wilber,
Daggett,	Hubbell,	Pound,	Williams, Thomas
Davidson,	Humphrey,	Prescott,	Willits,
Davis, Lowndes H.	Joyce,	Reagan,	Wood, Walter A.
Deering,	King,	Reed,	Young, Thomas L.
Deuster,	Kitchin,	Rice,	

NAYS—90.

Aldrich, William	Colerick,	Henkle,	Mitchell,
Atherton,	Converse,	Hill,	Muller,
Bachman,	Cox,	Hostetler,	Murch,
Belford,	Cravens,	Houk,	Myers,
Beltzhoover,	Davis, George R.	Hurd,	New,
Bingham,	De La Matyr,	Jones,	O'Connor,
Blackburn,	Dunn,	Keifer,	O'Neill,
Bliss,	Errett,	Kelley,	Osmer,
Bouck,	Ewing,	Killinger,	Phister,
Bowman,	Ford,	Kimmel,	Robeson,
Boyd,	Forsythe,	Knott,	Robinson,
Brigham,	Frost,	Ladd,	Ryan, Thomas
Bright,	Geddes,	Le Fevre,	Ryon, John W.
Carlisle,	Gillette,	Lewis,	Samford,
Clardy,	Goode,	Lowe,	Sawyer,
Clymer,	Harmer,	Martin, Benj. F.	Shallenberger,
Cobb,	Haskell,	McCook,	Shelley,
Coffroth,	Heilman,	McLane,	Springer,
Stephens,	Turner, Thomas	Weaver,	Wilson,
Stevenson,	Urner,	Whiteaker,	Wise,
Taylor,	Valentine,	Whitthorne,	Wright.
Thomas,	Waddill,	Williams, C. G.	
Tillman,	Ward.	Willis,	

NOT VOTING—68.

Atkins,	Dick,	Jorgensen,	Russell, Daniel L.
Bailey,	Dwight,	Kenna,	Russell, William A.
Baker,	Finley,	Ketcham,	Simonton,
Ballou,	Gibson,	Lay,	Singleton, J. W.
Barber,	Hammond, John	Loring,	Smith, Hezekiah B.
Barlow,	Harris, Benj. W.	McMahon,	Speer,
Bland,	Hatch,	Miller,	Starin,
Bragg,	Henderson,	Money,	Talbott,
Buckner,	Henry,	Morse,	Townsend, Amos
Butterworth,	Herbert,	Nicholls,	Townshend, R. W.
Calkins,	Herndon,	O'Brien,	Tucker,
Camp,	Hooker,	O'Reilly,	Van Aernam,
Caswell,	Horr,	Phelps,	Van Voorhis,
Chittenden,	Hull,	Pierce,	Wait,
Clark, Alvah A.	Hunton,	Price,	Wood, Fernando
Crowley,	James,	Robertson,	Yocum,
Davis, Joseph J.	Johnston,	Ross,	Young, Casey.

So the motion to reconsider was laid on the table.

During the roll-call the following announcements were made:

Mr. YOUNG, of Tennessee. Mr. Speaker, on this question I am paired with the gentleman from Mississippi, Mr. MONEY.

Mr. BUCKNER. I am paired with Mr. TALBOTT.

Mr. SCALES. My colleague, Mr. DAVIS, who is absent by leave of the House, is paired with his colleague, Mr. MARTIN, of North Carolina.

Mr. DAVIDSON. My colleague, Mr. HULL, who is absent by leave of the House, is paired with Mr. PRICE.

Mr. KENNA. I am paired on all questions with Mr. CAMP, of New York. If not paired, I should vote "no."

Mr. HENKLE. My colleague, Mr. HENRY, is paired with Mr. VAN AERNAM.

Mr. WAIT. I am paired with Mr. ROSS. My colleague, Mr. PHELPS, is absent by leave of the House, on account of sickness in his family.

Mr. ROBINSON. My colleague, Mr. RUSSELL, is paired with Mr. SPEER, and my colleague, Mr. MORSE, with Mr. BARLOW.

Mr. HARRIS, of Massachusetts. I am paired with Mr. HOOKER.

Mr. EINSTEIN. Mr. O'REILLY is paired with Mr. PIERCE, and Mr. O'BRIEN with Mr. DWIGHT. I do not know how they would vote.

Mr. DAVIS, of Illinois. My colleague, Mr. BARBER, is paired with Mr. HATCH, of Missouri. I am not advised how the gentlemen would vote on this question. Mr. HENDERSON is absent by leave of the House.

Mr. UPDEGRAFF, of Iowa. My colleague, Mr. PRICE, who is absent by order of the House, if here, would vote "ay." He is paired with Mr. HULL, of Florida.

Mr. MCMILLIN. My colleague, Mr. SIMONTON, is absent by leave of the House. As this is a non-political question, I suppose it is not necessary to announce his pair.

Mr. ARMFIELD. My colleague, Mr. DAVIS, is absent by leave of the House.

Mr. ATKINS. I am paired with the gentleman from Indiana, Mr. BAKER. If he were here, I would vote "ay."

Mr. COX moved by unanimous consent to dispense with the reading of the names.

Mr. MONROE objected.

The vote was then announced as above recorded.

ENROLLED BILL.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 67) providing for a new propeller for the United States ship Alarm.

SPECIAL POSTAL SERVICE.

Mr. JONES. I ask by unanimous consent to take from the Speaker's table for reference to the Committee on the Post-Office and Post-Roads, not to be brought back by a motion to reconsider, the bill (S. No. 516) to extend the time of special postal service until service can be obtained by advertisement.

There was no objection; and the bill was taken up, read a first and second time, and referred to the Committee on the Post-Office and Post-Roads, not to be brought back by a motion to reconsider.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced the passage of a bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy.

It further announced the passage of a bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress; in which concurrence was requested.

SAILING DIRECTIONS.

On motion by Mr. WHITTHORNE, by unanimous consent, joint resolution (S. R. No. 25) authorizing the Public Printer to bind in cloth two volumes of Sailing Directions for the United States Hydrographic Office was taken from the Speaker's table, read a first and second time, and referred to the Committee on Printing, not to be brought back by a motion to reconsider.

INDIAN PROTEST.

Mr. NEAL, by unanimous consent, presented the protest of Indian delegates against the establishment of a United States territorial government over the Indian governments of the Indian country; which was referred to the Committee on Territories, and ordered to be printed.

VOLUNTARY BANKRUPTS.

Mr. NEAL also, by unanimous consent, introduced a bill (H. R. No. 1839) to provide for the discharge of voluntary bankrupts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FRED. CARLISLE

Mr. NEWBERRY, by unanimous consent, submitted a resolution directing the Clerk of the House of Representatives to pay, out of the contingent fund of the House, to Fred. Carlisle $234, for services rendered as expert to the Committee on Public Expenditures; which, with the certified account, was referred to the Committee on Accounts.

COINAGE CERTIFICATES, ETC.

The SPEAKER. The regular order is the further consideration of the bill known as the coinage bill; a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes, reported from the Committee on Coinage, Weights, and Measures, with amendments. The gentleman from Pennsylvania [Mr. FISHER] is entitled to the floor.

Mr. FISHER. I yield the floor for a moment to the gentleman from Maryland [Mr. KIMMEL] that he may offer an amendment to the bill.

Mr. KIMMEL. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend section 2, line 8, by striking out "412½" and inserting "460;" so that it will read: "and the weight of the dollar shall be 460 grains Troy." And in section 3, lines 6 and 7, strike out "412½" and insert "460;" so that it will read "into standard dollars of the weight of 460 grains Troy."

Mr. FISHER. Mr. Speaker, the first section of the bill which we have under consideration declares that the gold dollar shall be a unit. The second section declares that the silver dollar shall be a unit. And the third authorizes unlimited coinage. The gentleman from Ohio [Mr. WARNER] in his remarks upon the bill sought to commit, unequivocally, Mr. Hamilton to the idea of a unit of gold and a unit of silver. He quoted Mr. Hamilton as saying, in 1792:

Upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals, because this cannot be done effectually without destroying the office and character of one of them as money and reducing it to the situation of a mere merchandise—

Now, the gentleman from Ohio stops Mr. Hamilton just in the middle of a sentence, at a semicolon. Let us see what Mr. Hamilton says before he reaches the conclusion of the sentence—

which accordingly at different times has been proposed from different and very respectable quarters; but which would probably be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals, especially if care be taken to regulate the proportion between them with an eye to their average commercial value.

That is what Mr. Hamilton said; and it did not suit the purpose of this bill for its author to quote Mr. Hamilton's sentence in full.

Now, sir, I favor the amendment offered by the gentleman from Maryland [Mr. KIMMEL] because it makes the legal value of the silver dollar approximate its bullion value. Mr. Hamilton wrote in 1792 prior to the erection of a mint in this country; and I want gentlemen to bear in mind that the specie of this country was to a large extent silver and not gold, because we were not a specie-producing country at that time. This fact is borne out by the statistics which the Director of the Mint furnishes in his report, because during the first twenty-five years after the erection of a mint in this country the value of the silver coined by this Government exceeded the value of the gold; and since that time to the present day the value of the gold coinage has exceeded silver more than five times.

Now, what was Mr. Hamilton discussing in this article from which the gentleman from Ohio quotes? The proposition was twofold:

First. What ought to be the nature of the money unit of the United States?
Second. What the proportion between gold and silver, if coins of both metals are to be established?

Now, Mr. Hamilton says on this point:

Contrary to the ideas which have heretofore prevailed in the suggestions concerning a coinage for the United States, though not without much hesitation arising from a deference for those ideas, the Secretary is, upon the whole, strongly inclined to the opinion that a preference ought to be given to neither of the metals for the money unit. Perhaps if either were to be preferred it ought to be gold rather than silver.

The reasons are these:

The inducement to such a preference is to render the unit as little variable as possible, because on this depends the steady value of all contracts and, in a certain sense, of all other property. And it is truly observed that if the unit belong indiscriminately to both the metals it is subject to all the fluctuations that happen in the relative value which they bear to each other. But the same reason would lead to annexing it to that particular one which is itself the least liable to variation if there be in this respect any discernible difference between the two.

Gold may, perhaps, in certain senses be said to have greater stability than silver, as, being of superior value, less liberties have been taken with it in the regulations of different countries. Its standard has remained more uniform and it has in other respects undergone fewer changes. As being not so much an article of merchandise, owing to the use made of silver in the trade with the East Indies and China, it is less liable to be influenced by circumstances of commercial demand. And if, reasoning by analogy, it could be affirmed that there is a physical probability of greater proportional increase in the quantity of silver than in that of gold it would afford an additional reason for calculating on greater steadiness in the value of the latter.

As long as gold, either from its intrinsic superiority as a metal, from its greater rarity, or from the prejudices of mankind, retains so considerable a pre-eminence in value over silver as it has hitherto had, a natural consequence of this seems to be that its condition will be more stationary. The revolutions, therefore, which may take place in the comparative value of gold and silver will be changes in the state of the latter rather than in that of the former.

That is what Mr. Hamilton said in the same article. But he says further:

A third ill consequence resulting from it is a greater and more frequent disturbance of the state of the money unit by a greater and more frequent diversity between the legal and market proportions of the metals. This has not hitherto been experienced in the United States.

Why? Because we were not a specie-producing country at that time. But Mr. Hamilton foresaw it, and what does he say?

But it has been experienced elsewhere; and from its not having been felt by us hitherto, it does not follow that this will not be the case hereafter—

The contingency Mr. Hamilton foresaw has just come upon us now—

when our commerce shall have attained a maturity which will place it under the influence of more fixed principles.

Again:

There can hardly be a better rule in any country for the legal than the market proportion, if this can be supposed to have been produced by the free and steady course of commercial principles. The presumption in such case is that each metal finds its true level according to its intrinsic utility in the general system of money operations.

Further:

The only question seems to be whether the value of gold ought not to be a little lowered to bring it to a more exact level with the two markets which have been mentioned. But as the ratio of 1 to 15 is so nearly conformable to the state of those markets, and best agrees with that of our own, it will probably be found the most eligible.

Again:

There is scarcely any point in the economy of national affairs of greater moment than the uniform preservation of the intrinsic value of the money unit. On this the security and steady value of property essentially depend.

I favor this amendment because it makes the legal value of the silver dollar approximate its bullion value. Mr. Hamilton used the term "commercial value;" we say "relative bullion value in the two metals." Now, the point I make here is this: that the legal value has always been held subordinate to the bullion value, and it must conform to that standard.

Mr. WARNER. What is to determine the market value?

Mr. FISHER. I will explain that in a moment. It is to be regulated by the law of supply and demand. I will explain it if the gentleman will allow me to proceed. Now, if I misrepresent the gentleman from Ohio I will yield to him. He allowed me one interruption when he was on the floor, when I asked him the question whether his cotton valuation was based on gold or the currency of the country. I got that one question in after some trouble, and that was the only concession the gentleman made to me. Now, if in the course of my remarks I misrepresent the gentleman from Ohio I am willing to be interrupted, but otherwise I do not wish to be interfered with during my argument.

I say, in the second place, that it is impossible to maintain two units differing in intrinsic value, one being gold and the other silver.

Now, in the debate in this House on the coinage bill, in 1872, Mr. Stoughton, a member of the Committee on Coinage, Weights, and Measures, made these remarks:

The silver coins provided for are the dollar, 384 grains troy, the half dollar, quarter dollar, and dime, of the value and weight of one-half, one-fourth, and one-tenth of the dollar, respectively; and they are made a legal tender for all sums not exceeding $5 at any one payment. The silver dollar, as now issued, is worth for bullion three and one-fourth cents more than the gold dollar and seven and one-fourth cents more than two half dollars; having a greater intrinsic and nominal value it is certain to be withdrawn from circulation whenever we return to specie payment, and to be used only for manufacture and exportation as bullion.

Mr. Potter said:

Mr. Speaker, this is a bill of importance. When it was before the House in the early part of this session I took some objections to it, which I am inclined now to think, in view of all the circumstances, were not entirely well-founded, but after further reflection I am still convinced that it is a measure which it is hardly worth while for us to adopt at this time. * * * This bill provides for the making of changes in the legal-tender coin of the country and for substituting as legal-tender coin of only one metal as heretofore of two. I think myself this would be a wise provision and that legal-tender coins, except subsidiary coin, should be of gold alone.

My distinguished colleague [Mr. KELLEY] said:

It is impossible to retain the double standard. The values of gold and silver continually fluctuate. You cannot determine this year what will be the relative values of gold and silver next year. They were 15 to 1 a short time ago; they are 16 to 1 now.

Hence all experience has shown that you must have one standard coin which shall be a legal tender for all others, and then you may promote your domestic convenience by having a subsidiary coinage of silver which shall circulate in all parts of your country as legal tender for a limited amount and be redeemable at its face value by your Government. But, sir, I again call the attention of the House to the fact that the gentlemen who oppose this bill insist upon maintaining a silver dollar worth three and a half cents more than the gold dollar and worth seven cents more than two half dollars, and that so long as those provisions remain you cannot keep silver coin in the country.

Now, I ask my colleague whether if this bill passes you can keep gold coin in the country when the difference is fifteen cents on the dollar?

Mr. KELLEY. With the leave of the gentleman I will return his question by asking him whether he can make a standard of that which fluctuates so much? As I then said, gold and silver fluctuate; and

next I would say that I would keep both gold and silver coins in the country, but putting them, not at 15 to 1, which would expel gold, or at 16 to 1, which would expel silver, but at 15½ to 1, which would enable France and the Latin union to use both metals incidentally and indiscriminately and enable us to avail ourselves of both.

Mr. FISHER. Am I, then, to understand the gentleman to say that he does not hold to the same views which he expressed in 1872? Am I correct?

Mr. KELLEY. I humbly confess to the gentleman that I have learned something since 1872. [Laughter.]

Mr. FISHER. Then the gentleman, as I understand it, says to-day that what he said in 1872 was not correct. But I deny the gentleman his reasons. He says he has learned something. Now, that reminds me of a passage in Scripture: There was a young man who was born blind. His eyes were touched and his sight restored. The people were incredulous as to the fact, and when referred by the parents to the young man saying, "He is of age, ask him," the young man satisfied these incredulous people with this convincing reply: "This I know, that whereas I was once blind, now I see."

Now, I suggest to the gentleman that it would be a better excuse if he would rise here to-day and say that once he did see this thing clearly, but now he is stone-blind.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. FISHER. I do not like to be interrupted.

Mr. KELLEY. Well, I dare say I shall find a time to reply.

Mr. FISHER. Certainly; I hope the gentleman will. In the next place, it has been customary to follow the bullion ratio of the two metals, and the laws have been changed to make the legal-tender value conform to the bullion value. I have here the law of 1793, the ninth section of which says:

Eagles each to be the value of $10 or units, and to contain 247½ grains of pure and 270 grains of standard gold.

That was found to be too high a valuation, and the result was that we had nothing but silver in circulation. The law of June, 1834, provides:

That the gold coinage of the United States shall contain the following quantities of metal, that is to say, each eagle shall contain 232 grains of pure gold and 258 grains of standard gold.

By this act the standard was reduced from 270 grains to 258 grains of standard gold. The same thing was done with silver coins at a later period. By the law of 1853 the weight of the silver half dollar was reduced from 206¼ grains to 192 grains. Why? Because during the period after 1834 silver became more valuable in proportion than gold, and the result was that all our silver was exported. Hence to retain it in the country the silver half dollar and smaller silver coins were decreased in weight.

The gentleman from Ohio [Mr. WARNER] agrees with me upon this point. He says the honest way is to increase the value of a coin by adding to the weight of the metal in it. That is just what is contemplated by the amendment offered by the gentleman from Maryland, [Mr. KIMMEL.] The gentleman from Ohio and myself agree that that would be better than cutting off eight grains from the gold dollar.

Mr. WARNER. Does the gentleman refer to me?

Mr. FISHER. I do; I thought I caught the gentleman's idea.

Mr. WARNER. I had not intended to convey that idea.

Mr. FISHER. That is what I understood the gentleman to say. But it does not affect the argument; that is the honest way of doing it.

In the next place, you cannot maintain a bimetallic currency or double standard unless the bullion ratio of value is preserved. From 1793, the date of the first issue of silver coin by the United States, to 1834, the silver dollar and the gold dollar were alike authorized to be received as legal tender in payment of debts; but silver alone circulated, as I before said. Subsequently, however, silver was not used except in fractional payments, or, since 1853, as a subsidiary coin. The silver dollar as a coin of circulation had become obsolete.

For thirty-one years there was not a silver dollar coined by the Government of the United States. Yet it is said here that these two metals were circulating together. It was an alternative standard, and not, strictly speaking, a double standard with two metals circulating side by side.

It will be observed that the act of 1857 did not touch the value of the silver dollar. Why? Because it was worth 3 or 4 per cent. above par and was practically out of the market. And from 1860 to 1870 the average annual coinage of these silver dollars was less than twenty thousand pieces.

The reason why prior to 1834 payments were made exclusively in silver, and subsequently to that date in gold, is found in the fact that prior to the legislation of 1834 the weight of fine silver in the silver dollar was fixed at fifteen times the weight of fine gold in the gold dollar. After that date, owing to a contraction in the weight of gold required for the standard gold dollar, the silver dollar was made to contain of fine metal almost precisely sixteen times that of the new gold dollar.

The actual market value of gold during the entire period had been greater than fifteen and less than sixteen times the value of silver of equal weight.

Therefore during the earlier period the standard silver coins were relatively the cheaper, and consequently circulated to the exclusion of the gold. During the later period the standard gold coins were the cheaper and circulated to the exclusion of silver, showing plainly that we did have an alternative standard.

Now, the cause of the depreciation of silver I hold was twofold. The gentleman from Ohio, [Mr. WARNER,] if I properly understood him, favors the idea of the English financier, Ernest Seyd, that the loss of value of silver is owing exclusively to what he terms the demonetization of silver by Germany. Of course silver was not demonetized by Germany, but gold was monetized. The fact that two hundred and fifty millions of silver was thrown upon the market by the German Empire is alleged by those gentlemen to be the sole reason why silver declined from sixty-six pence per ounce in the London market to fifty pence per ounce.

Now, I hold, as the French minister of finance, Leon Saye, did. I do not go as far as he, for he gave three reasons. Probably the third had some effect on the market.

The first reason was the lack of the demand, by the German Empire being no longer a purchaser. The second reason was the increased production by this country, because, you will recollect that prior to 1860 this country never in any one year produced as much as $5,000,000 of silver; yet within the last two or three years the production has been between $40,000,000 and $50,000,000 annually. The third reason assigned by M. Leon Saye was the falling off of the demand from India, ascribed principally to the fact that she does not send as much cotton to England now since our rebellion terminated, by reason of the increased supply of cotton received from America.

Now, if we had one hundred and fifty million bushels of wheat as our surplus, and if we could sell one hundred million bushels to England and fifty million bushels to Germany that would just absorb our product. But if we have two hundred million bushels of wheat as a surplus this year, and if Germany has wheat enough of her own and does not come into the market for any, then, if we have England as a customer for one hundred million bushels, what is the result? We go into the market, we force our surplus product upon it; and, according to the law of supply and demand, we have a decrease in price. This is just what happened as to silver. Germany would take no more, and we would have more to sell than we have customers to absorb it; so the bullion price declines inevitably.

But it is argued that the supply of silver is inadequate to the wants of trade. Now, there were $137,000,000 coined from 1793 to 1873—a period of eighty years. Since 1873 we have coined nearly as much; $100,000,000 have been coined within the last six years. More than that, we coined last year more standard silver dollars of 412½ grains than were coined by the mint from 1793 to the close of 1877; in this calculation I do not count a single trade-dollar; I am speaking of standard silver dollars. There were only $70,000,000 of full legal tender silver ever coined in this country in dollars, quarters, halves, and dimes. Nineteen-twentieths of all this silver of full legal-tender value was exported prior to the act of 1853, and was not in the country. You say this law will give us silver. Certainly it will give us silver. Why? Because you propose to make a silver dollar of 412½ grains a full legal tender. Now, you can in the London market buy for a gold dollar 480 grains of silver; yet you propose that this Government shall make 412½ grains a full legal tender, equal to the gold dollar.

Why will this country be filled with silver if you pass this bill? I will explain. If there should be sent to this country from Belfast a cargo of linen goods, there would be sent along with it silver bullion to pay the duties; and as I hold under this bill, if the bullion is taken to the mint it is there to be stamped if not coined; and the person bringing it there is entitled to $1 for every 412½ grains of standard silver in the bar. He gets a silver certificate for the amount; he goes to the custom-house and pays his duty with this silver certificate. Thus the importer or foreign manufacturer has as profit the difference between 412½ grains and 480 grains on each dollar. Who loses? The American people lose.

This bill is a fraud and a cheat. It will rob the people of America; and it is in some respects a free-trade measure calculated to enrich the coin speculators and foreign manufacturers at the expense of the people. I commend this consideration to the attention of my distinguished colleague and teacher in protective-tariff principles—Judge KELLEY.

Mr. KELLEY. I hope the gentleman will demonstrate his proposition.

Mr. FISHER. I have already tried to do so.

Mr. WARNER. There are several of us who would like to hear that demonstration.

Mr. FISHER. You might just as well entertain a proposition from my State that as pig-iron is too low in price we want you to give us the aid of the General Government in controlling the market so as to put the price up to $20 a ton. The farmers of the West have just as much right to come here and say "We, like the silver-producers, have raised an increased quantity of our product, and the price of wheat in the market has declined fifteen cents from what it was a year ago; we ask the aid of the Government to keep up the price of our products." If we undertake the unlimited coinage of silver dollars of 412½ grains, making them a full legal tender, and if we do this before other commercial nations are prepared to co-operate in fixing the relative values of the two money metals, and adopting the so-called bimetallic standard, how can we expect to maintain it? We

shall signally fail; and it will practically result in forcing upon us a monometallic currency. We shall have only the silver dollar, which is the cheaper metal. We shall lose our gold year by year because the balance we owe we must remit in gold, while what will be due us will be remitted in silver. You cannot take passage on a British line of steamers and pay in dollars of 412½ grains. Every person going abroad must take gold or gold exchange. Silver is not recognized.

Mr. KELLEY. Is not the gentleman mistaken in saying that we cannot pay legal-tender dollars in the United States?

Mr. FISHER. To British lines I mean, if I did not say so.

Mr. KELLEY. I think that for every dollar you owe a British line you can pay a legal-tender dollar of 412½ grains of silver; if the company refuses the payment, it loses interest until it comes forward and accepts the tender. That is the law of the land.

Mr. FISHER. Letters of credit must be taken in gold. No person will go abroad armed with silver certificates. They cannot travel on them, as the gentleman knows just as well as I do.

Mr. KELLEY. The standard silver dollar is accepted in Paris and London at the same rate as the greenback.

Mr. FISHER. But the gentleman said by the act of 1873 values were reduced from eight thousand millions to forty-five hundred millions.

Mr. WARNER. Will the gentleman yield to me?

Mr. FISHER. Yes, if I have misquoted the gentleman.

Mr. WARNER. I did not say values had shrunk to that extent now. I did say that by that act it was proposed to reduce the money—the valuation from eight thousand millions of money to a valuation based upon forty-five hundred millions.

Mr. FISHER. Then the gentleman means that the act demonetizing silver reduced the value. What control have we over silver not in this country? Absolutely none. We do not affect the commercial or bullion value, not a particle. Do you question the statement? How much did we affect it? I will read from the report of the Comptroller of the Currency of 1876:

> The total coinage from 1792 to 1873 of the silver-dollar pieces, the demonetization of which was commenced by the act of 1834 and completed by that of 1873, was only $8,045,838, or a little more than $100,000 per year, while the coinage of silver pieces of a less denomination than one dollar was for the same period $137,106,046. It is not probable that there were more than $50,000 in silver-dollar pieces in existence in this country at the time of the passage of the act of 1873. From the discussion which has taken place since that time, it is evident that the repeal of the provision authorizing the issue of the silver dollar was most opportune and fortunate; otherwise the late extraordinary and unprecedented decline in the relative value of silver, due to increased production at home and demonetization abroad, would have completely driven our thus undervalued gold coinage from the country, leaving the overvalued silver as the sole specie basis of account.

The gentleman said that money is the wheel of commerce. He likened it to the oxygen of the air, the very life-giving property, but he forgot to tell us how much of this wheel was composed of silver. This nation does not do its business as either the French or the German. We have in every small town throughout the United States a bank, and our people are educated to bank paper. We always will use less gold and silver as a currency than any other nation in proportion to our population. I say to the gentlemen that but 2½ per cent. of the whole trade in this country is carried on by gold, silver, and bank-notes combined. I would further say that if we had all the silver of France and Germany thrown upon us to-day not one-hundredth part of 1 per cent. of the transactions of this country would be carried on with that metal.

Mr. WARNER. Then it will not come here under this law.

Mr. FISHER. Yes, you will bring it in under this law and it will be a dead weight. Why, sir, I know a firm in Pennsylvania that last year did a business of $600,000, and they received $10 in greenbacks, and fifty cents in silver, the balance in checks, drafts, and notes. Our people will not carry on large transactions with silver. If the gentleman should go West and ask the farmers upon the broad prairies to return to the old sickle for cutting their grain or to thresh it with the old flail they would think he had escaped from a lunatic asylum. We are just that much ahead of nations that use gold and silver in large transactions. If a man brings to another in the North a freight bill for $3,000 he does not spend three hours counting out coin, but draws a check for it in thirty seconds. Time is money with business men. We recognize it.

Mr. WARNER. Are checks money?

Mr. FISHER. They represent money just as much as your silver certificates represent money.

Mr. KELLEY. Would not silver dollars be a sufficient deposit upon which to draw checks?

Mr. FISHER. Oh, I grant that.

Mr. KELLEY. Then you grant away your whole case.

Mr. FISHER. No, there will be still enough to lie in the Treasury as a reserve.

Mr. KELLEY. To be drawn upon by checks?

Mr. FISHER. Now I wish to say a word to the gentleman on that point. I found last Saturday upon my desk a pamphlet, from which I will read a paragraph:

> The superior safety of silver is constantly receiving illustrations in current events. In the summer of 1877, according to newspaper reports, a train on the Union Pacific Railroad, temporarily in the possession of robbers, was carrying Government treasure in silver to the amount of $250,000, which the robbers let alone, from the impossibility of moving and secreting it. More recently, in August, 1878, a band of adventurers who had succeeded in getting possession, at midday, of the vault of a bank at Sedalia, Missouri, took all the money they found except the silver, of which there was $3,000. Under the necessity of an unincumbered flight from a pursuit which was certain to be immediate, they left that untouched.

Now, this writer might as well have gone one step further and advocated the substitution of iron because it would then be a physical impossibility for the robber to steal $5, which would be represented by six hundred and fifty pounds of pig metal. [Laughter.] Further, he makes a pointed argument against this bill because he shows that a robber who was hunting for valuables would not even touch the silver which these gentlemen say everybody wants.

There has sprung up in the course of the last few years a large number of these writers on political economy. Every one of them, I think in his own opinion, actually believes he is more capable of writing on this subject than Dr. Adam Smith, the author of The Wealth of Nations. They do not all come forth as authors. Some of them crop out here and force their financial theories upon us in the shape of petitions and bills asking for large grants of money. We have bills here asking for large appropriations for ship-canals and other great improvements. Now you always find in some communities, in fact in nearly every community, some men, a number of whom are possibly bankrupts, men that have never been able to manage their own little financial affairs, but who have industrious wives that are able to take in washing and do plain sewing and thereby support their families, while these lazy hounds have leisure time to discuss the financial affairs of this great nation. [Laughter.] They think that they know all about this great financial question. I have some of their productions, setting forth their financial ideas, in my desk. The gentleman from Indiana introduced a bill here asking for $1,000,000,000. I have a petition from my district saying "we want a thousand millions of dollars too;" it is not for the purpose of constructing ship-canals, not for large expenditures for slack-water navigation. They are more ambitious. They do not confine themselves to this terrestrial sphere but they propose to go out into the realms of space——

Mr. DE LA MATYR. If the gentleman referred to me as the gentleman from Indiana whom he associated with the class of people he was describing, I have only to say that his remark is contemptible.

Mr. FISHER. I am not speaking against the gentleman's bill; but when the Committee on Appropriations bring it to this House I want to amend it. I want a thousand millions, as I just remarked, for a few of my constituents who petition for it, for the laudable purpose of constructing a narrow-guage air-line railway to the moon, to ascertain whether or not that luminary is made of green cheese. [Laughter.]

Mr. WEAVER. Is that because your party is going up? [Laughter.]

Mr. DE LA MATYR. I would like the gentleman to say whether he meant to associate me——

Mr. WILBER. Let one speak at a time.

Mr. DE LA MATYR. The gentleman spoke of the gentleman from Indiana.

Mr. FISHER. I hope the gentleman will not interrupt me.

Mr. DE LA MATYR. I will find an opportunity to answer him.

Mr. FISHER. I want to say to the gentleman from Iowa [Mr. WEAVER] that I came here elected by my constituents upon this platform, and I carried my district the first time it was ever carried by the republicans.

Mr. WEAVER. That is good for you. I carried mine the other way for the first time.

Mr. FISHER. The gentleman from Ohio, [Mr. WARNER,] as I understood, spoke of the prosperity and the enormous profits of the year 1869. Now, I propose to show that this was entirely deceptive. The fluctuations of gold that year were from 1.20 to 1.65. How did that affect the price of commodities? In the year that the gentleman speaks of, 1869, as a year of prosperity mess pork fluctuated in price from $5 to $16.50 a barrel. We were on no stable basis.

Mr. WARNER. Compared with what?

Mr. FISHER. I am talking of the fluctuations during the year. I am not comparing. The prices of anthracite coal fluctuated that year from $6.50 to $10.50 a ton. If the gentleman wants to make a comparison with the year 1877 I would say that although the price was lower, coal fluctuated only fifty cents a ton throughout the whole of the year 1877, and mess pork fluctuated from $9.59 to $11.25, the natural consequence of our having approached nearer the specie basis. And you can take other items here in this statistical record, and they show the same thing. Now, I will not refer further to the gentleman's speech. How much time, Mr. Speaker, have I used?

The SPEAKER *pro tempore*. (Mr. HARRIS, of Virginia, in the chair.) The gentleman has three minutes remaining.

Mr. KELLEY. I hope the gentleman's time will be extended.

Mr. FISHER. I want to say that profit is the net earning. If a man earns $1,000 and expends $800 he has netted $200. If he is more fortunate the next year and earns $1,500, and becomes extravagant and expends $2,000 he is worse off, notwithstanding he has earned more. Now, nations are just like individuals. And when we come to the earnings of this country I want to see the balance-sheet. I propose to look at the balance-sheet of this nation in 1869 and 1877. But before I do so I desire to call your attention to a statement of the imports and exports of this country in some of the principal items of commerce, showing how much better our financial condition was at the close of the year 1878 than it was in 1869.

The imports of the two years were as follows:

Articles.	1869.	1878.
Woolens	$40,637,389	$24,724,047
Cottons	19,088,786	14,398,791
Hemp	5,785,762	2,314,290
Iron and steel	28,077,471	9,057,633
Linens	16,552,887	11,490,758
Silk	22,288,660	19,701,731

Thus showing a large falling off of our purchases abroad in all classes of merchandise and evidencing a spirit of economy rather than extravagance as controlling our people.

Again, look for a moment at the gratifying increase in the value of our exports. We sold to foreign nations in the two years as follows:

Articles.	1869.	1878.
Cotton	$162,633,052	$179,031,484
Cotton goods	5,874,222	11,435,628
Iron and steel	10,873,948	15,844,264
Corn	6,820,719	48,630,358
Flour	18,813,865	25,092,826
Wheat	24,383,359	96,872,016
Bacon	7,482,062	51,750,205
Lard	7,443,948	30,014,023
Pork	3,422,928	4,913,646
Butter	484,094	3,930,840
Cheese	6,437,866	14,103,529
Petroleum	30,625,446	46,574,974

In 1869 this nation imported $417,000,000 of merchandise, and we exported $286,000,000. In 1878 we imported only $437,000,000 and exported $694,000,000. We sent abroad in 1869 $37,000,000 of our coin. Last year there was an exportation of only $3,900,000. The difference in favor of the United States between 1869 and 1878 was $495,000,000 on the right side.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. MITCHELL. I move that the time of the gentleman from Pennsylvania be extended. That courtesy was extended to the gentleman from Ohio [Mr. WARNER] the other day.

Mr. MILLS. The gentleman from New York [Mr. CHITTENDEN] who proposes to address the House upon this question I understand desires to leave this evening. Is he willing to extend the time of the gentleman from Pennsylvania?

Mr. FISHER. I do not wish more than twenty minutes.

Mr. CHITTENDEN. My case is a peculiar one. I have to leave to-morrow morning and will have to be absent a week. I do not, however, object to the extension of the time of the gentleman from Pennsylvania.

There was no objection, and Mr. FISHER's time was extended.

Mr. FISHER. The gentleman from Ohio [Mr. WARNER] said it might be alleged that the cause of the increased burden was the shrinkage in values of commodities; he asked if the acres had grown smaller or the houses had shrunk, &c. I wish to say to the gentleman, in reply to that, that the houses and the acres have not shrunk, but the inflation of the value of property and acres has shrunk.

Now, I recall a property that cost $2,400 to build it, representing that much labor, &c., in value; it was sold three times prior to the war at varying amounts, from $2,400 to $2,800, and was sold in 1869, the very year the gentleman quotes for values, for $10,000, is worth to-day only $6,500, and yet it has not shrunk in value from $10,000 to $6,500. It would take as many ounces of gold to buy this property to-day as it did in 1869.

Mr. WARNER. Allow me to ask the gentleman a question.

Mr. FISHER. I cannot yield to the gentleman now.

What has been the cause of our difficulties? Why, sir, it is extravagance and inflation which have led us into our troubles. From 1868 to 1875 the railroad debt of this country increased over two thousand million dollars, more than the national debt. I have a tabulated statement of the indebtedness of one hundred and thirty cities of the United States, showing the difference between 1860 and 1870, and the increase was from $221,000,000 to $664,000,000. Every city, town, and county was borrowing money to carry on improvements upon high-pressure principles, and we were not paying our debts, but piling them up higher.

Mr. Tilden never said a truer thing than when he said in 1876 that if we want permanent prosperity we must as a nation live within our income; that we violated the laws of supply and demand, and that was the reason why now the revulsion had come which was ruin to many men.

A word now as to the trade-dollar. The gentleman from Ohio [Mr. WARNER] asserted that the trade-dollar was a trick. Now, sir, when the gentleman said that, he knew that when the trade-dollar was coined, under act of February 12, 1873, it was made a legal tender. He knew that a bill was introduced by the honorable Speaker of the House in the month of May, 1876, and was brought in by the gentleman from New York [Mr. COX] in June of that year, which provided that the trade-dollar should not have the legal-tender quality. The trade-dollar never became worth less than one hundred cents until in December, 1877, by greenbacks appreciating and becoming of more value than the trade-dollar. If fraud was intended, why not coin the standard dollar of 412½ grains? Twenty-five million trade-dollars were coined, when they were above par, prior to December, 1877. They were all exported, as they were too valuable to circulate. Coinage of them ceased in April, 1878, and they were coined only in 1878 for exportation. Had the legal-tender quality not been taken away from the trade-dollar by the bill introduced by Mr. RANDALL and reported by Mr. COX, and voted for by some here who denounce this dollar, we never would have had any trouble with this coin owing to California bullion speculators shipping them to the Eastern States.

Now, I am in favor of taking up the trade-dollars we have in this country, exchanging legal-tender silver dollars for them. Some are coming back to us, it is true, but they have not all come, nor will they—the larger portion have been melted in China—but some of them have. I have one in my hand that has come here from China, stamped with the Chinese characters of indorsement, and I will hand it to my friend from Massachusetts [Mr. CLAFLIN] and ask him to read the inscription upon it.

Inasmuch as we declare in section 3513 of the Revised Statutes that it shall be a coin of the United States, we should take up these trade-dollars; but, like the gentleman from Colorado, I am in favor of dressing up silver as we do merchandise, in any form or shape that foreigners want. We manufacture prints of certain kinds and patterns to suit the South American trade. We gave the Chinese a silver dollar which they wanted, but we do not want to circulate it at home. But why, I ask, go to the unnecessary expense of this unlimited coinage? Every gentleman upon this floor knows that no international Congress would ever agree to overvalue silver as you do by this bill. I ask how, if you get two hundred millions of these silver dollars of 412½ grains, as you can and will do from customs, which you will keep in your Treasury, you propose to avoid the trouble and loss entailed upon the people if France, by following the example of Germany, forces the price of silver down from fifty pence an ounce to forty pence an ounce, and thereby entails a direct loss upon the Treasury of $40,000,000?

That is the effect of the bill. Do you propose to go on and be still a purchaser saying that silver must be worth $1.20 or $1.25 an ounce while the world says that it is only worth $1 to $1.10 an ounce? I do not claim for this amendment that it will correct all the evil contained in this bill, but it will lessen the evil and measurably provide an honest dollar, and then when England and other nations assent to fixing the ratio at which the two money metals may circulate freely, we may hope to have a common coinage of gold and silver for the entire world of the same value in every country, but I will never consent to be so unjust to our own people as to favor any attempt to fix an arbitrary value on any commodity whatever in defiance of the principles of the great law of supply and demand. I believe my position and argument can neither be questioned nor controverted.

Mr. MILLS. Mr. Speaker, I shall support the bill reported by the committee, but I shall make an effort at the proper time to have some amendments placed upon it in order to make it meet the views of the people as I understand them. I do not think it proposes an adequate measure of relief for the distress which they are suffering, nor do I deem it a full response to the demand they have made upon their Representatives, a demand, as I understand it, for the full restoration of silver to Government coinage, and its full investiture with all the functions of money.

In legislating upon this question the statesman will fall far short of the object sought to be obtained by the people, if he loses sight of one great fact, and that is, that the country is overwhelmed with indebtedness; that it groans under an enormous national debt; that all the States are indebted; the counties are indebted; cities are indebted; corporations are indebted, and the vast body of the people are confronted day by day with individual indebtedness. The great occupation of our people is tax-paying. They live to be taxed. The tax collector, like the poor, they always have with them. When they have paid their taxes to the town or city collector to meet the demands of its creditors, scarcely has his footfalls ceased to resound upon their threshold until the county collector comes with the demand of the county's creditors; as he departs he meets another coming to exact taxes to meet the bonds of the State's creditors; and when he goes the last, but not the least, comes and says "pay that thou owest" to the nation's creditors. It is taxation, taxation, the only message that comes to the toil-ridden people from the interest-bearing but not tax-paying bonds of the public creditor. What is the volume of this vast debt that is now resting upon the shoulders of the people? Have you thought of it? The silver commission estimate it at about twenty thousand millions. I hold in my hand a book recently published by Mr. Jones, who shows great familiarity with statistics, and in summing up the figures which he presents he says:

> We put the aggregate indebtedness of all kinds and of all classes of people in the United States at not less than $25,000,000,000.

How did we get into this unhappy condition? How did the people become so overwhelmed with debt in all their city, county, State, national, and private affairs. It was done during the war and after the war when we had eighteen hundred millions of currency in cir-

culation. It was done when we had a paper money greatly depreciated under the metal currency. Whenever there are two or more currencies in a country, by what is known as Gresham's law, the cheaper drives out the dearer money, and itself becomes the only money in which accounts and contracts are expressed and by which values are denominated and exchanged. The constant increase of the volume of money caused it constantly to depreciate from the gold standard. Coin left the country or hid itself in strong boxes. All the prices of property everywhere in the land were increased just in proportion as paper money increased. All the property of the country took its value by the paper standard, and all the debts of the people were contracted to be paid with the same money.

Let us see how the country was affected by this condition of things. From the value of all the property in the United States in 1860 and 1870, as given by the census, it will be fair to estimate the national wealth in 1865 at twenty-five billions in gold. At that time the paper money, the cheaper money, the standard of value and exchange, was at 50 per cent. discount as compared with gold. If the value of all the national wealth in 1865 was twenty-five billions in gold, and one gold dollar was worth one and a half dollars in paper, then the national wealth in paper money was thirty-seven and one-half billions. The people who owned this property owed a debt, as we have seen, of $25,000,000,000 of paper money, worth, at the same discount, sixteen and two-thirds billions in gold. The property was mortgaged by either standard for two-thirds of its value, and even to maintain the situation at what it was the prospect of the people was indeed a very gloomy one. But eastern capitalists, who are the bankers of the nation and who have managed to keep the working people enslaved to them, soon discovered that the rag-baby must be exiled and we must return to the metallic standard—the money of commerce.

They knew that every dollar of paper that was withdrawn from circulation would increase the remaining amount in value just in proportion to the amount withdrawn, and so they induced Congress to take the surplus and pay them interest on it, and thus the money left in circulation was as valuable in the purchase of property as the whole had been. Under their influence Congress began the work of contraction and embarked on the wild hunt for "honest money." As the supply of money in the market grew scarcer, it became more and more valuable and its purchasing power increased day by day. All property and all the products of labor were depreciating in value in the same proportion. Day by day labor became more and more unprofitable. Exchanges and investments were stopped; enterprises were abandoned. Capitalists refused to invest their money in any kind of property when all was sinking lower and lower with every swing of the pendulum. Money was withdrawn from all the channels of industry and locked securely in the vaults, where it was idle, yet growing more valuable every hour.

On the 1st day of January, 1879, paper came to par with gold, and all the property in the land came to be measured by the same standard. The same property that was worth thirty-seven thousand five hundred millions in paper was then worth only twenty-five hundred millions in paper or in gold, for they were then at par. But did the debts shrink in the same proportion? The twenty-five billions of debt in paper was worth only sixteen and two-thirds billions in gold. When the paper dollar came to par with gold the twenty-five billions of paper indebtedness became the same amount in gold. Therefore, while the property of the people was being deprived of its value and reduced from $37,500,000,000 to $25,000,000,000, the debt rolled up to meet it; and while Congress took from the people's property twelve and a half billions of dollars they added to the burden of their indebtedness eight and one-third billions more. And this is the condition of the country to-day. Vast wealth has grown up in the hands of a few and general indebtedness and financial distress has been left to the whole people. All this thing has been done by decreasing the amount of money in circulation, giving interest-bearing bonds for non-interest-bearing notes, aided by an unjust system of taxation. Some of the same persons who aided in the accomplishment of this great victory now deny that the decrease of the money in circulation had anything to do with the prices of property. Were it not for this position now taken by some of the contractionists I should not think it necessary to cite an authority to sustain it. Ricardo says:

> That commodities would rise or fall in proportion to the increase or diminution of money, I assume as a fact which is incontrovertible.

Mill says:

> If the whole money in circulation was doubled, prices would be doubled. If it was only increased one-fourth prices would rise one-fourth.

Mr. Calhoun says an increase in the volume of currency—

> Increases the nominal value of the aggregate property of the country in the same proportion that the increase bears to the whole amount of currency, so that if the currency be doubled the nominal value of the property will also be doubled.

I take it to be "incontrovertible" that property does increase or decrease in value in proportion to the increase or decrease of money in circulation. To control prices the money must be in market to respond to demand, not hoarded with misers. Money like blood must circulate through the entire system to preserve the life and health of the body-politic. When locked up in bank or piled up in the public Treasury it has no more influence over prices than if it were still locked in the vaults of the mountains where nature hid it. It regulates prices only when it is found in the markets seeking exchanges of commodities. Mr. Mill says:

> Whatever may be the quantity of money in the country, only that part of it will affect prices which goes into the markets for commodities and is there actively exchanged against goods. * * * Money hoarded does not act on prices.

The financial policy adopted by Congress since the war not only reduced the volume of money and effected a reduction of the value of property by that means, but by a vicious system of taxation imposed upon consumption congested the circulation in the industrial system and forced more than half the entire circulation into money centers in the East, where it has no more influence upon prices than if it had never been dug out of the mines, but when removed from circulation it aided most effectually in reducing prices of property and making money, stocks, and public securities more valuable.

In pursuance of the same object, to make money as valuable as possible and property as much less valuable, the next thing to be done was to wage war on silver and strike it from our money of account. A few years ago the money-changers were constantly singing the praises of the money of commerce, of civilization. Silver and gold were declared to be the money of our fathers and all their righteous indignation was kindled against paper inflation, and the greenback dollar, though in the dark days of civil strife it had been christened "bloodstained" and "battle-born," was condemned like a heretic to expire in flames. The war was to be waged for the extermination of silver and they moved toward their purpose like sappers and miners underneath the feet of the people, where they could not be seen, and so adroitly was it dispatched that no one knew when the deed was done. The capitalists and money-kings of Europe joined in league with their transatlantic kinsmen and silver was destroyed in both continents. In that act was committed the most gigantic crime that has ever been committed against the toiling and moneyless millions of the world. All the silver money in this country and in Europe was destroyed and gold was left sole monarch of the situation.

All silver—about one-half of the circulation of the civilized world—was demonetized and gold alone was made the measure of value of all property, and that property lost value in exact proportion to the amount of silver money taken out of circulation. Property is still depreciating, and must continue to depreciate as long as gold is left as the only money by which its value is measured; and the ratio of that depreciation will be the ratio in which the products of labor shall increase faster than gold. Last year I read with a shudder an address delivered before the Social Science Association of New York by Mr. J. S. Moore on the subject of the indebtedness of our cities. He showed that one hundred and thirty cities had increased their debts since 1860 faster than the aggregate of all the property contained in them. The debts were growing larger by accruing interest, and the property was falling behind. What an alarming condition of things! If it is true of these cities, is it not also true of all other cities and of the people of all the rural districts? Is not all the indebtedness of the people increasing at a greater ratio than their property is increasing in value? The price of all the products of labor is still sinking like a lead-line sounding for some lower deep upon which to rest. While the whole country is in utter prostration, labor seeking employment in vain; while thousands of people in Pennsylvania, through one of their Representatives, are urging us to give them the means of flying from their homes to hunt labor and bread under other skies, another Representative from the same State, in the face of this deplorable condition of things, forgetting the strikes that made his State tremble through all her borders, forgetting that the military had been summoned to shoot down the people in the streets to make them suffer patiently the pangs of starvation, rises upon the floor and demands that the shrinkage shall still continue and the suffering be still further increased, and this to satisfy the greed of the few capitalists and holders of stocks and bonds in the United States.

It is time, sir, that we should turn and make an effort to extricate the people from the peril of their position. We should diligently inquire if there be any remedy for the malady that afflicts the nation. When I look at the situation it seems to me that the Almighty in His kind providence toward us has through the unwise statesmanship of Europe provided a way by which we may escape from this "valley of the shadow of death." They, too, in obedience to the will of the money-changers, struck silver from their monetary systems, and took from it the value that money function gave it and left it a commodity with only its commodity value. They decreased its value from par with gold to 16 per cent. discount, and it is on the market to-day seeking some one to purchase it. Our own mines are turning out forty to fifty millions every year that is in market at the same price. Our greenback Treasury note is at par with gold, and consequently worth in the dollar sixteen cents more than silver not made legal tender. We owe a debt of $1,800,000,000 that may be paid at the option of the Government in either gold or silver. A great many people believe that we may pay it legally and morally in legal-tender Treasury notes, and I among them; but all agree that we may pay in silver. Of the two thousand millions of our national indebtedness, eighteen hundred millions were originally payable in greenbacks or legal-tender Treasury notes. The bondholders claimed that they were entitled to coin and demanded, like Shylock, the pound of flesh that covered the heart.

In March, 1869, they induced Congress to pledge the public faith of the Government that all its indebtedness should be paid in coin, dollar for dollar, and, by that act of compliance, added to the burden the people were bearing six hundred and seventy-eight millions, for which the people never received one farthing of consideration. That debt in all its huge proportions now stands before us to be paid in

coin. Capitalists, bondholders, and bankers do not want it paid. It is a basis for national banks to stand upon, and to take up their bonds is to terminate their existence. To them "the public debt is a public blessing." Manufacturing corporations do not want it paid, because the hundred millions of interest we have to pay annually is a plea for high tariffs that give them large bounties. Capitalists do not want it paid, because the interest-bearing bonds of the Government are the best investments for their huge piles of wealth. To all these the public debt is a great blessing, and consequently they contend for its payment in gold, because that is impossible; they oppose payment in silver, because that is possible and can be performed within a few years. To all the millions who live by labor the public debt is an unmixed evil. It is a huge obstruction in the path of their prosperity, and an obstruction it is imperatively necessary that they should remove, and remove as speedily as possible. Whom are we here to serve? If the people, it is our duty to purchase the silver bullion with gold, or Treasury notes, or legal-tender silver; coin it and pay the debt as fast as possible. If we are here to serve those who make money with money, capitalists, bondholders, and national bankers, if they, and they alone, are to be consulted, then we will refuse to coin silver, refuse to pay the public debt, refuse to reduce taxation, but amuse ourselves in singing the praises of "honest money."

Sir, we are sent here by the toiling masses who work in the great hive of American industry charged to promote the general welfare, and we should in their interests utilize all the silver we can obtain in discharging the public debt and in affording the people an opportunity to liberate themselves from private indebtedness that threatens them with so much of distress and suffering; for of all the tyranny that ever oppressed a people fiscal tyranny is the most cruel and remorseless. To-day the greenback dollar and the gold dollar are at par; each is worth sixteen cents more than the demonetized silver dollar. We have the right, "so nominated in the bond," to pay the public creditor in silver. Having the right to pay in either of the two metals, why should we not pay in that which makes the burden easiest on the people? In any individual transaction would not any man be deemed a lunatic who would pay a debt in gold, at a premium of sixteen cents on the dollar, when he had the legal and moral right to pay in silver? If one of you held my note for a hundred dollars, payable at my pleasure in either gold or silver, do you suppose I would pay you gold when a silver dollar was worth sixteen cents less? Is there a gentleman on the floor who would do it? Not one. If you would not do this in your own private business, what right have you, as the trustees of the people, to pay their debt in gold when their interest requires and their rights demand that it should be paid in silver?

I am, therefore, in favor of unlimited coinage of silver by the Government for itself, and not free coinage for the bullion-holder. The mints should be operated to their utmost capacity to coin silver bullion purchased by the Government into legal-tender money. Every denomination of coin should be full legal tender and belong to the Government, and should be applied as fast as coined in the payment of the public debt. The bill of the committee authorizes the mints to be operated in the interest of the bullion-holder instead of the Government. The Government is to coin the money free of charge to the bullion-holder, and all the benefit of coinage is to accrue to him except such benefit as the people derive from an increased circulation. This, it is true, is an advantage to them, but they would derive the same advantage by the Government purchasing the silver and coining for itself. In both cases the coins will go into circulation. The people will get the benefit in an increase of prices of their products under both plans, but the Government will only get the benefit of the money by purchasing the silver, coining it, and applying it to her debt. It is no very insignificant item that the Government makes a profit of over ten millions in every hundred millions of silver coined by purchase, and the bullion-holder would make that amount with free coinage.

The Director of the Mint tells us in his report for 1878 that with $21,057,369 he purchased silver enough to coin $23,176,665, showing a profit of over two millions on the purchase—a profit that would exceed ten millions in every hundred millions purchased and coined. One of the significant facts connected with the transaction is that thirteen millions of the purchase was paid for in legal-tender silver dollars. How did thirteen millions of silver dollars exchange for fourteen and a quarter millions of silver dollars? Is not one silver dollar equal to another silver dollar? Not necessarily so. Our standard silver dollar has 412½ grains of standard silver, and is worth in gold one hundred cents. The Mexican dollar has 417¾ grains of standard silver; it is worth in gold eighty-five and a half cents. The trade-dollar has 420 grains standard silver, and is worth eighty-six and a half cents in gold. How is this that the Mexican dollar and the trade-dollar each have more silver than our standard dollar, and each is worth less? The answer is that everything that has value takes it in proportion to the uses to which it may be applied, and the silver dollar of 412½ grains is a legal tender in payment of all sums, and neither of the others is. Each of the others has its commodity value. The standard dollar has its commodity value plus its money value, which makes it equal to the gold dollar, which, at 25.8 grains, is the unit of value. The trade-dollar and Mexican dollar are coined silver, but not money.

The Government confers a great value on the coin when she coins it and makes it a legal tender, and that advantage she ought to retain for the people, and not bestow it on the bullion-holder. The Government ought to continue to purchase silver as long as it remains under par or at par, and I apprehend it will remain in that condition for some time yet. Unless the mines of silver become exhausted, and that we know is impossible for generations, for the mines of Chihuahua, the richest in the world, are only touched upon the surface; or unless there should be some new discoveries of gold in vast quantities, which is wholly improbable; or that silver should be remonetized by the commercial powers of Europe, which it will take years to accomplish. There can be no improvement in the condition of silver except such as our demand may make if we continue to purchase, and purchase in larger quantities. The purchases we have made had no effect whatever in arresting the depreciation of silver; the last purchase was cheaper than the first. Silver is but a commodity in the commercial world, and, like cotton, wheat, and corn, has only its commodity value. Gold is the money metal, and all values are measured by it. Therefore, just in proportion as all products of labor, silver included, increase faster than the money that measures them, just in that proportion will they depreciate in value, for the appreciation of money is the depreciation of all commodities, all other things being equal.

The measures proposed by the committee do not go far enough. Their faces are in the right direction, but they are too timid and halting. We should, either with the gold in the Treasury or by a new issue of legal-tender Treasury notes, or with both, purchase three hundred or four hundred millions of silver bullion, coin it into legal-tender silver, and pay that amount of the bonds that are now due or to become due in 1881. If we should purchase three hundred and fifty millions of silver with Treasury notes, and apply it in payment of the public debt, we would increase the volume of our money seven hundred millions, reduce the debt to fourteen hundred and fifty millions, and save annually twenty millions of taxes. Under the plan proposed by the committee the volume of money will be increased three hundred and fifty millions, but there will be no reduction of either the debt or taxation. Would our coin circulation be too large with that amount added to the present volume? On the 30th of June, 1878, the Director of the Mint estimated the gold and silver, coin and bullion, in the United States at three hundred and thirty-two millions, of which three hundred and seven millions, as I am informed, was coin. Of this amount about two-thirds is hoarded in the vaults of the Treasury. There is not more than one hundred and twenty-five millions of coin, nearly all gold, in the United States outside the Treasury, and that is kept within the little circle of importers, bondholders, and custom-house collectors. Gold must be paid on imports, and is bought by the importer from the bondholder and paid to the collector of customs and he pays it to the Treasury, from which it is paid again as interest to the bondholder and takes again the same circuit.

There is very little coin in circulation among the people of the United States, and when we get three hundred and fifty millions we will not have as much in circulation as France has. With only about thirty million people living in a country not as large as Texas, she has over four hundred million of coin in circulation. The coin in the United States does not enter into the general market and influence prices; it is in the Treasury, the banks, and the vaults of the capitalist. A large amount of the paper is in the same keeping and has little influence upon prices; so that I can see no danger to be apprehended from "flooding the country with silver." The plan of the committee is to receive silver bullion on deposit in trust and issue silver certificates for its value, the silver to be retained and exchanged again when demanded by the holder of the certificate. Under this contract the Government can never coin the silver or get rid of it. The certificates being more convenient to handle than the bullion and equally valuble, it will never be demanded, but the Treasury will have to hold it in its crude and worthless state waiting for a contingency that will never happen. Why do they introduce a new kind of money into our system? Why not issue, instead of a silver certificate that is to be received in payment of taxes, the legal-tender greenback, the most popular money that ever circulated in the United States? We keep our people confused with so many different kinds of money, and all having different functions to perform. We should only have gold, silver, and Treasury notes; and all the denominations of each a legal tender for all sums. Instead of this, we have the gold dollar with unlimited function; the Treasury note with limited function; silver still more so; the national-bank note with certain limited powers different from the others; then the gold certificate; now the silver certificate; and coming close behind is the "goloid" dollar. All this catalogue of different kinds of money is not demanded by the common welfare. There are classes to be served by these distinctions, and Congress ought not to give the Government power to make any but money that is to be honored in every transaction. An intelligent American author very appropriately says:

> One kind of paper of various denominations, a full legal tender, in sufficient volume to meet the commercial needs of the country, is immeasurably better than the variety we now have. It is the one thing needful in finance.

There is another provision of the bill that should be amended. It provides for the unlimited coinage of silver and at the same time demonetizes it. I cannot see what use there is in coining the silver if it is not to be used as money. There are three functions that money

must possess, it matters not out of what it is made. It must be a measure of values, it must be a medium of exchanging value, and it must pay debts. To coin money and deprive it of either function is to take from it that which makes it money. To take from it its compulsory debt-paying power is to deceive the man who holds it. By your coinage and stamp and the impress of your sovereign symbols and mottoes you say it is your national money, while by law you say it is not and shall not be.

Money without compulsory debt-paying power is like a king without either throne or scepter, a mere pretender. Money that is not a legal tender cannot be a correct measure of value, because the legal tender money is the correct measure of value and that which has not that function is less valuable. Neither is it a perfect medium of exchange. It creates obstructions instead of facilitating exchange. If a man owes a debt of $200 and places five bales of cotton on his wagon and takes it to town to sell to obtain the money he is met by a purchaser and offered his price, and counts it out in silver half dollars. But the seller says, "The man whom I owe says he will not take silver; it is only a legal tender for $5 and my debt is two hundred; I must have gold or Treasury notes." But gold is not in circulation, and if it was it and the Treasury note are worth more than the silver because they are both legal tender. Here is an interruption and a chance for a misunderstanding. The seller or buyer must lose the difference, or the trade must be broken off. If the seller loses he must sell more cotton to obtain the requisite sum. These vexations are occurring all the time. The merchant is taking in the fractional silver coins through the day or through several days, in small purchases; he cannot refuse them without injuring his trade. Very soon he gets so much that it is in his way and he desires to purchase a check and remit to his creditor but the banker does not want it and he is discounted. The same thing occurs with railroads. The defect in the money is that you cannot compel it to go. The remedy is simple: make it a legal tender and then it keeps going. Every one will take it without hesitation when he knows he can compel his creditor to take it. When all our money is full legal tender, then it flows along without hinderance or interruption. Mr. Macauley in his history, speaking of the same want of uniformity in the English money and the trouble that ensued from it, says:

> Nothing could be purchased without a dispute. Over every counter there was wrangling from morning till night. The workman and his employer had a quarrel as regularly as the Saturday came round. On a fair-day or a market day the clamors, the reproaches, the taunts, the curses were incessant, and it was well if no booth was overturned and no head broken.

This was the result of the Government demonetizing her old coins that were worn or clipped or filed. It could all have been prevented by the Government honoring its own coin and making it good for its nominal value as long as it remained in circulation.

Professor Sumner, in his work on American Currency, tells us of the same condition of things in the United States after silver became more valuable than gold and the new silver coins were exported and old worn Spanish coins come to take their places. He says:

> All the worn-down Spanish pillar-pieces came here because they had a value here higher than anywhere else in the world. While the mint was coining fine American pieces, scarcely one was to be seen in circulation. The people were obliged to use the smooth shillings, which produced a quarrel at almost every exchange, as to whether you could "see the pillars," until some one crossed them and they sank into unquestionable dimes.

To these objections the committee answer, we are coining the standard dollar and making it a legal tender. But I answer there are but few of them coined. There were only eight million coined from the foundation of the Government to 1878, while two hundred and thirty-seven millions of the fractional coins had been struck. The half dollar has always been the popular silver coin, and always will be, simply because of its convenience. The great body of our coinage now is fractional silver that the bill says shall not be legal tender. The only legal-tender silver coin we are permitted to have is the dollar, and the Government is to be prohibited from coining it unless somebody having silver directs it to be coined into dollars. The only coin the Government retains the right to make is that which the bill says shall not be money. These strange provisions in this bill I cannot understand. I cannot see any reason whatever for demonetizing the great body of our subsidiary silver coin.

Mr. STEPHENS. The gentleman means fractional.

Mr. MILLS. Well, fractional.

Mr. STEPHENS. We made it subsidiary in 1873.

Mr. MILLS. I speak of it as a class of coin, whether it be called subsidiary or fractional.

Mr. BUCKNER. Will the gentleman allow me to interrupt him?

Mr. MILLS. Yes, sir.

Mr. BUCKNER. Is the gentleman aware that while we were not coining the standard dollars under the law the Mexican dollar was a legal tender here and answered all the purposes of our own coinage?

Mr. MILLS. There was hardly any of it in circulation.

Mr. BUCKNER. It was the entire circulation in the West.

Mr. BRIGHT. It was not a legal-tender.

Mr. MILLS. What I wish to impress upon the House is that the fractional silver money of the United States has always been the popular silver money, and from 1792 up to 1853 the half dollars, quarter dollars, dimes, and half dimes were all legal tender for all amounts whatever. There was no limit put upon their debt-paying power.

Mr. STEPHENS. They were full standard.

Mr. MITCHELL. Will the gentleman permit a question at this point?

Mr. MILLS. Oh, yes.

Mr. MITCHELL. I understood the gentleman to say that down to 1853 the subsidiary or fractional silver coins were all unlimited legal tender.

Mr. MILLS. Yes, sir.

Mr. MITCHELL. Well, subsequently they were not.

Mr. MILLS. Subsequently they were not.

Mr. MITCHELL. I ask the gentleman whether at that time there was not a change in the standard?

Mr. MILLS. Oh, yes. I am coming to that right now. In 1853 I was going to say, if my attention had not been called to it, the fractional silver coins were debased, the standard of silver was lowered. And why did they debase the fractional silver coins and not the dollar? It was for the simplest of reasons. It was because there were no dollars to debase; they did not constitute any element in our money; they had all gone out of the country, what few there were, and the fractional coins were going after them. They debased the fractional coinage because it was the only silver money they were issuing and they had to undervalue it to keep it at home. The discovery of the gold mines in California in 1848 threw upon the country a vast amount of gold, and the disproportion of increase between the two metals made silver the dearer and gold the cheaper; and in the relative proportions in value in which they had been established the silver dollar was worth four and a half cents more than the gold dollar.

The fractional coins being of full standard were of the same relative value. The silver, therefore, was exported as fast as coined. Gold was the cheap money. The country was full of it. But the fractional silver coins so necessary in small transactions and in making change were all disappearing from the country. Congress, to save the whole body of our silver coinage, reduced the amount of silver and brought it under the bullion value of silver in Europe for the purpose of making it stay at home. They lowered the half dollar from 206¼ grains to 192, the quarter dollar from 103⅛ to 96, and smaller coins in proportion. The silver in two halves or four quarters, instead of being 412½ grains, was 384. The dollar of the lesser weight had the same nominal value here, but its commodity value fell with its weight when beyond the boundary of the United States. They did not reduce the weight of the dollar because they were not using it or coining it. It had its existence upon the statute-books, but scarcely anywhere else. It never was a popular coin; the halves, the quarters, dimes, and half dimes were the silver coins of the people.

Mr. GIBSON. Does the gentleman mean to say that the silver dollar was not coined because there was any prohibition of its coinage by law?

Mr. MILLS. Oh, no. There was only a prohibition by the law of inconvenience. That is all. Here are the official returns: The amount of silver dollars coined up to 1878 was 8,573,500. In 1851 there were coined only thirteen hundred, and in 1852 eleven hundred. In 1853, while there were only 46,110 coined, the same year they coined of halves a value of $2,430,534; of quarters, $4,446,555, and about two millions in dimes and half dimes. And that disproportion has been kept up through all the years of our coinage, showing very conclusively that the fractional silver coins were the favorites of the people. The bullion value of silver in Europe was greater than its money value here, and like cotton or wheat, or any other commodity, it went where profit was to be made by its export. I propose to make all the coins full standard, but the committee say that will not do, for they will be exported again. I am not at all concerned about the amount of silver in the fractional pieces. It is legal-tender quality, money quality, that I am after. If the gentlemen will concede it by making the pieces full weight, then I say I am for full weight. If they oppose making the pieces full weight, then I say confer the legal-tender quality on them at their present standard. Without the legal-tender quality they have none of the functions of money except such as the consent of the people shall confer upon them. If raised to full standard they will never leave the country till their bullion value is greater from home than their bullion value plus their money value is at home, and they are a long way from that point now, and no prospect of reaching it, as I have shown, for years to come.

But it is argued by gentlemen that it is wrong to make the fractional coins legal tender while under weight and make 384 grains of silver in the fractional pieces equal to 412½ grains in the dollar. Does it not look as if we were perpetrating a great wrong upon creditors and upon our people if the Government should compel them to take these coins of different weight at the same value? Political economists say there is no wrong, and I fully agree with them. Whatever may be the commodity value of each, the Government establishes the equation when it confers the full money function. A gold dollar of 25.8 grains being the standard of value, the Government can take a piece of silver of 100 grains or 200 or 400 grains and give it the full function of money and raise it to the gold standard. It is a matter of no consequence what may be the commodity value of the article. If I owe a man $100 and pay him in half dollars under weight he also pays the man whom he owes in the same way, and if the money I paid goes on and solves a thousand similar transactions and returns to me, has any one lost or gained a cent by the short weight of the

silver? Certainly not. The fallacy arises in the fact that gentlemen think that it is the commodity value, instead of the money value, that is involved in the solution of the problem.

Take the paper dollars of the Treasury and you do not find a single grain of silver in one of them, and yet each paper dollar to-day is worth sixteen cents more than a demonetized silver dollar. There is no intrinsic value in paper. All its value is derived from the full money function which government confers. Whenever the Government establishes a unit of value, as it has done with gold, making 25.8 grains a dollar and its standard, and it makes other dollars and fractions of dollars and confers upon them full money functions, it imparts to each dollar the full value of its unit, it makes no difference out of what material it is made, and this will hold good till the volume in circulation reaches the limit of its usefulness. If the supply should exceed the demand, like all other things it will depreciate. There can therefore be no reason why all our fractional coins should not have conferred on them full legal-tender quality. Ricardo says:

However debased a coinage may become it will preserve its mint value; that is to say, it will pass in circulation for the intrinsic value of the bullion which it ought to contain.

Another English economist says:

The shilling now circulating derives its purchasing power not from the silver it contains, but from its being by law a twentieth part of a pound—the golden standard.

And this same doctrine is held by our own distinguished citizen, Professor F. A. Walker, in his recently published work on money. It is not the intrinsic value of the material out of which money is made that gives it its value as money; it is the value that law confers. Whatever possesses the three functions is money regardless of its intrinsic value. It must, as I have said before, measure values, exchange values, and pay values. Anything that will perform all three of these is money. That is all there is in money. Debase it as much as you will with these three powers conferred on it, it will continue by authority of law to be money. It is a familiar doctrine that values are created by labor and only by labor; but law creates values as well as labor. If the law required all the passengers and freight from Saint Louis to New York to pass over one railroad line, it would certainly make the property in that road more valuable than before. When Congress imposes high duties on the products of foreign manufactures for the purpose of protecting home manufactures it makes them more valuable than before. When the Government says that certain things bearing its stamp shall perform the functions of money and nothing else shall, it gives value to the thing it designates for that purpose. Therefore I say the power to create value by the stamping of a coin of the United States as a dollar or half dollar and making it legal tender is just the same as to give additional value to the products of American manufacture by imposing high duties on competing articles from foreign countries.

Mr. CLAFLIN. I would inquire if it would not be a better process to reduce the value and weight of the five-dollar gold piece, of the three-dollar gold piece, of the one-dollar gold piece a certain percentage? Would not that accomplish the purpose as well?

Mr. MILLS. That would not do, because you have made the gold dollar of 25.8 grains the standard and unit of value.

Mr. CLAFLIN. But have we not made the silver dollar a standard of value?

Mr. MILLS. No, sir; you have not.

Mr. CLAFLIN. The law is the same in the one case as in the other.

Mr. MILLS. There is no such thing as a double standard, accurately speaking. The standard will be the cheaper metal. Sometimes it is one and sometimes the other.

Mr. CLAFLIN. If they are of the same value, what is the difference?

Mr. MILLS. If they were of the same value there would be none, but they are not of the same value. There is a difference of sixteen cents to-day between them, and rather than see them come to par I prefer they should separate further. In their separation I see presented a great opportunity to rescue the country from the burden of a huge national debt.

From the office of the Director of the Mint I find that the bullion value of a silver dollar is in London to-day eighty-four and nine-tenths cents, and its bullion value in New York eighty-four and three-tenths cents. Practically the metal value is the same in both countries. But in the United States it has another value which law confers on it; the two together make the dollar worth here one hundred cents in gold. It has in England none of that money value.

Now, do you suppose that silver is going to be taken out of a country where it is worth one hundred cents on a dollar and sent to Europe where it is worth only eighty-four and nine-tenths cents as bullion? The half-dollar is worth in bullion thirty-nine and seven-tenths cents, or two half dollars are worth in bullion seventy-nine and four-tenths cents. But the value of those two half dollars in the United States is one hundred cents. Do you think that those two half dollars or that two hundred million half dollars will be taken to Europe and sold at seventy-nine cents on the dollar when they are worth here one hundred cents to the dollar?

There is therefore no danger either in raising the subsidiary silver coinage to a value proportionate to the silver dollar, or allowing it to remain as it now is. As I said awhile ago, silver in Europe is a commodity. It has been demonetized by all the commercial powers of Europe. Its coinage has been stopped. The war on silver is progressing. It has reached Russia. All the great powers of Europe are making war upon it. It is shown by the record to be sinking day by day, getting cheaper and cheaper. With these facts standing before the people of the United States, oppressed as they are with fearful taxation, is it not our duty to utilize this money as far as we can to discharge the debts that we owe as a government and those that our people owe to each other? It is most fortunate for us that silver is so cheap that we may buy it in large quantities with Treasury notes. If gold and silver were at par it would be the death knell to our hope of an early payment of our vast debt. We would be condemned to hopeless bankruptcy, and would transmit it as the only legacy we had to our children for generations to come. Our debt would be like the debt of Great Britain that has been handed down from one generation to another for two hundred years, and while the people have paid as interest five times as much as the principal, it is still three and a half billions of dollars and as great as it was forty or fifty years ago. But it may be asked, if gold and silver are not to be at par will not gold, the dearer metal, leave the country? If it were in circulation it would unquestionably. I meet this question boldly and fairly. But there is no gold of consequence in circulation. As long as the Government requires duties on imports to be paid in gold and interest to the bondholder to be paid in the same coin, that amount of gold will remain in the country to perform that specific duty, and that is all that it does now. The great mass of our business exchanges that are carried on by money are carried on by paper money. Neither of the metals constitutes any considerable part of our circulation. But if we had both gold and silver in full circulation, if such a thing could be, and silver at 16 per cent. discount, I say it would be to the interest of the United States to maintain a silver standard, or rather silver circulation, until they have emancipated themselves from the bondage of debt. Having a large stock of gold in the Treasury and their Treasury notes at par with it, and both at a premium of sixteen cents above silver, then our well-being demands that they should use them in the purchase of the cheaper metal with which to pay their debts.

There is another point on which I wish to say a few words. The bill makes the last holder of worn coin, or coin that has suffered in weight by sweating, clipping, and filing, bear the loss instead of the Government. All the controversy about abrasion is a bugbear about nothing, as far as the intrinsic value of the metal lost is concerned. The far greater injury results from the demonetizing of the coin by the Government. The moment you withdraw the Government's protection, and the power it confers upon the coin by its stamp, you deprive it of its money function and take from it its power to measure, exchange, or pay values. Instead of facilitating exchanges, as it should do and as it would do if protected in its money function, the demonetization constitutes an obstruction. It is absolutely necessary to all the business of the country that the money which the Government establishes should be constantly invested with all the functions of money. As long as any coin remains in circulation it should circulate at its nominal value everywhere, and be honored in every transaction. Otherwise the great masses of the people, who are not informed about these things, will take them at their nominal value, because they accept their Government's word and confide in it, while brokers, speculators, and sharpers will take their money only at its bullion weight. It will inflict a wrong upon that part of our population that most needs our protection. In the Forty-third Congress the Committee of Coinage reported a bill unanimously requiring the Government to lose the abrasion, and it passed this House unanimously, but for some cause did not pass the Senate. Whenever abraded coins come to the Treasury they should be sent to the mint and recast into full standard coins before being put in circulation again.

But it is said the Government should not lose by the abrasion. Why not? By reason of the Government's stamp the money goes from hand to hand for years, becoming worn by the handling of millions, and the last man that presents it to the Treasury must lose the difference between the real and nominal weight. The Government is all the people, all the people used it, and by their handling wore it away, and they rather than one should bear the loss. But the loss is too trifling to compare to the annoyance in business that would ensue from demonetizing the coin, and I am a little astonished at the economy manifested when in the same bill the committee propose to give the bullion-holder ten millions in every hundred millions of silver coined, and yet would demonetize the few worn and clipped coins when the whole loss on twenty years would not amount to one million of dollars.

What Mr. Calhoun said of the country in 1837 is true to-day:

The distress of the country consists of its indebtedness, and can only be relieved by payment of its debts.

As I said in the beginning, we must keep that fact in view in all our deliberations. Our object should be to extinguish all our debts, national, State, local, and private. To effect that there is another measure we must adopt. We should retire the circulation of the national banks and supply it with legal-tender Treasury notes. Should we do that the three hundred and fifty millions of bonds they hold would have to be sold to the Government for the legal-tender notes required to redeem their circulation? By that means we should pay three hundred and fifty millions more of bonds in addition to those

paid by three hundred and fifty millions of silver. The debt would then be reduced to eleven hundred millions, and twenty millions of taxes saved annually. The present system of national banking is a system of national spoliation of twenty millions every year. They hold $350,000,000 of Government bonds upon which there is an annual interest accruing of twenty millions, they deposit these bonds in the Treasury, and the Government makes a paper dollar equal to gold, and pays them 90 per cent. of the bonds, and still pays interest on the whole. When 90 per cent. of a debt is paid 90 per cent. of the interest ought to be extinguished, and that is the law in all private transactions; but it is not so with the national bankers. A generous government taxes its poor laboring people to obtain money to bestow upon its favorites. Why should we not substitute the greenback for the national-bank notes? The bank-note is redeemable in the greenback, and that is redeemable in gold, and no better currency could circulate in the country, and in addition to that we would save the expenditure of twenty millions per annum, and reduce the debt three hundred and fifty millions.

The question arises, with the debt at eleven hundred millions can anything be done to place the remaining portion of it in process of extinguishment? Happily for the country, that is a question to which an easy reply can be made; and that reply is, that we can increase our revenues more than a hundred million annually by reducing taxation. If we would reduce our tariff on foreign goods to 25 per cent. *ad valorem*, instead of the prohibitory tariff we now have, we should double our imports the first year and the volume would rapidly increase every year, and with the increase of imports the revenues would of course increase. Mr. Walker, Secretary of the Treasury under Mr. Polk, who was master of the whole subject of finance and taxation, says that 20 per cent. is the revenue standard of taxation on foreign imports, and that at that sum the Government receives the largest revenue. The difficulty with us now is that we are prohibiting the introduction into the country of the very objects upon which we are relying for taxation, and if they do not come we get no revenues from them. In imposing duties there are two objects to be looked at. We must either look to revenue or to building up a monopoly of American manufactures at the expense of the revenue.

If it be the object of Government to build up American monopolies, then that can best be done by prohibiting the introduction of foreign imports, but if it be to obtain revenue, then only the largest amount of taxation should be imposed that will not restrict the consumption. That point Mr. Walker says is 20 per cent. There are two things that will control importation. The first is low duties, the second is a general distribution of money among the people affording them the means of purchasing and satisfying their wants. Neither of these conditions are present with our people to-day. Money is congested in the vaults of eastern capitalists, and the people have little with which to buy, and the duties on foreign goods are so high and of domestic goods the same, that consumption is greatly restricted and a large part of the poorer people are prohibited by Government interference from satisfying their wants by their labor.

Let us take a few articles and see the duty we are paying upon them, and they will give us a better idea of the enormities of our tariff. The duty on uncleaned rice is 104 per cent.; cleaned rice, 105; acetic acid, 120; chloroform, 100; acetate of soda, 208; chiccory root, 105; one species of cotton jeans, 109; croton oil, 118; ether, 109; fusel oil, 670; whiting and Paris white, 212; cassia, 114; clove stems, 135; ground spices, 160; rice starch, 118; one species of woolen hosiery, 105; one species of woolen manufactures, 106; woolen undershirts and drawers, 101; bunting, 117; castor oil, 100; wool hats, 84; flannels, 90; blankets, 89. These figures (for which I am indebted to the labors of Mr. J. S. Moore) show most plainly that these duties were imposed to prevent the importation of foreign goods, and of course at the great loss of the revenue and to the great detriment of the people who are forced to purchase the American article at these high figures. The entire importation of all these goods did not pay the Government a million and a half of revenue. Are we to abandon this prolific source of revenue, which would so soon redeem us from debt, and give our people over entirely to the greed of vast money corporations? See how our foreign importations are falling off under high duties and a contracted circulation. In 1873 we had $684,000,000 of imports; 1874, $595,000,000; 1875, $547,000,000; 1876, $480,000,000; 1877, $480,000,000; 1878, $468,000,000. During the same years the revenues collected from imports were as follows: in 1873, $184,000,000; 1874, $160,000,000; 1875, $154,000,000; 1876, $144,000,000; 1877, $128,000,000; 1878, $127,000,000. If instead of the prohibitory tariff we now have we should lay duties at 25 per cent. on all imports, they would amount in one year to eight hundred millions, with the silver bill passed as I propose, and that would give us two hundred millions instead of one hundred and twenty-seven as now. But it would continue to increase until our importation would exceed that of Great Britain, which is two thousand millions. Increase the circulation and lower the tariff, and the people will pay the debt faster than they did in the period between 1869 and 1873, when they reduced it at the rate of eighty millions a year, while they scarcely reach one-fourth of that now. In addition to that the tax on wealth, so hurriedly released after the war, should be restored and the vast incomes of eastern capitalists should be required to assist in reducing the public debt and bearing the public burdens of Government. We should exact at least fifty millions from incomes, and with these we should cancel the whole of our public debt in half a dozen years. Coin the silver and increase the circulation, depreciate money and appreciate labor and property, and, in the language of McCulloch, "the progressive depreciation of money will be like a fall of rain after a long drought, beneficial to incomparably the larger part of society and of great public and national advantage."

The history of this country and all other countries shows that just in proportion to the increase of the money that circulates among the people running along all the veins and arteries of the commercial body just in that proportion will they purchase and consume such commodities as their wants may require, and if taxation is levied upon such articles just in the same proportion will the revenues of the Government increase. Look at your imports after the war, when you had eighteen hundred millions in circulation, and see how they increased up to 1873, and since then see how, like the pulse of a dying man, they mark the gradations in which we are descending as step by step we go down the rounds of the dark ladder upon which the country is placed. Before we can ascend the laws of taxation must be changed, the debt must be paid, the tariff reduced, the tax on wealth reimposed, silver coined and all its coins made uniform in value, and whatever may be our dollar, whether of gold, silver, or paper, it must be good for all, the bondholder as well as the plowholder. Then labor will find employment everywhere at remunerative prices, and then a country long cursed by the dominion of moneyed corporations will rejoice in prosperity and peace.

Mr. CHITTENDEN. Mr. Speaker, I regard the bill under consideration, which provides for the free coinage of silver and the free issue of coin certificates, the latter to be circulated as money and employed by the national banks as a part of their reserve, as the most violent and inexcusable assault upon the integrity and welfare of the American people ever made in Congress. I propose, therefore, by an honest effort, to turn on the light and expose the covert idiocy and rascality of the measure. I do not intend to transgress the rules of the House, but if I chance to use the wrong word, I rely upon the Chair to rule as he did the other day, that "as a man thinketh so is he;" nor do I wish to be interrupted. When I get through I will accept battle, under the rules of the House, with all-comers, one at a time.

I realize, Mr. Speaker, that when I shall have taken my seat fresh raids upon gold bugs will be in regular order. I have also observed that these manifestations have been more lively and interesting than usual in the Forty-sixth Congress. In other Congresses the leaders of the people against their oppressors have been men comparatively unworthy of notice, but in this the champion belt is deservedly worn by a recognized minister of the church of God. It will be conceded, I am sure, that the honorable and reverend gentleman from Indiana cuts a ludicrous figure here as a missionary of woe! woe! to the "money power," while laboring at the same time as the beloved apostle and high priest of the greenbackers. From the Clerk's desk he prayed the other day, with some reserve, that the good Lord would take us all to heaven, and straightway in a frantic effort from his own seat to make it warm for infamous and hell-bent bondholders he himself got red-hot and cried out in dreadful agony for—

> Men who have honor—men who will not lie;
> Tall men—sun-crowned—who live above the fog
> In public duty and private thinking;
> Men who can stand before a demagogue
> And damn his treacherous flatteries without winking.

At another time he is said to have prayed in secret through the petition-box for "a thousand million of greenbacks" in one grand swoop, ostensibly to resurrect some defunct western canal companies. I am glad, Mr. Speaker, to see this unique quasi-divine in his seat. He belongs to a class who rarely hear preaching and who suffer severely for want of it. The average minister is Pope in his own pulpit. Not so here. The gentleman's gospel will not be accepted in this Hall without an occasional challenge. I would not discourage the gentleman. I have hopes of him. It is said already that he repents of his thousand million job; and if he owns a conscience we shall soon find him upon the anxious bench, and after that conviction and conversion to the religion of common sense may be looked for.

Mr. Speaker, I have but few words to say in answer to the gentleman from Ohio [Mr. WARNER] who opened this debate. His speech, though four days old, only come to the light this morning, and I do not know yet how he has fixed it. His answer to my question left a chasm between us too broad to bridge with argument. He declared that irredeemable legal-tender paper promises issued for a portion of the war debt are as good money as gold or silver. If that be true the United States owe no man anything to be paid. If he is right, fiat money, inflation, immoderate speculation, extravagant and riotous living, consequent bankruptcy, monstrous peculations, and repudiation are no longer to be regarded as the diseased attendants of a cruel civil war to be cured, but they are to be respected and exalted as the climax of prosperity, as the normal condition and true indices of American progress and civilization. If he is right, temperance, industry, frugal living, the payment of honest debt, tact for business, and accumulations of property are heresies and devices of thieves and robbers deserving of condemnation by all good men. But I take issue with the gentleman. His argument at best is that of all unfortunate, improvident, prodigal men, who demand that Government shall by some hocus-pocus currency legislation restore their broken

fortunes. That is all there is of it. Debt is not money. He himself knows that it is not. He cannot stand on that ground to restore assured prosperity to this country any more than he can build a railway on the ice of a deep river in winter time and hope to operate it securely through the heats of summer.

I admit that I speak as a capitalist. Yes, I am a "robber," if the gentleman's doctrine is sound. I worked two full days, twenty-four hours, in my thirteenth year for the first dollar I ever called my own, and I have been a robber, on the gentleman's theory, from that time to this. Nevertheless, I assert my brotherhood with every man in the land who owns an honest hoe, horse, house, farm, bond, bank, railroad, or steamship, provided their capital, great or small, is the fruit of honest work and savings. Every industrious and temperate man in this country makes money; but it requires common sense and tact to save something and be a capitalist.

Congress does not and cannot properly make capitalists or bankrupts. The father of a family who teaches his sons to come late to breakfast, to study and work short hours, to spend habitually more money than they earn, to buy land and build houses and mortgage the same for more than they are worth in honest money, to run in debt without sense and without reflection, to take flyers at the stock exchange, to bet at the races and keep company with harlots, will raise a family of dead-beats who will need and clamor for fiat money, as the old feudal lords did, to conceal laziness, foolhardiness, and rascality.

On the other hand, take one of these pages who run at our bidding, the son of a widow perhaps; herself the daughter of affluence, gentle and cultivated, whose husband died for his country; that boy earns a dollar a day, more or less. If he is wise enough to spend less than he earns he is as truly a capitalist as I am, and he may stand thirty years hence where I now stand to deplore the folly of misguided and egotistical men, who by tampering with honest money in the Forty-sixth Congress threaten to mar their country's prosperity and glory with utopian dreams and schemes for half a century. "By the sweat of thy brow," Mr. Speaker, "shalt thou eat bread." Honest work, honest money, honest bread. That is the fiat of the unchangeable Jehovah, put in force when rogues first appeared in Paradise. Ceaseless cycles of time have established its wisdom and beneficence. It shall stand for ever and ever!

Against God's law the silver and greenback sinners of our time have brought back and set up in our country the Flaminian law of the old Roman Republic, passed, in the words of a recent French writer, "when Hannibal was already at the gates of Rome; when the disasters of Trebia and of Lake Trasimene had well-nigh exhausted the resources of the republic; when there was revolt on every hand, and thus the best sources of public revenue were dried up."

It is curiously instructive for us to note that the *lex Flaminia* of the Roman Republic, centuries before the Christian era and long before paper money was invented, reduced Roman silver coins precisely as the Forty-fifth Congress of the United States clipped the honest dollar of the United States in the year of grace 1878.

The history of these two acts is very interesting. Their analogy is close and searching, but not absolutely perfect. In the old case Hannibal was outside the gate when the deed was done. In our case Hannibal was inside, and assisted at the clipping. The precedent proved fatal to Rome. We still have room for repentance.

The Romans first reduced their denarius from one seventy-second to one eighty-fourth of a pound, then to one-ninetieth. Later on the Greeks and Romans descended to plated coin, and amid the greatest confusion they tried at length the "goloid," the very mixture which the distinguished gentleman from Georgia, the chairman of the Committee on Coinage, Weights, and Measures, now admires and recommends. The Roman laws being nowhere preserved textually, the fact can only be corroborated by the bare statement of historians as to the "scaling" of Roman silver coins, but it is a reasonable assumption that "electrum" (our goloid) was popular, for the convenient reason that it favored rascals and fostered fraud. No expert can tell to-day without chopping and melting up each individual coin what the thing is made of.

Cicero tells us that the value of the coinage at the time to which I refer became so dubious that no one knew what he was worth. A writer of less note observes:

> We might always judge of the character of the Roman emperors by the more or less sound ring of the coin struck during their reign.

This is not hyperbole, Mr. Speaker. Near the close of the nineteenth century, we stand here to-day the representatives of the freest, richest, happiest, and most prosperous people on the face of the earth; a people day by day proclaiming by some fresh exhibition of reserved power their sure destiny as the central force in the world's future advancement and triumphs; here we are, with our cables, railroads, and mines, blind to our real resources and opportunities, wildly croaking and wrangling like selfish, lazy, and spoiled children over the wrecks of foolish castles in the air, themselves the outcome of passion and civil war; here we are, in possession of matchless power, foolishly striving to repeat with startling exactness fatal currency devices which sapped and subverted the Roman Republic two thousand years ago, and, traveling down the ages, have impoverished or ruined every nation and people copying them. This is not argument, but it is the truth of history or it is falsehood. If true, it goes without argument, and admonishes every one of us, Representatives of the people, to persist no longer in this broad road to ruin.

What, then, Mr. Speaker, is the true import of the bill under consideration?

Let me premise explicitly that I am not opposed to bimetalism, but for it whenever practicable. I have never said a word against the coinage of honest silver dollars. But while the leading great nations with whom we trade adhere to the gold standard common sense and public policy force us, in my judgment, to stand with them unless we mean to adopt silver as our only standard. I hold, and think it easy to demonstrate, that our present coinage law, unless modified, will certainly force upon us an exclusive silver standard. I regard our dishonored and justly imprisoned silver dollar of 412½ grains as the most disgraceful form of political money. It is as corrupt and corrupting in principle as it would be if containing but the odd 12½ grains of silver. Its moral quality when compared with irredeemable greenbacks reflects the difference between a man born prodigal and reprobate, and a good character wrecked after an honorable career.

I repeat, there is no valid objection to coining honest silver dollars; but for Congress to say that 412½ grains of silver shall pass for a dollar now because in other days when the metal was less abundant that number of grains was worth a dollar is as ridiculous and impolitic as it would be for farmers to insist upon war prices for cotton, wheat, and meat in this time of superabundance. The proof of this proposition is at hand if we will but look at it. It will be admitted that beyond narrow limits our silver dollars are now locked up in dark vaults, useless and a burden, practically outlawed precisely as any other product of our soil or mines would be outlawed in commerce if overvalued and only vendible by short weights and measures.

If the gentleman from Pennsylvania [Mr. CLYMER] should arbitrarily say that he would give only eighteen hundred weight of rails for a ton would the gentleman from Michigan [Mr. NEWBERRY] buy the other gentleman's rails? What will become of Mr. CLYMER'S rails in such case? They will be stacked up unemployed, at great loss to Mr. CLYMER, precisely as our silver dollars are locked up at great loss to Government. But you say Mr. CLYMER can issue certificates and borrow money on his rails. True, but he knows that will ruin him double-quick, because he as an individual has no power to make his certificates go without interest; he will therefore lose the interest upon his capital and his notes as well.

If the State of Pennsylvania should make eighteen hundred weight of iron legal tender for a ton in all transactions between her own citizens, would not such idiocy manifestly tend to cripple and destroy the Keystone State's commerce with other States? Why, then, shall the Government of the United States arbitrarily convert the product of its precious silver mines into a standard of coin unknown beyond our borders, useless and rejected at home, tending only to dwarf, cripple, and disturb our great commerce with the world?

And what shall be said of free coinage? The free coinage bill which passed the House of Representatives on the 4th of November, 1877, without a word of debate, 164 to 34, originated in a committee of which I was a member.

It is an open secret that its authors aimed by it to drive all the gold out of the country. They opposed resumption with all their power, and did not believe there was any gold in the country worth talking about. They distrusted the Treasury statement of gold coin held by the sub-treasury in New York, and on my motion we obtained authority to see it counted, and did so to our entire satisfaction. The free coinage bill failed and resumption came, according to the law of January 14, 1875, to the great and manifest advantage of the whole people. Why shall we remorselessly break down resumption now? What is the true meaning of free coinage? I only have time to answer the last question.

Free coinage means that whoever owns 412½ grains of silver, and multiples thereof, whether in old coin, furniture, or bullion, can sell the same to the Government of the United States for the equivalent of gold dollars, and be paid therefor in three or four days after depositing the silver in any assay office or mint in our country. This proposal to buy by the Government is not confined to our own citizens, but extends to the silver hoards of all countries and all mankind. The authors and promoters of this monstrous proposition claim that it is in the interest of the people. What people? I affirm deliberately that it is in the interest of bullionists and capitalists exclusively, and will demonstrate it.

We have already coined and locked up for the most part thirty-one millions of the silver dollar of 412½ grains. For what end? For whose benefit? Is there one farmer, mechanic, or day laborer, save only those employed at the mints, who has made a cent out of this coinage? Not one. Who, then? The first seven millions of bullion coined into these dishonest dollars was purchased in London because the bullionists of the Pacific coast rudely proposed to "corner" the market. So far, and to the extent of seven millions, the coinage was for the sole benefit of foreign bullionists. Subsequently the supplies have been purchased at home for the exclusive benefit of home producers.

Now let us see how other capitalists than bullionists are interested in this bill. I ask the honorable gentlemen reporting it to give me their attention while I explain how it will work in practice. The railroad king, Mr. Vanderbilt, is said to have bought lately twelve thousand tons of steel rails in England, which, for convenience, I assume will cost him, duty paid, in New York the round sum of

$500,000. To bring the argument home, I will further assume that Mr. Vanderbilt's note for $500,000 is held and due to the honorable chairman of the committee reporting this bill, [Mr. STEPHENS,] payable by contract on the 1st day of June next. Let this bill become a law by the 15th of May, and under its operation Mr. Vanderbilt can and will step into the cable office, direct his agent in London to purchase for him silver bullion, which, at the present market value, cannot cost to exceed $430,000, freight paid, and which by the ordinary conveyance will reach the assay office in New York in time to pay in full Mr. Vanderbilt's note to Mr. STEPHENS for $500,000 at a saving to Mr. Vanderbilt of $70,000?

Again, this law is, on its face, the most gigantic job in the interest of great capitalists ever proposed in Congress since the foundation of the Government. It is a plain, direct stimulant to speculation in the hoards of depreciated silver in Europe, and if our surplus gold income were two millions per day instead of one, as the accounts show it to have been last year, it would all be invested in silver so long as any margin of profit remained, however small. At the price of silver in London to-day the profit in importing it would, under this bill, be about 17 per cent. It is especially noteworthy that the bill as it stands bids nearly 2 per cent. premium on thirty-six million of our so-called trade-dollars, nearly all of which are hidden at the present moment in China, Japan, or elsewhere! Whose wool is that? Bullion value eighty-five cents. Political value one hundred and two cents! Difference, $6,120,000! Who is to get that?

Again, it is made absolutely certain, by laws as immutable as the set of the tides of the ocean, that under the operation of this bill, Germany, in the hands of the "vacant-minded and weak-willed Bismarck," will directly or indirectly convert her demonetized silver into our gold! Such is the climax of its sublime impolicy; such the inevitable result of all measures for the establishment of a double standard unsupported by other nations.

It is easy to show how this bill will oppress and rob the people of our own country, in whose name it is ostentatiously brought forward. The value of our cotton, wheat, petroleum, and all other products of labor at home depends upon their gold value abroad. We cannot if we try sell our surplus by any other than a gold standard. Is there any reason why hard-handed men in Ohio and Georgia shall be forced to receive for their labor debased political currency? Why should the cotton and grain grown in these great States be paid for in dollars worth but eighty-five cents, while the merchant to whom these products are sold is paid in dollars worth one hundred cents as soon as his ship touches a foreign port?

The men who own and drive carts in Brooklyn and New York, in sight of ships engaged in foreign trade, understand my argument. I can summon hundreds of them here who will tell you with feeling how your coinage act of last year will oppress them if persisted in, and that this bill for free coinage is in the interest of genuine "gold bugs" and political dead-beats only, and no better than highway robbery of labor.

I conclude my comments on silver coinage as I began. Make your silver dollar honest weight, and I make no objection to free coinage—not a word of objection!

I have not overlooked that vicious section of the bill which provides for the issue of a new variety of paper money equal in amount to all the coin and bullion (hundreds of millions) which may flow into the Treasury under its operation, but have no time to speak of it.

Let me, in concluding, Mr. Speaker, ask the House to look back with candor for a moment to the beginning of the currency struggle. Eighteen years ago there was not a man of influence, in Congress or out of Congress, to be found advocating legal-tender greenbacks except as a temporary war measure. Not one! What means this? Were our merchants, bankers, economists, lawyers, statesmen, and jurists all mistaken then? Or has the greenback poison already driven this great nation to the brink of ruin? Consider now some of the bills before this Congress.

Here comes one brought in by a minister of the Gospel asking for a thousand millions of legal-tenders in one lot. Here is another from the genial gentleman from Iowa [Mr. WEAVER] who modestly asks for six hundred millions. There is my friend from Pennsylvania [Mr. WRIGHT] who, having passed three score and ten, is more modest still; he demands only four hundred millions. That makes two thousand millions thus far asked for by three members of "the party of the future," which boldly claims the democracy for its tail.

It is understood that the "national" party of this House is for the present limited to fourteen or fifteen members. If three members require two thousand millions it will require ten thousand millions to go round, without providing for the appendix.

Moreover, we have a daring and belligerent member from Alabama speaking through the newspapers for legal-tenders enough to pay off the interest-bearing portion of the national debt immediately; and it is understood that a number of less warlike advanced thinkers in the House favor that idea. Finally, and to cap the column, I myself have been requested by a New York greenbacker to push a bill through the House providing that every father of a family who will take the trouble to register his name at the United States Treasury shall have, in monthly installments, all he requires (under oath) to support his family respectably.

Admit that these propositions are all alike ridiculous, what then? Are they not danger signals? What would have been said eighteen years ago of any man standing in this Hall to offer such bills as those which have already been offered? Are they not the result, the logical and inevitable result, of tampering with our standard of money in Congress? Where will we be if these debates go on ten years more? Go to the river and harbor bills of the last two Congresses, passed without consideration or debate, for my answer to that question. I firmly believe that if the war loan represented by legal-tenders be dallied with longer in Congress bills for fresh issues of greenbacks will be log-rolled and run in parallel lines with river and harbor bills, gathering as they go every scheme of folly and wickedness, on and on together, year after year, from bad to worse, from hundreds to thousands of millions, until our Government shall topple and crumble in ruins!

Said one of the most influential of democrats, once, and not long ago, a member of this body, to me the other day:

The legal-tender question is greater than the currency. It will destroy our form of government in the end if they are issuable in time of peace.

How shall we escape? For nearly twenty years our country has been the theater and victim of passion, panic, and war, with a continuous procession of commercial and social disasters of remarkable significance. That we exist to-day as a free, united, and prosperous people is the grand marvel of human history. The worst, thanks to God, is over if we are but true to our traditions.

We know that the situation is essentially changed; confidence is in large measures restored. We are gaining in all directions. Enterprise if hesitant is wakeful and waiting for a just public sentiment in respect to the currency. Our matchless natural resources North and South become daily more and more visible and impressive to the whole world. We have three hundred millions of gold in sight to-day, according to a very late estimate of the Chamber of Commerce of New York. Some faithful and industrious men in our large towns are without work and without money, but the number steadily diminishes and is not now formidable, the assertion of all demagogues to the contrary notwithstanding. A large number of visionary speculators scattered all over the country, for whom Congress has been speaking for ten years, are hopelessly ruined and beyond the reach of legislation. What, then, can Congress do? It can stop tinkering the currency and leave it alone.

I think that it is abundantly apparent that the commerce of our country can never enjoy a healthy equilibrium while Congress continues to debate political schemes for financial renovation which are opposed to experience and the commercial sense. We have tried it for a dozen years, and find, for example, that resumption of specie payments has come against the will of Congress and in spite of adverse legislation. We find, also, at this very moment and in the Forty-sixth Congress, more discordant currency theories and greater confusion of extravagant ideas than has existed in any previous Congress since greenbacks were first issued. It is our duty to look this fact square in the face. I am confident that there is not one candid and thoughtful member of the House of Representatives to dispute this proposition. Consider now that the unity of sentiment among the jurists and statesmen of the whole country, including both of the great political parties, was equally pronounced in respect to the danger of such issues when first resorted to, and we are in a position to see the drift of affairs and the perils which confront us. Have we not at length reached a crisis? Must not currency agitation be wrested from the Halls of Congress, or our country given over to the wildest epoch of irredeemable paper money in human history? Has not the greenback poison penetrated politics? Has it not divided and demoralized the democratic party? Is there not enough of silence and hesitation among republicans, who want high office, to show that the country's salvation depends upon the judiciary? Having myself watched the currents and eddies of this great struggle in Congress for five years, I am thoroughly convinced that if it be lawful, under our Constitution, to issue legal-tender greenbacks in time of peace, the minister from Indiana [Mr. DE LA MATYR] leads the winning party. He will in such case get his thousand millions, and others coming later will get perhaps a hundred thousand millions. For the present the people will countenance nothing to break down resumption, but in the first exigency, which may not be far off, they will be found consenting to new issues of legal-tenders, if authority for such issues be found in the Constitution.

My prayer to Congress, in the name of the people, is, please let the currency alone. Give us peace, rest, and liberty to prosper. [Applause.]

Mr. WEAVER obtained the floor.

Mr. WARNER. I ask the gentleman to yield to me for a few minutes.

Mr. WEAVER. I will do so if it does not come out of my time and I shall be recognized as holding the floor to-morrow.

The SPEAKER. That can only be done by unanimous consent. The Chair hears no objection.

Mr. WARNER. Mr. Speaker, the gentleman from New York [Mr. CHITTENDEN] who has just taken his seat, when I was on the floor on Saturday last, asked me this question:

I would like to ask the gentleman what would become of his argument and what would become of the quotations he has made from the writings of distinguished men if he admits that the legal-tender debt of the United States was a forced loan and that it was never money?

To which I replied:

I do not admit any such thing. It was money as absolutely as though made of coin; but that I am not now arguing.

This is so important a question that I hope the House will bear with me a few minutes while I attempt to explain the principle which governs the value of inconvertible paper money. The theory that the greenback money of the United States is and has been mere debt and nothing else has lain at the root of all the mischievous monetary legislation since the war. If the $346,000,000 of greenback currency were simply so much debt to be paid as other debts are paid, then, of course, to take it all up or pay it off is simply a question of taxing the people to the extent of $350,000,000. Resumption would not have been a very difficult matter if the only thing involved was paying a debt. But grant for the sake of the argument that greenback money is debt; it is nevertheless something more than debt. Greenbacks were monetized upon their issue. The debt function or quality was suspended the moment they went out as money. It was by their money and not their debt function that they received currency.

But when you pay greenback notes you are doing a good deal more than paying a debt; you are taking up the very currency itself. Now I lay down this one principle respecting inconvertible paper—and I think my friend from New York will not controvert it—it is this: that if in any country the issue of inconvertible money be limited to no more than that country had or would have under the laws of international trade of metallic money, then the value of that paper, irrespective of any provision or promise to pay, would be precisely the same as the value of the metallic money it displaced. This would be true, however, only so long as its character as money continued.

If its money functions should be suspended from any cause, as the overthrow of the Government giving it currency, then of course it falls. But the point I make and the principle I aim to establish is that inconvertible paper or greenbacks are, as I said, as absolutely money as if made of metal. Every high authority that has written on this subject for a hundred years supports this view. Professor Jevons, in Money and the Mechanism of Exchange, says:

There is plenty of evidence to prove that an inconvertible paper money, if carefully limited in quantity, can retain its full value. Such was the case with the Bank of England notes for several years after the suspension of specie payments in 1797, and such is the case with the present notes of the Bank of France.

Mr. Macleod, whose merit as a writer on economic science nobody will question, says:

It [inconvertible paper] becomes in all respects equivalent to a new standard, just as much as gold or silver, and its value will be affected by the same principles as these two, namely, by the sole question of the quantity of it in circulation compared to the operations it represents.

Mr. Ricardo lays down the same principle. He says:

It is on this principle [that of limitations] that paper money circulates. * * * Though it has no intrinsic value, yet by limiting its quantity its value in exchange is as great as an equal denomination of coin. * * * On these principles it will be seen that it is not necessary that paper money should be payable in specie to secure its value.

And again:

A paper circulation differs in its effects in no respect from a metallic currency.

Mr. J. R. McCulloch, in his edition of the works of Ricardo, says:

This is a principle of great importance, for it shows that intrinsic worth is not necessary to a currency, and that, provided the supply of paper notes declared to be legal tender be sufficiently limited, their value may be maintained on a par with the value of gold, or raised to any higher level.

Alexander Baring said:

The reduction of paper would produce all those effects which arise from the reduction in the amount of money in any country.

Albert Gallatin uses this language:

It has been contended by distinguished writers * * * that an irredeemable paper currency, not exceeding in its nominal amount that in value which is actually wanted, might be altogether substituted for gold and silver, provided that government should always regulate the issues so as never to exceed or fall short of that amount.

J. B. Say said of Bank of England notes:

It must not be imagined that the paper money of that country derives its value from the promise of payment in specie which it purports to convey.

Mr. McLaren, in his History of the Currency Question, says:

Let us, then, suppose that at a time when we possessed our fair share of the gold of the world, government paper was issued until all the gold left the country, and the market price of that metal began to exceed its mint price, and that the issue was carefully and honestly limited to this amount. This paper would, according to all authority, supply the place of the gold, and no change would be made in prices or in the distribution of property by the substitution.

Authorities on this point might be quoted by the hour. No principle is better settled in political economy. It has been the established doctrine for the last hundred years, and it is the settled doctrine of economic science to-day among all respectable writers. All English statesmen have acted upon it in framing their currency laws since 1797; and no principle in monetary science has been more generally acknowledged in England than that principle. The "forced loan" doctrine and the debt theory are among the fallacies that retain their hold in spite of reason and fact.

But I was going to ask the gentleman from New York [Mr. CHITTENDEN] this question——

Mr. ROBINSON. The gentleman from New York has gone out.

Mr. WARNER. What will bring silver bullion or silver in any form to this country if this bill passes? I see the gentleman from New York is not in his seat. But I hope the gentlemen on the other side before this debate is over will meet these two propositions, and meet them squarely: first, that the valuation of all property in this country has been already changed from a paper valuation to a metallic valuation of both the precious metals—silver and gold—and, second, that under existing monetary laws in this and other countries this valuation, based upon the two metals, is being changed to a valuation of gold alone. These are the questions to meet. Then, does not this change which is now going on necessarily involve lower prices or, which is the same thing, the prolonged appreciation of gold? Will you meet these propositions?

And I ask the gentleman from New York, [Mr. CHITTENDEN,] whom I now see on the floor again, whether a gold dollar or an ounce of gold, with silver in use also as money, is the same thing or has the same value that it has, or will have, with silver demonetized? The gentleman from New York has assumed that the value of gold is fixed, like the yard measure or the pound weight. But the truth is the value of your gold dollar, your piece of gold, is one thing with silver constituting half the world's money, and it is a very different measure with silver left out, or demonetized. That embraces the whole problem before us. That is the question: shall we by refusing coinage to silver continue to increase the standard in this country?

Mr. ROBINSON. I rise to a question of order.

Mr. WARNER. I move that the House adjourn.

Mr. WILBER. It is not fair to ask so many questions and then immediately to move that the House adjourn.

Mr. WARNER. I understand that the gentleman from New York has gone out.

Mr. CHITTENDEN. I am here.

Mr. WARNER. Then I withdraw the motion to adjourn. I did not see the gentleman. Will he answer my question?

Mr. CHITTENDEN. The gentleman's question is mixed like his discussion of the subject. I do not see any beginning or end of it.

Mr. WARNER. I will ask another. Will an ounce of silver bullion after this bill passes, if it passes at all, buy any more gold or anything else here than it does now? That is my question now.

TESTIMONY, ETC., IN CONTESTED-ELECTION CASES.

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia.) The Chair lays before the House testimony and papers received by the Clerk in the following contested-election cases. They will be referred to the Committee of Elections:

Sebastian Duffy *vs.* Joseph Mason, twenty-fourth congressional district, New York;

E. W. M. Mackey *vs.* M. P. O'Connor, second congressional district, South Carolina;

Horatio Bisbee, jr., *vs.* Noble A. Hull, second congressional district, Florida;

A. G. Curtin *vs.* Seth H. Yocum, twentieth congressional district, Pennsylvania;

E. M. Boynton *vs.* George B. Loring, sixth congressional district, Massachusetts;

Jere Haralson *vs.* Charles M. Shelley, fourth congressional district, Alabama; and

James E. O'Hara *vs.* W. H. Kitchin, second congressional district, North Carolina.

Mr. CONGER. My recollection is that there was some rule adopted by which papers in contested-election cases, when referred by the Clerk, were to be printed in accordance with the request of the parties.

The SPEAKER *pro tempore*. There was no such law or rule adopted as would authorize the printing of papers.

Mr. CONGER. I was under the impression that when the papers were presented, then the parties could apply for the printing of such portions as they deemed necessary.

The SPEAKER *pro tempore*. Not unless the matter were acted upon by the House.

Mr. SPRINGER. A resolution was passed at this session authorizing the Committee of Elections to have printed such matters referred to them as they might deem necessary.

Mr. CONGER. I thought it was left to the parties to decide what portions of the papers should be printed. All I desired to say was, if that was the case I do not want any action the House may now take to preclude any right to select such portions of the papers as they desire to have printed.

The SPEAKER *pro tempore*. All the papers are sent to the Clerk of the House and they cannot get before the committee except through him, and the Clerk reports them to the House through the Speaker.

Mr. CONGER. I so understand, but I thought now was the time when the parties must select what should be printed.

The papers were referred to the Committee of Elections.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. SPEER, for ten days;

To Mr. RUSSELL, of Massachusetts, for seven days; and

To Mr. WISE, until Wednesday next.

CORRECTION OF THE JOURNAL AND RECORD.

Mr. ROBERTSON. My name does not appear upon the record on the final vote on what is known as the election bill. I did vote "ay," and I desire to have my vote so recorded.

The SPEAKER *pro tempore*. That can only be done by unanimous consent.

There was no objection, and Mr. ROBERTSON'S name was ordered to be recorded in the affirmative.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. MITCHELL to withdraw from the files of the House the papers in the case of Robert A. McMurray; no adverse report having been made thereon.

PIERRE BOTTINEAU.

On motion of Mr. WASHBURN, by unanimous consent, the Committee on Military Affairs was discharged from the further consideration of the petition of Pierre Bottineau and others, and the same was referred to the Committee on Invalid Pensions.

Mr. WARNER. I now renew the motion to adjourn.

The motion was agreed to.

And accordingly (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: Papers relating to the pension claim of Emily Threadgill—to the Committee on Invalid Pensions.

Also, papers relating to the pension claim of Martha Jane Douglass—to the same committee.

By Mr. BAYNE: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, deprecating any attempt to reduce the present tariff—to the Committee of Ways and Means.

By Mr. BOUCK: The petition of citizens of Wisconsin, for the establishment of a post-route from Black Creek Station, via Cicero, Lessor, Hartland, and Bonduel, to Pulcifer, Wisconsin—to the Committee on the Post-Office and Post-Roads.

By Mr. BRIGHT: Papers relating to the claim of Daniel Parker for money paid by him as a surety on a distiller's bond—to the Committee of Claims.

Also, papers relating to the claim of Tolley & Eaton, distillers, for relief from internal-revenue taxes assessed on distilled spirits which they fell short of producing under their surveyed capacity—to the same committee.

Also, papers relating to the claim of M. D. Hampton and C. S. Wilson, administrators of E. L. Allen, deceased, for refunding certain internal-revenue taxes and penalties—to the same committee.

Also, papers relating to the claim of W. T. League for release of a homestead sold under the internal-revenue laws—to the same committee.

Also, papers relating to the claim of the Lincoln Savings Bank, of Fayetteville, Tennessee, for refunding certain internal-revenue taxes and penalties paid—to the same committee.

By Mr. GUNTER: The petition of Shawnee Indians, for the payment of arrearages due them on account of treaty stipulations—to the Committee on Indian Affairs.

By Mr. HARRIS, of Virginia: The petition of Joseph Miller and others, of Rockingham County, Virginia, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. HAWK: Resolutions of the Sanitary Council of the Mississippi Valley, favoring the passage of the bill to prevent the introduction and spread of epidemic diseases in the United States—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. KNOTT: Papers relating to the claim of J. W. Bowling and J. S. Golladay, for compensation for whisky libeled and sold by internal-revenue officers—to the Committee of Claims.

By Mr. MURCH: The petition of 34 citizens of Lagrange, Maine, that Congress prohibit the issue of money by corporations and for the issue of full legal-tender paper money, and to pay and cancel United States bonds with the same—to the Committee on Banking and Currency.

By Mr. RYAN, of Kansas: The petition of members of the Topeka (Kansas) phonetic societies, for the appointment of a commission to examine and report upon what amendments in orthography, if any, may be introduced into the public documents, the schools of the District of Columbia, and in examinations for civil service—to the Committee on Education and Labor.

By Mr. THOMPSON: Papers relating to the war claim of W. F. Goggin—to the Committee on War Claims.

By Mr. VANCE: Papers relating to the claim of J. H. Greene, of North Carolina, for pay for mail service—to the Committee of Claims.

Also, papers relating to the claim of Samuel H. Flemming, of North Carolina, of similar import—to the same committee.

By Mr. WASHBURN: Papers relating to the pension claim of Dennis Leamy—to the Committee on Invalid Pensions.

By Mr. WILBER: Papers relating to the pension claim of Morris L. Farrington—to the Committee on Revolutionary Pensions.

IN SENATE.

FRIDAY, *May* 9, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the memorial of H. C. Hodge and others, members of the Legislature of Michigan, in favor of the passage of an act by Congress authorizing the building of a bridge across the Detroit River in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, against the enactment of any law limiting the jurisdiction of the courts of the United States in proceedings against municipal corporations of any State by the citizens of another State; which was referred to the Committee on the Judiciary.

Mr. VOORHEES presented the petition of Samuel B. Davis, of New Port, Vermillion County, Indiana, praying for the passage of a law increasing his pension; which was referred to the Committee on Pensions.

Mr. WILLIAMS presented additional papers in the case of Simon Crane, late captain Twenty-fourth Regiment Kentucky Volunteers, praying for the passage of a law granting him a pension; which were referred to the Committee on Pensions.

Mr. HARRIS presented the petition of George W. Graham, late captain Company I, Eighth Regiment Tennessee Volunteer Infantry, praying for the passage of an act granting him pay as second lieutenant of infantry from May 12, 1863, to November 1, 1863, and as captain from November 1, 1863, to September 1, 1864; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. HARRIS. I am directed by the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases, to which was recommitted the bill (S. No. 108) to prevent the introduction of contagious or infectious diseases into the United States, with the proposed amendments, to report back a substitute for the bill and all the amendments.

The PRESIDENT *pro tempore*. The bill, with the substitute, will go upon the Calendar and be printed.

BILLS INTRODUCED.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 573) to authorize payment of a balance of interest justly due to William Wheeler Hubbell, on a sum found due in the Court of Claims for the use of 865,214 of his time and impact burning fuses in the late war by the naval service; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 574) to make full satisfaction of the actual loss and damage ascertained by the Court of Claims in favor of William Wheeler Hubbell, for 528,661 of his percussion apparatus used in the late war by the military service; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. CAMERON, of Pennsylvania. Mr. President, I introduce both these bills simply by request, having no knowledge of the merits of either of them; and I do not commit myself to them at all.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 575) to amend pension laws, and punish claim agents for violations thereof; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 576) for the relief of Phœbe Meech; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 577) to correct the date of commission of certain officers of the Quartermaster's Department; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 578) granting a pension to Samuel B. Davis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 579) to provide for the publication and distribution of the CONGRESSIONAL RECORD to depositories of public documents; which was read twice by its title, and referred to the Committee on Printing.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 27) authorizing promotions in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 28) to apply the amount appropriated by the act of Congress approved March 3, 1877, to pay certain mail contractors; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

AMENDMENTS TO AN APPROPRIATION BILL.

Mr. PLUMB and Mr. BAILEY submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

STATISTICAL REPORTS ON INTERNAL COMMERCE.

The PRESIDENT *pro tempore*. If there are no "concurrent and other resolutions" the first business in order is the resolution submitted yesterday by the Senator from Missouri, [Mr. COCKRELL,] directing the Secretary of the Treasury to report to the Senate when the second and third annual reports on internal commerce will be submitted to Congress, why they have been delayed, &c. The question is, shall the resolution be adopted? Is the Senate ready for the question?

Mr. EDMUNDS. Let the resolution be reported again.

The Secretary read the resolution, as follows:

Whereas by the act of Congress approved March 3, 1875, it is provided that—

"It shall be the duty of the officer in charge of the Bureau of Statistics to gather, collate, and annually report to the Secretary of the Treasury, for transmission to Congress, statistics and facts relating to commerce with foreign nations and among the several States, the railroad systems of this and other countries, the construction and operation of railroads, the actual cost of such construction and operation of railroads, the actual cost of transporting freights and passengers on railroads and on canals, rivers, and other navigable waters of the United States, the charges imposed for such transportation of freight and passengers, and the tonnage transported; and the reports now by law required to be prepared and published monthly in the said Bureau of Statistics shall hereafter be prepared and published quarterly, under the direction of the Secretary of the Treasury."

And the said law required that "the statistics and facts relating to commerce with foreign nations and among the several States," &c., should be reported annually to the Secretary, to be transmitted to Congress; and

Whereas, in November, 1876, the first annual report on commerce and navigation, made under said law, was transmitted to Congress, and did not contain the annual report on the domestic or internal commerce of the United States, and the first annual report on internal commerce, which should have been made in November, 1876, was not made until June 30, 1877, and the second and third annual reports on internal commerce, which should have accompanied the annual reports on commerce and navigation made in November, 1877, and November, 1878, have not yet been made, or, if made to the Secretary of the Treasury, have not been transmitted to Congress; and

Whereas the statistics and facts required to be gathered, collated, and annually reported to the Secretary of the Treasury for transmission to Congress are of great value, and should be regularly and promptly each year transmitted to Congress: Therefore,

Resolved, That the Secretary of the Treasury be, and hereby is, required and directed to report to the Senate when said second and third annual reports on internal commerce will be transmitted to Congress, and why they have been delayed, and whether such annual reports on internal commerce can hereafter be transmitted to Congress at the beginning of each regular session in December of each year with the regular annual reports on commerce and navigation; and if not, then what additional legislation, if any, is necessary to secure the transmission to Congress of such annual reports on internal commerce at the beginning of each regular session.

Mr. MORRILL. Mr. President, it is very obvious from the reading of the preamble to the resolution that this is a requirement of the Secretary of the Treasury that it is almost impossible to comply with. There are no means, that I know of, by which the Secretary of the Treasury can obtain all this information, domestic and foreign, in order to communicate it to Congress. I should be glad to get the information, and I have no objection to the resolution; but I think it should go first to the Committee on Finance to be considered by that committee.

Mr. COCKRELL. I hope there will be no reference of the resolution made. It is simply a resolution of inquiry under a plain statute of the country. The statute of March 3, 1875, requires annual reports on the foreign and internal commerce of the United States to be made by the Chief of the Bureau of Statistics to the Secretary of the Treasury for transmission to Congress annually. The reports on foreign commerce have been made in November of each year. The first report on internal commerce should have been made in November, 1876. It was made on the 30th of June, 1877. No report on internal commerce has been made since that time. The Senate of the United States and the Congress is entitled to know why it has not been made.

The direction is for the Secretary of the Treasury to report to Congress when the second and third annual reports on internal commerce can be made; why they have been delayed, and whether under the present law and the present provisions made by appropriations these reports on internal commerce cannot hereafter be made at the same time as the reports on foreign commerce, and if they cannot be made at the same time, what additional legislation, if, any, is necessary to enable the Secretary of the Treasury to make them all together, so that we can have them in time to be of service to the country. It is no reflection upon the Secretary of the Treasury; it is no reflection upon any of the officials of the Bureau of Statistics; but the object is to enable them to present to us the reasons which have, unavoidably I doubt not, caused delay, and to enable us, if we can, to remove the obstacles and get in those reports regularly.

The Finance Committee has nothing on earth to do with this matter, not a particle more than the Committee on Foreign Relations. It is simply a resolution for information. Congress ought to know it, we ought to know it now, in order to make provision on the legislative, executive, and judicial appropriation bill, if any additional appropriation is necessary to enable the Secretary of the Treasury to make these reports promptly, annually, at the beginning of each regular session of Congress.

I hope, Mr. President, that the resolution will be adopted, and that the Secretary will very speedily furnish the information. I doubt not that there has been a valid reason for not submitting these reports. In fact, the Chief of the Bureau of Statistics in the first report, which was submitted on the 30th of June, 1877, detailed a number of the difficulties surrounding him; but we have passed a law and we require him to comply with it. He has not complied with it, and he ought to be heard in his defense, without any reflection upon him.

Mr. MORRILL. Mr. President, it was not my purpose to show the slightest hostility against obtaining this information, but I am of the opinion that it would be better that the proposition should be submitted to a committee to examine it before it shall receive the sanction of the Senate, in order, if possible, to obviate by legislation some of the difficulties under which the Department labors in respect to giving this information in detail, as seems to be required.

I know of no law that compels all the railroads of this country to furnish information as to the commerce that is going on from day to day. I think that we are asking of the Department information that it is impossible under existing law can be furnished by the Department. I therefore am of opinion that the resolution ought to be referred to some committee to investigate it and see what is necessary to be done. If we first refer this matter to the Department, we shall only get at the facts in relation to the difficulty, as they now exist.

Mr. COCKRELL. Will the Senator permit me to ask him a question? Is it better for a committee of this body to have this information furnished to it—a committee which has nothing to do with the appropriations—or is it better for the Senate of the United States to have this information furnished by the Secretary of the Treasury? That is the question direct.

Mr. MORRILL. I am very clear that a committee can handle this question better than the Senate of the United States can.

Mr. COCKRELL. A committee that has nothing to do with the appropriations or the legislation which affects the subject. Congress, on the legislative, executive, and judicial appropriation bill of March 3, 1875, made a specific law which provides that—

It shall be the duty of the officer in charge of the Bureau of Statistics to gather, collate, and annually report to the Secretary of the Treasury, for transmission to Congress, statistics and facts relating to commerce with foreign nations and among the several States, the railroad systems of this and other countries, the construction and operation of railroads, the actual cost of such construction and operation of railroads, &c.

Here is a positive requirement of law.

Mr. MORRILL. Let me ask my friend from Missouri if he knows of any law which requires all of the canals of this country to report their daily transactions to the Treasury Department, or if there is any law which requires all the railroads of the country to report their doings to the Treasury Department?

Mr. COCKRELL. That information and question might have operated in regard to the passage of the law; it is of no force now. The Secretary of the Treasury is not required to present official reports from the canals, railroads, or anything of that kind, but he is required under the Bureau of Statistics to gather, collate, and annually report to Congress all those statistics and facts relating to foreign commerce and internal commerce among the States, the operation of railroads, cost of transportation, &c. The law has not pointed out the means by which he shall obtain these facts. The law may not have put in his power the facilities for complying strictly with it, and if not he will report that fact to Congress.

All the Government railroads make their reports. Other railroads have reports collated in the Railroad Manual and Guide, and there are various ways of obtaining those statistics. All that the Secretary is required to do is to obtain the facts in the most reliable form that he can and report them to Congress. The Department did obtain them once, in the first report on internal commerce, which has been submitted, and is a document of very great value and importance. Now we want to know why these other reports have not been furnished. I doubt not there is a good reason for it.

Now the Senator from Vermont wants the great Finance Committee of the Senate to take this resolution of inquiry and investigate it. For what purpose? Can they tell us any more whether we need this information than we now know? If it belonged to any committee, it would not belong to the Finance Committee. Does the Finance Committee possess the information which this resolution calls for? Why, as a matter of course they do not. Then they would have to refer to the Secretary of the Treasury to get the information and report it back second-hand to the Senate. Why not let the Secretary of the Treasury report it directly to Congress? There can be no valid objection to the passage of this resolution.

Mr. MORRILL. I have no disposition to impose any labor upon the Finance Committee, but surely I know of no committee that can make the information available after it is obtained but the Finance Committee. They have more reason to ask for this information than any other committee. But I do not desire to contest the matter at all. If it is not obvious to the Senator from Missouri that the resolution should be referred to the Committee on Finance or the Committee on Commerce, let it pass in the way the Senator chooses. I imagine, however, he will find that there will be much more delay in obtaining a remedy for what he seeks by passing the resolution now than would be incurred if he were to send it first to a committee.

The PRESIDENT *pro tempore*. The Chair does not understand the Senator from Vermont to have submitted any motion.

Mr. MORRILL. Yes, I move that the resolution be referred to the Committee on Finance.

Mr. COCKRELL. I hope not.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution.

The resolution was agreed to.

The PRESIDENT *pro tempore*. There is a preamble to the resolution. If there is no objection to the preamble it will be considered as adopted.

Mr. EDMUNDS. I hope the Senator from Missouri will withdraw the preamble; because to my mind it certainly does imply censure, which he says he does not intend, to the Department; and he will get the information just the same. I hope the Senator from Missouri will not insist upon adopting the preamble.

Mr. COCKRELL. I have stated distinctly that I meant no reflection upon the Department. The only reason why the preamble should be retained is for the purpose of enabling the Secretary of the Treasury to comprehend the specific information which the resolution calls for:

That the Secretary of the Treasury be, and hereby is, required and directed to report to the Senate when said second and third annual reports on internal commerce will be transmitted to Congress, and why they have been delayed, and whether such annual reports on internal commerce can hereafter be transmitted to Congress at the beginning of each regular session in December of each year with the regular annual reports on commerce and navigation; and, if not, then what additional legislation, if any, is necessary to secure the transmission to Congress of such annual reports on internal commerce at the beginning of each regular session.

There is certainly no reflection, and it would only enable the Secretary to see distinctly the points that are made in the resolution itself.

Mr. EDMUNDS. There is great force, and logically there is conclusive force, in what the Senator from Missouri has said, because it appears that the body of the resolution can only be correctly understood by referring to the preamble; and with his statement that the preamble, whatever may be its literal effect, is not intended to declare a censure of the Senate in advance,——

Mr. COCKRELL. None at all.

Mr. EDMUNDS. I do not make any objection to it.

The PRESIDENT *pro tempore*. If there be no objection the preamble will be considered as adopted.

SOUTH PASS OF MISSISSIPPI RIVER.

Mr. BECK. I ask the consent of the Senate to take from the Calendar for present consideration House bill No. 1376, reported back yesterday from the Committee on Transportation Routes to the Seaboard.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, that the Senate proceed to the consideration of the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River. Is there objection?

Mr. EDMUNDS. I hope the Chair will put the question. There is a much more important appropriation bill on the Calendar of the Senate,—not more important locally to the mouth of the Mississippi or for the commerce of that great valley, but important for the general interests of the Government. I hope the Senator from Kentucky will give us the benefit of having that bill taken up and considered and passed, instead of this one.

Mr. BECK. If the Senator will allow me a moment I will state the reasons why I have proposed that this bill shall take precedence. The legislative appropriation bill will be called up when we get through with the bill which was considered yesterday, and which is the unfinished business for to-day. The consideration of that bill is taking a longer time than I thought it would consume. My object in asking this bill to be taken up, if the Senator from Vermont will allow me a moment——

Mr. EDMUNDS. Certainly, I did not intend to interrupt the Senator; he has the floor.

Mr. BECK. The money which is now owing to Captain Eads and his associates for the work they have done——

The PRESIDENT *pro tempore*. The Chair will remind the Senator from Kentucky that he cannot discuss the merits of the bill on a motion to take it up.

Mr. BECK. I know; but I was about to state the reason why I ask for its present consideration. On the money said to be due we are obliged to pay 5 per cent. unless we make an appropriation. The report shows the money to be due. The House passed the bill simply appropriating the money. The Secretary of War thinks we ought to pay it and avoid all question about it such as we had once before. We have amended the bill so as to keep it entirely in the control of the Secretary of War, and we thought it was best to have it done now.

Mr. EDMUNDS. What I wish to know, because I cannot seem to understand it, is why we cannot take up the legislative appropriation bill and dispose of it. It is entitled to precedence; it has precedence on the Calendar of the bill which was under consideration yesterday and of this bill I believe. It is certainly entitled to the precedence of this bill, whether it has it or not. It is both entitled to and has precedence of the other bill. What I wish to know at this time is what is the reason why we cannot lay aside the bill to prohibit interference with elections and go on with the appropriation bill according to the universal usage and practice of the Senate and according to the propriety of things, and not keep the general appropriation bill not only slumbering but fettered on the table of this body and proceed to every other species of legislation before we can allow that to be passed.

The PRESIDENT *pro tempore*. It is moved that the Senate proceed to the consideration of House bill No. 1376.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. I have called for the yeas and nays because I wish to have the Senate authoritatively decide whether we will keep back an appropriation bill to carry on the Government and proceed with special appropriation bills for particular objects, at times when we might go on with that bill and when we ought to go on with it against all other business.

The Secretary called the roll.

Mr. HILL, of Georgia, (after having voted in the affirmative.) I am paired with the Senator from Massachusetts [Mr. DAWES] on all political questions.

Mr. DAVIS, of West Virginia. This is not a political question.

Mr. HILL, of Georgia. I voted thinking that this was no political question, and not thinking of the pair either; but as it seems to take a little political turn, and after talking with the Senator from Massachusetts, [Mr. HOAR,] the colleague of the absent Senator, I feel that it is proper for me to withdraw my vote.

Mr. DAVIS, of West Virginia, (after having voted in the affirmative.) Mr. President, I withdraw my vote. I am paired with the Senator from Minnesota, [Mr. WINDOM.] I had no idea that this was a political question when I voted, and I have no idea of it now.

Mr. ALLISON. My colleague [Mr. KIRKWOOD] is paired with the Senator from Maryland [Mr. WHYTE] for to-day.

Mr. HOAR. My colleague [Mr. DAWES] is paired on political questions with the Senator from Georgia, [Mr. HILL.] I do not understand that this bill is a political question, but the question of keeping back the general appropriation bill is a political question.

Mr. FARLEY. I am paired with the Senator from Nevada [Mr. JONES] on this question, I suppose, as it has assumed a political turn. If he were here, I should vote "yea;" as he is not here, I decline to vote.

The result was announced—yeas 31, nays 18; as follows:

YEAS—31.

Bailey,	Garland,	Jonas,	Slater,
Bayard,	Gordon,	Jones of Florida,	Thurman,
Beck,	Groome,	Kernan,	Vest,
Butler,	Hampton,	McDonald,	Voorhees,
Call,	Harris,	Maxey,	Walker,
Cockrell,	Hereford,	Pendleton,	Williams,
Coke,	Houston,	Randolph,	Withers.
Eaton,	Johnston,	Saulsbury,	

NAYS—18.

Allison,	Cameron of Wis.,	Logan,	Rollins,
Anthony,	Chandler,	McMillan,	Saunders,
Bell,	Conkling,	Morrill,	Teller.
Burnside,	Edmunds,	Platt,	
Cameron of Pa.,	Hill of Colorado,	Plumb,	

ABSENT—27.

Blaine,	Farley,	Jones of Nevada,	Ransom,
Booth,	Ferry,	Kellogg,	Sharon,
Bruce,	Grover,	Kirkwood,	Vance,
Carpenter,	Hamlin,	Lamar,	Wallace,
Davis of Illinois,	Hill of Georgia,	McPherson,	Whyte,
Davis of W. Va.,	Hoar,	Morgan,	Windom.
Dawes,	Ingalls,	Paddock,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River.

The bill was reported from the Committee on Transportation Routes to the Seaboard with an amendment in line 4, after the word "appropriated," to strike out "to pay" and insert "to enable the Secretary of War to cause to be paid;" so as to read:

That the requisite amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of War to cause to be paid all money that may become due and owing to James B. Eads and his associates.

Mr. BECK. I shall endeavor to explain this bill in as few words as possible. By the act of March 3, 1879, which was the last amendment of the original law on this subject, Captain Eads is entitled to receive $500,000 when he obtained a channel twenty-five feet by two hundred feet in width; and he is entitled to receive $500,000 more when he obtains a channel of twenty-six feet in depth by two hundred feet in width, and $500,000 more when he obtains a channel thirty feet in depth without regard to width. The engineer in charge, Captain Brown, on the 23d of April made a report to the Secretary of War in these words:

UNITED STATES ENGINEER OFFICE,
Port Eads, South Pass, Louisiana, April 23, 1879.

SIR: The act of March 3, 1875, authorizing the improvement of South Pass by James B. Eads requires the Secretary of War "to embody in his annual reports the payments made from time to time under this act and the probable times when other payments will become due, and to report during the construction of the works herein authorized all important facts relating to the progress of the same."

As this provision seems to imply that due notice should be given to Congress whenever it is not unlikely that one or more payments may become due before the lapse of a considerable period, it seems proper that I should now communicate to the Secretary of War my opinion that a continuance of the present favorable conditions for a few weeks longer, combined with the work of the dredge-boat now nearly in full repair, will probably enable Mr. Eads to obtain a channel twenty-six

feet deep for a width of at least two hundred feet from the South Pass light-house to the deep water of the Gulf of Mexico. Also that a further continuance of the same favorable conditions is likely to result in a channel having a central depth of thirty feet from the same light-house to the Gulf.

Very respectfully, your obedient servant,

M. R. BROWN,
Captain of Engineers, U. S. A.

Hon. G. W. McCRARY, *Secretary of War.*
(Through Lieutenant-Colonel H. G. Wright, Acting Chief of Engineers, Washington, D. C.)

[Indorsement.]

Respectfully forwarded to the honorable the Secretary of War.

H. G. WRIGHT,
Acting Chief of Engineers.

The amount due to Captain Eads when he obtained twenty-five feet is now payable according to the facts laid before us. The amount to be paid when he obtains twenty-six feet will very likely be payable in a few weeks, as Captain Brown reports. The act of 1875 provided, in substance, that wherever Congress had not made provision beforehand for the payment of the contract price as it became due to Captain Eads and his associates, they should be entitled to receive bonds of the United States bearing 5 per cent. interest. A part of the price to be paid can now be demanded. Some trouble grew out of that once before by the demand for bonds. He does not demand bonds now. All he desires is that money shall be placed by appropriation in the Treasury so that when the Secretary of War determines that he is entitled to the money it can be paid to him. The Senate committee have amended the bill by striking out the words "to pay all money that may become due to James B. Eads and his associates," and inserting "to enable the Secretary of War to cause to be paid," because by the original act of 1875 it was provided:

That the Secretary of War be, and he is hereby, authorized and directed to carry into effect the provisions of this act on behalf of the United States, and, when the said Eads and his associates shall, from time to time, have fulfilled on their part the several foregoing conditions of this act, to draw his warrants upon the Treasurer.

Upon which it shall be paid on the report of the engineer in charge. The act of 1878 amending it made the same provision by section 2:

SEC. 2. The Secretary of War is hereby authorized and directed to draw his warrant upon the Secretary of the Treasury of the United States in favor of James B. Eads, his assigns or legal representatives, for the sum of $500,000.

And such sums as may become due hereafter. And by the act of March 3, 1879, we again provided:

The Secretary of War is hereby authorized and directed to draw his warrant upon the Secretary of the Treasury of the United States in favor of said James B. Eads, or his legal representatives, for the sum of $750,000, which said sum is hereby appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to said Eads, or his legal representatives, out of any money in the Treasury not otherwise appropriated, the sum for which said warrant is drawn.

When a channel shall have been obtained by the action of the jetties and auxiliary works authorized by said act twenty-five feet in depth, and not less than two hundred feet in width at the bottom, through the said jetties, there shall be paid $500,000.

When a channel shall have been obtained through the jetties twenty-six feet in depth, and not less than two hundred feet in width at the bottom, there shall be paid $500,000.

When a channel thirty feet in depth, without regard to width, shall have been obtained through the jetties, there shall be paid $500,000; and the $1,000,000 provided by the hereinbefore recited act to be paid by the United States in ten and twenty years shall be earned by said Eads and his associates, and the same, with interest, shall be paid to said Eads, or his legal representatives, at the times and in the manner provided by said act.

Therefore the committee thought, in conformity with the original act and all the acts amending it, that we should retain full authority and power in the Secretary of War and all the officers now managing this important national improvement to say whether the money was properly payable or not, and when and how it shall be paid. Instead of making a direct appropriation to pay Eads, we determined to make appropriation to enable the Secretary of War to cause to be paid the money when it becomes due. It is to avoid having any difficulty about bonds or any delay when the work is progressing so satisfactorily that this bill is necessary. The engineer officers have said to members of the Committee on Transportation Routes that as he is straightening and completing his work at the sea end the scouring force is becoming much greater, the sand is no longer drifting from the bay over the jetties, and the work is not only progressing very satisfactorily but is succeeding better than even the most sanguine could have anticipated. It seemed to the House and it seemed to the Transportation Committee of the Senate a very proper thing to pass the proposed bill. That is all I desire to say about it.

Mr. MORRILL. I wish to ask the Senator from Kentucky whether he is quite satisfied that the contract is so far fulfilled as to require absolutely of the Secretary of the Treasury the tender of half a million of 5 per cent. bonds unless this money shall be appropriated?

Mr. BECK. I think it is, and such is the opinion of the engineer officers.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MILITARY INTERFERENCE IN ELECTIONS.

The PRESIDENT *pro tempore*. The business of the morning hour has expired. What is the pleasure of the Senate?

Mr. EATON. I move that the Senate proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. If nothing more is moved in the morning hour, the Chair will declare the morning hour at an end and lay before the Senate the unfinished business of yesterday.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1382) to prohibit military interference at elections.

Mr. EATON. Before the Senator from Vermont, who is entitled to the floor, proceeds, I simply desire to say, having this matter in charge, that I shall be very glad to get a vote upon the bill to-day, believing with my friend from Vermont, who is so anxious about the appropriation bill, that it is important and that there is great necessity of getting through with this bill so as to reach it. I further ought to say that I do not wish to force the Senate into a night session to pass this bill, but if a vote cannot be reached by five or six o'clock this afternoon I shall ask that the Senate adjourn until to-morrow, and then have an hour fixed to-morrow when the vote shall be taken upon this bill.

Mr. EDMUNDS. Mr. President, it is of great importance to get at the appropriation bill, as the Senator from Connecticut says, and the simplest way of doing it as it ought to be done is to lay aside this bill for the purpose of taking up the appropriation bill. I cheerfully yield the floor for that purpose to any gentleman who wishes to make the motion.

Mr. EATON. We do not want to be deprived of the pleasure of hearing the Senator.

Mr. EDMUNDS. I am sure no gentleman on the other side intends to make the motion or intends to allow it to be made with success. If I am wrong in that statement, I hope somebody will correct me.

Mr. EATON. I will correct the Senator from Vermont. He is wrong in part in the statement that we will not permit anybody to make that motion.

Mr. EDMUNDS. "With success," I said.

Mr. EATON. Ah! I did not hear that.

Mr. EDMUNDS. That was the qualification.

Mr. EDMUNDS. Mr. President, I beg leave to have read in their connection sundry clauses of the Constitution of the United States, which is supposed in some quarters of the Union to be still in force, and certain laws, and certain writings of the fathers on the adoption of the Constitution, before I begin the observations thereon that I wish to address to the Senate. I read first, article 1, section 2, of the Constitution, clause 1:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

Article 1, section 4, clause 1, of the Constitution:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Article 1, section 8, clause 12:

The Congress shall have power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

Clause 13:

To provide and maintain a navy.

Clause 14:

To make rules for the government and regulation of the land and naval forces

Clause 15:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

Clause 18:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Article 1, section 10, clause 3:

No State shall, without the consent of Congress, lay any duty of tonnage, *keep troops* or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article 2, section 2, clause 1:

The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States.

I omit the residue of the clause which has no bearing upon the question in hand.

Article 2, section 3, and in this I omit parts not applicable to this question, and read it in its connection applied to this matter:

He shall take care that the laws be faithfully executed.

Article 4, section 4:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence.

Article 14 of the amendments:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person

of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

And article 15 of the amendments:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Now, Mr. President, I ask that the Secretary read certain statutes in their chronological order and connection: First the statute of 1789, (volume 1 of the Statutes, page 87,) section 27, that part of it which is marked, relating to the appointment of marshals and their powers.

The Chief Clerk read as follows:

That a marshal shall be appointed in and for each district for the term of four years, but shall be removable from office at pleasure, whose duty it shall be to attend the district and circuit courts when sitting therein, and also the supreme court in the district in which that court shall sit, and to execute throughout the district all lawful precepts directed to him, and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty.

Then, from the same volume, page 264, I ask the Secretary to read sections 1, 2, and 9 of the act of 1792.

The Chief Clerk read as follows:

That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States, to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper; and in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive (when the Legislature cannot be convened) to call forth such number of the militia of any other State or States, as may be applied for, or as he may judge sufficient to suppress such insurrection.

SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed. And if the militia of a State, where such combinations may happen, shall refuse, or be insufficient to suppress the same it shall be lawful for the President, if the Legislature of the United States be not in session, to call forth and employ such numbers of the militia of any other State or States most convenient thereto, as may be necessary, and the use of militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session.

SEC. 9. *And be it further enacted*, That the marshals of the several districts and their deputies shall have the same powers in executing the laws of the United States as sheriffs and their deputies in the several States have by law in executing the laws of their respective States.

From the act of 1795, in the same volume, page 424, I ask the Secretary to read sections 1, 2, and 9.

The Chief Clerk read as follows:

That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper. And in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any State or States, as may be applied for, as he may judge sufficient to suppress such insurrection.

SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 9. *And be it further enacted*, That the marshals of the several districts, and their deputies, shall have the same powers in executing the laws of the United States as sheriffs and their deputies in the several States have by law in executing the laws of the respective States.

These three statutes, as everybody knows, were enacted in the administration of George Washington. I will now ask the Secretary to read the act of 1807, from volume 2 of the Statutes, page 443.

The Chief Clerk read as follows:

That in all cases of insurrection or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect.

That was in the administration of Thomas Jefferson. I will now ask the Secretary to read from the act of 1833, section 1 and section 5.

The Chief Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, it shall become impracticable, in the judgment of the President, to execute the revenue laws and collect the duties on imports in the ordinary way in any collection district, it shall and may be lawful for the President to direct that the custom-house for such district be established and kept in any secure place within some port or harbor of such district, either upon land or on board any vessel; and, in that case, it shall be the of duty the collector to reside at such place and there to detain all vessels and cargoes arriving within the said district until the duties imposed on said cargoes by law be paid in cash, deducting interest according to existing laws; and in such cases it shall be unlawful to take the vessel or cargo from the custody of the proper officer of the customs unless by process from some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons too great to be overcome by the officers of the customs, it shall and may be lawful for the President of the United States, or such person or persons as he shall have empowered for that purpose, to employ such part of the land or naval forces or militia of the United States as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo and protecting the officers of the customs in retaining the custody thereof.

SEC. 5. *And be it further enacted*, That whenever the President of the United States shall be officially informed, by the authorities of any State, or by a judge of any circuit or district court of the United States, in the State, that, within the limits of such State, any law or laws of the United States, or the execution thereof, or of any process from the courts of the United States, is obstructed by the employment of military force, or by any other unlawful means, too great to be overcome by the ordinary course of judicial proceeding, or by the powers vested in the marshal by existing laws, it shall be lawful for him, the President of the United States, forthwith to issue his proclamation, declaring such fact or information, and requiring all such military and other force forthwith to disperse; and if at any time after issuing such proclamation, any such opposition or obstruction shall be made, in the manner or by the means aforesaid, the President shall be, and hereby is, authorized, promptly to employ such means to suppress the same, and to cause the said laws or process to be duly executed, as are authorized and provided in the cases therein mentioned by the act of the 28th of February, 1795, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions, and to repeal the act now in force for that purpose;" and also, by the act of the 3d of March, 1807, entitled "An act authorizing the employment of the land and naval forces of the United States in cases of insurrection."

That was in the administration of Andrew Jackson. I will now ask the Secretary to read the third section of the act of 13th of July, 1861, from volume 12 of the Statutes, page 256, section 3:

The Chief Clerk read as follows:

SEC. 3. *And be it further enacted*, That it shall be unlawful to take any vessel or cargo detained as aforesaid from the custody of the proper officers of the customs, unless by process of some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons, too great to be overcome by the officers of the customs, it shall and may be lawful for the President, or such person or persons as he shall have empowered for that purpose, to employ such part of the Army or Navy, or militia of the United States, or such force of citizen volunteers as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof.

That was in the administration of Abraham Lincoln, and, as the other sections of the same act show, was directed against the same state of things as the act of 1833 in the time of Andrew Jackson. I will now ask the Secretary to read from another act of 1861, to be found in the same volume, page 281, sections 1 and 7.

The Chief Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President of the United States, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory of the United States, it shall be lawful for the President of the United States to call forth the militia of any or all the States of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

* * * * * * *

SEC. 7. *And be it further enacted*, That the marshals of the several districts of the United States, and their deputies, shall have the same powers in executing the laws of the United States as sheriffs and their deputies in the several States have by law in executing the laws of the respective States.

That also was in the administration of President Abraham Lincoln. I will now ask the Secretary to read the act of 1865, volume 13, page 437.

The Chief Clerk read as follows:

Be it enacted, &c., That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. And that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States. Any officer

of the Army or Navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offense, be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine not exceeding $5,000, and suffer imprisonment in the penitentiary not less than three months nor more than five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States: *Provided*, That nothing herein contained shall be so construed as to prevent any officers, soldiers, sailors, or marines from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified, according to the laws of the State in which he shall offer to vote.

That also was in the administration of Abraham Lincoln. I now ask the Secretary to read the act of the 9th of April, 1866, sections 1 and 9.

The Chief Clerk read as follows:

Be it enacted, &c., That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishments, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval force of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

That was in the administration of Andrew Johnson but it was passed by a two-thirds vote, and upwards, of the two Houses, over the veto of President Johnson. I will now ask the Secretary to read from the act of 1870, volume 16, page 140, entitled "An act to enforce the right of citizens of the United States to vote in the several States of this Union, and for other purposes," sections 18 and 19.

The Chief Clerk read as follows:

SEC. 18. *And be it further enacted*, That the act to protect all persons in the United States in their civil rights, and furnish the means of their vindication, passed April 9, 1866, is hereby re-enacted; and sections 16 and 17 hereof shall be enforced according to the provisions of said act.

SEC. 19. *And be it further enacted*, That if at any election for Representative or Delegate in the Congress of the United States any person shall knowingly personate and vote, or attempt to vote, in the name of any other person, whether living, dead, or fictitious; or vote more than once at the same election for any candidate for the same office; or vote at a place where he may not be lawfully entitled to vote; or vote without having a lawful right to vote; or do any unlawful act to secure a right or an opportunity to vote for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or otherwise unlawfully prevent any qualified voter of any State of the United States of America, or of any Territory thereof, from freely exercising the right of suffrage, or by any such means induce any voter to refuse to exercise such right; or compel or induce by any such means, or otherwise, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interfere in any manner with any officer of said elections in the discharge of his duties; or by any of such means, or other unlawful means, induce any officer of an election, or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty, or any law regulating the same; or knowingly and willfully receive the vote of any person not entitled to vote, or refuse to receive the vote of any person entitled to vote; or aid, counsel, procure, or advise any such voter, person, or officer to do any act hereby made a crime, or to omit to do any duty the omission of which is hereby made a crime, or attempt to do so, every such person shall be deemed guilty of a crime, and shall for such crime be liable to prosecution in any court of the United States of competent jurisdiction, and, on conviction thereof, shall be punished by a fine not exceeding $500, or by imprisonment for a term not exceeding three years, or both, in the discretion of the court, and shall pay the costs of prosecution.

The eighteenth section of the act just read was passed after the adoption of the fourteenth amendment to the Constitution of the United States, and on account of doubts that had been raised in hostile quarters, of the constitutional validity of the act of 1866 protecting all persons in their civil rights, which had passed before that amendment of the Constitution.

I will now ask the Secretary to read from the act of the year 1871, in the same volume, page 437, section 12, entitled "An act to amend an act approved May 31, 1870, entitled 'An act to enforce the rights of citizens of the United States to vote in the several States of this Union, and for other purposes.'"

The Chief Clerk read as follows:

SEC. 12. *And be it further enacted*, That the marshal, or his general deputies, or such special deputies as shall be thereto specially empowered by him, in writing, and under his hand and seal, whenever he or his said general deputies or his special deputies, or either or any of them, shall be forcibly resisted in executing their duties under this act, or the act hereby amended, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person or persons who shall commit any offense for which said marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is hereby, empowered to summon and call to his or their aid the bystanders or *posse comitatus* of his district.

I will now ask the Secretary to read sections 2 and 3 of the act of the 20th of April, 1871. The applicable part of section 2 relates to the right of citizens to vote for a member of Congress, &c., but lest it might be thought that some other part of the section, which is rather long, should affect the construction of that, as a matter of prudence I will ask that the whole of section 2 and the whole of section 3 be read. The title of this act is "An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes."

The Chief Clerk read as follows:

SEC. 2. That if two or more persons within any State or Territory of the United States shall conspire together to overthrow, or to put down, or to destroy by force the Government of the United States, or to levy war against the United States, or to oppose by force the authority of the Government of the United States, or by force, intimidation, or threat to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, or by force, intimidation, or threat to prevent any person from accepting or holding any office or trust or place of confidence under the United States, or from discharging the duties thereof, or by force, intimidation, or threat to induce any officer of the United States to leave any State, district, or place where his duties as such officer might lawfully be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or to injure his person while engaged in the lawful discharge of the duties of his office, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duty, or by force, intimidation, or threat to deter any party or witness in any court of the United States from attending such court, or from testifying in any matter pending in such court fully, freely, and truthfully, or to injure any such party or witness in his person or property on account of his having so attended or testified, or by force, intimidation, or threat to influence the verdict, presentment, or indictment, of any juror or grand juror in any court of the United States, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or on account of his being or having been such juror, or shall conspire together, or go in disguise upon the public highway or upon the premises of another for the purpose, either directly or indirectly, of depriving any person or any class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State from giving or securing to all persons within such State the equal protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or his property for lawfully enforcing the right of any person or class of persons to the equal protection of the laws, or by force, intimidation, or threat to prevent any citizen of the United States lawfully entitled to vote from giving his support or advocacy in a lawful manner towards or in favor of the election of any lawfully qualified person as an elector of President or Vice-President of the United States, or as a member of the Congress of the United States, or to injure any such citizen in his person or property on account of such support or advocacy, each and every person so offending shall be deemed guilty of a high crime, and, upon conviction thereof in any district or circuit court of the United States or district or supreme court of any Territory of the United States having jurisdiction of similar offenses, shall be punished by a fine not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, as the court may determine, for a period of not less than six months nor more than six years, as the court may determine, or by both such fine and imprisonment as the court shall determine. And if any one or more persons engaged in any such conspiracy shall do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby any person shall be injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the person so injured or deprived of such rights and privileges may have and maintain an action for the recovery of damages occasioned by such injury or deprivation of rights and privileges against any one or more of the persons engaged in such conspiracy, such action to be prosecuted in the proper district or circuit court of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts under the provisions of the act of April 9, 1866, entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication."

SEC. 3. That in all cases where insurrection, domestic violence, unlawful combinations, or conspiracies in any State shall so obstruct or hinder the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by this act, and the constituted authorities of such State shall either be unable to protect, or shall, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy shall oppose or obstruct the laws of the United States or the due execution thereof, or impede or obstruct the due course of justice under the same, it shall be lawful for the President, and it shall be his duty to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations; and any person who shall be arrested under the provisions of this and the preceding section shall be delivered to the marshal of the proper district, to be dealt with according to law.

Mr. EDMUNDS. These three last-named acts of 1870 and 1871 were in the administration of President Ulysses S. Grant. I will read myself, as it is very short, the next act that bears upon this subject which is the act of 1878, section 15 of the Army appropriation bill, so much of it as is in relation to this topic:

From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by the act of Congress.

I have omitted from this summation of the chronological order of enactments on this subject at least three,—and probably a careful examination would show more,—statutes of the United States bearing upon the employment of its military power in subordination to and support of its laws on necessary occasions. One was the quarantine act, or rather I should say to speak accurately the act in assistance of the powers of the States to enforce quarantine regulations, which commanded the officers of the Army and Navy, &c., to render all military aid and support necessary in the execution of these then undoubted powers of the States, in enforcing their health and quarantine laws. Another was the act of 1818 called the neutrality act, where under a statute of the United States against setting on foot hostile expeditions or fitting out armed ships against powers with whom we are at peace, the President of the United States, in aid of the execution of the law and not as an exertion of the powers of war, was authorized to employ the land and naval forces to coerce obedience to the neutrality act. The other that I recall—and as I say there may be more—is the act now being executed, which authorizes the President of the

United States to support and execute the laws against unlawful invasions of Indian territory by unauthorized persons, by force of the military power of the Government.

Mr. President, in the same connection, to bring it all together, I should like to have read some of the statements and arguments upon which the people of the United States were persuaded to adopt the Constitution as we now have it in its original form, excepting of course the articles of amendment, and for that purpose I invite the attention of the Senate to the following clause which I believe is fairly and fully cited from No. 15 of the Federalist, written by Alexander Hamilton, which I ask the Secretary to read; it is marked on page 94 of Dawson's edition of the Federalist.

The Chief Clerk read as follows:

The great and radical vice in the construction of the existing confederation is in the principle of *legislation* for *states* or *governments*, in their *corporate* or *collective capacities*, and as contradistinguished from the *individuals* of which they consist. Though this principle does not run through all the powers delegated to the Union, yet it pervades and governs those on which the efficacy of the rest depends. Except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have no authority to raise either, by regulations extending to the individual citizens of America. The consequence of this is, that, though in theory their resolutions concerning those objects are laws, constitutionally binding on the members of the Union, yet in practice they are mere recommendations, which the States observe or disregard at their option.

It is a singular instance of the capriciousness of the human mind, that after all the admonitions we have had from experience on this head, there should still be found men, who object to the new Constitution, for deviating from a principle which has been found the bane of the old, and which is, in itself, evidently incompatible with the idea of *government;* a principle, in short, which, if it is to be executed at all, must substitute the violent and sanguinary agency of the sword to the mild influence of the magistracy.

I will ask, from the same number of the Federalist, the Secretary to read the paragraphs marked on page 96 of the same edition.

The Chief Clerk read as follows:

But if we are unwilling to be placed in this perilous situation, if we still will adhere to the design of a national government or, which is the same thing, of a superintending power under the direction of a common council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the Union to the persons of the citizens, the only proper objects of Government.

Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways: by the agency of the courts and ministers of justice, or by military force; by the *coercion* of the magistracy, or by the *coercion* of arms. The first kind can evidently apply only to men: the last kind must, of necessity, be employed against bodies politic, or communities, or States. It is evident, that there is no process of a court by which the observance of the laws can, in the last resort, be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war; and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

I ask the Secretary now to read the marked pages from No. 21 of the Federalist, written by James Madison, on pages 133, 134, and a small part of page 135 of the same edition.

The Chief Clerk read as follows:

The want of a mutual guarantee of the State governments is another capital imperfection in the federal plan. There is nothing of this kind declared in the articles that compose it; and to imply a tacit guarantee from consideration of utility would be a still more flagrant departure from the clause which has been mentioned than to imply a tacit power of coercion, from the like considerations. The want of a guarantee, though it might in its consequences endanger the Union, does not so immediately attack its existence, as the want of a constitutional sanction to its laws.

Without a guarantee, the assistance to be derived from the Union in repelling those domestic dangers which may sometimes threaten the existence of the State constitutions must be renounced. Usurpation may rear its crest in each State, and trample upon the liberties of the people; while the National Government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law; while no succor could constitutionally be afforded by the Union to the friends and supporters of the Government. The tempestuous situation from which Massachusetts has scarcely emerged evinces that dangers of this kind are not merely speculative. Who can determine what might have been the issue of her late convulsions if the malcontents had been headed by a Cæsar or by a Cromwell? Who can predict what effect a despotism established in Massachusetts would have upon the liberties of New Hampshire or Rhode Island, of Connecticut or New York?

The inordinate pride of State importance has suggested to some minds an objection to the principle of a guarantee in the Federal Government, as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from union; and can only flow from a misapprehension of the nature of the provision itself. It could be no impediment to reforms of the State constitutions by a majority of the people in a legal and peaceable mode. This right would remain undiminished. The guarantee could only operate against changes to be effected by violence. Toward the prevention of calamities of this kind too many checks cannot be provided. The peace of society and the stability of government depend absolutely on the efficacy of the precautions adopted on this head. Where the whole power of the Government is in the hands of the people, there is the less pretense for the use of violent remedies, in partial or occasional distempers of the State. The natural cure for an ill-administration, in a popular or representative constitution, is a change of men. A guarantee by the national authority would be as much leveled against the usurpations of rulers as against the ferments and outrages of faction and sedition in the community.

I now ask the Secretary to read from No. 26 of the Federalist, written by Alexander Hamilton, on pages 170 and 171, the marked paragraphs.

The Chief Clerk read as follows:

In England, for a long time after the Norman conquest, the authority of the monarch was almost unlimited. Inroads were gradually made upon the prerogative, in favor of liberty, first by the barons, and afterward by the people, till the greatest part of its most formidable pretensions became extinct. But it was not till the revolution in 1688, which elevated the Prince of Orange to the throne of Great Britain, that English liberty was completely triumphant. As incident to the undefined power of making war, an acknowledged perogative of the Crown, Charles II had, by his own authority, kept on foot in time of peace a body of five thousand regular troops. And this number James II increased to thirty thousand; who were paid out of his civil list. At the revolution, to abolish the exercise of so dangerous an authority, it became an article of the Bill of Rights then framed that "the raising or keeping a standing army within the kingdom in time of peace, unless with the consent of Parliament, was against law."

In that kingdom, when the pulse of liberty was at its highest pitch, no security against the danger of standing armies was thought requisite, beyond a prohibition of their being raised or kept up by the mere authority of the executive magistrate. The patriots, who effected that memorable revolution, were too temperate, and too well informed, to think of any restraint on the legislative discretion. They were aware that a certain number of troops for guards and garrisons were indispensable; that no precise bounds could be set to the national exigencies; that a power equal to every possible contingency must exist somewhere in the Government; and that when they referred the exercise of that power to the judgment of the legislature, they had arrived at the ultimate point of precaution, which was reconcilable with the safety of the community.

I now read a paragraph from No. 28 of the Federalist, written by Alexander Hamilton and the opening paragraph; and as to all these extracts, I believe I read enough to show the fairness of the citation:

That there may happen cases in which the National Government may be necessitated to resort to force, cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes arise in all societies, however constituted; that seditions and insurrections are, unhappily, maladies as inseparable from the body-politic as tumors and eruptions from the natural body; that the idea of governing at all times by the simple force of law (which we have been told is the only admissible principle of republican government) has no place but in the reveries of those political doctors, whose sagacity disdains the admonitions of experimental instruction.

I will now read from No. 58 of the Federalist, written by James Madison, on the subject of the power of Congress over the election of members of the House of Representatives. He first quotes the existing paragraph of the Constitution which I have already read; and he then says:

This provision has not only been declaimed against by those who condemn the Constitution in the gross; but it has been censured by those who have objected with less latitude, and greater moderation; and, in one instance, it has been thought exceptionable by a gentleman who has declared himself the advocate of every other part of the system.

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

These words which I have last read are italicized by Mr. Madison:

Every government ought to contain in itself the means of its own preservation. Every just reasoner will, at first sight, approve an adherence to this rule, in the work of the convention; and will disapprove every deviation from it which may not appear to have been dictated by the necessity of incorporating into the work some particular ingredient, with which a rigid conformity to the rule was incompatible. Even in this case, though he may acquiesce in the necessity, yet he will not cease to regard and to regret the departure from so fundamental a principle as a portion of imperfection in the system which may prove the seed of future weakness, and perhaps anarchy.

It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been always applicable to every probable change in the situation of the country; and it will, therefore, not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably modified and disposed: that it must either have been lodged wholly in the National Legislature, or wholly in the State Legislatures, or primarily in the latter—

That is the State Legislatures—

and ultimately in the former—

That is Congress.

The last mode has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Nothing can be more evident, than that an exclusive power of regulating elections for the National Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy.

* * * * * * *

And as it is more consonant to the rules of a just theory to intrust the Union with the care of its own existence than to transfer that care to any other hands, if abuses of power are to be hazarded on the one side or on the other, it is more rational to hazard them where the power would naturally be placed than where it would unnaturally be placed.

I should like now, Mr. President, to have read, as having a very obvious bearing upon the principles on which this Government and this legislation which I have read and the opposition to this proposed bill proceed, from the message of Andrew Jackson to Congress on the 16th of January, 1833, on the subject of obstructions to the execution of the laws of the United States in the State of South Carolina. I will ask the Secretary to read first from page 148 of the appendix to volume 9, part 2 of the Congressional Debates, 1832–'33, the passage marked, and then on page 149 and on page 150 also the passages marked.

The Chief Clerk read as follows:

If these measures cannot be defeated and overcome by the power conferred by the Constitution on the Federal Government, the Constitution must be considered as incompetent to its own defense, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union.

* * * * * * *

By these various proceedings, therefore, the State of South Carolina has forced the General Government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

* * * * * * *

These deductions plainly flow from the nature of the Federal compact, which is one of limitations, not only upon the powers originally possessed by the parties thereto, but also upon those conferred on the Government and every department thereof. It will be freely conceded that by the principles of our system all power is vested in the people; but to be exercised in the mode and subject to the checks which the people themselves have prescribed. These checks are undoubtedly only different modifications of the same great popular principle which lies at the foundation of the whole, but are not on that account to be less regarded or less obligatory.

Upon the power of Congress, the veto of the Executive and the authority of the judiciary, which is to extend to all cases in law and equity arising under the Constitution and laws of the United States made in pursuance thereof, are the obvious checks; and the sound action of public opinion, with the ultimate power of amendment, is the salutary and only limitation upon the powers of the whole.

However it may be alleged that a violation of the compact by the measures of the Government can affect the obligations of the parties, it cannot even be pretended that such violation can be predicated of those measures until all the constitutional remedies shall have been fully tried.

If the Federal Government exercise powers not warranted by the Constitution, and immediately affecting individuals, it will scarcely be denied that the proper remedy is a recourse to the judiciary.

* * * * * *

The Constitution, which his oath of office obliges him to support, declares that the Executive "shall take care that the laws be faithfully executed," and, in providing that he shall, from time to time, give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws as may, from time to time, be found requisite.

The same instrument confers on Congress the power not merely to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare, but "to make all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof;" and also to provide for calling forth the militia for executing the laws of the Union. In all cases similar to the present the duties of the Government become the measure of its powers; and whenever it fails to exercise a power necessary and proper to the discharge of the duty prescribed by the Constitution, it violates the public trusts not less than it would in transcending its proper limits. To refrain, therefore, from the high and solemn duties thus enjoined, however painful the performance may be, and thereby tacitly permit the rightful authority of the Government to be contemned, and its laws obstructed by a single State, would neither comport with its own safety nor the rights of the great body of the American people.

Mr. EDMUNDS. Now, in connection with the act of 1865 which I have had read, that speaks of keeping the peace at the polls, and the various and continuous acts of Congress which in one provision authorize the marshals of the United States to command all the necessary assistance in the discharge of their duty, and in another to exercise all the powers in their respective districts that the sheriffs in the States may by law be authorized to exercise, I ask that the Secretary may read, what I suppose nobody will dispute, the title "Peace," in Bouvier's Law Dictionary as the definition of the use of the word "peace" in the act of 1865, and the definition of the powers of the marshals measured by those of sheriffs in the respective States.

The Chief Clerk read as follows:

PEACE. The concord or final agreement in a fine of lands.—18 Edw. I, *modus levandi finis.*

The tranquillity enjoyed by a political society, internally by the good order which reigns among its members, and externally by the good understanding it has with all other nations. Applied to the internal regulations of a nation, peace imports, in a technical sense, not merely a state of repose and security as opposed to one of violence or warfare, but likewise a state of public order and decorum.

Mr. EDMUNDS. I beg leave also to read in the same continuous connection sections 1490 and 1491, or the parts thereof that bear upon this question, of the commentaries of Mr. Justice Story upon the Constitution:

§ 1490. The first clause of the second section is, "The President shall be commander-in-chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

Then I omit the other part of the section about requiring the opinions of the executive officers, &c.

§ 1491. The command and application of the public force, to execute the laws, to maintain peace, and to resist foreign invasion, are powers so obviously of an executive nature, and require the exercise of qualities so peculiarly adapted to this department, that a well-organized government can scarcely exist when they are taken away from it.

Let me read also from section 1564 of the same commentaries. Having spoken in the preceding sections of the power to convene Congress on extraordinary occasions, and the power to adjourn Congress, &c., Mr. Justice Story then proceeds in section 1564:

On the other hand, the duty imposed upon him to take care that the laws be faithfully executed follows out the strong injunctions of his oath of office, that he will "preserve, protect, and defend the Constitution." The great object of the Executive Department is to accomplish this purpose; and without it, be the form of government whatever it may, it will be utterly worthless for offense or defense; for the redress of grievances or the protection of rights; for the happiness, or good order, or safety of the people.

I have thus, Mr. President, had read in their consecutive and chronological connection the provisions of the Constitution of the United States and of the series of laws which bear upon the power of the executive department of the Government, whether exerted by the Chief Magistrate of the Union by a direct act or order of his own, or by the subordinate officers, the marshals, by the special powers conferred upon them, in order to show that from the beginning of the Government, founded upon the principles that I have read from the Federalist, of a government of law, that wherever there is law and right there must be the power of carrying it into force, there has existed, and there does still exist the affirmative and express authority, first, in the President of the United States to exert the military power of the Government whenever the execution of the laws—that is all laws and every law on all occasions and everywhere—is obstructed by combinations too powerful for the ordinary means of the civil courts of justice, and that there has existed from the first by express authority under the Constitution and acts of Congress the power of the marshals in the performance of every duty that the law imposed upon or vested in them to command, by one provision, the fundamental one of 1789, all necessary assistance in the performance of their duties, and by the others, which you notice by a curious and proper coincidence and co-operation of forces existing in these force bills, as they may be called, from that of George Washington in 1792 and 1795, and Jefferson in 1807, and Jackson in 1833, and Lincoln in 1861, and Johnson in 1866, and Grant in 1870 and 1871, everywhere in connection with the exertion by a direct act of the Executive, also the express conferring upon the marshals of their several districts of every power that the sheriffs of the respective States had in the execution of their duties. By this it will be seen, as it appears to me, that neither was intended to supersede the other, and that neither did supersede the other, but in order that the due execution of the laws might be protected in every way and everywhere and at all times there should be the local course of the civil magistrate of the law, the marshal, whose authority was as wide as the territorial boundaries of his district, and there should exist also, superadded and in aid of it or independent of it if the marshal could not suitably execute his duties, and should always reside in the Chief Magistrate of the Union—not a military tyrant but a civil officer—the power to exert the whole force of the law to prevent any forcible obstruction to the execution of the laws of the United States too powerful for the ordinary means, and as to the acts of all of them, to cause the laws to be duly executed.

This from the fathers to this day has been the conferred right, if it did not exist in the President of the United States originally under his duty to preserve, protect, and defend the Constitution, and so of course the laws made in pursuance of it, and to take care that the laws be faithfully executed. If in his civil character as Commander-in-Chief of the Army the military power of the United States, (without any special law,) where the execution of any law was forcibly obstructed, did not exist in him, it was conferred, and without opposition and without dispute, except as to mere methods of detail, by the fathers and by their successors whenever times of trouble and disturbance and discontent or obstruction to the laws made it necessary, following the same grant of power all the time to amplify and superadd to the methods and the details of the exertion of the power.

That is so clear that I suppose down to the year 1865, when the act which the vetoed bill proposed in part to repeal, was passed, (and by that peculiar kind of repeal which made the act more forcible than it was before, repealing the exceptive and restrictive clauses so far as related to the exertion of the power,) I take it that there never was any question, but once, that the President of the United States, and the officers of the United States, its peace officers, its marshals, were by express statute, because I am not on any implication whatever, invested with every power that the sheriffs of the States had; who by the common law and by the statutes of all the States are peace officers. There was to be exerted all the time against all combinations, under all circumstances, on days of election and on Sundays and on holidays, and in all places, the duty that the existence of the Government requires to be performed without exception, of preserving the peace of the United States against forcible disturbance.

You will have seen, Mr. President, from the definition I have had read, that the right to preserve the peace is not an arbitrary and discretionary right of definition or of application, but that the peace of the United States is that order and tranquillity which is found in the due execution of its laws without forcible and violent obstruction. That is peace; and the power of the marshal, therefore, as the peace officer, conferred not by implication but by expression in the statutes, referring only for a definition and a measure of his powers to the laws of the States, was this same power of preserving the peace of the United States; that is to say, of putting down by all means that the law had put at his command,—and it put them expressly, whatever they might be,—unlawful obstructions to the execution of its laws.

I said there was one exception. In 1833, as President Jackson most aptly expressed it, and expressed it apparently with a kind of prophecy of what has happened since, and what I believe exists now, when that portion of the people of South Carolina who then exercised dominion there, chose to set up their will and their power against the exertion of the national law, the same arguments, the same protests, the same defiances, the same assertions of what is miscalled State sovereignty and State rights, were made almost in exactly the same language. If you will look into the debates of Congress, you will see the eagerness, the energy, the astuteness, and the violence with which the representatives of that portion of the people of South Carolina that then exerted its powers, against another portion of the people of the same State, and their wishes and their rights as citizens of the United States, and against the execution of the laws of the United States, denounced what they called Federal and unconstitu-

tional interference and invasion of the rights of States. Therefore, as the poet says,

> These new charmers, who keep serpents,
> Have not the antique sting resigned;

they have only followed either by blood or "tradition," which is referred to in the preamble of this extraordinary bill which we have before us, the same old contest, and presented a repetition of the same old heresy, that has been on all occasions, when it has been brought into actual contact with the authority of the nation, happily so far suppressed.

Now, let us see what the act of 1865 did. Let us look at the state and condition of the law and of the country when that act was passed. There was then no national statute which regulated the manner of electing members of Congress. The right still was left reposed in the authorities of the States. There were then no thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States, the two last of which professed, (although I know it is denied in certain quarters,) one of them to secure the universality of equal rights, and the other to secure the universality and reality of a suffrage that should not be denied by reason of race, or color, or the previous condition of a certain portion of the people of the United States, now become freemen and citizens. What was the condition of things then in respect to actual transactions? The state of the law was what I have narrated. There had been going on for four years a rebellion, if I may use that phrase without offending the sensibilities of anybody. One of the States of this Union, that in her corporate capacity had not undertaken to break up the union of the States and to secede, Kentucky, but which, as I am informed,—I do not know how the fact is,—had sent, or allowed to go, into a warfare against the people and Government of the United States, a greater number of her citizens than she had furnished to support the Constitution and the laws of the people of the United States, was about to have an election. The armies of the United States, some of them, had place in that State, as they had a right to have, I suppose, and it was said that the forces of the rebellion were being sent back into that State on leave of absence and otherwise. In 1864, when the question was whether the war should be declared a failure, and an ignominious peace secured by the election of McClellan, or whether the war should be declared a success, to be made sure by the re-election of Abraham Lincoln, a sufficient body of confederate troops and enemies of the United States were to return to Kentucky to carry that State for the side of the enemy. Then it was that the officers of the United States in command of its troops there, in some places did interfere, in the language of the title of this bill, with a State election, if the election of electors of President of the United States be a State election; I do not stop to discuss whether it is or not. We may call it that, for the purposes of this case at least. Under that provocation and in that state of warfare, it is perhaps not too much to admit that in the mere legal sense, the officers of the Army of the United States violated the law and undertook to exclude, and did exclude by the power of their military arms, the enemies of the United States from taking part in its government. That led, in the year afterward, to the proposal and passage of the act of 1865, by which it was declared under proper penalties against all possible abuse, that no officer or other person should bring to or employ—I may not quote the exact language—at the place where any election was going on, any part of the armed forces of the United States, unless it were to repel its armed enemies, or to keep the peace at the polls.

Mr. CONKLING. And that they should not prescribe the qualifications of voters.

Mr. EDMUNDS. And, as the honorable Senator from New York very kindly suggests, that which was perhaps the gravamen of the act in view of the circumstances that had occurred, when they said that the enemies of the United States should not vote in the order of the year before, that the officers of the Army should not prescribe the qualifications of voters or undertake to interfere with the exercise of the right of voters.

Mr. President, that was the history of that act; that was the act itself, passed under those circumstances, and for those purposes. Now, I beg somebody to tell me how he can torture out of that act anything like a repeal or a modification of the previous statutes of the United States that I have referred to, which were only in support of the constitutional power and duty of the President of the United States to protect and defend and preserve it, and his power and duty to take care that the laws of the United States be faithfully executed. It recognizes and affirms on the face of it that there does exist, if it does not confer it if it did not exist before, as confessedly it did exist before, the power to keep the peace at the polls, even the peace of a State under certain possible circumstances. There was at that time no regulation of the power of Congress as to the "manner," although there was full power to prescribe the time and the manner of choosing members of Congress.

What was that "peace" in the State at State elections, to which I have referred but which I have not stated fully enough? As I have said before, it was not an arbitrary peace of the President's own definition, of his own judgment, but it was, as it will always be as long as this Government exists, the peace that Thomas Jefferson described in his message to Congress in the year 1806 or 1807, touching the efforts of Aaron Burr and his associates and confederates (for I am sure that is a popular phrase) to overturn the government in the southwestern part of the United States and the Territory of Louisiana; and that was, as Mr. Jefferson stated it in his message to Congress, "the peace and safety of the Union." How? In so far as there is to be a President of the United States at all, he is to exist and be produced under the Constitution of the United States and not under any reserved power of the States. There is nothing in their reserved powers which provides for or authorizes the existence of a President of the United States. He is the child of the Constitution and of no other power or producing cause. There is also, as it stood in 1865—I am now speaking of it solely then, without reference to later laws,—the express provision that the United States shall guarantee to every State in this Union a republican form of government, a duty of the highest character and of the highest import. Could it be said that the United States was exerting more than its duty and its powers under that clause in the Constitution, if it exerted the military power as well as the civil power of the United States to prevent the republican government of Kentucky, for instance, from being overthrown and carried into the rebellion, setting up for itself an independent confederacy by the invasion of returning enemies of the United States to take possession with their guns and their swords of the polls of that State, and to cast a majority of the votes, or to count them, so as to say that that State would no longer assist the United States in carrying on the war but would go to the other side? I think, sir, not only was the action justified under that clause, but it might have been also under another clause if a call had been made by the loyal governor of that State or by its Legislature if it were in session, as usually on election days it is not, for there was a case for the repression of domestic violence where the power of the United States could be exerted to prevent the intrusion of its enemies from a portion of the territory of its people that had set up itself as an independent government.

I say, then, that the "peace" which the statute of 1865 refers to is the peace of the acts of 1789 and of 1792 and of 1795 and of 1861, which conferred express power upon the marshals to keep the peace, not only at the polls, but everywhere else, the peace of the United States, by preventing obstructions to its laws, but it was also the peace such as I have described,—the peace that prevents any infraction and obstruction to the constitutional exercise of every function that the Constitution of the United States confers upon or authorizes by a State or by the exertion of its own laws for national purposes. It is "the peace" that the common-law writers speak of who define the duties of sheriffs, coming down to us from the remotest generations of the common law, speaking of the very subject of keeping the peace, that it is to be done according to the powers conferred by law, and in the ways authorized by law.

There is not, therefore, in that statute or in the others to which I have referred, what our learned friends on the other side seem to be so willing that the people of this country shall believe, a recognition or affirmation, as the Senator from Alabama [Mr. MORGAN] stated it with great force, of the power of the United States to exercise a tyrannical discretion of saying what shall or shall not be done on the occasion of a State or other election, but it is only the power to preserve from violent interference and obstruction the Constitution and the laws of the United States and the peace which flows from the observance of them.

Is there any great danger in that? Are the liberties of the people to be largely put in hazard and jeopardy by the exertion of all the power of the Government, when it is needed to protect them in the rights that the laws of their own making confer upon them? That is what "the peace" was and is that was and is to be kept at the polls. It is quite unnecessary to maintain that the act of 1865 conferred authority upon the President of the United States as Commander-in-Chief of the Army, or upon the marshals in the exertion of the powers of sheriffs in the States, authority to keep the peace at the polls, of the kind I have described, because, as I think it has been demonstrated by the mere reading of the preceding statutes, that so far as this kind of peace is concerned (which is the whole of the peace of the United States) it existed before, by express authority of the ancient laws of this National Commonwealth. But suppose this had been the first act upon the subject of the exertion of the military power of the Government, which is not, as the Senator from Alabama stated yesterday, martial law by any means; it is the power of the magistrate, which does not necessarily mean a judge, let me tell my honorable friends over the way; it means any civil officer authorized by the Constitution or the law to execute it; that is the magistrate; it confers authority upon the magistrate to exert the power that the law gives to the magistrate, by taking the sword, not of the tyrant, but of the people, to protect them under the law. Suppose this had been the first act, as I say, then it would have read very much as sundry clauses in the Constitution do; take one that I happen to recall at this moment: "The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Where do you get the power to suspend the writ of *habeas corpus* by act of Congress? I am not on the question whether the President can do it under that clause. It was not a power that resided in Congress from the beginning as it did in the States, for there was not originally any Congress or any Union of the States. They are a creation of the Constitution. Where do you get the power to suspend the writ of *habeas corpus* at all? You get it under that clause of the Constitution which says that you cannot suspend it unless a certain contingency exists.

Now, you have the statute of 1865 which says you shall not employ the military power of the United States at the place of an election unless it be required to repel the armed enemies of the United States or to keep the peace of the United States, defined as I have endeavored to define it, at the polls. It is, therefore, a qualified grant of a power, or else you must hold under the Constitution in the clause that I have referred to as to *habeas corpus*, that there is no power to suspend the *habeas corpus* in the time of an invasion, for it did not exist before in the Congress of the United States, because that was the creation of the Constitution, and the Government of which it was the organ was the creation of the Constitution.

But it is quite unnecessary, as I have said, in my view, to go into any lengthened debate or illustration upon this point. There remains the undisputed and indisputable fact that by the laws, as they stood before, there was conferred upon the President of the United States in certain contingencies, and upon the marshals of the United States in other contingencies, the express authority to exert every force of which the Republic is capable under its Constitution and its laws to prevent the violent infraction of them; and there was no exception as to elections, or days, or places, or occasions.

That was the state of the law in 1865, when, as I have stated, Congress had not exerted the power that the Constitution by express terms grants to it to regulate the manner of the election of members of Congress; but since that time it has exerted that power, and it has proposed to the people of the States, and the people have agreed by the constitutional majority to the amendments to the Constitution which were meant to secure the universality of equal rights and the universality of the security of equal suffrage in the respects I have named.

What has Congress done since? It provided, in the first place, by the act of 1866, which has been read, that every citizen of the United States should have an equal right to the protection of the laws in the exertion of every faculty as a member of the political community that belonged to him. It said by express statement in one of its sections which stands unto this day, that the President of the United States should be authorized to employ all the power of this Government to protect him in the exertion of that right. Then it provided by the acts of 1870 and 1871 that the election of members of Congress, (for I will not refer to any other; if they are named that is enough for me,) should be conducted under certain supervision and control of the laws of the United States, by officers appointed under the authority of the laws of the United States; and that act provided in explicit terms in one of the sections which I have read that—

> Whenever insurrection, domestic violence, unlawful combinations, or conspiracies in any State so obstructs or hinders the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection named in the Constitution and secured by the laws for the protection of such rights, privileges, or immunities, and the constituted authorities of such State are unable to protect, or, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy, opposes or obstructs the laws of the United States, or the due execution thereof, or impedes or obstructs the due course of justice under the same, it shall be lawful for the President, and it shall be his duty, to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations.

That which I have just read from the Revised Statutes (and I should say that every other one of the statutes I have read is in the Revised Statutes by repetition through later acts or otherwise) is in the very act which provides for the regulation and supervision of the election of members of the Congress of the United States. Then I ask in all candor of my honorable friends on the other side, is there any ground, in an intellectual point of view, (I am not speaking whether this ought to be repealed or not, I am speaking now about the existing state of the law,) upon which the breadth of a hair of distinction in reasoning can be made against the proposition that that is an express authority to the President of the United States to exert all the power that the Constitution and the laws have given him in relation to the command of the Army, to prevent forcible obstruction to the exercise by supervisors and marshals, who are certainly performing a public duty, of their power to secure to those entitled to vote an opportunity to go and endeavor to vote, against whatever combination or opposition may exist, in the same sense and in the same way and upon the same principle of government as in respect of maintaining the authority of a court of justice, or the authority of your revenue laws, only it may be for a higher, a wider, and more sacred purpose, and that the President is authorized to exert the military force of the United States, not as martial law, but as the power of the law that has been put into his hands in his civil character to overcome violent opposition to the execution of the mandate of the law?

Mr. President, somebody will have to hunt a good while before he finds either statute or authority or reason to say that there is not by that section now standing in the Revised Statutes, passed in the election laws since the act of 1865 in respect to keeping the peace at the polls, the express authority and duty imposed upon the Chief Magistrate of the United States in his character as a civil magistrate, and for the great objects that Hamilton and Madison and Story say are essential to the existence of all governments, to protect every person in the exertion of an official or a public duty, in execution of the law against the violence that would oppose or overturn it.

It follows then, as it appears to me, beyond all question and beyond all dispute, that when the act of 1878 which I had read at the beginning was passed, there existed exactly the state of things that that act said might continue to exist, and that it did not undertake to interfere with. That is to say, there still existed untouched and unharmed the express authority of the Constitution and the acts of Congress to employ the Army either as a *posse comitatus* or otherwise in the execution of the law and in putting down forcible obstruction to it.

All these statutes are based upon the principles of justice and constitutional liberty. They are in substance precisely the provisions that every State from the beginning of this great nation to this day has found to be necessary, and has imbedded in her constitution and her laws for the protection of the existence of her own government and the republican freedom and order of her society.

There is no distinction in my opinion, and I think none can be stated by the most ingenious sophist, between the power and duty of a government, be it State or national, if it be a government, of upholding the execution of its laws with order, and with peace and liberty, as well on the day of an election in a State and on any other day. *A multo fortiori* would it not be more necessary on election-day, for if your election fails in the Republic, what has become of the existence of your Republic and of the liberty that has built it up and that it secures? Justice may fail; a mob or an armed band organized more permanently than a mob, may drive from the seat of power the Supreme Court of the United States for a year; but the Government exists, though justice is obstructed; and by and by, when the power of the law shall have overcome that opposition, the reign of justice will return; the cases will be taken up; nobody will have lost anything save by delay. But if you overturn constitutional liberty at elections, if you destroy the fountain out of which the life of the Republic and its whole frame-work springs, your Government is at an end.

If, therefore, there be any distinction between one part of the law and the Constitution and our duty and another, it is that every power that the supreme force of the nation, in its character either civil or military, can exert, should be exerted if needed on the occasion when every citizen of the Republic qualified by law to that end, is to perform his public trust as a part of the component organization of the Republic in freely, honestly, and fairly participating in the choice of a Representative in the House of Representatives of the nation, as it is in the choice of the members of Legislature of his State. Then, if we were to have distinctions in respect to the duty of executing the laws of the Republic, and if there were to be one occasion more than another when the extreme power that could be brought to bear should be exerted to the uttermost in the defense of liberty against violence, it would be on the very day on which these new lights of democracy say it shall not be executed.

Mr. President, you will have observed that the act of 1878, of which I am now speaking, had no special reference to elections or days of elections; they are not named in it. The new revelation of danger to the liberties of the country had not then been vouchsafed to the men who now at last compose a majority of the two Houses of Congress. It was general, not less express; it was universal; and if it had any force upon the power of the marshal, for instance, (which I do not think is material to this inquiry,) necessarily it also had force upon all the powers of the President of the United States. If it had any force in respect of the day of an election it had also the same force and by the same sign in respect of the day of the holding of a court of the United States. If it had any force in respect of the day of holding a court of the United States, it had equal force in respect of the day of the assemblage of this body. If the "Mother of Presidents" should have undertaken to secede and to capture the State of Maryland and the District of Columbia, and should have brought thousands of her gallant sons to besiege and environ the Capitol and prevent the representatives of the people from all the other States from coming here to take their seats on the first Monday in December, by the same law of 1878, if it had any force at all of this character, the President of the United States would have had no power whatever to exert the military power at his command to send those people away unless he had got it (and he would not have got it under the act of 1878 then) under the act of 1865 "to repel the armed enemies of the United States." But I am now speaking of the act of 1878; that is the one which our learned friends on the other side say has accomplished the undermining and the overthrow and the emasculation of the powers of Government which have been conferred by the Constitution and the statutes from the days of George Washington to 1878. By that, as I have suggested, if you say that it overthrows the power of the marshals on the day of an election conferred by the acts of 1870 and 1871 and now in the Revised Statutes, if you say it overthrows the power of the President of the United States on similar occasions, conferred by the same statutes, then you must say that by the same sign it overthrows every other power of the President of the United States conferred by former statutes and in respect to other officers, because it says that in no case and at no time shall the Army of the United States be used, not merely by a marshal, but by anybody, either as a *posse comitatus* or otherwise, unless the Constitution of the United States expressly, or an act of Congress expressly, authorizes it to be used. The consequence is, if there is anybody in this Republic, be he citizen or official, who is disposed to give away his case, disposed to give away the law

and the Constitution and, in the long run, the liberty of this people on the day of an election, he must give it away on every other day as well. There will, to be sure, be little occasion for courts of justice, for the collection of revenues, for the preservation of neutrality, for the exertion of the power of the United States in support of the quarantine and health laws of the States, if you have no Congress except the mob that is elected by tyrants and by illegal violence. Your courts of justice will go down, the exertion of every one of your laws for the collection of revenue must go down, the exertion of your duty to foreign nations must cease, as well as the exertion of your highest duty to protect your own officers in the employment of the powers conferred by your own laws and your own citizens in the exercise of the duties that your laws have reposed in them and imposed upon them on the day of an election as well all the rest of the year; for, as you can see, there is neither exception nor qualification in this act of 1878; if it says it unto one, it speaks it unto all. It covers Presidents as well as marshals, and it covers the solemn halls of justice as well as the hustings. It covers neutrality as well as domestic tranquillity. It covers everything or it covers nothing, for all the powers that either President or marshal has in protecting, preserving, and defending the Constitution and executing the laws of the United States are conferred, if they exist at all, by the express provisions of that instrument and the express enactments of the statutes. There is no one of them that needs an implication to carry it out. Like the Ten Commandments they exist by affirmative declaration or they do not exist at all. But the act of 1878 does no such thing; it only excludes implied powers.

And so I say, sir, that if we are to surrender at this time this one thing that is said to be so small by some, and thought to be so great—and truly it is—by those who seek to carry it through, we surrender all. If you are willing to follow the mere red rag of an untruth in the title of the pending bill for fear that the people of the United States or some portion of them will think that you are opposed to the liberty and protection of elections, and therefore on such a title to prohibit interference with elections, proceed to abdicate all the powers that the people have conferred upon you to protect their liberties at elections and at all other times, then you will have been the victim of a great delusion, and you will have been captured by those calling themselves the friends of the United States—I came very near making a mistake and using another term—you will have been captured by the friends of the United States at a very cheap rate indeed.

Before I examine with any particularity the immediate bill before us, let me show you a very high authority and one that was never questioned, to the point that the marshals of the United States from the beginning of the Government, at least down to the year 1854 and so of course down to the year 1865 certainly, because there was no change in the law up to that time, had the express authority of the statutes of the United States to call upon the persons composing the military power—I beg Senators to mark my words,—to call upon the persons composing the military power, as well as everybody else, to assist in the execution of the laws. I refer now to the opinion of Mr. Attorney-General Cushing, of the 27th of May, 1854, upon the subject of the exertion of the military power of the United States by the marshal of the district of Illinois to arrest and return to E. Crawford Smith, of Missouri, a fugitive from labor, one of that then unhappy class of community that the honorable Senator from Alabama, representing so many of them as he does, dignifies with the name of "nigger."

Mr. MORGAN. I beg pardon; I have never used that word.

Mr. EDMUNDS. Then I misunderstood the Senator yesterday. Then I will say whom he now dignifies with the name of citizens.

Mr. MORGAN. I did not apply any name of dishonor at all, to any citizens of the United States.

Mr. EDMUNDS. I am glad to know that. There was a time when it was not thought to be quite the thing in certain quarters of this country to be regarded as a citizen of the United States, but now it seems to be otherwise, and I am very glad of it.

The act of Congress providing for the forcible restoration to their masters of fugitives from labor provided that the marshals should execute the warrants of the commissioners. As Mr. Attorney-General Cushing says, and as I have already read to you, the act of 1789 provided that each marshal in his district should execute all warrants and that he should have power to command all necessary assistance in the execution of his duty, just as the statute is now exactly. The case was that the marshal of the United States apprehending that the turbulent people of the city of Chicago in the State of Illinois, enemies of their country and its laws, as they were then looked upon, would interfere with the restoration of this unhappy tramp as he might be called—I am sure the Senator from Alabama used that word—this unhappy son of toil tramping for freedom and labor that could be rewarded, and prevent his being sent back to his master and to his fetters in Missouri, called upon a police force of twelve men and a party of militia. The Attorney-General does not state how many there were, whether that "party of militia" was the democratic party or whether by "party" he means some other kind of "party;" I do not know, but the marshal called upon a party of militia, and as the statement of the case is, he called upon them as militia; but that is not the point I am on now. The question was whether that was lawful, whether the marshal of the United States, having express authority by statute to command all necessary assistance and having the powers of the sheriffs of the several States by express statute just as he has now and by the same statutes unchanged in letter or in form, had express authority to exert under his command any part of the military power of the United States, because you will bear in mind that the Supreme Court of the United States had decided that the States had nothing to do with the restoration of fugitive slaves, and therefore the militia could not be called upon as a part of the State power; the State had no right to intervene or "to interfere," as the title of this bill is; it could do nothing; it was the exertion of the power of the Constitution and the laws of the United States, and if it could be exerted at all undoubedly it was exerted over the militia as a whole because although the militia was the militia of the States in the territorial and divisional sense, the Constitution of the United States makes every particle of the military power the military power of the Union, and it commands that no State shall have any troops in time of peace nor employ them except in time of invasion or imminent danger of it. It was therefore the military power of the United States that this marshal called upon; and the question was when the tax-payers, the people, were called upon to foot the bills, whether that was an authority that the statutes of the United States authorized the marshal to exert. If they did, then this militia of the State of Illinois was entitled to its payment; if they did not, then it was not. What does the Attorney-General say? After a long discussion of the nature of what is a *posse comitatus*, &c., he says this:

These considerations—

Speaking of the power of the sheriff, and so by express grant of the marshal, to call upon everybody within his district to aid him in the performance of his duty he says:

These considerations apply as well to the military as to the civil force employed; for the *posse comitatus* comprises every person in the district or county above the age of fifteen years, (Watson's Sheriff, page 60,) whatever may be their occupation, whether civilians or not; and including the military of all denominations, militia, soldiers, marines, all of whom are alike bound to obey the commands of a sheriff or marshal. The fact that they are organized as military bodies, under the immediate command of their own officers, does not in any wise affect their legal character. The are still the *posse comitatus* (XXI Parl. Hist., pages 672, 688, per Lord Mansfield.)—*Opinions of Attorney-General*, volume 6, page 473.

And then he proceeds to say what I beg to quote in this same connection as having some application to the exertion of the powers the President and the marshals now have in the execution of the laws of the United States, not to send fugitives from service back—

Like the quarry-slave at night, scourged to his dungeon,

but to protect their liberty under the law:

This statute of 1850 is enacted to execute a provision of the Constitution, the due and complete execution of which intimately concerns the fate of the Government of the United States and the integrity of the Union. Such a statute deserves, and will receive a beneficial construction, so that the mischiefs intended to be guarded against may be suppressed by the full use of all the remedies provided by Congress.—*Ibid*, p. 474.

No abolitionist belonging to the legal profession, no abolitionist belonging to the judiciary, no statesman, with hardly an exception, in the whig or abolition party, with the feelings and the sentiments they had in respect to the institution of slavery, ever denied or doubted the lawful existence of that power. They saw it exercised with grief. They wished for that better condition of things which, through slow processes and great convulsions, has come at last, with all its imperfections, all its present drawbacks; but they acknowledged fidelity to the existence of the law which, for such purposes even, under the laws of the United States, just as they stand now in respect to the powers of the President and the marshals, authorized them to exert the military power of this Union to execute every one of its laws; and if the statute upon which the security and the integrity of the Union was supposed to depend then, deserved "a beneficial construction" and called for the exertion of all the remedies that the Constitution and the acts of Congress had provided for its execution, do not the provisions of the Constitution of the United States as they now exist for the abolition of that system which that provision was intended to support, for the universal equality of the manhood of citizenship in the fourteenth amendment, and for the impartial suffrage of the fifteenth and the laws that I have had read to you made to support them, demand also a beneficial construction? Do they not also demand by a far more noble sign the execution and exertion of all the remedies that the Constitution and the acts of Congress have authorized to be employed to carry them into full, free, and orderly execution? On that one day of days in the year, when these people emerged from slavery into liberty and citizenship and those who stood by the flag of the Union in its darkest days in States where still it is not very popular, I fear, to have stood by it, are by the laws entitled to protection and the freedom of the ballot—on that one day of all days in the year that was made for them to participate freely and honestly under the law in the duties of citizenship and in the organization of the Government, is it not due that the military power of the United States, if the extremity comes that makes it necessary, shall not be taken away? Those who favor this bill say it shall.

Let us go a little further and see in particular what this bill provides. Its title untruthfully declares that it is "to prohibit military interference at elections;" and its preamble declares with equal—I have no right to say and I do not wish to say and I cannot allow myself to believe—studious untruth that "the presence of troops at the polls is contrary to the spirit of our institutions and the traditions of our people," because the traditions of our people and the

spirit of our institutions from the very birthday of the Republic as declared by the solemn statutes of the people's representatives and those of the States and the people's Presidents are, that at all times, and in all places and on all occasions and on all days when the execution of the laws of the United States is forcibly obstructed, or when domestic tumult under the marshal sections of the statutes interferes with the exertion of any power or duty existing under the Constitution or laws of the United States, he has power expressly conferred, measured by that of the sheriffs of the States, to be exerted as well on days of elections as on any others; and you have never taken it away.

Why, sir, the marshal of the State of Vermont, not by any statute of the State but by this supreme act of Congress is authorized to call for the militia of that State by name and as an organized body to suppress any riot which interferes with the execution of the laws of the United States. He is not limited to the bystanders, the *posse comitatus*, the power of the county alone in that sense of it; and he gets that authority because the statutes of the State of Vermont from the days of the fathers have provided, loving peace and order and liberty combined, knowing that they cannot exist separately, that when a riot breaks out on any day and the due and peaceful execution of the laws giving equal rights to anybody is forcibly obstructed, the sheriff shall call for the militia of the State and puts it down.

But the false statement—no I will not say "false" and I did not intend to use the word "false" in any sense that implied a reproach to any member of the Senate or of the House of Representatives—the untrue statement of its title and of its preamble is rendered the more apparent when you come to read the act itself which, notwithstanding its title declares that military interference at elections is to be prohibited, and notwithstanding its preamble declares that the presence of troops at the polls is contrary to the spirit of our institutions, proceeds in the body of the act to say that both may occur. Troops shall not interfere with elections; their presence at the polls is contrary to the spirit of our institutions; and yet on two occasions they shall be there and they shall exert this military power; they shall repel the armed enemies of the United States even on election day, and they shall suppress domestic violence in the State even on election day, in the manner and under the circumstances that the Constitution of the United States provides.

Thus you will perceive, Mr. President, that either the preamble of this bill and its title are untrue,—not so much its title because the word "interference" is capable of another and a much better construction than the one I have just put upon it—or the body of the bill is untrue and violates every principle that the preamble lays down. The preamble is without exception, it is universal and comprehensive; it is equivalent to saying that at no time and under no circumstances can the power of the law in the form of military organization be present at the polls, while its body says that there are occasions when the security of the Republic and the peace of the neighborhood, the smallest town in Vermont or in South Carolina, may require that the military forces of the United States shall be gathered at the place of carrying on an election.

But this bill is not confined to marshals or inferior officers; it does not say that it shall not be lawful for the marshal of the United States to call to his aid any part of the military power of the Government; but it says it shall not be lawful for anybody, be he President or marshal or whatever, be he the Army officer who in the city of New York is now bound by his oath and the statute to assist the State authorities in their quarantine and health regulations, be he the marshal of the United States or the person appointed by the President, who is bound in the city of New York to prevent the fitting out of armed expeditions against nations with whom we are at peace, be he the magistrate, the Indian agent, or whatever he may be, that on the borders of Kansas is bound to exclude from a defenseless remnant of a former race the swarming armed bands of greedy land-stealers, be he what he may, on that occasion, that day if it be a day, or that week if it be a week, or that year if it be a year, to do anything but fold up his arms in silence and see ruin spread in every direction. The command, as I say, is not limited to the marshals under election laws; it would be just as bad if it were, I admit; but with an exuberance of courage gained from one defeat, the men who framed this bill went upon the principle that they might as well be hung for a whole sheep as a lamb and therefore made their provision absolutely sweeping and exhaustive.

Mr. President, it is not confined, either, to interference with elections, if the exertion of the power to protect elections be "interference," which I earnestly deny and shall speak about presently if I do not forget it; but it extends, as I have said, to the exertion of any part of the power of the United States to execute any portion of its laws about anything else. Take the city of New York for illustration, where I believe by the laws of the State the voting precincts are so subdivided, or ought to be, as only to include two hundred voters or thereabouts,—a very small number whatever it may be; and therefore they are very small subdivisions of territory. Suppose that there be a polling place within ten rods of the sub-treasury of the United States, where the millions of revenue gained from the toil of the people are deposited, and where according to the previous declarations of members of this body and others and their present acts, they are to remain deposited until the Government goes to pieces unless we consent to the passage of this bill and give it our votes if our votes are needed to carry it. The thugs and mobs that exist in certain quarters of that city, and who in times gone by, as reports of democratic committees in the other House have shown, have run riot and ruin over the rights of their fellow-citizens in respect of elections, may take the frequent occasions of municipal elections—because the bill takes in "special" as well as "general elections"—that happen so often in that city, to take possession of the sub-treasury of the United States, because on that day and in that place the Army of the United States is powerless. You say that no part of the Army shall be used to prevent it.

It is not confined to a single day. It says "at any place where a general or special election is being held in a State." It is competent for any State to have its elections run over a week or two, and it is not long since that in some of the States the elections did run over two, three, or four days, and I notice in the constitution of one of the most conspicuous, and I hope one of the most prosperous and orderly of the States, that of Georgia, it is provided that the State elections shall begin on a certain named day, leaving it to the legislative authority to extend the number of days to any length they see fit.

You may say that we are looking to an impossible emergency in making this criticism upon this bill, that it is not at all likely that there will be a period of a week or two of time of a recurring election in any State or county or parish or town, or whatever it may be, day after day and week after week, when all the laws of the United States depend upon the mercy of the people who happen to be there, and upon nothing else. When the Constitution of the United States was adopted, that argument was used by its enemies, that there never could be any occasion when the exertion of the military power of the Republic was to be thought of, that it would not happen, and therefore to insert a power upon the part of the Congress of the United States and its Chief Magistrate to execute its laws and to raise a standing army and support it, of which he by the Constitution is the Commander-in-Chief, was exposing the liberties of the people to unnecessary peril. And yet the Constitution had not been in force six years before the very event occurred in the western counties of the State of Pennsylvania; and it had only been in force about forty years when in the State of South Carolina the events occurred so familiar to you all, supported by the same arguments for liberty and State rights, as they are erroneously called, that are urged now, when it was a serious question with the Congress of the United States how the means and the force were to be provided to sustain that great and brave President Andrew Jackson in exerting the military power to put down the obstructions to the execution of the laws.

So then, it is not fanciful to suppose that when you are untying the liberty of the mob and the organized opposition, treason, or whatever it may be, on one occasion which may be indefinitely prolonged by that portion of the people of a State who happen to exercise its authority (to borrow again the language of Andrew Jackson as to that portion of the people of the State of South Carolina who undertook to resist the execution of the laws of the United States) in order that they may perfect their schemes for again exposing to infinite peril and overturning the peace and harmony and existence of the United States. It is within the range of possibility, for it has happened.

It is not confined to cases of constitutional elections under a republican form of government. It embraces the case of rebellious elections held again to vote a State out of the Union; and on that day if the State of Virginia—no I will not say that—on that day if the State of Vermont, being dissatisfied with the way the Union goes on, should have arranged by that portion of her people who happened to be in power, the governor and his confederates, to culminate the potency of their resistance to law by holding and submitting to the people a special election to say whether they could agree to this law of the United States or stay in any longer or not, and when the honest people of that State, although they would deny the constitutionality of the law, would go to vote against it nevertheless, and put it down by a majority of ten to one, the armed power of the governor and his confederates would stand by the polls and say to the honest people, the patriotic, Union-loving citizens, "go away." They call upon the President of the United States, they implore the exertion of the military power under the civil law to arrest these people in this mad project to break down the Constitution and laws of the United States. The President turns to this statute and says, "No, no, I cannot do it; this is the very day and occasion of all others when the laws of my country have expressly forbidden that I or any officer of the United States shall interfere at all." That is the kind of an act of Congress that our learned friends would supply us with.

It is not confined to the polling-boxes or their immediate vicinity. The "place" is broad enough to include voting precincts, towns, boroughs, parishes, counties. In the State of Vermont, the place for holding elections by her constitution is one town in each county. The town is "the place" of election for State purposes; for city purposes the wards of the city. So it is in every other State, I presume. Suppose you have a universal election in all the States on the same day, as you do for members of Congress, and your towns and your counties are divided up into precincts and places, where is your Army going to stay? What are you going to do with it on that day? The honorable gentlemen who do not seem to have a strong affection for the Army of the United States, and naturally enough, will be able to answer, perhaps

That is not all. If you have a criminal who wishes an asylum, if you have a body of moonshiners who in Kentucky or Tennessee have slain the officers of the revenue and are pursued by the marshal and his *posse* or by a detachment of the Army under the express authority of the laws of the United States, all they have got to do to get an asylum for one day is to rush to the place where a general or special election is being held; and that place of asylum for that day, for every criminal who cannot be taken by the power of a single marshal himself or by the association of fellow-citizens of the criminal, (who in the case I have supposed would respond handsomely no doubt to help him to take him out,) is to take the place of the churches of the olden time where there were to be gathered for asylum and safety all those who could read and write—nobody else; so that would exclude the colored man generally, as it is said, in the South. He would not get the benefit of it, but all the white men would have free run for that day if they only stood about the polling places. That is one of the possibilities of this act!

As I have said, it forbids the use of military power for any purpose. It does this, also, which is more than all because it is fundamental, and no amendment can cure it unless it be an amendment which makes the act a mere repetition of what the present statutes are: it affirms the propriety and need rightly of using arms on election days when there is occasion for them, and it affirms the duty of the United States to furnish them at the mere call of the State for mere local elections and at all others; but it denies and denounces the same propriety and need, and forbids the exercise of the duty when national elections are proceeding under the Constitution and the laws of the United States, and when the safety and the very existence of the Union depend on preventing forcible and violent obstruction to the peaceful order and security of those elections. It calls upon the United States to exert that part of its duty which requires it, on the call of a State, to suppress domestic violence in a State on the occasion of an election, but it denies to it and denounces the exercise of the same authority on the same occasion when members of its own national legislature, created by its own Constitution and provided for by its own laws, are to be voted for.

If there be any depth of degradation to which this nation can go below that, I am unable to perceive it; and yet this is the proposition with which the House of Representatives comes to the Senate of the United States, "you shall exert the military power of the United States under the law and by force of the law when that portion of the people of any State who happen to be in power choose to call for it on election occasions; but when the supremacy of your own laws, the liberty of your own citizens, the exercise of your own rights, the existence of your own Government are concerned, the laws of your own Government shall forbid it." I say, sir, if there be any depth of degradation to which a government can go beyond that, I am not able to perceive it.

What, sir, is this Government of ours, what the nature of our republican Government? Has it anywhere, in its Chief Magistrate or any other of its numerous officers, any taint or vestige of the prerogative of kings that makes you afraid of the exercise of military power to overcome resistance to law? It has not. It is the Government of the people; it is a Government by the people; it is a Government for the people. It is not extraneous to the States. It resides in, was created in, and will exist forever on every foot of every State, as much as the government of the State itself. And yet the honorable Senator from Alabama spoke yesterday about "entering a State," the United States by its authority entering a State as the fleets of Her Majesty the Queen of Great Britain might be supposed to enter the port of New York, either by leave or by force!

I repeat, sir, that the Government of the United States is at home on every foot of the territory of this nation. It does not enter States; it was there from the beginning of the formation of the Constitution. It is in every fiber of the muscles of every man. I wish it were in the hearts of all the men of this Republic.

I cannot with patience reflect on the doctrine advanced in support of this bill and that is embodied in it, whatever men may say, that this Government of ours, almost a century old, hoary with honor and with renown, should be, at last, after it has so often vindicated its right to exist, on great and small occasions, treated as an extraneous neighbor, sometimes a friend, sometimes an enemy of a State, and that it is to enter or depart from a State!

I denounce such a doctrine, and I repeat that the life of this nation under the Constitution circulates among all its inhabitants and in all its territories in the same way and by the same potency in respect of the objects for which it was formed as does the life of the government of each one of the States; and if there be any potency in the notion that a State for its self-existence must on occasion exert its powers to protect itself and the due execution of its laws, is it not equally true that the nation, so existing and so being in every State and among the people of every State, may exert for the same purposes of its own existence and the execution of its own laws the same powers? I take it it cannot be doubted.

Mr. President, the agency by which the Government of the United States operates upon the people is the same agency as that by which the governments of the States operate upon the people, in kind, in character, and in a large sense in degree. It is the agency of law. It is enforced by the methods and processes provided by law. It establishes courts of justice in and of and by the people who reside in the State. The judge and the jury, the parties, the witnesses, the marshal, all are there. Why do we say then that there is danger of Federal interference and entrance into States if it exerts its authority in any other respect, whether in the power of coercion, or in the beneficence of providing means for suppressing the spread of disease or improving rivers or harbors or building public buildings, when every one of the agencies and processes by which it does it is at home among the people. They are not foreign, they are not alien, they are identical and they are homogeneous, each acting directly with and by the consent of the people and through their own authority.

Mr. President, if you have laws, does it not naturally and necessarily follow that you are to provide, as the States do, for the exertion of and obedience to them? And what is the power of the law when you follow it to its ultimate consequence? It is nothing less than coercion. There is no law which regulates the administration of a government that does not speak coercively. You may give money, you may grant benefits; but when you enjoin the performance of duties and protect the exercise of rights, there you are exerting the power of coercion; and when the magistrate, be he President or marshal, or tax-collector, or judge, takes one step in the administration of the respective departments of this Government, that step is either absolutely absurd, *vox et præterea nihil*, or it carries with it the essential and inseparable idea of coercion; that is to say, compulsory obedience, if willing obedience be not accorded. What, then, is the reason why it should not be provided, if it were not so amply provided as it is, that on days of elections for national officers, as on all other days, every law of the United States that bears on the question should have peaceful sway against all opposers, and that if it be necessary to maintain that peaceful sway, that the force of the law by arms, should be opposed to the illegal force of armed and violent opposition?

Mr. President, what is this Army that we have, which in the end is the power of the law and nothing else? It is composed generally of citizens of the United States, certainly of those who are bound to pay allegiance and obedience to its laws. It exists because the Constitution of your country has said that it might exist. The President of the United States by the Constitution commands it, not because he is a military tyrant or has any military or divine right to command it, but because he, the chief civil magistrate of the Union and not the military magistrate of the Union, is selected by the Constitution to command it. The Army is not intrusted to the command of a military officer. It is intrusted to him by your Constitution, and beyond your rightful power to take away. I say "rightful power;" I do not know what will happen. It is intrusted, beyond your rightful power to take away, to him as a civil officer to command it. It is not, therefore, when it is exerted under his authority, the power of the sword *per se*, but it is the power of the civil law. All of its officers are sworn to support the Constitution of the United States. Their title to their office, the tenure of it, and their pay, are fixed by constitutional laws; and their disobedience to any statute of the United States is to be punished by methods and in ways that the constitutional laws of Congress provide.

Are you fearful of the liberties of your country from such an army as that? Are you fearful of the liberties of your country and the freedom of your elections from a body of men who are your fellow-citizens, who hold their right to be in the Army by the same title that you hold a seat in this body, the Constitution and the laws, whose duties are fixed by law, the punishment of whose misconduct, especially on election days, or of any abuse whatever, is most carefully provided for? Do you think that everything on this continent should stop, that you should dissolve sessions of Congress by their own limitation, without making appropriations, that appropriation bills should be suspended in these two Houses at a special session called to provide the money to pay the expenses of the Government, until you can muster strength enough here and elsewhere to overset the laws, and the experience, and the necessities of a hundred years in relation to the exertion of military power? Do you expect to have large success in convincing that portion of the people of the United States who read and think, that great body of men of whom an eminent statesman spoke as possessing the property and intelligence of this country being the governors of it, that everything is to be wound up until you can overset the right of the chief civil magistrate of the United States and the other civil magistrates of the United States to exert the power of its sword in support of the civil law against violent disturbance? If you do, sir, then I will say that your faith in the delusions of mankind is much greater than mine.

It looks to me—perhaps I am mistaken—as if this were one of the first parallels, to borrow a military phrase, inasmuch as we are speaking about the Army, run by a combination of men who, I suppose, think themselves patriotic, and I must not doubt they do, to besiege again the Government of the United States by the monster of so-called State rights, and that this is only the first step, a most important one, the first trench, toward the accomplishment of a series of objects, which naturally enough from that point of view should be accomplished, and the overthrow of every step, of every process, of every result both in law and practice, that has been supposed by some to have come from what was thought to be the final and triumphant assertion of the supremacy of the United States within the scope of the objects mentioned in the Constitution, and the universal liberty and equal rights of its people as members of this nation. That is not strange, sir; I

should think it strange if it were otherwise, from a certain point of view; for every step that has been taken by friends of Union and liberty has been opposed by the same body of men or their predecessors who now wish to retrace and overthrow the steps by which the laws of the United States have reached the point that I have described them to have reached, and to overthrow them now and for this instance, upon the bare and bold declaration that for the enforcement of its own laws and the protection of the liberties of its own people the Constitution of the United States and the Government under it shall not, on one occasion, have any authority to exert itself in any State of this Union. And, if you succeed in establishing that doctrine for one occasion, you will be able to demonstrate that it must be conceded for every other occasion; and we shall go back, and the men who lived in 1833, if they could return to the world again, would have to regret that they did not live in 1879, when, by the same arguments and for the same purposes that they resorted to and desired, you have achieved the victory that Andrew Jackson and the patriotic people of both parties in the United States then prevented them from achieving. But, as I say, sir, it is not strange. Is there any one of the three amendments of the Constitution that a certain body of men in Congress and out of Congress did not oppose, not only as unsound in principle respecting the objects to which they were devoted, but also as being contrary to the structure of the Government itself? Has there been any one of the acts of Congress, passed to support those amendments that the same body of men has not denounced, not only as in violation of the very Constitution which said they could be passed, but as false in principle and as invasive of the supreme right of the State, so called, over everything within its own borders? There can be no denial of that. Has not the same body of men, in Congress and out of Congress, in season and out of season, denounced the assertion of any power in Congress to enforce by any affirmative law any one of these amendments? No man can deny that. And now, within a year or two, for the first time I believe in the whole history of this country, the next step is taken, and you deny and denounce the authority of the Congress of the United States to regulate the election of the members of its own national House of Representatives, and by refinements and sophistries you try to fritter away the plain and express words of the Constitution! You deny the traditions of the fathers that you flaunt at the head of your bill, and in the name of the liberties of the people you say they shall have no liberty at all unless they get it by the supreme and exclusive will of what you call the State. And have you not, sir—although that is not quite so new in one respect, for it was tried years ago and abandoned with the scorn and contempt of all patriotic men in the country—have you not now on foot a scheme, appearing in bills before one or both Houses of this Congress, and I believe a former one, to take away the jurisdiction of the Federal courts in respect of appeals from State courts in a broad and important class of cases that has existed from 1789 to this day, and again in the name of what you call the sovereignty of the State? Are there not also on foot in this House or in the other, similar bills in character, taking away every right of removal of causes wherein depend the rights of citizens of the United States under the recent amendments, from the State courts to the Federal courts for trial, and again in the name of the sovereign authority of the State?

Where are you going to stop, Mr. President? I had hoped that you were going to stop there; but I have seen within two or three days in this Chamber another step. I have seen that portion of the people of the United States, to borrow the language of President Jackson once more, who now compose a majority of this body, enter upon the consideration, at least, of the propriety of reversing the traditions of the Senate, the spirit of the Constitution, and the safety of this Republic, with the object, with the best intentions, I must presume, of overturning a decision of this body in respect of the right of a member to his seat, in order that a Senator of different politics may come in. When I say "in order," I hope gentlemen will not understand me as alluding to their personal impressions, but I speak of "order" as a consequence of what they would do. Where are you going to stop? Have you as the Trojans did, obtained by prayers the promise of unfriendly gods that

> When the crested Greeks departing in their ships shall take
> Their homeward voyage to their native land,
> We will, this wall o'erthrowing by our waves,
> Sink it a shapeless ruin in the sea:
> And spread again the sands o'er all the shore,
> That this great work of Greeks be no more seen?

Do you in the brief hour of triumph and temporary power intend to sweep away everything that the fathers of the Republic have established, and that the valor and the statesmanship of their sons have preserved? It looks like it.

But I have faith, Mr. President. I have faith that this scheme of yours will not become a law. I have that faith because I am profoundly impressed with the conviction that it ought not to be a law. I have faith that the first step in the direction I have indicated, and with its inevitable implications and its consequences, will not be taken; that somewhere in the Constitution and in spite of threats and menaces there will still be found a supreme power that will stand a bulwark against the waves of excitement, of prejudice, of ambition, sweeping in the direction of overthrowing the necessary provisions for the existence of this Union and the supremacy of its laws. And when at last you recover from these emotions, that I hope are temporary, you will then have peace, the peace that the act of 1865 speaks of, that you are so disturbed about,—peace at the polls.

But you will have peace at the polls and elsewhere only when you shall have recognized by deed as well as word the political equality of every one of your fellow-citizens, and I include in that the free right of free speech, the free right of lawful voting and no other, protected under the law and for the law and by the law. It will not be the peace of a reign of terror, of banishment, or the grave, but it will be the peace of justice administered fairly; it will be the peace of liberty exerting itself in lawful forms, and with equal rights, for the expression of the public will and for the promotion of the public weal. That, sir, will be a peace when by-gones will be by-gones, and when universal rights will reign everywhere, and universal harmony will flourish, and will refresh with its sunshine and its shade the equal rights and liberties of all our land.

The PRESIDENT *pro tempore*. The bill is still in Committee of the Whole and open to amendment. The Senator from Maine [Mr. BLAINE] laid an amendment on the table, but it has not been offered.

Mr. BLAINE. I will now offer the amendment that I laid on the table.

The PRESIDENT *pro tempore*. The amendment will be read.

The Secretary read the amendment.

Mr. BLAINE. I wish to modify the amendment by simply striking out the words "or within a mile of any place." I offer it in that form, and ask that it be read without those words.

The PRESIDENT *pro tempore*. The amendment will be reported as modified.

The SECRETARY. It is proposed to add at the end of the bill, as an additional section, the following:

SEC. 2. Any person who shall carry a concealed deadly weapon at any place where a general or special election for Representative to Congress is being held, shall, on conviction thereof, be punished with a fine not less than $500 nor more than $5,000, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court.

The PRESIDENT *pro tempore*. The question is on the adoption of the amendment.

Mr. BLAINE. Is it the intention of the honorable Senator who has charge of this bill to urge it to a vote this evening?

Mr. EATON. It is but four o'clock. I said I would not force a night session; that I would not undertake to force the passage of the bill to-day and thereby incur a night session. If gentlemen desire to argue further, let there be an adjournment till to-morrow and an agreement to take the vote at a certain time; but if there be no one else upon the other side of the Chamber who desires to discuss the bill further, after the very able argument of the Senator from Vermont, we are perfectly ready to take a vote now and go to the people.

Mr. BLAINE. If it is the intention of the Senate generally, the general understanding, that the vote is to be taken now, I do not desire to detain the Senate.

Mr. TELLER. There is no understanding about it.

Mr. BLAINE. But I do not want to submit the few remarks that I may have to submit, and they will be very few, and then yield to an adjournment, for I am not in a condition to speak to-day.

Mr. EATON. If my friend will pardon me, I will state that early in the day, at the commencement of the session, I called upon many of my friends on the other side and said what I have now said, that if gentlemen desired to discuss this measure and made it necessary to either have a night session or a session to-morrow, I would not call for a vote to-day, but that if the bill could be disposed of by six o'clock I should be glad to dispose of it to-day. There was no understanding further than that, so far as I know.

Mr. BLAINE. I withdraw my amendment for the present.

The bill was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. If there be no amendment in the Senate the question is, Shall the bill be read the third time?

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. I submit my amendment now to the bill. [A pause.]

Mr. CONKLING. What is the question, Mr. President?

The PRESIDENT *pro tempore*. The Chair is waiting for the Senator from Maine, who is upon the floor.

Mr. BLAINE. I will withdraw my amendment for the present. I do it at the suggestion of several Senators around me who have some views which I do not wholly concur in; but for the present I yield to them.

The PRESIDENT *pro tempore*. The question then is, Shall the bill be read the third time? upon which the yeas and nays have been ordered.

Mr. BLAINE. Mr. President, I want to make a single remark on the bill itself, if there is to be a vote upon it, although my remarks may be merely a repetition of what has been so admirably said by the honorable Senator from Vermont. I desire simply to put a punctuation point in the progress of things as they are now going on, and that punctuation point is to mark the high-tide which the ancient doctrine of State rights is reaching in this Chamber and in this Congress. That question has engaged the attention of the American people for just about fifty years. It has had its ups and downs, its victories and its defeats. It was strangled for the time by Jackson; it was dallied with by Van Buren; it rose to full strength under Polk

and Pierce and Buchanan; it marshaled itself for a deadly struggle under Breckinridge; and if I mistake not a majority of Senators who sit on that side of the Chamber supported Breckinridge when he embodied that deadly heresy.

In whatever there was in the issue between Calhoun and Jackson that side of the Senate Chamber represents Calhoun. Whatever there was in the contest dividing the democratic party between Breckinridge and Douglas that side of the Chamber represents all the evil there was in the politics of Breckinridge. And I desire here to affirm and point out that there never was before the rebellion, there never was at any time in the history of this country, any such assertion of State rights, any such assertion of mastery of the State government over the Federal Government in its own domain, as is here asserted by the heirs lineal of Calhoun and of Breckinridge.

I shall not debate this bill. It were useless. It has been exhaustively debated. The whole measure is a removal of the Federal Government from its proper domain and the installation of the States into degrees of power that were not dreamed of by Calhoun and were not asserted by Breckinridge.

We thought there had been something gained on this question in a costly war and in amendments to the Constitution. But the tide as it now sweeps is on the ebb, and the power of the Union, the power of the Federal Government was never so weak as these laws and these proceedings will make it.

Pass this bill. While warning off all interference or control of the Federal Government you voted down on the other bill a proposition that armed men should not come to the polls. You voted down on the other bill a proposition that armed men should not come to the polls with the express intent of interfering with the rights of voters, and you did it under the paltry quibble that it was not within the constitutional power of the United States Government to warn bloody-handed ruffians from the polls where the Representatives in the Federal Congress were being chosen.

Pass this bill. Pass it as the triumph of the reactionary party against the spirit of the Union. Pass it in defiance of all the lessons and all the teachings that have come from a bloody and abortive rebellion. Pass it, and mark it as the high tide of that reaction which were it to rise higher could lead only to another and more formidable rebellion against the legitimate authority of the Union. [Applause on the floor and in the galleries.]

The PRESIDENT *pro tempore*. Let there be order.

Mr. CHANDLER. History, Mr. President, is repeating itself. It has been said that the old Bourbons learned nothing and forgot nothing. This is more pre-eminently true with the old Bourbons of democracy in America. In 1851 the Bourbons had absolute control of this Government, in both Houses of Congress, the White House, and the Supreme Court. The whole of this Government was under your control. You had a majority in this body, a majority in the other House; and you brought up the repeal of the Missouri compromise. You forced your men then, as you are forcing them now, to vote for that repeal, and you did it by caucus dictation. Then, sir, you crowded your northern allies until you crowded them off the bridge.

In 1857, when I first took my seat in this body with Mr. Jefferson Davis, there were in this body forty-four democrats, twenty republicans, and two independents. Of those democrats, twenty-eight were from the Southern States, sixteen from the Northern States. Then as now, the independents in this body, upon every question connected with slavery, voted with the South.

You in caucus, soon after I entered the Senate, decreed that Stephen A. Douglas, because he asserted that he did not care whether slavery was voted up or voted down, should be degraded from the chairmanship of the Committee on Territories; and there were but three northern democrats out of the sixteen on this floor who dared to resist caucus dictation. You did degrade him and put him off from that committee. Ah, sir, then you crowded your men off the bridge, and they sank into the waters of oblivion to rise no more forever.

Then you had fromthe Northern States on this floor: from California, two members; from Illinois, one; from Indiana, two; from Iowa, one; from Michigan, one. I am giving the democratic Senators from the North who obeyed and those who did not obey caucus dictation. From Minnesota you had two; from New Jersey, two; from Ohio, one; from Oregon, two; from Pennsylvania, one; from Rhode Island, one; which made the sixteen. Of those sixteen members not a solitary man from the North ever came up to the surface of the waters of oblivion. You crowded them off the bridge. You compelled them to vote for measures which the North could not and would not sustain.

To-day you are doing the self-same thing. To-day you have in this body forty-two democrats, thirty-three republicans, and one independent. To-day, as twenty-two years ago, on all questions connected with State rights the independent party as a unit votes with the democratic party. To-day you have, as I said, forty-three democrats in this body, forty-two leaving out the independent party. You have twelve members of this body from the North. There are twelve democratic Senators from the North and they are arranged thus: From California, one; from Indiana, now as then, you have two; from New Jersey you have two, now as then; from Ohio you have two, you had but one then; from Oregon you have two now and you had two then; from Pennsylvania you have one now, you had one then; from Rhode Island you have none now, but you have one from Connecticut; and you have one from New York.

Mr. President, as I said in the beginning, history is to-day repeating itself. You are to-day repeating what you did in 1857 and 1858; you are crowding your men off the bridge, and the men of to-day, as the men of 1857, will sink into the waters of oblivion to rise no more forever.

Look at the elections of this last year. Look at the change that has taken place since the 1st day of March, 1859. Sir, the people are more thoroughly aroused to-day against this heresy of State rights than they were from 1857 to 1861.

You proposed to pension Jefferson Davis, and every single one of your Northern allies voted to pension him. You enlogized him as a patriot to be compared side by side with Washington and all the patriots of the Revolution, and every one of your northern allies voted "ay."

After the close of the rebellion you claimed that you were poor; that you were suffering; and we found you poor and suffering; we found you ragged and we clothed you. We put upon you the robe of American citizenship which you had forfeited, and we killed for you the fatted calf and invited you to the feast, supposing that, after being clothed, you were in your right mind; and when we have invited you to the feast you say, "We always owned the calf and you have no interest in it." [Great laughter.]

The PRESIDENT *pro tempore*. The Chair will order the rule to be enforced and the galleries cleared if the disorder is repeated.

Mr. CHANDLER. And now you inform us that you are going to repeal all the republican party has done. What is the job that you have undertaken? You are going to undo all that the republican party has done. Where do you begin? Do you begin at Appomattox, or before? It is very important to know where you commence, and then to know where you propose to stop. You have undertaken a very large job for a party of your size, and with the people who are to sit as judges upon your case. You have undertaken to unseat a man in this body, but you will deny that you have undertaken the job; you say that you have simply undertaken to investigate the case of the seat of a Senator upon this floor that has been decided by the highest tribunal which could act upon that question. Sir, there are twelve Senators on that side of the Chamber who every man upon this side believes have a poorer title to their seats than the honorable Senator from Louisiana. By fraud and violence you occupy your seats. Show us the road how to vacate seats in this body by a majority vote, if you dare——

Mr. EATON. I call the Senator from Michigan to order.

Mr. CHANDLER. Very well, sir; state your point of order.

Mr. EATON. My point of order is that the Senator from Michigan is entirely out of order when he says that twelve Senators on this floor hold their seats by fraud and violence.

Mr. CHANDLER. I did not say that. I said that they held their seats by a poorer title than the Senator from Louisiana holds his.

Mr. EATON. No, sir, "fraud and violence" were the words the Senator used.

Mr. CHANDLER. I said we believe they do; and so I have a right to say.

Mr. EATON. Let the record be read.

Mr. CHANDLER. So I say we believe——

The PRESIDENT *pro tempore*. The question of order is not debatable.

Mr. GARLAND. I call for the words to be taken down by the Secretary.

Mr. HILL, of Georgia, and others. I hope not.

Mr. BECK. Let the words be read.

The PRESIDENT *pro tempore*. The Chair understood the words as spoken by the Senator from Michigan to be that there were twelve Senators on the opposite side of the Chamber who were present now who held their seats by fraud and violence. Those were the words as the Chair understood——

Several SENATORS. Let the words be read.

The PRESIDENT *pro tempore*. The Reporter will read the words.

The Reporter read as follows from his shorthand notes of Mr. CHANDLER'S remarks:

> Sir, there are twelve Senators on that side of the Chamber who every man upon this side believes have a poorer title to their seats than the honorable Senator from Louisiana. By fraud and violence you occupy your seats.

Mr. BECK. It was a distinct charge. Let him name the men.

Mr. CHANDLER. Is the Senator from Michigan in order?

Mr. EATON. I call for the ruling of the Chair. The Senator is out of order—insultingly out of order.

The PRESIDENT *pro tempore*. It is not for the Chair to say whether the remark is warranted or unwarranted; but the Chair does not see that necessarily fraud and violence are imputed to Senators who hold seats on this floor; and therefore he rules that the Senator from Michigan is not out of order.

Mr. HOUSTON. I hope the Senator from Connecticut will withdraw the point of order.

The PRESIDENT *pro tempore*. Does the Senator from Alabama appeal from the decision of the Chair?

Mr. HOUSTON. I am appealing to the Senator from Connecticut to withdraw the point of order.

The PRESIDENT *pro tempore*. It has been decided. The Senator from Michigan will proceed.

Mr. DAVIS, of West Virginia. Before the Senator proceeds I ask for order in the Senate and the galleries. I hope the Chair will let it be known that there is a rule here which requires order and that it ought to be obeyed.

The PRESIDENT *pro tempore*. The Chair will enforce that rule even if it be necessary to clear the galleries. The Senator from Michigan will proceed.

Mr. CHANDLER. I intended to state and did state that it is the belief of, I think, every member upon this side of the Chamber that there are twelve Senators upon that side who hold their title to their seats on a slimmer, poorer basis than my honorable friend from Louisiana. I intended to state that it is our belief, and it is my belief, that those seats were obtained and are held by fraud and violence. That is what I intended to say and that is what I now say.

But, Mr. President, I did not rise to discuss this question. I rose simply to say to gentlemen upon the other side you have your day in court; make the most of it; your time is short. The people of the North have taken this question in hand, and from the Atlantic to the Pacific, from one end of this land to the other, the people are aroused and alarmed at the statements that have been made and the action that has been taken in this Senate Chamber and in the other House within the last sixty days. And let me say to you, gentlemen upon the other side of the Chamber, that *mene, mene, tekel, upharsin* is written all over your brows.

The PRESIDENT *pro tempore*. The question is, Shall the bill be read the third time? upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) On this bill I am paired with the Senator from Illinois, [Mr. DAVIS,] who is confined to his room by illness. If he were here, I should vote "nay."

Mr. HOAR, (when Mr. DAWES's name was called.) My colleague [Mr. DAWES] is paired with the Senator from Georgia, [Mr. HILL.] If he were present, my colleague would vote "nay."

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "yea."

Mr. FERRY, (when his name was called.) I am paired with the Senator from Tennessee, [Mr. BAILEY.] Were he here, I should vote "nay."

Mr. GORDON, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.] Were he here, I should vote "yea."

Mr. HILL, of Georgia, (when his name was called.) I am paired on all political questions with the Senator from Massachusetts, [Mr. DAWES.] If he were here, I would vote "yea."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BELL.] If he were here, I should vote "yea," and I presume he would vote "nay."

The roll-call was concluded.

Mr. BLAINE. I desire to state that my colleague [Mr. HAMLIN] is paired with the honorable Senator from New Jersey, [Mr. MCPHERSON.] If my colleague were present, he would vote "nay."

Mr. CAMERON, of Wisconsin. The Senator from Nebraska [Mr. PADDOCK] is detained from the Senate to-day by sickness. He is paired with the Senator from Georgia, [Mr. GORDON,] as has been stated. He would vote "nay," if present.

Mr. BLAINE, (who had voted in the negative.) I am informed by the Senator from Iowa [Mr. ALLISON] that it is the impression of Mr. WALLACE, of Pennsylvania, that he is paired with me on this question. I did not so understand it myself, but to obviate all possibility of a mistake I withdraw my vote.

Mr. SAULSBURY. I will say to the Senator from Maine that I was informed that the Senator from Pennsylvania [Mr. WALLACE] was paired with his colleague, [Mr. HAMLIN.]

Mr. BLAINE. My understanding was that my colleague [Mr. HAMLIN] was paired with the Senator from New Jersey, [Mr. MCPHERSON;] but my withdrawal of my vote leaves it all right.

Mr. ALLISON. My colleague [Mr. KIRKWOOD] is paired with the Senator from Maryland, [Mr. WHYTE.]

The result was announced—yeas 33, nays 23; as follows:

YEAS—33.

Bayard,	Groome,	Lamar,	Thurman,
Beck,	Hampton,	McDonald,	Vance,
Butler,	Harris,	Maxey,	Vest,
Call,	Hereford,	Morgan,	Voorhees,
Cockrell,	Houston,	Pendleton,	Walker,
Coke,	Johnston,	Randolph,	Withers.
Davis of W. Va.,	Jonas,	Ransom,	
Eaton,	Jones of Florida,	Saulsbury,	
Garland,	Kernan,	Slater,	

NAYS—23.

Allison,	Cameron of Wis.,	Ingalls,	Plumb,
Anthony,	Chandler,	Kellogg,	Rollins,
Booth,	Conkling,	Logan,	Saunders,
Bruce,	Edmunds,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.
Cameron of Pa.,	Hoar,	Platt,	

ABSENT—20.

Bailey,	Blaine,	Davis of Illinois,	Farley,
Bell,	Carpenter,	Dawes,	Ferry,
Gordon,	Hill of Georgia,	McPherson,	Wallace,
Grover,	Jones of Nevada,	Paddock,	Whyte,
Hamlin,	Kirkwood,	Sharon,	Williams.

So the bill was ordered to a third reading. The bill was read the third time.

Mr. CONKLING and Mr. EDMUNDS called for the yeas and nays on the passage of the bill, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Illinois [Mr. DAVIS] on this question. If he were here, I should vote "nay."

Mr. FARLEY, (when his name was called.) I am paired with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "yea."

Mr. FERRY, (when his name was called.) On this question I am paired with the Senator from Tennessee, [Mr. BAILEY.] Were he here, I should vote "nay."

Mr. GORDON, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. HILL, of Georgia, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. DAWES.] If he were here, I should vote "yea."

Mr. KIRKWOOD, (when his name was called.) I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were here, I should vote "nay."

Mr. HEREFORD, (when Mr. WHYTE'S name was called.) I was requested by the Senator from Maryland [Mr. WHYTE] to announce that he is paired with the Senator from Iowa, [Mr. KIRKWOOD.] The Senator from Maryland, if present, would vote "yea."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BELL.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. COCKRELL. The Senator from Pennsylvania [Mr. WALLACE] is called away from the city by important business, and requested me to announce that he was paired with the Senator from Maine, [Mr. HAMLIN.] If the Senator from Pennsylvania were present, he would vote "yea."

Mr. BLAINE. I desire to repeat for the sake of the record that my colleague [Mr. HAMLIN] is paired with the Senator from New Jersey [Mr. MCPHERSON] and that I am paired with the Senator from Pennsylvania, [Mr. WALLACE.] My colleague, if he were present, and myself, if I were at liberty to vote, would vote "nay."

The result was announced—yeas 33, nays 23; as follows:

YEAS—33.

Bayard,	Groome,	Lamar,	Thurman,
Beck,	Hampton,	McDonald,	Vance,
Butler,	Harris,	Maxey,	Vest,
Call,	Hereford,	Morgan,	Voorhees,
Cockrell,	Houston,	Pendleton,	Walker,
Coke,	Johnston,	Randolph,	Withers.
Davis of W. Va.,	Jonas,	Ransom,	
Eaton,	Jones of Florida,	Saulsbury,	
Garland,	Kernan,	Slater,	

NAYS—23.

Allison,	Cameron of Wis.,	Ingalls,	Plumb,
Anthony,	Chandler,	Kellogg,	Rollins,
Booth,	Conkling,	Logan,	Saunders,
Bruce,	Edmunds,	McMillan,	Teller,
Burnside,	Hill of Colorado,	Morrill,	Windom.
Cameron of Pa.,	Hoar,	Platt,	

ABSENT—20.

Bailey,	Dawes,	Hamlin,	Paddock,
Bell,	Farley,	Hill of Georgia,	Sharon,
Blaine,	Ferry,	Jones of Nevada,	Wallace,
Carpenter,	Gordon,	Kirkwood,	Whyte,
Davis of Illinois,	Grover,	McPherson,	Williams.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, Japan;

A bill (H. R. No. 1403) authorizing Captain Joseph Irish, of the United States revenue marine service, to accept a grand cross of naval merit of the second class from the Spanish government;

A bill (H. R. No. 1840) to remove the political disabilities of John R. Waddy, of Virginia;

A bill (H. R. No. 1841) to remove the political disabilities of James H. North, of Culpeper County, Virginia; and

A bill (H. R. No. 1842) to remove the political disabilities of J. C. Pemberton, of Philadelphia, Pennsylvania.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had

signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States relating to the Navy; and

A bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Foreign Relations:

A bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, Japan; and

A bill (H. R. No. 1403) authorizing Captain Joseph Irish, of the United States revenue marine service, to accept a grand cross of naval merit of the second class from the Spanish government.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 1840) to remove the political disabilities of John R. Waddy, of Virginia;

A bill (H. R. No. 1841) to remove the political disabilities of James H. North, of Culpeper County, Virginia; and

A bill (H. R. No. 1842) to remove the political disabilities of J. C. Pemberton, of Philadelphia, Pennsylvania.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BECK. I move that the Senate now proceed to the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The PRESIDENT *pro tempore.* Is there objection? The Chair hears none, and it is so ordered. The bill is before the Senate as in Committee of the Whole.

Mr. DAVIS, of West Virginia. I move that the Senate adjourn.

Mr. MCDONALD and others. To Monday?

The PRESIDENT *pro tempore.* The Senator from West Virginia moves that the Senate do now adjourn.

Mr. CONKLING. Till when?

Mr. MCDONALD. That is until to-morrow.

The motion was agreed to; and (at four o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 9, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at eight minutes past twelve, and this being Friday the first business in order is the call of committees for bills of a private nature. The call rests with the Committee of Elections.

JOHN R. WADDY.

Mr. KNOTT, from the Committee on the Judiciary, reported a bill (H. R. No. 1840) to remove the political disabilities of John R. Waddy, of Virginia; which was read a first and second time.

Mr. KNOTT. I would state that in the reports I am about to make, in this case and other cases that I am about to report for the removal of political disabilities, each one of the bills is accompanied by the petition required under the rule.

Mr. DUNNELL. Let the petition be read.

The Clerk read the petition, as follows:

To the Forty-sixth Congress of the United States:

Your petitioner respectfully asks Congress for the removal of his political disabilities. The facts of his case are as follows: at the breaking out of the war between the States he was a first lieutenant in the Fourth Regiment United States Artillery and resigned his commission in said regiment and joined the confederate service, where he remained during the entire war. He is a native of Northampton County, State of Virginia, and is at present residing in said county and State in the capacity of a farmer.

JOHN R. WADDY.

EASTVILLE, VIRGINIA, *April* 3, 1879.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and (two-thirds voting in favor thereof) passed.

JAMES H. NORTH.

Mr. KNOTT also, from the same committee, reported a bill (H. R. No. 1841) to remove the political disabilities of James H. North, of Culpeper County, Virginia; which was read a first and second time.

Mr. CONGER. Let the petition be read.

The Clerk read the petition, as follows:

WARRENTON, *March* 20, 1879.

To the Senate and House of Representatives:

I respectfully request that my disabilities be removed, having once held a commission in the Navy.

Very respectfully, &c.,

JAMES H. NORTH.

Mr. DUNNELL. I call attention to the fact that the petition is very defective and very unusual. The petitioner does not ask that his political disabilities be removed, nor does he say that he once served in the Navy of the United States. I make no objection to the passage of the bill, but it is a very crude petition.

Mr. CONGER. In the first case the petitioner did not refer to any particular war.

The SPEAKER. It was a matter of notoriety.

Mr. CONGER. These petitions are worded so that they convey secret but indirect insult to the people of the United States; but I am willing that the political disabilities of this man shall be removed.

The SPEAKER. The petitioner in the first case was explicit.

Mr. CONGER. He speaks about a war between the States, and did not speak of any war of the rebellion to which the law refers. If these petitions were drawn with the design of putting a continual reproach upon those of us who think the war was a rebellion, why they accomplish the purpose. If they were drawn expressly, when asking a favor of the Congress of the United States, to intimate that they were in the right and that everybody that opposed them was in the wrong, they accomplish that purpose. There is a sort of humility about it which is very graceful.

Mr. HUNTON. I desire to say that this petition for the removal of political disabilities was drawn with no such purpose as the gentleman intimates, but was drawn in order to comply with the rule of the House.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and (two-thirds voting in favor thereof) passed.

J. C. PEMBERTON.

Mr. KNOTT also, from the Committee on the Judiciary, reported a bill (H. R. No. 1842) to remove the political disabilities of J. C. Pemberton, of Philadelphia, Pennsylvania; which was read a first and second time.

Mr. O'NEILL. I would like to hear the petition read.

The Clerk read the petition, as follows:

344 SOUTH FIFTEENTH STREET, PHILADELPHIA,
May 1, 1879.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The undersigned having formerly held the rank of captain and brevet major in the United States Army, and having incurred the political disabilities imposed by the third section of the fourteenth amendment to the Constitution, respectfully petitions your honorable bodies that the same be removed, and that he be reinvested with all the political rights of a citizen of the United States.

J. C. PEMBERTON.

Mr. CONGER. I would like to inquire of somebody who knows whether Mr. Pemberton was a citizen of Pennsylvania?

The SPEAKER. The Chair takes great pleasure in answering the question, having himself presented the petition. He was a resident of the city of Philadelphia.

Mr. CONGER. At the time he withdrew from the service?

Mr. O'NEILL. I desire to ask whether Mr. Pemberton left Philadelphia, that loyal city, and went South and joined the rebel army?

The SPEAKER. The Chair is unable to answer that question, as he has no knowledge on the subject.

Mr. HUNTON. General Pemberton was a native of the State of Pennsylvania. He married a Virginia lady and became a resident of the State of Virginia. He was an officer of the United States Army when the war began, and resigned and took a position in the confederate army.

Mr. O'NEILL. I am aware that Pemberton is a family name in Philadelphia, but it is stated in the record that General Pemberton, having been a citizen of Philadelphia, left and joined the rebel army.

Mr. CLYMER. I think it is hardly fair in my colleague to say that General Pemberton left Philadelphia and joined the rebel army.

Mr. O'NEILL. He went South and there joined the rebel army.

Mr. CLYMER. His fortunes and his relations in life led him years before to make his home in the South, and he did not leave Philadelphia for the purpose of joining the rebel army. That is a harsh statement of the case. He happened to be stationed in Philadelphia but his alliances by marriage and family were such that when the war broke out his residence was in the South, and when he comes here to-day and asks pardon it would be unkind and ungracious to refuse it merely because he came from a State which my colleague and I have the honor to represent on this floor.

Mr. O'NEILL. I do not wish to prevent a pardon being granted to Mr. Pemberton, because he has filed a petition here that is respectful to the House.

But the name of Philadelphia having been mentioned in this connection [laughter] for the first time in my experience in Congress, a Pennsylvanian asking to have his political disabilities removed from him, the first and only instance in the State of Pennsylvania, I believe, where a citizen of that State left the State and afterward joined

the rebel army, I wish to have it so appear upon the record, because we live in a loyal city, and I do not know that the people of that city are aware that one of their number ever went south and joined the rebellion.

Mr. CLYMER. The exception proves the rule.

The SPEAKER. The Chair, having presented this petition in his right as a Representative from the State of Pennsylvania, desires to say that it does not matter what was the intention of this individual in the past. His intention now is plain, and, complying with the requirements of the law and of the Constitution, he desires to be reclothed with all the rights of citizenship.

Mr. O'NEILL. I have said that this individual asks in a respectful way of this Congress for the removal of his disabilities. Whenever that has been asked in that way pardon has always been granted. I desire, however, to have it known that this is the only instance within my knowledge where a citizen of the State of Pennsylvania has asked to have his disabilities removed on account of engaging in the rebellion.

Mr. TOWNSHEND, of Illinois. Does not the gentleman recollect a rebellion which occurred in Pennsylvania during the administration of General Washington?

Mr. O'NEILL. I have lived through this late rebellion, and I want the people in the North to know who took part in it.

Mr. COX. I wish I could impress upon the Committee on the Judiciary the necessity of reporting something besides individual bills. We are discussing private amnesty still, fourteen or fifteen years after the war is over. Why do we not at once pass a general amnesty bill, even though it should include every man who engaged in the rebellion, from the highest to the lowest? Why do we not wipe out all these test oaths which we who were loyal have to take, and those who were disloyal cannot take? What a farce is all this amnesty business after so many years have elapsed since the so-called rebellion.

Several MEMBERS on the republican side. "So called."

Mr. COX. Yes, "so called;" so called by you and so called by me. There is no nation on the face of the earth which after so many years would not have given grace and amnesty. Even the communists of France have been amnestied by that government after the lapse of a very few years.

If gentlemen really desire peace, if they have any grace in their hearts to bestow upon others, they should endeavor to impress upon themselves and upon this side of the House the necessity for a general amnesty bill. Even though individual bills should be passed sufficient in number to reach every individual case in the South, I would still, as a grand monument of gracious mercy and justice and of the good sense of this country, favor a system of general amnesty. I would wipe out every vestige of the rebellion, to the end that we might be one people in all regards—*idem sentire de republica;* with one idea concerning our Republic.

To hear gentlemen on the other side laugh—I know they often laugh as men whistle, for want of thought—to hear them laugh one would suppose that they were sorry that their arms conquered the rebellion; that they would now seek to drive out the men who should be properly a part of this great Republic, men who are their equals in every respect under the Constitution, and who under our present law take an oath to support the Constitution which we ourselves cannot take.

One would think that gentlemen on the other side, who were so anxious to restore the Union by force, would at least seek to cement it by grace and mercy. I hope the Committee on the Judiciary, the next time they report, will go farther and give every one of us a chance to vote for general amnesty.

Mr. CONGER. This is not the first time that the gentleman from New York [Mr. COX] has seemed to indicate his sincere regret that he is able to take the test oath when others of his own party cannot do so. Now, there is no compulsion about taking the test oath; the gentleman might possibly take the other.

Mr. COX. I do not exactly understand what my sweet friend from Michigan is after.

Mr. CONGER. The gentleman regrets——

Mr. COX. I would say——

Mr. CONGER. Just wait a moment. Do not cover me with sweetness and then take up my time.

Mr. COX. Please address the Chair, and not me.

Mr. CONGER. The gentleman says that to-day there is imposed upon him the necessity of taking an oath that he has been true and loyal to his country. He has expressed a sort of regret that it should be so, not only to-day, but on former occasions.

Now, there is no compulsion upon him. When he uplifts his hand to swear that he was a true and loyal citizen of his country he may take the other oath if this offends him so much. [Laughter.]

Mr. COX. "The sweet singer of Michigan" is through. [Laughter.] Of all the persons in this House the most badly judged, perhaps, is my friend from Michigan. It is the general supposition that when he takes his breakfast he drinks about a quart of lemon juice; but I know there is sugar in his nature; and if we had in this country more of that sugar manufactured in Michigan we would not want a protective tariff in that regard. The gentleman from Michigan is not as he generally appears in this House. I know him better. He is not a political Zulu, dipping his spear in poison. [Laughter.] He always dips his spear in molasses. He is kind and gentle. He illustrates it to-day by making this point on me because I show the absurdity of a test oath—the odium of history. Men who stood by the Government in its peril are required to take the iron-clad oath, while men who did not may take the ordinary oath to support the Constitution. There is no such absurdity in legislative history. While the gentleman chooses to make the *ad hominem* plea, it is simply because he is ignorant of my relations to the Government during the war.

Mr. KNOTT rose.

Mr. CONGER. I wish to say just this, if the gentleman from New York is done——

Mr. COX. I yield to the gentleman.

Mr. CONGER. No, I will wait till the gentleman from New York finishes.

Mr. KNOTT. I move the previous question. I think we have had about enough talk on this subject.

The SPEAKER. The Chair recognizes the gentleman from Kentucky to call the previous question.

Mr. CONGER. Does the Chair recognize the gentleman from Kentucky when I am on the floor?

The SPEAKER. The Chair thinks the gentleman has twice spoken. But if he desires to speak further, the Chair has no objection.

Mr. CONGER. If the Chair is at all concerned about what I might say, I will not insist.

The SPEAKER. The Chair is not concerned, surely.

Mr. CONGER. The Chair having introduced this proposition has, of course, the right to direct the debate upon it.

The SPEAKER. The Chair supposed when he did introduce the proposition that it would give rise to no debate.

Mr. CONGER. I believe the Chair has twice spoken.

The SPEAKER. The Chair takes all responsibility in connection with the introduction of the petition. If the gentleman from Michigan is now through, the Chair will submit the question.

Mr. CONGER. I only wanted to say to my friend from New York that I had said all he might think was cruel, and he need not have soothed my feelings so much with pleasantries—with sugar and molasses—[laughter]—and with lemon-juice. He seems to be familiar with the kind of juice I take at my meals. I do not know the particular kind of juice he takes. [Laughter.] It may be a product of the broad fields of the West.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; was accordingly read the third time, and passed, two-thirds voting in favor thereof.

E. E. RICE.

Mr. COX, from the Committee on Foreign Affairs, reported back with a favorable recommendation a bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, in Japan.

The bill directs the Secretary of the Treasury to pay to Elisha E. Rice, late United States consul at Hakodadi, Japan, out of any money in the Treasury not otherwise appropriated, the sum of $2,250, gold; the same being in full payment for certain lots and improvements thereon in Hakodadi, Japan, conveyed by said Rice to the United States, and used for consular purposes.

Mr. COX. If there be no objection I will ask that this bill be put upon its passage. I have a report here if any gentleman desires to have it read.

Mr. BLOUNT. I reserve a point of order on the bill. I believe it involves an appropriation.

Mr. COX. I hope my friend will hear the report.

The report was read, as follows:

The Committee on Foreign Affairs, to whom was referred the memorial of Elisha E. Rice, late consul of the United States at Hakodadi, Japan, beg leave to make the following report:

The said memorialist, Elisha E. Rice, was consul of the United States at Hakodadi, Japan, during the period between the years 1856 and 1871. While occupying this position he became the owner of certain lots of land in Hakodadi, upon which the memorialist made valuable improvements in building, fencing, filling, and otherwise, which buildings and grounds were occupied for several years by the United States for the use of the consular and vice-consular offices. Upon the termination of his official functions as consul, the memorialist, at the instigation and demand of Hon. Charles E. De Long, then United States minister to Japan, conveyed all his interest in the said lots and improvements to the United States, for which he has never received any compensation. At the time of said conveyance Mr. De Long caused an appraisement to be made of the value of said lots and improvements by the personal inspection of the minister and the sworn opinions of disinterested persons, who placed the following valuation upon the property:

Consular lot at Hakodadi	$600
Vice-consular lot at Hakodadi	50
Improvements on consular lot	1,600
Making a total of	2,250

which sum in gold is now due the memorialist.

In 1873 Congress intended to provide for the payment of this claim by the passage of an act entitled "An act providing for the payment to the government of Japan the sum due on account of rents for lands and buildings occupied by the diplomatic and consular representatives of the United States to Japan, and for other purposes," the first section of which appropriated $6,000 for these purposes, and the estimates for which included the several items and sums given above. (See page 5, Miscellaneous Document No. 151, Forty-second Congress, second session. Letter from the Secretary of State, March 21, 1872.)

The money, however, was never paid to the memorialist, for the reason that the Secretary of State determined that by the language of the said law he was required

to pay the same to the Japanese government, through the minister of that government residing in Washington, and the money was so paid over. The money thus paid to the Japanese government is not lost to the United States, as it has been applied to the liquidation of accruing rents payable by the United States to that government.

Your committee, therefore, are of the opinion that the United States are justly indebted to the said memorialist, Elisha E. Rice, in the said sum of $2,250 in gold, and accompany this report with a bill for his relief.

The SPEAKER. The gentleman from Georgia has reserved a point of order on the bill.

Mr. BLOUNT. I desire to ask the gentleman whether a bill identical in form with this has passed the House heretofore. I understood the gentleman to say so.

Mr. COX. I am not certain on that point without looking at the record. I know that it was reported unanimously from the committee, and I think it passed the House. I can at any rate assure my friend that this matter has been thoroughly examined in the Department of State as well as by committees of Congress during three or four Congresses. It is proper and just that this man should no longer be deprived of this money. There will be nothing lost to the Government. I looked over the former debate when the $6,000 was appropriated, and that was supposed to cover the amount provided for in this bill. But that sum was paid over to the Japanese government on another account for rent, so that this citizen of ours has not obtained his money. The bill simply proposes to pay this man what we owe him.

Mr. BLOUNT. I think that the bill had better go on the Private Calendar.

Mr. COX. I hope my friend will not insist on his point of order.

The SPEAKER. He does insist.

Mr. COX. I ask my friend to withdraw the point because there is now before the House all the information it can have. The case has been well considered, and is supported by a unanimous recommendation of the committee.

The SPEAKER. Does the gentleman from Georgia insist on the point of order upon the bill?

Mr. BLOUNT. Let it go to the Private Calendar where it belongs.

Mr. COX. Then there is no case coming from a committee which should not go there.

The bill was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CAPTAIN JOSEPH IRISH.

Mr. COX, from the Committee on Foreign Affairs, reported back a bill (H. R. No. 1403) authorizing Captain Joseph Irish, of the United States marine service, to accept a grand cross of naval merit of the second class from the Spanish government, with the recommendation that it do pass.

The bill, which was read, authorizes Captain Joseph Irish, of the United States marine service, to accept from the Spanish government a grand cross of naval merit of the second class for service rendered the officers and crew of the Spanish war vessel Pizarro.

A MEMBER. Let us have a division on the passage of that bill.

Mr. COX. This vessel Pizarro was foundered at sea. One of our officers did great kindness to her captain and crew. The Spanish marine minister thought proper to decorate this officer of our ship. That is all there is in it and I hope it will pass. I may add that he is a Philadelphia man, and I hope there will be no objection from my friend on the other side.

The SPEAKER. The demand for a division is withdrawn.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN H. BAIZE.

Mr. COFFROTH, from the Committee on Invalid Pensions, moved that that committee be discharged from the further consideration of the petition of John H. Baize, of Ohio County, Kentucky, asking the passage of an act giving him $75, the balance of original bounty in pay due him as a soldier, and that it be referred to the Committee on Military Affairs.

The motion was agreed to.

The SPEAKER. Not to come back on a motion to reconsider.

HOUSE PAGES.

Mr. BOYD, from the Committee of Accounts, reported back the following resolution:

Resolved, That the Doorkeeper of the House be authorized to employ an additional House page on this floor, to be paid out of the contingent fund of the House, for this session, making the number of pages twenty-nine instead of twenty-eight.

Mr. STEPHENS. I hope that resolution will pass. This is the one I offered which was referred to the Committee of Accounts.

Mr. DUNNELL. I ask the gentleman whether this resolution permanently increases the force?

Mr. BOYD. No, sir; it does not.

Mr. DUNNELL. The reading of the resolution would seem to imply that the number hereafter shall be twenty-nine instead of twenty-eight.

Mr. BLOUNT. What reason is there for an additional page at this session?

Mr. STEPHENS. If the gentleman will allow me, I will state that I offered this resolution. Twenty-eight pages were allowed under the law of the last session. An extra page was authorized to be appointed, to be paid out of the contingent fund. That page is still upon the floor. This resolution is to pay him for this session. Under the law, after July next the number of pages has been fixed at twenty-nine. Heretofore it was only twenty-eight.

Mr. BLOUNT. And that is the reason why it is confined to this session?

Mr. BOYD. Yes, sir; that is the reason.

The resolution was adopted.

Mr. BOYD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE CLERKS, ETC.

Mr. BOYD. I now ask leave to report from the Committee of Accounts, if in order, joint resolution (H. R. No. 62) fixing the date on which the payment of committee clerks and pages of the House of Representatives who were paid during the last session shall begin for this session.

The SPEAKER. The resolution will be read.

The joint resolution, which was read, provides that the payment of thirty-five clerks to committees of the House, authorized by resolution of the House of April 22, 1879, and of the pages of the House now on the roll, shall begin for this session on the 18th day of March, 1879, the day of the organization of the House.

The SPEAKER. That is a public bill, but the Chair will receive it if there be no objection.

Mr. SPARKS. I think I shall have to object.

Mr. ATKINS. Where does it come from?

The SPEAKER. It comes from the Committee of Accounts.

Mr. BOYD. It has been the custom of Congress in cases of this kind to pass a similar resolution. A similar resolution was adopted by the last Congress, and the Committee of Accounts have concluded to make this recommendation in reference to the payment of clerks and pages at this session. It does not involve any large amount of money.

Mr. SPARKS. Mr. Speaker, I understand that prior to the adjournment of the regular session the clerks and other employés of the House were by resolution paid for one month in advance. I believe I am right in that. It is known, therefore, that would be paying them to the 4th of April. This session commenced on the 18th of March. Therefore, if this resolution should be adopted the committee clerks, many of them, would be paid twice for the same service; and if not, then those who were appointed in place of those going out would be paid for the same time that those who have gone out had been already paid for.

To repeat, under a resolution of the House clerks have been paid a month in advance from the 4th of March to the 4th of April. Now, if the pay of those same clerks is made to date back to the beginning of this session, then from the 18th of March to the 4th of April they are paid twice for the same service; and if not, if new men came in in place of those going out, those new men would be paid for the same time as that for which the others have already been paid after the adjournment. It is not right, in my judgment, and I think we should squelch that sort of proceeding here; and I object to the further consideration of the resolution if a single objection is sufficient.

The SPEAKER. The Chair recognizes the gentleman's right to object. But the Chair, to obviate the difficulty, would suggest that those who received additional pay from the 4th of March to the 4th of April should not be included in this resolution. There are some who have not been so paid who would be reached under this resolution.

Mr. BUCKNER. I suggest to my friend from Illinois that he withdraw his objection to considering the joint resolution at this time.

Mr. ATKINS. I ask the gentleman from Illinois who reports the resolution whether under it any one would be paid twice?

Mr. BOYD. I do not so understand.

Mr. SPARKS. Let the resolution be again reported.

The resolution was again read.

Mr. SPARKS. Now I submit that under the resolution all those clerks of committees who are holding over from the last Congress, and I suppose that includes a majority of them, would get double pay from the 18th March to the 4th April.

Mr. BLOUNT. I suggest to my friend that he should offer a proviso to meet that point.

Mr. SPARKS. I do not desire to offer a proviso. I think it all wrong.

Mr. HARRIS, of Virginia. Congress has been in the habit of giving the per diem clerks thirty days' extra pay on the idea that during the short session they are here only ninety days, and that they incur the expense of coming and going many miles to and from their homes. That extra pay is given as a compensation for past services, and not for any future services. That was a question for the last Congress to decide how much they ought to pay their employés. It was ascertained, for instance, that the clerk of the Committee on the Judiciary and the clerk of the Committee of Elections, two of the highest committees in dignity in the House, and two of the committees having the greatest labor, were only paid a per diem, while clerks of other committees were paid an annual salary of $2,000. To make it ap-

proximate somewhat to even a half equality, Congress, in a spirit of justice, paid these employés for past services thirty days' extra pay. Now is it right, when these clerks are employed in this House in a new Congress, for this body to deduct what they have justly received for their past services and labor, the sum which has been paid them by the last Congress for services rendered in that Congress? They have received that thirty days' pay, not for services rendered to this Congress, but for services rendered in the last Congress.

Mr. SPARKS. At the end of last Congress thirty days' extra pay was allowed. The new Congress meanwhile convened. Suppose you go back to the date of the commencement of this Congress and pay a clerk from that date, covering a month or a part of a month for which the extra pay was allowed, do you not pay that man twice?

Mr. HARRIS, of Virginia. No, sir; not for the same service. The month's extra pay is presumed to be for the expenses of the man to and from the capital. He could not meet his expenses on the pay for ninety days merely.

Mr. SPARKS. The gentleman must see that under this resolution, from the 18th March to the 4th April, that clerk, whoever he may be, gets double pay. He has been paid a month in advance for clearing up the work he was engaged in. At all events, he is provided for and paid up to the 4th April. Now, a new Congress begins on the 18th March, and if you let his pay commence from the 18th March, then from that date to the 4th April that man gets double pay.

Mr. HARRIS, of Virginia. Like a member of Congress, the committee clerk is presumed to be a human being. He wants to go home and see his family, and this extra pay covers that expense.

Mr. ATKINS. I desire to offer an amendment.

The SPEAKER. The gentleman from Pennsylvania on the left, [Mr. SMITH,] a member of the committee, is recognized by the Chair.

Mr. SMITH, of Pennsylvania. I move to amend the resolution by adding the following proviso:

Provided, That nothing herein contained shall authorize the payment of double pay to any of said clerks and pages.

The SPEAKER. The Chair understands that the gentleman from Tennessee [Mr. ATKINS] desires to amend in the same manner.

Mr. ATKINS. Let the amendment be read from the desk.

The amendment was read.

Mr. BOYD. I suggest that the amendment be modified so that it shall provide that the employés shall not be paid double for the same service.

Mr. ATKINS. I submit an amendment in lieu of that offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Provided, That no person shall be paid under this resolution double pay for the same time of service.

Mr. BOYD. I think that meets the point.

Mr. SMITH, of Pennsylvania. I accept that modification of my amendment.

Mr. BUCKNER. It seems to me that that only brings up in another form the question raised by the gentleman from Virginia, whether these men were paid for any future services after the adjournment of the last Congress. I think it is not to be presumed at all that the last Congress paid for future services. The pay must have been intended for services during the last Congress.

Mr. KENNA. How could the extra compensation allowed by the last Congress have been based upon the idea of future services when that Congress could not know there would be an extra session or further services rendered within the thirty days? I am opposed to double pay to clerks or to anybody else, but I do not think that theory is correct.

Mr. BUCKNER. Then it is unjust to the employés of the last House.

Mr. ATKINS. I ask the gentleman if he thinks that these officers should be paid twice for the same time?

Mr. BUCKNER. I want all paid equally. I undertake to say that you make an unjust discrimination by the adoption of this amendment against those gentlemen who were clerks of the last Congress and who got additional pay, for what? Why, it was for service rendered in that Congress. I say it is begging the question to say that gentlemen who were clerks in the last Congress and have been appointed clerks in this Congress shall not receive this pay, and it would be discriminating against them.

Mr. DUNNELL. I move that the resolution and amendments be recommitted to the Committee of Accounts. The matter can be adjusted by the Committee.

Mr. BLOUNT. Mr. Speaker, it seems to me the discussion has disclosed the fact that there is really but one way by which we can equitably pay these employés: that is by commencing at the date at which they were sworn in. The gentleman from Illinois [Mr. SPARKS] objects to this present proposition because it gives double pay. We all concede that that would be an improper thing to do. My friend from Tennessee [Mr. ATKINS] proposes an amendment providing that they shall not receive double pay. The effect of that is that the present Congress has paid a number of officers of the last House for thirty days. Before those thirty days expired these employés, these same gentlemen, these same clerks and pages were in the service of this House and it is proposed to refuse to pay them for that service and to deduct what was given to them in the previous Congress.

Mr. ATKINS. Well, that is right.

Mr. BLOUNT. I cannot see that it is right. These gentlemen have their pay for thirty days under the law of Congress. It is theirs, and no gentleman has a right to take it away under the pretense of equity.

Mr. ATKINS. It was given to them to enable them to go home.

Mr. BLOUNT. It does not matter for what purpose it was given to them. The act does not say so. I undertake to say that it would be a very difficult thing for us to agree for what services it was given. It was really done for the purpose of liberality. First one excuse and then another has been offered for it. These gentlemen are given thirty days' pay by law, and it does not become us to take a farthing from them. The only way, it seems to me, to do justice to the Government and justice to the parties is to say to them: we propose to pay you $6 a day for your services, and we are to find out when those services commenced by the time at which you were sworn in.

Mr. MCMILLIN. I have prepared an amendment covering the ground taken by the gentleman from Georgia, [Mr. BLOUNT,] which is as follows:

Provided, That no clerk's or page's pay shall begin earlier than the date of his qualifying under oath as such clerk or page.

Mr. Speaker, the object of that amendment is to fix the only real test there can be of the time for which a clerk or page should be paid. We ought, in the first place, to fix the pay of the officers and attachés of this House at such rates as is just and reasonable and for such time as they actually serve. When we have done that we ought to confine ourselves to it, and not to give to one man a gratuity for one month's services and to another a gratuity for two month's services. Let us have the salaries fixed and pay for the term of service, and the only true mode of determining the term of service is to let the record show when that service began and pay from that date. These are my reasons for offering the amendment.

Mr. STEPHENS. I desire to say a word upon the motion to recommit. I really do not see any necessity for the recommitment of this resolution. In reply to the remark of my colleague [Mr. BLOUNT] and the gentleman from Tennessee [Mr. ATKINS] I have this to say: if this amendment is passed several of the pages upon this floor will be deprived of their pay because they were not qualified until many days after they commenced service here. I entirely concur with my colleague that the extra pay allowed to clerks of committees and pages in the last House has nothing to do with this Congress. Extra pay was allowed to them and many of them received it and went home and have not returned here.

I think the resolution is just as good as we can make it. If those who received extra pay last year as clerks of committees and pages came back and were appointed to clerkships or as pages they ought, in my opinion, to be paid from the beginning of this session. I only throw out these views in regard to the motion to recommit. I see no necessity for recommittal to the committee. I think the resolution is exactly right as reported by the Committee of Accounts.

Mr. WHITE. I think we shall save time by refusing to recommit and passing the original resolution.

Mr. STEPHENS. I agree with you.

Mr. WHITE. As I understand the question, at the last session we gave gratuities, so to speak, to these clerks, amounting to thirty days' pay. I am informed that that has been the practice of Congress for the last twenty-five years. It followed the line of precedent in this regard. Now, practically, what does it amount to? That gratuities will be paid to these men from the 4th of March to the reconvening of Congress on the 18th of March, so that the only practical difficulty would be the possibility of paying double pay from the 4th of March to the 18th of March. *De minimis non curat lex.* This is too small a matter to waste time about. I think we shall save time, and save the expense of paying the Printer for publishing debates upon the subject, if we dispose of the matter now. I am therefore opposed to the recommittal.

Mr. ATKINS. I desire to have the joint resolution in relation to the pay of these clerks and other employés read.

The Clerk read the resolution, as follows:

Joint resolution in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

Resolved, &c., That the Secretary of the Senate and Clerk of the House of Representatives are hereby authorized and directed to pay all committee clerks, pages, messengers, and other employés of the Senate and House of Representatives who do not receive annual salaries, their present rate of compensation respectively for thirty days from the date of the adjournment of this Congress; and the money required to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, and shall be immediately available: *And further*, The provisions of this resolution shall apply to the persons holding their respective positions at the date of its approval, and they shall receive no other compensation for said time than that herein provided.

Mr. SPARKS. That these officials were paid for one month, additional or extra, we all know. The joint resolution just read is of course explicit on that point.

Mr. STEPHENS. They were paid for past services.

Mr. SPARKS. Call it past services or what you will; the fact is they were paid from the 4th of March to the 4th of April, and everybody knows it. Now, if you pay these identical men under this resolution from the 18th of March to the 4th of April, you will pay them twice for that time.

Mr. WHITE. What does that amount to?

Mr. SPARKS. I do not care whether this Congress or the last

Congress did it; it is paying these men twice, and that is an outrage upon the Treasury.

Mr. HARRIS, of Virginia. What was called the salary bill was passed by the Forty-second Congress, and it was supposed by the Forty-third Congress——

Mr. SPARKS. I do not yield. Now, let us be consistent. I say that under this resolution, as originally reported from the committee, every official now in his same office would receive double pay from the 18th of March to the 4th of April. That double pay will be taken out of the pockets of the people, and I object to it. I know this is a small matter. My friend from Pennsylvania [Mr. WHITE] has stated that it is a small matter. But gentlemen must recollect that a great many small matters will make one large matter. This is an outrage and a wrong, and it ought not to be allowed.

Mr. SPRINGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. Has the morning hour expired?

The SPEAKER. It has; and this resolution will go over until the morning hour of next Friday.

RE-REFERENCE OF PETITIONS.

Mr. BRIGHT. I was not in my seat this morning when my committee was called. I ask unanimous consent to report back at this time from the Committee of Claims sundry petitions improperly referred to it, and that they be referred to the appropriate committee.

Mr. COX. Would that interfere with the motion to go into a Committee of the Whole on the Private Calendar?

The SPEAKER. It would not.

Mr. COX. I do not want to lose my right to make that motion.

The SPEAKER. The Chair will recognize the gentleman later for that purpose.

There was no objection to the request of Mr. BRIGHT.

Mr. BRIGHT. I am directed by the Committee of Claims to report back to the House sundry petitions improperly referred to that committee, and to ask that the committee be discharged from their further consideration and that they be referred to the Committee on War Claims, not to come back on motions to reconsider.

There was no objection, and it was so ordered.

The following petitions were reported back from the Committee of Claims and referred to the Committee on War Claims:

The petition and claim of S. H. Hill, for amount of vouchers given for rent and occupation of property in the State of Georgia by United States troops in 1865;

The petition of William D. Wilson, and accompanying papers, for rent and occupation of building in Vicksburgh, Mississippi, by United States forces in 1864 and 1865;

The petition of Mrs. Susan Wilson, asking compensation for rent of property occupied by the United States Army during the late war;

The petition of Ferdinand N. Tuck, of Weakley County, Tennessee, for compensation for horse lost in the United States service during the late war;

A petition for the relief of E. A. Collins, administrator of W. P. Collins, deceased, of Tennessee, for the recovery of tax illegally assessed during the late war by United States troops;

The petition of J. J. Pullian, of Fayette County, Tennessee, for rent of building occupied as an ordnance warehouse at La Grange, Tennessee, during the late war;

The petition and accompanying papers of Meshack Franklin, administrator of John K. Welburn, deceased, of Shelby County, Tennessee, for compensation for quartermaster stores taken and used by the United States Army during the late war;

The petition of Andrew Jones, praying for the allowance of a claim in his favor against the Government;

The petition and accompanying papers for the relief of Cogswell & Co., of Saint Louis, Missouri;

The petition and accompanying papers of Harlan P. Eggleston; and

The petition and accompanying papers for the relief of William Ward, of Virginia.

HON. RUSH CLARK.

Mr. COOK, from the Committee on Public Buildings and Grounds, submitted the following; which was read and unanimously adopted:

The Committee on Public Buildings and Grounds desires to place upon its record its appreciation of the kindly qualities and the intellectual endowments of its late member, Hon. Rush Clark. Its members unanimously express their mature judgment of his fidelity and ability as a Representative, and his devotion to his State and his constituents, as evidenced by his assiduity and labors in the sessions of this committee and of the House of Representatives.

Be it resolved, That the Committee on Appropriations be instructed to make the customary appropriation of the balance of the salary which would be due to him as a member of the Forty-sixth Congress.

Mr. COOK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADDITIONAL ASSISTANTS IN LIBRARY OF CONGRESS.

Mr. GEDDES. I am instructed by the Committee on the Library to ask to have taken from the Speaker's table for immediate consideration the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress.

There being no objection, the bill was taken from the Speaker's table and read a first and second time. It authorizes the Librarian of Congress to employ three additional assistants at a yearly compensation of $1,200 each, and appropriates the sum necessary for this purpose out of any money not otherwise appropriated.

Mr. ATKINS. Mr. Speaker, from what committee does this bill come?

The SPEAKER. It has not been referred to any committee; but the Committee on the Library have considered the subject, and the gentleman from Ohio, [Mr. GEDDES,] on behalf of that committee, has asked consent to have the bill considered.

Mr. ATKINS. Is it not subject to a point of order?

Mr. GEDDES. I hope the gentleman will make no objection.

Mr. ATKINS. I make a point of order upon the bill.

Mr. GEDDES. If I may be permitted to make a brief statement, I will say that this measure met with the unanimous approval——

Mr. ATKINS. I do not withdraw the point of order. I think the bill ought to go to the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred to the Committee of the Whole.

SUPPLEMENT TO REVISED STATUTES.

Mr. HARRIS, of Virginia. I ask unanimous consent that the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes be taken from the Speaker's table and referred to the Committee on the Revision of the Laws.

There being no objection, the joint resolution was taken up, read a first and second time, and referred to the Committee on the Revision of the Laws, not to be brought back on a motion to reconsider.

ORDER OF BUSINESS.

Mr. COX. I move that the House resolve itself into Committee of the Whole on the Private Calendar. I will state that there is only one case on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, (Mr. SPRINGER in the chair,) and proceeded to the consideration of business on the Private Calendar.

E. E. RICE.

The first and only bill on the Private Calendar was the bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, in Japan.

The bill was read. It directs the Secretary of the Treasury to pay to Elisha E. Rice, late United States consul at Hakodadi, Japan, out of any money in the Treasury not otherwise appropriated, the sum of $2,250, gold, the same being in full payment for certain lots and improvements thereon in Hakodadi, Japan, conveyed by Rice to the United States, and used for consular purposes.

Mr. COX. This is the same bill reported this morning by the Committee on Foreign Affairs and sent to the Committee of the Whole on a point of order raised by my friend from Georgia, [Mr. BLOUNT.] The report has already been read. The bill proposes simply to reimburse a gentleman, lately one of our consuls, for rent of property which he owned at Hakodadi in Japan. The Government made an appropriation which it was supposed would cover this amount; but by some mistake the whole amount was paid over to the Japanese government, and this man did not get his money. This matter has been thoroughly examined by the State Department and also by committees of this House, a bill of this kind having been unanimously reported at the last session, as this bill is now unanimously reported. I hope gentlemen will not require that the report shall be again read.

Mr. DUNNELL. I am satisfied that this claim ought to be paid, but I think the gentleman from New York should consent to the reading of the report.

Mr. COX. Certainly.

Mr. DUNNELL. It was not heard when it was read this morning.

The report was again read.

Mr. SCALES. Is the payment of this claim recommended by the Secretary of State?

Mr. COX. It has been recommended by the State Department over and over again.

Mr. SCALES. In this amount?

Mr. COX. The gentleman will see that the amount is carefully fixed in the report.

Mr. SAMFORD. Why was not this amount paid at the time?

Mr. COX. I cannot answer that question. This man no doubt trusted that the United States Government would make the necessary appropriation. An appropriation of $6,000, which was supposed to cover his claim, was paid over to the Japanese government for other rents, and this man did not get his share. There is no doubt that the claim is just.

Mr. BRIGHT. I desire to suggest an amendment to the bill. I see that it requires the payment of this money in "gold." I suggest that the word "gold" be struck out and "coin" substituted.

Mr. COX. I have no objection to that amendment.

The CHAIRMAN. If there be no objection the amendment suggested by the gentleman from Tennessee [Mr. BRIGHT] will be agreed to.

There was no objection.

The bill, as amended, was laid aside to be reported favorably to the House.

Mr. COX. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the Private Calendar had had under consideration the bill (H. R. No. 1363) providing compensation to E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, in Japan, and had directed him to report the same with a recommendation that it pass with an amendment.

The amendment reported from the Committee of the Whole, to strike out the word "gold" and insert the word "coin," was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and it was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADDITIONAL ASSISTANTS IN LIBRARY OF CONGRESS.

Mr. GEDDES. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress.

Mr. BLOUNT. Is this a public bill?

The SPEAKER. It is a public bill. So far as the Chair is aware, there is no private business now pending in Committee of the Whole. The motion of the gentleman from Ohio [Mr. GEDDES] would be in order at any rate.

Mr. WHITE. Has this bill been referred to a committee?

The SPEAKER. It has not been. It was taken from the Speaker's table this morning for consideration, and upon a point of order it went to the Committee of the Whole. The object of the motion of the gentleman from Ohio [Mr. GEDDES] is to reach the bill in Committee of the Whole. The Chair thinks it proper to state that the gentleman from Ohio in asking that the bill be taken from the Speaker's table made the statement that the Committee on the Library had considered the bill and had instructed him to make the request.

Mr. WHITE. I should like to know whether there is any necessity for these extra appointments.

The SPEAKER. That is a matter of debate in committee.

Mr. GEDDES. And, Mr. Speaker, I should be glad to give the information in my possession if it be in order to do so.

The SPEAKER. Debate is not now in order. The question is on the motion to go into the Committee of the Whole on the state of the Union.

The House divided; and there were—ayes 46, noes 27.

Mr. DUNNELL. No quorum has voted.

The SPEAKER appointed as tellers Mr. GEDDES and Mr. WHITE.

The House again divided; and the tellers reported—ayes 102, noes 42.

The SPEAKER. So the House determines to go into the Committee of the Whole on the state of the Union.

ADJOURNMENT OVER.

Mr. CALKINS. Before going into the Committee of the Whole on the state of the Union, I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WARNER. I give notice that I shall call for a vote on the silver question on Tuesday next, and I should like to have the debate go on to-day and to-morrow.

Mr. EWING. Yes, let the debate go on to-day and to-morrow.

Mr. KENNA. I hope there will be a session to-morrow for debate only on this question, and that, I think, will answer all demands.

The SPEAKER. The question is now on the motion that when the House adjourns to-day it adjourn to meet on Monday next.

The House divided; and there were—ayes 74, noes 53.

Mr. EWING. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KENNA. I give notice that if this motion is voted down I will ask for a session to-morrow for debate only.

The question was taken; and it was decided in the negative—yeas 84, nays 127, not voting 74; as follows:

YEAS—84.

Aldrich, Nelson W.	Dunn,	Joyce,	Pound,
Aldrich, William	Dunnell,	Ketcham,	Richardson, D. P.
Anderson,	Errett,	Lapham,	Richardson, J. S.
Bailey,	Evins,	Lindsey,	Richmond,
Bayne,	Ferdon,	Lounsbery,	Robeson,
Beale,	Field,	Marsh,	Robinson,
Bicknell,	Forsythe,	Martin, Joseph J.	Ryan, Thomas
Bingham,	Fort,	Mason,	Smith, A. Herr
Bliss,	Hammond, N. J.	McCoid,	Springer,
Blount,	Harris, John T.	McGowan,	Starin,
Bowman,	Haskell,	McKinley,	Tyler,
Boyd,	Hawk,	McLane,	Urner,
Briggs,	Hayes,	Miles,	Voorhis,
Butterworth	Hazelton,	Morrison,	Wait,
Calkins,	Henderson	Morse,	Ward,
Cannon,	Hiscock,	Muller,	Washburn,
Carpenter,	Houk,	Myers,	Weaver,
Caswell,	Hubbell,	Newberry,	Wells,
Covert,	Humphrey,	Norcross,	White,
Cravens,	Hunton,	O'Reilly,	Williams, C. G.
Davidson,	Johnston,	Orth,	Willits.

NAYS—127.

Acklen,	De La Matyr,	Le Fevre,	Sherwin,
Aiken,	Deuster,	Lewis,	Singleton, J. W.
Armfield,	Dibrell,	Loring,	Singleton, O. R.
Atkins,	Elam,	Lowe,	Slemons,
Beltzhoover,	Farr,	Manning,	Smith, Hezekiah B.
Blackburn,	Fisher,	Martin, Benj. F.	Smith, William E.
Blake,	Ford,	Martin, Edward L.	Sparks,
Bouck,	Forney,	McCook,	Steele,
Brigham,	Frost,	McKenzie,	Stephens,
Bright,	Geddes,	McMillin,	Stevenson,
Browne,	Gibson,	Mitchell,	Stone,
Buckner,	Gillette,	Monroe,	Talbott
Burrows,	Godshalk,	Muldrow,	Taylor,
Cabell,	Gunter,	Murch,	Thomas,
Caldwell,	Hall,	New,	Thompson,
Carlisle,	Hammond, John	O'Connor,	Tillman,
Chalmers,	Heilman,	Osmer,	Townshend, R. W.
Claflin,	Henkle,	Persons,	Turner, Oscar
Clardy,	Herbert,	Phister,	Turner, Thomas
Clymer,	Herndon,	Prescott,	Updegraff, J. T.
Cobb,	Hill,	Reagan,	Updegraff, Thomas
Coffroth,	Horr,	Reed,	Vance,
Colerick,	Hostetler,	Rice,	Waddill,
Conger,	House,	Robertson,	Warner,
Converse,	Jones,	Rothwell,	Wellborn,
Cook,	Keifer,	Ryon, John W.	Whitthorne,
Cowgill,	Kelley,	Samford,	Wilber,
Cox,	Kimmel,	Sapp,	Williams, Thomas
Davis, George R.	King,	Sawyer,	Willis,
Davis, Joseph J.	Kitchin,	Scales,	Wright,
Davis, Lowndes H.	Klotz,	Shallenberger,	Young, Thomas L.
Deering,	Ladd,	Shelley,	

NOT VOTING—74.

Atherton,	Dickey,	Jorgensen,	Ross,
Bachman,	Dwight,	Kenna,	Russell, Daniel L.
Baker,	Einstein,	Killinger,	Russell, William A.
Ballou,	Ellis,	Knott,	Simonton,
Barber,	Ewing,	Lay,	Speer,
Barlow,	Felton,	McMahon,	Townsend, Amos
Belford,	Finley,	Miller,	Tucker,
Bland,	Frye,	Mills,	Valentine,
Bragg,	Garfield,	Money,	Van Aernam,
Brewer,	Goode,	Morton,	Van Voorhis,
Camp,	Harmer,	Neal,	Whiteaker,
Chittenden,	Harris, Benj. W.	Nicholls,	Wilson,
Clark, Alvah A.	Hatch,	O'Brien,	Wise,
Clark, John B., jr.	Hawley,	O'Neill,	Wood, Fernando
Crapo,	Henry,	Overton,	Wood, Walter A.
Crowley,	Hooker,	Phelps,	Yocum,
Culberson,	Hull,	Pierce,	Young, Casey.
Daggett,	Hurd,	Poehler,	
Dick,	James,	Price,	

So the motion was not agreed to.

During the call of the roll the following announcements were made:

Mr. BLOUNT. My colleague from Georgia, Mr. SPEER, is absent, sick. My colleague, Mr. NICHOLLS, is also absent, sick.

Mr. DAVIDSON. My colleague from Florida, Mr. HULL, is absent by leave of the House. He is paired with Mr. PRICE, of Iowa.

Mr. HENKLE. My colleague from Maryland, Mr. HENRY, is paired with Mr. VAN AERNAM, of New York.

Mr. MCMILLIN. My colleague from Tennessee, Mr. SIMONTON, is absent by leave of the House. He is paired with Mr. TOWNSEND, of Ohio.

Mr. WAIT. My colleague from Connecticut, Mr. PHELPS, is absent by leave of the House, on account of sickness in his family.

Mr. ROBINSON. My colleague from Massachusetts, Mr. RUSSELL, is paired with Mr. SPEER, of Georgia.

Mr. DAVIS, of Illinois. My colleague, Mr. BARBER, is paired with Mr. HATCH, of Missouri. They are absent by order of the House.

Mr. HARRIS, of Massachusetts. On this question I am paired with Mr. HOOKER, of Mississippi. If he were present, I would vote "ay."

Mr. SMITH, of Pennsylvania. My colleague, Mr. HARMER, is paired with my colleague, Mr. WISE.

Mr. MCCOOK. My colleagues from New York, Mr. O'REILLY and Mr. PIERCE, are paired.

The result of the vote was then announced as above recorded.

ASSISTANTS IN LIBRARY OF CONGRESS.

The SPEAKER. Before the vote last taken a motion had been agreed to that the House resolve itself into Committee of the Whole on the state of the Union. The gentleman from Illinois [Mr. TOWNSHEND] will please take the chair.

The CHAIRMAN. The House is in Committee of the Whole for the consideration of the public Calendar. The first bill thereon will be read.

The first bill on the Calendar was the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress.

The bill was read. It authorizes the Librarian of Congress to employ three additional assistants, at a yearly compensation of $1,200 each, and appropriates the sum necessary out of any money in the Treasury not otherwise appropriated.

Mr. GEDDES. In asking the consideration of this bill I desire to invite the severest scrutiny of the economists of the House. I am myself opposed to the increase of clerical force or assistants in any of the Departments, and I would in committee and here oppose with what influence I could exert, and by my vote, any such increase without the clearest and most satisfactory showing of the propriety and necessity of it.

Mr. Spofford, the Librarian, presented the considerations to the

committee that induced their unanimous action in supporting this proposition. That has been followed by the approval of the Senate, and, the bill now being before the House, I am gratified that members desire to know and inquire into the propriety and necessity of the measure. I could perhaps make no better statement of its necessity than the one made by Mr. Spofford. I regarded it as ample, and felt entirely satisfied with it, and cheerfully voted for the proposition. In order that I may put the House in possession of such facts as were presented to me and carried my judgment, I will send to the Clerk's desk and have read a concise statement made by the Librarian upon this subject.

Mr. CLAFLIN. I ask that the committee be in order.

The CHAIRMAN. The committee will come to order.

The Clerk read as follows:

The Library, now the largest in the United States, has three hundred and forty-five thousand volumes, by enumeration January 1, 1879. It is divided into two departments, a law library and a general library, to which last is added (what no other library in the world has attached to it) a bureau of copyrights, all the entries of copyright publications for the United States, with the deposit of such publications, being placed by law under charge of the Librarian of Congress. The duties of the Librarian include:

1. The purchase and receipt from copyright and other sources of about sixteen thousand volumes annually, involving the constant and vigilant search of Library, auction, and sale catalogues, and a careful selection from them of books needful to enrich the Library, with care to avoid duplicates.

2. The collation of all these accessions, to avoid adding any imperfect books to the collection, with the stamping and labeling of the books for the shelves, and their proper location in the Library with the related books.

3. The cataloguing of all the books both by authors and subjects, and the printing with careful regard to accuracy and fidelity of the titles of the whole collection, a work of great magnitude and importance, now going through the press. This requires a close familiarity with the ancient and modern languages in all their applications.

4. The preparation and supervision of the binding of all the periodicals and a large share of the books received annually, numbering from five thousand to six thousand volumes, all the titles to be carefully written in abridged form and in many languages, and both lists and titles verified on their return to the Library.

5. The heavy correspondence of the Library, involving purchases, exchanges, and copyrights, and requiring the writing of not less than twelve thousand letters annually.

6. The exchanges of Government publications with foreign governments, the accounts and correspondence connected with which require the entire time of one assistant.

7. And most laborious of all, the business of the copyright department, requiring the record of about fifteen thousand copyright publications every year, the furnishing of certificates of record, the recording of thousands of assignments of copyright property, the search of the records of former years, both in this office and in the books kept by the clerks of the district courts of the United States prior to 1870, when the entire copyright business was transferred to Washington. This department also requires the receipt and care of every publication deposited to perfect copyright (or from twenty-eight thousand to thirty thousand publications every year) all of which must be registered, stamped, numbered, and carefully filed away, as a necessary part of the Librarian's responsible duties. The whole of this work, moreover, as also the general business of the Library has to be carried on in a space so grossly inadequate and confined as greatly to embarrass the administration of the Library business; and it is not too strong a statement to add that the cramped and huddled condition in which the Librarian of Congress is compelled to transact a business of such magnitude would not be tolerated for a single year in the private business of any first-class house in the country.

In this summary of the duties devolving upon the Librarian and his assistants, the undersigned makes no account of the incessant supply of books and information to members of Congress, judges of the courts of the United States, the other officers of the Government, and to the general public, and the records connected therewith; since this is by far the least, as it certainly is the most pleasant of the multifarious duties of administering the Library, which has now become an institution of so great extent and importance. In the Boston Public Library, the next largest in the United States to our own, seventy-eight assistants are constantly employed. This is a library of large circulation and consequently of laborious clerical records, but has no bureau of copyrights. In the government library of Great Britain, the British Museum, which has eleven hundred thousand volumes and no circulation, the number of assistants employed is eighty-one. It has no copyright business (beyond the receipt of one copy of each British publication) the registry of copyrights being kept at Stationers' Hall. In the business of the Patent Office, involving the registry of about as many patents as the undersigned has the record of copyrights (say fifteen thousand a year) and the preservation of one model of each article protected instead of two, three hundred and thirteen officers and clerks of all grades are employed. The Library of Congress has been allowed only twenty-one assistants (besides the Librarian) by existing laws, for all the work of the law department, the general Library, and the copyright bureau.

He has carried on the varied and responsible business of the Library for fifteen years, and that of the copyright bureau in addition for nine years, with a force greatly inadequate, in deference to the spirit of economy which is regarded as a necessity in the public service. But the constantly increasing business under his charge compels him now to ask the allowance of three additional assistants at $1,200 each. This request he trusts will not be deemed unreasonable, in view of the fact that the Librarian pays into the Treasury a net sum of over $13,000 annually from copyright fees, while the pecuniary value of the publications accruing to the Library of the Government must be estimated at a much greater sum.

A. R. SPOFFORD,
Librarian of Congress.

WASHINGTON, *April* 7, 1879.

Mr. GEDDES. I move that the committee rise and report the bill with a favorable recommendation.

Mr. ATKINS. Before the gentleman makes that motion, I desire to ask him a question. It is whether he has not provided in this bill a larger number of assistants than the regular estimates ask for?

Mr. GEDDES. That is true, but that is an argument in favor of the proposition as it now stands. The committee were induced to recommend it on account of the additional verbal statement of the Librarian, who satisfied us that he himself was an economist, and that he had not in the first instance asked for what he really needed. He showed us that his force was wholly inadequate, and would be so after the two additional assistants were given him, and that in the course of a short time, in the early part of next session, he would be required to ask for an additional force. In view of those considerations, a motion was made and unanimously carried that the three be given him now, with the idea that that was the economical course.

Mr. GARFIELD. I am very glad indeed that this report is before the House. I always take great pleasure in helping any such proposition as this. I think we ought to be grateful to the Librarian and to the committee for bringing these facts before us and for asking for this additional help.

We are here under circumstances where, without the slightest regard for party, we ought all to vie with each other in being proud of that great Library and doing anything in the world that is reasonable to maintain it and render it more effective. And we have every reason to believe that there can scarcely be found a man anywhere so wise and so judicious and so capable of doing everything that belongs to the management of the Library as our present Librarian of Congress. He has been prudent, judicious, economical, thorough during the whole of his long service. And I know of no institution connected with this country more worthy of our cordial support.

Let us remember that the foundation of that Library was laid in the small library of Thomas Jefferson, and the spirit of scholarship and thoroughness that he showed in the care of his own books, which are still preserved in the Library as a monument of his learning and wisdom, seems to have been secured in the management of the Congressional Library itself. Perhaps gentlemen may not know that every one of the large body of books obtained from Thomas Jefferson to form the foundation of this Library has his own mark at some distinct page away over in the book, indicating his ownership.

I recollect to have seen a little thing which is worthy of mention here. In one of these books when it came here there happened to be left a little piece of paper, not more than five inches square, in Mr. Jefferson's handwriting. He had kept during the eight years of his Presidency this curious memorandum. He had drawn it off in the form of a table with the year at the head, a column for each year, and the date of appearance in the Washington market of every article of ordinary marketing such as vegetables; for instance, asparagus appeared in the Washington market in 1801 on such a date, and so on through, showing that in the midst of great affairs when President of the United States he took care of little things. These little observations marked him as a philosopher.

Now, I say the spirit of that man, and the care he took of his own books, has presided in that Library, has perpetuated itself ever since the Library was founded. We have never had a better representative of the true library spirit than we have in the person of the present Librarian, and when he asks for three clerks, and when we know how great the assistance is in less important libraries, we ought to be glad to grant him further assistance. I hope the House will give a unanimous vote for this measure.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at the South Pass of the Mississippi River, with an amendment in which he was directed to ask the concurrence of the House.

ADDITIONAL ASSISTANTS IN LIBRARY OF CONGRESS.

The Committee of the Whole then resumed its session.

Mr. CLYMER. It was my privilege and pleasure to have served upon the Committee on the Library during the Forty-third and Forty-fourth Congresses; during the first as a member of the committee and in the Forty-fourth as its chairman. In that long and intimate intercourse it gives me great pleasure to bear testimony here to-day that there never was, in my judgment, any man so fitted by learning, by spirit, by love for his calling, by care for the great interests under his control, than the present Librarian of Congress. He seems to have been born for that position. Intuitive knowledge with reference to books seems to be his, and in the long past that he has presided over this Library, which is a treasured idea with the people of the United States that here in this capital city shall be garnered all the fruits of its intellectual labor, he seems to have presided over it with that degree of care, circumspection, and regard for the future and the present which has rarely characterized any man in any position under this Government.

I know, sir, that when the democratic party came into power and inaugurated as they believed to be necessary strict measures of economy that he, in obedience to this general spirit, refused year after year to ask for any additional aid in the department of the Library. We almost insisted that he should do it, but he declined to do so, but the rapid annual growth of the Library has at length compelled him to do so, and I am delighted that the Committee on the Library have gone beyond his actual demand for two assistants and have given him three. It is absolutely necessary for its care, for its preservation, for the convenience of the members of both Houses of the National Legislature, and for the convenience of the public generally, and I have risen merely to bear my testimony to his worth, to his capacity, and to his desire to do that which is demanded by the highest public interests.

I have no doubt that my honored successor in the chairmanship of that committee will agree with me in all and everything I have said, and I trust that this joint resolution will be passed by the unanimous vote of this House. It will be a tribute to a faithful public servant who has always and ever done his whole duty.

Mr. McMILLIN. I desire to ask the chairman of the Committee on Appropriations one question.

Mr. GEDDES. I will yield to the gentleman for the purpose of asking a question.

Mr. McMILLIN. That is all I desire; I do not wish to make a speech. I ask the chairman of the Committee on Appropriations whether there was any estimate made out by the Librarian?

Mr. ATKINS. Yes, sir.

Mr. McMILLIN. What was demanded by that estimate and when was it made?

Mr. ATKINS. It was made in December last and there were twenty assistants asked for; we gave him eighteen. I was under the impression and stated a moment ago that he only asked for eighteen, but he really asked for twenty.

Mr. McMILLIN. Twenty was all that was demanded?

Mr. ATKINS. Yes, sir; and this will make the number twenty-one.

Mr. CLAFLIN. I merely wish to add that, as the chairman of the Committee on Appropriations has stated, there were twenty asked for last December, and on inquiry of the Librarian we have ascertained that there are a number of plans, surveys, and papers of very great importance to the country, which are lodged up in a large garret, which cannot be used unless you tumble in there and pull them out—there is no catalogue, no papers stating what they are and no order nor any file of them; these three men would be employed a year in that service.

When this Congress is liberal enough to take care of its own property it will grant this increase. Mr. Spofford does what he can. I think he does the work of about four men. I do not believe there is a librarian in the United States who does the work he does; and if you want to take care of your own property, and put it where you can find it and where your constituents can, you would give him not only three but six.

I believe that you will be best protecting the interests of the people of the country if you give him six instead of three, and I hope the joint resolution will be passed.

Mr. GEDDES. I now move that the committee rise and report this bill favorably to the House.

Mr. COX. Will the gentleman yield to me for one word?

Mr. GEDDES. Certainly.

Mr. COX. My relations during the last Congress, as chairman of the Committee on the Library of this House, brought me very frequently into contact with Mr. Spofford, our Librarian. The House may not know that it is not the only business of the Librarian to give out books; he has various other duties assigned to him by law; he has to take charge of the copyright system of the United States; he has the indexing to make under a provision of law; he has to take care of certain publications ordered by Congress.

In the confused state in which our three hundred and fifty thousand volumes now are, with the limited room for their accommodation, it is almost impossible for any man to properly perform the duties of that office without more assistance than the Librarian has at present. I know that from personal observation of the Library. Until we have a more commodious building, with greater conveniences for the care of our books, our Librarian will need more assistance than he now has, or even than is proposed to be given to him.

I join with what fell from the gentleman from Ohio [Mr. GARFIELD] in commendation of our Librarian. He has become an indispensability to that Library and to Congress. He has the care of these many thousands of books gathered with so much trouble, many of them at great expense, some of them so valuable that they cannot be replaced, and yet some of them are falling to pieces because of the bad arrangements of the library-room. We should remember what John Milton said of books: that they are reasonable creatures, more than life, a life beyond this life, an immortality rather than a life. And as we would care for our lives, so we should give our care to that which is the most useful of all the appliances of legislation—a good library.

I hope this bill will pass without dissent. I thank my friend from Ohio [Mr. GEDDES] for giving me the opportunity to say this.

Mr. GEDDES. I now move that the committee rise and report this bill favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. TOWNSHEND, of Illinois, reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the public Calendar, and particularly the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress, and had directed him to report the same back to the House without amendment.

The bill was then ordered to a third reading, read the third time, and passed.

Mr. GEDDES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EADS'S JETTIES.

Mr. WARNER. I call for the regular order.

Mr. CLYMER. I ask the gentleman to yield to me for the purpose of moving to proceed to business on the Speaker's table, in order that the House may take up and concur in an amendment of the Senate to the House bill in relation to Eads's jetties.

Mr. CONGER. That is right.

Mr. CLYMER. It is an important matter, and we should act upon it promptly.

Mr. WHITE. That is right.

Mr. WARNER. Will it lead to debate?

Mr. CLYMER. It will not.

There was no objection, and the bill (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River, was taken from the Speaker's table.

The amendment of the Senate was, in line 2 of the bill, to strike out the words "to pay" and to insert in lieu thereof the words "to enable the Secretary of War to cause to be paid."

Mr. CLYMER. It will be observed by the House that that is a mere verbal amendment. I move that it be concurred in.

The amendment of the Senate was then concurred in.

Mr. CLYMER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADJOURNMENT TILL MONDAY.

Mr. RYAN, of Kansas. I move that when the House adjourns to-day it be to meet on Monday next.

The SPEAKER. That motion has already been made and voted down.

Mr. RYAN, of Kansas. I know that, but I believe it is in order.

The SPEAKER. It is still in order.

Mr. SPRINGER. I ask unanimous consent that the session of the House to-morrow be for debate only.

Mr. CONGER. I object. I think the business of this House should be carried on formally, and should be got along with and through with.

Mr. SPRINGER. That is carrying it on formally.

Mr. CONGER. I regret that anybody on this side of the House would vote to lose a single day.

Mr. WHITE. I will vote to adjourn over to-morrow. I do not think this is a party question at all. I think we can gain time by losing a day occasionally. We may as well adjourn over until the Senate get through with the military bill.

Mr. KENNA. I desire to say to the gentleman from Kansas [Mr. RYAN] that we very much hope to have a session to-morrow for debate only.

Mr. WHITE. Is this motion debatable?

The SPEAKER. It is not.

Mr. CONGER. I understand that we have some reason to hope that an appropriation bill will be reported to-morrow, and we want to have it reported. It ought to be reported, and we have reason to expect that what ought to be done will be done.

Mr. SPRINGER. What appropriation bill?

Mr. CONGER. The bill making appropriations for the support of the Army.

Mr. SPRINGER. We have passed a bill of that kind.

Mr. CONGER. No, we have not.

The question was taken on the motion of Mr. RYAN, of Kansas; and it was not agreed to.

COINAGE CERTIFICATES, ETC.

Mr. WARNER. Mr. Speaker, I call for the regular order.

The SPEAKER. The regular order is the further consideration of the bill known as the coinage bill; a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes, reported from the Committee on Coinage, Weights, and Measures, with amendments. The gentleman from Iowa [Mr. WEAVER] is entitled to the floor.

Mr. WEAVER Mr. Speaker, the discussion of the systems of finance for a great government is an important matter. It was remarked once by Alexander Hamilton that a government without an adequate system of finance is an object of pity. I have not been highly impressed with the manner in which gentlemen who oppose this bill have discussed the question. They seem to regard the bill as an unwarranted intrusion upon the rights of somebody. They attack it alternately with levity, sarcasm, and abuse. It is a question that ought to be discussed in the light of the Constitution, the necessities of our people, and the present condition of public affairs.

Two facts strike my mind with great force at the threshold of this discussion: First, silver and gold have been used as money from the foundation of human society, so far as we have any history. The next fact is that there is about an equal amount of gold and silver bullion in the world. Now, how any gentleman can oppose thorough remonetization of silver unless he first takes the position that there is too much metal money in the world I cannot understand. The annual gold product throughout the whole earth at this time is about $100,000,000, (and it is rapidly declining,) barely enough, if we could command it all, to pay the annual interest of the bonded debt of the United States alone. If we are to demonetize silver, and have no power to create a legal-tender paper money, it will be readily perceived that the proposition is to hitch the car of American progress and American civilization to this decreasing product, and this will

lead us into inevitable decline and pauperism. The proposition, to my mind, is untenable and unreasonable.

The Constitution provides that Congress shall have power "to coin money, regulate the value thereof, and of foreign coin." Again, by the same article and section of the Constitution Congress is clothed with power "to regulate commerce with foreign nations, and among the several States, and with Indian tribes." The same instrument again provides that Congress shall have power to admit "new States into this Union." These grants of power are affirmative and express.

Under the power to admit new States into this Union, can Congress expel States from the Union? By virtue of the authority to regulate commerce with foreign nations and between the States, can Congress prohibit all commerce with foreign governments and between the States? Certainly no one will claim such extraordinary construction. Then how can Congress under an express grant of power "to coin money, regulate the value thereof, and of foreign coin," derive the right to prohibit the coinage of either gold or silver? To prohibit coinage is to exercise a power just the opposite to that conferred, and is the destruction of the power named in the Constitution. I demand of gentlemen who oppose this bill, that they shall tell us where Congress derives the power to prohibit coinage. It strikes me that gentlemen who hold to the opinion that the Government has no power to issue legal-tender paper money in time of peace, place themselves in a dilemma here, for if Congress may prohibit the coinage and circulation of silver as lawful money they may lawfully place the same restrictions upon gold, and here is another method of "starving the Government to death." [Laughter.]

I hold, therefore, that the law passed in 1873 was clearly unconstitutional. It was claimed upon the stump and claimed in Congress in the discussion of the bill that passed, partially remonetizing silver, that the demonetization of it was an accident, and was not intentional. If that excuse is the true one, the proposition to reinstate silver as legal-tender money in this country upon the footing that it occupied from the foundation of the Government down to 1873 would not have been resisted. The animus of the demonetization of silver is disclosed by the opposition which its remonetization has met with and is now meeting with. In reality and in truth, silver was demonetized in the interest, as I shall show, of a certain class of men in this and in other countries.

It is very remarkable, when you come to read the history of the demonetization of metal money, that that metal which is the more abundant is always demonetized. After the discovery of gold in Australia and California about the middle of this century, the money dealers of this and other countries became suddenly alarmed lest the amount of metal money in the world should be unduly increased; and Germany and Austria notably, in 1857 demonetized gold. For what reason? Not because gold could not maintain its relative value with silver, but because the mass of metal money, gold and silver combined, was depreciating as compared with labor and commodities. Throughout the entire discussion, from 1848 down to the demonetization of silver in Germany in 1871, no one of any distinction, no political economist, ever advocated the demonetization of either gold or silver because the metals could not maintain a relative value the one with the other, but solely because the mass of metal money as compared with labor and products was depreciating to the injury of gentlemen who held fixed incomes. I defy contradiction upon that point.

After the discovery of gold in Australia and California De Quincey, an eminent English writer, and Chevalier, aroused all Europe with the alarm that the precious metals were about to become too plentiful; and, following the advice of Chevalier and De Quincey, Germany and Austria demonetized gold, and but for the interposition of France the stampede would have become general.

In 1871 Germany remonetized gold and demonetized silver; and the last act grew out of the same apprehension that caused the demonetization of gold in 1857, namely, that there was about to be too much metal money. The Latin union was formed in 1865. From that period to the present there has been a constant effort throughout the earth on the part of those who have fixed incomes to debase and drive silver out of use as money.

The Comstock lode began to attract attention about 1861. In 1863 there were three thousand silver companies formed in San Francisco. While this did not attract general public attention it did attract the attention of financial circles.

The Emperor of the French sent a commission to investigate the amount of our silver production. It was ascertained the amount would be very large, although the estimates of that day have not been fully justified by results. Alarm was created in European financial circles that silver was about to become too plentiful. Germany, Denmark, Sweden, and Norway all about the same time demonetized silver and reinstated gold as the standard.

Now, Mr. Speaker, it is a remarkable circumstance that demonetization in the Old World is coincident in point of time with demonetization in this country. And the war upon silver is made by the same class of men the world over, namely, those having fixed incomes and who complain that the value of their incomes will be depreciated in proportion to the increase in the value of property. I want these facts to be well understood by the people who own the great bulk of the labor and property of this country. I want them to distinctly understand that the conflict is between money on the one hand and all other kinds of property on the other.

I say on the floor of this House that I am as much opposed as any member here to worthless money, to depreciated money, but unquestionably it is the interest of the great mass of our people that we should have cheap money and dear property; I do not mean worthless money, but I mean cheap money as compared with the property which it buys. Property is held by the many and money by the few; and if the Government is to be administered in the interest of the many, then my proposition is correct. I want good money, but cheap money and dear property. We have just the reverse of this to-day; we have cheap property and dear money. Money to-day is master and king in America, and property goes begging and is at a discount.

To show that I am correct in my proposition as to the object of the demonetization of silver, I wish to read an extract from the report of the French monetary commission, published in 1869. In their *résumé* of the question it is said:

It is difficult to estimate exactly what diminution is going on in the value of silver, but whatever it may be it demands the attention of governments, because—

What? Because the relative value of silver with gold is depreciating? Not at all—

because it affects unfavorably all that portion of the population whose income, remaining nominally the same, undergoes a yearly diminution of purchasing power.

England, the greatest bondholding nation upon the earth, demonetized silver in 1816 just four years before she passed her celebrated resumption act; Germany in 1871, and completed it in 1873; Norway, Denmark, and Sweden in 1871 and 1872, and the United States in 1873, and completed it in 1874, just prior to the passage of the resumption act.

I wish to speak further as to the design abroad and in this country. Ernest Seyd in his book, The Fall in the Price of Silver, published in 1876, estimates the amount of silver in the world as about three and one-quarter billions and the amount of gold three and one-half billions, and he further estimates that England has an annual income from other nations of $250,000,000 per annum. It can readily be seen why England, who holds the bonds of other nations, should want those bonds payable in a single metal, or in the dearest money. The money dealers of Germany, England, and the United States own the bulk of the funded debt of the world, which now amounts to about thirty-two thousand millions, mostly contracted in flush times.

Capitalists readily saw that if they could strike down as legal-tender money one-half of the metal money of the earth and make this enormous funded debt payable in gold alone, it would be greatly to their advantage. The people should thoroughly understand this also. They are beginning to understand it, and are everywhere and almost unanimously demanding that silver shall be thoroughly reinstated. Thus we are brought face to face with the great fact that demonetization was the result of a great international conspiracy, inaugurated by men who had fixed incomes as against, and to the detriment of those who own the great bulk of the property of the world.

Now, I wish to speak as to the specific intent in this country. It is well known that the bonds of this country, fifteen hundred millions of them, were originally payable in currency. That was the opinion of Senator Morton, of Senator Sprague, and of a score of others who might be named, and it could be plainly read upon the face of the bond. To get rid of that interpretation of the law which gave the people the right to pay the bonds in greenbacks, in legal-tender paper money, the law of 1869, "strengthening the public credit" was passed. That law took away from the people the right to pay the bonds in currency and conferred upon the holder of public securities the right to demand coin. But, as I said before, the silver product of the world was rapidly increasing, and it being the intention of those who manipulated and fastened upon this country this enormous public debt that it should be made permanent——

Mr. MITCHELL. Will the gentleman yield to me for a question?

Mr. WEAVER. Yes, sir.

Mr. MITCHELL. I desire to ask whether the gentleman at the time he speaks of, in the year 1869, was a republican, and whether he voted for General Grant as President?

Mr. WEAVER. I did.

Mr. MITCHELL. Was the gentleman aware that the public-credit act of 1869 simply put in the form of law what was declared in the platform on which General Grant was nominated?

Mr. WEAVER. I do not so understand it. And as to my connection with the republican party at that time, I was in the same situation then that the gentleman and many of his friends seem to be in now. I knew nothing about this question. I had never investigated it. I was in the same condition with Saul of Tarsus when on his way to Damascus. But I have gathered some light since then; and I stand here frankly and plainly to say, having investigated this question, that a great public crime was committed against the labor of this country by the passage of the act in 1869; that it amounted, if not in intention, at all events in effect, to the robbery of our people, General Grant to the contrary notwithstanding.

Mr. SPRINGER. And the republican party to the contrary notwithstanding.

Mr. WEAVER. Yes; as the gentleman suggests—and the republican party also to the contrary notwithstanding.

Now, after the silver product of the country was greatly increasing the bondholder began to read his bond. "Why," he says, "here I have an investment I do not want to disturb, and if the yield of sil-

ver increases as the friends of silver expect it will, my bond will be payable in silver, for coin means silver as well as gold; silver, therefore, must be demonetized." And the measure accordingly was smuggled through. We can read the animus of that act in the opposition this bill is meeting with in this House to-day and throughout the country at the hands of the monometalists. It was smuggled through with the perfect knowledge that public sentiment would not tolerate it, and with the concealed and wicked purpose to deprive the people the second time of the right to pay the bonds according to the terms the bondholder had himself imposed. Silver being laid aside, coin then meant gold, and payment in gold meant that the principal of the bonds should not be paid at all, and, like the English debt, should remain in perpetuity. That was the design of this legislation. I have too much confidence in the good sense of the gentlemen who oppose this bill to believe that they dislike silver. It is not that. They do not want the principal of their bonds paid at all. They want the investment undisturbed and the annual interest to accrue, that they may be permitted to continue in the coupon-clipping business. That is the simple, naked truth.

The interest was at first payable in gold semi-annually, and now, under the funding scheme, payable quarterly, which enables the gentlemen having fixed incomes derived from bonds to compound their interest. Thus 4 per cent. payable quarterly is quite as good as 6 per cent. paid as provided in the 6 per cent. bond, and, in fact, greater when we compare the purchasing power of money now with its purchasing power, say, ten years ago. It is true beyond dispute that he is receiving a greater interest to-day than he received when he purchased his six percents from the Government.

Mr. CLAFLIN. Will the gentleman allow me to ask him a question?

Mr. WEAVER. I yield to the gentleman.

Mr. CLAFLIN. I would ask him if that change from semi-annual to quarterly payments was not in the interest of the Government?

Mr. WEAVER. It was certainly in the interest of the bondholders.

Mr. CLAFLIN. Was it not in the interest of the Government? The Government receives its money from week to week, and from week to week pays it out, and it would otherwise have to lie in the Treasury.

Mr. WEAVER. It would not be a great detriment to the Government to let a little gold lie in the Treasury. Does the gentleman undertake to say before the House and the country that that was the design Congress had in view when they made the interest payable quarterly? Not at all. It enabled the bondholders to receive their interest four times a year, and to compound it by loaning it to the people. The effect on the Government in point of convenience is a mere bagatelle; it amounts to nothing. The same vouchers have to be kept, the same vaults are there, and more clerks have to be employed.

Mr. POUND. It saves interest to the Government.

Mr. WEAVER. How does it save interest? I will yield to the gentleman to point out how it saves a single cent of interest to the Government. Explain now; I will give you all the time you want.

Mr. POUND. The gentleman is making his own speech. I will not interrupt him.

Mr. CLAFLIN. We know that we receive the income weekly and monthly, and when the Government has received three months' money into the Treasury, then it is cheaper to pay it out than to keep it for six months.

Mr. WEAVER. Does that save any interest?

Mr. HASKELL. I will answer the gentleman if he will allow me.

Mr. WEAVER. I will yield to the gentleman.

Mr. HASKELL. The market quotations of all stocks and all bonds for one hundred years will show that a bond with its interest payable semi-annually is worth more in the market and can be sold at par and at a less rate per cent. interest than one on which the interest is payable only annually, and if payable quarterly you can sell the bonds for still more and at a less rate of interest.

Mr. WEAVER. The gentleman's argument destroys itself. Why do bonds sell for a higher rate in the market when the interest is payable quarterly? For the reason that when the interest is payable quarterly the bondholders can compound it by new loans, thus making it a better investment. It is a pecuniary reason that controls them, and not charity for the people. I thought verily that it was a most remarkable thing that these people holding Government securities drawing 6 per cent. would voluntarily come forward and exchange them for 4 per cent. bonds, and I believed the story so prevalent on the republican stump that it was the love of the bondholders for the dear people that made them willing to surrender the bonds; but when I began an investigation of the matter and saw that the bondholder received in this way more interest than he received before, then I saw the cloven foot of the conspiracy sticking out, and no gentleman in the House and no gentleman on the stump has been able to cover it up. [Applause.]

Not only did they intend to put the bonded debt into a condition in which it can never be paid, but it was with an ulterior design, and I call the attention of the republican members who may follow me to the fact, that it was the ulterior design, after having placed the bonded debt of the country in a condition in which it could not be paid, to make the present national-banking system of the country, based upon the bonded debt, the great moneyed monopoly for all time to come. I proceed to prove it.

The Comptroller of the Currency, in his report for 1876, uses this language:

> It was shown in the report, from the discussions in Congress at the time of the passage of the legal-tender act, from the reports of different Secretaries of the Treasury, and from the uniform legislation since that time, that the national-banking system was intended to be permanent, the institutions organized under it being by the express terms of the law authorized to continue for a term of twenty years; while it was equally evident that the Treasury notes issued and still in circulation were intended to be funded.

Now if the national-banking system was intended to be permanent, then of necessity the bond system must be permanent also, for the former rests upon the latter. If you pay off your bonds, what becomes of your national banks? You cannot have a national bank without bonds. If the banks are to be permanent, the foundation must be permanent also. Hence you have ingrafted upon this Government as another step in the great conspiracy the system of permanent national banks and permanent national debt, the banks resting upon the debt; and from the law of self-preservation, if for no other reason, these corporations will forever exert all their powerful and consolidated influence to keep alive the system. To enable them to effectually do this the laws of Congress have placed in their hands absolute control over the volume of our currency.

Mr. SAPP. Will my colleague yield to me for a question?

Mr. WEAVER. With pleasure.

Mr. SAPP. Is not the existence of every national bank in this country limited by law?

Mr. SPRINGER. In what respect?

Mr. SAPP. By law, by the law creating the national banks. Does not that law limit the existence of each bank?

Mr. WEAVER. When the bank act was passed it provided that national banks should be chartered for twenty years, and the circulation was limited to $354,000,000. But your resumption act of 1875 provides that there shall be in this country free national banking and unlimited national-bank issues.

Mr. SAPP. But does the gentleman pretend to say that the free national-bank law allows the national banks to exist without limitation as to time?

Mr. WEAVER. No, they are still chartered for twenty years.

Mr. SAPP. And then will not the national banks expire in twenty years from the time that they are chartered?

Mr. WEAVER. It does not limit the time during which national-bank charters may be issued. As long as that law is on the statute-book there is a perpetual right in this country for the chartering of national banks. Can the gentleman understand that? As the law now stands they are about as perpetual as the human family. The Almighty says that the days of a man's years shall be three score and ten. Was it the intention that at the death of my friend the human family shall cease? [Great laughter.] Not at all. One national bank will be chartered to-day and will die next year or in due time, and then another will spring up. As it is written, "Abraham begat Isaac, Isaac begat Jacob, and Jacob begat twelve sons."

Mr. TOWNSHEND, of Illinois. And the new bank will have the same stockholders as the deceased bank.

Mr. WEAVER. If the gentleman says that there is a limitation to the national-banking system, then he must hold that the system is not designed to be permanent, but to be temporary. Why not, then, wipe it out now?

Mr. SAPP. I say that it would be contrary to the interest of the people to wipe it out now.

Mr. WEAVER. Then you want it to be permanent?

Mr. SAPP. I am answering your question.

Mr. WEAVER. Do you want it to be permanent?

Mr. SAPP. I will answer that question.

Mr. WEAVER. Answer it now.

Mr. SAPP. I will.

Mr. WEAVER. Answer my question, yes or no.

Mr. SAPP. I want our national-bank issues to continue as long as they will be of public utility.

Mr. WEAVER. That does not mean anything?

Mr. SAPP. Yes, it does.

Mr. WEAVER. I would like to know why it is of public utility now more than it will be twenty years from now.

Mr. WILBER. I would like to ask the gentleman why he would discontinue the national banks?

Mr. WEAVER. I will tell you before I get through.

Mr. WILBER. That is what I would like to know.

Mr. CONGER. Will the gentleman allow me to ask him a question?

Mr. WEAVER. I will yield to the gentleman from Michigan, of course.

Mr. CONGER. I wish to ask the gentleman what necessity there is for bonds to the very existence of a national bank? I understood the gentleman to say that national banks could not exist unless bonds were also in existence. Now, I want to know if a national bank needs bonds at all for its existence?

Mr. WEAVER. It does.

Mr. CONGER. How?

Mr. WEAVER. The law requires bonds to be deposited before starting a national bank.

Mr. CONGER. For what?

Mr. WEAVER. To secure the circulation.

Mr. CONGER. Ah; but the existence of a bank does not require the existence of bonds.

Mr. WEAVER. A national bank without circulation is like a human being without a soul. There are no national banks without circulation.

Mr. CONGER. Does the gentleman say that?

Mr. WEAVER. None that I know of. Does the gentleman know of any?

Mr. CONGER. Does the gentleman say that there are no national banks without circulation?

Mr. TOWNSHEND, of Illinois. I undertake to say there is no national bank without circulation.

Mr. WEAVER. I will compromise with the gentleman in this way, and there will be a bill introduced no doubt during this session about to that purpose: I will let the national banks stand if the gentleman will take away their circulation. [A Voice: "That is fair."]

Mr. CONGER. The gentleman says that national banks could not stand without bonds. Now, I say that a bond is not necessary at all to the existence of a national bank.

Mr. WEAVER. Take away the bonds and take away the circulation and you may have all the national banks you want. [Laughter.]

Mr. WILBER. Last year the national banks paid in taxes on an average not less than 5½ per cent. on their capital, and they received a little over 4 per cent. upon their bonds. Now, I ask the gentleman why he would wipe out the national banks when they are paying that amount of taxes for the people?

Mr. WEAVER. The charges for interest and exchange are increased so as to cover all that, and so the people pay the tax in the end and not the banks.

Mr. FISHER and many others. Will the gentleman allow me a question?

Mr. WEAVER. I am willing to yield to one at a time, but I declare I do not like to have the whole syndicate at me at once. You confuse one another, gentlemen. [Laughter and applause.]

Now, if the national-bank system is to be temporary, why not change it now? Why not give the country gold, silver, and legal-tender paper, all issued by the Government and not by or through the bank corporations? Can any gentleman give a statesmanlike reason for withholding this great boon from an oppressed people?

Now, I will, at the request of the gentleman who asked it, state my reason for opposing national-bank money. I oppose it, first, for the same reason that Jackson opposed money issued by banking corporations. In his farewell address, on page 995, volume 2, of the Statesman's Manual, he says:

> Corporations which create the paper money cannot be relied upon to keep the circulating medium uniform in amount.

That is one of my reasons for opposing national-bank money.

Mr. FISHER. Will the gentleman allow me one question?

Mr. WEAVER. I will, as I interrupted the gentleman once yesterday.

Mr. FISHER. I only wish to ask the gentleman what this has to do with the bill under discussion?

Mr. WEAVER. I will tell you, sir. I am discussing the question as to the intent of the demonetization of silver and the fastening upon this country of a permanent bonded debt with the national-bank system on top of it. [Applause.] You cannot get me away from that point. If silver is freely coined, they argued, the bonds will be paid in coin, and the banks will fall and our power will be gone. [Applause.]

Now, I will give another reason for opposing national banks. The act of June 20, 1874, now on our statute-book and the law of the land, provides that any national bank may at pleasure reduce its circulation in whole or in part. Thus these institutions are clothed with the right to contract the currency at their will. The act of January 14, 1875, known as the resumption act, provides that they may increase the currency without regard to limit. Thus there is one act which allows them to "bear" the market whenever they please and another which enables them to "bull" the market when they please. They can contract the currency when they see fit; they can expand it when they see fit; and in this way they can control the value of every day's labor and of every product in this country. [Applause.] I say it is the climax of iniquity in legislation that a great government like ours, of forty-seven million people—soon to have a hundred million—should say that for all time we will never issue another dollar of legal-tender paper nor remonetize silver; that the national banks for all time to come shall have the absolute control of the volume of the currency of this country, and hence over the destiny of our people. I call on the people everywhere to arise, and in their might and strength shake off this incubus. [Applause.]

Suppose that this were a national convention assembled to frame a constitution; that all the articles had been framed, and it only remained to provide who should issue the currency of the country and control its volume. And suppose my friend from Michigan should rise in his place and say, "We have now our constitution all framed except that which shall determine who is to issue the money. Now there are a few hundred men who let us have money when we were in trouble; we love them; I move that we give it into the hands of our creditors and their successors, world without end, amen, to say how much money there shall be in this country and when it shall be issued to the people." Now I would move an amendment that the power to say what shall be the price of all property in this country shall not be conferred upon corporations, the creditors of the country, but that it shall be left to the whole people represented in Congress to say through their Representatives how much money we shall have and what shall be the money of the country. [Applause.] I venture to say that even in this House, with so many friends of the syndicate as we have here to vote, there would not be one man who would dare to vote "no" on my amendment, the proposition is so plain.

But, sir, it is contended that the national-bank system furnishes an elastic currency. My friend Thomas M. Nicholls, the secretary of the "Honest Money League" that represents to-day the hard-money element of both the old parties, and whose circulars are sent all over the country by members of Congress, says that the national-bank system furnishes an elastic system of currency; that if the wants of trade require more money the banks can get it by depositing bonds, and if the currency becomes redundant they can surrender it. They will regulate it solely for our good, of course. Thus it is claimed that under the national-bank system the amount of currency can be adjusted at the will of the banks in accordance with the demands of trade. But, sir, I maintain that the elasticity which we get at the option of the banks constitutes one of the greatest objections to the system. Such elasticity reminds me of the first piece of India rubber I ever saw. A great big fellow came to school, when I was a little boy about ten years old, holding in his hand a piece of India rubber which he was stretching. He said to me, "Jim, did you ever see anything like this?" I replied: "I never did; what is it?" "Why," said he, "they call it India rubber. Take one end of it between your teeth." I did so. "Now," said he, "pull!" I pulled and he pulled. While it was stretching out, while it was expanding, it did not hurt me a bit; but when he let loose the other end that was contraction, and you may depend it was not pleasant. [Great laughter.] Now, the proposition is to put the rubber to the lips of the American people and let the national banks draw it out whenever they please or let it snap whenever they please. [Laughter.]

I say that it is one of the monster evils of the age and in defiance of all correct systems of finance that we allow by law a set of men who are not elected by the people, who are not responsible to them for the management of their banking institutions, to regulate at will the volume of the currency. Such a system of finance is no better than a system of robbery; and it has had that effect practically, as a million ruined homes can testify.

Mr. WILBER. I would like to ask the gentleman whether the speculators who are interested in the passage of the silver-bullion bill are under oath? Are they not in this respect in the same situation as the national banks?

Mr. WEAVER. My dear sir, I would like to know when it was the bondholding interest of this country became averse to legislation in behalf of speculators? And I should like to know another thing: What right has the gentleman to say, if I own a million of silver bullion and it is needed for use as money, that I shall not have the profit of its remonetization? I should like to know what right the Government has to say, "I will take it from you, or I will not allow it to be remonetized unless you will give up the profit to accrue from its remonetization—the profit which is to accrue, because of your industry in going out upon the frontier and digging it out of the earth where the Almighty had hid it away?" Shall this Government say it will not remonetize silver until those who hold silver bullion shall give up the profit which may accrue to them? Everybody knows you cannot remonetize silver without some one making something by it.

Some men may make large fortunes by it. I grant that, but who lost the difference between the price of silver now and the value of silver when it was demonetized? Then it was worth 3 per cent. more than gold and now it is only worth eighty-four cents as bullion. That depreciation in the price of silver was brought about, as the English financier, Ernest Seyd, has told us, solely by demonetization. The world lost by demonetization, let me say regretfully, far more than speculators will make by remonetization. Had the United States coined silver to the full capacity of the mints since 1873 we would now have $400,000,000 of silver in circulation and our people would be prosperous. Beside, sir, it comes with very bad grace from men who speculated upon our blood and suffering during our internecine strife, who speculated upon that war until they have become purse-proud and void of love or respect for the poor, as has been shown upon this floor by members of Congress—it comes, I say, with bad grace from those who have speculated upon the misfortunes of the people and who are now speculating upon the misfortunes of the people, to say that if we give back to the country its stolen silver somebody will make something by it. It is the expedient of men who are conscious of being in the wrong, of men who have been guilty wittingly or unwittingly of a great national crime. The people will profit by it, we will all profit by it.

Now, Mr. Speaker, resumption was another step in the great scheme which included the demonetization of silver. The resumption act was one of the trinity of infamies fastened upon the American people by that diabolical plot. What was the plea for that act? It was that we should pay our honest debts, that we should pay the debt created by the greenback. This was the plea of the republican party all over the country; that the Government ought to pay its honest debts. I wish to show right here and now the hypocrisy of that dec-

laration. I say that the resumption act was not passed for the purpose of paying our honest debts, but for the purpose of increasing the bonded debt of the country.

You know, in the first place, there was the promise of a slight inflation, that the greenbacks should be withrawn down to $300,000,000 under the resumption act, and for every $80 of greenbacks withdrawn there should be an issue of $100 of bank-notes, so that there would be a little "elasticity" given to the currency, a slight inflation; and yet every one knows that under the operation of the two acts, of June 20, 1874, and the resumption act of January 14, 1875, the currency has been greatly decreased, both national-bank and legal-tender, so that to-day we have about $100,000,000 less than when the resumption act was passed.

But let me show that the design was not to pay our honest debts. Why did the Government sell its surplus gold coin? From July 1, 1867, to September 30, 1876, the Government sold $522,000,000. After having met all its coin obligations it sold in the markets of this country and in Europe $522,000,000. That was more than was necessary to pay off every dollar of our greenbacks in gold without issuing a bond. This is the record furnished by the Secretary of the Treasury himself, that this Government sold between the 1st of June, 1867, and the 30th of September, 1876, $522,000,000 in gold. The resumption act was passed January 14, 1875, and yet this record shows that after the passage of that act there was sold at public auction over $40,000,000 of gold, and then the Treasury immediately turned around, and under the resumption act, sold bonds to buy that gold back again. [Laughter and applause.]

In whose interest was that, pray tell me? Now, why did not the Government take that $522,000,000—and it accumulated as high as $77,000,000 in one year, in another, $76,000,000—why did not the Government take that coin and pay off the greenbacks? When you had both branches of Congress and the Executive, why did you not pass a law saying that the surplus coin in the Treasury should be used in the redemption of the greenbacks, if you were so anxious to pay your debts? That would have brought greenbacks to par with gold at once, and without expense to the people. But that would not have been in accord with your scheme.

But some gentlemen may say the gold was sold to defray the necessary expenses of the Government. The silver commission anticipating that objection have shown that statement not to be a true one, for during that period, after meeting the coin obligation and the currency obligations, the Government paid over $400,000,000 of debt which was not due. Every dollar of that gold could have been used to redeem the greenbacks and in bringing them to par.

But are we told there is objection to hoarding as the Government loses the interest? I wish to know how much the Government is losing to-day upon the gold in the sub-treasury of the United States, which nobody wants, notwithstanding resumption, and which has been lying idle there, a loss to civilization and to humanity? Borrowing money to hoard! What consummate folly, what a stupendous crime!

There was no honest design in that resumption act. The design was, not to pay the greenback debt unless the greenback could be funded into an interest-bearing bond. That was it. And hence the resumption scheme came in to authorize a new issue of bonds to pay off the greenbacks. That was the scheme. And I challenge any member here to examine these figures on page 459 of the report of the silver commission and show where the fallacy exists. It was no honest design to pay a debt, I repeat, but a design to increase the debt of this country and make it perpetual.

But in spite of the opposition to silver in this country remonetization has been partially accomplished. But it was remonetized not only over the vote of the monometalists here, but over the veto of the Executive himself. The tide of public sentiment in favor of silver rose so high that it swept through this House like a hurricane and through the sedate Senate of the United States. The measure went to the President and he vetoed it. But the tide kept on rising until Congress passed it by a two-thirds vote over the Executive veto; and then the people breathed more freely. They said, "This is a Government by the people after all; the syndicate and the Executive in its interest have not the power to defeat the people's will." And everybody supposed silver was to be paid out to the bondholders, because that was the point upon which the conflict turned. The Government had the right to pay off the public debt with silver beyond all question, and the people thought they had gained a victory. The Stanley Matthews resolutions, passed at the second session Forty-fifth Congress, expressly declared the right of the Government to pay the bonded debt in standard silver dollars. But the execution of the law went into the hands of an unfriendly Secretary of the Treasury, and a conspiracy was formed in New York with the clearing-house. [Laughter.] I hear some gentlemen laughing. He who laughs last laughs best. It was ordered that silver should not be received on deposit unless the depositors were willing to receive it back in kind. That was done after a certain distinguished gentleman who is now traveling abroad, and who is to be met on the other side of the continent with an escort, had written a letter from Smyrna, an old Bible town of Asia Minor. There was a letter written to Smyrna once, but it is a very different letter. It was one in the interest of the poor:

Unto the angel of the church in Smyrna write: * * * I know thy works, and tribulations, and poverty, (but thou art rich,) and I know the blasphemy of them which say they are Jews, and are not.

[Laughter.]

This letter, written from Smyrna, was from General Grant, who was twice honored with the executive chair of this nation. It is dated February 22, 1878, and is addressed to Judge Long, of Saint Louis, and was first published in the Globe-Democrat, March 30, 1878. He says, speaking of the silver bill:

But if I were where I was one year ago and for the previous seven years, I would put a most unqualified veto upon the repudiation bill, called silver bill, if it should receive the vote of Congress. I fear it has passed, but hope, if so, all business men in the country will work to defeat its operation by refusing to make contracts except to be paid in gold coin.

I do not know what he meant by "an unqualified veto," unless he was going upon the principle that if you want to shoot a long way you must pull the trigger hard. [Laughter.]

Now, there has been great talk on this floor about "revolution;" and for my part I deplore such agitation to a degree that is almost akin to horror. It seems to be a privileged question here, however. It intrudes itself upon our consideration at every moment and at the most inopportune times. I deplore everything like revolution or the disturbance of tranquillity anywhere, in Congress or out of it. But I say here, as an ex-soldier who fought under General Grant's command, that to incite any portion of the American people to combine to defeat the operation of law, or to advise them to do so, carries with it all the moral guilt of revolution, and revolution of the worst kind. [Applause.]

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia.) The gentleman's time has expired.

Mr. GILLETTE. I ask that the gentleman's time be extended.

The SPEAKER *pro tempore*. That can only be done by unanimous consent.

There was no objection, and Mr. WEAVER's time was extended.

Mr. WEAVER. Talk about the extravagance of the people! The author of that letter is spending more money to-day in his trip around the world than most of our poor constituents who labor for their living will ever see or handle, and yet he advises the money kings of this country to combine to crush them. The New York clearing-house and other financial organizations took him at his word; and the Secretary of the Treasury, although an officer not even named in the Constitution, being a mere cabinet minister whose highest duty and pleasure should be to obey and enforce the laws, shook hands with Wall street and Lombard street, and struck hands with General Grant across the water and with the men of this country who have fixed incomes, and says he will not pay out silver. Let me show you what he says. Here is a letter written by this eminent cabinet officer addressed "To the Honest Money League at Chicago." [Laughter.] Honest money! The letter is dated the 30th January last. He says:

I have a clear conviction that the forced payment of the silver dollar to public creditors would tend to depreciate it and cause it at once to be sold in the market at less than par. * * * While it is the duty of the Government to coin different kinds of money, a public policy dictates it should be within the power of the citizen at his option to demand either form of lawful money.

Thus the Secretary stands up in his place not to obey the law, but to say, "I have a conviction that if I obey the law it will injure the value of silver!" This reminds me of an incident that happened when an effort was being made to launch one of our great steamers. A sub-engineer in charge of part of the work feared that there was some defect or fault in her construction which would prevent her from being safely launched. There was great confusion, when the chief officer came upon the scene saying, "Launch her! Launch her! I'll take the responsibility." [Applause.]

Now, the American people say to the Secretary of the Treasury through the law of the land, "You are our servant; you have no law-making power; we have told you to pay out the money and you must do it, and we will take the responsibility." Let me call particular attention to this remarkable language of the Secretary:

While it is the duty of the Government to coin different kinds of money a public policy dictates it should be within the power of the citizen at his option to demand either form of lawful money.

You will see that this places an absolute veto against silver in the hands of the public creditor. The law says that it shall be legal-tender money for the bond. The Secretary is bound by it, but he says the public creditor shall determine what he will take, and not the law. The President had a qualified veto of the bill and the veto failed. But the Secretary, like an autocrat, confers upon the public creditor more power than the President possessed. He gives him an absolute veto. If that is to be the law the bonds can never be paid. Again, he has coined under the law the minimum instead of the maximum amount.

I shall, if I am recognized for that purpose, at the proper time, offer the following amendment:

The Secretary of the Treasury is hereby directed and required to cause to be paid out without discrimination standard silver coin the same as gold coin in liquidation of coin obligations against the Government.

This amendment should be incorporated into this bill, and then I am in favor of passing it. And those who take the responsibility to defeat this measure, demanded by every consideration of public duty and justice, and by the almost universal public sentiment, will have to do so. The American people shall understand it.

The National Greenback party is not in favor of undue expansion of the currency. We believe in a trinity in finance—gold, silver, and legal-tender paper—all issued by the Government and not by banking corporations, and all full legal tender. [Applause.]

The gentleman from Indiana [Mr. DE LA MATYR] introduced a petition here, but he disclaimed upon the floor that it was his bill or that he indorsed it; yet the most indecent allusions that a man would dare to make on this floor have been indulged toward him. He seems to be the center of their abuse and detraction.

Mr. THOMAS TURNER. Did the abuse come from this side of the House?

Mr. WEAVER. No, sir. [Loud cries of "Oh, no!" from the republican side of the House.] I hope the gentleman from Indiana [Mr. DE LA MATYR] will pay no attention to the abuse. The post of honor is the post of danger. You may fire off your blank cartridges from the guns of your syndicate. Fire! We are here, and the National Greenback party has come to stay, I notify you of that. [Applause.] The workmen may fall, but the work will go on. There is no doubt about that.

The gentleman from Michigan [Mr. HORR] pranced down the aisle the other day, and facing the little party in the center, poured out the vials of his wrath. His effort was full of impotent rage and utterly void of argument. I wondered if there was any stringency in the money market up in his district, if there had been any bankruptcies there? Then the distinguished gentleman from New York [Mr. CHITTENDEN] yesterday delivered a very amusing speech, and I suppose he considers it a crusher; as a philippic it was a success; but it was as devoid of argument as the exhumed skull of a mound-builder. The gentleman styled himself a "capitalist and a robber." He was careful to say that he was a brother to any man who "owned" a bank, who "owned" a house, or who "owned" a railroad. But he expresses no sympathy for the vast army of the unemployed who "own" nothing but their labor. He claims no fellowship with them.

Gentlemen, if you want to discuss this question do it in a gentlemanly manner. Let us discuss the question calmly and logically. You cannot sneer this great movement out of existence. Ridicule has been your only argument thus far.

Over the wires this morning was flashed the news that the workingmen's party have carried California by ten thousand majority, [applause,] and although the workingmen's bill to enforce the eight-hour law was defeated in this House yesterday, let me tell you that your action will recoil upon you, and will come back with redoubled force. The eyes of the people are upon you, and you cannot escape. Remember that when the American Congress says that we will not enforce a law which was passed in the interest and at the behest of the workingmen of this country, but we will allow the heads of Departments to violate that law and then turn around and say that the workingman must obey the laws of the country, you are setting an example that may be dangerous. You are sowing dragons' teeth; you are sowing the wind and will reap the whirlwind. I hope the House will reconsider their action.

Joseph Cook in a lecture in Boston says that if the workingmen of this country demand legal-tender currency we will disfranchise them if it has to be done at the end of a bloody civil war.

I want to read a short extract from Scribner's Monthly of April last. This is from a man who claims to be a Christian, who has the control of one of the great periodicals of the country:

> We cannot do what the French government once did under similar circumstances, banish fifty thousand of them to colonial or penal servitude; and it is a great pity that we cannot. If we could gather the whole disgusting multitude, wash them, put new clothes upon them, and under military surveillance and direction set them quarrying stone or raising corn and cotton for ten years, we might save some of them to decency and respectability, and relieve the honest people of the country of their presence and their support. If we cannot do this, however, there are things that we can do. Every State in the Union can gather these men wherever found into work-houses where they can be restrained from scaring and preying upon the community and made to earn the bread they eat and the clothes they wear. It is necessary, of course, to throw away all sentimentality in connection with them. The tramp is a man who can be approached by no motive but pain—the pain of a thrashing or the pain of hunger. He hates work, he has no self-respect, and no shame, and by counting himself permanently out of the productive and self-supporting forces of society he counts himself out of his rights. He has no rights but those which society may see fit of its grace to bestow. He has no more rights than the sow that wallows in the gutter or the lost dogs that hover around the city squares. He is no more to be consulted in his wishes or his will in the settlement of the question of what is to be done with him, than the bullock in the corral. Legislation concerning this evil seems to have been initiated in various States; but at this writing we cannot learn that anything effective has been done. It would be well if the States could work in concert in this matter, but one great State like New York or Pennsylvania or Ohio has only to inaugurate a stringent measure to drive all the other States into measures that shall be its equivalent. The tramp whose freedom is imperiled in New York would fly to New Jersey or to New England, and New Jersey and New England will be obliged to protect themselves. So one powerful State can compel unanimity of action throughout the country. The Legislature of New York had a bill up a year ago which came to nothing, but something must be done somewhere very soon if we propose to have anything like safety and comfort in our homes, or to relieve ourselves of voluntary, vicious, and even malicious pauperism.

And that is not all. The other day my colleague from Iowa [Mr. GILLETTE] made a scholarly, able, well-tempered speech, one that was well received by the House and those holding his views throughout the country, a speech that was complimented everywhere. Now in the Evening Telegraph, a hard-money paper, published in that "loyal city" of Philadelphia, I find the following in a column notice of Mr. GILLETTE'S speech:

> If it were not for the cost of the powder and shot, his constituents had better take him out to an open lot and shoot him.

Then further, speaking of our Representatives, it says:

> If there is a way to crush them it should be used, and if there is no way one should be invented.

That is the way they meet the discussion of this question. If a man dare to raise his voice for the oppressed poor, this is the argument he meets. Well, is this your game? Beware! It makes the syndicate and subsidized press as mad to see a greenbacker in Congress as it does a bull to shake a red flag at him.

Mr. KELLEY. That is not the Telegraph which you hold in your hand?

Mr. WEAVER. No; but this is the leading republican paper of Iowa—the State Register—which quotes and approves the villainous article.

Mr. TOWNSHEND, of Illinois. Is not the Telegraph a republican paper?

Mr. FISHER. I can tell the gentleman that it is not.

Mr. WEAVER. I guess it is a republican paper.

Mr. SAPP. But here is a gentleman who has just said that it is not.

Mr. WEAVER. No matter whether it is or not; the Register is, and both are hard-money. You might take a magnifying-glass that magnifies ten thousand diameters and you could not tell the difference between a hard-money republican and a hard-money democrat. [Laughter.]

Mr. HASKELL. Let me ask the gentleman a question.

Mr. WEAVER. What is it?

Mr. HASKELL. You say there is not a particle of difference between a hard-money democrat and a hard-money republican. I hope that is true. Now I want to ask the gentleman if there is any difference between a soft-money democrat and a greenbacker?

Mr. WEAVER. The same difference there is between a soft-money republican and a greenbacker. About the only difference is that the one is in one party organization and the other is in another if they are honest. Now, as to the infamous article from the Philadelphia Evening Telegraph and Iowa State Register, I want the historian to put these papers alongside the Okolona States, published in Mississippi. [Laughter.]

Now, the gentleman from New York [Mr. CHITTENDEN] said that the people were extravagant and got in debt. The gentleman from Massachusetts [Mr. CLAFLIN] said the same thing. The inference is that all this business depression is the result of the extravagance of the people.

That is not true; it is a mere afterthought. While the people had their currency, and before contraction set in, they were out of debt. It is not natural for people to go in debt if they have the money to pay, nor did they do so before contraction was inaugurated by McCulloch. The people of this country were then out of debt. When they failed to realize upon their investments, when they failed to obtain money, they substituted credit for money. But that was all done after contraction began, and I propose to prove that from high authority.

Mr. Secretary McCulloch, in his annual report to Congress in 1865, in which he was urging upon Congress the adoption of the contraction scheme, says:

> The people are now comparatively free from debt.

This he gives as a reason why it is safe to enter upon contraction, that contraction which has ruined and pauperized one-half of our people. Who can portray the experience and suffering of the American people since that fatal hour? Hoping that the people may arouse and take the Government once more into their own hands, and that our civilization may be made better through our great suffering, I will not trespass further upon the time of the House.

Mr. HEILMAN. Mr. Speaker, it was my sincere desire that the cause for this debate should not have occurred during this extra session. By far the best that we can do for the good of the country at the present time and under existing circumstances is to do nothing but pass the appropriation bills and go home. This extra session itself was a disagreeable and harmful necessity brought about by the fault of the democratic party in the last Congress. The interests of the country demanded the passage of the appropriation bills, but I must earnestly protest against any legislation such as we are now debating upon. I do not claim to be an orator; my whole life almost has been devoted to business, and, partly because I am a business man, I believe myself to have been honored by being sent here by the people of the first district of Indiana, a district which for many years without interruption has been largely democratic. The people feel, I think, that "the world is governed too much," and that the manufacturing of bills by the thousand, the bepapering of the country with acts and laws and resolutions and bills and amendments might just as well stop for a little while. [Laughter and applause.]

This law-making by wholesale is, however, no wonder when we consider that about five-sixths of the members of Congress are always lawyers who seem to delight in making laws, as many people do in making money: the more the better. Now and then a doctor, or a minister who considers himself as good a doctor as any other man for the treatment of the complaints of the people, is elected to Congress, and proposes a cure by a thousand million pills—I mean a thousand million bills. [Laughter.]

I am strongly in favor of practical, well-considered legislation to benefit the manufacturing and agricultural interests, to increase our commerce and our wealth but by all means let us also have some

stability, especially in our financial legislation. The condition of the country is at last surely getting better, although it may be slowly; and what commerce and the finances want just now more than anything else is to be let alone.

Believing as I do, that the deplorable condition in which our commerce and our industries were until lately was a result of the rebellion and of the inflation which naturally followed, and that the reaction which commenced in 1873 was the inevitable consequence of the preceding period of reckless expenditures, I still cannot but recognize the fact that the time during which this prostration has lasted was greatly prolonged by the unnecessary agitation in Congress of questions tending to disturb public confidence, to threaten the stability of our financial system, and to paralyze our commercial and manufacturing interests. The republican party, under the splendid leadership of our present Secretary of the Treasury and others, and fighting and defeating step by step the democratic-greenback combination, has at last brought us back to the resumption of specie payments. There we stand once more on firm ground. Let us stay there and not plunge back into the whirlpool of inflation and wild speculation.

I repeat, I do not mean to say that I am not heartily in favor of the adoption of such measures as will give the greatest facilities in developing the immense resources of our country in agriculture as well as in regard to mining and manufacturing, and which will render reasonable and legitimate aid to useful and necessary public improvements. In fact, it was the narrow-minded and niggardly policy pursued by the democratic party in Congress that was to a large extent responsible for the depression of labor and for the hard times. Had they gone ahead with public improvements, as it was their duty to do, it would in a great measure have furnished relief for the laboring classes. This was done under similar circumstances and with the most beneficial results by Colbert, the great secretary of Louis XIV, of France; by Frederick the Great, of Prussia; and by Napoleon III, the late emperor of the French, under whom, whatever else there may be said against him, France, in regard to material prosperity, stood higher than at any other time.

It is possible that we might do some good by some new legislation in this direction, but I believe that we will do more good by waiting for this until next winter. It is certain, at least, that we shall keep business in a feverish excitement by staying here longer than necessary to pass the appropriation bills.

I desire to say a few words more in regard to inflation. Whatever may be advisable to do after due and deliberate consideration in order to give remunerative employment to a number of people and to assist the commercial and manufacturing interests, and thereby all interests of the country, it will cost money. This money-spending may be made to lead to good results, but it must be done without taking away again our specie foundation. We had inflation enough during and immediately after the war. We were then heavily discounting the future, giving out notes and bonds and certificates and contracts by the armful. The year 1873 came, as it had to come, like a bank-collector, demanding of us to pay up. Then we found that we did not feel as well as appearances and our feverish excitement had led us to believe, and got sick after our spree. [Laughter.] We are getting better now, and will soon be well again if only the inflation doctors will let us alone.

Paper money, a good thing in the pocket of an individual, is not a part of the wealth of a nation. If it were, the easy road to fortune would be plain enough. Wealth is the result of labor, and is shown by acres blooming with crops, cities busy with work and thrift, commerce and manufacturing, rivers, lakes, and seas studded with ships. Money is only the tool with which we measure and exchange wealth, but is not wealth itself. For a certain number of people and a certain amount of trade a sufficient supply of these tools, that is of the different kind of things which represent money, must be given. But the storekeeper may as well expect to double the value of the stock in his store by doubling the number of his yardsticks as the greenbackers have a chance to make us richer by one thousand million pills.

Especially the workingman, the poor man will suffer by inflation. One dollar will now buy at least as much as $2 ten years ago. But if you double our currency the consequence will be that prices will rise much higher and faster than wages.

In regard to the expediency of making a silver dollar equal in all respects to a gold dollar, it seems to me that there is no good reason why it should not be done, provided we put silver enough in the dollar. The best, I repeat, however, that we can do for the material interests of the country now is to pass the appropriation bills and go home.

Mr. Speaker, I presume my speech will be interpreted as that of a "bloated bondholder and capitalist." Far from it. I own no bonds. I am simply a manufacturer, and speak in the interest of labor. I came to this country when nineteen years old without a dollar. I worked hard and saved myself $500. With that amount I commenced an iron foundery and machine-shop. My "power" consisted in a blind horse. [Laughter.] It is labor rightly applied, as my friend from New York [Mr. CHITTENDEN] said, that is capital in this country. I have only one word further to say, and that is, honesty is the best policy, and no man or nation will prosper by being dishonest. This bill is a cheat, and nothing else. [Laughter and applause.]

Mr. KELLEY obtained the floor.

Mr. SPRINGER. I suggest that the gentleman give way for a motion to adjourn. I think we would prefer to hear the honorable gentleman to-morrow after the morning hour.

Mr. KELLEY. I yield for that purpose.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. CHITTENDEN, for one week, on account of important business;

To Mr. HARRIS, of Massachusetts, for ten days;

To Mr. GODSHALK, from to-morrow until next Friday;

To Mr. HAMMOND, of Georgia, for ten days from to-morrow, on account of important business; and

To Mr. O'REILLY, until the 20th instant, on account of important business.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 286) to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy; and

An act (H. R. No. 1376) making appropriations for constructing jetties and other works at South Pass, Mississippi River.

Mr. SPRINGER. I now move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ANDERSON: The petition of citizens of Kansas, for a post-route from Grinnell, via Faust's Mill, to Lane Centre, Kansas—to the Committee on the Post-Office and Post-Roads.

By Mr. BEALE: The petition of citizens of Virginia, for the establishment of a post-route from Pungoteague to Sturgis, Virginia—to the same committee.

By Mr. DEERING: The petition of 225 citizens of Howard County, Iowa, for a revision of the patent laws so as to protect purchasers of patented articles—to the Committee on Patents.

By Mr. LAPHAM: Papers relating to the claim of Alonzo Snyder for reimbursement of moneys expended by him as an officer in the provost-marshal-general's department for the twenty-fifth district of New York in 1863—to the Committee of Claims.

By Mr. McGOWAN: Resolution of the Legislature of Michigan, opposing the passage of any law limiting the jurisdiction of the courts of the United States in proceedings against municipal corporations of any State by the citizens of another State—to the Committee on the Judiciary.

By Mr. REAGAN: The petition of members of Elysian Grange of Le Sueur County, Minnesota, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. TOWNSHEND, of Illinois: The petition of Franklin Rives, presenting a proposal to print the congressional debates—to the Committee on Printing.

By Mr. UPDEGRAFF, of Ohio: The petition of J. A. Graham and 24 other citizens, members of Green Hill Grange, Columbiana County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petitions of Mary R. Berry and 310 citizens of Jefferson County, Ohio, and of Martha A. McDonald and 1,027 citizens of Columbiana County, Ohio, against any change in the revenue laws that will benefit dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. WILLIS: Papers relating to the claim of Henry Thierman and White Frost for compensation for property sold for taxes alleged to have been illegally assessed against them—to the Committee on the Judiciary.

By Mr. YOUNG, of Ohio: The petition of Frank Rickey, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

SATURDAY, *May* 10, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of Dr. A. J. Redding and others, citizens of Paris, Lamar County, Texas, praying for the establishment of a post-route from that place to Sulphur Springs, Hopkins County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. FARLEY presented a petition of citizens of Los Angeles County, California, and officers of the Southern California Horticultural So-

ciety, the Southern District Agricultural Society, and the Chamber of Commerce of the city of Los Angeles, praying for the establishment on the Pacific coast of a branch of the Department of Agriculture, including experimental farms and gardens to demonstrate the manner of cultivating the various products which the region west of the Rocky Mountains is capable of producing, and giving reasons why this branch of the service should be located at Los Angeles; which was referred to the Committee on Agriculture.

Mr. WILLIAMS presented additional papers to accompany the bill (S. No. 74) for the relief of Lieutenant Frank P. Gross; which was referred to the Committee on Military Affairs.

BILL INTRODUCED.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 580) relating to telegraphic communication between the United States and foreign countries; which was read twice by its title, and referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1382) to prohibit military interference at elections; and it was thereupon signed by the President *pro tempore*.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. If there is no further morning business what is the pleasure of the Senate?

Mr. BECK. I propose that the Senate proceed to the consideration of the legislative, executive, and judicial appropriation bill.

The PRESIDENT *pro tempore*. The Chair will consider the morning hour at an end, if no objection be made, and the unfinished business is before the Senate as in Committee of the Whole, being the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes. If there is no objection the amendments reported by the Committee on Appropriations will be considered as they are reached in the reading of the bill, and the Secretary will commence the reading of the bill.

Mr. EDMUNDS. I do not make any objection to that course, only I should like to have it understood at the same time that if there be any amendment as we go along, in some part of the bill, that any Senator would like to have go over until the bill is gone through with, it may be done.

The PRESIDENT *pro tempore*. Certainly; and it will also be understood that Senators can go back to a portion of the bill which has been passed over in the reading.

Mr. EDMUNDS. Yes, of course.

Mr. BECK. What is the suggestion?

Mr. EDMUNDS. What I said was that I should like to have it understood, in considering the amendments as we go along, that if there should be an amendment any Senator would like to have wait until the bill is gone through, it may be deferred.

Mr. BECK. That meets the views of the committee.

Mr. EDMUNDS. I do not know that there are any such amendments.

Mr. WITHERS. We first act on the amendments reported by the committee, and then any Senator can offer amendments.

Mr. EDMUNDS. Certainly; but I am speaking of the committee's amendments. Possibly one might come up that needed a little further time to think about, and therefore I did not wish to have the consent to consider them as we go along as absolutely final; that is all.

Mr. MAXEY. I should like to have one point understood. I understand the Chair to state that as the amendments of the Committee on Appropriations are reached they will be acted on.

The PRESIDENT *pro tempore*. Unless some Senator should desire an amendment to be passed over for further consideration.

Mr. MAXEY. Suppose an amendment at some particular point is proposed by direction of another committee, will it be appropriate to have such an amendment taken up and acted upon after the amendments of the Appropriations Committee have been acted upon?

The PRESIDENT *pro tempore*. It has been usual first to act on the amendments of the Committee on Appropriations. When they are through the whole bill is open to further amendment.

Mr. MAXEY. That is not the point I am trying to get at. When one subject is taken up and the amendments of the Committee on Appropriations on that subject are disposed of, is that the proper time for an amendment offered by another committee to come in?

The PRESIDENT *pro tempore*. If it were an amendment to the amendment of the committee, that would be the proper time for it.

Mr. MAXEY. An amendment to the amendment of the committee?

The PRESIDENT *pro tempore*. If the amendment modified the amendment of the committee, it would be in order at that time.

Mr. BECK. I desire to say one word, and perhaps it will save time. The Committee on Appropriations of the Senate ascertained by an examination of the House bill that it was substantially the bill of last session as agreed to in committee of conference as far as it was agreed to. There was no formal agreement in the conference, but this bill conforms substantially to what was done then, with one or two exceptions. The House returned to the provisions of the original bill as to the Senate employés and restored those provisions to what it had formerly insisted upon. There are one or two exceptions, however, to which I will call attention; but the bill is substantially what both Houses agreed to last session, with the exception, as I said, of the Senate retaining its employés as they stood before.

The PRESIDENT *pro tempore*. The Secretary will read the bill.

Mr. EDMUNDS. Before the reading proceeds, may I ask the Senator from Kentucky, for I have not looked at it myself, whether what is called the political legislation in this bill is substantially the same as in that of the last session, or does it differ in some material respect of enlargement or diminution?

Mr. BECK. I did not compare the two bills in regard to that point.

Mr. EDMUNDS. Very well.

Mr. BECK. I thought that would create a great deal of discussion, and I examined the mere business parts of the bill.

Mr. EDMUNDS. It is of no particular consequence just now. I did not know but the Senator might be able to inform me in a moment, as I have not looked at it.

Mr. BECK. I am not really prepared to answer the question.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Appropriations was, in line 16, of section 1, to increase the appropriation "for compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate from $144,400 to $187,422."

Mr. HOUSTON. That is the question, I understand, which has been a matter of controversy between the two Houses, in relation to the pay of the employés?

The PRESIDENT *pro tempore*. The Chair is unable to answer the Senator.

Mr. BECK. While there was no formal agreement about this matter at the last session, I think but for the political part of the bill it would have been agreed on. The Senate claimed the right to retain its present force at its present rates of pay, allowing the House the same privilege as to its employés. The House has added largely to its own force, in one case increasing its force from twenty-one clerks to twenty-five clerks, and in one or two other instances. We believed that we could not now go into a revision of the whole matter on this bill; and as a committee has been instructed to rearrange and readjust the question of the payment of the employés of the Senate, and as the House, I understand, is trying to do the same thing, we thought for the time being that it would be better to let the matter remain just as it was, without attempting to do anything until that committee had made its report as to what ought to be done. We were unable to obtain the information necessary to act upon the matter satisfactorily at this time.

The PRESIDENT *pro tempore*. In order to facilitate the business the Chair will state that he will make inquiry in regard to the amendments relating to Senate employés, which are very numerous, as they are reached, to know if there is any objection to the particular amendment. If there is no objection, each will be considered as concurred in. If there is any objection, then the question will be put. Is there any objection to this amendment?

Mr. HOUSTON. Mr. President, I suppose the compensation of employés is a matter of controversy between the two Houses that ought in some way or other to be adjusted so as to relieve the Houses of that difficulty and of that trouble. The Senator from Kentucky speaks of the House of Representatives regulating the pay of its own employés and the number of its employés, and of the Senate doing the same as to its. Now, that really in legal parlance cannot be done. If we can convince the House that we need a certain number of employés at a certain compensation, then the House will accede to it. If the House can so convince the Senate, then the Senate ought to agree with the House. But the idea that each House can regulate the number and pay of its own employés without the concurrence of the other House, I think is utterly untenable. If we have a judgment upon that subject and the House agree with us, then our judgment ought to be carried out. The compensation allowed to the employés of the two Houses is according to law. A law to be passed must have the assent of both Houses of Congress; and when we have such a law it is exceedingly unfortunate that trouble should exist between the two Houses and that one should compensate its employés higher than the other.

I think it is the duty of the Senate, and I regret that the Committee on Appropriations did not see proper to take such a course upon the subject and so act with the members of the committee of the House as to harmonize the difficulties and compensate alike the employés of the two Houses.

As far as this amendment is concerned I shall vote against it, because I propose to do exactly by the employés of each House the same even-handed justice. Believing that the employés here do no more labor than the employés of the House perform, and believing that the employés here are entitled to no greater compensation for the same

labor than the employés of the House are entitled to receive, as a member of this body I feel it my duty to so vote to regulate the subject as to do for them all the same even-handed justice.

Mr. BECK. All I desire to say is that the committee had not time to go into the matter of regulating the compensation of employés now. When the regular session meets it is to be hoped that the difficulty that exists between the Houses will be adjusted and arranged. For the time being we thought the course we pursued the only safe thing to do, with new officers at the head of the employés of the Senate, with no absolute information as to whether the rule we followed is right or whether it is wrong, and the subject being now carefully considered by a committee of this body, and for the present we did not deem that this was the proper time to go into the matter.

Mr. HOUSTON. Is the proposition of which the Senator from Kentucky speaks one looking to the raising of a joint committee between the two bodies or has this Senate organized a committee for its own purpose without reference to any action of the other House? If the latter branch is the correct statement of it, then, as a matter of course, that same want of harmony will exist in the compensation of the officers between the two branches of Congress. If this subject was really before a joint committee of the two Houses with a view to meet these troubles and to obviate them for the future, then I would acquiesce; but I do not understand it that way. My understanding is that the Senate is prepared to refer it to a committee of its own without reference to any joint action with a committee of the House and without having in view the great point I have in my mind, namely, harmony between the two branches of Congress in relation to this matter.

Now, sir, in my judgment the Senate has no more right to establish the pay of its own officers than it has to establish the compensation of the officers of the House. The same claim of power that would enable the Senate to say what its employés should receive, would result in giving to the Senate the power to say what the employés of the House should receive. We must act on such a subject by a law, and it being a law the two Houses ought to act together and ought to agree upon something just to the employés of both, and thereby these difficulties in the future will be obviated. There being simply one committee now looking into the matter I do not think that meets the difficulty, and I therefore shall vote against the amendment.

Mr. WITHERS. I wish to call the attention of the Senator from Alabama to the fact that the harmony which he so much desires to see established in the amount of compensation of the employés at the two wings of the Capitol will not be attained by passing the bill as it came from the House and voting down the amendments of the Senate Committee of Appropriations, because the rates of compensation fixed by the House bill are not identical in every case according to the services rendered, the bill in some cases paying more and in other cases less to the employés of the Senate than the corresponding officer of the House receives.

Mr. HOUSTON. In how many cases?

Mr. WITHERS. In several cases. In other cases the bill makes annual clerks of certain committee clerks of the House, and the Senate clerks of the same committees, who by the law are annual clerks, are degraded to session clerks. Therefore that harmony and unity which the Senator desires to see established cannot be attained by voting down the amendments of the Committee on Appropriations.

Mr. ANTHONY. Mr. President, we have had this controversy every year upon this bill, and it has always been decided, as I think it will be decided now, to allow each House to judge of the number and compensation of its own employés without the practical supervision of the other. That is the way that will best conduce to courtesy, and to decorum, and to the orderly transaction of business. I understand, the Senator from Kentucky will inform me if I am wrong, that the bill as it comes from the House puts the compensation of certain Senate employés below the compensation of the corresponding officers of the House.

Mr. BECK. I cannot name each instance, but take for example, in the bill as passed by the House the following items: Chief engineer of the Senate, $1,400; chief engineer of the House, $1,700. As passed by the House, the bill gives $300 more to their engineer than to ours; and there may be other cases of the kind.

Mr. WITHERS. There are several other instances.

Mr. BECK. There are several other instances of the same sort All we desire to do is to retain the salaries for the time being, just as they are now provided by law or by previous appropriation acts. We have a committee of our own who are now looking into the whole subject, the Committee to Audit and Control the Contingent Expenses of the Senate, and when the regular session comes we expect to look into the matter with more care, and see whether we are right or wrong.

Mr. ANTHONY. I hope the amendments of the committee will be adopted.

Mr. HOAR. I desire to call the recollection of Senators to one fact. I think in the Congress before the last—I am not quite sure of the date of the transaction, but I am absolutely sure of the transaction—the Senate undertook to make some amendment in its appropriation act which the House claimed was the assertion of an authority by the Senate to deal with the number and compensation of the House employés. The two branches differed, and the House very earnestly insisted that it was a matter which must be referred to its own control, and insisted on a conference between the two branches, and the Senate yielded to that view.

Mr. HOUSTON. The fact that the House may have insisted upon a wrong principle would not influence me in my judgment. If these discrepancies are now in the bill as presented by the House it would have been much more easy for the Committee on Appropriations here to have taken up the whole subject and reconciled the differences and reported the bill so amended as to have made them all, as I think they should be, compensated properly but compensated alike. There is one instance that I just happen to think of. It must be very evident to every Senator who will think upon the subject at all that the clerks of certain committees have different labor. The clerk of the Committee on Appropriations of the House has perhaps ten times as much work to do as the clerk of the Committee on Appropriations of the Senate, because he makes up and frames and prepares the bills for the action of the two Houses. Perhaps I state the disproportion too largely, but certainly there is a great difference. While I do not care to interfere with the compensation allowed to the employés of either House, yet I do not agree to the doctrine as presented by the Senator from Rhode Island. I do not acknowledge that the House has the right to increase the number of its employés beyond what is my judgment, without my vote against it, any more than I think we should have the right to increase our own number of employés without the concurrence of the House. My duty, my power, and my obligation under my oath are the same in regard to the House employés as they are in regard to the Senate employés.

The PRESIDENT *pro tempore*. This amendment being objected to the Chair will put the question. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 19, after the word "thousand," to strike out "five hundred" and insert "eight hundred and ninety-six;" so as to read:

For Secretary of the Senate, including compensation as disbursing officer, $4,896.

The PRESIDENT *pro tempore*. Is there objection to this amendment?

Mr. HOUSTON. I do not care to say anything more, but to all these amendments that relate to this subject I have the same objection.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Alabama to object and require the vote to be put?

Mr. HOUSTON. I do not care whether the vote is put or not; but if it is put I shall vote against the amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 22, to strike out "six" before "hundred" and insert "twelve;" so as to read:

And for hire of horses and wagons for the Secretary's office, $1,200.

The PRESIDENT *pro tempore*. Is there objection to this amendment?

Mr. HOUSTON. I do not care about consuming time by taking the vote on every amendment. I remarked to the Chair that I did not care about the vote being put, but I wanted it understood that I applied my objection to all these amendments alike.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the amendment is agreed to.

The next amendment was, in line 22, after "Chief Clerk," to strike out "two thousand five hundred" and insert "three thousand;" in line 24, to strike out "and" before "minute;" in the same line, after "journal clerk," to insert "financial clerk, and enrolling clerk, at;" in line 25, after "hundred," to insert "and ninety-two;" in line 26, after "each," to strike out "financial clerk and three clerks, at $2,250 each;" in line 28, before "clerks," to strike out "five" and insert "six;" in line 29, after "thousand," to insert "two hundred and twenty;" and in line 30, after "each," to strike out "one clerk at $1,800" and insert "five clerks in the office of the Secretary of the Senate, at $2,100 each;" so as to read:

Chief Clerk, $3,000; principal clerk, principal executive clerk, minute and journal clerk, financial clerk, and enrolling clerk, at $2,592 each; librarian and six clerks in the office of the Secretary of the Senate, at $2,220 each; five clerks in the office of the Secretary of the Senate, at $2,100 each.

The amendment was agreed to.

The next amendment was, in line 33, after "stationery," to strike out "$1,800" and insert "$2,102.40;" in line 36, after "thousand," to strike out "four" and insert "eight;" in line 37, after "hundred," to insert "and ninety-six;" in line 38, after "Senate," to strike out "six hundred" and insert "seven hundred and twenty;" and in line 40, after "hundred," to insert "and ninety-six;" so as to make the clause read:

For keeper of the stationery, $2,102.40; assistant keeper of stationery, $1,800; one messenger, $1,296; four laborers in the office of the Secretary of the Senate, $720 each; for one special policeman, $1,296.

The amendment was agreed to.

The next amendment was, in line 42, to increase the appropriation "for the salary of the secretary to the Vice-President" from $1,800 to $2,102.40.

The amendment was agreed to.

The next amendment was, in line 52, to increase the appropriation "for salary of clerk of printing records" from $2,000 to $2,220.

The amendment was agreed to.

The next amendment was, after the word "Commerce," in line 55, to strike out "and;" in line 56, after "Judiciary," to insert "clerk to the Committee on Private Land Claims, clerk to the Committee on Pensions, and clerk to the Committee on Military Affairs;" and in line 59, after the word "thousand," to insert "two hundred and twenty;" so as to make the clause read:

For clerk to the Committee on Finance, clerk to the Committee on Claims, clerk to the Committee on Commerce, clerk to the Committee on the Judiciary, clerk to the Committee on Private Land Claims, clerk to the Committee on Pensions, and clerk to the Committee on Military Affairs, at $2,220 each.

Mr. BECK. I said I would call attention to anything that was new in the bill. We have added an annual clerk for the Committee on Military Affairs, not there before. Upon the statement of the Senator from Texas [Mr. MAXEY] at the last Congress, and of the chairman of the committee now, we thought it was necessary.

Mr. SAULSBURY. I doubt the propriety of adding to the number of annual committee clerkships of the Senate. This makes the clerk to the Committee on Military Affairs an annual clerk. We have now as many annual clerks as they have in the House, which is a much larger body, and I doubt whether we ought to increase the expenses of the Senate by making annual clerkships to committees unless there is an absolute necessity.

I think the clerk of the Committee on Private Land Claims has not been an annual clerk heretofore. This includes him and the clerk of the Committee on Pensions. In my opinion the number of annual clerkships is more than we ought to have. We ought to cut them down rather than increase them. I have no doubt that a saving of $50,000 might be made in the expenses of the Senate, and I do not believe it is good policy or good economy to multiply the number of annual clerkships in this body, but on the contrary I believe we ought to address ourselves to a curtailment of the expenses of the Senate rather than be adding to them.

Mr. BECK. At the last session the Senate made this provision so far as it was concerned, on the motion of the Senator from Texas, on a statement which convinced the Senate. The Committee on Appropriations, therefore, have conceded that there ought to be a permanent clerk to the Committee on Military Affairs. The other day the present chairman of the committee, the Senator from New Jersey, addressed the chairman of the Committee on Appropriations, who is now necessarily absent, the following short note:

UNITED STATES SENATE CHAMBER,
Washington, April 30, 1879.

MY DEAR SIR: For reasons I have assigned, I request that the clerk of the Military Committee be made a permanent one.

It is impossible for me to get and keep a competent clerk except he obtain the salary of the year.

I have to keep an extra man at my own cost, as matters now stand. The committee has, as the files will show, over four hundred bills and promotions now before it, and the correspondence and examination coming from these military cases keep one man employed.

The business coming to the Military Committee of the Senate is much larger than that to the House Military Committee, and the business of the two cannot be well compared therefore.

Very truly yours,

THEO. F. RANDOLPH, *Chairman.*

In addition to that, the present chairman of the committee told us that the number of appointments, the number of promotions, the number of recommendations to be examined personally outside of the regular committee-room was so great that the amount of money he was paying out of his own pocket in order to get help was something that no Senator ought to be required to do. The business of the committee made it to our minds absolutely necessary that an annual clerk should be allowed.

Mr. MAXEY. On two occasions before, as a member of the Committee on Military Affairs, I have made the proposition to the Senate that that committee ought to have a permanent clerk, and for the reason that my experience in that committee has taught me that a clerk to that committee should be an expert. An ordinary clerk, however good he may be, is not the kind of clerk necessary for that committee. It needs one that is conversant with the machinery of military affairs; one who, when a case comes before that committee, knows at once what bureau or what branch of the military service to apply to in order to get the necessary information. To secure the necessary talent and the necessary information in a clerk for that committee, I have believed and do believe that that clerk should be a permanent clerk. The Senate took that view of the case, and by an overwhelming majority at the last session voted that committee a permanent clerk.

Mr. SAULSBURY. There are other committees here whose labors are equally as onerous as those of the Committee on Military Affairs. The Committee on Post-Offices and Post-Roads, of which my friend, the Senator from Texas, is chairman, is one. I am a member of that committee, and I know there is a great deal of business coming before that committee. Fully as many communications are sent to that committee as are sent to the Committee on Military Affairs, and I have no doubt that the business of the Committee on Post-Offices and Post-Roads is fully as heavy to-day as that of the Committee on Military Affairs or any other committee. Perhaps the Judiciary Committee may be different; that may be an exception. But if we are to add to the annual clerkships of this body we shall soon have an increase of expense. I think we ought to have some regard to economy in running the Senate.

For these reasons, not that I have anything against these clerks, because I do not know now who is clerk to the Committee on Military Affairs, the Committee on Pensions, or the Committee on Private Land Claims, they may all be efficient men—my purpose is simply to see that the expenses of the Senate are not unduly increased. I should vote for an annual clerkship to the Committee on Post-Offices and Post-Roads, because in my judgment the duties of the committee are fully as onerous as those imposed upon any of the committees that has an annual clerkship.

The amendment was agreed to.

Mr. MAXEY. By direction of the Committee on Post-Offices and Post-Roads I move to amend the clause just adopted as follows——

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) The Chair would suggest that the Senator allow the amendments of the Committee on Appropriations to be gone through with first.

Mr. BECK. I hope the amendments of the committee will be passed on first.

Mr. MAXEY. Very well; but I give notice now that when we go through the reading of the bill, I shall call attention to this clause and ask that it be amended further.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after the word "thousand," in line 61, to insert "three hundred and twenty;" in line 62, after the word "dollars," to insert, "clerk to the Sergeant-at-Arms, $2,000;" in line 64, after "thousand," to insert "five hundred and ninety-two;" in line 65, after "Doorkeeper," strike out "one thousand eight hundred," and insert "two thousand five hundred and ninety-two;" and in line 67, after the word "thousand," to strike out "two" and insert "eight;" so as to make the clause read:

For Sergeant-at-Arms and Doorkeeper, $4,320; clerk to the Sergeant-at-Arms, $2,000; assistant doorkeeper, $2,592; acting assistant doorkeeper, $2,592; three messengers, acting as assistant doorkeepers, $1,800 each.

The amendment was agreed to.

The next amendment was, in line 71, to increase the appropriation "for salary of assistant postmaster and mail-carrier" to the Senate from $2,000 to $2,088.

The amendment was agreed to.

The next amendment was, in line 74, to increase the appropriation "for salary of superintendent of document-room" from $2,000 to $2,160.

The amendment was agreed to.

The next amendment was, in line 77, to increase the appropriation "for salary of superintendent of the folding-room" from $2,000 to $2,160.

The amendment was agreed to.

The next amendment was, in line 79, to increase the appropriation "for salary of twenty messengers" from $1,000 each to $1,440 each.

The amendment was agreed to.

The next amendment was, after line 82, to insert:

For messenger to the Vice-President's room, to be appointed by the Vice-President, $1,440.

The amendment was agreed to.

The next amendment was, in line 86, after the word "engineer," to strike out "one thousand four hundred" and insert "two thousand one hundred and sixty;" in line 87, before "assistant engineers," to strike out "two" and insert "three;" in line 88, after the word "thousand," to strike out "two hundred" and insert "four hundred and forty;" in line 90, after the word "thousand," to strike out "two hundred" and insert "four hundred and forty;" in line 91, after the word "thousand," to insert "two hundred;" in line 92, before the word "firemen," to strike out "three" and insert "two;" in the same line, after the word "at," to strike out "nine hundred" and insert "one thousand and ninety-five;" and in line 94, after the word "at," to strike out "six hundred and sixty" and insert "seven hundred and twenty;" so as to make the clause read:

For chief engineer, $2,160; three assistant engineers, at $1,440 each; assistant engineer in charge of the elevator, $1,440; conductor of elevator, $1,200; two firemen, at $1,095 each; three laborers in the engineer's department, at $720 each.

The amendment was agreed to.

The next amendment was, in line 96, after the word "at," to strike out "eight hundred and forty" and insert "one thousand;" in line 97, after the word "at," to strike out "six hundred and sixty" and insert "seven hundred and twenty;" in line 99, before the word "laborers," to strike out "ten" and insert "twelve;" in line 101, after the word "passage," to strike out "six hundred and sixty" and insert "eight hundred and forty;" in line 102, after the word "dollars," to strike out "Kate Dodson" and insert "female attendant;" in line 103, after the word "retiring-room," to strike out "six hundred" and insert "seven hundred and twenty;" and after the words "telegraph operator," in line 104, to strike out "during the session, $800," and insert "$1,200 per annum;" so as to make the clause read:

For eight skilled laborers, at $1,000 each; ten laborers, at $720 each; twelve laborers, during the session, at the rate of $720 each per annum; one laborer in charge of private passage, $840; female attendant in charge of the ladies' retiring-room, $720; telegraph operator, $1,200 per annum.

The amendment was agreed to.

The next amendment was, in the appropriations "for contingent

expenses of the Senate," in line 110, after the word "and," to strike out "two" and insert "one;" in the same line, after the word "dollars," to insert "each;" and in line 111, after the word "Secretary," to insert "and Postmaster;" so as to make the clause read:

For stationery and newspapers, (including $5,000 for stationery for committees and officers of the Senate and $100 each for postage-stamps for the Secretary and Postmaster of the Senate,) $14,700.

The amendment was agreed to.

The next amendment was, in line 113, before the word "clerks," to strike out "twenty-seven" and insert "twenty-six;" and in line 114, after the word "session," to strike out "thirty-four thousand three hundred and forty-four" and insert "thirty-three thousand and seventy-two;" so as to make the clause read:

For twenty-six clerks to committees, at $6 per day during the session, $33,072.

The amendment was agreed to.

The next amendment was, in line 118, after the word "riding-pages," to strike out "one page for the Vice-President's room;" and in line 121, after the word "thousand," to strike out "eight hundred and thirty-five" and insert "two hundred and sixty-five;" so as to make the clause read:

For fourteen pages for the Senate Chamber, three riding-pages, and one page for the office of the Secretary of the Senate, at the rate of $2.50 per day each while actually employed, $10,265.

The amendment was agreed to.

The next amendment was, in line 126, after the word "exceeding," to strike out "two dollars and fifty cents" and insert "$3;" and after the word "employed," in line 127, to strike out "three thousand five hundred and four" and insert "four thousand;" so as to read:

For four folders, at not exceeding $3 per day while actually employed, $4,000: *Provided, however*, That any portion of said sum may be used, at the discretion of the superintendent, for piece-work.

The amendment was agreed to.

The next amendment was, in line 139, after the word "apparatus," to strike out "seven" and insert "eight;" in line 141, after the word "packing-boxes," to strike out "six hundred" and insert "seven hundred and sixty;" and in line 144, after the word "all," to strike out "forty-five thousand one hundred" and insert "forty-six thousand two hundred and sixty;" so as to read:

For fuel and oil for the heating apparatus, $3,000; for furniture and repairs of furniture, $7,000; for packing-boxes, $760; for miscellaneous items, exclusive of labor, $30,000; for cartage, $500; in all, $46,260.

The amendment was agreed to.

The next amendment was, in line 171, to increase the appropriation for compensation of the officers, clerks, messengers, and others receiving an annual salary, in the service of the House of Representatives, from $197,015.20 to $197,915.20.

The amendment was agreed to.

The Secretary continued the reading of the bill to line 379.

Mr. BECK. The committee will desire to go back to page 15, line 354, to make an appropriation for the three assistants to the Librarian authorized by the bill passed yesterday without an appropriation. It will be necessary to make an amendment there so as to provide for the pay of the officers provided for under the bill which passed both Houses yesterday. I now desire to give that notice.

The PRESIDING OFFICER. The reading of the bill will proceed.

The Secretary continued the reading of the bill to line 396.

Mr. PLUMB. I desire to call attention to an amendment I have submitted to be proposed to line 396. I move to strike out the word "executive" in that line and insert after the word "clerks" the words "of the General Land Office;" so as to read:

And the duties prescribed by section 450 of the Revised Statutes shall devolve upon and be discharged by one of the clerks of the General Land Office, to be designated by the President for that purpose.

I am not certain whether the Committee on Appropriations have a letter from the Commissioner of the General Land Office recommending it or not, but I know such a letter has been prepared and is *in transitu*. This work of signing land patents—that is the duty referred to by section 450 of the Revised Statutes—is wholly a formal duty. The name of the President is attached by a clerk. Under the rule established by this bill the patents will be required to go from the General Land Office to the President and back again, necessitating a letter of transmissal. Inasmuch as the President exercises no discretionary power at all, and since he merely causes his name to be signed, or in fact the clerk signs, without consulting the President, every patent sent him from the General Land Office, it is deemed desirable and advisable as a matter of economy not only of money but of time that some clerk in the General Land Office be designated by the President to perform this act for him, and shall be the person to do this service, and not an executive clerk in the mansion of the President.

Mr. BECK. I hope the Senator from Kansas will allow that matter to be passed by for the present. We copied the existing law in this bill.

Mr. PLUMB. I understand the desire is to change that in order that all these matters may be transacted in the office of the Commissioner of the General Land Office under one roof and save the necessary letters of transmissal and the time now occupied in sending them.

Mr. BECK We had some communication on that subject last year. We have had none at this session, so the clerk of the committee informs me, but we shall look at it carefully.

Mr. PLUMB. With the understanding that we can go back to this matter before the bill is finally passed, I do not urge the amendment now.

Mr. BECK. Certainly; that can be understood.

The PRESIDING OFFICER. The reading will proceed.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was, in the clause making appropriations for the Bureau of Statistics, in line 677, to increase the sum for the "compensation of the officer in charge of the Bureau of Statistics" from $2,400 to $3,600; and in line 684 to increase the total of the appropriations for the bureau from $40,760 to $41,960.

Mr. BECK. I desire to say that that is an increase of the present salary, but we make this officer correspond to the Auditors who get $3,600; and this was agreed to in conference at the last session.

The amendment was agreed to.

The reading of the bill was continued to line 829.

Mr. BECK. We have now proceeded through the provisions in relation to the Senate and House of Representatives, the Executive Department proper, the State Department, and the Treasury Department in all its branches. The Senator from Georgia [Mr. HILL] is obliged to be absent and has remained for several days at personal inconvenience to himself. He desires now as I am advised to be heard upon a portion of the bill that has not yet been reached, and as he wishes to go away the committee in charge of the bill will give way to him now.

Mr. SAULSBURY. I desire to offer an amendment to the pending bill to be printed and referred to the Committee on Appropriations.

The PRESIDING OFFICER. The amendment will be printed and referred to the committee.

Mr. HILL, of Georgia. Mr. President, I am very much obliged to my friend, the Senator from Kentucky, and the Committee on Appropriations for yielding to me at this time. I would not speak to-day at all but for the fact that I am compelled to leave the city and perhaps, possibly at least, not to return until this bill is disposed of. There are some observations which I desire to submit; and as this is the only opportunity to do so, I will avail myself of the kindness of the committee in suspending the reading of this bill to proceed now with what I have to say.

Mr. President, it is known to the Senate and the country that the discussion of the questions involved in this and the kindred bill began in the last days of the Forty-fifth Congress. The result of the discussion then necessitated the calling of an extra session of Congress, and since the assembling of this session the discussion has been almost continuous in the two Houses of Congress. I have taken no part in it hitherto, because in my judgment there was nothing in the legislation pending that justified discussion, nothing in the substance or form of the legislation which in my judgment could even excuse the elaborate discussion which has been had; and I suppose if we were to apply the test, nine-tenths of the arguments which have been made and placed upon the record have no application whatever to the immediate subjects involved in either of the bills.

I have watched the discussion with very intense, I might say with anxious, interest for the purpose of discovering if I could the true reason, the active inspiring motive of this discussion. Why has it been thrust upon the country? The legislation proposed is simply nothing more nor less than the repeal of a very small portion of legislation which was enacted during and since the war, legislation which had no place upon our statute-book for the first seventy-five years of our history; and why has such an earnest, such a heated, I had almost said such an ill-tempered, discussion been thrust upon the country on the occasion of repealing a few statutes of the kind alluded to?

I have no desire to do any one injustice. I have watched this discussion solely for the purpose of arriving, if I could, at the real motive which lies at the bottom of it. I am thoroughly satisfied that the motive is very plain and unmistakable. A great party in this country have entered upon a well-considered, or I ought to say ill-considered, but determined purpose of reopening the sectional agitations which have so long divided this country for the purpose of consolidating one section of the country against the other, solely for the benefit of that particular party, and without reference to the good, as I think, of the country.

Now, sir, what is the result? The country now beholds the extraordinary spectacle of an extra session of Congress, of weeks and months of agitated discussion, the whole purpose of which discussion, at least on one side of this House, seems to be to convince one section of the country that the people of the other are not to be trusted in their fidelity and patriotism to the country. Suppose they succeed in establishing that proposition; if it be true they have established a proposition which demonstrates that the Government is on the eve of failure; if it be false, why should they seek to impress upon the country a condition of things affecting the integrity of the Union itself which is not true?

I am not going to go through the many arguments and speeches that have been made on this floor which seem to be inspired by nothing on earth but hatred to one section of this country and the people thereof. I cannot afford to do that. Speech after speech has been made which could have no other purpose, which has no other

meaning. Do Senators expect to benefit the country by such a course of proceeding? Do they think they promote the good of this country, of any section of it, when they labor so industriously to prove to one portion of the people that another portion is not to be trusted? Are they not citizens of the same Government?

Now, as an illustration of what I say, pardon me if I select the two most distinguished gentlemen of the republican party, gentlemen who above all others have distinguished themselves for their ability in the discussion of this question, who I suppose from their position and character in every respect command perhaps more than any others the confidence of the party to which they belong. The distinguished Senator from New York [Mr. CONKLING] in the very effective speech which he made on the 24th of April reminded us that "one of Rome's famous legends stands in these words: 'Let what each man thinks of the Republic be written on his brow'" and the Senator wrote on the forefront of his speech delivered on that important occasion a most remarkable declaration which he must excuse me for saying illustrates the animus of the speech. He commences in this way:

During the last fiscal year the amount of national taxes paid into the Treasury was $234,831,461.77. Of this sum one hundred and thirty million and a fraction was collected under tariff laws as duties on imported merchandise, and one hundred and four million and a fraction as tax on American productions. Of this total of $235,000,000 in round numbers, twenty-seven States which adhered to the Union during the recent war paid $221,204,268.88. The residue came from eleven States. I will read their names: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia. These eleven States paid $13,627,192.89. Of this sum more than six million and a half came from the tobacco of Virginia. Deducting the amount of the tobacco tax in Virginia, the eleven States enumerated paid $7,125,462.60 of the revenues and supplies of the Republic.

What does the Senator here say, what does he write upon the forefront of his magnificent oration? It is that all the customs revenues of the country are paid by the State at whose port the revenue is collected. If his argument be true, New York pays over $90,000,000 of the customs revenue, because the port of New York is a great port for the whole country, and he credits the twenty-seven States with the payment of all the customs revenues collected in that port and Boston and other northern ports. He should credit it to the city of New York. It is all paid at the city of New York. The Senator might have enlarged his argument; he might have selected from the Western States a group of eleven States that pay perhaps less customs revenue than the eleven Southern States. I doubt whether the great State of my friend from Ohio pays much on the Senator's method of computation. Certainly those great interior States that have no ports, according to him, pay none of the customs revenue. How much would Ohio pay under that rule? How much would Indiana pay; how much would Minnesota pay? The Senator might have gone further. If New York is to be credited with all the revenues that are collected upon importations at New York, New York ought also to be credited with all the products that are exported from the port of New York, and the distinguished Senator by figures could have proven that New York was the largest cotton-growing State in the world.

Why should so distinguished a Senator, so able a Senator, find it necessary to commence his speech with an argument of that kind? What had it to do with the question? The question pending in the bill which he discussed was whether it was wise and proper to use the Army to keep the peace at the polls, and the Senator commences his argument upon that question by giving a statement of the revenues collected for the support of the Government, and puts the statement in such form as to show that all the revenues are paid by twenty-seven States, of which New York pays half. What had it to do with the question? Nothing. Then, if the Senator found it necessary to make such a statement, why did he hazard his reputation in such a manner as to make a statement the incorrectness of which could not fail to be seen by any one who understood the facts of the case? And then he put it in the strong form of figures, and he had the benefit of the old aphorism that figures will not lie. The Senator's phraseology is very curious too. I say nothing of his refusal to permit a correction to be incorporated in his speech, which I attempted. He goes on; he says:

The laws exacting these few millions from eleven States, and these hundreds of millions from twenty-seven States, originated, as the Constitution requires all bills for raising revenue to originate, in the House of Representatives.

Where is the law that exacts these few millions from eleven States, these hundreds of millions from twenty-seven States? Is there such a law known? Is there any revenue law of this country which is not uniform? Is there any law of this country which could justify that distinguished Senator in saying that eleven States pay so few millions of revenue and twenty-seven States pay so many hundred millions of revenue, and, to use his emphatic words, that this revenue in this disproportion is exacted by the laws of the country? I do the Senator no injustice when I say that the purpose of the statement is indicated by the application which is made of it:

This vast revenue is raised and to be raised for three uses. It is supplied in time of severe depression and distress, to pay debt inflicted by rebellion—

Why was it necessary to say that?—

to pay pensions to widows, orphans, and cripples made by rebellion; and to maintain the Government and enforce the laws preserved at inestimable cost of life and treasure.

Why should the Senator make a statement in figures that is not correct, and speak of the exactions of a law that does not exist in relation to revenue, and then seek to arouse, as doubtless his method of stating facts does arouse in so many minds at the North, a prejudice against these eleven States that have been so wicked as to make it necessary for such enormous taxes to be collected and who under the laws are required to pay so few of the taxes. Everybody knows that each section of the country pays according to its consumption of the importations into the United States. It is hardly necessary to say that the money collected by the Government at the port of New York is not paid by the city or people of New York, or by the State of New York, but is paid by the people of the country all over the country who buy and consume the goods imported. All the point I make on this is to ask the country what could have been the motive of so distinguished a Senator for making such a statement which had no relevancy to the subject under discussion, what could be the purpose except to use his great powers, aided by a singular computation of figures, to impress his section of the country with feelings of antipathy and dislike to the southern people?

But, sir, we had a more remarkable exhibition than that yesterday. I pass for the moment from the honorable Senator from New York to the distinguished Senator from Vermont, [Mr. EDMUNDS,] for if these great men say these things what shall we not expect of the smaller men, the legions of them? The Senator from Vermont yesterday, who may, perhaps, be called with fitness the legal adviser of the republican party, who seems to feel under special obligations on all occasions to interpret the law for that party, with all his distinguished ability absolutely came into the Senate and had read from the Secretary's desk a large number of clauses of the Constitution on the subject of the powers of the Federal Government, and then had all the acts of Congress, almost, I believe, without an exception, from the administration of President Washington down, read, had the act of 1789 read, the act of 1792, the act of 1795, the act of 1807, the act of 1833, being careful to notify the country in whose administration these various acts were passed, beginning with the sacred administration of Washington, and then qualified all that with extensive quotations from that great work written by Hamilton and Madison and Jay, known as the Federalist. For what purpose? Why all that? Would any man believe it? For the purpose of taking the position and seeking to enforce upon the country the idea that the little bill prohibiting the use of troops at the polls had the effect to change and modify, if not to repeal, all this legislation to which I have alluded, that that bill was in conflict with the clauses of the Constitution which he read, that it changed the legislation of the country from the days of Washington to the days of Grant, when that Senator must know, when every legal mind of this country must know that the bill which was pending before the Senate yesterday did not affect in the slightest degree or repeal a single provision of a single statute to which he referred previous to 1865; not one; I affirm it with confidence, not one. When the bill shall become a law, if it shall become a law, the acts of 1789 and of 1792 and of 1795 and of 1807 and all those other acts will remain perfect and complete just as they always were before the passage of the act of 1865. They will not be repealed, they will not be changed, they will not be modified in one single particular.

That is not the worst. I have the Senator's speech before me, and it is a labored effort to impress upon the country what the Senator would not say in precise language himself, but to impress upon the country the idea that Washington and Jefferson and Jackson, and all the distinguished Presidents of this country and the Congresses of their day in passing these laws had the purpose in view of enabling the President to employ the Army to preserve the peace at the polls, and that by passing this bill and declaring now that the Army and Navy shall not be brought to the polls during the elections we are coming in conflict with those statutes that come down to us from the days of Washington, and yet every Senator knows that there is not a word of that correct, as I have stated.

Why, sir, the act of 1795 and the other acts alluded to by the distinguished Senator from Vermont were not intended to give the President power to use the Army to keep the peace at the polls or to interfere with the elections, and that Senator knew that it was impossible that that legislation could have had such a purpose. Why do I say he knew it? Because during all those years of our Republic there was no law enacted by the Congress of the United States giving to the Federal Government control of elections in the States. The President could not send the Army and Navy to enforce a State law; and every law during the administration of Washington and Jefferson and Madison, and so on down, regulating the time, place, and manner of holding elections even for members of Congress was a State law; and even if the power had been conferred by the Constitution upon Congress to enact laws to regulate these elections, that power had not been exercised. Now, why should a distinguished Senator like the Senator from Vermont get up in the face of this country and make an elaborate argument to prove that the purpose of this legislation is in conflict with the legislation of 1789 and 1792 and 1795 and 1807, when he knew that at the time of the enactment of those laws the Federal Government made no pretension to regulate elections, had no law to enforce on the subject of elections, and left the regulation and conduct of elections exclusively to the States? And if we do by legislation what this bill proposes, that is, direct that from this time forward the Army and Navy shall not be used to

interfere with elections, do we not re-enact what was the practice, what was the custom, and what was the law before the war?

But there is another proposition, and it is all over the argument of the distinguished Senator from Vermont, the argument on the assumption that when we take away from the President the power to use the military at elections we take away all power from the President, and he makes an argument to prove that we not only take it away practically for elections, but we take it away for all purposes. He gave several instances to prove that a criminal of any character against the laws of the United States has only to make election day a house of refuge, and for that day at least he cannot be disturbed by the Army. He assumes, and his whole argument goes upon the assumption, that if the Army can not be used the Federal Government is powerless. And the country is to be impressed with the idea that we who favor this bill, we who desire to prevent the use of the Army at elections, really intend to destroy the power of the Federal Government even to enforce any law that may exist on the statute-book in any matter.

Mr. President, the speech of the Senator from Vermont ought to be studied by every statesman in this Union, for it shadows, as that distinguished Senator only knows how to shadow, the great distinction that lies at the bottom of all the differences between the two parties that now contend for the mastery in this Government. This whole argument goes upon the idea that there is no protection for the citizens of this country save by the military arm. This whole argument of the honorable Senator from Vermont is replete with the idea that when you withdraw the Army or fail to furnish the military arm for the protection of the citizen, he is without protection; when you fail to give the President the Army and the Navy to enforce the laws, the President is without power to enforce the laws!

Well, sir, if we have arrived at that condition of things, our condition is indeed lamentable. We have been taught from our youth to believe that this was a country of self-government, that the people are able to protect themselves, that freemen did not need a standing army and a navy to protect themselves—protect themselves from themselves. It has not been customary to teach our people that they must look to the arms of military power through a Federal centralism for the protection and preservation of their rights; and yet I challenge any gentleman to give this speech a critical reading, and it goes altogether on the assumption that if military protection is withdrawn there is no protection worth having remaining, and the practical result of the Senator's argument is to show that by passing this bill, which simply declares that the Army and the Navy shall not be used at the polls, we repeal all the acts which authorize the enforcement of the laws previously passed and leave the President powerless to enforce the laws and the citizens without protection.

I heard a similar argument from that distinguished Senator on another memorable occasion. I noticed it then, and I call the attention of the country to it now. I heard it on one of those bills during the last Congress before us making appropriations for the Army, in which there was a clause prohibiting the Army from being used as a *posse comitatus* to execute the law. If Senators will turn to the short speech made by the distinguished Senator on that occasion they will find that he said broadly that if that clause of the appropriation bill became a law, and a mob should be organized in the city of Washington to rob the Treasury, there would be no power to protect the Treasury from that mob, impressing the country with the idea that its defense, that its safety, that its protection rests in the arm of the military power. Can it be true? If a mob should organize in the city of Washington for the purpose of capturing the Treasury and robbing it, is it true that because there is no army here, because the Army cannot be used as a *posse comitatus*, therefore the mob has only to go and take possession of the Treasury? In a city of one hundred and fifty thousand inhabitants is there no power to protect the Treasury from a mob save through an army? Sir, that idea is at war with every feature of our Government, and certainly at war with all its fundamental principles. Our Government rests upon the idea that we are capable of self-government, that the people are patriotic, and the defense and protection of the property and liberties of the country rest in that belief—the people and the authority of the courts, which is the same thing, because they come from the body of the people. It rests upon the idea that we do not need a standing army to protect the American people from outrage by the American people as a body. Of course there are exceptions, as in all countries. The people must be protected from mobs, but the people can be protected from mobs without the use of the Army.

What would be the result of this style of argument? Gentlemen strangely have come out here now and, in opposition to the bill passed yesterday, they have taken the distinct position that it is necessary to keep upon your statute-book the right to use the Army and Navy for the purpose of keeping the peace at the polls. Well, sir, it is idle, it is worse than idle, to give the President of the United States authority to use your Army for any purpose and not furnish him an army for use. You say the President must have the right to use the Army to control the elections. That is what you say by your opposition to this bill, for that is the only idea that the bill negatives. If it is necessary to have the right to use the Army, the right is worthless unless you furnish an army to use. Make the calculation. Let the citizens of this country make the calculation and see what destiny is in wait for them when the proposition is once established that an army must be supplied for the purpose of keeping the peace at the polls. How many troops will it take? What sized army must you have? You must have an army in every State, in every county, in every town; for if one portion of the country is entitled to protection, and that protection can only be extended by the Army, every other portion of the country is entitled to protection; every other portion of the country must have an army; and America, free America, will present to the world the singular spectacle of standing more in need of an army than any other country on the globe; and we must have a larger standing army than Germany or Russia.

Sir, does not every man see in the very idea that the people of this country on that day when they are sovereigns come to exercise the power of a sovereign, that they must have an army to control them, an army to protect them, an army to regulate them, an army to keep the peace among themselves in the exercise of this great power, that even by that very idea they must admit that free self-government is a failure? It is the last idea that an American ought to admit. Of all ideas possible in this day and age of degeneracy, I should have supposed the very last idea an American statesman would have admitted as at all applicable to the condition of things in this country would be that we needed military interference on the days of elections for the purpose of protecting the people at the polls.

Whenever the American Congress shall in solemn form tell the world that an army is needed to protect American freemen when American freemen go to the polls they have admitted that the American popular system of government is at an end.

I must say that I am loth to believe and I do not believe that the distinguished gentleman who made the argument of this kind on yesterday, and which necessarily leads to this result, any more believes the statement he was making than did the Senator from the State of New York believe the statement of figures he made was correct. Neither of them had any purpose to make an incorrect statement, but both of them were after the great purpose of this whole movement—to excite one section of this country against the other and to avail themselves of any occasion for that purpose. I have been watching during the progress of this discussion not only the character of the speeches that have been made, which have convinced my mind thoroughly of the whole purpose of it, but simultaneously the extraordinary movements that are going on through the country. Take the republican newspapers of the day, and it seems to me that they are fuller of abuse, misrepresentation, and vituperation of the section of the country from which I have come than they ever were before. I know, from direct communication to myself, that various gentlemen who have been living for a few years in the South are going through the North, some of them as lecturers, some of them in the garb of ministers of the Gospel, and their whole lectures are simply replete with the most extravagant and false statements of wrongs and injuries in the South.

Designing persons are circulating letters and documents among the poor colored people, telling them that in Kansas they can have forty acres and a mule and money free of cost, and the Government, the great good Government that freed them, will take care of them. For what purpose is this second signal movement among the poor negroes of the South, the effect of which is to dissatisfy them with their condition? That they may, as many of them have been, be deceived and undertake to emigrate to this heavenly region, the new Canaan of the negro—the colored man. Why is that done? Not for the purpose of benefiting the poor colored man, oh, no; but for the double purpose of making it an occasion to vituperate the southern people before the northern people, charging their own duplicity to be the effect of cruelty and wrong by the very men whose advantage it is to be kind to their laborers and to keep them among them in contentment. There is the political purpose. Thus they get thousands of poor creatures away from home, naked and hungry, and then the appeal comes to the philanthropy of northern people and the plethora of the Treasury to come and take care of them; and the agents who circulate the falsehoods and create the dissatisfaction and produce the mischief come in of course as dispensers of the alms. It is a sad fact that these sectional passions are yet used by statesmen, by politicians, by bad men and by thousands of small men in a hundred shapes and forms, these sectional passions that keep the people of the North and the people of the South distrustful of each other and which are made commerce of by these people for their own selfish ends without any regard to consequences.

We are to be told that the military arm is essential to the protection of the country, but that under no circumstances can the North trust one-third of the people of this Union. No man can read these remarkable declarations of the leading men of that great party and not feel that the American Rubicon is in sight and that Cæsar is ready to cross over.

But, sir, I should not have perhaps said one word, notwithstanding my convictions, of the purposes of the discuss.on here, the style of discussion, the manner of the discussion, its perfect consonance with what is going on outside, notwithstanding the conviction on my part that there is this day a concerted movement in this country permeating the whole republican party, high and low, for the purpose of consolidating one section in this country against the other for no purpose but that of dominion, right or wrong—I perhaps should have said nothing in view of all this but for the fact that in the present case the immediate legislation and the purpose manifested in oppos-

ing that legislation would amount to nothing unless they could control the President of the United States. If the President should oppose the bill passed by the majority of Congress of course that was an end to the contest here, and distinguished gentlemen who had made such tremendous clamor against the bill would be like Othello, their occupation would be gone. I do not wish to do any one injustice, but it cannot be disguised before the country that a persistent, earnest, arbitrary, I almost said dictatorial, purpose has been manifested by that party to get control of the President and influence him to veto the bill.

I have never believed it would be done. I do not believe the President will lend himself to the scheme, and I have not believed it. The present Chief Magistrate of this country distinguished his administration in a manner worthy of his best predecessor when he first took charge of it by signalizing the beginning of that administration by the removal of the troops from the polls of the States and from interference with the States. I cannot believe that a President who thus signalized his administration in the beginning would be guilty of the enormous inconsistency of now insisting, against the will of a majority of Congress, that he should have the power to use troops, not only to control the States, but to control all the elections in the country. It would be too manifestly inconsistent. The President has sent in one veto. I confess that it surprised me in one respect, and it did not in another. It showed the power of the gentlemen on the other side, that they had accomplished their end that far; but the bill which we sent him before, though constitutional, though usual, contained what is called general legislation attached to an appropriation bill, and in its peculiar phraseology gave the President some pretext for vetoing it, and he did veto it. We desire to remove every reasonable objection. So far from desiring to coerce the President, there has been a general purpose to accommodate this legislation to the President, so as to accomplish the main end in perfect harmony between the Executive and the legislative branch of the Government. Therefore, much to the consternation of the gentlemen on the other side it seems, we have brought forward the single, naked proposition that all laws authorizing the use of the Army and Navy at the polls shall be repealed. That makes the issue direct and simple. The country I think had a right to expect from the character of the discussion when it opened, especially during the Forty-fifth Congress and the early days of the Forty-sixth Congress, that when this proposition was stripped of its connection with the appropriation bills and presented to our friends on the other side in a simple, naked issue as to whether we should use the Army and the Navy at the polls they would rise above all their prejudices and purposes and vote for the bill. But to a man in the other House they have opposed it, and to a man in this body they have opposed it, and the country waits with anxiety to know how it will be treated by him who now to such a great extent holds the peace of this country in his hands.

Sir, I would not say one word of disparagement to that high Chief Magistrate in this critical hour. I feel and feel keenly the heavy responsibilities that rest upon him. Will he remember now those grand words which he uttered in his inaugural, "He best serves his party who best serves his country?" Will he rise above the clamor, the dictation, and the demands of a struggling party seeking to regain life by reviving sectional agitation and serve his country like a patriot? Will he do that? If he shall do so he will for the second time at least in his administration show himself worthy of the high position which he holds. If, on the contrary, the President will do what is so contrary to the records of his own administration, what is so contrary to all the fundamental principles of our free popular Government, what is contrary to the correct understanding of his own message, and if he shall insist upon the bald, naked, fearless, terrible proposition that we shall have upon the statute-books that it shall be right and lawful to use the Army on the great day of days for an American—election day—that he will keep a law upon the statute-book against the will of a majority of both Houses of Congress, and that he will use his veto power for such party ends, then the time will come when the voters of this country will be face to face with a very grave issue, which I doubt not the democracy will be able to meet with moderation and wisdom.

Mr. President, upon this subject of the veto power I wish to submit a few observations to the Senate, and I take for the basis of my observation a portion of the speech made by the distinguished Senator from New York, [Mr. CONKLING.] That Senator said:

It—

The revenue—

can be devoted to its uses in only one mode. Once in the Treasury, it must remain there useless until appropriated by act of Congress. The Constitution so ordains. To collect it and then defeat or prevent its object or use would be recreant and abominable oppression.

The Constitution leaves no discretion to Congress whether needful appropriations shall be made. Discretion to ascertain and determine amounts needful is committed to Congress, but the appropriation of whatever is needful after the amount has been ascertained is commanded positively and absolutely. When, for example, the Constitution declares that the President and the judges at stated periods shall receive compensation fixed by law the duty to make the appropriations is plain and peremptory; to refuse to make them is disobedience of the Constitution and treasonable. So, when it is declared that Congress shall have power to provide money to pay debts and for the common defense and the general welfare, the plain meaning is that Congress shall do these things, and a refusal to do them is revolutionary and subversive of the Constitution. A refusal less flagrant would be impeachable in the case of every officer and department of the Government within the reach of impeachment. Were the President to refuse to do any act enjoined on him by the Constitution he would be impeachable, and ought to be convicted and removed from office as a convict.

Mr. President, I have read that clause so strongly and forcibly put by the Senator from New York, to say to him, to the Senate and the country that I indorse every word of it. I believe the Senator has not stated the truth too strongly. There is no clause in the Constitution which says in so many words that Congress shall vote appropriations; but the preservation of the Government itself requires that appropriations shall be voted. The taxes are paid into the Treasury for the purposes of supporting the Government, and the Congress which willfully refuses to appropriate money to support the Government, in my judgment, is guilty of revolutionary conduct which cannot be excused.

I suppose I have stated that with sufficient strength for the Senator from New York. Now, what are the facts? Mark what I state; that the refusal to vote the appropriations to support the Government is unconstitutional, that we are bound by the very terms of our oath to take care of this Government, to support it, to maintain it, and to that end to make the necessary appropriations. What are the facts? Take the Forty-fifth Congress. Every democrat in the House voted for appropriations; every democrat in the Senate voted for appropriations, and every republican in the House and Senate voted against appropriations. Who violated the Constitution? Did the democrats who voted to make the appropriations violate the Constitution? Did the republicans who voted not to make the appropriations support the Constitution? The Senator says it is a constitutional duty to make appropriations. I admit it. Why was it that appropriations were not voted by the Forty-fifth Congress to support the Army and to carry on the Government? It was because every republican in this body rallied and defeated the bill making appropriations for that purpose. There is the record. Let us get the facts right, and I will attend to the excuses afterward. The unconstitutional act of voting against appropriations was done by the republican party. The constitutional duty of voting for appropriations was performed by every democrat in both Houses. How, then, can it be charged over the country that the democratic party is responsible for the failure of the appropriations?

Not only was that true in the Forty-fifth Congress, but it is true of the Forty-sixth. This Congress was called together, and every democrat in both Houses voted for a bill appropriating money to support the Army, all that the Departments demand and need. Every republican in both Houses voted against it. If it is unconstitutional to refuse appropriations, who has refused appropriations? But the Senator is right again. If it is a constitutional duty on the part of Representatives and Senators to vote for appropriations it is equally a constitutional duty on the part of the Executive to approve the appropriation bill, because under the forms of the Constitution every bill has to go to him for approval or disapproval. The appropriations cannot be made by a majority of Congress without the concurrence of the President, and, therefore, it is just as unconstitutional for the President to defeat an appropriation as for Congress to do so.

The President has done it in this case, but they say there are excuses for it. The first question I wish to put to the Senator is this: What excuse can justify a man in doing an unconstitutional act? The Senator says it is unconstitutional to vote against appropriations. What excuse can justify a man in voting against an appropriation? What excuse can justify the President, therefore, in vetoing an appropriation bill? I think it must be conceded on all hands that no man can be justified in doing an unconstitutional thing for any reason less than the preservation of the Constitution itself.

Now, what are the excuses offered in this case? The excuse is the general legislation that was attached to the appropriation bill. What was the form of that legislation? First, it is admitted to be usual and constitutional. The Senator from New York himself admits that. The Senator from New York goes further and says that so far as the mere form is concerned any bill which Congress has the power to pass can be attached to an appropriation bill, and unless the President can find cause on its merits it is difficult to see how the veto of such a bill could be sustained; and the Senator is right. The form was usual and constitutional. So the President cannot be justified in vetoing the bill, nor can the gentlemen on the other side be justified in voting against the bill because of the form, if the form of the bill is usual and constitutional. Mark you, they say to vote against the bill is unconstitutional. To refuse an appropriation (and every man by his vote against an appropriation does refuse it) is unconstitutional. Then you cannot plead that you do not like the form for the purpose of justifying the unconstitutional act.

Then take the substance of the bill. What is it? It is nothing in the world but to repeal certain legislation. That is constitutional. The Senator from New York would admit that Congress has a right to repeal those acts; that it is constitutional to repeal the acts we seek to repeal. None of these acts had existence on the statute-book previous to 1862. One was passed in 1862, one in 1865, and one in 1870–'71. These are the acts we propose to repeal, and all admit that it is constitutional for Congress to repeal those laws. So you cannot justify the unconstitutional act of voting against appropriations by pleading that you did not like the form or that you did not like the substance when you are compelled to admit that both the form and the substance are constitutional.

But another reason was urged. It is said that the democratic party have been threatening the President? Threatening him with what?

Threatening him with coercion. Coercion how? Why, you say if the President vetoed the bill we said we would not vote supplies. In the first place, I deny the fact that there was any such threat; but admit it to be true, what is the character of the threat? It is a threat that the President can defeat by doing his constitutional duty of approving the act, because the threat which they allege could only take effect after the President had vetoed the bill. Every democrat voted for the bill; the bill went to the President, and the President had the power, therefore, of avoiding any threat of withholding appropriations by simply doing his constitutional duty.

Mr. President, view this thing in any manner you please, the question comes down to a single point. Admitting the position taken by the Senator from New York that it is a constitutional obligation resting upon Congress to make the appropriations to support the Government, and that it is the constitutional duty of the President therefore to approve appropriation bills, that only the republican party prevented their passage in the Forty-fifth Congress and that only the President has prevented the appropriation bill from becoming a law in the Forty-sixth Congress, and that they have done it upon an excuse as to the form of legislation which they admit to be constitutional, as to the substance of legislation which they admit to be constitutional, the threats of the democratic party, which are not true in fact, are futile in view of the power of the President himself to prevent them from taking effect.

In view of all these facts we are brought nakedly to the simple proposition that the republican party have refused to do their constitutional duty of voting for appropriations, and have pleaded in excuse that which is a constitutional right in Congress to do. Congress has a right to put on riders, as they are called. Congress has a right to put on this general legislation. You admit that it is constitutional, and the President is put in the awkward dilemma of vetoing a bill which the Constitution requires should become a law, without which the support of the Government cannot go on, and pleading as an excuse for it that he did not think that certain portions of the bill were expedient.

I admit that if Congress should so far forget its duty as to attach unconstitutional legislation to an appropriation bill, then we put the President in the awkward predicament of having to violate the Constitution in any event. If he approves the bill he approves an unconstitutional provision. If he refuses to approve the bill he refuses to perform the constitutional duty of granting appropriations. Congress cannot be justified in putting the President in that dilemma. I will say that although I might believe legislation attached to an appropriation bill to be perfectly constitutional, yet if the President would say that he believed it to be unconstitutional I for one would scorn to put him in the dilemma of either failing to do a constitutional duty or doing an unconstitutional act. I would not require it of him; but when the legislation of which complaint is made is constitutional in form, constitutional in substance, constitutional in every respect, then clearly Congress has a right to enact it. I deny to any man the right to do an unconstitutional thing and plead a difference of opinion or a question of expediency as an excuse for doing an unconstitutional thing. The President has no right, the gentlemen on the other side have no right, to refuse appropriations to support the Government and say they will refuse the appropriations because they do not want Congress to do what Congress has a constitutional right to do. If the veto power shall be used in this way, there is an end of this Government. If the President can use the veto power for the purpose of defeating an appropriation necessary to support the Government and be justified in doing it because he dislikes a portion of the bill on the score of expediency, then the President can use the power vested in him by the Constitution for the purpose of preserving the Government to destroy the Government.

If this is to be the rule you see where it leads. No law, however odious, which the minority in Congress shall desire to retain on the statute-book can be repealed in any form or manner if they and the President concur in that desire. If that were so the people cannot change the law by changing their Representatives in Congress. They must also either change the President or they must make a two-thirds majority in both branches of Congress. It cannot escape the attention of any intelligent man that the whole purpose is to use the veto power to keep upon the statute-book laws which are intended to be used by the republican party as elements of force to control the future elections of this country to keep themselves in power.

I will not believe that the President of the United States has given himself to such an extreme extent that he is willing to stop supplies to the Government rather than repeal laws which he or his party may deem essential to enable them to keep in power. If so the veto is used for a purpose at war withe very sentiment and principle which induced the framers to put it in the Constitution. Everybody knows (and I will not take time to read to the Senate to show it) that this qualified veto power was given to the Executive in a general form, it is true, but for the express purpose of preventing unconstitutional and inconsiderate legislation. You cannot call this legislation, as I have shown, unconstitutional. You cannot show it to be hasty, because the favorite defender of the President, the Senator from New York, [Mr. CONKLING,] himself spoke on it three hours. It cannot therefore be said to be inconsiderate; it cannot be said to be hasty. It was debated for a month in the two Houses.

So we have arrived at a new point in our history. If the veto power can be used for such a purpose, the country must know it. If this negative upon the will of the majority of the people can be used not to protect the Constitution, not to protect the prerogatives of the other Departments of the Government, not to protect the country from the consequences of ill-advised legislation, but if this great negative upon the will of the people can be used for the purpose of retaining a party in power, if it can be used for the purpose of keeping control of the Army and Navy, if it can be used for the purpose of employing an indefinite number of Federal deputy marshals and supervisors of election—if it can be used for those great purposes, we have arrived at a new era in our history, when the veto power, which was expressly conferred to preserve the Government, will be used for its destruction. As my friend [Mr. EATON] reminds me, you cannot say this legislation was hasty, because it was passed last session. It has been passed twice. Perhaps no measure before Congress ever received fuller consideration. If it was not unconstitutional and was fully considered, will any sensible man come down to the real truth of the argument and tell me what excuse can be rendered for the veto of legislation which the Constitution requires the President to approve?

Mr. President, I have detained the Senate longer upon this branch of the question than I had any thought of doing. I advance to a more significant proposition, one which I consider still more important than any that has been discussed. You cannot believe that this great party, led by such intelligent gentlemen, is simply influenced, and influenced alone, by a desire to control an election. There is a greater significance. I will not say the manifest purpose, but I will say the logical tendency of the doctrines which have been advanced and which are in perfect consonance with the history of the republican party is the destruction of the States as an element in the character of this Union. Take the argument of the Senator from New York. Let me read what he said. The Senator from New York said:

> In the city of New York all the thugs and shoulder-hitters and repeaters, all the carriers of slung-shots, dirks, and bludgeons, all the fraternity of the bucket-shops, the rat-pits, the hells, and the slums, all the graduates of the nurseries of modern so-called democracy, [laughter,] all those who employ and incite them, from King's Bridge to the Battery, are to be told in advance that on the day when the million people around them choose their members of the National Legislature, no matter what God-daring or man-hurting enormities they may commit, no matter what they do, nothing they can do will meet with the slightest resistance from any national soldier or armed man clothed with national authority.

Now, does the Senator from New York mean to say (and his argument is utterly worthless unless he does mean to say so) that protection from thugs and shoulder-hitters and the various unnamable bad men that he enumerates is impossible in New York except through the national soldiery, except through the arm of the National Government? Is that what the honorable Senator means? Yet that is what he says. He says that every one of these terrible characters is to be told that he may commit any enormity he pleases; he cannot be interfered with by any national soldiery. That is all true; but does it therefore follow that they can do these great crimes with impunity? Has New York no power to protect her citizens in the exercise of the right of suffrage? Is New York so given up to thugs and shoulder-hitters—I cannot remember those other hard names; but is New York such a hell that New York cannot protect her own people; and does the embassador from New York, in his high place, say that to the country? If New York can protect her people, why does she clamor for the national arm? Is New York unable to protect her citizens? Then let New York petition this Congress and say so, and we will help the poor, feeble, emasculated State of New York! Is New York able to protect her citizens and yet unwilling to protect them? Then New York does not deserve help; then New York does not deserve to be a State. One or the other must be true. If she demands the Federal arm; if she demands the Army and the Navy; if she demands that the soldiery shall protect her people, it must be because she is either unable to protect them or unwilling to protect them.

Mr. KERNAN. She is neither.

Mr. HILL, of Georgia. Ah, my friend, you are right; she is neither. She is able and she is willing to protect her citizens in this right. But let the argument progress. If the Senator is right, and if in New York the national soldier must protect her citizens in the exercise of the right of suffrage, must we not do the same thing in every other right? If New York cannot protect her people in one right, can she protect them in any other right? If New York must have the national arm to help her protect her people in the exercise of one right, I repeat, must not New York demand the national arm to help her protect her people in all other personal rights, and what is the result? The argument comes just to this, that the State of New York is unable to protect her people in any of their rights, and therefore it is necessary for New York to have the protection and the help of the National Government in the protection of all. If New York cannot protect her people, what State can? If New York with her five million people, the largest State in this Union, the wealthiest State in this Union, having the commercial metropolis of this great country, is unable to protect her people from thugs and shoulder-hitters and rat-pitters, what other State is able to protect her people? Does not every man see the necessary logical result of the honorable Senator's argument, that States must be destroyed, that the Government must absorb to itself all the power of protecting the citizens of this country, all their rights, and reduce the States to incompetent provinces? That is the goal of the republican party. Every hour

of their history has been a direct march to the destruction of the States.

Mr. President, if the Senate will bear with me I wish to give my views upon a question growing out of the subject I am now considering. I want to call the attention of the people of this country to the real danger that threatens them, for I do not disguise the fact that they are in danger. The Senator from New York says they are alarmed because the National Government is threatening not to help them to protect their citizens in the right of suffrage. They have no just cause of alarm in that respect because they can protect their own people, but there is cause of alarm. There have been two parties in this country from the beginning which have been inimical to the true character of the Government under which we live. When the convention met that framed the Constitution there were two antagonistic ideas in that convention. One class of delegates wanted simply to amend the Articles of Confederation and continue purely a Federal system of government. Another party wanted to destroy the Federal features altogether and institute a purely national government. Neither succeeded. I was somewhat impressed, and I confess a little amused, by an argument of the Senator from Illinois, [Mr. LOGAN,] or rather a statement he made. In the speech which that Senator made he says:

I assume, sir, that this Government is either a nation *per se*, or it is a simple voluntary aggregation of States with a sovereign autonomy, each entirely competent to exercise its sovereignty by a withdrawal from the federation whenever it desires.

There is doubtless an idea in those words, but I am not able to catch it. He says further:

It cannot have the aspect of both a sovereign nation and a collection of sovereign States. A paradox of insurmountable character is involved in the very idea of such a thing. But, however we may argue upon this matter, the strong arm of the American people, with gun and sword in hand, have settled the principle that the American Union is a nation sovereign and supreme.

The Senator says "It cannot have the aspect of both a sovereign nation and a collection of sovereign States. A paradox of insurmountable character is involved in the very idea of such a thing." It is a remarkable fact that just what the honorable Senator from Illinois calls an insurmountable paradox is exactly the Constitution of the United States. After listening to the honorable Senator's speech for two hours, without meaning anything offensive to him, I must say that I think the Constitution is to him an insurmountable paradox.

Now, the Constitution has formed just that character of government. It is partly national and it is partly Federal. It is both in part and neither altogether. In my opinion the best description of the Constitution ever written by anybody was that written by Mr. Madison in the thirty-ninth number of the Federalist, and I watched with a good deal of curiosity the Senator from Vermont yesterday when he was collating quotations to prove that Mr. Madison was in favor of a strong central government, to see if he would not read what Mr. Madison had definitely explained to be his idea of this Government. Here is what he said, and I call the attention of the Senate to it; it ought to be read from every house-top in this country:

First. In order to ascertain the real character of the Government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them, and to the authority by which future changes in the Government are to be introduced.

On examining the first relation it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but on the other that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State—the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a Federal act.

Mark that. The act establishing the Constitution is not a national but a federal act. He goes on:

That it will be a federal, and not a national act, as these terms are understood by the objectors, the act of the people, as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration that it is to result neither from the decision of a majority of the people of the Union nor from that of a majority of the States. It must result from the unanimous assent of the several States that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States. Neither of these rules has been adopted.

I call the attention of gentlemen to that. Neither of these rules have been adopted:

Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a federal and not a national constitution. The next relation is to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion and on the same principle as they are in the Legislature of a particular State. So far the Government is national, not federal. The Senate, on the other hand, will derive its powers from the States, as political and coequal societies, and these will be represented on the principle of equality in the Senate as they now are in the existing Congress. So far the Government is federal, not national. The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society. The eventual election, again, is to be made by that branch of the Legislature which consists of the national Representatives; but in this particular act they are to be thrown into the form of individual delegations from so many distinct and coequal bodies-politic. From this aspect of the Government it appears to be of a mixed character, presenting at least as many federal as national features.

The difference between a federal and national government, as it relates to the operation of the Government, is by the adversaries of the plan of the convention supposed to consist in this, that in the former the powers operate on the political bodies composing the confederacy, in their political capacities; in the latter, on the individual citizens composing the nation, in their individual capacities. On trying the Constitution by this criterion, it falls under the national, not the federal character; though perhaps not so completely as has been understood. In several cases, and particularly in the trial of controversies to which States may be parties, they must be viewed and proceeded against in their collective and political capacities only. But the operation of the Government on the people, in their individual capacities, in its ordinary and most essential proceedings, may, on the whole, designate it in this relation a national government.

But if the Government be national with regard to the operation of its powers, it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national government involves in it not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the National Legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal legislatures. In the former case, all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them within its own sphere. In this relation, then, the proposed government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only and leaves to the several States a residuary and inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution, and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact; and that it ought to be established under the general rather than under the local governments, or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.

If we try the Constitution by its last relation to the authority by which amendments are to be made, we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate althority would reside in the majority of the people of the Union; and this authority would be competent at all times like that of a majority of every national society, to alter or abolish its established government. Were it wholly federal on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and particularly in computing the proportion by States, not by citizens, it departs from the national and advances toward the federal character. In rendering the concurrence of less than the whole number of States sufficient, it loses again the federal and partakes of the national character.

The proposed constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a federal constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the Government are drawn it is partly federal and partly national; in the operation of these powers it is national, not federal; in the extent of them again it is federal, not national; and finally in the authoritative mode of introducing amendments it is neither wholly federal nor wholly national.

This establishes the proposition that the Government as formed under the Constitution is both national and federal. For instance, in its structure it is federal because made by the States, each State acting through its own people as a separate community. In the powers by which it enacts laws it is both national and federal. The House of Representatives is a national body because the House of Representatives is composed of members chosen according to population. The Senate is a federal body. Here our Government is confederate. In the House, New York is equal to thirty-three Delawares, and there we have a national government. Here New York is equal to one Delaware, because New York and Delaware confederate here as equals.

I could not help but be amused the other day when I said this was a confederate Senate men whose hairs had grown gray thought it was a slip of the tongue, they knew that much of the Constitution of the country, and the papers all through the country took it up and said it must have been a *lapsus*. Sir, I was not thinking of the Confederate States of America. According to Mr. Madison and as I say the best description of the Government that ever was written, he says this Senate is a confederate Senate, because the States confederate here as equals; he says the House is national, and I admit it; and he says, and correctly says, that the executive department of the Government combines in itself both the national and the federal features. The executive government is peculiarly what the Senator from Illinois [Mr. LOGAN] would call "an insurmountable paradox," because in itself it is both federal and national. The electoral college which elects the President is composed of two embassadors from each State and a number of other members equal to the House of Representatives. The embassadors who represent the State are the confederate embassadors like the Senators upon this floor; the members who go into the electoral college representing the districts are national. So you see here in the House of Representatives, which is national, New York is thirty-three times as great as Delaware; in the Senate, which is exclusively confederate, New York is equal only to Delaware. In the electoral college New York is about twelve times greater, not thirty-three times, because there, as Mr. Madison says emphatically, the Government becomes compound. So that in the structure of the Government it is federal, that is in the process by which it was made it

is federal; in the different departments of the Government as made we find the national and the federal features commingled, one branch of the legislature national, the other branch of the legislature confederate, the executive both national and confederate.

Mr. BLAINE. Does Mr. Madison use the word "confederate?"

Mr. HILL, of Georgia. He does a great many times; he calls it a confederacy in many places, and he says especially that the Senate is federal.

Mr. BLAINE. "Federal?"

Mr. HILL, of Georgia. What is the difference? I should like to know the difference. The Senator from Maine is a distinguished gentleman and if he can show the difference between a federal Senate and a confederate Senate he will have done much more than any man has ever done.

Mr. BLAINE. There is a great deal of difference, if the Senator will permit me to say so——

Mr. HILL, of Georgia. I do not wish to be interrupted.

Mr. BLAINE. I do not want to interrupt the Senator.

Mr. HILL, of Georgia. A friend reminds me, what I intended to mention, that when the election of a President fails before the people and goes to the House of Representatives that House of Representatives which in its organization as a legislative body is national, at once becomes confederate because each State has one vote and New York is no greater than Delaware in the election of President by the House of Representatives.

Mr. Madison repeats the same doctrine precisely in a great letter which he wrote in 1830, in which he was proving that the Virginia resolutions of 1798 and 1799 did not authorize the doctrine of nullification, and proved it correctly. In a letter dated Montpelier, August, 1830, he says:

In order to understand the true character of the Constitution of the United States the error, not uncommon, must be avoided of viewing it through the medium, either of a consolidated government or of a confederated government, while it is neither the one nor the other, but a mixture of both. And having in no model the similitudes and analogies applicable to other systems of government it must, more than any other, be its own interpreter according to its text and the facts of the case.

From these it will be seen that the characteristic peculiarities of the Constitution are: 1, the mode of its formation; 2, the division of the supreme powers of government between the States in their united capacity and the States in their individual capacities.

I. It was formed, not by the governments of the component States, as the Federal Government for which it was substituted was formed. Nor was it formed by a majority of the people of the United States as a single community in the manner of a consolidated government. It was formed by the States, that is, by the people in each of the States, acting in their highest sovereign capacity, and formed consequently by the same authority which formed the State constitutions.

While the Government is federal in its structure, partly federal and partly national in the enactment of its laws, when it comes to the operation of its laws it is national. In the extent of its powers it is federal, because, as Mr. Madison justly remarks, you cannot say that a nation is an absolute nation whose powers are limited. Then, because the powers of the Federal Government are limited, not inherent, are delegated, it is federal in that respect; but in the operation of its laws, operating as they do upon the citizen, it becomes national. This Government, then, in the powers granted to it is absolute—it is national. Its laws operate upon the citizen just as the laws of England and France do, and they can be enforced. It must enforce its own laws.

Two things have struck me as a wonderful marvel. The claim by some, one extreme class of thinkers or theorists in this country, is that the Government is altogether federal. How any man can say that the Government under the Constitution is altogether federal, in the face of the fact that the very object of forming it was to get rid of a government altogether federal, is to me a mystery and a marvel. On the other hand, how any man can say that the Government is absolutely national, adopted by the people of the United States as a unit, as one people, is to me a marvel, since the people of the United States in that character never passed upon a single question. There never was a question submitted to the people of the United States as one aggregate people. They never voted on any question as one aggregate people. The Constitution was adopted by the people, but it was adopted by the people of each State acting for itself just as the people of a State adopted their own State constitution. Therefore it is federal in its structure; therefore it is national in its operation; therefore it is national and federal in its Constitution; therefore, as the Senator from Illinois and a great many like him say, it is an insurmountable paradox. A friend suggests that in adopting amendments we act by States.

Mr. Madison advances the same doctrine again. Mr. Madison wrote an admirable letter directed to that great man, Daniel Webster, in March, 1833, complimenting Mr. Webster for his great reply to Mr. Calhoun when Mr. Calhoun contended that the Federal Gover nent was a league, as Mr. Webster understood him, a mere compact, a mere league, an exclusively federal government. This is Mr. Madison's letter:

MONTPELIER, *March* 15, 1833.

MY DEAR SIR: I return my thanks for the copy of your late very powerful speech in the Senate of the United States. It crushes "nullification," and must hasten an abandonment of "secession." But this dodges the blow, by confounding the claim to secede at will with the right of seceding from intolerable oppression. The former answers itself, being a violation without cause of a faith solemnly pledged. The latter is another name only for revolution, about which there is no theoretic controversy. Its double aspect, nevertheless, with the countenance received from certain quarters, is giving it a popular currency here, which may influence the approaching elections both for Congress and for the State Legislature. It has gained some advantage also by mixing itself with the question, whether the Constitution of the United States was formed by the people or by the States, now under a theoretic discussion by animated partisans.

It is fortunate when disputed theories can be decided by undisputed facts, and here the undisputed fact is, that the Constitution was made by the people, but as embodied into the several States who were parties to it, and therefore made by the States in their highest authoritative capacity. They might, by the same authority and by the same process, have converted the confederacy into a mere league or treaty, or continued it with enlarged or abridged powers; or have embodied the people of their respective States into one people, nation, or sovereignty; or, as they did, by a mixed form, make them one people, nation, or sovereignty for certain purposes, and not so for others.

The Constitution of the United States, being established by a competent authority, by that of the sovereign people of the several States who were parties to it, it remains only to inquire what the Constitution is; and here it speaks for itself. It organizes a government into the usual legislative, executive, and judiciary departments; invests it with specified powers, leaving others to the parties to the Constitution. It makes the government like other governments to operate directly on the people; places at its command the needful physical means of executing its powers; and finally proclaims its supremacy, and that of the laws made in pursuance of it, over the constitutions and laws of the States, the powers of the government being exercised, as in other elective and responsible governments, under the control of its constituents, the people and the Legislatures of the States, and subject to the revolutionary rights of the people, in extreme cases.

Such is the Constitution of the United States *de jure* and *de facto*, and the name, whatever it be, that may be given to it can make it nothing more nor less than what it is.

Pardon this hasty effusion, which, whether precisely according or not with your ideas, presents, I am aware, none that will be new to you.

With great esteem and cordial salutations,

JAMES MADISON.

Mr. WEBSTER.

Sir, I want to say here now—and I feel it a privilege that I can say it—I believe all the angry discussions, all the troubles that have come upon this country have sprung from the failure of the people to comprehend the one great fact, that the Government under which we live has no model; it is partly national and partly federal; an idea which was to the Greeks a stumbling-block and to the Romans foolishness, and to the republican party an insurmountable paradox, but to the patriots of this country it is the power of liberty unto the salvation of the people. And if the people of this country would realize that fact, all these crazy wranglings as to whether we live under a federal or a national government would cease; they would understand that we live under both, that it is a composite government, that it was intended by its framers that the Union shall be faithful in defense of the States, that the States shall be harmonious in support of the Union, and that the Union and the States shall be faithful and harmonious in the support and the maintenance of the rights and the liberty of the people.

Sir, Mr. Webster concurred fully with Mr. Madison in these views. Mr. Webster said in his speech at the whig convention in Richmond:

I will now say, however, that which I admit to be very presumptuous, because it is said notwithstanding the illustrious authority of one of the greatest of your great men—a man better acquainted with the Constitution of the United States than any other man—

That I believe. I believe Mr. Madison understood the Constitution of this country better than any man who ever lived in it.

A man who saw it in its cradle, who held it in his arms, as one may say, in its infancy, who presented and recommended it to the American people, and who saw it adopted very much under the force of his own reasoning and the weight of his own reputation, who lived long enough to see it prosperous, to enjoy its highest honors, and who at last went down to the grave beneath ten thousand blessings, for which, morning and evening, he had thanked God; I mean James Madison. Yet even from this great and good man, whom I hold to be chief among the just interpreters of the Constitution, I am constrained, however presumptuous it may be considered, to differ in relation to one of his interpretations of that instrument. I refer to the opinion expressed by him, that the power of removal from office does exist in the Constitution as an independent power in the hands of the President, without the consent of the Senate. I wish he had taken a different view of it.

I say here if there are any two men in this country I have ever studied and loved and honored, they are Madison and Webster. This is the only instance I have found where Mr. Webster ever differed with Mr. Madison upon any interpretation of the Constitution. Mr. Webster denied that the power of removal was an independent power and absolute in the hands of the President. Mr. Madison conceded that power. That is the only difference I have ever been able to find between the two.

Mr. Webster again said, speaking of Mr. Madison at a public dinner in New York:

Having been afterward for eight years Secretary of State, and as long President, Mr. Madison has had an experience in the affairs of the Constitution certainly second to no man. More than any other man living, and perhaps more than any other who has lived, his whole public life has been incorporated, as it were, into the Constitution; in the original conception and project of attempting to form it, in its actual framing, in explaining and recommending it, by speaking and writing, in assisting at the first organization of the Government under it, and in a long administration of its executive powers, in these various ways he has lived near the Constitution, and with the power of imbibing its true spirit and inhaling its very breath from its first pulsation of life. Again, therefore, I ask if he cannot tell us what the Constitution is and what it means, who can? He had retired with the respect and regard of the community, and might naturally be supposed not willing to interfere again in matters of political concern. He has, nevertheless, not withholden his opinions on the vital question discussed on that occasion which has caused this meeting. He has stated with an accuracy almost peculiar to himself, and so stated as, in my opinion, to place almost beyond further controversy, the true doctrines of the Constitution. He has stated not notions too loose and irregular to be called even a theory, not ideas struck out by the feeling of present inconvenience or supposed maladministration, not suggestions of expediency or evasions of fair and straightforward construction, but elementary principles, clear and sound distinctions, and indisputable truths. I am sure, gentlemen, that I speak your sentiments as well as my own, when I say that for making public so clearly and distinctly as he has done his own opinions on these vital questions of constitutional law, Mr

Madison has founded a new and strong claim on the gratitude of a grateful country. You will think with me that at his advanced age and in the enjoyment of general respect and approbation for a long career of public services it was an act of distinguished patriotism, when he saw notions promulgated and maintained which he deemed unsound and dangerous not to hesitate to come forward and to place the weight of his own opinion in what he deemed the right scale, come what come might. I am sure, gentlemen, it cannot be doubted, the manifestation is clear, that the country feels deeply the force of this new obligation.

In his letter to Mr. Cooper, Mr. Webster, referring to this question, again used strange but strong language which looks like "a paradox" in itself. He says "the States are united, confederated;" that is, they are both united and confederated. Again Mr. Webster, in his great speech in the case of The United States Bank *vs.* Primrose, uses as strong language on this subject as a man could ask. He says:

Suppose that this Constitution had said, in terms, after the language of the court below, "all national sovereignty shall belong to the United States, all municipal sovereignty to the several States." I will say that, however clear, however distinct such a definition may appear to those who use it, the employment of it in the Constitution could only have led to utter confusion and uncertainty. I am not prepared to say that the States have no national sovereignty. The laws of some of the States, Maryland and Virginia, for instance, provide punishment for treason. The power thus exercised is certainly not municipal. Virginia has a law of alienage; that is, a power exercised against a foreign nation. Does not the question necessarily arise, when a power is exercised concerning an alien enemy—"enemy to whom?" The law of escheat, which exists in many States, is also the exercise of a great sovereign power.

The term "sovereignty" does not occur in the Constitution at all. The Constitution treats States as States and the United States as the United States; and by a careful enumeration declares all the powers that are granted to the United States, and all the rest are reserved to the States. If we pursue to the extreme point the powers granted and the powers reserved the powers of the General and State governments will be found, it is to be feared, impinging and in conflict. Our hope is that the prudence and patriotism of the States and the wisdom of this Government will prevent that castrophe. For myself, I will pursue the advice of the court in Deveaux's case—I will avoid nice metaphysical subtilties and all useless theories.

And that advice I give to the republican party generally.

Mr. EDMUNDS. Would my friend be willing to take the advice, as well as give it?

Mr. HILL, of Georgia. I have always taken it, my friend, in all my political career. This is the first speech I ever made of this character on the subject of secession and consolidation.

Mr. EDMUNDS. This, then, is the first case of sophistry.

Mr. HILL, of Georgia. Ah! I do hope, Mr. President, whatever other misfortune may befall me, I shall not imbibe the habit of sophistry by associating with the Senator from Vermont in this Chamber. [Laughter.] I continue the quotation from Mr. Webster:

I will keep my feet out of the traps of general definition, I will keep my feet out of all traps, I will keep to things as they are, and go no further to inquire what they might be, if they were not what they are. The States of this Union, as States, are subject to all the voluntary and customary law of nations.

No stronger State-rights doctrine than that was ever uttered. And Mr. Webster, in that very great, almost unprecedented, speech which he made in reply to Mr. Hayne, the second speech on Foote's resolution, said that "the States are unquestionably sovereign" and that the General Government has no power "beyond the actual grant;" but in the exercise of the powers actually granted it is national, and that is right. That has always been my belief. Therefore I have never discussed these abstract theories, as I said to the Senator from Vermont.

Mr. Webster in his argument with Mr. Calhoun was combating the theory that under the Constitution the Government was a league; and when he said it was not a confederacy he of course was combating the theory of a confederacy in the sense of a league. Mr. Webster evidently, in combating that particular theory, may have used language which he would not have used if he had not been combating that theory. Therefore in his speech on that occasion, especially the great speech in reply to Mr. Calhoun, which was an abler argument than his speech in reply to Hayne, he said "this Government is not a confederacy, a league, or a compact," and yet often afterward in other places he did speak of it as a confederacy and a constitutional compact. What does he mean? He means just what Mr. Madison says: in some respects the Constitution under which we live has ordained a Government which is national, in other respects federal. It is both federal and national, and therein is its glory. One great trouble with book theorists is that they go upon examples. They cannot find any precedent in history of this kind. They find governments either national or federal, and they say as the Senator from Illinois, "I assume that it is either altogether national or altogether federal." That is the substance of what he says. That is directly in the teeth of the truth. It is partly national and it is partly federal; it is both; and it is neither.

This Government was not the result of mere human wisdom. No human minds could have conceived this Government, as a mere intellectual effort. What produced this Government? In the first place the framers of the Constitution had the benefit of three hundred years of the struggles of our forefathers for the great principles of liberty, which it is the duty of all governments to preserve and protect. Then they had the experience of a purely federal system under the articles of confederation which had proved to be an utter failure. Then they had the benefit of a new country, different from any other country, whose needs were different; and though at that time there were but thirteen States skirting the Atlantic, even they had the prescience to see that this country would extend back from sea to sea and have fifty States. Therefore, as Mr. Madison says, you cannot determine this Constitution by any model; you must determine it by itself and by the facts of the case. Sir, this Constitution of government framed in 1787 is the result of wisdom, the result of experience, the result of condition, the result of necessity, and the result of all the feelings and elements that can stimulate the intellect and prompt the desires of men; and the result is that the framers, trusting to their own good sense applied to the facts of their condition, and aided by the experience of three hundred years of history, gave to the world a Constitution which was as new in the science of government as the American continent was new to the geography of the world when Columbus discovered it. When you hear a man talking about going to Rome or to Greece or to Switzerland or anywhere to find models by which to understand the Constitution of the United States, he is going in dark places to gather light.

The Constitution is its own interpreter in the light of the circumstances under which it was made. It is the noblest government, the greatest government that human wisdom ever devised, and it could not have been framed by human wisdom alone. The human intellect never existed in this world that could from its own evolutions have wrought out such a thing as this Constitution of the United States; and the trouble has been that though such men as Madison explained it, though such men as Webster expounded it, yet the old theory that divided the convention has continued to divide the country. We had one class of men who insisted that the Constitution and the Government was nothing but a league, nothing but a compact, nothing but a confederacy. It was made by compact, but it resulted in a government, a government capable of preserving itself, a government capable of sustaining itself, a government capable of making, capable of expounding, and capable of enforcing its own laws against all the earth. It is a government such as Roman never dreamed of, such as Grecian never conceived, and such as European intellect never had the power to evolve. When the American people, either for the purpose of dismembering the States or of destroying them, shall destroy this unparalleled Government, this Government without a model, this government without a prototype, they will have destroyed a Government which seems to have been wisely adapted to the peculiar condition of the time and to all their future wants, and they will launch out on a sea of uncertainty the result of which no man can forecast.

Sir, I will not trace the history of these two extremes. One was the secessionist, the other was the consolidationist. Both are disunionists. The man who would destroy the States is as much a disunionist as the man who would divide the States. Ay, I put the query to the American mind to-day, which I trust they will ponder, if he is a traitor who would divide the States, how can he be less a traitor who would destroy the States?

The doctrine of secession—I do not say it for the purpose of exciting sectional acrimony, but for the simple purpose of getting the facts of history—this doctrine of secession originated in New England and it first developed itself in 1790. Those twin curses of the South, secession and slavery, were both transplanted from New England.

Mr. HOAR. To a more congenial home.

Mr. HILL, of Georgia. Mr. Jefferson, in his works, gives a very interesting account of the first threat of secession. It arose on the occasion of a defeat in Congress of a bill to assume the debts of the States incurred during the Revolution.

This measure (the assumption of State debts)—

Says Mr. Jefferson—

produced the most bitter and angry contest ever known in Congress before or since the union of the States. I arrived in the midst of it; but a stranger to the ground, a stranger to the actors in it, so long absent as to have lost all familiarity with the subject, and as yet unaware of its object, I took no concern in it. The great and trying question, however, was lost in the House of Representatives. So high were the feuds excited on this subject that, on its rejection, business was suspended, Congress met and adjourned from day to day without doing anything, the parties being too much out of temper to do business together. The eastern members threatened secession and dissolution. Hamilton was in despair. As I was going to the President's one day I met him in the street. He walked with me backward and forward before the President's door for half an hour. He painted pathetically the temper into which the Legislature had been wrought, the disgust of those who were called the creditor States, (the Northern,) the danger of the secession of their members, and of the separation of the States. He observed that the members of the administration ought to act in concert; that though this question was not of my department, yet a common duty should make it a common concern; that the President was the center in which all administrative questions ultimately rested, and that all of us should rally round him and support, with joint efforts, measures approved by him, and that the question having been lost by a small majority only, that an appeal from me to the judgment and discretion of some of my friends might effect a change in the vote and the machine of Government, now suspended, might be again set in motion.

The result was that Mr. Jefferson gave a dinner to which Mr. Hamilton invited some friends and Mr. Jefferson invited some. On the same day that this controversy arose about the assumption of State debts there was a controversy also as to the locality of the capital. The northern members wanted it fixed on the Susquehanna or the Delaware; the southern members wanted it fixed on the Potomac at Georgetown. Each proposition was defeated by a small majority. Mr. Jefferson and Mr. Hamilton got together and persuaded the good Union men of the East that they would not secede provided some few southern men would vote to assume the State debts and they would vote to locate the capital on the Potomac. In that way the Union was saved by a bargain of two men on each side, a bargain at a dinner. I state that simply as a fact.

Several times again secession was threatened. It was threatened according to my reading about four times in New England before it was threatened anywhere else, and it took a very dangerous form in New England. New England opposed the war of 1812, as everybody knows, and the greatest men of New England assembled in convention at Hartford and adopted the very doctrines which were taken by the secessionists in the South and incorporated in their ordinance of secession, the very same doctrine. This doctrine of secession never acquired a great stronghold in the South until the opposite doctrine took strong hold in the North. The opposite doctrine to secession, that of consolidation, never had as many advocates known and avowed as had the doctrine of secession; yet there were some. The most absolute expressions of consolidation that I have been enabled to find were by Patrick Henry, of Virginia, and Mr. Lincoln. Patrick Henry was opposed to the adoption of the Federal Constitution because he insisted that it established an absolute consolidated government which would destroy the States; and as a State-rights man, he opposed the adoption of the Constitution. But when it was adopted, he insisted that the fear he had expressed was true, that it was the true theory of the Constitution; and, therefore, in the great fight over the alien and sedition laws, Patrick Henry approved those laws, and stated in an argument he made that the States bore the same relation to the General Government that the counties in the States bore to the States. And Mr. Lincoln, I noticed, on his way to the capital after his election suggested that same idea.

Those two expressions I have not seen repeated by anybody else; but they embodied in a few words the most absolute expression of consolidation and entire nationalism I have ever met anywhere. But this doctrine of consolidation did not do much mischief previously to 1860, though it had its advocates; yet when the collision came the doctrines then held by those who went to war with secession were as absolutely national in their character and just as inconsistent with the character of our Government as was secession itself.

Here is the truth, Mr. President: the whole war was the result of crimination between two extreme ideas. I deny that the Union, as interpreted by Madison and expounded by Webster, was any party to the late war except as a victim, a threatened victim, and a very dangerously threatened one. It is true that the war was the result of a collision of ideas and interests between the extreme nationalists and the extreme federalists. They brought about the war; but the slavery question entering into it sectionalized it, and therefore the North became consolidated on one side, and the South, or a portion of the States of the South, consolidated on the other. After the war arose the Union became involved, and therefore it is that those who fought on the side of the Federal Government fought for the Union and are entitled to all the benefits that result from that relation, and no man will always give them to them more cheerfully than myself. The war being the result of this collision of extremes, the consolidationists, the centralizationists, the monarchists, (for that is what they mean,) had the advantage in that they had possession of the Union, possession of its power, possession of its Army, and possession of its Navy—an advantage which they acquired by secession folly. The collision coming on in this form, secession was crushed out in the conflict, utterly crushed out. I want the country to understand that. It was utterly crushed out. There is no longer any danger to this country by reason of secession. It has no advocate in the South. It is a heresy which has had its day, wrought its wrongs, and gone to its grave, for which there is no resurrection, unless it gets that resurrection in the home of its birth, New England.

But, sir, that other extreme enemy of the Constitution and Government and Union, as expounded by Madison and Webster, was not crushed out by the war. It was the cardinal principle of the republican party. All good Union men at the North, by reason of the condition of things, being compelled to go into the Federal Army as others in the South of a like character who had no sympathy with secession were compelled to go into secession, it was by the aid of the democracy of the North, of the conservative men of the North who did not agree to absolute nationalism, who did not agree to the doctrine of consolidation, who did not agree to the absolute theory of a national government in the Federal head—it was by the aid of these democrats and conservative men that the Federal armies were enabled to triumph and crush out secession. A united North overpowered a divided South.

But the men who happened to be the party in power, and who are the representatives of this extreme idea of consolidation, took all the credit to themselves; and one of the dangers now arising to this country is from the fact that the party which represents this central, absolutely national idea—this consolidation idea, this monarchizing idea—that party claims the credit of having saved the Union. It gives no credit to its allies whatever. What would you have done without the democrats in the war? And yet it was amusing to hear the distinguished Senator from New York the other day in his own way describing the democratic party as consisting of a northern tail and a southern head. What would you have done without that tail in the war? If the conservative Union men North and South could have left the war to be fought out by the advocates of secession on the one hand and the advocates of consolidation on the other there would have been some other party in control of this country for the last eighteen years.

But, as I say, the respective sections became involved without regard to the individual opinions of their people. This national party, this party of absolutism is not only the party in power by reason of its representation that it saved the Union and taking all the credit of saving the Union, but it claims all the credit of having suppressed the rebellion and demands that it shall be esteemed as the secessionists shall be hated.

These two sources of strength to the republican party are now endangering the States. Why, sir, every step of the republican party is to the destruction of the States. Take the very measures now under consideration. What are they? In 1862, for purposes which every man can explain, a test oath was prescribed for jurors. In 1865 a clause was put in an Army bill authorizing the use of troops to keep the peace at the polls. Neither of these statutes was ever known on our statute-book before; they did not exist in the early days of the Republic; they never existed until they were enacted during the war. In 1870 and 1871 your election laws were passed. They never existed before. Up to that time all parties had agreed that the States were both able and willing to take care of the elections and protect their citizens. Now I put it to every intelligent man what stronger indication of a desire to grasp power, what stronger indication of a purpose to crush out the States than the attempt to drive intelligence and virtue and property from the jury-box and use the Army at the elections, and to place in the Federal Government power by supervisors and deputy marshals to take absolute control of the States in their elections, things that were never done before?

If either one of the laws which we now propose to repeal had been proposed for enaction in any administration of this Government from the days of Washington to 1860, it would have ruined the man that made the proposition. No man could have stood before the indignation of the American people who would have proposed to place upon the statute-book a law keeping intelligence and virtue from the jury-box, a law surrounding the polls with the Army and the Navy, or a law giving to the Federal Government absolute control of the elections, and, as my friend from Kentucky [Mr. BECK] suggests, fixing the congressional elections to come off on the same day with presidential elections and State elections, so as to control all.

I have given this subject careful consideration. I wish to do no man injustice; but with a full sense of responsibility to my country I affirm to-day that this heated contest we have had here for six weeks has no meaning, has no purpose, and can have no result but the absolute control of the States by force through the Federal Government to perpetuate the republican party in power, whether the people will it or not; and if the President shall use the veto power, conferred upon him for a high conservative purpose, to aid these party schemes, and the people shall not rise in their indignation and drive from power these men who thus abuse power and disregard their duty, the Union will be destroyed in the destruction of the States.

But, sir, to accomplish their purpose, almost every speaker of the republican side in the Senate and in the other House is persistently seeking to impress the country with the idea that the dangers to the country come from the confederates in this presence. The Senator from New York said:

> Twenty-seven States adhered to the Union in the dark hour. Those States send to Congress two hundred and sixty-nine Senators and Representatives. Of these two hundred and sixty-nine Senators and Representatives, fifty-four, and only fifty-four, were soldiers in the armies of the Union. The eleven States which were disloyal send ninety-three Senators and Representatives to Congress. Of these, eighty-five were soldiers in the armies of the rebellion, and at least three more held high civil station in the rebellion, making in all eighty-eight out of ninety-three.
>
> Let me state the same fact, dividing the Houses. There are but four Senators here who fought in the Union Army. They all sit here now; and there are but four. Twenty Senators sit here who fought in the army of rebellion, and three more Senators sit here who held high civil command in the confederacy.
>
> In the House, there are fifty Union soldiers from twenty-seven States, and sixty-five confederate soldiers from eleven States.
>
> Who, I ask you, Senators, tried by this record, is keeping up party divisions on the issues and hatreds of the war?
>
> The South is solid. Throughout all its borders it has no seat here save two in which a republican sits. The Senator from Mississippi [Mr. BRUCE] and the Senator from Louisiana [Mr. KELLOGG] are still spared; and whisper says that an enterprise is afoot to deprive one of these Senators of his seat. The South is emphatically solid. Can you wonder if the North soon becomes solid too? Do you not see that the doings witnessed now in Congress fill the North with alarm and distrust of the patriotism and good faith of men from the South? Forty-two democrats have seats on this floor; forty-three if you add the honorable Senator from Illinois, [Mr. DAVIS.] He does not belong to the democratic party, although I must say, after reading his speech the other day, that a democrat who asks anything more of him is an insatiate monster. [Laughter.] If we count the Senator from Illinois, there are forty-three democrats in this Chamber. Twenty-three is a clear majority of all, and twenty-three happens to be exactly the number of Senators from the South who were leaders in the late rebellion.
>
> Do you anticipate my object in stating these numbers? For fear you do not, let me explain. Forty-two Senators rule the Senate; twenty-three Senators rule the caucus. A majority rules the Senate; a caucus rules the majority; and the twenty-three southern Senators rule the caucus. The same thing, in the same way, governed by the same elements, is true in the House.
>
> This present assault upon the purity and fairness of elections, upon the Constitution, upon the executive department, and upon the rights of the people; not the rights of a king, not on such rights as we heard the distinguished presiding officer, who I am glad now to discover in his seat, dilate upon of a morning some weeks ago; not the divine right of kings but the inborn rights of the people—the present assault upon them, could never have been inaugurated without the action of the twenty-three southern Senators here and the southern Representatives there, [pointing to the House.]
>
> The people of the North know this and see it. They see the lead and control of the democratic party again where it was before the war, in the hands of the South.

And he says that alarms the North. Mr. President, I shall meet

that question as I endeavor to meet all others, frankly. These charges are all made against the southern Representatives in this House and the other upon the assumption that they are enemies of the Government, that the people they represent are enemies of the Government, and therefore when the Government passes into their control the Government is in danger. Well, sir, if the assumption be true, the conclusion is inevitable. If the southern people are the enemies of this Union and if the members of this House and the other from the Southern States are the enemies of the Union, we have no right here, we have no business here; if we are honorable men we will not remain here.

I grant you that the people of the North ought to have solid arguments on this subject. I grant what the Senator from New York intimated, that gush will not do; simply talking about shaking hands and locking arms does not amount to much. That will do for children and Sunday-school teachers. Statesmen want facts; statesmen want arguments; statesmen want reasons why the southern people are not the enemies of the Government, and therefore ought to be friends and can be safely trusted. I propose to give some of those reasons.

The laws that are now proposed to be repealed have been made the occasions for all kinds of intimations from the leaders of the republican party that the South is not worthy to be trusted. How on earth can a proposition to repeal a law which was unknown to the country for the first seventy-five years of the existence of the Government be an evidence of disloyalty? How is it any evidence that we are not to be trusted because we want intelligence and virtue in the jury-box? How is it an evidence that we are not to be trusted because we want the absence of the Army from the polls when the Army was never known at the polls in the days of our fathers? How is it that we are to be declared disloyal because we are in favor of taking away from the Federal Government the control of the elections through the deputy marshals and the supervisors? United States deputy marshals and supervisors in elections were never known to the history of this country for the first eighty years of its government.

Are we disloyal because we want what Washington had, what Jefferson had, what Madison had, what Jackson had? The President in his message says that he invites us back to the good old habits and customs of the country, and he says that the habit of tacking legislation to appropriation bills was unknown in the first forty years of the Government and invites us back to those good old days. I mean to accept his invitation. I say to the President "Come, sir, let us go back to the good old days when for not forty but seventy-five years troops were not known at the polls; let us go back to the good old days when for not forty but for eighty years supervisors and deputy marshals in control of the elections were unknown to the Federal statute-book. Now, come, let us go back." Why not? That is what we are trying to do.

Here let me notice another quotation of the Senator from Vermont. I was amused yesterday when he used the argument of Mr. Madison on the subject of electing members of Congress as a true exposition of the clause of the Constitution. I accept it. I believe Mr. Madison was right, and what did Mr. Madison say? Those words ought to be remembered. Mr. Madison said that the control of elections for members of Congress had to be given either wholly to the National Government or wholly to the State governments, or primarily to the State governments and ultimately to the National Government. He goes on to explain, and other writers explain the same condition of things in this way, that as long as the States are willing to exercise the power of controlling the elections they ought to be allowed to do it; it is proper and right that they should, but the time might come when the States might not be willing to elect their Representatives to Congress, and then the power should be in the Federal Government to do it as the ultimate authority.

Mr. EDMUNDS. I wish my honorable friend would read any passage of Mr. Madison—I do not desire to interrupt the course of the Senator's remarks, but he is quoting Mr. Madison, and I have not been able to read in anything Mr. Madison said any question as to the willingness of a State to elect as being the test of the exertion of the national authority.

Mr. HILL, of Georgia. Mr. Madison said if any bad influences should prevail, or something of that kind——

Mr. EDMUNDS. That is what is the trouble now.

Mr. HILL, of Georgia. Did he mean the bad influences in New York that the Senator from New York talked about? Did he mean thugs, and shoulder-hitters, and rat-pitters? That is a pretty bad state of things. That is not what Mr. Madison meant. No, no. If Mr. Madison meant that because there were bad men in a State, therefore that was the ground on which the Government should exercise this ultimate power, it would have been exercised from the beginning, because we have had bad men from the beginning. There may be more in New York than anywhere else; according to their Senator it seems there are; but there are a good many elsewhere; there is no doubt about that. Mr. Madison meant just what I have said, because he explained it in another clause where he said that every government ought to have the power of its own preservation, and I grant it that right. Every government ought to have it. Therefore, when the State should fail in the duty it would be proper for the National Government to take control of the elections.

Sir, are the States of this Union any less able or less willing to protect their citizens in exercising the right of suffrage now than they were in the days of Washington, than they were in the days of Madison, than they were in the days of Jefferson or Jackson? Are they not able now? If they are as willing now, the contingency upon which Mr. Madison placed the exercise of that ultimate authority has not transpired, and therefore, according to Mr. Madison, it being a question of constitutional power, looking upon it in the meaning of the Constitution, the true intent and purpose of it in the light of wisdom and expediency, we ought to leave this question to the States, where it was left until 1870.

But I want to give the reasons why the South is trustworthy, and I want to call the attention of the country to them. First, the southern men went to war for what they believed their self-preservation. They defended their convictions bravely. They have surrendered; they have abandoned their convictions; they have abandoned secession, both as a doctrine and a remedy; and a people who were brave enough to defend their convictions with their blood are honorable enough to keep their pledges. When the Senator from New York points out that eighty-five out of the ninety-three southern Senators and Representatives—I will not quarrel with the figures—went to the battle-field and shed their blood for their convictions, he stated a strong reason why they are trustworthy; when he shows that twenty southern Senators on this floor were willing to defend their convictions with their life and only four on that side of the Chamber, he shows a large proportion of republicans who were very anxious to get up war and very few who were willing to fight in the wars.

But, sir, there is another reason why the South ought to be trusted. I say here that the South did not secede from hostility to the Union nor from hostility to the Constitution. That is your assumption. You are always talking about the southern people as enemies of the Union. Not a word of it is true. As I said, the South was driven into secession by the opposite extreme at the North, who were as inimical to the Constitution as the secessionists themselves. That is the truth, and every intelligent man and every honest man admits it. The aggravations of the slavery question got possession of their respective sections and carried them into war, but do you suppose every southern man who stood by his section in a sectional war was hostile to the Union? Not a word of it.

The Senate will pardon me if I refer to a little personal history in this connection, because I am a representative man, but before doing it I want to call the attention of the Senator from New York to another count of figures. He counted up the number of confederates from the South, as he calls them, in this House and in the other, and he says they have control of legislation, and then he notifies the North that they ought to be alarmed, because the legislation of this Union is under the lead of the same men who were here before the war. Now, I want to say to the Senator from New York that I have been making a count too, and strange as he may think it, while I have not been able to make the count with perfect accuracy, it is more accurate than his on another subject, much more. Of the eleven Senators and Representatives from Georgia in the present House and Senate nine, certainly eight, were opposed to secession.

Mr. CONKLING. When?

Mr. HILL, of Georgia. When it occurred, and up to the time it was an accomplished fact. As for going with our States after secession was an accomplished fact, we shall not apologize to any mortal man. We stood up for our own section; but up to that dark hour four out of five of the men who represent Georgia to-day faced secession and fought it in more dangerous places than did you who now libel them; and from the best count I have been able to make, out of the ninety-three southern Senators and Representatives in this Congress about seventy-five were opposed to secession, four-fifths of the whole number. I do not make this statement for the purpose of saying that those who were in favor of secession are less to be trusted. By no means. They were brave and honest men who fought for their convictions and their section, and they have given their pledge and their word of honor, and the people are willing to trust them. But I refer to this for the purpose of showing a fact. It shows how sound the people are. The people of the South are not enemies of the Union in that they are willing to be represented by men here who were always true to the Union in the hour of doubt. They do not repudiate the Union sentiment that prevailed before the war nor allow it to be a reason why they should not be their representatives now.

But, sir, I want to give a little personal history, because I give it as a representative man and it is directly upon this question. South Carolina seceded, I believe, on the 20th of December, 1860. A convention was called by the people of Georgia to take into consideration the course that Georgia should pursue. That convention was called to meet on the 16th of January, 1861. The people of the county of Troup, in which I then lived, assembled *en masse* and requested me to represent them as a delegate in that convention. They made that nomination on the 25th of December, 1860, and appointed a committee to notify me of that nomination. I accepted, and, as was my duty, avowed to them the principle on which I should act as a member of that convention if chosen; and here is what I said in a letter then written and published:

I will consent to the dissolution of the Union as I would consent to the death of my father, never from choice, only from necessity, and then in sorrow and sadness of heart; for, after all, the Union is not the author of our grievance. Bad, extreme men in both sections of the Union abuse and insult each other, and all take revenge by fighting the Union which never harmed or insulted any. Perhaps it has blessed all above their merits. For myself, I will never ask from any government more

real liberty and true happiness than I have enjoyed as a citizen of this great American Union. May they who destroy this Government in a frolic have wisdom to furnish our children a better.

And upon these sentiments, written and published at that day, the people of that county sent me their delegate to that convention without opposition. The convention assembled the 16th of January, 1861. On the 18th of January a debate took place on a resolution asserting the right and duty of the State to secede. I had the honor of making the last speech on that occasion against the resolution. The resolution, however, was adopted just at nightfall. A committee was appointed to report an ordinance to carry the resolution into effect. The ordinance of secession, therefore, actually passed on the 19th of January, 1861, though the resolution declaring it the duty to secede was passed on the 18th. On the night of the 19th I wrote a letter to a friend, which was then published, and a copy of it I now have in my hand. That was the night of the day of Georgia's secession.

MILLEDGEVILLE, *January* 19, 1861.

DEAR SIR: The deed is done. Georgia this day left the Union. Cannon have been firing and bells tolling. At this moment people are filling the streets shouting vociferously. A large torchlight procession is moving from house to house and calling out speakers. The resolution declaratory passed on yesterday, and similar scenes were enacted last night. The crowd called loudly for me, but my room was dark, my heart was sad, and my tongue was silent. Whoever may be in fault is not now the question. Whether by the North or by the South or by both, the fact remains; our Union has fallen. The most favored sons of freedom have written a page in history which despots will read to listening subjects for centuries to come to prove that the people are not capable of self-government. How can I think thus and feel otherwise than badly?

Do not understand me as intimating a belief that we cannot form a new union on the basis of the old Constitution. We can do it, and we will. This point we have secured as far as Georgia can secure it and her will on that subject will be the pleasure of her sister seceders. But can we form one with more inspiring hopes of perpetual life than did Washington and his comrades? Despots will say no; and therefore if the first Union lived only seventy-five years, how long will this live, and the next, and still the next, until anarchy comes! It will take an hundred years of successful, peaceful free government to answer the logic of this argument against constitutional liberty.

Sir, in 1868 I had a correspondence with that great man, Horace Greeley. In my judgment he did more to build up the republican party than any other man in America. He was a great and a good man, honest in his convictions and fearless in asserting them. The charge had been made that the South had sought war, that the southern people were not to be trusted. The correspondence is published in the Tribune of that day. I beg the indulgence of the Senate while I read an extract from that correspondence. The letter is dated New York, October 2, 1868. I will read the extract. Gentlemen can see the letter by looking at the New York Tribune of October 2, 1868. It is to Mr. Greeley:

Sir, let the deep sincerity of my convictions crave your indulgence for a few additional sentences. I am entitled to an audience from your readers, and through your assistance. I allude to the incident following in no spirit of reproach, but in entire kindness, and only to illustrate my point and my motive. I have seen the explanation of the Tribune, and recognize its force viewed from the stand-point of the Tribune, but our people did not then so understand it. On the passage of the Kansas-Nebraska bill, nearly all the old whig leaders of the South joined the democracy. This left the whigs or Americans in a decided minority. It was then I felt it to be my duty to change the purpose of my life and enter politics.

It was my lot to engage with all my humble powers, from 1855 to 1861, in a vain effort to arrest the tide of secession that was sweeping the South, as I thought, into revolution. Late in the winter of 1860, more earnest than ever before, I warned our people that war, on the most unequal terms, must follow secession. On one of these occasions a distinguished secession gentleman replied to my war warnings by reading extracts from prominent northern republicans—

I call your attention to that—

and with special emphasis from the columns of the Tribune to the effect that if the people of the South desired to secede they had a right to do so, and would be allowed to do so in peace. He then alluded to me as one born and raised in the South, and yet was endeavoring to frighten our people from their rights by threats of war, while northern free-soilers, who had been esteemed the enemies of the South, were conceding our rights and assuring its peaceful exercise. Now, my good sir, what could I have rejoined? Here are the very words I did rejoin:

"I care not what Mr. Greeley and Mr. Wade, or any other republican, or all republicans together, have said or may say to the contrary. More to be relied on than all these, I plant myself on the inflexible laws of human nature, and the unvarying teachings of human experience, and warn you this day that no government half as great as this Union can be dismembered and in passion except through blood. You had as well expect the fierce lightning to rend the air and wake no thunder in its track as to expect peace to follow the throes of dissolving government. I pass by the puerile taunts at my devotion to the best interests of the people among whom I was born and reared, and trust my vindication to the realities of the future, which I deprecate and would avert, and again tell you that dissolve this Union and war will come. I do not say it ought to come. I cannot tell when, nor how, nor between whom it will come; but it will come, and it will be to you a most unequal, fierce, vindictive, and desolating war."

I have reason to know that those words impressed Mr. Greeley. How could a northern free-soiler stand up and charge infidelity to the Union when that northern free-soiler, as many of them did, had told the southern people that it was their real desire that the South should secede and they could do so in peace. But there were men all over the South who stood up in that mad hour and warned their people what would result, that these free-soil teachings must not be listened to.

Sir, I am reading these things to show the sentiment in the South. The southern people did not secede from hostility to the Union nor hostility to the Constitution nor from any desire to be rid of the system of Government under which they had lived.

The highest evidence is what is given you in the very act of secession, when they pledged themselves to form a new union upon the model of the old. The very night when I was writing that letter and the serenading bands were in the streets I wrote to my friends, "We will be able to effect a new union upon the model of the old," and we did form a constitution which varied not one whit in principle from the one under which we had lived.

No, sir; the South seceded because there was a war made upon what she believed to be her constitutional rights by the extreme men of the North. Those extreme men of the North were gaining absolute power in the Federal Government as the machinery by which to destroy southern property. Then the northern people said, a large number of the leaders and the republican party said, that if secession was desired to be accomplished it should be accomplished in peace. Mr. Greeley said that they wanted no union pinned together by bayonets. Here is the condition in which the South was placed: they believed the northern extremists would use the machinery of the Government to their injury; the people of the South believed that they would protect their property by forming a new union in the South precisely upon the basis of the old. They believed they could do it in peace; and I say here there were thousands upon thousands, yea, hundreds of thousands of the best men of the South who believed that the only way to avoid a war was to secede. They believed the northern conscience wanted to get rid of the responsibility for slavery; they believed they had a right to protect their slave property, and they thought they would accommodate the northern conscience by leaving the Union and preserving that property. They believed they could do it in peace and if they had believed that a war would result they never would have seceded.

Mr. President, how was it at the North? How was it with many who are now clamoring in this country that the Southern people will not do to be trusted? I shall never forget an instance. Notwithstanding those sentiments which I have read to the Senate, the convention at Milledgeville selected me as one of the delegates to the provisional congress at Montgomery, which met, I believe, on the 4th of February, 1861. Up to that very hour those of us who believed that the interest of the South was in the Union looked to the North anxiously to avert war. We believed in our hearts that if war could be averted for a few months the Union could be restored on terms honorable to all parties. Virginia had not gone out. Virginia had a glorious record in this country. It was the eloquent voice of her Patrick Henry which aroused the colonies to resistance to tyranny. It was her Jefferson who framed the Declaration of Independence. It was her Madison who was the father of the Constitution under which we live. It was her Washington who conducted our armies to victory in the great struggle for liberty. It was Virginia that first made the call for the convention that framed the Constitution. No man can ever know with what gladness and hope I saw glorious old Virginia issue a request to the States of this Union in that dark hour to meet in conference and see if the peace could not be preserved and the differences adjusted between the sections.

I am not ashamed to say here, and I said there, a member of the provisional congress of the Confederate States as I was, that my heart was with that proposition, and I prayed God that it might have success. Seven States had gone out, and they could not co-operate in that peace convention. Virginia undertook the peace conference with her sister border States. I watched every movement giving hope of its success. What did we see? These very men who are now dinning the weary air with charges of infidelity upon the southern people, who are absolutely defiling themselves with calumnies upon everything southern, went to work to defeat the purpose of Virginia and to defeat the peaceful purposes of that movement. I shall never forget the feelings I had when I read letters from leading citizens in Washington, leading and controlling members of the republican party, written to the governors of their States asking them not to send delegates to that convention, and preventing its success. Here is one of the letters:

WASHINGTON, *February* 11, 1861.

MY DEAR GOVERNOR: Governor Bingham and myself telegraphed to you on Saturday at the request of Massachusetts and New York to send delegates to the peace or compromise congress. They admit that we were right and they were wrong; that no republican State should have sent delegates; but they are here and cannot get away. Ohio, Indiana, and Rhode Island are caving in, and there is danger of Illinois—

"Caving in" how? Becoming willing to compromise to preserve the peace. He called that "caving in"—

and now they beg us, for God's sake, to come to their rescue and save the republican party from rupture. I hope you will send *stiff-backed* men or none. The whole thing was gotten up against my judgment—

That is, the whole conference, the peace conference.

The whole thing was gotten up against my judgment, and will end in thin smoke. Still I hope, as a matter of courtesy to some of our erring brethren, that you will send the delegates.

Truly, your friend,

Z. CHANDLER.

His Excellency AUSTIN BLAIR.

He adds a postscript:

P. S.—Some of the manufacturing States think that a fight would be awful. Without a little blood-letting this Union will not, in my estimation, be worth a rush.

Sir, I was standing at the door of my hotel in Montgomery when that letter was put in my hands. I was looking to see the prospects from this peace conference. I do not wish to do anybody injustice. I do not know the gentleman who wrote that letter. It is only one of many, and it showed a purpose on the part of the republican party to defeat all efforts at peace, a peaceful adjustment. I said to

a friend standing by me, "this is terrible; it is sad. If the leading republicans seek to defeat the purpose of Virginia in this peace convention it will fail; but, if war shall come, I predict now that those men who are so anxious to let blood for the Union will never let any of their own blood; they are anxious to let other people's blood." That is what I said then. I do not know whether it came true or not. Did "Z. CHANDLER" let any of his blood? I said more. I said, "I will venture that these men at the North, who are so clamorous to defeat this peace movement will not only not go into the war, but they will seek easy places and make money during the whole time it lasts." I do not know whether any of them did it or not. I will not say they did. I am merely stating a fact of history.

Now, the Senator from New York tells me that of all the loyal men on his side of the House who were clamoring at the rebels as unworthy of being trusted, men who in the terrible war of secession were battling for the Union, only four of the whole number now on this floor were willing to save the Union by shedding their own blood Sir, will the people look at these things? You could not have pronounced a higher eulogy upon the confederates in this Congress than when you showed that eighty-five out of ninety-three were willing to give their blood for what they believed to be right.

Sir, that peace conference was broken up. I put it to the northern people who claim that they were looking to the preservation of the Union, looking to the preservation of their rights, who is most to be trusted, those men at the South who were doing all they could to avert war, or those men at the North who were doing all they could to bring it on and then refusing to take any part in it? I know that the republican party claim that they alone saved the Union. It is a claim of which history will judge, and it will make the claim not good. If there had been no republican party the Union would never have been endangered. If there had been no republican party there would have been no secession, no war, no reconstruction, no returning boards, and no electoral commissions. It will always be an impeachment of the statesmanship of America that they were not wise enough and deliberate enough to dispose of the question of slavery without shedding each other's blood. If the South had respected as she ought the conscience of the North on this subject, and if the North had respected as she ought the property of the South, and there had been no obstruction from the leaders of the republican party, there might have been a peaceful settlement of the whole controversy. Then a million of glorious, brave spirits that are now sleeping in their graves might be living, and millions more that are widows and orphans might have husbands and fathers, and millions more who are traveling through the country houseless and naked and hungry might have raiment and shelter and plenty.

Yet the Senator from Maine finds in the passage of the bill that passed yesterday a stronger assertion of the State-rights power than has ever taken place before. What a declaration was that!

I shall not debate this bill—

Said the Senator from Maine.

It were useless. It has been exhaustively debated. The whole measure is a removal of the Federal Government from its proper domain and the installation of the States into degrees of power that were not dreamed of by Calhoun and were not asserted by Breckinridge.

Is it possible a bill which simply says that the Army and Navy shall not be placed at the polls is a stronger assertion of secession or the doctrine of State rights than was ever made by Calhoun or Breckinridge? What is the purpose of such language as that but to alarm and awe. A bill which proposes to put the people of this country just where they were for seventy-five years, a bill which proposes to put the people of this country just where they were under Washington, just where they were under Jefferson, just where they were under Adams, just where they were from 1790 to 1865, is a bill to endanger this Union more than the war of secession, according to the interpretation of the Senator from Maine! That is not all. The Senator from Maine became perfectly dynamitic:

Pass this bill. Pass it as the triumph of the reactionary party against the spirit of the Union. Pass it in defiance of all the lessons and all the teachings that have come from a bloody and abortive rebellion. Pass it, and mark it as the high tide of that reaction which were it to rise higher could lead only to another and more formidable rebellion against the legitimate authority of the Union. [Applause on the floor and in the galleries.]

Who is talking about war now? Who was talking about war when Virginia was talking about peace? Sir, I will not do injustice to the American character by collating, as I could do, the number of sentiments that have been uttered upon this floor and in the other House during the last six weeks intimating that the people of the North would have another war, another war that is to cut deeper than the first and cut beyond the wound. Whom will you have the war with? A war because we want intelligence, virtue, and property represented in the jury-box! A war because we want to keep the Army from the polls! A war because we want to say to the States, "You are able and willing to control your elections as you have done for seventy-five years of the Government and we will trust you to do it again!" A war for that! A war because we stand here as a bulwark of defense for the Constitution of the country against disunionists who would destroy the Union by destroying the States! A war because we will not consent to manacle the States of this Union, because we will not centralize power in this Government!

Sir, I hope the people of America will not commit another mistake. I always said it was a fearful mistake that the people of the North who did not agree with the republican party and the people of the South who did not agree to secession could not have managed to preserve this Union and let the others alone go to battle. If war must come, with whom shall it come? As I said to my own people on one occasion, and I repeat it here, if war shall come—God forbid that it should ever come—I give them notice now that the men they call rebels, that the men they say are not trustworthy, we of the South to a man will go to battle under the Star and Stripes, under the flag of our country. Do not imagine that the destroyers of the States and the advocates of monarchy shall ever again bear the flag of our country. If you must have a war, we shall maintain our rights in the Union; but I pray God the people will take charge of this question and see where the danger lies.

You say the northern people are alarmed. I assure you they have no right to be alarmed with us of the South. I assure you they have no right to be alarmed at southern representatives on this floor and in the other House; but I tell you the northern people have a right to be alarmed by such threats as have been made here. They have a right to be alarmed by men who say or intimate that if they cannot control the Government, if they cannot surround the polls of freemen with armed men, if they cannot take control of the elections in the States by Federal supervisors they will come to another war and cut deeper than the core. They are the men for the North to be alarmed at, not we.

But, as I said in this letter to Mr. Greeley, the Constitution could not be destroyed without war any more than the Union could be dissolved without war, and the States can no more be destroyed without war than they can be divided without war. I said that the danger to the country was imminent, and I so confessed it to him; that I feared that the course of the extreme men who had remained untouched by the war, secession being utterly crushed out, consolidation being not only alive but insolent by reason of its apparent success—I believed another war would come; but I believe Providence has averted that; I believe the very condition of things which seems to alarm the country is going to save this country and preserve its peace. I believe that the democratic majority in the House and the democratic majority in the Senate are going to be able to take care of this country, preserve its peace, promote its glories, and increase its prosperity.

We appeal to the people. We are going to the people in favor of the Constitution of Madison, the Constitution of Webster. We are going to the people in favor of their own freedom at the polls, in favor of their own intelligence in the jury-box, in favor of the independence of the States in the management of their elections, as had always been the case heretofore. The people will answer, in my judgment, North as well as South.

The course the gentlemen are pursuing, so far from bringing the day which they expect—of the reversal of a majority of this body—will, as I believe, increase it. Men who have lost by revolution, men who have lost all by revolution, are the ones who are not going to force another revolution. Men who owe all they have to revolution, who owe wealth and position and power to revolution, who owe the highest honors of the Republic to revolution, are the men who may be fairly expected to want revolution again. They are the ones for the people to fear.

But the Senator from New York and the Senator from Maine, as various other gentlemen have done before, take occasion to remind us that they were exceedingly gracious to us after the war. The Senator from New York tells us that after reconstruction was completed none of our property was confiscated and none of us were disfranchised and none of us were imprisoned. That is a fact, after reconstruction was completed. He takes credit for turning us loose after he had completed reconstruction and reorganized the States upon his idea. I do not put the comparison as applicable to the Senator from New York, but it is just as true of the robber who claims credit for kindness to the traveler because he had done him no harm after he had robbed him and let him go, because since the time he had let him go he had done him no harm at all.

Sir, the Senators are mistaken if they do not think we understand to what we owe our redemption. It is not to the republican party. The republican party set aside our State governments. The Senator from Maine the other day said there had been only fourteen thousand citizens disfranchised in the South. The Senator confounded disabilities under the fourteenth amendment with disfranchisement. There were at least two hundred and fifty thousand citizens disfranchised in the South.

Mr. BLAINE. I said by the action of the Federal Government.

Mr. HILL, of Georgia. Certainly, by the action of the Federal Government; by the reconstruction acts of Congress. By the reconstruction acts you came down there and took possession of our States, set aside our State governments, declared we had no legal State governments, and you created a constituency and created new governments and disfranchised two hundred and fifty thousand of the very best men, the most intelligent, the property-holding men in the whole South, at a time when our governments were destroyed, when our industrial system was destroyed, and you put us in the hands of our slaves, under the lead of strangers, men who came for no purpose but to get power over us and build governments for us, and we had to stand by and witness the process, threatened with confiscation and

exile if we dared resist. And there were two hundred and fifty thousand in that condition.

Do gentlemen say that we owe anything to them? Did not my friend from Kentucky quote from the Senator from Maine in 1868 a statement that there was nothing more to be feared from the South? You thought you had destroyed us. You created new constituencies and created governments to suit them; you had the power. You thought we were powerless forever, and then, like the wicked Delilah, you said:

Samson, the Philistines be upon you.

And they were. And after that you left, and left us, as you thought, bound with your cords and whips. It was then that the Samson of State sovereignty stretched himself and burst them all.

Mr. HOAR. And pulled down the temple?

Mr. HILL, of Georgia. Well, I should think, if the Senator would go through the South, he would find his carpet-bag temples in that country just now in the returning boards. There is nothing so sacred to him as a returning board. That is all that was left.

It was through this very agency of the autonomy and sovereignty of the States that we were able to recover ourselves, not by violence, not by intimidation as you falsely charge, but by the very autonomy of the States which you thought you had manacled, which you thought you had destroyed. It is to this very autonomy of the States that we owe our presence here to-day. Oh, but you say the South is solid. That is true. And you intimate to the North that we are solid against the Union. That is not true. There is not a word of truth in it. We are solid. Solid how? Solid against whom? Solid against the republican party. Why should we not be? Do you wonder? The past is enough to make us solid. But let that go. I would remember nothing in the spirit of revenge. Do you think, Senators, that such speeches as you have been making here during the last four weeks have no tendency to make the South solid against your party? Do you think that such speeches as you have been making in the House have no such tendency? Do you think that it is perfectly legitimate and proper for you to calumniate and slander and misrepresent and abuse us in every form in which language will authorize you to do it, and that we are going to love you for it? You may not know it, but we are men. You pick up every vagabond in the South who can be induced by any motive to testify against us, and you believe him, you praise him. In your papers you scatter it through all your country. You make it appear that we are rebellious. I do not care how vile a character he is, I do not care how covered with crime he is, if he testifies to barbarities and cruelties against the best class of southern people you believe him, you profess to believe him; you parade that testimony on this floor; you parade it on the floor of the other House; you parade it before the northern people; and I do not care how manly, how intelligent, how earnest a man may be that testifies justly for the southern people and gives them credit for honor and honesty, you discredit him as unworthy of belief.

That alone would be sufficient to make the South solid, but the South is solid against the republican party for another reason. We regard the republican party as only a sectional party. It was sectional in its origin. I will not say anything about the questions which then divided us, but it was a sectional party; it had no organization save in some of the States. It has been sectional in its history; it has been sectional in its doctrines; it has been sectional in its purposes; it has been sectional in its triumphs; it is sectional now. You never have had any organization in the South except that which you forced and bought—and that could not last—and you never will.

Now, we have tried sectionalism and we have abandoned it, and therefore we cannot consistently affiliate with the republican party. We are for national parties now. We come back to the grand old party of the North that never went off after secession, that never went after the Baals of consolidation. If there are any men on this earth for whom I have a higher regard than others, they are the democrats of the North. I know those of us at the South who were for the Union went through a trying ordeal, and none can ever know how trying it was except those who passed through it; but it seems to me the northern democrats who were so maligned and abused by the republicans went through a greater, for when the crisis came they that had no sympathy with the objects or purposes of the republican party shouldered their arms and marched side by side with the republicans of the North to put down their real friends in the South, and they did it. And yet, notwithstanding their fidelity to the Union, notwithstanding so many hundreds of thousands of democrats periled their all in the war, you abuse, you malign them, you give them no credit for it. And why do we affiliate with them? Because when we grounded our arms they met us as brethren and not as enemies.

Then, again, we never can affiliate with the republican party for a higher reason, a greater reason than the one I have given. The republican party to-day is the representative and the only representative on this continent of the consolidation theory of our Government, the theory, not of a mixed union, federal and national, the theory of an absolute nationalism, a theory which in its doctrines is seeking at this very hour to destroy the States of this Union. While we have abandoned secession, while we have agreed never to divide the States, we have never agreed to destroy the States; we will not agree to do it.

And then, gentlemen, because of your conduct, your calumnies, your slanders, what we know to be slanders, the South is solid against you. Every day things are repeated upon this floor against ten millions of people which no gentleman would dare repeat against one man. You charge a whole people with being false, untrustworthy, untrue, without evidence, against the fact, and yet you alarm the North by crying of a solid South. You seek to destroy the States when so far from yielding our devotion to the States we owe all that is left of us to the States and to that very principle of the Government which recognizes the States as a part of our system.

Sir, if the South were solid from any motives of hostility to the Union, from any motives of hostility to the Constitution, from any motives of hostility to the northern people, the South would be exceedingly reprehensible. We were made solid in defense of our own preservation; we are now solid in defense of our own honor and self-respect. We will be kept solid in defense of the Constitution of our fathers as interpreted by Madison and expounded by Webster. We would be glad, if it could be, to see two national parties in this country, national in organization, national in principles, national in hopes, and consistent with the true interpretation of the Constitution; but the northern man who after having made the South solid by calumny, by wrongs piled mountain high extending through years, that northern man who takes advantage of the wrongs he has inflicted upon the South, and thereby made them solid, who now undertakes for that very reason to make the North solid too, having a solid North against a solid South, is a disunionist in fact, for whenever we shall have a solid North and a solid South in this country the Union cannot last.

No, my good northern democratic brethren, you saved the country at last; you saved the Union in the hour of its peril; not the republican party. You who had showed devotion to your flag saved the Union, and now it is for you to go before your people and tell them that the solid North must never become a fact against the solid South. If so, disunion will be accomplished. It is you that we look to. You saved the Union and you will save the States. We could not help you save the Union, but we are here with all the power that God has given us to help you preserve and save the States of this country against the only remaining enemy of either the States or the Union.

Mr. President, I know I have detained the Senate long. I was born a slaveholder. That was a decree of my country's laws, not my own. I never bought a slave save at his own request; and of that I am not ashamed. I was never unkind to a slave, and all I ever owned will bear cheerful testimony to that fact. I would never deprive a human being, of any race, or color, or condition, of his right to the equal protection of the laws; and no colored man who knows me believes I would. Of all forms of cowardice, that is the meanest which would oppress the helpless, or wrong the defenseless; but I had the courage to face secession in its maddest hour and say I would not give the American Union for African slavery, and that if slavery dared strike the Union, slavery would perish. Slavery did perish, and now in this high council of the greatest of nations, I face the leaders of State destruction and declare that this ark of our political covenant, this constitutional casket of our confederate nation, encasing as it does more of human liberty and human security and human hope than any government ever formed by man, I would not break for the whole African race. And cursed, thrice cursed forever be the man who would! Sir, in disunion through the disintegration of the States I have never been able to see anything but anarchy with its endless horrors. In disunion through the destruction of the States I have never been able to see anything but rigid, hopeless despotism, with all its endless oppression. In disunion by any means, in any form, for any cause, I have never been able to see anything but blood, and waste, and ruin to all races and colors and conditions of men. But in the preservation of our Union of States, this confederate nation, I have never been able to see anything but a grandeur and a glory such as no people ever enjoyed. I pray God that every arm that shall be raised to destroy that Union may be withered before it can strike the blow.

Mr. WINDOM. Mr. President——

Mr. CHANDLER. Will the Senator from Minnesota yield to me for a moment?

Mr. WINDOM. I do not desire to proceed to-night, but would like to retain the floor. With the consent of the Senate I will yield to the Senator for a moment if I may do so without losing the floor.

Mr. CHANDLER. Mr. President, by the consent of the Senator from Minnesota I shall occupy the time of the Senator for a moment.

Mr. President, this is the fourth time since 1861 that allusion has been made to a letter written by me to the governor of the State of Michigan; first it appeared in a newspaper published in Detroit, a copy of which was sent to me and a copy was likewise sent to the late Senator Powell. The letter was a private note written to the governor and no copy retained. Senator Powell approached me with his copy of the letter and asked if it was a correct copy. I told him I did not know; I had written to the governor of Michigan a private note and had kept no copy and could not say whether this was correct or not. He told me that if it was a correct copy he would wish to make use of it, and if it was not he did not propose to make use of it. I said, "Sir, I will adopt it, and you may make any use of it you please." So to-day that is my letter. If not originally written by me, it is mine by adoption.

And, Mr. President, what were the circumstances under which that letter was written? I had been in this body then nearly four years

listening to treason day by day and hour by hour. The threat, the universal threat daily, hourly, was, "Do this or we will dissolve the Union; if you do not do that we will dissolve the Union." Treason was in the White House, treason in the Cabinet, treason in the Senate, and treason in the House of Representatives; bold, outspoken, rampant treason was daily and hourly uttered. The threat was made upon this floor in my presence by a Senator, "You may give us a blank sheet of paper and let us fill it up as we please, and then we will not live with you." And another Senator stood here beside that Senator from Texas and said, "I stand by the Senator from Texas." Treason was applauded in the galleries of this body, and treason was talked on the streets, in the street-cars, in private circles; everywhere it was treason—treason in your Departments, traitors in the White House, traitors around these galleries, traitors everywhere.

The flag of rebellion had been raised; the Union was already dissolved, we were told; the rebel government was already established with its capital in Alabama; "and now we will negotiate with you," was said to us. Upon what basis would you negotiate? Upon what basis did you call your peace convention? With rampant rebellion staring us in the face. Sir, it was no time to negotiate. The time for negotiation was past. We had offered everything we could in the way of negotiation, everything in the way of compromise, and all our proffers had been indignantly refused.

Sir, this was the condition of affairs when that letter was written; and after Mr. Powell had made his assault upon me in this body for it, I instantly responded, relating what I have related here now with regard to the letter, and I said, "I stand by that letter," and I stand by it now. What was there in it then, and what is there in it now? The State of Michigan was known to be in favor of the Constitution and the Union and the enforcement of the laws, even to the letting of blood if need be, and that was all there was and all there is in that letter. Make the most of it.

The Senator from Georgia says that I did not shed any blood. How much blood did he shed? [Laughter.] Will somebody inform us the exact quantity of blood that the Senator from Georgia shed?

Mr. HILL, of Georgia. The difference between us is that I was not in favor of shedding anybody's blood.

Mr. CHANDLER. Nor I, except to punish treason and traitors. Sir, the Senator is not the man to stand up on this floor and talk about other men saving their own blood. He took mighty good care to put his blood in Fort Lafayette where he was out of the way of rebel bullets as well as Union bullets. He is the last man to stand up here and talk to me about letting the blood of others be shed.

Mr. President, I was then, as I am now, in favor of the Government of the United States. Then, as now, I abhorred the idea of State sovereignty over national sovereignty. Then, as now, I was prepared even to shed blood to save this glorious Government. Then, as now, I stood up for the Constitution and the Union. Then, as now, I was in favor of the perpetuity of this glorious Government. But the Senator from Georgia was, as he testified before a committee, "a Union secessionist." I have the testimony here before me. Will somebody explain what that means—"a Union secessionist?" Mr. President, I should like to see the dictionary where the definition can be found of "a Union secessionist!" I do not understand the term.

He says that they have a right to have a solid South, but a solid North will destroy the Government. Why, Mr. President, the South is no more solid to-day than it was in 1857.

Several SENATORS. Eighteen hundred and sixty-one, you mean.

Mr. CHANDLER. Well, it was the same in 1857. It was just as solid in 1857 as it is to-day. It has been solid ever since, and it was no quarrel with the North that made it solid. It was solid because it was determined either to "rule or ruin" this nation. It tried the "ruin" scheme with arms; and now having failed to ruin this Government with arms, it comes back to ruin it by withholding supplies to carry on the Government. Sir, the men have changed since 1857. There is now but one member on this floor who stood here with me on the 4th of March, 1857. The men have changed, the measures not at all. You then fought for the overthrow of this Government, and now you vote and talk for the same purpose. You are to-day, as you were then, determined either to rule or ruin this Government, and you cannot do either.

Mr. WINDOM. Mr. President——

Mr. HILL, of Georgia. I desire simply to make one remark only; and that is this: the testimony to which the Senator from Michigan refers, taken by the ku-klux committee in Atlanta, contains, I believe, what he says—I have never seen it for I have never read it all over in my life—the term that I was "a Union secessionist." I will simply say that that testimony was written out after the stenographer and the committee left Atlanta. There are several typographical errors in it, and some mistakes of that sort such as get even into the RECORD or anywhere else occasionally; but I never used an expression of that sort.

Mr. WINDOM. Mr. President, I will say to the Senator from Kentucky who has charge of the bill, that I do not wish to proceed to-night, but I would like to cite one little scrap of history suggested by the remarks of the honorable Senator from Georgia. I shall occupy the Senate only two or three minutes.

The burden of the speech of the Senator from Georgia since I came into the Senate Chamber was that secession was brought about by the extremists of the North who threatened to take away the property of the South. Now I want to read to him, for I think he must have forgotten it, what those extremists of the North did in February, 1861. There was then a republican House of Representatives, and they passed this proposed amendment to the Constitution of the United States by a two-thirds vote:

> No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State.

I am not here to defend that amendment, but a republican House of Representatives passed it by a two-thirds vote and it was agreed to by the Senate of the United States, and submitted to the people for their adoption. Mr. Lincoln, a few days afterward, in his inaugural address, used this language:

> Apprehension seems to exist among the people of the Southern States, that, by the accession of a republican administration, their property and their peace, and personal security, are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed, and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches, when I declare that "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists." I believe I have no lawful right to do so, and I have no inclination to do so.

That is the manner in which the extremists of the North compelled this Union-loving people of the South to secede for fear they would lose their slave property!

I yield to the Senator from Kentucky for a motion to adjourn now.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 1492) to amend section 688 of the Revised Statutes of the United States relating to writs of prohibition and mandamus; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 565) to authorize the employment of three additional assistants in the Library of Congress; and it was thereupon signed by the President *pro tempore*.

PERSONAL EXPLANATION.

Mr. GORDON. I ask indulgence long enough to make a remark in reference to a vote given by myself yesterday. Before I left for Georgia, the Senator from Nebraska [Mr. PADDOCK] was kind enough to pair with me at my request. On my return, not observing that he was out of the Senate, I proceeded to give one vote yesterday, when I was reminded by another Senator on that side of the Chamber that the Senator from Nebraska himself was absent. I therefore wish to explain that I gave that vote inadvertently. Afterward, I announced my pair with him. I should have announced it at the time if I had observed that he was not in the Chamber.

HOUSE BILL REFERRED.

The bill (H. R. No. 1492) to amend section 688 of the Revised Statutes of the United States relating to writs of prohibition and mandamus, was read twice by its title, and referred to the Committee on the Judiciary.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BECK. I rise for the purpose of saying that I have no idea of sitting the bill out any further to-night, and therefore I propose to make a motion to adjourn. Before doing so, I desire to ask the Senator from Minnesota to allow us on Monday morning to proceed, say, until half past one with the bill before he begins to speak. By that hour, perhaps, we shall have reached the part of the bill to which he desires to speak.

Mr. WINDOM. I am entirely content with that arrangement.

Mr. BECK. Let us proceed with the bill until half past one on Monday, and then the Senator can speak. I move now that the Senate adjourn.

The motion was agreed to; and (at five o'clock and twenty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 10, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. ORTH. On behalf of a minority of the Committee on the Revision of the Laws, I ask unanimous consent that certain amendments designed to be offered to the bill (H. R. No. 1715) to repeal certain sections of the Revised Statutes and to amend certain sections of the Revised Statutes and of the Statutes at Large relating to the removal of causes from State courts be ordered to be printed.

There being no objection, it was ordered accordingly.

VINEGAR FACTORIES.

Mr. ALDRICH, of Illinois, by unanimous consent, introduced a bill (H. R. No. 1843) relating to vinegar factories established and operated prior to March 1, 1879; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WARNER. I move that the rules be suspended, so as to dispense with the morning hour.

Mr. ACKLEN. I trust we shall have a morning hour.

Mr. STEPHENS. Let us not dispense with the morning hour.

Mr. WARNER. If it is the desire of the House to have the morning hour, I will withdraw my motion.

The SPEAKER. The vote on the motion will test the desire of the House.

The question being taken on the motion of Mr. WARNER, it was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, without amendment, the bill (H. R. No. 1382) to prohibit military interference at elections.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at fifteen minutes past twelve o'clock.

JURISDICTION OF SUPREME COURT.

Mr. HARRIS, of Virginia, from the Committee on the Revision of the Laws, reported back, with a favorable recommendation, the bill (H. R. No. 1492) to amend section 688 of the Revised Statutes of the United States.

The bill was read. It provides that section 688 of the Revised Statutes of the United States be amended by striking out, in the second and third lines of said section, the words "in the district courts when proceeding as courts of admiralty and maritime jurisdiction," so that the section will read, when amended, as follows:

SEC. 688. The Supreme Court shall have power to issue writs of prohibition and writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed under the authority of the United States, or to persons holding office under the authority of the United States, where a State, or an embassador or other public minister, or a consul or vice-consul, is a party.

Mr. HARRIS, of Virginia. I desire to state that a bill embracing the same provisions as this was introduced in the last Congress by my friend from Alabama, [Mr. HERBERT,] was referred to the Committee on the Judiciary, was unanimously reported by that committee, and was passed in this House without objection; but for the want of time the Senate did not act on it. Another bill containing the same provision was, at the last session, referred to the Committee on the Judiciary, and by that committee unanimously approved. This bill simply proposes to enlarge the jurisdiction of the Supreme Court as to the issue of writs of prohibition and mandamus in other than maritime and admiralty cases.

Mr. McCOOK. Is this a unanimous report?

Mr. HARRIS, of Virginia. Yes, sir, from both committees.

Mr. McCOOK. Was the bill ever referred to the Committee on the Judiciary?

Mr. HARRIS, of Virginia. Yes, sir. In the last Congress the bill was referred to the Committee on the Judiciary, was unanimously reported by that committee and passed unanimously by the House. The bill has also received the unanimous approval of both committees in this Congress.

Mr. BAILEY. I would like to hear the bill again read.

The bill was again read.

Mr. DUNNELL. I wish to ask whether this bill is now with the Judiciary Committee? Has it been referred to that committee?

Mr. HARRIS, of Virginia. It has been ordered to be reported by that committee.

Mr. DUNNELL. I cannot understand how the same bill can be referred to two committees.

Mr. HERBERT. I will answer the gentleman's question. The bill was called up yesterday before the Judiciary Committee, and on consideration I was instructed by the unanimous vote of that committee to report it back to the House and ask for its passage. We have since been informed that the same bill was introduced and referred to the Committee on the Revision of the Laws, of which the gentleman from Virginia is chairman. Both committees made unanimous report in favor of this bill, and I therefore join the gentleman from Virginia in asking for its passage.

Mr. HARRIS, of Virginia. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. HARRIS, of Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WHITTHORNE. I suggest to my friend from Virginia that he amend the title so as to show exactly what is the purpose of the act. This habit of referring to Revised Statutes without stating the object of the law in the title to it results in confusion.

Mr. HARRIS, of Virginia. What phraseology would the gentleman suggest?

The SPEAKER. The Chair would suggest that it be made an act relating to writs of prohibition and mandamus.

Mr. HARRIS, of Virginia. Very well; I will accept that amendment to the title.

The amended title was agreed to.

WAR OF 1812.

Mr. HARRIS, of Virginia, from the same committee, reported back favorably a joint resolution (H. R. No. 39) construing the act of Congress approved March 9, 1878, so as to entitle widows of the soldiers of the war of 1812 to a pension notwithstanding a second marriage, provided they were widows at the date of said act or at the time of application.

The joint resolution, which was read, provides that section 1 of an act entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812, and their widows, and for other purposes," approved March 9, 1878, shall be so construed as to entitle widows to the benefits of said act although they may have again married, provided they were widows at the time of the passage of said act or are widows at the time of their application for the benefit of said act.

Mr. HARRIS, of Virginia. Mr. Speaker, the object of that resolution is to construe the act of March 9, 1878. That act authorized the Secretary of the Interior to place upon the pension-roll the names of the surviving officers and enlisted and drafted men without regard to color, including militia and volunteers in the naval and military service of the United States, who served fourteen days, &c., and the surviving widows of such officers and enlisted men. And surviving widows! Now, the Pension Bureau has construed the law so as to exclude a woman who married a second time, although her second husband was dead at the time of the passage of the law. The Commissioner holds that she is not a widow of a soldier of 1812, because during the intervening time she remarried, although that man has long since been dead and buried. The object of this resolution is to construe that law so as to place a widow who has had two husbands and had the misfortune to lose both, upon the same footing as a widow who had only one husband and lost him.

Mr. GARFIELD. Is this a change in the pension laws reported from the Committee on the Revision of the Laws?

Mr. HARRIS, of Virginia. Yes, it is a report from the Committee on the Revision of the Laws construing the law.

Mr. GARFIELD. Is not that a construction of a pension law?

Mr. HARRIS, of Virginia. Yes.

Mr. TOWNSHEND, of Illinois. It has nothing to do with pension laws.

Mr. GARFIELD. I think anything which relates to the body of our pension laws ought to go to the Committee on Invalid Pensions. I believe it has been the uniform usage during the history of this Government that a widow's pension goes to her only while she is a widow; and that when she marries, when she chooses to desert the guardianship of the United States, the guardianship of the Government, the pension then ceases. As I understand the gentleman, this breaks down that rule which has governed from the beginning, and it seems to me it is a rule which is wise and just, that where a widow pensioner makes her election——

Mr. WHITTHORNE. Let me ask the gentleman a question.

Mr. GARFIELD. Certainly.

Mr. WHITTHORNE. Does he hold there is in this case a renouncing of the guardianship, so to speak, of the United States? At the time of the passage of this law she was not under the guardianship of the United States, because she did not have any pension. In the passage of this law we give it to the widow of the soldier. It could only be after the passage of the law that she renounces the guardianship of the United States.

Mr. GARFIELD. But the gentleman nevertheless if he approves this bill approves of a change of what has been the general law from the beginning. And if this change is made, then it ought to follow the change should be made universal. And the result would be a mass of applications for pensions of persons who had remarried, losing their rights under the law; and then when the husbands died or a divorce occurred came back, opening cases forty and sixty years old.

I think this is an unwise and uncalled for extension of the pension laws. It not only interferes with all the decisions which have been made hitherto, but it is a new opening in a new direction, which, if it is to be considered at all, ought to be considered by the Pension Committee in its relation to the whole body of our pension laws and not by the Committee on the Revision of the Laws, whose proper duty is to rectify any manifest mistakes or inaccuracies in the form of the law and not to go into a change of the spirit and purpose and substance of the laws themselves. I hope this bill will not pass in its present shape. But not to antagonize all its purposes, I ask the committee to consent to its reference to the Committee on Invalid Pensions.

Mr. BLOUNT. I wish to ask the gentleman from Virginia a question: whether or not the committee have investigated to see how much the expense of the Government will be increased by the passage of this bill?

Mr. HARRIS, of Virginia. There is no mode of ascertaining that point.

Mr. BLOUNT. It seems to me that ought to be known to this House before we are called upon to act on the bill.

Mr. HARRIS, of Virginia. There can be very few widows of the war of 1812. The bill refers only to them and to no others. I am told the rule which has been stated applies in the Departments to pensions of the late war; but this is not a precedent for any other case than that now before the House. I am satisfied the House intended when they passed this law last year to give the pension to any widow of a soldier of the war of 1812 who was a widow, whether she had remarried once, twice, or thrice in the mean time.

Mr. CANNON, of Illinois. As I understand, the bill only provides for those who have married a second time and again become widows. It does not provide for one who has been thrice made a widow.

Mr. HARRIS, of Virginia. The bill covers the whole case. Its provisions are not restricted to those who have only remarried once. I do not see why a widow who was a widow at the time of the passage of this law should not be entitled to a pension, although she had remarried, as well as one who had not married again.

Mr. BREWER. In the law which applies to pensions to invalid soldiers of the late war and soldiers of the Mexican war is it not provided that when the widow marries the pension ceases?

Mr. HARRIS, of Virginia. That would be the case also under this bill. If the old lady who is in receipt of a pension should be silly enough to get married the pension would be stopped, and it ought to be stopped so long as she has a husband to take care of her. But when she is a widow she ought to receive the pension. I am surprised at the want of gallantry displayed in this matter by the gentleman from Ohio.

Mr. GARFIELD. It is a question of justice, not of gallantry.

Mr. VANCE. I wish to ask the gentleman from Virginia why he does not report an amendment to include those who served fourteen days in the war of 1812, though a portion of that time might have been after the proclamation of peace?

Mr. HARRIS, of Virginia. We do not propose to change the general law at all, but simply to interpret the law. I am satisfied Congress meant that a pension should be given to any woman who had been married to a soldier of the war of 1812 who was a widow at the time of the passage of the act.

Mr. GARFIELD. I ask the gentleman from Virginia to allow a test vote on the motion to refer the bill to the Committee on Pensions.

Mr. HARRIS, of Virginia. I insist on the demand for the previous question.

Mr. GARFIELD. I hope that will be voted down; and if it is I will then move that the bill be referred to the Committee on Revolutionary Pensions.

The question being put on seconding the demand for the previous question there were ayes 46, noes not counted.

So the previous question was not seconded.

Mr. GARFIELD. I move to refer the bill to the Committee on Revolutionary Pensions.

Mr. HARRIS, of Virginia. I consent to that.

The bill was referred to the Committee on Revolutionary Pensions.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1382) to prohibit military interference at elections.

REPORTER OF THE SUPREME COURT.

Mr. HARRIS, of Virginia, from the Committee on the Revision of the Laws, also reported back, with a favorable recommendation, the bill (H. R. No. 1493) defining the duties of reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distribution of said reports.

The bill was read. It provides that said reporter shall, when required by the said Supreme Court of the United States, attend its sessions and consultations, and under its direction report and prepare for publication its decisions and such other decisions as it may designate.

The second section provides that it shall cause to be reported, with as much brevity as practicable, its decisions, whether made in the disposing of a motion or otherwise, that determines any theretofore unsettled or new and important, or modifies any theretofore settled, question of law, or that gives construction to any statute of the United States, or of any State or Territory, or of any treaty made by the United States with any foreign nation or Indian tribe, together with such other of its decisions as may be deemed of public interest and importance.

The third section provides that it shall be the duty of said reporter immediately after the decision of any case to be reported to prepare for publication a report thereof, under the direction and supervision of said court, and in general conformity with the plan hitherto adopted and pursued, and when he shall have so prepared a sufficient number of decisions to form a volume of the size of the volumes of said reports known as Wallace's Reports, he shall also prepare an index and table of contents of said volume, and deliver the said reports with said index and table of contents to the Public Printer, who shall cause the same to be printed with all reasonable dispatch; provided that no argument of counsel shall be published with said report other than a brief of the points made and the authorities cited and relied upon by said counsel, unless specially ordered by said court.

The fourth section provides that said Public Printer shall cause said reports to be printed upon good white paper, and bound in law leather, in style not inferior to said Wallace's Reports, and shall deliver 300 copies thereof to the Secretary of the Interior, to be by him distributed as provided for by law, and the remainder he shall sell to such persons as may desire to purchase the same at a price not exceeding 10 per cent. in addition to the cost of printing and binding said reports; provided no person shall be permitted to purchase said reports for resale, unless he shall give bond in the penal sum of not less than $1,000 to the United States, to be approved by the judge of any United States court, with good and sufficient security, that he will not sell the same at a greater price than the cost of printing and binding, with 25 per cent. thereof added.

The fifth section provides that said Public Printer shall publish an edition of 2,000 copies of each volume of said reports, and when said edition is exhausted, as aforesaid, a second edition of 1,000 copies, or larger if the demand for the same makes it necessary.

The sixth section provides that said reporter shall receive for his services from the Treasury an annual salary of $4,500 when his reports of said decisions shall constitute but one volume, and an additional sum of $500 when there is printed and published more than one volume per year; but said salary shall only be paid when he causes said decisions to be delivered as aforesaid to said Public Printer.

The seventh section repeals sections 681 and 682 of the Revised Statutes of the United States.

Mr. GARFIELD. I desire to raise the point of order on this bill that it is not a bill which should properly come from the Committee on the Revision of the Laws. This is a bill creating a new law, a new body of legislation touching the subject to which it relates. To report such a bill is not a part of any of the duties committed to the Committee on the Revision of the Laws. It is a bill relating to the management of the affairs of the Supreme Court of the United States and the decisions of that court and is, in the very terms and nature of it, a bill that naturally belongs to and should come from the Committee on the Judiciary. I am not now speaking of the merits of the bill at all, but only of the order in which it should come before the House. The Committee on the Revision of the Laws has been understood from the beginning to be a committee to rectify manifest errors in the revision of the laws. It was a committee created in connection with the codification and revision of our statutes. That was so laborious a work, the codification of some eighteen or twenty volumes of statutes into one or two of a comprehensive and succinct body of laws, that it was found best to have a committee to supervise and test the correctness of the work.

It never has been understood to be any part of the duty of that committee to go into new legislation, except merely corrective of the codification of the laws. Here now is a bill entering into an entirely new field of operations; regulating the modes of practices in regard to the proceedings of the Supreme Court, and the publication of the report of them. While the bill may be well enough in itself, it certainly belongs to the Committee on the Judiciary, the law committee of the House, and therefore I make the point of order.

Mr. HARRIS, of Virginia. The point of order comes too late.

Mr. GARFIELD. The bill has never been read before.

Mr. HARRIS, of Virginia. The point of order should have been made when the bill was referred; but the House has given, by its reference to the committee, jurisdiction over the subject.

The SPEAKER. Was the bill referred in open House?

Mr. HARRIS, of Virginia. I am not prepared to say positively, but I think it was during the morning hour of last Monday.

Mr. GARFIELD. We do not know whether it went in through the petition-box.

Mr. HARRIS, of Virginia. No, sir; it was introduced in open House.

Mr. GARFIELD. I submit that if it went through in open House the question is properly raised. We cannot raise the question as to the reference of a bill, when it has never been read except by its title.

Mr. HARRIS, of Virginia. You had a right to call for the reading of the bill then.

Mr. GARFIELD. This is the first time the bill has been read to the House.

Mr. HARRIS, of Virginia. But you had a right to call for its reading when it was introduced.

Mr. TOWNSHEND, of Illinois. I do not want the remarks of the gentleman from Ohio [Mr. GARFIELD] to go uncontroverted. As to what properly comes within the jurisdiction of the Committee on the Revision of the Laws, if gentlemen will examine into the organization of that committee it will be discovered the House gave that committee jurisdiction over all matters which properly came before the Committee on Unfinished Business. If they will examine what were the duties of the Committee on Unfinished Business they will find that that committee, which was organized as far back as 1795, was given jurisdiction over all bills or matters unfinished at the previous session of Congress.

Now, if the Committee on the Revision of the Laws has jurisdiction over unfinished business, the question is, was this bill introduced at the last session of Congress?

I understand that a bill of this identical import was introduced in the last Congress, and was undisposed of when that Congress adjourned. I maintain, then, that all unfinished business which came

over to us from the last session of Congress comes within the jurisdiction of the committee. If any member disputes it, I can refer to authorities on the subject.

Mr. HARRIS, of Virginia. I do not care to discuss the question of jurisdiction.

The SPEAKER. The gentleman from Ohio will restate the point of order.

Mr. GARFIELD. I make the point of order that the bill is not properly in the hands of the committee. The House has never heard the contents of the bill before.

Mr. SPRINGER. I do not understand that under the rules of the House a matter of reference is such a matter as is subject to a point of order. The House may refer a bill to any committee that the majority of the House may desire to refer it to, and when it is so referred there is but one way by which the reference can be corrected, and that is by a motion to reconsider. When a bill is referred and no motion to reconsider is made, and the committee report it back, it is then in the custody or within the jurisdiction of the House and subject to its control, and the only remedy is, if the bill has been improperly referred, to move its reference to that committee to which it should properly have been referred.

Mr. KNOTT. I would ask the gentleman this question: after the bill has been referred in the morning hour of Monday how could it be brought back by a motion to reconsider?

Mr. SPRINGER. The rule provides that any gentleman may call for the reading of a bill, and the object of the rule is to enable members to know at the time what the bill contains.

Mr. KNOTT. That is not answering my question.

Mr. SPRINGER. The bill goes to a committee and cannot be brought back by a motion to reconsider, but the committee to which it is referred is in duty bound to report the bill. When the bill is reported it is not subject to a point of order that it was improperly referred, but gentlemen can move to refer it to the proper committee, or the committee may report the bill back and ask its reference to another committee. I have never known the point of order to be raised that a bill has been improperly referred.

The SPEAKER. The Chair is of opinion that if any error has been committed in the reference of the bill it was committed by the House. The House had a right when the bill was introduced to regulate its reference, and the House constantly does regulate references, even during the morning hour of Monday, and divisions of the House take place as to the reference of bills.

Bills introduced in the House on Mondays, as stated by the gentleman from Kentucky, are bills referred with the understanding that they are not to be brought back under a motion to reconsider. Now, it has been the practice in the House for committees, when matters had been referred to them which they did not think came within their province, to report the fact to the House and ask for a proper reference; and the remedy is still in the House now. If this bill has, in the judgment of the House, been improperly referred, the House can refer it to the proper committee by voting down the previous question, when a motion to refer to another committee would be in order.

The Chair is of the opinion that, the bill having been referred to the committee by the House and acted on and reported by that committee, it is not subject to the point of order. The remedy of the gentleman is, as already stated by the Chair, in a motion to commit to some other committee should the demand for the previous question be refused.

Mr. GARFIELD. I desire to make a further point of order. I will say that I hope the Committee on the Revision of the Laws will pardon me; I do not desire to interfere with their proper jurisdiction.

Mr. HARRIS, of Virginia. Then why interpose any objection?

Mr. GARFIELD. I make the point of order that under Rule 112 this bill should receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair thinks that point of order is well taken.

Mr. HARRIS, of Virginia. This bill fixes the salary of the Supreme Court reporter, but it does not increase it.

The SPEAKER. Does it create any new office?

Mr. HARRIS, of Virginia. It does not.

The SPEAKER. Does it increase any salary?

Mr. HARRIS, of Virginia. It does not.

The SPEAKER. Will the gentleman refer the Chair to the section of the Revised Statutes relating to this subject?

Mr. HARRIS, of Virginia. Under the law and the present practice of the court the reporter of the Supreme Court receives an income of from $8,000 to $12,000 a year. The object of this bill is to provide that the decisions shall be published by the Government Printer like other public documents, and sold for cost and 10 per cent. additional.

The SPEAKER. Will the gentleman refer to the section of the Revised Statutes?

Mr. HARRIS, of Virginia. I am looking for it, and talking while I am looking.

Mr. FIELD. It is section 682 of the Revised Statutes.

Mr. HARRIS, of Virginia. It is as follows:

The reporter shall cause the decisions of the Supreme Court made during his office to be printed and published within eight months after they are made; and, within the same time, shall deliver 300 copies of the volumes of said reports to the Secretary of the Interior. And he shall, in any year when he is so directed by the court, cause to be printed and published a second volume of said decisions, of which he shall deliver, in like manner and time, 300 copies.

The reporter shall be entitled to receive from the Treasury an annual salary of $2,500, when his report of said decisions constitutes one volume, and an additional sum of $1,500 when, by direction of the court, he causes to be printed and published, in any year, a second volume. But said salary and compensation, respectively, shall be paid only when he causes such decisions to be printed, published, and delivered within the time and in the manner prescribed by law, and upon the condition that the volumes of said reports shall be sold by him to the public for a price not exceeding $5 a volume.

Some of these volumes can be published for a dollar and a half a volume, and the reporter gets all the profit above that sum to $5. We want the law so fixed that the country can have these reports cheap.

The SPEAKER. According to the statute the salary now provided by law for the Supreme Court reporter is $2,500 a year, and $1,500 additional under certain circumstances, making $4,000 in all. This bill, as the Chair reads it, provides an annual salary of $4,500, an increase of $500 over the present salary.

Mr. HARRIS, of Virginia. I will move to amend by striking out the $500.

The SPEAKER. The point of order was made before the amendment was suggested. The Chair sustains the point of order and the bill goes to the Committee of the Whole.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 565) to authorize the employment of three assistants in the Library of Congress.

PROOF IN LAND ENTRIES.

Mr. LOWE, from the Committee on the Revision of the Laws, reported back, with amendments, the bill (H. R. No. 436) to amend section 2290 so as to allow affidavits therein provided for to be administered by United States commissioners.

The bill was read, as follows:

Be it enacted, &c., That section 2290 of Revised Statutes be so amended as to allow the affidavits therein provided for to be administered by United States commissioners in all cases where the affiant resides in the same State as the United States commissioner.

The committee recommend that the bill be amended so as to read as follows:

That section 2290 of Revised Statutes be, and is hereby, so amended as to allow the affidavits therein provided for to be administered by United States commissioners in all cases where the affiant resides in the same State as the United States commissioner, as well as by the register or receiver, as provided in said section.

Mr. HURD. I move that this bill, with the pending amendments, be referred to the Committee on the Judiciary.

Mr. TOWNSHEND, of Illinois. Is that motion in order?

The SPEAKER. It is in order if the gentleman from Alabama [Mr. LOWE] reporting the bill does not demand the previous question.

Mr. TOWNSHEND, of Illinois. The gentleman from Alabama has the floor. I do not see how he can be taken off without his consent.

Mr. LOWE. This bill is very simple, and is in the interest of persons remote from the various land offices in the States. There is no necessity for its reference to the Committee on the Judiciary. It provides that United States commissioners who are convenient to the people shall have the power to take these affidavits, and that they shall be filed with the receiver or with the register of the land office as is now provided by law. It does not deprive the register or the receiver of the land office from taking affidavits where doing so would be for the convenience of the people. But where the people live at a remote distance from the land office, as in my State, it is very convenient for them that the United States commissioner shall be empowered to take the necessary affidavits. Instead of requiring them to travel great distances—one hundred or two hundred miles—to make these affidavits, this bill provides that they may be taken before any United States commissioner and filed in the land office. These affidavits are simply the necessary and customary affidavits made in the entry of land. I call the previous question.

Mr. DUNNELL. I would like to hear the section read which it is proposed to amend.

Mr. LOWE. It is section 2290.

Mr. DUNNELL. It seems to me a very unwise measure to extend this privilege to the United States commissioners. The very law which it is proposed to amend did away with that argument relating to travel that was used at the time the act was passed. I ask that the section be read.

The section was read as follows:

The person applying for the benefit of the preceding section shall, upon application to the register of the land office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of $5 when the entry is of not more than eighty acres, and on payment of $10 when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Mr. DUNNELL. I desire to say a single word.

Mr. LOWE. I will yield for a question.

Mr. DUNNELL. This bill ought to have gone to the Committee on Public Lands. The Committee on the Revision of the Laws has no more to do with questions of this kind than the Committee on Commerce. All the bills that have been reported this morning from

the Committee on the Revision of the Laws should have come either from the Judiciary Committee or from some other committee having charge of the subject.

Mr. LOWE. I cannot yield to the gentleman any further.

Mr. TOWNSHEND, of Illinois. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. The gentleman from Alabama having called the previous question——

Mr. DUNNELL. The gentleman yielded to me.

Mr. TOWNSHEND, of Illinois. I hold that no debate is now in order.

The SPEAKER. But this bill is presented by a committee. The gentleman loses no right. The Chair will recognize the gentleman from Alabama [Mr. LOWE] to test the sense of the House on ordering the previous question. The Chair presumes the gentleman from Illinois does not want to cut off the gentleman from Minnesota, to whom, as the Chair understood, the gentleman from Alabama yielded for a question.

Mr. TOWNSHEND, of Illinois. I understand the gentleman from Minnesota to be discussing an irrelevant question, one already disposed of. I did not understand the gentleman from Alabama to yield for any such purpose.

The SPEAKER. The Chair will not undertake to decide what point the gentleman from Minnesota is discussing; but the Chair understood the gentleman from Alabama to yield to the gentleman from Minnesota for a question.

Mr. LOWE. But not for a point of order already decided by the Chair.

The SPEAKER. The Chair has decided no point of order on this bill.

Mr. LOWE. But the same point was decided on the bill preceding this.

Mr. TOWNSHEND, of Illinois. I raise the point of order that the gentleman from Alabama has not yielded to the gentleman from Minnesota, and that the latter gentleman is speaking out of order.

The SPEAKER. The Chair understood the gentleman from Alabama to yield to the gentleman from Minnesota for a question. The gentleman from Minnesota will ask his question.

Mr. TOWNSHEND, of Illinois. Does the gentleman from Alabama yield for that purpose?

The SPEAKER. The Chair has stated over and over again that he did.

Mr. DUNNELL. I have raised the question whether the accommodations which the bill now pending seeks to extend to the people are not already provided for in the Revised Statutes. I have before me section 2294 of the revision, on which I base my question. That section is in these words:

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

Now, here we have all the provisions of law called for——

The SPEAKER. The gentleman from Minnesota will indicate his question.

Mr. LOWE. I want to hear what the question is. I do not care to hear an argument. I am willing to answer any question.

Mr. DUNNELL. I will ask the gentleman whether the pending bill can possibly give any facilities not already secured by the section I have read. It seems to me the bill simply multiplies officers to do the same kind of business.

Mr. LOWE. I answer the gentleman that the bill can and does give increased facilities. If the gentleman has ears to hear, let him hear. The bill provides that the United States commissioners, when convenient to the people, may take these affidavits. It does not multiply officers. It simply gives the people power to go to any convenient United States commissioner, make affidavit before this officer, and send it to the land office.

Mr. DUNNELL. Why not also give the same power to the judge of probate or the district court?

Mr. LOWE. I am willing to give it to any court of record.

Mr. DUNNELL. I trust the House will see the confusion that may result from the passage of such a bill.

Mr. LOWE. As these commissioners are United States officers, it was deemed eminently proper that they should be empowered to take these affidavits.

Mr. BRIGHT. I rise to make the inquiry whether this matter has been referred to a committee?

The SPEAKER. The bill comes up upon a report from the Committee on the Revision of the Laws.

Mr. BRIGHT. I submit that the discussion which has been going on involves the consideration of questions that properly belong to the committee, and about which they will report in due time.

The SPEAKER. The bill is reported from a committee.

Mr. DUNNELL. I move that the bill be referred to the Committee on the Public Lands.

The SPEAKER. The gentleman from Alabama [Mr. LOWE] demands the previous question. If the House desires to refer the bill to the Committee on the Public Lands or to the Committee on the Judiciary, it can reach the end by voting down the demand for the previous question.

The previous question was not seconded, there being—ayes 38, noes 78.

The SPEAKER. The gentleman from Ohio, [Mr. HURD,] who first indicated a purpose to move the reference of the bill to the Committee on the Judiciary, is recognized to make that motion. The gentleman from Minnesota [Mr. DUNNELL] moves to amend so as to refer the bill to the Committee on the Public Lands.

Mr. DUNNELL. It clearly belongs to the Committee on the Public Lands.

Mr. SAMFORD. I desire to say to the gentleman from Minnesota that I introduced this bill; and in answer to his question whether or not it would be more convenient to individuals to empower United States commissioners to take these affidavits I desire to say——

The SPEAKER. The question now under consideration is simply upon the reference of the bill.

Mr. SAMFORD. I do not desire to say anything on that question, but simply on the merits of the bill. This is only a question of convenience. There can be no valid objection to allowing United States commissioners to take these affidavits; and it was upon a petition of several citizens that I introduced the bill. In many localities it is inconvenient to go before the clerk of the court to make affidavit; and there being no valid objection to giving this power to United States commissioners, as a mere matter of convenience to the people I introduced the bill; and thinking the Committee on the Revision of the Laws the proper committee, I asked that reference.

Mr. DUNNELL. The bill can be as well taken care of by the Committee on the Public Lands.

The question being taken on the amendment of Mr. DUNNELL, to refer the bill to the Committee on the Public Lands, there were—ayes 69, noes 52.

Mr. HARRIS, of Virginia. I call for the yeas and nays.

The yeas and nays were not ordered.

So the amendment of Mr. DUNNELL was agreed to.

The motion of Mr. HURD, as amended, was adopted.

Mr. DUNNELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. TOWNSHEND, of Illinois, from the Committee on the Revision of the Laws, reported back a bill (H. R. No. 1715) to repeal certain sections of the Revised Statutes and to amend certain sections of the Revised Statutes and of the Statutes at Large relating to the removal of causes from State courts, with an amendment.

The bill was read, as follows:

That sections 639 and 647, of chapter 7 of the Revised Statutes, in relation to the removal of causes from State courts into circuit courts of the United States, be, and the same are hereby, repealed.

SEC. 2. That section 641 of the Revised Statutes be amended by striking out the words "or criminal prosecution;" also, by striking out in the same section the words "or prosecution;" also, by striking out in the same section the words "any time before the trial or final hearing of the cause," and insert in lieu thereof the words "the time of entering his appearance in said court."

SEC. 3. That section 642 of said Revised Statutes be amended by striking out the words "or prosecution."

SEC. 4. That section 643 of the Revised Statutes be amended by striking out the words "or criminal prosecution," "or prosecution," wherever they occur in said section; also, by striking out in the same section the words "any time before the trial or final hearing thereof;" and insert in said section, after the words "in the following manner, said petition," the words "shall be filed in said court at the time of entering his appearance in said State court and said petition."

SEC. 5. That section 644 of said Revised Statutes be amended by inserting, after the words "United States" where they first occur in said section, the words "for or on account of any act done by authority or under color of his office."

SEC. 6. That section 645 of said Revised Statutes be amended by striking out the words "or prosecution" where they occur in said section.

SEC. 7. That section 2 of an act entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875, be amended by striking out the words "or in which there shall be a controversy between citizens of different States, or a controversy between citizens of the same State, claiming lands under grants of different States, or a controversy between citizens of a State and foreign States, citizens, or subjects;" also, by striking out in the same section the words "and when in any suit mentioned in this section there shall be a controversy which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the plaintiffs or defendants actually interested in such controversy may remove said suit into the circuit court of the United States for the proper district;" also, that section 3 of said last-mentioned act be amended by striking out the words "before or at the term at which said cause could be first tried, and before the trial thereof," and insert in lieu thereof "at the time of entering his appearance in said court;" and also striking out all of said section after the words "and the said copy being entered as aforesaid in said circuit court of the United States, *the cause* shall then proceed in the same manner as if it had been originally commenced in the said circuit court:" *Provided*, That nothing contained in this act shall affect any causes in which proceedings for removal from State courts shall have been commenced before the passage of this act.

The amendment of the committee was read as follows:

Strike from section 4 the following words:

Also, by striking out in the same section the words "any time before the trial or final hearing thereof;" and insert in said section, after the words "in the following manner, said petition."

Mr. CONGER. Let the fourth section be again read.

The fourth section was read.

Mr. STEPHENS. Has not the morning hour expired?

The SPEAKER. It has.

Mr. WARNER. Then I call for the regular order of business.

Mr. CONGER. I reserve all points of order upon that bill.

Mr. ATKINS. It is entirely too late for the gentleman to reserve points of order, as the bill is up and goes over to the next morning hour, and the House has now passed from its consideration.

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia, in the chair.) The gentleman is right, the morning hour has expired and the point comes too late.

AGRICULTURE.

Mr. LE FEVRE. Mr. Speaker, I ask unanimous consent to submit the following resolution:

Resolved, That the Speaker of the House may, and he is hereby, directed to appoint a special committee, consisting of five members of this House, to be selected from the Committee on Agriculture, to take into consideration such measures as may tend to promote the agricultural interests of the country; to investigate the system and workings of the Department of Agriculture, and report, by bill or otherwise, such additional legislation as may be deemed necessary for the promotion of the Department of Agriculture and the advancement and protection of agricultural interests. Said committee may sit during the recess, and shall have power to send for persons and papers.

Mr. FORT. Let the resolution be referred to the Committee on Agriculture.

There was no objection, and it was ordered accordingly.

CLAIMS AGAINST NICARAUGA.

Mr. ACKLEN. Mr. Speaker, I desire to ask unanimous consent of the House to fix a time for the consideration of the resolution offered by me on April 23, relating to the Nicarauga cases, and suggest that said resolution be considered on next Wednesday after the morning hour. I desire further to say in this connection that unless some such time be fixed for the consideration of this matter it cannot be done this session, by reason of the fact that it is pending in the morning hour after the call of committees and will not therefore be reached in such order.

That the House may fully understand this case, I will say that the resolution presented by me was a unanimous report of the Committee on Foreign Affairs of the last Congress, but was not then brought up for discussion on account of my illness during the last session of that Congress.

It provides for the appointment by the Speaker of five members of this House to examine the records on file in the Department of State and hear any additional testimony that citizens of the United States having claims against the Government of Nicaragua may choose to present. When it is borne in mind that these cases have been pending from eighteen to twenty years unsatisfied, I can hardly imagine that any member of this House would throw obstacles in the way of their speedy consideration. The Government of Nicaragua justly owes this money to our people and it ill becomes us to retard its payment.

The Senate of the United States has already passed the resolution which I presented and appointed a committee of five members of that body. The House must be represented or the cases passed upon by the Senate committee will simply lie over until they can be acted upon by some standing committee of this House. I therefore urge the House to grant this request that we may not be considered derelict in that duty which we owe to every citizen of our States, whether he be living within the borders of our country or abroad, and to uphold that national honor which should be dear to the hearts of every member of this House.

Mr. WILBER. I object, and call for the regular order of business.

COINAGE CERTIFICATES, ETC.

The SPEAKER *pro tempore*. The regular order is the further consideration of the bill known as the coinage bill, a bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relating to coinage and coin and bullion certificates, and for other purposes, reported from the Committee on Coinage, Weights, and Measures with amendments. The gentleman from Pennsylvania [Mr. KELLEY] is entitled to the floor for one hour.

Mr. KELLEY. Mr. Speaker, to prevent an indefinite number of interruptions I had better begin my remarks by frankly and humbly confessing that since 1872 I have learned something on the silver question, which, in my judgment, is the paramount question of the period. Gentlemen seek to convict me of inconsistency. I value consistency, but not that kind which by ignoring the lessons of experience precludes intellectual progress and constrains men to go through life the advocates of error because when they entered manhood they were ignorant of the real law which controlled a given question. I have through life been a seeker after truth as a guide and have accepted it from any and every source.

> On pagan or on Christian ground,
> The plant's divine where'er 'tis found.

I have believed that consistency and duty to my manhood both required me to change my opinions and line of action whenever increase of knowledge should satisfy me that I have been in error, though such change should disturb my most cherished social and political relations. Thus, I was in 1846 an enthusiastic democrat; but when Mr. Calhoun declared by a resolution offered in the Senate that slavery was national and freedom sectional and confined to a few States into which Southern men might rightfully carry their slaves, and that doctrine was accepted by Mr. Yancey and introduced as a resolution in the Baltimore convention of 1848, and was supported, if my memory serves me, by thirty-six delegates, I denounced it, and voted openly for the free-soil candidate for President, though still maintaining my devotion to State rights, free trade, and other doctrines of the party against whose presidential candidate I voted; and when, in 1854, the attempt was made to enforce this novel and pernicious dogma by carrying slavery into the northwestern Territories, I avowed myself a republican, and, in 1856, resigned a judicial position, in which I had reason to believe I was honored by my constituents, in order to lead a forlorn hope as the republican candidate for Congress in a district in which I was awarded by the election officers one vote out of every ten.

Again, sir, I was not only a free-trader, but an intense and, as I believed, a well-instructed one, having read largely on the subject. I had been a disseminator in my city of the publications of the corn-law league and was a recognized volunteer agent for their distribution.

But when in 1857 the course of events proved that the assumptions from which my convictions had been deduced were false—and it became patent to all men that, notwithstanding the discovery of gold in California and the mining of nearly a thousand millions of dollars thereof; that the potato rot in Europe had given an extraordinary market and unusual prices to our agricultural products; that for a series of consecutive years every natural incident had favored the prosperity of the country and the accumulation of capital by the people, yet at the end of that decade from the discovery of California gold, we had made so small an accumulation of capital that the draught of British and continental banks for $7,000,000, only $7,000,000, caused a suspension of specie payments throughout the country and paralyzed our industrial system—I said to myself, "The laws of trade and finance are inflexible as the law of gravitation, and have produced results so diametrically opposite to those promised by the theories of free-traders that my principles cannot be sound, my belief must be erroneous."

It was not easy, sir, to yield my most cherished convictions, and I did not do it without much study and reflection. Indeed, sir, it required three years of patient investigation to bring me to conclusions on the merits of the question of free trade or protection in which I could rest. That it may be seen whether I changed my opinions lightly, I will hand to the gentleman from Massachusetts [Mr. CLAFLIN] and my colleague, [Mr. FISHER,] who have so chided me for avowing that I had learned something on the silver question, a pamphlet containing my reasons for that change, and will also see that a copy of it is handed to each member of the House.

In 1872, when I made the remarks which were cited by those gentlemen, and which have been frequently quoted in both Houses, and always with an air as much as to say that to convict this man of the crime of having been instructed by the logic of events would forever settle this momentous question, we were not using coin, and no gentleman in either House appears to have appreciated the scope and magnitude of the silver question or to have given it special study. Hence the bill—and I wish gentlemen to know what that bill was; it was a bill to reorganize the mints, not to revise the coin money of the country, but to reorganize the mints, and it was passed without allusion in debate to the question of the retention or abandonment of the standard silver dollar. The then Speaker of the House, now a distinguished member of the Senate, and Hon. Mr. VOORHEES, of Indiana, who is also a member of that body, were then members of this House; and during the last Congress this colloquy occurred between them. It was, I thipk, denied by Mr. VOORHEES that members of the House knew that the bill proposed to demonetize the silver dollar, and to sustain his view he said to the ex-Speaker: "Did you know it, sir?" "No," said Senator BLAINE; "did you?" "No," replied Senator VOORHEES.

I was chairman of the committee that reported the original bill, and I aver on my honor that I did not know the fact that it proposed to drop the standard dollar, and did not learn that it had done it for eighteen months after the passage of the substitute offered by Mr. Hooper, when I disputed the fact, and was shown the law. The distinguished gentleman from Ohio [Mr. GARFIELD] who now leads this side of the House was then as now an attentive and already a distinguished member of the House; yet when in joint debate before the people of Ohio in October, 1877, the question arose as to who was responsible for its demonetization, he frankly said he did not know that such a provision was in the bill when it passed the House. I state this the more freely in his absence because I informed him that I intended to do so; and he replied, "It is the case; I did make that statement, and it is true."

Nor did the President who signed the bill know that it abolished legal-tender standard silver dollars, for in his letter to Mr. Cowdrey of October 6, 1873, cited by the gentleman from Ohio, [Mr. WARNER,] he said:

> Silver will gradually take the place of this currency, and, further, will become the standard of values, which will be hoarded in a small way. I estimate that this will consume from $200,000,000 to $300,000,000 in time of this species of our circulating medium. * * * I confess to a desire to see a limited hoarding of money. It insures a firm foundation in time of need. But I want to see the hoarding of something that has a standard value the world over. Silver has this.

Gentlemen will observe that this letter was written several months after the writer's signature had given the force and effect of law to the bill which prohibited the further minting of the kind of coins he expected the people to hoard.

Let me in passing say that the statement of Mr. McNeely, of Illinois, which has been so often cited as though it discredited my word, that the bill had been read line by line and paragraph by paragraph in

the committee has my indorsement. It is true as to the original bill. Hence it was that I admitted, as I so long and frequently did, that I had reported a bill which demonetized the standard dollar, and that I continued to believe that that provision had escaped my notice until my friend who sits before me, the gentleman from Illinois [Mr. FORT] investigated the subject from the egg up and brought me the bill I had reported retaining the standard dollar, together with a Senate bill which had been substituted for it, which changed a section and omitted it. In view of these facts, I think I may be permitted to believe that it is not specially discreditable to me that I alone among all those who then constituted the law-making power, either in the legislative or executive department, had not been illuminated on this grave question.

In justification of a change of opinion on this question I may be permitted to say that in 1872 I was ignorant of the existence of Emile de Laveleye and of Henri Cernuschi; but since then it has been my privilege to correspond with these learned and distinguished men and I have enjoyed much social intercourse with Mr. Cernuschi. I have read their instructive writings and would have been a dullard indeed had they made no impression upon my mind. Nor did I then know that Wolowski, Seyd, and their learned associates had predicted the terrible results which have followed the attempt of one great nation to demonetize silver, but since then I have done much to bring their conclusions and the reasons upon which they rested to the attention of Congress and the country. Nor had I then read the well considered and instructive books of our countrymen, S. Dana Horton on silver and Francis A. Walker on money, neither of which was written until years thereafter.

Mr. KEIFER. Will the gentleman allow me an inquiry? I would like the gentleman to state, if he is able to do so, on which side of the silver question S. Dana Horton is? He says he has read his book.

Mr. KELLEY. I make this remark that I will object to no interruption that is pertinent if I can be assured that my time will be extended beyond the hour in proportion thereto.

In reply to the gentleman from Ohio I say that though I am not able to define exactly the position of Mr. Horton, I regard him as a bimetalist and that I found his book, in connection with other studies, most instructive, as I think any gentleman will. It embodies an immense number of facts and much definite thought on the money question.

Mr. BELFORD. I desire to ask the gentleman a question or two, because I regard him as one of the fathers of this measure.

Mr. KELLEY. Please do not make a speech, but put your question.

Mr. BELFORD. The third section of this act provides that any owner of silver bullion may take it and deposit it at the mint and have it coined.

Mr. KELLEY. If the gentleman will permit me to anticipate his question I will answer it so far as I am prepared to, that is by declining to entertain it. I am not a member of the committee that reports this bill, and it is not my purpose to discuss its provisions in detail. I desire to take a general and broad view of the question, and I therefore refer him to the gentleman from Ohio [Mr. WARNER] and the gentleman from Georgia [Mr. STEPHENS,] chairman of the committee, for the details. I cannot be led away from the line of discussion which I have prepared for myself.

Mr. BELFORD. I merely asked the question for information.

Mr. KELLEY. I have no doubt that the gentleman asks for information, but he comes to the wrong source. He ought to have asked the gentleman from Ohio [Mr. WARNER] whose bill it is, and not me who am here simply discussing the general question it involves in a broad and general way.

In 1872 I had not read this extract from a speech of the late President Abraham Lincoln. That great and always conservative man, in the hall of representatives in Springfield, Illinois, in December, 1839, spoke as follows:

> The natural effect of this change of policy, every one will see, is to reduce the quantity of money in circulation. * * * The man who has purchased any article, say a horse, on credit at $100, when there are $200,000,000 circulating in the country, if the quantity be reduced to $100,000,000 by the arrival of pay day, will find the horse but sufficient to pay half the debt; and the other half must either be paid out of his other means, and thereby become a clear loss to him, or go unpaid, and thereby become a clear loss to his creditor. What I have said of a single case of the purchase of a horse, will hold good in every case of a debt existing at a time a reduction in the quantity of money occurs, by whomsoever and for whatever it may have been contracted. It may be said that what the debtor loses the creditor gains by this operation; but, on examination, this will be found to be true only to a very limited extent. It is more generally true that all lose by it. The creditor by losing more of his debts than he gains by the increased value of those he collects, the debtor by either parting with more of his property to pay his debts than he received in contracting them or by entirely breaking up his business, and thereby being thrown upon the world in idleness.

The pertinence of these wise words of Mr. Lincoln will become more apparent as I proceed. Nor, sir, had I then read the very powerful articles from the pens of Stephen Williamson, of the great Liverpool house of Balfour, Williamson & Co., and R. H. Patterson, the distinguished author of the Science of Finance and of the Economy of Capital, in the Contemporary Review for April, 1879.

Nor had I seen in the Financial Chronicle of the 12th of last month this manly statement and significant reminiscence which gives me the right to claim the moral support of England's premier, the Earl of Beaconsfield, who seems to have foreseen, as no American statesmen did, the dire calamities that must follow an attempt to demonetize silver:

> Let it be borne in mind that we are proposing no stupendous novelty. Nay, rather let it be kept in view that we are suggesting a return to the old and safe conservative paths in regard to "money." We are no innovators. The innovators were the gold monometallic propagandists of 1868, who are accountable for all the recent dislocation and mischief; and I regret to say that a few Englishmen, who certainly could not have dreamed of the consequences of their propaganda, were among the number, if they were not the chief instigators of the movement. They are now alarmed at the success of their teaching and are fervently praying that there may be no further demonetizing of silver in the world. Lord Beaconsfield referred to the impending dislocation and the evils likely to result—almost with prophetic vision—on the 19th November, 1873, when he was installed rector of the Glasgow University. He then said, at the evening banquet: "I attribute it to the great monetary disturbance that has occurred, and is now to a certain degree acting very injuriously on trade—I attribute it to the great changes which our governments in Europe are making with reference to our standard of value. I attribute the present state of affairs very much to a commission that was sitting in Paris at the time of the great exhibition. That was a commission the object of which was to establish a uniform coinage throughout the world—a very beautiful idea which could do no great harm, but difficult to attain. The commission never came to a definite recommendation on this subject, but they did on another subject, and that was, that no time should be lost by any of the states of Europe in taking steps to establish a uniform gold stardard of value." His lordship (then Mr. Disraeli) proceeded to point out that it was the greatest delusion in the world to attribute our commercial preponderance or prosperity to our having a gold standard, and then warned his hearers that we must be prepared "for great convulsions in the money market—not occasioned by speculation or any old cause, but by a new cause with which we are not yet sufficiently acquainted." He added: "When countries inundated with silver are trying to get rid of it, convulsions must come, and no one would be able to form an adequate idea of the monetary arrangements of the times in which he lives if he omits from his consideration the important subject to which I have called your attention."

Finally, sir, I am free to admit that when in 1872 I absurdly asserted that the unit of our monetary system, the legal-tender silver dollar, which was worth commercially three cents more than a gold one, was subsidiary coin, I knew no more of the stupendous significance of the silver question than the gentleman from Massachusetts [Mr. CLAFLIN] and my colleague, [Mr. FISHER,] do now in 1879.

I was then, as they now are, involved in the battle of standards. It is a bootless controversy. A standard is a fixed and unchanging measure, and that which is fixed and unchanging cannot be found in that which is liable to great and incessant fluctuations. Nothing in the history of man has fluctuated in value more frequently or more extremely than gold. The value of both gold and silver fluctuates, and hence it was that in my ignorance I became confused and, believing that we must have a standard of value, thought that only one metal could properly furnish such a standard. These metals fluctuate not only relatively between themselves, but relatively with every other commodity. Neither, therefore, can, I repeat, be a standard of value.

Nor is money such a standard, let it be made of what it may, whether it have intrinsic value or rest on the credit of the Government that issues it. Money is a convenient representative of value, a medium of exchange used in current purchases and a standard of deferred payments. A debtor agrees to pay so many marks or florins or francs or pounds or dollars on a given day, and on that day to maintain his credit he must pay that number of designated coins, but unless he has expressly stipulated that the coins shall on the maturity of the obligation be of the existing weight and fineness, and the Government which issues the coin has, pending its maturity, reduced the weight or fineness of the coin specified and made it less valuable, the debtor pays his obligation by producing on the day fixed the stipulated number of the coins the value of which the Government has thus by law reduced. This is the law of every civilized nation. This right is, I reaffirm, established by law, and in no sense depends upon the intrinsic value of the metallic or other unit of payment upon which the law has bestowed the attribute of legal tender.

Thus, when we diminished the value of our gold dollar, for we have never changed that of our silver one, he who owed a million dollars when that change took place met his obligations with honor, though every one of the coins with which he paid were of the lighter and cheaper kind then recently ordained; hence it is apparent that the gold dollar, though it is a standard of deferred payments, is not a standard of value.

But I must proceed to more general considerations. This decade, I mean from 1872 to 1883, will mark one of the most instructive epochs in modern history. Its progress in discovery, iuvention, and the application of science to the useful arts is probably unparalleled in the story of man's existence. It is also marked by great movements of people to new countries with cheaper lands and freer institutions. Yet, as its later half passes it is marked by a reaction against the progress of civilization and social refinement the severity of which must, within its limits, compel a change in the financial and economic system of Great Britain, and endanger, if it does not overthrow, the governments of some of the great continental nations.

Look where we may, restless discontent prevails. In our own country, by far the happiest of all by reason of our broad, free lands and the intelligent self-reliance of our people, discontent and agitation mark these years. From New England, New York, Pennsylvania, and the entire manufacturing sections of the East, working men, women, and children, who, having secured their own homes or partially paid for them through building associations, were prosperous and contented, are fleeing to the remote West to endure the hardships and risks of frontier life and to make at best but bad farmers. Remonstrate with them against the change as we may, they will say to us, "there we can at least live; but here, without employment, or with partial employment at reduced wages, we cannot live."

So, too, is it in the South; and I admit that political causes may have had some effect there. You find the laboring population, a people specially fitted for labor in that section of the country, fleeing as

eagerly as the intelligent working people of New England, New York, and Pennsylvania to States within which there is no employment for them in producing cotton or sugar, as there are no manufactories to employ those of the white mechanics who are augmenting the proportions of this modern exodus. Sir, the flight of this decade is marked by all the symptoms which preceded the fall of the Roman Empire, the French and continental revolutions of 1793, the convulsion of Great Britain in 1847 and 1848, the overthrow of the French monarchy and the driving from Berlin of the German government in the latter of these years. Indeed everywhere outside of our own country, Canada, Australia, and other British colonies which are settled by people of British origin and enjoy self-government, we find evidence of the action of a potent disturbing cause. I have said that the same symptoms preceded the overthrow of the Roman Empire. I speak with diffidence from my own general study on this point, but beg leave to read a short passage touching it from Alison's History of Europe:

The two greatest events which have occurred in the history of mankind have been directly brought about by a successive contraction and expansion of the circulating medium of society. The fall of the Roman Empire, so long ascribed in ignorance to slavery, heathenism, and moral corruption, was in reality brought about by a decline in the silver and gold mines of Spain and Greece. * * * And, as if Providence had intended to reveal in the clearest manner the influence of this mighty agent on human affairs, the resurrection of mankind from the ruin which these causes had produced was owing to the directly opposite set of agencies being put in operation. Columbus led the way in the career of renovation; when he spread his sails across the Atlantic he bore mankind and its fortunes in his bark. * * * The annual supply of the precious metals for the use of the globe was tripled; before a century had expired the prices of every species of produce were quadrupled. The weight of debt and taxes insensibly wore off under the influence of that prodigious increase; in the renovations of industry the relations of society were changed; the weight of feudalism cast off; the rights of man established. Among the many concurring causes which conspired to bring about this mighty consummation, the most important, though hitherto the least observed, was the discovery of Mexico and Peru.

I need not dwell upon the causes which produced the French revolution. Whoever has read any history of that event, whether by Guizot, Thiers, Carlyle, or other justly distinguished writer, knows that the outbreak was precipitated by financial embarrassments; that the people were impoverished; that the farmer-general could not collect the revenues; that industry was paralyzed, and that discontent produced by want drove the masses into revolt. Yes, out of the financial difficulties of the period came that war which raged for nearly a quarter of a century, involving all Europe, and as one of the incidents of which we have the instructive lessons furnished by English history, that an increase in the volume of paper money, though inconvertible, stimulated industry, production, and the growth of durable wealth in ratios previously unknown, and that by its contraction, enforced by law, in order to bring about specie payments ruin overtook the people, and for a time threatened the permanence of the government.

In 1847 and 1848 the supply of gold and silver from the mines had diminished; it was not equal to the annual loss and consumption by the arts. The credit of countries then dependent on coin had to be contracted as that "enduring" standard of value diminished in amount and increased in purchasing power. Industry was without reward. The French monarch was driven from his throne, and a republic established which avowed as its first duty the creation of remunerative employment for the people, even though it should be by the establishment of national workshops.

How were the people brought to order and contentment? It was by giving them remunerative employment. I have recited twice on this floor the story from the London Times, and will not now repeat, but simply allude to it. The Bank of France was authorized to issue an immense amount of irredeemable paper, and commissions were appointed to loan it, not only to those who could bring gold-bearing bonds as security, not to the wealthy alone who could offer still wealthier indorsers, but to the people of the workshop. The test of fitness to receive a loan was the exhibition of the books of the man who sought it. If they exhibited proof of a useful and well-managed business with a general result of profit, the applicant was to have a loan commensurate with the demands of his business. France thus stimulated her productive power, and in a few years, by supplying the world with silks, wines, and gewgaws, was enabled to purchase gold and silver with which to redeem every note the bank had issued; and the loss by these seemingly loose loans was when the accounts were closed, reported to have been inappreciable.

But how was peace restored to the whole continent of Europe? I am speaking of 1848. The threatened convulsion in England occurred in 1847 and the early part of 1848. Then it was that Louis Napoleon established his British respectability by entering the ranks of the citizen police and bearing a staff in the maintenance of order, not dreaming that in five years he would have overthrown the Republic of France and secured the power to make himself Emperor. But let me answer my question.

It was these disturbed years of 1847 and 1848 that gave the world a new Mexico and Peru in California and Australia. As the gold and silver of Mexico and Peru banished the dark ages of Europe which had intervened between the fall of the Roman Empire and the rise of arts after Columbus's voyages, so the precious metals of California and Australia flowed into the channels of commerce, quickened industry, enabled capital to employ and pay labor, and thus restored peace and order to Europe.

These are, I think, instructive periods in history. And I repeat that the current years are marked by all the symptoms that characterized those immediately preceding each of the events alluded to, and from the same cause, the shrinking away of the metallic basis of the credits of the world, which is now occurring by the force of legislation in the presence of an immense annual production of the precious metals. Germany and the United States are doing summarily by law what the consumption of the precious metals by the arts, the power of abrasion, and the contingencies of mining operations then did by slow and unobserved processes. Let me show you upon how grand a scale we are promoting those evil ends, idleness, want, discontent, and revolt.

Here is an elaborate report from the select committee on the depreciation of silver, together with the proceedings of the committee, minutes, evidence, &c., printed by order of the House of Commons on the 5th of July, 1876. Among these papers I find a statement of the world's annual production of gold and silver from 1852 to 1875, inclusive, giving by years the production of each metal. Though prepared for the Journal des Economistes, it was accepted by the committee. It shows that the production of gold was $2,913,000,000, that of silver $1,187,500,000, making a total of $4,100,500,000. Germany and we have undertaken to exclude from use as money—not by the slow process of abrasion, loss, and consumption in the arts, but as I have said summarily by law—nearly one-third of that total production. But, as I am reminded, we propose to do more and worse than this. We will also banish from circulation the stock of silver the world had accumulated prior to 1852. Since that year the steadily increasing stock of these metals has been augmenting the wants and productive capacity of man, sending forth adventurers into every new country, improving and extending the means of transportation, building up manufactures, stimulating agricultural production, promoting commerce and extending it to all the islands of the sea and to every navigable river of the world. In view of these facts how stupendous is our undertaking! Can any gentleman predict the evil consequences the attempt, though baffled it must be, may produce?

It is impossible to estimate the depreciation of values that so enormous and so gradual and long continued a contraction of the volume of money must produce; but, to give gentlemen who have not considered the subject data for forming a vague and remote estimate, let me remind them that it was in testimony before the secret committee which reported to Parliament in 1847 that the withdrawal of $45,000,000, coin, from the Bank of England had depreciated public stocks $573,761,125. That was the rapid work of a crisis, but the retirement of silver from the circulating medium of the world is to be the work of one or more generations, during which the average of prices cannot advance, but must continue to fall. Let me also invite gentlemen to consider the fact that when the resumption act of 1819 was under consideration Ricardo, Peel, and others of their school recurred to the fact that the difference between bank-notes and gold was less than 5 per cent., and said that, as the act gave four years in which to effect that slight change, it would work no appreciable depreciation of prices. But what was the result? Industry and commerce were paralyzed. The bank, finding that the people could not endure the consequences of a contraction that was to continue through four years, hastened the operation and concluded it in two years; yet it effected a change in the price of every commodity, including land and improved real estate of 45 per cent., and caused a relative appreciation in the value of government stocks. The direct effect, the widespread ruin produced by this action was confined to Great Britain, but the history of the times shows that the people of every nation to which she was commercially related suffered with her to a greater or less extent.

But, say monometalists, the discrediting of silver must proceed. The two metals have given the world too much money; its abundance has produced extravagance; men ought not to live as it justified them in living; they, especially laborers, must not live so well; the wages paid for labor have been too high; and in their effort to correct these alleged evils they attempt to force back the tide of civilization and social refinement by destroying the purchasing power of more than one-third of the world's metallic money.

Mr. FISHER. Will my colleague allow me to ask a question?

Mr. KELLEY. Certainly.

Mr. FISHER. Do you mean to assert that the German Empire has demonetized silver?

Mr. KELLEY. I do.

Mr. FISHER. In the next place, does not the gentleman think that if German statesmen see they have committed an error they will retrace their steps, as they have done in adopting the protective policy, upon which my colleague and I agree?

Mr. KELLEY. The gentleman will find out before I close, if I have time to say all I wish to, that I do not think it will be optional with the German government whether it will retrace the step it took in demonetizing silver; that the terrible force of events will compel it to abdicate or to retrace its steps. The maintenance of order in Germany under that demonetization and the effect it has produced on the markets which Germany formerly supplied with her productions will compel the adoption of one of the alternatives I suggest.

My friend from Ohio [Mr. WARNER] has just pointed me to a page of the report of the commission to which I have already referred, on which I find the official answer to the question of my colleague as to whether Germany had demonetized silver. Having referred to several laws demonetizing portions of the current silver money, the report proceeds to say:

The scope of this first law is so far important to the present inquiry, as it bears

on the state of the silver market between December, 1871, and the middle of July, 1873, when the next great step was taken.

On the 9th of July, 1873, another coinage law (*Münzengesetz*) was passed. This law introduced the gold standard. It commenced with the words "the imperial gold currency takes the place of the various currencies which are now legal in Germany belonging to the separate states."

Since 1871 Germany has been selling her silver. Her citizens could pay it to the government, which received it at its denominational value up to certain dates; but when the government received it, it put it into bars and has been selling those bars by the ton from then till now. What it holds and is trying to sell is, as I shall show, regarded by the highest financial authorities in England as the cause of all her recent manufacturing, commercial, and financial troubles and of the world-wide business depression now prevailing.

Thus Mr. Williamson in his article in the Contemporary Review for April, after reciting the conclusions touching the effects of demonstration presented to the government by the Liverpool Board of Trade, said:

These conclusions by no means exhaust the category of untoward results. The picture could be greatly heightened in coloring, but they are enough for our purpose, accounting as they do for the greatly diminished demand there now is for our textile fabrics, railway materials, machinery, and other things from vast and populous regions of the globe, whose money is now useless to us and unsuitable for the discharge of our trade accounts. Merchants are at their wits' end. They are shut up to refuse credits in silver-using countries. They are baffled in all their exchange calculations. They are driven to restrict their operations. The malign and adverse influence acts and reacts. The distress intensifies. Manchester warehouses are filled to repletion with unsalable stocks. Iron rails go down to a point lower than ever known. Many good opportunities for developing the resources of other countries, and of investing English capital, pass unheeded and unavailed of. Men inquire what will the silver dollar or rupee be worth six months or six years hence in the London market; and the deduction from late monetary legislation prompts the reply that there is no bottom to the fall. India may be ruined—our investments may be worthless; and the inevitable conclusion is that we must minimize our risks, restrict our operations, draw in our capital from silver-using countries, and let things take their chance. The Economist and Mr. Giffen prophesied three years ago that trade would soon mend. They ridiculed our fears and what they called our heroic remedies. But the world now knows they were prophets who prophesied pleasant things because men loved to have it so.

Now, sir, I affirm that to remonetize silver (and it must sooner or later be done by all the commercial nations, including England) would restore peace, order, and prosperity throughout the world, as did the increase of the precious metals from Mexico and Peru, and at a later day the increase from California and Australia. Let me sustain this assertion by pregnant proof.

Prediction is said to be the test of truth, and I propose to apply it in this case. Mr. Ernest Seyd, in the course of his address before the British Society of Arts on the 3d of April, 1878, said:

In 1867-'68 M. Wolowski, then a senator of France, in opposing the proposition that that country should demonetize silver, said: "If in the then existing state of the balance of trade one of the great nations demonetized silver the balance would be overthrown and dire mischief would follow."

In 1868, four years before Germany demonetized her silver, M. Wolowski, a bimetalist, and Ernest Seyd, who, as an Englishman, loyally held the doctrine that England should adhere to a single standard, but who, nevertheless, opposed demonetization, were the central figures in a conference of distinguished men on the question, and predicted, in six specific propositions, the effects which would inevitably follow such action. Let us consider their predictions:

I. The international trade of the world would instantly show signs of decline, to the special injury of the countries whose international trade was large.

Will any gentleman deny that this prediction has been fulfilled? England, whose international trade vastly exceeded that of any other nation, has suffered more than any other. She lost of her international wealth, as is shown by Mr. Seyd in the address to which I am referring, more than a thousand millions of dollars in three consecutive years. Her commerce is crippled, her manufacturing and mining industry is prostrate, and her greatest dependency, India, lies weltering in a slough of misery and despair. She has lost her American market, and her people of every rank and condition are now asking what shall England do to be saved from the possible result of the severe and protracted depression she is enduring.

II. That public enterprise, such as results in the construction of railways and other beneficent undertakings, would come to a standstill, and that general progress would suffer.

Will any gentleman deny that this prediction has been abundantly fulfilled here and elsewhere? If any one doubts on this point it may be well for him to consider the facts set forth in this paragraph from the last issue of the New York Mercantile Journal:

The Railway Age brings forward its record of railway foreclosures through the year 1878, giving a list of forty-eight roads sold during that year, representing a total mileage of 3,902 miles, $160,014,500 bonds and debt, and $151,616,700 capital stock; the entire amount of bonds, debt, and stock being $311,631,200. The following shows the foreclosure sales during the last three years:

Year.	Number of roads.	Mileage.	Capital invested.
1876	30	3,846	$217,848,000
1877	54	3,875	238,984,000
1878	48	3,902	311,631,000
Total	132	11,623	768,463,000

These represent only the roads that have been sold, and not lines which are in the hands of receivers. Should these be added, and those which are still maintained because they were built upon the credit of cities that will not repudiate the expenditure, it may be safely stated that the railroad mortality, so to speak, in this country has involved the loss of an amount of capital larger than the bonded debt of the United States.

III. That the decline in price would compel countries internationally indebted to depart more and more from the principles of free trade toward a policy of protection.

Has not this prediction been verified? Canada has just passed her first protective tariff law; Australia is about to follow the example; and the papers yesterday told us of the indignation with which Bismarck left the chamber of the Reichstag because unexpected opposition was made to one of his protective measures, and the last of his words given us by the telegraph were that he insisted that the Zollverein must be re-established. It was the Zollverein which made the empire possible. Frederick List, a young and enthusiastic German, came to Pennsylvania and resided there for several years, during which he studied the American system of Henry Clay. He consorted almost exclusively with protectionists, and when he returned to Germany he devoted himself to the work of inducing the German states and duchies to make a league on the basis that the productions of each should enter the others free of duty, while commodities produced beyond those states should pay a protective duty. Thus he wove together in internal interest what is now the great empire of Germany, and made the Prince Bismarck and Emperor William we know in their grandeur possible.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. WARNER. I hope the gentleman's time will be extended.

The SPEAKER *pro tempore*. How much time does the gentleman from Pennsylvania want?

Mr. KELLEY. I am speaking from notes; I cannot say exactly. I would be grateful to the House for indefinite extension. I believe I have some information of value to bring to the attention of the House and through the RECORD to the country. My speech is unwritten, and it will likely remain unwritten unless the reporters write it for me. I will be as brief as possible.

Mr. KNOTT. I hope the gentleman's time will be extended indefinitely.

The SPEAKER *pro tempore*. The gentleman's time is extended by unanimous consent.

Mr. DEUSTER, (after a time.) I object.

Mr. KELLEY. I desire to say I was one of the gentlemen who was taken off the floor in the discussion on the legislative bill; every other gentleman was given unlimited time save the gentleman from Indiana [Mr. DE LA MATYR] and myself.

The SPEAKER *pro tempore*. The gentleman's time has been extended indefinitely, as the objection came too late.

Mr. KELLEY. I thank the House, and proceed to consider prediction No. 4, which is:

IV. That the nations of the world would first be divided into two principal groups, the one trading in gold, the other in silver, and this would render commerce between them precarious.

This is now being fulfilled, and I will recur to it at a later stage in my remarks, and merely say now that when that division occurs I want this nation to be at the head of the silver group, which will embrace three or four times the population of the gold group.

V. That throughout the world a fall in prices would take place injurious alike to owners of solid property and to the laboring classes, and advantageous only, and unjustifiably so, to the holders of State debts and other contracts of that kind.

Will any gentleman deny that this prediction has been verified; that the wages of labor have gone down; that the value of real estate has depreciated; that the price of merchandise of every kind has declined in the hands of merchants; or that national credits have gone up so that 4 per cent. interest on a bond will buy its holder twice as much as 6 per cent. used to before Germany discredited silver?

VI. That when this time of depression sets in there would be this difficulty, namely, that the causes of this depression would be sought for in all directions; that all sorts of allegations more or less groundless and fantastic, or of a secondary nature only, would be brought forward by the gold-valuation school, and that this real cause, the demonetization of silver, would be neglected until strong signs of distress compelled thinking men to refer to it.

Now upon what were these predictions founded? On this point Mr. Seyd says:

The extent of international trade and business generally depends mainly on the means available to liquidate balances. Hitherto both gold and silver, in equal proportions, had served for this purpose. But the moment that Germany overthrew the balance and compelled other European states to close their mints against silver, that metal ceased to be an effective medium of exchange between the civilized nations.

He also asked, "What, then, are the causes of the present aspect of affairs?" and illustrated the correctness of prediction VI by answering the question as follows:

In order to lead to the true cause let me first endeavor to review the various allegations which have been made, in numerical order, and to show whether they are tenable:

First. When, in 1873, trade began to slacken a little the cause referred to was the Franco-German war. Strange to say, however, the two years following that war were in reality prosperous. From 1848 upwards we have had the French and continental revolutions, the Crimean war, the Franco-Austrian war, the American war, and several minor wars. In fact, never has there been a period so rich in war. Yet our trade steadily increased year by year. In connection with this, although only within the last two years, it was said that the threatening Oriental war caused want of confidence. In former times, when merchants had long-winded ventures at sea, and vessels were liable to capture and blockade, there would have been grounds for such want of confidence; but now, when steamships run and voyages are much shorter, news traveling instantly, when railways lessen the importance

of blockades, and a better international understanding exists, there is little occasion for such apprehensions.

Secondly. It was then suggested that the dullness in trade represented but one of the usual periods; that in the following year it would recover. Refer to our statistics of the last sixty years, and, although they exhibit certain variations between one or two years, yet the increase was steady. The years following the crises of 1847, 1857, and 1866 showed a falling off of several millions, but in the next following again an increase. But now we find that there has been a falling off for four years, getting worse year by year, at an unheard-of ratio, and without any of those causes to which we ascribe crises and ordinary periodical variations.

Thirdly. Then followed the allegation that "things had been overdone generally." Hitherto things were "overdone" at the crises before mentioned. It was then stated that the "overdone" referred to the use of more machinery and overproduction. That we are making continual improvements in and additions to our machinery and industry is evident, and for the last thirty or forty years there has been a steady progress here and elsewhere. But can any one say that suddenly, in the years 1873 and 1874, we had made such a start in this as to bring out the results before us? And as regards overproduction, that may have appeared so at first from the stocks on hand; in reality, however, the production was not in excess of the consumption it had hitherto met with. During the last two or three years the production has diminished sensibly and stocks of goods are not excessive. A great portion of our manufacturers have worked half time or less, or closed works temporarily. The stoppage of public works, such as railways abroad, is one of the most remarkable features. The existing railways pay fairly; there is room for more. Why should the cessation of this kind of enterprise be so sudden?

Fourthly. A favorite allegation is that which ascribes all the mischief to the strikes of the workingman. Apart from the question that strikes do not affect much the value of certain commodities in which the falling off has been severe, it has always been held that higher wages encourage consumption and production among the masses. "Strikes" cannot in any case account for the sudden reversal in trade, and at this moment, when wages are again much reduced and prices fallen much below those of 1873-'74, there is no improvement nevertheless.

Fifthly. The "competition" of the foreigner was then referred to. Now, if on account of strikes or for other reasons the foreigner had acquired our trade, this might seem a legitimate reason; but it is not so. Foreign manufacturing nations complain of badness of trade and falling off of exports even more loudly than we do, and in their turn ascribe it to the competition and cheaper prices in England.

Sixthly. One of the arguments used is that during recent years we have lent but little money to foreigners, who were in the habit of taking large quantities of goods on the credit of loans. I have pointed out before that, if this were so, we ought to have an enormous accumulation of gold here; but, as that is not the case, the real reason may be rather that of our diminished ability to do so. It will also be found that the defaulting nations were not such large customers of ours as to warrant this large falling off, and that this falling off is especially noticeable with nations in whom we have confidence or who have no occasion to be debtors to us on such loans.

Numerous other allegations have been made which, simply or collectively, do not account for the state of things.

These secondary symptoms, as Mr. Seyd calls them, are just such as we are in the habit of hearing assigned in this country as the cause of the hardships the world is enduring But he proceeds to say:

Permit me here to point out what I, in conjunction with many others, deem to be the real or only cause of all this mischief, a cause of which all the other allegations made are but secondary symptoms. This real cause is the demonetization of silver, or rather the steps so far taken in that direction.

In proof of the correctness of prediction IV, that is, that nations would be divided into two groups, one using silver and one gold, I beg leave to adduce the following evidence. Mr. Coke, in seconding the adoption of the report presented to the board of trade of Liverpool by the committee it had appointed to present its resolutions and petition to the government of England, said:

It is impossible that India can continue to purchase from England at the rate expected when her money is discredited 20 per cent., and may be 30 per cent., if nothing is done to arrest the present decline. If the manufacturers of this country wish to retain India as a market for their productions, they must assist in supporting the value of the rupee.

And again:

The only permanent cure would be the adoption of a bimetallic system throughout the great commercial countries of the world, by which silver and gold would become legal money at a fixed ratio of value. In such case not only India but all other silver-using States would be able to buy from England, and, unfortunately, they are her principal customers.

Mr. R. H. Patterson, in his article on The Eastern Trade and the Precious Metals in the Contemporary Review for last month, said:

The system of demonetizing silver would lead to world-wide consequences of really incalculable disaster. Those persons who talk so glibly of the advantages of "monometalism" and a single gold standard must be totally blind to the inevitable consequences of the course which they so complacently advocate and extol. Were silver degraded from its place in the currency of the world, or even of Europe, the fall in its value, say one-half—although the fall might be very much greater—would be equivalent to destroying one-half of all the silver in the world! It would annul a vast outlay of capital and the labor of generations of hard-working miners. Were it possible in like fashion—namely, by legislation or edict—to reduce the price of ordinary commodities, such as food or clothes or houses, in such a case, although the producers of those commodities would unfairly suffer, the community at large would gain to an equal extent. The usefulness of such commodities would remain unimpaired. But the chief usefulness of the precious metals nowadays, and the sole usefulness of gold and silver coins, lies in their purchasing power, their value as money; hence, a demonetization of silver would be proportionately destructive to its present usefulness, and, we repeat, would be equivalent to a willful annihilation of a vast portion of the world's stock of money. In proportion as this demonetization was carried out, it would be a voluntary throwing away of the vast blessings and benefits which mankind have recently enjoyed from the new mines of America and Australia. The world would be plunged back into the "hard times" which previously prevailed, or in truth into a far worse predicament. The fact that our own country is under a single gold standard (a condition into which we passed by successive stages from a purely silver currency, the act of 1816 merely establishing by law what was already established in fact) would be powerless to ward off from us the effects of a demonetization of silver, which still constitutes by far the larger portion of the world's stock of the precious metals. Our stock of gold would be drawn upon to supply the dearth of money in other countries. Not to speak of the inevitable collapse of our monetary system as regulated by the absurd and pernicious bank act of 1844, the burden of our national debt would be vastly increased, and so would that of every other country. These debts, which amount to an enormous sum, would thenceforth hang like a millstone around the neck of the nations. Add to these results the restriction upon trade and industry inseparable from a dearth of money, and any statesman who at present favors the general, or any extended, adoption of a single gold standard may well shrink back from such a change, and refuse to imperil the prosperity of his own country, and of the civilized world at large, by producing an arbitrary and artificial dearth of money, which is the most potent auxiliary, we might say the very life's blood, of trade and industry, as these are and must be carried on under a mature civilization.

Sir, the verification of Mr. Seyd's prediction, to which I am referring, seems from the extracts just read to be near at hand. When it comes where shall we take our place? But before answering this question let me refer to some of the laws of international trade. When such trade may and generally does yield two profits, one to each country engaged in it, it does not flow along parallels of latitude, as does trade between the Northern States of our Union and England, France, Belgium, and Germany. These States and nations possess in greater or less profusion the same raw materials and manufacture like commodities. They are the great rival industrial nations of the world, and, with free trade between them, the elder nations, whose capital is cheaper and whose industries are more perfected, often carry off the sole profit of the trade. Commerce, to be reciprocal and mutually profitable to those who participate in it, should travel on longitudinal lines. The people of tropical countries export raw materials which we cannot produce. They are not manufacturers. They need what we produce and we need their productions from which to fabricate ours. Hence the true line of American commerce is across degrees of latitude. And I ask gentlemen to consider the question whether we shall place ourselves at the head of the silver-using group of tropical and semitropical nations which would give us the true lines of commerce, or shall remain, and suffer that we may remain, the tail of the gold-using countries, a mere bob to their kite? This is one of the grave questions now before Congress.

The following extract from a work by Condy Raguet, which appeared, if my memory serves me, in 1839, is pertinent in this connection, as it illustrates not alone the point on which I am speaking but the folly we perpetrated when we recently attempted to establish a single gold standard, and at an earlier date when we so far diminished the value of our gold dollar as to make it profitable to export our silver. Prior to that time, 1834, so far as trade between Great Britain and the United States was concerned, the two countries constituted a bimetallic union. Though our law tolerated both metals and made them both legal tender, we were practically a silver-using and England absolutely a gold-using nation; and the result of this use of both metals is shown by Mr. Raguet as follows:

Prior to the passage of the gold bill above referred to the metallic currency of the United States had been virtually, as above stated, a currency of silver since the establishment of the Government, gold very rarely appearing, while that of Great Britain was of gold. The consequence was that the currency of each was independent of the other, and the contraction or expansion of each did not necessarily act upon the other. The contraction in England which preceded the resumption of specie payments in 1821, after a long suspension of twenty-four years, produced no convulsion on this side of the Atlantic; nor did our contraction, distressing and durable as it was, after the removal of the public deposits from the Bank of the United States, on the 1st of October, 1833, which brought down the prices of stocks from 20 to 50 per cent., and led to the importation of $3,793,293 in silver from England alone, during the year ending on 30th September, 1834, produce any convulsion whatever in that country. Such would have continued to be the case had the mint regulations remained without alteration; but no sooner was gold, by a change in its relative value to silver, rendered the most profitable of the two metals to import than we found the currency of England disturbed to a degree that rendered necessary an immediate reduction of her paper issues, although the amount of gold drawn from her between the passage of the law in June, 1834, and the 30th of September of the same year was but $1,922,960. To the importations of gold in the years 1835 and 1836, instead of silver, may be ascribed that further contraction of the British currency which led to the crisis of the latter year, that was so fatal to American credits and American cotton, by which millions of dollars were lost to the country.

Now, as like causes will produce like effects, it behooves us to examine well into this matter, and if we find that we have committed an error, it is our duty to retrace our steps. Thus far very little progress has been made toward introducing gold into actual circulation, notwithstanding that a large amount had been imported, still a long perseverance in the law will give us a gold currency, but it will be most dearly purchased. It will so closely ally our fortunes with those of Great Britain, that no convulsion can take place in the currency of that country that will not act directly and powerfully upon ours; while on the other hand, none can take place on our side that will not act directly upon hers, and in so doing, break down the prices of cotton and tobacco, and other American products in the markets of Europe, to the injury of our planting interest.

Let us hastily consider the question with which league interest invites us to unite? The population which uses gold numbers 180,450,000 and they all dwell on our lines of latitude. They are older in manufactures than we, and against the productions of their cheaper capital and labor we have to maintain an artificial barrier by our tariff.

The nations using gold and silver as we would if we fully remonetized silver have a population of 132,500,000, nearly as many as the gold-using countries. They also are on our lines of latitude, and as bimetalists could trade with us even while silver may continue to be depreciated. The silver-using people number 876,700,000, which is largely more than twice the total of the others combined. Where do they dwell? India—British India, with whom England can no longer trade; China, Japan, and the islands of the Southern Sea, Africa and, to come to our own doors, Central America, Mexico, and South America are all silver-using nations. Shall we seek to become the manufacturers for this nearly one thousand million producers of raw materials, and become what England through the possession of this trade has been, the work-shop of the world, and, as an inevitable consequence, the mistress of the seas? If we aspire to this proud position we must place

ourselves on a bimetallic basis, so that their coin shall be at par with ours, while 20, 30, or 50 per cent. may be between their par and that of those manufacturing nations of Europe which may adhere to the gold valuation.

My friend and colleague [Mr. FISHER] intimated that in advocating this bill I was doing something against the protective policy. I asked him to demonstrate his proposition. He said he had done so; but I have read his speech with equal care and pleasure and have not found the demonstration. Let me whisper to him confidentially that it was not our statutory tariff that propelled the manufacturing industries of this country by the marvelous strides with which they advanced between 1862 and that year of such triumph for us, 1876, when Philadelphia and Pennsylvania conferred upon this nation an international exposition. I do not mean to taunt gentlemen who come from States which made no contribution toward the cost of that exhibition. The burden was cast upon us, except that New Jersey gave $100,000, and I am a little proud of the fact that Philadelphia and Pennsylvania conferred that boon on the nation and welcomed the people of all the States to a share in its advantages. We will be amply repaid, for the exhibition proved to the world our country's capacity for manufacturing supremacy.

But to my point. What was it that so marvelously quickened our progress between 1862 and 1876? It was not our statutory tariff. No; it was the difference between the current value of the legal-tender money with which our immense domestic commerce was carried on and the money of the gold-using manufacturing nations. The depreciation of our paper made a measure of protection that false invoices nor any other means of defrauding the revenue could evade. It was inexorable; and when stupid people cried out for gold and were ready to make any sacrifice to bring our greenbacks to par with gold, they were hastening the abolition of the most effective protection on the industry of any nation ever had. I hope my colleague will carry these suggestions in his mind while I proceed to exhibit evidence of the correctness of my position.

Mr. FISHER. Will my colleague allow me to ask him a question?

Mr. KELLEY. I will hear my colleague.

Mr. FISHER. Are we to understand that you now advocate a silver standard?

Mr. KELLEY. No, sir; I am a bimetalist.

Mr. FISHER. A bimetalist?

Mr. KELLEY. Yes, sir.

Mr. FISHER. Is Mr. Williamson?

Mr. KELLEY. He is, and presented to the British government the recent memorial of the Liverpool Chamber of Commerce demanding the remonetization of silver.

I am a thorough bimetalist. Let me state what I mean. I am ready to remonetize silver at the present market rate, and, to borrow a phrase from my learned friend from Maine who sits beside me. [Mr. REED,] to make this country the dumping-ground of all the world for its silver.

Mr. REED. At what rate; the market rate?

Mr. KELLEY. Yes. If England and Germany see fit to send their silver here in advance and have it coined and use it in the form of dollars they will buy no more than the silver dollar would then be worth, and before we should have received $100,000,000 of their silver that metal would be at its old par with gold and the "daddy dollar" be again worth three cents more than its gold rival.

On this point there is small room for doubt: as I shall show, on the authority of the London Economist, than which there is no higher monometallic authority, that the cause of the commercial dislocation prevailing throughout the world, and which has already destroyed the possibility of profitable commerce between England and her Indian possessions, which embrace one hundred and ninety millions of people, is the possession by Germany of from $75,000,000 to $100,000,000 of silver, which having been demonetized is for sale. Were that amount absorbed in the circulation of the world, the Economist holds, the old equilibrium would be re-established, and not only British and Indian trade would revive, but the trade of the whole world also. Who can doubt that in this country, under a system of free mintage which would scatter the standard dollars over the face of the country instead of locking them up in the Treasury as is now done because the metal for them is bought by the Government with interest-bearing bonds, the southern people alone would absorb $100,000,000. This is a moderate proposition, for I have shown you that months after he had signed the bill which demonetized the silver dollar, President Grant's calculation was that our people could readily absorb from $200,000,000 to $300,000,000; and I am ready to make this country the dumping-ground of silver because it is apparent that before Germany could send us $50,000,000 the price of the metal would go to par with gold.

Mr. FISHER. I fear I have misunderstood my colleague; I thought he was advocating a gold group of nations and a silver group of nations.

Mr. KELLEY. I have not propounded that suggestion as an original idea, a theory of my own evolving; I only quoted Wolowski and Ernest Seyd, who said such a result was among the inevitable consequences of the demonetization of silver by any one great nation. I think their prediction is being rapidly fulfilled, and am not afraid that we will receive an excessive volume of silver, for, as I have shown, the total amount which now hangs like a threatening cloud over the world is but from $75,000,000 to $100,000,000, an amount which our people could readily absorb. On this point the Economist shall speak for me. It is the highest economical and financial authority among the monometalists of the world. It is opposed to bimetalism and advocates the demonetization of silver; but trade between England and India has almost ceased, for in one year that trade cost England in loss on exchange $20,000,000, because there was no par between the units of payment of the two countries. Nations who adhere to the more costly unit cannot profit by trade with those who use a less costly one.

How does the Economist propose to overcome this difficulty and relieve England from her distressing embarrassment? To recede squarely from monometalism and advocate bimetalism would not do for so dignified and authoritative a journal; it therefore evades that issue and proposes that England shall buy half of Germany's silver. To put it to what use? To use it indirectly as money. To issue legal-tender paper upon it, just as the bill under consideration proposes to receive some of the silver dollars in the Treasury and issue certificates therefor which shall be legal tender. Yes; it proposes that England shall buy the half of Germany's silver on such liberal terms as will justify her in stipulating that Germany shall withhold the balance from the markets of the world for a given period, and that the Bank of England shall be authorized to issue legal-tender notes on the basis of the silver thus purchased. In its issue of April 12, 1879, it said:

> The operation of supplying Germany with a gold currency may now be understood to be completed in the main.

That phrase, "in the main," is a very large saving clause. Bismarck and Emperor William would be glad to know that not much more gold was required in Germany, for whenever they put their new gold coins into circulation they fly away; they will not stay in Germany.

> Fresh additions may have to be made from time to time, but no vast and sudden demand like that caused when the currency was instituted need any longer be apprehended. But though the gold currency has been established, the superseded silver has not—

That word "superseded" is a good synonym for discarded. My friend and colleague [Mr. FISHER] will by and by begin to believe that Germany has demonetized silver—

> yet been entirely disposed of, and the German government still holds a stock variously estimated at fifteen, seventeen, or twenty millions sterling. The whole of this, presumably, is not for sale, though it appears that but little, if any, more will be wanted for further subsidiary coinage. It would probably not be wrong to assume that fifteen millions may ultimately come on the market. It is uncertainty as to the course Germany may pursue with regard to this sum which keeps France in an expectant attitude. It is the restriction of the coinage of silver in the Latin union, at Vienna, in the United States, which as much as, if not more than, anything keeps the price of silver to the point it now stands at. So far, then, there are grounds for believing that the present depression in the price of silver is temporary, and not permanent. To a temporary difficulty a temporary remedy may fairly be applied, which could not be thought of were the evil certain to last for any lengthened period. The following course appears to have a great deal to recommend it: That our government should ascertain from the German government the actual amount of silver they have for sale, and that our government then should authorize the Bank of England to buy one-third or the half of the amount on the understanding that no further sales of silver should be made for a limited period of not less than five or seven years. The purchase might suitably be made at the average price of, say, the last three years. The bargain might fairly be expected to answer the purpose of both parties. Germany would gain at once a customer at a fair price for an article which she finds it difficult to dispose of. England would expect to reap a corresponding advantage in the rate of exchange with the East.

Yes, there is the cause of Britain's commercial depression, "the rate of exchange with the East." The Economist proceeds to say:

> The arrangement might further provide that the Bank of England should hold this sum of silver among its bullion, and issue notes against it, as far as the provisions of the act of 1844 permitted, the government guaranteeing the bank from loss on the transaction, if any were incurred, and sharing the profit, if any, on terms to be stipulated. * * * That such an operation as has been indicated would relieve both trade and the finances of the Indian government there is little doubt. The movement in the price of silver but a few days since, when the Indian loan was proposed, shows how sensitive the market is. The removal of the pressure of the German silver would doubtless have a far greater effect.

The difficulty which is crushing England is, I repeat, the derangement of exchange between gold-using England and silver-using India and other silver-using states, whose total population numbers nearly nine hundred million.

One word further as to protection. Let me show that the depreciation of the commercial value of India's monetary unit is operating so protectively to India that the manufacturers of Lancashire are demanding that England's Indian subjects shall be made to wear and pay for Manchester cotton goods. The authority for this statement is before me. When addressing the House on the 9th of May, 1878, in opposition to Mr. WOOD'S tariff bill, I cited the ridicule heaped by the London Times upon Lancashire manufacturers, who had even then made this demand, and I again bring it to the attention of the House:

> There was scarcely a town in our cotton-manufacturing districts which was not represented. Lancashire *en masse* had turned out for the occasion, personally or by deputy, and the speakers may be fairly taken as expressing the fixed opinions of some hundreds of thousands of Englishmen. Private disputes were sunk for the moment in the face of a great question in which the earners and payers of wages were equally concerned, and Lancashire, for once in a way, was in perfect harmony in all its sections. * * * Their wish to preserve a foreign market for their goods is natural enough, and, within decent limits, praiseworthy enough. We can scarcely say much for them when they ask not only that Indian finance shall be regulated for their own convenience, but that the export trade of India shall be kept within

the bounds they wish to assign to it, and shall be crushed out of existence when it intrudes itself as their rival. It was nothing less than this that the deputation were asking for, and with scarcely a disguise as to their real meaning. It is a strange thing, we cannot help remarking, to observe the new quarters from which proceed, in the case before us, the attack on free trade.

The British Indian government cannot raise revenue enough to meet current expenditures, and though each member of it is a free-trader it imposes an import duty of 5 per cent. on cotton fabrics. This light duty with the effect of the depreciation of silver have developed cotton manufacture in the presidencies of Madras and Bombay to such an extent that in addition to all her other inhumanities toward that unfortunate dependency the British manufacturing interests again and more emphatically demand the repeal of the duty and the compulsory consumption of British cotton goods by the miserable people. In this connection the Economist, in the number from which I have read, says:

It is nearly certain, whatever the fiscal regulations which may ultimately be adopted, that a considerable body of factory hands will ultimately be formed in India. The native capitalists, especially the Parsees, have learned how to use machinery, and with cotton on the spot, coal almost on the spot, and a large supply of cheap labor, they are almost certain to defeat foreign competition. Their fuel will become no dearer, their cotton tends to become cheaper in proportion as they learn to pack it for railway carriage and to store it, and their labor will hardly rise in price.

A five per cent. duty is not sufficient to account for this sudden and immense increase of manufactures in India. No, the depreciation of her discredited silver is doing for her what the depreciation of our paper money did for us. How this development continues to terrify Manchester is shown by Mr. Coke, whom I have already quoted, and who in his remarks to the Liverpool Board of Trade, said:

But the selfishness, nay, the cruelty, of this treatment of India is further exemplified by a correspondence on the Indian import duties which, strange to say, appears also in this day's Manchester papers. Mr. Raynsford Jackson, writing to the secretary of state for India on behalf of Lancashire manufacturers, demands that India should be compelled to buy Manchester goods duty free. The other markets of the world being inaccessible, because of the wall of protection with which they are surrounded, India must be made to buy. She has only silver money with which to pay; then give more of it, take off the duties, borrow when she can only buy Manchester goods.

I have, I fear, wearied the House. But I beg leave to briefly call its attention to the condition of France. She has been bimetallic since 1803, and though she has in this long interval seen dynasties rise and disappear in quick succession, she is now serene in the midst of the perturbed nations of Europe. The descent of her Crown has been changed several times. Empire has succeeded monarchy, and a republic the empire, more than once, yet through all these changes she has never since the adoption of bimetalism endured a financial crisis such as has so often prostrated the commerce and manufactures of England and the United States. She resorts when necessary to the use of inconvertible notes of her bank, having required it to issue $612,000,000 of them during the German war; but, unlike us, she has never been deluded into the idea that the way to pay debts is to suspend the operations of productive industry and to compel laborers to suffer in enforced idleness. When war or any other exigency compels an expansion of her paper currency she makes it, and then stimulates industry by every conceivable appliance, never retiring the inconvertible paper until there has come into the country a gold or silver franc for every paper one that is to be withdrawn. She maintains steadiness of business by maintaining a uniform and sufficient volume of currency. When she has to ask a loan she never organizes a syndicate to sell it to foreign capitalists, but through her own agencies disposes of it to the French people and thus binds them in loyalty to the nation by the tie of self-interest. Her policy is the very opposite of ours. What a contrast she presents to Germany, whose Emperor was recently so popular, he who with his chiefs won rich provinces and five milliards in money from France in 1872-'73 and became the idol of his subjects, but who now dare not show himself in the streets of Berlin without his guards about him; his approach like that of the Czar being heralded by the tramp of a detachment of cavalry. Meanwhile England finds herself in a condition which must constrain her to abandon her most cherished economic and financial theories or prepare to again trample into submission her suffering laboring people as she did in the streets of Bristol and Peterloo while she was arbitrarily forcing the resumption of specie payments. But mid all these perturbations bimetallic France moves on prosperously and contentedly, an example in monetary matters to our poor benighted country, and is quietly consolidating a republic which we may hope and believe will prove an enduring example to all the nations of Europe. [Applause.]

Mr. OSCAR TURNER. I would like to ask the gentleman a question which I have withheld until the present time because I did not desire to interrupt him.

Mr. KELLEY. I shall be glad to reply to the gentleman if it be in my power.

Mr. OSCAR TURNER. I understood the gentleman to state, in giving an account of the demonetization of silver, that the effect of the measure was not understood by him at the time, although he reported the bill. Now, for the information of the country, I wish to make this inquiry: If that bill was passed by Congress and signed by the President in ignorance of its effect in demonetizing silver, why was it not repealed by the party then in power when it was discovered that an outrage of that kind had been perpetrated?

Mr. KELLEY. I cannot answer that question because it inquires into motives. All I can say is that the Committee on Coinage, Weights, and Measures, who reported the original bill, were faithful and able, and scanned its provisions closely; that as their organ I reported it; that it contained provision for both the standard silver dollar and the trade-dollar. Never having heard until a long time after its enactment into law of the substitution in the Senate of the section which dropped the standard dollar, I profess to know nothing of its history; but I am prepared to say that in all the legislation of this country there is no mystery equal to the demonetization of the standard silver dollar of the United States. I have never found a man who could tell just how it came about, or why.

Mr. OSCAR TURNER. My inquiry was why the party then in power did not repeal the provision when its effect was discovered.

Mr. KELLEY. I will answer that by another question, though I am not a Yankee. Will the gentleman tell me why this House, in which his party has a majority, does not hasten to repeal that legislation? I presume that the same cause which now controls the majority here controlled the majority of the other party when they were in power.

Mr. OSCAR TURNER. The democratic party did attempt it in 1878, but were prevented by the republican Senate; and we are now attempting effectually to do it by this bill.

Mr. CANNON, of Illinois. I would like to put a question to the gentleman from Pennsylvania. As neither gold nor silver circulated at that time in this country, may it not be possible, if not probable, that this fact enabled that legislation to be passed without the scrutiny on the part of anybody which it would have received if coin had been actually in circulation?

Mr. KELLEY. I have so said in my remarks.

Mr. BOWMAN obtained the floor and said: I yield thirty minutes to the gentleman from Maine, [Mr. REED.]

Mr. REED. Mr. Speaker, although I am to follow for a few moments the gentleman from Pennsylvania [Mr. KELLEY] I propose to reply to only a few portions of his speech and those merely incidentally. I rise for the purpose of making a remark or two upon what seems to be the vital point concerned in the question now before the House; but before doing that I wish to say a word or two which I hope may have the effect to remove in some degree the prejudice by which this matter has been attempted to be surrounded. This prejudice relates to two things. First, it is declared that the demonetization of the silver dollar was a "fiendish outrage" of which somebody or other, name not given, was guilty; and, secondly, it is affirmed that the taking away of the legal-tender character of the trade-dollar was "a trick" disgraceful to all parties concerned. Those two allegations seem to lie upon the threshold of the discussion of this question as matters of prejudice.

Mr. WARNER rose.

Mr. REED. Now, I hope the gentleman from Ohio [Mr. WARNER] will remain quiet long enough to allow me to say something. I say to this House that from the year 1835 until 1875 there was a discussion going on throughout the world among economists and persons specially interested in the question, whether a single standard or a double standard was the more desirable for a commercial nation as advanced in character and manufactures as the United States and Great Britain and various other nations. About the year 1872 that discussion culminated in a general belief on the part of all persons concerned that a single standard was the best. This belief prevailed, more or less, in all European nations and in all nations as far advanced in civilization as we are. And the point upon which that discussion turned was mainly, if not solely, that of stability. It was and is desirable in all civilized countries that there should be a standard of value which should be stable, which should not fluctuate in its character; and in the then condition of the world it was deemed proved by facts and circumstances, and by the general consent of mankind, that a gold standard was such a standard. I believe that there was no thought in anybody's mind of pillaging or plundering anybody, but simply of establishing a standard which should be permanent, and pillage and plunder nobody. On that question of stability we all of us agree. The gentlemen who are in favor of a double standard argue it upon the ground of the greater stability of the double standard and upon none other.

Now, my friend from Pennsylvania [Mr. KELLEY] in my judgment is suffering under a lapse of memory on this subject. He did not understand when the demonetization took place, he says. I am bound to believe he states the matter exactly as he understands it now. But the truth about it is that this particular act attracted very little attention, although the discussion itself undoubtedly attracted the attention of a gentleman so well acquainted with and so well versed in such subjects as the gentleman from Pennsylvania. And to show that the discussion was in his mind I call his attention to a statement which has already been quoted. It is true he was talking in the preceding sentences about the subsidiary coinage, but it is equally true that he had the whole subject in his mind in the discussion during which this bill was passed. For he said at that time:

It is impossible to retain the double standard. The values of gold and silver continually fluctuate. You cannot determine this year what will be the relative values of gold and silver next year. They were 15 to 1 a short time ago; they are 16 to 1 now.

Now, I do not find any fault with the gentleman from Pennsylvania because he has received information on these various subjects. I

do find a little fault, however, that he should boast of the necessity of having received so much; that he should have stated to this House that he had changed his mind upon all economical and financial subjects and then made a merit of the change. That a man should learn is an advantage not only to him but to the world at large. But there is one thing that I do insist upon, that he shall not in any way talk about the conduct as "fiendish" of gentlemen who have not been able to get his light. Why in the world cannot a man get credit for honesty when he is consistent as well as credit for honesty when he is inconsistent? [Laughter.] In short, does all human virtue consist in wobbling?

Mr. KELLEY. One moment, if you please.

Mr. REED. Certainly.

Mr. KELLEY. I do not know that any human virtue consists in wobbling. I was speaking of Germany, and I did not know that any gentleman on this floor had legislated for her; or probably should have been more guarded in my expression.

Mr. REED. The gentleman misunderstands me. This was a debate in Congress on a bill in Congress. The gentleman has already made his explanation before to-day, and I make my comments upon it.

Now I come to the question of the demonetization of the trade-dollar, or rather to the taking away from the trade-dollar its legal-tender power.

Mr. KELLEY. I wish to say to the gentleman from Maine [Mr. REED] that I mean no disrespect to him by now retiring from the Chamber. I find myself in such a condition that I must seek repose; otherwise I should be very glad to stay and listen to his argument.

Mr. REED. When the trade-dollar was first coined—and this is an undisputed fact—silver was then in such a condition that the amount of silver put into the trade-dollar was worth one hundred and four cents. Consequently, by a law which is as immutable as the law of the attraction of gravitation, it could not circulate in this country, and our bullion-holders, desirous of finding a market for their bullion, asked the United States to put their stamp on a certain amount of their silver, and then they could export it so stamped to China and to the East generally. Accordingly that was done. But in the law, by some "mystery" or other—and by "mystery" I mean simply that I do not know how; that is all, and that is about the size of most of the "mysteries" there are here—it was made a legal tender to the extent of $5; but it was discovered upon the fall of silver shortly afterward that these trade-dollars were coming back. Then, when the matter was fresh in everybody's mind, the legal-tender clause was repealed so as to prevent this silver, which was coined simply for export purposes, from becoming a part of the currency of the country and driving gold out; or perhaps I should not say driving gold out, for I believe we had not much then.

Well, now, let me give the particulars. Let us see what were the names of these "conspirators" who perpetrated the trade-dollar "trick." In the first place, on the 8th day of May, 1876, Hon. SAMUEL J. RANDALL, of Pennsylvania, introduced into the House a bill the third section of which repealed the legal-tender quality of these coins. Well, whatever faults the gentleman from Pennsylvania may possibly have, nobody ever accused him of being a conspirator. He is certainly straightforward in all his actions. He brought the bill into the House and it was then reported—by whom? Why, by my friend from New York, [Mr. COX!] And it was passed by this House without a single dissenting vote, and at a time when people understood just what it meant. Now, it does not seem to me there is any trick about that.

Well, sir, having cleared the subject as I hope, in some slight degree, I do not desire to magnify my efforts in that direction, but having indicated a way in which men's minds may be cleared to some slight extent from the effects of prejudice, let us see what the question is for us to-day. People differ on the question whether it produces a more safe standard to have it bimetallic or monometallic. Into that dispute I do not propose to enter. In my judgment the opinion of the world after having been in favor of monometalism is now swinging the other way. Men are changing their opinions upon the subject as to which is the best standard, a double or a single one.

What I have to say I desire to say entirely upon the basis of a double standard. I want to confine my remarks to that. I want to place myself at the outset on the basis of a double standard, for the purpose of this argument, reserving to myself the right to change my mind in consequence of any future wisdom I may acquire, like the gentleman from Pennsylvania, from communion with the saints and demi-gods who reside in Philadelphia or any other place.

A MEMBER. Does the gentleman say "demagogues?"

Mr. REED. I said demi-gods, from whom you may get wisdom; from the demagogues you get words only. [Laughter.]

Now, the situation of the world on this subject is something like this: I am not going into details. There are certain nations of Europe with whom we have trade and connection which are practically monometalists, which have gold for a standard and not silver. There are certain other nations which have silver for a standard. We at present have gold with a limited coinage of silver. Now, in that state of affairs India has ceased to absorb the amount of silver that it used to absorb in times past. Germany, for political reasons mainly, has demonetized silver to get rid of a great many silver coins and to have a universal coinage of the empire; and that has put $75,000,000 of silver in a threatening attitude as to the market, in such an attitude that the effect of it is much more depressing than the actual production of seventy-five millions of new silver, because nobody knows what they are going to do with it; nobody knows when they are going to sell it; and the consequence is the hostile attitude, the scare arising from it does much more toward the depression of silver in the market than the amount would seem to indicate.

Then there seems to be a larger production from the mines with the prospect of a still greater production. And besides that, there is the attitude of France. My friend from Pennsylvania eulogizes France. And whenever you find one of these gentlemen who are dissatisfied with the system of the United States he is always in love with the system that prevails in France. France's great system produces nothing but prosperity. The French system produces nothing but what is to be imitated by us. And yet the French to-day, or at least quite recently within a few months, have concluded a treaty by which they have stopped the coinage of silver for seven years. Why is it that our admiration of France should stop at these glittering generalities instead of following the system out into particulars? In France they have done a sensible thing; and they have done it because they have found that under the coinage of silver by the Latin union the gold is gradually disappearing from France; and hence from being a bimetallic she is becoming a monometallic nation, a silver instead of a gold and silver nation.

Just in this attitude of affairs, in this condition of things which renders the value of silver the most fluctuating possible, it is proposed to us to adopt, as the gentleman from Pennsylvania says, a double standard, but really a silver standard. But there are nations with a double standard which have really a single standard of silver. When the proportion is 1 to 16, it is really a single standard, and that is a standard of silver, which is what this bill means. Now look at the effect of this. We adopt what is really a single standard at the very time when it is most fluctuating and its future most uncertain. And here I must suggest to members that it is a little difficult always to follow the gentleman from Pennsylvania, [Mr. KELLEY.] He says that silver, the standard in India, has raised a barrier which causes the Lancashire men to cry that they must take goods of other countries at any price, and that such a barrier is a good thing, because it operates as a protective tariff; and in the first part of his speech he talked about India "weltering" in poverty, I think that was the expression, as the result of this very thing. He first tells us that India is "weltering" in poverty and in a state of sorrow, and before he gets through with his speech he has her with a beautiful barrier erected and "virtue rewarded everywhere."

Now, what is the situation of England and the other nations with regard to this silver question? England used to be not only monometallist, but she had propagandist tendencies. She not only believed in that system herself, but she wanted to make every one else believe in it; but she has found that the experiment as between herself and India has been a pretty expensive amusement for her; and now the English say we are in favor of a single standard, and that standard gold; but as to you, the people of other nations, we do not like to banish silver, and we rather think you ought to have it as a part of your currency. Why? Because if you, particularly you of the United States, take it, it would relieve us of our troubles about India, for the United States would become the dumping ground, to use the expression which my friend from Pennsylvania has honored with his approbation, for all the loose silver in the world, and then England would be relieved. Now, we want the whole world to come to the bimetallic system, and consequently the proper attitude for us to assume is what they call an expectant attitude, only waiting until England is driven to do what we believe to be the proper thing on the subject.

Now, what is our theory and what do we believe to be the proper thing? It is that when all nations have gold and silver, if by any local changes silver, for instance, becomes cheaper in one country and drives gold into another country it will cheapen gold in that country and have a tendency to push the gold back and there will be the least possible disturbance of the equilibrium of values all the time. If that equilibrium is liable to be disturbed by the change in the value of money arising from temporary increased production of gold, the disturbance will be much less if the effect of the increase is distributed over a base of both gold and silver than if distributed over a base of gold alone. So with an increase of silver. It would have much less effect on money composed of gold and silver than on money of silver alone. And a temporary increase of production of silver and gold is not likely to be simultaneous. This idea can probably be carried out practically if all or nearly all civilized nations will come into it; if not, or if some of the greatest refuse, it will not work at all. I know the gentleman from Ohio [Mr. WARNER] will say let us have silver, and if gold is driven out to other nations it will lower the value of gold and raise the price of silver. Only temporarily and to a very slight extent. Perhaps, practically, at the present time, not at all. Silver has certainly fallen in spite of our purchase of thirty millions. Whatever effect this would have it would be only temporary; it would not be establishing a system placing us in accord with the rest of the world. If our silver became dear it would have nowhere to go to. A circulation must have a circuit, veins, arteries, and capillaries. Bimetalism to give stability implies free circulation.

Now, whether the monometallic system or the bimetallic system is the best is a question not yet decided. It is a scientific question, a complicated one, containing many elements that require to be studied, and it cannot be decided by a shout of fraud. We may be doubtful about the true decision of the question, but it seems to be sufficiently proved by the facts within our knowledge that it is an experiment to be tried, and if we want to try it we ought to try it under advantageous circumstances and not under bad ones. If we try it now it will be under bad circumstances and will be a failure; if we wait we can try it under proper conditions and it promises success.

Mr. WARNER. Will the gentleman before he takes his seat allow me to ask him a question?

Mr. REED. I will answer it if I can. My knowledge, however, is exceedingly limited, and I do not keep a note-book.

Mr. WARNER. The gentleman remarked that we could not settle this question by crying fraud, and that it was a question that required very weighty consideration. Did it have that consideration when the change was made?

Mr. REED. In my judgment it did. In my judgment the people of the country discussed the question just as they discuss other questions. It was considered as a great many truths are, and the people may, perhaps, have changed their opinion from the changed condition of the country.

Mr. WARNER. I would ask the gentleman if the two leaders of the republican party, one in the Senate and one in the House, have not admitted to the country that they did not know that this provision was in the bill demonetizing silver?

Mr. REED. I say that it had consideration, but the leader of this side of the House now does not know of this discussion between you and me, and the two leaders may have been absent at that time; but what astonishes me is that the gentleman from Pennsylvania, [Mr. KELLEY,] who was the chairman of the Committee on Coinage, Weights, and Measures, does not recollect anything about it.

Mr. FORT. Will the gentleman tell us where the democrats were about that time?

Mr. WARNER. I was not speaking of parties. I was speaking of the whole country.

Mr. REED. I find in a speech by the gentleman from New York, Mr. Hewitt, delivered on the 23d of August, 1876, that it took six or seven pages of the finest print to simply give the heads of the transactions of the House and Departments upon that question.

Mr. WARNER. Was there any discussion in the Senate?

Mr. REED. I do not know, but I know that the question was discussed all over the country and in the reports of the Secretary of the Treasury and in the reports of the Comptroller of the Treasury.

Mr. WARNER. Did not the distinguished Senator from New York [Mr. CONKLING] ask the chairman of the Finance Committee of the Senate the question whether the silver dollar had not been dropped and was no longer a legal tender?

Mr. HASKELL. If the gentleman will allow me I can answer that question.

The SPEAKER *pro tempore*. Does the gentleman from Massachusetts yield?

Mr. BOWMAN. I do.

Mr. HASKELL. That bill was prepared by Mr. Knox, Comptroller of the Currency, in 1870; was submitted to twenty-five monetary experts for their opinion, which was given; was agreed to by the New York Chamber of Commerce and by the New York Board of Trade. It was introduced into one Congress, referred to a committee, and debated; it was introduced into another Congress, referred to another committee, and debated. It was thirteen times ordered to be printed by Congress. The debates in the House and in the Senate upon that bill cover eighty RECORD columns. It was debated by Senators on both sides, republicans and democrats. The special feature of the demonetization of the silver dollar was referred to by Comptroller Knox in his report, was referred to by these twenty-five monetary experts, by the New York Chamber of Commerce, by the Board of Trade, by Mr. KELLEY, Mr. Potter, Mr. Hooper, of the House, by Senator Casserly, Senator BAYARD, and I think five or six other gentlemen.

At the expiration of over two years, after having been considered by two Congresses, by two committees, on the report of the Secretary of the Treasury and of the Comptroller of the Currency, it became the law of the land.

Now we are here to-day debating a bill changing the coinage of the United States and are talking about the debate upon the former measure. We will be called upon next Tuesday to vote upon the several provisions of a specific bill, and the gentleman from Ohio [Mr. WARNER] is the only man on this floor who has taken up and considered that bill carefully and presented his views upon the subject. Unless we can have a debate different from that which has been had for five days on this bill we will come to a vote next Tuesday on the provisions of a bill which has never been represented on this floor save by one man; its language never having been referred to and its effects never more than guessed at.

Mr. WARNER. It has been discussed in every journal of the United States, while the former bill was never alluded to in any public journal or by any public writer of the country.

Mr. HASKELL. When my hour comes for making a speech I will refer the gentleman to at least twenty-five journals of this nation which contained articles on demonetization.

Mr. BOWMAN. And the gentleman from Kansas might have said that that matter was discussed in about eighty pages of the RECORD, in the Bankers' Magazine, and in the newspapers of the country for days and weeks. At this late hour of the day, and when other gentlemen are anxious to speak, I do not intend to detain the House by any extended remarks on this bill.

Mr. CANNON, of Illinois. If the gentleman will yield I will move that the House adjourn.

Mr. BOWMAN. Mr. Speaker, I will take but a short time. The hour is late, and, as I have said, other gentlemen are anxious to speak, and I think that the ground for Monday is all mapped out. I desire now only to state the foundation principles on which I shall act.

I have listened here day after day to the debate upon this question. I have heard our greenback friends and our friends on the other side give a thrilling and eloquent account of the condition of the people, of the depression of trade, and of the needs of labor. But I have not heard in any discussion of this bill any reference to the principles involved in it; a bill than which none has been introduced into this House at this session or at any other having a more vital bearing on the interests of all classes of the people.

What does this bill provide? As I understand it, this bill establishes four simple distinct propositions, which propositions have not been explained and have not been met by the advocates of silver currency. The first proposition is for a free and unlimited coinage of money, an absolutely free and unlimited coinage of silver money, or only limited by the will of the holders of the bullion or the supply of the metal. Second, it makes all such silver money, issued absolutely without any limitation except the will of the holder of the bullion or the supply of the metal, a legal tender. It provides that every man shall be obliged to take it for the debt due to him, whether this experiment is a success or a failure.

Third, it provides for the issue of silver certificates for the silver bullion or coin left on deposit in the Treasury; for the issue of silver certificates to an unknown and unknowable and unlimited and illimitable amount, regulated only by the amount of silver which may flow into the Treasury, which amount is likewise to have no limitation except the will of the owners of the bullion or the supply of the metal.

The fourth and the most extraordinary proposition makes the silver dollars not of legal weight a legal tender for all debts according to their weight. This great mass of silver issued at the will of persons outside of the Government is to be turned into the currency; and then no matter how abraded, worn, or mutilated, how clipped by punching or otherwise, how difficult even of identification it may be, every man must receive it in payment of his debts at a valuation in proportion to its weight.

It may be worn so that you cannot tell whether it is legal-tender coin or not; but if, it being tendered, an expert can afterward show upon the stand at a trial and by an analysis of the metal that it is a true legal-tender coin, the man who refuses it does so at his peril. Only half of it may be left; only quarter of it may be left; it may be in any condition you please, yet you are obliged to take it at its full value according to weight as a legal tender for debts.

I think I have made a fair statement of the four propositions contained in this bill, and I say that it is one of the most vicious bills ever introduced into the Congress of the United States—a bill which is not aimed at capitalists alone but aimed also at the laboring classes. In this country there can be no distinction between the interests of the capitalist and the interests of the laboring-man. They are interwoven and twisted together like net-work or basket-work. They are the warp and woof of civil society. Pass a law which cripples the manufacturers, and the loom stops, and, as in some of our cities, thousands of men and women and little children cry for bread. Endanger the interests of the laboring classes, and the loom likewise stops, and disaster is brought upon the capitalist.

Now consider for a moment the provisions of this extraordinary bill, which I say has not been analyzed by its supporters. The gentleman who represents on this floor and is said to be the leader of the greenback persuasion [Mr. WEAVER] said yesterday that he would endeavor to discuss the merits of this bill. He gave us an argument about inflation and told us how poor people suffer, and said in substance they would not endure it any longer. He would have us believe that the laboring classes were on the verge of revolution. He gave us a history of the country for many years past. The gentleman who has defended this bill to-day [Mr. KELLEY] told us about France and about the ancient Romans. He gave us a history of the condition of the country. But none of the advocates of this bill have analyzed it or endeavored to show that it meets the wants of the community or would relieve the sufferings of business men. Now I ask the House for a moment to analyze patiently this bill to see what it is—to see the wickedness and viciousness and bad policy embodied in this measure, the ruin which it threatens to the business of the country, or that at least which is left to us.

In the first place this is a scheme for the inflation of the currency, and the wildest scheme of the most unlimited inflation ever before attempted. In the days of the war, when greenbacks went down to their great discount, and gold upward to its premium, there was a limitation. There was never an issue of greenbacks at the will of the people. The greenbacks were only issued as the Government needed them. As the war went on and great purchases had to be made, as the vast demands of the war had to be met, greenbacks were

issued. But there was never a scheme of inflation like this—never an issue of greenbacks, except to meet the needs of the Government and at the will of Congress. The supply of coin under this bill has nothing to do with the needs of the Government, has nothing to do with the needs of the banks, has nothing to do with the needs of the laborer, has nothing to do with the needs of business in its various operations. All questions of expansion or contraction, all questions of a tight or loose money market, all questions of the state of exchanges or the balance of trade, in a word, all questions of the need of money are entirely eliminated and have nothing to do with this question of the issue of silver. The Government has nothing to say about it.

This question is, as it were, wholly lifted out of the control of the Government. The Government says, in effect, to the holders of bullion, "We will have nothing to say about the question; we withdraw our control; we give it all into the hands of you, a few private men who own mines in Nevada or who are speculators in silver; we do not even retain a power of supervision or veto over you; we absolutely give up the control which we had during the war to decide how much money the Government would issue. You are a little syndicate—ten, twenty, fifty, a thousand men. All congressional power, all the power of the Secretary of the Treasury, to decide how much money there shall be in this country, all power of breaking down or affecting business by inflation to the utmost extent we surrender, we relegate to you. Do you represent the people? No. Are you members of Congress? No. Are you watching over the interests of the people? No. You are simply operators in bullion, and in your sole individual hands we place that power heretofore reserved by Congress or the Government of saying what the extent of the currency shall be." Congress cannot take back this power during the recess; the Government cannot interfere; the Secretary of the Treasury must be dumb. No matter how the experiment fails, these few men are the leaders and the rulers of the country so far as the amount of the currency can affect business prosperity. Did you ever hear of a more monstrous proposition? Would we dare to give ourselves that power? Would we dare to vote here to-day that members of Congress at any time after adjournment may get together and vote that the currency shall be inflated to the extent of $1,000,000, $5,000,000, $50,000,000, or $70,000,000? I say that at this time, with the silver reservoirs in this country and in Europe ready to flood us with a resistless stream of silver, this is a monstrous power, at which every business man may shudder—a power which may be so tremendous in its effects that business men will not dare to embark in manufacturing enterprises or in importations of goods or in any business when the price of money may go up and down, not, as in the times of the war, at the will of the Government, not at the will of the Secretary of the Treasury by his issue of greenbacks, not at the will of Congress, but at the will of speculators in bullion, who want to carry prices up or down, or who want to sell their silver bullion to the Government at eighty-five cents on the dollar, receiving therefor one hundred cents on the dollar, with which to pay poor men through the country debts which they owe.

Now, is there any danger in this? There is no danger as to gold. Gold will keep its value. Gold is a good tender through the world. Go through the countries of Europe, among the wild Indians of the West, among the savages of the whole world, and you will always find that your gold dollar is a legal tender, accepted for anything. But the demand for silver will not absorb the silver so as to keep it up to its par, as contemplated by this bill, of one hundred cents on the dollar.

From 1866 to 1875, a period of ten years, the production of gold was £237,000,000 sterling and a fraction, while the production of silver was about £118,000,000 sterling, making a yearly average of about £24,000,000 sterling in gold and £12,000,000 sterling in silver.

From 1853 to 1875, a period of twenty-three years, the production of gold amounted to about £569,000,000 sterling, and of silver about £231,000,000 sterling. In 1877 the production of silver in this country alone was about seventy millions. Imagine the holders of the Nevada mines and other mines in this country having the power to inflate the currency yearly at the rate of $70,000,000, more or less, and then that power re-enforced by the inexhaustible reservoirs of Europe, with their hoards of demonetized silver, and then consider what inflation might possibly result, and consequent disturbance of the currency. Would any man be such a natural fool as not to take advantage of the speculation if he could? Would you or I, if we held silver at eighty-five cents on the dollar, not take that silver in a cart and go with it as quickly as we could to the Treasury, and march off, in place of our silver, with silver dollars or silver certificates, to be paid to our creditors at one hundred cents on the dollar? Are our people crazy? Do the brokers of Europe know what they are about? Do you believe that the Rothschilds and other great monetary firms in Europe will not send their silver here and heap it into our vaults and inflate our currency?

Why is there a discrimination against the United States? You are not giving the United States Government a fair chance when you pass a law providing that private individuals shall speculate all they want and make all they can out of silver; that foreigners may do it; that the world may do it at a profit of 15 per cent.; and all may do this except the Government of the United States. The Government of the United States is shut off from this speculation. It is not to buy this silver at eighty-five, ninety, or ninety-five cents on the dollar. The bullion speculators, the money speculators, the foreigners of the whole world may go into this speculation, but the United States is shut out and has no right to do it. It is wholly shut out from taking this bullion and making any money out of it, if money is to be made.

Now, Mr. Speaker, I have said and have I not rightly said and has that argument been met by the advocates of the bill, that this is a scheme of boundless inflation of which no man can prophesy the end? He can prophesy, to be sure, but will his prophecy come true?

> I can call spirits from the vasty deep.
> Why, so can I, or so can any man;
> But will they come when you do call them?

You may prophesy, but the prophesying may not be carried out. We may exercise our New England practice of guessing how much the currency will be inflated, but there is no rule to go by. It would be like an endeavor to tell how much water would run down the Mississippi River. The question is how much the fountains will hold; how much rain will descend from the heavens and fill those fountains.

If we had only our own country to consider we could judge with safety to a limited extent, but how can you tell how much silver would come from Europe? Who can tell, with the discovery of new mines and new appliances, how much silver will be produced in our country next year or the year after? Will the gentleman who has charge of the bill put upon record his prophecy whether the currency will be inflated to the extent of ten, fifty, seventy, or one hundred millions?

No man can tell, and it is put beyond the reach of the Government; beyond its control, and absolutely into the hands of private individuals.

Suppose this Congress should pass a bill like this: that a body of men, brokers and bankers of Wall street, might by a vote properly entered decide at any time how much greenback currency should be issued, and thereupon the Secretary of the Treasury should issue the legal-tender greenbacks that such body of men require. Is there a man who would vote for that? Yet that is the very bill that is here to-day. This Congress if it passes this bill will vote that a body of men may decide at any time how many legal-tender greenbacks shall be issued by the Secretary of the Treasury, providing that sufficient silver is deposited as collateral. The Secretary cannot say "yes" or "no," but must simply issue those greenbacks.

I agree with the gentleman of the greenback persuasion who spoke yesterday that it makes no difference whether you call them greenbacks or silver certificates. It is just as well to say instead of silver certificates that the Government can issue an amount of greenbacks equivalent to the amount of silver put on deposit; hence this is not in one sense a silver bill. No man believes that the people are going to carry silver in their pockets to a great extent. This is simply a greenback inflation currency bill. It is a bill providing that currency in the shape of paper shall be issued by the Government to an amount that outsiders (men out of the Government) think to be best, provided they can put a corresponding amount of silver bullion in the Treasury. Hence it is a bill to secure not only an unlimited issue of silver, but an unlimited issue of paper money, the amount of which no man can conceive, or prophesy, or guess, and this at the instigation of men outside of Congress, outside of the business interests of the country, and who care for nothing but their own pockets and their own business speculations.

Now, I say if we are going to have an issue of silver let us meet the question honestly in behalf of the people. Let the Government say how much shall be issued from time to time; let the advice of the Secretary of the Treasury be asked. If that will not do, why not put the power in the hands of one man? There is a man in Nevada who studies the silver market, the greatest owner of silver stock in the world, a shrewd, keen, clear-headed business man, who understands the laws of trade and of finance. We might trust his opinion on this subject. Why not put this law in a form which will leave that gentleman to decide how much silver shall be coined and how much the currency shall be inflated at any time? Why not trust him as well as to trust a dozen or fifty others? Why not trust him as well as to trust a foreign broker? Why not trust him as well as to trust the Rothschilds?

I remember reading a little while ago an account that the Rothschilds hunted up the statutes and found an old law by which the French government were bound to coin silver bullion into silver francs. They reckoned the price, bought the bullion, and sent it to the mint. The authorities there did not know of the law, and upon hunting up the statute they found that they would be obliged to coin that silver. In order to discourage the Rothschilds they said that because of the great amount of business they would not be able to furnish them the coin for one year. The Rothschilds figured on it and found that they could afford to lose the interest for one year, and they sent word to the mint to go on and coin it as soon as they could.

After awhile it was discovered that this silver bullion had been stolen from the mint. Under the French law the government was not bound to guarantee the safe-keeping of the bullion, and hence the case got into the courts and became public.

Now, we propose to advertise to the Rothschilds that they need not go to the French mint, but if they will be kind enough to send their silver over here, we will coin it for them and give them 15 per cent.

profit. At the same time we advertise to all the money kings of Europe that we propose to give them the power to say how much our currency shall be inflated at any time. If they want our bonds to go up or to go down, if they want our goods to decrease or increase in price, we hereby notify them in the most public manner that we will place in their foreign hands the right, without any appeal to our Government or our people, to say how much our currency shall be inflated; whether we shall have a great deal more of currency or a little; whether we shall be kept short of currency or whether we shall be flush, to use the broker's term. The whole monetary power in that respect is to be transferred to foreigners, to brokers and speculators, to any persons who may be interested in that question and can secure the bullion.

I say that this is a bill which violates all the laws of common sense. I submit to you, gentlemen, whether these statements have been answered by any facts; whether it has been shown that this is not unlimited inflation; whether they have put any checks around this bill to guard it in case the experiment shall prove to be a failure. In case the silver of the world is poured into our Treasury, is there anything by which the President, the Secretary of the Treasury, or even Congress can protect the people in case of disastrous results?

The Treasury mills will still grind on, no matter how much silver may be depreciated. The carts will drive up to the Treasury and empty out their bullion, and the mills will turn around and make it into silver dollars. The bullion will go in at one end worth eighty-five cents on the dollar, and come out at the other end worth for tender purposes one hundred cents on the dollar, and will be used to pay our debts.

A flexible currency, one that is adjustable to the wants of the people, is what is needed. The national banks issue money sparsely or plentifully, according to what is needed. What this country wants is a flexible currency in some way adjusted to the wants of the people. That was what was meant to be attained by former laws of Congress, by the rules of the Treasury, and the mode of proceeding adopted by the national banks.

Now, what do you substitute for the flexible currency adapted to the wants of the people? You substitute an arbitrary rule with which the people and their wants have nothing to do. They are eliminated from the case; they are not considered for a moment. The only question asked is whether there are any holders of bullion who desire to have it turned into legal-tender silver dollars.

Hold up this bill and examine it in any light you please; look at it upon all sides, upon the side of the capitalists, of the merchants, of the manufacturers, of the bankers, of the brokers, (except the brokers in silver,) of the laboring-man whose wants are supplied by his muscle and to whom the question of the value of money is a vital question; turn it around and examine it from all points of view, and you will find that it is a monstrous law, a law the most independent of the people, of Congress, of the Government that was ever attempted to be put on our statute-book. It is a law which will be a curse to the business man because there is no element of certainty in it, and, worse still, because there is no element of Government protection in it.

The Government cannot protect us under this law. The power will be put into the hands of a few individuals. Silver may pour in in a steady stream, or it may come in "spurts" as it may affect this or that business speculation. It may change according to the temporary wants of speculators, according as to whether they want to bull or bear the market, to buy or sell stocks. Any of these reasons may affect this expansion, and no man can foresee what will be safe for him to do in business enterprises.

The law of supply and demand is wholly violated. This law applies to money as well as to all other things. One gentleman told us the other day, as an indication of the need of a silver bill, that potatoes at a certain place were at a very high figure, and the reason, as he inferred, was that we had not a law such as this silver bill. I could have told the gentleman that the law of supply and demand has a great deal to do with that question. The potato-bugs sit on the fence in the West and deliver their opinion as to what the price of potatoes shall be. The question of the supply of silver has nothing to do with the price of potatoes, except as it inflates the currency.

Why, Mr. Speaker, imagine the farmers of Illinois sitting down when the potato harvest comes and saying, "Well, now there is so much silver in the country, we must sell our potatoes at such a price per bushel." Imagine them holding a convention and fixing the price of their potatoes according to the price of silver. The law of supply and demand applies to everything—wheat, silver, gold, horses, cattle, everything. If gold were as plentiful as the paving-stones of the street it would be just as cheap as those paving-stones.

The law of supply and demand as to silver is entirely violated by this bill, because the question is not whether silver is needed, whether the people are suffering for it, but simply whether speculators who have it in hand, who want to sell it, who want to make money, shall have the right to turn their bullion at eighty-five cents on the dollar, more or less, into money worth one hundred cents on the dollar for debt-paying purposes?

[Here the hammer fell.]

Mr. CONGER. I ask that the gentleman from Massachusetts [Mr. BOWMAN] may be allowed to finish his remarks.

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia.) If there be no objection the gentleman will be permitted to proceed. The Chair hears no objection.

Mr. BOWMAN. I will endeavor to be very brief. Now, Mr. Speaker, money has been heretofore supplied according to the demands, according to the needs of the Government. In the war a vast volume of currency was needed to carry on the great operations of the Government and the great manufacturing and mercantile enterprises occasioned thereby. Now a less volume is needed. Throw into the market, where it must pass as legal tender, more silver or paper money than the needs of trade require, and it must be deteriorated. The history of the war and of subsequent years proves this. When more greenbacks than were needed were thrown into the market the value of greenbacks went down. Throw into the market more silver than is needed and can properly be absorbed, and you have a depreciated currency—a currency which drives all good currency out of the market.

No man can doubt that under such a law as this silver money will be a deteriorated and debased currency. The value of money varies with the demand for it, as well as from other causes, in other words with its supply. Gold is the great standard of value throughout the world. In the first place, you start with a silver dollar to-day that is not worth by fifteen cents so much as gold. Intrinsically, it is an inferior and debased coin. Now, I am not going to discuss the question whether the legal-tender quality will carry that silver to par, because there is not a man in this Hall, be he a greenbacker or otherwise, who believes that silver will come to par with gold. Some of the gentlemen who advocate this bill have had the frankness to say that they do not care if gold is driven out of the country. They are willing to have this country made the great "dump" of the refuse silver of the world. The discount on silver is substantially in proportion to the demand among the people for it. Supply more silver than the people want and it goes down; supply less than the people want and it goes up.

But gentlemen tell us that silver has intrinsic value to keep it up; that in this it differs from paper. It has not such intrinsic value. The so-called standard silver dollars are worth only eighty-five cents; and I say it is dishonest, it is a wrong and a fraud, it is a crime, to compel a man to take eighty-five cents for a debt of one hundred cents. It is a crime for Congress to thrust its hand between creditor and debtor and say to the debtor that he may with eighty-five cents make payment of a debt of one hundred cents.

The result of this measure must be that silver will drive all the gold coin out of the country, or at least out of circulation. One would say this was a self-evident proposition; but the question has been so much debated and the arguments of the supporters of the bill have been such that it seems necessary to prove even that proposition. When you buy an apple of an apple-woman on the street she gives you the old sixpence that no one else will take. You have in your pocket a greasy, tattered, deteriorated greenback and you shove it off at the first opportunity. You have some old silver which you are afraid you may not be able to deposit in the bank and you pay with this debased currency the first debt you can. Your gold will be hoarded in an old stocking, or put in some other place of safety. Inevitably, the bad, the debased, the clipped, the dishonest money drives out the good money. The poorer money always drives out the better. And the result will be that we shall have here a silver currency without limit and uncontrolled by the Government in regard to its amount as the sole currency of the country.

I shall not detain the House, Mr. Speaker, by speaking of the second proposition in regard to making all this money a legal tender. The silver currency will be a legal tender, no matter how inflated to the extreme, emptied from all the countries in the world, from mints running to their fullest capacity, and with the great steam-engines of Nevada grinding up their thousands of tons of ores. Let silver go down and down and down; no matter how disastrous this experiment, we must take it for our debts, for our lands, for our houses, for our cattle, and for our goods. No matter how disastrous the experiment is, no matter how great the deterioration is, we must take it for all our debts. The poor man must take it for his labor, the rich man must take it for his goods, the importer must take it for goods for which he paid gold. I say that this is not a question to be argued by our greenback friends as the guardians of the poor of this country as they assume to be, but by all of us. They have no pre-emption rights to style themselves the only friends of the laboring classes. We who desire an honest currency, who desire that every man should be paid for his labor or his goods in honest money for an honest day's work or an honest quantity of goods, have just as much right to speak for the laborers of this country and the poor men of this country as our greenback friends who assume the monopoly of the protection of the poor and laboring classes, and by their self-styled protection would drive those laboring classes into a worse misery than they have yet felt, into a repetition of the suffering and the misery of the last five years.

We are just coming out of this long and weary path which has been so hard to follow. Our feet are bruised, and wounded by the thorns. Do we want to go over it again? Do we want to drive the people into this long road of suffering from which we are emerging? I tell our greenback friends, and I honestly believe it, that they are trying to lead on the people of this country not only into a repeti-

tion of the sufferings of the last five years, but into worse agony and worse suffering. You are destroying the fruits of this time of trouble. Of late we have been paying the penalty for the overissue of greenbacks. We are emerging into prosperity, and you would repeat the disastrous experiment which we have gone through.

Now, Mr. Speaker, I only want to say a word about this issue of silver certificates. If you are determined to increase the paper money, why not do it honestly, with a check upon it? Why not say that the Government, in its discretion or by a law of Congress, to a certain amount fixed by Congress, may buy silver bullion and put it in its vaults, and issue greenbacks to the amount of the silver in the vaults? There you have a fairer proposition. The Government and Congress can decide as to the need of inflation. Why not do that? Why not say that bullion may be deposited by the Government in the vaults and greenbacks issued in place thereof? And why do you take that power out of the hands of the Government and say that private individuals may decide that question; that private individuals may deposit the bullion and private individuals may make the money on the speculation, and according to the will of those speculators currency may be inflated or be contracted?

I believe that the last section of the bill is vicious and inexcusable. I know it follows the general law of legal tender. But you are looking now toward a great and unlimited inflation of silver dollars if your theories are correct; that is, silver dollars will remain everywhere throughout the country and be in universal use if this bill passes, all the gold dollars being driven out. And you provide that no matter how mutilated that money is, no matter how it is clipped, no matter how holes are punched through it, no matter how you are unable to identify it, if an expert can swear and prove that it is really a United State silver dollar you have got to take it at its weight as legal tender in payment of your debt. A man comes to you to pay you for your house or your horse and offers you a collection of old and battered silver coins, some of them with holes in them, some flattened out, others mutilated and all abraded, and he says: "I want you to take that coin." You reply: "I don't want to take any such money. That does not look like a good dollar; it is mutilated, it is abraded. I am not sure even that it is genuine, because I cannot try the chemical tests upon it." His reply is: "You must take it if I can prove that, mutilated as it is, it is good silver; if I can prove it is a United States silver dollar you must accept it." Men will be obliged to go about with scales on their backs to weigh the silver presented to them in payment of debts if this silver is to be the universal and permanent medium of exchange, as it is claimed it is to be.

If this money is going to be poured upon us like the dews of heaven, (no, I will not say that, because it comes from another region,) the last section is a vicious section. I submit to this House for all these reasons whether this law is a law which ought to be considered for a moment by a reasonable man. I ask gentlemen upon the other side of the House honestly whether they have answered these questions; whether, in their dissertations on the history of the country, upon the depression of business for the last five years, in their sermons about Rome and France and Germany, they have answered any of these questions about this bill or discussed it in a practical manner? Why do you not tell us how much silver will probably be sent into the country and what this expansion may be? Why do you not inform us as to the practical results of the bill?

Mr. WARNER. If the gentleman will yield to me I will answer him now.

Mr. BOWMAN. I will yield in a moment. I have only a word or two to say. I say why do you not discuss this bill, take it up section by section, as I have endeavored to do, and tell us what the practical result will be? Why not discuss this free-coinage clause, this power given to private individuals of regulating the contraction or expansion of the currency? Why not discuss the question about legal-tenders and the making of a limitless amount of silver legal tender for our debts, yours and mine, and debts which affect all other laboring-men?

Mr. WARNER. Whenever the gentleman will yield to me I will explain that point.

Mr. BOWMAN. Why not tell us about the issue of silver certificates, whether the result of this bill will be an issue of silver or an issue of paper money under the name of silver certificates, which might just as well be called greenbacks, and thus we shall have a greenback-inflation currency? Why not tell us whether it is not really an expansion of the paper money of the country and not of coin really and practically? Why not tell us about the last section, whether, if this money is to be issued in great quantities, we shall be obliged to take it for all our debts in a mutilated state, and as to the convenience or evils of that proceeding?

When we have before us a bill so important as this, a bill vital in one way or another to the interests of this country, why cannot we have the bill itself discussed, and not listen all the time to these essays upon labor and the needs of the laboring-men and the demands of business, unless the connection between the bill and these questions is made good.

Now, sir, I will stop with only one question. The gentlemen of the greenback persuasion have told us that the silver bill is a panacea for all our woes; that if it passes business will revive, the laboring-men will be happy; that it is the great remedy for all our troubles. Will they not show us how? Why do they not show us that if one hundred million more dollars, issued by Government according to the greenbackers' idea, are printed the laboring-man is going to get some of them? Why do they not show us how they are going to benefit the laboring-men?

Mr. WARNER. By preventing a further fall in prices.

Mr. BOWMAN. How does this bill accomplish this? They did not tell us; they did not dare to tell us in the greenback campaign last autumn in Massachusetts how this was to be effected. We asked the question how, if you issue millions of paper dollars and millions of silver dollars, they are going to get out among the people and enable them to get rich, and our opponents never answered that question on the platform, but they have answered it in Congress. Within three or four days past our greenback friends have said in substance that an issue of silver dollars will not help the people; that inflation will not help the people or give them more money unless the money reaches the people; but they do not tell us on the floor how this money is going to reach the people or how to solve the problem. Will the gentleman from Indiana [Mr. DE LA MATYR] tell us how he would solve it? Why, the answer is that they will issue these millions of dollars of greenbacks and spend these millions of dollars for building up all the old, worn-out canals, and burst-up railroads in the West.

Mr. DE LA MATYR. The gentleman really ought not to be so unfair as to repeat that.

Mr. BOWMAN. Does the gentleman withdraw that bill?

Mr. DE LA MATYR. I presented it merely for another man, and I would do the same thing again.

Mr. BOWMAN. Does the gentleman withdraw the bill?

Mr. DE LA MATYR. I presented the bill, but I do not indorse it.

Mr. BOWMAN. Now I would ask, does the gentleman withdraw the other bills introduced by his greenback colleagues?

Mr. DE LA MATYR. That bill is the only one I do not indorse.

Mr. BOWMAN. I would ask in what earthly way or by what miracle you can get the money into the hands of the people except by spending it?

Mr. DE LA MATYR. When I get the floor, as I hope to do, I will answer that question.

Mr. WHITE. Let the county commissioners pay it out.

Mr. BOWMAN. That question has never been answered on this floor, it has never been answered on the stump, how any silver, paper, or other currency of the Government could get out to the people unless you spend it.

Mr. JONES. We could spend it to pay the current expenses of the Government.

Mr. BOWMAN. To pay the current expenses of the Government, the gentleman says. We pay those now; we pay the expenses of the laboring-man, merchant, and the mill-owner, and of all men who contribute to the needs of the Government. Last year and the year before, and the year before that, every year since 1875 and the hard times, we have paid the current expenses with the money which we have, and yet it does not accomplish your purpose. That is not an answer, but it is the only answer which has been given.

Mr. WHITE. We have enough money for that now.

Mr. BOWMAN. We have enough currency now to pay all our expenses. Is there an employé in any of the Departments or in all the United States that is suffering because there is not money enough to pay him? Does not the money we now have go among the people, and has it not gone for five years?

Mr. JONES. Why not pay off our bonds with it?

Mr. BOWMAN. Because we do not believe in raising money by taxation or by increasing our revenues to pay off our bonds faster than is reasonable. We are paying them now just as fast as we can decently and comfortably, and the debt is being reduced every year.

Let the people take notice of this matter, and let them say if they want to adopt this doctrine of the greenbackers. The only way that any man on this floor or any man on any stump has shown how the people can be benefitted by the issue of greenbacks or silver by the Government is to adopt a great system of internal improvements, to dig out canals, harbors, and rivers, to build breakwaters, to revive old bankrupt railroads, to build other railroads across the continent; to spend the money of the United States for internal improvements, and thus increase the debt. I challenge the greenbackers on this floor to show a single way in which the people will be benefited by this inflation except by the United States spending the money and increasing its debt. I have refrained from saying anything as to whether this bill should be supported if it provided for an honest silver dollar, equivalent in value to the gold dollar. The bill must be treated and discussed as it stands.

In conclusion I have only to say that I know and believe that the country or the laboring people themselves will not be blinded by all this dust and fog and talk about the rights and sufferings of the laboring people which have been thrown around this question. The question of the sufferings of the people has nothing to do with this bill. It will stand or fall on its naked merits as a scheme of inflation, either of silver or of paper. Under all this sophistry, under all this hair-splitting argument, under all this philosophizing which we have listened to for days here, is the simple naked question whether we wish to give to a body of uncontrolled and uncontrollable men outside of the Government, having no possible interest in it, caring nothing for the people, caring nothing for business, caring nothing for

laborer or capitalist—whether we shall place in their hands alone the power of saying how much silver shall be issued or how much the currency of the country shall be inflated.

Mr. BUCKNER obtained the floor.

Mr. DUNNELL. If the gentleman from Missouri will yield, I will move that the House now adjourn.

Mr. BUCKNER. I will yield for that purpose.

Mr. DUNNELL. I move that the House now adjourn.

STAMPING IMPORTED WINES AND LIQUORS.

Pending the motion to adjourn,

The SPEAKER *pro tempore* (Mr. HARRIS, of Virginia) laid before the House a letter from the Secretary of the Treasury, relative to the stamping of certain imported wines and liquors; which was referred to the Committee of Ways and Means.

STATISTICAL ABSTRACT.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Treasury, transmitting a statistical abstract prepared by the Chief of the Bureau of Statistics, embracing tables in regard to finance, coinage, commerce, immigration, tonnage, navigation, postal service, public lands, railroads, agriculture, and mining; which was referred to the Committee of Ways and Means, and ordered to be printed.

LEAVE OF ABSENCE.

Leave of absence was granted, by unanimous consent, as follows:

To Mr. HILL, for five days, on account of important business; and

To Mr. FORSYTHE, for ten days from Monday next, on account of indisposition.

ORDER OF BUSINESS.

Mr. CONGER. I ask unanimous consent to introduce a bill for reference.

Mr. DUNNELL. They can be introduced on Monday.

REMOVALS OF OBSTRUCTIONS TO COMMERCE.

Mr. CONGER, (by request,) by unanimous consent, introduced a bill (H. R. No. 1844) to provide for the removal of wrecks, logs, and other obstructions in the fair-way of commerce and thereby providing increased security to life and property; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. JOSEPH S. WILSON.

Mr. CONGER also, (by request,) by unanimous consent, introduced a bill (H. R. No. 1845) making compensation to Mrs. Joseph S. Wilson, widow of the late Joseph S. Wilson, for collecting the scientific museum for the Public Land Office; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC LANDS.

Mr. HERBERT, by unanimous consent, introduced a bill (H. R. No. 1846) relating to the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MISSISSIPPI RIVER COMMISSION.

Mr. GIBSON, by unanimous consent, introduced a bill (H. R. No. 1847) to provide for the appointment of a Mississippi River commission for the improvement of said river from the head of the passes near its mouth to its headwaters; which was read a first and second time, referred to the Committee on the Mississippi Levees, and ordered to be printed.

REORGANIZATION OF THE ARMY.

Mr. WHITE, by unanimous consent, introduced a bill (H. R. No. 1848) to reduce and reorganize the Army of the United States, and for other purposes; and a bill (H. R. No. 1849) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which were severally read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RIVER AND HARBOR IMPROVEMENTS.

Mr. COX, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Rules:

Resolved, That the rules be so amended as that all bills for improvement of rivers and harbors be referred at the Clerk's desk the same as post-route bills now under the amended rule.

[Cries of "Regular order!"]

BUSINESS OF EXTRA SESSION.

Mr. McCOID. I ask unanimous consent to have read at the Clerk's desk a petition.

Mr. DUNNELL. I yield to the gentleman for that purpose.

The Clerk read as follows:

A petition to the Senate and House of the Forty-sixth Congress, Washington, District of Columbia.

Your petitioners, citizens and constituents——

The SPEAKER *pro tempore*. This is a petition and can come in by being deposited in the petition-box.

Mr. McCOID. No, sir; it is not intended for reference; it is a petition directed to the House. I ask that it be printed in the RECORD.

Several MEMBERS. What is it?

The SPEAKER *pro tempore*. Is there objection to printing the petition in the RECORD? The Chair hears none.

Mr. COX. I object.

The question being then taken on the motion of Mr. DUNNELL, that the House adjourn, it was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAILEY: Resolutions of the executive committee of the New York State Agricultural Society, in reference to infectious and contagious diseases of cattle—to the Committee on Agriculture.

By Mr. BICKNELL: The petition of Mrs. Charlotte M. Coward, for a pension—to the Committee on Invalid Pensions.

By Mr. CAMP: The petition of Frank Miliman and others, citizens of Cayuga County, New York, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. CARLISLE: The petition of citizens of Mason County, Kentucky, for the establishment of an additional judicial district in that State—to the Committee on the Judiciary.

By Mr. CLARDY: Papers relating to the war claim of Warren Hall—to the Committee on War Claims.

By Mr. HISCOCK: The petition of Asa D. Morse and others, citizens of Onondaga County, New York, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. HOUK: The petition of citizens of Tennessee, for the establishment of a post-route from Wartburgh to Rockwood, Tennessee—to the Committee on the Post-Office and Post-Roads.

By Mr. LAPHAM: Two petitions from citizens of New York, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. MAGINNIS: A paper relating to the establishment of post-routes in Montana Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. MANNING: Papers relating to the claim of John C. Thompson for compensation for carrying the United States mails between Washington, District of Columbia, and Leonardtown, Maryland—to the Committee of Claims.

Also, papers relating to the claim of William H. Quinn, for compensation for extra services rendered the United States while draw-keeper at the Anacostia Bridge, Washington, District of Columbia—to the same committee.

By Mr. MARTIN, of North Carolina: The petition of John S. Burgess, for a pension—to the Committee on Invalid Pensions.

By Mr. MUR[illegible]: The petition of Isaac T. Evans and others, of Camden, New Jersey, representing 6,000 wage workers, for the enforcement of the eight-hour law—to the Committee on Education and Labor.

By Mr. NEAL: Papers relating to the war claim of Charles Fair—to the Committee on War Claims.

By Mr. NEWBERRY: Resolution of the Legislature of Michigan, opposing the limitation of the jurisdiction of United States courts in certain cases—to the Committee on the Judiciary.

Also, the petition of the Women's Christian Temperance Union, of Plymouth, Michigan, and 110 others, against any amendment of the revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. OSMER: The petition of 45 citizens of Pennsylvania against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. OVERTON: The petitions of George L. Covert and of Maurice McDonnell, for pensions—to the Committee on Invalid Pensions.

By Mr. STEPHENS: The petition of J. G. W. Mills, to be reimbursed his expenses in an election contest in the Forty-fourth Congress—to the Committee of Elections.

By Mr. WALTER A. WOOD: Resolutions of the executive committee of the New York State Agricultural Society, relative to infectious and contagious diseases of cattle—to the Committee on Agriculture.

IN SENATE.

MONDAY, *May* 12, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of State, transmitting a letter from the president of the Italian senate addressed to the President of the Senate of the United States, inclosing a publication consisting of the addresses of Victor Emmanuel II to the National Parliament of Italy and his various proclamations to the soldiers of that country; which, on motion of Mr. VOORHEES, was referred to the Committee on the Library.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting estimates for deficiencies and additional

appropriations for the office of surveyor-general of California; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement of the harbor at the mouth of the river Au Sable, in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, in favor of the passage of a law by Congress appropriating condemned cannon to aid in the construction of the Saratoga national monument; which was referred to the Committee on Military Affairs.

He also presented the petition of John Broomhall and others, citizens of Ottawa County, Michigan, praying for the passage of a law authorizing the Second Auditor of the Treasury to audit the claim of Alexander Keeler as the legal representative of Joseph B. Cady, late a soldier in Company G, Twenty-first Michigan Infantry, for bounty and arrears of pay; which was referred to the Committee on Claims.

He also presented the petition of Julius Houseman and 25 others, citizens of Michigan, praying for the passage of a law granting a pension to John N. Snider, late private Company B, First Regiment Michigan Engineers and Mechanics; which was referred to the Committee on Pensions.

Mr. HARRIS presented the petition of Alexander S. Brownlow, late a private in Company I, Eighth Regiment Tennesse Cavalry Volunteers, praying for the passage of a law placing his name on the rolls of that company and regiment; which was referred to the Committee on Military Affairs.

Mr. WALLACE presented the petition of Joseph W. Wells and others, citizens of Philadelphia, praying for the repeal of the stamp tax on matches; which was referred to the Committee on Finance.

Mr. MORRILL presented the petition of A. H. Gibbons, president of the New York committee for the prevention of State regulation of vice, praying on behalf of that committee that the proposed quarantine legislation be so amended as to provide against the abuse of the power conferred in legalizing social vice; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

REPORTS OF COMMITTEES.

Mr. WHYTE, from the Committee on Printing, to whom was referred the bill (S. No. 330) to provide for the publication of the debates in the first Senate of the United States, reported adversely thereon; and the bill was postponed indefinitely.

Mr. LAMAR, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1377) to amend section 5440 of the Revised Statutes, reported it without amendment.

BILLS INTRODUCED.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 581) to authorize the Second Auditor of the Treasury to audit and allow the claim of Alexander Keeler as the legal representative of Joseph B. Cady, late a soldier of Company G, Twenty-first Michigan Infantry; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 582) granting a pension to John N. Snider; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 583) to authorize and direct the Secretary of War to convey, by deed, to the board of education of the district of Harper's Ferry, West Virginia, a lot of ground, (No. 2, in block B,) with the buildings thereon, for the use of the common schools thereof; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DAVIS, of West Virginia, subsequently said: I ask that the bill relating to the Harper's Ferry property be referred to the Committee on Public Buildings and Grounds. I understand a similar bill has been before that committee and there are papers relating to the subject before them.

The PRESIDENT *pro tempore*. The bill will be so referred.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 584) to authorize the Secretary of the Interior to allot lands in severalty to Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 585) for the relief of J. H. Merrill; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 586) relating to the engraving, printing, and issuing of national currency, United States notes, bonds, internal-revenue stamps, and all other Government issues; which was read twice by its title, and referred to the Committee on Finance.

Mr. VEST (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 587) to survey the Austin-Topolovampo Pacific route; which was read twice by its title, and referred to the Committee on Railroads.

MARK WALKER.

Mr. VOORHEES submitted an amendment intended to be proposed by him to the bill (S. No. 2) for the relief of Mark Walker; which was referred to the Committee on Military Affairs, and ordered to be printed.

COMMITTEE ON REMOVAL OF NORTHERN CHEYENNES.

Mr. COKE submitted the following resolution; which was read:

Resolved, That the select committee appointed "to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory, their treatment while in the Territory, their escape therefrom, and all the circumstances connected therewith, and also to examine into the facts attending their arrest or capture after such escape, their confinement, disarmament, escape, subsequent slaughter, and recapture," be continued, with power to sit during the recess, and with all the powers conferred by the original resolution appointing said committee.

Mr. COKE. Mr. President, I desire to give notice that after the expiration of the morning business to-morrow I shall ask the Senate to consider the resolution.

The PRESIDENT *pro tempore*. The resolution will lie on the table meanwhile.

CORRECTION OF A MISSTATEMENT.

Mr. CONKLING. Mr. President, I send to the Secretary a newspaper containing matter marked, which I ask him to read.

The PRESIDENT *pro tempore*. The matter will be reported.

The Secretary read as follows:

The President to-day appointed Major Theodore L. Poole, of this city, as pension agent at Canandaigua. The office is a very lucrative one, worth from $10,000 to $15,000 a year. The agency is the largest in the United States. The appointment was secured by ROSCOE CONKLING. It was generally believed that Major Moses Summers, editor of the Syracuse Standard, would be appointed agent. The Hon. FRANK HISCOCK, M. C., had secured the promise of the President to appoint Mr. Summers. Summers's petition was signed by every republican Congressman from New York, with two exceptions. His appointment was considered certain. All at once Senator CONKLING appeared on the scene. The present agent at Canandaigua, S. Drury, who has held the position for fifteen years, is a *relative* of CONKLING, and the Senator did not propose to lose his hold upon the office. How he succeeded is a mystery, but Major Poole, the new appointee, is a strong Conkling man, and his appointment was asked by Mr. HISCOCK. Summers's name, which had been sent to the President, was withdrawn *for the reason that Mr.* HISCOCK *did not dare to oppose Mr.* CONKLING. Summers was a liberal republican, and was very active in securing petitions for General Merritt's confirmation. The triumph of Conkling is regarded with significance in this region. Major Poole was United States assessor and county clerk of Onondaga County. The Hiscock republicans are very much disturbed over his appointment. It is declared to be a bold stroke for reconciliation and harmony among the republicans of this part of the State.

Mr. CONKLING. Mr. President, the Secretary omitted to read that this matter is extracted from the New York Times, where it seems to have appeared as a dispatch or communication dated Syracuse, New York, May 2. From the paper in which it originally appeared it has found its way into the Buffalo Express, a journal widely read, and edited with so much intelligence and reverence for truth and justice that its proprietor and editor would not have allowed these statements to find a place in his columns had their lack of foundation been known.

I wish to say that until the name of Mr. Poole came here from the President I did not know that Mr. Poole was an applicant for the place or that any one had suggested him in that regard.

Another of these statements is that Mr. Drury, of Canandaigua, is a relative of mine. No relative is he whatever, except as all children of Adam and Eve are relatives of each other. Mr. Leander M. Drury is and has long been a pension agent, distinguished for the faithfulness with which he has discharged the duties of his office. So blameless and meritorious has his administration been, that for long years he has been left untouched.

I will only add that every statement found in this paragraph, so far as it refers to me, is utterly without foundation. I have had nothing to do with superseding Mr. Drury or with selecting his successor.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BECK. I move that the Senate proceed to the consideration of the legislative, executive, and judicial appropriation bill.

The PRESIDENT *pro tempore*. If there is no further morning business the Chair will declare the morning hour at an end, and the unfinished business is before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

The PRESIDENT *pro tempore*. The reading of the bill will be proceeded with.

Mr. BECK. The Secretary reached in the reading on Saturday the appropriations for the Life Saving Service on page 31 of the bill.

The Chief Clerk resumed the reading of the bill, and read the following clause from lines 754 to 757 inclusive:

That the second and third sections of the act entitled "An act to organize the life-saving service," approved June 18, 1878, be, and the same is hereby, repealed.

Mr. BECK. Those sections the bill repeals because the second section provides:

That the unexpended balances of appropriations heretofore made for the establishment of life-saving and life-boat stations are hereby made available for the payment of the expenses of the establishment of the stations herein authorized.

And section 3 declares:

That all moneys received from the sale of old stations and equipments and other material condemned by a board of survey as unserviceable may be expended in rebuilding or removing and equipping stations.

We determined to strike those sections out, so that each item of appropriation could come before Congress instead of allowing unexpended balances resulting from the sales of property to be applied to the service.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in the clause making appropriations for the office of the assistant treasurer at New York, line 831, to reduce the appropriation for the salary of minor-coins clerk from $2,400 to $2,200; and, in line 853, to reduce the total amount of the appropriation for the office of the assistant treasurer at New York from $151,470 to $151,270.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill and read the following clause in the appropriations for the office of the Director of the Mint, in lines 983, 984, and 985:

For purchasing books, periodicals, and pamphlets containing information relative to monetary questions, $200.

Mr. BECK. That is a small item for the purchase of books, &c., by the Director of the Mint which the House agreed to give him in accordance with a letter which I hold in my hand. I said I would call attention to everything new in the bill. It is a very small item.

The reading of the bill was resumed, and in the appropriations for the mint at Denver, Colorado, the following items were read:

For wages of workmen, $10,000.

For fuel, lights, acids, chemicals, crucibles, repairs, and other necessaries, $6,000.

Mr. BECK. There are a few increases there relating to the Denver mint, which were put in by the House, for the pay of workmen, in consequence of a letter from the Director of the Mint and indorsed by the Secretary of the Treasury saying they were all essential and necessary. I will not cumber the RECORD by the letters, and simply call attention to the fact that these increases were made on the request of the Director of the Mint indorsed by the Secretary of the Treasury. The Director of the Mint came personally before us, as well.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Mint at New Orleans, Louisiana," in line 1078, to increase the appropriation "for wages of workmen and adjusters" from $57,000 to $75,000.

Mr. BECK. That is a decided increase, and therefore I will ask that the following letters from the Secretary of the Treasury and the Director of the Mint be read. They are short.

The PRESIDENT *pro tempore*. The letters will be read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 23, 1879.

SIR: Referring to my letter of yesterday's date relating to estimates of appropriations for the Mint service, I have the honor to submit a further increase to meet the wants of the service, as follows:

For wages of workmen at the mint at New Orleans for the fiscal year ending June 30, 1880, $75,000, instead of $57,000 as estimated in the last Book of Estimates.

The necessity for this appropriation is shown in the inclosed copy of a letter from the Director of the Mint of the 22d instant.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. H. G. DAVIS,
Chairman Committee on Appropriations, United States Senate.

TREASURY DEPARTMENT,
OFFICE OF THE DIRECTOR OF THE MINT,
Washington, D. C., April 22, 1879.

SIR: Referring to the letters of this office of the 19th and 29th ultimo, in regard to the appropriation needed for the efficient working of certain mints and assay offices and their supervision and general management by this bureau, I desire to call attention to the necessity of an appropriation for wages of workmen at the mint of the United States at New Orleans for the fiscal year ending June 30, 1880, of $75,000, instead of $57,000 as estimated for by this office.

I would state that the mint at New Orleans is now coining standard silver dollars, has a large storage capacity, and is in a locality where the demand for that coin can be readily and cheaply supplied.

The original estimate of the appropriations required for the support of that mint for the fiscal year ending June 30, 1880, as submitted to this office by the superintendent, estimated that the sum of $89,145.75 would be required for wages of workmen and was reduced by this office in submitting the estimates to $57,000, the same as appropriated for the current fiscal year.

The original estimate for wages of workingmen will not permit the mint to be in active operation but a part of the year, and will not be sufficient to meet the requirements of the public service.

From a personal examination into the workings and condition of the mint at New Orleans recently made by me, I am clearly of the opinion that it will be necessary to have the increased appropriation for wages of workmen asked for, in order to keep that mint fully and actively employed.

I am, sir, very respectfully,

HORATIO C. BURCHARD,
Director.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

The PRESIDENT *pro tempore*. Is there objection to this amendment? The Chair hears none, and it is adopted.

The Chief Clerk resumed the reading of the bill, and read the following clause from lines 1119 to 1123, inclusive:

Territory of Dakota:

For salaries of governor, chief-justice, and three associate judges, at $2,600 each; and secretary, at $1,800, $14,800.

Mr. BECK. There is an increase of one associate judge in the Territory of Dakota over the existing appropriation because of an act approved March 3, 1879, which provided:

That hereafter the supreme court of the Territory of Dakota shall consist of a chief-justice and three associate justices.

Therefore one having been added we had to make provision for his salary. That accounts for the increase.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in the proviso to the clause making appropriations for the office of the Surgeon-General, in line 1298, after the word "twenty" to insert "enlisted men for service in this bureau;" so as to read:

Provided, That the Secretary of War, if the public necessity so require, may detail not exceeding twenty enlisted men for service in this bureau.

Mr. BECK. That is a mere omission of the House or the printer, one or the other, and we added those words to complete the sense.

The PRESIDENT *pro tempore*. Is there objection to this amendment? The Chair hears none.

The Chief Clerk resumed the reading of the bill, and read the following items in the appropriations for the War Department buildings:

For eight charwomen, to be employed in the offices of the Secretary of War, in the new State, War, and Navy Department building, at $180 per annum each, $1,440.

For four watchmen, two firemen, and one laborer in the part of the Adjutant-General's Office to be located on the first and second floors of the old Navy Department building; in all, $4,980.

For contingent expenses of Adjutant-General's Office, in old Navy Department building, including fuel, light, heating apparatus, matting, cleaning, labor, and incidental items, of care of two floors of Navy Department building, to be occupied by Adjutant-General's Office, $2,000.

Mr. BECK. I only desire to call attention to the fact that from line 1373 to 1387 these are new provisions. I have the letter of the Secretary in my hand stating the reasons for them. The Department is moving into the new Department building, and the old Navy Department building has to be cared for, and it is now being applied to the use of the Adjutant-General's Office.

Mr. CONKLING. What page is that?

Mr. BECK. Line 1373 to line 1387. This increase is rendered necessary by the new buildings and by the new use that the old Navy Department building is put to. I need not read the letter, because the House considered the matter, and it is well understood.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 1547, after the word "census," to insert "the total expenditure for rent not to exceed $25,000;" and in line 1548, after the word "paid," to strike out "for from" and insert "out of;" so as to make the clause read:

For rent of buildings for the use of the Pension Office and office of the United States pension agent, and for the Bureau of Education, and for the Geological Survey, $24,700. And the Secretary of the Interior is hereby authorized to rent such buildings as may be necessary, from time to time, for the purpose of the census, the total expenditure for rent not to exceed $25,000, to be paid out of the amount authorized to be expended by section 20 of the act approved March 3, 1879, in reference to the Federal census.

Mr. BECK. Believing that the appropriation as it came from the House was very general in its character, we called General Walker, Superintendent of the Census, before us, and after explaining the difficulty he had about determining very definitely what rent he would have to pay he consented, and, indeed, advised, the insertion of this amendment that it should not exceed $25,000.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Appropriations was, under the head of "General Land Office," in line 1572, to reduce the appropriation "for salary of chief clerk" from $2,250 to $2,000.

Mr. ALLISON. I trust that amendment will not be agreed to. The chief clerk of the General Land Office is the acting commissioner of the General Land Office during the absence of the Commissioner. For the next fiscal year this absence will undoubtedly occur for a long period of time owing to the fact that the Commissioner of the General Land Office is one of a commission to codify the laws and to make certain examinations provided for in an act passed at the last session.

It was my fortune to examine this question very carefully at the last session, and the $250 was added then to cover the extraordinary labors of the chief clerk necessary during the absence of the Commissioner. Both Houses agreed to it at the last session, and I trust the committee will allow the clause to stand as it is in the House bill. I think no harm will result from it, and I will say that I see the chief clerk of the Patent Office remains at $2,250, although there is a deputy commissioner of Patents.

Mr. BECK. I think not.

Mr. ALLISON. Well, I trust my friend from Kentucky having charge of this bill will not press this amendment. This officer has very heavy duties

Mr. BECK. I hope the Senator from Iowa will withdraw any amendment he may have to offer until the committee get through with their amendments. We do not regard anything as concluded until the bill is through. There are several amendments of this sort that may be proposed.

Mr. ALLISON. I do not propose an amendment; I only ask the Senate in Committee of the Whole not to concur in an amendment proposed by the Committee on Appropriations. I trust the Senator will waive the point.

Mr. BECK. The salary of the chief clerk of the General Land Office is now $2,000 for the current year, and it never was above $2,000; the chief clerk of the Commissioner of Pensions gets the same. The salary of the chief clerk of the Bureau of Statistics is $2,000. All the chief clerks in all the bureaus of the War Department are put at

$2,000; in all the bureaus of the Navy Department they are $1,800; in the Land Office $2,000, Pension Office $2,000; Indian Office $2,000. In the offices of the First, Second, and Third Assistant Postmasters-General the chief clerks get $2,000 each; in the Money-Order Office the chief clerk $2,000, and so on. While there are some who are receiving larger salaries, all these gentlemen are here and many of them with special letters insisting that we shall increase their salaries up to the highest salary that anybody else gets in any other Department. The committee determined wherever the House had stricken down a salary below the appropriation for the present fiscal year, to restore it, and wherever they had increased it beyond the present fiscal year unless there was some very special reason given for it, to restore it to what it is now; and the very moment we add to the salary of the chief clerk of the Commissioner of the General Land Office we shall have to add $250 and perhaps $500 in some instances to the chief clerks in the other bureaus to which I have called attention; so that the granting of this one increase is equivalent to increasing the salaries of from fifteen to twenty-five chief clerks, perhaps more than that number, certainly that many, because the chief clerk of the Commissioner of Pensions will come with a claim just as strong; the chief clerks of the Assistant Postmasters-General are here with a recommendation of the Postmaster-General, and so of many others. We did not see where we should stop if this increase was to begin. We thought perhaps a general revision might be had hereafter; but as this bill was introduced into the House before the committee of that House was organized, and it has substantially come up to the appropriations for the current fiscal year, we concluded, wherever they varied from them, to endeavor to bring them back to that basis.

Besides, the increase of force in the General Land Office exceeds the increase in all the other Departments of the Government put together in this bill. Out of one hundred clerks increase in all the Departments in Washington, there are fifty-six in the General Land Office. We have been advised, both by letters from the Commissioner of the General Land Office and by the Book of Estimates, that they are very much behind in that office, and we have been extremely liberal to them. That, in fact, with the exception of the Patent Office, where special reasons were also given, is almost the only case where we felt that we were compelled to increase the force. I will not take time to read the letter of the Commissioner of the General Land Office or the Book of Estimates, but I will say that we have granted him all that he desired, and have even allowed him—the only case in which we have done it—to use a part of the moneys appropriated now at once, because of the great wants of that office. Thus it will be seen that it was not from any desire to cut down this officer or any desire to curtail the force that this amendment was proposed, but simply to prevent the Senate and House from being required to go into a general increase of salaries at this time, for if you start this one you must encounter them all. We hope the Senate will sustain us.

Mr. WITHERS. While the Senator is up, in order to save time, I will ask if I understood him correctly that the salary now paid the chief clerk of the Pension Office, and also of the General Land Office, is $2,000?

Mr. BECK. Yes, sir. The clerk of this committee has very carefully gone over the bill of last year, and has found the salaries to be: chief clerk to Commissioner of General Land-Office, $2,000; chief clerk to Commissioner of Pensions, $2,000.

Mr. WITHERS. I know the fact that this officer has been required to perform very laborious duties and has been constantly at work, and well deserves as large a salary as the chief clerk of any Department, but I was under the impression that he received now $2,250. If he receives only $2,000, of course the argument against the adoption of the amendment of the committee is weakened thereby.

Mr. BECK. That is what he receives now.

Mr. ALLISON. Of course I do not urge this except on exceptional grounds. The Commissioner of Pensions has a chief clerk who receives $2,000, and in this very bill I think provision is made for a deputy commissioner of pensions, so as to relieve the chief clerk of the Commissioner of Pensions from acting as Commissioner in the absence of the Commissioner.

Mr. BECK. Yes.

Mr. ALLISON. Now, if there was a deputy commissioner of the General Land Office who could discharge the duties of the Commissioner of the General Land Office in the absence of the Commissioner, it might be that the chief clerk of the General Land Office would be upon the same footing with the other chief clerks of the various bureaus; but it happens this year that the Commissioner of the General Land Office by direction of law is a member of a commission which will require most of his time probably during the next fiscal year. In his absence the law says that the chief clerk of the General Land Office shall act as commissioner; and therefore it was that the last Congress provided for an increase in his compensation; it was agreed to in both Houses; that is to say, it was agreed to by the conference committee, regarding it as an exceptional case; and the House in presenting this bill now grants the same sum, $250 additional pay.

It seems to me that this is clearly an exceptional case, and one that the committee can very fairly adopt without making it a precedent for the increase of the salaries of all the chief clerks in all the various bureaus. It is well known that the Commissioner of the General Land Office exercises very large powers and great discretion in matters relating to the public lands. He is often obliged to decide cases between private individuals involving hundreds of thousands of dollars. You ask this chief clerk to perform such duties at a salary of $2,000. I know him personally to be a very competent man for the place, and, therefore, I hope the Senator in charge of this bill will waive the amendment and allow the bill to stand as it came from the House.

Mr. PLUMB. I desire to call the attention of the Senator who reported this bill to the fact that the chief clerk of the Patent Office receives $2,250.

Mr. BECK. I desire to say to the Senator that the chief clerk of the Patent Office has always received at least $2,250, and until within the last few years received $2,500. The principal officers in the Patent Office have been reduced very much in the last few years, and their salaries were always higher than those of clerks in other bureaus; and they have complained very much of the reduction that has been made and have been before us again to be restored to the salaries they used to receive. The Patent Office is an exceptional case.

Mr. ALLISON. I ask my honorable friend from Kentucky if this is not an exceptional case, when the chief clerk of the General Land Office is required to perform the duties of the Commissioner for $2,250, when the Commissioner himself receives a salary of $4,000? Is not that an exceptional case?

Mr. PLUMB. I desire to call the attention of the Senator from Kentucky further to the fact that this bill allows a book-keeper—not a chief clerk, but a book-keeper—in the office of the Auditor of Railroad Accounts $2,400. I desire to call his attention further to the fact that the chief clerk in the office of the Assistant Attorney-General in the Interior Department receives under this bill $2,250; that the chief clerk in the Navy Department receives $2,500; that the chief clerk in the War Department receives $2,750, and so on. Perhaps it is not the best way to even this thing up to commence by increasing anybody's compensation. In fact I have seen a great many appropriations for salaries in this bill which I would prefer to have equalized by reducing them.

But I desire to say in addition to what the Senator from Iowa has said that this office I think is equally as important, and more so in my judgment than that of the chief clerk of any other Department of this Government; and if there be any very good reason for keeping the salaries of these other chief clerks at the rate they are now fixed by this bill there are a great many reasons for raising the salary of this officer.

As has been stated by the Senator from Iowa, the Commissioner of the General Land Office will be withdrawn from his place during the coming year for the purpose of performing other duties devolved on him by a law of the last session of Congress, and the chief clerk then becomes the Commissioner of the General Land Office *ex officio* and upon him devolve the very great responsibilities of that place. Whatever might be desirable as a rule—and I hope the Senator from Kentucky, when he comes to consider again the appropriation bill, will see whether some of these salaries ought not to be equalized—whatever the rule ought to be, certainly for this year the salary of the chief clerk of the General Land Office ought, for that very reason alone, to be increased. I therefore hope that the appropriation of the House bill which is stricken out by the amendment of the Committee on Appropriations will be allowed to stand at the original sum of $2,250.

Mr. BECK. The chief clerks of all the Departments of the Government, the Treasury, War, Navy, and Interior, receive $2,500 and some additional compensation as superintendents of the buildings as well; but the chief clerks of the bureaus, of which the General Land Office is one in the Interior Department, are put at $2,000 each. The chief clerk of the Bureau of Statistics gets $2,000; and in the several bureaus of the Navy Department the chief clerks get $1,800 each; in the Pension Office, the Land Office, the Indian Office, First, Second, and Third Assistant Postmasters-General's Office, and in the Foreign-Mail Office, and in the Money-Order Office, the chief clerks receive $2,000 each. The distinction is, that wherever a man is the chief clerk of a Department instead of a bureau, he shall receive $2,500.

The labor of sitting as Commissioner may or may not be onerous; it is certainly honorable, and I suppose most of the gentlemen would readily do it. Whether it would add to their clerical work I do not know. But we are charged with giving the Auditor of Railroad Accounts $2,400.

Mr. PLUMB. Not the Auditor, but the book-keeper of the Auditor.

Mr. BECK. This Congress passed an act approved on the 19th of June, 1878, creating that office, and it said:

> To assist the said Auditor to perform the duties of said office, the Secretary of the Interior shall appoint one book-keeper at an annual salary of $2,400.

And other offices, fixing their salaries for us, so that we could not avoid appropriating the sums fixed by law. Whether they fixed them too high or too low, the Committee on Appropriations were obliged to abide by the act of Congress passed on the 19th day of June last.

Mr. PLUMB. I ask the Senator from Kentucky if the appropriations named in this bill and in the appropriation bills of the last few years have been for the amounts prescribed by law for the payment of the different officers named?

Mr. BECK. None have been above the amount prescribed by law, as far as I know, and we have endeavored to cut down a good many. We have endeavored to cut down this very Auditor, in spite of the law. We have sometimes endeavored to do that so as not to give a chance to the other Departments to come and say "why put him above us." The House has taken that responsibility at times, and the

Senate has agreed to it very often; but I believe there is no instance where we have exceeded the law in payments, and there is no instance in this bill, except one or two exceptional cases, where we have not endeavored to maintain at this extra session the existing salaries of the officers, and the chief clerk of the General Land Office was one that we felt compelled to ask the Senate to allow the salary to remain as it is. I have nothing to say against the merits of the man. I have explained the only reason for our action.

Mr. PLUMB. If the law controls in reference to the salary for the book-keeper of the Auditor of Railroad Accounts, why did it not also control in reference to the salary of the Auditor himself? I do not see why if they bring all the Auditors together they do not bring all the chief clerks of bureaus together either by raising or diminishing them.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The question is on the amendment of the Committee on Appropriations.

The question being put, it was declared that the negative appeared to prevail.

Mr. HOUSTON. What is the amendment?

Mr. BECK. I ask for a division.

The PRESIDING OFFICER. The Chair will put the question again.

The amendment was read.

The PRESIDING OFFICER. The question is on agreeing to this amendment striking out "two hundred and fifty" after "two thousand."

Mr. ALLISON. I ask for a division.

Mr. DAVIS, of West Virginia. As a division is called for, I will say a word. The Committee on Appropriations endeavored to follow out the existing law and to make no advance in salaries. As has been well said by the Senator from Kentucky, this one instance involves probably between twenty-five and thirty other chief clerks. If the Senate is prepared to go over the bill and advance the salary of that number of chief clerks, then it ought to vote to agree with the House. If it wants the salaries where they are now and where they have been, then it ought to vote "ay" with the Committee on Appropriations, so as to leave the salaries just as they stand to-day. There are, as I have observed, probably twenty-five of these chief clerks of bureaus; and one-half of that number urged the Committee on Appropriations to put up their salary. I do not know that there is a head of a Department, except the Post-Office, where a bureau chief clerk's salary is $2,000, who has asked that it be increased; but the clerks themselves have made the request and have urged it, while the heads of Departments are willing it shall remain just where it is.

The PRESIDING OFFICER. The question is, will the Senate agree to this amendment?

The question being put, there were on a division—ayes 16, noes 14; no quorum voting.

Mr. BECK. Let us have the yeas and nays, because this vote will be an instruction to us on a good many other items.

Mr. HOUSTON. I understand that the amendment proposed by the Committee on Appropriations of this body will make the amount conform to existing law, and as such I am inclined, unless a better reason is offered than has been, to vote for it. It is true that in passing this bill, which becomes a law, we may change the salary of an officer; but it is the most unsafe way of establishing a salary that a legislative body could by possibility adopt. If we undertake to frame bills proposing to harmonize and equalize salaries according to the labor performed, the members of the two bodies would be entirely at sea. There is less opportunity on an appropriation bill to bring together the minds of members of the two bodies on such a matter than on any other bill; and it is, I think, the most unsafe mode of amending the law that establishes salaries to do it on appropriation bills. For instance, it is said that the chief clerks of the Departments get more than those of bureaus; and that is all proper and right. But it seems that in one case the chief clerk of one of the bureaus is getting more than others; and this is a proposition to increase the salary because of an increase of labor. That is unsafe; for as soon as this advance is made, every other chief clerk will ask for the same thing, and friends of the officer, those who desire to put him on an equality with others, (and that will be the great argument,) will say "You have raised the salary of A; now raise this one, because he does as much as the other, and it is right that they should be upon an equality as to compensation." That is a strong argument, and one that Senators generally are not disposed to resist. Therefore, if we want to adjust this whole question properly and arrive at a correct result, so as to give to each officer that to which he is entitled according to the labor he performs, we had better have that question separated from the appropriation bills, and let the appropriation bill appropriate the amount required by law until that law is changed by a proper examination on the part of members of the two Houses.

The PRESIDING OFFICER. On the question of agreeing to this amendment the yeas and nays are called for.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 19; as follows:

YEAS—31.

Bayard,	Coke,	Gordon,	Hereford,
Beck,	Davis of W. Va.,	Groome,	Houston,
Call,	Eaton,	Hampton,	Johnston,
Cockrell,	Garland,	Harris,	Jonas,
Jones of Florida,	Morgan,	Vest,	Whyte,
Kernan,	Saulsbury,	Voorhees,	Williams,
McDonald,	Slater,	Walker,	Withers.
Maxey,	Vance,	Wallace,	

NAYS—19.

Allison,	Carpenter,	Hoar,	Plumb,
Anthony,	Chandler,	Kirkwood,	Rollins,
Bell,	Conkling,	Logan,	Saunders,
Booth,	Ferry,	Paddock,	Teller.
Cameron of Wis.,	Hill of Colorado,	Platt,	

ABSENT—26.

Bailey,	Dawes,	Jones of Nevada,	Randolph,
Blaine,	Edmunds,	Kellogg,	Ransom,
Bruce,	Farley,	Lamar,	Sharon,
Burnside,	Grover,	McMillan,	Thurman,
Butler,	Hamlin,	McPherson,	Windom.
Cameron of Pa.,	Hill of Georgia,	Morrill,	
Davis of Illinois,	Ingalls,	Pendleton,	

So the amendment was agreed to.

Mr. PLUMB. I desire to move——

Mr. BECK. Will the Senator from Kansas allow me? I agreed at half past one o'clock not to ask any further consideration of the bill at present, but to allow the Senator from Minnesota [Mr. WINDOM] to proceed with the argument he designs to submit.

Mr. ANTHONY. I would suggest to my friend from Minnesota that it would be better to get through with the business part of this bill before we commence the political discussion, and if he would postpone his remarks, which will doubtless be followed by others, it would conduce to the business of the Senate.

Mr. WINDOM. I am entirely willing to postpone my remarks till two o'clock if there be no objection on the part of any other Senator.

The PRESIDING OFFICER. The Chair will recognize the chairman of the Committee on Appropriations.

Mr. BECK. I desire to say this: the Senator from Texas [Mr. COKE] has also notified me that he desires to speak to-day as soon as the Senator from Minnesota is through, and if the Senator from Minnesota is postponed until two o'clock, perhaps both cannot get through to-day, and we may lose two days instead of one. Therefore, in order to save time, both gentlemen can speak to-day if one commences now, while half an hour may make it impossible for more than one to speak to-day.

Mr. ANTHONY. They are neither of them very lengthy, and I think they can both get through to-day if we postpone the debate until two o'clock.

Mr. BECK. The Senator from Texas objects very much to postponing the beginning of the debate till two o'clock, and being required to speak to-day after the Senator from Minnesota concludes——

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. WINDOM. Mr. President, the people of this country are deeply interested in two questions.

First. Why this extra session, and who is responsible for it?

Second. What are the purposes and objects of the party that has forced it upon the country?

Having been chairman of the committee of conference which disagreed on this bill at the last session, I have had some opportunities to learn the circumstances and conditions which brought us here, and may therefore be pardoned for attempting to answer these questions.

To the first, I reply that this session was not rendered necessary by any public emergency which could not have been easily avoided. There was nothing in the condition of the country that required it; no public interest could be subserved by it. We were at peace with all the world. Resumption had become an assured success, and under the stimulus of restored confidence business had begun to exhibit the most encouraging indications of revival; our trade, domestic and foreign, was rapidly increasing; our manufactures were showing renewed activity; our agricultural interests were becoming hopeful and confident. In short, under the wise and courageous financial policy, inaugurated and maintained by the republican party, despondency and depression were rapidly giving way to hopefulness and enterprise. Nothing seemed to be needed for a complete restoration of prosperity but exemption from political disturbance.

Nor was there any necessity for the failure of appropriations at the last session. When the final disagreeing report of the conference committee was made, it was stated that every item of appropriations had been or could readily be agreed to, and that the bill could become a law without any difficulty, but for the political legislation that had been inserted by the House. The Senator from Kentucky, [Mr. BECK,] who was the democratic member of the conference, fully confirmed that statement, and will now confirm it. The report made to the House stated the same fact. Every Senator knows that the only points of disagreement, by reason of which the bills failed, were the political riders insisted upon by the House of Representatives. This extra session, with all its political turmoil, its sectional antagonism, its cost to the Treasury, and its still greater cost to the business interests of the country, is therefore wholly chargeable to the willful and indefensible attempt of the democratic party to secure a partisan advantage by unconstitutional and revolutionary means, namely—first, the attempt of the democratic majority of the last House of Representatives to usurp the constitutional rights and privileges of the Senate; second, the determination of the democratic party, as shown by its

acts and boldly proclaimed by its leaders, to subvert the constitutional equality and independence of the executive branch of the Government.

DEMOCRATIC USURPATIONS.

The Constitution confers upon the two Houses absolute equality in all matters of legislation; and our oaths require that every measure which receives our vote shall have the approval of our judgment. No Senator or member can, without violating his oath, vote for a measure which he believes to be wrong as the means of securing another which he believes to be right.

The democratic House of Representatives of the last Congress said to the Senate, "You shall agree to measures which your judgment condemns as wrong, and hence which your oath forbids, or we will stop the machinery of Government. You shall surrender the right of Congress to protect the polls from violence at a national election, or we will disband the Army. You shall surrender the power of Congress to protect the ballot-box from fraud, and thereby renounce the right of the nation to guard from pollution the very sources of its existence, or, in the name of State rights, we will once more raise our hands against its life."

To such a demand the Senate could of course make but one reply. It declined to surrender, and the bills failed. It is urged that political legislation has frequently been inserted in appropriation bills, and by republicans themselves. Very true; but that does not touch the point at issue. Nobody disputes the right of either House to attach legislation to appropriation bills, and to ask the other House to consent to it. When both Houses agree to such legislation, and it is not attached to appropriation bills for the purpose of coercing the Executive, it may be irregular, and the practice may be vicious, but it is not coercive nor revolutionary. But when one House says to the other, "You shall agree to this measure, or the operations of Government shall stop," as was said by the last House to the Senate, it becomes in the highest degree unpatriotic and reprehensible. And when both Houses combine, as in the present Congress, to coerce the President, it becomes revolutionary, and if persisted in must be destructive to our form of government. I am confident that the annals of American legislation furnish no precedents for the democratic programme announced at the beginning of this session and thus far carried out.

It has been said that Congress attempted to coerce President Johnson by attaching political legislation to appropriation bills. I reply that the republicans then had a two-thirds majority in both Houses, and being able to constitutionally pass any bill over the President's veto, the idea of compelling him to approve a measure by withholding supplies for the Government could not have occurred to anybody. Congress was indifferent whether he signed or vetoed the bills sent to him, for in either case they would become law by the two-thirds majority required by the Constitution. Hence it was impossible that legislation should then have been attached to appropriation bills for the purpose of coercion. No, Mr. President, the persistent attempt of the last House of Representatives to override the powers and privileges of the Senate, carried out to the extreme of forcing an extra session, is wholly indefensible and deserves, as it will receive, the indignant rebuke of the American people.

ATTEMPTED COERCION OF THE EXECUTIVE.

But what of the determination to coerce the President? Is it true that the democratic party brought about this session for the purpose and with the intent to subvert the equality and independence of the Executive, and thereby to destroy the evenly balanced powers of the Government, as the fathers adjusted them by the Constitution? No proposition is susceptible of more conclusive proof. Six weeks ago nobody doubted it, and so far as I am advised no democrat denied it. The programme of coercion was proclaimed everywhere by the leaders of that party. On the floor of the Senate, in the House of Representatives, and by the entire press of the country the intention to force the repeal of obnoxious laws, by means and methods unknown to the Constitution, were boldly avowed. Since then, however, the debate has disclosed the enormity of their designs; the spring elections have indicated the rising storm of popular indignation which threatens to overwhelm them, and hence the recent attempt to create an impression that no such unconstitutional proceedings were ever contemplated.

That I may do no injustice to any one I will frankly admit that this unpatriotic, unconstitutional, and dangerous programme did not originally have the approval of the wiser and better men of the democratic party. They foresaw its probable effect upon their political future, and its injurious results to the country, and if they could, they would gladly have restrained the radical and restless elements of their organization. To their credit, be it said, that the reports of their prolonged party caucus aver that they did make the attempt, but unfortunately they were in a hopeless and helpless minority, as they always are when a party policy is to be decreed. Their wiser and more patriotic counsels, after being denounced as weak and timid were overborne by the rash and revolutionary elements which constitute an overwhelming majority of the party. It is to be regretted that when thus overruled they did not unite with us in defense of the Constitution as it is, and of the best interests of the country, instead of yielding to the clamor of their unpatriotic partisans. Had they done so, they would have saved their party from the unhappy and disagreeable position from which they are now vainly trying to extricate it. But it was decreed by the elements which rule with absolute sway the counsels of the democracy, that in the proposed assault upon the rights and privileges of the Executive there should be no stragglers from the ranks. King Caucus had issued his imperial ukase, and the entire party fell into line. If there were grumblers and croakers in the ranks, or those who questioned the expediency of the assault, the country certainly did not hear from them.

PROCLAMATION OF WAR ON THE PRESIDENT.

The honorable Senator from Kentucky, [Mr. BECK,] one of the most intelligent, frank, and fearless of the democratic leaders, was the Senator selected to make the proclamation of war upon the Executive. With that unflinching courage which nearly always characterizes him, and that honesty and candor so impolitic and dangerous in a democratic leader, he announced the purpose and the programme of his party. After stating that at the extra session separate bills would be passed by both Houses repealing the laws which authorize the national authorities to protect the polls at national elections, and which prescribe a test oath for certain jurors, he proceeded as follows:

> When these three laws are submitted to the President for his approval, as they will be, and are approved by him, as they ought to be, the next Congress will in my opinion be ready to pass every appropriation bill just as it is now, adjourn, and go home without attempting before next December to perfect any further legislation. If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, which I repeat will simply be, to keep soldiers from the polls, to allow proper jurors to serve who will try cases honestly, and allow the States to control their own elections, then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of Government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. *We have the undoubted right to repeal them in any form and on any bills we choose.* Most of them were imposed upon the country as parts of appropriation bills. *Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills.*

Of course everybody understood this to be a declaration of the purpose of his party to "block the wheels of Government," unless the President would approve of the partisan political measures to be presented to him. It said distinctly to the Executive, "You shall agree to our political legislation, whether you like it or not, or we will disband the Army, close the Departments, and stop all the operations of Government." I am very sure that every Senator, on both sides of this Chamber, so understood it at the time. Several Senators at once took the floor and denounced it as revolutionary, but they failed to elicit from the Senator from Kentucky any qualification of the programme, or from any Senator on that side of the Chamber a repudiation of the proposed scheme of coercion.

UKASE BY THE CZAR OF THE CAUCUS.

So far from repudiating it, the honorable Senator from Ohio, the leader of the democratic party, and the Czar of the caucus, [Mr. THURMAN,] at once came to the front, and in an able speech insisted that the House of Representatives have the right to say, "as our forefathers in England had said to the Lords and to the King, *We will only grant supplies on condition that grievances are redressed.*"

The honorable Senator evidently did not speak of the right of the House to insist upon a "redress of grievances" merely as against the Senate, for he said:

> Perhaps no greater question, in the form we are now brought to consider it, was ever considered by the American Congress in time of peace; for it involves not merely the merits or demerits of the laws which the House bill proposes to repeal, but *involves the rights, the privileges, the powers, the duties* of the two branches of Congress and *of the President of the United States.*

The coming "struggle," as he understood and expressed it, was to be between Congress and the Executive; and the question to be decided was whether the House of Representatives, having made itself the sole judge as to what constitutes a "grievance," could clutch the nation by the throat and demand "redress," as the condition of its right to live. Profoundly impressed, as he well might be, with the gravity of the issue thus foreshadowed, he proceeded:

> Mr. President, I should approach this question, if I were in the best possible condition to speak and to argue it, with very grave diffidence, and certainly with the *utmost anxiety*, for *no one can think of it as long and as carefully as I have thought of it without seeing that we are at the beginning perhaps of a struggle that may last as long in this country as a similar struggle lasted in what we are accustomed to call the mother land.* There the struggle *lasted for two centuries* before it was ultimately decided. It is not likely to last so long here, but *it may last until every man in this Chamber is in his grave. It is the question whether or no the House of Representatives has a right to say, "We will grant supplies only upon condition that grievances are redressed."*

Evidently the honorable Senator was not talking of a coming struggle between the House and the Senate, for he said it "might last two centuries," when he knew that in twelve hours the Senate would pass under control of the same party that then ruled the House. Nor could he have understood that the programme of his party contemplated those regular, orderly and peaceable methods prescribed by the Constitution for securing the repeal of an obnoxious law, because such methods could not create a prolonged contest between Congress and the Executive. He well knew that if the democratic party had merely determined to pass their bills, present them to the President for his approval or rejection, and then submit, as in duty bound, to the exercise of his constitutional power, there was nothing in the question to awaken his "anxiety" or lead to the apprehension of any serious difficulty. He knew that the Constitution so clearly prescribed the method of settling all questions between co-ordinate branches of the

Government, that a protracted struggle such as he spoke of would be impossible, unless somebody proposed to inaugurate proceedings in violation of that instrument. He certainly could not doubt the constitutional right of the President to veto any bill which his conscience, or his judgment, should not approve. Pray tell me, then, from what source he expected trouble and what it was that overwhelmed him with "anxiety," and inspired that "very grave diffidence" so unusual with him?

Ah! sir, he knew the President could not approve the bills that would be sent to him, and he knew also that in the event of his failure so to do the democratic party had resolved to coerce him into submission to its decrees. He well knew the turbulent and revolutionary tendencies of his party, the reckless elements that control it, and the determination it had reached to overthrow the equality and independence of the Executive, as a means of securing its partisan ends, and hence he foresaw the struggle which filled him with "anxiety," and which he thought might "last until every man in this Chamber is in his grave."

If any man was fully advised as to the intentions, purposes, objects, and caucus decrees of his party, that man was the honorable Senator from Ohio, the Vice-President *pro tempore* of the Senate and chairman of the democratic caucus. His announcement of its revolutionary programme may therefore be taken as conclusive, without any further evidence.

I have quoted the Senator from Ohio, not because his declarations were stronger, or more conclusive on this point than those of his associates on that side of the Chamber, but because he is understood to be the oracle, through whom alone can be authoritatively revealed the hidden things of that secret democratic conclave, which is higher than Senates, and mightier than Congresses, which has already usurped the power of both Houses, and now seeks to subvert the Constitution itself.

OTHER EVIDENCES OF COERCION.

Other evidence on this point is abundant, if any more were needed. The very fact that partisan political legislation was inserted in the appropriation bills, under the existing circumstances, and after the threats of coercion that had been made, was of itself a menace, and was so understood by the President and by everybody else.

During the discussion of these measures in the closing hours of the last Congress I said to a leading democratic member of the House of Representatives: "I cannot understand why your House is determined to defeat these bills and force an extra session. There will be no election at which the laws you seek to repeal can apply until after the next regular session, when you will have ample opportunity to make your issue with the President. Then, why not strike out this political legislation, let the bill pass, and make your fight in December?" His reply was, in substance: "If we pass these bills the Government will be provided with money until the 30th of June, 1880, and can then manage to get along in some way without appropriations until after the elections in November; but if these bills fail, the supplies will stop on the 30th of June, 1879." The Government might possibly get along without money four months but it cannot for sixteen months.

In this frank and truthful answer will be found the cause of this extra session, and the animus and purpose of the party that forced it upon the country. They were afraid that four months' starvation of the Government would not coerce the President into submission to their designs, and therefore they determined to take it by the throat at once and demand a surrender on pain of sixteen months' starvation.

What did they care for the honor, the peace, or the business interests of the country when these stood in the way of a supposed party advantage? A partisan object was to be gained, and gain it they would at all hazards and at any cost.

Mr. MORGAN. I should like to ask the Senator if he will state the name of that member of the House of Representatives?

Mr. WINDOM. I will give the Senator the name privately; I do not care to mention it here.

Mr. MORGAN. If it was a private conversation I do not inquire into it.

Mr. WINDOM. It was in a committee-room, and was not private.

Mr. MORGAN. It was either a private conversation or we are entitled to the name, I think.

Mr. WINDOM. That substantially was said by the chairman of the House committee of conference, [Mr. ATKINS,] if the Senator wants to know the name. I may not quote his exact words, but I do quote the exact substance of what he said to me on that occasion. I could not at the time understand why it was that as no election would be held until after the next session, we could not pass the bills and have this controversy at the regular session; and hence this explanation.

ASSAULT UPON THE ELECTION LAWS.

Mr. President, what *are* the laws which provoke such furious indignation? One of them protects the ballot-box from *violence*, the other guards it against *fraud;* one would secure a *peaceful* ballot, the other would keep it *pure*. Why is it, then, that you have massed all your forces against these defenses of a free and honest ballot? Why this frantic assault upon the election laws? Is there no other "grievance" to be redressed, no other mischief to be undone? After twenty years of republican rule, can you find nothing to do on your accession to power but tear down the safeguards erected against fraud and violence at the polls? You have told the people how their industries are languishing for want of your care; how they are oppressed by wicked tariffs, by vicious financial legislation, by republican extravagance and corruption, by burdensome and unjust taxation, by grasping monopolies, and by a thousand other things which you promised should be cured as soon as you came into power in Congress. You have been in session six weeks, with power to do as you please in both Houses. Why is it that you have wholly forgotten the distress of the people, which once so moved your gushing sympathies? Why is it that now you do not so much as touch their burdens with one of your little fingers? You have made the most desperate efforts to banish peace and purity from the polls, but you have done and said absolutely nothing about taxation, tariffs, finances, or monopolies. You have even forgotten the stale charge of republican extravagance, and have made no effort to curtail expenditures, nor to reduce taxation. No one on either side, except the honorable Senator from Illinois—the independent party—has uttered one word in behalf of our depressed industries; and even he has failed to make a single practical suggestion on that subject. Your war upon the Executive is not to wrest from that department some concession for the relief of a suffering people, but to compel him to join your raid against peace and purity at the polls. You have done nothing, and you propose nothing, in behalf of commerce, agriculture, manufactures, or any of the great industrial interests of the country, which you have said were languishing for your tender care. You act, and talk, as if the beginning and the end of your mission, is to tear down and destroy forever the only national defenses of the ballot-box.

Occasionally we hear from your camp the clamor of a greenbacker, like the voice of one crying in the wilderness, imploring you to redeem your pledges to aid him in defeating resumption, but his appeals are lost in the din of your assault upon the election laws. Why is all this? Who has asked the repeal of those laws? Surely not the men who want an honest ballot, a fair count, and a true return, for the existing laws promote all these. No petitioner has asked such repeal. No congressional, State, or national convention has demanded it. And yet you ignore all the great issues on which you were elected, and propose to revolutionize the Government itself, in order to compass this one supreme object of your desires.

An anxious and indignant people may well ask, as they are now asking, What does all this mean? What is the underlying purpose that inspires and directs this movement? I will answer these questions as briefly as possible, and in as plain language as I can command.

THE NEW REBELLION AGAINST NATIONALITY.

That purpose was, and is, to denationalize this Nation, to convert it into a mere confederacy of States, and under the new name of "Home Rule," to crown the old secession doctrine of "State sovereignty" with supreme power over the destinies of the Republic. In other words, it is an attempt to do by legislation, what four years of bloody rebellion failed to do by the sword, namely: to destroy our nationality. Or, to state it still more concisely, it is an effort to recover the "lost cause."

I do not forget the fact, that to the vicious elements which infest our great cities at the North, which make up the bands of ruffians who terrorize the South, and which dominate the political counsels of the democratic party, the "right" of *free mobs*, and *free frauds* at the polls, is as dear as is the principle of State sovereignty to the better portions of that organization.

This raid upon the election laws is, therefore, peculiarly adapted to command the sympathy and support of the entire party. It commends itself to the State-rights element, because it stabs the national authority at its most vital point. It inspires the zeal of its ignorant and vicious elements, because it promises to remove all the barriers against fraud and violence at the polls. The purpose of the movement, therefore, is twofold: first, the assertion of "State rights," in the baldest and most dangerous form; and, second, the overthrow of all the defenses to a free and honest ballot.

The hope of advantage to the party, by uncovering the ballot-box to ruffianism and dishonesty, doubtless has some influence; but beyond all this, underlying, inspiring, and directing the assault upon the election laws, was and is the one absorbing, controlling, inflexible purpose to destroy the *nationality* of this Republic, and to substitute, in its stead, the fatal heresy of *State supremacy* and *national dependence*, which so recently ripened into secession, rebellion, and blood.

Around this one central, supreme purpose, as about the principal figure in a painting, are grouped as mere instrumentalities, subordinate means to a great end, all the leading measures of the democratic party. However that organization may disagree about "hard money" or "soft money," "high tariff" or "low tariff," "subsidy" or "anti-subsidy," on this one vital point they never differ. Upon all other questions the democratic church tolerates the widest latitude of opinion. The incendiary communist and the aristocratic conservative, the wildest inflationist and the very prince of bloated bondholders, all find a home in her ample folds; but on this essential tenet of party faith, he "who doubts is damned." North and South, East and West, in peace and in war, in victory and in defeat, the faithful democratic believer worships at the shrine of "State sovereignty." Facts and arguments are powerless to convince him of his error. Treason and rebellion against his country have failed to shake his adhesion to this supreme article of his creed. The only exception he ever tolerates is when the National Government "enters a State," as he calls it, with an appropriation, but without the old flag.

STEPS TAKEN FOR ITS ACCOMPLISHMENT.

Keeping in mind this central and ever dominant purpose, let us glance at some of the steps taken for its accomplishment. As "all roads lead toward Rome," so it will be seen that all the lines of democratic policy converge toward this one object.

This hasty review will not permit me to go back to the *ante bellum* times, when the National Government was regarded by the democracy as a sort of bloodhound, to be securely kenneled within the District of Columbia, or chained in forts and arsenals, but on no account to be permitted to "enter a sovereign State," unless turned loose to hunt down some fugitive from slavery. Nor can I dwell upon the four years of war when, as everybody knows, the democratic party at the South, with the full sympathy, if not the approval and co-operation, of a large portion of that party at the North, fought in vain to overthrow *nationality*, and to establish upon its ruins the sovereign and supreme right of any State to dissolve the Union at its own will and pleasure. I might draw many valuable lessons from this painful period of our history, but a reference to it is so distasteful to our political opponents, and withal so shocking to their nerves, that from my tenderness of heart I will refrain, at least for the present.

If there is one thing which more than another will freeze the blood of northern democrats, and make

Each particular hair to stand on end,

it is the ghost of those ghastly years, when the fatal heresy of "State rights" produced its natural and inevitable results. They call that period the "dead past," possibly because of the harvest of death then garnered by their policy. They are anxious to forget that part of their own record, and still more anxious that other people should forget it. No wonder. Had we such a record we would pray for forgetfulness also.

DEMOCRACY DURING RECONSTRUCTION.

Passing from the bloody efforts of the democracy to assert State supremacy by rebellion, I come next to the period of reconstruction. When the war closed, it was believed, that if anything had been settled, it was our *right to be a nation*, and if anything had perished forever in the fiery blasts of civil strife, it was the pernicious doctrine of State supremacy and national impotency. It was the latter theory of government for which the rebellion was inaugurated and maintained. In its defeat it was called the "lost cause;" but I assert, without fear of contradiction, that from the surrender at Appomattox until this hour, no leading southern democrat has ceased to expect the substantial recovery of that "cause," and no prominent northern democrat has failed to exert his influence for its accomplishment.

Time will allow only a few representative illustrations from the uniform testimony of their acts and speeches on this point during that period.

When the constitutional amendment abolishing slavery was pending in the House of Representatives in 1864, and before the close of the war, the honorable Senator from Ohio, [Mr. PENDLETON,] then a member of the House, sprang to the rescue and, throwing the shield of State rights over that accursed institution, defied the power of the nation to touch it.

But—

Said he—

neither three-fourths of the States, nor all the States save one, can abolish slavery in that dissenting State, because it lies within the domain reserved to each State for itself and upon it the other States cannot enter.

Whether the honorable Senator still believes that slavery could not be abolished without the consent of the States interested, and therefore has not been abolished at all, I do not know; but it is certain that he struck the key-note of democratic faith on that subject. For several years the issue between the two parties was on that very point. It continued to be the issue, until the verdict of the people compelled our opponents to acquiesce in their constitutionality, reserving the right, however, to *construe* them as they pleased.

The next step was to deny the constitutionality of the reconstruction acts which were passed in conformity with the amendments. These, too, were declared to be void, because a usurpation of "State rights." The democratic national convention of 1868 declared:

We regard the reconstruction acts (so called) of Congress as usurpations, and unconstitutional and void.

These words were inserted in the platform by the honorable Senator from South Carolina, [Mr. HAMPTON,] who in a subsequent speech was reported to have said:

That was my plank in the platform. I *wanted nothing else*, for when the great democratic party had pledged themselves to that, when they had declared that these acts were *unconstitutional, revolutionary, and void*, I was willing to wait in patience until that party would be triumphant and apply the remedy in their own good time.

The meaning of these words which committed the party to all the gentleman wanted, and the "remedy" for which he waited, had been indicated by himself, a month or two before the convention, when at an alumni supper he is reported to have given the following toast:

Our fallen heroes: I do not believe they have fallen in vain. The cause for which Jackson and Stuart fell cannot be in vain, but in some form will yet triumph. I propose the "lost cause" for which our heroes fell.

When the gentleman declared that "the great democratic party had pledged themselves" so fully to his policy that he "wanted nothing else," he evidently meant that they had pledged themselves to the restoration of the "cause for which Jackson and Stuart fell." and the triumph, for which he waited, was the triumph of "State rights." He did not misconstrue the purpose of his party. It stands pledged to-day to the same thing, and this struggle is an effort to redeem its pledge.

Another mode of asserting the doctrine of State rights, very popular for several years with the democracy, was well expressed in a speech which the newspapers, a few years ago, credited to the honorable Senator from Georgia, [Mr. HILL,] who so vigorously asserted his "State-rights" Unionism day before yesterday. I regret the Senator from Georgia is not in his seat, because he gave us such a vivid view of his Unionism during the war, even his prayerful Unionism when a member of the confederate congress, that I should like to know whether the speech credited to him at that time is true or not. It was published in the papers at the time, and I have not any doubt of its truth. I say I have no doubt of its truth; I mean I took it as an ordinary newspaper report of a speech, and it is so like the honorable Senator, so full of eloquence, that it bears the marks of its paternity. His fiery eloquence was reported as follows:

When liberty shall return, when the law shall be again respected and good men shall be again our rulers, we must gather all the journals and constitutions and enactments of every character of the conventions and assemblies thus forced upon us by force and fraud and usurpation, and, catching a fire from heaven, burn them up forever! And right here, my countrymen, I want you to understand that I am a candidate but for one office on earth. [Several voices—"name it and you shall have it."] When the glorious day shall come, and the free women and the free men and the proud youth of Georgia shall gather together to fire the miserable, hideous record of infamy, let the office be mine to kindle the flames!

Mr. President, this may be termed the incendiary method of asserting State rights. It was akin to that proposed by the democratic candidate for Vice-President, (F. P. Blair,) who in 1868 declared:

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts—

The reconstruction acts—

null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments and elect Senators and Representatives.

The party made this revolutionary policy its own within a few days after its utterance by nominating and voting for its author to fill the second place in the Government. But none of these methods proved successful. The constitutional theories of the Senator from Ohio, the party platform of 1868 drawn by a mourner for the "lost cause," the incendiary policy of the Senator from Georgia, and the revolutionary programme of Frank P. Blair, all had their day of ascendency in the democratic party, but were all in their turn rebuked and crushed out by the people.

HOW THE "LOST CAUSE" WAS TO BE RECOVERED, WITH NEW SECURITIES.

It was reserved for the ex-vice-president of the confederacy, in a speech before the Georgia Legislature, February 22, 1866, to announce the successful programme for the recovery of "all that had been lost in the civil war, *with new securities*." He said:

We are not without an encouraging example on this line in the history of the mother country. * * * The truest friends of liberty in England once, in 1642 abandoned the forums of reason and appealed, as we did, to the sword as the surest means, in their judgment, of advancing their cause. * * * But the end was the reduction of the people of England to a worse state of oppression than they had been in for centuries. They retraced their steps. * * * The *House of Commons and the House of Lords were henceforth the theaters of their operations. * * * The result was that in less than thirty years all their ancient rights and privileges which had been lost in the civil wars, with new securities, were re-established.*

* * * * * * * *

May we not indulge hope, even in the alternative before us now, from this great example of restoration, if we but do as the friends of liberty there did.

The triumph of Statehood and the humiliation of Nationality were to be decided by a transfer of the "theater of operations" from the bloody fields of treason and rebellion to the House of Representatives and the Senate. But how this was to be accomplished was a troublesome question. The friends of nationality and of the constitutional rights and privileges of the States were in a majority, and so long as their will could find expression at the polls the national defenses would be complete and impregnable. They would defend by their ballots what they had won by their bullets. Something must be done to prevent this expression at the polls. Congress must be captured at all hazards, and to this end the South must be terrorized and the North must be cheated.

The new movement for a change of the "theater of operations" took the name of "Home Rule," the old name, "State rights," having become so blood-stained and crime-blackened as to be no longer available. Under that banner was begun, and ever since has been maintained, a system of cruelty, fraud, terrorism, violence, and murder, without a parallel in any civilized nation on the face of the earth. Its object and purpose were to prevent the expression of republican sentiments at the South, and to render an honest election impossible at the North. The crimes of this movement are not sectional. They lie at the door of the democratic party. Southern democrats inaugurated intimidation and violence as a means of carrying elections and of solidifying the South, but their northern allies have always been prompt to encourage, excuse, and profit by these methods. On the other hand, northern democrats are entitled to the distinction of having inaugurated *free frauds at the polls* on a grander scale than, prior to 1868, had been dreamed of by their southern friends.

SUCCESS OF THE PROGRAMME.

Thus far the policy suggested by Mr. STEPHENS has certainly been

a success. Free speech has been suppressed. Republican majorities have been silenced throughout the South. The ballot no longer expresses the freeman's will, but the will of the "rifle club," the "white-liner," and the "kuklux." The results seem to have been all that could have been desired, and more than could have been expected, by the ex-vice-president of the Confederacy. Already the "theater of operations" has been transferred to the Senate and House of Representatives of the United States! Already the burdens and the degradations of slavery have been re-established, but without the responsibilities which that system imposed! Already the enfranchisement of the negro has been perverted into an increased power to his oppressor, while the lash and the auction-block have been exchanged for the rifle and the gallows! Already colored citizens are flying from the terrors of democracy, as bondmen once fled from the miseries of slavery! Already the men who fought to destroy the *nation*, in order that they might establish upon its ruins the doctrines of State rights and secession, control both Houses of Congress, and the entire democratic party, under the banner of "Home Rule," is once more assaulting in solid column the last defenses of nationality, the ballot-box!

Unable to restrain its impetuosity within constitutional bounds, the democratic majority has already forced upon the country this extra session, for the avowed purpose of coercing the Executive into the approval of measures, designed to paralyze the right arm of the nation and render it powerless to defend its own existence. Have not the "ancient rights and privileges" which were "lost by civil war" been already "re-established *with new securities?*" If not, pray what more do you want? Speak freely, for the democratic party, like King Herod, is so pleased with your dance of death that it stands ready to swear:

Whatsoever thou shalt ask of me I will give it thee, unto the half of my kingdom.

The "new securities" now demanded are, that Congress shall renounce all right to exercise the powers granted by the fourth section of the first article of the Constitution of the United States, namely, to "regulate" the "times, places, and manner of holding elections for Representatives," &c.; that the National Government shall surrender its constitutional right and powers to protect its own citizens at its own elections, and by such surrender proclaim its absolute dependence upon the will of the States—its sovereign masters—for the right to exist.

It is to accomplish this that you have said to the President, "Surrender to our demands or the Government shall starve." For this we are in extra session. For this you invoke sectionalism and party strife. For this you ignore all the great material interest you have promised to promote. Never, since you sought to destroy by fire and sword, have you so boldly proclaimed your purpose to subvert the nationality of this Republic, as you do by the issue thus tendered.

THE ISSUE ACCEPTED.

In the name of the American people, we accept that issue and welcome the contest. They believe that the great lesson taught by the rebellion was, that ours is a *nation*, existing not at the mercy of corporations known as sovereign States, but by the imperial will and pleasure of the *sovereign people* of the United States, who ordained and established its Constitution. They have not so soon forgotten that lesson. The Constitution which they revere, and will maintain and defend, gives to the United States the same right to defend itself at the ballot-box, as on the battle-field. They know that the doctrine of secession itself was not more fatal to nationality than is your doctrine, that Congress cannot and shall not, under any circumstances, provide for the defense of a free and a pure ballot; for they know that a government which is impotent to protect its own purity is powerless to protect its own life. In their righteous indignation, they will grind to powder the party that seeks to break down those defenses in order that it may pollute the sources of political power. Consider a little more specifically the recent proofs of this purpose.

DON'T LIKE THE ARMY.

No sooner was that party installed in the other House than it declared war upon the Army of the United States. Its very uniform was an emblem of national power and authority which was intolerably offensive to the votaries of State rights. It had also once made itself extremely inconvenient, not to say disagreeable, to the ruling element of that majority, and hence it must be crippled and weakened, or else be reorganized in the interest and under the control of those whom it had so grievously offended. In pursuance of this purpose, the democratic House of Representatives of the Forty-fourth Congress demanded as a condition of appropriations to support the Army, such reductions and restrictions as would have practically destroyed its efficiency and rendered it powerless even to protect the exposed frontier. Failing in that demand by reason of the opposition of the Senate, they adjourned without making any provisions for its support, though they knew an Indian war was then in existence and that general Indian hostilities were threatened and anticipated.

The Forty-fifth Congress renewed the assault, but in a somewhat different form. It sought, the first, to render the Army powerless to protect any citizen, under any circumstances, except those which were wholly impracticable. The *posse comitatus* clause was the result of that effort, under which, as the Senator from Nebraska [Mr. PADDOCK] has shown, if Indians come into any of the border States, such as Kansas, Nebraska, Minnesota, Oregon, or California, to rob, steal, and murder, the Army dare not aid the civil authorities to resist and punish them. When urged to do so by a number of citizens of Nebraska, General Sherman replied:

I recognize the great importance of protecting and encouraging the growing and most valuable cattle interest in Nebraska; but, with the most profound respect for yourself and for Congress, do not see how soldiers can do impossibilities with both hands and feet tied. Should Indians or white desperadoes come into Nebraska from the Indian country north, you make it a fine of $10,000 and imprisonment for two years if the soldiers help your sheriff. Now our officers do not usually have $10,000 handy about them, nor do I feel disposed to advise them to spend a couple of years in your penitentiary by trying to help your sheriff to arrest and punish these horse and cattle thieves.

ASSAULT UPON A PEACEFUL BALLOT.

At the last session, grown more bold by the near approach of power in the Senate, the House of Representatives openly declared the purpose of the party to subordinate the Nation to the State, and to reduce the former to the condition of absolute dependence upon the latter; to banish every vestige of national authority from national elections, and destroy every congressional barrier which had been erected to protect the peace and the purity of the ballot. The majority in the present Congress has thus far faithfully adhered to that purpose. For proof of this let me briefly review your action on the Army bill and on the one now pending.

In searching the Revised Statutes for some assertion of hated nationality, or some obnoxious safeguard for a free and peaceful ballot, the democratic eye fell upon section 5528, which seemed to embrace both of these intolerable characteristics; a section which was passed by a republican Congress, but voted for by the democrats in both Houses and approved by Abraham Lincoln; a provision not enlarging the uses of the Army, but limiting and restricting such uses as had been authorized under the statute signed by George Washington. Let me read it:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States *or to keep the peace at the polls*, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

"To keep the peace at the polls!" What a crime! And yet no punishment provided. Why, sir, this clause might authorize the nation, in some hour of extreme necessity, to defend its own life at the ballot-box! It might be used to prevent the repeater from voting as early and as often as he pleases, or even to wrest from the ruffian his most cherished prerogative of employing the persuasive influence of slung-shot, bludgeon, or shot-gun upon his political opponents! A provision so obnoxious to the State-rights democracy, so menacing to the cherished privilege of *free mobs* at elections, and so fraught with danger to the success of the party, could not be tolerated for a moment. True, it had been on the statute-book for fourteen years, and nobody could name an instance in which it had been used to interfere with the rights of any voter, or in which the Army had been near the polls since the close of the war, yet in its presence the democracy, North and South, grew livid with rage. It must be repealed at once, and at any cost. It could not even wait the regular session, nor the orderly and lawful methods of repeal prescribed by the Constitution. Rather than risk a peril so great, the country must endure an extra session, the constitutional powers of the Executive must be overthrown, the Constitution itself must be defied, revolution must be inaugurated, the Army must be disbanded and the frontier exposed to the merciless savage! Any cost must be incurred, any peril must be braved, rather than endure an hour longer this menace to democracy, which glared from the pages of the statutes, through the terrible words "to keep the peace at the polls!"

If these words could be stricken from the section it would become a crime punishable by $5,000 fine and "five years' imprisonment at hard labor" for any person in the service of the United States (whether civil, military, or naval) to employ armed force (whether soldiers or *citizens*) to restrain or repress an armed mob at an election. The gravamen of this new "crime" you propose to create is twofold: first, being "in the service of the United States," and, second, "keeping the peace at the polls."

NOT FEAR OF SOLDIERS BUT HATRED OF NATIONALITY.

The speeches of gentlemen on the other side were mainly directed to the dangers of military interference, but knowing that resistance to "*free mobs*," by the *civil* authorities of the United States, was equally distasteful, and that the Army was thrust into the foreground because it was supposed a popular prejudice could thereby be aroused, I moved to strike from the penal section the word "civil," so as to exclude civil officers and citizens from the extreme penalties imposed for the "crime" of resisting ruffianism and violence at elections. This was defeated by the unanimous vote of the democratic majority, thus demonstating the fact that, after all, it was not because they wished to exclude soldiers from the polls, but because they were determined to banish the national authority in whatever form it might present itself.

A CRIME TO KEEP THE PEACE, BUT NOT TO BREAK IT.

By a unanimous party vote against the amendment of the Senator from Maine, [Mr. BLAINE,] you declared that your purpose in creating this new and hitherto unheard of "crime," was not to punish armed men for coming to the polls, but only to punish them for coming

there "to keep the peace" and to aid in securing an honest ballot. That amendment reads as follows:

At the end of section 6 to add the following words: "And any military, naval, or civil officer, or any other person, who shall, except for the purposes herein named, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where a general or special election for Representative to Congress is being held, shall, on conviction, be punished with a fine of not less than $500 nor more than $5,000, or with imprisonment for a period not less than six months nor more than five years, or with both fine and imprisonment, at the discretion of the court."

Thinking that you might have voted down this proposition, because you believed the presence of persons at the polls, "armed with deadly weapons," does not of itself constitute a crime, provided always, that they do not come with the wicked and felonious intent to "keep the peace," and desiring that your action should not be misunderstood, I offered the following amendment, to be added at the end of section 6:

And any person who shall, with intent to hinder, obstruct, or prevent the free exercise of the right of suffrage, appear armed with a deadly weapon of any description, either concealed or displayed, within a mile of any polling place where an election for Representatives in Congress is being held, shall, on conviction thereof, be punished by a fine of not less than $500 nor more than $5,000, or with imprisonment not less than six months nor more than five years, or with both such fine and imprisonment, in the discretion of the court.

By this amendment a case was presented which could not be misunderstood or explained away. It plainly proposed that persons who, "armed with deadly weapons," shall come to the polls for the *avowed purpose*, and *with the intent to prevent the free exercise of the right of suffrage*, shall be punished by the same pains and penalties, which you had provided for *armed citizens*, who shall come there for the purpose and *with intent to keep the peace*. You said this should not be done. It was intended by this amendment to prevent the ruffians and cutthroats of New York, Cincinnati, and other great cities, and the rifle clubs, kuklux, and red shirts of the South from taking possession of the polls, and by terrorism and murder excluding peaceable citizens therefrom. To my utter amazement, your unanimous vote rejecting that amendment declared "they shall not be hindered in their work of intimidation and violence by any act of ours. The penalties of our laws shall be aimed at the men who '*keep the peace*,' not at those who *break* it. In our criminal code it shall be a felony to protect the ballot-box, but not to desecrate it by violence and blood."

I will do the honorable Senator from Delaware, [Mr. SAULSBURY,] whom I do not now see in his seat, the justice to say that he seemed to appreciate the record he was about to make, and that he put his own vote and, so far as he could, the vote of his party, upon the broad and statesman-like ground, that the amendment was offered by a republican, and therefore could not be supported, however meritorious it might be. That was probably the first time such a reason was ever urged in the Senate of the United States, as it is doubtless the first time in the history of this or any other parliamentary government, that an army bill appropriating $25,000,000 was passed by the committee, and the Senate, without amendment and in pursuance of a decree from an irresponsible party conclave, that no amendment should be permitted. I venture no unkind criticism upon the caucus committee, under whose direction this thing seems to have been done. A half century ago the poet said:

> There must be government in all society.
> Bees have their queen, and stag herds have their leader;
> Rome had her consuls, Athens had her archons,
> And we, sir, have our managing committee.

Having done what it could to tear down and destroy all the defenses which have been erected to secure a *free* and *peaceful* ballot, the "managing committee" continued its search through the Revised Statutes, for any remaining assertions of national power, or legislative protection for a *pure* ballot and an *honest count*.

ATTACK UPON THE DEFENSES OF A PURE BALLOT.

The indignation and alarm produced by the discovery of section 5528, to which I have just referred, was greatly intensified by the threatening details of section 2011 and the several succeeding sections of the act providing for the protection of the elective franchise. These sections have been so often quoted in this debate that everybody is familiar with their provisions. They merely authorize the United States courts, upon the application of citizens, to appoint, in cities or towns having upward of twenty thousand inhabitants, "two citizens, residents of the city or town, or of the election district or polling precinct, in the county or parish, who shall be of different political parties, who shall be able to read and write the English language, and who shall be known and designated as supervisors of election." These non-partisan supervisors have power to scrutinize the register, to challenge votes, and require evidence of legality, to be present during the election, to supervise the counting of votes, and to see that the election is fairly and honestly conducted and the returns truly made. The act also empowers the United States marshal and his deputies to—

Keep the peace and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat or fraudulent conduct on the part of any officer of election, * * * and to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein. And when any arrest is made under the provisions of this title the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States, for examination of the offenses alleged against him. * * * But no person shall be arrested without process for any offense not committed in the presence of the marshal, or his general or special deputies, or any of them, or of the supervisors of elections or either of them.

There are other details, all designed and intended to protect the honest citizen in an honest vote, but I believe this brief abstract embraces the most offensive features of the act sought to be repealed by the pending bill. It was for the purpose of compelling the Senate to repeal these provisions that the last House of Representatives refused to make appropriations for the legislative, executive, and judicial service of the Government. And it is to coerce the President into an approval of such repeal that we are now in extra session. Rather than permit the civil officers and the courts of the United States to aid in securing an honest registration, a fair election, and a true return, the decree has gone forth that the entire machinery of Government shall be stopped.

True, there are no terrible soldiers lurking in these sections to shock the nerves of our friends, but there is the same intolerable and hateful assertion of nationality through the civil authorities. True there is not a very adequate provision for resisting armed ruffianism and preserving the peace, but there is the not less offensive menace to the ballot-box stuffer, the repeater, and the tissue-ballot manipulator. This is no more to be tolerated than is the peril to American liberty by the presence of one-fourteenth part of a soldier among a thousand people. To tell the plain truth, in plain Anglo-Saxon, it is a well-known fact that without these faithful adjuncts to democracy, in the cities of New York and Cincinnati, that party cannot hope to carry the States of Ohio and New York, and without those States there will be no possibility of grasping executive power.

Right here will be found the grand secret of this entire assault upon the election laws. It is far more important, from the partisan stand-point, to uncover the ballot-box in the great cities of the North than to exclude soldiers from the polls at the South. In fact, the South cares nothing for the repeal of these laws, except in the recognition of State rights and the surrender of nationality, which such an act implies. That is, however, the most cherished object of her desires. She has a way of her own to carry elections. Having the liberty to vote as often as they please themselves, and to shoot down those who may differ from them, the democracy of the South find but little difficulty in solidifying that section. And yet they are not happy, because a solid South will avail nothing unless a portion of the North can be captured. That will be impossible, so long as these laws stand in the way, grimly guarding the purity of the ballot.

DEMOCRATIC EULOGY UPON THE ELECTION-LAWS.

Mr. President, to show you the beneficent effect of these laws, and also what was thought of them, before the caucus decree went forth to clear away all obstacles to party success in 1880, I will read an extract from a report made to the House of Representatives by a democratic committee composed of Hon. S. S. Cox, chairman, Hon. A. V. Rice, and Hon. A. M. Waddell. That committee was appointed for the express purpose of investigating the operation of these laws in the city of New York, and elsewhere, at the presidential election of 1876. Speaking of the election in New York, they say:

Whatever may be said about the United States law as to elections or their supervision by United States authority; whatever may be said as to the right of a State to regulate in all ways such elections, *this must be said, that the administration of the law by Commissioners Davenport—*

He is the horrible ogre that we have heard so much about—

*Muirhead, and Allen, the United States functionaries, and their subordinates, was eminently just and wise and conducive to a fair public expression in a presidential year of unusual excitement and great temptation. * * * It was intended to provide not only against fraudulent votes, but that no person really entitled to a vote should be refused. The political organizations concurred with Mr. Davenport in this arrangement. It proved a decided success*, and the result was, what all who have any knowledge of this New York election have concurred in confirming, that there was comparatively no fraud, and the attempts made to repress it were welcomed by both parties and carried out in good faith.

* * * * * * *

A PATTERN FOR IMITATION.

The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities acting in harmony for an honest purpose. In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions.

That is what the democratic committee thought of it two years ago. They proceed:

Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the electoral franchise.

From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence.

A CURIOUS COINCIDENCE.

This report was made only two years ago, and yet, strange to say, the raid upon this "remarkable system," which had worked such a wonderful transformation in New York, began in the House of Representatives about the same time. Can it be that this assault upon that "system" found its inspiration in that report? Is it possible that the fiery indignation, exhibited against those laws, was kindled by the revelation that they had been the means of rendering an election moderately honest, in a city which only a short time before had cast 60,000 fraudulent democratic votes? Was the report of the honest results achieved, by that system, a shrewd device on the part of the democratic committee, designed to array the party against it? I cannot answer these questions, but the coincidence is certainly re-

markable. The political philosopher who may desire to trace the relation between cause and effect, in this coincidence, will be aided by the following brief extract from said report:

The committee beg to state, with some degree of pride, and to repel all statements to the contrary, that the first report *only* showed *four thousand* cases of attempts at fraudulent registration during the first two days of the registration, and *some seven or eight thousand in all.*

"*Only* some seven or eight thousand attempts at fraudulent registration." Seven or eight thousand democrats deprived of the ancient privilege of casting a fraudulent vote! What a profligate waste of strength! What a field of usefulness closed! What possibilities of party success thrown away! Of the sixty thousand heroes who, in 1872, braved the terrors of the penitentiary to cast a fraudulent democratic vote, this peeled and scattered remnant of "*only* seven or eight thousand" survived in 1876! Persecuted, hounded, and panic-stricken, by the usurpations of these hired minions of a government, which thus ignores and tramples upon the sacred and inalienable right of *free frauds* at the polls, those poor fellows have no longer the courage to even make the "attempt at fraudulent registration!"

SYMPATHY FOR THE PERSECUTED.

Contemplating their sorrow and degradation, and painting in the vivid coloring of his own inimitable imagination the usurpations which have humbled and broken their proud spirits, the honorable Senator from Indiana [Mr. VOORHEES] gave vent to the gushing emotions of his party in this strain of fervid eloquence:

What a spectacle is here presented!

* * * * * * *

Have the people consented to such an unspeakable degradation as this? Have they in fact become slaves in spirit, and willing to receive the yoke of their overseers? Sir, I do not believe it.

* * * * * * *

Here at last we behold the citadel of free government stormed and taken. The enemy is placed by these provisions inside of that sacred bulwark of freedom for whose erection and defense the best blood of the world has streamed in torrents on the battle-field and under the dripping ax of the executioner.

* * * * * * *

I call upon my countrymen to awaken, for the hour of mortal peril to their institutions is here. What has happened in New York has happened elsewhere, and may happen everywhere. Shall the laws which make such scenes possible remain in force?

I can assure the honorable Senator that his countrymen are wide awake, and that they most fully appreciate this "mortal peril to their institutions." They have firmly resolved that "what has happened in New York" *shall* "happen everywhere," until scoundrelism shall be banished from the polls and an honest ballot shall express the will of an honest people throughout the length and breadth of this land.

A BILL TO PROHIBIT KEEPING THE PEACE AT THE POLLS.

Failing in the first effort to compel the President to surrender the right and power of the nation to defend itself at the polls, the assault has been renewed in another form. The Army appropriation bill has been laid aside to await his action on the political bill recently sent to him, which by a freak of imagination you have entitled "A bill to prevent military interference at elections." I have seen a statement that when it was first proposed in the caucus it was truthfully entitled "A bill to prohibit keeping the peace at the polls."

It might have been very properly entitled "A bill to surrender the national right of self-protection and to compel the President to violate his oath of office." He has sworn that he "will faithfully execute the office of President of the United States." The Constitution says "he shall take care that the laws are faithfully executed." That bill says it shall be unlawful to execute the laws by the only force at his command, "at any place where a general or special election is being held in a State."

Therefore, on one day of the year, and that the most important of all, so far as the safety of the Republic is concerned, the Executive shall surrender his constitutional powers and violate his oath of office, and the nation shall be absolutely dependent upon the States for the right to live. On that day, when the Government goes to the people for the renewal of its powers, it shall be impotent to maintain the peace or the purity of the ballot. A local sentiment hostile to the Union, or a spirit of mob violence irrepressible by any other means, may deny to the citizen the free expression of his will; but you have decreed that the Government shall be powerless to defend itself, until lawless violence has had its day of riot and blood.

Since this Congress convened, we have had many bold declarations of the purpose to establish State supremacy and national subordination, but never until now has it been asserted as the creed of a great party, that on election day the powers of the nation shall be absolutely suspended, and that trailing its flag in the dust, it shall humbly sue a sovereign State for the right to be. The spirit of secession could ask no more. Indeed, it never asked so much. It demanded "to be let alone" while the State should retire from the Union. This new rebellion against nationality demands that the Republic shall have the right to be, only by the gracious will and pleasure of its sovereign master, the State.

THE INSTRUMENT OF REBELLION DEAD, BUT THE GUILTY CAUSE STILL LIVES.

The honorable Senator from Georgia, [Mr. HILL,] in his speech last Saturday, confirms all I have said as to the similarity between the issue of to-day and that of 1861. He said:

It is true that the war was the result of a collision of ideas and interests between the extreme nationalists and the extreme federalists. They brought about the war; but the slavery question entering it sectionalized it, and therefore the North became consolidated on one side, and the South, or a portion of the States of the South, consolidated on the other. After the war arose the Union became involved, and therefore it is that those who fought on the side of the Federal Government fought for the Union and are entitled to all the benefits that result from that relation, and no man will always give them to them more cheerfully than myself. The war being the result of this collision of extremes, the consolidationists, the centralizationists, the monarchists, (for that is what they mean,) had the advantage in that they had possession of the Union, possession of its power, possession of its Army, and possession of its Navy—an advantage which they acquired by secession folly. The collision coming on in this form, secession was crushed out in the conflict, utterly crushed out. I want the country to understand that.

By the term "federalists" he of course means the State-rights democracy, and by "nationalists" the republican party. These two "ideas and interests," he says, "brought on the war."

What next? "The slavery question entering into it sectionalized it." Then what? "After the war arose the Union became involved." Yes, slightly, I should say!

Now, what is the exact case as he states it? State rights and nationality were the causes of the war, and the real antagonists; slavery was a mere *incident*. Secession was the *instrument* employed by "State rights" in the contest. What was the result of the war? "Secession was crushed out, utterly crushed out." He is particularly anxious for the "country to understand that." But what has become of "State rights," the guilty principal that employed this "secession folly," as he calls it? He evidently does not think that was "crushed out;" for, when speaking of the reconstruction measures, he said:

And after that you left us, and left us as you thought bound with your cords and whips. *It was then that the Samson, State sovereignty, stretched himself and burst them all.*

He does not even admit that "slavery" was crushed out, though I presume he would be glad to have the country "understand that" also.

After all, then, the war only destroyed the *incident* (slavery) and the *instrument*, (secession,) but the guilty cause of all our woes, the Samson of "State rights," still lives in all his vigor and is ready to employ any other incidents or instruments that may happen to answer his purpose in the next conflict with nationality.

I thank the Senator for his frank statement, and beg to assure him that the country will understand this assault upon nationality, by undermining and destroying the freedom and purity of the ballot, quite as well as they did when "secession folly" was the instrument to accomplish the same end by bayonets and bullets.

SECESSION TO AVOID WAR AND ACCOMMODATE NORTHERN CONSCIENCE.

The honorable Senator from Georgia gave a reason for secession which I think will strike the North with surprise. He says:

The southern people did not secede from hostility to the Union. * * * *They believed they could do it in peace;* and I say here there were thousands upon thousands, yea, hundreds of thousands of the best men of the South who *believed that the only way to avoid a war was to secede.* They believed the northern conscience wanted to get rid of the responsibility of slavery; they believed they had a right to protect their slave property, and *they thought they would accomodate the northern conscience by leaving the Union and preserving that property.* They believed they could do it in peace, and if they had believed that a war would result they never would have seceded.

Oh, no, they "had no hostility to the Union!" They loved it all the time! They were only caressing it with fire and sword. The Senator from Georgia himself, while a member of the confederate senate, prayed for the Union. I am sure he did, for he said so. And who knows but his prayers for it would have outweighed his votes and speeches against it had not that dreadful "Z. CHANDLER" written a bloody letter to the governor of Michigan and thereby broken up the "peace conference" which Virginia had called for the purpose of taking all the border States out with her. They "did not secede from hostility to the Union!" Oh, no; they did it as "the only way to avoid a war" and to "accommodate the northern conscience!" What a peace-loving and accommodating people they were, indeed! It was only those terrible republicans who wanted to break up the Union and bring on a war. All the secession lambs desired was peace. "If they had believed that a war would result they never would have seceded!" No, *never!* Of course not. Horace Greeley told them to secede. You know they had great faith in Horace Greeley, about that time. They would never have fired upon an unarmed vessel carrying food to the starving garrison at Fort Sumter if they had not believed that was the "only way to avoid a war."

They established the "dead-line" at Andersonville and the prison pens at Richmond to "accommodate the northern conscience," I suppose. How terribly these peace-loving philanthropists have been misrepresented at the North!

AN UNFORTUNATE COMPLIMENT.

But the climax of the Senator's comic satire was reached, when, turning to his associates with a mock-serious air, he exclaimed:

No, my good northern democratic brethren, you saved the country at last; you saved the Union in the hour of its peril; not the republican party! You who had showed devotion to your flag saved the Union, and *now it is for you to go before your people and tell them that the solid North must never become a fact against the solid South. If so, disunion will be accomplished. It is you that we look to.*

This was quite too much for the good "northern democratic brethren!" Never before had it been suspected by any human being that they had "saved the Union!" Never before had such an intimation been made by anybody. They were taken completely by surprise. I watched with interest their changing emotions at this long-withheld recognition of modest merit. When the discovery was first announced, by the honorable Senator from Georgia, a sweet smile of

satisfaction played upon their radiant countenances, and a blush, soft and rich as that which paints the maiden's cheek when she listens to her first tale of love, stole over their war-browned faces. But gradually, as memory began to assert her sway, that smile and that blush changed into a grim disgust at the Senator from Georgia for calling up that dread war record. By naming it the "dead past," "smoldering ashes of civil strife," &c., they had almost persuaded the republicans to say nothing about it; when, lo! the Senator from Georgia must go stalking over those graves, and raking through those "smoldering ashes," to find a compliment for them. It was too bad. It was pitiful. True, it was sweet to feel, even for one moment, that somebody thought *they* had "*saved* the Union;" but, oh, how bitter to remember that the cruel historian had not perished with the rebellion!

They knew that thousands of brave and patriotic democrats had left the party to join the Union Army, and thereby won the everlasting gratitude of their country, (and no one shall award it more generously than myself,) but they could not forget, and they knew the people would not forget, how the vast moral and material forces of that party, as a political organization, arrayed themselves against every effort of the Government to save its life. They could not forget that the party had refused to vote men or money to defend the Union; that it had declared every blow struck at the rebellion was a wound inflicted upon the Constitution; that it was unconstitutional to volunteer or to draft; unconstitutional to issue bonds or greenbacks; unconstitutional to confiscate the slaves of rebels, or to arm them in defense of the Union; unconstitutional to levy taxes for support of the Army; unconstitutional to invade a sovereign State to resist the armies advancing upon our Capitol; unconstitutional to feed or reenforce our soldiers starving in a beleagured garrison; unconstitutional to free the slave when a hundred thousand black men were fighting in our armies; unconstitutional to suspend the writ of *habeas corpus* to prevent traitors, in their own ranks, from stirring up sedition and violence at the North; unconstitutional to do anything, in fact, but aid the rebellion. They could not forget, and they knew the country would not, how as a party they denounced our soldiers as "hirelings" and President Lincoln as a traitor; how they discouraged enlistments and resisted drafts; how they denied the ballot to soldiers at the front; how they concealed deserters, and served as spies and guides for the enemy; how they conspired with foreign enemies to recognize the confederacy and overthrow the Republic; how they libeled the nation's credit and thereby increased the public debt; how they sought to withdraw the Army from the front by exciting resistance and mob violence in the North; how they burned colored orphan asylums, and plotted to introduce yellow fever into northern cities; and how when Sherman was thundering at the gates of Atlanta, and victory was within our grasp, they met in national convention and declared that the war had been a failure, and demanded an immediate cessation of hostilities!

Pardon me, gentlemen, these unbidden specters of the "dead past" were evoked by the Senator from Georgia, not by myself.

As the "good northern democratic brethren" listened to his eulogies, and cruel memory paraded these and many other like efforts to "save the Union," they became both sad and indignant.

A PERILOUS MISSION.

But when to all this he added, "it is for you to go before your people and tell them that the solid North must not become a fact against the solid South; if so, disunion will be accomplished," it was indeed too much, and my heartfelt sympathies went out toward the "northern brethren."

What a mission has been assigned to you! The five and a half millions of white people of the South are to be allowed to solidify that section by trampling upon the constitutional rights of four and a half millions of colored citizens, and yet if the North, stirred by its old love of liberty and hatred of injustice, cruelty, and oppression, shall become "solid" for the redress of such unparalleled outrages upon American citizenship, "disunion will be accomplished." And your mission is to "go before your people" and once more try to divide the North in order to "save the Union!"

Pardon this digression. I have been led into it by the remarkable serio-comic performances of the Senator from Georgia.

UNCONSTITUTIONAL TO KEEP THE PEACE AT THE POLLS!

Mr. President, this assault by the State-right forces upon the defenses of the ballot-box is justified by the assailants on two grounds: first, that said defenses are unconstitutional, (as usual;) and second, that they infringe the rights and endanger the liberties of the people.

Unconstitutional to defend the life of the nation at the polls, as we have seen it was on the battle-field! Unconstitutional, you have said, to punish armed men who come to the polls for the avowed purpose of terrorism and violence, but not unconstitutional to punish them for keeping the peace!

A similar theory was entertained in 1861, when the democracy insisted that the States had a perfect right to raise armies to destroy the Union, but that our soldiers could not "enter a sovereign State" to defend the Union. I see before me to-day gentlemen, constituting a majority of the democratic party in this Senate, who maintained that doctrine at the peril of their lives. And I see other democratic Senators who did what they could to enforce it at the North.

It is not surprising, therefore, that the same men who fought for, or sympathized with, this political theory should signalize their first advent to congressional power by laying aside every other issue, and ignoring every other interest, for the purpose of establishing a principle so dear to their hearts.

It was said that one of our leading generals spent several days studying international law to ascertain whether it would be a violation of State rights to order the Army upon the "sacred soil of Virginia" to resist her sons who were then marching upon the capital. Surely we are not far from the political heresies of 1861, when a majority of this Senate will vote that the nation has not the constitutional power to defend the peace and purity of the ballot at an election for Representatives in Congress. What was the defense of the Capitol, compared with the defense of the very citadel of political power against armed enemies who are marching upon it for the avowed purpose of desecration and violence? This Capitol, if captured, could have been retaken; if burned, it could have been rebuilt; but if the Nation shall deliberately surrender the ballot to violence and fraud, who shall rescue it from ruffianism or cleanse it from pollution?

Mr. President, I will not seriously discuss the constitutionality of these laws. The power to enact them is granted as plainly as words can express it. The fourth section of the first article of the Constitution says:

The *times, places, and manner* of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but *Congress may at any time* by law *make* or *alter such regulations*, except as to the places of choosing Senators.

If Congress cannot prescribe the "manner," that is, the mode or method of conducting such elections, nobody can, for the Constitution gives to Congress all the original power to "make" regulations which the States possess, and in addition the power to supervise and "alter" any regulations which the States may have prescribed. In this matter the framers of the Constitution meant to leave no doubt of their intention to give the nation power to protect itself at such elections. They foresaw that the time might come—as it did come in our day—when a hostile State, or an unfriendly local sentiment would seek to overthrow the National Government, and they well knew that the ballot is the most vital point, and election day the most critical moment of its existence.

These laws have stood on the statute-books for many years, during which they have excited the most violent opposition, but no effort has been made to test their validity in the courts. Numerous criminal prosecutions have been made under them, and in every instance their validity has been sustained. This very movement affords the strongest possible evidence that their assailants do not believe them unconstitutional, otherwise they would seek "redress of grievances" in the courts rather than by the extreme methods they have adopted. The claim of unconstitutionality may therefore be set down as a mere cover to some other reason which it is not deemed prudent to state.

DEMOCRATIC MASQUERADE!

What shall be said of the pretense that this movement is inspired by zeal for the rights and liberties of the people? The democratic party masquerading in the character of Guardian and Protector of human rights and defender of liberty! What a burlesque! To complete the cast and make the play entirely harmonious, I would suggest Satan as an angel of light! Judas Iscariot as a Christian! Benedict Arnold as a patriot! and Sitting Bull as a peacemaker! The Senator from Georgia, as confederate Senator praying for the Union, should by no means be omitted!

Seriously, Mr. President, this masquerade of the democracy would make the world laugh if it did not know that behind the mask is the hideous record of its bloody rebellion for the perpetuation of slavery and a relentless purpose to trample upon every right, human and divine, that stands in the way of party triumph.

Why, sir, at this very moment, while in front of the curtains democratic players are lashing themselves into a fury of mock-heroic enthusiasm in behalf of a free ballot and the liberties of the people; behind the scenes a race is fleeing from democratic persecutions and outrages as from a pestilence. While the actors on the stage are protesting their devotion to human rights, ten thousand American citizens, refugees from democratic oppression and tyranny, appeal to us from the prairies of the West for food, clothing, and shelter, while thousands more, hungry, ragged, and wretched, line the banks of the Mississippi River, piteously begging the steamboats to take them from the terrors of democracy.

Here, in front of the footlights, democracy holds up its hands with well-feigned horror at the thought of United States soldiers at an election; while behind the curtains, its retainers are organizing and drilling the democratic ex-confederate rifle clubs to take possession of the polls. The shocking "bayonet in the air," of which we have heard so much, loses all its horrors when it bears the soothing inscription, "C. S. A."

DEMOCRACY NOT NOTED FOR PROTECTING THE BALLOT ANYWHERE.

Gentlemen, do not deceive yourselves. You cannot deceive the people. They know your record. They are looking straight through your disguise at your real purpose. They respect your courage too much to believe, for one moment, that you apprehend any danger to their liberties from our little Army, composed of American citizens like ourselves, and not large enough to guard the frontier from the incursions of the savage. They know also that your assumed anxiety about the interference of United States marshals at elections is but

the thin cloak, which poorly conceals a purpose to banish from every State the last symbol of national power and authority, and to open the ballot-box to the rifle club and the repeater. They know that your pretended jealousy, of the rights of the States to prescribe regulations insuring the purity of the ballot, is not supported by the efforts of democratic State Legislatures in that direction. I have never heard of your party inaugurating or carrying through any measure, in any State, for the protection of the ballot-box.

Nay, more, I have been unable to discover a single instance in any State where that party has not resisted all such measures when inaugurated by republicans. If there be one case on record which breaks the monotony of this uniform resistance to registry laws and other practical measures for the protection of the polls, I should be glad to find it. Such an instance, if discovered, would aid to eradicate an ugly suspicion which has taken possession of the public mind on this point. Of course I speak of the party, and not of individuals.

Mr. President, if I have said anything that can be construed as sectional I beg to assure gentlemen from the South that it was not so intended.

I see that it was understood not to be so intended. My friend from West Virginia [Mr. DAVIS] smiles. I have spoken of the spirit of modern democracy, its record and its purposes, and not of a section. For the evils which the country has suffered during the last twenty years from that political organization I am sure history will hold your northern allies quite as guilty as yourselves. Centuries hence, as now, it will be said that *you* made allegiance to the *State* paramount to your duty to the Republic, while *they* made allegiance to *party* paramount to *both State and nation;* that you fought for State rights and secession as a principle, while they aided and abetted your efforts only as partisans; that you fought at the front, while many of them conspired at the rear.

I am inclined to think that the calm, cool judgment of the future will give you the preference, though the record of neither will ever be cited to inspire with patriotic enthusiasm the young men of coming republics.

SOME REASONS FOR NORTHERN ANXIETY AND INDIGNATION.

Southern Senators will pardon me for briefly stating some of the circumstances and conditions which create anxiety, indignation, and alarm at the North, and threaten to make that section as "solid" as their own.

The eleven States that seceded have a population of about ten millions, of which five and a half millions are white, and four and a half millions are colored. By a system of terrorism and violence, maintained by the democratic party at the South, those five and a half millions absolutely control the elections and send to Congress seventy-three Representatives. Those Representatives control the caucuses of the democratic party and through that agency the House itself.

The Senator from New York [Mr. CONKLING] has summarized the condition in the Senate, as follows:

> Twenty Senators sit here who fought in the army of the rebellion, and three more Senators sit here who held high civil command in the confederacy. * * * Forty-two Senators rule the Senate; twenty-three Senators rule the caucus; a majority rules the Senate; a caucus rules the majority, and the twenty-three Senators rule the caucus.

Therefore, the five and a half millions of white people, in those States, rule the thirty-eight millions of the other twenty-seven States. In other words, by trampling upon the rights of colored citizens, the vote of one white man, in the ex-confederate States, has more power in shaping the policy and dictating the legislation of this Government than the votes of seven citizens of the North.

The Senator from New York [Mr. CONKLING] has also shown that of the taxes paid for the support of the Government only $13,627,192.89, or about 6 per cent. of the total, was collected from those eleven States, while $221,204,268.88, or 94 per cent., comes from the other twenty-seven States.

It has been urged that in so far as relates to the customs this does not represent the exact proportion paid by the respective States. I have taken some pains to ascertain whether or not this statement is verified by other facts, and I find that the statistics of internal revenue of domestic exports and foreign imports, and also of internal commerce, substantially confirm it.

Mr. KERNAN. Will the Senator allow me to ask him a question?

Mr. WINDOM. If I have misstated the Senator in anything; otherwise I should prefer not to be interrupted.

Mr. KERNAN. I wish to ask how much of the $221,000,000 paid, as the Senator says, by twenty-seven States was paid by one State? One hundred and eight million dollars was paid, according to his theory of payment, by one of the twenty-seven, the State of New York.

Mr. WINDOM. I understand perfectly; that argument has been made several times before. I was about to say that the statistics of internal revenue of domestic exports and imports and also of the internal commerce of the country go far to sustain this statement. Now, let us look at it for a moment. The internal revenue paid by these eleven States is only 11 per cent. of the whole amount collected. This certainly is not subject to the criticism which the Senator from New York, [Mr. KERNAN,] who has just spoken, would urge against the inference drawn from the relative amounts paid on customs dues. The domestic exports of the States north of the Potomac River amounted last year to $528,161,832, of which the exports south of the Potomac were $169,118,532, or about 32 per cent. But the *imports* at points north of the Potomac were $415,211,310, while the imports south of the Potomac were only $17,974,209, or about 4 per cent. of the imports of the North. It so happens that the South has the advantage of the best exportable product—cotton—the most valuable in proportion to weight. Now, she could command at her ports the ships to carry $169,118,532 worth of her raw material; but with the great advantage this afforded for cheap inward freights she could import only $17,974,209 worth of foreign goods. To put it in another form, she exported 24 per cent. of the local exports and imported only 4 per cent. of the total foreign imports.

Of the shipping employed in our foreign trade 18 per cent. was entered at ports south of the Potomac, and yet with 18 per cent. of the tonnage, they imported only 4 per cent. of the foreign goods.

This proves conclusively, I think, that although sending away, by reason of the cotton crop, a large amount, yet there was not that proportion, nor anywhere near it, of tax paid upon imports that there was in other sections of the country on the basis of actual consumption. If the actual consumption had been there when these vessels were returning home empty, after carrying abroad $169,000,000 of goods they would have brought more than $17,000,000 of foreign merchandise.

The statistics of internal commerce tell a like story. The internal commerce of the United States is at least sixteen times greater than the foreign commerce, and of this fully 90 per cent. is carried by rail. The *value* of this commerce cannot be computed, as there are no reliable statistics on the subject, but we know the number of vehicles required to transport it—all, or very nearly all of the same size—the freight cars. According to Poore's Railroad Manual, a standard authority, the number of freight cars employed in the Southern States is 28,808, and in the Northern States 364,696; indicating that the South has only 8 per cent. of the total internal commerce of the country.

Why, Mr. President, I think the New York Central Railroad alone has almost as many cars as all the railroads in those eleven States; and if the traffic of the New York Central, or the Pennsylvania Central, were turned over one of those roads, as some one has said, there would be nothing left but two streaks of rust and a right of way.

From these statistics it will appear that of the taxes for support of the Government about 89 per cent. are collected at the North and 11 per cent. at the South. Of imports, 96 per cent. come to northern ports and 4 per cent. to southern; and of internal commerce about 92 per cent. is in the Northern States and 8 per cent. in the South.

Does it surprise you, gentlemen, that the thirty-eight million people who pay 89 per cent. of the taxes, import 96 per cent. of the foreign goods, and conduct 92 per cent. of the internal commerce of the country, are not quite satisfied to be ruled by the five and one-half millions who pay only 11 per cent. of the taxes, import only 4 per cent. of the foreign goods, and conduct only 8 per cent. of our internal commerce?

Do you imagine that they will quietly consent that four and one-half millions of American citizens, who have always been loyal and true to our flag, shall be reduced to the condition of serfdom or be driven in terror and wretchedness from their native States, in order that the said five and one-half millions shall, through lawless violence, control the destinies of the Republic which they so recently sought to destroy?

Do you think they will agree that one ex-confederate soldier, by trampling upon the constitutional rights of American citizens, shall wield as much political power as seven Union soldiers who obey the Constitution and the law?

Do you wonder that the people are alarmed and indignant when they see that at the very first moment of political power thus acquired you forget everything else, ignore every other interest of the country, and madly assail the defenses of an honest and peaceful ballot in order that you may reassert the supremacy of statehood over nationality? Are northern democrats quite sure that the people who sacrificed so much of blood and treasure to vindicate their nationality on the battle-field are now ready to surrender it in Congress or at the ballot-box?

Gentlemen, I warn you by the memories of the past and by your hopes of the future to beware how you trifle with the patriotism of the American people! You told the South once before that the people of the North would follow your counsels and surrender to the spirit of secession, but when the trial came you found that you had sadly deceived your friends as well as yourselves. Just, generous, and peaceful in their natures, they demonstrated to you how irresistible is their patriotic wrath when the Republic is assailed.

You tell the South now that you can divert and alarm the people by your painted lightning and sheet-iron thunder about military interference at the polls, and thereby induce them to sanction your abandonment of the ballot-box to plunder and pillage and your surrender of the right and power of the nation to defend its own life at the polls, but I warn them and you that the spirit you have already evoked is the same which overwhelmed you in defeat and shame in 1864, and if you persist in your present course it will overwhelm you again.

Mr. COKE. Mr. President, I propose, as briefly as I can, to present some of the views which influence me to support the pending bill, and ask the indulgence of the Senate while I do so.

The President rests his veto of the bill making appropriations for the support of the Army on two grounds: first, that the clause in that bill repealing the authority to use troops "to keep the peace at the polls" is unnecessary, because no such authority exists in the law as it now stands; and second, because, he says:

The intent and effect of the sixth section of this bill—

Meaning the Army bill—

is to prohibit all the civil officers of the United States, under penalty of fine and imprisonment, from employing any adequate civil force for this purpose at the place where enforcement—

Meaning the election laws proposed to be repealed by the pending bill—

is most necessary, namely, at the places where the congressional elections are held. Among the most valuable enactments to which I have referred are those which protect the supervisors of Federal elections in the discharge of their duties at the polls.

The reasoning employed by the President is equally applicable to the bill now before the Senate, and hence should be met by those who favor its passage. The first point is easily disposed of, without traveling outside of the message for material with which to refute it. I read from the message on this point, where the sections of the statutes on the subject are set out at length:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

SEC. 5528. Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than $5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

After reciting at length sections 2003, 5529, 5530, 5531, and 5532 of the Revised Statutes, the President says:

The foregoing enactments would seem to be sufficient to prevent military interference with the elections. But the last Congress, to remove all apprehension of such interference, added to this body of law section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, which is as follows:

"SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus* or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment."

The President continues:

From this brief review of the subject it sufficiently appears that under existing laws there can be no military interference with elections.

Bearing in mind that the clause of the Army bill being objected to by the President was intended, on this point, simply to repeal so much of existing law as authorized the use of the Army "to keep the peace at the polls," under which the elections throughout the South, and notably in Louisiana and South Carolina, have been dominated by the military, notwithstanding the denunciation of pains and penalties against various methods of interference contained in the sections of the statute he recites, this conclusion from the premises laid down must give the country a very poor opinion either of the President's candor or of his ability to appreciate the force of the very plain English in which the statutes are written.

The President is fully aware that the authority given in sections 2002 and 5528 to use the Army "to keep the peace at the polls" is *the pretext* under which the Army has been used ostensibly "to keep the peace at the polls," but really to control elections and defeat the popular will, and that it is this pretext we sought to take away by the bill he has disapproved. He also knows well that in the history of the world no single instance has occurred where popular liberty has been overthrown by the use of the Army, that it has not been done in the name of peace and social order, and with the avowal of a purpose to preserve and protect, while the real design has been to destroy, and that it was to avert this danger and to save the country a recurrence of its past bitter experience under the operation of this authority in the hands of the Executive that we were seeking to pass the Army bill. Unless we are to believe, which I will not, that the President in his message has evaded the issue presented by the Army bill, and descended to the arts of the demagogue in an uncandid play upon words, we must believe that his concluding observation, after a review of the statutes on the subject, just read, means that all laws authorizing the use of the Army "to keep the peace at the polls" have been repealed, and this view of his meaning is confirmed by the following sentence in the same clause of the message:

It may, therefore, be confidently stated that there is no necessity for the enactment of section 6 of the bill before me to prevent military interference in elections.

Section 15 of the act of June 18, 1878, being the last one read, is relied on in the message as making it perfectly clear that he is right in asserting the absence of any necessity for the proposed legislation. This section declares that it shall be unlawful hereafter to use the Army, as a *posse comitatus* or otherwise, for the purpose of executing the laws, except in such cases as may be "*expressly authorized by the Constitution or by act of Congress.*"

Now, in the first two sections of the Revised Statutes recited at length in the message, to wit, sections 2002 and 5528, the use of the Army "to keep the peace at the polls" is *expressly authorized.* These two sections being within the exception made by section 15, instead of being repealed are reaffirmed and re-enacted by it. No doubt existed before the passage of section 15 of the authority of the President to surround election polls with soldiers, so far as an act of Congress could give it; but if any had existed it would have been removed by the enactment of that section. The reasons given by the President for asserting that the law authorizing the use of troops "to keep the peace at the polls" has been repealed are most convincing that it has not been repealed, but is yet in full force and vigor, if any doubt had existed about it. I have adverted to this point not with the purpose of discussing the constitutional power of Congress to authorize the use of troops "to keep the peace at the polls," for the contrary has been so clearly shown in this debate as to leave no ground for further controversy, but to expose the weakness and transparency of the effort, if such it was, to deceive the country into the belief that the democratic party has made a great noise over an immaterial and irrelevant issue.

This specimen of presidential logic is a fair sample of that which characterizes the remainder of the message in the reasons given for the disapproval of the repeal of a portion of the existing laws touching elections.

I will now, Mr. President, endeavor to show, and think I can do so, that these laws ought to be repealed because destructive of freedom and fairness in elections, and because they invade and overthrow the right of the States to prescribe the qualifications of voters.

Citizens of the United States are not voters except as made so by State laws, the jurisdiction over the matter of suffrage residing exclusively in the States. The rights and qualifications of voters are prescribed by each State for itself, subject only to the condition imposed by the Fifteenth amendment to the Constitution of the United States—that there shall be no exclusion from the right to vote "on account of race, color, or previous condition of servitude."

Section 2 of article 1 of the Constitution provides that—

The House of Representatives shall be composed of members chosen every second year by the people of the several States, *and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

This section is an adoption by the Federal Government of qualifications for electors for members of Congress of the precise qualifications prescribed by the State governments for electors for members of the most numerous branch of the State Legislature.

The State Legislatures prescribe also the qualifications of voters for presidential electors, as will be seen by reference to section 1 of article 2 of the Constitution, which provides that—

Each State shall appoint, *in such manner as the Legislature thereof may direct,* a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

Representatives in Congress and electors for President being the only officers representing the State in Federal affairs required to be elected by popular ballot, it follows conclusively that the rights and qualifications of all voters, whether in State or national elections, are to be ascertained and determined by the laws of the respective States. If any additional authority for this conclusion were required, it would only be necessary to refer to the decisions of the Supreme Court in the well-known Slaughter-house cases, and in Miner *vs.* Heppersitt, United States *vs.* Reese, and United States *vs.* Cruikshank, in Wallace and Otto's Reports, in which the whole subject is thoroughly discussed and authoritatively determined.

Judge Story, in his Commentaries on the Constitution, having himself a decided leaning to strong government, using almost the exact language of Mr. Hamilton, the great federalist, commenting on section 4 of article 1 of the Constitution, uses this strong language:

Nor can it be said with correctness that Congress can *in any way alter the rights or qualifications of voters.*

This right to vote is the basis and foundation of our governments, State and national, and its exercise gives vitality and energy to both. It is only when the people go to the polls to vote that they exercise that supreme sovereignty which our institutions recognize as inherent in them. The reservation to themselves by the States, in the formation of the Federal Constitution, of the right to determine who shall and who shall not exercise this sovereign power, whether in State or national elections, is absolute, and the rights and qualifications of voters are beyond the reach of Federal legislation. What the qualifications of voters are, and what are the rights which attach to citizens in virtue of their being voters, can therefore be found only in the constitutions and laws of the several States. The constitutions and laws of all the States declare that all elections shall be free, and that no citizen entitled under the law to vote shall be deprived of that right unless upon conviction of an infamous crime by due course of law, and judgment passed upon him. The States of Alabama, California, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Missouri, Nebraska, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, and Texas have in their constitutions provisions exempting voters "in all cases except treason, felony, or breach of the peace from arrest during their attendance at elections, and in going to and returning therefrom." In the constitutions of many of these States voters are also on election day

exempt from military duty, and from service as witnesses or jurors, or working on roads.

The remaining States whose constitutions do not contain similar provisions, almost invariably have laws on their statute-books of equivalent import. These constitutional and legislative provisions of the different States fix absolutely, beyond the power of Congress to interfere with or abridge them, the rights of all voters at all elections to absolute personal liberty, to entire immunity from arrest, except for "treason, felony, or breach of the peace." The care and solicitude with which these personal rights are defined and guarded in all the States attest with overwhelming force the concurring assent of the American mind to their paramount importance in the plan of free government. The day on which the ballot is to be cast has been dedicated by American constitutional law to the amplest and fullest personal freedom of those who on that day exercise their prerogative as the anointed sovereigns of the land. This right of the citizen attaches to and inheres in him in his quality as a voter, is a part of his privilege and prerogative as a voter, and is one of his qualifications as a voter. None but freemen can cast free ballots; and free ballots are the only foundation for a free government. The importance of preserving these guarantees of a great franchise, of a sovereign right, against encroachment, or even a menace of invasion, cannot be overestimated. The whole fabric of our Government rests upon an absolutely free ballot; for only that can signify the consent of the governed. An assault upon that is a stab in the vitals of the Republic. Bad, lawless men, some by force and intimidation, others with equal effectiveness by fraud in its various shapes, do corrupt and pervert the ballot, just as they evade and defraud every law to be found in the statute-book. That this is to some extent the case both North and South, and not more in one section than in the other, is doubtless true; but in both sections it is exceptional, and an inevitable result of the imperfection of human wisdom in framing and executing laws, and an evil the proportions of which time and experience and advancing civilization may be relied on confidently to reduce to a minimum. But when the blow comes from the Government against the reserved and guaranteed rights of the citizen, and through them upon the great bulwark of popular liberty, a free ballot, time brings no change except for the worse, and ultimate destruction of free government is the certain result.

No man can arise from a perusal of the election laws we now seek to repeal except with the conviction fastened upon his mind that in their enactment the exclusive constitutional jurisdiction of the States over the question of suffrage has been most rudely invaded, and the sacredly guaranteed rights of the voter to personal liberty and a free ballot grossly violated. Supervisors, marshals, and their general and special deputies are made supreme at the registration and election precincts. The State authorities appointed by State laws to hold the elections are, in the very seat of power of the States, placed under the supervision and control of these Federal officials, who are strangers to the laws of the State. The qualifications of voters and their rights at the polls—subjects peculiarly within the States' exclusive jurisdiction, which must be passed on by the States' officers as voters present themselves at the polls—are to be adjudged under the direction and to suit the views of these representatives of the Federal Government, which has no jurisdiction over the subject, or the States' officers may be arrested and carried in disgrace to prison, or before a commissioner for bail. A great number of new offenses which may be committed, many of them unwittingly, by men not meaning to do wrong, are created and vaguely defined, and discretion given these officers, who are usually rancorous partisans, to arrest the offenders "instantly;" and to arrest a voter on election day means to silence his vote.

They may challenge when they entertain a "doubt" of the right of the person offering to vote, and may construe his offer into an offense and arrest him. With unlimited power to challenge voters and to arrest on the spot, without affidavit or warrant, enormous penalties by fine and imprisonment denounced against all who oppose or hinder or interfere with their operations directly or indirectly, or even fail to assist them when called on, these officials are, in virtue of the authority granted them, masters of the people, and may dominate them on the day of election as completely as if they were the source of all authority. The whole power of the Government is delegated to these officers, who are appointed to swarm around the places of election and watch, Argus-eyed, for what they may be pleased to construe into an offense by unsuspecting people assembled to cast their ballots. Who can feel safe at the polls with such absolute authority over him in the hands of a set of irresponsible deputy marshals?

The ingenuity of man cannot devise a system which, in the hands of unscrupulous partisans, is better calculated to drive voters from the polls and destroy the freedom of elections. But one other agency is needed to complete the utter overthrow of a free ballot, so far as the law can do it, and that is fully supplied in the authority to use the Army "to keep the peace at the polls." The spirit which pervades these laws is hostile to the States, hostile to the people, and hostile to free elections. The operations of John I. Davenport, chief supervisor in the city of New York, just before the elections in November last, and again on the day of election, when nearly four thousand voters were arrested and an aggregate of ten thousand are estimated to have been deterred from casting their ballots, illustrate fairly their true character when practically enforced by a bold and earnest partisan. I will read sections 2022 and 5522 of the Revised Statutes as samples of the various provisions on this subject, which exhibit fairly the general tenor and spirit of the whole:

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

I invoke the attention of the Senate and the country to these enactments, and ask a candid judgment if my portrayal of their enormity, and of the grossness of their violation of the constitutional rights of the States over the matter of suffrage, and of the privilege of voters to be exempt from arrest on election day, is not under rather than over stated.

If State elections are being held on the same day, as is almost universally done with congressional elections, these, too, are controlled and supervised by Federal officials. The whole election machinery is taken possession of, wrested from the control to which it constitutionally belongs, and placed in the hands of supervisors and a marshal's *posse comitatus*. No distinction is made between offenses, whether *mala in se* or *mala prohibita*, whether disdemeanor or felony; but for "any offense," or for any act which may be adjudged an offense by an ignorant, partisan deputy marshal, the citizen is to be instantly arrested, "whether before or after voting," and whether a private citizen or an officer of the State, whose offense may consist in trying to discharge his duty under the laws of his State.

Rights reserved to the States, and expressly recognized under the Federal Constitution as theirs and their peoples', and sacredly guarded in the constitution and laws of all the States, are trampled under foot, and a day consecrated to the largest and fullest personal freedom of the voter, because the only day when his sovereign attributes are in proper person exercised, is made a day of terror, of intimidation, and of personal humiliation.

I maintain, Mr. President, that this indefinite multiplication of new offenses unknown before the passage of these acts, and their vague definition; the great discretion granted the officers in determining what acts or omissions constitute offenses under the law; the authority to arrest "instantly with or without warrant;" the vast undefined, yea, absolute, powers given the officers; the abrupt and violent severance of the citizen from the protecting authority of the State whose laws are nullified; the spirit of hostility breathed through every line of these laws to the authority of the State and contempt for the rights of the citizen, violative of the admitted powers of the State over the matter of suffrage, are so threatening, so reasonably well calculated to intimidate and browbeat the voter, backed as all these menaces are by the whole power of the Government, as to be destructive of that personal liberty so fully guaranteed him on the day of the election and that free agency so necessary to a fair and free ballot.

And again, while I am fully aware that the meaning attached to the phrase "treason, felony, and breach of the peace," as used in the Constitution in defining the privilege of members of Congress to be exempt from arrest, is held by the weight of authority to include all indictable offenses, leaving their privilege potent only against arrest on civil process, it is at the same time unquestionably true that the reasons for this construction had their origin in the common parliamentary law of England, which has been adopted here, and that this law pertains only to parliamentary bodies, and is without signification elsewhere.

Many reasons exist for a stricter construction of the privilege of a superior body of men, such as the British Parliament or American Congress are supposed to be, than for that of the great mass of voters; and an interpretation which attached naturally to the words in parliamentary law would not be accepted in a constitution made for the

great body of the people. Extreme jealousy is manifested in all the State constitutions of any obstructions to a perfectly free ballot in the hands of every voter; and it is much more reasonable to suppose that their framers, knowing that the great bulk of violations of the penal laws are petty offenses, usually called misdemeanors, many of them—in fact, a large majority—involving no moral turpitude, only *mala prohibita*, excepted the most heinous class of offenses, such as treason, felony, and breach of the peace, which social order and the public good require instantly dealt with, and exempted voters from arrest on election day for all others, rather than presume that they intended to import from English parliamentary law an occult meaning into the words of exemption totally different from their usual and common signification, which had grown into them under conditions entirely foreign and utterly unlike those under which they were being used. And it is equally reasonable to suppose that in the solicitude to preserve the elective franchise as nearly as possible to every voter against the power of the Government to deprive him of it, they intended the privilege should prevail against all except the offenses most rarely committed and least likely to be multiplied by new laws and by rules of construction. One of the sections of the statute requires voters arrested on election day "for any offense" against the laws of the United States. There are many offenses which are neither treason, felony, nor breach of the peace, but misdemeanors unaccompanied by any breach of the peace, for which, under the plain import and common and manifest signification of the language of the privilege, voters are exempt from arrest on the day of election, and in going to and returning from the polls. No lawyer bearing in mind the maxim "*expressio unius, exclusio alterius*," would give any other construction, nor would any sensible man not a lawyer construe the phrase in any other way than as an exemption from arrest except for the specifically designated classes of offenses. The laws now sought to be repealed make manifest the importance of giving that exemption from arrest its usual and popular signification; for it is not the privilege of a select body of parliamentary experts, learned in the subtleties and niceties of the law which is being dealt with, but that of the masses of the people, and should be construed as they can and do understand it. I read from Story's Commentaries on the Constitution the fifteenth rule of interpretation, which is very pertinent to the subject, as follows:

> In the first place, then, every word employed in the Constitution is to be expounded in its plain, obvious, and common-sense meaning, unless the context furnishes some ground to control, qualify, or enlarge it. Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or judicial research. They are instruments of a practical nature, founded on the common business of human life, adapted to common wants, designed for common use, and fitted for common understandings. The people make them; the people adopt them; the people must be supposed to read them, with the help of common sense; and cannot be presumed to admit in them any recondite meaning, or any extraordinary gloss.

It has been too much the custom to fritter away by construction plain provisions of constitutional and statutory law, and if there is a point at which this thing should cease assuredly it is when the very foundations of free government are assailed through this sapping and mining process. A clause of the Constitution which defines the highest and most valuable right of the American citizen should not receive a construction which removes it from the apprehension and understanding of the general public and locks its treasures in the breasts of a few legal experts. No rule of interpretation productive of such a result is approved by the authorities or by the common sense of the country. Constitutions and laws should receive a reasonable interpretation, keeping in view the objects and purposes sought to be attained; and with these in view there can be no doubt but that the election laws are grossly subversive of that large degree of personal freedom sought to be secured the voter on election day by the organic laws of the country, through his privilege to be free from arrest except for "treason, felony, or breach of the peace."

But again, Mr. President, I inquire whence the power to pass these laws is derived? The National Government is a government of delegated powers, and when it exercises authority rightfully in any given case it must be in virtue of an express grant in the Constitution, or one that may be reasonably implied from another that is expressed. The power to preserve order, prevent crime, keep the peace, and punish violations of law is an inherent, inalienable natural right in every organized community. This is known as the police power of the State, over which the court in United States *vs.* Cruikshank say:

> Sovereignty rests alone with the States. It is no more—

Say the court—

> the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

Among these police powers is that coupled with the duty of protecting the rights of the citizen, prominent in which are the rights to assemble for lawful political purposes, such as to exercise the elective franchise, petition for redress of grievances, &c. Voters are citizens of the State; they receive the right—or, rather, privilege—of voting from the Constitution and laws of the State; it is the highest duty of the State to protect citizens in the enjoyment of all the rights and privileges secured them under State laws; for the discharge of which duty the States have by common consent and admission sovereign power. It would seem from these premises that the jurisdiction of the State over all matters pertaining to securing "free elections," which are the professed object of the national legislation on the subject, is exhaustive and exclusive, and unquestionably is so unless modified by some provision of the Federal Constitution.

The President in his veto message, and the leaders of the republican party in their speeches in the two Houses of Congress in this debate, designate the fifteenth amendment to the Constitution and section 4 of article 1 of the original instrument as the sole sources from which the power is derived to the National Government to legislate on elections. I will have but little to say about the fifteenth amendment, as that has been the subject of authoritative analysis by the Supreme Court of the United States, and the extent of the grant of power made by it accurately defined. That amendment is in these words:

> 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
> 2. The Congress shall have power to enforce this article by appropriate legislation.

In the Reese case it was decided by the court, in an elaborate opinion delivered by the Chief-Justice, that the right of Congress to legislate upon the subject of voting *at all* at State elections rests upon this amendment and can be exercised by providing a punishment *only* when the wrongful refusal to receive the vote of a qualified elector at such elections is *because* of his race, color, or previous condition of servitude, and that this amendment *does not* authorize legislation by Congress imposing punishment generally on persons who, by force, bribery, or fraud, hinder another from voting. The court uses this significant language:

> But when we go beyond the third section and read the fourth [meaning third and fourth sections of act of May 31, 1870,] we find there no words of limitation, or reference even, that can be construed as manifesting any intention to confine its provisions to the terms of the fifteenth amendment. That section has for its object the punishment of all persons who, by force, bribery, &c., hinder, delay, &c., any person from qualifying and voting. In view of all these facts we feel compelled to say that in our opinion the language of the third and fourth sections does not confirm their operation to unlawful discriminations on account of race, &c. *If Congress had the power to provide generally* for the punishment of those who unlawfully interfere to prevent the exercise of the elective franchise without regard to such discrimination, [alluding to the restriction in the amendment,] the language of these sections would be broad enough.

The language of the amendment gives to Congress exactly the same measure of power in State elections as in elections for members of Congress, and, as interpreted by the court, no power is granted over either except to provide punishment in the single instance of the denial of the right to vote "*on account* of race, color, or previous condition of servitude." The right may be denied for any other reason, and the power of Congress does not attach. So far from being a grant, there is a negation of the power claimed for Congress under which the legislation touching elections is sought to be justified.

I will now consider section 4 of article 1, which is chiefly, and I might almost say entirely, relied on to sustain the power of Congress to legislate touching elections. It reads as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

I do not propose, Mr. President, to enter into a detailed discussion of this section, but simply in a general way to indicate the reasons for my dissent from the view that it grants to Congress the great powers claimed under it.

In accordance with a well-recognized rule of construction, we must give to this section a meaning consistent with its terms, such as will put it in harmony with other clauses of the Constitution bearing on the same subject, if possible to do so, and with the general theory of the instrument. The section contains two clauses apparently in conflict, and these must be so construed, if it can be done, as that both may stand and be operative. The first clause is mandatory upon the Legislature of each State to prescribe the time, places, and manner of holding elections for Senators and Representatives; and the last gives to Congress the power to "by law make or alter such regulations, except as to the place of choosing Senators." The first clause addresses the Legislatures of the States in imperative language, and the last speaks to Congress in language which gives permission, and therefore implies in some degree discretion. The first is a grant to the State Legislatures, and they are commanded to accept and execute it. It is primary to the State Legislatures, while that to Congress is secondary. The secondary power is not to repeal, but to "alter," which means in some way to change, but not supersede or destroy, the "regulations" of the Legislature. The other words, "at any time make," mean create, call into existence something where nothing before existed; that is, regulations, where none had been made by the State Legislatures. It seems to have been intended, if the State Legislatures failed or refused to act, to authorize Congress to "*make*" regulations; but if the State did act, to give like authority to "*alter*," if the action should be such as to defeat or greatly embarrass the object sought to be attained, to wit, the election of members of the House of Representatives. This was the view of such men as Adams, Jay, Hamilton, and Madison, who bore so conspicuous a part in framing the Constitution, and, later, of Judge Story. They believed that every government should have within its own Constitution and control the power of preserving itself from dissolution, such as would occur if the States

should refuse to provide for the election of members of the House of Representatives, or should execute this section in a way to defeat its purpose.

The following extracts from one of the numbers of The Federalist, prepared by Mr. Hamilton, represent his own as well as the views of the other great men I have named, as shown by their writings, and by their recorded utterances in the convention which framed and the State conventions which adopted the Constitution, almost in the same language. He says, discussing section 4 of article 1:

It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been applicable to every probable change in the situation of the country; and it will, therefore, not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably organized: that it must either have been lodged wholly in the National Legislature, or wholly in the State Legislatures, or primarily in the latter and ultimately in the former. The last mode has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations, which in ordinary cases, and when no improper views prevail, may be both more covenient and more satisfactory; but they have reserved to the national authority a right to interpose whenever extraordinary circumstances might render that interposition necessary to its safety.

He next discloses the *extraordinary circumstances* referred to, as follows:

Nothing can be more evident than that an exclusive power of regulating elections for the National Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it, by neglecting to provide for the choice of persons to administer its affairs. It is to little purpose to say that a neglect or omission of this kind would not be likely to take place. The constitutional possibility of the thing, without an equivalent for the risk, is an unanswerable objection.

Again he makes it more plain by stating the whole ground upon which the section rests, as follows: [The *italics* are his.]

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that *every government ought to contain in itself the means of its own preservation*.

These great men did not dream that the National Government would, under this section, do more than that which the States should fail or refuse to do toward providing for the election of Representatives, or that an assertion of power would be attempted when the States were in good faith providing by law for regular elections. Their writings and recorded utterances abundantly show that they regarded the grant of power to the National Government in this section as simply an alternative one, to be called into existence only by a failure of the due execution of the mandate to the States to prescribe by law the times, places, and manner of holding elections.

Read by the light of contemporaneous exposition and the significant non-assertion of power over this subject by Congress for eighty years, except by the act of 1842 to provide for elections by districts, both words, *make* and *alter*, used to convey all the power possessed by Congress, refer to the same object and purpose, which is, to give the National Government the self-preserving principle. It means that Congress may "make" regulations *only* when the States refuse or fail by law to do so, and may "*alter*" such regulations *only* when those made by the States are destructive of the purpose of the Constitution, and imperil a continuance of the Government, and, per consequence, that the alteration may be made of such regulations to the extent that they endanger the safety of the Government, and no further. As long as the grant to the States is executed in good faith, and reasonable times, places, and manner of holding elections are prescribed by State laws, the entire grant of power in section 4 is exhausted, and the secondary or ultimate power of the National Government does not attach.

But, Mr. President, there are other provisions of the Constitution *in pari materia* with the section I am discussing, to be allowed their proper influence in this connection. I allude, among others, to those read and commented on in the beginning of my remarks, which secure to the States the right and power to prescribe the qualifications of voters. Fortunately there is no controversy as to the meaning of those; and I maintain that the power claimed for Congress under section 4 of article 1 to regulate the time, places, and manner of holding elections, and asserted in the enactment of the existing laws on the subject of elections, is a practical overthrow of the established power and right of the States to prescribe the qualifications of voters, and that in a proper construction of it the power ascribed to Congress will stop short of a collision with the admitted exclusive right of the States over the matter of suffrage. The proposition cannot be controverted, that the authority which stands at the polls with power to challenge voters and decide upon their right to vote, and enforce the decision, and to arrest for alleged violations of the criminal laws, controls the matter of suffrage. If the State authorities exercise this power, the State controls; and if the Federal authorities exercise it, then not the State, but the National Government determines the qualifications of voters. There can be but one ruling power at the polls, and that must be either wholly State or wholly Federal. There is, and in the nature of things can be, no middle ground. The State appoints her own officers to execute her laws, and Federal officials are appointed to execute Federal laws; and while both must yield obedience to the laws, State and national, neither has any concern with the enforcement of the laws of the other jurisdiction, except when called on as any other citizen may be. State officers are, as officers, strangers to the Federal laws; and Federal officials are strangers, as such, to State laws. The State cannot impose duties on Federal officers, nor can the Federal Government impose duties on State officers. When the two officers, State and Federal, meet on official duty at the polls, each brings with him for enforcement the law of the jurisdiction he represents, and one or the other officer, with his jurisdiction, must go to the wall, leaving the other supreme.

Section 5522 of the Revised Statutes, just read, which directs the supervisors, marshals, special and general deputies, &c., to disregard State officers, State process, and State authority, is logical, if officers armed with the powers with which they are invested are to attend the polls or the registration precincts at all. The Federal officials will of course always prevail in a contest with State officers, because representing the supreme authority. Their judgment, and not that of the State officers, on the qualifications of challenged voters, will admit to or exclude from the polls in case of disagreement between them. Davenport stationed deputy marshals at the polls in New York at the last election, with instructions to arrest parties when they presented themselves to vote, and hundreds were arrested—yea, thousands—and denied the right to vote. They were afterward, almost without exception, ascertained to have all the qualifications prescribed by the State of New York for voters. Whatever power State officers exercise over the conduct of elections, we thus see, is, under existing laws, purely permissive, by the consent and grace of Federal marshals and their deputies, and the chief and subordinate supervisors, which they may give or withhold at pleasure. What becomes of the right and power of the States, admitted by all and denied by none, to prescribe the qualifications of voters in all elections, State and national? It practically is utterly overthrown. Can that be a proper construction of article 4, section 1, merely intended to fix the mode of regulating the exercise of the right of suffrage, which overthrows and nullifies other clauses of the Constitution intended to define and vest and guard the great right itself? The incident is, under such interpretation, made to absorb and swallow up the principal. Such a construction is an outrage upon every recognized rule of interpretation, and is as thoroughly destructive of the reserved rights of the States over the question of suffrage as if the clauses securing them had been stricken from the Constitution.

If it be said that the power still remains with the States to prescribe the qualifications of voters by law, and although Federal officials construe the law, it is a fair presumption that they will construe it properly and justly, I would say, in reply, that however just, correct, and beneficent might be the administration by Federal officials of laws passed by the States prescribing the qualifications of voters and providing for the exercise of the elective franchise, if the principle of their power to do this is yielded, if their right to run the elective machinery is granted, the national authority over the whole subject becomes practically supreme, and that of the States a nullity. In order to appreciate the full force of the argument, it must be borne constantly in mind that the power to "regulate" elections as claimed for Congress, under which the existing laws are justified, embraces the whole subject, and gives full authority to take charge of everything pertaining to elections, to appoint Federal officers to hold elections, make returns, and do everything to be done from the posting of election notices, through all the successive stages of the proceeding, to the final act of deciding who is elected, and delivering the certificate of election to the successful candidate. The power is claimed to be exhaustive if it exists at all. Chief-Justice Marshall, in the great case of McCulloch against Maryland, reported in 4 Wheaton, in an opinion affirming the constitutionality of a national bank, and denying the power of the State of Maryland to tax the operations of one of its branches, lays down, among others, the following propositions as being of universal application:

First. That a power to create implies a power to preserve.
Second. That a power to destroy, if wielded by a different hand, is hostile to and incompatible with these powers to create and preserve.

Having decided that Congress possesses the constitutional power to charter or create the bank, the Chief-Justice proceeded to argue that the power claimed by the State of Maryland to tax one of the branches of the bank involved the power to destroy, and that the power to destroy may defeat or render useless the constitutional power to create, and that there is a plain repugnance in conferring on one government the power to control the constitutional measures of another, and concluded by denying the right claimed by the State of Maryland. It is said in the opinion of the Chief-Justice that the propositions laid down were not controverted by any one of the splendid array of counsel in the case, only their applicability to that case denied, and they are adopted by Judge Story, in his Commentaries on the Constitution, as axiomatic truths. Precisely the same principle involved in the first proposition of Judge Marshall is broadly asserted in the opinion of the present court in United States *vs.* Reese, in these words:

Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress, in the legitimate exercise of its legislative discretion, shall provide.

These propositions apply equally to a reserved as to a granted power. Let us apply these principles to the question under discussion. The States are admitted on all sides to be possessed of the exclusive power to prescribe the qualifications of all voters at all elections, State and

national—that is, to create the conditions and qualifications under which the right of suffrage may be exercised. The possession of this power carries with it the power to preserve the qualifications thus created and as part and parcel of it, for the power would be nugatory without it to secure to their voters the enjoyment of the elective franchise on the conditions and qualifications they have prescribed. This the State cannot do except through her own laws creating elective machinery and her own officers to execute them, because she cannot by her laws command or control Federal officers. The Constitution and laws of the United States are supreme wherever they operate. State laws incompatible with them are nullities. Now, if the National Government legislates with reference to the manner of holding elections, or the methods and process through which State laws provide for the exercise and enjoyment of the elective franchise and sends supervisors and marshals, their deputies, &c., to superintend the elections and exercise authority in challenging and arresting voters, and empowered to disregard or in any way interfere with the laws and process and authority of the State in the manner of holding elections and ascertaining the qualifications of those who present themselves as voters, it may defeat or render useless, not only the acknowledged power of the States to prescribe the qualifications of voters, but the power which goes with it to preserve and secure to the voter the enjoyment of the elective franchise under the conditions prescribed. That the State of Maryland might use the taxing power in a way to destroy or render useless the bank charter, which the court held that Congress had the power to grant, was the ground on which her right to levy the tax was denied wholly by the court, and for the same reason the National Government, if its right to interfere at all in elections is admitted, may use the power to destroy or render useless the rights of the State over the question of suffrage, clearly has no such power.

The second proposition of Chief-Justice Marshall, "that a power to destroy, if wielded by a different hand, is hostile to and incompatible with these powers to create and preserve," is precisely illustrated by the relative attitudes of the State and Federal Governments as to the powers claimed for Congress under section 4 of article 1 of the Constitution to interfere in elections. The State holds the power to prescribe the qualifications of voters, and with it the power to preserve to the people the right to exercise the elective franchise under such conditions and qualifications as her laws may prescribe. The President claims for Congress "a different hand," another power, to-wit: that of regulating the methods and machinery of elections, which can be used to destroy the power held by the State; and this, in the language of the Chief-Justice, "is hostile to and incompatible with these powers to create and preserve" the qualifications of voters, and to secure their enjoyment of the elective franchise, held by the State. In other words, the States possess the power to prescribe the qualifications of voters, and a power is claimed for Congress which may be so used, and has been so used in the existing election laws, as to defeat the power held by the States, a claim which, under the opinion of the court in McCulloch *vs.* Maryland, is utterly inadmissible. These two incompatible powers cannot coexist. One or the other must fall; and, as there is a universal concurrence of authority, from the fathers down to the latest decisions of the Supreme Court of the United States in the cases referred to in another part of my remarks, that the power of the State is existing and absolute over the suffrage question, it follows inexorably that the power claimed for Congress does not and can not exist. If the States have, as all admit them to have, the exclusive power to prescribe the qualifications of voters, then they are necessarily supreme in all the methods and machinery required for the exercise of the elective franchise, because it is only through such supremacy that their power can be enforced, and Congress has no power, and can exercise none whatever, over the subject without destroying this constitutional right of the States. He who admits the power of the States to prescribe the qualifications of voters as an absolute constitutional power, is driven by established legal principles and the highest judicial and political authorities, to admit that, inherent in that power, as a part of it, is the power to execute itself and preserve itself from inanition by protecting voters in the enjoyment of the right to vote on the conditions and qualifications prescribed, and that this can only be done through laws passed by the States and officers appointed and commanded by the States. Anything short of this is destructive of the power of the States to prescribe the qualifications of voters, and leaves the power, which all admit to be theirs, a barren ideality and a mere *brutum fulmen*. To admit that the States have the power to prescribe the qualifications of voters and at the same time claim power for Congress to regulate the machinery of elections, and have supervisors, marshals, or soldiers at the polls to interfere with the enjoyment of the voting franchise as prescribed by the States, to oversee the processes of the States, is to assert the existence, in the language of Judge Marshall, of two "incompatible powers" which cannot exist together. If one exists the other cannot exist. There can be no mixed State and Federal machinery, any more than oil and water can be mingled; for in the State and Federal jurisdictions each is supreme in its proper sphere, and the two constitute one harmonious whole, because the orbits within which they move and operate are distinct and separate. But this harmony is destroyed the moment the powers of either invade the precincts of the other. The powers of the two cannot live together in the same circle of operation, because the admitted supremacy of the National authority extinguishes and annihilates that of the States. If the National Government intervenes through marshals and supervisors and other officials to exercise power in holding elections and determining the qualifications of voters, then and there the authority of the State is blighted and withered under the deadly shadow of the superior national power, and, in the language of Judge Story, becomes a "nullity," and her constitutional right and power over the matter of suffrage is lost and gone.

Hence I maintain that the power of the State over the subject is exclusive so far as the manner of and machinery for holding elections is concerned, and therefore that the powers conferred upon Congress in section 4 of article 1 cannot authorize the existing laws touching elections.

I insist, then, Mr. President, that the construction of section 4 of article 1 claimed for it by the Executive and other distinguished gentlemen of the republican party cannot be adopted without overthrowing other clauses of the Constitution never before questioned, which vest control over the matter of suffrage in the States, and is violative of that established rule of interpretation which requires all the parts of the Constitution so construed that none shall be rejected and all shall be operative where it can be done. I submit, it is equally clear that the construction I claim for it, being consistent with its own terms and with that indicated for it by the framers of the Constitution, as well as that pointed out by other clauses of the instrument *in pari materia*, giving force and operation as it does to all parts of the Constitution, and coming in collision with none, is the correct one.

It will be seen, Mr. President, that my argument does not controvert the power of Congress to fix the time for elections, to provide for elections by districts, and to provide for voting by ballot rather than *viva voce*, nor to enact such penal laws as will enforce upon the election officers of the State the observance of such national legislation as defines the rights of persons secured by the amendment to the Constitution. None of these interfere with the exclusive rights of the States to prescribe the qualifications of voters and protect its just powers to control and direct the machinery of elections. If Congress should attempt, however, to exercise either of those powers in a way which would directly or indirectly interfere with the great right of the States to prescribe the qualifications of voters and preserve to the people the enjoyment of the elective franchise on the conditions prescribed, then such exercise of power, though for the purposes named, would, I insist, upon the principles and authorities referred to, be clearly unconstitutional.

The test and touchstone of the powers of Congress over this subject is to be found in ascertaining whether or not its exercise in the particular mode may defeat or impair the powers of the State over that great reserved right, and if it does, it must be unauthorized and void.

To summarize the argument, the States are, by general admission on all sides, invested with exclusive power to prescribe the qualifications of voters. This power carries with it the power to protect their citizens in the enjoyment of the elective franchise on the qualifications and under the conditions prescribed; and in order to do this, the machinery for holding elections, and the officers for running this machinery, must be prescribed by State laws, without interference from Federal officials, because the State cannot command Federal officers and can command her own, and because if Federal officers intervene in these matters, being under the national jurisdiction and charged with the enforcement of national laws, which have superior authority to State laws, the authority of the State may be nullified, and is nullified in the existing election laws, and thereby the constitutional power of the States may be overthrown, and is overthrown in the laws sought to be repealed.

In the convention which framed the Constitution, in the contest over its adoption by the States, and over the amendments thereto, as well as in the administration of the Government ever since, there has been an unceasing struggle—a struggle underlying the formation of every political party which has existed in the country—between those who would build up a splendid central government at the expense of the States and of local government on one side, and those who on the other were jealous of the monarchical and aristocratic tendencies of a consolidated government, and desired to strengthen and increase the powers of the States and extend the benefits of local rule. This contest has always been earnest, and too frequently fierce and bitter; and, in consequence, we find throughout the Constitution that it was the aim of its framers to give each to the States and National Government a self-preserving and self-protecting power, not dependent upon the action or within the control of the other. All the great rights secured to each were thus guarded. Section 4 of article 1, which we are now considering, was defended by Madison, Hamilton, Jay, and others on the ground that it was necessary to enable the National Government to preserve itself from dissolution, which might result from the non-action or contrivance of the States. On the other hand, for the protection of the States, articles 9 and 10 of amendments to the Constitution provide respectively that the enumeration of rights in the Constitution shall not be construed to disparage others retained by the people, and that powers not delegated to the United States nor prohibited to the States, are reserved respectively to the States, or the people. These provisions are adverted to simply as illustrations of the spirit which pervades the whole instrument.

It was regarded by the framers of the Constitution as absolutely necessary, both to the stability and the harmonious operation of the

Government, that the States on one side and the National Government on the other should each be invested with the inherent power to protect the rights and authority granted to them respectively against the aggression of the other; and accordingly we find, so far as human sagacity could foresee and provide, that it has been done, and no important power vested in either has been left to the tender mercies and keeping of the other. It would have been strange indeed if, with this feeling of distrust and jealousy between the States and the National Government at fever heat, the great cardinal right, the corner-stone of the governments, State and National, and the most precious of the rights of the States so carefully and fully reserved, the control of the question of suffrage had been left where the National Government could grasp or control it.

The President and his party associates in this Chamber see a supreme necessity for Federal supervision of elections, in order to protect the interests and freedom of voters and the purity of the ballot-box. They are able to see no virtue in State officials, in local laws, and the methods of home rule, and insist upon United States officers for that purpose. Why officers of the United States? There is no State in the Union that has not stringent laws for the protection of the freedom and purity of the ballot and abundant provision for their enforcement. Every State in the Union is able to take care of her peace and of the elective franchise, and they all do have a free ballot and preserve order in State elections.

Why will not the same appliances produce the same result in elections for members of Congress? The voters are the same who vote in State elections; the police and election officers are the same. The governors of the States all have the power to call out the militia of the State if needed to preserve order and protect every citizen in his right to cast a free ballot. If fraud or intimidation or force, notwithstanding all these safeguards, does have influence in elections, there is yet another remedy, which is thorough—a constitutional provision intended and adopted for the purpose of placing the ultimate control, so far as honest and fair elections and a due observance of law, national as well as State, in choosing Representatives in Congress, are concerned, absolutely in the hands of one branch of the national authority, and which most effectually accomplishes that purpose. The House of Representatives judges of the elections, returns, and qualifications of its members, and under the Constitution is empowered to investigate all or any of their elections, to send for persons and papers, and ferret out the fraud, if any has been committed, or the force and intimidation, if any has been used, or any other illegality in the election, and upon a full hearing of all the evidence to give the seat to him who is honestly elected by the popular vote. It is here, in this undisputed power of the House, that the National Government is supreme in its supervisory power over elections, and can enforce perfect obedience to law. This, together with the admitted jurisdiction of the Federal courts to indict and punish all State officers who refuse or fail to obey Federal laws when applicable in holding elections, secures supremacy to the National Government over the whole subject, save and except in prescribing the qualifications of voters and the manner of holding elections.

What more can be desired for the amplest protection of the national interests in the freedom of voters and the purity of elections? Two supervisors, stripped of all power as they should be to use any authority, are still permitted to be at each polling precinct, even if this bill should pass, to watch and scrutinize the election, the count of the ballots, and the entire process of the election from the opening to closing of the polls, and with the same privileges at registration precincts to observe the registration of voters, so as to be able to testify if anything goes wrong. Cannot State officers be relied upon as well as United States officers? Why pay three or four hundred thousand dollars per annum to United States officers for doing that which the States all have provided to have done, and which it is their business, not that of the National Government, to attend to and pay for? Are the States and people unworthy of trust and confidence? If they are, then our Government is already a failure, and the sooner the fact is recognized the better.

But, Mr. President, if the constitutional power to do so was clear and without question, the danger to free institutions in an assumption by Congress of control over elections ought forever to forbid it. As long as the subject remains under control of the States we have nothing to fear. There have been, and will doubtless be again, irregularities and fraud in elections held under State control; but these are of infrequent occurrence, and are inevitable in any free country and under any system, State or national.

The advocates of this exercise of power by the General Government admit that the Constitution confides this subject primarily to the States, and only claim for the National Government the right in extraordinary exigencies. Those most blinded by party prejudice and passion can see that to admit the exercise of this power in towns and cities of twenty thousand inhabitants and upward involves an admission of the power to exercise it throughout the country; not only that, but to take the elections out of the hands of State officers and appoint Federal officers to hold them, and make returns, if Congress shall so determine, and that a determination to do so would be only a question of time and party exigency. Nor would the change stop there; for whatever of power rests in Congress over elections for members of the House, to the same extent exists in that body over elections for Senators, with the single exception of the places where the elections are to be held. When the necessities of party should require, there would be no scruple in the way of intervening in senatorial elections, and measures looking to the control of these would surely follow. When we remember that the first office in the Republic, the Presidency itself, has been the subject of political prostitution, and been once captured by party legerdemain, despite the expressed will of a majority of the American people, we are not permitted to hope that any other will escape this malign influence when the opportunity for its exercise is given.

All can see that if the General Government shall ever assume and execute such powers as these, and have every election precinct throughout the Republic dominated by supervisors, marshals, and their deputies, and, if desired, with soldiers in addition, all appointed and controlled and commanded by the Administration in power, and the State Legislatures when Senators are to be elected operated upon by similar influences, that congressional elections will be nothing more than a method of registering the will of the Administration, which by this means will perpetuate itself in power and secure a subservient Congress. The President besides being Commander-in-Chief of the Army and Navy, and the dispenser of one hundred thousand appointments to other offices, appoints the judges and is himself the executive branch of the Government, and only needs the control of Congress in order to be the focal point of all the powers of government. Such concentration of power is the very essence of despotism, and sooner or later it would come. Of course the danger is not immediate, not visible, but the more sure because not felt or seen. The people must be educated to the processes through which a republican government changes its character and goes into imperialism by slow and easy stages, so as not to be roused to the danger until it is too late to retrieve the loss of their liberties. The Amerian people have been under able tuition in these methods for the last fifteen years, and have proved, unfortunately, apt scholars.

That "history repeats itself" is a very common truism, and history teems with illustrations of the practical wisdom of the sentiment that "eternal vigilance is the price of liberty." When such a mild-mannered and estimable gentleman as the present Executive can be wrought up to the pitch of defending the use of troops at the polls, and can be induced to violate all the precedents and traditions of the office he holds by vetoing a repeal of an existing law which, after trial, has been found inexpedient as well as unconstitutional, something no President has ever done before, it is not difficult to imagine what an able, bold, unscrupulous, and ambitious man in the executive office will do in the years to come, with the opportunities being prepared for him in the gradual departure from the old landmarks of our Government. The highest wisdom and soundest philosophy, approved by the most authentic teachings of history, warn us that the liberties of a people are safe only in their own keeping, and that a power capable of being used for their overthrow should never be permitted to exist in any human hands. With the power of the States to control the question of suffrage guarded against invasion and secured to them beyond any contingency, the Government will rest on the solid foundation of the intelligence and virtue of the people and direct accountability to them, and popular liberty will be impregnable to assault from any source; but, taken from the States and transferred to the control of the National Government, or, rather, the National Executive, the very shield and sword of free government will have been surrendered, and the people, defenseless, will become the prey of spoilers and the playthings and instruments of personal ambition.

It is charged that violence, intimidation, and fraud in the South necessitate the safeguards provided by the laws we are seeking to repeal, and the halls of Congress have been reverberating for a month past with eloquent denunciations of the disloyalty which it is alleged is at the bottom of these disorders. An examination of the facts will show this charge to be without a particle of foundation, utterly groundless, and a mere pretext. We only seek to repeal so much of the existing election law as creates chief supervisors, &c., and provides for marshals and special deputies, and gives them the great powers alluded to through which the election laws of the States may be nullified, and this portion of the law is operative only in towns and cities of twenty thousand inhabitants and upward; so that, apart from the assertion of the great principle involved, only the towns and cities of that size will be the practical beneficiaries of the proposed change. The law as it affects towns and cities of less than twenty thousand inhabitants, and the rural districts, is not sought to be changed in any substantial respect. I have before me a tabulated statement of the towns and cities in the United States whose population exceeds twenty thousand, with their populations according to the census of 1870. There are in all seventy-five; and sixty-seven of them, with an aggregate population of 5,661,749, are in the States which adhered to the Government during the civil war, leaving only eight, with an aggregate population of 411,326, in the eleven States of the South which seceded. Mobile in the State of Alabama, Atlanta and Savannah in Georgia, New Orleans in Louisiana, Charleston in South Carolina, Nashville and Memphis in Tennessee, and Richmond in Virginia, are the eight southern cities. Neither Arkansas, Florida, Mississippi, North Carolina, nor Texas in 1870 had a city of twenty thousand inhabitants. The number of towns and cities of

that population in the South is, of course, greater now than in 1870, and the same is true of the other States, and I presume the relative proportion is the same.

The population of the South is sparse and chiefly rural, while that of the more densely settled States north congregates in cities, as the figures show. The Attorney-General's report shows that in 1876 the whole amount expended to pay for services of deputy marshals and supervisors in and about the elections was $275,296.60, and of that amount only $44,774.60 was paid for services rendered in the South, while $230,522 was paid for services in six of the Northern States. In 1878, out of an aggregate expenditure for the same purposes of $202,091.09, only $24,639 was expended in the South, while the remaining $177,652 was expended in the same six Northern States. These are stubborn facts, which no amount of florid declamation and fiery sensationalism can conceal. They speak trumpet-tongued of the hollowness and falsity of the pretext on which opposition is made to the passage of this bill. If there is sectionalism at all in repealing the laws concerning elections, and I deny that there is any, it is in favor of the North, where the towns and cities are which are to be benefited.

This, Mr. President, is where the shoe pinches! In the closely contested States of the North, where a few votes decide and give victory and power to one political party or the other, the republican party are unwilling to surrender the vast advantage which an army of ten thousand supervisors and marshals, and their general and special deputies, each an active republican canvasser, gives them. Hence their desperate fight. The honorable Senator from New York [Mr. CONKLING] said in his speech a few days ago: "This is a struggle for power; it is a fight for empire;" and he never spoke truer words, as the facts in his own great State show. In the elections of 1876, John I. Davenport, the chief supervisor of elections in the city of New York, had under his command, under authority of the law we are trying to repeal, one thousand and seventy supervisors, besides commissioners, and twenty-five hundred deputy marshals. In the election of 1878, he had under him twelve hundred and twenty-five supervisors, besides commissioners, and thirteen hundred and fifty deputy marshals. This great body of republican partisans, appointed by authority of the Administration at Washington, paid out of the national Treasury, armed with autocratic power, superior to the laws and authorities of the State, with power to arrest "instantly," without warrant, whoever they or either of them may adjudge guilty of an offense, heavy fines and long terms of imprisonment denounced against all who "hinder or obstruct" them in doing what they may decide to be their duty, each with his pockets and hands full of republican ballots, crowding around the polls on election day, terrorizing, threatening, and arresting honest citizens on the very day set apart by the Constitution and laws for the enjoyment of the largest personal liberty, is painfully suggestive of "a fight for empire." If the dust of one of the fathers who, the honorable Senator tells us in such eloquent phrase, came to this continent and founded "a government of the people, by the people, and for the people," could have been reanimated, and he could have witnessed the last November election in New York City, I think he would, in all probability, have concluded that the "fight" had been won, that the era of the "empire" had dawned, and that the days of the people's government he had helped to found had been numbered among the things of the past.

The honorable Senator "builded better than he knew" when he said, "This is a fight for empire." It is a fight by the republican party for the destruction of the rights and powers of the States, for the destruction of local government and home rule, and a transfer of power from the homes of the people, where it is under their control and exercised under their eye, to a grand consolidated government in this capital, where it is beyond their reach, out of their sight, not subject to their influence or command, and is grasped by lobbies and rings and corporations and monopolies and classes, by capital and associated wealth, and turned from its legitimate purpose to the spoliation and robbery and enslavement of the great mass of the people to whom it belongs. The corruptions, the extravagance, and the usurpations of largely irresponsible power, inevitable attendants of centralized government, lead as naturally to imperialism as the germinating seed in a generous soil leads to the full-grown plant. It is this tendency to consolidation, to imperialism, to the "empire," which the democratic party has ever combated, and is in this contest combating, by contending for a strict adherence to the Constitution in all its parts, by guarding the reserved powers of the States as well as the grant of power to the National Government, and taking care of local powers and the personal rights of the citizens when invaded by Federal authority.

Upon the issue thus joined we appeal with confidence to the country to hold up the hands of the democratic party, which in this "fight for empire" is aligned on the side of the people, is maintaining the spirit and genius of American constitutional government as inspired by the founders of the Republic, and is standing like a lion in the path of those who are assailing the fundamental guarantees of popular liberty. I for one have no fears of the result. Sectional prejudice and partisan zeal may for a brief period becloud the judgment of the people; but their sober second thought will, as it has ever done in great national crises, come speedily to the rescue, and, with impartial judgment, give victory to the right and "honor to whom honor is due."

Mr. BECK. I believe it is hardly worth while to attempt to go on with the bill further to-day, and I therefore move that the Senate adjourn.

Mr. MORRILL. Will the Senator move for an executive session?

Mr. BECK. I will withdraw my motion if any Senator desires an executive session.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened, and (at five o'clock and twenty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 12, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

CORRECTION OF THE RECORD.

Mr. COX. I rise to a question connected with the publication of the RECORD. I see that a petition presented on Saturday last by the gentleman from Iowa [Mr. MCCOID] is published in the RECORD *in extenso*. I think the petition is an insult to Congress and ought never to have been received—hardly even by its deposit in the box. I do not propose to quote from the petition; but every member can see what it is—a bitter attack upon and gross misrepresentation of members of this Congress. I know, Mr. Speaker, that I objected to the petition being read; and it could not have been printed except by unanimous consent, unless it was read. I think that this sort of practice ought to be stopped in time.

The SPEAKER. The RECORD will be corrected.

Mr. SAPP. What petition does the gentleman refer to?

Mr. COX. One that got into the RECORD without authority.

The SPEAKER. The petition referred to is one presented by the gentleman from Iowa, [Mr. MCCOID.]

Mr. SAPP. I do not remember the circumstances myself; but I think, before any action is taken on this matter, my colleague [Mr. MCCOID] ought to be present and have an opportunity to be heard in relation to it. I believe my colleague understood that although the petition was not allowed to be read, it might be published in the RECORD.

The SPEAKER. The gentleman from New York states that he objected to its introduction.

Mr. COX. Several of us objected.

Mr. SAPP. My colleague withdrew the request to have it read, and consent was given to the printing.

Mr. HUMPHREY. That was my understanding.

Mr. COX. I made objection all the time.

Mr. HUMPHREY. It was not so understood on this side.

The SPEAKER. If objection was made to its being read, of course it could not go into the RECORD.

Mr. SAPP. My understanding was that there was unanimous consent that it might be printed in the RECORD.

The SPEAKER. The gentleman from New York states to the contrary. The present occupant of the chair was not then in the chair.

Mr. SAPP. I see that my colleague is coming in, and he can speak for himself in the matter.

Mr. COX. The reading was begun and I objected; leave was asked to put it in the RECORD, and I then objected. There was some confusion, and perhaps gentlemen on the other side did not hear the objection.

Mr. MCCOID. I think there was no objection. I believe that the RECORD states the matter correctly. The gentleman from New York was on the floor to introduce something of his own, and his attention was engaged at the time with a resolution which he submitted and had referred. The petition was in the hands of the Clerk at the time that the gentleman introduced his resolution. Consent was given to the printing of the petition.

The SPEAKER. If the gentleman from New York [Mr. COX] states as a fact that he objected, the Chair must recognize that, because the petition could only get in by unanimous consent.

Mr. MCCOID. Mr. Speaker, one word. I will read the statement of the matter as given in the RECORD.

The SPEAKER. The gentleman asks unanimous consent. The effect of the reading would be to get the petition again in the RECORD.

Mr. SAPP. The RECORD shows that unanimous consent was given to the printing of the petition, the Speaker *pro tempore* stating that he heard no objection.

Mr. COX. I want to correct the RECORD in that respect.

Mr. MCCOID. I am not going to read the petition at all, but simply what took place in connection with it:

Mr. MCCOID. I ask unanimous consent to have read at the Clerk's desk a petition.

Mr. DUNNELL. I yield to the gentleman for that purpose.

The Clerk read as follows:

"A petition to the Senate and House of the Forty-sixth Congress, Washington, District of Columbia.

"Your petitioners, citizens and constituents"——

The SPEAKER *pro tempore*. This is a petition and can come in by being deposited in the petition-box.

Mr. MCCOID. No, sir; it is not intended for reference; it is a petition directed to the House. I ask that it be printed in the RECORD.

Several MEMBERS. What is it?

The SPEAKER *pro tempore*. Is there objection to printing the petition in the RECORD? The Chair hears none.

The petition is as follows:

That is a correct statement, Mr. Speaker, of what occurred. I will say upon the merits of the petition that it is not one that could go to a committee to be acted upon. It is not designed for reference. It is a petition directed immediately to the House for its action. A reference of it would simply deny to the people the right of petition—would silence their voice upon a question on which they ought to be heard by the House. It was not a petition for a bill—not a petition for action upon any subject by a committee. It was a petition to this House asking us to transact the business for which we were called here and go home, without disturbing the country by vexatious questions that ought not to be agitated during this extra session of Congress. The petition ought to have been read and printed.

The SPEAKER. The Chair desires to suggest that but limited debate is in order.

Mr. COX. I would like to answer what has fallen from the gentleman from Iowa. This petition is one that never ought to have been received here. It is an insult to the House. It accuses us of violence, extravagance, revolutionary conduct, &c., in language which I will not quote—which would never have been allowed to be printed in the RECORD, had the petition been read or its purport understood. To refuse the reading and printing of a petition does not interfere with the right of petition as fixed by the rules. Petitions, by the rules, come in through the box. It is only by the grace of the House, by its unanimity, that petitions can be printed in the RECORD if not read. And although it may be recorded here that no objection was heard, yet I am confirmed by several gentlemen around me that objection was made, not by me alone but by several gentlemen, audibly made. It may not have been heard on the other side of the House, but it was made, and the right of each member to protest against insults should be regarded.

Mr. SAPP. Why did not the Speaker hear the objection when it was made?

The SPEAKER. The Speaker was not in the chair at the time.

Mr. MCCOID. It is the first time in the history of the country that I understand the House could be insulted by the people petitioning it.

Mr. COX. That depends upon what sort of insult it is.

Mr. MCCOID. It would be an insult to the people of the country to have a petition of this character put into the box and smothered.

Mr. COX. It is the first time the House was ever so insulted.

Mr. MCCOID. Why your own State of New York has by its Legislature used language equivalent to that in a memorial to this House.

A MEMBER. No; in a joint resolution.

Mr. MCCOID. The resolution of the Legislature of the State of New York, if the gentleman will refer to the RECORD, is more insulting than this petition. Why was not the gentleman then so sensitive?

Mr. STEVENSON. I rise to a point of order. Is this discussion in order?

The SPEAKER. The gentleman from New York states on his responsibility as a member that he objected to the reception and printing in the RECORD of the petition. The Chair so understands, and the RECORD should be corrected.

Mr. HARRIS, of Virginia. Mr. Speaker, it so happened that I was presiding at the time as Speaker *pro tempore*. The CONGRESSIONAL RECORD states the facts correctly, as I understand them. I read from the RECORD:

Mr. MCCOID. I ask unanimous consent to have read at the Clerk's desk a petition.

Mr. DUNNELL. I yield to the gentleman for that purpose.

The Clerk read as follows:

"A petition to the Senate and House of the Forty-sixth Congress, Washington, District of Columbia.

"Your petitioners, citizens and constituents"——

Mr. COX. I object to the reading of that petition and putting it upon the record in that way.

Mr. HARRIS, of Virginia. I do not propose to read it. I am only reading from the RECORD to show what occurred:

The SPEAKER *pro tempore*. This is a petition and can come in by being deposited in the petition-box.

Mr. MCCOID. No, sir; it is not intended for reference; it is a petition directed to the House. I ask that it be printed in the RECORD.

Several MEMBERS. What is it?

The SPEAKER *pro tempore*. Is there objection to printing the petition in the RECORD? The Chair hears none.

It was submitted whether there was objection or not. The Chair at that time heard none. I do not doubt the statement of the gentleman from New York that he did make objection, although the Chair did not hear it. The correction certainly ought to be made as proposed.

Mr. SAPP. I ask the gentleman from Virginia a question. Was not the reading of the petition asked for?

Mr. HARRIS, of Virginia. Yes; and objected to.

Mr. REAGAN. The gentleman from New York rose in my hearing and distinctly objected to the reception and printing of the petition.

The SPEAKER. The gentleman did not hear the remark of the gentleman from Texas.

Mr. REAGAN. I was present on last Saturday and heard the gentleman from New York distinctly object to the reception and printing of this petition. Several objections were made to the introduction of the petition. The gentleman from New York made objection and he insisted upon it.

The SPEAKER. The Chair thinks there is no official knowledge of the presentation of this petition upon the Journal. The RECORD will be accordingly corrected.

Mr. CONGER. How will it be corrected?

The SPEAKER. By inserting the objection and by striking the petition from the RECORD.

Mr. CONGER. Then I desire to have read what is proposed to be stricken out.

Mr. TOWNSHEND, of Illinois. I object.

Mr. CONGER. I demand the reading of what the Chair orders to be taken out of the RECORD.

The SPEAKER. The Chair will submit the question of correction to the House.

Mr. CONGER. No, sir; the Chair will submit the question to the House whether the paper shall be read or not.

Mr. MCCOOK. Before that is done, I desire to call the Speaker's attention to a remark which occurred in the Forty-fifth Congress in which my colleague who has just objected to the printing of this petition and myself had some little controversy, and the Speaker said distinctly and explicitly that he had no power over the correction of the RECORD.

The SPEAKER. Under such construction the RECORD could be filled with errors and there would be no remedy on the part of the House.

Mr. MCCOOK. Certainly not.

Mr. CONGER. You can correct the Journal, but not the RECORD.

The SPEAKER. The CONGRESSIONAL RECORD is constantly corrected.

Mr. CONGER. By consent of members.

Mr. TOWNSHEND, of Illinois. I demand the regular order.

The SPEAKER. The Chair is willing to submit the question to the House whether on the demand of the gentleman from Michigan this paper shall be read.

Mr. CONGER. And on this I wish to make some remarks.

The SPEAKER. The Clerk will read Rule 141.

The Clerk read as follows:

141. When the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

Mr. CONGER. I desire to ask whether that is a debatable question?

The SPEAKER. The order of business is not debatable.

Mr. CONGER. I ask whether a motion to strike from the CONGRESSIONAL RECORD a part of it is not debatable?

The SPEAKER. The order of business is not debatable; and the Chair is now willing to submit the question to the House whether this petition, as demanded by the gentleman from Michigan, shall be read.

Mr. HAWK. For the information of members, may not this petition be read?

The SPEAKER. The Chair presumes that members have generally read it.

Mr. HAWK. I do not know what it is we are called upon to vote on. I desire to have it read.

Mr. CONGER. I ask the ruling of the Chair distinctly——

The SPEAKER. The Chair rules that the order of business is not debatable.

Mr. CONGER. Will the Chair state what he understands by the order of business? I do not know what rule there is about the order of business.

Mr. SPRINGER. I rise to a question of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. SPRINGER. This paper is not before the House, for its approval or disapproval; it is not presented here for any action of the House. Therefore, it is not such a paper as any gentleman has any right to call for the reading of; unless by unanimous consent, it cannot be read. The Chair has already stated that this petition is improperly printed in the RECORD, objection having been made on Saturday. Now the request to have it printed is again renewed. One objection is sufficient to prevent that; and I submit to the Chair that it is not a question that can be submitted to the House as to whether the paper shall be printed in the RECORD or not; for the reason that one objection is sufficient to prevent its being printed. It is not a part of any gentleman's speech; it is not a part of any proceedings of the House; it is not a question on which we are called upon to vote; and it is not such a paper that the reading of it if called for can be allowed except by unanimous consent. And I object to submitting the question to the House whether this shall be read or not.

The SPEAKER. Here is a question as to the correctness of the RECORD, and it is proposed to correct it; the allegation being that there has been placed in the CONGRESSIONAL RECORD something that

does not appear in the Journal, and the printing of which was not permitted by the House. Now, the Chair has no other remedy than to submit the question of correction to the House.

Mr. SPRINGER. Is this a proposition to correct the Journal or the RECORD?

The SPEAKER. It is to correct the CONGRESSIONAL RECORD.

Mr. SPRINGER. Is that a privileged question?

The SPEAKER. The Chair has always allowed the RECORD to be corrected when a member stated it did not properly record the proceedings.

Mr. SPRINGER. A gentleman may rise to a question of privilege, and correct any statement in the RECORD which does him injustice. He may also do so where a speech has been printed by unanimous consent when it could only be printed by unanimous consent, and where personal allusion has been made in such a speech.

The SPEAKER. The Chair understands that this paper could only have been printed by unanimous consent, and that is the reason why he entertains the proposition to correct the RECORD, for the gentleman from New York [Mr. COX] and the gentleman from Texas [Mr. REAGAN] both state there were objections made to the introduction and printing of the paper in the RECORD.

Mr. SPRINGER. Let it go out and that is the end of it. If any gentleman now calls for the reading of the paper for the purpose of putting it into the RECORD one objection is sufficient to keep it out.

Mr. CONGER. The Chair has permitted the gentleman from Illinois to discuss this question, and I desire now to be heard.

The SPEAKER. The Chair will hear anything on the point of order.

Mr. WAIT. Will the Chair state what it is we are called upon to vote on? What is it that is proposed to be stricken from the RECORD?

The SPEAKER. The gentleman from Connecticut will wait a moment till the gentleman from Michigan gets through.

Mr. CONGER. The Speaker has proposed to submit to the House the question whether this paper shall be read.

The SPEAKER. Under rule 141, which has been read.

Mr. CONGER. The Chair proposes to submit the question whether the paper shall now be read. The gentleman from Illinois [Mr. SPRINGER] says that is not a proper question to submit to the House, and makes a point of order on that. It is to that point of order I speak, and not to the ruling of the Chair. The RECORD, which is all that comes to the members and all that goes to the country of what is in the Journal and of the additional things which are done here—the RECORD shows that this paper, it was proposed on Saturday, should be read by the Clerk; that there were objections to its reading, and that the gentleman presenting it asked that it be printed in the RECORD; that the then Speaker of this House asked if there were objections, and the then Speaker *pro tempore* declared publicly that there were no objections, and it was printed.

Now, sir, the gentleman from New York [Mr. COX] and the gentleman from Texas [Mr. REAGAN] rise in their places this morning and contradict the RECORD. The Speaker *pro tempore* of this House rises in his place and reads the RECORD, and says that that is a true account of the proceeding, just exactly as it occurred; that he did ask for objections; that no objections were heard; that he did state, there being no objection, the paper should be printed in the RECORD.

Now, sir, I leave that question of veracity between the gentleman from New York [Mr. COX] and the gentleman who occupied the chair, [Mr. HARRIS, of Virginia,] and between the gentleman from Texas [Mr. REAGAN] and the then Speaker *pro tempore* of the House; it is not for me to settle that.

Mr. HARRIS, of Virginia. I beg leave to correct the gentleman. I did not pretend to say that there was any question of veracity between the gentleman on my left and myself. There was no question of veracity at all. The gentlemen say that they heard objections made. I said that if they made objection I was unaware that they made it. The objection did not reach the ear of the Chair, and in justice to myself I must say that it did not reach the ear of any of the officials at the desk, or the reporter who was taking down the proceedings, but we all know that objections are made which do not reach the Chair in the confusion attending adjournment. On the contrary I have no doubt that objection was made, but it did not reach the ear of the Speaker *pro tempore* or the reporter who was reporting at the time.

Mr. CONGER. Now, Mr. Speaker, I merely alluded to that to say that if we are to take the opinions of members, of what takes place, against the RECORD, against the decision of the Speaker, against the report of the reporters who are so careful as to put down all, even the slightest interruption which may be made in a speech, and every remark, then there is no limit beyond which the RECORD may not be corrected. But, sir, you will find upon page 212 of the Manual the following proposition:

It is not a privileged question to correct a report in the Globe.

Or as now in the RECORD; and then follows in brackets:

[It is usual, however, for the Speaker to entertain, by unanimous consent, such questions immediately after the reading of the Journal is concluded.]

Now, if that be any authority, it is not a privileged question to correct this.

The SPEAKER. The Chair has never said it was other than a personal or representative privilege.

Mr. CONGER. Not being a privileged question, it can only be done by unanimous consent.

The SPEAKER. It is rather late to object now, after the matter has been discussed for half an hour.

Mr. CONGER. Oh, no! it is never too late to do right. I have heard that said frequently. I have heard the present occupant of the chair in the earlier and better days of the Republic make the same remark. [Laughter.]

The SPEAKER. The Chair has great hopes of the gentleman from Michigan.

Mr. CONGER. Unanimous consent is required, and I stood ready the moment unanimous consent was asked to object, and I informed the Chair; and if the Chair will put the question now whether there be unanimous consent and unanimous consent be given, then I think the Chair was justified in having the RECORD corrected.

The SPEAKER. The Chair does not hold that it requires unanimous consent. It is a right of individual members of this House to be correctly reported.

Mr. CONGER. Ah! to be correctly reported.

The SPEAKER. The gentleman from New York [Mr. COX] states that he did object, and the CONGRESSIONAL RECORD does not contain his objection. The Chair thinks he has the right to have the words "I object" inserted.

Mr. CONGER. If that be all, I have no objection; but the proposition is to strike from the record of Congress a part of its proceedings; and if the majority may strike out one part of the proceedings from the RECORD, they may strike out any part they choose. Why, sir, they may prevent the people of the United States from knowing what kind of proceedings are carried on in this House, and that everybody on this side of the House would consider a sad calamity to the people of the country. The attempt, Mr. Speaker, is to strike from the CONGRESSIONAL RECORD a part of the printed record of the proceedings of this House; and if the Chair will submit that to the majority, you take from the Chair, who is made properly the guardian of our record, the responsibility and give it to a majority of the members of the House.

The SPEAKER. Notwithstanding the reading of the Manual quoted, the Chair has during his term—and he learned the practice from his predecessors—submitted motions for the correction of the RECORD; and the Chair thinks that even the gentleman from Michigan has needed such correction very often.

Mr. CONGER. The correction has generally been administered directly by the Chair. [Laughter.]

The SPEAKER. The Chair entertained the motion of the gentleman from New York. The reporters of the RECORD who take down the proceedings are officers of this House, and their reports are under the review of the House, of course, just as the Journal is under the review of the House. The Chair has never yet during his experience heard it questioned that a member had a right to correct the CONGRESSIONAL RECORD where it did not correctly report him. The Chair will submit the question of the correction of the RECORD to the House.

Mr. CONGER. Would not that correction properly be in to-day's RECORD, and not be erasing or striking out a part of yesterday's RECORD?

The SPEAKER. It is well known that a small number of copies of the daily RECORD, three or five or some other number, is each morning furnished to every member. When the proceedings published in the RECORD are stereotyped for binding and circulation in that form, the errors which are contained in the daily RECORD and which have been corrected are omitted from the bound volumes of the RECORD. It is the province of the House to correct the record of its proceedings and debates, and it ought to have the right to do that.

Mr. CONGER. Then what question does the Chair propose to submit to the House?

The SPEAKER. First, whether the RECORD shall be corrected as proposed.

Mr. CONGER. To-day's RECORD?

The SPEAKER. The Chair entertains the question and will submit it to the House.

Mr. COX. I ask the House to permit my objection and that of my friend from Texas and the objections of others to be inserted in the RECORD.

Mr. CONGER. There is no objection to that from anybody that I know of.

Mr. COX. The gentleman always tries to get the last word. I want to say something about this matter myself. If my objection is recorded, what is the consequence? It enables me to assert my right to keep out of the RECORD anything that may be unknown or that may be disrespectful or insulting to the House. And as a consequence of my objection and the insertion of that objection in the RECORD this petition is not before the House, it is not in the RECORD, and the reporter is bound to leave it out of the stereotyped copy of the RECORD.

Mr. CONGER. That is a very different proposition. The Chair will decide whether an objection made afterward is to be taken as if made on Saturday, and is to operate to disfigure and destroy the recorded actions of this House.

The SPEAKER. The remark of the gentleman might lead the

House to suppose that a motion to strike out from the RECORD was something new. That has been constantly done. The Chair recollects very distinctly when a Representative from the State of Ohio, Mr. Mungen, had printed in the RECORD, or the Globe as it was then, a speech which contained reflections upon a Senator from the State of Massachusetts, and the House deliberately, and by a nearly unanimous vote, if the Chair recollects aright, struck out from that speech the offensive statements in regard to that Senator.

Mr. CONGER. Probably because no one objected.

Mr. COX. Yes they did.

Mr. CONGER. If the RECORD is to be corrected at all, it is to be corrected by a solemn act of this House expunging from it certain portions, as was done in the case of the resolution in regard to General Jackson, and as has been done in two or three other cases by expunging resolutions from the records of the House. Now, if it is to follow by the construction of the Speaker that this petition is to be stricken from the copies of the RECORD which are to be bound in volumes, then I demand that it be read so that we may know what is to be stricken out.

The SPEAKER. The Chair understands that there is no objection to the correction of the RECORD in the manner as stated by the gentleman from New York, [Mr. COX.]

Mr. CONGER. I object if the consequences follow——

The SPEAKER. The gentleman cannot make a conditional objection.

Mr. CONGER. Then I object to it entirely.

The SPEAKER. The Chair will submit the question to the House.

Mr. REED. I recollect that there was an instance where the actual result of a vote in the House was changed by a correction of the Journal, which erred in not recording the vote of a member from the State of Maine. That was done some time ago, and I think the correction in that way was made, not by striking out what occurred upon the day when the mistake was made, but by making the next record so as to contain the true proceedings, and thereby affecting and changing the result as improperly recorded. So it seems to me that in this case the proper course to be pursued by the House is not to strike out what actually occurred, what was recorded in the record of the proceedings, but the record of to-day's proceedings should be so made up as to show the corrected condition of the proceedings. It is in that way that the correction should be made, and not by striking out any of the record of the proceedings of a preceding day. I believe that the word of a member should be taken when he states how he voted, for instance, the record to the contrary notwithstanding. The correction should be made in the proceedings of to-day. The daily RECORD of our proceedings ought not to be corrected by striking out anything of a preceding day's RECORD. I think I am correct in that.

Mr. REAGAN. The question before the House is not a question of expunging a portion of the proceedings of the House. If a thing is not legally or properly done, or if it is improperly done, it is not done at all. The objection shows that it was not done according to the rules of procedure in this House. Therefore the proposition is not to strike out anything that was done, but simply to correct the RECORD to show what actually was or was not done.

The SPEAKER. The Chair will direct the Clerk to read a decision made by the House exactly in point.

The Clerk read as follows:

WEDNESDAY, *July* 8, 1846.

The Journal of yesterday having been read,

Mr. Tibbatts moved "to correct the same by omitting all proceedings in relation to the call of the House, moved by Mr. Dromgoole, following the decision of the Speaker upon the resolution offered by Mr. McKay, requiring absentees to render excuses for their absence whenever they shall next appear in the House."

And, after debate,

The previous question was moved by Mr. Barclay Martin, and seconded; and the main question was ordered and stated, namely, Shall the Journal be corrected as proposed by Mr. Tibbatts? when

Mr. Brockenbrough raised the question of order, that the Journal of yesterday was made up in accordance with the Constitution of the United States, and was true in point of fact, and being true, could not be altered unless shown to be untrue.

The Speaker overruled the point of order on the ground that the Constitution does not specify the manner in which the Journal shall be kept, and the House has the control thereof, and may judge what are and what are not proceedings.

From this decision of the Speaker, Mr. Brockenbrough appealed.

And the question being put, Shall the decision stand as the judgment of the House?

It was decided in the affirmative.

Mr. ROBINSON. Mr. Speaker, a moment ago the Chair stated as a precedent that in a former Congress a majority of the House of Representatives had ordered a portion of a member's speech to be stricken from the RECORD. Lest the Chair's recognition of the action at this time may be taken as a precedent, I desire to recall to the recollection of the honorable Speaker an incident in the Forty-fifth Congress in reference to the investigation of charges against John W. Polk. The gentleman from Indiana [Mr. BAKER] had made a speech, and had certain papers read as part of his speech. It was moved upon the other side of the House that a certain portion of his speech be stricken from the RECORD. The Chair distinctly stated at that time, unless my memory is very much at fault, that it was not within the power of the House to take from the RECORD a portion of a member's speech without his consent; and as the gentleman who made the speech objected, the Chair ruled that the House had no power over the matter. I state this now; and if I am wrong I want to be corrected. As I recollect the circumstances, the case would seem to be in conflict with the precedent stated by the Speaker a few moments ago.

The SPEAKER. The Chair proposes to submit this question to the House.

Mr. ROBINSON. I do not state this case in antagonism to the proposition of the Chair at the present time, but only to put one precedent against the other.

The SPEAKER. If not offensive the language ought to remain in a member's speech. The Chair proposes to submit the question to the House because he believes the House has control over its RECORD and its Journal.

Mr. STEPHENS. Mr. Speaker, the case in point and the one cited by the gentleman from Massachusetts [Mr. ROBINSON] are not analogous. In the case referred to by the gentleman from Massachusetts a speech had been made and it went properly into the RECORD. But the question here is, did this petition get properly into the RECORD? It certainly did not if any member objected. It is true the Speaker *pro tempore* says he declared he heard no objection; and I know that is so, for I heard him say it. But I know that at the same time I heard the gentleman from New York, [Mr. COX,] the gentleman from Texas, [Mr. REAGAN,] and some others object. I noticed the objection at the time; but the Speaker *pro tempore* did not hear it. Now, has the gentleman from New York the right to come in now and ask that his objection be entered in the RECORD? If so, of course it excludes the petition.

In regard to the petition itself, I wish to say that I think we are making a very great fuss about a little thing. I see nothing in the petition to justify it.

The SPEAKER. If the Chair had his own volition about the matter, he would allow the petition to stay where it is and go for what it is worth. But the Chair is governed by the rules of the House, and therefore he prefers, as he thinks properly, to submit the question to the House.

Mr. STEPHENS. That is right.

The SPEAKER. The Chair wants to state, in all frankness, that if the gentleman from New York and the gentleman from Texas are allowed (and he thinks they ought to be allowed) to insert in the CONGRESSIONAL RECORD the fact that they did object, then the petition goes out necessarily, because it could not be there in the face of the objection without a palpable contradiction on the face of the RECORD.

Mr. ROBESON. I wish to ask the Chair for his opinion on a question which may be of importance in the future. When the Chair asks for objections, is an objection which is not heard by the Chair, and which he declares he does not hear, an objection?

The SPEAKER. The present occupant of the chair has uniformly taken the word of a member in matters of this kind. When a member has stated that he objected, even though the objection was not heard, the Chair has recognized it upon the single statement of such member.

Mr. ROBESON. But that is not the point. Of course the Chair must take the word of a member, but the question is, in legislative proceedings, where the Chair is to be the ultimate judge and the action of the House is to be taken upon that judgment, when the Chair says, "I hear no objection," and the objection is not then presented and pressed, is it to be considered as actually made?

The SPEAKER. The Chair will decide that question in the future when, as the gentleman suggests, it may arise. But the Chair will state (and gentlemen on all sides of the House will confirm his statement) that whenever a member has risen and stated that he did object, although not heard, the Chair has uniformly recognized the objection, and in view of that objection has often arrested and traversed the proceedings.

Mr. HARRIS, of Virginia. Let me state to the gentleman from New Jersey [Mr. ROBESON] that these proceedings took place during the last few moments preceding the adjournment of the House; three-fourths of the members were on their feet or clapping their hands to call pages, &c. Consequently there was so much confusion that it was impossible for the Chair or for members of the House generally to hear the objection.

Mr. SPRINGER. I desire to ask whether the question to be submitted to the House is whether the objection made by the gentleman from New York and the gentleman from Texas is to be inserted in the RECORD?

The SPEAKER. As there is some contradiction in reference to a question of fact, and as the present occupant of the chair was absent, he proposes to submit the question to the House.

Mr. SPRINGER. But I want to understand the form in which it is to be submitted. I think that what I have just stated is the proper question and the only question to be submitted to the House.

The SPEAKER. If the gentlemen who said they objected are to be allowed to have the RECORD corrected, then of course the objection will appear, and necessarily the petition is excluded from any subsequent publication of the RECORD.

Mr. SPRINGER. So I understand. Then the question to be submitted is, whether the objection made by the gentleman from New York and the gentleman from Texas shall be entered on the record.

The SPEAKER. The Chair submits the question whether the gentleman——

Mr. ROBESON. One question, Mr. Speaker, first, as to the operation of this.

The SPEAKER. The gentleman will proceed.

Mr. ROBESON. The record is as follows:

The SPEAKER *pro tempore*. Is there objection to printing the petition in the RECORD? The Chair hears none.

Does that come out?

The SPEAKER. The Chair thinks the whole proceeding should go out of the RECORD. Otherwise it would not contain sense.

Mr. ROBESON. But the Speaker *pro tempore* did actually say it.

The SPEAKER. The Chair will submit the question to the House.

Mr. CONGER. I ask the petition be read which the Chair decides shall go out of the RECORD.

The SPEAKER. The Chair has not decided anything in regard to it. The Chair has stated the practice and the effect.

Mr. COX. I object to the reading of any petition. I object to doing indirectly what cannot be done directly.

Mr. CONGER. I demand the reading of that petition before I vote.

The SPEAKER. The Chair will submit the question before the gentleman makes his speech.

Mr. CONGER. Before I vote I wish to have that petition read.

Mr. COX. I wish to mention as a matter of fact——

Mr. McLANE. I desire before the question is submitted to call the attention of the House to the fact that objection was heard at the desk, and this petition is not on the Journal of the House because the clerks heard the objection and excluded it therefrom. And if the clerks heard the objection and excluded this petition from the Journal, I do not suppose there is any gentleman upon this floor who will question the right of the House to strike it from the RECORD. It is not only a question of correcting the RECORD, for the correction of the RECORD by the insertion of the words "I object" necessarily excludes the petition. As the fact is that the objection was heard at the desk, and as the petition is not on the Journal, how can the gentleman resist the right of a member to have his objection entered, and how can he resist the logical consequence of that action?

The SPEAKER. It does not necessarily exclude it from the attention of the House or one of its committees, because it could go to the petition-box and be referred in the ordinary way under the rule.

Mr. COX. Of course it will not be excluded from the petition-box.

The SPEAKER. It is only excluded from the RECORD because objected to.

Mr. CONGER. I wish to make a remark. If that be so; if the gentleman from Maryland is correct, then if I objected to a report here——

Mr. McLANE. I have not yielded the floor

Mr. CONGER. One word. I wish the gentleman to answer me. If I objected to a bill requiring unanimous consent, if it comes before the House, if it passes the House and is sent to the Senate, and if a law is enacted in consequence and it is signed by the President, if I was absent the next morning and for several mornings afterward, and when I return rise in my place and say "I did object to the introduction of that proposition, although the RECORD did not show it," then, as a natural consequence, all that was done, all that followed, is of no account, if my action be admitted; then the law falls, the action of the House, the action of the Senate, the action of the President, if he signed the bill, and in effect I nullify a law that has been passed. That is the inevitable result, if the gentleman from Maryland is correct.

Mr. McLANE. Mr. Speaker, I was about continuing to make this appeal——

Mr. CONGER. I beg the gentleman's pardon; I thought he had taken his seat.

Mr. McLANE. Not at all. I wish to make this appeal to the House. If that objection had been heard the petition would have gone to the table. I ask this House, then, if it had gone by mistake on the Journal of yesterday, the objection not having been heard, could it not be stricken from the Journal when the correction of the Journal took place? It would be stricken out on the correction of the Journal of the previous day's proceedings; and when the objection of the gentleman from New York is entered upon the Journal, then necessarily the petition is excluded; and although one or two copies of the Journal may have been printed for the convenience of members or of the officers of the House, that would not interfere with the correction of the official Journal which is bound and preserved in the archives of the Government.

Mr. REED. Permit me to state to the gentleman from Maryland that this is not a question of the correction of the Journal, but a question of the correction of the RECORD. Now, the RECORD states exactly what occurred. There is no trouble about it.

Mr. McLANE. The gentleman will understand I am arguing from analogy. I said if the Journal had been corrected this morning by the entry of objection of the gentleman from New York, then nobody would have protested against it.

Mr. STEPHENS. Will the gentleman allow me one minute?

Mr. McLANE. I will.

Mr. STEPHENS. In reply to the gentleman from Maine, I will say that the RECORD is exactly correct as far as it goes. But the gentleman from New York, the gentleman from Texas, and some others did say "I object" after the Speaker *pro tempore* said "The Chair hears no objection." Now, the proposition of the gentleman from New York is simply to have that statement inserted after the Speaker *pro tempore* said "The Chair hears no objection."

Mr. REED. But the gentleman asks, in addition, to have stricken out the declaration of the Speaker *pro tempore* that he heard no objection.

Mr. STEPHENS. I do not understand it that way.

Mr. REED. That is the trouble. If the gentleman only wanted to have inserted the words "I object," to be followed by the legal consequence of keeping that petition from the consideration of the House, that is one proposition; but he does more than that, he seeks to have kept out from the CONGRESSIONAL RECORD what actually took place.

The SPEAKER. The petition was not read, as the Chair is advised.

Mr. REED. The petition was not read in full, but it was partly read, and is entirely printed.

Mr. McLANE. This is not a question of expunging something by order of the House; it is that nothing shall be done but what is strictly in accordance with the law of the House, which is that a petition to which objection is taken shall not appear either on the Journal or on the RECORD. In this respect the Journal and the RECORD are in perfect analogy. The power the House has over its Journal it certainly has over its RECORD, and, as the Speaker has stated, that power it has uniformly exercised. Now, when I call the attention of gentlemen to the fact that the objection had been heard at the desk, and that the petition was not upon the Journal, I think nobody would desire to force it on the RECORD. It is no invasion of the right of petition; it is preposterous to suppose that because we do not receive a petition, it being objected to, and our rules allowing the objection, it is an invasion of the right of petition. For one, there is no matter that I do not recognize the right of the people to petition for. A decently and respectfully expressed petition, no matter on what topic, whether it criticises the conduct of this House in proper terms, or whether it criticises the conduct of any other legislative body of this country, would be by me received, supposing it was a petition in fact, supposing it was an exercise of that right which is the right of the people under the Constitution. But if the paper treated the House with contempt and disrespect no man would receive it.

I am not arguing the question of the merits of this paper; I am not called upon to say whether it is insulting or not. I make no such point. The only point I make, and I make it in all candor, is whether that petition under our rule should be on the Journal, or on the RECORD; and it is not parliamentary, it is not fair for gentlemen on the other side to attempt to put it there against the rule. The point is perfectly distinct. The paper has no right to be on the Journal if objected to at the time of presentation; it has no right to be on the RECORD, if objected to. It was objected to. When the RECORD is corrected by the objection of the gentleman from New York being entered upon it, the paper will not appear. I hope the House will give the gentleman from New York the privilege of having his objection entered, and then the law of the House will exclude the petition, and not the vote of the House.

Mr. McCOID. I wish to ask a question for the purpose of getting at the facts in this matter. I ask the gentlemen who say they made the objection, whether their address to the Speaker was recognized and the objection made after the question was put by the Speaker, "Is there objection to printing the petition in the RECORD?" I ask if the members who now state that they objected, rose in their seats, obtained the attention of the Chair, were recognized, and then objected?

The SPEAKER. If they had been recognized the statement by the Chair that he heard no objection would of course not be there.

Mr. COX. I wish to ask did the gentleman from Iowa not hear me object? Did he not sit down in confusion on hearing me object?

Mr. McCOID. No, sir. And more than that the gentleman from New York himself was on the floor asking unanimous consent and he was not likely to make an objection to another gentleman asking unanimous consent.

Mr. HUMPHREY. I desire to say to the gentleman from New York that while the gentleman from Iowa was making his request I stood near him. After the statement by the Chair he turned round supposing there was no objection and started away, and I supposed as others did that the petition would be printed.

Mr. COX. Do you impugn my statement?

Mr. HUMPHREY. No, sir.

Mr. COX. That is right.

The SPEAKER. The Chair wants to say that he thinks a member should have the right to have that which is wrong in the RECORD as to himself corrected, and it is hardly competent for the House to prevent his being properly placed before his constituents, the House, and the country.

Mr. HUMPHREY. The gentleman from New York asks if I deny his statement. I was simply stating what I thought would convince him that the gentleman from Iowa was acting in good faith.

The SPEAKER. The Chair has never reflected on the gentleman.

Mr. COX. Nor I either. Have I not the right to have the RECORD corrected?

Mr. HUMPHREY. Certainly.

Mr. COX. Why, then, do you discriminate between one member and another?

Mr. DUNNELL. The proposition on which we have to vote is that the gentleman from New York and the gentleman from Texas shall be allowed to have entered on the RECORD their objection. The Chair

has informed the House that as a result of that this petition and other matter will be stricken out. Now, is it not proper and right for us to know how much of the RECORD it is proposed to strike out and have that read?

The SPEAKER. The Chair will submit the question. And in reply to the gentleman from Wisconsin, as showing the correctness of the Chair's position that a member has the right to have the RECORD corrected, the Chair will state he recollects that that gentleman himself asked to have the RECORD of a former Congress, or a former session of same Congress, corrected.

Mr. REED. Not by striking out a portion of the RECORD.

The SPEAKER. The only way it could be done would be by a correction of the former publication.

Mr. HUMPHREY. Do I understand the Chair to refer to my asking for a correction?

The SPEAKER. Yes, sir.

Mr. HUMPHREY. I did not ask for any correction.

The SPEAKER. The gentleman did upon the vote on the Potter bill. He asked a correction in this very same way.

Mr. HUMPHREY. Ah, that occurred in this way: my attention was called to the fact that I was recorded as voting in a certain way, and I stated that I did not vote in that way.

The SPEAKER. It is a protection to every member of the House, without regard to which side of the House he belongs, to have the right to correct the RECORD, and the question is upon allowing the gentleman from New York to insert his objection.

Mr. CONGER. I must ask for the yeas and nays on that proposition. If you adopt this course in this case you may strike out the whole record.

The SPEAKER. It is not a question as to striking out the record, but it is a question as to whether the gentleman from New York [Mr. COX] and other gentlemen who objected shall be correctly reported.

Mr. CONGER. I ask for the yeas and nays.

The question was put upon ordering the yeas and nays; and on a division there were—ayes 17, noes 95.

So (one-fifth of the members present not voting in favor thereof) the yeas and nays were not ordered and the motion was agreed to.

The SPEAKER. The Chair congratulates the minority of the House upon the result because the individual right to correct Journal and RECORD is a great protection to the minority.

Mr. CONGER. No quorum voted. If the Chair is in such haste to congratulate us I make the point that no quorum has voted.

The SPEAKER. Then the Chair will order tellers. The question is upon ordering the yeas and nays upon the motion that the gentleman from New York [Mr. COX] shall have the right to insert the words that he used at the time, "I object."

Mr. REED. It does not strike out anything I understand.

The SPEAKER. The Chair will state that a vote on this question does not strike anything out.

Mr. REED. Then there would be a further question upon striking out.

The SPEAKER. No, there will not. The Chair will then direct the RECORD to be corrected.

Mr. REED. If any portion of the RECORD is to be stricken out I would like the Chair to indicate what portion of the RECORD would be stricken out in consequence of this vote.

The SPEAKER. The petition.

Mr. REED. Nothing but the petition?

The SPEAKER. The Chair, upon reflection, thinks that the words that follow would remain in as a part of the RECORD, because the RECORD will show that the gentleman from Iowa [Mr. MCCOID] did ask to present a petition and the then occupant of the chair asked if there was objection, and it now appears there was objection.

Mr. REED. Then will the statement of the then occupant of the chair, that he heard no objection, go out?

The SPEAKER. The Chair thinks on careful reflection that it would not, but that it would simply be the petition that would go out, that the fact that the gentleman stated that he desired to present the petition would be of record.

Mr. CONGER. Then the statement of the Speaker *pro tempore* that he did hear objection would have to be inserted in place of the statement that he did not hear objection.

Mr. STEPHENS. Allow me one moment. I think the RECORD ought to stand just as it is, simply inserting the objection that the Chair did not hear, and then of course the petition goes out.

The SPEAKER. The point of order is made that no quorum voted.

Mr. CONGER. If the decision of the Chair is that the correction will appear in the RECORD containing to-day's proceedings I do not object.

The SPEAKER. The Chair is not going to mislead any one; nor does he want to mislead the gentleman from Michigan, [Mr. CONGER,] although he thinks he is well enlightened on the subject. The Chair wants to say that the effect of the insertion of the words "I object" would necessarily take out the petition.

Mr. CONGER. Would that alter the decision of the then occupant of the chair where he said "I hear no objection?"

The SPEAKER. The Chair has nothing to do with that.

Mr. CONGER and Mr. COX were appointed tellers.

The House divided; and the tellers reported—ayes 14, noes 111.

So the yeas and nays were not ordered.

Mr. CONGER. I withdraw the call for a further division, although I am opposed to such a change of the RECORD of yesterday.

Mr. COX. The gentleman may want to use the power of correction himself.

The SPEAKER. It is a protection to all sides and all members.

So the motion of Mr. COX was agreed to.

Mr. COX moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at fifteen minutes past one o'clock. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials of State and territorial Legislatures are in order. Under this call, also, in accordance with the recent amendment of the rules, resolutions calling upon the Executive Departments for information will be in order for reference to appropriate committees.

FORT PREBLE, MAINE.

Mr. REED introduced a bill (H. R. No. 1850) to appropriate money for the purchase of land to complete the reservation at Fort Preble; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MONUMENT TO THOSE LOST ON STEAMER HURON.

Mr. LADD introduced a bill (H. R. No. 1851) to provide for the erection of a monument at the naval cemetery at Annapolis, Maryland, in commemoration of the officers and others who perished by the wreck of the United States steamer Huron; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JEFFERSON SAVAGE.

Mr. LINDSEY introduced a bill (H. R. No. 1852) for the relief of Jefferson Savage, late first lieutenant Third Maine Regiment Volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

J. H. MERRILL.

Mr. LINDSEY also introduced a bill (H. R. No. 1853) for the relief of J. H. Merrill, and a bill (H. R. No. 1854) for the relief of J. H. Merrill; which were severally read a first and second time, and referred to the Committee of Claims.

SIDNEY P. LUTHER.

Mr. FARR introduced a bill (H. R. No. 1855) for the relief of Sidney P. Luther; which was read a first and second time, and referred to the Commitee of Claims.

IMPOUNDING DOMESTIC ANIMALS IN THE DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Rhode Island, introduced a bill (H. R. No. 1856) authorizing the commissioners of the District of Columbia to extend the area for the taking up and impounding of domestic animals in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

AUGUSTUS BOCKES.

Mr. ALDRICH, of Rhode Island, also introduced a bill (H. R. No. 1857) for the relief of Augustus Bockes, of Saratoga County New York; which was read a first and second time, and referred to the Committee of Ways and Means.

PROPAGATION OF SALT-WATER FISH.

Mr. WAIT introduced a bill (H. R. No. 1858) to protect the propagation of salt-water fish; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DAVID AVERILL.

Mr. PHELPS introduced a bill (H. R. No. 1859) granting a pension to David Averill, of Branford, Connecticut; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN F. CHASE.

Mr. PHELPS also introduced a bill (H. R. No 1860) granting additional pension to John F. Chase, of Saybrook, Connecticut; which was read a first and second time, and referred to the Committee on Pensions.

THOMAS BUTLER.

Mr. PHELPS also introduced a bill (H. R. No. 1861) for the relief of Thomas Butler, late a private in Company M, Third United States Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LUCIUS SACKETT.

Mr. PHELPS also introduced a bill (H. R. No. 1862) granting a pension to Lucius Sackett, of Beacon Falls, Connecticut; which was read a first and second time, and referred to the Committee on Pensions.

ANNIE B. RICHARDSON.

Mr. PHELPS also introduced a bill (H. R. No. 1863) granting a pen-

sion to Annie B. Richardson, of New Haven, Connecticut; which was read a first and second time, and referred to the Committee on Invalid Pensions.

VESSELS NOT PROPELLED BY SAIL OR STEAM.

Mr. PHELPS also introduced a bill (H. R. No. 1864) relating to vessels not propelled by sail or steam; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MILFORD HARBOR, CONNECTICUT.

Mr. PHELPS also introduced a bill (H. R. No. 1865) for continuing the improvements in Milford Harbor, in the State of Connecticut; which was read a first and second time, and referred to the Committee on Commerce.

TAX ON DEPOSITS IN SAVINGS INSTITUTIONS.

Mr. PHELPS also introduced a bill (H. R. No. 1866) for the repeal of the existing national tax on deposits in savings institutions; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PENSIONS OF WAR OF 1812.

Mr. PHELPS also introduced a bill (H. R. No. 1867) to amend section 3 of the act of March 9, 1878, relating to pensions in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

MARY DESBROW.

Mr. PHELPS also introduced a bill (H. R. No. 1868) granting a pension to Mary Desbrow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REVOLUTIONARY PENSIONS, ETC.

Mr. PHELPS also introduced a bill (H. R. No. 1869) to amend section 4742 of the Revised Statutes of the United States, relating to revolutionary pensions, and for other purposes; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

GEORGE COWLES.

Mr. PHELPS also introduced a bill (H. R. No. 1870) for the relief of George Cowles, of New Haven, Connecticut; which was read a first and second time, and referred to the Committee on War Claims.

GEORGE F. SELLECK.

Mr. PHELPS also introduced a bill (H. R. No. 1871) for the relief of George F. Selleck, late lieutenant Fifth Regiment Connecticut Volunteers; which was read a first and second time, and referred to the Committee on War Claims.

MOSES BRADLEY.

Mr. PHELPS also introduced a bill (H. R. No. 1872) for the relief of Moses Bradley, a private in Company L, First Regiment Connecticut Heavy Artillery; which was read a first and second time, and referred to the Committee on War Claims.

A. D. AND J. R. COOKE.

Mr. PHELPS also introduced a bill (H. R. No. 1873) providing for the payment of a liquidated claim in favor of Andrew D. Cooke and Jared R. Cooke, of Meriden, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

SYLVESTER E. BRAINARD.

Mr. PHELPS also introduced a bill (H. R. No. 1874) for the relief of Sylvester E. Brainard, of New Haven, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

JOHN W. BRAINARD.

Mr. PHELPS also introduced a bill (H. R. No. 1875) for the relief of John W. Brainard, of New Haven, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

CYRUS W. BRAINARD.

Mr. PHELPS also introduced a bill (H. R. No. 1876) for the relief of Cyrus W. Brainard, of Haddam, Connecticut; which was read a first and second time, and referred to the Committee of Claims.

LOUISA M. MANSFIELD.

Mr. HAWLEY introduced a bill (H. R. No. 1877) for the relief of Louisa M. Mansfield; which was read a first and second time, and referred to the Committee on the Judiciary.

RUBEN H. PLASS.

Mr. COVERT introduced a bill (H. R. No. 1878) for the relief of Ruben H. Plass; which was read a first and second time, and referred to the Committee on Naval Affairs.

REPEAL OF JURORS' TEST OATH.

Mr. COX introduced a bill (H. R. No. 1879) to repeal the act of July 2, 1862, and such sections of the Revised Statutes of the United States as perpetuate the oath prescribed in said act; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SARAH H. BRADFORD.

Mr. LAPHAM introduced a bill (H. R. No. 1880) granting an additional pension to Sarah H. Bradford, mother of William H. Bradford, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH VERNON HENRY.

Mr. FERDON introduced a bill (H. R. No. 1881) granting a pension to Elizabeth Vernon Henry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ADDISON LOW.

Mr. BAILEY introduced a bill (H. R. No. 1882) for the relief of Addison Low, of New York, late supervising inspector of steam-vessels; which was read a first and second time, and referred to the Committee of Claims.

CATHARINE S. LAWRENCE.

Mr. BAILEY also introduced a bill (H. R. No. 1883) for the relief of Catharine S. Lawrence; which was read a first and second time, and referred to the Committee of Claims.

JOSEPH E. YINGLING.

Mr. BACHMAN introduced a bill (H. R. No. 1884) granting a pension to Joseph E. Yingling; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN A. INNES.

Mr. BACHMAN also introduced a bill (H. R. No. 1885) for the relief of John A. Innes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE W. KNIPPLE.

Mr. COFFROTH introduced a bill (H. R. No. 1886) granting a pension to George W. Knipple, Company G, Thirteenth Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GEORGE DENNER.

Mr. COFFROTH also introduced a bill (H. R. No. 1887) granting a pension to George Denner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEVI KELLER.

Mr. COFFROTH also introduced a bill (H. R. No. 1888) granting a pension to Levi Keller; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REBECCA BROUGHER.

Mr. COFFROTH also introduced a bill (H. R. No. 1889) granting a pension to Rebecca Brougher; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELLEN GILLESPIE.

Mr. COFFROTH also introduced a bill (H. R. No. 1890) granting a pension to Ellen Gillespie, widow of John W. Gillespie, Company F, Thirty-eighth Regiment Pennsylvania Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. LAURA C. MORSE.

Mr. OVERTON introduced a bill (H. R. No. 1891) granting a pension to Mrs. Laura C. Morse; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. HELENA HERMANS.

Mr. OVERTON also introduced a bill (H. R. No. 1892) for the relief of Mrs. Helena Hermans, widow of Chauncy C. Hermans, deceased, late first lieutenant of Seventh Pennsylvania Cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. OVERTON also introduced a bill (H. R. No. 1893) providing for the permanent improvement of the navigation of the Mississippi River and for the reclamation of the low lands of the States bordering thereon, and for hygienic purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INSPECTOR OF PLUMBING.

Mr. MARTIN, of Delaware, introduced a bill (H. R. No. 1894) authorizing the employment of an inspector of plumbing in and for the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

WILLIAM DADDS.

Mr. HENKLE introduced a bill (H. R. No. 1895) for the relief of William Dadds; which was read a first and second time, and referred to the Committee on War Claims.

JOSEPH H. MATTINGLY.

Mr. HENKLE also introduced a bill (H. R. No. 1896) for the relief of Joseph H. Mattingly, of Maryland; which was read a first and second time, and referred to the Committee on Military Affairs.

RICHARD C. LEWIS.

Mr. URNER (by request) introduced a bill (H. R. No. 1897) for the relief of Richard C. Lewis, of the District of Columbia; which was read a first and second time, and referred to the Committee of Claims.

HEIRS OF A. F. HURLEY, DECEASED.

Mr. URNER also (by request) introduced a bill (H. R. No. 1898) for the relief of the heirs and legal representatives of A. F. Hurley, deceased; which was read a first and second time, and referred to the Committee of Claims.

ELIZA CEVILLE.

Mr. URNER also introduced a bill (H. R. No. 1899) granting a pension to Eliza Ceville; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RECOVERY OF ARLINGTON.

Mr. CABELL (at the request of his colleague, Mr. HUNTON) introduced a bill (H. R. No. 1900) giving the consent of the United States to the prosecution of the suit of G. W. Custis Lee for the recovery of Arlington on certain conditions; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY B. KIRBY.

Mr. CABELL also (at the request of his colleague, Mr. TUCKER) introduced a bill (H. R. No. 1901) for the relief of Mary B. Kirby; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

MRS. ELIZABETH P. PAGE.

Mr. GOODE introduced a bill (H. R. No. 1902) for the relief of Mrs. Elizabeth P. Page; which was read a first and second time, and referred to the Committee on Naval Affairs.

REPRESENTATIVE OF JAMES MONROE.

Mr. GOODE also introduced a bill (H. R. No. 1903) for the relief of the legal representative of the late James Monroe, lieutenant-colonel Virginia State Line, war of the Revolution, and President of the United States; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

HEIRS OF FRANCIS TAYLOR.

Mr. GOODE also (by request) introduced a bill (H. R. No. 1904) for the relief of the heirs and legal representatives of Francis Taylor, a colonel in the war of the Revolution; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

HEIRS OF DR. CHARLES TAYLOR.

Mr. GOODE also (by request) introduced a bill (H. R. No. 1905) for the relief of the heirs and legal representatives of Dr. Charles Taylor, a surgeon in the war of the Revolution; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

LIGHT-HOUSE ON BELL'S ROCK, VIRGINIA.

Mr. BEALE introduced a bill (H. R. No. 1906) making appropriation for the erection of a light-house on Bell's Rock, in York River, in the State of Virginia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LIGHT-HOUSE ON RAGGED POINT BAR, MARYLAND.

Mr. BEALE also introduced a bill (H. R. No. 1907) making appropriation for the erection of a light-house on Ragged Point Bar, in Potomac River, in the State of Maryland; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SALE OF DOMESTIC WINES.

Mr. DAVIS, of North Carolina, introduced a bill (H. R. No. 1908) to amend section 3244 of the Revised Statutes so as to authorize any person to sell domestic wines without tax; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

NATIONAL BANKS.

Mr. O'CONNOR introduced a bill (H. R. No. 1909) to authorize national banks to make loans upon mortgage of real estate; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ADOLPH NIMITZ.

Mr. O'CONNOR also introduced a bill (H. R. No. 1910) making an appropriation to pay the claim of Adolph Nimitz, trustee of Meta Nimitz, his wife, for loss of property at Beaufort, South Carolina, November 8, 1861; which was read a first and second time, and referred to the Committee on War Claims.

COINAGE OF SILVER DOLLARS, ETC.

Mr. STEPHENS introduced a bill (H. R. No. 1911) to authorize the coinage of silver dollars and fractions thereof, of full standard value, upon the metric system; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

FLINT RIVER.

Mr. COOK introduced a bill (H. R. No. 1912) appropriating money to remove the obstructions in Flint River, Georgia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EDWARD BROWN BOUTWELL.

Mr. SHELLEY introduced a bill (H. R. No. 1913) for the relief of Edward Brown Boutwell, late commander in the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CUTTING OF MISSISSIPPI RIVER.

Mr. MANNING (for Mr. CHALMERS) introduced a bill (H. R. No. 1914) for the prevention of the cutting of the Mississippi River into the Lake of Concordia, Louisiana, and for the prevention of the destruction of the harbors of the cities of Vidalia, in the parish of Concordia, Louisiana, and Natchez, in the county of Adams, in the State of Mississippi; which was read a first and second time referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

TWELVE MILE BAYOU, ETC.

Mr. ELAM introduced a bill (H. R. No. 1915) to improve the navigation of Twelve Mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HEIRS OF PIERRE JOSEPH MAES.

Mr. ELAM also introduced a bill (H. R. No. 1916) for the relief of the heirs and legal representatives of Pierre Joseph Maes; which was read a first and second time, and referred to the Committee on Private Land Claims.

TANGIPAHOA RIVER.

Mr. ROBERTSON introduced a bill (H. R. No. 1917) to improve the navigation of the Tangipahoa River, in the State of Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AMITE RIVER LIGHT-HOUSE.

Mr. ROBERTSON also introduced a bill (H. R. No. 1918) to establish a light-house at the mouth of the Amite River, in the State of Louisiana, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LOUISIANA STATE UNIVERSITY.

Mr. ROBERTSON also introduced a bill (H. R. No. 1919) to grant a Government reservation, now used for the military barracks, garrison, and arsenal at Baton Rouge, Louisiana, to the State of Louisiana for the use of the Louisiana State University and Agricultural and Mechanical College; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARENTON CANAL.

Mr. ACKLEN introduced a bill (H. R. No. 1920) making an appropriation for the completion of the Charenton Canal, in the parish of Saint Mary's, State of Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INTRODUCTION OF SUGAR-PALM.

Mr. ACKLEN also introduced a bill (H. R. No. 1921) making an appropriation for the introduction of sugar-producing palms in the Southern States; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. KING introduced a bill (H. R. No. 1922) to provide for the organization of the Mississippi River improvement commission and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River and the protection of its alluvial lands; which was read a first and second time, referred to the Committee on Improvement of Mississippi Levees, and ordered to be printed.

J. HALE SYPHER.

Mr. GIBSON introduced a bill (H. R. No. 1923) to authorize J. Hale Sypher, of Louisiana, to bring suit in the Court of Claims; which was read a first and second time, and referred to the Committee on the Judiciary.

ARMY APPROPRIATION BILL.

Mr. TOWNSEND, of Ohio, introduced a bill (H. R. No. 1924) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CONGRESSIONAL GLOBE.

Mr. LE FEVRE introduced a joint resolution (H. R. No. 63) to provide for printing the Congressional Globe; which was read a first and second time, and referred to the Committee on Printing.

SECTION 3687 REVISED STATUTES.

Mr. WARNER introduced a bill (H. R. No. 1925) to repeal section 3687 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NATURALIZATION OF ALIENS.

Mr. GEDDES introduced a bill (H. R. No. 1926) to amend section 2165 of the Revised Statutes of the United States, relating to the nat-

uralization of aliens; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PROMOTIONS IN THE ARMY.

Mr. EWING introduced a joint resolution (H. R. No. 64) authorizing appointments and promotions in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COMMODORE DAVID M'DOUGAL ET AL.

Mr. NEAL introduced a joint resolution (H. R. No. 65) tendering the thanks of Congress to Commodore David McDougal and the officers and men of the United States ship of war Wyoming for gallantry and good conduct; which was read a first and second time, and referred to the Committee on Naval Affairs.

BENJAMIN MALONE.

Mr. NEAL also introduced a bill (H. R. No. 1927) authorizing the Secretary of the Interior to put upon the pension-roll the name of Benjamin Malone; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

RELIEF OF DRAFTED MEN.

Mr. NEAL also introduced a bill (H. R. No. 1928) to amend an act entitled "An act for the relief of certain drafted men, approved March 1, 1869;" which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MRS. CHARLOTTE ALLEN.

Mr. GARFIELD introduced a bill (H. R. No. 1929) to grant a pension to Mrs. Charlotte Allen, formerly widow of Lewis Ochner, late private Company H, Eleventh Pennsylvania Artillery; which was read a first and second time, and referred to the Committee on Pensions.

ISAAC WINANS.

Mr. GARFIELD also introduced a bill (H. R. No. 1930) granting a pension to Isaac Winans, of the Ohio militia in the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

ANDREW J. HERRON.

Mr. GARFIELD also introduced a bill (H. R. No. 1931) granting a pension to Andrew J. Herron; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONDEMNED CANNON.

Mr. BLACKBURN introduced a bill (H. R. No. 1932) donating condemned cannon to the Williams Monument Association of Detroit, Michigan, to be used for monumental purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES MILLER.

Mr. BLACKBURN also introduced a bill (H. R. No. 1933) for the relief of James Miller, of Bourbon County, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

JOHN M. VILEY.

Mr. BLACKBURN also introduced a bill (H. R. No. 1934) to provide for the refunding of a tax erroneously levied and collected to John M. Viley, of Great Crossings, Scott County, Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

JACOB HALBAUER.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 1935) granting a pension to Jacob Halbauer, of Company K, Twenty-eighth Ohio Volunteer Infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ARMY APPROPRIATION BILL.

Mr. YOUNG, of Ohio, also introduced a bill (H. R. No. 1936) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

E. A. GRAVES.

Mr. KNOTT introduced a bill (H. R. No. 1937) for the benefit of E. A. Graves, late of Marion County, Kentucky; which was read a first and second time, and referred to the Committee of Ways and Means.

JOHN H. M'BRAYER.

Mr. THOMPSON introduced a bill (H. R. No. 1938) granting a pension to John H. McBrayer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LIEUTENANT FRANK P. GROSS.

Mr. McKENZIE (by request) introduced a bill (H. R. No. 1939) for the relief of Lieutenant Frank P. Gross; which was read a first and second time, and referred to the Committee on Military Affairs.

LIFE-SAVING STATION AT LOUISVILLE, KENTUCKY.

Mr. WILLIS introduced a bill (H. R. No. 1940) establishing a life-saving station at Louisville, Kentucky; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. MARY T. DUNCAN.

Mr. WILLIS also introduced a bill (H. R. No. 1941) for the benefit of Mrs. Mary T. Duncan, of Louisville, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

J. F. WESTON.

Mr. WILLIS also introduced a bill (H. R. No. 1942) for the relief of J. F. Weston; which was read a first and second time, and referred to the Committee on War Claims.

W. L. CAREY.

Mr. WILLIS also introduced a bill (H. R. No. 1943) for the relief of W. L. Carey; which was read a first and second time, and referred to the Committee on War Claims.

FRANCIS TIMMONS.

Mr. WILLIS also introduced a bill (H. R. No. 1944) for the relief of Francis Timmons; which was read a first and second time, and referred to the Committee on War Claims.

STEAMBOAT FANNY BRANDEIS, OF LOUISVILLE, KENTUCKY.

Mr. WILLIS also introduced a bill (H. R. No. 1945) for the relief of the owners of the steamboat Fanny Brandeis, of Louisville, Kentucky; which was read a first and second time, and referred to the Committee on War Claims.

AID TO SUFFERERS BY THE YELLOW FEVER.

Mr. YOUNG, of Tennessee, introduced a joint resolution (H. R. No. 66) legalizing the action of the President and Secretary of War in sending rations and tents to yellow-fever sufferers; which was read a first and second time, and referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE W. GRAHAM.

Mr. HOUK introduced a bill (H. R. No. 1946) for the relief of George W. Graham, of Jacksborough, Tennessee; which was read a first and second time, and referred to the Committee on Military Affairs.

TAX ON LEAF-TOBACCO.

Mr. ATKINS introduced a bill (H. R. No. 1947) to reduce the tax on dealers in leaf-tobacco; which was read a first and second time, and referred to the Committee of Ways and Means.

WILLIAM HOGUE.

Mr. COBB introduced a bill (H. R. No. 1948) for the relief of William Hogue, of Bruceville, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN H. SCOTT.

Mr. COBB also introduced a bill (H. R. No. 1949) for the relief of John H. Scott, of Knox County, Indiana; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES CALAWAY.

Mr. COBB also introduced a bill (H. R. No. 1950) granting a pension to James Calaway; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY J. BOOKER.

Mr. COBB also introduced a bill (H. R. No. 1951) for the relief of Mary J. Booker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN H. JACKSON.

Mr. COBB also introduced a bill (H. R. No. 1952) granting a pension to John H. Jackson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HENRY C. GROOMES.

Mr. HOSTETLER introduced a bill (H. R. No. 1953) for the relief of Henry C. Groomes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REGISTRATION OF MARRIAGES.

Mr. HEILMAN introduced a bill (H. R. No. 1954) regulating the registration of marriages in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SPIRITS FOR EXPORTATION.

Mr. MORRISON introduced a bill (H. R. No. 1955) authorizing an allowance for loss by leakage or casualty of spirits withdrawn from distillery warehouses for exportation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CONDEMNED CANNON FOR A MONUMENT.

Mr. SHERWIN introduced a bill (H. R. No. 1956) donating condemned cannon to the city of Aurora, in the State of Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

LAWRENCE H. JONES.

Mr. SHERWIN also introduced a bill (H. R. No. 1957) for the relief of Lawrence H. Jones, of McHenry County, Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

PENSIONS.

Mr. HENDERSON introduced a bill (H. R. No. 1958) to repeal section 4713 of the Revised Statutes of the United States relating to pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRANSPORTATION OF MAILS.

Mr. WELLS introduced a bill (H. R. No. 1959) to provide for deficiencies in appropriations for transportation of the mails; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. WELLS also introduced a bill (H. R. No. 1960) appropriating $1,000,000 for the improvement of the Mississippi River between the mouths of the Illinois and Ohio Rivers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. HATCH presented a concurrent resolution of the Legislature of the State of Missouri, memorializing Congress to repeal certain statutes and to modify the existing laws relating to the removal of causes from the State courts to the circuit courts of the United States; which was referred to the Committee on the Judiciary.

ALEXANDER SMILY.

Mr. CLARDY introduced a bill (H. R. No. 1961) for the relief of Alexander Smily, of the county of Mississippi, in the State of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

IMPROVEMENT OF WHITE RIVER.

Mr. WADDILL presented a joint resolution of the Legislature of the State of Missouri, memorializing Congress for the improvement of White River; which was referred to the Committee on Commerce.

WILLIAM A. CARR.

Mr. WADDILL also introduced a bill (H. R. No. 1962) for the relief of William A. Carr, of Missouri; which was read a first and second time, and referred to the Committee on War Claims.

SAMUEL M. PHARISS.

Mr. WADDILL also introduced a bill (H. R. No. 1963) for the relief of Samuel M. Phariss; which was read a first and second time, and referred to the Committee of Claims.

LEGAL-TENDER NOTES, ETC.

Mr. BUCKNER (by request) introduced a bill (H. R. No. 1964) to provide for a further issue of legal-tender notes and retiring of national bank notes, the equalization of taxation on both State and national banks, and the equalization of the rights of property and of industry; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

COMPENSATION OF THE PRESIDENT.

Mr. BUCKNER also introduced a bill (H. R. No. 1965) amendatory of section 153 of the Revised Statutes providing for the compensation of the President; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

PRESIDENTIAL TERM OF OFFICE.

Mr. BUCKNER also introduced a joint resolution (H. R. No. 67) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN A. FRITH.

Mr. GUNTER introduced a bill (H. R. No. 1966) for the relief of John A. Frith, of Des Arc, Arkansas; which was read a first and second time, and referred to the Committee on War Claims.

JOHN JACKSON.

Mr. GUNTER also introduced a bill (H. R. No. 1967) for the relief of John Jackson, of Jackson County, Missouri; which was read a first and second time, and referred to the Committee on War Claims.

WILLIAM GREENSLADE.

Mr. GUNTER also introduced a bill (H. R. No. 1968) for the relief of William Greenslade, of Des Arc, Arkansas; which was read a first and second time, and referred to the Committee on War Claims.

PRINTING REPORT ON SHEEP HUSBANDRY.

Mr. DUNN introduced a joint resolution (H. R. No. 68) to authorize the printing of 10,000 copies of the Report on Sheep Husbandry; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

IMPROVEMENT OF AU SABLE RIVER, MICHIGAN.

Mr. HORR presented a joint resolution of the Legislature of the State of Michigan, asking for the improvement of the mouth of the Au Sable River; which was referred to the Committee on Commerce.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

Mr. STONE presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation of condemned cannon to aid in the construction of the Saratoga national monument; which was referred to the Committee on Military Affairs.

PROCEEDINGS AGAINST MUNICIPAL CORPORATIONS.

Mr. STONE also presented a joint resolution of the Legislature of the State of Michigan, requesting the Senators and Representatives in Congress from that State to oppose the enactment of any law limiting the jurisdiction of the courts of the United States in proceedings against municipal corporations, &c.; which was referred to the Committee on the Judiciary.

TUNNEL UNDER DETROIT RIVER.

Mr. NEWBERRY introduced a bill (H. R. No. 1969) to authorize the construction and maintenance of a tunnel under the Detroit River at or near Grosse Isle and a bridge over the Detroit River at or near Detroit City, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PONTON BRIDGE AT COUNCIL BLUFFS.

Mr. SAPP introduced a bill (H. R. No. 1970) to authorize the Council Bluffs Street Railway Company to construct a ponton bridge across the Missouri River at Council Bluffs, in Pottawatomie County, Iowa; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WILLIAM RUTHERFORD.

Mr. SAPP also (by request) introduced a bill (H. R. No. 1971) for the relief of William Rutherford, of Washington; which was read a first and second time, and referred to the Committee of Claims.

EMPLOYÉS ON IMPROVEMENT OF DES MOINES RAPIDS.

Mr. McCOID introduced a bill (H. R. No. 1972) for the relief of certain employés on the work for the improvement of the Des Moines Rapids of the Mississippi River; which was read a first and second time, and referred to the Committee on Commerce.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. DUNNELL introduced a bill (H. R. No. 1973) appropriating $1,000,000 for the improvement of the Mississippi River, between the mouth of the Illinois River and the Falls of Saint Anthony; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FREEMAN D. DOWD.

Mr. DUNNELL also introduced a bill (H. R. No. 1974) for the relief of Freeman D. Dowd; which was read a first and second time, and referred to the Committee on Invalid Pensions.

E. P. LIEBERG.

Mr. DUNNELL also introduced a bill (H. R. No. 1975) for the relief of E. P. Lieberg; which was read a first and second time, and referred to the Committee on War Claims.

ZACHEUS FULLER.

Mr. DUNNELL also introduced a bill (H. R. No. 1976) granting a pension to Zacheus Fuller; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

PENSIONS TO SOLDIERS OF WAR OF 1812, ETC.

Mr. DUNNELL also introduced a bill (H. R. No. 1977) to amend an act amending the laws granting pensions to the soldiers and sailors of the war of 1812 and their widows, and for other purposes, approved March 9, 1878; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

HEIRS OF SCOTT CAMPBELL.

Mr. POEHLER (by request) introduced a bill (H. R. No. 1978) for the relief of the heirs of Scott Campbell; which was read a first and second time, and referred to the Committee on Indian Affairs.

DENNIS LEAMY.

Mr. WASHBURN introduced a bill (H. R. No. 1979) granting a pension to Dennis Leamy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOAB SPENCER AND JAMES R. MEAD.

Mr. RYON, of Kansas, introduced a bill (H. R. No. 1980) for the relief of Joab Spencer and James R. Mead for supplies furnished the Kansas tribe of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

SAFETY OF LIFE AT SEA.

Mr. KENNA (by request) introduced a bill (H. R. No. 1981) to increase the safety of life at sea; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. KENNA. I offer this bill by request, not having investigated its merits and not desiring to commit myself to its provisions.

GEORGE H. PLANT.

Mr. MARTIN, of West Virginia, (by request,) introduced a bill (H. R. No. 1982) for the relief of George H. Plant; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

THOMAS H. PERCIVAL.

Mr. MARTIN, of West Virginia, also introduced a bill (H. R. No.

1983) to enable the Chief of Ordnance of the United States Army to pay Thomas H. Percival for iron castings furnished the United States; which was read a first and second time, and referred to the Committee of Claims.

PUBLIC LANDS IN NEBRASKA.

Mr. VALENTINE introduced a bill (H. R. No. 1984) to provide for the sale of certain public lands in the county of Knox and State of Nebraska, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

WILLIAM CRAIG, DECEASED.

Mr. AINSLIE introduced a bill (H. R. No. 1985) for the relief of the legal representatives of William Craig, deceased; which was read a first and second time, and referred to the Committee on Public Lands.

LOYAL P. BROWN.

Mr. AINSLIE also introduced a bill (H. R. No. 1986) to provide for the payment of Loyal P. Brown, administrator of the estate of Darius B. Randall, deceased, for certain improvements relinquished to the United States for the use of the Nez Percé Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

TERRITORIES.

Mr. AINSLIE also (by request) introduced a bill (H. R. No. 1987) to amend section 1846 of the Revised Statutes, concerning the Territories; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

MONTANA.

Mr. MAGINNIS introduced a bill (H. R. No. 1988) for an act amendatory of an act entitled "An act to provide for a temporary government for the Territory of Montana," approved May 26, 1864; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

PORTRAITS AND VIGNETTES.

Mr. SINGLETON, of Mississippi, introduced a bill (H. R. No. 1989) relating to printing impressions from portraits and vignettes; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

RETIRED ARMY OFFICERS.

Mr. KEIFER introduced a bill (H. R. No. 1990) relating to retired officers of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GENERAL COUNT C. PULASKI.

Mr. McCOOK (by request) introduced a bill (H. R. No. 1991) for the relief of the heirs of General Count C. Pulaski; which was read a first and second time, and referred to the Committee of Claims.

ARMY CHAPLAINS.

Mr. McCOOK also introduced a bill (H. R. No. 1992) to regulate the appointment, assignment, and duty of chaplains in the Army, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GEORGE S. RIGGS.

Mr. McCOOK also introduced a bill (H. R. No. 1993) to place the name of George S. Riggs, late Company E, Eighty-third Regiment New York Volunteers, on the pension-roll; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CONSTITUTION OF THE UNITED STATES.

Mr. STONE, introduced a joint resolution (H. R. No. 69) authorizing the publication by Congress of a work on the Constitution and Government of the United States for distribution; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

HOSPITAL STEWARDS.

Mr. OSMER (by request) introduced a bill (H. R. No. 1994) to provide for the better selection of hospital stewards of the United States Army and fixing their pay and allowance; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN D. MUNNERLYN.

Mr. BLOUNT (at the request of his colleague, Mr. NICHOLLS, who is absent on account of sickness) introduced a bill (H. R. No. 1995) for the relief of John D. Munnerlyn; which was read a first and second time, and referred to the Committee of Claims.

W. A. REID.

Mr. BLOUNT also introduced a bill (H. R. No. 1996) for the relief of W. A. Reid, of Etlonton, Georgia; which was read a first and second time, and referred to the Committee of Claims.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. PRUDEN, one of his secretaries.

ORDER OF BUSINESS.

Mr. WARNER. I move to suspend the rules, as the morning hour has expired, for the purpose of taking up the coinage bill.

Mr. DIBRELL. I move to suspend the rules for the purpose of putting on its passage at this time a bill (H. R. No. 1997) to restore an income tax.

The SPEAKER. This being Monday the motion of the gentleman from Ohio will require a two-thirds vote although the Chair, according to his usual practice, recognizes the motion for public business in preference to other motions.

Mr. FERNANDO WOOD. I hope that by unanimous consent the message of the President will be now read.

The SPEAKER. The question is on the motion of the gentleman from Ohio [Mr. WARNER] to suspend the rules and proceed to the consideration of the bill in relation to coinage and coin certificates.

The question being taken, the rules were not suspended, two-thirds not voting in the affirmative.

RESTORATION OF INCOME TAX.

Mr. DIBRELL. I now move that the rules be suspended, and that the bill which I send to the desk to restore the income tax be passed.

The bill was read. It provides that from and after its passage a tax upon the net income of each person, association, or corporation doing business in the United States shall be assessed and collected annually under such rules and regulations as the Secretary of the Treasury may prescribe, to wit: upon the net income of each person, association, corporation, or company, of $2,000 and less than $3,000, 2 per cent. on the excess above $2,000; upon the net income of such person, association, corporation, or company whose net income is above $3,000, 3 per cent. upon the excess of said net income above $3,000. And the Secretary of the Treasury is authorized and directed to adopt such rules and regulations as may be necessary to carry out the provisions of the act.

The question being put, the Speaker stated that in the opinion of the Chair two-thirds had not voted in the affirmative.

Mr. DIBRELL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 111, nays 94, not voting 80; as follows:

YEAS—111.

Acklen,	Dunnell,	Le Fevre,	Sawyer,
Anderson,	Elam,	Lewis,	Scales,
Atherton,	Evins,	Lounsbery,	Shelley,
Atkins,	Ewing,	Lowe,	Singleton, O. R.
Bachman,	Felton,	Manning,	Slemons,
Beale,	Ford,	Marsh,	Smith, Hezekiah B.
Bicknell,	Forney,	Martin, Benj. F.	Smith, William E.
Blackburn,	Fort,	McKenzie,	Sparks,
Bouck,	Geddes,	McMillin,	Steele,
Bright,	Goode,	Mills,	Stevenson,
Buckner,	Gunter,	Money,	Taylor,
Cabell,	Harris, John T.	Morrison,	Thompson,
Caldwell,	Hatch,	Muldrow,	Tillman,
Clardy,	Henkle,	Murch,	Townshend, R. W.
Clark, John B., jr.,	Herbert,	Myers,	Turner, Oscar
Clymer,	Herndon,	New,	Turner, Thomas
Cobb,	Hooker,	O'Connor,	Vance,
Colerick,	Hostetler,	Persons,	Waddill,
Converse,	Houk,	Phister,	Warner,
Cook,	House,	Poehler,	Weaver,
Cravens,	Hurd,	Reagan,	Wellborn,
Culberson,	Johnston,	Richardson, J. S.	Whiteaker,
Davidson,	Jones,	Richmond,	Whitthorne,
Davis, Joseph J.	Kenna,	Robertson,	Williams, Thomas
De La Matyr,	King,	Rothwell,	Willis,
Dibrell,	Klotz,	Russell, Daniel L.	Wright,
Dickey,	Knott,	Ryan, Thomas	Young, Casey.
Dunn,	Ladd,	Samford,	

NAYS—94.

Aldrich, Nelson W.	Davis, George R.	Loring,	Rice,
Aldrich, William	Deering,	Martin, Edward L.	Robeson,
Bailey,	Dick,	Martin, Joseph J.	Robinson,
Barber,	Einstein,	Mason,	Sapp,
Bayne,	Farr,	McCoid,	Shallenberger,
Belford,	Ferdon,	McCook,	Sherwin,
Blake,	Field,	McGowan,	Smith, A. Herr
Bliss,	Frye,	McKinley,	Starin,
Bowman,	Garfield,	McLane,	Stone,
Boyd,	Hammond, John	Miles,	Thomas,
Brewer,	Hawk,	Monroe,	Townsend, Amos
Briggs,	Hawley,	Morse,	Tyler,
Brigham,	Hayes,	Muller,	Updegraff, J. T.
Burrows,	Hazelton,	Neal,	Updegraff, Thomas
Cannon,	Heilman,	Newberry,	Urner,
Carpenter,	Henderson,	Norcross,	Valentine,
Caswell,	Horr,	O'Neill,	Washburn,
Claflin,	Humphrey,	Osmer,	Wells,
Coffroth,	Joyce,	Overton,	Williams, C. G.
Conger,	Keifer,	Phelps,	Willits,
Covert,	Kelley,	Pound,	Wood, Fernando
Cowgill,	Ketcham,	Prescott,	Young, Thomas L.
Crapo,	Killinger,	Price,	
Daggett,	Lindsey,	Reed,	

NOT VOTING—80.

Aiken,	Calkins,	Errett,	Haskell,
Armfield,	Camp,	Finley,	Henry,
Baker,	Carlisle,	Fisher,	Hill,
Ballou,	Chalmers,	Forsythe,	Hiscock,
Barlow,	Chittenden,	Frost,	Hubbell,
Beltzhoover,	Clark, Alvah A.	Gibson,	Hull,
Bingham,	Cox,	Gillette,	Hunton,
Bland,	Crowley,	Godshalk,	James,
Blount,	Davis, Lowndes H.	Hall,	Jorgensen,
Bragg,	Deuster,	Hammond, N. J.	Kimmel,
Browne,	Dwight,	Harmer,	Kitchin,
Butterworth,	Ellis,	Harris, Benj. W.	Lapham,

Lay,	Orth,	Speer,	Wait,
McMahon,	Pierce,	Springer,	Ward,
Miller,	Richardson, D. P.	Stephens,	White,
Mitchell,	Ross,	Talbott,	Wilber,
Morton,	Russell, William A.	Tucker,	Wilson,
Nicholls,	Ryon, John W.	Van Aernam,	Wise,
O'Brien,	Simonton,	Van Voorhis,	Wood, Walter A.
O'Reilly,	Singleton, James W.	Voorhis,	Yocum.

So (two-thirds not having voted in the affirmative) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. MCMILLIN. My colleague from Tennessee, Mr. SIMONTON, is absent by leave of the House. He is paired with Mr. CAMP, of New York. If present, Mr. SIMONTON would vote "ay."

Mr. SMITH, of Georgia. My colleague, Mr. NICHOLLS, is absent, sick.

Mr. COX. I am paired with my colleague from New York, Mr. MORTON, on this question.

Mr. STEELE. My colleagues, Mr. ARMFIELD and Mr. KITCHIN, are absent, supposing that no vote would be taken in the House. If present, they would vote "ay."

Mr. DAVIDSON. My colleague, Mr. HULL, is absent by leave of the House, and is paired with Mr. RICHARDSON, of New York.

Mr. AIKEN. I am paired with Mr. WARD. If he were present, I should vote "ay."

Mr. CALKINS. I am paired with Mr. FINLEY, of Ohio.

Mr. BLOUNT. My colleague, Mr. HAMMOND, is paired with the gentleman from New York, Mr. VAN VOORHIS. My colleague, Mr. SPEER, is paired with the gentleman from Massachusetts, Mr. RUSSELL, and I am paired with Mr. HUBBELL.

Mr. CABELL. My colleague, Mr. HUNTON, is paired with the gentleman from New York, Mr. HISCOCK.

Mr. HASKELL. I am paired with the gentleman from Louisiana, Mr. ELLIS. If he were here, I should vote "ay."

Mr. WEAVER. Mr. FORSYTHE is paired with Mr. WALTER A. WOOD, of New York.

Mr. BOUCK. My colleague, Mr. BRAGG, is paired with the gentleman from New York, Mr. JAMES. If present, he would vote "ay."

Mr. ROBINSON. My colleague, Mr. RUSSELL, is paired with the gentleman from Georgia, Mr. SPEER. If Mr. RUSSELL were present, he would vote "no."

Mr. LAPHAM. Upon all political questions I am paired with the gentleman from Virginia, Mr. TUCKER. This seems to be regarded as such. I also announce that my colleague, Mr. RICHARDSON, of New York, is paired with the gentleman from Florida, Mr. HULL, and my other colleague, Mr. VAN AERNAM, is paired with the gentleman from Maryland, Mr. HENRY.

Mr. HUMPHREY. Mr. WALTER A. WOOD, of New York, is paired with Mr. FORSYTHE, of Illinois. If Mr. WOOD were here, he would vote "no."

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with the gentleman from Ohio, Mr. MCMAHON.

Mr. MCCOOK. My colleague, Mr. PIERCE, is paired with my other colleague, Mr. O'REILLY.

Mr. EINSTEIN. My colleague, Mr. O'BRIEN, is paired with my other colleague, Mr. DWIGHT.

Mr. ORTH. I am paired with the gentleman from West Virginia, Mr. WILSON.

Mr. SMITH, of Pennsylvania. My colleagues, Mr. HARMER and Mr. WISE, are paired.

Mr. DICK. My colleague, Mr. FISHER, is paired with the gentleman from Missouri, Mr. LAY.

Mr. WRIGHT. My colleague, Mr. RYON, is paired with my other colleague, Mr. MITCHELL, on all political questions until Thursday of this week.

Mr. MANNING. My colleague, Mr. CHALMERS, is absent and paired with Mr. WHITE, of Pennsylvania. If present, Mr. CHALMERS would vote "ay."

Mr. FROST. I am paired with the gentleman from Pennsylvania, Mr. BINGHAM. If he were here, I would vote "ay" and he would vote "no."

Mr. WAIT. I am paired with Mr. ROSS, of New Jersey.

Mr. THOMPSON. My colleague, Mr. CALDWELL, is sick and unable to attend the House. If present, he would vote "ay."

The result of the vote was then announced as above recorded.

VETO OF ELECTION BILL.

The SPEAKER. The Chair lays before the House a message from the President of the United States.

The Clerk read the message, as follows:

To the House of Representatives:

After careful consideration of the bill entitled "An act to prohibit military interference at elections," I return it to the House of Representatives, in which it originated, with the following objections to its approval:

In the communication sent to the House of Representatives on the 29th of last month, returning to the House without my approval the bill entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes," I endeavored to show by quotations from the statutes of the United States now in force, and by a brief statement of facts in regard to recent elections in the several States, that no additional legislation was necessary to prevent interference with the elections by the military or naval forces of the United States. The fact was presented in that communication that at the time of the passage of the act of June 18, 1878, in relation to the employment of the Army as a *posse comitatus* or otherwise, it was maintained by its friends that it would establish a vital and fundamental principle which would secure to the people protection against a standing army. The fact was also referred to that, since the passage of this act, congressional, State, and municipal elections have been held throughout the Union, and that in no instance has complaint been made of the presence of United States soldiers at the polls.

Holding as I do the opinion that any military interference whatever at the polls is contrary to the spirit of our institutions, and would tend to destroy the freedom of elections, and sincerely desiring to concur with Congress in all of its measures, it is with very great regret that I am forced to the conclusion that the bill before me is not only unnecessary to prevent such interference, but is a dangerous departure from long-settled and important constitutional principles.

The true rule as to the employment of military force at the elections is not doubtful. No intimidation or coercion should be allowed to control or influence citizens in the exercise of their right to vote, whether it appears in the shape of combinations of evil-disposed persons, or of armed bodies of the militia of a State, or of the military force of the United States.

The elections should be free from all forcible interference, and, as far as practicable, from all apprehension of such interference. No soldiers, either of the Union or of the State militia, should be present at the polls to take the place or to perform the duties of the ordinary civil police force. There has been and will be no violation of this rule under orders from me during this administration. But there should be no denial of the right of the National Government to employ its military force on any day and at any place in case such employment is necessary to enforce the Constitution and laws of the United States.

The bill before me is as follows:

Be it enacted, &c., That it shall not be lawful to bring to, or employ at any place where a general or special election is being held in a State, any part of the Army or Navy of the United States, unless such force be necessary to repel the armed enemies of the United States, or to enforce section 4, article 4, of the Constitution of the United States, and the laws made in pursuance thereof, on application of the Legislature or executive of the State where such force is to be used; and so much of all laws as is inconsistent herewith is hereby repealed.

It will be observed that the bill exempts from the general prohibition against the employment of military force at the polls two specified cases. These exceptions recognize and concede the soundness of the principle that military force may properly and constitutionally be used at the place of elections, when such use is necessary to enforce the Constitution and the laws. But the excepted cases leave the prohibition so extensive and far-reaching that its adoption will seriously impair the efficiency of the executive department of the Government.

The first act expressly authorizing the use of military power to execute the laws was passed almost as early as the organization of the Government under the Constitution, and was approved by President Washington May 2, 1792. It is as follows:

SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed. And if the militia of a State where such combination may happen shall refuse, or be insufficient to suppress the same, it shall be lawful for the President, if the Legislature of the United States be not in session, to call forth and employ such numbers of the militia of any other State or States most convenient thereto as may be necessary; and the use of militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session.

In 1795 this provision was substantially re-enacted in a law which repealed the act of 1792. In 1807 the following act became the law by the approval of President Jefferson:

That in all cases of insurrection or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect.

By this act it will be seen that the scope of the law of 1795 was extended so as to authorize the National Government to use not only the militia but the Army and Navy of the United States in "causing the laws to be duly executed."

The important provision of the acts of 1792, 1795, and 1807, modified in its terms from time to time to adapt it to the existing emergency, remained in force until, by an act approved by President Lincoln, July 29, 1861, it was re-enacted substantially in the same language in which it is now found in the Revised Statutes, viz:

SEC. 5298. Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and

naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

This ancient and fundamental law has been in force from the foundation of the Government. It is now proposed to abrogate it on certain days and at certain places. In my judgment no fact has been produced which tends to show that it ought to be repealed or suspended for a single hour at any place in any of the States or Territories of the Union. All the teachings of experience in the course of our history are in favor of sustaining its efficiency unimpaired. On every occasion when the supremacy of the Constitution has been resisted, and the perpetuity of our institutions imperiled, the principle of this statute, enacted by the fathers, has enabled the Government of the Union to maintain its authority and to preserve the integrity of the nation.

At the most critical periods of our history, my predecessors in the executive office have relied on this great principle. It was on this principle that President Washington suppressed the whisky rebellion in Pennsylvania in 1794.

In 1806, on the same principle, President Jefferson broke up the Burr conspiracy by issuing "orders for the employment of such force either of the regulars or of the militia, and by such proceedings of the civil authorities, * * * as might enable them to suppress effectually the further progress of the enterprise." And it was under the same authority that President Jackson crushed nullification in South Carolina, and that President Lincoln issued his call for troops to save the Union in 1861. On numerous other occasions of less significance, under probably every Administration, and certainly under the present, this power has been usefully exerted to enforce the laws, without objection by any party in the country, and almost without attracting public attention.

The great elementary constitutional principle which was the foundation of the original statute of 1792, and which has been its essence in the various forms it has assumed since its first adoption, is that the Government of the United States possesses under the Constitution, in full measure, the power of self-protection by its own agencies, altogether independent of State authority, and, if need be, against the hostility of State governments. It should remain embodied in our statutes unimpaired, as it has been from the very origin of the Government. It should be regarded as hardly less valuable or less sacred than a provision of the Constitution itself.

There are many other important statutes containing provisions that are liable to be suspended or annulled at the times and places of holding elections, if the bill before me should become a law. I do not undertake to furnish a list of them. Many of them—perhaps the most of them—have been set forth in the debates on this measure. They relate to extradition, to crimes against the election laws, to quarantine regulations, to neutrality, to Indian reservations, to the civil rights of citizens, and to other subjects. In regard to them all, it may be safely said that the meaning and effect of this bill is to take from the General Government an important part of its power to enforce the laws.

Another grave objection to the bill is its discrimination in favor of the State and against the national authority. The presence or employment of the Army or Navy of the United States is lawful under the terms of this bill at the place where an election is being held in a State to uphold the authority of a State government then and there in need of such military intervention, but unlawful to uphold the authority of the Government of the United States then and there in need of such military intervention. Under this bill the presence or employment of the Army or Navy of the United States would be lawful, and might be necessary to maintain the conduct of a State election against the domestic violence that would overthrow it, but would be unlawful to maintain the conduct of a national election against the same local violence that would overthrow it. This discrimination has never been attempted in any previous legislation by Congress, and is no more compatible with sound principles of the Constitution or the necessary maxims and methods of our system of goverment on occasions of elections than at other times. In the early legislation of 1792 and of 1795, by which the militia of the States was the only military power resorted to for the execution of the constitutional powers in support of State or national authority, both functions of the Government were put upon the same footing. By the act of 1807 the employment of the Army and Navy was authorized for the performance of both constitutional duties in the same terms.

In all later statutes on the same subject-matter the same measure of authority to the Government has been accorded for the performance of both these duties. No precedent has been found in any previous legislation, and no sufficient reason has been given for the discrimination in favor of the State and against the national authority which this bill contains.

Under the sweeping terms of the bill the National Government is effectually shut out from the exercise of the right and from the discharge of the imperative duty to use its whole executive power whenever and wherever required for the enforcement of its laws at the places and times when and where its elections are held. The employment of its organized armed forces for any such purpose would be an offense against the law unless called for by, and therefore upon permission of, the authorities of the State in which the occasion arises. What is this but the substitution of the discretion of the State governments for the discretion of the Government of the United States as to the performance of its own duties? In my judgment this is an abandonment of its obligations by the National Government; a subordination of national authority and an intrusion of State supervision over national duties which amounts, in spirit and tendency, to State supremacy.

Though I believe that the existing statutes are abundantly adequate to completely prevent military interference with the elections in the sense in which the phrase is used in the title of this bill and is employed by the people of this country, I shall find no difficulty in concurring in any additional legislation limited to that object which does not interfere with the indispensable exercise of the powers of the Government under the Constitution and laws.

RUTHERFORD B. HAYES.

EXECUTIVE MANSION, *May* 12, 1879.

The reading of the message was frequently interrupted by applause on the republican side of the House.

Mr. KNOTT. I offer the following resolution, upon which I demand the previous question.

The Clerk read the resolution, as follows:

Resolved, That the message of the President just read be entered on the Journal, as required by the Constitution, and that the House will to-morrow, after the reading of the Journal, proceed to consider the same and to reconsider the bill (H. R. No. 1382) to prohibit military interference at elections, and that said message be printed.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. KNOTT moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FINAL ADJOURNMENT.

Mr. WOOD. I rise to a privileged question, and submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring.) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock m. on the —— day of May, 1879.

Mr. WOOD. I will not ask for the consideration of this resolution at this time, but will move that it be referred to the Committee of Ways and Means.

The motion to refer was agreed to.

ORDER OF BUSINESS.

Mr. DEERING and Mr. COX addressed the Chair.

The SPEAKER. For what purpose does the gentleman from New York [Mr. COX] rise?

Mr. COX. I desire to move to suspend the rules and pass the bill which I hold in my hand.

The SPEAKER. The gentleman from Iowa [Mr. DEERING] is next on the list for motions to suspend the rules, and the Chair will now recognize him, as being on the other side from the one last recognized.

APPROPRIATIONS FOR THE ARMY.

Mr. DEERING. I move to suspend the rules and pass the bill which I send to the Clerk's desk.

The Clerk read the title of the bill, as follows:

A bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

Mr. KNOTT. I move that the House now adjourn.

Mr. FORT. Let the bill be read.

Mr. GARFIELD. This bill I suppose will be pending.

Mr. FORT. I rise to a question of order. Can the gentleman from Iowa be taken off the floor by a motion to adjourn——

The SPEAKER. The rules specifically provide that one motion to adjourn shall be in order pending a motion to suspend the rules.

Mr. FORT. Before he has his bill read?

The SPEAKER. A motion to adjourn is in order.

Mr. DEERING. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and there were—yeas 97, nays 113, not voting 75; as follows:

YEAS—97.

Acklen,	Covert,	Harris, John T.	Ladd,
Atherton,	Cox,	Hatch,	Le Fevre,
Bachman,	Cravens,	Henkle,	Lewis,
Beale,	Davidson,	Herbert,	Lounsbery,
Bicknell,	Davis, Joseph J.	Herndon,	Manning,
Bouck,	Deuster,	Hooker,	Martin, Edward L.
Bright,	Dibrell,	Hostetler,	McKenzie,
Buckner,	Dickey,	House,	McLane,
Cabell,	Dunn,	Hurd,	McMillin,
Clardy,	Elam,	Johnston,	Mills,
Clark, John B., jr.	Evins,	Kenna,	Money,
Cobb,	Forney,	Kimmel,	Morrison,
Colerick,	Gibson,	King,	Muldrow,
Converse,	Goode,	Klotz,	Muller,
Cook,	Gunter,	Knott,	Myers

New,	Scales,	Talbott,	Whiteaker,
O'Connor,	Shelley,	Thompson,	Whitthorne,
Phelps,	Singleton, James W.	Tillman,	Williams, Thomas
Phister,	Singleton, O. R.	Townshend, R. W.	Willis,
Reagan,	Smith, Hezekiah B.	Turner, Oscar	Wood, Fernando
Richardson, John S.	Smith, William E.	Turner, Thomas	Wright,
Richmond,	Sparks,	Vance,	Young, Casey.
Rothwell,	Springer,	Waddill,	
Samford,	Steele,	Warner,	
Sawyer,	Stephens,	Wells,	

NAYS—113.

Aldrich, Nelson W.	Davis, George R.	Keifer,	Reed,
Aldrich, William	Deering,	Kelley,	Rice,
Anderson,	De La Matyr,	Ketcham,	Robertson,
Bailey,	Dick,	Lapham,	Robeson,
Barber,	Dunnell,	Lindsey,	Robinson,
Bayne,	Einstein,	Loring,	Ryan, Thomas
Belford,	Errett,	Lowe,	Sapp,
Blackburn,	Farr,	Marsh,	Shallenberger,
Blake,	Felton,	Martin, Benj. F.	Sherwin,
Bliss,	Ferdon,	Martin, Joseph J.	Smith, A. Herr
Blount,	Field,	Mason,	Starin,
Bowman,	Ford,	McCoid,	Stevenson,
Boyd,	Fort,	McCook,	Stone,
Brewer,	Frye,	McGowan,	Thomas,
Briggs,	Garfield,	McKinley,	Townsend, Amos
Brigham,	Geddes,	Miles,	Tyler,
Browne,	Hall,	Monroe,	Updegraff, J. T.
Burrows,	Hammond, John	Murch,	Updegraff, Thomas
Cannon,	Hawk,	Neal,	Urner,
Carpenter,	Hawley,	Newberry,	Valentine,
Caswell,	Hayes,	Norcross,	Washburn,
Claflin,	Hazelton,	O'Neill,	Weaver,
Clymer,	Heilman,	Osmer,	Wellborn,
Coffroth,	Henderson,	Overton,	Williams, C. G.
Conger,	Horr,	Persons,	Willits,
Cowgill,	Houk,	Poehler,	Young, Thomas L.
Crapo,	Humphrey,	Pound,	
Culberson,	Jones,	Prescott,	
Daggett,	Joyce,	Price,	

NOT VOTING—75.

Aiken,	Davis, Lowndes H.	Hunton,	Russell, William A.
Armfield,	Dwight,	James,	Ryon, John W.
Atkins,	Ellis,	Jorgensen,	Simonton,
Baker,	Ewing,	Killinger,	Slemons,
Ballou,	Finley,	Kitchin,	Speer,
Barlow,	Fisher,	Lay,	Taylor,
Beltzhoover,	Forsythe,	McMahon,	Tucker,
Bingham,	Frost,	Miller,	Van Aernam,
Bland,	Gillette,	Mitchell,	Van Voorhis,
Bragg,	Godshalk,	Morse,	Voorhis,
Butterworth,	Hammond, N. J.	Morton,	Wait,
Caldwell,	Harmer,	Nicholls,	Ward,
Calkins,	Harris, Benj. W.	O'Brien,	White,
Camp,	Haskell,	O'Reilly,	Wilber,
Carlisle,	Henry,	Orth,	Wilson,
Chalmers,	Hill,	Pierce,	Wise,
Chittenden,	Hiscock,	Richardson, D. P.	Wood, Walter A.
Clark, Alvah A.	Hubbell,	Ross,	Yocum.
Crowley,	Hull,	Russell, Daniel L.	

So the House refused to adjourn.

During the roll-call the following announcements were made:

Mr. CLARK, of Missouri. My colleague, Mr. FROST, is paired with Mr. BINGHAM, of Pennsylvania.

Mr. MORSE. I am paired with my colleague, Mr. HARRIS.

Mr. MANNING. My colleague, Mr. CHALMERS, is paired with Mr. WHITE. If present, Mr. CHALMERS would vote "no."

Mr. DAVIDSON. My colleague, Mr. HULL, is paired with Mr. RICHARDSON, of New York.

Mr. CLYMER. Mr. ATKINS is paired with Mr. BAKER, of Indiana.

Mr. WEAVER. Mr. FORSYTHE is paired with Mr. WALTER A. WOOD, of New York.

Mr. LAPHAM. My colleague, Mr. RICHARDSON, is paired with Mr. HULL, of Florida. My colleague, Mr. VAN AERNAM, is paired with Mr. HENRY.

Mr. ROBINSON. My colleague, Mr. RUSSELL, is paired with Mr. SPEER.

Mr. HASKELL. I am paired with Mr. ELLIS.

Mr. McCOOK. My colleague, Mr. HISCOCK, is paired with Mr. HUNTON.

Mr. EINSTEIN. Mr. O'REILLY is paired with Mr. PIERCE; and Mr. O'BRIEN is paired with Mr. DWIGHT.

Mr. CALKINS. I am paired with Mr. FINLEY. If he were present, I would vote in the negative.

Mr. SMITH, of Pennsylvania. My colleagues, Mr. HARMER and Mr. WISE, are paired.

Mr. BAYNE. Mr. BINGHAM is paired with Mr. FROST, and Mr. FISHER with Mr. LAY.

Mr. ORTH. I am paired with Mr. WILSON, of West Virginia.

Mr. RUSSELL, of North Carolina. I am paired with Mr. BLAND, of Missouri. If he were present, I would vote "no."

Mr. WRIGHT. My colleague, Mr. RYON, is paired with my colleague, Mr. MITCHELL.

Mr. AIKEN. I am paired with Mr. WARD. If he were present, he would vote in the negative.

Mr. WAIT. I am paired with Mr. ROSS, of New Jersey.

Mr. THOMPSON. My colleague, Mr. CALDWELL, is absent on account of sickness. If present, he would vote in the affirmative.

The vote was then announced as above recorded.

ARMY APPROPRIATION BILL.

The SPEAKER. The question recurs on the motion of the gentleman from Iowa [Mr. DEERING] to suspend the rules and pass a bill making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes. The bill will be read.

Mr. BUCKNER. I move to dispense with the reading of that document and take a vote on it without reading. I think that will answer every purpose.

Mr. KNOTT. I object.

The bill was read, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1880, as follows:

For expenses of the commanding general's office, $2,500.

For expenses of recruiting and transportation of recruits from rendezvous to depot, $75,000. And no money appropriated by this act shall be paid for recruiting the Army beyond the number of twenty-five thousand enlisted men, including Indian scouts and hospital stewards; and thereafter there shall be no more than twenty-five thousand enlisted men in the Army at any one time, unless otherwise authorized by law. Nothing, however, in this act shall be construed to prevent enlistments for the Signal Service, which shall hereafter be maintained, as now organized and as provided by law, with a force of enlisted men not exceeding four hundred and fifty, after present terms of enlistment have expired.

For contingent expenses of the Adjutant-General's department at the headquarters of military divisions and departments, $3,000.

For expenses of the Signal Service of the Army, purchase, equipment, and repair of electric field-telegraphs and signal equipments, $10,500.

Pay Department:

For pay of the commissioned and non-commissioned officers, privates, (including those employed as Indian scouts,) storekeepers, musicians, and veterinary surgeons, artificers, farriers, and saddlers, except as hereinafter enumerated, $0,880,000.

Miscellaneous:

For the pay of contract surgeons, $165,000.

For the pay of fifty-four paymasters' clerks, $64,800.

For the pay of one hundred and eighty-six hospital stewards, $66,000.

For the pay of two hundred hospital matrons, $24,000.

For one hundred and forty-seven commissary-sergeants, $59,000.

For messengers to paymasters, $15,000.

For extra-duty pay to enlisted men, $30,000.

For travel-pay and commutation of subsistence to discharged soldiers, $370,000.

For retained pay to discharged men, $340,000.

For commutation of officers' quarters at places where there are no public quarters, $156,000: *Provided*, That no allowance shall be made for claims for quarters for servants heretofore or hereafter; and that the rate of commutation shall hereafter be $12 per room per month for officers' quarters, in lieu of $10, as now provided by law.

For pay to soldiers for clothing not drawn, $450,000.

For additional pay to enlisted men, $440,000.

For mileage of officers of the Army when traveling under orders, $170,000.

For cost of telegrams; and telegrams are authorized to be transmitted by railroad companies which may have telegraph lines, and which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government, according to the provisions of title 65 of the Revised Statutes; and also for compensation of citizen witnesses attending upon courts-martial, military commissions, courts of inquiry; traveling expenses of paymasters' clerks, $70,000: *Provided*, That the appropriations under the head of "Pay department" in this act, amounting to $12,299,800, shall be accounted for by disbursing officers under the title of "Pay, &c., of the Army, 1880."

Subsistence department:

For subsistence of twenty-five thousand enlisted men, one hundred and twenty additional half rations for sergeants and corporals of ordnance, women to companies, (laundresses,) eighteen hundred and seventy-five civilian employés, one hundred and twenty-five contract surgeons, two hundred hospital matrons, one hundred and ten military convicts, and five hundred prisoners of war, (Indians,) in all 10,901,455 rations at twenty cents each; for difference between cost of rations and commutation thereof for detailed men, and for enlisted men and recruits at recruiting stations, and for cost of hot coffee and cooked rations for troops traveling on cars; for subsistence stores for Indians visiting military posts and Indians employed without pay as scouts and guides, $2,300,000; of which amount $300,000 shall be available from and after the passage of this act for the purchase of stores necessary to be transported to distant posts in advance of the 30th of June, A. D. 1879: *Provided*, That to the cost of all stores and other articles sold to officers and men, except tobacco, as provided for in section 1149 of the Revised Statutes, 10 per cent. shall be added to cover wastage, transportation, and other incidental charges.

Quartermaster's Department:

For the regular supplies of the Quartermaster's Department, consisting of stoves for heating and cooking; of fuel for officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, mounted men of the Signal Service, and such companies of infantry and scouts as may be mounted, and for the authorized number of officers' horses, including bedding for the animals; of straw for soldiers' bedding; and of stationery, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for the Pay and Quartermaster's Departments, and for printing of division and department orders and reports, $6,600,000.

For incidental expenses, to wit: For postage and telegrams or dispatches; extra pay to soldiers employed under the direction of the Quartermaster's Department in the erection of barracks, quarters, storehouses, and hospitals, in the construction of roads, and other constant labor, for periods of not less than ten days, including those employed as clerks at division and department headquarters and signal-Service sergeants; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or when traveling on orders, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the Quartermaster's Department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the Quartermaster's Department; compensation of forage and wagon masters authorized by the act of July 5, 1838; for the apprehension, securing, and delivering of deserters, and the expenses incident to their pursuit; and for the following expenditures, required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry and scouts as may be mounted, and for the trains, to wit: hire of veterinary surgeons, medicine for horses and mules, picket-ropes, and for shoeing the horses and mules; also, generally, the proper and authorized expenses for the movement and operations of the Army not expressly assigned to any other department, $1,000,000.

For purchase of horses for the cavalry and artillery and for the Indian scouts, and for such infantry as may be mounted, $200,000.

For transportation of the Army, including baggage of the troops, when moving either by land or water; of clothing and camp and garrison equipage from the depots of Philadelphia and Jeffersonville to the several posts and Army depots, and from

those depots to the troops in the field; of horse equipments and of subsistence stores from places of purchase and from the places of delivery, under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the founderies and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expenses of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as, from their situation, require it to be brought from a distance, and for clearing roads and for removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, $4,200,000.

For hire of quarters for troops, of storehouses for the safe-keeping of military stores, of offices, and of grounds for camp and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts, $880,000.

For construction of a military post near the Niobrara River in Northern Nebraska or Dakota, at a point to be selected by the General of the Army, with the approval of the Secretary of War, $50,000, or so much thereof as may be necessary.

For construction and repair of hospitals, as reported by the Surgeon-General of the Army, $75,000.

For purchase and manufacture of clothing and camp and garrison equipage, and for preserving and repacking the stock of clothing and camp and garrison equipage and materials on hand at the Philadelphia, Jeffersonville, and other depots of the Quartermaster's Department, $900,000.

For maintaining and improving national cemeteries, $100,000.

For pay of seventy-one superintendents of the same, $59,000.

For all contingent expenses of the Army not provided for by other estimates, and embracing all branches of the military service, to be expended under the immediate orders of the Secretary of War, $40,000.

Medical department:

For purchase of medical and hospital supplies, medical care and treatment of officers and soldiers on detached duty, expenses of purveying depots, advertising, and other miscellaneous expenses of the Medical department, $200,000.

For the Army Medical Museum, and for medical and other works for the library of the Surgeon-General's Office, $10,000.

Engineer department:

For engineer depot at Willet's Point, New York, namely, for purchase of engineering materials to continue the present course of instruction of the engineer battalion in field engineering, $1,000.

For incidental expenses of the depot, remodeling ponton-trains, repairing instruments, purchasing fuel, forage, stationery, chemicals, extra-duty pay to soldiers engaged in special skilled labor, and ordinary repairs, $4,000.

Ordnance Department:

For the ordnance service, required to defray the current expenses at the arsenals; of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles; incidental expenses of the ordnance service, including compensation of workmen in the armory and museum building connected with the Ordnance Office and those attending practical trials and tests of ordnance, small-arms, and other ordnance supplies, $110,000: *Provided*, That none of the money hereby appropriated shall be expended, directly or indirectly, for any use not strictly necessary for, and directly connected with, the military service of the Government; and this restriction shall apply to the use of public animals, forage, and vehicles.

For manufacture of metallic ammunition for small-arms, $75,000.

For overhauling, cleaning, and preserving new ordnance stores on hand at the arsenals, $25,000.

For dismounting guns and removing the armament from forts being modified or repaired, including heavy carriages returned to arsenals for alteration and repairs, and other necessary expenses of the same character, and for repairing ordnance and ordnance stores in the hands of troops and for issue at the arsenals and depots, and for extra duty for enlisted men detailed for ordnance service, $30,000.

For purchase and manufacture of ordnance stores, to fill requisitions of troops, $115,000.

For infantry, cavalry, and artillery equipments, consisting of clothing-bags, haversacks, canteens, and great-coat straps, and repairing horse equipments for cavalry troops, $75,000.

For purchase of site for powder depot, and commencing the erection of suitable buildings, $50,000.

For manufacture of arms at national armories, $250,000.

For conversion of smooth-bore guns, $50,000.

For leveling, clearing, and grading range ground at Sandy Hook common, building plank roads, targets, cranes, and similar necessaries, and for telegraph poles and wires for ballistic instruments, $5,000.

For quarters for superintendent of the proving ground at Sandy Hook, $2,500.

SEC. 2. That the Secretary of War is authorized and directed to cause all the regulations of the Army and general orders now in force to be codified and published to the Army, and to defray the expenses thereof out of the contingent fund of the Army.

SEC. 3. And the examiner of State claims in the Office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

SEC. 4. That when a vacancy occurs in the office of professor of the French language or in the office of professor of the Spanish language in the Military Academy, both these offices shall cease, and the remaining one of the two professors shall be professor of modern languages; and thereafter there shall be in the Military Academy one, and only one, professor of modern languages; and that section 1336 of the Revised Statutes be, and is hereby, amended by inserting, after the word "service," in the first line, the words "as professor."

SEC. 5. That each member of the next two graduating classes of the Military Academy, after graduation, may elect to receive the gross sum of $750 and mileage to his place of residence; and the acceptance of this gross sum shall render him ineligible to appointment in the Army until two years after his graduation; and the amount required to defray the expenditure herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 6. That the Secretary of War shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education.

SEC. 7. That section 6 of the act approved June 18, 1878, making appropriations for the support of the Army be, and is hereby, repealed: *Provided*, That when the economy of the service requires, the Secretary of War shall direct the establishment of military headquarters at points where suitable buildings are owned by the Government.

Mr. GARFIELD. I wish to ask the gentleman from Iowa whether this is not identically the same Army appropriation bill which was introduced at the beginning of this session by the gentleman from Illinois, [Mr. SPARKS,] a member of the Committee on Appropriations, with the omission only of the political legislation?

Mr. DEERING. It is the same bill with the political rider and new legislation left off.

Mr. CONGER. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 101, nays 109, not voting 75; as follows:

YEAS—101.

Aldrich, Nelson W.	Dick,	Kelley,	Rice,
Aldrich, William	Dunnell,	Ketcham,	Robeson,
Anderson,	Einstein,	Killinger,	Robinson,
Bailey,	Errett,	Lindsey,	Ryan, Thomas
Barber,	Farr,	Loring,	Sapp,
Bayne,	Ferdon,	Lowe,	Shallenberger,
Belford,	Field,	Marsh,	Sherwin,
Blake,	Ford,	Martin, Joseph J.	Smith, A. Herr
Bowman,	Fort,	Mason,	Starin,
Boyd,	Frye,	McCoid,	Stevenson,
Brewer,	Garfield,	McCook,	Stone,
Briggs,	Gillette,	McGowan,	Thomas,
Brigham,	Hall,	McKinley,	Townsend, Amos
Browne,	Hammond, John	Miles,	Tyler,
Burrows,	Hawk,	Monroe,	Updegraff, J. T.
Cannon,	Hawley,	Murch,	Updegraff, Thomas
Carpenter,	Hayes,	Neal,	Urner,
Caswell,	Hazelton,	Newberry,	Valentine,
Claflin,	Heilman,	Norcross,	Washburn,
Conger,	Henderson,	O'Neill,	Weaver,
Cowgill,	Horr,	Osmer,	Williams, C. G.
Crapo,	Houk,	Overton,	Willits,
Daggett,	Humphrey,	Pound,	Young, Thomas L.
Davis, George R.	Jones,	Prescott,	
De La Matyr,	Joyce,	Price,	
Deering,	Keifer,	Reed,	

NAYS—109.

Acklen,	Dunn,	Lounsbery,	Singleton, James W.
Armfield,	Elam,	Manning,	Singleton, O. R.
Atherton,	Evins,	Martin, Benj. F.	Smith, Hezekiah B.
Bachman,	Ewing,	Martin, Edward L.	Smith, William E.
Beale,	Felton,	McKenzie,	Sparks,
Bicknell,	Forney,	McLane,	Springer,
Blackburn,	Geddes,	McMillin,	Steele,
Bliss,	Gibson,	Mills,	Stephens,
Bouck,	Goode,	Money,	Talbott,
Bright,	Gunter,	Morrison,	Thompson,
Buckner,	Harris, John T.	Muldrow,	Tillman,
Cabell,	Hatch,	Muller,	Townshend, R. W.
Clardy,	Henkle,	Myers,	Turner, Oscar
Clark, John B., jr.,	Herbert,	New,	Turner, Thomas
Clymer,	Herndon,	O'Connor,	Vance,
Cobb,	Hooker,	Persons,	Waddill,
Coffroth,	Hostetler,	Phelps,	Warner,
Colerick,	House,	Phister,	Wellborn,
Converse,	Hurd,	Poehler,	Whiteaker,
Cook,	Johnston,	Reagan,	Whitthorne,
Covert,	Kenna,	Richardson, J. S.	Williams, Thomas
Cravens,	Kimmel,	Richmond,	Willis,
Culberson,	King,	Robertson,	Wood, Fernando
Davidson,	Klotz,	Rothwell,	Wright,
Davis, Joseph J.	Knott,	Samford,	Young, Casey.
Deuster,	Ladd,	Sawyer,	
Dibrell,	Le Fevre,	Scales,	
Dickey,	Lewis,	Shelley,	

NOT VOTING—75.

Aiken,	Crowley,	James,	Ryon, John W.
Atkins,	Davis, Lowndes H.	Jorgensen,	Simonton,
Baker,	Dwight,	Kitchin,	Slemons,
Ballou,	Ellis,	Lapham,	Speer,
Barlow,	Finley,	Lay,	Taylor,
Beltzhoover,	Fisher,	McMahon,	Tucker,
Bingham,	Forsythe,	Miller,	Van Aernam,
Bland,	Frost,	Mitchell,	Voorhis,
Blount,	Godshalk,	Morse,	Van Voorhis,
Bragg,	Hammond, N. J.	Morton,	Wait,
Butterworth,	Harmer,	Nicholls,	Ward,
Caldwell,	Harris, Benj. W.	O'Brien,	Wells,
Calkins,	Haskell,	O'Reilly,	White,
Camp,	Henry,	Orth,	Wilber,
Carlisle,	Hill,	Pierce,	Wilson,
Chalmers,	Hiscock,	Richardson, D. P.	Wise,
Chittenden,	Hubbell,	Ross,	Wood, Walter A.
Clark, Alvah A.	Hull,	Russell, Daniel L.	Yocum.
Cox,	Hunton,	Russell, William A.	

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call the following announcements were made:

Mr. MANNING. My colleague from Mississippi, Mr. CHALMERS, is paired with Mr. WHITE, of Pennsylvania. If present, Mr. CHALMERS would vote "no."

Mr. MCMILLIN. My colleague from Tennessee, Mr. ATKINS, is paired with Mr. BAKER, of Indiana. If not paired, Mr. ATKINS would vote "no." My colleague, Mr. SIMONTON, is paired with Mr. CAMP, of New York. If present, Mr. SIMONTON would vote "no."

Mr. CLARK, of Missouri. My colleague, Mr. FROST, is paired with Mr. BINGHAM, of Pennsylvania. If present, Mr. FROST would vote "no."

Mr. COX. I am paired with my colleague from New York, Mr. MORTON. If he were here, he would likely vote "ay" and I should vote "no."

Mr. WRIGHT. My colleague from Pennsylvania, Mr. RYON, is paired with my colleague, Mr. MITCHELL. I do not know how Mr. MITCHELL would vote, but I suppose Mr. RYON would vote "no."

Mr. DICKEY. My colleague from Ohio, Mr. FINLEY, is paired with Mr. CALKINS, of Indiana.

Mr. HENKLE. My colleague from Maryland, Mr. HENRY, is paired with Mr. VAN AERNAM, of New York. If present, Mr. HENRY would vote "no."

Mr. CABELL. My colleague from Virginia, Mr. HUNTON, is paired with Mr. HISCOCK, of New York. Mr. HUNTON, if present, would vote "no." My colleague, Mr. TUCKER, is paired with Mr. LAPHAM, of New York. If present, Mr. TUCKER would vote "no."

Mr. DAVIDSON. My colleague from Florida, Mr. HULL, is absent by leave of the House. He is paired with Mr. RICHARDSON, of New York, and if present would vote "no."

Mr. PERSONS. My colleague from Georgia, Mr. NICHOLLS, is absent on account of sickness. If he were present, he would vote "no."

Mr. AIKEN. I am paired with Mr. WARD, of Pennsylvania. If he were present, he would vote "ay" and I should vote "no."

Mr. BLOUNT. My colleague from Georgia, Mr. HAMMOND, is paired with Mr. VAN VOORHIS, of New York. My colleague, Mr. SPEER, is paired with Mr. RUSSELL, of Massachusetts. I am paired with Mr. HUBBELL, of Michigan.

Mr. WAIT. I am paired with Mr. ROSS, of New Jersey; otherwise I would vote "ay."

Mr. HASKELL. I am paired with Mr. ELLIS, of Louisiana.

Mr. MORSE. I am paired with my colleague from Massachusetts, Mr. HARRIS.

Mr. ROBINSON. My colleague from Massachusetts, Mr. RUSSELL, is paired with Mr. SPEER, of Georgia. If present, Mr. RUSSELL would vote "ay" and I presume Mr. SPEER would vote "no."

Mr. LAPHAM. I am paired with Mr. TUCKER, of Virginia, on all political questions. As this seems to be regarded as such, I do not vote. My colleague from New York, Mr. VAN AERNAM, is paired with Mr. HENRY, of Maryland. My colleague, Mr. RICHARDSON, is paired with Mr. HULL, of Florida.

Mr. WEAVER. Mr. FORSYTHE, of Illinois, is paired with Mr. WALTER A. WOOD, of New York.

Mr. EINSTEIN. My colleague, Mr. O'REILLY, is paired with my colleague, Mr. PIERCE. My colleague, Mr. O'BRIEN, is paired with my colleague, Mr. DWIGHT. Mr. O'REILLY and Mr. O'BRIEN, if present, would vote "no."

Mr. RUSSELL, of North Carolina. I am paired with Mr. BLAND, of Missouri.

Mr. CALKINS. I am paired with Mr. FINLEY, of Ohio. If he were present, I should vote "ay."

Mr. SMITH, of Pennsylvania. My colleagues, Mr. HARMER and Mr. WISE, are paired.

Mr. ORTH. I am paired with Mr. WILSON, of West Virginia. If he were present, I should vote "ay."

Mr. BAYNE. My colleague from Pennsylvania, Mr. BINGHAM, is paired with Mr. FROST, of Missouri. My colleague, Mr. FISHER, is paired with Mr. LAY, of Missouri. My colleagues, if present, would vote in the affirmative.

Mr. HUMPHREY. Mr. WALTER A. WOOD, of New York, is paired with Mr. FORSYTHE, of Illinois.

Mr. TALBOTT. My colleague from Maryland, Mr. HENRY, is paired with Mr. VAN AERNAM, of New York. Mr. HENRY, if present, would vote "no."

Mr. ALDRICH, of Rhode Island. My colleague, Mr. BALLOU, is paired with Mr. MCMAHON, of Ohio.

The result of the vote as above recorded was then announced amid cheers on the democratic side and counter cheers on the republican side of the House.

Mr. FERNANDO WOOD. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty-eight minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BACHMAN: The petition of the Woman's National Christian Temperance Union, and others, of Allentown, Pennsylvania, that no changes be made in the revenue law that will benefit dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. BOYD: The petition of James McFarland, for an increase of pension—to the Committee on Revolutionary Pensions.

By Mr. CARPENTER: The petition of John S. Logan, for reimbursement of money expended for supplies for United States forces—to the Committee of Claims.

By Mr. COX: Papers relating to the claim of Dr. C. W. Brink for compensation for services rendered and expenses incurred in bearing dispatches from the United States minister in Mexico to the United States authorities in Washington—to the Committee on Foreign Affairs.

By Mr. DE LA MATYR: The petition of citizens of Indiana, for the establishment of a post-route from Center Valley, via La Clair, to Hall, Indiana—to the Committee on the Post-Office and Post-Roads.

By Mr. FERDON: The petition of citizens of Orange County, New York, against any change in the revenue laws that will promote the interest of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. FRYE: Papers relating to the claim of Oliver Moses for reimbursement of expenses incurred on account of the crews of the wrecked ship James A. Wright—to the Committee of Claims.

By Mr. GOODE: The petition of Mrs. Louisa S. Guthrie, executrix of Captain J. J. Guthrie, deceased, to be paid the amount due said decedent as a lieutenant in the Navy—to the Committee on Naval Affairs.

By Mr. HARRIS, of Virginia: The petition of Mrs. Commodore Moore, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. HENDERSON: The petitions of George W. Shaw and 98 others, and of E. S. Taylor and 36 others, citizens of Henry County, Illinois, that no change be made in the amended internal-revenue law approved March 1, 1879—to the Committee of Ways and Means.

By Mr. HENRY: The petition of Smith Minor, for compensation for slaves freed under the act of April 16, 1862, entitled "An act for the release of certain persons held to service or labor in the District of Columbia"—to the Committee of Claims.

By Mr. KELLEY: The petition of 1,870 citizens of the United States, for the repeal of the tax on matches—to the Committee of Ways and Means.

By Mr. KLOTZ: Papers relating to the pension claim of Maria L. Lee—to the Committee on Invalid Pensions.

By Mr. LADD: Papers relating to the pension claim of James Johnston—to the same committee.

Also, papers relating to the pension claim of Zenas Herrick—to the Committee on Revolutionary Pensions.

By Mr. LAPHAM: Papers relating to the claim of A. Snyder, late provost marshal twenty-fifth district of New York, for reimbursement of expenses incurred by arresting deserters—to the Committee of Claims.

By Mr. MARTIN, of West Virginia: Papers relating to the claim of armorers at Harper's Ferry, for pay for work done at Harper's Ferry in 1861—to the Committee on Military Affairs.

By Mr. MCGOWAN: Resolution of the Michigan Legislature, asking for an appropriation to improve the harbor at the mouth of the river Au Sable, in Iosco County, Michigan—to the Committee on Commerce.

Also, resolution of the Legislature of Michigan, asking for an appropriation of condemned cannon to aid in the construction of the Saratoga national monument—to the Committee on Military Affairs.

Also, the petition of Hon. V. P. Collier, C. Wakelee, William H. Skinner, and 41 others, business men of Battle Creek, Michigan, for the passage of an act authorizing the building of a bridge across the Detroit River—to the Committee on Commerce.

By Mr. MURCH. The petition of 40 citizens of Milo, Maine, for a new issue of full legal-tender money, and that the Secretary of the Treasury be instructed to pay off and cancel bonds with the same—to the Committee on Banking and Currency.

Also, the petition of citizens of Rockland, Maine, that Congress instruct the Committee on Public Buildings and Grounds to inquire into the present system of doing work on public buildings—to the Committee on Public Buildings and Grounds.

Also, petitions of 900 citizens of the sixteenth congressional district of New York; of 107 citizens of the second congressional district of Iowa and the sixth congressional district of Illinois; of 57 citizens of the fifth congressional district of Maine; and of E. M. Chamberlin and others, representing a mass meeting at Faneuil Hall, Boston, Massachusetts, May 1, 1879, for the enforcement of the eight-hour law—to the Committee on Education and Labor.

By Mr. NEAL: The petition of Benjamin Malone, for a pension—to the Committee on Revolutionary Pensions.

By Mr. PRICE: The petition of 23 citizens of Deadwood, Dakota Territory, for a charter for the Whitewood Flume Company—to the Committee on Mines and Mining.

By Mr. ROBINSON: Papers relating to the war claim of Peter Dooley—to the Committee on War Claims.

Also, papers relating to the claim of J. Nelson Trask for indemnity for losses sustained in the service of the United States—to the Committee of Claims.

By Mr. RYAN, of Kansas: Papers relating to the claim of Joab Spencer and James R. Mead for supplies furnished the Kansas tribe of Indians—to the Committee on Indian Affairs.

By Mr. SAPP: The petition of citizens of Iowa, for a change of post-route No. 27454, in Pottawattamie County, Iowa—to the Committee on the Post-Office and Post-Roads.

By Mr. SINGLETON, of Mississippi: The petition of J. R. Pace, L. D. Murrell and others, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. UPDEGRAFF, of Ohio: The petition of Emma L. Vermillion and 256 others, citizens of Smithfield, Ohio, against any change in the revenue laws that will promote the interests of dealers in spirituous liquors—to the Committee of Ways and Means.

By Mr. WAIT: Papers relating to the petition of Albert C. Twining for an extension of a patent—to the Committee on Patents.

By Mr. WASHBURN: Papers relating to the claim of Charles D. C. Williams for additional pay as an officer in the United States Army—to the Committee on Military Affairs.

By Mr. WILLIS: The petition of Thomas S. Kennedy and others, citizens of Louisville, Kentucky, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. WILLITS: Resolution of the Legislature of Michigan, asking an appropriation to improve the harbor at the mouth of Au Sable River, Iosco County, Michigan—to the Committee on Commerce.

Also, resolution of the Legislature of Michigan, asking for an appropriation of condemned cannon for the construction of the Saratoga National Monument—to the Committee on Military Affairs.

IN SENATE.

TUESDAY, *May* 13, 1879.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a draught of a bill to amend an act entitled "An act for the relief of William A. Hammond, late surgeon-general of the Army," approved March 15, 1878; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the Senate of the 6th instant, copies of affidavits, reports, and other papers upon which a pension certificate was issued to Thornton Smith on the 18th day of April, 1879; which was referred to the Committee on Pensions.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter addressed to him by the Commissioner of Internal Revenue in relation to an increase of the appropriation for salaries and expenses of collectors of internal-revenue for the next fiscal year, with a view to the more effectual suppression of the illicit distillation of spirits.

The PRESIDENT *pro tempore*. To what committee shall this communication be referred—Finance or Appropriations?

Mr. DAVIS, of West Virginia. Let it go to the Committee on Finance, and then the Committee on Finance can refer it to the Committee on Appropriations if they think proper.

The communication and the accompanying documents were referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of Annie Wittenmyer, Mary T. Burt, and others, officers and members of the Woman's National Christian Temperance Union, remonstrating against the repeal of the amended internal-revenue act in relation to spirituous liquors, approved March 1, 1879; which was referred to the Committee on Finance.

He also presented the memorial of Clark Barlow and others, citizens of Pennsylvania, remonstrating against the extension of the patent of John C. Birdsell for a combined clover hulling and thrashing machine; which was referred to the Committee on Patents.

Mr. CHANDLER presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement of the harbor at the mouth of the river Au Sable, in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of Michigan, in favor of the passage of a law by Congress appropriating condemned cannon to aid in the construction of the Saratoga national monument; which was referred to the Committee on Military Affairs.

Mr. KERNAN presented the petition of Friedrich Oechsle, late a private in Company A, Sixty-seventh Regiment New York Volunteers, praying for the passage of a law granting him a pension; which was referred to the Committee on Pensions.

Mr. CALL presented the petition of Mrs. Emma M. Moore, widow of Senior Captain Edwin W. Moore, of the late Texan navy, praying for the passage of a law granting her arrears of pension; which was referred to the Committee on Pensions.

Mr. JONAS. I present resolutions of the constitutional convention of the State of Louisiana, and ask that they be read at length and referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

The PRESIDENT *pro tempore*. The resolutions will be reported.

The resolutions were referred to the Committee on the Improvement of the Mississippi River and its Tributaries, and read, as follows:

Whereas the Mississippi River is a great national highway running through and bordering on ten States, and with its tributaries draining one-half of the national territory, the use and navigation of which mighty stream is common to all citizens of the country; and

Whereas the alluvial lands bordering on and forming the lower Mississippi basin are among the richest and most fertile in the world, producing corn, cotton, sugar, and rice, but are subject to the overflow and ravages of the great river, to protect them against which, and to the end of utilizing and cultivating them with any degree of certainty or profit, a continuous and uniform levee system is absolutely necessary. Now, considering that the great outlay and expense incident to the construction and maintenance of a complete system of levees puts it beyond the financial ability of the States immediately interested, and considering the national importance and character of the work and that the building of the levees will improve the navigation of the river: Therefore,

Be it resolved by the people of Louisiana in constitutional convention assembled, That while it is the duty of the General Government to keep this great national highway and artery open to the commerce of the Union, a like sense of duty, combined with the dictates of simple justice, should prompt the expenditure that will protect its lower banks from the annual overflow of its waters.

Be it resolved, &c., That we earnestly request the Congress of the United States by proper laws and by appropriations from the National Treasury to undertake the establishment of a complete system of levees for the Mississippi River and its tributaries below Cairo, in the State of Illinois, and that our honorable Senators and Representatives in Congress from this State be, and are hereby, respectfully requested to urge the same on Congress with all the zeal in their power.

Be it further resolved, &c., That a copy of this memorial, duly attested, be forwarded by the president of this convention to each of our said Senators and Representatives, to be laid by them before Congress.

Adopted May 8, 1879.

WM. H. HARRIS, *Secretary*.

REPORTS OF COMMITTEES.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the joint resolution (S. R. No. 26) to transfer the arsenal property in the city of Charleston, South Carolina, to the trustees of the Holy Communion Church Institute for the use and accommodation of said school, reported it with an amendment.

Mr. VOORHEES. I am instructed by the Joint Committee on the Library to report an amendment to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes. The proposed amendment is to add at the end of line 365:

To enable the Joint Committee on the Library to purchase works of art, $5,000.

I move that the amendment be referred to the Committee on Appropriations and printed.

The motion was agreed to.

Mr. BAYARD, from the Committee on Finance, reported an amendment intended to be proposed to the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

EXTENSION OF PRE-EMPTION PAYMENTS.

Mr. PLUMB. I am instructed by the Committee on Public Lands, to whom was referred the bill (H. R. No. 1152) to extend the time for the payment of pre-emptions on certain public lands in the State of Minnesota and Territory of Dakota, to report it back without amendment, and with the recommendation that it be passed, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The bill will be read for information.

The Secretary read the title of the bill.

The PRESIDENT *pro tempore*. Is there unanimous consent to proceed to the consideration of the bill.

Mr. DAVIS, of West Virginia. Not without first having the bill read, that we may know what it is. Let it be read at length for information.

The PRESIDENT *pro tempore*. The bill will be read at length.

The Secretary read the bill.

Mr. PLUMB. I will say briefly in regard to the bill that the necessity for it grows out of the fact that that section of the country was devastated by grasshoppers, and the pre-emptors of public lands were thereby rendered unable pecuniarily to pay for their lands. The law in regard to pre-emptions is that if payment is not made in a certain time the person loses his right, and he not only loses his right to perfect that particular entry, but he loses the right to make any further entry. This measure therefore becomes a matter of necessity, and it in no way compromises the Government that the time should be extended to these persons to make their payments; that is, one year from next October. The Government loses nothing whatever; it simply postpones the time of payment.

Mr. KERNAN. Has the bill been before a committee of the Senate?

Mr. PLUMB. It has been reported this morning from the Committee on Public Lands. It passed the House unanimously at this session of Congress, and it is desirable that it should pass at once.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. DAVIS, of West Virginia. I should like to know whether there is any request from the Department in connection with the bill. My experience has been that it is dangerous to undertake to change any general law by a special act, especially where there is money concerned that belongs rightfully to the Government, for it almost always turns out that it is injurious and wrong to the Government. I should like to know whether there is anything from the Department which recommends this change.

Mr. PADDOCK. Mr. President——

The PRESIDENT *pro tempore*. The Chair will call the attention of Senators to the fact that a bill just reported cannot be considered except by unanimous consent, and this bill has been objected to.

Mr. McDONALD. I do not understand that objection is made to its consideration.

The PRESIDENT *pro tempore*. The Chair understands the Senator from West Virginia to object.

Mr. McMILLAN. I do not understand the Senator from West Virginia to object.

Mr. DAVIS, of West Virginia. My inquiry is in the nature of an objection. But if the bill comes from the Department, or if there is anything in the way of a recommendation for its passage, I will not object.

Mr. McDONALD. I will state, then, to the Senator and to the Senate that this bill passed the House at the last session of Congress and failed to pass the Senate for want of time. It was considered by the

Committee on Public Lands then and reported favorably. There was no report from the Department made to the Committee on Public Lands of the Senate, because it is a House bill, but it came to us with the unanimous approval of the Committee on Public Lands of the House upon what we understood to be accurate information as to the necessity of this extension, as stated by the Senator from Kansas, who reported the bill.

The PRESIDENT *pro tempore*. Is there objection to the consideration of this bill?

Mr. DAVIS, of West Virginia. The appropriation bill ought to be proceeded with. This bill should be discussed more at length than is possible in the morning hour. The question I propounded has not been answered, whether there is anything from the Department recommending the bill.

Mr. McDONALD. There was nothing before the Committee on Public Lands of the Senate.

Mr. DAVIS, of West Virginia. Then I object.

The PRESIDENT *pro tempore*. The Senator from West Virginia objects, and the bill will go upon the Calendar.

Mr. McMILLAN. May I appeal to the Senator from West Virginia to withdraw the objection, from the fact——

Mr. DAVIS, of West Virginia. We can get the information from the Department by to-morrow morning, and the bill can be taken up then if Senators think proper. I want the appropriation bill to be proceeded with.

Mr. McMILLAN. Will the Senator allow me to say that this bill is——

The PRESIDENT *pro tempore*. Debate is out of order. The Senator from West Virginia objects. Reports of committees are still in order.

EXCHANGE OF SUBSIDIARY COINS.

Mr. BAYARD. I am instructed by the Committee on Finance to report back with amendments the bill (H. R. No. 4) to provide for the exchange of subsidiary coins for lawful money of the United States under certain circumstances, and to make such coins a legal tender in all sums not exceeding $20, and for other purposes, and I ask for its present consideration.

Mr. COCKRELL. Let the bill be read for information subject to objection.

The PRESIDENT *pro tempore*. The bill will be read at length.

The Secretary read the bill.

The PRESIDENT *pro tempore*. The Secretary will report the amendments proposed by the Committee on Finance.

The Secretary read the proposed amendments.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of the bill?

Mr. COCKRELL. I object to its present consideration, and ask that it may be printed. I want to look at the amendments proposed before we act upon the measure.

The PRESIDENT *pro tempore*. The Senator from Missouri objects, and the bill will be placed on the Calendar.

Mr. BAYARD. I am aware a single objection prevents the consideration of the bill at the present time and it must go to the Calendar; but the demand has been so universal from all parts of the country, to all members of the committee, and I apprehend to most Senators who hear me, that some relief should be given to the glut of the subsidiary silver coin in certain centers of trade, that I think relief ought to be found at once.

The proposition of the Finance Commitee of the Senate does not materially affect the great object of enabling the holders of subsidiary silver coin to the amount of $20 or any multiple thereof to take it to a depositary of the United States or a sub-treasury and have it exchanged for legal-tender notes. The result of this measure would be to relieve the glut in cases where it exists, and to assist in the free circulation of subsidiary silver coin. So far there seemed to be an agreement on all sides; it is but the assent of the Senate to the proposition of the House in the terms in which it reached us.

In the third section of the bill, however, there is a proposition that came to us to make the subsidiary silver coins a legal tender to the amount of $20. That is four times the amount that subsidiary coin has been made a legal tender in our Government since the debasement of our subsidiary coinage in 1854. The full legal tender of debased silver coin in England is $10, in France less than $5, and in Germany less than $5. In this country under existing law it is $5. The amendment of the Senate committee proposes to double that, but not to quadruple it. The present legal tender of the copper coins and the token coinage of the country is but twenty-five cents; and of the subsidiary coins of silver as I have said $5. We propose to double that sum but not to quadruple it.

I of course cannot do more than suggest to my honorable friend from Missouri that the measure is a simple one of business usefulness to the country. It does not in any degree do more than facilitate the distribution of our currency; it does not affect its volume either by contraction or expansion; it simply is part of that sensible machinery which a government lends its people for their own practical affairs.

I hope, therefore, that a measure which has received, I may say without impropriety, the unanimous consent of the Senate Committee on Finance, may not be delayed in its consideration and passage by the Senate. Of course if my friend or any other Senator desires to examine the bill it is his right, perhaps his duty, to have it go over. It is a matter, however, very clear to the committee and as it was a matter so affecting the business convenience and demand of the country at the present time, I thought it right that I should ask for its present consideration.

Mr. COCKRELL. I desire to say one word. This very important measure as represented by the distinguished Senator from Delaware, was sent to his committee on the 24th day of April. That committee, with all its capabilities and all its modes of investigation, has retained it about twenty days. It has taken that committee twenty days to determine upon these amendments and to decide that they are necessary. I think that the Senate should be allowed one day to consider the action of the committee. As it took that committee twenty-odd days with this immense pressure upon the country all the time, and they could turn deaf ears to it, I think the Senate ought to be able to give one day's time to it. Therefore I object to the present consideration of the bill in order that we may have an opportunity to examine it.

Mr. BAYARD. Mr. President——

The PRESIDENT *pro tempore*. The Chair begs leave to remind Senators that this whole debate is out of order.

Mr. BAYARD. I am not addressing myself to the merits of the bill. I will merely remark that the absence of the Secretary of the Treasury for ten days prevented the consideration of the bill for that time; and I have never been able quite to understand that the deliberations of a committee were in an inverse ratio to the propriety of their report.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 588) to repeal paragraph 6, section 2238 of the Revised Statutes, and to substitute another therefor; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 589) to authorize the payment of customs duties in legal-tender notes; which was read twice by its title, and referred to the Committee on Finance.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 590) establishing a mail-route from Chapman, Merrick County, to Aurora, Hamilton County, in the State of Nebraska; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. GROOME asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 591) granting a pension to Nicholas H. Kelley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 592) for the relief of Redmond Tully; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 593) to repeal the provision authorizing the advancement of an officer of the Navy thirty numbers in rank for extraordinary heroism; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 594) for the relief of Thomas Langdon, of Dunbee, Michigan; which was read twice by its title, and referred to the Committee on the Judiciary.

LANDS IN INDIAN TERRITORY.

Mr. VEST submitted the following resolution:

Resolved, That, if not incompatible with the public interest, the President be requested to inform the Senate if any lands in the Indian Territory were purchased from Indian tribes in such Territory by the treaties of 1866, and, if so, how many acres; and whether the United States has parted with its title to any portion of such lands. And that the President be further requested to inform the Senate if any portion of such lands were purchased for the purpose of locating Indians and freedmen thereon; and whether any of such lands are at this date unoccupied by Indian tribes or freedmen, and, if so, whether it is the intention of the Government to use such unoccupied lands for the settlement of Indians and freedmen, and, if the Government has such intention, what Indians and freedmen are to be located on such lands.

Mr. ALLISON. I object to that resolution, Mr. President. Let it lie over. I want to see it in print.

The PRESIDENT *pro tempore*. The Senator from Iowa objects to the present consideration of the resolution, and it will go upon the Calendar and be printed.

COMMITTEE ON REMOVAL OF NORTHERN CHEYENNES.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the resolution submitted yesterday by the Senator from Texas, [Mr. COKE,] which he expressed a desire to have taken up this morning at the close of the morning business. The resolution will be reported.

The Secretary read the resolution, as follows:

Resolved, That the select committee appointed "to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory, their treatment while in the Territory, their escape therefrom, and all the circumstances connected therewith, and also to ex-

amine into the facts attending their arrest or capture after such escape, their confinement, disarmament, escape, subsequent slaughter, and recapture," be continued, with power to sit during the recess, and with all the powers conferred by the original resolution appointing said committee.

Mr. COKE. Mr. President, the resolution just read recites the resolution adopted at the last session of Congress appointing a special committee to make the investigation referred to. It has not been in the power of the committee then appointed to make the investigation because Congress has been continuously in session. This resolution is intended to continue that committee in force, or rather to permit the action of the committee as it was originally created. The committee have taken no steps at all to make the investigation because they have had no time to do so, and the resolution is intended to continue the committee in order that the work may be done as contemplated. I hope that the Senate will adopt the resolution.

The resolution was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. If there is no other morning business the Chair will declare the morning hour at an end and the Senate will proceed to the consideration of the unfinished business of yesterday.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes.

Mr. PLUMB rose.

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

Mr. BECK. The Senator from Kansas has appealed to me to make some proposition.

Mr. PLUMB. I move, in line 1571, at page 64, to strike out the word "four" and insert "five," so that the salary of the Commissioner of the General Land Office will thereby be increased from $4,000 to $5,000. This amendment, or one for a similar purpose, was submitted by me and referred to the Committee on Appropriations, so that I take it it is in order. I anticipate to some extent the objections of the Senator having charge of the bill, and the general objection that perhaps will lie to this method of increasing the salaries of public officers; but I desire to call the attention of the Senate briefly to the proposition.

Mr. BECK. If the Senator from Kansas will allow me a moment, I did not understand what his amendment was; but the general understanding I hope will be observed and continued that the amendments of the Committee on Appropriations shall be gone through with unless an amendment is proposed to some amendment of the committee, and then the bill will be open to all amendments of Senators. If the Senator from Kansas will agree to that, I shall be much obliged to him.

Mr. PLUMB. I withdraw my amendment for the present.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in line 1581, to reduce the total amount appropriated for compensation of the Commissioner of the General Land Office and the clerks and employés in his office from $277,070 to $276,820.

The amendment was agreed to.

The reading of the bill was continued to line 1615.

Mr. PADDOCK. I desire to give notice that after the committee's amendments are concluded I shall move in line 1615 to strike out the word "six" and insert "eight."

The Chief Clerk continued the reading of the bill. The next amendment of the Committee on Appropriations was, under the head of "Pension Office," in line 1667, to reduce the appropriation for compensation of chief clerk from $2,250 to $2,000; and, in line 1679, to reduce the total amount of the appropriation for the office from $475,000 to $474,750.

The amendment was agreed to.

Mr. BECK. I desire to call the attention of the Senate to the fact that the portion of the bill from lines 1685 to 1696, inclusive, is a new provision and is inserted at the request of the Commissioner of Pensions. If any statement is desired I can read it from his last report and also from a letter addressed to the committee requesting us to agree with the House in that provision. I will not read either unless some gentleman desires.

The clause was read, as follows:

Sections 4771, 4772, and 4773 of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations whenever in his judgment the same may be necessary, and to increase or reduce a pension according to right and justice. But in no case shall a pension be withdrawn or reduced except upon notice to the pensioner, and a hearing upon sworn testimony, except as to the certificate of the examining surgeon.

The next amendment was to strike out the following clause from line 1696 to line 1708:

In order to provide for the speedy payment of the arrearages of pensions, the Secretary of the Treasury is hereby authorized and directed to issue immediately, in payment thereof as they may be adjusted, the $10,000,000 in legal-tender currency now in the United States Treasury, kept as a special fund for the redemption of fractional currency under section 1 of joint resolution No. 17 of the Congress of the United States, approved July 22, 1876. And fractional currency presented for redemption shall be redeemed in any moneys in the Treasury at the time the same is presented.

Mr. BOOTH. I desire to call the attention of the Senate for one moment to the amendment of the committee, and ask that it be not concurred in.

On the 22d of July, 1876, the Secretary of the Treasury was authorized to exchange subsidiary silver coin for $10,000,000 of legal-tender notes, and to hold the $10,000,000 as a fund for the redemption of fractional currency as it should be presented. That was nearly three years ago, and the last debt statement of the Secretary of the Treasury shows that of that $10,000,000, $8,446,338 are in the Treasury. Forty-one million dollars and over of subsidiary silver coin have been put in circulation, and there is now in the Treasury, at the mints, and the offices of the assistant treasurers over $6,000,000 of subsidiary coin; yet there has been redeemed only $25,000,000 of fractional currency, and in excess of that redemption there has been put in circulation $16,000,000 of subsidiary silver coin.

In the month of April less than $13,000 of fractional currency was redeemed; and while the books of the Treasury show that there is about $15,000,000 nominally outstanding, yet the insignificant sums coming in for redemption show that a large proportion of that has been lost and destroyed. So we are now holding in the Treasury of the United States over $8,000,000 of legal-tender notes and over $6,000,000 of subsidiary silver coin for the redemption of fractional currency that is only coming in at the rate of $12,000 a month. The interest of this sum held idle in the Treasury would more than pay the current presentation of fractional currency.

The House bill appropriates the sum thus held in legal-tender notes for the redemption of fractional currency to the payment of arrearages of pensions. The Secretary of the Treasury has reported to Congress that there will be a deficit in the current revenues of the year on account of this appropriation for the payment of arrearages of pension. I know of no reason why we should not use the money that is thus kept idle in the Treasury for the payment of that appropriation. Therefore I hope that the Senate will not concur in the amendment proposed by the Committee on Appropriations, but will allow this money to be used as the House appropriated it, for the payment of the arrearages of pensions.

Mr. BECK. Will the Secretary please read the amendment offered by the Senator from California?

Mr. BOOTH. I have not yet offered any amendment. If the Senate should not concur in the committee's amendment I will then offer an amendment to perfect the text.

Mr. BAYARD. Mr. President, I scarcely think when the present condition of the law is comprehended by the Senate, that they will restore that portion of the House bill which the amendment of the Committee on Appropriations has stricken out.

In 1875 an act was passed by Congress authorizing and requiring the Secretary of the Treasury—

As rapidly as practicable, to cause to be coined at the mints of the United States, silver coins of the denominations of ten, twenty-five, and fifty cents, of standard value, and to issue them in redemption of an equal number and amount of fractional currency of similar denominations, or, at his discretion, he may issue such silver coins through the mints, the sub-treasuries, public depositaries, and post-offices of the United States; and, upon such issue, he is hereby authorized and required to redeem an equal amount of such fractional currency, until the whole amount of such fractional currency outstanding shall be redeemed.

There is the direction and authority for the exchange for purposes of redemption of the subsidiary silver coin of the United States, in order to replace the fractional currency or postal currency as it is called. On the 22d of July, 1876, in the "joint resolution for the issue of silver coin," it was provided:

That the Secretary of the Treasury, under such limits and regulations as will best secure a just and fair distribution of the same through the country, may issue the silver coin at any time in the Treasury to an amount not exceeding $10,000,000, in exchange for an equal amount of legal-tender notes; and the notes so received in exchange shall be kept as a special fund separate and apart from all other money in the Treasury, and be reissued only upon the retirement and destruction of a like sum of fractional currency received at the Treasury in payment of dues to the United States; and said fractional currency, when so substituted, shall be destroyed and held as part of the sinking fund, as provided in the act approved April 17, 1876.

Here, then, it is plain that when provision was made for the exchange of subsidiary coin for fractional or postal currency, it was followed up for the furtherance of the issue and circulation of silver coin by the act of 1876, which expressly set apart and pledged this equal amount of legal-tender notes, when received, as the redemption fund for the fractional currency.

I present to the Senate the consideration of the effect upon our public obligations if a pledge at any time distinctly made for the redemption of a credit fund of the Government can be repealed before that pledge has been kept.

There is an error in supposing that the sum of $10,000,000 remains in the Treasury of this fund. The redemption of the fractional currency has been slow and gradual, but an amount considerably less than $8,000,000 of this fund provided by the law of 1876 remains in the Treasury to answer the fractional currency when it shall be brought in. Pass this provision which has been stricken out by the Committee on Appropriations, and as the fractional currency is brought to the Treasury for redemption where is the fund that has been pledged for it? It will have been paid away; and the language of the act of 1876, which was a clear promise and pledge that it should

be set apart and retained for the purpose of redemption, will have been wholly defeated.

Mr. BOOTH. I call the attention of the Senator from Delaware to the concluding part of the section that is proposed to be stricken out, on page 70. In regard to the pledge of this $10,000,000, is the pledge so sacred that we cannot interfere with it at all although we know every dollar of the fractional currency had been destroyed? Then it is simply equal to retiring forever that much legal-tender currency from circulation, for here is a much broader provision for the redemption of the fractional currency now outstanding in these concluding lines:

And fractional currency presented for redemption shall be redeemed in any moneys in the Treasury at the time the same is presented.

That certainly is broad enough to cover all questions of good faith.

Mr. BAYARD. No, I think it fails to reach the obligation assumed by the Treasury and by the Government when the law of 1876 was passed. When this money will come in we may not say. The amount of it that has been destroyed, we cannot tell. It is a mere matter of conjecture. It may be discovered in large sums and brought forth at any moment. If so discovered, it will be probably in a form that will render it desirable for an immediate exchange. It may have been injured by mildew, destroyed partially by the action of the elements; and where such has been the case, its capacity to be used as money has been taken from it, and that would require its immediate exchange by the Treasury. I say it is very strange that legislation should be proposed to do away with a pledge which is most unambiguous; I do not propose to give this action any appellation. I spoke on this subject to the Secretary of the Treasury at the time this bill first came to the Senate and I requested him to give me his views in regard to it, and perhaps they are better expressed in a letter which I received and I now send it to the desk and ask that it be read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 15, 1879.

SIR: In compliance with your verbal request, I have the honor to state to you the view of the Department of the proposed transfer of the special fund created by law for the redemption of fractional currency, and its application to the payment of the appropriation for arrears of pensions.

The fund arose in the following manner: The act of January 14, 1875, (18 Stat., 296,) authorized the Secretary of the Treasury to issue, sell, and dispose of, at not less than par, in coin, bonds of the 5 per cent. funded loan of 1881 to the extent necessary for the redemption of fractional currency. The fractional currency not being presented as rapidly as had been anticipated by the coinage of fractional silver, the act of July 22, 1876, (19 Stat., 215.) was passed permitting the issue of silver coin at any time in the Treasury, to an amount not exceeding $10,000,000, in exchange for an equal amount of legal-tender notes, and directing that the notes so received in exchange be kept as a special fund separate and apart from all other money in the Treasury, and be reissued only upon the retirement and destruction of a like sum of fractional currency received at the Treasury in payment of dues to the United States, &c.

The outstanding fractional currency January 14, 1875, amounted to		$41,508,737 48
Of this amount there has been redeemed from surplus revenue	$8,088,925 34	
From proceeds of 5 per cent. bonds sold for the purpose	17,494,150 00	
		25,583,075 34
Leaving outstanding April 1, 1879		15,925,662 14
For the redemption of which the Treasury now holds in legal-tenders		8,458,991 00
Leaving unprovided for		7,466,671 14

a fair estimate of the amount lost or destroyed, which the Treasury will not be called upon to redeem.

It is not probable that the reissue of this reserve as proposed will injuriously affect the resumption fund, but this reserve was one of the steps in the process of resumption, and if the legislative stipulation with the public to hold this as a special fund for a purpose, so carefully and precisely stated, is to be set aside for the purpose of meeting a deficiency in the revenue caused by excessive appropriations, any other fund such as those for the redemption of the gold, the silver, and the currency certificates may with equal propriety be impaired.

The time may again come, as in 1862, when a pledge of the revenues to pay the interest and principal of the public debt may be necessary to save the nation; yet if the precedents show that such stipulations may be set aside at the pleasure of Congress, a public, solemn stipulation, made by the representatives of the people, will have no more force or be entitled to no more credit than an ordinary act subject to repeal and modification at pleasure.

Again, the supposition that this action will provide for a deficiency in the revenues, without increasing the public debt, is an error. The effect is precisely as if so many bonds were issued. A fund has been created for the sale of bonds for the redemption of fractional currency; a part of that fund is diverted for the payment of arrears of pensions, therefore the payments on this account are from the proceeds of bonds, and consequently result in the increase of the national debt to that extent.

Is it not better that any deficiency in the revenue be honestly and openly met by the issue of bonds if necessary, rather than by an indirection to increase the debt at a sacrifice of the good faith of the nation?

Very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. THOMAS F. BAYARD,
United States Senate.

Mr. BAYARD. It will be observed that the legislation which is proposed to be stricken out by the Committee on Appropriations has at least been very inadvertently framed. There is no such sum remaining in the Treasury as $10,000,000 of legal-tenders to await the return of fractional notes. If it is desired to take the sum remaining there to-day, be it so; but it will be altered to-morrow, and to what extent no one can tell; no one can know how much of this fractional currency is to be returned for redemption; and I say it is not proper for Congress, having made this pledge, now to break it. There must be a sense of insecurity if succeeding Congresses can in this way tamper with arrangements which have been made for value with the citizen.

The public debt of the United States will be increased just to the amount of the paper promises which are issued now to pay this debt out of the fund which has been pledged specifically for the redemption of another debt. It is to redeem what is called fractional currency. We made a pledge to pay that when presented. The House proposition is to take the money pledged to pay this former debt, and issue it for a third debt. Of course the consequence is that the public debt is increased to that amount. The United States has issued its non-interest-bearing obligations to the extent of this $10,000,000.

As I said before, it is inaccurate as matter of fact to state the amount now at $10,000,000, because it is only about $8,000,000, and what may have been the difference between the time that letter was written and now no one here can tell. As I said, the part I especially object to is the fact that where you have made a business transaction with your people faith should not be kept.

I therefore trust that on every ground of economy, of propriety of legislation, the amendment of the Committee on Appropriations may be sustained, and the language which has been read by the Clerk may be stricken from the bill.

Mr. BECK. Mr. President, this, I believe I am authorized to say, is the only provision on which the Committee on Appropriations seriously divided, except the political questions which it is well known we are divided about on party lines on this proposition. I, with some others, disagreed to the report of the committee, and we reserved the right to express our views in regard to it when the bill was being considered by the Senate. I now propose briefly to state why I desire the proposition of the House to prevail. First let me say, when the Senator from California rose I supposed he had an amendment to offer. I have written out an amendment in order to obviate one of the difficulties suggested by the Senator from Delaware. Instead of reading—

The Secretary of the Treasury is hereby authorized and directed to issue immediately, in payment thereof as they may be adjusted, the $10,000,000 in legal-tender currency now in the United States Treasury, kept as a special fund for the redemption of fractional currency, under section 1 of joint resolution No. 17 of the Congress of the United States, approved July 22, 1876—

and so on, I propose that it shall be so amended as to read:

The Secretary of the Treasury is hereby authorized and directed to issue in payment thereof, as they may be adjusted, that portion of the legal-tender currency now in the United States Treasury held as a special fund for the redemption of fractional currency.

Mr. BAYARD. Has the honorable Senator any idea or can he state what that portion is?

Mr. BECK. Yes, sir, accurately. The Senator from Delaware said it is less than $8,000,000.

Mr. BAYARD. No, I said it was nearer eight than ten.

Mr. BECK. On the 1st day of May the amount held for the redemption of fractional currency in United States notes was $8,446,388.

Mr. BAYARD. If it would not interrupt my friend, I would say that that amount is diminishing day by day and week by week as the fractional currency is returned for redemption and destruction. Here was a clear pledge that when it was redeemed it should be destroyed and that the debt of the United States should not be increased by exchanging one form of its obligations for another; and now the proposition is that although this fund is held for redemption, the notes pledged to it are not to be there, and so the debt must be indirectly increased.

Mr. BECK. I have answered one question. There now remains $8,446,388 of legal-tender notes in the Treasury of the United States for the redemption of fractional currency. The question was, How much of that is outstanding? On the 1st day of May, as I said, the amount was $8,446,388. On the 15th day of April, if that is the date of the Secretary's letter which was read from the desk a few moments ago, it was $8,458,991, but to make that whole question perfectly plain I have a statement of the amount of fractional currency redeemed each month since the passage of the resolution of April, 1876. In the month of May, 1876, in round numbers there were $3,500,000 redeemed, in June, 1876, $2,912,000, and so on down to December, 1876, when it reached $1,060,000. In the year 1877, in January it was $923,000, dropping off month by month until December, 1877, when the amount redeemed was $278,000. In January, 1878, it was $292,000, $281,000 in February, and so on until you reach June, when it dropped down to $110,000. Then, at the beginning of the current fiscal year, for the first time it came down as low as $92,000 a month. It dropped steadily until December, 1878, when it was $42,000 per month. In the months of January, February, March, and April, 1879, it dropped to $30,000 in January, $41,000 in February, $60,000 in March, and $12,000 in April. The total amount of fractional currency redeemed up to this time is $25,595,743.63 since April, 1876, leaving but fifteen millions and a fraction unredeemed. That fraction I cannot give, but very nearly $15,000,000, of which it is believed by everybody conversant with the facts that at least $12,000,000, and perhaps $14,000,000, has been torn up, lost, destroyed, worn out in use, and never will be offered for redemption; nobody expects that more than two or three millions more will ever be presented. I have a table showing the monthly redemp-

tions under the act of April 17, 1876, which is as follows. It was prepared by the clerk in the warrant and appropriation division of the Treasury Department, one of the most intelligent officials I know of:

Monthly redemptions of fractional currency under act of April 17, 1876.

Date.	Redeemed each month.	Total redeemed.
1876—April	$648,698 00	$648,698 00
May	3,500,565 18	4,149,263 18
June	2,912,878 91	7,062,142 09
July	1,543,715 00	8,605,857 09
August	1,547,568 94	10,153,426 03
September	1,496,895 83	11,650,321 86
October	1,302,937 57	12,953,259 43
November	1,146,969 07	14,100,228 50
December	1,060,302 53	15,160,531 03
1877—January	923,639 31	16,084,170 34
February	990,146 79	17,074,317 13
March	993,908 27	18,068,225 40
April	1,253,936 56	19,322,161 96
May	979,645 29	20,301,807 25
June	803,792 89	21,105,600 14
July	618,801 45	21,724,401 59
August	612,221 50	22,336,623 09
September	385,472 12	22,722,095 21
October	434,067 61	23,156,162 82
November	309,554 14	23,465,716 96
December	278,911 62	23,744,628 58
1878—January	292,189 18	24,036,817 76
February	281,221 58	24,318,039 34
March	240,582 52	24,558,621 86
April	144,701 10	24,703,422 96
May	146,715 94	24,850,038 90
June	110,929 81	24,960,968 71
July	92,170 60	25,053,139 31
August	108,870 07	25,157,009 38
September	54,298 52	25,211,307 90
October	86,231 39	25,297,539 29
November	60,850 97	25,358,390 26
December	42,188 27	25,400,578 53
1879—January	80,658 89	25,481,237 42
February	41,083 39	25,522,320 81
March	60,750 20	25,583,071 01
April	12,652 62	25,595,723 63

WARRANT DIVISION, *May* 2, 1879.

The redemption has now dropped, as will be observed, to $12,000 per month, and $8,500,000 of legal-tenders in round numbers is now held in the Treasury of the United States to redeem what in all probability will never again reach $20,000 a month. If that money instead of being held in the Treasury was invested in 4 per cent. bonds, it would produce at 4 per cent. $340,000 a year, $28,500 per month. The interest at 4 per cent. on that fund belonging to the people and thus held from the public under pretense of redeeming fractional currency when it is known all that is outstanding cannot by possibility exceed three million, as twelve million everybody concedes is gone—the interest on the bonds thus held would more than pay all the monthly demand that can by any possibility be made upon it. And yet the Secretary of the Treasury by his letter just read has made the Senator from Delaware believe that we are acting in bad faith when we try to use this ten-million fund to pay our debts that can be used without costing the people of the country one cent, rather than issue ten million of bonds and pay 4 or 5 per cent. interest upon them and let this money lie idle—that we are guilty of bad faith, when it will be observed in this very clause we have said that the fractional currency presented for redemption shall be redeemed in any moneys in the Treasury not otherwise appropriated at the time it is presented. We thus provide for its redemption absolutely and only release a large fund, now say about eight and a half millions, that is useless, to prevent the issue of ten million more bonds which the Secretary desires us to pay interest upon when we have the money lying in the Treasury pledged for the purpose, the purpose for which it was placed there having been almost absolutely accomplished, for the redemption has run down from three and a half millions a month when it began down to $12,000 a month, less than half the interest, as I have shown, at 4 per cent., of the money that is held from the people for that purpose. That is one of the reasons why I object to the amendment of the Senate Committee on Appropriations.

That is not all. This is part of a system to increase the bonded debt of the country whenever it is deemed necessary by the Secretary of the Treasury. It may be for good purposes; it may aid resumption; but whenever we can use money of the people without adding to the interest-bearing debt of the country, surely we ought to do it. We ought never to issue bonds when we have other money on hand which costs us nothing. This $10,000,000, or the greater part of it, is there, and if paid out to pensioners will be scattered at once broadcast all over the country. The Senator from Delaware seems to agree with the Secretary that it is honorable to increase the bonded debt of the country for any purpose; and yet one of the pledges was that it shall not be increased. That was made part of the act of 1870 and was continued all through the subsequent acts, except that by implication, in order to aid resumption, the Secretary, it was assumed, can increase the bonded debt of the country to suit himself, just as much as he pleased. The debt statements show that he has in the last three years increased it permanently about $100,000,000, and temporarily he increased the bonded debt of the country on the 1st day of April last nearly $300,000,000 for ninety days. If the argument used now be correct, he could in no state of case increase the bonded debt of the country, and yet every dollar that the United States owed on the 1st of April, except $21,000,000, was bearing interest, when three years ago $310,000,000 of it was not bearing interest. That will be reduced again, of course, as the 6 per cent. bonds are put off, but it will still leave a permanent increase of $100,000,000. That increased debt of $100,000,000 has not been removed and is not sought to be removed by any proposition that I have heard of. It is only the interest-bearing that is a burden debt, the non-interest-bearing being only the use of our own credit, which is the capital of the people and costs nothing.

I do not propose to make a speech on this subject, but only to state the reasons why I shall vote for the House provision. Every effort seems to be made to reduce or contract the currency of the country and to prevent the people from getting hold of the money intended for their uses. I sent to the Comptroller of the Currency for information on this subject, and I find that on the 30th of April, 1877, we had twenty-seven millions and a fraction of one-dollar legal-tender notes outstanding; we had twenty-seven millions and a fraction of two-dollar notes outstanding. What have we now? On the 30th of April, 1879, less than $19,000,000 in one-dollar legal-tender notes outstanding; and on the sam day less than $19,000,000 of two-dollar legal-tender notes outstanding. There has been a contraction of over $16,000,000 of one and two dollar notes in the last two years; and it is these small notes that the people need more than any other. We never had until now five-thousand-dollar notes. We have two million and a fraction of them. We have two million and a fraction of ten-thousand-dollar notes. These might as well be bonds of the United States.

Mr. BAYARD. I ask the honorable Senator whether it is not competent for any one by taking money to the Treasury of larger denominations to get the smaller notes in just such sums as he wants? Such I have always understood to be the fact. Any man can have large notes exchanged for notes of smaller denominations if he desires. I think there is no doubt about that.

Mr. BECK. I will present these statements, which are very short, so that Senators may see exactly to what extent there has been a diminution of about $16,000,000 in the smaller denominations of notes. The national banks have been prohibited from issuing any bills of a less denomination than $5, making the destruction of these small notes all work to the detriment of the people who need small change.

The exhibits I refer to are as follows:

Legal-tender notes outstanding April 30, 1877.

Ones	$27,034,277 80
Twos	27,075,793 20
Fives	50,433,193 00
Tens	67,081,446 00
Twenties	65,307,589 00
Fifties	33,228,445 00
Hundreds	28,103,160 00
Five-hundreds	31,262,000 00
Thousands	32,968,500 00
	362,494,404 00
Unknown denominations destroyed in Chicago fire	1,000,000 00
Total	361,494,404 00

Legal-tender notes outstanding April 30, 1879.

Ones	$18,944,272 80
Twos	18,963,394 20
Fives	55,126,095 00
Tens	65,538,256 00
Twenties	62,001,283 00
Fifties	26,251,735 00
Hundreds	31,940,980 00
Five-hundreds	31,279,500 00
Thousands	33,620,500 00
Five-thousands	2,005,000 00
Ten-thousands	2,010,000 00
Total	347,681,016 00

Mr. ALLISON. We have issued silver dollars.

Mr. BECK. The silver dollars would go out if they were in friendly hands; their circulation depends altogether on that. Why does not the Secretary of the Treasury of the United States pay out the silver dollars received for customs dues? Why does he not pay them to the bondholders for interest? Was there not a pledge of the Government in 1862—gentlemen speak about pledges—that all the coin received from customs should be first applied to the payment of the interest of the national debt; but whoever heard of a silver dollar received from customs duties being paid to a national bank or other bondholder. The pledge was that all coin received from customs was first to be applied for that purpose before it should be applied to any other, and next to the sinking fund; and I ask what has become of the sinking fund? But I will not go into that; I have given my views upon that subject before. If the silver dollar was in friendly hands it would be utilized and would supply the place of the small notes to a large extent; but the Secretary of the Treasury refuses to use the silver dollar received in payment of customs, refuses to apply to pay interest on the public debt with it as the law requires. I read in a speech of his made

in this body that an officer who failed to comply with the law of 1862 ought to be impeached; but he has never paid a dollar, so far as I know or ever heard of, in silver coin received from customs dues in any way either to a national bank or to a bondholder in the payment of the interest on their bonds, but has taken the ground that he allows the creditor himself to tell what sort of money he wants, and as the creditor always prefers gold he pays him gold, making himself the trustee of the banker and the bondholder instead of the trustee of the people, paying their debts in the money that is most advantageous to them.

The fact remains, and what has become of this legal-tender money that we still have? I felt some curiosity to know, and I wrote to the Comptroller the other day. This is his answer:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, May 6, 1879.

SIR: In response to your request, I send you herewith statement of the Treasurer showing the amount of legal-tender notes outstanding by denominations on April 30, 1879.

This is the statement to which I referred.

I also inclose statement of the Treasurer of May 1, 1879, and an abstract of the reports of the national banks for January 1, 1879, the date of the last compilation of their reports.

From the statement of the Treasurer it will be seen that he reports the amount of United States notes in the Treasury on May 1, $70,444,823.

There is $70,000,000 of that legal-tender currency, of what denominations I do not know, out of the hands of the people and hoarded in the Treasury to-day.

The amount of legal-tender notes held by the banks on January 1, exclusive of United States certificates of deposit, was $70,561,233.

Tables are given in my report for 1878, pages 103, 104, and 106, which show that the amount of Treasury notes and bank-notes held by the State banks, trust companies, and savings banks was, at the dates given, $48,398,738. The amount held by private bankers is estimated at $28,000,000, which makes an aggregate of $76,398,738. If one half of this amount was in legal-tender notes, then the whole amount of such notes held by banks and bankers other than national banks was, say, $38,000,000, which would give the aggregate amount of legal-tender notes held in the Treasury and by all the banks and bankers of the country $179,006,000, leaving an aggregate of $167,675,000, held by other parties.

Very respectfully,

JNO. JAY KNOX, *Comptroller.*

Hon. JAMES B. BECK,
United States Senate.

It may be that a portion of what is held by State banks and other bankers may be circulated by them and reach the hands of the people from time to time. I do not know, but that held by national banks as reserves and that hoarded in the Treasury takes away nearly one-half of the outstanding legal-tender circulation of the country; and then what has been taken from the small denominations of notes—the issues of ones and twos, that have been diminished $16,000,000—adds to the contraction, so that we are substantially at the mercy to-day of the national banks for our smaller currency. Why should that money be all hoarded? Why should more bonds be issued? Will any gentleman say that any considerable amount more of our fractional currency is expected to come in when it is reduced now only by $12,000 a month, though it began at three and a half million dollars? Can any one suppose it is ever going to come in at a rate that will require the use of any such amount of money as is now held? Will there not be always money enough in the Treasury to pay it? I think it is a settled question.

Mr. ALLISON. Let me say to the Senator from Kentucky that I notice from the debt statement that there are $70,000,000 of legal-tender Treasury notes now in the Treasury.

Mr. BECK. Yes, sir.

Mr. ALLISON. If that be true, $60,000,000 or more than $60,000,000 must be there for general purposes. Why should we undertake to compel the Secretary of the Treasury to pay out those United States notes, which are a special fund, when he has $60,000,000 not so pledged that he can use? I do not see the necessity for it.

Mr. BECK. Why is the Committee on Finance all the time insisting that we cannot pay our debts, that we have to issue $18,000,000 more bonds in order to meet the arrears of pensions, that there are deficits of revenues when there are $70,000,000 in the Treasury that can be used for that purpose, if that is the fact?

The reports of the Secretary will show, I think, for the last five years that he has held in the Treasury from sixty-five to eighty million dollars all the time. Every monthly report shows in substance that state of fact. If he is now pressed for money and the complaint is that he is now pressed because he is making a transfer from 6 per cent. to 4 per cent. bonds and paying double interest for ninety days, making our interest run up to $102,000,000 or about that sum; if he is sorely pressed at the present time while that conversion is going on, and is demanding that more bonds shall be issued and more interest paid, can he complain when we propose to release eight and a half million now lying in the Treasury for no other purpose whatever than to meet perhaps $12,000 a month, instead of issuing bonds, and when we have made ample provision that as the fractional notes come in they shall be paid from any money in the Treasury not otherwise appropriated, he opposes it. That is the question the House presents here, and I see no good reason why it should not be agreed to by the Senate.

Mr. ALLISON. But I do not still understand why, if there are $70,000,000 of legal-tender notes in the Treasury, we should compel him to use the $8,000,000 of that seventy million which are specially pledged.

Mr. BECK. We do only this. The pledge is redeemed, as the record shows, to the extent of twenty-five and a half million, and there are only fifteen million of fractional currency outstanding, less than three million of which, in all human probability, will ever come in, and when the amount presented for redemption is now reduced to $12,000 a month why should he not use for paying the debts of the United States that eight and a half million thus held, instead of issuing the bonds the gentlemen are clamoring for? If he has $70,000,000 lying there and will insist on keeping it there for safety, why should he have eight and a half millions more which he claims he is compelled to hold when he has no sort of use for it? We are simply increasing his available funds.

Mr. KERNAN. Will the Senator allow me a moment? If this $10,000,000 of promissory legal-tender notes should be reissued, that increases that character of debt so much; and must we not provide for its redemption in coin on demand under the resumption law?

Mr. BECK. It is not increasing, as I understand, the outstanding legal-tender notes at all in any shape. There is just that money withheld from use for a special fund, and we have stopped the destruction of them below a given point.

Mr. KERNAN. Allow me to add that we do redeem this in silver coin. Under the law of 1876 we gave out silver for this $10,000,000 in notes, and said the notes should be held. Now, by reissuing them do we not increase that amount which we are bound to redeem in specie? The notes are now to be paid out only for fractional currency.

Mr. BECK. But they have redeemed $25,500,000 of fractional currency and at the time that $10,000,000 was set apart instead of using that for redeeming the fractional currency the Secretary has used other means of the Government and is still holding eight and a half million of that when there is no use for it and nobody pretends that there is anything but a fraction of the small fractional currency left, and that is coming in, as I have shown, at the rate of only $12,000 a month; about one-half of what the interest on the sum thus held would produce if put out at the lowest rate of interest.

Mr. BAILEY. I wish to ask a question of the Senator from Kentucky. It has been said here that a pledge has been made by the Government of this eight and a half million or ten million. With whom was that pledge made? Has there been any pledge; or is this simply an act of Congress regulating the affairs of the currency and providing for the transaction of business?

Mr. BECK. The idea of a pledge has been held constantly before the country ever since 1862, and to everything that has been brought up, whenever the people sought relief or sought to get any benefit from their own money or get anything that would reduce the pressure on them, the reply has been, "There is a pledge of the Government given to the bondholder." In 1875, you added thirty cents to the tax on whisky, 40 per cent. to the tax on tobacco, adding 10 per cent. to tariff taxation to aid the revenue as was supposed or proposed, but really diminishing the revenue; all this was done because of the (so-called) pledge of the Government to the bondholder. Whenever there is a move made for relief in any form, then the cry of a pledge comes in. This was simply an assurance to the people, if any assurance was required, that the fractional currency would be promptly redeemed; but, as I think the Senator from Tennessee very properly remarks, it was only an adjustment of business; there were $40,000,000 fractional currency outstanding, which came in at the rate of two or three million at first; it dropped down to one million; now it is down to $12,000, showing that the amount outstanding is almost exhausted. Therefore, the keeping of an amount of money to redeem is no longer necessary.

The Secretary of the Treasury informs us that we shall have a deficit to meet the current debts and the excessive appropriations, as he calls them. We want to give him this money that he may pay so much of this debt with the money now in the Treasury not needed to be used for any other purpose. That money costs the people nothing, and that will add to the circulating medium in their hands; they need it, as you have so much reduced the small notes.

Mr. HOUSTON. I wish to call the Senator's attention to another view of the provision of the House bill which the amendment proposes to strike out. The Senator from California [Mr. BOOTH] presented it, and well presented it, as I understand it. If this can be called a pledge what breach of faith is there? While this bill appropriates the money in a manner different from what gentlemen seem to understand it to have been pledged for, yet the bill makes another provision, and an appropriate provision. The bill appropriates any money in the Treasury for the performance of the very duty that was devolved under the law upon what is called the pledged fund, so that as far as the pledge is concerned it is as well as it possibly can be, if this bill shall pass, for another pledge is made, or rather an appropriation of money is made, by which the Secretary of the Treasury is authorized to redeem all this fractional currency that may be presented.

Mr. BECK. To show what was then believed I will state that in 1876, to show what was the view of the Treasury Department, the Director of the Mint and the Comptroller of the Currency concurred in estimating the amount of fractional currency then lost and destroyed at $8,083,513. That was three years ago, when it was coming

in very rapidly. The best estimate I can get from the best-informed men on the subject is that there are not less than $12,000,000 of it gone, which will never be presented for redemption.

Mr. PLUMB. I desire to read from the Revised Statutes the pledge that accompanied the issue of the fractional currency notes:

They shall be exchangeable by the assistant treasurers and designated depositaries for United States notes in sums of not less than $3; and shall be receivable for postage and revenue stamps, and for all dues to the United States, except customs, in sums not over $5, and shall be redeemed on presentation at the Treasury of the United States in such sums and under such regulations as the Secretary of the Treasury shall prescribe.

That was the pledge which accompanied the issue of the notes. The provision in the House bill restores the original pledge, no more and no less. Congress changed that pledge when they provided for another redemption, when they came to provide for the exchange of silver for this fractional currency. That was a matter of convenience; and for the purpose of preserving the equilibrium of small change, so to speak, Congress provided that as the silver went out the fractional currency should come in, and the operations should go together. Subsequently, when it was found that there was a larger demand for subsidiary coin than there had been for fractional currency, and that consequently there was a dearth of change, Congress provided by anticipation for the issuance of $10,000,000 of subsidiary coin in exchange for greenbacks, and then provided that the greenbacks should remain there for the purpose of redeeming the fractional currency as it should come in subsequently, thereby making a new pledge and a different pledge in regard to redemption.

It is not worth while considering whether or not the money may be necessary at some other time for the purpose of redeeming these notes. We have come back now by the House bill to the original pledge we made, to wit, that any money that might be in the Treasury of the United States at any time when anybody presented any fractional currency should be used for the purpose of its redemption. We are simply brought to the proposition in view of the statement of the Secretary of the Treasury, and the condition of the finances, whether we will take the money we have on hand and which we are not needing for any purpose now and use it to pay current debts, use it for the purpose of paying appropriations we have made, or whether we will increase the bonded debt of the country?

I want to say now, once for all, that whenever during the time I shall hold a seat in this body the expenses of this Government shall go beyond its revenue I will vote to put on all the taxes that may be necessary for the purpose of meeting the expenses thus made, but I will never vote to do that which would be destruction and produce insolvency in a private individual, to wit, increase the public debt to meet current expenses. If there is to be a debt created for any purpose whatever, let it be a purpose which is equivalent to the debt itself, to wit, an emergency, an unusual thing. But any government, as any individual or any corporation, that does not get money enough out of its business, out of its current revenue, to meet its current expenses, is on the high road to insolvency. We have here about $8,000,000 in the Treasury that we are not needing for any purpose. At the last session of Congress we created extraordinary expenses in the shape of arrearages of pensions, and now I think it is only fair that we should take this money in the Treasury to meet those current expenses. If when that is exhausted we then have not money enough let us have courage to put taxes on the country for the purpose of meeting expenses which we had the courage to create.

Mr. HOUSTON. Mr. President, I cannot see, and I have heard no reason given, why this eight or ten million, whatever the amount may be, should be kept in the Treasury, except the mere fact that it is regarded by some as a pledge of the Government to redeem a particular circulation. As was stated by the Senator from Kansas, who has just taken his seat, [Mr. PLUMB,] that pledge has been altered once before, and if this bill shall pass as it came from the House, it will be simply another alteration, but in no manner and to no extent impairing its force and its validity. It will be as perfect a pledge if this bill shall pass on the part of the Government to redeem the fractional currency, which is a Government debt, as any other pledge we have before given.

The Government is bound to redeem it; and here is a pledge of "any money in the Treasury not otherwise appropriated" for the redemption of that fractional currency as it shall come in. Then, if there is no other reason why the law should be kept as it is, retaining eight or ten million of idle money in the Treasury, it seems to me that we ought to make some arrangement by which we can appropriate it in some proper manner. And what is that proper manner? This bill as it came from the House proposes to appropriate the money held there to the payment of the arrearages of pensions. That is a debt the Government owes. The Government owes the pensions. It passed a law during the last Congress allowing those arrearages of pensions, and they have to be paid. How do you propose to pay them? How do those Senators who are opposing this provision of the House bill propose to pay the arrearages of pensions? Out of what money do they propose to pay them? They propose to issue and sell the bonds of the Government to pay them, instead of using the ten millions now idle in the Treasury and which the Government has no opportunity to use now. Instead of using that money they prefer to sell bonds of the Government and convert this debt of the Government into an interest-bearing debt. Why not use the money that the Government has on hand?

Mr. President, it seems to me that that is not proper. Why do we propose to convert our circulation into an interest-bearing debt when we can avoid it? Why do you propose to sell bonds and make the people pay interest on the bonds when you have the money in hand to appropriate instead of selling bonds? It looks to me very extraordinary. There is no reason as yet given why this money should be kept in the Treasury except that it is a pledge, which amounts really, in my judgment, to nothing in view of the provisions of this bill.

Furthermore, we not only save the interest on the amount of this money, but you put that much in circulation when you pay it out for the arrearages of pensions. It then goes into circulation; it becomes part of the currency of the country when in circulation, answering the demands that now are so pressing upon the Congress of the United States. Let it go out in discharge of the obligations of the Government. The pensioners who are entitled to the arrearages of pension want their money. Under the law they are entitled to it. We are paying it because they have not got the money, and as I understand from the reading of the letter of the Secretary bonds have been issued to raise money to pay these very arrearages of pensions.

Mr. BAYARD. Oh, no. The Senator is mistaken about that.

Mr. HOUSTON. Then I misunderstood the reading of the letter. I understood, however, that there is an appropriation for the purpose of meeting these arrearages of pensions as far as $25,000,000 will go and that is to be met by the issuing and sale of bonds. Now, instead of that, let us appropriate ten million, if we have it, or eight million if that is all, and meet these arrearages of pension and to that extent save the necessity of issuing and selling bonds that bear interest. We shall in that way legitimately put into circulation eight or ten million dollars that are needed for the business of the country. The great cry is that the circulation has been curtailed too much; and it has. The great complaint of the country is that the circulation is not large enough for the business of the country; and it is not. Instead of contributing as far, and in every way we can, even with small sums, if we may call this a small sum, to the circulation of the country and in discharge of the obligations of the Government, they propose to keep that locked up and issue bonds and raise the money on bonds on which we pay interest, while there is money idle in the Treasury. I think that is wrong. I think that is another violation of all those financial principles which ought to govern the affairs of the Government of the United States.

We need to economize. We ought to turn all our assets to advantage if we can; and if this is not turning that $10,000,000 to advantage I confess I do not understand anything of finance. I am opposed to the issuing of bonds unnecessarily. I am opposed to increasing the debt of the United States. The Senator from Delaware said if this was paid out it would increase the debt of the country. I should like to know how that is to increase the debt. Suppose the Government of the United States owes $10,000,000 to a party and pays him this $10,000,000, is that an increase of the debt? You pay out the currency that is now in the Treasury doing nothing and you take in a debt, you discharge a debt, and you throw the amount of the payment of the debt into circulation. Therefore you do not increase the debt at all, or while you do make this a debt you at the same time reduce an obligation corresponding in amount, and the debt is no larger. I prefer that course to making that amount of debt bear interest.

Mr. BAYARD. Mr. President, I shall detain the Senate but a few moments. The honorable Senator from Alabama [Mr. HOUSTON] considers that this proposition of the House will not result in an increase of the debt of the United States. Let us take the facts as they are and state them simply. In 1875 the Government owed some forty-odd million dollars, for which it had given its promises to pay in the shape of what was called fractional currency. That was a debt of the United States. In 1876, the price of silver making it convenient and possible, the Government proposed to pay that debt, to call in that fractional currency and pay it off in hard money. To that end the law of January, 1875, was passed, followed by the law of July, 1876, providing that any one who presented the fractional notes of the United States to the sub-treasuries and depositaries should have them paid, and that the notes so paid should be destroyed as a canceled, obliterated debt. It is plain, therefore, that every dollar of fractional currency that was so redeemed and paid diminished the debt of the United States *pro tanto*.

But in 1876, in order to facilitate the circulation of this silver coin through the country, Congress provided that any one holding legal-tender notes of the United States could have them paid in silver to the amount of $10,000,000, and that the $10,000,000 of legal-tender notes for which hard money had been issued in payment should be held as a fund in substitution for the silver to pay this outstanding fractional currency; and now we are told that having substituted this especial fund of $10,000,000, for which we paid silver, which silver was intended to pay the fractional notes, (and of course legal-tenders substituted for the silver constituted the fund to pay the fractional notes,) we can take that fund now and pay it off for another debt, leaving the fractional currency for which it was pledged unpaid, and we may do that without increasing the debt of the United States!

I do not deny the power of this Government to do as it pleases in regard to its creditors. I know that it cannot be sued; I know that judgment and execution cannot be awarded against it, and that the

creditor has but one thing to rely upon, and that is the sense of good faith and honor. That is all. If they be wanting, there is no security.

The Senator from Kentucky said or implied that I had either needed or had found inducement from the present Secretary of the Treasury to make my present declaration on this subject. Sir, I never needed any inducement from the Secretary of the Treasury to express and vote for my ideas of what it was right and proper for the Government of the United States to do by its people.

There has been a great deal said, and a great deal too much said, in my judgment, in this debate about bondholders and the like. The man who holds the obligation of the United States, whether it be an interest-bearing obligation or its simple promise to pay on demand, stands equal before the law in my estimation. That he is a bondholder does not lessen his rights or my desire to protect them any more than if he were the poorest laboring-man whose whole fortune was the single one-dollar bill of his Government. I say he should be protected with the same care, no more and no less, that is to be awarded to his richer brother.

Mr. President, the amount of money that men may own in this country, the classes of rich and poor, have no place, or consideration as separate classes in our legislation. It is in my judgment a poor business and a very poor appeal to be holding a man up to opprobrium either because he has not or because he has more or less of money, whether it be in the shape of the obligations of his Government or not. If my poverty has prevented me from being one of these assailed bondholders, that is the only thing that has prevented me, and I may regret it; but that does not diminish in the least degree my obligation not to the bondholder but to the government whose promise he possesses.

Mr. HOUSTON. Does the Senator mean to say that I made any such criticism upon him?

Mr. BAYARD. Oh, no; I did not refer to the Senator from Alabama, in this connection. I referred, however, to the remark of the Senator from Alabama that the proposition of the House did not increase the debt of the United States, and I thought I showed him (at least I stated to my own satisfaction the proof) that it inevitably did increase the debt of the United States just to the amount the Secretary shall issue these legal-tender notes, so called, of the United States, which are pledged to pay fractional currency still outstanding, and which in their turn are paid by the United States in silver coin. The obligation of the law of 1875 was to pay fractional currency in silver coin. To facilitate that you allowed the Treasury to pay $10,000,000 demand notes and you substituted those demand notes in lieu of what? In lieu of coin which you had taken to pay your debt, and you paid it, not to be reissued until the demand-notes still outstanding should be returned. That is the fact——

Mr. HOUSTON. Mr. President——

Mr. BAYARD. The Senator will allow me to state the proposition. That is the fact, that every one of those $10,000,000 in legal-tender notes had been paid by the United States in silver. They stood to redeem an equal amount of the United States debt in the shape of fractional currency. Now, if you issue the legal-tender notes without having paid that fractional currency, you increase the debt of the United States just to that amount, because when the fractional currency, which is a debt, comes in, you must pay that debt. I will now listen to the suggestion of the Senator from Alabama.

Mr. HOUSTON. I should like to know how it is that the debt can be increased by putting in circulation this legal-tender currency. If you just threw it out helter-skelter, broadcast, then you might increase the debt, and would increase it; but when though you do not redeem the fractional currency with it you do redeem another debt with it, I should like to know how the debt of the Government is increased? The fractional currency is a debt and it is left outstanding, but another debt against the Government that is as much a debt as the fractional currency, is taken in, redeemed, and paid. Therefore while you do leave one of the debts of the Government standing to the same amount that you take in another debt, you do not increase the indebtedness of the Government a dime.

Mr. BAYARD. The Senator has omitted a very important factor in this case. He seems to forget that to pay this $10,000,000 of fractional currency silver money belonging to the people of the United States was issued from the Treasury. What was that issued for? Its object was to redeem an outstanding debt in the shape of fractional currency, and to facilitate that they let it pay an outstanding debt in the shape of legal-tenders, and they then said, "Bring that legal-tender into the Treasury;" and so it stands as a fund in lieu of so much silver to pay the fractional currency as fast as it is presented. It has, therefore, that purpose and that end.

I am not now considering the fact that this fractional currency may, like most paper money of its character, have been destroyed, and may never, therefore, be presented. That is not the question. I do not assume to decide that now. A longer period of time must elapse before we can know that fact; it will not do to take a risk upon it; but it is perfectly clear that while that is outstanding, and while other money for which silver was paid stands to redeem it, you can not issue that other money without increasing your debt to that amount.

If I have not made the proposition perfectly clear, I will not trouble the Senate by restating it.

Mr. HOUSTON. I do not want to interfere with the Senator in his remarks, but here is a case where the Government, it seems, has $10,000,000 in its Treasury. It owes two debts, to illustrate: one is fractional currency. The pledge of the Government is that $10,000,000 were reserved for the purpose of redeeming that fractional currency and having it all there. Admit that in its strongest aspect. I do not care whether it is bought in specie or how it is bought, that has nothing to do with the point now before the Senate; it has no sort of bearing upon the issue now presented in this bill. No matter how you keep the money the Government has it, and that is all we are now discussing. But the Government, instead of paying the fractional currency with this $10,000,000, appropriates the $10,000,000 to pay arrears of pensions which the Government owes, and while it leaves one debt unpaid, it pays another debt to the same amount. I should like to know if there is any principle of arithmetic or any other mode of arriving at conclusions by which one can undertake to convince the Senate that that increases the debt to the amount of a dime.

Mr. MORRILL. Mr. President, I do not think there has been an argument brought forward here to support the proposition to reject the amendment proposed by the Committee on Appropriations that would not justify the issue of a further amount of legal-tenders. It is in fact a question of further inflation and nothing else. Here are $10,000,000 of legal-tender notes that have been redeemed by the United States in silver money, with a pledge that that amount shall be kept for the redemption of an equal amount of fractional currency, and when that fractional currency shall have been received it is pledged to be charged over as so much to the sinking fund.

Therefore here is a double pledge: in the first place a pledge that we will keep this money for the purpose of the redemption of the fractional currency; and then, when that is redeemed, that it shall be charged over to the credit of the sinking fund.

Manifestly, the proposition here is to provide for a deficit, and it is proposed to take money that has been redeemed, permanently redeemed, to the extent of $10,000,000, and to reissue it.

For one I am disposed to accept the amendment of the Committee on Appropriations, and for another reason. I cannot comprehend how any Senator who is in favor of maintaining resumption will put the burden upon the Secretary of the Treasury of an issue of eight or ten million dollars more of legal tender which he will be compelled under the resumption laws to redeem if it shall be presented.

Under all the circumstances it seems to me that the amendment of the Committee on Appropriations is a proper one, and I trust that it will be adopted. Certainly no friend of the maintenance of resumption can afford to vote against the amendment as proposed.

Mr. PADDOCK. I should like to inquire of the Senator from Vermont if it is not true that the arrears of pensions are being already paid out of the general funds that are received from the internal revenue and other sources?

Mr. MORRILL. I suppose they are.

Mr. PADDOCK. I understand it to be the case that these arrears are being paid as rapidly as the clerical force possible to be employed in the Pension Office will allow; and therefore the refusal to adopt the amendment of the committee will not in any way advance the payment more rapidly than it is now being made by the Pension Office. For this reason I shall vote for the amendment.

Mr. MORRILL. That is right.

Mr. DAVIS, of West Virginia. Mr. President, I shall endeavor to be brief, although there is a good deal of ground that ought probably to be gone over.

The Senator from Kentucky who has charge of this bill, it will be noticed, is opposed to the amendment of the committee. In other words, he is opposed to striking out the provision which a majority of the committee has agreed to strike out, believing that to be a proper thing to do. That fact probably causes me to say a word that I would not otherwise feel it my duty to say.

This fund arose several years ago. In January, 1875, there was an act passed which caused the issue of bonds for the purpose of redeeming the fractional currency and authorized the purchase of silver for the same purpose. Then was the time that we ought to have talked about increasing the debt and not now. In my judgment, no matter which way the pending question is decided by the Senate, there will be no increase of the bonded debt on this account. The Secretary of the Treasury, as I understand, cannot legally increase the bonded debt. Therefore let this question be decided as it may, it has no bearing upon the increase of the bonded debt. I think it will be admitted by every Senator here that the question of increasing the bonded debt is not involved at all. It is a question, in my judgment, of good faith. It is a question whether we shall take any backward step as to resumption. For one, while, in fact, I do not approve of very many things that the Secretary of the Treasury has done, yet I am not willing to take a step backward, no matter how short or how smooth that step may appear to be. I believe that we are now on the eve of general prosperity, and I feel it my duty to sustain what has been accomplished and to move in the direction we are now going. I have no wish that now or hereafter it may be said of myself that I aided in taking away one of the steps toward resumption. I believe it is best to leave that question just as it is. I think we ought not to interfere with it. If we are to provide for the payment of the pension arrears faster than they can be paid out of the Treasury from the usual receipts, let us take some part of the $23,000,000 of silver now lying in the Treasury. There is a fund that can be

taken and no existing law will be affected. I see no good reason why in an appropriation bill we should undertake to change an existing law which disposes of about eight and a half million dollars of money, which was placed in the Treasury for a purpose, when that purpose has not been accomplished. Why has it not been accomplished? On the 1st day of April, 1879, there were nearly $16,000,000 of fractional currency unredeemed, for which there were but eight and a half million dollars of greenbacks in round numbers in the Treasury pledged for that purpose. If every dollar of this eight and a half millions was consumed in redeeming the fractional currency there would still be about seven and a half million dollars unredeemed and unprovided for.

Again, it has been said that to take this from the special fund would increase the circulation because the money would be paid to pensioners. That is not quite the fact, in my judgment. I shall state what I understand to be the fact in that regard. The arrears of pensions are now being paid; a million and a quarter dollars were paid last month from the general fund. According to the estimate of the Treasury Department the pension arrears can be paid about as fast as the claims can be adjusted properly; in other words, at the rate of about $2,000,000 a month. The Secretary of the Treasury has not asked Congress to provide in any other way for the payment of the pensions. He believes, and so reports, that he can provide about $2,000,000 per month to pay the pensioners, out of the general fund of the Treasury, and that is as rapidly as the Pension Office can adjust the claims.

Therefore, looking at the question from any point of view, it appears to me that there is no good reason for disturbing the eight million and a half dollars now pledged to redeem nearly $16,000,000 of fractional currency. It is true, as was stated by a Senator, that a part of that fractional currency will never be presented for redemption, because it has been destroyed and otherwise lost to the Treasury. There will be $7,000,000 of fractional currency remaining to be redeemed after this eight million and odd dollars has been consumed in their redemption. I stated a moment ago that there are twenty-three million silver dollars in the Treasury. The amount in round numbers reported on the 1st of May was twenty-three million and a little over a half. If we are to have silver in circulation, why not take part of that sum instead of disturbing this fund which is set aside for a specific purpose?

Mr. MORGAN. Is the Secretary of the Treasury using that to pay off the pension arrearages now?

Mr. DAVIS, of West Virginia. Not that I know of. The Secretary of the Treasury has not said to Congress, and no official has said to Congress, that he has not money to pay the pensioners as fast as the pension cases are adjusted. No Secretary, nobody with authority has said that there is not sufficient money in the Treasury to pay the pensioners as fast as the pension cases are adjusted. The pensions are paid regularly, I understand, as fast as they are adjusted, and the Secretary says that he can pay them at the rate of $2,000,000 a month; and that is about as fast as they can be adjusted.

Mr. BECK. Will the Senator from West Virginia allow me to ask him a question?

Mr. DAVIS, of West Virginia. Certainly.

Mr. BECK. There is one proposition I wish to put to the Senator from West Virginia, if he will allow me. The Senator from Vermont [Mr. MORRILL] and the Senator from Delaware [Mr. BAYARD] are both members of the Finance Committee. At the closing hours of the last session of Congress the Senator from Vermont, from the Committee on Finance, introduced this bill and called a yea-and-nay vote upon it:

That in order to provide for the prompt payment of the arrears of pensions due to pensioners, or becoming due, under the provisions of the act approved January 25, A. D. 1879, granting and authorizing payment of arrears of pensions, the Secretary of the Treasury is hereby authorized to issue, sell, and dispose of, at not less than par, 4 per cent. bonds of the United States, not exceeding in the aggregate $18,000,000, of the character, description, and denominations, and with like qualities, privileges, and exemptions, of the 4 per cent. bonds described in the act of Congress approved July 14, 1870, entitled "An act to authorize the refunding of the national debt," or, in lieu thereof, or any portion thereof, to issue certificates of deposit of the denominations and character provided for in the act entitled "An act to authorize the issue of certificates of deposit in aid of the refunding of the public debt," approved February 26, 1879; and the proceeds of the sale of such bonds, or so much thereof as may be necessary, shall be applied exclusively, and is hereby appropriated, to the payment of claims for arrears of pensions arising under said act of January 25, A. D. 1879.

The House has met that with a provision to use $10,000,000 in legal-tender currency. I desire to know whether that bill was not pressed at the request of the Secretary of the Treasury, and whether we had not a letter from him here saying that the arrears of pensions would cause a deficiency in the revenues, and whether the Committee on Finance did not report that bill asking for $18,000,000 in bonds because of the statement that it would create a deficiency?

Mr. PADDOCK. I should like to inquire of the Senator from Kentucky if there has been any such intelligence as that from the Secretary of the Treasury during the present session of Congress?

Mr. BECK. It came in the form of a letter to Congress.

Mr. PADDOCK. Not at this session.

Mr. HEREFORD. Mr. President, in answer to the Senator from Nebraska and as to what my colleague has just said, I think Senators must have forgotten a communication made by the present Secretary of the Treasury to Mr. ATKINS, the chairman of the Committee on Appropriations of the House, dated February 12, 1879, in which he says:

I understand that the Secretary of the Interior has transmitted to Congress an estimate of the Commissioner of Pensions of the amount necessary to pay the arrears of pensions under this act, as follows:

For the payment of arrears on pensions granted prior to the passage of the act	$34,000,000
For the payment of arrears that may be allowed during the current fiscal year	2,500,000
And for those that may be allowed during the next fiscal year	5,000,000
Making a total of	41,500,000

Then he goes on making a calculation for the receipts and expenditures of the fiscal year commencing the 1st of July, 1879. He says there will be a deficit of $27,062,419.71. The Secretary then says:

It would thus appear that the sinking fund must be entirely ignored and twenty-seven millions be provided for by additional legislation. This may be accomplished by the imposition of some new tax adequate for the purpose, or by authorizing the money to be borrowed upon 4 per cent. bonds, which, in the present state of the market, can be sold at par.

I desire to call the attention of the Senate to this language:

As new taxes cannot be immediately productive, it is recommended that authority be given to raise the amount necessary by the sale of 4 per cent. bonds described in the acts of July 14, 1870, and January 20, 1871.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

Therefore I say that if my colleague will indulge me a moment longer I prefer to call out these eight or ten million dollars lying idle to increasing our taxation or to selling bonds, as recommended by the Secretary at the date I read a moment ago, namely, February 12, 1879.

Mr. DAVIS, of West Virginia. My colleague has read a communication which was made three or four months ago to the last Congress. I submit that it has no bearing whatever on the present Congress, for nothing of the kind has been submitted to the present Congress. Further, I submit that it is well known to the Senator from Kentucky, because he recently got a statement from the Department, which he did me the honor to let me look over, that the revenues are increasing and that the Treasury is in a better condition now than it was at the time when that communication was made.

Again, we were then proceeding upon the assumption that it would take fifty or sixty million dollars to pay these arrears of pensions. I hope and I believe that that is not the case. It was stated here when the arrears of pensions bill passed that seventeen or eighteen million dollars would be the amount required at the outside. It is true that it now appears it will take more; but, to set the whole matter at rest, I send to the Clerk's desk a letter from the Treasury Department dated the 6th of May, and I ask that it be read and we shall see what they say as to the condition of the Treasury, and see if that is not a later date than the letter which my colleague read.

The Secretary read as follows:

TREASURY DEPARTMENT, *May* 6, 1879.

SIR: In reply to your verbal inquiry of this date I have the honor to state that up to date $1,250,000 has been paid on account of arrears of pensions, and that during the remainder of the fiscal year a similar amount will be paid. During the next fiscal year it is estimated that the balance of the appropriation for arrears of pensions will be paid at the rate of $2,000,000 per month, requiring eleven months of the year to complete the payment of the full amount.

Very respectfully,

H. F. FRENCH,
Assistant Secretary.

Hon. H. G. DAVIS,
United States Senate.

Mr. DAVIS, of West Virginia. It will be seen from this letter that there appears to be no apprehension upon the part of the Treasury Department that they will not have the money necessary to meet the demand, and they are supposed to know much better than we as to their ability to make provision to pay the pensions.

Mr. BECK. We limited the pensions act to $25,000,000 in order to keep from bankrupting the Treasury, and we kept men out of pensions because it was said that we had not money enough to pay them.

Mr. DAVIS, of West Virginia. I ask the Senator from Kentucky if the House did not limit it to eight million and a half by the provision which he supports?

Mr. BECK. Oh, no.

Mr. DAVIS, of West Virginia. Why, then, do they only ask to have eight million and a half devoted to this purpose?

Mr. BECK. It only proposes here to release eight million and a half in addition to the bonds and the money in the Treasury now lying idle.

Mr. DAVIS, of West Virginia. The provision says nothing of the kind. It proposes $10,000,000, but in reality gives less than eight million and a half. What right has the Senator from Kentucky or any other Senator to say that the arrears of pensions were limited to $25,000,000? Did the Senator from Kentucky know the amount required? Did any Senator know the amount required? The Treasury Department, who are presumed to know and who ought to know the amount required from calculations, suppose the amount to be $25,000,000 or thereabouts, and now the Senator says we are limited to that amount. The Senator is mistaken. In the letter just read the Department say they can pay off the pensioners at the rate of $2,000,000 a month; and even since that letter was written the rev-

ennes are increasing to a decided extent; so that the Treasury Department believe they can pay them faster.

Mr. BECK. The last letter which we had relating to the arrears of pensions showed that the amount required would be largely in excess of $25,000,000, and the appropriation was kept down to $25,000,000 for fear we should not have money enough to pay the sum required. Here is the statement of the Department. The Treasury Department, "John Sherman, Secretary," made an estimate of the payment of the arrears of pensions, and this is the statement of the Department:

For the payment of arrears on pensions granted prior to the passage of the act, $34,000,000.
For the payment of arrears that may be allowed during the current fiscal year, $2,500,000.
And for those that may be allowed during the next fiscal year, $5,000,000.
Making a total of $41,500,000.

There were $34,000,000 already granted prior to the passage of the act, $2,500,000 were allowed during the current fiscal year, and five million more to be allowed during the next fiscal year, making $41,500,000; and provision was only made to pay $25,000,000 out of that $41,500,000 because of the condition of the Treasury.

Mr. DAVIS, of West Virginia. The letter that I had read states that the Department can pay at the rate of $2,000,000 per month; and is not that as fast as anybody has calculated that the pension claims can be adjusted? If that be so, then this provision makes no difference whatever as to the amount of money to be put in circulation; it makes no difference whatever in the bonded debt. It is a question, in my judgment, whether we shall take a backward step in the direction of maintaining specie payments; and I for one am not willing to do that. I believe it is our duty now "to let well enough alone," and to let all the differents acts looking to this end stand, no matter how insignificant a particular act may appear. This fund of $8,000,000 or more, no matter what it is, we should not disturb. Why? If for no other reason in the world, we should not disturb it because there are $23,000,000 in silver now in the Treasury, which would go much further toward paying the pensioners and which it would be much better to put in circulation than to take a backward step in a different direction from that which we have already taken. The country, in my judgment, as I remarked a moment ago, is on the eve of prosperity, at least I hope it is, and that is the indication from a good many places. Money has been borrowed by the Government at a lower rate than was ever thought of heretofore.

Mr. HOUSTON. Mr. President——

Mr. DAVIS, of West Virginia. In one minute I will yield to the honorable Senator.

Mr. HOUSTON. I want to ask the Senator a question.

Mr. DAVIS, of West Virginia. I believe we had better "let well enough alone" and just stay where we are. I hope it will never be said of this side of the Chamber that for the sake of releasing $8,000,000 from the Treasury we took a backward step and tried to throw in the way of maintaining specie payments any obstacle whatever. This step would be a short one, but it would be in the wrong direction.

Mr. BAILEY. Will the Senator tell me how this would be going backward?

Mr. HOUSTON. That is just what I wanted to ask the Senator.

Mr. DAVIS, of West Virginia. Certainly I will tell the Senator. There was an act passed first in 1875 and again in 1876 pledging this amount of money for a purpose, and that purpose was to redeem the fractional currency; and when this amount is used up in this way there will still be eight or ten million dollars of that fractional currency unprovided for. That is the way we shall go backward.

Mr. HOUSTON. I should like the gentleman to tell the Senate what difficulty this provision would place in the way of resumption. How does the fact of letting this $10,000,000 remain in the Treasury, or appropriating it to the payment of a debt of the Government, affect the question of the resumption of specie payments, which is already accomplished?

Mr. DAVIS, of West Virginia. I have attempted to show that. I thought I had said that the act which this provision sets aside is one of the steps in the direction of specie payments.

Mr. HOUSTON. How does it affect the question of resumption?

Mr. DAVIS, of West Virginia. If the Senator wants the floor I will give it to him.

Mr. HOUSTON. I want to hear an answer to my question.

Mr. DAVIS, of West Virginia. If the Senator can tell better than I can I will give him the floor. I was endeavoring to explain to the Senator.

Mr. HOUSTON. I am perfectly willing to hear the gentleman; I am delighted to hear him talk; but I wanted, if I could, to draw his attention to the question which I put to him; that is all. I know that that was one of the steps taken toward resumption; but resumption is an accomplished fact, as I understand it; and how can the appropriation of this $10,000,000 to the payment of the arrearages of pensions interfere with the resumption of specie payments?

Mr. DAVIS, of West Virginia. My friend says he knows it is one of the steps taken. Now, if he knows that it is one of the steps taken toward resumption, he is endeavoring to put something in the way of resumption. He says he knows that it was one of the steps in the direction of the resumption of specie payment.

Mr. HOUSTON. But that is accomplished.

Mr. DAVIS, of West Virginia. The Senator does not want to disturb that?

Mr. HOUSTON. The step taken is now wholly unnecessary; resumption is accomplished.

Mr. DAVIS, of West Virginia. Mr. President, we have got to observe all the steps, or we may fall. The Senator knows that if once the ice is broken in the direction that we have been going for some time, the whole system is broken down. We may repeal the first step now; to-morrow something else is proposed, and we do that; and so we keep on until we disturb the whole relation of the machinery that has been in operation.

I said in the beginning of my remarks that I intended to be brief; that there were a great many things that the Secretary of the Treasury had done that did not accord with my judgment or my votes, but the fact stares us in the face, and it is a fact, that resumption has come, and it is apparently working well. Do not let us now go back; let us keep forward. For the sake of taking eight and a half million dollars from the Treasury, do not let us disturb any of the machinery that has heretofore existed. If the Senator wants to pay the pensioners any faster than the Secretary says he can pay them, I will join him in providing that a part of the $23,000,000 or all of the $23,000,000 of silver now in the Treasury, if necessary, shall be distributed for that purpose. Such an appropriation would disturb no regulation of the Department, no law of the Government, no step such as the Senator says he knows was taken in the direction of resumption; it would be, as I believe, far better for the country, and certainly afford a larger amount for the purpose.

Mr. BECK. The Secretary has shown in the first page of his report that he received $257,000,000, and he expended $236,000,000, leaving a surplus revenue of $20,000,000; and he applied of that $20,000,000 $13,000,000 to the redemption of United States notes, $3,855,000 to the redemption of fractional currency, $73,950 to the redemption of 6 per cent. bonds for the sinking fund. What prevented him from using any money that came into the Treasury for the redemption of this fractional currency, whether he had that eight millions and a half dollars or not? Out of the current collection of taxes he could buy up the fractional-currency notes with the balance thus collected from taxes altogether, independent of that eight and a half millions, as shown by the Secretary in his own report.

Mr. DAVIS, of West Virginia. That is the report made in 1878.

Mr. BECK. It was made last December.

Mr. DAVIS, of West Virginia. I have twice remarked that I have not by my votes or by my opinions sustained the Secretary in all his acts. Therefore, what the Secretary has done or what he has not done is not for me to defend. I would perhaps agree with the Senator from Kentucky on many of these points, but this is one on which we happen to differ. I think it would be wrong to disturb upon any pretext whatever any of the machinery put in operation by the present Secretary; and where there are but $8,000,000 involved, and the Secretary tells us that he can pay the pensioners as fast as the clerical force can adjust their accounts, I ask why this backward step should be taken?

The Senator from Kentucky referred to the question of interest. That is an item; but the Senator from Kentucky could have said that the $23,000,000 of silver now in the Treasury is just as well adapted to be put out at interest, and it would yield three times as much as the amount he named, so that I do not think that has a special bearing on the question. The fact is the pensioners are being paid, and no additional legislation is needed for that purpose. As I remarked a moment ago, I regret that this side of the Chamber should put anything in the way of the maintenance of specie payments and the prosperity of the country.

Mr. VOORHEES. Mr. President——

Mr. SAULSBURY. I wish to ask a question for information, and that is whether the Secretary expects to be able to pay the arrearages of pensions without the issuance of bonds? It was said in the discussion of the arrears of pensions act that there would be a necessity to issue bonds to meet the demand to be made on the Treasury.

The PRESIDING OFFICER, (Mr. GORDON in the chair.) The Chair has recognized the Senator from Indiana. Does the Senator from Indiana yield?

Mr. DAVIS, of West Virginia. I was asked a question by the Senator from Delaware which I wish to answer.

Mr. VOORHEES. Mr. President, as I shall vote for the measure as it came from the House to appropriate as much of this idle $10,000,000 now in the Treasury as may be necessary to pay the arrearages of pensions, it may not be improper for me to say in a few words why I shall do so. Senators have talked all around this question, but there is only one point to consider, and that is whether we shall add to the interest-bearing debt of this country by selling bonds to raise money for the payment of arrearages of pensions or whether we will take that which is now lying idle, doing no good, and put it in circulation.

That is all there is involved. The Senators who are opposed to this proposition as it came from the House are in favor of selling bonds and thereby largely increasing the burdens of the people. I am in no hurry to dismiss this statement. I prefer to dwell upon it; I repeat it; I wish to make the point clear, for the object of the whole discussion in opposition to this measure is to confuse the public mind. Our interest-bearing debt has grown so rapidly and to such an extent that but a few days ago I read a long article in the London Times calling

attention to the remarkable fact that the American Government was so much enamored of interest that it was converting its non-interest-bearing circulation, its currency which costs the people nothing, and which they so much need, into bonds which are a galling burden to them. This would be a demented policy if it was not an intentionally wicked one. It would be a supreme folly if it was not a deliberate and monstrous crime. That policy asserts itself here now in opposition to the proposition before us.

There are $10,000,000 lying in the Treasury, doing no good, pledged to a purpose for which they will not be required or used. Shall we put that money in circulation and to that extent relieve the present needs of the country, or shall we still further pander to the greedy desires of capitalists and give them still further opportunities to invest their idle, inactive, and non-producing wealth in interest-bearing securities? Shall we increase the weight of an already heavy yoke on the necks of the laborers of this country? These are the questions which the toiling masses of this country will require each Senator to answer.

The Senator from West Virginia [Mr. DAVIS] talks about taking no step backward on the subject of specie resumption. Sir, I would take a thousand steps backward if I could restore the dead past and the unhappy present to life and prosperity; if I could blot out the miseries of the last five years. No step backward in the frightful career of crime, of widespread ruin and bankruptcy which this wretched policy of forced specie resumption has fastened upon the country!

I beg to say to the Senator from Alabama [Mr. HOUSTON] that he made a concession a few moments ago to the Senator from West Virginia in which I do not concur. There is no resumption of specie payments in this country at this time. The Senator from West Virginia says that he would not disturb the machinery which has led to specie resumption. In the first place, we have not reached specie resumption. In the next place, I would long ago have broken to pieces all the machinery which he eulogizes, could I have done so. The machinery to which he alludes has operated to withdraw the benefits of a full circulation from the business of the country and give to the capitalists a chance to invest their money in a debt bearing interest and resting upon the bended shoulders of the labor of the country. The destruction of such a system or of such machinery would have been a blessing to the American people, any time during the last twelve years, so vast as to defy calculation, and even now it would be hailed as a deliverance from one of the most cruel forms of bondage.

But why do I say there is no specie resumption? Who can pay his debts in specie? What is the resumption of specie payments? Is the country doing business on specie? Not at all. What is called specie resumption is not so. There has taken place an equalization of currencies; and why? We could have had that at any time since the greenback was created by simply doing an act of justice and common honesty; by declaring that this Government would receive its own money at the custom-houses and everywhere else for its own dues. That would have put the greenback currency at any time since February, 1862, where it is now, and every Senator on this floor knows it. That is all that has been done now. The Secretary of the Treasury has brought about an equalization of currency by doing without law what ought to have been done many years ago by law. We have tried to pass a law here to compel the Secretary of the Treasury to receive the money of this Government without distinction for the Government dues. The measure has been defeated more than once. Yet at last the Secretary of the Treasury, in order to get a delusive semblance of specie payments, that is an equalization of currencies, has, contrary to law, announced that he will receive legal-tender notes for customs dues, and we have the strange spectacle now of a Secretary of the Treasury receiving money on account of Government dues which the Senator from Delaware and every other Senator who differs from me on this question will say he has no right to receive. They are correct. He is doing it without law. We tried to compel him by law to do it during the last Congress. He came before the Committee on Finance and combated the idea; but at last, as if lawlessness was more pleasurable to his official appetite than to obey a law, he proclaimed that he would receive the greenback currency for customs dues, and it now has this mark of honor. But he still holds the great question in his own hands; and instead of having a law upon this subject, we are to-day at his mercy. If he should issue a specie circular to-morrow requiring specie for customs, there is no law to keep him from it—he is running this matter at his own will—and we would be in worse confusion than ever in business circles. An equalization of currency has taken place; but to-morrow the Secretary can render it again unequal. To-morrow he can disturb all its relations and cause it to fluctuate as wildly as ever before.

Sir, we have heard much of late of the lofty credit of the Government because of the vast sale of bonds with interest coupons attached. We have heard the policy of the Secretary of the Treasury and his party vaunted to the skies because on one day recently, I believe, $150,000,000 of interest-bearing bonds were subscribed for and purchased by a few national banks in New York. Senators, mark my words. We who live a few years more will find the little finger of the money power which is now strong enough through the national banks to purchase bonds amounting to $150,000,000 in a single day—we will find its little finger heavier, stronger, and harder to bear than the whole Army and Navy put together, even if applied to improper purposes. It is a power which will crush the life out of the laboring people of this country more fatally even than those despotic agencies which we have been discussing so long upon this floor. Every sentiment of the money power and every throb of its hard heart is on the side of a consolidated and monarchical government, for in such a form of government it has heretofore found its greatest safety.

I see, therefore, with no pleasure one or two banks with money power enough to make a subscription for an almost indefinite amount of bonds and hold them as an interest-bearing security over the people. What else, however, does such a fact signify? You say money is plenty. In some places it is, and in other places where it ought to be it is not. Whenever money is concentrated in the hands of a few, so that they can control hundreds of millions, it shows that money is withdrawn from the active channels of trade and has become stagnant; like the waters of the Dead Sea, concentrated and useless. Instead of flowing in little rivulets and in larger streams, irrigating and fructifying and causing all the land to bloom with business prosperity, money is concentrated in the coffers of the few, and the destruction of the business interests of this country is the result.

If business were prosperous, who supposes money would be seeking investments in sums of $50,000,000 and $100,000,000 and $150,000,000, made too by perhaps a half dozen men, at 4 per cent.? When business is active and prosperous, money goes out and does its proper and legitimate duties, performing its rightful functions, bringing happiness to the people.

When it is cited as an evidence of prosperity that a few men have so much money that they can purchase these enormous sums of bonds and take them at low rates of interest, it is an evidence to my mind of a fallen and prostrate condition of the business, and no man can gainsay it. It is proof positive of too much money in the money centers and not enough in the hands of the people. It demonstrates beyond controversy or dispute that the channels of trade are empty while the coffers of retired capitalists are full.

We are on the eve of prosperity, says the Senator from West Virginia. We have been there a long time according to the false prophets whom we have had to listen to for so many years. They have said numberless times, "We are just on the eve of prosperity; the day is dawning; it will come directly; the great high-light of to-morrow is almost here, and with it is to come the radiant beams of prosperity;" but with each day has come more and more of bankruptcy and distress; and the last quarter in business circles has been more thickly strewn with business wrecks, ruined homes, suicides driven to desperation, than any other quarter within the last six years. We all know this, and yet we allow ourselves to be lulled into a sense of false security by the siren voice which continues to say, "We are just now going to be happy."

Man never is, but always to be, blest.

So far as coerced specie resumption is concerned, he never has been and never will be blessed in this country.

The Senator from West Virginia says that he is set in his way and will brook no change. He must go forward. I believe there is a proverb that a wise man sometimes takes warning and mends his ways, even at the expense of taking some backward steps; while there is another and a very different character who pushes on and is destroyed.

Mr. President, never by my vote, while I remain here as a Senator, will I increase the bonded debt of the United States unless some emergency like that which created the present one should overtake us, which may God forbid! But when in a time of peace the eager, hungry, persistent, Argus-eyed spirit of Mammon is found here upon all occasions striving to create opportunities to increase its purchases of the people's interest-bearing obligations, to add to the debt of the people and hold it at interest, I shall esteem it my highest duty to denounce it at all times and under all proper circumstances.

For these reasons I expect to vote for this and all kindred measures, and against every proposition that comes here proposing to increase the interest-bearing debt of the people whom I represent.

Mr. DAVIS, of West Virginia. Mr. President, only a word. I understood the Senator from Indiana to say that the last quarter showed more failures than the previous quarter. The Senator has mistaken the fact.

Mr. VOORHEES. No, I have not.

Mr. DAVIS, of West Virginia. The Senator says he has not. Of course it is only a question of fact, but I have very recently seen a statement which showed that there were many less failures than there had been in any quarter for some time back. That is all I have to say. It is a question of fact, and it will be referred to by and by.

As to the increase of the bonded debt of the country, I have said, and I think I could show it if it were necessary to do so, that no matter which way this question is decided no increase of the bonded debt can take place. The Secretary is forbidden to increase the bonded debt; and he has not I believe violated in any instance that law. Of course he has paid double interest to a very large extent, but as to the increase of the bonded debt this amendment has no reference nor does it affect it in any way or manner whatever.

My friend from Delaware [Mr. SAULSBURY] asked me a moment ago whether or not an increase of the bonded debt of the country would be made if this clause was not agreed to. I say now, so far as

my information goes, the Secretary could not, if he would, unless permission be given to him to issue bonds, increase the bonded debt.

Mr. SAULSBURY. If the Senator will allow me, I will state that I saw a circular from the Secretary of the Treasury just before the termination of the last session of Congrsss in which he expressed the opinion, or at least the apprehension, that there would be a deficit in the revenues of the country to the amount of $27,000,000. At the same session we had increased the liabilities of the Government by the act giving arrears of pensions, estimated variously from $34,000,000 to $50,000,000, I believe. The point I wish to inquire about is, how this apprehended deficiency in the Treasury is to be supplied with the increased burden imposed by the act granting an increase of pensions to the amount of from $34,000,000 to $50,000,000? I ask how that is to be met, and whether there is not some necessity for an issue of bonds to meet that demand? I have heard in this discussion from various gentlemen that an increase of the bonded debt was indispensably necessary to meet the arrears of pensions and other expenses of the Government. The query which I put to the Senator from West Virginia was to know the truth of these allegations, whether the Treasury can get along and pay the arrears of pensions and keep up the ordinary expenses of the Government without resorting to extraordinary means such as the issue of bonds?

Mr. DAVIS, of West Virginia. As the Senator from Delaware puts the question to me I will answer him that all the information I can give him is contained in the letter read from the desk, in which the Department say that they have already paid a million and a quarter dollars of arrears of pensions and expect to be able to pay from the revenues of the Government at the rate of $2,000,000 a month; and that is about as fast as the claims can be adjusted. As to the right of the Secretary to increase the bonded debt, I repeat that this amendment has no bearing upon that question one way or the other.

Mr. BECK. The Senator from West Virginia asserted, as I understood, that the Secretary of the Treasury claimed that he had no right to increase the bonded debt now without an act of Congress. Am I right?

Mr. DAVIS, of West Virginia. For this purpose.

Mr. ALLISON. How is it as to resumption?

Mr. DAVIS, of West Virginia. We are talking of this purpose.

Mr. BECK. For pensions or anything else. The Secretary of the Treasury in his report to the last Congress uses the language I shall read, and this is one of the points I endeavor to come back to always, and to which we ought to be limited; it is one of the reasons why he has increased the bonded debt of the country $300,000,000 and has increased it permanently $100,000,000 in defiance of all the laws except that in aid of resumption, which he asks Congress to give him authority to do. He says:

> The means and manner of doing this—
>
> That is to bring about resumption—
>
> are left largely to the discretion of the Secretary, but, from the nature of the duty imposed, he must restore coin and bullion, when withdrawn in the process of redemption, either by the sale of bonds, or the use of the surplus revenue, or of the notes redeemed from time to time.
>
> The power to sell any of the bonds described in the refunding act continues after as well as before resumption. Though it may not be often used, it is essential to enable this Department to meet emergencies. By its exercise it is anticipated that the Treasury at any time can readily obtain coin to re-enforce the reserve already accumulated.

The meaning of this is, that as long as there are men in the world who will buy the interest-bearing bonds of the people of the United States the Secretary has the authority without appealing to Congress to sell as many of those bonds as he pleases and increase the national debt as he chooses in order to maintain what he calls resumption, if it bankrupts every man in America.

Mr. DAVIS, of West Virginia. I ask the Senator whether or not this amendment in any way whatever affects the increase of the bonded debt?

Mr. BECK. Our object is to prevent the Secretary from increasing the bonded debt by issuing the $18,000,000 of bonds that the Finance Committee of this Senate sought to give him authority to issue, and to enable him to use money that costs the people nothing, that is in no sense a debt. The debt that affects the people is the debt that bears interest and which is a burden upon them. We want him to use the currency of their own, which is now in his hands and that he is keeping in the Treasury, for which he has no sort of use, instead of issuing the $18,000,000 or any other number of million of bonds that he calls for and that the Committee on Finance of the Senate at the last session seemed disposed to give him authority to issue. The House of Representatives, in view of the proposition of the Finance Committee of the Senate at the last session, have sought to prevent an increase of the interest-bearing debt by allowing the Secretary, in addition to all the funds he now has, to use as currency money which is lying in the Treasury, and which is of no use to anybody unless it can be employed for that purpose.

I have been advised since I made the few remarks I submitted before that the Senator from Delaware [Mr. BAYARD] was of opinion that I said something to the effect that he was following the Secretary of the Treasury and backing the Secretary. I never said so. If I said anything on such a matter, it was that the letter the Secretary had sent to the Senator from Delaware had induced him to believe that the Secretary was right, when in fact the Secretary, in my judgment, was endeavoring to mislead us by the statement that he was making. It never entered my mind to intimate that the Senator from Delaware was following the Secretary or endeavoring to do anything other than what he has always done in the Senate and everywhere, maintain equal justice to all men according to the best lights before him. I had no idea of saying any such thing; and I desire to make the statement now.

Mr. DAVIS, of West Virginia. I notice that the Senator from Kentucky, the Senator from Indiana, and other Senators go all around this question and do not come to the amendment itself. I repeat my question to the Senator from Kentucky or the Senator from Indiana, whether this amendment in any way whatever affects the bonded debt, or whether if this amendment is acted on either way it affects the bonded debt of the country in any form?

Mr. BECK. I will answer in this way: If money is needed, as the Secretary has said it was over and over again, to pay the obligations of the country, and if this money is used, it makes it unnecessary to issue any more interest-bearing bonds to meet at least this much of the obligation. If obligations are imposed by law and have to be met, and if this money cannot be used, $8,500,000 being necessary to meet the obligations of the Government, $8,500,000 of interest-bearing debt is to be issued or $8,500,000 of additional taxes are to be imposed. To prevent either the imposition of taxes or the increase of the bonded debt we propose to give the Secretary authority to use this money. If he does not need it he will not use it. We authorize and empower him to use it and to use it for that purpose if he pleases. Perhaps I am wrong in placing that construction upon the provision. I would rather make it peremptory upon him to use it.

Mr. KERNAN. Mr. President, you will observe that the language proposed to be stricken out does not merely authorize, but it authorizes and directs. The Secretary is authorized and directed to use this money immediately, whether he has other funds or not.

Mr. BECK. That suits me all the better.

Mr. ALLISON. Mr. President, I desire to say one word upon this question. I should not say anything but for the remarks made just now by the Senator from Indiana, [Mr. VOORHEES.] The Senator from Indiana bases his support of this particular measure upon the idea that we have an option which compels us to do one of two things, namely, that we must either increase the bonded debt of the United States or we must issue more greenbacks to pay the arrearages of pensions. Now neither is necessary, and neither ought to be proposed, in my judgment.

Mr. VOORHEES. Will the Senator allow me to ask him a question?

Mr. ALLISON. Certainly.

Mr. VOORHEES. When the proposition was made here at the close of the last session to issue bonds for the purpose of raising money to pay the arrearages of pensions, I forgot how the Senator from Iowa voted.

Mr. ALLISON. I forget myself how I voted. I only know that I believed then, as I believe now, that there is an ample fund in the Treasury of the United States to pay these arrearages of pensions as there is to pay all other appropriations.

Mr. VOORHEES. The Senator from Iowa knows perfectly well that an effort was made, which came very near being successful, but a few months ago in this body, to authorize in express words the issuance of bonds bearing interest to pay this very sum that we are talking of.

Mr. ALLISON. Very likely; and when that alternative comes again it will be time enough for the Senator from Indiana, in my judgment, humble though it be, to indulge in his philippics about the bondholders and the national banks, &c. We have no such alternative. I have before me the last statement of the public debt, showing a balance in the Treasury of $145,000,000 of gold and silver coin, after paying off all the demand indebtedness of the United States, and $61,000,000 of greenbacks. There is a large sum in the Treasury of the United States. Now, then, I say that the Secretary of the Treasury can use any portion of that sum which is necessary to be used for the purpose of paying these arrearages of pensions, and I want to know why it is that we are required to put into an appropriation bill this insult to the soldiers of the Republic who are entitled to these arrearages of pensions, as though we were compelled to make a special provision for them. Is it not enough that their payment shall stand upon an equality with the payment of the other appropriations of this Government? Are we to thrust forward all the time that but for this special law we should not be required to make this appropriation? Their payment stands upon precisely the same principle as that of every other appropriation made by the Government.

Mr. VOORHEES. Why is it an insult?

Mr. ALLISON. We make a special provision here for the payment of the soldiers. Why not make a special provision here for the payment of our appropriations for rivers and harbors?

Mr. VOORHEES. I would not feel myself insulted if there was a special provision to pay me money coming to me; but I apprehended when I interposed that the Senator supposed the insult arose from the kind of money they were to be paid.

Mr. ALLISON. Not at all. I am not concerned about the kind of money we pay them.

Mr. VOORHEES. No, because we made them take it when it was only worth fifty cents on the dollar.

Mr. ALLISON. I am not disturbed on account of the money we

pay them in. No thanks to the Senator from Indiana, the money we pay them in now is equal to gold coin, and I am in favor of paying them in that kind of money. But we might just as well put in a special stipulation here that these $8,000,000 shall be used to pay the expenditures on our rivers and harbors as to pay the arrears of pensions to our soldiers. The appropriation for arrears of pensions stands exactly as every other appropriation stands.

Mr. TELLER. The Senator will allow me to suggest that if we keep in this clause they will get their pay. Does not the letter read by the chairman of the Committee on Appropriations show that they will not get their money otherwise until a year from next July?

Mr. HOUSTON. And if the amount is $34,000,000 they will not get it then, for it will require seventeen months to pay the whole.

Mr. ALLISON. I am amazed at the Senator from Alabama, who now seems so anxious to make this provision. Does he not know that there is now in the Treasury a vast sum of money, and that the Secretary of the Treasury is bound by law to use it, and according to the statement of the Senator from Kentucky as often as he uses it he can replenish the Treasury by the sale of bonds and we cannot help ourselves?

Mr. BOOTH. I understand the Senator from Iowa to say that there is $145,000,000 in the Treasury of the United States that is liable to be used on appropriations. May I be allowed to ask how much of this $145,000,000 the Secretary of the Treasury proposes to retain for the purposes of resumption, and what part of it is he willing to use without an especial direction from the Congress of the United States?

Mr. ALLISON. I undertake to say that the special direction given to the Secretary of the Treasury by the Congress of the United States is through appropriation bills, and it does not lie in his power to say, "I will retain one hundred millions or one hundred and fifty millions for resumption purposes and will not pay the necessary appropriations."

Mr. BOOTH. I undertake to say that he does mean so.

Mr. ALLISON. I want some gentleman to show me where he says so. How is it that the Secretary of the Treasury shall say there are required one hundred and fifty millions in the Treasury, or more than one hundred and twenty millions, for the purposes of resumption, when in point of fact there are not a million dollars of notes exchanged for coin daily under the resumption act?

Mr. TELLER. How does he say there will be a deficiency of $25,000,000? What does he mean if he does not mean that he cannot use this money for the purpose?

Mr. ALLISON. I do not understand the Secretary of the Treasury to come here (as he is bound to come here when such is the case) and tell us that there is a deficiency. Is it possible that we have been in session nearly two months and there is a deficiency in the Treasury requiring the action of Congress, and that our Secretary of the Treasury gives us no information on that subject?

Mr. TELLER. He did at the last session.

Mr. ALLISON. He did, it is true, on the 10th of February, when the tobacco bill was pending, and when other things were pending, when some men in this Chamber and out of it were proclaiming that we had passed an arrearages of pensions bill involving $50,000,000, send us a certain statement based upon an estimate of the Secretary of the Interior that it would require $50,000,000 to pay the arrearages of pensions. Who is there in this Chamber now who will say that it will require $30,000,000 to pay the arrearages?

Senators are talking about official reports. Here we have been in session since the 18th of March, and I have yet to see a communication from the Secretary of the Treasury requiring us to do this, that, or the other thing for the purpose of facilitating the payment of the arrears of pensions. Here are the chairman of the Committee on Appropriations and the chairman of the Committee on Finance, the organs of this Chamber, through whom the Secretary communicates with this Chamber: has either of them presented to us letters from the Secretary of the Treasury asking for more money, asking for more taxes, asking for a loan of money? Not at all. Therefore, I assume, as I have a right to assume from this fact, that there is an ample fund in the Treasury to pay all these pension arrears; but if I supposed otherwise, I should prefer myself to vote for this appropriation rather than to increase the interest-bearing bonds.

Mr. MAXEY. I would ask the Senator frow Iowa if there be, as he states, $145,000,000 in the Treasury subject to general appropriation, or general disbursement, and this clause proposed to be stricken out by the Appropriations Committee provides that any fractional currency presented shall be paid out of this general fund, what is the necessity for keeping the eight and a half million dollars, especially when you have $145,000,000 for all purposes?

Mr. ALLISON. That question answers itself. As we have agreed that a special fund shall be set aside, of course there can be no occasion for breaking our agreement in that regard until the necessity arises if it ever shall. I do not want to be misunderstood. I did not mean to say, as the Senator from California quotes me as saying, that there was $145,000,000 here that could be applied to general purposes. I do not say that in exact terms; but I say that the Secretary of the Treasury is bound to presume that Congress will supply him with necessary funds for resumption as well as for the payment of all appropriations that we make here; and I see in his own statements that there is ample provision made for both these purposes; and therefore it is that I am not willing, when no emergency exists, to violate the agreement so well stated by the Senator from Delaware, the chairman of the Committee on Finance, that we shall not take out of this special fund the sum of $8,000,000 when we have a large fund that we can use without any special appropriation or consideration with reference to it. That is my objection to this provision. The whole matter is "a tempest in a teapot." It amounts to nothing. It will not materially interfere with resumption if we pass this clause, because of course if this eight and a half million goes out another eight and a half million will remain in the Treasury. There are $70,000,000 of legal-tenders in the Treasury now. Why do we propose that this particular eight and a half million shall go out? Of course if it goes out the other $61,000,000 or $62,000,000 will remain, and when they go out they are liable to come in again the next day, and so on, and if they do come in the next day, if the Secretary of the Treasury has no gold or silver to redeem them, he can sell bonds under the authority already given to him and thus redeem them. So we are operating in a circle all the time, and this, therefore, in my judgment, is not a material provision.

But I do not wish to violate an agreement made, not by a republican Congress, not made in those old days of legislation in the interest of the bondholders, as my friend from Indiana would say; and I call his attention to the fact that the bill here spoken of was passed by a democratic House of Representatives in 1876, tying, handicapping these $10,000,000 of greenbacks in the very height of the greenback excitement. Therefore there is no special reason why we should vent our spleen against this particular act of Congress when we have ample funds to pay these debts outside this special fund and when we have a large amount of greenbacks in the Treasury not handicapped as these are.

Mr. HEREFORD. Mr. President, the Senator who has just taken his seat [Mr. ALLISON] has stated that there is no authority for saying that if the arrearages of pensions are not in part paid in this way there is a necessity, or will be a necessity, for the issue of bonds. Why, sir, I read a moment ago the last communications that we have had from the Secretary of the Treasury on this subject, and we have no evidence that he has changed his mind, in which he says:

I understand that the Secretary of the Interior has transmitted to Congress an estimate of the Commissioner of Pensions—

The only man who can know, the only man authorized to speak; and in February last the Commissioner of Pensions had made this estimate—

of the amount necessary to pay the arrears of pensions under this act, as follows:

For the payment of arrears on pensions granted prior to the passage of the act	$34,000,000
For the payment of arrears that may be allowed during the current fiscal year	2,500,000
And for those that may be allowed during the next fiscal year	5,000,000
Making a total of	41,500,000

In the bill of that session we only provided for paying these pensioners to the amount of $25,000,000, yet, as shown by the Commissioner of Pensions, at the close of the next fiscal year there will be $41,500,000 due these men, and we only made an appropriation, as I said, of $25,000,000, about $2,000,000 a month, because the money was not in the Treasury, as this letter of the Secretary says. Sir, what does he say? I will incorporate the whole of this letter of the Secretary in my remarks, so that it all can go together. After showing that there would be a deficit of $27,062,419.71 at the close of next year, he says this:

It would thus appear that the sinking fund must be entirely ignored and twenty-seven millions be provided for by additional legislation.

The Secretary of the Treasury says there must be additional legislation to meet it. He has never taken that back. He further says:

This may be accomplished by the imposition of some new tax adequate for the purpose, or by authorizing the money to be borrowed upon 4 per cent. bonds, which, in the present state of the market, can be sold at par.

As new taxes cannot be immediately productive, it is recommended that authority be given to raise the amount necessary by the sale of 4 per cent. bonds described in the acts of July 14, 1870, and January 20, 1871.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 12, 1879.

SIR: I am in receipt of the communication of your committee of the 7th instant, asking whether it is my intention to submit an estimate for the payment of arrears of pensions under the act of January 25, 1879.

I understand that the Secretary of the Interior has transmitted to Congress an estimate of the Commissioner of Pensions of the amount necessary to pay the arrears of pensions under this act, as follows:

For the payment of arrears on pensions granted prior to the passage of the act	$34,000,000
For the payment of arrears that may be allowed during the current fiscal year	2,500,000
And for those that may be allowed during the next fiscal year	5,000,000
Making a total of	41,500,000

In my last annual report I estimated the revenue for the next fiscal year as follows:

From customs	$133,000,000 00
From internal revenue	115,000,000 00
From miscellaneous sources	16,500,000 00
Total	264,500,000 00

Amount brought forward	$264,500,000 00
The expenditures, exclusive of the sinking-fund, were estimated at	236,334,912 68
Leaving a surplus of	28,165,087 32
The revenue from customs for the seven months of the present fiscal year ending January 31, 1879, was	$78,185,719 13
And for the corresponding period of last year	75,856,995 46
Showing an increase of	2,328,723 67

at which rate of increase the estimated amount for the next fiscal year may be realized.

The receipts from internal revenue for the same periods were as follows:

For 1879	$66,022,190 23
For 1878	64,744,708 78
Showing an increase of	1,277,481 45

This rate of increase will not give more than $112,500,000 for this year, and no increase may be expected for the following year, under present laws. If, however, the tax on tobacco is reduced as is proposed, the total receipts from internal revenue for the next fiscal year will not exceed $106,600,000 and may fall as low as $104,000,000.

The receipts from miscellaneous sources may be increased $2,000,000 during this year and a corresponding amount over the estimates for next year.

The expenditures for the first seven months of the current fiscal year were	$152,690,941 06
And for the same period last year	141,092,848 15
Showing an increase of	11,598,092 91
From which should be deducted the amount paid for the Halifax award	5,500,000 00
Leaving a net increase of	6,098,092 91
If to this be added the amount necessary for the payment of arrears of pensions	41,500,000 00
And the expenditures for the last fiscal year	236,964,326 80
The total estimated expenditures for the next fiscal year will be	284,562,419 71
The receipts, as estimated, will be—	
From customs	$133,000,000 00
From internal revenue	106,000,000 00
From miscellaneous sources	18,500,000 00
Total	257,500,000 00
Leaving a deficiency of	27,062,419 71

This estimate is based upon the assumption that the expenditures for the balance of the fiscal year will not be increased by unusual deficiencies, and that the appropriations for the next fiscal year will not exceed in other respects the amounts appropriated for this fiscal year.

The saving of interest resulting from the refunding of the debt will not inure to the benefit of the Treasury for the present, as the double interest paid during the three months allowed by law and the necessary expenses will offset the decrease in the interest account.

It would thus appear that the sinking fund must be entirely ignored and twenty-seven millions be provided for by additional legislation.

This may be accomplished by the imposition of some new tax adequate for the purpose, or by authorizing the money to be borrowed upon 4 per cent. bonds, which, in the present state of the market, can be sold at par.

As new taxes cannot be immediately productive, it is recommended that authority be given to raise the amount necessary by the sale of 4 per cent. bonds described in the acts of July 14, 1870, and January 20, 1871.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations,
House of Representatives.

The Senator from Iowa said that we now have, as is shown by the last debt statement, $145,000,000 in the Treasury, and of course will have plenty of money without issuing bonds; but here is a more remarkable statement—when that bill was pending, when the Secretary of the Treasury made that report, signed that document, in the same month, February, 1879, he issued his debt statement, which I now hold in my hand, signed by him, which stated that there was a total of cash in the Treasury of $447,292,498.48, more than three times as much money in the Treasury when he sent that letter to the chairman of the Committee on Appropriations as there is to-day.

Mr. ALLISON. I have stated it on the 1st of May.

Mr. HEREFORD. And yet, in February, when he wrote us that letter, he stated that he had $447,000,00 in the Treasury. Now they say there is no necessity for this provision when they say there is only $145,000,000 and odd in the Treasury.

Here is the appropriation bill for the pensions arrears:

That there be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated, the following sums, namely: For the arrears of pensions due on claims in which the pensions were allowed prior to January 25, 1879, $25,000,000; the amounts paid out respectively for Army and Navy pensions to be accounted for separately to the proper accounting officers of the Treasury Department.

Nobody who has had claims allowed since that date can get a dollar.

Mr. ALLISON. Now will my friend allow me to ask him a question?

Mr. HEREFORD. In one moment. What becomes of the Senator's argument in the way of figures when he said "how will you need money to pay this when we have got $140,000,000 in the Treasury," when the Secretary at the same time that he said there must be an additional tax, or the money borrowed and bonds issued at 4 per cent., told us in the same month that there were four hundred and forty odd millions of money in the Treasury?

Mr. ALLISON. Now I want to ask the honorable Senator from West Virginia if there were $27,000,000 of a deficit when that letter was written and we now provide here for $8,000,000 of that deficit, how does he propose to provide for the residue?

Mr. HEREFORD. Out of the general fund, of course.

Mr. ALLISON. What general fund?

Mr. HEREFORD. Any money in the Treasury not otherwise appropriated.

Mr. ALLISON. So I supposed.

Mr. HEREFORD. We give this much additional. Here are eight or ten millions lying there idle, and we say rather than have an additional tax or bonds issued, as the Secretary proposes in his letter, which he has never taken back, let us put that eight or ten millions in circulation. We then save eight millions of bonds, unless the Secretary made a misrepresentation.

Mr. DAVIS, of West Virginia. I know my colleague and my friend behind me [Mr. BECK] do not mean that this provision allows the Secretary to issue any bonds, and consequently I am a little concerned about my position on this question. I hope the Senators will not argue that this bill makes any provision whatever for the issuing of bonds. It cannot make one cent's difference in that respect.

Mr. HEREFORD. Nobody pretends that this clause, whether it remains in the bill or is stricken out, makes any difference as to the issuance of bonds to-day; but the point is this: the Secretary says if you do not do something, if there is not, in the language of the Secretary, some additional legislation, he cannot pay the pension arrearages. That is what he says.

Mr. DAVIS, of West Virginia. Now I ask my colleague when the Secretary of the Treasury said that?

Mr. HEREFORD. Here is what he said——

Mr. DAVIS, of West Virginia. When was it?

Mr. HEREFORD. On the 9th day of February, 1879.

Mr. DAVIS, of West Virginia. In the last Congress.

Mr. HEREFORD. The Secretary has never taken that back. That is the last communication from the Secretary that we have—February 9, only three months ago.

Mr. DAVIS, of West Virginia. But my colleague knows that that and all other things die with the Congress. It has not been renewed with this Congress.

Mr. HEREFORD. Ah! That letter has not died with the Congress; that information has not died with the Congress; those facts, if they were true, have not died with the Congress, and never will die. How can an adjournment of Congress affect a fact or statement such as that I have read?

But my friend from Iowa said a moment ago that that letter was sent in here when the tobacco bill was pending, intimating that it intended to accomplish an object and prevent us from decreasing the enormous tax upon tobacco. Does the Secretary send in false information here to control legislation? That is the logical inference to be drawn from the Senator's statement. But if the Secretary was right then, there is still greater necessity for doing what we propose here to-day than there was in February last, because the Secretary and others told us if you make this reduction upon tobacco you deplete the Treasury to the extent of $11,000,000. We did pass that bill reducing the tax on tobacco. Then, if he was right, we have depleted the Treasury $11,000,000, and hence there is greater reason why this bill as it passed the House should remain as it is on this subject. And, further, if we allow this provision to remain as it came from the House it will throw into circulation eight or ten millions more of money than we now have, and which is now lying idle. That would be reason enough for me to vote to retain the provision of the House.

The PRESIDING OFFICER (Mr. GORDON in the chair.) The question is on the amendment proposed by the Committee on Appropriations striking out the clause which has been read.

Mr. CONKLING called for the yeas and nays, and they were ordered.

Mr. BOOTH. I do not desire, Mr. President, to protract this discussion. In my mind the adoption of this provision of the bill as it came from the House will no more interfere with the resumption of specie payments than it will with the precession of the equinoxes. So long as United States legal-tenders can be converted into 4 per cent. certificates that are worth more than gold and silver there need be no apprehension in any mind, however morbid it may be on the subject, that the equivalency of legal-tenders and gold and silver will not be maintained.

Mr. President, how did these legal-tenders get into the Treasury of the United States? Not by any legerdemain, not by any hocus-pocus, but each one of them represents a United States 5 per cent. bond. The Secretary of the Treasury sold 5 per cent. bonds for silver bullion, coined the silver bullion into subsidiary coin, and exchanged the coin for legal-tenders. It is quite common, it is a familiar practice, to supply a defective argument by an assumption of superior morality and an implied charge of bad faith. Mr. President, there is a kind of virtue which is most suspected when it is most often proclaimed; but I have not heard that the Pharisees by reason of long prayers were rightfully entitled to the highest seats in the temple. I believe in that virtue which is so robust that it is not afraid to exhibit itself in the open air, and does not have occasion to make constant proclamation of its own superiority. It is assumed that the very value of this fractional currency depended upon this pledge, as it is called, a pledge which was not made until years and years after the fractional currency was issued.

I like reports from the Secretary of the Treasury; his facts are valuable, his comments are interesting, and his sermons, if I may borrow a word, are paradoxical. I beg to read one or two extracts from the communication of the Secretary of the Treasury to the honorable Senator from Delaware. First:

It is not probable that the reissue of this reserve, as proposed, will injuriously affect the resumption fund; but this reserve was one of the steps in the process of resumption, and if the legislative stipulation with the public to hold this as a special fund for a purpose, so carefully and precisely stated, is to be set aside for the purpose of meeting a deficiency in the revenue caused by excessive appropriations, any other fund, such as those for the redemption of the gold, the silver, and the currency certificates, may with equal propriety be impaired.

Now, I say that the measure by which these legal-tenders got into the Treasury was not and was never intended as a step toward resumption. No such thing was thought of; it is an after-thought, and in this letter it is a subterfuge. The only object of the enactment of that law was to give the subsidiary coin a quicker and easier circulation. There was a demand for it in excess of the fractional currency that was presented for redemption, and that it might get out of the Treasury this was passed as a temporary measure. There was no thought of making it a part of the plan of redemption, and the Secretary knows it.

Then at the close of this letter the Secretary says:

Is it not better that any deficiency in the revenue be honestly and openly met by the issue of bonds, if necessary, rather than by an indirection to increase the debt at a sacrifice of the good faith of the nation?

Mr. President, at the time that paragraph was written the text upon which it was a comment had passed the House of Representatives, and upon the action of one House of this Congress that paragraph embodies three distinct insults:

Is it not better that any deficiency in the revenue be honestly and openly met—

As if it was proposed to meet it dishonorably and covertly—

by the issue of bonds—

Nothing in the estimation of our Secretary is so honorable and so open and so desirable as the issue of bonds. Having gained for himself the credit of placing a part of the indebtedness of this nation in 4 per cent. bonds, he seems to have entered into a partnership with Wall street to impress on the people the idea that he is paying the national debt out of his own pocket, [laughter]—

if necessary, rather than by an indirection to increase the debt at a sacrifice of the good faith of the nation.

"Indirection!" Mr. President, I say that the Secretary of the Treasury knows—no man knows better—that this eight million out of the ten million of a special reserve is not held for the purpose which he says it is. It is not held, and he does not intend to use it, for the purpose of redeeming fractional currency. The "indirection" in the whole transaction is that he desires to contract the currency to that amount, and makes use of this law as a pretext for doing it, and takes shelter behind the letter of the law to do that which the spirit of the law neither authorizes nor contemplates.

I was somewhat amused at the Senator from Iowa assuming that in this provision for the payment of arrearages of pensions we were insulting the soldiers. That is another paradox. I suppose we could remove the insult and they would accept our apology if we should refuse to pay. The Senator from West Virginia suggested that the silver in the Treasury should be used for this purpose! Suppose this eight million should be used for the payment of the pensioners' claims, why is not the silver in the Treasury available for the redemption of these legal-tenders when they are put in circulation?

I repeat what I have said before, that this money has been obtained for the Treasury by the sale of bonds; it is lying there as idle and dead capital, and we are called upon by the Secretary of the Treasury to meet this which he calls an excessive appropriation either by the imposition of additional taxes or by the sale of additional bonds. If this resumption policy of ours stands upon so nice a point that the issue of this $8,000,000 which belongs to us is to disturb it, for Heaven's sake let us abandon it and build up one on a more solid foundation that will not be disturbed by the very breath of the air.

Mr. WALLACE. I would not rise to say a single word on this subject but for the fact that the Appropriations Committee is in the gap; as one of the committee I am with the Senator from Kentucky against the amendment of the Appropriations Committee and I feel that we are simply performing our duty in standing by the bill as it came from the House.

All this talk about the pledge of the faith of the Government, when we come to look at the statutes, is the merest bosh, for we find that by the act of 1875 fractional currency was made redeemable in silver coin. There were no legal-tender notes put up as a pledge for its redemption. The Secretary obtained power then to insure resumption by the sale of bonds, and he has never been denied that power since; he has exercised it with a force and vim that has crushed the business interests of this country in a way in which they were never crushed before.

In the act of April 14, 1876, I find that the powers given in the act of 1875 are supplemented by additional authority for the redemption of the fractional currency, and the Secretary was directed to issue silver coin in redemption of an equal amount of fractional currency, but there is no word there about a pledge of the faith of the Government to the redemption of the fractional currency by putting up greenbacks in its room.

I then turn to the joint resolution of July 22, 1876, referred to in this clause of the pending bill, and I find this:

That the Secretary of the Treasury, under such limits and regulations as will best secure a just and fair distribution of the same through the country, may issue the silver coin at any time in the Treasury to an amount not exceeding $10,000,000, in exchange for an equal amount of legal-tender notes; and the notes so received in exchange shall be kept as a special fund separate and apart from all other money in the Treasury, and be reissued only upon the retirement and destruction of a like sum of fractional currency received at the Treasury in payment of dues to the United States.

Mr. MORRILL. I hope the Senator will not omit to read the remaining part of this section.

Mr. WALLACE. I will read it:

And said fractional currency, when so substituted, shall be destroyed and held as part of the sinking fund, as provided in the act approved April 17, 1876.

Certainly that was what was to be done with the fractional currency. Now, it is said that these $10,000,000 were put aside as a special fund for the redemption of the fractional currency then outstanding, and to be kept for that purpose as a pledge. I turn to the statement furnished by the Treasury officials to the Senator from Kentucky, and I find that $25,595,000 have been actually redeemed. Of this total of fractional currency there was redeemed previous to the 1st of August, 1876, which is eight days after the passage of the act of the 22d of July, 1876, $8,605,000, thus showing that there have been redeemed $16,990,000 of the fractional currency from eight days after the 22d of July, 1876, until the 1st of May, 1879, and the amount of legal-tenders in the Treasury, $10,000,000, placed there by this statute, is reduced but $1,600,000, there being yet remaining there $8,400,000 of these legal-tender notes. With what, then, were these $16,990,000 of fractional currency redeemed? It was not with the $10,000,000 of legal-tenders, for $8,400,000 are there yet, but on the contrary they were redeemed with the subsidiary silver coin then being minted and then in the Treasury, thus showing plainly and clearly that the idea that the $10,000,000 were there as a pledge is utterly baseless.

How was this a pledge or how break our faith when this fractional currency was already in circulation and in the hands of its holders years before the act of 1876 was passed? A pledge is something made or given at the time or before a man invests his money and takes the paper of the Government. These small notes were already in circulation. It is plain from this that it was simply proposed to hold the $10,000,000 with the grasp that the Treasury has always held legal-tenders to prevent them obtaining circulation throughout the country and to reduce the volume of the currency. It has redeemed $15,390,000 of the fractional currency with silver coin since the passage of the act of 1876, and but $1,600,000 of the legal-tender notes have been used for that purpose; and yet, says the Secretary, true there is coming in but $12,000 a month of this currency, but we ought still to keep the remainder of the $10,000,000 there! If he could redeem fifteen millions of this currency with silver coin he can redeem the remainder in the same way; and I apprehend the country will appreciate the truth of this proposition and estimate at its true value this effort to retain in his grasp $8,400,000 of legal-tenders.

We have made a pledge, an agreement that is a pledge of our faith; it is that we will promptly pay the arrearages of pensions to the soldiers. That is a pledge that is written in light in the history of pension legislation and in the history of the country, and we are bound to redeem it. The Secretary of the Treasury within the last three months recommends the enactment of a law under which he will have bonds sold to obtain money to pay this indebtedness, to fulfill this pledge, and the Finance Committee reports to the Senate a bill to sell the bonds of the Government to place an added interest-bearing debt on this people in order that he may keep his legal-tenders and pay the pensioners. It was not passed and ought not to be, for we have here $8,400,000 of the notes of the Government lying idle, with no purpose to serve, in the Treasury. This section of this bill simply enacts that they may be used for the payment of the pension arrearages in order that this debt may be paid at the earliest practicable day.

Why shall this not be done? It is said that it endangers resumption, and that the silver coin ought to be issued in exchange. I can tell Senators that the resumption that they boast of is not worth a rush if they take from the Treasury the legal-tender silver coin that is the real bulwark for the protection of the par of the legal-tender note of the country. It is the ability to use that silver coin in payment of the paper obligations of the Government that protects the gold that is in the Treasury, and the option that is in the control of the Secretary of the Treasury is the only safeguard of your boasted accomplished resumption. What is the character of this resumption? A resumption in which when you ask for coin you cannot get it; a resumption in which in the great mercantile city in the State which I represent here, when you go to the sub-treasury or a bank with the obligations of the Federal Government, indorsed payable in coin, you are told it cannot be paid here in gold coin. Such a thing occurred on the day of the so-called resumption to a banker in the State of Pennsylvania who went to the sub-treasury there with a warrant of the Government indorsed on its back "payable in coin" at that place and he was denied payment, referred to the assistant treasurer at New York. This is the resumption that we have. It is, as has been well said by the Senator from Indiana, simply an equalization of the currency, it is confidence in our solvency, no more no less.

Sir, I have no words of praise for this system. I believe that it is a vicious system; I believe that it is a system against which the peo

ple of this country will speak when they have an opportunity to speak, in vigorous tones. They want a different system; one in which their interests, and not those of syndicates and bankers, are considered.

But, sir, my purpose in rising simply was to show that the pledge that is talked about in these statutes is no pledge at all; that on the contrary the Treasury itself has negatived its very terms, if it ever existed, and has actually paid out in redemption of fractional currency more than fifteen millions of silver coin in the room of these ten millions of legal-tender notes which during these years have been held idle for payment of this very currency.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Appropriations, upon which the yeas and nays have been ordered.

Mr. EDMUNDS. I shall vote in favor of the recommendation of the committee to strike out this clause of the bill, without regard to the question that has been discussed of the propriety of such legislation if it were independent, but as being a vicious provision in an appropriation bill. It ought to go out in any case; it is no place in an appropriation bill to discuss and pass upon the financial questions that this clause involves.

The Secretary proceeded to call the roll.

Mr. CONKLING, (when Mr. CARPENTER's name was called.) The Senator from Wisconsin [Mr. CARPENTER] whose name is just called is absent from the Senate in consequence of indisposition. He is paired on all questions upon which they might differ with the honorable Senator from Indiana, [Mr. MCDONALD,] and this being one of those questions, at his request I announce his pair.

Mr. MCDONALD, (when his name was called.) As stated by the Senator from New York, I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] If he were present, he would vote "yea" and I should vote "nay" on this amendment.

The roll-call was concluded.

Mr. HOAR. My colleague [Mr. DAWES] is absent, paired on all political questions with the Senator from Georgia, [Mr. HILL.]

The result was announced—yeas 25, nays 37; as follows:

YEAS—25.

Allison,	Cameron of Wis.,	Hampton	Paddock,
Anthony,	Chandler,	Hoar,	Platt,
Bayard,	Conkling,	Kellogg,	Rollins,
Bell,	Davis of W. Va.,	Kernan,	Windom.
Bruce,	Eaton,	Logan,	
Burnside,	Edmunds,	McMillan,	
Butler,	Ferry,	Morrill,	

NAYS—37.

Bailey,	Gordon,	Kirkwood,	Vance,
Beck,	Grover,	Maxey,	Vest,
Booth,	Harris,	Morgan,	Voorhees,
Call,	Hereford,	Pendleton,	Walker,
Cameron of Pa.,	Hill of Colorado,	Plumb,	Wallace,
Cockrell,	Houston,	Ransom,	Williams,
Coke,	Ingalls,	Saunders,	Withers.
Davis of Illinois,	Johnston,	Slater,	
Farley,	Jonas,	Teller,	
Garland,	Jones of Florida,	Thurman,	

ABSENT—14.

Blaine,	Hamlin,	McDonald,	Sharon,
Carpenter,	Hill of Georgia,	McPherson,	Whyte.
Dawes,	Jones of Nevada,	Randolph,	
Groome,	Lamar,	Saulsbury,	

So the amendment was rejected.

Mr. BOOTH. I propose to offer an amendment to the text of the clause: in line 1700, after the word "adjusted," I move to insert "that portion of."

The PRESIDING OFFICER. The Senator will reserve his amendment until the amendments offered by the Committee on Appropriations have been disposed of. It will then be entertained.

Mr. BOOTH. It will take but a moment and we may as well perfect this clause. I will modify my amendment and move to strike out "$10,000,000 in."

The PRESIDING OFFICER. If there is unanimous consent, the Chair will entertain the amendment.

Mr. BOOTH. The clause will then read "the legal-tender currency."

The PRESIDING OFFICER. If there is objection, the rule will be observed.

Mr. EDMUNDS. I do not think there is any rule of the Senate that precludes a Senator from offering an amendment now, and the Chair cannot enforce understandings. I hope the Chair will not put it as a question of the legal order of the Senate because that would make a bad precedent. The Senator from California has the right to offer this amendment at this time, I submit, if he wishes to do so.

Mr. BOOTH. I suppose everybody will agree to it. It is only to perfect the text.

The PRESIDING OFFICER. The Chair understands that there was an agreement to the effect that the Senate should proceed with the amendments reported by the Committee on Appropriations; but if it is the pleasure of the Senate to entertain another amendment, that will be done.

Mr. BECK. The Chair is right.

Mr. HOAR. I hope the Senator from California will let his amendment lie.

Mr. BECK. While the Chair is right, the Senator from California is strictly correct under the agreement, which was, as I understand, that whenever an amendment proposed was to an amendment offered by the committee, that was to be passed upon at the time. Therefore the amendment offered by the Senator from California, being an amendment to an amendment of the committee, is in order.

Mr. EATON. Was there any suggestion of that character made on the floor of the Senate by anybody? If so, I did not hear it.

Mr. BECK. There was, and because of that the Senator from Iowa offered an amendment to an amendment of the committee.

Mr. EATON. I think we had better proceed orderly.

Mr. BECK. I am willing to agree to whatever is necessary to perfect the text of the bill; but I care nothing about it one way or the other.

Mr. EDMUNDS. The Senator from Kentucky says that this is an amendment to the amendment of the committee, and would be therefore within what was supposed to be the understanding.

Mr. BECK. I think so.

Mr. EDMUNDS. If it were an amendment to the amendment of the committee, it would not need to depend upon any understanding, because it would be, on all rules, in order as a matter of course. But the amendment of the committee has been rejected; here there is no amendment of the committee now. You have got the text of the bill in this respect just as it came here.

I wish to say again, sir, that in my opinion the Senator from California has the right to offer, and that you are bound to receive, his amendment and submit it to the Senate if he chooses to offer it. There is a universal courtesy in favor of the committee, by which the Senate always goes through with the amendments of the committee, but that courtesy is one of which Senators themselves must judge as to whether on particular occasions they feel justified in departing from it; and it is only for the sake of preserving the legal order of the Senate that I make this suggestion. I do not care whether he offers it now or at any other time.

The PRESIDING OFFICER. The Chair will state that he simply wished to call the attention of the Senator from California to the understanding. Of course the Chair will entertain the amendment if he insists upon it.

Mr. EDMUNDS. That is quite right.

Mr. HOUSTON. What is the ruling of the Chair?

The PRESIDING OFFICER. The ruling of the Chair is that the Senator has a right under the general rules of the Senate to offer the amendment; and the Chair simply called the attention of the Senator from California to the agreement which had been made.

Mr. BOOTH. I do not offer any amendment at present.

The PRESIDING OFFICER. The reading will continue.

The Chief Clerk continued the reading of the bill. The next amendment of the Committee on Appropriations was, under the head of "United States Patent Office," in line 1726, after the word "interferences," to insert "$2,500;" so as to read:

Examiner in charge of interferences, $2,500.

And in line 1728, to increase the appropriation for compensation of trade-mark examiner and twenty-two principal examiners from $2,250 each to $2,400 each.

Mr. EDMUNDS. Will the Senator from Kentucky be kind enough to tell me whether these amendments increase the salaries that the law has hitherto provided?

Mr. BECK. I desire to say that our committee restores them merely to the law as it exists now, the House having cut them down. They had received $2,500 as early as 1848; this was cut down three or four years ago, and upon the representation of the facts we thought they ought not to be cut down any more.

Mr. EDMUNDS. That is satisfactory to me.

The amendment was agreed to.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was, in the same clause, line 1740, to increase the number of copyist clerks, at $900 each, from sixty to seventy-four.

The amendment was agreed to.

The next amendment was, in the same clause, line 1746, to reduce the appropriation for compensation of ten attendants in model-room from $900 each to $800 each.

The amendment was agreed to.

The next amendment was, in same clause, line 1747, to increase the number of laborers from thirty to forty.

The amendment was agreed to.

The next amendment was, in the same clause, line 1749, to increase the total amount of the appropriation for compensation of the Commissioner of Patents and clerks and employés in his office from $395,550 to $417,450.

The amendment was agreed to.

The next amendment was, in line 1765, to increase the appropriation "for contingent and miscellaneous expenses of the Patent Office" from $30,000 to $35,000.

The amendment was agreed to.

The next amendment was, in the proviso to the clause making appropriations for contingent and miscellaneous expenses of the Patent Office, after the word "than," in line 1765, to strike out "fifteen" and insert "twenty;" so as to make the proviso read:

Provided, That not more than $20,000 of this sum may be used for employment of temporary clerks, at not more than the rate of $1,000 per annum for each clerk.

The amendment was agreed to.

The next amendment was, in line 1789, after the words "Commissioner of Patents," to strike out "whenever it can" and insert "and in the city of Washington, if it can there;" and in line 1791, after the word "the," to strike out "Commissioner" and insert "Secretary of the Interior;" so as to make the clause read:

For photolithographing, or otherwise producing copies of the weekly issues of drawings, to be attached to patents and copies, $35,000; the work of said photolithographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can there be done at reasonable rates to the satisfaction of the Secretary of the Interior; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

Mr. BECK. I know there will be some discussion about this matter, and I will say that the committee had a great deal of trouble about it. Before any discussion is had, I should be glad to send to the Clerk's desk to be read a communication from the Secretary of the Interior upon the subject. The committee had a good deal of difficulty about the clause. The Senator from Minnesota [Mr. WINDOM] addressed a communication to the Secretary, in the absence of the chairman. I desire to have this reply read, because this is a clause which will perhaps provoke some discussion, and I desire Senators shall have the communication of the Secretary before them before the discussion begins.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, May 10, 1879.

SIR: In response to the communication of yesterday upon the subject of photolithographing for the Patent Office, I transmit herewith a statement upon the subject, from which it appears that former experiments of having the work done outside this city have resulted in failure, annoyance, and loss to the Treasury.

Very respectfully,

C. SCHURZ, *Secretary.*

Hon. WILLIAM WINDOM,
United States Senate.

Hon. C. SCHURZ,
Secretary of the Interior:

In response to your request of the 9th instant the following data is submitted, giving some of the reasons why the work of photolithographing the weekly issues of patents should be done in the city of Washington.

First. The drawings of the weekly issues of patents are numbered, dated, &c., prior to their date, in anticipation of issuance, to enable the office to receive and examine proofs of drawings and specifications, print copies, correct errors, print Official Gazette, &c., so that on the date of a patent the same are ready for sale and delivery.

Second. The drawings from which reproductions are made (as delivered to contractors) are passed cases only, therefore are pending applications and not patents. The rules of the office are imperative that no information relative thereto shall be given to unauthorized parties. Evidently if the work were performed outside of the city great facilities would be afforded for obtaining such information as would imperil the interests of inventors.

Third. The necessity of accessibility for reference at any moment and at all times is imperative for the reconsideration of examiners' actions and comparison with proofs of specifications.

Fourth. A serious objection is that correction of errors as suggested on rejected proofs of drawings cannot be made without comparison with the original drawings.

Fifth. These drawings should not leave the city as they are the only official record, until reproduced in existence, and if damaged or destroyed could not be replaced without great loss to inventors and the office.

Sixth. That in the limited time (namely, one and one-half days from delivery of drawings to contractor) for the receipt of proof-sheet it would be impossible to perform the work elsewhere.

Seventh. That the original drawings from which examinations for patents are made would have to be retained from their proper folios at least one month after the date of the patents for the reproduction of the quarto-page or library edition, thus rendering the issuing of defective patents possible.

Eighth. In order to issue the Official Gazette with even date of issue of patents, it is imperative that the proofs of drawings should be available within the specified time, as the Gazette is reproduced from said proof-sheets.

The experiment has been twice tried of having this class of work done in other places since September, 1876, and in both cases the delay in receipt of copies and retarding of the office work necessitated the annulling of the contracts. It caused endless annoyance and loss to inventors, attorneys, and the office, and a corresponding decrease in money receipts for copies by the office.

The photolithographic reproduction of drawings of weekly issue of patents has been performed in this city ever since 1869, with the exception of two years and three months when the negatives were made here. The office furnished a room free of cost, constructed sky-lights, &c., for the use of the contractors.

The American Photolithograph Company of New York was the first company outside of Washington that received a contract for this class of work. A brief synopsis of a memorandum relative thereto, dated September 18, 1876, is submitted:

"The greatest delay occurred in the retention of the drawings for the quarto-page edition, the contractors failing in time. In some instances the drawings were retained from the office folios for two or three months after the issuance of the patents, thus endangering the interests of inventors by the liability of the office granting defective patents."

Complaints naturally arose of the delay in the general work of the office by such retention, and especially in the withholding of patents from issue, many being held for weeks after their regular date of issue awaiting correct copies of the drawings, which had to be sent from New York.

The second attempt to let this work outside the city was in September, 1876, a contract having been made with Osgood & Co., of Boston, Massachusetts.

On the 17th of October, 1876, the following report was furnished relative to their work:

PATENT OFFICE, *October* 17, 1876.

SIR: We have the honor, respectfully, to report in regard to the current drawings under the Osgood contract.

Out of two hundred and fifty-one cases in issue of October 10, 1876, embracing about the same number of drawings, proofs of one hundred and twenty-nine sheets of drawings have been received. These proofs came in four lots. Of the first three lots making ninety drawings, but two were accepted by the proof-readers. Of the last lot of thirty-eight drawings, twenty-one are accepted and seventeen rejected.

The last lot of drawings above referred to was accompanied by the annexed letter from Osgood & Co. The drawings were thus evidently prepared with care after knowledge of former rejections.

Under the contract the office had a right to demand the full number of one hundred and fifty printed copies of the drawings before this date, though it is fair to say that this part of the contract has never been very rigidly insisted on. The advance proof, however, is imperatively required, and, averaging the time, has all been due four days, instead of which we have proof in but little more than half the cases, and only twenty-three cases are accepted, less than 10 per cent. of the whole issue. The work of October 17 should have been in hand five days ago, but was stopped owing to the unsatisfactory character of the drawings of October 10.

The work of Osgood & Co. is very inferior as will be seen by examination of the proofs submitted. There is a general tendency to rottenness or raggedness of lines. Some of the lines, it will be observed, thicken instead of reducing under the camera. Where the work is at all close there is a tendency to fill up, and shaded portions appear in blotches. The shading on cylindrical parts looks crowded. Many of the clearest lines are entirely broken.

As a whole the work is much inferior to any which has been received by the office under any former contract, and in a large proportion of cases the reproductions cannot be certified to as true copies of the originals.

Respectfully,

A. A. YEATMAN,
W. A. BARTLETT.

Hon. R. H. DUELL,
Commissioner of Patents.

On the 29th of November, 1876, their contract was annulled, as see:

PATENT OFFICE, *November* 29, 1876.

It is hereby ordered that the contract for photolithographic work between James R. Osgood & Co., of the first part, and the United States, by R. H. Duell, of the second part, dated the 8th day of September, 1876, be annulled and considered of no effect from and after this date, said party of the first part having failed to comply with the terms of the contract as to quality of work and time of its delivery.

R. H. DUELL, *Commissioner.*

Approved.

Z. CHANDLER.

In view of above, the Graphic Company being the next lowest bidders were addressed as follows:

NOVEMBER 29, 1876.

Managers the Graphic Company:

GENTLEMEN: The firm of Osgood & Co. having failed to comply with the terms of their agreement in regard to time for delivery of their work, their contract for printing current and one-quarter page work has been annulled.

If you can undertake to do the work at once on the usual conditions as set forth in office circular of August 15, your bid of August 31 will be accepted.

R. H. DUELL,
Commissioner.

The said company failing in time and quality of work, their contract was also annulled, as see:

DECEMBER 13, 1876.

Managers the Graphic Company:

GENTLEMEN: As you were before notified, the Secretary of the Interior has decided that the contract for current work must be relet, and advertisements to that effect have been issued.

I am informed that a large proportion of the cases on which you are at present at work are not satisfactory, and am directed to abrogate the agreement under which you are now working.

R. H. DUELL,
Commissioner.

The failure in time, &c., necessitated reletting the work, and bids having been received a contract was entered into with the resident contractor, who was to receive the work from January, 1877, with orders to complete the missing cases from and including the issue of October 10, 1876.

The following summary of time of receipt of work under non-resident contractors is submitted:

Osgood & Co., minimum time between receipt of first drawing and first proof	6 days.
Graphic Company, minimum time between receipt of first drawing and first proof	5 days.
Osgood & Co., maximum time	48 days.
Graphic Company, maximum time	62 days.

The class of work referred to should not be confounded with the reproduction and publication of the Official Gazette, as its only connection with said Gazette is the necessity of furnishing on time the proofs from which the plates for the Gazette are printed.

The work of the Official Gazette has always been done outside of Washington, as ample time is allowed for its reproduction, proof-sheets not being called for.

In conclusion, I beg leave to state that in every attempt to perform this class of work in other cities the result has been endless annoyance and loss of money to inventors and the office. It also has given just cause of complaint, and must be in all respects considered a most vexatious, expensive experiment. The absolute failure of three companies of good standing and evident facilities to perform the work demonstrates the utter inexpediency of sending from this city this class of work, which demands the utmost promptness and attention in its execution.

Very respectfully,

F. A. SEELY,
Chief Clerk.

UNITED STATES PATENT OFFICE,
May 10, 1879.

Respectfully forwarded to the Honorable Secretary of the Interior.

H. E. PAINE,
Commissioner of Patents.

Mr. BECK. I only desire to say that this amendment was based upon that communication and a personal statement made to us by General Paine, the Commissioner of Patents, fully indorsing and corroborating what is said in that paper. He believes it indispensable that he shall have the right to have this work done here in Washington, if he can, and we give him authority. However, if he cannot have it done here without being imposed upon, then to resort to the next best means to have it done in proper shape. I am free to say that where work can be done under bids and given to the lowest bidder, ordinarily, I think it ought to be done in that way; but the Secretary and the Commissioner seemed to make out such a strong case in the statement just read that the committee believed we ought to make the amendment that we have proposed. Several gentlemen, especially the Senator from Massachusetts, now absent, [Mr. DAWES,] called my attention to the fact that great complaint was made about it, and I thought before discussion was had the communication had better be read.

Mr. HOAR. I have no personal information in regard to this matter; but my colleague, who is absent, [Mr. DAWES,] left some papers with me and desired me to call the attention of the Senate to this subject.

As I understand it, this matter was very fully discussed, and the reasons which are set forth in the letter that has been read were before the committee of the last House, and they adhered to the law as found in the text of the present bill, and the present House have done the same thing.

I do not understand, whatever force may be given to the reasons which have been read at the Clerk's desk, why it was deemed necessary by the committee to take away at the request of the Commissioner of Patents his own discretion in the matter. If the reasons which are in the mind of the Commissioner of Patents cannot be removed, then of course he will make a contract for this work in Washington under the original bill; but if they are removed, then it seems to me he ought to have the right to make the contract wherever he chooses.

This amendment transfers the jurisdiction over the matter from the Commissioner of Patents to the Secretary of the Interior, who certainly has very little personal familiarity with the subject; and it requires the Secretary to make his contract in the city of Washington if the work can be done in the city of Washington at reasonable rates. It may turn out that there may be some other difficulty with the work done in Wasington besides the reasonableness of the rates or that all the evil which is set forth in the Commissioner's communication can be removed and guarded against. I do not see any connection at all between the letter which has just been read and the amendment recommended by the committee. The Commissioner says that in his judgment it is for the public interest to have this work done in Washington. Very well. The committee thereupon say that the discretion over that matter shall be removed from the Commissioner and transferred to the Secretary of the Interior. It certainly is not a very logical result from the proposition.

Mr. KERNAN. Mr. President——

Mr. BECK. Before the Senator from New York proceeds allow me to say that as these officers desired it to be done in the city of Washington and done at reasonable rates, the Committee on Appropriations thought they were adding an additional safeguard when they said it should be done to the satisfaction of the Secretary of the Interior instead of the Commissioner of Patents, and then authorized the Commissioner of Patents, under the direction of the Secretary of the Interior, to make the contract. As it was somewhat of a departure from the ordinary way of making contracts, we thought it was safer to have the sanction both of the Secretary of the Interior and the Commissioner of Patents rather than leave it all to the Commissioner of Patents.

Mr. HOAR. I desire to inquire of the Senator from Kentucky if the committee's amendment does not remove from the discretion of the Commissioner of Patents the vital question whether the work can be done at reasonable rates in the city of Washington, and transfer that to the Secretary of the Interior, except so far as the law makes it absolute and not discretionary? That was my point.

Mr. BECK. Our idea was that as the contracts were to be made under the direction of the Secretary of the Interior by the Commissioner of Patents, it might be an additional safeguard to have the Secretary determine whether the rates are reasonable and then to allow the contract to be made by the Commissioner under his direction, instead of having it all done by the Commissioner of Patents without allowing the Secretary of the Interior to see it, he being the chief of that Department and the Commissioner of Patents being one of his bureau officers. In the conference at the last session both Houses, so far as they agreed on anything, concurred in the same language in substance that we now propose, except that it read thus:

And the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

Mr. KERNAN. Mr. President, this bill, if I am correctly informed, was reported to the House in the form that it is now substantially in this regard. In other words, the bill as introduced there required the work to be done in the city of Washington. Upon attention being called to the fact that there was but one party in this city who is prepared to do the work here, the House by an almost unanimous vote struck out the restriction that the work should be done in this city and sent the bill here in the form that it came to the Senate.

I wish to call the attention of the gentlemen of the committee to the propriety of retaining this clause of the bill as it passed the House, changing the word "whenever," in line 1789, to "wherever." Then it would leave the Secretary discretion enough to protect the Government, while he might invite persons elsewhere to compete for the work. The clause would then read: "the work to be done under the supervision of the Commissioner of Patents wherever it can be done at reasonable rates to the satisfaction of the Commissioner," or the Secretary, if you choose to make that change. That is the language of the House bill. If we leave it, changing the word "whenever," if that be not a misprint, to "wherever," leaving the work to be under the direction of the Commissioner of Patents wherever it can be done at reasonable rates to the satisfaction of the Commissioner, I think it will be in the proper shape.

My attention was called to this, I will frankly say, by a person living elsewhere, who had at a former period done some of this work. Of course I listened to the communications from the Secretary of the Interior and the head of the Patent Office, and they have great weight with me; but if you put this language in the form proposed by the committee, the Secretary will regard it as a legislative direction, I think, that he shall give the work to this one party in the city of Washington, for I understand, and the committee probably will confirm me, that there is but one party here who can do the work.

I think if we leave the House bill as it is with the simple change of the word "whenever" to "wherever," it will enable the Secretary to have the work done wherever it can be done to his satisfaction, and let parties in New York and Philadelphia and Boston (as I understand there are parties who do this work in all these places) have an opportunity to compete. Then the Secretary can at least say to the party here, "You must do it lower than you offer, or I will try to make more satisfactory arrangements with these other parties." Therefore I submit to the committee that it should be put in this form and not left to be construed as a legislative direction that the Secretary shall contract with only one party in the city of Washington.

Mr. CHANDLER. Mr. President, this matter of photolithographing is a very important matter indeed. These photolithographs are official; they are used in courts; they are really, when issued, official evidence; and it is very important that the work should be well done. When I assumed the control of the Interior Department I found a contract with some party at a distance, and great complaint was made not only of delays which were of daily and hourly occurrence, but of imperfect work.

This is a matter of profit to the Government. My impression is, without absolute recollection, that these things cost about half a cent apiece and are sold by the Department for about ten cents apiece; I speak in round sums without being accurate as to fractions. It is of absolutely vital importance that the work should not only be promptly done under the supervision of the Secretary of the Interior or the Commissioner of Patents or some man with authority to see that it is properly done under his eye, but that it should be so done as to be ready when wanted. I think the requirement that it shall be done at reasonable rates gives the Secretary absolute discretion to use his own judgment in having it done here or elsewhere; and I think that the amendments of the committee are eminently judicious and proper for the interest of the Government as well as the bureau, and I hope the amendments will be adopted precisely as the committee have recommended.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment proposed by the Committee on Appropriations, in lines 1789 and 1791.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill.

The next amendment was, in line 1850, to increase the appropriation for compensation of the First Assistant Postmaster-General from $3,500 to $4,000; and, in line 1865, to increase the total amount of the appropriation for the office of the First Assistant Postmaster-General from $70,140 to $70,640.

The amendment was agreed to.

The next amendment was, in the appropriations for the office of the Second Assistant Postmaster-General, in line 1869, to reduce the item for compensation of the chief of the division of inspection and equipment from $2,250 to $2,000.

Mr. FERRY. I hope the Senate will not concur in this amendment. I think the committee have not considered the importance of this division as compared with the other divisions in the Department. I find that the chiefs of the other divisions of the Post-Office Department have a salary of $2,250, and the House have given the head of this division the same salary; but the committee of the Senate, it seems, propose to strike off $250, reducing the salary to $2,000. This is the most important division in the whole service of the Post-Office Department. It covers all the mail transportation, all the inspection of the service, the regulation of the forfeitures and breaches of contract. All certificates of service first have to pass through this division before payments are made upon contracts, so that the whole $18,000,000 that is paid out for the transportation of the mails comes under the supervision of this division.

In this connection I will send to the desk to be read a letter which will show substantially the work that is performed by this division and will better state it than I can, so that the Senate can see how important a division this is; and if any chief of division is to have a salary of $2,250 this one should. I notice that the division of dead letters, and the division of postage stamps, as well as the division of mail depredation have chiefs at $2,250, while this, which is as I stated the most important, is reduced to $2,000. I send to the desk a communication addressed to the Postmaster-General and which bears an indorsement by the Second Assistant Postmaster-General, who has charge of all the mail service of the Government.

Mr. BECK. Is that a letter which was sent to the committee?

Mr. FERRY. It is a copy of a letter addressed to the House of Representatives, or rather addressed to the Postmaster-General and sent to the House of Representatives.

The Chief Clerk read as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Inspection Division, Washington, D. C., February 20, 1878.

SIR: The duties assigned to the inspection division of this office by the Postmaster-General are:

1. The inspection of all evidence of performance of mail service by railroad, steamboat, and "star" routes; the adjustment of all fines and forfeitures against

contractors and carriers of the United States mails for breaches of contract or delinquencies, and the preparation of orders fixing the amount of such fines and forfeitures.

2. The issue of certificates of inspection exhibiting the amount of fines and deductions to be charged to each contractor in each quarterly settlement.

3. The receipt and examination of complaints of irregularities in the mail service, and conducting correspondence relating thereto.

4. Conducting all correspondence relating to duty of postmasters in keeping record of performance of all mail service, and of reporting same to the inspection division, as required by the law and the regulations.

5. Any other duties that may be necessary to secure a faithful performance of all mail contracts.

It should be stated that no payments are made to mail contractors for carrying the mails until a certificate of inspection is issued exhibiting the amount of fines and forfeitures, if any, that should be charged to the account of party to be paid. These payments for transportation of the mails amount to over $18,000,000 per annum, as you are aware. The character and importance of the duties assigned to this division may readily be seen from the foregoing statement. It is certainly safe to affirm that a division of an Executive Department that has for its scope of duty the enforcement of the performance of all mail contracts and the administration of the law and regulations of the Department appertaining to the carrying of the mails in every part of the United States should not be ignored as being unimportant.

The purpose of this statement is to show the great and unjust inequality that exists in the salaries of officers classed as chiefs of division.

It will be seen that in this and other Executive Departments they receive salaries ranging from two to three thousand dollars per annum, varying according to the supposed importance or responsibility attached to the office.

The inspection division is composed of seventeen clerks, including the chief of the division, namely, eleven of class 3, two of class 2, and three of class 1. The acting chief of the division, who has occupied the position for five years past, is paid at the rate of $1,800 per annum, out of the appropriation for payment of clerks of class 4. Believing that Congress does not purpose the sanction of such unjust inequalities, I have the honor to submit the case for your consideration, and to pray that relief may be granted.

I have the honor to be, very respectfully, your obedient servant,

SAML. M. LAKE,
Acting Chief of Division.

The Honorable the POSTMASTER-GENERAL.

The within application is respectfully referred to Second Assistant Postmaster-General Brady for his opinion in regard thereto.

D. M. KEY, *Postmaster-General.*

FEBRUARY 23, 1878.

POST-OFFICE DEPARTMENT,
OFFICE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., February 26, 1878.

The POSTMASTER-GENERAL:

The inclosed statement of Mr. S. M. Lake, chief of the division of inspection of this bureau, concerning the importance of the work performed by him and his division, is correct in every particular. And his unembellished statement is sufficient proof of the magnitude of his labors.

In addition, Mr. Lake has brought to his duties singular devotion, and has greatly systematized the work of his division.

His request is not unreasonable.

I am, sir, your obedient servant,

THOS. J. BRADY,
Second Assistant Postmaster-General.

Mr. BECK. Does the Senator from Michigan desire to be heard further?

Mr. FERRY. I have said substantially all that I intended to submit, unless it be necessary after the Senator from Kentucky has spoken for me to be heard further. I merely hope the Senate will not concur in the amendment of the committee.

Mr. BECK. It will be observed that these communications just read were addressed to the last House of Representatives in February, 1879. The House of Representatives, after considering these communications, I assume sent the bill to the Senate, and the Senate agreed with the House in fixing the salary of the chief of division of inspection at $2,000 for the next fiscal year. That is now his salary. Both agreed in the closing days of the last Congress, with this communication before them, to adhere to $2,000. When the bill came before us from the House with $250 added at this session of Congress, desiring to adhere as closely as we could at this extra session to the salaries now being paid, the Senate Committee on Appropriations struck out the $250, leaving it at $2,000 as it now stands and as agreed to by both Houses in the closing hours of the last Congress even after these communications were made known.

In this same bureau of the Second Assistant Postmaster-General the chief clerk of the bureau receives now during the current year and receives by the bill we are now acting upon $2,000. When it was proposed to increase this particular chief of the division of inspection to $2,250 communications came to us from the chief clerk and from his friends urging us to put him up to $2,250, insisting that his duties were the most onerous in that bureau of the Post-Office Department; and we saw, as we see in a great many other cases, that if we increased the pay of this particular person $250 above what it is now, $250 above what both Houses agreed upon even with these communications before the House in the last Congress, we should be obliged to add on $250 or more to the chief clerk of this bureau, as we should to a great many other chief clerks; and therefore we were compelled, without regard to the special merits of any one particular man, either to overthrow all the existing condition of things and go into a general increase of salaries, which we did not think was advisable, or to insist that this particular officer should retain the salary he now has and not open the door for everybody to insist upon being put up equal to him. I do not say that we have always been right; I do not say that the former Appropriations Committees have always guarded everything and equalized all; but the very moment this suggestion was made we were met at once by the chief clerk of this Second Assistant Postmaster-General and his friends, demanding that his salary should be raised when an officer who was not his superior, and perhaps not his equal in point of rank, was increased $250.

It brings up the old question (because there are many meritorious men as there are very many good officers in the Departments) whether we shall go into a general increase of salaries or not. I do not see how we can refuse to put up the chief clerk's salary $250 if we put up the salary of this chief of the division $250, or how we can refuse it to a great many others from whom we have urgent communications. If the Senator from Michigan was to see them, he would be astonished to find how many meritorious officers have not been put up to what their chiefs regard that their merits require. We have increased one or two clerks in this Department. The Land Office made great complaint and we provided for them. So with the Patent Office. There has been no desire on the part of the committee to do anything except to provide so that the public service shall be faithfully maintained; but we did not believe it was a good time to go into a general increase of salaries, and if we once began it we did not see where to end because there are many applications equally urgent. There are five or six assistant attorneys-general whose salaries are unequal. They are very urgent about all being made equal to the highest. Nobody ever suggests to cut down. The leveling is never downward, but always upward.

At this extra session of Congress, with a very short time for investigation, and with a general sort of idea that we ought to get away soon, we did not feel disposed to make a full investigation to see what ought to be done. Therefore we thought the only safe plan was to maintain the existing salaries, as we have done in this case. No doubt this gentleman is a worthy man; but if because of his worth we increase his pay, I do not see where we are going to stop. That is the only objection I have.

Mr. FERRY. If I were pressing here an increase of salary for one head of division, leaving the others at less salary, there would be some consistency in the criticism made by the Senator from Kentucky who has charge of this bill. He states that last session the bill was passed fixing the salary of this chief of division at $2,000. The same bill gave the other chiefs of divisions $2,250. Now, I say in reply to the Senator from Kentucky that a later revision of the same question by the same House of Representatives, where the bill originated, has added $250. I should not open my mouth here in behalf of this one but for the fact that I find this committee on a late revision of this question giving to the heads of divisions who have far less duties to perform and less responsibility $250 more, thus discriminating against a division which has the larger responsibility. I am unable to determine upon what basis this committee have grounded their judgment.

Let me recall to the attention of the Senate the fact that this division is the most important division in the whole Post-Office Department. While there may be chief clerks of bureaus and other clerks in the Department who are desirous of having their salaries increased, yet attached to this head of division are grave responsibilities, and it requires a man capable of deciding. What does he decide? He decides all the cases of breaches of contract; he decides on the adjustment of fines and all penalties incident to breaches of contract; and in fact no payment is made for transportation of the mails, whether by railroad, steamboat, or star service, except after the examination and revision of this head of division and upon his certificate that all the penalties have been adjusted and that the parties are entitled to their pay under the contract. Now, I say that when a division has the control of $18,000,000 of money, the most important branch of the Post-Office Department and the man at the head of this division is asking simply that he be placed on the same basis with the other chiefs of divisions, the request is reasonable. Take the division of dead letters, which has no other duty to perform than to simply look through the dead letters and protect the rights of parties who have matters of importance within those letters. So also the head of the division of postage-stamps; the duties are simple compared with this, requiring no judicial mind to determine upon the interests involved.

Mr. DAVIS, of West Virginia. May I ask the Senator, who has been chairman of the Post-Office Committee for some time and who really does know a great deal of the workings of the Department, whether the persons he now names, the heads of the dead-letter and postage-stamp divisions, are not required to give bond, and a large one?

Mr. FERRY. Yes.

Mr. DAVIS, of West Virginia. And this other gentleman is not?

Mr. FERRY. That is true.

Mr. DAVIS, of West Virginia. May I ask the Senator whether this salary is not the same now as it always has been?

Mr. FERRY. That may be.

Mr. DAVIS, of West Virginia. And now a dollar is worth much more than it was a few years ago when the Senator had charge of the Post-Office Committee, and this salary was not then raised, but is to be raised now.

Mr. FERRY. That may be; but the Senator who has just put in that question has until recently been a subordinate member of the Committee on Appropriations—I refer to it in no offensive sense—and he has recently been honored by the chairmanship of that committee. It would be very unjust to say that because he had heretofore held a subordinate place he should not be the head of that com-

mittee now. It is because on a later revision the Senator has been chosen by the democratic party in control of this body and placed at the head of that committee on account of his experience. Now I say because this salary of a smaller amount has been given to the head of this division, it is no reason why the Senate at this time, with better knowledge before it, should not do justice to this head of division.

I say to the Senator from West Virginia, the chairman of this committee—but by the bye he has not charge of this bill at the present time, though is watching it with his eagle eye and his accustomed attention—that the heads of other divisions, with less duties although they give bonds, have not the control of $18,000,000, this large mammoth amount. This is, as I stated, the most important division of the Post-Office Department, and the very fact which I state that under its chief comes the direction, the supervision, and in fact the payment of the $18,000,000—because payments cannot be made without his certificates having first been obtained that the parties are entitled to pay upon their contracts—shows the propriety of the action of the House. To compel such a man exercising a judicial position of this character, controlling so much of the public funds, to hold a place having less pay than other heads of divisions of equal grade with his, who perform only equal service at most, I think is unjust and is a discrimination which should not have the sanction of the judgment of the Senate. As the Senate has treated the Senator from West Virginia, I trust he will now join in treating this head of division and in putting him on an equality with his associate heads.

Mr. MAXEY. The statement made by the Senator from Michigan, who was so long the chairman of the Committee on Post-Offices and Post-Roads, is so clear that I have but little to add.

It is true, as stated by the Senator from Kentucky, that the last House fixed this salary at $2,000. It is also true that on a rehearing they have increased the amount to $2,250, and the presumption is of law, and of common sense I may say, that they would not have added the $250 additional unless there had been good reasons for it. Now there is a reason which the Senator from Michigan, I believe, did not state.

The contracts for mail service have been largely increased and are constantly increasing; new mail-routes are constantly being established; new post-offices are being established. The frontier in my State, for example, within the last twelve months has been extended out about one hundred and fifty miles, and in that region post-offices and mail-routes are being established. This officer reaches in his duties into every neighborhood in the United States. There is not a neighborhood in the United States that is not deeply interested in having mail contracts carried out to the very letter; and it is for him to supervise and look into breaches of mail contracts. It is not the case of a clerk, as put by the Senator from Kentucky; but this is a chief of a division having under his control some seventeen clerks. He has the repsonsibility; he is responsible for the proper conduct and management of that division to which he belongs. To get a man of brains to take charge of such business as that you cannot expect with a small salary.

Besides, so far as the Post-Office Department is concerned, it is a Department of this Government in which the people of the United States are more deeply interested than they are and more directly affected by it than they are by any other Department of this Government; and it is not wise economy, it is not sound policy to derange the proper management of the Post-Office Department by having inefficient men anywhere in it; and so long as I am chairman of the Post-Office Committee I shall insist, because—I differ entirely with some gentlemen about that—I believe, as a business transaction, that sound economy demands that where you desire skilled labor you should get the best skilled labor you can and pay for it. That is my experience as a business man, and what is true of a business man in his own affairs is true of the management of governmental affairs.

We have at the head of this division a competent, qualified man, capable of taking charge of all its vast business throughout the United States, looking through these contracts, bringing the contractors to responsibility for their breaches. We need a man of capacity, a man of knowledge, and we cannot expect to get a man for a less sum than is given here; and the very fact that the House of Representatives on reconsideration saw proper to increase this amount is to my mind conclusive evidence that they believed the first amount was not sufficient.

Why should we strike that out? Has any good and sufficient reason been given for it? None whatever. Why should we depart from what was done by the House in this regard? Has the Senate any better light on this subject than the House? Not that I have heard. Has any reason been given? Not that I have heard. If you strike off this $250, why not strike off in like manner the $250 from the chief of every division in the Post-Office Department, and more especially of those divisions which have not the responsibility that this chief has? If you mean to do this, you should have carried it through. You have not carried it through. Therefore, your rule, in your own judgment, is not good.

Mr. BECK. It is not necessary to determine whether all that has been done heretofore has been done rightly or not. But the committee did not see any good reason why the salary of this particular officer should be increased above and beyond what was given to him during the current year and during the last year, or why he should be ahead of the chief clerk in this very same bureau. I find that for the first time the office of chief of this division was created last year. Up to that time all the duties, so far as I can observe, now performed by him were performed by an eighteen-hundred-dollar clerk. I have the act of 1877 in my hand, and there is no chief of any such division in that appropriation bill, and no provision made for such a place; but being a gentleman who was somewhat able to take care of himself, he had an office created called "chief of the division of inspection;" and had his salary advanced from $1,800 to $2,000 last year for the first time, all these duties having before been performed, as far as I can observe by the law, by an eighteen-hundred-dollar clerk. Having succeeded so well in getting $200 added last year, he sent to the Senate and House the letter which has been read asking them to advance him beyond that. That was refused, and he comes now to the House that had no Committee on Appropriations, for the bill was not reported by any committee to the House, and the bill was discussed for a week before the Committee on Appropriations was named by the Speaker, and gets somebody to advance him $250 more, leaving all the others standing as they were. Our committee, whether for good reason or not—the Senator from Texas thinks not, for he says there is neither common sense nor business in it, finding that an eighteen-hundred-dollar clerk was advanced last year to $2,000 and a new office created for him, and that he comes again and gets $250 more added by a House that had no Committee on Appropriations at the time the bill was reported, leaving all the other stands just as they were and getting himself advanced $250 more—thought he ought to stand as the others stand. We thought it was not right to increase the salary of the one man, leaving all the others where they were before, until we can have better reason than we have yet had why a new division just made should be thus advanced. One year a new office is created and $200 more salary given, and then it alone is advanced $250, and the others all allowed to remain as they were before. It may be all right, but we did not feel as a committee that we had a right to agree to it.

Now, I wish to ask a question of the Senator from Michigan who knows all about this. Having examined the law of 1877 and being unable to find any provision for this chief of division, I ask him whether I am right in that assumption? If I am wrong in that, then a good deal of what I have said is not worth much.

Mr. FERRY. I take no issue with what the Senator has said. Is the Senator through?

Mr. BECK. I am through. I rose first to ask that question before the Senator from Texas began. I have been unable prior to last year to find any such division as this provided for.

Mr. FERRY. What the Senator has stated applies with great force to the credit of the occupant of this place. He says that he has held an eighteen-hundred-dollar clerkship, and has been fulfilling the duties of this very responsible office. Now, he states a general fact. You go through all the different divisions and bureaus of the various Departments of the Government and you will find subordinate officers acting in the place of superiors, filling higher positions at lower salaries, and in the end those men showing their qualifications for the place receive appointment by promotion to fill the headships of the bureaus and divisions. What has been stated by the Senator from Kentucky was stated in the letter of the clerk himself. He states that for five years he has been holding that position. He has by experience fitted himself for the place. He has shown his capacity, and we have the judgment of the House of Representatives and of his immediate superiors. We have the indorsement of the Second Assistant Postmaster-General, who has charge of mail transportation, the head of that service. He even adds that the clerk himself has modestly stated his capacity and his duties, and urges upon the attention of Congress the duty of giving him the salary which he asks.

It is no excuse and it is no answer to say that because a man has occupied at a lower salary a high position for which he is capable you should not give him a just salary for his services. I desire in this connection to put a question to the Senator from Kentucky. In considering the pay of this head of division, fulfilling duties that are far more responsible than those of the head of the dead-letter division, or those of the head of the postage-stamp division, or those of the head of the division of mail depredations, why should the committee judge that the heads of those divisions should have $2,250, while the man who controls and supervises the expenditure of an aggregate of $18,000,000 of money, the most important branch of the Post-Office Department, should not receive an equal salary with others who are filling places of less responsibility?

Mr. McDONALD. I hope that the amendment suggested by the Committee on Appropriations to this clause will not prevail. As has been stated by the Senator from Michigan this is in connection with the entire mail service, embracing the railway mail service as well as other descriptions, and is much the most responsible and laborious bureau of the Post-Office Department. The fact that this officer has discharged these duties at a less compensation than would be a fair and reasonable remuneration for his services and responsibilities is no reason why he should not be advanced to a rate something like reasonable. In fact this whole clause is under what this service requires, and I sent to the Committee on Appropriations, at the time the bill was under consideration there, amendments which I proposed to this clause of the bill for the purpose of increasing the efficiency of the force necessary for its proper discharge. The Second Assistant Postmaster-General has repeatedly put before the proper com-

mittees of this body and the other House the necessity for an increase of force in this branch of the service, and I hope that this amendment will not prevail, and I shall offer at the proper time some other amendments to this same clause with a view of increasing the efficiency of this branch of this service.

Mr. BECK. I have only one word to say. We have increased the force of the Third Assistant Postmaster-General; we have increased the force of the Second Assistant Postmaster-General, and done everything we could to make the service efficient. The amiable Senator from Indiana, who I believe never objects to anybody who wants anything that seems reasonable, ought never to forget that those heads of divisions who are now receiving $2,250 were until a few years ago receiving $2,500. We cut them down $250 each, and this man who now wants to be put up to $2,250 worked for five years at $1,800 when money was not worth as much as it is now, and expressed no dissatisfaction. Then he had this position created for him, and he was put up to $2,000. Now he is not satisfied, and wants to keep going up higher. If we are going to stop at all increasing salaries, we have got to stop it right here.

The PRESIDING OFFICER. The question is on the amendment of the committee, in line 1869.

The question being put, there were on a division—ayes 21, noes 21.

Mr. BECK called for the yeas and nays, and they were ordered and taken.

Mr. ANTHONY, (after having voted in the negative.) I voted inadvertently. I am paired with the Senator from Maryland, [Mr. WHYTE.] Although I do not know how he would vote on this question, as most of his friends have voted contrary to me, I prefer to withhold my vote.

The result was announced—yeas 27, nays 22; as follows:

YEAS—27.

Bailey,	Davis of W. Va.,	Johnston,	Slater,
Bayard,	Edmunds,	Jonas,	Thurman.
Beck.	Groome,	Kernan,	Vest,
Booth,	Hampton,	Morgan,	Wallace,
Butler,	Harris,	Pendleton,	Williams,
Cameron of Wis.,	Hereford,	Ransom,	Withers.
Coke,	Houston,	Saulsbury,	

NAYS—22.

Allison,	Ferry,	McMillan,	Rollins,
Bell,	Garland,	Maxey,	Saunders,
Burnside,	Hill of Colorado,	Morrill,	Voorhees,
Cameron of Pa.,	Jones of Florida,	Paddock,	Walker.
Chandler,	Kirkwood,	Platt,	
Davis of Illinois,	McDonald,	Plumb,	

ABSENT—27.

Anthony,	Dawes,	Hoar,	Randolph,
Blaine,	Eaton,	Ingalls,	Sharon,
Bruce,	Farley,	Jones of Nevada,	Teller,
Call,	Gordon,	Kellogg,	Vance,
Carpenter,	Grover,	Lamar,	Whyte,
Cockrell,	Hamlin,	Logan,	Windom.
Conkling,	Hill of Georgia,	McPherson,	

So the amendment was agreed to.

Mr. BECK. I move that the Senate do now adjourn. We have got as far as we can to-day very well.

The motion was agreed to; and (at five o'clock and fourteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 13, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

Mr. PRICE. I ask that by unanimous consent the reading of so much of the Journal of yesterday as relates to the introduction of bills may be dispensed with.

There was no objection.

The remainder of the Journal of yesterday was then read and approved.

MISCELLANEOUS.

Mr. SHELLEY. I rise to a personal explanation.

The SPEAKER. The gentleman will suspend for a few moments, as the Chair understands that several members desire to make corrections of the RECORD, &c.

Mr. COFFROTH. I rise to a correction of the RECORD. My colleague, Mr. BELTZHOOVER, was paired with my other colleague, Mr. FISHER. On the vote last taken my colleague, Mr. BELTZHOOVER, would have voted "no" and my other colleague would have voted "ay."

The SPEAKER. The announcement was made yesterday, as the gentleman will see if he will examine the RECORD, that the gentleman from Pennsylvania, Mr. FISHER, was paired with the gentleman from Missouri, Mr. LAY.

Mr. COFFROTH. I have a telegram from Mr. BELTZHOOVER, in which he states that he was paired with Mr. FISHER.

The SPEAKER. By the RECORD the gentleman from Pennsylvania, Mr. DICK, announced that his colleague, Mr. FISHER, was paired with the gentleman from Missouri, Mr. LAY

Mr. BAYNE. My colleague, Mr. DICK, had been absent and paired with Mr. LAY. After Mr. DICK returned, finding that Mr. FISHER had gone home, I obtained the consent of Mr. CLARK, of Missouri, to substitute Mr. FISHER for Mr. DICK in the pair with Mr. LAY. That was satisfactory all around.

The SPEAKER. But it seems that Mr. BELTZHOOVER was away and understood that his pair with Mr. FISHER was binding. Therefore Mr. FISHER seems to have had two pairs.

Mr. DICK. With the consent of the gentleman from Missouri, Mr. CLARK, I transferred my pair with Mr. LAY to my colleague Mr. FISHER.

Mr. CLARK, of Missouri. That is correct, and I would state also that Mr. RUSSELL, of North Carolina, was paired with my colleague, Mr. BLAND, and it was so stated yesterday.

Mr. RUSSELL, of North Carolina. That is correct.

The SPEAKER. Mr. RUSSELL is announced as paired with Mr. SPEER, of Georgia.

Mr. CLARK, of Missouri. That is Mr. RUSSELL of Massachusetts.

Mr. COFFROTH. Here is the telegram which I received from Mr. BELTZHOOVER, and which is dated Harrisburgh, Pennsylvania:

Necessity detains me to-day. Am paired with FISHER. Have it announced.

Mr. WAIT. I wish to state that I voted inadvertently yesterday. It did not occur to me at the moment that I was paired with Mr. ROSS, of New Jersey. I ask to withdraw my vote on the proposition to pass the Army appropriation bill, on the proposition to pass the income tax bill, and also on the motion to adjourn.

The SPEAKER. The gentleman from Connecticut [Mr. WAIT] for the reasons stated asks leave to withdraw all his votes of yesterday.

There was no objection.

Mr. TAYLOR. I ask unanimous consent of the House to have my vote recorded on the bill restoring the income tax. I was unexpectedly called away from my seat yesterday, and did not return until after the vote on that proposition was taken.

There was no objection.

Mr. TAYLOR. On that proposition I vote "ay."

Mr. CALDWELL. I ask unanimous consent to record my vote on the proposition to suspend the rules and pass the income-tax bill, and also on the proposition to suspend the rules and pass the Army appropriation bill.

The SPEAKER. That requires unanimous consent, as it vacates a rule of the House.

There was no objection.

Mr. CALDWELL. On the income-tax bill I vote "ay," and on the Army appropriation bill I vote "no."

Mr. KILLINGER. I ask the same privilege.

Mr. BREWER. I think it would be better to call the roll over again.

Mr. CONGER. I did not hear what the proposition was.

The SPEAKER. The consent of the House has been given to two members to have their votes recorded upon propositions acted upon yesterday. The Chair thinks that the gentleman from Pennsylvania [Mr. KILLINGER] should be accorded the same privilege that has been accorded to others. The gentleman asks leave to have his vote recorded on the income-tax bill and on the Army appropriation bill.

There was no objection.

Mr. KILLINGER. On the income-tax bill I vote "no," and on the Army appropriation bill I vote "ay."

The SPEAKER. This recording of votes requires unanimous consent, it being a vacation of the rule. On this occasion the Chair thinks it should be allowed to all members who desire it; but the Chair doubts the propriety of vacating such a rule as a general thing.

Mr. PHISTER. I must object to granting leave to any other members to have their votes recorded on propositions which were voted upon yesterday.

Mr. MITCHELL. I desire to state that I was paired on all political questions with my colleague from Pennsylvania, Mr. RYON. Relying upon that pair I was absent from the House yesterday. I find an announcement in the RECORD this morning upon the income-tax bill, by my colleague, Mr. WRIGHT, that Mr. RYON was paired with Mr. FISHER, of Pennsylvania.

The SPEAKER. Mr. FISHER seems to have been abundantly paired.

Mr. MITCHELL. I do not understand that Mr. RYON was paired with Mr. FISHER. I desire to say that if I had been present and at liberty to vote on the income-tax proposition I should have voted "no."

The SPEAKER. The proper notice will be taken.

Mr. GILLETTE. Mr. Speaker, I ask leave to record my vote in favor of the income-tax bill of yesterday, as I was unavoidably absent at the time.

Mr. PHISTER. I object.

PERSONAL EXPLANATIONS.

Mr. SHELLEY. I desire to make a personal explanation.

The SPEAKER. How much time does the gentleman desire?

Mr. SHELLEY. Time enough to refute some charges which have been made against me.

The SPEAKER. The Chair desires to know if the charges relate to the gentleman as a member of this House?

Mr. SHELLEY. They do.

Mr. Speaker, I regret the necessity of asking the attention of the House while I undertake to answer charges contained in an article

which appeared in the New York Tribune of the 5th instant. I send the article to the Clerk and ask him to read it.

The Clerk read as follows:

[By telegraph to the Tribune.]

A NOTABLE SOUTHERN DISTRICT—THE FACTS ABOUT THE WAY IN WHICH MR. SHELLEY GOT INTO CONGRESS, AND HOW HE KEEPS HIMSELF IN.

WASHINGTON, *May* 4.

The following statement, which will be brought to the attention of the House of Representatives in a day or two, will serve to emphasize and at the same time illustrate the strong determination of the white democracy of Alabama to have free elections and preserve the purity of the ballot-box.

In the fourth congressional district of Alabama the registered white vote is 6,800, and the registered colored vote is 23,000. At the congressional election in 1876 the republicans cast about 16,000 votes and the democrats 9,685 votes. Last July, Hon. Jeremiah Haralson, a colored republican who had served in Congress, announced himself as a republican candidate for Representative at the election ensuing in November. The democratic candidate, General C. M. SHELLEY, and his friends at once sought to drive Haralson from the field by intimidation. The leading democratic newspaper published at Selma, in an editorial addressed to him personally, said:

"Now, while we will not advise any one to shoot you we are free to say that if you continue in your present course we shall shed no tears over your demise. We understand that you were supplied by the radical executive committee with funds to return to this district and whoop 'em up in the style we have alluded to. If this is so you had better use your unexpended balance in getting away from this county and section."

Mr. Haralson's only offense was that of being the republican candidate for Congress in a district which, in a fair election, would have given an overwhelming republican majority. When the vote was canvassed it was declared that SHELLEY, democrat, had received 8,514 votes and Haralson 6,540. Haralson served a notice of contest, and began to make a list of his witnesses. At this point he met with unexpected trouble. No notary public or other officer authorized to administer oaths could be found for a long time who would take the depositions of the witnesses. The officers were all democrats, and urged that if they were to perform this duty their business would suffer. At length a circuit judge, a republican, was found who consented to act, and a large number of witnesses were summoned. As soon as they had appeared and the examination had been begun SHELLEY and his democratic friends procured indictments against all of them on charges trumped up for the occasion and they were arrested and thrown into jail, where they remained until the time within which their depositions could be of service in the election contest had expired, when they were released. Haralson's attorney was also indicted on a false charge and driven from the State. A mob of white democrats assailed Haralson and compelled him also to leave the State.

In Lowndes County, where there is a large republican majority, it is charged that the election officers in a number of precincts were bribed by SHELLEY to send in the election returns unsigned, which they did, and the returns were of course rejected by the county canvassers. In other precincts, where there were only ten or a dozen white voters and ten times as many colored voters, the polls were not opened at all. Mr. Haralson complains that although a large number of the inspectors of election were indicted in the United States court, the district attorney refused to allow him to examine the papers; but he avers that a number of these indicted officials were members of the grand jury which indicted his attorney and witnesses on false charges.

This case cannot be investigated by the Committee of Elections, because, as Mr. Haralson will claim, all his lawful means of establishing his right to a seat in the House have been overthrown and rendered nugatory by the action of General SHELLEY, the sitting member, and his friends; because it is impossible under existing law to take depositions in the case "by reason of the fixed and avowed purpose of the political and personal friends of General SHELLEY in the district to deny to the freedmen all civil and political rights, and to set at defiance all laws which provide any remedy for such conduct on their part:" and because of the charge of bribery against General SHELLEY, which, if proved, will disqualify him from holding his seat as a Representative. Mr. Haralson will therefore ask the House to investigate the matter.

Mr. SHELLEY, the sitting member, was a brigadier-general in the confederate army, and in the present Congress is a stanch supporter of the revolutionary schemes of the democrats, although, so far as he is himself concerned, he appears to have found it easy to evade and practically to annul the laws for the protection of the ballot-box.

Mr. SHELLEY. The charges made against me by this correspondent, Mr. Speaker, are very grave, and if true would entitle me to the condemnation of all fair-minded men, whether republicans or democrats. I therefore feel constrained to make this public denial and offer such evidence as I may have to refute them. The vote in that district is not correctly stated in the article. The white registered vote is about 8,000 and the colored vote about 22,000. While it is true that in 1876 there were about 16,000 republican votes cast, these were nearly equally divided between two republican candidates, both of whom were colored.

The vote in 1878 is correctly stated. I received almost the entire white vote, and in addition a number of colored votes. The smallness of the vote of Mr. Haralson was due to the fact that many of the negro voters failed and refused to vote in Dallas, Perry, and Hale Counties, having been advised to this course by Haralson and his friends. To support this statement I ask the Clerk to read the following affidavit.

The Clerk read as follows:

STATE OF ALABAMA,
Dallas County:

Before me, the undersigned, commissioner of the circuit court of the United States for the middle district of Alabama, came personally Moody H. May, known to me, who, being duly sworn, deposes and says that he resides in Selma, in said county and State, and is a practicing attorney in said city; that in the month of November, 1878, a short time after the congressional election held in that month, he was in the city of Montgomery, Alabama, in attendance on the United States circuit court as a witness summoned before the grand jury of said county, and was at the time in the office of the United States marshal, when Hon. Jeremiah Haralson came in and a conversation was had between him and affiant. Affiant said to him, "Jerry, you thought you were playing a pretty sharp trick." He asked why. Affiant replied, "You would not let the negroes vote down in Dallas. I understand the negroes did not vote at Veto or Warrenton; that they were there all day and tried to get them to vote, but they would not do so." He said, "Yes," that he had sent word to them not to vote; that as far as he could he had done so; that his intention was to keep all the negroes in Dallas County from voting, and that he would have done so if he could have got word to them; that he thought he could beat General SHELLEY in the other counties in the district and leave Dallas out.

MOODY H. MAY.

Sworn to and subscribed before me, this 8th day of May, A. D. 1879.
[SEAL.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

Mr. SHELLEY. The same advice was given as to Hale and Perry, except at certain precincts. In addition to this it was well understood throughout the State that the policy of the republican party was to abstain from voting or taking any part in the congressional election. Reference to the vote in the several districts of the State will show that this policy was generally acted upon. I desire to state here that the election throughout this district was peaceable and fair; there was no interference with any voter, nor was there any disturbance or disorder in any part of the district on the day of election, or at any time before or after, growing out of the election.

It is charged by this correspondent that no notary public or other officer authorized to administer oaths could be found for a long time who would take the depositions of the witnesses which Mr. Haralson desired to examine in support of his contest. It is not stated to what officer or officers he applied or that he applied to any. The only person or persons to whom any application was made by him that I ever heard of were two republicans, one of whom declined, as I was informed, because he could not spare the time from his business. The other was Hon. George H. Craig, judge of the circuit court for the first judicial circuit of the State. Judge Craig is a republican, and although in bad health consented to take the testimony, stipulating only that Mr. Haralson should employ a clerk to do the writing as he was not able to do it, and at the time appointed did examine such witnesses as were brought before him. Their depositions, I presume, are now on file with the Committee of Elections.

Mr. KEIFER. I rise to a point of order. I desire to know whether it is competent for a member on this floor, under the guise of a personal explanation, to introduce evidence that is pending or should be pending before a committee of the House involving his right to a seat? I desire to know whether it is competent for him, under the claim that he is making a personal explanation, to try his case, whatever it may be, which is pending before a committee of the House? I desire to know if it is competent for a gentleman to introduce *ex parte* evidence, or any other evidence, relating to a case pending before the committee?

Mr. SHELLEY. These statements do not go to the merits of my contest and have nothing to do with it; they only relate to the charges of this article, which was intended to influence the Committee of Elections and decide upon the question whether further time should be allowed for taking testimony.

The SPEAKER. The Chair will cause a passage from the Manual to be read.

The Clerk read as follows:

When the privilege of making a personal explanation is given, the member must confine his remarks to the matter upon which he has been criticised, and in regard to which he has asked consent to make a personal explanation.

The SPEAKER. The gentleman must confine himself in his remarks in the manner indicated in the rule which has been read.

Mr. SHELLEY. I will do so. I desire the Clerk to read the following.

The Clerk read as follows:

UNITED STATES OF AMERICA,
Middle District of Alabama:

Personally came before me, H. S. D. Mallory, a commissioner for the circuit court of the United States in said district, George H. Craig, who being by me duly sworn, on oath says, as follows: That he is now, and has been since November, 1874, judge of the first judicial circuit of the State of Alabama, which embraces among other counties the county of Dallas, which is in the fourth congressional district of the State of Alabama, and that he now resides and has resided for several years in the city of Selma, in said county; that in the latter part of December, 1878, Hon. Jeremiah Haralson applied to affiant to act for him as commissioner to take the testimony of his witnesses in the contest between him, the said Haralson, and Hon. CHARLES M. SHELLEY for a seat in the present Congress of the United States, under the statutes of the United States in such cases made and provided; that affiant consented to act as such commissioner, and so notified the said Haralson; that afterward, and in the month of January, 1879, according the best recollection of affiant, R. B. Thomas, esq., the attorney for the said Haralson in said contest, handed to affiant a notice of the examination of witnesses before affiant in said contest to be commenced on the 9th day of January, 1879; a true copy of said notice is hereto attached, marked "Exhibit A," and made a part of this affidavit; that said notice as shown by the indorsement thereon had been served on one of the attorneys for said SHELLEY, and that affiant issued subpœnas for the witnesses named in said notice to appear before him in accordance with said notice; that on the 9th day of January, 1879, the witnesses named in said notice appeared before affiant as commissioner as aforesaid, and by consent of parties the examination of said witnesses was adjourned until January 10, 1879; that on the 10th day of January, 1879, in pursuance of said adjournment, the examination of Houston L. Smith, one of the witnesses named in said notice, was commenced before affiant as such commissioner; that said examination was continued before affiant as such commissioner from day to day until the 29th day of January, 1879; that at the beginning of said examination affiant notified the said attorney of the said Haralson that affiant was in bad health and physically incapable of reducing to writing the testimony of said witnesses, and then notified said attorney that he must furnish him with a clerk to do the writing necessary in the examination of said witnesses; that said attorney replied that he would notify his client that affiant needed and demanded a clerk to do said writing, and requested him to furnish him with means to do so; therefore affiant stated to said attorney that he would go on with the examination in the mean time and write as long each day as he was physically able to do; that on the 25th day of January, 1879, after proceeding with the examination several hours, commissioner became physically unable to proceed further with said examination, and then announced to the counsel for the contestant that a clerk must be furnished to take down the questions propounded and the answers of the wit-

nesses as commissioner was so disabled by rheumatism in his hand that he had with difficulty written the questions and answers thus far, and that contestant was apprised of the condition of commissioner before this examination began and had then and since repeatedly been requested to furnish some person to perform such labor, but had failed so to do; that counsel for contestant then stated to the commissioner that he could furnish no clerk, and the examination was thereupon continued until the 27th day of January, 1879, to allow the counsel for contestant further time to furnish such clerk; that in pursuance of said adjournment affiant met the attorney of said Haralson and the attorneys for said SHELLEY, whereupon the attorney for said Haralson stated that he had no means to employ such clerk and could therefore furnish none, and thereupon said examination was adjourned over until January 28, 1879, to allow contestant further time to make arrangements to employ such clerk; that on the 28th of January, 1879, said examination was further continued until the 29th day of January, 1879, to allow contestant further time to employ such clerk; that on the 29th day of January, 1879, the attorney of said contestant made known to the commissioner that he had not the means, and none had been furnished him by the contestant, with which to employ a person to act as clerk at said examination, and that there was no probability that any such clerk could be furnished, and thereupon affiant, for this reason and because he was physically unable to do the writing necessary in said examination, adjourned the said examination finally; that during said examination, so far as affiant knows or is informed, no one of the contestant's said witnesses was arrested or prevented in any manner from attending said examination by any one; that the only reasons why said examination was not continued were those stated above, to wit: the inability of affiant to do the necessary writing and because the said Haralson did not furnish him with a clerk to do the same; that the witnesses named in said notice were the only witnesses which he was requested to subpœna by the said Haralson, and the only ones which he did actually subpœna; that the attorney for said Haralson was present during said examination upon every day during the continuance of the same, except a few days when he was prevented, as said attorney informed affiant, by sickness and death in his family and on account of professional engagements, and that during said examination said attorney was not arrested or in any way molested by any one in the performance of his duties as attorney of the said Haralson before affiant as commissioner as aforesaid, except that the attorneys for contestee, SHELLEY, objected to nearly every question propounded to the witnesses, and the objections to each question so made were so lengthy that it consumed as much, or more, time to write them down than to write the questions and answers. The witness Smith's examination was discontinued or interrupted before by the severe illness of his child, and the examination of another witness begun, but for the reasons hereinbefore stated it was impossible for affiant to complete the examination of any of said witnesses. Affiant's inability to write for any length of time was caused by a severe attack of inflammatory rheumatism, from which he was then just recovering, and which had been so severe as to prevent him from presiding in the trial of the cases in the circuit court a part of the time during the fall court previous.

GEO. H. CRAIG.

Sworn to and subscribed before me this 10th day of May, A. D. 1879.
[SEAL.] HUGH S. D. MALLORY,
United States Commissioner.

MONTGOMERY, ALABAMA, *December* 30, 1878.

In the matter of Haralson *vs.* Shelley, for a seat in the Forty-sixth Congress.

To the Hon. Charles M. Shelley:

Please take notice that I will proceed to take the depositions of the following-named witnesses, residents of Dallas County, at Selma, the county site of said county, on the 9th day of January, A. D. 1879, before Hon. George H. Craig, circuit judge of the first judicial circuit of Alabama, one of the officers before whom such evidence may be taken. The examination may be adjourned from day to day until all is taken:

Names of witnesses.	County.	Precinct in which they live.
H. S. Smith	Dallas ..	Selma Beat.
Jefferson Croon	Dallas ..	Selma Beat.
W. L. Walker and Harry Allen	Dallas ..	Boykin's Beat.
Abram Carson and —— Waller	Dallas ..	Pearce's Beat.
Moses Marshall and Anthony Gorce	Dallas ..	Union Beat.
Alfred Robinson, Jesse Watkins, and Andrew Dyson	Dallas ..	Harrall's Cross-Roads.
George Austin and Robert Nelson	Dallas ..	Elm Bluffs.

Respectfully,

JERE HARALSON.

Mr. SHELLEY. To show that there was no very diligent effort made to find officers for the purpose of taking testimony I here offer the affidavits of four respectable and competent notaries public, (residing in the city of Selma, the place where the witnesses were to be examined, and well known to Mr. Haralson,) to whom no application was made:

UNITED STATES OF AMERICA,
Middle District of Alabama, ss:

Personally came G. W. Lewis, who, having been by me first duly sworn, deposes and says, that he is now, and has been for several years, a notary public in and for the county of Dallas and State of Alabama, residing in the city of Selma, and that Jeremiah Haralson, who was the republican candidate for Representative in the Congress of the United States of America for the fourth congressional district of the State of Alabama at the election held on or about the 5th day of November, 1878, never did, nor did any one else for him, apply to affiant to act as commissioner to take testimony for the said Haralson in his contest with Hon. CHARLES M. SHELLEY for a seat in the present Congress of the United States, and that affiant has never stated to or otherwise informed the said Haralson that he would not act as such commissioner.

GEO. WM. LEWIS.

Subscribed and sworn to before me this 8th day of May, A. D. 1879.
[L. S.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

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STATE OF ALABAMA,
Dallas County:

Before me, the undersigned, commissioner of the circuit court of the United States for the middle district of Alabama, came personally A. P. Young, known to me, who being duly sworn, deposes and says, that he has been a notary public, duly commissioned, qualified, and acting as such in and for said State and county since the 1st day of May, 1878, and is now such notary public, and that during that time he has resided in the city of Selma, in said county and State, and now resides in said city; and that Jerry Haralson, who is now contesting the seat of CHARLES M. SHELLEY as Representative from the fourth district of Alabama in the Forty-sixth Congress of the United States, has not at any time applied to him as such notary public, or otherwise, to take the testimony of any witness or witnesses in such contest.

A. P. YOUNG.

Sworn to and subscribed before me this 8th day of May, A. D. 1879.
[L. S.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

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UNITED STATES OF AMERICA,
Middle District of Alabama, ss:

Personally came A. G. Parrish, who, having been by me first duly sworn, deposes and says, that he is now and has been since on or about the 10th day of January, 1873, a notary public in and for the county of Dallas, and State of Alabama, residing in the city of Selma; and that Jeremiah Haralson, who was the republican candidate for Representative in the Congress of the United States for the fourth congressional district of the State of Alabama at the election held in said district on or about the 5th day of November, 1878, never applied to affiant to act as commissioner for him to take testimony in his contest with Hon. CHARLES M. SHELLEY for a seat in the present Congress of the United States, or to otherwise aid him in the taking of said testimony; nor did any one else apply to affiant to take the testimony for the said Haralson in said contest; nor has affiant ever told or otherwise informed the said Haralson that he would not act as commissioner to take said testimony.

A. G. PARRISH.

Sworn to and subscribed before me this 8th day of May, A. D. 1879.
[L. S.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

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STATE OF ALABAMA,
Dallas County:

Before me, the undersigned, commissioner of the circuit court of the United States for the middle district of Alabama, came personally John F. Conoley, known to me, who, being duly sworn, deposes and states that he has been a notary public, duly commissioned, qualified, and acting in and for said county and State, since the 28th day of January, 1878, and that ever since that time he has resided in the city of Selma, in said State and county, and now resides in said city; and that Jerry Haralson, who is now contesting the seat of CHARLES M. SHELLEY, a Representative from the fourth congressional district of the State of Alabama in the Forty-sixth Congress of the United States, has not at any time applied to him as such notary public or otherwise to take the testimony of any witness or witnesses in such contest.

J. F. CONOLEY.

Sworn to and subscribed before me this 8th day of May, A. D. 1879.
[L. S.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

In reference to the charge that the witnesses summoned by said Haralson to be examined in his behalf were indicted or arrested and thrown in jail and thus prevented from giving their depositions, or that his attorney was indicted and driven from the State pending the examination, I wish to offer the affidavit of the sheriff of Dallas County, which is a complete refutation of said charge:

THE STATE OF ALABAMA,
Dallas County:

Before me came personally George R. Mason, known to me, who being duly sworn, deposes and says that he resides in the city of Selma, Dallas County, Alabama, and that he is now, and has been since the —— day of March, 1877, the sheriff of Dallas County, Alabama, duly commissioned, qualified, and acting; that some time in the month of December or January last Hon. George H. Craig, judge of the circuit court of the first judicial circuit of the State of Alabama, placed in his hands as such sheriff several subpœnas for witnesses to be summoned before the said judge in behalf of Jeremiah Haralson in his contest with CHARLES M. SHELLEY for the seat in the Forty-sixth Congress of the United States from the fourth congressional district of Alabama; that affiant summoned all said witnesses except two, who lived a long distance from Selma, and the subpœnas for these two he sent by a third party to the neighborhood in which they lived to be served; but affiant does not think these two were served; affiant states further that all the witnesses so served were present and attended before the said judge in said examination, including the two last mentioned; that they were not in any manner by any one molested or interfered with or prevented from attending said examination or giving their said evidence; that no warrants of arrest were issued or served or executed on any of said witnesses, nor were any of them arrested previous to their examination, nor, so far as affiant is informed, at any time after their examination; that affiant did not at any time refuse or fail to serve any subpœna for any witness or witnesses for the said Haralson in said contest that he was requested to serve; that no persons indicted in any of the courts of Dallas County for any offense committed in the said congressional election were arrested by affiant or any one for him, or by any other person so far as affiant is informed, previous to the taking of any testimony by the said Haralson in said contest, nor until after the said Haralson discontinued the taking of testimony in the same; that so far as affiant is informed and believes no person was threatened with indictment or arrest or otherwise threatened on account of any testimony given or proposed to be given in behalf of the said Haralson in said contest. Affiant further states that no indictment was found against R. B. Thomas, who was the attorney of the said Haralson in said contest, nor was any warrant issued for him until long after the said Haralson ceased to take testimony in said contest, and that no threat was ever made, so far as affiant is informed and believes, against the said Thomas for any action in the matter of said contest.

G. R. MASON.

Sworn to and subscribed before me this the 9th day of May, 1879.
[L. S.] HUGH S. D. MALLORY,
Commissioner of the Circuit Court of the United States for the Middle District of Alabama.

It is not true that a mob of white democrats, or any one else, assailed Haralson and compelled him to leave the State. He remained there during the entire canvass, and for a month after the election, traveled where he pleased without being interfered with. He left the State voluntarily, unmolested and undisturbed, and to-day he can return to Alabama and be in no more danger from mob violence or any other violence than any other citizen of the United States. As to the charge of bribery of election officers in Lowndes County, I deny it most emphatically. I had no communication, directly or indirectly, with any of the inspectors of election in that county. I never offered them, or any one of them, money or other inducement

to send up unsigned or irregular returns, or to prevent them from complying with the regulations of the law; nor did I ever authorize any other person for me or in my behalf to offer such inducement. The charge is simply false and libelous. It may be true that in some of the precincts of this county no polls were opened. By the laws of Alabama the appointment of inspectors of elections is made by the probate judge, clerk of the circuit court, and sheriff of the county, a majority of whom in the county of Lowndes were republicans, and doubtless appointed at each election precinct members of their own party who were deemed capable of conducting the election. The laws of Alabama do not compel any person to serve as inspectors or managers of election, and if those appointed decline or fail to open the polls at the proper time, any other than qualified electors may open the polls and hold the election. If, therefore, it be true as alleged, that elections were not held in many of the precincts of this county, it was the fault of the republican party, as any person who had the right to vote was authorized to open the polls, and neither the democratic party nor I can be held responsible for it, Mr. Speaker. I would not have trespassed upon the time of this House if I had had any other means of reaching the many readers of that widely circulated and influential journal, and I hope the editor will do me the justice to publish this statement.

Mr. HAWLEY. I did not notice any correction of the allegations made in the paragraph which appeared in the paper. Are the statements in the paragraph correct?

Mr. SHELLEY. I have no connection with the paper, and know nothing about it.

Mr. RUSSELL, of North Carolina. I rise to several questions of personal explanation, and I will refer to the smallest and most unimportant first. It is a matter to which I would not have referred at all were it not that I am advised by my friends that I should make some reference to it, as a matter of justice to myself and to the party of which I am a member—the party which elected me a judge of the superior court of North Carolina. I do not do so, however, as a matter of justice to myself or on the ground that it is any matter of consequence to the people of this country, because I am very much inclined to think that if there is any matter of small importance to the country it is the biography of the ordinary member of Congress, like the gentlemen who have been assailing me, and myself.

It was stated upon this floor I believe first by the gentleman from Wisconsin [Mr. BRAGG] and I understand that it has been repeated since, that I was elected judge of the circuit court of North Carolina by the republican party of the State before I had ever received a law license; a statement which, however immaterial it may be regarded by those who made it, is a little defective, however immaterial the defect may be regarded by those who made it; and the defect consists in this: there is not a single word of truth in it, not a word. So much for that. It is well known to be false in the State of North Carolina and I should not have alluded to it at all but for the reasons I have given.

In the course of a speech which I made but did not deliver, for being a very ordinary member of Congress I printed it, I said what the Clerk will now read.

The Clerk read as follows:

It is well known that two democrats, one from Florida and the other from North Carolina, hold seats on this floor, not by the vote of the people but by the fraudulent mandate of returning boards, some of whom, strange to say, are in the penitentiary.

Mr. RUSSELL, of North Carolina. Well, now, Mr. Speaker, a more rounded, complete, accurate, and perfect truth was never uttered by mortal man, and that is what is the matter. It is the truth that hurts, and that is the reason that during my absence for the last ten days assaults have been made upon me on this floor, and the *gentleman*, who is entitled to be so called by the courtesies of this House and who claims to represent the second congressional district of North Carolina on this floor during my absence, and after I had told him, having had occasion to meet him, precisely what I intended to say about him, and after that speech had appeared and I remained here a day after it appeared, came into this House looking very much as if he was big with a speech, but he wilted on seeing me here, and after I left he got up and among other things he made the following assertion, which I ask the Clerk to read.

The Clerk read as follows:

Now, sir, what I have to say in reply to that is simply this: if the gentleman intended to refer to any district in North Carolina as to the returning board being in the penitentiary, it is simply false and slanderous.

Mr. RUSSELL, of North Carolina. Now, Mr. Speaker, that is an exhibition of what the Yankees call "plantation manners." I am used to that kind of thing. I was born on a plantation myself; and it is rather late in the day for me to be bullied by exhibitions of "plantation manners." Therefore, I shall hardly be deterred from telling the truth by way of sustaining and giving the reasons for the assertion contained in that speech. He knew I never said that any of them were in the penitentiary. He knew—he ought to have known—it is fair to assume that a man who gets all the way from North Carolina to Congress can read, at least by spelling out the hard words; [laughter;] and any man who will read that sentence will know, if he knows anything about the history of the country, that nothing was said about the returning boards of North Carolina. It had been previously asserted upon this floor, it had been asserted by the public press throughout the country, it was generally accepted throughout America that some of the returning boards of Florida had been sent to the penitentiary; and the gentleman from Florida, [Mr. DAVIDSON]—I do not know whether he is in his seat or not——

Mr. DAVIDSON, (rising.) Yes, sir.

Mr. RUSSELL, of North Carolina. I am glad of it. I was not in my seat when the gentleman got after me. [Laughter.] The gentleman from Florida has taken occasion to read that sentence and to put words in my mouth which I never uttered. He has taken occasion to try to make it appear that I said the State returning board of Florida was in the penitentiary. I said no such thing I said that some of the returning boards of that State were in the penitentiary. I said only what had been said before on this floor, what was said by the gentleman from Maine, [Mr. FRYE,] in the presence of the gentleman from Florida, during the discussion of the *prima facie* case of Mr. HULL from that State. I ask the Clerk to read what the gentleman from Maine said on that occasion.

The Clerk read as follows:

In the county of Brevard, which never polled over 169 votes, in the last election the democratic candidate for Congress received 310 votes. There were cast for him at the polls 116 votes, but the canvassing board of the county deliberately, wickedly, and designedly added 194 votes, giving him altogether 310. Now, sir, there is no dispute about that. Everybody admits it, and the men who committed the fraud have been indicted, tried, convicted, and are to-day in the penitentiary for adding 194 votes to the vote of the democratic candidate for Congress. To-day, I say, they are in the penitentiary, paying the penalty for their crime against the purity of elections in Florida.

Mr. HULL in his answer admits that the vote of Brevard County was thrown out properly. In his answer he insists that the action of the State canvassing board in rejecting the returns of Madison and Brevard Counties was right.

So Mr. HULL himself admits that these men are in the penitentiary to-day rightfully, and that Brevard County was rejected by the State canvassing board rightfully, and all he claims is that Madison County should have been rejected also.

Mr. RUSSELL, of North Carolina. Now, Mr. Speaker, the gentleman from Florida has asserted that this statement was untrue. I have not taken occasion to ascertain whether these particular individuals who committed those frauds were members of those returning boards or not; I do not care. To study the frauds of the politics of Florida would be a little too much for ordinary human life. Therefore I have not troubled myself about it, and do not propose to do so. If the gentleman from Florida, who is familiar I suppose with the politics of that State, says as a matter of fact that none of his returning boards down there are in the penitentiary, and that what the gentleman from Maine asserted was untrue, then I will amend the statement in that particular and acknowledge that they are not in the penitentiary, but they ought to be, [laughter;] and by that I will stand.

I confess I was astonished that any of them should ever break into the penitentiary. I should just as soon have expected to find Brother Beecher or Brother Talmage, or Moody, or Sankey, or Colonel Ingersoll, or any other distinguished theologian in the penitentiary. [Laughter.] I thought that these thieves who steal elections, who steal counties and congressional districts and States, instead of being sent to the penitentiary were generally sent to the Legislature, or put into custom-houses occasionally—rewarded for their crimes. If these individuals down there who counted out the legally elected candidate in that district are not in the penitentiary, then I take it that they are now in the everglades of Florida awaiting that sure promotion which will reward them upon the accession of the democratic party to power. [Laughter.] They are certainly in the line of promotion.

Now in regard to these returning boards in North Carolina, I desire to explain what I said about them, and I do not want any mistake in regard to it. I know hundreds of the democrats in the second congressional district, and many of them are among the best men in that State. It is an unfortunate fact, which I very much regret, that most of the best men in the South are democrats, though there are many of course who are not. I do not want to be understood as saying that all of the men who constituted those returning boards ought to be in the penitentiary. Some of them acted innocently, some of them did not know any better, some of them were innocent parties to the fraud. But I say that the conspirators who reverse a popular verdict of more than two thousand, who deliberately change it, who counted in a man who was defeated by over 2,000 votes, are criminals and deserve a felon's doom.

Why, sir, I hold in my hand one of the tickets used in that district, to which I invite the attention of this House and the country. I want to show it as one of the curiosities of reconstruction. There it is. [Exhibiting a ticket.] Gentlemen will find a number of these tickets on my desk, as samples, which they can examine after I get through.

Under the statute of North Carolina tickets are required to be on white paper, without device. The ticket which I hold in my hand contains a faint impression made in printing it. In cutting the paper apart the machine which rolled over it made a little impression upon the paper about six or eight deep, scarcely perceptible to the eye, and they called that a device, and rejected the votes by hundreds. They actually rejected whole townships because some of the tickets had that little impression upon the paper.

Again, the man's name was O'Hara, and the apostrophe after the O was not fully made by the printing press in some places, and they rejected the tickets on that account. [Laughter on the republican

side.] In other places there was a comma after the word *a*, and they rejected it because the comma was there. [Laughter.] This information I got from reliable democrats of that district, from men who were no parties to this fraud, but who denounced it, and who believed it to be as bold a swindle as I know it to be from the testimony.

The gentleman who gets up and asserts my allegations are not true knows that he was beaten by more than 2,000 votes. He knows that in the single county of Edgecombe they threw out 950 of the majority of the man who was elected. He knows that the township of Scotland Neck gave 200 or 300 majority against him. And I will do the democrats of that township where he lives the justice to say that many of them did not vote for him. [Laughter on the republican side.] He knows that in the counties of Lenoir, Cravens, and Edgecombe they threw out hundreds of votes upon most miserable pretenses and excuses; that the polls were not opened in time; that the law required them to be opened at sunrise and they were only opened half an hour afterward or an hour; that in one place the polls were moved ten or fifteen feet from the place where the law required them to be held—upon such miserable and paltry pretenses—and that the voters were not sworn by the right officers. And the man who committed the irregularity took advantage of it so as to reverse the popular verdict of thousands.

Mr. SPRINGER. I rise to a question of order.

Mr. RUSSELL, of North Carolina. Oh, I know it hurts the gentleman. [Laughter on the republican side.]

The SPEAKER. The gentleman from Illinois rises to a question of order, and will state it.

Mr. KITCHIN. Oh, give him rope and let him go on.

Mr. SPRINGER. I make the point of order that under the guise of a personal explanation the gentleman's speech is going on to discuss the merits of a contested-election case now before the Committee of Elections, and which is to be decided hereafter by this House. If the gentleman is allowed to proceed, then it will be in order for the sitting member here to make reply, and we will have precipitated upon the House a discussion as to who was elected in that district while the question is pending before the Committee of Elections and must hereafter be decided upon testimony to be adduced in the contest. I desire to make the same point that was made by the gentleman from Ohio [Mr. KEIFER] a little while ago in reference to the gentleman from Alabama, [Mr. SHELLEY.]

The SPEAKER. The Chair will have the same rule read as was read when the gentleman from Alabama [Mr. SHELLEY] was making a personal explanation a short time since. [Laughter.]

Mr. SPRINGER. I understand the rule, if the Chair pleases, very well, and it need not be read for my benefit.

The SPEAKER. The Chair only causes it to be read for the information of the gentleman from North Carolina, as he had it read for the information of the gentleman from Alabama.

The Clerk read as follows:

When the privilege of making a personal explanation is given, the member must confine his remarks to the matter upon which he has been criticised and in regard to which he has asked consent to make a personal explanation.

Mr. SPRINGER. That is all I desire.

Mr. RUSSELL, of North Carolina. I notice that the gentleman from Illinois, or any other gentleman on this side, was not one-half so sensitive when the gentleman from the second congressional district of North Carolina was putting in his evidence before that committee under the guise of a personal explanation. Possibly the gentleman from Illinois did not hear him.

Mr. SPRINGER. I did not; I was out of my seat when he made his explanation.

Mr. RUSSELL, of North Carolina. Of course if the gentleman had heard him he would have been the first man to jump up and stop him. [Laughter on the republican side.]

Mr. SPRINGER. I should have objected to anything that was not a personal explanation. I am informed, however, that objection was made on the other side of the House. I did not make it; I was not in my seat.

Mr. RUSSELL, of North Carolina. That reminds me that in the course of the personal explanation which he made he went on to introduce affidavits to show that the man who was elected and the man whose seat he holds and whose salary he draws was not eligible under the Constitution of the United States.

Now, sir, I desire to be distinctly understood that I do not care whether he is or not. I do not know. Whenever the question comes up I shall vote upon it as I believe to be right, and if he is not eligible I will not vote to retain him in his seat. It has got nothing to do with it; and it is a sorry sight to see a man defending a seat when he knows he was beaten by thousands of votes upon the excuse that the other man is not eligible. As a North Carolinian, and speaking for the people of that steady, moderate, conservative, noble old State, I desire in their name here to-day to repudiate and condemn that proceeding; and I protest in their name they are not responsible for it. It is owing to the frauds that were committed in that district by which a man sits here with no more right to a seat upon this floor than that distinguished democrat who represents the returning boards of Florida in the penitentiary at Albany, or somewhere else—no more right than that man has to a seat upon this floor. I say it is a foul blot and blur upon the escutcheon of that proud old State. And if anybody thinks I can be stopped from denouncing it by getting up here and cutting capers before the country, he is very much mistaken.

It may be said that I am prejudging the case; that we have got no right to denounce a fraud by which a party obtained a seat in this House because we may have to sit as judges on the election. I protest that we have a right; when we know as a matter of public notoriety, what every man in America ought to know, we have a right to see to it that the country shall know it; and so far as prejudging it is concerned, I have no hesitation in saying that it not only ought to be prejudged, but it ought to be precondemned and pre-executed.

The SPEAKER. Is the gentleman through?

Mr. RUSSELL, of North Carolina. I do not think of anything else now. [Laughter.]

Mr. KITCHIN rose.

The SPEAKER. How long a time does the gentleman desire?

Mr. KITCHIN. I do not know, twenty-five or thirty minutes, and perhaps not so much.

The SPEAKER. The gentleman from North Carolina [Mr. KITCHIN] asks thirty minutes for a personal explanation. Is there objection?

There was no objection.

Mr. KITCHIN. I feel obliged to the House for the courtesy extended to me. I regret exceedingly that the utterances I made in this House a few days ago should have been confirmed this morning in every particular as a truth that shall go forth to the country. I was in hopes that the gentleman who has just spoken when he returned to Washington would have had manhood and patriotism enough in his soul to have gotten up here and said like a man that he did not intend what he said should apply to my State or myself. He has failed to do this to his own discredit. He facetiously alludes to me as being big with a speech. Mr. Speaker, I was never big with a speech. Nor was the gentleman ever big with a speech; but he is big with something more poisonous and more damnable than any speech can be. He is a nice man [laughter] to declare on this floor that I am not entitled to my seat, to stand up in his place and malign and slander; and if he could, would have damned his native State, his people.

There is not a gentleman upon that side of the House who, in the bottom of his heart, does not hate, despise, and scorn that contemptible creature who would crawl in the dust at the feet of his country's conquerors, as these men of the South who deserted their race, deserted their country, have done, and joined the rag-tag and bob-tail of creation and the loosed convicts from the penitentiaries of the North. There is not one of you who has any respect for the man who would ally himself with that class. They came down there and joined themselves with the lowest type of the scallawag tribe in the southern section to feed upon our bleeding land.

The gentleman charges that I knew he did not refer to North Carolina. The charge is false. I did not know any such thing. I had a talk with him on the 24th day of last April at his seat. His speech purports to have been delivered on the 17th. On the 26th it appeared, and on the 28th or 29th it was called to my attention. He remarked to me on the 24th that he was going to show me up, or something to that effect; I do not remember the expression. I stated to the gentleman then that my seat was contested and that occupying the position I did I would prefer he said nothing about me. I did not want to come in conflict with any gentleman from North Carolina; nor did I want my case prejudged by this House. But he said then that he had his speech written and he was going to deliver it, but I knew nothing of its tenor. It has never been delivered in this House, but maliciously he injected it (under the permission that had been extended to him and others) into the RECORD, to slander North Carolina, to slander Florida, and to slander all the good people of the South. For I unhesitatingly say that the good, honest, upright people of the South belong to the democratic party. [Laughter on the republican side of the House.] There are in the South, so far as my knowledge goes, but few respectable white men belonging to the republican party. [Laughter on the republican side of the House.] That gentleman has been denounced from every stump in North Carolina, and not a respectable man in the State, republican or democrat, would have voted for him but for his affiliation with the greenback party.

Mr. STEVENSON. I rise to a point of order. I insist that this discussion is not in order. [Cries from the republican side of the House of "Let him go on!"]

The SPEAKER. The Chair thinks it is not in order.

Mr. STEVENSON. I raise the point of order and insist that the remarks of the gentleman from North Carolina in regard to his colleague are not suitable to the dignity of a body of this kind.

The SPEAKER. The House will remember that it has given this permission, and not the Chair. The Chair sustains the point of order. The Chair thinks that personal explanations are becoming an abuse. [Laughter.]

Mr. FERNANDO WOOD. I do not understand that the rules of the House allow any member of this House when he receives unanimous consent to make a personal explanation to transcend the ordinary decorum which a body of this character requires. I do not understand that the rules will permit a member who gets permission of the House to refer to that which is personal, to allow him the right to discuss questions of legislation, or the right to discuss any question